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SENATE—*Wednesday, December 8, 1971*

The Senate met at 9 a.m. and was called to order by the President pro tempore (Mr. ELLENDER).

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Thanks be to Thee, O God, for the need to work, for the will to work, for work to do and strength with which to do it. Give added energy to those who overwork, and respite to those so hard-driven that their work is unrewarding. Have compassion on those who seek work and find it not.

Send Thy grace in full measure on all who work in this place that they may have joy in work well done. And finally when our work is done, gather us like the magi and shepherds at the manger-crib, to share the blessedness of Thy great gift.

We pray in the name of the "Man for Others." Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Tuesday, December 7, 1971, be dispensed with.

The PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The PRESIDENT pro tempore. Without objection, it is so ordered.

A LETTER FROM VIETNAM

Mr. MANSFIELD. Mr. President, I am in receipt of "Season's Greetings from South Vietnam." I will not divulge the name of the individual who sent me this Christmas greeting, but he says; "We are still here. What are you doing about it?"

Mr. President, I have in my hand a copy of a letter from a group of U.S. medical officers in Vietnam. It is addressed to "Senators of the United States." It is signed by some 50 commissioned members in the Medical Corps.

It is a straightforward and vivid statement of the predicament in which the policy of protracted withdrawal from Vietnam has placed these men and the soldiers of the armed services whom they are trying to help with their healing skills.

The situation which is described in the letter is, and I choose my words very advisedly, most shocking. It may be that this Government is now beyond shock insofar as Vietnam is concerned. This Senator is not and, I repeat, I am shocked by what I have read. In the evacuation hospital at which these U.S. medical officers are stationed, they write that most of the servicemen who they treat are no longer casualties of military engagements; the majority are no longer victims of the opposing forces.

Where do they come from then? What reduces these men to casualties? Now, Mr. President, hear this:

> (1) traumatic injuries mostly due to automobile accidents, self-inflicted wounds, or wounds sustained by infighting amongst our own troops; (2) infections due to continued exposure to the hazards of jungle tropics; and (3) drug-related casualties due to the use of heroin on a scale far wider than is commonly thought because of boredom, frustration, and want of an escape.

Most Americans who are sent to this hospital, in short, are dying or getting hurt or wrecking their lives in Vietnam without help from an enemy. They are doing so in consequence of the protractions with which we are removing ourselves from a conflict that is not now and has never been associated with the interests of this Nation.

For what, Mr. President, for what? Why do we delay the disengagement? What is the justification for asking these doctors and their patients—all of them Americans—to go on in this fashion? The doctors who wrote this letter from Vietnam have some ideas on that score and what they have to say does not make very pleasant reading. On the contrary, some of it makes very ugly reading.

I trust that the Members of the Senate, nevertheless, will read and heed what they have written. Indeed, this makes even a 6-month period for bringing this war to an end by negotiation seem an unpardonable delay. Yet, that time span, as provided for in the Senate amendment to the foreign aid bill, which is now in conference, is being bitterly resisted in some quarters. It would be best, Mr. President, if some of the energy going into the resistance to the amendment on withdrawal from Vietnam were spent in devising ways to speed the withdrawal of all U.S. forces, to the end that we can get on with the proper business of this Nation.

Mr. President, I do not intend to disclose the names of the medical officers who signed this letter but so long as it is addressed to "Senators of the United States, Senate Office Building, Washington, D.C.," I am assuming that most Senators, if not all, have received a copy of this communication.

I, therefore, ask unanimous consent that the letter, without the signatures, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

SENATORS OF THE UNITED STATES,
Senate Office Building,
Washington, D.C.

DEAR SENATOR: We, the medical personnel at the 24th Evacuation Hospital in Long Binh and the Third Field Hospital in Saigon, Vietnam, wish to express our dismay and frustration over what seems to be quite an untenable situation here in Southeast Asia.

As we continue our efforts as physicians and U.S. citizens in Vietnam on a day to day basis we see little good coming from our endeavors to our servicemen, to our allies, or to the Vietnamese with whom we have contact when we look at our involvement in its entirety. The problems are multiple.

First, the majority of the medical problems are presently of three kinds: (1) traumatic mostly due to automobile accidents, self-inflicted wounds, or wounds sustained by infighting amongst our own troops; (2) infections due to continued exposure to the hazards of jungle tropics; and (3) drug related due to the use of heroin on a scale far wider than is commonly thought because of boredom, frustration, and want of an escape.

The reasons, then, for the temporary or permanent disabilities our patients sustain are not now a result of active military engagement but a result of a passive environmentally victimizing position. This we feel is an injustice to the American fighting man to be coerced into a situation that is devastating not because of military hostilities but because of the hazards his simple presence brings in this environment.

Secondly, the Vietnamese people with whom we have contact strongly feel the fighting and dying they know so well will end when the American forces leave this country and that our presence tends only to prolong their suffering. Whether this attitude be right or wrong its very existence serves to foster animosity toward us. In view of this feeling our welcome here is no longer warm.

Third, we, as the Vietnamese, have become disenchanted with American sincerity when every day large sums of money are made through black market sales on goods whose paths are controlled by both Vietnamese and Americans.

We become disenchanted to note large numbers of American civilians making handsome salaries in the business of a war that does not directly involve them. We who are here to theoretically help the South Vietnamese more, one would think, at our expense rather than our profit become disenchanted when we find our leaders involved in the profits of war. To hear that prominent

American figures have large blocks of stock in multimillion dollar construction companies that have negotiated large contracts with the military, and that others own parts of companies that supply the military when they also make decisions for the military makes us question all of the motives of our involvement here in S.V.N.

These problems are only to name a few, but because of them we, as professionals, and concerned U.S. citizens, find the medical, socioeconomic, and political aspects of our presence here to be in serious question. In view of the President's latest announcement that in no way mentions a date of total withdrawal, a plan for the P.O.W. release, a hope for a negotiated settlement, or any concrete proposal for ending or altering any of the problems specified herein, we urge that strong and positive steps be taken to end our involvement here in Indo-China. We feel that these steps should result in no residual force whose lives and futures remain at stake only for American political representatives to use as pawns in the Chess game of the Paris negotiations. We cannot accept remaining here as a residual force for our bargaining position in Paris, as was recently urged by the Secretary of Defense. This is not asking for our professional help or for the active help of the troops to remain here passively in danger so that others may use our presence as a trump card in meetings that have thus far been unrewarding.

What you do, how you do it, and when you do it will not only affect the Americans here, as well as their families and friends, but also the minds of people everywhere who look to our country for leadership in the principles which we hold so dear.

We have not been a panacea for the people of South Vietnam and have not fulfilled our goals by our presence. We feel to ask Americans to risk their lives so that this situation may continue in its present form is asking far too much.

History will judge us in the end, so let the gravity of the situation weigh heavily on your minds as it does on ours.

With utmost sincerity,

———.

THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of calendar Nos. 535 and 536.

The PRESIDENT pro tempore. Without objection, it is so ordered.

AUTHORIZATION FOR THE CONVEYANCE OF CERTAIN LANDS TO THE UNIVERSITY OF UTAH

The Senate proceeded to consider the bill (S. 978) authorizing the conveyance of certain lands to the University of Utah, and for other purposes, which had been reported from the Committee on Interior and Insular Affairs with an amendment on page 1, line 11, after the word "sums", insert "not to exceed $6,000,000"; so as to make the bill read:

S. 978

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is authorized and directed to establish, equip, operate, and maintain a metallurgy research center on approximately 35 acres of land located on the Fort Douglas Military Reservation, Utah, which facility will serve as a replacement facility for that now located on the campus of the University of Utah, Salt Lake City, Utah.

SEC. 2. To carry out the provisions of this Act, there is authorized to be appropriated such sums not to exceed $6,000,000 as may be necessary for the engineering, design, and construction of the research facility referred to in the first section of this Act, together with such equipment and apparatus, roads, and other improvements as may be necessary.

SEC. 3. (a) Upon completion of the research facility authorized herein, the Secretary of the Interior is authorized to convey to the University of Utah the following described land situated on the campus of the University of Utah at Salt Lake City: Beginning at a point 480 feet south of the United States stone monument numbered 6 (monument numbered 6 is 876.31 feet south and 2,453.795 feet east, more or less, from the northwest corner of section numbered 4, township 1 south, range 1 east, Salt Lake meridian), running west 664.5 feet; thence north 640 feet; thence east 864.35 feet, thence south 0 degree, 00 minute, 50 seconds east 503.9 feet; thence south 55 degrees, 45 minutes, 00 second west 241.92 feet, more or less, to the point of beginning and containing 12.39 acres, more or less.

(b) The conveyance authorized by this Act shall be subject to the condition that the State of Utah pay to the United States an amount equal to the fair market value, as determined by the Secretary of the Interior, of the fixed improvements on such land to be conveyed.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 92-555), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

The purpose of S. 978, which was cosponsored by Senators Bennett and Moss, is to authorize appropriations to the Secretary of the Interior to establish and maintain a new Bureau of Mines research center as a replacement facility for that now located and established on the campus of the University of Utah, and provides for the sale of the fixed improvements and the conveyance of certain lands to the University of Utah.

COMMITTEE AMENDMENTS

The committee amended the bill to provide that not more than $6 million be appropriated for the cost of engineering, designing and constructing the replacement facility.

The amendment is as follows:

On page 2, line 2, after the word "sums" insert the following phrase: "not to exceed six million dollars."

BACKGROUND

Since 1939 the Department of the Interior has maintained a Bureau of Mines metallurgy research center consisting of laboratory facilities, garage, shop building and warehouse on some 12.39 acres of land lying wholly within the central portion of the University of Utah campus.

The original campus for the University of Utah was authorized by the 33d Congress February 21, 1855, and pursuant to that act two townships including the lands on which the Bureau of Mines present facility was constructed, were designated as University of Utah campus.

Portions of this land were originally withdrawn as a part of the Fort Douglas Military Reservation prior to statehood. In the years since this time the Army and the U.S. Government have relinquished a major portion of this land and a great deal of it has been restored to the University of Utah.

On May 21, 1938 the University of Utah granted 5.0 acres of land, previously granted by the United States to the university, to the United States as the site for an experiment station of the Bureau of Mines. By deed of February 9, 1940, the university granted the United States a perpetual easement of ingress and egress. The 5.0 acres and the perpetual easement of ingress and egress were granted to the Bureau of Mines without compensation and these lands are included in the 12.39 acres to be conveyed to the University of Utah under the bill.

In October of 1968 when the Army declared surplus a major portion of its Fort Douglas properties, the U.S. Bureau of Mines acquired 34 acres on what is designated as the Fort Douglas Rifle Range. The new facility to be built under this bill will be constructed on these Federal lands adjacent to, but outside of the University of Utah campus.

The bill provides that upon completion of the research facility, and subject to the condition that the State of Utah pay to the United States the fair market value of the fixed improvements on the land, the Secretary of the Interior is authorized to convey the 12.39 acres of land to the State of Utah for the university.

AMENDMENTS CONSIDERED

The committee considered and adopted an amendment to place a limitation of $6 million on the sum to be appropriated for construction of the replacement facility.

COMMITTEE RECOMMENDATION

Action by the Interior and Insular Affairs Committee in ordering S. 978 favorably reported as amended, was unanimous and the committee recommends that the bill be enacted.

PROTECTING PRIVACY AND THE RIGHTS OF FEDERAL EMPLOYEES

The bill (S. 1438) to protect the civilian employees of the executive branch of the U.S. Government in the enjoyment of their constitutional rights and to prevent unwarranted governmental invasions of their privacy, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 1438

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. It shall be unlawful for any officer of any executive department or any executive agency of the United States Government, or for any person acting or purporting to act under his authority, to do any of the following things:

(a) To require or request, or to attempt to require or request, any civilian employee of the United States serving in the department or agency, or any person seeking employment in the executive branch of the United States Government, to disclose his race, religion, or national origin, or the race, religion, or national origin of any of his forebears: *Provided, however,* That nothing contained in this subsection shall be construed to prohibit inquiry concerning the citizenship of any such employee or person if his citizenship is a statutory condition of his obtaining or retaining his employment: *Provided further,* That nothing contained in this subsection shall be construed to prohibit inquiry concerning the national origin or citizenship of any such employee or person or of his forebears, when such inquiry is deemed necessary or advisable to determine suitability for assignment to activities or undertakings related to the national security within the United States or to activities or undertakings of any nature outside the United States.

(b) To state or intimate, or to attempt to state or initimate, to any civilian employee of the United States serving in the department or agency that any notice will be taken of his attendance or lack of attendance at any assemblage, discussion, or lecture held or called by any officer of the executive branch of the United States Government, or by any person acting or purporting to act under his authority, or by any outside parties or organizations to advise, instruct, or indoctrinate any civilian employee of the United States serving in the department or agency in respect to any matter or subject other than the performance of official duties to which he is or may be assigned in the department or agency, or the development of skills, knowledge, or abilities which qualify him for the performance of such duties: *Provided, however,* That nothing contained in this subsection shall be construed to prohibit taking notice of the participation of a civilian employee in the activities of any professional group or association.

(c) To require or request, or to attempt to require or request, any civilian employee of the United States serving in the department or agency to participate in any way in any activities or undertakings unless such activities or undertakings are related to the performance of official duties to which he is or may be assigned in the department or agency, or to the development of skills, knowledge, or abilities which qualify him for the performance of such duties.

(d) To require or request, or to attempt to require or request, any civilian employee of the United States serving in the department or agency to make any report concerning any of his activities or undertakings unless such activities or undertakings are related to the performance of official duties to which he is or may be assigned in the department or agency, or to the development of skills, knowledge, or abilities which qualify him for the performance of such duties, or unless there is reason to believe that the civilian employee is engaged in outside activities or employment in conflict with his official duties.

(e) To require or request, or to attempt to require or request, any civilian employee of the United States serving in the department or agency, or any person applying for employment as a civilian employee in the executive branch of the United States Government, to submit to any interrogation or examination or to take any psychological test which is designed to elicit from him information concerning his personal relationship with any person connected with him by blood or marriage, or concerning his religious beliefs or practices, or concerning his attitude or conduct with respect to sexual matters: *Provided, however,* That nothing contained in this subsection shall be construed to prevent a physician from eliciting such information or authorizing such tests in the diagnosis or treatment of any civilian employee or applicant where such physician deems such information necessary to enable him to determine whether or not such individual is suffering from mental illness: *Provided further, however,* That this determination shall be made in individual cases and not pursuant to general practice or regulation governing the examination of employees or applicants according to grade, agency, or duties: *Provided further, however,* That nothing contained in this subsection shall be construed to prohibit an officer of the department or agency from advising any civilian employee or applicant of a specific charge of sexual misconduct made against that person, and according him an opportunity to refute the charge.

(f) To require or request, or attempt to require or request, any civilian employee of the United States serving in the department or agency, or any person applying for employment as a civilian employee in the executive branch of the United States Government, to take any polygraph test designed to elicit from him information concerning his personal relationship with any person connected with him by blood or marriage, or concerning his religious beliefs or practices, or concerning his attitude or conduct with respect to sexual matters.

(g) To require or request or to attempt to require or request, any civilian employee of the United States serving in the department or agency to support by personal endeavor or contribution of money or any other thing of value the nomination or the election of any person or group of persons to public office in the Government of the United States or of any State, district, Commonwealth, territory, or possession of the United States, or to attend any meeting held to promote or support the activities or undertakings of any political party of the United States or of any State, district, Commonwealth, territory, or possession of the United States.

(h) To coerce or attempt to coerce any civilian employee of the United States serving in the department or agency to invest his earnings in bonds or other obligations or securities issued by the United States or any of its departments or agencies, or to make donations to any institution or cause of any kind: *Provided, however,* That nothing contained in this subsection shall be construed to prohibit any officer of any executive department or any executive agency of the United States Government, or any person acting or purporting to act under his authority, from calling meetings and taking any action appropriate to afford any civilian employee of the United States the opportunity voluntarily to invest his earnings in bonds or other obligations or securities issued by the United States or any of its departments or agencies, or voluntarily to make donations to any institution or cause.

(i) To require or request, or to attempt to require or request, any civilian employee of the United States serving in the department or agency to disclose any items of his property, income, or other assets, source of income, or liabilities, or his personal or domestic expenditures or those of any member of his family or household: *Provided, however,* That this subsection shall not apply to any civilian employee who has authority to make any final determination with respect to the tax or other liability of any person, corporation, or other legal entity to the United States, or claims which require expenditure of moneys of the United States: *Provided further, however,* That nothing contained in this subsection shall prohibit the Department of the Treasury or any other executive department or agency of the United States Government from requiring any civilian employee of the United States to make such reports as may be necessary or appropriate for the determination of his liability for taxes, tariffs, custom duties, or other obligations imposed by law.

(j) To require or request, or to attempt to require or request, any civilian employee of the United States embraced within the terms of the proviso in subsection (i) to disclose any items of his property, income or other assets, source of income, or liabilities, or his personal or domestic expenditures or those of any member of his family or household other than specific items tending to indicate a conflict of interest in respect to the performance of any of the official duties to which he is or may be assigned.

(k) To require or request, or to attempt to require or request, any civilian employee of the United States serving in the department or agency, who is under investigation for misconduct, to submit to interrogation which could lead to disciplinary action without the presence of counsel or other person of his choice, if he so requests: *Provided, however,* That a civilian employee of the United States serving in the Central Intelligence Agency or the National Security Agency may be accompanied only by a person of his choice who serves in the agency in which the employee serves, or by counsel who has been approved by the agency for access to the information involved.

(l) To discharge, discipline, demote, deny promotion to, relocate, reassign, or otherwise discriminate in regard to any term or condition of employment of, any civilian employee of the United States serving in the department or agency or to threaten to commit any of such acts, by reason of the refusal or failure of such employee to submit to or comply with any requirement, request, or action made unlawful by this Act, or by reason of the exercise by such civilian employee of any right granted or secured by this Act.

Sec. 2. It shall be unlawful for any officer of the United States Civil Service Commission, or for any person acting or purporting to act under his authority, to do any of the following things:

(a) To require or request, or to attempt to require or request, any executive department or any executive agency of the United States Government, or any officer or employee serving in such department or agency, to violate any of the provisions of section 1 of this Act.

(b) To require or request, or to attempt to require or request, any person seeking to establish civil service status or eligibility for employment in the executive branch of the United States Government, or any person applying for employment in the executive branch of the United States Government, or any civilian employee of the United States serving in any department or agency of the United States Government, to submit to any interrogation or examination or to take any psychological test which is designed to elicit from him information concerning his personal relationship with any person connected with him by blood or marriage, or concerning his religious beliefs or practices, or concerning his attitude or conduct with respect to sexual matters: *Provided, however,* That nothing contained in this subsection shall be construed to prevent a physician from eliciting such information or authorizing such tests in the diagnosis or treatment of any civilian employee or applicant where such physician deems such information necessary to enable him to determine whether or not such individual is suffering from mental illness: *Provided further, however,* That this determination shall be made in individual cases and not pursuant to general practice or regulation governing the examination of employees or applicants according to grade, agency, or duties: *Provided further, however,* That nothing contained in this subsection shall be construed to prohibit an officer of the Civil Service Commisison from advising any civilian employee or applicant on a specific charge of sexual misconduct made against that person, and affording him an opportunity to refute the charge.

(c) To require or request, or to attempt to require or request, any person seeking to establish civil service status or eligibility for employment in the executive branch of the United States Government, or any person applying for employment in the executive branch of the United States Government, or any civilian employee of the United States serving in any department or agency of the United States Government, to take any polygraph test designed to elicit from him information concerning his personal relationship with any person connected with him by blood or marriage, or concerning his religious beliefs or practices, or concerning his attitude or conduct with respect to sexual matters.

Sec. 3. It shall be unlawful for any commissioned officer, as defined in section 101 of title 10, United States Code, or any member of the Armed Forces acting or purporting to act under his authority, to require or request, or to attempt to require or request, any civilian employee of the executive branch of the United States Government under his authority or subject to his supervision to perform any of the acts or submit to any of the requirements made unlawful by section 1 of this Act.

Sec. 4. Whenever any officer of any executive department or any executive agency of the United States Government, or any person acting or purporting to act under his authority, or any commissioned officer as defined in section 101 of title 10, United States Code, or any member of the Armed Forces acting or purporting to act under his authority, violates or threatens to violate any of the provisions of section 1, 2, or 3 of this Act, any civilian employee of the United States serving in any department or agency of the United States Government, or any person applying for employment in the executive branch of the United States Government, or any person seeking to establish civil service status or eligibility for employment in the executive branch of the United States Government, affected or aggrieved by the violation or threatened violation, may bring a civil action in his own behalf or in behalf of himself and others similarly situated, against the offending officer or person in the United States district court for the district in which the violation occurs or is threatened, or the district in which the offending officer or person is found, or in the United States District Court for the District of Columbia, to prevent the threatened violation or to obtain redress against the consequences of the violation. The Attorney General shall defend all officers or persons sued under this section who acted pursuant to an order, regulation, or directive, or who, in his opinion, did not willfully violate the provisions of this Act. Such United States district court shall have jurisdiction to try and determine such civil action irrespective of the actuality or amount of pecuniary injury done or threatened, and without regard to whether the aggrieved party shall have exhausted any administrative remedies that may be provided by law, and to issue such restraining order, interlocutory injunction, permanent injunction or mandatory injunction, or enter such other judgment or decree as may be necessary or appropriate to prevent the threatened violation, or to afford the plaintiff and others similarly situated complete relief against the consequences of the violation. With the written consent of any person affected or aggrieved by a violation or threatened violation of section 1, 2, or 3 of this Act, any employee organization may bring such action on behalf of such person, or may intervene in such action. For the purposes of this section, employee organizations shall be construed to include any brotherhood, council, federation, organization, union, or professional association made up in whole or in part of civilian employees of the United States and which has as one of its purposes dealing with departments, agencies, commissions, and independent agencies of the United States concerning the condition and terms of employment of such employees.

Sec. 5. (a) There is hereby established a Board on Employees' Rights (hereinafter referred to as the "Board"). The Board shall be composed of three members, appointed by the President, by and with the advice and consent of the Senate. The President shall designate one member as chairman. No more than two members of the Board may be of the same political party. No member of the Board shall be an officer or employee of the United States Government.

(b) The term of office of each member of the Board shall be five years, except that (1) of those members first appointed, one shall serve for five years, one for three years, and one for one year, respectively, from the date of enactment of this Act, and (2) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term.

(c) Members of the Board shall be compensated at the rate of $75 a day for each day spent in the work of the Board, and shall be paid actual travel expenses and per diem in lieu of subsistence expenses when away from their usual places of residence, as authorized by section 5703 of title 5, United States Code.

(d) Two members shall constitute a quorum for the transaction of business.

(e) The Board may appoint and fix the compensation of such officers, attorneys, and employees, and make such expenditures as may be necessary to carry out its functions.

(f) The Board shall make such rules and regulations as shall be necessary and proper to carry out its functions.

(g) The Board shall have the authority and duty to receive and investigate written complaints from or on behalf of any person claiming to be affected or aggrieved by any violation or threatened violation of this Act and to conduct a hearing on each such complaint. Within ten days after the receipt of any such complaint, the Board shall furnish notice of the time, place, and nature of the hearing thereon to all interested parties. The Board shall render its final decision with respect to any complaint within thirty days after the conclusion of its hearing thereon.

(h) Officers or representatives of any Federal employee organization in any degree concerned with employment of the category in which any alleged violation of this Act occurred or is threatened shall be given an opportunity to participate in each hearing conducted under this section, through submission of written data, views, or arguments, and in the discretion of the Board, with opportunity for oral presentation. Government employees called upon by any party or by any Federal employee organization to participate in any phase of any administrative or judicial proceeding under this section shall be free to do so without incurring travel costs or suffering loss in leave or pay; and all such employees shall be free from restraint, coercion, interference, intimidation, or reprisal in or because of their participation. Any periods of time spent by Government employees during such participation shall be held and considered to be Federal employment for all purposes.

(i) Insofar as consistent with the purposes of this section, the provisions of subchapter II of chapter 5 of title 5, United States Code, relating to the furnishing of notice and manner of conducting agency hearings, shall be applicable to hearings conducted by the Board under this section.

(j) If the Board shall determine after hearing that a violation of this Act has not occurred or is not threatened, the Board shall state its determination and notify all interested parties of such determination. Each such determination shall constitute a final decision of the Board for purposes of judicial review.

(k) If the Board shall determine that any violation of this Act has been committed or threatened by any civilian officer or employee of the United States, the Board shall immediately (1) issue and cause to be served on such officer or employee an order requiring such officer or employee to cease and desist from the unlawful act or practice which constitutes a violation, (2) endeavor to eliminate any such unlawful act or practice by informal methods of conference, conciliation, and persuasion, and (3) may—

(A) (i) in the case of the first offense by any civilian officer or employee of the United States, other than any officer appointed by the President, by and with the advice and consent of the Senate, issue an official reprimand against such officer or employee or order the suspension without pay of such officer or employee from the position or office held by him for a period of not to exceed fifteen days, and (ii) in the case of a second or subsequent offense by any such officer or employee, order the suspension without pay of such officer or employee from the position or office held by him for a period of not to exceed thirty days or order the removal of such officer or employee from such position or office; and

(B) in the case of any offense by any officer appointed by the President, by and with the advice and consent of the Senate, transmit a report concerning such violation to the President and the Congress.

(l) If the Board shall determine that any violation of this Act has been committed or threatened by any officer of any of the Armed Forces of the United States, or any person purporting to act under authority conferred by such officer, the Board shall (1) submit a report thereon to the President, the Congress, and the Secretary of the military department concerned, (2) endeavor to eliminate any unlawful act or practice which constitutes such a violation by informal methods of conference, conciliation, and persuasion, and (3) refer its determination and the record in the case to any person authorized to convene general courts-martial under section 822 (article 22) of title 10, United States Code. Thereupon such person shall take immediate steps to dispose of the matter under chapter 47 of title 10, United States Code (Uniform Code of Military Justice).

(m) Any party aggrieved by any final determination or order of the Board may institute, in the district court of the United States for the judicial district wherein the violation or threatened violation of this Act occurred, or in the United States District Court for the District of Columbia, a civil action for the review of such determination or order. In any such action, the court shall have jurisdiction to (1) affirm, modify, or set aside any determination or order made by the Board which is under review, or (2) require the Board to make any determination or order which it is authorized to make under subsection (k), but which it has refused to make. The reviewing court shall set aside any finding, conclusion, determination, or order of the Board as to which complaint is made which is unsupported by substantial evidence on the record considered as a whole.

(n) The Board shall submit, not later than March 31 of each year, to the Senate and House of Representatives, respectively, a report on its activities under this section during the immediately preceding calendar year, including a statement concerning the nature of all complaints filed with it, its determinations and orders resulting from hearings thereon, and the names of all officers or employees of the United States with respect to whom any penalties have been imposed under this section.

(o) There are authorized to be appropriated sums necessary, not in excess of $100,000, to carry out the provisions of this section.

Sec. 6. Nothing contained in this Act shall be construed to prohibit an officer of the Central Intelligence Agency or of the National Security Agency from requesting any civilian employee or applicant to take a polygraph test, or to take a psychological test, designed to elicit from him information concerning his personal relationship with any person connected with him by blood or marriage, or concerning his religious beliefs or practices, or concerning his attitude or conduct with respect to sexual matters, or to provide a personal financial statement, if the Director of the Central Intelligence Agency or his designee or the Director of the National Security Agency or his designee makes a personal finding with regard to each individual to be so tested or examined that such test or information is required to protect the national security.

SEC. 7. No civilian employee of the United States serving in the Central Intelligence Agency or the National Security Agency, and no individual or organization acting in behalf of such employee, shall be permitted to invoke the provisions of sections 4 and 5 without first submitting a written complaint to the agency concerned about the threatened or actual violation of this Act and affording such agency one hundred and twenty days from the date of such complaint to prevent the threatened violation or to redress the actual violation: *Provided however*, That nothing in this Act shall be construed to affect any existing authority of the Director of Central Intelligence under section 403(c), of title 50, United States Code. and any authorities available to the National Security Agency under section 833 of title 50, United States Code, to terminate the employment of any employee.

SEC. 8. Nothing in this Act shall be construed to affect in any way the authority of the Directors of the Central Intelligence Agency or the National Security Agency to protect or without information pursuant to statute or executive order. The personal certification by the Director of the agency that disclosure of any information is inconsistent with the provision of any statute or Executive order shall be conclusive and no such information shall be admissible in evidence in any interrogation under section 1(k) or in any civil action under section 4 or in any proceeding or civil action under section 5.

SEC. 9. This Act shall not be applicable to the Federal Bureau of Investigation.

SEC. 10. Nothing contained in sections 4 and 5 shall be construed to prevent establishment of department and agency grievance procedures to enforce this Act, but the existence of such procedures shall not preclude any applicant or employee from pursuing the remedies established by this Act or any other remedies provided by law: *Provided, however*, That if under the procedures established, the employee or applicant has obtained complete protection against threatened violations or complete redress for violations, such action may be pleaded in bar in the United States district court or in proceedings before the Board on Employee Rights: *And provided further*, That if an employee elects to seek a remedy under either section 4 or section 5, he waives his right to proceed by an independent action under the remaining section.

SEC. 11. If any provision of this Act or the application of any provision to any person or circumstance shall be held invalid, the remainder of this Act or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 92–554), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

The purpose of the bill is to prohibit indiscriminate executive branch requirements that employees and, in certain instances, applicants for Government employment disclose their race, religion, or national origin; attend Government-sponsored meetings and lectures or participate in outside activities unrelated to their employment; report on their outside activities or undertakings unrelated to their work; submit to questioning about their religion, personal relationships or sexual attitudes through interviews, psychological tests, or polygraphs; support political candidates or attend political meetings. The bill would make it illegal to coerce an employee to buy bonds or make charitable contributions. It prohibits officials from requiring him to disclose his own personal assets, liabilities, or expenditures, or those of any member of his family unless, in the case of certain specified employees, such items would tend to show a conflict of interest. It would provide a right to have a counsel or other person present, if the employee wishes, at an interview which may lead to disciplinary proceedings. It would accord the right to a civil action in a Federal court for violation or threatened violation of the act, and it would establish a Board on Employees' Rights to receive and conduct hearings on complaints of violation of the act and to determine and administer remedies and penalties.

STATEMENT

The subcommittee has found a threefold need for this legislation. The first is the immediate need to establish a statutory basis for the preservation of certain rights and liberties of those who work for government now and those who will work for it in the future. The bill, therefore, not only remedies problems of today but looks to the future, in recognition of the almost certain enlargement of the scope of Federal activity and the continuing rise in the number of Americans employed by their Federal Government or serving it in some capacity.

Second, the bill meets the Federal Government's need to attract the best qualified employees and to retain them. As the former Chairman of the Civil Service Commission, Robert Ramspeck, testified:

"Today, the Federal Government affects the lives of every human being in the United States. Therefore, we need better people today, better qualified people, more dedicated people, in Federal service than we ever needed before. And we cannot get them if you are going to deal with them on the basis of suspicion, and delve into their private lives, because if there is anything the average American cherishes, it is his right of freedom of action, and his right to privacy. So I think this bill is hitting at an evil that has grown up, maybe not intended, but which is hurting the ability of the Federal Government to acquire the type of personnel that we must have in the career service."

Third is the growing need for the beneficial influence which such a statute would provide in view of the present impact of Federal policies, regulations and practices on those of State and local government and of private business and industry. An example of the interest demonstrated by governmental and private employers is the following comment by Allan J. Graham, secretary of the Civil Service Commission of the city of New York:

"It is my opinion, based on over 25 years of former Government service, including some years in a fairly high managerial capacity, that your bill, if enacted into law, will be a major step to stem the tide of "Big Brotherism," which constitutes a very real threat to our American way of life.

In my present position as secretary of the Civil Service Commission of the city of New York, I have taken steps to propose the inclusion of several of the concepts of your bill into the rules and regulations of the city civil service commission."

Passage of the bill will signify congressional recognition of the threats to individual privacy posed by an advanced technology and by increasingly more complex organizations. Illustrating these trends is the greatly expanded use of computers and governmental and private development of vast systems for the efficient gathering of information and for data storage and retrieval. While Government enjoys the benefit of these developments, there is at the same time an urgent need for defining the areas of individual liberty and privacy which should be exempt from the unwarranted intrusions facilitated by scientific techniques.

As Prof. Charles Reich of Yale Law School has stated, this bill "would be a significant step forward in defining the right of privacy today."

"One of the most important tasks which faces the Congress and State legislatures in the next decade is the protection of the citizen against invasion of privacy," states Prof. Stanley Anderson of the University of California, Santa Barbara. "No citizens," in his opinion, "are in more immediate danger of incursion into private affairs than Government employees. When enacted the bill will provide a bulwark of protection against such incursions."

The bill is based on several premises which the subcommittee investigation has proved valid for purposes of enacting this legislation. The first is that civil servants do not surrender the basic rights and liberties which are their due as citizens under the Constitution of the United States by their action in accepting Government employment. Chief among these constitutional protections is the first amendment, which protects the employee to privacy in his thoughts, beliefs and attitudes, to silence in his action and participation or his inaction and nonparticipation in community life and civic affairs. This principle is the essence of constitutional liberty in a free society.

The constitutional focus of the bill was emphasized by Senator Ervin in the following terms when he introduced S. 1035 on February 21, 1967:

"If this bill is to have any meaning for those it affects, or serve as a precedent for those who seek guidance in these matters, its purpose must be phrased in constitutional terms. Otherwise its goals will be lost.

"We must have as our point of reference the constitutional principles which guide every official act of our Federal Government. I believe that the Constitution, as it was drafted and as it has been implemented, embodies a view of the citizen as possessed of an inherent dignity and as enjoying certain basic liberties. Many current practices of Government affecting employees are unconstitutional; they violate not only the letter but the very spirit of the Constitution.

"I introduced this bill originally because I believe that, to the extent it has permitted or authorized unwarranted invasion of employee privacy and unreasonable restrictions on their liberty, the Federal Government has neglected its constitutional duty where its own employees are concerned, and it has failed in its role as the model employer for the Nation.

"Second, although it is a question of some dispute, I hold that Congress has a duty under the Constitution not only to consider the constitutionality of the laws it enacts, but to assure as far as possible that those in the executive branch responsible for administering the laws adhere to constitutional standards in their programs, policies, and administrative techniques."

The committee believes that it is time for Congress to forsake its reluctance to tell the executive branch how to treat its employees. When so many American citizens are subject to unfair treatment, to being unreasonably coerced or required without warrant to surrender their liberty, their privacy, or their freedom to act or not to act, to reveal or not to reveal information about themselves and their private thoughts and actions, then Congress has a duty to call a statutory halt to such practices. It has a duty to remind the executive branch that even though it might have to expend a little more time and effort to obtain some favored policy goal, the techniques and tools must be reasonable and fair.

Each section of the bill is based on evidence from many hundreds of cases and complaints showing that generally in the Federal service, as in any similar organizational situation, a request from a superior is equivalent to a command. This evidence refutes the argument that an employee's response to a superior's request for information or action is a voluntary response, and that an employee "consents" to an invasion of his privacy or the curtailment of his liberty. Where his employment opportunities are at stake, where there is present the economic coercion to submit to questionable practices which are contrary to our constitutional values, then the presence of consent or voluntarism may be open to serious doubt. For this reason the bill makes it illegal for officials to "request" as well as to "require" an employee to submit to certain inquiries or practices or to take certain actions.

Each section of the bill reflects a balancing of the interests involved: The interest of the Government in attracting the best qualified individuals to its service; and its interest in pursuing laudable goals such as protecting the national security, promoting equal employment opportunities, assuring mental health, or conducting successful bond-selling campaigns. There is, however, also the interest of the individual in protection of his rights and liberties as a private citizen. When he becomes an employee of his Government, he has a right to expect that the policies and practices applicable to him will reflect the best values of his society.

The balance of interests achieved assures him this right. While it places no absolute prohibition on Government inquiries, the bill does assure that restrictions on his rights and liberties as a Government employee are reasonable ones.

As Senator Bible stated:

"There is a line between what is Federal business and what is personal business, and Congress must draw that line. The right of privacy must be spelled out."

The weight of evidence, as Senator Fong has said: "points to the fact that the invasions of privacy under threats and coercion and economic intimidation are rampant in our Federal civil service system today. The degree of privacy in the lives of our civil servants is small enough as it is, and it is still shrinking with further advances in technical know-how. That these citizens are being forced by economic coercion to surrender this precious liberty in order to obtain and hold jobs is an invasion of privacy which should disturb every American. I, therefore, strongly believe that congressional action to protect our civil servants is long overdue."

The national president of the National Association of Internal Revenue Employees, Vincent Connery, told the subcommittee of this proposal in the 89th Congress:

"Senate bill 3779 is soundly conceived and perfectly timed. It appears on the legislative scene during a season of public employee unrest, and a period of rapidly accelerating demand among Federal employes for truly first-class citizenship. For the first time within my memory, at least, a proposed bill holds out the serious hope of attaining such a citizenship. S. 3779, therefore, amply deserves the fullest support of all employee organizations, both public and private, federal affiliated, and independent alike."

Similar statements endorsing the broad purpose of the bill were made by many others, including the following witnesses:

John F. Griner, national president, American Federation of Government Employees.

E. C. Hallback, national president, United Federation of Postal Clerks.

Jerome Keating, president, National Association of Letter Carriers.

Kenneth T. Lyons, national president, National Association of Government Employees.

John A. McCart, operations director, Government Employees Council of AFL–CIO.

Hon. Robert Ramspeck, former Chairman, eral Professional Association.

Civil Service Commission.

Vincent Jay, executive vice president, Fed-

Francis J. Speh, president, 14th District Department, American Federation of Government Employees.

Lawrence Speiser, director, Washington office, American Civil Liberties Union.

Nathan Wolkomir, national president, National Federation of Federal Employees.

LEGISLATIVE HISTORY

Following is a chronological account of Committee action on this legislation to date.

S. 1438 was preceded by S. 782 of the 91st Congress, by S. 1035 of the 90th Congress, and by S. 3079 and S. 3703 of the 89th Congress.

Violations of rights covered by the bill as well as other areas of employee rights have been the subject of intensive hearings and investigation by the subcommittee for the last five Congresses.

In addition to investigation of individual cases, the Subcommittee on Constitutional Rights has conducted annual surveys of agency policies on numerous aspects of Government personnel practices. In 1965, pursuant to Senate Resolution 43, hearings were conducted on due process and improper use of information acquired through psychological testing, psychiatric examinations, and security and personnel interviews.

In a letter to the Chief Executive on August 3, 1966, the subcommittee chairman stated:

"For some time, the Constitutional Rights Subcommittee has received disturbing reports from responsible sources concerning violations of the rights of Federal employees. I have attempted to direct the attention of appropriate officials to these matters, and although replies have been uniformly courteous, the subcommittee has received no satisfaction whatsoever, or even any indication of awareness that any problem exists. The invasions of privacy have reached such alarming proportions and are assuming such varied forms that the matter demands your immediate and personal attention.

"The misuse of privacy-invading personality tests for personnel purposes has already been the subject of hearings by the subcommittee. Other matters, such as improper and insulting questioning during background investigations and due process guarantees in denial of security clearances have also been the subject of study. Other employee complaints, fast becoming too numerous to catalog, concern such diverse matters as psychiatric interviews; lie detectors; race questionnaires; restrictions on communicating with Congress; pressure to support political parties yet restrictions on political activities; coercion to buy savings bonds; extensive limitations on outside activities yet administrative influence to participate in agency-approved functions; rules for writing, speaking and even thinking; and requirements to disclose personal information concerning finances, property and creditors of employees and members of their families."

After describing in detail the operation of two current programs to illustrate the problems, Senator Ervin commented:

"Many of the practices now in extensive use have little or nothing to do with an individual's ability or his qualification to perform a job. The Civil Service Commission has established rules and examinations to determine the qualifications of applicants. Apparently, the Civil Service Commission and the agencies are failing in their assignment to operate a merit system for our Federal civil service.

"It would seem in the interest of the administration to make an immediate review of these practices and questionnaires to determine whether the scope of the programs is not exceeding your original intent and whether the violations of employee rights are not more harmful to your long-range goals than the personnel shortcuts involved."

* * * * *

Following this letter and others addressed to the Chairman of the Civil Service Commission and the Secretaries of other departments, legislation to protect employee rights was introduced in the Senate. This proposal, S. 3703 was introduced by the chairman on August 9, 1966, and referred to the Judiciary Committee. On August 25, 1966, the chairman received unanimous consent to a request to add the names of 33 cosponsors to the bill. On August 26, 1966, he introduced a bill similar to S. 3703, containing an amendment reducing the criminal penalties provided in section 2. This bill, S. 2779, was also referred to the Judiciary Committee, and both S. 3779 were then referred to the Subcommittee on Constitutional Rights.

Comments on the bill and on problems related to it were made by the chairman in the Senate on July 18, August 9, August 25, August 26, September 29, October 17 and 18, 1966, and on February 21, 1967.[1]

Hearings on S. 3779 were conducted before the subcommittee on September 23, 29, 30, and October 3, 4, and 5, 1966. Reporting to the Senate on these hearings, the subcommittee chairman made the following statement:

"The recent hearings on S. 3779 showed that every major employee organization and union, thousands of individual employees who have written Congress, law professors, the American Civil Liberties Union, and a number of bar associations agree on the need for statutory protections such as those in this measure.

"We often find that as the saying goes "things are never as bad as we think they are," but in this case, the hearings show that privacy invasions are worse than we thought they were. Case after case of intimidation, of threats of loss of job or security clearance were brought to our attention in connection with bond sales, and Government charity drives.

"Case after case was cited of privacy invasion and denial of due process in connection with the new financial disclosure requirements. A typical case is the attorney threatened with disciplinary action or loss of his job because he is both unable and unwilling to list all gifts, including Christmas presents from his family, which he had received in the past year. He felt this had nothing to do with his job. There was the supervisory engineer who was told by the personnel officer that he would have to take disciplinary action against the 25 professional employees in his division who resented being forced to disclose the creditors and financial interests of themselves and members of their families. Yet there are no procedures for appealing the decisions of supervisors and personnel officers who are acting under the Commission's directive. These are not isolated instances; rather, they represent a pattern of privacy invasion reported from almost every State.

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[1] See also, *Cong. Rec.* Comments.

"The subcommittee was told that supervisors are ordered to supply names of employees who attend PTA meetings and engage in Great Books discussions. Under one department's regulations, employees are requested to participate in specific community activities promoting local and Federal antipoverty, beautification, and equal employment programs; they are told to lobby in local city councils for fair housing ordinances, to go out and make speeches on any number of subjects, to supply flower and grass seed for beautification projects, and to paint other people's houses. When those regulations were brought to the subcommittee's attention several weeks ago, we were told that they were in draft form. Yet, we then discovered they had already been implemented and employees whose official duties had nothing to do with such programs were being informed that failure to participate would indicate an uncooperative attitude and would be reflected in their efficiency records.

"The subcommittee hearings have produced ample evidence of the outright intimidation, arm twisting and more subtle forms of coercion which result when a superior is requested to obtain employee participation in a program. We have seen this in the operation of the bond sale campaign, the drives for charitable contributions, and the use of self-identification minority status questionnaires. We have seen it in the sanctioning of polygraphs, personality tests, and improper questioning of applicants for employment.

"In view of some of the current practices reported by employee organizations and unions, it seems those who endorse these techniques for mind probing and thought control of employees have sworn hostility against the idea that every man has a right to be free of every form of tyranny over his mind; they forget that to be free a man must have the right to think foolish thoughts as well as wise ones. They forget that the first amendment implies the right to remain silent as well as the right to speak freely—the right to do nothing as well as the right to help implement lofty ideals.

"It is not under this administration alone that there has been a failure to respect employee rights in a zeal to obtain certain goals. While some of the problems are new, others have been prevalent for many years with little or no administrative action taken to attempt to ameliorate them. Despite congressional concern, administrative officials have failed to discern patterns of practice in denial of rights. They seem to think that if they can belatedly remedy one case which is brought to the attention of the Congress, the public and the press, that this is enough—that the "heat" will subside. With glittering generalities, qualified until they mean nothing in substance, they have sought to throw Congress off the tracks in its pursuit of permanent corrective action. We have seen this in the case of personality testing, in the use of polygraphs, and all the practices which the bill would prohibit."

The Chairman of the Civil Service Commission informed the subcommittee that there is no need for a law to protect employee rights. He believes the answer is—

"To permit executive branch management and executive branch employes as individuals and through their unions, to work together to resolve these issues as part of their normal discourse."

It is quite clear from the fearful tenor of the letters and telephone calls received by the subcommittee and Members of Congress that there is no discourse and is not likely to be any discourse on these matters between the Commission and employees. Furthermore, there are many who do not even fall within the Commission's jurisdiction. For them, there is no appeal but to Congress.

As for the argument that the discourse between the unions and the Commission will remedy the wrongs, the testimony of the union representatives adequately demolishes that dream.

The typical attitude of those responsible for personnel management is reflected in Mr. Macy's answer that there may be instances where policy is not adhered to, but "There is always someone who doesn't get the word." Corrective administration action, he says, is fully adequate to protect employee rights.

Administrative action is not sufficient. Furthermore, in the majority of complaints, the wrong actually stems from the stated policy of the agency or the Commission. How can these people be expected to judge objectively the reasonableness and constitutionality of their own policies? This is the role of Congress, and in my opinion, Congress has waited too long as it is to provide the guidance that is desperately needed in these matters.

S. 1035, 90th Congress

On the basis of the subcommittee hearings, agency reports, and the suggestions of many experts, the bill was amended to meet legitimate objections to the scope and language raised by administrative witnesses and to clarify the intent of its cosponsors that it does not apply to the proper exercise of management authority and supervisory discretion, or to matters now governed by statute.

This amended version of S. 3779 was introduced in the Senate by the chairman on February 21, 1967, as S. 1035 with 54 cosponsors. It was considered by the Constitutional Rights Subcommittee and unanimously reported with amendments by the Judiciary Committee on August 21, 1967. [S. Rept. No. 534, 90th Cong., 1st Sess.] The proposal was considered by the Senate on September 13, 1967, and approved, with floor amendments, by a 79 to 4 vote. After absentee approvals were recorded, the record showed a total of 90 Members supported passage of the bill. The amendments adopted on the Senate floor deleted a complete exemption which the committee bill provided for the Federal Bureau of Investigation; instead, it was provided that the Federal Bureau of Investigation should be accorded the same limited exemptions provided for the Central Intelligence Agency and the National Security Agency. A provision was added to allow the three Directors to delegate the power to make certain personal findings required by section 6 of the bill.

Committee amendments to S. 1035, 90th Congress

1. Amendment to section 1(a) page 2, line 13:

"*Provided further*, That nothing contained in this subsection shall be construed to prohibit inquiry concerning the national origin of any such employee when such inquiry is deemed necessary or advisable to determine suitability for assignment to activities or undertakings related to the national security within the United States or to activities or undertakings of any nature outside the United States."

2. Amendment to section 1(b), page 2, line 25 strike "to" (technical amendment).

3. Delete section 1(e), page 4, lines 1–4 (prohibitions on patronizing business establishments) and renumber following sections as sections 1(e), (f), (g), (h), (i), (j), (k), and (l), respectively.

4. Delete section 4, page 10, lines 12–23 (criminal penalties), and renumber following sections as sections 4 and 5, respectively.

5. Amendment to section 1(f), page 4, line 25:

"*Provided further, however*, That nothing contained in this subsection shall be construed to prohibit an officer of the department or agency from advising any civilian employee or applicant of a specific charge of sexual misconduct made against that person, and affording him an opportunity to refute the charge."

6. Amendments to section 1(f), page 4, at lines 17 and 19, change "psychiatrist" to "physician".

7. Amendment to section 1(k), page 7, at line 10, change (j) to (i).

8. Amendment to section 2(b), page 9, at line 6 and line 9, change "psychiatrist" to "physician".

9. Amendment to section 2(b), page 9, at line 15:

"*Provided further, however*, That nothing contained in this subsection shall be construed to prohibit an officer of the Civil Service Commission from advising any civilian employee or applicant of a specific charge of sexual misconduct made against that person, and affording him an opportunity to refute the charge."

10. Amendment to section 5, page 11, line 21, insert after the word "violation." the following:

"The Attorney General shall defend all officers or persons sued under this section who acted pursuant to an order, regulation, or directive, or who, in his opinion, did not willfully violate the provisions of this Act."

11. Amendment to section 6(l), page 16, at line 24, strike "sign charges and specifications under section 830 (art. 30)" and insert in lieu thereof "convene general courts-martial under section 822 (art. 22)" (technical amendment).

12. Amendment to section 6(m), page 17, line 14, change subsection (j) to (k) (technical amendment).

13. Amendment, page 18, add new section 6:

"SEC. 6. Nothing contained in this Act shall be construed to prohibit an officer of the Central Intelligence Agency or of the National Security Agency from requesting any civilian employee or applicant to take a polygraph test, or to take a psychological test designed to elicit from him information concerning his personal relationship with any person connected with him by blood or marriage, or concerning his religious beliefs or practices, or concerning his attitude or conduct with respect to sexual matters, or to provide a personal financial statement, if the Director of the Central Intelligence Agency or the Director of the National Security Agency makes a personal finding with regard to each individual to be so tested or examined that such test or information is required to protect the national security."

14. Amendment, page 18, add new section 8, and renumber following section as section 9:

"SEC. 8. Nothing contained in sections 4 and 5 shall be construed to prevent establishment of department and agency grievance procedures to enforce this Act, but the existence of such procedures shall not preclude any applicant or employee from pursuing the remedies established by this Act or any other remedies provided by law: *Provided, however*, That if under the procedures established, the employee or applicant has obtained complete protection against threatened violations or complete redress for violations, such action may be pleaded in bar in the United States District Court or in proceedings before the Board on Employee Rights: *Provided further, however*, That if an employee elects to seek a remedy under either section 4 or section 5, he waives his right to proceed by an independent action under the remaining section."

Comparison of S. 1035, 90th Congress, as introduced, and S. 3779, 89th Congress

As introduced, the revised bill, S. 1035, differed from S. 3779 of the 89th Congress in the following respects:

1. The section banning requirements to disclose race, religion, or national origin was amended to permit inquiry on citizenship where it is a statutory condition of employment.

2. The provision against coercion of employees to buy bonds or make charitable donations was amended to make it clear that it does not prohibit calling meetings or taking any action appropriate to afford the employee the opportunity voluntarily to invest or donate.

3. A new section providing for administrative remedies and penalties establishes a Board on Employee Rights to receive and conduct hearings on complaints of violation of the act, and to determine and administer remedies and penalties. There is judicial review of the decision under the Administrative Procedure Act.

4. A specific exemption for the Federal Bureau of Investigation is included.

5. Exceptions to the prohibitions on privacy-invading questions by examination, interrogations, and psychological tests are provided upon psychiatric determination that the information is necessary in the diagnosis and treatment of mental illness in individual cases, and provided that it is not elicited pursuant to general practice or regulation governing the examination of employees or applicants on the basis of grade, job, or agency.

6. The section prohibiting requirements to disclose personal financial information contains technical amendments to assure that only persons with final authority in certain areas may be subject to disclosure requirements.

7. For those employees excluded from the ban on disclosure requirements, a new section (j), provides that they may only be required to disclose items tending to show a conflict of interest.

8. Military supervisors of civilian employees are included within the prohibitions of the bill, and violation of the act is made a punishable offense under the Uniform Code of Military Justice.

9. A new section 2 has been added to assure that the same prohibitions in section 1 on actions of department and agency officials with respect to employees in their departments and agencies apply alike to officers of the Civil Service Commission with respect to the employees and applicants with whom they deal.

10. Section (b) of S. 3779, relating to the calling or holding of meetings or lectures to indoctrinate employees, was deleted.

11. Sections (c), (d), and (e) of S. 3779—sections (b), (c), and (d) of S. 1035—containing prohibitions on requiring attendance at outside meetings, reports on personal activities and participation in outside activities, were amended to make it clear that they do not apply to the performance of official duties or to the development of skill, knowledge, and abilities which qualify the person for his duties or to participation in professional groups or associations.

12. The criminal penalties were reduced from a maximum of $500 and 6 months' imprisonment to $300 and 30 days.

13. Section (h) of S. 3779 prohibiting requirements to support candidates, programs, or policies of any political party was revised to prohibit requirements to support the nomination or election of persons or to attend meetings to promote or support activities or undertakings of any political party.

14. Other amendments of a technical nature.

S. 782, 91st Congress—Committee amendments

S. 782, as introduced by Senator Ervin with 54 cosponsors, was identical to S. 1035 of the 90th Congress as passed by the Senate. As amended in Committee, it was reported to the Senate on May 15, 1970, and passed by unanimous consent on May 19.

The Subcommittee met in executive session on July 22, 1969, to receive testimony from Richard Helms, Director of the Central Intelligence Agency and other agency representatives. On the basis of this testimony and after a number of meetings of subcommittee members with officials of the Central Intelligence Agency, the National Security Agency, and the Federal Bureau of Investigation, the language contained in the committee amendments was drafted and meets with the approval of the Directors of those agencies.

Amendments

1. Amendment to section 1(a), page 2, line 15 insert after the word "origin" the words "or citizenship" and after the word "employee", the words "or person, or of his forebears".

2. Amendment to section 1(k), page 8, line 5 after the word "requests", strike the period and insert the following:

": *Provided, however,* That a civilian employee of the United States serving in the Central Intelligence Agency, or the National Security Agency may be accompanied only by a person of his choice who serves in the agency in which the employee serves or by counsel who has been approved by the agency for access to the information involved."

3. Amendment to section 6, page 18, lines 15 and 16 delete "or of the Federal Bureau of Investigation".

4. Amendment to section 6, page 18, line 25, and page 19, line 1 delete "or the Director of the Federal Bureau of Investigation or his designee".

5. On page 19, add a new section 7 as follows:

"SEC. 7. No civilian employee of the United States serving in the Central Intelligence Agency or the National Security Agency, and no individual or organization acting in behalf of such employee, shall be permitted to invoke the provision of sections 4 and 5 without first submitting a written complaint to the agency concerned about the threatened or actual violation of this Act and affording such agency 120 days from the date of such complaint to prevent the threatened violation or to redress the actual violation: *Provided, however* That nothing in this Act shall be construed to affect any existing authority of the Director of Central Intelligence under 50 U.S.C. 403(c), and any authorities available to the National Security Agency under 50 U.S.C. 833 to terminate the employment of any employee."

6. On page 19, add a new section 8 as follows:

"SEC. 8. Nothing in this act shall be construed to affect in any way the authority of the Directors of the Central Intelligence Agency or the National Security Agency to protect or withhold information pursuant to statute or executive order. The personal certification by the Director of the agency that disclosure of any information is inconsistent with the provision of any statute or executive order shall be conclusive and no such information shall be admissable in evidence in any interrogation under section 1(k) or in any civil action under section 4 or in any proceeding or civil action under section 5."

7. On page 19, add a new section 9 as follows:

"SEC. 9. This act shall not be applicable to the Federal Bureau of Investigation."

8. On page 19, at line 5, renumber "SEC. 7" as "SEC. 10" and at line 20, renumber "SEC. 8" as "SEC. 11".

QUESTIONS ON RACE, RELIGION, AND NATIONAL ORIGIN

Many complaints received by the subcommittee concerned official requests or requirements that employees disclose their race, religion, or ethnic or national origin. This information has been obtained from employees through the systematic use of questionnaires or oral inquiries by supervisors.

Chief concern has focused on a policy inaugurated by the Civil Service Commission in 1966, under which present employees and future employees would be asked to indicate on a questionnaire whether they were "American Indian," "oriental," "Negro," "Spanish-American" or "none of these." Approximately 1.7 million employees were told to complete the forms, while some agencies including some in the Department of Defence continued their former practice of acquiring such information through the "head count" method. Although the Civil Service Commission directive stated that disclosure of such information was voluntary, complaints show that employees and supervisors generally felt it to be mandatory. Administrative efforts to obtain compliance included in some instances harassment, threats, and intimidation. Complaints in different agencies showed that employees who did not comply received airmail letters at their homes with new forms; or their names were placed on administrative lists for "follow-up" procedures, and supervisors were advised to obtain the information from delinquent employees by a certain date.

In the view of John McCart, representing the Government Employes' Council, AFL–CIO:

"When the Civil Service Commission and the regulations note that participation by the employee will be voluntary, this removes some of the onus of the encroachment on an individual's privacy. But in an organizational operation of the size and complexity of the Federal Government, it is just impossible to guarantee that each individual's right to privacy and confidentiality will be observed.

"In addition to that, there have been a large number of complaints from all kinds of Federal employees. In the interest of maintaining the rights of individual workers against the possibility of invading those rights, it would seem to us it would be better to abandon the present approach, because there are other alternatives available for determining whether that program is being carried out."

The hearing record contains numerous examples of disruption of employee-management relations, and of employee dissatisfaction with such official inquiries. Many told the subcommittee that they refused to complete the questionnaires because the matter was none of the Government's business; others, because of their mixed parentage, felt unable to state the information.

Since 1963, the policy of the American Civil Liberties Union on the method of collecting information about race has favored the head count wherever possible. Although the policy is presently under review, the subcommittee finds merit in the statement that:

"The collection and dissemination of information about race creates a conflict among several equally important civil liberties: the right of free speech and free inquiry, on the one hand, and the rights of privacy and of equality of treatment and of opportunity, on the other. The ACLU approves them all. But at this time in human history, when the principle of equality and nondiscrimination must be vigorously defended, it is necessary that the union oppose collection and dissemination of information regarding race, except only where rigorous justification is shown for such action. Where such collection and dissemination is shown to be justified, the gathering of information should be kept to the most limited form, wherever possible by use of the head count method, and the confidential nature of original records should be protected as far as possible."

Former Civil Service Commission Chairman Robert Ramspeck told the subcommittee:

"To consider race, color, religion, and national origin in making appointments, in promotions and retention of Federal employees is, in my opinion, contrary to the merit system. There should be no discrimination for or against minority persons in Federal Government employment."

As the hearings and complaints have demonstrated, the most telling argument against the use of such a questionnaire, other than the constitutional issue, is the fact that it does not work. This is shown by the admission by many employees that they either did not complete the forms or that they gave inaccurate data.

Mr. Macy informed the subcommittee:

"In the State of Hawaii the entire program was cut out because it had not been done there before, and it was inadvertently included in this one, and the feeling was that because of the racial composition there it would be exceedingly difficult to come up with any kind of identification along the lines of the card that we were distributing."

The Civil Service Commission on May 9 informed the subcommittee that it had "recently approved regulations which will end the use of voluntary self-identification of race as a means of obtaining minority group statistics for the Federal work force." The Commission indicated its decision was based on the failure of the program to produce meaningful statistics. In its place the Commission will rely on supervisory reports based solely on observation, which would not be prohibited by the bill.

As Senator Fong stated:

"It should be noted that the bill would not bar head counts of employee racial extraction for statistical purposes by supervisors. However, the Congress has authorized the merit system for the Federal service and the race, national origin or religion of the individual or his forebears should have nothing to do with his ability or qualifications to do a job."

Section 1(a) of the bill was included to assure that employees will not again be subjected to such unwarranted invasion of their privacy. It is designed to protect the merit system which Congress has authorized for the Federal service. Its passage will reaffirm the intent of Congress that a person's religion, race, and national or ethnic origin or that of his forebears have nothing to do with his ability or qualification to perform the requisite duties of a Federal position, or to qualify for a promotion.

By eliminating official authority to place the employee in a position in which he feels compelled to disclose this personal data, the bill will help to eliminate the basis for such complaints of invasion of privacy and discrimination as Congress has received for a number of years. It will protect Americans from the dilemma of the grandson of an American Indian who told the subcommittee that he had exercised his option and did not complete the minority status questionnaire. He did not know how to fill it out. Shortly thereafter he received a personal memorandum from his superviser "requesting" him to complete a new questionnaire and "return it immediately." He wrote: "I personally feel that if I do not comply with this request (order), my job or any promotion which comes up could be in jeopardy."

The prohibitions in section 1(a) against official inquiries about religion, and in section 1(e) concerning religious beliefs and practices together constitute a bulwark to protect the individual's right to silence concerning his religious convictions and to refrain from an indication of his religious beliefs.

Referring to these two sections, Lawrence Speiser, director of the Washington office of the American Civil Liberties Union testified:

"These provisions would help, we hope, eliminate a constantly recurring problem involving those new Government employees who prefer to affirm their allegiance rather than swearing to it. All Government employees must sign an appointment affidavit and take an oath or affirmation of office.

"A problem arises not just when new employees enter Government employment but in all situations where the Government requires on oath, and there is an attempt made on the part of those who prefer to affirm. It is amazing the intransigence that arises on the part of clerks or those who require the filling out of these forms, or the giving of the statement in permitting individuals to affirm.

"The excuses that are made vary tremendously, either that the form can only be signed and they cannot accept a form in which "so help me God" is struck out, because that is an amendment, and they are bound by their instructions which do not permit any changes to be made on the forms at all.

"Also, in connection with the giving of oaths, I have had one case in which an investigator asked a young man this question: "For the purposes of administering the oath, do you believe in God?"

"It is to be hoped that the provisions of this bill would bar practices of that kind. The law should be clear at this time. Title I, United States Code, section 1 has a number of rules of construction, one of which says that wherever the word "oath" appears, that includes "affirmation," and wherever the word "swear" appears, that includes "affirm."

"This issue comes up sometimes when clerks will ask, "Why do you want to affirm? Do you belong to a religious group that requires an affirmation rather than taking an oath?" And unless the individual gives the right answer, the clerks won't let him affirm. It is clear under the *Torcaso* case that religious belief and lack of religious beliefs are equally entitled to the protection of the first amendment."

The objection has been raised that the prohibition against inquiries into race, religion, or national origin would hinder investigation of discrimination complaints. In effect, however, it is expected to aid rather than hinder in this area of the law, by decreasing the opportunities for discrimination initially. It does not hinder acquisition of the information elsewhere; nor does it prevent a person from volunteering the information if he wishes to supply it in filing a complaint or in the course of an investigation.

CONTROL OF EMPLOYEE OPINIONS, OUTSIDE ACTIVITIES

Reports have come to the subcommittee of infringements and threatened infringements on first amendment freedoms of employees; freedom to think for themselves free of Government indoctrination; freedom to choose their outside civic, social, and political activities as citizens free of official guidance; or even freedom to refuse to participate at all with reporting to supervisors.

Illustrative of the climate of surveillance the subcommittee has found was a 13-year-old Navy Department directive, reportedly similar to those in other agencies, warning employees to guard against "indirect remarks" and to seek "wise and mature" counsel within their agencies before joining civic or political associations.

In the view of the United Federation of Postal Clerks:

"Perhaps no other right is so essential to employee morale as the right to personal freedom and the absence of interference by the Government in the private lives and activities of its employees. Attempts to place prohibitions on the private associations of employees; mandatory reporting of social contacts with Members of Congress and the press; attempts to "orient" or "indoctrinate" Federal employees on subjects outside their immediate areas of professional interest; attempts to "encourage" participation in outside activities or discourage patronage of selected business establishments and coercive campaigns for charitable donations are among the most noteworthy abuses of Federal employees' right to personal freedom."

An example of improper on-the-job indoctrination of employees about sociological and political matters was cited in his testimony by John Griner, president of the AFL-CIO affiliated American Federation of Government Employees:

One instance of disregard of individual rights of employees as well as responsibility to the taxpayers, which has come to my attention, seems to illustrate the objectives of subsections (b), (c), and (d), of section I of the Ervin bill. It happened at a large field installation under the Department of Defense.

The office chief called meetings of different groups of employees throughout the day * * * A recording was played while employees listened to about 30 minutes. It was supposedly a speech made at a university, which went deeply into the importance of integration of the races in this country. There was discussion of the United Nations—what a great thing it was—and how there never could be another world war. The person who reported this incident made this comment: "Think of the taxpayers' money used that day to hear that record." I think that speaks for itself.

Other witnesses were in agreement with Mr. Griner's view of the need for protecting employees now and in the future from any form of indoctrination on issues unrelated to their work. The issue was defined at hearings on S. 3779 in the following colloquy between the subcommittee chairman and Mr. Griner.

If they are permitted to hold such as this on Government time and at Government expense, they might then also hold sessions as to whether or not we should be involved in the Vietnam war or whether we should not be, whether we should pull out or whether we should stay, and I think it could go to any extreme under those conditions.

"Of course, we are concerned with it, yes. But that is not a matter for the daily routine of work.

"Senator ERVIN. Can you think of anything which has more direful implications for a free America than a practice by which a government would attempt to indoctrinate any man with respect to a particular view on any subject other than the proper performance of his work?

"Mr. GRINER. I think if we attempted to do that we would be violating the individual's constitutional rights.

"Senator ERVIN. Is there any reason whatever why a Federal civil service employee should not have the same right to have his freedom of thought on all things under the sun outside of the restricted sphere of the proper performance of his work that any other American enjoys?

"Mr. GRINER. No, sir."

With one complaint of attempted indoctrination of employees at a Federal installation, a civil servant enclosed a memorandum taken from a bulletin board stating the time, place, and date of a lecture by a sociology professor on the subject of the importance of racial integration. Attendance was to be voluntary but the notice stated that a record would be made of those attending or not attending.

Concerning such a practice, one witness commented: "If I had been a Federal employee and I cared anything about my job, I would have been at that lecture."

Employees of an installation in Pennsylvania complained of requirements to attend film lectures on issues of the cold war.

Witnesses agreed that taking notice of attendance at such meetings constituted a form of coercion to attend. Section 1(b) will eliminate such intimidation. It leaves unaffected existing authority to use any appropriate means, including publicity, to provide employees information about meetings concerning matters such as charity drives and bond-selling campaigns.

Section (c) protests a basic constitutional right of the individual employee to be free of official pressure on him to engage in any civic or political activity or undertaking which might involve him as a private citizen, but which has no relation to his Federal employment. It preserves his freedom of thought and expression, including his right to keep silent, or to remain inactive.

This section will place a statutory bar against the recurrence of employee complaints such as the following received by a Member of the Senate:

"Dear Senator ———: On ———, 1966, a group of Treasury Department administrators were called to Miami for a conference led by ———, Treasury Personnel Officer, with regard to new revisions in chapter 713 of the Treasury Personnel Manual.

"Over the years the Treasury Department has placed special emphasis on the hiring of Negroes under the equal employment opportunity program, and considerable progress in that regard has been made. However, the emphasis of the present conference was that our efforts in the field of equal employment opportunity have not been sufficient. Under the leadership of President Johnson and based on his strong statement with regard to the need for direct action to cure the basic causes leading to discrimination, the Treasury Department has now issued specific instructions requiring all supervisors and line managers to become actively and aggressively involved in the total civil rights problem.

"The requirements laid down by chapter 713 and its appendix include participation in such groups as the Urban League. NAACP, et cetera (these are named specifically) and involvement in the total community action program, including open housing, integration of schools, et cetera.

"The policies laid down in this regulation, as verbally explained by the Treasury representatives at the conference, go far beyond any concept of employee personnel responsibility previously expressed. In essence, this regulation requires every Treasury manager or supervisor to become a social worker, both during his official hours and on his own time. This was only tangentially referred to in the regulation and its appendages, but was brought out forcefully in verbal statements by Mr. ——— and ———. Frankly, this is tremendously disturbing to me and to many of the other persons with whom I have discussed the matter. We do not deny the need for strong action in the field of civil rights, but we do sincerely question the authority of our Government to lay out requirements to be met on our own time which are repugnant to our own personal beliefs and desires.

"The question was asked as to what disciplinary measures would be taken against individuals declining to participate in these community action programs. The reply was given by the equal employment officer, that such refusal would constitute an undesirable work attitude bordering on insubordination and should at the very least be reflected on the annual efficiency rating of the employee.

"The principles expressed in these regulations and in this conference strike me as being of highly dangerous potential. If we, who have no connection with welfare or social programs, can be required to take time from our full-time responsibilities in our particular agencies and from the hours normally reserved for our own refreshment and recreation to work toward integration of white neighborhoods, integration of schools by artificial means, and to train Negroes who have not availed themselves of the public schooling available, then it would seem quite possible that under other leadership, we could be required to perform other actions which would actually be detrimental to the interests of our Nation."

* * * * *

Testifying on the issue of reporting outside activities, the American Civil Liberties Union representative commented:

"To the extent that individuals are apprehensive they are going to have to, at some future time, tell the Government about what organizations they have belonged to or been associated with, that is going to inhibit them in their willingness to explore all kinds of ideas, their willingness to hear speakers, their willingness to do all kinds of things. That has almost as deadening an effect on free speech in a democracy as if the opportunities were actually cut off.

"The feeling of inhibition which these kinds of questions cause is as dangerous, it seems to me, as if the Government were making actual edicts."

Witnesses gave other examples of invasion of employees' private lives which would be halted by passage of the bill.

In the southwest a division chief dispatched a buck slip to his group of supervisors demanding: "the names * * * of employees * * * who are participating in any activities including such thing as: PTA in integrated schools, sports activities which are intersocial, and such things as Great Books discussion groups which have integrated memberships."

* * * * *

In a Washington office of the Department of Defense, a branch chief by telephone asked supervisors to obtain from employees the names of any organizations they belonged to. The purpose apparently was to obtain invitations for Federal Government officials to speak before such organizations.

* * * * *

Reports have come to the subcommittee that the Federal Maritime Commission, pursuant to civil service regulations, requested employees to participate in community activities to improve the employability of minority groups, and to report to the chairman any outside activities.

* * * * *

In addition to such directives, many other instances involving this type of restriction have come to the attention of the subcommittee over a period of years. For example, some agencies have either prohibited flatly, or required employees to report, all contacts, social or otherwise, with Members of Congress or congressional staff members. In many cases reported to the subcommittee, officials have taken reprisals against employees who communicated with their Congressmen and have issued directives threatening such action.

* * * * *

The Civil Service Commission on its Form 85 for nonsensitive positions requires an individual to list: "Organizations with which affiliated (past and present) other than religious or political organizations or those with religious or political affiliations (if none, so state)."

* * * * *

PRIVACY INVASIONS IN INTERVIEWS, INTERROGATIONS, AND PERSONALITY TESTS

Although it does not outlaw all of the unwarranted personal prying to which employees and applicants are now subjected, section 1(e) of the reported bill will prohibit the more serious invasions of personal privacy reported. The subcommittee believes it will also result in limitations beyond its specific prohibitions by encouraging administrative adherance to the principles it reflects.

It will halt mass programs in which, as a general rule, agency officials conduct interviews during which they require or request applicants or employees to reveal intimate details about their habits, thoughts, and attitudes on matters unrelated to their qualifications and ability to perform a job.

It will also halt individual interrogations such as that involving an 18-year-old college sophomore applying for a summer job as a secretary at a Federal department.

In the course of an interview with a department investigator, she was asked wide-ranging personal questions. For instance, regarding a boy whom she was dating, she was asked questions which donated assumptions made by the investigator, such as:

"Did he abuse you?

"Did he do anything unnatural with you? You didn't get pregnant, did you?

"There's kissing, petting, and intercourse, and after that, did he force you to do anying to him, or did he do anything to you?"

The parent of this student wrote:

"This interview greatly transcended the bounds of normal areas and many probing personal questions were propounded. Most questions were leading and either a negative or positive answer resulted in an appearance of self-incrimination. During this experience my husband was on an unaccompanied tour of duty in Korea and I attempted alone, without success, to do battle with the Department.

"I called and was denied any opportunity to review what had been recorded in my daughter's file. Likewise my daughter was denied any review of the file in order to verify or refute any of the record made by the State Department interviewer. This entire matter was handled as if applicants for State Department employment must subject themselves to the personal and intimate questions and abdicate all claims to personal rights and privileges.

"As a result of this improper intrusion into my daughter's privacy which caused all great mental anguish, I had her application for employment withdrawn from the State Department. This loss of income made her college education that much more difficult.

"Upon my husband's return, we discussed this entire situation and felt rather than subjecting her again to the sanctioned methods of Government investigation we would have her work for private industry. This she did in the summer of 1966, with great success and without embarrassing or humiliating Gestapo-type investigation."

Upon subcommittee investigation of this case, the Department indicated that this was not a unique case, because it used a "uniform policy in handling the applications of summer employees as followed with all other applicant categories." It stated that its procedure under Executive Order 10450 is a basic one "used by the Department and other executive agencies concerning the processing of any category of applicants who will be dealing with sensitive. classified material." Its only other comment on the case was to assure that "any information developed during the course of any of our investigations that is of a medical nature, is referred to our Medical Division for proper evaluation and judgment." In response to a request for copies of departmental guidelines governing such investigations and interviews, the subcommittee was told they were classified.

Section 1(e) would protect every employee and every civilian who offers his services to his Government from indiscriminate and unauthorized requests to submit to any test designed to elicit such information as the following:

"My sex life is satisfactory.

"I have never been in trouble because of my sex behavior.

"Everything is turning out just like the prophets of the Bible said it would.

"I loved my father.

"I am very strongly attracted by members of my own sex.

'I go to church almost every week.

"I believe in the second coming of Christ.

"I believe in a life hereafter.

"I have never indulged in any unusual sex practices.

"I am worried about sex matters.

"I am very religious (more than most people).

"I loved my mother.

"I believe there is a Devil and a Hell in afterlife.

"I believe there is a God.

"Once in a while I feel hate toward members of my family whom I usually love.

"I wish I were not bothered by thoughts about sex."

The subcommittee hearings in 1965 on "Psychological tests and constitutional rights" and its subsequent investigations support the need for such statutory prohibitions on the use of tests.

In another case, the subcommittee was told, a woman was questioned for 6 hours about every aspect of her sex life—real, imagined, and gossiped—with an intensity that could only have been the product of inordinately salacious minds."

The specific limitation on the three areas of questioning proscribed in S. 1035 in no way is intended as a grant of authority to continue or initiate the official eliciting of personal data from individuals on subjects not directly proscribed. It would prohibit investigators, or personnel, security and medical specialists from indiscriminately requiring or requesting the individual to supply, orally or through tests, data on religion, family, or sex. It does not prevent a physician from doing so if he has reason to believe the employee is "suffering from mental illness" and believes the information is necessary to make a diagnosis. Such a standard is stricter than the board "fitness for duty" standard now generally applied by psychiatrists and physicians in the interviews and testing which an employee can be requested and required to undergo.

There is nothing in this section to prohibit an official from advising an individual of a specific charge of sexual misconduct and affording him an opportunity to refute the charge voluntarily.

POLYGRAPHS

Section 1(f) makes it unlawful for any officer of any executive department or agency or any person acting under his authority to require or request or attempt to require or request any civilian employee or any applicant for employment to take any polygraph test designed to elicit from him information concerning his personal relationship with any person connected with him by blood or marriage, or concerning his religious beliefs, practices or concerning his attitude or conduct with respect to sexual matters. While this section does not eliminate the use of so-called lie detectors by Government, it assures that where such devices are used for these purposes it will be only in limited areas.

John McCart, representing the Government Employees Council of AFL–CIO, supported this section of the bill, citing a 1965 report by a special subcommittee of the AFL–CIO executive council that:

"The use of lie detectors violates basic considerations of human dignity in that they involve the invasion of privacy, self-incrimination, and the concept of guilt until proven innocent."

Congressional investigation[1] has shown that there is no scientific validation for the effectiveness or accuracy of lie detectors. Yet despite this and the invasion of privacy involved, lie detectors are being used or may be used in various agencies of the Federal Government for purposes of screening applicants or for pursuing investigations.

This section of the bill is based on complaints such as the following received by the subcommittee:

"When I graduated from college in 1965, I applied at NSA. I went to 2 days of testing, which apparently I passed because the interviewer seemed pleased and he told me that they could always find a place for someone with my type of degree.

"About 1 month later, I reported for a polygraph test at an office on Wisconsin Avenue in the District or just over the District line in Maryland. I talked with the polygraph operator, a young man around 25 years of age. He explained how the machine worked, etc. He ran through some of the questions before he atached the wires to me. Some of the questions I can remember are—

"When was the first time you had sexual relations with a woman?

"How many times have you had sexual intercourse?

"Have you ever engaged in homosexual activities?

"Have you ever engaged in sexual activities with an animal?

"When was the first time you had intercourse with your wife?

"Did you have intercourse with her before you were married? How many times?"

"He also asked questions about my parents, Communist activities, etc. I remember that I thought this thing was pretty outrageous, but the operator assured me that he asked everybody the same questions and he has heard all the answers before, it just didn't mean a thing to him. I wondered how he could ever get away with asking a girl those kind of questions.

"When I finished, I felt as though I had been in a 15 round championship boxing match. I felt exhausted. I made up my mind then and there that I wouldn't take the job even if they wanted me to take it. Also, I concluded that I would never again apply for a job with the Government, especially where they make you take one of these tests."

Commenting on this complaint, the subcommittee chairman observed:

"Certainly such practices should not be tolerated even by agencies charged with security missions. Surely, the financial, scientific, and investigative resources of the Federal Government are sufficient to determine whether a person is a security risk, without strapping an applicant to a machine and subjecting him to salacious questioning. The Federal Bureau of Investigation does not use personality tests or polygraphs on applicants for employment. I fail to see why the National Security Agency finds them so fascinating."

COERCION TO BUY BONDS AND CONTRIBUTE TO CAUSES

The hearing record and subcommittee complaint files amply document the need for statutory protections against all forms of coercion of employees to buy bonds and contribute to causes. Involved here is the freedom of the individual to invest and donate his money as he sees fit, without official coercion. As the subcommittee chairman explained:

"It certainly seems to me that each Federal employee, like any other citizen in the United States, is the best judge of his capacity, in the light of his financial obligations, to participate or decide whether he will participate and the extent of his participation in a bond drive. That is a basic determination which he and he alone should make.

"I think there is an interference with fundamental rights when coercion of a psychological or economic nature is brought on a Federal employee, even to make him do right. I think a man has to have a choice of acting unwisely as well as wisely, if he is going to have any freedom at all."

The subcommittee has received from employees and their organizations numerous reports of intimidation, threats of loss of job, and security clearances and of denial of promotion for employees who do not participate to the extent supervisors wish. The hearing record contains examples of documented cases of reprisals, many of which have been investigated at the subcommittee's request and confirmed by the agency involved. It is apparent that policy statements and administrative rules are not sufficient to protect individuals from such coercion.

The president of the United Federation of Postal Clerks informed the subcommittee:

"Section 1, paragraph (i) of S. 3779 is particularly important to all Federal employees and certainly to our postal clerks. The extreme arm-twisting coercion, and pressure tactics exerted by some postmasters on our members earlier this year during the savings bonds drive must not be permitted at any future time in the Government service.

"Our union received complaints from all over the country where low-paid postal clerks, most having the almost impossible problem of trying to support a family and exist on sub-standard wages, were practically being ordered to sign up for purchase of U.S. savings bonds, or else. The patriotism of our postal employees cannot be challenged. I recently was advised that almost 75 percent of postal workers are veterans of the Armed Forces and have proven their loyalty and patriotism to this great country of ours in the battlefield in many wars. Yet, some postmasters questioned this patriotism and loyalty if any employee could not afford to purchase a savings bond during the drive."

The president of the National Association of Government Employees testified:

"We are aware of instances wherein employees were told that if they failed to participate in the bond program they would be frozen in their position without promotional opportunities.

"In another agency the names of individuals who did not participate were posted for all to see. We have been made aware of this situation for some years and we know that Congress has been advised of the many instances and injustices Federal employees faced concerning their refusal or inability to purchase bonds.

"Certainly, the Government, which has thousands of public relations men in its agencies and departments, should be capable of promoting a bond program that does not include the sledge-hammer approach."

Some concern has been expressed by officials of the United Community Funds and Councils of America, the American Heart Association, Inc., and other charitable organizations, that the bill would hamper their campaigns in Federal agencies.

For this reason, the bill contains a proviso to express the intent of the sponsors that officials may still schedule meetings and take any appropriate action to publicize campaigns and to afford employees the opportunity to invest or donate their money voluntarily. It is felt that this section leaves a wide scope for reasonable action in promoting bond selling and charity drives.

The bill will prohibit such practices as were reported to the sub-committee in the following complaints:

"We have not yet sold our former home and cannot afford to buy bonds while we have both mortgage payments and rental payments to meet. Yet I have been forced to buy bonds, as I was told the policy at this base is, 'Buy bonds or by-by.'

"In short, after moving 1,700 miles for the good of the Government, I was told I would be fired if I didn't invest my money as my employer directed. I cannot afford to buy bonds, but I can't afford to be fired even more."

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[1] Hearings and reports on the use of polygraphs as "lie detectors," by the Federal Government before a Subcommittee of the House Committee on Government Operations, April 1964 through 1966.

* * * * *

"Not only were we forced to buy bonds, but our superiors stood by the time clock with the blanks for the United Givers Fund, and refused to let us leave until we signed up. I am afraid to sign my name, but I am employed at * * *."

A representative of the 14th District Department of the American Federation of Government Employees, Lodge 421, reported:

"The case of a GS–13 professional employee who has had the misfortune this past year of underwriting the expenses incurred by the last illness and death of both his mother and father just prior to this recent bond drive. This employee had been unofficially informed by his supervisor that he had been selected for a then existing GS–14 vacancy. When it became known that he was declining to increase his participation in the savings bond drive by increasing his payroll deduction for that purpose, he was informed that he might as well, in effect, kiss that grade 14 goodby."

DISCLOSURE OF ASSETS, DEBTS, AND PROPERTY

Section (i) and (j) meet a need for imposing a reasonable statutory limitations on the extent to which an employee must reveal the details of his or his family's personal finances, debts, or ownership of property.

The subcommittee believes that the conflict-of-interest statutes, and the many other laws governing conduct of employees, together with appropriate implementing regulations, are sufficient to protect the Government from dishonest employees. More zealous informational activities on the part of management were recommended by witnesses in lieu of the many questionnaires now required.

The employee criticism of such inquiries was summarized as follows:

"There are ample laws on the statute books dealing with fraudulent employment, conflict of interest, etc. The invasion of privacy of the individual employee is serious enough, but the invasion of the privacy of family, relatives and children of the employee is an outrage against a free society.

"This forced financial disclosure has caused serious moral problems and feelings by employees that the agencies distrust their integrity. We do not doubt that if every employee was required to file an absolutely honest financial disclosure, that a few, though insignificant number of conflict-of-interest cases may result. However, the discovery of the few legal infractions could in no way justify the damaging effects of forced disclosures of a private nature. Further, it is our opinion that those who are intent on engaging in activities which result in a conflict of interest would hardly supply that information on a questionnaire or financial statement. Many employees have indicated that rather than subject their families to any such unwarranted invasion of their right to privacy, that they are seriously considering other employment outside of Government."

The bill will reduce to reasonable proportions such inquiries as the following questionnaire, which many thousands of employees have periodically been required to submit.

(Questionnaire follows:)

CONFIDENTIAL STATEMENT OF EMPLOYMENT AND FINANCIAL INTERESTS

(For use by regular government employees)

Name (last, first, initial)

Title of position

Date of appointment in present position, organization location (operating agency, Bureau Division)

Part I. Employment and financial interests

List the name of all corporations, companies, firms, or other business enterprises, partnerships, nonprofit organizations, and educational, or other institutions: (a) with which you are connected as an employee, officer, owner, director, member, trustee, partner, adviser, or consultant; or (b) in which you have any continuing financial interests, through a pension or retirement plan, shared income, or other arrangement as a result of any current or prior employment or business or professional association; or (c) in which you have any financial interest through the ownership of stock, stock options, bonds, securities, or other arrangements including trusts. If none, write NONE.

Name and kind of organization (use part 1 designations where applicable)

Address

Position in organization (Use Part 1(a) designation, if applicable.)

Nature of financial interest, e.g., stocks, prior income (Use Part 1(b) and (c) designation if applicable).

Part II. Creditors

List the names of your creditors other than those to whom you may be indebted by reason of a mortgage on property which you occupy as a personal residence or to whom you may be indebted for current and ordinary household and living expenses such as household furnishings, automobile, education, vacation, and similar expenses. If none, write NONE.

Name and address of creditor

Character of indebedness, e.g., personal loan, note, security

Part III. Interests in real property

List your interest in real property or rights in lands, other than property which you occupy as a personal residence. If none, write NONE.

Nature of interest, e.g., ownership mortgage, lien, investment trust.

Type of property, e.g., residence, hotel apartment, undeveloped land.

Address (if rural, give RFD or county and State)

Part IV. Information requested of other persons

If any information is to be supplied by other persons, e.g., trustee, attorney, accountant, relative, please indicate the name and address of such person, the date upon which you requested that the information be applied, and the nature of subject matter involved. If none, write NONE.

Name and address, date of request, nature of subject matter

(*This space reserved for additional instructions*)

I certify that the statements I have made are true, complete, and correct to the best of my knowledge and belief.

(Date)

(Signature)

The vagueness of the standards for requiring such a broad surrender of privacy is illustrated by the Civil Service Commission's regulation applying this to any employee whose duties have an "economic impact on a non-Federal enterprise."

Also eliminated will be questionnaires asking employees to list "all assets or everything you and your immediate family own, including date acquired and cost or fair market value at acquisitions. (Cash in banks, cash anywhere else, due from others—loans, et cetera, automobiles, securities, real estate, cash surrender of life insurance; personal effects and household furnishings and other assets.)"

The view of the president of the United Federation of Postal Clerks reflected the testimony of many witnesses endorsing sections 1 (i) and (j) of the bill.

"If the conflict-of-interest questionnaire is of doubtful value in preventing conflict of interest, as we believe, we can only conclude that it does not meet the test of essentiality and that it should be proscribed as an unwarranted invasion of employee privacy. Such value as it may have in focusing employee attention upon the problem of conflict of interest and bringing to light honest oversights that may lead to conflict of interest could surely be achieved by drawing attention to the 26 or more laws pertaining to conflict of interest or by more zealous information activities on the part of management."

The complex problem of preserving the confidential nature of such reports was described by officials of the National Association of Internal Revenue Employees:

"The present abundance of financial questionnaires provides ample material for even more abusive personnel practices. It is almost inevitable that this confidential information cannot remain confidential. Typically, the financial questionnaire is filed with an employee's immediate supervisor. The net worth statements ultimately go into Inspection, but they pass through the hands of local personnel administrators. We have received a great number of disturbing reports—as have you—that this information about employees' private affairs is being used for improper purposes, such as enforced retirement and the like."

Inadequacies in agency procedures for obtaining such information from employees and for reviewing and storing it, are discussed in the Subcommittee report for the 89th Congress, 2d Session. Widely disparate attitudes and practices are also revealed in a Subcommittee study contained in the appendix of the printed hearings on S. 3779.

The bill will make such complaints as the following unnecessary in the future conduct of the Federal Government:

DEAR SENATOR ERVIN: I am writing to applaud the stand you have taken on the new requirement that Federal employees in certain grades and categories disclose their financial holdings to their immediate superior. Having been a civil service employee for 26 years, and advanced from GS–4 to GS–15, and been cleared for top secret during World War II, and because I currently hold a position that involves the disposition of hundreds of thousands of the taxpayers' money, it is my conviction that my morality and trustworthiness are already a matter of record in the files of the Federal Government.

The requirement that my husband's financial assets be reported, as well as my own assets and those we hold jointly, was particularly offensive, since my husband is the head of our household and is not employed by Government.

You might also be interested in the fact that it required 6 hours of after-hours work on our part to hunt up all the information called for and prepare the report. Since the extent of our assets is our private business, it was necessary that I type the material myself, an added chore since I am not a typist.

Our assets have been derived, in the main, from laying aside a portion of our earnings. At our ages (64 and 58) we would be far less deserving of respect had we not made the prudent provisions for our retirement which our assets and the income they earn represent. Yet this reporting requirement carries with it the implication that to have "clean hands" it would be best to have no assets or outside, unearned income when you work for the Federal Government.

For your information I am a GS–15, earning $19,415 * * *

Thank you for speaking out for the continually maligned civil servant.

Sincerely yours,

——, ——.

—

DEAR SENATOR ERVIN: I am a GS–12 career employee with over 15 years service.

The highest moral and ethical conduct has been my goal in each of my positions of employment and I have found this to be true of a vast majority of my fellow workers. It may be true a few people do put material gain ahead of their ethics but generally these people are in the higher echelons of office where their influence is much greater.

Our office has recently directed each employee from file clerk to the heads of sections to file a "Statement of Financial Interest." As our office has no programs individuals could have a financial interest in and especially no connections with FHA I feel it is no one's business but my own what real estate I own. I do not have a FHA mortgage or any other real property and have no outside employment, hence have nothing to hide by filing a blank form. Few Government workers can afford much real property. The principle of reporting to "Big Brother" in every phase of your private life to me is very degrading, highly unethical and very unquestionable as to its effectiveness. If I could and did use my position in some way to make a profit I would be stupid to report it on an agency inquiry form. What makes officials think reporting will do away with graft?

When the directive came out many man-hours of productive work were lost in discussions and griping. Daily since that date at some time during the day someone brings up the subject. The supervisors filed their reports as "good" examples but even they objected to this inquiry.

No single thing was ever asked of Government employees that caused such a decline in their morale. We desperately need a "bill of rights" to protect ourselves from any further invasion of our private lives.

Fifteen years ago I committed myself to Government service because: (a) I felt an obligation to the Government due to my education under the GI bill, (b) I could obtain freedom from pressures of unions, (c) I could obtain freedom from invasion of my private life, and (d) I would be given the opportunity to advance based solely on my professional ability and not on personal politics. At this point I certainly regret my decision to make the Government my career.

Sincerely,

———, ———.

Dear Senator: I write to beg your support of a "bill of rights" to protect Federal employees from official snooping which was introduced by Senator Ervin of North Carolina.

I am a veteran of two wars and have orders to a third war as a ready reservist. And I know why I serve in these wars: that is to prevent the forces of tyranny from invading America.

Now, as a Federal employee I must fill out a questionnaire giving details of my financial status. This is required if I am to continue working. I know that this information can be made available to every official in Washington, including those who want to regulate specific details of my life.

Now I am no longer a free American. For example, I can no longer buy stock of a foreign company because that country may be in disfavor with officials of the right or left. And I cannot "own part of America" by buying common stocks until an "approved list" is published by my superiors.

I can never borrow money because an agent may decide that debt makes me susceptible to bribery by agents of an enemy power. Nor do I dare own property lest some official may decide I should sell or rent to a person or group not of my choosing.

In short, I am no longer free to plan my own financial program for the future security of my family. In 1 day I was robbed of the freedom for which I fought two wars. This is a sickening feeling, you may be sure.

It seems plain that a deep, moral issue is involved here that concerns every citizen. If this thing is allowed to continue, tomorrow or next year every citizen may come under the inquisition. The dossier on every citizen will be on file for the use of any person or group having enough overt or covert power to gain access to them.

Sincerely,

———, ———.

In August 1966, Federal employees who were retired from the armed services were told to complete and return within 7 days, with their social security numbers, a 15-page questionnaire, asking, among other things:

"How much did you earn in 1965 in wages, salary, commissions, or tips from all jobs?

"How much did you earn in 1965 in profits or fees from working in your own business, professional practice, partnership, or farm?

"How much did you receive in 1965 from social security, pensions (nonmilitary) rent (minus expenses), interests or dividends, unemployment insurance, welfare payments, or from any other source not already entered?

"How much did other members of your family earn in 1965 in wages, salary, commissions or tips? (Before any deductions.) (For this question, a family consists of two or more persons in the same household who are related to each other by blood, marriage, or adoption.) If the exact amount is not known, give your best estimate.

"How much did other members of your family earn in 1965 in profits or fees from working in their own business, professional practices, partnership, or farm?

"How much did any other member of your family receive in 1965 from social security, pensions, rent (minus expenses), interest or dividends, unemployment insurance, welfare payments; or from any other source not already entered?"

RIGHT TO COUNSEL

Section 1(k) of the bill guarantees to Federal workers the opportunity of asking the presence of legal counsel, of a friend or other person when undergoing an official interrogation or investigation that could lead to the loss of their jobs or to disciplinary action.

The merits of this clause are manifold; not least of which is that uniformity and order it will bring to the present crazy quilt practices of the various agencies concerning the right to counsel for employees facing disciplinary investigations or possible loss of security clearances tantamount to loss of employment. The Civil Service Commission regulations are silent on this critical issue. In the absence of any Commission initiative or standard, therefore, the employing agencies are pursuing widely disparate practices. To judge from the questionnaires and other evidence before the subcommittee, a few agencies appear to afford a legitimate right to counsel, probably many more do not, and still others prescribe a "right" on paper but hedge it in such a fashion as to discourage its exercise. Some apparently do not set any regulatory standard, but handle the problem on an ad hoc basis.

On a matter as critical as this, such a pointless diversity of practice is poor policy. So far as job-protection rights are concerned, all Federal employees should be equal.

A second anomaly in the present state of affairs derives from recent developments in the law of the sixth amendment by the Supreme Court. In view of the decisions of *Miranda* v. *Arizona*, 384 U.S. 436 and *Escobedo* v. *Illinois*, 378 U.S. 478, it is clear that any person (including Federal employees) who is suspected of a crime is absolutely entitled to counsel before being subjected to custodial interrogation. Accordingly, some agencies, such as the Internal Revenue Service, acknowledge an unqualified right to counsel for an employee suspected of crime but decline to do the same for coworkers threatened with the loss of their livelihoods for noncriminal reasons. In the subcommittee's view, this discrimination in favor of the criminal suspect is both bad personnel policy as well as bad law. It would be corrected by this section of the bill.

The ultimate justification for the "right-to-counsel" clause, however, is the Constitution itself. There is no longer any serious doubt that Federal employees are entitled to due process of law as an incident of their employment relation. Once, of course, the courts felt otherwise, holding that absent explicit statutory limitation, the power of the executive to deal with employes was virtually unfettered.

The doctrinal underpinning of this rule was the 19th-century notion that the employment relation is not tangible "property." Both the rule and its underpinning have now been reexamined. The Supreme Court in recent years has emphasized the necessity of providing procedural due process where a man is deprived of his job or livelihood by governmental action.

While the courts have as yet had no occasion to articulate a specific right to counsel in the employment relationship, there can obviously be no doubt that the right to counsel is of such a fundamental character that it is among the essential ingredients of due process. What is at stake for an employee in a discharge proceeding—often including personal humiliation, obloquy and penury—is just as serious as that involved in a criminal trial. This is not to suggest that all the incidents of our civilized standard of a fair trial can or should be imported into Federal discharge proceedings. But if we are to have fair play for Federal employees, the right of counsel is a sine qua non. It is of a piece with the highest traditions, the fairest laws, and the soundest policy that this country has produced. And, in the judgment of this subcommittee, the clear affirmation of this basic right is very long overdue.

The need for such protection was confirmed at the hearings by all representatives of Government employee organizations and unions.

The president of the National Association of Letter Carriers testified:

"It is a practice in the postal inspection service, when an employee is called in for questioning by the inspectors on a strictly postal matter that does not involve a felony, to deny the right of counsel. The inspectors interrogate the employee at length and, at the completion of the interrogation, one of the inspectors writes out a statement and pressures the employee to sign it before he leaves the room. We have frequently asked the postal inspection service to permit these employees to have counsel present at the time of the interrogation. The right for such counsel has been denied in all except a few cases. If the employee is charged with a felony, then, of course, the law takes over and the right for counsel is clearly established but in other investigations and interrogations no counsel is permitted."

Several agencies contend that right to counsel is now granted in formal adverse action proceedings and that appeals procedures make this section unnecessary for informal questioning. Testimony and complaints from employees indicate that this machinery does not effectively secure the opportunity of the employee to defend himself early enough in the investigation to allow a meaningful defense.

The predicament of postal employees as described at the hearings reflects the situation in other agencies as reported in many individual cases sent to the subcommittee. While it is undoubtedly true that in some simple questioning, counsel may not be necessary, in many matters where interrogation will result in disciplinary action, failure to have counsel at the first level reacts against the employee all the way up through the appeal and review. In the case of a postal employee, the subcommittee was told—

"The first level is at the working foreman's level. He is the author of the charges; then the case proceeds to the postmaster, who appointed the foreman and, if the individual is found guilty of the charge at the first level, it is almost inevitable that this position will be supported on the second level. The third level is the regional level, and the policy there is usually that of supporting the local postmaster. A disinterested party is never reached. The fourth level is the Appeals Board, composed of officials appointed by the Postmaster General. In some cases, the region will overrule the postmaster, but certainly the individual does not have what one could style an impartial appeals procedure."

Employees charged with no crime have been subjected to intensive interrogations by Defense Department investigators who ask intimate questions, make sweeping allegations, and threaten dire consequences unless consent is given to polygraph tests. Employees have been ordered to confess orally or to write and sign statements. Such interviews have been conducted after denial of the employee's request for presence of supervisor, counsel, or friend, and in several instances the interrogations have resulted in revocation of a security clearance, or denial of access to classified information by transfer or reassignment, with the resulting loss of promotion opportunities.

Witnesses testified that employees have no recourse against the consequences of formal charges based on information and statements acquired during a preliminary investigation. This renders meaningless the distinction urged by the Civil Service Commission between formal and informal proceedings.

EXCEPTIONS

The act, under section 9, does not apply to the Federal Bureau of Investigation. Furthermore, section 6 provides that nothing in the act will prohibit an official of the Central Intelligence Agency and the National Security Agency from requesting any employee or applicant to take a polygraph test or a psychological test, or to provide a personal financial statement designed to elicit the personal information protected under subsections 1 (e), (f), (i), and (j). In such cases, the Director of the agency or his designee must make a personal finding with regard to each individual to be tested or examined that such test or information is required to protect the national security.

An exception to the right-to-counsel section has been provided to limit this right for employees in the Central Intelligence Agency and the National Security Agency to a person who serves in the same agency or a counsel cleared by the agency for access to the information involved. Obviously, it is expected that the employee's right to be accompanied by the person of his choice will not be denied unless that person's access to the information for the purpose of the case is clearly inconsistent with the national security. Other language recognizes problems unique to these two agencies. For instance, section 7 requires exhaustion of remedies by employees of the Central Intelligence Agency and the National Security Agency and states that the act does not affect whatever existing statutory authority these agencies now possess to terminate employment. Section 8 is designed to assure that nothing in the act is construed to affect negatively any existing statutory or executive authority of the Directors of the Central Intelligence Agency and National Security Agency to protect their information in cases involving their employees. Consequently, procedures commended to the subcommittee by the Director of the Central Intelligence Agency are spelled out for asserting that authority in certain proceedings arising under the act. Other committee amendments to S. 1035, as detailed earlier, were adopted to meet administrative requirements of the Federal security program and the intelligence community as well as the management needs of the executive branch.

ENFORCEMENT

Enforcement of the rights guaranteed in sections 1 and 2 of the bill is lodged in the administrative and civil remedies and sanctions of sections 3, 4, and 5. Crucial to enforcement of the act is the creation of an independent Board on Employees Rights to determine the need for disciplinary action against civilian and military offenders under the act and to provide relief from violations.

Testimony at the hearings as well as investigation of complaints have demonstrated that in the area of employee rights, a right is only as secure as its enforcement. There is overwhelming evidence that employees have heretofore frequently lacked appropriate remedies either in the courts or the Civil Service Commission for pursuing rights which belong to them as citzens.

Under the remedies afforded by sections 3, 4, and 5 of the bill, an employee who believes his rights are violated under the act has several courses of action:

(1) He may pursue a remedy through the agency procedures established to enforce the act, but the fact that he does not choose to avail himself of these does not preclude exercise of his right to seek other remedies.

(2) He may register his complaint with the Board on Employee Rights and obtain a hearing. If he loses there, he may appeal to the district court, which has the power to examine the record as a whole and to affirm, modify, or set aside any determination or order, or to require the Board to take any action it was authorized to take under the act.

(3) He may, instead of going directly to the Board, institute a civil action in Federal district court to prevent the threatened violation, or obtain complete redress against the consequences of the violation.

He does not need to exhaust any administrative remedies but if he elects to pursue his civil remedies in the court under section 4, he may not seek redress through the Board. Similarly, if he initiates action before the Board under section 5, he may not also seek relief from the court under section 4.

The bill does not affect any authority, right or privilege accorded under Executive Order 11491 governing employee-management cooperation in the Federal service. To the extent that there is any overlapping of subject matter, the bill simply provides an additional remedy.

THE BOARD ON EMPLOYEE RIGHTS

As a result of hearings on S. 3779, the section creating a Board on Employee Rights was added to the bill for introduction as S. 1035.

Employees have complained that administrative grievance procedures have often proved ineffective because they are cumbersome, time-consuming, and weighted on the side of management. Not only do those who break the rules go unpunished many times, but the fearful tenor of letters and telephone calls from throughout the country indicate that employees fear reprisals for noncompliance with improper requests or for filing of complaints and grievances. Oral and written directives of warning to this effect have been verified by the subcommittee. Section 1(e) of the bill, therefore, prevents reprisals for exercise of rights granted under the act and in such event accords the individual cause for complaint before the Board or the court.

Concerning the original bill in the 89th Congress, which did not provide for a board, representatives of the 14th department of the American Federation of Government Employees commented that the remedies are the most important aspects of such a bill because "unless due process procedures are explicitly provided, the remaining provisions of the bill may be easily ignored or circumvented by Federal personnel management. As a matter of fact, we believe, the reason employees' rights have been eroded so rapidly and so devastatingly in the last few years is the absence of efficient, expeditious, uniform, and legislatively well defined procedures of due process in the executive departments of the Federal Government."

An independent and nonpartisan Board is assured by congressional participation in its selection and by the fact that no member is to be a government employee. Provision is made for congressional monitoring through detailed reports.

Senator Ervin explained the function of the Board established by section 5 as follows:

"The bill sets up a new independent Federal agency with authority to receive complaints and make rulings on complaints—complaints of individual employees or unions representing employees. This independent agency, which would not be subject in any way to the executive branch of the Government, would be authorized to make rulings on these matters in the first instance. It would make a ruling on action in a particular agency or department that is an alleged violation of the provisions of the bill, with authority either on the part of the agency or the part of the individual or on the part of the union to take an appeal from the ruling of this independent agency to the Federal court for judicial review."

Throughout its study the subcommittee found that a major area of concern is the tendency in the review process in the courts or agencies to do no more than examine the lawfulness of the action or decision about which the employee has complained. For purposes of enforcing the act, sections 3, 4 and 5 assure adequate machinery for processing complaints and for prompt and impartial determination of the fairness and constitutionality of general policies and practices initiated at the highest agency levels or by the Civil Service Commission or by Executive order.

Finding no effective recourse against administrative actions and policies which they believed unfair or in violation of their rights, individual employees and their families turned to Congress for redress. Opening the hearings on invasions of privacy, Senator Ervin stated:

"Never in the history of the Subcommittee on Constitutional Rights have we been so overwhelmed with personal complaints, phone calls, letters, telegrams, and office visits. In all of our investigations I have never seen anything to equal the outrage and indignation from Government employees, their families, and their friends. It is obvious that appropriate remedies are not to be found in the executive branch.

"The complaints of privacy invasions have multiplied so rapidly of late that it is beyond the resources of Congress and its staff to repel effectively each individual official encroachment. Each new program brings a new wave of protest."

Prof. Alan Westin, director of the Science and Law Committee of the Bar Association of the city of New York, testified that these complaints "have been triggered by the fact that we do not yet have the kind of executive branch mechanism by which employees can lodge their sense of discomfort with personnel practices in the Federal Government and feel that they will get a fair hearing, that they will secure what could be called 'employment due process.'"

To meet this problem, Professor Westin proposed an independent board subject to judicial review, and with enforcement power over a broad statutory standard governing all invasion of privacy. Although it is continuing to study this proposal, the subcommittee has temporarily rejected this approach in the interest of achieving immediate enforcement of the act and providing administrative remedies for its violation. For this reason it supports the creation of a limited Board on Employee Rights.

Perhaps one of the most important sections of the bill, if not the most important section, according to the United Federation of Postal Clerks, is the provision establishing the Board. The subcommittee was told—

"It would appear absolutely essential that any final legislation enacted into law must necessarily include such a provision. We can offer no suggestions for improvement of this section. As presently constituted the section is easily understood; and the most excellent and inclusive definition of the proposed "Board on Employees' Rights" which could possibly be enacted into law. It defines the right of employees to challenge violations of the proposed act; defines the procedures involved, as well as the authority of the Board, penalties for violation of the act, as well as establishing the right of judicial review for an aggrieved party, and finally provides for congressional review, and in effect, an annual audit by the Congress of all complaints, decisions, orders, and other related information resulting from activities and operations of the proposed act."

Sanctions

The need for sanctions against offending officials has been evident throughout the subcommittee's investigation of flagrant disregard of basic rights and unpunished flaunting of administrative guidelines and prohibitions. It was for this reason that S. 3779 of the 89th Congress and S. 1035, as introduced, contained criminal penalties for offenders and afforded broad civil remedies and penalties.

Reporting on the experiences of the American Civil Liberties Union in such employee cases, Lawrence Speiser testified:

"In filing complaints with agencies including the Civil Service Commission, the Army and the Navy, as I have during the period of time I have worked here in Washington, I have never been informed of any disciplinary action taken against any investigator for asking improper questions, for engaging in improper investigative techniques, for barring counsel when a person had a right to have counsel, or for a violation of any number of things that you have in this bill. Maybe some was taken, but I certainly couldn't get that information out of the agencies, after making the complaints. I would suggest that the bill also encompass provision for disciplinary action that would be taken against Federal employees who violate any of these rights that you have set out in the bill."

Other witnesses also pointed to the need for the disciplinary measures afforded by the powers of an independent Board to determine the need for corrective action and punishment, and felt they would be more effective than criminal penalties.

In view of the difficulty of filing criminal charges and obtaining prosecution and conviction of executive branch officials which might render the criminal enforcement provision meaningless for employees, the criminal penalties were deleted and a Board on Employee Rights incorporated into the scheme of remedies and sanctions in the bill.[1]

Although the Civil Service Commission and the executive agencies have advocated placing such administrative remedies within the civil service grievance and appeals system, the subcommittee believes that the key to effective enforcement of the unique rights recognized by this act lies in the employee's recourse to an independent body.

"The theory of our Government," Professor Westin testified, "is that there should be somewhere within the executive branch where this kind of malpractice is corrected and that good administration ought to provide for control of supervision or other practices that are not proper. But the sheer size of the Federal Establishment, the ambiguity of the relationship of the Civil Service Commission to employees, and the many different interests that the Civil Service Commission has to bear in its role in the Federal Government, suggest that it is not an effective instrument for this kind of complaint procedure."

SECTION-BY-SECTION ANALYSIS

SECTION 1

Section 1(a)

Section 1(a) makes it unlawful for a Federal official of any department or agency to require or request, or to attempt to require or request, any civilian employee of the United States serving in the department or agency or any person seeking employment to disclose his race, religion, or national origin, or the race, religion, or national origin of any of his forebears.

This section does not prohibit inquiry concerning citizenship of such individual if his citizenship is a statutory condition of his obtaining or retaining his employment. Nor does it preclude inquiry of the individual concerning his national origin or citizenship or that of his forebears when such inquiry is thought necessary or advisable in order to determine suitability for assignment to activities or undertakings related to national security within the United States or to activities or undertakings of any nature outside the United States.

This provision is directed at any practice which places the employee or applicant under compulsion to reveal such information as a condition of the employment relation. It is intended to implement the concept underlying the Federal merit system by which a person's race, religion, or national origin have no bearing on his right to be considered for Federal employment or on his right to retain a Federal position. This prohibition does not limit the existing authority or the executive branch to acquire such information by means other than self-disclosure.

Section 1(b)

Section 1(b) makes it unlawful for any officer of any executive department or executive agency of the U.S. Government, or for any person acting or purporting to act under this authority, to state, intimate, or to attempt to state or intimate, to any civilian employee of the United States serving in the department or agency that any notice will be taken of his attendance or lack of attendance at any assemblage, discussion, or lecture held or called by any officer of the executive branch of the U.S. Government, or by any person acting or purporting to act under his authority, or by any outside parties or organizations to advise, instruct, or indoctrinate any civilian employee of the United States serving in the department or agency in respect to any matter or subject other than (1) the performance of official duties to which he is or may be assigned in the department or agency, or (2) the development of skills, knowledge, or abilities which qualify him for the performance of such duties.

Nothing contained in this section is to be construed to prohibit taking notice of the participation of a civilian employee in the activities of any professional group or association.

This provision is designed to protect any employee from compulsion to attend meetings, discussions, and lectures on political, social, and economic subjects unrelated to his duties. It prevents Government officials from using the employment relationship to attempt to influence employee thoughts, attitudes, and actions on subjects which may be of concern to them as private citizens. In particular, this language is directed at practices and policies which in effect require attendance at such functions, including official lists of those attending or not attending; its purpose is to prohibit threats, direct or implied, written or oral, or official retaliation for nonattendance.

This section does not affect existing authority for providing information designed to promote the health and safety of employees. Nor does it affect existing authority to call meetings for the purpose of publicizing and giving notice to activities or service, sponsored by the department or agency, or campaigns such as charitable fund campaigns and savings bond drives.

Section 1(c)

Section 1(c) makes it unlawful for any officer of any executive department or agency, or for any person acting or purporting to act under his authority, to require or request or to attempt to require or request any civilian employee serving in the department or agency to participate in any way in any activities or undertakings unless they are related to the performance of official duties to which he is or may be assigned in the department or agency or to the development of skills, knowledge, or abilities which qualify him for the performance of such duties.

This section is directed against official practices, requests, or orders that an employee take part in any civic function, political program, or community endeavor or other activity which he might enjoy as a private citizen, but which is unrelated to his employment It does not affect any existing authority to use appropriate techniques for publicizing existence authority to use appropriate techniques for publicizing existence of community programs such as blood-donation drives, or agency programs, benefits or services, and for affording opportunity for employee participation if he desires.

Section 1(d)

Section 1(d) makes it unlawful for any officer of any executive department or agency, or for any person acting under his authority to require or request or attempt to require or request, any civilian employee serving in the department or agency to make any report of his activities or undertakings unless they are related to the performance of official duties or to the development of skills, knowledge, or abilities which qualify him for the performance of such duties, or (2) unless there is reason to believe that the employee is engaged in outside activities or employment in conflict with his official duties.

This section is a minimum guarantee of the freedom of an employee to participate or not to participate in any endeavor or activity in his private life as a citizen, free of compulsion to report to supervisors his action or his inaction, his involvement or his noninvolvement. This section is to assure that in his private thoughts, actions, and activities he is free of intimidation or inhibition as a result of the employment relation.

The exceptions to the prohibition are not legislative mandates to require such information in those circumstances, but merely provide an area of executive discretion for reasonable management purposes and for observance and enforcement of existing laws governing employee conduct and conflicts of interest.

Section 1(e)

Section 1(e) makes it unlawful for any officer of any executive department or agency, or any person acting under his authority, to require or request any civilian employee serving in the department or agency, or any person applying for employment as a civilian employee to submit to any interrogation or examination or to take any psychological test designed to elicit from him any information concerning his personal relationship with any person connected with him by blood or marriage, or concerning his religious beliefs or practices, or concerning his attitude or conduct with respect to sexual matters.

In accordance with an amendment made after hearings on S. 3779, a proviso is included to assure that nothing contained in this section shall be construed to prevent a physician from eliciting such information or authorizing such test in the diagnosis or treatment of any civilian employee or applicant where he feels the information is necessary to enable him to determine whether or not the individual is suffering from mental illness. The bill as introduced limited this inquiry to psychiatrists, but an amendment extended it to physicians, since the subcommittee was told that when no psychiatrist is available, it may be necessary for a general physician to obtain this information in determining the presence of mental illness and the need for further treatment.

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[1] In the 89th Congress, S. 1035.

This medical determination is to be made in individual cases and not pursuant to general practice or regulation governing the examination of employees or applicants according to grade, agency, or duties.

Under an amendment to the bill, this language is not to be construed to prohibit an official from advising an employee or applicant of a specific charge of sexual misconduct made against that person and affording him an opportunity to refute the charge. While providing no authority to request or demand such information, the section does not prevent an official who has received charges of misconduct which might have a detrimental effect on the person's employment from obtaining a clarification of the matter if the employee wishes to provide it.

This section would not prohibit all personality tests but merely those questions on the tests which inquire into the three areas in which citizens have a right to keep their thoughts to themselves.

It raises the criterion for requiring such personal information from the general "fitness for duty" test to the need for diagnosing or treating mental illness. The second proviso is designed to prohibit mass-testing programs. The language of this section provides guidelines for the various personnel and medical specialists whose practices and determinations may invade employee's personal privacy and thereby affect the individual's employment prospects or opportunities for advancement.

An amendment in section 6 provided an exception to this prohibition in the case of the use of such psychological tests by the Central Intelligence Agency and the National Security Agency, only if the Director of the agency or his designee makes a personal finding that the information is necessary to protect the national security.

Section 1(f)

Section 1(f) makes it unlawful for any officer of any executive department or agency or any person acting under his authority, to require or request or attempt to require or request any civilian employee or any applicant for employment to take any polygraph test designed to elicit from him information concerning his personal relationship with any person connected with him by blood or marriage, or concerning his religious beliefs or practices or concerning his attitude or conduct with respect to sexual matters. While this section does not eliminate entirely the use of so-called lie detectors in Government, it assures that where such devices are used, officials may not inquire into matters which are of a personal nature.

As with psychological testing, the Central Intelligence Agency and the National Security Agency, under section 6, are not prohibited from acquiring such information by polygraph, provided certain conditions are met.

Section 1(g)

Section 1(g) makes it illegal for an official to require or request an employee under his management to support the nomination or election of anyone to public office through personal endeavor, financial contribution, or any other thing of value. An employee may not be required or requested to attend any meeting held to promote or support the activities or undertakings of any political party in the United States.

The purpose of this section is to assure that the employee is free from any job-related pressures to conform his thoughts and attitudes and actions in political matters unrelated to his job to those of his supervisors. With respect to his superiors, it protects him in the privacy of his contribution or lack of contribution to the civic affairs and political life of his community, State and Nation. In particular, it protects him from commands or requests of his employers to buy tickets to fundraising functions, or to attend such functions, to compile position papers or research material for political purposes, or make any other contribution which constitutes a political act or which places him in the position of publicly expressing his support or nonsupport of a party or candidate. This section also assures that, although there is no evidence of such activities at present, no Federal agency may in the future improperly involve itself in the undertakings of any political party in the United States, its territories, or possessions.

Section 1(h)

Section 1(h) makes it illegal for an official to coerce or attempt to coerce any civilian employee in the department or agency to invest his earnings in bonds or other Government obligations or securities, or to make donations to any institution or cause. This section does not prohibit officials from calling meetings or taking any other appropriate action to afford employees the opportunity voluntarily to invest his earnings in bonds or other obligations or voluntarily to make donations to any institution or cause. Appropriate action, in the committee's view, might include publicity and other forms of persuasion short of job-related pressures, threats, intimidation, reprisals of various types, and "blacklists" circulated through the employee's office or agency to publicize his noncompliance.

Section 1(i)

Section 1(i) makes it illegal for an official to require or request any civilian employee in the department or agency to disclose any items of his property, income, or other assets, source of income, or liabilities, or his personal or domestic expenditures or those of any member of his family. Exempted from coverage under this provision is any civilian employee who has authority to make any final determination with respect to the tax or other liability to the United States of any person, corporation, or other legal entity, or with respect to claims which require expenditure of Federal moneys. Section 6 provides certain exemptions for two security agencies.

Neither the Department of the Treasury nor any other executive department or agency is prohibited under this section from requiring any civilian employee to make such reports as may be necessary or appropriate for the determination of his liability for taxes, tariffs, custom duties, or other obligations imposed by law. This proviso is to assure that Federal employees may be subject to any reporting or disclosure requirements demanded by any law applicable to all persons in certain circumstances.

Section 1(j)

Section 1(j) makes it illegal to require or request any civilian employee exempted from application of section 3(i) under the first proviso of that section, to disclose any items of his property, income, or other assets, source of income, or liabilities, or his personal or domestic expenditure or those of any member of his family or household other than specific items tending to indicate a conflict of interest in respect to the performance of any of the official duties to which he is or may be assigned.

This section is designed to abolish and prohibit broad general inquiries which employees have likened to "fishing expeditions" and to confine any disclosure requirements imposed on an employee to reasonable inquiries about job-related financial interests. This does not preclude, therefore, questioning in individual cases where there is reason to believe the employee has a conflict of interest with his official duties.

Section 1(k)

Section 1(k) makes it unlawful for a Federal official of any department or agency to require or request, or attempt to require or request, a civilian employee who is under investigation for misconduct, to submit to interrogation which could lead to disciplinary action without the presence of counsel or other person of his choice, if he wishes.

This section is intended to rectify a longstanding denial of due process by which agency investigators and other officials prohibit or discourage presence of counsel or a friend. This provision is directed at any interrogation which could lead to loss of job, pay, security clearance, or denial of promotion rights.

This right insures to the employee at the inception of the investigation, and the section, and the section does not require that the employee be accused formally of any wrongdoing before he may request presence of counsel or friend. The section does not require the agency or department to furnish counsel.

A committee amendment to S. 782 adds a proviso that a civilian employee serving in the Central Intelligence Agency or the National Security Agency may be accompanied only by a person of his choice who serves in the agency in which the employee serves, or by counsel who has been approved by the agency for access to the information involved.

Section 1(l)

Section 1 (1) makes it unlawful for a Federal official of any department or agency to discharge, discipline, demote, deny promotion, relocate, reassign, or otherwise impair existing terms or conditions of employment of any employee, or threaten to commit any such acts, because the employee has refused or failed to comply with any action made unlawful by this act or exercised any right granted by the act.

This section prohibits discrimination against any employee because he refuses to comply with an illegal order as defined by this act or takes advantage of a legal right embodied in the act.

SECTION 2

Section 2(a) makes it unlawful for any officer of the U.S. Civil Service Commission or any person acting or purporting to act under his authority to require or request, or attempt to require or request, any executive department or any executive agency of the U.S. Government, or any officer or employee serving in such department or agency, to violate any of the provisions of section 1 of this act.

Specifically, this section is intended to ensure that the Civil Service Commission, acting as the coordinating policymaking body in the area of Federal civilian employment shall be subject to the same strictures as the individual departments or agencies.

Section 2(b) makes it unlawful for any officer of the U.S. Civil Service Commission, or any person acting or purporting to act under his authority, to require or request, or attempt to require or request, any person seeking to establish civil service status or eligibility for civilian employment, or any person applying for employment, or any civilian employee of the United States serving in any department or agency, to submit to any interrogation or examination or to take any psychological test which is designed to elicit from him information concerning his personal relationship with any person connected with him by blood or marriage, or concerning his religious beliefs or practices, or concerning his attitude or conduct with respect to sexual matters.

This section is intended to assure that the Civil Service Commission shall be subject to the same prohibitions to which departments and agencies are subject in sections 1 (e) and (f). The provisos contained in section 1(e) are restated here to assure that nothing in this section is to be construed to prohibit a physician from acquiring such data to determine mental illness, or an official from informing an individual of a specific charge of sexual misconduct and affording him an opportunity to refute the charge.

Section 2(c) makes it unlawful for any officer of the U.S. Civil Service Commission to require or request any person seeking to establish civil service status or eligibility for employment, or any person applying for employment in the executive branch of the U.S. Government, or any civilian employee serving in any department or agency to take any polygraph test designed to elicit from him information concerning his personal relationship with any person connected with him by blood or marriage, or concerning his religious beliefs or practices, or concerning his attitude or conduct with respect to sexual matters.

This section applies the provisions of section 1(f) to the Civil Service Commission in instances where it has authority over agency personnel practices or in cases in which its officials request information from the applicant or employee.

SECTION 3

This section applies the act to military supervisors by making violations of the act also violations of the Uniform Code of Military Justice.

SECTION 4

Section 4 provides civil remedies for violation of the act by granting an applicant or employee the right to bring a civil action in the Federal district court for a court order to halt the violation, or to obtain complete redress against the consequences of the violation. The action may be brought in his own behalf or in behalf of himself and others similarly situated, and the action may be filed against the offending officer or person in the Federal district court for the district in which the violation occurs or is threatened, or in the district in which the offending officer or person is found, or in the District Court for the District of Columbia.

The court hearing the case shall have jurisdiction to adjudicate the civil action without regard to the actuality or amount of pecuniary injury done or threatened. Moreover, the suit may be maintained without regard to whether or not the aggrieved party has exhausted available administrative remedies. If the individual complainant has pursued his relief through administrative remedies established for enforcement of the act and has obtained complete protection against threatened violations or complete redress for violations, this relief may be pleaded in bar of the suit. The court is empowered to provide whatever broad equitable and legal relief it may deem necessary to afford full protection to the aggrieved party; such relief may include restraining orders, interlocutory injunctions, permanent injunctions, mandatory injunctions, or such other judgments or decrees as may be necessary under the circumstances.

Another provision of section 4 would permit an aggrieved person to give written consent to any employee organization to bring a civil action on his behalf, or to intervene in such action. "Employee organizations" as used in this section includes any brotherhood, council, federation, organization, union, or professional association made up in whole or in part of Federal civilian employees, and which deals with departments, agencies, commissions, and independent agencies regarding employee matters.

A committee amendment provides that the Attorney General shall defend officers or persons who acted pursuant to an order, regulation, or directive, or who, in his opinion, did not willfully violate the provisions of the act.

SECTION 5

Section 5 establishes an independent Board on Employees' Rights, to provide employees with an alternative means of obtaining administrative relief from violations of the act, short of recourse to the judicial system.

Section 5(a) provides for a Board composed of three members, appointed by the President with the consent of the Senate. No member shall be an employee of the U.S. Government and no more than two members may be of the same political party. The President shall designate one member as Chairman.

Section 5(b) defines the term of office for members of the Board, providing that one member of the initial Board shall serve for 5 years, one for 3 years, and one for 1 year from the date of enactment; any member appointed to fill a vacancy in one of these terms shall be appointed for the remainder of the term. Thereafter, each member shall be appointed for 5 years.

Section 5(c) establishes the compensation for Board members at $75 for each day spent working in the work of the Board, plus actual travel expenses and per diem in lieu of subsistence expenses when away from their usual places of residence.

Section 5(d) provides that two members of the Board shall constitute a quorum for the transaction of business.

Section 5(e) provides that the Board may appoint and fix the compensation of necessary employees, and make such expenditures necessary to carry out the functions of the Board.

Section 5(f) authorizes the Board to make necessary rules and regulations to carry out its functions.

Section 5(g) provides that the Board shall have the authority and duty to receive and investigate written complaints from or on behalf of any person claiming to be affected or aggrieved by any violation or threatened violation of this act, and to conduct a hearing on each such complaint. Moreover, within 10 days after the receipt of such a complaint, the Board must furnish notice of time, place, and nature of the hearing to all interested parties, and within 30 days after concluding the hearing, it must render its final decision regarding any complaint.

Section 5(h) provides that officers or representatives of any employee organization in any degree concerned with employment of the category in which the violation or threat occurs, shall be given an opportunity to participate in the hearing through submission of written data, views, or arguments. In the discretion of the Board they are to be afforded an opportunity for oral presentation. This section further provides that Government employees called upon by any party or by any Federal employee organization to participate in any phase of any administrative or judicial proceeding under this section shall be free to do so without incurring travel cost or loss in leave or pay. They shall be free from restraint, coercion, interference, intimidation, or reprisal in or because of their participation. Any periods of time spent by Government employees during such proceedings shall be held to be Federal employment for all purposes.

Section 5(i) applies to the Board hearings the provisions of the Administrative Procedure Act relating to notice and conduct of hearings insofar as consistent with the purpose of this section.

Section 5(j) requires the Board, if it determines after a hearing that this act has not been violated, to state such determination and notify all interested parties of the findings. This determination shall constitute a final decision of the Board for purposes of judicial review.

Section 5(k) specifies the action to be taken by the Board if, after a hearing, it determines that any violation of this act has been committed or threatened. In such case, the Board shall immediately issue and cause to be served on the offending officer or employee an order requiring him to cease and desist from the unlawful practice or act. The Board is to endeavor to eliminate the unlawful act or practice by informal methods of conference, conciliation, and persuasion.

Within its discretion, the Board may, in the case of a first offense, issue an official reprimand against the offending officer or employee, or order the employee suspended from his position without pay for a period not exceeding 15 days. In the case of a second or subsequent offense, the Board may order the offending officer or employee suspended without pay for a period not exceeding 30 days, or may order his removal from office.

Officers appointed by the President, by and with the advice and consent of the Senate, are specifically excluded from the application of these disciplinary measures; but the section provides that, in the case of a violation of this act by such individuals, the Board may transmit a report concerning such violation to the President and the Congress.

Section 5(l) provides for Board action when any officer of the Armed Forces of the United States or any person acting under his authority violates the act. In such event, the Board shall (1) submit a report to the President, the Congress, and to the Secretary of the military department concerned, (2) endeavor to eliminate any unlawful act or practice through informal methods of conference, conciliation, and persuasion, and (3) refer its determination and the record in the case to any person authorized to convene general courts-martial under section 822 (article 22) of title 10, United States Code. When this determination and report is received, the person designated shall immediately dispose of the matter under the provisions of chapter 47 of title 10 of the United States Code.

Section 5(m) provides that when any party disagrees with an order or final determination of the Board, he may institute a civil action for judicial review in the Federal district court for the district wherein the violation or threatened violation occurred, or in the District Court for the District of Columbia.

The court has jurisdiction to (1) affirm, modify, or set aside any determination or order made by the Board, or (2) require the Board to make any determination or order which it is authorized to make under section 5(k) but which it has refused to make. In considering the record as a whole, the court is to set aside any finding, conclusion, determination, or order of the Board unsupported by substantial evidence.

The type of review envisioned here is similar to that obtained under the Administrative Procedure Act in such cases but this section affords a somewhat enlarged scope for consideration of the case than is now generally accorded on appeal of employee cases. The court here has more discretion for action on its own initiative. To the extent that they are consistent with this section, the provisions for judicial review in title 5 of the United States Code would apply.

Section 5(n) provides for congressional review by directing the Board to submit to the Senate and to the House of Representatives an annual report which must include a statement concerning the nature of all complaints filed with it, the determinations and orders resulting from hearings, and the names of all officers or employees against whom any penalties have been imposed under this section.

Section 5(o) provides an appropriation of $100,000 for the Board on Employee Rights.

SECTION 6

Section 6 provides that nothing in the act shall be construed to prohibit an officer of the Central Intelligence Agency or of the National Security Agency, under specific conditions, from requesting an applicant or employee to submit a personal financial statement of the type defined in subsection 1 (i) and (j) or to take any polygraph or psychological test designed to elicit the personal information protected under subsection 1(e) or 1(f).

In these agencies, such information may be acquired from the employee or applicant by such methods only if the Director of the agency or his designee makes a personal finding with regard to each individual that such test or information is required to protect the national security.

SECTION 7

Section 7 requires, in effect, that employees of the Central Intelligence Agency and the National Security Agency exhaust their administrative remedies before invoking the provisions of section 4 (the Board on Employee Rights) or section 5 (the Federal court action). An employee, his representative, or any organization acting in his behalf, must first submit a written complaint to the agency and afford it 120 days to prevent the threatened violation or to redress the actual violation. A proviso states that nothing in the act affects any existing legal authority of the Central Intelligence Agency under 50 U.S.C. 403(c) or of the National Security Agency under 50 U.S.C. 833 to terminate employment.

SECTION 8

Section 8 provides that nothing in the act shall be construed to affect in any way authority of the directors of the Central Intelligence Agency or the National Security Agency to protect or withhold information pursuant to statute or Executive order. In cases involving his employees, the personal certification by the Director of the agency that disclosure of any information is inconsistent with the provision of any statute or Executive order is to be conclusive and no such information shall be admissible in evidence in any civil action under section 4 or in any proceeding or civil action under section 5. Nor may such information be receivable in the record of any interrogation of an employee under section 1(k).

SECTION 9

Section 9 provides that the Federal Bureau of Investigation shall be excluded from the provisions of this act.

SECTION 10

Section 10 provides that nothing contained in sections 4 or 5 shall be construed to prevent the establishment of department and agency grievance procedures to enforce this act. The section makes it clear that the existence of such procedures are not to preclude any applicant or employee from pursuing any other available remedies. However, if under the procedures established by an agency, the complainant has obtained complete protection against threatened violations, or complete redress for violations, such relief may be pleaded in bar in the U.S. district court or in proceedings before the Board on Employee Rights.

Furthermore, an employee may not seek his remedy through both the Board and the court. If he elects to pursue his remedies through the Board under section 5, for instance, he waives his right under section 4 to take his case directly to the district court.

SECTION 11

Section 11 is the standard severability clause.

ORDER OF BUSINESS

Mr. SCOTT. Mr. President, I yield back my time.

The PRESIDENT pro tempore. Under the previous order the distinguished Senator from Wisconsin (Mr. PROXMIRE) is scheduled to be recognized.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that that particular order be vacated.

The PRESIDENT pro tempore. Without objection, it is so ordered.

TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that there be a period for the transaction of routine morning business, not to extend beyond 9:30 a.m. today, with statements therein limited to 3 minutes.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Is there morning business?

QUORUM CALL

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States, submitting a nomination, was communicated to the Senate by Mr. Leonard, one of his secretaries.

EXECUTIVE MESSAGE REFERRED

As in executive session, the President pro tempore laid before the Senate a message from the President of the United States submitting the nomination of William Terrell Hodges, of Florida, to be a U.S. District Judge for the Middle District of Florida, which was referred to the Committee on the Judiciary.

NATIONAL SICKLE CELL ANEMIA

Mr. MANSFIELD. Mr. President, I ask unanimous consent that under the agreement previously entered into, Calendar No. 537, S. 2676 be laid before the Senate and made the pending business.

The PRESIDENT pro tempore. The bill will be stated by title.

The bill was read by title, as follows:

A bill (S. 2676) to provide for the prevention of sickle cell anemia.

The PRESIDENT pro tempore. Is there objection to the request of the Senator from Montana?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Labor and Public Welfare with an amendment to strike out all after the enacting clause and insert:

SHORT TITLE

SECTION 1. This Act shall be cited as the "National Sickle Cell Anemia Control Act".

FINDINGS AND DECLARATION OF PURPOSE

SEC. 2. (a) The Congress hereby finds and declares—

(1) that sickle cell anemia is a debilitating, inheritable disease that afflicts approximately two million American citizens and has been largely neglected;

(2) that the disease is a deadly and tragic burden which is likely to strike one-fourth of the children born to parents, both of whom bear the sickle cell trait;

(3) that efforts to control sickle cell anemia must be directed toward increased research in the cause and treatment of the disease, and the education, screening, and counseling of carriers of the sickle cell trait;

(4) that simple and inexpensive screening tests have been devised which will identify those who have the disease or carry the trait;

(5) that programs to control sickle cell anemia must be based entirely upon the voluntary cooperation of the individuals involved;

(6) that the attainment of better methods of control, diagnosis, and treatment of sickle cell anemia deserves the highest priority.

(b) In order to preserve and protect the health and welfare of all citizens, it is the purpose of this Act to establish a national program for the control, research, and treatment of sickle cell anemia.

AMENDMENTS TO PUBLIC HEALTH SERVICE ACT

SEC. 3. (a) Section 1 of the Public Health Service Act is amended by striking out "titles I to X" and inserting in lieu thereof "titles I to XI".

(b) The Act of July 1, 1944 (58 Stat. 682), as amended, is amended by renumbering title XI (as in effect prior to the enactment of this Act) as title XII, and by renumbering sections 1101 through 1114 (as in effect prior to the enactment of this Act), and references thereto, as sections 1201 through 1214, respectively.

(c) The Public Health Service Act is further amended by adding after title X the following new title:

"TITLE XI—SICKLE CELL ANEMIA PROGRAM

"GRANTS FOR SICKLE CELL SCREENING AND COUNSELING PROGRAMS

"SEC. 1101. (a) The Secretary is authorized to make grants to and enter into contracts with public and nonprofit private agencies, organizations, or institutions to assist in the establishment and operation of voluntary sickle cell anemia screening and counseling programs and to assist in developing and making available information and educational materials relating to sickle cell anemia to all persons requesting such information or materials, and to inform the public generally about the nature of sickle cell anemia and the sickle cell trait.

"(b) In making grants and contracts under this section the Secretary shall give priority to areas within States having the highest percentage of population in need of sickle cell anemia screening and counseling programs; with a further priority to community-based organizations in such areas.

"(c) For the purpose of making payments pursuant to grants and contracts under this section, there are authorized to be appropriated $25,000,000 for the fiscal year ending June 30, 1973; $35,000,000 for the fiscal year ending June 30, 1974; and $40,000,000 for the fiscal year ending June 30, 1975.

"RESEARCH AND RESEARCH TRAINING GRANTS

"SEC. 1102. (a) In order to promote research and research training in the diagnosis, treatment, and control of sickle cell anemia, development of programs to educate the public regarding the nature and inheritance of the sickle cell trait and sickle cell anemia, and the development of centers for research, testing, counseling, control or treatment of sickle cell anemia, the Secretary is authorized to make grants to public or nonprofit private agencies, organizations or institutions and to enter into contracts with public or private agencies, organizations or institutions and individuals for projects for research and research training in such fields.

"(b) For the purpose of making payments pursuant to grants and contracts under this section there are authorized to be appropriated $5,000,000 for the fiscal year ending June 30, 1973; $10,000,000 for the fiscal year ending June 30, 1974; and $15,000,000 for the fiscal year ending June 30, 1975.

"VOLUNTARY PARTICIPATION

"SEC. 1103. The participation by any individual in any program or portion thereof under this title (whether by grant or contract) shall be wholly voluntary and shall not be a prerequisite to eligibility for or receipt of any other service or assistance from or to participation in, any other program.

"APPLICATIONS

"SEC. 1104. A grant under this title may be made upon application to the Secretary at such time, in such manner, containing, and accompanied by such information as the Secretary deems necessary. Each application shall—

"(1) provide that the programs and activities for which assistance under this title is sought will be administered by or under the supervision of the applicant;

"(2) provide for strict confidentiality of all test results, medical records, and other information regarding screening, counseling, or treatment of any person treated, except for (A) such information as the patient (or his guardian) consents to be released; or (B) statistical data compiled without reference to the identity of any such patient;

"(3) provide for appropriate community representation in the development and operation of any program funded under this title; and

"(4) set forth such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the applicant under this title.

"PUBLIC HEALTH SERVICE FACILITIES

"SEC. 1105. The Secretary shall establish a program within the Public Health Service to provide for voluntary sickle cell anemia screening, counseling, and treatment. Such program shall be made available through facilities of the Public Health Service to any eligible person requesting screening, counseling, or treatment, and shall include notification of all eligible persons of the availability and voluntary nature of such programs.

"REPORTS

"SEC. 1106. (a) The Secretary shall prepare and submit to the President for transmittal to the Congress on or before April 1 of each year a comprehensive report on the administration of this title.

"(b) The report required by this section shall contain such recommendations for additional legislation as the Secretary deems necessary."

PROTECTION OF ARMED FORCES PERSONNEL

SEC. 4. (a) The Secretary of Defense is authorized and directed to promulgate rules and regulations to provide for screening and counseling of members of the Armed Forces (including their dependents), civilian employees of the Department of Defense, and persons examined at Armed Forces examining and entrance stations, for the sickle cell trait and sickle cell anemia.

(b) Such rules and regulations shall provide for—

(1) voluntary screening for the sickle cell trait for persons described in subsection (a) who request such a test, at no cost to such person;

(2) communication to such person described in subsection (a) of the results of such test;

(3) voluntary referral of individuals determined to possess a positive trait to an appropriate military or civilian counseling or treatment agency;

(4) notification to persons described in subsection (a) of the cost-free and voluntary nature of the screening and referral programs implemented pursuant to this section;

(5) education of persons described in subsection (a) regarding the nature and inheritance of the sickle cell trait and sickle cell anemia; and

(6) assurance that all information obtained on specimens submitted voluntarily under this Act shall be held confidential except for (A) such information as the patient (or his guardian) consents to be released or (B) statistical data compiled without reference to the identity of such patient.

(c) The Secretary of Defense shall provide for voluntary counseling or treatment of such persons described in subsection (a) found to have the sickle cell trait or sickle cell anemia at an appropriate military or civilian facility as the case may be.

(d) (1) The Secretary of Defense shall prepare and submit to the President for transmittal to Congress on or before April 1 of each year a comprehensive report on the administration of this section.

(2) The report required by this subsection shall contain such recommendations for additional legislation as the Secretary of Defense deems necessary.

(e) The participation by any individual in any program or portion thereof under this section shall be wholly voluntary and shall not be a prerequisite to eligibility for or receipt of any other service or assistance from, or to participation in, any other program.

PROTECTION OF VETERANS

SEC. 5. (a) Chapter 17 of title 38, United States Code, is amended by adding at the end thereof the following new subchapter:

"Subchapter VI—Sickle Cell Anemia

"§ 651. Screening, counseling, and medical treatment

"(a) The Administrator is authorized to offer to any veteran who is receiving hospital or domiciliary care or medical services under this chapter or is receiving an examination to determine eligibility for benefits under this title, a screening examination for sickle cell trait or sickle cell anemia, including providing to such veteran full information regarding the nature and inheritance of sickle cell trait and sickle cell anemia and regarding the availability to such veteran of a screening examination under this subchapter, and to provide such a screening examination upon such veteran's request.

"(b) Upon a finding that such veteran has the sickle cell trait or sickle cell anemia, the Administrator is authorized to offer, and, if such veteran requests, provide for counseling (which shall include such a screening examination and counseling for the veteran's spouse, when requested, and a complete explanation of the veteran's eligibility for hospital care and medical services under this chapter) and/or necessary hospital care and medical services for a disability arising from such trait or anemia.

"(c) The Administrator shall ensure that eash veteran receiving benefits under laws administered by the Veterans' Administration receives, as soon as practicable after enactment of this subchapter, full information regarding the nature and inheritance of sickle cell trait and sickle cell anemia and the availability of screening examinations and treatment for such trait and anemia.

"§ 652. Research

"The Administrator shall carry out research and research training in the diagnosis, treatment, and control of sickle cell anemia based upon the screening examinations and treatment provided under this subchapter, subject to the provisions governing voluntary participation and confidentiality in section 653 of this title. For the purpose of carrying out such research, there are authorized to be appropriated $3,000,000 for the fiscal year ending June 30, 1973; $4,000,000 for the fiscal year ending June 30, 1974; and $5,000,000 for the fiscal year ending June 30, 1975.

"§ 653. Voluntary participation; confidentiality

"(a) The participation by any person in any program or portion thereof under this subchapter shall be wholly voluntary and shall not be a prerequisite to eligibility for or receipt of any other service or assistance from, or to participation in, any other program under this title.

"(b) The Administrator shall promulgate rules and regulations to ensure that all information and patient records prepared or obtained under this subchapter shall be held confidential except for (1) such information as the patient (or his guardian) requests in writing to be released or (2) statistical data compiled without reference to patient names or other identifying characteristics.

"§654. Reports

"(a) The Administrator shall prepare and submit to the President for transmittal to the Congress on or before April 1 of each year a comprehensive report on the administration of this subchapter.

"(b) The report required by this section shall contain such recommendations for additional legislation as the Administrator deems necessary."

(b) The analysis at the beginning of such chapter is amended by adding at the end thereof:

"SUBCHAPTER VI—SICKLE CELL ANEMIA

"651. Screening, counseling, and medical treatment.

"652. Research.

"653. Voluntary participation; confidentiality.

"654. Reports."

Mr. MANSFIELD. Mr. President, I yield to the distinguished Senator from Massachusetts the 15 minutes allotted to the majority.

The PRESIDENT pro tempore. The Chair understands there is a 30-minute time limitation on this matter.

Mr. KENNEDY. Mr. President, I yield myself 7 minutes.

The PRESIDENT pro tempore. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, I am delighted to have this opportunity to bring S. 2676, the National Sickle Cell Anemia Act, before the Senate. This bill establishes for the first time, substantial efforts by the Federal Government, to combat the debilitating effects of sickle cell anemia. The bill has the strong bipartisan support of 45 Senators who joined in cosponsoring this legislation. Approval of this bill underscores the Senate's very meaningful response to the needs of those who are affected by sickle cell anemia.

At least 50,000 Americans are believed to suffer from the painful crises that are characteristic of this disease. Another 2.5 million Americans are believed to have the sickle cell trait that may be passed on to their children. Since its origin centuries ago in certain areas of Africa, the disease and its complications have been observed in many areas of the world. In this country, sickle cell anemia has been diagnosed mainly in black people. It has also been observed in countries of southern Europe and in India.

Last July, I offered an amendment to the supplemental appropriations bill for the Department of Health, Education, and Welfare that was approved by the Senate. That amendment added $6 million for sickle cell anemia treatment programs and the bill passed the Senate with a total of $12 million for the Department of Health, Education, and Welfare to develop these programs. Unfortunately, the conference committee rejected the $12 million appropriated by the Senate and approved a total of only $6 million.

Since then, the health subcommittee has conducted extensive hearings on S. 2676, as introduced by the distinguished junior Senator from California (Mr. TUNNEY). The members of the committee were impressed with testimony from the many witnesses, who supported the need for a strong effort to combat this crippling killer. Victims of the disease are stricken with bouts of excruciating pain. Sicklers suffer from heart attacks, strokes, kidney failure, and other debilitating effects that seriously shorten their lives. Most patients fail to live beyond age 20. And in the first years of life many victims are hospitalized up to 10 times a year.

Each member of the subcommittee deserves credit for his work on and concern with this vital issue. I feel it is important to also extend appreciation to all members of the full Committee on Labor and Public Welfare for the careful attention displayed for the needs of those who are affected with sickle cell anemia and in moving so swiftly to complete committee action on this legislation. This bill was introduced on October 8, 1971. Hearings were conducted by the health subcommittee on November 11 and 12, 1971, and the Committee on Labor and Public Welfare reported the bill on November 16. Today, exactly 2 months after the bill was introduced we are preparing to complete final action on this measure. This efficiently swift action could not have occurred without the cooperation of the several able and concerned members of the committee.

Throughout its 60-year history in this country, sickle cell anemia has plagued thousands of victims. But the most tragic aspect of the problems attendant to this disease is the neglect of our national medical resources regarding this awful malady.

When compared with other diseases that primarily strike white families, it is clear that sickle cell anemia has been considered of little concern, like most other things that only affect black Americans. Resources to support research efforts to combat other diseases, however, have been astronomical compared to the amount provided for the fight against sickle cell anemia. In any effort to control sickling, those who suffer with this disease must get attention and relief and those with the trait must receive counseling and guidance. It is my hope that the National Sickle Cell Anemia Act will inaugurate a nationwide commitment. I am convinced that this country has both the ability and the concern to mount an effective attack on sickle cell anemia. The provisions authorized by the Sickle Cell Anemia Act will introduce a well deserved and long overdue response to this critical health problem.

This bill authorizes a total of $142 million over 3 years. The authorization includes: $25 million for fiscal year 1973, $35 million for fiscal year 1974, and $40 million for fiscal year 1975, for the Department of Health, Education, and Welfare to conduct screening, testing, and counseling programs. For each of those fiscal years the Department of Health, Education, and Welfare is also authorized $5 million, $10 million, and $15 million, respectively, for research programs concerning this disease. In addition, the Veterans' Administration is authorized $3 million for fiscal year 1973, $4 million for fiscal year 1974, and $5 million for fiscal year 1975, to conduct research projects on the effects of sickle cell anemia.

And finally the bill authorizes the Department of Defense to include sickle cell anemia testing in its ongoing health care programs for civilian and active duty military personnel.

As chairman of the Health Subcommittee, I received consistent testimony from witnesses who reported that effective control of this disease will be accomplished with extensive participation by organizations and research teams that include black professionals and technicians. I was particularly impressed with the accomplishments of the Black Athletes' Foundation—BAF. Organized less than a year ago, a group of professional black athletes, headed by Muhammed Ali, developed a sickle cell testing program in Pittsburgh and Allegheny County, Pa. So far, with only volunteer help, over 5,000 citizens have passed through that program. Already the BAF is planning for similar projects in Atlanta, Chicago, St. Louis, and other cities.

In addition to the concerns expressed by such volunteer groups, it is important to note that for more than 20 years substantial work has been done on this disease by Dr. Roland Scott of Howard University.

Dr. Scott has labored quietly and effectively but with essentially no money—in 20 years he received less than $70,000 in Federal funds for the university's sickle cell clinic and for its research program.

Researchers from Rockefeller University, Meharry Medical College, and the University of Illinois College of Medicine told the committee of possible results that may be developed from current research efforts. Their work and the hope of those who suffer from this disease will be bolstered with the enactment of this legislation.

I believe that this bill can and will stimulate a Nationwide program to resolve the problems of sickle cell anemia. Already hearings on similar legislation have been conducted by Congressman PAUL ROGERS' Health Subcommittee in the House, and I share the interest of those members who look for favorable action by the House of Representatives on this measure.

Mr. President, I urge the Senate to accept S. 2676 because it offers to begin providing well deserved assistance for a very critical affliction. Strong approval by the Senate for sickle cell anemia legislation will lead the way for a national program that can clearly and emphatically meet the demands of this vital health problem.

The fact remains that half of those with sickle cell anemia die by the time they are 20 years of age. Rarely is there a record of someone with the disease living beyond the age of 40. The statistics that are included in these remarks and the dollar amounts that have been indicated in the bill fail to convey the very deep sense of human suffering and loss that are experienced by those who are affected by the disease. In our hearings on this bill one witness who appeared before us was a woman, 27 years of age, who suffers from the disease, she knows very well, the agony, and distress that accompany the painful bouts that force the sickle cell victims to be hospitalized. She knows that a person with sickle cell anemia lives a life spotted with mounting medical costs. She is the mother of a young daughter. And every day when she wakes up she knows there may be 1 day less in her life, unless we reach some miraculous discoveries, through research on sickle cell anemia.

The work in this field has been going on in many communities around the country. I mentioned in my remarks two distinguished schools that have been engaged in this work, Howard University and Rockefeller University. Voluntary programs have been going on in many other parts of the country. We in Congress authorize and appropriate vast sums of money, but in this particular area, where we can have a direct impact in insuring that people in this country are relieved from this disease through screening and by counseling programs, we have not done nearly enough. It is vital, therefore, that we pass S. 2676 to begin providing the well-deserved Federal assistance to control this disease. Federal programs can caution individuals about the possibility of inflicting sickle cell anemia upon children. I feel we can really help a very significant part of our population.

I am hopeful that the legislation will be adopted.

Mr. President, considerable concern about the need for sickle cell anemia programs has appeared in recent months in publications by medical experts. But there has also been considerable coverage in the lay press about the mounting public demand for substantial Federal assistance to control this disease.

I wish to direct the Senate's attention to two articles that were recently published in the Washington Post and in the National Observer about sickle cell anemia. I therefore request unanimous consent to enter in the RECORD: A news item from the December 7 issue of the Washington Post concerning a Baltimore, Md., sickle cell anemia testing program; and a feature article from the December 11 issue of the National Observer by Patrick Young, entitled "A Disease Draws the Color Line."

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Dec. 7, 1971]

Baltimore Will Test To Find Sickle Cell Anemia Carriers

(By Jim Mann)

Baltimore Mayor-elect William D. Schaefer has announced plans to screen about 50,000 black junior and senior high school students to find carriers of the genetic trait that can cause sickle cell anemia.

Under the program, announced this weekend, those who are found to be carriers of the disease will be given counseling sessions.

In such sessions, they will be advised that if they marry another person carrying the sickle cell trait, the chances are that one in four of their children will actually have the disease. (The carriers of the disease are themselves invariably free of the disease.)

The rationale for aiming the screening program at junior and senior high school students is to reach those people who will soon be having children.

Sickle cell anemia is a hereditary disease caused by abnormal hemoglobin in the blood. The disease originated in Africa, Asia and parts of the Mediterranean as a natural body defense against malaria, according to Dr. Roland Scott, a leading researcher in the field. In the United States, almost all victims are blacks.

The victims suffer excruciatingly painful attacks, and sometimes blindness or paralysis. Rarely do victims live past the age of 40.

Although the disease affects about one in 500 American blacks, slightly fewer than one in 10 carry the recessive gene that can cause the disease.

According to Robert E. Farber, Baltimore health commissioner, the program was made possible by a "windfall" of $110,000 for new health programs, which Baltimore is eligible to receive as part of the proceeds of a successful antitrust action against pharmaceutical companies.

The screening itself is expected to cost $65,000 to $85,000 over a two-year period. Farber said the program would probably begin some time next year.

The District of Columbia does not yet have a screening program for the sickle cell anemia trait in its public schools, although it, like Baltimore, has recently begun conducting such tests in some maternity and neighborhood clinics.

However, the D.C. City Council has under consideration a proposal to conduct sickle cell screening among all kindergarten and first grade students.

Earlier this year, Congress allocated $6 million for research and community programs relating to sickle cell anemia, a fivefold increase, after President Nixon in February asked for "concentrated research" on the disease.

[From the National Observer, Dec. 11, 1971]

A Disease Draws the Color Line—Researchers Arouse Public to Sickle-Cell Threat

(By Patrick Young)

Nellie Kendrick recalls a white friend who recently asked her if it were true that sickle-cell anemia—a painful and usually fatal blood disease—is found almost exclusively among blacks. Mrs. Kendrick, a black volunteer in the Milwaukee Community Sickle Cell Disease Project, assured her it was. "I thought it was just a lie spread to show that blacks were inferior to whites," the friend said.

Misconceptions abound about sickle-cell anemia, among blacks and whites, among physicians and laymen. The disease afflicts perhaps 45,000 black Americans. Nearly half of its victims die before age 5, and about 80 per cent by age 30. It occurs once in every 400 to 500 black births, a frequency 6 times greater than cystic fibrosis, and 20 times higher than phenylketonuria (PKU), both almost exclusively white diseases.

Yet for years medical researchers called sickle-cell anemia "the forgotten disease." One year ago, an editorial in the Journal of the American Medical Association complained that "the level of general ignorance concerning the nature of sickle-cell anemia remains depressingly high."

Now that ignorance is under attack. More money than ever is going into sickle-cell research. New diagnostic and treatment procedures are being developed. Large-scale testings are under way in several cities, including Milwaukee, to find blacks unknowingly suffering from the disease, and to determine who are carriers capable of passing on sickle-cell anemia to their children.

And blacks across the country are working to raise funds and to acquaint all Americans with the disease. As one example, more than 200 professional black athletes—including Willie Stargell and Dock Ellis of the Pittsburgh Pirates and boxer Muhammad Ali—have set up the Black Athletes Foundation for Research in Sickle Cell Disease.

BRINGING BLACKS TOGETHER

"This has brought black people together, from the Black Panthers to the Urban League," says Richard Campbell, director of the Foundation for Research and Education in Sickle Cell Disease in New York City.

Sickle-cell anemia, an inherited disease, is the most common long-term illness among black children (about 1 per cent of its victims in the United States are white). It is incurable, and despite considerable knowledge of the disease's mechanism, treatment methods remain poor.

The disease is caused by a defect in the hemoglobin molecules within red blood cells, which carry oxygen throughout the body. Each hemoglobin molecule contains 574 amino acids. In sickle-cell hemoglobin, two of these amino acids are replaced by two others.

"At the basic level, the change is so minuscule, so tiny," says Dr. Makio Murayama, a biochemist at the National Institute of Arthritis and Metabolic Diseases. "Yet for the individual, it is a matter of life and death."

When sickle-cell hemoglobin is deprived of oxygen, the red blood cells lose their round, doughnutlike shape and take on a sickle or quarter-moon appearance.

When this happens, the red blood cells are unable to pass through the body's microscopic capillaries. The cells jam up like driftwood clogging a drainpipe. As a result tissue is deprived of the oxygen it needs, and dies. This painful event is called a "crisis."

In crisis, a person suddenly develops intense pain, usually in the abdomen, back, chest, hips, arms, or legs. The heart may be partly or fatally damaged or a stroke may result. Sickle-cell sufferers are extremely vulnerable to infection, particularly pneumonia, and many develop skin ulcers at the ankle.

"Sickling can occur in any organ system and so it can mimic any disease state," says Dr. Edwin Bemis, a pathologist working with the newly established Southeastern Wisconsin Sickle Cell Center at Deaconess Hospital here. This causes diagnostic difficulties for doctors unfamiliar with sickle cell, and sometimes results in unnecessary surgery.

The disease results from a gene mutation that occurred centuries ago in Africa, and which became common because it offered a protection against malaria. For some unknown reason, malaria parasites cannot survive in sickled red blood cells.

Each person inherits two sets of genes, one from each parent. A person with sickle-cell anemia has inherited a sickle-cell gene from each parent. A person who inherits a sickle-cell gene from only one parent is called a "trait." (Far less common than sickle-cell anemia are "variants," forms of the disease less severe than the anemia, but more troublesome than the trait.) Estimates place the number of blacks carrying the trait at between 8 and 13 per cent.

It requires two traits to produce a child with sickle-cell anemia, and the odds are one in four for such a birth. The chances of producing another trait are one in two. These odds of genetic roulette are for each birth. A Racine, Wis., couple produced three children, all with sickle-cell anemia.

The only guarantee that two traits will avoid a child with sickle-cell anemia is if they have no children. Currently several research teams are trying to develop prenatal tests for the disease. If they succeed, parents will know in advance if their child will be born with sickle-cell anemia, and will have the option for abortion.

TRAIT IS NOT A DISEASE

Most sickle-cell traits live normal lives and never experience a crisis. "Overall, we try to stress that sickle-cell trait is not a disease," says Dr. Robert B. Scott of the Medical College of Virginia in Richmond.

Nevertheless, cautions Dr. Robert M. Nalbandian of Blodgett Memorial Hospital in Grand Rapids, "the trait under certain physiological-stress conditions can be hazardous, and has been."

Traits may crisis while flying at high altitudes in unpressurized aircraft, under general anesthesia during surgery, or sometimes during great physical exertion.

Last year a team of Army doctors blamed sickle-cell trait for the deaths of four black recruits—over an 11-month period—during basic training at Fort Bliss, Texas. Their conclusion, however, has been challenged by other researchers, who contend the doctors did not rule out sufficiently other possible factors in the deaths.

Women with sickle-cell trait have a higher incidence of urinary infection during pregnancy, and traits sometimes pass blood in their urine. Pittsburgh pitcher Dock Ellis, a trait, says he occasionally passes clots. "I've gone to the team physicians and they say there's nothing they can do about it," he says.

The public awakening to sickle-cell anemia is a recent thing, among blacks and whites. A 1968 survey in Richmond found that only 30 per cent of the blacks questioned had heard of the disease. Today blacks are more willing to accept the disease and no longer regard it as a racial slur.

"Part of the new pride among blacks is enabling us to look at ourselves, and to look with more objectivity," says Hazel Maxwell, chairman of the Milwaukee Community Sickle Cell Disease Project's advisory committee.

Sickle-cell fighters say the message of concern is finally getting across. Congress, at President Nixon's request, increased the National Institutes of Health's sickle-cell research budget from $1,000,000 to $6,000,000 this year. A bill to provide $142,000,000 in sickle-cell funds over three years is pending in the Senate. The National Foundation and its local March of Dimes chapters are providing increasing funds for research.

"I think we're getting over our benign neglect," says Dr. Bemis. "We're waking up to the fact that there is a black portion of our population. Whites, too, are demanding that blacks be treated on an equal medical basis."

The new awareness of sickle-cell anemia has led to greater efforts to identify people with the trait. Here in Milwaukee, Deaconess Hospital's sickle-cell center plans to test 118,000 blacks in seven counties. Three screenings have tested 2,232 blacks since Sept. 18, in addition to over 5,000 patients routinely tested upon admission to the hospital since 1969.

It is a community effort, utilizing more than 250 black and white volunteers and Boy Scout Troop 200, a ghetto unit, to spread the testing message. The center will provide genetic counseling and a registry of persons with sickle-cell trait.

AN EFFORT IN PITTSBURGH

The Black Athletes Foundation and six other groups are sponsoring a similar effort in an attempt to test 250,000 blacks in the Pittsburgh area. Smaller screening programs have taken place among school children in Grand Rapids and Hartford.

Testings to date have been voluntary. But New York State recently passed a law providing sickle-cell tests for youngsters entering public schools. And laws requiring testing of school children or marriage license applicants before marriage are pending in several states, including California and Illinois.

Such laws delight some blacks, but not all. "If testing is compulsory, children identified as carriers could be stigmatized as less desirable parents or as weak individuals," says Dr. Robert Murray of Howard University in Washington, D.C.

The Milwaukee program and several others use a test developed by Dr. Nalbandian and Dr. Paul Wolf of Stanford University. Its advantage over previous tests lies in cost. The chemicals needed for the test, which can be run automatically at the rate of 120 an hour, cost only pennies a sample.

The test is a preliminary screening. A positive indicates sickling, but not necessarily sickle-cell disease. A second test—electrophoresis, which measures the distinctive electrical charges of various types of hemoglobin—can determine if the patient has sickle-cell anemia or the trait.

Treating sickle-cell anemia is more complex. Efforts to reverse sickling crises in patients, says Dr. Scott, "have not been terribly effective."

Dr. Nalbandian and his research colleagues are experimenting with urea, a natural chemical waste occurring in the body, in a sugar solution to treat patients in crisis. This "molecular surgery," says Dr. Nalbandian, breaks apart sickle-cell hemoglobin molecules that have locked together and reverses the crisis.

"We have been able to abort sickle-cell crises in over 20 patients, without using narcotics, and without medical misadventures. therapeutic failure, or death," he says.

The technique is extremely complicated. Unless extreme care is taken, the urea can cause dehydration, which itself can bring on a crisis by reducing oxygen.

Last month Dr. Paul McCurdy and Dr. Laviza Mahmood of Georgetown University medical school in Washington, D.C., reported treating 24 crises in 14 patients with urea. Seventeen crises were successfully treated, though the researchers noted dehydration as a major side effect.

"These results suggest that urea therapy has a beneficial effect on the painful crises of sickle-cell disease, but the method is still experimental," they wrote in the New England Journal of Medicine.

Currently the National Heart and Lung Institute is supporting six studies comparing three sickle-cell therapies, including urea. A second corrects dehydration, and the third reduces blood acidity, another cause of sickling, by lowering body oxygen.

A PROMISING TREATMENT

Other researchers are trying to find other chemicals that will reverse sickling without urea's handicaps. Dr. Anthony Cerami and Dr. James Manning of Rockefeller University in New York City recently reported excellent test-tube results in preventing sickling in human blood with potassium cyanate. They expect to begin human tests within a year.

Dr. Nalbandian says urea, taken four times daily mixed with soda pop to hide its bitter taste, can safely and effectively prevent sickle-cell crises. But he acknowledges difficulties in getting patients to down their preventive doses regularly.

"Frequently they take it when they feel pain," he says. "They head off a crisis and then they ignore their urea. There has to be a better way of delivering it."

SECRET LAY IN THE STRUCTURE

Although there is no cure for sickle-cell anemia, and as yet no generally accepted treatment, the basic mechanism of "sickling" is no mystery.

Sickle-cell anemia was first described in 1910 by Dr. James Herrick of Chicago. In 1949, Nobel Laureate Linus Pauling and Dr. Harvey Itano showed that the disease resulted from an inherited defect in the hemoglobin molecules within red blood cells. Nine years later, Dr. Vernon Ingram and John Hunt, working at England's Cambridge University, identified that defect.

Hemoglobin molecules, which transport oxygen throughout the body, contain a total of 574 amino acids, arranged in four chains. The four chains are actually two pairs of identical chains, called alpha and beta.

The English researchers found that at two points in the beta chain of sickle-cell hemoglobin an amino acid called valine exists where glutamic acid, another amino acid, exists in normal hemoglobin.

It remained for Dr. Makio Murayama, a biochemist at the National Institute of Arthritis and Metabolic Diseases, to explain in 1966 how this minute difference in amino acids causes sickling. Considering the Cambridge research, he says, "it occurred to me that maybe the secret lay in the structure."

Normal hemoglobin molecules, about 300,000,000 per red blood cell, move at random within their cells. But Dr. Murayama found that substituting valine for glutamic acid allows sickle-cell hemoglobins to lock together when oxygen is reduced. They form chains up to 6,000,000 molecules long. These chains twist into six-strand cables, and these cables, in turn, bunch together to form rigid lines.

"The end effect is that the cell wall, which is like a balloon, complies with the shape of these long fibers within," Dr. Murayama says.

Last year Dr. Murayama photographed these microcables for the first time. Using a stream of argon ions—a technique he learned about from scientists shaving microcopic layers from moon rocks—he stripped away part of the wall from a sickled cell. With a scanning electron microscope, he photographed clumps of sickled hemoglobin.

This year Dr. Murayama proposed a theory to explain why sickle-cell anemia is more severe in some patients than in others. He suggests that an organic molecule, which he calls the "hemoglobin S cofactor," plays a role in sickling. Its severity depends on the amount of this molecule present.

Dr. Murayama has yet to identify the molecule. "When and if it is identified," he says, "I think we will be able to revolutionize the mode of control and treatment of the disease."

Mr. TUNNEY. Mr. President, there is a blood disease in this country that kills half of its victims before the age of 20. Few survive beyond the age of 40 and most are crippled long before death.

It was found to be a deadly killer more than 60 years ago. It is called sickle cell anemia and it strikes approximately one of every 500 black persons in this country. Medical researchers estimate that over 2 million Americans carry the so-called sickle cell trait. And yet the vast majority of Americans have no idea what sickle cell anemia is; they have never heard of it.

The people who suffer most from this disease do not live in the suburbs; they do not belong to country clubs; they do not go to private schools; many of them do not have family doctors; many of them never receive any adequate health care. They are black and they are being ignored.

If this country can vaccinate millions of schoolchildren against the threat of polio; if we have the facilities to perform the major medical miracles that we have all witnessed within the last 15 years, then I say that there is absolutely no excuse why the talent and research facilities of the Federal Government and the commitment and the dollars of the U.S. Congress should not be expended toward eliminating the threat of sickle cell anemia from every black home in America. To do any less is unacceptable.

I think it is time that we as a nation make a commitment to end this tragedy. For this reason, I authored the legislation we have before the Senate today. S. 2676, the National Sickle Cell Anemia Prevention Act, creates a national program for the prevention of sickle cell anemia. Regrettably, there is no cure for this disease and none on the horizon. But we can begin to offer the opportunity to learn the nature and risks of the disease. And we can persist in and strengthen research to combat the disease. I am honored that Senators KENNEDY, BROOKE, and WILLIAMS joined me as the prime sponsors of this bill. And I think the fact that 42 other Senators have joined as cosponsors is an indication of the depth of commitment in the Senate to act against this disease.

I am also honored to have had the advice and cooperation of District of Columbia Delegate WALTER FAUNTROY who led a group of 11 members of the black caucus in introducing identical legislation in the House of Representatives.

Mr. President, before discussing the basic provisions of S. 2676, I would like to discuss three major points which I think the Senate should keep before it in considering this bill.

As chairman of the Subcommittee on Public Health for the District of Columbia, I held hearings here in Washington on sickle cell anemia. Those hearings, to the best of my knowledge, were the first hearings ever held by any committee of the Congress on this tragic disease. I point this out, Mr. President, to indicate the fact that this has been a terribly and tragically neglected area. And the full measure of that neglect is the fact that sickle cell anemia has received the barest imaginable Federal research support. To put it bluntly, the Federal Government just has not cared enough. I think it is fair to say—and research figures prove the fact—that if sickle cell anemia afflicted primarily white people instead of black, we would have made the commitment long ago to end this disease.

Take just one example—phenylketonuria—so called PKU disease—is a disease that afflicts primarily white persons, and occurs with a frequency of less than 1 in 10,000 births. For years hospitals have routinely tested white children for this disease. Sickle cell anemia occurs with a frequency of 1 in 500, 20 times more frequently than PKU—and yet we still do not have any major programs to test for this disease.

Mr. President, the one thing that came through loud and clear in my recent hearings was that whatever progress has been made thus far has come from dedicated researchers, such as Dr. Roland Scott at Howard University, who have worked almost entirely without Federal money.

Last year, we are told, $2 million of Federal money went to sickle cell anemia research. Just where that money went, I am not sure. But one thing we did learn in our hearings was that not much of it went to researchers like Dr. Scott. In fact, as he testified before me, Howard University received only $2,000.

The present administration makes much of the fact that it has earmarked $6 million in the 1972 NIH budget for sickle cell anemia—of which I might add was new money. Yet where is that money going—if it is being spent at all? The Director of the District of Columbia Health Services Administration testified that the District could not even get $15,000 from NIH to piggyback a sickle cell test on an existing testing program of lead paint poisoning tests. I would like to insert his testimony in the RECORD at this point:

> Dr. STANDARD. I would like to state that six months ago we were searching for $15,000 to add on piggy-back for a lead poisoning program we were conducting throughout the District of Columbia.
>
> It was funded through model cities, it is a good program, and with people knocking on doors, bringing children into the program.
>
> We felt this was a good opportunity for us to piggyback on top of this existing fairly well-financed program an additional testing for sickle cell.
>
> When we did our costs analysis, we found out it would cost approximately $15,000.
>
> We searched, but to date we have not been able to come up with the additional funding.
>
> We have, however, done some testing, using other monies from our programs.
>
> Senator TUNNEY. Let me stop you there. You say that you could not get the $15,000. Where did you search?
>
> Dr. SHUFFORD. We have in many instances, Mr. Chairman, attempted to get monies from NIH. We have gone to such places as HSMHA, which is responsible for the family planning section.
>
> We talked with a Mr. Namkins there, and we have been unable to come up with any funds.
>
> Senator TUNNEY. You could not even get the $15,000 from NIH?
>
> Doctor SHUFFORD. We have not even been able to get $15,000.
>
> Senator TUNNEY. What about the $6,000,000 that have already been earmarked?
>
> Doctor SHUFFORD. What was told us, concerning the $6,000,000, that had been earmarked by the President, that it went to NIH to be used mainly for hardcore research, which takes it out of the realm of what we wanted to do.

Mr. President, in the face of that record, I think the mandate upon the Congress is clear.

A second point concerns the announcement by Health, Education, and Welfare Secretary Richardson, on Nov. 10, 1971, of the recommendations of the Health, Education and Welfare Sickle Cell Disease Advisory Board. Mr. President, I welcome the administration's interest in this area. I wish it had existed long ago, and I wish it were stronger.

I am gratified, however, that at the very least, the announcement demonstrates that the administration has read our bill. Each provision of S. 2676, which we introduced on October 8, 1971, after 6 months of extensive research and consultation with physicians, researchers and other members of the black community, has been included in the Advisory Committee's recommendations to Secretary Richardson.

Mr. President, I think that fact confirms the merits of this bill.

I would add however, that the announcement also reveals the need for action on this bill, because the administration's proposals are most inadequate in terms of funding. The Advisory Committee's recommendations call for no new funds—they simply allocate existing inadequate funds in an inadequate manner for a program which is itself inadequate.

The true measure of the inadequacy of those recommendations was demonstrated in our hearings. Four separate witnesses, including Dr. Scott, the Black Athletes Foundation and representatives of the District of Columbia Government told us that it would take $4 to $5 million to run a comprehensive program in the District alone. Yet that is more than the amount which the administration is prepared to spend nationwide.

Let me point out another thing—I think we ought to be told just what is happening with that $6 million which was earmarked in the 1972 budget. First we were told that it was going for increased research. But, as Dr. Scott pointed out so eloquently, if it is going for research it is not going to those who have been doing the research.

Now we are told that it is not for research after all but would be used to fund this new proposal. If it is used for that purpose, I wonder if any of the centers it would fund would include the center at Howard University or Meharry Medical School. That, Mr. President, is my third point—money for any program against sickle cell anemia should begin with those institutions which are treating black people—institutions like Howard and Meharry.

Dr. Emerson Walden, the current president of the National Medical Association stated that most eloquently in the hearings which I held last month, and I include this portion of his testimony in the RECORD at this point:

> Dr. EMERSON WALDEN. We urge that funds for research, treatment, and so forth, of the disease be funneled directly to the two medical schools which have traditionally worked with this problem.
>
> Howard University, College of Medicine which is located here in the District and Meharry Medical College in Nashville, Tennessee.
>
> It is a sad story of history that funds controlled by NIH seems to be funneled to universities like Johns Hopkins, Harvard, Yale, Georgetown and Columbia.

THE NATIONAL SICKLE CELL ANEMIA PREVENTION ACT

The National Sickle Cell Anemia Prevention Act has four basic provisions:

First, a 3-year coordinated Federal grant program beginning with $25 million in the first year, increasing to $35 million and $40 million in the second and third years for research, voluntary screening, and counseling and public education; second, a demonstration grant program for 3 years beginning at $5 million in the first year and increasing to $15 million in the third for the development of centers for research and research training in sickle cell anemia; third, a requirement that the Department of Defense implement a policy to provide voluntary screening, counseling, treatment, and education concerning the disease for servicemen, civilian employees, and inductees; and fourth, similar programs by other Federal agencies which provide direct health care for persons eligible in such agencies, namely the Veterans' Administration and the Public Health Service.

It is the purpose of this bill to provide a coordinated effort against sickle cell disease as a major public health problem and provide the means to combat it. Thus, a primary purpose of the bill in addition to research, is to provide funds for the creation of community screening and counseling programs.

VOLUNTARY SCREENING

A simple and inexpensive test to detect the sickle cell trait has been available for many years. Only rarely, however, have individuals had the opportunity to know in advance of marriage or in advance of childbearing that they were trait carriers. Hence, parents usually learn they carry the trait only after they find to their sorrow that a child is born with the disease.

In order to screen, on a voluntary basis as many people as possible, this bill would provide funds, for example, for school districts to screen their students. Such screening could supplement other school health service programs such as physical examinations, eye testing programs, and immunizations. Neighborhood health centers, clinics, hospitals, and mobile health units would be able regularly to include the sickle cell test.

Using such screening, Dr. Joseph Bellizzi, supervising physician for the Hartford, Conn., school system, recently directed a major program which offered screening to 3,456 black children of high school age, finding 301 carriers of the trait and four cases of sickle cell anemia. Screening programs such as this can offer the first opportunity for persons to learn whether they carry the trait and what the risks and dangers are for their children. Similarly, parents who learn that one of their children has the trait would be able to seek similar tests for themselves and their other children.

VOLUNTARY COUNSELING

For persons who learn through screening that they possess the trait, the bill provides funding for voluntary counseling services to gain information on the disease and the risks involved. Thus, possibly for the first time, a person with the trait can learn beforehand the chances that his children might have the disease and what it will mean for their lives.

PUBLIC EDUCATION

Finally, the bill provides funds for programs to educate the public about the nature of sickle cell anemia and the inheritance of the sickle cell trait. As Dr. Scott has pointed out, few people know what the disease is or how to learn whether they have the trait.

Fortunately, a number of public-spirited organizations including radio and TV stations, are beginning such education programs. Thus, for example, in Hartford, Conn., station WTIC began a drive to do something about sickle cell disease. They ran a public education type program on sickle cell anemia and then began a campaign to raise money for research at the Sickle Cell Anemia Center at Howard. As a result of the station's efforts, $34,000 was raised for the center.

Similarly, here in Washington, TV station WRC conducted a five-part series on sickle cell anemia, a major and most impressive commitment of time and effort by that station. The importance of such programs and the importance of screening programs was given most dramatic emphasis when the station's reporter took the test for sickle cell for the first time and learned that she had the trait.

This bill will provide funds to conduct similar public education programs toward the goal that all people may be informed about the disease and its risks and have the opportuntiy to seek the sickle cell test.

DEMONSTRATION FUNDS

A second major thrust of the bill is demonstration funds for the development of centers for research, screening, counseling, or treatment. Funds would be available to public and nonprofit private institutions such as medical schools, hospitals, and foundations. A principal focus of this provision is to provide funds for centers such as the very fine one at Howard University founded by Dr. Roland Scott. Funds under this provision are intended in particular to provide the opportunity for institutions such as Howard and hospitals which serve large black communities to establish major programs against sickle cell disease.

PROGRAMS IN THE MILITARY

In addition to grant programs, however, the bill also focuses heavily on the need and opportunity in the Armed Forces and other Federal agencies which provide health care, to offer screening, counseling and, where appropriate, treatment for sickle cell anemia. It requires the Secretary of Defense to implement a policy to offer servicemen—and their dependents—civilian employees of the Department, and persons examined at induction centers the opportunity to learn if they carry the trait by screening tests at no cost to the individual. It provides that such a program should include the opportunity for voluntary counseling for persons who have the trait and education of personnel regarding the availability and cost-free nature of such services.

Programs such as those provided in the bill are particularly important in the military establishment because of the opportunity to reach large numbers of young people. In addition, it is particularly important for those who may have the trait to learn that fact in order to avoid certain high-stress duties, such as high altitude flying, which may be dangerous to those with the trait.

Using one screening method, the director of the Blood Transfusion Division of the Army Research Institute at Fort Knox, Ky., has screened over 5,000 recruits in the past 18 months. Approximately 200 persons learned they had the trait. If such screening were widely available, events such as the tragic deaths of four recruits with the trait at Fort Bliss, Tex., last year might have been avoided.

Although persons with the trait are generally not in danger, in some instances of high-stress activity some such persons can develop severe complications.

Thus, the programs required by the bill would allow anyone connected with the military to have the opportunity to learn if he or she has the trait.

Other sections of the bill provide the same opportunity for screening, counseling and treatment in the Veterans' Administration and the Public Health Service.

VOLUNTARY PARTICIPATION AND CONFIDENTIALITY

Finally, the bill contains strict requirements to assure the voluntary nature of all programs funded or conducted pursuant to the National Sickle Cell Anemia Prevention Act and provides for protection of individual privacy by strict requirements of confidentiality. Thus, participation in screening or counseling programs carried out under the act would be entirely voluntary. In addition, test results would be held confidential. Both of these provisions are particularly important, I believe, in order to avoid any misinterpretation of the basic purpose of programs under this bill. It would be indeed tragic if any person should gain the impression of racial prejudice or discrimination as a result of these programs. Lest there be any doubt on that score, we have included the very strict provisions I have just described. This bill would coerce no one. Instead, it would affirm the dignity of individuals by providing the facts needed for free and informed choices.

It is my belief that this bill will make a major contribution to the prevention and treatment of sickle cell disease and I urge the Senate to pass this legislation today.

The PRESIDING OFFICER (Mr. CHILES). Who yields time?

Mr. JAVITS. Mr. President, is there controlled time?

Mr. KENNEDY. Fifteen minutes have been allotted to the majority and 15 minutes to the minority.

Mr. SCHWEIKER. Mr. President, I yield 5 minutes to the Senator from New York.

Mr. JAVITS. Mr. President, I am a cosponsor of the National Sickle Cell Anemia Act, S. 2676. I am very deeply interested in it and hope very much that the Senate will act on it today, decisively and affirmatively.

I shall not repeat the very fine statement made by the chairman of the subcommittee, Mr. President, but I do wish to read the message of the President of the United States who, in his 1971 health message focused national attention on this tragic disease. He said especially about this particular disease:

> A second targeted disease for concentrated research should be sickle cell anemia—a most serious childhood disease which almost always occurs in the black population. It is estimated that 1 out of every 500 black babies actually develops sickle cell disease.
>
> It is a sad and shameful fact that the causes of this disease have been largely neglected throughout our history. We cannot rewrite this record of neglect, but we can reverse it. To this end, this administration is increasing its budget for research and treatment of sickle cell disease fivefold, to a new total of $6 million.

Mr. President, under the circumstances, why this bill? The reason for it is shown by the President's own finding that research and treatment have to be increased fivefold—showing the neglect which this particular disease has suffered in all these years. We in our committee believe that a fivefold increase is quite inadequate to the need. It is estimated that 50,000 black people have sickle cell disease and, what is critically important, that over 2 million—a staggering figure—are carriers of the sickle cell trait and that at least 5,000 require hospitalization each year. In spite of these staggering figures, there is as yet no national program to prevent the 2 million carriers of the sickle cell trait from passing it from one generation to another.

Under those circumstances, the two major provisions of the bill, aside from its methodology—to wit, providing much greater authorization, as the Senator from Massachusetts has explained, and tying in the programs of the Department of Health, Education, and Welfare with those of the Department of Defense and the Veterans' Administration as provided by this bill—are critically important.

As so often happens in matters of this kind, it is only with the backing of legislation—a legislative program concentrating upon this particular disease—that adequate resources, both of a material kind, in money, and of a professional kind, will be available.

Perhaps even more importantly, there is no national program to educate these carriers as to the risks involved in having children and most shocking is that despite these tragic statistics, there has been no all-out program to inform the black communities of the significant proportions of this disease and its immediate threat to their own lives.

I believe the President is determined to do everything he can to cope with the many and varied problems of sickle cell disease, and I know that in accordance with the President's direction a sickle cell disease program has been initiated within HEW, but as is traditional in so many matters, to have an effective national commitment the Congress must act, and for that reason, Mr. President, I think this legislation is extremely desirable.

That is the strong view of the minority of the Committee on Labor and Public Welfare, of which I am ranking minority member and I believe that the bill should be passed this morning by the Senate.

In essence, the bill provides:

First, it would establish a sickle cell anemia prevention program consisting of two major parts:

a. Authority for grants and contracts to assist in the establishment and operation of voluntary sickle cell anemia screening and counseling programs and to assist in developing and making available to the public information and educational materials relating to sickle cell anemia.

2. Authority for grants and contracts for research training in the diagnosis, treatment, and prevention of sickle cell anemia; development of programs to educate the public regarding the nature and inheritance of the sickle cell trait and sickle cell anemia; and the development of centers for research, testing, counseling, prevention, or treatment of this disease.

Second, other provisions of the bill call for a program to be established for eligible persons treated by the Public Health Service; annual reports by the Secretary, HEW, on the administration of the sickle cell anemia program; authorization for the Secretary of Defense to provide for screening and counseling of members of the Armed Forces and their dependents, civilian employees of DOD, and all persons examined by the Armed Forces, for the sickle cell trait and sickle cell anemia; and requiring notification and an expanded screening, counseling, and treatment program to be set up by the Veterans' Administration including a comprehensive research and training program.

The bill does not specify which agency or bureau of the Department of HEW it expects to operate the program initiated by the legislation, nor how the activities of the three Government agencies involved would coordinate their varied roles. The Labor and Public Welfare Committee, of which I am ranking Republican member, did not wish to "tie the hands" of either Health, Education, and Welfare; the Department of Defense; or the Veterans' Administration. However, the committee report states:

> The Committee intends that the programs authorized by the bill and involving the Department of Health, Education, and Welfare; the Department of Defense; and the Veterans' Administration shall be planned and implemented in a co-ordinated fashion. The Committee expects that there shall be frequent consultation among the relevant agencies and individuals involved in these programs and that no substantially new organizational structures shall be required for the carrying out of the authorities contained in the committee's bill.

The National Sickle Cell Anemia Act will enable this administration, which I am confident is determined to do everything possible to cope with the many and varied problems of sickle cell disease, to launch the needed national commitment adequate to combat this disease—a commitment that should have begun many years ago.

Mr. President, I thank my colleague for yielding, as he has taken such a very fine, great, initiatory position as chairman of the Subcommittee on Health.

I yield back the remainder of my time.

Mr. KENNEDY. Mr. President, I thank the distinguished Senator from New York for his comments and the work that he has done, and wish to note the very effective work that was done by the ranking minority member of the Senate Health Committee (Mr. SCHWEIKER), who presented one of the most effective and interesting groups of witnesses that we had in the course of our hearings, the Black Athletes' Foundation, who come from Allegheny County in Pennsylvania. I think members of the Black Athletes' Foundation are not only distinguished Americans on athletic fields in this country, but they also have distinguished themselves in using their tremendous national respect and standing as expressed by the affection and admiration from thousands of fans, to help alleviate the suffering caused by sickle cell anemia. So I extend a warm word of appreciation to Senator SCHWEIKER.

It is also important to note the efficiency of the Senate, and particularly that of the members of the Labor and Public Welfare Committee in completing action on this bill.

This bill, S. 2676, was introduced on October 8, and now we are acting on it on December 8. We are really getting expeditious action by the Senate, on a matter that is of great importance to millions of Americans. I believe that to a great extent it is a result of the work of the ranking Republican member of the subcommittee (Mr. SCHWEIKER), that this action has been completed in such a swift and effective way.

I ask unanimous consent that the name of the Senator from Florida (Mr. CHILES) be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. I reserve the remainder of my time.

Mr. SCHWEIKER. Mr. President, I yield myself such time as I may require.

Mr. President, the Senate's action today in considering S. 2676, the National Sickle Cell Anemia Act is historic. Less than 60 days ago, on October 8 to be exact, the pending bill was introduced with 36 cosponsors. It now has 45 cosponsors. Within 60 days, hearings were held, the Health Subcommittee of the Senate Committee on Labor and Public Welfare as well as the full committee deliberated on the measure, and the Senate is launching a major effort against this disease.

Nearly a year ago the President of the United States drew the Federal Government's attention to sickle cell anemia and he admitted the neglect that this health problem has suffered. Such will no longer be the case as the Senate acts in response to his initiative.

Also, it is appropriate that the chairman of the Health Subcommittee, the distinguished Senator from Massachusetts (Mr. KENNEDY), be commended for his leadership in scheduling hearings, marking up, and reporting this bill. The bill, as the Senator mentioned a moment ago, probably sets a record for a major health effort of this kind to be launched in such a short space of time. I also want to commend the Senator from New York (Mr. JAVITS), the ranking member and leader on the Republican side of the Senate Committee on Labor and Public Welfare, for his interest, drive, and help in getting this measure passed. Senator KENNEDY is keenly aware of the need for this legislation since the attention given this dread disease in the past has been woefully inadequate. The prompt action by the subcommittee was certainly a necessary beginning to a change in this situation. I look forward to the Senate acting affirmatively to begin an enlarged effort by the Federal Government to deal with the problem of sickle cell anemia.

The bill authorizes grants for screening and counseling programs, distribution of information and educational materials about the disease to any person requesting them, and research for the prevention, treatment, and cure of sickle cell anemia. The bill also authorizes establishment of similar programs within existing Federal health activities, such as the Public Health Service, the Department of Defense, and its Armed Forces Examining and Entrance Stations, and the Veterans' Administration. In this connection, I feel that all the agencies and departments in the Federal Government should be involved in this fight. Certainly, each agency and department should, at the very least, be screening its employees and counseling those who are found to have either the trait of sickling or the disease. Since last May a program of this kind has been underway at the National Institutes of Health and approximately 10 percent of the employees tested have shown the trait. This is something that should be done throughout the entire Federal establishment—the testing of incoming and present employees.

Participation by any person in this new sickle cell anemia program under the act will be completely voluntary, and the bill requires strict medical confidentiality regarding any individual who chooses to participate. This inherited deadly disease is found in approximately one out of every 500 black persons, and results in an early death for nearly half the persons who contract it, so I hope that this Federal effort can result in immediate medical progress in controlling it.

I personally witnessed the tragic effects of sickle cell anemia when one of my Senate staff assistants, James H. Newman, died of the disease in November 1969, at the age of 29.

What will the ultimate enactment of this bill mean? It will mean that community organizations around the country which have been in the lonely forefront of the fight against sickle cell anemia will be joined by the Federal Government. Although it will remain fundamentally their effort, these groups will have more and better means to reach into their communities to inform and alert the far too many Americans who either carry the trait, or unfortunately, the disease who are unaware of it. The important thing is that these groups will no longer be working alone. The money this bill authorizes will insure that significantly larger numbers of people will be screened and counseled regarding sickle cell anemia.

I wish to draw the attention of the Senate to the comments in the committee report on S. 2676 referring to the community based effort so fundamental to a successful attack on sickle cell anemia:

> By using local community based organizations to inform people of the problems associated with sickle cell anemia. . . . the pub-

> lic can be properly informed about the disease . . . the use of neighborhood clinics, mobile units, civic and volunteer organizations operated and staffed with black professionals and paramedics is the most effective way to accomplish the goal of education and awareness, without developing unfounded fears about sickle cell anemia and its problems. The committee is strongly persuaded that the planning and implementation of the programs authorized by the bill need to maximize the involvement and expertise of those individuals and groups most affected by the disease, if these efforts are to be fully successful.

Examples of the kinds of community projects which this legislation will help found in my own State of Pennsylvania include the Western Pennsylvania Sickle Cell Center formed and operated by a coalition of community and health organizations under the auspices of the Black Athletes Foundation. The officers of the foundation include Muhammad Ali, chairman; Wilver Stargell of the Pittsburgh Pirates, president; basketball star Connie Hawkins, vice president; Hank Aaron of the Atlanta Braves, Dock Ellis, and former Steelers football star John Henry Johnson. The committee noted in its report that:

> The activities of the Black Athletes' Foundation exemplify the kind of community based effort that the committee believes essential in the effective implementation of this bill.

In Philadelphia a program of education, early detection, and treatment of sickle cell anemia is being sponsored by Volunteers in Aid of Sickle Cell Anemia, Inc. And, more recently, the Yank Durham, Jr., Foundation, named after the son of heavyweight champion Joe Frazier's manager, Yank Durham, was formally organized to begin a fundraising program with an initial objective of obtaining sufficient resources to fulfill one of the provisions of the legislation "in developing and making available information and educational material relating to sickle cell anemia to all persons requesting such information or materials, and to inform the public generally about the nature of sickle cell anemia and the sickle cell trait." This group includes Joe Frazier and also Trudy Haynes, a Philadelphia news broadcast personality.

There are community groups and agencies as well as medical institutions in New York, California, Tennessee, Georgia, Illinois, and Michigan, to name but a few that are awaiting the enactment of this act.

Mr. President, in the 1940's and the 1950's this Nation was galvanized in the battle against polio. Yesterday House and Senate conferees agreed on the provisions of a bill designed to direct a national attack on cancer. We must now go about the business of researching, treating, preventing, and eventually curing sickle cell anemia.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Massachusetts has 6 minutes remaining.

Mr. KENNEDY. Mr. President, I thought I would just review some of the crucial statistics of this disease.

In the course of the testimony that we took in our Senate Health Committee, we learned that medical experts place estimates ranging from 50,000 to 80,000 people who suffer from the disease, sickle cell anemia. Even using the low figure, 50,000 people who have this disease, it must be emphasized how many families are burdened with the complications of sickle cell disease. Patients require up to 10 visits a year in a hospital before they reach the age of 6. Those visits, we have been able to find out, cost at least $1,000 each time the patient is hospitalized. Usually victims are required to stay there for a 10-day period, at least it has averaged out about 10 days. That, as I say, is for the small children. After the age of approximately 10 years, it is necessary that they visit a minimum of 4 times a year. It is also required that they visit a doctor once every 4 months, and sickle cell victims constantly receive medication for their affliction. This disease forces patients to require constant medical care throughout their lives. I need not elaborate on the high cost of medical attention in these times. But everyone here knows that this represents an extraordinary kind of financial burden on any family or any individual. We have seen in the course of our hearings that individuals that were affected with the sickle cell trait have been excluded and denied insurance policies. Knowing how the insurance industry functions, that may be expected. The health insurance industry uses an experience rating when deciding on who may receive benefits. Once they find that an individual has sickle cell anemia, they are the first ones that are dropped. These victims who so desperately require costly medical care are excluded from participation in any kind of health insurance program; they are really sort of cast out of the health insurance system.

One of the very bright spots during our hearings was the account of the Kiwanis Club of Magnolia, Ark., voluntarily assuming medical expenses for a local sickle cell patient 25 years ago. According to Mrs. Dorothy Boyd, who with her husband and young family were living in Magnolia in 1946, the Kiwanis Club recognized the family's burden caused by sickle cell anemia in their 2-year old daughter. Without being asked, the Kiwanis Club undertook to absorb the medical expenses for the young Boyd child. Without that kind of help, that person—now Mrs. Karen Boyd Winston—would not have developed to be a successful medical technician and to appear before our Senate Health Committee. Today, Mrs. Winston is 27 years of age, she has 1 child, and she was an extremely effective and impressive witness.

Mr. President, it costs $1 for a screening test. In our hearings it was reported that on that basis $25 million would be required to screen every black person in this country. If the test proves positive, it costs $10 for additional testing to be able to find out the exact dimensions of the disease in an individual. Then, of course, it takes a very significant kind of counseling to help those people with the trait to be able to receive a job or to find a job, and to give them some counseling and judgment as to what their family responsibilities are, or what the dangers of this disease might be in terms of family responsibilities.

We are authorizing money that can have a very important impact on this disease for the entire Nation.

So I feel that individuals who are affected with sickle cell anemia, through no fault of their own, are bearing an extraordinary kind of financial burden. It is not necessary that they do so. It can be avoided with this kind of program of screening and testing. The extraordinary suffering that they experience can be avoided as well. It can be avoided by the enactment of this bill and by the follow-up of this bill.

As Senator SCHWEIKER has pointed out, not only do we have resources in here in terms of testing and counseling, but we also have resources in here in terms of research which, hopefully, can ultimately provide the key to unlocking this dreaded disease.

We also recognize the role that the Department of Defense can play as they provide these screening programs in terms of drug addiction, for example, in men coming back from Vietnam. There is no reason at all why they cannot provide a testing program for this kind of trait, as they test all young people who are inducted into the Army. We would encourage them to do so. If they need additional resources with which to do it, we would hope that they would come back to us. They have given us assurance that with this kind of authorization they can go ahead and do it.

I am extremely hopeful, Mr. President, that we can make a very serious impact in terms of this dread disease. I think it is important that we do it. I think we have the capacity to do so, and I urge the Senate to take that action.

Finally, Mr. President, I ask unanimous consent that the name of the Senator from West Virginia (Mr. BYRD) be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MATHIAS. Mr. President, I appreciate the Senator from Pennsylvania yielding to me this time, simply to recognize the work that he and the distinguished Senator from Massachusetts have done in bringing this bill to the floor. It is a problem which is receiving belated attention at both the national and local levels.

I am very pleased, therefore, that we in the State of Maryland have already begun to take action on this most serious problem. Only yesterday, there was an article in the Washington Post outlining the newly announced program to soon begin in Baltimore at the request of Mayor William D. Schaefer, whereby several thousand black junior and senior high school students will be screened to find carriers of the genetic trait that can cause the sickle cell anemia trait. This program, which will be under the leadership of Dr. Robert F. Farber, Baltimore city health commissioner, I think will be able to take full advantage of the provisions of this bill.

I am grateful to both the Senator from Pennsylvania and the Senator from Massachusetts for the leadership they have shown in bringing us to the point where something can and will be done. Also, Mr. President, I wish to commend President Nixon for his leadership in asking earlier this year for increased research and funds for efforts to prevent this dreaded disease.

At this point, Mr. President, I ask unanimous consent that the Washington Post article to which I referred to above, be inserted in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Washington Post, Dec. 7, 1971]

Baltimore Will Test To Find Sickle Cell Anemia Carriers

(By Jim Mann)

Baltimore Mayor-elect William D. Schaefer has announced plans to screen about 50,000 black junior and senior high school students to find carriers of the genetic trait that can cause sickle cell anemia.

Under the program, announced this weekend, those who are found to be carriers of the disease will be given counseling sessions.

In such sessions, they will be advised that if they marry another person carrying the sickle cell trait, the chances are that one in four of their children will actually have the disease. (The carriers of the disease are themselves invariably free of the disease.)

The rationale for aiming the screening program at junior and senior high school students is to reach those people who will soon be having children.

Sickle cell anemia is a hereditary disease caused by abnormal hemoglobin in the blood. The disease originated in Africa, Asia and parts of the Mediterranean as a natural body defense against malaria, according to Dr. Roland Scott, a leading researcher in the field. In the United States, almost all victims are blacks.

The victims suffer excruciatingly painful attacks, and sometimes blindness or paralysis. Rarely do victims live past the age of 40.

Although the disease affects about one in 500 American blacks, slightly fewer than one in 10 carry the recessive gene that can cause the disease.

According to Robert E. Farber, Baltimore health commissioner, the program was made possible by a "windfall" of $110,000 for new health programs, which Baltimore is eligible to receive as part of the proceeds of a successful anti-trust action against pharmaceutical companies.

The sceening itself is expected to cost $65,000 to $85,000 over a two-year period. Farber said the program would probably begin some time next year.

The District of Columbia does not yet have a screening program for the sickle cell anemia trait in its public schools, although it, like Baltimore, has recently begun conducting such tests in some maternity and neighborhood clinics.

However, the D.C. City Council has under consideration a proposal to conduct sickle cell screening among all kindergarten and first grade students.

Earlier this year, Congress allocated $6 million for research and community programs relating to sickle cell anemia, a fivefold increase after President Nixon in February asked for "concentrated research" on the disease.

Mr. COOK. Mr. President, I ask unanimous consent to have three articles pertaining to sickle cell anemia printed in the Record prior to the rollcall vote just taken.

There being no objection, the articles were ordered to be printed in the Record, as follows:

[From the National Observer, Dec. 11, 1971]

A Disease Draws the Color Line—Researchers Arouse Public to Sickle-Cell Threat

(By Patrick Young)

Nellie Kendrick recalls a white friend who recently asked her if it were true that sickle-cell anemia—a painful and usually fatal blood disease—is found almost exclusively among blacks. Mrs. Kendrick, a black volunteer in the Milwaukee Community Sickle Cell Disease Project, assured her it was. "I thought it was just a lie spread to show that blacks were inferior to whites," the friend said.

Misconceptions abound about sickle-cell anemia, among blacks and whites, among physicians and laymen. The disease afflicts perhaps 45,000 black Americans. Nearly half of its victims die before age 5, and about 80 per cent by age 30. It occurs once in every 400 to 500 black births, a frequency 6 times greater than cystic fibrosis, and 20 times higher than phenylketonuria (PKU), both almost exclusively white diseases.

Yet for years medical researchers called sickle-cell anemia "the forgotten disease." One year ago, an editorial in the Journal of the American Medical Association complained that "the level of general ignorance concerning the nature of sickle-cell anemia remains depressingly high."

Now that ignorance is under attack. More money than ever is going into sickle-cell research. New diagnostic and treatment procedures are being developed. Large-scale testings are under way in several cities, including Milwaukee, to find blacks unknowingly suffering from the disease, and to determine who are carriers capable of passing on sickle-cell anemia to their children.

And blacks across the country are working to raise funds and to acquaint all Americans with the disease. As one example, more than 200 professional black athletes—including Willie Stargell and Dock Ellis of the Pittsburgh Pirates and boxer Muhammad Ali—have set up the Black Athletes Foundation for Research in Sickle Cell Disease.

BRINGING BLACKS TOGETHER

"This has brought black people together, from the Black Panthers to the Urban League," says Richard Campbell, director of the Foundation for Research and Education in Sickle Cell Disease in New York City.

Sickle-cell anemia, an inherited disease, is the most common long-term illness among black children (about 1 per cent of its victims in the United States are white). It is incurable, and despite considerable knowledge of the disease's mechanism, treatment methods remain poor.

The disease is caused by a defect in the hemoglobin molecules within red blood cells, which carry oxygen throughout the body. Each hemoglobin molecule contains 574 amino acids. In sickle-cell hemoglobin, two of these amino acids are replaced by two others.

"At the basic level, the change is so minuscule, so tiny," says Dr. Makio Murayama, a biochemist at the National Institute of Arthritis and Metabolic Diseases. "Yet for the individual, it is a matter of life and death."

When sickle-cell hemoglobin is deprived of oxygen, the red blood cells lose their round, doughnutlike shape and take on a sickle or quarter-moon appearance.

When this happens, the red blood cells are unable to pass through the body's microscopic capillaries. The cells jam up like driftwood clogging a drainpipe. As a result tissue is deprived of the oxygen it needs, and dies. This painful event is called a "crisis."

In crisis, a person suddenly develops intense pain, usually in the abdomen, back, chest, hips, arms, or legs. The heart may be partly or fatally damaged, or a stroke may result. Sickle-cell sufferers are extremely vulnerable to infection, particularly pneumonia, and many develop skin ulcers at the ankle.

"Sickling can occur in any organ system and so it can mimic any disease state," says Dr. Edwin Bemis, a pathologist working with the newly established Southeastern Wisconsin Sickle Cell Center at Deaconess Hospital here. This causes diagnostic difficulties for doctors unfamiliar with sickle cell, and sometimes results in unnecessary surgery.

The disease results from a gene mutation that occurred centuries ago in Africa, and which became common because it offered a protection against malaria. For some unknown reason, malarial parasites cannot survive in sickle red blood cells.

Each person inherits two sets of genes, one from each parent. A person with sickle-cell anemia has inherited a sickle-cell gene from each parent. A person who inherits a sickle-cell gene from only one parent is called a "trait." (Far less common than sickle-cell anemia are "variants," forms of the disease less severe than the anemia, but more troublesome than the trait.) Estimates place the number of blacks carrying the trait at between 8 and 13 per cent.

It requires two traits to produce a child with sickle-cell anemia, and the odds are one in four for such a birth. The chances of producing another trait are one in two. These odds of genetic roulette are for each birth. A Racine, Wis., couple produced three children, all with sickle-cell anemia.

The only guarantee that two traits will avoid a child with sickle-cell anemia is if they have no children. Currently several research teams are trying to develop prenatal tests for the disease. If they succeed, parents will know in advance if their child will be born with sickle-cell anemia, and will have the option for abortion.

TRAIT IS NOT A DISEASE

Most sickle-cell traits live normal lives and never experience a crisis. "Overall we try to stress that sickle-cell trait is not a disease," says Dr. Robert B. Scott of the Medical College of Virginia in Richmond.

Nevertheless, cautions Dr. Robert M. Nalbandian of Blodgett Memorial Hospital in Grand Rapids, "the trait under certain physiological-stress conditions can be hazardous, and has been."

Traits may crisis while flying at high altitudes in unpressurized aircraft, under general anesthesia during surgery, or sometimes during great physical exertion.

Last year a team of Army doctors blamed sickle-cell trait for the deaths of four black recruits—over an 11-month period—during basic training at Fort Bliss, Texas. Their conclusion, however, has been challenged by other researchers, who contend the doctors did not rule out sufficiently other possible factors in the deaths.

Women with sickle-cell trait have a higher incidence of urinary infection during pregnancy and traits sometimes pass blood in their urine. Pittsburgh pitcher Dock Ellis, a trait, says he occasionally passes clots. "I've gone to the team physicians and they say there's nothing they can do about it," he says.

The public awakening to sickle-cell anemia is a recent thing, among blacks and whites. A 1968 survey in Richmond found that only 30 per cent of the blacks questioned had heard of the disease. Today blacks are more willing to accept the disease and no longer regard it as a racial slur.

"Part of the new pride among blacks is enabling us to look at ourselves, and to look with more objectivity," says Hazel Maxwell, chairman of the Milwaukee Community Sickle Cell Disease Project's advisory committee.

Sickle-cell fighters say the message of concern is finally getting across. Congress, at President Nixon's request, increased the National Institutes of Health's sickle-cell research budget from $1,000,000 to $6,000,000 this year. A bill to provide $142,000,000 in sickle-cell funds over three years is pending in the Senate. The National Foundation and its local March of Dimes chapters are providing increasing funds for research.

"I think we're getting over our benign neglect," says Dr. Bemis. "We're waking up to the fact that there is a black portion of our population. Whites, too, are demanding that blacks be treated on an equal medical basis."

The new awareness of sickle-cell anemia has led to greater efforts to identify people with the trait. Here in Milwaukee, Deaconess Hospital's sickle-cell center plans to test 118,000 blacks in seven counties. Three screenings have tested 2,232 blacks since Sept. 18, in addition to over 5,000 patients routinely tested upon admission to the hospital since 1969.

It is a community effort, utilizing more than 250 black and white volunteers and Boy Scout Troop 200, a ghetto unit, to spread the testing message. The center will provide genetic counseling and a registry of persons with sickle-cell trait.

AN EFFORT IN PITTSBURGH

The Black Athletes Foundation and six other groups are sponsoring a similar effort in an attempt to test 250,000 blacks in the Pittsburgh area. Smaller screening programs have taken place among school children in Grand Rapids and Hartford.

Testings to date have been voluntary. But New York State recently passed a law providing sickle-cell tests for youngsters entering public schools. And laws requiring testing of school children or marriage-license applicants before marriage are pending in several states, including California and Illinois.

Such laws delight some blacks, but not all. "If testing is compulsory, children identified as carriers could be stigmatized as less desirable parents or as weak individuals," says Dr. Robert Murray of Howard University in Washington, D.C.

The Milwaukee program and several others use a test developed by Dr. Nalbandian and Dr. Paul Wolf of Stanford University. Its advantage over previous tests lies in cost. The chemicals needed for the test, which can be run automatically at the rate of 120 an hour, cost only pennies a sample.

The test is a preliminary screening. A positive indicates sickling, but not necessarily sickle-cell disease. A second test—electrophoresis, which measures the distinctive electrical charges of various types of hemoglobin—can determine if the patient has sickle-cell anemia or the trait.

Treating sickle-cell anemia is more complex. Efforts to reverse sickling crises in patients, says Dr. Scott, "have not been terribly effective."

Dr. Nalbandian and his research colleagues are experimenting with urea, a natural chemical waste occurring in the body, in a sugar solution to treat patients in crisis. This "molecular surgery," says Dr. Nalbandian, breaks apart sickle-cell hemoglobin molecules that have locked together and reverses the crisis.

"We have been able to abort sickle-cell crises in over 20 patients, without using narcotics, and without medical misadventure, therapeutic failure, or death," he says.

The technique is extremely complicated. Unless extreme care is taken, the urea can cause dehydration, which itself can bring on a crisis by reducing oxygen.

Last month Dr. Paul McCurdy and Dr. Laviza Mahmood of Georgetown University medical school in Washington, D.C., reported treating 24 crises in 14 patients with urea. Seventeen crises were successfully treated, though the researchers noted dehydration as a major side effect.

"These results suggest that urea therapy has a beneficial effect on the painful crises of sickle-cell disease, but the method is still experimental," they wrote in the New England Journal of Medicine.

Currently the National Heart and Lung Institute is supporting six studies comparing three sickle-cell therapies, including urea. A second corrects dehydration, and the third reduces blood acidity, another cause of sickling, by lowering body oxygen.

A PROMISING TREATMENT

Other researchers are trying to find other chemicals that will reverse sickling without urea's handicaps. Dr. Anthony Cerami and Dr. James Manning of Rockefeller University in New York City recently reported excellent test-tube results in preventing sickling in human blood with potassium cyanate. They expect to begin human tests within a year.

Dr. Nalbandian says urea, taken four times daily mixed in soda pop to hide its bitter taste, can safely and effectively prevent sickle-cell crises. But he acknowledges difficulties in getting patients to down their preventive doses regularly.

"Frequently they take it when they feel pain," he says. "They head off a crisis and then they ignore their urea. There has to be a better way of delivering it."

SECRET LAY IN THE STRUCTURE

Although there is no cure for sickle-cell anemia, and as yet no generally accepted treatment, the basic mechanism of "sickling" is no mystery.

Sickle-cell anemia was first described in 1910 by Dr. James Herrick of Chicago. In 1949, Nobel laureate Linus Pauling and Dr. Harvey Itano showed that the disease resulted from an inherited defect in the hemoglobin molecules within red blood cells. Nine years later, Dr. Vernon Ingram and John Hunt, working at England's Cambridge University, identified that defect.

Hemoglobin molecules, which transport oxygen throughout the body, contain a total of 574 amino acids, arranged in four chains. The four chains are actually two pairs of identical chains, called alpha and beta.

The English researchers found that at two points in the beta chain of sickle-cell hemoglobin an amino acid called valine exists where glutamic acid, another amino acid, exists in normal hemoglobin.

It remained for Dr. Makio Murayama, a biochemist at the National Institute of Arthritis and Metabolic Diseases, to explain in 1966 how this minute difference in amino acids causes sickling. Considering the Cambridge research, he says, "it occurred to me that maybe the secret lay in the structure."

Normal hemoglobin molecules, about 300,000,000 per red blood cell, move at random within their cells. But Dr. Murayama found that substituting valine for glutamic acid allows sickle-cell hemoglobins to lock together when oxygen is reduced. They form chains up to 6,000,000 molecules long. These chains twist into six-strand cables, and these cables, in turn, bunch together to form rigid lines.

"The end effect is that the cell wall, which is like a balloon, complies with the shape of these long fibers within," Dr. Murayama says.

Last year Dr. Murayama photographed these microcables for the first time. Using a stream of argon ions—a technique he learned about from scientists shaving microscopic layers from moon rocks—he stripped away part of the wall from a sickled cell. With a scanning electron microscope, he photographed clumps of sickled hemoglobin.

This year Dr. Murayama proposed a theory to explain why sickle-cell anemia is more severe in some patients than in others. He suggests that an organic molecule, which he calls the "hemoglobin S cofactor," plays a role in sickling. Its severity depends on the amount of this molecule present.

Dr. Murayama has yet to identify the molecule. "When and if it is identified," he says, "I think we will be able to revolutionize the mode of control and treatment of the disease."

"REFORM" PAINFUL IN ARKANSAS—PRISON HARASSMENT PRECEDES DEATH OF 17-YEAR-OLD FIRST OFFENDER

(By Tucker Steinmetz)

Recently I reported that reform in Arkansas prisons has been slow and painful—but that some progress was being made [The National Observer, Oct. 23, 1971]. As it turns out, what has been passing for "reform" in recent months has been especially painful for some inmates.

Consider the ordeal of Willie Stewart, 17, black, a first-offender. He died one night last week after serving a one-day sentence for burglary at Cummins Prison Farm.

Such one-day terms, first tried in Arkansas by two circuit judges in 1969, have since been adopted more widely in the state. The idea, one prosecutor explains, is to suspend all but one day of sentences given first offenders and at the prisons give them the "worst treatment" by prison personnel "with the hope that the shock treatment will discourage them" from committing further crimes.

TO "SCARE HIM A BIT"

Willie Stewart, according to testimony in a Federal court here, was forced to stand and submerge his head briefly in the cold water of a stock pond at the prison farm on Nov. 29. It was a windy, chilly day.

A tower guard, Joe Lewis, 26, said that acting under orders "to scare [Willie] a bit" he shot his rifle at Stewart's feet as the youth was being forced to run ahead of a car driven by guard Reggie Fletcher into the prison compound.

Lewis said that when fired at, Willie Stewart cringed against the fence, "He would've gone through it if he could've."

Willie Stewart also was forced to do pushups. When his pushups were deemed unsatisfactory, an inmate would yank his feet and cause him to fall on his stomach. Guard Fletcher stood nearby.

A white Baptist minister, the Rev. Elton E. Ballentine, special-services co-ordinator at Cummins, said he saw two guards drag Willie into a prison office and drop him to the floor. A prison medical officer told Ballentine that the youth was faking unconsciousness.

Ballentine testified also that inmates had told him Willie had been forced to run up and down cotton rows that day, that shots had been fired over his head, and that he had been chased and bumped to the ground by a guard on horseback.

The Arkansas prisons' boss, Terrell Don Hutto, said he saw Stewart walk to the infirmary and that a few minutes later he received a call telling him that the youth was "bad sick." Willie, a gaunt 112 pounds stretched over a 5-foot, 10-inch frame, was put in an ambulance. He died on the way to a hospital 30 miles away.

At first, some prison officials said Willie went through a normal work day and wasn't abused. State police investigators said they couldn't find any evidence of mistreatment. The state medical examiner said he had found two slight bruises on Willie's chest and a small cut on the underside of his upper lip, but that physical violence couldn't possibly have caused his death.

Later, he had to revise his remarks when blood-test results were obtained. The medical examiner, Dr. Rodney Carlton, testified that Willie died of a condition known as hemoglobin S–C, which he described as "the first cousin to sickle-cell disease." He said Willie's blood had abnormal "S and C hemoglobins" in it, a condition that "has been known to cause sudden and precipitous death." Dr. Carlton said that extreme exertion and fear could have aggravated the condition enough to have caused death. The precise mechanism causing such deaths isn't clearly understood.

Willie died while Federal Judge J. Smith Henley was holding hearings about alleged abuse of inmates in state prisons.

EXAMINATIONS PROPOSED

And so news of Willie's death and all the details surrounding it found a ready-made forum in Judge Henley's courtroom. Testimony about the episode was continuing at week's end.

Gov. Dale Bumpers said in a press conference that he would be "very upset" if he learned that a guard had been ordered to shoot at Stewart. The governor said he thought physical examinations should be given the first-offenders before sending them to prison for one day.

The court hearings being held began Nov. 16 and are reporting sessions for Judge Henley, who ruled in February 1970 that the Arkansas prisons violated the Constitutional rights of inmates on 78 counts. Much of his criticism focused on the inadequate facilities and lack of personnel.

Earlier testimony by inmates, though less spectacular than that about Willie Stewart's death, concerned the punitive methods introduced in Arkansas by former officials of the Texas prison system hired since Bumpers took office.

INTRODUCING "TEXAS TV"

The inmates complained of excessive confinement—often for seemingly minor infractions—in cold, barren "quiet cells" in the new $550,000 maximum-security unit at Cummins Prison Farm.

The other imported Texas disciplinary measure cited in court was what Arkansas inmates have dubbed "Texas TV." It consists of standing with the forehead against the wall.

Dr. George Beto, head of the Texas prison system, testified that the quiet cells in Texas had "salutary effects" and condoned Texas TV.

THE STARTLING TESTIMONY

In recent weeks, inmate complaints began filtering to the outside. Stories leaked to the press told of inmates being whipped with blackjacks, black inmates being ordered to face the wall because white women visitors did not want the blacks looking at them, officials addressing blacks as "nigger," an enraged prison employe attacking an inmate, and field crews being herded to their work by prison officials driving cars and trucks at their heels.

Daniel Montgomery, Jr., said he was kept in a quiet cell for 28 days for refusing to work in the fields. He said he was stripped naked before being placed in the clean but barren cell, where he slept on the bare floor. The cell was cold. The cell light was out. Montgomery testified that he was not allowed to shave or shower for 28 days and was denied permission to write to the Federal judge or anyone else. He said he lost 30 pounds on the diet of bread, water, and a baked concoction of bread, beans, and other foodstuffs.

Johnny Orr testified that his head was shaved and that he was forced to keep his forehead on the wall from 6:15 a.m. to 3:15 p.m. one day because he was 12 minutes late for work.

Charles Richard Roth told the judge that he had been placed in a quiet cell for six days after he "threw the peace sign" to three inmates who had been captured in an escape attempt.

Tommy Ray Oliver, 15, serving a three-year sentence for car theft, testified that for allegedly soldiering on the job, Supt. Robert G. Britton beat and kicked him while a guard held him to the ground.

Floyd Summerville, 20, a black inmate, testified that a few days before the Arkansas-Texas football game, Britton overheard an inmate work detail give the Arkansas Razorback yell, "Sooie Pig!", and because of the yell forced the inmates to run the length of a sewage-filled ditch.

The Eighth Court of Appeals in St. Louis has banned corporal punishment in the Arkansas prisons. Apparently, it will be up to Judge Henley to decide whether the use of the quiet rooms and Texas TV amounts to corporal punishment.

Last week, Hutto, testified that he has decided to abolish Texas TV because some employes were "overly enthusiastic" in its application. "Certainly this has got out of hand, he said. He also vowed that the quiet cells would be used for no more than 24 hours at a time.

And a long-time friend of Governor Bumpers, Dr. William E. Amos of College Park, Md., a member of the U.S. Board of Parole, said he had inspected the state prisons and found "marked improvement" over conditions a year earlier. He said Arkansas prisons rank about midway among American prisons.

Mr. CASE. Mr. President, as a cosponsor of this important legislation for sickle cell anemia, I hope we will have an affirmative vote today. Sickle cell anemia is a disease that mainly affects black Americans, especially children. I am told that the disease damages the tissues of the body, and, as a result, the life expectancy of those afflicted with the disease is lowered to 20 years of age.

One out of every 500 black children have sickle cell anemia and one out of every 12 blacks carry the sickle cell trait, according to recent statistics. I understand that there is no known cure for this disease.

The major goal of the legislation before us today is to create a voluntary program for identifying and counseling for sickle cell anemia and to sponsor ways to prevent the worst effects of the disease. Very often families do not even know that they have the disease, especially when it is in its early stages. And there are ways to ease the pain of the affliction.

The bill also provides research funds so that a cure can be sought for sickle cell anemia. There have been some encouraging research developments and it would be most unfortunate if these research initiatives cannot be followed through for lack of funds. The children of our Nation need this care and the benefits of this research.

Mr. MUSKIE. Mr. President, today the Senate will consider S. 2676, the National Sickle Cell Anemia Act which I have cosponsored.

The prevalence of sickle cell anemia in the United States is great. One in every 500 black children has this disease. A total of almost 50,000 children are born in this country every year with this disease. The effect of this disease is catastrophic. Those with the disease will suffer week-long episodes of painful sickle cell crisis on the average of four times per year. Fifty percent of those affected will die before their 20th year, and virtually all will die before their 40th year.

But what is sickle cell anemia? What can we do to alleviate its effect on our children?

Sickle cell anemia is a genetic disease. An individual has two genes which determine the structure of his hemoglobin. If an individual has one gene for hemoglobin S and one normal gene, he is said to have the sickle cell trait and will be normal except for occasional periods of discomfort. However, if an individual has two genes for hemoglobin S, he will have sickle cell anemia. An individual with both genes for hemoglobin S will occur one time in four if both parents have the sickle cell trait. If an individual has sickle cell anemia, that is, all his hemoglobin is hemoglobin S, his red blood cells will, in times of stress, lose their normal spherical shape and assume a sickle-like form. These abnormally shaped cells will, in turn, mass together, clogging the small blood vessels, inhibiting the flow of normal oxygen-carrying red cells. Thus, the tissues become ischemic—a painful condition caused by a shortage of the oxygen necessary to support the cells' metabolism—and die.

Sickle cell anemia occurs almost exclusively among blacks and other people originating in tropical climates. This is true because the sickle cell trait—the presence of only one hemoglobin S gene—provides protection against malaria. Thus, in a malaria epidemic, those with the sickle cell trait often lived to produce children, while those without the sickle cell trait often died. In turn, we have the survival of the fittest—those with the trait were more fit.

But in the United States today, malaria has been eradicated, so the sickle cell trait serves no useful purpose, while the full anemia causes terrible disability and death.

I would like to commend Senator TUNNEY for introducing and providing the leadership for the desperately needed Sickle Cell Anemia Act. This bill has four central provisions: First, a coordinated Federal grant program of $100 million over 3 years for research, voluntary screening and counseling, and public education; second, a demonstration grant program of $30 million over a 3-year period for the development of centers for research and research training in sickle cell anemia; third, a requirement that the Department of Defense implement a policy to provide voluntary screening, counseling, treatment, and education concerning the disease for servicemen, civilian employees, and inductees; and fourth, similar programs by other Federal agencies which provide direct health care for persons eligible in such agencies.

The purpose of this bill is to provide a coordinated and overall effort against sickle cell disease. In addition to research, it provides funds for the creation of community screening and counseling programs. Another provision provides funds for programs to educate the public about the nature of sickle cell anemia and sickle cell trait. This is particularly important in achieving maximization of the counseling and screening services to be offered.

Also the bill provides demonstration funds for the development of centers for research, screening, counseling, or treatment. Funds would be available to public and nonprofit private institutions such as medical schools, hospitals, and foundations.

The bill enables the Armed Forces and other Federal agencies to offer screening, counseling, and treatment. This voluntary program is especially important because it is here that large numbers of young people can be reached and treated. Since there are conditions under which persons with the trait can be adversely affected, screening would enable these persons to be identified, enabling them to receive treatment and consideration for certain duties which would be more amenable to this health problem.

Finally, other available programs which now exist in the Public Health Service are authorized to screen and counsel for sickle cell anemia. Hopefully, this will permit the many other persons who are not otherwise directly covered to obtain a determination of possession of the trait and such treatment or counseling as is desirable.

Sickle cell anemia annually affects thousands of black children. The tragic consequences of this disease have been neglected too long. I am pleased, therefore, to join Senator TUNNEY and others in support of the Sickle Cell Act.

Mr. BROOKE. Mr. President, I am pleased to have the opportunity to urge my colleagues to support S. 2676, the National Sickle Cell Anemia Act.

As a cosponsor of this measure, I am heartened by the prompt consideration which it received in the Senate Health Subcommittee and full Labor and Public Welfare Committee. I commend the subcommittee and the full committee for the excellent refinements made to this important measure.

I was privileged to have the opportunity to testify before the subcommittee in favor of the measure, and I feel it appropriate to now repeat part of my urgings:

> Sickle Cell Anemia has, for too long, been the forgotten disease. Most Americans do not know that in this country today over two million people—10 percent of the black population—are carriers of a disease called Sickle Cell Anemia.

Each year over 1,500 new cases are discovered, and more than 5,000 victims require hospitalization.

The facts are grim. The prognosis is uncertain. But today we have a new commitment and I am encouraged that with our concern, energies, and resources we can begin to relieve the suffering of so many. Simply put, Mr. President, too many have suffered too long. Let us get on with the task that has been too long ignored.

Mr. ROTH. Mr. President, I am one of the cosponsors of S. 2676, a bill to provide for the prevention of sickle cell anemia. This disease, an inherited disease restricted in its occurrence almost entirely to members of the black race, is still incurable whenever it occurs. Although sickle cell anemia is an important metabolic disease, research on this disease has not benefited from as high a priority as other less frequently encountered diseases of this type. There are a number of reasons which have been offered in explanation and criticism of the relative neglect of research on this disease. One criticism offered is that since the disease is suffered only by blacks our society has not been as concerned about the disease as we might have been if the disease occurred in all races. Whether this criticism is accurate is not important at this moment. What we must recognize is that we have waited too long already. We should exploit to a maximum our current knowledge of the disease and accelerate our efforts to gain control of sickle cell anemia.

Any attempt to discuss briefly the public health aspects of an inherited disease is certain to result in the neglect of some significant aspect of the problem. Despite the complexities of evaluating genetically induced diseases, however, there are certain fundamental medical programs which have evolved and which should benefit from increased attention. The attack on sickle cell anemia can utilize many of these programs.

One program deals with the detection and treatment of the disease as soon after birth as possible. S. 2676 acknowledges that simple and inexpensive screening tests have been devised which will identify those who have the disease as well as those who may be carriers of the disease. This bill will provide for grants to assist in the establishment and operation of voluntary sickle cell anemia screening programs. While we have learned from other statements made in support of S. 2676 that new and promising approaches to the treatment of sickle cell anemia are being tested, a satisfactory treatment is not yet available. S. 2676 would also authorize the Secretary of Health, Education, and Welfare to promote research in the diagnosis, treatment, and prevention of sickle cell anemia.

Another important aspect of a coordinated attack on sickle cell anemia deals with the reduction in incidence of defects through genetic counseling. Experience thus far indicates that the success of genetic counseling is limited for a number of reasons. The usual requests for genetic counseling seem to come from: First, individuals who already suffer from a genetic disorder and who fear they may pass the disorder on to their children; second, couples who already have a child with a genetic defect; and third, in normal individuals who have knowledge of a defect in the family history and who are concerned about the possibility of their children inheriting a defect.

The political aspects of genetics counseling, particularly the ugly image of early eugenics and genocide as practiced in the past by certain nations of the world, must be given serious consideration whenever this concept is proposed. Recognition of these problems is provided within S. 2676 which provides for the education, screening and counseling of carriers of sickle cell trait.

In this regard, the bill emphasizes that programs to prevent sickle cell anemia must be based entirely upon voluntary cooperation of the individuals involved and participation shall not be a prerequisite to eligibility for or receipt of any other service or assistance from other programs to control sickle cell anemia. As pointed out by the World Health Organization:

> Genetic counseling is the most immediate and practical service that genetics can render in medicine and surgery.

To this end, authority is included in S. 2676 to provide for assistance in developing and making available information and educational materials relating to sickle cell anemia to all persons requesting such information or materials, and to inform the public generally about the nature of sickle cell anemia and the sickle cell trait.

In summary, S. 2676 proposes Federal support of a long overdue effort to preserve and protect the health of those members of our population who suffer from sickle cell anemia. The bill proposes an expansion of available services, on a voluntary basis, including grants for sickle cell screening and counseling programs and support for research, diagnosis, prevention and treatment. It is time that more attention be devoted to delivery to the public of the benefits which are now available for the treatment of sickle cell anemia. I support this bill and its objectives and also urge you to extend your support.

Mr. JACKSON. Mr. President, I am proud to be a cosponsor of S. 2676, to create a national program for the prevention and treatment of sickle cell anemia.

I want to commend the Committee on Labor and Public Welfare for acting promptly on this important legislation. But prompt action was called for. For many long years, we have done little or nothing to deal with the pain and suffering caused by this disease.

Until very recently, sickle cell anemia has been one of the most neglected of all deadly diseases. It is estimated that over 2 million Americans carry the sickle cell trait. Although data is incomplete, the disease appears to have been concentrated primarily among blacks.

Approximately one out of every 500 black births produces a child affected with the disease. Of these, over half die before the age of 20. This is an incidence far greater than other severe childhood diseases, such as leukemia, cystic fibrosis, and muscular dystrophy.

There is no known cure for sickle cell anemia. And we have been making very little concerted effort to find one. Our neglect of this disease is a disgrace. Government and private expenditures have been inadequate; its victims have been neglected. This is what S. 2676 attempts to correct.

This legislation is not the final answer, but it is a first step. It is a significant first step because we finally have recognized that sickle cell anemia is a national health problem—a problem that requires a strong national commitment. I am happy to join today in this effort.

Mr. DOMINICK. Mr. President, as a cosponsor of S. 2676, the National Sickle Cell Anemia Act, I want to express my support for its passage. I believe it will serve to focus greater attention on our national commitment to bring this disease under control.

I would like, however, to make some brief comments about the background of this bill. The chairman of the Health Subcommittee stated at the outset of the hearings:

> I am convinced that if PKU, cystic fibrosis, or muscular dystrophy struck the lives of white families in the proportion that sickle cell anemia affects black Americans, our pub-

lic commitment to it would be as stubborn as was our persistence to blow up the tiny island of Amchitka.

Aside from my distaste for that kind of rhetoric, I object to the implication that this legislation is necessary because the administration has been reluctant to take action against this tragic disease.

While it is true that inadequate attention has been given to sickle cell disease since it was discovered some 61 years ago, I think Congress and the executive branch must share the blame equally. Moreover, I think fairness requires that it be pointed out that the present administration—and not the proponents of this bill—first recognized this neglect and took action to remedy it. The President, in his February 18 health message to the Congress announced new initiatives against cancer as well as sickle cell anemia. He said:

> A second targeted disease for concentrated research should be sickle cell anemia—a most serious childhood disease which almost always occurs in the black population. It is estimated that one out of every 500 black babies actually develops sickle cell disease.
>
> It is a sad and shameful fact that the causes of this disease have been largely neglected throughout our history. We cannot rewrite this record of neglect, but we can reverse it. To this end, this administration is increasing its budget for research and treatment of sickle disease fivefold, to a new total of $6 million.

The Department of Health, Education, and Welfare has carried through on this commitment by establishing a sickle cell disease program to be coordinated primarily by the National Heart and Lung Institute of the National Institutes of Health. A Sickle Cell Disease Advisory Committee was appointed to help formulate and implement a comprehensive plan. That plan is now being implemented with the additional $5 million committed by the President. The new funds will be used to establish comprehensive research and service centers, and screening and education clinics, as well as for research to develop better methods of treatment. The National Institutes of Health and the Health Services and Mental Health Administration have committed substantial additional resources to a variety of services and research projects directed specifically at sickle cell disease.

The committee felt that additional funds should be authorized, and I do not disagree. But I think it should be kept in mind that since sickle cell disease is caused by an inherited genetic characteristic, the amount of funds committed to specifically targeted programs is not necessarily an accurate measure of our effort to control it. Broad support for basic biomedical research—which will eventually make alteration of genetic characteristics possible—is just as important as applied research. Until we have that capability, as I understand it, there can be no real cure for this disease.

In any event, the important thing now is that there is a clear national commitment to move ahead against sickle cell disease, and little time should be wasted arguing about who has been responsible for taking the initiative.

Mr. HATFIELD. Mr. President, I support the pending bill, S. 2676, which would establish a program to control sickle cell anemia. In my opinion, this legislation is long overdue. I hope that measurable progress can be made in combating this disease.

I think it appropriate that the National Observer of December 11, 1971, features a major article on sickle cell anemia. In the article, Mr. Patrick Young discusses the problem in detail. I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

A DISEASE DRAWS THE COLOR LINE—RESEARCHERS AROUSE PUBLIC TO SICKLE-CELL THREAT

(By Patrick Young)

Nellie Kendrick recalls a white friend who recently asked her if it were true that sickle-cell anemia—a painful and usually fatal blood disease—is found almost exclusively among blacks. Mrs. Kendrick, a black volunteer in the Milwaukee Community Sickle Cell Disease Project, assured her it was. "I thought it was just a lie spread to show that blacks were inferior to whites," the friend said.

Misconceptions abound about sickle-cell anemia, among blacks and whites, among physicians and laymen. The disease afflicts perhaps 45,000 black Americans. Nearly half of its victims die before age 5, and about 80 per cent by age 30. It occurs once in every 400 to 500 black births, a frequency 6 times greater than cystic fibrosis, and 20 times higher than phenylketonuria (PKU) both almost exclusively white diseases.

Yet for years medical researchers called sickle-cell anemia "the forgotten disease." One year ago, an editorial in the Journal of the American Medical Association complained that "the level of general ignorance concerning the nature of sickle-cell anemia remains depressingly high."

Now that ignorance is under attack, more money than ever is going into sickle-cell research. New diagnostic and treatment procedures are being developed. Large-scale testings are under way in several cities, including Milwaukee, to find blacks unknowingly suffering from the disease, and to determine who are carriers capable of passing on sickle-cell anemia to their children.

And blacks across the country are working to raise funds and to acquaint all Americans with the disease. As one example, more than 200 professional black athletes—including Willie Stargell and Dock Ellis of the Pittsburgh Pirates and boxer Muhammad Ali—have set up the Black Athletes Foundation for Research in Sickle Cell Disease.

BRINGING BLACKS TOGETHER

"This has brought black people together, from the Black Panthers to the Urban League," says Richard Campbell, director of the Foundation for Research and Education in Sickle Cell Disease in New York City.

Sickle-cell anemia, an inherited disease, is the most common long-term illness among black children (about 1 per cent of its victims in the United States are White). It is incurable, and despite considerable knowledge of the disease's mechanism, treatment methods remain poor.

The disease is caused by a defect in the hemoglobin molecules within red blood cells, which carry oxygen throughout the body. Each hemoglobin molecule contains 574 amino acids. In sickle-cell hemoglobin, two of these amino acids are replaced by two others.

"At the basic level, the change is so minuscule, so tiny," says Dr. Makio Murayama, a biochemist at the National Institute of Arthritis and Metabolic Diseases. "Yet for the individual, it is a matter of life and death."

When sickle-cell hemoglobin is deprived of oxygen, the red blood cells lose their round, doughnutlike shape and take on a sickle or quarter-moon appearance.

When this happens, the red blood cells are unable to pass through the body's microscopic capillaries. The cells jam up like driftwood clogging a drainpipe. As a result tissue is deprived of the oxygen it needs, and dies. This painful event is called a "crisis."

In crisis, a person suddenly develops intense pain, usually in the abdomen, back, chest, hips, arms, or legs. The heart may be partly or fatally damaged, or a stroke may result. Sickle-cell sufferers are extremely vulnerable to infection, particularly pneumonia, and many develop skin ulcers at the ankle.

"Sickling can occur in any organ system and so it can mimic any disease state," says Dr. Edwin Bemis, a pathologist working with the newly established Southeastern Wisconsin Sickle Cell Center at Deaconess Hospital here. This causes diagnostic difficulties for doctors unfamiliar with sickle cell, and sometimes results in unnecessary surgery.

The disease results from a gene mutation that occurred centuries ago in Africa, and which became common because it offered a protection against malaria. For some unknown reason, malarial parasites cannot survive in sickled red blood cells.

Each person inherits two sets of genes, one from each parent. A person with sickle-cell anemia has inherited a sickle-cell gene from each parent. A person who inherits a sickle-cell gene from only one parent is called a "trait." (Far less common than sickle-cell anemia are "variants," forms of the disease less severe than the anemia, but more troublesome than the trait.) Estimates place the number of blacks carrying the trait at between 8 and 13 per cent.

It requires two traits to produce a child with sickle-cell anemia, and the odds are one in four for such a birth. The chances of producing another trait are one in two. These odds of genetic roulette are for each birth. A Racine, Wis., couple produced three children, all with sickle-cell anemia.

The only guarantee that two traits will avoid a child with sickle-cell anemia is if they have no children. Currently several research teams are trying to develop prenatal tests for the disease. If they succeed, parents will know in advance if their child will be born with sickle-cell anemia, and will have the option for abortion.

TRAIT IS NOT A DISEASE

Most sickle-cell traits live normal lives and never experience a crisis. Overall, we try to stress that sickle-cell trait is not a disease," says Dr. Robert B. Scott of the Medical College of Virginia in Richmond.

Nevertheless, cautions Dr. Robert M. Nalbandian of Blodgett Memorial Hospital in Grand Rapids, "the trait under certain physiological-stress conditions can be hazardous, and has been."

Traits may crisis while flying at high altitudes in unpressurized aircraft, under general anesthesia during surgery, or sometimes during great physical exertion.

Last year a team of Army doctors blamed sickle-cell trait for the deaths of four black recruits—over an 11-month period—during basic training at Fort Bliss, Texas. Their conclusion, however, has been challenged by other researchers, who contend the doctors did not rule out sufficiently other possible factors in the deaths.

Women with sickle-cell trait have a higher incidence of urinary infection during pregnancy, and traits sometimes pass blood in their urine. Pittsburgh pitcher Dock Ellis, a trait, says he occasionally passes clots. "I've gone to the team physicians and they say there's nothing they can do about it," he says.

The public awakening to sickle-cell anemia is a recent thing, among blacks and whites. A 1968 survey in Richmond found that only 30 percent of the blacks questioned had heard of the disease. Today blacks are more willing to accept the disease and no longer regard it as a racial slur.

"Part of the new pride among blacks is enabling us to look at ourselves, and to look with more objectivity," says Hazel Maxwell, chairman of the Milwaukee Community Sickle Cell Disease Project's advisory committee.

Sickle-cell fighters say the message of concern is finally getting across. Congress, at President Nixon's request, increased the National Institutes of Health's sickle-cell research budget from $1,000,000 to $6,000,000 this year. A bill to provide $142,000,000 in sickle-cell funds over three years is pending in the Senate. The National Foundation and its local March of Dimes chapters are providing increasing funds for research.

"I think we're getting over our benign neglect," says Dr. Bemis. "We're waking up to the fact that there is a black portion of our population. Whites, too, are demanding that blacks be treated on an equal medical basis."

The new awareness of sickle-cell anemia has led to greater efforts to identify people with the trait. Here in Milwaukee, Deaconess Hospital's sickle-cell center plans to test 118,000 blacks in seven counties. Three screenings have tested 2,232 blacks since Sept. 18, in addition to over 5,000 patients routinely tested upon admission to the hospital since 1969.

It is a community effort, utilizing more than 250 black and white volunteers and Boy Scout Troop 200, a ghetto unit, to spread the testing message. The center will provide genetic counseling and a registry of persons with sickle-cell trait.

AN EFFORT IN PITTSBURGH

The Black Athletes Foundation and six other groups are sponsoring a similar effort in an attempt to test 250,000 blacks in the Pittsburgh area. Smaller screening programs have taken place among school children in Grand Rapids and Hartford.

Testings to date have been voluntary. But New York State recently passed a law providing sickle-cell tests for youngsters entering public schools. And laws requiring testing of school children or marriage-license applicants before marriage are pending in several states, including California and Illinois.

Such laws delight some blacks, but not all. "If testing is compulsory, children identified as carriers could be stigmatized as less desirable parents or as weak individuals," says Dr. Robert Murray of Howard University in Washington, D.C.

The Milwaukee program and several others use a test developed by Dr. Nalbandian and Dr. Paul Wolf of Stanford University. Its advantage over previous tests lies in cost. The chemicals needed for the test, which can be run automatically at the rate of 120 an hour, cost only pennies a sample.

The test is a preliminary screening. A positive indicates sickling, but not necessarily sickle-cell disease. A second test—electrophoresis, which measures the distinctive electrical charges of various types of hemoglobin—can determine if the patient has sickle-cell anemia or the trait.

Treating sickle-cell anemia is more complex. Efforts to reverse sickling crises in patients, says Dr. Scott, "have not been terribly effective."

Dr. Nalbandian and his research colleagues are experimenting with urea, a natural chemical waste occurring in the body, in a sugar solution to treat patients in crisis. This "molecular surgery," says Dr. Nalbandian, breaks apart sickle-cell hemoglobin molecules that have locked together and reverses the crisis.

"We have been able to abort sickle-cell crises in over 20 patients, without using narcotics, and without medical misadventure, therapeutic failure, or death," he says.

The technique is extremely complicated. Unless extreme care is taken, the urea can cause dehydration, which itself can bring on a crisis by reducing oxygen.

Last month Dr. Paul McCurdy and Dr. Laviza Mahmood of Georgetown University medical school in Washington, D.C., reported treating 24 crises in 14 patients with urea. Seventeen crises were successfully treated, though the researchers noted dehydration as a major side effect.

"These results suggest that urea therapy has a beneficial effect on the painful crises of sickle-cell disease, but the method is still experimental," they wrote in the New England Journal of Medicine.

Currently the National Heart and Lung Institute is supporting six studies comparing three sickle-cell therapies, including urea. A second corrects dehydration, and the third reduces blood acidity, another cause of sickling, by lowering body oxygen.

A PROMISING TREATMENT

Other researchers are trying to find other chemicals that will reverse sickling without urea's handicaps. Dr. Anthony Cerami and Dr. James Manning of Rockefeller University in New York City recently reported excellent test-tube results in preventing sickling in human blood with potassium cyanate. They expect to begin human tests within a year.

Dr. Nalbandian says urea, taken four times daily mixed in soda pop to hide its bitter taste, can safely and effectively prevent sickle-cell crises. But he acknowledges difficulties in getting patients to down their preventive doses regularly.

"Frequently they take it when they feel pain," he says. "They head off a crisis and then they ignore their urea. There has to be a better way of delivering it."

SECRET LAY IN THE STRUCTURE

Although there is no cure for sickle-cell anemia, and as yet no generally accepted treatment, the basic mechanism of "sickling" is no mystery.

Sickle-cell anemia was first described in 1910 by Dr. James Herrick of Chicago. In 1949, Nobel laureate Linus Pauling and Dr. Harvey Itano showed that the disease resulted from an inherited defect in the hemoglobin molecules within red blood cells. Nine years later, Dr. Vernon Ingram and John Hunt, working at England's Cambridge University, identified that defect.

Hemoglobin molecules, which transport oxygen throughout the body, contain a total of 574 amino acids, arranged in four chains. The four chains are actually two pairs of identical chains, called alpha and beta.

The English researchers found that at two points in the beta chain of sickle-cell hemoglobin an amino acid called valine exists where glutamic acid, another amino acid, exists in normal hemoglobin.

It remained for Dr. Makio Murayama, a biochemist at the National Institute of Arthritis and Metabolic Diseases, to explain in 1966 how this minute difference in amino acids causes sickling. Considering the Cambridge research, he says, "it occurred to me that maybe the secret lay in the structure."

Normal hemoglobin molecules, about 300,000,000 per red blood cell, move at random within their cells. But Dr. Murayama found that substituting valine for glutamic acid allows sickle-cell hemoglobins to lock together when oxygen is reduced. They form chains up to 6,000,000 molecules long. These chains twist into six-strand cables, and these cables, in turn, bunch together to form rigid lines

"The end effect is that the cell wall, which is like a balloon, complies with the shape of these long fibers within," Dr. Murayama says.

Last year Dr. Murayama photographed these microcables for the first time. Using a stream of argon ions —a technique he learned about from scientists shaving microscopic layers from moon rocks—he stripped away part of the wall from a sickled cell. With a scanning electron microscope, he photographed clumps of sickled hemoglobin.

This year Dr. Murayama proposed a theory to explain why sickle-cell anemia is more severe in some patients than in others. He suggests that an organic molecule, which he calls the "hemoglobin S cofactor," plays a role in sickling. Its severity depends on the amount of this molecule present.

Dr. Murayama has yet to identify the molecule. "When and if it is identified," he says, "I think we will be able to revolutionize the mode of control and treatment of the disease."

PREVENTION OF SICKLE CELL ANEMIA

Mr. BYRD of West Virginia. Mr. President, scientists estimate that approximately 2.5 million of the 25 million black Americans have the trait of sickle cell anemia, an excruciatingly painful disease of which too little is known, and as many as 50,000 of our black citizens may actually suffer from the disease.

There is an obvious need for additional, intensive research into sickle cell anemia, and a need to find a cure for this disease. S. 2676, of which I am a cosponsor, will provide that additional research, and hold out the hope that a cure will eventually be found that will rid our society of this crippler.

Believed to have developed in Africa centuries ago, sickle cell anemia is an inherited blood disease—a disease in which red blood cells form a sickle shape when deprived of oxygen. These sickle-shaped cells often clog along the blood vessels inner lining, and the result is often an impediment to the flow of blood to vital organs.

The resulting symptoms include almost unbearable pain, stunted growth, and swelling of the joints, as well as subsequent failure of such organs as the heart, the spleen, and the kidneys.

Mr. President, research on this disease was first undertaken over 60 years ago; but very little progress has been made from that point through today. Much of the current medical attention is aimed at providing relief to those sickle cell victims suffering from attacks of extreme pain. Persons suffering from this disease must make frequent visits to clinics or hospitals, where their conditions can be regularly monitored. Only with adequate medical attention from trained personnel, can the victims of sickle cell anemia live a normal life.

S. 2676, the National Sickle Cell Anemia Act, would attempt to enable more sufferers of this disease to lead normal lives by providing $25 million in fiscal year 1973 for grants and contracts for sickle cell anemia screening, counseling and referral programs. These funds, which would be dispersed through the U.S. Department of Health, Education, and Welfare, would be increased to $35 million in fiscal year 1974 and to $40 million in fiscal year 1975.

Screening is essential to the control and prevention of sickle cell anemia. If a person has the trait of the disease—that is, if he or she is carrying only one sickle cell—a normal life can be expected However, when two sickle cells are present, the tortures of the disease almost invariably follow. Early detection, through screening, can lead to genetic counseling and a better control of sickle cell anemia.

Besides the funds for screening, counseling, and referral programs, S. 2676 also provides $5 million for research programs in fiscal year 1973, with these research funds increasing to $10 million and $15 million, respectively, in the following 2 fiscal years.

This is an intensive, all-out attack on sickle cell anemia; but the threat that this disease poses to black Americans warrants no less than our exhaustive efforts to prevent, control, and eventually do away with this disease.

ALL-OUT EFFORT TO CONTROL SICKLE CELL ANEMIA

Mr. CRANSTON. Mr. President, the chairman of the Senate Committee on Labor and Public Welfare (Mr. WILLIAMS) and the chairman of the Subcommittee on Health (Mr. KENNEDY), as well as the ranking minority members, respectively (Mr. JAVITS and Mr. SCHWEIKER), are to be congratulated on the speed with which they have responded to the referral of the committee of S. 2676, the proposed "National Sickle Cell Anemia Control Act." This bill, of which I am an original cosponsor, is one that is long overdue. I believe the members of the Committee on Labor and Public Welfare by reporting this bill to the floor without delay have demonstrated their recognition that conquest of this disease merits immediate attention and priority consideration by the Nation's health system. I would also like to congratulate my colleague (Mr. TUNNEY) for his leadership role in the development of this legislation. He is the principal sponsor of this bill, as well as a similar bill pertaining to the District of Columbia (S. 2677).

Sickle cell anemia, which this bill proposes to provide a mechanism to detect, treat, and cure, has left its tragic mark on many American families. The victims of this disease are those children both of whose parents carry the sickle cell genetic trait. These children have a 1 out of 4 chance of inheriting the disease.

The sickle cell abnormality is limited almost exclusively to black people. The trait is found in approximately 10 percent of that population and the disease itself is found in about 2 million Americans. Infants born with sickle cell disease rarely survive to adulthood, and their brief lives are punctuated by painful onslaughts of sickle cell crises. These crises are brought on by the sickling of the red blood cells; they take on a crescent shape which inhibits their normal flow through the blood stream. Instead, the cells tend to pile up in a blood vessel, depriving the surrounding tissue of a normal oxygen supply and causing extreme pain in those areas. Because sickled cells are easily destroyed and cannot be quickly replaced, victims of this disease suffer from anemia which, in turn, can contribute to a susceptibility to infection, particularly pneumonia, as well as jaundice, kidney problems, and retarded growth and development.

S. 2676, as reported from the Labor and Public Welfare Committee, attacks this disease by providing for a national program for control, research, and treatment of sickle cell anemia. The program consists of grants and contracts for screening and counseling programs and for the dissemination of educational materials regarding the nature and inheritance of sickle cell anemia and the trait. Amounts authorized for appropriation for screening, counseling and educational programs are: $25 million for fiscal year 1973, $35 million for fiscal year 1974, and $40 million for fiscal year 1975.

It is noteworthy that the statutory language contains a specific direction that priority in the awarding of grants for these programs must go to areas within States having the highest percentage of population in need of sickle cell anemia screening and counseling programs, and further, that an additional priority be given to community-based organizations in these areas in order to try to gain maximum involvement of those persons themselves most likely to be afflicted by the trait.

Grants and contracts are also authorized for research in the diagnosis, treatment, and control of sickle cell anemia; for the development of educational programs to acquaint the public with the extent of the disease; and for the development of centers for research, testing, counseling, control or treatment of sickle cell anemia. Amounts authorized for appropriation for research are $5 million for fiscal year 1973, $10 million for fiscal year 1974, and $15 million for fiscal year 1975.

The bill also provides that any participation in sickle cell screening or treatment programs should be totally voluntary and that all medical records or any related information be held confidential.

The bill provides special authorities to the Secretary of Defense to provide for screening and counseling to members of the Armed Forces and their dependents and to persons examined at Armed Forces examining and entrance stations, as well as to civilian employees of the Department of Defense. These services also would be provided only under voluntary conditions and on a confidential basis.

As chairman of the Subcommittee on Health and Hospitals of the Veterans Affairs Committee, I am delighted that the bill recognizes the important role the Veterans' Administration Department of Medicine and Surgery can play in combating this disease.

The VA medical and hospital system provides an excellent opportunity to study many fundamental and practical aspects of the sickle cell disease. Approximately 16 percent of the VA hospitalized veterans are black. Some dozen Veterans' Administration hospitals already have the equipment needed to test the blood samples for sickle cell trait and disease. There are a small but significant number of cases in which the full genetic abnormality is present but not evident until well into adult life, and some cases of this type are presently being treated in VA hospitals. The Veterans' Administration presently has approximately 35 individual research projects underway to study the genetic defects and pathologic mechanisms involved in sickling.

Mr. President, because of my responsibility as chairman of the Veterans Health and Hospitals Subcommittee and thereby my familiarity with the provisions of chapter 17 of title 38, United States Code, governing the VA medical and hospital program, I offered an amendment during committee consideration of the bill to revise section 5 of the bill, which adds a new subchapter VI in chapter 17, in order to make it as effective as possible in the context of the administration of the VA health program and to expand over certain provisions in the bill as introduced.

Under the bill as my amendment revised it, provision is made to insure that any veteran undergoing VA medical treatment—including contract or fee care—or an examination to determine his eligibility for VA benefits be offered screening for the sickle cell trait and receive it if he wishes. Authorities were added, first, to provide that if the veteran is found to have the trait the VA would also provide screening for the veteran's spouse; second, to require that every veterans' benefit recipient will receive from the VA information about the trait and anemia and where screening for the trait is available; third, to provide that any veteran having sickle cell disease, or the trait, will receive the necessary outpatient as well as hospital care; and fourth, to require the VA and authorize appropriations for it to carry out a comprehensive research and research training program in sickle cell anemia based upon its screening and treatment activities under the new subchapter.

I am particularly delighted that my amendment to authorize appropriations for these research purposes—$3 million in fiscal year 1973, $4 million in fiscal year 1974 and $5 million in fiscal year 1975—was accepted so that the maximum advantage can be taken of the VA's full potential in this field. Provisions are also included in the new subchapter ensuring voluntary participation and confidentiality of material collected for treatment or research purposes.

Although this legislation did not originate in the Senate Veterans' Affairs Committee's Subcommittee on Health and Hospitals, as chairman of that subcommittee I intend to follow the implementation of these programs in the Veterans' Administration very closely. I plan for the Health and Hospitals Subcommittee to carry out an active oversight of activities undertaken as a result of these new authorities in the same way as I will for the Veterans' Administration drug addiction treatment and rehabilitation programs authorized by S. 2097 which passed the Senate last Thursday and which also was not formally referred to the Veterans' Affairs Committee.

I want to express my personal thanks to the Veterans' Administration for its technical advice in the drafting of this provision and to the Senator from Indiana (Mr. HARTKE), the chairman of the Veterans' Affairs Committee, and the Senator from South Carolina (Mr. THUR-

MOND), its ranking minority member, for their cooperation in this matter. They are also both cosponsors of this major legislation. I also want to note the enthusiastic help of the chairman of the House Veterans' Affairs Committee, Olin E. Teague, who has introduced in the other body H.R. 11971, the provisions of which regarding the Veterans' Administration are substantially similar to section 5 of S. 2676 as reported. It is my hope that by the consultation and collaboration we have undertaken, it will be possible for this bill to be approved by the other body without divisive and timeconsuming jurisdictional disputes.

Subsequent to consideration of S. 2676 by the committee and the same day the bill was reported, the Veterans' Administration transmitted its official report on the bill.

Although obviously this report did not become a part of the decisionmaking process, I feel that subchapter VI as reported reflects some of the concerns expressed in the report and is consistent with the VA's medical care capacity. I ask unanimous consent that the report of the Veterans' Administration be set forth in the Record at the conclusion of my remarks.

Mr. President, I believe the bill as reported will provide the long-needed mechanism to control the incidence of this disease which unfortunately has until now not enjoyed the wide public support and interest it merits.

One of the great tragedies regarding this disease is that many individuals have the trait and are completely unaware of it.

The provisions in this bill for screening and counseling programs and the emphasis placed on establishing these programs in the areas where the greatest concentration on the disease can be expected are highly laudable.

Many of the individuals affected by sickle-cell trait are those who are outside the reach of the present health care system. Only by full community participation can the programs reach those who have a susceptibility to the disease. A strong public information program, coupled with an active outreach effort, is needed for any measurable success to be achieved. The screening and counseling programs must also be taken directly to the people, through mobile units or sidewalk clinics.

The bill's provisions placing first priority in the awarding of grants on community-based programs will insure a primary orientation toward direct action efforts to screen those likely to have the trait and to counsel those found to have it, without losing any impetus by becoming ensnarled in institutional red tape or secondary organizational priorities.

While general public and institutional recognition of the need to fight sickle-cell anemia has been limited, there have been longstanding efforts to offset this on the part of many dedicated individuals in the health professions and in the community at large. In my State of California among the outstanding efforts being made is the work generated by the leadership of Dr. Elmer Anderson of Los Angeles, who for 13 years has been in the forefront of those advocating a concentrated effort to fight sickle-cell disease. Currently, he has received the support of the county board of supervisors to develop a Los Angeleswide effort to establish screening and counseling programs for the sickle-cell trait. He has had a very warm reception from health professionals who are eager to participate on a volunteer basis in conducting the screening tests. However, despite the availability of personnel, and the comparatively modest cost of the screening test, this Los Angeles program has been severely limited by lack of funds in its large ability to conduct screening and educational programs on the large scale needed. The grants authorized by S. 2676, I believe, are geared especially for this type of program, and will add the one missing essential ingredient—money—to needs of the community.

Many medical students, too, are deeply committed to combating sickle cell anemia and have gone into communities and conducted screening programs on a volunteer basis. One student's activities indicative of the desire of these young men and women to be involved in positive action programs is that of Greg Barnes, a third-year medical student at the University of California San Francisco School of Medicine. As a volunteer at a free clinic in San Francisco, this young man organized a sickle cell counseling and screening program for neighborhood residents and conducted a full weekend "health fair" in which he and other volunteers set up a screening program on a San Francisco street providing on-the-spot tests and information to anyone requesting it.

Through his work at the clinic, Mr. Barnes became aware of the need for this type of program at the Santa Rita Prison Farm, and organized a program to test the inmates there. An article describing his activities appeared recently in the campus newspaper, and I ask unanimous consent, Mr. President, that this article be inserted in the Record at the conclusion of my remarks.

Greg Barnes' outstanding achievements do not represent an isolated case. Similar efforts are being made in medical schools across the Nation. This motivation and dedication can be utilized to the maximum through the support provided for community programs by S. 2676 as reported.

Mr. President, I urge my colleagues to give their unanimous support to this bill and indicate this body's full commitment to eradicating this disease which adds still further to the discriminatory burdens with which black Americans have for far too long been afflicted.

"A Duty to My Own People"—One Student's Service to the Black Community

(By Greg Barnes)

Greg Barnes is one of many UCSF medical students whose work in the community is as much a part of his life as three meals a day.

Greg is a volunteer at the Blackman's Free Clinic, a small building at 689 McAllister where residents of the Western Addition have had access to free health care since October, 1968. The clinic offers medical, dental and pharmaceutical services, some of which are provided by volunteer students and staff from UCSF.

Greg provides a special type of service to the clinic—he cousels and gives screening tests for sickle cell anemia, a disease to which blacks are especially susceptible. Blood samples from Greg's patients are analyzed in the laboratory of USSF professor Dr. Nicholas Petrakis.

To help familiarize the neighborhood residents, as well as outsiders, with its work, the Blackman's Free Clinic recently held a "Health Fair" at San Francisco Health Center No. 2 (on Pierce Street). Greg and other volunteers were on hand for a full weekend to provide on-the-spot services, health examinations, sickle cell anemia tests, and plenty of information to all comers. Normally, the Clinic itself is open only in the evenings.

Through working at the Clinic, Greg discovered another place where his help was needed: the Santa Rita Prison Farm. In collaboration with Bill Woods, a black nurse at the prison, Greg began something of a personal campaign to test black inmates for sickle cell anemia, a service that has never before been available at the prison. With the help of fellow medical students Beverly Corry, Arnold Savage, and Joseph Patrick, Greg has tested more than 400 black inmates at Santa Rita.

Important as the testing is, Greg draws more from the experience at Santa Rita than just the satisfaction of providing medical assistance.

"It's a very human experience," he says, smiling. "Except for Bill Woods, whose time is divided between so many inmates, there are no other blacks on the prison farm's medical staff. We students, visiting the prison regularly, can bring in something of the outside world; more important, we can exchange thoughts and feelings with the inmates—as individuals, as human beings. Prisoners are not accustomed to being treated in a personal way. It is a beautiful experience—for those on both sides.

"It may also be beautiful," continues Greg, "if the success of the testing program sets an example for other prisons. I hope this project will help focus attention on the need for more research on sickle cell anemia, particularly on treatment of the disease."

Greg is continuing his efforts to make sickle cell screening tests more widely available. At UCSF, he helped organize free testing for black students and employees during Black Culture Week, October 11–15.

Currently a third-year medical student, Greg feels that the time he spends at the Blackman's Free Clinic and the Santa Rita Prison Farm is as important as any spent in formal training at UCSF. "Although the medical school offers some good opportunities in community medicine," says Greg, "most are on the observation level. You aren't really compelled to get involved."

A native of Cincinnati, Greg is married and has two small children. He did undergraduate work at Xavier University in Cincinnati. In the future, he plans to go into family medicine "so that I can reach the most people." He wants to practice in the inner city and also hopes to start a training program in which members of the community can learn to do basic medical procedures.

Greg feels strongly about his role as a black physician: "I feel that I have a duty to my own people—that I am compelled by the facts of history to help them as best I can."

Veterans' Administration,
Washington, D.C., December 6, 1971.
Hon. Harrison A. Williams, Jr.,
Chairman, Committee on Labor and Public Welfare, U.S. Senate, Washington, D.C.

Dear Mr. Chairman: This will respond to your request for a report by the Veterans

Administration on S. 2676, 92nd Congress, a bill "To provide for the prevention of sickle cell anemia."

The purpose of the bill is stated in its title. It would seek to accomplish that purpose by adding programs to be carried out by the Public Health Service, the Department of Defense, and the Veterans Administration. My comments on the bill will be restricted to those provisions which would be carried out by the Veterans Administration.

Section 5 of the bill would amend chapter 17 of title 38, United States Code, by adding a new subchapter VI—Sickle Cell Anemia Prevention, under which the Administrator would be required to screen and treat all veterans eligible for VA medical care with regard to sickle cell trait and sickle cell anemia.

At the present time we are engaged in a cooperative study in about twelve VA hospitals, each with about 1500 admissions of black patients. This study will evaluate the increased risks of complicating diseases associated with sickle cell trait. Conditions being studied include pulmonary embolism, myocardial infarction, vascular complications of diabetes, pyelonephritis, and post-operative complications.

Moreover, in addition we have approximately 35 individual research projects underway to study the genetic defects and pathologic mechanisms involved in sickling. In fiscal year 1972 we have committed research funds of approximately $350,000 to individual projects, with an additional $200,000 for the cooperative study.

The new section 651, which would be added to title 38 by the bill, requires the Administrator to notify all persons eligible for care under this chapter of the availability of screening, treatment, and counseling programs with regard to sickle cell trait and sickle cell anemia. The key phrase in that provision—"persons eligible under this chapter"—is not precise and presents difficulties in implementation. Apparently, what is desired is that anyone eligible for inpatient or outpatient care be encompassed within that phrase. Under current law, VA hospital care for a non-service-connected condition can be furnished to any war veteran or a veteran of service after January 31, 1955, *if he is unable to defray the expenses of necessary hospital care*, or if he is over the age of 65 years. Therefore, since eligibility for the great number of veterans is premised on "inability to defray expenses of hospital care", it would be impossible for the Veterans Administration to identify, as a preliminary to notifying, all persons as required by this provision of the bill.

The proposed new section 652 would require the Administrator to screen any person eligible for care under chapter 17 of title 38, United States Code, who makes a request, for sickle cell trait or sickle cell anemia, and to provide treatment and counseling to those who are found to have such trait or disease. Thus, this bill would, for the first time, authorize the Veterans Administration to provide purely screening examinations for a particular disease, independent of an application for hospital admission, medical services, or for compensation, or pension benefits administered by the Veterans Administration.

Our interest in finding a solution to the problems arising from the sickle cell trait is evident from the research we are already conducting in this field as noted above. To the extent that inpatient treatment would be needed, in most cases we would require no new authority since the bill limits treatment to persons eligible for medical care under title 38.

To the extent that outpatient treatment is needed, we might point out that legislation to broaden our authority to furnish medical services on an ambulatory or outpatient basis is under consideration by the Senate Committee on Veterans' Affairs. That legislation, when enacted, would enhance our ability to identify and treat sickle cell trait and sickle cell anemia as well as the complicating diseases associated therewith.

In addition to certain technical difficulties with the language of the bill, we believe that there is a serious question as to whether the mission of the Veterans Administration should be enlarged to include screening examinations of individuals independent of any need for hospitalization or the providing of medical services. At the present time, there is insufficient medical data to define a course of suitable treatment for individuals who have been identified as having the sickle cell trait. Under these circumstances, we believe the more prudent and medically effective approach is to continue with the intensive research program outlined above, rather than divert VA physicians into an extensive screening program, as proposed in this bill. Moreover, the enactment of this provision requiring screening and examinataion for sickle cell trait and sickle cell anemia would be a precedent for requests to expand our medical services to screening for other diseases. Thus, we cannot recommend favorable consideration of this section of the bill.

It is not possible to make a precise estimate of the cost to the Veterans Administration should S. 2676 be enacted, because of our lack of experience in this area of medical care. There are approximately two million black veterans in our population, with one million of those under the age of 45 years. It is reasonable to assume that approximately one-half of those under 45 would seek the screening examination. Under the conditions prescribed by the bill, we estimate that each examination would cost approximately $17.50. Therefore, to staff and examine this number would cost a total of $10.5 million. We would expect to accomplish these examinations over a five year period, after which the costs would reduce to a routine for new veterans. A more detailed estimate for each of the first five years follows:

(*Costs in millions*)

Fiscal year:	
1973	$2.3
1974	2.3
1975	2.3
1976	2.3
1977	1.3
Total	10.5

We are advised by the Office of Management and Budget that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

DONALD E. JOHNSON,
Administrator.

The **PRESIDING OFFICER.** The question is on agreeing to the amendment in the nature of a substitute.

The amendment was agreed to.

The **PRESIDING OFFICER.** The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The **PRESIDING OFFICER.** The bill having been read the third time, the question is, Shall it pass? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. **BYRD** of West Virginia: I announce that the Senator from Texas (Mr. BENTSEN), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Georgia (Mr. GAMBRELL), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Hawaii (Mr. INOUYE), the Senator from Washington (Mr. MAGNUSON), the Senator from Utah (Mr. MOSS), and the Senator from West Virginia (Mr. RANDOLPH) are necessarily absent.

I further announce that the Senator from Louisiana (Mr. LONG), is absent on official business.

I also announce that the Senator from Idaho (Mr. CHURCH) is absent because of illness.

I further announce that, if present and voting, the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Washington (Mr. MAGNUSON), and the Senator from West Virginia (Mr. RANDOLPH) would each vote "yea."

Mr. **GRIFFIN.** I announce that the Senator from Utah (Mr. BENNETT) and the Senator from South Dakota (Mr. MUNDT) are absent because of illness.

The Senator from Colorado (Mr. DOMINICK), the Senator from Illinois (Mr. PERCY), the Senator from Vermont (Mr. STAFFORD), and the Senator from South Carolina (Mr. THURMOND) are necessarily absent.

The Senator from Kentucky (Mr. COOPER) and the Senator from Nebraska (Mr. CURTIS) are detained on official business.

If present and voting, the Senator from Nebraska (Mr. CURTIS), the Senator from Colorado (Mr. DOMINICK), the Senator from Illinois (Mr. PERCY), and the Senator from South Carolina (Mr. THURMOND) would each vote "yea."

The result was announced—yeas 81, nays 0, as follows:

[No. 442 Leg.]

YEAS—81

Aiken
Allen
Allott
Anderson
Baker
Bayh
Beall
Bellmon
Bible
Boggs
Brock
Brooke
Buckley
Burdick
Byrd, Va.
Byrd, W. Va.
Cannon
Case
Chiles
Cook
Cotton
Cranston
Dole
Eagleton
Eastland
Ellender
Ervin
Fannin
Fong
Goldwater
Gravel
Griffin
Gurney
Hansen
Harris
Hart
Hartke
Hatfield
Hruska
Hughes
Jackson
Javits
Jordan, N.C.
Jordan, Idaho
Kennedy
Mansfield
Mathias
McClellan
McGee
McGovern
McIntyre
Metcalf
Miller
Mondale
Montoya
Muskie
Nelson
Packwood
Pastore
Pearson
Pell
Proxmire
Ribicoff
Roth
Saxbe
Schweiker
Scott
Smith
Sparkman
Spong
Stennis
Stevens
Stevenson
Symington
Taft
Talmadge
Tower
Tunney
Weicker
Williams
Young

NAYS—0

NOT VOTING—19

Bennett
Bentsen
Church
Cooper
Curtis
Dominick
Fulbright
Gambrell
Hollings
Humphrey
Inouye
Long
Magnuson
Moss
Mundt
Percy
Randolph
Stafford
Thurmond

So the bill (S. 2676) was passed.

The title was amended, so as to read: "A bill to provide for the control of sickle cell anemia."

Mr. SCHWEIKER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. COOK. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CURTIS subsequently said: Mr. President, at 10 o'clock this morning I had an appointment at the Office of Management and Budget, where I accompanied the directors of the O'Neill-North Loup, Nebr., irrigation project for a conference. I was not present when the yeas and nays were called upon S. 2676, having had no knowledge that the vote would occur at that time, and I would like the Record to show that I favor the legislation.

ORDER TO PLACE H.R. 11589 ON THE SENATE CALENDAR

Mr. MANSFIELD. Mr. President, as in legislative session, I ask unanimous consent that H.R. 11589 authorizing the foreign sale of certain passenger vessels be placed on the Senate calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

PHOTOGRAPH OF THE SENATE

Mr. MANSFIELD. Mr. President, after discussing the matter with the distinguished Republican leader, it has been decided—because of circumstances over which the joint leadership has little control—that the picture of the Senate to be taken tomorrow by the National Geographic will not be taken at that time. Instead, the picture will be taken at the time of the Rehnquist vote, when it occurs, because on that occasion we will be certain to have the fullest attendance possible.

I hope nobody misinterprets this statement. It is only because of a fact over which we have no control that the time has been changed from tomorrow to a day when perhaps all the seats will be filled.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. HATFIELD:

S. 2968. A bill for the relief of Leo Lucas. Referred to the Committee on the Judiciary.

By Mr. HATFIELD (for himself and Mr. Packwood):

S. 2969. A bill to declare title to certain Federal lands in the State of Oregon to be in the United States in trust for the use and benefit of the Confederated Tribes of the Warm Springs Reservation of Oregon. Referred to the Committee on Interior and Insular Affairs.

By Mr. BEALL:

S. 2970. A bill to provide for the issuance of $2 bills bearing the portrait of Susan B. Anthony. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. NELSON (for himself, Mr. Boggs, Mr. Brooke, Mr. Case, Mr. Harris, Mr. Hartke, Mr. McIntyre, Mr. Mondale, Mr. Kennedy, Mr. McGovern, Mr. Roth, Mr. Ribicoff, Mr. Tunney, and Mr. Williams):

S. 2971. A bill to authorize the President to designate marine sanctuaries in areas of the oceans, coastal, and other waters, as far seaward as the outer edge of the Continental Shelf, for the purpose of preserving or restoring the ecological, esthetics, recreation, resource and scientific values of and related to such areas. Referred, by unanimous consent, to the Committees on Commerce, Interior and Insular Affairs, and Public Works, jointly.

By Mr. HATFIELD:

S. 2972. A bill to approve an order of the Secretary of the Interior canceling irrigation charges against non-Indian-owned lands under the Modoc Point unit of the Klamath Indian irrigation project, Oregon. Referred to the Committee on Interior and Insular Affairs.

By Mr. NELSON (for himself and Mr. Kennedy):

S. 2973. A bill to amend the Outer Continental Shelf Lands Act. Referred to the Committee on Interior and Insular Affairs.

By Mr. HARTKE:

S. 2974. A bill to provide for posting information in post offices with respect to registration, voting, and communicating with lawmakers. Referred to the Committee on Post Office and Civil Service.

By Mr. MONDALE (for himself and Mr. Humphrey):

S.J. Res. 182. A joint resolution authorizing the President to invite the States of the Union and foreign nations to participate in Farmfest-U.S.A. and the World Ploughing Contest in September 1972. Referred to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HATFIELD (for himself and Mr. Packwood):

S. 2969. A bill to declare title to certain Federal lands in the State of Oregon to be in the United States in trust for the use and benefit of the Confederated Tribes of the Warm Springs Reservation of Oregon. Referred to the Committee on Interior and Insular Affairs.

Mr. HATFIELD. Mr. President, I am today introducing a bill to correct an error and an injustice of 100 years standing in the boundary location of the Warm Springs Reservation in Oregon. The bill is cosponsored by my colleague from Oregon (Mr. Packwood), and identical legislation is being introduced in the House by Congressman Al Ullman.

The bill provides that 61,360 acres of federally owned lands will be declared in trust status for the use and benefit of the Confederated Tribes of the Warm Springs Reservation, to be incorporated as a part of the reservation, and to be administered by the Secretary of Interior as are other Indian trust lands. The bill also contains a number of special provisions affecting the use of the lands. These were included at the request of the Confederated Tribes to minimize the effects on their neighbors of the change in status of the lands, to allow an appropriate period of transition for existing uses, and to provide in perpetuity for public access and recreational uses. Brief descriptions of these provisions will be included at the conclusion of my remarks.

The land area involved, known as the McQuinn Strip, became a matter of dispute shortly after the Confederated Tribes of Warm Springs ceded approximately 10 million acres of land in 1855 in exchange for a reservation of approximately 630,000 acres.

The first formal survey, 16 years after the signing of the treaty, resulted in the omission of 80,000 acres of land in the northern and western areas of the reservation. The Indians objected, and 6 years later, in 1877, the Government assigned Mr. John A. McQuinn to resurvey the reservation as described in the treaty of 1855. Although his results varied somewhat from the description assumed by the Indians, the McQuinn survey was accepted by the tribe, and was adopted by the Department of Interior as the correct boundary.

In 1894, however, after hearing protests from settlers north of the reservation, the Congress passed a law establishing the first survey as the legal boundary. The Warm Springs Indians continued to object to the treaty violation, and the findings of subsequent Federal commissions weighed heavily in favor of the Indians' position. In 1930, the Congress passed a jurisdictional act authorizing the U.S. Court of Claims to determine the correct boundary. The court found that the McQuinn survey, with minor variations, was, indeed, the correct boundary as intended by the signers of the 1855 treaty, and declared that the lands had been illegally appropriated. However, the court of claims was not empowered to order the return of the land to the Warm Springs Reservation, but could only determine value for the purposes of compensation.

By virtue of an archaic system of compensatory offsets then in effect, the court concluded that no compensation was due the tribe. Thus, the injustice of an earlier century was compounded.

Immediately following the finding of the Court of Claims, the late Senator Charles McNary introduced legislation to fix the boundary of the Reservation as found by the court. The Department of Interior favored the legislation, but the objections of other executive departments prevented enactment. In 1948, Senator Guy Gordon was successful in getting congressional approval of legislation recognizing the historic and legal claim of the Warm Springs Tribe and providing that all revenues from the McQuinn Strip be allocated to the tribe. The Indians accepted the benefits of that act with the full understanding that they reserved the right to request future congressional action to convey title to the land.

Mr. President, the history of this dispute leaves no other avenue of recourse than legislation such as I have introduced today. The Act of 1894 precludes an administrative resolution. The decision of the Court of Claims, which turned out to be no victory at all, closed the door on any further judicial determination. It is now up to the Congress to resolve the issue.

Throughout the past year, the Warm Springs Tribal Council, their attorney and other spokesmen for the Indians have met with hundreds of individuals, with local, State and Federal officials, and with representatives of many organizations with interest in the future management of the McQuinn Strip. The purpose of these meetings has been twofold: first, to hear the views of interested parties and to get their suggestions for a proper resolution of the boundary issue; and second, to incorporate appropriate language in McQuinn Strip legislation to accommodate to those valid concerns expressed by others. The bill proposed today provides for those concerns.

The Warm Springs Tribe is particularly interested in maintaining satisfactory relations with their neighbors. With progressive, far-sighted leadership, they are well along in establishing the basis for vigorous economic and recreational development on the reservation, development that will benefit their neighbors and will be a model for other Indian Tribes to follow.

Given the history of the McQuinn Strip episode, it should not be necessary to justify the return of the land on the basis of the attitudes and accomplishments of the Warm Springs Tribe. But it is, nevertheless, a matter of considerable pleasure and pride to me that this tribe has been recognized widely for its wise and successful development programs. In fact, citizens from all parts of Oregon and the Pacific Northwest are beginning to realize the benefits of the extraordinary accomplishments at Warm Springs. For example, the tribe is operating one of the most popular resort areas in the State. Next spring will see the completion of a $5 million expansion at the Kah Nee Ta Resort, adding to Oregon's tourist and convention facilities, and providing new jobs and opportunities for members of the tribe.

It is appropriate to point out that the tribe will not receive any immediate financial reward from the addition of McQuinn Strip lands to the reservation. As cited earlier, revenues from timber sale and other activities in the McQuinn Strip are already paid to the tribe by act of Congress. In fact, by shifting from Forest Service to Bureau of Indian Affairs jurisdiction, the tribe will be required to pay a 10-percent fee for forest management that is not now deducted from the proceeds. It has been clear all along that the tribe is not motivated by the desire for material gain in its century-long effort to secure the return of these lands. To them it is a simple matter of right.

I agree, and I urge the support of my colleagues in the early consideration of this legislation and its approval.

At this point, Mr. President, I would like to have printed in the Record several excerpts from an article by Don Holm, outdoors writer for the Oregonian, a recent news story from the Oregon Journal reporting on a visit to Warm Springs by Secretary of the Interior Rogers Morton, and an editorial from the Oregon Journal on the McQuinn Strip issue.

There being no objection, the material was ordered to be printed in the Record, as follows:

EXCERPTS FROM ARTICLE IN THE SUNDAY OREGONIAN, OCTOBER 17, 1971, BY DON HOLM, "INDIANS SEEK RETURN OF STRIP"

"Over the years, the Warm Springs Confederated Tribes and their leadership have won the respect of sportsmen and conservationists, not only for their hospitality and willingness to allow the public to enjoy fishing and camping on reservation lands, but for their conservation efforts which often have proved more progressive than the state and federal fish and wildlife agencies."

"In business matters, the tribes have also proved themselves just as aggressive and far-sighted. Their wise use of timber and other natural resources is well known. The popular Kah Nee Ta resort is an example of a successful project which was built on lands once owned by the Indians and later reacquired from private ownership at exorbitant prices.

"The Warm Springs tribes have long had a reputation for cooperation with state and federal agencies, and most meetings of the Game and Fish commissions are attended by tribal representatives, who have willingly accepted the decisions of these agencies.

"Of the many Indian tribes who sold their rights to commercial fishing in the middle Columbia, under the 1957 agreement, only the Warm Springs Indians have kept their word and refrained from using the set nets.

"Ironically, if the McQuinn Strip were ceded to the Indians, they would actually receive less money than they do from the proceeds of the timber sales. At present, they receive the gross receipts from the Forest Service. On regular reservation lands, the U.S. deducts 10 per cent for administration costs.

"This indicates the depth of feeling the Indians have for the McQuinn Strip. To them, it is not just acquiring more land, it is a matter of principle and personal pride."

[From the Oregon Journal, Aug. 27, 1971]

MORTON CITES WARM SPRINGS TRIBE AS "BEST IN NATION"

(By Steve Neal)

WARM SPRINGS.—Interior Secretary Rogers Morton confirmed Thursday night what many Oregonians have maintained for years, that the Warm Springs Indian Reservation is "the best example of a tribal enterprise system in the nation."

Morton said he had heard of the unique success of the Warm Springs tribes but was elated at what he found.

Smoking a cigar and sitting at an outdoor table overlooking Kah-Nee-Ta village, Morton noted, "Their timber operation, the desert resort, their range program and desire to get a fish hatchery are certainly strong indications of their achievements."

He added, "It's a shining example of making maximum use of the talents and resources that exist. They personify the policy of self-determination."

Morton said he wanted to meet Kenneth Smith, general manager of the tribes, and Olney Patt, chairman of the tribal council.

Despite his praise of Warm Springs, he hesitated to call it a model program.

"Not everyone can use this as a blueprint. Different reservations have different lands and different people," he said. "The spirit and determination," he pointed out, "are major factors in the Warm Springs phenomenon."

Morton wants the Bureau of Indian Affairs to serve "as a resource rather than a 'school marm.' "

BIA Commissioner Louis R. Bruce, a Mohawk-Sioux, has "brought a lot more communication in a lot broader way," the secretary said.

Morton said he hopes that BIA "will rely more on expertise in the Department of the Interior."

Morton would like to see the BIA "provide greater opportunity for development of reservation lands." He listed agriculture and wildlife as two major areas where assistance could be expanded.

Such projects, he hopes, can attract young people to BIA and give the federal agency a "broader and more creative base."

Morton admitted, "you'll make a lot of mistakes trying new things, some will fail, and you've got to expect criticism."

He sees a "necessity for the BIA boarding schools." For sparsely populated areas, such as Alaska, he believes it is the only means available.

"Boarding schools are an interim in terms of one or two decades. Until then, we've got to get the best use of top superintendents and faculties."

Earlier in the day, Morton expressed concern about field burning near Madras. "It's against the law back home in Maryland," he said. "What do they think they're doing?"

Meeting with the tribal council, Morton pledged to try to give them further help in developing the reservation.

He recommended that they try to sell wild horses and "turn them into an asset."

Tribal officials told Morton that the area is ideal for horses.

Morton said he recently met with a manufacturer that reported record sales of saddles. He quipped, "They're not putting them on Chevrolets."

Patt, tribal council chairman, told Morton that "something has to be done with the many acres of unpalatable grass." He stressed, "That's where we need assistance."

Smith asserted, "We need a lot of help to get the range up to par. The horses aren't making money."

Owen Panner of Bend, tribal attorney, said the reservation always has been free range, but a recent ordinance provides for summer and winter range restrictions to limit the grazing use.

Following the meeting with the council, Morton was honored at a dinner and presented a beaded billfold and necktie.

Friday morning, he was scheduled to meet with tribal leaders before his departure for Southern Oregon.

One tribal leader observed, "He seemed to have genuine interest in our problems."

Few persons at Warm Springs seemed displeased with the results of the Morton visit.

[From the Oregon Journal, editorial, Mar. 29, 1971]

TIME TO CORRECT ANCIENT ERROR

It is characteristic of cases involving land disputes that they move with glacial speed.

This is true of the McQuinn Strip controversy in which Indians of the Warm Springs Reservation have never ceased demanding control of 78,611 acres that, due to an erroneous survey, was not made part of the reservation in 1855.

Of this total, 62,000 is in federal ownership, most of it in the Mt. Hood National Forest. The rest has been in private hands, but the tribe has been buying some of it back.

The justice of the Indians' claim has long been recognized in surveys which revealed the original error and in litigation which favored the Indians but did not achieve the transfer.

Oregon's Sen. Charles McNary and Rep. Lowell Stockman believed in the Indians' case and tried unsuccessfully in the 1930s to persuade Congress to act. Sen. Guy Cordon took a different tack and in 1948 won approval of a compromise bill which did not give the Indians title but did award them all the revenue from timber sales and grazing fees. The Forest Service has continued to manage and has borne all the management costs.

Thus the continuing Indians' desire to gain title to the McQuinn Strip is not based on economic reasons, since they are better off financially now than under any future arrangement which would probably follow the present pattern on reservation timber of paying 10 per cent of gross receipts to the Bureau of Indian Affairs for management.

But the Indians are motivated by deep tribal feelings which have never receded. These may have gained new strength from the success of tribal enterprises, including timber operations and a huge recreational complex. Another spur may have been action of the federal government last year in turning back to the Pueblo de Taos Indians 48,000 acres of land from the Carson National Forest. The Indians had always regarded this land as sacred and as a traditional place for hunting and fishing. President Nixon called particular attention to this action, voted by Congress, as a matter of simple justice.

The Forest Service is neutral on the McQuinn Strip issue, according to Charles Connaughton, regional forester, and will be guided by the position of the Nixon administration. If the New Mexico case is an indication, the President's attitude should be favorable.

The Warm Springs Indians have declared willingness to let the white man continue some of the traditional uses in the area, such as recreation and grazing.

Sen. Mark Hatfield and Rep. Al Ullman plan to introduce legislation calling for the final settlement of this long controversy in favor of the Indians. They will have a lot of support from other white men. The time seems right for this "glacier movement" to arrive.

Mr. PACKWOOD. Mr. President, I am pleased to join with my colleague from Oregon (Mr. HATFIELD) in introducing legislation to restore lands to the Warm Springs Indian Reservation in Oregon which were unjustly eliminated by an 1894 act of Congress.

The historical and legal justification for approval of this legislation is clearly established. Since 1894, a succession of administrative actions, judicial findings and congressional enactments has steadily reinforced the claim of the Confederated Tribes of Warm Springs that the 61,360 acres of federally-owned lands in the McQuinn Strip should be incorporated into the reservation and managed in trust status for the benefit of the tribe.

In 1917, a Government commission concluded that the Indian's claim was valid under terms of their treaty. In the 1940's, the U.S. Court of Claims found that the McQuinn survey line was the proper reservation boundary.

In 1948, Congress recognized the rightful interest of the tribe by granting the Indians 100 percent of the revenues derived by the Forest Service or other Federal agencies from McQuinn Strip lands. All of these actions have led logically to the enactment of legislation rescinding the act of 1894 and placing the lands in formal trust status.

Of the total acreage in the original McQuinn Strip, approximately 17,000 have since gone into private ownership. The legislation would not affect private lands, except to provide for shared fencing costs if the owners wish to fence their acreage. There are no residences located on the inholdings, and they are primarily useful only for livestock grazing. The Confederated Tribes have already purchased 11,000 acres of the private lands involved.

Most of the approximately 61,000 acres remaining is now a part of the Mount Hood National Forest. There was originally some concern—and there may still be some concern—about the transfer of the land from Forest Service jurisdiction. For that reason, I think it is useful to review some of the proposals that have been made to assure continued recognition of the public interest in these lands. Most of these provisions have been incorporated into the legislation at the request of the Warm Springs Tribe.

Free public access will be guaranteed in perpetuity.

Existing public recreation facilities will be maintained and improved by the tribe, and will be open to public use on the same basis as comparable forest service facilities. In this regard, it is appropriate to note that the tribe has established many fine camping and picnic facilities on present reservation lands and actively encourages free public use.

The portion of the Cascade Crest Trail crossing the McQuinn Strip will be maintained at tribal expense and kept open for public use on the same basis as those segments on forest service land.

Approximately 700 acres of the McQuinn Strip are within the Mount Jefferson Wilderness Area, and that acreage has been excluded from the land description in the legislation to avoid any encroachment on existing wilderness.

Land and facilities within the McQuinn Strip needed by the forest service for administration of adjacent national forest lands will continue to be used by them as long as needed, without charge.

All lakes within the area will be open for fishing and other public recreational use.

The tribe proposes to enter into a 10–20 year cooperative agreement with the Oregon State Game Commission for the protection and management of the game resources. During the period of the cooperative agreement, the tribe will develop a comprehensive game management program for the area.

The timber resource will be managed in perpetuity on a sustained yield basis.

These and other provisions should help allay any fears that might be raised over the intention of the Warm Springs Tribe to manage McQuinn Strip lands in a responsible way. The record of the Warm Springs Tribe in the conservation and wise use of its resources is an admirable one, and could well serve as a model for others.

The emphasis that the tribe has placed on the development of quality recreation facilities on the reservation has beneficial effects far beyond the reservation boundaries. These facilities range from free picnicking and camping areas to the popular Kah-Nee-Ta Hot Springs Resort. Kah-Nee-Ta is by reputation one of the most appealing and successful Indian operated recreation enterprises in the country. To me it represents a great deal more than that. It is also a symbol of a progressive and imaginative people, building a future for themselves in a way that is compatible with wise resource management and with the requirements of their neighbors.

I have confidence in the future of the Warm Springs people, and I support their century-long ambition to regain the lands that were unjustly taken from them. I urge my colleagues' support of legislation to make the Warm Springs Reservation whole once again.

By Mr. BEALL:

S. 2970. A bill to provide for the issuance of $2 bills bearing the portrait of Susan B. Anthony. Referred to the Committee on Banking, Housing and Urban Affairs.

Mr. BEALL. Mr. President, I introduce a bill that would direct the Secretary of the Treasury to issue a $2 bill bearing the portrait of the great American social reformer, Susan B. Anthony.

A native of Massachusetts, Susan B. Anthony spent much of her life in New York where she came into contact with the leading abolitionists, temperance proponents, and social reformers of her day. Once established socially and politically in New York, Miss Anthony rose to a position of leadership in the Rochester Group, a militant feminist antislavery society. She also chaired the antislavery society of New York State and she was a driving force in organizing the first women's temperance society. During the years proceeding the American Civil War, her efforts were largely directed against the evils of slavery. This cause remained a driving force of her life until the Civil War purged from our land this institution.

Following the Civil War, Susan Anthony worked to obtain the enactment of a constitutional amendment that would enfranchise women as well as blacks. This effort was frustrated when Congress drafted the 14th amendment which failed to grant suffrage to women. In 1868, she founded and managed The Revolution a newspaper exclusively devoted to the cause of women's rights. In 1869, she helped organize the National Woman Suffrage Association and served as its honorary president as well as chairman of its executive committee.

In 1872, Miss Anthony provided a paramount test for the validity of the existing restrictive election laws. She and 50 followers forced their way into a polling place and voted in the presidential election of 1872. In a blatantly biased trial she was convicted and fined $100 which, I might add, she stubbornly refused to pay.

After this incident proved the futility of establishing women's suffrage within the framework of the 14th amendment and the existing laws, Susan Anthony directed her considerable energies to the task of changing the law. In eight separate States she organized campaigns to change the State constitutions and/or election laws so as to provide for the granting of the right to vote to women. On the national level, Miss Anthony frequently testified before the appropriate committees of the Congress, seeking the enactment of a constitutional amendment that was to elude her throughout her lifetime.

During the final years of her life, she devoted her seemingly endless energy to writing—joint author of the four volume series entitled "The History of Women Suffrage," various magazine articles, and so forth—lecturing—both in England and throughout the United States—and otherwise promoting the cause of women's rights.

Her death in 1906, came just 14 years before the ratification of the 19th amendment which emphatically stated that:

> The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any state on the account of sex.

Mr. President, I introduce this bill not as a token gesture to the movement for women's rights but in the sincere hope that, by our legislative efforts we can seek to undo the historical biases that work to the detriment of a majority of our population. It is time for us to recognize that women are entitled to complete equality before the law, complete equality of opportunity, and recognition for the many and considerable accomplishments that they have rendered to the development of the American Nation. Our currency has long honored and recognized the great men who help to make our Nation what it is today and this bill can serve as the first step in the effort to grant recognition to a great American and to a great woman whose lifelong efforts expanded freedom, justice, and the cause of equality in the United States.

By Mr. NELSON (for himself, Mr. Boggs, Mr. Brooke, Mr. Case, Mr. Harris, Mr. Hartke, Mr. McIntyre, Mr. Mondale, Mr. Kennedy, Mr. McGovern, Mr. Roth, Mr. Ribicoff, Mr. Tunney, and Mr. Williams):

S. 2971. A bill to authorize the President to designate marine sanctuaries in areas of the oceans, coastal, and other waters, as far seaward as the outer edge of the Continental Shelf, for the purpose of preserving or restoring the ecological, esthetics, recreation, resource and scientific values of and related to such areas. Referred, by unanimous consent, to the Committees on Commerce, Interior and Insular Affairs, and Public Works, jointly.

Mr. NELSON. Mr. President, I introduce a bill to authorize the President to designate marine sanctuaries in the oceans for the purpose of protecting values of the marine environment.

This bill is exactly the same as an amendment I proposed last month to the Marine Protection and Research Act.

On November 24, after a colloquy on the Senate floor with the chairmen of the committees with oceans concerns and other interested Senators, I withdrew this amendment with the understanding that there would be joint hearings later on it to resolve any concerns about jurisdictional or international aspects.

Inasmuch as the hearings would involve the interests of the Senate Commerce. Interior and Public Works Committees, as was discussed in the November 24 colloquy, I ask unanimous consent that this bill be jointly referred to those three committees.

The PRESIDING OFFICER (Mr. Chiles). Without objection, it is so ordered.

Mr. NELSON. Mr. President, cosponsoring this bill with me are Senators Brooke, Boggs, Case, Harris, Hartke, Kennedy, McGovern, McIntyre, Mondale, Ribicoff, Roth, Tunney, and Williams. Additional cosponsors are welcome.

In brief, the bill would create a program of marine sanctuaries in the ocean waters off our coasts, and would prohibit Federal leases for oil drilling in the Atlantic off the U.S. east coast for 2 years until the initial designations of sanctuaries in that area.

Mr. President, I ask unanimous consent that an explanation of this bill—formerly amendment No. 630—be printed in the Record at the end of these remarks, as well as the text of the bill itself and my lengthier statement on it which had been prepared for the debate last month.

(See exhibits 1, 2, and 3.)

Mr. NELSON. Mr. President, in addition, I would like to call attention to S. 275, a comprehensive oceans protection measure which I introduced earlier in this Congress and first introduced last Congress, as an appropriate proposal to consider along with the marine sanctuaries bill in the joint hearings.

S. 275 requires environmental management plans to be developed where oceans activities are posed and establishes a national marine mineral resources trust to assure environmental protection in the drilling for oil and development of other ocean minerals, and I will be happy to have added the name of any Senators wishing to cosponsor this bill.

Exhibit 1

Explanation of Marine Sanctuaries

The bill would create a program of marine sanctuaries in the ocean waters off our coasts, and would prohibit Federal leases for oil drilling in the Atlantic off the U.S. East Coast for two years until the initial designations of sanctuaries in that area.

The purpose of the sanctuaries would be to protect or restore vital ocean and coastal environment values such as ecology, esthetics, recreation and resources, and to provide special areas for scientific baseline studies.

While the sanctuaries would not necessarily exclude development and commercial activities, to the extent that such steps were permitted in these areas, they would be under tight regulations to assure protection consistent with the sanctuary's particular purposes.

The provision on East Coast oil drilling would assure that environmental values would be fully taken into account, including setting aside sea areas if necessary, before irrevocable steps are taken to exploit the huge oil deposits that are indicated in the Atlantic.

In recent public statements, the Secretary of the Interior has made it clear the Department does not intend to issue any oil leases off the East Coast for at least two years. Thus, the provision of this amendment for the two year prohibition on the East Coast oil leases would not conflict with U.S. energy development plans in any way, but would merely assure that we obtain adequate knowledge to anticipate and resolve potential conflicts between environmental and energy goals.

Because existing Federal authorities in the marine environment are divided among a number of departments, and are inadequate for comprehensive ocean environment protection even in U.S. waters, and because international matters are involved too, the President would establish the sanctuaries.

In so doing, the President would have public hearings held and assure coordination by obtaining the views of the Secretaries of Commerce, Defense, Interior, State, Transportation and the Administrator of the Environmental Protection Agency.

For any sanctuaries proposed in waters above state-controlled portions of the seabed (within the territorial sea) it would be necessary to have the approval of the Governor of the state involved.

Finally, language in the bill specifically requires that the sanctuaries be regulated in accordance with the principles of international law, including treaties, conventions, and other agreements to which the United States is signatory.

In view of the fact that the Federal government has already permitted the drilling of more than 6,600 oil wells off our coasts in the Gulf of Mexico and the Pacific, and is considering the Atlantic Ocean leasing now, it would be ludicrous to argue on international or any other grounds that we should not at this time establish sanctuaries in the same areas.

Exhibit 2

S. 2971

A bill to authorize the President to designate marine sanctuaries in areas of the oceans, coastal, and other waters, as far seaward as the outer edge of the Continental Shelf, for the purpose of preserving or restoring the ecological, esthetics, recreation, resource and scientific values of and related to such areas.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that (a) The President, after obtaining the views of the Secretaries of Commerce, Defense, Interior, State and Transportation and the Administrator, shall designate as marine sanctuaries those areas of the oceans, coastal, and other waters, as far seaward as the outer edge of the Continental Shelf, as defined in the Convention on the Continental Shelf (15 U. S. T. 741; TIAS 5578), which he determines necessary for the purpose of preserving or restoring the ecological, esthetics, recreation, resource and scientific values of and related to such areas.

(b) Prior to designating a marine sanctuary which includes water lying within the territorial limits of any State or superjacent to the subsoil and seabed within the seaward boundary of a coastal State, as that boundary is defined in section 2 of title I of the Act of May 22, 1953 (67 Stat. 29), the President shall consult with, and give due consideration to the views of, the responsible officials of the State involved. As to such waters, a designation under this section shall become effective sixty days after it is published, unless the Governor of any State involved shall, before the expiration of the sixty-day period, certify to the President that the designation, or a specified portion thereof, is unacceptable to his State, in which case the designated sanctuary shall not include the area certified as unacceptable until such time as the Governor withdraws his certification of unacceptability.

(c) When a marine sanctuary is designated, pursuant to this section, which includes an area outside the United States territorial sea, the Secretary of State shall take action, as appropriate, to enter into agreements with other Governments, in order to protect such sanctuary and promote the purposes for which it was established.

(d) The President shall make his initial designations under this section within two years following the date of enactment of this title, and no mineral leases shall be issued for the area seaward of the territorial sea off the east coast of the United States to the outer edge of the Continental Shelf as defined in the Convention on the Continental Shelf (15 U. S. T. 741; TIAS 5578) until such designations have been made. Thereafter, he shall periodically designate such additional areas as he deems appropriate. The President shall submit a report annually to the Congress, setting forth a comprehensive review of his actions under the authority under this section, together with appropriate recommendations for legislation considered necessary for the designation and protection of marine sanctuaries.

(e) Before a marine sanctuary is designated under this section, the President shall hold public hearings in the coastal area which would be most directly affected by such designation, for the purpose of receiving and giving proper consideration to the views of any interested party. All public hearings required under this title must be announced at least thirty days before they take place, and all relevant materials, documents, and studies must be made readily available to the public for study at least thirty days in advance of the actual hearing or hearings.

(f) After a marine sanctuary has been designated under this section, the President shall issue necessary and reasonable regulations to control any activities permitted within the designated marine sanctuary, and no permit, license, or other authorization issued pursuant to any other authority shall be valid unless the President shall certify that the permitted activity is consistent with the purposes of this title and can be carried out within the regulations promulgated under this section. Such regulations shall be applied in accordance with recognized principles of international law, including treaties, conventions, and other agreements to which the United States is signatory.

Sec. 2. (a) Whoever violates any regulation issued pursuant to this title shall be liable to a civil penalty of not more than $50,000 for each such violation, to be assessed by the President. Each day of a continuing violation shall constitute a separate violation.

(b) No penalty shall be assessed under this section until the person charged has been given notice and an opportunity to be heard. Upon failure of the offending party to pay an assessed penalty, the Attorney General, at the request of the President, shall commence action in the appropriate district court of the United States to collect the penalty and to seek such other relief as may be appropriate.

(c) A vessel used in the violation of a regulation issued pursuant to this title shall be liable in rem for any civil penalty assessed for such violation and may be proceeded against in any district court of the United States having jurisdiction thereof.

(d) The district courts of the United States shall have jurisdiction to restrain a viloation of the regulations issued pursuant to this title, and to grant such other relief as may be appropriate. Actions shall be brought by the Attorney General in the name of the United States, either on his own initiative or at the request of the President.

Sec. 3. There are authorized to be appropriated for the fiscal year in which this Act is enacted and for the next two fiscal years thereafter such sums as may be necessary to carry out the provisions of this title, including sums for the costs of acquisition, development, and operation of marine sanctuaries designated under this title, but the sums appropriated for any such fiscal year shall not exceed $10,0000,000.

Exhibit 3

Statement by Senator Gaylord Nelson on Marine Sanctuaries Proposal

Briefly, this measure would establish a program for marine sanctuaries in the ocean waters off our coasts.

If we are to avoid making the same mess of the sea as we have of the land, such a program must be instituted immediately, while we still have the opportunity to do so.

Famed underwater explorer and scientist Jacques Cousteau bluntly cites the compelling justification for action: "The sea is threatened. We are facing the destruction of the ocean by pollution and by other causes."

Distinguished marine biologists are already predicting that at the present accelerating damage rate, significant productive life in the sea will be eliminated in 50 years or less.

The purpose of the sanctuaries this bill proposes would be to protect or restore vital ocean and coastal environment values such as ecology, esthetics, recreation and resources, and to provide special areas for scientific baseline studies.

While the sanctuaries would not necessarily exclude development and commercial activities, to the extent that such steps were permitted in these areas, they would be under tight regulations to assure protection consistent with the sanctuaries particular purposes.

In addition to the sanctuaries portion, this bill would prohibit Federal leases for oil drilling and other mineral development in the Atlantic off the U.S. East Coast for two years until the initial designations of sanctuaries in this area.

This would assure that environmental values be fully taken into account, including setting aside sea areas if necessary, before irrevocable steps are taken to exploit the huge oil deposits that are indicated in the Atlantic, steps that without proper protection would risk a Santa Barbara-scale disaster on the beaches of our populous East Coast.

In recent public statements, the Secretary of the Interior has made it clear the Department does not intend to issue any oil leases off the East Coast for at least two years. This means my bill's provision for the two year prohibition on the East Coast oil leases would not conflict with current U.S. energy development plans in any way.

This is not a question of environment versus energy, but merely one of assuring that we obtain the necessary knowledge to anticipate and resolve potential conflicts.

Because existing Federal authorities in the marine environment are divided among a number of departments, and are inadequate for comprehensive ocean environment protection even in U.S. waters, and because international matters are involved too, the President would establish the sanctuaries.

In so doing, the President would have public hearings held and assure coordination by obtaining the views of the Secretaries of Commerce, Defense, Interior, State, Transportation and the Administrator of the Environmental Protection Agency.

For any sanctuaries proposed in waters above state-controlled portions of the seabed (within the territorial sea), it would be necessary to have the approval of the Governor of the state involved.

Finally, language in the bill specifically requires that the sanctuaries be regulated in accordance with the principles of international law, including treaties, conventions, and other agreements to which the United States is signatory.

In view of the fact that the Federal government has already permitted the drilling of more than 6,600 oil wells off our coasts in the Gulf of Mexico and the Pacific, and is considering the Atlantic Ocean leasing now, it would be ludicrous to argue on international or any other grounds that we should not at this time establish sanctuaries in the same areas.

The proposal is strongly supported by the national environmental organizations, including the Sierra Club, Izaak Walton League, Friends of the Earth, Environmental Action, National Wildlife Federation, Wildlife Management Institute and the National Audubon Society.

In the House, the marine protection bill, including a marine sanctuaries title, was passed by an overwhelming 304 to 3 vote after proposals to delete the sanctuaries provision were rejected. The sanctuaries title was deleted in Senate committee.

Some questions have been raised about this measure's effect on international marine issues, I think because of the complicated situation we have today regarding control of the sea.

I believe these concerns can be laid to rest, and would comment as follows:

One, this proposal does not conflict with international law or attempt in any way to extend this country's oceans authorities beyond present limits. In fact, it contains a specific provision to avoid such a conflict: In Section 301(f) the bill says any regulations established for the marine sanctuaries "shall be applied in accordance with recognized principles of international law, including treaties, conventions, and other agreements to which the United States is signatory";

Further, in Subsection (c) of the first section, the bill provides that when any portion of a sanctuary involves ocean waters more than 3 miles from our coast, the Secretary of State must seek international agreements whereby other countries would voluntarily forego activities inconsistent with the purposes of the sanctuary.

Until such agreements were achieved, the only controls exercised in the sanctuary would be those based primarily on existing United States authority to regulate the activities of our own citizens anywhere at sea.

While this would be only partial control, it would be far better than none at all. And in part, it parallels the authority used in the Marine Protection and Research bill passed earlier to control the dumping of wastes at sea transported from ports of the United States.

And as I noted earlier, in view of the fact that we are drilling oil wells all over the U.S. continental shelf in the Gulf of Mexico and the Pacific and considering them for the Atlantic, it would seem difficult to argue against establishing protected areas in these waters as well: In effect, we would be saying that while we can exploit, we cannot protect.

Two, the bill is not in any way intended to disadvantage this country with regard to the development of its resources.

To the contrary, the leadership we would be showing by establishing sanctuaries within our existing controls would most likely encourage other countries to take similar steps within their jurisdictions and stimulate international agreements for more comprehensive sanctuaries, a conservation benefit for all mankind.

The International Convention on the Continental Shelf recognizes the sovereign right of each country to explore and develop the natural resources on its continental shelf.

As a result, as just one example, the protection established by this convention means that another country could not come in and drill the oil now being considered for leasing off our Atlantic Coast, even if we decided not to drill all or part of it.

And Subsection (a) of the first section of my proposal limits the sanctuary designations to waters inside the edge of our Continental Shelf as defined in the International Convention on the Continental Shelf.

Furthermore, the sanctuaries would not necessarily ban any given activity. The degree of control exercised over U.S. activities or, if there were international agreements, over citizens of other countries in a particular sanctuary, would depend on the purposes of the sanctuary, on the values it was designed to protect.

As pointed out earlier in this statement, the provisions of my bill prohibiting leasing for oil beyond the territorial sea off our East Coast for two years would not interfere with current energy development plans in any way.

In recent public statements, the Secretary of the Interior has made it clear the Department does not intend to issue any oil leases off the East Coast during this period.

In a November 4 department news release, the Secretary was quoted as saying "it is now quite obvious that we could not possibly take any action on exploratory drilling for a couple of years."

Thus, this measure would merely require that off the East Coast, we would use this two year period to assure that environmental values will be reviewed and protected, including actually setting aside areas where necessary, before they are lost forever in a gigantic oil rush which would not only result in a plethora of platforms around the ocean, but with the development of associated industries inshore, would pose irreversible pressure on other critical shoreline uses.

The stakes are immense. The natural resources of the East Coast provide an outdoors experience ranging from surfing to sports fishing for tens of millions of people a year.

From Florida to Maine 18 national parks, seashores and monuments are actually on or close to the coast.

Among these priceless areas are Everglades National Park in Florida, Cape Lookout and Cape Hatteras National Seashores off North Carolina, Assateague National Seashore off Maryland and Virginia, Fire Island National Seashore in New York, Cape Cod National Seashore off Massachusetts, and Acadia National Park off Maine.

The 14 states of the East Coast harbor more than 63 million people, 31.9 percent of the population of the entire country.

In addition to the recreation values, the East Coast and its offshore waters are a key national resource for fishing and shipping, and the pressures are on from the crowded metropolitan complexes to use these waters for the whole range of urban activities, from nuclear power plants to offshore jetports.

It is dramatically clear that we can no longer take a step in the ocean off the East Coast in any one of these areas without the most careful consideration of the impact on these other values.

And because of potential conflicts in use and the danger of massive environmental disasters such as we saw in Santa Barbara, we simply may have to say hands off in some of these areas to this use or that one, or tightly limit some or all uses in special areas—establishing the sanctuaries this amendment proposes.

The pressures to drill and fully exploit the East Coast oil wherever it is found regardless of whatever environmental dangers may be posed will be intense.

Just recently, a Canadian subsidiary of Mobil Oil Corp. announced the flow of oil and natural gas in a well near Sable Island in the Atlantic off Nova Scotia.

The Journal article said: "The announcement had a tremendous impact. For it marked the first time that oil and natural gas have been discovered off the East Coast of North America."

Already, oil companies have gotten licenses on more than 400 million acres off Canada's East Coast.

And earlier this month, news stories widely announced Interior Department consideration of oil drilling in vast areas off the U.S. East Coast.

According to the reports, preliminary oil explorations have indicated a potentially oil rich area off the coast from the southern part of New Jersey down through the Middle Atlantic states and Virginia perhaps as far south as Cape Hatteras, North Carolina.

Previously, the Interior Department confirmed another potentially major oil and natural gas area off New England on the Georges Bank between Cape Cod and Long Island.

Already, 34 wells have been drilled in the Atlantic off Canada as close as 40 miles offshore, and a Humble Oil Company spokesman was quoted in September as saying that "we're sure the deposits off the coast of Canada and those off the coast of the United States are comparable."

And while we have assurances from the Department of the Interior, as I have noted, that they do not expect to issue East Coast oil leases for at least two years, the department is moving at top speed to evaluate the East Coast oil deposits and their implications.

As reported in a recent issue of the Oil Daily, the daily newspaper of the pertoleum industry, an Interior Department task force was established November 4 to evaluate the East Coast oil.

According to a Bureau of Land Management memo on the task force job, "Since the environmental, economic and regional conditions in these new areas may be significantly different from those related to oil and gas developments in the Gulf of Mexico, BLM must move aggressively to obtain the information necessary to plan effectively for possible OCS developments in these areas and to evaluate impacts which will result from such developments."

Indicating the high priority of the East Coast oil task force, the memo said the task force members would be expected to work 15 consecutive days in Washington, followed by 2 to 3 weeks in their home offices, with the sequence being repeated through December 31.

In my bill, the President would establish the sanctuaries because of the numerous and overlapping Federal jurisdictions involved, as well as the international responsibilities.

To meet the key need of coordination in marine affairs, prior to designating the area, the President would have to obtain the views of the Secretaries of Commerce, Defense, Interior, State and Transportation and the Administrator of the Environmental Protection Agency.

Despite the numerous interests involved, no one department's activities are adequate to effectively establish and implement any comprehensive marine protection plan.

The fact is our coastal areas and the sea are faced with the same kind of chaotic development that has already scarred and polluted the face of the land, and we are not in a much better position to control it than we were to protect the forests and soil and waters of this nation in Frontier Days.

In place of the glut of the automobile, we find the giant oil tanker plying the seas, with the constant risk of accidents that could cause another marine ecodisaster; in place of the strip miner, we find the oil operation with the risk of massive spills that could lay siege to whole coastlines with coats of black goo; instead of junk heaps on the land and filth pouring into our air and lakes and rivers, we find sewage and waste chemical dumping grounds offshore already creating dead sea areas; instead of sprawling urbanization, we find poised an industrial seascape of floating airports, nuclear power generating plants, offshore shipping terminals, and possibly even ocean cities; in place of the destruction of our wildlife on land, we see birds of prey being wiped out all over the earth by the DDT that has moved through the food chain even at sea, the whales, one of the most remarkable creatures on earth, being pushed to extinction, once massive fishery stocks being depleted by overuse and pollution.

The conclusion is unavoidable: Without the comprehensive environmental management which this bill represents as a beginning step, we will ultimately make as much a wreckage of the oceans as we have of the land. There will be constant conflicts between users and more reckless exploitation, and once more, the environment will take second place until it is too late to reverse the tragic devastation.

Existing authorities will not do the job. Each department has a small slice of the pie, and no one agency has the jurisdiction necessary to establish overall policy and coordinate its implementation.

The Department of the Interior has authority to regulate the mineral resources of the seabed and the subsoil on our continental shelf beyond the territorial sea, and as part of this, may withhold areas of the shelf from leasing.

But the future of the marine environment hinges on many other questions than just what happens to these resources. As pointed out, all the activities, from tanker traffic to offshore jetports to fishing, will make their mark.

Furthermore, while the Department has permitted the drilling of more than six thousand six hundred oil wells on the continental shelf portions under its jurisdiction in the Gulf of Mexico and the Pacific, and is considering oil well leasing in the Atlantic, to the best of our knowledge, only two protected areas have been established to date under Interior authority in these same waters.

Thus, the authority the Department of Interior does have has barely been utilized.

And in any case, Interior's authority falls short of that necessary to review the wide range of activities and values involved in the ocean environment and established protected areas—the marine sanctuaries—with comprehensive regulations to reconcile conflicts in uses and preserve vital ocean values.

The situation of fragmented jurisdiction and limited authorities is reflected in every other department concerned with marine affairs.

The Department of Defense has authority to set aside areas of the continental shelf for security purposes.

The National Oceanographic and Atmospheric Administration in the Department of Commerce has authority over conservation of the living resources of the sea generally, within the first 12 miles of ocean waters, and the living resources on the continental shelf, and over the activities of U.S. citizens on the high seas.

The Corps of Engineers in the Department of Defense has responsibilities for the protection of navigation offshore similar to those it exercises for inland waters.

Meanwhile, the Department of Transportation and the Coast Guard are concerned with activities involved in establishing sea lanes for ship traffic to our ports.

For construction of an offshore platform—whether for oil drilling or in the future for floating airports, etc.—the Corps would issue permits that it did not interfere with navigation, but the Coast Guard would be involved too, to regulate platform safety.

The Environmental Protection Agency and the states now administer pollution controls within the territorial sea and if this and other pending legislation is passed, EPA's authority will be extended outside the territorial waters based on existing U.S. authorities.

Outside our territorial waters, activities involving foreign relations come within the interests of the Department of State, and the department has been involved in negotiating international agreements on marine matters.

In conclusion, I would just reiterate that we have the opportunity now to take sound steps to protect the marine environment. If we delay further, for instance until after the East Coast oil is drilled and another tragic offshore accident has occurred, the costs to all society will be far greater than preventive steps today.

By Mr. NELSON (for himself and Mr. KENNEDY):

S. 2973. A bill to amend the Outer Continental Shelf Lands Act. Referred to the Committee on Interior and Insular Affairs.

OCEAN OIL STUDIES BILL

Mr. NELSON. Mr. President, I introduce a bill and ask that it be appropriately referred. In brief, the bill would require a comprehensive Federal study of the environmental implications of new or additional leasing of oil or other minerals in coastal waters off the United States and in the Great Lakes.

The study would be conducted by the Council on Environmental Quality, with the participation of the Federal agencies with oceans responsibilities, including the Departments of the Interior, Commerce, Defense, State, and Transportation, the Administrator of the Environmental Protection Agency, and also, the Governors of the coastal and Great Lakes States.

Under the terms of the bill, the Council shall report the results of the study together with its recommendations to the President and the Congress in 2 years. The bill further provides that during this 2-year period, no Federal leases for oil or other mineral development would be issued for the oceans area off the U.S. east coast.

I ask unanimous consent that the text of this bill be printed at this point in the CONGRESSIONAL RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2793

A bill to amend the Outer Continental Shelf Lands Act

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Outer Continental Shelf Lands Act is amended by inserting at the end thereof a new section as follows:

"SEC. 18. (a) The Council on Environmental Quality, in consultation with the Secretaries of Commerce, Defense, Interior, State, and Transportation and the Administrator of the Environmental Protection Agency and the Governors of the coastal and Great Lakes States, shall make a full and complete investigation and study of the probable effects of new or additional mineral leasing, development, and production in areas lying seaward of the baseline from which the territorial sea of the United States is measured to the outer edge of the Continental Shelf as defined in the Convention on the Continental Shelf (15 U.S.T. 741; TIAS 5578) and in the Great Lakes on ecological, esthetics, recreation, resource, and scientific values of and related to such areas. The Council shall report the results of such study and investigation, together with its recommendations, to the President and the Congress not later than two years after the date of enactment of this Act.

"(b) No mineral leases shall be issued for the area seaward of the territorial sea off the east coast of the United States prior to the submission of the Council's report pursuant to this section.

"(c) There is authorized to be appropriated such amount as may be necessary to carry out the provisions of this section."

Mr. KENNEDY. Mr. President, I join with Senator NELSON in introducing legislation which provides for a 2-year moratorium on any leases for offshore oil drilling on the Atlantic Outer Continental Shelf.

During this time, marine sanctuaries will be established along the coast to protect areas with unique research, conservation, recreation, ecological, esthetic, resource, and scientific values.

I continue to be dismayed by the failure of the Department of the Interior to place sufficient weight on the possible threats to the environment and to fishing resources from offshore oil drilling in the Atlantic.

I asked for independent studies by the National Academy of Sciences and the Environmental Protection Agency. The Department has declined to commission such studies, preferring instead to handle those studies internally.

Yet a year ago, when the Department was unable to put out an offshore oil fire in the Louisiana Gulf, they called on the Academy to establish an ad hoc group to advise them on how to extinguish the fire.

I prefer that the Academy complete its studies far in advance of the fire this time.

Therefore, I intend to introduce an amendment tomorrow to the coastal zone management bill, now on the Senate Calendar, to provide for a $500,000 study by the Academy of the environmental impact of offshore oil drilling. Congressman LESTER WOLFF, who has been a leader in seeking to assure the protection of the environment, will introduce identical legislation in the House of Representatives.

I have written to the Academy in the past and they have informed me they are able and willing to accomplish the objective of investigating all aspects relating to the offshore oil drilling in the Atlantic, including alternatives.

Today, after a briefing by the Secretary, I was informed that the Department opposition to such a study has been removed. However, the Secretary declined to commit the administration to request funding for the study. Therefore, I shall submit legislation for this purpose.

The briefing provided little assurance from the Department that eastern seaboard residents can rest easy at the current plans of the Interior Department to open the offshore area for oil drilling. Thus, there was little recognition evidenced of the potential hazards to the fishing grounds of the Georges Banks or of the recreational and environmental considerations in the Department's presentation today.

The departmental presentation was a high-powered salesmanship effort that concentrated on proving that offshore drilling was essential to meet the energy needs of the Nation. Yet, there are alternatives, including increased oil imports threaten the national security is not a universal view by any means.

In fact, the President's own Cabinet Task Force on the Oil Import Controls made the point precisely and devastatingly:

> The present import control program is not adequately responsive to present and future security considerations. The fixed quota limitations that have been in effect for the past ten years, and the system of implementation that has grown up around them, bear no reasonable relation to current requirements for protection either of the national economy or of essential oil consumption. The level of restriction is arbitrary and the treatment of secure foreign sources internally inconsistent. The present system has spawned a host of special arrangements and exceptions for purposes essentially unrelated to the national security, has imposed high costs and inefficiencies on consumers and the economy, and has led to undue government intervention in the market and consequent competitive distortions.

I believe that the present oil import controls result in higher prices for New England and the east coast and higher profits for the oil companies and that is the major purpose of those controls.

An alternative to offshore drilling and the using up of our oil reserves that is reflected in the pressure of this administration for leasing the oil shales, for opening the Alaska pipeline, and for Atlantic offshore drilling might be greater imports while we develop the technology for the gassification of coal. It also would protect and conserve our oil reserves now and that would be much more in keeping with our national security needs.

I might note in closing that the measure that Senator NELSON and I are introducing today is of increasing importance because of the obvious intention of the Department to speed up its schedule for oil leasing. Therefore, the 2-year moratorium we are proposing is the minimum time period to insure that we have sufficient information to decide whether or not we can be guaranteed that offshore oil drilling will entail no danger to our environment. Until that guarantee can be given, there should be no offshore oil drilling in the Atlantic.

By Mr. HARTKE:

S. 2974. A bill to provide for posting information in post offices with respect to registration, voting, and communicating with lawmakers. Referred to the Committee on Post Office and Civil Service.

VOTERS' INFORMATION ACT

Mr. HARTKE. Mr. President, today I introduce a bill which, although simple in nature, will greatly benefit the voting public. In substance, this legislation requires the posting of basic voter information in local post offices throughout the Nation.

The names and addresses of U.S. Senators, Representatives, and elected representatives of the respective State legislatures will, under my proposal, be required to be posted, in addition to the qualifications for registering and voting, and the places, dates, and times for registration and voting at elections in the area served by each local post office. To further enhance and promote public awareness and involvement in the democratic process, the availability and cost of Western Union public opinion messages to the President, Vice President, and Members of Congress will also be posted.

Mr. President, accountability of public officials to those we serve is a key feature of our democratic society. Each of us is aware of the fact that all too many people do not know the names of those officials who represent them. While we cannot require that people memorize the names of their representatives, we can do everything within our power to make it as simple as possible for the individual citizen to obtain the names of those officials.

In these times of big government and sprawling bureaucracy, government must be brought closer to the people. The information which would be disseminated under this act is already available from local boards of election. I do not know the number of such boards throughout the country, but I do know that there are 31,947 post offices, and that these post offices are far more accessible to most citizens than their local election boards.

Mr. President, this is a commonsense bill, and commonsense calls for its quick passage. I ask unanimous consent that the text of the Voters' Information Act be printed at the conclusion of my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2974

A bill to provide for posting information in post offices with respect to registration, voting, and communicating with lawmakers

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Voters' Information Act.

SEC. 2. (a) There shall be posted in a prominent place in each post office, information with respect to the qualifications for registration and voting at elections in the area served by such post office.

(b) There shall likewise be posted in each post office the names and office addresses of the United States Senators from the State and the Representatives in Congress from the congressional district which such post office is situated.

(c) There shall likewise be posted in each post office the names and office addresses of the representatives to the State legislature from the area in which the post office is situated.

(d) There shall likewise be posted in each office information on the availability and cost of Western Union public opinion messages to the President, Vice President, and Members of Congress.

SEC. 3. The Postmaster General shall prescribe such regulations as may be necessary to call out the provisions of this Act.

By Mr. MONDALE (for himself and Mr. HUMPHREY):

Senate Joint Resolution 182. A joint resolution authorizing the President to invite the States of the Union and foreign nations to participate in Farmfest—U.S.A. and the World Ploughing Contest in September 1972. Referred to the Committee on Foreign Relations.

Mr. MONDALE. Mr. President, I introduce, with my colleague the Senator from Minnesota (Mr. HUMPHREY), a joint resolution identical to House Joint Resolution 892 which has been introduced by the Minnesota delegation in the House of Representatives. It authorizes the President to invite the States of the Union and foreign nations to participate in Farmfest—U.S.A. and the World Ploughing Contest in September 1972.

I am pleased to announce that the farm of Bert Hanson near Vernon Center, Minn., has been chosen to be the location of the exposition. Minnesota's leading industry is agriculture—including farming, food and fiber processing, and marketing. Therefore, it is, indeed, a fitting honor to the State to be the scene of this international event.

Farmfest—U.S.A. promises to be an exposition with broad appeal to farmers and all who are interested in agriculture. It will include several educational and commercial exhibits related to modern agriculture as well as being the scene of the 1972 World Ploughing Contest. That contest, an annual event which moves from country to country, has tremendous international appeal. Because the plow has always symbolized the farmers' closeness to the soil, this is a very appropriate type of event symbolizing the kinship of farmers all over the world.

Mr. President, I ask unanimous consent that this joint resolution be printed at this point in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 182

Joint resolution authorizing the President to invite the States of the Union and foreign nations to participate in Farmfest—U.S.A. and the World Ploughing Contest in September 1972

Whereas the United States will host the Nineteenth Annual World Ploughing Contest in September 1972 in Blue Earth County, Minnesota, and

Whereas up to twenty-two nations can be expected to participate in this contest on September 15 and 16 as part of a weeklong Farmfest—U.S.A., and

Whereas the 1972 National Ploughing Contest and the 1972 Grant National Tractor-pull Contest are included in the scheduled events of Farmfest—U.S.A., and

Whereas Farmfest—U.S.A. will feature exhibitions of machinery, equipment, supplies, services, and other products used in the production and marketing of agricultural products; promote foreign and domestic trade and commerce in such products; and salute worldwide agriculture: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States is authorized and requested to invite by proclamation or in such other manner as he may deem proper the States of the Union and foreign nations to participate in Farmfest—U.S.A. to be held in Blue Earth County, Minnesota, from September 11, 1972, through September 17, 1972.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 325

Mr. BEALL. Mr. President, on January 27, 1971, I introduced S. 325 which would establish a survivor annuity program for widows of military personnel. Thirty Members of the Senate are cosponsors of this measure and I am pleased that Senators EAGLETON and TUNNEY have joined in cosponsorship. I ask unanimous consent that at the next printing of the bill their names be added.

The PRESIDING OFFICER (Mr. CHILES). Without objection, it is so ordered.

S. 1297

At the request of Mr. STEVENS, the Senator from Alaska (Mr. GRAVEL) was added as a cosponsor of S. 1297, a bill to authorize the State of Alaska to operate the foreign-registered ferry *Wickersham* on a temporary basis between ports in Alaska and between Alaskan ports and ports in other States.

S. 2813

At the request of Mr. TOWER, the Senator from Texas (Mr. BENTSEN), the Senator from Missouri (Mr. EAGLETON), the Senator from Arizona (Mr. GOLDWATER), the Senator from Oregon (Mr. HATFIELD), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Hawaii (Mr. INOUYE), and the Senator from Rhode Island (Mr. PELL) were added as cosponsors of S. 2813, a bill to amend the Vocational Rehabilitation Act to provide improved vocational rehabilitation services to individuals.

S. 2897

At the request of Mr. BYRD of West Virginia, the Senator from Utah (Mr. MOSS) was added as a cosponsor of S. 2897, a bill to provide housing for persons in rural areas of the United States on an emergency basis.

S. 2944

At the request of Mr. BUCKLEY, the Senator from Georgia (Mr. TALMADGE), the Senator from Nevada (Mr. BIBLE), and the Senator from South Carolina (Mr. THURMOND) were added as cosponsors of S. 2944, a bill to amend section 112 of the Internal Revenue Code of 1954 to exclude from gross income the entire amount of the compensation of members of the Armed Forces of the United States and of civilian employees who are prisoners of war, missing in action, or in a detained status during the Vietnam conflict.

S. 2945

At the request of Mr. BUCKLEY, the Senator from Georgia (Mr. TALMADGE), the Senator from Nevada (Mr. BIBLE), and the Senator from South Carolina (Mr. THURMOND) were added as cosponsors of S. 2945, a bill to amend title 10 of the United States Code to permit the appointment by the President of certain additional persons to the service academies.

S. 2959

At the request of Mr. TAFT, the Senator from Kansas (Mr. PEARSON) was added as a cosponsor of S. 2959, a bill to amend the Labor-Management Relations Act, 1947, and the Railway Labor Act to provide for the settlement of certain emergency labor disputes.

ADDITIONAL COSPONSORS OF A CONCURRENT RESOLUTION

SENATE CONCURRENT RESOLUTION 51

At the request of Mr. BUCKLEY, the Senator from Utah (Mr. BENNETT), the Senator from Colorado (Mr. DOMinick), the Senator from Wyoming (Mr. Hansen), the Senator from South Carolina (Mr. Hollings), the Senator from Maryland (Mr. Mathias), the Senator from Utah (Mr. Moss), the Senator from Oregon (Mr. Packwood), the Senator from Illinois (Mr. Percy), the Senator from Texas (Mr. Tower), and the Senator from California (Mr. Tunney) were added as cosponsors of Senate Concurrent Resolution 51, a concurrent resolution expressing the sense of Congress with respect to placing before the United Nations General Assembly the issue of the dual right of all persons to emigrate from and also return to one's country.

NOTICE OF HEARINGS ON R. F. K. STADIUM

Mr. EAGLETON. Mr. President, on Wednesday, December 1, 1971, I announced that the Senate District of Columbia Committee would hold hearings dealing with the future use, financing, and operation of the R. F. K. Stadium on Monday, Tuesday, and Wednesday, December 13, 14, and 15, 1971.

On Tuesday, December 14, 1971, it was our intention to have as witnesses Hon. Bowie Kuhn, commissioner of baseball, and Mr. Joe Cronin, president of the American League.

Mr. President, yesterday I received a telephone call from Congressman Mel Price of the 24th District, Illinois. Congressman Price along with Mayor Walter Washington, Joe Danzansky, Jack Kauffmann, and other Congressmen and city representatives went to Phoenix, Ariz., to meet with the owners and leadership of professional baseball to explore the possibility of a major league franchise being allocated to Washington by the 1973 season.

A committee of baseball owners, Commissioner Kuhn, and the two league presidents, has been appointed to consider the matter and the Senate District Committee has been and will continue to be in contact with the aforesaid committee of which Congressman Price is a member.

Congressman Price asked me if I would delay the appearance of Commissioner Kuhn and Mr. Cronin until the reconvening of Congress in January 1972 so as to allow the baseball committee greater time to develop facts and explore possibilities in connection with a new Washington franchise. Congressman Price felt that such a delay would be more conducive to fruitful explorations. Therefore, desirous as I am that Washington have big league baseball, I will postpone the appearance of Messrs. Kuhn and Cronin until January 1972.

The other witnesses scheduled for Monday and Wednesday which will deal with the use, operation, and financing of R. F. K. Stadium will proceed as scheduled.

NOTICE OF HEARING ON NOMINATIONS

Mr. EASTLAND. Mr. President, on behalf of the Committee on the Judiciary, I desire to give notice that a public hearing has been scheduled for Friday, December 10, 1971, at 10:30 a.m., in room 2228, New Senate Office Building, on the following nominations:

Arnold Bauman, of New York, to be U.S. district judge, southern district of New York, vice a new position created by Public Law 91–272, approved June 2, 1970.

Lee P. Gagliardi, of New York, to be U.S. district judge, southern district of New York, vice a new position created by Public Law 91–272, approved June 2, 1970.

William Terrell Hodges, of Florida, to be U.S. district judge, middle district of Florida, vice Joseph P. Lieb, deceased.

Jon O. Newman, of Connecticut, to be U.S. district judge, district of Connecticut, vice William H. Timbers, elevated.

At the indicated time and place persons interested in the hearing may make such representations as may be pertinent.

The subcommittee consists of the Senator from Arkansas (Mr. McClellan), the Senator from Nebraska (Mr. Hruska), and myself as chairman.

NOTICE OF INVESTIGATIVE HEARINGS ON BARBITURATE ABUSE

Mr. BAYH. Mr. President, I wish to announce that the Subcommittee to Investigate Juvenile Delinquency of the Committee on the Judiciary will begin investigative hearings on barbiturate abuse on December 15 and 16, 1971.

The subcommittee is continuing its study of drug abuse by our Nation's youth. As with the problem of amphetamine abuse which this subcommittee examined last summer, we intend to investigate the extent of barbiturate abuse as well as explore the legitimate uses of these dangerous drugs.

The hearings will begin at 10 a.m. in room 2228, New Senate Office Building. Any person who wishes to submit a statement should notify the subcommittee staff as soon as possible.

ADDITIONAL STATEMENTS

SOME COMMENTS UPON SENATOR ERVIN'S SERVICES

Mr. BYRD of West Virginia. Mr. President, our colleague, Senator Sam J. Ervin, Jr., of North Carolina, celebrated his 75th birthday anniversary on September 27, 1971. About that time the following articles and editorial concerning his public services appeared in the following newspapers:

First, an editorial by his longtime personal friend, W. Stanley Moore, entitled "He's Tops in Popularity," which appeared in his hometown newspaper, the Morganton News Herald, for August 23, 1971.

Second, an article by Bill Connelly entitled "Senator Sam a Busy Man at 75," which appeared in the Winston-Salem, N.C., Journal for September 26, 1971.

Third, an article by Paul Clancy entitled "When Ervin Holds Hearings, He Also Does Some Talking," which appeared in the Charlotte, N.C., Observer for September 26, 1971.

Fourth, an article by Roy Parker, Jr., entitled "Slugger Sam Connects With the 'In' Issues," which appeared in the Raleigh, N.C., News and Observer for September 26, 1971.

Fifth, an article by James J. Kilpatrick entitled "Senator Sam Shows His Love for Constitution," which appeared in the Washington Star for November 2, 1971.

I ask unanimous consent that the editorial and articles be printed in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered.

There being no objection, the editorial and articles were ordered printed in the Record as follows:

[From the News Herald, Aug. 23, 1971]

He's Tops In Popularity

John Kilgo, writing from Raleigh where he's feeling the political pulse, is watching for results from polls being taken by real or potential candidates for state offices and he has extracted incidental information from early reports.

From Mr. Kilgo's column on this page we quote a statement regarding the revelations of one of the polls:

"... And the most popular politician in North Carolina? Sen. Sam Ervin in a landslide. . . ."

This isn't a surprising disclosure for fellow Burke citizens who know something of Senator Ervin's popularity around the state, but it's a gratifying one.

The folksy Morganton Senator is thus acknowledged to stand at the top of the popularity poll for politicians in Tarheelia. To have attained and held that rating through the difficult years since he first entered the United States Senate in June 1954 is a remarkable political feat. That's when his Senate career began— by the route of gubernatorial appointment. It was a classic example of the job seeking the man, rather than vice versa.

But that has been substantially the pattern of Senator Ervin's career in public service, after some early terms in the General Assembly. Later it became an example of the job-seeking-the-man when he was named county judge, Superior Court judge, interim Congressman, associate justice of the North Carolina Supreme Court and then, finally, to the U.S. Senate when the late Gov. William B. Umstead tapped him as successor to Senator Clyde R. Hoey.

There was never any question of his ability to perform the duties of each of these positions in a highly creditable manner, for those who knew him were aware of his capacity. It was simply a matter of waiting to see how long it took his ever widening constituency to recognize the talent already known to his homefolks. His victory at the polls every time a senatorial term ended showed that North Carolinians warmed up to him quickly and solidly.

Now, midway in his latest six-year term, when there is no campaign activity required on his part other than that which is second nature to Senator Sam, he stands out as a "landslide" leader in a political popularity poll which shows impressively how he wears well with fellow Tar Heels.

Some time a keen student of political phenomena will adequately document and accurately appraise the statesman-politician who made such a record during a career in which he, more times than not, was drafted for higher office when the job sought the man and then proceeded to nail down that office as his permanent possession by will of the people.

Senator Sam a Busy Man at 75

(By Bill Connelly)

Washington.—For some U.S. senators, it would have been a hellishly busy week, but for Sam J. Ervin Jr., it could be called brisk, but rather typical. Consider what Senator Sam did in the week before his 75th birthday:

Monday: Ervin chastised the Justice Department for trying to subpoena an aide of Sen. Mike Gravel, D-Alaska, for questioning on Gravel's celebrated Pentagon Papers speech. In Ervin's view, the move was "a direct and broadscale attack . . . on the independence and freedom of the Senate."

Tuesday: Ervin held hearings on the proposed merger of the two professional basketball leagues. He argued that if Congress allows a merger, ending interleague competition in player recruitment, it will mean "the economic enslavement" of the athletes.

Wednesday: Ervin denounced the American League's transfer of the Washington Senators baseball team to Dallas-Fort Worth, then called for Congress to consider putting baseball under the antitrust laws. He also got in a few licks at pro football.

Later the same day, Ervin announced plans for major hearings next week on freedom of the press in the U.S., an inquiry that will cover the government's recent efforts to subpoena reporters and their notes, the case of the Pentagon Papers and other issues.

Also on Wednesday, he flew to New York and told a convention of the Association of American Publishers that President Nixon's effort to strengthen the Subversive Activities Control Board indicates "a lack of faith in First Amendment freedoms."

Thursday: The basketball hearings continued, with Ervin still deploring the "giant sports trusts" and the "modern peonage" of professional athletes.

Friday: Ervin flew to Kentucky for a speech at the University of Louisville. He returned to Washington to end the day at his desk.

All this does not include the time Ervin spent on the Senate floor for debates and votes, or the time he spent handling constituents' mail and requests, or the time he devoted to preparing for next week's—or even next month's activities.

Although Ervin will be 75 years old tomorrow and has been in the Senate since 1954, he seems to be just reaching the peak of his activity, prominence and influence.

He has all but shed the national image he had in the early 1960s as a single-minded opponent of civil rights bills. His views on the subject have not changed much, but the issues in Congress and the nation have changed. In today's political climate, Ervin's championing of individual rights has made him a hero to liberals as well as conservatives.

Who has done more to point up the need for laws to protect personal privacy in the coming age of computerized data banks? Who has done more to warn government crime-fighters that they violate precious rights by turning to "no knock" raids and to "preventive detention" of potential criminals?

President Nixon might well ask: Who has been a more aggressive critic of this administration? Ervin has criticized the White House for its anticrime proposals, its policy of government secrecy, its impoundment of funds appropriated by Congress, its use of the pocket veto, its tolerance of the Army's spying on civilians, and . . . on and on.

In other odd moments, Ervin is involved in efforts to protect the rights of Indians and servicemen, change the presidential election system, assure speedier trials for defendants in federal courts, regulate the nonjudicial activities of judges, protect the privacy of federal employes and maintain separation of church and state.

There are, of course, many sides to Sam Ervin that do not please compassionate liberals and civil libertarians. There is Ervin the Hawk, the armed services committee stalwart, voting a strong national defense whatever the financial cost, and backing Nixon on Vietnam.

There is Ervin the Southerner, with his traditional regional views against civil rights laws, school desegregation, equal employment programs, unions and textile imports.

But for Ervin, there is in all these activities a consistent theme: The maintenance of maximum individual freedom. A vigilance against the excesses of powerful governments and institutions.

There is plenty of room for argument about how closely some of Ervin's views follow these principles. The man will not stand still long enough to be labelled.

Few senators have such wide-ranging interest; few keep such demand schedules; and few are involved in so many timely (and yet timeless) issues. For Sam Ervin, it surely can be argued that life begins at 75.

[From the Charlotte Observer, Sept. 26, 1971]

WHEN ERVIN HOLDS HEARING, HE ALSO DOES SOME TALKING

(By Paul Clancy)

Sam Ervin will be three-quarters of a century old Monday.

The indefatigable senator from Morganton will probably celebrate by cramming his mind full of information. He will need it to launch a lengthy and controversial series of hearings Tuesday on freedom of the press and the power of government to cover things up.

Ervin will interrogate powerful men in the administration and the media to find out why relations between the two estates have continued to deteriorate.

The witness list reads like Who's Who in American Journalism, including Walter Cronkite and Dr. Frank Stanton of CBS, reporters Earl Caldwell and Fred Graham of the New York Times, Time-Life chairman Andrew Heiskell, Julian Goodman of NBC, columnist James J. Kilpatrick and Observer Editor C. A. McKnight, president of the American Society of Newspaper Editors.

Chairman Burch of the FCC will testify along with commissioner Nicholas Johnson. Someone from the Justice Department—probably not the attorney general—will be there. But no one from the White House. Communications director Herb Klein is the only one so far to turn down an invitation.

"As a member of the immediate staff of the President, I must respectfully decline the invitation to testify," Klein said in a brief note to Ervin's constitutional rights subcommittee.

Ervin is likely to have some comments about the note and one of his unfavorite subjects, executive privilege, when the hearings get underway. If Ervin is true to form—and he always is—he will surely have comments to make on a number of things.

As exhausting as those three weeks of hearings might be, they will probably seem like a vacation to Ervin.

In the past week alone, he has delivered four major speeches—one in the Senate, one in New York, one in San Diego, and one Friday night at the University of Louisville.

He presided over antitrust hearings into the proposed merger of the National and American Basketball Associations which he denounced as a scheme to economically enslave the players.

In one of his strongest blasts at the Nixon administration, he defended Sen. Mike Gravel's release of parts of the Pentagon papers as an act of "personal courage" and called the government's threat to prosecute Gravel an attempt to harass and silence him and all other critics.

Ervin told the Association of American Publishers in New York that "protest has a therapeutic value for both protesters and society. If it is justified, protest may lead to reform; if it is unjustified, protest may relieve at least temporarily the tensions of the protesters."

He was again attacking the administration, this time for expanding the powers of the subversive Activities Control Board. He said Nixon wanted to give the board "vast power to harass and stigmatize Americans."

Ervin wrote most of the speeches himself during the August recess.

The San Diego speech was the essence of Sam Ervin—a history lesson, a legal brief, good news copy and, above all, a contribution to literature.

"Ours is a time of doubt and fear," he said, sweeping back to the days of the Bastille and forward to the use of preventive detention in Washington.

"The tides of fear are rising, and the anchors of faith are dragging," he said. "It is in such a time frightened humanity needs freedom most.

"Since courage is better than fear, and faith is better than doubt, let us spurn fear, cherish faith, and dedicate ourselves to this proposition: freedom is life's supreme value and must be preserved for ourselves and our posterity, cost what it may."

[From the Raleigh News & Observer,
Sept. 26, 1971]

INCLUDING BASEBALL—SLUGGER SAM CONNECTS WITH THE "IN" ISSUES

(By Roy Parker, Jr.)

WASHINGTON.—A certain soft drink may be the in-thing elsewhere, but in Washington it is the Ervin Generation.

That is U.S. Sen. Sam Ervin Jr., North Carolina's most familiar political figure.

For while other political figures busily prepare for election campaigns, Senator Ervin is happily unfettered by campaign worries and concentrating on a spate of issues which have made him, at 74, more widely admired than almost any of the oldtimers on the Washington scene.

Ervin and his issues are the in-thing. His concerns are the latest up-to-the-minute ones: baseball antitrust, invasion of privacy, freedom of the press, military justice, church-state separation, presidential war-making power, prison reform.

The senator dashes from hearing room to hearing room, orchestrating the hearings and investigations developed by his staff.

He is surrounded by a cloud of high-salaried young men, mostly in their early '30s and all lawyers, who direct the probes, gather the witnesses, follow the trails that Ervin maps out.

Yet the senator remains as he has for all his public life, a rather remote man, diffident in the presence of nearly everyone.

In a city where instant experts are legion, especially among the roster of senators, Ervin is singleminded. He does his own reading, collects his own thoughts, and takes his aim carefully.

Ervin's manner in a hearing room or in floor debate stands in contrast, however, to the inner man.

Senator Ervin does not play the public game in the cool medium. He uses hyperbole and purple prose; he badgers and quotes out of context; he can make mountains of verbal molehills.

His style is given to exaggeration. He sprinkles his remarks with phrases about "the greatest (or the worst) tyranny (or thought) ever conceived by the mind of man." He uses the necessarily supercharged language of the Scriptures, usually of the Old Testament thunder type. His by-now famous twitching eyebrows have become as familiar in Capitol Hill lore as Clyde Hoey's frock coat. He flails the air and points his finger and shouts.

The fact that he is dealing with the latest of the latest issues is somewhat new for Ervin. It has not always been so.

During the Negro civil rights revolution of the 1960s, Senator Ervin's committee on constitutional rights resembled the court of Louis 16th in the years before the Bastille. Ervin didn't exactly retire into a Petite Tranion palace of never-never issues, but his unit did spend an awful lot of time looking at Indian rights and the problems of bail.

A cloud of young investigators fanned out across the South, documenting the problems and pointing the spotlight, might have been more useful.

But for civil libertarians, Ervin has more than made up for his Dixie orthodoxy on that issue. Even Indian rights and bail reform have come full circle into relevancy as up-to-date as today's headline.

As Ervin dashed from hearing to hearing this week, frustrated American Indians attempted to dramatize their lack of political voice by a "citizens arrest" of an official of the Bureau of Indian Affairs, making the headlines and perhaps, ushering in a new interest in a field Ervin was plowing more than 10 years ago.

Bail and correctional reform, two passions of Ervin's public life since his early days as a state trial judge, are also burning brightly again in the aftermath of the Attica incident.

The cluster of civil rights questions raised by the bloody prison affair could keep Ervin and his young men busy for years. Even as the incident unfolded, Ervin was entering a phase of hearings on his "speedy trial" proposal, the cutting edge of a wide-ranging judicial reform push which he has in the works.

Just as Ervin began probing the "economic slavery" of sport athletes, the headline of the day handed him a natural—the move of the Washington Senators to Texas.

The newest headline—making issue, the looming rerun of the battle over prayer in schools, is sure to see Ervin engaged at the front line. He is the acknowledged leader of those who battle to keep the government out of the pulpit and vice versa. His office was receiving calls within minutes after a discharge petition successfully sent a prayer-in-the schools constitutional amendment to the floor of the House of Representatives.

With the retirement of Justice Hugo Black from the Supreme Court, Ervin becomes the undisputed chief champion of the sanctity of the Bill of Rights in its protection for press, for the hearthside, for all forms of expression.

His committee will usher in the senator's 75th birthday with a significant series of hearings on press freedom beginning Tuesday, with such headline-grabbing witnesses as Cronkite and Brinkley, Attorney General Mitchell, and the presidents of all the big networks.

As soon as the My Lai trials are over, Ervin hopes to lead new looks at the military justice system. In general, the trials have borne out his own views at the beginning, when his was a calm voice in the midst of furor urging patience and strict adherence to the system, rather than trial by public or administrative coverup.

For Ervin, a decorated second lieutenant from the World War One trenches, the vindication of the system is a bright spot on the Army's tarnished current image, must bring a pause of satisfaction.

That is, if he has time to muse on it, which seems unlikely right now in the Washington of the Ervin generation.

Senator Sam Shows His Love for Constitution

(By James J. Kilpatrick)

If Sam Ervin did not exist, as Voltaire once remarked of God, it would be necessary to invent him. In a Senate that has been briefcase gray since the death of Everett Dirksen, the canny old North Carolinian provides almost the only color. Of greater importance, he is often the only statesman in the crowd.

One thought of this a couple weeks ago, in watching Ervin pilot a bill through the Senate that no other senator would have cared enough to fight for. To be sure, he had some help from the noblest Roman of them all, Sen. Hruska of Nebraska, but the bill was stamped with Ervin's mark: It was intended to safeguard the Constitution, and it looked to the future in terms of the past.

We have had great constitutionalists on the Hill since the days of Webster, Calhoun and Clay, but we have not had many of them lately. The Constitution has fallen upon hard times. It comes and goes on Capitol Hill like some impecunious uncle-by-marriage, a visitor who has to be tolerated but not really welcomed. The Constitution is mostly in the way.

Not to Sam Ervin. He speaks of the Constitution in the same loving accents by which a man speaks of his wife, his mother, his child or, for that matter his Redeemer. We had an old scholar once at Virginia who felt the same way about Shakespeare. It is a feeling kindled out of the affection that is deeper than love—and out of a sense of the marvelous, also. Always something new! Some perfection never grasped before!

Yet not perfection. Like mother, wife and child, the Constitution has its failings. The procedures for electing a President are sorely in need of repair. The grand ambiguities of the general welfare clause provide endless trouble. There are other broken parts and patches of rust. And it is the peculiar role of Senator Sam to put things right.

Thus, he was tinkering around two weeks ago with Article V. This is the section of the Constitution that deals with amendment of the Constitution. If you care about these matters, you will know the familiar process: A resolution is introduced in Congress proposing some amendment of our basic law; if the resolution wins approval by two-thirds of both House and Senate, it goes out to the states for ratification; and if three-fourths of the states ratify, the amendment becomes part of the Constitution.

That is the familiar process. Every amendment has been adopted in this fashion. But it is one of the marvelous aspects of the Constitution, reflecting the framers' intuitive distrust of the Congress, that Article V offers an alternative route to amendment. This route never has been taken all the way. It provides that, upon the application of the legislatures of two-thirds of the states, the Congress "shall call a convention for proposing amendments."

A constitutional convention? We haven't had one since 1787. But off and on through the years, states have talked of using the bypass route. By Ervin's count, at least 304 such "applications" have been received, dealing with 251 proposals for amendment. Over the past 20 years, in a latter-day revival of Calhounian gospel, such applications have become more numerous. Between 1957 and 1969, 33 states—just one short of the magic two-thirds—asked for a convention to propose an amendment on reapportionment.

Suppose a 34th application had been received? Article V is not self-executing: It says that "Congress shall call." Call how? Call whom? Senator Sam found the uncertainties a delightful problem. Four years ago he set upon repairs. On Oct. 19, his bill passed. When the House concurs, we will have created standby machinery for a contingency that may never arise. The bill defines state applications, provides for a convention, prevents a runaway body and carefully safeguards the process as a whole. It is a nice piece of probably useless work; and Mr. Madison, one imagines, would be pleased.

HOW TO SAVE LIVES—AND DOLLARS

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the Record an article entitled "How to Save Lives—and Dollars," written by Roscoe Drummond, and published in the Christian Science Monitor of December 7, 1971.

Mr. Drummond comments on the stupidity of war, suggests how to stop it, and tells how the governments of the world can save and put to better use the billions of dollars now consumed for military purposes.

There being no objection, the article was ordered to be printed in the Record, as follows:

How To Save Lives—and Dollars

(By Roscoe Drummond)

Washington.—Why on earth is mankind allowing itself to be trapped into wasting precious lives and spending over $200 billion every year for military purposes?

And it's going up all the time—more money, more arms, more men under arms, big nations, little nations, poor nations, rich nations.

How much is it going up?

Ten years ago the world was spending $120 billion annually on the military.

Today the figure has risen to more than $200 billion, and at the present growth rate of arms expenditures the cost will be $300 to $350 billion yearly (at 1970 prices) by the end of the decade.

WAR IS STUPID

How can mankind be so heedless or helpless as to permit this travesty?

Haven't we at least come near to the point where we can recognize that war is not only wasteful, impractical, intolerable, but more than that—downright stupid?

It seems to me that most people and the leaders of most nations are agreed:

That the great powers cannot disarm unilaterally, that they can disarm safely only simultaneously and collectively.

That all nations must maintain that military strength sufficient for self-defense.

That pacifism is not a workable national policy until there are enough pacifists in enough countries to make it work.

That none of the great powers armed with nuclear weapons want to risk war against each other.

Isn't there in this set of premises some way to do better than we have been doing thus far? Can't we shed some of the crushing, wasteful burden of spending more on more arms every year?

STOP IT

Remember how hard it was in the fairy story for the people to bring themselves to admit that the king had no clothes until an innocent, honest young boy pointed his finger and said: "Look!"

More people must continue to blurt out the simple truth that war of aggression is stupid, outdated, and unacceptable—for everybody.

Next, in wisely avoiding the pitfall of one-sided disarmament, let's recognize the plain fact that every nation could spend half as much on arms and be equally safe and twice as well off in every other category of human living.

Relief from this crazy burden of arms expenditures will come only step by step. The first step must be to reverse the trend.

The burden is growing heavier, not lighter, and I wonder if the time is near when enough people in enough nations may not rise up in moral indignation and say: "This has gone on long enough. Stop it."

SAVE TOGETHER

In the decade of the '60's alone the governments of 130 nations took from the pockets of three and a half billion people $1,870 billion and consumed it for military purposes.

This is the latest figure from a special study by the United Nations, and the report shows that in the decade of the '70's military costs will mount to $2,620 billion.

While the world's output of goods has increased tenfold in this century, arms expenditures have increased twenty-fold.

While at the present time $4 billion is

being spent throughout the world on medical research, $25 billion is being spent on military research.

I think the people of the Soviet Union don't like this any better than the people of the United States.

We are either going to keep on wasting more together or begin to save more together—and use the vast savings for better purposes.

TERMINATION OF NASA EXECUTIVE LUNCHROOM OPERATIONS

Mrs. SMITH. Mr. President, earlier I conducted an investigation of the Executive Lunchroom of the National Aeronautics and Space Administration through the General Accounting Office. The prinicpal determination of that investigation was that NASA was serving $4.03 cost lunches for 45 cents to its executives and to some extent through illegal procurement of food from military commissaries. The end result of my investigation was termination of the NASA executive lunchroom operations.

Upon the basis of this investigation, I requested the Comptroller General to have the General Accounting Office conduct a similiar investigation of the executive lunchrooms of other Federal agencies. I did not ask for all Federal agencies because of the magnitude of the task of such an investigation. On December 7, 1971, the Comptroller General sent me a report on such investigation. On the basis of that report, I shall offer an appropriate amendment or amendments to future appropriations legislation to require all Federal agencies to submit an annual and full accounting of their executive lunchroom or mess operations.

The NASA cost-price ratio is exceeded by that of the executive lunchroom of the Department of Transportation for whereas the NASA rate was a cost of nine times the actual price charged the NASA executives, the DOT cost rate is greater than 10 times the actual price charged the DOT executives. DOT executives paid an average of only $1.51 per meal as compared to an average cost of $16.06 per meal. And that cost does not include the cost of space and utilities.

The Department of Treasury cost-price ratio is 6 to 1 as the average cost per meal is $14.31 for which Treasury Department executives pay an average of only $2.45 per meal. This does not include cost of space and utilities. In addition to this, they get free liquor on special occasions and these alcoholic beverages are obtained from confiscated stock.

The Department of Justice cost-price ratio is greater than 4 to 1 as the average cost per meal is $7.10 for which Justice Department executives pay only an average price of $1.66. This does not include cost of space and utilities.

The National Science Foundation cost-price ratio is 3 to 1 as the average cost per meal is $3.55 for which NSF executives pay only an average price of $1.26 per meal. This does not include the cost of space and utilities. In addition to this, they also serve confiscated liquor—obtained from the Bureau of Customs—on special occasions.

The Interstate Commerce Commission cost-price ratio is 2 to 1 as the average cost per meal is $3.53 for which ICC Commissioners pay only an average price of $1.94 per meal. This does not include the cost of space and utilities. In this case, it is interesting to note that one of the 12 ICC Commissioners refuses to participate in the executive lunchroom arrangement.

In contrast to these five Federal agencies, the Department of Agriculture is a paragon of virtue. Its executive lunchroom gets its food from the same cafeteria that other employees do. The only subsidy other than space and utilities for the Agriculture executives is that they pay a service charge of 25 cents a meal for waitress service that actually costs 50 cents a meal.

I do not mean to exclude the U.S. Senate from being required to make an annual and full accounting of its non-public senatorial food services. We should be just as accountable and I shall include the U.S. Senate in the amendment or amendments that I offer to the appropriations bills.

I ask unanimous consent to place in the Record the report of the Comptroller General to me on this matter.

There being no objection, the report was ordered to be printed in the Record, as follows:

Comptroller General
of the United States,
Washington, D.C., December 7, 1971.

Hon. Margaret Chase Smith,
U.S. Senate,
Washington, D.C.

Dear Senator Smith: Your letter of June 28, 1971, requested that we make an investigation to determine whether there were other situations in the Federal Government similar to those found in the National Aeronautics and Space Administration's executive lunchroom as presented in our report to you dated November 6, 1970 (B–168033).

At a meeting in your office on July 23, 1971, it was agreed that we would investigate executive lunchroom operations at the Department of Agriculture, the Department of Justice, the Department of the Treasury, the Department of Transportation, the Interstate Commerce Commission, and the National Science Foundation. Also, we agreed to determine whether any Government employees worked in the executive lunchrooms and, if so, to relate their salaries to the number of persons served and to the prices charged for the meals; whether the employees were retired military personnel having commissary privileges; and whether liquor was being served.

Where records were not available or were not in sufficient detail to provide complete information, we relied on information furnished by responsible agency officials.

Except at the Department of Agriculture, Government employees were used full or part time to prepare and serve meals. The employees used part time were principally messengers and motor vehicle operators. We were told by agency officials that the part-time employees worked in the lunchrooms during periods when they otherwise might have been idle. One full-time employee at the Department of Justice executive lunchroom was retired from the military service. He and six Coast Guard stewards who worked full time at the Department of Transportation executive lunchroom had commissary privileges; however, we found no instances where food for the lunchrooms was being purchased from commissaries.

The cost for each meal substantially exceeded the price charged for a meal in the executive lunchrooms using full-time and/or part-time Government employees. The high cost for each meal is attributable principally to the personal service costs incurred in preparing and serving a relatively small number of meals.

The following table shows the average costs and receipts for each meal at the selected agencies, except at the Department of Agriculture which is discussed separately. The average costs and receipts are for both regular and special luncheons at the Departments of Justice and Treasury but for only regular luncheons at the Department of Transportation and the National Science Foundation because at these agencies sufficient data was not available with respect to special luncheons. At the Interstate Commerce Commission, no special luncheons are served.

AVERAGE ANNUAL COSTS AND RECEIPTS PER MEAL IN SELECTED EXECUTIVE LUNCHROOMS

	Department of Justice	Department of Transportation	Department of the Treasury	Interstate Commerce Commission	National Science Foundation
Number of meals served	3,432	[1] 2,876	1,314	[1] 1,260	5,97
Costs per meal [2]:					
Salaries	$5.51	$13.81	$11.77	$1.48	$2.24
Food [3]	1.40	1.51	2.45	1.94	1.26
Depreciation [4]	.19	.74	.09	.11	.05
Total	7.10	16.06	14.31	3.53	3.55
Less average receipts per meal	1.66	1.51	2.45	1.94	1.26
Excess of costs over receipts	5.44	14.55	11.86	1.59	2.29

[1] Annualized on the basis of the number of meals served, costs, and receipts for the last quarter of fiscal year 1971 for the Department of Transportation and for the period June 7 through Aug. 13, 1971, for the Interstate Commerce Commission.

[2] Exclusive of space and utility costs.

[3] Exclusive of the cost of alcoholic beverages.

[4] Depreciation computed using the straight-line method with no salvage values and a useful life of 10 years, a practice accepted by the Internal Revenue Service for the depreciation of restaurant-type equipment.

DEPARTMENTS OF JUSTICE AND THE TREASURY AND THE NATIONAL SCIENCE FOUNDATION

At the Departments of Justice and the Treasury and at the National Science Foundation, the executive lunchrooms, seating from 12 to 24 persons, are available to the agency heads and their top staffs for regular luncheons and special affairs at a cost for each meal established to approximate the cost of the food served. Food is purchased from commercial sources. When special luncheons are hosted by the agency heads, the costs of the food are generally paid from appropriated reception and representation funds; sometimes the Treasury paid for the cost of the food for special luncheons from the Exchange Stabilization Fund.

Two employees work full time in the Department of Justice lunchroom. We were informed that their salaries were paid from the appropriation for Salaries and Expenses, General Administration. Typical prices are $1.25 for regular luncheons and $2 for special luncheons. Alcoholic beverages are purchased from personal funds and are served only on special occasions. Administrative matters are handled by a secretary.

The lunchroom at the Department of the Treasury is operated by a full-time cook, three part-time waiters, and a part-time dishwasher. The waiters also serve as messengers and the dishwasher also serves as a custodial employee; most of their time is devoted to messenger and custodial duties. Their salaries are paid from the Exchange Stabilization Fund. Regular luncheons are priced at $2, and the price of special luncheons averaged $3.88 during fiscal year 1971. Alcoholic beverages, obtained from confiscated stock, are served only on special occasions and at no additional cost; we were informed by an official of the Department that less than 2 gallons of alcoholic beverages were consumed during fiscal year 1971. Administrative matters are handled by a secretary to the Assistant Secretary for Administration.

The executive lunchroom at the National Science Foundation is operated by a Staff Services Coordinator and three motor vehicle operators. We were informed by a Foundation official that the employees worked in the lunchroom as needed but only when they were in a standby status from their regular duties. The Foundation official estimated that about 13 man-hours a day were required to operate the lunchroom. The regular luncheons are priced at $1.25, and the food is served buffet style. In addition to regular meals being served, special affairs are held in the lunchroom; the food available varies from snacks to full meals. Alcoholic beverages, obtained from Bureau of Customs confiscated stock, are served only on special occasions and not as a part of the lunchroom operation. The Staff Services Coordinator handles the administrative duties involved in the lunchroom operation.

INTERSTATE COMMERCE COMMISSION

Of the 11 commissioners of the Interstate Commerce Commission, 10 contributed $25 each to establish an executive lunchroom fund. The other commissioner does not participate. Each of the 10 commissioners pays $25 a month into the fund and has agreed to increase the monthly payment, if necessary. The fund is used to purchase food and miscellaneous items, such as cleaning supplies, needed to operate the lunchroom. Under these arrangements the commissioners are entitled to lunch each workday. Commissioners may bring guests to the lunchroom at a cost of $1 a meal.

The lunchroom provides table service and has a seating capacity of 20. Meals are prepared and served by a file clerk who spends about 30 percent of her time on lunchroom operations. For the most part, food and miscellaneous supplies are purchased from Government Services, Inc., which operates a cafeteria located in the building. Alcoholic beverages are not served. One of the commissioners estimated that an average five meals were served each day. A commissioner handles administrative matters.

DEPARTMENT OF TRANSPORTATION

The executive lunchroom is in a leased building which was constructed for use by the Department of Transportation.

Six stewards from the U.S. Coast Guard are assigned full time to operate the lunchroom which has a seating capacity of about 38. The Coast Guard bills the Office of the Secretary monthly for pay and allowances of the stewards. The billings are paid from the Office of the Secretary's Salary and Expenses Appropriation. In addition, the military aide to the Secretary and the Secretary's receptionist work part time administering lunchroom activities.

Only the Secretary and employees who report regularly to the Secretary are authorized to use the lunchroom. In July 1971 there were 38 persons so authorized, each of whom paid a $50 membership fee which is returnable when the employee no longer reports directly to the Secretary.

Each member is billed monthly for the number of meals furnished to him. The charge for a regular luncheon is based on the average per meal food cost for the month. Food and supplies are purchased from commercial sources. Food, beverages, and supplies sometimes are purchased separately for special luncheons, and the costs are prorated among those served. When food and beverages purchased for normal dining-room operations are consumed at special luncheons, the meals are charged for at the regular rate established for members at the end of the month. Meals for official guests attending regular or special luncheons are paid from the Secretary's appropriated reception and repesentation fund.

Wine and ale are available at the regular luncheons and distilled alcoholic beverages at special luncheons. Members are charged the actual cost for alcoholic beverages served.

DEPARTMENT OF AGRICULTURE

An executive lunchroom having a seating capacity of 85 provides table service for higher grade employees in the Department of Agriculture. Adjoining are two smaller table-service lunchrooms, one for use by the Secretary and his guests and the other for use by the Under Secretary and his guests. The three lunchrooms are operated by the Department employees' Welfare and Recreation Association.

Daily meals are similar to the meals available in the Association's cafeteria across the hall from the lunchrooms, and the prices charged are the same as those for meals in the cafeteria plus an additional charge of 25 cents a meal to cover the cost of providing table service. A grilled rib-eye luncheon steak, such as is served in the lunchroom at a price of $2.25 (plus the 25-cent service charge), is not available in the cafeteria. All food served in the lunchrooms is obtained from and prepared in the cafeteria. Alcoholic beverages are not served.

Five waitresses each work an estimated 3½ hours a day at $2.10 an hour in the three lunchrooms. All five waitresses work in all three lunchrooms as though they were a single lunchroom.

During the period February through May 1971, the total number of meals served in the three lunchrooms averaged 74 a day. The 25-cent service charge would amount to $18.50 for 74 meals, whereas the cost of the waitresses to serve the meals would be $36.75. On the basis of 74 meals a day, the service charge would have to be doubled to cover the cost of providing table service.

An official of the Association informed us that special affairs were held infrequently at night. Association employees work at these affairs on an overtime basis, and prices are established so as to recover costs.

The agencies discussed herein have not been provided with copies of this report and have not been afforded an opportunity to comment on our findings. We plan to make no further distribution of this report unless copies are specifically requested, and then we shall make distribution only after your agreement has been obtained or public announcement has been made by you concerning the contents of the report.

Sincerely yours,

ELMER B. STAATS,
Comptroller General of the United States.

TAR HEEL TALK: SENATOR ERVIN'S RISE TO NATIONAL EMINENCE

Mr. JORDAN of North Carolina. Mr. President, the Greensboro, N.C., Daily News for November 21, 1971, contains an article by its editor, William D. Snider, entitled "Ervin's Rise to National Eminence," which pays tribute to my colleague, Senator ERVIN.

I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Greensboro (N.C.) Daily News
Nov. 21, 1971]

TAR HEEL TALK: ERVIN'S RISE TO NATIONAL EMINENCE

(By William D. Snider)

During the 20th century North Carolina has not produced many U.S. Senators of the first rank.

Furnifold Simmons and Lee Overman qualified for longevity; Josiah Bailey for serious demeanor; "Our Bob" Reynolds and Clyde R. Hoey for color; and a succession of occupants—William Umstead, Melville Broughton, Frank Graham, Willis Smith and Kerr Scott—who scarcely had time to make much impact on Capitol Hill because their careers were cut short by death or defeat.

In Sam J. Ervin, however, North Carolina has found a candidate for top-drawer honors. Little by little in the sixties and seventies he has emerged as a national figure. Whether the evaluator stems from right, center or left, the senior senator from North Carolina, by general acknowledgement, ranks among a handful of distinguished men in that exclusive club.

DEEP ROOTS

Senator Ervin is the most North Carolinian of North Carolinians. That is to say his family roots run deep, stretching back to the Revolution; among them are the best we have produced. (Let it be noted here that North Carolina, as the vale of humility between two mountains of conceit, has contributed relatively few statesmen of the first water throughout her history although her best do rank with the very best.)

Senator Ervin typifies the unpretentious aristocrat of the hill country. He is a man, as the late William Polk used to say, "too proud to be proud", gracefully at home around the courthouse square, full of deep folk wisdom and not much given to high-faluting ways. "To Be Rather Than to Seem" is a motto made for him.

This kind of man seems to be an ornament of Tar Heel history. He is the prototype of small town, rural society. He is an old-timey lawyer schooled, as were many of the professional men of his day, in the liberal arts and profoundly wise about the human condition.

To sophisticated Washington, in the beginning, Senator Ervin appeared something of a country bumpkin, with his Tar Heel drawl, his effusive charm, his store of anecdotes about people he had known in Burke County. But the Tar Heel edition of the rural lawyer differs decidedly from the stereotype found elsewhere in the South. Sam Ervin's personality hid from some for a while his penetrating intellect, his scholarly endowments.

BEYOND THE HILLS

Like Tom Wolfe, Sam Ervin emerged from the Carolina hills through Chapel Hill. After finishing there, he joined the First Division in World War I where he was twice wounded in action, twice cited for gallantry and awarded the Silver Star and the Distinguished Service Cross.

After the war he went to Harvard Law School. On returning to practice law in his home town, he served in a succession of civic and political posts, including several terms in the State Legislature, as member of the State Democratic Committee, as a local judge, moving then to the Superior Court with time between as a U.S. Congressman from the Tenth District.

Senator Ervin's career then moved, decisively it seemed, toward the judiciary. Governor Cherry appointed him to the North Carolina Supreme Court. He seemed destined to remain there or eventually move into the federal court system.

But a different assignment came. On the death of Senator Hoey in 1954, Governor Umstead appointed him to the U.S. Senate. It was his best appointment. There Ervin remained, regularly returned over 17 years in election after election by a satisfied constituency and constantly growing in stature.

Senator Ervin's career, perhaps ironically, resembles that of the late Justice Hugo Black. On his appointment to the high court by Franklin Roosevelt, Black seemed little more than a run-of-the-mill Deep South politician combining a sort of New Deal populist reputation with stains of Ku Klux Klanism. Justice Black went on to become one of the renowned scholars of the court, the greatest interpreter of the U.S. Constitution in this time.

THE RIGHT QUESTIONS

Justice Black's views of the Constitution have often differed with those of Senator Ervin. But both qualify as strict constructionists. Both have honored and revered the U.S. Constitution. Both have read it pretty literally. They have asked the right questions, even though they did not always agree on the answers.

Thus, Justice Black felt that "separate but equal" schools did violate the black man's rights while, initially at least, Senator Ervin did not. Ervin's strict construction leaned more toward the judicial restraint practiced by former Justice Harlan; but in the realm of the First Amendment he and Black came down strong on the same principles.

Senator Ervin's recent campaign in behalf of the First Amendment's guarantee of freedom of the press and individual rights has brought him notably to the fore as a public servant willing to challenge the conventional wisdom. Along with Thomas Jefferson, he strongly believes that "no government ought to be without censors and where the press is free, no one ever will."

Of course, Senator Ervin's views are still stigmatized in many parts of the country as "southern". But that prejudice against southernness is beginning to lift. Just as Justice Black drew the line in his civil liberties views when the case involved disruptive behavior, so Senator Ervin has drawn the line at a different point on civil rights.

THE BUSING ISSUE

On the busing issue, for example, Senator Ervin has consistently expressed the following opinion: "To require a school board to transport children from one school district to another solely to increase or decrease the number of children of a particular race who attend a school seems to me to violate the equal protection clause of the 14th Amendment as interpreted in the Brown case."

Senator Ervin sees busing to achieve racial balance as flawed as busing to avoid it. And as the busing issue spreads across the nation, the wisdom of that view is becoming apparent. If the Constitution remains color blind, it cannot designate race in one area and ignore it in another.

I have not always agreed with Senator Ervin's views in the past—any more than I have agreed with Justice Black's. But increasingly the consistency and profundity of the Senator's stand on constitutional issues have identified him as a mighty oak in the nation.

Looking over the scope and significance of his career, North Carolinians can be proud that a man of Senator Ervin's qualities represents them in Congress.

NORTH CAROLINA PRESENTS THE NATION'S CHRISTMAS TREES

Mr. ERVIN. Mr. President, when President Nixon lights the Nation's Christmas tree at the Pageant of Peace ceremonies on December 16, not only will this bring joy and beauty to the Capital at the start of the Christmas season, but at the same time several precedents will be established.

For the first time in the celebration's 47-year history, the South will provide the tree. Moreover, my home State of North Carolina—in another first—is supplying both the tree for the lawn and the personal, family tree for the White House.

The majestic Fraser fir now festooned with approximately 5,000 lights and a mile of electrical wiring grew in the Pisgah National Forest near the Blue Ridge Parkway in Haywood County. Interestingly enough, this 63-foot tall balsam apparently survived a disastrous fire in 1924, the year that President Calvin Coolidge initiated the custom of a national tree.

Incidentally, Fraser firs grow only in North Carolina and are known colloquially as "She-Balsams."

My friend John Parris, a western North Carolina son and longtime student and chronicler of the region and its people, has written a brief history of the Fraser fir in his "Roaming the Mountains" column, which I wish to share with Senators.

I ask unanimous consent that the article, entitled "Fraser Cataloged First She-Balsams," published in the Asheville, N.C. Citizen of November 19, 1971; and the following articles describing both trees, their selection, cutting, display and ceremonies be printed in the Record.

There being no objection the articles were ordered to be printed in the Record, as follows:

[From the Asheville, N.C. Citizen, Nov. 19, 1971]

Roaming the Mountains—Fraser Cataloged First She-Balsams

(By John Parris)

Mount Mitchell.—The tree that has been designated as the 1971 National Christmas Tree and will go on the lawn of the White House is a species of fir discovered on the slopes of this towering peak more than 180 years ago.

It is the Fraser Fir, known as balsam in the Christmas tree and evergreen trade, and called she-balsam by mountaineers who once used its sweet-smelling needles to stuff pillows and mattresses.

In the history and drama of our highland stands as a reminder of the days when Europe's crowned heads struggled for supremacy in the New World.

While England and France maneuvered through intrigue and bloodshed to plant their banners forever over the land, a British king and a French monarch pitted their royal plantsmen against each other in a race to discover and catalogue the plants and trees of the wild, unexplored wilderness.

Louis XVI lost the race for the balsam as well as his head.

King George III claimed discovery of the balsam for his kingdom and then got the tar beat out of his Red Coats.

Actually, the winner was the modern-day American who has come to recognize the discovery as a boon to the Christmas trade.

The French lost the race really because the British were suspect.

It all happened here on the slopes of Mount Mitchell where the great groves of virgin balsam stand like prophets of old.

Back in the dwindling years of the 18th century, a Scottish plantsman named John Fraser was dispatched to America on a royal errand to search out rare plants for George III.

Fraser was the first plantsman to explore the high peaks when this was still wild and trackless country.

While wandering through the wilderness, he met up with Andre Michaux.

A plantsman in the employ of Louis XVI, Michaux found that Fraser seemed to be dogging his footsteps no matter which way he turned.

For days the two rival plantsmen moved through the wilderness, their eyes ever alert to the trees and plants and shrubs, their hands busily collecting and jotting down data in their journals to prove their claims to discoveries each hoped would bring royal recognition and royal honors.

Finally, one morning at the base of the mountain here, Michaux decided the time had come to slip away from Fraser.

He concluded that he must break company with the Scotsman if France was to win the race for plant discoveries.

So he told Fraser a lie, and in lying lost the race.

Michaux claimed his horses had strayed and that he would have to search for them.

"You go ahead," he told Fraser, "and I'll catch up with you."

So Fraser moved on up the slopes of Mount Mitchell and entered the dark, spicy groves of balsam.

Thus, he became the first plantsman to discover the balsam which he claimed for England and which was named in his honor—Abies Fraseri or Fraser Fir.

But aside from having the tree named for him, Fraser failed to win further royal recognition. He was not knighted, as he had hoped and dreamed, so he broke with King George and entered the service of Catherine the Great of Russia and then Czar Paul.

And, in doing so, he got royally taken. For he made four trips into the highlands for Russia, spending his own money, and the Russians refused to reimburse him.

It was then that he set up a little nursery in London and then came to America on his own to collect and carry back living specimens.

From the high, dark groves here in the highlands he carried back the first living specimens of the mountain balsam that England had seen.

In the years that followed, the Fraser Fir went unrecognized as a Christmas tree.

Eventually, lumbermen discovered it and slashed away at the great groves in Western North Carolina.

But now the days of indiscriminate cutting have faded, for most of the lands where the balsams grow are on federal or state preserves, or on large private holdings.

Each year thousands of small balsams are auctioned off by the U.S. Forest Service on Roan Mountain, which has become known as Christmas Tree Mountain. They are carefully selected and cut under strict supervision of forest service personnel.

These trees are shipped to market as far away as New York and Washington and Baltimore where they are sold for Christmas trees.

Meanwhile, Christmas tree growers began establishing their own balsam plantations. Thousands upon thousands of balsams are now grown and harvested annually for the Christmas tree trade.

The balsam has now become the ideal Christmas tree.

It is more fragrant than any other tree. Add to this its majestic appearance—long lower branches and thin, spike-like top.

Housewives have found that the balsam is much less trouble to clean up after than either the holly, the cedar, or the spruce.

The balsam does not drop its needles, even after weeks without water, and its smooth needles make it ideal for decorating. No stabs or pricks to the hand.

And now a balsam has been selected as the 1971 National Christmas Tree.

It will come from the Pisgah National Forest over in Haywood County, a 63-foot balsam with a nearly perfect pyramid symmetry.

And shortly after dawn of this Friday, it will be cut, wrapped, then placed on a giant truck and sent on its journey to Washington where it will go on the lawn of the White House.

So, too, in the weeks to come, many another balsam will be cut and brought in for a Christmas tree.

And whether you call it Fraser Fir, or she-balsam, or just plain balsam, it is America's favorite Christmas tree.

But few folks ever heard of the man who discovered it.

And few folks know that it was discovered right here on the slopes of Mount Mitchell.

[From the Asheville (N.C.) Citizen, Nov. 13, 1971]

WNC Christmas Trees Selected For Nixon and White House Lawn

(By Connie Blackwell)

Two trees from Western North Carolina will be cut and shipped in style to Washington, D.C., during the next two weeks for the official White House Christmas trees.

This will be the first time both trees have been chosen from one state and the first time North Carolina has furnished a tree for the Pageant of Peace ceremony, in which a tree has traditionally been lighted on the White House lawn in December by the President of the United States since 1924.

The 63-foot Fraser fir, selected by a special Christmas Tree Committee appointed by Gov. Robert Scott, will be cut Nov. 19 in Pisgah National Forest in Haywood County.

Kermit Johnson of Crossnore in Avery County will cut a 20-foot Fraser fir Dec. 3 to go in the Blue Room of the White House as the First Family's personal Christmas tree.

Johnson was the first Southerner ever to win the National Christmas Tree Growing Contest in 1970. Part of his award was providing the President's tree this year.

He has been a Christmas tree grower for only 10 years and now is growing between 45,000 to 50,000 Fraser firs from N. C. Forest Service seedlings.

It takes at least eight years to grow a tree, Johnson said, and he was unable to find one on his own property large enough for the White House. But he found one on a neighbor's property which will be used.

The large tree for the White House lawn will be lighted Dec. 16. It was approved last spring by Ted Smith of the U.S. Forest Service, head of the division of special events which selects the White House trees each year.

Job Corpsmen from the Schenck Civilian Conservation Center cleared around the tree to eliminate competition from other growth, and it was sprayed last week with a chemical designed to hold the moisture in and keep the tree fresh and green during its long reign as National Christmas Tree.

Hennessee Lumber Co. of Sylva will cut the National Forest Service tree and Bob Vodak of Meade Corp. at Sylva is responsible for wrapping it for the journey north.

The huge tree is being transported to Washington free by McLeod Trucking and Rigging Co. and Moss Trucking Co. of Charlotte. Bragg McLeod, owner of the firms, expects the cutting, wrapping and loading to take about two days work at the site just off the Blue Ridge Parkway.

The tree is expected to be on display at Tunnel Road Shopping Center here Sunday, then go to Charlotte for the Christmas Parade, to Greensboro and on to Raleigh on the 28th, where it will be presented to the state by Del Thorsen of Asheville, head of the U.S. Forest Service in North Carolina.

The tree's trip to Washington will be the subject of a documentary sponsored by N. C. Savings and Loan Association for showing on television during Christmas Week.

North Carolina was originally selected to furnish the big tree in 1972, but another state was unable to fill its obligation this year so North Carolina volunteered to move its contribution up a year.

The tree chosen for the White House lawn is special in several ways, and was actually found after a two-year search by Martin Shaw of Asheville, for the N. C. Forest Service, assistant regional forester Fred E. Whitfield from N.C. State University, L. C. Hall with the U.S. Forest Service, and Eugene McCall, assistant agricultural agent of Haywood County.

The main difficulty in the search was finding a tree tall enough. Even textbooks say Fraser firs only grow to 55 feet, but, they make the most beautiful Christmas trees in the United States and are found only in North Carolina so the search went on for a Fraser fir.

In 1924, the same year President Calvin Coolidge initiated the custom of lighting a tree on the White House lawn, the tree chosen this year was one of a handful of trees that survived a large forest fire.

Escaping the fire, it lived to be 23.1 inches in diameter with about 60-feet of limbs and to weigh about 12,000 pounds.

[From the Winston-Salem (N.C.) Journal and Sentinel, Nov. 14, 1971]

North Carolina To Supply White House Trees

In 1924 flames swept through a remote forest in North Carolina's high country, completely destroying several hundred acres of virgin timber. Only a few trees survived . . . including one "middle-aged" Fraser fir.

This year that survivor, now 75 years old and still beautiful even though it is stricken with a terminal illness, will go to its death in a blaze of glory.

The honors will come during a ceremony on the lawn of the White House when President Nixon proclaims it the "Nation's Christmas Tree" and flips a switch illuminating it.

Inside the White House, in the Blue Room, will be another Fraser Fir from North Carolina. It will be the first time that one state has furnished both the official White House tree and the national tree.

The custom of having the national Christmas tree furnished by the various states was adopted by President Calvin Coolidge in 1929 as an annual event called "The Pageant of Peace." Each December thereafter, a tree some 65-feet high has been erected and surrounded by other trees 12-feet high to represent the states and the possessions and trust territories.

North Carolina was originally selected to furnish the big tree in 1972, but another state felt it could not fulfill its obligation this year and North Carolina volunteered to make its contribution a year earlier.

And as it happened, the National Christmas Tree Growers Association, the organization which selects a "Grand Champion" 18-foot tree for display in the White House, selected an entry from Kermit Johnson of Crossnore as the Blue Room tree this year.

North Carolina had some trouble locating a suitable tree for the nation. A widespread search was conducted for two years to locate a Fraser Fir 65-feet high. There were many beautiful trees located, but they were too short. The suggestion to look for another species was turned down on the grounds that Fraser Fir is the most beautiful Christmas tree in the U.S., and is found only in North Carolina. It has lush, green foliage, has excellent needle-holding ability and a pleasing fragrance. Still a tree of suitable height could not be found. Even the textbook stated they grew only to 55 feet.

But Fred Whitfield of the School of Forestry Resources persisted and in a remote area of Haywood County he and another enthusiast, Marty Shaw, found a tree that disproved the textbook. The tree is 65-feet tall, 23.1 inches in diameter and has 60-feet of limbs. It weighs approximately 12,000 pounds.

To look at it, one would not suspect it was doomed, a victim of wooly aphid. This pest seems destined to destroy all the natural stands of Fraser Fir.

The tree will be cut Friday. It will be displayed in Asheville, Charlotte, Winston-Salem and Raleigh before being sent to Washington.

[From the Greensboro (N.C.) Daily News, Nov. 15, 1971]

A White House Christmas Tree

(By Don Patterson)

Picking out a Christmas tree is often a difficult chore, even for Kermit Johnson. And he grows Christmas trees.

But Johnson, who owns a tree farm near Crossnore in Avery County, wasn't hunting just any Christmas tree.

He had to find a tree that was just the right size, shape and color to fit in a corner of the Blue Room at the White House.

Johnson's search began in August, 1970, right after he became the first southerner to win the National Christmas Tree Growing Contest. In so doing, he won the "dubious honor" of selecting President Nixon's Christmas tree.

But Johnson had been growing trees for only 10 years and didn't have any of White House caliber.

After a year's search, Johnson, aided by the N.C. Christmas Tree Association, found the tree he was looking for—a 20-foot Fraser fir—on a neighbor's farm.

"We'll cut the tree down Dec. 3," Johnson said, "and as far as I know it will go by truck directly to the White House."

Johnson will go up later for special dedication ceremonies.

But Johnson's tree isn't the only one grown in N.C. that will be displayed in Washington during the holiday season.

North Carolina will provide a 63-foot Fraser fir for the White House lawn as well.

"This is the first time that both trees for the White House have come from the same state," Johnson said.

Calvin Coolidge started the practice of a national Christmas tree in 1924. Since then a different state has provided the national tree each year. Johnson's victory in the Christmas tree contest coincided with the state's turn to provide the tree for the White House lawn.

The national tree is located in Pisgah National Forest southwest of Asheville and will be felled Nov. 19 with the help of a big crane, according to A. Daylon Rogers, president of the N.C. Christmas Tree Association.

The tree will be wrapped in burlap and hauled by truck to Asheville, Charlotte, Greensboro and on to Raleigh for a state ceremony Nov. 28.

The big tree will be on display at Friendly Shopping Center here Nov. 26 and 27, prior to shipment to Raleigh.

From Raleigh, the tree is hauled by truck to Washington.

A second big tree will be sent directly to Washington in case the main tree is damaged in transit. Limbs from the second tree will be added to the main tree as needed.

Rogers said the national tree and Johnson's tree for the Blue Room are guarded around the clock.

"If they weren't guarded," he said, "we wouldn't have a national Christmas tree."

[From the Asheville (N.C.) Citizen, Nov. 21, 1971]

WNC Christmas Tree Starts Journey

(By John Parris)

Beech Gap.—The 1971 National Christmas Tree, a giant Fraser Fir that stood here in the mile-high wilds of Pisgah National Forest, is on its way to Washington where it will stand on the White House lawn.

Jack Hennessee, a 41-year-old lumberman who chopped down his first tree at the age of seven, severed the 63-foot balsam from its trunk at mid-morning Saturday, and by sundown it was rolling down the mountain by truck on the first leg of its journey.

With a Homelite chain-saw, manufactured in North Carolina, he took just a dozen minutes to cut through the three-and-a-half-foot thick bole, while a giant crane held the tree in a special nylon sling to prevent it from crashing to the ground.

Then, as the crane slowly swung the suspended tree up over a steep bank to the base of operations on an old railroad logging bed, Hennessee brushed away the sawdust from the stump and began counting the age rings.

When he finished, he stood up and there was a big grin on his face.

"What do you know?" he said. "Me and this tree started out life together. I count 41 rings. And that's my age, too."

Meanwhile, workmen from the McLeod Trucking and Rigging Co. of Charlotte, hooked up a second crane to the tree trunk and lifted it into the air.

Then, suspended between the two cranes, the tree was lowered so that Hennessee could take his saw and trim off a few of the skimpy limbs.

With the necessary pruning done, Bob Vodak of the Mead Corp. plant at Sylva and two of his company's veteran woodsmen—Burnsville natives Ralph Thompson and Garville Honnicutt—moved in with ropes to begin tying down the limbs to protect the tree on its journey.

They began at the tip and worked toward the trunk. Half a dozen others from the McLeod company's crew joined in the tedious work.

By mid-afternoon, the last limb had been tied down. Then the bound balsam was lowered gently to rest on special cushioned racks atop an extensible trailer with a drop deck.

There was a slight overhang, making the overall length of the truck and cargo 80 feet, and the height of the tree 13 feet six inches.

Meanwhile, Hennessee had cut a four-inch thick slab from the tree stump. Officials of the State Museum in Raleigh had requested the slice for display and a reminder to future generations that North Carolina had provided the 1971 National Christmas Tree.

The giant balsam, native only to the highland forests of Western North Carolina where it was discovered more than 180 years ago by a Scottish plantsman named John Fraser, and whose name it bears, was originally scheduled to be cut Friday.

Rain and fog delayed the operation until Saturday morning, when a cold front moved through and cleared the skies and brought out the sun.

When Hennessee, president of Hennessee Lumber Co. of Sylva, arrived to do the cutting, the temperature was in the low 20s, ice fringed the banks of the west fork of the Pigeon River which he had to ford, and the narrow dirt track leading to the tree was frozen solid.

A brisk wind was blowing across the high tops, and at times it shook the giant balsam. There was some concern that the wind might create a problem, but it died down when the operations got under way.

The wind did give a few good puffs during the cutting, but guy ropes that had been attached to the lower part of the tree kept the big evergreen steady.

"It couldn't have gone better," Hennessee said, as the big truck and its load moved out onto the paved highway. "Everything worked just perfectly. And everybody did a great job."

Even so, there was one more thing to be done to prepare the tree for its 550-mile trip to the nation's capital.

It still had to be wrapped. "They'll be doing that Sunday," Hennessee said. "They are planning to go into Asheville tonight (Saturday) and they'll do the wrapping there tomorrow."

[From the Waynesville (N.C.) Mountaineer, Nov. 22, 1971]

Nation's Tree Will Be Displayed Here Tuesday

Haywood County residents who want a look at the Fraser fir they're presenting the nation as its official 1971 Christmas tree can view it Tuesday afternoon and evening at Waynesville Plaza Shopping Center.

The 63-foot, almost perfectly formed evergreen was cut Saturday morning in freezing weather on the West Fork of Pigeon River in Pisgah National Forest. It was transported by truck to Asheville Saturday evening, wrapped Sunday in burlap to protect it on its 550-mile journey to the nation's capital, and placed on display at an Asheville shopping area today.

Orville Brouer, executive secretary for the Waynesville area office of the Greater Haywood Chamber of Commerce, spent much of his time last week trying to convince people in charge of the project that since Haywood is contributing the tree it should be displayed here. Commercial interests involved were reluctant to share it. He finally succeeded, and it will be returned here Tuesday afternoon for the half-day exhibit before being moved back to Asheville for its last showing there Wednesday.

It is scheduled to be shown in Charlotte, Greensboro, and Raleigh where it will be given an official send-off to the nation's capital by Gov. Bob Scott Sunday.

Nobody yet has had anything to say about the Tar Heel Democrat governor presenting the tree to a Republican president. After all, it's the Christmas season, and campaigning won't really become serious until next year.

President Nixon will light the tree, to be erected on the White House lawn—braced in a six-foot deep hole, in traditional "Pageant of Peace" ceremonies on December 16.

The fir, 63-feet tall but much younger than foresters had estimated, is a dark green, perfectly colored example of its specie. It was fertilized twice last summer to make sure it would be. Brush and small trees around it were cut back, insurance against their being blown against the giant fir and the risk of damaging its shape.

Eugene McCall, the assistant Haywood County farm agent who found the tree growing beside Shining Rock Road on the West Fork, counted the rings on the stump after the tree was cut. It is only 41 years old. Estimates varied between 50 and 75 years of age before cutting, based on the tree's height. The specie normally averages about one foot of height per year of age.

But this fir, undoubtedly due to its location, grew almost 50 percent faster than the average. It sprang up beside a tiny brook from a mountainside spring which kept it watered continuously. Growing on the south side of the Pisgah range, it was sheltered from high winds, and the trunk showed only one wind split.

The tree's age knocked into a cocked hat the contention that the fir had somehow managed to escape the 1927 fire which destroyed virtually all vegetation in the section of forest where it grew. It did not sprout until 1930, three years after the fire and while President Nixon was still a teenager.

Mother Nature laid a fog blanket over the West Fork that was so dense crews assigned to fell the tree Friday morning postponed the job until Saturday. They could have cut it, but risk to the tree and crews would have been greater.

The major concern, however, was for posterity. Camera crews recording the event—films for school presentations, promotions for companies donating their services, and news media reports—were severely handicapped by Friday's fog and rain.

Saturday dawned clear and cold. Cameramen worried only about shutters sticking from the cold and the severe contrast between sun and shadow. Henry Hobson, McCleod Trucking Co. boss at the site, delayed cutting until light conditions were favorable for cameramen, although he was impatient to get on with the job.

"There may be some photographers wrapping this tree after dark if we don't get started," he joked.

Crews were saying Friday night that they were going to cut the tree "at first light Saturday no matter what." But that was flatlander talk from warm weather friends unfamiliar with early morning temperatures this time of year on the Pigeon. They were in no hurry at sun up.

Television and movie camera crews flown here to film the cutting also were surprised by low temperatures that left icycles hanging off rock formations at the site. Many of them came in tennis shoes. The loggers, however, knew better and tromped around in heavy boots . . . slower perhaps but warmer.

Cutting the tree took longer than anticipated, because the chain saw brought to do the job broke down a third of the way through.

Jack Hennessee, a 41-year-old lumberman, pushed the saw into the trunk about 9:10 a.m. Within an hour it had been severed and cranes had lifted the tree out of the depression where it grew to a nearby roadbed.

Cables were not allowed to contact the tree's bark. It was wrapped with quilted cloth and nylon straps to prevent scarring.

Bob Vodak, a Mead Paper Co. crew chief from Sylva, supervised tying down the branches, securing them so the tree could be hauled by flat-bed truck out of the forest. They finished about mid-afternoon.

While they worked, Hennessee sawed a four-inch slab from the stump for the N. C. State Museum. It will be displayed as a reminder to Tar Heels that they furnished the nation's Christmas tree for the White House lawn this holiday season.

County Farm Agent Virgil Holloway helped map out the tree's route to Asheville. It was complicated by paving along Interstate 40 around Canton and by heavy traffic in the downtown area. They finally decided to take the tree through the paving project, avoiding the Canton traffic, after permission had been secured from the contractor. State Highway Patrol Sgt. O. C. Brock of Hazelwood arranged a convoy.

Truck and cargo were 80 feet long and 13 feet high.

The tree will be guarded continuously until it arrives at the White House as a precaution against over-zealous souvenir hunters.

After Christmas the tree will be sawed up with the pieces to be shipped back to N. C. They will become mementoes for the people who have had a hand in the two-year long project.

SECRETARY OF AGRICULTURE BUTZ TAKES FAST ACTION OF BENEFIT TO FARMERS

Mr. TOWER. Mr. President, I wish to commend the new Secretary of Agriculture, Dr. Earl Butz, for his rapid action upon taking office in behalf of the American farmer.

His nomination was confirmed by the Senate last Thursday, and Dr. Butz was sworn into office at 5 p.m. the same day. The very next day he took two actions of benefit to farmers. If this in indicative of the kind of Secretary we have in Dr. Butz—and I hope that it is—then we indeed have not only a spokesman but an activist for the American farmer.

Last Friday, less than 24 hours after taking office, Secretary Butz announced that his Department would purchase corn on the open market. This step should help to raise the price of corn and feed grains which are left in the market. Secretary Butz also announced that the reseal of loans on stored rye will be extended beyond the April 30, 1972, loan maturity date. Both of these actions will contribute to the agricultural economy.

But most importantly, I hope that these actions may be taken as harbingers of a lasting agriculture policy designed in the best interests of the farmer and rancher.

Secretary Butz has already begun to work for the farmer. I congratulate him on his immediate attention to the needs of the American farmer, and I hope that we may take these actions as indications of this full tenure as Secretary.

DR. WERNHER VON BRAUN, AUTHORITY ON SPACE

Mr. ALLEN. Mr. President, Dr. Wernher von Braun, former Director of the Marshall Space Flight Center in Huntsville, Ala., has rightly earned a worldwide reputation as an authority on space. His name is a household word.

His enthusiasm, imagination and managerial genius were, in large part, responsible for the ability of the United States to catch up with and move ahead of the Russians in space exploration.

In Parade magazine of Sunday, December 5, 1971, Dr. von Braun has written "How the Space Program Is Helping You." There can be no question of Dr. von Braun's credentials in this subject, and I believe that reading his article will be of value to all Americans, and especially to the critics who refuse to accept the fact that the money we have spent on space has been more than repaid in usable, earthly products and services. Mr. President, I ask unanimous consent that Dr. von Braun's article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

How the Space Program Is Helping You

(By Wernher von Braun)

(Editor's Note.—Some Americans question the wisdom of our multibillion-dollar space program. They ask: What do we get out of it? Here is the opinion of NASA's associate administrator, former director of the Marshall Space Center at Huntsville, Ala.)

Space flight is expensive. Thus you may not believe me when I say that the benefits have already far exceeded the costs. And much more is yet to come. Let me give a few examples.

Until about 10 years ago, a favorite target of comedians was the weatherman. Today he is usually right. Why? Because satellites in the sky look down at the whole earth and tell him what the weather will be.

Hundreds of thousands of lives have been saved by accurate predictions of the course of hurricanes. For example, the U. S. National Oceanic and Atmospheric Administration has estimated that 50,000 people would have died when Hurricane Camille hit the Gulf Coast in 1969 if they had not been evacuated. The warning was possible because of satellite pictures. How do you put a price tag on that?

Projected experiments give promise of weather forecasts accurate for up to two weeks. A National Academy of Sciences report estimates the U. S. will benefit by billions of dollars a year in farming, construction, transportation and preventing flood and storm loss. A bit farther in the future is the exciting concept of tests in weather modification and control.

Or how about communications? Today satellites carry about half the world's international telephone, telegraph and television load. The prospects are so good that many companies and government agencies here and aboard are trying to get into the satellite communications business.

COMPUTERS BOOM

Or take computers. The demands of space flight pushed computer technology forward so fast that it is an $8-billion-a-year industry that employs more than 800,000 people.

Thousands of new products and industrial processes have been introduced as the result of the space program. They include long-wearing paints, metal alloys, electronic components and industrial tools as well as devices and techniques useful in medicine and in our daily lives. Coming into use are instruments developed for space research and adapted to combat pollution and to protect the consumer.

What is yet to come? With the help of special reflectors for laser beams placed on the moon by our astronauts, astronomers all over the world are measuring the distance to the earth to accuracies of inches. With these measurements they can detect wobbles in the earth's rotation. The knowledge of when these wobbles occur may help to predict earthquakes. Such warnings would reduce the toll in lives from earthquakes just as they have from hurricanes.

PROBLEM SOLVING

In 1969, a group of leading scientists reported to the National Academy of Sciences that there are a number of ways that space technology can contribute to human welfare and solve some of the world's problems.

Let me tell you about some of these things. One is navigation. The U.S. Navy already uses satellites to pinpoint the location of its ships and submarines. They provide a considerable improvement over the time-honored method of navigation by the stars, which cannot be followed when the sky is overcast. U.S. and European government agencies are now considering the use of navigation satellites to increase the safety of flight in the crowded air lanes over the Atlantic.

Potentially, the most useful of all the applications of space flight is to observe and measure the resources of the earth, to help manage them properly and to deal with the problems of the environment.

For example, aerial observations in New York City have shown it is possible to detect, measure, and map water pollution. An instrument developed by NASA can detect and determine the size of oil slicks at sea. And with slight modification, weather satellites can report worldwide air pollution.

Scientists at Purdue University measured from the air the widespread infestation of Midwestern crops by a rare fungus blight. Off the coast of Iceland, airborne infrared sensors found the new location of the Gulf Stream, which had meandered a considerable distance. This enabled fishermen to continue hauling good catches.

Photographs of the Saudi Arabian desert from Gemini spacecraft identified hills of the type that often indicate the presence of large reserves of oil and natural gas. Similar indications were found in pictures of Australia taken from Mercury spacecraft.

SATELLITE USES

By the end of the decade, we can expect satellite systems to:

Monitor the results of international efforts to protect the environment.

Support the planning and allocation of world food suppliers from agriculture and the oceans.

Aid the search for oil and mineral reserves.

Track glaciers and ice floes.

Keep track of the distribution of wildlife as well as human habitation.

Support disaster warning systems and search and rescue operations.

But all of the uses of space flight depend, of course, on the cost. In 1958, the first U.S. satellite, Explorer 1, cost more than $100,000 a pound to place in orbit. When we use the largest present launch vehicles, the cost now is less than $1000 a pound. But we can do much better than that.

Technology now makes it possible to return entire space vehicles from orbit and use them again. As a result, U.S. industry and government are working on a vehicle that can be flown 100 times or more before it wears out. It is called the Space Shuttle, and it should cut the cost to about $100 a pound. It will take off vertically like a rocket and land horizontally on a runway like an airplane, avoiding the cost of recovery at sea by ships, aircraft, helicopters and frogmen.

SERVICE IN SPACE

Even larger savings will result in the satellites themselves. At present, most of the expense of building satellites is for repeated tests to make sure they will work properly in space. There are no service stations up there. As a result, we pay around $20,000 a pound to manufacture and test them. Some are even more expensive. With the Space Shuttle, we will return them to earth for periodic maintenance, repair and reconditioning and eliminate most of these costs.

The Space Shuttle will have a large cargo bay that can be converted to a passenger compartment. The acceleration forces will be limited to three times earth gravity, so that passengers in ordinary good health can be carried. They will include scientists, technicians, television crews, journalists, and many other kinds of people who have business in space.

DOCTOR GOES, TOO

On the 1973 flights in the Skylab experimental space station, a medical doctor will go into space with the astronauts. He will carry out a comprehensive program of experiments. The aim will be to establish how well men live and work in weightless conditions in an enclosed space as big as a three-bedroom house. The first flight is planned to last four weeks. Later flights will extend this to eight weeks.

As I have indicated earlier in this article, people on earth can realize many benefits from the use of space flight in the years to come. With low costs and detailed knowledge of how human beings go about their daily business in the space environment, we can achieve these benefits in a few years and make them available to people everywhere.

NURSING HOMES

Mr. MONDALE. Mr. President, on November 29 I participated with the Senator from Utah (Mr. Moss), the chairman of the Aging Committee's Subcommittee on Long-Term Care, in hearings on nursing homes in Minnesota. I am pleased to say that Minnesota appears to be doing a better job in providing nursing care than most other States. Unfortunately, however, a number of nursing homes seem to be providing care which can only be described as deplorable.

Several perceptive editorials were published in St. Paul and Minneapolis newspapers following the hearings. On December 1, the St. Paul Dispatch observed in an editorial—

> If you believe half of the testimony . . . then you must feel some anger and shame.

The Minneapolis Tribune, on December 2 observed that, along with the better nursing homes—

> Too many inferior ones still exist; that examples of poor patient care, poorly equipped facilities and slipshod maintenance are all too abundant.

The Tribune called for "a more effective system of public inspection and controls."

Mr. President, I ask unanimous consent that the editorials be printed in the Record.

There being no objection, the items were ordered to be printed in the Record, as follows:

[From the Minneapolis Star, Dec. 3, 1971]

Nursing Home Woes

The one-day hearing conducted by two United States senators told us more than anyone wants to believe about nursing home conditions in Minnesota but not enough about what needs to be done to change them.

The nature of a one-day hearing is such that the problem can be portrayed only in the broadest way. It isn't possible to determine whether every specific allegation of malfeasance and nonfeasance can be substantiated.

Yet there can be little doubt, given the volume and nature of the testimony, that some nursing homes in Minnesota are not as good as they ought to be and that the inspection process and tools intended to assure adequate levels of care simply are not working.

Why they aren't working and whose fault it is were left largely unanswered by the hearing. And the severity of the charges warrant a more extended study by state, rather than federal, legislators.

In addition to the horror stories unfolded at the hearing, it is alleged that the legislature has not appropriated enough money for inspection personnel. There are contentions that the federal approach is hopelessly fragmented. It is charged the system has built in financial incentives for poor care. There are questions about what kinds of powers the state should use to punish improper nursing home operations. These are the kinds of issues which a legislative examination during the interim ought to be able to sort out.

Meanwhile, the burden upon the doctors and relatives of people confined to nursing homes has been enormously increased. They can and must do more to assure themselves that their nursing homes patients are not suffering the kind of abuse described in the hearing.

[From the Minneapolis Tribune, Dec. 2, 1971]

Negligence in Nursing Homes

Attractive new nursing homes have been going up rapidly in Minnesota for nearly two decades. As facilities have improved, greater professionalism has developed in the nursing home business. Medicare and broader insurance plans have brought more exacting standards for the institutions. Families of the ill and elderly in need of nursing home care have become more hopeful about finding well-run establishments.

But each new expose, each event such as Sen. Moss's subcommittee hearing this week in St. Paul, reveals once more that all is not well in many Minnesota nursing homes—that along with the better ones, too many inferior ones still exist; that examples of poor patient care, poorly-equipped facilities and slipshod maintenance are all too abundant.

Why the discrepancy between progress and problems? Why do the depressing tales keep recurring?

Basically, nursing homes are in a difficult, often discouraging, business. Good help is hard to get, and staff turnover is frequent from administrators to aides. Improvements urged by inspectors and consultants are usually expensive. Admission of Medicare patients brings a flood of frustrating paperwork.

The state inspection staff—which tries to make two unannounced visits a year to 700 facilities, conducts reviews for Medicare and Medicaid certification and holds informative workshops for nursing-home personnel—consists of only 14 full-time workers. Officials have asked for 45, but the Legislature has repeatedly turned down such requests. The federal government, which pays full cost of certification of nursing homes admitting Medicare patients and 75 percent toward checking those admitting Medicaid patients, says Minnesota is not doing enough.

Another problem is the lack of satisfactory written standards to which inspectors and nursing-home operators could refer. Specific federal guidelines, awaited several years, have still not been issued. State regulations in use were written in 1952; however, revisions have been prepared and may be approved soon by the state Board of Health.

Even without frequent government inspection, nursing-home owners and managers have an obligation to their patients to maintain a high level of care in clean, well-equipped institutions. Many nursing homes in Minnesota do meet such standards, but too many still do not. So long as there are any nursing homes that neglect or mistreat patients, there should be a more effective system of public inspection and controls than now exists.

[From the St. Paul Dispatch, Dec. 1, 1971]

Making Do on Swill, Filth, and Neglect

(By William Sumner)

We really shouldn't need the presence of two United States senators to come to grips with the fact that our old people, in nursing homes, are being treated like animals in many instances. At a matter of fact, there are many of us Sumners who probably treat our animals better.

The ones getting the happy twilight in nursing homes are the old men and women on welfare and those of extremely modest means. In most cases, they are unable to care for themselves in matters of personal hygiene or cleanliness. Many are senile or feeble or both. They are not the easiest humans in the world to care for, but they are, really, humans and we like to think that we are several steps above the middle ages when it comes to our view of mankind.

Regarding the last, we no longer execute tots or adults for thefts or other annoyances but, rather, worry about the well-being and rehabilitation of criminals. As we should. We like to think we are concerned. We also live longer, and there are more of us to live longer, the Black Plague now being a matter of extremely remote concern. We don't leave our old folks out on icebergs or find other methods of putting them away. Also we don't appear to give a damn about them, which may be worse.

Various societies have through history, found one way or another to deal with their aged, some revering them and some, as noted, disposing of them. Either extreme seems more humane than letting them rot in their own filth, undernourished, yelled at and unable to fight back or give verbal protest to the indignities they suffer.

If you believe half of the testimony given to Sens. Walter Mondale of Minnesota and Frank Moss of Utah in St. Paul Monday then you must feel some anger and shame. Unfortunately, these old folks are good business, human pawns in an aberrant perversion of the free enterprise system.

Unfortunately, the answer too often is suggested by the headline in a Dispatch story yesterday. It stated: "White House Study on Aging Settles Down to One Issue—Money." Money for what? For profitable nursing homes? Or care for the helpless to near helpless aged?

More money no doubt would be of some help, but a large part of the problem is one of attitude. In this fast-paced, very mobile and very selfish and hedonistic age of ours these wretched old people are regarded as nuisances to be maintained with a minimum of discomfort—mental or financial—to the rest of us. The idea of family responsibility seems a dim memory. We concern ourselves with our pleasures and worry only about threats to them, threats such as fist-waving young snots in search of revolution or blacks in search of respect or the advances of middle age which manifest themselves in such forms as sagging muscles and pot bellies. We don't want to consider age or aging.

Two obvious solutions present themselves in the current problem which, as you might be aware, is not confined to St. Paul or to Minnesota. One is suggested by the headline cited. Another would be the establishment of state-owned and managed nursing homes. Neither seems to be a substitute for concern and compassion or, in the case of family, love.

Regarding the second solution, it may be the best if we want to get away from the notion of the elderly as a commodity and it would probably cost more money, which gets us into the first solution. But there is nothing I have seen to suggest that state management would be much better. If attitudes are not changed, our sick, feeble or senile old people will continue to live in filth and to live off swill.

Well, attitudes. You can't legislate them, and what have we in the meantime? Surely there must be some decent nursing homes which offer good care in sanitary conditions. We ought to hear about them and from them, for the two senators obviously got the worst of it in testimony. If there are any good ones we ought to learn why they are good. Apparently state inspection is a joke. We could insist on better performance here through surprise inspections rather than show and tell sessions prearranged through announced visits.

Meanwhile, it seems necessary to get away from the concept of regarding these old folks as good businesses, one to be franchised like hamburgers or pizzas.

FOOD-TRADE QUESTION BECOMES WORLD THEME

Mr. DOLE. Mr. President, in November of this year the Food and Agriculture Organization—FAO—of the United Nations conducted its 16th biennial session in Rome, Italy.

Mr. Roderick Turnbull, public affairs director of the Kansas City Board of Trade and retired farm editor of the Kansas City Star, was one of the U.S. advisers to this year's session. A recent issue of the Kansas City Star contains one of his reports on the meeting from Rome. I ask unanimous consent that the article be printed in the RECORD to obtain wide distribution and to call attention to the present status of agricultural production. The article also contains some indications of future problems we may face in expanding export markets for our agricultural commodities.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

[From the Kansas City Star, Nov. 28, 1971]

FOOD-TRADE QUESTION BECOMES WORLD THEME

(NOTE.—Roderick Turnbull, retired agricultural editor of The Star, now serving as director of public affairs for the Kansas City Board of Trade, recently visited Rome as an official U.S. adviser at a meeting of the Food and Agriculture Organization of the United Nations. Some of his observations.)

ROME.—A drift in world thought that could be tremendously important to the American farmer, the grain trade and all agri-business was in evidence here at the 16th biennial session of the Food and Agriculture Organization (FAO) of the United Nations. The 3-week meeting ended November 26.

What surfaced was that the under-developed nations of the world want export markets for their products and because they are primarily agricultural producers, they are talking about agricultural products.

This in itself would be of no great moment as trade in farm products has existed since one man was able to produce as surplus over his own family's needs. But the lesser-developed countries indicate much more than this. They are demanding access to markets in the industrialized nations and they say these markets should, in effect, be allocated to them as part of their development programs.

To put it bluntly, the lesser-developed countries were saying to nations like the United States: "You should produce less and thereby deliberately let us into your markets, and at prices which will give us a profit."

Of course, they didn't put it that bluntly. The key phrase here was agricultural adjustment. These are not new words for America, but they were given much wider application here than in the States.

In the United States, agricultural adjustment means primarily production control generally through acreage reduction. Among the lesser-developed countries at FAO it has meant increasing agricultural production access to new markets in the rich (developed) countries, employment for rural people and in general a better way of life for mankind.

FAO, which had its origin in the United States in 1945, serves as a forum for the nations of the world to discuss the international agricultural problems. Primarily, the problems have been of feeding the hungry.

The organization also has a budget which it can use in aiding needy countries through technical assistance. The regular budget is $86 million for the next 2 years. In addition it administers funds from other sources. Those funds have amounted to about $100 million a year during the 1970–71 biennium. The United States supplies about 31 per cent of the total funds. No other nation supplies more than 8 per cent.

FAO now has 125 member nations, with the lesser-developed countries far outnumbering those that are called developed. When reference is made to the developed or rich nations, usually the United States, Canada, Western Europe, Oreania and Japan are indicated.

Every member nation has a right to speak at FAO sessions and most of them take advantage of this privilege. The United States had the largest delegation made up of men and women from the Agriculture, State and Commerce departments, who are experts in their fields and knowledgeable in world affairs.

They are fully aware of the implications of the proposed world agricultural adjustment. That terminology, incidentally, is to be the theme of the next FAO biennial session to be held here in Rome in 1973. Americans should get used to the phrase, because it is certain to be a major world issue.

I attended 10 days of this year's FAO session as a member of the U.S. delegation, officially described as an adviser. Frankly, my participation consisted entirely of listening.

From listening to countless speeches in many tongues of the world (all translated into English) I developed certain conclusions. Admittedly, others more experienced in international affairs might have others which more accurately reflect the real feeling of the conference.

To me the primary trend in the session was toward the demand for access to markets in the industrialized nations. Ironically, in a session in an organization which I had assumed has at least the initial purpose of seeking ways to feed the hungry of the world, the priority at the 1971 session was on market outlets for the lesser-developed countries.

Yet hunger still exists and with the population explosion the problem may be compounded in years to come .The great current hope is in the Green Revolution, which for some countries, at least, is buying time.

But country after country—day after day, in the Rome session, in position statements, etc.,—told of plans first to become self-sufficient and then to enter the export market. In almost every instance, they referred to the access of markets as a right that should be accorded the poorer nations.

One of the basic reasons for the anxiety of the developing countries (and those trying to help them) to find markets at stable prices for the agricultural products they have for export is the projection that there will be an additional 400 million people in the rural areas of Asia, Africa and Latin America by 1985.

Unless ways are found to keep them on the land producing food either for domestic consumption or export, they will flock to the already-crowded cities with their masses of un- and under-employed. Many people—sociologists, economists, demographers—believe this trend could build up social and political pressures leading to violence.

Americans, steeped in the tradition of free enterprise, will find these proposals difficult to understand. They run counter to anything we ever have considered. After all, any country has the right to export if it can find a buyer at its price. Despite this tradition, there may be areas where the poorer nations can make a case. Europe, for instance, might produce more proteins and less sugar and let the tropical countries grow more sugar cane.

It is in such areas that discussions may take place in the years ahead. But the problem appears terribly difficult. Before the session here ended, the delegates from the lesser-developed nations were beginning to recognize some of those difficulties, but they knew they had planted seeds for world digestion.

At the same time some of the developed nations were indicating their reservations to the proposal.

When the chairman at one of the discussions recognized "the distinguished delegate from Germany," that delegate commented:

"I should like to warn against governments expecting too much from agricultural adjustment so we should define just what we mean and what will be discussed in 1973."

He added that agricultural adjustment was "a very important domain," but that "we must remain realistic." At another time he had said in effect Germany wasn't about to do anything that wasn't good for the German farmers.

The delegate from Italy followed with the comment:

"It is not an easy task to ascertain the meaning of agricultural adjustment. We remain skeptical."

Those two statements indicate what is ahead for the world in discussing the issue in the years of the future. Doubtless agricultural adjustment will mean one thing for the developing countries and another for the industrialized nations. Again, it will be difficult for the American farmer to acquiesce in the specific points made by the lesser-developed nations, though he may fully sympathize with their aspirations.

Incidentally, the U.S. delegation went on record as approving the agricultural adjustment as an appropriate subject for the 1973 conference, with the reservation or hope that clarification can be made of the objectives.

The scene of the FAO conference is the world headquarters of this organization here in Rome, a huge building in the ancient section of the city. It is surrounded by many of the historic places. From the roof garden plainly to be seen are the Coliseum, the dome of St. Peter's, the Palatine Hill, the Circus Maximus, where the Ben Hur type of chariot races were held. The FAO building itself is rather new, having been erected by Mussolini for his colonial ministries.

In what is called the Plenary Hall, the main sesions of the conferences were held. In other halls were held what were called commission meetings.

Each hall had at least three seats apiece for the delegations from the 125 countries and at each seat earphones were available for simultaneous translations into English, French, Spanish, Arabic and German.

It was surprising to me how many delegates, no matter from what country, read their statements in English.

For instance, a rather young delegate, J. E. Cooper undersecretary of agriculture in Liberia, spoke in English and he well demonstrated the plight of some of the lesser-developed countries.

He praised FAO for the help that had been given his country in the way of technical assistance and agreed that some progress had been made. But many problems remain to be tackled and he said: "we cannot do this alone."

"We are faced," he said, "with expanding populations, price distortion problems, low labor productivity, the increasing gap between rural and urban incomes, and urban bias in the provision of social services and last, but not least, our inability to feed ourselves adequately.

"We are told not to expand rubber production because of declining world prices for natural rubber, not to become self-sufficient in rice production because with the Green Revolution we can import rice more cheaply, not to expand coffee production because of the ICO quota limitations, not to expand cacao production because of the uncertain price situation. What then should we do with the approximately 80 per cent of our population tied down in subsistence agriculture?"

Americans could sympathize with the Liberian's problems. But what to do about them? The answer for many of the developing countries seemed to be rather definite—the rich countries must buy what they can produce.

Said the minister of agriculture from Mauritius, a country which became independent in 1968. "It's high time that the existing international arrangements and agreements on commodities be strengthened, extended and reviewed so as to protect the export of primary products of developing countries." He added the developing countries will be able to accomplish little unless rich nations meet specific trade and aid targets.

A contrast to statements from some other countries was that from Israel whose minister of agriculture proposed that FAO aid should go to countries which demonstrate willingness and ability to help themselves and "do more than only look for assistance from outside."

Feeding the world remains a huge problem. Perhaps an even greater difficulty will be finding employment for all and in solving what are listed in the category of social problems.

THE REVEREND EVELYN MURRAY DUKE, "HAVENWOOD'S LADY CHAPLAIN"

Mr. McINTYRE. Mr. President, problems of the elderly have been brought into sharp focus in recent days by the White House Conference on the Aging.

This attention was richly deserved, for a reordering of priorities in behalf of the elderly is long overdue.

But while we are rightly concerned about national policies affecting the aging, we must not lose sight of the individual contributions already being made in community after community throughout the Nation.

People and programs at the local level play an extremely important role in the quest for a better life for our aging citizens. Today I invite the attention of Senators to the particular contributions of a truly remarkable woman, the Reverend Evelyn Murray Duke.

As the chaplain for Havenwood Retirement Village in Concord Heights, N.H., the Reverend Mrs. Duke has helped to solve one of the most crucial problems facing the elderly—housing.

Her many achievements were spotlighted recently in an article published by the Concord Monitor. As a tribute to Evelyn Duke, I ask unanimous consent that this heartwarming account of her dedication be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Concord Monitor, Nov. 30, 1971]

HAVENWOOD'S LADY CHAPLAIN

(By Gladys Harvey)

CONCORD HEIGHTS.—The Rev. Evelyn Murray Duke, chaplain at Havenwood Retirement Village since last July, received her Bachelor of Divinity degree in May, 1969, from Andover Newton Theological School, Newton Center, Mass., and on May 11, 1969, was ordained at the Dunbarton Congregational Church with Dr. Everett R. Barrows, N.H. Congregational Christian Conference Head, officiating.

She was affiliated at that time with Havenwood as Program director-counselor.

Born in Malden, Mass., Dec. 27, 1908, the Rev. Mrs. Duke graduated from Malden High School and attended Simmons School of Social Work. Following her graduation in 1931, she went to work with the Children's Aid Society in Boston, Mass., receiving a permanent appointment as a case worker for the Family Welfare Society in Providence, R.I.

In 1933 she married George T. Duke. He was also a graduate of Andover Newton Theological School and was dedicated to rural ministry. The first parish of his career was the Baptist Church of Bradford, N.H. Here their first child, a daughter, was born.

The Rev. Mrs. Duke's training in dramatic arts and participation in youth groups at the church, made her capable and available to take her husband's place in the pulpit at times when he was ill. From Bradford, the Dukes were called to Errol, N.H. Here, he became a congregational minister and their first son was born.

They moved to Thetford, Vt., then to Lyme, N.H., to what was called a yoked parish and included two parishes. Their second son and third child were born. All this time Mrs. Duke was busy teaching and giving elocution lessons in the home as well as visiting parishioners.

She was also busy learning to sew and bake bread, for a minister's salary was not large, she stated. During her ministry of calling on the sick, she decided to one day become an ordained minister. Her husband became seriously ill and their many friends started a fund for them. In 1957 they took up residense in Dunbarton and three years later he died. During their life there she had substituted many times for her husband and had started to study under Dr. Frederick W. Alden, who at that time was minister of the New Hampshire Congregational Conference. She also studied in 1958 in the N.H. Lay Preacher's Fellowship, often attending sessions at Pembroke Congregational Center. She continued to be a lay minister at Dunbarton and in 1960 the church called her to be its pastor. After serving there five years, she resigned, and went to Andover Newton to resume studies to become an ordained minister. She took special training at Community Village, Columbus, O., which is a development similar to Havenwood.

Even now the Rev. Mrs. Duke continues her education by taking a course every Monday morning at the Laconia State School, with a group of other ministers. The course is concerned with pastoral counseling, its director is Rev. William Zeckhausen.

THE EVERGLADES

Mr. PACKWOOD. Mr. President, one of the most gratifying developments in the environmental field this year has been the emergence of proposals that will remove the last major threat hanging over Everglades National Park.

National attention has focused on the fate of the Big Cypress Swamp, as a result of the jetport that was proposed to be built in the area. In 1969 an interdisciplinary study done by the Department of the Interior under the direction of the distinguished geologist Luna B. Leopold found that the Big Cypress is essential to the maintenance of the south Florida ecosystem, including the national park, the shrimp fishery in Florida Bay, and water for cities adjacent to the Big Cypress.

More recently, proposed oil exploration and drainage developments have put the Big Cypress in new jeopardy. It would be a cruel irony if—after all the effort, in Congress and out, to protect the Everglades—the battle were lost by acquiescence of piecemeal development of this kind.

The administration proposal would authorize Federal acquisition of the Big Cypress Swamp. The area, which already receives extensive public use, would continue to be open to hunting and fishing, and other uses characteristics of national recreation areas, and it would simultaneously serve the central purpose of water conservation. This is a new concept of conservation, tailored to the needs of the Everglades.

I heartily support this proposal, and I will be pleased to cosponsor legislation to implement it.

I ask unanimous consent that the text of the President's statement be printed in the Record.

There being no objection, the statement was ordered to be printed in the Record, as follows:

BIG CYPRESS NATIONAL FRESH WATER RESERVE

(Statement by the President)

About 35 miles west of Miami lies the Big Cypress Swamp, a unique ecological preserve of paramount importance to the future of Southern Florida. In order to protect Big Cypress Swamp from private development that would destroy it, and to insure its survival for future generations, it is now essential for the Federal Government to acquire this unique and vital watershed. I will therefore propose legislation to acquire the requisite legal interest in 547,000 acres of the swamp.

The end of Big Cypress Swamp would not only severely cut back South Florida's water supply, but would also mean the destruction of the Everglades National Park—and with it the loss of a treasure-trove of natural resources, teeming with flowering plants, rare birds and other forms of uncommon and endangered wildlife. The swamp's huge stands of cypress, wet prairies, and slightly higher islands of pine trees are together an essential link in the ecology of both Everglades National Park and the rich Floridian estuaries of the Gulf of Mexico. Animals and birds move between the park and the swamp without knowledge of the artificial borders drawn by man.

This land acquisition will mark the fourth time this administration has taken steps to protect the unique natural resources of South Florida. First was the halting of the commercial jetport proposed in Big Cypress, which would have wrought irretrievable damage to the area. The pledge to locate the jetport elsewhere has given us time to examine again alternative plans for the survival of the swamp. Second, through the 1970 Rivers and Harbors Act, the Eastern portion of Everglades National Park has, for the first time, been assured an adequate supply of water. Third, by legal action, the administration has halted the threat of destruction from thermal pollution to Biscayne National Monument, one of the newest units of the National Park System, thus assuring the preservation of an important ecosystem next door to Miami.

My decision today is intended to secure the future not only of the Big Cypress, but also of an adequate water supply for the western part of Everglades National Park. This action will also assure an adequate water supply to the growing communities on Florida's west coast, because the swamp is a natural water storage area.

To guarantee the continued availability of Big Cypress to the people, I propose that, upon acquisition of those private lands whose development would destroy the watershed, the Secretary of the Interior be authorized to enter into an agreement with the State of Florida for the management of Big Cypress. The State is in the process of acquiring other public areas nearby and is the logical agency to provide single unified management. The Nation, as a whole, will benefit through the protection of Everglades National Park and through the addition of another major wildlife haven and recreation area.

NEED FOR MORE RATIONAL FOREIGN AID PROGRAM

Mr. MONDALE. Mr. President, we all know how much both the objectives and the results of the U.S. foregin aid program have been under fire recently.

Some of us have criticized military aid. Others would have us cut back economic aid and our contributions to the United Nations. But there can be little dispute that we have shortchanged one way or another the needs of millions of people living in the developing countries. In many recipient countries, conditions among the people have often gone unimproved after 20 years of U.S. aid.

There is just no question that we have to build a new, more responsive and more rational foreign aid program.

My distinguished colleague from Minnesota recently contributed a thoughtful speech to this vital debate.

Senator HUMPHREY stresses the building from the grassroots of an essential and strong cooperation between the people of the United States and the people of underdeveloped countries.

I commend to Senators a careful reading of Senator HUMPHREY's remarks in Columbus, Ohio. In his own words:

> Those who say that America no longer has any self interest or moral obligation to continue foreign aid are gravely mistaken. We live in an international community and we should seek to improve it peacefully. We should not turn our backs and refuse to assist economic and social progress in the rest of the world.
>
> If we are to renew foreign assistance, if we are to succeed in our efforts to conquer hunger throughout the world, our programs will need a new emphasis—an emphasis on assistance at the grassroots people level.

I ask unanimous consent that the text of Senator HUMPHREY's address to the Community Hunger Appeal of the Church World Service, be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

COMMUNITY HUNGER APPEAL OF CHURCH WORLD SERVICE

(Remarks by Senator HUBERT H. HUMPHREY)

This occasion marks the twenty-fifth anniversary of the work of Church World Service to combat hunger throughout the world through CROP.

Through your voluntary efforts you have made significant contributions, not only toward better conditions and hopes for development for hungry people abroad, but also toward greater understanding and public support for the war on hunger here at home.

But in paying tribute to your efforts for the past quarter of a century, I would like to suggest that your task has only just begun:

The challenge you face is heightened by last week's Senate action in refusing to extend the Foreign Assistance Act.

I deeply regret this action. I believe it ignores the constructive and positive efforts of the overall program.

We should not forget that the Foreign Assistance Act this year included $368 million in technical and economic assistance, $250 million for Pakistan famine relief, and $139 million for voluntary United Nations agencies.

We should not forget who would receive that assistance. Much of it would go to help the over nine million Pakistan refugees in India. The technical assistance would go to developing nations whose continued economic and social progress greatly depends upon this kind of constructive effort. United Nations agencies, such as the United Nations Development Fund, cannot continue their on-going programs without U.S. contributions.

The National self-interest and moral obligation which originated our foreign assistance programs are no less real today. Two-thirds of the world's people live in the less developed countries, but they share only one-eighth of the world's production of goods and services.

The gap between the have and the have-not countries remains tremendous—and dangerous.

The average annual gross national product in the non-Communist industrialized countries is about $2,850 per person. But in the underdeveloped countries it is just over $200.

In these underdeveloped countries, misery, despair, and hostility prevail. In some of these countries as many as one half of the children die before they reach the age of five—from malnutrition and disease.

In some of these countries there is only one doctor for every 20,000 or 30,000 people, compared to one for every 700 people in the United States. In these countries 300 million school age children get no schooling. Two-thirds of the adults remain illiterate.

We should not forget that the United States invests less than one half of one percent of its gross national product while eleven other developed countries now surpass us in their assistance levels.

The Senate's vote to kill the AID program resulted from a variety of concerns which have developed in the Senate.

Many of us are concerned about the Administration's policies in South Asia. We regret the President's failure to complete the withdrawal of our forces from Indochina. And we want to register our opposition. I did so along with other Senators, by voting for amendments which would have bound the President to make expenditures only for complete withdrawal within a period of six months from the enactment of the bill. Regrettably, this amendment did not pass.

Only the Mansfield Amendment with a six month deadline passed. But the essential point is that it did pass.

By voting down the AID bill, the Senate also voted down the Mansfield Amendment. Similarly, it voted down amendments which would have effectively restricted military operations in Cambodia and Laos.

Some Senators were disturbed by the expulsion of Taiwan from the United Nations and registered their protest by voting to end AID programs.

Many Senators believe that bi-lateral assistance is unwise and that we should concentrate on multilateral programs.

Only a few days ago, the Senate voted contributions to the International Development Association, the Inter-American Development Bank and the Asian Development Bank. All these are multilateral institutions.

Surely we can and should do more in this regard, but at the same time, we must do something to carry us over while the reform of our foreign assistance program is underway.

Those who say that America no longer has any self interest or moral obligation to continue foreign aid are gravely mistaken. We live in an international community and we should seek to improve it peacefully. We should not turn our backs and refuse to assist economic and social progress in the rest of the world.

Certainly, one of the reasons the Senate voted against extending the Foreign Assistance Program was the belief that our aid too often fails to reach the people who most need help.

If we are to renew foreign assistance, if we are to succeed in our efforts to conquer hunger throughout the world, our programs will need a new emphasis—and emphasis on assistance at the grass roots people level.

Such an emphasis and direction could revitalize our interest and concern and bring positive gains and hope to the hundreds of millions who now suffer hunger and poverty in the developing nations.

First we must recognize the fact that hunger cannot be conquered simply by providing food for hungry people—although that is important.

Nor can it be conquered by developing ways to produce more food—although that, too, is important.

The conquest of hunger can be achieved only by attacking its causes, which include such factors as poverty, ignorance, over population, underdevelopment, violence and war.

CROP's history, its activities and its philosophy testify that it has always looked at hunger in this broad context.

During the '60s we became aware of the population explosion and of its grave import, especially from many of the newly developing nations. This sparked a new consciousness of a world hunger crisis, and the nation was aroused to launch a "war on hunger" and to assume worldwide leadership in mobilizing forces and resources to fight that war.

Under our Food-for-Peace program we have provided billions of dollars worth of foodstuffs from our own agricultural abundance to people in the hungry nations—to help meet emergencies, prevent famine, upgrade levels of nutrition, provide food-for-work, and inaugurate school lunch programs.

We developed a new determination to go much further than simply providing food for the hungry by attacking the more fundamental causes of hunger, and by helping people in the hungry nations to achieve a higher level of economic development so that they could produce or purchase more food for themselves. We led in international, multilateral efforts, through such agencies as the FAO, the UNDP and UNICEF to help in the war on hunger.

Much has been accomplished. But it would be foolish to say that the war against hunger has been won.

One of the problems we face today is that there seems to be a diminishing public concern about world hunger. And one reason is that on the surface, at least, we appear to be well-fed here at home—in this abundant land where the average per capita consumption of calories is often too high for our own good.

We know that hunger and malnutrition in the United States is not due to the lack of availability of food. It is due rather to ignorance and poverty.

Hunger in America is not due to any lack of efficiency on our farms, or in the business of handling and processing foods, or even to the high cost of food in relation to incomes. The latter is the lowest in history.

Rather it is because we have not yet succeeded in establishing social, political and economics under which poverty and deprivation—which result in hunger—have been conquered.

In recognition of the importance of nutrition and nutrition education here at home.

I recently introduced a bill to establish a universal child nutrition and nutrition education program in this country.

My bill would provide that every child in school or in a day-care program would receive at least one free meal a day, thus eliminating the economic caste system which has been built into the present program.

Even in this wealthy country of ours, with its agricultural abundance, we reach only half our school children through the school lunch program.

Some 23,000 schools offer no program at all, and that excludes 10 million American children.

I believe that good nutrition is as basic as good schools, good textbooks and good teachers. And we should make provisions for good nutrition on the same free, universal basis that we provide other school necessities.

We cannot overemphasize the need to bend every effort to eliminate poverty at home. But I am equally convinced that the neglect of hunger abroad can in no way contribute to that end. A continued widening of the gap between standards of living in our own country and in the poor nations of the world could have an explosive potential as serious as that of the world's nuclear stockpiles.

The conquest of hunger and poverty is a goal that must be sought on a world-wide scale.

I believe a new emphasis and a new direction for our foreign assistance are essential to rekindle public interest and support for such a program. I believe that the foreign aid program of the United States should be oriented and organized specifically and directly toward the conquest of hunger and poverty at grass roots levels throughout the world.

I believe we should talk more about the numbers of people raised from the depths of misery and deprivation than about increases in Gross National Product.

This would mean that our aid programs would be designed to benefit directly those at the lowest economic levels in the poor countries.

My philosophy has always been that benefits should "percolate up" rather than "trickle down."

Too often our aid to governments has failed to trickle down.

Too often programs that may have succeeded in helping to bring about an increase in the GNP have so concentrated their gains at the top of the economic ladder that they almost completely evaporate before they can trickle down to the peasants and the campesinos and the unemployed in the city slums.

The GAP between rich and poor in the poor countries themselves has widened—and the threat of unrest and violence has intensified.

This new emphasis in our aid policy would mean that a very high proportion would be directed to the villages and the rural areas, where most of the poor still live in the newly developing countries.

It would need to be specifically geared to combat the unemployment that is reaching staggering proportions in much of the world.

Aid directed specifically to the grass roots, aimed against hunger and poverty where they exist could raise the level of living of the great majority of the poor and benefit the entire economy by expanding markets and trade.

Aid to the agricultural sector is of paramount importance. But it must be designed specifically to reach the millions of peasants and campesinos who cultivate the soil, rather than the landowners.

It should be accompanied by provisions for supervised credit for the farmers themselves, and technical assistance in farming as well as in organizing cooperatives for marketing and supply.

For countries wanting such assistance, the program should include help in the whole spectrum of improvement in the agricultural and agribusiness sector in order that a real impact could be made in improving incomes and levels of living.

Another way to direct aid more specifically to the grassroots would be to expand our use of private, voluntary agencies in their people-to-people programs—in the cities as well as in rural and village areas.

American voluntary agencies have long since progressed beyond merely providing food for the hungry. They have launched and carried out successful development efforts. They have helped in family planning programs—which certainly have a direct bearing on the conquest of hunger and poverty.

But voluntary agencies could do a great deal more. And I believe our public aid policy ought to encourage and assist much greater private participation, especially directed to providing grass roots benefits.

We also could do more toward the building of cooperatives as a method of directing the benefits of development to the grass roots.

Ten years ago I sponsored an amendment to the Foreign Assistance Act of 1961 incorporating in our foreign aid program assistance to cooperatives, credit unions and savings and loan associations.

While the Agency for International Development has given proportionately little attention to this field, some significant progress nonetheless has been made.

American cooperatives have voluntarily contributed a million dollars to the building of a large, modern fertilizer plant owned by farmer cooperatives in India, for example.

Assistance in the development of credit unions in Latin America has resulted in a directed agricultural production credit program through which poor campesinos have been able to double their incomes in only a few years.

It is in the cooperative tradition to organize to meet needs at grass roots levels, and to leave the wealth that is produced among those who produce it.

Under conditions that prevail in many countries today there is a growing suspicion of private enterprise as represented by the huge multi-national corporations that have become so important in international economic growth.

Justifiably or not, such enterprises are often regarded as a new and engulfing form or imperialism and exploitation.

At a time when their potential contributions are most needed, and when business leadership is far more enlightened and development-oriented than ever before, conventional business institutions frequently face growing resentment and opposition as they try to expand in development countries.

In such places, cooperatives may be the one segment of the private sector through which development efforts would be welcomed. The role of cooperatives as a tool for grass roots development could thus be substantially enhanced.

Finally, I should like to suggest a major expansion of these aspects of our Food for Peace Program that specifically meets the new emphasis that I am proposing—that directly attack the causes of hunger and poverty at the grass roots level.

Our massive food aid programs in the past have enabled us to use our vast agricultural productivity to help millions of people, by relieving hunger and suffering and promoting development throughout the world.

But certain factors, however, have limited the expansion of that part of our Food for Peace program that is carried out by means of concessional sales for local currencies. These sales to recipient governments operate from the top down, and their benefits do trickle down.

Their volume, moreover, must not be so great that the increased availability of food grains lowers prices to local farmers and serves as a disincentive to improved agricultural development in recipient countries.

And the policy of increasing the portion of the payment that must be made in dollars limits the capacity of the recipient countries to use this form of aid.

Food aid for school lunch programs has been developed successfully in several of our Food for Peace donation programs. Such food aid is "additional."

Far from competing with local farmers, it builds expanding markets for them by providing for a "phase out" period during which our aid will gradually diminish as local efforts take over.

By furthering literacy and encouraging educational development it strikes at root causes of hunger and poverty. It can directly reach the masses at the lower economic levels.

Perhaps the most constructive impact of an appropriately expanded Food for Peace program in the immediate future lies in its potential to relieve the burgeoning problems of unemployment that today threatens most of the newly developing countries.

Our own problems of unemployment here at home are alarming. But consider the 20 and 25 percent rates of unemployment that are common among the urban labor force in the overcrowded cities of newly developing nations.

Today, within the newly developing nations themselves, the concern for hunger is outranked by the concern for the masses of unemployed crowding into their cities.

The magnitude of the problem has become so great and its consequences and potential dangers so apparent that they must try to develop policies that will meet the unemployment problem before it erupts into further misery, violence and revolutionary disruption.

In the search for policies to halt this trend and to provide constructive employment in newly developing areas, one approach offers hope for reducing unemployment without too great a burden on capital investment and in a relatively short period of time.

That calls for the development of massive public works programs in both rural and urban areas. The building of public facilities and roads, the construction and rehabilitation of irrigation ditches and wells, reforestation and many similar programs have much to offer.

Such programs could reduce unemployment. They could provide jobs and incomes for millions at the lowest economic level, thus raising demand and "percolating" up to help the entire economy.

Employment is the best single indicator of how many people share in progress. And improved employment opportunities would make a real inroad against hunger and poverty.

They would slow down, and perhaps even reverse, the flight to the cities. They would bring renewed hope to millions and help to solve the complicated and threatening political and humanitarian problems caused by the unbelievably crowded conditions as people without work move into urban slums.

What better use could be made of the surplus productive capacity of American farms?

The new emphasis I propose would focus on the numbers of people employed rather than on dollars expanded for factory equipment. It would emphasize numbers of children in school provided with nutritious school lunches rather than on cost-effectiveness ratios. It might even consider new jobs created for men and women as a more important indicator of progress than increases in GNP.

I believe that this emphasis on people—and on directly helping those who need it most—still has an appeal for the people of America.

And that progress at the grass roots would percolate upward and outward to make for a better world.

BAREFOOT DOCTORS IN MAINLAND CHINA

Mr. JAVITS. Mr. President, shortages and maldistribution of health manpower exist everywhere in the world. In many developing nations, the manpower problem is extremely acute. Rising expectations, dramatic increases in population, a developed awareness of the possibilities of good health, all are producing urgent demands for more health manpower and for better health delivery systems.

It would seem especially appropriate to study what has been happening in mainland China, now that she is opening her doors to improved relations with other nations; as we in this country also are confronted with shortages and maldistribution of health manpower. There, the "barefoot doctor" approach, an interesting development in the use of paramedical personnel, seems to have assisted considerably in China's health delivery system. We have our own supply of paramedical personnel in our 30,000 medical corpsmen discharged annually from the Armed Forces.

The Medical Tribune and Hospital Tribune have published a series of articles on the subject. I ask unanimous consent that three of the articles be printed in the Record so that Senators may have the opportunity to study them.

There being no objection, the articles were ordered to be printed in the Record, as follows:

[From Medical Tribune, Sept. 29, 1971]

Barefoot Doctors First Link in Massive Health Program

Canton, China.—"Barefoot doctors" are bringing medical aid to the 600,000,000 workers and peasants of China as the first step to what could become the world's most massive health care system. They provide the first link in a chain of medical aid that reaches from tiny rural villages to major hospitals having full general and specialist staffs in Peking and other main cities.

Barefoot doctors are, in fact, neither barefoot nor doctors. A cross between a first-aid worker and a district nurse, they run both rural and industrial medical services with what officials describe as diligence and frugality. Their work has gone far towards solving a problem that troubles many other countries to one degree or another—how to provide remote areas with adequate medical service.

The exact number of barefoot doctors is not made available by the authorities. Guesses range between 1,000,000 and 5,000,000 throughout the country, and a story in a Peking newspaper mentioning that 12,000 of them function in the area of the capital suggests that this estimate is probably correct.

As district health visitors, the barefoot doctors are able to dispense simple remedies and deal with simple fractures, burns, cuts, etc. Once they have been given rudimentary training in medicine and health protection, they frequently add age-old Chinese medical techniques.

By thus combining modern medicine with such treatments as acupuncture, massage, and herbal prescriptions, they are often able to handle difficult as well as routine cases.

Probably the main service they provide is the development of better social and personal hygiene. Following Mao Tse-tung's instructions to put prevention first, they lead the fight against flies, cockroaches, bugs, fleas, and the snails that have devasted whole areas of the rice-growing areas of south China.

Tung Tai-ho, a barefoot doctor from Shunyi county, is often cited by officials as an example of outstanding zeal in this respect. He organizes regular checks on water supplies and visits the homes of all commune members regularly to spray insecticides. He also teaches fellow members of the commune how to prepare herbal medicines.

With a population exceeding 700,000,000 people, China is desperately short of medicine and medical equipment. Yet officials report that more than 1,000 small pharmacies have been set up around Peking, using almost exclusively the medicinal herbs and acupuncture techniques that the barefoot doctors are substituting for the more sophisticated medical practices of the West.

In the Chiang Tai people's commune, on the western outskirts of Peking, 19-year-old Wang Lee-hua typifies the barefoot doctor. Born and raised in the area, she now works as an assistant to Dr. Chou Hua-chin, the commune's woman doctor, and her aim is to become a fully trained physician. Working with Dr. Chou and getting practical training with the peasants in the fields will, she told a recent visitor, eventually equip her for her desired career and perhaps give her better training than if she had spent six years in medical school.

Sixteen barefoot doctors work in the Chiang Tai commune, but only four are assigned to Dr. Chou's clinic. This is the standard ratio for barefoot to regular doctors. Dr. Chou, a plump middle-aged woman from Peking, volunteered to work in the countryside a year ago.

The commune itself is divided into "production brigades," the basic unit for work in the fields. Dr. Chou treats patients from 681 households in the production brigade served by the clinic. Apart from a small token payment, treatment is given free.

The clinic itself is housed in a small one-room cottage with an earthen floor. The walls are whitewashed and the equipment limited to a few bare wooden chairs, a threadbare couch, and one small, roughly made medicine cabinet. The cabinet contains a bare minimum of drugs, and there is no sign of records or other equipment.

The clinic practices mainly Western medicine, with some acupuncture for such ailments as headaches or stomach upsets. When, operations need to be performed patients are sent to the eight-bed commune hospital, which has a staff of doctors and nurses. More difficult cases are sent to the bigger hospitals in Peking.

WORK HALF DAY IN FIELDS

The barefoot doctors work half a day with the production brigade in the fields and half a day at the clinic. While working in the fields they check on the health of their fellow workers, to whom they teach hygiene as well as methods of curing simple illnesses.

Although clinics such as the one operated by Dr. Chou are rudimentary by Western standards, they offer a viable alternative to the total lack of facilities available before. Previously the sick could spend days waiting for treatment at the commune hospital. Now, minor ailments, which formerly would have meant loss of work, are dealt with promptly, and a valuable amount of work time for the "brigade" is saved.

Although relatively primitive at the lower levels and forced on China by necessity, the barefoot doctor program has brought a modicum of medical service to millions for the first time in their lives, creating the framework for a nationwide health scheme.

[From Hospital Tribune, Nov. 1, 1971]

Best Medicine Found Equal To America's

Kansas City, Mo.—The best of Chinese medicine is apace with the best of American medicine, Dr. E. Grey Dimond reported on his return from a two-week visit to the People's Republic of China.

"The Chinese aren't a bit out of date," said Dr. Dimond, provost for health sciences at the University of Missouri at Kansas City. "Their best hospitals have everything ours have. I really had nothing medically to contribute to China. Their physicians know as much as I do."

The sole purpose of the trip was to "reestablish communications between American and Chinese physicians," he said, and rumors that he and fellow cardiologist Dr. Paul Dudley White were asked to China to care for a supposedly ailing Mao Tse-tung were simply not true.

"We did not see or visit with a political figure during our stay," Dr. Dimond said. "We met and talked with Chinese physicians about medicine."

Drs. Dimond and White were guests of the All-China Medical Association for 13 days. During that time they visited seven hospitals in and near Canton and Peking. Dr. Dimond examined 40 patients.

"I was, of course, most interested in heart patients since that is my specialty," he said. "I carried around a stethoscope and read ECGs. That's a universal language no one needs to translate for you."

Dr. Dimond refuted the notion that heart disease is virtually nonexistent in China. He found, in fact, that heart disease and high blood pressure are as significant diseases in China as they are in the United States.

The two American cardiologists were escorted during their stay by English-speaking Chinese physicians. Dr. Dimond had prepared a list of requested visits and interviews, and none of them were denied, he reported.

"The Chinese cooperated graciously with each of my requests," he said. "Every date I had was met on time."

One of the visitors' specific requests was to witness acupuncture anesthesia. Dr. Dimond has always had an active interest in acupuncture, and during a visit to Saigon in 1964 he made rounds with an active practitioner of the technique and wrote an article on that experience for the *New England Journal of Medicine*.

In China he viewed about 10 operations using acupuncture anesthesia. He commented that he is "running the risk of being called a madman," but "there seems to be some margin of truth" in the technique.

Although Dr. Dimond was unwilling to speak at length about the operations he witnessed because he plans to write articles dealing with them for various journals, he did describe two specific cases.

In one, a growth was removed from a man's throat after a needle was inserted in one side of the neck and an incision was made across the rest of the throat.

"The patient stayed awake and cheerful throughout the operation," Dr. Dimond related. "And when it was over, when his entire throat was sewn up, the man sat up with a smile. He picked up the little red book of Chairman Mao's thoughts, waved it, and said: 'Long live Chairman Mao! Welcome to our American friends!' Then he buttoned up his pajama shirt, got off the operating table and casually walked off to his room."

SECOND CASE DESCRIBED

The second case that he described was that of a patient, a chest surgeon, suffering from tuberculosis. The operators inserted a needle about 1½ inches long into the patient's left arm and then opened the left side of the chest to remove the upper half of the left lung.

"The patient's chest was wide open," Dr. Dimond recounted. "I could see his heart beating. And all this time the man continued to talk to us cheerfully with total coherence. Halfway through the operation he said he was hungry, so the doctors stopped working and gave him a can of fruit to eat."

Dr. Dimond said that the operation continued for an hour and that when it was over the patient sat up as if nothing had happened.

"I saw more of acupuncture than I know how to believe," said Dr. Dimond, who returned to Kansas City with a teaching-model manikin and set of needles. "As you stand there watching these procedures your scientific brain says, 'My God, this can't be true,' but we were still seeing it."

The physician said he intensively queried Western-educated Chinese physicians about the procedure "after cocktails, while riding behind the curtained windows of our limousine, and other places."

"But never could I get them to break down and say there wasn't some margin of truth in the procedure," he added.

Chinese physicians, he noted, do not brag about the procedure and readily admit it "does not work in all cases."

"The Chinese Government realized you can't create instant Western medicine," he said. "So they married the two to obviate the development of Western medicine."

[From Hospital Tribune, Nov. 15, 1971]

U.S. Visitor Sees Marriage of Old, Western Medicine

Kansas City, Mo.—Since the Cultural Revolution, there has been a "marriage of traditional medical techniques to Western medical techniques," Dr. E. Gray Dimond said on his return here from a two-week visit to the People's Republic of China.

Dr. Dimond was told that last December the Chinese cut their medical and pharmacy curriculums in half to speed up training of health care personnel. Medical education now requires three years and pharmacy two and one-half years.

Chinese physicians indicated to Dr. Dimond that the major thrust of the Government now is to deliver some kind of health care to all of the nearly 800,000,000 Chinese. They have developed a variety of delivery systems, including the "barefoot doctor" concept, to reach their goal.

Dr. Dimond observed that the barefoot doctor should not be misconstrued by Americans to be the people's only source of medical care. On tours of some of the rural communes he saw the barefoot doctors in practice, he said, and they are really "the medical corpsmen of China."

"Every handful of Chinese has its barefoot doctor," he said. "He is nothing but a man of the village who has been told about vaccinations, the use of DDT, and personal hygiene. He keeps complete records on his handful of 'patients.' But he is not out there freelancing. He is backed up by a whole medical care system which includes a well-equipped dispensary staffed by a pharmacist. The dispensary is then backed up by a commune hospital."

Dr. Dimond was told that there has not been a reported case of venereal disease in China in 10 years and that there is no alcoholism, no drug abuse, no prostitution, and no epidemics. When Dr. Dimond was asked if he saw any documented evidence of these claims, he replied that the reporting system due to the Communist Party organization is amazing.

"Each human being in China is responsible to a party member," he said. "They would be required to report any illness, and I can't see how they could escape it."

Before the Cultural Revolution, Chinese physicians told Dr. Dimond, they traveled extensively to international medical meetings. Demands now on delivering care, however, are so great that such travel has been virtually eliminated. The Chinese have not published any medical journals for several years, he learned, and will not resume such publications until the goals of the Cultural Revolution have been attained.

Upon visiting the Chinese Medical Association and the Chinese Academy of Sciences libraries in Peking, Dr. Dimond discovered that there is no lack of medical literature in China.

"These libraries were filled with medical journals from all over the world," he continued. "I noticed the August issue of the 'New England Journal of Medicine' on one table, and one librarian showed me the most recent issue of the Missouri State Medical Association monthly journal."

Basic or unstructured research in China had been eliminated for the duration of the Cultural Revolution, Dr. Dimond was also told. No effort is made to hide this fact, he reported, and the Chinese "frankly admitted" that their scientific goals had been redirected by the Government.

"The thrust now is to give care to people," he emphasized. "Every medical student, physician, or faculty member is required to spend time in the rural communes on mobile medical units."

Medical students are mostly from the peasantry, the military, or the working class, Dr. Dimond related. The way to get into medical school in China, he said, is to "finish middle school, go out and work in a factory or rice paddy, and depending on your good behavior and work points, you are admitted to medical school."

IMPRESSED WITH PROFESSIONALISM

In his tours of hospitals Dr. Dimond was impressed with the professionalism of the staffs and their "friendliness and kindness towards each other and the patients."

The major hospitals were equipped with all of the most modern medical instruments and machines, he said, adding that he saw dialysis equipment and open heart surgery equipment as sophisticated as that in the most modern U.S. hospitals.

"They are equipped to do any kind of open heart surgery," he said. They were interested in Shumway and his heart transplants but said none had been attempted in China. Although they perform open heart procedures, they aren't done to the extent they are in the United States, probably because the Chinese just aren't as aggressive as Americans."

Dr. Dimond observed, however, that the Chinese have an active rental transplant program.

The majority of the medical equipment used in Chinese hospitals appeared to have been manufactured in Shanghai, he said, but 95 per cent of the drugs used were manufactured in China, the rest coming from Europe. "They had a polio vaccine similar to the Sabin but it was Chinese-made," Dr. Dimond reported. "Every hospital has its own drug-manufacturing department where herbs are ground, drugs compounded, and sterile solutions made. I believe this was part of the war readiness theme evident throughout the country. Every institution was capable of surviving and caring for its patients without outside help."

With regard to family planning, Dr. Dimond said:

"The Party absolutely supports birth control either by the pill or pessary. And with the strength of that government one would assume something would get done."

Dr. Dimond said that he felt fortunate in being one of the first four American physicians admitted to China in nearly 25 years. He related that the invitation came directly from the Communist China Embassy in Ottawa after he and his wife had told Edgar Snow, a friend, about their interest in visiting the country prior to one of the author's trips to China.

FUTURE OF U.S. MERCHANT MARINE

Mr. MAGNUSON. Mr. President, I recently had occasion to read two articles relating to maritime policy by Mr. Jesse M. Calhoon. Mr. Calhoon is well known to the Members of this body as the president of the Marine Engineers' Beneficial Association, AFL–CIO, and as a particularly articulate and effective spokesman for the U.S. merchant marine.

The articles are thought-provoking and I commend them to Senators concerned with the future of the U.S. merchant marine. I ask unanimous consent that the articles be printed in the Record.

There being no objection, the articles were ordered to be printed in the Record, as follows:

Why Not Reciprocal Pacts for Ships?

(By J. M. Calhoon, MEBA national president)

A recent item in the press announcing the termination by Belgium of its 25-year-old Aviation Agreement with the United States, following an American refusal to grant landing rights in Chicago for Sabena, the Belgian airline, prompts the question that if the countries of the world have, practically since the inception of aviation, found it in logical self-interest to enter into bilateral air pacts to guarantee and protect the rights of their respective national air carriers in other lands, why cannot ocean carriers be given the same reciprocal rights through the establishment of bilateral maritime pacts between countries?

While the American doctrine of "equality of trading opportunity" is closely allied to the international principle of freedom of the seas, history does, nevertheless, tell us that when a country sees its own national interest menaced it has not hesitated to enact legislation aimed at regulation of a determinate maritime area.

As early as 1651, a navigation act was passed by the British to offset the maritime supremacy of the Netherlands. This act, which remained in force for two centuries, required that the national trade by sea be carried in ships under the national flag.

In 1849, a statute was added to the 1792 maritime treaty between the United States and Britain, which established that U.S.-flag ships be admitted to British ports on the same terms as British ships were admitted to the American trade.

There will, of course, be those who airily, or perhaps I should say opportunistically, dismiss regulation as not in keeping with the free-trade exigencies of our modern maritime era.

But commendable as the principle of free trade is, it should not be made to work when in doing so the U.S. national interest is in jeopardy.

The continually increasing flow of United States capital abroad and the consequent decline of jobs for American workers, as little by little they are exported overseas, must sooner or later call for Government regulation in those areas that are hardest hit.

With our country's economy at its present dangerous level, the government should move to assume to a degree the foreign economic policy of the nation.

The economic policies of most countries are regulated by their governments, which set up preferential and other controlling legislation to protect their own interests, while the United States remains unique as the world's most unrestricted country in international commerce.

When a country's economic prosperity is at stake, the philosophy of free trade must inevitably be substituted by a philosophy of fair trade.

As late as 1935, the United States Government, when its seaborne commerce between American ports was being menaced by foreign-flag interests, saw fit to pass legislation on the national coastwide traffic to ensure that trade for the U.S.-flag carrier.

Why, therefore, could not protection be given to the maritime industry, which stands in dire need of assistance, through the institution of bilateral pacts aimed at ensuring to the U.S.-flag ocean carrier the same proportionate equity now enjoyed by national airlines under international air treaties?

Aviation agreements are generally drawn up nowadays between two trading countries to ensure reciprocity in landing points within both countries for their respective air carriers.

The proportion of reciprocity between the treaty states is arrived at via the dollar-load-value factor of the respective landing points in both countries, thus establishing a degree of equity and proportion between two countries possessing disproportionate air fleets.

REVITALIZING THE U.S. MERCHANT FLEET THROUGH BILATERAL PACTS FOR VESSELS

(By J. M. Calhoon, MEBA national president)

If to date bilateral pacts for ships have not been contemplated in this country or elsewhere, it is certainly not because of aversion to maritime regulation.

Rate disparities are still with us in the continuing North Atlantic rate conflict, but there is a move afoot to reach an international accord to "rationalize" this and other facets of maritime trade.

If regulatory "rationalization" is conceivable in these other phases of maritime commerce, there surely should be nothing to obstruct party countries from entering into bilateral treaties containing national-flag clauses to ensure proportionate reciprocity for ships of the national merchant fleets of the contracting states.

A pro-American-flag merchant marine policy is essential to the well-being of our national economy and of our national defense.

Today, the U.S. merchant fleet is wholly inadequate for either purpose. The tragic statistic that the government tends to gloss over is that less than six per cent of our foreign waterborne commerce is carried in ships flying the U.S. flag.

A bilateral vessels' pact between the United States and another party country would serve as an instrument to further the prosperity of the American merchant marine.

It would put more American cargo into American bottoms. It would, by its reciprocal nature, also ensure a quota of foreign cargo for U.S.-flag vessels.

Such a pact would also help many countries now trading with the United States to set themselves up with a maritime fleet, or enlarge their present fleet. Their ships, under the terms of the treaty, would be viable ships.

A bilateral ships' pact would serve as well to alleviate the resentment many small countries feel when they see their tiny merchant fleets crowded out of the ocean carrier field by the monopolistic predominance, not so much of the national-flag ships of the bigger maritime powers, but of the immense foreign holdings translated into millions of tons of ships flying the runaway flags of convenience of Liberia, Honduras and Panama.

Just look at what these runaway companies are doing to the U.S. merchant marine and to its workers, for example. As of December 31, 1969, there were 433 ships totalling 21.9 million deadweight tons owned by foreign affiliates of U.S. companies, as against an April 1, 1971 figure of 699 privately-owned U.S.-flag active ships in the American merchant marine.

If one pauses to think that the Standard Oil companies of California and New Jersey had, between them, as of December 31, 1969, almost 8.8 million deadweight tons in their foreign-flag merchant fleets the need for at least a modicum of regulation at government level is immediately apparent.

Many of these U.S. companies with foreign-flag holdings also have ships sailing under the American flag. But their foreign-flag fleets today consist of new, modern ships, far superior to those they have under U.S. registry.

Bilateral pacts for ships would be of inestimable help to the U.S. merchant marine. Over and above assuring more cargo for U.S. bottoms, they would ensure the return of a healthy percentage of U.S. owned foreign-flag ships to the American flag, because the depletion of the present-day U.S. merchant marine would need more national-flag ships to comply to the bilateral treaty terms.

The current efforts of the U.S. Government to assure more cargo for American-flag ships are only half measures.

It is not enough to try, through promotional means, to convince U.S. exporters and importers to ship more of their commercial cargoes in American bottoms in order to increase the portion of the nation's trade that is carried in U.S.-flag ships.

It is a prime requisite of government to give preference to a national industry to meet foreign competition. The U.S. Government, instead, leans on foreign-flag ships for government cargo to the detriment of its own merchant fleet.

International bilateral treaties for national ships of the party countries could well be a means to enable the U.S. merchant marine to safely weather itself through the rough seas of today toward a haven of accomplishment much bigger than that envisaged by the Merchant Marine Act of 1970.

VALUE OF OIL IMPORT QUOTA SYSTEM

Mr. TOWER. Mr. President, during the debate on November 20 on amendment 693 to the Revenue Act of 1971, the distinguished Senator from Massachusetts (Mr. KENNEDY) raised some interesting questions concerning the value of the oil import quota system. I should like to respond to the questions.

First, the Senator asked why President Nixon's task force "Report on the Oil Import Question" was not accepted and implemented. Some background information on this question would be helpful. It is noteworthy that the task force study was initiated by the President at the request of the petroleum industry. Neither the industry nor the President intended that the oil import quota system be abolished. Rather, the purpose of the study was to examine and attempt thereby to correct certain inequities which had crept into the system during its existence beginning in 1959. It is not difficult to conceive that inequities would occur in administering this highly complex program. The program was instituted by President Eisenhower to protect our national security interests. For over a decade four Presidents have recognized the importance of the oil quota system in protecting our national security interests. The petroleum industry itself supports the system.

The staff of the task force was composed entirely of academicians, none of whom had any firsthand knowledge or experience with the oil import system. Based largely on the assumptions and recommendations of the task force staff, the task force committee suggested some ill-conceived and sweeping alterations to this proven, workable program, and even recommended the changing of a large part of the program from a quota to a tariff system.

One example of the ill-conceived work of the staff was their basic asumption that the world price of crude oil would remain substantially below the domestic price.

This assumption led to the unfounded but often quoted conclusion that the oil import quota system costs the American public $5 billion per year. In fact, only a few months after the report was issued, the world price of crude oil rose to unprecedented heights. On some occasions, the world price exceeded the domestic price. Thus, at best, it is difficult to determine the cost of this program which at times has saved the American people money.

Another example of the ill-conceived work of the task force staff concerned the security of supplies of Eastern Hemisphere crude oil. The staff assumed that none of the Eastern Hemisphere countries which produces crude oil would violate its own economic self-interest by voluntarily reducing its crude oil production by a significant amount for any extended period of time. Yet, just months after the report was issued, two large Eastern Hemisphere crude oil producers voluntarily caused substantial reductions of crude oil production totaling approximately 800,000 barrels per day. These reductions lasted for several months and wreaked havoc in the world crude oil markets, including the United States. However, this erroneous assumption led the staff to conclude that we could rely on foreign sources to supply our large and growing crude oil needs.

Thus, most knowledgeable people, including the President, rejected these and other major conclusions reached in the task force report.

The Senator from Massachusetts proposed that we should "preserve the oil in strategic reserves in this country and utilize the sources outside."

This oft-suggested solution to our crude oil supply problems will not work for several reasons.

First, as I already pointed out, we cannot be assured that foreign sources will be able or willing to supply our needs. Several times in the recent past, crude oil producing countries in the Eastern Hemisphere have acted irrationally and contrary to their own economic best interests by causing disruptions in the production and transportation of crude oil. But, even if these unstable countries did want to supply our needs, forces beyond their control could cause disruptions. As I pointed out in my statement on this subject on November 20, the Russians are increasing the size of the fleets in the Eastern Hemisphere, particularly in the oil-rich Mediterranean Sea and Persian Gulf areas. Thus, they are increasing their capability to disrupt shipments of crude oil to us and to Western Europe.

Second, serious technical problems are involved in shutting in producing wells. By being shut in, many producing geologic formations can be irreparably damaged through water encroachment, or by parafin, salts, or rust buildup on the face of the producing zone. This damage would likely cause us to lose forever significant quantities of crude oil.

Third, assuming for the sake of discussion that the first two problems could be overcome, we would have to solve serious economic problems.

For example, assuming that all oil wells are shut in, where is the revenue to be derived to finance future exploration and development of new reserves of oil or the revenue for the return on risk capital, to investors who are producing reserves and equipments, the refineries, pipelines, and distribution systems? What becomes of our highly skilled employees in the domestic oil industry if there is no new exploration or development? Do they simply stand idle until the time when our foreign supplies are exhausted or disrupted? How do we allow for the normal time lag of several years required from beginning exploration to delivering the products to the consumer?

These are all serious questions which must be satisfactorily answered before we change from a known, workable system to a new and untried system such as the Senator suggested.

Until such a satisfactory new program is devised. I feel strongly that we must preserve our own energy self-sufficiency by maintaining an active and healthy domestic petroleum markets from being The requisite viability must be maintained through providing adequate tax, economic, and other incentives to attract the required amounts of high-risk capital to explore for and develop, refine, and distribute our own vast, undiscovered petroleum reserves. This must be done to properly protect our national security interests.

Also, the maintenance of some inhibitory system is necessary to protect our domestic petroleum-producing industry. unfairly inundated by imports of crude oil from unsure foreign sources. One such workable system is the present oil import quota system.

Mr. President, I fervently hope that Senators advocate drastic and precipitate changes in this system and further oppressive actions against the domestic petroleum industry will examine carefully the long-range national security ramifications of such changes. I further hope that they will not rely on the now largely discredited task force report or on simplistic solutions to our complex and vitally important petroleum supply problems.

EAST-WEST TRADE

Mr. MONDALE. Mr. President, I was pleased to read of President Nixon's letter announcing that he has decided that Export-Import Bank loans to promote trade between the United States and Romania are in the national interest. This is a step which I have urged for some time, and which could lead to important increases in U.S. trade and exports.

This step should be followed quickly by others, and I hope that the administration intends that this should be the case. Export-Import Bank financing should be extended to trade with the remaining Eastern European countries including the Soviet Union, where it is not now available. I think that this is a logical result of Secretary Stans' trip to Eastern Europe and to the Soviet Union.

In addition to steps increasing trade financing, I hope that the administration will support efforts in the Senate to win authority to negotiate most-favored-nation treatment with Romania and other Eastern European countries. Our failure to accord this treatment is costing us dearly in lost trade opportunities.

The potential for increasing trade with Eastern Europe and the Soviet Union is enormous. This could mean many jobs for our workers and farmers. Recent large export breakthroughs which involve agricultural products and machinery are examples of the potential that exists.

During the first 6 months of 1971, the United States did a smaller percentage of its total trade with Eastern European countries and China than did any other major trading country. Germany, Japan, the United Kingdom, France, Switzerland all did three to five times more of their total trade with these countries than did the United States. The President's action removes one knot from the rope with which we have tied our own hands. We must untie the others quickly.

I ask unanimous consent that a memorandum concerning the President's communication, published in the Congressional Record of November 30, 1971, be printed in the Record.

There being no objection, the item was ordered to be printed in the Record, as follows:

Purchase or Lease of Products and Services to the Socialist Republic of Romania

A communication from the President of the United States, reporting, pursuant to law, his determination that it is in the national interest for the Export-Import Bank to guarantee, insure, extend credit, and participate in the extension of credit in connection with the purchase or lease of any product or service by, for use in, or for sale or lease to the Socialist Republic of Romania; to the Committee on Banking, Housing and Urban Affairs.

BOEING LOOKS TO FUTURE AT BOARDMAN, OREG.

Mr. HATFIELD. Mr. President, it was during my term as Governor of Oregon that we focused our efforts to expand and diversify our State economy. I had the opportunity to work with officials of the Boeing Co. on a particular project in Oregon.

After great effort, here in Washington, D.C., in the State of Oregon, and in the State of Washington, we were able to offer to the Boeing Co. a 100,000-acre tract of land in northeastern Oregon under a long-term lease. This effort was culminated in 1964.

I was delighted to be briefed by Boeing Co. officials recently on the company's plans for the development of this site. It is an imaginative, innovative program.

I was pleased to see in the November 29, 1971, issue of Aviation Week and Space Technology that a fine article by Richard G. O'Lone discussed Boeing's plans. Because of the interest of Senators in such matters as rural development, I ask unanimous consent that the article be printed in the Record. If efforts such as this can succeed, they will offer a new vista for our consideration as we review legislation affecting rural economic development.

There being no objection, the article was ordered to be printed in the Record, as follows:

Boeing Sows Diversification Seed in Desert

(By Richard G. O'Lone)

Seattle.—Boeing Co., which played a major role in putting man on the moon, now has a long-range goal of performing another challenging task here on earth by causing the desert to bloom and creating a productive community in an Oregon wasteland currently suited only for rattlesnakes and rocket engine tests.

In one of its most ambitious diversification efforts to date, Boeing is implementing the initial stage of a master plan that foresees a riverside town of 5,000 or more persons arising on 100,000 acres of sand and sagebrush in northeastern Oregon that would be made productive by irrigation.

The plan envisions a community supported by agriculture and related industries, with a water reservoir and nuclear power plants playing key roles, and perhaps even recreation facilities along its 10-mile stretch of Columbia River frontage. The plan would provide for recycling of wastes back into the land and using reservoir water—rather than the Columbia River—to cool the power plants and utilizing the heated water for irrigation.

These goals admittedly are many years away, but a start has been made and Boeing executives more accustomed to the complexities of aircraft production rates and missile design are soberly studying recycling of livestock wastes and irrigation hardware as an aerospace company moves for the first time into the field of multiple land use development.

The site involved is an old World War 2 bombing range, about 275 miles east of Portland, that Boeing acquired in 1966 when the future for rocket and supersonic transport engine development appeared considerably brighter than it does now. This wasteland—vast and remote—was ideal for testing rocket engines and aircraft powerplants—a business too noisy and hazardous for the densely populated Puget Sound area—and Boeing took a lease on the land from the state through the year 2040.

As aerospace business began to decline, however, the chances of utilizing all of this huge site for its original purpose started to fade, and Boeing began looking for other uses. In January, the company hired the Corvallis, Ore., firm of Cornell, Howland, Hayes and Merryfield/Hill to assist in this effort, which was given impetus by the death a few weeks later of the U.S. supersonic transport program (AW&ST Mar. 24, p. 14).

The master plan that emerged was approved by Boeing top management in April, and contained this broad outline:

Development of an extensive irrigation system that eventually could convert about 50,000 acres of desert to productive land for grazing as well as field crops, vineyards and orchards.

Emergence of a tier of light industry to process, store and distribute the meat, vegetables and fruit produced on the irrigated land.

Creation of a community of at least 5,000 persons supported by farming and related industries. Irrigation of land along the riverbank could create an attractive place to live, with fishing, swimming and golfing for recreation.

A key item in realization of the master plan is establishment of a nuclear power plant and water reservoir on the site. The two would have interrelated functions. The reservoir would store water for irrigation and for cooling the nuclear plant. The state thus would avoid further heat pollution of the Columbia River, while the warm reservoir water used for irrigation could extend the growing season. In addition, the warm water could be fed into ponds for fish breeding, and could be used in "fogging" vineyards and orchards to protect the fruit from low temperatures.

The plan received a major boost in October when Portland General Electric Co. (PGE) announced it had narrowed its search for a nuclear plant site to two locations on the Boardman property—the McCarty and Six-Mile reservoir sites—located adjacent to each other in the southeast portion.

The sites were named as the best of six prospective locations by a soils engineering firm hired by PGE, a decision that was seconded by a consulting board of geologists and geophysicists. Added seismic surveys are being made at the McCarty and Six-Mile sites.

Portland General Electric, which has the state's first nuclear power plant under construction on the lower Columbia River, plans to complete the Boardman site plant by the fall of 1979.

The backbone of the entire plan is the irrigation system, which will begin with a pumping station on Willow Creek, which runs off the Columbia River at the northwest corner of the site. From the station, large underground pipes and smaller tributaries would carry water to an area to be irrigated, where it would be spread by means of massive circular systems that can cover up to 160 acres per unit. In these type of systems, already in use elsewhere, water piped underground to a central pivot point is distributed by means of electrically powered wheeled devices arrayed in ranks and moving in a circular fashion, with the wheels moving at the proper relative speeds to maintain a straight line.

Ultimately, the water would be carried by pipeline to higher ground where a canal would take over and feed it into either the McCarty or Six-Mile sites that would have been dammed to form a reservoir. Year-around irrigation of the entire acreage then could be provided by gravity feed.

The irrigation effort already is under way and will proceed incrementally, with nearly 6,000 acres scheduled to be ready for planting by next spring. Of this 4,000 acres represent the first of 12,000 acres that have been leased to a Spokane firm that intends to raise alfalfa for pelletizing.

The Spokane company has a long-term contract with a Japanese firm engaged in corporate farming to ship the pelletized alfalfa to Japan as poultry and livestock feed. Additional 4,000-acre increments will be brought under irrigation and planted with alfalfa during the succeeding two years.

An additional 1,850 acres will be irrigated for pastureland to be available next spring, and Boeing expects no problem in leasing it.

Another key part of the plan is recycling of wastes. As pasture lands are created and begin to support food lots. Boeing envisions recycling the livestock wastes back into the ground. A pilot program already has begun to test the use of Boardman for recycling wastes from the Portland metropolitan area.

Under this program, Columbia Processors Cooperative—a joint venture of about 20 Portland area waste disposal firms—provided 200 tons of solid and liquid waste material that was trucked to Boardman and has been tilled into 24 test patches of desert sand. The theory is that the wastes will decompose and form a humus-like soil that—unlike the pure sand—will retain water and perhaps become productive.

If so, this could help solve the problem of Portland's overloaded sewage treatment facilities and present an alternative to sanitary land fills—a waste disposal method that is becoming a pollution problem as well as becoming more expensive as sites are pushed farther away from metropolitan centers.

The Oregon Dept. of Agriculture and Oregon State University are cooperating in the experiment, which is expected to continue until early spring. Full-scale operations will not begin until both health and agriculture authorities give their approval, after results are obtained from the test patches that have been planted. It is expected that authorities will not allow food that is to be consumed directly by humans to be raised on such soil for one year after wastes are tilled into it, but this is not considered a problem as there is no such ban on hay or grass for animal consumption.

When approval is granted, Boeing and Columbia officials anticipate an operation like this:

Columbia will collect solid wastes and sewage sludge from the Portland area and run the solid material through a hammer mill shredder that reduces it to a pulpy compost. At a waterfront transfer point, it will be loaded on huge covered barges.

After being barged up the Columbia River, the material will be unloaded at a dock Boeing will build at its Boardman site. This facility will include a storage building for solid wastes and holding tanks for liquids.

Trucks will pick up the solid material and spread it over the desired area in a 4-in. layer. Tank trucks will follow, adding a half-inch of sewage, followed by a large tiller that mixes the material 6 to 12 in. into the sand. Water—either from a tank truck or irrigation system—then must follow so that the freshly tilled soil will not blow away.

Boeing and Columbia also have a plan to handle industrial chemical wastes, in which this toxic or obnoxious material would be trucked to Boardman and dumped into long, narrow trenches dug in the rough, rocky areas that are unsuitable for any other purpose. The trenches would be lined to prevent the material from eating into the soil and covered with a screen to prevent wildlife or insects from getting into it.

Gradually, the sun would evaporate the water, leaving a solid or semi-solid residue that then could be sold to firms interested in reclaiming the metals and minerals it contains.

If successful, Boeing believes that this waste recycling experiment could have significant implications, even though these methods are not available to every city with a disposal problem. It could demonstrate, for example, that even if the land available in some areas would not benefit from the waste treatment, it would not be damaged by it.

Boeing figures that this waste disposal method can be employed without an unreasonable increase in the price to the customer.

"Our financial analysis says that it should be possible for Columbia and us to both make a reasonable profit," Preston T. Smith, Boeing's Aerospace Group director of community development, said. "If our numbers are off and it costs too much, we won't do it."

Boeing plans to spend $1 million on the first phase of the overall Boardman project, and estimates of the total cost over a period of 12-15 years range between $100 million and $150 million—including the investment of lessees. In addition to providing irrigation, roads and power, Boeing anticipates participating in the ventures with lessees to the extent necessary to attract them. This could involve, for example, entering into a joint venture with a lessee, or constructing a special facility for him.

Profits will be slow in materializing. Smith anticipates that it would take eight to ten years for this type of development to generate a cash flow, depending on how quickly new acreage becomes available and is leased.

The Boardman effort is not a labor-intensive undertaking. Boeing has a handful of employees on site, and there are only about 250 persons in the entire area now. The company anticipates that about 1,500 jobs would be created if events follow its master plan, but most of these would be local persons working for the lessees.

While Boeing certainly is looking for a "reasonable return" on the project, the company believes that the effort could assist in some of the major problems besetting the world. It could make a significant contribution, for example, if the project provided an alternative to sanitary land fills, and if a community of about 5,000 persons does indeed arise in the desert, the firm will have demonstrated one approach for luring some population from the world's huge metropolitan complexes. Smith added this point:

"Fifteen years from now, if things go according to the master plan, Boardman could serve as a prototype model for many areas of the world, showing how relatively unproductive land—thousands of square miles of it—could be put to productive use."

THE CONSTITUTION AND THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, some people who oppose the Genocide Convention do so because they believe that the treaty will become the supreme law of the land, superseding the Constitution. Article VI of the Constitution says that the Constitution, acts of Congress, and treaties are the supreme law of the land. Is it true that the Genocide Convention is supreme over the Constitution?

No. If that were true it would also be true of every other treaty that the United States has ever been a party to. In the 195 years that we have been an independent nation, we have been a party to hundred of treaties. If treaties superseded the Constitution, then our beloved Constitution would now be but a shambles. The fact that our Constitution is still intact and that our Government still functions proves that this theory is not correct. The Genocide Convention, as with all other treaties, is not in conflict with the Constitution.

A careful reading of article VI shows that treaties are made in pursuance of the Constitution. The U.S. Supreme Court in Reid against Covert has made this very clear. They said:

> It would be manifestly contrary to the objectives of those who created the Constitution . . . —let alone alien to our entire constitutional history and tradition—to construe Article VI as permitting the United States to exercise power under an international agreement without observing constitutional prohibitions. . . . The prohibitions of the Constitution were designed to apply to all branches of the National Government and they cannot be nullified by the Executive or by the Executive and the Senate combined.

Therefore the Bill of Rights, which guarantees every American citizen freedom of speech, religion, the right to a fair trial, and so forth cannot be changed by the Genocide Convention or any other treaty the United States might become a party to.

Mr. President, I urge the Senate to ratify the Genocide Convention as soon as possible.

DISCRIMINATION IN EMPLOYMENT—RELIGION

Mr. JAVITS. Mr. President, with all the attention that has been focused in recent years on the problem of race and sex discrimination in employment, we may sometimes forget that title VII of the Civil Rights Act of 1964 also forbids religious discrimination in employment. Although not as conspicuous as race or sex discrimination, religious discrimination still exists as an impediment to the enjoyment by many Americans of full equal employment opportunity.

Recently, the Office of Federal Contract Compliance issued a set of guidelines concerning the elimination of religious discrimination by Federal contractors. The guidelines are contained in a memorandum from John L. Wilks, Director of the Office of Federal Contract Compliance, to the heads of all compliance agencies. The memorandum has not been printed in the Federal Register.

In view of the widespread interest in the subject, I think it would be extremely beneficial to have the guidelines printed in the RECORD. I, therefore, ask unanimous consent that the memorandum setting forth the guidelines be printed in the RECORD.

There being no objection, the memorandum was ordered to be printed in the RECORD, as follows:

(MEMORANDUM TO ALL CONTRACT COMPLIANCE OFFICERS, FROM JOHN L. WILKS' CIRECTOR)

GUIDELINES FOR RELIGIOUS AFFILIATION COMPLIANCE REVIEWS

I. PURPOSE AND SCOPE

The purpose of these provisions is to set forth the interpretations and guidelines of the Office of Federal Contract Compliance regarding the implementation of Executive Order 11246 for insuring equal employment opportunity without regard to religion for all applicants and employees of Government contractors (or subcontractors).

Government contractors are expected:

1. to be cognizant of the religious minorities in their work force,
2. to identify employment problems based on religion, and
3. to institute appropriate affirmative actions to obtain solutions.

II. BACKGROUND

A. Employment discrimination based on religion

Discrimination on the basis of religious affiliation or background is as inconsistent with American principles as any other form of discrimination proscribed by Executive Order 11246, as amended. Despite the fact that religious discrimination has been illegal under all Executive Orders dealing with the obligations of Government contractors and under Title VII of the Civil Rights Act of 1964, there have been few effective plans and programs dealing with this subject.

Evidence indicates that religious discrimination affects mainly Jews and to a lesser extent Catholics, who are primarily excluded from the executive and managerial levels of industry. Members of these religious groups are entitled to attention and redress. Action in two areas has now been initiated to deal with employment problems based on religion. First, regulations have been promulgated concerning the special problems of Sabbath observers. Secondly, guidelines (contained herein) have been set forth to establish an effective religious affiliation compliance activity.

B. Religious affiliation compliance activity

A pilot religious compliance project has been conducted by the Social Security Administration.

1. Religious Affiliation Questionnaire (Form SSA 1776)

In December 1968, the Bureau of the Budget approved a religious affiliation questionnaire to be used by the Social Security Administration in the insurance industry. This questionnaire was designed to deal with the problem of executive and middle management discrimination against Jews and Catholics. The questionnaire (Form SSA 1776) was completed by the contractor during onsite compliance reviews.

2. Onsite Reviews

From April 1969 to May 1970, the Social Security Administration conducted a total of 28 onsite religious affiliation compliance reviews of Medicare contractors. These reviews disclosed that religious minority groups, especially Jews and to a lesser extent Catholics, were not generally found in executive positions or in the career positions leading to the executive ranks.

3. Statement of Secretary of Labor

The experience gained by Social Security in administering this specialized compliance activity provides the basis for an expanded yet efficient program in this area of contract compliance. Accordingly, a statement from the Secretary of Labor on the subject of religious discrimination has been issued on ———— to all compliance agencies. This directive makes this specialized program a mandatory part of compliance activities under Executive Order 11246.

III. COVERAGE

A. Contractors

All Federal contractors and subcontractors or contractors and subcontractors performing under Federally assisted construction contracts subject to Executive Order 11246, as amended, are covered by these guidelines, provided such contractor or subcontractor has 50 or more employees and a contract of $50,000 or more.

B. Population areas

There are no official United States Census figures based on religion. The Jewish and Catholic population statistics that are available are published annually in the *American Jewish Yearbook* and the *Catholic Almanac.*

C. Religious groups

1. Jews, Catholics, and Others

Jews and Catholics have been traditionally defined as the two largest religious minorities in the United States. Discrimination based on religion has been primarily directed against Jews and to a lesser extent against Catholics. Other religious groups, notably Seventh Day Adventists and Seventh Day Baptists (as well as others), may have also experienced religious discrimination in employment.

Religious affiliation compliance reviews should focus on the employment discrimination problems of Jews and Catholics. Where applicable, the reviews will include problems based on any religion.

2. Definitions

For purposes of religious affiliation compliance activities, a Jew, a Catholic or a person of any other religious persuasion is an employee or official of a Federal contractor who would, if asked, identify himself as having the subject religious affiliation either by birth, tradition, conviction or otherwise.

IV. METHODOLOGY

These guidelines envision that religious affiliation activity will be incorporated into normal compliance reviews.

A. Compliance personnel

Responsibility for compliance activities relating to religion should be assigned to compliance personnel in conjunction with their regular duties.

B. Job levels

Experience has shown that employment discrimination based on religion is most pronounced in upper level positions or in those career patterns that may lead to the executive ranks. Accordingly, religious affiliation compliance activity will be concerned with executive and middle management positions. However, where appropriate any job level can be the subject of this review.

C. Review format

Religious affiliation compliance activity must involve these basic steps:

1. Description of EEO Policies and Practices

The Federal contractor must describe his organization's policies and practices to provide equal employment opportunity without regard to religion in the recruitment, hiring, promotion, and placement of applicants and employees. This detailed description must also contain an explanation of the formal internal and external dissemination of this policy.

2. Identification of Religious Minorities

Management officials, with assistance of the compliance specialist when necessary, must determine the number of Jews and Catholics occupying executive and middle management positions in their organization. Where appropriate, this identification may be extended to other religious minorities.

There are many methods of identifying the religious affiliation of employees. The contractor has the option in selecting the most feasible method.

The Federal contractor must identify employment problems based on religion. He must determine the religious composition of his work force and analyze his utilization of religious minorities. This includes the identification of organizational components and job categories where religious minorities (mainly Jews and Catholics) are underutilized.

3. Affirmative Action

Management officials must undertake affirmative action measures designed to resolve identified problems.

4. Program Evaluation

At frequent intervals, the contractor and the compliance agency must evaluate the contractor's affirmative action efforts and the results achieved.

D. Training

The Office of Federal Contract Compliance will undertake the responsibility for specialized training to implement this program.

V. AFFIRMATIVE ACTIONS

Contractors *are required* to develop affirmative action programs. A partial list of some affirmative action steps regarding religion includes:

1. *Identify the total number* of executives and middle management persons and determine the number of Jews, Catholics and other religious minorities.

2. *Obtain pertinent literature* describing employment problems of Jews, Catholics and other religious minorities. Circulate this material to supervisors and to persons involved in recruitment and hiring.

3. Where personnel records have been put on *data processing* equipment, integrate the religious identification of employees into this system.

4. *Review records* of Jewish, Catholic and other religious minority persons in lower

level jobs to determine if they can qualify for management training positions.

5. *Convey to each recruitment source* (such as employment agencies and college placement directors) the company's equal employment opportunity commitment and impress these sources with the need to refer religious minorities.

6. *Establish a dialogue* with religious minority oriented organizations, such as:

Project Equality.
Catholic Vocational Service.
American Jewish Committee.
Anti-Defamation League of B'nai B'rith.
Knights of Columbus.
Jewish Vocational Service.
Prominent local Rabbis and Priests, etc.
Jewish Community Relations Councils.
Jewish Federation.
National Jewish Commission on Law and Public Affairs.
US Catholic Conference, Department of Social Development.
National Conference of Catholic Men and Women.

Some of these organizations have applicant referral capability and other groups can merely be used for advice, education and technical assistance.

7. Initiate the *use of the Anglo-Jewish and Catholic press* for institutional advertising, employment advertising, as well as for publicity of promotion announcements and special involvement activities of Jewish and Catholic employees.

8. *College recruitment* is usually a prime source of applicants for entry level managerial and administrative positions. Direct college recruitment activities toward obtaining increased numbers of religious minority applicants.

(a) Review and, if necessary, revise *college recruitment schedules* to include schools with substantial religious minority enrollments.

(b) *Establish contact with campus* Newman Clubs, Hillel Foundations, prominent fraternities and sororities which have a substantial Jewish and Catholic membership, the resident campus Rabbi and Priest, prominent Jewish and Catholic faculty.

(c) *Orient college recruiters* on techniques for seeking out religious minority applicants.

(d) Use Jewish, Catholic and/or other religious minority persons for recruiting.

(e) Analyze college recruitment results to obtain the approximate number of Jews, Catholics and other religious minorities hired. Then, modify recruitment efforts to increase this number.

9. Mail invitations to religious minority college students who are attending schools outside of their home town. Such invitations should invite these students to seek employment with the respective companies during their school vocations.

10. Discuss the corporate affirmative action program with selected high level Jewish, Catholic and other religious minority officials and to request that they refer applicants.

11. To foster understanding among employees, place brief articles in the employee publication to explain various Catholic, Jewish and other religious holidays.

[Memorandums to Heads of All Agencies]

EXECUTIVE ORDER 11246—STATEMENT ON EMPLOYMENT DISCRIMINATION ON THE BASIS OF RELIGION AND NATIONAL ORIGIN

U.S. DEPARTMENT OF LABOR,
Washington, D.C., May 20, 1971.

Discrimination on the basis of religious affiliation or national origin is as inconsistent with American principles as any other form of discrimination proscribed by Executive Order 11246, as amended. Discrimination has, of course, been illegal under Executive Orders dealing with the obligations of Government contractors and under Title VII of the Civil Rights Act of 1964, yet there have been few effective plans and programs dealing with this subject.

Studies indicate that religious discrimination affects mainly Jews, and to a lesser extent Catholics, who are primarily excluded from the executive and managerial levels of industry. To a certain extent, this problem is interrelated with discrimination on the basis of national origin. The subjects of either type of discrimination are entitled to attention and redress in the form of effective affirmative action programs.

Accordingly, I have directed the Office of Federal Contract Compliance to develop a compliance program to deal with the problem of religious discrimination. This program will be made a mandatory part of your compliance activities under Executive Order 11246. The Office of Federal Contract Compliance will provide, as necessary, the technical assistance needed to implement this religious compliance program.

At the same time, I am asking the Office of Federal Contract Compliance to develop appropriate programs to deal with discrimination on the basis of national origin.

J. D. HODGSON,
Secretary of Labor.

INTERNATIONAL TOURISM

Mr. MAGNUSON. Mr. President, 10 years ago Congress enacted the International Travel Act of 1961 which created the U.S. Travel Service in the Department of Commerce, and inaugurated a positive national program to promote travel to the United States.

At the time I introduced this legislation in the Senate, many Members of Congress were concerned that as a government the United States was not sensitive to the social, educational, and economic potential of a program directed at encouraging people in foreign countries to visit the United States.

Since its enactment I believe it is fair to say the number of tourists who now visit our shores, and the receipts from their visits have grown yearly. I also believe our development in this field is due in large measure to the combined efforts of the U.S. Travel Service and the private sector of the travel industry.

The Committee on Commerce held hearings in July 1969, to review the effectiveness of our program under the International Travel Act and to determine if the U.S. Travel Service needed additional authority and funds to build on its accomplishments.

The chairman of the hearings was the distinguished and able member of the Commerce Committee, the Senator from Hawaii (Mr. INOUYE).

As a consequence of the testimony received from all segments of the travel industry—private as well as Government—the committee reported legislation which significantly increased the stature and authority of the U.S. Travel Service.

That legislation was enacted in the 91st Congress.

Among its most significant features are the following:

First. The position of Director, U.S. Travel Service, was elevated to that of Assistant Secretary of Commerce for Tourism.

Second. The annual authorization for the Travel Service was raised from $4.7 to $15 million.

Third. A program of matching grants was established to encourage the 50 States to promote foreign tourism to their respective areas.

At the beginning of this Congress many Senators shared my conviction that international tourism would be one of the most significant social and economic forces in the coming decade.

In order that the Commerce Committee would be fully abreast of trends and developments in this most critical area, and thereby be in a position to discharge its legislative responsibilities to the Senate, as chairman of the Commerce Committee, I created a Subcommittee on Foreign Commerce and Tourism. The chairman of that subcommittee is Mr. INOUYE.

I wish to commend the Senator from Hawaii for the leadership he has shown in this area, and especially for the farsighted and statesmanlike keynote address he recently delivered at the American Society of Travel Agents World Travel Congress in Sydney, Australia.

In the words of the Assistant Secretary of Commerce for Tourism, C. Langhorne Washburn:

> Senator Inouye, in his keynote address, has clearly stated the facts of life regarding U.S. Tourism.

In my judgment, the distinguished Senator from Hawaii did this and more. He clearly and incisively pointed up the importance to the United States of international tourism, and the significant contribution it can make to our serious balance-of-trade and balance-of-payments problems.

Mr. President, I commend Senator INOUYE's address to the attention of every Senator and ask unanimous consent that it be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

SPEECH DELIVERED BY SENATOR DANIEL K. INOUYE AT THE AMERICAN SOCIETY OF TRAVEL AGENTS WORLD TRAVEL CONGRESS IN SYDNEY, AUSTRALIA

On August 15th, the President of the United States announced a new economic policy. On October 7th, he announced phase II of that policy.

The continuation of an extremely high rate of inflation, accompanying a rising and high rate of unemployment, at a time when 27% of America's industrial capacity was idle impressed President Nixon with the need to take strong action. With interest rates near their highest point in 100 years and with the real Gross National Product in 1970 declining for the first time since 1958, the President's action had strong popular support. Moreover, in 1971 the United States will suffer the first balance-of-payments deficit since 1893. For July of 1971 it had reached a $676.4 million figure. The second quarter 1971 deficit was the greatest in our nation's history, $3.5 billion.

Spurred by these facts, the President imposed a 10% surcharge on most imports as a part of his economic plan. That surcharge is designed to help our balance-of-trade by increasing the cost of imported goods to the American consumer and thereby encourage the purchase of American products. All of us, I am confident, support that objective and hope this step will help achieve that goal.

What struck me as strange, however, was that nowhere in the President's messages was anything said about tourism, and there was no attempt in his plan to utilize the potential of tourism to help our balance-of-trade and balance-of-payments problem. And let there be no mistake about it, tourism is a significant factor in these areas.

Consider, if you will, just two items that will be affected by the 10% surcharge. In 1970 the United States imported $1.7 billion of textiles, and exported slightly more than $1 billion. Thus, on this item we had a deficit of slightly over $700 million.

For the same year we imported $5.5 billion of motor vehicles and equipment, and exported $3.5 billion. A deficit of $2 billion.

Now what dollar amounts were involved in international tourism in 1970? Americans travelling abroad spent $5.2 billion, and our receipts from visitors amounted to $2.7 billion. The balance-of-payments deficit for tourism, $2.5 billion, exceeded either textiles or motor vehicles and equipment.

It seems to me that of the four major items within our international accounts which make up our earnings of foreign exchange—*merchandise trade, return on direct investments, merchandise transportation,* and *tourism*—the latter, *tourism,* has perhaps the greatest future potential to earn additional foreign exchange for our nation and improve our balance-of-payments position.

World tourism is a $17.4 billion business involving 168 million tourist trips per year. Although the United States has captured less than 10% of the visitors (13.2 million in 1970) and less than 16% of the receipts ($2.7 billion, including transportation), we know that there are some 80 million persons throughout the world with the financial ability to travel to the USA.

We must remember that each additional overseas and Mexican foreign tourist is equal to an export worth $400. This is their average foreign visitor expenditure in the United States. As a highly developed country, the United States is becoming more service-oriented with over 50% of our GNP now devoted to the service sector, *and tourism is a service industry.*

If the United States could attract 6.4 million more overseas and Mexican visitors, equaling an additional 8% more of the potential market, we would go a long way towards wiping out the travel gap.

Throughout the world, there are major impediments to trade and investment. With regard to tourism, however, no major western country has any serious restrictions on travel. The freedom to travel and the freedom to make a appeal for the tourist dollar remains more unencumbered than any other form of international transaction.

Every nation is competitive in its tourism attractions because each country has its unique areas. Nowhere else can you see Diamond Head, the Grand Canyon, Glacier Park or Mount Rushmore, except in the USA. Moreover, surveys have shown that foreign tourists, especially Europeans, place the U.S. Number One or Two on their list of desired travel destinations. With the development of competitive packages, we should be able to attract our share of world visitors. In addition, this country is so large and offers such a scenic and cultural variety that we should attract foreigners for a repeat visit. As an example of competitive packaging, in September of 1969, a $250 round-trip inclusive tour charter air fare was introduced between Japan and Hawaii. With Japanese monthly disposable incomes rising from $145 in 1963 to over $257 in 1970, and with the virtual elimination of currency restrictions on travel, Japanese travel to U.S. destinations has skyrocketed from 23,000 visitor arrivals in 1961 to over 207,000 visitors in 1970. In fact, Japan has become the second largest supplier of tourists for the U.S. and will probably take the lead in 1972. In addition, Japan ranks first in U.S. travel receipts from *overseas* countries with $101 million in 1970.

Tourism also brings with it jobs and tax revenues. For every $10,000–$12,000 spent by travelers, one job is created. Thus, 1,000 new or return foreign visitors spending $400 each, will provide 40 new jobs. In addition, 9% of every dollar spent in a non-financial establishment goes to taxes, with the Federal Government taking approximately 6% and State/local governments taking 3%. These same 1,000 people, therefore, would produce not only 40 new jobs but $36,000 in total direct tax revenues. This does not include any multiplier effect on the velocity of money nor does it include the money spent on transportation to and from the U.S.

This, then, is the reason I found it strange that there was no mention of tourism in the President's New Economic Policy. For you in the business of travel, however, I imagine it came as no great surprise. As a Government we have paid scant attention to the economic potential of tourism. Prior to 1961 we did nothing at the Governmental level to encourage tourists to visit the U.S. In that year Congress enacted the International Travel Act which created the United States Travel Service, and inaugurated a positive national program to increase the number of foreign visitors to our shores.

Even these efforts have been relatively modest, however. According to one source, the U.S. ranks twenty-sixth in terms of the amount of money it budgets for promotional spending to attract foreign visitors. For example, five years ago we spent $3 million, and the Republic of Ireland spent $10.5 million. In 1970 we spent $6.5 million, and the Republic of Ireland spent $13.7 million. The State of Texas spent $1.83 million in 1970; and Hawaii spent $730,000 in the same year. Throughout the entire world we have only eight United States travel Service officers and one international convention office to promote tourism to our country.

With such show of enthusiasm and support from our Government, it is not too difficult to imagine the problems a travel agent encounters trying to convince a prospective tourist that the USA is the place to see.

In my judgment it was also short-sighted of the CAB to deny approval of the agreement among domestic air carriers to expand the program of reduced-rate education and familiarization trips for travel agents.

After all, you are the people who *will sell* tourism in and to the United States, *if anyone will.*

My purpose for being here is not to lament the past, although we must learn from it. I am here to speak of the future. And by the future, I mean to include the *here* and *now*. There is, I believe, sound reason for brighter expectations. I would like to explain what has been done recently by the Congress in an effort to increase the flow of visitors and dollars to the United States, and what might reasonably be expected for the future.

In this, 92nd Congress, as part of his long standing commitment to, and recognition of, the value of international tourism, Senator Warren Magnuson, the Chairman of the Senate Commerce Committee, created a Subcommittee on Foreign Commerce and Tourism. I am privileged to be the Chairman of that Subcommittee. I also consider it to be a challenge.

In July 1969, I presided over hearings on legislation designed to increase and expand the role of the United States Travel Service. Many of us in the Congress were convinced of the tremendous opportunity before us as a nation to attract foreign visitors to the United States in the 1970's and ensuing decades. We also knew that in order to capitalize on this opportunity, Government and private industry must renew their efforts.

As a consequence of those hearings, major amendments to the International Travel Act of 1961 were enacted into law in October 1970.

Among other things, those amendments upgraded the Office of Director of the U.S. Travel Service to that of Assistant Secretary of Commerce for Tourism; increased the yearly authorization for the Travel Service from $4.7 million to $15 million; provided a program of matching grants for tourism promotion projects; and created a Travel Resources Review Commission to study the tourism needs and resources of the United States in the next decade.

In May of the following year my Subcommittee requested the new Assistant Secretary of Commerce for Tourism, Mr. C. Langhorne Washburn, the Chairman of the newly created National Tourism Resources Review Commission, Mr. Charles S. Thomas, and members of the private sector to appear before it and give a broad overview of the increased efforts by the Government and the private sector to improve the position of the United States in the world travel market.

At that hearing, Secretary Washburn listed a number of priority items which the Travel Service intended to pursue. I believe they bear repeating now, not only because they are most worthwhile in my judgment, but also to serve notice of my Committee's continuing interest in seeing they are developed Secretary Washburn said, and I quote:

"Among the high priority activities that I intend to pursue are:

"*First,* to follow a market segmentation strategy approach, tailoring each marketing mix to the needs and wants of the particular country and population segment to assure that our advertising message reaches the appropriate members of the market. Segmentation is absoluately vital because the international tourism market is one of the most sophisticated and highly competitive operations on the world scene today.

"*Second,* to obtain a sufficient base of information about the key tourist-generating markets in order to provide this information to industry and to use it as feedback regarding the effectiveness of our various projects.

"*Third,* to expand our efforts to secure more international conventions in the United States and more people to attend those conventions already scheduled for this country.

"*Fourth,* to encourage the industry and our States and cities through matching grants and joint contracts, to become more involved in marketing international travel to the United States. One high priority project is that of increased development of an inclusive tour system. It is estimated that by 1975, over 15 million people will travel via inclusive tours—211 percent more than the 4.9 million who did so in 1969. We need to build the necessary institutions and facilities in the United States to get our share of this market.

"*Fifth,* to improve our tourist plant facilities through:

"Expanded use of port reception corps at airports and airport symbols;

"Greater encouragement and involvement of Americans to be friendly hosts; assisting in alleviating the language problems through the hotel multi-lingual language certification program and the travel-phone to service the needs of the non-English-speaking foreign visitor."

This is all well and good, and I concur, but like previous attempts, good intentions and the rhetoric of hope will not suffice. If we are to carry out the program set forth by Secretary Washburn, several steps must be taken by the Congress and by the Administration. Let me briefly list some of them for you.

First, I most respectfully suggest to the Civil Aeronautics Board that the Board once again consider the matter of reduced fares for orientation trips for travel agents. Our hotels may increase their services, our airlines may provide many more extras and lounges, and our rent-a-car agencies may offer better deals. But, if the man and the woman behind the counter, our travel agents, are either reluctant or refuse to sell America to our customers, all these extras will be wasted. It is commonly accepted among travel agents that American travel agents know more about foreign visitor destination points than they do about American visitor destination points. Every effort should be made to make it easy for our travel agents to visit and know our United States and to make them aware that our nation is much more than Las Vegas, Disneyland, New York City and Waikiki Beach.

We have the desired destinations. In fact, our attractions are considerably more exciting and varied than can be offered by any other country. In what other country can one visit the Glaciers of Alaska, the Salt Lake of Utah, the rugged seashore of Maine, the excitement of Miami, the adventure of Las Vegas, the tropics of San Juan and of Waikiki? I could go on and on. We have the destinations that have to be sold. If we expect our sales personnel to sell America, we should give them the opportunity to sample America.

Second, we should systematically amend and repeal those laws that serve only to discourage foreigners from visiting our shores.

In western Europe, a citizen need not go through the cumbersome application process for visas, health certificates, passports, etc. Why can't we simplify our process? For example, today Americans can visit Bermuda without a passport. All he has to do is to declare that he is an American citizen. The same is true for Mexico and Canada.

I have been told that our strict immigration laws applicable to foreign visitors have been established to keep out the "undesirable", but all of us know that an "undesirable", if he really wants to get into the United States, notwithstanding the cumbersome visa application, will do so. What I am suggesting is that, in our attempt to keep out the "undesirable", we are keeping out the "desirable".

Third, every effort should be made to convince the members of Congress and the Administration of the importance and urgency of the business of tourism. The program set forth by Secretary Washburn is deserving of support, not with just lip service, but with hard cash, and a piddling $6.5 million is just not enough. We have an opportunity of providing jobs for thousands of Americans. We have an opportunity to close the unfavorable trade gap, and a piddling $6.5 million is just not enough to do the job.

I shall do my best to convince my Congressional colleagues of this importance and urgency, and I hope you will join me in doing likewise.

RISE IN CORPORATE FARMING

Mr. COOK. Mr. President, in the December 5 edition of the New York Times, there appeared an article by D. Drummond Ayres, Jr., entitled "Rise in Corporate Farming, a Worry to Rural America." I believe the overwhelming majority of my colleagues in the Senate share this concern.

I believe, as my colleagues, that now is the time to reverse this trend. As the recent consideration of Mr. Butz for Secretary of Agriculture indicated, this issue has our attention.

The conclusion of Mr. Drummond's article best sums up the attitude of many of us here in the Senate.

Maybe Earl Butz will turn out to be the best thing that ever happened to us.

I wish him well in this endeavor, and ask unanimous consent that the Drummond article be printed in the Record at this point.

There being no objection, the article was ordered to be printed in the Record, as follows:

Rise of Corporate Farming a Worry to Rural America

(By B. Drummond Ayres Jr.)

Kansas City, Mo.—Few things are growing faster down on the farm these days than corporate influence.

All across the United States, from the wide-open prairie surrounding this cattle and grain center to Maine's fertile potato fields and California's irrigated grapefruit groves, big business is diversifying and moving in on what once was strictly a family enterprise, a way of life.

International Telephone and Telegraph now produces not only transistors but also Smithfield hams.

Greyhound now runs not only buses but also turkey processing plants.

John Hancock now sells not only insurance but also soy beans.

Corporate farming or conglomerate farming or agribusiness—by any name it strikes deep fear in rural hearts, such deep fear that the new Secretary of Agriculture, Dr. Earl Butz, was almost rejected by the Senate after he had espoused the advantages of agricultural giantism and had disclosed membership on the boards of such super farm firms as Ralston Purina and Stokely-Van Camp.

Senator Gaylord Nelson called Dr. Butz's views "brazen" and has begun to investigate corporate influence in agriculture legislation. The Wisconsin Democrat says: "Corporate farming threatens an ultimate shift in power in rural America, a shift in control of the production of food and fiber away from the independent farmers, a shift of control of small town economies away from their citizens."

The Agribusiness Accountability Project a non-profit study group with headquarters in Washington, has been looking into corporate farming for more than a year and reports:

"Corporations generally have become the dominant force in rural America. Their concentration of agricultural markets and their power over rural people is increasing every day. Control of American agriculture has moved from the fields to the board rooms of New York, Kansas City, Los Angeles and other centers of big business."

Farmers themselves speak even more directly the problem. Summing up the position of one of the largest farmer associations, the National Farmers Organization, Rogers Blobaum of Creston, Ia. said:

"A corporate takeover of the food industry would be a national disaster."

Corporations everywhere deny any takeover is threatened.

"We're not trying to run anybody out of business," says George Kyd, a spokesman for Ralston Purina.

A MISLEADING PICTURE

At first glance, corporations do not seem to loom large on the agricultural scene. Of the 2.7 million farms left in the United States, only about 1 per cent are carried on the Agriculture Department's books as incorporated or owned by corporations. And most of the incorporators still insist they are "family farmers."

But that picture is misleading.

Corporate farms are big farms. Many consist of thousands of acres of the best land obtainable. Their owners often have backlogs of development capital and, if diversified, obtain numerous tax advantages.

On the other hand, the average American farm, the unincorporated farm, consists of only about 400 acres, some of them nonproductive. The man who owns this relatively small plot probably has no big capital backlog, often is deep in debt, and seldom receives any special tax breaks.

Eventually, he may have to sell out, flee to the already jammed city, surrender to those who have the capital to compete in a business where $6,000 deals have replaced $60 mules.

This surrender, in one form or another, takes place 2,000 times a week all across America. That is the average number of farm sales weekly, according to the Agriculture Department. Often, a well-heeled corporation names in to fill the void, or maybe a wealthy city doctor looking for a tax deal or maybe a neighboring farmer who has somehow found the means to expand and is on the brink of incorporation.

Actually, not all farming corporations own land. Some only lease and thus do not show up in farm statistics.

Other farming corporations neither own nor lease land. They simply contract for crops, an operating method that now accounts for about a fifth of the country's total agricultural output.

METHODS COMBINED

A few corporations use a combination of operating methods.

For instance, the Tenneco Oil Corporation owns and farms about 35,000 acres of Southern California's best crop land. It leases 100,000 acres more. And it contracts for the crops of dozens of other farms in the area.

The overall effect is to make Tenneco one of the dominant agricultural forces in one of the biggest farming areas of a state that provides more than a third of all vegetables eaten in the United States.

Tenneco has no monopoly on the vegetable market. But in some other agricultural sectors, corporations have achieved dominance or near dominance.

Three companies—Purex, United Brands and Bud Antle—produce a large share of the lettuce eaten in America, a situation that has led to a rare agricultural antitrust investigation by the Federal Trade Commission. Many Government officials contend that a corporation cannot grow lettuce any cheaper than a family farmer, a point farm economists have frequently made, not only about lettuce but also about most other crops.

Another sector of agriculture dominated by corporate America is the broiler industry. There, 20 or so corporations are in control, producing everything from chicks to feed to packaged drumsticks. Among these companies are Pillsbury, Perdue and Ralston Purina, with which Secretary Butz was associated.

CHANGE AFTER WORLD WAR II

Until shortly after World War II, many broilers were raised in the barnyards of family farms. Small flocks of chickens, though always underfoot, supplied added income, cash for birthday presents or a winter weekend in the city.

Today, there is virtually no market for barnyard chickens. Instead, the family farmer is usually growing broilers under contract for one of the big agri-giants.

In a shed built with a loan from a corporation, he feeds mash produced by the corporation to chicks hatched in the corporation's incubators. When the birds are mature, the corporation takes them away, slaughters them in its own processing plant, packages them prettily, then ships them off to a supermarket—perhaps its own.

The farmer is paid $50 or so for every 1,000 chickens raised. But in any year, if times are hard or management particularly tough, the corporation may cut the growing fee in half.

Should the farmer refuse to sign a new contract, fine—so long as he pays off his loan on the corporation-financed chicken house.

Only last week, chicken farmers on the Delmarva Peninsula—comprising parts of Delaware, Maryland and Virginia—threatened court action when some broiler corporations proposed cutting growing fees in half.

And two years ago, in northern Alabama, growers became so incensed about reduced growing payments that they refused to sign new contracts and began to picket the offices of broiler companies. The companies refused to negotiate, however, and eventually the strikers gave in and returned to work.

Commenting on the strike's failure, one grower, Crawford Smith of Cullman, said:

"Us folks in the chicken business are the only slaves left in this country."

George Kyd of Ralston Purina counters:

"Chicken is cheaper to eat today than it was after World War II, and besides, a lot of farmers have been given work."

THE LESSON IS THERE

To which Harrison Wellford, one of Ralph Nader's agriculture "raiders," replies:

"Poultry peonage. One economist cranked in every applicable factor and concluded that most chicken farmers make minus 36 cents an hour. The broiler industry is the most corporatized in American agriculture and the lesson is there."

Foes of corporate farming refer to the broiler industry as being "vertically integrated"—that is, the corporations control almost everything from field to table. Few other segments of agriculture are so thoroughly integrated. But the trend is in that direction.

Tenneco recently told stockholders:

"Tenneco's goal in agriculture is integration from seedling to supermarket."

In fact, the corporation has almost achieved its goal. Not only does it own land, but it also makes tractors, tractor fuel and pesticides. Furthermore, it packages farm products and sells them in little groceries attached to its service stations.

In the potato industry, some companies have achieved full integration. This became evident several years ago when Idaho farmers tried to get more money for their potatoes by withholding them from processors for several months.

The processors refused to give in. Instead, they dipped into storage houses filled with spuds they had quietly grown themselves or had quietly obtained through growing contracts.

Eventually, the growers surrendered. Their potatoes were beginning to rot.

In the hog and cattle industries, vertical integration remains limited. But corporate influence is being felt.

For instance, some concerns like Ralston Purina now rent gilts and boars to farmers, sell the farmers grain to feed the resulting pigs, then offer to market the pigs once they reach maturity.

In the cattle business, a few petroleum corporations have set up huge feed lots in the Southwest, some with 50,000 head or more. As a result, oil companies are steadily becoming an influential force in cattle feeding, encroaching on the family farmer, the man trying to pick up a little extra income by raising a dozen steers out in the barnyard where the chickens used to scratch.

Big food chains often buy directly from feed lots or set up their own feeding operations. Thus, they reduce the need for stockyards, the one place where the family farmer can always be sure of getting the best price for his cattle because the bidding there is always competitive.

Victor Ray, an official of the National Farmers Union, a large farmers association, contends that several years ago Denver supermarkets whipsawed steer prices down from 29 cents a pound to 21 cents a pound simply by repeatedly shifting purchases from feed lot to stockyards and back to feed lots. Mr. Ray says:

"When the chains weren't buying at the yards, prices naturally would drop. Of course, the chains denied any connection. But interestingly enough, all the while that wholesale meat prices were going down, retail meat prices stayed the same. I figure the people of Denver paid at least $4-million more for food during that period than they should have."

Here in Kansas City, there is a company that specializes in investing the excess capital of wealthy corporations or individuals into cattle and other agriculture operations. Called Oppenheimer Industries, it takes on no client with a net worth of less than $500,000 or an income tax bracket of less than 50 per cent.

Its specialty is "cowboy arithmetic," tax savings for the rich through depreciation, favorable capital gains levies and other legal loopholes. One of its clients is Gov. Ronald Reagan of California, who paid no state taxes in 1970.

The president of Oppenheimer Industries, H.L. Oppenheimer, argues that the money he steers away from the United States Treasury and into farming actually helps keep the family farmer in business and does not contribute significantly to the corporate invasion of rural America.

Federal tax records indicate that at least three out of every four people with annual incomes of $100,000 or more are involved in farming in some way, most of them reporting agricultural losses that can be written off against taxes on nonfarm income.

If Federal tax laws seem to help the city corporation that farms on the side more than the family farmer who farms full-time, they are not the only ways in which Federal programs tend to work against the little man.

The biggest farms—the ones with the wealthiest owners—receive the biggest agriculture subsidies. The biggest farms also get the biggest dollops of Government-supplied irrigation water.

Recently, Congress placed some limits on subsidies. And the courts are beginning to crack down on the big water users, particularly those who do not live on the land they farm.

But still the gap widens between the rich and the poor.

"We lost the battle against Earl Butz but the struggle sure swung attention toward the farm issue. I've never seen Washington so upset over an agricultural thing. Maybe Earl Butz will turn out to be the best thing that ever happened to us."

THE WRINGING OF HANDS

Mr. HARTKE. Mr. President, for the last 8 months this country has pursued a policy of ill-concealed support for the Pakistan Government of President Yahya Khan. During this period, the administration has steadfastly refused to take those actions which might have defused the growing crisis between India and Pakistan before it erupted into open warfare. Our failure to condemn the repressive policies of Pakistan, which have resulted in thousands of deaths in Bangla Desh and the creation of an unsupportable refugee problem in India, is in no small way responsible for the present conflict. The fact that we have chosen on several occasions to support the position of the Government of Pakistan to the detriment of India, makes our responsibility in this matter even more plain.

At this late hour we can undo the damage already done to our reputation in that part of the world only by preserving our strict neutrality in the events as they develop between the two warring nations. I would hope that our prior expressions of sympathy for the goals of President Khan will not be repeated in the coming days and that we will work through the United Nations to bring lasting peace to East Pakistan. Nor should we retreat from the possibility that the only way to achieve this goal may be through the recognition of Bangla Desh as an independent State.

A column published in today's New York Times aptly summarizes our misguided actions and concludes that this country's reputation, which was already at a low point because of our policies in Southeast Asia, is now in danger of irreparable harm. I ask unanimous consent that the article entitled "The Wringing of Hands," be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE WRINGING OF HANDS

(By Anthony Lewis)

LONDON, December 5.—Suppose that Britain, in the 1930's, had responded to Hitler's savagery by the early threat or use of military force instead of appeasement. If the Nixon Administration had been in power in Washington at the time, it would presumably have sent some official out to wring his hands in public and charge Britain with "major responsibility for the broader hostilities which have ensued."

So one must think after the American statement over the weekend blaming India for the hostilities with Pakistan. Few things said in the name of the United States lately have been quite so indecent. The anonymous state department official who made the comment matched Uriah Heep in sheer oleaginous cynicism about the facts of the situation and about our own moral position.

Consider first the immediate origins of this dispute. They are exceptionally clear as international relations go.

The military junta that rules Pakistan under President Yahya Khan held an election. The largest number of seats was won, democratically, by a Bengali party that favored effective self-government for East Pakistan. Yahya thereupon decided to wipe out the result of the election by force.

Last March West Pakistan troops flew into the East in large numbers and began a policy of slaughter. They murdered selected politicians, intellectuals and professionals, then indiscriminate masses. They burned villages. They held public castrations.

To compare Yahya Khan with Hitler is of course inexact. Yahya is not a man with a racist mission but a spokesman for xenophobic forces in West Pakistan. But in terms of results in terms of human beings killed, brutalized or made refugees—Yahya's record compares quite favorably with Hitler's early years.

The West Pakistanis have killed several hundred thousand civilians in the East, and an estimated ten million have fled to India. The oppression has been specifically on lines of race or religion. The victims are Bengalis or Hindus, not Czechs or Poles of Jews, and perhaps therefore less meaningful to us in the West. But to the victims the crime is the same.

This record has been no secret to the world. First-hand accounts of the horror inside East Pakistan were published months ago. The refugees were there in India to be photographed in all their pitiful misery.

But President Nixon and his foreign policy aides seemed to close their eyes to what everyone else could see. Month after month the President said not a word about the most appalling refugee situation of modern times. Private diplomacy was doubtless going on, but there was no visible sign of American pressure on Yahya Khan for the only step that could conceivably bring the refugees back—a political accommodation with the Bengalis.

Pakistan's argument was that it was all an internal affair. Yes, like the Nazi's treatment of German Jews. But even if one accepts as one must that Pakistan was bound to defend its territorial integrity, this issue had spilled beyond its borders. The refugee impact on India very soon made it clear that the peace of the whole subcontinent was threatened.

It was as if the entire population of New York City had suddenly been dumped on New Jersey to feed and clothe—only infinitely worse in terms of resources available. Yet when Indira Gandhi went to the capitals of the West for help in arranging a political solution in East Pakistan, she got nothing.

The Indians can be sanctimonious. Mrs. Gandhi acts for political reasons, not out of purity of heart. India has helped the Bangla Desh guerrillas and, in recent weeks, put provocative pressure on East Pakistan. All true. But given the extent of her interest and the intolerable pressure upon her, India has shown great restraint.

After all, India has not intervened in a civil conflict thousands of miles from her own border. She has not destroyed one-third of a distant country's forests, or bombed that land to such a point of saturation that it is marked by ten million craters. The United States has done those things and is still doing them; it is in a poor position to read moral lectures to India.

American policy toward the Indian subcontinent is as much of a disaster by standards of hard-nosed common sense as of compassion. India may be annoying and difficult, but she does happen to be the largest nation in the world following our notions of political freedom. In position and population she is by far the most important country of Asia apart from China. To alienate India—worse yet, to act so as to undermine her political stability—is a policy that defies rational explanation.

THE TERRORS OF AN AMTRAK TRAIN JOURNEY

Mr. ALLOTT. Mr. President, an enterprising journalist—a man brave to the point of foolhardiness—has exposed himself to the slings and arrows of rail passenger service. The journalist, Frank Leeming, Jr., is business editor of the Philadelphia Inquirer.

Mr. Leeming recently decided to investigate Amtrak from the railroad passenger's point of view. He voluntarily boarded the St. Louis-to-Philadelphia train. His report of the terrors of that journey is instructive.

In the belief that to be forewarned is to be forearmed, and as a gesture of solicitude for my fellow Senators, I ask unanimous consent that Mr. Leeming's report of that journey be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Philadelphia Inquirer, Dec. 5, 1971]

RATTLES AND GROANS MARK TYPICAL RUN FOR AMTRAK RIDER

(By Frank Leeming, Jr.)

One of the first things to do after accepting a new job is determine how to get to it. In terms of public transportation, there are usually three alternatives—plane, train and bus. Checking them out can be instructive.

To get from Decatur, Ill., to Philadelphia, the airlines would charge $76 for a first class seat, $1 less than a coach fare because of an arrangement between two carriers. Bus fare would be $38. And a train ticket from St. Louis—Decatur is off the passenger track—would cost $118 for a seven-by-four-foot bedroom.

Intrigued by the high fee and the fact that the St. Louis-to-Philadelphia train was operated by this city's bankrupt Penn Central Transportation Corp., it was decided to go by rail to see what would lure an individual into spending an extra $52 and 15 hours on the ground instead of traveling through the air. After all, Amtrak's national advertising campaign had been proclaiming that, "We want to save you time, money and aggravation." Maybe they want to, but they don't.

A passenger's initial moments in massive and deserted Union Station in St. Louis are aggravating. Handling baggage is a do-it-yourself affair. Tickets are sold for cash; credit cards haven't been recognized yet by Amtrak. The handful of passenger tracks are at a distant end of the station.

Once aboard, the porter apologized for the overheated room. "The heat's out of control," he said with a shrug. He also apologized for the grimy window, saying the window-washers had been too busy fixing the brakes.

There were only 16 passengers on the whole train, which had a capacity for 144 persons. That's an occupancy rate of 11 percent, compared with better than 70 percent on Penn Central—Amtrak's very successful Metroliner between Washington and New York.

In seeking to find out why prices were so high, one is told the rates are a carry-over from pre-Amtrak days when the railroads were doing all they could to discourage passenger service. Raising prices out of reach was one technique.

With Amtrak losing an estimated $150 million a year—the railroads lost $460 million a year before Amtrak took over—it is questionable whether rates will be lowered soon. However, Amtrak does feel it has the power to raise and lower prices without approval from the Interstate Commerce Commission and it may be recognized that long-term success will be possible only if fares are competitive.

Penn Central spokesmen cited more traditional reasons for the high fares. Unlike bus and airline firms, railroads must maintain their own rights-of-way and terminals. In most cases, governments own and operate airports and bus terminals, and planes fly through free air and buses use public highways.

In addition to high prices, long-distance railroad rides suffer from rough roadbeds. The ride between St. Louis and Philadelphia, for example, was quite rocky; it was difficult to read or write much of the time.

"They took our profits and poured them into everything but the railroad," a conductor said of Penn Central. "When they should have been fixing up the roadbed, they were buying pipelines. Now the rails aren't smooth enough for freight, let alone people."

"That's the old story," a Penn Central officer snorted. "The fact is that all railroads are losing money on their railroad operations. The only thing that's keeping the companies alive is their outside investments."

Railroad officials say the firm spent an additional $20 million on roadbed maintenance in the first 10 months of 1971, but one executive conceded that "some areas need more work."

Other delays are caused by freight trains. Although they are supposed to move aside for passenger traffic, many freight are so long the sidings cannot accommodate them and the two trains must jockey back and forth to permit the passenger to pass.

Labor costs, the traditional target for rail management, is another carry-over problem facing Amtrak officials. In the 21-hour journey from Kansas City to New York, five separate crews were employed to run our train. No crew worked more than five hours and 35 minutes, and one worked only four hours. Each member of a crew—there were at least five—received at least a full day's pay.

Because the individual railroad companies continue to operate passenger trains under contract with Amtrak, management practices that almost destroyed the service are still around. Ticket reservations, for example, are still handled ineptly, although Amtrak hopes to put everything on airline-like computers.

High-priced meals (60 cents for tomato juice, $3.40 for a hot turkey sandwich, 60 cents for a two-cup pot of coffee, $6.20 for a 14-ounce steak dinner), regardless of their excellent quality, still face the competition of free meals on airline flights. "They ought to serve free food, or at least free coffee and donuts," one passenger grumbled.

So why do people ride the rails? Those who work on the trains cite several reasons. It is generally relaxing and businessmen can corner themselves away from telephones and customers. Other persons are afraid to fly. Still others reject the long hours and motel living associated with highway travel. Finally, there are the railroad buffs who simply enjoy riding on trains.

But when analyzed, these reasons will not support a national railway system. Amtrak officials realize this, just as they recognize their $337 million initial bankroll will not be enough. In a continuing effort to reverse years of neglect and outright opposition, they went recently to the Federal Office of Management and Budget and asked for an additional $260 million subsidy to tide things over until June 30, 1973. The budget bureau cut the request back to $170 million; what will emerge from Congress is unclear.

Railroad officials in Philadelphia recognize the problems. They contend that long-distance rail service may always be a losing operation. They become enthusiastic about passenger trains only when the conversation turns to the northeast corridor and the heavily traveled stretch between Los Angeles and San Francisco.

"To be successful—which means keeping the fares down, running frequent trains, offering comfortable equipment—you have to have high volume," an area railroad executive said. "That means dealing with the businessman, who is the prime traveler.

"But to get his business, you have to show him you can save him time—that's the big thing. The only place we can do that is in the congested areas where we can zip into downtown areas and beat over-all air travel time."

REPORT OF NATIONAL PUBLIC RADIO ON HEALTH CARE

Mr. KENNEDY. Mr. President, National Public Radio is a noncommercial radio network with 118 affiliates broadcasting in 36 States, as well as Puerto Rico and the District of Columbia.

Last September, the National Public Radio system held public hearings on health care in six major cities across the United States—San Francisco, Boston, Atlanta, Philadelphia, Ann Arbor, and New York.

During the course of the hearings, both professionals and consumers alike continually reiterated the many reasons that more adequate health care and delivery are drastically needed in America today.

Mr. President, due to the continuing interest by all of us in the cause of health reform, I ask unanimous consent that a report summarizing the six hearings and broadcast over National Public Radio be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

REPORT TO CONGRESS AND THE NATION—NATIONAL PUBLIC RADIO "PUBLIC HEALTH CARE HEARINGS"

(Barbara Newman, moderator)

My name is Donald Quayle and I am President of National Public Radio, which is the noncommercial radio network with 118 stations broadcasting in 36 states, Puerto Rico and the District of Columbia.

Mr. Chairman, we appreciate the opportunity to appear before you today and transmit to this committee the information which National Public Radio has gleaned from its six public hearings on health care and national health insurance which were held this past September in San Francisco, Boston, Atlanta, Philadelphia, Ann Arbor, and New York.

We do not appear here today as experts on the intricacies of national health insurance nor do we come here to espouse any of the proposed bills. We appear here today to transmit to you the findings of the NPR health hearings. First, I would like to give you a little background on these hearings. Our purpose in holding them was two-fold. Because the health crisis is undoubtedly one of the most important issues on the legislative agenda of this body, we felt that it was important to inform people regarding the complexities of the proposed national health insurance legislation to enable them to participate meaningfully in this public debate. Second, it was our purpose to facilitate communications between those most concerned about health—consumers, providers and insurers—and those who will ultimately enact health care legislation—members of the United States Congress.

We realize that this committee has permitted testimony from all who desire to appear here. However, the fact remains that the average citizen is not the customary congressional witness. So, it is our hope that we can transmit to you today knowledge which you otherwise might not have received.

I think the primary function which we can serve is to humanize the debate. These several weeks you have all been hearing testimony regarding the health crisis, testimony replete with statistics of the soaring costs of health care which command 7 percent of the GNP, of the inaccessibility of health care, of the health manpower shortage, and of uneven quality care. Statistics are a somewhat cold commodity, devoid of the urgency of human experience. What we found during our health hearings was a widespread concern about the health crisis and what we heard was the human agony which some people have experienced at the hands of the health system.

EINAR MOHN. According to the AFL–CIO research department, sixty percent of all personal bankruptcies in America are directly attributable to health costs. But beyond the bankruptcies are the millions of people who simply do without health care except as a last resort; who delay treatment because they cannot afford it; who do not fill their prescriptions because of the cost of drugs; who must allow minor health problems to become major because in our health industry today the cash register sits next to the appointment book.

EVE MAPES. I am alone with, and support my three children, one of whom is asthmatic. Nearly every year of his life he must be hospitalized with pneumonia. Medical insurance for the whole family was cancelled on the grounds that we did not list the child's asthma as a pre-existing condition when in fact we did not know he had asthma.

This left us unexpectedly in debt for several hundred dollars. We had been a middle class tax paying family who believed in yearly medical checkups and trips to the dentist. But from that point on, our economic situation and the level of health care deteriorated. One of the worst effects of this situation was, of course, psychological. We found that we lost our dignity when we lost our money.

BARBARA NEWMAN. Health care in this nation is in crisis. Speak to almost any person in America and you get a health horror story. You hear about families with savings wiped out, about unavailability and shoddy quality of care, and a growing resentment against health providers. The image of the doctor has become somewhat tarnished.

Chairman Wilbur Mills of the House Ways and Means Committee recently opened his committee's health hearings with the remark that Americans are increasingly resentful of trying to find their way through a maze of referring practitioners to find services for which a higher and higher part of the family budget must be used, and this without confidence that the care finally obtained is appropriate or of high quality.

Congress will undoubtedly pass a health bill within the next few years. A Harris Poll found public support for passage of national health insurance running at almost two to one, and most politicians on Capitol Hill are in favor of one of the health insurance proposals pending before Congress. The question is, what kind of a bill will be passed, and how adequate will it be in ending the health crisis?

Because health is such an important issue, and because House Ways and Means Committee has not permitted live coverage of its health hearings, National Public Radio this past September sponsored a series of six public hearings on health care and national health insurance. With the belief that the public should be apprised of the differences in the pending legislation, and that legislators in turn should be apprised about the wishes of the public, we went to San Francisco, to Boston, to Ann Arbor, New York, Philadelphia, and Atlanta. As participants we invited those most concerned with the issue of health—health consumers, insurers, physicians, and hospital officials, as well as those who will enact national health legislation, U.S. Congressmen.

One of the most insistent themes throughout the hearings was the hardship brought by rising health costs. The two people you heard at the beginning of this program, Einar Mohn of the California Teamsters Union, and Eve Napes, a Los Angeles housewife, testified at our San Francisco hearing.

National health costs—seventy billion dollars a year—are rising at twice the rate of the consumer price index. According to the Department of Health, Education, and Welfare medical expenses will rise fifty percent in the first half of this decade, and the rise in the health share of the gross national product will be as great as the rise in defense spending at the start of the Vietnam war.

One health planner characterizes health as the Vietnam of the 1970's. He sees billions and billions of dollars going into a quagmire. At the NPR New York health hearing, Shirley Kronberg, director of the Neighborhood Service Council of the New York Hotel Trades Council, recounted some incidents of high medical cost in a discussion with New York Republican Congressman Ogden Reid.

SHIRLEY KRONBERG. I have one bill here where a woman entered a hospital in this city at 9 AM, was discharged at 6 PM, and her bill is three hundred and nineteen dollars. Interestingly enough, laboratory services, a hundred and twenty-seven dollars. We asked the hospital for a breakdown of these laboratory costs. They sent us a list of all of the tests made. And we understand that there is now a computer through which they put these few drops of blood and they can obtain a variety of tests for a very, very small fee. Nevertheless, they charged her tests—you know, fifteen dollars, twenty dollars, twenty-five dollars—whereas in fact these tests cost them very, very little.

Congressman **OGDEN REID.** What was the actual room charge there?

KRONBERG. Seventy-five dollars. For room and board.

Congressman **REID.** For less than twenty-four hours?

KRONBERG. Six hours. Blue Cross pays eighty dollars for maternity confinement, and is now increasing this to a hundred dollars. But the average bill is over six hundred dollars. And I have a very interesting bill that was brought in by one of our workers this week in which his wife delivered prematurely at home. A policeman called, he got the ambulance, she was brought to the hospital, she was in the hospital three days. She had already delivered the baby. His bill for this three days in the hospital is two hundred and nineteen dollars for the baby, and three hundred and sixty-two dollars and fifty cents for the mother. Now this is for three days. And here are the two bills. And Blue Cross of this paid eighty dollars.

Congressman **REID.** Have you found, Mrs. Kronberg, that group medicine and peer pressure and peer judgment has lowered some of the costs?

KRONBERG. I don't see where the peer judgments have lowered anything. I know that the AMA spent millions of dollars fighting against Medicare, and they've been the greatest beneficiary of Medicare. The insurance companies haven't done anything over the years to stay the rising costs. And the insurance companies, and in some cases such as Blue Shield, which a doctor operated, have certainly not done anything about questioning their costs, either by the doctors or the hospitals.

NEWMAN. That was Shirley Kronberg at our New York hearing.

The greatest increase in health spending has been in hospital rates. They have risen five-fold in the last four years and now hover at about a hundred dollars a day. The *New York Times* states that some projections put average hospital room charges at a thousand dollars a day by 1981.

Critics of the health insurance industry charge that private insurance companies have not acted effectively to keep these costs down. Much of the criticism of the health industry is directed at Blue Cross, which pays about fifty percent of the nation's hospital bills. Blue Cross is non-profit and tax exempt. But some think that its very institutional structure perpetuates the interest of the hospitals at the expense of the health consumer. The American Hospital Association actually owns the Blue Cross trademark, and in most of the nation's seventy-four local Blue Cross plans, the boards of directors preponderantly represent hospitals' and physicians' interests.

The key area of debate, then, on national health insurance will be the role of the insurance industry. Of the major national health insurance bills pending before Congress, only the Health Security Act, introduced by Senator Edward Kennedy, would eliminate the insurance industry from health care. Under the Kennedy legislation, cradle-to-grave health coverage would be available to all U.S. residents. It would be administered by the Federal government.

The administration's Health Insurance Partnership Act retains the insurance industry as fiscal intermediary in health care. It actually mandates that all employed persons must purchase private health insurance. The administration has proposed tighter regulation of the insurance industry, but would leave enforcement up to the states.

The AMA's Medicredit bill and the Health Insurance Association's Health Care bill both provide tax incentives for the voluntary purchase of private health insurance.

There are a great number of health experts who question the advisability of retaining the private insurance industry under national health insurance. From Boston, John O'Leary, former Massachusetts Rate Commissioner, and from Ann Arbor, Doctor S. J. Axelrod, Professor of Medical Care Organization at the University of Michigan. First, O'Leary.

John O'Leary. I have considerable questions in my mind as to the role that the health insurance industry should play in a national health insurance program. I cannot help but express extreme concern over the lack of effort on the part of the insurance industry, generally speaking, in the past, to try and influence the organization of the health care delivery system in order to bring about somewhat more efficient and economical delivery of service.

Doctor S. J. Axelrod. The very widespread interest in health insurance, as evidenced by the numerous proposals now before Congress, it seems to me is largely a response—a political response—the high and rising cost of medical care, primarily, and also a response to the inadequacies of private—that is to say voluntary—health insurance as a means for handling these costs. The private enterprise, or ethos, if you will, of our health service industry sees further expression in the fact that private commercial health insurance dominates the field, and this kind of dominance results in considering health insurance not so much a means of providing adequate service, but rather a means of paying bills. And along with this fiscal view of health insurance, of course, it is accepted that there will be payments levied on patients who regard themselves as insured, but payments through deductibles and co-insurance which very often act as important deterrents to the receipt of care.

The fiscal view of insurance concentrates on large medical bills which relatively few people have—very large medical bills, that is. And in general the whole coloration of the health insurance industry takes the view that health insurance should be a mechanism for exchanging dollars, rather than for providing necessary and adequate health services.

Newman. That was Professor Axelrod of the University of Michigan. From California, labor leader Einar Mohn.

Einar Mohn. For twenty-five years we have gone to the bargaining table with employers and come away with more and more money to pay for health care—money that was needed for wages and other benefits. For twenty-five years we have given the private insurance industry every opportunity to work, we have put our hard won health benefits into their hands, asking them to restrain costs, and to exercise some control over the quality of care provided in hospitals and physicians offices.

The record of achievement by the insurance industry is marked by failure, disinterest, neglect of health needs, and certainly profiteering. California's unions are now pumping one billion dollars annually into the health industry through negotiated benefits. Our estimates make us believe that at least twenty percent of the money negotiated for in our contracts does not go to provide health care. It goes for costs, it goes for a lot of other things, but do not provide health care. That's far too high a cost.

In good faith, labor has tried to live with the private insurance industry, and tried to live with voluntary methods of policing quality. But the experiment is over. We now want, and need, national legislation that will publicly manage our dollars and exercise public control over the health industry.

Newman. On the other side of the issue are representatives of organized medicine, the insurance industry, and the hospitals who wish to retain the private health insurance industry. These views were best expressed at our San Francisco hearing by William Wayland, Executive Secretary of the California Hospital Association, and Dr. Roberta Fenlon, President of the California State Medical Society. In Ann Arbor, Edward Connors, Director of the University of Michigan Hospital, spoke for the hospital interests in favor of retaining the insurance industry and health care. First, William Wayland.

William Wayland. Despite the criticism of the health industry, it has been eminently successful in fulfilling its basic goal, the provision of good quality health care.

Doctor Roberta Fenlon. A national system of health care must be based on the insurance concept. Just as every driver in California is required to have automobile insurance, everyone should be required to carry adequate health insurance.

Edward Connors. I believe that government's role in financing should complement and strengthen the basic health insurance mechanisms, rather than replace them. I acknowledge without question that health insurance needs to be strengthened; it needs to be required or assured for all citizens. And it needs, I believe, to be subject to tighter regulation. But I think the record in many respects of health insurance in this country has been remarkably good, and I would disagree with some of the former speakers that implied that all they are interested in—these are health insurance now—that all they are interested in is just the financing portion—in trading dollars. And I think sitting from my perspective as a provider, there has been a fair amount of progress—probably more progress than in any other sector that I know of—prompted by particularly the Blues in health insurance on such important issues as the appropriate use of the hospital, and cost containment and control. And from my view I think it would be a tragedy as a public policy to dissolve this vital link in the system.

Newman. That was Edward Connors, Director of the University of Michigan Hospital. In Philadelphia, Robert Carpenter, vice president of the Penn Mutual Life Insurance Company, critiqued the proposed national health insurance bills from the insurance industry's viewpoint.

Robert Carpenter. The health insurance industry's plan does not attempt to promise more than can be provided, establish a whole new government bureaucracy, create huge new demands on the existing facilities by promising "free care," and impose huge new taxes on the constituency which is already reeling from tremendously increased taxation in recent years, such as the health security act program sponsored by Senator Kennedy does. Neither does it force a substantial financial burden on employers, or provide different standards of care for different classes of citizens which the administration proposal includes. It covers the broad range of the problem as contrasted with the limited approach to covering catastrophic health care costs under Senator Long's bill. It does not place its complete reliance on the yet relatively untested organizational structure for delivering care as proposed by the American Hospital Association's Ameriplan, and it does not rely primarily upon tax incentives for private health insurance programs as proposed by the American Medical Association.

Newman. Thank you very much, Mr. Carpenter. The report of the—the staff report of the Senate Finance Committee of 1970 stated: "Carrier performance under Medicare has in the majority of instances been erratic, inefficient, costly and inconsistent with congressional intent. Unquestionably, many millions of dollars of public funds have to subsidize carrier inefficiency." In view of this, why should we retain the insurance industry in national health insurance legislation?

Carpenter. That's always an interesting question. And the health insurance industry does have to stand on its record. I believe that when any program is inaugurated you're going to have these types of problems. I think that if you were to move away from private insurance toward the direction of the national security health program advocated by Senator Kennedy you would find that the government bureaucracy to be created would be so much tremendously more inefficient that you would have much greater problems.

Newman. Insurance executive Robert Carpenter found a surprising ally in Pennsylvania's State Insurance Commissioner, Herbert Denenberg. Doctor Denenberg is a vociferous reformer and critic of the health insurance industry, but surprisingly refused to endorse the Kennedy health security bill. He questioned the advisability of administering national health insurance through a governmental bureaucracy.

Herbert Denenberg. Public confidence must be reestablished in the federal bureaucracy before great additional responsibilities are entrusted to it. The Kennedy proposal, the national health security plan, scraps private health insurance altogether. Thus, the proposal scraps good and bad insurance companies without distinction. It is true that private health insurance has not performed effectively. But it is also true that we have not subjected it to effective regulation. We are trying to make up for this shortcoming in Pennsylvania.

The Kennedy bill, in view of the deficiencies of private health insurance, would therefore abandon private insurance and substitute government insurance. Medicare demonstrates government is not the whole answer. And it can be as unsatisfactory as private insurance. Many non-profit insurance companies, for example, are doing a better job than Medicare in controlling costs and quality.

Here you see bureaucratic distortion of the intent of Congress in the establishment of the Medicare program. Congress intended Medicare to pay for the necessary costs of patient care to our senior citizens. The bureaucrats somehow distorted the congressional intent and turned Medicare for the aged into an uncontrolled educational subsidy for the medical profession. Medicare, however laudable in its social purpose, has greatly contributed to our runaway inflation of medical costs. Medicare, which should have been part of the solution, instead has become a central part of the problem of our health delivery system. Medicare not only contributes to the problem, but attempts to veil its operations in the cloak of secrecy. We asked for certain studies of Medicare fiscal intermediaries, and were turned down on the basis of executive privilege. The Medicare people thought the studies might be "misinterpreted." Others were refused access to the studies as well. We finally obtained copies of the study, only for our own use, but they still have not been made public. How can we entrust further responsibility to a government agency that now betrays its public trust? How can we extend Medicare to national health insurance when Medicare now fails to perform its central function of cost and quality control over medical and hospital care?

The key issue is not so much the mixture of government and private insurance, as the mixture of cost and quality controls in the system that emerges.

Newman. Pennsylvania's State Insurance Commissioner, Herbert Denenberg.

People often lump quality and cost together when they discuss the health crisis. For example, proponents of each of the national health insurance bills claim that their bill will provide cost controls while upgrading the quality of care.

New York City, under the direction of its Deputy Health Commissioner, Doctor Lowell Bellin, has embarked on a unique program of auditing costs and quality of care rendered by private practitioners to New York Medicaid patients. Doctor Bellin's staff actually goes into doctors' offices, randomly pulls patient files, and examines medical records. This is the only medical audit of its kind in the nation, and has aroused great resentment from physicians.

Doctor Bellin is one of the most outspoken critics of poor quality medicine and the ineffectiveness of medical peer review. Medicine is self-regulated. Traditionally, doctors have argued that only doctors can regulate quality and costs. Doctor Bellin doesn't dispute this point, but he does feel that peer review must involve outside physicians who don't have a stake in protecting their colleagues. He is not optimistic about quality controls within any of the national health insurance bills.

Doctor Lowell Bellin. In an attempt to meet the health care crisis, every proposal deals with financing, manpower, and improvement of the delivery system. Regrettably, every proposal also bypasses quality control of services provided to patients. For example, the major emphasis of the President's program and the Kennedy bill are cost controls and minimum standards. The American Hospital Association plan stresses cost controls and peer review. And the health insurance industry plan provides for state control and controls on over utilization through patient payments of deductibles and co-insurance.

Quality control, which includes the availability, acceptability, and nature of care, is defined as a system for verifying and maintaining a desired level of quality in a product or process by careful planning, use of proper equipment, continued inspection, and corrective action when required. Quality is the prerequisite element of that cost control. Without it any cost is too much. Because the major abuse in dollar value is over utilization of service, enormous sums of money can be saved by constraining over utilization, not only within private offices, but particularly within hospitals.

People who emphasize how much auditing of health care services cost the government are either uninformed or wish to keep others misinformed. At present the New York City Department of Health is saving and recovering two and a half to three dollars for every auditing dollar spent. There is only one spot to place ultimate auditing activities of publicly funded health care services. That spot is a public agency. This means that the public agency must have courage. Many of our public agencies are craven as well as technically incompetent.

After the instructive experience of the past five years with Medicare and Medicaid, it is incongruous that anyone dare suggest to legislators that the appropriate place for auditing is exclusively, a) within professional societies, or b) within the fiscal intermediary. They both are too intimately associated with the constituents to be granted the ultimate responsibility of either quality control or cost control. It is an administrative truism that evaluation must be isolated from operation. For the Federal government to violate this principle by funding evaluation of health care services primarily in professional societies, and/or in fiscal intermediaries, is to replicate the folly that has bedeviled Medicare and Medicaid since the mid 1960's.

Since 1965 we all should have learned that tokenistic regulation of quality and cost of health services always discredits any publicly funded health care program.

Newman. Doctor Lowell Bellin, New York's Deputy Health Commissioner.

Supporters of the Kennedy National Health Security bill put great store in its quality controls. Its main quality control is that only board certified or qualified surgeons will be reimbursed for major surgery. There are currently twenty specialty boads in medicine and surgery. In order to be board certified, the doctor must participate in several additional years of post graduate work after residency, and must pass a rigorous written and clinical examination. The reason the Kennedy bill focuses on surgery is because many people feel that far too much surgery is performed in this country. Of the seventeen million surgical procedures that will be done in hospitals this year, many doctors feel that a great number will be inadvisable.

As surgery always involves risk of post operative infection or problems with anesthesia, the old adage, when in doubt, cut it out, is not good medicine. Yet Fortune magazine quotes an official of the AMA as saying that the rise in tonsillectomies under Medicaid verges on the scandalous. This unnecessary surgery has become so prevalent that a new term, remunerectomies, has been coined by critics.

Doctor Lowell Bellin, concerned about unnecessary surgery, does not think that even the Kennedy health bill has sufficient quality controls.

Bellin. The basic, I think is not going to be attacked by addressing specifics, like whether or not there will be a board certified or a board eligible surgeon who is going to be reimbursed for his service. There is no guarantee, for example, that a board certified surgeon is going to do the job properly. This is only one step forward. We know, for example, the famous study carried out by Doctor Trussell, formerly the Hospital Commissioner and Dean of the Columbia University School of Public Health, some years ago here in the city of New York, that a significant portion of the surgery in New York—something like one-third was found to be inadequate, despite the fact that frequently, and most of the time, these were board certified and board qualified surgeons. When the study was continued, to actually ask the patients, what did you think of the quality of work you received; about eighty-five percent of the patients who had received this care, which in Doctor Trussell's and his staff's opinion was completely inadequate, were quite happy with that care and returned to their original doctor.

So what I'm trying to point out is this, that this is one step. But I'm even more concerned with something more fundamental, the actual issue of getting the right kind of structure to monitor this thing, to promulgate a number of standards, and to enforce these standards. This is what's the key to the entire issue.

Newman. One of the basic reforms in the health system is the development of Health Maintenance Organizations—HMO's. Both the Kennedy and administration national health insurance bills provide funds and incentives for their creation. The largest HMO in the nation is the Kaiser plan on the west coast.

HMO's are actually pre-paid group practices; places where several doctors join together in a group practice and are paid a certain amount per patient per month, regardless of how often the patient uses the services. This is called payment on a capitation basis. Currently most doctors are paid on a fee-for-service basis. That is, you pay them for each office visit, and for each procedure they perform. Critics say that this encourages a system of sickness care and not health care. There is no incentive now for the physician to keep the patient well when he is paid only when they are sick.

In Atlanta, Reverend Andrew Young, Vice Chairman of the Southern Christian Leadership Conference, made a strong case for HMO's.

Reverend Andrew Young. I'd like to think of us as working toward a health care system that rewarded people and doctors for health rather than for sickness. Right now, the more operations they perform, the sicker people get, the richer doctors get. In fact, it's even more ridiculous because you get to go in the hospital and get an operation, and then your health insurance pays for it, when a doctor could probably do it in his office.

And I think the setup of our hospitalization insurance presently drives people to the hospital, and encourages hospitalization, when I think we've got to have some kind of health insurance or some kind of health plan that encourages people to stay well. Along with this I think, the kind of system that would reward people for good nutrition. I'd like to see a group of patients or community served by a team of physicians where at the end of the year they would get a bonus if they had less than the national average of operations for people in that age and income bracket, rather than be rewarded for the more operations they have. I think in some health care plans—I think this was true in the Kaiser plan—where people were rewarded for going to get regular checkups. And they found that in certain categories of operations, they were remarkably less when people received rewards for staying well than they were when people almost had to get sick in order to get some kind of serious medical attention or some consideration from their insurance.

Newman. Reverend Andrew Young of the Southern Christian Leadership Conference.

In San Francisco Republican William Mailliard and Kaiser Foundation Vice President Robert Erickson discuss how Kaiser has kept costs lower than commercial insurance plans. Congressman Maillard speaks first about commercial health insurance.

Congressman William Mailliard. The nature of the coverage is much more complete if a patient is hospitalized than if they're kept out of the hospital.

Robert Erickson. That's true. And our system does have comprehensive outpatient coverage as well as inpatient coverage so that the physician can choose the care that's most appropriate to the patient without being concerned about the out of pocket cost to the patient. I think the most unique feature is savings in hospital utilization.

Newman. Regarding Kaiser's ability to keep costs down and hospitalizations lower than other plans, doctors receive extra bonuses if costs are kept within a budget framework. Would you explain that, please?

Erickson. There is an incentive program that gives the physician an added piece of the action, you might say, in controlling costs and in accepting financial responsibility. And if there is a surplus above the budget at the end of the year, they receive a share of that surplus.

Newman. Mr. Erickson, we hear that the surgical rate for those with group plans is half that for those with commercial health insurance. And people have indicated that there seems to be too much surgery—much unnecessary surgery in this country.

Erickson. I do know that studies have indicated that the rate of surgery in organized group practice programs, including Kaiser, is substantially less. And it may resemble a fifty to sixty percent rate, at least in many of the studies. I think it may be even more marked in some of the truly elective type of surgeries, such as tonsillectomies, OBGYN-type surgeries that are truly elective. The incentives for unnecessary surgeries are removed from an organized system, and this may be a factor in the surgical rates.

Newman. Are you saying, in other words that the doctors under the group plans such as yours are remunerated on an annual basis, and do not make extra money for doing surgery?

Erickson. That is correct. They are paid so much per member per month.

Newman. Despite the fact that most health reformers advocate HMO's, there are some who doubt their ability to improve the nation's health system. Dr. Oliver Fein of the Health Policy Advisory Center, who has done extensive research on health, expressed his misgivings about HMO's at our New York hearing.

Dr. Oliver Fein. The health maintenance organization program, a program that Nixon—reorganization of the health system is pointed to as one program that is likely to keep costs down. But I say at the expense of the patient. Here's the way it works. The government contracts with an HMO to provide care to a certain population at a fixed pre-paid price. If the costs of providing care exceed the pre-paid price, the HMO will have to make up the deficit itself. If, on the other hand, the HMO keeps its costs under the pre-paid amount, then the HMO keeps the difference as profit. The profits lie in holding services to a minimum. HMO's are just one more way of reducing consumer demand. This will be done by long waiting lines, delays in elective surgery, rather than in real preventive care.

Without consumer control to monitor the practices of HMO's, they will end up serving the doctors and the hospitals interests, not the patient.

Newman. Dr. Oliver Fein at the New York Health hearing.

And this leads to a major issue for which we found a surprising amount of support. When one hears the words "consumer control" one tends to dismiss them as rhetoric of the left, or stale slogans of the Great Society. Yet in every city we went we found support for consumer participation and even control of a revitalized health system. The support came from doctors, nurses and from Pennsylvania Insurance Commissioner, Herbert Denenberg.

Herbert Denenberg. I think the most important thing in the whole system, and it's both the cost and quality control, is to be certain that the consumers are in control, and that the consumers are participating in these decisions as much as possible. Our health delivery system is a Frankenstein monster, built on Rube Goldberg principles, and it is now confronted by a public with rising expectations and by a new technology that is dramatically extensive and dynamic. But it goes on its merry way, indifferent to the needs of the community in its limited ability to pay ever increasing medical and hospital costs.

The system is basically run for the benefit of doctors, hospitals, the drug industry, and the other providers of medical care. I have seen first hand the contempt for consumer input and participation in our hospitals while I participated in the negotiations of a new hospital Blue Cross contract. As a result of this indifference, and even contempt, for the consumer, the system delivers bad medicine at high prices. For example, it duplicates facilities for open heart surgery for the convenience of doctors to the point where costs are way up, while quality is way down because of the limited volume in each facility.

The system's inability to control costs is exceeded only by its inability to control quality.

Newman. In Philadelphia a spontaneous discussion developed on the issue of consumer control and peer review between Doctor Ted Tapper, a recent Harvard Medical School graduate, and Doctor Benjamin Friedman, a representative of the AMA.

Doctor Ted Tapper. I think that physicians reviewing their own quality and practices is like asking the owners of the National League and American League baseball teams to review their programs and practices. I think that if you have no outside people looking in, especially people who have no vested interests, as obviously physicians do, in medical schools, in practices in local areas, and in hospitals, if you have no outside people looking in, you're going to get the same kind of system that you have now. Which, in effect, is no quality control and no peer review of a true nature.

Doctor Benjamin Friedman. I do want to comment about peer review approach. Our desire is to create a structure so that there will be constant review of quality. We have seen in other nations where massive interference has resulted in decline in quality. It is our desire to set up a program which would not result in such massive, complicated, bureaucratic procedures so that we could not to the best of our advantage discharge our responsibility to our patients.

Tapper. I agree with you. I think that it would be undesirable to set up a vast bureaucratic structure. And I think it would be undesirable to compromise quality of control. My only point is that if you have physicians looking after other physicians, with no one else looking at them, you are going to have the same kind of very quiet behind the scenes covering up of poor quality and rampant cost non-control. I would hope that you would get much more truly representative consumers, other than some of the mainline types who are on hospital boards of trustees, on the utilization review committees and really get people who are going to start questioning doctors, who are going to start saying why was that very minor surgical procedure kept in the intensive care unit for four days after his tonsillectomy; why was that child with an upper respiratory tract infection admitted to hospital in the first place? Until you start getting people in who are going to make these questions very, very vivid to the physicians and hospital administrators, I think that you are going to have the same sort of system that you have now, which is a very inadequate one.

Newman. Doctor Ted Tapper in Philadelphia.

Several witnesses criticized all of the proposed national health insurance bills as inadequate in providing accountability to health consumers. Doctor Oliver Fein at our New York hearing.

Fein. If we look at all the proposed schemes on the spectrum from the Nixon administration proposal, which is among the most conservative, to the Kennedy proposal, which is the most liberal, it becomes apparent the Nixon administration proposals will change almost nothing—just a larger number of people will be insured with the inadequate health insurance that Mrs. Kronberg described earlier. The Kennedy proposals will likely leave control of the system unchanged, or shift it toward control by the corporate forces, such as the big hospitals, medical centers, and insurance companies.

To this dead end I can only propose a fundamental alternative. The only way to change the health system so that it provides adequate, dignified care for all is to take power over the health system away from the people who now control it. Not merely the funding of the system, but the system itself, must be public. It then becomes possible to face such questions as how we decentralize the national health care system to make it responsible to the community and accountable to it, and how we insure that patient care is the primary priority of the system, and how we insure equal access to health institutions and to practitioners.

Newman. That was Doctor Oliver Fein in New York.

From Boston, Mrs. Ann Stokes, head of the Columbia Point Neighborhood Health Center's Consumer Organization.

Mrs. Ann Stokes. Health insurance bills, as they stand at the present time, do not include consumer participation in a way that the recipient of service can determine what kind of care will be given. The consumer areas of interest are: one, receiving comprehensive health care; two, to be able to give their reaction to the care received; and three, a degree of knowing that they will receive continuous family care.

The medical professionals, AMA, must begin to communicate with the communities. Information must be shared. And the professional and the community will have to work together to develop a health plan, to define concerns, and identify those powers which belong to the community, those which belong to the professional, and those we share. Or else, like welfare reform, antipoverty programs and the various health plans will be doomed before they are implemented.

Newman. Mrs. Ann Stokes in Boston.

Mrs. Ann Garland, chief outpatient nurse at Pennsylvania General Hospital.

Mrs. Ann Garland. Minority patients have great resentments in the hospital. Mainly among them are the first name basis. When a patient comes in the hospital, whether they're in a private room or a ward, they're not in the hospital five minutes before a nurse pops right into the room and greets them with a cheery smile and says how would this patient like to be addressed, Tom or Thomas? The hostility shield comes right down. This tends to make the patient not relate to the doctor or to the hospital. They do not tell the truth about what's wrong with them. And since the patient is not well informed about medical practice, they do not know that the doctor cannot treat them unless they tell them what's wrong with them. They think the doctor is all omnipotent, knows everything, not knowing, as we do, that they knew very little unless you tell them. So when they do not tell the patient what's wrong with them—the doctor what's wrong with them—then the treatment of course, is stymied.

Thre's a total lack of privacy offered to these patients in interviews or in an examination. The policies become nonflexible with poor patients. Research is done on these patients without their permission. They know nothing about it and they give no consent. There is a lot of drawing blood for special studies not relevant to their illness, drugs given for drug reactions for these companies. These things should not be.

Newman. Mrs. Ann Garland in Philadelphia.

If consumers had control over health expenditures, then according to the people we just heard they would upgrade medical care quality. They would presumably have a decisive voice in allocating health resources, and could channel funds into areas not now effectively covered by health insurance.

In Atlanta, former Congressman James Mackay, who is now President of the Metropolitan Atlanta Mental Health Association, and Reverend Andrew Young of the Southern Christian Leadership Conference each expressed a desire for greater attention to mental illness. Mr. Mackay speaks first.

James Mackay: Frankly I'm more concerned about a person's health than any other feature. If you don't feel well you can't relate to your wife and children, and you can't produce down where you work. And health is a fundamental need that we all have.

And the thing that bothers me, I might say to the members of the panel, is all of these programs are frightened by mental illness. And they generally cut you off pretty quick. And yet we know that—I think it's accepted that over half of the people in the hospital beds of America—not the mental hospital beds, but the general hospital beds—have no objective evidence of illness. But they're not functioning well. And mental health and physical health are inseparable.

Reverend Young. I happened to be in Chicago in 1967 when what is commonly called a riot began. We were having a meeting in a little church and heard a disturbance outside, and got outside the church just as the police were coming to the scene and breaking up a group of kids that were in a fight around a water faucet. In the summertime they wanted to be in the sprinkler system, and the police turned it off, and that started a little incident. The young people moved over into a housing project and we followed them over there, trying to calm them down. And they immediately became inflamed by a young man who was carrying the Bible and quoting from the book of Obediah and saying that this was the day of judgment for the Lord, and the white man's day was done. And he proceeded to try and inflame that group of kids. And did succeed. We were able to try to hold on to him. We tried to get the police to come and get him, to take him out of the crowd in hopes that we could control the crowd. But we were unable to do that. And it was so obvious to us that what ended up being a full-fledged riot, running into hundreds of millions of dollars in Chicago by the time it ended a week later, really was fanned out of an incident by a young man who needed, mainly mental health care. Now, he also needed a job, and I would not want to minimize the problems of unemployment and inadequate housing and education and all the other things in causing urban unrest. But the primary situation there was here was a guy that needed a psychiatrist, or at least an outpatient mental health clinic in this impoverished community.

Now I say to you that Chicago nor Atlanta's health care will ever be secure so long as you have the level of mental illness which floods through our communities. And I think one of the things I've been looking for in almost all of the present health care programs is some real full-fledged attention to the problems of mental health. When we have people living in overcrowded urban areas, it's not as though it was a century ago when we were living in small towns where you could get sick and you were a hundred yards away from the next family, and your disease, whether it was mental or physical, was not contagious. In an urban area, anything that happens to anybody inevitably will affect everyone else.

And so until we have a health plan that's so comprehensive that it gets the people who are unemployed, that it gets the people who are poorly educated, that it gets the people who are mentally ill, then I think any kind of health plan we come up with will be inadequate.

NEWMAN. Reverend Andrew Young of the Southern Christian Leadership Conference in Atlanta.

Another key area of controversy surrounding national health insurance is whether legislation should restructure the health system, or simply provide health financing. Critics of the present health system feel that it is inadequate to producing enough manpower, and in rationally distributing the available resources. They point to the fact that certain suburban communities are replete with physicians, while hundreds of rural counties have not one physician.

The nation's leading advocate for restructure is Doctor S. J. Axelrod of the University of Michigan.

Doctor S. J. AXELROD. The proposed changes envisaged in the legislation with respect to the financing of health care—and the emphasis is on the financing of health care, whatever the source and the amount of funds—is not in and of itself adequate to handle the current deficiencies we have in our delivery system. We must have a significant restructuring of what it is we have at present. There is no regulation for control of kinds of physicians that we produce or where they practice, and we have a situation, therefore, where we have many more neurosurgeons than we need, and not nearly enough family physicians. We have an excess of physicians in affluent communities, and a serious shortage of physicians and other health workers in our deprived communities.

The major proposals that have been put before the Congress respond in varying degrees to what seems to me to be the basic necessity, that is to say, to significantly restructure our medical care delivery system. Indeed, some of the bills, like the AMA's Medicredit bill, and the catastrophic health insurance bill, which are being proposed by two very important and influential legislators, the Chairman of the Senate Finance Committee and the Chairman of the House Ways and Means Committee, really make no pretense at all at restructuring the admittedly inadequate delivery system. But they preserve the status quo, and deal solely with the financing of care. The catastrophic health insurance bill has a lot of political attraction to it. That is, it costs very little—so few people get the benefits. Moreover, everyone knows the case of a family that really went broke because of truly catastrophic costs. And this kind of experience is a terrifying one indeed to large numbers of people.

Other kinds of major proposals—the administration's health insurance partnership and the health insurance industry's health care plan—rely heavily on the present health care system, with emphasis on extending the admittedly inadequate private health insurance. Both of these latter schemes, the Nixon plan and the health insurance industry plan, as a matter of fact set up two standards of care—one for the poor and one for the nonpoor. And they actually provide different levels of benefits—different services—for both categories of people. I'll leave it to you to decide which of the two groups get the lesser benefits.

Really only one of the major proposals—the Kennedy/Griffiths Bill—the so-called Health Security Bill—it seems to me addresses itself very seriously to the problems of organizing a more rational delivery system. There are incentives—strong incentives—to developing of primary health care centers having a full array of health personnel available in the centers to provide a full range of benefits. The Kennedy bill carries with it important incentives for establishing linkages between various parts of the system—between hospitals and nursing homes. It modifies current patterns of physicians' care, and reinforces the position of the family physician, so he is the one who refers to the specialist, and at the same time is not in the uncomfortable position of having to carry on specialist work himself—work for which he is not trained or not qualified.

The Kennedy bill foresees important redistribution of health personnel, and carried with it cost controls. I would suggest to you that the leverage for structural change does exist in any national health insurance plan, but only in a potential sense. And American medical care it seems to me cannot continue to be unresponsive to the need for change.

NEWMAN. University of Michigan Professor, Doctor S. J. Axelrod.

On the other side of the issue was Doctor Roger Mann, who appeared in Boston on behalf of the AMA's Medicredit plan.

Doctor ROGER MANN. Medicredit does not require restructuring of the entire health care system, which provides care very well for the vast majority of Americans. Some of the other programs before Congress would dismantle what now exists, and rebuild along untried lines. It does not hold up group practice, or any other form of medical practice, as the best or only effective system of patient care. Finally, Medicredit does not obligate government—the nation's taxpayers—to pay for care of people who can afford to handle most of their medical problems themselves.

NEWMAN. Doctor Mann was referring to the Kennedy plan, which some think, by offering basic health care as a right to all U.S. residents, would bankrupt the nation. HEW Secretary Elliot Richardson, appearing before the House Ways and Means Committee, said that the Kennedy bill will cost taxpayers sixty billion dollars in new taxes, and is simply unfeasible. Backers of the Kennedy bill deny this. They admit that it would cost about sixty billion dollars, but claim that they would simply reallocate health funds currently misspent by a wasteful health system.

When all is said and done, a nation must be judged on how well it takes care of its citizens; on how it provides for the needs; and how effective it is in insuring people a climate receptive to the accomplishment of individual potential. Sickness humbles. It saps strength, confidence and drive. We will have a national health insurance bill, but we must make sure that the legislation that passes will indeed hold the cost line while upgrading quality. As former Congressman James Mackay said in Atlanta:

MACKAY (tape). Within the next four to eight years there will be a national health bill passed. And I'm glad we've got some lead time, because I think this panel this morning has illustrated how intricate the subject is, and how much we need to know. Thinking in terms of politics, I think the real hazard here is that we could pass a very bad bill. But I believe that we need legislation, but I don't think legislation is a panacea. A very learned man has just written an article and said that we can pass a sweeping medical insurance bill that will not appreciably improve the services to the American people. And I believe that.

NEWMAN. Only an aware and informed public will insure passage of legislation which will truly protect its interests. It was the hope of National Public Radio that we might be helpful in this effort.

This is Barbara Newman.

CAMPAIGN FINANCING—THE CHECKOFF SYSTEM

Mr. ALLOTT. Mr. President, public reaction to the great Treasury raid, otherwise known as the checkoff system for allowing politicians to use tax revenues to finance their campaigns, continues loud and clear. The public does not like the checkoff system.

KLZ radio and television in Denver has stated the case against the system with admirable succinctness. The editorial says that the checkoff system is unwise, unjust, and probably unconstitutional.

I agree.

So that all Senators may profit from KLZ's intelligent comments, I ask unanimous consent that they be printed in the RECORD.

There being no objection, the comments were ordered to be printed in the RECORD, as follows:

PRESIDENT SHOULD VETO CAMPAIGN BILL

President Nixon has said he will veto a Senate tax reduction bill if the House does not eliminate an amendment providing federal funding of Presidential campaigns. We think the President is right—a veto would be justified. The dispute between Congress and the White House appears strictly political. The Democrats want tax money for next year's campaign. The Republicans don't, having already raised sufficient funds.

But politics aside, the idea of giving individual taxpayers a check-off procedure for appropriating income tax dollars would set a dangerous precedent. Once established and then expanded, the taxpayer option formula would create havoc in the federal government spending structure. Some Washington observers believe the dollar check-off plan is unconstitutional on at least two points: It appropriates money from the U.S. Treasury but is not an appropriations bill, and it ignores recent court decisions rejecting individual selection of income tax expenditures.

Another questionable element of the Senate plan is the "optional use" clause. Since the Republicans have already announced they'll not accept tax money for the '72 campaign, this country would be in the ridiculous position of having a Democratic candidate, and possibly a third party candidate like George Wallace, spending up to $27 million to try and defeat a privately-financed incumbent President. Equally objectionable is the spending of tax dollars for personal, individual promotion, which actually is what a political campaign is all about.

If this hasty, ill-advised tax diversion does become law over White House objections, the people will still have a veto. All they have to do is ignore the political check-off option when they file their income tax returns early next year.

VACCINE REGULATION

Mr. RIBICOFF. Mr. President, on October 15, I released a memorandum which alleged that there were serious deficiencies in the regulation of the effectiveness and safety of vaccines by the Division of Biologics Standards in HEW. The memorandum had been prepared by Dr. J. Anthony Morris, for 15 years an employee of DBS, and Mr. James Turner, an attorney who has done considerable work in the area of food and drug regulation. Because I was deeply disturbed by the allegations made by Dr. Morris and Mr. Turner, I sent a copy of their memorandum to the Secretary of Health, Education, and Welfare, urging that he fully investigate the charges raised and provide me with a full report as soon as possible.

The Secretary appointed a committee to look into the charges. On November 29, he sent me a copy of the committee's report and the Department's evaluation of that report. With my staff, I have examined the report carefully. I must say, with deep regret, that this report does not provide satisfactory answers to the very serious questions raised in the Morris-Turner memorandum. Questions remain—major questions about how well the public is being protected against products that may endanger health without providing any corresponding benefit.

I am today releasing an analysis of the DBS committee's report prepared by Dr. Morris and Mr. Turner. This analysis considers the committee's arguments point by point and indicates areas where uncertainty remains. Unfortunately, these areas are numerous.

To begin, the materials provided by HEW are sometimes self-contradictory. In my speech of October 15, I pointed out that one of the central problems with vaccine regulation was confusion over the extent of DBS's legal responsibilities. I said:

> DBS apparently believes that it has no legal authority to test vaccines for effectiveness in actually preventing diseases . . . This means that no Federal agency tests vaccines to see if they work. If this legal interpretation is correct, Congress should act to give the Division the duty to do so; if the interpretation is incorrect, the Division should begin to fulfill its responsibilities.

The Secretary has enclosed, together with the DBS committee's report, a memorandum from the General Counsel of HEW, stating that the Department has legal authority to require testing for efficacy, but that such authority has never been delegated to DBS. In spite of this failure, however, he states that DBS has nevertheless not licensed since 1962 any biologic which they otherwise would have rejected as ineffective. Leaving aside the question of DBS testing for effectiveness of the many biologics licensed before 1962, the leadership of DBS has apparently been unaware of the interpretation given in the General Counsel's memorandum. In a document dated October 19, 1971, the Acting Director of DBS states that:

> In view of this legislative history, clearly showing that effectiveness in use was not intended by Congress to be the same as potency, the Office of General Counsel (of HEW) advised the biologics control people that they could not establish any regulation requiring biologic products to be effective in use.
>
> Starting in 1964 and every year thereafter, we have included in our legislative proposals a request that effectiveness in use be inserted into the PHS Act. Such requests apparently have not interested the Department since no bills containing such a provision have been introduced since the 88th Congress.
>
> As has been indicated many times by DBS the effectiveness in use request is to place the licensing of biologic products on the same level as that required for the approval of new drugs. There is absolutely no scientific or medical basis for such a distinction. Thus such a distinction between drugs and biologics would be very hard for the Secretary to explain, if asked.

In light of the confusion between the Office of the General Counsel and the DBS leadership over the Department's and the Division's legal responsibilities, and the fact that DBS felt it necessary to recommend again and again that its legal authority be extended to include efficacy testing, a substantial question arises about the accuracy of the General Counsel's bland assertion that—

> Since 1962, DBS has acted substantially as though it did have formal authority to regulate biologics as to efficacy.

I believe further inquiry into this question is imperative.

Dr. Morris and Mr. Turner raise many further questions about the committee's report and its method of operation. The incidents which Morris and Turner cited and which I spoke about on October 15 are serious enough to call for the most serious and careful scrutiny by the Department. In summary, the following incidents were included:

In 1954 and 1955 one of the Division's most noted scientists, Dr. Bernice Eddy, discovered that several lots of polio vaccine contained live virus capable of causing the disease itself. In spite of Dr. Eddy's finding, which was known to the DBS leadership, this vaccine was released in the spring of 1955 and over 150 individuals who were associated with its use contracted paralytic polio. Just a few months before this incident, the Division had given Dr. Eddy a special "superior accomplishment award" in recognition of her outstanding achievements. In 1957, she and a coworker discovered the polyma virus. In recognition of her outstanding work, Dr. Eddy was featured on the cover of Cancer Research magazine in March 1971.

In the late fifties, DBS developed a so-called adenovirus vaccine, a vaccine essentially for the treatment of the common cold. In the late fifties and early sixties, this vaccine was being administered to all Army personnel. In 1960, Dr. Eddy discovered that material then used in the manufacture of adenovirus vaccines was capable of causing cancer in hamsters.

DBS responded to her discovery by denying her permission to attend certain professional meetings and to publish other papers. She was deprived of most of her testing animals and most of her testing facilities. Finally, on March 8, 1961, she was relieved of her job and reassigned.

Subsequent research by scientists outside DBS confirmed Dr. Eddy's findings. In the meantime, vaccines containing the substance continued to be used on the American people. Finally, DBS decided that Dr. Eddy had been right after all.

Still, it allowed adenovirus vaccine containing this material to be released as late as September 16, 1963, and it allowed a combined adenovirus influenza vaccine containing the same material to be released as late as August 10, 1964.

Other disturbing events allegedly have occurred including:

Reliance by DBS on dubious techniques for testing the potency of influenza vaccine;

The Division's failure in 1966 and 1967 to bar the release to the public of three lots of influenza vaccine for failure by the manufacturer to show that the lots were free of trace metal contamination;

Falsification of labeling and tampering with test results for influenza vaccine;

Active attempts by DBS to discourage scientific research which might tend to cast doubt upon previously taken agency positions; and

Failure to DBS personnel to be aware of and enforce the Division's own regulations.

In analyzing the DBS committee's report, Morris and Turner have cited numerous errors in substance and method which cast considerable doubt on the committee's findings. Morris and Turner have summarized these errors in their reply:

> The way in which the report of the ad hoc committee was prepared calls for a serious undertaking of reevaluation of the interdependence of the DBS and its expert advisory committees. In conducting its deliberations, the ad hoc committees:
>
> 1. Failed to consider all the evidence made available to it. Most notably the committee report does not reflect any committee awareness of two documents—the May 12, 1955 Eddy memorandum on contaminated Cutter lots and the October 29, 1971 memorandum of Dr. Aulisio—both of which were given to the committee chairman and both of which showed the committee conclusions in their areas to be erroneous.
>
> 2. Failed to interview any individuals known to be critical of DBS practices, including Dr. Morris, Mr. Turner, Dr. Eddy (except for two very short phone calls), Dr. Aulisio, Dr. Smith and Dr. Young and many others, all of whom had important information about one or more of the incidents in the report.

3. Relied almost exclusively upon DBS memoranda prepared by the very people responsible for any regulatory failures which might have occurred. Of the more than 200 pages, only six were prepared outside of DBS. (One of the memoranda represented by the six pages opposed the ad hoc committee's position on its treatment of cancer-causing substances in vaccines; the other presented the rationale for more vigorous action on the part of DBS to help develop a new influenza vaccine.)

4. Allowed itself to be misled by illogical, selfserving arguments in the memoranda prepared for it by the DBS. While it should rightly be disappointed by the quality of the work it received, it must share some of the responsibility for the weaknesses for believing that it could rely on the institution it was investigating to obtain meaningful and unbiased information upon which to base its findings.

5. Responded to issues which it raised that were not in the original report and failed to respond to issues which were originally raised.

I have previously asked the GAO to look into the manner in which the Division of Biologics Standards is conducting its operations. I expect to have some data from General Accounting Office investigators in the next several weeks. In the meantime, I am sending to the GAO a copy of the documents HEW has supplied to me and a copy of the Morris-Turner analysis of those documents. I do not intend to allow issues as serious as these to continue unresolved. Either the Division will provide us with satisfactory explanations or Congress will have to act to remedy the problems and give the American people the protection they deserve.

I ask unanimous consent that the documents supplied by HEW and the Morris-Turner analysis be printed in the RECORD.

There being no objection, the documents were ordered to be printed in the RECORD, as follows:

THE SECRETARY OF HEALTH, EDUCATION, AND WELFARE,
Washington, D.C., November 29, 1971.

Hon. ABE RIBICOFF,
Chairman, Subcommittee on Executive Reorganization and Government Research, U.S. Senate, Washington, D.C.

DEAR SENATOR RIBICOFF: This is in further reply to your letter of October 15 concerning allegations by Dr. J. Anthony Morris and Mr. James Turner of scientific mismanagement at the Division of Biologics Standards.

Transmitted herewith is a report from Dr. Robert Q. Marston, Director of the National Institutes of Health. Dr. Marston's report based on his own review of the charges, staff discussions and memoranda, and on scrutiny of the Morris/Turner allegations by a group of expert scientists. His report has been reviewed by Dr. Merlin K. DuVal, Assistant Secretary for Health and Scientific Affairs, who concurs in Dr. Marston's evaluation.

In addition, I am enclosing a memorandum prepared by our General Counsel on the issue of authority for the regulation of the efficacy of biologics. Our conclusion is that sufficient and adequate regulatory authority already exists under the Food, Drug, and Cosmetic Act and that, in practice, the Division of Biologics Standards has been exercising such authority. Hence, we do not believe additional legislation is necessary in this area.

With kindest regards,

Sincerely,

ELLIOT LEE RICHARDSON,
Secretary.

DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE,
OFFICE OF THE SECRETARY,
Washington, D.C., November 23, 1971.

To: The Secretary through: OS/ES——.
From: Wilmot R. Hastings, General Counsel.
Subject: Division of Biologics Standards, NIH—Regulation of Efficacy—Information Memorandum.

You have asked for my views as to the following statement made by Senator Ribicoff on the floor of the Senate on October 15, 1971:

". . . DBS apparently believes that it has no legal authority to test vaccines for effectiveness in actually preventing diseases. As I pointed out earlier, this means that no Federal agency tests vaccines to see if they work. If this legal interpretation is correct, Congress should act to give the Division the duty to do so; if the interpretation is incorrect, the Division should begin to fulfill its responsibilities."[1]

This statement is in part correct, in part incorrect and in any event highly misleading. The situation, however, has lent itself to considerable and wholly understandable confusion.

My conclusions, as discussed below, are:

1. The Division of Biologics Standards (DBS) has never been formally delegated the authority to regulate biologics as to efficacy;

2. The Department has never had authority under the Public Health Service Act to so delegate to DBS, but has, since 1962, had such authority under the Food, Drug and Cosmetic Act;

3. Since 1962, DBS has acted substantially as though it did have formal authority to regulate biologics as to efficacy; and

4. The Department ought to confer on DBS, by appropriate delegation and regulation, the technical authority to continue its informal practices as to regulation of the efficacy of biologics.

A. STATUTORY BACKGROUND

The Virus, Serum, Toxin Act of 1902 was enacted for the purpose of regulating biologics which were to be sold, bartered, or exchanged in the District of Columbia or in interstate commerce. Section 351 of the Public Health Service Act (42 U.S.C. 262) is the current legislative embodiment of that Act. This section was enacted in basically its present form when the Public Health Service Act was passed by Congress in 1944. Section 351(d) limits the regulating powers of DBS over the licensing of biologics to the safety, purity, and potency of such products. The House bill which became the Public Health Service Act in 1944 originally included "efficaciousness" as one of the criteria for licensing; this wording was removed by the Senate, however, and the Act was passed without any requirement of efficacy.

Despite the enactment, in 1962, of the "Kefauver Amendments", which provided authority in the Food, Drug and Cosmetic Act to control efficacy, section 351 of the PHS Act was not correspondingly amended. The original 1962 House bill (H.R. 11581) leading to these amendments had contained a separate section on the regulation of biologics, including their "efficaciousness", which was deleted by the House Committee on Interstate and Foreign Commerce. It was this action, in particular, which has led to the confusion as to the authority of DBS in this area.

This confusion is understandable, since one can argue that the refusal of the Congress to confer express authority on the Department to regulate biologics under the Public Health Service Act, both in 1944 and 1962, was tantamount to an express Congressional rejection of such authority, despite the otherwise inclusive provisions of the 1962 "Kefauver Amendments" to the Food, Drug and Cosmetic Act. Drugs under the latter Act are no less drugs because of their biologic origin. Despite the ambiguity of this situation, it can be argued equally convincingly that the Congress deleted an express treatment of biologics in 1962 as an unnecessary duplication of authority otherwise conferred in those very amendments. In any event, in my view, this ambiguity does not justify reading an implied exception into the 1962 Food, Drug and Cosmetic Act amendments. Biologics are subject to the provisions of that Act, including the requirements as to efficacy.

A second cause of confusion relates to the techniques of regulation. Under the Public Health Service Act (section 351), it is theoretically possible that a license would have to be issued for a biologic that is "safe, pure and potent" *but not efficacious*, while at the same time interstate shipment of that biologic would be prohibited by the Food, Drug and Cosmetic Act. Such an incongruity, however, is more apparent than real, since such a license would be meaningless, and should be able to be handled by appropriate regulations.

B. REGULATORY BACKGROUND

We have attempted to ascertain the actual practices of DBS as regards the efficacy of biologics and are satisfied, within the limits of our technical competence, that these practices have amounted to regulation of efficacy as a practical matter.

Investigational New Drug applications which involve biologics are, pursuant to 21 CFR 130.3(g), sent directly to DBS rather than to FDA. During the investigational new drug period, including the phase 3 clinical testing on human subjects, data is collected by the manufacturer or sponsor for efficacy as well as safety, purity and potency. If any questions involving efficacy arise during this period, DBS feels free to make appropriate comments and suggestions. "Potency" is defined in the regulations under section 351 of the Public Health Service Act as (42 CFR 73.101(t)): "The word 'potency' is interpreted to mean the specific ability or capacity of the product, as indicated by appropriate laboratory tests or by adequately controlled clinical data obtained through the administration of the product in the manner intended to effect a given result." This Office has historically held that this requirement is not the same as efficacy. For example, the potency of a biologic may be demonstrated by the production of a certain level of antibodies, antitoxins, etc., but that determination is different from saying that such a level will be effective to produce the desired result of preventing or curing a certain disease. As a practical matter, however, in rare cases where a biologic may be found to be safe, pure, and potent, but DBS does not believe that it is efficacious, DBS will, in effect, refuse to pass on it.

The representatives of DBS are of the opinion that, as a practical matter, the manufacturers and sponsors of new biologics are submitting data to them sufficient to establish efficacy, even though they are not formally required to do so by current DBS regulations. They are also of the view that since 1962 they have not licensed any biologic which they otherwise would have rejected had section 351 of the Public Health Service Act contained an express authority to regulate "efficacy."

C. PROPOSED CLARIFICATION OF AUTHORITY

In order to eliminate any remaining ambiguities as to the authority of DBS to regulate the efficacy of biologics, we are now working with the Assistant Secretary for

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[1] CONGRESSIONAL RECORD, Oct. 15, 1971, 36370.

Health and Scientific Affairs, FDA and NIH to develop a delegation of authority to be issued from you, through the Assistant Secretary for Health and Scientific Affairs, to the Commissioner of the Food and Drug Administration and the Director, NIH, authorizing the latter two concurrently to administer those provisions of the Food, Drug and Cosmetic Act applicable to biologics—such delegation to be implemented in accordance with a memorandum of understanding to be worked out between the two agencies. Because there are aspects of the regulation of biologics which FDA is better able to handle, e.g., seizure and recall, I am suggesting a concurrent delegation, with the two agencies undertaking expeditiously a determination of which is best suited to do what. That determination would result in a formal memorandum of understanding between the agencies and probably also would involve some corresponding amendment to the Food and Drug regulations.

Under the proposed delegation there are two regulatory provisions of the Food, Drug and Cosmetic Act which would be utilized to exercise "efficacy" control over biologics: (1) the new drug provisions [2], and (2) the misbranding provisions [3].

Pursuant to the new drug provisions, substantial evidence of effectiveness could be required to be presented by an applicant establishing that a drug will have the affect that it purports or is represented to have. The proponent of any drug marketed in interstate commerce since 1938, whether or not licensed by DBS, may be required to establish such evidence. The delegation of such authority will enable DBS to go back to the 1938–1962 period and reexamine its licensed products for "efficacy" to the extent such reexamination is appropriate. Naturally, DBS will continue to regulate "efficacy" with respect to all new applications for licensure.

Pursuant to the misbranding provision, no drug may be shipped in interstate commerce if its labeling is false or misleading in any particular. This authority is not limited by the 1938 "grandfather clause" applicable to new drugs, and DBS advises that all licensed biologics contain labeling setting forth the purpose for which the biologic is to be used. To the extent that the biologic is not effective for the stated purpose it may be deemed false or misleading and therefor misbranded. Furthermore, if a manufacturer, in an attempt to avoid the misbranding provisions, were to remove from his labeling any statements with regard to intended use, such change would remove the "grandfather" protections of the new drug provisions and render the biologic a "new drug" under the Food, Drug and Cosmetic Act.

DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE,
NATIONAL INSTITUTES OF HEALTH,
Washington, D.C., November 17, 1971.

To: The Secretary, Through: OS/ES ——; ASHSA ——.

From: Director, National Institutes of Health.

Subject: Review of Charges Made by Dr. J. Anthony Morris and Mr. James Turner of Scientific Mismnagement at the Division of Biologic Standards—Information memorandum.

BACKGROUND

In a letter of October 15, Senator Ribicoff requested that you investigate charges made by Dr. J. Anthony Morris and Mr. James Turner concerning the operation of the Division of Biologics Standards, National Institutes of Health, and that you make a full report to his Subcommittee on Executive Reorganization and Government Research. In a speech and a press release on the same date, Senator Ribicoff also expressed his general concern as to the effectiveness of regulatory agencies, and specifically commented on regulatory problems of the Food and Drug Administration, the Department of Agriculture, in addition to those of the DBS. He has introduced a bill to establish a Consumer Protection Agency.

Further, he did disclose that representatives of the General Accounting Office have been reviewing the regulatory responsibilities of DBS. We were told by the GAO that their report is anticipated about December 31.

Furthermore, you will recall that on August 12, based upon employee grievance proceedings previously requested by Dr. J. Anthony Morris, I directed the NIH Office of Management Policy and Review to conduct a management review of DBS. A report of this review is due to me about January 7, 1972.

This memorandum with attachments constitutes my assessment of the charges made by Dr. Morris and Mr. Turner in their memorandum to me of September 27 entitled, "Misapplication of Scientific Resources at the Division of Biologics Standards, NIH."

REVIEW OF CHARGES

In reviewing these charges I have used the following resources for information and advice:

1. *Ad Hoc* group of experts: The group consisted of present members of the Board of Scientific Counselors of the Division of Biologics Standards, except for Dr. Geoffrey Edsall, who was out of the country, supplemented by additional experts. The list of members of this group is attached. (Tab A)

The group met on Friday, October 22, and again on Thursday, October 28. After a one-hour briefing session, at which I discussed their mission and our need for a completely objective evaluation of the allegations made in the Morris/Turner memo, and at which arrangements were made for information-gathering for them, they met in executive session for the entire duration of their deliberations. Only when they wished to request specific information and data were they joined by Dr. Sam T. Gibson, Acting Director of DBS, to whom they addressed such requests.

The committee was also provided the attachments to the Morris/Turner memorandum; documents prepared by various staff members of DBS (Tab C) which described in detail the circumstances, scientific and legal, surrounding the instances of the alleged actions or failures to act described by Morris/Turner; and two memoranda prepared at my request by senior staff members of the National Institute of Allergy and Infectious Diseases, presenting views on viral oncogenesis and on the efficacy of influenza vaccines (included in Tab C).

The document I am transmitting to you herewith (Tab B) is the product of the deliberations of the *ad hoc* committee. While the addendum to the letter from the Chairman, Dr. Benenson, states that "while the final version of this report has not been reviewed, it has been approved in principle by the Committee members," I have confirmed by telephone that they have now reviewed the document and are unanimously agreed that the specific allegations in the Morris/Turner memorandum are unfounded.

2. Responses from DBS, both verbal and written, concerning the charges.

3. Knowledgeable staff of the various Institutes of the NIH.

4. Intensive review by my own office of all aspects of these charges, including the pertinent scientific aspects of the fourteen volumes of testimony of the Morris grievance procedure.

CONCLUSION

On the basis of my review, I find that the Morris/Turner charges of scientific mismanagement are without merit.

ROBERT Q. MARSTON, M.D.

AD HOC COMMITTEE TO REVIEW MORRIS/TURNER ALLEGATIONS

Dr. Abram S. Benenson, Professor and Chairman, Department of Community Medicine, College of Medicine, University of Kentucky, Lexington, Ky.

Dr. Floyd W. Denny, Jr., Professor and Chairman, Department of Pediatrics, University of North Carolina, School of Medicine, Chapel Hill, N.C.

Dr. Edwin Kilbourne, Professor and Chairman, Department of Microbiology, Mount Sinai School of Medicine, City University of New York, New York, N.Y.

Dr. J. Vernon Knight, Professor and Chairman, Department of Microbiology, Baylor University, College of Medicine, Houston, Tex.

Dr. Serafeim P. Masouredis, Professor of Pathology, University of California at San Diego, Basic Science Building, La Jolla, Calif.

Dr. Paul S. Moorhead, Associate Professor, Department of Medical Genetics, University of Pennsylvania, School of Medicine, Philadelphia, Pa.

Dr. David J. Sencer, Director, National Center for Disease Control, Atlanta, Ga.

Dr. Margaret H. D. Smith, Professor of Pediatrics and Epidemiology, Tulane University, School of Medicine, New Orleans, La.

Dr. Harry A. Feldman, Professor and Chairman, Department of Preventive Medicine, Upstate Medical Center, State University of New York, Syracuse, N.Y.

Dr. Samuel L. Katz, Professor and Chairman, Department of Pediatrics, School of Medicine, Duke University, Durham, N.C.

Dr. Frederick C. Robbins, Dean, School of Medicine, Case Western Reserve University, Cleveland, Ohio.

UNIVERSITY OF KENTUCKY,
Lexington, Ky., November 9, 1971.
Dr. ROBERT Q. MARSTON,
Director, National Institutes of Health,
Bethesda, Md.

DEAR DR. MARSTON: The *ad hoc* committee appointed to review the allegations brought against the Division of Biologics Standards by Dr. J. Anthony Morris and Mr. James Turner met at the National Institutes of Health on October 22 and 28, 1971. Dr. Knight was unable to attend the meeting on October 22; Drs. Smith and Denny were not present on October 28. The Committee examined the various documents submitted in support of the allegations, and those relating to the charges which had been prepared by the Division. Additional information was requested and provided during the meetings of the Committee.

The Committee considered the individual charges in detail, reviewing all relevant factual information which could be obtained, as well as the scientific information which was available at the time the particular event had occurred. Each charge is discussed below, identified by the letters used in the original memorandum of September 27, 1971.

(A) Dr. Morris and Mr. Turner state that in 1954 and 1955 the Division of Biologics Standards leadership failed to act on the discovery, made in DBS laboratories, that some lots of inactivated poliomyelitis vaccine contained virus capable of causing disease in recipients of this contaminated vaccine. They further state that Dr. Bernice Eddy recovered virus from three lots of Cutter vaccine and reported this to her superiors. It is implied that Dr. Bernice Eddy's findings were ignored and that Cutter vaccine was released and used in spite of the knowledge that it contained infectious virus; this is a charge of the gravest nature. With regard to these allegations, the following seem to be the facts, as best as they can be determined.

It was recognized by the NIH staff, the manufacturers and the scientific advisors to NIH and the National Foundation for Infantile Paralysis that infectious virus could be isolated from some lots of vaccine following treatment with formaldehyde as recommended by Dr. Salk. Changes in the minimal requirements were introduced in March 1954 which made the safety tests more likely to detect residual infectious virus. Also, initiation of the large scale field trial was delayed until the situation could be reviewed and Dr. Salk could complete an additional small scale trial. Thus, although in retrospect the minimal requirements established for polio vaccine production and safety testing were proved later to be inadequate, there is evidence that NIH and its advisors did adjust safety standards on the basis of evidence that infectious virus was present in some vaccine lots.

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[2] 21 U.S.C. 355.

[3] 21 U.S.C. 352.

The specific episode concerning the handling of data provided by Dr. Eddy is more difficult to evaluate. No records of these observations are available in current files. Dr. Eddy has provided the Committee with the lot numbers of the vaccines from which she isolated virus, and assures the Committee that none of these were released for use.

It should be pointed out that Dr. Morris and Mr. Turner accuse the DBS leadership of failing to take proper action, but this agency did not exist at that time; the regulatory body was in fact the Laboratory of Biologics Control of the National Microbiological Institute. It should be recognized that the LBC was neither staffed nor equipped to deal readily with the new and complicated problems presented by the polio vaccines. Indeed, it was only *after* the "Cutter incident" that the DBS was created to replace LBC. Nonetheless, the staff of LBC utilized extensively the advice of scientists, including the principal experts in the fields of virology and poliomyelitis in the United States and even a few from abroad. These scientists, along with Dr. Salk, developed the minimal standards for vaccine production, reviewed progress of the program, recommended changes in requirements and participated in the review of the problem when it was recognized that vaccine-induced cases were occurring.

Thus, although there is no doubt in retrospect that certain incorrect decisions were made concerning the safety of the inactivated polio vaccine and that the original minimal requirements proved to be inadequate, there is no evidence that the staff at NIH were peculiarly culpable. All decisions were arrived at with the assistance of the best experts available and the mistakes reflect deficiencies in the state of the art at the time rather than conscious suppression or neglect of available data. There is no evidence that any vaccine lot *known* to contain infectious virus was ever authorized for release.

(B) It is not possible to substantiate the allegation that the DBS leadership did not act effectively and rapidly in 1960 when it was observed that the material used in the manufacture of polio and adenovirus vaccines was capable of causing malignancies in hamsters on review of available data with particular attention to the sequence and development of scientific information and its publication.

The contamination of some monkey kidney cells with the vacuolating virus, later designated SV–40, was first observed in 1960. The initial report of the oncogenicity of some monkey kidney cell extracts for newborn hamsters was published in 1961. By 1962 these two independent investigations merged when it was discovered that the oncogenic factor was the SV–40 virus. Of the two dozen significant papers most directly relevant to vaccines which were published on this topic in the 1960–63 period, it is to be noted twelve originated in the laboratories of DBS investigators, (See Appendix A). By March 1963, DBS had amended regulations to exclude SV–40 from licensed vaccines based on the accumulated knowledge and techniques which justified this far-reaching decision, necessitating the development of new seed strains of viruses.

The interactions of Dr. Eddy with her laboratory supervisor are difficult to evaluate at this time in the context of their occurrence in the early 1960's. However, the available information seems consistent with the exercise of critical direction in the careful search for confirmation and elucidation of important laboratory observations. While there is no basis for determining the latent period for development of viral induced human tumors, it is important to note, that, despite 8–10 years of intensive study and 16 years since SV–40 was first injected, there is still no evidence that SV–40 plays any role in the production of human tumors (references 23 and 24, Appendix A).

(C) This issue bears on the validity of the chicken cell agglutination test to measure the potency of influenza vaccine. Influenza viruses, even when inactivated for vaccine production by formalin or ultra-violet irradiation to a state of non-infectiousness, retain their capacity to agglutinate the erythrocytes of many avian and mammalian species. This property of hemagglutination resides in the major external structural protein of the virus, the hemagglutinin, which is the principal immunizing antigen of the virus. Serum antibody to this antigen induced by injection of influenza vaccine has been reported in a number of studies to correlate with immunity to influenza. For these reasons, it was deemed logical to employ the chicken (red) cell agglutination (CCA) test as a single *in vitro* procedure for the measurement of viral antigenic mass ("potency") of commercial vaccines, during and after production. In practice, the CCA test has been less than ideal for a variety of reasons, including variation in the hemagglutinating activities of individual viral strains and technical problems in calibrating and reading the reaction. It is only fair to state, however, that the deficiencies of this test became fully apparent only with its continuing use.

It is to the credit of DBS that the deficiencies of the CCA test were recognized in-house and that successful efforts were made to standardize, correct and improve the procedure. This was accomplished in collaboration with an independent university laboratory of international renown. Measurements of CCA activity in DBS and manufacturers' laboratories now correspond closely in repeated checks.

In studies undertaken to standardize the CCA test, the cooperation of vaccine producers was requested. While the test was still imperfect, CCA values seemingly were assigned by negotiation and arbitrary decision. An accommodation to the Pharmaceutical Manufacturers Association or indivirual commercial laboratories may be read into the resultant readjustment of labeling but in actuality this represented a readjustment of arbitrary standards at a time when the standards themselves were under intensive scrutiny and revision. Rectification of the test in fact depended on a conference with licensees (Appendix B).

In summary, while the CCA test is not ideal as a measure of vaccine "potency" if "potency" is equated with immunogenicity (its ability to produce immunity against disease), successful efforts have been made within the DBS laboratories to standardize this test so that its reproducibility has been improved; at present it appears to be a satisfactory procedure for estimating the content of the major influenza virus antigens in a vaccine. It is clear that better tests are necessary for the measurement of influenza vaccine immunogenicity; the problem of developing laboratory measures of immunogenicity is not unique to influenza vaccines.

(D) It is true that influenza vaccine lots were released that had been marked "hold" pending further information from manufacturers. However, the implications that these lots might have "trace metal contamination" is misleading since the designation "hold" was attached to these vaccine lots by scientists in the course of research on the detection of preservatives containing "trace metals," and not as part of the formal control and regulation of the vaccines. Although manufacturers are required to indicate that preservatives are being added and their concentration on their initial applications, they are not required by law to "furnish any information on preservative testing in lot-by-lot protocol data for DBS release." (Appendix C) (There is no evidence that this omission would be detrimental to the public since dangerous amounts would be detected by the safety test each lot of vaccine must pass, in which mice and guinea pigs must survive massive doses compared to that given to man).

(E) DBS is charged with failure to act on influenza vaccines after their efficacy had been questioned. Inactivated influenza vaccines have been used in man for almost 30 years. Studies in all age groups, in a variety of environmental settings, have demonstrated that such vaccines can prevent influenza, when administered in sufficient dosage at the proper time interval before a population is exposed to an influenza virus antigenically similar to that contained in the vaccine.

There is no question, however, that inactivated influenza vaccines are imperfect instruments for the prevention of influenza. In part, this is inherent in the vaccine, and, in part, to the capriciousness of the disease. Influenza A virus is unique among the infectious agents of man in its capacity to undergo mutations so extreme as to circumvent pre-existing immunity to antecedent strains. The need, therefore, for frequent changes in vaccine formulations and the incorporation of new "relevant" strains of virus has presented health workers with continuing problems of revision and reassessment. Influenza vaccines are unique in their requirements for periodic change and reevaluation.

Even when appropriately "matched" to the prevalent disease-producing virus, the vaccine may be ineffective if given in sub-optimal dosage or route, or at an inappropriate time; the vaccine may appear to be ineffective if other respiratory diseases are simultaneously present and serologic confirmation of cases is not obtained. Thus, the best advice available to the DBS from responsible and respected students of influenza has been to the effect that the vaccine is imperfect but useful and, indeed, potentially life-saving in certain "high risk" subjects with cardiopulmonary diseases, etc.

It should be noted that responsibility for recommending which members of the population should be immunized with a vaccine would seem to exceed the functions of the DBS, which by law is charged only with the safety, purity and potency of biological products (Appendix D). Recommendations for immunizations are promulgated by the Public Health Service Advisory Committee on Immunization Practices. The Director of DBS is a member of this committee, which is based at the Center for Disease Control, Atlanta.

The inferences that influenza vaccines may be damaging (particularly to pregnant women) because of their chicken-egg origin are completely unsubstantiated by experience. It is recognized that blood group A substance may be present in chicken-egg vaccines and antibodies may be produced in individuals vaccinated with influenza vaccine, but there is no evidence of any clinical disease associated with such response. Although some problems with "hypersensitivity" have been related to inactivated measles and an experimental RS (respiratory syncytial) virus vaccines, there is no evidence whatsoever that any such "hypersensitivity" has followed influenza vaccines.

(F) This charges that the DBS failed to undertake detailed research to determine the nature and importance of electron micrographic observations by a DBS investigator, Dr. Kendall Smith, of "viral particles" in duck embryo cells, the substrate for production of a rubella vaccine. It is stated that subsequent to this reported observation "efforts to characterize the nature of the observed particles were discouraged." This Committee has satisfied itself that the attitude of the Director of DBS and his response were appropriate and effective, in that conferences were arranged shortly thereafter with two well qualified electron microscopists who were of the opinion that the particles in question were not viral. This was accepted. Subsequent tests performed at DBS failed to develop further evidence of the presence of latent viral agents in this cell culture material. Contaminants of cell cultures of duck embryo tissue which had been found by a contractor were identified as strains of certain Mycoplasma which are not indigenous to duck tissues. (Appendix E).

(G) This charges that DBS actively discouraged research on "slow viruses". While the problem of the slow viruses is of great concern to those involved with biologicals, particularly live agents, the pertinent question is whether adequate research is being done in this field. The National Institutes of Health, in other units of its organization, has been supporting work on the slow viruses, both in intra and extramural programs. Estimates of expenditures for the current fiscal year are as follows:

NIAID	$1, 820, 549
NINDS	1, 180, 000
Total	3, 000, 549

In addition, NCI estimates that in the current fiscal year it is spending about $500,000 on slow-virus oncongesis, and that in the next year this figure will increase severalfold. It is to be noted that these agents require special and expensive space and equipment since, as was shown by Dr. Morris, the laboratory spread of such infections is a distinct possibility.

The decision not to work with scrapie can be cited as an example of the Director's responsibilities. Within the limitations imposed by budget, personnel allocation and space, priorities must be set and duplication of efforts of the different Institutes must be avoided.

(H & I) These charge that the leadership of DBS discourages important scientific work, and as a result forces scientists to either work under conditions which limit their effectiveness or to leave. As noted above, the Director is provided limited resources with which to carry out his responsibilities for establishing and maintaining standards of quality and safety for all the biological products that fall within the jurisdiction of the Public Health Service. This requires that he establish priorities for the optimal expenditure of the resources provided. While this Committee acknowledges that various employees have resigned or transferred from DBS, it is unable to document that this has been at a greater than expected rate or, more importantly, that it has been for uniform reasons.

The most disturbing charge relating to staff resignations is that professional staff members have done so "because their scientific findings adversely affected the vaccine market." The most serious inference that could be drawn from this statement is that vaccines known to be excessively hazardous to recipients have been licensed by DBS for monetary, political or other reasons. No evidence for any decision based upon other than proper grounds was identified by this Committee.

It is evident that there are serious personnel problems within the DBS and that the current charges are the culmination of a long series of such problems. This is regrettable since such interpersonal difficulties must interfere with the effectiveness of the overall program. While these aspects are outside our purview, the Committee was pleased to note that the Office of Management Survey and Review of the NIH is presently surveying this matter.

(J–1) This alleges that a manufacturer was asked to answer questions about a vaccine "prior to its use in clinical trial", but he had already begun the trial. Dr. Morris and Mr. Turner ask for the answers which DBS received, and how this compared with a draft prepared by somebody working for the company, etc. Review of the pertinent material and the correspondence indicates that the point under discussion bore only on the oral use of this experimental varicella vaccine; a completely legal clinical test involving the parenteral administration of this product had indeed begun earlier. The manufacturer decided not to use the vaccine orally, so that the question has no validity and its bearing on the function of DBS is not clear.

(J–2) This implies that inordinate, unjustified confidence is placed on the manufacturers. It is claimed that mumps vaccine was certified as safe by its manufacturer over the scientific doubts of some of its own researchers who were concerned that the seed was neurovirulent. The fact is that DBS did indeed make detailed studies of the neurovirulence of measles, mumps and rubella vaccines. (Appendix F). The outcome of these studies did indicate that mumps especially, when injected into the brains of monkeys, caused a cellular response which was greater than could be attributed to trauma alone. Based on studies with these vaccines and a cesium gradient fraction of adenovirus, it was concluded that the cellular lesions in the brain were responses to by-product components of these viruses and not to a specific neurotropic effect of vaccine viruses themselves or adventitious neurotropic agents. Proposed changes in regulations reflect this knowledge.

The other question raised under this heading bears on the techniques permitted one manufacturer for the detection of contamination of a lot of measles vaccine by members of the avian leucosis virus group. Current regulations require that fluids from control vessels of the tissue culture system on which an attenuated measles vaccine is produced "shall be tested and found negative for avian leucosis, using either Rubin's procedure for detecting Resistance Inducing Factor (RIF) or another method of equivalent effectiveness." It would appear from the data provided the Committee that one lot of measles vaccine was passed on the manufacturer's protocol although the RIF test was carried out only with a single antigen; this test would then detect the most frequent subgroup of avian leucosis virus which occurs in the United States but others could remain undetected. While this virus is oncogenic in chickens, no evidence has yet been observed of an adverse effect on man despite its inadvertent inclusion in yellow fever vaccine which has been given over a long period of time to large numbers of people in compliance with international regulations. It is to be noted that the DBS took the lead in developing an avian leucosis-free seed strain for the production of yellow fever virus. This new strain still awaits acceptance for the World Health Organization before it will be accepted for the purposes of international travel. It is noted that the DBS is actively investigating the most effective techniques for detecting contamination of vaccines with this virus and has not ignored the problem. However, the release of an inadequately tested lot of measles vaccine, even though made on eggs coming from a flock of chickens reared under conditions so that viral contamination is most unlikely, and constituting no danger to the public welfare, was an improper deviation from the published requirements.

(J–3) This questions the dual role of the DBS as a regulator and developer of vaccines, implying that this carries with it a built-in conflict of interest. Major developments which led to a vaccine against rubella were indeed accomplished by DBS scientists. Careful examination by the Committee of the licensure procedures for this vaccine and the overall responsibilities of the DBS revealed no evidence of collusion or of a conspiracy between DBS and industry. The fact that an attenuated strain of rubella had been developed at DBS and that a vaccine using this strain was subsequently licensed by a manufacturer has been taken by some to imply conflict of interest, but no preferential treatment for this manufacturer could be established. In view of the appearance of bias which existed in this situation, there is need to establish formal and explicit guide lines for the scientific staff to avoid activities which could be interpreted as promotional or as representing conflict of interest. While the regulatory function of the DBS should be preeminent, conditions should be retained to encourage DBS scientists to develop new and useful vaccines.

It must be noted that on some issues there might not be a completely uniform opinion throughout the scientific community; decisions for action have been based on the predominating opinions of recognized experts. It is unfortunate that many of the issues were raised as public challenges without full background information. It was noted that the rule-making mechanisms permit any person, including Government employees, to comment on any standards or changes proposed in the licensing and control of biological products. Some of the charges raised in the basic document could well have been made by that route at the appropriate time, rather than by impugning the safety and effectiveness of the outstanding program of vaccine development, production, control and utilization enjoyed in this country.

The implication that the Division activities were concerned with an effect of its actions on the vaccine market to the detriment of the public was not substantiated, nor was the charge confirmed that research was discouraged for fear the scientific findings might adversely affect the vaccine market. It was recognized that withholding a vaccine because of unsubstantiated suspicions of a hypothetical threat to health could deny the public immediate benefits of lives saved and disabilities prevented.

The Committee was impressed by the excellent utilization by DBS of external advisors and consultants in making decisions about new products and in the resolution of specific problems. DBS has been active in organizing international scientific symposia in anticipation of new biological product issues such as rubella vaccine, the use of continuous cell cultures as vaccine substrates, and tuberculins, This technique has permitted free public discussion by experts to provide a globally informed basis for final decisions.

DBS has a clear legislative mandate to establish and maintain standards to insure the continued safety, purity and potency of biological products, but there is no legislative requirement that these products be effective. However, the continuing active collaboration of DBS with the Center for Disease Control in Atlanta, and the Infectious Disease Section of the National Institute of Allergy and Infectious Diseases offers a mechanism for assuring the effectiveness of vaccines. It is to be noted that the Center for Disease Control has a major responsibility for monitorizing the effectiveness of biological products and of adverse reactions after licensure and in field use.

The most important issue considered was whether the regulatory activities of the DBS have been administered so that the public has been protected at the highest possible level, both in terms of a minimum of hazard and a maximum of benefit. In this regard *the Committee could find no evidence that any product had been released for general use which, by the standards of the time and the knowledge then available, was unsafe,* including the cited polio episode. It is noted that the Division of Biologics Standards was established as a result of the "Cutter incident."

A second large issue is whether the scientific programs of the DBS have been performed in a manner which compliments its regulatory activities. It is obvious that the principal thrust of scientific inquiry in the Division must be concentrated on current and anticipated problems relating to biological products and their standardization. In order to attract and retain competent personnel, reasonable opportunity must be allowed for investigators to carry out personal research in broad areas related to their assignments. The Committee was impressed by the range and scope of scientific inquiry related to the use of biologicals; many instances were noted in which in-house personnel gained experience which prepared them to evaluate new products submitted for licensure and release. This often was accomplished in the face of deficiencies of space, personnel and funds. The Director is responsible for evaluating his total program and making a judicious distribution of these limited resources. In making his allocations, he must be aware not only of imminent and future needs but of related work under way elsewhere which might provide information required to cope with current and anticipated problems. The Committee feels that these functions have been responsibly fulfilled by the Director.

In general, based on this review and our own knowledge and judgment, the Committee was impressed by the conscientious efforts demonstrated by the DBS leadership over the years to safeguard the public from biological hazards while maintaining high levels of potency and safety. The Committee did not recognize a major breakdown in the scientific integrity of the DBS. Of the specific charges raised by Dr. Morris and Mr. Turner, only a few minor irregularities could be confirmed; however, these did not involve any risk to the public. The Committee is concerned over the interpersonal problems within DBS, but cannot substantiate the charge of misapplication of scientific resources at the Division of Biologics Standards.

Sincerely yours,
ABRAM S. BENENSON, M.D.,
Chairman, Ad Hoc Committee.

While the final version of this report has not been reviewed, it has been approved in principle by the Committee members who are:

Dr. Floyd W. Denny, Jr., Dr. Harry A. Feldman, Dr. Samuel L. Katz, Dr. Edwin D. Kilbourne, Dr. J. Vernon Knight, Dr. Serafeim P. Masouredis, Dr. Paul S. Moorhead, Dr. Frederick C. Robbins, Dr. David J. Sencer, and Dr. Margaret H. D. Smith.

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MORRIS-TURNER ANALYSIS

WASHINGTON, D.C., *December 6, 1971.*

Senator ABRAHAM RIBICOFF,
Chairman, Senate Subcommittee on Executive Reorganization and Scientific Research, Senate Office Building, Washington, D.C.

DEAR SENATOR RIBICOFF: The report of the ad hoc committee appointed to review the memorandum entitled "Misapplication of Scientific Resources at the Division of Biologic Standards, National Institutes of Health" is of such poor quality as to call into question the very process by which reports of this kind are prepared. Dr. Marston's conclusion that "I find that the Morris/Turner charges of scientific mismanagement are without merit" is a gratuitous comment not supported by careful review of the report *and its inclosures.* In fact the substance of the ad hoc committee's report either side steps, corroborates or expands the seriousness of the situation described in our (i.e., Morris/Turner) memorandum.

Specifically the committee found that "It is evident that there are serious personnel problems within the DBS and that the current charges are the culmination of a long series of such problems. This is regrettable since such interpersonal difficulties must interfere with the effectiveness of the overall program. While these aspects are outside our purview, the Committee was pleased to note that the Office of Management Survey and Review of the NIH is presently surveying this matter."

The essence of the original memorandum presented to Dr. Marston was that the "serious personnel problems within DBS" had "interferred with the effectiveness of the overall program" and that that interference had serious implications for the public health. While the committee confirmed the existence of the personnel problems and the fact that they might adversely affect DBS programs they concluded that "Of the specific charges raised by Dr. Morris and Mr. Turner only a few minor irregularities could be confirmed; however, these did not involve any risk to the public." On this point, perhaps because they felt that the personnel problems were outside their purview, or perhaps because of the limited amount of time the members could spend on their review, the committee is merely mistaken. Major irregularities which did involve public risk can be confirmed. In particular:

A. The committee so seriously misstates the situation concerning the release of contaminated polio vaccine as to call into question the integrity of the process by which the report itself was prepared.

The committee concluded that "although in retrospect the minimal requirements established for polio vaccine production and safety testing were proved later to be inadequate, there is evidence that NIH and its advisors did adjust safety standards on the basis of evidence that infectious virus was present in some vaccine lots." This conclusion is based on the observation that, according to the committee, "safety tests more likely to detect residual infectious virus . . . were introduced in *March of 1954.*" (Emphasis added.) This statement was made in spite of the fact that the chairman of the ad hoc committee had been informed by Dr. Eddy during the deliberation of the committee that she made her discovery of contaminated Cutter vaccine lots (which was ignored at the time of its discovery) in September, October and November of 1954, *six to nine months after* (and probably as a direct result of) the institution of more rigorous tests. Mass immunization did not begin until April of 1955, *5 months after* the ignored discovery of contaminated lots.

As the document entitled "The Salk Poliomyelitis Vaccine Chronology," which was enclosed with the ad hoc committee's report, shows between May 1954 and April 26, 1955—when the first five paralytic polio cases associated with the vaccine were reported—there was no discussion of the possible contamination by live polio virus of the vaccine lots. This lack of discussion occurred in spite of the fact that dozens of meetings—including site visits to all manufacturers—between the National Foundation for Infantile Paralysis, Dr. Salk, The Laboratory of Biologics Control of the Public Health Service and the Vaccine Advisory Committee concerning potency and sterility of the vaccine were conducted during that same time. Everyone proceeded on the assumption that ". . . the possibility of infectious activity remaining in any vaccine meeting the specifications and minimal requirements (of the March 1954 standards which by May had been tested) had been reduced to a point below which it cannot be measured." But between September and Novomber of 1954 Dr. Eddy discovered live polio contamination in three vaccine lots showing that contamination existed and could be detected. Still lots of Cutter vaccine were released to the public without being tested by the government laboratory. Nor apparently was Dr. Eddy's discovery reported to the various expert committees advising on polio.

Dr. Eddy informed the ad hoc committee chairman investigating the incident that the discovery of contaminated Cutter lots occurred as follows:

1. Lot 154 was tested between August 8, 1954, and November 2, 1954. One monkey inoculated as part of the new more vigorous testing procedures "was completely paralyzed in right hind leg and partially in left hind leg" . . . the pathologist test showed the monkey "positive for poliomyelitis."

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*Indicates report by DBS investigators.

2. Lot 254 was tested between September 1, 1954, and November 11, 1954. In test on this lot one monkey without clinical symptoms was "positive for poliomyelitis histologically" while "another monkey inoculated was paralyzed in 4 days, and sacrificed on the fifth day. The histopathological report was positive for poliomyelitis."

3. Lot 354 was tested between September 27, 1954, and November 14, 1954. "Four bottles (of this lot were) positive for virus . . . one monkey inoculated with virus was paralyzed after 6 days" and "positive for poliomyelitis histologically."

The memorandum containing this information (from Dr. Eddy, polio control officer, to Dr. V. H. Haas, director of the National Microbiological Institute) dated May 12, 1955 was provided to the ad hoc committee chairman and is enclosed with this report.[1] In spite of this fact the committee concludes "the specific episode concerning the handling of data provided by Dr. Eddy is more difficult to evaluate. No records of these observations are available in the current files."

If the ad hoc committee means by the statement that no records are available they are mistaken. There is no indication of why they failed to consider the documentation provided them by Dr. Eddy. Equally important is the question why the committee failed to find the dozens of records concerning the release of contaminated lots of polio vaccine which were prepared in 1955. Enclosed with this report are copies of two such reports, one dated June 1955 and identified as report no. 12[2] and one dated July 7, 1955 and identified as report no. 18[3] (both have thirteen addressees and were prepared on ditto machines). These reports chart the disposition (when they were received, released, recalled etc.) of all polio lots received from January 1955. If the committee was unable to find any trace of this massive amount of documentation a new mystery is added to an already disturbing situation.

The committee also mistakenly suggests that some significance should be attributed to the fact that in 1954–55 control of vaccines was not the responsibility of the Division of Biologic Standards but rather was the responsibility of the Laboratory of Biologics Control, its predecessor agency. This fact would more properly be cited as evidence of the unimportance of administrative reorganization rather than as an excuse for regulatory failures.

As the general counsel of HEW pointed out in the legal memorandum transmitted to the Senate Committee the basic authority for regulating vaccines under the Public Health Services Act has remained unchanged since 1944. The term "DBS leadership" was used purposely in the original Turner/Morris memorandum because the current director of the Division of Biologic Standards was the Assistant Chief of the LBC. As an occupant of this position he received (shown by the addressee list on report 183 and recalled by Dr. Eddy) the major portions if not all of the information concerning the contamination of polio vaccines. Finally the administrative change from LBC to DBS has relevance only if the ad hoc committee is correct in its assertion that "the LBC was neither staffed nor equipped to deal readily with the new and complicated problems presented by the polio vaccines." In this judgment the committee erred as far as Dr. Eddy's discovery of contaminated Cutter lots is concerned. Dr. Eddy was on the staff of the LBC, she did have the laboratory equipment necessary to make the discovery, and the discovery was made. The administrative elevation of the Assistant Chief of the vaccine control authority to the position of chief of vaccine control authority and the change of its name in no way alter the realities of the organization structure relating to the discovery of live polio contamination of Cutter vaccine lots or the fact that in spite of this discovery Cutter vaccine lots were released for public use without government tests.

These facts present a situation, in the words of the ad hoc committee "of the gravest nature." The first case of vaccine-caused polio was reported on April 26, 1955. According to the "chronology" provided as an enclosure to its report by the ad hoc committee safe vaccines were ready for issue to the public by the week of May 30, 1955—one month and four days after the discovery of contamination. Dr. Eddy positively identified polio in the first test monkey on August 30, 1954 and in the last test monkey on November 5, 1954. If the exact procedure undertaken on April 26, 1955 had been undertaken on Nov. 5, 1954 the polio manufacturing problems which caused the contamination could have been eliminated by December 9, 1954 or nearly four months before the mass immunization program began. Such a result would have avoided the cases of paralytic polio caused by the contaminated vaccine.

That this tragedy was not avoided can be traced directly to the fact that the expert committees reviewing the polio program were not informed of Dr. Eddy's findings. The ad hoc committee is wrong in its statement that "All decisions were arrived at with the assistance of the best experts available and the mistakes reflect deficiencies in the state of the art at the time rather than conscious suppression or neglect of available data." An expert committee can be no better than the information upon which it relies.

In its preparing of this segment of its report—as in virtually all other instances—the ad hoc committee relied on a report prepared by a high-placed official of the DBS (in this case an acting assistant director) which is biased and incomplete in its presentation. It is in reliance on reports such as this that the committee makes its most serious errors.

B. The ad hoc committee again confuses the significance of various dates when it argues that DBS acted promptly to meet the dangers suggested by the discovery that monkey kidney substrates employed in the manufacture of poliovirus and adenovirus vaccines had cancer causing properties.

The committee completely begs the point about when the cancer causing property of the monkey kidney substrate was discovered when it states "the initial report of the oncogenicity of some monkey kidney cell extracts for newborn hamsters was *published* in 1961." The point of the original assertion by the Morris/Turner memorandum was that publication of Dr. Bernice Eddy's *1959* discovery of the cancer causing property of monkey kidney substate was held up for a substantial time.

Since the ad hoc committee did not see fit to interview Dr. Eddy in detail it is impossible to know whether they received any evidence of this 1959 discovery. (It should be noted that Dr. Eddy identified June 1959 as the date on which she began the studies leading to the discovery in her 1962 paper on SV40). The committee was given a July 6, 1960 memorandum which showed that Dr. Eddy's discovery had been made previous to that time (addendum seven of the original Morris/Turner memorandum.) Why the committee choose to identify the publication date of the discovery (May 1961) (which according to the original assertion had been held up) rather than the actual date of the discovery some time between June of 1959 when the work began and July 6 of 1960 when Dr. Eddy sought in writing permission to publish her findings is unclear. Whatever the reason for this mistake, it undermines the ad hoc committee's argument supporting its belief that DBS acted promptly.

Clearly by no later than July 6, 1960 DBS knew officially that polio and adenovirus vaccines were contaminated by some substance which could cause cancer in hamsters. Measuring the promptness of the DBS response to this potential danger must begin no later than this date. Instituting amended safety regulations to correct this situation in March of 1963 two years and eight months after the discovery can hardly be construed as prompt action.

Even if the date erroneously preferred by the committee (some time in 1962 apparently May 1, 1962, the date of publication of Dr. Eddy's paper first showing that SV40 was the cancer causing agent) is chosen as the starting point to measure promptness, safety regulations issued, in March of 1963, ten months later cannot qualify as an exoneration. In fact the May 1, 1962 paper was received by the journal on January 15, 1962, indicating that DBS must have had official knowledge of the publication by December of 1961 and of the data upon which the paper was based sometime before that. Therefore even by the committee's improper assertion that the point at which DBS knew that SV40 and the cancer-causing agent were one and the same, the proper time from which to measure the promptness of action, 15 months elapsed before new regulations were issued in March of 1963.

The failure of DBS was that in spite of the fact that it knew that it had at least one and perhaps two agents (SV40 and/or a cancer-causing substance) contaminating polio and adenovirus vaccines in 1960, it did not issue new safety regulations concerning this contamination until March of 1963—a lapse of 32 months. On June 6 of 1961, the New York Herald Tribune reported "that a virus that produces cancer in hamsters" was in polio vaccine. On July 25, 1961 the Washington Evening Star reported that "two manufacturers of the Salk polio vaccine have had to suspend production temporarily because they have not been able to rid the vaccines of monkey virus, SV40." Clearly, the DBS knew it had one or two problems and just as clearly it did not react quickly to provide a solution.

To understand what DBS did do, it is necessary to separate consideration of the problem (in the way the original Morris/Turner memorandum did) as it affected polio vaccine from consideration of it as it affected adenovirus. In the case of polio vaccine, the March 1963 regulations were effective (though late) because SV40 can be removed from polio vaccine. However, in the case of adenovirus vaccine, the March 1963 regulations were irrelevant since adenovirus vaccine cannot be produced in monkey kidney cells without SV40 contamination. The rest of this presentation concerns DBS tardiness in preventing adenovirus from reaching the market.

It must be remembered that the benefit of the polio vaccine is extremely high. Conversely the benefit of adenovirus vaccine is low. It has at best a spotty record of protection against a relatively mild illness. On July 12, 1961, the Director of DBS issued a memorandum to manufacturers of adenovirus vaccine (enclosed)[4] citing "the Division's continuous review of accumulating data relating to the problem of SV40." The memorandum required adenovirus manufacturers to conduct "valid tissue culture test for SV40" and to obtain "negative results" or the vaccine would not be considered for release. The Director went on to say "Our present testing program for this agent is proving hazardous to our other test operations. We, therefore, are reluctant to test further lots of adenovirus vaccine for this agent until the manufacturer has demonstrated that he can produce lots which are free of this virus."

If this standard had been applied to the release of adenovirus to the public, the production of the vaccine would have ceased upon its publication because it would have been impossible to produce adenovirus vaccine lots free of SV40. The failure of this

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feeble attempt at regulation is what led to the institution of stricter regulations to control SV40 contamination of adenovirus vaccine in March of 1963. Adenovirus vaccine free of SV40 could not be produced in monkey kidney cells but DBS continued to release adenovirus vaccine to the public until August of 1964. (It is interesting to note that the DBS recognition of the seriousness of the problem presented by SV40 contamination occurred six months earlier than the ad hoc committee believed extending the period of delay from the time that even the committee felt important action should be taken to 20 months.)

Manufacturers complained about the March 1963 regulations because if they followed them, SV40 kept showing up in adenovirus. Repeated unsuccessful efforts were made to produce SV40-free adenovirus vaccine. Then finally it was learned that SV40 and adenovirus could infect a cell simultaneously leading to the explanation that the growth of that adenovirus in rhesus monkey kidney cells was dependent upon the presence of SV40. In view of this discovery it is clear that if the DBS policy of July 12, 1961 or the March 1963 regulations had been followed, no adenovirus vaccine would have reached the market place. In fact the last lot of combined adenovirus-influenza vaccine was cleared for the market place on August 10, 1964, four years and one month after Dr. Eddy discovered the cancer-causing properties of an agent in monkey kidney cell substrate. This cannot qualify as promptness. In fact DBS did not take official action to halt the release of adenovirus vaccines until October 14, 1964.

When the committee characterizes the removal of Dr. Eddy from her laboratory, animal rooms, heavy censorship of all her proposed publications, and the loss of laboratory technicians as "consistent with the exercise of critical direction in the careful search for confirmation and elucidation of important laboratory observations" it once again reveals how it refuses to consider DBS personal matters and in so doing so undermines its ability to make critical judgments about the quality of DBS science. The fact that the committee states that "there is still no evivence that SV40 plays any role in the production of human tumors" indicates that it failed to consider the one paper suggesting otherwise. To quote the original Morris/Turner memorandum:

"There is still no clear answer to the question of how the injection of SV40 might have affected its recipients. One study found a statistically significant ($X^2$12.182, P 0.0005) (the probability that the findings will occur by chance are 1 in 2000) increase in leukemia of children inoculated with SV40 contaminated poliovirus vaccine when compared with a comparable control group of children inoculated with vaccine uncontaminated with SV40. It concluded that there is reason to continue careful surveillance of the potential of SV40 to cause cancer in man."

The paper cited was M.D. Innis, "Oncogenesis and Poliomyelitis Vaccine," Nature, Vol. 219, August 31, 1968. The fact that it exists indicates *some* evidence of a possible problem. The two papers cited by the committee to support their contention that no evidence existed were both by Fraumeni, one in 1963, the other in 1970. In 1963 Fraumeni wrote "continued surveillance is indicated for it would be premature to conclude from this study that SV40 is innocuous to man." In 1970 he said "Our study has certain limitations. Whereas the attenuated (oral) vaccines (which he studied) contained much higher amounts of viable SV40 than the formalinized (subcutaneous) vaccines, the neoplasms in laboratory animals were, nevertheless, induced by parenteral and not oral administration of the SV40. In addition, we could not have detected neoplasms associated with a latent period which is longer than 8 years." (It should be pointed out that the Innis paper dealt with parenterally administered vaccine.)

The Journal of the American Medical Association followed Fraumeni's first paper with this statement:

"The lack of an effect on cancer mortality rates by no means indicates that SV40 is without oncogenic capacity in man. The results might have been different had the dose been higher, the observation period longer, or the vaccinees younger (i.e. newborns.) Extrapolation from animal experimentation suggests that it would be unlikely for the SV40 in killed polio vaccine to induce cancer in human beings, because the dose was probably too small and the vaccinees were probably too old. Nevertheless, it is important to have these expectations confirmed by observations based on human experience." JAMA, August 31, 1963.

There do not appear to be any extensive follow-up studies on the effect on man of SV40 contained in adenovirus vaccine.

In preparing its comments on the SV40 incident, the ad hoc committee again relied on two inadequate memoranda prepared by senior DBS officials. One of these comments on the Innis paper saying "the author . . . discusses the question of whether test and control groups are comparable and whether there is a relationship between socioeconomic status and vaccination and between socio-economic status and the genesis of leukemia. The conclusions are that further surveillance is needed."

This comment gives a clear insight into how the DBS staff misled the committee on minor details as well as major issues. What Innis actually said about the socio-economic issues was "it was concluded that the observed differences in the poliomyelitis immunization histories was *not* entirely attributable to socio-economic factors, if attributable at all." When an official of DBS, laboring under the clear conflict of interest of being assigned to investigate problems within her own institution, finds it necessary to mislead about a matter in this way, it is little wonder that the committee relying on that official makes important mistakes.

C. The ad hoc committee (again relying primarily on a memorandum prepared by a senior DBS official) errs in concluding that "at present it (the chicken cell aglutination—CCA—test) appears to be a satisfactory procedure for estimating the content of the major virus antigens in the vaccine."

Contrary to this statement, Dr. Edwin D. Kilbourne, a member of the ad hoc committee wrote in Hospital Practice, October 1971:

"A lesser objection to current vaccines, or at least to the means used to test them, is that there is still no satisfactory method of predicting the immunogenicity in man of any given preparation. Studies of immunogenic potential in animals are not required for licensure of vaccines and the immunogenic mass is estimated from results with the chicken cell agglutination (C.C.A.) test. This measures the erythrocyte-agglutinating activity of only one of the viral antigens and is both archaic and unsatisfactory. Vaccine production could, however, be readily improved in this respect without any very large expenditure for research."

Besides mistakenly characterizing the CCA test as "satisfactory," the ad hoc committee missed the point of the original assertion. The point was that in *November of 1960* (eleven years ago) Dr. Eddy sought to publish her findings on the variability of the CCA test because she felt "there would be interest (from the scientific community) in a test to replace it." She was blocked from publishing. Her supervisor backed by the DBS director called Dr. Eddy's work "of little consequence to immunologists . . . hence it would reflect no credit on the author, the DBS, or the NIH." Not only were Dr. Eddy's efforts to improve influenza potency testing discouraged, but the DBS continued to officially take the erroneous position that the CCA test is "satisfactory."

By taking this position the DBS lost the opportunity to be an important source of stimulation of work that could have "readily improved vaccine production . . . without any very large expenditure for research." If, over the last decade, as much time, effort, and money had been spent by DBS for research into an alternative to the CCA test as was spent on unsuccessful attempts to establish its usefulness, the CCA test, a test that because of its physical base cannot be used to measure the antigenic content of a multivalent influenza vaccine, might well not be a problem today.

The ad hoc committee fails to address the public health implications of what it calls "a readjustment of arbitrary standards" between pharmaceutical industry and the DBS. It does not consider the effect of this arbitrary readjustment on the physician who is giving vaccine or the patient who is receiving it. Rather it focuses on the propriety of the industry and the agency "negotiating" the "arbitrary standards." The committee completely ignores the potentially serious public health implication of the course of action DBS proposed to follow. The DBS sought to impose "arbitrary standards" (the committee's words) on influenza vaccine which would have led physicians to rely on an announced (on the product label) level of potency which exceeded laboratory measured potency. DBS sought to take this action in spite of the fact that in its own laboratories Dr. Morris (then control officer) had shown that the CCA values of reference vaccine were much lower than the value on the label of the vaccine. It was only after the arbitrary, and in the words of the Deputy Director of the DBS "rather hurriedly assigned," improperly excessive CCA value came under industry attack that negotiations were undertaken to adjust the value back downward to just slightly higher than the value found by Dr. Morris. By ignoring the existence of these facts the committee is rendered incapable of assessing the amount of damage to the public health that such a product can cause.

The committee also fails to comment on the fact that faced with the failure of the CCA test in 1966–67, Dr. Tauraso (who by this time had replaced Dr. Morris as influenza control officer) suspended *all DBS potency tests for influenza for one year*. It is interesting to note the inconsistencies of the DBS in its reliance on CCA tests. For the 1967–68 season, manufacturers were instructed not to include CCA values—the only measure of vaccine potency recognized by DBS—on the labels of finished lots. This ruling left physicians with no suggested measure of potency for the vaccine they gave to patients. It is unclear how the committee can believe that it conducted a thorough study of the problems at DBS when it chooses to ignore facts of such importance to the public health.

D. The ad hoc committee finds "true" the fact that influenza vaccine lots were released in spite of being marked "hold." But then the committee said:

"However, the implications that these lots might have 'trace metal contamination' is misleading since the designation 'hold' was attached to these vaccine lots by scientists in the course of research on the detection of preservatives containing 'trace metals,' and not as part of the formal control and regulation of the vaccines."

This quotation offers an opportunity for excellent insight into the kind of thinking and the process of preparation that underlies the entire ad hoc committee report.

First, whether or not the scientist involved found trace metals is in no way dependent on whether or not their work was part of formal vaccine control and regulation. Much of the committee's report is characterized by an attempt to explain away a scientific discovery or failure because it was made outside of or corrected by DBS regulatory announcements. The ad hoc committee bases too much of its argument on statements of DBS policy or intent and not enough on scientific facts.

Second, the Morris/Turner memorandum contained no "implications" about trace elements. It did contain the statement that "If the vaccines being reviewed by Dr. Hiatt were in fact contaminated with trace metal (perhaps resulting from excessive use of preservatives) the laboratory books will show it. When these were sought for detailed examination, access to them was denied, although an earlier cursory perusal had been permitted. That perusal suggested the possibility that some vaccine released had an excess of trace metal contamination." The committee chose not to seek out and examine the laboratory books. As a result the situation outlined in the original memorandum remains exactly as it was. The assertions of a potential problem in the way DBS regulates preservative remains unrebutted.

Thirdly, the committee completely ignores the one "implication" that was drawn from the appearance of the word "hold" on vaccine lot protocols—that there is confusion in the DBS regulation of preservatives. As the original Morris/Turner memorandum pointed out:

"Whether Dr. Hiatt thought he was performing a regulatory function or an investigative function the confused DBS internal procedures on preservatives raises serious questions about public welfare. If Dr. Hiatt felt he had important reasons for withholding a vaccine from public use, it might well be that the public should not have received the vaccine. Conversely, if there was no proper reason for withholding the vaccine but Dr. Hiatt was attempting to withhold it (as the ad hoc committee now alleges) then his effort was to improperly use his authority to attempt to advance his own personal research activities" (by withholding vaccine from the public.)

The committee merely ignores the implications of the confused situation that it confirms existed.

That there is confusion in the DBS regulation of preservatives is further illustrated by the case of the benzethonium chloride—the preservative which caused a Federal Judge, as pointed out in the original Morris/Turner memorandum, to award $650,000 for brain damage traced to its use. On June 17, 1969 Dr. Stanley H. Singer, a DBS project officer reported that "it is my opinion that in this one experiment the Division has enough data to indicate that the carcinogenicity of this compound (benzethonium chloride) * * * in one species of animal. It should now be the manufacturers' responsibility, if they desire to continue using this compound, to launch experiments to confirm or refute these findings. The Division's role in future testing could then be focused on studies designed to obtain further basic information about the chemistry of this compound and to insure that the small amounts of this compound used in vaccines in the past have been perfectly safe."[5] The compound is no longer used in vaccines. However, it is still used in thrombin,[6] a biologic blood product regulated by DBS and indicated for oral use to stop intestinal bleeding. That the committee did not explore more deeply into the preservative regulation confusion at the DBS is further evidence of the superficiality of the procedure upon which it relied.

Finally, the committee again relied on a memorandum from a senior DBS official which was both self-serving and contradictory. The memorandum says that no "standards . . . (by which) to test products for preservative content" were ever promulgated by DBS so therefore "such writings as 'satisfactory,' 'hold,' 'manufacturers preservative content not reported,' etc. . . . carried no regulatory significance." This means that DBS did not even require the manufacturers to indicate the name of the preservative used in any given lot of vaccine.

On the other hand the memorandum does claim that DBS has very strict regulations about the amount of certain preservatives that can be used in certain cases (not more than 1:10,000 sodium ethylmercuri-thiosalicylate or 1:12,500 phenylmercuric borate in influenza, for example.) The package inserts and containers for vaccine products contain statements indicating that these standards are met. The DBS memorandum says that "manufacturers were meeting these standards," including manufacturing procedures for any preservative. Thus the DBS regulation, manufacturer's licenses and package inserts and containers all indicate that the very precise amounts of preservatives are present. Then the DBS memorandum goes on to say that neither DBS nor the manufacturers "had any prescribed tests by which" the amount of preservative present could be measured. Thus while all the various precise qualitative statements sound reassuring, there is no way to know whether they are true or not.

The committee does not believe that this unanswered question is of any importance. They argue that any dangers of mercury or other trace metals "would be detected by the safety test each lot of vaccine must pass, in which mice and guinea pigs must survive massive doses compared to that given to man." When tests were run on thimerosal (sodium ethylmercuri-thiosalicylate) under DBS Contract #Ph 43–67–676, Mason Research Institute, Worcester, Mass., some interesting questions were raised.

"*Drug-Related Organ Pathology.* During the examination of about 2000 rats, a great variety of pathology was observed. The most frequent of these were mild changes in the liver, kidneys, heart, and lungs. Only in the Thimerosal-treated animals were the lesions in the lungs numerous or severe enough to warrant comment (see Table 6). Here only disease incidence in the high dose of each compund is recorded. The three compounds chosen had the highest incidence of broncho-pneumonia and in comparison with the controls it is evident that Thimerosal had a damaging effect on the lung or its defense apparatus. Since the death rate in this group paralleled the deaths in the other compounds, it must be concluded that the damage was slight, continuous, and perhaps cumulative. The incidence of pneumonia within the four dose levels of the Thimerosal group was dose-related." (Clinical Toxicology, June, 1971.)

None of this is meant to show definitively that preservatives in vaccines are currently harming people. It is meant to show that some potential preservative dangers are going unexplored by DBS because of "confusion over preservative regulations." Confusion over preservative regulations was the heading of the section of the original Morris/Turner memorandum which the committee attempted to refute when it argued that the release of protocols which were marked "hold" was of little importance. That the committee failed to explore the indication of confusion, but instead relied on another DBS prepared memorandum to evaluate the situation further undermines the credibility of the process by which the report was prepared.

E. In attempting to refute the argument that DBS should have taken some action when it became apparent that influenza vaccine was not protecting the public from influenza while possibly presenting dangers, the ad hoc committee relies on three arguments. First, it argues that while influenza vaccine use has been questioned "the vaccine is imperfect but useful and, indeed, potentially life-saving in certain 'high risk' subjects with cardio-pulmonary diseases, etc."

Second, it argues that DBS has no authority over efficacy of vaccine but "is charged only with the safety, purity and potency of biological products." The committee again relies for this position on a seriously flawed DBS legal memorandum.

Thirdly, the committee argues that "there is no evidence whatsoever" that "'Hypersensitivity'" has followed influenza vaccine use, and there is "no evidence" that influenza vaccine of chicken-egg origin can be damaging (particularly to pregnant women.) In each of these arguments it appears that the committee again failed to consider seriously all the implications of facts known about influenza vaccine.

First, the fact that the Public Health Service Advisory Committee on Immunization Practices (and for that matter the ad hoc committee) finds it necessary to limit their arguments for the usefulness of influenza vaccine to "high risk" groups is impressive support for the lack of efficacy of the vaccine in the general population. But even the usefulness in the so-called "high risk" group cannot be easily defended. If the vaccine is not effective in the young and otherwise healthy, why should it be effective for "high risk" groups? In 1965 the Advisory Committee on Immunization Practices explained why "high risk" groups should be included in its recommendations:

"That influenza vaccine prevents mortality from influenza, particularly among the aged and chronically ill, is based upon inference. It is presumed that vaccine protection demonstrated in studies among younger persons is similar among the aged and chronically ill, the group at particular risk of death should they acquire the disease. It is further assumed that such protection against clinical disease serves to protect them also against mortality associated with epidemic influenza."

The Advisory Committee has concluded in 1971 that "inactivated influenza vaccines have not been used to control epidemic influenza in the general population. Their effectiveness is variable, and protection is relatively brief. Nevertheless, since they are the only available influenza preventives, they should be given to chronically ill patients and possibly to older persons in general." Since the value of the influenza vaccine to "high risk" groups was originally "inferred" from its supposed effectiveness "among younger persons," it would seem that now, as it becomes increasingly difficult to demonstrate vaccine effectiveness among younger persons, that recommending it for "high risk" persons should be reevaluated. Perhaps it is time, for example, to consider the development of a new (possibly live) vaccine.

This is precisely what Dr. Robert M. Chanock of the National Institute of Allergy and Infectious Diseases said to the ad hoc committee (in one of two memoranda prepared for the committee by persons outside of DBS.) While unwilling to support Dr. Morris' belief that "influenza vaccine as constituted cannot induce in man appreciable resistance to influenza," Dr. Chanock did say that "In an open, partially vaccinated population influenza vaccine rarely has been more than 60 to 70 per cent effective in preventing disease; sometimes it has had less of an effect." Even Dr. Chanock recognized this as a vaccine of limited efficacy and endorsed the "development of attenuated influenza virus strains for use in live vaccine" to be delivered other than parenterally. Interest-

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ingly enough this is precisely the solution to the vaccine efficacy problem that Dr. Morris proposed at the close of his grievance hearing in March of 1971. The original Morris/Turner memorandum said "the fundamental observations concerned with the immune response in man to influenza virus, whether encountered in natural disease or by vaccination, put severe theoretical limits upon benefits to be derived from parenteral injection of an inactivated influenza vaccine."

The scientific argument which caused Dr. Morris to become involved in controversy at DBS was his assertion, first made in 1965, that influenza vaccine which induced circulating antibody could only provide incidental protection and that only creation of local antibody in the respiratory tract could provide protection. This view was based on Dr. Morris' own laboratory and field work, his discussion with Dr. Thomas Francis of the University of Michigan and the early observation (1942) of Dr. Francis that "local mechanism . . . available at the portal of entry, may be much more immediately concerned with determining whether influenza virus introduced to the respiratory tract will successfuly institute infection." Dr. Chanock says that "the rationale for his approach is based in part upon recent (sic) recognition of the major importance of local immune mechanisms in resistance to respiratory infection . . ." By coming to this position, Dr. Chanock lends his weight to essential parts of Dr. Morris' argument that the theoretical basis of inactivated vaccine has to make its effectiveness doubtful. Dr. Morris believes that the failure of the inactivated vaccine to create much local antibody explains its ineffectiveness while the fact that it creates some local antibody—when given in very high doses—explains what limited effectiveness that does occur. Dr. Chanock believes that this is only partly the explanation. Both agree on what next steps should be taken. The memorandum presented by Dr. Chanock supports in large measure the argument made by the Morris/Turner memorandum.

The committee completely skipped over the proposals made to it by Dr. Chanock: a. He proposed two alternatives to the CCA test which he felt should be tested. "DBS should take the lead in initiating and coordinating such studies; b. He said "it is essential that DBS become conversant with the genetic techniques now being used for alteration of virulence of influenza virus;" c. He said "DBS should attempt to anticipate problems of a regulatory nature which might impede progress in this area;" d. He urged that DBS maintain liaison with others in the field because "it would be tragic if attempts to stem the next influenza epidemic were aborted by a failure of DBS to remain *au courant*." None of these recommendations was mentioned by the committee though they go to the heart of many of the scientific failures of DBS outlined in the Morris/Turner memorandum.

The second argument made by the ad hoc committee is that even though the influenza vaccine has limited effectiveness, DBS should not be expected to do anything about that fact. (The committee does not explain why, the DBS in accordance with its authority to develop vaccines, should work on rubella vaccine but not on a live influenza vaccine. Nor does the committee explain why Dr. Chanock and his associates outside the DBS and not DBS should establish a Sub-committee on Influenza—which includes no DBS staff as members—to encourage new approaches to influenza prophylaxis.) The DBS should do nothing the committee argues because it is charged by law with only "the safety, purity and potency of biological products . . . there is no legislative requirement that these products be effective." That a responsible group of scientists could in this day and age make such an argument in the defense of a government regulatory agency and make it without even suggesting that the situation should be changed is disturbing. The fact that the argument is untrue doubles the disappointment.

Fortunately, the Secretary of HEW, relying on the recommendations of the HEW General Counsel argues against the committee and takes essentially the same position as the Morris/Turner supplemental legal memorandum that DBS does have authority for determining efficacy under the Food, Drug and Cosmetic Act. Unfortunately, the General Counsel's memorandum misses the point that since it believes that it does not have this authority the DBS has not been moving as vigorously as possible in insuring efficacy of vaccines. For example, the various activities undertaken by groups outside the DBS to help insure, improve, or develop (depending on your point of view) the efficacy of influenza vaccine should be the responsibility of DBS if it has the authority to establish efficacy. It is not doing much to insure influenza vaccine efficacy presently.

How could a committee of national experts in biologics, as well as the agency assigned to regulate biologics manufacturers believe that the law did not require these products to be effective while at the same time it is clear to the HEW Secretary that biologics efficacy is required by the law? The committee erred once again by relying on memoranda prepared by the DBS staff. Unfortunately, the legal memoranda of the DBS staff are self-serving and misleading as are the scientific memoranda of the DBS. The argument of the legal memoranda appears to be that since FDA wrote a regulation excluding biologics from their new drug provisions, "Biological products . . . are exempt from complying with the New Drug Section of the FDA Act by reason of Section 130.2 of the FDA regulations." Clearly with the Secretary arguing in one direction and the DBS and the expert committee arguing in the opposite direction, new legislation requiring biologics to be shown effective must be adopted. During investigation into the subject of biologics efficacy, some attempt might be made to discover how widespread the notion is that an Act of Congress can be nullified by a regulatory agency's announced regulation.

The third argument by the ad hoc committee against the Morris/Turner position on influenza is that there is no evidence of harm or hypersensitivity related to the use of influenza vaccine. Once again the committee is mistaken. One commentator writes of the "risk of having a significant adverse reaction to most of the (influenza) vaccine currently on the market" as being "practically equal to the ability of the vaccine to prevent influenza. About eighty per cent of those who receive the present-day (1970) influenza vaccine report some local (sore arm) or systemic (feel as if they have flu) reaction. Ten to twenty per cent have fever, and about ten per cent miss a day of work or school. Reactions to influenza vaccine are far more severe in children than adults." (Dr. Steven R. Mostow, American Journal of Nursing, October 1970.)

In its discussion of blood group A substance, the committee confirms exactly what was stated in the Morris/Turner memorandum. The substance may be present in vaccines of chicken egg origin and antibodies may be produced against it in influenza vaccine recipients. The Morris/Turner memorandum then concludes "In pregnant women, this can be a dangerous event and result in fetal damage." The committee concludes "there is no evidence of any clinical disease associated with such response." In 1964 Springer reported:

"ABO immunization may exert its effect in foetal life to produce abortion and miscarriage (estimated to amount to 15–20% of all human pregnancies), giving rise to few cases of erythroblastosis. This is conceivable since A and B antigens, in contrast to the Rh factors, are not confined to the red cells but are present in nearly all tissue cells very early in embryonic life. Thus necrosis of foetal tissue cells may result following the action of anti-A and anti-B antibodies and the closely related anti-Forssman antibodies. Only recently has evidence been adduced for the teratogenic effect of anti-tissue antibodies *in vivo* during critical phases of embryonic development.

"In conclusion, the seriousness of the potential ailment and the ability of the potential patient to cope with it should be considered on an individual basis before administering present day influenza virus vaccines to women of child-bearing age."

Following the appearance of their paper, pregnant women were removed from the high risk group identified by the Advisory Committee.

As was pointed out in the original memorandum "In pregnant women the existence of blood group A antigens can be a dangerous event and result in fetal damage."

Finally, there is evidence that hypersensitivity has followed influenza vaccine use. Burnet[7] reported in 1943 that "when type B virus was inoculated in volunteers three to six months after a primary infection, the second infection had a much shorter incubation period, and the severer symptoms were experienced by those with higher serum neutralizing antibodies levels . . . these facts raise the possibility that the symptomatology of influenza virus infections does indeed have an allergenic component." (Rhodes and Rozee, 1967.)

In a small 1968 study on the USS Finch, Weibenga reported that 54% of the most recently immunized group contracted severe cases of Hong Kong influenza when the ship came in contact with an epidemic. Only 25% of the unimmunized group contracted the disease. Again in 1968 a study in a small group of industrial workers showed similar results—55% of the immunized group got the disease while 26.3% of the unimmunized group contracted influenza. A single case reported in 1970 "describes a patient in whom meningoencephalitis developed 12 to 14 days after inoculation with a purified influenza vaccine . . ." The observer, Rosenberg,[7] suggests an auto-immune allergic mechanism as possibly related to his patient's illness. A 1966 report of a case of autoimmune hemolytic anemia following "injection of influenza vaccine" (which itself was followed by "a sore arm and an influenza-like syndrome") concludes saying "It is interesting to speculate on the role of the influenza vaccine in the etiology of the autoimmune process since, it was, at least temporarily, related to the acute onset of hemolysis." In 1971 a Welsh physician, C. E. C. Wells,[7] reported eight cases in which "vaccination against influenza (was) complicated by a neurological illness." All eight neurological illnesses had an autoimmune basis. Each of these observations provides some evidence to suggest the existence of a positive relation between hypersensitivity and influenza vaccine use. However, the committee report dismisses the point of the original Morris/Turner observation. The point was that since myxoviruses have shown a tendency to hypersensitization, since influenza is a myxovirus, and since the WHO[7] reported in 1970 the influenza outbreaks in Europe (where vaccination is relatively limited) were "in general clinically mild" while "in the United States . . . an extensive outbreak covering nearly all States was associated with a large number of deaths from acute respiratory disease, a prospective study of hypersensitivity in relation to influenza vaccine should be undertaken." The point was that nobody was then or now collecting evidence on which a definitive determination might be based. The com-

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mittee attempted to refute the observation by saying that no evidence existed.

The committee did not explain why the DBS failure to undertake a prospective study of this nature and its effort to discourage investigation of hypersensitivity in relation to influenza vaccine was a sound administrative and scientific procedure. The DBS treatment of influenza vaccine is of major importance because in spite of generally known limited effectiveness, and in spite of the significant negative side effects associated with its use, approximately one-fifth (18.8%) of all vaccine doses released in the 5-year period 1966–70 in the United States are influenza vaccine.

F. The effort of the committee to explain away the existence of certain contaminants in duck embryo cells presents its most curious mistake. Rather than investigating the facts presented in the Morris/Turner memorandum, the committee substitutes its own alegations against DBS and then refutes them.

Specifically, the Morris/Turner memorandum said "a DBS investigator observed in cultured duck cells virus-like particles which were (not) identified because the investigator was told to abandon his studies of the particles (since the presentation of the Morris/Turner memorandum, the DBS has begun efforts to determine the nature of the particles) because they were 'biologically inactive.' " Instead of focusing on this fact that the committee cites another fact and erroneously attributes it to the Morris/Turner memorandum saying "the DBS failed to undertake detailed research to determine the nature and importance of electron micrographic observations by a DBS investigator, Dr. Kendall Smith, of 'vital particles' in duck embryo cells."

The incident referred to in the original memorandum concerned discoveries of DBS senior scientist Dr. Calvin Aulisio and not the work of Dr. Kendall Smith. The committee could have ascertained this fact by merely contacting either Dr. Morris or Mr. Turner. The reasonable way for the committee to sharpen its understanding of the points in the controversy. In this case, the committee's reliance on the DBS memorandum not only led them to be mistaken in their answer, it also led them to be mistaken in what they were answering.

More important than the failure to speak with the authors of the Morris/Turner memorandum is the fact that an unblasted reading of the original allegation would have made it obvious that the Kendall Smith problem was not the one referred to. Mr. Smith's name is not associated with the facts. (In fact the only mention of Dr. Smith in the original memorandum is in connection with his belief that he can show that DBS engaged in a conflict of interest which is treated later in this memorandum.) In addition, Dr. Smith continuously argued that he had discovered "viral particles" while Dr. Aulisio and the Morris/Turner memorandum referred to "virus-like" particles, an important distinction in detailed virus work. Also Kendall Smith, as far as we know, was not told to discontinue his work—in fact his work continued until the particles were identified as ribosomes. Finally, in the context of this discussion, ribosomes (the particles discovered by Dr. Smith) cannot be called "biologically inactive." If the facts presented by the original memorandum had been read without bias, it would have been clear that they referred to work other than Dr. Smith's. If the committee had contacted Dr. Morris or Mr. Turner, they would have learned that the work of concern had been conducted by Dr. Aulisio and that it remains uncompleted. Instead the committee relied on DBS memoranda which set up its own charge and then refuted it.

Nor does the committee deal with the additional two points about duck cells made in the original memorandum. It dismisses the comment that one DBS contractor found cytopathic agents in 4 to 10 replicate trial cultures by saying these were identified "as strains of certain mycoplama which are not indigenous to duck tissues." The existence of these mycoplasma was pointed out in the original memorandum in distinguishing them from "yet another contaminant" whose existence went essentially uninvestigated allowing DBS to once again miss a potentially important scientific opportunity. The committee does not comment on these "other" particles. Nor does it comment on the unexplained deaths of ducks at one manufacturing establishment.

The committee fails to comment on any of the points about duck cell contamination raised in the Morris/Turner memorandum. Conversely, it raises and then refutes the existence of an entirely different problem. It makes this mistake because of uncritical reliance on the DBS memorandum prepared for it. The handling of this issue again raises serious questions about the whole process followed by the expert committee.

G. Concerning the slow virus problem, the committee again fails to understand the failure of DBS and in fact by its answer actually dramatizes that failure. The point made about DBS was that "In 1962 it was recognized that 'slow viruses' were potential contaminants of cell cultures employed in the manufacture of vaccines for use in man" and that DBS has from that time to the present discouraged all research into slow viruses including and most important *their ability to contaminate vaccine cell cultures.* The discouragement of this research took extreme forms, including the ordered destruction of 4,000 mice on long term scrapie studies ostensibly to make room for other important DBS research. The room from which the mice were removed remained vacant for over one year after their destruction.

The committee underlines the importance of this DBS oversight when it points out that currently NIH spends 3.5 million dollars on slow virus research and intends to double that amount next year. The point is that only a very small portion if any of that money is spent on research to discover if slow viruses are contaminants of vaccines. Further DBS, the agency responsible for insuring the safety, purity and potency of vaccines, spends no money on such research.

The committee excuses that failure by arguing that "these agents (slow viruses) requires special and expensive space and equipment since, as was shown by Dr. Morris, the laboratory spread of such infections is a distinct possibility." What Dr. Morris said is:

"It seems likely that virus might have been carried from cage to cage by forceps, scattered bedding, or unwashed hands, mixed water bottles or cages, or even insufficiently sterilized cages in the long period of over one year of daily handling and feeding of the animals. Thus, airborn infection, while not ruled out, would appear to be unlikely in view of the small number of control mice who have acquired scrapie. It is established that scrapie is readily transmissible to sheep, goats and mice by feeding."

"Pattison . . . has presented convincing evidence that under the conditions of his experiment, scrapie did not spread after prolonged and intimate contact from sheep to sheep or from sheep to goats."

The precautions that Dr. Morris talked about concerned primarily that mice might well transmit scrapie among themselves by eating of contaminated materials. There was no suggestion that laboratory workers would be endangered by work on the materials. Further the facilities in which Dr. Morris worked were licensed and inspected by the Department of Agriculture and approved as safe. The inspecting officer appeared, with his records, at the hearing of Dr. Morris' grievances and discussed among other events, the inexcusable destruction of the scrapie mice.

It should be pointed out that since presentation of the original Morris/Turner memorandum, the first steps have been taken by DBS to correct the situation by the appointment of Dr. Morris as Chief of the Section of Slow, Latent and Temerate Virus within DBS.

H & I. Even a cursory reading of the information preceding this shows that the committee's belief that there has been no discouragment of important scientific work or a progressive deterioration of working conditions at DBS cannot be supported. Apparently, the committee's reluctance to consider personnel matters in detail limited its insight into the serious problem of the DBS.

The committee purposely misrepresented and distorted the suggestion as to why this situation has been allowed to develop and continue. The Morris/Turner memorandum states:

"Unfortunately, DBS has not, for the highest of motives probably, seen fit to allow the development of this kind of science (free of bias for the use of vaccines) of scientific inquiry in a number of instances. Apparently, because of a strong belief in the need to protect vaccines from adversity, the agency appears to minimize any potential vaccine problem. This procedure, undertaken even for the best of motives, is unscientific and leaves the agency vulnerable to criticism. To the extent that actions of this type taken by the agency succeed, they will achieve the very goal which the DBS seeks to avoid—the discrediting of vaccine therapy."

Rather than address the issue presented—which is currently the subject of growing literature on the responsibility of science—the committee chooses to ignore it and addresses instead "the most serious inference that can be drawn . . . that vaccines known to be excessively hazardous to recipients have been licensed by DBS for monetary, political or other reasons."

Actually the innate biases of men who do not hesitate to violate the rules of proper and fair treatment for their associates because they are convinced of the correctness of their goal is a more serious problem than graft. This is the heart of the problem facing scientific researchers today. The fact that the ad hoc committee recognizes "serious personnel problems within the DBS" is evidence that this problem has reached into the regulation of vaccines by the DBS. It is unfortunate that the committee's choice to avoid consideration of personnel matters allowed it to avoid the scientific implication of the personnel breakdown at DBS.

J–1. The fact that the varicella vaccine clinical trial was "completely legal" does not answer the point. DBS wrote to a company asking for the answer to certain questions which the company's investigator felt should have been asked prior to undertaking clinical trials—including several questions on inoculation of the virus strain. The letter from DBS said "Your notice of claimed Investigational Exemption for a New Drug" submitted April 18, 1969 under the name "Varicella Virus Vaccine, Live" has been received and assigned the code number DBS-IND 375. The designation of an IND number is for identification only and does not imply endorsement or otherwise. The legality of the trial is at best confused again by the impression of DBS legal interpretations. However, even if the trial was perfectly legal, that does not mean that the recipients of the experimental vaccine on clinical trial received enough protection—the point of bringing the facts to the attention of NIH.

J–2. The committee addresses the fact that one industry researcher had doubts about the use of mumps vaccine because the seed strain might be neurovirulent by citing another

DBS memorandum. That memorandum is seriously flawed.

That memorandum states that "the attenuated mumps virus did not replicate in monkeys even in the central nervous system and that, although there were lesions of the choroid plexus and ependyma, they were not caused by replication of the mumps virus since no virus could be recovered from these tissues." This is exceedingly dangerous reasoning. Non-replicating measles virus gives exactly the same experimental results in monkeys (non-replicating virus associated with lesions) but can cause an extremely neurovirulent disease SSPE (sub-acute slerosing pan encephalitis) in man.

The danger in this reasoning lies in the fact that there are lesions presented without explaining their cause. Even if the lesions were not caused by the viruses, something caused them. The DBS memorandum claims that by analogy with the results of a process of "ultracentrifugation" that was used on adenovirus preparations "it appears likely that the lesions seen in the brains of monkeys after inoculation of preparations of live viruses which are not specifically neurotrophic for monkeys are a universal response of the CNS to the by-products and components of these viruses." By this line of reasoning, the memorandum compounds its original error. In the case of measles virus neurovirulence is caused by the virus in spite of the inability to detect "replication" or recover virus from the lesions. Thus the assumption of the memorandum is not always true. Even if it were true, there is no indicated method for separating the mumps vaccine from "the by-products and components of these viruses" which cause the neurovirulence.

Finally, the memorandum itself points out that "there are problems" with the procedure used to detect neurovirulence in "measles, mumps, rubella and adenovirus." The conclusion of the memorandum is startling:

"In point of fact, since no *significant* neuropathologic lesions have been seen in all the years of testing lots of measles, mumps, and rubella vaccines, DBS is now in the process of preparing changes in the regulations for these products to provide for doing neurovirulence tests in the first five production lots in order to validate the seed virus." (Emphasis in the original.)

It may well be that the test is unable to detect the problem, rather than that the problem does not exist. The ad hoc committee's comments on Rubin's procedure for detecting Resistance Inducing Factor (the RIF test in controversy) reveals how DBS officials were once again able to mislead the committee and all those who relied upon its report. Specifically, the committee failed to consult with the official responsible for conducting the RIF test at DBS, Dr. Calvin Aulisio. Instead they relied on a memorandum prepared by Dr. Aulisio's supervisor. What the committee did not know is that Dr. Tauraso's memorandum was prepared only after he asked Dr. Aulisio to prepare a memo on RIF testing which turned out not to be to his liking. The reason that Dr. Tauraso did not like Dr. Aulisio's memorandum was that it supported the Morris/Turner memorandum. At this point, Dr. Tauraso prepared his own memorandum—which was included as an enclosure to the committee report. After reviewing this report and on the request of the ad hoc committee chairman, Dr. Aulisio prepared a report of his own which was forwarded to the committee chairman raising more than 10 important objections to the Tauraso document. This document was not a part of the material released by the ad hoc committee. It is enclosed with this report. Since the release of the Morris/Turner memorandum, the DBS has moved to improve its procedures to detect the presence of avian leucosis viruses in vaccines.

The committee states "while this virus (avian leucosis) is oncogenic in chickens, no evidence has yet been observed of an adverse effect on man despite its inadvertent inclusion in yellow fever vaccine (a contamination which still continues) which has been given over a long period of time to large numbers of people in compliance with international regulations." The implication of the statement that a substance which causes cancer in animals should not be considered dangerous until it is shown to cause cancer in humans. This is the position which the committee took in reference to the SV40 contamination of polio and adenovirus vaccine. Once again to maintain that position it had to pick and choose the evidence it received.

In a memorandum to the Director of NIH concerning vaccine safety with respect to contamination by oncogenic viruses, Dr. Wallace Rowe of the National Institute of Allergy and Infectious Diseases addresses this problem. (This is one of two memoranda released as supporting documents for the ad hoc committee which were prepared outside the DBS.) He said:

(1) The scientific community is in large part polarized into two camps representing the extreme positions on the magnitude of the problem. One position, often encountered in persons involved in vaccine development and production, is that oncogenic viruses are only a highly theoretical danger conjured up by extrapolation from highly artificial laboratory systems. The other position, to which I subscribe, and which is found mostly in laboratory workers who do not have to make the hard decisions on vaccines, is that oncogenic virus contamination of vaccines is a real and ever-present danger requiring the utmost alertness and concern. These attitudes are dramatically illustrated by the respective reactions to the finding that two licensed vaccines (yellow fever and polio) did in fact contain oncogenic viruses. The one camp uses this experience to justify their lack of concern, stressing the fact that use of the contaminated vaccines did not lead to any harmful effects. The other school feels that these events justify their concern, in that they prove that people can be unwittingly inoculated with tumor viruses, and only by luck have we apparently escaped disaster.

(2) Regardless of the ultimate correctness of the two points of view, I do not see how NIH can do otherwise than proceed on the assumption that oncogenic viruses are a danger to be avoided at all costs.

(3) The problem of oncogenic viruses must be viewed differently from other problems of viral contamination, chiefly because of their ability to be integrated into cells. The three main classes of oncogenic virus—C-type RNA viruses, papovaviruses, and herpesviruses, as exemplified by the Burkitt agent—all share the property of being able to be integrated into cells without production of virus, but capable of being induced to form infectious virus. This has implications both for the source of contamination of vaccines and for the nature of the virus particles which could be in the vaccines.

Commenting on DBS's role in responding to these problems Dr. Rowe says "I see no solution other than establishing a truly first rate basic research program on oncogenic viruses within DBS, involving both RNA and DNA tumor viruses."

The failure of the ad hoc committee to note Dr. Rowe's observations and its perfunctory dismissal of the fact that at least one lot of vaccine was released to the public in violation of the current minimal requirements reveals that the committee's comments on cancer-causing contaminants of vaccine did not fully respond to the serious nature of the potential harm.

J–3. The Morris/Turner memorandum stated that Dr. Kendall Smith said "I believe that I can document a good case for conflict (of interest) within the Division in the case of rubella vaccine development and licensing." There is no evidence that the committee contacted Dr. Smith. The claim remains unevaluated. The committee did, however, recognize the need to establish "formal and explicit guidelines for the scientific staff to avoid activities which could be interested as promotional or as representing conflict of interest."

Following the point by point discussion of the issues raised by the Morris/Turner memorandum, the committee conducted a short general discussion that again reveals the weakness of the investigation it conducted. "It was noted" the committee states "that the rule-making mechanisms permit any person, including government employees, to comment on any standards or changes proposed in the licensing and control of biologics products. Some of the charges raised in the basic (Morris/Turner) document could well have been made by that route at the appropriate time."

This statement represents a profound misunderstanding of the situation that has obtained at DBS for the last decade and a half. Dr. Morris attempted on repeated occasion to call each of these points to the attention of his various superiors. So vigorous were his efforts that the DBS sought to exclude him completely from any influence. In Dr. Morris' recent grievance hearing (held before three senior government scientists one from FDA, one from DBS and one from the National Library of Medicine) it was found "a decision was made in 1964 to build a case for separation of Dr. Morris in accordance with Civil Service procedures, therefore a variety of incidents have been documented over the years for that purpose. This building of a case lasted over a seven year period and it is to Dr. Morris' credit that in this prolonged time no evidence could be produced that could substantiate removing Dr. Morris from his position." The committee recommended that "The entire management of DBS should be censured for allowing the harassment of Dr. Morris . . . to proceed for an extended period of time without taking any remedial action."

On September 10, 1971, after reviewing the report of the Grievance Committee and the 14-volume transcript of its hearing, Dr. Marston, Director of NIH "accepted the Committee's findings and conclusions that there was a valid basis to your claim of harassment by your supervisors. They identified your harassment as elimination of staff, elimination of laboratory supplies and animals, and almost total isolation from all DBS activities." For the committee to suggest that faced with intense harassment designed to discredit all of his work, Dr. Morris should have presented a comment on proposed regulations to the Federal Register (particularly when he made his recommendations as part of his regulatory work) suggest how far from the reality of the situation the committee allowed itself to stray.

SUMMARY

The committee "was impressed by the excellent utilization by DBS of external advisors and consultants in making decisions about new products and in the resolution of specific problems." (It is interesting to note that a majority of the "ad hoc" committee serves now or has served in the past on the Board of Scientific Counselors of the DBS, the group responsible for establishing and overseeing DBS scientific programs. This presents the interesting situation of the ad hoc committee congratulating itself on its own work.)

The way in which the report of the ad hoc committee was prepared calls for a serious undertaking of reevaluation of the interdependence of the DBS and its expert advisory committees. In conducting its deliberations, the ad hoc committee:

1. Failed to consider all the evidence made available to it. Most notably the committee

report does not reflect any committee awareness of two documents—the May 12, 1955 Eddy memorandum on contaminated Cutter lots and the October 29, 1971 memorandum of Dr. Aulisio—both of which were given to the committee chairman and both of which showed the committee conclusions in their areas to be erroneous.

2. Failed to interview any individuals known to be critical of DBS practices, including Dr. Morris, Mr. Turner, Dr. Eddy (except for two very short phone calls), Dr. Aulisio, Dr. Smith and Dr. Young and many others, all of whom had important information about one or more of the incidents in the report.

3. Relied almost exclusively upon DBS memoranda prepared by the very people responsible for any regulatory failures which might have occurred. Of the over than 250 pages, only six were prepared outside of DBS. (One of the two memoranda represented by the six pages opposed the ad hoc committee's position on its treatment of cancer-causing substances in vaccines; the other presented the rationale for more vigorous action of the part of DBS to help develop a new influenza vaccine.)

4. Allowed itself to be misled by illogical, self-serving arguments in the memoranda prepared for it by the DBS. While it should rightly be disappointed by the quality of the work it received, it must share some of the responsibility for the weaknesses for believing that it could rely on the institution it was investigating to obtain meaningful and unbiased information upon which to base its findings.

5. Responded to issues which it raised itself that were not in the original report and failed to respond to issues which were originally raised.

To the extent that the type of this procedure typifies the manner in which other expert committees work with DBS, it suggests where part of the DBS problem may lie. As a result of the way it proceeded it is not possible to support any of the Committee's general conclusions. The committee concluded that:

1. "There is no legislative requirement that these (biological) products be effective." As the Secretary's memorandum points out this assumption is not supported by analysis of the Food, Drug and Cosmetic Act. That the Secretary of HEW says authority for requiring efficacy exists while the agency supposed to exercise that authority says it does not exist, presents a strong argument for new legislation.

2. *"The committee could find no evidence that any product released for general use which, by the standards of the time and the knowledge then available, was unsafe."* (emphasis in the original.) Evidence has been presented in this memorandum to show the release of vaccines which were either known to be harmful at the time of release or so potentially harmful as to require withholding of the product.

Thus the committee was mistaken in its major findings as well as in each of its subordinate findings. The work product and process of the ad hoc committee of experts investigating DBS is seriously enough flawed to suggest including them in an investigation of the regulatory activity of DBS under the authority of your Executive Reorganization and Scientific Research subcommittee. The interaction between serious personnel problems and poor scientific research is much too important a fact to be dismissed without investigation.

Sincerely,

J. Anthony Morris, Ph. D.
James S. Turner.

FOOTNOTES

[1] Bull, R., and Burnet, F.M., Med. J. Aust. 1:389, 1943.

[2] Rosenberg, G. A., New Eng. J. Med. 283: 1209, 1970.

[3] Wells, C. E. C., Brit. Med. J. 23 Sept. 1971.

[4] Influenza-Respiration Disease Surveillance Report No. 85, June 30, 1969.

[5] U.S. Government Memo. To the record. From Director, Intramural Research, NIAID. August 26, 1968. (Signed by John R. Seal, M.D.)

[6] WHO Chronicle 24:264, 1970.

[7] Meara, J. F., et al. Transfusion 7:48, 1967.

COAL STRIP MINING

Mr. BAKER. Mr. President, the problem of coal strip mining is receiving increasing and well-deserved attention in Congress. As one very familiar with the situation in the Appalachian region, I am anxious to see the development of strong and effective legislation to counter the devastation in this area which mounts at a fantastic rate each day we delay.

Last week in hearings before the Subcommittee on Minerals, Materials, and Fuels of the Committee on Interior and Insular Affairs, the distinguished senior Senator from Kentucky (Mr. Cooper), who has long been an outstanding voice in the development of mining legislation, made a statement which aptly and incisively distilled the problems of surface mining and delineated many of the important provisions which must be incorporated in an effective legislative response. I ask unanimous consent that his testimony be printed in the Record.

There being no objection, the statement was ordered to be printed in the Record, as follows:

Statement of Senator John Sherman Cooper Before the Subcommittee on Minerals, Materials and Fuels, Senate Committee on Interior and Insular Affairs, December 2, 1971

Senator Moss, and members of the Subcommittee: I appreciate very much the opportunity to appear before this Committee, as it considers legislation for the regulation, control or prohibition of surface mining, and to speak on a subject of such great importance to the Nation—and especially to my own State of Kentucky, and to all coal producing States. This subject includes the contour mining or steep slope stripping which is typical of mountainous and hilly areas, as well as the area mining practiced on flat or rolling terrain. Both contour and area surface mining are practiced in Kentucky.

I will not attempt to go into great detail about the proposal I shall make today, because I know the time of the Committee is limited. I will submit it for your consideration during the preparation of whatever legislation you may recommend to the Senate.

I was very happy to join in the sponsorship of S. 993, introduced for the Administration by the Chairman of the Full Committee, Senator Jackson, and the ranking minority member, Senator Allott. The Administration bill has, I believe, great value as the initiative of the Administration, and in establishing a national policy to deal with the subject of surface mining. The President is to be commended for his leadership and initiative in this field. I believe he is the first President who has taken this initiative and leadership.

However, I believe the Administration bill can be improved in several important respects. Since it has been introduced, I have given thought to this proposal, and I believe that legislation can be enacted which will work effectively toward this objective; that is to regulate surface mining. In studying this matter, I have consulted with my colleague, Senator Baker of Tennessee, for the problems of our States of Tennessee and Kentucky are similar and we have found ourselves in general agreement. His thorough study has contributed in great part to the recommendations I make. We hope very much to be able to submit a bill embodying our joint proposals.

In preparing the recommendations that I make today, I have relied very heavily upon the experience of the Senate Committee on Public Works—in the preparation of the Clean Air Act Amendments of 1970, which have been enacted by the Congress, and the Federal Water Pollution Control Act Amendments of 1971, which have been approved by the Senate and I am sure will be approved by the Congress in the early part of next session.

At the outset, we must consider the position of many organizations and citizens who urge that surface mining be prohibited. As I will note later, I think it clear that strip mining should be prohibited in certain areas—for example those over a certain steepness of slope, or when it would violate water quality requirements established by law. But I do not favor complete prohibition of surface mining. I cannot do so because, realistically, coal production is needed.

It is well known that the difficult question of provision of energy sufficient to meet the Nation's absolute needs, is a critical one. Energy demands have increased dramatically in recent years and are expected to continue to increase at a growing rate. Energy demands double every 8–10 years. In effect, the use of energy is a measure of the well-being and standard of living of our people, as well as of the changes brought by industrialization and urbanization. I understand this Subcommittee is conducting these hearings at least in part under the authority of S. Res. 45, of which I was a co-sponsor, providing for a National Fuels and Energy Policy Study, and I know the Committee will make its report by 1973. I hope that that report will address the whole question of levels of use of energy, available resources, and the costs—including environmental costs—of developing those resources, of converting them into energy, and of consuming that energy and the products to which it is in turn applied.

It may be, following such appraisals, that it will be found possible to shift away from strip mining to deep mining and the development of other resources. Nonetheless, I think it important we not wait until 1973 to take the necessary, if interim, steps for the regulation of surface mining.

It has been suggested in testimony before this Committee that alternate fuel sources to coal can be provided by other fossil fuels, by nuclear energy, and some say even by solar energy. Each of these fuels has problems, both in the availability of resources and in the environmental impact of their recovery and conversion to energy, and I do not think they can be relied upon now to furnish the necessary energy requirements of the nation. I, therefore, favor the regulation of surface mining, and my remarks are addressed to this subject.

Strip mining for coal has grown from minimal proportions to become a major factor in coal production. In 1970, nationally, surface coal production totalled 264 million tons, or 44% of the total of bituminous and lignite production. In Kentucky, 48% of coal production was produced by strip mining methods—125.3 million tons. This figure, for Kentucky alone, represents better than 10% of the Nation's total production of coal in 1970, and more than 23% of the Nation's surface production.

Strip mining is expanding rapidly. Nationally, strip mining was 23% higher in 1970 than in 1969. In contrast, underground production decreased 2.4% between 1969 and 1970. Unless something is done and done quickly, the situation will be completely out of control, and vast areas have already been devastated.

If surface mining is to be regulated rather than prohibited, the first question is whether Federal legislation is required, or whether the States shall maintain jurisdiction. I would like to praise my State—Kentucky—for I believe it is generally agreed that it has developed the outstanding State regulatory program in the Nation.

But, I have concluded that a Federal law is required for two reasons:

First, because the problems of providing energy and preserving the environment are national problems which require national policy;

Second, because regulation state-by-state introduces competition for markets which places a premium on low standards, and a statute that will be uniformly applicable is required in equity and fairness.

The question then arises of whether the regulation of surface mining should be administered solely by the Federal Government, or should it be through a cooperative Federal-State relationship? With the experience of the recent Water Pollution Control Act, passed by the Senate 86-0, which restores State participation in water pollution control, and from my experience in other pollution control programs, I favor the Federal-State relationship, and this is the system that I prefer.

The first proposal I make is that a bill to control strip mining should be enacted quickly, and must deal with time elements. I believe the procedures which I have incorporated in this proposal, which Senator Baker and I have drafted and expect to introduce, are more definite and would secure quicker action than S. 966. Senator Baker and I have concluded that the proper agency for control would be the Environmental Protection Agency, cooperating with the Department of the Interior's Bureau of Mines, and with the Forest Service and Soil Conservation Service of the Department of Agriculture, and others.

In order to establish an adequate Federal-State regulatory program, it is necessary to provide timely and orderly procedures, involving public participation. Our proposal has two phases.

Under the primary control phase, the Administrator of the Environmental Protection Agency would be required, after the model of the Clean Air Act and Federal Water Pollution Control Act, to promulgate criteria and guidelines for the control of surface mining activities, and to establish minimum requirements for the State regulatory program.

Following promulgation of these criteria and guidelines (which would be required within six months of date of enactment) the State would be given six months to adopt, after public hearings, and submit to the Administrator a regulatory program which would be required to meet certain criteria set forth in the bill. Included in these criteria are requirements for permit programs. If the Administrator determines that the State regulatory program meets the requirements of the statute, the State program would be approved. In the event the program is held to be inadequate, the Administrator is given authority to substitute all, or a portion, of the regulatory program for the State. The entire procedure for the development of the regulatory program would consume eighteen months, a period of time coincident with the period of the first phase.

Following the establishment of an effective regulatory program—either State-administered and approved by the Administrator, or an EPA-substituted program where the State program submitted is inadequate—all persons, including those presently conducting surface mining operations, would be required to comply with the provisions of the regulatory program.

The next important question, of course, is that of enforcement, and of what agency will be responsible for on-site monitoring, application of the practices required, and enforcement—including citation of violations and prosecution of penalties or mine closure. I would propose that, as soon as Federal guidelines have been established, and there has been an opportunity for the States to develop plans conforming to the Federal regulations, responsibility for enforcement should reside with the State. This would obviate the necessity of building a large body of Federal personnel to assure that the State carries out and enforces its responsibility. My proposal would provide that the Environmental Protection Agency would have the authority not only to require adequate regulations for strip mining and enforcement, and to review and approve or refuse the State plans, but would have the authority of ultimate enforcement if a State fails to act.

It has been suggested that the Bureau of Mines should have primary responsibility. My experience is that the Bureau of Mines functions first to encourage the production of coal, and second, above all, to insure safety. These functions are not the same as those concerned with the environment. Surface mining is directly related to environmental quality, as well as the production of needed energy fuel. EPA is developing the techniques in the field of environmental protection, and it can more properly and effectively do so in this field (I may say Senator Baker advanced this view, and most persuasively, some time ago.)

Mr. Chairman, the heart of the regulatory program would be a permit system, which would provide that any person undertaking any surface mining operation would be required to give notification to the public and provide an opportunity for public hearings. The State, or if appropriate the Federal government, would issue or deny the permit. In the event the permit was issued, it would of course contain conditions on the operation of the mining activity, including performance standards and plans and performance bonds for the restoration and reclamation of the site.

This procedure, establishing a system of primary State regulations, backed up if necessary and enforced by the EPA, would require 16 or 18 months to develop—6 months from enactment for the EPA to issue comprehensive guidelines and criteria to the States, 6 months for the State to develop its plan based upon the Federal criteria and guidelines, and then 4 to 6 months for the action of the EPA in approving or amending State plans. A serious question arises about what will happen during this year-and-a-half, or two years if the bill is not promptly enacted by the Congress. On the record, the expansion of strip mining in the past two years would indicate that the problem may by then be insuperable, beyond control, and large areas of our coal-producing states beyond the possibility of rehabilitation.

I therefore propose that during this interim period, surface mining be conducted only under Federal authority, with the approval of the EPA.

Our proposal would establish an interim Federal program, under Federal authority of the Environmental Protection Administration. Any person currently operating a surface mine, or proposing to initiate operations at a new site, would be required to file a plan with the EPA describing the method of operation and the restoration program. The Administrator of EPA would have to approve the plan if the operator is to continue operations, or initiate new operations. The Administrator would approve the plan only if assured that restoration is adequately provided for. Six months after enactment no person could operate a surface mine except in compliance with the interim Federal controls and EPA approval.

This interim, exclusively Federal, program of control would be phased out upon the development of the more comprehensive regulatory framework with primary State responsibility, which I have outlined above.

This program we are proposing may seem drastic. But unless immediate action is taken, to regulate effectively surface mining, those who desire to operate surface mines will certainly face the prospect of being prohibited from operation.

If the regulation of strip mining is not undertaken quickly, we will face the unhappy prospect of having not only our flat and rolling lands, but even larger areas of our hill and mountain lands, despoiled—and restoration may be impossible.

Mr. Chairman, I believe the outline that I have just described would provide a sound basis for surface mine regulation.

I have been interested in this subject and deeply concerned for some time. In 1962, the U. S. Forest Service of the Department of Agriculture initiated research in the engineering and hydrology of steep-slope mining and reclamation, and it was at my request that the Congress provided increased appropriations for this endeavor, and for continuation of their work on revegetation. The Forest Service is continuing its research, but many difficult problems remain.

Last year, the Appalachian Regional Commission awarded the State of Kentucky a grant of $437,000 to carry out a new research and demonstration program for better strip mining reclamation methods. I also initiated this request to secure Appalachian Regional Commission funds, at the request of Governor Louie B. Nunn, and the Forest Service is participating with the State in this effort.

In the Omnibus Rivers and Harbors bill of 1970, I wrote a provision—which was enacted—to authorize the Corps of Engineers to review and study the effects of strip mining operations upon navigable rivers and their tributaries and report to the Committee on Public Works of the Senate and House of Representatives with recommendations as to measures necessary to mitigate any adverse conditions due to strip mining practices.

The Committee on Public Works, and now the Senate, in the bill S. 2770 recognizes the water pollution effects of strip mining and proposes to require in Section 209 of that bill that each State provide for—and I would like to cite the operative language of Subsection (b(1)(G) of Section 209—

"(G) a process to (i) identify, if appropriate, mine-related sources of pollution including runoff from new, current, and abandoned surface and underground mines; and (ii) set forth procedures, processes, and methods (including land use requirements) to control such sources to the extent feasible;"

Nearly seven years ago, in the Appalachian Regional Development Act of 1965, which Senator Randolph and I joined in introducing, we directed the Secretary of the Interior in Section 205(c), to make a survey and study of strip and surface mining operations and their effects in the United States, and to submit to the President recommendations for a long range, comprehensive program for reclamation and rehabilitation of strip and surface mining areas. This report, which was not restricted to the Appalachian area, was made in 1967 and constitutes one of the more comprehensive efforts, as the Committee knows. However, because of the explosive expansion of strip mining, especially in the last year or two, I am afraid it is sadly out of date.

In addition, our water pollution and Appalachian amendments have included provisions for demonstrations and research in acid mine control and stripped land reclamation, and I have urged upon the TVA better enforcement of their contract requirements in the purchase of coal.

I mention these efforts not to indicate that they have been sufficient, but as evidence of my long and continuing interest, which I have expressed whenever the opportunity arose, and which we have tried to write into legislation wherever appropriate.

Mr. Chairman: I think all of us are deeply concerned, and I hope very much the Committee will seriously consider the proposal which Senator Baker and I are offering today.

I think it would be valuable for this Committee, in considering this legislation, although it does not have jurisdiction of the subject, to address itself to one of the primary causes for the increase in strip mining—the enactment of the Federal Coal Mine Health and Safety Act of 1969.

I was a cosponsor of the bill, and voted for it, and I approve most of its provisions. But when it was considered by the Senate in October 1969, I opposed that provision in the bill which abolished the long existing classification of underground mines as "gassy" or "non-gassy" and classified all as "gassy" whether or not they were in fact "gassy". I offered an amendment to maintain the classification which was debated for four days and, although defeated by a vote of 45 to 31, I believe that many in the Senate recognized the problem that removal of the classification would create.

I pointed out in the debate that with respect to Kentucky's mines, its approximately 3,000 non-gassy small mines were safer than the 392 large gassy mines and that to require them to install the costly equipment necessary for gassy mines would inexorably drive the small non-gassy mines out of business with no gain in safety for the miners. Unfortunately, this has occurred. Many have been driven out of business. More will be, and the safety record since March 31, 1971, the effective date of the new Coal Mine Safety law, is worse. I predicted in my statement on the Floor in 1969 that the closing of these small mines would result in the expansion of strip mining.

"Another consequence if my amendment is defeated, is strip mining of the small acreages at the tops of the hills, for they cannot be mined with permissible equipment economically. There is one way they might be mined, which is through strip mining. As one who has flown over the areas and seen the country devastated by strip mining, and its effect upon the environment, I know what I am talking about; conservationists in the Senate should know."

Unfortunately, this prediction is also true.

I ask consent to submit to the Committee a list of some of the regulations of the Bureau of Mines which do not contribute to safety, some which actually reduce the safety of the miners—regulations which should be repealed or modified, regulations which, as I have said, have driven and continue to drive the non-grassy mines out of business.

The Bureau's enforcement procedure seems to rely chiefly on imposing fines in varying amounts for infractions of its regulations—mandatory fines without prior opportunity of an operator to be heard which is contrary to "due process" of law, and which has seemed to only confuse operators as to the safety measures they are required to take.

Since the first effective Federal Mine Safety Act, the Act has contained a provision authorizing the Bureau of Mines to close mines when a condition of imminent danger exists. Several years ago when the Senate was considering a mine safety bill, I proposed that mines should be closed down when conditions that could lead to imminent danger existed, until the conditions were abated. This was adopted and is now found in Section 104(c) (1). I think it would be well to abolish the uneven, unequal, perhaps arbitrary imposition of mandatory fines, use Section 104(c) (1) to close down mines until the danger has been abated and when necessary and, wherever required, impose fines and penalties for failure to abate and with due process of law. This in my view, would provide safety for miners and fairness to the operators.

I bring this to your attention because I will make these proposals to the Senate Committee on Labor, and your interest would be of great value.

CHANGING THE COLOR OF THE CORPSES

Mr. HARTKE. Mr. President, any assessment of President Nixon's success or failure in bringing the conflict in Southeast Asia to a conclusion must necessarily take into account the current level of bombing. A study recently released by a group of scholars at Cornell University indicates that while this country's overall military involvement in South Vietnam has decreased, its air activity is continuing at an unacceptably high level. The report shows that almost 300,000 tons of bombs will be dropped this year, bringing the total amount expended during the course of the war to more than 6 million tons.

These grim statistics highlight the truth that our progress toward peace in Southeast Asia cannot be measured solely in terms of the number of American troops withdrawn; we must also look closely at the intensity of our air effort and here we find that no progress has been made.

In a recent issue of the New York Times, Herbert Mitgang set out the conclusions of the Cornell study, conclusions which I think will be of interest to all Senators. I ask unanimous consent that Mr. Mitgang's November 21, 1971, article, entitled "Changing the Color of the Corpses," be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

AIR WAR: CHANGING THE COLOR OF THE CORPSES

(By Herbert Mitgang)

The prospect in Vietnam for the rest of this year and well into 1972 is American withdrawal through air power. Last week—as if to punctuate President Nixon's warning 10 days ago that "air strikes on the infiltration routes" would continue "in support of the South Vietnamese until there is a negotiated settlement"—American pilots clambered aboard helicopter gunships, fighter-bombers and B-52's and strafed and bombed Communist tragets in South and North Vietnam, Laos and Cambodia.

From the vantage-point beneath the jet wings, the demilitarized zone separating the Vietnams more than ever seemed a phantom. For the 77th and 78th times this year, American fighter-bombers attacked targets in North Vietnam last week.

An unofficial scenario for the months ahead can be found in a report put out in the last fortnight by a group of scholars at Cornell University's Center for International Studies. Their independent study, "The Air War in Indochina," disputes Mr. Nixon's assertion that the war is winding down. It asserts that the war can continue causing destruction and death even though United States ground forces supposedly are in a defensive posture.

The diplomatic leverage dimensions of the air war, especially the "protective-reaction" strikes north of the demilitarized zone this year, have been disclosed before. The westward course of the bombing against targets in Laos and Cambodia was uncovered by Senator Symington's Foreign Relations Subcommittee on Security Agreements and Commitments Abroad. But neither the State Department nor the Defense Department has revealed the full scope and character of the continuing air war.

The Defense Department has tended to brush off the Cornell study. Jerry W. Friedheim, the Pentagon spokesman, said last week he was not an expert on the study and did not know what the "methodology" was. However, the Pentagon's Southeast Asia desk has requested a copy of the report, and acknowledgement has been made that the bombing tonnage figures were furnished by the Defense Department.

The advance version of the Cornell study (a more detailed report is planned for late next month) was prepared under the guidance of Raphael Littauer, professor of physics, with the assistance of 19 professors and scholars. They had access to information provided by over 80 anonymous consultants in Washington, Southeast Asia, and elsewhere including pilots, diplomats, Congressional staff members, and International Voluntary Services civilians who had assessed the effects of the bombing from the ground up.

These are the principal conclusions reached in "The Air War in Indochina":

The total American bomb tonnage dropped in the war is expected to reach about 6.2 million tons by the end of this year. Although the annual tonnage has decreased from the peak levels of about 1 million tons dropped in 1968 and in 1969, the 1971 rate will still be almost 300,000 tons. More bombs have been dropped on Indochina since President Nixon took office in 1968 than the total dropped (2.9 million tons) during World War II and the Korean War combined.

The troop withdrawal program is not intended to include reduction of the air war over the Ho Chi Minh Trail, the principal Commnuist supply and infiltration route that runs through Laos and Cambodia. Interdiction will remain beyond the capability of the South Vietnamese Air Force.

"Free-fire zones" have been renamed, apparently to remove the implication of indiscriminate bombing. They are now called "specific strike zones," but the same unrestricted military activities continue there.

An estimated 325,000 civilian deaths have occurred in the last five years, while about 6 million South Vietnamese are thought to have become refugees as a result of artillery and aerial bombardment. (Senator Edward M. Kennedy's Subcommittee on Refugees has disclosed these figures.) Interdiction of guerrilla fighters inevitably spills over to the civilian population.

The bombing has failed to achieve its political goals. In northern Laos, it has had a counterproductive effect; in Cambodia, the dependence on United States air power is likely to continue. The "destruction of Indochinese societies continues while more and more governments become dependent for their survival" on American arms, including air support.

The air war has been a severe shock to all the natural ecological systems of Indochina. Bombing and spraying have destroyed farms, rice paddies, forests and animals.

The Nixon Administration apparently plans to continue bombing and air support and assistance operations "for the indefinite future"—at a cost that could approach $4-billion a year.

Only at the very end does the Cornell study turn philosophical. "We suspect that the crucial failure occurred in a different domain than competency," the report concludes. "It was a failure of the imagination. Decision-makers in Washington remain isolated from the effects of their decisions; military commanders are similarly separated from the consequencies of their actions. The reasons for this collective failure of the American imagination are manifold, but two seem particularly relevant to the use of air power.

"First, the United States has never suffered aerial bombardment. Suppose the North Vietnamese had been in a position to carry out occasional air raids in retaliation for the bombing of their country, say against Seattle. Who can doubt that the tenor of the bombing discussions would have changed radically? Second, the very availability of an advanced technology tends to inhibit the imagination. If powerful tools are at hand, it is almost a reflex to reach for them first—and how much greater the temptation to do so if the cost is low. A reassessment of our position is long overdue."

THE A–7D, SURPRISE TACTICAL ATTACK BOMBER OF THE YEAR

Mr. GOLDWATER. Mr. President, the greatest thing that has happened to America's military aircraft system in a long time is the A–7D which may be the surprise tactical attack bomber of the year.

What makes the story of the A–7D so dramatic is the fact that its predecessors in the A–7 line left a lot to be desired. As a matter of fact, I was inclined to oppose the A–7 a few years ago and so informed the Senate Ad Hoc Subcommittee on Tactical Air Power. But, since then, I have had a chance to watch the A–7D perform at Luke Air Force Base and am convinced that it is one of the best airplanes our country has ever come up with.

In this connection, Mr. President, the Armed Forces Journal recently set out to discover what the men who fly the A–7D and the A–7E—the Navy's version—think about this plane. The result is a very timely and informative article in the December issue of the Journal entitled "They Call It 'Sluf'—Short, Little, Ugly Feller." The article was written by Mr. George Weiss, an extremely competent writer.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THEY CALL IT "SLUF"—SHORT, LITTLE, UGLY FELLER . . . OR SOMETHING LIKE THAT

(By George Weiss)

They call it Sluf—"Short, Little, Ugly Feller"—or something close to that. If you listen to the men who fly "Sluf," Vought Aeronautics' A–7D, it may be the surprise tactical attack bomber of the year.

The "D" in A–7 terminology is quite important. So is the "E" (Corsair II) when speaking of the Navy's latest model. Its first two aircraft in the series, the "A" and "B," weren't bell-ringers, being underpowered and "iron sighted."

It was the "D" model that changed the A–7 from a sleeping ramp tabby into a somewhat more vicious jungle cat.

The Air Force is buying 387: 74 were delivered by the end of last year, and deliveries are now underway on the FY 70 order for 128 more at a cost of $372.3 million. The buy dropped to 88 in FY 71 ($242.7 million) and USAF's three-wing buy will be completed with FY 72 funds for the final 97 aircraft ($205.2 million). The Navy had previously purchased 395 A–7A/B models and is receiving 494 "E" models, with production to run until FY 76.

The men who fly the "D" and "E" feel a little neglected: they miss all the publicity, but hit their target. That's the impression The Journal formed after visiting air bases and headquarters from coast to coast to find out what the jocks really think of "Sluf." The Journal visited Myrtle Beach AFB, S.C., where the A–7D is at wing strength, and Davis-Monthan AFB, Ariz., where a second A–7D wing is nearing completion and where training is done.

The A–7 is relatively new to the Air Force, which is now "learning" the system; the Navy, however, has been flying combat missions with the aircraft since 1967. Nevertheless, the Air Force can make a respectable claim to combat experience in both the A–7A and E, since it entered a joint combat program with the Navy. Small groups of USAF officers were carrier-qualified in the A–7 and flew SEA tours with the Navy, returning to Air Force units with combat experience. The Air Force has also "borrowed" naval officers to speed its learning process for TAC's A–7 wings.

Air Force Capt Ralph F. Wetterhahn flew 80 A–7E sorties from the USS *America*. He is now assigned to the 355th Tactical Fighter Squadron at Myrtle Beach AFB.

Captain Wetterhahn's previous combat tour in SEA was with an F–4 squadron. He told The Journal he was able to place more and better bombs on target with the A–7E, in either manual or automatic operating modes. He liked the A–7E's ability during night operations which the Navy flew over the Ho Chi Minh trail. These missions were directed by Forward Air Controllers; targets were illuminated with flares.

From an accuracy standpoint, Captain Wetterhahn believes he could provide close air support, with confidence, up to within 50 meters of U.S. troops while strafing, within 100 meters using low drag bombs, and within 50 to 75 meters with high drag weapons. This, he says, is somewhat better than he would attempt in any other fighter-bomber he has flown. His only negative comments on the A–7D are that the nuclear capability has been removed (the Air Force did so to improve its usage for close air support) and that it lacks a dual refueling system, which would allow probe drogue as well as its bomb refueling. (The Navy has retained a nuclear delivery capability in the A–7E and recently assigned the "E" model a night nuclear target folder in the Strategic Integrated Operations Plan.)

A constant concern of Air Force pilots flying close air support for friendly forces under fire is the possibility of a stray bomb killing or injuring Americans.

Studies made at Vought Aeronautics plotted 37,000 bombs scored and indicated that six bombs in 10,000 *might* endanger friendly forces—with the A–7D operating within 300 meters of a U.S. position.

The Air Force has remained unusually silent in public praise of the A–7D. The Navy, however, is beginning to speak out on the aircraft's potential.

In a recent memo to flag officers in the Washington area, RAdm T. R. McClellan, Commander Naval Air Systems Command, noted that "our official reporting systems are principally concerned with the reporting of problems, over-runs, and assorted troubles, so the good news always seems to be lost in the shuffle." The admiral went on to support his point with four pages of extracts from A–7E combat pilot reports and similar communications. He added, in summary, "There is little doubt that the Navy-industry team, in the A–7E, as confirmed by over 160,000 flight hours and 14,000 combat missions, has produced the finest light attack weapon system in the world." Combat losses for the "E" model have averaged one in 5,000 sorties, the Navy claims. In 47,000 combat sorties by "A," "B," and "E" models, 19 were lost to enemy action; 16 were "A" and "B" models, three were "Es," The Journal was told.

"Look at it this way—the A–7D is the fighter pilot's dream. It is the F–86H with four hours' fuel and 10,000 pounds of bombs aboard," says LCol Danny K. Salmon of the 354th Tactical Fighter Wing at Myrtle Beach AFB, S.C. Colonel Salmon has delivered bombs and bullets in a variety of combat conditions and restrictions from the Yalu to the Mekong.

"Always before," he said, "the man who was superior in eyesight and ability got the best bomb hits. The avionics package [in the A–7D/E] has made a true quantum jump in weapon delivery. We are looking at a weapons system that is better than the pilot flying the airplane. The *airplane* can drop bombs better than any pilot in the world.

"More than one-half the pilots in this wing are former F–100 pilots who never looked at a radar before, don't know a computer, not really knowledgeable in nav systems, doppler, and IMS. In only a year we are in a position other tactical wings didn't get to in three, four, maybe five years.

"We have a monthly shoot-off between squadrons. I was a judge on the last one. I had a kid, a weapons officer, drop two skips that were hits, two low-angle bombs that were shacks [bull's-eyes], two high-angle bombs—one was 15–20 feet off, the other was a shack—and he strafed 86%. I suppose he could have made another shack and strafed 100%, but the weather was bad that day. That's as good as anyone is going to do in any airplane today.

A NAVY PLANE?

A quick way to get an argument going in an A–7D unit is to suggest they are flying a Navy-developed aircraft. "Not so," say some Air Force pilots, "the Navy is flying [in the A–7E] an Air Force bird."

Their logic is that the A–7A/B was pure Navy and that, while the aircraft did fly combat from Navy carriers in late 1967, it wasn't until the Air Force asked for major changes that the A–7 became the excellent close air support plane it is today.

The Air Force asked for 26 major revisions or modifications to the A–7 A/B to come up with the "D" model. (Sol Love, President of Vought Aeronautics, explained to The Journal that the "C" model was to have been a two-seater, but was never built.)

At the time the A–7A was first coming off the production line, the Air Force was looking for a replacement for the A–1 and F–100. This was December 1965 and, according to quotes attributed to the SPO, Col. (later BGen) Robert E. Hails, "We practically reinvented the airplane." General Hails had a charter from the Air Force (*Airman*, February 1969) to make the A–7 "the best close air support aircraft" that could be built.

One of the first changes required was the engine, since the "A" and "B" models were underpowered. Selected was the Allison/Rolls Royce (Spey) TF41-A1 rated at 14,250 pounds thrust (the "A" had but 11,350 pounds thrust). Most pilots today would prefer an even more powerful engine (with afterburner) giving about 3,000 pounds more thrust for takeoff. The Navy's A-7E began with a 12,200-pound thrust engine, but now has an improved Spey at 15,000 pounds.

But what really turns the aircrews on is the A-7D/E electronics, and black boxes, ordered by the Air Force.

The black boxes integrated into the A-7D's Navigation/Weapon Delivery System (NW DS)—and then into the A-7E—is an IBM Nav/Weapon Delivery Computer; a Singer-General Precision Inertial Measurement Set; Doppler Radar; Texas Instrument's Forward-Looking Radar; Garrett's Air Data Computer System; Elliott's Head-Up Display (HUD); Armament Station Control Unit; Computing Devices of Canada's Projected Map Display and navigation system with four dead-reckoning modes; and finally an internal Electronic Counter Measures (ECM) system that can be augmented by a Westinghouse ECM pod added to one of the A-7's six weapons pylons.

The Nav/Weapons systems are expensive (approximately $400,000 per set) and they are complicated. It take a man 10 minutes to learn to fly the aircraft and 100 hours to learn the system, said one pilot. But the system is proving its worth on bombing ranges in the U.S. and in Southeast Asia with the Navy.

What is it the A-7D/E NWDS does for the pilots, who usually refer to themselves as the "final" computer in the system? One way to get the picture is to look at the A-7's capabilities in terms could be developed for the American motorist, you might find yourself doing this:

Visualize yourself cruising down a strange superhighway at near top speed. While looking ahead at some point in the distance you can also see superimposed on your windshield the highway number, direction you are traveling, and speed. You get an automatic warning if you enter a new speed zone and are told the correction to make. Reach out and touch a button on the center console and information is immediately flashed onto your windshield telling you the distance to the next turnoff and the turnoff number. Press another button and a map of the area appears on the instrument panel. Passing a cloverleaf you press another button and the computer immediately corrects itself, based on a known, fixed landmark, after several hours of traveling, eliminating any errors that crept into the system.

As you approach your turnoff, the windshield lights up with additional information giving you proper ramp speed, the direction to take as you leave the main highway, and tells you which state road to take to your final destination.

Entering the town you press another button and the system locates a parking place near your hotel and guides you to it. All the time, of course, the system has kept you aware of any speed traps and hidden motorcycle cops. If you had approached a dead end or any other dangerous obstacle, the system would have given you a steady, flashing warning signal on the windshield telling you of danger ahead.

Pulling out of your parking place in the strange town, your auto computer now directs you to as many as nine places in the area (provided you've told the computer in which order you want to make the visits).

If the car had refused to start at some point in the trip, you could switch the map display to a checklist telling you how to restart the car, giving you a step-by-step sequence of checks to correct the problem.

The A–7D/E navigation and weapons delivery system frees the pilot of an attack profile that used to be necessary, but deadly: holding a straight-line approach (going "down the chute") during an attack, giving enemy gunners a chance to calculate his eventual position in space during the long seconds he has to hold a predetermined dive angle, airspeed, and release altitude while keeping the "pipper" on target.

Now, the A–7D/E pilot can "jink," take violent evasive action, while on the bomb run and not affect the bomb impact point. The on-board computers are busy: they recalculate the bomb impact point some 3,000 times in a one-minute run. As one pilot put it, "The computer never panics, forgets, or chickens out."

The navigation system continually updates the aircraft's position and displays it to the pilot, while a terrain-following radar warns him of features ahead. The nav system can also store up to nine coordinates and direct the aircraft to them. On an armed recce mission the pilot can mark a suspicious area simply by pressing a button as he flies over or near it. The coordinates are stored in the computer's memory bank to help the pilot fly back over the area or bring home more accurrate intelligence at the completion of the mission.

The HUD (head-up display) is the most obvious and exotic system in the A–7D/E and is much like the system in the Marines' V/STOL Harrier.

The system lets the pilot keep his eyes on the terrain and target, while providing him target-aiming and attack data from instruments just below his line of sight. Its 16,000-plus word memory store trajectory data on all the weapons carried by the A–7D/E. It gathers the necessary information on aircraft speed, direction, altitude, and attitude, and does all the computations for on-target weapon release.

While the pilot looks at the target through his windscreen he sees, in a soft green light, all the necessary information presented to him in symbols, always in focus and updated 50 times a second.

Whereas the F–100 pilot has to precalculate his bomb run prior to the attack, deciding on his heading, dive angle, and airspeed, the A–7D/E pilot needs only to move his target indicator over the point he desires to hit; from then on the computer does the calculating for him, and the SLUF jock is free to concentrate on maneuvers to avoid enemy fire.

If he has to change his attack from west to east, the target is still locked into the computer when he rolls in and the target marker settles on the selected point. Should flak force him to pull up or "jink," the computer remains with the target and continues to compute the proper release time. Even if he is forced to pull up from his dive before reaching the target, the computer continues to work, and he can "toss" the bomb with accuracy. From 10,000 feet altitude and a five-mile slant range, A–7D/E pilots at Davis-Monthan claim they can get 50% of their bombs within 100 feet of the target even while "toss" bombing.

LCol Edward V. "Cougar" Coggins, commander of the 354th Tactical Fighter Squadron at Davis-Monthan AFB. Ariz.—one of the three mission squadrons of the 355th Tactical Fighter Wing there—is a Vietnam combat veteran who calls the A–7D "the only aircraft I ever flew that was designed to do the job it had to do."

He told The Journal that a TAC fighter pilot must get his bombs within a 140-foot circle to qualify—unless he is an A–7D pilot. Then he must bomb within a 100-foot circle. To qualify for strafing, the TAC fighter pilot must place 25% of his 20mm rounds in the target; the A–7D pilot has to score 40%.

TSgt Ray M. Sweeney of the 333rd Tactical Fighter Training Squadron, a 10-year veteran and former F–105 crew chief at Korat, has two years' experience on the A–7D and likes its ease of maintenance. He says maintenance personnel want to transfer into the A–7D units "since the word has gotten around." He cites such items as a 10-minute tire change on the A–7D, a chore that takes an hour and a half on the F–100.

Navy figures show that even the complex "D" and "E" models require only about eight maintenance manhours per flight hour, well under the contract guarantee of 9.55 hours.

Another thing pilots like about SLUF: it's racking up a lot of respect as a safe airplane. In its first 125,000 flight hours, the Navy version saw fewer fatal accidents than the F–100, F–104, F–4B, F–102, F–101, F–105, and F–111 experienced at a comparable point in time. Its overall safety record (counting non-fatal major accidents and destroyed aircraft as well) is beaten only by the F–106 and F–111. Air Force experience with the A–7D is equally promising, with only three accidents in 50,000 hours.

At a time of cost overruns on most defense contracts, the A–7 "D" and "E" models must be a keen disappointment to Senator William Proxmire and the General Accounting Office, both of whom thrive on bad news. Costs have exceeded Vought Aeronautics' estimates, but not by much. The Dallas-based company missed the A–7D contract (now 80% completed) by 4.2% and the A–7E (with 95% completed) by 6.2%. Capt. J. T. Shepherd, Navy Project Manager for the A–7, says, "We had a well thought-out objective and nobody bothered us."

Not only has the program progressed quietly with no major cost problems, but it's performing as advertised.

The A–7D has beat LTV's guarantees in such areas as speed (but by only 1%) while carrying an armament load; it has exceeded the time-on-station specification (by 11%); is well under the specified takeoff and landing distance (10% and 26%); and it exceeds (by 5%) the ferry range promised with internal fuel. One Air Force report did indicate the aircraft might be two miles short on guaranteed radius of action.

Weapons delivery and navigation guarantees have also been met, and bomb scores are 20% better than promised. Gun accuracy is 50% better than anticipated. The navigation system guarantee was for not more than 2nm drift per flight hour; the system is averaging 1.6 to 1.8nm.

Field maintenance men agree, however, that maintenance would be better if Pentagon cost-cutters had ordered more high-value spare parts. The two A–7D wings are having to juggle their supplies until reliability rates are more firmly established. This has led to cannibalization of some aircraft, but the units still maintain an operationally ready rate of 71 to 73%.

A–7 "F"?

The Air Force and Navy have a joint test program at Patuxent River, Md., to turn the A–7D into a night attack configuration: it may become the second-generation A–7 "F."

Both Services are experimenting with low-light-level TV and forward-looking infrared radar to give the jet capabilities at night matching its daytime accuracies.

The Navy will be comparing the modified A–7 with its A–6, which currently has such a mission, and the Air Force is weighing the A–7 "F" against its F–111. Both the A–6 and F–111 are more expensive aircraft.

HOW MANY CHILDREN ARE GOING TO DIE TODAY, MR. PRESIDENT?

Mr. MONTOYA. Mr. President, on December 30, 1970, President Nixon signed into law the Poison Prevention Packaging Act, which had been passed by a concerned Congress to correct an appalling situation that still exists today. Annually, 600,000 American youngsters under age 5 are poisoned by swallowing hazardous substances. This comes to approximately 1,643 every 24 hours and more than 68 every 60 minutes. At least one child daily dies from such poisoning, and for each one that expires, at least one other is crippled for life.

Yet all across the Nation there is blissful unawareness of this situation. Because most Americans believe that somehow and somewhere Government is protecting them from such household disasters. The sad truth is that no such protection exists in spite of enactment of the excellent law I have already referred to earlier. It is the same sad story encountered so often in this administration; no concern with consumer protection; no will to enforce a tough, good law; no desire to hold to the fire of enforcement those whose products are poisoning, killing and maiming children daily. The story is as dreary as it is disgusting.

What actually poisons our children? Ordinary, everyday household products sold in most stores across the Nation. All are marketed by industry with the usual disregard for consumer, particularly child safety. Carnage results, as can be expected.

Lye, oil of wintergreen, aspirin, hundreds of prescription drugs, furniture polishes, antifreeze, pesticides, moth balls, Drano, gasoline and cosmetics are only a few such products extracting a daily toll. Any detergent, particularly those containing caustic substances, will wreak havoc with a small child's insides when swallowed. Emergency rooms of every American hospital know full well how severe and inexcusable this situation truly is. Case histories outdo one another in agony. Yet the answer to this terrible situation is at hand, as it has been for years.

Safety closures are the answer, and are called for in the act passed by Congress and signed by the President almost 1 full year ago. Safety closures have been patented in significant numbers. Many have been tested in a Government hospital in Tacoma, Wash. All such closures are immediately available to industry, if it seeks to utilize them. So far this has not been the case.

The Poison Prevention Packaging Act of 1970 simply requires all hazardous, commercially available substances to be labeled as such for the purpose of being equipped by industry with safety closures. It also requires standards of effectiveness for them to insure that they will resist efforts of almost all children to open them.

The Department of Health, Education, and Welfare is charged with responsibility for enforcing this measure. Its subsidiary, the Food and Drug Administration, is the organization immediately charged with enforcement in this instance. It has totally evaded its responsibility to the American consumer under this law. One fact stands out above all others. Eleven months and more after the President signed the law, not a single safety closure is being sold anywhere in the Nation. Not a single hazardous product of the thousands available to American consumers and their children comes equipped with a safety closure. And daily the toll mounts.

The Product Safety Division of the Food and Drug Administration is supposed to be the cutting edge of enforcement of this measure. Once again, there has been total nonperformance. Bureaucratic gobbledegook substitutes for energetic enforcement. Consultation is shoved forward as an excuse for nonfunctioning of one of the most important agencies of Government. If the average enraged taxpayer wants to see what in microcosm is wrong with his national governmental apparatus, here it is for all to behold.

First they plead no mandate from the Congress. Yet the law is complete, simple, all-encompassing, easy to interpret and definite in its requirements. Second, they claim there is not enough manpower for enforement, the classic defense of the embattled do-nothing public servant. This too is a specious defense, as budget figures show.

The real answer is that there is no desire on the part of servants of the people to vigorously administer this law. We can prove this by tracing what happened to the law from its date of enactment and signature by the President until the present time.

In March of this year, the President proclaimed National Poison Prevention Week. Laudable, to be sure. Yet the man charged with overall responsibility for the law's enforcement, Secretary of HEW Richardson, was off on a Utah skiing vacation.

After months of prodding by concerned citizens, the media, and Ralph Nader, FDA finally got around to the herculean labor of appointing a technical advisory committee. This group was supposed to assemble in Washington, determine which products were dangerous enough to young children to require safety closures, and set standards of efficacy for them. In the past 11 months, this committee has only gathered twice. That speaks for itself.

A testing protocol was supposed to be set up, finalized, and published in the Federal Register. Under its terms, selected groups of children under age 5 were to be assembled in order to test various safety closures. From such tests, FDA was to lay down standards closures would have to meet, while simultaneously informing affected manufacturers what their responsibilities under the law were.

In the process, standards of efficacy for individually dangerous categories of products were to be published in the Federal Register as well. It is of course in the interest of the general public that as many standards as possible be set, published, and enforced. Also, that they be set as high as possible. In this, too, FDA has been dilatory to the point of unconscionable negligence.

Only four categories of products have had standards for closures set on them under the act. These are aspirin, oil-based furniture polishes, hazardous drugs, and oil of wintergreen. In each case, manufacturers have asked for and received several extensions because of delay in finalizing the testing protocol. Promises by FDA to set high standards on many other categories of products have not been fulfilled. In late July, Dr. Edwards, head of FDA, testified before the Senate Commerce Committee. In the course of that testimony, he promised standards would be forthcoming at the rate of one a week for 10 weeks. This has not transpired to the amazement of no one at all. Meanwhile, the carnage continues daily.

Mr. President, this is anything but an isolated case. The Food and Drug Administration is something of a collector's item as far as not protecting consumers is concerned. Our papers are replete with one case after another. FDA's main function nowadays seems to be closing the barn door after the horse has been stolen. The agency spends more time denying such accusations than in enforcing sound laws such as the one I refer to here. And when this agency does not function as intended, the health and well-being of every citizen is placed in jeopardy.

Repeated prodding has elicited excuses, further delays, and feeble mumblings from the agency in question. Any cursory glance at a medicine cabinet or under a kitchen sink yields ominous findings. Dozens of products, available in supermarkets, drug stores, and hardware outlets are to be found. Each is lethal to a small child when ingested. The law is plain. So is FDA's charge under the law. Still nothing happens.

Industry, seemingly loathe to comply with this law, has vigorously lobbied against the law with FDA, with what appears to be significant success. What can we conclude, then? Obviously that industry's foot dragging carries more weight with FDA than lives of small children.

Perhaps an investigation of the FDA, particularly its Product Safety Division, is in swift order. A holiday season is virtually upon us once again. Many small children will be injured, crippled and killed during this period, as they were last year. Delay in implementing the protocol and producing further standards is inexcusable. This time tomorrow, another 1,643 American youngsters will have been laid low. Stomachs will be pumped out. Faces will be permanently scarred by lye. An esophagus will be removed from a youngster. A family will bury a small child. And all of this can be prevented.

How long will the administration allow this to continue? How much is the life of an innocent child worth? When will we see the curbing of this utterly useless slaughter of innocents?

Mr. President, the Food and Drug Administration has been guilty of nonperformance again and again in this area. As a result, a climate of permissiveness has been created which offers the unscrupulous manufacturer a temptation he is often unwilling to ignore. Congress cannot and should not stand by and let this situation deteriorate further.

It is time for a complete investigation of this nonagency, with an emphasis on the Product Safety Division. Such an undertaking should seriously consider stripping the Food and Drug Administration of its consumer protection function and assigning it either to another part of Government or to a special Consumer Protection Agency.

We have become the laughing stock of the developed world as far as protecting even the elementary health and safety of our citizens is concerned. Let us do something forthwith.

SENIOR CITIZENS FORUM IN BALTIMORE

Mr. MATHIAS. Mr. President, I recently sponsored a forum in Baltimore, Md., where senior citizens and public officials could discuss the problems of the elderly. I was most impressed by the deep interest shown by the more than 800 senior citizens who attended this pioneering meeting.

At the forum we were very fortunate to have the participation of the Commissioner of Social Security, the Honorable Robert M. Ball. Commissioner Ball made a very interesting and helpful presentation in which he described social security benefits not only as they presently are, but as the Congress is moving to expand them.

I know that Commissioner Ball's remarks will be of interest to the Senate, particularly as they relate to H.R. 1, the pending social security and welfare-reform bill.

I ask unanimous consent that the Commissioner's address be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

SOCIAL SECURITY TODAY AND TOMORROW

(By Robert M. Ball)

I appreciate the opportunity to speak to you today about the social security and Medicare programs, about their role in providing economic security for the elderly, and how we hope to further improve these programs. I will not be dealing with the specifics of today's programs but rather with an assessment of where social security stands today and where it will be tomorrow.

SOCIAL SECURITY TODAY

From a modest beginning in 1935, the social security program has grown tremendously until today it provides retirement, survivors, and disability protection for almost all Americans, and health insurance protection for nearly all those aged 65 and over. The social security program touches the lives of practically everyone in the Nation. Over 9 out of every 10 people in paid employment and self-employment are covered or eligible for coverage under the program. Almost 27 million people—one out of every eight Americans—are receiving about $3 billion a month in cash benefits. And 17½ million of these beneficiaries are our senior citizens.

Of the more than 20 million people in this country who have reached age 65, over 90 percent are getting monthly cash benefits or will be able to get them when they or their spouses retire. Moreover, almost all of the 20 million are protected by the hospital insurance part of the Medicare program, and 95 percent of them have chosen the protection of the supplementary medical insurance part of the program. Medicare payments for hospital and doctors' care account for over two-thirds of expenditures for hospital and doctors' services older people receive.

IMPROVEMENTS NEEDED

Despite the significant role of the social security and Medicare programs in providing economic security for the aged, the Administration realizes that the protection afforded by these programs should be further improved.

And H.R. 1, the social security and welfare-reform bill that passed the House of Representatives last spring and is now pending in the Senate, contains many recommendations of the President designed to move us significantly closer to the goal of providing economic security in old age for all Americans.

CASH BENEFIT CHANGES UNDER H.R. 1

The most important of the changes which H.R. 1 would make in the social security cash benefits program is the provision for automatic adjustment of social security benefits. This would in effect make benefits "inflation proof" by assuring that they will at least be kept abreast of increases in the cost of living. While benefit increases legislated by Congress over the years have more than kept benefits up to date with increases in prices when measured against the level of benefits set many years ago, time lags have frequently occurred during which the purchasing power of a person's social security benefits have been seriously eroded. And, of course, later adjustment in benefits can't make up for the deprivation that people have suffered during the time the benefits were inadequate. The automatic adjustment provision would assure that long lags between price increases and benefit increases will not occur as they sometimes have in the past.

Before the automatic adjustment provision goes into effect, benefits would be increased across the board by 5 percent effective with benefits for June 1972. This increase is on top of the 10-percent general benefit increase that was effective for January 1971, and the 15 percent increase that was effective for January 1970, and will mean that for June 1972 benefits will be one-third higher than they were for January 1970, just 2½ years earlier.

H.R. 1 would also change the provision of the law known as the retirement test, to remove the disincentives to work that the provision now contains. Under the present retirement test provision it is possible for a person to actually have less income (that is, social security benefits plus earnings after taxes) if he works at certain earnings levels than he would if he earned less. Presently, there is a $1 reduction in benefits for each $2 of earnings from $1,680 to $2,880, and a $1 reduction in benefits for earnings above $2,880. Under H.R. 1, only $1 in benefits would be withheld for each $2 of earnings above $2,000 regardless of how high the earnings might be; there is no $1 for $1 reduction at any point. Thus, it will always be advantageous for people who can to work and earn more.

Increased benefits over and beyond the 5 percent increase are provided by the bill for some 3½ million aged widows. Under present law, an aged widow's benefit is equal to 82½ percent of the benefit that her husband would have received starting at age 65. Under the bill a person who becomes widowed after age 65 would get a benefit equal to what her husband would be getting if he were still living.

The method of computing retirement benefits for men would be changed to make it the same as that for women. This change will allow men to drop out of their benefit computation three additional years of low earnings, and will enable most men retiring in the future to get significantly higher benefits beyond the general increase of 5 percent.

Higher benefits would also be provided for many long-term, low-paid workers. Low-income workers who have worked for many years under social security would be eligible for a special minimum benefit equal to $5 multiplied by the number of years under social security, up to a maximum of 30 years, providing them with a special minimum benefit of up to $150 a month. This special minimum would apply to those receiving social security benefits now—not just those who retire in the future.

As a result of all of the H.R. 1 changes in the cash benefits program, average benefits will increase significantly. The average monthly cash benefit for old-age beneficiaries whose wives are not getting benefits will increase from $129 to $137; for aged couples the average increase will be from $222 to $234; for aged widows, average monthly benefits will go up from $114 to $133. The automatic adjustment provision will, of course, protect these benefits against erosion if prices rise in the future.

MEDICARE CHANGES UNDER H.R. 1

Health insurance protection under Medicare—both hospital insurance and supplementary medical insurance—would be extended to persons entitled to monthly cash benefits under the social security and railroad retirement programs because they are disabled after they have been entitled to disability benefits for at least 2 years. If enacted, this provision would make about 1½ million disabled beneficiaries eligible for hospital benefits and physician coverage under Medicare. This is a significant provision for older people for although social security disability beneficiaries are under age 65, almost two-thirds of them are over age 50.

As many of you are aware, one of the principal goals of the President is to improve nursing home conditions and to make sure that nursing home patients are treated with dignity and consideration. At present over 900,000 Americans over 65 live in nursing homes, and while many of these institutions provide outstanding care to our older citizens we are all aware that some nursing homes are in deplorable condition. One very important provision of H.R. 1 which will benefit the aged concerns those who are receiving institutional care that is not at the skilled nursing care level approved for Medicare or Medicaid. This type of care is now provided in several thousand "intermediate care facilities." Under H.R. 1, these institutions would for the first time be required to meet prescribed Federal standards related to the quality of care provided and the safety of the institution.

The Administration is pledged to improve nursing home conditions generally. On Tuesday of this week, for example, Secretary Richardson warned those nursing homes who are below standard that they are being watched closely and will not get away with substandard performance under either the Medicare or Medicaid programs.

At this moment, the Administration is engaged in many activities that will help assure that nursing home care provided to the aged is improved. These activities take many forms, including better enforcement of standards for participation in Federal programs; improving the training and professional competence of those engaged in seeing that standards are met; increased funding of State health department services connected with improvement of nursing home facilities; terminating the participation in Federal programs of nursing homes that fail to meet standards; and regular reviews of State health department professional certifications of nursing homes.

WELFARE-REFORM PROPOSALS AFFECTING THE AGED

In addition to provisions for improvements in social security, H.R. 1 also provides for a major new approach to public assistance for older people. H.R. 1 would replace the State-administered programs of assistance to the aged, blind, and the disabled with a new national program financed by the Federal Government and administered by the Social Security Administration.

Under the new program, people will qualify if they have assets that do not exceed $1,500, but the home, household goods and personal effects will not be counted within the $1,500 limitation. By contrast, Maryland now has a general limit of $300 on assets other than a home. The new Federal program will provide, in the beginning, an assistance standard for aged, blind, or disabled individuals of $130 a month and for couples, $195 a month; ultimately these standards will increase to $150 for individuals and $200 for couples. The Federal payment standards of $130 for individuals and $195 for couples represent significant improvement over payment standards to aged recipients in Maryland, where in July 1971 payment standards were $96 for an older individual and $131 for an older couple. Furthermore, States may establish a higher standard than the Federal assistance standard if they choose to do so in their State and pay the difference in cost. Under such circumstances the program could still be administered in that State by the Social Security Administration as a single program.

The ultimate payment levels under the new Federal program of $150 and $200 for individuals and couples, respectively, are based on the current poverty index. Thus, these payment standards establish as a goal of the program a situation in which no older person will need to live on income that is below the poverty level.

Today a little over 2 million older people are receiving payments under old-age assistance. Under the new improved program for providing assistance for needy aged people, about 5 million older people will get assistance payments in the first fiscal year in which the new program's ultimate payment levels of $150 and $200 are in effect.

CONCLUSION

Too often our senior citizens have the right to feel that they are the forgotten segment of our society. We are on the move to correct the situations that lead to this feeling. With H.R. 1 more adequate social security benefits will be provided and those benefits will be made inflation-proof. As a result of a variety of actions, institutional care for the aged is being improved and H.R. 1 will bring for the first time the great bulk of nursing homes under Federal standards. Incentives to work and to continue to be active will be greatly improved under pending legislation. And, finally, through the welfare reform proposals a new program of national assistance will be administered as a supplement to social security benefits with the goal of making sure that no older person has to live in this land of abundance below the level of minimum poverty established by the Government.

But obviously a floor of protection against dire poverty is not enough. Through social security and the improvement of private pension plans and the opportunity to work we must move forward to the goal of adequate income for all.

RETIREMENT OF HARTHON L. "SPUD" BILL FROM NATIONAL PARK SERVICE

Mr. McGEE. Mr. President, tonight a special reception and dinner will be held in the Nation's Capital honoring a man who will soon be retiring from the National Park Service on January 8, 1972, ending 36 years of service to that agency. And no one man will deserve the accolades to be given tonight more than Harthon L. "Spud" Bill.

Therefore, I ask Senators to join me in paying tribute to this man who has made many valuable, innovative, and far-reaching contributions to the national parks system of this country. This system has been held up as a model for the rest of the world, and Spud has played a very vital and creative role in the quality of a system which Americans are most fortunate in being able to enjoy.

Spud has had a highly distinguished career with the Park Service. He has been cited on numerous occasions for his work and innovations. He is the recipient of the Interior Department's Distinguished Service Award. For his outstanding work in the field of conservation, Spud received the coveted Cornelius Pugsley Award this past year.

Spud's first job with the National Park Service was that of senior foreman with the Civilian Conservation Corps at the Grand Canyon. He later moved up to Assistant Park Ranger, then Management Assistant, and was finally appointed Chief Park Ranger at the Grand Canyon.

The year 1947 found Spud appointed Assistant Superintendent of the Mount Ranier National Park. In 1952, he became Assistant Superintendent of Yosemite, and 3 years later he became Assistant Director of the Southwest Regional Office of the Park Service in Santa Fe.

We, in Wyoming, were extremely fortunate when Spud was named Superintendent of Grand Teton National Park in 1960. However, we were very much disappointed to lose him 3 years later, when he became Superintendent of Glacier National Park in Montana.

It was just a year later—in 1964—that Spud came to Washington as Chief of the Office of Resources Management and Visitor Protection. In 1966, he was promoted to Deputy Assistant Director and then Assistant Director for Operations. In 1967, he became Deputy Director.

I have known Spud Bill for many years, and I can, in all honesty, say you will not meet or come to know a finer person. This country has benefited greatly from Spud's service to the agency which serves as custodian over our national parks. It is, therefore, with a sense of regret that we see him step down from this post. However, we accept his deserved retirement knowing full well that his contributions to the national parks system will be felt for decades to come. We wish him the best of luck in his retirement. Thank you very much, Spud, for a job well done.

PLANNING FOR THE FUTURE

Mr. BYRD of West Virginia. Mr. President, on behalf of the Senator from Minnesota (Mr. HUMPHREY), I ask unanimous consent to have printed in the RECORD an article entitled "How Can We Have a Better Future for America?" published in the Texas AFL–CIO News of October 1971.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

HOW CAN WE HAVE A BETTER FUTURE FOR AMERICA?

(By HUBERT HUMPHREY)

On our small planet, the average person lives about 500,000 hours. Not all of us recognize that what we do during this span of life affects not only ourselves but all those who come after us.

Too often many forget that we have the future—not just the present—to think about. When we pollute the fresh waterways and the air, when we jam our cities with too many people, somebody has to pay the bill, sooner or later.

These, I believe, are some of the lessons Americans are gradually learning. No man is an island. All of us are discovering how our actions affect the future of mankind. Moreover, whenever individuals or corporations squander the resources of nature, some way must be found to pay the bill or replenish these resources.

WHY PLAN FOR THE FUTURE?

On one point we should be clear: not the poor but the rich consume the wealth which nature provides. This is as true for nations as for persons.

A person in an industrial country consumes fifty times as much energy as the individual in a poor society. During the past ten years Americans alone consumed one-third of mankind's total industrial energy. We also used up 40% of the global output of raw materials.

As more nations become industrialized, the demands for raw materials and energy will leap ahead. And unless we properly use nature's goods and plan for tomorrow, we will be faced with worse forms of pollution and more environments not fit to live in.

There is no doubt that we can produce the energy that America and the world will need. We can also build better cities—if only we want to pay the price. Nuclear power alone offers potential energy for millions of years. A national policy of balanced urban-rural growth, could bring a more orderly pace of living into our hyper-active and rapidly changing society.

FREEDOM TO LIVE THE GOOD LIFE

Perhaps we need to enlarge our ideals to help us plan for the future. Traditionally, Americans have prided themselves on their great freedoms—the right to life, liberty and the pursuit of happiness. Perhaps the time has come to expand these ideals to include the right to a quality environment and the right to live in a decent home in a good neighborhood.

Citizens everywhere are demanding the freedom to live the good life. They are tired of polluted rivers, sickened by noxious fumes and fed up with the rush and noise of everyday life. Noise, congestion and pollution are not elements of the Good Life. But is any American untouched by these evils?

Seventy per cent of Americans live on less than two per cent of our land. By the end of the century, unless we do something about it, another 100 million persons will be living in our larger cities.

Americans are very much aware of the connection between overpopulated cities and the problems of crime, drugs, pollution, congestion and psychological stress. As long ago as 1968, a Gallup poll showed that 56 per cent of all Americans would prefer to live in rural communities, with 18 per cent preferring city life and 25 per cent the suburbs.

BALANCED NATIONAL GROWTH

Both the U.S. Congress and the Federal executive branch are on record as favoring a new policy of rural development and balanced national growth. It is time to turn our words into action and create legislative programs to carry out the will of the people.

As we debate the dimensions of a National Growth Policy, we must not forget that cities and urban centers are the heart of our civilization. Above all, any future growth policies adopted must enrich and enhance the cities—not just abandon them. That's why balanced growth is necessary.

To move towards developing a National Policy for Future Growth will be a difficult challenge. We will require:

A sound and growing economy whose benefits are passed on to all our citizens not just to a fortunate few. Since 1968 we have watched the Nixon administration so badly mismanage the economy that only a total reversal of course saved us from national disaster. Some major economic moves were absolutely necessary to our national well-being. But by passing on the benefits of his new economic plans largely to the wealthy, Mr. Nixon has created greater hardships for wage-earners everywhere.

Reform of every level of government so that the genuine needs of people are met—sidewalks get fixed, street repairs are made, housing violations corrected.

A greater provision of necessary funding to states and cities to enable them to provide urgently needed services to the public. To look towards providing long-term credit, I introduced the National Domestic Development Bank of 1971. This would provide new sources of funds for schools, cleaning up pollution, playgrounds and other public facilities. Linked to this bill, I have also prepared a special financing program to aid rural towns and areas with less than 35,000 residents. The purpose is to make it possible for these rural centers to grow in a more orderly fashion.

A BETTER FUTURE

These are some of the new policies we must enact into legislation if we are to put more purpose into our economic growth. They should help us to develop a better future for all citizens—a future in which we are not overwhelmed by problems and challenges which seem too big to manage.

Americans must learn to control their own destiny by planning the future growth of their society. This is an extraordinary challenge. But continuing unplanned and unchecked growth may only mean more of the same—a deteriorating environment, bad housing for millions, and clogged transportation in our cities.

The challenge of producing a better America lies before us. We have the means and the desire to meet this challenge. We have no other choice but to do so.

CRIME IN THE WASHINGTON METROPOLITAN AREA

Mr. MATHIAS. Mr. President, last year the Nation applauded when Mayor Washington announced that, as a result of intensified efforts by the District and Federal Governments, crime had decreased in the Nation's Capital. I joined in that applause. I was, however, deeply disturbed at FBI reports which disclosed yet another increase in suburban crime throughout the Nation, including a significant increase in the Maryland suburbs. I did not know whether there was any correlation between the decrease in the District's crime and the increase in Maryland's crime; I instructed my staff to research the question.

The staff report, which covered calendar year 1970 and the first quarter of 1971, indicated a statistical correlation between the decrease in the District's crime and the increase in the Maryland suburbs in some recognized crime categories.

I called for a "first of its kind" Washington Metropolitan Crime Conference to address the issue of metropolitan crime, and the Justice Department agreed to fund it. That conference was held on September 13 and 14, and I should like to report to the Senate some of my observations as well as the findings of the conference.

The conference was made up of representatives chosen by the respective State planning agencies of Maryland, the District of Columbia, and Virginia. The State Planning Agency, or the SPA, is that State organ established under the Safe Streets Act of 1968 to receive and disburse funds given to it by the Federal Law Enforcement Assistance Administration for support of State law enforcement programs.

The conference was divided into eight workshops—police, corrections, drug abuse, civil disorders, juvenile delinquency, prosecution and defense, organized crime and courts. Each State sent three representatives to take part in each workshop. Thus for the first time in Metropolitan Washington—the first time in the country—judges, police, probation officers, and law enforcement officials of each jurisdiction in a metropolitan area came together under one roof in order to come to grips with common problems.

This in itself was an accomplishment. Each workshop was charged with the task of identifying interjurisdictional problems within its particular field and recommending specific steps for tackling them.

This was not an easy task. It is not easy for the local police chief or prosecutor—politically protective of his territory—to reach his hand out to another police chief or prosecutor in an effort of cooperation.

But they did it. And we all owe them our gratitude and appreciation, for their efforts will serve as a stimulus for similar efforts in metropolitan areas all across the country.

The conferees recognized that in one metropolitan area, most of our problems and patterns of life pay little heed to political boundaries. Our air, our water—our crime—cross State and local lines without regard to their political integrity.

The Metropolitan Washintgon Council of Governments played a major role at the conference. It was through its efforts that we finally got a clear picture of the nature of metropolitan crime.

The Council of Government—COG—for a 3-month period prior to the conference took a comprehensive and systematic look at Washington's metropolitan crime and concluded, as I did, that interjurisdictional crime does exist to the detriment of the Virginia and Maryland suburbs. This point was not clearly made at the conference, and I think this important to do so in this report.

The seasonal nature of the study, the report states, affects only numerical, not qualitative differences in crime; thus, the 3-month study period can be said to be characteristic of the entire year.

Using the current seven recognized FBI index crimes—murder, forcible rape, robbery, aggravated assault, burglary, larceny over $50 and auto theft—within Maryland's Planning Region IV—Prince Georges and Montgomery Counties—and the District of Columbia, the COG report stated, among other things, the following:

First. Comparing the total metropolitan reported index crimes for calendar years 1969 and 1970, one sees the following: A decrease of 3,253 index crimes in the District; an increase of 1,399 index crimes in the Maryland suburbs; and an increase of 4,773 index crimes in the Virginia suburbs.

Second. The District of Columbia has doubled its crime rate per 100,000 since 1964.

Third. A further comparison of the index crimes in the three jurisdictions indicates that in calendar year 1970, crime in the District decreased 17 percent while crime in the Maryland suburbs increased 18 percent—with Prince Georges County crime in the Virginia suburbs increased 16 percent.

A closer analysis of second quarter 1970 to second quarter 1971 showed a 16-percent decrease in the District's crime and an increase of 25 percent in suburban Maryland crime.

Fourth. Twenty-eight percent of all those detained in the Montgomery County jails were residents of the District. Specifically, in the crime of robbery, 32 percent of those detained were residents of the District; in the case of burglary, 20 percent; in the case of larceny, 44 percent; and in the crime of aggravated assault, 27 percent of those detained were from the District.

Fifth. Thirty-three percent of all those detained in Prince Georges County jail were residents of the District. Specifically, in the crime of robbery, 56 percent of those detained were residents of the District. In the case of aggravated assault, 18 percent; in the case of burglary, 10 percent; and in the case of larceny, 29 percent were residents of the District.

Sixth. In looking at the court cases processed in Montgomery and Prince Georges Counties, it was found that in Montgomery County, 16 percent of the adults processed were District residents. Specifically, in the case of robbery, 33 percent of the cases processed involved District residents. In the case of larcency, 21 percent. In Prince Georges County 27 percent of the adults and 36 percent of the juveniles processed were residents of the District. Specifically, in the case of robbery, 36 percent of the cases processed involved District residents. In the case of burglary, 21 percent; and in the crime of larceny, 48 percent.

Seventh. Arrestees—in looking at those arrested in Prince Georges County, it was found that in the crime of robbery, 70 percent of the adults and 66 percent of the juveniles were residents of the District. In the crime of burglary, 37 percent of the adults arrested were residents of the District; and in the crime of larceny by juveniles, 26 percent of those arrested were from the District.

Eighth. Looking at those arrested in Montgomery County for the crime of larceny, by adults, 24 percent were residents of the District. In the case of burglary by adults, 17 percent.

These should not be startling observations. For the veteran criminal looking at the District—with its mobile strike forces, fluorescent, and vapor-lit streets, present bail procedures, its increased police force to saturate high crime areas—it makes sense to go to the suburbs.

The Maryland and Virginia suburbs have a combined ratio of one policeman for every 823 inhabitants compared to a District of Columbia ratio of one policeman for every 113 residents. The District spends 20 percent of its budget on law enforcement and related public safety, while the Maryland suburbs spend less than 6 percent.

FBI reports just recently noted a 12-percent increase in the Nation's suburban crime for this past year.

It takes no expert to figure out the direction of crime.

I accept the proposition that criminals in Maryland and Virginia are in no way better or worse than those in the District and that they too cross State lines to commit crimes. The problem is indeed twofold, for the problem is metropolitan in nature.

As I made the point at the conference, it is not helpful to point the finger, but only the direction. The figures COG has developed demonstrate that interjurisdictional crime does exist. Metropolitan Washington does not end at Western or Eastern Avenues or the shores of the Potomac. Thus the solutions to these problems cannot recognize political boundaries.

The COG report clearly states that—

> There appears to be no evidence available to suggest that a criminal will choose or not choose to commit a crime in a jurisdiction other than where he lives . . . it can be assumed that he would make that choice irrespective of whether the commission of the crime would mean traveling across a nearby political boundary such as a state or county line.

Mayor Washington and Captain Wilson do deserve high credit for their accomplishments. However, we should not forget that they received the personal support of President Nixon, as well as the aid of Congress, of the Federal Government and its huge resources within the Law Enforcement Assistance Administration, of a revitalized 5,100 police force—not to mention the assistance of the FBI, the Capitol Police, the Park and Executive Police, and the Armed Forces. All these political and professional energies and paramilitary and military forces went into the alleviation of the District's crime problem.

What I want to see now, however, is this same energy, this same sense of responsibility, tackling crime in the entire metropolitan region.

LEAA and the Federal Government must devote more money and give a greater priority to interstate metropolitan areas. The administration must look beyond each State's boundary for the causes and solutions to that State's crime problem.

I encourage Senators to urge and support similar studies, for I am confident that they too will discover how serious the problem of jurisdictional crime has become. It is not a unique problem of Metropolitan Washington. There are across the country more than 30 metropolitan areas which cross State lines. Close to a fourth of our Nation's population live in interstate metropolitan areas. I feel confident that this conference laid the groundwork for similar conferences in these areas, as well as enabled us to better comprehend and cope with crime in a metropolitan area.

Mr. President, I ask unanimous consent to have printed in the RECORD the specific recommendations of each workshop at the Metropolitan Crime Conference, in addition to an agreement of cooperation signed by the three jurisdictions at the termination of the conference.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

DRUG ABUSE WORKSHOP

(By Thomas Geib)

1. The workshop recommends that consideration be given to the development of a tri-state drug abuse information system. This system would be in the form of a methodone patient registry.

2. Members of the treatment and rehabilitation community (public and private) should be included in a tri-state discussion of certain commonly held concerns in the drug abuse area such as the specific definition of drug addiction—the need for statutory protection of individuals included in the patient registry, etc.

3. The workshop also recommends that improved communication should take place on the State level in the area of drug abuse and drug related programs. The goal would be the development of non-duplicative services and programs in the areas of drugs.

JUVENILE DELINQUENCY WORKSHOP RECOMMENDATIONS

(By Judge Jamborsky)

1. The workshop recommends that an appropriate agency examine the existing child labor laws to bring the various laws into uniformity and eliminate the seeming inconsistency which exists.

2. Intake officers in the Juvenile Courts should discourage the filing of juvenile status petitions (runaway, beyond control) and instead encourage the referral of these cases to an appropriate community agency. The Court should accept these petitions only as a last resort.

3. Because the Committee believes that institutions may promote delinquent behavior in children the Committee recommends that each of the jurisdictions utilize the group and foster homes for these children. The Workshop also feels that the licensing agencies and welfare agencies need more realistic regulations and standards for youth group homes.

4. The workshop believes that there needs to be better communication between the line agencies and officials and the planners and policy makers at the top levels.

5. The workshop recommends that the juvenile needs a better awareness of what rights he has under the Law and what his options and constraints are as well.

CORRECTIONS WORKSHOP RECOMMENDATIONS

(By Leighton Dudley)

1. The workshop recommends that the COG Corrections Committee be reconstituted to include the key policy makers from the three States. These key policy representatives may from time to time utilize various task forces to undertake specific projects of interest to the Committee.

2. The workshop recommends that LEAA should be encouraged to support various impact surveys in the Metro area such as the impact of community corrections on the community, etc.

3. The workshop recommends that consideration be given to the development of region wide corrections facilities particularly oriented to fill the needs of the smaller localities which might not require specialized facilities on their own.

METROPOLITAN WASHINGTON CRIME CONFERENCE, SEPTEMBER 13–14, 1971

Courts: Moderator Chairman—Judge Philip M. Fairbanks, Peoples Court, Montgomery County, Maryland.

Recommendations made on September 13th and 14th, 1971, at the Metropolitan Washington Crime Conference in the workshop session—"Courts".

1. A periodic Judicial Conference of trial judges in the metropolitan region to meet regularly for the purpose of promoting better understanding of common problems and dissemination of useful information.

2. The establishment of a regional bail agency to exchange information on a reciprocal basis and to disseminate information to the appropriate authorities.

3. The committee recommends that the Law Enforcement Assistance Administration (LEAA) issue a proposal to study the feasibility of an interstate compact for extradition and the return of misdemeanor offenders within the metropolitan region.

4. The committee expressed a concern for courtroom and courthouse security to be undertaken by LEAA. This problem should be transmitted to the Council of Governments for appropriate implementation.

5. Concentrate LEAA resources on the problems of conflict in court dates and appearances of the trial bar and the development of the increase in numbers of available trial counsel and for the development of assignment criteria throughout the region.

6. The group recommended that the Conference seek the aid and assistance of LEAA and COG for development of maximum utilization of available resources in the metropolitan region for court purposes, e.g., psychiatric resources.

7. Approval of interstate compact for furnishing of probation services and supervision; pre-sentencing; investigation and the exchange of accurate and informative data.

8. The committee recommended that the regional Judicial Conference consider sentencing procedures.

REPORT OF WORKSHOP ON CONTROL OF CIVIL DISORDERS

(By Police Chief Jerry Wilson)

The workshop on civil disorders viewed its responsibility as one of discussing potential needs and ways, possible processes for improving planning for civil disorders, particularly those civil disorders requiring multi-jurisdictional cooperation within the metropolitan area.

The following points were discussed:

1. *Classification of civil disorders:*

For purposes of their deliberation, the workshop agreed that the term "civil disorders" would be construed broadly to include the following types of incidents:

Natural disasters.

Traditionally construed urban riots.

Campus disorders.

Mass civil disobedience.

Limited incidents such as stoning of firemen, police, or passersby by youth.

Public school incidents.

Prison or jail riots.

Potentials for disorder such as controversial athletic events or rock concerts.

The workshop adopted a view that it is important that each jurisdiction needs to be highly conscious of the wide range and variation in civil disorders in planning their own tactics and strategies as well as in planning for coordination of multi-jurisdictional disorders.

2. *Strategies for handling multi-jurisdictional disorders:*

(a) Police Mutual Aid Agreement:

The workshop participants agreed that there is no apparent need for change in the police mutual aid agreement insofar as it pertains to civil disorders (it was noted as an issue unrelated to the subject of the workshop that legislation seems called for to permit formal interchange of police assistance in dealing with non-crisis situations such as narcotics).

(b) Curfew and travel restrictions:

The workshop participants were of the view that existing arrangements for coordination of curfews or travel restrictions are adequate, particularly recognizing the political reality that these restrictions will have to be handled separately for each event.

(c) Restrictions of sales of firearms, gasoline, or other potentially dangerous items:

The participants were of the view that past coordination of these restrictions has been adequate.

(d) Emergency information services:

The workshop participants adopted a view that it would be politically unfeasible, and probably functionally impractical as well, to try to disseminate area wide information through the instrumentality of any single political jurisdiction.

However, the workshop noted that each major jurisdiction within the metropolitan area should give priority to planning for central emergency information services within its boundaries with particular attention to (1) dissemination of information through public media to counteract rumors, and (2) development of processes for locating and providing information regarding arrestees in the event of mass arrests.

(e) Intelligence sharing:

The consensus of the workshop was that the existing intelligence sharing between jurisdictions, through the Intelligence Subcommittee of the Metropolitan Washington Council of Governments Police Chiefs Committee is reasonably adequate.

(f) Command and control of multi-agencies handling of civil disorders:

Considerable sentiment was expressed in the workshop that there is a need for better definition and implementation of command and control of forces in multi-jurisdictional civil disorders. This has been perceived by some as a problem in events occurring within a single state or county jurisdiction when several agencies, perhaps with overlapping jurisdiction, assist one another. The workshop concluded that each major metropolitan area jurisdiction should carefully study this problem and clearly establish which official will have command of field forces when various combinations of police or other agencies cooperate in dealing with a civil disorder.

In this connection, also, several workshop participants commented on the need for developing a single mass arrest procedure for use in all civil disorders in the metropolitan area, so that all agencies cooperating at a disorder can use the same procedure—one that their personnel will be familiar with and trained to use if mass arrests become necessary.

(g) Training of Command Personnel

The workshop discussed the possible need for additional training for command personnel in control of disorders, but the consensus was that ample training has been and is available through Federal agencies—the workshop agreed that each department should insure that their middle and top level management personnel attend these programs.

Organized Crime Workshop

(By Harold Sullivan)

1. The workshop had only one recommendation for the consideration of the Conference. The workshop strongly recommends that there be much greater prosecutorial input at all stages in the investigation and pre-arrest stages of police work. The workshop felt that by this early involvement the capabilities of the prosecutor as an aid to the police in their investigative work would be enhanced, and in that way better cases would be brought to trial and more convictions result.

Police Workshop Recommendations

(By George Owens)

1. The workshop recommends that an operating metropolitan area wide strike force be established in the law enforcement area to focus initially on the drug abuse problem including the detection of both the users and the dispensers of illegal drugs.

2. The workshop recommends that an investigation of the Washington Area Law Enforcement System (WALES) be undertaken to determine whether WALES has met its potential and satisfied its past commitments. In addition the study of WALES should also determine to what extent and in what ways WALES could be profitably expanded to better the Washington Metropolitan community.

3. The workshop recommends that appropriate inquiry be made of the Attorney General of the United States requesting permission for local law enforcement officials to utilize the Federal Law Enforcement Training Center at Beltsville, Md., particularly the range facilities and the emergency speed courses also.

4. The workshop recommends the use of closed circuit T.V. (CATV) between the jurisdictions of the Washington area, and recommends that consideration be given to installing the cable in conjunction with the development of the METRO system.

5. The workshop adopts the concept of having an annual three day metropolitan area wide police seminar for the purpose of continuing education in certain special areas of interest to the law enforcement community at the particular time.

6. The workshop recommends the assignment of three police officers to the Washington Council of Governments Public Safety Committee to serve as expert advisors in developing plans and programs suggested by the various subcommittees (such as narcotics, intelligence, investigative and other subcommittee areas). These officers would be part of the localities contribution to COG in it's work in carrying out the recommendations made at the Conference.

Prosecution and Defense Workshop Recommendations

(By William Greenhalgh)

1. The workshop recommends that a metropolitan area legal intern program be developed for third year law students. The group was undecided as to whether the program should be undertaken by a consortium of the five area law schools or whether one of the schools should take the program on entirely.

2. The workshop recommends that a metropolitan area training program for prosecutors be developed patterned after the very successful program of the U.S. Attorney for the District of Columbia.

3. The workshop recommends that the capability be developed to monitor the "major violator" on a metropolitan basis.

Memorandum of Agreement Regarding the Coordination of Criminal Justice Planning Efforts in the Washington/Virginia/Maryland Standard Metropolitan Statistical Area

The State Criminal Justice Planning Agencies in Virginia, the District of Columbia and Maryland, recognizing the interjurisdictional nature of crime in the Washington/Virginia/Maryland Standard Metropolitan Statistical area, and the need for coordinated criminal justice planning at the State Planning Agency (SPA) level to successfully counter the problems caused by this phenomenon, agree to take the following actions:

(1) The three SPA's will continue to work together as they have in the past on projects and programs of common interest such as the Metropolitan Crime Conference and other coordinated criminal justice planning efforts.

(2) The three SPA's will exchange criminal justice planning data relating to the District of Columbia and its Maryland and Virginia suburbs.

(3) The three SPA's will, in conjunction with appropriate local operating agencies and regional criminal justice planning groups, jointly review the findings and recommendations of the Metropolitan Crime Conference for the purpose of identifying problems requiring the cooperative and coordinated attention of Virginia, the District of Columbia and Maryland.

(4) Where appropriate, the three SPA's will consult at key decision-making points during the preparation of their respective Comprehensive Plans for the purpose of coordinating efforts relative to the Washington/Virgining/Maryland Standard Metropolitan Statistical area.

(5) The three SPA's will explore with the Federal Law Enforcement Assistance Administration the possible necessity of developing a special "impact aid" discretionary grant fund to be used to counter the effects of interjurisdictional crime in the Washington/Virginia/Maryland Standard Metropolitan Statistical area.

(6) The three SPA's, to insure the development of coordinated solutions to the interjurisdictional crime problem in the Washington/Virginia/Maryland Standard Metropolitan Statistical area, will share information regarding all project proposals—block or discretionary—relating to this subject developed by area localities or State agencies.

This memorandum of agreement is entered into on September 8, 1971.

Blair G. Ewing,
Director, Office of Criminal Justice, Plans and Analysis, District of Columbia.

Richard C. Wertz,
Director, Virginia Governor's Division of Justice and Crime Prevention.

Richard C. Wertz,
Executive Director, Maryland Governor's Commission on Law Enforcement and Administration of Justice.

RETIREMENT OF CHARLES L. GRANT FROM DEPARTMENT OF AGRICULTURE

Mr. McGEE. Mr. President, I invite the attention of Senators to the forthcoming retirement of one of the most outstanding Federal employees with whom I have had the pleasure to be associated during my years in the U.S. Senate. Today, December 8, 1971, is the last working day for Charles L. Grant, Director of the Office of Budget and Finance in the U.S. Department of Agriculture. This day brings to an end more than 36 years of Federal service, almost all of which I believe was served with the Department of Agriculture, and I could not let this occasion pass without commenting on the splendid career of Charlie Grant.

Charlie Grant, a native of South Carolina, entered the Federal service in 1935 as a messenger. He proceeded up through the ranks, holding many positions of importance and significance. Since 1957, he has held his present position as Director of the Office of Budget and Finance of the Department.

The fact that he has served with several administrations and under Secretaries of both political parties demonstrates quite clearly the professionalism which Charlie Grant practiced and insisted upon his associates in his office. He has earned the respect and confidence of those with whom he has worked within the Department as well as those of us in Congress. In the delicate and sensitive position as Departmental Budget Director this is quite an accomplishment.

I have known Charlie Grant since I became a member of the Agriculture Appropriations Subcommittee in the Senate several years ago. I quickly recognized then, of course, that he was faithful and diligent in attending all of the subcommittee hearings with Departmental witnesses and that he frequently supplied complete and quick answers to many questions when called upon to do so. He was especially helpful to me and the subcommittee staff during this past year—my first one as chairman of the Agriculture, Environmental, and Consumer Protection Subcommittee.

In leaving the Department, Charlie

Grant takes with him the vast amount of knowledge he has accumulated and which could only have been acquired through a lifetime of service. He is also, however, a most effective executive and he saw to it that his office was manned by professionals at all times. He demanded of them the same degree of perfection by which he was guided. The qualities which he demonstrated as Director have become the hallmark of the entire office and as a result we have had an efficient, smooth-working office and not simply a one-man operation. This is the mark of a true and successful executive, and is one which cannot be overlooked on this occasion.

Many fine things have been said by many people on the career and accomplishments of Charlie Grant, and I can add but very little. In closing, however, I would simply say that he is a gentleman always—in the true and complete sense of the word. He has discharged his responsibilities in a manner that does credit to the Federal service. I am certain that the pride which he exhibited in his career of Federal service was reciprocal and that his fellow workers who knew and worked with him were proud to count him among their membership.

I do not know what plans Charlie has for the future, but of one thing I am certain. Beginning tomorrow morning, he will no longer have the responsibility on his shoulders for the Office of Budget and Finance, and he will no longer be under the tremendous day-to-day pressure under which he has operated for so many years. Tomorrow, he will embark upon a new career—that of retirement—and I only hope that the future will be as productive, as rewarding, and as successful as was his career with the U.S. Department of Agriculture.

Congratulations on your outstanding career—thanks for all of your help in the past—and may the future be kind to you and Mrs. Grant.

CONTINENTAL SHELF OIL LEASING ON THE ATLANTIC COAST

Mr. HANSEN. Mr. President, Secretary of the Interior Rogers C. B. Morton and top members of his Secretariat were kind enough to come to Capitol Hill today to brief Members of both Houses of Congress on the situation relating to the potential oil and gas resources of the Outer Continental Shelf off the Atlantic coast.

Despite having been subjected to a certain amount of political sniping, the Secretary emphasized that if this Nation is to develop its own domestic energy policy—which must be geared to its foreign and national defense policies—the Interior Department must do as thorough a job as it possibly can in developing a reliable inventory of energy resources and a capability of putting them on the line when needed.

Secretary Morton also emphasized very clearly and strongly that undue alarm is being voiced by some persons that oil wells are about to sprout near the beaches of the east coast in the near future. This will not happen.

Secretary Morton stressed the fact that because of problems, and lack of sufficient geological and environmental information at this time, it would not be possible to make a decision to lease any area off the Atlantic seaboard for 2 years or more. He noted that the National Environmental Policy Act would be followed scrupulously, but that even the initial steps toward making a decision under that act could not be taken until the States' claims to the Outer Continental Shelf are resolved, or at least some interim agreement can be made with an individual State or States to proceed.

Mr. President, I hope this will lay to rest the overexcitement voiced by some of our friends. The Secretary very candidly said, as he has said previously:

No decision has been made, nor is such a decision now planned.

Now let us allow our executive branch to proceed with the work mandated to them by the Outer Continental Shelf Lands Act of 1953 and the Mineral Leasing Act of 1920 so that a wise decision can be made when the necessary information is in hand.

WELFARE REFORM

Mr. PELL. Mr. President, in a time of widespread concern over reform of welfare and public assistance programs, I believe it particularly important to consider the views of local government officials charged with the responsibility of administering these programs.

In this regard, I recently received from the Rhode Island Directors of Public Welfare Association a letter stating the association's views and offering suggestions for improving the pending welfare reform bill, H.R. 1.

I believe these views and suggestions will be of interest to my colleagues and ask unanimous consent that the letter from Mr. Gabriel Gregoria, president of the Rhode Island Directors of Public Welfare Association be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

CITY OF PAWTUCKET, R.I.,
November 22, 1971.

Senator CLAIBORNE PELL,
U.S. Senate,
Washington, D.C.

DEAR HONORABLE SENATOR PELL: In response to your request concerning the new Family Assistance Plan H.R. 1 that we discussed briefly at the Rhode Island American Cancer Society dinner in October, as President of the Rhode Island Directors of Public Welfare Association, I am presenting our views on this bill. The directors support Family Assistance Plan in principle, and are encouraging the Federal Government to take more responsibility for administration and financing the Public Assistance programs.

H.R. 1 in its present form could be improved if the following suggestions can be incorporated into the bill:

1. It is proposed that the Federal Government will allow a minimum payment of $2,400 annually for a family of four. It is our consensus that states which exceed the minimum level of payment should be reimbursed by the Federal Government of at least half of the excess cost of assistance payments over $2,400.

2. The amount of payment of the Food Stamp Program is slated to be decreased or discontinued completely. A provision should be made to increase the basic payment to families of the present amount which they receive as a bonus through the Food Stamp Program.

3. The proposed disregard of earnings for employed recipients is set at $60.00 per month, plus ⅓ of the remaining earnings. The committee feels the present disregard of $30.00 per month, plus ⅓ of the remaining earnings is sufficient and should be retained.

4. Day Care costs for children of school age, and those under six years should be adequately funded by the Federal Government. In addition, standards providing an enriching educational experience for children must be required of all responsible child care personnel in order to avoid mere subsidization of custodial baby-sitting.

5. Job development and training must be adequately developed and funded for welfare programs, hopefully to reduce the number of welfare recipients in our society.

6. In separating eligibility for financial assistance, and social services for clients, it is *essential* that effective quality control be expanded, enforced, and *funded*. Spot checking of eligibility must be continuous, and well publicized to avoid widespread abuses. A system similar to that employed by IRS in checking income tax returns should be implemented.

The above proposals were unanimously agreed upon by the Rhode Island Directors of Public Welfare Association at the November meeting. You are to be congratulated for your interest and concern in trying to develop the best reform possible of the present Public Assistance program.

Very truly yours,
GABRIEL GREGORIO, *President.*

PROPOSED LOW-INCOME HOUSING PROJECT FOR FOREST HILLS, QUEENS, N.Y.

Mr. BUCKLEY. Mr. President, I invite the attention of Senators to a situation which has developed in Queens, N.Y., which has implications which are national in scope. The middle-income community of Forest Hills is about to have thrust upon it a low-income housing project of major proportions. This federally funded project consists of three 24-story buildings, which it is estimated will eventually house some 4,000 low-income tenants. This represents a massive infusion of new people which most observers agree is beyond the capacity of the community to absorb. The project, therefore, represents a direct threat to the stability of the neighborhood.

Many other factors strongly indicate the inappropriateness of this particular project—schools overloaded to the point of triple sessions, poor soil conditions resulting in exorbitant construction costs—the per unit cost will exceed $35,000—overcrowded transportation facilities, excessive aircraft noise, the impact of a two-fare zone on the prospective low-income tenants, and so forth.

It is for all of these reasons that the residents of Forest Hills-Rego Park are so deeply opposed to what they can only conclude is an incredibly misconceived plan which will on balance do little for the poor while threatening to disrupt one of New York's most stable areas. The opposition is not based on bigotry. It is not racial in its concern, as is testified by the broad support which it has attracted from black residents of the area and from responsible New Yorkers of every political persuasion.

I would urge Senators to give the most careful consideration to this particular controversy, because it seems well on its

way to becoming a classic demonstration as to how not to go about the business of creating low-income housing. It particularly emphasizes the critical need to consult community opinion and enlist community support before proceeding with projects of this sensitive nature.

Mr. President, it is not often that I find myself in agreement with either the New York Times or the Village Voice. Yet both publications in recent days have spoken out eloquently and effectively on the Forest Hills situation. In order to shed further light on this issue, I ask unanimous consent that New York Times editorials of November 23 and December 6, 1971, and a Village Voice article of November 26 be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Clash at Forest Hills

The angry protest by residents of Forest Hills against the construction of low-income housing in their midst demands more sympathetic understanding on the part of city officials than it has received; but at the same time it does not invalidate the basic rationale of this bitterly controversial project.

In part, the protests are undoubtedly a reflex reaction that automatically equates poverty with crime and declining real-estate values. These fears are fanned by the experience of so-called "changing neighborhoods," where a combination of uncontrolled population shifts and exploitative block-busting has turned stable middle-class communities into simmering slums. Fear of that process has created a psychology that refuses to trust the assurances of the planners that controlled occupancy patterns in the Forest Hills project are designed to prevent such a course.

But it would be easier to reject such fears out of hand, had the city administration addressed itself more persuasively to many legitimate question about the project. The city has great need for low-cost public housing. It is clearly desirable that such housing be moved out of the imprisonment of existing slums into an environment of dignity and hope. "Scatter-site" location of such projects experiment toward that end. But since it is an experiment, it would seem wiser to scale it to manageable and acceptable size instead of erecting three 24-story buildings in an area where few of the tallest structures are more than half that height. It would also be preferable to build such housing on the edge of areas where middle-class, working and poorer populations meet, rather than as islands in the center of a totally different socio-economic neighborhood.

At the very least, communities should be prepared for, and participate in, the planning. This process should include the advance provision of extra social services such as schools, parks, recreational facilities and transportation. Only then can the influx of a new population be expected to seem not a burden, but rather a party to new and shared advantages.

On a limited front, the clash at Forest Hills showed insensitivity on the part of the planners. In larger societal terms, it underscores the depth of the city's divisions. It is a reminder that there is little hope for an urban rebirth until education, training and jobs can narrow the gap between poverty and affluence. Integration—economic as well as racial—is imperative for this city's survival; but it is far more complex a goal than reshuffling people. It requires a dramatically stepped-up pace of economic upward mobility of the poor toward a society in which all Americans can once again live as neighbors without hostility and fear.

Realities in Forest Hills

The scatter-site concept of locating low-income housing outside the slums and ghettos, which has run into opposition in Forest Hills, is an imaginative effort to erase the terrible divisions of urban America. But it is also an experiment with a high potential for failure. Its success obviously depends on the existing community's capacity and willingness to absorb the newcomers and to help them adjust to the socio-economic level of their new environment.

This cannot be accomplished by official dictum any more than by the pretense that the scale of such projects is unrelated to the concept itself. To scatter must mean to blend into the neighborhood, not to erect visible monuments to the projected change. The three proposed 24-story complexes in Forest Hills violate that rule. By appearing separate and different, they are that much more likely to remain so.

Some of the planners themselves concede that in the Forest Hills case the project's size and height are excessive. They point out with reason that a combination of the formula for Federal funding, the high cost of construction in New York and the city's existing zoning code has dictated the objectionably gross dimensions. They admit that ideally they would like to do it differently, but that the alternative might be loss of Federal subsidy for desperately needed housing.

They add moreover that they have tried, within these limitations, to provide the project with such special features as a separate day-care center with seven classrooms and some outdoor and indoor community space. Such features, however, do not meet the basic drawbacks of a project of this size or of the barracks-style design of standard low-cost housing in general. It is unrealistic and unfair to ask the residents of Forest Hills to gamble on the success of a venture which, though sound in theory, is so severely flawed in its implementation.

In the absence of effective communication between community and planners, the residents sense a lack of candor. They ask why the project was switched from the originally approved site in Corona which, though more suitable for construction, appears to have been abandoned under potent political pressure. They resent official statements about underutilized schools, when many of their children attend overcrowded classes. While two of the local schools report a total of about 100 vacancies, the area as a whole has an excess of 1,400 pupils.

Under such circumstances, an important factor in gaining local support would have been to incorporate a solution of the school problem into the new development. This might still be accomplished by locating schools in the lower portion of at least two of the proposed buildings. Such schools could be built, not in the traditional mold, but (as has been done successfully in some of Britain's "new towns") for conversion into community centers at night and on weekends, with facilities for motion pictures, concerts, bingo games and other entertainment.

The success of scatter-site projects depends on arrangements which will integrate the disadvantaged into a community rather than drive the affluent away from it. Community acceptance would be easier to achieve with drastic improvement of services for old and new residents alike. The costs may be high; but the unacceptable alternative is to force individual communities to pay a disproportionate share of the price for basic urban reform.

The Middle Class Fights Back: Battle of Forest Hills

(By Clark Whelton)

When Mayor Lindsay gets around to writing Poor John's Almanac, one of the little sayings certain to be included is: any block worth busting is worth busting right. The annotated edition will explain that this means think big. Don't just settle for chasing out the middle-class families. Break up the entire neighborhood. Turn Brownsville into World War III and the South Bronx into an open sore. Stick a string of welfare hotels into Greenwich Village and knock down a community of self-built homes in Corona. And if someone points out that these changes have made life worse, not better, in the area, then stencil him with words like "racist" or "bigot" and open fire on another neighborhood.

If Poor John's latest attempt at progress-through-disorder goes ahead as scheduled, his Almanac will probably award it a special footnote of its own. Right now on the edge of Forest Hills, Queens, bulldozers are clearing an 8.6-acre site for construction of three 24-story buildings which will provide 840 apartments for elderly and low-income tenants. Thousands of middle-class residents of the area who have been fighting this kind of public housing project since 1967, are now picketing the construction site at 108th Street and Horace Harding Boulevard. They are trying to tell John Lindsay and anyone else who'll listen that they're terribly afraid of the project as it's now designed. The Mayor has responded by calling their demonstrations "deplorable" and by getting a court order to prevent them from picketing. No one in the city administration has been willing or able to calm the fears of these Forest Hills residents that the three public housing towers—divided into 60 per cent low-income and 40 per cent elderly occupancy—will bring crime and urban decay to their quiet neighborhood of low-rise apartments and private homes.

There is more at stake in this struggle than the fate of one of the vanishing New York City middle-class neighborhoods. According to liberal Queens Congressman Benjamin Rosenthal, who opposes the present design of the project, "this is a national test case to determine whether the movers and shakers of the housing industry in this country can do whatever they want or whether neighborhoods will be able to influence their own future."

The opponents of the Forest Hills housing project have compiled an impressive list of technical reasons why the present plan is ill-conceived. The city paid the incredible sum of $300,000 an acre for this site after it had already been rejected by private builders as geologically unable to support apartment buildings. Cost estimates for the project have risen from $17 million to nearly $30 million ($32,000 per apartment), provided contractors can sink support pilings down to a firm foundation (previous pilings have disappeared in the soft subsoil). The 24-story towers would not blend in with the surrounding six-story buildings but would stand separate and apart from them. The project is located in a two-fare transit zone and would strain services, schools, and facilities already inadequate for the present population.

Technical reasons, however, are not the ones which lead most area residents to oppose the project. The real reasons are human and social. The residents are afraid the project will bring to a relatively safe neighborhood (mostly white, but with middle-class black residents as well) low-income blacks from the city's ghettos who will carry with them the crime and drug problems of those areas. This fear, instead of being dismissed as "racist," or "reactionary," deserves to be examined. For this fear is based upon the personal experiences of many people who have sought shelter in Forest Hills after leaving other dying neighborhoods. And this fear is enough to drive them out again, leaving behind them the seeds of another slum.

First, experience has shown that where low-income housing is located, crime increases. The precise facts and figures are subject to debate since the people who supply them invariably have a political interest in one direction or another. But the basic situation is well understood. The poor and disadvantaged classes have always provided the greatest number of criminals, especially in a country where poverty is considered to be either a moral or statutory crime. So large numbers of poor people grouped together in public housing projects produce higher crime rates. When you add to this already unhealthy picture the fact that increasing percentages of housing project tenants are not working poor but welfare poor—people who are among the most hopeless and desperate in the city—the situation grows worse. The city claims that about 16 per cent of public housing tenants are on welfare. Congressman Edward I. Koch of Manhattan thinks 30 per cent is closer to the truth.

"The residents of Forest Hills are expressing two very real and rational fears," says Koch, who has joined Congressman Rosenthal in opposing the present design of the 108th Street project. "The fear of crime is a very real one, and second, it's absolutely rational to believe property values will decline in the area of a high-rise housing project. Fear moves in and people move out."

A woman who picketed the Forest Hills project site this week illustrated this statement with personal experiences. "The city put up a housing project near where I used to live in Brooklyn," she said. "It was the kind of neighborhood where you could leave your door open when you went to the store. Then the kids from the project found out about this gold mine and you could see them going through the back yards in the middle of the day, trying doors to see which ones were open. People began to lock up, buy gates for the windows, but who wants to live that way? Then came the burglaries and muggings and people began to move out. I came to Forest Hills. Where am I going to go next?"

Early in his first term John Lindsay recognized that building low-income housing projects in slum and ghetto areas maintained poor people in an environment harmful to their chances for social progress. Distributing the housing projects into middle-class neighborhoods was the way to stop this piling of poverty on top of poverty. But no one seemed to grasp a simple fact of social engineering. Unless the middle-class neighborhoods *remain* middle class after the housing projects are completed, no progress is made. Instant slums are created in formerly attractive areas. The poor are shifted from one ghetto to another, and *their lives don't get any better*.

There is no curative magic in middle-class neighborhoods like Forest Hills. The people who live there aren't better off because the area is nicer. They're better off because they made the area nicer. Unless new residents contribute the same kinds of middle-class disciplines and values to the neighborhood, it will become something else. This is where John Lindsay and the social theorists who work for him went wrong. Their new housing projects, with few exceptions, put too many poor families together in one place. The poor had more of an effect on the middle-class neighborhoods than the neighborhoods had on them. The neighborhoods became poor.

What Rosenthal Koch, and most of the Forest Hills residents who oppose the present project would like to see is a different approach to low-income housing, an approach that takes into consideration the fact that while integrating races isn't much of a trick in New York City any more, integrating people of different economic levels and value systems is practically impossible. But, in reasonable numbers, it can be done. Instead of cooking up a housing project that will concentrate 536 low-income families in high-rise towers that Rosenthal has called "concrete ghettos," why didn't the planners limit the low-income allotment to 100 families or so? Instead of those towers, why weren't the new buildings kept in close profile with the surrounding ones? And why was a middle-class community like Forest Hills expected to take such a huge dose of concentrated poverty without a single sweetener from the city to compensate?

"We've never had a thing from the city," says Joseph Walderman, vice-president of the Forest Hills Residents Association. "Not one damn thing."

If the Lindsay administration had settled for a smaller number of low-income families in the Forest Hills project, if it had come up with a more compatible design, if it had mixed in some middle-income housing and added a much needed community recreation center, there would have been no large-scale protest by residents of the area. The poor families would have been absorbed into the middle-class neighborhood because their numbers were not large enough to threaten it. Everyone would have benefited. But with the present plan, everyone is in danger. The residents may lose their neighborhood, and the poor may find themselves in another slum.

"Lindsay didn't worry about us," says Walderman, a quiet articulate man, "because he thought he could get away with ramming this thing down our throats. We're middle-class liberals. We're not supposed to fight back. Our picket line must have come as quite a shock to him."

Press coverage and editorial opinion on the Forest Hills affair have hit hard on the theme that the protesters are either bigots or misinformed, or both. This is inevitable, perhaps, because the middle class doesn't make good news copy. They aren't like the lower-class Italian home-owners of Corona, full of colorful little ethnic details, who needed a voice to protest their homes being razed to make room for a new school. The middle class speaks for itself. It believes in the bourgeois values of home, religion, hard work, and tries to do the right thing. It's middle America, and all that term implies. It's dull, ordinary, predictable, and supposedly reactionary in racial matters. This, say the Forest Hills residents who want the housing project, is the real reason why the vast majority of their neighbors oppose it.

This type of slander is effective in an emotional issue like racial integration, but it doesn't check out. Ed Koch attended a dinner recently where Carl Stokes, a black man and former mayor of Cleveland, addressed a number of fellow black politicians. "If you think it's only whites who don't want low-income housing projects in their neighborhoods," Koch remembers Stokes saying, "baby you're wrong!" Stokes then told how his administration had built projects in middle-class black neighborhoods in Cleveland. A black woman and friend of the mayor whose home was near one of these projects said to Stokes: "Carl, I never thought you would do that to me." And she never spoke to him again.

In a middle-class Puerto Rican neighborhood of the Bronx, homeowners are now expressing opposition to two new residence houses for wards of the court planned for their area. The middle class Puerto Ricans are worried that muggings and drug use will increase and their property values will drop. And how many court wards would move into the neighborhood? Just 24. Count 'em. Twenty-four.

The real issue in Forest Hills and in every middle-class neighborhood in America lies in the answer to this question asked last summer by Eleanor Holmes Norton: "Will whites flee as blacks and Puerto Ricans of the same economic status and life-style move in?" In Forest Hills the answer has been no. Middle-class blacks move into a building and although there is nervousness and uncertainty, whites do not leave. People who share similar values and abilities can overcome racial differences. With an influx of low-income families, however, that value sharing is minimal and strained.

If the city administration means to keep New York from deteriorating any more than it already has, there will have to be an end to shoving large numbers of low-income families into middle-class neighborhoods. Disrupting the middle class will not help the poor. It will only deprive them of a better neighborhood to which they can advance when they, like many of the people of Forest Hills today, have lifted themselves out of poverty.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider nominations on the Executive Calendar under "New Reports."

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDING OFFICER. The nominations under "New Reports" will be stated.

AMBASSADORS

The second assistant legislative clerk proceeded to read sundry nominations of ambassadors.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed en bloc.

INTERNATIONAL CIVIL AVIATION ORGANIZATION

The second assistant legislative clerk read the nomination of Mrs. Betty Crites Dillon, of Indiana, to be the representative of the United States of America on the Council of the International Civil Aviation Organization.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the President be notified of the confirmation of the nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE SUPREME COURT OF THE UNITED STATES

The Senate continued with the consideration of the nomination of William H. Rehnquist to be Associate Justice of the Supreme Court of the United States.

THE REHNQUIST NOMINATION SHOULD BE CONFIRMED

Mr. PROXMIRE. Mr. President, I will vote for the confirmation of William Rehnquist as Associate Justice of the Supreme Court.

I will do so first because Mr. Rehnquist obviously has strong intellectual qualifications. The Court demands a high grade of intellectual ability. Mr. Rehnquist has it. His distinguished academic record, his demonstrated competence as a practicing lawyer, and his acknowledged ability as an Assistant Attorney General handling complex and difficult legal and public policy problems all demonstrate this.

Although the Rehnquist nomination has become controversial, although he has been opposed by many competent critics, I have yet to hear anyone dispute his intellectual capacity.

This level of ability is rare. It is needed on the Supreme Court. It is a strong point in Mr. Rehnquist's favor.

Second, Mr. Rehnquist has given every indication that he is a man of stable temperament. In the intensive study that has been conducted of the Rehnquist background, there has been no evidence that any critic has developed that Mr. Rehnquist would decide questions on the basis of unreasoning emotion or impulse. And his demeanor in the ordeal of confirmation under questioning was impressive. Mr. Rehnquist seems to be a man of judicious temperament.

Mr. Rehnquist has been a lifetime student of the law. He served former Associate Supreme Court Justice Jackson as his clerk, and served with distinction.

Frankly, I have had more pressure in opposition to Mr. Rehnquist than I have had on any Presidential nomination for the Supreme Court in the 14 years I have served in the Senate. That opposition has come from friends of mine for whom I have the greatest respect and whose judgment I trust.

My friends and my staff are almost unanimous on this nomination. They almost without exception oppose it.

And they oppose it for the same reason. They argue the Rehnquist appointment is likely to cast the Court for years to come in a conservative posture. They contend that Rehnquist's intellectual ability and the force of his personality constitute not a national asset but a serious threat to civil rights and civil liberties.

They argue the great advances of freedom made by the Court in recent years will be jeopardized and even reversed.

Mr. President, I reject that judgment. The crystal ball of Senators and even Presidents is very cloudy, indeed, in predicting the future conduct of newly appointed Supreme Court Justices. Holmes and Frankfurter are two of many whose impact on the American law have been quite different than most observers expected at the time of their appointment.

After carefully reading the record, after hearing the criticisms of so many who object to this appointment, I have become convinced that the case simply has not been made that Mr. Rehnquist does not understand or support the Bill of Rights or the other safeguards of liberty in the Constitution.

And, Mr. President, in all honesty I share the conviction expressed by President Nixon that we need a better balance between the forces of law enforcement on the one hand and law violation on the other. That does not mean any less concern for the liberties we should treasure and advance. Those liberties are at the very heart of what makes this country unique and great.

It does mean that the appointment to the Court of a wise and able man who has demonstrated his thorough understanding of the threat that crime and disregard for the law represents—and I believe Mr. Rehnquist is such a man—can be fully consistent with maintaining the Bill of Rights in its full significance.

Finally, Mr. President, I opposed the nominations of both Judge Haynesworth and Mr. Carswell. In one case the conflict of interest was clear and conspicuous. In the other the Supreme Court nominee simply did not have the ability required for this immensely important position.

In this case Mr. Rehnquist does not and has not had any conflict of interest in his conduct in office, and he obviously has great ability.

Under these circumstances, I have resolved what doubt I have—and I do still have some—on the side of the President of the United States and his nominee. If the Senate should establish the precedent of refusing to confirm able and honest nominees on the grounds that we disagree with their political views, we will have a Court that will consist of political weather vanes reflecting whatever political view the Senate happens to hold at any time. We do not need another U.S. Senate interpreting the law. We need a Court of the ablest legal scholars we can find. Mr. Rehnquist should fit well in such a Court.

For all these reasons I will vote for the confirmation of William Rehnquist.

Mr. BAYH. Mr. President, will the Senator yield?

Mr. PROXMIRE. I am happy to yield to the Senator from Indiana.

Mr. BAYH. I must say that I find myself deeply distressed by the position taken by my friend, the Senator from Wisconsin. He is a man of great logic, and he has been a real fighter for some of the important issues that have been before the Senate.

The Senator suggested he could find nothing in the record to indicate that the nominee did not possess the dedication to human rights that he should have. Has the Senator had the opportunity to read the hearing record and the minority views?

Mr. PROXMIRE. I have read the record and the minority report and I was impressed by the arguments against Mr. Rehnquist. As I said, my staff took a poll and they unanimously felt he should be rejected on the basis of the record and on the basis of the argument made in the minority views.

However, I was not convinced. For one thing, I think that he has changed his views. He took a different position than I took on civil rights matters 8 or 10 years ago. In my view that does not mean that Mr. Rehnquist now has little or no regard for civil liberties and civil rights. I think what he said in the confirmation proceedings indicated he has had a change of heart. This Senator has changed his views with respect to certain matters during the years; I think the Senator from Indiana has; and I think all of us do that. This man changed, developed, and grew, and I thing on civil rights, by and large, people throughout our country have learned and changed.

Mr. BAYH. I hope the Senator from Wisconsin will bear with me for a moment or two. We have had polls in my office, too, on some critical issues. More than once there has been a 7-to-1 vote but the "one" has been the one who came to the Chamber to vote. That is the way it has to be, and I understand. That is each Senator's responsibility

I have heard a great deal about the nominee's change of mind. But, with all respect to the Senator, I say there is nothing in the record to indicate that is so.

Mr. Rehnquist said he sees no constitutional issue raised by surveillance, the right to privacy. Is that a matter of concern to the Senator from Wisconsin?

We have a nominee who, not in 1964, 1966, or 1967, but 3 or 4 weeks ago when testifying before the Committee on the Judiciary, said he saw no constitutional difficulties presented by surveillance. What about the right to privacy?

Mr. PROXMIRE. That is a generalized conclusion; the Senator would have to be more specific in respect to the nominee's attitude. The Senator is talking about wiretapping, and so forth.

Almost all of the evidence I could see against Mr. Rehnquist is based on his activities when he was in the Justice Department. I think it is very unfair to visit upon an employee of the Justice Department the policies of that particular department. If the Senator from Indiana or the Senator from Wisconsin were working in the Justice Department, either we would do what we were told to do by the Attorney General and the President, or resign. We would either resign or do it the best we could, and that is what he did.

Mr. BAYH. A close reading of the record will show that he said:

> If I did not agree with these policies I would have resigned.

Mr. PROXMIRE. Of course, the Senator is talking about whether he agreed overall with general policies of the President. It does not mean he has to agree with every single aspect. There were occasions when he might have argued against policies; but on the basis of having been heard, the Attorney General made up his mind and Mr. Rehnquist carried out the orders.

At any rate, I do not think the Senator makes a case against the nominee for the Supreme Court on the basis of what happened in the Justice Department while he was an employee there.

Mr. BAYH. Does the Senator from Wisconsin have any examples of these efforts?

Mr. PROXMIRE. The Senator from Indiana knows better than I, because he serves as a member of the Committee on the Judiciary and he was there when the committee attempted, as I understand it, to find out what went on between the nominee and the Justice Department in their conferences on their policies, and that the Justice Department refused to divulge that information. They may have been right or they may not have been right. At any rate we do not know and we do not have a clear record on whether or not the nominee did disagree with his superiors. The fact that the Justice Department has followed a policy or policies in the last few years and that Mr. Rehnquist carried out some of them is not a basis for rejecting this man, who has a very high intellectual capacity and who has demonstrated his ability.

Mr. BAYH. I ask these questions not to be argumentative but to explore the facts as they appear to one Senator. Of course, we all make different judgments and we give different importance to the same facts. But I think we need to understand that Mr. Rehnquist was not some lower echelon lackey who was ordered into battle to carry out commands of the generals. Indeed, he was one of the top policymakers. He did not just carry out policy: he helped to make it.

I know of no efforts he made to show us that his own views were different from Department policy. We did not ask him to prejudge cases. We tried to get his personal views. In statement after statement he went so far as to say he did not think it would be a constitutional question if the Government wanted to follow, or to put a tail on, the Senator from North Carolina (Mr. ERVIN).

When we were discussing the limits of our right to privacy, he never once denied that the President had the inherent right to bug our telephones in both foreign and domestic security cases without any kind of supervision at all. This was the real William Rehnquist. It was not just Justice Department's view.

This is what caused me to consider that his approach to the Bill of Rights was callous at best. This belief was reinforced by the nominee himself, who said, "If I did not believe in these policies, I would have left." He did not espouse these views because the administration might fire him. He was comfortable; he was a part of formulating that program.

Mr. PROXMIRE. I am sorry. Will the Senator repeat the last observation?

Mr. BAYH. I was suggesting that he was a part of formulating these programs. For instance, the preventive detention bill—I do not know how the Senator voted on that bill, but this was one of William Rehnquist's babies.

Mr. PROXMIRE. I voted for it.

Mr. BAYH. Then, the Senator does not share the concern I have about this particular matter.

Is the Senator from Wisconsin familiar with the 1952 memorandum that then law clerk Rehnquist wrote to Justice Jackson relative to Brown against Board of Education in which he urged that Plessy against Ferguson be reaffirmed?

Mr. PROXMIRE. Yes. I think that was bad—a mistake. I do not think this Senator would have done it. But that was written when the man was in his 20's and then a clerk of a Supreme Court Justice. I think, certainly, Mr. Rehnquist's views have changed since then. I think the views of the Senate have changed since then, and the views of the country have changed since then. To go back to that period and say because he took this position, which in my view was a wrong position, that now, in 1971, he is disqualified, I think is not fair.

Mr. BAYH. I would like to concur with the statement that the Senator from Wisconsin has just made. After all, Mr. Rehnquist was only 28 years of age, which is hardly wet behind the ears. That is exactly the age which Judge Carswell was when he made his now-infamous statement about white supremacy which led to his nomination being turned down by the Senate. The fact that Mr. Rehnquist said that in 1952 does not mean he could not have changed his mind. Unfortunately, I do not think he has had any change of heart. In 1964 he was opposing the Phoenix City Council ordinance to require the integration of public places of business, using very much the same argument which he made in his memorandum to Mr. Justice Jackson. At that time he was 40 years of age. Does it concern the Senator from Wisconsin that at age 40 he still had the same concern for property rights in place of individual rights?

Mr. PROXMIRE. The Senator will recall that when the bill was before the Senate in 1964 we voted to provide against discrimination in places of public accommodations. The Senator from Indiana and the Senator from Wisconsin held strong views on that and were enthusiastically in favor of that. But it was a change in the policy of this country. There were many thoughtful people at that time who opposed it. So it was a change in national policy. Simply because at that time Mr. Rehnquist represented the settled view does not seem to me to disqualify him now for the Supreme Court.

I think that is a very important view now, but it is, nevertheless, a policy view. It is a view that was held at one time by the late Senator from Illinois, Mr. Dirksen, and many other Senators, but in the course of debate he, like others, changed his mind at the time of the adoption of the civil rights bill. He was opposed to the civil rights bill to begin with. He fought it as the principal opponent. But he recognized it was an idea whose time had come, and his position changed. It is probable that Mr. Rehnquist's view has changed, as he said it has.

Mr. BAYH. Mr. Rehnquist has never said that he was wrong when he wrote that memorandum. He has talked about a nine-judge majority and stare decisis and the weight to be given to precedent. But let us remember we are talking about a man who is going on that Court and who will be a part of that nine-man voting block. That is why I think it would be a mistake to put on the Court a man who in 1952 was in favor of sustaining Plessy against Ferguson. I do not say this because of the ultimate conclusion he reached, but because he urged Justice Jackson to vote against Brown against Board of Education on the ground that the Court would be making an error in supporting the rights of this minority. It seems to me it is a mistake to put a man on the Court who does not feel that the Court not only has the right but the responsibility to protect individual rights. That is the reason for the Bill of Rights. That is the purpose of the Court. He talked about Jehovah's Witnesses. He talked about the rights of businessmen. He talked about various other minorities that had to be protected. He talked about slaveholders. He just did not believe the Court should move into those areas. This concerns me because if we confirm him, he will not be a law clerk or an official down at the Justice Department who can be removed if the country does not like his voting. He wil be on the highest Court and every public pronouncement of William Rehnquist would indicate that he does not realize the importance of the rights of minorities.

Sure, of itself it means little or nothing that in 1952 he was against Brown against Board of Education. However, in 1964 he was against letting black people into the drugstores of Phoenix. As a private citizen he became excited enough over a very mild integration plan to take public issue with the school superintendent. That was in 1967. In 1966, as a uniform laws commissioner he did everything he could to stop an antiblockbusting provision, which was favored by the rest of the commissioners. He tried to strike that out of the uniform code. He tried to strike out a section which would have permitted—not required but permitted—employers to compensate for past discriminatory hiring practices. When he was defeated in that fight, he successfully led the effort to change it from a uniform act to a model act.

If there is sufficient reason to believe that Mr. Rehnquist now is sensitive to the rights of minorities, I wish the Senator from Wisconsin would point it out to me, because I do not find it in the record.

Mr. PROXMIRE. I have taken the position I have taken on this nomination, I will say to the Senator from Indiana, because I feel that while the views of Mr. Rehnquist are different from the views I hold very strongly, and as I have said in my statement, while I have some hesitation about it, I think we are wrong if we impose a political test and that is exactly what the Senator from Indiana proposes. I do not think we should appoint people to the Supreme Court based on whether we agree with any political position they have taken. It should be on the basis of their ability, integrity, honesty, and whether or not there is a conflict of interest involved. I think on all those scores this man is outstanding.

After all, he was No. 1 in his class at Stanford Law School. He is a man of great ability and great intellect. We need men like that on the Supreme Court. The argument that he has taken a quite different view, and a view that does disturb the Senator from Wisconsin, on civil rights is not a sufficient basis why he should not go on the Court.

Mr. BAYH. What is the proper scope of the Senate's inquiry, in the view of the Senator from Wisconsin? I ask the question because I have great respect for the Senator from Wisconsin and because the people look upon this body not only as a whole but at individual champions. And they look at the Senator from Wisconsin as one who courageously led the fight against the SST because it was wrong, and they will want to know how he views this nomination. I think that his vote would be taken as a compliment and they would regard the vote of the Senator from Wisconsin with more than normal weight.

Are there limits beyond which we should not permit a man to go on that Court?

Mr. PROXMIRE. Of course there are. As the Senator knows, I voted against Carswell. I voted against Haynsworth. I probably voted against more nominees of President Kennedy, President Johnson, President Eisenhower, and President Nixon than almost anybody who has been here while I have been in the Senate. I have never taken the view that we should automatically rubberstamp any nominee of the President. But I think when the President makes a nomination to the Supreme Court of a man who is qualified intellectually, who has a good, solid legal background, a man who is open, who is honest, a man whose conduct in that respect has not been questioned, I am going to support him.

I think there was a strong effort made to discredit Mr. Rehnquist on specific grounds, but I did not see any instance in which this was substantiated. I did not see any instance in which it was shown that Mr. Rehnquist was dishonest or where he had acted improperly, or without regard to the law. Under those circumstances, it seems to me that we should give the President of the United States and the nominee the benefit of the doubt.

Mr. BAYH. I guess I should have been more definitive in my question. There are no grounds, apparently, in the policy area that the Senator from Wisconsin feels are sufficient to oppose the nomination.

Mr. PROXMIRE. Policy area? I am not sure I know what the Senator means. Political grounds. There are some——

Mr. BAYH. Being against Brown against Board of Education is not sufficient in the mind of the Senator from Wisconsin?

Mr. PROXMIRE. Well, the fact that he was against it some time ago, no. I would say no. I would say that is not sufficient. Obviously, if it were, I would not be for Mr. Rehnquist.

Mr. BAYH. I asked him about the letter to the editor that he wrote and the issue he had with the superintendent of schools in Phoenix in the very mild integration effort, a freedom of choice plan, really, which has now been outdated by light years. I asked him why he opposed that, and he said he was against long-distance busing. The superintendent himself was against long-distance busing. There is just no evidence, I may say to the Senator from Wisconsin, to substantiate the claim that William Rehnquist would look differently, if he were on that Court today, on the rights of black people than he did back in 1952 when he urged Justice Jackson to vote against Brown against Board of Education.

I shall not pursue this further. The Senator from Wisconsin has been very kind. It is very distressing to me, as I say, that he has taken this position, but each Senator has the right to his own viewpoint, and I know that he feels deeply in his conscience that he is right. I accept that judgment.

Mr. PROXMIRE. I thank the Senator. Mr. President, I yield the floor.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BAYH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAYH. Mr. President, I should like to follow my colloquy with the Senator from Wisconsin with a few additional observations.

On the past two occasions when the Senate has refused to advise and consent to Supreme Court nominations, we have had a variety of reasons expressed by various Senators as to why they reached the conclusion to vote "No" against the President's nomination.

The Haynsworth nomination, I think the record will show, presented a unique combination of concern over the nominee's views on civil rights, perhaps also his concern over certain social issues closely related to the labor-management area, and concerns about the judge sitting on cases in which he had a financial interest—the ethical question. Because of these matters, 55 Members of the Senate stood up and said, "With all respect, Mr. President, no. Send us another nominee." And the President did.

Then followed another heated battle over the Carswell nomination. The Carswell nomination was not a replay of the Haynsworth nomination. Even stronger concerns were expressed about Judge Carswell's position in the area of civil rights and human rights. This was rather well documented by a statement he had made when he first ran for the legislature, when he was 28 years of age, in which he said that he yielded to no man in his belief in white supremacy.

I find it ironic now to see the similarity that was expressed in the argument of the Senator from Wisconsin, wherein he said that if he felt that William Rehnquist still was opposed to Brown against Board of Education, he would vote against him as a nominee to the Supreme Court.

Some argued strongly in support of Judge Carswell that if they believed he still felt that the cause of white supremacy was valid, they would vote against him for the Supreme Court. But they contended that Judge Carswell had changed his mind.

Now the proponents of William Rehnquist suggest—not that he was right in urging Justice Jackson to vote against Brown against Board of Education and to sustain Plessy against Ferguson—that Mr. Rehnquist has changed his mind.

Just as the Senate, when confronted with the evidence about Judge Carswell, apparently came to the conclusion that he had not changed his mind, I think the evidence is equally clear that William Rehnquist has not changed his mind on the great social issue presented in Brown against Board of Education. I wish it were not the case, because I cannot contest the intellectual capacity of the man. But it seems to me that a man who is wrong on the great philosophical issues that confront this country should not be given the Good Housekeeping seal of approval by the U.S. Senate just because he happens to be magna cum laude. In fact, it would seem to me that a man who possesses this intellectual capacity should have to meet a higher test of understanding of the humane questions of the day.

In 1952, when magna cum laude Rehnquist was advising one of the most distinguished Justices on the Supreme Court, he was totally unaware of the problems, the perplexities, the sensitivities, and the frustrations of the millions of black Americans. To me that indicates that on the outside the grade may be letter "A" but on the inside, in the heart, where it really counts, he fails the course. Such an analysis also comports with his repeated statements that he changed his mind about the open accommodations ordinance, not because he came to realize that all citizens are entitled to the same rights, but because he now knew how much the minorities cared about such rights.

Of course it is possible for a 28-year-old to mature. I think this is a valid hypothesis. Hopefully, it is possible for a 43-year-old to mature and get greater wisdom. But, interestingly enough, if one follows the maturing and, the development of the thought processes of William Rehnquist from the 1952 memorandum to 1967, when he took issue with the Phoenix superintendent of schools on the very same issue, there is no maturing.

If between age 28 and age 40 the position of William Rehnquist on the important area of quality education, of letting minority students have access to our public institutions of education, did not change, why are we to assume that suddenly there was a renaissance beyond age 40?

I think that that is not a valid assumption. Certainly Mr. Rehnquist was a leading member of the bar. He had very set thoughts, a very significantly developed philosophy and intellect. To suggest that there has suddenly been a renaissance between 1967 and 1971 is to look for something that does not exist, and to hope and pray for something that never will be.

I think it is important to look at some of the excerpts from that editorial in 1967 to see what Mr. William Rehnquist thought then about letting the minority children of Phoenix have access to their school system. I begin by setting the issue in perspective. On yesterday we talked extensively about the philosophy expressed in the 1952 memo. Yesterday I quoted, and I quote again today for the sake of continuity, from that memorandum which Mr. Rehnquist wrote to Justice Jackson:

> One hundred and fifty years of attempts on the part of this Court to protect minority rights of any kind—whether those of business, slaveholders, or Jehovah's Witnesses—have all met the same fate. One by one the cases establishing such rights have been sloughed off, and crept silently to rest. If the present Court is unable to profit by this example, it must be prepared to see its work fade in time, too, as embodying only the sentiments of a transient majority of nine men.

He further stated:

> To those who would argue that "personal" rights are more sacrosanct than "property" rights, the short answer is that the Constitution makes no such distinction.

Therein was the philosophy of William Rehnquist in 1952. I suggest that his philosophy did not change much between then and 1967, because in the issue that was involved in Phoenix, Ariz., we were not talking about a quota system. We were not talking about forced long-range busing. As I suggested to my friend, the Senator from Michigan, yesterday, we have pounded our breasts and talked about the intellectual capacity and the honesty of the nominee. Yet he had the audacity to come before the Committee on the Judiciary and try to explain away his opposition to the school plan in Phoenix on the basis that he was opposed to long-distance busing. Long-distance busing was not even involved. The superintendent of schools himself was against forced long-distance busing, and if William Rehnquist says that is the reason he wrote that letter, he is not being honest with the Senate.

Mr. Rehnquist said in his letter, and I will quote excerpts from it—but I ask unanimous consent that the entire letter to the editor written by Mr. Rehnquist back in 1967 be printed in the RECORD at this time.

There being no objection, the letter to the editor was ordered to be printed in the RECORD, as follows:

> "DE FACTO" SCHOOLS SEEN SERVING WELL
>
> (By William H. Rehnquist)
>
> The combined effect of Harold Cousland's series of articles decrying "de facto segregation" in Phoenix schools, and The Republic's account of Superintendent Seymour's "integration program" for Phoenix high schools, is distressing to me.
>
> As Mr. Cousland states in his concluding article, "whether school board members take these steps is up to them, and the people who elect them." My own guess is that the great majority of our citizens are well satisfied with the traditional neighborhood school system, and would not care to see it tinkered with at the behest of the authors of a report made to the federal Civil Rights Commission.
>
> My further guess is that a similar majority would prefer to see Superintendent Seymour confine his activities to the carrying out of policy made by the Phoenix Union High School board, rather than taking the bit in his own teeth.
>
> Mr. Seymour declares that we "are and must be concerned with achieving an integrated society." Once more, it would seem more appropriate for any such broad declarations to come from policy-making bodies who are directly responsible to the electorate, rather than from an appointed administrator. But I think many would take issue with his statement on the merits, and would feel that we are no more dedicated to an "integrated" society than we are to a "segregated" society; that we are instead dedicated to a free society, in which each man is equal before the law, but in which each man is accorded a maximum amount of freedom of choice in his individual activities.
>
> The neighborhood school concept, which has served us well for countless years, is quite consistent with this principle. Those who would abandon it concern themselves not with the great majority; for whom it has worked very well, but with a small minority for whom they claim it has not worked well. They assert a claim for special privileges for this minority, the members of which in many cases may not even want the privileges which the social theorists urge be extended to them.
>
> The schools' job is to educate children. They should not be saddled with a task of fostering social change which may well lessen their ability to perform their primary job. The voters of Phoenix will do well to take a long second look at the sort of proposals urged by Messrs. Cousland and Seymour.

Mr. BAYH. Mr. President, just to excerpt part of that letter so that the Senate may look specifically at what concerns the Senator from Indiana, in referring to the superintendent of schools, Mr. Seymour, Mr. Rehnquist said as follows:

> Mr. Seymour declares that we "are and must be concerned with achieving an integrated society." Once more, it would seem more appropriate for any such broad declaration to come from policy-making bodies who are directly responsible to the electorate rather than from an appointed administrator.

Of course, it is rather obvious, if I might interject here, that Mr. Rehnquist is opposed to such philosophy espoused and promulgated by policymaking bodies. He is opposed to this kind of thing because of the position he took when he was a uniform State law commissioner when an antidiscrimination act was in the process of being promulgated.

Mr. Rehnquist led the effort to degrade that proposal from a uniform act and make it a model act so that he would not be committed to having to go back to Arizona and say, "All right, ladies and gentlemen of the State legislature, we are going to implement this antidiscrimination act."

He continues:

> But I think many would take issue with his statement on the merits, . . . I think many would take issue with the statement on the merits, and would feel that we are no more dedicated to an "integrated" society than we are to a "segregated" society.

Mr. President, he said we are no more dedicated to an integrated society than we are to a segregated society. Then he proceeds very deftly by saying that:

> We are instead dedicated to a free society in which each man is equal before the law, but in which each man is accorded a maximum amount of freedom of choice in his individual activities.

To be sure, we are dedicated to a free society. To be sure, we want each man to be equal before the law. How much freedom before the law does a black child have who cannot get into the Phoenix school system? How much freedom does a member of a minority group have if he cannot shop where he chooses?

How much freedom does a black family have that cannot find a house in which to live? How much freedom does a black person have who is sick, and who is denied access to the drug stores of Phoenix? How can anyone make a statement like that in light of 200 years of discrimination? Although this is a very well phrased intellectual argument, it completely falls apart on the facts and shows a kind of inhumane quality, and a lack of the sensitivity that any Justice of the Supreme Court must have if he is to deal with equal justice before the law for all of our citizens.

Mr. KENNEDY. Mr. President, the American people are the freest people in the world. When we count our blessings we can count many of them in constitutional terms:

Freedom of speech, of assembly, of religion;

Freedom of the press;

Due process of law before life, liberty, or property can be taken away;

Equal protection of the law without regard to wealth, race, religion, or ethnic origin;

Freedom from unreasonable searches and seizures, from forced self-incrimination, from excessive bail, from cruel and unusual punishment;

Right to counsel and to habeas corpus;

A government of limited powers, constrained by tripartite checks and balances;

An independent judiciary to enforce and vindicate all of these rights.

We take those blessings so much for granted that sometimes we forget that they have real content and make real differences in our lives. But that content does not merely happen. It does not protect itself. It does not exist as an absolute in stable equilibrium.

Though our liberty has persisted for nearly two centuries, preserving it has been a major national challenge. In my own lifetime, at least once each decade the American people have had to prove their love for liberty by defending it against direct challenges, and they have always proved equal to the task.

In the 1940's freedom was challenged by a madman who thought the final solution to the world's problems was to separate and eradicate races and religions he considered inferior, and by another dictator who sought to persuade his people to trade their liberty for an authoritarian government which could make the trains run on time. America mobilized in the name of freedom, and we invested a generation and a treasure and half a decade in preserving liberty for ourselves and for our friends.

In the 1950's, the threat came stealthily from within, and we did not adequately respond until it was almost too late. One man poisoned the environment of liberty with inuendo and insinuations and invective. Yet, in the nick of time, the courage and conscience and concern of the American people for their birthright of freedom were again aroused, and provided a strong antidote to the McCarthyite venom.

In the mid 1960's, a small band of men succeeded in capturing one of the major political parties. But when they tried to sell the American people on the idea that "extremism" was the path to liberty, the people came to the polls by the millions to bury that philosophy—they thought—once and for all.

The first 2 years of this decade have not been happy ones in the history of liberty. We have seen the first prior restraints on our press in history. We have seen soldiers shoot down our children during an antiwar assembly, and we have waited in vain for the convening of a Federal grand jury to fix responsibility. We have seen secret electronic surveillance of dissident domestic groups by fiat of the Executive. We have seen—and the courts have found—indiscriminate mass arrests, protracted illegal detentions, fraudulent manufacture of evidence, cruel and inhuman punishment, and pursuit of baseless prosecutions as harassment, all in the name of making the buses run on time one morning in Washington. We have seen misuse of investigative agents to intimidate critics of Government on the outside, and blatant pressure to eliminate critics within Government. We have seen civil rights take a back seat to regional politics, and civil liberties take a back seat to the politics of fear.

Oh, yes. We are still the freest people in the world, but if the trend of the 1970's continues as it has begun, then sooner or later we will find ourselves locked in another struggle to maintain liberty. I would rather that it be sooner than later. I would rather not wait to shore up the constitutional foundations of our freedoms until they have been so chipped away and eroded that they are in danger of collapsing. I would rather we, right here in the Senate, take a stand now to preserve our heritage as free men and women. I would rather we draw a line boldly at the boundaries of our democracy and say: This far, Mr. President, and no further.

There will, of course, be other opportunities. There may be other Supreme Court vacancies for this President and the Senate to fill. And there will be the contest in the fall of 1972 in which liberty may be an issue. But the asymmetry of the risk is too great. If we assent to the present nomination, we are saying to Nixon and Mitchell and Kleindienst and Mardian and Rehnquist, "Go ahead, whittle away our Constitution, constrict our liberty, curtail our freedom. We will not only refrain from stopping you, we will reward you by placing you and your ilk in the temple of liberty."

And so the whittling will increase, and the constraints will multiply, and the curtailment will accelerate—all in the pursuit of the highest motives—until one day we may all wake up and find that we have ratified by our silence the embezzlement of our most precious entitlements. By then it may be too late to find a battlefield, let alone win the battle. An exaggerated nightmare? Perhaps, although people in Greece, Northern Ireland, Canada, Chile, East Pakistan, and South Korea probably thought so, too, until one day recently they woke up to find basic rights suspended—for their own good, of course. But why should we take that risk at all? Why should not we repeat, symbolically and pragmatically, the words carved in stone at the Justice Department: "Eternal vigilance is the price of liberty," and effect that vigilance by making sure that the camel of authoritarianism gets his nose no further into the tent of freedom than it is already.

The symbolism is clear. William Rehnquist, as Mr. Nixon himself put it, has been the President's lawyer's lawyer during this whole period of retrogression in human rights and human liberties. Never in the course of American history have so few taken so much from so many, and William Rehnquist was there every step of the way.

When the Attorney General needed someone to validate the legal theory in the Pentagon Papers case, Mr. Rehnquist was happy to oblige, even though he knew that the legal sufficiency of the case depended on the factual situation, and even though he knew he did not know all the facts. And when someone was needed to call the Washington Post and ask it please not to publish the news, Bill Rehnquist was ready and willing.

When someone was needed to defend George Harrold Carswell's pitiful record in civil rights cases, there was Bill Rehnquist attesting to the fact that the Carswell decisions—though they looked racist, and sounded racist and smelled racist—were really only the product of a "consistently applied constitutional conservatism." And there was Bill Rehnquist, ready with a new "reasonableness" label for the tapping and bugging of domestic dissidents when the old "inherent power" label became too much even for the Justice Department to stomach, and there he was designing the "reasonableness" argument without bothering to find out which, or how many, or why, citizens were being electronically spied on in the absence of court orders or probable cause, without knowing, for example, that there are three to nine times as many days of non-court-ordered Federal electronic spying as there are days of court-ordered surveillance.

And it was Bill Rehnquist who sat in to tell the May Day planners what kind of special legal arrangements would have to be made to invoke extraordinary powers, who was silent when such powers were invoked without legal authority, but who nevertheless spoke up promptly in defense of the May Day procedures, again without bothering to ascertain the facts. And after Senator Ervin had demonstrated clearly and brilliantly that executive branch self-restraint had utterly failed as a limit on military spying on civilians, there was Bill Rehnquist telling Senator Ervin that executive "self-restraint" was the answer to abusive investigative practices. And there was Bill Rehnquist putting the legal gloss on the administration's efforts to gag dissident Federal employees, and justifying the ex cathedra Presidential expansion of the powers of the Subversive Activities Control Board.

Be careful, we are cautioned. Maybe some of those positions were required of him in his role as advocate. But in most of these instances he was no mere mouthpiece. He was actually or potentially the brains, or the intelligent filter.

Look at the Carswell situation, for example. When I questioned Mr. Rehnquist about his defense of Carswell's civil rights record, he stressed that he did so as an advocate, implying that perhaps his personal views were different from his public views, an implication corroborated by other hints he has given. And yet if Mr. Rehnquist in fact felt personally that Carswell was a racist, then his job was not to persuade the Senate of the contrary, but to persuade the Attorney General to withdraw the nomination. For surely to a dedicated and bright lawyer like William Rehnquist, the appointment of a mediocre racist to the Supreme Court would be a watershed issue of the highest order.

Walter Hickel knew what to do in situations like that. So did the late James Allen. So did Leon Panetta and Terry Lenzner. And in the Justice Department itself the Solicitor General has shown the way by refusing to put his name on important departmental briefs with which he disagreed. So if the nominee really disapproved of the official line on these issues of major national significance, there were ways for him to express that fact, but never once did he avail himself of them.

The defeat—or at least the mustering of a serious showing of opposition to—this nominee is important for far more than its symbolism. The post he aspires to is a seat on the Supreme Court of the United States. There his prejudices and predilections, his sensitivities and sensibilities, his sympathies and secret hopes, will all become the stuff of which justice is made. Perhaps no official of Government has as much unreviewable discretion as a Justice. The simple decision to accept or reject a case for Supreme Court review, a decision which can be one of life or death, is one which each Justice makes arbitrarily, without explanation, without recourse, based on his own sense of priorities.

Sitting as a Circuit Justice on emergency matters, one member of the Court can wield immense power with almost unlimited discretion. And beyond that, on the largest issues of the day, a Justice, especially one who believes as the nominee does that every right must be balanced against other values, must apply his own system of weights and values when he is asked what "due" process, "reasonable" searches, "excessive" bail, "equal" protection, and other constitutional standards should mean in practice.

And he does not have that power and that responsibility just for the term of the man who appoints him. He has it for life. He is likely to be a member of the Court for at least the opening quarter of the third century of our Nation's independence. Thus during a time when we should be rededicating ourselves to liberty, during a time when individual imagination and initiative and spirits should be given another chance to soar, this man who seems to care so little for individual liberty, will be one of the referees between the individual and the state.

During a time when technology will give the Government the tools to intrude on every second of every day of every citizen's life, this man, who appears so congenial to Government intrusion, will be setting the bounds of Government power. During a time when every last vestige of racial discrimination and preference must be erased if our society is not to deteriorate into warring camps, this man, who has repeatedly proven his lack of sensitivity to the human drive for equality, will have his hand on the throttle—and his foot on the brake—of equal protection and equal opportunity.

In short, at the very time when we as a nation may have to decide whether the constitutional precepts which have served us so well for 200 years shall endure for another hundred, this man, who thinks of the defenders of constitutional liberties as "softies," will have a large say in the decision.

Are we men or are we mice? Are we so in awe of the President that we will surrender our own freedom, and that of the people who sent us here, just to avoid offending the President? Do we have so little analytic capacity that we will allow him to pass off a compulsive authoritarian as a judicial conservative? Are we so naive, are we so relieved at the nonnomination of the "Nixon six" that we will let ourselves be taken in by the greatest "bait and switch" ploy in history? Are we so simple minded that we are willing to risk severe constitutional retrogression in hopes that some Peter Pan will fly us to a land without crime, without discord, without dissent?

What are we afraid of? When the President has the veto power over our activities, he does not hesitate to remind us of that fact, and as we saw again last week, we all too frequently yield to his warnings. In the case of Supreme Court appointments, we are trustees of liberty for the people.

We have the veto power, not to mention the constitutional obligation of advice to the President. We have proved the force of that power. But why is it that we do not insist that the President's selections reflect our concept of liberty as well as his own? That is what the framers of the Constitution expected us to do. That is what the Senate has done time and time again over the years. That is what the President does to us when our roles are reversed. And that is what the nominee himself has said we should do.

The suggestion has been made that there may be something "political," and therefore improper, about refusing to confirm William Rehnquist. Is it "political" to fear for liberty? Is it "political" to opt for the kind of racial harmony that will bring domestic tranquility among our people? Is it "political" to vote to preserve the courts as what John Mitchell himself called "the great bulwark against undue assumption of power by another branch," and the "alternative mode for relief of grievances at times when the more active branches seemed stalemated"? I think not. The oath I took on entering the Senate requires me to preserve and protect and defend the Constitution, and that is precisely what I am doing.

Some Senators are taken with the suggestion that the political consequences to progressive Democrats from the defeat of a third conservative nominee might be worse than the damage this nominee could do on the Court to liberal causes. The logic escapes me.

First of all, constitutional liberty is not a "liberal cause." When I learned about American government, the Constitution was supposed to be for all the people, and it was the conservatives who cared most strongly about maximum scope for individual initiative and endeavor and minimum restraint on the power of government.

Secondly, if it is the "political consequences" of a Rehnquist defeat that Senators are worried about, then it is they who are injecting politics into their decisionmaking to override their views on the merits.

Finally, it is important to remember who defeated the previously rejected nominees. Of the 55 Senators who voted against Haynsworth, 17 were Republicans, including the minority leader and minority whip, and of the 51 Senators who voted against Carswell, 13 were Republicans, and at least two more were what are generally described as Southern Democrats. So it was the whole Senate, not any particular political faction, which declined its consent in those cases.

Moreover, I do not think any of us have anything to be ashamed of or embarrassed about in terms of our overall record on Supreme Court nominations. Even if we assume that a President has or should have some ability within limits to give the Supreme Court a cast that reflects a sense of his own outlook, that test has more than been met.

We now have three Nixon appointees, the first two, if labels are necessary, must be called more than conservatives. They have proven themselves to be consistently responsive to the administration's legal positions, except in the field of civil rights, where the Executive position has been too retrogressive on occasion even for them to swallow. The Chief Justice and the Attorney General have been matching each other almost speech for speech on the issues of the day and they are in regular contact. Thus, even if the vacancies had ended there, the President would have had no legitimate complaint that he had not been allowed to leave his imprint on the Court.

Given the present distribution of Justices, we are certainly not required by any notion of fairness or balance or representation to accept uncritically a final nominee whose constitutional approach places him even beyond the extremity of that already broad spectrum:

A person who might well have been the only dissenter had he been a Justice instead of a law clerk when Brown against Board of Education came before the High Court.

A person who has so little concept of the importance and vitality of the Constitution that he thinks of decisions enforcing it as operating not to the benefit of the freedom and dignity of all of us, but rather to the benefit "of criminal defendants, or pornographers, and of demonstrators."

A person who would like to see us not only throw out the recent decisions assuring poor Americans the same quality of justice as rich Americans, but also revert to the 1903 concept that judges should not worry about whether evidence used in court was unconstitutionally obtained.

A person who supports the right to speedy trial—but only if the right to habeas corpus is diluted.

A person who thinks that "liberty" and "property" are interchangeable values, that "integration" and "segregation" are equivalent evils, that there is something wrong with invoking the notion of "insensitivity" as applied to public officials' views of civil liberties.

A person who thinks that the Nation may "now" be faced not with a challenge to reconcile order and liberty, but with a "choice between liberty and order."

A person who, believing that "disobedience cannot be tolerated, whether it be violent or nonviolent disobedience," suggests without limitation that "if force or the threat of force is required to enforce the law, we must not shirk from its employment."

A person who—just 7 years ago—expressed publicly his concern about the "indignity" thrust upon a shopkeeper required to serve black customers, while the Senate was invoking cloture on a bill to open public accommodations to all Americans.

A person who, as Joe Rauh pointed out so persuasively, saw only as "victories" for "Communists, former Communists, and others of like political philosophy," four Supreme Court decisions, two of which were written by, and two concurred in by, Justice Harlan, the same "conservative" Justice Mr. Rehnquist would like to replace, decisions which vigorously applied the first amendment and other constitutional basics to clear the witchhunt atmosphere of the 1950's.

It is true that William Rehnquist never said he was a white supremicist as Carswell did; it is true that he has never had the problems of financial conflicts that Judge Haynesworth had; it is true that no one has suggested that he would represent mediocrity on the Court, as one Senator suggested of a past reject. But are these the only criteria we know how to apply?

To me the relevant criteria are clear. First, as some of my colleagues are fond of saying, the Constitution is not a suicide pact. No matter how erudite and articulate a nominee may be, and Mr. Rehnquist is a most erudite and articulate gentleman, if we are persuaded that he does not place a high priority on rights and liberties that we consider central and vital to the American way of life, if he seems devoted to redistributing freedom away from citizens and to the Government, if his record indicates that he thinks constitutional protections are expendable at the will of the sovereign, then we have an obligation to our constituents, to our oaths, and to ourselves, to keep him as far from the Supreme Court as possible.

I would go beyond that to a second, higher, standard. I believe the Senate has the right at this point in our Nation's history to require an affirmative showing by each Supreme Court nominee of a commitment and dedication to civil rights and constitutional liberties. At a time when we are on the verge of dissolving racial barriers in our society for all time, we have a right to know that our Justices are enthusiastic about that prospect, that whenever this goal of society is appropriately involved in the balancing process, it will weigh at least as heavily as other social goals.

At a time when our freedoms of expression, assembly, and of press, and our protections from unreasonable searches, from denial of liberty without due process, and in general, from arbitrary government interference, are increasingly threatened by executive action, we must be sure that those joining the High Court fully support the constitutional responsibilities of the judiciary to constrain authoritarian interference with the privacy, beliefs, mobility, associations, or any of the other facets of liberty, that make American citizens the freest people on earth.

Perhaps this man as a Justice will turn out to be truly dedicated to constitutional freedom, contrary to all the evidence from his past. Perhaps he will prove himself fully committed to racial equality, in spite of his almost flawless record of obstruction. But the Supreme Court should not be his proving ground.

Mr. BAYH. Mr. President, will the Senator yield?

Mr. KENNEDY. I yield.

Mr. BAYH. Mr. President, I must say the Senator from Massachusetts has delivered a very compelling dissertation on why the Senate should reject the nomination of William Rehnquist. If I might, I would like to ask a few questions to try to perhaps expand upon his perceptive points. Earlier in the dialog I had with the Senator from Wisconsin, he suggested that because William Rehnquist was intellectually competent and had not been proved dishonest, he thought the Senate really had very little reason to get involved in turning down a Presidential nominee on what he described as political grounds.

Could the Senator from Massachusetts expand on this question? Questions of mediocrity, conflicts of interest, and white supremacy statements were involved with respect to other nominees. But these particular types of shortcomings are not present in the nominee before us. Could the Senator explain a bit further the right, or the lack of it, or the obligation, or the lack of it, of the Senate to look deeper, to look into the bones of a man to see what he believes and thus to see in what direction the Court will be headed if he is sitting on it?

Mr. KENNEDY. I, of course, will be glad to elaborate on the comments I made here. I think the Senator from Indiana knows full well that the Senate established criteria of judgment in terms of the nominations of Carswell and Haynsworth and rejected both nominees, one on the basis of his clearly demonstrated racial views and the second largely because of conflicts of interests in terms of financial holdings.

It seems to me that, in setting criteria for our own evaluations and judgments on this nominee, we should put in terms of equal value the requirement of a firm commitment to the protections guaranteed under the Constitution in the areas of civil rights and civil liberties.

Particularly in terms of the two areas I have mentioned, as the Senator from Indiana understands so well, having sat through the extensive hearings that were held and being the real leader in terms of the study of this nominee, we have seen, in the nominee's background and experience, in the statements he has made as the President's lawyer's lawyer, and in his position in the Justice Department, and also prior to that, a uniform lack of commitment and concern for the basic human liberties and human rights as guaranteed by the Constitution.

I was suggesting that in terms of affirmative commitment, it is just as reasonable to establish it as a criterion of judgment for the Senate as was the case with respect to the conflicts of interest of Mr. Haynsworth and with respect to the questions of commitment to racial equality of Mr. Carswell.

It seems to me, particularly given the times in which we live and the questions with which this country is confronted, we should expect that each nominee show a sensitivity and a concern for human rights. We should see evidence that he will—in reaching the various balances when considering what equal protection is and what due process is, or what the balances are between the rights of a central government and the rights of individual liberties—have a clear commitment to give individual freedoms their due balance and weight. I think we have seen in this nominee that time and time again, when that balance has been considered, it has been inexplicibly light in terms of human rights and human liberties. So I think the nominee fails to meet that requirement.

As I mentioned, I would establish an additional requirement, and that is, for nominees to go on the Supreme Court they have to display a positive concern in terms of the rights and liberties of the citizens of our Nation. I think that is particularly important now, given the stress that our society is being subjected to, the fact that we are at a time in our history when, hopefully, within the next decade we can put the elements of discrimination behind us for all time, and at a time when we are seeing a constant infringement in the areas of civil liberties both because of the technological progress that has been made over a period of time and a general kind of disdain for the protections of the rights of privacy that we have certainly seen in terms of this administration. With the increasing burden we have to face in terms of meeting our constitutional responsibilities to our country, we must insure that the nominees themselves are going to have a sensitivity and an affirmative commitment in those areas.

I think all of us, in considering our vote on this question, are attempting to ascertain what the criteria ought to be for any nominee. Those of us who express reservations about this nomination realize full well that we may be accused of voting against him for political reasons, but I think we entered this with a very clear understanding that that whip could come back at another time in the course of history and could work, if that were the reason, to the disadvantage of those who might be more progressive. But politics is not the reason.

I think during the course of this debate one of the very important and useful results has been to help the Senate, and help the American people, understand better our responsibility in terms of advising and consenting and of scrutinizing a broad range of considerations which I think are required of us in terms of fulfilling our responsibility under the Constitution.

Mr. BAYH. The Senator struck a chord there that I think is important to reiterate. I suppose all of us, in judging what the impact of the nominee will be on the Court, are quick to consider what the impact of his vote on the Court will be on the significant policy questions that will be laid before him. The Senator from Massachusetts points out, in his characteristic fashion, the fact that at this time we are thinking about more than one vote on the Supreme Court of the United States.

We are indeed in the process of creating a symbol, sending out signals to large numbers of people who wonder, not just what the Supreme Court of the United States thinks about education, free speech, surveillance, and opening up our system and keeping it that way, but what the Senate itself says. They are looking at what an elective body thinks about those key issues, and I suppose it is fair to say that the Senator from Massachusetts is equally distressed about the message that will go forth from this body if a William Rehnquist and what he symbolizes to these large numbers of people is put on the Supreme Court.

Mr. KENNEDY. I certainly am. And I think that the Senator from Indiana, in the course of this debate, has touched upon one of the very serious kinds of crisis that I think we are facing in our country, and that is the whittling away of the liberties of our people, including, as I mentioned in the statement, the first prior restraint of the press of our Nation and the pursuit of a news broadcaster by the Federal Bureau of Investigation who had been highly critical of certain administration programs and positions.

Mr. BAYH. Mr. President, will the Senator yield?

Mr. KENNEDY. I yield.

Mr. BAYH. What about those two key issues? Those are important issues, not just to Senators, but to some of our friends in the press who may be listening to this debate. In the judgment of the Senator from Massachusetts, from what we have been able to see in the record and what we have been able to read about what the nominee has said himself, what does the Senator from Massachusetts feel the nominee's position would be on the right of the Federal Government to say to a reporter, "We want to know your sources," or, as in the case that was just handed down by the Court, where an effort was made by the executive branch to muzzle the press, and it was turned down by the Court?

What does the Senator from Massachusetts feel the record shows about the inclinations of the nominee on these two issues?

Mr. KENNEDY. There does not really seem to be much question, since the nominee was instrumental in clearing the development of the Justice Department's position on the application for the prior restraint order. There does not seem to be any kind of question as to what his views would be in terms of more centralized authority and responsibility of the Federal Government. This is really quite clear, as it was in the development of the May Day procedures, which have been struck down by every kind of court review that has taken place with respect to them—procedures which were defended by the nominee in his speech in North Carolina only a day and a half after their use.

I remember asking the nominee, whether, after he had read, as widely reported throughout the United States, of the young people and other citizens who were unjustly arrested in the indiscriminate mass roundups during the May Day demonstrations, whether he felt there was any added responsibility, on the part of a lawyer in his position, of seeking to insure that justice was provided, not only for the Justice Department but also for those who were affected by Justice Department actions, and whether he felt there was any affirmative responsibility on his part to find out for himself, to go down and take a look at the jails and talk to the people in them and try to find out whether there was any illegal action being taken by the authorities, and to do something about them.

He said, no, he did not feel the necessity for any such affirmative action. I asked him the same question with reference to the Kent State situation, whether, when he read about the young unarmed students who were slaughtered out at Kent State, and when he saw the report of the eminent national commissions that looked into the question—the Scranton Commission report or other kinds of reviews that have pointed out the need of convening a Federal grand jury—whether, when he was the President's lawyer's lawyer charged with an important part of the responsibility for assuring that there was going to be adequate justice for all people as well as the Justice Department, whether he, in such a situation, took the time to go down and talk with the Attorney General and present his own views with respect to the tragedy that took place at Kent State, and urge that there be adequate pursuit of this question by the Justice Department, he again said he felt no positive compulsion on this issue.

As I mentioned in my statement, on the whole question of spying on political rallies, and the whole series of hearings that were held by the Senator from North Carolina (Mr. ERVIN) on the question of surveillance, where once again, as a member of that committee, I heard time and time again talk about this kind of surveillance by agents of the Federal Government, he stated that he did not believe it served to provide any kind of chill to those who were speaking out about the many vital issues facing this country today.

So the Senator is correct; these are not just isolated instances. These are not isolated cases. This is a series of actions taken and supported by the nominee which reach at the very heart of the life and liberty of the people of this Nation.

I would say as well, as the Senator well remembers, at the time we were asking the nominee whether he felt that he could support all these actions, he said:

> Well, if they were objectionable, I would not come up and testify in support of the Justice Department's position.

So we have to assume, in the light of the fact that he came up in their support, that he really found very little to object about.

Mr. BAYH. If the Senator will yield——

Mr. KENNEDY. Just let me finish this thought. In spite of the fact that we have seen within this administration examples of individuals who felt sufficiently concerned or outraged by actions that were taken by the administration, in various fields including the rights of individuals in this country—Terry Lenzner, for example, who was forced out of the Legal Service Division of the OEO program; James Allen, from the educational program; Leon Panetta from the HEW civil rights office, and Secretary Hickel from the Interior Department—here were individuals who were sufficiently concerned, who objected strenuously enough to feel that they could not be a part of governmental actions and attitudes that offended their consciences.

But we do not have that kind of courageous conduct by this nominee, in spite of the fact that during the past 3 years, as the Senator from Indiana has pointed out and as I have tried to develop today, there has been the greatest kind of emphasis in terms of seeking to restrict the rights and liberties of the people of this country by governmental action that I think we have seen in at least the last 100 years.

Mr. BAYH. I am glad that the Senator has emphasized the nature of the nominee's employment, and the caliber of his position. It has been argued by some—in fact, it was argued this morning by the Senator from Wisconsin—that the nominee really could not be held accountable for the positions of the administration, because he was just following out orders. Is the Senator from Indiana correct in believing that, at one point in the hearings, the nominee responded that, if he did not like the positions, if he strongly disagreed with them, he would resign?

Mr. KENNEDY. As I recall, he indicated that, if he felt they were sufficiently objectionable, he would not have made them. I must say that is a position that can be understood, that even the lawyer's lawyer on various questions would separate himself from a view with which he strongly disagreed. So I think there is basis to conclude that he did not find that the positions were objectionable or that he would have taken a substantially different course of action on them.

As the Senator will recall, the distinguished Senator from Maryland (Mr. MATHIAS) and I tried to review with the nominee his concept of the elements of due process. We were not trying to probe or to say, "How would you act, given a certain factual situation?" We were trying to elicit from him at least some kind of statement as to how important he thought due process was, as to how strongly he weighed the concept of equal protection as an element to assure justice to the people of this country, about the various considerations in balancing the individual liberties of people versus the central authority.

We tried to elicit that from him, but we were unable to get any kind of development of these concepts, even though we were not trying to ask him how he was going to decide a case. We were trying to elicit from him some kind of response so that we could gather a feeling about his own concern for these vital instruments of the courts and of the law which have been so heavily relied upon to produce progress in terms of liberties. We could not get any kind of comment on that. Yet, at the time when Congress was attempting to reach and share, under the Constitution of the United States, in the area of foreign policy, he was freely willing to go to Pennsylvania to tell a political audience that he felt that the actions that were being considered by Congress to require the President to terminate and set a date for the end of the war in Vietnam were questionable constitutional actions. He was not tongue-tied about that.

Once again, I think that shows the continuing thought process of the nominee that what the Central Government and what the executive branch and what the President of the United States wanted to do, he was willing to accept.

That is what troubles me, as I mentioned in the course of my remarks. And it surprises me that many of our friends from different parts of the country, who time and time again take the floor of the Senate and talk about how we do not want the Central Government, the national authority, infringing on the rights and liberties of small communities and towns and States of this Nation, are willing to go along with this. Every time the nominee had the alternative of choosing between the individual rights and liberties and the central authority, he came down on the central authority. Would the Senator from Indiana agree on that?

Mr. BAYH. Yes. I think we have a rather interesting inconsistency. The Senator from Massachusetts touched on this in his remarks.

On one hand, we have the nominee who relies on the almost infinite power of the Federal Government to become involved in those areas where they are confronting the rights of individuals. Take as examples prior restraint of the press, access to the sources of news reporters, the right of peaceful demonstration, the right of jury trial, preventive detention—the whole series of proposals that the nominee not only favors but also has been instrumental in developing for the administration. In these areas he feels that the Federal Government or the central source of Government, the executive branch, is omnipotent.

On the other hand, I find the strange inconsistency because he does not seem to feel Government has the same right—and duty to pursue it diligently—so far as protecting the rights of individuals in the whole civil rights area is concerned. It is all right for the Federal Government to say, "Thou shalt not publish," but it is not right for the governmental authorities to say, "You had better let black people into the drugstore."

Does not the Senator feel that there is a little inconsistency with that sort of thought process?

Mr. KENNEDY. I think the Senator has pointed up one of the real dilemmas.

I mentioned this morning that every time there was a question between the central authority or the National Government's power and that of the individual, the nominee came down on behalf of the central authority.

As the Senator from Indiana has pointed out, when there is a question between the rights of property and the rights of the individual, the nominee came down in terms of the rights of property rather than the rights of the individual.

I think all of us are very much aware of the dilemma and the crisis this Nation went through during the period of the 1960's, when many kinds of changes took place in this country. In many instances there were extraordinary acts of statesmanship and courage exhibited time and time again in the southern parts of this Nation, of individual leaders, of communities, of persons who realized the critical nature of that period and were prepared to put emotionalism aside and to go ahead to fulfill the guarantees of the Constitution of the United States. I am sure the Senator from Indiana has heard example after example, as I have.

Yet that was not the case when this nominee had a chance to speak out while these acts of courage were taking place in much more inflammatory situations than in Arizona. We have a nominee who was born in the North, received an education in the West—not that anyone feels that those parts of the country have any leg up in terms of sensitivity to concern about rights or liberties than any other part of the country; but certainly in the whole movement toward rights and liberties, these issues were in the South much closer to the surface, with much more discussion and debate, than in other parts of the Nation—and every one of his statements in terms of rights and liberties in this country came out—instead of enhancing or expanding them—in terms of opposition to them.

I think this must be a matter of considerable concern for all people, not only the Members of the Senate but also all Americans, when they are trying, as they are in many parts of this country, with extraordinary kinds of difficulties even in the northern communities—I know that in my own city of Boston there recently has been a report on the questions of education—when so many cities of the North and the South are really trying to take some steps to draw out the poison and really come to grips with the problems of discrimination in this country. But all the statements we have been able to find, or that we have had reported to us have been unsympathetic to civil rights—and I would ask the Senator whether he has come across any contrary evidence. The major statements were in the Phoenix letters, and testimony in the 1960's. Then there were his views on the Carswell civil rights decisions in the letter to the Washington Post, when Carswell's nomination was being considered. There was also the record in terms of the model code, on the questions of blockbusting and equal employment opportunity.

These seemed to be the four oustanding incidents, and on each occasion the nominee moved away from the expansion of rights and liberties.

I am asking the Senator, who has provided a great deal of study in this matter, whether he has come across anything that would rebut that; because, in fairness to the nominee, we want to insure that we fully consider any positions which have been assumed by the nominee, either in his official capacity in the Justice Department or prior, that show this kind of sensitivity, as Mr. Powell did in Virginia during the period of the fifties, in terms of opposing massive resistance, when, as I remember as a student in law school in Virginia during that period of time, the emotion involved and the climate of those times made such a position difficult; I wonder whether the nominee's record shows anything like the strong support and initiative in the development of a national legal services program which Mr. Powell showed when he was president of the American Bar Association. I am wondering whether the Senator from Indiana has been able to find any instances such as this which would at least show the kind of sensitivity, concern, and commitment that many of us feel is so essential in terms of a nominee for the Supreme Court?

Mr. BAYH. First of all, I concur with the assessment of the Senator from Massachusetts, that on each occasion when the nominee's position has been articulated, he has been found to be on the wrong side of the individual human question involved. I must say that I did not realize how much to the point the closing paragraph of Mr. Rehnquist's letter to the editor was over this public accommodations law, until I happened to glance down at it just now. Here is what Mr. Rehnquist says when he talks about individual rights and individual liberties:

> It is, I believe, impossible to justify the sacrifice of even a portion of our historic individual freedom for a purpose such as this.

The individual freedom Mr. Rehnquist is unwilling to sacrifice even a portion of is not freedom of speech, not freedom to dissent, not freedom to the right to a trial by jury, not freedom to go in and buy some medicine for your children, or to get a good education, or to live in a decent house, but the individual freedom that Mr. Rehnquist says we dare not sacrifice even a portion of is the right of a proprietor who holds a business place open for public use to say, "You cannot come in if your face is black."

It seems to me that that is hardly the kind of sensitivity, hardly the kind of scale of equity we should demand of one who sits in judgment on us all.

I have searched for the answer to the second question of the Senator from Massachusetts and have had a number of my staff members, as has the Senator from Massachusetts, and a number of volunteers throughout the country, looking and searching, and we have not found any contrary evidence—I have been hoping that some would be uncovered——

Mr. KENNEDY. The Senator has not been able to uncover any evidence in terms of the nominee since he was a law clerk as to his feeling on rights and liberties; is that not correct?

Mr. BAYH. We have not found any evidence that would prove the kind of humane position that the Senator from Massachusetts articulates so well. In fact, the Senator may not know it, but on the opening evening of this debate, after the Powell nomination had been accepted, the Senator from Nebraska was waxing in his normal and eloquent manner in support of the nominee——

Mr. KENNEDY. I remember that.

Mr. BAYH. And I asked him whether he could bring us one word in the debate, give us an article, give us any proposed legislation, give us any example, of the nominee's commitment to human rights. Not only has this not been forthcoming but the Senator from Nebraska refused to answer any further questions and has not proceeded to follow that line of thought. I do not know why it is that the proponents, if they really believe this man is a defender of individual liberties and civil rights, cannot come up with some documentation. It is rather strange.

I want to ask the Senator from Massachusetts:

It has been disclosed in the past 48 hours, debated on the floor of the Senate, and printed in the national press, that Mr. Rehnquist strongly urged Justice Jackson while the nominee was a Supreme Court law clerk, to vote against Brown against Board of Education, and suggested that the Court had no business getting involved in looking into the great social questions, and suggesting that the Court had no right to get involved in protecting minority rights in this way or they would find themselves part of a transient majority of nine.

That hit the press Monday. Is it not rather strange to the Senator from Massachusetts that there has not been one word forthcoming from any proponents of the nominee to try to explain away what I feel is a most unfortunate revelation—not unfortunate that it was revealed, but unfortunate that this seems to characterize and symbolize the position of the nominee in the whole area of educational opportunities?

Mr. KENNEDY. I would agree with the Senator from Indiana. Comments have been made about the time the Senate is taking to consider this nomination. I would certainly hope that those who believe that the nominee has this concern and commitment in terms of human rights and liberties would debate this and put forward a positive case for it. We have not seen that. The Senator from Indiana has been in the Chamber these past few days and I would ask him whether he has seen any evidence of it. The case against Mr. Rehnquist is being made clearly. It has yet to be rebutted. I do not see any of the proponents in the Chamber helping to reach answers to these questions.

Has the Senator, during the time he has been in this Chamber on this debate, heard any explanations about the background of that memorandum that was drafted by Mr. Rehnquist?

Mr. BAYH. None whatsoever, I say to my colleague. Each Senator, of course, has the right, indeed it is our individual responsibility to determine to what extent we become involved in debate. I do not believe that any of us want to drag any of our colleagues kicking and screaming into a debate. But here we are debating a controversial Supreme Court nomination, and there have been some well-documented and well-substantiated charges made. The only effort made to lay the charges to rest was, "I will have the chance," my friend from Nebraska said, "before this debate is over, to answer these questions at length, but I do not want to answer them now." He suggested to me that he was going to have the opportunity to put in the RECORD substantiation of his belief—and I think he is sincere—that the nominee is not anti-civil rights or anti-individual liberties. But this information has not been forthcoming and before the debate had even warmed—in fact, before the first speech was made, the distinguished minority whip was suggesting that a filibuster was going on. Yesterday, less than 24 hours after the Powell nomination had been accepted—in fact, just about 20 hours after the Powell nomination had been accepted—the distinguished minority leader was up in the Press Gallery telling the members of the press that there was a full-blown filibuster going on. The distinguished Senator from Massachusetts (Mr. BROOKE) had not even had a chance to make his speech. The speech of the Senator from Massachusetts (Mr. BROOKE) was, I thought, a rather dramatic revelation and important to the consideration of our colleagues of this matter.

Then the distinguished Senator from Pennsylvania (Mr. SCOTT) was in the Press Gallery telling the press and the Nation that a filibuster was going on. So I must say, if the Senator from Nebraska has any suggestions to make to the Senator from Indiana as to how we can get those on the other side of this question to rise up and answer some of these questions and provide some of this information, I think the country has a right to know it and I am yearning for the answer to that question.

Mr. KENNEDY. Regarding the so-called filibuster, I think it is valuable to look back at an earlier nomination proceeding, as I pointed out at a Brandeis University dinner in New York a couple of weeks ago. In terms of the time factor, and because it is interesting as to who is labeling whom in terms of a filibuster, here is information about one of the most distinguished nominees and perhaps the greatest Justice who has served on the Supreme Court.

The nomination of Louis D. Brandeis to the Supreme Court on January 28, 1916, ignited one of the most bitter confirmation fights in the history of the Senate. Three sets of hearings were held over a period of 4 months. The record grew to some 1,500 pages in print. The issue became a matter of intense national focus, with the highest of political stakes at risk. When it was all over on June 1, Brandeis had been confirmed 47–22, on almost a straight party line vote.

It is helpful to look back at that experience to learn from it. The single overwhelming fact was that President Wilson had chosen one of the most talented and dedicated men in American history. He was the great crusading lawyer of his times, and then some. In the name of the public good, he had challenged the giant interests that ruled the Nation—the utilities, the railroads, the monopolies. And much too often he had won.

Thus his enemies were legion and powerful, and they left no stone unturned in attempting to persuade the Senate to reject him. But the constitutional mechanism of advice and consent worked well; the Senate reopened its hearings twice to check out all the allegations. The proponents and opponents had full opportunity to weigh the merits and express their views. And truth and justice were the victors.

But, of course, the key was selecting the right person, a man truly committed to fairness, to responsive institutions, and to the public welfare, a person of proven intellect and capacity, a man of whom President Wilson could write:

> He is a friend of all just men and a lover of the right; and he knows more than how to talk about the right—he knows how to set it forward in the face of enemies.

Twice they reopened the hearings to consider that nominee, when various allegations and charges were made and remade by those who wanted to frustrate that nominee.

I am reminded that the time that was taken was welcomed by those who were proponents of Louis Brandeis when the various charges and allegations were made concerning this nominee. It was the proponents who insisted that the record be opened again and that the nominee's record be examined thoroughly so that the allegations and charges could be fully responded to.

Yet here we have, with relation to a vital issue in this case, as the Senator has mentioned, the memorandum that was prepared to express support for the Plessy against Ferguson concept of separate but equal, at a time when the country and the Supreme Court were to embark upon a 9-to-0 decision in Brown against Board of Education and set the whole country on a new course, but we have no answer, no new hearing, no chance to examine the nominee's supporters on this question.

I have not seen the memorandum. Law clerks are charged with preparing various position papers. However, certainly we ought to be able to have some kind of response and have the matter put in some kind of context.

We have had so many examples in the past in the Senate with respect to various charges—and not charges nearly as far-reaching or as extensive in terms of implication as these—where the proponents of the nominee have insisted that the hearings be reopened.

Mr. BAYH. Mr. President, the Senator studied that matter and was aware of that subject. I am glad he brought those comments into the debate, because I think they are pertinent.

I wonder if the Senator could inform me whether there was any discussion about invoking cloture on a filibuster at the time when the hearings were reopened and the record was being made straight.

Mr. KENNEDY. It is my understanding that it was the proponents of the nominee who insisted that these charges and allegations be settled and resolved.

I did not see at that time charges made that there was undue delay in terms of the nominee. But there was a conscious effort made by the proponents to assure that the charges made—and they were a matter of extreme seriousness—were fully and adequately answered.

Mr. BAYH. Mr. President, will the Senator permit me to explore his thoughts relative to the activity and the efforts on the part of the nominee with reference to a Uniform State Law Commission? I would like to have the Senator's opinion on this matter because of the opinion of the Senator from Nebraska when I asked him to give us some support for his views on the nominee's record on civil rights. Does the Senator from Massachusetts recall when the Senator from Indiana asked the nominee to give us some evidence of what he had done affirmatively to get the test established so as to give us evidence of his commitment to human rights?

Does the Senator from Massachusetts recall at that time the fact that the nominee did not mention participating in this Model State Antidiscrimination Act effort?

The reason the Senator from Indiana brings it up is that if, indeed, that was considered in the mind of the nominee and those who support him as a manifestation of his previous pursuit of his commitment to human and civil rights, it would seem to me that in response from Indiana and others asked, that they would not have had to find it out by an investigation of the record itself.

Mr. KENNEDY. I agree with the Senator from Indiana. I do not recall offhand exactly what the nominee stated when the Senator from Indiana asked that question. Does the Senator remember?

Mr. BAYH. What I am trying to point out is, first of all, the nominee did not mention that, in his judgment, participation as a uniform State law commissioner, when it was considering an Antidiscrimination act, was sufficiently important that it should be stated as evidence of his dedication commitment to human rights. It was only when investigators disclosed that as a member of this uniform State law commission on two occasions had tried to eliminate provisions of it, or the entire act, that this matter became public. For the Senator from Nebraska to suggest that finally voting for this, after he had effectively led the effort to lessen its impact from that of a uniform act to that of a model act, I think is not good evidence of commitment to human rights.

I might just read to the Senator from Massachusetts the distinction, and why I feel it is important. First of all, as the Senator realizes, the nominee voted against, and tried to get stricken from the model act, that provision which would have outlawed blockbusting. It was an antiblockbusting provision. He also tried to strike from the model act a provision which would have enabled an employer voluntarily to compensate for hiring practices, for the fact that in the past he had discriminated against those of minority races, and, thus, had a very imbalanced work force.

In addition, when he was unsuccessful in these two efforts, as the Senator recalls, he led a successful effort to diminish the standard of the commission's work from that of a uniform act to that of a model act.

I read from the 1966 Handbook of the National Conference of Commissioners on Uniform State Laws here the definition of the distinction between a uniform act and a model act:

> Approval of an act as a uniform act should carry with it the obligation of the commissioners from each State to endeavor to procure its enactment by the legislatures of the States.

That was the thrust of the uniform act, and the nominee led the effort to keep it from being a uniform act so that he would not have to be responsible for going back to the Arizona State Legislature and implementing it. A model act, on the other hand—and I quote from the Handbook again—"shall be applied to any act which does not have a reasonable possibility of ultimate enactment in a substantial number of jurisdictions." So there was a rather obvious effort on the part of the nominee to demean the quality and the responsibility incumbent upon those who participated in the drafting of this act.

I wonder if the Senator from Massachusetts would care to comment relative to how valid the claim is that William Rehnquist's participation in this particular commission is evidence of his commitment to civil rights.

Mr. KENNEDY. I think the Senator from Indiana has made this point and has drawn these distinctions, which I think are extremely compelling. I share the conclusions and the deep concerns that the Senator from Indiana has drawn from this occasion, and as he developed during the course of consideration in committee just prior to the vote.

In reviewing the speeches made here, we have to reach these conclusions and decisions in terms of the rights of the people of this country and especially in terms of minority rights, whether it is the actions taken in Phoenix, the model code referred to, the letter to the Washington Post, or the memorandum prepared for the Supreme Court Justice.

If these actions could be explained as individual acts, that would be one thing, but taken as a series and pattern of actions, I think we are completely justified in concluding that the nominee does not have that firm commitment and dedication to the rights of the people of this country that is so essential for us to find in fulfilling our constitutional responsibilities.

If we take his actions in the Justice Department, whether it be in terms of wiretapping or surveillance—where he was challenged in considerable detail by the Senator from North Carolina (Mr. ERVIN)—or his justification for the program of handling the May Day demonstration, on the whole question of restraint, as separate matters they might be troublesome, but would not be a bar, but taking them together, in terms of the rights of the American people and the liberties of American citizens, in all fairness one has to conclude that this nominee has not shown the kind of sensitivity in terms of the liberties of the people that I think is so essential and which we are challenged to protect.

So I share these concerns with the Senator from Indiana. I think the Senator from Indiana has provided yeoman service in terms of illuminating these matters and examining them in detail. I would welcome, as I am sure the Senator from Indiana would, some kind of response in these areas which have been raised over the period since Monday night last, that we would have a positive response for the Senate, and what is more important, for the people of this country, in order that we may know exactly the kind of concern and commitment this nominee has for the rights of the citizenry of this Nation.

Mr. BAYH. Mr. President, I wish to say one word before the Senator terminates his remarks. I am grateful for the contribution he has made, not only in his speech and his colloquy here today, but also from the very beginning, from the very first instance when the nominee's name was brought before the committee. Throughout the hearings and committee debate the Senator from Massachusetts has suggested a penetrating analysis to find out the facts. He has expressed articulately his concern that the nominee does not meet the standard several of us feel should be met by a member of the Supreme Court.

It is unexplained to me, as it is to the Senator from Massachusetts, why, after the revelation of these facts, there has not been a single proponent of the nominee come forth and say, "I think the man should be on the Supreme Court even if he was against Brown against Board of Education, and here is why."

Hopefully, before the debate is over the country and the Senate will have that explanation from those who think William Rehnquist has the capacity to be a good Supreme Court nominee.

WILLIAM REHNQUIST AND CIVIL RIGHTS

Mr. GOLDWATER. Mr. President, as I came to the Senate floor from time to time yesterday to hear the arguments made by Senators who disagree with the nomination of William Rehnquist, I noticed one predominant theme being repeated over and over. The theme is the allegation that Mr. Rehnquist is not committed to the cause of civil rights, a failing which is said to be evident statements he has made as a private citizen.

It is interesting for me to observe, Mr. President, that none of his opponents question Mr. Rehnquist's integrity. Indeed, his critics earnestly announce their recognition of his high moral character and personal integrity. Yet at the same time they say this, they question the truthfulness of Mr. Rehnquist's personal disavowal of any reluctance to uphold the guarantee of the Constitution and of duly enacted statutes securing equal rights for all citizens. They nitpick his every utterance at the hearing, distort and take out of context his past statements on human rights, and even quote from certain of his writings without giving the complete sentences in which his words are set.

Mr. President, I believe the discussion on the part of Mr. Rehnquist's critics has exceeded the bounds of reasonable debate. I plan to take up two of these incidents today to demonstrate how far his opponents have gone in bending over backward to cast an unfavorable light on Mr. Rehnquist's record. I am going to discuss only two of these matters at the moment because, in truth, there were not many more points raised in the debate yesterday relative to the nominee than these.

One statement which is claimed to indicate an "indifference to the evils of discrimination" is Mr. Rehnquist's position taken in 1964 in opposition to the public accommodation ordinance proposed for the city of Phoenix. The fact that Mr. Rehnquist testified against the ordinance is mentioned time and again by the nominee's opponents, but the full grounds for his past doubts about the ordinance are never explained.

If my colleagues who are opposed to this nomination are sincerely searching for evidence which indicates an absence of hostility toward antidiscrimination efforts, they might have read the complete text of Mr. Rehnquist's comments at the Phoenix hearing in which he made it quite clear that a major reason for his position on the ordinance rests in the fact that when the members of the city council were running for office they took the position there would be no compulsory public accommodation ordinance.

Accordingly, he suggested that now that the members had been elected they should abide by their campaign position and instead of acting on the ordinance refer it for the vote of the people. Thus we see that Mr. Rehnquist appears to have been influenced in his stand by a feeling the city council was under a moral obligation to the people to present the issue to them as a whole for a decision.

Furthermore, Mr. Rehnquist indicated in his letter to the editor of the Arizona Republic on the same ordinance that minorities would have an important interest to be balanced if widespread discrimination against them had actually existed in Phoenix. He said:

> If in fact discrimination against minorities in Phoenix eating-places were well nigh universal, the queston would be posed as to whether the freedom of the property owner ought to be sacrficed in order to give these minorities a chance to have access to integrated eating places at all.

Thus, even in this statement which is being criticized so severely we can see that Mr. Rehnquist gave recognition to the need for the right of minorities to prevail where discrimination was prevalent. These and other comments in his statements at the time show that he was then only speaking about a situation where a small minority of public accommodations did refuse access to minority citizens. Mr. President, I am not trying to explain these comments away or to make it out as if Mr. Rehnquist had declared himself in support of the proposed city ordinance; but I do wish to illustrate that there were certain modifying elements which make his views in 1964 fall far short of outright indifference or hostility toward the use of law to overcome racial injustice, as charged by the minority views signed by four Senators.

Of course, Mr. President, we now have Mr. Rehnquist's statements to the committee declaring that he was wrong in the position he took in 1964. He emphasized to the committee that his personal experience in 1964 was with an environment in which the denial of minority rights in practice was infrequent. He now states that his realization of the depths of feeling of minorities would control his opinion that a public accommodations law is good and necessary, without regard to whether or not the discrimination being attacked is infrequent or whether or not the public in general accepts the law as well as it has been in Phoenix.

Mr. President, if Mr. Rehnquist's integrity is accepted as we are told it is by the minority, then the change in position by the nominee should be accepted at face value and this matter should be closed. Instead, the minority refuses to accept the honesty and sincerity of Mr. Rehnquist's current statements and claim that he does not really mean what he says he does. I believe, however, as does anyone who actually knows Mr. Rehnquist, that he does not have a racist bone in his body and that he is deeply committed to an attitude of respect and recognition of equal rights. I will have more to say on this at the end of my remarks.

Mr. President, a second issue raised by the critics of Mr. Rehnquist yesterday concerned his views on the 1967 school integration program proposed for Phoenix high schools. Mr. Rehnquist told the committee during its hearings that his earlier declaration as a private citizen was aimed at preserving the neighborhood school system. This is borne out by the record because Mr. Rehnquist had said, in his 1967 letter to the editor:

> The great Majority of our citizens are well satisfied with the traditional neighborhood school system.

Of course, as everyone knows, the great threat which is seen by the public as disruptive to neighborhood schools is the idea of forced busing.

This is the same letter in which Mr. Rehnquist stated that—

> Many would feel that we are no more dedicated to an "integrated" society than we are to a "segregated" society; that we are instead dedicated to a free society, in which each man is equal before the law, but in which each man is accorded a maximum amount of freedom of choice in his individual activities.

Now, we have heard a great deal of deploring about the first part of this sentence, but when it is taken in the context of the complete sentence we see that Mr. Rehnquist fully recognizes the equality of each man before the law.

This is certainly not a statement calculated to resist integration of the races. In his 1967 letter Mr. Rehnquist makes it clear he was talking about his interpretation of what additional steps the school superintendant had planned for the schools in order to achieve "an integrated society." His letter was sent in the context of an existing program, then in effect in Phoenix, which called for the step of freedom-of-choice desegregation, with students being permitted to pay their own bus fare to attend other high schools.

With this program of open enrollment to all races already in being in Phoenix, Mr. Rehnquist informed the committee it was his understanding that the only kind of additional busing which the local school superintendent could have had in mind was compulsory, long-distance busing. It should be remembered that the school official, upon questioning in 1967, refused to dismiss the forced busing of students as a possible technique. What is more, Mr. Rehnquist added in his 1971 statement to the committee that he personally was in full agreement with the open enrollment voluntary busing policy as a means of achieving integration.

Once again, Mr. President, the minority Senators simply refuse to give credence to his remarks. Notwithstanding his declaration explaining his mental processes in 1967 and notwithstanding his emphasis on the neighborhood school concept, Mr. Rehnquist's detractors choose to ignore his words and erect an extremely distorted view of his position. In effect, Mr. President, the critics of the nominee refuse to believe anything he has to say on the question of civil rights and human liberty.

However, Mr. Rehnquist's personal character is backed up on the record before the committee by person after person who has known him or worked with him. For example, Judge Walter Craig, a U.S. district judge in Arizona, testified:

> I have never known Bill Rehnquist to be racist, and I know him pretty well, Sir.

Judge Craig also stated:

> I believe this man has a humanity about him and a human warmth that would make him, if anything, more sensitive to the needs of people with respect to the necessity to improve their lives and their society. I don't think that he would be in any way insensitive to the philosophy of civil rights or the Bill of Rights, or any other rights.

Then we have the impressive recommendation to the committee supporting Mr. Rehnquist by Jarril Kaplan, who has served as chairman of the Phoenix Human Relations Commission. Mr. Kaplan writes:

> In all my years of intergroup relations in this community, I never once heard reference to Mr. Rehnquist as bearing hostility toward minority persons . . . I do not profess to know everything Mr. Rehnquist has ever said or done. On the basis of what I do know, however, I believe that it is neither accurate nor fair to label him as a "racist," sophisticated or otherwise.

Dean Phil Neal, at present the dean of the University of Chicago Law School, related to the committee in writing of his observations on Mr. Rehnquist as a former student of his at Stanford Law School. He said:

> I am confident that he is a fair-minded and objective man. Any suggestions of racism or prejudice are completely inconsistent with my recollections of him.

In addition, I would like to offer for consideration the report of the American Bar Association on Mr. Rehnquist which discusses the comments received by the association from over 120 judges and lawyers and 10 law school deans in the seven States of the Ninth Judicial Circuit. Speaking of lawyers and judges who are devoted to expanding concepts of civil rights, the bar association report mentions that—

> A number of leading liberal and civil rights lawyers support the nomination because of his professional competence, intellectual ability, and character. As one of them summed it up, he had "total professional respect for Mr. Rehnquist." He had never known of any reproach to his character. He states he is "not a Bircher, not a racist, but a decent man and a good human being."

Finally, Mr. President, I believe it is important for us to observe what personal acquaintances of Mr. Rehnquist have to say about the manner in which he conducts his personal life. Mr. Joe Tameron, principal of Kenilworth Elementary School, wrote the Judiciary Committee that he knew Mr. Rehnquist had moved his family into the Phoenix Elementary School District because he "wanted his children to have experience and association with children from minority groups, as well as with the different socioecenomic groups."

Also, Mr. Paul Bliklen, a neighbor of Mr. Rehnquist, wrote the committee that during discussions with the Rehnquists he found that they were motivated to move to the downtown area of Phoenix bordering the inner city because they felt their children "would be better exposed to a cross section of America, racially, economically, and philosophically."

Mr. Bliklen added:

> We have worked with Nan and Bill Rehnquist over the years on many school projects and neighborhood undertakings. Working with us was always a cross-section of parents from mixed ethnic, racial, and economic backgrounds. In all of these contacts, never have I heard or seen Mr. Rehnquist act in a negative way towards a person or show preference because of his race, background, or economic disadvantage.

Here, Mr. President, is proof of the essence of a man's character and his true feelings about human dignity. Here is what is known about a man's reputation by those who intimately know him. Here is the day-to-day living philosophy of a man as that philosophy directly touches him and his own family. Here is an unblemished record of personal respect and association in his daily life for all members of society and for any group within it.

Does a man have to belong to the NAACP in order to demonstrate his willingness to support the cause of civil rights? Does a man have to prove his membership in the Americans for Democratic Action in order to show his sensitivity to the protection of individual liberties and equal rights? Or can we judge a man as being sensitive and committed to these rights on the basis of his known reputation and his personal treatment of and experience with other human beings? Mr. President, I believe the answer is self-evident and I believe it is equally obvious that Mr. Rehnquist is an honorable, fairminded member of society, who has a proven record of commitment in his life to the respect and support of human dignity and equal rights.

Mr. BROCK. Mr. President, if the confirmation of nominees to the Supreme

Court were not such serious business, I would find the activities of William Rehnquist's opponents over the last several weeks amusing indeed. Time and again, unfounded accusations have surfaced only to be refuted. In desperation, these opponents have fallen to the tactics they so piously deplored in other times. They have made so many false charges, so often unfairly characterized the nominee's position on issues, and so consistently taken Mr. Rehnquist's statements and conduct out of context that new charges now have a hollow ring. It is like the shepherd boy crying "Wolf" too often.

The point is that Mr. Rehnquist's opponents deplore the fact that he is not a judicial activist with a political philosophy attuned to their own. That is truly the issue. It should be candidly addressed as the sole issue.

The confirmation process is a solemn responsibility of the Senate. With it comes the prerequisite that individuals nominated to the Supreme Court be treated with the respect incumbent with the privilege of nomination and in turn that they act with the same responsibility and respect toward their inquisitors. Mr. Rehnquist has fulfilled this responsibility admirably. In addition to his outstanding credentials, Mr. Rehnquist has been most candid and open in expressing his views before the Judiciary Committee.

Throughout the long hours of questioning, he has maintained the consistency and poise that are a must for the position to which he has been nominated. One by one the counterfeit issues raised by his opponents have been discarded and indeed, his responses to these issues have revealed that he is a man of the highest standards of professional competence, integrity, and judicial temperament.

In conducting its thorough investigation and favorably reporting the nomination of William H. Rehnquist, the Senate Judiciary Committee has proved beyond a doubt that this man is eminently qualified to take his place on the Supreme Court. I look forward with enthusiasm to voting for this worthy man.

Mr. ALLOTT. Mr. President, with an admirable strength of argument Mr. Robert Bartley of the Wall Street Journal has exposed the flimsiness of the arguments currently being used to delay the absolutely certain confirmation of Supreme Court nominee William H. Rehnquist.

So that all Senators can profit from Mr. Bartley's reasoning, I ask unanimous consent that his story be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Wall Street Journal, Dec. 6, 1971]

Rehnquist and Critics: Who's Extreme?

(By Robert L. Bartley)

Washington.—The most powerful impression to emerge from the microscopic public analysis of the life and works of Supreme Court nominee William H. Rehnquist is that his critics are pretty desperate. At one point the arguments proved too much even for the most critical Senators, and Sen. Edward Kennedy upbraided the witnesses for creating "an atmosphere which I think is rather poisonous."

Now the critical members on the Senate Judiciary Committee—Sens. Bayh, Hart, Kennedy and Tunney—have filed their minority report setting out the responsible case against the nomination. As Sen. Kennedy's remark suggests, it judiciously avoids the less substantial allegations that have appeared in the press in recent weeks. There is, for example, no suggestion that Mr. Rehnquist is guilty until proven innocent of membership in extremist organizations because his name appears on a list compiled by a little old lady and willed to someone else.

OUTSIDE THE MAINSTREAM

The minority report, rather, focuses mostly on Rehnquist's views on certain issues, and as such is an intriguing document. It volunteers that there is no question about Mr. Rehnquist's qualifications in terms of legal standing or personal integrity. On the widely debated question of whether the Senate should consider a nominee's judicial philosophy, it makes the case that indeed the Senate should.

The minority, of course, argues that on this third test Mr. Rehnquist flunks. It says he "has failed to show a demonstrated commitment to the fundamental human rights of the Bill of Rights, and to the guarantees of equality under the law." While not every detail of a nominee's philosophy ought to bear on his Senate confirmation, it suggests, so extreme a deviation should. At one point the text puts it simply: The nominee "is outside the mainstream of American thought and should not be confirmed."

A fascinating proposition, this. How can someone with legal standing and personal integrity fit to grace the Supreme Court be that far out of the mainstream? What would be the opinions of a man who is such a pillar of the bar and still fails to understand the Bill of Rights?

So it is with no little anticipation that one turns to the issues discussed in the minority report to find just which of Mr. Rehnquist's opinions bar him from the Court service. One expects not merely that he will have debatable opinions on debatable topics. Certainly the four Senators disagree on many things with Lewis F. Powell Jr., the other Supreme Court nominee before the Senate, but they voted to approve him. So in Mr. Rehnquist's case one expects more extreme opinions, those further out of the mainstream on the right, say, than Justice William O. Douglas is on the left.

As sort of a benchmark, recall Justice Douglas' popular book arguing, "We must realize that today's establishment is the new George III. Whether it will continue to adhere to his tactics, we do not know. If it does, the redress, honored in tradition, is also revolution." What right-wing outrages has Mr. Rehnquist uttered, one wonders, that are further from the mainstream than *that?*

As the confirmation hearings started, the best bet for that sort of outrage seemed to lie in the Justice Department position on wiretapping. As the department's chief legal adviser, Mr. Rehnquist must bear no small responsibility for that position, and the department has argued that the Executive Branch has an "inherent right" to wiretap without court order in national security cases. This is tantamount to an assertion that neither Congress nor the courts can control executive wiretapping, and certainly does suggest an insensitivity to the spirit of the Bill of Rights.

Alas for Mr. Rehnquist's critics, though, it turns out that on his advice the Justice Department has dropped the "inherent right" argument in current briefs before the Supreme Court. It now merely argues that in the particular instances of the case, the tap in question was not an "unreasonable" search barred by the Fourth Amendment. He says that the effect of the change is "to recognize that the courts would decide whether or not this practice amounted to an unreasonable search."

Mr. Rehnquist declined to give his personal views, as opposed to the Justice Department position, but he did defend the department's current arguments on the grounds that there are substantial legal questions unresolved, and the Executive is obligated to make its side of the case. "Five preceding administrations have all taken the position that the national security type of surveillance is permissible . . . one Justice of the Supreme Court has expressed the view that the power does exist, two have expressed the view that it does not exist . . . one has expressed the view that it is an open question . . . the government is entirely justified in presenting the matter to the court for its determination."

WIRETAPPING OF RADICALS

This did not satisfy the four critical Senators. They noted that the current issues are somewhat different from those of preceding administrations, not least because the current argument is about wiretapping not of foreign agents but of domestic radicals. The change in the department's position is "more cosmetic than real," they argued, because it is still defending wiretapping rules that would not "provide an adequate restraining effect on the Executive Branch, an adequate deterrent to protect the right of privacy."

For those who may find this particular dispute a matter not of extremist opinions but of reasonable men differing, the minority also delves into Mr. Rehnquist's widely quoted opinion on government surveillance of individuals, that is, not wiretapping but the recording of their activities in public places. In warning against overly restricting such surveillance, he once said, "I think it quite likely that self-restraint on the part of the Executive Branch will provide an answer to virtually all of the legitimate complaints against excesses of information gathering."

During the hearings, Mr. Rehnquist noted that in his remark he was addressing the question of whether new legislation is needed in addition to the Bill of Rights and laws already on the books, and that the remark must be understood in that context. In colloquy at the time, he conceded that widespread surveillance should be "condemned," and that an individual might already have legal recourse against a government tail. But in considering the argument that surveillance is unconstitutional because it has a "chilling effect" on freedom of expression, he said any such effect is a question not of constitutional law but of fact. And, "those activities didn't prevent, you know, two hundred, two hundred fifty thousand people from coming to Washington on at least one or two occasions to, you know, exercise their First Amendment rights, to protest the war policies of the President. . . ."

The minority report argues that even if 250,000 appeared, others may have been deterred by surveillance. It agrees that the committee's majority report correctly describes Mr. Rehnquist's attitude: "Information-gathering activity may raise first amendment questions if it is proven that citizens are *actually* deterred from speaking out." The minority argues that this is precisely the problem, "the difficulty of proving a specific chilling effect is obvious, and the notion that a First Amendment question isn't even *raised* until it is 'proven that citizens are *actually* deterred from speaking out' (emphasis in original) is alarming."

But if Mr. Rehnquist's opinions here are outrageously extreme, it would seem, so are the opinions of the majority of the Senate Judiciary Committee. Similarly if his defense of the constitutionality of such laws as "no-knock" raids and "preventive detention" in the District of Columbia are out of the mainstream, the mainstream does not include the majority of both houses of Congress. So what mostly remains is the question of Mr. Rehnquist's attitudes on the racial issue.

The minority report does not make too much of allegations that Mr. Rehnquist harassed black voters when he was involved in Republican voter challenging teams in Phoenix, but it also does not dismiss them as the majority did. Some of his black opponents have come up with affidavits charging he was personally involved in harassment, and his supporters have come up with a defense of his challenging activities and attitude by a sometime counterpart on the Phoenix Democratic challenging team. The minority report says, "Each Senator will have to decide for himself what weight—if any—to give either the charges or the blanket denial."

On the nominee's general racial attitudes, the majority report also came up with a letter from the principal of the elementary school Mr. Rhenquist's children attended in Phoenix. "Mr. Rhenquist became known to me when I was a teacher here at Kenilworth School. He had moved his family into Phoenix Elementary School District from one of the outlying suburban, and predominantly middle socio-economic, school districts. He wanted his children to have experience and associations with children from minority groups, as well as with the different socio-economic groups."

The minority report argues that "Mr. Rehnquist's record fails to demonstrate any strong affirmative commitment to civil rights, to equal justice for all citizens, let alone a level of commitment which would rebut the strong evidence of insensitivity to such rights." The evidence the report discusses at greatest length is a letter Mr. Rehnquist wrote to The Arizona Republic in 1967, responding to remarks on school integration by Phoenix School Superintendent Howard Seymour.

The minority report says, "The truly alarming aspect of the 1967 letter, however, is Mr. Rehnquist's statement, 13 years after Brown V. Board of Education that 'We are no more dedicated to an "integrated" society than we are to a "segregated" society' . . . Yet at least since the Supreme Court declared that 'separate is inherently unequal,' this nation has not been neutral as between integration and segregation; it stands squarely in favor of the former. And if Mr. Rehnquist does not agree, he is outside the mainstream of American thought and should not be confirmed."

A FREE SOCIETY

The statement in the original letter that must be located with respect to the mainstream runs, "Mr. Seymour declares that we 'are and must be concerned with achieving an integrated society.' . . . But I think many would take issue with his statement on the merits, and would feel that we are no more dedicated to an 'integrated' society than we are to a 'segregated' society; that we are instead dedicated to a free society, in which each man is equal before the law, but in which each man is accorded a maximum amount of freedom of choice in his individual activities."

Mr. Rehnquist's extremist position on civil rights, then, turns out to be nothing more than the familiar proposition that the Constitution is color-blind. On surveillance he believes that at this moment the scales are not tipped in such a way that dissent is "chilled." On wiretapping he believes the government side of the national security question deserves its day in court. These opinions, the minority report suggests, are so outrageous the nominee should be defeated.

As the Senate debates the nomination, it seems, it will have to decide more than whether it's proper to weigh a nominee's philosophy. It also needs to weigh whether words like "extreme" and "out of the mainstream" better describe Mr. Rehnquist's philosophy, or the position his critics have been forced to take to oppose him.

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States, were communicated to the Senate by Mr. Leonard, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

The PRESIDING OFFICER (Mr. CHILES) laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Berry, one of its reading clerks, announced that the House had passed the bill (S. 248) for the relief of William D. Pender, with an amendment, in which it requested the concurrence of the Senate.

The message also announced that the House insisted upon its amendment to the joint resolution (S.J. Res. 176) to extend the authority of the Secretary of Housing and Urban Development with respect to interest rates on insured mortgages, to extend and modify certain provisions of the National Flood Insurance Act of 1968, and for other purposes, disagreed to by the Senate; agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. PATMAN, Mr. BARRETT, Mrs. SULLIVAN, Mr. REUSS, Mr. ST GERMAIN, Mr. ANNUNZIO, Mr. WIDNALL, Mrs. DWYER, Mr. J. WILLIAM STANTON, and Mr. BROWN of Michigan were appointed managers on the part of the House at the conference.

The message further announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

H.R. 3786. An act to provide for the free entry of a four octave carillon for the use of Marquette University, Milwaukee, Wis.;

H.R. 4678. An act to provide for the free entry of a carillon for the use of the University of California at Santa Barbara;

H.R. 6912. An act for the relief of William Lucas (also known as Vasilios Loukatis);

H.R. 7316. An act for the relief of Mrs. Norma McLeish; and

H.R. 8540. An act for the relief of Eleonora G. Mpolakis.

ENROLLED BILL SIGNED

The message also announced that the Speaker had affixed his signature to the enrolled bill (S. 2007) to provide for the continuation of programs authorized under the Economic Opportunity Act of 1964, and for other purposes.

HOUSE BILLS REFERRED

The following bills were severally read twice by their titles and referred, as indicated:

H.R. 3786. An act to provide for the free entry of a four octave carillon for the use of Marquette University, Milwaukee, Wis.; and

H.R. 4678. An act to provide for the free entry of a carillon for the use of the University of California at Santa Barbara; to the Committee on Finance.

H.R. 6912. An act for the relief of William Lucas (also known as Vasilios Loukatis);

H.R. 7316. An act for the relief of Mrs. Norma McLeish; and

H.R. 8540. An act for the relief of Eleanora G. Mpolakis; to the Committee on the Judiciary.

NOMINATION OF WILLIAM H. REHNQUIST

The Senate continued with the consideration of the nomination of William H. Rehnquist to be Associate Justice of the Supreme Court of the United States.

Mr. CRANSTON. Mr. President, I have been on the floor through the amount of time I have been able to be here throughout this debate on the Supreme Court nominations. I have reviewed the Judiciary Committee report and the individual views filed by some of the members of the committee. I have read quite widely on the views and on the record of Mr. Rehnquist.

However, since I am not a member of the committee and was unable to attend the committee sessions and engage in the questioning there and am not as fully informed as I would like to be in considering this nomination and taking my position with full cognizance of all the relevant facts and opinions, I would like at this time to address some questions to the Senator from Indiana (Mr. Bayh), who has probably looked into this matter as deeply as anyone on the Senate floor, who is a member of the committee, who has engaged in the deliberations of the committee, and who, I gather, has been on the floor through virtually all the discussions.

Therefore, I would like to ask the Senators from Indiana if he would respond to some inquiries that I would like to put to him.

Mr. BAYH. Mr. President, I am glad to yield to my colleague from California and to answer as best I can. I have been a member of the Judiciary Committee, and, as a result of that responsibility, have had the opportunity to explore most of the facts, as much as one Senator possibly can do.

Mr. CRANSTON. I thank the Senator. I know that not only has he participated to the fullest extent possible, but that he has the ability to cut through to the heart of each matter. Therefore, I am particularly interested in his view of some aspects of the nomination and the record of the nominee.

First of all, I am correct in my understanding, am I not, that the nominee has actively supported the Nixon administration's wiretapping position?

Mr. BAYH. There is no question about the fact that the nominee has not only supported the administration's wiretapping position, but has been one of the most eloquent spokesmen on various college campuses and before various meetings in articulating the validity and the reasons behind this particular position.

Mr. CRANSTON. What have the courts said on this issue? What is the state of the law at this point in regard to this matter, which I think is one of the most important relating to the liberties of each of us?

Mr. BAYH. Of course, the 1968 act, as the Senator from California knows, provided for wiretapping with court order in certain circumstances. The key question which now presents itself to the country and to the Court is over the limits on uncontrolled executive wiretaps. It has been generally concluded that the President has the right, without a court order, to tap, bug, and provide electronic surveillance in those instances of subversion which are characterized as foreign in nature. The effort now is to suggest that he should also have this unchecked, unfettered right to become involved in those instances where there is no foreign element involved, but where the insurrection comes from within.

I think the best way to describe the distinction between the two groups would be to say one involves foreign nations, where persons are landed by submarine or by parachute and set up a cell in Los Angeles or Indianapolis. It is generally accepted that that is a foreign source and that the President, under past precedent, has the right to bug without court order.

The other would be a band of students who are concerned with the state of the Nation, and for some reason or other they are interpreted by the Justice Department to be cause for surveillance.

That particular example, or one very similar thereto, is presently before the Court, and I might read a couple of quotations from the sixth circuit, which has ruled against the uncontrolled executive authority to tap in the case of domestic insurgency.

The court said as follows:

> The Fourth Amendment was adopted in the immediate aftermath of abusive searches and seizures directed against the American colonists under the sovereign and inherent powers of King George III. The United States Constitution was adopted to provide a check upon such powers. The creation of three coordinate branches of the government by that Constitution was designed to require sharing in the administration of that awesome power.

Here we are talking about one of the basic distinctions between the U.S. Constitution and what had happened in the colonies, which precipitated the quest for independence. The sixth circuit concluded, in ruling against this executive power, by saying:

> The government has not pointed to and we do not find one written phrase in the Constitution, in the statutory law, or in the case law of the United States, which exempts the President, the Attorney General, or Federal law enforcement officers from the restrictions of the Fourth Amendment in the case at hand.

Now, the Supreme Court has granted certiorari in this case, so it is before the Court. It would seem, from looking at the record, that because of the nominee's very personal involvement in helping to write the Government's brief in the case, he will probably not sit on that case. But that is the issue that is drawn now. And I might just add that Mr. Powell, who is now Mr. Justice Powell, or will be as soon as the oath has been given him, displayed at the hearings great sensitivity to the problems involved. It is his judgment that in most cases it would be relatively easy to make a distinction between foreign and domestic subversives, and thus to tell where the line is drawn, and it is Justice-to-be Powell's opinion, as it is mine, that the factors to be considered are quite different before we permit any unchecked bugging of the citizens of this country.

I am not suggesting, and I am sure the Senator from California does not suggest, that there could not be insurrections brewing within sight of the Capitol, and certainly the Government of the United States has the right and the responsibility to protect itself against insurgents from all sources. But it is possible under the present law, unquestionably, for the President of the United States to go to a Federal district court and get a court order, and then to eavesdrop, to bug, or to provide electronic surveillance for the domestic type of insurgency which the Department of Justice is so greatly concerned about.

Mr. CRANSTON. And that could be for something that is a domestic-type insurgency, not necessarily connected with any foreign threat.

Mr. BAYH. Yes; that is the question. If you have foreign agents who land by submarine, as we have had in past times, I think the severity of that threat and the protection to be provided against it is one thing. But if we had citizens of this country who were to be bugged by their own Government, then I just feel that we need to require of the Government a little restraint, a little safeguard, to see that that restraint is followed, and the requirement of a warrant provides this.

To suggest that the Federal Government has an inherent right to bug completely belies the point made by the Sixth Circuit Court. The very purpose of the Bill of Rights, whether it is the fourth amendment, the first amendment, or the 10th amendment—all of the Bill of Rights, those 10 amendments, were specifically designed to provide checks, to deny inherent rights and inherent power to the Government, and I still feel that is good law today.

Mr. CRANSTON. If Mr. Rehnquist's view became the view of the Court, would that mean that there would be a change in the interpretation of the law and the Constitution and a change in the situation as it now prevails, so that in that new, changed circumstance, the Attorney General would have the right, without going to any court, to tap your wire, my wire, any Senator's or Congressman's wire, or any citizen's wire, simply for the alleged purpose of dealing with a domestic threat, without having to prove anything in any court before proceeding on his own power of decision to do that?

Mr. BAYH. I do not think any of us know what the mathematics of the Court is right now on this question.

Mr. CRANSTON. No, I say if his view did prevail on the Court.

Mr. BAYH. If his view did prevail, it would clearly, then, give the President broad, sweeping, unfettered power to conduct electronic surveillance against citizens of this country who he may feel are involved in subversive activities against it.

Again, I think it is important for us to underline the fact that if we are going to have a free government, it must be able to protect itself, and thus I think it would be very naive not to be able to recognize that there could well be, either now or at some future time, a domestic insurrection that requires electronic surveillance, so that the Government can protect itself.

But are we so sterile of thought, are we so lacking in dedication to the principles which put this country on the road as a free nation in the first place, that we believe the only way we can protect our freedoms is by destroying them?

The Senator from Indiana is not willing to accept that philosophy. I believe we can provide protection for the Government at the same time that we provide safeguards against abuses of power by the Executive.

Mr. CRANSTON. Under this circumstance, if we were guided by the thinking of Mr. Rehnquist in these matters, the Attorney General, one man, solely on his own power of decision, could make the decision that he wanted someone wiretapped for reasons that might not be clear to anyone else, and that would not be tested by anyone else's power of decision, and then it would be permissible for the Government to place a tap on that individual's phone. Do I understand the Senator correctly insofar as he understands Mr. Rehnquist's position?

Mr. BAYH. Yes. The Senator's interpretation is accurate. There is some distinction between the President and the Attorney General, but the Government claims, since the Attorney General is acting for the President as the agent and chief lawyer for the President, that he has the same right to do it, because he would not become involved in the question unless he had the approval of the President. That is compounding the danger, it seems to me.

Mr. CRANSTON. There is another aspect of this question which is not directly related to Mr. Rehnquist's nomination, except that he would, if on the Court, perhaps participate in a decision that would change the current circumstances. That relates to the fact that the present Attorney General is the man who served as the President's partisan campaign manager in the election of 1968, and according to press reports he will serve as the President's campaign manager in 1972, and presumably would leave the Department of Justice at that point.

I personally wonder about the desirability of letting one man who has that political responsibility or has held that responsibility in the past and will hold it in the future, and is not totally aloof from politics at the present time, have this authority that is vested in the Attorney General. I must confess that it was a Democrat—it happened to be Harry Truman, a President whom I greatly respected—who made the first appointment, I believe, of an Attorney General to serve as chairman of the Democratic National Committee during the time that he served as Attorney General, which I think was an unwise move; and the role that Mr. Mitchell plays in the current administration is somewhat analogous to that.

In prior times, the Postmaster General used to be the Cabinet member selected for exercising this great political authority now vested in the Attorney General. I think that was far wiser, because while maybe there might be an invasion of freedom by looking at somebody's mail, I think that is a thing quite apart from the great authority vested in the Attorney General with respect to wiretaps and surveillance, on the exercise of which authority Mr. Rehnquist finds no constitutional restraints.

I ask the Senator from Indiana his feeling about mixing the Attorney General to this degree into political responsibilities, when we are dealing with the vast powers the Attorney General now has and the even vaster powers the Attorney General would have if Mr. Rehnquist had his way.

Mr. BAYH. I share the concern of the Senator from California. In fact, I expressed this concern in the hearings. It seems to me that this makes good logic for providing that safeguard independent from the executive branch.

Interestingly enough, we have had two recent Presidents—we do not have to go back as far as Harry Truman—but President Kennedy appointed his personal political adviser as Attorney General, and President Nixon has done the same. I think that to suggest that this is a political argument in which Democrats are trying to deny this power to Republicans is inaccurate. I do not think that a Democratic or a Republican Attorney General or a Democratic or a Republican President ought to have this so-called vested right to bug unchecked.

If electronic surveillance needs to be conducted in a given situation, I think the President and the Attorney General ought to go to court and say, "Here is probable cause to believe that X, Y, and Z is happening. That is why we need the bug." That is particularly so when you get into the domestic surveillance situation, because there the whole reason for surveillance is that citizens of this country want to overthrow the Government.

Frankly, I may say that I am very much desirous of changing the Government. I would like to see a different President. I had that position back in 1968. I want to use the ballot box, and I want to use lawful means. But the line between those who want to peacefully change the Government and those who may want to take to the streets and resort to violence sometimes is a very narrow line. It seems to me it puts the Government on a sounder basis, and it certainly goes much further to protect the individual liberties of the citizens of this country, to say that the President and his chief law enforcement officer, who is now his chief political adviser, should not make that determination. A judge who has no political ties, who is out of the political syndrome, should make the determination as to whether this is based on fact or on politics.

I suppose the Attorney General, under this authority, if it were granted to him, could begin to wonder whether some people who seemed to be prepared to use the ballot box to achieve change in our Nation are even thinking about the possibility of going in a different direction, by a violent route, so that they can be prepared, and on that ground you could tap almost anybody's wire, and one man would make that decision.

I suppose that in the light of what I have just said about favoring a change of Government, that might be good reason for my wire to be tapped. In fact, it may have been tapped before now. I do not know.

I think it is important for those of us who are concerned about this increased power on the part of the Federal Government not to be naive. We have to recognize that there may, indeed, be circumstances which would require the President to have access to electronic surveillance. I hate to think about it. It is despicable. But in the area of organized crime and in the area of some types of subversive activities, I suppose the Senator from Indiana could stretch his thoughts on that.

On the other hand, as I said a moment ago, I think it is very important for those who are concerned with and have the responsibility for enforcing the law, and thus for protecting our country, not to utilize those tactics to protect our freedom—in essence, take our freedoms away and destroy them. The history of man is filled with well-intentioned pronouncements that this junta is going to take over so that freedom can be restored, or that this dictator, in addition to running the trains on time, is going to restore free government.

I do not suggest that we are presently close to having a junta or a dictator. In my judgment, the freedoms of this country are strong. They are inculcated in the minds of the people. I do not think there is going to be a Benito Mussolini or some general who mounts a white charger at the Pentagon and gallops across the 14th Street bridge and ensconces himself at the White House. I do not think that is the way we will lose our freedoms. If we lose our freedoms—and I hope and pray we do not—I think they will be lost a word at a time, a line at a time, a law at a time, an Executive order at a time—perhaps a Supreme Court decision at a time; and that the people of the country will not know what they have lost until it is too late to do anything about it.

That is why I am concerned about the position of this nominee on the matter of electronic surveillance and the right to privacy, as well as the general area of civil rights and human rights.

Mr. CRANSTON. In the same way that I believe we can defend our Nation from a foreign threat without resorting to atomic weapons, I feel we can preserve and keep secure our Nation from domestic threats without resorting to wiretapping. In my view, that threat of wiretapping erodes the freedoms and a sense of confidence in his individual freedom of every American who is aware of the fact that his wire may be tapped at any moment. I am constantly shocked by the number of people in public life and in private life who are uncertain about the freedom they have when they talk on the telephone. To me that is a very frightening thing, and I totally concur with the Senator that we must do all we can to provide greater confidence in their privacy on the part of individual citizens.

Mr. BAYH. The nominee's philosophy and his beliefs in this general area, as I am sure the Senator from California knows, go beyond the technical area that we have talked about here. Here we have been talking about what are traditionally known as fourth amendment rights, but the nominee's philosophy has expanded broadly into what rapidly becomes at least partially first amendment rights—the right to free speceh, free association, and to petition government for redress of grievance.

If the Senator has the time between now and the vote on this nominee to read the hearings of the Subcommittee on the Judiciary, chaired by the distinguished Senator from North Carolina (Mr. ERVIN) and see the responses of the nominee to some of the questions raised by the Senator from North Carolina, he will see it is a rather frightening thing, because here is a man who says that there is no constitutional question in the right to privacy where surveillance is involved. In my view there is a serious constitutional question in this area. In essence if we put this man on the Court, we will at least provide one additional vote to undermine this view and thus our constitutionally protected right to privacy.

Mr. Rehnquist even went so far as to suggest he saw no constitutional question with respect to putting a tail on the distinguished Senator from North Carolina—a tail that would not be attached, I hasten to say to my colleague, but one which would be in the area of surveillance. This is a matter of grave concern to the Senator from Indiana.

Mr. ERVIN. Mr. President, since my good friend, the Senator from Indiana, has brought me into this colloquy, I hope that the Senator from California will yield to me for some observations concerning those hearings.

Mr. CRANSTON. I am delighted to yield to the distinguished senior Senator from North Carolina. I have great respect for him. I am seeking illumination, and I seek it from him as well as from the Senator from Indiana.

Mr. ERVIN. I had occasion to observe Mr. Rehnquist and listen to his testimony before the Senate Subcommittee on Constitutional Rights, of which I have the honor to be chairman, and before the Senate Subcommittee on Separation of Powers, of which I also have the honor of being chairman. While Mr. Rehnquist did not agree with me on the application of the Constitution to all of the questions which arose in those hearings, I am constrained to say that observing his demeanor while testifying, and listening to his testimony, he left me with the abiding conviction that he is a diligent student of the law, that he is a man of intellectual integrity, that he has a fundamental devotion to the Bill of Rights, and that he possesses what Chief Justice John Marshall declared in Marbury against Madison to be the necessary qualification to serve on the Supreme Court of the United States, and that is an ability and a willingness to accept the Constitution as the rule for the guidance and control and government of his official actions. I do not know that I can point out the qualifications of any man in any more acceptable fashion than to say that.

It is true Mr. Rehnquist and myself disagreed on several occasions and he did inadvertently remark on one occasion that the Federal Government could even place me under surveillance. I told him that if it did so it would be a waste of time because, unfortunately, the statute of limitations has run on all the really evil things I have ever done. [Laughter.]

Mr. Rehnquist modified that statement later, as I recall, by stating that the Government has no power to place a man under surveillance unless it has reasonable cause to believe that he had committed a crime or is about to commit a crime. I think that is a correct proposition of law.

I was urged by some of my colleagues and friends to oppose the nomination of Mr. Rehnquist on the grounds that he had disagreed with me on the application of constitutional principles under certain circumstances. I said that I could not oppose a man for a position on the Court on that basis. I had the privilege, before coming to the Senate, of serving on the Supreme Court of the State of North Carolina with six other members whom I knew to be great lawyers, great citizens, great patriots, and great Americans.

I am bound to confess that on several occasions I disagreed with one or more, or on some occasions with a majority of the members of the Supreme Court of North Carolina with whom I served. I do not proscribe a man from public office who does not accept my sound views on all matters if he reaches what I consider to be honest conclusions different from mine.

With all due respect to the views of my good friend from Indiana, and his sincere convictions regarding the nominee, which are contrary to mine, I am compelled to say that the Constitution of the United States will be just a little bit safer if we have such a person as Mr. Rehnquist serving on the Court.

I say that notwithstanding the fact that he and I will probably differ on the application of constitutional principles, to certain circumstances, on a number of occasions.

I thank the Senator for yielding to me. I just wanted to interject myself into this colloquy in view of the fact that my friend from Indiana mentioned my name.

Mr. CRANSTON. Let me address a question to the distinguished Senator from North Carolina while he is present. I know of his devotion to the Constitution, his devotion to his country, and I know of his grave concern about the issue of the invasion of the individual privacy of citizens, whether in public or private life, by the Government.

There is one particular statement of Mr. Rehnquist that gave me great concern and I would be very much interested in the Senator's reaction to that particular statement. That was his statement that, in matters of surveillance, he would be quite content to rest or put his faith in the executive branch's exercising self-restraint in this matter, as if the constitutional guarantees and the checks-and-balances system are really not necessary.

Here is the actual quote:

> I think it quite likely that self-restraint on the part of the Executive Branch will provide the answer to virtually all of the legitimate complaints against excesses of information gathering.

Mr. ERVIN. That is an expression of a point of view which is entertained by many people. On a number of occasions when I have joined the Senator from Indiana and the Senator from California, and other Senators, who hold libertarian views on the floor of the Senate I have found on some occasions that a majority of the Senate accepted the thesis which Mr. Rehnquist stated on that subject.

A man who is a member of the executive branch of the Government has more confidence in its capacity for rectitude than those of us who happen to think the greatest threat to individual liberty comes from government.

Mr. CRANSTON. I concur totally on that latter concern.

Mr. ERVIN. For that reason, I am in favor of chaining—as Thomas Jefferson once said—Government officials with the Constitution in order that individual liberties may be safe. But there are a great many people who believe that we can trust the executive branch, or the Congress, or the President, or even the courts with unlimited power, and not subject them to external restraints. I do not share that philosophy, but Mr. Rehnquist said that ordinarily we could rely on the executive branch of the Government to protect the rights of the individual. Fortunately, I think that we can, too, ordinarily, but there do come times, perhaps, in the history of a nation, when ordinary conditions may not prevail.

Mr. CRANSTON. When the Senator was referring to recent statements on this issue on the Senate floor, was it not in reference to the battle over no-knock?

Mr. ERVIN. Yes—no-knock and——

Mr. BAYH. Also preventive detention.

Mr. ERVIN. Yes, also preventive detention.

Mr. CRANSTON. Is that not quite a different situation, particularly no-knock, at least, where a warrant issued by a judicial officer, is required before we can proceed on a no-knock basis?

Mr. ERVIN. The no-knock provision I was fighting was a provision which gave lipservice to the fourth amendment, but failed to comply with its spirit or even its letter.

I have no information whatever about Mr. Rehnquist's activities with regard to no-knock or preventive detention laws. I conducted extensive hearings for the Subcommittee on Constitutional Rights with respect to these matters, and the man who appeared for the administration's point of view was Deputy Attorney General Richard G. Kleindienst, not Mr. Rehnquist. The administration was represented in the House Committee on the District of Columbia by Mr. Donald E. Santarelli, from the Office of the Deputy Attorney General. He was the only official of the Government that appeared before the House committee to advocate the adoption of preventive detention laws.

Mr. CRANSTON. I brought up no-knock only because I thought the Senator was referring to that when he was talking about the recent Senate issue related to this question. I stood with the Senator from North Carolina on every vote on that matter, as he recalls.

Mr. ERVIN. On every occasion since he came to the Senate, the distinguished Senator from California has manifested himself to be a great libertarian, a man who prizes above everything the basic freedoms of the individual. I have stood shoulder to shoulder with him on several occasions fighting for what he and I believe to be those basic rights.

Mr. CRANSTON. We have.

Mr. ERVIN. I can say the same thing for the distinguished Senator from Indiana.

Mr. CRANSTON. My point was that under the 1968 statute you referred to a warrant is required for no-knock.

Mr. ERVIN. Yes, of course, the no-knock statute was an exercise in legal and linguistic absurdity. The fourth amendment requires that a search warrant must be based on probable cause.

The no-knock laws that the Senate passed, over the objections of the Senator from California and myself, gave lip-service to the requirement of probable cause. But under those laws, if an officer appears before a judge or a magistrate and applies for a no-knock warrant, he can obtain a no-knock warrant by engaging in a prophecy in respect to what may happen at the time he undertakes to execute the no-knock warrant at some other time and some other place after the search warrant is obtained. And I consider that to be an absolutely invalid proposition, because probable cause can be based only upon facts existing and known at the time the search warrant is applied for.

A search warrant, in my judgment, cannot be constitutionally issued upon the basis of fears or prophecies or predictions of what might happen at some future time when the officer undertakes to execute the search warrant.

Mr. CRANSTON. Mr. President, as I understand it, on the question of preventive detention, as with no-knock statute, it also deals with the decision of a judicial officer. But, with respect to wiretap or surveillance as Mr. Rehnquist would like it to be, the Attorney General, without consulting any court in any way, shape, of manner, could decide to invade an individual's privacy.

If the fellow who is being wiretapped under such a situation were to discover it, there is no way after the fact that he can get at the problem. Under Mr. Rehnquist's view, he could not get a writ of mandamus against the Attorney General if he felt he was being harassed. It seems to me that Mr. Rehnquist is taking a very extreme view in so narrowly construing the Bill of Rights.

Mr. ERVIN. Mr. President, I do not know what view he has on that subject. However, I have noticed over the years that an Assistant Attorney General, or other lesser legal light in the Department of Justice, usually comes down as an advocate of the position taken by the incumbent administration. His arguments are made to sustain the administration position and do not necessarily express his own views.

There is a remedy for the situation which the Senator from California describes, and that is a motion to suppress the evidence obtained by an illegal search and seizure.

I rejoice in the fact that Judge Edwards, of the Michigan circuit, has written one of the greatest opinions that I have read lately. He repudiates in his opinion, the position of the Department of Justice, that the President has the inherent power to wiretap the conversations of individuals suspected of being engaged in domestic subversion.

I do not know exactly what domestic subversion is, except I have noticed that people who use that term a great deal usually apply it to the people who happen to disagree with them on fundamental matters.

Mr. CRANSTON. Mr. President, the Senator from North Carolina got right at the heart of the matter with that remark.

Mr. BAYH. Mr. President, if the Senator will yield, I want to assure the Senator from North Carolina that the context in which I brought his name into debate was intended to be of a laudatory nature.

Mr. ERVIN. Mr. President, the Senator has been very generous in all references he made to me, even on occasions when he and I had reached diametrically opposed views on certain questions. And I appreciate that attitude on the part of the Senator from Indiana.

Mr. BAYH. I thank the Senator, and I appreciate his remark.

The thing concerning the Senator from Indiana, and the reason I brought the committee and the personal investigation of the Senator from North Carolina into the debate, is that we are now being asked to put a man on the Supreme Court who, like all past and present Supreme Court Justices, will not only sit in judgment of what the Attorney General does, but will also sit in judgment of what each State legislature does in its law enforcement and lawmaking capacity.

There is a general pattern of public statements, speeches, articles and, indeed, in testimony before the Judiciary Committee—not just the subcommittee chaired by the distinguished Senator from North Carolina, but the full Judiciary Committee—when Mr. Rehnquist himself was there, not to express the views of the Attorney General or the President, but to give us the views of William Rehnquist, nominee to Associate Justice of the Supreme Court of the United States, which I find disturbing.

He did say, as the Senator from California accurately noted, that he felt in most instances self-restraint would be sufficient to curtail abuse on the part of the Executive. And he did say in response to the Senator from North Carolina (Mr. ERVIN) at the hearings—and I wish I had mentioned this before the Senator from North Carolina left, because it is on point—when the Senator from North Carolina asked the following question:

> Senator ERVIN. I would agree with you to the extent that it would not constitute a violation of the Fourth Amendment where surveillance is had of people in public places because there is no search and there is no seizure, no search of a home or building and no search of papers and no seizure, but do you not concede that government could very effectively stifle the exercise of First Amendment freedoms by placing people who exercise those freedoms under surveillance?
>
> Mr. REHNQUIST. No, I don't think so, Senator. It may have a collateral effect such as that, but certainly during the time when the Army was doing things of this nature, and apparently it was fairly generally known that it was doing things of this nature, those activities didn't prevent, you know, two hundred, two hundred fifty thousand people from coming to Washington on at least one or two occasions to, you know, exercise their First Amendment rights, to protest the war policies of the President.

In other words, when we talk about the right of privacy, we are talking not only about the fourth amendment rights but also first amendment rights, 14th amendment rights, and I think the Supreme Court even said ninth amendment rights. When they said there is a right, They consider this to be an umbrella right.

And when the Senator from North Carolina asked:

> Do you not concede that Government could very effectively stifle the exercise of the First Amendment freedoms by placing people who exercise those freedoms under surveillance.

Mr. Rehnquist said:

> No, no. I don't think so, Senator.

That is about as plain as it can possibly be. Mr. Rehnquist, Associate Justice-to-be Rehnquist, said at the hearings that he did not believe there was a chilling effect as far as surveillance was concerned. And that, in his view, right of privacy is not involved in this problem.

Mr. President, I perhaps should make clear that the testimony to which I just alluded, the exchange between the Senator from North Carolina and Mr. Rehnquist over the exercise of first amendment rights and the chilling effect, was before the subcommittee of the Senator from North Carolina.

Mr. Rehnquist made other statements concerning his views on the right of privacy and the power of the Executive to engage in surveillance before the full Judiciary Committee when it was holding hearings on his nomination.

Mr. CRANSTON. Mr. President, the Senator from Indiana qualified his language in reference to Mr. Rehnquist's views by saying that he has indicated he felt executive branch good faith would suffice to protect against unwarranted invasions of privacy in most cases.

The quotation I read was that self-restraint on the part of the executive branch will provide an answer to virtually all legitimate complaints against excesses of information gathering.

However, the nominee made a still more extreme statement in a speech entitled, "Private Surveillance," on March 17, 1971, when he said:

> I do not believe, therefore, that there should be any judicially enforceable limitations on the gathering of this kind of public information by the executive branch of the government.

He said nothing about virtually no restraint, he said absolutely no restraint at all.

It is my understanding that we have been discussing the first amendment and the chilling effect on free expression and freedom of association as far as individuals are concerned in terms of the surveillance and the harassment that inevitably accompanies it.

I gather that Mr. Rehnquist is more concerned about the chilling effect on the Government if additional restraints were available to be imposed on the executive branch in its surveillance activities.

I had not been aware in any informed way of the involvement of the matter of the fourth, ninth, and 14th amendments. Could the Senator explain how they get into the picture?

Mr. BAYH. The key case on this matter is Griswold against Connecticut, which is a landmark case on the right to privacy. I think it was Justice Goldberg who wrote eloquently in that case, as did other concurring Justices.

I do not have the material in my files before me, but I ask unanimous consent that I may have that case printed in the RECORD.

There being no objection, the case was ordered to be printed in the RECORD, as follows:

GRISWOLD AGAINST CONNECTICUT, SYLLABUS, GRISWOLD ET AL. AGAINST CONNECTICUT

APPEAL FROM THE SUPREME COURT OF ERRORS OF CONNECTICUT

(No. 496. Argued March 29–30, 1965.—Decided June 7, 1965.)

Appellants, the Executive Director of the Planned Parenthood League of Connecticut, and its medical director, a licensed physician, were convicted as accessories for giving married persons information and medical advice on how to prevent conception and, following examination, prescribing a contraceptive device or material for the wife's use. A Connecticut statute makes it a crime for any person to use any drug or article to prevent conception. Appellants claimed that the accessory statute as applied violated the Fourteenth Amendment. An intermediate appellate court and the State's highest court affirmed the judgment. *Held:*

1. Appellants have standing to assert the constitutional rights of the married people. *Tileston* v. *Ullman*, 318 U.S. 44, distinguished. P. 481.

2. The Connecticut statute forbidding use of contraceptives violates the right of marital privacy which is within the penumbra of specific guarantees of the Bill of Rights. Pp. 481–486.

151 Conn. 544, 200 A. 2d 479, reversed.

Thomas I. Emerson argued the cause for appellants. With him on the briefs was *Catherine G. Roraback*.

Joseph B. Clark argued the cause for appellee. With him on the brief was *Julius Maretz*.

Briefs of *amici curiae*, urging reversal, were filed by *Whitney North Seymour* and *Eleanor M. Fox* for Dr. John M. Adams et al.; by *Morris L. Ernst, Harriet F. Pilpel* and

Nancy F. Wechsler for the Planned Parenthood Federation of America, Inc.; by *Alfred L. Scanlon* for the Catholic Council on Civil Liberties, and by *Rhoda H. Karpatkin, Melvin L. Wulf* and *Jerome E. Caplan* for the American Civil Liberties Union et al.

Mr. Justice Douglas delivered the opinion of the Court.

Appellant Griswold is Executive Director of the Planned Parenthood League of Connecticut. Appellant Buxton is a licensed physician and a professor at the Yale Medical School who served as Medical Director for the League at its Center in New Haven—a Center open and operating from November 1 to November 10, 1961, when appellants were arrested.

They gave information, instruction, and medical advice to *married persons* as to the means of preventing conception. They examined the wife and prescribed the best contraceptive device or material for her use. Fees were usually charged, although some couples were serviced free.

The statutes whose constitutionality is involved in this appeal are §§ 52–32 and 54–196 of the General Statutes of Connecticut (1958 rev.). The former provides:

"Any person who uses any drug, medicinal article or instrument for the purpose of preventing conception shall be fined not less than fifty dollars or imprisoned not less than sixty days nor more than one year or be both fined and imprisoned."

Section 54–196 provides:

"Any person who assists, abets, counsels, causes, hires or commands another to commit any offense may be prosecuted and punished as if he were the principal offender."

The appellants were found guilty as accessories and fined $100 each, against the claim that the accessory statute as so applied violated the Fourteenth Amendment. The Appellate Division of the Circuit Court affirmed. The Supreme Court of Errors affirmed that judgment. 151 Conn. 544, 200 A. 2d 479. We noted probable jurisdiction. 379 U.S. 926.

We think that appellants have standing to raise the constitutional rights of the married people with whom they had a professional relationship. *Tileston* v. *Ullman*, 318 U.S. 44, is different, for there the plaintiff seeking to represent others asked for a declaratory judgment. In that situation we thought that the requirements of standing should be strict, lest the standards of "case or controversy" in Article III of the Constitution become blurred. Here those doubts are removed by reason of a criminal conviction for serving married couples in violation of an aiding-and-abetting statute. Certainly the accessory should have standing to assert that the offense which he is charged with assisting is not, or cannot constitutionally be, a crime.

This case is more akin to *Truax* v. *Raich*, 329 U.S. 33, where an employee was permitted to assert the rights of his employer: to *Pierce* v. *Society of Sisters*, 268 U.S. 510, where the owners of private schools were entitled to assert the rights of potential pupils and their parents; and to *Barrows* v. *Jackson*, 346 U.S. 249, where a white defendant, party to a racially restrictive covenant, who was being sued for damages by the covenantors because she had conveyed her property to Negroes, was allowed to raise the issue that enforcement of the covenant violated the rights of prospective Negro purchasers to equal protection, although no Negro was a party to the suit. And see *Meyer* v. *Nebraska*, 262 U.S. 392; *Adler* v. *Board of Education*, 342 U.S. 485; *NAACP* v. *Alabama*, 357 U.S. 449; *NAACP* v. *Button*, 371 U.S. 415. The rights of husband and wife, pressed here, are likely to be diluted or adversely affected unless those rights are considered in a suit involving those who have this kind of confidential relation to them.

Coming to the merits, we are met with a wide range of questions that implicate the Due Process Clause of the Fourteenth Amendment. Overtones of some arguments suggest that *Lochner* v. *New York*, 198 U.S. 45, should be our guide. But we decline that invitation as we did in *West Coast Hotel Co.* v. *Parrish*, 300 U.S. 379; *Olsen* v. *Nebraska*, 313 U.S. 236; *Lincoln Union* v. *Northwestern Co.*, 335 U.S. 525; *Williamson* v. *Lee Optical Co.*, 348 U.S. 483; *Giboney* v. *Empire Storage Co.*, 336 U.S. 490. We do not sit as a super-legislature to determine the wisdom, need, and propriety of laws that touch economic problems, business affairs, or social conditions. This law, however, operates directly on an intimate relation of husband and wife and their physician's role in one aspect of that relation.

The association of people is not mentioned in the Constitution nor in the Bill of Rights. The right to educate a child in a school of the parents' choice—whether public or private or parochial—is also not mentioned. Nor is the right to study any particular subject or any foreign language. Yet the First Amendment has been construed to include certain of those rights.

By *Pierce* v. *Society of Sisters, supra*, the right to educate one's children as one chooses is made applicable to the States by the force of the First and Fourteenth Amendments. By *Meyer* v. *Nebraska, supra*, the same dignity is given the right to study the German language in a private school. In other words, the State may not, consistently with the spirit of the First Amendment, contract the spectrum of available knowledge. The right of freedom of speech and press includes not only the right to utter or to print, but the right to distribute, the right to receive, the right to read (*Martin* v. *Struthers*, 319 U.S. 141, 143) and freedom of inquiry, freedom of thought, and freedom to teach (see *Wieman* v. *Updegraff*, 344 U.S. 183, 195)—indeed the freedom of the entire university community. *Sweezy* v. *New Hampshire*, 354 U.S. 234, 249–250, 261–263; *Barenblatt* v. *United States*, 360 U.S. 109, 112; *Baggett* v. *Bullitt*, 377 U.S. 360, 369. Without those peripheral rights the specific rights would be less secure. And so we reaffirm the principle of the *Pierce* and the *Meyer* cases.

In *NAACP* v. *Alabama*, 357 U. S. 449, 462, we protected the "freedom to associate and privacy in one's associations," noting that freedom of association was a peripheral First Amendment right. Disclosure of membership lists of a constitutionally valid association, we held, was invalid "as entailing the likelihood of a substantial restraint upon the exercise by petitioner's members of their right to freedom of association." *Ibid*. In other words, the First Amendment has a penumbra where privacy is protected from governmental intrusion. In like context, we have protected forms of "association" that are not political in the customary sense but pertain to the social, legal, and economic benefit of the members. *NAACP* v. *Button*, 371 U. S. 415, 430–431. In *Schware* v. *Board of Bar Examiners*, 353 U. S. 232, we held it not permissible to bar a lawyer from practice, because he had once been a member of the Communist Party. The man's "association with that Party" was not shown to be "anything more than a political faith in a political party" (*id.*, at 244) and was not action of a kind proving bad moral character. *Id.*, at 245–246.

Those cases involved more than the "right of assembly"—a right that extends to all irrespective of their race or ideology. *De Jonge* v. *Oregon*, 299 U. S. 353. The right of "association," like the right of belief (*Board of Education* v. *Barnette*, 319 U. S. 624), is more than the right to attend a meeting; it includes the right to express one's attitudes or philosophies by membership in a group or by affiliation with it or by other lawful means. Association in that context is a form of expression of opinion; and while it is not expressly included in the First Amendment its existence is necessary in making the express guarantees fully meaningful.

The foregoing cases suggest that specific guarantees in the Bill of Rights have penumbras, formed by emanations from those guarantees that help give them life and substance. See *Poe* v. *Ullman*, 367 U.S. 497, 516–522 (dissenting opinion). Various guarantees create zones of privacy. The right of association contained in the penumbra of the First Amendment is one, as we have seen. The Third Amendment in its prohibition against the quartering of soldiers "in any house" in time of peace without the consent of the owner is another facet of that privacy. The Fourth Amendment explicitly affirms the "right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures." The Fifth Amendment in its Self-Incrimination Clause enables the citizen to create a zone of privacy which government may not force him to surrender to his detriment. The Ninth Amendment provides: "The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people."

The Fourth and Fifth Amendments were described in *Boyd* v. *United States*, 116 U.S. 616, 630, as protection against all governmental invasions "of the sanctity of a man's home and the privacies of life."[1] We recently referred in *Mapp* v. *Ohio*, 367 U.S. 643, 656, to the Fourth Amendment as creating a "right to privacy, no less important than any other right carefully and particularly reserved to the people." See Beaney, The Constitutional Right to Privacy, 1962 Sup. Ct. Rev. 212; Griswold, The Right to be Let Alone, 55 Nw. U. L. Rev. 216 (1960).

We have had many controversies over these penumbral rights of "privacy and repose." See, *e.g.*, *Breard* v. *Alexandria*, 341 U.S. 622, 644; *Public Utilities Comm'n* v. *Pollak*, 343 U.S. 451; *Monroe* v. *Pape*, 365 U.S. 167; *Lanza* v. *New York*, 370 U.S. 139; *Frank* v. *Maryland*, 359 U.S. 360; *Skinner* v. *Oklahoma*, 316 U.S. 535, 541. These cases bear witness that the right of privacy which presses for recognition here is a legitimate one.

The present case, then, concerns a relationship lying within the zone of privacy created by several fundamental constitutional guarantees. And it concerns a law which, in forbidding the *use* of contraceptives rather than regulating their manufacture or sale, seeks to achieve its goals by means having a maximum destructive impact upon that relationship. Such a law cannot stand in light of the familiar principle, so often applied by this Court, that a "governmental purpose to control or prevent activities constitutionally subject to state regulation may not be achieved by means which sweep unnecessarily broadly and thereby invade the area of protected freedoms." *NAACP* v. *Alabama*, 377 U.S. 288, 307. Would we allow the police to search the sacred precincts of marital bedrooms for telltale signs of the use of contraceptives? The very idea is repulsive to the notions of privacy surrounding marriage relationship.

We deal with a right of privacy older than the Bill of Rights—older than our political parties, older than our school system. Marriage is a coming together for better or for worse, hopefully enduring, and intimate to the degree of being sacred. It is an association that promotes a way of life, not causes; a harmony in living, not political faiths; a bilateral loyalty, not commercial or social projects. Yet it is an association for as noble a purpose as any involved in our prior decisions.

Reversed.

Mr. Justice Goldberg, whom The Chief Justice and Mr. Justice Brennan join, concurring.

I agree with the Court that Connecticut's birth-control law unconstitutionally intrudes upon the right of marital privacy, and I join

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Footnotes at end of article.

in its opinion and judgment. Although I have not accepted the view that "due process" as used in the Fourteenth Amendment incorporates all of the first eight Amendments (see my concurring opinion in *Pointer* v. *Texas* 380 U.S. 400, 410, and the dissenting opinion of Mr. JUSTICE BRENNAN in *Cohen* v. *Hurley,* 366 U. S. 117, 154), I do agree that the concept of liberty protects those personal rights that are fundamental, and is not confined to the specific terms of the Bill of Rights. My conclusion that the concept of liberty is not so restricted and that it embraces the right of marital privacy though that right is not mentioned explicitly in the Constitution [2] is supported both by numerous decisions of this Court, referred to in the Court's opinion, and by the language and history of the Ninth Amendment. In reaching the conclusion that the right of marital privacy is protected, as being within the protected penumbra of specific guarantees of the Bill of Rights, the Court refers to the Ninth Amendment, *ante,* at 484. I add these words to emphasize the relevance of that Amendment to the Court's holding.

The Court stated many years ago that the Due Process Clause protects those liberties that are "so rooted in the traditions and conscience of our people as to be ranked as fundamental." *Snyder* v. *Massachusetts,* 291 U. S. 97, 105. In *Gitlow* v. *New York,* 268 U.S. 652, 666, the Court said:

"For present purposes we may and do assume that freedom of speech and of the press—which are protected by the First Amendment from abridgement by Congress—are among the *fundamental* personal rights and 'liberties' protected by the due process clause of the Fourteenth Amendment from impairment by the States." (Emphasis added.)

And, in *Meyer* v. *Nebraska,* 262 U.S. 390, 399, the Court, referring to the Fourteenth Amendment, stated:

"While this Court has not attempted to define with exactness the liberty thus guaranteed, the term has received much consideration and some of the included things have been definitely stated. Without doubt, it denotes not merely freedom from bodily restraint but also [for example,] the right . . . to marry, establish a home and bring up children . . . ."

This Court, in a series of decisions, has held that the Fourteenth Amendment absorbs and applies to the States those specifics of the first eight amendments which express fundamental personal rights.[3] The language and history of the Ninth Amendment reveal that the Framers of the Constitution believed that there are additional fundamental rights, protected from governmental infringement, which exist alongside those fundamental rights, protected from governmental infringement, which exist alongside those fundamental rights specifically mentioned in the first eight constitutional amendments.

The Ninth Amendment reads, "The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people." The Amendment is almost entirely the work of James Madison. It was introduced in Congress by him and passed the House and Senate with little or no debate and virtually no change in language. It was proffered to quiet expressed fears that a bill of specifically enumerated rights [4] could not be sufficiently broad to cover all essential rights and that the specific mention of these rights would be interpreted as a denial that others were protected.[5]

In presenting the proposed Amendment, Madison said:

"It has been objected also against a bill of rights, that, by enumerating particular exceptions to the grant of power, it would disparage those rights which were not placed in that enumeration; and it might follow by implication, that those rights which were not singled out, were intended to be assigned into the hands of the General Government, and were consequently insecure. This is one of the most plausible arguments I have ever heard urged against the admission of a bill of rights into this system; but, I conceive, that it may be guarded against. I have attempted it, as gentlemen may see by turning to the last clause of the fourth resolution [the Ninth Amendment]." I Annals of Congress 439 (Gales and Seaton ed. 1834).

Mr. Justice Story wrote of this argument against a bill of rights and the meaning of the Ninth Amendment:

"In regard to . . . [a] suggestion, that the affirmance of certain rights might disparage others, or might lead to argumentative implications in favor of other powers, it might be sufficient to say that such a course of reasoning could never be sustained upon any solid basis. . . . But a conclusive answer is, that such an attempt may be interdicted (as it has been) by a positive declaration in such a bill of rights that the enumeration of certain rights shall not be construed to deny or disparage others retained by the people." II Story, Commentaries on the Constitution of the United States 626–627 (5th ed. 1891).

He further stated, referring to the Ninth Amendment:

"This clause was manifestly introduced to prevent any perverse or ingenious misapplication of the well-known maxim, that an affirmation in particular cases implies a negation in all others; and, *e converso,* that a negation in particular cases implies an affirmation in all others." *Id.,* at 651.

These statements of Madison and Story make clear that the Framers did not intend that the first eight amendments be construed to exhaust the basic and fundamental rights which the Constitution guaranteed to the people.[6]

While this Court has had little occasion to interpret the Ninth Amendment,[7] "[i]t cannot be presumed that any clause in the Constitution is intended to be without effect." *Marbury* v. *Madison,* 1 Cranch 137, 174. In interpreting the Constitution, "real effect should be given to all the words it uses." *Myers* v. *United States,* 272 U.S. 52, 151. The Ninth Amendment to the Constitution may be regarded by some as a recent discovery and may be forgotten by others, but since 1791 it has been a basic part of the Constitution which we are sworn to uphold.

To hold that a right so basic and fundamental and so deep-rooted in our society as the right of privacy in marriage may be infringed because that right is not guaranteed in so many words by the first eight amendments to the Constitution is to ignore the Ninth Amendment and to give it no effect whatsoever. Moreover, a judicial construction that this fundamental right is not protected by the Constitution because it is not mentioned in explicit terms by one of the first eight amendments or elsewhere in the Constitution would violate the Ninth Amendment, which specifically states that "[t]he enumeration in the Constitution, of certain rights, shall not be *construed* to deny or disparage others retained by the people." (Emphasis added.)

A dissenting opinion suggests that my interpretation of the Ninth Amendment somehow "broaden[s] the powers of this Court." *Post,* at 520. With all due respect, I believe that it misses the import of what I am saying. I do not take the position of my Brother BLACK in his dissent in *Adamson* v. *California,* 332 U.S. 46, 68, that the entire Bill of Rights is incorporated in the Fourteenth Amendment, and I do not mean to imply that the Ninth Amendment is applied against the States by the Fourteenth.

Nor do I mean to state that the Ninth Amendment constitutes an independent source of rights protected from infringement by either the States or the Federal Government. Rather, the Ninth Amendment shows a belief of the Constitution's authors that fundamental rights exist that are not expressly enumerated in the first eight amendments and an intent that the list of rights included there not be deemed exhaustive. As any student of this Court's opinions knows, this Court has held, often unanimously, that the Fifth and Fourteenth Amendments protect certain fundamental personal liberties from abridgment by the Federal Government or the States. See, *e.g., Bolling* v. *Sharpe,* 347 U.S. 497; *Aptheker* v. *Secretary of State,* 378 U.S. 500; *Kent* v. *Dulles,* 357 U.S. 116; *Cantwell* v. *Connecticut,* 310 U.S. 296; *NAACP* v. *Alabama,* 357 U.S. 449; *Gideon* v. *Wainwright,* 372 U.S. 335; *New York Times Co.* v. *Sullivan,* 376 U.S. 254. The Ninth Amendment simply shows the intent of the Constitution's authors that other fundamental personal rights should not be denied such protection or disparaged in any other way simply because they are not specifically listed in the first eight constitutional amendments. I do not see how this broadens the authority of the Court; rather it serves to support what this Court has been doing in protecting fundamental rights.

Nor am I turning somersaults with history in arguing that the Ninth Amendment is relevant in a case dealing with a *State's* infringement of a fundamental right. While the Ninth Amendment—and indeed the entire Bill of Rights—originally concerned restrictions upon *federal* power, the subsequently enacted Fourteenth Amendment prohibits the States as well from abridging fundamental personal liberties. And, the Ninth Amendment, in indicating that not all such liberties are specifically mentioned in the first eight amendments, is surely relevant in showing the existence of other fundamental personal rights, now protected from state, as well as federal, infringement. In sum, the Ninth Amendment simply lends strong support to the view that the "liberty" protected by the Fifth and Fourteenth Amendments from infringement by the Federal Government or the States is not restricted to rights specifically mentioned in the first eight amendments. Cf. *United Public Workers* v. *Mitchell,* 330 U.S. 75, 94–95.

In determining which rights are fundamental, judges are not left at large to decide cases in light of their personal and private notions. Rather, they must look to the "traditions and [collective] conscience of our people" to determine whether a principle is "so rooted [there] . . . as to be ranked as fundamental." *Snyder* v. *Massachusetts,* 291 U.S. 97, 105. The inquiry is whether a right involved "is of such a character that it cannot be denied without violating those 'fundamental principles of liberty and justice which lie at the base of all our civil and political institutions'. . . ." *Powell* v. *Alabama,* 287 U.S. 45, 67. "Liberty" also "gains content from the emanations of . . . specific [constitutional] guarantees" and "from experience with the requirements of a free society." *Poe* v. *Ullman,* 367 U. S. 497, 517 (dissenting opinion of MR. JUSTICE DOUGLAS).[8]

I agree fully with the Court that, applying these tests, the right of privacy is a fundamental personal right, emanating "from the totality of the constitutional scheme under which we live." *Id.,* at 521. Mr. Justice Brandeis, dissenting in *Olmstead* v. *United States,* 277 U. S. 438, 478, comprehensively summarized the principles underlying the Constitution's guarantees of privacy:

"The protection guaranteed by the [Fourth and Fifth] Amendments is much broader in scope. The makers of our Constitution undertook to secure conditions favorable to the pursuit of happiness. They recognized the significance of man's spiritual nature, of his feelings and of his intellect.

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They knew that only a part of the pain, pleasure and satisfactions of life are to be found in material things. They sought to protect Americans in their beliefs, their thoughts, their emotions and their sensations. They conferred, as against the Government, the right to be let alone—the most comprehensive of rights and the right most valued by civilized men."

The Connecticut statutes here involved deal with a particularly important and sensitive area of privacy—that of the marital relation and the marital home. This Court recognized in *Meyer* v. *Nebraska, supra,* that the right "to marry, establish a home and bring up children" was an essential part of the liberty guaranteed by the Fourteenth Amendment. 262 U.S., at 399. In *Pierce* v. *Society of Sisters,* 268 U.S. 510, the Court held unconstitutional an Oregon Act which forbade parents from sending their children to private schools because such an act "unreasonably interferes with the liberty of parents and guardians to direct the upbringing and education of children under their control." 268 U.S., at 534–535. As this Court said in *Prince* v. *Massachusetts,* 321 U.S. 158, at 166, the *Meyer* and *Pierce* decisions "have respected the private realm of family life which the state cannot enter."

I agree with Mr. Justice Harlan's statement in his dissenting opinion in *Poe* v. *Ullman,* 367 U.S. 497, 551–552: "Certainly the safeguarding of the home does not follow merely from the sanctity of property rights. The home derives its pre-eminence as the seat of family life. And the integrity of that life is something so fundamental that it has been found to draw to its protection the principles of more than one explicitly granted Constitutional right. . . . Of this whole 'private realm of family life' it is difficult to imagine what is more private or more intimate than a husband and wife's marital relations."

The entire fabric of the Constitution and the purposes that clearly underlie its specific guarantees demonstrate that the rights to marital privacy and to marry and raise a family are of similar order and magnitude as the fundamental rights specifically protected.

Although the Constitution does not speak in so many words of the right of privacy in marriage, I cannot believe that it offers these fundamental rights no protection. The fact that no particular provision of the Constitution explicitly forbids the State from disrupting the traditional relation of the family—a relation as old and as fundamental as our entire civilization—surely does not show that the Government was meant to have the power to do so. Rather, as the Ninth Amendment expressly recognizes, there are fundamental personal rights such as this one, which are protected from abridgment by the Government though not specifically mentioned in the Constitution.

My Brother STEWART, while characterizing the Connecticut birth control law as "an uncommonly silly law," *post,* at 527, would nevertheless let it stand on the ground that it is not for the courts to " 'substitute their social and economic beliefs for the judgment of legislative bodies, who are elected to pass laws.' " *Post,* at 528. Elsewhere, I have stated that "[while I quite agree with Mr. Justice Brandeis that . . . 'a . . . State may . . . serve as a laboratory; and try novel social and economic experiments,' *New State Ice Co.* v. *Liebmann,* 285 U.S. 262, 280, 311 (dissenting opinion), I do not believe that this includes the power to experiment with the fundamental liberties of citizens. . . ."[9] The vice of the dissenters' views is that it would permit such experimentation by the States in the area of the fundamental personal rights of its citizens. I cannot agree that the Constitution grants such power either to the States or to the Federal Government.

The logic of the dissents would sanction federal or state legislation that seems to me even more plainly unconstitutional than the statute before us. Surely the Government, absent a showing of a compelling subordinating state interest, could not decree that all husbands and wives must be sterilized after two children have been born to them. Yet by their reasoning such an invasion of marital privacy would not be subject to constitutional challenge because, while it might be "silly," no provision of the Constitution specifically prevents the Government from curtailing the marital right to bear children and raise a family. While it may shock some of my Brethren that the Court today holds that the Constitution protects the right of marital privacy, in my view it is far more shocking to believe that the personal liberty guaranteed by the Constitution does not include protection against such totalitarian limitation of family size, which is at complete variance with our constitutional concepts. Yet, if upon a showing of a slender basis of rationality, a law outlawing voluntary birth control by married persons is valid, then, by the same reasoning, a law requiring compulsory birth control also would seem to be valid. In my view, however, both types of law would unjustifiably intrude upon rights of marital privacy which are constitutionally protected.

In a long series of cases this Court has held that where fundamental personal liberties are involved, they may not be abridged by the States simply on a showing that a regulatory statute has some rational relationship to the effectuation of a proper state purpose. "Where there is a significant encroachment upon personal liberty, the State may prevail only upon showing a subordinating interest which is compelling," *Bates* v. *Little Rock,* 361 U.S. 516, 524. The law must be shown "necessary, and not merely rationally related, to the accomplishment of a permissible state policy." *McLaughlin* v. *Florida,* 379 U.S. 184, 196. See *Schneider* v. *Irvington,* 308 U.S. 147, 161.

Although the Connecticut birth-control law obviously encroaches upon a fundamental personal liberty, the State does not show that the law serves any "subordinating [state] interest which is compelling" or that it is "necessary . . . to the accomplishment of a permissible state policy." The State, at most, argues that there is some rational relation between this statute and what is admittedly a legitimate subject of state concern—the discouraging of extra-marital relations. It says that preventing the use of birth-control devices by married persons helps prevent the indulgence by some in such extra-marital relations.

The rationality of this justification is dubious, particularly in light of the admitted widespread availability to all persons in the State of Connecticut, unmarried as well as married, of birth-control devices for the prevention of disease, as distinguished from the prevention of conception, see *Tileston* v. *Ullman,* 129 Conn. 84, 26 A. 2d 582. But, in any event, it is clear that the state interest in safeguarding marital fidelity can be served by a more discriminately tailored statute, which does not, like the present one, sweep unnecessarily broadly, reaching far beyond the evil sought to be dealt with and intruding upon the privacy of all married couples. See *Aptheker* v. *Secretary of State,* 378 U.S. 500, 514; *NAACP* v. *Alabama,* 377 U.S. 288, 307–308; *McLaughlin* v. *Florida, supra,* at 196. Here, as elsewhere, "[p]recision of regulation must be the touchstone in an area so closely touching our most precious freedoms." *NAACP* v. *Button,* 371 U.S. 415, 438. The State of Connecticut does have statutes, the constitutionality of which is beyond doubt, which prohibit adultery and fornication. See Conn. Gen. Stat. §§ 53–218, 53–219 *et seq.* These statutes demonstrate that means for achieving the same basic purpose of protecting marital fidelity are available to Connecticut without the need to "invade the area of protected freedoms." *NAACP* v. *Alabama, supra,* at 307. See *McLaughlin* v. *Florida, supra,* at 196.

Finally, it should be said of the Court's holding today that it in no way interferes with a State's proper regulation of sexual promiscuity or misconduct. As my Brother Harlan so well stated in his dissenting opinion in *Poe* v. *Ullman, supra,* at 553.

"Adultery, homosexuality and the like are sexual intimacies which the State forbids . . . but the intimacy of husband and wife is necessarily an essential and accepted feature of the institution of marriage, an institution which the State not only must allow less but which always and in every age it has fostered and protected. It is one thing when the State exerts its power either to forbid extra-marital sexuality . . . or to say who may marry, but it is quite another when, having acknowledged a marriage and the intimacies inherent in it, it undertakes to regulate by means of the criminal law the details of that intimacy."

In sum, I believe that the right of privacy in the marital relation is fundamental and basic—a personal right "retained by the people" within the meaning of the Ninth Amendment. Connecticut cannot constitutionally abridge this fundamental right, which is protected by the Fourteenth Amendment from infringement by the States. I agree with the Court that petitioners' convictions must therefore be reversed.

MR. JUSTICE HARLAN, concurring in the judgment.

I fully agree with the judgment of reversal, but find myself unable to join the Court's opinion. The reason is that it seems to me to evince an approach to this case very much like that taken by my Brothers BLACK and STEWART in dissent, namely: the Due Process Clause of the Fourteenth Amendment does not touch this Connecticut statute unless the enactment is found to violate some right assured by the letter or penumbra of the Bill of Rights.

In other words, what I find implicit in the Court's opinion is that the "incorporation" doctrine may be used to *restrict* the reach of Fourteenth Amendment Due Process. For me this is just as unacceptable constitutional doctrine as is the use of the "incorporation" approach to *impose* upon the States all the requirements of the Bill of Rights as found in the provisions of the first eight amendments and in the decisions of this Court interpreting them. See, *e. g.,* my concurring opinions in *Pointer* v. *Texas,* 380 U.S. 400, 408, and *Griffin* v. *California,* 380 U.S. 609, 615, and my dissenting opinion in *Poe* v. *Ullman,* 367 U.S. 497, 522, at pp. 539–545.

In my view, the proper constitutional inquiry in this case is whether this Connecticut statute infringes the Due Process Clause of the Fourteenth Amendment because the enactment violates basic values "implicit in the concept of ordered liberty," *Palko* v. *Connecticut,* 302 U.S. 319, 325. For reasons stated at length in my dissenting opinion in *Poe* v. *Ullman, supra,* I believe that it does. While the relevant inquiry may be aided by resort to one or more of the provisions of the Bill of Rights, it is not dependent on them or any of their radiations. The Due Process Clause of the Fourteenth Amendment stands, in my opinion, on its own bottom.

A further observation seems in order respecting the justification of my Brothers BLACK and STEWART for their "incorporation" approach to this case. Their approach does not rest on historical reasons, which are of course wholly lacking (see Fairman, Does the Fourteenth Amendment Incorporate the Bill of Rights? The Original Understanding, 2 Stan. L. Rev. 5 (1949)), but on the thesis that by limiting the content of the Due Process Clause of the Fourteenth Amendment to the protection of rights which can be found elsewhere in the Constitution, in this instance in the Bill of Rights, judges will thus be confined to "interpretation" of

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specific constitutional provisions, and will thereby be restrained from introducing their own notions of constitutional right and wrong into the "vague contours of the Due Process Clause." *Rochin* v. *California*, 342 U.S. 165, 170.

While I could not more heartily agree that judicial "self restraint" is an indispensable ingredient of sound constitutional adjudication, I do submit that the formula suggested for achieving it is more hollow than real. "Specific" provisions of the Constitution, no less than "due process," lend themselves as readily to "personal" interpretations by judges whose constitutional outlook is simply to keep the Constitution in supposed "tune with the times" (*post*, p. 522). Need one go further than to recall last Term's reapportionment cases, *Westberry* v. *Sanders*, 376 U.S. 1, and *Reynolds* v. *Sims*, 377 U.S. 533, where a majority of the Court "interpreted" "by the People" (Art. I, § 2) and "equal protection" (Amdt. 14) to command "one person, one vote," an interpretation that was made in the face of irrefutable and still unanswered history to the contrary? See my dissenting opinions in those cases, 376 U.S., at 20; 377 U.S., at 589.

Judicial self-restraint will not, I suggest, be brought about in the "due process" area by the historically unfounded incorporation formula long advanced by my Brother Black, and now in part espoused by my Brother Stewart. It will be achieved in this area, as in other constitutional areas, only by continual insistence upon respect for the teachings of history, solid recognition of the basic values that underlie our society, and wise appreciation of the great roles that the doctrines of federalism and separation of powers have played in establishing and preserving American freedoms. See *Adamson* v. *California*, 332 U.S. 46, 59, (Mr. Justice Frankfurter, concurring). Adherence to these principles will not, of course, obviate all constitutional differences of opinion among judges, nor should it. Their continued recognition will, however, go farther toward keeping most judges from roaming at large in the constitutional field than will the interpolation into the Constitution of an artificial and largely illusory restriction on the content of the Due Process Clause.[10]

Mr. Justice White, concurring in the judgment.

In my view this Connecticut law as applied to married couples deprives them of "liberty" without due process of law, as that concept is used in the Fourteenth Amendment. I therefore concur in the judgment of the Court reversing these convictions under Connecticut's aiding and abetting statute.

It would be unduly repetitious, and belaboring the obvious, to expound on the impact of this statute on the liberty guaranteed by the Fourteenth Amendment against arbitrary or capricious denials or on the nature of this liberty. Suffice it to say that this is not the first time this Court has had occasion to articulate that the liberty entitled to protection under the Fourteenth Amendment includes the right "to marry, establish a home and bring up children," *Meyer* v. *Nebraska*, 262 U.S. 390, 399, and "the liberty . . . to direct the upbringing and education of children," *Pierce* v. *Society of Sisters*, 268 U.S. 510, 534–535, and that these are among "the basic civil rights of man." *Skinner* v. *Oklahoma*, 316 U.S. 535, 541. These decisions affirm that there is a "realm of family life which the state cannot enter" without substantial justification. *Prince* v. *Massachusetts*, 321 U.S. 158, 166. Surely the right invoked in this case, to be free of regulation of the intimacies of the marriage relationship, "come[s] to this Court with a momentum for respect lacking when appeal is made to liberties which derive merely from shifting economic arrangements." *Kovacs* v. *Cooper*, 336 U.S. 77, 95 (opinion of Frankfurter, J.).

The Connecticut anti-contraceptive statute deals rather substantially with this relationship. For it forbids all married persons the right to use birth-control devices, regardless of whether their use is dictated by considerations of family planning, *Trubek* v. *Ullman*, 147 Conn. 633, 165 A. 2d 158, health, or indeed even of life itself *Buxton* v. *Ullman*, 147 Conn. 48, 156 A. 2d 508. The anti-use statute, together with the general aiding and abetting statute, prohibits doctors from affording advice to married persons on proper and effective methods of birth control. *Tileston* v. *Ullman*, 129 Conn. 84, 26 A. 2d 582.

And the clear effect of these statutes, as enforced, is to deny disadvantaged citizens of Connecticut, those without either adequate knowledge or resources to obtain private counseling, access to medical assistance and up-to-date information in respect to proper methods of birth control, *State* v. *Nelson*, 126 Conn. 412, 11 A. 2d 856; *State* v. *Griswold*, 151 Conn. 544, 200 A. 2d 479. In my view, a statute with these effects bears a substantial burden of justification when attacked under the Fourteenth Amendment. *Yick Wo* v. *Hopkins*, 118 U.S. 356; *Skinner* v. *Oklahoma*, 316 U.S. 535; *Schware* v. *Board of Bar Examiners*, 353 U.S. 232; *McLaughlin* v. *Florida*, 379 U.S. 184, 192.

An examination of the justification offered, however, cannot be avoided by saying that the Connecticut anti-use statute invades a protected area of privacy and association or that it demeans the marriage relationship. The nature of the right invaded is pertinent, to be sure, for statutes regulating sensitive areas of liberty to, under the cases of this Court, require "strict scrutiny," *Skinner* v. *Oklahoma*, 316 U.S. 535, 541, and "must be viewed in the light of less drastic means for achieving the same basic purpose." *Shelton* v. *Tucker*, 364 U.S. 479, 488. "Where there is a significant encroachment upon personal liberty, the State may prevail only upon showing a subordinating interest which is compelling." *Bates* v. *Little Rock*, 361 U.S. 516, 524. See also *McLaughlin* v. *Florida*, 379 U.S. 184. But such statutes, if reasonably necessary for the effectuation of a legitimate and substantial state interest, and not arbitrary or capricious in application, are not invalid under the Due Process Clause, *Zemel* v. *Rusk*, 381 U.S. 1.[11]

As I read the opinions of the Connecticut courts and the argument of Connecticut in this Court, the State claims but one justification for its anti-use statute. Cf. *Allied Stores of Ohio* v. *Bowers*, 358 U.S. 522, 530; *Martin* v. *Walton*, 368 U.S. 25, 28 (Douglas, J., dissenting). There is no serious contention that Connecticut thinks the use of artificial or external methods of contraception immoral or unwise in itself, or that the anti-use statute is founded upon any policy of promoting population expansion. Rather, the statute is said to serve the State's policy against all forms of promiscuous or illicit sexual relationships, be they premarital or extramarital, concededly a permissible and legitimate legislative goal.

Without taking issue with the premise that the fear of conception operates as a deterrent to such relationships in addition to the criminal proscriptions Connecticut has against such conduct. I wholly fail to see how the ban on the use of contraceptives by married couples in any way reinforces the State's ban on illicit sexual relationships. See *Schware* v. *Board of Bar Examiners*, 353 U.S. 232, 239. Connecticut does not bar the importation or possession of contraceptive devices; they are not considered contraband material under state law, *State* v. *Certain Contraceptive Materials*, 126 Conn. 428, 11 A. 2d 863, and their availability in that State is not seriously disputed. The only way Connecticut seeks to limit or control the availability of such devices is through its general aiding and abetting statute whose operation in this context has been quite obviously ineffective and whose most serious use has been against birth-control clinics rendering advice to married, rather than unmarried, persons. Cf. *Yick Wo* v. *Hopkins*, 118 U.S. 356.

Indeed, after over 80 years of the State's proscription of use, the legality of the sale of such devices to prevent disease has never been expressly passed upon, although it appears that sales have long occurred and have only infrequently been challenged. This "undeviating policy . . . throughout all the long years . . . bespeaks more than prosecutorial paralysis." *Poe* v. *Ullman*, 367 U. S. 497, 502. Moreover, it would appear that the sale of contraceptives to prevent disease is plainly legal under Connecticut law.

In these circumstances one is rather hard pressed to explain how the ban on use by married persons in any way prevents use of such devices by persons engaging in illicit sexual relations and thereby contributes to the State's policy against such relationships. Neither the state courts nor the State before the bar of this Court has tendered such an explanation. It is purely fanciful to believe that the broad proscription on use facilitates discovery of use by persons engaging in a prohibited relationship or for some other reason makes such use more unlikely and thus can be supported by any sort of administrative consideration.

Perhaps the theory is that the flat ban on use prevents married people from possessing contraceptives and without the ready availability of such devices for use in the marital relationship, there will be no or less temptation to use them in extramarital ones. This reasoning rests on the premise that married people will comply with the ban in regard to their marital relationship, nothwithstanding total nonenforcement in this context and apparent nonenforcibility, but will not comply with criminal statutes prohibiting extramarital affairs and the anti-use statute in respect to illicit sexual relationships, a premise whose validity has not been demonstrated and whose intrinsic validity is not very evident.

At most the broad ban is of marginal utility to the declared objective. A statute limiting its prohibition on use to persons engaging in the prohibited relationship would serve the end posited by Connecticut in the same way, and with the same effectiveness, or ineffectiveness, as the broad anti-use statute under attack in this case. I find nothing in this record justifying the sweeping scope of this statute, with its telling effect on the freedoms of married persons, and therefore conclude that it deprives such persons of liberty without due process of law.

Mr. Justice Black, with whom Mr. Justice Stewart joins, dissenting.

I agree with my Brother Stewart's dissenting opinion. And like him I do not to any extent whatever base my view that this Connecticut law is constitutional on a belief that the law is wise or that its policy is a good one. In order that there may be no room at all to doubt why I vote as I do, I feel constrained to add that the law is every bit as offensive to me as it is to my Brethren of the majority and my Brothers Harlan, White and Goldberg who, reciting reasons why it is offensive to them, hold it unconstitutional. There is no single one of the graphic and eloquent strictures and criticisms fired at the policy of this Connecticut law either by the Court's opinion or by those of my concurring Brethren to which I cannot subscribe—except their conclusion that the evil qualities they see in the law make it unconstitutional.

Had the doctor defendant here, or even the nondoctor defendant, been convicted for doing nothing more than expressing opinions to persons coming to the clinic that certain contraceptive devices, medicines or practices would do them good and would be de-

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sirable, or for telling people how devices could be used, I can think of no reasons at this time why their expressions of views would not be protected by the First and Fourteenth Amendments, which guarantee freedom of speech. Cf. *Brotherhood of Railroad Trainmen* v. *Virginia ex rel. Virginia State Bar*, 377 U.S. 1; *NAACP* v. *Button*, 371 U.S. 415. But speech is one thing; conduct and physical activities are quite another. See, *e.g.*, *Cox* v. *Louisiana*, 379 U.S. 536, 554–555; *Cox* v. *Louisiana*, 379 U.S. 559, 563–564; *id.*, 575–584 (concurring opinion); *Giboney* v. *Empire Storage & Ice Co.*, 336 U.S. 490; cf. *Reynolds* v. *United States*, 98 U.S. 145, 163–164. The two defendants here were active participants in an organization which gave physical examinations to women, advised them what kind of contraceptive devices or medicines would most likely be satisfactory for them, and then supplied the devices themselves, all for a graduated scale of fees, based on the family income.

Thus these defendants admittedly engaged with others in a planned course of conduct to help people violate the Connecticut law. Merely because some speech was used in carrying on that conduct—just as in ordinary life some speech accompanies most kinds of conduct—we are not in my view justified in holding that the First Amendment forbids the State to punish their conduct. Strongly as I desire to protect all First Amendment freedoms, I am unable to stretch the Amendment so as to afford protection to the conduct of these defendants in violating the Connecticut law. What would be the constitutional fate of the law if hereafter applied to punish nothing but speech is, as I have said, quite another matter.

The Court talks about a constitutional "right of privacy" as though there is some constitutional provision or provisions forbidding any law ever to be passed which might abridge the "privacy" of individuals. But there is not. There are, of course, guarantees in certain specific constitutional provisions which are designed in part to protect privacy at certain times and places with respect to certain activities. Such, for example, is the Fourth Amendment's guarantee against "unreasonable searches and seizures." But I think it belittles that Amendment to talk about it as though it protects nothing but "privacy." To treat it that way is to give it a niggardly interpretation, not the kind of liberal reading I think any Bill of Rights provision should be given. The average man would very likely not have his feelings soothed any more by having his property seized openly than by having it seized privately and by stealth. He simply wants his property left alone. And a person can be just as much, if not more, irritated, annoyed and injured by an unceremonious public arrest by a policeman as he is by a seizure in the privacy of his office or home.

One of the most effective ways of diluting or expanding a constitutionally guaranteed right is to substitute for the crucial word or words of a constitutional guarantee another word or words, more or less flexible and more or less restricted in meaning. This fact is well illustrated by the use of the term "right of privacy" as a comprehensive substitute for the Fourth Amendment's guarantee against "unreasonable searches and seizures." "Privacy" is a broad, abstract and ambiguous concept which can easily be shrunken in meaning but which can also, on the other hand, easily be interpreted as a constitutional ban against many things other than searches and seizures.

I have expressed the view many times that First Amendment freedoms, for example, have suffered from a failure of the courts to stick to the simple language of the First Amendment in construing it, instead of invoking multitudes of words substituted for those the Framers used. See, *e. g.*, *New York Times Co.* v. *Sullivan*, 376 U.S. 254, 293 (concurring opinion); cases collected in *City of El Paso* v. *Simmons*, 379 U.S. 497, 517, n. 1 (dissenting opinion); Black, The Bill of Rights, 35 N.Y. U.L. Rev. 865.

For these reasons I get nowhere in this case by talk about a constitutional "right of privacy" as an emanation from one or more constitutional provisions.[12] I like my privacy as well as the next one, but I am nevertheless compelled to admit that government has a right to invade it unless prohibited by some specific constitutional provision. For these reasons I cannot agree with the Court's judgment and the reasons it gives for holding this Connecticut law unconstitutional.

This brings me to the arguments made by my Brothers HARLAN, WHITE and GOLDBERG for invalidating the Connecticut law. Brothers HARLAN[13] and WHITE would invalidate it by reliance on the Due Process Clause of the Fourteenth Amendment, but Brother GOLDBERG, while agreeing with Brother HARLAN, relies also on the Ninth Amendment. I have no doubt that the Connecticut law could be applied in such a way as to abridge freedom of speech and press and therefore violate the First and Fourteenth Amendments. My disagreement with the Court's opinion holding that there is such a violation here is a narrow one, relating to the application of the First Amendment to the facts and circumstances of this particular case.

But my disagreement with Brothers HARLAN, WHITE and GOLDBERG is more basic. I think that if properly construed neither the Due Process Clause nor the Ninth Amendment, nor both together, could under any circumstances be a proper basis for invalidating the Connecticut law. I discuss the due process and Ninth Amendment arguments together because on analysis they turn out to be the same thing—merely using different words to claim for this Court and the federal judiciary power to invalidate any legislative act which the judges find irrational, unreasonable or offensive.

The due process argument which my Brothers HARLAN and WHITE adopt here is based, as their opinions indicate, on the premise that this Court is vested with power to invalidate all state laws that it considers to be arbitrary, capricious, unreasonable, or oppressive, or on this Court's belief that a particular state law under scrutiny has no "rational or justifying" purpose, or is offensive to a "sense of fairness and justice."[14] If these formulas based on "natural justice," or others which mean the same thing,[15] are to prevail, they require judges to determine what is or is not constitutional on the basis of their own appraisal of what laws are unwise or unnecessary. The power to make such decisions is of course that of a legislative body.

Surely it has to be admitted that no provision of the Constitution specifically gives such blanket power to courts to exercise such a supervisory veto over the wisdom and value of legislative policies and to hold unconstitutional those laws which they believe unwise or dangerous. I readily admit that no legislative body, state or national, should pass laws that can justly be given any of the invidious labels invoked as constitutional excuses to strike down state laws. But perhaps it is not too much to say that no legislative body ever does pass laws without believing that they will accomplish a sane, rational, wise and justifiable purpose.

While I completely subscribe to the holding of *Marbury* v. *Madison*, 1 Cranch 137, and subsequent cases, that our Court has constitutional power to strike down statutes, state or federal, that violate commands of the Federal Constitution, I do not believe that we are granted power by the Due Process Clause or any other constitutional provision or provisions to measure constitutionality by our belief that legislation is arbitrary, capricious or unreasonable, or accomplishes no justifiable purpose, or is offensive to our own notions of "civilized standards of conduct."[16] Such an appraisal of the wisdom of legislation is an attribute of the power to make laws, not of the power to interpret them.

The use by federal courts of such a formula or doctrine or whatnot to veto federal or state laws simply takes away from Congress and States the power to make laws based on their own judgment of fairness and wisdom and transfers that power to this Court for ultimate determination—a power which was specifically denied to federal courts by the convention that framed the Constitution.[17]

Of the cases on which my Brothers WHITE and GOLDBERG rely so heavily, undoubtedly the reasoning of two of them supports their result here—as would that a number of others which they do not bother to name, *e.g.*, *Lochner* v. *New York*, 198 U.S. 45, *Coppage* v. *Kansas*, 236 U.S. 1, *Jay Burns Baking Co.* v. *Bryan*, 264 U.S. 504, and *Adkins* v. *Children's Hospital*, 261 U.S. 525. The two they do cite and quote from, *Meyer* v. *Nebraska*, 262 U.S. 390, and *Pierce* v. *Society of Sisters*, 268 U.S. 510, were both decided in opinions by Mr. Justice McReynolds which elaborated the same natural law due process philosophy found in *Lochner* v. *New York*, *supra*, one of the cases on which he relied in *Meyer*, along with such other long-discredited decisions as, *e.g.*, *Adams* v. *Tanner*, 244 U.S. 590, and *Adkins* v. *Children's Hospital*, *supra*.

Meyer held unconstitutional, as an "arbitrary" and unreasonable interference with the right of a teacher to carry on his occupation and of parents to hire him, a state law forbidding the teaching of modern foreign languages to young children in the schools.[18] And in *Pierce*, relying principally on *Meyer*, Mr. Justice McReynolds said that a state law requiring that all children attend public schools interfered unconstitutionally with the property rights of private school corporations because it was an "arbitary, unreasonable and unlawful interference" which threatened "destruction of their business and property." 268 U.S., at 536.

Without expressing an opinion as to whether either of those cases reached a correct result in light of our later decisions applying the First Amendment to the States through the Fourteenth,[19] I merely point out that the reasoning stated in *Meyer* and *Pierce* was the same natural law due process philosophy which many later opinions repudiated, and which I cannot accept. Brothers WHITE and GOLDBERG also cite other cases, such as *NAACP* v. *Button*, 371 U.S. 415, *Shelton* v. *Tucker*, 364 U.S. 479, and *Schneider* v. *State*, 308 U.S. 147, which held that States in regulating conduct could not, consistently with the First Amendment as applied to them by the Fourteenth, pass unnecessarily broad laws which might indirectly infringe on First Amendment freedoms.[20] See *Brotherhood of Railroad Trainmen* v. *Virginia ex rel. Virginia State Bar*, 377 U.S. 1, 7–8.[21] Brothers WHITE and GOLDBERG now apparently would start from this requirement that laws be narrowly drafted so as not to curtail free speech and assembly, and extend it limitlessly to require States to justify any law restricting "liberty" as my Brethren define "liberty." This would mean at the very least, I suppose, that every state criminal statute—since it must inevitably curtail "liberty" to some extent—would be suspect, and would have to be justified to this Court.[22]

My Brother GOLDBERG has adopted the recent discovery[23] that the Ninth Amendment as well as the Due Process Clause can be used by this Court as authority to strike down all state legislation which this Court thinks violates "fundamental principles of liberty and justice," or is contrary to the

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Footnotes at end of article.

"traditions and [collective] conscience of our people." He also states, without proof satisfactory to me, that in making decisions on this basis judges will not consider "their personal and private notions." One may ask how they can avoid considering them.

Our Court certainly has no machinery with which to take a Gallup Poll.[24] And the scientific miracles of this age have not yet produced a gadget which the Court can use to determine what traditions are rooted in the "[collective] conscience of our people." Moreover, one would certainly have to look far beyond the language of the Ninth Amendment[25] to find that the Framers vested in this Court any such awesome veto powers over lawmaking, either by the States or by the Congress.

Nor does anything in the history of the Amendment offer any support for such a shocking doctrine. The whole history of the adoption of the Constitution and Bill of Rights points the other way, and the very material quoted by my Brother GOLDBERG shows that the Ninth Amendment was intended to protect against the idea that "by enumerating particular exceptions to the grant of power" to the Federal Government, 'those rights which were not singled out, were intended to be assigned into the hands of the General Government [the United States], and were consequently insecure."[26] That Amendment was passed, not to broaden the powers of this Court or any other department of "the General Government," but, as every student of history knows, to assure the people that the Constitution in all its provisions was intended to limit the Federal Government to the powers granted expressly or by necessary implication.

If any broad, unlimited power to hold laws unconstitutional because they offend what this Court conceives to be the "[collective] conscience of our people" is vested in this Court by the Ninth Amendment, the Fourteenth Amendment, or any other provision of the Constitution, it was not given by the Framers, but rather has been bestowed on the Court by the Court. This fact is perhaps responsible for the peculiar phenomenon that for a period of a century and a half no serious suggestion was ever made that the Ninth Amendment, enacted to protect state powers against federal invasion, could be used as a weapon of federal power to prevent state legislatures from passing laws they consider appropriate to govern local affairs. Use of any such broad, unbounded judicial authority would make of this Court's members a day-to-day constitutional convention.

I repeat so as not to be misunderstood that this Court does have power, which it should exercise, to hold laws unconstitutional where they are forbidden by the Federal Constitution. My point is that there is no provision of the Constitution which either expressly or impliedly vests power in this Court to sit as a supervisory agency over acts of duly constituted legislative bodies and set aside their laws because of the Court's belief that the legislative policies adopted are unreasonable, unwise, arbitrary, capricious or irrational.

The adoption of such a loose, flexible, uncontrolled standard for holding laws unconstitutional, if ever it is finally achieved, will amount to a great unconstitutional shift of power to the courts which I believe and am constrained to say will be bad for the courts and worse for the country. Subjecting federal and state laws to such an unrestrained and unrestrainable judicial control as to the wisdom of legislative enactments would, I fear, jeopardize the separation of governmental powers that the Framers set up and at the same time threaten to take away much of the power of States to govern themselves which the Constitution plainly intended them to have.[27]

I realize that many good and able men have eloquently spoken and written, sometimes in rhapsodical strains, about the duty of this Court to keep the Constitution in tune with the times. The idea is that the Constitution must be changed from time to time and that this Court is charged with a duty to make those changes. For myself, I must with all deference reject that philosophy. The Constitution makers knew the need for change and provided for it. Amendments suggested by the people's elected representatives can be submitted to the people or their selected agents for ratification. That method of change was good for our Fathers, and being somewhat old-fashioned I must add it is good enough for me.

And so, I cannot rely on the Due Process Clause or the Ninth Amendment or any mysterious and uncertain natural law concept as a reason for striking down this state law. The Due Process Clause with an "arbitrary and capricious" or "shocking to the conscience" formula was liberally used by this Court to strike down economic legislation in the early decades of this century, threatening, many people thought, the tranquility and stability of the Nation. See, *e. g.*, *Lochner* v. *New York*, 198 U. S. 45.

That formula, based on subjective considerations of "natural justice," is no less dangerous when used to enforce this Court's views about personal rights than those about economic rights. I had thought that we had laid that formula, as a means for striking down state legislation, to rest once and for all in cases like *West Coast Hotel Co.* v. *Parrish*, 300 U. S. 379; *Olsen* v. *Nebraska ex rel. Western Reference & Bond Assn.*, 313 U. S. 236, and many other opinions.[28] See also *Lochner* v. *New York*, 198 U. S. 45, 74 (Holmes, J., dissenting).

In *Ferguson* v. *Skrupa*, 372 U. S. 726, 730, this Court two years ago said in an opinion joined by all the Justices but one[29] that—

"The doctrine that prevailed in *Lochner*, *Coppage*, *Adkins*, *Burns*, and like cases—that due process authorizes courts to hold laws unconstitutional when they believe the legislature has acted unwisely—has long since been discarded. We have returned to the original constitutional proposition that courts do not substitute their social and economic beliefs for the judgment of legislative bodies, who are elected to pass laws."

And only six weeks ago, without even bothering to hear argument, this Court overruled *Tyson & Brother* v. *Banton*, 273 U.S. 418, which had held state laws regulating ticket brokers to be a denial of due process of law.[30] *Gold* v. *DiCarlo*, 380 U.S. 520. I find April's holding hard to square with what my concurring Brethren urge today. They would reeinstate the *Lochner*, *Coppage*, *Adkins*, *Burns* line of cases, cases from which this Court recoiled after the 1930's, and which had been I thought totally discredited until now. Apparently my Brethren have less quarrel with state economic regulations than former Justices of their persuasion had. But any limitation upon their using the natural law due process philosophy to strike down any state law, dealing with any activity whatever, will obviously be only self-imposed.[31]

In 1798, when this Court was asked to hold another Connecticut law unconstitutional, Justice Iredell said:

"[I]t has been the policy of all the *American* states, which have, individually, framed their state constitutions since the revolution, and of the people of the *United States*, when they framed the Federal Constitution, to define with precision the objects of the legislative power, and to restrain its exercise within marked and settled boundaries. If any act of Congress, or of the Legislature of a state, violates those constitutional provisions, it is unquestionably void; though, I admit, that as the authority to declare it void is of a delicate and awful nature, the Court will never resort to that authority, but in a clear and urgent case. If, on the other hand, the Legislature of the Union, or the Legislature of any member of the Union, shall pass a law, within the general scope of their constitutional power, the Court cannot pronounce it to be void, merely because it is, in their judgment, contrary to the principles of natural justice. The ideas of natural justice are regulated by no fixed standard: the ablest and the purest men have differed upon the subject; and all that the Court could properly say, in such an event, would be, that the Legislature (possessed of an equal right of opinion) had passed an act which, in the opinion of the judges, was inconsistent with the abstract principles of natural justice." *Calder* v. *Bull*, 3 Dall. 386, 399 (emphasis in original).

I would adhere to that constitutional philosophy in passing on this Connecticut law today. I am not persuaded to deviate from the view which I stated in 1947 in *Adamson* v. *California*, 332 U.S. 46, 90–92 (dissenting opinion):

"Since *Marbury* v. *Madison*, 1 Cranch 137, was decided, the practice has been firmly established, for better or worse, that courts can strike down legislative enactments which violate the Constitution. This process, of course, involves interpretation, and since words can have many meanings, interpretation obviously may result in contraction or extension of the original purpose of a constitutional provision, thereby affecting policy. But to pass upon the constitutionality of statutes by looking to the particular standards enumerated in the Bill of Rights and other parts of the Constitution is one thing; to invalidate statutes because of application of 'natural law' deemed to be above and undefined by the Constitution is another. 'In the one instance, courts proceeding within clearly marked constitutional boundaries seek to execute policies written into the Constitution: in the other, they roam at will in the limitless area of their own beliefs as to reasonableness and actually select policies, a responsibility which the Constitution entrusts to the legislative representatives of the people." *Federal Power Commission* v. *Pipeline Co.*, 315 U.S. 575, 599, 601, n. 4.[32]

The late Judge Learned Hand, after emphasizing his view that judges should not use the due process formula suggested in the concurring opinions today or any other formula like it to invalidate legislation offensive to their "personal preferences,"[33] made the statement, with which I fully agree, that:

"For myself it would be most irksome to be ruled by a bevy of Platonic Guardians even if I knew how to choose them, which I assuredly do not."[34]

So far as I am concerned, Connecticut's law as applied here is not forbidden by any provision of the Federal Constitution as that Constitution was written, and I would therefore affirm.

Mr. JUSTICE STEWART, whom Mr. JUSTICE BLACK joins, dissenting.

Since 1879 Connecticut has had on its books a law which forbids the use of contraceptives by anyone. I think this is an uncommonly silly law. As a practical matter, the law is obviously unenforceable, except in the oblique context of the present case. As a philosophical matter, I believe the use of contraceptives in the relationship of marriage should be left to personal and private choice, based upon each individual's moral, ethical, and religious beliefs. As a matter of social policy, I think professional counsel about methods of birth control should be available to all, so that each individual's choice can be meaningfully made. But we are not asked in this case to say whether we think this law is unwise, or even asinine. We are asked to hold that it violates the United States Constitution. And that I cannot do.

Footnotes at end of article.

In the course of its opinion the Court refers to no less than six Amendments to the Constitution: the First, the Third, the Fourth, the Fifth, the Ninth, and the Fourteenth. But the Court does not say which of these Amendments, if any, it thinks is infringed by this Connecticut law.

We are told that the Due Process of the Fourteenth Amendment is not, as such, the "guide" in this case. With that much I agree. There is no claim that this law, duly enacted by the Connecticut Legislature, is unconstitutionally vague. There is no claim that the appellants were denied any of the elements of procedural due process at their trial, so as to make their convictions constitutionally invalid. And, as the Court says, the day has long passed since the Due Process Clause was regarded as a proper instrument for determining "the wisdom, need, and propriety" of state laws. Compare *Lochner* v. *New York*, 198 U.S. 45, with *Ferguson* v. *Skrupa*, 372 U.S. 726. My Brothers HARLAN and WHITE to the contrary, "[w]e have returned to the original constitutional proposition that courts do not substitute their social and economic beliefs for the judgment of legislative bodies, who are elected to pass laws." *Ferguson* v. *Skrupa, supra* at 730.

As to the First, Third, Fourth, and Fifth Amendments, I can find nothing in any of them to invalidate this Connecticut law, even assuming that all those Amendments are fully applicable against the States.[35] It has not even been argued that this is a law "respecting an establishment of religion, or prohibiting the free exercise thereof."[36] And surely, unless the solemn process of constitutional adjudication is to descend to the level of a play on words, there is not involved here any abridgment of "the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances."[37] No soldier has been quartered in any house.[38] There has been no search, and no seizure.[39] Nobody has been compelled to be a witness against himself.[40]

The Court also quotes the Ninth Amendment, and my Brother GOLDBERG's concurring opinion relies heavily upon it. But to say that the Ninth Amendment has anything to do with this case is to turn somersaults with history. The Ninth Amendment, like its companion the Tenth, which this Court held "states but a truism that all is retained which has not been surrendered," *United States* v. *Darby*, 312 U.S. 100, 124, was framed by James Madison and adopted by the States simply to make clear that the adoption of the Bill of Rights did not alter the plan that the *Federal* Government was to be a government of express and limited powers, and that all rights and powers not delegated to it were retained by the people and the individual States. Until today no member of this Court has ever suggested that the Ninth Amendment meant anything else, and the idea that a federal court could ever use the Ninth Amendment to annul a law passed by the elected representatives of the people of the State of Connecticut would have caused James Madison no little wonder.

What provision of the Constitution, then, does make this state law invalid? The Court says it is the right of privacy "created by several fundamental constitutional guarantees." With all deference, I can find no such general right of privacy in the Bill of Rights, in any other part of the Constitution, or in any case ever before decided by this Court.[41]

At the oral argument in this case we were told that the Connecticut law does not "conform to current community standards." But it is not the function of this Court to decide cases on the basis of community standards. We are here to decide cases "agreeably to the Constitution and laws of the United States." It is the essence of judicial duty to subordinate our own personal views, our own ideas of what legislation is wise and what is not. If, as I should surely hope, the law before us does not reflect the standards of the people of Connecticut, the people of Connecticut can freely exercise their true Ninth and Tenth Amendment rights to persuade their elected representatives to repeal it. That is the constitutional way to take this law off the books.[42]

FOOTNOTES

[1] The Court said in full about this right of privacy:

"The principles laid down in this opinion [by Lord Camden in *Entick* v. *Carrington*, 19 How. St. Tr. 1029] affect the very essence of constitutional liberty and security. They reach farther than the concrete form of the case then before the court, with its adventitious circumstances; they apply to all invasions on the part of the government and its employes of the sanctity of a man's home and the privacies of life. It is not the breaking of his doors, and the rummaging of his drawers, that constitutes the essence of the offense; but it is the invasion of his indefeasible right of personal security, personal liberty and private property, where that right has never been forfeited by his conviction of some public offence—it is the invasion of this sacred right which underlies and constitutes the essence of Lord Camden's judgment. Breaking into a house and opening boxes and drawers are circumstances of aggravation; but any forcible and compulsory extortion of a man's own testimony or of his private papers to be used as evidence to convict him of crime or to forfeit his goods, is within the condemnation of that judgment. In this regard the Fourth and Fifth Amendments run almost into each other." 116 U.S., at 630.

[2] My Brother STEWART dissents on the ground that he "can find no . . . general right of privacy in the Bill of Rights, in any other part of the Constitution, or in any case ever before decided by this Court." *Post*, at 530. He would require a more explicit guarantee than the one which the Court derives from several constitutional amendments. This Court, however, has never held that the Bill of Rights or the Fourteenth Amendment protects only those rights that the Constitution specifically mentions by name. See, *e.g.*, *Bolling* v. *Sharpe*, 347 U.S. 497; *Aptheker* v. *Secretary of State*, 378 U.S. 500; *Kent* v. *Dulles*, 357 U.S. 116; *Carrington* v. *Rash*, 380 U.S. 89, 96; *Schware* v. *Board of Bar Examiners*, 353 U.S. 232; *NAACP* v. *Alabama*, 360 U.S. 240; *Pierce* v. *Society of Sisters*, 268 U.S. 510; *Meyer* v. *Nebraska*, 262 U.S. 390. To the contrary, this Court, for example, in *Bolling* v. *Sharpe, supra*, while recognizing that the Fifth Amendment does not contain the "explicit safeguard" of an equal protection clause, *id.*, at 499, nevertheless derived an equal protection principle from that Amendment's Due Process Clause. And in *Schware* v. *Board of Bar Examiners, supra*, the Court held that the Fourteenth Amendment protects from arbitrary state action the right to pursue an occupation, such as the practice of law.

[3] See, *e.g.*, *Chicago, B. & Q. R. Co.* v. *Chicago*, 166 U.S. 226; *Gitlow* v. *New York, supra; Cantwell* v. *Connecticut*, 310 U.S. 296; *Wolf* v. *Colorado*, 338 U.S. 25; *Robinson* v. *California*, 370 U.S. 660; *Gideon* v. *Wainwright*, 372 U.S. 335; *Malloy* v. *Hogan*, 378 U.S. 1; *Pointer* v. *Texas, supra; Griffin* v. *California*, 380 U.S. 609.

[4] Madison himself had previously pointed out the dangers of inaccuracy resulting from the fact that "no language is so copious as to supply words and phrases for every complex idea." The Federalist, No. 37 (Cooke ed. 1961), at 236.

[5] Alexander Hamilton was opposed to a bill of rights on the ground that it was unnecessary because the Federal Government was a government of delegated powers and it was not granted the power to intrude upon fundamental personal rights. The Federalist, No. 84 (Cooke ed. 1961), at 578–579. He also argued,

"I go further, and affirm that bills of rights, in the sense and in the extent in which they are contended for, are not only unnecessary in the proposed constitution, but would even be dangerous. They would contain various exceptions to powers which are not granted; and on this very account, would afford a colourable pretext to claim more than were granted. For why declare that things shall not be done which there is no power to do? Why for instance, should it be said, that the liberty of the press shall not be restrained, when no power is given by which restrictions may be imposed? I will not contend that such a provision would confer a regulating power; but it is evident that it would furnish, to men disposed to usurp, a plausible pretence for claiming that power." *Id.* at 579.

The Ninth Amendment and the Tenth Amendment, which provides, "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people," were apparently also designed in part to meet the above-quoted argument of Hamilton.

[6] The Tenth Amendment similarly made clear that the States and the people retained all those powers not expressly delegated to the Federal Government.

[7] This Amendment has been referred to as "The Forgotten Ninth Amendment," in a book with that title by Bennett B. Patterson (1955). Other commentary on the Ninth Amendment includes Redlich, Are There "Certain Rights . . . Retained by the People"? 37 N. Y. U. L. Rev. 787 (1962), and Kelsey The Ninth Amendment of the Federal Constitution, 11 Ind. L. J. 309 (1936). As far as I am aware, until today this Court has referred to the Ninth Amendment only in *United Public Workers* v. *Mitchell*, 330 U. S. 75, 94–95; *Tennessee Electric Power Co.* v. *TVA*, 306 U. S. 118, 143–144; and *Ashwander* v. *TVA*, 297 U. S. 288, 330–331. See also *Calder* v. *Bull*, 3 Dall. 386, 388; *Loan Assn.* v. *Topeka*, 20 Wall. 655, 662–663.

In *United Public Workers* v. *Mitchell, supra*, at 94–95, the Court stated: "We accept appellants' contention that the nature of political rights reserved to the people by the Ninth and Tenth Amendments [is] involved. The right claimed as inviolate may be stated as the right of a citizen to act as a party official or worker to further his own political views. Thus we have a measure of interference by the Hatch Act and the Rules with what otherwise would be the freedom of the civil servant under the First, Ninth and Tenth Amendments. And, if we look upon due process as a guarantee of freedom in those fields, there is a corresponding impairment of that right under the Fifth Amendment."

[8] In light of the tests enunciated in these cases it cannot be said that a judge's responsibility to determine whether a right is basic and fundamental in this sense vests him with unrestricted personal discretion. In fact, a hesitancy to allow too broad a discretion was a substantial reason leading me to conclude in *Pointer* v. *Texas, supra*, at 413–414, that those rights absorbed by the Fourteenth Amendment and applied to the States because they are fundamental apply with equal force and to the same extent against both federal and state governments. In *Pointer* I said that the contrary view would require "this Court to make the extremely subjective and excessively discretionary determination as to whether a practice, forbidden the Federal Government by a fundamental constitutional guarantee, is, as viewed in the factual circumstances surrounding each individual case, sufficiently repugnant to the notion of due process as to be forbidden the States." *Id.*, at 413.

[9] *Pointer* v. *Texas, supra*, at 413. See also the discussion of my Brother DOUGLAS, *Poe* v. *Ullman, supra*, at 517–518 (dissenting opinion).

[10] Indeed, my Brother BLACK, in arguing his thesis, is forced to lay aside a host of cases in which the Court has recognized fundamental rights in the Fourteenth Amendment without specific reliance upon the Bill of Rights. *Post*, p. 512, n. 4.

[11] Dissenting opinions assert that the liberty guaranteed by the Due Process Clause is limited to a guarantee against unduly vague statutes and against procedural unfairness at trial. Under this view the Court is without authority to ascertain whether a challenged statute, or its application, has a permissible purpose and whether the manner of regulation bears a rational or justifying relationship to this purpose. A long line of cases makes very clear that this has not been the view of this Court. *Dent* v. *West Virginia*, 129 U.S. 114; *Jacobson* v. *Massachusetts*, 197 U.S. 11; *Douglas* v. *Noble*, 261 U.S. 165; *Meyer* v. *Nebraska*, 262 U.S. 390; *Pierce* v. *Society of Sisters*, 268 U.S. 510; *Schware* v. *Board of Bar Examiners*, 353 U.S. 232; *Aptheker* v. *Secretary of State*, 378 U.S. 500; *Zemel* v. *Rusk*, 381 U.S. 1.

The traditional due process test was well articulated, and applied, in *Schware* v. *Board of Bar Examiners, supra*, a case which placed no reliance on the specific guarantees of the Bill of Rights.

"A State cannot exclude a person from the practice of law or from any other occupation in a manner or for reasons that contravene the Due Process or Equal Protection Clause of the Fourteenth Amendment. *Dent* v. *West Virginia*, 129 U.S. 114. Cf. *Slochower* v. *Board of Education*, 350 U.S. 551; *Wieman* v. *Updegraff*, 344 U.S. 183. And see *Ex parte Secombe*, 19 How. 9, 13. A State can require high standards of qualification, such as good moral character or proficiency in its law, before it admits an applicant to the bar, but any qualification must have a rational connection with the applicant's fitness or capacity to practice law. *Douglas* v. *Noble*, 261 U.S. 165; *Cummings* v. *Missouri*, 4 Wall. 277, 319–320. Cf. *Nebbia* v. *New York*, 291 U.S. 502. Obviously an applicant could not be excluded merely because he was a Republican or a Negro or a member of a particular church. Even in applying permissible standards, officers of a State cannot exclude an applicant when there is no basis for their finding that he fails to meet these standards, or when their action is invidiously discriminatory." 353 U.S., at 238–239. Cf. *Martin* v. *Walton*, 368 U.S. 25, 26 (DOUGLAS, J., dissenting).

[12] The phrase "right to privacy" appears first to have gained currency from an article written by Messrs. Warren and (later Mr. Justice) Brandeis in 1890 which urged that States should give some form of tort relief to persons whose private affairs were exploited by others. The Right to Privacy, 4 Harv. L. Rev. 193. Largely as a result of this article, some States have passed statutes creating such a cause of action, and in others state courts have done the same thing by exercising their powers as courts of common law. See generally 41 Am. Jur. 926–927. Thus the Supreme Court of Georgia, in granting a cause of action for damages to a man whose picture had been used in a newspaper advertisement without his consent, said that "A right of privacy in matters purely private is . . . derived from natural law" and that "The conclusion reached by us seems to be . . . thoroughly in accord with natural justice, with the principles of the law of every civilized nation, and especially with the elastic principles of the common law . . ." *Pavesich* v. *New England Life Ins. Co.*, 122 Ga. 190, 194, 218. 50 S. E. 68, 70, 80. Observing that "the right of privacy . . . presses for recognition here," today this Court, which I did not understand to have power to sit as a court of common law, now appears to be exalting a phrase which Warren and Brandeis used in discussing grounds for tort relief, to the level of a constitutional rule which prevents state legislatures from passing any law deemed by this Court to interfere with "privacy."

[13] Brother HARLAN's views are spelled out at greater length in his dissenting opinion in *Poe* v. *Ullman*, 367 U.S. 497, 539–555.

[14] Indeed, Brother White appears to have gone beyond past pronouncements of the natural law due process theory, which at least said that the Court should exercise this unlimited power to declare state acts unconstitutional with "restraint." He now says that, instead of being presumed constitutional (see *Munn* v. *Illinois*, 94 U.S. 113, 123; compare *Adkins* v. *Children's Hospital*, 261 U.S. 525, 544), the statute here "bears a substantial burden of justification when attacked under the Fourteenth Amendment."

[15] A collection of the catchwords and catch phrases invoked by judges who would strike down under the Fourteenth Amendment laws which offend their notions of natural justice would fill many pages. Thus it has been said that this Court can forbid state action which "shocks the conscience," *Rochin* v. *California*, 342 U.S. 165, 172, sufficiently to "shock itself into the protective arms of the Constitution," *Irvine* v. *California*, 347 U.S. 128, 138 (concurring opinion). It has been urged that States may not run counter to the "decencies of civilized conduct," *Rochin*, *supra*, at 173, or "some principle of justice so rooted in the traditions and conscience of our people as to be ranked as fundamental," *Snyder* v. *Massachusetts*, 291 U.S. 97, 105, or to "those canons of decency and fairness which express the notions of justice of English-speaking peoples," *Malinski* v. *New York*, 324 U.S. 401, 417 (concurring opinion), or to "the community's sense of fair play and decency," *Rochin*, *supra*, at 173. It has been said that we must decide whether a state law is "fair, reasonable and appropriate," or is rather "an unreasonable, unnecessary and arbitrary interference with the right of the individual to his personal liberty or to enter into . . . contracts," *Lochner* v. *New York*, 198 U.S. 45, 56. States, under this philosophy, cannot act in conflict with "deeply rooted feelings of the community," *Haley* v. *Ohio*, 332 U.S. 596, 604 (separate opinion), or with "fundamental notions of fairness and justice," *id.*, 607. See also, *e.g.*, *Wolf* v. *Colorado*, 338 U.S. 25, 27 ("rights . . . basic to our free society"); *Hebert* v. *Louisiana*, 272 U.S. 312, 316 ("fundamental principles of liberty and justice"); *Adkins* v. *Children's Hospital*, 261 U.S. 525, 561 ("arbitrary restraint of . . . liberties"); *Betts* v. *Brady*, 316 U.S. 455, 462 ("denial of fundamental fairness, shocking to the universal sense of justice"); *Poe* v. *Ullman*, 367 U.S. 497, 539 (dissenting opinion) ("intolerable and unjustifiable"). Perhaps the clearest, frankest and briefest explanation of how this due process approach works is the statement in another case handed down today that this Court is to invoke the Due Process Clause to strike down state procedures or laws which it can "not tolerate." *Linkletter* v. *Walker*, *post*, p. 618, at 631.

[16] See Hand, The Bill of Rights (1958) 70: "[J]udges are seldom content merely to annul the particular solution before them; they do not, indeed they may not, say that taking all things into consideration, the legislators' solution is too strong for the judicial stomach. On the contrary they wrap up their veto in a protective veil of adjectives such as 'arbitrary,' 'normal,' 'reasonable,' 'inherent,' 'fundamental,' or 'essential,' whose office usually, though quite innocently, is to disguise what they are doing and impute to it a derivation far more impressive than their personal preferences, which are all that in fact lie behind the decision." See also *Rochin* v. *California*, 342 U.S. 165, 174 (concurring opinion). But see *Linkletter* v. *Walker*, *supra*, n. 4, at 631.

[17] This Court held in *Marbury* v. *Madison*, 1 Cranch 137, that this Court has power to invalidate laws on the ground that they exceed the constitutional power of Congress or violate some specific prohibition of the Constitution. See also *Fletcher* v. *Peck*, 6 Cranch 87. But the Constitutional Convention did on at least two occasions reject proposals which would have given the federal judiciary a part in recommending laws or in vetoing as bad or unwise the legislation passed by the Congress. Edmund Randolph of Virginia proposed that the President

". . . and a convenient number of the National Judiciary, ought to compose a council of revision with authority to examine every act of the National Legislature before it shall operate, & every act of a particular Legislature before a Negative thereon shall be final; and that the dissent of the said Council shall amount to a rejection, unless the Act of the National Legislature be again passed, or that a particular Legislature be again negatived by * * * [original wording illegible] of the members of each branch." 1 The Records of the Federal Convention of 1787 (Farrand ed. 1911) 21.

In support of a plan of this kind James Wilson of Pennsylvania argued that:

". . . It had been said that the Judges, as expositors of the Laws would have an opportunity of defending their constitutional rights. There was weight in this observation; but this power of the Judges did not go far enough. Laws may be unjust, may be unwise, may be dangerous, may be destructive; and yet not be so unconstitutional as to justify the Judges in refusing to give them effect. Let them have a share in the Revisionary power, and they will have an opportunity of taking notice of these characters of a law, and of counteracting, by the weight of their opinions the improper views of the Legislature." 2 *id.*, at 73.

Nathaniel Gorham of Massachusetts "did not see the advantages of employing the Judges in this way. As Judges they are not to be presumed to possess any peculiar knowledge of the mere policy of public measures." *Ibid.*

Elbridge Gerry of Massachusetts likewise opposed the proposal for a council of revision:

". . . He relied for his part on the Representatives of the people as the guardians of their Rights & interests. it [the proposal] was making the Expositors of the Laws, the Legislators which ought never to be done." *Id.*, at 75.

And at another point:

"Mr. Gerry doubts whether the Judiciary ought to form a part of it [the proposed council of revision], as they will have a sufficient check agst. encroachments on their own department by their exposition of the laws, which involved a power of deciding on their Constitutionality. . . . It was quite foreign from the nature of ye. office to make them judges of the policy of public measures." 1 *Id.*, at 97–98.

Madison supported the proposal on the ground that "a Check [on the legislature] is necessary." *Id.*, at 108. John Dickinson of Delaware opposed it on the ground that "the Judges must interpret the Laws they ought not to be legislators." *Ibid.* The proposal for a council of revision was defeated.

The following proposal was also advanced:

"To assist the President in conducting the Public Affairs there shall be a Council of State composed of the following officers—1. The Chief Justice of the Supreme Court, who shall from time to time recommend such alterations of and additions to the laws of the U.S. may in his opinion be necessary to the due administration of Justice, and such as may promote useful learning and inculcate sound morality throughout the Union . . . ." 2 *id.* at 342. This proposal too was rejected.

[18] In *Meyer*, in the very same sentence quoted in part by my Brethren in which he asserted that the Due Process Clause gave

an abstract and inviolable right "to marry, establish a home and bring up children," Mr. Justice McReynolds also asserted the heretofore discredited doctrine that the Due Process Clause prevented States from interfering with "the right of the individual to contract." 262 U.S., at 399.

[19] Compare *Poe* v. *Ullman*, 367 U.S. at 543–544 (HARLAN, J., dissenting).

[20] The Court has also said that in view of the Fourteenth Amendment's major purpose of eliminating state-enforced racial discrimination, this Court will scrutinize carefully any law embodying a racial classification to make sure that it does not deny equal protection of the laws. See *McLaughlin* v. *Florida*, 379 U.S. 184.

[21] None of the other cases decided in the past 25 years which Brothers WHITE and GOLDBERG cite can justly be read as holding that judges have power to use a natural law due process formula to strike down all state laws which they think are unwise, dangerous, or irrational. *Prince* v. *Massachusetts*, 321 U.S. 158, *upheld* a state law forbidding minors from selling publications on the streets. *Kent* v. *Dulles*, 357 U.S. 116, recognized the power of Congress to restrict travel outside the country so long as it accorded persons the procedural safeguards of due process and did not violate any other specific constitutional provision. *Schware* v. *Board of Bar Examiners*, 353 U.S. 232, held simply that a State could not, consistently with due process, refuse a lawyer a license to practice law on the basis of a finding that he was morally unfit when there was no evidence in the record, 353 U.S., at 246–247, to support such a finding. Compare *Thompson* v. *City of Louisville*, 362 U.S. 199, in which the Court relied in part on *Schware*. See also *Konigsberg* v. *State Bar*, 353 U.S. 252. And *Bolling* v. *Sharpe*, 347 U.S. 497, merely recognized what had been the understanding from the beginning of the country, an understanding shared by many of the draftsmen of the Fourteenth Amendment, that the whole Bill of Rights, including the Due Process Clause of the Fifth Amendment, was a guarantee that all persons would receive equal treatment under the law. Compare *Chambers* v. *Florida*, 309 U.S. 227, 240–241. With one exception, the other modern cases relied on by my Brethren were decided either solely under the Equal Protection Clause of the Fourteenth Amendment or under the First Amendment, made applicable to the States by the Fourteenth, some of the latter group involving the right of association which this Court has held to be a part of the rights of speech, press and assembly guaranteed by the First Amendment. As for *Aptheker* v. *Secretary of State*, 378 U.S. 500, I am compelled to say that if that decision was written or intended to bring about the abrupt and drastic reversal in the course of constitutional adjudication which is now attributed to it, the change was certainly made in a very quiet and unprovocative manner, without any attempt to justify it.

[22] Compare *Adkins* v. *Children's Hospital*, 261 U.S. 525, 568 (Holmes, J., dissenting):

"The earlier decisions upon the same words [the Due Process Clause] in the Fourteenth Amendment began within our memory and went no farther than an unpretentious assertion of the liberty to follow the ordinary callings. Later that innocuous generality was expanded into the dogma, Liberty of Contract. Contract is not specially mentioned in the text that we have to construe. It is merely an example of doing what you want to do, embodied in the word liberty. But pretty much all law consists in forbidding men to do some things that they want to do, and contract is no more exempt from law than other acts."

[23] See Patterson, The Forgotten Ninth Amendment (1955). Mr. Patterson urges that the Ninth Amendment be used to protect unspecified "natural and inalienable rights." P. 4. The Introduction by Roscoe Pound states that "there is a marked revival of natural law ideas throughout the world. Interest in the Ninth Amendment is a symptom of that revival." P. iii.

In Redlich, Are There "Certain Rights . . . Retained by the People"?, 37 N. Y. U. L. Rev. 787, Professor Redlich, in advocating reliance on the Ninth and Tenth Amendments to invalidate the Connecticut law before us, frankly states.

"But for one who feels that the marriage relationship should be beyond the reach of a state law forbidding the use of contraceptives, the birth control case poses a troublesome and challenging problem of constitutional interpretation. He may find himself saying, 'The law is unconstitutional—but why?' There are two possible paths to travel in finding the answer. One is to revert to a frankly flexible due process concept even on matters that do not involve specific constitutional prohibitions. The other is to attempt to evolve a new constitutional framework within which to meet this and similar problems which are likely to arise." *Id.*, at 798.

[24] Of course one cannot be obvious to the fact that Mr. Gallup has already published the results of a poll which he says show that 46% of the people in this country believe schools should teach about birth control. Washington Post, May 21, 1965, p. 2, col. 1. I can hardly believe, however, that Brother GOLDBERG would view 46% of the persons polled as so overwhelming a proportion that this Court may now rely on it to declare that the Connecticut law infringes "fundamental" rights, and overrule the long-standing view of the people of Connecticut expressed through their elected representatives.

[25] U.C. Const., Amend. IX, provides:

"The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people."

[26] 1 Annals of Congress 439. See also II Story, Commentaries on the Constitution of the United States (5th ed. 1891): "This clause was manifestly introduced to prevent any perverse or ingenious misapplication of the well-known maxim, that an affirmation in particular cases implies a negation in all others; and, *e converso*, that a negation in particular cases implies an affirmation in all others. The maxim, rightly understood, is perfectly sound and safe; but it has often been strangely forced from its natural meaning into the support of the most dangerous political heresies." *Id.*, at 651 (footnote omitted).

[27] Justice Holmes in one of his last dissents, written in reply to Mr. Justice McReynolds' opinion for the Court in *Baldwin* v. *Missouri*, 281 U.S. 586, solemnly warned against a due process formula apparently approved by my concurring Brethren today. He said: "I have not yet adequately expressed the more than anxiety that I feel at the ever increasing scope given to the Fourteenth Amendment in cutting down what I believe to be the constitutional rights of the States. As the decisions now stand, I see hardly any limit but the sky to the invalidating of those rights if they happen to strike a majority of this Court as for any reason undesirable. I cannot believe that the Amendment was intended to give us *carte blanche* to embody our economic or moral beliefs in its prohibitions. Yet I can think of no narrower reason that seems to me to justify the present and the earlier decisions to which I have referred. Of course the words 'due process of law,' if taken in their literal meaning, have no application to this case; and while it is too late to deny that they have been given a much more extended and artificial signification, still we ought to remember the great caution shown by the Constitution in limiting the power of the States, and should be slow to construe the clause in the Fourteenth Amendment as committing to the Court, with no guide but the Court's own discretion, the validity of whatever laws the States may pass." 281 U.S., at 595. See 2 Holmes-Pollock Letters (Howe ed. 1941) 267–268.

[28] *E.g.*, in *Day-Brite Lighting, Inc.*, v. *Missouri*, 342 U.S. 421, 423, this Court held that "Our recent decisions make plain that we do not sit as a superlegislature to weigh the wisdom of legislation nor to decide whether the policy which it expresses offends the public welfare."

Compare *Gardner* v. *Massachusetts*, 305 U.S. 559, which the Court today apparently overrules, which held that a challenge under the Federal Constitution to a state law forbidding the sale or furnishing of contraceptives did not raise a substantial federal question.

[29] Brother HARLAN, who has consistently stated his belief in the power of courts to strike down laws which they consider arbitrary or unreasonable, see, *e.g.*, *Poe* v. *Ullman*, 367 U.S. 497, 539–555 (dissenting opinion), did not join the Court's opinion in *Ferguson* v. *Skrupa*.

[30] Justice Holmes, dissenting in *Tyson*, said: "I think the proper course is to recognize that a state legislature can do whatever it sees fit to do unless it is restrained by some express prohibition in the Constitution of the United States or of the State, and that Courts should be careful not to extend such prohibitions beyond their obvious meaning by reading into them conceptions of public policy that the particular Court may happen to entertain." 273 U.S., at 446.

[31] Compare *Nicchia* v. *New York*, 254 U.S. 228, 231, upholding a New York dog-licensing statute on the ground that it did not "deprive dog owners of liberty without due process of law." And as I said concurring in *Rochin* v. *California*, 342 U.S. 165, 175, "I believe that faithful adherence to the specific guarantees in the Bill of Rights insures a more permanent protection of individual liberty than that which can be afforded by the nebulous standards" urged by my concurring Brethren today.

[32] *Gideon* v. *Wainwright*, 372 U.S. 335, and similar cases applying specific Bill of Rights provisions to the States do not in my view stand for the proposition that this Court can rely on its own concept of "ordered liberty" or "shocking the conscience" or natural law to decide what laws it will permit state legislatures to enact. *Gideon* in applying to state prosecutions the Sixth Amendment's guarantee of right to counsel followed *Palko* v. *Connecticut*, 302 U.S. 319, which had held that specific provisions of the Bill of Rights, rather than the Bill of Rights as a whole, would be selectively applied to the States. While expressing my own belief (not shared by MR. JUSTICE STEWART) that all the provisions of the Bill of Rights were made applicable to the States by the Fourteenth Amendment, in my dissent in *Adamson* v. *California*, 332 U.S. 46, 89, I also said:

"If the choice must be between the selective process of the *Palko* decision applying some of the Bill of Rights to the States, or the *Twining* rule applying none of them, I would choose the *Palko* selective process."

Gideon and similar cases merely followed the *Palko* rule, which in *Adamson* I agreed to follow if necessary to make Bill of Rights safeguards applicable to the States. See also *Pointer* v. *Texas*, 380 U.S. 400; *Malloy* v. *Hogan*, 378 U.S. 1.

[33] Hand, The Bill of Rights (1958) 70. See note 5, *supra*. See generally *id.*, at 35–45.

[34] *Id.*, at 73. While Judge Hand condemned as unjustified the invalidation of state laws under the natural law due process formula, see *id.*, at 35–45, he also expressed the view that this Court in a number of cases had gone too far in holding legislation to be in violation of specific guarantees of the Bill of Rights. Although I agree with his criticism of use of the due process formula, I do not agree with all the views he expressed about

construing the specific guarantees of the Bill of Rights.

[35] The Amendments in question were, as everyone knows, originally adopted as limitations upon the power of the newly created Federal Government, not as limitations upon the powers of the individual States. But the Court has held that many of the provisions of the first eight amendments are fully embraced by the Fourteenth Amendment as limitations upon state action, and some members of the Court have held the view that the adoption of the Fourteenth Amendment made every provision of the first eight amendments fully applicable against the State. See *Adamson* v. *California,* 332 U.S. 46, 68 (dissenting opinion of Mr. JUSTICE BLACK).

[36] U. S. Constitution, Amendment I. To be sure, the injunction contained in the Connecticut statute coincides with the doctrine of certain religious faiths. But if that were enough to invalidate a law under the provisions of the First Amendment relating to religion, then most criminal laws would be invalidated. See, *e. g.,* the Ten Commandments. The Bible, Exodus 20:2–17 (King James).

[37] U. S. Constitution, Amendment I. If all the appellants had done was to advise people that they thought the use of contraceptives was desirable, or even to counsel their use, the appellants would, of course, have a substantial First Amendment claim. But their activities went far beyond mere advocacy. They prescribed specific contraceptive devices and furnished patients with the prescribed contraceptive materials.

[38] U. S. Constitution, Amendment III.

[39] U. S. Constitution, Amendment IV.

[40] U. S. Constitution, Amendment V.

[41] Cases like *Shelton* v. *Tucker,* 364 U. S. 479 and *Bates* v. *Little Rock,* 361 U. S. 516, relied upon in the concurring opinions today, dealt with true First Amendment rights of association and are wholly inapposite here. See also, *e. g., NAACP* v. *Alabama,* 357 U. S. 449; *Edwards* v. *South Carolina,* 372 U. S. 229. Our decision in *McLaughlin* v. *Florida,* 379 U. S. 184, is equally far afield. That case held invalid under the Equal Protection Clause, a state criminal law which discriminated against Negroes.

The Court does not say how far the new constitutional right of privacy announced today extends. See, *e. g.,* Mueller, Legal Regulation of Sexual Conduct, at 127; Ploscowe, Sex and the Law, at 189. I suppose, however, that even after today a State can constitutionally still punish at least some offenses which are not committed in public.

[42] See *Reynolds* v. *Sims,* 377 U. S. 533, 562. The Connecticut House of Representatives recently passed a bill (House Bill No. 2462) repealing the birth control law. The State Senate has apparently not yet acted on the measure, and today is relieved of that responsibility by the Court. New Haven Journal-Courier, Wed., May 19, 1965, p. 1, col. 4, and p. 13, col. 7.

Mr. BAYH. I do recall reading the case, and I have read it extensively. The Court stresses importance of privacy and freedom to all individuals. We are talking about due process, we are talking about equal protection, and we are talking about first amendment freedoms.

Now on a more general level, it would take a pretty brave soul to be willing to stand up and say, "Senator CRANSTON, Senator BAYH, et cetera, et cetera," if they are surrounded by government agents taking pictures, or if they know someone is following them in and out of the shopping center and this type of thing.

It is pretty hard for the Senator from California or me to envision how others might feel about free speech because he and I say pretty much what we wish to say and let the sticks, stones, and brickbats fall where they may.

The Supreme Court has said that the average citizen shall have his right to free speech unhampered and unharassed by government activity. Harassment, continually putting an individual under surveillance, is a violation of the right to privacy. There is sort of an umbrella of protection for those rights.

Mr. CRANSTON. I would appreciate it if the Senator, in addition to placing in the RECORD the material to which he referred, at a future time would develop for me the significance of the Griswold case and the significance or lack of significance of it with respect to Mr. Rehnquist's statements and views. That would be of great benefit to those of us who are considering the matter, as well as the entire matter of the right of privacy which is involved here.

Mr. BAYH. Let me point out that Mr. Rehnquist declined to comment specifically on Griswold, when I inquired of him.

Mr. CRANSTON. His lack of argument in favor of such a case may be of some significance here.

Mr. BAYH. He did not comment on the Griswold case. Let me make clear that he declined to comment on the doctrine of that case.

Mr. CRANSTON. Is it possible that a nominee of his intellectual capacity and scholarly background is not aware of the Griswold decision?

Mr. BAYH. I doubt that very much. And if his memory ever did slip him, you may be sure that the Senator from Indiana would remind him. It is just that philosophically the Senator believes that the nominee is not fully cognizant of this, as well as the importance of several other rights.

Mr. CRANSTON. On another matter that I noted in looking at the committee report, and a matter I am not entirely clear on, Mr. Rehnquist's proponents in the committee report cite that his vote in favor of the Model State Antidiscrimination Act as significant in terms of his news on human rights. I would like to inquire is to what significance the Senator from Indiana places upon it, and how he interprets it.

Mr. BAYH. I appreciate the Senator asking that question because this is an important point. When I asked some of the supporters of the nominee to come forward with evidence that the nominee did in fact have the kind of sensitivity in human rights and civil rights they said he did, this was the only thing that has been forthcoming. I think it is a very thin reed on which to base one's commitments to human rights.

In the hearings I asked the nominee for evidence of activity and interest he previously expressed that showed a commitment to equal rights or civil rights. The nominee apparently did not feel his participation in this uniform commission was of such importance to cause him to mention it. It was not until it was brought to light—in fact, it was in the discussion of the Committee on the Judiciary at the time we voted on the nominee—that suddenly one of the proponents said the fact that he finally voted for this is evidence of the fact he believes now in a major commitment to human rights.

The record will show that Mr. Rehnquist represented the State of Arizona on the Uniform Commission. Before the commission was a Model Antidiscrimination Act. The transcript of the record shows that on one occasion Mr. Rehnquist sought to strike from the Model Act the provision which would make it unlawful to participate in blockbusting, that insidious tactic followed by a few unscrupulous realtors to make a fast buck.

I have cited several times for the RECORD that members of the commission felt that Mr. Rehnquist's argument was that not only a policy matter, but also a constitutional law matter, was involved in this provision. That is example No. 1.

Example No. 2 was the fact that Mr. Rehnquist also tried to strike from the provisions of the Model Act a section that would permit employers voluntarily—not mandatorily but voluntarily—to compensate in future hiring practices for discrimination that had gone on in previous hiring practices to try to sustain some balance in the work force. This is sort of a Philadelphia plan in the embryo stage, and Mr. Rehnquist, although he states he was an advocate of the Philadelphia plan, when this plan was before the Commissioners he tried to wipe out that provision. He was defeated on both of those occasions.

Point three is that he succeeded in leading an effort that made the Antidiscrimination Act a model act instead of a uniform act. The distinction between a uniform act and a model act, I think is relevant. A uniform act binds each Commissioner to go forth to his own State legislature at home and try to get the uniform act enacted. A model act is one proposed where there is little chance of a substantial number of the States enacting such provision. So here on two occasions did he not only try to strike the provision but he also tried to make it into a model act.

In the final analysis he did, along with all other Commissioners, except the Commissioners of Mississippi and Alabama, vote for the act. But that is hardly the kind of major commitment to human rights or even tacit commitment to human rights that would be expected. It is like the fellow who does everything he can to derail the train and then when he sees he is going to be defeated he rushes to jump on the back platform before the train gets out of the station.

Mr. CRANSTON. As I understand it, the action of Mr. Rehnquist in voting for that model act was not significant in the way the committee report would indicate it was, first, because before he finally cast a vote for it, he tried his best to get the act transformed from a more sweeping measure as a uniform law into a model law.

Second, he did not place significance on it because he apparently did not even remember it when he was testifying and citing his record in the field.

Third, I would like to point out to the Senator that the President stated, before making the two nominations, one of which has been disposed of and one of which is still pending, that he proposed to nominate men to the Supreme Court who reflected his own philosophy, and he said that was a conservative philosophy.

Given what the Senator from Indiana has said, the facts now appear to be that Mr. Rehnquist does not even reflect the President's philosophy in this specific matter. In fact, Mr. Rehnquist's philosophy represents a more conservative, radical, extreme view, because the equal employment opportunities procedures mandated by President Nixon in a Federal Employment Executive order promulgated in 1969 required affirmative action to redress past discrimination in hiring whereas what Mr. Rehnquist actually opposed having done at the local level was to permit individual private employers, if they wished, to adopt such equal employment plans.

Mr. BAYH. And the President has also said he was against blockbusting.

Mr. CRANSTON. Yes. So here we have a nominee who is more extreme by far than Mr. Nixon in his attitudes on this matter.

Mr. BAYH. I appreciate the fact that the Senator from California brought that up, because I think to submit that a Supreme Court nominee is a great humanitarian, or meets even the minimum standards of human sensitivity that a Supreme Court judge should have, when he has a rather bad record as a commissioner of uniform laws, is to base the case, as I said a moment ago on a rather shaky reed.

Mr. EASTLAND. Mr. President, I have received a letter from the nominee about something which has been mentioned in the debate—the memorandum which he wrote to Mr. Justice Jackson. I did not think that he needed to write this letter, because the memorandum was certainly what was the law at that time, which was in 1952. I judge that he wrote this letter to be perfectly fair with the Senate. The letter is addressed to me:

DEAR MR. CHAIRMAN: A memorandum in the files of Justice Robert H. Jackson bearing my initials has become the subject of discussion in the Senate debate on my confirmation, and I therefore take the liberty of sending you my recollection of the facts in connection with it. As best I can reconstruct the circumstances after some nineteen years, the memorandum was prepared by me at Justice Jackson's request; it was intended as a rough draft of a statement of *his* views at the conference of the Justices, rather than as a statement of my views.

At some time during the October Term, 1952, when the School Desegregation Cases were pending before the Supreme Court, I recall Justice Jackson asking me to assist him in developing arguments which he might use in conference when cases were discussed. He expressed concern that the conference should have the benefit of all of the arguments in support of the constitutionality of the "separate but equal" doctrine, as well as those against its constitutionality. In carrying out this assignment, I recall assembling historical material and submitting it to the Justice, and I recall considerable oral discussion with him as to what type of presentation he would make when the cases came before the Court conference.

The particular memorandum in question differs sharply from the normal sort of clerk's memorandum that was submitted to Justice Jackson during my tenure as a clerk. Justice Jackson expected case submissions from his clerks to analyze with some precision the issues presented by a case, the applicable authorities, and the conflicting arguments in favor either of granting or denying *certiorari*, or of affirming or reversing the judgments below. While he did expect his clerks to make recommendations based on their memoranda as to whether *certiorari* should be granted or denied, he very definitely did not either expect or welcome the incorporation by a clerk of his own philosophical view of how a case should be decided.

In other words, right there, Justice Jackson gave assignments to his clerk, and this was an assignment which he gave to Mr. Rehnquist, the nominee.

I read further:

The memorandum entitled "Random Thoughts on the Segregation Cases" is consistent with virtually none of these criteria. It is extremely informal in style, loosely organized, largely philosophical in nature, and virtually devoid of any careful analysis of the legal issues raised in these cases. The type of argument made is historical, rather than legal. Most important, the tone of the memorandum is not that of a subordinate submitting his own recommendations to his superior (which was the tone used by me, and I believe by the Justice's other clerks, in their submissions), but instead quite imperious—the tone of one equal exhorting other equals.

Because of these facts, I am satisfied that the memorandum was not designed to be a statement of *my* views on these cases. Justice Jackson not only would not have welcomed such a submission in this form, but he would have quite emphatically rejected it and, I believe, admonished the clerk who had submitted it. I am fortified in this conclusion because the bald, simplistic conclusion that "*Plessy* v. *Ferguson* was right and should be re-affirmed" is not an accurate statement of my own views at the time.

I believe that the memorandum was prepared by me as a statement of Justice Jackson's tentative views for his own use at conference. The informal nature of the memorandum and its lack of any introductory language make me think that it was prepared very shortly after one of our oral discussions of the subject. It is absolutely inconceivable to me that I would have prepared such a document without previous oral discussion with him and specific instructions to do so.

In closing, I would like to point out that during the hearings on my confirmation, I mentioned the Supreme Court's decision in *Brown* v. *Board of Education* in the context of an answer to a question concerning the binding effect of precedent. I was not asked my views on the substantive issues in the *Brown* case. In view of some of the recent Senate floor debate, I wish to state unequivocally that I fully support the legal reasoning and the rightness from the standpoint of fundamental fairness of the *Brown* decision.

Yours very truly,
WILLIAM H. REHNQUIST,
Assistant Attorney General,
Office of Legal Counsel.

Mr. BAYH subsequently said: I read a recent letter from Mr. Rehnquist received by our distinguished chairman of the Committee on the Judiciary, and since it has been introduced into the RECORD, I will not ask that it be introduced. But I would hope that each Member of this Senate will read that letter and then judge the veracity of it for himself, so that each Senator may do so in proper perspective.

Mr. President, I ask unanimous consent that immediately following the letter from the nominee, the memorandum from the nominee to Justice Jackson be printed in the RECORD.

Thus, each of us will have the opportunity to look at the wording of the memorandum and of the letter which attempts to explain it.

There being no objection, the memorandum was ordered to be printed in the RECORD, as follows:

A RANDOM THOUGHT ON THE SEGREGATION CASES

One-hundred fifty years ago this Court held that it was the ultimate judge of the restrictions which the Constitution imposed on the various branches of the national and state government. *Marbury* v. *Madison*, other than the personal predilections of the Justices.

As applied to questions of inter-state or state-federal relations, as well as to inter-departmental disputes within the federal government, this doctrine of judicial review has worked well. Where theoretically co-ordinate bodies of government are disputing, the Court is well suited to its role as arbiter. This is because these problems involve much less emotionally charged subject matter than do those discussed below. In effect, they determine the skeletal relations of the governments to each other without influencing the substantive business of those governments.

As applied to relations between the individual and the state, the system has worked much less well. The Constitution, of course, deals with individual rights, particularly in the First Ten and the Fourteenth Amendments. But as I read the history of this Court, it has seldom been out of hot water when attempting to interpret these individual rights. *Fletcher* v. *Peck*, in 1810, represented an attempt by Chief Justice Marshall to extend the protection of the contract clause to infant business. *Scott* v. *Sanford* was the result of Taney's effort to protect slaveholders from legislative interference.

After the Civil War, business interest came to dominate the Court, and they in turn ventured into the deep water of protecting certain types of individuals against legislative interference. Championed first by Field, then by Peckham and Brewer, the high water mark of the trend in protecting corporations against legislative influence was probably *Lochner* v. *N.Y.* To the majority opinion in that case, Holmes replied that the Fourteenth Amendment did not enact Herbert Spencer's Social Statics. Other cases coming later in a similar vein were *Adkins* v. *Children's Hospital*, *Hammer* v. *Dagenhart*, *Tyson* v. *Banton*, *Ribnik* v. *McBride*. But eventually the Court called a halt to this reading of its own economic views into the Constitution. Apparently it recognized that where a legislature was dealing with its own citizens, it was not part of the judicial function to thwart public opinion except in extreme cases.

In these cases now before the Court, the Court is, as Davis suggested, being asked to read its own sociological views into the Constitution. Urging a view palpably at variance with precedent and probably with legislative history, appellants seek to convince the Court of the moral wrongness of the treatment they are receiving. I would suggest that this is a question the Court need never reach; for regardless of the Justice's individual views on the merits of segregation, it quite clearly is not one of those extreme cases which commands intervention from one of any conviction. If this Court, because its

> members individually are "liberal" and dislike segregation, now chooses to strike it down, it differs from the McReynolds court only in the kinds of litigants it favors and the kinds of special claims it protects. To those who would argue that "personal" rights are more sacrosanct than "property" rights, the short answer is that the Constitution makes no such distinction. To the argument made by Thurgood, not John Marshall that a majority may not deprive a minority of its constitutional right, the answer must be made that while this is sound in theory, in the long run it is the majority who will determine what the constitutional rights of the minority are.
>
> One hundred and fifty years of attempts on the part of this Court to protect minority rights of any kind—whether those of business, slaveholders, or Jehovah's Witnesses—have all met the same fate. One by one the cases establishing such rights have been sloughed off, and crept silently to rest. If the present Court is unable to profit by this example, it must be prepared to see its work fade in time, too, as embodying only the sentiments of a transient majority of nine men.
>
> I realize that it is an unpopular and unhumanitarian position, for which I have been excoriated by "liberal" colleagues, but I think *Plessy* v. *Ferguson* was right and should be re-affirmed. If the Fourteenth Amendment did not enact Spencer's Social Statics, it just as surely did not enact Myrdahl's American Dilemma.

Mr. EASTLAND. Mr. President, I have noticed that the Senators who have read from this memorandum did not know where it came from, and did not realize the facts that were behind it.

Of course, a clerk is not going to give the judge that he works for his own views on a subject. In this instance, he was simply given an assignment, and he fulfilled that assignment, which he was bound to do. It was just like the administrative assistant of a Senator. They do not come in unsolicited, at least mine do not, and try to influence me. But I do give them assignments and expect them to fulfill those assignments.

Mr. Rehnquist is being mistreated here, and being badly mistreated, because there was no attempt to get the facts, but just to read a bald statement that appeared in Justice Jackson's papers, when, after all, this was an assignment which the judge had instructed Mr. Rehnquist to perform.

Mr. SCOTT. Mr. President, will the distinguished chairman of the committee yield, without losing his right to the floor?

Mr. EASTLAND. I yield.

Mr. SCOTT. I would like it to be noted that this letter is in accordance with what I said publicly yesterday, and I would like to repeat those comments now.

First of all, I agree that it is customary for Senators as well as Justices to ask their staffs to prepare points of view on one side or another of a case. We have often had the experience that we ask our staffs to prepare separate memorandums on each side, and then we make up our own minds. It is perfectly clear that this is what was done here, and I am informed reliably that Mr. Justice Jackson had already informed himself on one side of the issue in discussions with the other members of his staff, but that he wished some additional commentary and light on the opposing point of view, namely, the point of view of stare decisis: Shall we stand by the decisions? As law clerks have done from time immemorial——

Mr. EASTLAND. After all, is that not what that statement was? That statement to Justice Jackson was just simply a reiteration of what the law was at that time.

Mr. SCOTT. That is what he was doing, as law clerks have done from time immemorial.

Mr. EASTLAND. And the doctrine of stare decisis certainly applied.

Mr. SCOTT. At that point the doctrine of stare decisis clearly applied, and law clerks, I suspect, as far back as Coke and Blackstone were supplying memorandums on one side or the other to their principals.

I happen to be one who strongly disagreed with Plessy against Ferguson when I read it as a lawyer. But it was the law of the land for 75 years. The Court was in the process of reviewing and considering whether to arrive at new directions. A law clerk is asked to survey the status of the law: What is the law where we are now, what does it say? And he did that.

I was concerned about something else, and I mentioned this publicly yesterday:

Some of the press said to me:

> Oh, yes, Mr. Rehnquist says that Brown against Board of Education is the law of the land. But is he for it?

I said:

> I have talked to him. He said he expected it to continue to be the law of the land, that it was a humane decision, and he says it is his judgment that it was good law.

Immediately my friends from the press leapt on me almost as one man, and said:

> Oh, yes, but does he really believe it is good law? Now he says so.

Senator after Senator has stood up here and testified to the integrity of this man. The Senators who criticize him support his integrity and his reputation for truthfulness. He says it is good law, it is a good case, he believes in it. And then someone asks me:

> Oh, yes, but does he think it is morally right?

Well, we fought that issue out for over a year 20 years ago, and if necessary, I will ask him whether it is morally right or not. But he says it is fair; he says it is forthright; he says in his letter he fully supports the legal reasoning and the rightness from the standpoint of fundamental fairness of the Brown decision. I do not see how you can go any farther than that.

It seems to me that this knocks into a cocked hat all of this skillfully constructed house of cards—this lonely effort, largely by a very few people, to create a condition which does not exist, to create in the minds of the Senate and the public the fact that there is something in the record which, if they could only get it out, would be detrimental.

Here is the answer. He was a law clerk. The Senators who criticize him would fire members of their own staffs if they told them how to vote. This law clerk said he would not dare tell the Justice how to vote, and he wrote this as a memorandum, so far as his recollection certifies, to be used by equals among equals. As a matter of fact, as we all know, Mr. Justice Jackson voted in the unanimous opinion of the court in Brown against Board of Education.

Mr. EASTLAND. That was 2 years later.

Mr. SCOTT. It was 2 years later. But it seems to me that we are going through a charade here. We are going through a charade where those who are devoid of a case are using time as a substitute for logic. They are using the days of the week as an alternative to reason. They are using the clock in lieu of conceding the right to other Senators to proceed with the business of the Nation.

We can be through; we can be out of here Saturday. There is now pending an agreement which is not for me to state, but we are very close to an agreement whereby the other body and the Senate can agree on everything pending before us which we undertook to take up this year. We can agree on it and be out of here Friday or Saturday.

But, here or there, a lone objector stands up and says:

> You can't go home until I can continue my fruitless search. You can't leave this Chamber until my bootless effort to find some reason for my arguments somehow succeeds because somewhere, somehow, some other newspaper or magazine is going to come up with another flash bulletin and it will take two or three days to demolish it.

This is only an effort to gain time. It is unfortunate, and there is a way to stop it. The way to stop it is by cloture. The way to stop it is to file a cloture motion, and I feel like filing that cloture motion. It will be filed—a motion to get out of here by Saturday—because we have finished our business, if we can vote on this nomination.

I cannot believe that one, two, or three Senators really want to keep the rest of the Senators here until Christmas. If they do, let them bear the onus. There is onus enough to go around, and I will bring in a large package of onus each day and distribute it generally and apply it where it will do the most good, I hope. If they are going to keep Senators here until Christmas, all right; I will join in that; and if necessary I will file a cloture motion every day from now to the end of the session. I do not believe it will be necessary. I think Senators want to finish their business. I think they want to proceed responsibly. I do not think they want to lead the rest of their colleagues into an unwilling residence in a Chamber in which we have become far too much accustomed to the company of each other, for the good of the Nation or for our own good.

So let us see what happens. A cloture motion will be filed. It may be this afternoon; it may be tomorrow morning. Senators will have a chance to vote on Friday; on Saturday; on Monday, if necessary, and Tuesday, Wednesday, Thursday, Friday, and Saturday. I can call the days of the week too; I can count, too, and I can read time, too.

I know what is going on around here. Let us find out. There is no cause for extended further debate here. Every issue has been raised except the latest flash excitements; and as these excitements arise, they can be put out—these brush fires—one by one. We will not run out of water to extinguish the brush fires that have no reason to be ignited in the first place. But we can do better than that. We can be responsible. We can be responsible and vote for cloture. We can say to those who have nothing to say in this cause, and we can say to those who having nothing to add to this cause, and we can say to those who have nothing to contribute to this cause, except their suspicion that they do not like what the nominee will do on the bench, let the Senate exercise its constitutional duty and vote on the President's nominee.

I probably will not like some things this nominee or that nominee or the other may do on the Bench. I never wholly agreed with a Supreme Court Justice yet. That is not proof that they are wrong and I am right.

As the Romans said, "Carpe diem." We will seize this day. We will seize it by cloture.

But wait until the day when another President comes in with another Supreme Court Justice nominee, with a different philosophy, and then the argument will be made, if we are so unwise as to make it a precedent:

> No, we don't agree with his opinions. We don't know what they will be. He has changed them in 20 years.

I know Members of the other body—two from a single State, for example—who have changed their views on busings in 1 year. By golly, if Representatives and Senators can change their views in a year—and I know some Senators, including myself, who have changed them in 5 minutes when we have found evidence to support it—why cannot he change his views in 20 years?

They say they believe him. But they are afraid he will not agree with them on the Bench. That is the most murderous, antilibertarian theory I have ever heard. I am a Jeffersonian. The room I occupy here was first occupied by Thomas Jefferson, and I believe in his point of view—the freedom of the mind to explore, to generate ideas, to change, to quest, to look, and to look with wonder, on the changes of the world, and to meet them as the need comes.

This man can be a good judge. In my opinion, he will be. He certainly can help to mold the interpretation of the law. But what law is there that says that a man must agree with the Senate?

As the Senator from Wisconsin said this morning, if we are going to reject nominees because of disagreement with their views:

> We will have a court of political weathervanes. We do not need another U.S. Senate interpreting the law.

In terms of changing one's mind, I think we have had some illustrations of that, illustrations which the critics of this nominee have cited with great approval and approbation. The President of the United States, for years, was one of the leaders in opposition to U.S. relations with Communist China. He changed his mind and said:

> I will go out there and meet with Mao Tse-tung.

The very people who denominated themselves as liberals cheered to the heavens and said:

> How wonderful! This is great! He has changed his mind. How noble it is, how good it is, how refreshing it is that a man has changed his mind!

Well, I say that those who criticize this nominee are not going to change any minds, except against them. I said yesterday that I understand there are some Senators who were going to vote against the nominee but are now going to vote for him because they do not like these tactics and they do not like this delay and they think it is unwarranted.

It is within the privilege of the Senators; we know that. But there is a time when the exercise of one person's privilege impinges on the privileges of all, and there is a time when the individual's commitment to his singular point of view operates with singular unfairness toward the collective point of view of the body in which he serves. We all have enough selfishness to be tempted to do just this. The reason the Senate functions is that most of us withhold most of the time what we privately think of each other when these occurrences develop.

So let it be understood that if there are to be brush fires, they will be fought with something more than brush fires; they will be fought with the rules of the Senate.

Having made perfectly clear my commitment to Brown against Board of Education, my commitment to civil rights and to civil liberties, I hope this nominee will share my point of view. I would welcome him. I would do my best, if I were before the bench, to persuade him that that is right. He says to me and to all of us, in this letter, that that is right. I welcome him to the company of those who wear the white hats, and I would hope for other white-hat decisions accordingly. But whether he decides one way or another, if he decides according to his conscience, in strict obligation as a sworn upholder of the law, and if he acts with fairness and with integrity, he is entitled to be on that bench.

Here I have to disagree with people with whom I have agreed over and over many times. I believe that you cannot try a man for what you think he thinks or what you suspect he may say. That is antiliberalism.

I thank the distinguished Senator from Mississippi.

Mr. HRUSKA. Mr. President, will the Senator yield?

Mr. EASTLAND. I yield.

Mr. HRUSKA. Mr. President, this memorandum of 1952, written by Mr. Rehnquist for Mr. Justice Jackson under the circumstances discussed in the letter just alluded to, should be considered in light of the context of the time. At that moment four cases were pending in the Supreme Court from lower courts, one of which was the Brown case. In three cases there was absolute reliance upon a case that had been decided in 1896. That was 56 years prior to the time the memorandum was drawn. In one of the pending matters, the Delaware case, there was a partial disavowal of Plessy against Ferguson, but in the other three cases the opinions below said that "We rely on Plessy against Ferguson and the petitions of the plaintiffs are denied"—an application for an injunction in each instance. Against that background, Justice Jackson said,

> I want all the arguments for sustaining the logic and constitutionality of Plessy vs. Ferguson and the proposition of law which it contains.

So Mr. Rehnquist, being a law clerk, subject to that kind of order and mandate, complied with the request of the Justice.

Writing memoranda or briefs or opinions for the use of others is not a new position for a nominee to the Supreme Court to find himself in where he acts in a representative capacity.

An attempt was made some time ago to say that this is the first time the relationship of attorney-client or related forms of privilege has been relied on by a nominee for the Supreme Court.

That is not so.

In 1967, during the hearings on Thurgood Marshall there was brought out the fact that Thurgood Marshall had drawn up the brief in one of the Miranda cases—there were four in that series of cases—the Westover case. At the hearing that nominee refused to answer any questions about the brief or of the substance which it contained.

At a later time, attention was called to a speech he made at the Texas University School of Law, to the students there, in which he discussed this case. He was asked why the case—in discussing this at the Texas University Law School with the students there—was different from the position he took in the hearings. He said he was not privileged to discuss the case before the committee because, as he put it:

> Judge MARSHALL. Well, the answer to Senator Kennedy is that once the President announced the nomination, I have not made any statements to anybody about anything.

That was his attitude during the course of the hearings. However, the Senator from Massachusetts (Mr. KENNEDY) was there as a member of the committee, and he said this to Mr. Marshall at the time when he was asked about the Texas Law School lecture:

> Senator KENNEDY. Actually, Mr. Solicitor General, there would have been nothing improper for you to express an opinion down in Texas Law School, because you were not nominated to the Supreme Court at that time.
>
> Judge MARSHALL. That was the position I took.
>
> Senator KENNEDY. So, actually, now having received the nomination, then I assume that you have a different responsibility as far as commenting on these matters.

And then ensued some further dialog. Senator KENNEDY at a later point said:

> Senator KENNEDY. But the point that I am driving at is that you have, as a nominee, a different responsibility, as I understand it, as to commenting on questions that might come up before the Court——

At another juncture in the hearings, the Senator from Massachusetts said this:

> I am submitting for the record briefs filed by Solicitor General Marshall in the Court criminal cases which were heard by the Supreme Court during the past two terms.
>
> * * * * *
>
> In putting this material into the record, I think we ought to offer it for the permanent committee files, I emphasize that these were briefs filed by Judge Marshall in his role as an Advocate. I respect the point which you made yesterday, that he is perfectly willing that this committee examine and consider all the statements of record and it reflects his briefs as filed and opinions as written, but does not believe in his present status as a nominee that he should express any opinion concerning specific issues which are likely to come before him in the future as a Justice.

On this point, the Senator from Michigan (Mr. Hart) also said:

> The dilemma is that as a lawyer, we are free to make an expression of whether a court opinion is good or bad. We may or may not have read the briefs and records, but that does not inhibit us. As a judge, you speak only after reading the briefs and records and listening to the argument, and that is all you say. You put it in writing, period.
>
> Now, as a lawyer nominated to the Court, you are hung with this dilemma. You do not want to box yourself in by a statement here, because after you read the briefs and records and arguments, you may find that your intellectual training suggests that you might have been wrong here, that there is additional illumination developed as a result of the argument. Yet, you would be hung on exactly what you are saying, having told us that your impression as a lawyer is such and such about a case. If as a judge later you discover that if you had known now what you knew then, your answer would have been different, you are inhibited from reaching a right judgment as a judge because you are afraid somebody in this committee will confront you with your previous statement.
>
> That is the dilemma I am afraid we are facing here.

So, Mr. President, we have a situation that is not new at all. Always we on the committee have heard nominees decline to answer for a variety of reasons. This instance is no different.

There are always in these cases the matter of a nominee being called upon to forego and forswear loyalties that he has previously held and placing in their stead loyalty to the Supreme Court and the duties devolving on Associate Justices, which will also devolve upon Mr. Rehnquist by his nomination and confirmation.

That occurred with Justice Goldberg, with Justice Marshall—with everyone. That is the case here.

Let me read into the Record an excerpt from a letter dated November 18, 1971, to the Chairman of the Judiciary Committee, the distinguished Senator from Mississippi (Mr. Eastland), written by Benno C. Schmidt, Jr. I ask unanimous consent that the entire letter be printed in the Record at the conclusion of my remarks.

The PRESIDING OFFICER (Mr. Roth). Without objection, it is so ordered.

(See exhibit 1.)

Mr. HRUSKA. Mr. President, the excerpt I wish to read is as follows:

> I do not doubt that Mr. Rehnquist's positions on matters before the Supreme Court will be opposed, often diametrically, to my understanding of the mandates of our Constitution. One who reveres the person and performance of Chief Justice Warren, as I do, cannot but look forward to Mr. Rehnquist's likely decisions with some misgivings. But protecting the independence of the Supreme Court by subjecting nominees to an outcome determining test is self-defeating. Ultimately, those who believe in the essential role of the Supreme Court as an active and principled protector of individual liberties trust rest their faith on process, not on outcome. Candor, force of logic, attention to pertinent detail, openmindedness in approaching the discrete and varied problems which come before the Court—these are the conditions of independence and purpose in our judicial institutions. They are attributes which I believe Mr. Rehnquist possesses in abundance.

Mr. President, again we come to the proposition: Where does he stand in regard to the attributes that really count in considering a person for the position of Associate Justice of the Supreme Court? A few comments on that point may be in order considering some of the unfounded charges that have been made during this debate.

Now, Mr. President, those who oppose Mr. Rehnquist's appointment to the Supreme Court do so, because of his alleged lack of sensitivity to civil rights and individual liberties. When all the embellishments are removed, this is what it amounts to. On all other aspects of his record of achievement he is unassailable, of course, and his opponents recognize this. They believe, however, that in civil rights they have found Mr. Rehnquist's Achilles heel, the one area in which they feel he is vulnerable.

I have said before that this is nonsense, Mr. President, a conclusion borne out by the majority section of the report by which Mr. Rehnquist's nomination was presented to the full Senate. As the floor debate continues, however, it is clear to me that further comments by this Senator are necessary to balance the record. I do this not out of fear that Mr. Rehnquist's confirmation will be defeated. On the contrary, I have full confidence in the ability of my colleagues to separate the wheat from the chaff. Rather, I would like the record to be plain as to the real Mr. Rehnquist, the man the Senate will shortly place on the Supreme Court.

Mr. President, the man who has been described by a principal detractor as one who "has persistently been hostile to efforts by court or legislature to use law to correct the racial injustices of the past two centuries" is not the candidate before us for consideration. That description fits only the straw man who has been set up by the opponents of this nomination. Having set the straw man up as a person "of persistent indifference to the evils of discrimination" with a record that "reveals a dangerous hostility to the great principles of individual freedom under the Bill of Rights," these opponents now propose to knock such a man down. Such a description would no doubt alarm any thinking person, were it true. Fortunately, it is not. I will now proceed to discuss why Mr. Rehnquist is not such a man.

Let us examine the negative aspects first, Mr. President. What objective evidence exists to support the claim that Mr. Rehnquist is, at the least, insensitive to civil rights of minority groups and, at the worst, opposed to the granting of these rights.

Three events have been relied upon by those who are resisting confirmation: Mr. Rehnquist's opposition to a Phoenix public accommodations ordinance in 1964, his concern about two provisions in a 1966 Model State Antidiscrimination Act, and a 1967 letter to the Arizona Republic in support of the neighborhood school concept.

I believe anyone reading the discussion of these three incidents in both the majority and minority portions of the committee report on Mr. Rehnquist, plus those portions of the hearing record which relate to them, could only come to the conclusion that they do not represent a persistent hostility or indifference to civil rights issues. To ascribe such a pattern to these three events is to create a fiction which is both inaccurate and unjust. It eliminates every other reasonable hypothesis for Mr. Rehnquist's actions on these occasions.

These instances have now been joined by a fourth, in the form of a memorandum written by Mr. Rehnquist to Mr. Justice Jackson while serving as the Justice's law clerk in 1952. This memorandum expressed the view that Plessy against Ferguson was right and should be sustained as the law of the land. Plessy was, of course, overturned in 1954 when the Supreme Court decided Brown against Board of Education.

Mr. Rehnquist has since responded in a letter to the chairman of the Judiciary Committee, which is now a matter of record. It is obvious that Mr. Rehnquist's response, which affirms that the memo was done at Justice Jackson's request to discuss a particular point of view which was not the nominee's, completely eliminates this document as a basis on which to base objections to Mr. Rehnquist's position on civil rights. On the contrary, special note should be made of the nominee's strong support of the decision in Brown against Board of Education and, in his words, "the legal reasoning and the rightness from the standpoint of fundamental fairness."

Examined objectively, these points do not in fact by themselves support the conclusion that Mr. Rehnquist is unsympathetic or insensitive to civil rights. But there is another and more serious aspect to this criticism of the nominee. It is alleged that the unrelated events on which Mr. Rehnquist's opponents rely are, in their words, "unrelieved by actions showing an affirmative commitment to racial justice." It is here, Mr. President, that they overextend themselves factually and tactically.

By this statement they have revealed their true objections to the nominee. They would like Mr. Rehnquist to be a civil rights activist, one who will use the Constitution and the law to correct improper practices. I emphasize the word "use," Mr. President, because it has been employed on several occasions by those who would not see the candidate confirmed. This is the real test being applied to the nominee. He has not done enough to advance the cause of civil rights.

I urge my colleagues to consider the impracticability and even danger involved in such a standard. A nominee must now come forward and demonstrate his deeds in a particular area of interest to show he is worthy to sit on the Highest Court. He must place his activities on a ledger sheet, to be checked off against those deeds which a select group of people believe he should perform. Who then adds up the totals? How many acts of good faith are enough? What about other areas? May unions now come forward and ask the nominee to show what he has done for labor? May farmers ask to see his accomplishments in their field? And so on, ad infinitum.

Certainly civil rights is a vital matter, and certainly there is something there for all of us. But we are talking about a man who is to sit on a court of law, not one of equity. Everyone is entitled to know whether a candidate is antagonistic to issues that will be brought before him. But I believe this cannot and should not be done by requiring an affirmative showing in certain areas.

This brings me to the nominee himself. It is time to discuss the true man, the living William Rehnquist—not some caricature created by those who see patterns where they do not exist, who choose to apply great significance to certain words and deeds while totally ignoring others.

We are talking about a man who was described by Walter Craig, distinguished jurist and former ABA president, as having "a humanity about him and a human warmth that would make him, if anything, more sensitive to the needs of the people—and the necessity—of improving their life and their society." A man about whom Prof. Benno Schmidt of Columbia Law School, a former clerk to Chief Justice Warren and a former coworker with Mr. Rehnquist, said:

> In our work together, he was open to reasoned persuasion, tolerant and respectful of my quite different constitutional and political outlook, and ever willing to examine his position in the light of the fullest possible analysis of facts and legal principle.

This is a man who chose to move into an integrated neighborhood in Phoenix and to send his children to an integrated school. It is a practice which he still follows. In the words of a former principal of his children, he wanted "his children to have experience and associations with children from minority groups, as well as with the different socioeconomic groups." He and his children had this opportunity many times in school and neighborhood undertakings. And as a neighbor has stated:

> Working with us was always a cross-section of parents from mixed ethnic, racial, and economic backgrounds. In all of these contacts, never have I heard or seen Mr. Rehnquist act in a negative way towards a person or show preference because of his race, background, or economic disadvantage.

Mr. President, the Senate is considering a nominee who wrote the opinion for the Justice Department upholding the Philadelphia plan, an arrangement to secure greater employment of minority workers. A man who, only last year, rendered the opinion providing the legal basis for the present requirement in regulations of the Law Enforcement Assistance Administration that States provide a nondiscrimination pledge before receiving LEAA grants. This opinion was rendered even though the relevant statute is silent on this point.

This is a man who went out of his way to help two black messengers in his office by upgrading their positions from GS–1 to GS–2 in one case and GS–3 in the other. Both of these men had been GS–1 at the Department of Justice for over 20 years. He has also gone out of his way to hire women lawyers for the Office of Legal Counsel, which now has 4 out of 17 attorneys who are female.

Mr. President, the Senator from Indiana has said on this floor that "the issues involved in this nomination are subtle." He has pointed out that there is no headline making controversy. In this we completely agree. Until his nomination, William Rehnquist was not a national figure. He is not a headline maker. He has been a practicing lawyer, and now a public servant. Indeed, he has not openly and publicly demonstrated an affirmative commitment to civil rights—he has merely lived this way. This type of fair, balanced approach to life does not get headlines. All it does is make believers out of those who know such a person.

In my individual views on this nomination I pointed out that those who know Mr. Rehnquist best have the best things to say about him. I cannot overemphasize this point. Certainly we have to look at the cold record, at past events, and at written statements—even those rendered as an advocate. But all these things must be viewed with the perspective that comes from knowing what kind of man William Rehnquist really is. Those who know him best can tell us the most about this, and they have—including those like Jarril F. Kaplan of the Arizona Bar, or Congressman PAUL MCCLOSKEY, whose political views differ widely from those of the nominee.

Mr. President, I take strong exception to the idea voiced by Mr. Rehnquist's opponents that "if you're not for me you're against me." It is a gross oversimplification to say that if you do not actively and publicly support civil rights issues you oppose them. Every day in this Chamber Senators who vote their consciences oppose bills that have been proposed to accomplish high purposes or cure substantial ills. They oppose them for a number of reasons, but never because of the goals these measures pursue. And so it has been with the nominee.

William Rehnquist is, first and foremost, a servant of the law. He is the living example of what we try to convince our people to do every May 1 on Law Day, for he is dedicated to the rule of law and not the rule of man. This does not mean that he is insensitive to any one area of human concern; it means that he is equally sensitive to all of them.

Why, for example, would he vote in favor of the 1966 Model State Antidiscrimination Act if he were so against minority progress. Much is made of his concern, as a lawyer, over two provisions of this act. But if he were so against them, why did he vote in favor of the act which included them on final passage? Where was his "persistent hostility" then? Did he predict his current nomination?

And why, just last year, did he support the requirement of a nondiscrimination pledge from States receiving LEAA grants? The law is silent on this requirement. His persistency should have led him to direct his talents against such a requirement.

Mr. President, the balanced and reasoned approach which this nominee will bring to the Supreme Court has been lacking in that body in recent years. It is that very balance which has been lacking in the arguments advanced by Mr. Rehnquist's opponents, who chose to place great emphasis on certain words and deeds, while ignoring others. I have full confidence, however, that my colleagues will consider the entire record and place this nominee on the Court without undue delay.

Mr. President, I yield the floor.

EXHIBIT 1

COLUMBIA UNIVERSITY IN THE CITY OF NEW YORK,
New York, N.Y., November 18, 1971

Hon. JAMES O. EASTLAND,
Chairman, Senate Judiciary Committee, Washington, D.C.

DEAR SENATOR EASTLAND: I am writing to you as Chairman of the Senate Judiciary Committee to state my hope that the Committee will recommend and the Senate will confirm the appointment of William H. Rehnquist to the Supreme Court of the United States. Ordinarily, I would not think my impressions of a nominee to the Supreme Court were worthy of any special interest by the Committee. However, Mr. Rehnquist has been subjected to such extravagant denunciation by groups and persons with whom I am usually in accord that I feel justified in making my views a matter of record.

In assessing what weight to give my views, it may be helpful for you to know that I am Associate Professor of Law at Columbia University School of Law. My primary teaching interest and responsibility is Constitutional Law. After graduating from Yale Law School in 1966, I served for one year as law clerk to Chief Justice Earl Warren, and then for the next two years I served as Special Assistant to the Assistant Attorney General in charge of the Office of Legal Counsel.

In that latter capacity, I had the bulk of my working relationship with Mr. Frank M. Wezencraft, Mr. Rehnquist's gifted predecessor as Assistant Attorney General. When Mr. Rehnquist became Assistant Attorney General, I remained in the Office of Legal Counsel at his request for about five months while he became acquainted with the operations and responsibilities of the Office. During that time I worked closely with him on a daily basis on a variety of constitutional and other legal problems. I should make clear that my impressions of Mr. Rehnquist were formed solely on the basis of this close association over a relatively short period of time.

In working with Mr. Rehnquist, I developed clear impressions of his attributes of character and intellect which seem to me most relevant in assessing his qualifications to be a Justice of the Supreme Court. First, and most important, Mr. Rehnquist is a person of great intelligence. He is a painstaking legal craftsman with a lively and subtle interest in the interplay of constitutional law and social policy. I will not elaborate this point, since I believe no fairminded person could doubt Mr. Rehnquist's exceptional intellectual qualifications to sit at the highest level of our judicial system. Instead, I want to address myself to Mr. Rehnquist's fairness and objectivity.

In my work with Mr. Rehnquist he seemed to me unusually openminded and free of reliance upon dogma in dealing with constitutional questions. His approach to legal problems is highly discriminating; few persons in my experience have exhibited more alert skepticism as to the utility of sweeping generalizations and ideological positions. Always I had the impression that careful analysis governed his response to legal questions.

Mr. Rehnquist approaches legal issues with the utmost forcefulness and honesty. In our work together, he was open to reasoned persuasion, tolerant and respectful of my quite different constitutional and political outlook, and ever willing to examine his position in the light of the fullest possible analysis of facts and legal principle. He is an independent, even iconoclastic, thinker.

Candor, openness to argument, and forcefulness of logic and expression are critically important to the performance of the Supreme Court, with its unique and delicate power of constitutional review. I believe Mr. Rehnquist's appointment will help restore these necessities of judicial process, sadly diminished by recent events and losses from the Court.

I do not doubt that Mr. Rehnquist's positions on matters before the Supreme Court will be opposed, often diametrically, to my understanding of the mandates of our Constitution. One who reveres the person and performance of Chief Justice Warren, as I do, cannot but look forward to Mr. Rehnquist's likely decisions with some misgivings. But protecting the independence of the Supreme Court by subjecting nominees to an outcome determining test is self-defeating. Ultimately, those who believe in the essential role of the Supreme Court as an active and principled protector of individual liberties must rest their faith on process, not on outcome. Candor, force of logic, attention to pertinent detail, openmindedness in approaching the discrete and varied problems which come before the Court—these are the conditions of independence and purpose in our judicial institutions. They are attributes which I believe Mr. Rehnquist possesses in abundance.

I respectfully urge the Judiciary Committee to recommend confirmation of William H. Rehnquist to the Supreme Court.

Respectfully,

Benno C. Schmidt, Jr.

Mr. HART. Thurgood Marshall, as distinguished from the present nominee, told the committee that the briefs that had been filed during the period he was the Solicitor General, and which were in question before the committee, indeed did reflect his views. That is the meat and potatoes of this perhaps important, perhaps subsidiary argument.

I have not looked at the record of the recent past, but even the excerpt that the Senator from Nebraska read, as I heard it, had Thurgood Marshall saying, "And those are my views."

Mr. Rehnquist says with respect to some of those pleadings and positions of the department that because of an attorney-client relationship he could not give us his view on those questions. To the extent that we ought to look at the precedent set in the Thurgood Marshall case, I suggest that the precedent makes overwhelming the proposition that Mr. Rehnquist was not acting, and is not acting, as did Thurgood Marshall in responding to the inquiry of the committee.

Mr. BAYH. Mr. President, I have been here almost continuously observing and participating in the debate during its entirety, but being only human, a Senator on occasion has to leave the floor for personal reasons. I regret that, when I was briefly absent, the distinguished minority leader decided to gain the floor and to berate at some length the effort that some of us are making to try to present a case.

Mr. President, I think it would be wrong to become involved in personalities. I have the greatest respect for the minority leader as an individual, as a dedicated human being, and I think that the Record would show that on most instances we vote similarly.

Indeed, on the first Supreme Court nomination battle that was waged here in recent history, the distinguished minority leader joined with the Senator from Indiana and 53 other Members of the Senate—some 15 or 16 or 17 of whom were Members of his party—to reject the Haynsworth nomination. Although there was significant minority opposition to the Carswell nomination, the minority leader felt disposed to vote for Judge Carswell. I do not know whether he was quoted accurately or not, but I understand that shortly thereafter he said he thought he made "a damn fool mistake" in doing so. Thus, at least in hindsight, the distinguished minority leader and the Senator from Indiana have been on the same side up to this point on five Nixon nominations: Burger, Haynsworth, Carswell, Blackmun, and Powell.

I find it ironic that in the second full day of debate on this controversial question the minority leader comes to the floor of the Senate and accuses some of us who are in opposition of arbitrary tactics, dilatory tactics, of lonely vigils, and then is not present to let us discuss this matter.

It seemed patently unfair to me that the distinguished minority leader decided to gather the clan in the press corps and tell them that a filibuster was being conducted exactly when the time the distinguished junior Senator from Massachusetts was making one of the most eloquent appeals of the last 2 days in opposition to the Rehnquist nomination. In fact, on yesterday morning before the Senator from Indiana even had a chance to commence his opening speech, the minority whip rose and expressed his opinion that a filibuster was in process and we had better be prepared not to leave the floor, or the question would be put.

Mr. President, I think it is a sad day if Members of this Senate cannot take each other at their words. I have not participated in a filibuster in the 9 years I have been a Member of this body, and I am not inclined now to participate in a filibuster. I defy the minority leader, or anyone else, to find any legitimate basis, any objective evidence, that debating a matter as critical as this—putting a man on the Supreme Court for 30 years—debating that for 2 days, 3 days, or 4 days is a filibuster. If that is a filibuster, and if the minority leader wants to shut off the debate, why does he not stop talking about it and come on the floor of the Senate and put in a cloture motion? Let the people of the country see what is happening—that they are trying to stick a Supreme Court nominee down the throats of the Senate at a time when we all want to go home and be with our families, at a time when the world is filled with turmoil, and the news of this nomination has not yet reached the public. It is rather obvious that those who are supporting the Rehnquist nomination seem to fear that with the passage of a little time, and the passage of free debate—which is characteristic of this body—that something else might be disclosed.

Let me turn our attention to Mr. Rehnquist's recent response to the Newsweek article. The news of this Newsweek article and the memorandum, which disclosed for the first time Mr. Rehnquist's memorandum to Justice Jackson on Brown against Board of Education, came to me on Sunday.

The Justice Department also knew of this on Sunday. Yet it took until Wednesday afternoon, about 2:15 or 2 p.m., for the first effort on the part of the Justice Department or the nominee to explain it to be forthcoming.

Always before we have had an immediate response. I think it is fair to ask: Why do we go through Monday, Tuesday, and almost through Wednesday before we received an explanation, an explanation which I think, if anyone would read it carefully, raises questions in my mind. I am dubious about its veracity.

I know that is not a light charge to make; I nevertheless feel it is accurate.

ANNOUNCEMENT OF CONFERENCE ON THE ELECTION REFORM BILL

Mr. PASTORE. Mr. President, as in legislative session, I should like to announce that the committee of conference on the disagreeing votes of the two Houses on S. 382, the election reform bill, will meet at 2 o'clock tomorrow afternoon, in room H–326.

THE NOMINATION OF WILLIAM H. REHNQUIST TO BE ASSOCIATE JUSTICE OF THE SUPREME COURT

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. BAYH. I yield.

Mr. PASTORE. The Senator mentioned this Rehnquist letter read into the Record today. I have not been able to be in the Chamber during the entire debate. As the Senator will notice, I was a conferee yesterday on the supplemental appropriation bill. We met at 11:30 a.m. and left at quarter of 7 last night, which was about an hour and a half later than the Senate recessed. But I have sought to keep abreast of the discussion.

Referring to the letter, on page 3, I am looking at the final paragraph which states:

> In closing, I would like to point out that during the hearings on my confirmation, I mentioned the Supreme Court's decision in *Brown* v. *Board of Education* in the context of an answer to a question concerning the binding effect of precedent. I was not asked my views on the substantive issues in the *Brown* case. In view of some of the recent Senate floor debate, I wish to state unequivocally that I fully support the legal reasoning and the rightness from the standpoint of fundamental fairness of the *Brown* decision.

Does the Senator from Indiana question this man's veracity?

Mr. BAYH. The Senator from Rhode Island does not reach the same conclusion in looking at the same facts. We can all look at the record, but the Senator from Indiana believes there was ample opportunity for the nominee to suggest here his views on the principles of Brown long before this. I cannot imagine why he waited so long.

At the hearings he was asked to explain his position on Brown. He said that it was the law of the land, which is as simple as the nose on my face, because it is the law of the land. In discussing whether he would overrule Brown, he talked of the weight he would give to a nine-man decision and that a unanimous decision should be given more weight than a 5-to-4 vote.

Mr. PASTORE. But he said "a question concerning the binding effect of precedent."

Does the Senator have the question that was asked Mr. Rehnquist in a hearing and the answer?

Mr. BAYH. We can get it.

Mr. PASTORE. I have been following this debate by reading the RECORD very carefully. I review the RECORD every morning on the debate.

I was wondering here if we are raising a question of doubt in the last paragraph. That is all I would like to know. What was the question asked of him?

Mr. BAYH. The question was a more generalized question relative to what the nominee's opinion was and his position would be on Brown against Board of Education.

If you look at his discussion of precedent on this and anticipate how he might vote, then you have to look at his discussion elsewhere in the RECORD on precedent.

He did say it was the law of the land, and elsewhere that a nine-man precedent was more significant than a 5-to-4 precedent.

Mr. PASTORE. The reason I asked the question is that here he states unequivocally;

> I was not asked my views on the substantive issues in the Brown case.

Can we raise a question about that? Was he or was he not asked?

Mr. BAYH. I do not know. I will look at the RECORD to see the specific wording.

Mr. PASTORE. Then he states in the letter:

> In view of some of the recent Senate floor debate, I wish to state unequivocally that I fully support the legal reasoning and the rightness from the standpoint of fundamental fairness of the Brown decision.

He goes beyond his capacity as a lawyer; he is speaking now as a man. "The rightness from the standpoint of fundamental fairness." Not fundamental jurisprudence, but a fundamental fairness of the Brown decision. I repeat I have not made up my mind, but I would like to hear from those opposing the nomination in order to help us make up our minds in a rightful way, what do they think of this last paragraph? Do they question this man's statement here? Do they doubt his veracity, or is there anything in the RECORD to contradict his affirmation?

Mr. BAYH. I appreciate the fact that my colleague from Rhode Island is struggling with this. I have struggled with it for some time now.

Mr. PASTORE. I am not struggling. I am asking a question. The Senator should see me when I am really struggling.

Mr. BAYH. I have seen the Senator when he is struggling.

Mr. PASTORE. When I struggle, I struggle.

Mr. BAYH. Yes, sir; pound for pound more than anybody in this body.

The Senator from Indiana feels the question asked by the Senator from Rhode Island is a good question. If we are really trying to explore the feelings of Mr. Rehnquist on Brown against Board of Education and about the entire issue of quality education and integrated education, I feel disposed to suggest that the letter before us is a rather self-serving effort to disavow a most persuasive and compelling indicator of his feelings on civil rights before the Senate.

Mr. EASTLAND. Mr. President, will the Senator yield?

Mr. BAYH. I will yield gladly but first I would like to take about 2 additional minutes to complete my statement.

I would ask the Senator from Rhode Island as he is deliberating upon this, to look not only at the letter which has arrived and not only at the 1952 memorandum. I earnestly hope that he will read, on page 307 of the hearings, the letter to the editor that Mr. Rehnquist wrote to the Phoenix newspaper in opposition to a plan of voluntary integration of the Phoenix school system.

I asked the nominee how he could rationalize his letter if he did believe in Brown against Board of Education and letting minority students have access to the educational system. How could he write this letter to the editor criticizing the superintendent of schools of Phoenix under the circumstances?

He replied, "I did so, because I was against long-distance busing."

I suggest to my friend from Rhode Island that long-distance busing was not in question. He simply avoided the issue in replying. The superintendent of schools said he was opposed to arbitrary forced, long-distance busing. This plan represented an effort to open the school system. The desegregation plan in question was a freedom of choice plan. For the nominee to state his letter to the editor was written, because he was against long-distance busing is not supportable on the facts.

Mr. PASTORE. In other words, the Senator is saying that he does question the veracity of the last paragraph.

Mr. BAYH. That is exactly what I am saying.

Mr. PASTORE. That is what I asked the first time. Does the Senator from Indiana question this man's veracity?

Mr. BAYH. I cannot know what was in Mr. Rehnquist's mind in 1952. I suppose it is a reasonable conclusion that if he wrote a letter to the editor in 1967 that was what he meant and that was in his mind. Well, Brown against Board of Education was written when he was a 28-year-old law clerk. I would not venture to demean law clerks, but 28 is an age when you should know what you are discussing. But at the age of 43 or 44, when he was a leading member of the bar in Phoenix, he wrote this letter to the editor and now he attributes the motive to long-distance busing, but long-distance forced busing was not in question at the time.

I shall be glad to yield to my distinguished committee chairman. I appreciate his patience in waiting so long.

Mr. EASTLAND. Am I right that my friend from Indiana has been stating on the floor that Mr. Rehnquist was a man of integrity?

Mr. BAYH. That is right.

Mr. EASTLAND. A man of unimpeachable integrity?

Mr. BAYH. The Senator from Indiana has not said "unimpeachable integrity."

Mr. EASTLAND. I asked the Senator a question.

Mr. BAYH. No.

Mr. EASTLAND. But he is a man of integrity?

Mr. BAYH. The Senator from Indiana said he thought Mr. Rehnquist had acceptable integrity, and he was not questioning that. But the more certain documents are disclosed, the more questions the Senator from Indiana has.

Mr. EASTLAND. The thing that gets me is that Mr. Powell was not asked anything about Brown against Board of Education by anyone. He was not asked what his views were on the law in 1952 and 1964. He was not challenged at all, was he?

Mr. BAYH. I must say, if the chairman remembers the record, and I ask this with all due respect. I know the Senator from Indiana asked Mr. Powell many questions. He was not handled with kid gloves. We asked him detailed and explicit questions about past decisions and past cases and the minutia of his actions when he was on the city and State school boards. We asked him whether he opposed that decision in 1954. We asked him what exactly he did to implement it. We asked him what he did to oppose the growing pressure to meet the Brown decision with massive resistance. His actions left us with no doubt about his views.

Mr. EASTLAND. Frankly, I do not recall that he was asked a question about his view on the Brown against Board of Education case. Am I right or wrong?

Mr. BAYH. Frankly, I do not think we had any evidence that he wrote a memorandum to a Justice.

Mr. EASTLAND. Will the Senator answer the question?

Mr. BAYH. I do not remember asking him that. In those words there was no need to do so. I asked him a lot more basic questions, myself. I asked him a number of questions about why he took a number of certain positions as a member of the school board of Richmond and as a member of the school board of Virginia. That was his post. He was never a law clerk to a Supeme Court Justice, as Mr. Rehnquist was.

May I read from page 277 of the hearings and call the attention of my chairman to the fact that the Senator from Indiana did ask Mr. Powell questions concerning Brown against Board of Education?

Mr. EASTLAND. Yes.

Mr. BAYH. As it appears on page 277 of the hearings I asked him the following question:

> May I ask you, please, to just give your thoughts relative to how some of the following programs or strategies fit into or should be excluded from the provisions of the Constitution, which seem to be laudatory, very similar to the doctrine put down in *Brown* v. *Board of Education*. You were serving in an official capacity in the educational system at the time that *Brown* v. *Board* came down?

Then I go down to a whole series of questions relative to Brown against Board of Education and the decisions he was making on the local scene to implement Brown against Board of Education.

Mr. EASTLAND. My question was, Did the Senator ask him what his views were on that decision?

Mr. BAYH. Very frankly, it never occured to me—perhaps it should have—that either one of these nominees would have been a part of a memorandum the likes of which we have here.

Mr. EASTLAND. It just takes a simple yes or no answer.

Mr. BAYH. The Senator is not going to deny me the use of three or four other words, is he?

Mr. EASTLAND. No, or 3 or 4 hours more.

Mr. BAYH. I wish the Senator would speak to the minority leader about that.

Mr. EASTLAND. The fact is that Mr. Powell was not asked that question by any member of the committee. Is not that a fact?

Mr. BAYH. I respectfully——

Mr. EASTLAND. The Senator has brought up a lot of matters against Rehnquist that were not brought up against Powell. Nobody asked Mr. Powell what he thought the law was or what he thought of the law before 1964.

Mr. BAYH. I respectfully suggest that I do not think the chairman is right on that. I know he thinks he is, but if he will start reading on page 277 of the hearings, he will see that a number of questions were asked by Mr. BAYH of Mr. Powell relative to Brown against Board of Education, and then, if he will look at another place in the record, he will see similar questions directed to Mr. Rehnquist. I think the questions directed to Mr. Powell were more specific relative to Brown against Board of Education than the questions that were directed to Mr. Rehnquist. The reason is that Mr. Powell was in an official capacity in the school system of Virginia, both as a school board member and as a member of the State school system. His actions told us of his views in concrete, irrebuttable terms. I was interested in learning how he looked at Brown against Board of Education. If the Senator will look at the transcript, he will see I asked him about the Gray Commission report and his position on that.

Mr. EASTLAND. Did the Senator ask him about his law firm representing the State of Virginia in the Brown case?

Mr. BAYH. I am sure it was a matter of knowledge.

Mr. EASTLAND. It was not in the record. Did anybody ask him that question?

Mr. BAYH. I am not responsible for all the questions——

Mr. EASTLAND. Those questions were not relevant against Mr. Powell?

Mr. BAYH. I should say, to the contrary, that they were relevant.

Mr. EASTLAND. I think this is being blown into a big balloon about Mr. Rhenquist, and I do not think it is justified.

Mr. BAYH. Of course, all of us are entitled to our own individual rights.

Mr. EASTLAND. Of course, the Senator is entitled to his rights.

Mr. BAYH. I know the Senator never has and I do not think he ever will want to have any difference in our relations, but I think if anyone would care to read the number of questions that were addressed to the nominee Powell on the whole area of Brown against Board of Education and his involvement and whether his acts were indeed consistent with Brown against Board of Education—in fact, if the Senator would read the statement that I made when I finally reached the decision to support Mr. Powell—he will see that the Senator from Indiana questioned Mr. Powell about these matters. Now, I did not agree with all of the positions assumed by Mr. Powell in that capacity on the school boards. But if we look not only at the Rehnquist memorandum of 1952, and the so-called explanation of it now, but if we look at what has happened since, if we look at the letter to the editor relative to opposition to opening the schoolhouse door in Phoenix in 1967, if we look at his opposition to letting black people in drugstores in 1964, and if we look at the clear pattern of the preference of property rights over individual rights, there is a great consistency, I say to my friend and my chairman, between what appears in the 1952 memorandum and what appears in the letters to the editor which appear under the name of Mr. Rehnquist, which he has not denied.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. BAYH. I yield.

Mr. PASTORE. I think, in maintaining fairness in the discussion, there is a distinction between the two. Either the question was not asked or it was not raised.

Mr. EASTLAND. It was not raised.

Mr. PASTORE. It was not raised, and I can understand why it was not raised relative to Mr. Powell.

There have been some items in the record of Mr. Rehnquist that have raised some questions, justifiably so in the minds of many people, including myself, matters which I think need explanation and justification.

I am not one of those who maintains that every man of 50 looks at life in the same light he did when he was in his twenties. We all change. To me it is of little moment how this man thought when he was in his twenties. I want to know how he feels now, because now is the time when he is being considered for the Court.

That is why I asked the question about the last paragraph. I am not too deeply interested in the memorandum of 1952. Perhaps he was wrong. Perhaps he did write a memorandum then that today he regrets. I have seen a man on the floor of the Senate vote consistently against civil rights bills and then, when he became President, score the finest record on civil rights this country has ever known. That happened in my time.

After all, how far can you go in making a man carry his past on his back when he has reached the point of making atonement and declares. "I do not look at it the same any more, and this is how I feel now?"

That is the reason why I asked the question. If the Senator from Indiana questions the credibility of the last paragraph in the letter in which Mr. Rehnquist declares, "I wish to state unequivocally that I fully support the legal reasoning and the rightness." He is talking as a man, and not as a lawyer, not as a judge. He as talking as a human being, because to me there are two requisites to making a fine judge. First of all, he has to be learned in the law; but above everything else, he has to be a man.

To be a good judge you have to be a whole man. I do not care how smart you are. We have gone through several wars where the people who perpetrated them were brilliant, but their minds were twisted. It is not a question of how brilliant a man is; the bigger question is, how fair is the man? How well does he understand human nature? How deeply does he love people? How much does he love his family? How much does he love this great country of ours?

Those are the questions we have to ask.

If this man, in 1952, said something that today he regrets, and he stands up like a man and says, "I was wrong, but today this is the way I feel," it is as of today we must make judgment. If you believe the man, if we have a man who has made his own act of contrition, if we have a man who has made atonement, it may well be that we have a good man.

That is what I am truly interested in, and I keep searching this record to find out what kind of a man he is today. That is the important question, and I hope to be enlightened on that.

We keep dragging out the things that happened 20 years ago. I would like to know a little more about what kind of a man he is today, and whether his conduct is inconsistent with this allegation in the last paragraph. If it is, he has to explain it to me. If he really means what he said, I say that has to be given serious consideration.

Mr. GOLDWATER. Mr. President, will the Senator yield?

Mr. BAYH. Mr. President, if the Senator will permit me to respond——

Mr. GOLDWATER. Yes, indeed.

Mr. BAYH. I feel that the logic of the Senator's argument is well taken. It is a logic which I share and agree with. It is the same kind of struggle I went through, and I am going to call it a struggle, because as far as I was concerned, I struggled with it in the decisionmaking process, not only on this nomination, but on the Carswell nomination.

As Senators will recall, there we had a case that Judge Carswell, when he was 28—the same age as Mr. Rehnquist when this memorandum was written—when Mr. Carswell was 28, he made that statement: "I yield to no man in my belief in white supremacy."

Some said that ought to disqualify him without further consideration. It is a pretty terrible statement, but the Senator from Indiana thought that perhaps he was a little wiser at 43 than he had been at 28, and that we should examine the record further; and it was not until we saw the clear pattern in Judge Carswell's cases in the other instances that came to the attention of the Senate and the committee that I was convinced he had not changed his views.

I can honestly say, I say to the Senator from Rhode Island, that no one can tell what thoughts the nominee possesses now. He alone is in possession of those thoughts. We are familiar with the fact that some such pronouncements are self-serving. I would prefer to look and see what the nominee said before he was nominated as a Supreme Court Justice, to see what he really believed.

I ask my friend from Rhode Island, as he considers this important issue, to look, not just at the context of the 1952 memorandum, but at what William Rehnquist has done long after he was 28.

In 1964, when he was 40 years of age, he testified before the Phoenix City Council in opposition to an equal accommodations ordinance to let black people into the drugstores of Phoenix. He was the only one to so testify. The city council unanimously overrode his objection, and passed the ordinance, after which Mr. Rehnquist was not satisfied, and wrote a very strong letter to the editor of the newspaper, decrying this fact; and in the final analysis, his whole argument was the importance of property rights over individual rights.

Now, a copy of that testimony, for those who care to look at it, will be found on page 305 of the hearings record. He was 40 years of age then.

In 1966, when he was 42 years of age, he was a commissioner on Uniform State Laws, and in the meeting of the commission, he moved to strike the anti-blockbusting provision out of the Model Act.

The Senator from Rhode Island knows what blockbusting is. That is the unscrupulous act of a few unscrupulous individuals who go in and try to wreck neighborhoods.

Mr. Rehnquist argued that he had a policy question on this—in other words, that he thought it was bad policy to say it should be against the law—and also a constitutional question.

Mr. ERVIN. Mr. President, may I ask the Senator a question?

Mr. BAYH. May I just finish? Then I shall be glad to yield for a question. But I think the Senator from Rhode Island has asked a very real question, and I am prepared to try to answer it.

The chairman of the committee studying the act was a fellow by the name of Robert Braucher, who was a Harvard law professor, and is now on the Supreme Judicial Court of the State of Massachusetts. Here is how he responded to that effort to say that we are not going to outlaw blockbusting:

> However, I would like to speak for just a moment to the merits of this. The practices that are dealt with in this provision are practices that have no merit whatever. They are vicious, evil, nasty, and bad. These are people who go around—and this is not a hypothetical situation; this is something that has happened in every big city in the United States—and run up a scare campaign to try to depress the value of real estate. They will, if possible, buy one house, and then they will throw garbage out on the street; they will put up "For Sale" signs; they will perhaps hire twenty badly clad and decrepit-looking Negroes to occupy a single-family house, and so forth, and then they go around to the neighbors and say: Wouldn't you like to sell before the bottom drops out of your market?

This is not a hypothetical situation, as the Senator from Rhode Island knows very well. It is something that has happened in every big city of the United States.

Braucher concludes by saying:

> And the notion that type of conduct should be entitled to some kind of protection under the bans of free speech is a thing which doesn't appeal to me a tiny bit.

That was what happened in 1966. In 1967—as I mentioned to my friend from Rhode Island, at that time Mr. Rehnquist was aged 43—he was a leading attorney in Phoenix. He wrote a letter, the letter to the editor I referred to a moment ago, entitled "De Facto Schools Seem Serving Well," in which he took isssue with then Superintendent of Schools Seymour, who was trying to open a door with a voluntary freedom of choice proposal, not the arbitrary 2.2-percent long-distance busing schemes that have been proposed by some now, but a voluntary effort. Here is one paragraph, in Mr. Rehnquist's own words, when he was 43 years of age, which reads as follows:

> Mr. Seymour declares that we "are and must be concerned with achieving an integrated society." Once more, it would seem more appropriate for any such broad declarations to come from policy-making bodies who are directly responsible to the electorate, rather than from an appointed administrator. But I think many would take issue with his statement on the merits, and would feel that we are no more dedicated to an "integrated" society than we are to a "segregated" society;

Mr. PASTORE. I read that.

Mr. BAYH. Well, then I shall not include it.

Several Senators addressed the Chair.

Mr. BAYH. I am not afraid of losing the floor. I yield to the Senator from North Carolina.

Mr. ERVIN. The Senator from Indiana has laid great stress on the supposed iniquity of the views which Mr. Rehnquist, as a law clerk to Justice Jackson, expressed to Justice Jackson in regard to the constitutional question relating to school segregation based on race.

I would like to point out that 15 years before that, namely, in 1927, in the unanimous decision in *Gong Lum* v. *Rice* 275 U.S. 78, which was still the interpretation placed on the Constitution at the time Rehnquist wrote the memorandum, the Supreme Court, in an opinion written by Chief Justice William Howard Taft, ruled that it was perfectly consistent with the 14th amendment in general and the Equal Protection Clause in particular for a State to operate segregated schools. So I cannot understand why it is a manifestation of iniquity on the part of Mr. Rehnquist to take a position which a unanimous Supreme Court had taken just 15 years before on this question. And that Supreme Court, which was unanimous on this question, included among its membership such great liberals as Oliver Wendell Holmes, Jr., and Louis D. Brandeis.

With respect to blockbusting, I want to ask the Senator from Indiana whether a blockbuster is not a real estate agent who attempts to make a profit by integrating racially segregated residential sections, and why the activity of a blockbuster is not absolutely consistent with those who desire a compulsorily integrated society?

It seems to me that the Senator from Indiana ought to be praising blockbusters who seek to integrate racially segregated residential areas instead of condemning them, because their action appears to be in harmony with the views he is expounding.

Mr. BAYH. May I answer the question, if indeed that was a question by the Senator from North Carolina, by posing another one?

Mr. ERVIN. There is a questionmark after what I said.

Mr. BAYH. I want to get the record clear. Perhaps the Senator from North Carolina can serve as my leader in answering that question. Is he in favor of the tactics of blockbusting for Winston-Salem and Greensboro and other places in his State? Does he feel that this is the kind of tactic he wants to support on any grounds?

Mr. ERVIN. I agree with Mr. Rehnquist in the statement that our Constitution does not contemplate a compulsorily integrated society any more than it contemplates a compulsorily segregated society. It contemplates a free society in which men shall live in freedom.

Mr. BAYH. The Senator from Indiana is not suggesting a compulsorily integrated society. What the Senator is suggesting is that when you have a Supreme Court nominee—who just is not anybody we drag in off the street—who is a fellow who graduated magna cum laude, a great intellect, nobody is arguing with that, and uses the sophisticated reasoning he used in that letter, that suggests that everybody should have a maximum of freedom in a free society, how free is a black child in a society that will not let him in the schoolhouse?

Mr. ERVIN. The Supreme Court decision in Brown versus Board of Education of Topeka was not handed down until 2 years after Mr. Rehnquist wrote his letter to Justice Jackson. While the Brown case adjudged for the first time that no child can be excluded from a public school on account of his race, neither it nor any other case holds that the Constitution requires a State to compulsorily mingle the races. Moreover, nothing in the Constitution says that a man cannot attempt to desegregate racially segregated residential sections, as a blockbuster undertakes to do.

Mr. BAYH. The Senator from North Carolina has not answered my question, I say with all respect. Is he in favor of blockbusting? Is he in favor of that kind of insidious tactic, where you play on fears and frustrations and hatreds?

Mr. ERVIN. I am in favor of any American being allowed to sell his property to any person of his choice and that is the reason why I do not support open-occupancy bills. I am in favor of freedom, and I am in favor of allowing a man to sell his property to any person he pleases, and I am in favor of any person being permitted to buy property where he can find a willing seller to sell him property.

Mr. BAYH. I think we have strayed somewhat from the thrust of the actual reality of blockbusting.I will not read the very dramatic and accurate description by Justice Braucher as to how this blockbusting proceeds—playing on the fears and frustrations. It is the kind of practice which makes it absolutely impossible to have a free, integrated society, because it plays on hatred, fear that you are going to lose the value of your mortgage, fear that you are going to have somebody living next door to you who has disease, fear that you are going to have somebody living next door to you who is going to have a teenage son who is going to molest your teenage daughter. There is nothing in this country for the U.S. Senate to rationalize that kind of tactic.

Mr. ERVIN. I do not know that Judge Braucher ever heard any real estate agents saying that. But I did hear it suggested on one occasion that the devil was the the first real estate agent. The Bible informs us that the devil took the Lord to the top of a high mountain and showed him all the lands of earth; and told the Lord, "If you will bow down and worship me, I will give you all those lands." And the devil did this even though he did not own a damn foot of them.

Mr. BAYH. With all respect to the Senator, I would hate to argue the Bible with him, but I think the Good Lord, who created the earth, was the first real estate agent.

Mr. ERVIN. He may have done a little blockbusting Himself because he made a number of different races and left them to dwell on the same earth. So He might be alleged to be the original blockbuster.

Mr. BAYH. I am not too sure that we should give Him that title without letting Him be here to have a chance to defend Himself.

I should like to suggest that one point raised by the Senator from North Carolina is a bit far afield of what we are talking about here. We are looking at some of the things Mr. Rehnquist said. We got into the blockbusting business. But the original discussion between the Senator from Indiana and the Senator from Rhode Island—and I am glad that the Senator from North Carolina and the Senator from Mississippi joined in it—was relative to the memorandum of Mr. Rehnquist to Justice Jackson on the merits of Brown against Board of Education.

Mr. ERVIN. Rehnquist was a young fellow at that time, but he did have enough legal erudition at the time he wrote that memorandum to know that what he was saying was in complete harmony with what the Supreme Court had held just a few years before, in a unanimous opinion which had not been reversed up to that time. The opinion was written by Chief Justice Taft, and was concurred in by all the other eight Justices, including such recognized liberals as Holmes and Brandeis.

Mr. BAYH. And he was so out of touch with the direction in which the country was going and the problems which confronted the Court that nine members of the Court, including his own former boss, Justice Jackson, voted the other way, when they decided the case, which was argued contrarywise by Mr. Rehnquist.

Mr. ERVIN. Yes, but until the time they voted the other way the equal protection clause had always been interpreted by the Congress, the President, and the Supreme Court in the manner advocated by Mr. Rehnquist in his memorandum.

Mr. BAYH. It is a little more than setting precedent. There is a great deal of personal conviction involved in this memorandum:

> I would suggest that this is a question the Court need never reach; for regardless of the Justice's individual views on the merits of segregation, it quite clearly is not one of the extreme cases which commands intervention from one of any conviction.

That is a rather broad, reaching statement. The merits of segregation are not important enough for the Court to get involved. So if you take that passage, put it together with everything else in that memorandum, you get the impression that Mr. Rehnquist does not feel that striking down segregation and opening the doors on opportunity is proper ground for the Court to consider.

Mr. ERVIN. And 2 years later, as great a lawyer as ever lived on the North American Continent, John W. Davis, stood before the Supreme Court in the Clarendon County case and argued the same position Mr. Rehnquist had taken as being a correct exposition of the Constitution, which had been appealed from a ruling made by Chief Judge John J. Parker conforming to what Mr. Rehnquist said.

Mr. BAYH. I say to my colleague, lawyers are lawyers. We can find one on each side of every issue, and perhaps in between.

But the question before us is that nine lawyers who happened to wear the black robes of the Supreme Court of the United States voted the other way, contrary to the recommendation of Mr. Rehnquist.

I think there is rather compelling logic in the question asked by the Senator from Rhode Island. This was a statement made back in 1952. Here was a young man 28 years of age. Has he changed his mind?

Unfortunately, the record of change is not written. We cannot look only to statements or pronouncements of policy and beliefs after he was appointed to the Supreme Court. We must also look to views expressed before he was nominated for the Supreme Court, when, say, he was 43, when a man should be fairly mature. If he is not, then perhaps at 47, as he is now, he will be, though I wonder. I would suggest that he should be held subject, liable, and accountable for what he said when he was 43. Yet he wrote that letter to the editor, not opposing long distance busing as we now understand it, as he testified before the Senate Committee. I have a question about what was going on in his mind when he was asked by the Senator from Indiana, "Why did you write that letter?" And he said, "I was against long distance busing." But compulsory long-distance busing was not involved in that issue. This was a voluntary integration plan and the nominee was even opposed to voluntary integration of the schools.

Mr. ERVIN. Mr. President, will the Senator from Indiana yield for a question?

Mr. BAYH. I am glad to yield.

Mr. ERVIN. It was not voluntary on the part of the little children who were made the pawns for the busing. It also was not voluntary on the part of the parents.

Mr. BAYH. On the contrary. It was freedom of choice.

Mr. ERVIN. It was imposed on them by the school board. Does the Senator from Indiana take the position that little children should be bused all over the place merely to integrate their bodies rather than to enlighten their minds?

Mr. BAYH. Not necessarily.

Mr. ERVIN. I say frankly to the Senator that I do not believe in the busing of little children. It is contrary to the Constitution as I read it. I will tell the Senator why, if he will let me have enough time.

Mr. BAYH. I shall be glad to let the Senator have as much time as he wants to discuss the constitutionality of busing.

Mr. GOLDWATER. Mr. President, will the Senator from Indiana yield for a question?

Mr. ERVIN. I will not aid or abet the filibuster much longer.

Mr. BAYH. Which one, yours or mine?

Mr. ERVIN. Yours.

Mr. GOLDWATER. Mr. President, will the Senator from Indiana yield for a question?

Mr. ERVIN. The equal protection clause of the 14th amendment says that no State shall deny any person within its jurisdiciton the equal protection of the laws. That has always been interpreted to place upon a State the obligation to treat everyone in like circumstances in like manner and to forbid the State from treating differently persons similarly situated.

When the Federal court says to a school board, "You must deny a part of the children in this school district the right to attend their neighborhood school but let the other children attend their neighborhood school," the Court is ordering the board to violate the equal protection clause because it is requiring the school board to treat in a different manner children who are similarly situated. When the Court says to the school board, "We are requiring you to treat little children in a different manner in respect to attendance at neighborhood schools because we are ordering you to bus some of them to schools in other areas, either to decrease the number of children of their race in their neighborhood school or to increase the number of children of their race in schools elsewhere," it is ordering the school board to deny them the equal protection of the law. No kind of legal sophistry can erase the plain fact that such action on the part of the Court requires the school board to deny the children being bused admission to their neighborhood schools on account of their race in violation of the equal protection clause as it is interpreted in Brown against Board of Education, Topeka.

I thank the Senator very much for yielding.

Mr. BAYH. The Senator from North Carolina must always feel free to interject his thoughts here because, although I do not always agree with him, I know that he feels them strongly and he expresses them very well. But I think it is important, before we move on, and I will be glad then to yield to the distinguished chairman of the committee, the Senator from Mississippi (Mr. EASTLAND), who wants me to yield to him, as well as the distinguished Senator from Arizona (Mr. GOLDWATER), when I shall be very glad to yield to them both, but before that, it is important before we leave this 1967 school question to understand what we are talking about. We are not talking about a school that was ordered to integrate under a Federal court order. This was an effort on the part of local school authorities to broaden the opportunity and accessibility of the school system. There was no court order pending.

Here is the program right here as reported in the Arizona Republic of September 1, 1967, and if anyone cares to look beyond the minority report, take a look at page 19 of the newspaper.

These points are:

> Appointment of a policy adviser skilled in interpersonal relations and urban problems;
>
> Organization of a citywide advisory committee representing minority groups;
>
> Formation of a Human Relations Council at each high school;
>
> Promotion of voluntary exchanges of pupils among racially imbalanced schools in various ways, including the location of special enrichment programs and extra-curricular activities;
>
> In the long run, a series of seminars on the nature of prejudice;
>
> Curriculum changes designed to accent the contributions of various ethnic groups and individuals;
>
> Without setting a ratio of minority teachers at each school, the assignment of staff in a way which redressed the existing imbalance.

Further, in the public proclamation, the superintendent of schools came out himself and said that he did not think busing was a panacea and resisted the very kind of long-range busing to which the nominee alludes. He said further:

> It is much more preferable for us to demonstrate a willingness to broaden the spectrum of school populations through such actions as voluntary transfers, a local peace corps of students and teachers, . . . and other devices intended to lift the aspirations of those who live and learn without them.
>
> The research evidence tentatively supports the premise that minority pupils achieve more in an atmosphere of high motivation.

Mr. President, that was the school plan and the purpose of Superintendent Seymour, and to suggest that this is a forced long distance busing plan, which is the reason the nominee gave for opposing it, it seems to me, is absolutely either to be ignorant of the facts or to attempt to distort them.

Now I am happy to yield to the Senator from Arizona.

Mr. GOLDWATER. I would like for the Senator from Indiana to get clear, as well as to get my own mind clear, as to the situation here. There was one high school and one grammar school at which this particular movement was aimed. That was the grammar school and the high school which I attended. Back in those days, we did not have segregated schools, of course, in Arizona. However, during the war, that particular school district was segregated and the high school was filled with black children. When we took this to court in 1940, and I was glad to participate in breaking this down, the Court ruled that segregation was improper. So the school became integrated. But at that time the families of the black students refused to allow their children to attend the Phoenix Union High School, because the Phoenix Union High School had become largely peopled with children of Mexican-American extraction. Eventually, by the way, we had to make a warehouse out of that high school which we built for the black children, and it is still a school warehouse.

The question came up, because the black people and the Mexican-American people—I hate to say this but they have never gotten along too well, they get along but not so well as we would like to see them get along—objected strenuously to this "mix," so Mr. Seymour of the school board proposed that the students be voluntarily bused. We did not use the term "busing" in those days—I forget what it was—but immediately there began to develop a hue and cry against it, not from the white people but from the people of black and Mexican-American extraction, none of them wanted their children to go to the school outside their district.

My hometown is like most other hometowns, I suppose. We have an area where the Mexican-Americans prefer to live and we have an area where the black people have always lived and prefer to live together because they live together. They did not want their children being bused, not because they did not want them to mingle with white children, but because they did not want them moved great distances. I am talking about great distances, and that is exactly what I mean.

At that time the nearest high school to my old high school was 10 or 11 miles away. Others have been built since then that might be closer.

That is the whole gist of the argument that the Senator from Indiana keeps bringing up about Mr. Rehnquist and the situation that developed in Phoenix.

I do have a question, because I notice on page 60 that the Senator stated, "I am more concerned about what you believe now than what you may have believed 2 years ago."

Yet, in the last several days since Newsweek magazine has published an article prepared by Mr. Rehnquist back in 1952, the Senator from Indiana has indicated he wants to go back into ancient history.

If the Senator believes this is a man of honesty—and I can attest from 18 years of personal knowledge of him, that there is no more honorable man that I have ever known—why can he not believe what Mr. Rehnquist said in the last paragraph of his letter written today relative to his memo for the then Justice Jackson?

This is what baffles me. I do not know what more justification we can give unless we bring him down here and put his hand on the Bible and make him swear to it.

As the Senator from Indiana knows, I did not vote for the Civil Rights Act of 1964 because I felt that two parts of it were unconstitutional. The Supreme Court has since ruled me wrong on one. And Lawyer Rehnquist ruled me wrong on the other and convinced me of it. I made a public statement on that matter long ago.

Furthermore, both in the case of the legislation and the Brown decision, when I felt that the Federal Government did not have the right to take away from the States the separation of their local schools, he convinced me that the Supreme Court did say that, whether it was in that language or not, and that I was wrong.

I mention these things because of personal experience. No one suspects me of being a lawyer. I do not know whether I would like that or not. However, I do know a man when I see one, and I know a man who is dedicated to his church, his family, and his friends, and who is a very honest and sincere man. And I do not like to hear a man whom I know to be above reproach constantly questioned when he has repeatedly said the things that I think needed saying to bring us up to date.

I thank the Senator for yielding to me.

Mr. BAYH. Mr. President, I am glad that the Senator expressed his thoughts on this matter. I find it a little difficult for me to be able to resolve in my own mind. If I may, I will pursue it a bit further, because the Senator is sincere and the Senator does know Mr. Rehnquist personally. He is familiar with the whole issue involving the school integration.

First of all, the Senator from Indiana is more concerned about what Mr. Rehnquist seems to think now than what he thought 2 or 12 or certainly 20 years ago. But I think we had a responsibility to look at everything he says he believes in now and compare that to everything that he has done in the past in order to decide the matter.

Mr. GOLDWATER. Mr. President, no one is denying the Senator that right. It is his duty. However, when the Senator says that he is not interested in what he said 2 years ago——

Mr. BAYH. That is not what I said.

Mr. GOLDWATER. And yet the Senator dwells on the past. He has referred many times to the memorandum prepared for then Associate Justice Jackson that was reported by Newsweek magazine without any questioning of Mr. Rehnquist as to what it was and why it was written.

I cannot understand why it is we have to keep on bringing up these points that the Senator says he is not interested in.

Mr. BAYH. That is not what the Senator said, with all due respect, and that is not what the Senator from Arizona said he said.

Mr. GOLDWATER. According to page 60, I have just read.

Mr. BAYH. Will the Senator read it again?

Mr. GOLDWATER. The Senator said:

> I am more concerned about what you believe now than what you may have believed 2 years ago.

Mr. BAYH. That is exactly what I said. I did not say that I was not concerned with what he said 2 years ago. I said that I was more concerned with what he believes now than I was with what he believed 2 years ago.

I think it is within the realm of reason to look at everything that the man has said and done over the past 4 or 5 years as a basis for what he believes now.

The Senator discussed Phoenix and the integration program. It is difficult for me to understand why there was resistance to a busing situation that was voluntary when the Mexican Americans and the blacks were the people that opposed the voluntary busing.

Mr. GOLDWATER. The Senator is correct.

Mr. BAYH. How in the world could I, as a parent, be opposed to busing if it is a voluntary program and no one could force the child to be bused?

Mr. GOLDWATER. Mr. President, I would like to clarify that at the time that letter was written by Mr. Rehnquist, there was a voluntary freedom of choice plan in effect in Phoenix and Mr. Rehnquist supported that. A plan had been proposed to permit students to pay their own bus fare to attend other high schools and it had already been adopted by the authorities.

The opposition however—and I have to say it was violent opposition—got so violent that the police had to patrol the high school that the senior Senator from Arizona (Mr. FANNIN) and I attended some years ago because of the constant fights between these two groups of people that historically have not gotten along together as well as I would like to see them get along.

It was not that the white people in the other schools objected to it. My own school district is about 15 miles from this. We thought it was a good idea, but nothing ever came of it, because we could not get the people involved in the basic school to even agree to bus or go any place else, and they would not go together. It is not some sectional problem. It is something that we would find in Muncie, Ind., or in any other city in Indiana.

It took place in a very peculiar, historic circumstance that we in Arizona all understand personally. Everyone understands it.

Mr. BAYH. Mr. President, I appreciate the explanation of the Senator from Arizona. However, I must say that as I read that letter to the editor and it is hard to believe that, as the Senator just said, it was a voluntary busing program.

Mr. GOLDWATER. It was a voluntary busing program then in effect.

Mr. BAYH. It was a voluntary busing program and there was no mandatory law on busing or no mandatory busing of any kind.

Mr. SCOTT. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. BAYH. I yield.

CHANGE OF CONFEREE

Mr. SCOTT. Mr. President, as in legislative session, I ask unanimous consent that for the conference on Senate Joint Resolution 176, to be held tomorrow, the Senator from Delaware (Mr. ROTH), be substituted for the Senator from Utah (Mr. BENNETT), who is absent due to illness.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE NOMINATION OF WILLIAM H. REHNQUIST TO BE ASSOCIATE JUSTICE OF THE SUPREME COURT

Mr. BAYH. Mr. President, I appreciate the fact that the Senator from Pennsylvania is participating in our "filibuster" here. I am glad to have his contribution as well.

Mr. SCOTT. Mr. President, the Senator from Indiana may be sure that I would not do anything voluntarily to help him. These unanimous-consent requests have to be made from time to time.

I will help the Senator to get off the floor, however, at any time he is ready.

Mr. BAYH. I am glad the Senator is finally having an opportunity to observe some of the debate that is going on here, inasmuch as he did not have the courtesy to inform me about the statement he was making concerning the "arbitrary," "Lone Ranger" tactics we were engaged in.

I was trying to suggest to the Senator as he was leaving that I would respond, and I did so. In the RECORD I suggested that I had nothing but love and kindness for the Senator as a human being, but that I thought he was rather ill-advised and misinformed to suggest that we were participating in a filibuster.

I hope that since that time the Senator would have had an opportunity to witness this debate, and to settle it in his own mind.

Mr. SCOTT. Mr. President, if the Senator will yield, at the very moment that it became clear that the supporters of the nominee were going to rise in debate, the Senator from Indiana absented himself, although I thought he saw the chairman of the Judiciary Committee seeking recognition. Perhaps he did not. However, the Senator is constantly informed as to what is going on, on the floor. The Senator seemed to be well aware of the fact that we were taking after him. I would be glad to repeat it if the Senator feels it would serve any purpose. However, I have only love and affection for him at any time when he is not talking.

Mr. BAYH. Mr. President, with all of these notes of love and harmony, it is almost like Dear Abbey going back and forth. It is almost unfair for the Senator from Pennsylvania to suggest that the Senator from Indiana ran, turned tail, and ran.

Mr. SCOTT. I did not suggest that.

Mr. BAYH. Mr. President, all morning I sat here until nature and other personal concerns caused me to absent myself.

Maybe it was only ironic, unfortunate, and coincidental that this whole thing started at that one particular moment when I was off the floor. And when I came back I grabbed with affection the arm of my friend, the Senator from Pennsylvania and said, "You have been saying things about me and I am going to take off after you."

But the Senator did not remain in the Chamber. Perhaps the Senator was following the same calling that caused me to absent myself.

Mr. SCOTT. On the contrary, the Senator from Pennsylvania is more continent in all regards.

Mr. BAYH. Mr. President, will the official reporter please read the last statement by the Senator from Pennsylvania. I was unable to hear what was said.

The official reporter (G. Russell Walker) read as follows:

> Mr. SCOTT. On the contrary, the Senator from Pennsylvania is more continent in all regards.

Mr. BAYH. I though there might have been some content involved, but I did not get it all.

Mr. HARRIS. Mr. President, will the Senator yield?

Mr. BAYH. I yield the floor.

Mr. HARRIS. Mr. President, I rise in opposition to the nomination of Mr. William Rehnquist for membership on the Supreme Court. I feel as a Senator that one of my basic duties is to scrutinize closely every nominee placed before this body by the President. When the nomination is to the Supreme Court of the United States, I feel that duty especially strongly; for, as we well know, once confirmed, a Supreme Court Justice is virtually free from review—not totally free, but virtually free from review.

The distinguished Senator from Indiana (Mr. BAYH) has inserted copies of Mr. Rehnquist's public statements and excerpts from the hearings of the Subcommittee on Constitutional Rights into the RECORD for our individual study. Each person in the Senate is free to decide for himself whether or not William Rehnquist should be appointed to the Supreme Court. I use the word "appointed" advisedly.

We all recall in regard to an earlier nomination that was turned down by the Senate, the President had ill-advisedly used the word "appoint" in respect to his powers, and it was called to his attention and the attention of the public that the President does not have the power to appoint. He has the power to nominate—but only, by and with the advice and consent of the Senate, to appoint.

Therefore, Mr. President, each of us is free to decide whether or not William Rehnquist should be appointed to the Supreme Court. I made my own decision and my decision is that he should not be. There has been considerable discussion in the Senate since I have been here about what sort of restrictions or limitations there are on Senators in respect to going into the philosophy or ideology of a nominee to the Supreme Court.

Mr. President, I do not believe that a Senator deciding whether or not to vote to confirm a person for the Supreme Court is under any greater restriction or limitation than was the President of the United States in making the nomination.

President Nixon has said several times that he has chosen the nominees he sent up for the Supreme Court precisely because of their ideology and conservatism or what has been called strict constructionist views, and that he feels the Court should be turned more in that direction.

I believe if the President of the United States can choose a nominee because of his legal ideology, then Members of the Senate can reject him for the same reason.

Mr. Rehnquist has made it very clear that he is committed to an almost indefinite extension of Government powers, with a corresponding minimizing of constitutional safeguards designed to insure the rights of individual citizens. In case after case he weighed the needs of the Government against the rights of citizens and concluded that these rights must be sacrificed.

He sees no constitutional prohibition of pretrial detention, or as it is customary now to say in more euphonistic terms, preventive detention.

He considers there to be no restriction on governmental surveillance of citizens. In fact, he opposes, in his own words, "any legislation which, whether by an opening the door to unnecessary and unmanageable judicial supervision of such activities or otherwise, would effectively impair this extraordinary important function of the Federal Government."

He opposes that kind of legislation. I think that is a very serious matter since anyone who is appointed, if the Senate should agree, serves on the Supreme Court for the rest of his life.

Mr. Rehnquist views the expansion of civil liberties as a "further expansion of the constitutional rights of criminal defendants, of pornographers and of demonstrators"—to use some of his own words, and I do not think out of context.

To Mr. Rehnquist, those who protest against the Government are "barbarians"; and he feels that such protests are a threat "every bit as serious as the 'crime wave' in our cities."

But there has been one instance in which William Rehnquist has been an outspoken advocate of individual rights. While fighting, with amazing tenacity, integration and civil rights laws in Phoenix, Rehnquist spoke articulately of his dedication to a "free society—in which every man is accorded a maximum of freedom of choice in his individual activities." The "freedom" spoken of by Mr. Rehnquist, refers to the freedom to avoid attending integrated schools. In 1967 he asserted that "we are no more dedicated to an 'integrated' society than we are to a 'segregated' society." In 1967, Mr. President, only 5 years ago, there was an overwhelming concurrence, on the part of State and national legislatures and courts, that we were, in fact, committed to an integrated society.

I served as a member of the National Advisory Commission on Civil Disorders. I have been one of those who felt that the Supreme Court of the United States should have acted when it did, at a very crucial time in the history of this country, when the President of the United States would not act and when the Congress of the United States would not act to make real the basic rights of all Americans, for black people, and other minority groups. These had been denied even basic rights like voting rights. When those other branches of the Government, the executive and legislative, failed to act—and we had come upon increasingly disruptive and divisive days in this country—the Supreme Court of the United States headed by one of the great Chief Justices of all time, Chief Justice Earl Warren, began to hold that the Constitution of the United States extended to all people, including black people. And the Court held that the Constitution applied to little black children in America who were being denied their constitutional rights insofar as an equal education was concerned, the right to attend schools irrespective of their color. I believe that it would be a terrible thing now to move backward from that.

I read the memorandum, which first appeared in Newsweek, which was purported to have been written by Mr. Rehnquist. The letter read in the Senate today by the distinguished Senator from Mississippi (Mr. EASTLAND) was received by him from Mr. Rehnquist concerning the Brown against Board of Education decision.

I find the letter singularly unconvincing. I think the nominee would probably have been better off not to have written it at all, because it does not state very much in a factual way, but it looks almost like a judicial interpretation or construction of a document or a piece of legislation by one who is not himself the author of the document, whereas it is admitted that Mr. Rehnquist did write that document. I must say that I find singularly unconvincing the statement in the letter that he does not know precisely why it was written, but he feels he never would have done what Newsweek charges he did. This is particularly true when we note Mr. Rehnquist does not say he did not do what Newsweek contends.

The Ripon Society, the progressive Republican organization, has urged in its publication "The Ripon Forum" that the Rehnquist nomination be rejected. Its article on Mr. Rehnquist, I think, is very well and carefully reasoned. The article appeared on November 15, 1971, and it is entitled "The Weak Constitution of a 'Legal Giant'." The article states in part:

> The Senate faces severe limitations in resisting a President determined to remake the Supreme Court. The President has the initiative, and as in nuclear strategy, the advantage is with the offense. The President can merely keep submitting names; the Senate must mobilize its somewhat cumbersome machinery and political resources to investigate, disqualify and reject each one. Now, moreover, in the age of MIRV, when the President may launch as many as six bombs at once—or fill the air with chaff and decoys—the role of the defense is further complicated.

The article goes on to say:

> It is somewhat difficult to muster a struggle against a man like William Rehnquist when lined up behind him are men like Robert Byrd and women like Sylvia Bacon and when the President maintains his nominations have something to do with "respect for the law" or reducing crime.
>
> Still we believe it is just as well that we know what we are doing. Approval of William Rehnquist's nomination will for the first time give credence to what has until recently seemed an alarmist fear: that we are moving into an era of repression, in which the U.S. democracy gives up its most noble enterprise—the maintenance of a free and open society.

I call the attention of Senators again to the fact that this is not an article written by the Democratic Party or by members of the Democratic Party. It is not some partisan attack upon President Nixon and his government and his appointment of Supreme Court Justices. This is an article which appears in the regular publication of the Ripon Society, a progressive Republican society, written by people of the President's own party.

The article goes on:

> A scenario may be envisaged. The Communist party and other political action organizations that can be alleged to advocate revolution would be blacklisted and outlawed. Wiretapping and other even more sophisticated modes of individual surveillance would be extended without judicial review. All but the most flagrant acts of discrimination and collusion against blacks would be permitted. The courts would return to the unedifying business of poring over pornography, and arbitrarily incarcerating improvident writers, photographers, and bookstore proprietors. The "third-degree"—extorted confessions and the like—would be effectively authorized. Ever larger numbers of dissenters and other noncomformists who affront the police or marginally violate the law would be imprisoned for long periods. Police brutality and lawlessness, on the other hand, would be condoned. At a time when the government provides an ever larger pro-

> portion of available jobs, the firing of dissenters from federal employment would be legitimized. And finally the Executive, in illicit tandem with the judiciary, would reduce the legislative branch to inconsequence on vital matters of war and peace and to irrelevance in the always elastic realm of "national security." And, of course, the real problems of crime and instability in our society would persist.

Mr. President, that is the scenario which this organization is able to envisage. I do not envisage it, but I think it is based upon some very legitimate fears about the background and beliefs and ideology of this nominee. For he can, together with others like him, who now or soon may serve on the Supreme Court of the United States and constitute for the next many, many years a majority on that court. And his views must cause many to have very real fears regarding the Court's role in the future in the field of civil rights and civil liberties..

Not too long ago, CBS made a poll around the United States concerning the Bill of Rights. People were asked whether or not they believed in specific provisions of the Bill of Rights, but the question was couched in such a way as to fail to reveal that the question had anything to do with the Bill of Rights. In most cases, it turned out that the person questioned disagreed with the Bill of Rights provision in question. For example, if he were asked, "Do you believe that a person has a right just to sit silent and not to be required to answer one way or another as to whether that person is guilty of a crime with which he is charged?" most people would say that the person should not have that kind of right.

There were similarly alarming opinions about other provisions of the Bill of Rights—the right to speak out as one wants to, the right of organizations, even in peacetime when the security of the country was not in jeopardy or not threatened by the actions of the organization, to freely promote their own programs and beliefs. All those things were questioned.

It is alarming enough that people who are not trained in the law would not be knowledgeable about the civil liberties and civil rights embraced in the Bill of Rights, which had been won at such dear cost throughout the years during the history of this country.

That is alarming enough. But what is more alarming is that people trained in the law should have such little regard for similar and equally fundamental and basic civil rights and civil liberties. I speak, Mr. President, of legislation which has passed this body in the past having to do with what is called preventive detention, meaning that a person's liberties can be taken away if the judge finds that he or she is likely to commit a crime.

That, I think, is in violation of the Constitution. Mr. Rehnquist does not believe it is. That would not be so alarming, Mr. President, if Mr. Rehnquist were going to continue to be in the executive branch of the Government; but if he is approved by a majority of this body, Mr. Rehnquist will be making decisions upon whether or not preventive detention is allowable under the Constitution of the United States, because the Supreme Court is going to be, over and over, required to rule on just that kind of civil liberties question.

I find it very alarming that he would have that power, and he will not have that power with my vote.

Mr. President, I continue with this article from the Ripon Forum, because I think it is right on target here with what we are faced with in this Rehnquist nomination.

It states:

> Such developments are not, of course, inevitable.

Here the writer is referring to that scenario he envisages about the gradual slipping away of civil liberties:

> They will occur only if the Supreme Court abandons its role as ultimate guarantor of the Constitution and the legislative branch refuses to recognize the new responsibilities such as the judicial abdication would impose on the Congress.
>
> But the entire scenario of repression consists of measures that Rehnquist, on the record, has strongly and explicitly invited; and most of them are not strongly opposed by the other three Nixon appointees.
>
> So even if, in view of the President's determination to transform the Court, it proves tactically necessary for the Senate to accept Rehnquist, we want to register our opinion that he is Nixon's most dangerous nominee yet. Younger and smarter than the others, he will have a longer and more deleterious impact on our political and social order.

I interject right there, Mr. President, that a noted attorney in this town, who has been a considerable part of the national conscience as far as the approval or disapproval of Supreme Court nominations in the past is concerned, has said to me that, as strongly as he opposed the nominations of Mr. Haynsworth and Mr. Carswell, both of whom, as we know, were rejected by this body, he feels that the nomination of Mr. Rehnquist is the worst nomination that he has seen come before the Senate for the Supreme Court in his lifetime.

I continue with the article:

> There has been much nonsense written in recent weeks on Rehnquist's good character and legal expertise, as if these qualities alone justify confirmation. In fulfilling its Constitutional responsibility for advice and consent, however, the Senate does not stand, like the Bar Associations Committee on Judiciary, as a mere judge of ethical and professional credentials. The Senate must also consider the impact of such judicial appointments on the balance between the executive and legislative branches and on the direction of America over the next decades.

Mr. President, I agree with that statement very strongly. As I said awhile ago, I do not believe that a Senator is any more restricted or limited regarding the factors that enter into his decision about whether or not to confirm a nomination than the President of the United States is restricted in making the decision to nominate the person in the first place.

I wish to refer to another paragraph of this Ripon article, because it has to do with the nomination of Lewis Powell, which I voted against:

> Applying such standards to the current Supreme Court nominations, the Ripon Society supports, with some reservations, the confirmation of Richmond attorney Lewis Powell, a former President of the ABA.
>
> Although his writings do not display a staunch concern with preserving individual liberties, his persistent advocacy of the legal services for the poor, his mediating role in Virginia's school integration controversy, and his continuing reputation for fairness allay many of our fears.

Even for the Ripon Society, Mr. President, all fears were not allayed, and in my case that was true as well, and I did not vote for that nomination. I particularly did not vote for that nomination because, with the one now before us, we will now begin to see a majority on the Court which alines itself with President Nixon's conservative legal ideology, and which in my view will begin to turn this country back to those days preceding the Warren Court, when no one in the land stood up for civil rights and civil liberties until the Court moved in. Now I am afraid we are going to see it move back, and therefore I think it is terribly important that this nominee, at least, not be confirmed.

The article then goes on:

> William Rehnquist, on the other hand, has remorselessly allowed his personal prejudices to supersede legal precedent. Unlike Lewis Powell's career of moderate judicial conservatism, Rehnquist's record does not show a consistent and scrupulous application of legal principle; rather it shows a consistent and unabashed manipulation of legal rhetoric in the service of right-wing social and political objectives. His voluminous public statements and his private comments of which we are aware show him to be a thoroughgoing authoritarian, a nearly absolute believer in executive supremacy over the legislature, and a slack reconstructionist of the Constitution.

Mr. President, I believe that people throughout this country feel powerless. They feel almost inconsequential in the face of concentrated political and, I believe, economic power. We have got to begin to decentralize the decisionmaking, to do away with executive government by bureaucracy and regulations, and, whereever we can, make the market operate, rather than have the Government intervening.

That is why, Mr. President, I voted against an extension of the Economic Stabilization Act, which gives the President, I think, unwarranted and totally unprecedented powers to change our economic management system in radical ways, with far more Government intervention.

I believe the Government ought to intervene in wage and price and related decisions, as I said during that debate, when the market does not work. But it ought to try to limit those instances where the market does not work by breaking up the concentrations of economic power which prevent it from working.

I was really rather surprised, Mr. President, to see this wave of socialism from the right that was evidenced by Mr. Nixon's program in regard to these seemingly permanent across-the-board wage and price controls. I think that is wrong, as I think it was equally wrong to bail out Lockheed—I think that Lockheed ought to have the right to fail as well as to succeed—and as I think it was wrong to build the kind of socialized

SST which, luckily, eventually the Senate did turn down.

Now we are involved with the powerlessness of people. We are involved with the right of the Government to take away people's liberties with regard to wiretapping, with regard to preventive detention, with regard to what was called the no-knock law, which was passed here—another unconstitutional intervention into private lives in my opinion.

Rather than move in the direction of greater individual power, greater attention to individual rights, this nomination would mean that we would be moving more toward Government control of the lives of people and less power of the individuals over their own lives.

The Ripon Society says in that article:

> Rehnquist's authorization bent is not tempered by judicial conservatism. Unlike such believers in judicial restraint as the late Justice Felix Frankfurter and former Justice John Marshall Harlan, Rehnquist is a militant judicial activist, who explicitly rejects the doctrine of *stare decisis*. Writing in the *Harvard Law Record* in 1959 Rehnquist stated: "It is high time that those critical of the present Court recognize with the late Charles Hughes that for 175 years the Constitution has been what the judges say it is. If greater judicial self-restraint is desired, or a different interpretation of the phrases 'due process of law' or 'equal protection of the laws,' then men sympathetic to such desires must sit upon the high court."
>
> In a letter that he wrote in 1959 Rehnquist then in private practice in Phoenix, made clear the "different interpretation" of the Constitution he had in mind: "a judicial philosophy which consistently applied would reach a conservative result."
>
> The kind of "conservative" result which Rehnquist would seek is diametrically opposed to the American conservative tradition of vigorously opposing the extension of governmental powers.
>
> To justify the Justice Department's policy of encouraging indiscriminate mass arrests of Mayday demonstrators and bystanders (with the charges against them filled in randomly by police who had often never seen the accused or the crime), and of having thousands of patently spurious cases litigated with virtually no convictions, Rehnquist invented after the fact the doctrine of "qualified martial law."
>
> Now even if one believe the Capitol was in dire jeopardy on Mayday, the Rehnquist rationale is legally slovenly. Rehnquist would have us believe that government can commit countless violations and then sanction them by some flip post-facto improvisation.
>
> Rehnquist was also a major strategic in the preparation of the controversial "no knock" and "preventive detention" provisions of the D.C. Crime Bill.

Mr. President, I voted against and spoke against that bill. I believe it was terribly ill advised, and I believe that it is an unwarranted and unconstitutional interference and intervention into the rights of individual citizens. I hope it will be knocked down by the courts, and promptly. That will be very much in question if we put men such as Mr. Rehnquist on the Court.

The article states:

> He has strongly asserted a governmental right to fire employees, even if covered by civil service, when they question Administration War policies. Furthermore he has maintained that the executive has the right to engage in wiretapping and other electronic surveillance without court supervision as long as it claims a "national security" justification.

Mr. President, George Wallace is a candidate for President on a third-party ticket, the American Party ticket. I find most of what he stands for abhorrent; and as the 1968 elections show so do the overwhelming majority of Americans. Mr. Wallace, however, is in many ways plugged in with a great deal of the deep feelings of powerlessness that many people in the country feel. I was interested to see the other day that he spoke out against wiretapping. I believe that does not show that Mr. Wallace is a great constitutional lawyer because I do not think he is; but it does show something about what he hears as he goes around this country. I have heard the same. People feel that the Government is far too powerful, that it is entangled with their lives far too much.

Mr. Rehnquist does not agree with that and has advocated legislation, which as a Supreme Court Justice he would pass upon, that would interfere further in the lives of people; and he has been one of those who have justified rather extensive wiretapping and other electronic surveillance of citizens.

The article states:

> If we contend that such unaccountable government powers might become a threat to individual liberty and privacy, Rehnquist tells us to rely on the "self restraint" of the Executive—which might be conceivable if we could forget that in recent years the Attorney General's arbiter on such matters was one William Rehnquist.
>
> In only one area in all his career has Rehnquist shown any opposition to the extension of governmental powers.

Mr. President, this is a situation in Arizona to which I referred earlier.

> While an attorney in Phoenix he was a vocal and insistent opponent of legislation to outlaw racial discrimination in public accommodations. It is a truly remarkable fact, worthy of contemplation by the Senate, that nowhere in his extensive writings has he displayed a keen concern for any individual liberty except what he quaintly calls the "traditional freedom" to discriminate against blacks.

Mr. President, the distinguished Senator from Mississippi (Mr. Eastland), as I said earlier, read into the Record a letter dated December 8 from Mr. Rehnquist, explaining his role in the memorandum to Justice Jackson in opposition to Brown against Board of Education. As I said earlier, I find that letter singularly unconvincing and, as a matter of fact, rather confusing about what it says or reports to us about what Mr. Rehnquist was thinking at the time that memorandum was written.

But I do think we get a very important clue as to what his thinking was at that time, as pointed out by the distinguished Senator from Indiana (Mr. Bayh), when he read a letter to the editor of the Phoenix newspaper on that subject—that is, the subject of integration of schools—which indicated that even voluntary integration of schools was repugnant to Mr. Rehnquist, who now would sit on the Court, if the Senate agrees, and have enormous power for the rest of his life in just those kinds of decisions.

Mr. President, the article goes on:

> Rehnquist now says he has reconsidered his attitude toward the public accommodations ordinance of 1964; this is understandable since even Barry Goldwater endorsed it seven years ago and it has worked smoothly, contrary to Rehnquist's lugubrious expectations. Before we rejoice too readily, however, we should note that he has only endorsed the local ordinance, not the Civil Rights Bill of 1964, and that in 1965 and 1967, virtually alone among prominent Arizonans he opposed other civil rights legislation.

Now to another subject. I was pleased by press reports yesterday that the Committee on Foreign Relations is going to bring before Congress proposed legislation which would limit the power of the President to send troops into other countries without prior approval by Congress. I think that is greatly needed legislation. The country has come to believe as strongly as does the majority of the Senate that the power of the executive in relationship to the power of the legislative branch is far too great. The Congress must take back much of that power which was either given away or eroded away over the years.

Mr. BAYH. Mr. President, will the Senator from Oklahoma yield?

Mr. HARRIS. I yield.

Mr. BAYH. I could not help observing that the Senator from Oklahoma, in his usual perceptive manner, has gone straight to the heart of one of the matters of deep concern to me about the qualifications of the nominee. I, too, have been concerned about the position Mr. Rehnquist has taken and urged upon the President so far as the President's warmaking power is concerned.

Earlier in colloquy with the distinguished Senator from Massachusetts (Mr. Kennedy), we discussed the general philosophical bent of the nominee when apportioning the power among the various branches of Government. At almost every turn of the road there has been the Rehnquist argument supporting the President, the Attorney General, and, indeed, helping to formulate policy that, when it comes to competition among the executive branch, the Federal Government, and others, the Federal Government should be given the benefit of the doubt and should be permitted to move unchecked and unrestrained.

A moment ago the Senator from Oklahoma aptly described the argument about the warmaking power, that the President should not be restrained by a Cambodian border, a Laotian border, or, indeed, a North Vietnamese border.

This shows the same philosophical bent that has caused concern in my mind in other areas. As to the right of privacy, the executive branch should not be restrained by law, the Federal Government has the constitutional right to move in and take pictures and to provide surveillance and, thus, to erode away the individual's right to privacy, to chill—in the famous words of the Griswold case—the right to free spech.

The same way with bugging. It is the Federal Government again—Big Brother. It is such an unusual argument to be espoused by one presented to the Senate as being of conservative bent, because historically it has been the great conservative Justices who have stood up and said, "Thou shalt not encroach upon the right of the individual." Thus, we have a clear and steady pattern that is not only inconsistent with past conservative philosophy but which, in my judgment, is dangerous if we feel that the individual still has important rights that should not be transgressed upon.

I will say to my friend from Oklahoma that the nominee departs from the rights of the individual theory in the letter to the editor over the equal accommodations ordinance, when he argued that black people should not be prohibited—allowed to use drugstores. When the rights of minorities needed protecting, he said that the Government should not intervene. There, he said that individual rights of the store owners were important. But, interestingly enough, there he said that individual property rights should be given precedence over individual human rights. It is this philosophical bent and what that might mean on the Court if Mr. Rehnquist becomes Mr. Justice Rehnquist, that has led the Senator from Indiana to express his concern and his opposition to the nominee.

I appreciate the tack the Senator from Oklahoma is taking. I also appreciate his patience in letting me interrupt him.

Mr. HARRIS. Mr. President, I appreciate very much that intervention by the distinguished Senator from Indiana. He has made the important points that should require a vote against this nomination.

I want to say, too, that I appreciate the valiant fight he has led in this regard against this nomination, as he has in regard to others.

As did I, he voted for the confirmation of Justice Blackmun. He led the fight against Mr. Haynsworth and Mr. Carswell. He voted for the nomination of Lewis F. Powell. I think that indicates a selectivity on his part and not blind opposition. Even some of those are close cases, in my opinion, when we are talking about the Supreme Court, which is what I thought in regard to the Powell nomination, for example. But the Senator from Indiana has been selective. It is only when the President goes outside the bounds of the kind of qualifications that a man should have to go on the Court that he has risen on this floor in opposition to this nomination. I honor him for that.

I want to ask the Senator from Indiana if he would respond to the statement in an editorial, published in the Washington Evening Star today, which I ask unanimous consent to have printed in the RECORD at this point.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Evening Star, Dec. 8, 1971]

ONE APPROVED, ONE TO GO

The Senate's overwhelming confirmation of Lewis F. Powell Jr.'s nomination to the Supreme Court by a vote of 89–1 was entirely expected, most welcome and a tribute to the Virginia nominee's stature and qualifications. Moreover, it says something refreshing about the American system of selecting and confirming members of the nation's highest court.

In sharp contrast to the heated Senate struggles that led to the defeat of President Nixon's first two Southern nominees, Clement F. Haynsworth Jr. and G. Harrold Carswell, next to no opposition was voiced to Powell in this week's debate. The Senate's action thus puts the lie to the notion that a Southern conservative cannot get confirmation to fill a Supreme Court vacancy. A Southern conservative can, and has, just as a Negro has, and Jews and Catholics have, and a woman undoubtedly will, before too long.

In all probability, Powell would have met more opposition than he did had his nomination been the only one under consideration. But the President had two vacancies to fill, and it is upon his second nominee, William H. Rehnquist, that a number of Senate liberals, together with an assortment of civil rights organizations, have chosen to focus their fire. We'll be hearing a lot more about that as the Senate debate on Rehnquist unfolds.

Rehnquist's opponents have depicted him throughout as an enemy of minority rights and civil liberties. As evidence, they have cited a number of statements he made and stands he took over the years. The latest revelation goes back to 1952, when Rehnquist was 28 and a clerk to Supreme Court Justice Robert H. Jackson. In a memo entitled "A Random Thought on the Segregation Cases," he is said to have argued that the separate-but-equal doctrine of public schools should be reaffirmed.

The memo says no more, no less about Rehnquist's probity or competence than the earlier disclosure that in 1964 he opposed a Phoenix open accommodations ordinance. In the light of subsequent court decisions, he was off the mark. In the context of the times, his views were consistent with a defensible and honorable—albeit thoroughly conservative—constitutional philosophy.

In all likelihood, as a member of the court, Rehnquist will not be among those eager to expand the constitutional frontiers of civil rights and individual liberties. But neither, in all probability, will Powell. The point is that this is not the prime criterion, nor is it a very tenable criterion, for the Senate to use in passing judgment on a President's nominee to the court. What the Senate should be looking for are integrity, intellectual strength and legal qualifications. On these counts, Rehnquist merits speedy and decisive approval.

Mr. HARRIS. Let me quote the last paragraph, in part:

> In all likelihood, as a member of the court, Rehnquist will not be among those eager to expand the constitutional frontiers of civil rights and individual liberties. But neither, in all probabilities, will Powell. The point is that this is not the prime criterion, nor is it a very tenable criterion, for the Senate to use in passing judgment on a President's nominee to the court. What the Senate should be looking for are integrity, intellectual strength and legal qualifications.

I want to ask the Senator, is there anything in the constitutional history of this country, or in the traditions of the Senate, that restrict a Senator just to those considerations, or if the President chooses a person to be a Justice because of his legal ideology, does not a Senator have as much power to reject him for that ideology?

I know that the Senator has gone into this in the past, and I would appreciate any comments he might have to make about that.

Mr. BAYH. Mr. President, I think that is an important point the Senator raises because that, indeed, is the foundation for our being here. If, indeed, there is no responsibility or right, as the case may be, just to go beyond the intellect or the integrity of the man, then I think the time spent in debating is wasted.

I hope that those who wrote this editorial down at the Star will ask someone to look a little bit further and do some research, because they will find that historically the Senate has considered almost everything relative to a Supreme Court nominee's background as cause to vote against him. There have been about 25 percent of all Supreme Court nominees in the history of this country who have been nominated by the President who never reached the bench.

If we look back in history, there have been some moments when the reasoning of the Senate has not been good. Nominations have been rejected not on philosophical grounds, but on political grounds. Really, if there are those in this body who were to argue that the Senate should not consider philosophy, they would find themselves in a somewhat inconsistent position, because some Senators who now argue this point are the ones who led the opposition to the nomination of Justice Fortas to be elevated to Chief Justice and to Judge Thornberry being made a Justice. Theirs was not a philosophical argument; it was purely a political argument. "There is to be an election in a few months," it was said, "so let us put these nominations off." No effort was made to cloak that position.

So we do not have to go back to Civil War days or to earlier days, such as the days of President Jackson, when there really were some disputes about Court nominees. President Ulysses Grant had three consecutive Supreme Court nominations turned down.

I think the Senator from Oklahoma is right in suggesting that the Senate has a broader responsibility.

Indeed, the nominee himself thinks that we have. Nobody really has argued more persuasively that a nominee's philosophy should be considered than William H. Rehnquist himself. Let me quote one paragraph from an article published in the Harvard Law Record of October 8, 1959. Lawyer Rehnquist said:

> Specifically until the Senate restores its practice of thoroughly informing itself on the judicial philosophy of a Supreme Court nominee, before voting to confirm him, it will have a hard time convincing doubters that it could make effective use of any additional part in the selection process.

So the man whose nomination is now before us was writing then as one of the chief proponents of the Senate's considering philosophy.

I am sure the Senator from Oklahoma is also aware of one of the most bitter controversies that the Senate has experienced in considering Supreme Court nominations—the nomination in the 1930's, I think, of Judge Parker, of the Fourth Circuit, to the Supreme Court. There was a great outpouring of opposition from civil rights leaders and labor leaders. One of the major sins for which he was held accountable was his position on the "yellow dog" contracts. The forces got so strong that they kept Judge Parker off the Supreme Court. But in the debate of that hour some of the real—I say this respectfully—old tigers of the Senate spoke rather eloquently of the need to look at philosophy.

Senator Borah, for example, said:

> Upon some judicial tribunals it is enough perhaps that there be men of integrity and of great learning in the law, but upon this tribunal—

The Supreme Court—

> something more is needed; something more is called for. Here the widest, broadest, deepest questions of government and governmental politics are involved.

Another distinguished Senator of that time, Senator George Norris, of Nebraska, spoke eloquently to the question raised by the Senator from Oklahoma when he said:

> When we are passing on a judge, we not only ought to know whether he is a good lawyer, not only whether he is honest—and I admit that the nominee possesses both of these qualifications—but we ought to know how he approaches the great questions of human liberty.

It is these questions, the questions of human liberty, that concern the Senator from Indiana, and I can tell by the perceptive argument of the Senator from Oklahoma that he is equally concerned about putting someone on the Supreme Court of the United States who does not realize the delicate balance that exists today—as it always has—between the rights of government, on the one hand, and the rights of the individual citizens of the country, on the other.

Mr. HARRIS. I thank the distinguished Senator from Indiana very much. I was intrigued, too, by what he said about how it seemingly is inconsistent for this nominee, or anyone else, to call himself a conservative in terms of the rights of individual citizens as against big government, and then consistently to support wiretapping for rather broad purposes, preventive detention, and no-knock legislation.

I am particularly reminded of the work done in the Senate and in committee by the distinguished Senator from North Carolina (Mr. ERVIN). He and I do not agree on many governmental programs and policies, and I suppose most people—at least many people—would call the Senator from North Carolina a conservative. One of the things that distinguishes him in that regard is that he has made it a very important Senate work of his to oppose the awful increase in surveillance—the Army going out, following people around, taking pictures of and reporting about demonstrators, and even following political figures—things that have nothing to do with the security or insecurity of the country. That is the kind of regard for individual rights as against powers of big government that one would expect from a true conservative. But, as the Senator from Indiana has pointed out quite well, that kind of conservatism is not the kind of conservatism which the nominee's actions and philosophy exemplify.

Mr. BAYH. I have been impressed with this inconsistency. I must say, having a few scars from past disagreements with our President, about Supreme Court nominees, that I have not been totally insensitive to the politics of the matter. As I said earlier to my friend the Senator from Oklahoma, this is not the first time that politics have been injected into the choice of nominees; but to my knowledge this is the first time in modern history when during a presidential campaign the candidate declared as one of his major thrusts and major reasons for which he should be chosen that he was going to revamp and reorient and redirect the Supreme Court of the United States, and that he was going to appoint men like Brandeis and Holmes and Frankfurter.

That, it seems to me, is a bit different from the qualifications and the great record of those three giants. I think maybe he even included former Judge Cardozo at one time in his list of examples.

Then we went through the strict constructionist syndrome when we considered the nominations of Judge Haynsworth and former Judge Carswell. These men were presented as strict constructionists. I do not know what a strict constructionist is. I went to some pains, as the Senator can imagine, when we first got hit by that word, to try to find out what a strict constructionist is. If we read what Webster says about a strict constructionist, we will find that he is one who would construe narrowly and strictly the law as interpreted in past cases by precedent, and apply it to present cases or future cases.

We did not have this problem with Judge Carswell. He was a man who was going off, as we learned in freshman law "on a toot." He was making law irrespective of what the high courts said. Yet this is a strict constructionist. When the President came on television the other evening, we were told that his two nominees are judicial conservatives. I do not know what judicial conservatives are. Certainly a judicial conservative is one who establishes his thoughts and follows the clear tradition of the great Justices, such as the Justice whose seat is now vacant. Justice Harlan could be called a great conservative, and other Justices could be called great conservatives.

These men certainly were the ones who stood up and said, "Thou shall not transgress on the individual." Indeed, I think it is important. I am not an alarmist, but regardless of who the President is, and regardless of the day in which we live, we need to have someone on the Court who realizes there are necessary restraints that must be placed on the executive branch.

We are looking now, as the Senator knows, at a long period of time. He and I are relatively young Members of this body. We are being asked to place on the Supreme Court a man who is only slightly older than we are. The operative life of a Supreme Court Justice is slightly longer than that of a typical United States Senator. So it is fair to say that that Justice will be there for a longer period of time than most of us who have the good fortune to serve in this body. We do not know who will be there. Maybe it will be someone of our political beliefs, someone of our views; or maybe someone who wants to use the machinery of government in the way to transgress on individual freedom.

I say we need a Justice for the next 20 to 30 years who will say, "We have to examine this carefully and put the individual and his or her rights in proper perspective and not subordinate them to the Executive."

Mr. HARRIS. I thank the Senator again for that statement, which is very helpful. I think it is very persuasive with respect to the decision which is now before the Senate.

I recall that in the 1968 presidential campaign, which has been mentioned by the Senator from Indiana, the successful candidate, President Nixon, made as a major issue the kinds of nominees he would send to the Senate for the Supreme Court. That was a campaign in which George Wallace, the candidate of the American Party, was saying that, "There is not a dime's worth of difference between the nominee of the Republican Party and the nominee of the Democratic Party." There were some disappointed Democrats on the left who were also at that time saying there is not really any difference between HUMPHREY and Nixon and that there was not really much choice.

I recall a speech that then Vice President HUMPHREY made during the campaign to an AFL–CIO convention in Sacramento in the last days of the campaign. What he said was not the most popular thing to say to them, but he said that the President of the United States would probably wind up appointing a majority of the Court, he discussed the age of the justices, and we all knew there would be vacancies.

He said that the path this country decides to travel—and this is not a quote but, in effect, what he said—with respect to civil rights and civil liberties would be determined for a generation by who was selected President.

Unfortunately, many people did not perceive that to be a critical issue; or if they did, they did not say so. So he was elected and that prediction has now come true.

With the approval of Mr. Rehnquist—and I hope we will not do so—we would place on that Court a majority of men who are strict constructionists, as President Nixon views that term, or judicial conservatives, as he uses that term. Whatever those terms mean, they do not mean we are going to continue to have a Court which will stand up to the Executive and the Congress and the country in the field of civil rights and civil liberties. I find that to be a very distressing prospective that will not occur with my vote, if I can help it.

Mr. BAYH. Mr. President, will the Senator yield?

Mr. HARRIS. I yield.

Mr. BAYH. If I may take the statement the Senator made in paraphrasing then Vice President HUMPHREY, I think that is a statement that is broader when it transcends the political connotations of the campaign.

This is the thing that has been burning at the very entrails of the Senator from Indiana. Is it an exaggeration, and are we being overly concerned to say that the nominees that go on that Court will determine the course the entire country goes in the area of human rights and civil rights?

For example, if we have a nominee on the Court who in the midsixties was still opposed to letting black people in the drugstores of his hometown, what does this portend about future legislative efforts with respect to discrimination? What does that portend about the standards we are establishing in the future?

Mr. HARRIS. It does not portend well, in my view. I must say I believe that a nominee for the Supreme Court should not be someone forced to fight off attacks on his relatively negative record on civil rights and civil liberties. I think that a nominee should instead have an exemplary record in the field of civil rights and civil liberties. So my test would be far stronger, but at the very least it seems to me even by the most mild kind of test, the background and beliefs, very recent ones, as the Senator pointed out, of this nominee do not stand the test.

Mr. BAYH. If the Senator will permit me to proceed further, I think he has struck a very relevant point here. I wish we had the chance to get this statement before all of our colleagues, an astute group of individuals, and let them listen to this line of reasoning presented by the Senator from Oklahoma.

One of the problems that confronts us today is the fact that there are far too many of our citizens who are out of the opportunity scale, or out of the opportunity section of our society. Whether we call them below the poverty line or welfare recipients, for one reason or another they have not been able to harness the resources, the capacity, to make it on their own.

The Senator from Oklahoma has been one of the most articulate advocates to get these people on their feet so they may become producing members of society, so that there may be a restoration of pride in themselves.

As I have discussed this on platforms over the last year or two, I have found that the generally accepted reason or goal—goal is much better—that seems to be accepted by most of our people as being at the foundation of whatever program one might want to put on to get these people to be better-producing members of society, was for better educational opportunity, whether elementary school, secondary school, vocational programs, higher education, or advanced education.

Even the most conservative citizens of this country will say, "If you can get them a good education that is the place to put the emphasis." But if we are to accept this as one basic tool in order to open the door of opportunity for all of our citizens, does the Senator from Oklahoma have concern when he looks at the objections that this nominee had to the efforts of the school system in Phoenix in 1967? This was not back at the time of Brown against Board of Education. In 1967 he even opposed a voluntary free choice busing system.

Mr. HARRIS. I find that to be absolutely unacceptable. It is terribly objectionable to me that the President of the United States would send down here the name of a man like that, particularly when we think of the traditional civil rights, the right to eat, or live, or work where one wants to live. I think we have to go beyond those rights.

I believe that most people think that there are other kinds of rights—rights to enough income, to decent health, to a decent education, to a decent house and a decent neighborhood; that these are American rights. To say the very least, it seems to me we ought not to be going backward on traditional civil rights; we ought to be going forward in regard to rights in a much broader context.

The late Senator Robert Taft, who served in this body 25 or 30 years ago, was talking about the rights of a child who grows up in America to a decent standard of life. We ought to be talking about rights, and not charity. People are not going to let charity be inflicted on them any more.

Yet we have a nominee who does not subscribe to the philosophy even of traditional rights that we have in terms of American citizens.

Mr. BAYH. We are talking about the right of quality education. In the State of Indiana it is a constitutional right, guaranteed by the State constitution, and it is in most other States today. But if that is the right we want to see protected—the individual's opportunity and right—what about a nominee who says what he said in debating the question of an open school system in Phoenix? Again I want to emphasize that this was not court-ordered integration. This was completely voluntary. There was no long-range busing involved. There was no arbitrary placing of pupils involved. Given that situation, nevertheless, the nominee said as follows in 1967:

> Mr. Seymour—

the School Superintendent of Phoenix—

> declares that "we are and must be concerned with achieving an integrated society." Once more, it would seem more appropriate for any such broad declarations to come from policymaking bodies who are directly responsible to the electorate rather than from an appointed administrator. But I think many would take issue with this statement on the merits, would feel that we are no more dedicated to an "integrated" society than we are to a "segregated" society; that we are instead dedicated to a free society in which each man is equal before the law, but in which each man is accorded a maximum amount of freedom of choice in his individual activities.

Given 150 years of slavery, given discrimination which had been a part of a law of the land for all too long, and then to place that type of philosophic interpretation on the need to open our school system and provide educational opportunities, what does that bode for the educational opportunity of children if Mr. Rehnquist is confirmed.

Mr. HARRIS. It bodes us ill. I think it is appalling that so many people in this country, who have for so very long denied quality education to black people and other minorities and deprived them of their real chance in life, then turn around and say, "Why don't you pull yourself up by your own bootstraps?" You either believe in individual efforts and people's responsibilities to make the best of themselves or you do not, and if you do, as I do and as this country does, you have to give people an equal chance at the starting line.

It is just because of men like Mr. Rehnquist that so many generations of little black children and other minority children in this country and poor children in America have had no chance and have had their lives destroyed. It is not enough to say we are not any longer affirmatively discriminating. The Supreme Court said in a recent case in Mississippi that we violate the constitutional rights of peoples unless we show the Government is taking affirmative, positive steps to redress the wrongs of the past. I do not see that kind of philosophy evidenced by this nominee. In fact, as the Senator from Indiana knows, in his very recent record he does not have that philosophy. I think that bodes ill for the country.

Mr. BAYH. I thank the Senator for permitting me to interrupt.

Mr. HARRIS. I appreciate the Senator's contribution, and particularly what he said about nominees and the lack of restriction on the Senate in making up its mind, just as there is no restriction on the part of the President in making up his mind on Supreme Court nominations.

I want to read further from the article to which I referred earlier from the Ripon Society.

> In nearly all of his public statements and in a number of private comments, Rehnquist has revealed himself as a brilliant authoritarian idealogue who sees the law or the Constitution as mere instruments for imposing his beliefs on the body politics. It may in fact be questioned whether a man who, like Rehnquist, defines a conservative judicial philosophy as an approach "that consistently applied reaches a conservative (political) result" can be correctly said to have a judicial philosophy at all.
>
> For this reason the Ripon Society believes that his elevation to the nation's highest court would be a dangerous mistake. If one is to have excessive judicial activism it is far safer to have it at the expense of the executive rather than in concert with an already exorbitant Presidency.
>
> This concern is greater than ever today, when the expanding technology of personal surveillance evokes with renewed menace the Orwellian vision of 1984 (when Rehnquist will be 59).

The article in the Ripon Forum further notes:

> The Senate is especially bound to consider the philosophies of Supreme Court appointees when a President publicly enunciates a policy of choosing nominees largely because of their political leanings.

I call attention to that sentence. The Ripon Forum believes, as pointed out in this article, that it is not just within the power of the Senate to look into the philosophies of nominees for the Supreme Court, but that the Senate is bound to consider the philosophies of nominees to the Supreme Court when the President has said he has chosen those nominees for precisely their philosophic leanings.

The article continues:

> Unlike most other Presidents of the twentieth century, President Nixon has made it clear that the principal qualification for his nominees is concurrence with his Administration's policies, especially in civil liberties. The Senate should exercise close scrutiny over nominees of such a politicized Presidential selection process.

I agree with the philosophy expressed in that sentence. I think that where a President has politicized the selection of Supreme Court nominees and has decided not to make balanced appointments, but to make appointments or nominations all from one political conservative cast, for that reason he seeks out nominees having conservative ideological leanings just like his own. Thus it is clear that the Senate must give special care to the confirmation process.

The Senate has a special kind of burden in cases like the present to give the closest possible scrutiny to those nominees.

The Ripon Society concludes:

> And if we really must have extremists on the Court, may they be in the defense of liberty.

To which, Mr. President, I say "Amen."

Mr. President, I rise today not only to oppose the appointment of a man to the Court, but also to support the Senate's reaffirmation of its constitutional powers of advice and consent.

There are two ways to view the Senate's role in confirming Presidential nominees. The first holds that the Senate is little more than an independent investigative agency, whose role is simply to weed out those blatantly unfit to serve on America's highest court for the most basic and fundamental of reasons.

I take it that this is the view of the Washington Evening Star, as expressed in its editorial of Wednesday, December 8, 1971, to which I have previously referred. In that editorial, the operative sentence is:

> What the Senate should be looking for are integrity, intellectual strength, and legal qualifications.

In other words, that is all that ought to come within the scrutiny of the Senate's confirmation process. I disagree with the Star.

The second view recognizes that the Senate's authority of advice and consent is an essential part of the network of checks and balances which protects our representative form of government.

I think, Mr. President, I have made it abundantly clear that it is that view with which I agree, and which causes me to stand here now in opposition to this very ill-advised nomination.

Mr. President, if the Chief Executive places before this body for consideration a man or woman who is unfit to serve, it is our universally recognized duty to reject the nomination. But it would be extremely dangerous for us to consider our role to be limited to this sort of determination.

Our role is far more important than that in the view of those who wrote the Constitution, and in the view of a majority of this body, now and in the past. Our burden is far heavier than that rather easy burden; our responsibility is far broader.

We have seen, in the past few decades, a significant and alarming shift of power to the executive branch of government since 1933, when President Roosevelt was granted emergency powers by a hastily assembled Congress to deal with an extraordinary economic situation. The Senator from Maryland (Mr. MATHIAS), in an article entitled "The Optional Congress," has described in great detail the subsequent history of so-called emergency powers through a succession of six Presidents. The Senator says, and rightly so, that these six Presidents:

> Have been as one on the question of when the country is in a state of national emergency and when the Congress, on a wide range of issues, is optional. Their answer, quite simply put—in a word—is always. In the last 37 years, the country has passed through many vicissitudes of war and peace, but Presidential powers have been continuously "at war."
>
> A lower court did judicially acknowledge—in 1962—that the depression had ended. But no authority has yet recognized the end of the Korean emergency, proclaimed by President Truman on December 16, 1950, and still in effect today. (Ripon *Forum* Guest editorial, Vol. VII, No. 13, at 3.)

Mr. President, I ask unanimous consent that that article, entitled "The Optional Congress," which appeared as a guest editorial in the Ripon Forum, volume III, No. 13, be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HARRIS. In more recent times, Mr. President, an unchecked exercise of authority on the part of the Executive has led to our tragic involvement in Indochina; an involvement undertaken by a series of Presidents with a minimum of congressional knowledge or approval. More recently, this administration has asked us to approve unaltered its phase II economic program—a program which gives broad and virtually unchecked authority to the President.

I spoke earlier about the unrestricted powers that we have given to the President. The distinguished Senator from Wisconsin and I, and others, stood on this floor and attempted to prevent that act from being passed as recommended by the President, or at the very least, to cut back the extension of time from April 1973, when the act will now end, to June 30, 1972, because we thought that those unprecedented powers should not be granted to the President for that long a period of time, if they were to be granted at all.

Mr. President, as a U.S. Senator I feel it is my constitutional duty to question not only the legal and moral qualifications of any nominee to the Supreme Court; but also the impact of the nomination upon the Court itself. I am convinced that the addition of William Rehnquist to the Court would extend to dangerous proportions a trend of disregard for the rights of the individual. For that reason, I feel that it is my responsibility to vote against the appointment of Mr. Rehnquist.

Mr. President, as I have traveled about this country, I find a rising tide of cynicism and hopelessness, and a despair about whether or not the political process is going to deliver on people's legitimate complaints about their lives and their society. One reason why that is so is that the Government is so big and all pervasive, and is so much involved in the lives of so many of our people, is often so remote, impersonal, and faceless. Consequently, people do not really feel that through the political process they have control over the decisions that are made.

I think it is terribly important, Mr. President, that we try to respond to that cynicism and feeling of despair and hopelessness. Therefore, as I say, even if Mr. Rehnquist's record was not as bad in the field of civil rights and civil liberties as it is, I would be very careful to scrutinize his record and his beliefs, because I believe that anyone who goes on that Court ought to have an exemplary record. It ought to be an outstandingly affirmative and positive record in the field of civil rights and civil liberties. It is not even enough, any more, just to say that one is not doing anything any more against the rights and liberties of others, or that he has refrained from doing anything against the rights and liberties of others. I believe it is required, in these days particularly, of a man who would go on the Supreme Court of the United States that he be able to show that he is acting in an affirmative and positive way to preserve and promote the civil rights and civil liberties of others.

That is one reason, Mr. President, why I think it is terribly unfortunate that instead of this nominee, Mr. Rehnquist, the President did not send to the Senate the nomination of a woman to be on the Supreme Court of the United States. There are nine places on that Court, not a single one of which is now or ever has been occupied by a woman. There are plenty of well-qualified women lawyers and judges, the names of many of whom several Senators, I, and others brought to the attention of the President of the United States.

For a time before this nomination President Nixon floated the names of several candidates for the Court position and finally a whole list of candidates was published. There were names of women who were said to be under consideration, and there was a widespread feeling among women throughout the country that the President, at long last, did really intend to send to the Senate the nomination of at least one woman to be on the Supreme Court of the United States.

If a qualified woman had been nominated, Mr. President, I think it would help to make the Court more representative of the judicial and legal profession as it exists in this country, and furthermore I think it would help to humanize the law a great deal.

More than that, I think it would give a great number of people in this country who presently feel that their interests are not properly represented on the Court or in Government a better reason to believe that they are, indeed, represented or better represented than has been true in the past. The President did not do that; and with the nomination of Mr.

Rehnquist, he did not do it with regard to black people or other minorities; he did not do that in regard to poor people. Instead, we did not make it better; we made it worse by this nomination. And the Senate will be a part of that if it agrees with this nomination and joins in the appointment. I do not think the Senate ought to do that; and I hope that the Senate, therefore, will not advise and consent to the nomination of Mr. William H. Rehnquist to be a member of the Supreme Court of the United States.

EXHIBIT 1

THE OPTIONAL CONGRESS

(By Senator CHARLES McC. MATHIAS)

The President's New Economic Policies represent a bold and necessary response to a serious crisis and they have my support. At the same time, the emergency powers he was able to invoke dramatize anew the scope of constitutional authority which Congress has over the years relinquished to the office of the President.

This process has a long history, that unfortunately continues to transpire in the headlines of today. But perhaps the crucial moment in establishing these emergency powers came in the midst of the Depression almost 40 years ago.

On May 9, 1933, in a moment of genuine crisis, President Franklin D. Roosevelt convened the Congress and demanded, in effect, that it revamp the Constitution before midnight. The purpose of his proposed reforms was, in effect, to make Congress, and consequently the Constitution, optional at the discretion of the President, as the national interest required.

The demand came as part of the Emergency Banking Act, an omnibus bill reorganizing the Nation's then collapsing banking system and retroactively legitimizing the President's Bank Holiday proclamation of 3 days before.

It was referred to the Committee on Banking and Currency with instructions that it be reported in an hour. The bill was never printed and it was not available for Senators to read prior to action on the floor of the Senate. The then Senator from Louisiana, Mr. Huey Long, complained that he did not know what was in it until it was read by the clerk. Most Senators indicated that they had grave reservations about what they understood to be the bill's provisions and Senator Long protested the extraordinary powers it granted to the President. But in the extremity of the crisis at hand, Congress felt it had to act immediately as the President demanded. The bill was passed by both Houses before midnight and the American constitutional Republic has been in its Damoclean shadow ever since.

The key provision, not much remarked by the Congress at the time, came in an amendment to section 5b of the Trading With the Enemy Act of 1917. As enacted in 1917, section 5b shifted from Congress to the President the power to regulate trade and financial transactions between Americans and foreigners in wartime. The 1933 amendment to 5b authorized the President—by the simple expedient of declaring a national emergency—to assume in peacetime the extensive wartime emergency powers associated with the Office of President as Commander-in-Chief.

In this little noticed enactment, Congress established a principle with reverberations going far beyond the legislation at hand. For the courts have interpreted the amendment as creating a virtually unlimited Executive prerogative that now applies to some 200 laws granting special powers to the President during national emergencies. But neither Congress nor the courts have set criteria for invocation of these multifarious powers.

In accord with President Roosevelt's approach, the President alone decides when a national emergency exists and when it ends, when he should share power with Congress as the Constitution prescribes, and when Congress can be made optional by proclamation.

This assignment of emergency powers has worked very smoothly over the years. Since that dire extremity of 1933, there have been six Presidents—four Democrats and two Republicans. But they have been as one on the question of when the country is in a state of national emergency and when the Congress, on a wide range of issues, is optional. Their answer, quite simply put—in a word—is always. In the last 37 years, the country has passed through many vicissitudes of war and peace, but Presidential powers have been continuously "at war." The result, described by Jeffrey G. Miller and John R. Garson in an excellent article in the February 1970 issue of the Boston College Industrial and Commercial Law Review, is that "some 60 percent of the nation's population have lived their entire lives under a continuous unbroken chain of national emergencies."

A lower court did judicially acknowledge—in 1962—that the depression had ended. But no authority has yet recognized the end of the Korean emergency, proclaimed by President Truman on December 16, 1950, and still in effect today. Since the President declared with reference to Korea that "world conquest by Communist imperialism is the goal of the forces of aggression," the State Department has interpreted the emergency to mean the duration of the cold war, whatever definition they may apply.

This interpretation, however, has not limited the emergency powers to military matters affecting the protracted conflict with the Communists. Before the recent Nixon monetary actions, the Korean authority, in fact, was most recently invoked in 1968 in relation to our economic competition with our European allies.

President Johnson felt he would have difficulty securing from Congress the broad powers he needed to deal with the deficit which had been emerging for several years in the nation's balance of payments. Yet the Constitution clearly reserves to the legislative branch all powers for regulating foreign commerce. So the President invoked the emergency powers granted in 1950 in relation to the Korean war and signed Executive Order 11387: Governing Certain Transfers Abroad. The Department of Commerce immediately issued the foreign direct investment regulations—FDIR. The Executive order and the FDIR restrict the amounts of capital that American investors may transfer to or accumulate in foreign affiliates, and compel repatriation of short-term liquid balances such as foreign bank deposits.

EXECUTVE ENCROACHMENT

Without citation of the Korean war powers, these measures clearly represent an unconstitutional encroachment on legislative authority. The courts have upheld them, however, and they remain the law of the land. It is currently the law of the land, therefore, that the state of national emergency proclaimed by President Truman in 1950 in relation to the Korean conflict can be invoked in relation to a balance-of-payments deficit 18 years later. Similarly, regulations against gold hoarding, activated by the depression emergency, are continued under the 1950 proclamation.

Other measures thus invoked under 5b include, respectively, the foreign, Egyptian, and Cuban Assets Control Regulations. The Cuban trade embargo was also based in part on the 1950 emergency, as was the recent suspension of the Davis-Bacon Act, requiring the government to pay prevailing wages on construction contracts.

Among the nearly 200 other emergency laws are several that seem immediately pertinent today as we consider the future of the draft and the Executive's latitude to act alone in Southeast Asia. The President's emergency powers seem to permit him both to detain enlisted troops beyond the terms of their contracts and to detail military men to the governments of other countries. Also pertinent are his powers to sell stocks of strategic materials, revoke leases on real and personal property, suspend rules and regulations applicable to broadcasting stations, exercise control over consumer credit, and, as we know, assume sweeping authority in the world monetary realm.

CONTINUOUS EMERGENCY

These powers infringe on so many crucial constitutional rights and principles that collectively they may be seen as placing our system of democratic government in jeopardy. Certainly the deprivation of rights and property is authorized without due process. But perhaps most important, these measures threaten the constitutional balance of powers between the executive and legislative branches. Because a state of official emergency has obtained continuously since 1933—and has been upheld by the courts to validate actions unrelated to the original crisis—the national emergency powers have accumulated and become institutionalized in the executive. The Presidency, already enhanced by modern trends, has been further aggrandized by the paradox of the continuous emergency.

Unless we accept the principle of an optional Constitution and an optional Congress we must reject the concept of national emergencies declared by the President at his discretion in peacetime without termination dates. Since this concept has been upheld in essence by the courts, it is up to the Congress to recover by legislation the constitutional role that it has allowed the executive to usurp. We must reassert the principle that emergency powers are available only for brief periods when Congress is unable to act and for purposes directly related to the emergency at hand.

ROOTED IN

This is easier said than done. We discover that the continous and cumulative and institutionalized emergency is also almost irrevocable. So many executive agencies and procedures are rooted in emergency powers that it is extremely difficult to rescind them without major administrative disruptions. With this in mind, the distinguished majority leader, Mr. Mansfield, joined with me during the last session in Senate Joint Resolution 166, a resolution which, among other things, proposed the creation of a special committee to explore with the executive the consequences of terminating the Korean emergency. In the aftermath of the Cambodia incursion, however, our proposals were not acted upon. And so I have reintroduced the proposal as a Senate concurrent resolution. It calls for the establishment of a commission to study and make recommendations terminating the state of national emergency.

It is to be expected that the commission's recommendations would at least have the effect of restoring to Congress its full constitutional authority to regulate commerce, and would clearly define a national emergency. Together with S-731, an act to regulate undeclared war, which was introduced in February by the distinguished Senator from New York, Mr. Javits, this would serve to assure that emergency powers would only be applied for the duration of genuine emergencies. The Constitution did not envision a state of national emergency to be the normal state of affairs.

Under the best of circumstances, the Congress will not find it easy to maintain its historical constitutional role in the modern age. Modern communications, national interdependence, and international involvement converge to enhance the Presidency; real emergencies continually arise requiring the kind of decisive response the Executive is best equipped to give. But if the Congress allows these National Executive advantages to be expanded by special emergency powers responding to unspecified emergencies without termination or limit, the balance of powers between the branches of our Government may be irreparably broken.

I believe that we do face today a national emergency—even a paradoxically continuous one. It emerged during the depression and has been with us for several decades. It is a crisis that throws our whole system of constitutional government into jeopardy. This emergency—if I may use the term so loosely—is the atrophy of Congress. It is not an emergency which calls for the decisive exercise of executive powers. It calls for the decisive recovery of legislative powers. Only Congress can redeem itself; but in serving itself, it can also save the Constitution.

Mr. FANNIN. Mr. President, on Monday just before we confirmed the nomination of Lewis F. Powell, Jr. to the Supreme Court, I noted that it took an awful lot of repetition to carry that discussion for 2 days.

We now are in the third day of discussion on the nomination of William H. Rehnquist to the Supreme Court. Again, I would observe, we are hearing nothing more than repetition.

We are hearing the same arguments—arguments that already have been disproven—from the opponents of Mr. Rehnquist. Those of us who support this nomination repeatedly have cited the excellent qualifications of Mr. Rehnquist. We have patiently answered the questions raised about the nomination.

Mr. President, I would like to call to the attention of my colleagues an editorial in today's editions of the Evening Star. Considering the Rehnquist nomination, the Star says:

> What the Senate should be looking for are integrity, intellectual strength and legal qualifications.

Mr. Rehnquist certainly meets the test of having "integrity, intellectual strength, and legal qualifications."

Mr. President, I ask unanimous consent to insert in the RECORD at this point the Star editorial urging "speedy and decisive approval" of the Rehnquist nomination.

There being no objection, the editorial was ordered to be printed in the RECORD. as follows:

[From the Evening Star, Dec. 8, 1971]

ONE APPROVED, ONE TO GO

The Senate's overwhelming confirmation of Lewis F. Powell Jr., nomination to the Supreme Court by a vote of 89–1 was entirely expected, most welcome and a tribute to the Virginia nominee's stature and qualifications. Moreover, it says something refreshing about the American system of selecting and confirming members of the nation's highest court.

In sharp contrast to the heated Senate struggles that led to the defeat of President Nixon's first two Southern nominees, Clement F. Haynsworth Jr. and G. Harrold Carswell, next to no opposition was voiced to Powell in this week's debate. The Senate's action thus puts the lie to the notion that a Southern conservative cannot get confirmation to fill a Supreme Court vacancy. A Southern conservative can, and has, just as a Negro has, and Jews and Catholics have, and a woman undoubtedly will, before too long.

In all probability, Powell would have met more opposition than he did had his nomination been the only one under consideration. But the President had two vacancies to fill, and it is upon his second nominee, William H. Rehnquist, that a number of Senate liberals, together with an assortment of civil rights organizations, have chosen to focus their fire. We'll be hearing a lot more about that as the Senate debate on Rehnquist unfolds.

Rehnquist's opponents have depicted him throughout as an enemy of minority rights and civil liberties. As evidence, they have cited a number of statements he made and stands he took over the years. The latest revelation goes back to 1952, when Rehnquist was 28 and a clerk to Supreme Court Justice Robert H. Jackson. In a memo entitled "A Random Thought on the Segregation Cases," he is said to have argued that the separate-but-equal doctrine of public schools should be reaffirmed.

The memo says no more, no less about Rehnquist's probity or competence than the earlier disclosure that in 1964 he opposed a Phoenix open accommodations ordinance. In the light of subsequent court decisions, he was off the mark. In the context of the times, his views were consistent with a defensible and honorable—albeit thoroughly conservative—constitutional philosophy.

In all likelihood, as a member of the court, Rehnquist will not be among those eager to expand the constitutional frontiers of civil rights and individual liberties. But neither, in all probability, will Powell. The point is that this is not the prime criterion, nor is it a very tenable criterion, for the Senate to use in passing judgment on a President's nominee to the court. What the Senate should be looking for are integrity, intellectual strength and legal qualifications. On these counts, Rehnquist merits speedy and decisive approval.

ORDER FOR RECOGNITION OF SENATOR BYRD OF WEST VIRGINIA TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senator from West Virginia (Mr. BYRD) be recognized for not to exceed 15 minutes tomorrow morning after the joint leadership has been recognized.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR WILLIAMS ON FRIDAY, DECEMBER 10

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senator from New Jersey (Mr. WILLIAMS) be recognized for not to exceed 15 minutes Friday morning after the joint leadership has been recognized.

The PRESIDING OFFICER. Without objection, it is so ordered.

RETIREMENT SECURITY—REFERRAL OF MESSAGE FROM THE PRESIDENT (H. DOC. NO. 92–182)

Mr. MANSFIELD. Mr. President, I ask unanimous consent that a message received from the President today on private pension plans be jointly referred to the Committee on Finance and the Committee on Labor and Public Welfare, since this message involves subject matter falling within both committees.

The PRESIDING OFFICER. Without objection, it is so ordered.

The message is as follows:

To the Congress of the United States:

Self-reliance, prudence and independence are qualities which our Government should work to encourage among our people. These are also the qualities which are involved when a person chooses to invest in a retirement savings plan, setting aside money today so that he will have greater security tomorrow. In this respect, pension plans are a direct expression of some of the finest elements in the American character. Public policy should be designed to reward and reinforce these qualities.

The achievements of our private pension plans are a tribute to the cooperation and creativeness of American labor and management. Over 4 million retired workers are now receiving benefits from private plans and these benefits total about $7 billion annually. More than $140 billion has been accumulated by these plans to pay retirement benefits in the future. But there is still much room for expanding and strengthening our private pension system.

Three groups in our society have a tremendous direct stake in the growth and improvement of private pensions. The first is made up of that 50 percent of American wage earners who are *not* in private group plans at the present time and who have no tax incentive for investing in retirement savings as individuals. The second group includes those who are enrolled in group plans which provide benefits for their retirement needs which they regard as insufficient or which do not ensure that the benefits which are accumulating while they work will actually be made available when they retire. If we meet the problems of these two groups today, we will also be taking a giant stride toward improving the quality of life tomorrow for an important third segment of our population to which they will eventually belong: the retired Americans whose independence and dignity depend in large measure on an adequate post-retirement income.

Older persons have spoken eloquently about the need for pension reform, especially at the White House Conference on Aging, which was recently held in Washington. It is clear that our efforts to reform and expand our income maintenance systems must now be complemented by an effort to reform and expand private retirement programs.

The five-point program I present today includes three new legislative proposals, a renewed endorsement of an earlier proposal, and a major study project which could lead to further legislation.

1. *Employees who wish to save independently for their retirement or to supplement employer-financed pensions should be allowed to deduct on their income tax returns amounts set aside for these purposes.*

Today only 30 million employees are covered by private retirement plans. This fact alone demonstrates the need to encourage greater private saving for retirement.

Under present law, both the contributions which an *employer* makes to a qualified private retirement plan on behalf of his employees and the investment earnings on those contributions are generally not subject to taxes until they are paid to the employee or to his beneficiaries. The tax liability on investment earnings is also deferred when an *employee* contributes to a group plan, though in this case the contribution itself is taxable. But when an employee saves independently for his own retirement, both his contribution and the investment earnings on such savings are currently subject to taxes.

This inequity discourages individual self-reliance and slows the growth of private retirement savings. It places an unfair burden on those employees (especially older workers) who want to establish a pension plan or augment an employer-financed plan. To provide such persons with the same opportunities now available to others, I therefore ask the Congress to make contributions to retirement savings programs by individuals deductible up to the level of $1500 per year or 20% of income, whichever is less. Individuals would retain the power to control the investment of these funds, channeling them into bank accounts, mutual funds, annuity or insurance programs, government bonds, or into other investments as they desire. Taxes would also be deferred on the earnings from these investments.

This provision would be especially helpful to older workers who are most interested in retirement. The limitation I propose would direct benefits primarily to employees with low and moderate incomes, while preserving an incentive to establish employer-financed plans. The limit is nevertheless sufficiently high to permit older employees to finance a substantial retirement income. For example, a person whose plan begins at age 40, with contributions of $1,500 a year, could still retire at age 65 with an annual pension of $7,500, in addition to social security benefits.

This proposed deduction would be available to those already covered by employer-financed plans, but in this case the upper limit of $1,500 would be reduced to reflect pension plan contributions made by the employer. An appropriate adjustment would also be made in the case of individuals who do not contribute to the Social Security System or the Railroad Retirement System.

2. *Self-employed persons who invest in pension plans for themselves and their employees should be given a more generous tax deduction than they now receive.*

Under present law, self-employed persons may establish pension plans covering themselves and their employees. However, deductible contributions are limited annually to $2,500 or 10 percent of earned income, whichever is less. There are no such limits to contributions made by corporations on behalf of their employees.

This distinction in treatment is not based on any difference in reality, since self-employed persons and corporate employees often engage in substantially the same economic activities. One result of this distinction has been to create an artificial incentive for the self-employed to incorporate; another result has been to deny benefits to the employees of those self-employed persons who do not wish to incorporate which are comparable to those of corporate employees.

To achieve greater equity, I propose that the annual limit for deductible contributions by the self-employed be raised to $7,500 or 15 percent of income, whichever is less. This provision would encourage and enable the self-employed to provide more adequate benefits for themselves and for their workers.

3. *A minimum standard should be established in law for the vesting of pensions—i.e., for preserving pension rights of employees even though they leave their jobs before retirement.*

A basic problem in our present pension system is the situation of the worker who loses his pension when he is discharged, laid off, resigns or moves to another job. A person who is discharged just before retirement, for example, sometimes finds that the retirement income on which he has been relying—and which has been accumulating for many years—simply is no longer due him.

Preservation of the pension rights of employees who leave their jobs—vesting—is essential to a growing and healthy private pension system. A pension is fully vested when an employee is entitled to receive all benefits accumulated up to a certain date regardless of what happens in the period between that date and his retirement. Despite encouraging increases in the degree of vesting, the pensions of more than two-thirds of all current participants in private pension plans are not now vested. Even among older employees, whose need for vesting is most acute, many pensions are not now vested. Forty percent of participants age 45 or older, 34 percent of participants age 50 or older, and 26 percent of participants age 55 or older do not have vested pension rights.

This problem can be corrected by requiring that pensions be fully vested at an appropriate specified point in a worker's career. But how should that point be determined? If it were set at too early a point, so that too many younger workers were vested, it could create a considerable burden for employers and reduce the level of benefits for retiring workers. On the other hand, if too long a wait were allowed before vesting begins, then many older workers would receive little if any assistance. Both of these pitfalls can be avoided, however, through a carefully drawn formula which provides a shorter waiting period before vesting begins for older workers.

The formula that I propose to the Congress is based upon what I shall call the "Rule of 50." Under this standard, every pension would be considered half vested when an employee's age plus the number of years he has participated in the pension plan equals 50. The vesting process would begin with this jump to half-vested status. After this point has been reached, an additional 10 percent of the pension would be vested every year—so that the pension would be fully vested 5 years later.

Under this standard, which must apply to workers who are 30 years of age or older, anyone joining a plan when he is 30 years old would find that his pension would begin to vest at age 40, when his years of participation—10—plus his age—40—would equal 50. The pension of an employee joining at age 40 would begin to vest at age 45, and that of an employee joining at age 50 would begin to vest immediately. And in each case, the degree of vesting would increase from 50 percent to 100 percent over the subsequent 5-year period.

This plan gives older workers the advantage of more rapid vesting, a fact which could limit somewhat new employment opportunities for older workers. To help alleviate this danger, I recommend that a 3-year waiting period be allowed before a new employee must be permitted to join a pension plan, and also that employees hired within 5 years of retirement need not fall under this vesting rule. These safeguards would insure that older workers are not disadvantaged by this program.

This "Rule of 50" would raise the share of participants in private pension plans with vested pensions from 31 percent to 46 percent. Even more importantly, among participants age 45 and older the percentage with vested pensions would rise from 60 percent to 92 percent. Overall, the number of employees with vested rights would increase by 3.6 million, of whom 3 million would be age 45 and older.

To avoid excessive cost increases in pension plans which might lead to reduction of benefits, this new law would apply only to benefits earned after the bill becomes effective. The average cost increase for plans with no vesting provision now would be about 1.8 cents per hour for each covered employee.

4. *The Employee Benefits Protection Act which I proposed to the Congress in March of 1970 should promptly be enacted into law.*

This legislation was designed to protect American workers against abuses by those who administer pension funds. As I pointed out when I first made this proposal, "the control of these funds is shared by employers, unions, banks, insurance companies, and many others." Most of these funds are honestly and effectively managed. But on occasion, some are not. By requiring administrators to manage such funds exclusively in the interest of the employee beneficiaries, the proposed law would provide a Federal remedy against carelessness, conflict of interest, and a range of corrupt practices.

The proposed law would also broaden reporting and disclosure requirements and strengthen investigatory and enforcement powers. There would be no interference, however, with State laws which now regulate the insurance, banking and securities fields.

It was 21 months ago that I asked the Congress "to give urgent priority to the Employee Benefits Protection Act." I described it then as an action which "further expands my program to protect the

American worker as he works, when he is out of work, and after his working career is over." I now renew my request for action in this field—and am resubmitting this legislation in slightly revised form so that it will be even more effective. I urge that the Congress act promptly. There is no excuse for further procrastination.

5. *I have directed the Departments of Labor and the Treasury to undertake a one-year study to determine the extent of benefit losses under pension plans which are terminated.*

When a pension plan is terminated, an employee participating in it can lose all or a part of the benefits which he has long been relying on, even if his plan is fully vested. The extent to which terminations occur, the number of workers who are affected, and the degree to which they are harmed are questions about which we now have insufficient information. This information is needed in order to determine what Federal policy should be on questions such as funding, the nature of the employer's liability, and termination insurance.

Even the best data now available in this field is itself incomplete and questionable. It was gathered for the period from 1955 to 1965 and it indicates that less than one-tenth of one percent of all workers then covered by pension plans were affected by terminations in any given year. It should also be noted that some workers who are affected by terminations may not actually lose their benefits. The wrong solution to the terminations problem could do more harm than good by raising unduly the cost of pension plans for the many workers who are not adversely affected by terminations.

Nevertheless, even one worker whose retirement security is destroyed by the termination of a plan is one too many. It is important, therefore, that the nature and scope of this problem be carefully and thoroughly investigated. I have directed the Departments of Labor and the Treasury to complete their study within one year.

* * * * *

The proposals which I offer today would enhance substantially the retirement security of America's work force. These who are not members of group pension plans and those who have only limited coverage would be encouraged to obtain individual coverage on their own. The self-employed would have an incentive to arrange more adequate coverage for themselves and their employees. All participants would have greater assurance that they will actually receive the benefits which are coming to them. And they could also be far more certain that their pension funds were being administered under strict fiduciary standards.

There is sometimes a tendency for Government to neglect or take for granted the "little man" in this country, the average citizen who lives a quiet, responsible life and who constitutes the backbone of our strength as a nation. "He can take care of himself," we say, and there is a great deal of truth in that statement. The self-reliance of the average American is an extremely important national asset.

The fact that a man is self-reliant, however, does not mean that Government should ignore him. To the contrary, Government should do its part to cultivate individual responsibility, to provide incentives and rewards to those who "take care of themselves." Only in this way can we be sure that the self-reliant way of life will be a continuing and growing part of the American experience.

My pension reform program would help do this. It builds on traditional strengths which have always been at the root of our national greatness.

The private pension system has contributed much to the economic security of American workers. We can be proud of its growth and its accomplishments. The proposals I offer will strengthen and stimulate its further development.

I hope this program will receive the prompt and favorable consideration of the Congress. For it can do a great deal to protect the rights of the average American during his working years and to enhance the quality of his life when he has retired.

RICHARD NIXON.

THE WHITE HOUSE, *December 8, 1971.*

QUORUM CALL

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistance legislative clerk proceeded to call the roll.

Mr. SCOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CLOTURE MOTION

Mr. SCOTT. Mr. President, I send to the desk a cloture motion, presently signed by 26 Senators. I ask unanimous consent, first, that the name of the Senator from Ohio (Mr. TAFT) may be added during the evening.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCOTT. Second, I ask unanimous consent that the time shall begin to run on this matter at noon on Friday next, notwithstanding rule XXII.

The PRESIDING OFFICER. Is there objection?

Mr. BAYH. Mr. President, reserving the right to object, the Senator from Indiana would like to have the Parliamentarian or somebody else in this body—perhaps the Senator who has made the motion—explain the difference between the way the time would presently run and the way it would run under the request of the Senator from Pennsylvania.

Mr. SCOTT. I am glad to do that. It is intended, I understand, in view of the earlier statements made by the distinguished majority leader, that the Senate convene each morning at 9 o'clock. Under the rule, we have to proceed to vote, and that, in turn, is preceded by a quorum call 1 hour after the convening of that session of the Senate.

I have no objection to changing this to ask that the time begin to run at 11 o'clock rather than noon. That would be a further convenience to certain Senators. Otherwise, we would have to vote at 10 o'clock. It is not all that important to me. I am just trying to work out a convenient time.

Mr. BAYH. I understand. I do not object.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. SCOTT. I yield.

Mr. PASTORE. Does this mean that the vote will occur on Friday?

Mr. SCOTT. On Friday. Since I have been told that some Senators can more readily make the vote at noon, I ask unanimous consent that the time on Friday on the cloture motion begin to run at 11 a.m., notwithstanding rule XXII.

Mr. BAYH. Mr. President, I object for the time being.

I say to the Senator from Pennsylvania that I feel that inasmuch as he has had all day to canvass his side, and has some idea about what is convenient to them, at least I have a similar obligation to check the schedules of some Senators on this side who might take a contrary position on this issue, and I certainly will be glad to try to accommodate the Senator from Pennsylvania.

Mr. SCOTT. Then, I withdraw the request, and we will have to vote, as I understand it, automatically at 10 o'clock on Friday morning.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. SCOTT. I yield.

Mr. MANSFIELD. Ordinarily, the Senate would come in at noon, and ordinarily the vote, as the Senator knows, would occur at 1 o'clock—1 hour after the Senate convenes. We already have an agreement for the Senator from New Jersey to speak for 15 minutes. After the joint leaders have been recognized, we would like to conduct some morning business and continue the debate up to the time, and it might allow both sides a little more leeway in that respect.

So if the Senator would reconsider, I would appreciate it. If not, we would have to do it at 10 o'clock.

Mr. BAYH. I misunderstood. I thought the thrust of the previous unanimous-consent request was that the time would start running at 12 o'clock, and thus the vote would be at 1 o'clock.

Mr. SCOTT. That is right. Then I revised that request, at the request of certain Senators who were hoping that we could vote a little earlier on Friday, and suggested that the time begin at 11 o'clock and that we vote at noon. I cannot see how that is any great injustice to the Senator from Indiana, and it does act as a slight convenience to certain other Senators, some of whom may be prepared to support his position. But I would be delighted to have him block this, if he wishes, because then he will assume the responsibility, and I will tell the Senators.

Mr. BAYH. I must say that the Senator from Pennsylvania knows the Senator from Indiana well enough that that is a rather feeble threat. I only feel a responsibility to check with some of our colleagues over here. I want to accommodate the leader.

Is there any way we can make this decision tomorrow? I am not trying to delay this. Suppose we have a Senator who will be coming back from the west coast——

The PRESIDING OFFICER. If the Senator will withhold, the rule requires that the motion when filed be stated immediately. The motion for cloture having been filed, the clerk will state the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the confirmation of the nomination of William Rehnquist, to be an Associate Justice of the Supreme Court of the United States:

1. Hugh Scott
2. Paul Fannin
3. Clifford Hansen
4. Bill Brock
5. William Saxbe
6. Marlow Cook
7. Howard Baker
8. James Pearson
9. Roman Hruska
10. Glenn Beall
11. Robert Dole
12. Barry Goldwater
13. Henry Bellmon
14. Carl Curtis
15. Ted Stevens
16. Norris Cotton
17. Mark Hatfield
18. Robert Griffin
19. James Eastland
20. Gordon Allott
21. Ernest Hollings
22. John Tower
23. James Buckley
24. Edward J. Gurney
25. Len B. Jordan
26. Lowell Weicker

Mr. TAFT subsequently said: Mr. President, I ask unanimous consent that the permanent RECORD be corrected to show that the Senator from Ohio (Mr. TAFT) was one of the original signers of the cloture motion on the confirmation of the nomination of William Rehnquist to be an Associate Justice of the Supreme Court of the United States.

The PRESIDING OFFICER. Without objection, the correction will be made.

Mr. MANSFIELD. Mr. President, would the distinguished minority leader agree to withholding the time until tomorrow morning, at which time I am sure we can agree on a time certain?

Mr. SCOTT. I would be glad to withhold the request as to time. I do have some problems with 10 o'clock. I do not have problems with 12 o'clock, really, if the Senator wants to agree on that. I have no objection. We will see. We can work it out tomorrow. I will be glad to withhold that part of the request.

Mr. MANSFIELD. We will do that.

Mr. SCOTT. Without in any way interfering with the right to have a vote sometime on Friday.

Mr. MANSFIELD. Absolutely; because if nothing is done, the vote will come at 10 o'clock Friday morning, under the present situation. But we will try to work out something that will be satisfactory to both sides and I think we can do that.

Mr. SCOTT. I think so.

Mr. BAYH. Mr. President, I reiterate that I am willing to cooperate in every way I can. We will have a much better understanding tomorrow as to where everyone will be, and they will be on notice. If they have not advised us, then it is their responsibility.

Mr. SCOTT. That is perfectly all right with me.

REPAIR OF CERTAIN MEDICAL CARE FACILITIES

Mr. MANSFIELD. Mr. President, as in legislative session, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 1237.

The PRESIDING OFFICER (Mr. CHILES) laid before the Senate the amendment of the House of Representatives to the bill (S. 1237) to provide Federal financial assistance for the reconstruction or repair of private nonprofit medical care facilities which are damaged or destroyed by a major disaster, which was, on page 2, line 24, strike out "625" and insert "645".

Mr. MANSFIELD. Mr. President, I move that the Senate concur in the amendment of the House.

The motion was agreed to.

QUORUM CALL

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAYH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

NOMINATION OF WILLIAM H. REHNQUIST

The Senate continued with the consideration of the nomination of William H. Rehnquist to be Associate Justice of the Supreme Court of the United States.

Mr. BAYH. Mr. President, I have not had the good fortune to be a Member of this body as long as many other of my colleagues, but I have had the opportunity both while here and prior to my arriving to assume the honor of representing my State to study the Senate and the institutions which make it the body that it is.

I remember well, when I was in college, hearing about filibusters in the Senate and hearing for the first time that funny word "cloture." At that time, of course, I did not know its meaning.

Since coming to the Senate, however, I have learned the meaning of that term on more than one occasion. I do not recall an instance since I came to the Senate, nor do I recall reading of past instances where a cloture motion, calling for the mandatory termination of debate, has been utilized under the present circumstances.

It is impossible to see how what has gone on here today could be described as a filibuster. In fact, it was today, for the first time, that those who are supporting the nomination of Mr. Rehnquist dared to rise to defend some of the allegations the opposition has made. To suggest that a decision as important as this, placing on the Supreme Court a controversial nominee who could serve there for 25 or 30 years should be made with no more debate than we have had here so far, when the normal increments of a filibuster are totally lacking, is I think setting a sorry precedent for this body.

I think it is setting a precedent that some Members of this body will live to regret.

As one of my colleagues said to me a moment ago, "Why not? We have the votes."

Mr. President, if there is ever a better example of the tyranny of the majority, of the tyranny of numbers, of the lack of the respect for a minority, the very ingredients of which caused some of us to be concerned about this nominee, it is the fact that the Senate is about to try to impose cloture on the shakiest grounds that it has been my opportunity to observe.

QUORUM CALL

Mr. BAYH. Mr. President, I respectfully suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ENROLLED BILLS AND JOINT RESOLUTION PRESENTED

The Secretary of the Senate reported that today, December 8, 1971, he presented to the President of the United States the following enrolled bills and joint resolution:

S. 952. An act to declare that certain public lands are held in trust by the United States for the Summit Lake Paiute Tribe, and for other purposes;

S. 2007. An act to provide for the continuation of programs authorized under the Economic Opportunity Act of 1964, and for other purposes; and

S.J. Res. 149. A joint resolution to authorize and request the President to proclaim the year 1972 as "International Book Year."

AUTHORIZATION FOR ALL COMMITTEES TO FILE REPORTS UNTIL MIDNIGHT TONIGHT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may have until midnight tonight to file reports.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADJOURNMENT TO 9 A.M.

Mr. MANSFIELD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment, as in legislative session, until 9 a.m. tomorrow.

The motion was agreed to; and (at 5 o'clock and 18 minutes p.m.) the Senate adjourned until tomorrow, Thursday, December 9, 1971, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate December 8, 1971:

U.S. DISTRICT COURTS

William Terrell Hodges, of Florida, to be a U.S. district judge for the Middle District of Florida, vice Joseph P. Lieb, deceased.

DIPLOMATIC AND FOREIGN SERVICE

Robert Strausz-Hupé, of Pennsylvania, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Belgium.

NATIONAL LABOR RELATIONS BOARD

John A. Penello, of Maryland, to be a member of the National Labor Relations Board for the term of 5 years expiring August 27, 1976, vice Gerald A. Brown, term expired.

U.S. ARMY

The following-named person for reappointment in the active list of the Regular Army of the United States with grade as indicated, from the temporary disability retired list, under the provisions of title 10, United States Code, sections 1211 and 3447:

TO COLONEL, REGULAR ARMY, AND BRIGADIER GENERAL, ARMY OF THE UNITED STATES

Tigertt, William D., [redacted].

IN THE NAVY

The following-named lieutenant commanders of the line and staff corps of the Navy for temporary promotion to the grade of commander pursuant to title 10, United States Code, section 5787, while serving in, or ordered to, billets for which the grade of commander is authorized and for unrestricted appointment to the grade of commander when eligible pursuant to law and regulation subject to qualification therefor as provided by law:

LINE

Ackart, Leon E.
Alexander, Edward E., Jr.
Baldwin, Edwin M.
Calkins, Delos S., Jr.
Chadick, Wayne L.
Christian, Richard A.
Comer, Robert F.
Cox, David R.
Cullen, Charles W.
Disney, Donald G.
Doe, Ralph F.
Felderman, John L.
Flynn, Gerrish C.
Freakes, William
Harbrecht, Raymond J.
Heck, Alger R.
Kihune, Robert K. U.
Lamoureux, Robert J.
Lewis, Marwood D.
Major, James A.
O'Neill, Cornelius T.
Owens, Ramon R.
Pizinger, Donald D.
Rauch, Leo A.
Richardson, Daniel C.
Salmon, Walter W.
Susag, Gary R.

SUPPLY CORPS

Cone, Paul J.

CIVIL ENGINEER CORPS

Sayner, William V., Jr.

IN THE MARINE CORPS

The following-named officers of the Marine Corps for permanent appointment to the grade of chief warrant officer (W–4):

Robert M. Black.
Talmadge Clark.
Robert L. Clay.
Kenneth L. Davis.
Edward J. Duerr.
Roy K. Harris.
Philip N. Healey, Jr.
William J. Hill.
Samuel J. Jones.
Thomas E. Jordan.
Stephen M. Myorski.
Henry E. Noonkester.
Lawrence Parretti
Richard T. Powell, Jr.
Thomas F. Swearengen.
James O. Watson.

The following-named officers of the Marine Corps for permanent appointment to the grade of chief warrant officer (W–3):

James M. Barnes.
Timothy C. Bell.
William A. Biggers.
Delmar G. Booze.
Norman D. Braden.
Shella R. Bray, Jr.
Lionel H. Bridges.
Edwin J. Brown.
William L. Buck III.
Kenneth F. Burris.
Donald R. Cameron.
James J. Castonguay.
Wayland D. Chavers.
William J. Clancy, Jr.
Jessie R. Clark.
Jack N. Clow.
Donald E. Collier.
Roger J. Combs.
Allen D. Crosier.
Ralph W. Deaver.
Charles F. Denison, Jr.
Roland A. Desjarlais.
James H. Divis.
Peter Dobon, Jr.
Paul J. Donley.
John Doyle.
William E. Duke.
Roger A. Essi.
Thomas E. Evans.
Gerald D. Fabricius.
James P. Fleming.
Harry A. Florence, Jr.
Bill R. Freeman
Bernard C. Glinka
Donald W. Gregory
Glenn R. Hammond
Robert H. Hanevik
Herbert G. Hase
Charles H. Henderson, Jr.
Guy M. Howard
Jack R. Hoy
Henderson B. Jones
William Kasten
Robert E. Katz
Ronald R. Kendall
James J. Knocke
Donald C. Lanson
William P. Lepore, Jr.
Willard R. Lewis
Robert L. Lord
Carl K. Lunn
Enrique L. Machado
Harry B. Malnicof
Edmund J. Mazzei
Paul O. McAvoy, Jr.
Roger A. McIntosh
John L. Meyers
Jacques L. Miller
Dorne A. Millis
Robert J. Moony
Richard C. Moran
Charles L. Morrow
William E. Muirhead
Richard A. Nailor
Monte V. Nelson
Donald D. Nimmow
Billy W. Owens
Porter G. Pallett
Charles D. Parker
Fred R. Parry
Leonard J. Patchin
Dean C. Padlar
George A. Pelletier
Billy E. Perry
Robert G. Pontillas
Richard L. Porter
Joseph C. Raymond
Donald D. Redmond
Carroll J. Riley
Robert D. Rogers
Robert J. Romano
Roger L. Runkle
Arthur I. Swanson, Jr.
Gary R. Thompson
Charles G. True
Morton Vaserberg
Alan E. Wickens
Jack A. Wilder
Sydney M. Wire
William C. Wright
Robert H. Yoder
David A. Zeferjohn
James H. Zimmerman

The following-named officers of the Marine Corps for permanent appointment to the grade of chief warrant officer (W–2):

Ronald Achten.
Carmen Adams.
David S. Aldrich.
Robert E. Allinger, Jr.
James L. Allingham.
Constantine G. Ambrose.
Curtis E. Anderson.
Joseph N. Anderson.
Russell P. Armstrong.
James B. Ash.
Allan K. Austin.
Glenn R. Avey.
Welles D. Bacon.
Wayne D. Bahr.
Claude R. Baldwin, Jr.
Ronald L. Bender.
Charles S. Bennett.
Illuminado Berrios, Jr
Neal S. Bezoenik.
Robert L. Blake.
Victor H. Bode.
Gerald J. Bolick.
Robert W. Bostwick.
Henry C. Boucher, Jr.
Lescoe R. Bourne.
Frank E. Box.
Donald B. Braun.
Francis W. Brewer, Jr.
Bruce Brightwell
Victor E. Browning, Jr.
Murray W. Bryant.
Bernard C. Burke.
Thomas R. Burnham.
Harold D. Byerly.
William G. Byrne, Jr.
Billy R. Campbell.
Donald L. Caroway.
Francis J. Carr.
Michael J. Carroll
Ray A. Casterline
John D. Cauble, Jr.
Robert J. Caulfield
Barbara J. Chovanec
Bartley W. Christian
Hershel G. Chronister
Owen D. Clark
Michael J. Clarke
George C. Cleveland
Rayborn S. Clifton, Jr.
Jose T. Coccovaldez
James E. Collette
Garnet E. Cope
Robert R. Corcoran
Jose N. Corderotorres, Jr.
William B. Corley, Jr.
Lazaro Corpus, Jr.
James A. Cothran
Harry S. Cotton
William H. Cox
Hilton Craig, Jr.
Oscar E. Creech, Jr.
Douglas J. Danley
Kenneth V. Davis
Louis D. Dearman
Jesse A. Dobson
Howard G. Dodd
Charles J. Dotson
Steven J. Draper
Samuel E. Driggers
Sidney B. Edwards
Robert D. Embesi
Robert R. Epps
Riley S. Ethington
Jack H. Evans
John E. Fales
Michael D. Fazio.
Bobby L. Ferguson.
Harold D. Ferguson.
Charles L. Ferko.
Roy A. Ferrell.
Nelson R. Fincher.
Joe M. Floyd.
Ronald R. Fraizer.
George M. Francis.
Donald L. Galvin.
William C. George.
Craig D. Gibbons.
Leon E. Gingras, Jr.
Robert L. Goller.
Ellwood D. Gordon.
Edward B. Guckert.
Pedro Gutierrez.
Arnold S. Hageman.
Gerald E. Hanscom.
Donald L. Hansom.
John A. Harris.
Frank R. Hart.
James E. Haskins.
Joseph B. Hatfield.
John D. Henry.
Harold L. Henry.
Donald L. Herpy.
Herbert O. Hicks, Jr.
Francis A. Higginson.
William A. Higgs, Jr.
Paul R. Hoffman.
Julius B. Hopkins.
Bobby E. Humeston.
Edward W. Humphrey.
Holland C. Hutchinson.
Barton E. Immings.
Lowell B. Jackson.
Arthur L. Johnson.
Ronald L. Jones.
Gene C. Kamplain.
Harold A. Keith.
Joseph E. Kelly.
Michael B. Kennedy.
Carl E. King.
Thomas F. King, Jr.
Ray E. Kittilstved.
Joseph Kochuba.
Leroy A. Kramvik.
George D. Krebs.
Raymond L. Kunkle.
William A. Kuykendall.
Aurel E. Lafreniere.
Donald A. Lane.
Robert L. Laudun.
Thomas L. Laws.
Juan M. Lem.
Donald C. Lewins.
Babre Lewis.
Donald R. Ladnier.
Donald C. Long.
Roger L. Lorenz.
Gary L. Losey.
Patrick J. Lynch.
Jose Magallan.
Paul L. Malone.
John R. Marcucci
William T. Maroney III.
Harold T. Martin.
Jerry L. Massey.
Aove E. Mattox.
Roger L. Mauldin.
Bryan M. McGill.
James F. McLean.
James R. McRae, Jr.
William D. Meadors III.
Daniel E. Miller.
Robert M. Miller.
William F. Milton, Jr.
Eugene E. Montgomery
Earl F. Morris, Jr.
Thomas W. Morris.
James Muschette, Jr.
Louis Myers.
Ronald C. Newman.
William G. Nickels.
John A. Nowicki.
Sam G. Ochoco.
Jerry W. Odell.
Joseph N. Parisi.
Roger B. Peterson.
Ronald J. Peterson.
Jesse P. Pullin.
Froncis B. Quallen.
Paul F. Quinn.
Virgil G. Rhoads.
Gordon A. Rice.
Carl S. Richardson.
Joseph F. Rizzo.
Richard J. Roberts.
Dorsey Robinson, Jr.
Charles R. Roden.
Ramon Roman, Jr.
Robert A. Roquemore
Paul A. Rossano.
James F. Ryan.
Stephan C Salamack.
Dale F. Saunders.
Peter B. Sawin.
Eileen R. Scanlon.
John L. Schell.
Richard J. Schmidt.
William F. Schrider.
Walter R. Schuette.
Thomas R. Sellers.
Jimmie R. Shafer.
Michael L. Shanklin.
David F. Shewmake.
William F. Shreve, Jr.
Edwin P. Simpson III.
Theron Simpson, Jr.
Robert M. Skidmore.
Lloyd L. Skinner.
Thomas L. Slaughter.
Francis C. Slavin, Jr.
Robert R. Sloan.
Charles L. Smith.
Alan J. Southard.
Herbert B. Stafford.
Patrick L. Stevens.
John F. Stewart.
Kimble H. Stoltz.
Robert L. Strawser.
Richard C. Stricklin.
Robert R. Stutler.
Bobby G. Taylor.
Robert E. Taylor.
Gary G. Thomas.
James M. Thomas.
Frank C. Towers.
Terry N. Tracy.
Louis G. Troutman.
James A. Turner.
Larry F. Vance.
Robert L. Vincent.
Kenneth E. Weadbrock.
Jesse L. Webb.
Ronald E. Webb.
Wayne D. Wildgrube.
Clarence F. Williams.
Gene R. Williams, Sr.
George E. Williams.
Leroy Williams.
Gaines L. Willis.
Joseph C. Wilson.
Bruce M. Windsor, Jr.
Stanley G. Woinoski.
James E. Woodruff, Jr.
Barbara A. Wynnyk.
James J. Yantorn.
Richard L. Yoerk.
William C. Young.
Kenneth P. Zrubek.

CONFIRMATIONS

Executive nominations confirmed by the Senate December 8, 1971:

DIPLOMATIC AND FOREIGN SERVICE

Robert Foster Corrigan, of Ohio, a Foreign Service officer of class 1, to be Ambassador

Extraordinary and Plenipotentiary of the United States of America to the Republic of Rwanda.

William A. Stoltzfus, Jr., of New Jersey, a Foreign Service officer of class 2, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the State of Kuwait, and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the State of Bahrain and to the State of Qatar.

INTERNATIONAL CIVIL AVIATION ORGANIZATION

Mrs. Betty Crites Dillon, of Indiana, the representative of the United States of America on the Council of the International Civil Aviation Organization, to serve on the Council with the rank of Minister.

HOUSE OF REPRESENTATIVES—*Wednesday, December 8, 1971*

The House met at 11 o'clock a.m.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

Let not your heart be troubled: believe in God.—John 12: 1.

Almighty God, our Heavenly Father, giver of all spiritual grace and the author of everlasting life, who art waiting to receive each simple and sincere prayer, we turn to Thee in our need asking for light in our darkness, strength for our weakness, and comfort in our sorrow.

Especially do we pray for our beloved John McCormack who mourns the passing of his wife. We call to remembrance their devotion to each other and their loyalty to our land of liberty. Comfort him with Thy presence and give him courage and faith for the years that lie ahead.

Help us to truly live all our lives and ere we depart this mortal scene may we ever work for truth and righteousness and good will. Therefore to Thee we come in this our morning prayer. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the resolution (S. Con. Res. 6) entitled "Concurrent resolution to express the sense of Congress relative to certain activities of Public Health Service hospitals and outpatient clinics."

The message also announced that the Senate disagrees to the amendment of the House to the joint resolution (S.J. Res. 176) entitled "Joint resolution to extend the authority of the Secretary of Housing and Urban Development with respect to interest rates on insured mortgages, to extend and modify certain provisions of the National Flood Insurance Act of 1968, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. Sparkman, Mr. Proxmire, Mr. Williams, Mr. McIntyre, Mr. Tower, Mr. Bennett, and Mr. Brooke to be the conferees on the part of the Senate.

APPOINTMENT OF CONFEREES ON SENATE JOINT RESOLUTION 176, AMENDING FLOOD INSURANCE ACT OF 1968

Mr. PATMAN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the joint resolution (S.J. Res. 176), to extend the authority of the Secretary of Housing and Urban Development with respect to interest rates on insured mortgages, to extend and modify certain provisions of the National Flood Insurance Act of 1968, and for other purposes, with a House amendment thereto, insist on the House amendment, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Texas? The Chair hears none, and appoints the following conferees: Messrs. Patman and Barrett, Mrs. Sullivan, Messrs. Reuss, St Germain, Annunzio, and Widnall, Mrs. Dwyer, Messrs. J. William Stanton, and Brown of Michigan.

TRIBUTE TO THE LATE HARRIET McCORMACK

(Mr. BARRETT asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. BARRETT. Mr. Speaker, a few days ago, our beloved former Speaker, the Honorable John W. McCormack, suffered a great personal loss. His dear, devoted wife, Harriet, passed away.

We know of the great love and devotion that John and Harriet shared. A love so beautiful that only the poets might describe.

We know of the long vigil at her bedside during her last illness and of the grief he now suffers.

I recall his concern and counsel when my wife passed away and I want him to know of my deepest sympathy at this time.

Hopefully he can take some measure of comfort from the following verse by an unknown author:

> Like a ship that left its moorings
> And sails bravely out to sea,
> So someone dear has sailed away
> In calm serenity;
>
> But there's promise of a greater joy
> Than earth could have in store;
> For God has planned a richer life
> Beyond the Unseen Shore.

HARD EVIDENCE OF SUCCESS OF PRESIDENT'S NEW ECONOMIC POLICY

(Mr. WIDNALL asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. WIDNALL. Mr. Speaker, hard evidence of the success of the President's new economic policy is coming in. From October to November the wholesale price index of all commodities rose only one-tenth of 1 percent on a seasonally adjusted basis. Almost all of the increase was attributable to an increase in prices for farm products, processed foods and feeds which are not price controlled. In the 3-month period from September through November, which corresponds closely to phase I, the WPI actually declined at a seasonally adjusted annual rate of 0.8 percent.

November was also a good month for the auto industry. For the third consecutive month, new car sales set a record. The auto industry sold almost a million cars, compared to slightly more than a half million units sold during the month of November 1970, when GM was just resuming operations after a lengthy strike.

Because of recent favorable news concerning such important economic indicators as auto and housing activity, increases in consumer installment credit and retail sales, and business projections of proposed expenditures for new plant and equipment, a number of economists of sharply divergent philosophical views have expressed similar optimism about the economic outlook for 1972. For example, Walter W. Heller recently told the annual conference of the National Association of Manufacturers that he believed inflation would be reduced to approximately 3 percent by the end of 1972. He said:

> The shock therapy Nixon applied was just what the doctor ordered.

Before the same group Henry C. Wallich predicted an increase in GNP during 1972 of approximately $85 billion, which in his opinion "would still allow for meeting the President's disinflation target of less than 3 percent by the end of 1972 while attaining 5 percent real growth."

Mr. Speaker, these should be encouraging words for all of us.

CALL OF THE HOUSE

Mr. BOW. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. BOGGS. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 439]

Anderson, Ill.
Anderson, Tenn.
Andrews, Ala.
Annunzio
Ashley
Belcher
Blackburn
Blatnik
Broyhill, N.C.
Cabell
Casey, Tex.
Celler
Chisholm
Clark
Clay
Collins, Ill.
Curlin
Davis, Ga.
Derwinski
Diggs
Dowdy
Downing
Edwards, La.
Evins, Tenn.
Foley
Fountain
Gallagher
Goldwater
Gray
Green, Oreg.
Hagan
Hathaway
Hébert
Helstoski
Howard
Ichord
Jarman
Kluczynski
Landrum
Long, La.
McMillan
Macdonald, Mass.
Mann
Mathis, Ga.
Metcalfe
Mills, Ark.
Pepper
Pryor, Ark.
Rees
Roncalio
Rosenthal
Rostenkowski
Sandman
Scheuer
Springer
Staggers
Sullivan
Tiernan
Whitten
Wiggins
Wright

The SPEAKER. On this rollcall 370 Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

PERMISSION FOR COMMITTEE ON RULES TO FILE CERTAIN PRIVILEGED REPORTS

Mr. O'NEILL. Mr. Speaker, I ask unanimous consent that the Committee on Rules may have until midnight tonight to file certain privileged reports.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

CONFERENCE REPORT ON H.R. 9961, FEDERAL CREDIT UNION ACT AMENDMENTS

Mr. PATMAN submitted the following conference report and statement on the bill (H.R. 9961) to provide Federal credit unions with 2 additional years to meet the requirements for insurance, and for other purposes:

Conference Report (H. Rept. No. 92–715)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 9961) to provide Federal credit unions with two additional years to meet the requirements for insurance, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

Section 1. (a) Paragraph (2) of subsection (c) of section 201 of the Federal Credit Union Act (12 U.S.C. 1781(c)(2)) is amended by striking out "reject" and inserting in lieu thereof "disapprove".

(b) Subsection (d) of such section 201 (12 U.S.C. 1781(d)) is amended to read as follows:

"(d) In the case of any Federal credit union whose application for insurance is disapproved, if such Federal credit union has annually transferred such a percentage of its gross income to its reserves as is required under section 116(a) and notwithstanding any reserving requirements established under section 116(b) of this Act, the Administrator shall nonetheless issue to such Federal credit union a certificate of insurance which shall be valid for a period of two years. The Administrator shall suspend or revoke the charter of any Federal credit union which has failed, upon the expiration of such two-year period of insurance, to file an application for insurance which is approved by the Administrator in accordance with subsection (c). A Federal credit union which is insured under this subsection for a period of two years is an insured credit union under the provisions of this title for such period of two years. The Administrator shall, having regard to the purposes of this subsection, make every reasonable effort to prevent the closing of any Federal credit union which is insured for a period of two years under this subsection and is found to be in financial difficulties, if he determines that with the technical assistance and management training and counseling authorized to be provided under this subsection there is reasonable assurance that such difficulties can be sufficiently resolved within such two-year period so as to minimize the expenses of the Fund. The Administrator shall offer technical assistance, management training, and management counseling to all credit unions whose application for insurance has been disapproved so as to enable the maximum number of such credit unions to meet the standards for insurance required by this title. In furnishing such technical assistance, management training, and management counseling, the Administrator may utilize moneys in the National Credit Union Share Insurance Fund as provided under section 203(a) of this title. The Administrator shall also encourage to the maximum extent feasible, that such technical assistance, management training, and management counseling be made available through State stabilization funds, similar funds, or similar State credit union organizations. The Administrator shall also encourage State Credit Union Stabilization Funds or similar funds to reimburse the Credit Union Share Insurance Fund for any insurance payments made on behalf of accounts at insured credit unions whose applications for insurance have been disapproved."

And the Senate agree to the same.

Wright Patman,
William A. Barrett,
Leonor Sullivan,
Henry Reuss,
William S. Moorhead,
Fernand J. St Germain,
William B. Widnall,
Florence P. Dwyer,
Albert W. Johnson,
J. William Stanton,
Managers on the Part of the House.

John Sparkman,
William Proxmire,
Harrison Williams,
John Tower,
W. V. Roth, Jr.
Managers on the Part of the Senate.

Statement of House and Senate Conferees on H.R. 9961

H.R. 9961 as passed by the House of Representatives would extend for two additional years the time period which Federally chartered credit unions have to qualify for Federal share insurance. Some legislative action is necessary in order to prevent the premature liquidation of a large number of credit unions which have failed to meet the standards established for the Federal Share Insurance Program enacted into law last year by the Congress.

The Senate bill provided provisional insurance for a two year period for those credit unions failing to meet the insurance standards, but which met the reserve requirements established under Section 116(a) of the Federal Credit Union Act. Under the Senate bill, credit unions given provisional insurance would have their charters revoked or suspended at the end of the two year period if they still failed to meet the standards prescribed for share insurance. Any subsequent losses resulting from the liquidation of a credit union would be absorbed by the credit union share insurance fund rather than the individual credit union saver.

The House conferees accepted the Senate provisions with an amendment. The amendment is intended to make it clear that the Administrator of the National Credit Union Administration need not close a Federal credit union receiving the two year provisional insurance and found to be in financial difficulty if the Administrator determines there is reasonable assurance that these difficulties can be sufficiently resolved within the two year period so as to minimize the loss to the insurance fund. This language is intended to extend to the Administrator maximum flexibility in giving marginal credit unions a reasonable opportunity to establish themselves on a sound financial basis.

Some concern was expressed that under Section 207(a)(1) of the Federal Credit Union Act, the Administrator would be required to liquidate any insured Federal credit union found to be bankrupt or insolvent. However, the term "insolvent" is not defined in the Federal Credit Union Act and the conferees believe the Administrator has enough flexibility to avoid making a determination that a credit union is insolvent when there is a reasonable prospect that it can improve its financial condition, which may be enhanced through Federal share insurance.

Wright Patman,
William Barrett,
Leonor Sullivan,
Henry Reuss,
William S. Moorhead,
Fernand J. St Germain,
William B. Widnall,
Florence P. Dwyer,
Albert W. Johnson,
J. William Stanton,
Managers on the Part of the House.

John Sparkman,
William Proxmire,
Harrison Williams,
John Tower,
W. V. Roth, Jr.,
Managers on the Part of the Senate.

CUT FARM SUBSIDY PROGRAM

(Mr. ANDERSON of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ANDERSON of California. Mr. Speaker, the battle to halt inflation is everybody's fight—including the Federal Government.

Since 1969, the Federal Government has spent approximately $53 billion more than it has taken in in revenue.

The need to cut waste and eliminate extravagant programs is obvious.

The place to start is in the farm subsidy program.

In no area do we get less for our money than in the farm subsidy giveaway which benefits the huge agribusinessman at the expense of the taxpayer.

What is the answer?

For a start, we should place a limit of

no more than $20,000 that each farm could receive from the Federal Government.

The present limit of $55,000 per crop is unreasonably high, encourages conglomerates to take over the family farm, and has been so severely abused that it borders on criminal behavior.

In order to save the taxpayers as much as $200 million each year—not at the expense of the family farmer—and to bring some kind of sanity to this program, I urge a drastic reduction in the amount a farmer may receive from the Federal Government.

FOREIGN ASSISTANCE APPROPRIATIONS, 1972

Mr. PASSMAN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 12067) making appropriations for Foreign Assistance and related programs for the fiscal year ending June 30, 1972, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Louisiana.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 12067, with Mr. PRICE of Illinois in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the unanimous-consent agreement of yesterday, December 7, 1971, general debate will be limited to not to exceed 2 hours, to be equally divided and controlled by the gentleman from Louisiana (Mr. PASSMAN) and the gentleman from Kansas (Mr. SHRIVER).

The Chair recognizes the gentleman from Louisiana.

Mr. PASSMAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the foreign aid appropriation bill before us in my opinion is one that all Members can support. It is too high for some Members, and too low for others, but it is a well-balanced bill. We have made downward adjustments in many of the items, but I can assure you that there was less opposition during this markup than there has been to any bill we have ever reported from the subcommittee. Support was unanimous with the exception of one item by one Member in the subcommittee.

Mr. Chairman, many of us have worked untiringly for many years to streamline the foreign aid bill and to provide funds based upon need.

The bill before you is not a by-pass of the Committee on Foreign Affairs as such. We have discussed the bill with the very able Chairman of the Committee on Foreign Affairs, the distinguished gentleman from Pennsylvania (Mr. MORGAN) and the very able and distinguished Congressman from Wisconsin (Mr. ZABLOCKI) as well as Members on the minority side, including one of the foremost experts on foreign aid, the gentleman from New Jersey (Mr. FRELINGHUYSEN).

We informed the chairman of the Committee on Foreign Affairs of our plans concerning the date we would mark up the bill, what date it would go to the full committee, and what date it would be brought to the floor of the House. He supported the committee's actions and is supporting the bill before us, because we had to choose between bringing the bill to the floor waiving points of order without an authorization bill, or possibly having no foreign aid bill.

Mr. Chairman, the Foreign Operations Subcommittee of the Committee on Appropriations finished hearings in June. We waited 5 months for an authorization bill. The Committee on Foreign Affairs passed their bill in August, and they have worked unceasingly and untiringly to reach a conference agreement with the Foreign Relations Committee of the Senate, but to no avail.

Sine die adjournment, hopefully, is not too far away and Christmas is only a little over 2 weeks away, so we must complete our business. The very able chairman of the Committee on Foreign Affairs will tell you that there is no chance to break the deadlock between the House and the Senate conferees on the foreign aid authorization bill because of one amendment to the foreign aid bill which was proposed by a member of the other body. This amendment has been before both bodies several times in the past few months.

Mr. Chairman, when I arrived at my office this morning, I received a copy of a mimeographed letter signed by 18 of our colleagues. I read this letter very carefully, but I assure these Members that if they will accept facts as they are, and for what they are, in my candid opinion they can and will support this bill.

To repeat—if I may—it was to either move under the procedures we are presently following or our foreign policy and foreign assistance program, which has been in effect for a quarter of a century, may well go down the drain and create chaos.

Control foreign aid we must, but to destroy it overnight may conceivably cancel out whatever good it has accomplished during these 25 years of existence.

Mr. Chairman, there are many things in this bill that all Members would like to support. We have brought you what we consider a bill that provides the minimum amount of funds to meet our commitments, and some I do not approve of, but which are commitments that we must respect.

It is well known to my colleagues that I have never championed a cause that would dissipate American wealth. That is why the foreign operations subcommittee on appropriations has recommended that in every case possible, loans rather than grants be made available to assist our allies and that the loans be repayable in dollars. In the bill before you under the development loan fund, funds are proposed to partially finance the sale of every pound of surplus rice in America.

The contract previously agreed upon with foreign nations would encompass the sale of 800,000 tons of rice which not only would liquidate our entire surplus of medium grain rice but would also encompass 200,000 tons of the 1972 yield.

The Japanese are standing by to grab this sale if this bill fails.

I was informed by the AID Director at 10:30 this morning that he had a call from the Department of Agriculture stating that they were negotiating with five nations to purchase surplus corn to be financed partially out of the AID development loan fund and again these loans would be repaid in dollars—it will not be grants.

As most of you know, in this bill we have funds for Israel. We have indicated in the report that $300 million should be made available to Israel for military credit sales.

In addition to that, we have funds in the appropriation item entitled American schools and hospitals abroad to finance a school in Israel.

Mr. Chairman, if this bill is not passed, it means that the Export-Import Bank is out of business at midnight tonight because the bill which is before you provides a limitation on the Bank's program activity and also fixes the limitation for administrative expenses.

I shall now briefly go through the details of the bill giving you some indications of where the reductions have been made.

The bill before you reduces the budget estimates by $1,497,000,000. It is also below the amount appropriated last year by $966 million.

We have indeed brought you a streamlined bill, a bill that every Member on this floor can in good conscience support because it means the sale of surplus agricultural commodities in America by loans repaid with dollars. The Export-Import Bank can continue in operation in order to finance our commodities and the manufacturer can earn a profit and pay taxes into the U.S. Treasury.

Mr. Chairman, one of the important factors considered by the committee in making the recommendations contained in the bill before you is the critical financial situation currently facing the United States. The Federal debt presently exceeds $418 billion and the balance of payments deficit for 1970 exceeded $4.7 billion. Moreover, the balance of payments deficit in the first 6 months of 1971 exceeded some $9 billion. The Federal budget deficit for the fiscal year 1971 amounted to $23.2 billion.

Let us take into account, Mr. Chairman, that if we had some way of confiscating all the wealth in America, we still would not have sufficient funds to do all the things labeled as desirable. We must practice commonsense in this bill.

The committee also considered the tremendous investment the United States has in the various countries around the world in recommending the appropriations contained in this bill. During the past 25 years every President—Presidents Truman, Eisenhower, Kennedy, Johnson, and Nixon—and every Congress felt that the protection of a country's freedom justified supplying U.S. assistance to help maintain that freedom.

Let us have a look at some of these tremendous investments. First, in Korea we expended $34 billion out of our Treasury in that country. We sacrificed 33,000 of our precious youth in the Korean war; 105,000 men were wounded in action. Now, Mr. Chairman, Korea is enjoying a prosperous economy. They are able to support most of their economic needs, but they are not able to finance their military needs, and unless this country furnishes military equipment to Korea, that country will go down the drain.

Let us look at our investment in Vietnam, which is much larger. Actual cost out of our Treasury, $124.5 billion. Total deaths amount to 48,179. Wounded in action, 307,000.

We have tried to face our foreign policy without bringing politics into it. I think that has been the policy beginning with the administration of President Truman and continuing up to the present time. I remind you that 34 months ago there were 542,000 troops in Vietnam. As I speak to you this morning, just a few weeks before the end of this calendar year, it is estimated that the number of troops in Vietnam will have been reduced to 159,000. Our troops are being brought out at a faster pace than any of us ever dared to anticipate.

Mr. Chairman, in this bill we have money to support the civilian population of South Vietnam. We must furnish the support and assistance.

Otherwise it may be necessary for the President to stop or slow down the troop withdrawal and the entire situation in that country may change for the worse. We are in this conflict and we must work it out together.

If I may move on, Mr. Chairman, into some of the details of this bill, let us look at what we have been able to actually accomplish. Under worldwide technical assistance, an appropriation of $166,750,000 was provided last year. This year there is a budget estimate of $232,929,000. This committee is recommending $150 million or a reduction of $82,929,000 below the budget request.

In the Alliance for Progress, technical assistance title, they requested $129,745,000. The committee is recommending $75 million.

Let us now look, at the U.N. funding item. At the time we held our hearings, in June of this year, we discovered that under the United Nations development program, they had a policy of advanced funding of projects and then they changed this system to an annual basis. Because of this change, they created a surplus of $343 million, which is about the annual program level of this organization.

We are not retaliating for anything which recently happened in the U.N. We are trying to put all these agencies on a business basis. We found the U.N. development program had created a sufficient reserve whereby they could make loans and collect $3.5 million in interest. All we want to do is to put them on a business basis and keep these accounts under control.

Mr. Chairman, let us next look at the American schools and hospitals abroad item. Of course, this committee is sympathetic to good projects but we do not have the funds to fund everything that is labeled desirable. We must mark up the bill in keeping with what we consider the necessary amounts to carry on a sensible program. The original budget was for $10,175,000. This request was later amended to include several other projects. The House Foreign Affairs Committee recommended $30 million for this item. It went to the other body, and they allowed $15 million.

After we scrutinized these projects closely, we decided the information was not sufficient for us to earmark funds for all these programs. Therefore, we provided funds in the bill for established programs we felt were necessary. These projects amounted to $12 million. Then we gave the AID Agency a contingency fund of $5.2 million which can be used to finance projects that meet AID's criteria and are properly justified. What schools they will select I have no more idea than the other Members do.

They tell me that it would be ample to fund all of the schools that they can anticipate in the foreseeable future.

The next request was for refugee relief assistance for East Pakistan refugees. The original request was for $100 million. Subsequently they amended that request upward to $250 million. Since the budget planning for this item was tentative at the time of consideration, we recommended only $175 million.

Next is the Alliance for Progress, Development Loan Fund. Last year they received $287,500,000, and the budget request recorded for fiscal year 1972 was for $235 million. Your committee felt with a tight program in our country we should have a tight program abroad, so we are recommending only $150 million.

We move now to the development loans worldwide. Last year Congress appropriated $420 million. The budget request came down this year for $400 million. After many hours of hearings and great detail, your committee recommended $250 million for this item. We think it is adequate to finance certain loans which can be repaid in dollars. It must be cut down, so your committee had the courage to reduce it to $250 million.

With regard to military assistance, as I mentioned earlier, we do have certain solid commitments which we must live up to. Otherwise some of our investments made in the past will very definitely go by the board.

Last year we appropriated $690 million for the MAP program. This year the budget request was for $705 million. Your committee is recommending only $552 million for military assistance.

We never want to hide anything from the Members of this House so we put in the report all of the country information whether it was good or bad. You will find in this report programs listed for Latin America which were proposed by the executive branch to be funded in fiscal year 1972. We have reason to believe some of their projects will not be funded.

The lists shown in the report are the budget proposals and not the recommendations of this committee. We merely furnish what we consider to be the very minimum necessary to finance the necessary projects. Many of those programs listed will never receive funds because certainly you cannot finance $705 million worth of projects with $552 million.

Mr. Chairman, with regard to the Overseas Private Investments Corporation, known as OPIC, we were not too happy with what we found.

This is an organization created to insure investments and guarantee loans for overseas investments. The basic legislation also allowed them to make direct loans. I opposed it, but it was in the basic legislation.

It should be pointed out that the present potential claims possible as a result of the actions taken by the country of Chile alone amount to $270 million, while the total insurance reserve which can be applied to these claims is estimated to total a maximum amount of $152 million on June 30, 1972. In other words, all of the appropriated funds made available to this account and all of the insurance fees collected by OPIC and its predecessors would be wiped out. This one country alone could have claims exceeding the total 20-year reserves by $118 million.

We believe that this account should be tightened up. We are going to insist that they stop making loans, because there are several agencies already making loans. We are trying to be factual and place before this committee and the House of Representatives the facts as they are.

Mr. Chairman, with regard to the Inter-American Social Development Institute, it is a good organization like many other organizations, but the committee felt that other programs are already in being which could accomplish the same objectives. We should no longer endorse a program that would create another spigot of foreign assistance that could conceivably cost tens of millions of dollars a year. ISDI received $50 million by transfer from the AID agency. Your committee permitted an obligational limitation of only $10 million in fiscal year 1971. Of course, this stepped on the toes of some of the Members who sponsored this program. However, we think we were responsible in taking this action and feel that the report will indicate the fact that we were responsible. We allowed $10 million in obligations last year. However, they have made very few disbursements out of it; in fact, less than $1 million.

Therefore, this year your committee denied any additional obligational limitations for this program.

Now, Mr. Chairman, we come to the Peace Corps. This agency came into being as a result of the work of one of the greatest salesmen who has ever lived. I wish I had known this man a few years ago and could have had him in my business. He was a great operator and I admire him very much. I, of course, refer to Sargent Shriver. He created the Peace Corps. I do not know where he got the name for it, because it has nothing whatsoever to do with peace. However, he convinced the Members of Congress that this was a great organization and there was very little resistance to it. I have tried to keep this item under control. The record speaks for itself, Mr. Chairman. This is nothing more than a technical aid program similar in many respects to other bilateral technical aid programs.

So, we have funded the Peace Corps to a level greater than we had expected. Your committee had in mind the figure of $50 million, but one Member thought it should be raised to $60 million. Therefore, we have raised this figure for the Peace Corps to $60 million so that we could have peace and harmony on the part of everyone.

The reduction in the appropriation for the Peace Corps is small, on a percentage basis, as compared to the overall bill. Whereas, we cut the overall bill by about 35 percent, we only cut the Peace Corps by about 26 percent. We think this is adequate.

Now, Mr. Chairman, with reference to the Cuban refugee program, we are going to have to provide whatever money is necessary in order to meet our commitments to this program. This year the budget request was for $144 million as compared to an appropriation of $112,130,000 last year. Your committee took into account the fact that Castro stopped the Cuban air flights for certain periods of time, and he indicated he might stop them altogether. However, inasmuch as there is some uncertainty about the matter, we recommended $100 million, but we realize that at some subsequent date if they do not have sufficient funds, it may be necessary to consider additional appropriations in order to take care of this program and aid the States who are receiving these refugees.

Mr. Chairman, I am very much in sympathy with the Dade County school system in Florida. Without a doubt, HEW owes that school board in the neighborhood of $600,000. I consider it an obligation to Dade County and I am going to insist that they reimburse the Dade County school system for that $600,000 that they expended in taking care of the Cuban refugees.

Next, we turn to the International Financial Institution.

The committee is deeply concerned over the trend to direct an increasing amount of U.S. foreign assistance through the multilateral institutions while at the same time decreasing the bilateral aid program. In the next 2 fiscal years, the Congress could be requested to appropriate over $2,500,000,000 to the international financial institutions if all pending and enacted authorization requests are considered. With the possibility of Congress being confronted with these large requests for U.S. funds for the multilateral institutions, the committee felt certain details should be brought forth. It was indicated in the committee hearings that the same degree of detailed examination which is possible in the bilateral foreign assistance programs is not possible in the multilateral assistance programs. The Congress does not know when, where or how the budget requests will be disbursed by these multilateral organizations because they do not justify their requests by specific projects. When information is available on a specific project it is usually after the project has already been approved. In addition, some informed individuals feel the appropriation requests for these multilateral institutions should not be reduced because agreements have been entered into with the countries involved and Congress has enacted the required authorizing legislation needed to enter into these agreements. However, in the committee hearings, it was clearly stated that all agreements entered into with these countries are subject to the condition that a subsequent appropriation be made. The following excerpts from pages 294 and 295 of part 1 of the committee hearings for fiscal year 1972 clarify this situation:

> Mr. Passman. Let me ask you this question. If the Congress, in its wisdom, should decide that they are not going to give you a dollar, we would not be violating any legal commitment, would we?
>
> Mr. Costanzo. No, sir. * * *
>
> Mr. Passman. Wait a minute, I want an answer. Would we violate any legal commitment. He said "no." Are you saying the same thing?
>
> Mr. Petty. I am saying the U.S. Government has a binding obligation on the basis of authorizing legislation. Congress has authorized us to vote for the resolutions providing for these subscriptions.
>
> Mr. Passman. Subject to a subsequent appropriation, isn't that correct?
>
> Mr. Petty. Absolutely; yes, sir.

The committee feels that if it is denied the right to make justified reductions in the budget requests submitted for the internal financial institutions, the established appropriation process will be voided and the committee will be only a rubberstamp for these institutions.

The committee is of the opinion that if the appropriation requests were reduced for these international financial institutions, new agreements would not be too difficult to renegotiate. Notwithstanding the trend toward the multilateral approach to foreign assistance, the committee feels that Congress should have control over determining the amount of U.S. funds to be allocated to these institutions. All budget requests for U.S. funds must compete on a priority basis taking into account the then existing financial situation in the United States and the committee feels the funding requests for the international financial institutions should not be exempt from this process.

Mr. Chairman, with specific reference to the Inter-American Development Bank it should be noted that as of June 30, 1971, over $1,900,000,000 in undisbursed loans were held by the Bank. In addition to this budget request, the Inter-American Development Bank is also requesting an authorization of $450,000,000 for fiscal year 1972.

Excluding the $50,000,000 requested for paid-in ordinary capital, the balance of the request—$211,760,000—was submitted as a budget amendment in House Document 92-149. The budget amendment requested the exact amount that was reduced by Congress from the Bank's request in the Second Supplemental Appropriation Act of 1971 (Public Law 92-18).

It should also be noted that the $275,000,000 provided to the Inter-American Development Bank—IDB—in the Second Supplemental Appropriations Act, 1971 (Public Law 92-18), approved in May 1971, has not been utilized at this time. It appeared to the committee that the executive branch was not anxious to renegotiate new agreements in anticipation that the reductions made in the second supplemental would be reinstated. As has been pointed out above, U.S. funds are available to the IDB if new agreements are negotiated.

Next is the World Bank item.

The committee disallowed the full budget request of $246,100,000.

The request was submitted as a budget amendment and it is the same request disallowed by the Congress in the Second Supplemental Appropriation Act of 1971 (Public Law 92-18). During testimony before the committee in consideration of the second supplemental appropriation bill, it was stated at that time that the cash position or the money needs of the World Bank were not the reasons for the supplemental request. The two reasons given for the request of funds were:

First, to maintain the U.S. voting position in the Bank; and

Second, since over the years the United States has urged other countries to pay in their special capital increases, we should now provide funds to pay the U.S. capital increase.

According to U.S. officials at the World Bank, the justifications for the present request of funds remain essentially the same as they were when the supplemental request was considered.

The committee felt the U.S. voting position in the Bank would not decrease significantly and the United States would still be by far the largest contributor to this institution if these funds are not allowed.

Mr. Chairman, the next item is the Export-Import Bank which is a great organization. It has helped the American manufacturers to sell their commodities with a great profit. The Export-Import Bank finances these commodities at the going rate of interest, and so good is their record that they have been able to turn back to the U.S. Treasury billions of dollars in profit. In addition to that, the manufacturers have earned billions of dollars in profits that they could not have earned without the Export-Import Bank, enabling them to pay into the U.S. Treasury billions of dollars in income tax. The committee recommended the total budget request for this item.

I now yield to the gentleman from New York (Mr. Rooney), a member of the committee.

Mr. ROONEY of New York. Mr. Chairman, I should like to make inquiry with regard to three items in this bill.

The first is the item on page 5, beginning at line 20, wherein the amount $575,000,000 is provided by the committee for security supporting assistance.

The committee in its report on page 23 thereof, toward the bottom of that page, refers to the fact that there was a statement on page 26 of House Report 92–380 (House Foreign Affairs report of the Foreign Assistance Act of 1971) reading as follows:

> In the judgment of the committee, Israel is fully eligible to receive assistance under this chapter [Security Supporting Assistance] . . .

On the following page of the report, page 24, it is stated that:

> This Committee also feels that Israel is eligible for security supporting assistance but a recommendation for a specific amount for Israel is not made because the exact amount required had not been fully determined when the Committee considered this item.

I should now like to inquire as to the amount contained in this bill for security supporting assistance for the State of Israel.

Mr. PASSMAN. As the gentleman has correctly stated, the committee did not recommend a specific amount for Israel because the specific amount required had not been fully determined.

I personally feel that $100 million of that amount should go to Israel.

I would like to make some legislative history on that.

Mr. ROONEY of New York. If I may ask the distinguished gentleman from Louisiana, the chairman of the subcommittee—that would be how much for Israel?

Mr. PASSMAN. $85 million—that is the figure that so many have insisted on. On a subsequent date a new figure was used. We did not want to write it in. Personally, I am of the opinion if it can be worked out—they should get $100 million.

Mr. ROONEY of New York. I thank the distinguished gentleman from Louisiana.

My second inquiry is concerning the item on page 10 of the bill beginning on line 13 thereof—title II—"Foreign military credit sales."

In appropriating $510 million for this purpose, how much thereof is for the State of Israel to make purchases of military hardware and equipment?

Mr. PASSMAN. As our report states, $300 million should be available to Israel. That is the figure agreed upon by this committee, by the Foreign Affairs Committee of the House, and by the Foreign Relations Committee of the other body. That is the correct figure.

Mr. ROONEY of New York. Finally, I should like to express my appreciation with regard to the committee's inclusion of $300,000 at page 3 of the bill for the American hospital in Rome, Italy. This is to be a new institution, and the $300,000 in the bill is to provide for plans, design, and specifications so that there will be eventually erected in Rome, as in Paris, an American hospital. This hospital would be completed with $3 million of Government funds and $4,500,000 of private funds. The institution would be managed and run by the nuns who manage and operate the Columbus Hospital in New York City, generally known as the Mother Cabrini Sisters.

I think this is a start in the right direction, I will say to my distinguished friend from Louisiana, and I am grateful to him and to every Member of this subcommittee as well as the entire committee for their inclusion of this money to commence construction of such an American hospital in Rome, Italy.

Mr. PASSMAN. I want to thank the distinguished gentleman from New York, a very able member of this committee and a man who scrutinizes these reports very closely.

Now I yield to the gentlewoman from New York (Mrs. ABZUG) for a question.

Mrs. ABZUG. I am going to ask a question. OK?

Mr. PASSMAN. Yes, certainly.

Mrs. ABZUG. Thank you, Mr. Chairman. Would you tell me if there is any money in the appropriation bill for Vietnam?

Mr. PASSMAN. There is supporting assistance but no military. The military is handled in the defense bill that has already passed this House.

Mrs. ABZUG. How much is the supporting assistance?

Mr. PASSMAN. You will have to get the answer to that question from the chairman of the Armed Services Committee.

Mrs. ABZUG. I mean in this bill.

Mr. PASSMAN. All of the money in this bill is appropriated on an illustrative basis. In the hearings it was indicated that money would be used for projects in certain countries, but so far as the actual funds, they are stated on an illustrative basis.

Mrs. ABZUG. There is no money for military assistance in this bill?

Mr. PASSMAN. There is no money for military assistance as such for Vietnam.

Mr. ZABLOCKI. Mr. Chairman, will the gentleman yield?

Mr. PASSMAN. I yield to the distinguished gentleman from Wisconsin.

Mr. ZABLOCKI. I thank the chairman, the gentleman from Louisiana for yielding. I want to commend the chairman for his diligent efforts, although, as far as the gentleman from Wisconsin is concerned, it would be preferable if the bill were considered following authorization. However, the House Foreign Affairs conferees have sincerely tried to work out an authorization with the Senate conferees. We met for days at a time, and we could not come to any resolution on the Mansfield amendment contained in the Senate authorization bill. The gentleman from Louisiana conferred with the House Foreign Affairs conferees. He was most patient and cooperative. I commend him for his understanding attitude.

I would be less than honest if I would not point out that I do not thoroughly or fully agree with some of the cuts the appropriations committee has made in certain areas of the bill.

Mr. PASSMAN. Mr. Chairman, will the gentleman permit an interruption?

Mr. ZABLOCKI. I am delighted to hear the gentleman's response.

Mr. PASSMAN. The procedures we have followed to bring this bill before the House have had the support of the gentleman from Wisconsin, also Dr. MORGAN, and our friends on the minority side.

Mr. ZABLOCKI. That is true, with the Members of the other body remaining adamant the present procedure is necessary if we are to have foreign aid continue. It would not be in our Nation's interest to cut it abruptly, causing chaos. Certainly both the gentleman from Louisiana and the gentleman from Wisconsin want foreign aid cut back. We want to responsibly reduce the foreign aid program. However, the gentleman from Wisconsin does not believe that it is wise to kill the program abruptly. The gentleman from Louisiana has been most helpful to the House foreign affairs conferees in their deliberations on the foreign assistance program.

Mr. PASSMAN. I thank the gentleman. I now take my leave from the microphone so that the able ranking minority member may have some time. I hope you will support the committee. We have devoted many hours of the day during the past weeks to this bill. We think we have a good bill. It is streamlined.

As the gentleman has just stated, he does not like some of the cuts, but it was necessary to make them in order to get the program back to a sensible operation. I thank the gentlemen for their attention.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. PASSMAN. I yield to the gentleman from Ohio for a question.

Mr. SEIBERLING. Mr. Chairman, I notice on page 21 of the committee report and again on page 28 there is an indication that some of the funds for military assistance and some of the funds for foreign military credit sales may go to Greece. There is a rather unusual situation here under the rules, because in the authorization bill we voted to prohibit military assistance to Greece unless the President determined that it was essential in the interests of the United States. That bill is still in the conference committee.

So my question is this: If we pass this appropriation bill without knowing what the authorization bill is going to be finally, what is going to be the effect with respect to that limitation?

Mr. PASSMAN. I will give the gentleman the answer. As I mentioned earlier, we are providing $552 million against a budget request of $705 million for military assistance. I should like to quote the statement on page 7 so that it is in the RECORD—

> The listing of countries and the budget proposals for economic assistance, military assistance, security supporting assistance, and military credit sales contained in the report should not be interpreted as representing the views of the Committee as to recipients and amounts. These lists merely reflect the tentative allocations proposed by the Executive Branch in the fiscal year 1972 budget presentation as can be readily recognized by comparing the totals of the various lists to

> the amounts recommended in the bill. Since the budget was submitted, international conditions have changed and the actual assistance to any country would be dependent upon decisions as to the best interests of the United States.

It is on an illustrative basis.

Mr. SEIBERLING. I understand that, sir, but I just wonder this. I understand that under this bill the President has the discretion to decide how to use the funds within the scope of the bill.

Mr. PASSMAN. That is correct. It has been so ever since I have been a Member of Congress, for 25 years.

Mr. SEIBERLING. My question is, what will be the limitation with respect to assistance to Greece, in view of the fact that we have not passed the final authorization bill, and yet we are here passing on an appropriation?

Mr. PASSMAN. This bill came out as the gentleman from Wisconsin (Mr. ZABLOCKI) indicated, with the support of the gentleman from Pennsylvania (Mr. MORGAN), and all our friends on the right and left. But it does not mean there cannot be an adjustment up or down on an item. It is still on an illustrative basis, because we have not funded all the items in the bill. We stated earlier it was not the purpose of this committee to withhold any information from the Members of the House. We merely listed what the budget requests were. It may be that some countries will not be getting any assistance at all. That decision will be made by the Defense Department and by the President.

Mr. SEIBERLING. As I take it, we do not know yet whether there will be any restriction on the aid to Greece of the kind that was in the authorization bill?

Mr. PASSMAN. May I say in response to the distinguished gentleman that this bill is somewhat unusual, because the funds are made available on an illustrative basis only, and we leave it up to the administrators as to what countries will get the military assistance.

Mrs. ABZUG. Mr. Chairman, will the gentleman yield for one more question?

Mr. PASSMAN. I yield to the gentlewoman from New York.

Mrs. ABZUG. Mr. Chairman, there seems to be some confusion in the minds of some of us. Will the gentleman explain what "illustrative" means?

Mr. PASSMAN. The executive branch says "we believe we will need a certain amount of money for a country, but we reserve the right to change the amount for any particular country and move it to another country." It is simply illustrative of what we might need the money for. That is the best definition I can give. The funds are not earmarked.

Mr. MAHON. Mr. Chairman, will the gentleman yield?

Mr. PASSMAN. I yield to the gentleman from Texas.

Mr. MAHON. Mr. Chairman, I think it fair to say that in providing funds for aid to various nations, the budget includes a tentative list of where the funds might be allocated. But our Government does not want to irrevocably commit itself to any nation, because whatever grants or assistance may be given will be as a result of negotiations with a particular nation. So in the bill we just provide a lump sum appropriation for these purposes. Therefore the Executive will have ample flexibility in granting or not granting assistance in accordance with suitable arrangements that might be worked out with the various countries involved. In this sense the figures given are illustrative of what might be done, provided arrangements and agreements are made which are considered to be in the best interests of the United States and the countries with which we deal.

This has been true with respect to military and economic aid throughout the history of the program. The purpose of all these programs is to serve the best interest of the United States and the cause of peace and security.

With regard to the allocation of funds under the various appropriating paragraphs in the bill generally, I call attention to the statement added in full committee to the report which accompanies the bill as follows:

> The listing of countries and the budget proposals for economic assistance, military assistance, security supporting assistance, and military credit sales contained in the report should not be interpreted as representing the views of the Committee as to recipients and amounts. These lists merely reflect the tentative allocations proposed by the Executive Branch in the fiscal year 1972 budget presentation as can be readily recognized by comparing the totals of the various lists to the amounts recommended in the bill. Since the budget was submitted, international conditions have changed and the actual assistance to any country would be dependent upon decisions as to the best interests of the United States.

Mr. Chairman, I thank the gentleman for yielding.

Mr. PASSMAN. Mr. Chairman, I thank the distinguished gentleman for his comment.

Mr. SHRIVER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, after 3 months of intensive hearings and 5 months of delay due to the lack of authorizing legislation, your Appropriations Committee is recommending the lowest foreign economic assistance money bill in the history of our foreign aid programs. There are many reasons we have cut this request so deeply, including the very strong possibility of a Federal budget deficit for fiscal 1972 in the neighborhood of $35 to $40 billion depending on which budget you are looking at, and the worsening U.S. balance-of-payments position. We are also becoming more aware and more responsive to our own problems in this country and the burdensome load on our taxpayers.

Some will ask today why have a bill, but I want to make it very clear what we have at stake, in my judgment, in this bill is our national security.

Most of the funds we have left in this bill, while ostensibly going to foreign governments, will directly affect American lives and American security.

I support the President's progress in withdrawing American soldiers from the conflict in Southeast Asia. I support the Nixon doctrine of a more realistic American presence in the world. I support the concept of Vietnamization as an alternative to previous American involvement in the war. For these reasons I support this bill, and I would hope many of you would for the same reason.

We all want to get American troops out of Vietnam as soon as possible, and they are getting out. But if this aid program which finances over half of South Vietnam's badly needed imports is stopped, the effect on the south's economy and war efforts in its own behalf will be fatal. Would that really be in our national interests? With a shortsighted negative vote on this bill today, do you want the sacrifices of American and allied lives and resources to go down the drain, to be for naught?

We also have a tremendous investment in the security and stability of South Korea—$35 billion and more than 150,000 American casualties.

All of these dollars came from the taxes of our citizens; each of these casualties marked personal tragedies in American families. We cannot ignore these sacrifices of our national resources.

All of this is clearly set out in the report, and I hope all of you have read or will read the committee report in this regard.

This bill, this reduced and highly selective foreign aid program, recognizes this national investment. The committee has included those items which it believes will lessen the need for such investments in the future.

In a recent letter to the committee, the Secretary of Defense explained the importance of military grant and sales assistance to our own defense posture. Secretary Laird wrote:

> In large measure grant aid and foreign military sales credits have been planned in order to permit a reduction in forward deployments of our own reduced forces.

The Secretary concluded:

> There is a very close relationship between our own military force structure and the President's program for foreign assistance.

Our military forces are being reduced, but for genuine national security reasons this can only continue if our allies in troublesome areas of the world are able to defend themselves.

Our direct involvement in Vietnam's economic and social affairs is on the decline. More Vietnamese are doing the jobs which were being done by Americans, a sort of economic Vietnamization. This will continue, as it should, but the Vietnamese war-inflated economy cannot yet do it alone. The supporting assistance funds in this bill will be essential.

I do not want to be misunderstood; the dollar amounts in this bill are still substantial, especially for supporting assistance and military grants and sales. But what is the alternative cost? We know how many lives have already been lost or maimed. We know that the cost of our efforts in Vietnam have dropped from a high of $30 billion for fiscal 1969 to an estimated $5 to $8 billion next year.

Vietnamization and the spreading Nixon doctrine which has led to bringing back home additional thousands of

American troops from Korea, the Philippines, Thailand, and Japan must continue. The funds in this bill will be used to continue this withdrawal.

We have had many opportunities to vote on amendments which have been described as "end the war" measures. In this reduced and selective bill, we finally have an opportunity to vote in favor of a realistic program to end the war and bring the boys home. I urge your vote for this appropriation.

I would remind all of you of the remarks made by President Nixon on November 9 when he spoke in New York City and when he said this:

> It goes beyond simply maintaining military strength at home. *I know how easy it is for Members of Congress—I was once in the House. I was once in the Senate. I know how easy it was then to try to find a reason to vote against those programs of mutual assistance for countries abroad—foreign aid for countries that needed aid, aid for the purpose of helping other countries to help themselves, to create a more stable world.*

He further said:

> *There are no constituencies for foreign aid. We know that. But let us recognize this: If the United States at this particular time should determine that it will discontinue its programs of mutual assistance for countries abroad—helping them so that they can help themselves—it can only mean that the world will become much more unstable, that the dangers of war in the world will greatly increase and that the United States will no longer be a world power respected in the world, no matter how strong we are at home.*
>
> *That is why tonight I speak of the challenges of peace not only in maintaining our strength at home, but in meeting our responsibilities abroad. This is above partisanship because Republicans have joined with Democrats through the years to see that these programs, whereas they have no constituencies in this country, because they are essential to maintain the peace of the world, that these programs are continued—and I trust they will be, by this Congress.*
>
> (Emphasis supplied.)

Those were the statements of our President in connection with the need for this program and for foreign assistance. In this bill it has been reduced to the bare minimum. There is a substantial amount as has been previously expressed in what is known as the pipeline, but these expenditures are needed for our national security and in order to help those who want to help themselves.

Mr. Chairman, there are many reasons why the Members of this Congress should vote for this bill and upon which they can justify their vote for this bill. There is the humanitarian reason in connection with assistance for the refugees, whether they are from behind the Iron Curtain or the Bamboo Curtain, or India or Pakistan. These are people who need assistance in connection with sustaining their lives. There are humanitarian factors favoring this proposal. Further, it will improve our balance-of-payments situation which alone is adequate reason for anyone to vote for this bill. As mentioned by our able chairman, the gentleman from Louisiana (Mr. PASSMAN), this bill contains needed legislation for the Export-Import Bank which finances billions of dollars of American exports to function. The limitation upon its lending money is included in here, including the limitation upon its administrative expenses.

Also included are the provisions relating to the Export-Import Bank so very necessary in connection with relieving our balance-of-payments problem and the financing of more exports from this country. To be considered are the thousands and thousands of people who are employed in manufacturing articles that are being exported because of the Export-Import Bank's financial assistance.

Of course, one can justify his vote for this legislation from the standpoint of helping the friends of this country such as the State of Israel, which has $300 million of military credit sales involved here and the eligibility of Israel for supporting assistance.

So there are many ways whereby you can justify your support of this needed program, especially for the support of the best interests of the United States.

Mr. PELLY. Mr. Chairman, will the gentleman yield?

Mr. SHRIVER. I yield to the gentleman from Washington.

Mr. PELLY. Mr. Chairman, I thank the gentleman for yielding.

The gentleman from Kansas (Mr. SHRIVER) has made a very fine statement, and I commend the gentleman for it.

I just want to refer to one statement that he made with regard to the end-the-war amendments that have been considered, and say that I propose to offer an end-the-war amendment, only it is going to be to end the tuna war.

I propose to offer an amendment to cut off aid to Ecuador. Ecuador is doing better by illegally seizing our tuna fishing vessels on the high seas than it is actually through this legislation. So I hope to have the support of the House for that amendment to eliminate the illegal seizures which have taken place. This year alone Ecuador has fined our vessels more than $2 million in some 52 seizures. So I think it is time that we stopped rewarding our enemies, and it is about time to eliminate aid to those people.

Mr. SHRIVER. Mr. Chairman, I thank the gentleman for his contribution, and I would support such an amendment, and trust it will receive the support of the Members of the House.

The CHAIRMAN. The gentleman from Kansas had consumed 12 minutes.

Mr. SHRIVER. Mr. Chairman, I yield 5 minutes to the gentleman from New York (Mr. MCEWEN).

Mr. McEWEN. Mr. Chairman, as one of the new members of this subcommittee I take this opportunity to say to my chairman, the gentleman from Louisiana (Mr. PASSMAN), and the ranking minority member, the gentleman from Kansas (Mr. SHRIVER), how impressed I was in the hearings conducted by this subcommittee for many weeks, into all of the facets of our aid programs.

I further wish to say, Mr. Chairman, that I rise in support of this bill because I think, as has been pointed out by the chairman and by the gentleman from Kansas, who preceded me here in the well, that this bill contains provisions for humanitarian programs, and it also contains realistic appropriations in the interest of our security. We have been seeing reductions of American military personnel not only in Vietnam, but in other Asian countries, such as Japan and Korea, and I think, Mr. Chairman, that it is incumbent upon us to see that we make provision for military sales, military assistance and supporting economic assistance.

I hope that this bill will receive the support of this House today.

Mr. SHRIVER. Mr. Chairman, I yield 5 minutes to the gentleman from New Jersey (Mr. FRELINGHUYSEN).

Mr. FRELINGHUYSEN. Mr. Chairman, I, too, rise in support of this appropriation bill. I do so with no great enthusiasm. I regret to say I see no great reason to think that even if the House does act responsibly that Congress will actually complete the necessary legislative process to insure appropriations for a program which in my opinion is quite definitely needed in the national interest.

Mr. Chairman, as a member of the House Committee on Foreign Affairs, and as a conferee with the Senate Committee on Foreign Relations on an authorization bill, I feel embarrassed that we should be asked to engage in an unorthodox procedure such as this. We are considering an appropriation bill when there is no authorization for the program that the money is being appropriated for. I find our legislative process, in other words, discouraging at times. In the area of foreign aid I think the situation is particularly discouraging. It is a reflection on both the House Committee on Foreign Affairs, and the Senate Committee on Foreign Relations.

What disturbs me even more are the rumors that we hear that, even if the House does act responsibly, there may be trouble at the other end of the Capitol—that there will be no action taken on any appropriations regardless of the amounts and allocations of funds unless there is an authorization.

As a conferee, let me say that we have been trying to reach the necessary agreement so that we could come back with a conference report and secure approval of an authorization. But there are forces at work which seem aimed at preventing that agreement, and which may even prevent agreement in this body on an amount for foreign aid.

I would like to take time to stress the need for foreign aid. I urge my colleagues not to use the foreign aid program as a political football—at least not to the extent that we have no aid at all as a result of that process.

I would like to appeal basically to those who still may be undecided and those who in the past have voted for foreign aid but who have now indicated that they may not vote for an appropriation bill.

Let me say I am not happy with the appropriation bill. It does not strike me as an improvement, in what has been called streamlining foreign aid, to have cut almost exactly a billion dollars from the amount that was requested. It seems to me a smaller program in both the military and economic field may mean a less effective program. What we need to remember is the fact that something is needed. I agree very strongly with the gentleman from Louisiana that the money provided in this bill is needed for our own national interest.

I have received a letter this morning signed amongst others by five members of the House Committee on Foreign Affairs which indicates they intend to vote against this bill partly on procedural grounds—that there is no authorization bill before us.

Well, the fact of the matter is—there is no such bill. As they say, the judgment of the committee and the jurisdiction of the committee should be respected. Of course, it should. But the trouble is there is not going to be at this stage of the session an opportunity for the House to work its will on a conference report providing for an authorization.

So this is an emergency procedure, admittedly unorthodox. Of course, as this letter says, it is an improper procedure and it should not happen. It is violative of the legislative reorganization act. But the fact is, we have no alternative but to bypass the normal way of doing things if we are to get any aid program at all.

The letter brings up a series of objections about the substance of the proposals made by the appropriations committee. Just to take one—and I realize that debate is not going to change many votes—take a look at the cut in the Peace Corps program. That is the easiest one to understand and the hardest to accept. So far as I know, certainly the Foreign Affairs Committee found no reason for a cut of this size in the Peace Corps program—a cut to $60,000,000 for Peace Corps programs.

That low a figure would simply make it impossible for the Peace Corps even to operate for the remainder of this fiscal year.

We hear rumored as a kind of a compromise that there may be an increase of perhaps $10 million in the recommendation of the Committee on Appropriations.

The CHAIRMAN. The time of the gentleman has expired.

Mr. SHRIVER. Mr. Chairman, I yield 5 additional minutes to the gentleman from New Jersey.

Mr. PASSMAN. Mr. Chairman, will the gentleman yield?

Mr. FRELINGHUYSEN. I am glad to yield to the gentleman from Louisiana.

Mr. PASSMAN. The overall cut in this bill is 35 percent, if the gentleman will look at the justification and look at the recommendations. It has not been cut but 25 percent.

I may have a letter on this subject.

Mr. FRELINGHUYSEN. I regret that there is no such letter available.

Mr. PASSMAN. It will be available in a few more minutes.

Mr. FRELINGHUYSEN. I understand that even if $70 million were made available, we would have to terminate programs in 15 countries, bringing home 1,990 volunteers. If we make available $65 million, we would have enough to terminate all Peace Corps programs. I do not know what would be the justification for suddenly bringing the Peace Corps out of all those countries.

I had assumed that this program was one of our least controversial programs. It is in fact a program which basically recognizes in a relatively modest way our interest in other countries in practical terms. There will be serious trouble ahead for the Peace Corps if we accept the recommendation at $60 million, and they will have problems even if we should increase it to $70 million. I cannot conceive how the White House or anyone in the executive branch could be satisfied with such a result, as it would bring about an inability to continue the program.

Mr. MAILLIARD. Mr. Chairman, will the gentleman yield?

Mr. FRELINGHUYSEN. I yield to the gentleman from California.

Mr. MAILLIARD. I am a little bit mystified by the reference to the White House. I have been in communication with the executive branch, including the White House, and it seems to me that what has happened here is that the Peace Corps has been operating for almost a half year on a continuing resolution at a level of expenditures of over $80 million. So if I am correctly informed, and I believe I am, that would leave something like $19 million to run the program for the rest of the year, since they have been expending at an annual rate of over $80 million. So it is not merely a question of reduction. So much of the money has already been expended, they are left with insufficient funds to continue the program at all.

Mr. FRELINGHUYSEN. The gentleman is quite correct.

Many embarrassments result from the failure of Congress to act with respect to moneys needed in the current fiscal year. If we take 6 months of that fiscal year to decide what the level of spending should be——

Mr. PASSMAN. Mr. Chairman, will the gentleman yield for purposes of clarification?

Mr. FRELINGHUYSEN. If I can finish my sentence——

On the basis of the continuing resolution, the Peace Corps, I think quite legitimately, has been operating at a moderate level. Now it is proposed that we should reduce funds to a scale which obviously is insufficient. It is proposed that a cut should now be made to reduce sharply, even terminate the program. I understand that over $60 million would be needed if a decision were made that the Peace Corps should be terminated at this stage of the fiscal year.

I yield to the gentleman from Louisiana.

Mr. PASSMAN. The facts are that very little or no money is spent out of the obligations to the Peace Corps, because they operate out of a pipeline. Much of the money that has been obligated on a continuing resolution is still intact. I do not want to get into an argument with my friends, but you know these youngsters have been asked to leave 14 countries. It has come to the attention of the proper officials that they had better have a new look at the program. There is a bilateral technical assistance program. Not one person has ever been asked to leave a country.

Mr. FRELINGHUYSEN. The gentleman from Louisiana is an expert on appropriations, but I believe he is confusing the issue with respect to the Peace Corps. Quite obviously, a bilateral aid program is in a sense a money spigot. You will not get a recipient country turning off its money spigot. So it is no surprise that there has been no request to terminate programs of that kind in these countries.

On the other hand, there is a variety of reasons why a country might decide to terminate a Peace Corps program. For example, there is the situation in Ceylon, where the Peace Corps was terminated for political reasons by Madame Bandaranaike, who did not want to jeopardize the Communist support she receives in her country. She does not want to run the risk of political repercussions. Withdrawal under such circumstances is no reflection on the Peace Corps, I say to the gentleman from Louisiana. We are doing something that is of consequence but it may involve political considerations.

It is quite obvious we ought to take a look at what would be the consequence of a drastic reduction at this stage, 6 months into the program, of a program which most Members of the Congress support, in spite of insinuations on the part of some that perhaps the Peace Corps should be reevaluated and perhaps eliminated. This level of appropriation has the unquestioned result of eliminating the Peace Corps.

Mr. COLLIER. Mr. Chairman, will the gentleman yield?

Mr. FRELINGHUYSEN. I yield to the gentleman from Illinois.

Mr. COLLIER. What thought has been given to withdrawing the Peace Corps from Chile in the light of the current situation there, the fact that a state of emergency was recently declared and the fact that Chileans, under the communistic Allende regime, have nationalized American interests there? What is the rationale or the justification at this point for maintaining the Peace Corps in Chile?

Mr. FRELINGHUYSEN. I have no idea what the rationale is. I do not know if it is going to be retained. I might say to the gentleman, but it would not be surprising to me if that Government should say, "We no longer want the Peace Corps." Nor do I think it should be a reflection on the Peace Corps if a withdrawal such as that is made at the request of the Government. I make no brief for maintaining our Peace Corps in a country like Chile, but I do not think we should say there is something wrong with the Peace Corps if there should be a request from Chile to terminate the Peace Corps there.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. FRELINGHUYSEN. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Chairman, I would like to know what the technical arrangement is by which we have Peace Corps representatives in other countries. Is there not some kind of memorandum of understanding that is drawn with the 55 countries to which we send Peace Corpsmen? Does the gentleman know the length of time through which that is binding, and what happens then if we cannot live up to our side of that kind of understanding?

Mr. FRELINGHUYSEN. What disturbs me even about a $75 million level is that the result would be the necessity for totally abrogating agreements which have been made with 15 countries and reneging on arrangements which are being discussed with 40 other countries. It would be unwise for this House to require this country to renege on such arrangements, I think if we are going to cut back certain programs, we should do it objectively, and we should find whether these agreements are in the interests of the United States. We might have some disagreements about the effectiveness of individual programs or individual volunteers, but overall we should make a decision objectively.

Mr. BROWN of Ohio. Mr. Chairman, I might say I am more concerned about the reputation of this country in the world if this country starts reneging on its agreements with friendly countries, than if a country that is going Communist decides the Peace Corps is too much of a U.S. influence to continue it in their country and they kick us out. I think kicking us out of Chile might be in some respects a compliment to our country.

Mr. FRELINGHUYSEN. I thank the gentleman for his observations. I agree with him. There are obviously several sides to this coin, but I would guess most people would say the Peace Corps should not be terminated. We should decide whether it is true that a level of $60 million is not going to be enough to allow it to continue. On the basis of information I have received, even with a level of $70 million it would be necessary simply to abrogate 15 agreements immediately, and 40 other agreements with countries would have to be reconsidered.

Mr. BROWN of Ohio. And, of course, we would go back on our word.

Mr. FRELINGHUYSEN. Yes. That would be the nature of the abrogation.

Mr. COLLIER. Mr. Chairman, if the gentleman will yield further, let me make one further observation. I agree we should not renege on our commitments. At the same time, it seems to me the better part of good judgment should dictate that when we have a situation such as has developed in Chile since the Peace Corps contract was consummated. As far back as the election of Allende when it became obvious that this now basically is lock, stock and barrel a Communist country, I wrote the Director of the Peace Corps and suggested at that time that in the light of the political and other circumstances in Chile—and this was before we even knew there was imminent a takeover of American industry, that it was going to be arbitrarily nationalized—that we should withdraw the 90 members of the Peace Corps from that Communist country.

I do not think 15 percent of the American people would support our maintaining the Peace Corps in that country under the conditions that now prevail there.

Mr. FRELINGHUYSEN. I would suppose 95 percent of the American people would support the principle of continuation of the Peace Corps. At the level of $60 million, it would be necessary simply for the Peace Corps to close shop. In fact, I understand $60 million would not be enough even to allow them to close down. They would have to pull back from every country regardless of the advisability of continuing these programs.

Mr. COLLIER. I merely suggested we should be selective basis. It seems to me this is just good sense.

Mr. BROWN of Ohio. Will the gentleman yield?

Mr. FRELINGHUYSEN. I yield to the gentleman.

Mr. BROWN of Ohio. What would be the cost of closing down, that is, what would be the cost of bringing home each individual Peace Corpsman?

Mr. FRELINGHUYSEN. I do not have that figure. I believe $62.4 million would be the minimum needed to abolish the Peace Corps. I do not have a detailed breakdown as to what it would cost to bring back each individual volunteer. All I am saying is that it does not make any sense to have this kind of an impact on a program which most people think is worthwhile. I hope during the amendment process we can get something restored which would approach the authorization figure of $77 million and which would allow the Peace Corps to continue at about the same level of programing as in the last fiscal year.

Mr. McKINNEY. Will the gentleman yield?

Mr. FRELINGHUYSEN. I yield to the gentleman.

Mr. McKINNEY. I would briefly like to associate myself with the gentleman's remarks and say it is incredible to me, with the things that we are paying for with the American taxpayers' dollars in this bill, with bureaucracy being involved in so many of these programs, that we would cut out, or cut down, or in effect destroy one of the few programs which probably gets us more for our dollar overseas than any other in the entire bill and which also affects the youth of this country, allowing them to operate in a constructive manner in the world in which they live.

Mr. FRELINGHUYSEN. I thank the gentleman.

Let me say that I do hope we will keep our eye on the ball sufficiently so that we act affirmatively in a program which is needed in the basic interests of this country. I have no idea what may happen then, but I hope the other body can take similar action.

Mr. SHRIVER. Mr. Chairman, I yield such time as he may consume to the gentleman from Indiana (Mr. HILLIS).

Mr. HILLIS. I thank the gentleman for yielding.

Mr. Chairman, the President of the United States, a short time ago, stood in this very Chamber and told us that the United States would no longer compete in the world marketplace with one hand tied behind its back.

I agreed with him.

And I agree with that philosophy now.

So, Mr. Chairman, it is difficult for me to understand how we can approve of this legislation which is before us.

Mr. Chairman, it is difficult for me to understand how we can approve a give away of $640,000 to the country of Ecuador for military use.

Ecuador can then turn around and purchase torpedo boats and coast guard cutters with this money to capture and hold for ransom more of our fishing boats. So far this year they have seized 52 of our fishing boats and fined them more than $2 million.

Mr. Chairman, it is difficult for me to understand how we can approve a give-Ecuador $14 million under the Alliance for Progress program.

Ecuador is simply not friendly to the United States and it appears as if it has no intention of being friendly.

And Mr. Chairman, I would like for someone to explain why we are pouring thousands of dollars into Chile, a country with a Communist leader and one which has been unfriendly to our Nation. Chile has seized several million dollars worth of American property.

I would also like for someone to explain to me how this Nation can afford to give away all the money in this bill when the Federal debt is now over $418 billion and our deficit for fiscal 1972 is estimated between $35 and $40 billion.

Mr. Chairman, if this bill passes, the United States of America will have to go out and borrow $640,000 and give this money to Ecuador so that country can afford to capture U.S. fishing boats and hold them for ransom.

This just does not make sense.

I am firmly opposed to this and intend to vote against the bill.

Mr. SHRIVER. Mr. Chairman, I yield 5 minutes to the gentleman from Massachusetts (Mr. CONTE).

Mr. CONTE. Mr. Chairman, I served on this committee for 12 years and had the privilege of serving with the gentleman from Kansas. I want to say how much I enjoyed it and what a hard-working and conscientious individual he has been. I had to relinquish my seniority on that committee, and he has taken over and done a fantastic job, one which we can all be proud of.

Mr. Chairman, I sweat blood and tears on the floor of the House under President Eisenhower, President Kennedy, President Johnson, and last few years under President Nixon on this bill. It was always a tough bill to bring to the floor of the House and a very difficult bill.

As I said many times, foreign aid has very, very little sex appeal and very little or few constituents. You are not giving projects, bridges, or public works projects here as you do on other bills. You are giving something away to foreign countries here. It is a very difficult bill to sell.

But as I look at this bill today I do not know whether I will vote for it. The press likes to label the public works bill as a grab-bag bill and a pork barrel bill. This has gotten to be one pork barrel bill. The hard core key program, the Peace Corps program, that I am going to talk about and the development loan program which we fought for years and years and years to take out of the soft currency window and put into the hard cash with the payment of interest on it has a magnificent record, but it was cut to ribbons. The Alliance for Progress, development loan has been cut to ribbons, when we are in all kinds of trouble with Latin America and we should be beefing up this particular agency.

Turn to page 14 and you will see the pork barrel. It all depends on whom you know in court if you want to get your little project in there. Regardless of the merit and whether the State Department wants the particular project or whether the AID agency wants it, if you have a friend in court, you can get on page 14.

Mr. Chairman, I find it shocking and irresponsible that the foreign operations subcommittee has recommended only $60 million for the Peace Corps. This is $22.2 million below the budget request and $17.2 million below the fiscal 1972 authorization.

I have been informed that $77 million is the absolute minimum figure under which the Peace Corps can operate effectively. And even this amount would not allow for any new trainees. Approval of a figure below the $77 million level will force the Corps to abrogate good faith agreements with foreign nations and to pull out a large number of dedicated volunteers.

Amidst the many gratuitous insults that were leveled against the Peace Corps in the committee report, four assertions emerged as supposed justification for recommending such a drastic cut.

First it is claimed that it is difficult to list the Peace Corps accomplishments attained from the nearly $1 billion that has been appropriated since its inception. But the Peace Corps is not a brick and mortar program designed to produce highly visible monuments that can be photographed for the folks back home.

The Peace Corps, rather, is a people-to-people program whose human achievements, significant though they are, are incapable of precise scientific measurement.

How do you measure, for example, the enormous personal satisfaction experienced by the great numbers of youths educated by teachers in the Peace Corps?

How do you measure the benefits of good health care provided by the dedicated volunteers that the Peace Corps has sent to our less fortunate brothers around the globe?

How do you measure the technical assistance provided by Peace Corpsmen in extending our agricultural expertise to the less developed nations of the world? How do you measure the freedom from hunger that such assistance has offered?

In actuality the accomplishments of the Peace Corps are strikingly evident to those who have had the opportunity to meet with the program's beneficiaries.

A second argument levied against the Corps is the assertion that 14 countries have terminated their association with this organization, while none has terminated the AID technical assistance program. In the first place, any such comparison of AID and the Peace Corps—both fine programs in my estimation—is utterly ridiculous.

No counry is going to be foolish enough to request that we cut off the money that flows from the AID program. On the other hand, some countries have chosen to embarrass the United States by asking the Peace Corps to leave. I contend that in most such instances, this is not a reflection of the Peace Corps but on the character of the government making such a demand. All too often the people in such countries cry "Yankee come back," despite the comments of their government officials.

It is regrettable that the committee report, while glibly reciting the 14 countries that have terminated Peace Corps activity, does not identify the 55 countries that are still requesting and utilizing its services.

A third assertion, related to the second, is the unsupported claim that some terminations were brought about because of the bad conduct of some volunteers. The fact is that the Peace Corps knows of no instance in which it was asked to leave a country because of misbehavior of its volunteers.

The final argument is easily the most absurd. The report points out that in several years since the inception of the Peace Corps, a substantial unobligated balance was available at the end of the fiscal year.

Is it the message of the Appropriations Committee that future efforts to save money whenever possible will be rewarded with an almost 25-percent slash in an agency's budget request? Is it now the insistence of the Appropriations Committee that all moneys authorized and appropriated had better be spent, or else?

Surely the Peace Corps good faith attempt to spend its allotted funds prudently and economically must not be met with such a hostile response.

No, it is quite clear that there is no justification whatsoever for this heartless action. At a time when we are withdrawing our armed corps from the world arena, we should be reaffirming our commitment, our faith, and our trust in the Peace Corps.

Mr. BINGHAM. Mr. Chairman, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from New York.

Mr. BINGHAM. Mr. Chairman, I would like to commend the gentleman from Massachusetts on his very splendid statement, and to associate myself with the gentleman.

Mr. CONTE. Mr. Chairman, I thank the gentleman.

Mr. SHRIVER. Mr. Chairman, may I inquire as to the amount of time that is left?

The CHAIRMAN. The Chair will state that the gentleman from Kansas has 21 minutes remaining, and the gentleman from Louisiana has 10 minutes remaining.

Mr. SHRIVER. Mr. Chairman, I yield 5 minutes to the chairman of the subcommittee, the gentleman from Louisiana (Mr. PASSMAN).

Mr. PASSMAN. Mr. Chairman, I should be denied the right and the privilege of chairing this committee if I neglected to set the record straight.

I have tried to be just as fair as I could in presenting this bill. I had no desire to pull the Peace Corps out in the open for what it is because of fear of embarrassing some of my friends and neighbors. My page is a Peace Corpsman; his father and mother were both Peace Corpsmen. That did not keep me from doing the right thing.

To be frank with you, let us look at the technical assistance program—and that is in reality what the Peace Corps is—technical assistance as such, and it is a name that has had a lot of appeal.

Now, I asked Dr. Hannah, and this appears at page 126 of part 2 of the hearings, and this was in response to my question:

> Dr. HANNAH. I know of no instance where a country has specifically requested us to suspend our bilateral technical assistance program or to recall our U.S. technicians administering the programs.

Mr. Chairman, these facts raise a basic question; why is the Peace Corps program being terminated in these countries while the regular bilateral technical assistance program is being continued, in most instances? Possibly the answer lies in the fact that the Peace Corps does not respond to the basic needs of the host country to the same extent as does the regular bilateral technical assistance program.

The following table lists the 14 countries where the Peace Corps program has been terminated:

Country and Date:
1. Cyprus—February, 1964.
2. Indonesia—May, 1965.
3. Pakistan—June, 1967.
4. Mauritania—June, 1967.
5. Gabon—December, 1967.
6. Tanzania—September, 1969.
7. Libya—September, 1969.
8. Somali Republic—December, 1969.
9. Ceylon—(This is the second time the program was terminated)—October, 1970.
10. Nigeria—December, 1970.
11. Panama—May, 1971.
12. Bolivia—June, 1971.
13. Guyana—July, 1971.
14. Guinea—(This is the second time the program was terminated)—July, 1971.

These people have money in excess of their needs, because people cry for the Peace Corps and we have overfunded them. One year they had $19 million in unobligated funds at the end of the year.

Let us be realistic about what this is all about. Where is your proof that you have gotten 65 cents worth of good out of the billions of dollars you have given the Peace Corps?

Why do not some of you Members find

out why these youngsters were asked to get out of 14 nations. One nation was so uncomplimentary of them I hate to mention what was said about them on this floor, but I shall put it in the RECORD at this point, and let you read it:

The article reads as follows:

MALAWI OUSTS PEACE CORPS

BLANTYRE, MALAWI, January 26.—All U.S. Peace Corps volunteers will be withdrawn from this country by the end of 1971 following requests by the Malawi Government and the ruling Malawi Congress Party, it was announced.

There are about 150 Peace Corps volunteers working here with the ministries of health and education.

A resolution passed by the Congress Party's annual convention demanded that recruitment cease and that all volunteers leave within 18 months. Delegates cited "complaints by our people against the influence which Peace Corps volunteers have over our children and because of their bad conduct and behavior and their slovenliness."

Let us be realistic. We have cut this bill by 35 percent, the largest percentage cut ever made in a foreign aid bill. Will we cut the Peace Corps 35 percent? The answer is absolutely no. Maybe they are doing less good than any branch under the program, but on account of all the screamers and all the bleeders and all the criers for the Peace Corps we did not reduce them as much. There was a proposal to give them $50 million, so as to compromise we immediately raised it to $60 million.

Where is your proof that they are doing any good?

Oh, yes, there is a man down in my district who is against me, and who made a contribution to my opponent, because I told the facts about the Peace Corps, and I said:

You have not heard anything. You just wait until I really get out after them.

Let us be realistic about this thing. I do not want to drag this dirty linen out into the open. But you know it is there. So why have they been invited out of 14 countries? For various reasons but under other bilateral aid programs—not one individual has ever been invited out of a country.

Mr. Chairman, I want to thank the distinguished gentleman from Kansas for yielding me time—I thank him very much.

Mr. PASSMAN. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from California (Mr. ROYBAL), a very valuable and distinguished member of the committee.

Mr. CONTE. Mr. Chairman, will the gentleman yield?

Mr. ROYBAL. I yield to the gentleman.

Mr. CONTE. Mr. Chairman, I thank the gentleman for yielding because I think we should set the record straight for the previous speaker who just took his seat.

On page 811 of the hearings, Mr. PASSMAN was questioning the witness and the gentleman from California (Mr. ROYBAL) was there. The record reads as follows:

PROBLEMS OF THE PEACE CORPS

Mr. ROYBAL. Thank you, Mr. Chairman. Mr. Chairman, I have been a friend of the Peace Corps right along. I see their assets and their liabilities, but I think certain accusations if carefully analyzed can lead to the conclusion that the Peace Corps is not really that bad. What I am saying is that some of the problems that the Peace Corps may be having with the committee and Members of Congress is probably directly due to the executives and the administrative section of the Peace Corps. I don't think that anyone can deny the fact that the volunteer is doing a good job.

Mr. PASSMAN. Don't speak for me. I certainly respect the gentleman's views, but if I had to meet my Maker in 3 minutes and the last decision the good Lord would let me make—it would be to abolish the Peace Corps. Then I could die in peace. That is my feeling. I might as well put it in the record.

That pretty well tells the whole story here. The gentleman is against the Peace Corps and is going to do anything he can to kill the Peace Corps one way or the other. I will offer an amendment to restore some of the money back. The record of the Peace Corps will support this amendment.

Mr. PASSMAN. Honesty made me put that statement in the RECORD and I stand by it.

Mr. ROYBAL. Mr. Chairman, I rise in support of the legislation before us.

I support this legislation not because I think it is the best bill that we could possibly bring to this floor, but I support it because of its humanitarian aspects and because I believe it is in the best interest of this Nation.

I support it also because it still has money in it for refugees, schools, and hospitals, in spite of the fact that the amounts appropriated are not sufficient.

I agree with the chairman of the committee in reducing somewhat the amounts on this bill. But I wholeheartedly disagree with him when he has made certain reductions on important items in the bill in question.

For an example, the bill eliminates completely the request for the United Nations development program.

The argument has been made that the program at the present time has a reserve account of $150,000,000. May I point out to the Members of the House that this came about because of the strong recommendation of the Jackson capacity study with the full support of the United States, that a reserve account be created and the purpose of this reserve account be to guarantee under all circumstances all the financial liquidity and and integrity of the program and to compensate for uneven cash flows. This is the same thing that any large corporation does. They set aside a reserve account to take care of dry periods in their operation and this is exactly what the U.N. development program has done.

The other subject matter with which I disagree is the deep cut in the House-passed authorization bill for development loans for the Alliance for Progress and grants for the population program.

I believe there should be an increase in the programs mentioned.

Then again the substantial cuts made by the committee for the Peace Corps is most unjustified. The argument is constantly being made that the Peace Corps has been run out of 14 countries. I will stipulate to that fact, in all courtesy to the chairman of the committee. This perhaps may be true, even though I do not believe it is. But let us say it is true. I must point to the fact that out of every failure, one can look to at least 100 successes that the Peace Corps has had throughout the entire world.

Mr. Chairman, I was present in the Dominican Republic during the time our forces invaded that island, and I saw the work that the Peace Corps was doing. They were the only contact we had with both warring sides. The Peace corpsmen were the only ones who were able to communicate with both sides of that particular controversy.

I also know the successes the Peace Corps has had in other Latin American countries where they were the only ones who remained after all our representatives had to leave those countries. The successes that the Peace Corps has had throughout the entire world is well known and I believe it is an insult, to one of the outstanding organizations of our Nation to appropriate only $60 million when they in fact are operating at the present time at the continuing resolution level or an excess of $80 million. They have already spent almost the entire amount of the $60 million appropriated, and I sincerely believe an increase in this item should be approved.

I understand that a letter has been sent to the chairman of the committee by various members of the Committee on Foreign Affairs and individuals who voted for this project in years past. They are now in opposition to this bill. I would like to request of them that they reconsider their opposition as we still have a chance to put these items back into the bill when we go to conference. That I believe to be the proper procedure, and I sincerely hope that when that time comes those who have supported the bill in the past will continue to support it and vote for it today, thus giving us an opportunity to work this matter out when we get to conference with the other body.

Mr. FRASER. Mr. Chairman, will the gentleman yield?

Mr. ROYBAL. I yield to the gentleman from Minnesota.

Mr. FRASER. The gentleman has accurately identified the problems in the bill. This is a very unfortunate bill and I plan to vote against it, because I do not see any point in voting for a bill that has been gutted and ravaged as much as this one has. At the same time I can say to the gentleman that if some of his ideas in relation to increasing the Peace Corps appropriation, perhaps restoring some of the United Nations development program money, and an amendment on the Inter-American Bank—if some of those are adopted here this afternoon, then it seems to me it would be possible to support this bill. But as it stands now, it makes a mockery out of the responsibility which the United States carries in the world community.

Mr. SHRIVER. Mr. Chairman, I yield 5 minutes to the gentleman from Ohio (Mr. CARNEY).

The CHAIRMAN. The gentleman from Ohio is recognized for 5 minutes.

Mr. CARNEY. Mr. Chairman, sometimes we get so near the trees we cannot see the forest. I am a new Member here. Many times I have bitten my tongue when I thought I might add something to the debate, but I decided that a freshman Member is better seen and not heard. They told me you never get beat by the speech you do not make. But whenever something puzzles me, I have to ask a question, and I will yield for a response when I have finished with the short statement I have.

I have followed the debate on various appropriation bills, and I have found that very often when we have a domestic issue, a request for something for the people of America, something to help Americans, we do not have the money.

For example, on the school aid bill, Mr. MAHON, the distinguished chairman of the Appropriations Committee, made three different speeches. On October 28 he pointed out that colleges have a deficit. He pointed out that our Government has a larger deficit. He said in essence—

> Yes, the colleges are in financial trouble, some of them, but so is the Government, and the situation is getting worse, not better. The deficit in Federal funds in fiscal year 1970 was $19 billion. Then in 1971 it was $30 billion. By 1972 it will be $40 billion.

He opposed the amendments which were offered for increased support to American colleges.

Then he spoke again on November 1 on the same issue, when he pointed out, in making his speech in opposition, a very strong position that this Government was in bad financial straits and said we did not have money for a strong school aid bill. Then he made a further speech on the same subject on November 4 when he pointed out that our deficit was very great, and under his terms the gentleman from Texas (Mr. MAHON) as chairman of the Appropriations Committee, said that our Government is running a big deficit, and we should not be spending money foolishly. I can agree with that in principle. However, I wonder where our responsibilities start and where they end. I always hear dire financial wails on a domestic issue, such as the school lunch program, and about people on pensions or people on social security, or problems of this nature. I hear this country is in bad shape, and we do not have the money. Yet we come along with the foreign aid bill, and I do not hear the same gentlemen getting up and saying we do not have the money. I would like to have somebody answer me on this subject.

Mr. SHRIVER. Mr. Chairman, I yield 5 minutes to the gentleman from Louisiana (Mr. PASSMAN).

Mr. PASSMAN. Mr. Chairman, I yield 5 minutes to the gentleman from Maryland (Mr. LONG) and I yield 2½ minutes back to the distinguished gentleman from Kansas.

Mr. LONG of Maryland. Mr. Chairman, I support this foreign aid appropriation bill despite the fact that I have in recent years been voting against the foreign aid authorization and sometimes against the appropriation bill.

A vote against this bill is a vote against a very substantial cut below the administration's budget request and a cut below last year's foreign aid appropriation bill.

A vote against this bill is a vote against substantial reallocations among our various aid programs in recognition of the need for restructuring our foreign aid. For example, the bill cuts out aid to India and Pakistan during the period of hostilities between the two countries, in recognition of the fact that these countries have been spending our money directly and indirectly to finance a bloody and senseless conflict between two countries who are supposed to be our friends. It cuts $100 million from the U.N. development program, in recognition of the fact that this program has over $350 million worth of reserves. Although this cut in UNDP funds will not in any way impair the functioning of the program, this cut will serve notice on other countries that they should assume a greater share of the burden of supporting the U.N.'s humanitarian programs, such as Children's fund, the World Health Organization, the population program, the fund for drug abuse control, and the FAO world food program.

A vote against this bill is a vote against a $30 million cut in the Peace Corps budget, in recognition that a number of countries have asked the Peace Corps to leave and that the Peace Corps has not in past years used all the money appropriated.

A vote against this bill is a vote against $300 million in foreign military credit sales to Israel to provide planes and military supplies so that this gallant little state can defend itself against its neighbors who have received thus far about $4.5 billion worth of Russian military aid.

A vote against this bill is a vote against providing money to American schools and hospitals abroad in Turkey, Mexico, Lebanon, Rome, and in other areas, including Israel. Probably no foreign aid can be more wisely spent than to promote educational opportunity and health care for ordinary people.

A vote against this bill is a vote against programs that provide technical assistance to the peasant and the campesino through programs of agricultural and rural development, population and health care, and manpower training.

Legislating is the art of compromise. We never can get everything we want. We have a compromise here. Some would give away everything to foreigners. Others would not give a penny if the world were starving. Some feel that military aid is the only good part of the program. Others feel that only the economic part makes sense.

Some would like to see more of this foreign aid go to the poor people. Others, quite frankly, are interested in seeing this promote the wealth and power of the ruling classes of some of these underdeveloped countries.

Some believe we should have more purely humanitarian programs. Others feel this should be a naked promotion of America's foreign policy.

In view of all these conflicts of interest and philosophy, this bill, I believe, makes the best compromise possible. I want to compliment the chairman for fashioning a bill which I believe gives us something we can all support.

Mr. PASSMAN. Mr. Chairman, will the gentleman yield?

Mr. LONG of Maryland. I am glad to yield to the gentleman from Louisiana.

Mr. PASSMAN. The gentleman has been on this committee for many years and has been a Member of the House for many years. I want to ask the gentleman: Is it not true we have marked this bill up with great, great care, to be sure we did not undercut in any one place but to be sure we had adequate funds to fund every purpose?

Mr. LONG of Maryland. That is correct.

Mr. PASSMAN. I thank the gentleman.

Mr. BOB WILSON. Mr. Chairman, I rise in support of the amendment before us to eliminate any foreign assistance to Ecuador as long as it continues to seize American tuna boats in waters recognized by nearly all nations as international waters. This year, Americans have paid nearly $2 million in fines and licenses to Ecuador, the highest amount ever paid in a single year to any nation declaring a 200-mile offshore fishing zone. As you know, I have often spoken out for cutting off foreign aid to countries harassing American fishing vessels in international waters and urge the House to accept this amendment. By doing so, Ecuador will hopefully realize that its actions will not be tolerated and perhaps will cause its government to meet with U.S. officials in an earnest effort to negotiate a permanent settlement of the 20-year-old controversy. If the elimination of aid does not work, then tougher actions by the United States will be required.

Mr. PRICE of Illinois. Mr. Chairman, I would like to address my remarks specifically to that part of foreign aid funds which provides military sales credits for Israel.

I am deeply concerned about the situation in the Middle East, and as you know, Mr. Chairman, I have introduced a resolution calling for immediate negotiations for the sale of F-4 Phantom fighters to Israel. The Soviet Union is continuing to supply Egypt and the other Arab States with such sophisticated weaponry that the serious imbalance in military capability has greatly increased the danger of war. The Arab States, comfortable in their power, have resisted attempts at peace negotiations and threaten the resumption of armed conflict.

Israel has requested to buy F-4 Phantom aircraft from the United States for its defenses, but as yet the President, who has been given the authority by Congress to approve such a sale, has not been responsive to that request. The fact that Israel has been able to hold its own amidst the surrounding hostility is an eloquent testimonial to the spirit and valor of its people. But the continued free flow of equipment from the Soviet Union to the Arab Nations has begun to put the Israelis up against overwhelming odds. The sale of jets to Israel would be beneficial to both parties in the deal—beneficial to the defenses of Israel and beneficial to the economy of the United States.

The sale of jets would not lead to another American military involvement. This is a sale, not a gift. The Middle East situation is distinguished from conditions in Southeast Asia by the status and cultures of the opposing parties. Israel's military expertise does not require American augmentation, but their equipment capability is lagging behind dangerously, and secure and defensible borders are a vital element in a peace settlement to be negotiated by the parties themselves. The United States should oppose any attempt at the United Nations to further tip the balance in favor of the Communist Arab States.

It could be tragic for us to omit all actions that would discourage the Egyptians from coming into direct negotiations with the Israelis. Unless we act soon to sell the jets to Israel, a peaceful settlement in the Middle East may become nothing more than a memory of something that might have been. Therefore, I strongly urge my colleagues to support this provision of the foreign aid funds, so that Israel may be able to obtain the equipment it needs to maintain the balance of power in the Middle East.

Mr. BADILLO. Mr. Chairman, when we considered the foreign aid authorization in August I supported it but did so with great reluctance. I voted for the measure as I felt that the concept of development assistance and the basic principles underlying the program of assisting other nations to help themselves tended to outweigh the grossly distorted priorities and misdirected goals which the foreign assistance program was carrying forward. At the time I expressed my particular concern over the amount of military and security-related funds which were authorized by the foreign assistance legislation and urged that corrective action be taken.

Positive steps should have been taken to establish a program aimed at encouraging and assisting economic and social development and progress which would be free from the present short-term political and military goals and one which would not exacerbate numerous international tensions.

Unfortunately, this urgently demanded revision was not realized and the measure before us this afternoon is an abomination. I object most strenuously to the fact that an appropriations bill is being considered before the work has been completed on the authorizing legislation. Many important and vital issues remain unresolved and critical questions unanswered. It seems most precipitous to consider these appropriations at this time. And it is clear that ill-conceived efforts are being made to intimidate the House-Senate conferees considering the foreign aid authorization, particularly in relation to the present impasse over the Mansfield amendment which sets a fixed date for U.S. troop withdrawal from Southeast Asia. Furthermore, this procedure directly contravenes the provisions of the Legislative Reorganization Act.

Aside from the procedural question there are a number of extremely serious issues in regard to cuts made by the Appropriations Committee. While I believe that revisions and reductions are called for in a number of instances, the meat ax was clearly applied to valuable portions of the program. These cuts seriously jeopardize our future relations with Latin America by greatly reducing Alliance for Progress loans and eliminating all funds authorized for the Inter-American Development Bank. There are a number of other critically debilitating cuts such as those pertaining to the Peace Corps, funds for the World Bank and the United Nations development program, and grants for population programs.

I feel very strongly that we must correct the tragic imbalance which currently exists between economic and military assistance. We must carefully consider why so many of our aid programs have failed to achieve their objectives and whether these goals were valid and sound in the first place. The classic cold war atmosphere of the late 1940's and 1950's—the period in which the foreign aid program was conceived and initiated—no longer exists. New alinements, new ideologies, new experiences, and new directions have occurred over the past decade. Frankly, it seems that the United States simply has not caught up with the times. We are trying to solve 1971 problems with 1951 methods and tools.

In addition, the current economic and military aid programs create and perpetuate a relationship of dependency on the United States by the recipient nations. This relationship is not only unrealistic but it is also unhealthy and unproductive.

Mr. Chairman, I will gradually vote in favor of this measure today only, because there are a few good aspects which must be continued and in the hope that some substantive improvements will be made during conference.

I am encouraged, for example, that of the $510 million appropriated for foreign military credit sales, some $300 million is to be earmarked for credit sales to Israel. At least the United States will be honoring one of its international commitments and such action will certainly help to maintain the delicate balance in the Middle East by permitting this valiant nation to secure the arms it requires to defend itself from encroachments by its Arab neighbors and the threats of increased Soviet arms aid to the United Arab Republic and others.

A negotiated political settlement of the conflict in the Middle East is presently most remote. In fact, just a few weeks ago President Sadat was a hair's breadth away from actually declaring war against Israel. Nevertheless, efforts to negotiate must be continued and, during this period, Israel's defensive posture must not be permitted to weaken or be jeopardized by the U.S. delay in providing needed aircraft for its defense. It is indeed tragic that the United States must contribute to the arms race in the Middle East. However, by providing such aid to Israel, perhaps the Arab States will soon come to realize that this country intends to stand behind its commitments to Israel.

Further, the present bill indicates that the important work carried on by the Export-Import Bank can be continued at full funding and, in another area, assistance can be rendered to the millions of refugees of the tragic bloodbath occurring in East Pakistan.

In supporting H.R. 12067, I urge that the conferees correct this measure's deficiencies and restore funds cut from important programs. I particularly urge that full funding be approved for the Inter-American Development Bank as well as for the World Bank and the U.N. development program.

The fact remains, however, that we must reorder and redirect the goals and direction of our foreign assistance program. The Congress must reexamine and reassess the goals and objectives of the foreign aid program and undertake meaningful efforts to effect needed improvements, revisions, and realinements.

Mr. RARICK. Mr. Chairman, the rebirth of foreign aid covers a wide area insofar as the international giveaway of the American taxpayers' dollars.

The bill contains provisions authorizing the expenditure of millions of dollars for armaments and various programs being supported as vital to the national security of this country in containing and stopping Communist aggression.

In South Vietnam we have already spent $124.5 billion and suffered the loss of 48,179 American men.

In the Middle East we are urged to give more financial assistance as well as aircraft, arms, and material to Israel.

In Latin America we are urged to spend more for arms and material to strengthen the defenses of our neighbors to the south against Communist aggression.

In the new Indian conflict we have, in fact, contributed to the arming of both sides, all in the interest of maintaining territorial integrity.

In each of these crises the antagonist has been the Soviet Union.

While the Foreign Aid Committee is urging the House to approve its programs to stop communism, the Agriculture Committee has just held hearings on how the U.S. taxpayers have subsidized Soviet agriculture. It is a strange double standard that on one hand we arm the nations of the world to stop Russian expansionism and aggression and at the same time we are not only trading with the enemy, but discounting his purchases. I use the expression "enemy" because it would seem that if the taxpayers are to put up $552 million for defensive armament, there must be someone we are afraid of who is the bad guy, and in the final analysis it must be the Soviet Union.

The members of the Agriculture Committee today heard testimony from the Assistant Secretary of Agriculture confirming the sale of oats and barley to the Soviet Union at prices far below any available to the American farmer.

For example, we were told that in excess of 20 million bushels of oats were sold to the Soviet broker at prices ranging from 40 cents per bushel to 47 cents per bushel at a time when the market prices to the U.S. livestock feeder was 60 cents a bushel. We were also told that 11½ million bushels of barley were sold at 91 cents a bushel, at a time when the market price to the U.S. farmer was 10 to 12 cents higher.

Inasmuch as the sales come from the Commodity Credit Corporation—CCC—a taxpayer-supported Government agency, which exists to support farm prices, the losses suffered in the sale to Russia were at the expense of the U.S. taxpayers.

Many attempts to justify the Russian wheat sale were offered to the committee; the Assistant Secretary even claimed that it would be advantageous to the U.S. taxpayer because it would cut out storage costs of the grain.

The Department official even went so far as to explain the sale as an indication that the Russians were interested in increasing their beef production to improve the Russian citizen's diet with more meat. If this assumption is true, then it would seem that the U.S. taxpayer is footing the bill for a new kind of international food stamp to improve the diet of the impoverished Russian people. No one would dare suggest that if the Communist power structure is able to improve their beef production and quality, we can expect the increase to be used as another item for export on the world market in competition with U.S. beef.

The same Department representative commented on significant herds of breeding cattle being purchased by the Soviet Union from the United States, Canada, and the United Kingdom. There should be little doubt that the Russian goal is to enter the international beef market in competition with the United States. U.S. beef producers could soon find themselves competing with the Soviets and would be put at a disadvantage because the Soviet beef is raised on subsidized U.S. grain.

In the most straightforward manner possible, and ignoring the fact that only a few people are going to profit by the grain sale, it still ends up as trading with the enemy—not for profit to our country, but at a loss to the U.S. taxpayers. Next, we can expect the Export-Import Bank, which is also included in the foreign aid bill, to extend easy credit to the Russian sales.

All I can say is that I am reminded of the Communist boast that when it comes to hanging the American capitalists, they can be expected to bid against each other to see who will sell the hanging rope.

The majority of my people, I am satisfied, want no part of this hanky-panky and world confusion where we have no identified enemy. In this upside-down world, we actually have supporters of these foreign aid measures arguing that they are necessary to combat the spread of communism, some who only recently declared that there was no longer a threat of an international Communist movement when they voted to repeal title II of the Internal Security Act of 1950 (50 U.S.C. 811–826). This provision was included in H.R. 234, prohibiting emergency detention camps, and was passed 356 to 49, September 14, 1971.

I intend to cast my people's vote against the foreign assistance appropriations bill, a bill that no one seems able to justify except as a waste of taxpayers' money by a Government who could give lessons on how to buy "friends" and lose the world.

Mr. PRICE of Texas. Mr. Chairman, I rise to express my opposition to the foreign aid appropriations bill—H.R. 12067—because it is my firm conviction that our foreign aid program as presently constituted can no longer be justified or supported.

It is true that we emerged from the dark days of World War II as the undisputed military and economic leader of the world, and in recognition of the great dislocations caused by that war responded to appeals for assistance with the most generous and broad-reaching program of foreign aid the world has ever seen. No one can deny that assisting Western Europe to rebuild was vitally important to protecting world peace and security, nor could the Marshall plan be deemed anything but a huge economic success. However, our aid program following the end of World War II established a precedent and laid a foundation for the great American giveaway, in other words, our well-oiled foreign aid machine which has over the past 26 years poured $143 billion of the American taxpayers' money into 98 nations throughout the world.

The magnitude of our foreign aid program has reached such proportions as to be nearly incomprehensible by the human mind. Each year we have continued to pour countless billions of dollars into programs and projects around the world and in spite of all our generosity have purchased very few friends and little peace or security.

I would underline that not all American foreign aid is bad—we must make those investments which are vital to the military security of the people of the United States. Likewise, we have always been a humanitarian nation, and have contributed heavily to programs of disaster relief for victims of great natural catastrophes such as floods and earthquakes. However, a logical program of foreign aid is one thing; an unwarranted, spendthrift, giveaway program is something else. And it is this aspect of our foreign aid program to which I take strong objection.

An excellent example showing the degree to which our foreign aid program has failed to influence the affairs of nations which have been the recipients of our generosity is the classic and embarrassing case of Cuba.

Mr. Chairman, the ruthless Communist dictatorship of Cuba, with its heavy reliance on military and economic aid from the Soviet Union, is not only a threat to the peace and security of the Western Hemisphere but to the entire free world. Perhaps our so-called allies see Cuba as a United States and/or Western Hemisphere problem and for that reason are not concerned. In fact, they are so unconcerned that many of our friends, whom we graciously supply with billions of hard-earned U.S. taxpayers' dollars in aid, are carrying on a vigorous trade with that Communist police state 90 miles from our shores. These non-Communist nations seem oblivious to the fact that they are dealing with a government which a few short years ago in 1962 was the very cause of the most dangerous superpower confrontation the world has ever witnessed. And yet it is a disgusting fact of life that these nations have all since lined up at the trough of shortsighted self-interest to the detriment of long-term prospects for peace.

In an attempt to isolate this Communist menace, the United States years ago undertook a series of measures designed to weaken the Cuban economy and to make Cuba as burdensome as possible for Castro's Russian cohorts. An embargo on trade with Cuba was initiated as early as November 1960, and subsequently strengthened in 1962. This policy became a multinational one when the Organization of American States Foreign Ministers meeting in Washington in July 1964 banned all trade—direct and indirect—with Cuba. It is significant that in this instance the United States received the overwhelming concurrence of its Latin American neighbors who realized all too well that they were rapidly becoming targets of Cuban-based guerrilla warfare and subversion.

In September of 1964, U.S. policy became even more firm when it denied port privileges to any free world vessel bound for Cuba. Most significantly, the United States announced that under the Foreign Assistance Act, U.S. aid would be denied to any country which allowed her vessels to trade in strategic goods with Communist Cuba.

This quarantine policy has been somewhat successful to date, and would have been more so if it were not for extensive Russian aid to Cuba. However, there is another factor which has kept the embargo from achieving its ultimate goal—and that is the trade that goes on between Castro's Cuba and the non-Communist nations of the world. Figures published by the Maritime Administration of the Department of Commerce on September 28, 1971,[1] show that since 1963, 2,289 trips have been made to Cuba by vessels carrying the flags of the free world. One can hardly believe his eyes when he sees the list of flags of registry headed by Great Britain, and followed closely by such nations as Cyprus, Lebanon, Italy, France, and Finland. It is indeed the height of ingratitude that these nations, who take for granted our heavy sacrifice in troops, weapons, and bases to protect their security in Mother Europe, are simultaneously knifing us in the back by providing aid and comfort to a Communist state in our own back yard. Thus while we are trying to neutralize Castro's worldwide subversive activities, ships carrying the flag of our closest friend, Great Britain, have made 791 trips to Cuba since 1963.

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[1] Federal Register, Vol. 36, No. 194, Oct. 6, 1971, p. 19449.

Do our "friends" know the nature of the government with which they are dealing? Can they be that naive? It is a well publicized fact that the Castro government is continuing its efforts to subvert the democratic nations of Latin America through support of guerrilla revolutionary movements and other antigovernment groups. In testimony before the Senate Foreign Relations Committee this past September, Robert Hurwitch, Deputy Assistant Secretary of State for the Bureau of Inter-American Affairs, emphasized that Cuba is providing training for urban and rural terrorists in the celebrated arts of kidnaping, bombing, terrorism, and sabotage. Furthermore, he pointed out that on August 27, less than 2 months ago, Castro vigorously reaffirmed his support for violent change in other nations of the hemisphere and spoke of his intention to give material support to Bolivian guerrillas.[2]

In earlier testimony before the Foreign Relations Committee, Assistant Secretary of State for the Bureau of Inter-American Affairs Charles Meyer quoted from Fidel Castro's April 19 speech:

> Cuban fighters have shed their blood helping peoples of other continents, helping African people. They shed their blood helping Latin American peoples. This is part of the best tradition of our fatherland and our revolution. Therefore we may be depended upon. This is part of our history, part of our traditions. American revolutionary peoples can depend on us. Latin American revolutionary governments can depend upon us. We say this publicly and clearly, they can depend upon the Giron fighters. We are citizens of this continent, revolutionaries of this continent.[3]

And so, Fidel Castro is openly committed to throwing this hemisphere into turmoil and creating a Communist Latin America, and meanwhile our friends are indirectly and perhaps unintentionally, but nevertheless quite assuredly aiding that effort. They must apparently regard Castro as strictly an "American problem," or at worst a regional problem—but do the facts warrant such a conclusion? It is time we all realize that the Russians have become so influential in Cuba that they are in the process of establishing a major naval complex which might eventually become a base for nuclear submarines. Surely the risk of a face-to-face nuclear confrontation between the United States and the U.S.S.R. cannot be lightly dismissed. The fact is that our friends who trade with Castro will not be able to sit comfortably on the sidelines and expect the Americans to again hold the line on Communist aggression as they have done in the case of Vietnam.

If one is to measure end results, the Americans could certainly learn a few lessons from the Russians on how to get the most out of their foreign aid appropriations. On the one hand, in April 1970, Castro defiantly claimed that Cuba's political and military ties with the Soviet Union would never be broken. For approximately $1.5 billion in military aid and an additional $3.6 billion in economic assistance, the Soviets have purchased the unswerving allegiance of the Cuban Government and have gained a priceless beachhead for the purpose of exporting subversion throughout the Western Hemisphere.[4]

By contrast, beneficiaries of the generosity of Uncle Santa show their gratitude by openly giving aid and comfort to the enemies of our Nation. Unlike the Russians, we do not automatically demand mindless acquiescence and subservience from others simply because we have extended a helping hand from time to time, but it is sheer insanity for any nation to assume that the American people are going to assist those whose activities are openly counterproductive to our own security and well-being.

It is time to remind Great Britain, which since 1963 has been the worst offender in trade with Cuba, that they have received a total of $7,209,000,000 in economic and military loans and grants from the United States since 1946.[5] From 1950 to 1965 under the Food for Peace program England received $289,000 in donations of U.S. surplus agriculture commodities for voluntary relief agencies under Public Law 480, title II.[6]

Thus, as thanks for the fact that we have helped save Great Britain twice in this century during two great wars, followed by lavish postwar reconstruction assistance, the British respond by supplying a substantial amount of the buses in Communist Cuba today.

Cyprus, the second leading culprit, has allowed 559 visits to Cuba by ships bearing its flag, in payment for $22,000,000 in U.S. economic assistance.[7] This nation received a total of $18,000,000 in transfer authorizations for emergency assistance, economic development grants, and the world food program under the food-for-peace program.[8]

Italy has shown its gratitude for $5,500,000,000 in U.S. economic and military assistance since 1946 by allowing ships flying the Italian flag to make 126 visits to Cuba since 1963.[9]

These three countries are the worst but by no means the only offenders. They are in fact joined by 19 others in supporting through trade a Communist dictatorship that is bent upon destroying the security and peace of the Western Hemisphere. What makes the situation completely unpalatable is that most of these same nations have been beneficiaries of the generosity of the American taxpayers, and that we continue to shoulder the burden of maintaining the peace that their shortsighted, self-serving actions only serve to erode. In short, we help them and they in turn help the enemy—the time has come for these ungrateful nations to answer to the American people who have been the world's keeper and first-class patsy for too long.

Mr. Chairman, I include in the RECORD at this time the chart appearing in the October 6, 1971, Federal Register listing the nations whose consciences have been seared by participation in this corrupt and odious traffic.

Flag of registry	1963	1964	1965	1966	1967	1968	1969	1970	1971 January–April	1971 May	1971 June	Total
British	133	180	126	101	78	62	45	53	11	2		791
Cypriot		1	17	27	42	68	115	199	59	16	15	559
Lebanese	64	91	58	25	16	16	4	1				275
Greek	99	27	23	27	29	7						212
Italian	16	20	24	11	11	10	15	13	4	1	1	126
Yugoslav	12	11	15	10	14	9	6	7	3	1		88
French	8	9	9	10	10	4	2	5	1			58
Finnish	1	4	5	11	12	8	2	1				44
Spanish	9	17										26
Norwegian	14	10										24
Moroccan	9	13	1									23
Maltese		2	6	1	4	8	1	2				24
Somalia					2	11	7	4	1			25
Netherlands		4	2									6
Sweden	3	3										9
Kuwaiti		2	1									3
Israeli			2									2
Japanese	1					1						2
Danish	1											1
German (West)	1											1
Haitian			1									1
Monaco				1								1
Subtotal	371	394	290	224	218	204	197	285	79	20	16	2,289
Polish	18	16	12	10	11	7	2	3		1		80
Grand total	389	410	302	234	229	211	199	288	79	21	16	2,378

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[2] Hurwitch, Robert A., Statement before the Committee on Foreign Relations, U.S. Senate, September 16, 1971, p. 8.

[3] U.S. Congress. Senate. Committee on Foreign Relations. Hearings on Aircraft Hijacking Convention, 92nd Congress, 1st Session, July 20, 1971, p. 88.

[4] Volsky, George. *Cuba.* in Tad Szulc (ed.). The United States and the Caribbean. Englewood Cliffs, N.J. Prentice Hall, Inc., 1971. p. 124. Also, Hurwitch, *Op. Cit.*

[5] Agency for International Development. U.S. Overseas Loans and Grants, May 1971, p. 159

[6] ———. Operations Report, December 1970, p. 60.

[7] ———. U.S. Overseas Loans and Grants, May 1971. p. 13.

[8] ———. Operations Report, p. 54.

[9] AID U.S. Overseas Loans, p. 151.

Mr. Speaker, I applaud the recent action of the Senate in rejecting our foreign aid program which has been operating on completely outmoded premises stemming from World War II days. We in the Congress must understand that the American people are sick and tired of carrying the world on our shoulders and it is time for us to do that which is best for our country; and it is for this reason I strongly urge the complete overhaul of the American foreign aid program with a mind toward eliminating any and all frills including our contribution to the morally bankrupt United Nations. In the future, let America's foreign aid program truly be an investment in America's security and let us put an end once and for all to the silly notion that we can appease others by paving their roads to nowhere with American dollars.

Mr. SHRIVER. Mr. Chairman, I have no further requests for time.

Mr. PASSMAN. Mr. Chairman, I have no further requests for time.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

International organizations and programs: For necessary expenses to carry out the provisions of section 301 $41,000,000: *Provided*, That no part of this appropriation shall be used to initiate any project or activity which has not been justified to the Congress.

PARLIAMENTARY INQUIRY

Mr. FRASER. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. FRASER. I have an amendment in this title. Shall I wait until the title is read, or offer it at the point of reading?

The CHAIRMAN. The bill is being read by paragraph.

Mr. FRASER. Mr. Chairman, I have an amendment to line 8 on page 2. I was standing at the time it was being read.

Mr. PASSMAN. Mr. Chairman, the Clerk has read beyond that paragraph. I make a point of order against the amendment on the basis that we have gone beyond that in the reading.

The CHAIRMAN. The Clerk has gone beyond that point in reading.

Mr. ROONEY of New York. Mr. Chairman, it is my understanding the Clerk read down to and including line 23, page 2.

The CHAIRMAN. That is correct.

Mr. FRASER. Mr. Chairman, may I find out where the bill has been read. I was on my feet.

The CHAIRMAN. The Clerk has read down to and including line 23, page 2.

AMENDMENT OFFERED BY MR. FRASER

Mr. FRASER. Then, Mr. Chairman, I have an amendment to line 20.

The CHAIRMAN. The Clerk will read the amendment.

Mr. PASSMAN. Mr. Chairman, the Clerk has read past that, too.

The CHAIRMAN. That line is included in the pending paragraph.

The Clerk read as follows:

Amendment offered by Mr. FRASER: On page 2, lines 20 and 21, strike "$41,000,000" and substitute $91,000,000".

The CHAIRMAN. The gentleman from Minnesota is recognized for 5 minutes in support of his amendment.

Mr. HALL. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count.

One hundred and eight Members are present, a quorum.

Mr. FRASER. Mr. Chairman, this amendment would restore one-half of the cut made by the committee as measured against the budget request made by President Nixon with respect to the United Nations development program.

Mr. GERALD R. FORD. Mr. Chairman, a parliamentary inquiry. Was the amendment read?

The CHAIRMAN. The amendment was read.

Mr. FRASER. The United States was planning to contribute to the U.N. development program this year $100 million. The President requested that amount. The committee took it all out and did not leave a dime in the bill for the U.S. contribution to the U.N. development program. What this amendment does is it puts back $50 million of the $100 million. In other words, we are only putting in half of the amount that the administration requested in recognition of the fact that it might be easier to get support for restoring that rather than trying to restore the full amount.

The difficulty with the Appropriation Committee action is that it represents another retreat by the United States from an international effort at a time when the United States seems to be retreating on every front—economic, military, cultural—on every front in which we have any involvement in the world community today.

Each of us has his own opinion about how the United States ought to play a role in world affairs, but the one common denominator I think many of us have shared over the past 20 or 30 years is that we ought to work as far as there is a possibility of working within the U.N. framework to help build a strong world community and to try to participate as one member of a very large organization in sharing the responsibilities to help the third world emerge into the 20th century.

That is the issue that is involved in this amendment. Is the United States to turn its back and say, "Well, we lost interest. We think you have enough money. We are not going to appropriate a dime," despite the fact that over 100 other nations are contributing to this same fund this year?

I know what the chairman will say. He will say that they have some surplus on hand. It is true they have extra money on hand, because they changed their policy from full funding their projects to the end, to an annual basis of funding. They knew that this would create a temporary bulge in money. They worked this out among the participants in the U.N. Fund and worked it out so that there will be a smooth transition and so that they will have a necessary minimum of cash reserve to carry them over from year to year and so that they will be able to maintain some continuity in the funding for the U.N. programs.

If we put this $50 million back in, it is only half of what the United States said it was going to commit. But, at least, it is a beginning. It says we are not washing our hands of our responsibility in this area completely. It will reaffirm the commitment of the people of this country, acting through the House and the Congress, that we think the U.N. is worth preserving and it is worth preserving in order to help the third world as the third world surely need such help.

Mr. ANDERSON of Illinois. Mr. Chairman, will the gentleman yield?

Mr. FRASER. I yield to the gentleman from Illinois.

Mr. ANDERSON of Illinois. I thank the gentleman for yielding.

Mr. Chairman, I want to congratulate the gentleman from Minnesota for offering this amendment and to assure the gentleman of my intention to support his efforts.

Mr. Chairman, I read recently, as the result of a meeting of a group of 77 developing countries of the world that met in New York City, a statistic which came out of that meeting to the effect that during the last decade there had been a per capita growth GNP-wise of about $40 in these developing countries as against $650 for the Western industrialized countries of the world.

In other words, the gap is steadily growing and increasing between the developed nations and the developing countries of the world.

I think the least we can do at this very critical moment in world history is to do what the gentleman has suggested, to support the United Nations in this very important effort.

The United Nations development program is the world's largest program of multilateral technical assistance, currently serving in some 130 countries and territories. The United Nations development program has made enormous contributions in the fields of agriculture, education, disease eradication, transportation, and resource exploration.

Mr. Chairman, the committee report makes reference to the so-called Jackson capacity study of the United Nations development program system and the fact that several of the reforms and recommendations of that study have already been implemented, though it would be several years before we would see concrete results. I think it is most encouraging that these reforms are being implemented to improve the effectiveness of the United Nations development program—to better manage its resources and respond more quickly to the needs of the developing world. And yet the committee report seems to use this study as an excuse for withdrawing our contributions to the United Nations development program at this time—the implication being that we can or should sit around and wait for concrete results before resuming participation. I would submit, Mr. Chairman, that this is hardly a time for us to cut back on our support for United Nations development program, for to do so would be like pulling the rug out from under someone who is relearning to walk. It is especially essential that we continue to give the United Nations development program our full support during this crucial transition period. I therefore urge adoption of the Fraser amendment.

Mr. PASSMAN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I wish that the Members would pay very close attention to what I shall have to say. This is not "Passman's formula." It is the actual facts as we found them in June of this year, long before we had the incident in the United Nations and had no connection between kicking Taiwan out of the United Nations and this committee's action.

Mr. Chairman, for over a period of years the United Nations development program had a policy of funding projects many years in advance. So they decided that they would use the practice of following the bilateral technical aid program administered by the AID and fund these projects on an annual basis. So, in reverting to an annual basis they learned that they had $343 million in excess, according to the testimony presented to our committee, of their needs to administer this program.

Now, Mr. Chairman, on page 11 of the report, we discovered during the testimony before the committee that the United Nations development program had available a large reserve because it had decided to abandon the practice of full funding of projects. It was estimated that this reserve would amount to $343.3 million in 1970.

The following testimony appeared on page 675 of part 2 of the hearings:

> Mr. PASSMAN. * * * You have built up a $343 million reserve. It is so far in excess of your needs until you are going to pull $150 million out and put that in a single account or dormant reserve and then you are going to take the other $193 million in reserve, add that to what you requested, and enlarge upon the program?
>
> Mr. DE PALMA. Yes, sir.

Now, on page 12 there appears the following:

> Mr. PASSMAN. In fact, you could actually operate a full year without any money? That is just about the present funding level out of this reserve?
>
> Mr. DE PALMA. Yes, sir.

Then, Mr. Chairman, in checking further into what had actually happened I found a financial statement of the U.N. development program and learned that they had been taking this money and spending it not on development programs but they had actually been making loans to a very great extent and that they had accrued $3.5 million in interest on loans which they had made but which they did not need to finance this program.

Another point was the Jackson capacity study which went on to note that the switch to an annual basis would free on a one-time annual basis funds which could be available for a one-time burst of additional activity.

It was very definitely established that these people did not need this money.

So I decided I had better go to the AID Director and have this confirmed, because it is so hard to convince people with facts against their will.

Here is what Dr. Hannah said, and I hold in my hand his letter:

> You have persistently asked me to interpret the testimony before your Committee beginning on page 674. This is in response.
>
> This testimony indicates that at some time in the past the UNDP made it a practice to fund all its country projects for long periods in advance or to the completion of the projects.
>
> At a later date the policy was changed to operating on an annual basis. Testimony indicates the accumulation of unobligated funds over a period of years to a total amount of $343 million in reserve and that the UNDP has decided to reduce this reserve over a period of time to $150 million permitting the difference of $193 million to be used for an expansion of programs.
>
> You have asked me if it is true that if no additional funds are provided in our fiscal 1972 appropriation that this would not necessarily reduce the level of UNDP expenditures between now and July 1, 1972. Inasmuch as the UNDP operates on a calendar year basis, the answer is "yes"—provided we are able to resume our payments in fiscal year 1973, beginning July 1, 1972, at the level currently pledged.

The CHAIRMAN. The time of the gentleman from Louisiana has expired.

(By unanimous consent, Mr. PASSMAN was allowed to proceed for 2 additional minutes.)

Mr. PASSMAN. Mr. Chairman, I continue reading from Dr. Hannah's letter:

> You have raised the question as to whether A.I.D. has Reserve Accounts other than those in the pipeline made up of funds definitely committed to pay for projects that have been fully approved and agreed upon by the U.S. and the recipient countries. A.I.D. has no Reserve Accounts, as you know.

Now, Mr. Chairman, because the U.N. development program has moved 2 years ago from $257 million to $308 million, now they are trying to increase the program to $357 million. I can assure you that they have adequate funds for their program but in the event they can make any kind of a justification for additional funds at the proper time, we will look at it and try to work out a compromise. But if you will only look at the financial statement and check the testimony in the hearings, you would not want me to chair the committee if I did not bring these facts to your attention.

Mr. Chairman, I certainly hope that the amendment is voted down.

Mr. MYERS. Mr. Chairman, will the gentleman yield?

Mr. PASSMAN. I yield to the gentleman from Indiana.

Mr. MYERS. Mr. Chairman, it seems to me that this subcommittee has been real generous to this organization. Further on in the hearings during the testimony of Mr. De Palma, you asked him how much of the $193 million is going to be used, and he did not know.

Mr. PASSMAN. The facts are they have $343 million in reserve for which they have no use, and I am of the opinion that there are other pipelines that we have not been able to uncover because I have not been able to find a man in the Department who could answer intelligently a single question asked by any member of this subcommittee.

The CHAIRMAN. The time of the gentleman from Louisiana has again expired.

Mr. MORSE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, we have perhaps learned a lesson in bookkeeping here, but I would remind all of us, especially those on my side of the aisle, that the President of the United States was fully aware of this change in the funding procedure when the request came to the Congress.

We are not bookkeepers, we are Members of the legislative body, and we have to consider what the effects of our actions are going to be to the various relationships we have in this world.

We have many reasons to be piqued at the conduct of the United Nations, with the expulsion of Taiwan, and the assertion of the veto in the Southeast Asian situation, but, gentlemen, I urge you to support this amendment.

A former colleague of ours who heads the U.S. delegation to the United Nations and if you want to complicate his job and make it almost impossible then support the committee's position.

But if you want to prevent this body from taking the kind of irresponsible actions that the other body on the foreign-aid issue has taken in recent weeks, I urge you to support this amendment.

Mr. ROYBAL. Mr. Chairman, will the gentleman yield?

Mr. MORSE. I yield to the gentleman.

Mr. ROYBAL. Mr. Chairman, I want to associate myself with the remarks made by the gentleman in the well. I agree with him that this is a most important program and it should be increased at least to the 50-percent level recommended by the gentleman from Minnesota.

Mr. HAYS. Mr. Chairman, I move to strike out the last word and rise in opposition to the amendment.

Mr. Chairman, let me just put this in simple context as to what is going on.

According to the Budget Director and others, we may be in the hole $30 billion this fiscal year. Now as to all this money for the United Nations, we are borrowing it in the open market to pay our assessment. That is not too bad—but they cannot use it. So they are taking the money that we are borrowing in the open market at 5 or 6 percent and they are lending it out at 7 or 8 percent—because they do not have anything to do with it. So they are putting out $150 million or more in what they call a debt fund or reserve fund at interest. It just does not make any sense to saddle the American taxpayers with $150 million worth or more of borrowed money so that the U.N. can lend it to somebody. If they were using it for development purposes, that would be something else. You know that we should be for lending money to the developing countries like India and Pakistan—because if they do not develop, they cannot buy tanks and guns and airplanes and could not have any wars.

While we are on that subject, I do not agree with anybody who is condemning the President for calling India an aggressor. I said a year ago that the Prime Minister of India was setting up East Bengal for a takeover. The chairman of the Committee on Foreign Affairs told me, "You know, you are dreaming." Well, just yesterday he said, "I want to tell you something, you were right all the time about that, weren't you?"

That is exactly what is happening. Now this Mrs. Indira Gandhi is one of the kind of people that we are borrowing taxpayers' money for and saddling the taxpayers with the interest and we are giving it to the U.N.—and giving it to her, but they cannot give it to her fast enough, so they are putting the money out at interest.

I think it would be great if we had some kind of language in your bill, Mr. PASSMAN, that would prohibit giving another dime to India in the foreseeable future until she calls off this war which she is using as a pretext to grab off some territory.

Mr. LONG of Maryland. Mr. Chairman, will the gentleman yield?

Mr. HAYS. I yield to the gentleman.

Mr. LONG of Maryland. Mr. Chairman, there is language in the bill which suspends all economic and military aid for both India and Pakistan until hostilities are ended, except for humanitarian purposes, and with a provision that the President can reinstitute the aid if he rules it is in the national interest.

Mr. HAYS. That is an escape clause, but it does not prohibit the U.S. taxpayers from being saddled with more of the refugees that these armies are causing as they invade each other's country.

But I want to say to you, as I have observed this thing—if any blame is to be handed out, India should get it, because India really is the aggressor. If you ever think there is going to be a free state of Bangla Desh—forget it—that is going to become a part of India, or at least under India's domination.

Mr. GROSS. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I was indeed interested in the colloquy between the gentleman from Minnesota (Mr. FRASER) and the gentleman from Illinois (Mr. ANDERSON) with respect to the amendment, which would more than double the $41 million the committee has in this bill.

I have the honor to represent an area not too far west of the gentleman from Illinois (Mr. ANDERSON) and not too far south and east of the gentleman from Minnesota (Mr. FRASER). I wish there was some way to submit this kind of amendment to a referendum of the people of their districts and mine. I do not think there would be a bit of difference in the vote. I believe it would be sunk without a trace—this amendment to stick another $50 million in this bill.

I do not think either the gentleman from Illinois (Mr. ANDERSON) or the gentleman from Minnesota (Mr. FRASER) has been reading the newspapers lately, or looking at the financial statements of this Government, or listening to those who came before the House recently to say that the deficit next year may be $35 billion; that the deficit in the international balance of payments is probably the worst in all the history of this country, and the word that our gold reserves are down another billion.

Mr. ANDERSON of Illinois. Mr. Chairman, will the gentleman yield?

Mr. GROSS. I yield to the gentleman from Illinois.

Mr. ANDERSON of Illinois. The gentleman in the well is entitled, of course, to deliver to me a lecture on financial responsibility, if he will. He will, I think, however, concede that this particular sum is less than what the Nixon administration asked for in recognition of the fact that, given the state of the world today, we cannot escape certain responsibilities, difficult as they may be.

Mr. GROSS. I am speaking of my personal responsibility and alluding to yours.

Mr. HAYS. Mr. Chairman, will the gentleman yield?

Mr. GROSS. I want to finish my statement I will be glad to yield to the gentleman if I have time remaining.

I wish to quote, since this amendment would be a $50 million boost in the U.N. Development Fund, what one of the President's delegates to this session of the United Nations had to say in a newspaper article, I believe it was yesterday. She is Mrs. Gladys O'Donnell, and she called upon Congress to drastically slash appropriations to the United Nations until and unless the United States takes the initiative to restructure it. She said, "There is something manifestly wrong when countries representing only 4 percent of the world population can control the voting strength in the U.N. I have witnessed, she said, the U.N. "absolutely drowning in oratory in its East River headquarters," which she calls "that pile of glass." "It is a strange thing," Mrs. O'Donnell continued, "to hear these fledglings lecture the United States on dignity and human rights, to be accused by these nations of all the things they do." She said that this is the ultimate in hypocrisy, and as now constituted, she added, the U.N. is burdened by numerous small states which not only are unable to carry responsibilities but are financially dependent upon the world body even to send delegates.

And yet, in the light of what has happened in the United Nations, you want to more than double this amount by adding another $50 million. How unconscionable can you be?

I yield to the gentleman from Ohio.

Mr. HAYS. I do not pretend to be as close, of course, to the Nixon administration as the gentleman from Illinois, who acts as its spokesman. But I am reliably informed that when the request came up here, the Nixon administration did not know that this fund had $150 million loaned out in a so-called deferred reserve fund, so they apparently, when they asked for the money, did not realize what was going on.

Mr. PASSMAN. Mr. Chairman, will the gentleman yield?

Mr. GROSS. I yield to the gentleman from Louisiana.

Mr. PASSMAN. The President's budget was worked up at least 6 to 8 months in advance, and through the testimony presented to the subcommittee of the Committee on Appropriations, this is something we uncovered following submission of the budget. That is why we obtained a letter from the Administrator stating the fact that they do have a full year's funding. This was uncovered subsequent to the time the budget was submitted.

Mr. GROSS. The gentleman from Ohio (Mr. HAYS) made the point—and I want to reemphasize it—that we would have to borrow this $50 million and probably pay at least 6 percent interest on the money.

Mr. PASSMAN. They are making loans out of the UNDP, out of loans that have been repaid, and they do not need an extra dime.

Mr. LONG of Maryland. Mr. Chairman, I move to strike the requisite number of words.

The CHAIRMAN. The gentleman from Maryland is recognized.

Mr. LONG of Maryland. I would like to ask the author of the amendment, the gentleman from Minnesota, a question: Did he offer this amendment with full knowledge of the fact that there is a reserve of about $150 million which the U.N. is lending out?

Mr. FRASER. I would say to the gentleman I checked into this matter with great care. This question of the method of the funding of the United Nations development program has been under substantial discussion for a number of years. The Jackson capacity report takes it up. They recognized when they shifted from the forward funding of their operations to the annual funding that this would release some money. The point is they have worked out how they are going to handle the transition on a multilateral basis. All the countries who share with the United States the support of this U.N. development program are putting in their contributions. We would be the only ones to pull back, to pull out 100 percent. This is not the way to run a joint, multilateral operation. They are working it out to phase out the excess money over a period of 4 or 5 years, holding certain reserves they have so they will not get to a bare-bones point.

Mr. LONG of Maryland. The gentleman is giving me a sophisticated answer, but will he please explain why we should borrow money at 6 percent to turn over to the U.N. money which they do not need currently?

Mr. FRASER. That is not true at all. The U.N. gets a letter of credit from the U.S. Government, and they hold the letters of credit and they do not call upon them until they need the money. This is the state of affairs now.

As a matter of fact, they are always having the problem of having enough at any one point to make sure they are adequately solvent.

All I am saying is we ought to go along with the agreement to how to handle it over a period of 4 or 5 years, and we will pay in with Britain and Canada and the other participants who are jointly working this out, rather than pulling out on our own.

Mr. LONG of Maryland. But is it not true they have the money which they can use for their needs this year, instead of our having to put the money in for this United Nations Development Program?

Mr. FRASER. If we do not put any money in, what will the other countries do with respect to their programs? If all the countries pull back on this year's contribution, they will have great difficulty.

Mr. PASSMAN. Mr. Chairman, will the gentleman yield?

Mr. LONG of Maryland. I yield to the gentleman from Louisiana.

Mr. PASSMAN. Mr. Chairman, this is absolutely contrary to the facts of the matter. They did have $343 million in reserve and $127 million of it invested where they are drawing interest, and they will have interest to collect in the amount of $3.5 million. Here is what they are proposing to do with this money, and I am quoting from the Jackson capacity study:

> . . . the switch to an annual basis would "free—on a *one-time* basis—funds which could be available for a *one-time* burst of additional activity."

They mentioned the program levels were $257 million, and they went to $308 million, and then they will go to $357 million. They put into a letter from Mr. Hannah, answering the question categorically, that they do have sufficient funds for 1 full year provided that by next year, July 1, 1972, we provide funds for the fiscal year, 1973. This is factual. It comes from the AID agency.

Mr. Chairman, I hope this amendment will be voted down. Let us stick to the facts and not let somebody's imagination influence us.

Mr. LONG of Maryland. Is it true, I would like to ask the gentleman from Louisiana, that the United States is being asked, in essence, to "forward fund" this program when many other countries are behind on their current obligations?

Mr. PASSMAN. Of course, we do not like to pull all these bones out of the closet. I am trying to get these people to put this on a business basis. I am willing to go along, and if they can make a justifiable case in the future, whether they do it next year or 3 weeks from now, if they can make their case, we will consider additional appropriations.

Mr. GALLAGHER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment. One of the problems with this, if I may respond to the gentleman from Maryland, is that it is true we do have this money in reserve, and it is true that the $150 million does exist. The problem, however, is that because of the obligations in the advanced pledges that are made, a reserve cash flow was required in order to gradually reduce our contribution from $343 million to $150 million.

Everyone agreed that a reserve fund was necessary to do this. If we do this, and this amendment is supported, it will allow the U.S. contribution to be reduced from $347 million down to $150 million by 1973.

If we do not pass this it is going to throw the entire program into disarray, and what is normally a 4- to 5-year program will again be thrown into chaos next year.

So if we want the rest of the countries to participate in a meaningful way to reduce the U.S. share of this fund, it seems we must get it on a businesslike basis. This is the whole basis for the agreement.

Nobody in AID is trying to hide the fact that there is a reserve fund of $150 million. We all agreed on this.

I hope that agreement will be carried out, because only by carrying out our agreement will be able to reduce our contribution and let the rest of the nations participate in a meaningful way.

Mr. LONG of Maryland. Mr. Chairman, will the gentleman yield?

Mr. GALLAGHER. I yield to the gentleman from Maryland.

Mr. LONG of Maryland. I am looking for light.

As I gather, we are ahead of the parade. We have put in a larger amount of money than they currently use. The objection to cutting down our current contribution is that if we do this other countries will cut down theirs, even though they are not up to the parade. Is that a fair way of saying it?

Mr. GALLAGHER. It is not exactly that. That is one interpretation.

A part of this program is that much of this money is made up of unpaid pledges, Government future obligations. What really is required, especially with regard to some of the long term programs, is that a reserve fund exist so that uneven cash flows can be used in a meaningful way so that the obligations can be met until the pledges are paid.

Mr. LONG of Maryland. If the gentleman will yield further. I get the impression that the basic reason why they need this reserve fund is that there are a lot of countries which do not pay up their shares on time.

Mr. GALLAGHER. Yes, because at certain times, with differing budgeting operations in other countries, the cash flow is uneven. To make it adequate and efficient the whole operation was designed to have enough paid in this reserve account.

Mr. LONG of Maryland. I wonder if it is fair to ask the American taxpayer to do this, to make up the deficiency?

Mr. GALLAGHER. Yes, it is fair, because it will allow the American taxpayer to contribute less over the next 5 years; significantly less by 1973.

Mr. LONG of Maryland. Why not start this year?

Mr. GALLAGHER. That is exactly what we are doing, starting this year. That is why this amendment should be adopted.

The CHAIRMAN. The time of the gentleman from New Jersey has expired.

(On request of Mr. PASSMAN, and by unanimous consent, Mr. GALLAGHER was allowed to proceed for 2 additional minutes.)

Mr. PASSMAN. Mr. Chairman, will the gentleman yield?

Mr. GALLAGHER. I yield to the gentleman from Louisiana.

Mr. PASSMAN. I would not want to mislead this committee. The $343 million reserve is not just U.S. dollars. This is the aggregate which is in the UNDP account.

Actually, this $343 million, according to testimony, is in excess of the present requirement and would fully fund the program for 12 months. Now, in all probability the $193 million, with the additional funds coming in, would fund it for a full 12 months.

This is what the Jackson capacity study noted:

> The Jackson Capacity Study went on to note that the switch to an annual basis would "free—on a *one-time* basis—funds which could be available for a *one-time* burst of additional activity."

In other words, running the program up perhaps from $257 million to as much as $350 million in 1 year.

I believe the amendment should be voted down, and subsequently that we have some clarification.

Mr. GALLAGHER. Since I still have the floor, I might say that the gentleman is correct in what he states, but what is not correct is that this will increase the American authorization and appropriation portion of the U.S. contribution. In effect, it will reduce the American contribution once we get an even cash flow and the whole program on a businesslike basis in the years to come. I think the gentleman supports that approach.

Mr. PASSMAN. That is in the making at this time, and this action, I will say, is not tied in directly or indirectly to what the future percentage contribution of the United States will be. We are certain that will be 25 percent.

Mr. GALLAGHER. If I have the time, I will say that it is directly tied in, because it allows the United Nations contribution to be reduced over a 4- or 5-year period and substantially reduced by 1973.

Mr. MYERS. Mr. Chairman, I rise in opposition to the amendment.

Mr. PRICE of Texas. Mr. Chairman, will the gentleman yield?

Mr. MYERS. I yield to the gentleman.

Mr. PRICE of Texas. Mr. Chairman, I have listened to the debate and am thoroughly convinced that the unobligated funds in the United Nations development program are more than sufficient to fund the program for an additional full year. It is thoroughly unrealistic and unacceptable to me that the American people should be asked to borrow additional moneys on which they must pay interest simply for the purpose of fattening the UNDP "kitty." It is well known that surplus funds controlled by UNDP are often invested in a bank where they draw interest or are used for nonrelated projects. In either case, this additional burden on the American taxpayers cannot be justified.

I strongly oppose this measure for two

basic reasons: First, we as a nation cannot afford to travel any farther down the spendthrift road which has been paved by American dollars. Already our national debt of over $400 billion exceeds the national debts of the rest of the free world nations combined. What is more, our unprecedented generosity, over the past two and one-half decades, has for all of our billions of dollars of foreign aid, bought this Nation few friends and little security.

Furthermore, I strongly oppose this appropriation because it is my belief that the United Nations is not worthy of our support. This morally bankrupt organization, which has time and time again been bailed out of its financial difficulties by the generosity of "Uncle Sap," has shown its complete incapacity to deal effectively and fairly with issues concerning world peace. More and more this organization has become a sounding board for the left; we have continued to foot the bills while nations inimicable to the United States have reaped the dividends. We ought to have come to this realization following the recent disgusting vote to expel the Republic of China, a charter member of the United Nations. The list of U.N. failures could go on and on. Suffice it to say, I oppose any further subsidization of this organization which has completely strayed away from the great principles inscribed in its charter. It is my belief that this feeling of disgust is shared by a great many of the American people, and we will be doing them our greatest service by taking from their back this unwarranted, unnecessary, and ungratifying burden.

Mr. MYERS. Mr. Chairman, I have no intention of using all of this time, but I rise to make this one observation.

The gentleman from New Jersey makes the point that this amendment is an attempt to make this fund solvent and to keep it that way. I have no objection and I am happy to see some place in the world where there is a government body concerned about keeping an account solvent, but I do not know whether we can do it at the expense of the taxpayers.

I refer the gentleman from New Jersey to the very first page of this bill. On page 1, line 3, it says, "The following sums are appropriated out of any money in the Treasury." Then it goes on. "Out of any money in the Treasury," but how solvent is our Treasury? What reserve do we have in the Treasury today to operate all of the vast amounts that are needed with regard to social experimentation and such things that we get out of the Treasury constantly?

We appropriate money here that is not in the Treasury, I say, and we have no reserve in the Treasury, and yet we are asking the taxpayers of this country to put more money into an account that even the administrators of this program cannot tell the committee how they are going to spend it. I think we are asking too much of the American taxpayer.

Mr. GALLAGHER. Will the gentleman yield?

Mr. MYERS. I am glad to yield to the gentleman.

Mr. GALLAGHER. I thank the gentleman.

I have one thing to say against the gentleman's argument and that is, of course, there is little we can do that can be totally justified. If we take his argument at its face value, we can do nothing that is totally justified. On the other hand, if we look at what we are doing here as a part of the overall U.S. contribution to the international situation and if we look at what our obligations are, then one should argue in that frame of reference.

The fact of the matter is the United Nations development program has always had certain obligations which it has carried out with regard to the United States. Ninety percent of the funds that he pays as its contribution are spent in the United States. It has always had a U.S. administrator. It has always been directed on the basis of the U.S. interests. I think if we look at it in that context, it is perfectly justified and the gentleman's amendment should be passed.

I agree with the gentleman that there is an implication here we are giving this taxpayers' money to the U.N. and that the U.N. is becoming a small loan agency making money on the interest variable. That is just not true at all.

Mr. MYERS. I have to take strong exception to what the gentleman says. I have no proof here and I do not want to question the gentleman on that 90 percent of the money being spent in the United States, but if it is, I say that it is still a good effort to help the people throughout the world, but really charity should start in the United States and start at home. As long as we are digging into the pockets of the American taxpayers to find this money, we might do something worthwhile with it here at home. We have a vast amount of interest paid on the national debt. This year it will run to $20 billion. The gentleman from Ohio (Mr. CARNEY) said that he had not heard anyone make a pitch about the poor taxpayers, and here we are spending money today that we just do not have. I must take strong exception to spending any money for this purpose that we do not have. This cause may be all right, but what are we doing to the American taxpayer while we are constantly spending more of his money which he does not have? This is something that we have to take into consideration.

Mr. GALLAGHER. We have to take into consideration also the taxpayers are spending money on all of these military programs, all of which are not always totally justified.

The same argument could be made on that basis.

Mr. MYERS. I think the gentleman will find that in the military assistance portion of this bill there are some things which are for the defense of this country and defense is the business of everyone.

Mr. GALLAGHER. These programs are also in the interest of the United States and in the interest of the U.S. taxpayers.

Mr. MYERS. That is a matter of opinion.

Mr. GALLAGHER. We have a very deep interest in this.

Mr. MYERS. I am quite sure that if the gentleman conducted a poll in his district in New Jersey on this issue the gentleman would find that the majority of the people would not want their tax money, even though it is spent in this country, to be spent in fashion, and if we do want to try to help we ought not to send it through this huge pipeline all the way from here up to New York to the United Nations.

Mr. GALLAGHER. I will say to the gentleman that it happens to be what the President of the United States wants.

Mr. MYERS. I would like to see the gentleman support the President more often, but I have not seen the gentleman doing it.

Mr. BINGHAM. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to address my remarks to those who would like to support this bill. To those who will be opposed to the bill under any circumstances, may I say that I do not expect you to support this amendment. But those who want to support this bill, I would like to make a few points.

I would like to see this bill with some modifications pass.

Mr. Chairman, I was one of those who signed a letter addressed to the distinguished chairman of the committee, a copy of which was circulated, indicating that in its present form we were so unhappy with the bill that we could not vote for it.

Now, as the chairman of the subcommittee said earlier, everyone of us probably has something in this bill that he is for and would like to see go through. For example, I am most interested in the funds which are contained in this bill for Israel. I do not want to see those funds jeopardized.

But, Mr. Chairman, we have got to build a coalition in order to pass this bill. No one group supporting one particular type of aid has enough votes to pass this bill. You need the votes of the Members who signed that letter. Those Members have all voted for foreign aid in the past. They are unhappy about this bill and, if it is not improved, they are prepared to vote against an aid bill for the first time, confident that a better bill will come back to us. Certainly, there is no danger that the money in this bill for Israel will not be voted at an early date. A large majority of the House is for this, and our leadership will find a way to see that that is done.

If you want this bill to go through, you had better show a little flexibility, a little respect, a little consideration for the points of view of those who signed the letter. Their main objection to the present bill is that it reflects an almost total rejection of multilateral foreign aid. The bill also reflects a shift in emphasis away from economic and technical assistance to military assistance. These are basically the things to which we object.

Mr. Chairman, if we could make a

few moderate changes here, I am sure I for one could support this bill.

So, I would suggest that there is a need for a little give and take and a spirit of coalition so you can attract those who represent a different point of view to help pass this bill.

Now, let us turn for a moment to what you may refer to as the "PR" aspect of this problem, leaving the technical accounting aspects aside.

How is it going to look if we are the only country that uses a technical excuse to say "No" to any funds for the U.N. development program this year? Other nations have pledged to increase their contribution to the U.N. development program by an average of 17 percent. In this amendment we are talking about a substantial drop from last year—a drop of perhaps one-third. But the committee would have us say "zero" for this year, "zilch."

How is that going to look to the other nations of the world. Do we want to have any influence in the United Nations? There are those, of course, who would like to see us get out of that body, but I think a majority of us want us to stay in and have some influence up there. I think the majority of Members were upset that we lost the recent votes on Taiwan. We just did not have enough support, we did not have enough votes. Everyone here understands what votes are and that it took votes to sustain our position on Taiwan. We did not have them. Let us try to improve that situation for the future.

But if we are really going to do a total job of offending everybody at the U.N. let us just say: "to hell with you; we are fed up with this organization, we are not going to contribute a dime to the U.N. development program that we initiated and have supported for all these years." That is what you will be saying if you reject the Fraser amendment. But bear in mind that doing so is going to damage our position, not only at the United Nations, but it is going to damage our position with our friends all around the world.

Mr. Chairman, I have used an analogy before, and I would like to repeat it. We are in the position of the biggest business in a town. Our business is in trouble and is losing money. But the people from the Community Chest Fund come to see us, and ask us, "What is your contribution going to be this year?" And we say, or our stockholders say, "Well, we are losing money, we cannot contribute anything."

The people from the Community Chest then say, "You cannot mean that. You have to put up your fair share, whether you are losing money or not. The people that the Community Chest benefits are much more in need than you are."

So, if you are president of that business, you will turn around and make your fair share of the contributions to the Community Chest Fund, whether you are losing money or not.

The Fraser amendment is a compromise. It represents a considerable step back from last year's contribution.

I plead with you, do not make us look like the Scrooge of all time up there in New York, and around the world, and in countries where their annual per capita income is $100 or less. Do not make us look like the Scrooge of all time. Support this amendment.

Mr. SEIBERLING. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I wish to associate myself with the remarks of the distinguished gentleman from New York, who pointed out the adverse psychological or "PR" effect of a failure to vote any funds for the United Nations development program. But the problem is not just psycological. It is also practical.

The letter that the gentleman from Louisiana (Mr. PASSMAN) read from Dr. Hannah of AID had the statement in it that if this program is not funded, there will be no adverse affect on the U.N. development program through June 1972. But, here we are in December debating an appropriation for the fiscal year which began last July 1. We will probably have the same or similar situation next year.

I strongly favor revising the basis for financing the United Nations, so that it does not have to rely on contributions from the United States and other member nations. Unfortunately, however, until such a change is made, the United Nations must continue to depend on contributions.

Having decided to abandon forward funding, the United Nations obviously needs some means, through a working capital fund, to avoid the losses and inefficiencies which result from stop-start funding.

Mr. Chairman, this bill alone contains over $1,500 million for military assistance, military support assistance and military credits. This amendment proposes that a small fraction, less than one-thirtieth of that amount, be appropriated to a program dedicated to alleviating the terrible conditions in underdeveloped countries. These are the conditions that breed the wars and revolutions that are saddling us all with these astronomically expensive military expenditures.

The United Nations development program has been outstanding in providing aid to developing countries not available through bilateral or other programs. It deserves our moral and practical support.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota (Mr. FRASER).

The question was taken; and the Chairman announced that the noes appeared to have it.

TELLER VOTE WITH CLERKS

Mr. FRASER. Mr. Chairman, I demand tellers.

Tellers were ordered.

Mr. FRASER. Mr. Chairman, I demand tellers with clerks.

Tellers with clerks were ordered; and the Chairman appointed as tellers Messrs. FRASER, MYERS, PASSMAN, and MORSE.

The Committee divided, and the tellers reported that there were—ayes 119, noes 268, not voting 45, as follows:

[Roll No. 440]

[Recorded Teller Vote]

AYES—119

Abourezk
Abzug
Adams
Albert
Anderson, Calif.
Anderson, Ill.
Anderson, Tenn.
Aspin
Badillo
Barrett
Bergland
Bingham
Boland
Bolling
Brademas
Burton
Carey, N.Y.
Celler
Chisholm
Clay
Conable
Conte
Corman
Culver
Danielson
Dellums
Denholm
Dow
Drinan
du Pont
Eckhardt
Edwards, Calif.
Eilberg
Esch
Fascell
Findley
Fish
Foley
Ford, William D.
Fraser
Frelinghuysen
Fulton, Tenn.
Gallagher
Giaimo
Gibbons
Gonzalez
Green, Pa.
Halpern
Hamilton
Hanna
Harrington
Hawkins
Hechler, W. Va.
Helstoski
Hicks, Wash.
Holifield
Hungate
Jacobs
Karth
Kastenmeier
Koch
Leggett
Link
McCloskey
McDade
McFall
Madden
Mailliard
Matsunaga
Meeds
Metcalfe
Mikva
Miller, Calif.
Minish
Mink
Mitchell
Monagan
Moorhead
Morgan
Morse
Mosher
Nedzi
Nix
Obey
O'Hara
O'Neill
Patten
Pepper
Podell
Price, Ill.
Pryor, Ark.
Rangel
Rees
Reid, N.Y.
Reuss
Riegle
Robison, N.Y.
Rodino
Rosenthal
Roush
Roybal
Ryan
Sarbanes
Scheuer
Schwengel
Seiberling
Smith, Iowa
Smith, N.Y.
Stanton, James V.
Stokes
Symington
Thompson, N.J.
Udall
Van Deerlin
Vanik
Waldie
Whalen
Wolff
Yates

NOES—268

Abbitt
Abernethy
Addabbo
Andrews, N. Dak.
Archer
Arends
Ashbrook
Ashley
Aspinall
Baker
Baring
Begich
Bell
Bennett
Betts
Bevill
Biaggi
Biester
Brasco
Bray
Brinkley
Brooks
Broomfield
Brotzman
Brown, Mich.
Brown, Ohio
Buchanan
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Byrne, Pa.
Byrnes, Wis.
Byron
Caffery
Camp
Carney
Carter
Casey, Tex.
Cederberg
Chamberlain
Chappell
Clancy
Clark
Clausen, Don H.
Clawson, Del
Cleveland
Collier
Collins, Tex.
Colmer
Cotter
Coughlin
Crane
Daniel, Va.
Daniels, N.J.
Davis, S.C.
Davis, Wis.
de la Garza
Delaney
Dellenback
Dennis
Dent
Devine
Dickinson
Dingell
Donohue
Dorn
Downing
Dulski
Duncan
Dwyer
Edmondson
Edwards, Ala.
Erlenborn
Eshleman
Evans, Colo.
Fisher
Flood
Flowers
Flynt
Ford, Gerald R.
Forsythe
Frenzel
Frey
Fuqua
Galifianakis
Garmatz
Gaydos
Gettys
Goldwater
Goodling
Grasso
Griffin
Griffiths
Gross
Grover
Gude
Hagan
Haley
Hall
Hammerschmidt
Hanley
Hansen, Idaho
Harsha
Harvey
Hastings
Hathaway
Hays
Hébert
Heckler, Mass.
Heinz
Henderson
Hicks, Mass.
Hillis
Hogan
Horton
Hosmer
Hull
Hunt
Hutchinson
Ichord
Jarman
Johnson, Calif.
Johnson, Pa.
Jonas
Jones, Ala.
Jones, N.C.
Jones, Tenn.
Kazen
Keating
Keith
Kemp
King
Kuykendall
Kyl
Kyros
Landgrebe
Latta
Lennon
Lent
Lloyd
Long, La.
Long, Md.
Lujan

McClory
McClure
McCollister
McCulloch
McDonald, Mich.
McEwen
McKay
McKevitt
McKinney
Macdonald, Mass.
Mahon
Mann
Martin
Mathias, Calif.
Mayne
Mazzoli
Melcher
Michel
Miller, Ohio
Mills, Md.
Minshall
Mizell
Mollohan
Montgomery
Moss
Murphy, Ill.
Murphy, N.Y.
Myers
Natcher
Nichols
O'Konski
Passman
Pelly
Perkins
Pettis
Peyser
Pickle
Pike
Pirnie
Poage
Poff
Powell
Preyer, N.C.
Price, Tex.
Pucinski
Purcell
Quie
Quillen
Railsback
Randall
Rarick
Rhodes
Roberts
Robinson, Va.
Roe
Rogers
Rooney, N.Y.
Rooney, Pa.
Rousselot
Roy
Runnels
Ruppe
Ruth
St Germain
Sandman
Satterfield
Saylor
Scherle
Schmitz
Schneebeli
Scott
Sebelius
Shipley
Shoup
Shriver
Sikes
Sisk
Skubitz
Slack
Smith, Calif.
Snyder
Staggers
Stanton, J. William
Steed
Steele
Steiger, Ariz.
Steiger, Wis.
Stephens
Stratton
Stubblefield
Stuckey
Talcott
Teague, Calif.
Teague, Tex.
Terry
Thompson, Ga.
Thomson, Wis.
Thone
Ullman
Vander Jagt
Veysey
Vigorito
Waggonner
Wampler
Ware
Whalley
White
Whitehurst
Widnall
Wiggins
Williams
Wilson, Bob
Wilson, Charles H.
Winn
Wyatt
Wydler
Wylie
Wyman
Yatron
Young, Fla.
Young, Tex.
Zablocki
Zion
Zwach

NOT VOTING—45

Alexander
Andrews, Ala.
Annunzio
Belcher
Blackburn
Blanton
Blatnik
Boggs
Bow
Broyhill, N.C.
Broyhill, Va.
Cabell
Collins, Ill.
Conyers
Curlin
Davis, Ga.
Derwinski
Diggs
Dowdy
Edwards, La.
Evins, Tenn.
Fountain
Gray
Green, Oreg.
Gubser
Hansen, Wash.
Howard
Kee
Kluczynski
Landrum
McCormack
McMillan
Mathis, Ga.
Mills, Ark.
Nelsen
Patman
Roncalio
Rostenkowski
Spence
Springer
Sullivan
Taylor
Tiernan
Whitten
Wright

So the amendment was rejected.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Contingency fund: For necessary expenses, $30,000,000, to be used for the purposes set forth in section 451.

Refugee relief assistance (East Pakistan): For necessary expenses for the relief and rehabilitation of refugees from East Pakistan and for humanitarian relief in East Pakistan, $175,000,000.

AMENDMENT OFFERED BY MR. RANGEL

Mr. RANGEL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. RANGEL: Page 3, immediately after line 18, insert the following:

"International drug control assistance: For necessary expenses to furnish assistance to any country or international organization for the control or elimination of the production, processing, or distribution of drugs, $25,000,000."

Mr. PASSMAN. Mr. Chairman, I reserve a point of order against the amendment.

Mr. RANGEL. Mr. Chairman, I rise today, recognizing that this House and the Senate have passed legislation which would authorize the President of the United States to have at his disposal a minimum of $25 million annually to aid and assist those countries that are cooperating with our humane efforts to stop the international traffic in drugs. We all recognize that we have to give the President all the power necessary and, certainly that which he has requested, to fight narcotics.

Yesterday—which I mention as a point of parliamentary procedure—a rule was passed which would waive only points of order as to that subject matter which has been incorporated within the bill before us now.

I had a discussion with the chairman, and he explained to me that because this matter was not put into the bill—even though it has been passed by both Houses—since the $25 million is in conference as passed by the Senate and the House, this would be subject to a point of order.

We also have in conference at this time the $175 million which has been approved for consideration by the rule, because the subject matter is still in conference: the refugee relief assistance program in East Pakistan.

What I am asking the distinguished chairman to do, recognizing the plight America finds itself in today, and recognizing further that other nations are relying on the economy of the growing and processing of opium and the trafficking of this dangerous poison which is killing our youth and, indeed, afflicting our fighting men, is to consider whether or not the distinguished chairman will see fit to waive his point of order at this time, the same way the committee saw fit to incorporate other matters in the bill which are still in conference and which relate directly to the refugee relief assistance program.

It appears to me, as a Member of Congress, that if we can see fit to help those foreigners who find themselves in the plight of losing their lives in Pakistan, we can also see fit to waive the parliamentary rule in order to save American lives.

Mr. RYAN. Mr. Chairman, will the gentleman yield?

Mr. RANGEL. I yield to the gentleman from New York.

Mr. RYAN. I should like to commend the gentleman for the statement he has made and for offering of this amendment, which goes directly to the international drug traffic. The gentleman has shown great concern for, and understanding of, the problem. I join him in appealing to the chairman of the subcommittee not to raise a point of order or any technicality as a barrier to this amendment, which is aimed at curbing the international drug traffic. We should not stand on a technicality in respect to this critical situation. The drug crisis requires immediate action.

Mr. RANGEL. I thank the gentleman.

POINT OF ORDER

Mr. PASSMAN. Mr. Chairman, I make a point of order against the amendment that it is legislation on an appropriation bill. There is no authorization for it.

The CHAIRMAN (Mr. PRICE of Illinois). The Chair is ready to rule.

Since the gentleman from New York himself concedes this is not authorized by law, the Chair must sustain the point of order.

The Clerk will read.

The Clerk read as follows:

MILITARY ASSISTANCE

Military assistance: For necessary expenses to carry out the provisions of section 503 of the Foreign Assistance Act of 1961, as amended, including administrative expenses and purchase of passenger motor vehicles for replacement only for use outside of the United States, $552,000,000: *Provided*, That none of the funds contained in this paragraph shall be available for the purchase of new automotive vehicles outside of the United States.

AMENDMENT OFFERED BY MR. DOW

Mr. DOW. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Dow: Page 5, beginning in line 16, strike out "$552,000,000: *Provided*" and insert in lieu thereof the following: "$352,000,000: *Provided*, That no part of this appropriation shall be used to furnish assistance to Cambodia under such section 503: *Provided further*".

Mr. DOW. Mr. Chairman, my amendment would set aside the $200 million of military assistance that we are considering for Cambodia.

I am again offering an amendment to restore some justification to our foreign assistance programs. I find it unconscionable that we are even considering the tremendous expenditure of $200 million for this remote country, Cambodia, when 2 years ago the figure was only $4,800,000. Even after the congressional bar to the sending of ground troops into Cambodia, this money is being used to fight a war that Congress has not declared.

According to Secretary Laird's testimony before the Subcommittee on Foreign Operations, Presidential determinations were made in 1970 for a total of $8.9 million for Cambodian military assistance, and in 1971 a total of approximately $100 million. The substantial grant of $185 million made in fiscal year 1971 supplemental appropriations consisted of $100 million to replace the fiscal year 1971 funds used in Cambodia under Presidential determinations, and $85 million for additional military assistance. These increases have built the Cambodia forces up from 35,000 to more than 200,000 volunteers. General Warren, the Deputy Assistant Secretary of Defense for Military Assistance and Sales testified that:

> This program is one of the highlights of Nixon doctrine in action since we have provided equipment and they have provided the manpower. (Page 81 Hearings, Part 1.)

The general calls it a highlight. I call it a low light.

My amendment further provides that no part of the full amount in the bill for military assistance under Sec. 503 can be used to aid Cambodia under such section.

The military activity in Cambodia has very substantially increased because of the ability of the military to transfer funds from one nation to another, to justify the program for one nation, and later scratch it out and transfer the funds elsewhere. I think the mere fact that $200 million of the $552 million is limited to one country would slow down capricious transfers.

U.S. furtherance of warfare in Cambodia has been the main contributor to creation of 2 million refugees in that sad country.

By what warrant, written or implied, do we venture with weapons and bombs and death into a harmless peasant land, as we have in Cambodia?

Recently, I asked some of our airmen from Indochina how they felt when they were up there probably killing women and children in those jungle villages. "Well, it's a job to be done," they answered.

I say that this Congress is giving them that job, implying that it is moral, that it's all right for them to carry out questionable orders because they come from on high in the Pentagon or Congress, and that takes such actions out of the realm of morality into some sphere where the individual is freed of responsibility.

I ask for passage of this amendment as one way of ending the kind of moral distortion and the warped rationalization that we have practiced here in this Congress and continue teaching to our good sons who man those weapons in Indochina.

Mr. PASSMAN. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, first of all, the item of $552 million is made available on an illustrative basis. To enable us to reduce funds for Cambodia to the extent of $200 million, we would have to make deeper reductions in the committee allowance. We made very drastic reductions in this military assistance program. Of course, all of the military assistance for Korea is in this package. Now we are dealing with policy, as the Members of the House well understand.

I certainly hope this amendment will be voted down and let us continue the winding down of the war in Indochina.

I think we all know that 34 months ago there were 542,000 troops in Vietnam.

As of December 31, it is estimated that our troop strength will be down to 159,000. Ninety-five percent of the American people agree with the program for winding down the war in that part of the world.

So, let us not upset the policy which would enable this country to wind down this war.

Mr. Chairman, this money is necessary. I do not know what amount will be used in Cambodia, but I think it will be far, far less than the amount mentioned in this report.

Mr. Chairman, this committee has never attempted to withhold information from this House. We recommended a much smaller amount for MAP than was requested.

So I hope you will vote this amendment down so that we may proceed to wind this war down and get out of the unfortunate situation that we are in, in Vietnam.

Mr. Chairman, I trust that this amendment will be voted down.

Mr. DOW. Mr. Chairman, will the gentleman yield?

Mr. PASSMAN. Yes. I would be happy to yield to the gentleman from New York.

Mr. DOW. The chairman of the subcommittee says that we are winding the war down. I doubt if that is true in Vietnam and it certainly cannot be true in Cambodia, because this amount, Mr. Chairman, that appears in your report of $200 million for Cambodia is greater than the amount of $185 million which was provided in the previous fiscal year.

Mr. PASSMAN. Mr. Chairman, if the gentleman will permit me to say this, I know that the gentleman is familiar with the old expression—you know there is an asking price and a taking price. You are discussing the asking price. We have a taking price in the bill.

Let me repeat again—and I do not want to get politics into this bill—the fact that we had 542,000 troops in Vietnam 34 months ago and it is estimated now that we will have only 159,000 troops there on December 31. Certainly, we are winding the war down. Let us continue with the program. It has been very successful. We should not pull the rug from under the administration.

Mr. DOW. But, we are not winding down the Cambodian effort.

Mr. PASSMAN. There are no American troops in Cambodia, as we all know.

Mr. DOW. Yes, but there are American bombs.

Mr. SHRIVER. Mr. Chairman, I move to strike the requisite number of words.

I merely want to add that we have already cut military assistance in this bill for a total of $153 million below the budget. As the chairman has said repeatedly, these funds are illustrative funds. They can be used and transferred at various places. I do not think we would want to further reduce military assistance.

Mr. MAHON. Mr. Chairman, will the gentleman yield?

Mr. SHRIVER. I yield to the distinguished chairman of the committee.

Mr. MAHON. Let me see if I can clarify this question further.

The President asked for $705 million for military assistance. It was estimated that $200 million would be related to the war in Vietnam and associated with Cambodia.

But the Committee on Appropriations has reduced that fund for military assistance in the bill from $705 million down to $552 million, a cut of $153 million.

So, the funds available in this package for military assistance for Cambodia has already, in effect, been reduced by a very substantial amount. This is because funds available for the total military assistance package have been reduced. So the funds in the program associated with Cambodia would be devoted to trying to help wind down the war and they have already been cut.

In other words, in all probability there would not be $200 million in this bill that would be used for Cambodia because of the $153 million cut that has already been made in the total package.

So, this amendment would certainly represent very adverse action toward permitting winding down the war. Would not the gentleman from Kansas agree with that?

Mr. SHRIVER. Yes, Mr. Chairman. And, furthermore, it is $138 million below 1971.

Mr. MAHON. Yes, the amount recommended by the committee in the bill is a reduction from the amount made available last fiscal year.

Mr. Chairman, I would hope that the House would support the committee and not slash this amount from the bill which has already been sharply reduced.

The CHAIRMAN. The Committee will rise informally in order that the House may receive a message.

The SPEAKER resumed the chair.

The SPEAKER. The Chair will receive a message.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Geisler, one of his secretaries, who also informed the House that on December 6, 1971 the President approved and signed bills of the House of the following titles:

H.R. 11489. An act to facilitate the amendment of the governing instruments of certain charitable trusts and corporations subject to the jurisdiction of the District of Columbia, in order to conform to the requirements of section 508 and section 664 of the Internal Revenue Code of 1954, as added by the Tax Reform Act of 1969.

The SPEAKER. The Committee will resume its sitting.

FOREIGN ASSISTANCE APPROPRIATIONS, 1972

The Committee resumed its sitting.

Mr. RYAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment offered by the gentleman from New York (Mr. Dow). I might point out that on the basis of the proportion of military assistance that was to be allotted to Cambodia, assuming $705 million in military assistance, there will be under the $552 million figure in the present bill some $155 million for Cambodia.

The fact is the war in Southeast Asia continues. It continues to drain the wealth and vitality of this Nation. It continues to erode our global posture. And it continues to bring death and destruction to Indochina.

The price we have paid for this bloody endeavor has been incalculably high. Over 53,000 young Americans have made the greatest sacrifice any government can exact—dead, lost to their families, and to our country, as a result of this ghastly war. Hundreds upon thousands of others have been maimed, physically and mentally. The committee report itself concedes that $124.5 billion has been spent in Vietnam since 1965.

There are those who would have us believe that the war is over, that under President Nixon's Vietnamization program it has trickled down to virtually nothing. But the bill before us today shatters that illusion. It all too clearly demonstrated what Vietnamization is really all about: a vehicle to substitute Asian blood for American blood. The suffering is not going to stop. The conflict is not going to end. Rather, Vietnamization is the promise of more death, financed by American funds, mechanized by American armaments, expedited by American air and logistical support.

The fact is that the war in Cambodia has been escalated ever since May of 1970 when the United States invaded that country—although the President called it an incursion. The situation is more exacerbated than ever. War rages in Cambodia, and it is supported by U.S. military assistance and air power.

Two years ago, this Nation provided $8.9 million in military assistance to Cambodia. Last year, this figure jumped to $185 million. The legislation we are now considering would increase it once again, this time to $200 million. Escalating these funds will not deescalate the war.

We in the Congress have the power to bring this dreadful conflict to a halt. We can do it by exercising our constitutional authority over funding. Not only do we have the power to do it, we have a responsibility to the people of this country to do it.

The amendment offered by my esteemed colleague from New York (Mr. Dow) is a stride toward living up to that responsibility. It would eliminate from this legislation funds for military assistance for Cambodia, funds to be used to outfit a client army. I fully support this amendment, as I have supported every other effort to end the Vietnam war. And I urge my colleagues to cast their votes in support of the Dow amendment—and peace.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. Dow).

The question was taken; and on a division (demanded by Mr. Dow) there were—ayes 21, noes 88.

So the amendment was rejected.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SECURITY SUPPORTING ASSISTANCE

Security supporting assistance: For necessary expenses to carry out the provisions of section 401 of the Foreign Assistance Act of 1961, as amended, $575,000,000: *Provided*, That no part of this appropriation shall be used to initiate any project or activity which has not been justified to the Congress.

AMENDMENT OFFERED BY MR. DOW

Mr. DOW. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Dow: Page 5, beginning in line 23, strike out "$575,000,000: *Provided*" and insert in lieu thereof the following: "$465,000,000: *Provided*, That no part of this appropriation shall be used to furnish assistance to Cambodia under such section 401: *Provided further*".

Mr. DOW. Mr. Chairman, undismayed by the recent vote on my prior amendment, I am offering another one somewhat parallel, because I feel, myself, very strongly on this issue, and I think it is one that the entire Nation should address itself to, namely, the conclusion of hostilities in Indochina.

Mr. Chairman, this amendment would eliminate the economic supporting assistance we have been providing to Cambodia since the war heated up in that portion of Southeast Asia.

I am deeply concerned that this supporting assistance is being raised from the current level of $70 million to $110 million in 1972 and likewise includes petroleum products, transportation equipment and spare parts, chemicals, industrial raw materials, machinery, and other capital equipment, according to page 155 of the hearings, part II. All of it is war related.

Prior to the 1971 funds provided in the supplemental bill passed last January the United States had not provided economic aid to Cambodia for 6 or 7 years. This fact was brought out by Chairman PASSMAN in the hearings. I cannot condone or allow to go unnoticed this tremendous outpouring of our Nation's wealth on top of the $124.5 billion already spent just on Vietnam war costs since 1954. That monstrous figure appears in the committee reports on page 7. It therefore looks official after so many years of speculation.

I might remind this body that those costs, too, started out as economic assistance programs in fiscal years 1954–70, and $4.7 billion was expended.

It did come out in testimony that there is a total of slightly more than 100 American personnel on the team to handle the deliveries. Of course, these men are probably referred to as equipment handlers, rather than military advisors. It is questionable whether these people accord with the intent of the congressional ban on ground combat forces in Indochina.

This amendment would also provide that none of the remaining funds in this security supporting assistance can be transferred for use in Cambodia to carry out the purpose of this section. In this way I have attempted to confine the Agency in its operation of the program so that our ventures in Cambodia would not in any way be assisted by this security support assistance.

Again, we should decry the cynical judgment we have passed upon the tragic people of Cambodia, in order to "protect our troops in Vietnam" as the saying goes. The need for protection under such circumstances defies explanation, and we cannot escape the suspicion that other motives, not disclosed to the Congress, are responsible for the United States increasing its involvement in Cambodia both in military assistance and supporting assistance. Who says the war is winding down?

I ask for passage of the amendment.

Mr. PASSMAN. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I would like to call the attention of the committee to page 23—security supporting assistance—the estimate for the fiscal year 1972 is $764,614,000. Your committee recommends only $575,000,000 and we might say again that this is a very, very tight program.

Now, with respect to the amount mentioned for Cambodia, I have no idea what part will go to Cambodia.

The committee wishes to furnish you with the estimate, so we listed the budget request—we did not provide sufficient money in the bill to fund all of the items as listed in our report. That is so indicated in a footnote to the report.

This is connected with winding down the Vietnam war. I think it is worth repeating that there were 542,000 troops 34 months ago. Only 159,000 is estimated as of December 31. It is winding down. This is the overall program, and what the President must have, if he is going to continue the present rate of winding this war down. I hope we will not interfere with that policy and pass this appropriation and keep this item intact so they may use the minimum amount for whatever purpose the administration feels they should have.

So this is a very tight budget. I do not think we should be making any reduction. Especially should we not tie the President's hands and tell him we are now going to withdraw supporting assistance for Indochina, as a result of which in all probability he would have to slow down the number of troops he would withdraw. I hope the amendment will be voted down.

Mr. DOW. Mr. Chairman, will the gentleman yield?

Mr. PASSMAN. I am happy to yield to the distinguished gentleman from New York.

Mr. DOW. Mr. Chairman, I have noticed that you and others who have spoken against this amendment and the previous amendment have put great stress on the dollars, and the fact that once you had considered a higher amount for military assistance and sustaining assistance for Cambodia, and that you have now reduced the figures. I think you have misread the meaning and intent of both of my amendments. In both cases my amendments were intended to foreclose the use of any of this military assistance or sustaining assistance for Cambodia, no matter what the amount.

Mr. PASSMAN. Mr. Chairman, will the gentleman yield?

Mr. DOW. The gentleman has the floor.

Mr. PASSMAN. That would be the same as a doctor prescribing a drug which would be a sure-shot to kill a disease, and then sealing the bottle and refusing the patient to take the medicine. I did not misunderstand your amendment.

Mr. ROONEY of New York. Mr. Chairman, will the distinguished gentleman from Louisiana yield?

Mr. PASSMAN. I yield to the distinguished gentleman from New York.

Mr. ROONEY of New York. Is this not the very item in which there is included $100 million in supporting assistance for Israel?

Mr. PASSMAN. Indeed, the gentleman is correct. The amount discussed between us was $100 million. Even though this amount was not specifically earmarked for Israel because funds are provided for supporting assistance on an illustrative basis, I believe I can answer the gentleman's question in more positive terms. The White House has agreed to allocate $100 million in supporting assistance to Israel if this sum can be worked into the amount carried in the final bill. This agreement was reached upon the insistence of the two gentlemen engaged in this colloquy, the gentleman from New York (Mr. ROONEY) and myself.

Mr. DOW. Mr. Chairman, will the gentleman yield?

Mr. PASSMAN. I yield to the gentleman from New York.

Mr. DOW. I take it, then, the gentleman is opposed to assistance for Israel?

Mr. PASSMAN. Am I opposed to assistance for Israel?

Mr. DOW. Is the gentleman opposed to such assistance?

Mr. PASSMAN. I am just as pro-Israel as is the Prime Minister of Israel. Of course, I am in favor of aid for Israel.

Mr. DOW. I am, too, Mr. Chairman.

Mr. SHRIVER. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from Kansas is recognized.

Mr. SHRIVER. The amount suggested as being involved was $110 million. On page 7 of the committee report states that the listing of the countries and the budget proposals for economic assistance, military assistance, and security supporting assistance contained in the report are not necesarily the views of the committee as to recipients and amounts. We have already reduced supporting assistance by $189.5 million under the budget. This is a program that is important in Vietnamization and troop withdrawal, as well as encouraging countries to take care of their own responsibilities, acting in their own defense, and thus reducing the need for our military presence. That is the purpose of this security assistance.

Mr. MAHON. Mr. Chairman, will the gentleman yield?

Mr. SHRIVER. I yield to the chairman of the committee.

Mr. MAHON. Is it correct to say that the budget estimate for supporting assistance was $764 million, and that the bill before us contains $575 million, a reduction of $189 million?

In the budget estimate there was $110 million for supporting assistance for Cambodia. Other funds would be available for supporting assistance for other countries. But there has already been a reduction in effect in the availability of funds for supporting assistance for Cambodia because of the cut of $189 million, is that not correct?

Mr. SHRIVER. That is correct.

Mr. MAHON. In view of the cut and in view of the commitment of the President to wind down the war, to bring our men home as rapidly as reasonably possible, it seems to me we should not take lightly the responsibility of making the program of withdrawal of our troops more difficult, and less workable. I certainly hope the amendment will be voted down.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. DOW).

The question was taken; and on a division (demanded by Mr. DOW) there were—ayes 10, noes 44.

So the amendment was rejected.

Mr. YATES. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I had intended to offer an amendment to the bill which specifically earmarked $85 million in supporting assistance for Israel and $300 million in long-term credits for that country, too, but I will not offer it in view of the colloquy that took place between the distinguished gentleman from New York (Mr. ROONEY) and the distinguished gentleman from Louisiana, the chairman of the subcommittee (Mr. PASSMAN).

I believe that with the approval of this bill, the House will indicate its support of Israel in its battle for survival against its hostile neighbors and against the Soviet Union which has moved into the Middle East with such enormous pressure.

The Soviet Union has made no secret of its determination to stay in the Middle East, literally flooding the Arab States with the most modern weapons of war and the most advanced aircraft. There is no end to the Soviet flood of arms.

On the other hand, Israel is encountering difficulty in obtaining the weapons she needs from this Nation. She needs planes. She has asked for Phantom jet fighters. There has been no action by the administration to approve that request. I believe the administration is in error, terribly in error in refusing to give its approval to that request.

Egypt is having no difficulty getting the latest jets. She is having no difficulty in getting the high-flying SAM-3 missiles, and the low-flying SAM-2 missiles, the Mig-3, the most advanced aircraft fighter in the world is flying in the Middle East today with Russian pilots. It is in the air flying for the Arab States. It is a plane that flies higher and faster than any other military aircraft. The Phantom is still the best plane Israel can get, if she can get it.

I urge President Nixon to approve Israel's request for Phantoms for two very important reasons: First, Israel needs the planes for her own defense, yes; for her very survival, and to maintain the balance of power in the Middle East. Second, Israel needs the symbolic value of the jets to show the world, and to show the Arab world in particular, that the United States is Israel's friend, and that when Israel does make a request for Phantom aircraft, the United States will match the Russian aid to the Arabs by helping Israel sustain herself.

Mr. Chairman, I sincerely believe approval of the sale of the Phantoms to Israel will help maintain peace in the Middle East.

During the past few months there have been resolutions circulated in both the House and the Senate, to which the majority of Members of both bodies have subscribed indicating the view that Phantom jets should be supplied to Israel.

I would urge the President to give recognition to the overwhelming opinion of the House and the Senate. I would urge the President to make clear our friendship for Israel by making available to Israel the Phantom jets she requests. Israel requires this aid for survival. By extending this aid we will move toward achieving our objectives in the area while maintaining our moral commitment to the people of Israel.

If the lessons of the past are to be our guide we must understand that hostilities in the Middle East will not cease until the Arab nations realize they cannot attain an overwhelming military advantage. Then, and only then, will they negotiate on the realistic assumption that negotiation is the only road to peace.

Mr. RYAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I should like to commend the distinguished gentleman from Illinois (Mr. YATES) upon his very forceful and persuasive statement in support of the urgent need of Israel now for Phantom jets for her own defense.

I am also happy to note that the distinguished chairman of the subcommittee, Mr. PASSMAN, has assured the House that $100 million in the category of supporting assistance in this bill will be earmarked specifically for Israel. Certainly the need is great. In addition, the chairman has also advised the House that under title II of the bill—Foreign Military Credit Sales—$300 million will be available for Israel, as the committee report points out (Rept. No. 92-711, p. 28).

Security supporting assistance is designed to give general budgetary support to our friends and allies.

Such support for Israel was contemplated by the House Foreign Affairs Committee when it reported out the foreign assistance authorization bill (H.R. 9910) last summer. In its report the committee states (Rept. No. 92-404, p. 26):

> ISRAEL.—The committee is aware that a request for assistance has been made to the executive branch by Israel to assist in meeting its urgent needs for foreign exchange and other requirements brought about through the Middle East hostilities. In the judgement of the committee, Israel is fully eligible to receive assistance under this chapter and believes that if the request for assistance is approved sufficient funds can be found either from existing availabilities or through the process of a supplemental authorization and appropriation.

And of particular note, the committee added:

> Although there was considerable sentiment in the committee to recommend a reduction in the amount of supporting assistance requested by the administration, the committee's recognition of the possible need of supporting assistance for Israel prompted it to recommend the full amount sought by the Executive.

Recognition of Israel's need for security supporting assistance is set forth in the committee report to the appropriations bill we are now considering (Rept. No. 92–711, p. 24).

I believe that, in view of the administration's vacillation in its support for Israel, it is essential for Congress to make clear that Israel is to be included among those countries receiving security supporting assistance funds. Therefore, the declaration by the distinguished subcommittee chairman that $100 million is intended for Israel should insure that these funds will be made available to Israel.

Israel's need for this support is beyond question. Because of the high degree of tensions in the Mideast, generated by the hostility of the Arab States and the actions of the Soviet Union in supplying sophisticated arms and missiles to them, Israel has been forced in recent years to devote an ever-increasing proportion of her gross national product to defense.

In 1966, before the 6-day war, Israel spent 10 percent of her total GNP on defense. In 1967, after the 6-day war, the percent of GNP Israel had to spend on defense increased to 18 percent. Now, with the ever-increasing tensions fostered by the Arab States and the Soviet Union, Israel is spending, in 1971, 31 percent of her total GNP on defense. This figure compares with 7.4 percent of the GNP that the United States spends for defense.

There is another way to look at Israel's plight. Israel had a foreign currency debt of $3.2 billion, as of June 30, 1971. This is debt Israel owes to other nations. This debt means that each Israeli man, woman, and child now owes $1,100 in foreign currency, by far the highest of any people anywhere.

Surely on the basis of both the philosophy of security supporting assistance, and on the basis of overwhelming need, Israel deserves a substantial earmarked sum for security supporting assistance.

Title II—Foreign military credit sales of H.R. 12067, provides $510 million in credit sales. In the committee report, $300 million of this is earmarked for Israel. This is absolutely necessary if the balance of power in the Mideast is to be maintained. A substantial portion of this amount should be used to finance the sale of F–4 Phantom jet aircraft to Israel.

The Arab States have been receiving massive arms shipments from the Soviet Union, while the United States has been withholding Phantom jets from Israel. Recently the State Department, after having praised the supposed restraint of the Soviets with respect to arms shipments, was forced to admit that the Soviet Union has supplied heavy bombers with air-to-surface missiles to Egypt.

According to available public sources, the Egyptian air force now has almost 500 supersonic jet aircraft. Most of these are late model Mig–21's. Since the cease-fire in August 1970, Egypt has received more than 120 new supersonic aircraft from the U.S.S.R. Between five and seven Soviet combat squadrons are based in Egypt flying their own aircraft and operating under exclusive Soviet control.

Recent weapons deliveries include numbers of Sukoi 11's—Flagon—and Mig–23's—Foxbat—which are the newest planes in the Soviet arsenal. These aircraft have not been previously deployed outside the Soviet Union.

Since June of 1971, the Soviets have supplied to Egypt 300 new missiles, bringing the total missile strength to 720; 84 new aircraft, bringing the total of aircraft to 979; and 350 new tanks, bringing the total number of tanks to 2,000. All this buildup is for Egypt alone. This massive increase in weaponry on the Egyptian side requires that Israel also receive increased military assistance. The maintenance of the balance of power will help insure stability in the Middle East.

Unfortunately, the administration has been reluctant to live up fully to our commitment to Israel. Therefore, it is essential that we in Congress reaffirm support for Israel. Failure to do so will only make Egypt more belligerent, increasing the threat to Israel, the only democracy in the Middle East.

Mrs. ABZUG. Mr. Chairman, I want to commend the Appropriations Committee, Chairman MAHON, and Chairman PASSMAN for including in this bill $100 million in security supporting assistance and $300 million in military credit sales aid for Israel.

As I have said many times before, our basic policy on foreign aid should be to give economic aid freely, but to limit military aid to cases in which a democratic nation absolutely needs it in order to protect itself and insure its survival. Israel is just this sort of country we should be supporting—she is a unified country; her leadership is democratically elected; she is a country threatened with extinction by implacable external enemies whose hatred of her is their only common bond.

All this belligerence would decrease markedly if the Arab nations became convinced that all the military aid they get from the Soviet Union would not enable them to destroy their small, courageous neighbor.

Israel cannot wait. Israel cannot afford to lose ground or time. It is time to provide her with the aid she so desperately needs, and I hope that the President will follow our lead at once in this respect as soon as possible. I join with Mr. YATES in requesting the President to provide the Phantom jets to Israel she has requested.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

OVERSEAS PRIVATE INVESTMENT CORPORATION

The Overseas Private Investment Corporation is authorized to make such expenditures within the limits of funds available to it and in accordance with law (including not to exceed $10,000 for entertainment allowances), and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended (31 U.S.C. 849), as may be necessary in carrying out the program set forth in the budget for the current fiscal year.

Mr. GROSS. Mr. Chairman, I move to strike the necessary number of words.

Mr. Chairman, I take this time to ask either the majority or minority members of the Committee if it is possible that OPIC, the Overseas Private Investment Corporation, can get along on $10,000 for what the gentleman from New York (Mr. ROONEY) calls "the tools of the trade"; in other words, the presentation allowances?

Mr. PASSMAN. Mr. Chairman, will the gentleman yield?

Mr. GROSS. I yield to the gentleman from Louisiana.

Mr. PASSMAN. What item is that?

Mr. GROSS. On page 6, line 7 of the bill.

Mr. PASSMAN. Well, we are going to have representation allowances whether we keep it under cover or out where we can see it. It is a tool of the business. Of course they have representation allowances, and I support that. If we deny them representation allowances I am of the opinion some of them would have to pay for this out of their pockets.

What is wrong with representation allowances?

Mr. GROSS. I am sure the gentleman supports it, because it is unlikely it would be in the bill if he did not support it.

I just wondered if the operators of OPIC can get along on $10,000 worth of "booze" in 1 year?

Mr. PASSMAN. I believe they could. I do not want to give them more. I do not want to be facetious, but I want to be factual. This will provide for Iowa corn.

Mr. GROSS. That would be about right, for this Overseas Private Investment Corporation?

Mr. PASSMAN. That is right.

Mr. GROSS. The gentleman agrees with me on that?

Mr. PASSMAN. That it would be about right.

Mr. GROSS. Yes, for OPIC.

Mr. PASSMAN. The gentleman earlier said I must have agreed or I would not have put it in the bill.

Mr. GROSS. That is for this newest addition to the family of handout artists.

Does the gentleman believe the $25 million is sufficient to take care of the situation in Chile where the Overseas Private Investment Corporation and its insurance guarantees is likely to be a big loser because the Chileans have seized and refuse to pay for hundreds of millions of dollars of American investors property.

Mr. PASSMAN. In all probability I have criticized the OPIC more than any other facet of the foreign aid program. I stated in my remarks today that we had been selling insurance and creating a reserve fund for 20 years, and appropriating money also to the fund, and the claims from Chile alone would not only liquidate all the reserves built up over a period of 20 years but also would overdraw the account by $118 million.

We have let these people go far afield in writing insurance for private investors who go abroad, who have aggregate liabilities exceeding $8.5 billion. The time is overdue to bring OPIC under control and to have them write some type of insurance policy whereby the overseas investor would be covered perhaps for 50 percent, because conditions could become epidemic in all these countries, and we could not get the money.

Mr. GROSS. Now this outfit wants to go into the loan business.

Mr. PASSMAN. Of course, we were assured they were not in the loan business. But they did make a loan.

I am more critical of OPIC than of any facet of foreign aid, simply because they did get into the loan business, rather than the insurance business, but they assured us they would not go out into the lending business.

Mr. GROSS. In the time I have left, let us turn to page 15, and the $18,000 "booze fund" for the Export-Import Bank. Does the gentleman think that is ample?

Mr. PASSMAN. Well, I think they should have a little bit better brand of representation simply because they make an awful large amount of money for the American Government and pay a lot of money into the U.S. Treasury in the way of profits. I think they should be able to afford to have a little bit better brand in their representation allowance.

Mr. GROSS. I note it is $8,000 more. Has the Export-Import Bank gotten into the business of building a golf course for its private use as did the International Monetary Fund?

Mr. PASSMAN. I must say they have not, but I also must say that this is a very good outfit.

Mr. GROSS. I was speaking of a country club.

Mr. PASSMAN. No. The Export-Import Bank is a great outfit. It makes a profit for the American taxpayer.

Mr. GROSS. I am not interested in that to the exclusion of its overall operation including its expenditures for entertainment.

Mr. PASSMAN. I do not know why you should not be interested in that. You are interested in one side of the picture and you should be interested in the other. This is a great outfit and it makes a lot of money for the United States. It makes millions of dollars. In addition to that, they get a very substantial return on the loans that they make. I wish all of them would operate that way.

Mr. GROSS. I hope when the financial showdown comes, and it certainly will, around the world sooner or later, that you do not get your figurative feet chopped out from under you by what happens in the way of defaults in these international loan outfits. I hope you do not suffer that fate.

Mr. PASSMAN. I hope so. So far, let me say, if they operate in the future the way they have in the past, they will qualify.

The CHAIRMAN. The time of the gentleman from Iowa has expired.

The Clerk will read.

The Clerk read as follows:

SEC. 110. None of the funds appropriated or made available pursuant to this Act for carrying out the Foreign Assistance Act of 1961, as amended, may be used to finance the procurement of iron and steel products for use in Vietnam containing any component acquired by the producer of the commodity, in the form in which imported into the country of production, from sources other than the United States or a country designated as a limited free world country by code number 901 in the July 1968 Geographic Code Book compiled by the Agency for International Development, and at a total cost (delivered to the point of production) that amounts to more than 10 per centum of the lowest price (excluding the cost of ocean transportation and marine insurance) at which the supplier makes the commodity available for export sale (whether or not financed by the Agency for International Development).

AMENDMENT OFFERED BY MR. DENT

Mr. DENT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DENT: Page 9, line 20, strike out all after line 20 page 9 through line 5 page 10.

Mr. DENT. Mr. Chairman and members, I am striking out on page 9 language following the first 20 lines, which I would like to read.

SEC. 110. None of the funds appropriated or made available pursuant to this Act for carrying out the Foreign Assistance Act of 1961, as amended, may be used to finance the procurement of iron and steel products for use in Vietnam containing any component acquired by the producer of the commodity, in the form in which imported into the country of production, from sources other than the United States.

I am stopping right there and striking out the following: "or a country designated as a limited free world country by code number" and so forth.

Mr. Chairman, this comes at a bad time, because I have just received word from home that one of the oldest specialty steel diemakers and toolmakers in the United States and one of the oldest remaining plants making this very, very important product in our economy is closing down at the end of this month. That makes the third factory and the third plant in my area covering aluminum, glass, and steel in the last year and a half.

Some of them have been awarded assistance relief under the trade laws. They do not want this relief they want jobs, just plain and simple jobs.

I want to tell you fellows that in this one generation—in this one generation—in which we are supposed to be the caretakers of this country's welfare, we are watching the dimming of the lights in this country of ours.

Mr. Chairman, we are exporting our jobs. Are we going to undercut ourselves as the No. 1 industrial power and have the highest worldwide standard of living end in one single generation?

Mr. Chairman, it took so many years to build this place. It took so many immigrants to come here and make it what it is. It took so many of their sons and daughters and their grandsons and granddaughters of these immigrants not only to maintain what was handed to them, but to improve upon it.

I do not take any pleasure in being a Member of this body and know it is to go down in history as the body of Congress that neglected to read the signs that are so plain on the horizon, that this Nation is dying. It is dying. In many industries the death rattle can be heard from afar.

Mr. Chairman, the members of the Pennsylvania delegation met with the steel fabricating industry of the United States, made up of about 1,000 small fabricators and two or three of the larger ones, and they told us that they are already beginning to feel, this year, the effects of imports because of the voluntary agreement deal with steel whereby we give the steel exporters a certain amount of tonnage, but never once have we said to the Japanese or anyone else that they cannot fabricate and get out from under the tonnage restriction. This they are now doing.

Mr. Chairman, for every million tons in the fabricating steel industry in the United States you have 5 million tons of domestically produced steel consumed here at home. For every million tons of steel fabricated in the United States we lose 18,000 jobs.

Ladies and gentlemen, let me say this to you: I will not be here long enough, because the Lord does not give us much more than three score years and ten, but I am going to tell all of you—some of you are going to be here—you are going to be sitting in on the wake, and it will be a sad and pathetic time in our country.

Mr. Chairman, I am not asking for any benefits for this particular steel company. I am asking merely for the survival of that steel company so that jobs can be given back to the employees.

Mr. Chairman, the U.S. share of automobile production a few years ago was 76 percent. Today it is 33 percent. Steel production was 47 percent of the entire world production in 1950. It is 19 percent.

Here you have before us today a bill that is going to add to that by opening up for foreign steel products the great new rehabilitation and rebuilding that we are going to have to do in Indonesia, which is the very reason for this kind of problem.

The CHAIRMAN. The time of the gentleman from Pennsylvania has expired.

(By unanimous consent, Mr. DENT was allowed to proceed for 5 additional minutes.)

Mr. DENT. Now, there is not anything that any steel plant can do about it. There is not anything that anyone can do about it, except the Congress.

Let me read you something and to announce I am coming before Congress with a minimum wage bill soon. I have a clause in that dealing with imports based upon the minimum wage alone. I assure you if you do not leave that clause in the bill I will personally vote against it.

Let me show you something that ought to interest you. The average median wage in the United States, including all below the minimum and at the minimum and union contract and otherwise is $4.18, less fringe benefits. In Germany it is $2.27, including fringe benefits. That is the only nation that pays higher than the minimum wage. In France it is $1.82; in Italy, $1.73; in Great Britain, $1.60 and in Japan 95 cents.

Mr. Chairman, $100 will buy 105 hours of labor in Japan.

It will buy 62½ hours of labor in Italy, 54.9 hours of labor in France, 44.1

hours of labor in West Germany, and 23.9 hours of labor in the United States.

Believe me, we are talking about a basic industry. Fifteen million tons is what the Japanese and others are asking as a quota, voluntary quota. There never has been any nation or group of nations that ever lived up to a voluntary agreement. There is no way to police it. All of you know that.

Fifteen million tons of basic steel is 15 times 6,000. It takes 6,000 men a whole year's employment of 50 weeks at 40 hours a week to produce 1 million tons. So we are giving 90,000 jobs away in the basic steel industry.

For every job in the basic steel industry, being a prime producer of goods, there are 2½ other Americans who earn their living, so you have 2½ times 90,000 jobs, 235,000 jobs that you are talking about.

You just spent $1 billion, this Congress—and I, being one who believes in every kind of an issue that will help somebody, I vote for it—$1 billion to do what? One billion dollars to create 100,000 jobs. This time next year the $1 billion will be spent, and every one of these jobs were man-made jobs in governmental entities, added on to the already overcrowded Government offices all over this Nation, and in components of our Nation's Government, the local entities.

It does not mean a thing. You might as well have taken the $1 billion and poured it down a drain.

Every time we lose one prime job in this country we are losing a total of 3½ jobs.

Now, some of you grin when I talk, and I notice there are a lot of grins. I wish I could really find some humor in a situation like this. I cannot find any humor in 1,700 men and women with families facing the Christmas season—the season of the spirit of good will—during the next 3 weeks.

I cannot find any humor in the fact that right now 13.7 percent of my people in some areas of my district are out of work. This is the specialty steel industry area.

I cannot find any humor belonging to this body—I consider myself stupid to stand here and try to talk to this body when it is sold on the age-old theory of free trade that lost its usefulness way long before the turn of the century, unthinking, blindly sold on a theory that never was practical.

World trade is only essential to produce the goods within the nations for their own economy and then to export to other nations that do not have the capability of producing what they need because of conditions beyond their control.

But not the idea of buying 1.6 million automobiles in a country that has automobiles coming out of its ears, the idea of buying 15 million tons of steel in a country that has steel coming out of its ears.

Fifty percent of all the Americans, including the Members of this Congress, are wearing clothes either made in foreign countries, or from cloth made in foreign countries, or are wearing shoes made in foreign countries.

We are now going to start selling to Red China, which of course will mean we will have to buy from Red China. What will happen? If you think Japan has had a devastating influence upon the economy of our country, just wait until you get the Red Chinese at 10 cents an hour top wages, having an influence upon our country; just you wait until you get that.

I ask the support of the Members for this amendment.

Mr. PASSMAN. Mr. Chairman, I move to strike the last word.

(Mr. PASSMAN asked and was given permission to revise and extend his remarks.)

Mr. PASSMAN. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, there is no Member of this House for whom I have more respect than the distinguished gentleman from Pennsylvania (Mr. DENT). He is dedicated, he is sincere, and he has made a very valid point.

Earlier I had concluded that I would vote for this amendment. Word has reached me from the administrators that this is tied in only with steel that is going to Vietnam and in many instances it is procured in Taiwan and in Korea, two of our stanch allies.

If we should write this type of legislation, it simply means that we would deprive Taiwan and Korea from shipping steel into Vietnam at a much lower price than it could be shipped from the United States, necessitating in all probability increased aid for Taiwan and Korea.

I would hope that the distinguished gentleman would permit the members of this committee to work on this matter administratively because, in all probability, there are many contracts already in effect that we would upset. Of course, again we are dealing with Vietnam and if we change the policy at this time, I do not know how long it would take to procure steel from the United States and get it there.

But, if this amendment is voted down, we will endeavor to handle it administratively and get a letter from the administrators and the executive as to why such an amendment should not be enacted.

Of course, the gentleman realizes, as I do, that the way we are traveling in a matter of 2 or 3 years, Japan will be producing more steel than the United States.

This is a valid amendment, but it is uncertain as to what the impact will be. So I hope that the amendment is voted down. I think to do so at this time without knowing what kind of contracts are involved may upset greatly our foreign policy.

It is on that basis I trust that we shall vote this amendment down with the firm understanding that we will move in on it administratively.

Mr. SHRIVER. Mr. Chairman, will the gentleman yield?

Mr. PASSMAN. I yield to the gentleman.

Mr. SHRIVER. Earlier I stated that jobs were affected by the foreign aid commodity program.

I have in my hands a list of the major suppliers of commodities under AID financing showing the dollar value for fiscal year 1971.

I want to name some of these and show how much steel actually is purchased and from what companies during the year 1971 by the AID program.

The list follows:

Alleghany Steel Corp	$4,768,000
American Metal	1,091,000
American Smelting and Refining	18,557,000
Armco Steel	7,782,000
Atlantic Steel	2,809,000
Bethlehem Steel	21,103,000
Bundy Tubing	4,168,000
Crucible Steel	1,042,000
Pittsburgh Steel Co	1,065,000
Production Steel Co	2,296,000
Republic Steel Corp	2,530,000

The largest supplier of commodities for the AID program during 1971 was United States Steel—$58,779,000.

So the AID agency is purchasing in large quantities.

Mr. DENT. Mr. Chairman, will the gentleman yield?

Mr. PASSMAN. I yield to the gentleman.

Mr. DENT. I would like to ask the gentleman to read the totals so that I can tell you how many jobs are involved. Tell me the totals?

Mr. SHRIVER. I do not have the aggregate because I have read from the whole list of commodities.

Mr. DENT. It might interest you to know that for every $6 million, it means only 100,000 tons of steel—only a drop in the bucket compared to what we pay Japan, Germany, and other foreign countries for steel.

Mr. SHRIVER. You know 97 percent of all commodities used by the AID agencies are purchased in this country.

Mr. PASSMAN. I want to say I very much sympathize with the gentleman's position. But I hope that we can work this out administratively. I think we should wait until we know what the impact would be, if we write this type of policy legislation.

Personally, I assure the gentleman that I will work with him and try to get some correction administratively and, if we fail there, and unless we get sufficient reasons, then we should tighten the bill up subsequently.

Mr. MYERS. Mr. Chairman, will the gentleman yield?

Mr. PASSMAN. I yield to the gentleman.

Mr. MYERS. Could the chairman tell me why we are considering only the restriction on purchase of iron and steel? Why not include also a prohibition against the purchase of food products? I do not understand why we should only be concerning ourselves with iron and steel when American agriculture is now in trouble.

Mr. PASSMAN. I will say to the gentleman, the steel industry is suffering very much from competing with cheap steel.

The CHAIRMAN. The time of the gentleman from Louisiana has expired.

(By unanimous consent, Mr. PASSMAN was allowed to proceed for 2 additional minutes.)

Mr. ROONEY of New York. Mr. Chairman, will the gentleman yield?

Mr. PASSMAN. I yield to the distinguished gentleman from New York.

Mr. ROONEY of New York. Apparently nobody knows exactly what the amendment would do to our international relations. I wonder whether or not the distinguished gentleman from Louisiana had the amendment brought to his attention before this afternoon.

Mr. PASSMAN. I am not sure I understood the question.

Mr. ROONEY of New York. My question is, Was the amendment brought to the gentleman's attention before this afternoon?

Mr. PASSMAN. I did not know anything about such an amendment. I did not know it would be offered, and I did not have time to look into it. I do not know what its impact would be on our agreements with Korea and Taiwan. If I am given sufficient time, I will be glad to examine the question.

Mr. COLLIER. Mr. Chairman, will the gentleman yield?

Mr. PASSMAN. I am happy to yield to the gentleman from Illinois.

Mr. COLLIER. I recognize that there is some validity to the argument that the amendment would present a sensitive situation in Taiwan and Korea. Beyond that, however, I cannot see where this amendment would be anything but valid in the light of the situation which the gentleman from Pennsylvania described, if it were on the basis of excepting or preempting Taiwan and Korea.

Mr. PASSMAN. Would it not be wise, inasmuch as we are dealing with a policy question and I knew nothing about the amendment until about 15 minutes ago and we had to work in a hurry to find out what its impact would be, to study this question? It is impossible to determine at this time just what its impact would be on our foreign policy and the contracts we have in being. I do not know why you would want any more assurance than the assurance that the committee will work with you to bring about a solution administratively.

I hope the amendment will be voted down.

Mr. COLLIER. Mr. Chairman, I move to strike the requisite number of words.

The CHAIRMAN. The gentleman from Illinois is recognized.

Mr. COLLIER. I shall not take the 5 minutes. I am a little more skeptical, perhaps, of what the subsequent position of the State Department will be in this matter. I recall that in 1962 we passed what was erroneously called the Trade Expansion Act. We also well remember when the Congress chose to abdicate its constitutional authority and turn the business of tariffmaking and reductions over to GATT, in which the State Department's heavy hand was certainly present at all times. What was done in GATT in terms of some of our industries is nothing less than historically pathetic.

Mr. DENT. Mr. Chairman, will the gentleman yield?

Mr. COLLIER. I am happy to yield to the gentleman from Pennsylvania.

Mr. DENT. The argument against me seems to be, "We do not know what we are doing." I know what I am doing. I hope the rest of you know what you are doing.

All I am saying is that products must continue to come from the United States if one part of a product is being paid for by U.S. funds. This open market condition was not in the bill. Why the amendment at this time? I will tell you. The great reconstruction job which will be done in Indonesia will require millions and billions of dollars worth of products. We had a prohibition against it during the war because there was nothing going on. This is new language to remove the prohibition and allow all steel producing countries to sell to the AID program procurement.

Mr. COLLIER. Mr. Chairman, I might say in conclusion, we were assured that the interests of basic American industries would be a consideration in the negotiations, yet it obviously has not been a consideration in some of the negotiations that took place in GATT, and our balance-of-payments problems and many of our problems that we face today are a result of what was not done that should have been done during those negotiations.

Mr. PODELL. Mr. Chairman, I move to strike the last word.

The CHAIRMAN. The gentleman from New York is recognized.

Mr. PODELL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I think it might be appropriate at this time to make some observation with regard to just what is happening as a result of the massive importation of foreign goods. Some Members of Congress may wonder—the gentleman from New York is a liberal, and here he is talking about protectionist policies, but I think if we take some time to take a stark look at ourselves, we might think it opportune to revise our free trade thinking.

No. 1, of the men and women sitting in this Chamber right now, I would venture to say that a mere 5 percent of the clothing that is being worn by them was made in the United States and 95 percent of the clothing they are wearing was made outside this country. I do not know whether the Members are aware of it or not, but we do not make a radio, we do not make an adding machine, we do not make a phonograph, and we do not make a black and white television set in this country. It is symbolic that the House Administration Committee approved a small Sony tape recorder for the use of Members, only because there was not one single one made by an American firm that we could approve.

I tried to explain the necessity of a free trade philosophy to the people in my district, I was told in no uncertain terms:

> You get me a job which I now do not have, and I will be happy to discuss philosophy.

We are not making clothing in America any longer, we do not make shoes, we do not make leather goods, sweaters, shirts, raincoats and on and on, and then we talk about free trade. I think the time has come for this Congress to take a firm position. If we support the amendment of the gentleman from Pennsylvania we will be telling the President of this country something he has not been told before.

The gentleman from Louisiana, states that he is determined to do this administratively. I might inform the gentleman with respect to Taiwan we are presently trying to administratively limit the importation into this country of manmade fibers. The result is that today, without a Taiwanese manufacturer having had to produce one single item of clothing, quotas, not American quotas, but Taiwanese quotas, are now being sold at $4 per thousand pieces of goods. Without the people of Taiwan even having to manufacture a single item of goods, there is a brand new flourishing business of the sale of quotas in these countries.

I submit to the Members I do not know the ramifications of the Dent amendment, but I tell the Members it is about time for us to speak up here and let the President know where we stand.

Mr. DENT. Mr. Chairman, will the gentleman yield?

Mr. PODELL. I yield to the gentleman from Pennsylvania.

Mr. DENT. Just last week the chairman of the Ways and Means Committee came out with an innocent looking little bill in which he removed restrictions, tariffs, customs, and so forth on two little items, needles and awls. They are used in the upholstering business. It is a multimillion-dollar business in the United States. The reason the gentleman said he was doing this is because we no longer make needles and awls in the United States.

I might say it reminded me for a moment of a little thing I read as a young fellow trying to learn, it was in a story about Robert the Bruce. It read:

> For want of a nail the shoe is lost, for want of a shoe the horse is lost, for want of a horse the rider is lost.

Now, for want of a needle, the awl is lost.

Mr. DENNIS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I just want to observe, in about 1 minute or less, that this has been a really interesting debate this afternoon. I cannot help but feel that we have had a certain amount of ironical developments in this debate here today.

First, we had my good friend, the gentleman from Illinois (Mr. YATES) and one of the leading doves in the House, who never wanted to give anybody anything in a military way that I know of, and now he wants to kick the President and the Secretary of State to have them give more planes to one side in the Middle East. Apparently he does not want to leave it up to them to decide what will hold the balance there. He wants us to do it. There is where we can get into a real war, with the first team over there, into world war III.

Then we have my good friend, the gentleman from Pennsylvania (Mr. DENT) and I sympathize with a great deal of what he says. I really do.

But I should like for him to explain to me how he is going to create competition and create jobs by making the discrepancy between us and the other fellows even greater by raising the minimum wage.

So I believe we have had a little irony in the debate this afternoon, and it is a really interesting experience to sit here and listen to all these distinguished gentlemen.

Mr. ROONEY of New York. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I am intrigued by such forceful remarks as those of the distinguished gentleman from Indiana. He has just convinced me with regard to my vote on this pending amendment, particularly after what he had to say about a Member who I believe is not presently in the Chamber—I am not sure—and the distinguished gentleman from Pennsylvania (Mr. DENT). He has just fully convinced me that I should vote for the amendment offered by the gentleman from Pennsylvania (Mr. DENT).

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. DENT).

The question was taken; and on a division (demanded by Mr. DENT) there were—ayes 70, noes 49.

So the amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SEC. 113. None of the funds appropriated or made available pursuant to this Act may be used to provide assistance, except assistance relating to refugee relief and rehabilitation and humanitarian relief, to India and Pakistan while these countries are involved in armed conflict with one another, unless the President determines that the furnishing of such assistance is important to the national security of the United States and reports within thirty days each such determination to the Congress.

AMENDMENT OFFERED BY MR. PELLY

Mr. PELLY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PELLY: On page 10 after line 21 insert the following:

"SEC. 114. No part of any appropriations contained in this Act may be used to provide assistance to Ecuador, unless the President determines that the furnishing of such assistance is important to the national security of the United States and reports within 30 days such determination to the Congress."

Mr. PASSMAN. Mr. Chairman, I reserve a point of order against the amendment.

Mr. PELLY. Mr. Chairman, this is a very simple amendment in the form of a limitation to the bill so that Ecuador would not get foreign assistance.

Existing laws, including the Foreign Assistance Act, have sought to deter illegal seizures and heavy fines on our tuna fishing vessels, but these laws have been discretionary and the Department of State refuses to carry out the will of the Congress. Since January of this year Ecuador has seized more than 52 of our tuna boats and fined them more than $2 million to obtain their release.

As the Members of the House know, the Fishermen's Protective Act provides that the amount of these fines if not reimbursed by a seizing nation shall be deducted from any allocation of U.S. foreign assistance to such countries. But, the State Department, since this provision was added to the law, has never filed a claim with a country that has seized our boats and thereby under their interpretation of the language of the law they have never been compelled to deduct these fines from U.S. foreign aid.

Mr. Chairman, since our executive branch refuses to carry out the will of Congress, I would hope that Congress would take this means to exert its will.

Mr. Chairman, I have proposed to cut off foreign assistance to Ecuador because, as I said earlier, she has collected over $2 million in fines this year from our fishing vessels, all of whom were fishing on the high seas in international waters.

I urge the adoption of my amendment.

Mr. Chairman, I yield first to my colleague on the Committee on Merchant Marine and Fisheries, the gentleman from California (Mr. ANDERSON) with whom I collaborated closely in trying to protect our tuna fishing industry.

Mr. ANDERSON of California. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I rise in support of my colleague, Mr. PELLY, and I fully endorse his remarks regarding aid to the pirate nation—Ecuador.

Ecuador has continually violated international law by seizing our fishing vessels, by assessing fines totaling over $2 million in 1971 alone, and by endangering the life, limb, and livelihood of American fishermen.

If stringent action is not taken by the Congress, we will not only continue to subsidize piracy, but we will be inviting other countries to take advantage of this "back door foreign aid." Meanwhile, our fishing fleet, realizing that the Federal Government will not back them up, is in danger of being driven from the seas.

Many of you know of the piracy that is taking place, but are you aware of the aid that has been proposed for the pirate nation?

According to House Appropriations Committee hearings, the administration has recommended the appropriation of $25.6 million in military, economic, and other assistance programs to Ecuador for fiscal year 1972.

I recognize that the authorizing and the appropriating committees have cut back somewhat on the President's proposals.

But, if we appropriate only half of what the administration requests, then $12.5 million would be available to the State Department to dole out to Ecuador at its own discretion.

For fiscal year 1971, for example, the administration has actually released $5.7 million in loans, grants, and assistance for Ecuador. In fact, one of the grants, the malaria program—totalling $750,000—was released on June 23, 1971; only 70 days prior to this grant, the Ecuadorian Navy seized our fishing vessel, the *Caribbean*, and assessed a $74,160 fine.

According to hearings conducted by the House Appropriations Committee, the economic aid program for Ecuador is "under review," but funds via the pipeline are continuing at the amount of $3.7 million in fiscal year 1971, and the same amount is proposed again in fiscal year 1972.

In addition to direct foreign aid, we also participate in the Inter-American Development Bank which recently approved loans of $27.7 million for Ecuador development. These loans are to be paid back at 3¼ percent interest and, according to the November 29 Wall Street Journal, $8.8 million of the loan is interest-free for 50 years.

Mr. Chairman, this amendment allows the President to waive the provisions of this section when he determines that such a loan or grant may involve the security of our country.

In closing, Mr. Chairman, I recognize the commendable action of the Appropriations Committee, but I am unalterably opposed to U.S. tax dollars going to a country which disregards international law by illegally seizing vessels owned and manned by the same taxpayers who put up the money for foreign aid.

Mr. PELLY. Mr. Chairman, I yield next to the gentleman on this side of the aisle, Mr. Bow.

Mr. BOW. I thank the gentleman for yielding. I only ask him to yield for a question.

I thought this was the law now under the Hickenlooper amendment. What is the difference between this and the Hickenlooper amendment?

Mr. PELLY. This is a limitation so that no money can be allocated to Ecuador. Under the Hickenlooper amendment, as I understand it, there is discretionary power to interpret this by the State Department. They are again misrepresenting the will, as I see it, of the Hickenlooper amendment in stopping all aid to a nation that seizes American property.

Mr. BOW. As I understand it, under the gentleman's amendment, if the gentleman will yield further, it gives the right to the President to make the determination personally.

Mr. PELLY. That is right.

Mr. BOW. There is not much difference between the President's determination and the Secretary of State's determination, since he is in the Cabinet of the President. It seems to me what we are doing here is having a repetition of what we did before with the Hickenlooper amendment.

Mr. PELLY. I would say in this case it is a limitation on an appropriation bill and not a part of the authorization.

Mr. BOW. It is not an authorization. It is just that the Hickenlooper amendment is the law today, as I understand it.

Mr. PELLY. As I understand it, in the case of the Hickenlooper amendment, the State Department twisted the meaning of it to provide that while there is a court suit on they do not have to enforce it.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. PELLY was allowed to proceed for 5 additional minutes.)

Mr. ROONEY of New York. Mr. Chairman, will the distinguished gentleman from Washington yield to me?

Mr. PELLY. I am going to yield next to the gentleman from Michigan (Mr. DINGELL), because he was on his feet.

Mr. ROONEY of New York. Well, of

course, I am a member of the committee, I must say to the distinguished gentleman from Washington.

I merely wish to ask the gentleman a few harmless questions, previous to which I would state that I am thoroughly in favor of the position which has been taken by the gentleman from Ohio (Mr. BOW).

Is not the distinguished gentleman offering this amendment in behalf of those poor, downtrodden tuna fish corporations out on the west coast, which have had their tuna boats seized by Ecuador and for which my taxpayers back in Brooklyn are required to pay their fines, to reimburse them for every fish they did not catch, as well as for every expense of the vessel and everything else, and now you want us to go to war with Ecuador over these poor corporations?

Mr. PELLY. Mr. Chairman, this amendment is designed to protect the American taxpayer. Instead of having the Treasury reimburse these fishermen, it is to provide that the Treasury is reimbursed.

Mr. ROONEY of New York. Mr. Chairman, if the gentleman from Washington will yield further, it is not my feeling that the gentleman by offering his amendment is going to help my taxpayers in Brooklyn.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. PELLY. I yield to a member of the Committee on Merchant Marine and Fisheries.

Mr. DINGELL. I thank the gentleman for yielding.

Mr. Chairman, I want to commend my colleague, the gentleman from Washington (Mr. PELLY), for introducing this amendment.

Our committee for a number of years has worked on this business of seizures. This year there have been 52 American vessels seized on the high seas by Ecuador. The seizures have cost American citizens and the American Treasury over $2 million. Not only have we seen this high cost, but we have seen the indignities foisted upon our people as far as 200 miles from the South American coast. We have witnessed actions like the strafing by aircraft, the stealing of property, threats to the physical well-being of our American fishermen lawfully fishing on the high seas.

We have had the State Department before our committee time after time to explain what they are doing to protect the American fisherman on the high seas, and I must tell you that the display of the State Department in defense of what they are supposed to be doing is truly pathetic and totally inadequate.

Mr. Chairman, the amendment is a good amendment. It is the only way we can bring order out of this chaotic situation.

Mr. DOW. Mr. Chairman, will the gentleman yield?

Mr. PELLY. I yield to the gentleman from New York.

Mr. DOW. I cannot say that I am in favor of the gentleman's amendment. It seems to me that this is a question of rights on the high seas.

Mr. PELLY. Well, I would say to the gentleman from New York that the international law on the sea is very clear. Under international law a coastal state has sovereignty to a territorial sea which goes 3 miles from shore. There is a fishing zone claimed by many nations, including our own, which goes 12 miles from the shore, and the rest is international waters.

Mr. DOW. Mr. Chairman, if the gentleman will yield further. This morning I attended a hearing conducted by Secretary Morton of the Interior Department with reference to the oil deposits that lie off the Continental Shelf of the United States, and beyond, to the distance of a great many miles far beyond the 12-mile limit. The United States not only proposes to exert jurisdiction there, but also to sell these rights for dollars.

Mr. PELLY. If the gentleman would permit, under international law—the convention on the law of the sea—the Continental Shelf; that is, the seabed to a depth of about 600 feet, belongs to the coastal state. That is, our Continental Shelf areas belong to this Nation under international law.

Mr. DOW. It seems to me that every nation interprets this to its own advantage.

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. PELLY. I yield to the gentleman from Iowa.

Mr. GROSS. I want to commend the gentleman for his amendment and I support it. But the fatal defect of the amendment is that it gives discretionary power to the President.

Mr. PELLY. Only on account of national security.

Mr. GROSS. Well, under those circumstances——

Mr. PELLY. And the President has to report to Congress within 30 days.

Mr. GALLAGHER. Mr. Chairman, will the gentleman yield?

Mr. PELLY. I yield to the gentleman from New Jersey.

Mr. GALLAGHER. I think the greatest defect of the amendment is the fact that I know of no aid that Ecuador gets under this bill.

Mr. PELLY. It is contained in the report. I would say that if the gentleman would read the report on the bill we are considering, the gentleman would see listed the aid to Ecuador in 1971.

Mr. PASSMAN. Mr. Chairman, will the gentleman yield?

Mr. PELLY. I yield to the gentleman from Louisiana.

Mr. PASSMAN. It is not specifically earmarked for Ecuador, because these items are made available on an illustrative basis. Therefore, we do not know whether they will be one of the recipients.

Mr. PELLY. That is right. I want to assure that Ecuador does not receive U.S. assistance.

The CHAIRMAN. Does the gentleman from Louisiana insist on and desire to be heard on his point of order?

Mr. PASSMAN. I do, Mr. Chairman, and I do so reluctantly, because there is a lot of merit to the amendment offered by the gentleman from Washington (Mr. PELLY), but I think it would impose additional duties upon the President. I believe it would be subject to a point of order. I shall not press the point further, or elaborate at length, but ask for a ruling.

The CHAIRMAN (Mr. PRICE of Illinois). Unless the gentleman from Washington desires to be heard the Chair is ready to rule.

The gentleman from Washington (Mr. PELLY) submitted an amendment to limit the funds available in this bill to Ecuador, contingent upon a decision and a report to be made by the President of the United States. The key words of the amendment are: "unless the President determines and reports within 30 days to the Congress." Obviously, in the opinion of the Chair, that is legislation on an appropriation bill. Therefore the Chair sustains the point of order.

AMENDMENT OFFERED BY MR. VAN DEERLIN

Mr. VAN DEERLIN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. VAN DEERLIN: On page 10 after line 21 insert the following:

"SEC. 114. No part of any appropriations contained in this Act may be used to provide assistance to Ecuador.

Mr. VAN DEERLIN. Mr. Chairman, I am indebted to my colleague, the gentleman from Washington (Mr. PELLY) for providing the basis for this amendment. All that I have done is take out the portion that proved objectionable to the chairman, the gentleman from Louisiana (Mr. PASSMAN).

For years, the State Department and the executive branch have been giving as their explanation for refusing to do anything about these attacks on our citizens that Congress does not mandate action. It is because we always put in these slippery provisions which give AID, the State Department, or the White House the opportunity to get out from under.

Therefore, I think if we expect to have guidelines, we are going to have to provide them.

Under the terms of my amendment, we will tell Ecuador, in no uncertain terms, that regardless of development loans that were canceled last January, regardless of the withdrawal of our military aid mission last February, we do not intend to see similar sums included in new appropriations. The message will be clear that they can expect no aid until and unless this piracy on the high seas is ended.

The gentleman from New York (Mr. ROONEY) has spoken very feelingly of his constituents in Brooklyn. I must speak just as feelingly of my constituents in San Diego. I cannot go on explaining to the people how in Congress we can provide funds, how we can provide surplus naval vessels on loan, how we can provide continuing military and economic assistance to a nation which shows no regard for the American flag, or for American citizens plying their trade on the high seas.

I hope that my colleagues will join me in determining this matter once and for all in language so clear that even the Secretary of State can understand it.

Mr. SCHERLE. Mr. Chairman, I move to strike the last word.

Mr. BOW. Mr. Chairman, will the gentleman yield?

Mr. SCHERLE. Of course, I will yield to my colleague and friend, the gentleman from Ohio (Mr. BOW).

Mr. BOW. Mr. Chairman, I thank the gentleman for yielding, and I simply wanted to ask the gentleman from California (Mr. VAN DEERLIN), who offered the last amendment, if he would accept an amendment to his amendment that would prohibit the tuna trade from paying the fines to Ecuador?

Mr. VAN DEERLIN. Mr. Chairman, if the gentleman will yield, that would involve legislation, and I do not want to get into legislation on an appropriation bill.

Mr. SCHERLE. Mr. Chairman, I rise in support of the amendment offered by my colleague, the gentleman from California, for the simple reason that my complaint is the same as his.

It seems to me that the Congress, the body in which we serve, cannot seem to make the State Department or the rest of the executive branch pay attention to exactly what we mean by our present law.

I refer to the Hickenlooper amendment, mentioned earlier by my chairman. Ladies and gentlemen, let me give you a little rundown so far as this amendment is concerned.

Since 1960 we have 34 countries of the world that have confiscated property from the United States and/or its citizens.

At the present time, we have 18 countries that still have property belonging to the American people and they have made no fair offer of compensation. Some of these countries have held this property completely unresolved for the last 5 years.

The only time the Hickenlooper amendment has been invoked was against Ceylon in 1963.

I understand that a Senator from Nevada (Mr. CANNON) is trying to change the present law and put some teeth into it. I will support the concept of this amendment when it reaches this side of the rotunda. It is high time that this House make it plain that we mean what we say; that we do support the property and the investments of our citizens in other countries. The Hickenlooper amendment should play an important role if this property is confiscated and we expect fair remuneration or our Government should suspend foreign aid. Up until now—this has not been done as much as it should.

Mr. MAHON. Mr. Chairman, will the gentleman yield?

Mr. SCHERLE. I am happy to yield to my distinguished chairman.

Mr. MAHON. I think it is rather obvious here that the House will adopt this amendment.

Of course, it is true that we must defend the rights of American citizens and it is true that we resent attacks on the high seas and we resent the confiscation of American property.

So I would hope in the interest of time that we might have a vote on this amendment which, as I say, will obviously be adopted.

I think the gentleman has made a good contribution by his remarks.

Mr. SCHERLE. I thank the chairman of the House Appropriations Committee for his kind remarks.

Mr. PASSMAN. Mr. Chairman, will the gentleman yield?

Mr. SCHERLE. I yield to the chairman of the subcommittee who I know has worked very diligently on this bill.

Mr. PASSMAN. Of course, I have no objection to this amendment and as an individual Member on the Committee on Appropriations, I shall vote for it.

Mr. BOW. Mr. Chairman, I should like to make it very clear and advise the gentleman from the replies the gentleman made, I thought it was legislation on an appropriation bill—it is almost the same language he had in his amendment and I will support this amendment.

I think it should be pointed out that American taxpayers have been called upon to pay millions and millions of dollars to Ecuador for fines. You are not eliminating the real situation here with this amendment. You are simply limiting the funds in this bill, but you still have millions of dollars being paid out of the Treasury of the United States to Ecuador in fines that are paid by the taxpayers for these private corporations to go down fishing in that area.

I think the House should realize this when they vote on this amendment. I am going to support this amendment. I think it is a good amendment. But I think we should be giving consideration also to the protection of the taxpayers of my State and the State of Iowa—and their tuna fishing out there and in other areas of the country. We should be giving consideration to the fines that are going to Ecuador at this time which is money going down through the backdoor.

Mr. HAYS. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I want to read something that is on both the AP and the UPI ticker tape and to ask the chairman a question after I read it.

It says:

> Top level bureaucrats are dining well at cut rates in heavily subsidized executive lunch rooms, sometimes sipping free liquor from confiscated Government stocks.

Then it goes on—and I will not read all of it—but it goes on to say:

Mrs. Smith, over in the other body—"said Wednesday the General Accounting Office gave her that report on the average cost, and the average tab, that Government executives are paying for lunch in the special executive lunch rooms."

The GAO study covered five Federal agencies, and Mrs. Smith reported these findings.

Now listen to this—at the Department of Transportation, executives paid an average of $1.51 a meal for the lunches which cost the Government an average of $16.06.

I never had a $16 lunch. I cannot imagine what is in it.

At the Treasury the average tab was $2.45, and the average cost was $14.31. The average luncheon tab at the Justice Department, Mr. ROONEY, was $1.66, and they were pretty modest. The average cost was only $7.10 to the taxpayer. The National Science Foundation was the cheapest outfit of all. They paid $1.25 for an average cost of $3.55. The Interstate Commerce Commission did even a little better than that. They paid $1.94 for a $3.53 cost.

My question is, Mr. PASSMAN, Do they have an executive lunch room down at the foreign aid outfit and, if so, how much are we subsidizing them?

Mr. PASSMAN. I appreciate the gentleman's comments in regard to costs of luncheons in executive dining rooms. I have not had opportunity to examine the details of the study of the General Accounting Office, and I do not know exactly what has been included in the total costs which have been referred to. I have never been down to the headquarters, but promptly after sine die adjournment I shall pay them a visit to find out what they pay for their lunches and what it costs.

Mr. HAYS. The press has been making a big to-do about losses in the House restaurant, which might run about 5 cents a meal, on the average, and we are trying to cut that down. Of course, they do not say anything about how much the average loss is over in the other body, but last year it averaged about $6,000 a Senator. Maybe it would be cheaper to give them that money and have them eat downtown.

Mr. BIAGGI. Mr. Chairman, I rise in support of the amendment offered by the gentleman from California (Mr. VAN DEERLIN) which would cut off all economic and military assistance to Ecuador, because of their continued seizures of U.S. fishing vessels.

This country has continued to seize our vessels with impunity. Our ships are operating in international waters, but just do not happen to be outside the 200-mile limit set by the Ecuadorean Government. This is a violation of international law, but as long as they can get away with seizures of U.S. ships they will continue to do so.

The Ecuadoreans see the United States for what it really is—good old Uncle Sap. They know the foreign aid will keep on coming regardless of what they do to the U.S. fishing interests. What is more astounding is that they are seizing the vessels with ships supplied to them by the United States.

Until Equador and its neighbor Peru are made to suffer for their illegal acts they will not stop. What is more, there will be no hope of negotiating a new international fisheries limit as long as Equador can continue to set its own limit and enforce that limit—albeit illegally.

How can we continue to provide economic and military assistance to such a country. Clearly Equador shows no respect for international law. And surely there is no respect for the United States and its laws. Yet apparently our foreign aid program has reached such depths of international masochism that we are willing to pay for a periodic slap in the face.

I and many others in this body have spoken out against the seizure of ships time and time again. The President has the authority to cut off aid, but he has not exercised it. It is now up to this body to take the necessary action.

This amendment will help put a stop to a ridiculous aspect of our foreign aid program. It deserves the full support of this body.

Mr. FASCELL. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I have a high regard for both the gentleman from the west coast, the sponsor of the original amendment, which was ruled out of order, and my distinguished colleague from California who offered the pending amendment. Representing an east coast State, whose fishermen, have had serious problems over fishing rights with our Western Hemisphere neighbors, I want to get on record why I am going to vote against the amendment. I will admit that the temptation is extremely great because of the onerous burden which our fishermen bear and because of the natural inclination to take strong action to get at the problem.

If I thought that the proposed amendment was the right way to get at the problem—by getting even with the people of a country—then I would support the amendment. But unfortunately it does not do that. The law of the Sea Conference, in which the United States lost its position by one vote several years ago, attempted to resolve the whole question of sovereignty among nations on the rights of the sea and the seabed. The U.S. position did not prevail and the Conference came to no resolution. The nations are going back again in 1973 and try to resolve the differences of opinion on sovereign rights, territorial limits, the high seas and related questions. Will the limit be 3 miles, 12 miles, or 200 miles. Our Latin neighbors feel very strongly about their sovereign rights, and many of them, are claiming 200 miles out to sea. We do not agree with that position. They think it is a right of sovereignty to determine the limit off their coast just as we think it is a right of sovereignty off our coast.

So we have had a real impasse. It has not been easy for our State Department to attempt to resolve this difference of opinion. It is a very real and deep difference with strong emotional overtones. We tried negotiations at a four-country level. We have tried bilateral negotiations. We have tried negotiations at an international level.

On one thing we can be quite sure. I think we all agree it would do very little good to accelerate the dispute by putting another factor in front of our possibility of settlement. Do we serve the long-range interests of the United States in trying to arrive at an international arrangement by pegging that effort on the action of this amendment which only serves to further divide the disagreeing countries? I think not. Our action will only be interpreted as economic pressure against a small country in order to impose U.S. position on a question of sovereignty.

Our State Department tomorrow—I believe it is tomorrow—is sending a high level delegation to Ecuador to follow up the discussions which took place by President Nixon's personal counsel, Robert Finch, with the President of Ecuador on this question. Assistant Secretary of State Mr. Meyer and other people from the Department are going. There seems to be today a better opportunity to try to resolve a bilateral approach toward this problem now looking toward an eventual permanent solution.

I am convinced, after long years of study, that the only permanent solution will be an international convention. But pending a temporary or permanent solution do we cut off aid to every country with whom we disagree in Latin America? I do not think that solves our problems nor does it serve the long-term interest of the United States which seeks a peaceful, cooperative, and prosperous hemisphere. It may satisfy our frustration on the fisheries question. I do not deny that. It may make us feel good to say that the United States got even with them by cutting off aid. But I believe in the long-range interest of the United States, this is the wrong way to get at it, even though it is a perplexing, frustrating, and maddening problem.

I am convinced what we have got to do is to continue to make every sincere effort, as we are now trying to do, not only with Ecuador, but with other countries, to arrive at a modus vivendi with respect to the fisheries problem, so that we and they can fish until such time as the sovereignty question is resolved by agreement. Either that or we will have to go to war over the whole issue. I would hope we could do it by international convention or bilateral arrangements.

Mr. LONG of Maryland. Mr. Chairman, how do we get agreement unless we have some leverage? And would this not provide some leverage?

Mr. FASCELL. To answer the gentleman, there is ample leverage if we want to do it, and we can do it without having to write it in the legislation.

Mr. LONG of Maryland. What kind of leverage would the gentleman suggest?

Mr. FASCELL. I am not suggesting any. There is ample leverage available to the administration any time they want to use it.

Mr. LONG of Maryland. I just want to know what the leverage would be. I want to understand it before I vote on this.

Mr. PELLY. Mr. Chairman, will the gentleman yield?

Mr. FASCELL. I yield to the gentleman from Washington.

Mr. PELLY. Mr. Chairman, this amendment would remove an existing incentive that the Latin Americans have to seize our vessels. If we could deter seizures, perhaps we would even stop some of the seizures occurring with the shrimp boats the gentleman was talking about.

Mr. FASCELL. If I thought the gentleman's logic was correct, then obviously I would support the amendment.

I do not think this amendment will stop the seizures at all, but it will anger our neighbor and aggravate the possibility of solution.

Mr. Chairman, I intend to support the foreign assistance appropriation bill, but I want to take this opportunity to express my dismay over the attitude which the Appropriations Committee has shown in so sharply curtailing programs designed to assist our hemisphere neighbors.

Mr. Chairman, as counterproductive to the U.S. policies and interests in Latin America as I believe the rhetoric of the committee's report to be, far more significant are the deep cuts made in every aspect of the bill which deals with the Western Hemisphere.

Alliance for Progress technical assistance is cut from the $130 million recommended by the President to only $75 million.

Alliance development loans are slashed from the $235 million requested to only $150 million.

None of the $261.8 million requested by the President for the Inter-American Development Bank is included; thus, putting the United States in default on its funding commitment to the Bank previously authorized by the Congress.

After reading the "general statement" in the committee's report and reviewing the figures in the bill, it is hard to escape the conclusion that the committee is determined to punish all the people of Latin America for what the committee views as the incorrect policies of a few Latin American governments.

I feel strongly that the Senate, when it takes up this bill, should restore at least a portion of the funds requested for the Alliance for Progress and provide for fulfillment of the U.S. commitment to the Inter-American Development Bank.

ALLIANCE FOR PROGRESS

On page 18 of the Appropriations Committee's report, the fiscal 1972 loan program for Latin America is currently pegged at $310 million. In addition, however, according to figures submitted to the Committee on Foreign Affairs this past summer, the administration had projected $100 million in loans for Latin America which it had hoped to finance with borrowing authority—authority which our committee and the Congress have refused to grant to the President.

Thus, the total of loans proposed for the Alliance for Progress for fiscal year 1972 really amounts to over $400 million.

Against this requirement, the Committee on Appropriations has recommended new obligational authority of only $150 million.

In addition to that amount, the Agency for International Development will have available $75 million in receipts and recoveries of prior year funds.

That total will be barely sufficient to fund one-half of the program.

The sum of $47.5 million of the reduction should be restored in order to bring the appropriation up to the level of the authorization approved by the House on August 3.

Latin America, with its 270 million people, is facing a tremendous challenge: It will either succeed in its developmental undertakings or chaos may well envelop the southern half of our hemisphere.

During the past 10 years, under the Alliance for Progress, Latin America has made important strides in creating the conditions, and meeting the prerequisites, for future progress.

This, however, was just the beginning. It was important, it was necessary, but it was limited in its impact on the lives of the majority of the people of Latin America.

Now Latin America must build on that base. And to do so, it needs resources—seeds and fertilizers, machinery of all kinds, modern technology and other elements of economic and social progress.

That is what our Alliance for Progress loans buy—and buy right here, in our own country, where the unemployment rate is back up to 6 percent and where each dollar of exports financed with foreign aid means work for American labor, profits for American industry, and economic improvement for our entire society.

I am not, however, urging increased funding simply to help our faltering domestic economy.

I do so because I firmly believe that the future of our country—the well-being and the security of generations of Americans to come—will be profoundly influenced by what happens right here in our own hemisphere: How we work together in solving the problems of our hemisphere and in realizing its great potentials.

Some people do not view the future in that way.

Some people seem to believe that our Nation's prospects will be determined by the strength and durability of the great gothic power arches which are rising between Washington and Moscow, and Washington and Peking.

I prefer to believe that what happens in our own backyard—right here in this hemisphere—will be more significant in terms of the kinds of lives our children will lead than all the treaties and power deals between the superpowers.

For this reason, and bearing in mind how large is the gap between promise and performance of the present administration with respect to Latin America, that I remain hopeful that the Senate will act in restoring a portion of the funds cut from the Alliance for Progress.

INTER-AMERICAN DEVELOPMENT BANK

Mr. Chairman, beside providing an increased amount for the Alliance for Progress, I believe that it is just as important that the Congress provide in this appropriations bill at least $211.8 million for the Inter-American Development Bank. This must be done for at least two reasons. First, it would insure that a pledge made by the United States to its hemisphere neighbors would be kept. Second, it would enable the Inter-American Bank to continue its important task of supporting development in Latin America and the Caribbean.

In April 1970 the United States agreed, along with all other members of the IDB, that it was essential to increase the Bank's capital in order to allow the Bank to continue making new loans. As our part of this mutual agreement, the President requested and the Congress authorized an increase in the U.S. contributions to both the ordinary capital of the Bank and its Fund for Special Operations, the so-called soft window.

In December 1970 the Congress authorized a total of $486,760,000 as the first of three annual installments designed to fulfill the U.S. commitment. The Congress has already appropriated $275 million pursuant to this authorization. An additional appropriation of $211,760,000 is needed if the United States is to complete its initial payment originally due last June 30. The Board of Governors of the Bank at the request of the United States has extended this deadline to December 31 of this year. Thus this appropriation bill is the last opportunity the Congress will have to make good on our pledge to the IDB.

Why must we fulfill this commitment right now, especially in view of our own domestic difficulties? The answer is simple but compelling. The Bank is about to run out of funds with which to make new loans. It is not going broke; it will be able to meet its commitments. The Bank just will not be able to loan any new money on the many worthy proposals whose applications are nearing approval. The impact of a delay in providing this money was clearly underscored earlier this year in a speech by the Bank's new president, the Honorable Ortiz Mena. He said:

> Delay in implementing this increase would create serious problems in programing the Bank's activities and in maintaining its image as a solid financial institution, the importance of which is obvious.

If we wish to lash out at our friends with whom I believe our future lies then we can simply let this bill become law with no funds for the Inter-American Bank and these sharp and undeserved cuts in our support for the Alliance for Progress. If we truly care about building a better life for the people of this hemisphere, including ourselves, then I believe that we must use this bill as only a begining—hoping that the Senate will add funds vital to all the Americas.

Mr. PASSMAN. Mr. Chairman, if we do not get to the vote, we cannot vote down the amendment. I wonder if an agreement can be reached to close the debate on this amendment in 2 minutes.

Mr. Chairman, I ask unanimous consent that debate on this amendment close in 2 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

The CHAIRMAN. The Chair recognizes the gentleman from Iowa.

Mr. GROSS. Mr. Chairman, I move to strike the necessary number of words.

Mr. Chairman, I am going to support this amendment. This business of seizing American ships and cargoes on the high seas has been going on under several Presidents and for a number of years. I await the day in this country when we can get a President of the United States who will say, as one American did at one time in the history of this country:

> Millions for defense, but not one cent for tribute.

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. MILLER).

Mr. MILLER of California. Mr. Chairman, I move to strike the necessary number of words.

Mr. Chairman, I happened to have been one of the advisers at the late meeting of the law of the sea which has been referred to, in which this country lost the position it sought to establish by one vote. I know the frustrations the fishermen are up against, because before coming to Congress, I was executive officer of the California Division of Fish and Game. I had occasion there to learn of this firsthand.

But I wonder if doing it this way is the right way. I am inclined to agree with the gentleman from Florida. If we do not solve this problem through mutual understanding, as I see it, some day we are going to divide the seas for fishing. We have got to do it. It has got to come to that. If we do not do it in that respect, the harassment can continue, and, for the benefit of my friend, there is only one other way to do it, and that is to go to war, just as we went to war with the pirates at that time.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from California (Mr. VAN DEERLIN).

The amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

TITLE II—FOREIGN MILITARY CREDIT SALES

FOREIGN MILITARY CREDIT SALES

For expenses not otherwise provided for, necessary to enable the President to carry out the provisions of the Foreign Military Sales Act, $510,000,000.

Mr. CELLER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I am not fully satisfied with this bill, but I am agreeable to it because it is probably the best that could be obtained under the circumstances as they exist.

I just want to say a few words about the aid to Israel.

Where the light of liberty burns we liberty-loving people should nurture that light. The only place where the light of liberty burns in the Middle East is Israel. We must nurture that light as much as we possibly can. Nurture means plentiful economic and military aid.

I do not believe the bill affords that. More could be done. More should be done. Nonetheless, I realize the predicaments and the limitations that beset the chairman of the committee, the distinguished gentleman from Louisiana (Mr. PASSMAN), and his cohorts who are members of the subcommittee. They have done the best they can.

I say the bill does not go far enough. It should have gone even further. For example, in the other body I believe 82 Members cosponsored a resolution asking the administration to send the so-called Phantom jets to little Israel, and I believe 274 Members of this body likewise cosponsored an identical resolution. So a preponderating majority of the Members of this Congress requested the President to send those Phantoms to Israel. But those Phantoms have not been sent. The President's indecision in this regard indeed is past understanding.

We hear much about so-called equality of arms. That is an old bugaboo. I have been here for many years, and ever since there was a State of Israel, and we have always heard the defense, "Well, there is inequality of arms as to Israel. Israel is superior. Therefore, we must wait before sending any sophisticated weapons or armaments to Israel."

We have heard that ad nauseam. It is time to call a halt in that regard. There is an old saying, "In the street of by-and-by stands the hostelry of never." If we continue to have this procrastination and this delay at the White House, Israel will never get the weapons she desperately needs for her defense.

She needs them because she faces 100 million enemies. Here is a little nation of 3 million, beset by vast numbers of Arabs who have the knife at her jugular vein.

Israel has no material resources. She has no steel. She has no bauxite. She has no copper or lead. But she does have spiritual, cultural, and esthetic values, values that are ineluctable, values that are imperishable. She has a determination, a determination as firm as a rock one holds in his hand.

She has exultation. One sees it on the faces of all the people there, whether it be the barmaid or the taxicab driver. She has an exultation that is as fierce as a streak of lightning; you see the exultation everywhere in Israel. She has a wondrous faith—faith in herself, in her flag, and in her country. In the language of Browning, faith can often move mountains. She has a courage that is as scintillating and as brilliant as the stars above.

Yet, despite those immaterial resources, she needs arms. I hope indeed light will descend on the White House and those Phantoms will be sent. We are told that the Phantoms will be sent on the condition that little Israel accepts dictator terms, more or less dictated by the vanquished. This is the first time in history—and I know history—where the vanquished dictate the terms to the victor. That is a very unhealthy situation. If little Israel allows soldiers to straddle the Suez, she invites her own destruction.

In the meantime, the U.N. Assembly would seal her doom. What kind of fair or just decision awaits Israel, there, when over 50 nations of the U.N. refuse even to recognize her existence. Despite some misgiving I hope the bill will pass.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

TITLE III—FOREIGN ASSISTANCE (OTHER)

FUNDS APPROPRIATED TO THE PRESIDENT

PEACE CORPS

SALARIES AND EXPENSES

For expenses necessary to enable the President to carry out the provisions of the Peace Corps Act (75 Stat. 612), as amended, including purchase of not to exceed five passenger motor vehicles for use outside the United States, $60,000,000, of which not to exceed $24,000,000 shall be available for administrative expenses.

AMENDMENT OFFERED BY MR. CONTE

Mr. CONTE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CONTE: On page 11, line 9, strike out "$60,000,000" and insert "$68,000,000".

Mr. CONTE. Mr. Chairman, the amendment I am offering would add an additional $8 million for the Peace Corps to ward off a threatened termination of the entire program. Such a termination would be a tragic calamity and certainly would invite shame and derision upon the United States.

Let us briefly examine the effect that the Foreign Operations Subcommittee's inexcusable slash in the Peace Corps' budget would have on its operations.

An appropriation of $60 million at this point in the fiscal year would force cancellation of all Peace Corp programs.

A reduction to $70 million would immediately cancel the Peace Corps programs in 15 countries having 1,990 volunteers. Such a reduction would also force the immediate recall of two out of every five volunteers remaining in the other 40 countries currently connected with the Peace Corps.

Moreover the reduction to an authorization level of $77.2 million from the administration's request of $82.2 million has already required serious reductions. These reductions come at a time when Peace Corps applications and host country requests have increased for the first time in 5 years. I will include a detailed breakdown of the effects these reductions will entail at the close of my remarks.

My amendment would help repair some of this damage. And hopefully the Senate will see fit to mandate further repairs.

Dollar for dollar, few, if any, programs can offer the rewards in good works and good will that the Peace Corps has reaped for this Nation in the relatively few years of its existence.

At a time, Mr. Chairman, when so many Members of this body and so many people across the Nation are speaking longingly for peace, can we not afford $68 million for peace?

At a time when so many of our national leaders are exhorting the youth of this country to work within the system to improve it, can we afford to start blocking one of the few avenues that are open to them to follow this course?

And at a time when the Peace Corps is moving in new directions long advocated by many in this body, can we afford to emasculate its efforts to provide others around the globe the skill and the knowledge which we have acquired through the years?

Over the past 10 years, the Peace Corps has been the channel through which 48,000 volunteers have contributed their services to the developing countries of the world. We must not answer this unprecedented showing of good will and faith in humanity by abruptly terminating this invaluable program.

I urge the adoption of my amendment.

Mr. Chairman, I include the following:

EFFECT OF APPROPRIATION REDUCTION ON THE PEACE CORPS

1. The Peace Corps operated at a level of $85 million in FY 1971.

2. The Administration requested $82.5 million for FY 1972.

3. The authorization bill has been passed by the Congress for $77.2 million.

4. The House Appropriations Committee has recommended an appropriation of $60 million.

5. An appropriation of $60 million at this point in the fiscal year would force cancellation of all Peace Corps programs (attachment 1).

6. A reduction to even $70 million would immediately cancel the Peace Corps programs in 15 countries with 1990 Peace Corps Volunteers and also immediately bring home two out of every five remaining volunteers (1,937 out of 5,100) in the other 40 countries (attachment 2).

7. The reduction to $77.2 million in authorization from the administration's request of $82.2 million has already required serious reductions (attachment 3).

8. These reductions contrast with increases in Peace Corps applications and host country requests for the first time in 5 years (attachment 4).

ATTACHMENT 1—EFFECT OF $60 MILLION APPROPRIATION FOR THE PEACE CORPS

The Peace Corps cannot be operated for $60.0 million for the remainder of the fiscal year.

	Millions
Obligations through October 31	$30.2
Estimated obligations through February 29[1]	23.1
Unavoidable costs	53.3

Alternate No. 1: Continue volunteers and staff through June 30 without new input—$72.7 million.

	Millions
6,700 volunteers (average) @ $1,400	$9.4
Overseas staff	3.4
Washington support	6.6
	19.4
Unavoidable costs	53.3
Minimum required	72.7

Alternate No. 2: Bring home all volunteers and staff (terminate all Peace Corps Programs)—$62.4 million.

	Millions
7,500 Volunteers @ $500	$3.8
311 Overseas Staff	1.7
Washington costs[2]	3.6
	9.1

	Millions
Unavoidable costs	$53.3
Minimum to abolish Peace Corps	62.4

[1] The earliest date on which major changes in direction could become effective.

[2] Assumes all Washington operations phased out by April 30.

ATTACHMENT 2—EFFECT OF $70 MILLION APPROPRIATION FOR THE PEACE CORPS

The Peace Corps would be drastically curtailed at a level of $70 million.

	Millions
Obligated through October 31st	$30.2
Additional estimated obligated through February 29	23.1
Unavoidable costs	53.3

The remainder of $16.7 million requires a drastically reduced program.

	Planned level	Reduced cost	Reduction
Total	$77.2	$70.0	$7.2
Training	13.3	10.8	2.5
Volunteer	31.5	28.1	3.4
Overseas staff	16.0	15.2	.8
Washington support	16.4	15.9	.5

This reduction would require:

1. Elimination of the Peace Corps program in 15 countries which brings home 1990 Volunteers.

2. Bringing home two out of every five Volunteers in the remaining 40 countries (1,937 of 5,100 Volunteers).

3. Elimination of 182 people required for programming, recruiting, and supporting activities necessary to the on-going Peace Corps program.

4. Total abrogation of County Agreement with 15 nations and reneging on project agreements with 40 other countries.

ATTACHMENT 3—REDUCTION ALREADY INCURRED TO REACH $77.2 MILLION

	Millions
Administration Request	$82.2
Increase in Volunteer strength from lower attrition and increased extension	+3.4
Incurred Requirement	85.6
Reduction in trainee input from 5,800 to 5,000 ($4,000 per trainee)	−3.2
Reduced length and scope of training	2.1
Elimination of pre-invitational selection and orientation program for 2,000 applicants	−.6
Reduction of overseas and Washington supporting staff by 80 man years	−1.8
Curtailment of travel, vehicle utilization, and support costs	−.7
Total	77.2

ATTACHMENT 4.—3-YEAR SUMMARY OF PEACE CORPS, VITAL STATISTICS 1970–72

	Authorized fiscal year	Appropriation fiscal year	Staff as of June 30	Countries	PCV's as of December 30	Trainee inputs PY	Host country requests-PY	Applications PY
Fiscal year 1970	98.5	98.5	1,032	59	7,692	4,637	5,590	19,022
Fiscal year 1971	94.5	90.0	925	55	6,900	4,843	5,342	26,539
Fiscal year 1972 (estimate)	77.2	77.2	883	[1] 55	7,090	5,000	[2] 5,487	[3] 32,377
Fiscal year 1972 estimate at	70	70	683	[1] 40	[4] 3,163	3,600	[2] 5,487	
Fiscal year 1971 House appropriation bill	60	60	0	[1] 0	[4] 0	[5] 2,100	[2] 5,487	

[1] As of Dec. 1, 1971 a total of 9 new countries have expressed interest in receiving new programs.

[2] Requests received through Nov. 30, 1971 with additional slight expectation.

[3] Currently (September through November) running 22 percent above previous year comparable period.

[4] March 1, 1972.

[5] Entered pre Dec. 1, 1972.

Mr. Chairman, I yield to the gentleman from Kansas (Mr. SHRIVER).

Mr. SHRIVER. Mr. Chairman, I want to say we on this side have no disagreement to the amendment.

Mr. CONTE. I yield to the chairman of the committee, the gentleman from Louisiana.

Mr. PASSMAN. Mr. Chairman, I thank the gentleman for yielding.

Of course, I shall vote against the amendment, but I am not going to oppose it. I ask for a vote.

Mr. CONTE. On the basis of that, Mr. Chairman, I yield back the balance of my time.

Mr. ANDERSON of Illinois. Mr. Chairman, this amendment is quite simple in intent and content and yet its adoption is crucial to the survival of the Peace Corps as we know it. This amendment would increase the committee's request for the Peace Corps to $68 million, from $60 million. Earlier this year the Congress actually authorized an amount of $77.2 million. And I think at this point it should be noted that the authorized amount is some $5 million less than the revised OMB request of $82.2 million, and this has already forced significant reductions in personnel and other costs. And yet the Appropriations Committee would have us slash the authorized amount by another 22 percent. I would submit that the committee recommendation is totally irresponsible because it would force the termination of all Peace Corps programs; even an appropriation of $68 million would force us to close down the Peace Corps in 15 countries and bring home two out of every five volunteers in the remaining 40 countries.

Let there be no mistake about it, Mr. Chairman, the committee recommendation is designed to kill the Peace Corps. The attitude of the chairman of the Foreign Operations Subcommittee is no secret. On page 737 of the hearings he is quoted as saying:

> I don't mind telling you I think it is the worst agency in Government.

And on page 811 he is quoted as saying:

> If I had to meet my Maker in 3 minutes and the last decision the good Lord would let me make—it would be to abolish the Peace Corps. Then I could die in peace. That is my feeling. I might as well put it in the record.

Well, Mr. Chairman, I just do not think a majority of the Members of this body agree with the distinguished chairman that the Peace Corps is the worst agency in Government; to the contrary, I think most would agree with me that the Peace Corps has been one of the best, and furthermore, that it is getting better in terms of meeting the needs of the developing countries. And I do not think a majority of the Members of this body are ready to go along with the chairman's attempt to abolish the Peace Corps, especially at a time when we are attempting to revitalize the spirit of voluntarism through the new Action agency, of which the Peace Corps is a major component. And I do not think a majority of the Members of this body are willing to turn their backs both on the young people of this country and the peoples of the developing countries—both of whom have benefited so much from the people-to-people contact and cooperation made possible by the Peace Corps.

What justification does the committee give for this substantial reduction in the Peace Corps budget? First, let me point out that the committee report makes no mention of the nearly 6,300 volunteers serving in the field this year, the 6,700 planned for next year, and the 5,800 who will enter training next year in response to requests from other countries. No mention is made of the funds needed to support these volunteers in the field and to train new volunteers. No mention is made of the ramifications of the committee cut both in terms of existing programs and commitments which have already been made for the future. The committee would simply have us default on our promises made to these countries, pull volunteers out of operating programs, and fail to meet our commitments to planned programs next years.

What does the committee report say? It simply says that because the Peace Corps has been terminated in some 14 countries over the years, it must be a failure, and therefore we are justified in emasculating the agency. The suggestion is made at one point in the committee report that the reasons for these terminations is possibly that the agency "does not respond to the basic needs of the host country;" and at another point that "some terminations were brought about because of the bad conduct and behavior of some of the Peace Corps volunteers;" and at another point that "some of these terminations can most likely be attributed to the fact that volunteers are not required to support the policies of our Government as is the case with other U.S. officials working abroad."

Mr. Chairman, I submit that these conclusions about the 14 terminations have no basis in fact, and I am referring to the facts contained in the hearings developed by this same subcommittee. On page 734 of the committee hearings, reasons are listed for each of the 14 terminations, and as Director Blatchford pointed out to the committee on page 826 of the hearings:

> Only one country in 1965, Pakistan, gave as their reason the lack of technical skills and confidence on the part of Peace Corps volunteers.

In the other 13 instances, the reasons for termination cannot be directly attributed to the conduct of volunteers or the type of job they were doing. In many instances, the terminations were forced by a change in government, often accompanied by civil insurrection and violence within a country. In some instances, there was simply no longer a need for volunteers because these countries had developed their own personnel to take over these jobs—personnel quite often trained by Peace Corps volunteers. Mr. Chairman, I submit this is nothing to be ashamed of; indeed, it is what the Peace Corps should be all about, that is, helping other countries to help themselves. The job of the Peace Corps should be to work itself out of a job by making it possible for host country nationals to do that job. The success of the Peace Corps should not be measured in terms of how many Peace Corps volunteers we replace with Peace Corps volunteers, but rather, how many Peace Corps volunteers are replaced by host country nationals.

The committee gives no credit for the fact that the Peace Corps is still needed and operating in some 55 countries, and that in the last 2 years four new countries have invited and taken volunteers—and I am referring to the countries of Mali, Mauritius, the Congo, and Malta.

In conclusion, Mr. Chairman, I strongly urge adoption of this amendment. My office has contacted Clark MacGregor this morning and learned that the White House fully supports this restoration of funds for the Peace Corps. This amendment is vital to the continuation of the Peace Corps and to the very foundation of the new Action agency. To defeat this amendment is tantamount to killing the Peace Corps. We cannot allow the irresponsible committee cut to prevail.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts (Mr. CONTE).

The question was taken; and on a division (demanded by Mr. GROSS) there were—ayes 68, noes 35.

So the amendment was agreed to.

AMENDMENT OFFERED BY MR. COLLIER

Mr. COLLIER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. COLLIER: Page 11, line 10, strike out the period and insert in lieu thereof the following: ": *Provided*, That none of the funds contained in this paragraph shall be used to carry out the provisions of the Peace Corps Act in Chile after February 1, 1972."

Mr. COLLIER. Mr. Chairman, this amendment would do precisely what it says. After the election of Salvador Allende as President of the Republic of Chile a year ago, I wrote Director Blatchford urging that we begin an orderly withdrawal of Peace Corps personnel from Chile. I am sure most Members of this House understand the reasoning and logic of this request. Allende is an avowed Marxist who has expropriated U.S.-owned properties including El Teniente, the world's largest copper mine, which employed 10,000 employees only two of whom were North Americans.

This action will cost the U.S. Treasury several million dollars in revenues. But aside from the nationalization program which is aimed primarily at the United States, the fact remains that Allende will remain the virtual dictator in a government which places him as the majordomo of labor, finance, public works, and foreign affairs for the next 5 years.

Recently riots in that country resulted in the declaration of a state of national emergency in Santiago. Be that as it may, when my suggestion calling for the orderly withdrawal of some 92 American Peace Corpsmen from Chile was received by the Office of the Director, I was advised that these volunteers were, and I quote:

> Not part of a political situation and that changes in governmental make up, political orientation or psychological approach are not reasons to withdraw.

Furthermore, I was told, the basic concept remains that these Peace Corpsmen overseas are not part of the U.S. foreign policy posture even though in a generic sense the program is part of foreign relations. Now you just try and draw any policy conclusion out of that type of statement.

I contend that the vast majority of the American people, including those who generally support Peace Corps activities, are not in favor of making a contribution of American tax dollars directly or indirectly of to Communist countries under these conditions and it is high time that we begin to reflect to some degree the sentiments of the people who are picking up the tab for these programs rather then arbitrarily make decisions on the basis of psychological attitudes of people in the agencies. We certainly have no business maintaining the Peace Corps in Chile and suffering the probable embarrassment of subsequently having them ordered out of that country. Regardless I urge support of this amendment.

Mr. PASSMAN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I would say to the gentleman from Illinois (Mr. COLLIER) that I am not inflexible. However, I do not know the reason as to why we should not withdraw the Peace Corps from all the nations of the world.

I believe it is just a question of time when we come to our senses and recognize that this is folly and a complete waste of the taxpayers' money. However, the Congress has worked its will and until such time as we can withdraw them from all other nations, instead of just Chile, I wonder if it would be wise to single out this one country.

The Peace Corps has been invited out of 14 countries. I want them out of all the countries.

Could the gentleman give me information as to why he is singling out Chile?

Mr. COLLIER. Mr. Chairman, if the gentleman will yield, I think the situation in Chile is obviously very unique and I do not believe the gentleman from Louisiana can tell me other countries in Latin America where there is a parallel that exists in those countries as exists in Chile, and if he will, I will buy it.

Mr. PASSMAN. Why single out Latin America from the Asiatic countries?

Mr. COLLIER. What Asiatic countries are expropriating American property and refusing to pay compensation for it?

Mr. PASSMAN. I am not going to say that there is not merit to the gentleman's reasoning. As I say, I am in favor of withdrawing them from all countries.

I do not know whether this is what the House wants to do. Let the House work its will, if they are opposed to the Peace Corps. I am just wondering if the present administration would not listen and look at certain facts, and see if the Peace Corps should be pulled out from all the countries.

Mr. COLLIER. I have mentioned to the gentleman that I wrote them a letter, and they obviously did not pay any attention to that. If they had I would not be here speaking.

Mr. CONTE. Mr. Chairman, I rise in opposition to the amendment because I think, as I said earlier today, if we can keep the lines of communication open in Chile with the Peace Corps, that this would be a wise thing to do.

I remember being on the floor of this House fighting amendments which would have cut off aid to Indonesia. We had a small program in Indonesia, we had a small military assistance program. There were some in this body who wanted to cut it off, yet by keeping those lines of communication open in Indonesia you had the government of Sukarno thrown out, and the Communists thrown out. Without losing a single American life, without firing one shot, Indonesia remained on the side of the free world.

Mr. COLLIER. Mr. Chairman, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from Illinois.

Mr. COLLIER. We cut off the funds to Indonesia, and it was after we cut off the funds that Sukarno was thrown out of power.

Mr. CONTE. I yield no longer.

There were years and years that the amendment was offered, and it was at the very end, almost the last year that Sukarno was in that that amendment prevailed in the House of Representatives.

We have now a very small Peace Corps mission in Chile, and each one of the men and women in our Peace Corps there are American ambassadors.

I think that if we have any hope of getting Chile back to the side of the free world it is by having a Peace Corps there.

I hope, therefore, that this amendment is defeated.

Mr. FRELINGHUYSEN. Mr. Chairman, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from New Jersey.

Mr. FRELINGHUYSEN. Mr. Chairman, I thank the gentleman for yielding. I would simply like to add that if we are going to start deciding on whether Peace Corps volunteers should be in one country or another, we ought at least to look at countries like Peru or Ecuador, or other countries with which we may have differences of opinion on matters of substance. I personally think that if we could we ought to have volunteers in more Communist- and Marxist-controlled governments. They would be a breath of fresh air. They would be a fine influence. It would be in the interest of the United States if we could send Peace Corps volunteers into, say, Rumania or Hungary.

I do not think that there is anything against our national interest in having the Peace Corps volunteers remain in countries like Chile.

So, Mr. Chairman, I support the gentleman from Massachusetts (Mr. CONTE) in his opposition to the amendment offered by the gentleman from Illinois (Mr. COLLIER).

Mr. GIBBONS. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I abhor what the Government of Chile has done to our investments down there. I am sorry that the Government of Chile seems to be going along and following the Communist line. But if there is ever any place in the world where we need Peace Corps people, it is in Chile.

I have been to Chile. I have spent some time in the slums of Chile, and in the poverty sections of Chile, and I have talked to our Peace Corps people down there.

Let me tell you what they are doing, and I think after you listen to what I am going to tell you they are doing, you will understand the need for them to be there in Chile.

You will find that our Peace Corpsmen in Chile are doing some very practical, worthwhile work. You will find them in the desperate slums, in the campos of Santiago. They are teaching these Chileans how to raise capital, like we raise it in this country.

They are teaching those people how to put together a little organization of people who reside in the slums—and there are millions of them who have no way of ever earning a living or having any contact with capitalism such as we enjoy. They are teaching them how to provide their own clothes and how to form a factory with the workers that are available in their own local area.

They are teaching them how to form their own schools and their own child-care operations so that more of them can go to work and provide their own food and clothing and their own housing.

They are teaching them to work in a capitalistic sort of a way that teaches them how to raise capital and form their own companies and set up their own boards of directors and have their own stockholders and get things done the same way that we do here.

That is what the Peace Corps people are doing in Chile. They are doing the same thing in agriculture. They have taught the Chileans how to go out and how to get more crops per year from a particular piece of land and how to make better use of the fertilizers that they have and how to practice better animal husbandry and all those things in the traditional sort of way that we do those things in this country.

There is no money going into Chile. We are just paying our own Peace Corps volunteers there. We do not give them automobiles—they walk around on shank's mare. They are doing the kind of thing that you would be proud of and that I certainly am proud of after having seen them.

We can get mad at Chile. I am just as mad at Chile as anybody else in this room. I think it is a shame what the Chilean Government has done, but if we have anything going in Chile to try to rescue that country from the foolish mistake that they seem to have made and from the shortsighted policy that the Government has taken, it is the Peace Corps. Let us keep the Peace Corps there.

The Peace Corps is doing the American kind of thing in Chile—the capitalistic kind of activity that will result in a benefit to all.

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. GIBBONS. I yield to the gentleman.

Mr. GROSS. Has not the Peace Corps been in Chile for a number of years?

Mr. GIBBONS. Yes, sir, Mr. GROSS, and the problems they have in Chile would just stagger you. The poverty they have in Chile is unimaginable in this country.

Mr. GROSS. What would you expect from them if we continue them down there? The record of what has happened shows they have not made many friends or influenced any people, have they?

Mr. GIBBONS. We have not stopped all the floods in Iowa either, sir, but we still are working on those problems. And we should continue to work on those problems in Chile.

Mr. COLLIER. Mr. Chairman, will the gentleman yield?

Mr. GIBBONS. I yield to the gentleman.

Mr. COLLIER. I am sure that my good friend, the gentleman from Florida, is not so naive as to believe the present Government in Chile will permit anything that is fundamentally capitalistic until the day they have Mr. Allende as their Minister of Finance.

Mr. GIBBONS. But we should not cut off our own nose to spite our own face. Let them throw our Peace Corps out rather than us.

I can tell you, I have been there, sir, and they are doing a job and doing the kind of a job that America wants done all over this world and you would be proud of it if you could have seen them.

Mr. PASSMAN. What is a good job by the Peace Corps?

Mr. GIBBONS. I think, Mr. PASSMAN, that a good job for the Peace Corps is to try to teach the people to be self-reliant and to help with the job of education and to spread knowledge—this is what our Peace Corps is doing.

Mr. SCHERLE. Mr. Chairman, I rise in support of the amendment.

Mr. COLLIER. Mr. Chairman, will the gentleman yield?

Mr. SCHERLE. I yield to the gentleman. The latest line of communication with Chile that I have seen was Castro's visit down there for 3 weeks. I yield to my colleague from Illinois.

Mr. COLLIER. Thank you. Let me say in all sincerity that when you have the type of situation prevalent in Chile today and when you look down the road and you look at what is past history, you must conclude that the past is prolog. That being the case I believe we are spinning our wheels keeping the Peace Corps in Chile. The day that the Marxist leaders of this Government decide a capitalistic type of Peace Corps operation—and I am not sure it is or it is not—is not in keeping with the philosophical concepts of a totalitarian system, you can wager your bottom dollar Senor Allende will order them out lock, stock, and barrel.

Mr. SCHERLE. Mr. Chairman, I would like to continue and say that from what I understand and see in rural America today, it would be far more valuable for our people in the Peace Corps to assist right here at home in the United States.

Mr. RUPPE. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from Michigan is recognized.

Mr. RUPPE. It seems to me that one of the speakers a moment ago got to the very heart of the matter, and that was in questioning whether the Allende government would permit free institutions to continue to exist in Chile. I would suggest that up to the present time and until this very moment there is a measure of democracy that still exists in Chile. There are still many people in that country who are firmly and openly opposed to the President. There is a good reason to believe the army would actually fight to maintain democracy or a semblance of democratic institutions in that country. It seems to me that we would be much better off to continue the Peace Corps until such time as democracy is actually brought to a halt and is stopped in Chile. I would suggest at this point in time Chile could go in either direction, and it may be inadvisable to withdraw our support and the encouragement that members of the Peace Corps supply to the many impoverished people that my colleague from Florida referred to a few moments ago.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. COLLIER).

The question was taken; and on a division (demanded by Mr. COLLIER) there were—ayes 32, noes 82.

So the amendment was rejected.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

DEPARTMENT OF STATE

MIGRATION AND REFUGEE ASSISTANCE

For expenses, not otherwise provided for, necessary to enable the Secretary of State to provide, as authorized by law, a contribution to the International Committee of the Red Cross and assistance to refugees, including contributions to the Intergovernmental Committee for European Migration and the United Nations High Commissioner for Refugees; salaries and expenses of personnel and dependents as authorized by the Foreign Service Act of 1946, as amended (22 U.S.C. 801–1158); allowances as authorized by 5 U.S.C. 5921–5925; hire of passenger motor vehicles; and services as authorized by 5 U.S.C. 3109; $8,690,000, of which not to exceed $7,650,000 shall remain available until December 31, 1972: *Provided,* That no funds herein appropriated shall be used to assist directly in the migration to any nation in the Western Hemisphere of any person not having a security clearance based on reasonable standards to insure against Communist infiltration in the Western Hemisphere.

Mr. GROSS. Mr. Chairman, I move to strike the requisite number of words.

The CHAIRMAN. The gentleman from Iowa is recognized.

Mr. GROSS. How much of this money goes to those refugees in the Middle East?

Mr. PASSMAN. In relation to this particular item, I think the answer would be "None."

Mr. GROSS. Is there money in the bill for the refugees?

Mr. PASSMAN. Yes; there is $13 million under international organizations, United Nations Relief.

Mr. GROSS. There are about 1,500,000 refugees, are there not?

Mr. PASSMAN. Yes. This takes care of refugees and escapees.

Mr. GROSS. People who are still living in the utmost squalor and poverty and have been for years. There is no exultation on the faces of the refugees in the Middle East, is there?

Mr. PASSMAN. I would not be able to answer that question in the negative or in the affirmative because I do not know.

Mr. GROSS. I heard a few minutes ago about the exultation on the faces of some people in Israel.

Mr. PASSMAN. Further in answer to the gentleman's question, there is U.N. work totaling $13,300,000, but the allocations are so meager that many people are facing almost starvation. This is a very minimum amount, so far as I am concerned, that could be furnished to maintain these refugees.

Mr. GROSS. What about the percentage of contribution to take care of these refugees? We did not bring about the conditions that produced these refugees and therefore the responsibility for providing for them is not our obligation.

Mr. PASSMAN. Our share is 50 percent of the total of that one particular item.

Mr. GROSS. That is what I thought. We are providing 50 percent of the total cost to keep the refugees at a bare subsistence level.

Mr. PASSMAN. On this one item that is correct.

Mr. GROSS. Yes. It has always intrigued me as to why such a heavy share of this responsibility rests on the taxpayers of the United States—why some of the people who are exulting so much in the Middle East should not be carrying a far greater share of taking care of these refugees they created.

Mr. PASSMAN. If the gentleman will yield further, I certainly share the gentleman's views. This is an agreement previously entered into. We have legislation embracing these refugees specifically. At such time as our policymakers change this, and until such time, I guess we are obligated to provide this small sum to these starving refugees.

Mr. GROSS. And I guess in this bill we are being obligated to start building a new hospital in Rome; are we not?

Mr. PASSMAN. That has been before the committee for many years. We have a similar hospital, an American hospital in Paris. This is not a foreign hospital; this is an American hospital.

Mr. GROSS. All right. I have the gentleman's answer.

Mr. PASSMAN. But we are embarking on construction of a hospital in Rome in this bill.

Mr. GROSS. That is unfortunately correct. But there is no legal obligation in this bill, no matter what the colloquy between the gentleman from Louisiana (Mr. PASSMAN) and the gentleman from New York (Mr. ROONEY) earlier in the general debate on this bill. There is no legal obligation upon the taxpayers of this country to provide military or any other kind of aid to Israel; is there?

Mr. PASSMAN. Of course, this bill provides military assistance.

Mr. GROSS. It is not specified in this bill; is it?

Mr. PASSMAN. It is not earmarked as such.

Mr. GROSS. That is exactly what I thought.

Mr. PASSMAN. If the gentleman will yield, I think we can reach agreement that this is the proper thing to do. It is perfectly obvious that when the request came down for hospitals and schools abroad, it was one figure. In about 3 days the budget increase was recommended, and they sent down another supplemental. Finally, when the authorization bill passed, it was $13 million for the schools and hospitals abroad. What this committee did, I would say after a very fair examination, is that we established these old institutions we had been funding in the past, such as the American University of Beirut, which is strictly an American school, and also the University of the Americas in Mexico, and the Feinberg Graduate School, and Robert College, in Turkey, and Project Hope—and, of course, our program supports these. We earmarked that because they are old projects.

Then we put $5,200,000 into a contingency fund. Out of this $5,200,000, the AID agency, if and when certain schools abroad can be justified, can take $5 million out of the $18 million, which means the budget request as supplemented by the original request in the House Foreign Affairs Committee recommendations—and we can fund those projects.

Mr. GROSS. I simply wanted a record established that there is no legal obligation in this bill to provide military or so-called security assistance to Israel or any other country.

Mr. PASSMAN. There is no legal obligation to pass any of it.

Mr. MYERS. Mr. Chairman, I move to strike the last word.

I wonder if the chairman might answer what does including hire for passenger vehicles have to do with providing aid for refugees? Can the gentleman give me that answer?

Mr. Chairman, I yield to the gentleman from Louisiana for that purpose.

Mr. PASSMAN. Mr. Chairman, I assume they would have to have some means of getting around. I have to answer the gentleman head on. Of course, they have to have the transportation, because we have the people and they are advising and distributing these commodities, and they must travel to where these refugees are. As far as I know, that would be the only excuse for automobiles.

If it is necessary to have a program, we have to have transportation.

Mr. MYERS. But we rent vehicles in other countries so we can haul them around?

Mr. PASSMAN. I would assume that there would be a saving to our country, drawing from the experiences in other respects. It is a good question. I will look into it.

AMENDMENT OFFERED BY MR. GONZALEZ

Mr. GONZALEZ. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GONZALEZ: Page 14, after line 6, insert:

"FUNDS APPROPRIATED TO THE PRESIDENT
INTERNATIONAL FINANCIAL INSTITUTIONS
INTER-AMERICAN DEVELOPMENT BANK

"Investment in Inter-American Develop-Bank: $150,000,000 to remain available until expended, of which $13,240,000 shall be available solely for paid in capital; $136,760,000 shall be available solely for callable ordinary capital."

Mr. GONZALEZ. Mr. Chairman, I have offered my amendment in good faith because, even though it is a compromise, it is indispensable that this House go on record in support of a highly successful institution: the Inter-American Development Bank.

It would be a serious error to pass this bill in its present form with no appropriation for IDB.

Therefore, I am most appreciative that the chairman has accepted my amendment.

Failure to have restored even this partial money would have been a disaster.

Mr. PASSMAN. Mr. Chairman, will the gentleman yield?

Mr. GONZALEZ. I am delighted to yield to the gentleman from Louisiana.

Mr. PASSMAN. This is one of the international organizations.

During the history of the aid bills, some 25 years, neither the subcommittee nor the full committee nor the House of Representatives has ever made any reduction in any type of international organization, but inasmuch as the trend is toward multilateral organizations we felt this would be a good time to indicate to the agencies that we had the right to cut and that we would cut and we would hope that the House would stick with us.

After we made this cut we heard a lot of pleas from the people downtown, who stated they had previously entered into such agreements and though we had no legal obligations they would accept a compromise of the $261 million requested if we would give them $150 million, and this would work out the agreements they had with the other nations.

Inasmuch as this is the first time we have ever cut the multilateral organizations, and they did note a reasonable justification for cutting it back, I am not going to oppose the amendment; rather, I shall support it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. GONZALEZ).

The amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

TITLE V—GENERAL PROVISIONS

SEC. 501. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes within the United States not heretofore authorized by the Congress.

Mr. GROSS. Mr. Chairman, I move to strike the necessary number of words.

Mr. Chairman, early this afternoon—and that seems a long time ago; perhaps it was this morning when general debate started—the gentleman from Louisiana (Mr. PASSMAN) properly spoke of the imminence of Christmas.

So I should like to speak of the imminence of Santa Claus. We have him here now, and another ornament was just put on the Christmas tree for the foreigners, an amendment to give them another $150 million.

This bill started out this morning at $2.84 billion. It was a few million off, but in round figures $2,845 million. Amendments have now been added increasing it to more than $3 billion.

We were told about the wondrous cuts that were going to be made in this latest Santa Claus deal, but here we are with a $3 billion foreign aid bill, despite the fact that we are faced with a $435 billion Federal debt that no one seems to worry much about, a $30 billion to $35 billion deficit at the end of this fiscal year, and nearly $22 billion interest each year on the Federal debt.

So we are confronted with another $3 billion handout, and no one knows what the Senate will do by way of an increase before they get through with this bill.

The gentleman was so right when he said Christmas is close at hand. Santa Claus arrived in the House today in all his splendor.

Mr. PASSMAN. Will my distinguished friend yield?

Mr. GROSS. Yes; but please do not take quite all my time.

Mr. PASSMAN. I promise the gentleman I will not.

I want to bring to the gentleman's attention that one can be so inflexible and not look at the other man's point of view that you usually get licked.

We reduced this bill $1,497 million below the budget estimate. We reduced this bill $967 million below the appropriation last year. We put back in $150 million for what seems to me a very sensitive area. It is still a reasonable compromise. We are giving you a reduction of over $1 billion.

Mr. GROSS. All right. I get the gentleman's point.

Now let me ask the gentleman a question. On July 1 of this year what was the amount of money unexpended in the foreign handout pipeline? Was there not some $24.4 billion.

Mr. PASSMAN. Will the gentleman yield?

Mr. GROSS. Yes.

Mr. PASSMAN. If the gentleman runs out of time, I will ask unanimous consent that he may proceed for whatever time is necessary in order to clear this up, because I think this is worth repeating.

This committee always furnished this House complete detailed information. We have never attempted to hide anything from this House. When you look at your pipeline of $24 billion you are looking at funds that are not available for new obligations. This is simply loans and other things that are available on ongoing projects. If we look at the large spigot which was referred to as foreign aid, there is only $4.4 billion. All of the other spigots on this sheet cover things like the Export-Import Bank limitation and many others of that sort. All of those things can be looked on as aid or assistance in our recapitulation, but remember that much of this goes for the Export-Import Bank and it will be rapid, as the gentleman well knows.

So, inasmuch as we are willing to make it all inclusive so that this House may know what we are doing, I trust that the gentleman will not chastise the committee too much.

Mr. GROSS. The gentleman still has not answered my question. How much was there in the pipeline?

Mr. PASSMAN. For foreign assistance, as reflected in foreign aid and carried in this bill, there is $4,600 million which is obligated and which cannot be used for new projects.

Mr. GROSS. $4 billion, the gentleman said?

Mr. PASSMAN. That is correct.

Mr. GROSS. That was on July 1. What does the gentleman say is in the pipeline now? How much?

Mr. PASSMAN. I have not asked that question in recent days. They are withdrawing from the pipeline all the time, and I assume with the continuing resolution that they have made additional obligations.

Mr. GROSS. So that with the wide-open power to the President to deobligate, reobligate, and transfer these funds there would be no harm done if we did not pass this bill. If this bill did not pass, there would be no harm. Is that not correct?

Mr. PASSMAN. To my way of thinking—and I can answer the gentleman with all the sincerity that I can muster and all my integrity and all my honor—that would be doing irreparable harm if we did not pass this bill. I think Korea would go down the drain. The President would be withdrawing his troops from Vietnam, and that situation would be greatly affected. The Export-Import Bank means so much to the American businessman, and that would go down the drain at 12 o'clock tonight if we did not pass this bill.

I think the damage would be terrific, and I hope the House will not take that position.

Mr. GROSS. So that is the final word from the gentleman who voted against the foreign-aid authorization bill when it was before the House. Is that correct?

Mr. PASSMAN. The pipeline funds have been obligated for ongoing projects and no new projects can be initiated.

No new projects can be initiated. The gentleman from Iowa understands that as well as I do.

Mr. GROSS. I can tell you one thing I do understand and that is that we are walking right down the road to catastrophe in this country, and the spending of more than $200 billion, including the interest on this foreign giveaway program through the years, has made a tremendous contribution toward this catastrophe that faces every man, woman, and child in this Nation.

Mr. PASSMAN. Mr. Chairman, will the gentleman yield further?

Mr. GROSS. No; I decline to yield further to the gentleman from Louisiana.

I yield to the gentleman from Iowa.

Mr. SCHERLE. I appreciate my colleague from Iowa yielding.

Since this bill does have about $2.8 billion contained in it, I wonder if the chairman of the subcommittee would accept a moratorium of 1 year on foreign aid?

Mr. PASSMAN. What is the question?

Mr. SCHERLE. I wonder if the chairman would accept an amendment declaring a moratorium on foreign aid, since there is so much money in the pipeline?

Mr. PASSMAN. Of course, I do not have the right to accept an amendment of that kind. I want to say to the gentleman that I am just as much opposed to excessive foreign aid as is the gentleman. That fact has been clearly demonstrated in the fact that we have made over $14 billion in cuts in foreign aid over the past few years.

Mr. GROSS. Mr. Chairman, I want to wish the chairman of the subcommittee, Mr. PASSMAN, a merry Christmas.

Mr. PASSMAN. I want to wish my friend from Iowa a merry Christmas.

Mr. HAYS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I do not believe that I can vote for this bill. That is no reflection upon the gentleman from Louisiana who is the chairman of the subcommittee, but I do want to say, having listened to most of the colloquy between the gentleman from Louisiana and the gentleman from Iowa that as I understand the bill now it is at least $200 million higher than the authorization money which the other body and the House had informally agreed upon.

Mr. PASSMAN. That is not correct. I believe it is under. We will get the exact figure while the gentleman talks.

Mr. HAYS. I know what we agreed upon. It was less than $3 billion. Of course, that does not have any effect now because the conference is hung up on the so-called Mansfield amendment and apparently there is not going to be any authorization bill. I will defend the gentleman from Louisiana and say if this extra $250 million goes down the drain, you can blame it on the intransigence of the gentleman from Montana (Mr. MANSFIELD) in the other body. If he had permitted us to come forward with an authorization bill, you could not have gone quite that high.

Mr. PASSMAN. I believe we are still under the Senate because you have extra titles in this bill that were not carried in the authorization.

Mr. HAYS. We do not have a continuing resolution. We had an authorization bill.

Mr. PASSMAN. But under the authorization bill also—under the Senate authorization bill.

Mr. HAYS. If you are under the Senate authorization bill, how do you get up to $3 billion?

Mr. PASSMAN. We have made it all inclusive. We picked up all chapters. There are five chapters contained in this bill. We included military sales as one item, for instance.

Mr. HAYS. Well, they were in the other bill also.

Mr. PASSMAN. And, the authorization bill does not apply to the Peace Corps.

Mr. HAYS. No.

Mr. PASSMAN. And neither does it apply to the Inter-American Development Bank.

Mr. SHRIVER. Mr. Chairman, will the gentleman yield?

Mr. HAYS. Yes, I yield to the gentleman from Kansas.

Mr. SHRIVER. I want to make clear—and I thank the gentleman from Ohio for yielding—that the Inter-American Development Bank was authorized through the Committee on Banking and Currency.

Mr. HAYS. I understand that.

Mr. SHRIVER. And that was in the amount of $150 million.

Mr. HAYS. I thank the gentleman for clarifying that because I did not understand that you had included other matters than were in the authorizing resolution, but you are still higher——

Mr. PASSMAN. We always do in this bill.

Mr. HAYS. The authorizing resolution was down substantially below any figures we have ever had in any other year, and the hangup between the conferees is not over the amounts, may I say to the gentleman.

I accept that.

Mr. ROUSSELOT. Mr. Chairman, if the gentleman will yield, I think the most significant point that has been brought out in the last few minutes has been brought out by the chairman of the subcommittee from the Committee on Appropriations that there is $4 billion uncommitted dollars in the pipeline.

Mr. HAYS. Four billion?

Mr. ROUSSELOT. Four billion in the pipeline.

Mr. HAYS. I thought it was $24 billion. Is it $4 billion or $24 billion?

Mr. ROUSSELOT. I believe Mr. PASSMAN said 4 billion uncommitted dollars.

Mr. HAYS. How much is in there altogether, uncommitted?

Mr. PASSMAN. If the gentleman will yield, in the title under discussion, and in the authorizing bill, this bill is under both the House and Senate authorizing bills.

Mr. ROUSSELOT. The point is not that it was under the authorization, but that there is $4 billion unspent funds fully available to carry out the so-called commitments. We really do not need this bill. If we defeat this appropriation it will not cut off all funds. I think that is the point of significance.

Mr. HAYS. I think it is fair to say if you really want to vote for economy—and I do not see any reason why we should be getting into an argument about who is saving money—but I am going to vote against the bill. I know that will be a vote to save money.

Mr. MORGAN. Mr. Chairman, if the gentleman will yield, if you follow the figures of the gentleman from California, there is $32 billion in the defense pipeline, there is $11 billion that they have not used a dime of. So why do we need $70 billion?

Mr. HAYS. Mr. Chairman, I will say to my chairman I think he is exactly right, and what we ought to do is to dry up some of these unobligated funds, whether they are foreign aid, Defense Department, Department of Agriculture, you name them.

Mr. PASSMAN. Mr. Chairman, let me assure the gentleman from Ohio that in the pipeline in titles I and II, there is $4,600,000,000, and that money has been obligated for ongoing projects, and for loans. If you should kill this bill, of course, there would not be an additional dollar available for any new starts, or any new commitments, military or otherwise.

The CHAIRMAN. The time of the gentleman from Ohio has expired.

Mr. GERALD R. FORD. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, at the outset let me speak in a complimentary way about the distinguished chairman of the Subcommittee on Foreign Operations of the Committee on Appropriations, the gentleman from Louisiana (Mr. PASSMAN).

I sat for 12 years in that subcommittee with the gentleman from Louisiana, and although we had many disagreements I can say that the gentleman is as knowledgeable about the history and the current facts on this program as anybody I know of in the Congress.

This bill may be too low for some, and too high for others, but the gentleman has brought out a bill here that ought to be supported. I think he should be commended for his flexibility in adjusting in two areas to amendments. I compliment the gentleman for that statesmanship. The bill is improved by these several increases.

Mr. ALBERT. Mr. Chairman, will the gentleman yield?

Mr. GERALD R. FORD. I yield to our distinguished Speaker.

Mr. ALBERT. Mr. Chairman, I first want to associate myself with the remarks that the gentleman from Michigan, the distinguished minority leader, has just made.

Second, it ought to be crystal clear that the foreign aid appropriation bill does not coincide with the foreign aid authorization bills that have passed both Houses.

It picks up the Inter-American Bank Act, in this case $150 million, which came out of the Committee on Banking and Currency, and is authorized, as I understand it. I for one urged the distinguished gentleman from Louisiana to accept this amendment because this is the only chance we will have to make an appropriation for that amount which is already authorized by the House, and by the Congress.

I hope the Members will support this bill. Mr. Chairman, if there ever was a barebones foreign aid bill, I would say this is it. We cannot, it seems to me, at this stage of the game just plunge out of this business. All of us hope to see a gradual decrease in foreign aid, but I think we should support the committee and support the gentleman from Louisiana.

I hope that the House will do that.

Mr. CEDERBERG. Mr. Chairman, will the gentleman yield?

Mr. GERALD R. FORD. I yield to the gentleman.

Mr. CEDERBERG. I take this time because I think one of the great tragedies that could happen in the dying days of this session would be to have this appropriation fail.

I am not one who has supported the foreign aid program over the years very much. I have been for it sometimes and against it sometimes. But if this bill goes down the drain, then Vietnamization and the problems we have in Southeast Asia and from which the President is trying to extricate us will be made immeasurably more difficult.

I am not going to have that on my conscience. You can have it on yours. But I am going to vote for this appropriation for foreign aid mainly because I think it is absolutely important for the foreign policy of this country.

Mr. MAHON. Mr. Chairman, will the gentleman yield?

Mr. GERALD R. FORD. I yield to the gentleman.

Mr. MAHON. Mr. Chairman, I want to endorse the statement made by the gentleman from Michigan in regard to the program of Vietnamization. This bill is closely tied to our pursuit of peace in Vietnam. We must support the President in his effort to bring this war to a reasonably satisfactory conclusion. We cannot do it without the support that this bill provides.

This bill likewise makes a contribution to the cause of peace in the Middle East and the whole world. And despite its imperfections, and there are many, and despite the fact that it can be ridiculed in some respects, the bill must be passed as I see it and I hope the House will adopt the bill which will soon be voted upon.

Mr. GERALD R. FORD. Mr. Chairman, I cannot improve upon the words just uttered by the gentleman from Texas. This bill is vital to the security of our peace-maintaining policies and forces in the Middle East, our forces in Southeast Asia, and to our overall attempts to achieve and maintain peace throughout the world.

In my judgment, it would be catastrophic for specious reasons to defeat this appropriation bill at this time.

I strongly urge support of the bill.

Mr. FRASER. Mr. Chairman, will the gentleman yield?

Mr. GERALD R. FORD. I yield to the gentleman.

Mr. FRASER. I intended to vote against this bill because I thought it was so destructive of our foreign aid program.

With the addition of $150 million for the Inter-American Bank and the increase for the Peace Corps, I am going to vote for it.

I did not like the bill. I think there are many defects in it. But on balance, I thought with these changes, it does deserve support at this point.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SEC. 502. No part of any appropriation contained in this Act shall be used for expenses of the Inspector General, Foreign Assistance, after the expiration of the thirty-five day period which begins on the date the General Accounting Office or any committee of the Congress, or any duly authorized subcommittee thereof, charged with considering foreign assistance legislation, appropriations, or expenditures, has delivered to the Office of the Inspector General, Foreign Assistance, a written request that it be furnished any document, paper, communication, audit, review, finding, recommendation, report, or other material in the custody or control of the Inspector General, Foreign Assistance, relating to any review, inspection or audit arranged for, directed, or conducted by him, unless and until there has been furnished to the General Accounting Office or to such committee or subcommittee, as the case may be, (A) the document, paper, communication, audit, review, finding, recommendation, report, or other material so requested or (B) a certification by the President, personally, that he has forbidden the furnishing thereof pursuant to such request and his reason for so doing.

Mr. GROSS. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I have just listened to the chairman of the Committee on Appropriations, Mr. MAHON; to the minority leader, Mr. FORD, and to the distinguished Speaker of the House, Mr. ALBERT, on how necessary this legislation is.

I have been here a few years and I have heard this same talk year after year when this foreign handout program has come along—how necessary it is to preserve peace in the world.

What have we had since this foreign aid program was started, I would like to ask the gentleman from Michigan (Mr. GERALD R. FORD).

We have had the war in Korea—35,000 dead. The war in Vietnam—with another 45,000 or 50,000 dead.

This foreign handout program is necessary to carry out dollar diplomacy.

Through the years there have been Democrat and Republican administrations of this Government, past and present, and apparently none of them could operate a foreign policy without billions of dollars in foreign aid to make commitments and buy their way around the world. That is what this all about. Today you are about to slap another $3 billion mortgage plaster on the backs of the children of this country, on the backs of our sons and daughters and on the backs of their children. It is a mortgage plaster that will never be retired, and you know it, unless it is through some process of revaluation or devaluation or outright debt repudiation.

Mr. GERALD R. FORD. Mr. Chairman, will the gentleman yield?

Mr. GROSS. I used the gentleman's name. I am glad to yield.

Mr. GERALD R. FORD. Let me just say this. Before World War II, when we did not spend a dime on any aid and assistance program, military or economic, we got ourselves involved in a war in which 16 million Americans went into service and a good many more Americans were tragically and unfortunately killed. I think the batting average of this program is better after that war than an isolationist policy before the war proved to be.

Mr. GROSS. And this has not prevented a war since, has it? You bet your life it has not. We are becoming more deeply involved all the time around the world. The reason why you want this bill is because of dollar diplomacy.

Mr. CEDERBERG. Mr. Chairman, will the gentleman yield to me?

Mr. GROSS. Yes, I yield to the gentleman from Michigan.

Mr. CEDERBERG. I do not believe in dollar diplomacy any more than does the gentleman from Iowa.

Mr. GROSS. Then vote against the bill. But you do not——

Mr. CEDERBERG. Did the gentleman yield to me or did he not?

Mr. GROSS. Yes, I yielded to you.

Mr. CEDERBERG. Then let me complete what I wanted to say.

Mr. GROSS. Go right ahead.

Mr. CEDERBERG. The speech of the gentleman from Iowa will read as beautifully in the newspapers of Michigan as it will in Iowa. My constituents would appreciate it more if I voted against this bill, as I have many times before.

I do not like everything in this bill. But comparing the record of what happened prior to World War II with what has happened since World War II, it is an awfully difficult thing to dismiss the value of this program.

Mr. GROSS. Who provided the blood and guts for those wars? Who has financed the wars except us? And all of this despite these foreign aid programs.

Mr. CEDERBERG. I am not happy about this——

Mr. GROSS. There is not the slightest assurance that there will be peace in any country of the world.

Mr. CEDERBERG. I am not happy about this, but I will say I believe that if this goes down the drain, we will lose millions more in Southeast Asia and other parts of the world. If we want to let the forces of communism completely come over and take us over without spending a dime, then our dollars will not be worth the paper on which they are printed whether we have dollar diplomacy or not.

Mr. GROSS. And how interesting it is to hear this afternoon how this bill will beef up the weapons in the Middle East, and through other programs sell food grains to the Russians at bargain basement prices, thus fattening the Russians and their satellites for their ventures in that area of the world.

Mr. Chairman, I hope we will not again soon hear a repeat of the story of the sad financial condition of this Government, especially from those who will vote for this $3 billion handout to foreigners.

The citizens of this country cannot police and bankroll the rest of the world and remain solvent.

Nor will peace be maintained through the dispensing of foreign aid as attested by the situation today in the subcontinent where India, the beneficiary of $8 billion in foreign aid and Pakistan, the recipient of $4½ billion, are locked in war.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SEC. 503. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

Mr. SCHEUER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I support this bill, despite its imperfections, but I must express my chagrin and disappointment that the $100 million that was in the authorization bill for family planning activities abroad has been cut to $50 million. It was not very many years ago when we did not have very much credibility abroad in our efforts to urge nations in Africa, Asia, and Latin America to engage in concerted efforts to control their galloping population growth. But we have come a long way in achieving credibility. By 1970 the Congress passed the Population Planning and Research Act of 1970, which sent out the signal that we had ceased telling nations abroad to do as we say, but not as we do; that there was a policy of this country to make available family planning information and equipment to every American woman in her childbearing years—on a strictly voluntary basis, of course.

Now we have a presidentially appointed Commission on Population and the American Future at work to further develop a national policy on population for the United States. So we have more credibility than we have ever had before in urging the underdeveloped countries of the world that have explosive rates of population growth to do something about controlling those rates of increase; we have credibility now in proffering specific, practical assistance.

If those countries whom we are attempting to aid do not do something specific, tangible and practical about population growth, everything else we are trying to help them achieve, everything else we are giving them under the provisions of this bill to help them—schools, housing, food, medical care, and the other basic elements of civilized life—are doomed to fail.

We will be literally wasting the hundreds of billions we have spent on other elements of our foreign aid programs over the last generation if we fail to spend the hundred million authorized to help the nations abroad on population planning programs to solve the problem of explosive population growth. I urgently hope the administration will use some of the discretionary funds, of about $200 million, for population planning aid abroad in addition to the specifically appropriated $50 million for that purpose.

The report of the Foreign Affairs Committee on H.R. 9910—the foreign assistance authorization bill—made clear that committee's strongly held view that not only should the AID maintain spending for population programs at the $100 million level, but also that available discretionary funds should be spent in addition on population control programs in the developing countries. There is no single Government assistance program—foreign or domestic—which has the extraordinarily favorable cost-benefit ratio of population control by voluntary family planning assistance.

The committee's statement on the high priority they place on continued—indeed—increased family planning assistance programs—follows:

SECTION 105—PROGRAMS RELATING TO POPULATION GROWTH

Because of the increasing concern in the United States and elsewhere about world population growth, the Congress in 1968 added a new title to the Foreign Assistance Act and earmarked funds to promote programs relating to population growth.

For 4 years the funds earmarked for AID's population programs by the Congress have been a most important factor in the world's response to the population crisis—a crisis that gravely threatens orderly economic development and the basic quality of human life and the environment.

The accompanying chart demonstrates the awesome dimensions of the world population growth and the need for concerted action to decrease rates of population growth.

As the amount of earmarked funds has been progressively increased by Congress over the past 4 years, to a total of $100 million for fiscal year 1971, it has cut deeply into funds appropriated for other programs, primarily the development loan fund, to the detriment of such programs.

As a result of that problem, and believing that programs relating to population growth are important enough to be funded on their own merits, the committee has amended section 292 of title X of the Act to authorize a separate line item appropriation.

For fiscal year 1972 it has set the authorization at $100 million and for fiscal year 1973, at $125 million. The increase for the next fiscal year is justified, the committee believes, by the progress being made in the AID-sponsored population control programs and the prospects of increased requests to the United States for aid in this field by the developing countries as they recognize the dimensions of their own population problems.

The committee believes that the amounts authorized for population programs are the minimum that should be used in this vital area. The committee assumes that the Agency for International Development will maintain the population program at the level authorized by the committee, or higher, by making use, if necessary, of the following new language added to section 292: "Other funds provided to carry out the provisions of part I of this Act shall also be available to carry out the purposes of this title and, not withstanding any other provision of this Act, funds used for such purposes may be used on a loan or grant basis." Further, the committee believes that U.S.-owned excess foreign currencies should be used to the maximum extent possible for population programs.

The CHAIRMAN. The Clerk will read.

The Clerk concluded the reading of the bill.

Mr. PASSMAN. Mr. Chairman, I move that the Committee do now rise and report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill, as amended, do pass.

The motion was agreed to.

Mr. PASSMAN. Mr. Speaker, I move the previous question on the bill and all amendments thereto to final passage.

The previous question was ordered.

The SPEAKER. Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. SCHERLE. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were refused.

Mr. SCHERLE. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. The Chair will count. One hundred eighty-nine Members are present, not a quorum.

The Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 214, nays 179, answered "present" 1, not voting 37, as follows:

[Roll No. 441]

YEAS—214

Abzug
Addabbo
Alexander
Anderson, Ill.
Anderson, Tenn.
Andrews, N. Dak.
Aspinall
Badillo
Barrett
Bell
Bergland
Biaggi
Biester
Bingham
Boggs
Boland
Bolling
Bow
Brasco
Brooks
Broomfield
Brotzman
Brown, Mich.
Brown, Ohio
Broyhill, Va.
Buchanan
Burke, Mass.
Burton
Byrne, Pa.
Byrnes, Wis.
Cabell
Carey, N.Y.
Cederberg
Celler
Clark
Clay
Conable
Conte
Corman
Cotter
Coughlin
Daniels, N.J.
Danielson
Davis, Wis.
Dellenback
Dennis
Dingell
Donohue
Downing
Drinan
du Pont
Dwyer
Edmondson
Eilberg
Erlenborn
Esch
Eshleman
Evans, Colo.
Fascell
Findley
Fish
Flood
Foley
Ford, Gerald R.
Ford, William D.
Forsythe
Fraser
Frelinghuysen
Frenzel
Fulton, Tenn.
Gallagher
Garmatz
Giaimo
Gibbons
Gonzalez
Goodling
Grasso
Gray
Green, Pa.
Gubser
Gude
Halpern
Hanley
Hanna
Hansen, Idaho
Hansen, Wash.
Harrington
Harvey
Hathaway
Hébert
Heckler, Mass.
Heinz
Helstoski
Hicks, Mass.
Hogan
Holifield
Horton
Hosmer
Johnson, Calif.
Johnson, Pa.
Jones, Ala.
Karth
Kazen
Keating
Kee
Keith
Kemp
Koch
Kyros
Leggett
Lent
Link
Lloyd
Long, Md.
McClory
McCloskey
McDade
McEwen
McFall
McKay
McKevitt
McKinney
Madden
Mahon
Mailliard
Matsunaga
Mayne
Mazzoli
Meeds
Melcher
Mikva
Miller, Calif.
Mills, Md.
Minish
Mitchell
Mollohan
Monagan
Moorhead
Morgan
Morse
Murphy, Ill.
Murphy, N.Y.
Nedzi
Nelsen
Nix
O'Hara
O'Neill
Passman
Patten
Pelly
Pepper
Perkins
Peyser
Pickle
Pirnie
Podell
Preyer, N.C.
Price, Ill.
Pryor, Ark.
Pucinski
Quie
Railsback
Rees
Reid, N.Y.
Reuss
Rhodes
Riegle
Robison, N.Y.
Rodino
Roe
Rooney, N.Y.
Rooney, Pa.
Rosenthal
Roybal
Ruppe
Ryan
Sarbanes
Scheuer
Schneebeli
Schwengel
Shriver
Sisk
Smith, Iowa
Smith, N.Y.
Stanton, J. William
Steele
Steiger, Wis.
Stokes
Stratton
Symington
Teague, Calif.
Teague, Tex.
Thomson, Wis.
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vigorito
Ware
Whalen
Whitehurst
Widnall
Wiggins
Wilson, Bob
Wilson, Charles H.
Wolff
Wyatt
Wydler
Yates
Yatron
Young, Tex.
Zablocki
Zwach

NAYS—179

Abbitt
Abernethy
Abourezk
Adams
Anderson, Calif.
Archer
Ashbrook
Ashley
Aspin
Baker
Baring
Begich
Bennett
Betts
Bevill
Blanton
Brademas
Bray
Brinkley
Burke, Fla.
Burleson, Tex.
Burlison, Mo.
Byron
Caffery
Camp
Carney
Carter
Chamberlain
Chappell
Chisholm
Clancy
Clausen, Don H.
Clawson, Del
Cleveland
Collier
Collins, Tex.
Colmer
Conyers
Crane
Culver
Daniel, Va.
Davis, S.C.
de la Garza
Delaney
Dellums
Denholm
Dent
Devine
Dickinson
Dorn
Dow
Dulski
Duncan
Eckhardt
Edwards, Ala.
Edwards, Calif.
Fisher
Flowers
Flynt
Frey
Fuqua
Galifianakis
Gaydos
Gettys
Goldwater
Griffin
Griffiths
Gross
Grover
Hagan
Haley
Hall
Hamilton
Hammerschmidt
Harsha
Hastings
Hays
Hechler, W. Va.
Henderson
Hicks, Wash.
Hillis
Hull
Hungate
Hunt
Hutchinson
Ichord
Jacobs
Jarman
Jonas
Jones, N.C.
Jones, Tenn.
Kastenmeier
King
Kuykendall
Kyl
Landgrebe
Landrum
Latta
Lennon
Long, La.
Lujan
McClure
McCollister
McCormack
McCulloch

McDonald, Mich.
Macdonald, Mass.
Mann
Martin
Metcalfe
Michel
Miller, Ohio
Mink
Minshall
Mizell
Mosher
Moss
Myers
Natcher
Nichols
Obey
Pettis
Pike
Poage
Poff
Powell
Price, Tex.
Purcell
Quillen
Randall
Rangel
Rarick
Roberts
Robinson, Va.
Rogers
Roush
Rousselot
Roy
Runnels
Ruth
St Germain
Sandman
Satterfield
Saylor
Scherle
Schmitz
Scott
Sebelius
Shipley
Shoup
Sikes
Skubitz
Slack
Smith, Calif.
Snyder
Stanton, James V.
Steed
Steiger, Ariz.
Stephens
Stubblefield
Stuckey
Talcott
Taylor
Terry
Thompson, Ga.
Thompson, N.J.
Thone
Veysey
Waggonner
Waldie
Wampler
Whalley
White
Williams
Winn
Wylie
Wyman
Young, Fla.
Zion

ANSWERED "PRESENT"—1

O'Konski

NOT VOTING—37

Andrews, Ala.
Annunzio
Arends
Belcher
Blackburn
Blatnik
Broyhill, N.C.
Casey, Tex.
Collins, Ill.
Curlin
Davis, Ga.
Derwinski
Diggs
Dowdy
Edwards, La.
Evins, Tenn.
Fountain
Green, Oreg.
Hawkins
Howard
Kluczynski
McMillan
Mathias, Calif.
Mathis, Ga.
Mills, Ark.
Montgomery
Patman
Roncalio
Rostenkowski
Seiberling
Spence
Springer
Staggers
Sullivan
Tiernan
Whitten
Wright

So the bill was passed.

The Clerk announced the following pairs:

On this vote:

Mr. Annunzio for, with Mr. Roncalio against.

Mr. Tiernan for, with Mr. Fountain against.

Mr. Kluczynski for, with Mr. Evins of Tennessee against.

Mr. Arends for, with Mr. O'Konski against.

Mr. Blatnik for, with Mr. Whitten against.

Mr. Rostenkowski for, with Mr. Broyhill of North Carolina against.

Mr. Staggers for, with Mr. Casey of Texas against.

Mrs. Sullivan for, with Mr. Mathis of Georgia against.

Mr. Mathias of California for, with Mr. Andrews of Alabama against.

Mr. Diggs for, with Mr. Montgomery against.

Mr. Howard for, with Mr. Dowdy against.

Until further notice:

Mr. Wright with Mr. Belcher.

Mr. Hawkins with Mr. McMillan.

Mr. Davis of Georgia with Mr. Spence.

Mr. Mills of Arkansas with Mr. Blackburn.

Mr. Patman with Mr. Derwinski.

Mr. Collins of Illinois with Mr. Springer.

Mrs. Green of Oregon with Mr. Seiberling.

Mr. O'KONSKI. Mr. Speaker, I have a live pair with the gentleman from Illinois (Mr. Arends). If he had been present he would have voted "yea." I voted "nay." I withdraw my vote and vote "present."

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. PASSMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed (H.R. 12067).

The SPEAKER. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Arrington, one of its clerks, announced that Mr. Roth was appointed as a conferee on the joint resolution (S.J. Res. 176) entitled "Joint resolution to extend the authority of the Secretary of Housing and Urban Development with respect to interest rates on insured mortgages, to extend and modify certain provisions of the National Flood Insurance Act of 1968, and for other purposes", in lieu of Mr. Bennett.

PERMISSION FOR COMMITTEE ON DISTRICT OF COLUMBIA TO HAVE UNTIL MIDNIGHT TONIGHT TO FILE CERTAIN REPORTS

Mr. HUNGATE. Mr. Speaker, I ask unanimous consent that the Committee on the District of Columbia may have until midnight tonight to file certain reports.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

Mr. GROSS. Mr. Speaker, reserving the right to object, what does the gentleman mean by certain reports?

Mr. HUNGATE. Mr. Speaker, if the gentleman will yield, I will advise him of the exact name and nature of those reports.

Mr. GROSS. I yield to the gentleman from Missouri.

Mr. HUNGATE. Mr. Speaker, there will be:

S. 1938, amended, to amend District of Columbia Code relating to interest and usury (consumer credit provisions to be in separate bill);

H.R. 11992, amended, to amend the District of Columbia Election Act;

H.R. 10237, amended, to amend the District of Columbia Unemployment Compensation Act in order to conform to Federal law; and

H.R. 11628, amended, to authorize grants and loan guarantees for construction or modernization of hospitals and other medical facilities in the District of Columbia.

Mr. GROSS. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

Mr. ABERNETHY. Mr. Speaker, as to H.R. 11628, I object.

The SPEAKER. Objection is heard.

Is there objection to the balance of the requests of the gentleman from Missouri?

There was no objection.

RESIGNATION OF AND APPOINTMENT OF CONFEREE ON S. 382, CAMPAIGN SPENDING BILL

The SPEAKER laid before the House the following resignation:

WASHINGTON, D.C.,
December 3, 1971.

Hon. Carl Albert,
The Speaker,
House of Representatives,
Washington, D.C.

Dear Mr. Speaker: Because I will be out of the country when the conferees meet to resolve the differences in the so-called Campaign Spending Bills, I respectfully request that my name be withdrawn as one of the House conferees.

Sincerely yours,
William L. Springer.

The SPEAKER. Without objection, the resignation will be accepted.

There was no objection.

The SPEAKER. The Chair appoints as a conferee on the part of the House on the bill S. 382 the gentleman from Minnesota (Mr. Nelsen).

The Clerk will notify the Senate of this action.

RESIGNATION FROM COMMITTEE ON HOUSE RECORDING STUDIO

The SPEAKER laid before the House the following resignation:

WASHINGTON, D.C.,
December 7, 1971.

Hon. Carl Albert,
Speaker, House of Representatives,
Washington, D.C.

Dear Mr. Speaker: I herewith submit my resignation from the Committee on the House Recording Studio.

With best wishes,
Sincerely yours,
Richard Bolling.

The SPEAKER. Without objection, the resignation is accepted.

There was no objection.

APPOINTMENT AS MEMBER OF COMMITTEE ON HOUSE RECORDING STUDIO

The SPEAKER. Pursuant to the provisions of section 105(c), Public Law 624, 84th Congress, the Chair appoints as a member of the Committee of the House Recording Studio the gentleman from California, Mr. Rees, to fill the existing vacancy thereon.

PENSION REFORM—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. 92–182)

The SPEAKER laid before the House the following message from the President of the United States; which was read and referred to the Committee on Ways and Means and ordered to be printed:

To the Congress of the United States:

Self-reliance, prudence and independence are qualities which our Government should work to encourage among our people. These are also the qualities which are involved when a person chooses to invest in a retirement savings plan, setting aside money today so that he will have greater security tomorrow. In this respect, pension plans are a direct expression of some of the finest elements in the American character. Public policy should be designed to reward and reinforce these qualities.

The achievements of our private pension plans are a tribute to the cooperation and creativeness of American labor and management. Over 4 million retired workers are now receiving benefits from private plans and these benefits total about $7 billion annually. More than $140 billion has been accumulated by these plans to pay retirement benefits in the future. But there is still much room for expanding and strengthening our private pension system.

Three groups in our society have a tremendous direct stake in the growth and improvement of private pensions. The first is made up of that 50 percent of American wage earners who are *not* in private group plans at the present time and who have no tax incentive for investing in retirement savings as individuals. The second group includes those who are enrolled in group plans which provide benefits for their retirement needs which they regard as insufficient or which do not ensure that the benefits which are accumulating while they work will actually be made available when they retire. If we meet the problems of these two groups today, we will also be taking a giant stride toward improving the quality of life tomorrow for an important third segment of our population to which they will eventually belong: the retired Americans whose independence and dignity depend in large measure on an adequate post-retirement income.

Older persons have spoken eloquently about the need for pension reform, especially at the White House Conference on Aging, which was recently held in Washington. It is clear that our efforts to reform and expand our income maintenance systems must now be complemented by an effort to reform and expand private retirement programs.

The five-point program I present today includes three new legislative proposals, a renewed endorsement of an earlier proposal and a major study project which could lead to further legislation.

1. *Employees who wish to save independently for their retirement or to supplement employer-financed pensions should be allowed to deduct on their income tax returns amounts set aside for these purposes.*

Today only 30 million employees are covered by private retirement plans. This fact alone demonstrates the need to encourage greater private saving for retirement.

Under present law, both the contributions which an *employer* makes to a qualified private retirement plan on behalf of his employees and the investment earnings on those contributions are generally not subject to taxes until they are paid to the employee or to his beneficiaries. The tax liability on investment earnings is also deferred when an *employee* contributes to a group plan, though in this case the contribution itself is taxable. But when an employee saves independently for his own retirement, both his contribution and the investment earnings on such savings are currently subject to taxes.

This inequity discourages individual self-reliance and slows the growth of private retirement savings. It places an unfair burden on those employees (especially older workers) who want to establish a pension plan or augment an employer-financed plan. To provide such persons with the same opportunities now available to others, I therefore ask the Congress to make contributions to retirement savings programs by individuals deductible up to the level of $1,500 per year or 20 percent of income, whichever is less. Individuals would retain the power to control the investment of these funds, channeling them into bank accounts, mutual funds, annuity or insurance programs, government bonds, or into other investments as they desire. Taxes would also be deferred on the earnings from these investments.

This provision would be especially helpful to older workers who are most interested in retirement. The limitation I propose would direct benefits primarily to employees with low and moderate incomes, while preserving an incentive to establish employer-financed plans. The limit is nevertheless sufficiently high to permit older employees to finance a substantial retirement income. For example, a person whose plan begins at age 40, with contributions of $1,500 a year, could still retire at age 65 with an annual pension of $7,500, in addition to social security benefits.

This proposed deduction would be available to those already covered by employer-financed plans, but in this case the upper limit of $1,500 would be reduced to reflect pension plan contributions made by the employer. An appropriate adjustment would also be made in the case of individuals who do not contribute to the Social Security system or the Railroad Retirement System.

2. *Self-employed persons who invest in pension plans for themselves and their employees should be given a more generous tax deduction than they now receive.*

Under present law, self-employed persons may establish pension plans covering themselves and their employees. However, deductible contributions are limited annually to $2,500 or 10 percent of earned income, whichever is less. There are no such limits to contributions made by corporations on behalf of their employees.

This distinction in treatment is not based on any difference in reality, since self-employed persons and corporate employees often engage in substantially the same economic activities. One result of this distinction has been to create an artificial incentive for the self-employed to incorporate; another result has been to deny benefits to the employees of those self-employed persons who do not wish to incorporate which are comparable to those of corporate employees.

To achieve greater equity, I propose that the annual limit for deductible contributions by the self-employed be raised to $7,500 or 15 percent of income, whichever is less. This provision would encourage and enable the self-employed to provide more adequate benefits for themselves and for their workers.

3. *A minimum standard should be established in law for the vesting of pensions—i.e., for preserving pension rights of employees even though they leave their jobs before retirement.*

A basic problem in our present pension system is the situation of the worker who loses his pension when he is discharged, laid off, resigns or moves to another job. A person who is discharged just before retirement, for example, sometimes finds that the retirement income on which he has been relying—and which has been accumulating for many years—simply is no longer due him.

Preservation of the pension rights of employees who leave their jobs—vesting—is essential to a growing and healthy private pension system. A pension is fully vested when an employee is entitled to receive all benefits accumulated up to a certain date regardless of what happens in the period between that date and his retirement. Despite encouraging increases in the degree of vesting, the pensions of more than two-thirds of all current participants in private pension plans are not now vested. Even among older employees, whose need for vesting is most acute, many pensions are not now vested. Forty percent of participants age 45 or older, 34 percent of participants age 50 or older, and 26 percent of participants age 55 or older do not have vested pension rights.

This problem can be corrected by requiring that pensions be fully vested at an appropriate specified point in a worker's career. But how should that point be determined? If it were set at too early a point, so that too many younger workers were vested, it could create a considerable burden for employers and reduce the level of benefits for retiring workers. On the other hand, if too long a wait were allowed before vesting begins, then many older workers would receive little if any assistance. Both of these pitfalls can be avoided, however, through a carefully drawn formula which provides a shorter waiting period before vesting begins for older workers.

The formula that I propose to the Congress is based upon what I shall call the "Rule of 50." Under this standard, every pension would be considered half vested when an employee's age plus the number of years he has participated in the pension plan equals 50. The vesting process would begin with this jump to half-vested status. After this point has been reached, an additional ten percent of the pension would be vested every year—so that the pension would be fully vested five years later.

Under this standard, which must apply to workers who are 30 years of age or older, anyone joining a plan when he is 30 years old would find that his pension would begin to vest at age 40, when his years of participation (10) plus his age (40) would equal 50. The pension of an employee joining at age 40 would begin to vest at age 45, and that of an employee joining at age 50 would begin to vest immediately. And in each case, the degree of vesting would increase from 50 percent to 100 percent over the subsequent five-year period.

This plan gives older workers the advantage of more rapid vesting, a fact which could limit somewhat new employment opportunities for older workers.

To help alleviate this danger, I recommend that a 3-year waiting period be allowed before a new employee must be permitted to join a pension plan, and also that employees hired within 5 years of retirement need not fall under this vesting rule. These safeguards would ensure that older workers are not disadvantaged by this program.

This "Rule of 50" would raise the share of participants in private pension plans with vested pensions from 31 percent to 46 percent. Even more importantly, among participants age 45 and older, the percentage with vested pensions would rise from 60 percent to 92 percent. Overall, the number of employees with vested rights would increase by 3.6 million, of whom 3 million would be age 45 and older.

To avoid excessive cost increases in pension plans which might lead to reduction of benefits, this new law would apply only to benefits earned after the bill becomes effective. The average cost increase for plans with no vesting provision now would be about 1.8 cents per hour for each covered employee.

4. *The Employee Benefits Protection Act which I proposed to the Congress in March of 1970 should promptly be enacted into law.*

This legislation was designed to protect American workers against abuses by those who administer pension funds. As I pointed out when I first made this proposal, "the control of these funds is shared by employers, unions, banks, insurance companies, and many others." Most of these funds are honestly and effectively managed. But on occasion, some are not. By requiring administrators to manage such funds exclusively in the interest of the employee beneficiaries, the proposed law would provide a Federal remedy against carelessness, conflict of interest, and a range of corrupt practices.

The proposed law would also broaden reporting and disclosure requirements and strengthen investigatory and enforcement powers. There would be no interference, however, with State laws which now regulate the insurance, banking and securities fields.

It was 21 months ago that I asked the Congress "to give urgent priority to the Employee Benefits Protection Act." I described it then as an action which "further expands my program to protect the American worker as he works, when he is out of work, and after his working career is over." I now renew my request for action in this field—and am resubmitting this legislation in slightly revised form so that it will be even more effective. I urge that the Congress act promptly. There is no excuse for further procrastination.

5. *I have directed the Departments of Labor and the Treasury to undertake a one-year study to determine the extent of benefit losses under pension plans which are terminated.*

When a pension plan is terminated, an employee participating in it can lose all or a part of the benefits which he has long been relying on, even if his plan is fully vested. The extent to which terminations occur, the number of workers who are affected, and the degree to which they are harmed are questions about which we now have insufficient information. This information is needed in order to determine what Federal policy should be on questions such as funding, the nature of the employer's liability, and termination insurance.

Even the best data now available in this field is itself incomplete and questionable. It was gathered for the period from 1955 to 1965 and it indicates that less than one-tenth of 1 percent of all workers then covered by pension plans were affected by terminations in any given year. It should also be noted that some workers who are affected by terminations may not actually lose their benefits. The wrong solution to the terminations problem could do more harm than good by raising unduly the cost of pension plans for the many workers who are not adversely affected by terminations.

Nevertheless, even one worker whose retirement security is destroyed by the termination of a plan is one too many. It is important, therefore, that the nature and scope of this problem be carefully and thoroughly investigated. I have directed the Departments of Labor and the Treasury to complete their study within one year.

* * * * *

The proposals which I offer today would enhance substantially the retirement security of America's work force. Those who are not members of group pension plans and those who have only limited coverage would be encouraged to obtain individual coverage on their own. The self-employed would have an incentive to arrange more adequate coverage for themselves and their employees. All participants would have greater assurance that they will actually receive the benefits which are coming to them. And they could also be far more certain that their pension funds were being administered under strict fiduciary standards.

There is sometimes a tendency for Government to neglect or take for granted the "little man" in this country, the average citizen who lives a quiet, responsible life and who constitutes the backbone of our strength as a nation. "He can take care of himself," we say, and there is a great deal of truth in that statement. The self-reliance of the average American is an extremely important national asset.

The fact that a man is self-reliant, however, does not mean that Government should ignore him. To the contrary, Government should do its part to cultivate individual responsibility, to provide incentives and rewards to those who "take care of themselves." Only in this way can we be sure that the self-reliant way of life will be a continuing and growing part of the American experience.

My pension reform program would help do this. It builds on traditional strengths which have always been at the root of our national greatness.

The private pension system has contributed much to the economic security of American workers. We can be proud of its growth and its accomplishments. The proposals I offer will strengthen and stimulate its further development.

I hope this program will receive the prompt and favorable consideration of the Congress. For it can do a great deal to protect the rights of the average American during his working years and to enhance the quality of his life when he has retired.

RICHARD NIXON.

THE WHITE HOUSE, *December 8, 1971.*

STRATEGIC STORABLE AGRICULTURAL COMMODITIES ACT

Mr. ANDERSON of Tennessee. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 728 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 728

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 1163) to authorize the establishment and maintenance of reserve supplies of soybeans, corn, grain sorghum, barley, oats, and wheat for national security and to protect domestic consumers against an inadequate supply of such commodities; to maintain and promote foreign trade; to protect producers of such commodities against an unfair loss of income resulting from the establishment of a reserve supply; to assist in marketing such commodities; to assure the availability of commodities to promote world peace and understanding; and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Agriculture, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider without the intervention of any point of order the amended text of the bill H.R. 8290, as reported by the Committee on Agriculture, as an amendment to the bill H.R. 1163. At the conclusion of the consideration of H.R. 1163 for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER. The gentleman from Tennessee is recognized for 1 hour.

Mr. ANDERSON of Tennessee. Mr. Speaker, I yield 30 minutes for purposes of debate to the distinguished gentleman from Ohio (Mr. LATTA). Pending that I yield myself such time as I may consume.

Mr. Speaker, House Resolution 728 provides an open rule with 1 hour of general debate for consideration of H.R. 1163, the Strategic Storable Agricultural Commodities Act. The resolution also provides that it shall be in order to consider, without the intervention of a point of order, the amended text of H.R. 8290, a bill to protect producers' incomes when rebuilding reserve stocks of wheat or feed grains. H.R. 8290 was made in order as an amendment because otherwise it would likely be ruled nongermane and it would delay the work of the House to take up the two related measures separately.

This should be considered in the nature of emergency legislation. To fail to act will be to invite a farm-fed depression to engulf our Nation.

Twenty years ago, in 1951 corn was selling at $1.66 per bushel. At harvest time this year the price was 92 cents. If corn prices had kept pace with the rest of the economy during these two decades, 1971 prices would be about $2.60 per bushel. In other words grain farmers are lagging behind the rest of the economy by more than half, are indeed receiving prices below the cost of production, and farm bankruptcies are up sharply.

The purpose of H.R. 1163 is to establish and maintain and dispose of a separate strategic reserve of soybeans, corn, grain sorghum, barley, oats, and wheat. It is not unlike the strategic reserves of metals and other materials in which we have invested billions.

The Secretary of Agriculture would purchase through the Commodity Credit Corporation not more than 300 million bushels of wheat and 25 million tons of feed grains.

Maximum price for the feed grains and wheat would be not more than the previous 5-year average price received by farmers.

The reserve would be offered for sale at 120 percent of the 5-year average price, which would create a 20-percent spread between the maximum buying price and the minimum selling price.

When the reserve could be sold at 120 percent, the sale could be prevented by the President declaring a state of emergency or by Congress passing a concurrent resolution. The bill has well worked out guarantees against mismanagement of reserves or storage facilities.

The legislation authorizes the reserve to be used in any distress area or disaster area in the United States and the Virgin Islands so designated by the President.

The Secretary is authorized to rotate the reserves to prevent damage or spoilage.

The amendment made in order, H.R. 8290, requires the Secretary of Agriculture to increase the loan levels of wheat and feed grains by 25 percent on the 1971 and 1972 crops.

Mr. Speaker, I urge the adoption of the resolution in order that the legislation may be considered.

I now yield to the gentleman from Ohio (Mr. LATTA).

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume. I favor any legislation which would increase farm income rather then diminish it.

Mr. Speaker, I believe everyone who is vaguely familiar with our corn production this year realizes that we have had a tremendous yield—much more than was anticipated by the Department of Agriculture and by the farmers themselves.

This surplus was produced while a new, bipartisan farm program was in effect. I know that partisan politics will be injected into this debate today in spite of this fact. No one can deny that we suffered from a corn blight last year. An anticipated corn blight did not materialize this year and we had one of the largest corn crops in the Nation's history. In fact, going into 1972 we will have a carryover of 1.4 billion bushels of corn.

Under the provisions of H.R. 1163, some 25 million tons of feed grains, which includes corn, would be held off and on the market in perpetuity. I need not tell anyone in this Chamber that such tremendous supply would have its effect on the market place.

Mr. Speaker, the new Secretary of Agriculture announced on December 3 that the U.S. Department of Agriculture will soon begin purchasing corn in the open market.

This announcement reads as follows:

> Secretary of Agriculture Earl L. Butz today announced that the U.S. Department of Agriculture will soon begin purchasing corn in the open market.
>
> Today's action is prompted by the large 1971-crop corn production which is now estimated at more than 5.5 billion bushels. This record crop reflects the response of farmers to the threat to corn supplies by corn blight which did not materialize to the degree expected. Because farmers responded by planting extra acreage to assure adequate supplies of feed grain at home and abroad, the big crop has brought a sharp drop in the corn prices.
>
> The purchase operation will firm up farm prices and will provide reserve stocks to meet domestic requirements during periods of short supply. This action combined with the already strengthened and broadened commodity loan program as well as the recent large sale of U.S. corn to the Soviet Union gives farmers a wide choice of alternatives in handling and marketing this year's corn crop.
>
> Secretary Butz pointed out that record quantities of corn are going under loan earlier in the season this year than ever before. A preliminary report indicates that nearly 240 million bushels of 1971-crop corn had gone under loan through Nov. 26. This is more than 2½ times the previous record amount of corn put under loan from the beginning of harvest through November. Additional extensive use of the loan program by farmers will continue the advance in corn prices which has been underway for the past two weeks.

The question certainly could be asked: Why are the proponents of this legislation unwilling to see what effect these purchases will have on the price of corn?

House Resolution 728 provides for a 1-hour open rule on H.R. 1163, the strategic grain reserve bill. It is a conventional rule except for a provision making the amended text of H.R. 8290, a bill to increase the grain price support levels by 25 percent in 1971 and 1972 in order so that it could be offered as an amendment to H.R. 1163. The nongermane text of H.R. 8290 was made in order by an 8-to-7 vote in the Committee on Rules.

I proposed an amendment of a $20,000 limitation on agricultural payments but this failed by a vote of 8 to 7.

It is my understanding that if the previous question on this rule is voted down, the gentleman from Massachusetts (Mr. CONTE) will then offer the $20,000 payment limitation as an amendment to H.R. 1163. It is my opinion that this will be a closed vote and I would urge all Members to be recorded at the proper time.

I have heard many Members, including some members of the Rules Committee, point out from time to time that these large payments to so-called corporate farms are unjustified and do a disservice to the small farmers.

They argued that these large payments put the small farmers of this country in disrepute in the public's eye. Well, today these individuals will have an opportunity to stand up and be counted as to whether or not they really wanted a $20,000 limitation.

I shall vote to reject the previous question so that this $20,000 payment limitation can be offered and considered.

Mr. Speaker, under the limited rule before us, this is the only way this matter can be considered. Had my amendment been adopted in the Committee on Rules by 8 to 7 instead of being rejected 7 to 8 it would have been unnecessary to vote down the previous question tonight.

Mr. ANDERSON of Tennessee. Mr. Speaker, I yield 10 minutes to the distinguished gentleman from Iowa (Mr. SMITH).

Mr. SMITH of Iowa. Mr. Speaker, everybody knows that you cannot explain the farm program in 10 minutes, or 10 hours, I suppose, but at least we can look at a couple of things that I believe will help to explain what the situation really is.

On a chart I have here, there are three lines. One shows production of corn, one shows the price of corn, and one shows utilization.

CALL OF THE HOUSE

Mr. MADDEN. Mr. Speaker, I make point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. MADDEN. Mr. Speaker, I withdraw my point of order that a quorum is not present.

Mr. GROSS. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. BOGGS. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 442]

Andrews, Ala.
Annunzio
Arends
Ashley
Aspinall
Baring
Belcher
Blackburn
Blanton
Blatnik
Boland
Broyhill, N.C.
Cabell
Carey, N.Y.
Carney
Casey, Tex.

Celler
Chisholm
Clark
Clay
Collins, Ill.
Curlin
Davis, Ga.
Dent
Derwinski
Diggs
Dowdy
Edmondson
Edwards, Calif.
Edwards, La.
Evans, Colo.
Evins, Tenn.

Fish
Foley
Ford, William D.
Fountain
Fraser
Garmatz
Gray
Green, Oreg.
Gude
Hagan
Hansen, Wash.
Hawkins
Hébert
Hillis
Holifield

Ichord
Jarman
Jonas
Jones, Ala.
Kastenmeier
Keith
Kluczynski
Long, La.
Lujan
McClory
Macdonald, Mass.
Mathias, Calif.
Mathis, Ga.
Miller, Calif.
Mills, Ark.
Mink
Montgomery
Murphy, N.Y.
Passman
Patman
Pike
Powell
Pryor, Ark.
Pucinski
Quillen
Rees
Reid, N.Y.
Riegle
Roncalio
Rooney, N.Y.
Rosenthal
Rostenkowski
Sarbanes
Scott
Sikes
Smith, N.Y.
Spence
Springer
Staggers
Stanton, James V.
Steed
Steiger, Wis.
Sullivan
Tiernan
Udall
Ullman
Waldie
Whitten
Wright

The SPEAKER. On this rollcall 335 Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

STRATEGIC STORABLE AGRICULTURAL COMMODITIES ACT OF 1971

The SPEAKER. The gentleman from Iowa (Mr. SMITH) has 9 minutes remaining.

Mr. SMITH of Iowa. Mr. Speaker, as anyone can see who looks at this chart, utilization or consumption stays rather steady and on the slight incline. What happens is when we are afraid that there is going to be a shortage of food, farmers are asked to produce more and the price goes down.

Mr. MADDEN. Mr. Speaker, will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentleman from Indiana.

Mr. MADDEN. Mr. Speaker, for the benefit of the Members who were not here prior to the rollcall, let me say that since I have been in Congress this is one real agricultural bill that is going to aid the small farmers. Why was it programed at this hour of the night, when we spent all day on legislation pertaining to foreign aid? I think we ought to pay a little attention to the small farmers.

There is going to be a kind of a Republican trick maneuver to put an amendment on the previous question here on this rule that the Members should pay little attention to, because it is nothing but a maneuver to bring in this $20,000 limitation that I have supported for years. I am going to vote against that maneuver because we want to pass this much needed farm relief legislation tonight.

Mr. Speaker, again I thank the gentleman for yielding.

Mr. SMITH of Iowa. Mr. Speaker what happens is that when the farmers are asked to produce grain to make sure there is enough food, then the price of corn goes way down. That is what happened this year. It went down to the lowest level in years and years.

What does this do? The small farmers, because they do not have plenty of financing, whenever this happens are run off the farms, and forced to move into the towns and cities where there are no jobs existing.

We had a bill up here, and I voted for it, for $1 billion, to provide for 100,000 jobs. Well, more than 100,000 people are going to be run off the farms this year if we do not do something about this present critical farm situation. These are people who do not have the money to hang on for another year unless prices improve. When this happens, the smaller farmers have been forced to leave the farms.

What we are trying to do is to make the supply stable enough so that this situation does not continue to occur, and so that we are not running these people off the small farms and into the towns so fast.

Mr. HAYS. Mr. Speaker, if the gentleman will yield, did not the new Secretary of Agriculture, who has only been in office a very short time, say that the way to solve the farm problem was to run these people off the farms?

Mr. SMITH of Iowa. That result is even worse when there are so few jobs available and unemployment is so high.

Mr. HAYS. That is right; but there are no jobs in town, which he does not really care about. He just wants to get them off the farms.

Mr. SMITH of Iowa. So, right now, when we reach this point of low prices when it is at the lowest level in years, it has happened at a time when there are few jobs in the town.

Mr. HAYS. That is exactly right.

Mr. SMITH of Iowa. So that it would complicate the problems in the towns and cities even more.

In addition to that, some people say, "You know, this bill has something to do with consumer prices."

The next thing I want to show you folks is that this has nothing to do with consumer prices.

I went shopping yesterday morning, and this is a 5-pound bag of corn meal, purchased right here in Washington, D.C., yesterday morning. As anybody can see, it costs 59 cents. This is corn meal. This is a food product raised by the farmers of this country.

Here is a bag of flour, 5 pounds of that for the same price, 59 cents.

Now, this is food we are talking about, food that people eat. If one did not have enough of it there would be rioting in this country.

But now, what about some of the other nonfood, nonstocked, nonprice-supported products. This is just plain, old dirt, just potting soil; that is all it is, just dirt, and that costs 69 cents for 5 pounds. It costs more than the corn meal and flour, for dirt.

So you can see that corn and wheat are cheaper than dirt. They are not just dirt cheap; they are cheaper than dirt.

If you do not think that proves that almost the whole cost of the food basket is in transportation, and in the middlemen who handle it after it leaves the farmer, then take a look at this. This is cat litter, and that costs 79 cents. It costs more for the stuff for your cat to scratch in than it does for flour or corn meal.

Then we come to another one. This is nothing but cow manure, and this costs 79 cents for 5 pounds. Corn is cheaper than cow manure.

I did not want to slight anybody, or somebody might say that, well, you favor cattle, so here is sheep manure, and that is the same price.

Mr. ABOUREZK. Mr. Speaker, will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentleman from South Dakota.

Mr. ABOUREZK. Mr. Speaker, I was wondering if the gentleman might point out to the Members here whether or not the sheep manure was subsidized?

Mr. SMITH of Iowa. No, it is not. It is not a subsidized product. The gentleman's point is well taken, nonsupported products are selling for more in this case.

The point is this bill, to help these poor farmers down here who cannot finance themselves for another year, has nothing to do with the price of groceries in the grocery basket.

In addition to that, I would like to point out if we go back 10 more years and we had corn at $1.66.

It is 97 cents today. Nothing else in America has gone down that way at the same time that their costs are going up.

Now what do the opponents say? They want to amend this bill and put on limitations—no payments in this bill for the farmers. That has nothing at all to do with this bill—it is nongermane.

They did not go up to the Committee on Rules and ask to put that amendment on the foreign aid bill or on the pesticide bill or on any of these other bills that came up. No—just this bill is the only one they want to put it on. About 90 percent of those who want the amendment on this bill are not going to vote for the bill anyway. It is just a political maneuver. That is all it is.

The farmers of this country should know that any vote against the previous question is pure and simple a vote not to try to do something about the small farmers of this country with regard to the plight that they are in and those who are not going to vote for the bill are not going to be able to hide behind a curtain, and they think they are.

A vote against the previous question is a vote not to do something about this desperate situation that exists in rural America today.

Mr. ABOUREZK. Mr. Speaker, will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentleman.

Mr. ABOUREZK. I wonder if the gentleman from Iowa knows how many people producing wheat and corn and feed grain involved in this bill received $20,000 in payments?

Mr. SMITH of Iowa. It is very small. This bill does not include cotton. A very small number get more than $20,000. But payments are not involved in the bill anyway. They buy this grain when it is in excess quantity, they put it in storage until a year when it is needed. This week, they are accepting bids to buy grain. They announced last Friday that they were going to buy it. They are going to buy grain and they are going to have it in storage whether we pass this bill or not.

But there is an important difference. The language in my bill prevents things that happened in the fifties and sixties. It puts a limitation on what they can pay, it permits buying less than half of what we bought back in the 1950's and providing the price at which they sell and the volume which they shall sell.

So we know whenever the grain is in this kind of reserve, we will not have the things happen that happened back there and have the market flooded with grain at other times, and not let loose of the grain when the consumers need it.

This is truly a reserve. There is nothing new about reserves. It is the same as the advice that Joseph gave to Pharoah 2,000 years ago. What is new about it is that we are actually doing something about it instead of just talking about it as when we are talking about is the ever normal granary and things like that. But in fact, we have never really had a reserve and we have not had something to help the prices in that year.

This bill provides for a reserve. We have the provisions right in it to provide how much will be sold and whether it will be sold and we will be assured that it will operate as a reserve so that our consumption and prices and our utilization and production are more nearly equal. We should not under this program have these bad situations where the price drops so fast that the small farmers themselves are not able to tide themselves over for another year and be run into town by the hundreds of thousands. Some of the big people they talk about, the conglomerates—do not care so much about this bill and the big grain companies do not care about this—they can buy that grain and store it and wait—but not the small farmer or the low-income farmer whose market is the cash market. Their market is at the elevator between October and March and he does not have storage and does not even own any land on which to build storage. He depends on the cash market and if we do not do something for him now, there is not going to be anything done and they are going to go into town by the hundreds of thousands again.

The Department announced that they are going to buy some corn, but it is not under the provisions of this bill. What happened—the market went down. It is actually down 1⅝ cents in the last 3 days since they made the announcement that they will buy corn. The market has no confidence in what the Department will do when there are no statutory requirements to insulate it from the market. They figure that unless the statute provides the exact rules that will be followed, they might do whatever some big grain company wants to do or sell when they should not or not buy the amount they had the right to expect. Under my bill, they announce the amount subject to being able to buy it within the prices which apply that year.

Mr. ANDERSON of Tennessee. Mr. Speaker, I reserve the remainder of my time.

Mr. LATTA. Mr. Speaker, I yield 5 minutes to the gentleman from California (Mr. TEAGUE).

Mr. TEAGUE of California. Mr. Speaker, I am opposed to H.R. 1163 and to the rule which proposed to make the text of another bill, H.R. 8290, in order but which denied the opportunity to offer a $20,000 payment limitation.

At the appropriate time I intend to support the effort of the gentleman from Massachusetts (Mr. CONTE) to defeat the previous question on the rule in order to create the parliamentary opportunity for a $20,000 payment limitation to be made in order for debate in the House.

There are, Mr. Speaker, three separate propositions involved in this legislation.

First, there is the issue of whether the Government should commit itself to a program of purchase and perpetual storage of large amounts of grain. That is what H.R. 1163 is all about.

Second, there is the issue of whether the levels at which the Government lends money to eligible farmers on their grain production should be raised. H.R. 8290 proposes to raise these loan levels by 25 percent for this year and next year.

Finally, there is a question of the cost of these propositions and whether some fiscal restraint should be structured into the program. That is what the $20,000 payment limitation is all about.

H.R. 1163—GRAIN RESERVE BILL

This bill raises more questions than it answers. For example:

If there is to be a reserve supply of grain in this country, who should own it, the producers and processors of grain or the Government?

And how likely is it there will be an actual shortage?

And are alternative sources of grain available?

And what happens to market prices later when there is a large bumper crop with a reserve, that is surplus, already on hand?

H.R. 1163 does not effectively answer any of these questions because it proposes that the Federal Government rather than farmers or the private grain trade be the keeper of the surplus.

It fails to recognize the fact that there is no shortage of grain now or in the foreseeable future.

It ignores sources of grain both at home and overseas that would be available.

In brief, it simply adds a very expensive price depressant to farmers' market price picture.

COST

The Department of Agriculture estimates that the cost of acquiring the grain under H.R. 1163 would be $1.45 billion. In addition, there would be annual storage and handling costs of $215 million each year and every year thereafter.

Even after accepting the proponents' premise that large quantities of grain will be acquired by CCC under the regular price-support system, the additional acquisition cost of grain under H.R. 1163 is still estimated to be $143 million.

BAD FOR FARMERS

In the years ahead, farmers would ruefully regret the enactment of this bill. They would surely find that after the so-called "reserve" has been accumulated it will hang there—like an economic sword of Damocles—for years to come as a threat to higher market prices.

Under the terms of the bill, grain must be sold into the market at 120 percent of the previous 5-year market average. This mandate is further circumscribed by possible presidential or congressional actions.

Thus, it is more probable than possible that in future years the surplus in this so-called reserve will be dumped onto the market and destroy any chance grain producers might have for better prices.

H.R. 1163 does not seem to me to be in the interest of a healthy market economy for grain producers.

USDA ACTION

The fact is, Mr. Speaker, that the U.S. Department of Agriculture is taking a series of steps to improve grain prices, and grain prices have advanced in recent weeks. The price in Chicago for No. 2 yellow corn now is $1.18 compared to $1.05 only a couple of weks ago. USDA actions include extending CCC crop loans into future years; expanding exports to foreign nations, including the Soviet Union; and inaugurating a grain purchase program.

On this latter point I would like to call to the attention of the House a recent departmental announcement and news story:

SECRETARY BUTZ ANNOUNCES THAT USDA TO BUY CORN IN THE OPEN MARKET

WASHINGTON, December 3.—Secretary of Agriculture Earl L. Butz today announced that the U.S. Department of Agriculture will soon begin purchasing corn in the open market.

Today's action is prompted by the large 1971-crop corn production which is now estimated at more than 5.5 billion bushels. This record crop reflects the response of farmers to the threat to corn supplies by corn blight which did not materialize to the degree expected. Because farmers responded by planting extra acreage to assure adequate supplies of feed grain at home and abroad, the big crop has brought a sharp drop in the corn prices.

The purchase operation will firm up farm prices and will provide reserve stocks to meet domestic requirements during periods of short supply. This action combined with the already strengthened and broadened commodity loan program as well as the recent large sale of U.S. corn to the Soviet Union gives farmers a wide choice of alternatives in handling and marketing this year's corn crop.

Secretary Butz pointed out that record quantities of corn are going under loan earlier in the season this year than ever before. A preliminary report indicates that nearly 240 million bushels of 1971-crop corn had gone under loan through Nov. 26. This is more than 2½ times the previous record amount of corn put under loan from the beginning of harvest through November. Additional extensive use of the loan program by farmers will continue the advance in corn prices which has been underway for the past two weeks.

While the purchases announced today will be at market prices, specific amounts to be purchased and prices to be paid will be a continuing determination. The bid invitation is being sent to interested persons this weekend from the Kansas City ASCS Commodity Office which will handle the details of the corn purchase operation. First offers will be due next Friday, Dec. 10, for acceptance Mondav. Dec. 13.

[From the Washington Post, Dec. 4, 1971]

U.S. CORN PURCHASE ANNOUNCED BY BUTZ

Moving quickly to quell farm belt unrest over low grain prices, Agriculture Secretary Earl L. Butz announced yesterday the government "will soon begin purchasing corn in the open market."

Butz, who promised during the fight over his confirmation to take action to bolster grain prices sagging under record harvests, acted less than 24 hours after his swearing-in.

The Agriculture Department said the specific amount of corn to be bought at market prices was left open. First bids will be received Dec. 10 for acceptance Dec. 13.

"The purchase operation will firm up farm prices and will provide reserve stocks to meet domestic requirements during periods of short supply," a department statement said.

Butz was administered the oath of office at the White House late Thursday, just hours after his confirmation by the Senate on a 51-to-44 vote. The sharp confirmation battle appeared to be the opening gun in farm belt presidential campaigning for 1972.

Butz said the corn purchase—which had been demanded earlier by farm bloc lawmakers but resisted by the Agriculture Department under former Secretary Clifford M. Hardin—was prompted by the record 5.5 billion bushel 1971 corn crop.

"This record crop reflects the response of farmers to the threat to corn supplies by corn blight which did not materialize to the degree expected, because farmers responded by planting extra acreage to assure adequate supplies . . . the big crop has brought a sharp drop in corn prices," the department said.

Butz' move appears to be designed partly to head off a push by House farm bloc lawmakers, mostly Democrats, for a bill which would require the government to purchase up to 900 million bushels of feed grain and 300 million bushels of wheat for storage in a "national reserve."

The House Rules Committee is scheduled to decide Monday whether to send that bill to the House floor over the opposition of GOP farm leaders.

Butz said preliminary reports show nearly 240 million bushels of 1971 corn were put under loan—thus holding it off the market—through Nov. 26. This is more than 2½ times the previous record volume in the support loan program in any similar period.

While there was no indication immediately how much corn the government would buy, experts pointed out that much of the cost might be offset by the fact that if market prices are pushed up, prospective supplemental government payments due to farmers next March to maintain a $1.03-a-bushel price could be reduced.

SIMILAR PROGRAM PROPOSED IN 1954

In 1954 when Mr. Ezra Taft Benson was Secretary of Agriculture a grain "set-aside" or reserve plan was included in the Agriculture Act of 1954.

During the hearings on that legislation, my friend and colleague the gentleman from Texas (Mr. Poage) made some very pertinent, and I might say, accurate observations about this type of a proposition.

The record reads as follows:

* * * * *

Mr. Poage. * * * But I do know that there has never been any method whereby we could set aside commodities and not have the trade take it into consideration.

* * * * *

Mr. Poage. What Mr. Benson has proposed is simply to make that storage a permanent burden on the United States because, if we are going to store these surpluses forever, then we are going to have to pay that burden continuously from now on out. * * *.

LITTLE SUPPORT FOR BILL

There is, Mr. Speaker, very little public support for this bill. The administration is opposed to it, and I doubt very much if there is any significant interest in its enactment outside the major cash grain producing States in the Midwest.

The following editorial from the Livestock Market Digest of Monday, December 6, 1971, pretty well sums up a lot of opinion that exists out in the countryside:

Strategic Reserve No Instant Price Solution

It is the low price of corn resulting from abundant supplies which has attracted much attention to current farm problems. Those millions of Americans whose food bargains are provided by a relatively small number of livestock men and farmers were introduced to the subject briefly on nationwide television recently. This was when President Nixon said he was going to nominate Earl Butz to replace Secretary of Agriculture Clifford Hardin. When Mr. Butz had his turn at the microphone, he ended a commentary by remarking, ". . . and corn is too low" as he looked in Mr. Hardin's direction.

Because of these prices—in the range of 90 cents in the high-producing Corn Belt—there is talk about establishing "strategic reserves." The purpose would be to take price-able supplies and increasing prices.

An excellent analysis of such proposals has been made by M. M. Van Kirk, Nebraska farm columnist. He comments that one of the arguments for such a reserve is that its existence would have resulted in releasing some of the government-held stocks of corn to forestall shortages resulting from the effects of last year's corn blight. Instead, corn production acreages were allowed to increase to offset the shortage, and this year's surpluses are the result.

"In other words," says Mr. Van Kirk, "the government-held stocks of corn would have been available to dump onto the market to hold down the price of corn in event there was a short crop as occurred in 1970." He continued: "What the promoters of the 'strategic reserve' idea seem to ignore is that in the fall of 1970 when results of Southern corn leaf blight had taken such a heavy toll, the price of corn did rise sharply and immediately the government did put millions of bushels of government-held corn on the market to halt the price increases."

Thus the problem with any such reserve system is that it reacts to political pressures fully as much to hold prices down as to hold them up. This is a feature forgotten when surpluses become burdensome.

Mr. Van Kirk concluded that stockpiling strategic reserves of grain is far different than stockpiling copper or strategic metals. "Grains are perishable and eventually what goes in must come out and when they do they will have a depressant effect on the market."

In the heat of the hour, however, solutions are tried from a political standpoint that have no justification economically.

MISCHIEF IN H.R. 8290

The text of H.R. 8290 which this rule proposes to make in order as a nongermane amendment to H.R. 1163 would raise grain loan levels by 25 percent in 1971 and 1972.

Corn would increase from $1.05 to $1.31 per bushel, wheat from $1.25 to $1.57, grain sorghum from $1.73 to $2.16 per hundredweight, oats from 81 cents to $1.01 per bushel, and barley from 54 cents to 68 cents.

These increases would come at a time when there is a large surplus of grain and at a time when the Department is trying to discourage plantings under the 1972 program. This is the main mischief involved in H.R. 8290. It simply fouls up the 1972 feed grain program. The 1972 feed grain program is designed to retire over twice as much acreage as this year's program—some 38 million acres in 1972 compared to 18 million acres in 1971.

If loans were increased as proposed in this amendment, the nearly $2 billion being spent to make the 1972 program work would be washed out as many farmers would be encouraged to grow more grain and receive the higher prices stimulated by a 25-percent boost in CCC loans.

In this regard, the Department estimates the additional cost in the current fiscal year—fiscal year 1972—to be $281 million. Next year the cost would of course skyrocket as the surplus built up.

TWENTY-THOUSAND DOLLAR LIMIT

The final issue before us today is the $20,000 payment limit. The House has voted on this proposition several times. Each time the will of the House has been frustrated and the limitation has not been enacted into law. The time has now come to apply this discipline to these expensive commodity bills.

The Committee on Rules denied a rule making the $20,000 payment limitation in order by the narrowest of margins on an 8-to-7 vote. It permitted a nongermane grain price support amendment to be included.

It seems to me that equity calls for the same treatment for both amendments.

What is good for the goose ought to be good for the gander too.

That is why I hope the House will vote down the previous question on House Resolution 728 and make the $20,000 payment limit in order.

That is why I joined yesterday with a number of my colleagues on a nonpartisan, and I might add, a nonideological basis to urge this action in the following letter:

House of Representatives,
Washington, D.C., December 7, 1971.

Dear Colleague: H.R. 1163 (Strategic Grain Reserve) is expected to be on the floor soon (perhaps Wednesday, Dec. 8). It presents the only opportunity in the waning days of this session to impose a $20,000 annual limit on government commodity program payments to farmers.

Unfortunately, by a vote of 8 to 7, the Rules Committee refused to make in order the $20,000 limit amendment. It is therefore necessary for the House to defeat the previous question on the rule before Members can even consider the payment limit.

Big payments to huge agricultural combines are becoming more numerous each year. In 1969, 7,795 farmers got payments exceeding $20,000. In 1970 the number of such farmers rose to 10,371.

Payments of this magnitude actually finance bigness in agriculture and, at the same time, tend to discredit farm programs.

We urge your support fo the effort to vote down the previous question, so Members may have the opportunity to vote on the payment limit.

Page Belcher, R–Oklahoma, Charles Teague, R–California, William Wampler, R–Virginia, Wiley Mayne, R–Iowa, Paul Findley, R–Illinois, William Stanton, R–Ohio, Frank Horton, R–New York, Frank Thompson, D–New Jersey, Edith Green, D–Oregon, Silvio Conte, R–Massachusetts, Margaret Heckler, R–Massachusetts, John Brademas, D-Indiana, Ken Hechler, D-West Virginia, Seymour Halpern, R-New York, Vernon W. Thomson, R-Wisconsin, Shirley Chisholm, D-New York, Robert Drinan, D-Massachusetts, Robert Giaimo, D-Connecticut.

SUMMARY

H.R. 1163 and its kindred amendment included in H.R. 8290 is not sound legislation. Prospects are high, however, that this bill is going to pass the House. If it does, there should be a counterveiling cost discipline established to keep these expensive new subsidies from being bestowed on those least needing them. Thus a $20,000 payment limit is not only in order; it is imperative.

I urge the rejection of the previous question.

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I have in my hand a crop carryover report from the Department of Agriculture on the situation in November, and I would like to have the RECORD show the carryover of corn for 1968 was 1,162,000,000 bushels; in 1969 it was 1,113,000,000 bushels; in 1970 it was 999,000,000 bushels; in 1971 it was 665,000,000 bushels, and will be 1,400,000,000 bushels for 1972. This gives an average, for 1965 to 1969, of 1,017,000,000 carryover bushels, so it cannot be argued that we need this bill from a strategic need basis. We have had more than ample supplies as indicated from this carryover.

Mr. Speaker, I yield 7 minutes to the gentleman from Iowa (Mr. MAYNE).

Mr. MAYNE. Mr. Speaker, H.R. 1163 which we consider tonight was originally a strategic reserve bill for purchase of a very large amount of corn and wheat to be kept in a reserve. However, the Rules Committee has now permitted an amendment to be offered which will also increase the loan rate on wheat and corn by 25 percent. This would raise the present wheat loan from $1.25 to $1.56 per bushel and the present corn loan from $1.08 to $1.35. The theory of this amendment is that such an increase in the loan rate will cause the price of corn to rise to the level of the loan rate.

If this happens and the Department of Agriculture proceeds to buy 900 million bushels of corn, as the reserve aspect of the bill requires, it will cost the taxpayer at least $1.35 per bushel or $1,215 million plus $1.56 per bushel for 300 million bushels of wheat, or $468 million, or a total of $1,683 million.

This is just for acquisition of the reserve. In addition, it will cost $210 million a year to store this grain. And all of these figures are in addition to more than $2,050 million paid to feed grain and wheat farmers in direct payments under this year's program and $2.9 billion to be paid next year under the 1972 program already announced. This does not include cotton payments which have been costing from $820 to $915 million per year. Nor does it include any money to be paid out in loans. These figures I have just stated are direct payments, acquisition of reserve costs, reserve, and storage costs.

It is obvious that with these very substantial payments to be made to wheat and feed grain farmers, Members who have voted in the past to limit annual commodity payments to $20,000 would certainly want to have an opportunity to vote for such a limitation again. After all this House has three times voted for a $20,000 limit and the Senate did so as recently as November of 1970. But the Rules Committee by the narrowest possible margin of only 8 to 7 has refused to open up this rule to permit the gentleman from Massachusetts (Mr. CONTE) and the gentleman from Illinois (Mr. FINDLEY) to even offer their $20,000 limitation amendment. And that is why it becomes so necessary to vote down the previous question on this rule. And I would like to add that I am no Johnny-come-lately on this $20,000 limitation proposal as I have voted for it at least the last five times it has come up.

The action of this bare majority of the Rules Committee in trying to bar consideration of any limitation of payments is especially difficult to understand in view of the great national concern which has been demonstrated in recent weeks about the way in which vertically integrated conglomerates, other farming corporations and giant individual producers are swallowing up medium- and small-sized farms and driving family farmers from the soil. These agrigiants are receiving huge payments under existing programs which they use to widen the unfair competitive advantage they already hold over family farmers. This anxiety about family sized farms and the need to place some reasonable curbs on the way they are being taken over by the agrigiants has been most eloquently expressed in recent weeks in the other body during its confirmation hearings on the appointment of a new Secretary of Agriculture.

One would think that the Rules Committee would also want this House to be able to take some effective action to protect the family farmer against the depredations of the fat cats of American agriculture. Unless we vote a payment limit on this bill they will continue to be enriched with huge payments which they will continue to use to buy up more and more land driving more hundreds of thousands of farmers out of agriculture. Eight members of the Rules Committee did vote to help the family farmer for whom these commodity programs were originally designed, but unfortunately a slim majority of nine voted to deny members even the right to vote on the proposition that annual payments should be limited to the very reasonable amount of $20,000. That is why I say we should vote "no" and vote down the previous question.

As I have said repeatedly, annual payments of more than $20,000 are hurting, not helping the family farmer. They are subsidizing the gigantic agricultural combines, corporate and otherwise which have been gobbling up family size farms and driving families from the land by the hundreds of thousands. I have said before and I say again, we should not be misled by the arguments that payments of more than $20,000 are helping the small and medium size farmers when they, in fact, contribute to their destruction. Agriculture Department records show the number of larger producers receiving large Government payments is growing by leaps and bounds. In 1968, a total of 5,914 farmers received payments of more than $20,000. In 1969, 7,795 producers collected more than $20,000. Last year it increased to 10,371. In other words, the number receiving over $20,000 nearly doubled in just 2 years.

I have already pointed out that if the proposals currently under consideration become law, there will be a very substantial increase in the cost of our commodity programs. Is it not time for Congress to restrict the programs benefits to those for whom they were originally intended, the small- and medium-sized farmers of America? I say it is past time to eliminate these payments over $20,000 which are giving large producers an unfair competitive advantage over the family farmer. If we will give him a chance to compete fairly and openly, the family farmer can still hold his own with the agrigiants in the production of our food and fiber.

Recent reports from our land grant universities prove that the family farmer can produce just as efficiently, if not more so, than the large corporate giants. At the same time, our family farm structure of agriculture makes a far greater contribution to our national rural life. The family operator trades in the small- and medium-sized towns of America, instead of having everything shipped from corporate headquarters. He is concerned about the quality of schools and other services in the neighborhood, the absentee corporate investor is not. Most family farmers are interested in preserving the soil for future generations. The large corporates are mainly interested in showing a profit for their investors.

I say to all Members who have supported a $20,000 limitation of payments in the past that the need for such a limitation now is greater than ever before. Let us make sure this bill is not used to further enrich conglomerates, corporate combines, and other large individual operators. We have all read about the subterfuges and evasions through which they continue to draw big combined payments in excess of the present $55,000 limit.

Members genuinely interested in the survival of the family farmer will vote "no" on the previous question so that the House can again work its will, and for the fourth time adopt a $20,000 amendment, and this time one with teeth in it which can really be enforced.

Mr. ANDERSON of Tennessee. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Ohio (Mr. HAYS).

Mr. HAYS. Mr. Speaker, the gentleman from Iowa (Mr. MAYNE) spent 7 minutes and failed to get through to me in his argument why he voted to report the bill out of the Committee on Agriculture, but now wants to kill the rule. I think that $20,000 business is a little bit specious, to use a very polite word.

Mr. ANDERSON of Tennessee. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Iowa (Mr. SCHERLE).

Mr. SCHERLE. Mr. Speaker, I thank the gentleman for the time allocated to me.

I am not going to talk on the bill at

this time. I am more interested in the rule.

Members of this House, as a farmer I am totally opposed to reducing the limitation to $20,000 to one farmer for all products. Let me tell you why.

There is sufficient evidence to show that the $20,000 ceiling per farm for all crops will not take into the program the larger operating farmer who contributes to the glut on the market. The problem in the marketplace is not because of the production of the little farmer, it is due to the tremendous production of the large farmer. It is the large operator who produces the surplus, and an enticement must be offered to the large farmer to participate in a workable farm program. If we do not have the large farmer idling some of his land and taking that land out of production, then everything he grows finds its way into the marketplace.

The small farmer, as we recognize him, is diversified; he has livestock and is a grain and livestock operator. This is my operation. We sell very little of our grain. We do not contribute to the problem. It is the large operator who does.

We are asking the man who pays taxes to take land out of production. We cannot do that without providing some means for that individual to be compensated.

Just a short time ago a statement was made that these combines were broken up into smaller units. In fact, in 1969 there were 7,795 farmers receiving payments, and in 1970 there were 10,371. All right. The combines were broken up, and the additional farmers went on the land and farmed that land. Additional farmers went to work—is not this what we want?

I suggest that we vote for the previous question.

We have a problem on the farm, as most of you know. It is nothing new. But a $20,000 limitation at this time I think would wreck the program.

We heard a statement a short time ago that the Secretary of Agriculture will buy corn and that offers will be made on Friday of this week. Bids will be opened on Monday. The problem with that is we have no idea how much corn he is going to buy or any idea of what he will pay for it. I would have thought the USDA would have let us know in sufficient time so that we could make some judgment on this bill. Since this consideration was not given I must abide by the old saying, "a bird in the hand is worth two in the bush." I am going to support the bill and support the amendment offered by the gentleman from Montana (Mr. Melcher). I ask my colleague in this House to vote for the little farmer.

The big farmer must participate in a program if there is to be a little farmer.

I suggest you vote yes on the previous question.

Mr. ANDERSON of Tennessee. Mr. Speaker, I reserve the balance of my time.

Mr. LATTA. Mr. Speaker, I yield 4 minutes to the gentleman from Massachusetts (Mr. Conte).

Mr. CONTE. Mr. Speaker, I know that many of my colleagues are convinced that I will take every opportunity to speak about farm subsidies and to urge adoption of a $20,000 limitation on these subsidies. I rise today to reconfirm their conviction.

But I am not here today just to take advantage of one more opportunity. This is the last such opportunity we will have this session to impose this ceiling. Although frustrated by the failure of our colleagues in the other body, this House has now three times gone on record as favoring my $20,000 limitation. We reconfirmed that determination to restore some sanity to our runaway farm program as recently as 6 months ago.

It was with this thought in mind that my colleague, the gentleman from Illinois (Mr. Findley) asked the Rules Committee to make this amendment in order today. And the narrow margin of its defeat, 8 to 7, is strong testimony to the awareness of the mood of this House.

Now, Mr. Speaker, the argument is made that this is not the time to consider a payment limitation. Now all of us have heard this point made whenever any attempt is made to limit subsidies. It has never been the right time. If the distinguished chairman of the Agriculture Committee and his allies had their way, that time would never come again.

Some of you may also feel that it is futile to try again this session because the other body earlier this year frustrated our efforts in this matter. But I submit that it is never futile to attempt to remedy an injustice. In the legislative process, persistence is a powerful weapon. Some of the voters may not have been paying attention last summer when the House voted to reform and the Senate rejected that reform. So let us repeat at least our part of the process and let us see if the other body is willing to repeat theirs.

We have before us the means to do just that. We have only to defeat the previous question on this present rule. If that is done, it is my intention to offer an amendment to the proposed rule to make in order our consideration of an amendment to limit subsidies to $20,000 per farm. I then intend to offer such an amendment in the committee of the whole and, once again, I am confident the House will reaffirm its commitment to this reform.

There is one final point I would make. Mr. Speaker, we are faced at this moment with a simple question of basic equity. For we are not to be presented solely with a bill to create a strategic grain reserve. The same rules committee which would deny us the opportunity to vote on this ceiling has decided it shall be appropriate to consider the bill supported by the gentleman from Montana (Mr. Melcher) to raise grain loan levels by 25 percent. There is simply no justification for this double standard of treatment, Mr. Speaker.

And we also cannot ignore the fact that this basic bill before us today may cost as much as $1.4 billion. And the additional bill to be offered by the gentleman from Montana would cost an additional $281 million. I make no comment on the merits of either of these bills. I am simply saying that we owe it to the American taxpayer to limit spending where we can.

Let us leave no doubt, Mr. Speaker, that the taxpayer's voice will be heard today. Let us vote down the previous question on the rule and proceed to the adoption of a reasonable limit on these giant subsidies.

Mr. LATTA. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois (Mr. Findley).

Mr. FINDLEY. Mr. Speaker, the gentleman from Iowa (Mr. Mayne) very ably set forth the arguments for the $20,000 payment limitation, as did the gentleman from Massachusetts (Mr. Conte).

I shall add one thought. A justification for this unusual procedure, seeking to make in order what is clearly a nongermane amendment, is that if we do not seize this opportunity tonight on this bill, we will thus miss any opportunity to effect the substantial savings that could accrue with a $20,000 payment limit on the 1972 crops.

When the appropriations bill comes around next spring or next summer, undoubtedly, a $20,000 payment limitation will be offered, and I will forecast that it will be accepted by the House. However, by that time the contracts will have been made for 1972 crops for feed grains, for cotton, and for some types of wheat no doubt. So, it would hardly be proper or legal at that late stage, for us to try to change those contracts. Therefore, that is why there is a note of urgency in the proceedings tonight, why it is absolutely essential to vote down the previous question in order to make in order this $20,000 limitation.

Mr. SMITH of Iowa. Mr. Speaker, will the gentleman yield?

Mr. FINDLEY. I just have a couple of comments to make, and then I will gladly yield to the gentleman.

Mr. Speaker, the gentleman from Illinois (Mr. Arends) the minority whip, was not able to be here this evening, but he asked me to state his support for the move to vote down the previous question.

The gentleman from Oklahoma (Mr Belcher) the ranking minority member of the House Committee on Agriculture, is in the same position; he is unable to be here this evening, but he has sent word that he too, supports the move to vote down the previous question.

Of course, the minority leader, the gentleman from Michigan (Mr. Gerald R. Ford) is here to speak for himself.

I would like to add finally that a very distinguished Democrat, a man who served for a number of years as Under Secretary of Agriculture, John Schnittker has maintained consistently and persistently over a period of years, that a limitation of this type would not impair the proper functioning of commodity programs. In fact, he enthusiastically supports this type payment limitation.

So I think the comment that was made just a little bit earlier at least can be challenged, the comment to the effect that the limitation would be destructive. I have never viewed it as a destructive amendment. I view it as an amendment that would bring about a badly needed reform and bring greater respect in the public's eye for farm programs, make them function better to the greater advantage of the small farmers without enriching needlessly the large farmers.

Now, Mr. Speaker, I will yield to the gentleman from Iowa (Mr. SMITH).

Mr. SMITH of Iowa. Mr. Speaker, if the gentleman is so interested in this amendment why do you not put it on some bill that can become law with the amendment on it?

The gentleman knows that it will kill this bill. Why not put it on the bill which is coming up tomorrow?

Mr. FINDLEY. I am glad to seize every opportunity, and I hope the gentleman will join me.

Mr. ANDERSON of Tennessee. Mr. Speaker, I yield such time as he may consume to the distinguished Chairman of the Committee on Agriculture, the gentleman from Texas (Mr. POAGE).

Mr. POAGE. Mr. Speaker, it is not my intention to take any undue time, because I know there are Members who have stayed here for the purpose of casting their vote on this matter. I appreciate the sacrifice they are making.

I do want to call attention, however, to the fact that the crux of this matter is to be settled on this question of whether or not you are going to vote down the previous question on the rule.

If you will vote for the previous question on the rule, as we do in 99 percent of the cases, we will proceed here and consider the bill which is before us.

If you vote down the previous question, we will bog down into discussion of something that has no more relevancy to this bill than it had to the education bill that was up yesterday, or to the military appropriations bill, or to any other piece of legislation.

In evidence of that, it is going to require a change of rule in order to make any such amendment in order on this bill. It could be attached to any bill before this House by that procedure. If the advocates of this amendment were only concerned with the amendment why did they not offer to put it on a bill which seemed sure of passing?

It simply has nothing to do with this bill. This bill does not change the amount of payments to anybody. Therefore the amendment has nothing to do with this. We ought not change the amount of payments. We have encouraged farmers to make large expenditures on the strength of existing rules.

The gentleman has pointed out that we made commitments, and we have. We have a 3-year program. Farmers have been investing money, relying on that program. They have bought equipment. They have made their investments, and those investments ought to be protected during that period of time. The only purpose of amending the rule is to load the bill down and to thereby defeat it.

Mr. BURTON. Mr. Speaker, will the gentleman yield?

Mr. POAGE. I yield to the gentleman from California.

Mr. BURTON. Mr. Speaker, I would like to join with our distinguished chairman of the Committee on Agriculture, the gentleman from Texas (Mr. POAGE), in urging my colleagues to vote for the previous question. That is the issue. That is where every one of us, at least, on this side of the aisle, ought to be casting our votes.

Mr. POAGE. That is the issue. Let us vote.

Mr. ANDERSON of Tennessee. Mr. Speaker, I reserve the balance of my time.

The SPEAKER. The gentleman from Ohio (Mr. LATTA) has 2 minutes remaining.

Mr. LATTA. Mr. Speaker, I reserve the balance of my time.

Mr. ANDERSON of Tennessee. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Indiana (Mr. MADDEN).

Mr. MADDEN. Mr. Speaker, for a number of years I have been one of the pioneer advocates for limiting subsidy payments under the farm program. Both in the Rules Committee and on the floor of the House during the last 4 or 5 years I openly opposed the fabulous and, in most cases fraudulent, annual six-figure payments to corporate farms for idle acres of land. The $20,000 limitation amendment that is being offered to this bill today is nongermane and it is being presented for the primary purpose of creating a gimmick that will mislead a few of our Members and result in defeating this necessary farm legislation.

There are no provisions in this legislation for payments to farmers and this $20,000 limitation amendment is completely remote and not germane from the purpose for which this bill should be enacted.

The sponsors know that if it is attached to the bill the bill will never be passed and, of course, if the bill is not passed the amendment will not become law either. So on the face of it, it is just a political move and gimmick to try to get the bill into cross-currents and result in killing it.

Obviously rural America is in a desperate situation. People are moving to the cities faster than we can take care of the problems in the cities and it would be better to make it possible to stay in rural America a little longer or at least until we have less unemployment. The administration's new farm program was rammed and pressured through Congress last year. The administration asked farmers to produce more crops this year, because there was fear of a food shortage which did not occur and resulted in the cheapest farm prices in years. While cost-of-living prices are going up, farm prices have gone way down. When these family farmers cannot buy farm machinery, the factories and mills in our cities cannot sell steel for farm machinery plants. Some of the farm machinery plants are down below 50 percent production. We need this bill to take some of the surplus off the market this year and keep it for a year when we will need it. This bill will help farmers this year and it will eventually help consumers, because consumers are not going to get food any cheaper. In some future years, it will help the consumers, because when prices of farm products go up, consumers always pay more, because we never see a reduction in a retail store—always an increase.

The proponents of this payment limitations amendment on the pending bill which is nongermane did not ask us at the Rules Committee to put it on any other bill. We have had a dozen bills up which they could have asked us to attach it to but they did not. They did not ask us to put it on the poverty bill with the excuse that they needed money to pay for the child day care bill. They did not ask us to put payment limitations on the foreign aid bill so we could get the money to pay for that bill. They did not ask us to make a payment limitations bill in order as a part of a number of other bills that some of the people supported. They just pick out this one bill and want to get it in the cross-current.

I recognize this move to attach limitations on payments on this bill for just what it is. It is a political bidding for the White House which has been embarrassed by the Butz appointment and they do not want to openly oppose this bill and show that they are even more against the farmers. But a vote to defeat the previous question on this bill is plain and simple. A vote against doing something about this desperate farm situation.

Mr. HAYS. Mr. Speaker, will the gentleman yield?

Mr. MADDEN. I yield to the gentleman.

Mr. HAYS. I would suggest if the gentleman from Illinois (Mr. FINDLEY) and the gentleman from Massachusetts (Mr. CONTE) are sincere, and I am sure they are, and they really want to have their amendment adopted, and I am sure they do—I suggest they offer it to phase II tomorrow where it properly belongs in the price control bill—and I will support it.

Then if you want to offer it on phase III, I will support it there. I do not know whether you know what phase III is, but when somebody asked the President when phase II would be over with, he said when phase III starts. When he was asked what phase III was, he said that was getting reelected.

Mr. MADDEN. Mr. Speaker, I have 2 minutes left, and I am going to yield that time to the gentleman from Iowa (Mr. SCHERLE) if he has anything to say.

Mr. SCHERLE. I appreciate the generous amount of time that my colleague from Indiana has given me, and I am just going to reiterate what some of the other Members mentioned earlier tonight. The distinguished chairman of the Agriculture Committee from Texas (Mr. POAGE) really simplified the argument. He said that this very Congress passed a farm bill guaranteeing the farmers of this country a farm program which would run for 3 years, hopefully without interruption. These farmers expanded their operations. They bought additional machinery. They went into debt to do so, because they took this House at its word. If this House decides tonight to renege on that promise, it will result in continued injury as far as the farmers of the Middle West are concerned. They are in debt.

As I said earlier, we need the large farm operator in this program. It is a lot easier and less costly to pay farmers not to produce than it is to encourage the small farmer, without having the large farmer in the program, to produce commodities for the Government to buy, pay storage costs and have that grain hanging over the head of the farmer for "who knows how many" years. It is that simple. If you are for the small farmer, you will vote "yea" on the previous question and not reduce the amount from $55,000 to $20,000. Give those people on the farm an opportunity which they thought they were getting under the previous legislation.

Mr. ANDERSON of Tennessee. Mr. Speaker, I reserve the balance of my time.

Mr. LATTA. Mr. Speaker, I yield 1 minute to the gentleman from Illinois (Mr. ANDERSON).

Mr. ANDERSON of Illinois. Mr. Speaker, I take this time to set the record straight. My colleague from Indiana has charged that the opponents of this legislation resorted to devious tactics by filibustering in the Rules Committee for 3 days to prevent this legislation from coming to the floor. I have in my hand a list of the witnesses who appeared before the Committee on Rules, and by a margin of 2 to 1, those who were in favor of the legislation, six of those testified for the bill as against only three opponents and, as I recall quite distinctly, those six consumed a great deal more time of the Committee on Rules than did the three who spoke against this legislation. So it is completely inaccurate and unfair to suggest that any effort was made to filibuster this measure in the Committee on Rules.

Mr. LATTA. Mr. Speaker, I yield 30 seconds to the gentleman from California (Mr. TEAGUE).

Mr. TEAGUE of California. Mr. Speaker, again to set the record straight. The only Members tonight who have spoken in favor of the $20,000 limitation are those who have consistently supported it in the past. They are Mr. MAYNE, Mr. FINDLEY, Mr. CONTE, and myself. So the gentleman from Indiana was entirely incorrect in his assertion.

Mr. LATTA. Mr. Speaker, I was certainly amazed at the position taken by my friend from Indiana on this bill. I have heard many times, in the Rules Committee and on the floor, the gentleman from Indiana speak about the large corporate farmers getting all these large payments to the detriment of the small farmers. Now that he has an opportunity to put his vote where his speeches have been he is taking the other position. I am anxious to see how the gentleman's remarks are received back in Gary.

I yield back the balance of my time.

Mr. ANDERSON of Tennessee. Mr. Speaker, I move the previous question on the resolution.

The SPEAKER. The question is on the motion offered by the gentleman from Tennessee.

The question was taken; and on a division (demanded by Mr. CONTE) there were—ayes 106, noes 87.

Mr. CONTE. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 204, nays 164, not voting 63, as follows:

[Roll No. 443]

YEAS—204

Abbitt
Abernethy
Abourezk
Abzug
Addabbo
Alexander
Anderson, Calif.
Anderson, Tenn.
Andrews, N. Dak.
Ashley
Aspin
Aspinall
Badillo
Baker
Barrett
Begich
Bergland
Bevill
Biaggi
Bingham
Blanton
Boland
Bolling
Brasco
Brinkley
Brooks
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton
Byrne, Pa.
Byrnes, Wis.
Byron
Cabell
Caffery
Carey, N.Y.
Carney
Chappell
Clark
Clay
Conyers
Corman
Culver
Daniel, Va.
Daniels, N.J.
Danielson
Davis, Ga.
Davis, S.C.
de la Garza
Dellums
Denholm
Dent
Dickinson
Donohue
Dorn
Dow
Downing
Eckhardt
Edmondson
Edwards, Calif.
Eilberg
Evans, Colo.
Fascel
Fisher
Flood
Flowers
Foley
Ford, William D.
Fraser
Fulton, Tenn.
Fuqua
Gallagher
Gettys
Gibbons
Gonzalez
Gray
Green, Pa.
Griffin
Griffiths
Hagan
Hamilton
Hammerschmidt
Hanley
Hanna
Hansen, Idaho
Harrington
Hathaway
Hays
Helstoski
Hicks, Mass.
Hicks, Wash.
Holifield
Howard
Hull
Hungate
Ichord
Jarman
Johnson, Calif.
Jones, Ala.
Jones, N.C.
Jones, Tenn.
Karth
Kastenmeier
Kazen
Kee
Koch
Kuykendall
Kyl
Kyros
Landgrebe
Landrum
Leggett
Lennon
Link
Long, La.
Long, Md.
McClure
McCormack
McFall
McKay
McMillan
Macdonald, Mass.
Madden
Mahon
Mann
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Mills, Md.
Minish
Mink
Mitchell
Mollohan
Moorhead
Morgan
Moss
Murphy, N.Y.
Natcher
Nedzi
Nichols
Nix
Obey
O'Hara
O'Neill
Passman
Patten
Pepper
Perkins
Pickle
Poage
Preyer, N.C.
Price, Ill.
Price, Tex.
Purcell
Randall
Rangel
Rarick
Rees
Reuss
Rhodes
Roberts
Rodino
Rooney, N.Y.
Rooney, Pa.
Rosenthal
Roush
Roy
Roybal
Runnels
Scherle
Scheuer
Sebelius
Seiberling
Shoup
Sikes
Sisk
Slack
Smith, Iowa
Staggers
Stanton, James V.
Steed
Steiger, Ariz.
Stephens
Stokes
Stubblefield
Stuckey
Taylor
Teague, Tex.
Thompson, Ga.
Udall
Ullman
Van Deerlin
Vigorito
Waggonner
Waldie
White
Wilson, Charles H.
Yates
Yatron
Young, Tex.
Zablocki
Zwach

NAYS—164

Adams
Anderson, Ill.
Archer
Ashbrook
Bell
Bennett
Betts
Biester
Bow
Brademas
Bray
Broomfield
Brotzman
Brown, Mich.
Brown, Ohio
Broyhill, Va.
Buchanan
Burke, Fla.
Camp
Carter
Cederberg
Chamberlain
Clancy
Clausen, Don H.
Clawson, Del
Cleveland
Collins, Tex.
Conable
Conte
Cotter
Coughlin
Crane
Davis, Wis.
Delaney
Dellenback
Dennis
Devine
Drinan
Dulski
Duncan
du Pont
Edwards, Ala.
Erlenborn
Esch
Eshleman
Findley
Ford, Gerald R.
Forsythe
Frelinghuysen
Frenzel
Frey
Gaydos
Giaimo
Goldwater
Goodling
Grasso
Gross
Grover
Gubser
Haley
Hall
Halpern
Harsha
Harvey
Hastings
Hechler, W. Va.
Heckler, Mass.
Heinz
Hillis
Hogan
Horton
Hosmer
Hunt
Hutchinson
Jacobs
Johnson, Pa.
Jonas
Keating
Keith
Kemp
Latta
Lent
Lloyd
McClory
McCloskey
McCollister
McCulloch
McDade
McDonald, Mich.
McEwen
McKevitt
McKinney
Mailliard
Martin
Mayne
Michel
Miller, Ohio
Mizell
Monagan
Morse
Mosher
Myers
Nelsen
O'Konski
Pelly
Pettis
Pike
Pirnie
Poff
Powell
Quie
Quillen
Railsback
Reid, N.Y.
Riegle
Robinson, Va.
Robison, N.Y.
Roe
Rogers
Rousselot
Ruppe
Ruth
Ryan
St Germain
Sandman
Satterfield
Saylor
Schmitz
Schneebeli
Schwengel
Shipley
Shriver
Skubitz
Smith, Calif.
Smith, N.Y.
Snyder
Stanton, J. William
Steele
Steiger, Wis.
Stratton
Talcott
Teague, Calif.
Terry
Thomson, Wis.
Thone
Vander Jagt
Vanik
Veysey
Wampler
Ware
Whalen
Whalley
Whitehurst
Widnall
Williams
Wilson, Bob
Winn
Wolff
Wyatt
Wydler
Wylie
Wyman
Young, Fla.
Zion

NOT VOTING—63

Andrews, Ala.
Annunzio
Arends
Baring
Belcher
Blackburn
Blatnik
Boggs
Broyhill, N.C.
Casey, Tex.
Celler
Chisholm
Collier
Collins, Ill.
Colmer
Curlin
Derwinski
Diggs
Dingell
Dowdy
Dwyer
Edwards, La.
Evins, Tenn.
Fish
Flynt
Fountain
Galifianakis
Garmatz
Green, Oreg.
Gude
Hansen, Wash.
Hawkins
Hébert
Henderson
King
Kluczynski
Lujan
Mathias, Calif.
Mathis, Ga.
Mikva
Miller, Calif.
Mills, Ark.
Minshall
Montgomery
Murphy, Ill.
Patman
Peyser
Podell
Pryor, Ark.
Pucinski
Roncalio
Rostenkowski
Sarbanes
Scott
Spence
Springer
Sullivan
Symington
Thompson, N.J.
Tiernan
Whitten
Wiggins
Wright

So the previous question was ordered.

The Clerk announced the following pairs:

On this vote:

Mr. Spence for, with Mr. King against.
Mr. Annunzio for, with Mr. Gude against.
Mr. Hawkins for, with Mr. Collier against.
Mr. Hébert for, with Mrs. Dwyer against.
Mr. Boggs for, with Mr. Arends against.
Mr. Rostenkowski for, with Mr. Minshall against.
Mr. Garmatz for, with Mr. Fish against.

Until further notice:

Mr. Thompson of New Jersey with Mr. Wiggins.
Mrs. Sullivan with Mr. Lujan.
Mr. Blatnik with Mr. Belcher.
Mr. Andrews of Alabama with Mr. Blackburn.
Mr. Casey of Texas with Mr. Derwinski.
Mr. Celler with Mr. Peyser.
Mr. Kluczynski with Mr. Springer.
Mr. Murphy of Illinois with Mrs. Hansen of Washington.
Mr. Mikva with Mrs. Chisholm.
Mr. Miller of California with Mr. Mathias of California.
Mr. Tiernan with Mr. Dowdy.
Mr. Roncalio with Mr. Evins of Tennessee.
Mr. Fountain with Mr. Broyhill of North Carolina.
Mr. Colmer with Mr. Scott.
Mr. Mathis of Georgia with Mr. Galifianakis.
Mr. Podell with Mr. Collins of Illinois.
Mr. Henderson with Mrs. Green of Oregon.
Mr. Baring with Mr. Diggs.
Mr. Dingell with Mr. Whitten.
Mr. Pryor of Arkansas with Mr. Wright.
Mr. Flynt with Mr. Mills of Arkansas.
Mr. Montgomery with Mr. Patman.
Mr. Pucinski with Mr. Sarbanes.
Mr. Symington with Mr. Curlin.

The result of the vote was announced as above recorded.

The SPEAKER. The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON S. 1828, TO AMEND THE PUBLIC HEALTH SERVICE ACT

Mr. STAGGERS submitted the following conference report and statement on the bill (S. 1828), to amend the Public Health Service Act so as to establish a Conquest of Cancer Agency in order to conquer cancer at the earliest possible date:

CONFERENCE REPORT (H. REPT. NO. 92–722)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1828) to amend the Public Health Service Act so as to establish a Conquest of Cancer Agency in order to conquer cancer at the earliest possible date, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the House amendment insert the following:

SHORT TITLE

SECTION 1. This Act may be cited as "The National Cancer Act of 1971."

FINDINGS AND DECLARATION OF PURPOSE

SEC. 2. (a) The Congress finds and declares—

(1) that the incidence of cancer is increasing and cancer is the disease which is the major health concern of Americans today;

(2) that new scientific leads, if comprehensively and energetically exploited, may significantly advance the time when more adequate preventive and therapeutic capabilities are available to cope with cancer;

(3) that cancer is a leading cause of death in the United States;

(4) that the present state of our understanding of cancer is a consequence of broad advances across the full scope of the biomedical sciences;

(5) that a great opportunity is offered as a result of recent advances in the knowledge of this dread disease to conduct energetically a national program against cancer;

(6) that in order to provide for the most effective attack on cancer it is important to use all of the biomedical resources of the National Institutes of Health; and

(7) that the programs of the research institutes which comprise the National Institutes of Health have made it possible to bring into being the most productive scientific community centered upon health and disease that the world has ever known.

(b) It is the purpose of this Act to enlarge the authorities of the National Cancer Institute and the National Institutes of Health in order to advance the national effort against cancer.

NATIONAL CANCER PROGRAM

SEC. 3. (a) Part A of title IV of the Public Health Service Act is amended by adding after section 406 the following new sections:

"NATIONAL CANCER PROGRAM

"SEC. 407. (a) The Director of the National Cancer Institute shall coordinate all of the activities of the National Institutes of Health relating to cancer with the National Cancer Program.

"(b) In carrying out the National Cancer Program, the Director of the National Cancer Institute shall:

"(1) With the advice of the National Cancer Advisory Board, plan and develop an expanded, intensified, and coordinated cancer research program encompassing the programs of the National Cancer Institute, related programs of the other research institutes, and other Federal and non-Federal programs.

"(2) Expeditiously utilize existing research facilities and personnel of the National Institutes of Health for accelerated exploration of opportunities in areas of special promise.

"(3) Encourage and coordinate cancer research by industrial concerns where such concerns evidence a particular capability for such research.

"(4) Collect, analyze, and disseminate all data useful in the prevention, diagnosis, and treatment of cancer, including the establishment of an international cancer research data bank to collect, catalog, store, and disseminate insofar as feasible the results of cancer research undertaken in any country for the use of any person involved in cancer research in any country.

"(5) Establish or support the large-scale production or distribution of specialized biological materials and other therapeutic substances for research and set standards of safety and care for persons using such materials.

"(6) Support research in the cancer field outside the United States by highly qualified foreign nationals which research can be expected to inure to the benefit of the American people; support collaborative research involving American and foreign participants; and support the training of American scientists abroad and foreign scientists in the United States.

"(7) Support appropriate manpower programs of training in fundamental sciences and clinical disciplines to provide an expanded and continuing manpower base from which to select investigators, physicians, and allied health professions personnel, for participation in clinical and basic research and treatment programs relating to cancer, including where appropriate the use of training stipends, fellowships, and career awards.

"(8) Call special meetings of the National Cancer Advisory Board at such times and in such places as the Director deems necessary in order to consult with, obtain advice from, or to secure the approval of projects, programs, or other actions to be undertaken without delay in order to gain maximum benefit from a new scientific or technical finding.

"(9) (A) Prepare and submit, directly to the President for review and transmittal to Congress, an annual budget estimate for the National Cancer Program, after reasonable opportunity for comment (but without change) by the Secretary, the Director of the National Institutes of Health, and the National Cancer Advisory Board; and (B) receive from the President and the Office of Management and Budget directly all funds appropriated by Congress for obligation and expenditure by the National Cancer Institute.

"(c)(1) There is established the President's Cancer Panel (hereinafter in this section referred to as the 'Panel') which shall be composed of three persons appointed by the President, who by virtue of their training, experience, and background are exceptionally qualified to appraise the National Cancer Program. At least two of the members of the Panel shall be distinguished scientists or physicians.

"(2)(A) Members of the Panel shall be appointed for three-year terms, except that (i) in the case of two of the members first appointed, one shall be appointed for a term of one year and one shall be appointed for a term of two years, as designated by the President at the time of appointment, and (ii) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term.

"(B) The President shall designate one of the members to serve as Chairman for a term of one year.

"(C) Members of the Panel shall each be entitled to receive the daily equivalent of the annual rate of basic pay in effect for grade GS–18 of the General Schedule for each day (including traveltime) during which they are engaged in the actual performance of duties vested in the Panel, and shall be allowed travel expenses (including a per diem allowance) under section 5703(b) of title 5, United States Code.

"(3) The Panel shall meet at the call of the Chairman, but not less often than twelve times a year. A transcript shall be kept of the proceedings of each meeting of the Panel, and the Chairman shall make such transcript available to the public.

"(4) The Panel shall monitor the development and execution of the National Cancer Program under this section, and shall report directly to the President. Any delays or blockages in rapid execution of the Program shall immediately be brought to the attention of the President. The Panel shall submit to the President periodic progress reports on the Program and annually an evaluation of the efficacy of the Program and suggestions for improvements, and shall submit such other reports as the President shall direct. At the request of the President, it shall submit for his consideration a list of names of persons for consideration for appointment as Director of the National Cancer Institute.

"NATIONAL CANCER RESEARCH AND DEMONSTRATION CENTERS

"SEC. 408. (a) The Director of the National Cancer Institute is authorized to provide for the establishment of fifteen new centers for clinical research, training, and demonstrations of advanced diagnostic and treatment methods relating to cancer. Such centers may be supported under subsection (b) or under any other applicable provision of law.

"(b) The Director of the National Cancer Institute, under policies established by the Director of the National Institutes of Health and after consultation with the National Cancer Advisory Board, is authorized to enter into cooperative agreements with public or private nonprofit agencies or institutions to pay all or part of the cost of planning, establishing, or strengthening, and providing basic operating support for existing or new centers (including, but not limited to, centers established under subsection (a)) for clinical research, training, and demonstration of advanced diagnostic and treatment methods relating to cancer. Federal payments under this subsection in support of such cooperative agreements may be used for (1) construction (notwithstanding any limitation under section 405), (2) staffing and other basic operating costs, including such patient care costs as are required for research, (3) training (including training for allied health professions personnel), and (4) demonstration purposes; but support under this subsection (other than support for construction) shall not exceed $5,000,000 per year per center. Support of a center under this section may be for a period of not to exceed three years and may be extended by the Director of the National Cancer Institute for additional periods of not more than three years each; after review of the operations of such center by an appropriate scientific review group established by the Director of the National Cancer Institute.

"CANCER CONTROL PROGRAMS

"SEC. 409. (a) The Director of the National Cancer Institute shall establish programs as necessary for cooperation with State and other health agencies in the diagnosis, prevention, and treatment of cancer.

"(b) There are authorized to be appropriated to carry out this section $20,000,000 for the fiscal year ending June 30, 1972, $30,000,000 for the fiscal year ending June 30, 1973, and $40,000,000 for the fiscal year ending June 30, 1974.

"AUTHORITY OF DIRECTOR

"SEC. 410. The Director of the National Cancer Institute (after consultation with the National Cancer Advisory Board), in carrying out his functions in administering the National Cancer Program and without regard to any other provision of this Act, is authorized—

"(1) if authorized by the National Cancer Advisory Board, to obtain (in accordance with section 3109 of title 5, United States Code, but without regard to the limitation in such section on the number of days or the period of such service) the services of not more than fifty experts or consultants who have scientific or professional qualifications;

"(2) to acquire, construct, improve, repair, operate, and maintain cancer centers, laboratories, research, and other necessary facilities and equipment, and related accommodations as may be necessary, and such other real or personal property (including patents) as the Director deems necessary: to acquire, without regard to the Act of March 3, 1877 (40 U.S.C. 34), by lease or otherwise through the Administrator of General Services, buildings or parts of buildings in the District of Columbia or communities located adjacent to the District of Columbia for the use of the National Cancer Institute for a period not to exceed ten years;

"(3) to appoint one or more advisory committees composed of such private citizens and officials of Federal, State, and local governments as he deems desirable to advise him with respect to his functions;

"(4) to utilize, with their consent, the services, equipment, personnel, information, and facilities of other Federal, State, or local public agencies, with or without reimbursement therefor;

"(5) to accept voluntary and uncompensated services;

"(6) to accept unconditional gifts, or donations of services, money, or property, real, personal, or mixed, tangible or intangible;

"(7) to enter into such contracts, leases, cooperative agreements, or other transactions, without regard to sections 3648 and 3709 of the Revised Statutes of the United States (31 U.S.C. 529, 41 U.S.C. 5), as may be necessary in the conduct of his functions, with any public agency, or with any person, firm, association, corporation, or educational institution; and

"(8) to take necessary action to insure that all channels for the dissemination and exchange of scientific knowledge and information are maintained between the National Cancer Institute and the other scientific medical, and biomedical disciplines and organizations nationally and internationally.

"SCIENTIFIC REVIEW; REPORTS

"SEC. 410A. (a) The Director of the National Cancer Institute shall, by regulation, provide for proper scientific review of all research grants and programs over which he has authority (1) by utilizing, to the maximum extent possible, appropriate peer review groups established within the National Institutes of Health and composed principally of non-Federal scientists and other experts in the scientific and disease fields, and (2) when appropriate, by establishing with the approval of the National Cancer Advisory Board and the Director of the National Institutes of Health, other formal peer review groups as may be required.

"(b) The Director of the National Cancer Institute shall, as soon as practicable after the end of each calendar year, prepare in consultation with the National Cancer Advisory Board and submit to the President for transmittal to the Congress a report on the activities, progress, and accomplishments under the National Cancer Program during the preceding calendar year and a plan for the Program during the next five years.

"NATIONAL CANCER ADVISORY BOARD

"SEC. 410B. (a) There is established in the National Cancer Institute a National Cancer Advisory Board (hereinafter in this section referred to as the 'Board') to be composed of twenty-three members as follows:

"(1) The Secretary, the Director of the Office of Science and Technology, the Director of the National Institutes of Health, the chief medical officer of the Veterans' Administration (or his designee), and a medical officer designated by the Secretary of Defense shall be ex officio members of the Board.

"(2) Eighteen members appointed by the President.

Not more than twelve of the appointed members of the Board shall be scientists or physicians and not more than eight of the appointed members shall be representatives from the general public. The scientists and physicians appointed to the Board shall be appointed from persons who are among the leading scientific or medical authorities outstanding in the study, diagnosis, or treatment of cancer or in fields related thereto. Each appointed member of the Board shall be appointed from among persons who by virtue of their training, experience, and background are especially qualified to appraise the programs of the National Cancer Institute.

"(b)(1) Appointed members shall be appointed for six-year terms, except that of the members first appointed six shall be appointed for a term of two years, and six shall be appointed for a term of four years, as designated by the President at the time of appointment.

"(2) Any member appointed to fill a vacancy occurring prior to expiration of the term for which his predecessor was appointed shall serve only for the remainder of such term. Appointed members shall be eligible for reappointment and may serve after the expiration of their terms until their successors have taken office.

"(3) A vacancy in the Board shall not affect its activities, and twelve members thereof shall constitute a quorum.

"(4) The Board shall supersede the existing National Advisory Cancer Council, and the appointed members of the Council serving on the effective date of this section shall serve as additional members of the Board for the duration of their terms then existing, or for such shorter time as the President may prescribe.

"(c) The President shall designate one of the appointed members to serve as Chairman for a term of two years.

"(d) The Board shall meet at the call of the Director of the National Cancer Institute or the Chairman, but not less often than four times a year and shall advise and assist the Director of the National Cancer Institute with respect to the National Cancer Program.

"(e) The Director of the National Cancer Institute shall designate a member of the staff of the Institute to act as Executive Secretary of the Board.

"(f) The Board may hold such hearings, take such testimony, and sit and act at such times and places as the Board deems advisable to investigate programs and activities of the National Cancer Program.

"(g) The Board shall submit a report to the President for transmittal to the Congress not later than January 31 of each year on the progress of the National Cancer Program toward the accomplishment of its objectives.

"(h) Members of the Board who are not officers or employees of the United States shall receive for each day they are engaged in the performance of the duties of the Board compensation at rates not to exceed the daily equivalent of the annual rate in effect for GS-18 of the General Schedule, including traveltime; and all members, while so serving away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as such expenses are authorized by section 5703, title 5, United States Code, for persons in the Government service employed intermittently.

"(i) The Director of the National Cancer Institute shall make available to the Board such staff, information, and other assistance as it may require to carry out its activities.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 410C. For the purpose of carrying out this part (other than section 409), there are authorized to be appropriated $400,000,000 for the fiscal year ending June 30, 1972; $500,000,000 for the fiscal year ending June 30, 1973; and $600,000,000 for the fiscal year ending June 30, 1974."

(b)(1) Section 402 of the Public Health Service Act is amended by adding at the end thereof the following:

"(b) Under procedures approved by the Director of the National Institutes of Health, the Director of the National Cancer Institute may approve grants under this Act for cancer research or training—

"(1) in amounts not to exceed $35,000 after appropriate review for scientific merit but without the review and recommendation by the National Cancer Advisory Board prescribed by section 403(c), and

"(2) in amounts exceeding $35,000 after appropriate review for scientific merit and recommendation for approval by such Board as prescribed by section 403(c)."

(2) Section 402 of such Act is further amended—

(A) by inserting "(a)" immediately after "Sec. 402."; and

(B) by redesignating paragraphs (a), (b), (c), (d), (e), (f), and (g) as paragraphs (1), (2), (3), (4), (5), (6), and (7), respectively.

(3) Section 403(c) of such Act is amended by striking out "In carrying out" and inserting in lieu thereof "Except as provided in section 402(b), in carrying out".

REPORT TO CONGRESS

SEC. 4. (a) The President shall carry out a review of all administrative processes under which the National Cancer Program, established under part A of title IV of the Public Health Service Act, will operate, including the processes of advisory council and peer group reviews, in order to assure the most expeditious accomplishment of the objectives of the Program. Within one year of the date of enactment of this Act the President shall submit a report to Congress of the findings of such review and the actions taken to facilitate the conduct of the Program, together with recommendations for any needed legislative changes.

(b) The President shall request of the Congress without delay such additional appropriations (including increased authorizations) as are required to pursue immediately any development in the National Cancer Program requiring prompt and expeditious support and for which regularly appropriated funds are not available.

PRESIDENTIAL APPOINTMENTS

SEC. 5. Title IV of the Public Health Service Act is amended by adding after part F the following new part:

"PART G—ADMINISTRATIVE PROVISIONS

"DIRECTORS OF INSTITUTES

"SEC. 454. The Director of the National Institutes of Health and the Director of the National Cancer Institute shall be appointed by the President. Except as provided in section 407(b)(9), the Director of the National Cancer Institute shall report directly to the Director of the National Institutes of Health."

CONFORMING AMENDMENTS

SEC. 6. (a) (1) Section 217 of the Public Health Service Act is amended (A) by striking out "National Advisory Cancer Council," each place it occurs in subsection (a), and (B) by striking out "cancer," in subsections (a) and (b) of such section.

(2) Sections 301(d), 301(i), 402, and 403 (c) of such Act are each amended by striking out "National Advisory Cancer Council" and inserting in lieu thereof "National Cancer Advisory Board".

(3) Section 403(b) of such Act is amended by striking out "National Cancer Advisory Council" and inserting in lieu thereof "National Cancer Advisory Board".

(4) Section 404 of such Act is amended—

(A) by striking out "council" in the matter preceding paragraph (a) and inserting in lieu thereof "National Cancer Advisory Board", and

(B) By striking out "COUNCIL" in the section heading and inserting in lieu thereof "BOARD".

EFFECTIVE DATE

SEC. 7. (a) This Act and the amendments made by this Act shall take effect sixty days after the date of enactment of this Act or on such prior date after the date of enactment of this Act as the President shall prescribe and publish in the Federal Register.

(b) The first sentence of section 454 of the Public Health Service Act (added by section 5 of this Act) shall apply only with respect to appointments made after the effective date of this Act (as prescribed by subsection (a)).

(c) Notwithstanding the provisions of subsection (a), members of the National Cancer Advisory Board (authorized under section 410B of the Public Health Service Act, as added by this Act) may be appointed, in the manner provided for in such section, at any time after the date of enactment of this Act. Such officers shall be compensated from the date they first take office, at the rates provided for in such section 410B.

And the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House to the title of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following: "An Act to amend the Public Health Service Act so as to strengthen the National Cancer Institute and the National Institutes of Health in order more effectively to carry out the national effort against cancer."

And the House agree to the same.

HARLEY O. STAGGERS,
PAUL G. ROGERS,
DAVID E. SATTERFIELD,
PETER N. KYROS,
RICHARDSON PREYER,
JAMES W. SYMINGTON,
WILLIAM R. ROY,
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TIM LEE CARTER,
JAMES F. HASTINGS,
JOHN G. SCHMITZ,
Managers on the Part of the House.

EDWARD M. KENNEDY,
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PETER H. DOMINICK,
BOB PACKWOOD,
J. GLENN BEALL, Jr.,
ROBERT TAFT, Jr.,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1828) to amend the Public Health Service Act so as to establish a Conquest of Cancer Agency in order to conquer cancer at the earliest possible date, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The title to the Senate bill was "An Act to amend the Public Health Service Act so as to establish a Conquest of Cancer Agency in order to conquer cancer at the earliest possible date." The House amended the title of the bill to read as follows: "An Act to amend the Public Health Service Act so as to strengthen the National Cancer Institute and the National Institutes of Health in order to conquer cancer as soon as possible." Under the conference agreement the House amendment to the title was adopted with an amendment.

The Senate bill provided the short title "Conquest of Cancer Act". The House amendment provided the short title "The National Cancer Attack Act of 1971". The conference substitute provides that the Act shall be known as "The National Cancer Act of 1971".

SUMMARY OF SUBSTANTIVE PROVISIONS OF SENATE BILL

Section 2 of the Senate bill amends title IV of the Public Health Service Act to include the following new sections:

FINDINGS AND DECLARATION OF PURPOSE

New Section 407A.—States that cancer is increasing and is of major concern, that attainment of better methods of prevention, diagnosis, and treatment deserves the highest priority, that scientific advances offer opportunity for conducting a major program for the conquest of cancer, and that the purpose is to establish a Conquest of Cancer Agency as an independent agency within the National Institutes of Health.

CONQUEST OF CANCER AGENCY

New Section 407B.—Provides for establishment of an independent Conquest of Cancer Agency within the National Institutes of Health.

APPOINTMENT OF DIRECTOR, DEPUTY DIRECTOR, AND ASSISTANT DIRECTORS

New Section 407C.—Provides for Presidential appointment, by and with the advice and consent of the Senate, of a Director and Deputy Director, and for the Director to appoint not to exceed five Assistant Directors.

FUNCTION OF THE AGENCY

New Section 407D.—Assigns to the Agency a broad range of functions and authorities considered necessary to accomplish the conquest of cancer. Specifically, this section would require the Director to:

1. Carry out all research activities previously conducted by the National Cancer Institute, as well as additional activities required for an expanded, intensified, and coordinated cancer research program, and administer authorities previously vested in the Secretary under the Public Health Service Act with respect to cancer.

2. The Agency is directed to expeditiously utilize existing resources, explore the greater use of new resources such as industrial concerns, and, in general, employ the skills of any individual or group capable of making a contribution to the conquest of cancer. This authority would also include support of meritorious foreign research—wherever it is conducted.

3. Strengthen existing cancer research centers and establish new centers as needed.

4. Collect, analyze, and disseminate all data useful in the prevention, diagnosis, and treatment of cancer.

5. Support appropriate manpower training programs.

6. Prepare and submit an annual budget estimate directly to the President for transmittal to the Congress and receive directly from the President and the Office of Management and Budget the funds appropriated by the Congress for the Agency.

ADMINISTRATIVE PROVISIONS

New Section 407E.—Authorizes the Director to take actions necessary to manage a program of the scope and status envisioned for the Cancer Conquest Agency—an "independent agency within the NIH." The Director is given specific authority to do the following things.

1. Appoint a limited number of senior staff without regard to Civil Service regulations, and appoint certain specifically qualified persons at two grades above the entrance level normally authorized by Civil Service regulations.

2. Construct or acquire facilities.

3. Issue rules and regulations.

4. Utilize the resources of other agencies.

5. Coordinate cancer research with the other research programs of the NIH.

6. Provide for appropriate peer review of research grants and programs.

REPORTS

New Section 407F.—Requires the Agency Director to submit to the President for transmittal to the Congress an annual report on the activities of the Agency during the preceding year.

NATIONAL CANCER ADVISORY BOARD

New Section 407G.—Establishes a National Cancer Advisory Board composed of the Director of NIH and eighteen members appointed by the President, by and with the advice and consent of the Senate. No more than twelve of the appointed Board members shall be scientists or physicians and no more than eight shall be members of the general public. Ex officio members include the Secretary, the Director of the Conquest of Cancer Agency, and the Director of the Office of Science and Technology. The Chairman will be designated from the appointed members by the President.

This section also establishes administrative procedures to be followed by the Board, empowers it to hold hearings and evaluate and make recommendations on the Agency's program plan and budget, directs it to make an annual report to the Congress on the Agency's progress toward its objectives, and charges it with the responsibility of insuring that the Agency Director maintains scientific peer review. The Board will supersede the existing National Advisory Cancer Council, take over its functions, and include in its membership the present council members for the duration of their terms, or if the President so determines, their terms may be shortened or terminated.

DEFINITIONS

New Section 407H.—For the purposes of the Public Health Service Act this section defines: "Director", "Agency", "Board", "Cancer center", "Construction", "Function", and "Federal Agency".

AUTHORIZATION OF APPROPRIATIONS

New Section 408.—Authorizes "such sums as may be necessary" to carry out the programs, functions, or activities of the Conquest of Cancer Agency.

Section 3 of the Senate bill provides for compensation for the Director of the Conquest of Cancer Agency at Level IV of the Executive Schedule, and the Deputy Director of the Agency at Level V by amending Title 5 of the U.S. Code.

Section 5 of the Senate bill makes the National Cancer Institute part of the Conquest of Cancer Agency and authorizes the Conquest of Cancer Agency, rather than the Secretary of HEW, to carry out the purposes of Section 301 of the Public Health Service Act with respect to cancer. This section would also give certain administrative authority presently exercised by the Secretary to the Conquest of Cancer Agency.

Section 6 of the Senate bill merges the functions of the National Advisory Cancer Council with the National Cancer Advisory Board by amending the Public Health Service Act in the appropriate sections.

Section 7 of the Senate bill provides that the Act take effect sixty days after its date of enactment or on a prior date if the President should so prescribe and publish in the Federal Register. This section would also provide that any officers appointed after date of enactment shall be compensated from the date they first take office from funds available from functions to be transferred to the Agency.

SUMMARY OF SUBSTANTIVE PROVISIONS OF THE HOUSE AMENDMENT

The House Amendment makes the following findings: That cancer is the disease most feared by Americans; that as the new scientific leads are comprehensively and energetically exploited, they may advance the time when more adequate preventive and therapeutic capabilities can cope with cancer; that cancer, heart and lung diseases, and stroke are the leading causes of death in the United States; that the present understanding of these diseases are the result of broad advances of all the biomedical sciences; that the most effective attack on cancer should use all the resources of the National Institutes of Health; and that the programs of the National Institutes of Health produced the world's most productive scientific community center upon health and disease. The purpose of the Act is stated to be to enlarge the authority of the National Cancer Institute and the National Institutes of Health in order to advance the national attack on cancer.

NATIONAL CANCER ATTACK PROGRAM

New Section 407(a).—That the Director of the National Cancer Institute shall be an Associate Director of the National Institutes of Health and shall coordinate all cancer-related activities of the National Institutes of Health with the National Cancer Attack Program.

New Section 407(b).—It further assigns to the Director of the National Cancer Institute a range of responsibilities necessary to accomplish the conquest of cancer. Among these responsibilities are—

(1) With the advice of the National Cancer Advisory Council plan and develop an expanded, intensive and coordinated cancer research program encompassing the programs of the National Cancer Institute and under policy control by the Director of the National Institutes of Health, related programs of other research institutes and other Federal and non-Federal programs.

(2) Utilize under a new policy controlled by the Director of the National Institutes of Health, existing facilities and personnel of the National Institutes of Health to rapidly explore opportunities for the conquest of cancer in areas of special promise.

(3) Encourage and coordinate cancer research by industrial concerns which evidence a capability for such research.

(4) Collect, analyze, and disseminate all data useful in the prevention and diagnosis of the treatment of cancer including the establishment of an international cancer data bank.

(5) Establish or support a large scale production or distribution of specialized biological medicine or other therapeutic substances for research and set standards of safety and care for their use.

(6) Support meritorious foreign research and support collaborative research involving American and foreign scientists and the training of Americans abroad and foreign scientists in the United States.

(7) Support appropriate manpower training programs in fundamental sciences and clinical discipline including the use of stipends, fellowships and career awards to provide an expanded manpower basis from which health professional personnel will be selected to participate in clinical and basic research programs related to cancer.

(8) Call special meetings of the National Advisory Cancer Council as the Director deems necessary to gain maximum benefit from new scientific or technical findings.

(9) Prepare and submit an annual budget estimate for the National Cancer Attack Program directly to the President after the Secretary, the Director of the National Institutes of Health and the National Advisory Cancer Council have had an opportunity to make comments on but not change the estimates. Receive from the President and the Office of Management and Budget directly the funds appropriated by the Congress for the National Cancer Institute.

The House amendment further provides that the National Advisory Cancer Council shall meet at the call of its chairman, of the Director of the National Cancer Institute, but not less than four times each calendar year.

The House amendment further provides for a President's Cancer Attack Panel. Such panel shall be comprised of three persons of whom at least two shall be distinguished scientists or physicians appointed by the President to appraise the National Cancer Attack Program. The panel shall meet at the call of the chairman but not less than twelve times a year. The function of the panel will be to monitor a National Cancer Attack Program and to report directly to the President. It shall immediately bring to the President's attention any delay in program execution and a report annually to the President with suggestions for improvement. At the President's request, it shall also submit a list of names of persons for consideration for appointment as Director of the National Cancer Institute.

NATIONAL CANCER RESEARCH AND DEMONSTRATION CENTERS

The House amendment provides that the Director of the National Cancer Institute is authorized to establish 15 new centers for clinical research, training, and demonstration of advanced diagnostic and treatment methods, related to cancer. Also authorized are cooperative agreements with public and private nonprofit agencies for the planning, establishment, strengthening and basic operating support of existing and new centers. Federal payments may be used for construction, staffing, basic operating course, training and demonstration purposes but support shall not exceed $5,000,000 per year per center excluding construction. Support for these centers shall be for three years but may be extended by the Director of the National Cancer Institute for additional three-year periods after a review by an appropriate scientific review group.

CANCER CONTROL PROGRAMS

The House amendment provides that the Director of the National Cancer Institute establish programs necessary for cooperation with State and other health agencies in the prevention, control, and eradication of cancer. For these purposes there are authorized to be appropriated $20 million for fiscal year 1972, $30 million for fiscal year 1973, and $40 million for fiscal year 1974.

AUTHORITY OF THE DIRECTOR

The House amendment authorizes the Director of the National Cancer Institute after consultation with the National Advisory Cancer Council to:

(1) Obtain the services of not more than 50 experts or consultants who have scientific or professional qualifications if so authorized by the National Advisory Cancer Council.

(2) Acquire, construct, improve, repair, operate and maintain cancer centers in laboratories, research, and other necessary facilities, and equipment and related accommodations as may be necessary; and such other real or personal property as may be necessary, and to acquire by lease, buildings in the District of Columbia, or adjacent area, for use of the National Cancer Institute for a period not to exceed ten years.

(3) Appoint advisory committees.

(4) Utilize the services of other Federal, State, or local government agencies.

(5) Accept voluntary and uncompensated services.

(6) Accept unconditional gifts or donations of services.

(7) Enter into contracts, leases, cooperative agreements, and other transactions as may be necessary to the conduct of his functions.

(8) Assure that all channels for the dissemination and exchange of scientific knowledge and information are maintained between the National Cancer Institute and other disciplines and organizations, nationally and internationally.

SCIENTIFIC REVIEW

The House amendment provides that the Director of the National Cancer Institute shall provide for proper scientific review of all research grants and programs of which he has authority. He shall utilize to the maximum extent possible appropriate peer review groups established within the National Institutes of Health, but when appropriate money, with the approval of the Director of the National Institutes of Health and the National Advisory Cancer Council establish other fundamental peer review groups as may be required.

REPORTS

The House amendment provides that the Directors of the National Cancer Institute in consultation with the National Advisory Cancer Council shall submit an annual program report to the President for transmittal to the Congress.

AUTHORIZATION OF APPROPRIATIONS

The House amendment authorized to be appropriated for programs other than cancer control $400 million for fiscal year 1972, $500 million for fiscal year 1973, and $600 million for fiscal year 1974. These sums shall be available until expended. The House amendment further provides that the Director of the National Cancer Institute under procedures approved by the Director of the National Institutes of Health may approve grants not to exceed $35,000 after appropriate review for scientific merit but without Advisory Council review and approval. Grants in excess of $35,000 continue to require approval by the Advisory Council.

REPORT TO CONGRESS

The House amendment requires the President to conduct a review of all administrative provisions under which the National Cancer Attack Program shall operate within one year. Such findings shall be reported to the Congress together with recommendations for any legislative changes. The President is also directed to request without delay any additional appropriations and authorizations as are required to pursue any development in the National Cancer Attack Program for which regularly appropriated funds are not immediately available.

PRESIDENTIAL APPOINTMENT OF THE INSTITUTES' DIRECTOR

The House amendment provides for the Presidential appointment of the Director of the National Institutes of Health and the Directors of the National Cancer Institute, the National Heart and Lung Institute, and the National Institute of Neurological Diseases and Stroke. Such Directors are also designated as associate directors of the National Institutes of Health and shall report directly to the Director of the National Institutes of Health.

The House amendment further provides that the Director of the National Institutes of Health is elevated to Executive Level III; the Deputy Director of the National Institutes of Health; the Deputy Director for Science, National Institutes of Health; the Director of the National Cancer Institute; the Director of the National Heart and Lung Institute; and the Director of National Institutes for Neurological Diseases and Stroke are elevated to Executive Level IV.

EXPLANATION OF CONFERENCE SUBSTITUTE

The conference substitute accepts the provisions of the House amendment with the following substantive changes in the House amendment:

(1) All references to diseases other than cancer are omitted.

(2) In lieu of the National Advisory Cancer Council the conferees adopted a modified version of the Senate provision for a National Cancer Advisory Board as follows:

The National Cancer Advisory Board shall be composed of eighteen members appointed by the President and five Federal officials who shall serve ex officio. Not more than twelve of the appointed Board members may be scientists or physicians with outstanding backgrounds in research, diagnosis, or treatment of cancer or in related fields and not more than eight may be members of the general public especially qualified to appraise the programs of the Institute. Ex officio members of the Board shall include the Secretary of Health, Education, and Welfare, the Director of the Office of Science and Technology, the Director of the National Institutes of Health, the chief medical officer of the Veterans' Administration (or his designee), and a medical officer designated by the Secretary of Defense. The Chairman will be designated from the appointed members by the President.

The conference substitute follows the Senate bill, which establishes administrative procedures to be followed by the Board; empowers it to hold hearings on and evaluate the National Cancer Program and directs it to make an annual report to the Congress. The Board will be charged with the responsibility of approving grants in excess of $35,000, as was provided by the House bill. The Board supersedes the existing National Advisory Cancer Council, takes over its functions (including fees review functions for grants over $35,000), and includes in its membership the present appointed Council members for the duration of their terms or if the President so determines their terms may be shortened or terminated.

The conferees intend that the Board shall maintain the same high level of scientific review which has characterized the decisions of the Council.

(3) The conference substitute provides that the Director of the National Institutes of Health and the Director of the National Cancer Institute shall be appointed by the President and that, except with respect to budget matters, the Director of the National Cancer Institute shall report directly to the Director of the National Institutes of Health.

The House amendment provides for the establishment of 15 new Clinical Research Centers, with support by the Federal Government for such centers at levels not to exceed $5 million a year (exclusive of assistance for construction). This limitation is not intended to preclude any such center, or researcher at such center, from receiving research or training grants under provisions of law other than this section.

HARLEY O. STAGGERS,
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Managers on the Part of the House.

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J. GLENN BEALL, Jr.,
ROBERT TAFT, Jr.,
Managers on the Part of the Senate.

STRATEGIC STORABLE AGRICULTURAL COMMODITIES ACT OF 1971

Mr. POAGE. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 1163), to authorize the establishment and maintenance of reserve supplies of soybeans, corn, grain sorghum, barley, oats, and wheat for national security and to protect domestic consumers against an inadequate supply of such commodities; to maintain and promote foreign trade; to protect producers of such commodities against an unfair loss of income resulting from the establishment of a reserve supply; to assist in marketing such commodities; to assure the availability of commodities to promote world peace and understanding; and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Texas.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 1163, with Mr. NEDZI in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Texas (Mr. POAGE) will be recognized for 30 minutes and the gentleman from California (Mr. TEAGUE) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Texas (Mr. POAGE).

Mr. POAGE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I do not believe the House needs further explanation of this bill. Most of the Members who were here heard the discussion on the rule, and other Members already had either made up their minds or relied on someone who was here.

This bill does basically one thing, and that is to provide a limited method of carrying out the purchase of feed grains in lieu of the unlimited method under which the Secretary of Agriculture is now acting. He has already indicated his support for exactly this procedure, and one of his first announcements was that he was going to begin to buy corn.

That is what the bill does, it requires him to buy grain but the bill does set safeguards around the way the grain is handled. If the Members want an orderly procedure, they will adopt the bill. If the Members simply want to say that the Secretary is buying corn, then, of course, the Members will vote against the bill, and say the Secretary is doing everything that is needed.

Mr. Chairman, I reserve the balance of my time.

Mr. PURCELL. Mr. Chairman, this is an eventful day for the farmers and consumers of America. The bill we are considering—to authorize the establishment and maintenance of reserve supplies of farm commodities—has been needed for a number of years. It cures one of the biggest single defects of government farm programs—the inability to have a truly insulated reserve against which the Secretary of Agriculture could rely when trying to anticipate the allowable planting for the next crop year. If enacted, it would assure that, in lean years we would always have an available commodity supply.

For me personally, and for many of us who have supported this concept in past years, it is a signal victory that we are able to consider the reserve concept today. Without the strong leadership of the Speaker, majority leader, the majority of the Rules Committee chaired by the gentleman from Mississippi (Mr. COLMER), the outstanding contribution of the gentleman from Texas (Mr. POAGE), our chairman of the Committee on Agriculture, and those members of the committee who are honestly trying to do something about the disastrous farm situation today, the bill would not be here. Four years ago, in 1967, we were on the verge of moving my own bill to establish the reserve concept into law, but we simply did not have the horsepower to get it done. Today, the situation demands it.

In order to meet their assigned objective of maintaining adequate supplies of food and fiber for domestic consumption and world trade, the Food and Agriculture Act of 1965, and its successor, the Agriculture Act of 1970, gave the Secretary of Agriculture the burden of estimating production and world consumption for upcoming years and promulgating standards and allowable plantings of wheat and feed grains in order to meet this goal.

Historically, farmers plant to the limit of the Secretary's pronouncements. In making the decision as to the size of next year's crop, and the amount of acreage to be allotted to each State for planting, the Secretary must consider the anticipated domestic consumption of feed grains and wheat, anticipated exports, imports, if any, and anticipated use of commodities for seed and feed. He must also hazard an estimation of the average production per acre, taking into account such variables as climate, effects of plant disease, and historical data as to productivity of various strains of the seed.

The possibilities for misestimation are obvious and historically real. From a surplus nationally, southern leaf blight seriously reduced the 1970 corn crop. The Secretary's estimation in 1970 of the future of the disease was again wrong: Southern leaf blight failed to reappear, resulting in the production of a huge corn surplus, and corn prices fell far below the cost of production. Similarly, in 1970 and 1971, wheat production was misestimated. Despite a drought that destroyed the wheat crop in the areas of the Southwest, indicated production has now climbed to 1,627,575,000 bushels, and with a failure of demand in the world market, a carryover of 849,000,000 bushels is projected much of which will go into Commodity Credit Corporation loan stocks, as a burden on the domestic market.

Overproduction or underproduction—neither benefits the farmer, the American consumer, nor foreign nations relying on us as a reliable source of supply. Overproduction drives commodity prices below the cost of production, drives more and more people from farming as a source of income, and eventually, increases the migration to the already overcrowded urban centers. Because of the relatively high processing costs required to produce the finished foodstuffs the American consumer demands, actual food costs to consumers are actually reduced very little by heavy production. In world trade, reliability of supply is as important as abundance, since the latter must be offset against the demand of foreign markets.

Production which does not meet the total requirements of foreign and domestic markets, victimizes not only the farmer, who feels he should have been allowed to plant more, but the consumer. Shortage of grain will not only drive up the cost of foodstuffs made therefrom, it drives up the cost of meat from animals and poultry fed on grains. A necessary side effect of underproduction is to limit the availability of Public Law 480 shipments to needy areas of the world and turn the Public Law 480 program into an expression of American care for the needy of other countries, available only in times of superabundance.

The 1971 crop year, coupled with projections for 1972, provides particular emphasis for the necessity of meeting the twin demands of adequate supplies, and viable market conditions to maintain the American food producers' role as economically desirable. The U.S. corn crop, originally estimated by the Department of Agriculture to be as low as 3.8 billion bushels is now estimated at 5.4 billion bushels. As a result, in the farm belt, corn on the farm has dropped from a June price of $1.42 to 92 cents at harvest time—or less than the cost of production. The wheat crop, planted under the encouragements of the 1970 Agricultural Act's "set-aside" approach, is now estimated at 1,627,575,000 bushels, despite a major drought in some planting areas, with a carryover of 849 million bushels. The previous average carryover for the years 1964–68 was 627 million bushels and wheat has fallen from 1970's $1.41 per bushel to $1.26 in mid-September 1971.

Moreover, reliable estimates which have looked at the increased acreage, larger use of fertilizer, and new, higher yielding varieties, have estimated that acreage and total production for 1972 may equal or exceed the total for 1971. Against a world market background of the "green revolution" which has changed India, for example from a net importer to a projected commodity surplus country by the end of 1971, a surplus of raw commodities which will glut the market appears inevitable.

H.R. 1163 meets the challenge of today's demands and production capacity of the American farmer by enacting into law the "strategic grain reserve" concept—also referred to as a "national food bank." The thrust of the legislation is to "lock up" an important part of the huge surplus of wheat and feed grains presently burdening the American market, and hold the stocks so acquired for one of two purposes: either for sale, at 120 percent of the average market price for the previous 5 years, or for the specifically designated uses enumerated in section 4 of the bill. These uses are:

First. To relieve stress in any area of the United States:

Second. Use in connection with a civil defense emergency; and

Third. To provide feed for livestock in any emergency in order to preserve critical foundation herds.

In order to establish the reserve, the Secretary of Agriculture is given the authority to buy up 300 million bushels of wheat, and 25 million tons of feed grains, paying the average price farmers received for such commodities during the preceding 5 marketing years—adjusted to reflect location and grade price differential—proportioning purchases to the various varieties and grades of each of the commodities to correspond to usual marketing demands. The reserve will be held for sale or use as mentioned above, and provisions are contained within the bill to provide for normal turnover of stocks, and storage, if practicable, in producer-owned farm storage facilities.

Enactment of H.R. 1163 in a time of surplus, such as the present, is obviously proper: The reserve would give strength, continuity, and resultant stability to an erratic market swollen by domestic overproduction, and facing difficult foreign trade circumstances, not the least of which has been a U.S. dock strike of mammoth proportions. If an adequate reserve had already been enacted, the Secretary of Agriculture would not have felt the need for increasing 1971 corn acreage, with the resultant depressing of farm prices.

H.R. 1163 provides for an insulated reserve to be acquired in time of abundance, and used in time of shortage. It would be more insulated from the market than the present CCC stocks acquired through non-recourse loans: These have been more directly connected to and operated in conjunction with farm income operations only, and on some occasions have acted to depress income, as well as increase it. The reserve established under H.R. 1163 would operate as a balance wheel and not be charged with conflicting objectives.

Mr. Chairman, I notice that our friends across the aisle are valiantly trying to defend the administration's record in farm policy by threatening to vote against the bill, or to amend it with some sort of a new lower payment limitation. In this respect, I believe that all of us will agree that it is high time that we quit playing politics with the grain reserve concept and enact it into law. The bill itself may have slight imperfections, but it is certainly a far greater step toward assuring adequate income to the farmer than anything they have received to date from the Nixon administration.

In place of a more prosperous farm program under the Democrats, we now find that parity has slipped to an historical low, that consumer protection programs administered by the Department have been gutted, and we have corn piled on the ground across half the heartland of America. To top it off, at a very time when small family farmers are in the direst straits of the century, they appoint a man to the Secretary's job who, if past performance is any indication, has little concern for anything but the agricultural conglomerates who produce food at higher costs and poorer taste quality than the family farmer. I sympathize with my friends across the aisle. Many of them have quite logically abandoned the destructive policies of the administration toward farmers, and have gone instead toward a more constructive viewpoint. They realize that the only help the farmer is going to get is going to come from right here, on the floor of the House. And the only help we have to offer, at present, is what is being heard on the floor of the House today.

Mr. Chairman, I have tried to avoid being an alarmist during the 10 years I have spent in this body. But I am alarmed today. Rural America is being gutted. The economic opportunities in the heartland are no longer there. Young people cannot enter farming, because they cannot afford the cost of land, high expenses incurred in production under the present farm program, which I trust everyone will recall, we passed 2 years ago under assurances of veto, if we did not.

This is not my own personal bill, but I support it as the best available at this particular time. I also support the amendment to be offered by the gentleman from Montana (Mr. MELCHER). To vote against the bill, or to vote for crippling amendments that gut its promised effect, is condemning rural America to economic death.

Today, we have the opportunity to put hope into the eyes of the small American farmer. Today, we also have the chance to provide an assurance that this Nation need not suffer from commodity shortages. Now is the time for the Congress to decide whether it is going to go along with administration efforts to drive American farmers into bankruptcy, while corporate farmers pick up the pieces and drive food costs higher and higher; or whether we are going to stop this continual depressing situation of higher production costs and lower farm income.

Mr. Chairman, I ask favorable consideration and passage by the House of Representatives for H.R. 1163.

Mr. TEAGUE of California. Mr. Chairman, as I hope I made quite clear in debate on the rule, I am completely opposed to the bill. I will not repeat the arguments I made at that time.

Mr. Chairman, we do have some requests for time on this side of the aisle. I yield 10 minutes at this time to the gentleman from Pennsylvania (Mr. GOODLING).

Mr. GOODLING. Mr. Chairman, I thank the gentleman from California for yielding this time.

First of all, let me say I yield to nobody in this Congress nor to anybody in the United States in my interest and my desire to get the U.S. farmer off the bottom of the economic totem pole. He has been there entirely too long, but in my opinion what we are proposing to do here tonight, or at least what some Members are proposing to do, is not in the way of helping the farmer off the bottom of that pole.

Let me ask: Does this Nation need a granary?

Some have been considering reserves ever since Biblical times. Scripture tells us that Egypt was warned it would have 7 years of famine and 7 years of plenty. We have come a long way since that time. We have come a very long way since that time. The situation today is completely different. Can anyone in this House, can anyone anywhere tell me or show me when we have ever had a complete crop failure? Sectionally, yes; nationally, never.

Last year the Southern corn blight reared its ugly head over the farmers of this Nation, and we were very much concerned as to what might happen to this year's corn crop. This was a relatively new disease about which we knew very little.

Let us take a look at what happened this year. The figures are not all in at this time, but the USDA estimates indicate that the corn crop this year was 5.4 billion bushels. That is 32 percent higher than last year's crop, and the former record was 4.76 billion bushels, and that occurred in 1967.

Let us take a look at wheat. The crop this year has been estimated at 1.63 billion bushels. That is 18 percent above last year's crop, and it is a new all-time high.

Unfortunately some political considerations have crept into this granary that we are talking about here tonight.

Let me ask you, gentlemen—and ladies, if there are any in this House tonight—when are we going to learn this undeniable fact? I have been a farmer probably longer than any other man in this House. We are simply overproducing practically every farm commodity today.

Let me point out there are far fewer farmers but these fewer farmers are producing far more commodities. And with the technology we have today, gives us every indication that this trend of overproduction is going to continue.

The question we face today is this: Do we put the Government further into the farmer's marketing with the reserves, or work toward freer markets for farm products?

Let us look at some of the results which will occur if this bill is enacted into law.

First of all, it will be administered by the Commodity Credit Corporation. Let us take a look at just how fortunate the Commodity Credit Corporation has been in disposing of farm surpluses. Unfortunately, tonight I do not have any figures for feed grains and wheat, but I do have some for peanuts that I want to point out to the Members of the House. The same thing is going to continue for the feed grains and wheat if this bill is enacted, that has happened to peanuts.

Practically every day the members of the Committee on Agriculture—I assume these come only to the members of the Committee on Agriculture—receive a news release from the Department of Agriculture. I picked these off my desk this morning. These can be duplicated practically every week, two or three or four times.

November 17. "U.S.D.A. sells peanuts, offers more." This release points out that on this sale they sold 3,667,000 pounds of shelled crushing peanuts and 39,262,000 pounds of farmers stock peanuts. They were also offering another 6 million pounds of shelled peanuts and 56 million pounds of farmers stock peanuts.

November 26. "U.S.D.A. sells peanuts, offers more." This sale was 6 million pounds of shelled crushing peanuts and 46 million pounds of farmers stock peanuts.

December 2. Again they have a sale of 5 million pounds of shelled crushing peanuts and 36 million pounds of farmers' stock peanuts. And they also offer for sale 6 million pounds of shelled peanuts and 52 million pounds more of farmers stock peanuts.

Why do I quote these figures? I hope Members will pay attention to this, and especially the people who are dollar conscious.

I point out these figures simply to show what this program will cost the American taxpayer.

This is the point I want to make in connection with this program. I have not checked these figures recently, but the last time I checked, the Commodity Credit Corporation was losing 10 cents a pound on every pound of peanuts it sold. I think it is very important that the people of this country should know this.

The issue we face today is this: Is this plan good for the farmers; is it good for the general public? I and many of my colleagues in this House and on the Committee on Agriculture believe that it is not in the best interests of the farmers and that it is simply one more luxury that the American taxpayer cannot afford.

Proponents say that this will raise the price of feed grains and wheat. What happens when reserves accumulate? Someone has said—and I think this is a very good statement—that these surpluses hang like the economic sword of Damocles as a threat to higher farm prices. I agree with that statement.

This bill says we must sell the surpluses for 120 percent of the previous 5-year market average. Is there anyone in this House who is sufficiently naive to think this can be done? How can we continue or how can anybody continue to sell farm surpluses at 120 percent above the previous 5-year average? It just cannot be done. If there were a Houdini in the House or a Houdini in the Department of Agriculture, I might agree that it can possibly be done, but unfortunately we do not have such an individual.

Now let us look at the cost. This has been brought out to a certain extent, but some things have not been said.

For example, the U.S. Department of Agriculture estimates that for the purchase of this wheat and feed grains the cost will be $1.455 billion. That is for 300 million bushels of wheat and 25 million tons of feed grains. This is one point I do not believe has been brought out.

As I stated, costs have been brought out on the floor of the House, but one thing I do not believe has been stressed, and I want you to pay attention to it: this grain and this wheat is going to be stored at an annual cost of 13 cents per bushel, most of this going to grain elevator operators.

We have had no estimated transportation costs.

Anyone who is familiar with grain storage knows great care must be exercised in maintaining quality. It is subject to rodent damage and many types of insects and weevils. This can also be quite costly.

In summary, then, this bill could be a bonanza for grain elevator operators.

Eventually it will react against rather than in favor of the grain farmer.

With a national debt of more than $417 billion, I do not propose to support this bill which will place more of a burden on the already overworked taxpayer.

It will prove to be ineffective and further complicate an already complicated farm program.

As has already been pointed out, an almost identical program was vigorously opposed by the gentlemen on the other side of the political aisle during the last Republican administration. If any justification was given for this 180-degree turn, it must have been given in a very low key. I failed to hear it. We have reached a sorry state of affairs when the American farmer is used for a political football.

Mr. TEAGUE of California. Mr. Chairman, I yield 5 minutes to the gentleman from North Dakota (Mr. ANDREWS).

Mr. ANDREWS of North Dakota. I thank the gentleman for yielding.

It seems every time we have a piece of farm legislation it comes up in the middle of the night.

I think it is important for the Congress and the Nation to take a look at why we are in the position we are in today.

This is not the farmers' fault. We had corn blight affecting this very staple feed grain crop, and the Secretary of Agriculture decided in the interest of the consumers and of the Nation as a whole that the feed grain acreage ought to be increased. If any error is to be made in agricultural practices by the Secretary, he seems to err on the side of overproduction in order to protect the consumers of the Nation. We are here tonight testifying to the fact that the farmers were efficient and produced the goods necessary to save our country from the dire consequences of a possible shortage.

I am getting sick and tired of listening to people talk about the farmers being inefficient and needing a handout and consider a farm program as a luxury. It is not a luxury.

Actually, Mr. Chairman, our farmers are providing our country with an adequate supply of corn, wheat, and other feed grains. This is a kind of an insurance policy for the Nation as a whole. But because we opened up production we had a big crop and the prices came way down below the cost of production. That means that the American farmer which constitutes 5 percent of the population is being forced to pay the total premium on this insurance policy for an adequate food supply for the balance of the Nation.

Mr. Chairman, it is unfair and I think anyone would agree when looking at the total situation. There are two bills to be considered tonight. There is the Smith bill to take some of the surplus out of the marketplace and put it in storage, so that it will be there in case of future corn blights and then there is the bill that Mr. MELCHER and I have cosponsored which will be offered as an amendment which we think will improve the Smith bill because it increases the price to the farmer by 25 percent. It keeps that grain in storage on the farm so that the farmer gets the 13-cent storage payment. So this grain remains on the farm from where it can move into our food distribution channels when it is needed to the four corners of the world where people are hungry and starving.

Mr. Chairman, I think it ought to be pointed out today that our farmers are efficient. They are doing a darn good job for America. The reason they are in trouble tonight is not their fault.

Secretary of Agriculture after Secretary of Agriculture through many, many past administrations have done the same thing with reference to the farmers' problems. In fact, if you put the last 10 Secretaries of Agriculture into a bag, shook it up, and pulled out one of them, it would not matter which one you pulled out because all of them were on the side of the consumer and the farmer has taken it in the neck.

This measure, Mr. Chairman, is designed to better protect the American farmer. This will give our farmers a fairer shake than the situation which they now face, where we find wheat here in this country selling for $1.40 a bushel while in Europe it is selling for $3.40 a bushel. Corn which brings less than $35 per ton here is selling at the rate of $112 a ton in Latin America where people are starving and Castroism is moving in. It is ridiculous that we let our farmers be forced out of the major markets of the world.

Mr. Chairman, our farmers are efficient producers.

If tariff barriers were removed, we would not have such a great reliance on farm programs. However, a part of the reason for this legislation today is to make up for what the striped-pants boys in the State Department have done to our farmers at the trade negotiating tables around the world. If they had stood up for the American farmer in the Kennedy round of negotiations and in the GATT agreements, we would not be in the trouble in which we find ourselves today. Our feed grains and wheat would be going into other nations of the world where people are hungry and where the prices are right. This would be of great benefit not only to the farmers of our Nation but the people who live in the cities because it would have a direct effect upon our balance of payments and gold outflow. Yes, the lack of these markets were a major reason for the economic problems confronting us that led to the President's action of last August 15.

Yes, Mr. Chairman, this legislation is necessary and we need this legislation very much, not only for the farmers of America but for all of the people of the country and for the future of the country.

Mr. Chairman, I thank the gentleman from California for yielding me this time.

Mr. TEAGUE of California. Mr. Chairman, I yield 5 minutes to the gentleman from Minnesota (Mr. ZWACH).

Mr. ZWACH. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I want first of all to say that I do not consider this a partisan matter. It is not a partisan matter, because every administration has had the plague or the blessing of a surplus.

If you read the chart that the gentleman from Iowa, my neighbor, Mr. SMITH presented with regard to surpluses, you saw a down dip in 1971, but you also saw one in 1966. Then it was announced that we were going to feed the world, and we suffered a tremendous drop in feed grain prices now, the blight scare did not develop and again we suffered a big drop in prices.

So it is not a matter of partianship. In fact, Members of the House and Members on my side of the aisle, 22 of us Republican Congressmen petitioned the President and the Secretary to purchase on the open market and set aside into a reserve, 600 million bushels or more of corn. We have already set in motion a strategic reserve. Every administration needs it. The Secretary is already purchasing corn. He is already putting out bids.

The question tonight resolves around this:

Shall we as the Congress have something to say about how it is purchased? About at what figures it is released? Or shall we leave that entirely to the Secretary? That is what is involved tonight in this legislation.

I introduced a strategic reserve bill similar to this. The hazards that are peculiar to my business of agricultural production are so great that without a reserve no Secretary can properly have balanced production.

The question is, How do we best preserve for consumers and for producers a proper balance? For consumers, a hunger insurance policy—and believe me, that is exactly what it is, a reserve is a hunger insurance policy, it is just as important for the consumer as it is for the producer.

And so, very briefly—and the time is late—I would like to say some more things, but the hour is late. I think the time has come for us as the Congress of the United States to write a reserve program and not let all flexibility rest in the Secretary of Agriculture. We gave too much power to the Secretary in the 1970 act. Again and again and again. I tried in the committee, as these gentlemen know, to strengthen that legislation to give to the Congress more of a voice, but we were not able to do that. But I do not believe that we ought, now that we ask the Secretary to buy corn, to leave it entirely up to him how he is going to set it aside, and at what prices it shall be released. I believe we need a strategic reserve bill.

Mr. TEAGUE of California. Mr. Chairman, speaking for myself, I have been very proud of the last two Republican speakers.

I now yield 5 minutes to the gentleman from Illinois (Mr. FINDLEY).

Mr. FINDLEY. Mr. Chairman, I would like to direct a question or two to the distinguished chairman of the House Committee on Agriculture, if I can have his attention.

USDA places a figure of $441 million annual cost to the so-called Melcher bill. I wonder if the very knowledgeable chairman of the House Committee on Agriculture could state whether or not he feels that an estimate of $441 million annually is a reasonable estimate?

Mr. POAGE. Mr. Chairman, if the gentleman will yield, if the program should be administered as ineptly as the Department of Agriculture has shown ability to administer programs under this administration, probably $441 million is a very conservative figure. But if the program is administered with any degree of sound judgment it ought not to cost $100 million.

Mr. FINDLEY. It ought to cost $100 million? Would the gentleman support an amendment which would put a limitation of $100 million on the cost of the program?

Mr. POAGE. No; I will not because your Department of Agriculture will still have charge. They will probably make the same mistakes in the future they have made in the past.

Mr. FINDLEY. If the gentleman has that little confidence in the U.S. Department of Agriculture, I think he would defer the consideration of this bill until some distant date when we might have another man in charge of the Department.

Mr. POAGE. If the gentleman will yield, that is the very reason for having the bill—if we had a department which was taking the steps that they knew should have been taken, there would not be the slightest need for this bill.

It is because of a penchant to make errors in the calculations of your department that we need the bill.

Mr. FINDLEY. I wonder why the gentleman and the party that he leads so ably in this field did not take action to adopt a bill like this during 8 years that Orville Freeman headed the Department?

Mr. POAGE. Because Orville Freeman was not making any billion-bushel mistakes.

Mr. FINDLEY. How come we got such a bad situation so suddenly once Mr. Freeman left office? Can the gentleman shed any light on that?

Mr. POAGE. Yes, certainly. I am not suggesting that there was wrongdoing but they made a billion-bushel mistake in estimating this year's corn crop. But there was corn blight last year and it did cut the corn crop very materially.

Mr. FINDLEY. You cannot blame the Department of Agriculture for that; can you?

Mr. POAGE. I do not blame the Department of Agriculture for the blight. But the Department of Agriculture assumed that the blight would be just as bad this year as it was last year and they tailored their program on that assumption, which was an erroneous assumption.

Now I recognize that all of us are better second guessers, when we are looking back to the past than we are in foreseeing the future. But the fact is your Department made a billion bushel error in their calculations of the corn crop and that caused the need for the bill.

Mr. FINDLEY. I thank the gentleman for those comments. I am sure the new Secretary of Agriculture will take note of his estimate that $100 million properly administered would be adequate to finance the Melcher part of this proposal.

I am concerned about the effect of the Melcher provision on the soybean crop. What we actually had this past year was really a shortage of this very popular crop. Too many people planting corn—with the oversupply of corn and the undersupply of beans. What will be the effect of the Melcher bill next year? Will this not induce the farmers to stay in the corn program and give them a strong financial incentive to pour on all the fertilizer they can to produce every ear of corn they can out of their land? Likely they will shift where they can away from soybeans, create a new surplus of corn and a shortage of soybeans. That is a very serious concern.

Mr. MELCHER. Mr. Chairman, will the gentleman yield?

Mr. FINDLEY. I yield to the gentleman.

Mr. MELCHER. I want to comment on the last question the gentleman posed.

I would refer the gentleman to last year's corn price when corn was selling at $1.40 during the spring at signup time for the corn program. It was the best price corn farmers had had in a long time and the Department got the best signup they ever got in history.

So I would assume, if they got the price of corn back to $1.25 or to $1.30 perhaps, they would get the best signup they have ever had in history.

Mr. FINDLEY. Can the gentleman give me an estimate as to the cost of his bill? He heard the estimate of the chairman of the committee, I am sure.

Mr. MELCHER. I know the gentleman from Illinois wants to be entirely correct on the Department's estimate on the cost of my bill.

The Department's estimate shows that $160 million saving in wheat certificates. That is a saving in payments. Subtracted from the total cost that the gentleman mentioned leaves a net cost, according to the Department's estimate, of $281 million.

But I would hasten to point out that that $281 million is mostly outlay for the crops and, when the crop is sold, they will get most of the $281 million back.

Mr. FINDLEY. One thing is sure: It is going to cost a lot of money.

Mr. Chairman, total cost of operating the program called for under the strategic grain reserve bill if the Melcher amendment language is approved as part of it, would be $2.051 billion in 1972.

Add this to the recent estimate of program payments to farmers for 1972 of another $2.850 billion for wheat and feed grain producers, and the total cost to the U.S. Treasury in 1972 for these two commodities alone will be nearly $5 billion. To this must be added costs of administration.

Broken down:

[In billions]

Under H.R. 1163, the procurement costs of the grain	$1.4
Annual storage costs	.210
USDA estimate of H.R. 8290 annual costs	.441
Total	2.051
USDA estimate of 1972 wheat payments and feed grain payments	2.850
Total	4.901

At my request USDA supplied the following data on costs and prospective savings:

WHEAT, FEED GRAINS, AND COTTON: MARKETING RECEIPTS AND DIRECT GOVERNMENT PAYMENTS, 1965–72

[In millions]

Year	Wheat	Feed grains	Cotton lint	Total
Marketing receipts:				
1965	$1 637	$3,152	$2,065	$6,854
1966	1,948	3,718	1,322	6,988
1967	1,917	3,768	931	6,616
1968	1,568	3,714	1,093	6,375
1969	1,725	3,893	1,193	6,811
1970	1,560	4,078	1,047	6,685
1971 (preliminary)	1,995	4,352	1,228	7,575
1972 [1]	1,840	3,973	1,282	7,095
Direct Government payments:				
1965	525	1,391	70	1,986
1966	679	1,293	773	2,745
1967	731	865	932	2,528
1968	747	1,366	787	2,900
1969	858	1,643	828	3,329
1970	871	1,504	919	3,294
1971 (preliminary)	872	1,193	820	2,885
1972 [1]	900	1,950	820	3,670

[1] Forecast.

Source: Department of Agriculture.

PROBABLE SAVINGS IN PROGRAM COSTS FROM A $20,000 LIMIT PER PRODUCER

More than 10,000 producers earned payments of $20,000 or more from one or more of the 1971 cotton, feed grain, or wheat programs. Of these, 79 earned payments of $20,000 or more from 2 programs, and 5 exceeded $20,000 from each of the 3 programs.

Payments to these producers totaled more than $347 million, or about $145 million in excess of $20,000 each (Table 1). Thus $145 million is the maximum saving that could be expected by lowering the limit from $55,000 per producer to $20,000.

Some perspective with regard to actual savings can be gained by observing the results of the $55,000 limit in 1971 programs. In 1970, nearly 1,400 producers earned $70 million in excess of $55,000 each. For 1971, most of these producers had adjusted their farming operations so that only 467 producers had payments reduced just over $2 million (Table 2). This $2 million is a minimum estimate of savings.

Changes from 1970 to 1971 in the wheat and feed grain programs reduced 1971 payments to these producers, so that the reductions resulting from the payment limitations were not as great as the excess of 1970 payments over reductions in 1971. Some of the largest feed grain producers were principally barley producers; and with barley out of the 1971 program, these payments were eliminated. Also, voluntary diversion of feed grain or wheat was not an option under the 1971 programs; thus, payments to most producers were smaller in 1971, and fewer were affected by the $55,000 limit.

The combination of a smaller payment per pound of cotton, and a slightly larger acreage on which the payment was based resulted in an 8-percent reduction in payments per acre to cotton producers in 1971 compared with 1970. But most of the differences between payments in excess of $55,000 in 1970 and the reduction in cotton payments in 1971 resulted from adjustments by producers to minimize the effect of the payment limit. Some large producers unable to transfer allotments to smaller producers may have reduced their acreage of cotton to only the amount for which they could receive payments. The extent of such adjustments is unknown, but they would have caused some reduction in cotton program costs beyond the $1.3 million shown in Table 2. With a further reduction to a limit of $20,000, it may be increasingly difficult to find eligible producers to accept allotments, and savings may be correspondingly larger.

TABLE 1.—PRODUCERS EARNING PAYMENTS OF $20,000 THROUGH $55,000, BY PROGRAMS, 1971

Program	Number of producers	Amount of payments	Payment in excess of $20,000
Cotton	8,742	$308,117,488	$133,277,488
Wheat	1,112	32,009,382	9,769,382
Feed grains	247	7,185,549	2,245,549
Total	10,101	347,312,419	145,292,419

TABLE 2.—PRODUCERS EARNING PAYMENTS IN EXCESS OF $55,000 IN 1970 AND THOSE WITH PAYMENTS REDUCED TO $55,000 IN 1971, BY PROGRAMS

			In thousands of dollars			
	Number of producers		Total payments		Payments earned in excess of $55,000	
Program	1970	1971	1970	1971	1970	1971
Cotton	1,232	414	131,749	24,046	63,989	1,276
Wheat	67	42	5,971	3,046	2,286	736
Feed grain	94	11	9,501	777	4,331	172
Total	1,393	467	147,221	27,869	70,606	2,184

FARMERS GETTING PAYMENTS IN EXCESS OF $20,000 (PRELIMINARY)

	Farmer numbers	Amount paid
1971:		
Cotton	8,742	$308,117,488
Wheat	1,112	32,009,382
Feed grains	247	7,185,549
Total	10,101	347,312,419
1970:		
Cotton	7,753	327,701,000
Wheat	1,223	36,865,000
Feed grains	1,395	49,934,000
Total	10,371	414,500,000

Mr. Chairman, reprinted below is an editorial in the current issue of Farm

Journal which comments on the plain politics of the grain reserve proposal:

STRATEGY FOR PLENTY—OR FOR POLITICS?

"Corn—90c" Some country elevators chalked that price into painful reality in recent weeks. No one feels the pinch as sharply as the grower, of course. But the situation prompts a hard reappraisal for USDA officials; for farm-state Congressmen and Senators; for organization leaders; for anyone who cares about the economic health and well-being of farmers.

Everyone knows the role that corn leaf blight played in making this year's crop so unpredictable. Almost everyone knew last spring that we would end up this fall with either too little or too much corn. But that doesn't change or soften the result: In a year when your costs have soared to an all-time high, farmers probably will end up with an average market price for their 1971 crop (not including program payments) lower than in any year since 1960.

As they should, the administrators and lawmakers in Washington are asking themselves what more they can do. The Administration has already done several things—announced a re-seal program for 1969, 1970 and 1971 corn; liberalized loans for building on-farm storage; made an early announcement of the 1972 Feed Grain and Cotton programs; increased the set-aside and the payments so farmers will be able to divert more acres next year. There is doubtless more it could do such as invoke the Taft-Hartley Act to end the East Coast dock strike and get grain exports moving again.

But the desire to "do something" has resurrected in Washington several shop-worn and discredited proposals. They are an affront to the intelligence of farmers who remember the failures of past farm programs—and a cruel hoax to those who don't remember.

Take the proposal to increase the corn loan rate to $1.25 per bushel. It certainly doesn't seem right to keep the loan rate right where it was in 1960. Yet, when the Kennedy Administration boosted the rate to $1.20 in 1961, they discovered that was too high. By 1963, they had to cut it back near the old level, where it has remained.

One big reason why Secretary Hardin opposes an increase in the loan rate is his fear of what it will do to our exports. During the 1960s we learned that the loan rates on our wheat, cotton and feed grains created a bonanza for other exporting countries. We were guaranteeing a market for any country who could produce those crops for less than our loan rates.

We learned the lesson anew with soybeans in 1968. When the loan rate was increased to $2.50, oil and meal producers all over the world—of Russian sunflowers, Peruvian fishmeal, palm and coconut oil—rushed to cash in on the price we had guaranteed them. Our own soybeans began piling up in storage and were soon down to the support level in price. When the loan level was dropped to $2.25, our foreign competitors cut back, and soybeans resumed their climb—in price and volume.

A bigger surprise came last month when the House Ag Committee dredged up that hoary old remedy, "the strategic reserve." Senator Humphrey has since introduced in the Senate a similar bill, to establish a reserve inventory of wheat, feed grains and soybeans. He proposes to "insulate them from the marketplace so as to avoid their depressing effect on farm prices."

Somehow, the idea doesn't have the same clarion ring that it had in January 1954 when President Eisenhower made it a part of his farm program. He asked Congress then for the authority to "set aside $2.5 billion of our present farm surpluses for national defense, emergencies, disaster relief, foreign aid," etc. And he promised to "freeze" it so it couldn't affect market prices.

The rest is history. The "freeze" was meaningless. For ten years, the nation waited for emergencies and disasters that didn't come. All that time, farm surpluses hung over the market, depressing prices for farmers, making money for the elevators and grain tradesmen who were storing them, and making enemies for Secretary of Agriculture Orville Freeman when he finally began working them off into the open market.

In the words of a leading Congressman: "There's no padlock big enough to keep farm surpluses from affecting farm prices." Surprisingly, that same Congressman was among those who voted for the strategic reserve bill last month.

With the national elections less than a year away, it's entirely possible that Congress could force the Administration to make one of the above moves sometime between now and next fall. If it does, it will be for the same reasons that such moves have been made in the past: For temporary political gain rather than for long-term benefit to farmers.

Mr. TEAGUE of California. Mr. Chairman, I yield 4 minutes to the gentleman from Iowa (Mr. MAYNE).

Mr. MAYNE. Mr. Chairman, the strategic reserve bill to establish reserve stocks of wheat and feed grains, which we are now considering, is just one of the vehicles which have been suggested to raise the price of corn. A second proposal is to have the Commodity Credit Corporation immediately commence open market purchases of corn under existing authority of the Agricultural Act of 1949. Such action has already been initiated by the new Secretary of Agriculture, who on December 3, less than 24 hours after taking the oath of office, announced that such purchases will promptly begin.

Still another vehicle is H.R. 8290, a bill to increase the loan rates on wheat and feed grains at least 25 percent, which under the rule granted by a vote of 8 to 7 in the Rules Committee can be offered as an amendment to this strategic reserve bill now under consideration.

Whichever of these methods is pursued to improve the present market price of corn, there can be no question but what that market price is in drastic need of great improvement. This is the direct result of serious overproduction of corn this year, which in turn resulted from Government planning to allow for expected corn blight damage, which did not in fact occur.

It is easy with the wisdom of hindsight to now blame the Department of Agriculture for overreacting to the threat of blight, but the danger of a recurrence of 1970's serious infestation in 1971 was very real. A combination of drought and blight had reduced the 1970 crop 15 percent below July forecasts, and 10 percent below actual 1969 production; 4.58 billion bushels in 1969 compared with only 4.1 billion bushels in 1970, the latter figure being 360 million bushels below actual corn usage in this country.

Live blight spores were known to have survived the winter and to be thriving in fields in the heaviest corn-producing areas of the country.

Whatever the justification for that decision, the fact is the Department encouraged the farmers to increase production to make allowances for a recurrence of blight, and blight did not in fact recur. This combined with ideal weather conditions in planting, growing, and harvesting time led to production of a whopping corn crop now estimated to reach 5.54 billion bushels, up almost 1½ billion bushels from last year. The impact of this huge surplus on cash corn prices has been devastating. They tumbled 46 cents per bushel from $1.38 in mid-June to 92 cents for No. 2 yellow corn at Central Iowa markets in mid-October.

Farmers who expanded their production this year in direct response to their Government's request for more corn, are now suffering great economic hardship as a direct result. This continues even though there has been some improvement in the situation since back-to-work orders were obtained by the Department of Justice in the dock strike on November 26 and Secretary Butz ordered purchases of new corn in the open market on December 3.

No. 2 yellow corn at central Iowa markets has now advanced from a range of 92 to 94 cents in mid-October to a range of $1.02 to $1.05 on Monday, December 6. However, further substantial improvement is urgently needed as current prices are still definitely below the farmer's cost of production.

This continues to have a severely depressing effect on our cornbelt farm economy and corn farmers cannot endure continued distress selling at these levels. On the basis of all the evidence available to me, I sincerely believe that open market purchases under existing authority are the quickest and most effective way to raise corn prices. I have been advocating this ever since receiving word of the August 11 crop report. I wrote to the Secretary of Agriculture that date urging him to make market purchases of corn at harvest time to help stabilize prices. I continued to push for such open market purchases in conferences with the Secretary and in correspondence with the Department and the White House. I was one of 22 cornbelt Congressmen who wrote the President on November 1 urging him to order the CCC to start buying 1971 corn immediately and to buy up to 600 million bushels if necessary to raise prices to reasonable levels.

I am, of course, pleased that the new Secretary moved promptly and decisively to buy corn under existing authority as soon as he was sworn into office. He would have taken such action 3 weeks earlier if the other body had not taken so long wrangling about his confirmation. If I were to put pride of authorship first I would say the course of open market purchases which I have long advocated and which is now being implemented is the only one worthy of consideration. But the price situation in corn is too serious to justify any of us asserting pride of authorship. The important thing is not for me to get credit for the open market purchases which are now underway, or for the gentleman from Iowa (Mr. SMITH) to get credit for the strategic reserve bill, or for the gentleman from Montana (Mr. MELCHER), to get credit for his loan rate amendment. The important thing is that we all get together and back some effective program, any effective program to strengthen the corn market. For that reason I have told both the President and the Secretary of Agriculture that I will support them in any reasonable action which will improve the price of corn. I am also glad to vote for any reasonable action on the floor of this house tonight even though I happen to have a strong preference for the open market purchase method which the Secretary has instituted. I have been glad to support H.R. 1163, the strategic reserve bill on each occasion it has come up in the Subcommittee on Livestock and Grain and the full Committee on Agriculture, and I gladly support it again now. I intend to vote for it again on final passage, as one of the methods which may be used to relieve the severe pressure which corn market prices continue to suffer from this year's record crop.

Mr. OBEY. Mr. Chairman, it may seem as if an effort is being made here to put a limitation on farm program payments to individual farmers. What is really going on is an attempt to defeat income-boosting legislation which is badly needed by the farmers in this country.

I have supported legislation in the past to limit farm payments to $20,000. But this is not the place to do that. And anyone who really cares about helping our farmers knows that.

What really is at issue is legislation to stabilize grain supplies and grain prices and boost farm income at least to the level where farmers are not losing money by growing a bushel of corn. Also at issue is an amendment by Congressman MELCHER to increase the loan rate for feed grains and wheat by 25 percent.

It is hardly a secret that the farmers in this country are in serious economic trouble. Those in rural America have known this for some time, and if the nomination of Earl Butz did nothing else it did, I think, make known to those in urban America that the price of corn is much too low.

We have an opportunity today to correct that situation by supporting the strategic reserve bill with the Melcher amendment. All other attempts to fudge up this issue and kill this legislation ought to be defeated.

Mr. MICHEL. Mr. Chairman, I rise in opposition to H.R. 1163. While I agree wholeheartedly with the objective of this bill—to improve farm prices by taking some of our current grain surplus off the market—I cannot agree that the methods proposed here are the best way—or even a good way—to achieve that objective.

There is nothing new about the idea of a strategic agricultural commodity reserve, of course. We have been debating the advisability of such a reserve for years, and it always seems to boil down to the seemingly unresolvable question of just what a truly "strategic" reserve should be. Should it be primarily a grain-buying operation to boost farm prices, or should it be a permanent stockpile of all kinds of food which could be dipped into in the event of a real national emergency? Now, these are two very different things, and I do not think we can get by with mixing these two concepts.

This bill is not really a "strategic" reserve in any sense of the word. It deals only with raw wheat and feed grains. It terminates at the end of the 1973 marketing year. It does not effectively insulate the commodities from the market. And, it makes no special provision for storage so that the grain would be both protected and readily available for processing and use in all types of national emergencies. So, we must say that as a "strategic" reserve proposal, the bill is clearly inadequate. And, this does not even touch the basic question of whether or not a truly "strategic" agricultural reserve is, at this point, either necessary or desirable.

That brings us, then, to the issue of farm prices. Yes, most of us agree that farm prices are too low—grain prices especially, because of the huge crop and the dock strike, primarily. And, most of us agree that if the Federal Government can take any action to help boost those prices and move some of this grain, then it should be done—it is in the long term best interests of both farmers and consumers to do so.

But, does this bill provide an effective method of moving our grain surplus and boosting farm prices? No, it does not. Does it add anything to the authority already available to the executive in this area? No, it does not.

And, perhaps more important, does not a grain-buying bill disguised as a "strategic" reserve bill leave us with a more costly, confusing and downright dangerous mechanism than the Federal commodity programs we already have? Yes, unfortunately, it does.

The fact is that the Department of Agriculture already has all the authority it needs to purchase grain in the open market, and Secretary Butz announced last Friday that he intends to do so. The first offers for CCC purchases of corn on the open market will be due this Friday for acceptance December 13.

Unlike the existing CCC purchasing authority, the reserve bill would require purchases—mandatory purchases—of large quantities of wheat and feed grains, and once bought, the grain would just hang there, like a Damocles sword, over farmers' heads. I think the minority report of the House Agriculture Committee outlines very concisely the very real problems involved in the mandatory purchase and sale formulas in the bill:

> Neither does it take into account changing conditions. H.R. 1163 would base purchases and sales on a supply and demand situation that was projected as of a specified date near the beginning of the marketing year. The demand for grains cannot be pinpointed at the beginning of the marketing year since many variables affect both supply and utilization. Production estimates of the crops later in the year would change the supply-use relationship and consequent stock change. As a result, purchases might be required to be made at a time when sound policy indicated that sales be made or vice versa. Thus, in some years we might find that too much or too little was purchased.
>
> Even operating under ideal circumstances, if too much grain was removed from the market, the price would cause a decline in utilization. A decline in use in turn would bring a further increase in carryover and necessitate additional purchases. Additionally, the situation for a particular grain or group of grains could vary between regions. For example, an ample supply in the Pacific Northwest could occur at the same time there was a shortage in the Southeast.

Besides all this, the bill would add substantially to the costs of Government commodity programs without providing proportionate price benefits to farmers. It has been estimated that the total cost of the reserve bill would be about $1.455 billion, plus $215 million per year in storage costs. This is a tremendous cost for a very questionable result. It is true that almost any action to help boost farm prices is going to cost something, but I think the obvious cost-benefit ratio of the reserve bill shows that it would be a very poor investment, indeed.

In fact, we could be making much better progress toward solving some of the price problems of farmers if we were debating, right now, the President's strike legislation instead of this bill. The dock strike is one of the biggest factors affecting grain prices, pushing them down, and getting the docks operating again would be one of the best things we could do for farmers if we are really serious about helping them. Oh, I know we have got some grain moving now, but Taft-Hartley is temporary—on the west coast, the 80 days are up at Christmas. Talk about a Damocles sword—this dock situation really is one. I just wonder how many of my colleagues who are out here now pushing for this bill would lift a finger to help get some permanent, effective legislation to deal with this kind of strike?

And, there is just one last point I want to make before I stop, here. We hear a lot of loose talk about how the administration has not done a thing to help farmers—well, offhand, I can name at least a dozen specific things they have done in just the recent past, and I am going to list them, not because I think that everything is rosy or that the farmer never had it so good, but because the administration is trying to help farmers, and I want to see credit where credit is due. So, let us just run down through a dozen recent actions:

First. A larger quantity of corn is eligible for loan than ever before. This gives farmers an opportunity to hold a substantial part of harvest off the market in order to strengthen prices.

Second. With a larger proportion of the crop eligible for loan, more farmers than ever can get immediate cash through the loan program and hold their grain for better prices after harvest.

Third. The facility loan program under which farmers can borrow money from the CCC to erect farm storage was made more responsive to current needs, thus enabling farmers to get 65 million bushels of additional storage during the first 3 months of this fiscal year. This is nearly double the activity of a year earlier.

Fourth. Since January 1, nearly 70 million bushels of bin storage capacity has been shifted from Government to farm ownership, and thus is strategically positioned to help meet farmer storage needs now and reduce distress selling.

Fifth. The sharp reduction in Government-owned stocks of grain during the past year has removed the Government stocks as a major factor in tying up storage and overhanging the market.

Sixth. To help farmers get storage so they can get a loan, storage in Government-owned bins is available for farmers to rent. As a result of the stocks reduction, about 270 million bushels of bin-site space was available to farmers this fall.

Seventh. The loan program was changed to allow producers to enter into contracts to sell their grain for future delivery without loss of loan eligibility. This gives producers greater freedom to negotiate a better price.

Eighth. Early announcement of a broad reseal program which enables producers to extend support loans on 1969–1970–1971 crops through 1973 maturity dates enhances the bargaining power of producers through farmholding of reserve stocks. They also earn income for the storage of the reserve on farms—income that would be lost if the Government held the reserve directly.

Ninth. In order to make the loan available to all eligible producers, a distress loan for ear corn is available where permanent storage is short. This was designed to help cushion the adverse effects of the transportation tieup which delays grain shipments and subsequently depresses farm prices.

Tenth. To help storage short areas, loans can now be obtained at the local rate even though the grain is moved immediately to storage outside the production area. No transportation cost is charged producers. They still control the loan.

Eleventh. A major breakthrough in trade with Eastern Europe was the massive sale of feed grains negotiated with the Soviet Union.This provides an added market for this year's large feed grain crop.

Twelfth. USDA purchases of corn on the open market—announced Friday—will provide another outlet for our huge crop.

Now, these actions alone will not bring the millennium—they are no panacea. But this reserve bill would be even less so, for it would do little good and carries with it the potential for a great deal of harm. We are going to have to continue to search for ways to improve farm prices, to provide a fair return to America's farmers, but passage of H.R. 1163 is not a step in this direction.

Mr. RANDALL. Mr. Chairman, I support the Storable Agricultural Commodities Act of 1971.

Moreover, I supported the previous question on the rule to H.R. 1163 on the premise that if we voted down the previous question and would then have to endure the potentially divisive debate over the $20,000 limitation, those who opposed the $20,000 limitation might have enough numbers to defeat the rule. Then without a rule there would be no opportunity to pass H.R. 1163, the Strategic Storable Agricultural Commodities Act of 1971 before our adjournment sine die.

In the past I have both supported and opposed the efforts to limit payments to $20,000. In our congressional district, if my memory serves me correctly, there are only seven or eight who receive in excess of $20,000 and in these few cases, only slightly over the proposed limitation. In former years there was an effort at a $55,000 limitation. We supported that because it was a reasonable and workable restriction.

But, Mr. Chairman, tonight we are in a very different parliamentary situation. Faced with this unusual situation, the issue comes down to whether we want to do something for our hard-pressed feed grain farmers or do we want to stand on some kind of easy way out and say in effect we are sorry we could not surmount the complexity of the parliamentary procedure to help them before adjournment sine die. If we do not pass this bill we leave our American farmers in their worst condition since the days of Ezra Taft Benson.

Mr. Chairman, our farmers are suffering from low feed grain prices which have dropped sharply since the price freeze as a result of record crops. They are entitled to some relief, from these excessively low grain prices, not just sometime or anytime but now.

During the amendment process, I supported the Melcher amendment which was identical to H.R. 8290 introduced by the gentleman from Montana earlier this year. In effect it calls for an increase in the loan level for the 1971 crop by at least 25 percent, and that 25 percent would apply to the measure we are considering tonight.

The Smith bill, H.R. 1163, as amended by the Melcher amendment, will provide the means for our farmers to have some real help that is not now provided by the Department Agriculture's purchase program.

If any additional reasons are needed to explain why our corn farmers are in the fix they are, it is because the corn blight from which they had suffered in former years did not materialize this year. Consequently, corn and other feed grain prices are depressed to one of the lowest levels in recent times.

No one can be certain that H.R. 1163 will be an adequate answer to the depressed situation which exists in rural America. That is something that only time can tell. What this is then, is a sincere effort to try to help our farmers who cannot make payments on their farm machinery and who cannot meet payments at the bank because after the heavily increased planting to anticipate shortages which were predicted would result from corn blight. When the blight did not materialize the situation became so desperate that something drastic must be done to try to help. The hard, unvarnished, unpleasant facts are that the small farmer is today not making a living.

Mr. Chairman, when we look about to see who is for or against this bill it is strange to note that the administration opposes H.R. 1163, along with only one farm organization. All of the other large farm organizations, including all of those with membership in the Middle West, strongly support both the Smith bill and the Melcher amendment.

What are the consequences if we do not act on this measure? Well, if we do not pass this bill tonight, several hundred thousand more people will be forced to move from the farms to the cities, seeking jobs there that do not exist. Former farm communities which were prosperous have dwindled in a short time to mere ghost towns. If some kind of quick help is not provided to our farmers the migration of our farmers to the cities will not only continue, but with no jobs available in the cities, these people may be forced to live on welfare in order to survive. This legislation tonight may not be the answer or provide all the answers, but it is the only vehicle now available on which the House may work its will in a sincere effort to improve the desperate plight of our farmers when they need it most. That time is now.

Mr. FRENZEL. Mr. Chairman, even though a serious problem exists for our farmers, including those in my State, I intend to vote against H.R. 1163.

The bill came to us in a heavy-handed, amendment-resistant manner inconsistent with the House's tradition for fairness and impartiality. Since it could not be amended in the ways I thought necessary to protect the taxpayers, I am voting no.

The proponents are using a bona fide corn crisis to dispense this bill's largesse to wheat as well as corn, and they are unwilling to allow a vote on the needed $20,000 single farm limitation.

Since we are now in dangerous deficit position with respect to balance of payments, I question the wisdom of raising the price of our wheat without more careful consideration.

If the Quie amendment, excluding wheat, had been adopted, and if the $20,000 limit had been imposed, I would cheerfully have supported the bill.

In its present form it represents an unwise use of taxpayers' money and does not provide solutions to surplus problems. I hope the committee will now begin seeking long-term solutions to the corn surplus problem.

The CHAIRMAN. Are there any further requests for time?

Mr. POAGE. Mr. Chairman, in order to expedite the business, I will yield no further time.

The CHAIRMAN. There being no further requests for time, the Clerk will read.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act shall be cited as the "Strategic Storable Agricultural Commodities Act of 1971".

SEC. 2. Notwithstanding the provisions of any other law, the Secretary of Agriculture shall establish, maintain, and dispose of a separate reserve of inventories of wheat, and feed grain, and soybeans as provided in this Act.

Such reserve inventories shall include not more than the following quantities: (1) three hundred million bushels of wheat; (2) a total of twenty-five million tons of feed grain; (3) one hundred million bushels of soybeans. The Secretary is authorized to proportion reserve stocks of feed grains to correspond to usual marketing demands.

SEC. 3. The maximum price the Secretary shall pay for any commodity shall be the average price farmers received for such commodities during the preceding five marketing years adjusted to reflect the customary location and grade price differentials.

The net additional quantity of any commodity procured under this Act in any marketing year shall be the lesser of the following:

(a) 80 per centum of the net additional estimated total carryover for the marketing year; or

(b) the amount the maximum reserve inventory specified in section 2 above exceeds the total stocks of such commodity owned by the Commodity Credit Corporation at the beginning of the marketing year.

Such maximum prices and the quantity to be procured during the marketing year and the estimates used in arriving at the same shall be announced during such marketing year on the last Friday of July for wheat, on the last Friday of October for feed grains, and on the last Friday of September for soybeans.

The Secretary is authorized to proportion purchases of the various varieties and grades of each of the above commodities to correspond to usual marketing demands.

Sec. 4. Except when a state of emergency has been proclaimed by the President or by concurrent resolution of Congress declaring that such reserves should not be sold, the Secretary shall offer each commodity in the reserve for sale at a price of 120 per centum of the average price farmers received in the United States during the preceding five marketing years for the commodity involved adjusted to reflect the customary location and grade price differential or at such greater amount as may be obtained through normal market channels: *Provided, however*, That sales during any marketing year shall be limited to the net quantities by which estimated domestic consumption and exports exceed estimated domestic production and imports.

The Secretary is also hereby authorized to dispose of commodities in such reserve as follows:

(1) For use in relieving distress (a) in any area of the United States, including the Virgin Islands, declared by the President to be an acute distress area because of unemployment or other economic cause if the President finds that such use will not displace or interfere with normal marketing of agricultural commodities and (b) in connection with any major disaster determined by the President to warrant assistance by the Federal Government under Public Law 875, Eighty-first Congress, as amended (42 U.S.C. 1855 et seq.).

(2) For use in connection with a state of civil defense emergency as proclaimed by the President or by concurrent resolution of the Congress in accordance with the provisions of the Federal Civil Defense Act of 1950, as amended (50 U.S.C. App. 2251–2297).

(3) For sale in assistance in the preservation and maintenance of foundation herds of cattle (including producing dairy cattle), sheep, and goats and their offspring, under section 407 of the Agricultural Act of 1949, as amended (7 U.S.C. 1427), and to provide feed for livestock in any emergency area under the Act of September 21, 1959, as amended (7 U.S.C. 1427, note).

The Secretary may buy and sell at an equivalent price, allowing for the customary location and grade price differentials, substantially equivalent quantities in different locations or warehouses to the extent needed to properly handle, rotate, distribute, and locate such reserve. Such purchases to offset sales shall be made within two market days.

The Secretary may accept warehouse receipts in lieu of taking physical possession of the grain, but in such cases the obligor under the warehouse receipt shall be required at all times to have the grade stated on the warehouse receipt or a better grade available for delivery.

The Secretary shall make a daily list available showing the price, location, and quantity of the transactions entered into hereunder.

Sec. 5. The Secretary shall use the Commodity Credit Corporation to the extent feasible to fulfill the purposes of this Act; and to the maximum extent practicable consistent with the fulfillment of the purposes of this Act and the effective and efficient administration of this Act shall utilize the usual and customary channels, facilities, and arrangements of trade and commerce.

Sec. 6. There is hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

Sec. 7. The purchase authority under sections 2 and 3 of this Act with respect to each of the commodities specified shall expire at the end of the marketing year for the 1973 crop of such commodity.

Mr. POAGE (during the reading). Mr. Chairman, I ask unanimous consent that the bill be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

COMMITTEE AMENDMENTS

The CHAIRMAN. The Clerk will report the first committee amendment.

The Clerk read as follows:

Committee amendment: Page 2, line 3, after the word "wheat" strike the comma and insert the word "and".

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment: Page 2, line 4, after the words "feed grains" strike the comma and the words "and soybeans".

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment: Page 2, line 7, following the words "feed grains" strike the semicolon and insert a period.

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment:

The Clerk read as follows:

Committee amendment: Page 2, line 8, strike the phrase "(3) one hundred million bushels of soybeans."

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment: Page 3, line 3, after the word "wheat" strike the comma and insert the word "and".

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment: Page 3, lines 4 and 5, after the words "feed grains" strike the following: ", and on the last Friday of September for soybeans.".

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment: Page 3, line 5, insert the following: ": *Provided*, That for the 1971 marketing year such announcements shall be made as soon after the effective date of this Act as is reasonably possible.".

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment: Page 5, line 19, after the word "commerce." insert the following: "The Secretary is authorized to store grain purchased under this Act in producer-owned storage facilities and commercial storage facilities."

SUBSTITUTE AMENDMENT OFFERED BY MR. PRICE OF TEXAS FOR THE COMMITTEE AMENDMENT

Mr. PRICE of Texas. Mr. Chairman, I offer an amendment as a substitute for the committee amendment.

The Clerk read as follows:

Amendment offered by Mr. Price of Texas as a substitute for the committee amendment: Page 5, line 19, in lieu of the language proposed in the committee amendment, insert the following: "Insofar as practicable the Secretary shall store all grain purchased under this Act in producer-owned storage facilities."

Mr. PRICE of Texas. Mr. Chairman, with respect to H.R. 1163, the Strategic Storable Agricultural Commodities Act of 1971 as reported by the Committee on Agriculture, I offer an amendment to safeguard national and farmer interests in event this controversial bill were to pass the House.

I submit, as I pointed out in hearings on this bill and in additional views to the minority report in opposition to H.R. 1163, that this proposed measure, besides being a political contrivance as written, should contain specific provisions so that a true grain reserve would be structured so that the grain is stored on the farms by producers.

If this is to be a true strategic reserve from a national defense standpoint, it should be stored on farms in various areas of the country where it would be protected in case of emergency. This means also that the grain should be stored on the farms where it is produced, so that farmers receive the storage payments. This could be an important supplement to the income of hard-pressed farmers.

The sponsors of this bill have shown a remarkable disregard for producer equity, for the national interest, and for practical and desirable stock location and marketing practices.

In general, over the years, reserve stocks whose ultimate destinations are uncertain, are stored close to the point of production or along the main flow routes, out of major producing areas. Onfarm storage in context of H.R. 1163, is a logical extension of this practice. It should be mandated, as provided in the amendment I offer.

I would point out, too, that the prime importance of the marketing function often imposes limits on the quantities of grain that can be stored in particular commercial facilities. Many grain elevators are not set up to provide "dead storage" for extended periods. Their main function is profit in the marketing of grains, and this often involves turning their stocks several times during the course of a marketing season.

Some commercial capacity is used for rice, dry beans and peas, field seeds, flaxseed and soybeans, in addition to wheat and feed grains. Also, commercial grain elevators need some part of their rated capacity for working space. It is unrealistic not to face up to the fact that, unless specifically required otherwise, storage of reserves in off-farm commercial facilities would put a severe and unnecessary strain in some areas as bumper crops were directed to be moved off-farm.

In essence, my amendment to require onfarm storage of strategic storable commodities carries out the traditional and continuing policy of the Congress, and the particular goals of this administration, to maximize the accrual of benefits to those for whom commodity programs are designed—the producers. It is a betrayal of farmer trust to shovel storage profits to commercial conglomerates.

Under my amendment, farmers—not commercial interests—would retain control of their stocks committed to strategic storage. Farmers, not commercial interests, would earn and justly receive storage payments for the grains held under the program.

Onfarm storage of these reserves would be but a logical, practical, and sound adjunct to present policies of transition of CCC holdings to reseal holdings by the farmer, with storage payments going where they rightly belong. If additional onfarm bins would be needed in some areas, farm facility storage and drying equipment loan programs are available, and have proved successful and beneficial to the farmer.

In summation, I point out that for the 2-year period of the bill alone, storage payments to farmers on the grain quantities specified in the bill would amount to $120 million, based on a reserve of 300 million bushels of wheat and 600 million bushels of feed grains—mostly corn. If these reserves are to be maintained, then storage should be onfarm and the farmer should be the recipient of storage payments. Any other approach simply would be hypocritical to any assertion of protecting farmers' interests and income.

Mr. QUIE. Mr. Chairman, will the gentleman yield?

Mr. PRICE of Texas. I yield to the gentleman from Minnesota.

Mr. QUIE. I commend the gentleman for offering this amendment. I would have preferred even to have the language "insofar as practicable." deleted from the amendment.

This program is going to cost $215 million for storage, and I think that $215 million ought to go to the farmers, not into the pockets of the warehousers. Definitely we should not start construction of Government bins, which was a scandal some years in the past.

If this strategic reserve bill meant an increase in Government-owned bins I would be against it. I plan to support it. I will find it easier to support with the gentleman's amendment. I hope the Price amendment will be agreed to so that all the grain will be stored on the farms.

Mr. SMITH of Iowa. Mr. Chairman, I rise in opposition to the amendment.

It sounds good to say that we want this grain stored in producer-owned storage. I point out, first of all, any producer who is able to build storage enough to rent to the Government on a multiyear basis is not just a producer any more. He is also in the storage business.

In addition to that, I want to point out that while at one time most of the grain was consumed on the farm or near the farm, a lot of it now is shipped overseas. Over 500 million bushels of corn was exported last year, and a big percentage of our wheat was.

So the market for the tenant farmer, the ones who do not own their land, do not own storage facilities, is the elevator. They have to get rid of their grain, and they send it to the commercial market.

In addition to that, we are interested, in this day and age, in promoting exports, not only in exporting what we have been exporting but in exporting more. This means some of this grain ought to be in a terminal position, in a position to export.

If a man goes down to the automobile agency nowadays to buy a new car, he does not want to wait 6 months to get it. He wants it now.

Sometimes the people who secure money to buy grain or have a shortage, from overseas, want it now. They do not want to wait until they get it out from under a snowdrift in Iowa next spring and take it to the gulf, but they want it now, or as soon as they can get it; so some of this ought to be in export position.

I also point out, as a matter of fact, we are losing $200 million in export money this year because the price is down below last year. Last year 516 million bushels of corn brought $200 million more than this year on the export market. Unless we pass this bill as a truly reserve bill and get the market up a little bit, we will be in difficulty. Purchasers of our exports were willing to pay as much as last year, but they did not have to because the market was bad. We are losing export dollars. I say this amendment to use farm storage almost exclusively sounds good, but in fact the tenant farmers and those who need to move this grain at harvest time and who are interested in the exports being promoted need to permit the Department to have some latitude to store some in producer-owned facilities.

Mr. PRICE of Texas. Will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentleman.

Mr. PRICE of Texas. I would like to point out in this bill it does not provide for export of this grain. It is only under three conditions——

Mr. SMITH of Iowa. I did not say this identical grain is to be exported, but there is a provision in this bill whereby they can sell grain out of this reserve and buy within 48 hours grain which is not in the reserve. They can do it in any year. If this grain is in an export position and they want to sell it to somebody who wants to export it, they can do so. This is the way we promote exports. We have not been doing it in the past and consequently we lost some sales.

Mr. PRICE of Texas. I agree, but I say that under this bill we have under consideration it is not intended for use as an export. This is a strategic reserve bill and it is for use in connection with the civil defense emergencies; and so on.

Mr. SMITH of Iowa. Look at the bottom of page 4 where it says:

> The Secretary may buy and sell at an equivalent price, allowing for the customary location and grade price differentials, substantially equivalent quantities in different locations or warehouses to the extent needed to properly handle, rotate, distribute, and locate such reserve.

So if a grain company has a sale and the grain is in Houston or Corpus Christi or New Orleans and they need grain quickly, they can sell to them and buy the next day in the corn belt and ship it to them. It will promote export sales.

Mr. PRICE of Texas. I said it should be stored on the farms primarily. I am aware of the fact that there is not enough storage, probably, for all of the grain that we have. I think it should go to the producer first and then, if there is storage available, it should go there. In that way, if it is in the strategic reserve, it is placed there so that it can be strategically located.

Mr. QUIE. Will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentleman.

Mr. QUIE. I think it is important that the amendment offered by the gentleman from Texas be adopted because the commercial warehouses will use this to get Government payments to store the grain that they would store anyway. They are in the business of merchandising grain overseas. But if the Federal Government is going to store its own grain in strategic reserves, these warehousemen will get paid for doing what they do anyway if it is handled the way the gentleman from Iowa (Mr. SMITH) explains it. That is why I want that $215 million to go to the farmers in every way possible, because warehousemen will not stand there with their facilities empty waiting to get grain out of the snow, and they will be buying the grain in time so it can move out of their storage site to world markets when the sales are made.

Mr. SMITH of Iowa. The fact is that they have not been doing this and they have lost sales. I think you have to have some judgment left in the Department as to where to locate it. We cannot say in the bill that you have to have x number of bushels here or there or someplace else. You have to leave some judgment in their hands and exercise oversight on the Hill as to how they handle it.

Mr. SCHERLE. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, first of all I would like to call attention to the remark made by my colleague from California (Mr. TEAGUE) in regard to Mr. ZWACH and Mr. ANDREWS in saying that Mr. Benson would appreciate the remarks made by my two colleagues. I would like to call attention to the fact that in those 2 years we had a Republican Congress, and that is the last one we had since.

Mr. TEAGUE of California. Mr. Chairman, will the gentleman yield?

Mr. SCHERLE. Yes, I yield to the gentleman from California.

Mr. TEAGUE of California. Did I understand the gentleman to say you would hate to see a repetition of a Republican Congress?

Mr. SCHERLE. I would hate to see a repetition of Mr. Benson, former Secretary of Agriculture.

Mr. TEAGUE of California. Well, this is one of his programs and I quoted from him this afternoon. It is exactly what he proposed in 1944.

Mr. SCHERLE. Well, let me go into this a little further.

Mr. SMITH of Iowa. Mr. Chairman, will the gentleman yield briefly?

Mr. SCHERLE. Yes, I yield briefly to the gentleman from Iowa.

Mr. SMITH of Iowa. It just goes to show if one will look long enough and go back as far as 17 years, one could find something good about every Secretary's program.

Mr. SCHERLE. Mr. Chairman, the problem facing the Midwestern farmer is corn. There is no question about it. Last year the Iowa corn farmer averaged 86 bushels per acre, and he received $1.31. That meant that his average gross profit was $112.56 per acre. This year the projected yield is a record 103 bushels per acre. According to the latest information, corn is now selling for $1 a bushel at the local elevator. That means that this year the gross profit for an Iowa corn farmer is $103 per acre. In other words, even though the farmer is producing 17 extra bushels per acre, his gross profit per acre is $9.66 less. There are few business enterprises in this country which have so increased their productivity and still reduced their profits.

The reason for these low prices is very simple. The USDA erred in judging the optimum number of acres in production. They were concerned about the blight. However, I have talked to numerous scientists and nowhere in the history of this country have we had blight 2 years in a row. This was just to protect the USDA once again by taking it out at the expense of the farmer.

A year ago I warned then Secretary of Agriculture Cliff Hardin, that the set-aside was too low. As a farmer I could predict the drastic consequences which occurred this fall. This year we listened to the economists and the bureaucrats at the USDA and the results have been disastrous for the feed grain participant.

Mr. Chairman, there are only two groups caught in this bind of production costs and purchase costs. One is the producer who gets nothing for his product and the other is the consumer who pays a high price for the finished product. The middle man is doing fine—no problem.

Mr. Chairman, the USDA is primarily responsible for overproduction by encouraging the Nation's farmers to produce extensively. If there is any compensation that should be realized out of this storage, it should go to the farmer that produces the corn. It costs $1.08 to produce a bushel of corn and now it is selling for $1. I think that is altogether too significant to the farmer. He cannot survive very long at this rate.

Mr. ANDREWS of North Dakota. Mr. Chairman, will the gentleman yield?

Mr. SCHERLE. Yes, I yield to the gentleman from North Dakota.

Mr. ANDREWS of North Dakota. I think one of the things that ought to be pointed out for the benefit of those representing heavy consumer areas is that in the amendment that calls for a 25-percent increase in price to the farmer, the price of corn and other feed grains and wheat would still be about 22 percent less than it was last year. So, there should be no impact on the consumer price at the grocery store over last year.

Mr. SCHERLE. The gentleman is absolutely correct.

Mr. Chairman, it is interesting to note that a certain type of tractor in 1948 cost $4,500, while that tractor today costs $17,500. A bushel of corn in 1948 was worth $2.63. Today it is worth $1 a bushel. For every bushel of wheat out of which they make 69 loaves of bread, in 1948 the producer received 3 cents per loaf which cost 11 cents and, today, 1971, a loaf of bread is selling for 40 cents and the producer still gets 3 cents.

Mr. Chairman, in 1968 we had 1,162 million bushels of corn; in 1969 we had 1,113 million bushels of corn; in 1970 we had 999 million bushels of corn and now 1971 we have 1.4 billion bushels of corn. So, anyone can see what has happened to the program. The USDA made a humble mistake but the poor farmer is the one who suffers. Who care anymore? They are expendable.

The CHAIRMAN. The question is on the substitute amendment offered by the gentleman from Texas (Mr. PRICE) for the committee amendment.

The question was taken; and on a division (demanded by Mr. PRICE of Texas) there were—ayes 44, noes 62.

TELLER VOTE WITH CLERKS

Mr. PRICE of Texas. Mr. Chairman, I demand tellers.

Tellers were ordered.

Mr. PRICE of Texas. Mr. Chairman, I demand tellers with clerks.

Tellers with clerks were ordered; and the Chairman appointed as tellers Messrs. POAGE, PRICE of Texas, PURCELL, and TEAGUE of California.

The Committee divided, and the tellers reported that there were—ayes 147, noes 179, not voting 106, as follows:

[Roll No. 444]

[Recorded Teller Vote]

AYES—147

Andrews, N. Dak.
Archer
Ashbrook
Baker
Bell
Betts
Biester
Bow
Broomfield
Brotzman
Brown, Mich.
Brown, Ohio
Broyhill, Va.
Buchanan
Burke, Fla.
Burleson, Tex.
Camp
Carter
Cederberg
Chamberlain
Clancy
Clausen, Don H.
Clawson, Del
Cleveland
Collins, Tex.
Conable
Conte
Coughlin
Crane
Davis, Ga.
Davis, Wis.
Dellenback
Dent
Devine
Dickinson
Dulski
Duncan
du Pont
Edwards, Ala.
Esch
Findley
Ford, Gerald R.
Forsythe
Frelinghuysen
Frenzel
Frey
Goldwater
Goodling
Gross
Grover
Hall
Halpern
Hammerschmidt
Harsha
Harvey
Hastings
Hechler, W. Va.
Heckler, Mass.
Hogan
Horton
Hunt
Hutchinson
Jarman
Jonas
Jones, N.C.
Keating
Kemp
Kuykendall
Kyl
Latta
Lent
Link
Lloyd
McClory
McCloskey
McClure
McCollister
McCulloch
McDade
McDonald, Mich.
McEwen
McKevitt
McKinney
Mahon
Martin
Mayne
Michel
Miller, Ohio
Mills, Md.
Mizell
Mosher
Nelsen
O'Konski
Pettis
Peyser
Pirnie
Price, Tex.
Quie
Quillen
Railsback
Reid, N.Y.
Robinson, Va.
Robison, N.Y.
Rogers
Roush
Rousselot
Roy
Ruppe
Ruth
Sandman
Saylor
Scherle
Schmitz
Sebelius
Shipley
Shoup
Shriver
Skubitz
Smith, Calif.
Smith, N.Y.
Snyder
Stanton, J. William
Steele
Steiger, Wis.
Stratton
Talcott
Teague, Calif.
Thompson, Ga.
Thomson, Wis.
Vander Jagt
Veysey
Wampler
Ware
Whalen
Whalley
White
Whitehurst
Widnall
Williams
Winn
Wyatt
Wydler
Wylie
Wyman
Young, Fla.
Zion
Zwach

NOES—179

Abbitt
Abernethy
Abourezk
Adams
Addabbo
Albert
Alexander
Anderson, Calif.
Anderson, Tenn.
Ashley
Aspin
Aspinall
Badillo
Barrett
Begich
Bennett
Bergland
Bevill
Biaggi
Bingham
Blanton
Boland
Bolling
Brademas
Brasco
Brinkley
Brooks
Burke, Mass.
Burlison, Mo.
Burton
Byrne, Pa.
Byrnes, Wis.
Byron
Cabell
Caffery
Carey, N.Y.
Carney
Chappell
Colmer
Corman
Cotter
Culver
Daniel, Va.
Daniels, N.J.
Danielson
Davis, S.C.
de la Garza
Delaney
Dellums
Denholm
Donohue
Dow
Downing
Drinan
Eckhardt
Edmondson
Edwards, Calif.
Eilberg
Evans, Colo.
Fascell
Fisher
Flood
Flowers
Foley
Ford, William D.
Fraser
Fuqua
Gallagher
Gaydos
Gettys
Giaimo
Gibbons
Gonzalez
Grasso
Green, Pa.
Griffin
Griffiths
Hagan
Hamilton
Hanley
Hays
Helstoski
Hicks, Mass.
Hicks, Wash.
Holifield
Howard
Hull
Hungate
Ichord
Jacobs
Johnson, Calif.
Jones, Ala.
Jones, Tenn.
Karth
Kastenmeier
Kazen
Kee
Koch
Kyros
Leggett
Lennon
Long, La.
Long, Md.
McCormack
McFall
McKay
McMillan
Macdonald, Mass.
Madden
Mann
Matsunaga
Mazzoli
Melcher
Metcalfe
Minish
Mink
Mitchell
Mollohan
Monagan
Moorhead
Morgan
Moss
Murphy, N.Y.
Natcher
Nedzi
Nichols
Nix
Obey
O'Hara
O'Neill
Passman
Patten
Perkins
Pickle
Pike
Poage
Preyer, N.C.
Price, Ill.
Purcell
Randall
Rangel
Rarick
Rees
Reuss
Roberts
Rodino
Roe
Rooney, Pa.
Rosenthal
Roybal
Runnels
Ryan
St Germain
Satterfield
Scheuer
Seiberling
Sikes
Sisk
Slack
Smith, Iowa
Staggers
Stanton, James V.
Steed
Stubblefield
Symington
Taylor
Teague, Tex.
Udall
Van Deerlin
Vanik
Vigorito
Waggonner
Waldie
Wilson, Charles H.
Wolff
Yates
Yatron
Young, Tex.
Zablocki

NOT VOTING—106

Abzug
Anderson, Ill.
Andrews, Ala.
Annunzio
Arends
Baring
Belcher
Blackburn
Blatnik
Boggs
Bray
Broyhill, N.C.
Casey, Tex.
Celler
Chisholm
Clark
Clay
Collier
Collins, Ill.
Conyers
Curlin
Dennis
Derwinski
Diggs
Dingell
Dorn
Dowdy
Dwyer
Edwards, La.
Erlenborn
Eshleman
Evins, Tenn.
Fish
Flynt
Fountain
Fulton, Tenn.
Galifianakis
Garmatz
Gray
Green, Oreg.
Gubser
Gude
Haley
Hanna
Hansen, Idaho
Hansen, Wash.
Harrington
Hathaway
Hawkins
Hébert
Heinz
Henderson
Hillis
Hosmer
Johnson, Pa.
Keith
King
Kluczynski
Landgrebe
Landrum
Lujan
Mailliard
Mathias, Calif.
Mathis, Ga.
Meeds
Mikva
Miller, Calif.
Mills, Ark.
Minshall
Montgomery
Morse
Murphy, Ill.
Myers
Patman
Pelly
Pepper
Podell
Poff
Powell
Pryor, Ark.
Pucinski
Rhodes
Riegle
Roncalio

Rooney, N.Y.
Rostenkowski
Sarbanes
Schneebeli
Schwengel
Scott
Spence
Springer
Steiger, Ariz.
Stephens
Stokes
Stuckey
Sullivan
Terry
Thompson, N.J.
Thone
Tiernan
Ullman
Whitten
Wiggins
Wilson, Bob
Wright

So the substitute amendment for the committee amendment was rejected.

The CHAIRMAN. The question is on the committee amendment.

The committee amendment was agreed to.

AMENDMENT OFFERED BY MR. MELCHER

Mr. MELCHER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MELCHER: Page 6, after line 4, insert the following new section 8:

"SEC. 8 (a). Section 107 (a) of the Agriculture Act of 1949, as amended, is further amended by striking the period at the end, inserting a semicolon, and adding: '*Provided further,* That notwithstanding any other provision of this Act, the Secretary shall increase the loan level heretofore announced for wheat of the 1971 crop pursuant to this section, as amended by the Agricultural Act of 1970, by 25 per centum.'

"(b) Section 105 of the Agriculture Act of 1949, as amended, is further amended by substituting a semicolon for the period at the end of the sentence in (a) (1) and adding 'notwithstanding any other provision of this Act, the Secretary shall increase the loan levels heretofore announced for feed grains of the 1971 crop pursuant to this section, as amended by the Agricultural Act of 1970, by 25 per centum.'

"(c) The amendments contained in this section shall be effective in relation to crops harvested in 1971 and 1972."

Mr. MELCHER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Montana?

There was no objection.

The CHAIRMAN. The Chair recognizes the gentleman from Montana (Mr. MELCHER) for 5 minutes in support of his amendment.

Mr. HUNGATE. Mr. Chairman, will the gentleman yield?

Mr. MELCHER. I yield to the gentleman from Missouri.

Mr. HUNGATE. Mr. Chairman, I rise in support of the bill.

Mr. MELCHER. Mr. Chairman, I will not take very much time on this amendment, because it is H.R. 8290. The rule provides that this amendment may be incorporated with H.R. 1163. The bill was passed by the House Agriculture Committee by a vote of 19 to 6. The rule is printed and is available to all Members, as is the bill H.R. 8290.

There is, of course, a great need, as has been demonstrated by many speakers here tonight, to improve grain prices. The rule provided for joining these two bills, the strategic reserve bill and the increase in loan rate bill.

I think if any one of us in our own livelihood, in our own way of making our living, if anyone in business had to suffer a 25-percent cut in his income between the years 1970 and 1971, he would be asking this Congress to see whether or not something could be done. This would be particularly true since the cut for the grain farmers in grain prices this fall came about because of unfortunate provisions of the set-aside program of the 1970 Farm Act and the unfortunate predictions and calculations by the Department of Agriculture.

The purpose of the amendment that I am offering is to raise the floor for the market prices under the wheat, corn and other feed grains by 25 percent. I assure the Members it is needed. Going back only to the freeze period, July 15 through August 15, we find that corn was selling for $1.36, wheat for $1.34, and sorghum $2.37 per bushel.

The loan rates that might be available for these crops when all crops are averaged and all the bushels are averaged under the bill will be raised only to a point which still will be below the average for all the bushels and all the crops that prevailed during the freeze period. Corn and sorghum would be selling below those prices and wheat somewhat higher. There is no reason to think that by raising the loan rates by 25 percent we will get the average price for all grains so high as to require increases in food costs. That just will not happen.

The cost of my amendment is $281 million, as has been described in the dialog with the gentleman from Illinois. Some of this would be recovered, because it is an increase in the loan rate and is an outlay of the loans most or all of which is recovered when the grain is sold.

When the grain is sold then the loan is repaid. Or, if the CCC has to take over the grain, when they sell it that money goes back to the Treasury.

The income increase per year for all grain growers in this country as a result of the bill will be $2 billion. This is money which is badly needed on our farms and in the rural economy. This is the added income by raising these floor prices on these grains, which will be brought to the American farmers.

It is time that we do it. They can no longer exist under the price structure they have to endure this fall. We need the bill now.

My amendment makes the loan rate increase available for the crop years of 1971 and 1972.

The bill is endorsed by almost all major farm organizations. It is also specifically endorsed by one of the largest organized consumer groups in America, the AFL–CIO.

I ask all Members to approve the amendment and to approve the bill on final passage.

Mr. BERGLAND. Mr. Chairman, will the gentleman yield?

Mr. MELCHER. I yield to the gentleman from Minnesota.

Mr. BERGLAND. Mr. Chairman, I am a farmer who has been in Congress 10 months. I represent one of the most rural districts in the United States. I have voted for city programs during these 10 months, not because I always understood the problems of the city nor have I always clearly understood the proposed remedy. I have supported these city programs because I know a problem left festering in the cities could well infect the bloodstream of the United States and spread a plague about our land. I am now asking for help from those of you who serve the cities.

My kind of people are in deep trouble. It is not the kind of trouble that commands front-page headlines, but the cold fact is half of the poor people in the United States are in the rural areas. Two-thirds of the substandard housing in this land is found in the countryside. My people do not march, they do not demonstrate. They suffer in silence. I know it is fashionable in some quarters to denounce the farmer as a "fat cat" with his hand in the Federal Treasury and living the life of luxury. There are some celebrated instances where this is true, but nearly 2 million farm families are forced to live on incomes near or below the poverty level.

While many of you may not fully understand the bill being considered today, it is desperately needed to help deliver my kind of people from the serious economic and attending social conditions existing among the great majority of our American farm families. Unless this festering problem is remedied, this infection could well become the economic and social cancer that breaks the back of our fight to remedy the already serious problems confronting all of this great land.

Mr. Chairman, I urge approval of the amendment offered by Mr. MELCHER that he, I, and others have cosponsored and urge passage of this bill as amended.

Mr. LINK. Mr. Chairman, will the gentleman yield?

Mr. MELCHER. I yield to the gentleman from North Dakota.

Mr. LINK. Mr. Chairman, as a cosponsor of the Melcher bill, I rise in support of his amendment to Congressman SMITH's bill.

Mr. Chairman, this Nation's domestic problems are intertwined. There is no urban problem in isolation. Nor is there a farm problem in isolation. All are of a piece, and they must be viewed in their relationship to each other.

The problems of our cities are all too visible: Overcrowded conditions, traffic jams, pollution, inadequate housing, crime on the streets.

The problems of rural areas are equally severe: The lowest agricultural prices since the 1930's, the highest farm foreclosure rate since World War II, and a consequent drying up of the economic base.

The exodus of people from rural areas to our already congested cities, because of lack of opportunity, simply aggravates their problems. One set of problems feeds on the other.

Agriculture still is this Nation's largest single industry—an all-important purchaser of machinery and other products of factories. A sick agriculture can infect the entire economy.

I was gratified that so many of my city colleagues understood these relationships in tow farm-day forums we conducted in March and May emphasizing the problems of agriculture and rural America.

The Nation needs to insure a fair, adequate income to the producers of its food and fiber supply. Because of a flaw in our distribution system, our farmers have not been receiving their fair share.

Unless we take action to firm up the economic base of rural America, we will increase the migration to cities. And we will be wasting many assets: The living room in rural areas; our public service system of highways, hospitals, and other facilities; our electric power supply; a lower crime rate; and a personal life style that is lacking in our big cities.

Mr. Chairman, I request the support of my colleagues for H.R. 1163 by Congressman Smith with the Melcher amendment (H.R. 8290) as a modest way to make the economy of rural America more viable. Both H.R. 1163 and H.R. 8290 were approved by the House Agriculture Committee and scheduled for floor action by the House Rules Committee. Their combined purpose is to stabilize grain income and supply and to increase the minimum support level of grains by 25 percent. Neither will affect consumer food prices or inflation, since the farmer's share of such prices is minute and because the only effect will be to bring grain prices up to the level of a few months ago.

The Smith bill with the Melcher amendment deserves the support of Congressmen from every section of the Nation to help solve the intertwined problems of urban and rural areas.

AMENDMENT OFFERED BY MR. FINDLEY TO THE AMENDMENT OFFERED BY MR. MELCHER

Mr. FINDLEY. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. Findley to the amendment offered by Mr. Melcher: At the end of the first paragraph, strike the period and add the following: ": *Provided*, That notwithstanding any other provision of law, effective with the crops of feed grains and wheat planted and harvested in 1972, the aggregate payments which a person shall be entitled to receive under the annual price support programs carried out for these commodities pursuant to this Act, shall not exceed $20,000."

POINT OF ORDER

Mr. POAGE. Mr. Chairman, a point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. POAGE. The amendment is not germane, in that the purpose of the Melcher amendment is to require the Secretary of Agriculture to increase the loan levels for wheat and feed grains by 25 percent on the 1971 and 1972 crops. Nothing in the Melcher amendment increases the payments to the farmers, other than the increase in loans. Inasmuch as the Melcher amendment does not have any bearing on the payments that wheat and feed grains farmers would receive, it would appear that the Findley amendment, limiting to $20,000 payments to wheat and feed grains growers, is not too germane to the Melcher amendment.

The CHAIRMAN. Does the gentleman from Illinois desire to be heard on the point of order?

Mr. FINDLEY. I do, Mr. Chairman.

The CHAIRMAN. The Chair will hear the gentleman.

Mr. FINDLEY. Mr. Chairman, this amendment has been very carefully constructed realizing the problem of germaneness.

First of all, it does not go beyond the scope of the Melcher language. The Melcher language amends two parts of the Agricultural Act of 1949, as amended.

One part is section 105, dealing with feed grains. The other part is section 107, dealing with wheat.

The feed grains section provides for payments. The Melcher amendment, therefore, would amend the provision of the act of 1949, as amended, which provides for payments, and thus makes a payments provision amendment.

The same can be said for the wheat provision of the Agricultural Act of 1949. It deals only with feed grains and wheat. It is not as broad as I would like, because it does not include cotton. It deals only with the crops that are provided in the Melcher amendment. The Melcher amendment does increase price supports, which are a form of compensation for the farmer, and the loans are certainly a form of payments.

Therefore I would state that the amendment is clearly germane. I cite to the attention of the Chair, V, section 5811 and 5820, VIII, sections 2922 and 2936, taken from the precedents of the House of Representatives, at least the latest edition of the precedents available to Members.

The CHAIRMAN (Mr. Nedzi). The Chair is prepared to rule on the point of order raised by the gentleman from Texas.

The Chair has listened to the point of order made and the remarks of the gentleman from Illinois.

The gentleman from Texas has raised a point of order against the amendment offered by the gentleman from Illinois (Mr. Findley) on the ground that the amendment is not germane.

The amendment would impose an overall restriction on payments which a person can receive under the various annual price support programs for feed grains and wheat carried out pursuant to the Agricultural Act of 1949 as amended.

The Committee of the Whole now has before it the bill H.R. 1163, which, as so far amended by the committee, establishes a strategic reserve of wheat and feed grains. To that bill the gentleman from Montana (Mr. Melcher) has offered an amendment made in order by the rule. That amendment increases the loan levels for feed grains and wheat by 25 percent for the 1971 crop.

The Chair would point out that nothing in the matter now pending deals with total amounts of payments to be received by farmers either collectively or individually. The pending matter, the amendment offered by the gentleman from Montana (Mr. Melcher) deals only with the increase in loan levels for the 1971 crop. It does not go to purchases which are also part of the price support program and which would be covered by the amendment of the gentleman from Illinois.

To reiterate, while the amendment offered by the gentleman from Montana does go to the sections of the law cited by the gentleman from Illinois, it affects only the loan levels authorized there and does not go to the purchases. It is well established that a proposition narrowly amending one section of existing law does not necessarily open that entire section to further amendment.

For these reasons the Chair sustains the point of order that the amendment is not germane.

Mr. FINDLEY. A parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. FINDLEY. Am I correct that as a general proposition an amendment is held to be germane if it seeks to amend a section of the statute which the original amendment to which it is offered is also altered? In other words, is it germane to the particular paragraph or section to which it is offered?

The CHAIRMAN. The Chair will state that is not necessarily the case.

Mr. FINDLEY. A further parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. FINDLEY. Can the Chair advise the Members at what date they may expect to have an updated edition of the precedents of the House of Representatives?

The CHAIRMAN. The Chair will state that is not a parliamentary inquiry.

AMENDMENT OFFERED BY MR. QUIE AS A SUBSTITUTE TO THE SUBSTITUTE AMENDMENT

Mr. QUIE. Mr. Chairman, I offer an amendment in the form of a substitute.

The Clerk read as follows:

Substitute amendment to the Melcher amendment offered by Mr. Quie: Page 6, line 4, insert the following new Section 8: Section 8 (a). Section 105 of the Agriculture Act of 1959 is amended, is further amended by substituting a semicolon for the period at the end of the sentence in (b) (1) and adding "notwithstanding any other provision of this Act, the Secretary shall increase the payment heretofore announced for feed grains of the 1971 crop pursuant to this section, as amended by the Agriculture Act of 1970, by 25 per centum."

(b) The amendments contained in this section shall be effective in relation to the crop harvested in 1971.

POINT OF ORDER BY MR. POAGE

Mr. POAGE. Mr. Chairman, I raise a point of order against the amendment.

The CHAIRMAN. The gentleman will state his point of order.

Mr. POAGE. Mr. Chairman, the amendment is subject to the same interpretation that the amendment offered by the gentleman from Illinois (Mr. Findley) was subject in that it proposes to amend the Melcher bill by changing the payments that are being made under the terms of that bill; whereas, the Melcher amendment makes no change in any payments whatsoever and relates only to the lower levels. That is exactly the same situation that we had in the case of the Findley amendment.

The CHAIRMAN. Does the gentleman from Minnesota desire to be heard on the point of order?

Mr. QUIE. I do, Mr. Chairman.

Mr. Chairman, the Findley amendment, perhaps, went further than section 105. This amendment is limited to section 105 which is amended by the Melcher amendment. It is a different subsection, it is true. Subsection (b) rather than subsection (a) of section 105, but under the circumstances of the past amendment, or section of an amendment to a different part of that section which is offered as a substitute, it has been held germane.

The CHAIRMAN (Mr. NEDZI). The Chair is prepared to rule.

The Chair has listened to the point of order and the remarks of the gentleman from Minnesota. The Chair notes that the amendment offered by the gentleman from Montana was made in order by the rule. The substitute was not. Hence its germaneness to the Melcher amendment is in issue. The pending matter, the amendment offered by the gentleman from Montana (Mr. MELCHER) deals only with the increase in loan levels for the 1971 crop. It does not go to purchases, which are also part of the price support program and which would be covered by the amendment of the gentleman from Minnesota. This situation thus falls within the rule that an individual proposition cannot be amended by another individual proposition. The specific amendment to the 1949 Act provided in the amendment offered by the gentleman from Montana cannot be broadened by amendment into a proposition general in scope.

For these reasons, the Chair sustains the point of order that the amendment is not germane.

AMENDMENT OFFERED BY MR. QUIE TO THE AMENDMENT OFFERED BY MR. MELCHER

Mr. QUIE. Mr. Chairman, I offer an amendment to the amendment offered by Mr. MELCHER.

The Clerk read as follows:

> Amendment offered by Mr. QUIE to the amendment offered by Mr. MELCHER: Strike out subsection (a); reletter subsections (b) and (c) as subsections (a) and (b).

Mr. QUIE. Mr. Chairman, the effect of my amendment is to strike the increase of 25 percent of the price support loan on wheat. Presently, wheat gets 100 percent of parity for domestic human consumption share of the crop and that represents 42 percent of the wheat. If there is a price support loan increase by 25 percent, there would be a reduction in the direct payment by that amount for wheat.

Now, what you would do by the Melcher amendment on wheat is to make wheat go up to a price where it would not be as competitive on the world market. So, not only would we have a strategic reserve, but more would stay in regular storage. There is no commodity that moves overseas which is produced by American farmers as much as wheat and this will hamper our efforts.

I think this is a shortsighted amendment to increase the price support loan on wheat, because already the direct payment takes care of the difference between the average price at the marketplace and 100 percent of parity. That is not the case with reference to corn. Corn is the commodity which is in trouble. Corn is where the mistake was made in the estimate last spring. The corn blight did not occur. Wheat can move overseas to a much greater extent than corn.

I think it would have been wiser as I proposed to increase the direct payment on corn instead of increasing the loan, however I am prohibited from doing that because of the point of order. However, let us at least not make the mistake now of increasing the price-support loan on wheat because I just want to repeat to you again that you have to have a competitive price in order to sell it overseas.

I recall the years when I was on the Committee on Agriculture, and the cotton producers had the kind of strength around here so that they kept their price-support loan up high, so high that they had their warehouses full of surplus cotton. Finally we had to do something about it, we had to bring the price-support loan down, so it was competitive on the world market. That was the only way they moved it out of storage, and it worked. It now goes on the market, rather than into storage.

Mind you, you are on the verge of making a serious mistake on wheat of storing commodities in the bin rather than letting it go overseas.

So I urge you to adopt this amendment. Let us help the corn farmers by increasing the loan because they are the ones who are in trouble because of a mistake by USDA. They are the ones who cannot make the payments on their machinery, they are the ones who are in serious trouble with the bankers, because of a mistake in USDA's corn crop estimate. I know that the wheat farmers are not making as much money as they should but taking direct payments away from wheat farmers and giving it to them in increased loans is not much help to them.

Just keep in mind that if you raise the price support loan now so that you make the wheat uncompetitive you will have worse trouble next year with wheat, because we will keep it in storage instead of moving it overseas. The dock strike is a big reason for wheat's trouble. When the ports are open we can move wheat only when prices are competitive. Do not fix the price of wheat so that you cannot move it.

I urge you to adopt this amendment.

Mr. MELCHER. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I must point out to my good friend, the gentleman from Minnesota, and my colleagues here in the Committee of the Whole, that the relationship between the various prices of grain must be maintained. It would ill behoove the loan rates to be put out of kilter by raising just corn, or feed grains. The loan rate increases must also include wheat to maintain a balance of loan rates between wheat and feed grains. As a matter of fact, under the amendment that I have proposed, the cost to the Treasury is actually reduced by including wheat. The reason for that is, just as the gentleman from Minnesota outlined, that wheat certificates are paid on a portion of the crop, by including wheat in the bill the savings to the Government will be $160 million. The Department shows further that the outlay for the increase on the loan rates—and remember, they will get most of that back—is $100 million for wheat and $39 million additional for export certificates. Because of the decrease in wheat certificate costs, you can readily see that including wheat will reduce the overall cost to the Treasury by the difference between $160 million and $139 million or a savings of $21 million.

So I would urge the committee to vote down the amendment.

Mr. QUIE. Mr. Chairman, will the gentleman yield?

Mr. MELCHER. I yield to the gentleman from Minnesota.

Mr. QUIE. Mr. Chairman, I thank the gentleman for yielding.

I think the gentleman ought to tell the Members where that $160 million comes from that the Government will save. It comes from the pockets of the farmers—the wheat farmers will get that if it is not taken away from them by this amendment.

Mr. MELCHER. I well recognize that, but the wheat farmers are also aware that only 42 percent of the crop goes for domestic consumption; they want it for the rest so that they can survive, and at the current prices and the current loan rates they cannot stay in the wheat business and stay in farming. They need our help now with passage of this legislation to help wheat, corn, and other feed grain producers.

Mr. TEAGUE of California. Mr. Chairman, I rise in support of the amendment. I know the mood of the House, and the majority is running roughshod over this side of the aisle. But I want to be sure that my colleagues understand that the Melcher amendment is going to cost several hundred million dollars more than the present program. No one claims it is going to cost less, and it is not going to help the small farmers. We had a chance a few moments ago to help the small farmers by paying him part of the annual rental fees of around $215 million, and you turned that down.

But you gentlemen from the cities are being very generous tonight, and you should have earned the undying gratitude of the large as well as the small farmers, certainly the warehousemen.

Mr. BURLISON of Missouri. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I seek this time for the purpose of stating my support for the legislation. I want the record to show, however, my reservations with respect to both the Smith bill providing for a strategic reserve of wheat and feed grains and the Melcher amendment which provides for an increase of 25 percent in the loan rate for the same two commodities.

The legislation should be broader, so as to include cotton and soybeans. I offered amendments to do this in the Agriculture Committee. I am not going to take the time of the House to reoffer those amendments at this time for a couple of reasons. In the first place, I do not have the votes to pass these amendments and in the second place, if the amendments were adopted, I am afraid that they would make it more difficult to pass the amended bill on the floor at this time.

In summary, Mr. Chairman, I support this legislation though in my judgment it should also include soybeans and cotton. At the same time, I recognize the extremely urgent crisis which is now facing the wheat and feed grain producers and, therefore, I urge my colleagues to support the committee on this important legislation.

Mr. KYL. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, even the casual observer would be able to determine that there is a great deal of politics involved in this particular legislation and that, as a matter of fact, regardless of any substantive changes that could have been made here this evening or that should have been made, I doubt that any votes would have been changed by any of the debate.

But I think we should know exactly what we are doing here, because this is not the last that we will hear about the problems of the corn farmer or the wheat farmer or the cotton farmer.

Now all of us, to be very frank, have to make a little guess about what effect on the market prices the strategic reserve portions of this bill will have. I do not think there is anyone here who can tell with any assurance what that effect will be. We know that is the case of the military oriented surpluses that we have in the stockpiles, no matter even if it takes an act of Congress to move those to the market, they have a depressing effect on the market price.

The chairman of the Committee on Agriculture has said so truthfully so many times that there is no padlock in the world big enough to hold these stored crops off the market regardless of what kind of situation you have.

We may get an increase in prices as a result of this program or we may not. But I say to you in all honesty and in all candor, that we do not know what the effect is going to be.

Now, so far as the Melcher portion of this bill is concerned, we know immediately what the effect will be. We will have some problem, because a farmer who has sold his corn gets no help. This portion of the bill will put money in the pockets of most grain farmers and the wheat farmers. There is no question about that and they need the help—and there is no question about that. The immediate help is good. But what about the long range?

There is also some serious question as to what this portion of the bill may do to compliance with the program next year and the year following that or with intensity of production.

Both sides of this bill fall short of solving the fundamental problem of oversupply.

Before I continue with that, I also want to explain for some of you who may be a little naive about these matters, why it was so important that the rule was adopted without any reservations. It is not because a limitation on payments of $20,000 is important to feed grain farmers or wheat farmers particularly—it is because of the relationship of cotton. But regardless of what has happened here today, I think I can say with absolute assurance that the die is now cast on this business of payment limitations.

The first time a germane amendment can be offered, I think our cotton producing friends should know that there will be a payment limitation. This does not make me happy. I have never voted for a limitation myself, because I know you will have to have an entirely different kind of cotton program to control the supply in that area, if you implant limitation.

If we have to do that, we may ultimately divide these farm programs, and we will not have the kind of necessary support for our feed grain programs. This is a matter of candor which I am delivering to you.

Getting back to this business of a solution of the problem, we have too much corn. Somebody has said that we never have a blight for more than 1 year in a locality. I can point to areas in which we have had blight for 8 years—until this year, when it disappeared. Anyhow we have that surplus. Neither of these two approaches tonight will diminish the total supply of corn by one ear or one bushel, or of wheat, either.

First, we have to have the program for next year geared to bring production back in line so that the 2-year supply is in order, and then the only way we can get disappearance of this surplus product is through trade, trade, and more trade. We have to remove every obstacle that there is to the removal of this surplus through trade.

This proposition tonight, helpful as it may be to our farmers today—and they need help—is not going to remove the surplus. We have to continue working for trade and more trade to get this job done.

One other thing. This House, if it is going to protect the feed grain industry and the other agriculture of this Nation, is going to have to adopt some permanent legislation to stop these long strikes in the transportation industry which have had such a disastrous effect these past months.

Mr. NELSEN. Mr. Chairman, I move to strike out the requisite number of words, and rise in support of the Quie amendment.

Mr. Chairman, there is an old story about the daddy robin and the mother robin flying South. Daddy robin gets to the destination 4 or 5 days late with his feathers all beat up, his tail feathers all torn. Mother robin gives daddy robin a severe look and daddy robin says, "Now, it isn't what you think. I was just flying low, and I got caught in a badminton game."

I have been on the farm all my life. That is my business. I am getting a little weary about the badminton game or politics that is always played with me and with my associate farmers when we get to legislation. I support the Quie amendment, because I believe wheat is going to be damaged by the proposed amendment. But I am perfectly willing to go along on corn. Something drastic needs to be done because the price of corn is extremely low. I doubt that the farmer can long survive with the price of feed grain at this time. I am willing to do something drastic to try to correct that situation.

I am sorry that the author of the Melcher proposal speaks against the Quie amendment. I think a very careful analysis on the part of Congressman Quie, who has been very, very attentive to farm problems and understands them and points out the danger of our world market—and I believe there is a danger with our world market. Mr. Quie has so well pointed out the wheat does have protection under the present program. But I am willing to go along with this proposal as far as corn is concerned. The important thing now is to get some corn off the market so that the market can improve, hoping that we can look to the future and reduce our production and feather in some of our stockpiles that we may have.

I hope the Quie amendment will be adopted. I believe it is a good one. I believe it is sound. I hope the amendment is adopted.

Mr. POAGE. Mr. Chairman, I move to strike the last 5 words.

The CHAIRMAN. The gentleman from Texas is recognized.

Mr. POAGE. Mr. Chairman, I do not want to pass judgment upon anyone's political motivation. I come from a country which does not grow much wheat and does not grow much corn. I simply have been amazed at the way in which gentlemen from areas that grow no wheat have found it possible to decide for the wheat areas just what, exactly, is good for them.

As one who is from neither a wheat growing nor a corn growing area, it just seems passing strange to me that the gentlemen from the corn areas should be so gifted as to be able to tell the wheat growers exactly what is in their best interest. They tell the Members that they should strike out provisions offered by a man from a great wheat State, such as Montana, and to substitute those provisions offered from a district growing no wheat at all. It is just a mystery to me. I suggest that we let those from the wheat country speak for the wheat people.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota (Mr. Quie) to the amendment offered by the gentleman from Montana (Mr. Melcher).

TELLER VOTE WITH CLERKS

Mr. QUIE. Mr. Chairman, I demand tellers.

Tellers were ordered.

Mr. QUIE. Mr. Chairman, I demand tellers with clerks.

Tellers with clerks were ordered; and the Chairman appointed as tellers Messrs. Quie, Melcher, Purcell, and Price of Texas.

The Committee divided, and the tellers reported that there were—ayes 128, noes 222, not voting 82, as follows:

[Roll No. 445]

[Recorded Teller Vote]

AYES—128

Archer
Ashbrook
Baker
Bell
Betts
Biester
Bow
Bray
Broomfield
Brown, Mich.
Brown, Ohio
Broyhill, Va.
Buchanan
Byrnes, Wis.
Byron
Carter
Cederberg
Chamberlain
Clancy
Clausen, Don H.
Clawson, Del
Cleveland
Conable
Conte
Coughlin
Crane
Davis, Wis.
Dellenback
Dennis
Devine
Dickinson
Dulski
Duncan
du Pont
Edwards, Ala.
Esch
Findley
Ford, Gerald R.
Forsythe
Frelinghuysen
Frenzel
Frey
Goldwater
Goodling
Gross
Grover
Hall
Halpern
Hansen, Idaho
Harsha
Harvey
Hastings
Heckler, Mass.
Heinz
Hillis
Hogan
Horton
Hosmer
Hunt
Hutchinson
Jacobs
Johnson, Pa.
Jonas
Keating
Keith
Kemp
Kuykendall
Landgrebe
Latta
Lent
Lloyd

McClory
McCulloch
McDade
McDonald, Mich.
McEwen
McKinney
Mayne
Mazzoli
Michel
Miller, Ohio
Mills, Md.
Mizell
Morse
Myers
Nelsen
Pettis
Peyser
Pike
Pirnie

Quie
Quillen
Railsback
Reid, N.Y.
Robinson, Va.
Robison, N.Y.
Rousselot
Ruppe
Ruth
Sandman
Saylor
Scherle
Schmitz
Schneebeli
Schwengel
Smith, Calif.
Smith, N.Y.
Stanton, J. William
Steele

Steiger, Ariz.
Steiger, Wis.
Stuckey
Teague, Calif.
Terry
Thomson, Wis.
Vander Jagt
Veysey
Wampler
Ware
Whalley
Widnall
Williams
Wyatt
Wydler
Wylie
Wyman
Young, Fla.
Zion

NOES—222

Abbitt
Abernethy
Abourezk
Adams
Addabbo
Albert
Alexander
Anderson, Calif.
Anderson, Tenn.
Andrews, N. Dak.
Ashley
Aspin
Aspinall
Badillo
Barrett
Begich
Bennett
Bergland
Bevill
Biaggi
Bingham
Boggs
Boland
Bolling
Brademas
Brasco
Brinkley
Brooks
Brotzman
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton
Byrne, Pa.
Cabell
Caffery
Camp
Carey, N.Y.
Carney
Chappell
Clark
Clay
Collins, Tex.
Colmer
Corman
Cotter
Culver
Daniel, Va.
Daniels, N.J.
Danielson
Davis, Ga.
Davis, S.C.
de la Garza
Delaney
Dellums
Denholm
Dent
Donohue
Dorn
Dow
Downing
Drinan
Eckhardt
Edmondson
Edwards, Calif.
Eilberg
Evans, Colo.
Fascell
Fisher
Flood
Flowers
Foley
Ford, William D.

Fraser
Fulton, Tenn.
Fuqua
Galifianakis
Gallagher
Gaydos
Gettys
Giaimo
Gibbons
Gonzalez
Grasso
Green, Pa.
Griffin
Griffiths
Hagan
Hamilton
Hammerschmidt
Hanley
Hathaway
Hays
Hechler, W. Va.
Helstoski
Hicks, Mass.
Hicks, Wash.
Holifield
Howard
Hull
Hungate
Ichord
Jarman
Johnson, Calif.
Jones, Ala.
Jones, N.C.
Jones, Tenn.
Karth
Kastenmeier
Kazen
Kee
Koch
Kyl
Kyros
Leggett
Link
Long, La.
Long, Md.
McCloskey
McClure
McCollister
McCormack
McFall
McKay
McKevitt
McMillan
Macdonald, Mass.
Madden
Mahon
Mann
Martin
Matsunaga
Meeds
Melcher
Metcalfe
Minish
Mink
Mitchell
Mollohan
Monagan
Moorhead
Morgan
Moss
Murphy, N.Y.
Natcher
Nedzi
Nichols
Nix
Obey

O'Hara
O'Konski
O'Neill
Passman
Patten
Perkins
Pickle
Poage
Preyer, N.C.
Price, Ill.
Price, Tex.
Purcell
Randall
Rangel
Rarick
Rees
Reuss
Roberts
Rodino
Roe
Rogers
Rooney, Pa.
Rosenthal
Roush
Roy
Roybal
Runnels
Ryan
St Germain
Satterfield
Scheuer
Sebelius
Seiberling
Shipley
Shoup
Shriver
Sikes
Sisk
Skubitz
Slack
Smith, Iowa
Snyder
Staggers
Stanton, James V.
Steed
Stephens
Stratton
Stubblefield
Symington
Talcott
Taylor
Teague, Tex.
Thompson, Ga.
Thone
Udall
Ullman
Van Deerlin
Vanik
Vigorito
Waggonner
Waldie
Whalen
White
Whitehurst
Wilson, Charles H.
Winn
Wolff
Yates
Yatron
Young, Tex.
Zablocki
Zwach

NOT VOTING—82

Abzug
Anderson, Ill.
Andrews, Ala.

Annunzio
Arends
Baring

Belcher
Blackburn
Blanton

Blatnik
Broyhill, N.C.
Casey, Tex.
Celler
Chisholm
Collier
Collins, Ill.
Conyers
Curlin
Derwinski
Diggs
Dingell
Dowdy
Dwyer
Edwards, La.
Erlenborn
Eshleman
Evins, Tenn.
Fish
Flynt
Fountain
Garmatz
Gray
Green, Oreg.
Gubser

Gude
Haley
Hanna
Hansen, Wash.
Harrington
Hawkins
Hébert
Henderson
King
Kluczynski
Landrum
Lennon
Lujan
Mailliard
Mathias, Calif.
Mathis, Ga.
Mikva
Miller, Calif.
Mills, Ark.
Minshall
Montgomery
Mosher
Murphy, Ill.
Patman
Pelly

Pepper
Podell
Poff
Powell
Pryor, Ark.
Pucinski
Rhodes
Riegle
Roncalio
Rooney, N.Y.
Rostenkowski
Sarbanes
Scott
Spence
Springer
Stokes
Sullivan
Thompson, N.J.
Tiernan
Whitten
Wiggins
Wilson, Bob
Wright

Mr. HAMMERSCHMIDT changed his vote from "aye" to "no."

So the amendment to the amendment was rejected.

The CHAIRMAN. The question now recurs on the amendment offered by the gentleman from Montana (Mr. MELCHER)

The amendment was agreed to.

AMENDMENT OFFERED BY MR. PRICE OF TEXAS

Mr. PRICE of Texas. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PRICE of Texas: Page 3, line 15, strike the words "a price of 120 per centum of the average price farmers" and strike all of lines 16, 17, 18, 19 and the words "market channels" on line 20 and insert in lieu thereof "not less than 100 per centum of the parity price for any such commodity".

Mr. SEBELIUS. Mr. Chairman, will the gentleman yield?

Mr. PRICE of Texas. I yield to the gentleman from Kansas.

Mr. SEBELIUS. Mr. Chairman, I appreciate this opportunity to discuss H.R. 1163, the Strategic Storable Agricultural Commodities Act of 1972.

It is common knowledge we are experiencing an economic crisis in our rural areas. The cost of producing the Nation's food and fiber keeps rising and the price of farm products remains the same or decreases. Only the farmer's industry and amazing productivity gains have prevented a severe and drastic economic depression in our rural areas. We must work to halt this economic decline which could produce an economic crisis throughout our country. We must control inflation and provide the farmer a decent price for his products.

With all due respect, Mr. Chairman, I do not think this legislation offers an immediate solution to the farm income crisis. In fact, this legislation represents, I think, a most indirect approach. However, I feel that we should explore every alternative in our search for new prosperity in agriculture.

I am disappointed that this legislation does not include the provision to set the release price at 100 percent of parity. This amendment, which I supported, was defeated 16 to 14 in committee, would have eliminated the reserve as a market depressant and would have also insured an available supply of grain in the event of some great disaster.

I am concerned that this bill will prove to be a cosmetic rather than a real answer to the farm income problem. In addition to the previous amendment, I feel we should structure the grain reserve so that the grain is stored on farms by producers. If this amendment is not adopted, an estimated $215 million per year will be spent for storage costs that will not improve farm prices or reach the farmer. In view of our past history with grain stockpiles, without the farm storage provision, this could be a gross disservice to farmers.

Mr. Chairman, if we are going to increase farm prices and income as a result of legislative action, I think we must agree to put partisan politics aside. I support this legislation. However, I am concerned that this bill was reported by the House Agricultural Committee without the amendments mentioned previously. I am also concerned this legislation was reported when the Department of Agriculture already has existing grain reserve authority. I still do not understand why this legislation does include the provision to set the release price at 100 percent of parity. It would seem to me that if we are going to have a strategic reserve, it should of course benefit the Nation, but the farmer as well.

While I support this bill in the hope we have a remote possibility to improve farm prices, I am convinced we can work together to enact legislation that will be of more direct benefit to the farmer and that represents a better way to approach the farm income problem. I would hope Strategic Storable Agricultural Commodities Act of 1971 does not represent the total sum of what we can do to improve farm income and revitalize our rural areas.

Mr. RAILSBACK. Mr. Chairman, will the gentleman yield?

Mr. PRICE of Texas. I yield to the gentleman from Illinois.

Mr. RAILSBACK. Mr. Chairman, I wish to compliment my friend and colleague from Texas and I rise in support of his amendment.

Mr. PRICE of Texas. Mr. Chairman, I offer an amendment to H.R. 1163, the Strategic Storable Agricultural Commodities Act of 1971, so that, if this bill were to pass, vital safeguards are included to protect both farmer and national interests—matters of seemingly little importance in the language of the bill as reported.

This amendment would require that the release price of strategic reserve grains be set at 100 percent of parity. The bill, as reported, would require grain to be forced onto the market at 120 percent of the past 5-year average market price. This could be disastrous to farm income if commodities were released from the reserve at that price at a time when farmers were receiving a good price for their grain.

At the formula level of the bill, stock releases could have definite adverse effects on the markets—both at home and abroad. At the price level prescribed in the bill, there is every chance that the judgment factors calling reserve grains onto the market could, either immediately or over a span of time, force down commodity prices.

The terrific economic impact to farmers would be unconscionable. The effect on markets would be unpardonable. The cumulative result to farm income, and the general economy, and to both domestic and foreign markets could negate any sound progress to stability and equity in the public interest.

Setting the release price at 100 percent of parity would strongly insulate the program against the future dumping of reserve stocks onto the market. And let us not blink our eyes to the fact that H.R. 1163 as reported provides some dangerous areas that, in judgment areas as to moving out reserve stocks, could depress prices and could disrupt orderly market movement.

Let us not forget, either, that what is acquired under a Federal program must, at some point of time, be disposed of—and in the past it has too often been to the disadvantage of the farmer and has worked against the production, supply, and income programs in effect.

A sound and workable grain reserve would be of benefit should some great disaster befall our Nation, and adequate supplies were not at hand. However, the release of reserve stocks as provided in H.R. 1163 at the unrealistic level of 120 percent of the past 5-year average market price bodes ill for the farmer and promises little for the Nation.

Producers have a number of interests in maintaining stable supplies of farm products at fair and reasonable price. However, ultimately movement of supplies for nominally reserve stocks at an impractical price level could have unfortunate, and even critical, repercussions. Some commodity markets simply would be completely demoralized with the onslaught of an unwarranted dumping of reserve stocks.

Mandating the release price at 100 percent of parity also insures, as reserve stocks were to move onto markets as needed and at an orderly rate, that price would not be a deterrent to farmer income or disrupt marketing patterns. If these reserves are stored onfarm, in facilities owned and controlled by the producer, the farmer is assured of an adequate price.

At this point, I submit tables based on those provided the Committee on Agriculture with selected data related to H.R. 1163, but with an additional column depicting dollars per bushel at 100 percent of parity, in addition to the column showing the amount pegged at 120 percent of average price received for the preceding 5 years.

The tables referred to are as follows:

SELECTED DATA RELATED TO H.R. 1163

[Dollars per bushel]

Crop year	Average price received		120 percent of average price received preceding 5 years	Parity[1]
	Current crop	Preceding 5 years		
Corn:				
1961	1.10	1.11	1.33	1.62
1962	1.12	1.08	1.30	1.61
1963	1.11	1.08	1.30	1.59
1964	1.17	1.08	1.30	1.56
1965	1.16	1.10	1.32	1.57
1966	1.24	1.13	1.36	1.60
1967	1.03	1.16	1.39	1.62
1968	1.08	1.14	1.37	1.65
1969	1.15	1.14	1.37	1.72
1970 (preliminary)	1.36	1.13	1.36	1.79
1971 (estimate)	1.00	1.17	1.40	1.88
Sorghum:				
1961	1.01	.96	1.15	1.38
1962	1.02	.94	1.13	1.41
1963	.977	.95	1.14	1.39
1964	1.05	.94	1.13	1.37
1965	1.00	.98	1.18	1.38
1966	1.02	1.01	1.21	1.43
1967	.99	1.01	1.21	1.44
1968	.95	1.01	1.21	1.48
1969	1.07	1.00	1.20	1.56
1970 (preliminary)	1.14	1.01	1.21	1.64
1971 (estimate)	.95	1.03	1.24	1.75
Wheat:[2]				
1961	1.83	1.83	2.20	2.37
1962	2.04	1.80	2.16	2.42
1963	1.85	1.82	2.18	2.51
1964	1.37	1.84	2.21	2.52
1965	1.35	1.77	2.12	2.57
1966	1.63	1.69	2.03	2.57
1967	1.39	1.65	1.98	2.61
1968	1.24	1.52	1.82	2.63
1969	1.24	1.40	1.68	2.77
1970 (preliminary)	1.34	1.37	1.64	2.82
1971 (estimate)	1.30	1.37	1.64	2.93
Barley:[3]				
1961	.979	.895	1.07	1.26
1962	.915	.893	1.07	1.25
1963	.897	.899	1.08	1.23
1964	.947	.898	1.08	1.25
1965	1.02	.916	1.10	1.28
1966	1.05	.952	1.14	1.32
1967	1.00	.966	1.16	1.35
1968	.91	.983	1.18	1.42
1969	.872	.985	1.18	1.42
1970 (premium)	.956	.970	1.16	1.45
1971 (estimate)	.85	.958	1.15	1.52
Oats:[2]				
1961	.642	.623	.75	.842
1962	.624	.614	.74	.849
1963	.622	.618	.74	.842
1964	.631	.627	.75	.856
1965	.622	.624	.75	.866
1966	.665	.628	.75	.878
1967	.659	.633	.76	.892
1968	.60	.640	.77	.941
1969	.586	.635	.76	.941
1970 (preliminary)	.628	.626	.75	.956
1971 (estimate)	.57	.628	.75	.976

[1] Parity Sept. 15.
[2] Parity, June 15.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. PRICE).

The question was taken; and on a division (demanded by Mr. PRICE of Texas) there were—ayes 83, noes 130.

TELLER VOTE WITH CLERKS

Mr. PRICE of Texas. Mr. Chairman, I demand tellers.

Tellers were ordered.

Mr. PRICE of Texas. Mr. Chairman, I demand tellers with clerks.

Tellers with clerks were ordered; and the Chairman appointed as tellers Messrs. PRICE of Texas, SMITH of Iowa, MELCHER, and QUIE.

The Committee divided, and the tellers reported that there were—ayes 145, noes 201, not voting 86, as follows:

[Roll No. 446]

[Recorded Teller Vote]

AYES—145

Anderson, Ill.
Ashbrook
Baker
Betts
Biester
Bow
Bray
Broomfield
Brotzman
Brown, Mich.
Brown, Ohio
Broyhill, Va.
Buchanan
Burke, Fla.
Byrnes, Wis.
Camp
Carter
Cederberg
Chamberlain
Clancy
Clausen,
Don H.
Clawson, Del
Cleveland
Collins, Tex.
Conable
Conte
Coughlin
Crane
Dellenback
Dennis
Devine
Dickinson
Dulski
Duncan
Edwards, Ala.
Esch
Findley
Ford, Gerald R.
Forsythe
Frelinghuysen
Frenzel
Frey
Goodling
Gross
Grover
Hall
Halpern
Hammerschmidt
Harsha
Harvey
Hastings
Hechler, W. Va.
Heckler, Mass.
Heinz
Hillis
Hogan
Hull
Hunt
Hutchinson
Ichord
Jacobs
Johnson, Pa.
Jonas
Keating
Keith
Kemp
Kuykendall
Kyl
Landgrebe
Latta
Lent
Lloyd
McClory
McCloskey
McClure
McCollister
McCulloch
McDade
McDonald,
Mich.
McEwen
McKevitt
McKinney
Mann
Martin
Mayne
Mazzoli
Michel
Miller, Ohio
Mills, Md.
Mizell
Morse
Mosher
Myers
Nelsen
O'Konski
Pettis
Peyser
Pirnie
Price, Tex.
Quie
Quillen
Railsback
Reid, N.Y.
Riegle
Robinson, Va.
Robison, N.Y.
Rogers
Rousselot
Ruppe
Ruth
Sandman
Saylor
Scherle
Schneebeli
Schwengel
Sebelius
Shriver
Skubitz
Smith, N.Y.
Snyder
Stanton,
J. William
Steele
Steiger, Ariz.
Steiger, Wis.
Stratton
Talcott
Terry
Thomson, Wis.
Thone
Vander Jagt
Veysey
Wampler
Ware
Whalley
Whitehurst
Widnall
Williams
Winn
Wyatt
Wydler
Wylie
Wyman
Young, Fla.
Zion
Zwach

NOES—201

Abbitt
Abernethy
Abourezk
Adams
Addabbo
Albert
Anderson,
Calif.
Anderson,
Tenn.
Andrews,
N. Dak.
Archer
Ashley
Aspin
Aspinall
Badillo
Barrett
Begich
Bell
Bennett
Bergland
Bevill
Biaggi
Bingham
Boggs
Boland
Bolling
Brademas
Brasco
Brinkley
Brooks
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton
Byrne, Pa.
Byron
Cabell
Caffery
Carey, N.Y.
Carney
Chappell
Clark
Clay
Corman
Cotter
Culver
Daniel, Va.
Daniels, N.J.
Danielson
Davis, Ga.
Davis, S.C.
Davis, Wis.
de la Garza
Delaney
Dellums
Denholm
Donohue
Dorn
Dow
Downing
Drinan
du Pont
Eckhardt
Edmondson
Edwards, Calif.
Eilberg
Evans, Colo.
Fascell
Fisher
Flood
Flowers
Foley
Ford,
William D.
Fraser
Fulton, Tenn.
Fuqua
Galifianakis
Gallagher
Gaydos
Gettys
Giaimo
Goldwater
Gonzalez
Grasso
Gray
Green, Pa.
Griffin
Griffiths
Hagan
Hamilton
Hanley
Hathaway
Hays
Helstoski
Hicks, Mass.
Hicks, Wash.
Holifield
Horton
Hosmer
Howard
Hungate
Jarman
Johnson, Calif.
Jones, Ala.
Jones, N.C.
Jones, Tenn.
Karth
Kastenmeier
Kazen
Kee
Koch
Kyros
Leggett
Link
Long, Md.
McCormack
McFall
McKay
McMillan
Macdonald,
Mass.
Madden
Mahon
Matsunaga
Meeds
Melcher
Metcalfe
Minish
Mink
Mitchell
Mollohan
Monagan
Moorhead
Morgan
Moss
Murphy, N.Y.
Natcher
Nedzi
Nichols
Nix
Obey
O'Hara
O'Neill
Passman
Patten
Perkins
Pickle
Pike
Poage
Preyer, N.C.
Price, Ill.
Purcell
Randall
Rangel
Rarick
Rees
Reuss
Roberts
Rodino
Roe
Rooney, Pa.
Rosenthal
Roush
Roy
Roybal
Runnels
Ryan
St Germain
Satterfield
Scheuer
Schmitz
Seiberling
Shipley
Shoup
Sikes
Sisk
Slack
Smith, Iowa
Staggers
Stanton,
James V.
Steed
Stephens
Stubblefield
Stuckey
Taylor
Teague, Calif.
Teague, Tex.
Thompson, Ga.
Udall
Ullman
Van Deerlin
Vanik
Vigorito
Waggonner
Waldie
Whalen
White
Wilson,
Charles H.
Wolff
Yates
Yatron
Young, Tex.
Zablocki

NOT VOTING—86

Abzug
Alexander
Andrews, Ala.
Annunzio
Arends
Baring
Belcher
Blackburn
Blanton
Blatnik
Broyhill, N.C.
Casey, Tex.
Celler
Chisholm
Collier
Collins, Ill.
Colmer
Conyers
Curlin
Dent
Derwinski
Diggs
Dingell
Dowdy
Dwyer
Edwards, La.
Erlenborn
Eshleman
Evins, Tenn.

Fish
Flynt
Fountain
Garmatz
Gibbons
Green, Oreg.
Gubser
Gude
Haley
Hanna
Hansen, Idaho
Hansen, Wash.
Harrington
Hawkins
Hébert
Henderson
King
Kluczynski
Landrum
Lennon
Long, La.
Lujan
Mailliard
Mathias, Calif.
Mathis, Ga.
Mikva
Miller, Calif.
Mills, Ark.
Minshall

Montgomery
Murphy, Ill.
Patman
Pelly
Pepper
Podell
Poff
Powell
Pryor, Ark.
Pucinski
Rhodes
Roncalio
Rooney, N.Y.
Rostenkowski
Sarbanes
Scott
Smith, Calif.
Spence
Springer
Stokes
Sullivan
Symington
Thompson, N.J.
Tiernan
Whitten
Wiggins
Wilson, Bob
Wright

So the amendment was rejected.

AMENDMENT OFFERED BY MR. BADILLO

Mr. BADILLO. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Badillo: Page 4, line 1, strike out all that comes after "any" and insert in lieu thereof "in any State, the District of Columbia, Puerto Rico, Guam, the Virgin Islands, or any other territory or possession".

Mr. BADILLO. Mr. Chairman, section 4 of H.R. 1163 provides that the separate reserves of corn, barley, wheat and other grains established by this legislation can be utilized to help in alleviating distress in locations which the President declares to be "acute distress" areas. Such a designation would be based on unemployment or some other adverse economic condition. As presently written, H.R. 1163 limits such areas to the United States and the Virgin Islands.

Considering the fact that the current official unemployment rate in Puerto Rico is 12 percent and approaches 30 percent, when you take into account those who have despaired of finding employment and are not actively seeking work, it is clear that Puerto Rico would qualify as an acute distress area. I can see no reason why Puerto Rico or the other territories or possessions of the United States should not be treated fairly and on the same basis as the 50 States.

As I have observed on past occasions, the economic recession on the mainland—especially in the area of agriculture—is felt as a full depression in Puerto Rico and similar conditions prevail in Guam and the other territories. Also, we must not forget that these people are also American citizens—or at least nationals, in some of the territories—and should be afforded the same assistance on the same basis as those other citizens who reside on the mainland.

Accordingly, the amendment I am offering today includes Puerto Rico, Guam, the District of Columbia and the other territories and possessions of the United States on the same footing as the States in being considered for designation as an acute distress area and thereby benefiting from the assistance provided by this action. Commonsense and equity demand that if such aid is to be extended to the States and the Virgin Islands, Puerto Rico and other U.S. possessions should also benefit. I urge the adoption of my amendment.

Mr. POAGE. Mr. Chairman, will the gentleman yield?

Mr. BADILLO. I yield to the gentleman from Texas.

Mr. POAGE. Mr. Chairman, the gentleman needs to make no speech for us. As far as I am concerned, we accept the amendment.

Mr. BADILLO. I thank the gentleman.

Mr. TEAGUE of California. Mr. Chairman, will the gentleman yield?

Mr. BADILLO. I yield to the gentleman from California.

Mr. TEAGUE of California. Mr. Chairman, it may come as a great surprise, but again, for myself, I accept the amendment.

AMENDMENT OFFERED BY MR. CÓRDOVA AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. BADILLO

Mr. CÓRDOVA. Mr. Chairman, I offer an amendment as a substitute for the amendment offered by the gentleman from New York (Mr. Badillo).

The Clerk read as follows:

Amendment offered by Mr. Córdova as a substitute for the amendment offered by Mr. Badillo: Page 4, line 1, strike out all that comes after (a) and all of line 2 and insert in lieu thereof, "in any State, the District of Columbia, Puerto Rico, Guam, the Virgin Islands, American Samoa or the Pacific Trust Territory.

Mr. BADILLO. Mr. Chairman, if the gentleman will yield, I accept the substitute amendment.

Mr. CÓRDOVA. Mr. Chairman, I appreciate the gentleman's accepting my substitute, because I thought since I represented Puerto Rico that it was up to me to see that this substitute amendment was presented to the Committee of the Whole. It is a question, as I understand it, of an inadvertent omission of the territories in general except for the Virgin Islands in the matter of distribution of these commodities in cases of economic disasters.

I believe there is no reason other than inadvertence for not having included Puerto Rico or Samoa or Guam or the Virgin Islands. I therefore urge all my colleagues to accept the substitute amendment which I have offered.

The CHAIRMAN. The question is on the substitute amendment offered by the Resident Commissioner of Puerto Rico (Mr. Córdova) to the amendment offered by the gentleman from New York (Mr. Badillo).

The substitute amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. Badillo) as amended by the substitute.

The amendment, as amended, was agreed to.

AMENDMENT OFFERED BY MR. JACOBS

Mr. JACOBS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Jacobs: page 5, line 22, after the period add: "Or the secretary may store the grain purchased under this Act in the homes of hungry Americans who, in the opinion of the Secretary, are unable to afford sufficient food to maintain their good health. And said hungry people shall consume said grain and charge nothing for its storage."

Mr. JACOBS. Mr. Chairman, here is an opportunity for all of us to come together. There is something in this short little amendment for everybody: For the conservatives, the saving of a quarter of a billion dollars; for the liberals, the feeding of hungry people; for everybody else, commonsense.

I yield back the remainder of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana (Mr. Jacobs).

The question was taken; and on a division (demanded by Mr. Teague of California) there were—ayes 53, noes 134.

TELLER VOTE WITH CLERKS

Mr. CONTE. Mr. Chairman, I demand tellers.

Tellers were ordered.

Mr. CONTE. Mr. Chairman, I demand tellers with clerks.

Tellers with clerks were ordered; and the Chairman appointed as tellers Messrs. Jacobs, Conte, Poage, and Teague of California.

The Committee divided, and the tellers reported that there were—ayes 17, noes 271, answered "present" 59, not voting 85, as follows:

[Roll No. 447]

[Recorded Teller Vote]

AYES—17

Brademas
Duncan
Edwards, Ala.
Goodling
Jacobs
Kuykendall

McCulloch
McDonald, Mich.
Myers
Riegle
Robison, N.Y.

Rousselot
Saylor
Schmitz
Sebelius
Teague, Calif.
Ware

NOES—271

Abbitt
Abernethy
Abourezk
Adams
Addabbo
Albert
Alexander
Anderson, Calif.
Anderson, Ill.
Anderson, Tenn.
Andrews, N. Dak.
Archer
Aspin
Aspinall
Badillo
Begich
Bell
Bennett
Bergland
Betts
Bevill
Biaggi
Bingham
Boggs
Boland
Bolling
Bow
Brasco
Brinkley
Brooks
Brotzman
Brown, Ohio
Broyhill, Va.
Buchanan
Burke, Fla.
Burleson, Tex.
Burlison, Mo.
Burton
Byrne, Pa.
Byrnes, Wis.
Byron
Cabell

Caffery
Camp
Carney
Carter
Cederberg
Chamberlain
Chappell
Clark
Cleveland
Colmer
Conable
Corman
Cotter
Culver
Daniel, Va.
Daniels, N.J.
Danielson
Davis, Ga.
Davis, S.C.
Davis, Wis.
de la Garza
Delaney
Dellenback
Dellums
Denholm
Dennis
Dent
Dickinson
Dorn
Dow
Downing
Drinan
Dulski
du Pont
Eckhardt
Edmondson
Eilberg
Esch
Evans, Colo.
Fascell
Findley
Fisher
Flood
Flowers
Foley

Ford, William D.
Forsythe
Fraser
Frelinghuysen
Frey
Fuqua
Galifianakis
Gallagher
Gaydos
Gettys
Giaimo
Goldwater
Gonzalez
Grasso
Gray
Green, Pa.
Griffin
Griffiths
Gross
Grover
Hagan
Halpern
Hamilton
Hanley
Harvey
Hastings
Hathaway
Hays
Hechler, W. Va.
Heinz
Helstoski
Hicks, Mass.
Hicks, Wash.
Hogan
Holifield
Horton
Howard
Hull
Hungate
Hutchinson
Ichord
Jarman
Johnson, Calif.
Johnson, Pa.

Jonas
Jones, Ala.
Jones, N.C.
Jones, Tenn.
Karth
Kastenmeier
Kazen
Kee
Kyl
Kyros
Latta
Leggett
Lennon
Lent
Link
Long, La.
Long, Md.
McClory
McCloskey
McCollister
McCormack
McDade
McFall
McKay
McMillan
Macdonald, Mass.
Madden
Mahon
Mann
Martin
Matsunaga
Mayne
Mazzoli
Meeds
Melcher
Metcalfe
Miller, Ohio
Mills, Md.
Minish
Mink
Mizell
Mollohan
Monagan
Moorhead
Morgan
Morse
Mosher
Moss
Murphy, N.Y.
Natcher
Nedzi
Nelsen
Nichols
Nix
Obey
O'Hara
O'Neill
Passman
Patten
Perkins
Peyser
Pickle
Pike
Pirnie
Poage
Preyer, N.C.
Price, Ill.
Price, Tex.
Purcell
Quie
Railsback
Randall
Rangel
Rarick
Rees
Reuss
Roberts
Robinson, Va.
Rodino
Roe
Rogers
Rooney, Pa.
Rosenthal
Roush
Roy
Roybal
Runnels
Ruppe
Ruth
Sandman
Satterfield
Scherle
Scheuer
Schneebeli
Schwengel
Seiberling
Shipley
Shoup
Shriver
Sikes
Sisk
Slack
Smith, Iowa
Staggers
Stanton, J. William
Stanton, James V.
Steed
Steiger, Ariz.
Steiger, Wis.
Stephens
Stratton
Stubblefield
Stuckey
Taylor
Teague, Tex.
Thomson, Wis.
Thone
Ullman
Van Deerlin
Vander Jagt
Vanik
Vigorito
Waggonner
Waldie
Wampler
Whalley
White
Whitehurst
Widnall
Williams
Winn
Wolff
Wyatt
Wyman
Yates
Yatron
Young, Tex.
Zablocki
Zion
Zwach

ANSWERED "PRESENT"—59

Ashbrook
Ashley
Baker
Barrett
Bray
Broomfield
Brown, Mich.
Burke, Mass.
Carey, N.Y.
Clancy
Clausen, Don H.
Clawson, Del
Collins, Tex.
Conte
Coughlin
Devine
Donohue
Edwards, Calif.
Ford, Gerald R.
Frenzel
Fulton, Tenn.
Hall
Hammerschmidt
Harsha
Heckler, Mass.
Hillis
Hosmer
Hunt
Keating
Keith
Kemp
Koch
Landgrebe
Lloyd
McClure
McEwen
McKevitt
McKinney
Mitchell
O'Konski
Pettis
Quillen
Reid, N.Y.
Ryan
St Germain
Skubitz
Smith, N.Y.
Snyder
Steele
Talcott
Terry
Thompson, Ga.
Veysey
Whalen
Wilson, Bob
Wilson, Charles H.
Wydler
Wylie
Young, Fla.

NOT VOTING—85

Abzug
Andrews, Ala.
Annunzio
Arends
Baring
Belcher
Biester
Blackburn
Blanton
Blatnik
Broyhill, N.C.
Casey, Tex.
Celler
Chisholm
Clay
Collier
Collins, Ill.
Conyers
Crane
Curlin
Derwinski
Diggs
Dingell
Dowdy
Dwyer
Edwards, La.
Erlenborn
Eshleman
Evins, Tenn.
Fish
Flynt
Fountain
Garmatz
Gibbons
Green, Oreg.
Gubser
Gude
Haley
Hanna
Hansen, Idaho
Hansen, Wash.
Harrington
Hawkins
Hébert
Henderson
King
Kluczynski
Landrum
Lujan
Mailliard
Mathias, Calif.
Mathis, Ga.
Michel
Mikva
Miller, Calif.
Mills, Ark.
Minshall
Montgomery
Murphy, Ill.
Patman
Pelly
Pepper
Podell
Poff
Powell
Pryor, Ark.
Pucinski
Rhodes
Roncalio
Rooney, N.Y.
Rostenkowski
Sarbanes
Scott
Smith, Calif.
Spence
Springer
Stokes
Sullivan
Symington
Thompson, N.J.
Tiernan
Udall
Whitten
Wiggins
Wright

Mr. BURKE of Massachusetts changed his vote from "aye" to "present."

Mr. BARRETT voted "present."

Mr. FULTON of Tennessee voted "present."

Mr. CHARLES H. WILSON voted "present."

Mr. EDWARDS of California voted "present."

Mr. MITCHELL voted "present."

Mr. KOCH changed his vote from "nay" to "present."

Mr. ASHLEY voted "present."

Mr. RYAN voted "present."

Mr. DONOHUE changed his vote from "aye" to "present."

Mr. ST GERMAIN changed his vote from "nay" to "present."

Mr. CAREY of New York voted "present."

Mr. CLANCY voted "present."

Mr. HALL voted "present."

Mr. REID of New York voted "present."

Mr. BROWN of Michigan voted "present."

Mr. HOSMER changed his vote from "aye" to "present."

Mr. THOMPSON of Georgia changed his vote from "nay" to "present."

Mr. SKUBITZ changed his vote from "nay" to "present."

Mr. KEATING voted "present."

Mr. BAKER voted "present."

Mr. SNYDER voted "present."

Mr. WHALEN voted "present."

Mr. ASHBROOK changed his vote from "aye" to "present."

Mr. HUNT voted "present."

Mr. COUGHLIN voted "present."

Mr. WYLIE voted "present."

Mr. McKINNEY changed his vote from "aye" to "present."

Mr. DEVINE voted "present."

Mr. DON H. CLAUSEN voted "present."

Mr. McEWEN voted "present."

Mr. CARTER changed his vote from "aye" to "no."

Mr. DEL CLAWSON changed his vote from "aye" to "present."

Mr. HARSHA changed his vote from "aye" to "present."

Mr. PETTIS changed his vote from "aye" to "present."

Mr. TERRY voted "present."

Mr. QUILLEN changed his vote from "aye" to "present."

Mr. McKEVITT changed his vote from "aye" to "present."

Mr. LANDGREBE voted "present."

Mr. HILLIS changed his vote from "aye" to "present."

Mr. YOUNG of Florida changed his vote from "aye" to "present."

Mr. TALCOTT voted "present."

Mr. VEYSEY voted "present."

Mr. HAMMERSCHMIDT voted "present."

Mr. KEMP changed his vote from "aye" to "present."

Mr. McCLURE changed his vote from "aye" to "present."

Mr. FRENZEL changed his vote from "aye" to "present."

Mr. GERALD R. FORD changed his vote from "aye" to "present."

Mr. WYDLER changed his vote from "aye" to "present."

Mr. BRAY changed his vote from "aye" to "present."

Mr. SMITH of New York changed his vote from "aye" to "present."

Mr. CONTE changed his vote from "aye" to "present."

Mr. KEITH voted "present."

Mr. BROOMFIELD changed his vote from "aye" to "present."

Mrs. HECKLER of Massachusetts voted "present."

Mr. JOHNSON of Pennsylvania changed his vote from "aye" to "no."

Mr. BYRNES of Wisconsin changed his vote from "aye" to "no."

Mr. HALPERN changed his vote from "aye" to "no."

Mr. STEELE changed his vote from "aye" to "present."

Mr. O'KONSKI changed his vote from "aye" to "present."

Mr. LLOYD changed his vote from "aye" to "present."

Mr. COLLINS of Texas changed his vote from "aye" to "present."

Mr. BOB WILSON voted "present."

So the amendment was rejected.

Mr. TEAGUE of California. Mr. Chairman, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks in connection with the amendment just rejected.

The CHAIRMAN. The Chair will state that the unanimous consent request is not in order in the Committee of the Whole.

AMENDMENT OFFERED BY MR. SEBELIUS

Mr. SEBELIUS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SEBELIUS: On page 2, line 6, strike the figure "300,000,000" and insert in lieu thereof the figure "600,000,000".

Mr. SEBELIUS. Mr. Chairman, I stand here amid demands to vote, and I can understand the impatience, especially when $2 billion is involved. My amendment on page 2, line 6, would strike "three hundred million" bushels of wheat and insert in lieu thereof "six hundred million" bushels of wheat. The Committee beat the amendment which would provide parity. The Committee also beat the proposal to store grain on the farm and that was very natural and a goal for our farmers. We would not have this grain released unless it was released at parity for our farmers.

I have gone through this exercise. I know what is going on. I am a member of the Agriculture Committee. But I want to tell you something. If you want to do something for the farmers, get a move on. My amendment presents something constructive here.

I am very sincere in what I offer. I do not want to belabor the point. My district grows more wheat than any State in the Nation. My district has 57 counties. My district has more wheat farmers than all others put together down here. I am sincere in what I am doing, but I want to do it in a responsible manner. Six hundred million bushels of wheat is only twice the amount my district raised this year, with fewer acres than we have ever produced before under any farm program we have ever had. I say that because we have had farm problems. We have one tonight. We have one tonight that I think needs to be faced.

I am going to vote for it. I am going to vote for it because I would like to be back here next year. I do not have much more logic than that. I am willing to try anything. I really am. I am very sincere about this. Now we are talking about locking 300 million bushels. Six hundred million bushels is a darned sight better. I am going to leave it right here. I am trying to make a point.

I have watched the exercise. I have gone up the aisles. The farmers in my district are not making a living.

I do not think this is the total answer. I say I am going to vote for it, but there has to be fresher and newer ideas. We have heard about corn. Let us talk about wheat. I say when we go into the restaurant and we do not eat the rolls, at least mess them up.

Incidentally, I have never tasted coffee, and when I am on an airplane, and they offer me coffee, tea, or milk, what I say is, "I do not want coffee. We do not grow it in my district."

If there is merit in the 300 million bushels, and that is good, then 600 million might help cure the situation.

Thank you, good night, and God bless you.

Mr. POAGE. Mr. Chairman, I rise in opposition to the amendment. Mr. Chairman, I think it is quite evident we have had quite enough of amendments. I think it is quite evident it is time to vote, and I hope the committee will now vote down this amendment and vote for the bill.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Kansas (Mr. SEBELIUS).

The question was taken; and on a division (demanded by Mr. SEBELIUS) there were—ayes 58, noes 272.

So the amendment was rejected.

Mr. MIZELL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I certainly have no intention of taking all the time.

Mr. Chairman, the last time I got a hand like that, I believe I was knocked out of the box in Cincinnati.

Seriously, Mr. Chairman, I take this time because I am concerned about the action that is being taken by the House tonight. When I first came to the Congress, I asked to be assigned to the Agriculture Committee, and I was granted that assignment. I do not believe any committee has ever worked any harder with complete cooperation from the Department of Agriculture as well as the administration and the individual members of this committee.

I have been proud to serve on this committee.

We drafted and brought to the House a comprehensive farm bill. That bill was passed by the House. For the first time, a farm bill had a limitation on payments attached to it, and this one was at $55,000 per crop. I supported that level of limitation; and I have consistently voted against limitations calling for any lower level of payments.

Mr. Chairman, I have studied the legislation before us this evening since it was first presented in the committee, and I am convinced that this legislation is not and will not be in the best long-range interests of the American farmers or of the future of farm programs. For that reason I intend to vote against this legislation.

This legislation will establish a tremendous surplus of wheat and feed grains that will be held over the head of the farmer, and will produce an additional cost of storage from year to year at the taxpayers' expense.

I say to my colleagues, in my opinion, by bringing this legislation to the floor there has been set in motion what I believe will ultimately result in a payment limitation of at least as low as $20,000, and I would suggest the possibility of a limitation of $10,000 or even $5,000 in the future.

It is true, on the parliamentary procedure vote on ordering the previous question this evening, many Members voted to order the previous question who in the past have voted for a limitation on farm payments. But you know and I know, Mr. Chairman, on a direct vote as to limitation of payments they will support the lowest level of payment offered. I do not like to sound like a prophet here this evening, but as I view the situation as it has developed this evening I believe there is a real possibility that support for farm programs has been divided here this evening, and a possibility that we will never be able to pull all sides back together as we have on the bill we reported to this floor.

I say to the members of my committee and to the Members of the House from our agricultural areas, you can begin now to get your houses in order. Lower payments are in the future for you.

Mr. Chairman, I yield back the remainder of my time.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker having resumed the chair (Mr. NEDZI) Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 1163) to authorize the establishment and maintenance of reserve supplies of soybeans, corn, grain sorghum, barley, oats, and wheat for national security and to protect domestic consumers against an inadequate supply of such commodities; to maintain and promote foreign trade; to protect producers of such commodities against an unfair loss of income resulting from the establishment of a reserve supply; to assist in marketing such commodities; to assure the availability of commodities to promote world peace and understanding; and for other purposes, pursuant to House Resolution 728, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. TEAGUE OF CALIFORNIA

Mr. TEAGUE of California. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. TEAGUE of California. I am, Mr. Speaker.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. TEAGUE of California moves to recommit the bill H.R. 1163 to the Committee on Agriculture.

The SPEAKER. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER. The question is on the passage of the bill.

Mr. GERALD R. FORD. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 182, nays 170, not voting 79, as follows:

[Roll No. 448]

YEAS—182

Abourezk
Adams
Alexander
Anderson, Calif.
Anderson, Tenn.
Andrews, N. Dak.
Aspin
Aspinall
Badillo
Barrett
Begich
Bennett
Bergland
Bevill
Bingham
Boggs
Boland
Bolling
Brademas
Brasco
Brinkley
Brooks
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton
Byrne, Pa.
Cabell
Caffery
Carney
Carter
Chappell
Clark
Corman
Cotter
Culver
Danielson
Davis, Ga.
Davis, S.C.
de la Garza
Dellums
Denholm
Dent
Donohue
Dorn
Dow
Eckhardt
Edmondson
Edwards, Calif.
Eilberg
Evans, Colo.
Fascell
Fisher
Flood
Flowers
Foley
Ford, William D.
Fraser
Fulton, Tenn.
Fuqua
Galifianakis
Gallagher
Gettys
Giaimo
Gibbons
Gonzalez
Grasso
Gray
Green, Pa.
Griffiths
Hagan
Hamilton
Hanley
Hansen, Idaho
Hathaway
Hays
Helstoski
Henderson
Hicks, Mass.
Hicks, Wash.
Holifield
Howard
Hull
Hungate
Ichord
Johnson, Calif.
Jones, Ala.
Jones, N.C.
Jones, Tenn.
Kastenmeier
Kazen
Kee
Kyl
Kyros
Landrum
Lennon
Link
Long, La.
McClure
McCollister
McCormack
McFall
McKay
McMillan
Madden
Mahon
Martin
Matsunaga
Mayne
Mazzoli
Meeds
Melcher
Metcalfe
Mink
Mitchell
Mollohan
Monagan
Moorhead
Morgan
Morse
Murphy, N.Y.
Natcher
Nedzi
Nelsen
Nichols
Nix
Obey
O'Hara
O'Konski
O'Neill
Passman
Patten
Perkins
Pickle
Poage
Podell
Preyer, N.C.
Price, Ill.
Price, Tex.
Purcell
Quie
Railsback
Randall
Rees
Reuss
Roberts
Rooney, Pa.
Roush
Roy
Roybal
Runnels
Scherle
Sebelius
Seiberling
Shipley
Shoup
Sikes
Sisk
Skubitz
Slack
Smith, Iowa
Staggers
Stanton, James V.

Steed
Stephens
Stubblefield
Stuckey
Taylor
Teague, Tex.
Thompson, Ga.
Thomson, Wis.
Thone
Ullman
Van Deerlin
Vigorito
Waggonner
Whalen
White
Yatron
Young, Tex.
Zablocki
Zwach

NAYS—170

Abbitt
Addabbo
Anderson, Ill.
Archer
Ashbrook
Ashley
Baker
Bell
Betts
Biaggi
Biester
Bow
Bray
Broomfield
Brotzman
Brown, Mich.
Brown, Ohio
Broyhill, Va.
Buchanan
Burke, Fla.
Byrnes, Wis.
Byron
Camp
Carey, N.Y.
Cederberg
Chamberlain
Clancy
Clausen, Don H.
Clawson, Del
Cleveland
Collins, Tex.
Colmer
Conable
Conte
Coughlin
Crane
Daniel, Va.
Daniels, N.J.
Davis, Wis.
Delaney
Dellenback
Dennis
Devine
Dickinson
Downing
Drinan
Dulski
Duncan
du Pont
Edwards, Ala.
Esch
Findley
Ford, Gerald R.
Forsythe
Frelinghuysen
Frenzel
Frey
Gaydos
Goldwater
Goodling
Griffin
Gross
Grover
Hall
Halpern
Hammerschmidt
Harsha
Harvey
Hastings
Hechler, W. Va.
Heckler, Mass.
Heinz
Hillis
Hogan
Horton
Hosmer
Hunt
Hutchinson
Jacobs
Jarman
Johnson, Pa.
Jonas
Keating
Keith
Kemp
Koch
Kuykendall
Landgrebe
Latta
Lent
Lloyd
Long, Md.
McClory
McCloskey
McCulloch
McDade
McDonald, Mich.
McEwen
McKevitt
McKinney
Macdonald, Mass.
Mann
Michel
Miller, Ohio
Mills, Md.
Minish
Mizell
Morse
Mosher
Myers
Pettis
Peyser
Pike
Pirnie
Quillen
Rangel
Rarick
Reid, N.Y.
Riegle
Robinson, Va.
Robison, N.Y.
Rodino
Roe
Rogers
Rosenthal
Rousselot
Ruppe
Ruth
Ryan
St Germain
Sandman
Satterfield
Saylor
Scheuer
Schmitz
Schneebeli
Schwengel
Shriver
Smith, Calif.
Smith, N.Y.
Snyder
Stanton, J. William
Steele
Steiger, Ariz.
Steiger, Wis.
Stratton
Talcott
Teague, Calif.
Terry
Vander Jagt
Vanik
Veysey
Waldie
Wampler
Ware
Whalley
Whitehurst
Widnall
Williams
Wilson, Bob
Wilson, Charles H.
Winn
Wolff
Wyatt
Wydler
Wylie
Wyman
Yates
Young, Fla.
Zion

NOT VOTING—79

Abernethy
Abzug
Andrews, Ala.
Annunzio
Arends
Baring
Belcher
Blackburn
Blanton
Blatnik
Broyhill, N.C.
Casey, Tex.
Celler
Chisholm
Clay
Collier
Collins, Ill.
Conyers
Curlin
Derwinski
Diggs
Dingell
Dowdy
Dwyer
Edwards, La.
Erlenborn
Eshleman
Evins, Tenn.
Fish
Flynt
Fountain
Garmatz
Green, Oreg.
Gubser
Gude
Haley
Hanna
Hansen, Wash.
Harrington
Hawkins
Hébert
Karth
King
Kluczynski
Leggett
Lujan
Mailliard
Mathias, Calif.
Mathis, Ga.
Mikva
Miller, Calif.
Mills, Ark.
Minshall
Montgomery
Murphy, Ill.
Patman
Pelly
Pepper
Poff
Powell
Pryor, Ark.
Pucinski
Rhodes
Roncalio
Rooney, N.Y.
Rostenkowski
Sarbanes
Scott
Spence
Springer
Stokes
Sullivan
Symington
Thompson, N.J.
Tiernan
Udall
Whitten
Wiggins
Wright

So the bill was passed.

The Clerk announced the following pairs.

On this vote:

Mr. Annunzio for, with Mr. Thompson of New Jersey against.

Mr. Hébert for, with Mr. Tiernan against.

Mr. Spence for, with Mr. Celler against.

Mr. Casey of Texas for, with Mr. Collier against.

Mr. Dingell for, with Mr. King against.

Mr. Dowdy for, with Mrs. Abzug against.

Mr. Evins of Tennessee for, with Mrs. Dwyer against.

Mr. Fountain for, with Mr. Belcher against.

Mr. Garmatz for, with Mr. Eshleman against.

Mr. Kluczynski for, with Mr. Erlenborn against.

Mr. Mathis of Georgia for, with Mr. Gude against.

Mr. Miller of California for, with Mr. Derwinski against.

Mr. Blanton for, with Mr. Pelly against.

Mr. Flynt for, with Mr. Rhodes against.

Mr. Blatnik for, with Mr. Fish against.

Mr. Pepper for, with Mr. Rooney of New York against.

Until further notice:

Mr. Whitten with Mr. Arends.

Mrs. Sullivan with Mr. Gubser.

Mrs. Hansen of Washington with Mr. Blackburn.

Mr. Andrews of Alabama with Mr. Broyhill of North Carolina.

Mr. Abernethy with Mr. Lujan.

Mr. Leggett with Mr. Stokes.

Mr. Karth with Mr. Mailliard.

Mr. Mikva with Mrs. Chisholm.

Mr. Montgomery with Mr. Mathias of California.

Mr. Roncalio with Mr. Minshall.

Mr. Haley with Mr. Poff.

Mr. Pryor of Arkansas with Mr. Powell.

Mr. Wright with Mr. Scott.

Mr. Rostenkowski with Mr. Springer.

Mr. Symington with Mr. Wiggins.

Mr. Murphy of Illinois with Mr. Diggs.

Mr. Hanna with Mr. Clay.

Mr. Pucinski with Mr. Conyers.

Mr. Udall with Mr. Hawkins.

Mr. Harrington with Mr. Collins of Illinois.

Mr. Baring with Mr. Mills of Arkansas.

Mr. Patman with Mr. Curlin.

Mrs. Green of Oregon with Mr. Sarbanes.

Mr. HARSHA changed his vote from "yea" to "nay."

The result of the vote was announced as above recorded.

The title was amended so as to read: "A bill to authorize the establishment and maintenance of reserve supplies of corn, grain, sorghum, barley, oats, and wheat for national security and to protect domestic consumers against an inadequate supply of such commodities; to maintain and promote foreign trade; to protect producers of such commodities against an unfair loss of income resulting from the establishment of a reserve supply; to assist in marketing such commodities; to assure the availability of commodities to promote world peace and understanding; to protect producers' incomes when rebuilding reserve stocks of wheat or feed grains; and for other purposes."

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. POAGE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

DAIRY IMPORT TARIFFS

(Mr. VIGORITO asked and was given permission to address the House for 1 minute, to revise and extend his remarks, and include extraneous matter.)

Mr. VIGORITO. Mr. Speaker, I wish to join with my colleagues from dairy States in urging that the President take immediate action on implementing the recommendations of the Tariff Commission as they relate to the importation of foreign dairy products.

The rapid growth of these dairy imports has worked immeasurable hardship on American dairymen. Importers continue to find ways to evade the present import quotas and other restrictions. It becomes more and more difficult for dairymen to compete with low price foreign dairy products.

Since 1966 the Tariff Commission has held four hearings designed to investigate the problem of dairy imports. Following a report of their findings, each time the President has acted to close loopholes the importers have found in the laws. No sooner was this done, however, but the importers would find some other means of evading the regulations.

In 1969 a number of cheeses were placed under quota, although cheeses which cost 47 cents or more were exempt from the quota. The purpose of this was to allow specialty cheeses, not normally produced in this country, to be imported. Again the importers found means of increasing imports in this quota-free category, so that by 1970 the over-47-cent cheeses accounted for nearly 25 percent of all dairy imports.

The Tariff Commission met again this year and on July 28, made its recommendations to the President. The Commission suggested that the 47-cent price break be abolished and that a quota be set for the different types of cheeses involved regardless of price. It recommended that the present quotas, which had previously applied only to under-47-cent cheeses, be increased by taking into account recent imports of over-47-cent cheeses. Basically, the new quota, which was to cover regardless of purchase price, would be based on the past shipment of both over- and under-47-cent cheeses.

The unfortunate aspect of this problem is that although the Tariff Commission made its recommendations more than 3 months ago, the President has failed to take any action on them.

Each day of delay works to the detriment of our dairymen. If we look closely at their plight I think we will agree that we cannot afford to delay any longer. Domestic dairy production is up this year over 1970. Producers must find a market for their products at a price which will provide a fair return on their investment. If the flood of dairy imports continues to flow into this country that fair return will not be possible.

I hope all my colleagues will join with me in urging the President to promptly implement the recommendations of the Tariff Commission. There is nothing to be gained from further delay.

THE SITUATION ON THE INDIAN SUBCONTINENT

(Mr. GALLAGHER asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. GALLAGHER. Mr. Speaker, I rise at this point to respond to certain remarks made by some of my colleagues earlier in the Foreign Aid debate about the blame for the crisis now gripping the Indian subcontinent. In May of this year, I held the first congressional hearings on the crisis in East Pakistan. I was the first Member of the Congress to view the refugee camps in India, and I authored the House-passed restrictions on all aid to the Government of Pakistan. I have kept myself constantly informed on developments there. I think I speak now with some credentials on this matter and with special knowledge about the Indian subcontinent. Nothing could be further from the truth than to say that the fault in any possible degree belongs to India. And nothing could be contrary to India's national interest than the present tragedy of the dismemberment of Pakistan.

BACKGROUND

Since the army of Pakistan began its brutal sweep to overturn the results of a free and fair election inside East Pakistan—an election in which the Awami League won control of both wings of Pakistan by gaining 167 of the 313 seats contested nationwide—the root of the problem and the heart of the solution has been inside East Pakistan. India was drawn into the problem because refugees, now numbering 10 million, fled across her borders.

What I saw when I visited the refugee camps cannot be understood simply through debate. The excellent coverage in newspapers, magazines, and recently on television speaks far more powerfully about the brutality and the wretched conditions of those who were forced to flee. India had no way in the world to close that border between herself and East Pakistan. Except to fire into the refugees fleeing into her country. Certainly, no civilized people could exercise that option. These refugees were helpless, terrified people, some of whom walked over 350 miles to escape the Pakistani soldiers who were murdering, looting, and raping innocent civilians who were their own countrymen. The territory of India completely surrounds East Pakistan, and in many places there is no way to determine where Pakistani territory ends and Indian territory begins.

The only alternative to accepting these peoples would have been to immediately move machineguns into position along the border and annihilate, perhaps, 4 or 5 million of these refugees. But India, thank God, is not that kind of country and she took the terrorized, starving Bengalis into her country.

When I first requested information about the evolving tragedy which I said on May 11 in the opening statement to my Asian and Pacific Affairs Subcommittee "combined the worst features of Vietnam and Biafra," I was told that the Congress of the United States should do nothing because we would be exploiting the Sino-Soviet rift and the Indian subcontinent was so overcrowded that another 10 million people would make no difference to India. This last point was well expressed in a letter to me from a leader in the population control movement, Prof. Garrett Hardin, and my response, I believe, deals usefully with both points. I shall insert this exchange of letters released on July 18 at the end of my remarks.

INDIA: THE VICTIM OF CIVILIAN AGGRESSION

Mr. Speaker, the population of East Pakistani refugees in the refugee camps inside India is greater than the population of 58 countries of the world. It is the largest population shift in a short time in the entire history of mankind. India accepted the refugees not because she wanted them or encouraged them. India took the refugees because she had no choice.

Perhaps the saddest thing about the entire situation is that the Government of Prime Minister Gandhi won a smashing victory at the polls, and was beginning to make significant strides toward meeting her nation's massive economic and social problems. But the expense of caring for and feeding the refugees blunted India's progress toward meeting the needs of her own people.

So we see the result of Pakistani Government policy—terrorized Bengalis being driven across an international border by the murderous army of Pakistan—posed a grave threat to the stability of India.

And yet, Mr. Speaker, India took no action against Pakistan for 8 months. The refugees continued, President Yahya offered certain cosmetic measures to hide the true situation inside East Pakistan, the Government of the United States said nothing critical of the Army's sweep and, in my view, quite probably emboldened President Yahya by allowing the impression of strong support to remain due to continued shipments of arms. Still, India did nothing but care for the refugees, even though her Government received an entirely false view of American arms policy. I myself, along with many other Members of the Congress received the same erroneous information, and whether or not it was deliberate misinformation, the point is that shipments of arms to the Government of Pakistan continued until quite recently.

And we must never forget that India is the largest country in the world with a democratic tradition. Prime Minister Gandhi's electoral victory gave her nation new hope and new faith in India's hard-won traditions of democracy. Would it not then be wise for America to be very careful in its dealings with India? For the sake of our own oft-expressed traditions, should we not be disposed to consider India's position with sympathy and understanding? We did not do this, Mr. Speaker, and American relations with the Government of India are now at an alltime low. I strongly suspect that this loss of Indian respect and regard may be the greatest long-term loss to the United States in this tragic situation. She is the world's largest experiment with democratic government. If developing countries are to find a viable alternative to communism and fascism it will be because democracy really worked, not in the United States or Great Britain, but that it really worked in India under the most appalling conditions possible. And it is working. This tragedy sets back India's progress and it is totally disruptive of all its domestic policies that were just beginning to show results. Results that were necessary if democracy is to succeed in India. This is the tragedy within the tragedy.

INDIAN ARMY VIEWED AS LIBERATORS INSIDE BANGLADESH

After exercising 8 months of incredible compassion, restraint, and patience, India finally sent her troops into Bangla Desh in support of the Bengalis. The people of East Pakistan who won the election on a basis of regional autonomy—correcting years of economic exploitation by the West Wing—and who only began to work toward total independence after the army swept through on March 25 are welcoming the Indian Army as liberators. Indian troops are cooperating closely with the last majority of the people of Bangladesh, and they are acting in coordination with the Mukti Bahini, the liberation fighters.

In my view, India moved because she could see no possible way for the refugees ever to return home unless strong action was taken. Let me say, Mr. Speaker, that I regret that India viewed her own national security in a manner that convinced her that military action was essential. No one welcomes this war, and probably no one is more distressed about its necessity than Indian leaders themselves. Certainly this war is anathema to Prime Minister Gandhi.

India has enough land and enough people; she does not need or want more. An independent Bangladesh could well cause grave problems within India because other national groups in certain territories may want to move toward the same thing, particularly in the strife-ridden Indian state of West Bengal, where the vast majority of the refugees now are.

I repeat: India moved into East Pakistan because it was the only way she could see to have the refugees stop their incredible drain on her economy and her very future.

THE SIN OF THE BENGALIS WAS TO WIN AN ELECTION

Mr. Speaker, we must wonder why, if this entire war is a cynical master exercise in global politics and directed solely at the breakup of the state of Pakistan, the Indian Army is being hailed at every town and village as liberators. If the Government of Pakistan is indeed the offended party in this matter, why flowers for invaders; why cheers for violaters of the sacred soil of Pakistan? Why, Mr. Speaker?

Quite simply, in my view, because India is working closely with the legitimate government of Bangladesh. The Awami League won 167 of the 169 seats contested in East Pakistan in the December election and this gave them a majority of the whole country. I am somewhat astounded that some of my colleagues in the Congress should so casually dismiss an election victory of such an overwhelming magnitude. I am puzzled that those of us who depend on the will of the people can overlook the fantastic impact this win had on the people of East Pakistan.

The murder, rape, looting, burning, and genocide practiced against those whose only sin was to win a fair and free election and which caused 10 million Bengalis to flee to India totally removes this question, in my view, from the queasy legalism of "an internal matter of Pakistan." Not only are the refugees not "an internal matter of mankind," not only are the forces of Bangladesh fighting to capture what they had won by voting, but the Indian Army is being supported by the overwhelming majority of the Bengalis who make up the population of East Pakistan.

President Yahya Kahn took a number of measures which he hoped would be designed to lure the Bengalis back into supporting, if they ever really did, the cause of a united Pakistan. But at each step of the way he was violently opposed by the Bengalis. He appointed several East Pakistanis to the regional assembly and to the national assembly. Many of these people, most of whom were resoundingly defeated by Awami League candidates in the general election, were promptly assassinated by the Mukti Bahini. In spite of some assurances of trying to deal with the real leaders of the Awami League, the only legitimate spokesman for Bangladesh, the real leader, Sheikh Mujib still languishes in prison on trial for high crimes against the State of Pakistan. Appeals from all over the world to release Sheikh Mujib have gone unheeded by President Yahya. Yet we are told that India is the aggressor.

ONE OVERLOOKED POINT

Mr. Speaker, I do not want to discuss in any length today American responsibility for the tragedy in Bangla Desh. The record is not a creditable one, but it is especially lacking when compared to the restraint, compassion, patience and statesmanship of the Government of India. There is enough blame to go around to all the nations of the world. And some of this blame surely should find its way to the People's Republic of China.

U.S. aid to the Government of Pakistan is but a fraction of that received from the People's Republic, particularly arms, and this aid is being used in an attempt to crush the Bengalis. And what is the struggle for Bangladesh, which began immediately after the Pakistani Army's sweep of March 25. It is "a war of national liberation," Mr. Speaker, and the major source of support for those trying to crush it comes from the People's Republic of China.

CONCLUSION

Let me conclude by reviewing the points I have made.

First. The crisis began when President Yahya ordered his troops to overturn the results of a free and fair election, by an attempt to literally exterminate the winners and their supporters.

Second. Ten million refugees fled to India and the only way she could have stopped the flow would be by a slaughter at the border equal to the slaughter inside East Pakistan.

Third. The security and stability of India itself was threatened by the "civilian aggression" and by her massive and continuing humanitarian efforts to care for the refugees, while the U.N. and its members ignored the terrible slaughter and the refugees which resulted.

Fourth. India exercised great restraint for 8 months in the face of continued provocations that few people would even acknowledge were really happening.

Fifth. President Yahya gave no indication of releasing Sheikh Mujib who Yahya himself said was elected to be the Prime Minister of all of Pakistan, and his efforts at conciliation were totally rejected by the Bengali people and seen as merely cosmetic measures by informed observers around the world.

Sixth. India, whose appeals for help were ignored, therefore acted in the only way possible to rid herself of the intolerable burden of the refugees and to save the lives of those Bengalis remaining inside Bangladesh, for there is no cessation of the murder of the Bengali people by the army. The victims continue to be referred to as citizens of Pakistan by President Yahya, yet he has unleashed genocide on people he claims to be his own.

Seventh. The Indian soldiers are being welcomed as liberators by the people of Bangladesh.

Mr. Speaker, no effective case can be made that stands up under informed scrutiny which places the blame on India for creating this crisis. To try to make such a case only intensifies the loss of Indian respect and regard for the United States and nourishes the roots of continued tragedy.

At this point in the RECORD, I include the exchange of correspondence between myself and Prof. Garret Hardin.

TEXT OF PROFESSOR HARDIN'S LETTER

DEAR MR. GALLAGHER: Thank you for sending me a copy of the Hearings before the Subcommittee on Asian and Pacific Affairs on May 11 and 25, 1971, on the "Crisis in East Pakistan."

I am worried about the drift of these hearings. To put the matter bluntly, I am worried that our tender hearts may lead us into another Vietnam. I am afraid that there is inadequate appreciation of the magnitude of the disaster developing on the Indian peninsula and of our powerlessness to prevent it. The basis for my position will be found in the two *Science* editorials here enclosed.

[Subcommittee note: Professor Hardin included editorials of February 12, 1971, entitled "Nobody Ever Dies of Overpopulation," and of June 25, 1971, entitled "The Survival of Nations and Civilization"]

Your committee is worried about the loss of thousands of Pakistani lives. You know that Pakistan (as well as India) is greatly overpopulated. But do you fully realize that it would require the loss of 4½ million lives each year to keep Pakistan from sinking even further into the mire of overpopulation? That's the rate of yearly increase in Pakistan. Are we *helping* this wretched country when we saddle her economy with more mouths to feed? Or India?

Our compassion is short-sighted. We fail to ask ". . .and then, what?" We hear that five million people are in need of food, so we send $15 million in aid. At 33c per person per day that takes care of their "need" for just 9 days.

And then, what? Are we to take care of these people forever? Have we any reason to believe that they will be able to take care of themselves after 9 days? After 90? After 900? If we have not, are we not then guilty of the cruelty of raising in their hearts a hope that we cannot fulfill? Let me remind you of the plea made by a Bengali as quoted in your speech to the House on 10 June 1971: "Please do not have your country send any aid to this country, not even food. The food will only go to the Army and prolong our agony." Food sent to India would attract more refugees out of East Pakistan, improving the position of the Pakistan army still more. When we realize that, would we not then take the next step in a new, and endless, escalation?

Please—one Vietnam is enough. Good intentions are no excuse for starting on the road to another. Our compassion must be guided by intelligence into channels where it can do more good than harm. I am afraid Pakistan is not such a channel.

Respectfully,

GARRETT HARDIN.

P.S.—I am taking the liberty of sending a copy of this to each of the Members of your Subcommittee on Asian and Pacific Affairs.

TEXT OF CHAIRMAN GALLAGHER'S LETTER

DEAR PROFESSOR HARDIN: I deeply appreciate your letter of July 9, 1971, for it gives me an opportunity to respond at some length to an often heard criticism of attempting to alleviate problems of the Indian subcontinent. You criticize my concern with the Pakistani refugees and the threat of famine in East Pakistan by pointing to the chronic over-population in the region and you discern a "drift" in my Asian and Pacific Affairs Subcommittee hearings in May which could lead us to another Vietnam. To quote from your letter: "I am worried that our tender hearts may lead us into another Vietnam . . . do you fully realize that it would require the loss of 4½ million lives each year to keep Pakistan from sinking even further into the mire of overpopulation . . ." After pointing out the inadequacy of our aid to continue feeding refugees in India, you say, ". . . are we not then guilty of the cruelty of raising in their hearts a hope that we cannot fulfill." You kindly enclosed a copy of an editorial you wrote in the February 12, 1971, Science magazine, in which you say: "I was in Calcutta when the cyclone struck East Bengal in November 1970," and refer to the estimated 500,000 people who lost their lives, commenting, "Pakistani parents repaired the population loss in just 40 days . . ."

Now that I have stated your position, Professor Hardin, permit me to express mine. I certainly favor the limitation of population, but only in consonance with the mores and traditions of those affected. To paraphrase that ancient hope of mankind, until we are ready to beat baby rattles into intrauterine loops, we must have affection for the living. My action in holding hearings, introducing legislation to suspend military and economic aid to the Government of Pakistan, and in speaking out forcefully is to save lives and to try to arrest a "drift" in American policy which, in my judgment, will present the world community with torrents of tragedy even exceeding those in Vietnam.

Let me briefly describe the realities of East Pakistan as seen by the chairman of a Foreign Affairs subcommittee who visited the refugee camps in India this June. The people of East Pakistan, a majority of that bifurcated and now ended entity known as Pakistan won the election in December. This earned them the control of the whole country; yet, the military leader whose administration conducted the election everyone concedes was fair now chooses to thwart the electoral mandate by an unprecedented reign of terror which utilizes American arms.

Formal statements by our Administration led the Congress to believe our arms shipments had stopped, but that sovereign Cybernetic State of Departments of Defense and State computers continues our lethal intervention on the side of the Army by still sending arms. This unhappy conjunction of bureaucratic blunders and political ineptitude has infuriated the world's largest democracy—India—and increased the credibility chasm of the world's best democracy—America.

The Pakistan Army's brutal sweeps beginning on March 25, are search and destroy missions repeating the delusion of technological superiority used by our technocrats to lead us into the Vietnam quagmire. Our continued aid to President Yahya has not turned him away from his bloody policy (the sole Administration hope offered in justification), it has diminished our moral influence in the world, it threatens war between Pakistan and India, with Great Power involvement inevitably following.

How then can a Member of Congress, particularly one who watched our escalation in Vietnam with increasing dismay, exercise his responsibility in the East Pakistan situation? First, he can attempt to alert his colleagues and the American people to the quicksand just one step ahead of our current plodding policy. Second, he can reap the blessings of hard-won seniority by holding hearings with this Subcommittee. Third, he can introduce legislation and work for its passage. Fourth, he can vigorously dispute those who point to overpopulation in the region and call for *ex-post-facto* birth control. Fifth, he can think.

When I expressed my concern about East Pakistan in early April, I was advised that the United States could do nothing because we would be exploiting the Sino-Soviet rift, due to the Chinese Peoples Republic support of the Government of Pakistan and Russia's expressions of approval of the people of East Pakistan. I rejected that rigid Cold-Warriorism and I will now make an additional leap based on my opportunities mentioned above and, hopefully, emphasizing the fifth.

The Chinese Peoples Republic has pointed to numerous governments around the world which enjoy American military and economic aid and yet which do not practice pure Jeffersonian democracy. Leaving good intentions or considerations of morality totally aside, China's support of the Government of Pakistan has finally given the United States a similar propaganda point. Why not stop our aid to Pakistan, fully support the democratic aspirations of the people of East Pakistan, ally ourselves firmly with India in this matter, and according to informed testimony of Harvard Professor Robert Dorfman before my subcommittee, make it economically impossible for President Yahya to continue his repressive policies?

Following this scenario, the area generating the refugees would be pacified, the 6.5 million now straining India's already overburdened society could return, America would have restored excellent relations with India, and the Chinese Peoples Republic would have its own Czechoslovakia and Hungary to explain, And *then*, what? The United States could focus even more of its attention on its already somewhat successful program of disseminating birth control methods. I believe our responsibility in East Pakistan does not extend to the possible introduction of American ground troops and I am offended that you imply my position embraces such an unthinkable option. I hope you can tell me that your position does not include famine as a calculated component.

With continued best wishes and appreciation for your valued support of my previous efforts on privacy, I am

Sincerely,

CORNELIUS E. GALLAGHER,
Chairman.

P.S.—I am taking the liberty of releasing this letter to the press.

INDIA-PAKISTAN CRISIS

(Mr. BINGHAM asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. BINGHAM. Mr. Speaker, I believe it was unnecessary and inappropriate for the Nixon administration to brand India as an aggressor in the current crisis. Yesterday's reported explanations by a White House spokesman have not really ameliorated the matter.

India's acts in recent days can no more be separated from the events of the past few months than could Israel's sudden military moves in June of 1967 be separated from the events of the preceding weeks, notably Nasser's move against Sharm el-Sheikh.

The holier-than-thou criticisms of India for using military force have come with extraordinarily bad grace from an administration that has been using force, in defiance of the majority of world opinion, for the last several years in Indochina.

I am against our military involvement in Vietnam, but I am no pacifist. I believe there are times when a nation has no alternative but to use military force. This was surely the case 30 years ago after the Japanese had attacked Pearl Harbor.

I believe the Israelis were fully justified in using force in 1967 and I believe the same is probably true of India in December 1971.

Those of us who would pass judgment on India should reflect on what we would have done if confronted with the overwhelming problem of 6 to 9 million refugees on our soil without the capacity to care for them and with no foreseeable prospect of getting them to return to their homes.

The Pakistanis apparently attacked first with their aircraft and gave the Indians the excuse that they were doubtless looking for. But the question of who started shooting first is really not a basic one in this case, any more than it was in the Arab-Israeli war of 1967. The cause of the fighting is more basic.

I am hopeful that the military actions taken by the Indian Government will soon result in control of East Bengal by a new, independent state known as Bangladesh, followed by an end to the fighting. This will enable the refugees in India to return to their homes. I trust that the world community, including the United States, will be willing to assist in the gigantic task of restoring this part of the world to some semblance of order and hope for the future.

For several months, I have been convinced, on the basis of the views expressed to me by Americans with long experience in, and great sympathy for, Pakistan, that the days of a "united" Pakistan were numbered. This curious country, divided into two parts by a thousand miles of Indian territory, was the artificial creation of ingenious British minds seeking a solution for the communal differences and hatreds that had plagued British India.

For a while Pakistan did remarkably well. But when the people of East Pakistan voted so overwhelmingly for a party which favored autonomy for East Pakistan that they actually carried a majority of the seats in the Pakistan Parliament, and when Gen. Yahya Kahn responded to this political reverse by a brutal and systematic suppression of the Bengalis, the British experiment had come to an end in failure. The Americans I have referred to all advise me that the sooner the inevitability of a separation of the two parts of Pakistan into separate independent states was recognized the better for all concerned.

If there had been no military action, the situation might have dragged on interminably with widespread suffering and with no real hope of a peaceful solution. The Indian Government, led by a courageous and patriotic woman, has acted decisively and in a way which will probably lead to a solution in a relatively short time. The use of force, with the inevitable brutality which accompanies it, is in itself deplorable and runs counter to our common belief that all international problems can be solved peacefully. But I believe that in the end the people of the Indian subcontinent will be better off. The wounds will be clean and will heal. The alternative was a festering sore affecting millions of people that would not heal and would provide a continuing threat of even wider trouble for years to come.

I include two editorials on the subject, from the New York Times and the Washington Post.

[From the New York Times, Dec. 8, 1971]

ALIENATING INDIA

President Nixon's declaration of "absolute neutrality" in the Indian-Pakistani conflict fail to conceal Administration policies, which have, in fact, been obviously biased in favor of the Government of President Yahya Kahn in Islamabad.

During the eight months of repression in East Pakistan which led to the present international conflict on the subcontinent, Washington's "neutrality" consisted of maintaining silence while Yahya's troops suppressed a freely elected autonomy movement in East Pakistan, were responsible for the death of thousands of Bengalis and forced millions more, mostly Hindus, to flee to India where their presence has posed a growing threat to Indian political, economic and social stability. For many months the Administration actually gave material support to this unconscionable repression by continuing to ship small amounts of military supplies to Islamabad.

Administration officials argued that their public silence and the continuance of aid were designed to strengthen quiet efforts to promote a political settlement in East Pakistan that would bring peace and the return of the refugees. But there is no evidence that President Yahya has tried to reach any accommodation with the imprisoned Sheik Mujibur Rahman and the other elected representatives who command the confidence of the overwhelming majority of Pakistan Bengalis.

Having failed to condemn the repression in East Pakistan or to press for a genuine political solution, the United States has now flatly charged India with "major responsibility" for the resulting international conflict; having waited months to suspend arms aid to Pakistan, the Administration has promptly suspended military and economic aid to India. This is hardly "absolute neutrality"—even though it must be fully recognized that India is by no means guiltless in the actual outbreak of armed conflict, and, despite all the hypocritical and self-serving statements issued from New Delhi almost daily, has been aggressively maneuvering against her northern neighbor. There is plenty of blame to go all the way around.

United States efforts at the United Nations, first in the Security Council and now in the General Assembly, have been aimed at bringing about a simple cease-fire and withdrawal of forces. Urgent and desirable as such action surely is, it cannot be practically effective unless the United Nations and its leading members—especially the United States—are prepared at the same time to recognize and attempt to deal with the root cause of the problem in Pakistan.

[From the Washington Post, Dec. 7, 1971]

THE U.S. PURSUIT OF DISASTER IN SOUTH ASIA

Suppose President Nixon had deliberately set out: to aggravate tensions in South Asia; to identify the United States with a military regime almost universally condemned for its abuse of its own people; to shred American ties with the most populous and powerful nation of that region, a democracy and a traditional friend; to help drive that dominant state into a waiting Soviet embrace; and, once war had erupted, to diminish possibilities of political compromise and undermine what moderates might remain. What would he have done differently with respect to the developing conflict between India and Pakistan over the last eight months? In our view, not much.

The whole rationale of American policy eludes us. Some payment was owed Pakistan for helping arrange Henry Kissinger's first trip to Peking. And Mr. Nixon evidently has long had a soft spot in his heart for Pakistan, at one time a model military anti-Communist regime. But at some point as the tragedy grew, cold calculations of power politics should have overtaken these largely sentimental considerations. Sound policy dictated an effort to maintain friendship with both India and Pakistan; if that were not possible, why put all the American chips on a discredited failing regime in much the smaller and more trouble-ridden of the two nations involved? If the answer lies somewhere in the political geometry of the Moscow-Peking-Washington triangle, we fail to perceive it.

The announcement yesterday that the United States had suspended development aid in the pipeline to India is equally puzzling. The stated grounds, that such aid contributes to short-term economic welfare and war-making potential, are laughable: the gesture was purely punitive and the party that is to be punished is not the government nearly so much as the impoverished people of India. A more telling abuse of foreign aid—at a more delicate moment, when a new aid bill is hanging by a thread in conference—could not be imagined.

As we have said before, India deserves sharp criticism for its calculated use of the refugee crisis to promote the dismemberment of Pakistan, although such criticism ill befits any government, such as the American government, which tolerated Pakistan's manufacture of that crisis. Where was the quick clampdown on arms aid to Pakistan then? India's invasion of West Pakistan and its now-open designs on Pakistan-held Kashmir are entirely unsupportable. But the source of the present crisis is Pakistani policy in East Pakistan. Only there can a solution be found. That the United States should not only be failing to contribute to such a solution but could be making one more difficult to attain is a measure of how far we in fact have traveled under the much trumpeted Nixon Doctrine toward a new foreign policy. In South Asia, we have moved backward—if we have moved at all—toward those early postwar cold war attitudes that gave us CENTO and SEATO and the heavy-handed employment of foreign aid as a bludgeon or a bribe.

THE COSTS AND DANGERS OF TRADE RESTRICTIONS

The SPEAKER. Under a previous order of the House, the gentleman from Florida (Mr. GIBBONS) is recognized for 1 hour.

Mr. GIBBONS. Mr. Speaker, today we have asked for time to discuss a very important subject which affects every American—the costs and dangers of trade restrictions.

This is the second in a series of three special orders we have planned, because of our concern about the current trend toward defeatism and restrictionism in our trade policy.

Several weeks ago, Mr. FRASER, Mr. MORSE, Mr. HAMILTON, Mr. SEIBERLING, Mr. HANNA, and I spoke on the U.S. stake in world trade and continued international cooperation. We found that this stake is high—higher than most of us had imagined.

We also found that we could not discuss the benefits we receive from world trade without discussing what we and the whole world will lose if we abandon our traditional support of mutually beneficial world trade and of international cooperation as a means of solving any trade or payments problems which may arise.

It has been said, very aptly, that trade is a two-way street. No nation can take unilateral action to restrict the imports it receives without incurring at least equal retaliation from its trading partners.

Our experience with unilateral trade restrictions has been that retaliation results, that this retaliation escalates, the volume of world trade shrinks, the economy of each country suffers, and the whole world is worse off. In fact, there is a good deal of evidence to indicate that the unintended consequence of a trade war may be war itself.

In 1930, Congress approved the Smoot-Hawley Tariff Act in an effort to "protect" American industry and found, much to its sorrow, that the act had a disastrous effect on our own economy and on the rest of the world.

The tariffs established by the Smoot-Hawley Act were the highest in our history, averaging 60 percent of the value of imports subject to duty. Other countries were not about to let us get away with continuing to send our exports to them once the Smoot-Hawley tariffs had virtually eliminated the United States as a market for their exports, so they retaliated in kind.

American exports shrank by 45 percent and world trade stagnated as the exports of other countries also declined precipitously. Thus, the United States was not only unsuccessful in its efforts to protect American jobs and industries by tariff walls, but its action contributed heavily to a worldwide depression.

Certainly the Smoot-Hawley Tariff Act has been recognized as one of the biggest mistakes in our history. Why, then, is there so much talk of a need to return to such measures?

It appears that this is so because we have been confronted with domestic economic problems which are not so easy or painless to solve. These problems are much easier to blame on "foreigners" than on our own neglect—and it is then much easier simply to erect trade barriers than to find more realistic and effective solutions to these problems.

This approach has been getting a lot of mileage lately. Nonetheless, authorities who have spoken to our bipartisan group of Members concerned about our trade policy have made an extremely strong case for the argument that trade simply is not responsible for our domestic economic problems. They point out that, if anything, we have benefited from our substantial export trade and the low-cost imports which have been available to Americans during our present recessionary period.

These authorities further noted that—

In many of the adjustment assistance cases which come before the Tariff Commission, the company involved has told its employees that it has to close down or relocate, because of import competition. However, the Tariff Commission's investigation of the case often reveals that the cause was not import competition but some other factor, such as mismanagement, changing consumer tastes, or changing economic conditions.

Many imported products simply do not compete with American products and have no effect on U.S. employment levels.

Even with recent increases in import levels, the total impact of imports on the U.S. economy amounts to only about 4 percent of our gross national product—hardly enough to cause an unemployment rate of 6 percent. Nearly every other nation in the world is more dependent on trade than we are.

There is strong evidence that we have many more jobs involved in our $43 billion export business and in handling and servicing imports than may be adversely affected by any import competition.

In the high technology fields in which the United States excels, we had a $10.5 billion surplus of exports over imports last year.

Many progressive businesses have been expanding their exports and their foreign operations. In the manufacturing industry alone, nearly 7 percent of all jobs depend on exports. In certain industries the figure is twice this, or more.

Our balance-of-payments difficulties cannot be blamed on fluctuations in our balance of trade alone. Our balance of trade has been in surplus for more than 75 years and now appears to be in trouble, because of temporary or neglected circumstances, including an overvaluation of the U.S. dollar and rampant inflation in the United States. Both of these factors made U.S. exports less competitive in world markets and imports more attractive to U.S. consumers than they would normally have been.

If we are looking for remedies to our balance of payments problems, we should also look at the possibility of reducing our military and defense spending abroad, especially in Vietnam. Further, at the present rate of growth, our return on our investments abroad will become a substantial positive contribution to our balance of payments within the next few years.

What seems to really be needed to reduce unemployment and stagnation in the American economy is not import restrictions, which are likely to result in retaliation and the opposite effect, but truly effective Government policies which will restore confidence in the American economy, stimulate production and provide training and public service employment when necessary. Unfortunately, the Revenue Act of 1971 appears to offer little hope of progress in this area.

By any serious study or index we have far more to lose than gain by turning from our traditional liberal trade policy to proposed severe trade restrictions. We should have learned better than this from our experience of the 1930's, when such trade restrictions brought increasingly severe retaliation against our exports by other countries and further depressed not only our own economy but those in the rest of the world.

If we are reasonable men, we cannot persist in risking easy but inadequate trade restriction measures as answers to our domestic and international economic difficulties. The costs to Americans as consumers, as workers and as businessmen—as well as the dangers of a trade war—are far too great for us to do otherwise.

What, then, are we to do?

We will be discussing this in detail in another special order after the Christmas recess. However, I think we have made some progress recently in knowing what should be done and also in actually doing some of these things.

The July 1971 report of the President's Commission on International Trade and Investment Policy and the papers which accompanied that report gave us a rather balanced analysis of the real trade problems facing us today and possible solutions to them. At the end of my statement today I would like to insert one of the papers from this report in the RECORD. This paper, by Irving Kravis, respected professor of economics from the University of Pennsylvania, discusses in detail some of the problems with import limitations.

Some of the speakers who have appeared before our bipartisan group have indicated that we may even want to look beyond the suggestions of the Commission's report—and some of us in Congress have also made suggestions to this effect.

Our speakers indicated that, since imports are really only a minor factor among the many causes for business or job dislocations in our economy, we should at least consider innovations such as these:

A more active Federal role in research, development, and technical assistance to business.

A more coordinated and effective organization of Government to deal with domestic and international economic problems.

More adequate training programs to help American workers prepare for the demanding jobs of modern industry.

Measures to increase labor mobility help workers take advantage of changing job opportunities, including more adequate protection for pension rights.

Provision for meaningful public service employment jobs according to economic and social needs.

On the international scene, we are going to have to reassume our position of leadership in working for cooperative solutions to the real trade problems we face. A beginning toward this goal was made on August 15, but much work remains to be done in this area.

Perhaps the most urgent need in our trade policy today is for removal of the "temporary" 10-percent import surcharge which was imposed by the President on August 15. The surcharge has more than served its purpose and is currently resulting in retaliation and in adverse economic consequences not only for our competitors in trade, but also for some of our oldest friends, such as Canada.

If we, the richest country in the world, do not exercise our power in trade matters responsibly, then how can we expect responsible action from other countries, which are not so affluent and are much more dependent on trade for their livelihood.

A second area to which we and the administration must give top priority is that of successful negotiations for a realinement of exchange rates and basic reform of the international monetary system. This factor has, I think, been generally underrated with regard to its importance in improving the competitiveness of American exports and improving the U.S. balance-of-payments situation.

Each percentage point of revaluation of the dollar against foreign currencies could bring a gain of $800 million in the U.S. balance of payments. Thus, a possible 11 percent revaluation could, in itself, bring about an $8.8 billion gain in the U.S. balance-of-payments position.

We have also given too little attention to the possibilities of fruitful trade relations with the people of Russia and Eastern Europe, as well as with the developing nations. Trade with these areas of the world may prove most important in providing new markets for American exports and in building peace and prosperity throughout the world.

Finally, as the world's largest and most attractive market for the exports of other countries, the United States has a good deal of bargaining power with which to negotiate cooperative solutions to existing trade problems, including nontariff barriers to our exports which have been erected by other nations. Certainly we should have no second thoughts about embarking on such negotiations. They are badly needed to remove barriers to U.S. exports and establish the foundation for a further expansion of mutually beneficial world trade—the rising tide which lifts all the boats, as the late President Kennedy once said.

It should be clear by now that the alternative to these measures and to a continuation of our traditional policy of freer trade whenever possible is a self-destructive return to the disastrous trade restrictions of the 1930's.

Let us not choose that alternative. Let us not go down in history as the generation of Americans that was willing to spend a hundred thousand lives to protect freedom around the world but was not willing to risk $1 of potential profit or one job to gain the immense benefits of free trade and the benefits of world stability that naturally flow from such trade.

The Kravis paper follows:

THE CURRENT CASE FOR IMPORT LIMITATIONS

(By Irving B. Kravis)

I. INTRODUCTION

If the best interests of the U.S. lie in faster rather than slower growth in output and income and in better rather than poorer relations with other nations, the policy of the U.S. should be to reduce its barriers to imports and to expand its total trade by seeking reductions in the barriers of other countries to its exports.

The basic logic underlying the economic aspects of this statement is simple and incontrovertible. The gain from our trade with the rest of the world consists not of the things we export, but of the things we import. We are not made better off by giving up goods, we are made better off by receiving them. Public policies that limit our ability to obtain goods from abroad freely and cheaply reduce the real income of the nation.

Of course, restriction of imports may help particular groups in the economy, just as any restriction of supply may. Restrictions on the number of doctors raise the income of doctors; restrictions on hours of work of electricians combined with limitations on occupational entry raise the income of electricians; production quotas on petroleum output raise the income of oil producers. Limitations of imports of cotton textiles or meat raises the incomes of the workers and firms in the industries producing them.

Why not then spread these beneficial effects to everybody? Why not restrict the number and hours of work of each group so as to raise its income? Why not help each group further by protecting it from foreign competition?

The answer is, of course, that every one of these restrictions benefits the individuals concerned at the expense of the rest of the people. Each involves a reduction of production and of the national income and a redistribution of the smaller amount of income in favor of the beneficiaries of the restriction. Practiced on a wide enough scale—i.e., if we all try to better ourselves by restricting the supply of our services—even the "beneficiaries" will be left worse off than if there were no restrictions.

Every current claim for protection, no matter what its guise, is a claim for special preference at the general expense.

Whatever the desired objective that is described, there is no getting around the fact that every successful claim for protection makes a select few better off at the cost of making everybody else worse off. It is not possible to use restrictions of supply to make the nation in general better off. The power of the Government to control trade should not be used to favor select groups.

Despite this fundamental truth, there has been in recent years a new wave of sentiment in industry and labor and even in the Congress in favor of import limitations. This is based to a considerable extent upon unfavorable developments in our trade balance which has brought new arguments to the fore and revitalized some old ones. These arguments are assessed in the following section. Each is stated and then analysed.

II. SOME CURRENT ARGUMENTS FOR IMPORT LIMITATIONS

U.S. Imports Have Risen More Rapidly Than Exports in Recent Years; Our Trade Surplus Is Much Reduced, and May Even Be Eliminated or Turned into a Deficit

Trade surpluses have been characteristic of the U.S. balance of payments for nearly a century, and have been large and important during most of the last 25 years. Even after the early post-war shortages in Europe and elsewhere were ended, the surpluses averaged $3.5 billion per annum (1953–67). The trade surpluses helped to provide the foreign exchange necessary to support American foreign investment and U.S. military and economic programs abroad. The decline of the surplus to a little more than a half-billion dollars in 1968 and 1969 has therefore been a cause for much concern.

However, the use of the decline in the trade surplus as an argument for increased import limitation depends upon four propositions:

a. A trade surplus should be an objective of U.S. policy.

b. The decline in the U.S. trade surplus is permanent.

c. Import restrictions can indeed increase the trade surplus.

d. Import restrictions are the optimal way of increasing the trade surplus.

The need for a trade surplus

Whether a trade surplus should be an objective of U.S. economic policy depends in part upon an assessment of the nature of the trade balance that will coincide with a long run equilibrium position in the U.S. balance of payments and in part upon an assessment of the exigencies of the immediate future when equilibrium may not be attained. The long run factors seem to suggest that a trade deficit rather than a surplus will be the appropriate position since income from foreign investments is likely, later if not sooner, to grow faster than either new investments abroad or government expenditures abroad (military plus aid).

However, the analytical relationships are very complicated and forecasting the components flows is very uncertain, while the current balance-of-payments pressures are both clear and certain. It is therefore assumed for purposes of this paper that the U.S. as a matter of prudence, should pursue a policy of avoiding trade deficits and achieving trade surpluses. The assumption might not stand up against careful analysis, but if it errs, it errs in favor of the case for import limitations.

Long-run prospects for the U.S. trade balance

No one can really predict with confidence what the long-run prospects with respect to the U.S. trade balance are. A myriad of factors affect both U.S. exports and U.S. imports. The interplay of these factors as they change continually through time will produce a shifting margin between these two aggregates of diverse goods. The record bears out this expectation of great instability in the difference between exports and imports. In the post-war period the export surplus has waxed and waned several times over varying from less than $1 billion to more than $10 million. As recently as 1964 it was $6.8 billion while the 1968 and 1969 surpluses of $0.6 billion were the lowest since World War II, surpluses near the $1 billion level were recorded in 1950, 1953 and 1959. Even the $3.2 billion drop in the surplus between 1967 and 1968 was not the only large decline. Larger decreases were recorded between 1947 and 1948 and between 1949 and 1950. The surplus now seem to be waxing again, although not with a great amount of vigor.

Nevertheless, these past ups and downs do not warrant the assumption that there have been no persistent factors adversely affecting the U.S. trade position.

When the components of exports and imports which produced the recent deterioration in the U.S. trade balance are examined, it quickly becomes evident that the largest changes are to be found on the import side. Imports rose by nearly $7 billion between 1967 and 1968, an increase of 23%. This rise swamped an expansion of exports of nearly $3 billion which, though not unprecedented, was more than twice the annual average increase of the preceding 14 years. The import expansion was quite generally distributed among major commodity groups although manufactures rose more than primary products. However, motor vehicle imports alone increased more than 60 percent, accounting for $1.5 billion of the $6.2 billion rise in total imports. Over half of this increase consisted of motor vehicle imports from Canada.

If a slightly longer view is taken and changes in exports and imports are compared from the last peak surplus year, 1964, imports again are seen to be the major factor in bringing about the changed position. The rise in imports between 1964 and 1968 was more than $14 billion while the rise in exports was only a little more than $8 billion.

These changes in the U.S. trade position could be attributable to a number of different circumstances, some of which might be operating simultaneously. It seems likely that one important set of influences at work was the quickening pace of economic activity with the increase in military expenditures connected with the Viet Nam war. This occurred at a time when the rate of increase in industrial production in Europe slackened. The impact of these opposite movements in aggregate demand was reflected in a tendency for U.S. prices to rise relative to those of Europe and Japan.

There is also some evidence of structural shifts in the U.S. trade position. In the longer run the U.S. has become a net importer in mineral fuels, motor vehicles, and "other manufactures", comprising such categories as textiles, iron and steel, etc. Chemicals and machinery other than motor vehicles are the only sectors in which there has been an upward trend in the trade balance, but only in the former is this associated with a faster export growth rate. In "other machinery" a very small starting level for imports and a large one for exports has produced larger dollar increases in exports than in imports despite a lower export growth rate; this kind of upward trend contains the seeds of its own destruction. Of course, our perception of these trends is heavily influenced by the sharpening of demand pressures in the U.S. and their relaxation in Europe in the last few years mentioned above.

On the other hand, it is possible to argue that there are basic alterations, in the world economic picture that are unfavorable to the U.S. trade balance. The faster diffusion of technology, the spread of U.S. managerial methods and indeed of American management itself, and the greater international mobility of capital all tend to diminish important margins of advantage that the U.S. has had which contributed substantially to the U.S. export position in newer and more sophisticated products.

Of course, it has been true all along that the monopoly that an innovating country enjoys on a new product is apt to be a temporary one. Even before foreign affiliates, licensees or subsidiaries—let alone multinational corporations—became so common, the knowledge of the new product in almost all cases sooner or later was spread abroad and production was successfully imitated. The innovating country does not necessarily have a long-run comparative advantage in every new product that it develops. Thus, for the United States for nearly 102 years now, the exports of one year have often become the imports of a later year. This has happened to a long list of American products from sewing machines to TV sets.

The transfer of technology, it should be noted, goes in both directions. Some has been from foreign countries to the United States. Thus, the Bessemer and open-hearth processes for making steel were imported from England in the last century and the oxygen process from Austria, Germany or Sweden and the extrusion process of squeezing cold steel into desired shapes from Italy in more recent years. Also, there is a substantial amount of direct investment by multinational firms other than those of U.S. origin. A recent estimate for 1966 placed the proportion of U.S.-owned international direct investment at 57.4 per cent.[1] If the multinational corporation is a transmitter of technology, it seems likely that a lot of foreign technology is also being diffused, and some of it to the U.S. However, it is highly probable that the overwhelming movement has been outward from the United States. The innovating country sometimes still enjoys benefits after the transfer in the forms of licensing royalties or direct profits on foreign production. Also, the position of a continuous innovator is partly protected by the continual development of new products or models that make obsolete or at least less desirable the ones that have spread abroad. The speed with which innovations are being replaced by superior innovations is probably also increasing and this, too, affords some continuing margin of advantage for the innovating country.

In general, however, it seems likely that the net effect of all these changes and particularly of the greatly increased speed with which they have been occurring has been to reduce the margin of technological leadership which the United States formerly enjoyed.

All in all, then, there are grounds for pessimism with respect to the structural influences affecting the U.S. trade balance. However, even if the direction of these influences turns out to be unfavorable, no confident forecast of the future can be made. Many other factors affect the trade balance, and prediction is just about impossible. The most important unknown consists of developments in the relative prices at which U.S. goods are available to foreigners and in the relative prices at which foreign goods are available to Americans. These are proximately determined by changes in domestic price levels and in exchange rates. The movement of each country's domestic price level is heavily influenced by cyclical developments and by public policies that are not related or only partially related to balance of payments factors. Even if pessimistic expectations about the structural factors turn out to be correct, we cannot tell whether a future rise in U.S. prices relative to those of foreign countries will accentuate their impact or a future fall offset and obscure them. The possibility of changes in government policies taken to influence the trade balance or the balance or the balance of payments in general adds to the uncertainties. No one can say if or when monetary and fiscal policies to affect the price level or commercial policies—tariff and nontariff barriers, export subsidies, etc.—intended to have a direct effect on trade flows will be altered in the U.S. or in one or more of its important trade partners. No one can predict when a key exchange rate will be altered under the pressure of a deficit or of a surplus. All these factors have a powerful influence on the U.S. trade balance, and their net effects can not be known in advance.

In view of these uncertainties, let us again draw the inference that appears to be most favorable to the case for import limitations. Let us assume that a trade surplus will not come about without some deliberate policy action by the U.S. The question then facing the U.S. in the 1970's is whether this should be attempted mainly or even to a major degree by means of trade restrictions.

The feasibility of import restrictions as a means of increasing the U.S. trade surplus

The hard truth of the matter is that it is not open to the U.S. to improve its trade balance through item-by-item import restrictions. Almost any restrictive move made by the United States can be expected to bring retaliation and to result in an approximately equivalent diminution in U.S. exports. The warnings on this point by responsible foreign

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authorities should be taken at their face value.

It must be realized that these warnings refer not to new and untried measures but rather to responses that are built into the trading system community of nations. A basic principle of GATT (the General Agreement on Tariffs and Trade), which governs the trade relations of the western countries, is the preservation of the "balance of benefits" which each country derives from the tariffs that have emerged from six rounds of international negotiations in the last quarter of a century. A country that finds its interests adversely affected by an increase in a duty that has been bound or reduced in a GATT negotiation—and this includes virtually every U.S. tariff classification—or by the imposition of a quota is entitled to compensatory concessions. If these are not forthcoming, it is free to restore its balance of benefits through restrictions of its own. Any extensive effort by the United States to use import limitations to improve its trade balance is thus almost certain to set off a self-defeating chain of restrictions on trade that would serve neither the economic nor the political objectives of this country.

Trade restrictions as the optimum way to improve the trade surplus

Even if it were claimed that other countries would permit the United States to improve its trade surplus through limitations of imports, the further proposition would still have to be established that item-by-item import restriction was the best way to achieve the desired increase in surpluses. The item-by-item approach can be defended only if it is argued that the government and not the marketplace should be allowed to determine the changes in the commodity composition of imports by which the trade balance should be improved.

If the objective is to reduce the general level of imports or to limit its increase, then it is logical and efficient to use some general criterion, perhaps a uniform ad valorem tariff surcharge applied to all goods, rather than a series of discriminatory tariff increases favoring the domestic producers of some goods over the domestic producers of others. But if the trade surplus is the true objective, it can be improved through an increase in exports as well as a diminution in imports. Increased exports can be encouraged through export promotion measures such as tax incentives and better credit facilities. However, if a uniform ad valorem tariff were applied to imports an export subsidy would make the price of foreign currency the same for U.S. exporters and importers and would therefore lead to the most efficient use of U.S. resources as between home and foreign markets in production and between home and foreign goods in consumption.

A uniform tariff and subsidy would be akin to a practical devaluation of the dollar applicable only to trade or perhaps to trade and some service transactions. There are, of course, still other ways of achieving the same effects of making U.S. goods cheaper to foreigners and foreign goods dearer to Americans. One is outright devaluation which would affect capital as well as trade and service transactions. Other less dramatic ways which are much less likely to encounter objections from other countries involve the restriction of future U.S. price movements to rates of increase that are lower than those of the other major industrial countries. This can be accomplished through monetary and fiscal policy or through a wage and price policy, although either means would be politically difficult. All these measures (i.e., partial or total devaluation, restraint of price increases through general or specific policies) would achieve an improvement in the trade balance while leaving it to the market to determine which imports would decrease and which exports would increase.

The United States has, over the years, given many one-sided trade concessions that have opened its markets to foreigners while U.S. exporters find themselves under serious handicaps in foreign markets

To some degree, this argument is an extension of the previous one. The relative rise in imports is taken as evidence of the opening of the U.S. market and the failure to exports to increase more rapidly as evidence of the discriminatory practices in foreign markets. The trend of exports and imports, however, is not in itself conclusive evidence since many other factors could account for these trends.

Claims that American negotiators over the years have traded away market opportunities in the U.S. without equivalent concessions abroad have never been accompanied by a quantitative assessment of the impact of changes in tariffs and other terms of access. Such evidence as is readily available does not support the view that U.S. commercial policy, either alone or in conjunction with foreign commercial policy, has been responsible for the rapid growth of imports or for the failure of our exports to expand more rapidly.

In the first place, a number of comparative studies of tariff levels have indicated that U.S. tariffs are slightly higher on the average than those of the European Economic Community and slightly lower than those of the U.K. The accompanying table shows average tariff rates for various categories of goods as well as the overall averages. The latter differ little among the major industrial exporters. Average post-Kennedy Round tariffs on non-agricultural, dutiable imports are estimated at 9.6% for the U.S., 8.1% for the Common Market, 10.6% for the U.K., and 9.5% for Japan; for dutiable manufactures, the rates are 9.9, 8.6, 10.8 and 10.7; respectively, for the same countries. The U.S. rates in these computations are expressed as a percentage of c.i.f. value, as are the rates for the other countries.

Of course, even similar tariffs may have different restrictive effects in different countries, depending on such factors as the structure of the rates, elasticities of demand and supply, the share of imports in domestic consumption, and the composition of imports. When these factors are taken into account, U.S. tariffs, Professor Balassa found in a study of pre-Kennedy Round rates, were more restrictive of imports than those of the EEC and the U.K., though less restrictive than Japan's.[2]

Tariffs for individual commodities and average tariffs for classes of commodities are dispersed around these overall rates in ways that differ from one country to another. In some commodity classes, such as textiles and chemicals, the table indicates that U.S. rates are higher than those of other countries; in others such as transportation equipment and electrical machinery the U.S. rates are lower. Thus, individual U.S. industries sometimes find that the tariffs levied on American goods by the foreign source of supply are higher than the corresponding U.S. rates. For example, U.S. and foreign tariffs on electronic products (tubes, transistors, transformers, loudspeakers, etc.), were cited as an example of inequitable tariff treatment at the recent House Ways and Means Committee hearings on "Tariff and Trade Proposals". The U.S. rate of 7.6% was compared to rates of 14% for the EEC and 12.4% for Japan.

Where cross exporting (i.e., two-way trade) of similar products exists or where U.S. firms would be able to export to the foreign source of supply over a lower tariff barrier, an industry might justifiably regard a difference in tariff rates as inequitable. This would, of course, be equally true for a foreign industry facing higher U.S. tariff rates. Very often, however the difference in rate is of little practical importance because the domestic industry would not be able to compete in the foreign market regardless of the level of the foreign tariff. If in the electronic components industry, for example, Japanese costs are lower than those of the U.S., a lowering of the Japanese tariff to the American level would not have any beneficial effects upon the position of the U.S. industry.

Not only are the present overall tariff levels rather similar among the major industrial exporters, but it is not at all clear that U.S. tariff levels have declined very precipitously in the last 20 years. Tariff Commission figures show that duties collected as a percentage of dutiable imports have varied mainly in the 11 to 12% range in the last few years compared to a 12 to 13% range in the early 1950's.[3] As the Commission points out, these average ad valorem equivalent duties are not completely reliable guides to changes in the level of protection since, among other reasons, they are affected by changes in the composition of imports. Tariffs reduced to the threshold that made imports possible where there were none before, might still average out to levels above the previous average ad valorem equivalent collected duty. The average might thus fail to decline despite general reductions in duties. On the other hand, there is little doubt that in the various GATT rounds of tariff cutting, particularly before but not altogether excluding the Kennedy Round, there was a systematic search for concessions to offer to foreigners that could safely be made without having a great impact on U.S. imports.

The notion that tariff concessions played a major role in the increase in U.S. imports is not strongly supported by the timing of the import changes. If tariff concessions were an important influence, each round of tariff reductions should have been followed by a surge of imports. In fact, neither the reductions made in the 1956 round nor those made in the Dillon Round of 1961–62 appear to have a large gross impact on U.S. imports. The great increase in imports between 1967 and 1968 did come at a time when the first Kennedy Round reductions went into effect, but the 23 percent increase in imports could not have been attributable to any major degree to a cut in tariffs that can hardly have amounted to an average reduction in price to U.S. buyers of as much as 1 percent.[4]

The available evidence thus does not indicate that U.S. firms are generally at a competitive disadvantage owing to differences in tariff barriers or that the U.S. tariff barriers faced by actual exporters to the U.S. have been radically reduced in the last twenty years.

Much of the concern about the relatively unfair treatment of American exports is, however, directed to non-tariff rather than to tariff barriers.

There is no doubt that U.S. exports are limited by non-tariff barriers. Buy domestic policies, safety regulations, and the rebating of excise taxes on exports and compensatory levies on imports are among the many practices that American exporters have found place them at a disadvantage in international competition. However, the United States is not without its own non-tariff barriers including buy American policies, the imposition upon foreign countries of "voluntary" agreements to limit exports to the U.S. as in cotton, textile, and steel, and direct unilateral restrictions on imports of dairy products, meat, sugar and oil. Also, the U.S. barriers have been increasing rather than diminishing in number and importance. In the last few years, "voluntary" quotas on steel and meat, prohibition of imports of firearms other than those used for sporting purposes, and a tariff quota on brooms have been added to the list.

Trends in foreign non-tariff barriers have been more mixed. Between the early 1950's

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and the early 1960's the trade restrictions maintained by many countries for balance-of-payments reasons were reduced and then eliminated. With the advent of the Common Market, however, some new and important barriers to U.S. trade, particularly the variable import levy, were imposed.

The non-tariff barriers imposed by the United States and other countries undoubtedly restrict the volume of foreign commerce but whether they are at present more burdensome to American exporters than to foreign exporters is not obvious. The Japanese restrictions almost surely limit imports more than do the non-tariff barriers of the U.S. and Western European countries. It would take a special study to confirm or deny the widely prevalent notion in the United States that European non-tariff barriers are more restrictive than ours. An important new work by Professor Baldwin suggests that relative to the U.K., at least, the U.S. still has a slightly higher rate of effective protection when non-tariff, as well as tariff, barriers are taken into account. (The effective rate of protection measures the degree of protection of value added in manufacturing; it indicates the excess in domestic value added that can be obtained as a result of trade restrictions, as a percentage of what the value added would be under free trade.) Baldwin's estimates for 1972, the year in which the Kennedy Round tariffs come into full force, indicate a 15 percent overall rate of effective protection (tariff and non-tariff) for the U.S. and a 13 percent rate for the U.K.[5]

This is not to deny that nontariff barriers have been growing in importance, both at home and abroad, relative to tariffs. Furthermore, the common U.S. view that foreign non-tariff barriers are greater than those of the U.S. may well turn out to be more justified in the case of the EEC and still more in the case of Japan. Even so, it seems doubtful that non-tariff barriers can be held responsible for the failure of U.S. exports to grow more rapidly. A relaxation of the barriers would, it is true, give U.S. exporters a fairer chance to enter European and Japanese markets, but U.S. export gains might turn out to be modest. Most of the barriers are aimed at imports in general and are not discriminatory against the U.S. Their relaxation would therefore open each market not just to the U.S. but to other competing countries as well. American exporters would probably enjoy some increase in sales as a consequence, but to gain this and to achieve the still more problematic effect of an increase in the rate of growth in their sales, they would have to meet the competition of other countries. The record does not suggest that under the conditions prevailing in the last few years, U.S. exporters would be very successful. Between 1964, the year when there was a trade surplus of $6.8 billion and 1969, the U.S. share in world exports declined from 15.2% to 13.8%. The U.S. shares in imports of Japan, of the developing countries and of the EEC from outside countries also dropped by 1 or 2 percentage points. None of these changes can possibly be attributed to nontariff barriers.

The dismantlement of non-tariff barriers is an objective that is important to pursue but it is doubtful that it will provide a major key to the resolution of the problems with our trade balance. Even if all—U.S. and foreign—non-tariff barriers were eliminated, it is not sure that our export balance would become larger. Certainly our imports would increase and our exports also, but even if the barriers of foreign countries are more restrictive than ours, the size of the gain in our exports would depend upon the competitiveness of our economy. Non-tariff barriers certainly have a harmful effect on world commerce and income, but they just do not fill the role of chief villain in the story of the disappearing trade balance.

Imports Have an Unfavorable Impact on Employment, Particularly Since They Tend To Be Concentrated in Labor-Intensive Products

One of the necessary conditions for the improvement of the living standards of a country is the mobility of labor and capital. Some notion of the dynamism of the modern economy is called to mind simply by considering what a small fraction of his consumption expenditure each of us spends on things that are physically identical to those purchased by his father at an equivalent stage in his life.

Some of the changes in production necessary to turn out new products and new product varieties and to use cost reducing methods can be smoothly absorbed by the existing industrial organization without requiring much adjustment either by labor or capital. For example, when the home freezer industry developed, the workers and firms that had previously manufactured refrigerators could move easily into the new good. Other changes, however, require reduction in the number of firms and workers in an old industry as new conditions develop. For the most part, the pressures for change are generated within the internal economy of the United States. This was true, for example, of the losses of employment suffered in the Michigan peninsula when station wagon bodies began to be made of steel rather than of wood. It was true also when the hosiery industry moved out of Philadelphia into the South and more generally when the textile industries of Pennsylvania and other northern states shifted to North Carolina and other southern states. Between 1947 and 1967, for example, Pennsylvania lost 69,700 production jobs in the textile industry while North Carolina gained 32,500. Sometimes, as in the recent contraction of the space effort, a change in government needs or priorities is the cause of the disruption of individual lives and of blight for a whole community. In these cases and many more, thousands and thousands of workers and many employers suffered great economic, social and psychological injuries through no fault of their own as a result of changes in the marketplace. In each of these cases it would have been in the interest of the workers and employers concerned to have government intervention or decision that would prevent the shift to a new product or a new location.

What is the appropriate national policy in these cases? Surely, no one would argue that it would be appropriate to guarantee any industry or firm against a reduction in its level of employment. Any effort along these lines obviously would promote a hothouse economy pockmarked with artificially maintained prices for commodities serving needs that could be more cheaply provided for in a free market. The protection of particular individuals against such disruptions can only be achieved at the expense of the rest of the U.S.

What is worse, such protection tends to freeze patterns of employment that are not in the long-run interests of workers or of the U.S. at large. The jobs that are protected tend to be low-wage jobs relative to those that would be available without protective policies. The Pennsylvania textile workers of yesterday were injured by the shift to the South. Today, their successors are better off than they would be if the government had intervened to keep the textile industry in that stage; they are working in industries that pay higher wages than the textile industry.

The problem is not different when the pressure for the reduction in the employment and number of firms in an industry comes not from another section of the country but from abroad. Today's workers and employers in that industry will be better off if the government intervenes and prevents their loss of jobs and capital. The cost of such a policy in the short run is borne by the rest of the economy which is denied the opportunity to obtain the goods at the lower prices available abroad. In the long run, however, the workers themselves have to be regarded as worse off. By and large, the industries that need protection from foreign competition are low-wage industries and the jobs that are being perpetuated by restrictions on imports are low-wage jobs. At the same time, a policy of import restriction prevents the expansion of export industries which characteristically pay higher wages. This is true because the restriction of our purchases abroad gives foreigners fewer dollars which they can spend in the United States.

In short, protection can at best make a small fraction of today's labor force better off at the expense of the large majority and at the expense also of tomorrow's labor force.

The irrationality of a policy of using trade restrictions to create jobs is shown by data presented to the Congress by a spokesman for industries seeking the restriction of imports. In a statement before the Joint Economic Committee last March, a representative of the Trade Relations Council reported upon an analysis of the trade position of 313 four-digit manufacturing industries of the United States. In 1967, 128 of these industries had a foreign trade deficit aggregating $9 billion. The excess of imports over exports in these industries was calculated to involve a net loss of 367,552 jobs. The other group, consisting of 185 industries, had trade surpluses which amounted to $10.4 billion. The job-equivalent of this trade surplus was estimated at 201,532 jobs. Although apparently cited as an argument for protection, these data constitute a powerful argument for freer trade. For the labor of a little more than 200,000 men, we received $10.4 billion. This was enough to obtain goods from abroad that it would have taken 400,000 men—twice as many—to produce. To advance these figures as an argument for protection is to embrace a make-work philosophy. It is to argue that we should devise policies that will lead to more, rather than fewer, hours of work to produce a dollar's worth of real income. If this is what we want, protection is a good way to get it. If we want to find ways to increase man hours per dollar of output, international trade is not for us. International trade increases real product per hour of work rather than raising the hours required to produce a dollar's worth of product.

The magnitude involved in the Trade Relations Council's estimates of the net effect of trade on employment also clearly indicates that the trade balance has only a small net impact on overall employment in the U.S. The size of the trade surplus affects at most a few hundred thousand out of the nearly 80 million civilian jobs. During 1968, for example, when imports soared and the trade balance plummeted, other and much larger influences were at work so that employment expanded by more than 2 million jobs and the unemployed rate dropped from 3.5 to 3.3 percent.[6]

As these events suggest, the level of employment in the U.S. does not depend in any quantitatively significant way upon the level of imports. It is determined to an overwhelming degree by internal influences. The expansion of international trade certainly does not require a higher level of unemployment. International trade is no more inconsistent with full employment than other efficiency-increasing influences such as automation or cost-reducing changes in industrial location. All impose a temporary cost in terms of job displacement.

Advocates of freer trade—like defenders of automation—have sometimes been chided

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for citing job statistics without sufficient regard to the human beings involved. However, the whole argument turns precisely on human welfare. Is it increased or diminished by changes that are required for greater efficiency? The answer is that there is a restricted and short-run hurt in exchange for a widespread and long-run gain. The extent of the losses to adversely affected individuals will be smaller when the changes occur against the background of a buoyant economy. This is clearly illustrated in the story of the remarkable achievement of the Common Market countries in abolishing tariffs among themselves completely with little disruption of individual firms and workers. Rapid economic expansion was an essential feature of the story. The real gross national product of the Common Market countries increased by 50 percent from 1959 to 1967 while internal tariffs were coming down.[7] It is easy to make room for increased imports when domestic demand is expanding; even where imports enter in very large volume it is not so difficult for businesses to find other lines which they can pursue with greater profit.

The proper means to pursue full employment objectives is not tariff policy but monetary and fiscal policy.

Foreign Competition is Unfair Because it is Based on Low Wages

International trade raises real income because certain industries, owing to some natural or cultural differences between different areas of the world, are able to produce at a lower cost in one country while others will be able to produce at lower cost in some other part of the world. American producers, when confronted with the natural or acquired advantage enjoyed by a foreign industry, often feel, quite rightly, that they are facing unequal odds. Some years ago, a Pennsylvania oil producer whose wells produced less than a barrel a day felt that it was unfair to have to compete with the wells of the Middle East that produce 5,000 barrels a day. So in a sense it was. However, it was "unfair" in the sense that one would use in a sports contest; the same standard of equity is not appropriate as an economic criterion. No sound policy can be based on the principle of eradicating all the economic advantages possessed by any contestant in order to run a competition that gives an equal chance to all entrants. Such a policy would imply that American firms that have unusual know-how or access to large amounts of capital should be precluded from selling abroad because they have an unfair competitive advantage over less sophisticated and more poorly capitalized European firms. It would be, once again, to reject the view that a main goal of our economy is to maximize output per unit of input.

The advantage that most other countries have relative to the U.S. is an abundant labor supply relative to other factors of production. Productivity is low, but wages are sometimes even lower so that the labor costs in some industries are below those of the U.S. For example, in 1967 the Japanese GNP per capita was, according to the rather imperfect measures available, about 40 percent of that of the U.S. However, in the iron and steel industry hourly labor cost was only 21 percent of the U.S. level and unit labor cost 30 to 38 percent of the U.S. level.[8] In industries where differences in wage levels are decisive, foreign firms are apt to have the advantage over U.S. firms. Such industries include labor intensive industries like textiles and shoes and also industries like steel, mass-producing relatively standardized products by well established, widely known methods of production.

The wage advantage that these foreign industries enjoy is no more "unfair" in the relevant economic sense than is the superiority of the Middle East oil well over the Pennsylvania oil well or the well capitalized technologically advanced U.S. firm over the smaller and less sophisticated European firm. It is easy to understand and indeed difficult not to sympathize with the feeling of workers and firms that the situation is unfair to them. However, the fact remains that no case can be made in the broad public interest for the protection of particular industries on grounds of "unfair" competition even when, owing to low foreign wages, prices and costs abroad are lower than the most efficient producer at home can achieve.

What can be regarded as unfair is to ask the workers and employers in the affected industries to bear the costs of adjustment, particularly if these costs result from a change in national policy designed to benefit the nation as a whole. Relief should, however, be temporary and geared to adjustment rather than to the permanent protection of any share of the domestic market. The experience of the European Economic Community in moving to tariff-free trade, already noted, suggests that the extent of the dislocation of industry may be surprisingly small. Once the policy of free trade was convincingly laid down in the six Common Market countries, firms had the incentive to adjust rather than the incentive to organize politically for protection.

Someone might wish to argue that the whole level of wage rates abroad is so low relative to wage rates in the United States that all foreign industries or many of them have advantageous labor costs relative to the U.S. industries. If that argument were valid, what would be called for is not protection for particular industries but an across-the-board change in the power of foreign currencies to purchase U.S. goods; the objective would be to restore a balance in which some industries had low enough labor costs so that, together with their other advantages, they would be enabled to export enough to achieve a trade balance (or a trade surplus if that were taken as an objective of our policy). Alternative ways of achieving such an adjustment have already been discussed.

The Advent of the Multinational Corporation has so Changed the Nature of Trade Relation that the Case for Freer Trade has been Made Irrelevant

The rise of multinational corporations has brought forward new problems. In a world organized into nation-states the rise of firms employing a global approach to production and marketing creates new problems with respect to national jurisdiction and national interests with respect to the location and volume of production, exports and imports, taxation, etc.

However, there is no evidence that the multinational corporation is immune from the economic forces that determine which goods can be most cheaply produced in which countries. On the contrary, it seems likely that the multinational corporation provides decision-makers with better information about the most advantageous location of production than was previously available. Components, such as the Ford engine for the Pinto, are produced abroad when they can be made cheaper.

The effects of multinational corporations on the U.S. trade balance are very difficult to estimate. They have hastened the processes described earlier as probably unfavorable to the U.S.—the diffusion of American managerial methods, production techniques, and capital; but in a shrinking world the pace of this diffusion was bound to increase anyway. Exports from their U.S. plants of the main products produced by their foreign plants have probably been reduced. However, there is at least some validity to the claim made by the corporations themselves that their establishment of production abroad was necessary to protect their holdings of the foreign market against potential foreign competition. To the extent to which this is true, foreign production and even exports from foreign plants may not be at the expense of U.S. exports, and the profits from foreign operations a possible net gain to the U.S. balance of payments, depending upon the use to which they are put. More definite sources of gain to the U.S. balance of payments are exports of machinery and of supplementary product lines, the latter being of potential importance when full-line production is maintained in the U.S. and foreign production limited to models for which there is a large market in the host country.

However the net effects turn out, it seems clear that multinational corporations can hardly be held responsible for import problems in textiles and a number of other areas where the domestic industry has been in difficulty and has sought protection. Multinational companies are important in automobile production, petroleum, tractors, chemicals, pharmaceuticals, office machinery, and farm and construction equipment. In most but not all of these areas the U.S. has a strong export position. In the few cases in which multinational corporations have been conspicuous in industries encountering severe import competition, the products though relatively new, such as electronics, require labor-intensive methods of production.

In any case, the injury to U.S. interests of which multinational corporations are accused by those seeking trade restrictions is not different from others independently claimed as a basis for import limitations and already discussed—viz., a reduced U.S. trade surplus and job displacement. The expansion of the multinational form of corporate enterprise adds many new problems to the relations between government and business and to intergovernmental relationships, but it does not constitute a new argument for protection. Indeed, the retaliatory or at any rate unfavorable responses that can be expected from foreign governments to any U.S. effort to limit imports would make much more difficult the intergovernmental cooperation that is required to cope with many of the problems in this field.

The National Security of the United States Requires That Some Industries Be Protected

The national security argument is sometimes applied to natural resource products such as petroleum and sometimes to fabricated products such as steel.

It can hardly be denied that petroleum and steel and indeed a vast host of other products are essential to national defense. But direct guarantees do not always achieve their intended results. One is reminded of the old story of the wise town elders who, wishing to accommodate the convenience of all visitors, decreed that one of the town's two taxis always had to be at the railroad station.

In the case of a natural resource product, it has never been satisfactorily explained how a program which encourages the use of domestic reserves rather than the use of the foreign product will assure adequate domestic supplies in case of an emergency. The argument advanced to defend quotas on the import of crude oil and petroleum products is that high domestic prices, which are necessary to maintain a high level of new discovery and exploration, can be kept only by restricting cheap foreign imports. If national security is dependent upon the ready domestic availability of large quantities of petroleum, what is really called for is a program of subsidization for the exploration of petroleum reserves in the United States and a program that would restrict domestic production to the levels necessary to keep a domestic petroleum industry operational and capable of sudden and large expansion in the event of necessity.

What is particularly indefensible is the protection of the domestic petroleum indus-

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try through import quotas rather than tariffs. Import quotas have the effect of transferring to private pockets in the form of monopoly profits substantial sums of money from the public purse. If it is felt that tariffs are too uncertain in their effects on import quantities and quotas are desired on this account, the quotas should be auctioned off so that their monopoly value does not accrue to private firms. At a time when important social needs are being denied because of inadequate government revenues, it is particularly inappropriate for the government to confer monopoly power worth over a half billion dollars per annum on private parties.[9]

In the case of a manufacturing industry, such as the steel industry, it is argued that protection is necessary to maintain skills that would be lost were the industries subject to unrestricted import competition. The American Iron and Steel Institute, for example, has claimed that the unchecked growth of steel imports presents a direct threat to our national security since a domestic industry will no longer be able to produce the full range of steel products necessary for national security.[10] In addition, it is argued, that under crisis conditions serious shortages might develop.

In fact, the wartime experience of the United States, like that of every other country, including England, Germany, and Japan, demonstrates very clearly that human skills and ingenuity manage very quickly to produce whatever is needed in wartime. The United States during World War II, for example, was able to produce large quantities of airplanes including many kinds which had never been produced before and even to master the production of products like lenses, which formerly had been regarded as the province of highly skilled craftsmen not to be found in the United States.[11]

The national security argument is also weakened by the diminished likelihood of a large-scale conventional war of long duration. A major nuclear war would be brief and horrible and its outcome would not be affected by the size of particular domestic industries such as oil or steel. Non-nuclear wars restricted to particular regions are unlikely to leave the U.S. cut off from all foreign sources of supply.

Protection for national security purposes is also counter-productive politically and diplomatically. Further action to limit steel imports, for example, would strengthen the divisive forces affecting our relations with friendly countries.

III. THE COST OF INCREASED PROTECTION TO THE UNITED STATES

The benefits of import limitations, it has been shown, accrue to favored groups in the economy at the expense of the population as a whole. Some of the ways in which these costs are incurred have already been described. The disadvantages of a policy of protection are set out more systematically in the following paragraphs.

The Insulation of the U.S. Economy from Foreign Competition will Reduce Consumer Choice and the Stimulus to Innovation

The maintenance of competition in a market economy under modern technological conditions where the scale of the firm is so large in many industries is one of the difficult problems of economic organization facing the United States. The entry of foreign competitors into the American market makes it more difficult for large firms to pursue a live-and-let-live policy that will produce a quiet life for their managers but which will not be in the interests of consumers or the economy at large. There are on record in recent years a number of cases in which the stimulus to innovation has come from foreign competition—the small car, oxygen steel, and flat glass. The American consumer and the economy in general is better off for each of these cases of increased foreign competition.

Import Limitations will Lead to Higher Prices and Make the Control of Inflation More Difficult

Recently, the propostion that import controls or tariffs are likely to lead to higher prices for the protected commodities has been challenged. These challenges usually take the form of citing cases in which products under protection such as cotton textiles have been marked by price increases smaller than the price level in general. These instances have usually been contrasted with other products like coal which although unprotected have risen in price more than average. The juxtaposition of such examples only indicates, however, that there are other price-determining influences that are also at work. It does not mean that the observed price of a protected good whether it has risen more or less than average, would not be lower without the quota or without the tariff.[12] Nobody has yet set out the logic by which it can be claimed that the restriction of a cheap source of supply will not tend to raise the price. Most quotas not only result in higher prices to buyers but, as noted in connection with the discussion of the oil quota above, confer a monopoly profit on those lucky enough to receive the privilege of importing some of the limited quantity of goods permitted to enter the United States.

The upward pressure on prices exerted by import quotas or tariffs also hurts the United States by weakening our export position. Import quotas on petroleum, for example, push up fuel costs for our manufacturing industries and the "voluntary" quotas on steel have enabled increases of steel prices to occur which have raised input costs for our machinery producing industries. Our machinery industries, which are so important in our export trade, are competing with foreign producers who are able to buy fuel and steel at world market prices.

Protectionist policies will reduce the participation of the United States in World Trade and thus lower its rate of growth and income

Textbook writings on international trade and the current arguments of those favoring increased protection have one thing in common. Both view international trade as leading to a form of specialization in which some industries expand in each country while others contract. To some degree, this is still a correct view. It is likely, for example, that under free trade the textile industry and the steel industry in the United States would grow smaller than they are today while the machinery industries would expand.

However, there is a large and growing form of international trade that does not take this character at all. The trade between the great industrial countries is increasingly taking the relatively new form of intra-industry specialization. It is based on the economies of long production runs for particular variants of products. It owes its origin to the ever-growing variety of specialized materials and machines which is emerging to provide a more and more varied and sophisticated bundle of consumers goods and to meet the needs of industry for labor-saving cost-reducing methods of production. How can this great growth in variety of output be reconciled with the great economies that can be derived from long production runs? The answer for most producers is to concentrate on a limited range of product variants.

To see the impact that this has on international trade, let us consider, for example, the production of machinery for the use of such industries as printing, baking and pharmaceuticals. Such machinery is manufactured in the United States, the United Kingdom, Germany and other western European countries. However, in each of these countries the equipment is designed to meet local conditions such as the usual scale of output and the prevailing ratio of wages to capital costs. Each country could produce the whole range of equipment but in fact concentrates on the product variants most in demand in its own or in other nearby markets. Thus the European equipment is typically designed for smaller volume, lower speed and greater variety of purpose than the American equipment for the same industries. Trade arises because in each country there is likely to be some limited need for the kinds of machines produced abroad although the major need will of course be for the type of machine produced at home. Since the direction of technological progress is clearly toward more and more complicated and highly specialized machinery, the volume of intra-industry specialization may be expected to increase.

Intra-industry specialization in the trade among the industrial countries accounts for the apparently contradictory phenomena, that there is on the one hand a great similarity in the commodity composition of the exports of the industrial countries and that on the other hand a substantial fraction of world trade consists of exchanges between the industrial countries themselves.

The expansion of this trade is attractive not only because it lowers costs and raises incomes for the participating countries but also because it brings relatively few of the adjustment problems that are so difficult where specialization by whole industries is involved. From the standpoint of the U.S., it points also to a profitable avenue for the expansion of trade that does not depend upon the maintenance of the technological margin of superiority the U.S. enjoyed in the past.

The experience of the Common Market may again be taken as an illustration. Trade among the six countries tripled in the decade following the establishment of the Common Market in 1957. This expansion of trade was based on neither large technological gaps among the countries nor on the disappearance of entire industries as a result of inter-industry specialization.

Those seeking import limitations are asking the U.S., in effect, to sacrifice the change to participate fully in this growing trade in an effort to protect the short-run interests of limited groups in the economy.

The Political and Diplomatic Costs of Import Limitations Would Be Very High

Any marked movement toward further limitations on imports would, as already remarked, bring retaliations. There is a great danger that a trade war would be set off which would have the economic and political consequences in restricting world trade that would clearly leave all trading countries worse off. What is even more dangerous, however, is the broader impact upon the political leadership of the United States. The United States has in the community of nations stood for the principles of a competitive economy and for the reliance upon markets rather than upon governments for economic decision-making. We have put our great weight behind the reduction of trade barriers. A U.S. policy of protection where competition hurts some American workers and firms, and of free trade where it does not, will hardly strengthen our position of leadership. Rather it will strengthen the position of those cynics who argue that the United States has been using its great power to pursue its own short-run economic interests rather than as we claim to create a peaceful, prosperous and stable world.

IV. A TRADE POLICY FOR THE 1970'S IN THE NATIONAL INTEREST

The national interests of the U.S. lie in the direction of freer trade. The arguments for a contrary policy, it has been shown, are based on incorrect assessments of the facts, draw unwarranted conclusions from true statements of fact, or stress benefits that may

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be real and important but are either incapable of achievement or can be attained only at large economic and political cost.

The strength and pervasiveness of the present trend toward import limitations is evidence of the capacity of men to believe what it is in their economic interests to believe. It reflects also the hospitality the democratic political process gives to the efforts of organized groups to benefit themselves when the gain to them is large and the losses to others are widely distributed. Political leaders may have to yield to such pressures, but if so the only rational ground is a concern for a special interest or political necessity and not a concern for the national interest. Their need to yield may be less if the special and public interests are clearly distinguished.

V. SUMMARY

A new wave of sentiment in favor of import limitations has brought forward some new arguments for import limitations and revived some old ones.

The fundamental fact remains that every restriction of supply, whether it be applied to supply of domestic or foreign origin, helps the producers of the restricted products but only at the expense of everyone else.

Every current claim for protection, no matter what its guise, is a claim for special preference at the general expense.

Let us take the main current arguments for import limitations one by one.

U.S. Imports Have Risen More Rapidly Than Exports in Recent Years; Our Trade Surplus Is Much Reduced, and May Even Be Eliminated or Turned Into a Deficit

It is not at all clear that the U.S. balance payments should in the long run have a trade surplus or that a trade surplus needs to be an objective of U.S. Government policy, but even if these points are granted they do not establish the case for import restrictions. Import restrictions will bring retaliation that will reduce the level of trade without any predictable effect on the trade balance. Furthermore, even if other countries were to permit the U.S. to improve its trade surplus through import limitation, item-by-item restrictions would provide neither an equitable nor efficient method. Discriminatory tariff increases or quotas favor the domestic producers of some goods over the domestic producers of others. They also require that the Government rather than the market place determine which imports will be reduced.

If the objective is really to improve the trade balance, a uniform ad valorem tariff surcharge and an export subsidy of the same amount would be more equitable and efficient. Other measures that would accomplish the same result include a depreciation of the dollar and the restriction of the U.S. price level to lower rates of increase than foreign price levels.

The United States Has, Over the Years, Given Many One-sided Trade Concessions That Have Opened its Markets to Foreigners While U.S. Exporters Find Themselves Under Serious Handicaps in Foreign Markets

The pervasiveness of this view in the U.S. is remarkable in view of the almost absolute lack of evidence to support it. The available evidence does not indicate that U.S. tariff levels are now substantially lower than those of other major industrial countries or that they have been so reduced in recent years as to enhance substantially the price competitiveness of foreign goods in the U.S. market place. Certainly the disappearance of the U.S. trade surplus since 1964 cannot be explained on these grounds. Tariff changes have had on the average small effects on the landed dollar prices of foreign goods and have been accompanied by roughly equal advantages for U.S. exporters. Much has been made of non-tariff barriers, but, if anything, U.S. non-tariff barriers have increased since 1964 relative to foreign non-tariff barriers. Furthermore, the only attempt to estimate the overall level of effective protection inclusive of tariff and non-tariff barriers, made for the U.S. and the U.K., does not show any great difference between the two countries. This is not to deny that non-tariff barriers have been growing in importance, both at home and abroad, relative to tariffs, nor is it to claim that the non-tariff barriers of Japan and the EEC are not more restrictive than those of the U.S. It is to say that claims that foreigners have one-sided access to the U.S. market are at the minimum grossly exaggerated.

Imports Have an Unfavorable Impact on Employment, Particularly Since They Tend to be Concentrated in Labor-Intensive Products

It is true that international trade enables us to export the goods of 1,000 manhours and receive back goods that would require more than 1,000 manhours to produce. This is our gain from trade. Every internal improvement has the same effect; we get more goods per manhour. The optimum way to full employment does not lie in make-work policies such as excluding labor-intensive imports or forbidding new labor-saving machines. Protection of labor-intensive industries is certainly not in the best interests of U.S. labor in any long run sense; it leads to the preservation of low-wage jobs which would disappear in a free market and be replaced by higher wage jobs. In my home state of Pennsylvania, the textile workers of yesterday were injured when the textile industry moved south but their successors today are better off than they would be if there had been government intervention to keep the textile industry in Pennsylvania; they are working at better paying jobs in new or expanded industries that are competitive and can export different products to the rest of the U.S. and to the world.

Foreign Competition is Unfair Because it is Based on Low Wages

The wage advantage that foreign industries enjoy is no more unfair in a relevant economic sense than is the advantage of superior capital resources or of sophisticated technology enjoyed by many U.S. industries. No sound policy can be based on the principle of eradicating all the economic advantages possessed by any contestant in order to run a sports-like competition that gives an equal chance to all entrants. It is precisely by capitalizing upon the special advantages enjoyed by workers and producers everywhere that we can maximize output per unit of input.

The Advent of the Multinational Corporation Has so Changed The Nature of Trade Relations that the Case for Freer Trade Has Been Made Irrelevant

There is no evidence that the multinational corporation is immune from the economic forces that determine which goods can be most cheaply produced in which countries. On the contrary, it seems likely that the multinational corporation provides decision-makers with better information about the most advantageous location of production than was previously available. Components, such as the Ford engine for the Pinto, are produced abroad when they can be made cheaper.

The effects of multinational corporations on the U.S. trade balance are very difficult to estimate, but multinational corporations can hardly be held responsible for import problems in textiles and a number of other areas where the domestic industry has been in difficulty and has sought protection. In most of the areas in which multinational corporations are important, the U.S. has a strong export position.

In any case, the injury to U.S. interests of which multinational corporations are accused by those seeking trade restrictions is not different from others independently claimed as a basis for import limitations and already discussed—e.g., a reduced U.S. trade surplus and job displacement.

The National Security of the United States Requires That Some Industries be Protected

The national security argument is sometimes applied to natural resource products such as petroleum and sometimes to fabricated products such as steel.

In the case of a natural resource product, it has never been satisfactorily explained how a program which encourages the use of domestic reserves rather than the use of the foreign product will assure adequate domestic supplies in case of an emergency. If national security is dependent upon the really domestic availability of large quantities of petroleum, what is really called for is a program of subsidization for the exploration of petroleum reserves in the United States and a program that would restrict domestic production to the levels necessary to keep a domestic petroleum industry operational and capable of sudden and large expansion in the event of necessity.

In the case of a manufacturing industry, such as the steel industry, it is argued that protection is necessary to maintain skills that would be lost were the industries subject to unrestricted import competition. In fact, the wartime experience of the United States, like that of every other country, including England, Germany, and Japan, demonstrates very clearly that human skills and ingenuity manage very quickly to produce whatever is needed in wartime.

The national security argument is also weakened by the diminished likelihood of a large-scale conventional war of long duration. A major nuclear war would be brief and horrible and its outcome would not be affected by the size of particular domestic industries such as oil or steel. Non-nuclear wars restricted to particular regions are unlikely to leave the U.S. cut off from all foreign sources of supply.

Protection for national security purposes is also counterproductive politically and diplomatically. Further action to limit steel imports, for example, would strengthen the divisive forces affecting our relations with friendly countries.

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The national interests of the U.S. lie in the direction of freer trade. The arguments for a contrary policy, it has been shown, are based on incorrect assessments of the facts, draw unwarranted conclusions from true statements of fact, or stress benefits that may be real and important but are either incapable of achievement or can be attained only at large economic and political cost.

The costs include the reduction to the stimulus to innovation, less consumer choice, higher prices, lower exports owing to higher costs and to the exclusion of the U.S. from the growing volume of intra-industry trade, and the deterioration of our relations with friendly countries.

Import limitations involve the use of government power to promote special interests at the general expense.

FOOTNOTES

[1] A. Robock and Simmonds, "How Big Is It—The Missing Measurements", *Columbia Journal of Business,* May-June 1970.

[2] Bela Balassa, *Trade Liberalization among Industrial Countries,* 1967, p. 59.

[3] See U.S. Tariff Commission, *Value of U.S. Imports for Consumption, Duties Collected and Ratio of Duties to Values, under the Tariff Act of 1930, 1930–69,* Feb. 1970, (processed).

[4] The reductions averaged 37 percent, and 20 percent of each reduction went into effect on January 1, 1968. A 7.4 percent cut in an average duty of, say 12 percent comes out to a

saving for U.S. buyers of imports of less than 1 percent.

[5] Robert E. Baldwin, *Non-tariff Distortions of International Trade,* Brookings Institution, 1970, pp. 165 and 168.

[6] Employment and unemployment figures as of January 1968 and January 1969.

[7] From $240.1 billion to $350.0 billion in 1968 prices (A.I.D., "Gross National Product Growth Rates and Trend Data", April 30, 1970).

[8] GNP estimates from U.N., *Yearbook of National Accounts Statistics,* 1968, Vol. 2. Labor cost comparison from BLS estimates reproduced in House Ways and Means Committee, *Hearings on Tariff and Trade Proposals,* May 11, 1970, p. 215.

[9] Baldwin's estimate for 1966 was $620 million; the markup that year was equivalent to 67 percent of the cost of imported oil. *Op. cit.,* p. 32.

[10] See U.S. Senate, Committee on Finance, *Compendium of Papers on Legislative Oversight Review of U.S. Trade Policies,* 90th Congress, second session, Volume 2, page 501.

[11] See the statement of Raymond Vernon, Joint Economic Committee, Subcommittee on Foreign Economic Policy, *Hearings: Defense Essentiality and Foreign Economic Policy,* 84th Congress, second session, June 4, 5, 6 and 7, 1956, pp. 49–53.

[12] The only exception to the price raising effect of tariffs or quotas occurs when they have no protective effect. If U.S. wheat, for example, is selling at world prices or lower, a quota on wheat imports will never have to be administered and will have no impact on the U.S. price. Few of the claimants for protection, however, would be interested in measures that did not restrict the foreign supply to the U.S. market.

Mr. FRASER. Mr. Speaker, I would like to discuss two of the most immediate dangers of protectionism. The first danger is the fact that we would be acting against our own economic best interests by severely restricting foreign direct investment. Those who support restrictions feel that foreign direct investment has resulted in reduced exports from this country and increased imports from abroad with the result being a decrease in employment among American workers. It is also argued that U.S. companies are locating abroad to take advantage of lower wage rates meaning the additional loss of U.S. jobs.

These arguments have a strong appeal at first glance. But the facts of some recent research indicate otherwise. Rather than having a negative impact on the U.S. economy, foreign direct investment has actually contributed to economic expansion in this country and has resulted in increased employment. The following article appeared in the November 26 Christian Science Monitor and discusses a study on the effects of direct investment overseas. A report on the findings for the Department of Commerce is currently being finalized by a team at the Harvard Business School under the direction of Professor Robert B. Stobaugh:

WORKERS NEED JOB-CHANGE AID

(By Richard A. Nenneman)

BOSTON.—In 1964 a consumer electronics company made the initial investment in Taiwan in a series of moves that over the next five years were to represent an outlay of $6 million for plant and equipment there. A good part of that $6 million represented purchases of U.S. capital goods, and helped the U.S. balance of payments. Right? Right.

In turn, over the same five-year period that $6 million plant supported production worth some $100 million. That production by workers in Taiwan represented jobs lost to workers in the United States. Right? Wrong.

Why? Because in part three, that $100 million in production, which took the form of assembled electronic components, came back to this country and had another $80 million in value added to it for eventual sale.

The company involved had made a defensive move. It did not, contrary to the conventional wisdom on the subject, go to Taiwan just because labor rates were lower there. It went there because its research indicated that within five years its U.S. market for this particular product would disappear if it didn't take advantage of Taiwan.

POTENTIAL LOSS SEEN

Another manufacturer, probably Japanese, would have moved in and done the same thing. The finished consumer product would have been sold in America with a loss to this country of not only the $100 million in production in Taiwan, but also the capital goods investment of $6 million and the $80 million worth of work done here.

This intricate description forms part of an almost finished analysis for the U.S. Commerce Department by a group of professors at the Harvard Business School under the direction of Prof. Robert B. Stobaugh, a specialist in international business (who was for many years a petrochemical engineer abroad). It forms part of a study of the effect on U.S. domestic employment of direct investment overseas by American companies.

The professors have examined nine major investments in nine different industries which together account for the bulk of U.S. overseas investment: oil, chemicals and allied products, electrical machinery, non-electrical machinery, electronics, food, paper, primary and fabricated metals, and rubber goods.

Because the firms involved in the study are all large, it was assumed that each new investment was an incremental one. That is, the company has access to the capital markets and is doing all it finds attractive domestically already; a "no-go" decision on a foreign investment wouldn't increase its domestic activities.

ALTERNATIVES IGNORED

Previous studies of investment abroad have not tried to find out what would have happened if a particular investment hadn't been made, said Professor Stobaugh. A presumption has been growing, however, that U.S. firms, in order to escape high wage rates at home, were farming out production overseas and putting U.S. laborers out of work. But the tentative conclusions of the study indicate almost the exact opposite. They indicate that:

U.S. direct investment abroad creates, rather than destroys, U.S. jobs. But it also heightens the need for adjustment assistance for U.S. workers.

The jobs created at home by investment abroad are in an above-average income category.

Although the figures are tentative, Professor Stobaugh estimates that from 250,000 to 500,000 U.S. managerial and research and development jobs are in effect supported by U.S. investment overseas.

U.S. direct investment abroad has a positive balance-of-payments effect.

Most direct investment abroad is defensive; that is, it is made to protect a market a U.S. company already has, either at home or abroad.

MOSTLY FOR OVERSEAS SALES

Some 78 percent of U.S. foreign investment goes to serve a local market overseas. Another 15 percent goes to serve a third-market country (although half of such trade is within the Common Market area), and the rest, 8 percent, comes back into the U.S. This latter figure would be only 2 percent, however, if Canadian auto production were not included.

Professor Stobaugh has himself made a study of 350 individual foreign investments by the chemical industry, which backs up his conclusion that such investment is largely defensive. Not a single one of them was made, he said, before the chemical involved was already being produced at the foreign location.

Almost all foreign investment is done by oligopolistic firms. A firm starts as a leader in its industry and tries to defend an eroding position.

An example of this, says Professor Stobaugh, was the decision of an auto company to make a $16 million investment in the Philippines to save its local market there. If the investment hadn't been made, most likely a German or Japanese manufacturer would have moved in.

By making the assembly plant in the Philippines, moreover, the auto company preserved some jobs here, as the autos were made in knocked-down form in this country, contributed to an export of capital equipment from this country, and supported some part of its managerial and research personnel in this country.

TIRE INVESTMENT STUDIED

In another example, a U.S. tire manufacturer invested $8 million in Canada. Canadian tariffs were keeping out American-made tires. By building a factory in Canada, the rubber company not only kept its market there but also maintained its position with its same auto company clients in the U.S. (If they had begun to switch to some other tires in Canada, this might have been the prelude to a switch here also.)

Other conclusions of the study are that:

Trade restraints abroad, together with the oligopolistic position of many U.S. firms, are the major reasons for a decision to make a foreign investment. Lower labor costs abroad and tax breaks are relatively minor factors.

A foreign investment seldom works out exactly as planned. In almost none of the nine firms surveyed was this so. This seems to be an argument for allowing a company the greatest amount of flexibility.

No firm is a single economic decision-maker. There are many different power centers within an organization, Professor Stobaugh noted, and what happens with a foreign investment sometimes represents the shifting of influence of those centers.

The future is not dim. Although companies typically are defending forward positions, and lose some of their market as others catch up, the strength of the U.S. firm has always lain in its technological lead. Professor Stobaugh pointed out that in one product line after another in the chemical industry the U.S. lead had been lost. However, because of product innovation, the industry as a whole has turned in a strong performance overseas.

U.S. firms need to invest abroad to reap the full benefit of scales of economy which in turn support their R&D spending. Without this support, U.S. industry would gradually fall behind foreign competition.

JOB ADJUSTMENT STRESSED

Perhaps the most important conclusion of the report will be that the U.S. worker needs drastically more adjustment assistance. "The most important industrial problem facing the U.S.," said Professor Stobaugh, "is the adjustment of jobs. A young person learning a job when he is 18 may not have it by the time he is 28."

He noted that back in 1954 at the time of the Randall Commission's report (President Eisenhower's Foreign Economic Policy Commission), David J. McDonald, then head of the United Steelworkers, had asked for adjustment assistance. His plea, however, was voted down by all the other members of the group.

Professor Stobaugh also discussed balance-of-payments statistics. He feels they are an inadequate measure of what is actually transpiring among the nations of the world. There was, for instance, an increase of $7 billion in retained earnings abroad last year. But what is retained abroad doesn't show up in the figures.

Yet that $7 billion represents an increase in U.S. economic strength and in corporate liquidity overseas that suggests the opposite of the actual payments figures. Professor Stobaugh questions, with the operations of U.S. business abroad so complex and the returns to capital and labor in this country so intertwined, whether we have the ingenuity to construct a "true" balance-of-payments statement.

The Harvard study is not pessimistic. If the U.S. has to work harder to stay ahead, by implication the study says this can be done. But it will require more dynamic action in helping the U.S. labor force adjust to new jobs.

Professor Stobaugh's findings are supported by the results of a recent survey of member companies by the National Foreign Trade Council. Section III of their report is a summary analysis of their findings and includes several case studies:

III. SURVEY ASSESSMENT OF CLAIMS

Several U.S. Labor groups and others have made three major claims concerning the impact of U.S. foreign direct investment on U.S. labor, trade and the balance of payments as follows:

1. Direct investments overseas promote production and employment abroad at the expense of U.S. exports and employment of American workers.
2. Advanced technology is rapidly transferred abroad to countries having lower labor costs where it is incorporated in products which are then exported to the United States.
3. All of the foregoing is damaging to the U.S. balance of payments.

These claims are implicit in legislation recently introduced in the Congress which would:

(a) alter the taxation of income from foreign affiliates with the intention of removing the existing "tax incentives" and impose new taxes on royalty income;

(b) impose new controls over the outflow of capital for foreign direct investment;

(c) impose controls over the outflow of technology;

(d) establish a new agency to impose quotas on imports so as to achieve "industrial self-sufficiency" within the United States;

(e) affirm the purpose of insuring "that the production of goods which have historically been produced in the United States is continued and maintained. To the extent that production of such goods has been transferred abroad, it is the intent of Congress that this production be encouraged to return to the United States."

NFTC member companies having foreign direct investment were surveyed to determine whether the claims are valid in the light of their experiences. In asking for current information in narrative form, including quantitative data if possible, respondents were requested to include a statement of the reasons for deciding to invest abroad; the effect that such investment decisions have on employment in domestic manufacturing facilities; whether the transfer of technology results in low-wage imports; the long-term favorable effect, if any, on jobs because of widened export opportunities resulting from the establishment of manufacturing or assembly operations overseas; and the impact of such investments on the U.S. balance of payments.

The claim that foreign direct investment causes a reduction of exports and a loss of U.S. jobs can only be supported if both of these events occur as a result of the investment having been made. If either of these results has not occurred, then the *a priori* case of Labor is in doubt. What is then required to be shown, but cannot be, is that exports would have been higher in the absence of investment, which implies that the investment did not stimulate exports; or that employment would have been higher but for the production abroad, implying that the new situation involving the investment abroad did not create *net* new employment.[1]

The NFTC survey found that both U.S. employment and exports in responding companies have generally risen. The findings support the conclusion that foreign direct investment tends to expand trade and create employment in the United States, even though this may involve some shifts in the structure of employment in this country. The evidence, moreover, indicates that such shifts as they occur are likely to be toward industries of higher technology.[2]

EXCLUDED SECTORS

To clarify the applicability of Labor's argument it is first necessary, however, to break down the structure of foreign investment among industry sectors. For many of them, exports from the United States are simply not a relevant alternative, since in such sectors there were no exports beforehand. They must be excluded, therefore, from the claims of Labor: They constitute a large segment of foreign direct investment, including activities ranging across the sectors of extraction, materials processing, construction materials, packaging, pharmaceuticals, services, items of high transport cost relative to value, marketing activities, and a variety of items not produced in the United States at all. The total of these sectors amounts to 75 per cent of outstanding foreign direct investment emanating from the United States.

Investment in extractive operations abroad cannot substitute for U.S. exports since the objective is to obtain materials that do not exist in the United States in sufficient quantity; these materials are exported to world markets or, as needed, into the United States to supply materials for industrial output. Without such an inflow of materials, a large number of U.S. jobs would be lost. In addition, a substantial number of jobs are created by the supply of such operations with U.S. machinery and materials: for example, lubricants that cannot be produced locally in the host country.

The further processing of such raw materials as minerals and timber abroad requires investment and creates jobs there, but it cannot be said to take jobs from U.S. labor. U.S. enterprise can hardly claim the right to process foreign materials in the United States; each resource-exporting country will rightfully demand to process as much of its raw materials as it can economically. Again, even this type of investment—as with processing bauxite into aluminum—creates jobs in the United States for the export of equipment and the fabricating of aluminum into final products; moreover, U.S. exports will rise to countries that are richer because of their own processing or fabricating of aluminum products.[3] The same argument applies to oil, copper, manganese, etc.

Basic construction materials such as cement, brick and stone, roofing, paints, and glass enter very little into trade. In contrast to lumber, the raw materials for these items are relatively abundant in each country and local production is much cheaper than imports.[4] Wood is not always available or is too high-cost to compete with imported supplies. Foreign investment in these areas must also be excluded from the criticism of so-called "runaway plants."

Footnotes at end of article.

Similarly, investment in the packaging industry abroad does not reduce U.S. exports simply because this is not a sector which can export significantly. Empty tin cans, bottles, and even corrugated board take up too much space to be economically exported. However, the materials for such containers and corrugated board can be exported, and such exports were reported to be substantial creators of U.S. jobs.

Pharmaceuticals constitute another area in which export is often prohibited by governmental inspection regulations rather than by import restrictions or transport costs.[5] Governmental inspection of drugs must take place during the process of their production in order to certify purity and safety. Local production is, therefore, required. Again, it is feasible in some instances, but not always to export some of the bulk chemicals or ingredients. The United States imposes even more stringent regulations on the manufacture of drugs than do other countries; consequently it is difficult to argue against similar regulations in other countries resulting in the need for local manufacture.

Investment abroad in the service sector does not imply a loss of jobs in the United States. Only local banks can serve local customers. Similarly, hotel services, consulting services, insurance, accounting, etc. can be effectively provided only from local offices. The United States itself has regulations concerning the operation within the U.S. economy of foreign banks, foreign insurance companies, shipping companies, etc. If a U.S. company wishes to do business in a foreign country in the service sector, it has to "go local."

Finally, marketing and the setting up of distribution facilities necessary to foreign operations cannot be accomplished from within the United States. This requires the provision of warehouses, trucking and other distribution facilities, as well as advertising and sales functions. Thus, a significant portion of foreign direct investment required for these purposes would have to be expended anyway—even where there is successful exporting.[6]

All of the foregoing sectors which should be excluded from the claims of Labor have one of two characteristics. Either the operation involved could simply not be undertaken in the United States or the transport costs involved in moving the U.S. product or service abroad are too great in relation to their value.

There is a final type of activity abroad which does not fit the above categories but must also be excluded from Labor's claims, namely, the type of activity in which items are manufactured abroad for local preferences but are not produced in the United States. Some examples are detergents having qualities not desired by U.S. users; automobiles which do not satisfy U.S. needs or desires; foods which satisfy local tastes; tropical drugs; and "stripped-down" refrigerators.

RATIONALE FOR FOREIGN DIRECT INVESTMENT AND ITS IMPACT ON U.S. EMPLOYMENT AND EXPORTS

It is essential to any appraisal of the validity of the claims of Labor and others to examine the rationale of direct foreign investment. The term "rationale," as used herein, means the reasons or motivations which result in a decision to invest or reinvest abroad and the beneficial or negative effects that such investments can have on an enterprise.

The reasons for investing abroad most frequently mentioned in the responses to the survey (without attempting to rank such reasons) are as follows:

(a) to jump tariff and import barriers and regulations, including local-content regulations or a requirement that local exports be made in order to receive an import license;

(b) to reduce or eliminate high transportation costs;

(c) to obtain or use local raw materials;

(d) to obtain incentives offered by host governments:

(e) to maintain existing market positions;

(f) to participate in the rapid expansion of a market abroad;

(g) to control quality in the manufacture of specialized products;

(h) to follow customers abroad;

(i) to follow a competitor abroad;

(j) to obtain foreign technical, design, and marketing skills;

(k) to bid on foreign infrastructure projects.

Low labor costs were not mentioned as a factor in the decisions save in a very few instances; even if they exist—as they do in almost all countries compared to the United States—they are not decisive. Rather, low labor costs have existed for some time as between countries without inducing a significant movement of U.S. capital, technology, and management. It has only been since the rise of internal markets to levels making local production possible on sufficient scale or the reduction of trade barriers which opened the world market that factor movements have occurred in significant amounts.

In many cases, the investment abroad has been in an industrial sector that is not labor-intensive but capital-intensive. Since the affiliate uses U.S. processes, it does not gain from the fact that labor may be cheaper.

The experience of almost all of the companies responding to the survey shows that the existence of a manufacturing, sales and distribution facility in a foreign market results in increased exports of more sophisticated products which are only still being made in the United States, or of other products of a company's manufacture, many of which the company had been unable to export previously.

The following excerpts taken from responses deal with matters considered in this part of Section III;

CASE 1—"[Our company] had never been able to penetrate the market, despite the fact that Australia is an important minerals country. Chief reason was that equipment could be imported from the UK either duty free or at a Customs rate of 7½%. Duty on U.S. made machinery was 55½%. Australian mining firms often visited us in the U.S., informed us they liked our product and would buy it if we manufactured it in Australia, thus avoiding the import duty. We finally agreed and have built a good business." (Heavy tool company)

CASE 2—"We have found that the acquisition of complementary product lines and new technology in foreign countries frequently stimulates our domestic U.S. manufacturing and sales activities because it provides new products to be manufactured and sold in the United States." (Industrial products company)

CASE 3—"Without our international operations, it's doubtful that our export situation would be as favorable, and of course, our current favorable export picture is an affirmative factor in our U.S. employment.

"In the interest of brevity, I will list only one other example of how our international operations benefit the entire company. [This firm has] research and development facilities in England, France and Australia in addition to our main laboratories in the United States. From our international laboratories have sprung ideas resulting in products which have been—and are—produced in our U.S. manufacturing plants. For example, the research laboratory [in] France, developed a new [product] which is now being produced in this country.

"The global interaction of our research plays a key role in producing the ideas and insights that lead to the new and improved products found on today's U.S. production lines. So, too, will our worldwide research effort spark the breakthroughs of tomorrow." (Consumer products company)

CASE 4—"[We] established [a plant] late in 1954, . . . currently employing approximately 230. This plant was established primarily to serve the Eastern Hemisphere at a time when Sterling Bloc Exchange restrictions were limiting sales of U.S. manufactured products in U.S. Dollars. Two of our major competitors took similar steps resulting in plants in England and The Netherlands. Factors which did influence our decision to locate in Northern Ireland were concessions granted by the Government of Northern Ireland, and a readily available work force at low cost." (Tool company)

CASE 5—"A chemical fertilizer plant was constructed in a developing country to supply the local market, primarily through contract sales to the government. The choice of this location was based on the following factors: the fertilizer industry is completely controlled by the local government, which was determined to establish local production facilities, with imports strictly controlled; the plant could be integrated with the Company's local feedstock production and the investment generated considerable good will for the Company in that country, thereby benefiting its other operations there. There was no alternative to local investment to serve this market. Wage rates were not a factor in the decision." (Petroleum company A)

CASE 6—"A large steamcracker was established in a European country to produce ethylene for sale to a local plastics manufacturer. The European location was chosen for the following reasons: infeasibility of serving this market from the U.S. because of high transportation costs; the contract customers and the spot market for the output were located in this particular European country; customers were interested in security of supply; the local government would not permit raw material for its plastics industry; and the minority partner in our petroleum affiliate in this country would not be content to allow supply of a petroleum-related product to this market from a 100 percent-owned Company affiliate which was offshore. Wage differentials were not a factor in the decision to locate in this country." (Petroleum company B.)

CASE 7—"In building overseas production facilities we have found that although export of the specific finished product probably decreases (which would happen under these conditions anyway), overall there is actually a gradual net enhancement of total exports. This is because export of the more sophisticated types or grades of product lines, for which the local production facility is usually not designed to supply, begin to grow even more rapidly as a result of our being a local producer. Again, we have found that simply through our physical presence in these foreign markets, and with a stronger, more effective local organization, we generate additional U.S. export sales for the corporation frequently unrelated to the product being manufactured in that country. Finally, export still generally continues with raw or semi-finished material being supplied to the foreign plant in partial replacement of finished product export. Under these conditions, if exports are higher than they otherwise would have been if a foreign facility is going to be installed anyway and we did not install it, it seems obvious that employment of American workers must have benefited." (Industrial products company.)

CASE 8—"Our experience is directly to the contrary. We started our active manufacturing program [abroad] in 1965 and between then and 1970 our products manufactured overseas increased by 159%. However, it is our experience that operating a plant overseas increases export business from the United States in other products, and it is significant that our export sales from U.S. plants increased by 171% during the same period." (Electric supply company)

CASE 9—"Between 1960 and 1970, our overseas manufacturing employment rose by 140%, whereas our exports from the U.S. increased 750%, consisting of the more sophisticated, higher-priced equipment plus material inputs for assembly overseas." (Office equipment company)

CASE 10—"We have increased our U.S. exports since 1935 from $817,000 to $19,148,000, with a corresponding increase in employment for exports; this would not have been possible in the absence of our overseas manufacturing facilities." (Pharmaceutical company)

CASE 11—"These statistics have been taken directly from our corporate records:

[Dollar amounts in millions]

	1961	1970	Increase
Exports:			
To affiliates	$1,046	$9,993	$8,947
To others	13,164	22,848	9,684
Total exports	14,210	32,841	18,631
Employment:			
U.S.-based	35,537	52,239	
Foreign operations	9,200	18,004	

"Of the total foreign employment shown for 1970 over 90% represents foreign jobs already existing at the time [the firm] acquired its ownership interests in the foreign affiliates, and the remainder reflects normal growth of the foreign countries' economies.

"Of the U.S. based personnel, we estimate that non-U.S. business provides employment for the equivalent of between 1,500 and 2,000 full-time employees. That takes into consideration the production of ware for export, export marketing activities, servicing foreign technical assistance and licensing arrangements, and U.S.-based personnel concerned with our foreign affiliates' operations.

"As the statistics indicate, our investments in foreign affiliates definitely have had no adverse effect on export sales. To the contrary, most of the over $52MM total export sales to our affiliates during the 1961–1970 period would not have occurred if [we] had not made the investments. In the period 1964–1970, exports of our machinery and equipment alone totaled over $32MM; prior to [our] investing overseas, such exports were insignificant. [Our] investments have been made only where [our] export markets had been or were about to be lost irretrievably, or where it was not economically feasible to supply the foreign markets through U.S. exports. The major limiting factor on [our] exports is the high freight sensitivity of most [our] products.

"To complete the picture of our operation: Imports—From foreign affiliates—Less than $100M for the entire period 1961 through 1970. Income from foreign affiliates, after foreign taxes but before U.S. taxes $1,186M to $12,095M." (Industrial products company)

CASE 12—"As a result of investments abroad, our marketing position has been strengthened and our sales have grown substantially around the world. Far from reducing exports of American goods, these have grown from $7 million in 1961 to $70 million in 1970. U.S. labor has produced approximately $5 million worth of machinery shipped abroad and installed in our plants, a practice we expect to continue." (Electrical equipment company)

CASE 13—"During fiscal 1969, corporate orders totaled $344 million. 30.5 percent of these, or $105 million, were received from customers outside the United States. $80 million, or approximately three-quarters of the international orders, were supplied from U.S. production. The remainder was supplied from three factories located outside the United States—two in Western Europe and one in Japan. Exports of finished products from our U.S. factories provided more than 3,000 jobs here in the U.S. Our foreign factories produced a total of $25 million worth of goods. Over 25% of the value of the goods manufactured abroad consisted of components and sub-assemblies manufactured in our U.S. factories. This provided an additional 300 jobs here in the U.S." (Industrial equipment company)

CASE 14—"The most interesting situation now is that we find we are exporting [our] foods in substantially greater quantities than we were in 1959, even though we do not export our products to the countries or areas mentioned in the earlier part of this letter.

"Actually, our export volume today allows us to operate such plant approximately 16 to 18 workdays per year. Back in 1959 when [the] plant did not have the high speed, efficient operation they enjoy today, our export volume would have accounted for operating that plant only some 4 to 6 workdays per year." (Food company)

CASE 15—"We have enjoyed very many years of product distribution in countries throughout the world. As an area example, fifteen years ago our brand of foods had a dominant share of the market in ten Latin American countries. Today, we are excluded from eight of these same ten countries which once were primary markets for our products. In the ninth country, we have survived simply because to manufacture there. After years of primary marketing investment, these countries were foreclosed to us by trade restrictions.

"In the example of the one country where we now manufacture, a wall of trade barriers had been built before we decided in favor of local manufacture and, so, the sales we now enjoy in that ninth country are not a transfer but, rather, business that could not have been shared from a U.S. base of supply.

"Industries differ one from another and what holds valid for one business may not be applicable to another. Because of the efficiency of American agriculture and the U.S. food industry, American processed foods are generally lower costing than anywhere else in the world. In our particular experience, we can pack our products and deliver them to practically any country at less than the same product can be locally processed. Since, therefore, countries are closed to us through trade restrictions, any decision for local manufacture is not one of choice but, rather, one of necessity for survival in the local market. It is not a matter of a transfer or loss of U.S. sales.

"Some ingredients used in our overseas manufacture are supplied from the United States and food processing equipment installed in the plants is of American origin, adding to the country's exports.

"As a matter of record, although we presently manufacture in many countries outside the United States, our export sales are at an all time high. Even in the countries where we have local production, we enjoy some supplemental export sales from the U.S. that probably would not have survived without the catalyst of our local manufacture and marketing operations." (Food company)

CASE 16—"During the past few years we have secured two major contracts in Scandinavia, one in Africa and one in Australia for iron ore processing facilities. Because of tariff and import barriers, local content requirements and financing and currency preferences on the part of the buyers, none of these jobs would have been awarded to a U.S. bidder for equipment manufactured in the U.S. and calling for payment in dollars. In fact, such bids were unacceptable to the buyers. By arranging for the manufacture and supply of most of the equipment in Sweden, Australia, Germany and the United Kingdom, and thus making it possible for the customer to pay the major portion of the job in local currencies, [we were] able to participate in this business. Roughly speaking, I believe we could estimate that the total value of U.S. equipment and services required for these contracts if manufactured in the U.S. could have amounted to approximately $24,000,000. Keep in mind that had we pursued the policy of bidding on the basis of U.S. manufacture, the net resulting business would have been zero. Nevertheless, by proceeding in the manner generally described above, [we] received somewhere in the neighborhood of $4,500,000 to $5,000,000 (roughly about 20% of the U.S. equipment and services value) as payment for engineering services, know-how fees and certain special parts and components of U.S. manufacture all of which, I repeat, would have been lost had we insisted in offering U.S. manufactured goods." (Machinery company)

CASE 17—"The question of labor rates overseas has played virtually no role in our overseas investment policy. Our foreign production is mostly for sale within the country of manufacture, or to neighboring countries such as in the European Common Market. Just as wage rates vary from country to country, so do prices. There are other factors which are far more important in deciding to build or buy a plant overseas, such as the market. Wage rates are important only in calculating total cost and profitability of an overseas venture, generally." (Chemical company)

CASE 18—"The majority of our products are material, rather than labor, intensive. Therefore, low-cost labor has not been a significant factor in our overseas manufacturing program. Our factories abroad were established primarily to maintain and extend our competitive position within the three major world markets or free trade areas. In general, we tend to manufacture our less sophisticated products in these factories, products for which there is considerable local competition. Although we manufacture a relatively small portion of our total product line abroad, we find that in each country in which we do manufacture, we gain the advantage of a local identity which substantially increases our total imports of U.S. products in that market. Without local production, the addition of import duties to our U.S. products would severely reduce our competitiveness and, thus, most of this important volume of business and all the U.S. jobs it provides would be lost." (Industrial products company)

CASE 19—"We would not be able to compete in overseas markets unless we produced locally. The labor content of our cost of goods sold is no more than 10% and the benefits enjoyed through these additional overseas payments and profits for override any possible theoretical loss to American labor." (Industrial products company)

CASE 20—"We have constructed the following table ranking the principle factors in determining foreign investment decisions, for your interest—ranked 1 (most important factor) to 5 (least important factor):

	Canada	Other Western Hemisphere	Western Europe	Far East	Rest of world
Trade restrictions (e.g., tariffs, quotas, nontariff barriers)	2	4	1	1	4
Investment regulations (e.g., local content requirements)	4	3	5	5	3
Market demands	1	2	2	4	2
Labor cost advantage	5	none	4	2	none
Other factors—Investment climate	3	1	3	3	1

"Nor have our foreign investments detracted from our domestic investments. We have expanded as fast as markets, funds and management have permitted in both the United States and overseas in general.

"Nor have our overseas investments had any significant adverse impact on United States exports. On the contrary, they have been beneficial through purchase of U.S. machinery. The markets we have filled would have been filled by other manufacturers, and not by United States exports, for the most part." (Chemical company)

Case 21—"In developing our response, we have analyzed each foreign investment we have made. . . .

"Japan—To enter into the Japanese consumer products market the only choice we had was to manufacture locally. High transportation and insurance costs made it practically impossible to compete with local firms.

"As a consequence of having a base in Japan [we have] gained export sales of other products that otherwise we would not have.

"India—India's foreign exchange laws precluded sales into that country, so that direct investment was the only choice. The difficulties of exporting from the U.S. into India meant that we had no sales in that market till we invested there, since most of [our] products fall in the 'luxury' category as far as import laws are concerned. It is obvious that when one has no export sales, one similarly cannot employ U.S. workers to manufacture for export.

"Pakistan—As in India, Pakistan's foreign exchange laws make it practically impossible to export products from the U.S. into Pakistan. Further, the only way to meet competition from Eastern European countries is to manufacture locally. Prior to investing, [we] did not sell in the Pakistan market.

"Argentina—Being a country that needs to protect local industry, Argentina has established tariff barriers for most products. In addition to that, the distance from the U.S. is another important factor in the cost of exporting. Therefore, we chose to invest in a manufacturing subsidiary.

"Some of the products we manufacture in Argentina are also very service sensitive (bottles, for example), making export sales impossible to sustain. Others, like ampules and flasks, [we do] not manufacture in the U.S.

"Investing in Argentina did not represent any loss of export sales or transfer of jobs abroad because neither before or after investing had [we] exported to that market.

"Brazil—The move to Brazil was forced by the establishment of a foreign competitor (non-U.S. company) in that country. Had we not moved we would have lost the total market of which we now hold a good share.

"As a result of not losing the total market, we have been able to export parts and components to the Brazilian subsidiary.

"Mexico—Basically the reasoning for moving into Mexico was the same as to Brazil. However, in this case the Mexican government placed restrictions allowing only one [product A] manufacturer to enter the country.

"By manufacturing locally [we were] able to capture the whole market. Had we not entered Mexico, the competitor, who in this case was also a non-U.S. company, would have gotten the whole market. By doing so, [we] maintained the export of U.S. manufactured additional parts to Mexico.

"An investment in a laboratory glass operation was due to competition from Argentina, which has preferential tariff treatment in Mexico. Without the local manufacture, we would have lost the entire market. As in [our other] operation, [we were] able to maintain export of parts and components to supplement the local manufacture.

"England and France—Local competition as well as imports from other European countries with preferential tariff treatment forced [us] to invest in those countries.

"Export of supplementary parts from the

U.S. were kept by having a share of the market.

"England—By acquiring an instruments company in England, [we] increased [our] export sales of similar products by marketing them through this company's distribution network. In addition to that, [we] acquired new technology that will be used in the U.S.

"France—With the advent of EEC, our U.S. position weakened relatively to EEC countries. This forced [us] to make direct investment in France to be able to compete with European companies, particularly on [product A].

"[Certain] products . . . have strong local competition that cannot be met by exporting from the United States.

"We have maintained strong exports of [product A] to our subsidiary in France.

"Netherlands—Tariffs on imports of finished products made it necessary for us to put a finishing operation in Netherlands. With that [we have] kept the market through exporting the semi-finished product from the United States for finishing in Netherlands." (Manufacturer of glass products)

CASE 22—"We would prefer to supply foreign markets directly from our U.S. plants. If so, we could better utilize our existing capacities; more easily and cheaply raise the capital for investments and at the same time minimize the risks; increase employment; etc. However, the decision to manufacture abroad or export from the U.S. is largely dependent on outside factors rather than on our preference. This is documented by the following few examples:

"In the case of [product A], some of our customers, the local vehicle producers and/or assemblers, who often are the subsidiaries of U.S. vehicle manufacturers, want to assure themselves of a steady supply of [product A] and require, therefore, local production. We must comply and build a plant in the country in question. If we do not, our competitors, Americans or others, certainly will.

"With rising vehicle population everywhere, many governments include a [product A] factory in their national plans. Our Company is often approached by such governments, government agencies, or private organizations and invited to build the plant. If we are reluctant to establish a manufacturing facility, the government signs a contract with our competitor. As a rule, if we do not build a local facility, we lose the country as an export market as soon as local production begins because higher tariffs and other trade restrictions are established to protect the new facility. The local market is often closed to imports, except for [certain] products not produced locally. These products may be brought in by the local manufacturer if a part of a multinational company.

"A similar situation concerns our major plastic material [product B]. The established versatility of this [raw material], of which we are the major producer, lures many governments and private investors into establishing production facilities for this material locally. In some cases, however, the lack of an adequate supply of raw materials needed for production of [product B] permits the establishment of compounding facilities only, while the [basic ingredient] is exported by us from the U.S. Here again, should we fail to build a local plant, our competitors would undoubtedly do so and we would lose our exports to that market.

"All of these factors have enabled our Company to continue improving our export levels from the U.S. During the past decade, 1960–1970, tonnage exports of our plastic materials almost tripled. Our exports of other products during the same period increased by 35.6 percent. A growing portion of these exports went to our subsidiaries—from 16.3 percent in 1960 to 35.5 percent in 1970, for a total increase of 194.8 percent. These percentages reveal the importance of our manufacturing subsidiaries abroad to our exports from the U.S. Many countries permit us to export from the U.S. only because we have a local manufacturing facility but do not produce all types of products locally. Otherwise, we would be excluded from that market." (Supplier to automobile industry)

CASE 23—"As a pharmaceutical firm, engaged primarily in the manufacture and marketing of ethical drugs, we have been subjected to increasingly strict regulatory procedures and economic pressures in almost every country in which we operate. Some of the restrictions we have encountered have been legitimately inspired by serious concern for the medical welfare of nationals. Others have been motivated by the desire to reduce imports, to favor national raw material suppliers, to favor locally-owned industry, to attract research to within national boundaries, and the compel the transfer of technology to nationals.

"There follows a representative, but by no means inclusive, listing of some of the problems we have encountered:

"a. A country insists that a local raw material be used. The borders are closed to any finished product which contains this ingredient. The raw material differs chemically from that used in the domestic (U.S.) product. Decision: Manufacture the product locally.

"b. A country enacts a law declaring that if a patent-protected product is not manufactured locally, the patent rights may be ignored and the product may be purchased from patent infringers. Decision: Manufacture locally.

"c. A country with a comprehensive social security system which includes the provision of free pharmaceuticals decrees that the 'lowest bidder' on a tender for a pharmaceutical is the in-country producer whose bid is no more than 10% higher than the lowest tender for the imported product. Decision: Manufacture locally.

"d. A country decides that no foreign enterprise may be more than 55% foreign-owned. The only suitable local minority partners insist that their own manufacturing facilities be utilized to produce some products as part of the partnership agreement. Decision: Manufacture locally.

"e. A country, by law, stipulates that finished goods of a company may be imported only if that company is engaged in some local manufacture. Certain finished goods which are widely accepted cannot for technological or cost factors be manufactured locally. Therefore some products must be locally manufactured to permit the import of others. Decision: Manufacture locally.

"f. A common market organization establishes tariffs for pharmaceutical products entering from outside the market and eliminates tariffs within its boundaries. Price competition within the boundaries is very strong. Decision: Manufacture locally.

"The results of these pressures and the subsequent decisions to market locally include:

"a. Each year the volume of goods manufactured abroad increases; each year the dollar and unit volume of goods exported from the U.S. to company subsidiaries increases.

"b. While much of the volume increase in exports is in intermediates, the absolute volume of finished goods exported from the U.S. has also increased each year. Since 1952, when export sales amounted to less than 4% of total corporate sales, through 1970, when international sales amounted to 33% of total sales (sales five times as great as in 1952), the Company has established [many] overseas subsidiaries and has built manufacturing plants in [various] countries with additional manufacturing plants currently under construction.

"c. Sharply increased exports of intermediates has created highly-skilled jobs within the U.S.; the increase in export of finished goods has created new unskilled, semiskilled and highly-skilled jobs in the U.S." (Pharmaceutical company)

CASE 24—"For the five year period 1966–71 our foreign investments can be grouped into three categories:

"A. Investments which by their nature have no impact on U.S. exports: purchase of land, construction of office buildings, replacement and modernization of existing facilities, creation of business operations for products inherently foreign which could not be exported from the U.S. in any case.

"B. Foreign investments which actually increase exports of U.S. made products such as marketing and support service operations, warehouses and distribution networks.

"C. Foreign investments that *theoretically* substitute for U.S. exports.

"During this five year period the total foreign investments were about $160 million of which Groups A & B accounted for 65% and Group C 35%.

"In the description of Group C items 'theoretically' is emphasized in defining the category as including investments for the production of products that substitute for U.S. exports. In reality none of the investments in this group were substitutes for U.S. exports. As a firm policy, we invest abroad in local facilities to supply host country markets only when these markets cannot be supplied from U.S. sources. There are many reasons why U.S. exports cannot be sold at a profit in specific markets; actual prohibition against them by quotas, exorbitant import duties, non-tariff barriers, host government subsidies to local producers, etc.

"As a matter of fact, the Group C investments almost always assist U.S. exports through:

"a. export sales of capital equipment needed to establish manufacturing capabilities; and/or

"b. continuing export sales of raw materials and components used by the foreign facilities in assembling the end products." (Electrical machinery company.)

CASE 25—"Exports of $35,000,000 in 1970 compare with $4,000,000 in 1961—11½ percent of sales over $300,000,000 in 1970 compared to 3 percent of 1961 sales of $133,000,000—and now equal foreign sales from affiliates abroad." (Equipment company)

CASE 26—"We suggest that the path followed by American management of establishing local production facilities which would 'pull' exports of U.S. goods has proven to be for the benefit of U.S. industry and its production employees in the U.S.

"In our company the benefits received by our production employees in terms of full and expanded employment as a result of the development of our international business is striking. In 1935 when our company started its international expansion program we had export sales of $817,000. By 1970 our export sales had reached the figure of $19,148,000. The number of production employees engaged in producing goods for export has increased substantially over this period.

"The significant increase in export sales by our company in the years since 1935 could not have been accomplished without our foreign operations, including our overseas manufacturing facilities." (Drug company)

CASE 27—"Summary of U.S. Exports to Wholly-owned Subsidiaries, Joint Ventures, and Licensees

[In thousands of dollars]

	1955	1960	1965	1970
United Kingdom (A)	250	250	2,226	4,221
United Kingdom (B)			493	2,302
Germany	25	121	1,892	2,407
India	252	1,181	1,722	1,224
Japan	100	278	512	3,174
Mexico	2,307	4,542	6,259	9,869
Total	2,934	6,372	13,104	23,197
Employees	98	212	437	807

"[The firm's U.S.] sales per employee are approximately $30,000 per year. Consequently, whereas in 1955 some 98 [U.S.] employees were engaged in sales to the countries listed above, in 1970, 773 employees were engaged in these exports, an increase of 675 employees (689%)." (Industrial products company)

CASE 28—"With a local manufacturing approach, however, we were able to continue exporting to our subsidiaries in these areas components from U.S. production which are included in the local production and in addition, we are still able to export certain types of completely assembled units from the U.S. to those areas, which would not have been possible had we not been physically present in the area.

"The total international volume of our company outside of North America amounts to over 20% of the total corporate volume (approximately $400 million in 1970). Our international volume has increased more than five times during the last nine years. Our growth in the foreign field has been possible only because of the increased investment we have made in foreign manufacturing. At least 30% of our total international volume is composed of components which are shipped from our U.S. manufacturing facilities." (Industrial machinery company)

CASE 29—"In many cases we must manufacture consumable supply products abroad because borders have been closed against import; this enables reliable support with quality supplies of those U.S. machines assembled locally from parts or those models which may have been imported fully assembled where quality and reliability may outweigh price considerations. This again is strategy to preserve maximum demand for U.S. made products.

"Obviously, if we do not choose to fully satisfy a market potential, someone else will fill the vacuum; and all our export business will go by default." (Electrical equipment company)

CASE 30—"When we manufacture abroad, we manufacture the standard items that are typically manufactured less expensively. We need a sales force to sell these products abroad. This same sales force sells special products and new products which are manufactured in the United States and which cannot be manufactured economically in the foreign country. Without the foreign subsidiary sales force, very few of these products would ever be sold. Historically speaking, we export more, in relation to the size of the market, to countries where we have subsidiaries than to contries where we do not.

"Since the foreign country subsidiary handles all the sales and administrative functions, and provides all the local standard threads and adapters, we are able to ship standard U.S. made products to the foreign subsidiary at a lower price than we could sell a customer. Thus where economic advantages due to long production runs do exist in the United States, we are able to supplement our foreign manufactures by exporting those products.

"The net result of this program is that over an 8-year period our exports have increased from $4 million a year to $6 million a year; our foreign sales have increased from $12 million a year to $46 million a year; and our imports have fluctuated below the $1 million a year level, with no trend being apparent at the present time." (Electrical equipment company)

CASE 31—"In all instances, we find that the existence of our own manufacturing facilities in a foreign country enhances the ability to export into that country from the U.S. high technology and specialty items which cannot be produced efficiently in the foreign country. We have enjoyed a steady growth in our exports of such products for several years.

"We make a substantial volume of intermediate products which are incorporated into a wide variety of finished items. A major portion of these intermediates are made in the United States which is the primary source of supply for our foreign subsidiaries. Without manufacturing facilities in foreign countries we would be at a serious disadvantage in maintaining the high level of production of such intermediates in the United States. We have considerably expanded our facilities here in the past 5 years for production of such intermediates." (Industrial products company)

CASE 32—"In light of these many investments over the last 15 years, our domestic operations have received direct benefits through our overseas affiliates. In every case, a door has been opened for the sale of domestic products or raw materials, either through [our] sales offices, sales representatives or licensees abroad. In the period 1962–1970, [our] exports have increased 300% and have been supplemented by our production facilities abroad. (It is important to note that the goods which are exported are not generally the same as those produced abroad.)" (Materials company)

CASE 33—"As a matter of fact, using the new Mexican plant as a base of operations, significant increases in sales of Product Line 'A', manufactured in the U.S. and exported to Mexico, have come about." (Equipment company.)

CASE 34—"Setting up marketing organizations in the different countries resulted in increased exports from the U.S.—from approximately $12 to $15 million in the late '50s to in excess of $65 million in 1970.

"Approximately 20% of our total sales are made in foreign countries. Of this 20%, 30% are exports from the U.S. to a foreign affiliate who makes the sale. Without the foreign affiliate our exports and direct subsidiary sales would be negligible." (Machinery company)

CASE 35—"In 1970, through purchase orders to vendors and materials drawn from U.S. plants, [we] exported almost $3 million worth of components, raw materials and products in various stages of manufacture. This does not include our export sales of finished goods from the U.S. which amounted to an additional $1.17 million. To balance this figure, we imported a total of approximately $126,000 worth of materials and products from abroad." (Toiletries manufacturer)

CASE 36—"Our plant in Holland does not manufacture a complete line, so we supplement it with items from this country. Sales today in Holland are larger than our exports to the Common Market were in 1957.

"The 'foot in the door' to the EEC also gave the company access to some newly independent African nations. The former French colonies are big users of [our product]. Had we not been in the Common Market, our sales there would have been zero—or a drop in the bucket. We had none." (Tool company)

CASE 37—"A distinction needs to be made between overseas investments in marketing affiliates and investments in production facilities. (Our) foreign investment in plant facilities has been made primarily in response to the competitive forces encountered in our overseas markets. As most of the products with which we compete are produced overseas, it has been necessary to secure the same cost advantages they have over U.S. exports. These cost advantages include lower labor and transportation costs and more favorable tariff rates. Without these plants, it is estimated that at least 70% of the sales involving their production would have been lost to competition. That would have meant a loss to the U.S. balance of payments of the profit and royalty remittances associated with these sales and of most of the $30–40 million in assembly parts exported annually in the last few years. Moreover, most of the 1,500 jobs associated with those exports would have been lost.

"The products produced in our overseas plants support U.S. export sales and jobs in another important respect. They provide a competitive base for selling the more sophisticated products now exported from our U.S. plants through our foreign sales and service organizations. Most of (our) overseas investment is in these marketing affiliates, which develop expanding local markets for our U.S.-made products around the world by maintaining extensive customer contacts and substantial (our) positions in keenly competitive environments. These affiliates supply our U.S. plants with local market requirements for new products. New technologies developed overseas are also incorporated in U.S. products for both foreign and domestic markets. These affiliates were responsible for the bulk of our international revenues, which comprised 45% of total 1970 corporate revenues.

"In 1970, [we] exported $170 million in equipment, parts, and supplies from [our] U.S. plants. It is estimated that over 4,500 jobs were associated with these exports. Without the foreign investments which supported these export sales, many of those jobs would not exist. In 1970, when U.S. domestic demand was sluggish, the 25% increase in our export business took on added importance in providing U.S. jobs." (Office machine company)

CASE 38—"[Our] direct overseas investments have been uniquely tailored to achieve market penetration and growth under circumstances which at least in our estimation would not be possible through direct export from the U.S.

"Perhaps the most clear example of the above statement is our investment in Mexico which was made in the latter part of 1957. Because of the protectionist attitude of the Mexican government toward local industry, importation into Mexico of many of our standard products which we consider the bread and butter items of our offerings were not permitted. Consequently, a market which before World War II had been of some importance to [us] by 1955 had been reduced to virtually a market for replacement parts and some specialized items not at that time produced by our Mexican based competitors.

"In order to re-establish a position in the Mexican market, we did in 1957 establish a subsidiary company in which [we have] a controlling interest and Mexican shareholders a minority position. Our exports to Mexico prior to 1957 amounted to less than $50,000 a year, but in 1970 exports in the form of parts, subassemblies and finished apparatus not currently produced by our Mexican subsidiary or competitors amounted to over $300,000.

"I have not tried to make an evaluation of the production labor hours represented by our exports to Mexico in 1955 versus a similar statistic in 1970. It would be necessary, of course, to state these exports in terms of constant dollars in order to make an accurate comparison. I am positive, however, our costs have not gone up six times in the 15 years and that in fact we have increased employment here in the U.S. as a result of our investment.

"Perhaps the most telling statistic in terms of benefit in our overseas investments is the comparison of U.S. exports in 1957, the year in which we made our first overseas investment—the one in Mexico, with our direct exports in 1970. In 1957 our exports amounted to $1,200,000, whereas, in 1970 our exports amounted to approximately $6,500,000. In the years between 1957 and 1970 [we have] made investments, in addition to the one in Mexico, in Canada, India, South Africa, Costa Rica, France, Holland, Germany, Belgium, Italy, Spain and Sweden. Today over 50 percent of our direct exports are in the form of parts, subassemblies as well as finished apparatus to associate companies in which we hold either a controlling or minority equity position.

"I cannot state unequivocally that our exports would not have increased in these 15 years had we not made the above mentioned investments. I am positive, however, our exports would not have increased as dramatically if it were not for these investments.

"I would like to cite another case where an investment was made in a market which could not be penetrated by another means. A 49 percent equity investment was made in [a firm in] India which has been operational for three years. Exports of complete apparatus to India are today not materially different than prior to our investment. These exports are to customers which have been customers of [ours] for a good many years. [Certain] products which are sold to Hindustan Aircraft are not manufactured by our Indian associate and are products we have sold in that market for a considerable period of time. We do, however, sell to our Indian associate parts and subassemblies in excess of $150,000 annually—sales which did not exist prior to our investment." (Electrical equipment company)

CASE 39—"From the end of 1960 to date, eight manufacturing installations have been established abroad in Japan, Australia, Mexico, Argentina, Canada, Germany, France, and South Africa.

"Except as noted below, the primary motivating factor in establishing these manufacturing entities abroad was that competition had either already started or was about to start foreign operations with the result that any business which we enjoyed in that territory had either been lost or was about to be lost to a local supplier. In some cases these foreign competition activities were sponsored by U.S. based firms but in a number of cases such as Australia and Japan, local brands, locally owned were established. In other areas such as Germany, South Africa, France, and Australia, local activities—foreign owned—operating under license arrangements with U.S. firms were in operation.

"A second factor which lead to the undertaking of local activities was the limitation of export due to barriers imposed by high duty rates (Argentina 110 percent, Australia 57 percent) and import embargoes (Mexico).

"Results 1960–1971—In the year 1960, the total amount of export business to customers abroad purchasing our completed devices for incorporation into their packages amounted to approximately $500,000. The bulk of these shipments was destined for Europe (primarily Holland, Switzerland, France, Germany, and Scandinavia). The industry had not been developed in Latin America, Africa or the Far East to any degree at that time. Clearly with the establishment of manufacturing facilities first in Germany in 1961, the volume of export of complete units to Europe declined sharply but was continuously replaced by increased exports to other areas notably South Africa, Argentina, Venezuela, etc. Just as had been the case in Europe with the establishment of the German plant, exports declined rapidly with the establishment of local production facilities by competitors. In the case of South Africa, a British owned competitor established manufacturing facilities there and, had we not set up a local production facility promptly, the entire export market and any possibility of supplying the market through local manufacture would both have been foreclosed.

"The loss of market potential is even more dramatically pointed out in the case of Australia. In Australia a local competitor was established which captured more than 50 percent of the total market and a second competitor—a licensee of a U.S. competitor, captured virtually the rest of the market. The result was that exports from the United States to Australia by our firm were less than $5,000 in 1965.

"This whole situation can well be summed up by the statement that if you are not in the local market directly, you will lose the entire market as soon as someone else establishes there. Furthermore, the fact that the industry started in the United States does not give any complete monopoly to United States intelligence and many local organizations have proved themselves capable of competing with or without technical assistance from the United States.

"Despite the fact that large segments of the total world market are now serviced by us with local manufacturing facilities, exports of completed assemblies in 1970 exceeded $650,000. In other words our export activities now center on shipments to other areas than they did in 1960, but are still substantially higher than they were at that date.

"While export of complete units has increased, the supply of component parts to our various manufacturing subsidiaries abroad in 1970 totaled well over one million dollars. In addition to the shipment of component parts and finished units, we have also exported equipment machine tools, and automatic assembly lines to our foreign subsidiaries in a total volume of some two million.

"In summary, if we did not have manufacturing subsidiaries abroad we would still have exported something more than we did in 1960, but the tripling of the 1960 level of exports is due almost exclusively to the fact that we manufacture parts in the United States for shipment to our subsidiary companies thus providing exports which, without foreign subsidiaries would not exist.

"In view of the above it becomes apparent that:

"1. The amount of U.S. labor employed in manufacturing components and completed assemblies for export is substantially higher than it was in 1960.

"2. The fact that some 600 people are now employed in our foreign operations abroad has no bearing whatever on the use or lack of use of U.S. labor since that business would not be available to us or to any U.S. based manufacturer, but for the existence of foreign manufacturing facilities.

"3. Through actual calculations, we have determined that there is no such thing as a 'lower labor cost.' There are lower hourly wages paid in a number of countries in which we are in operation but 'lower labor cost' implies that productivity is of a similar nature to the U.S. productivity figure and therefore, labor cost per unit of production is reduced. This has not proved to be the case. We have found that the cost to produce one unit, i.e. the labor cost, is approximately the same regardless of the hourly wage paid. This is due to differentials in productivity. It must be noted that all of our manufacturing operations abroad are equipped with the same high speed mechanized equipment as we have in the United States. The difference in productivity is due to larger production runs in the U.S.A., shorter 'legal' vacations, better use of work time, lower illness and absenteeism, etc.

"4. In view of the absence of 'lower labor costs' and the presence of higher prices for raw materials, we have found that the cost of production in all areas is as high as or higher than in the United States. It follows therefore, that the export of foreign finished products to the United States exists only in small shipments of specialized items." (Manufacturer of mechanical devices)

With the permission of General Motors Corporation, whose development of its worldwide operations covers a long span of exporting and manufacture, its response is quoted below at length:

CASE 40—"Development of General Motors World-wide Operations.

"The history of General Motors clearly demonstrates that the extension of its operations outside of the United States was never in any way undertaken to the detriment of expanded investment and employment in the United States. Over the period 1950–1970, GM's total expenditures for plant and equipment (excluding special tools) amounted to $14.3 billion, 80.8% of which was spent in the United States. Over this same period GM's total employment averaged 621,400 employees, and ranged from a low of 490,700 in 1952 to a peak of 793,000 in 1969. Employment in 1970 averaged 695,800. The ratio of employment in the United States to total world-wide employment averaged 77.7% over the last 21 years.

"The distribution, service, assembly and manufacturing facilities which General Motors has established and operates outside of the United States have as their objectives the achievement of sales which could not be effected by means of such facilities located only in the United States. The motivation for the establishment and operation of its world-wide facilities has been the challenge of competition for customers for its products throughout those areas of the world to which they are permitted access. The search for markets and not the search for low-cost labor or special investment and tax incentives has been and always will be the dominant factor in determining the location and course of action of its operations around the world. An examination of the evolution of General Motors from its earliest days to present confirms this fact.

"General Motors began competing for sales in foreign markets by exporting fully assembled vehicles from the United States. Between 1911 and 1922, almost all of its sales abroad were made in this way. The largest number of such units exported in this period was about 30,000 in 1920.

"With rising incomes in Europe, motor vehicle demand increased rapidly during the 1920's, rising from about 250,000 in 1921 to around 1,500,000 vehicles in 1929. In unit terms, 1929 represents historically the peak year in U.S. automobile exports. Close to 750,000 U.S. source cars and trucks were sold in foreign markets that year, of which General Motors supplied about a third.

"During this decade of the twenties, European countries were beginning to develop their own automobile manufacturing industries and in doing so imposed tariffs and other restrictions to provide protection against imported U.S. source vehicles. Import duties on fully assembled cars and trucks were generally set higher than those on parts and components for assembly, and local producers had the added natural advantages of location and lower transportation costs from factory to customer. To meet these conditions General Motors, between 1923 and 1928, opened nineteen assembly plants in fifteen overseas countries. By 1929 over 65 per cent of the GM cars and trucks exported from the United States were shipped as parts and components to its foreign assembly plants. Without such assembly plants abroad neither General Motors nor the rest of the U.S. automobile industry could have achieved the high export volumes for U.S. motor vehicles recorded during the second half of the 1920's against intensifying foreign competition.

"By the end of the 1920's, however, it became evident that although local assembly abroad greatly assisted the continued sale of U.S. source vehicles in export markets, the preponderance of demand in the principal foreign markets increasingly would be tending toward product types differing from those required to meet the demands of U.S. consumers. In 1930, U.S. passenger cars in the high sales volume low-priced group averaged 108 inches in wheel base, 180 inches in overall length, 188 cubic inches in engine displacement and about 2,500 lbs. in curb weight. Their average retail price was the equivalent of about 22 per cent of per household national income. In contrast, the most widely sold passenger cars in Europe had an average wheel base of 95 inches, an over-all length of 150 inches, engine displacement of 58 cubic inches, and curb weight of 1,650 lbs. Annual vehicle registration fees and insurance premiums in Europe were sharply progressive in relation to engine displacements. These factors, combined with high gasoline taxes, kept engine sizes small. Even so, the retail prices of such cars, equal to some 70 per cent of per household national income, made them relatively much more expensive to foreign buyers than were the larger, more comfortable and better performing U.S. cars to American buyers.

"These wide gaps in retail prices and operating costs relative to consumer incomes and the great differences in driving conditions between the United States and most other countries accounted for the foregoing differences in product concept and design. Americans who could in increasing numbers afford the larger type vehicle did not accept the smaller foreign type in any significant volume. Thus the United States did not provide the large volume domestic market base required for a U.S. source product to be manufactured on a sufficiently large scale to compete effectively with the smaller vehicles produced abroad to meet the demands there.

"The world-wide economic difficulties of the early 1930's induced extensive distortions in international trade. Industrially advanced countries abroad invoked high tariffs, discriminatory taxes and other measures to protect and promote the domestic market interests of their own developing automobile industries. In the period 1920 through 1924, the four principal foreign automobile manufacturing countries at that time—France, Germany, Italy and the United Kingdom—supplied an average of 75 percent of their domestic demand for automobiles and imported 20 per cent from the United States and 5 per cent from other sources. In the period 1930 through 1935, however, these countries supplied an average of 95 per cent of their own requirements and imported only 4 per cent from the U.S. and 1 per cent from other sources.

"General Motors' reaction to these trends, which became increasingly evident as the nineteen twenties progressed, was that to assure for itself a competitive capability to meet consumer demand for automobiles in expanding world markets outside the United States, it would have to acquire manufacturing facilities abroad. Consumer demand considerations prompted the General Motors' acquisition of two motor vehicles manufacturing facilities, one in England in 1925 and one in Germany in 1929. The objective of these major extensions of GM's world-wide operations was most emphatically not to replace exports from the U.S. by cars produced in other countries. It was obvious that unless General Motors had economic sources of non-U.S. type products, its participation in overseas markets would decline when confronted with the natural advantages enjoyed by foreign manufacturers and the protective policies of their governments.

"The pre-war trend continued after World War II with most foreign economies disrupted and seeking to re-establish their competitive bases. The divergence of American and foreign vehicle types persisted, as did restrictive import quotas, high import duties and other tax and non-tariff barriers.

"Australia, formerly a relatively large export market for U.S. source automobiles (1935–39 annual average of 50,000 total American source and 21,000 GM American source cars and trucks) in October, 1944 addressed a communication to the local General Motors assembly operation requesting an indication of any interest it might have in undertaking the manufacturing of a motor car in that country. It further requested that if General Motors was interested, it should submit a proposal at an early date for consideration by the Australian government. Following are some excerpts from the proposal GM submitted in January, 1945:

'We would undertake to manufacture in Australia a five seater sedan car and related utility (a small passenger and cargo carrying vehicle) which would be specifically designed for the economic and operating conditions of Australia.

'The objective of General Motors-Holden's Ltd. is to manufacture Australian motor vehicles in the low price group to sell competitively with imported vehicles without subsidy and without increase in the customs tariff rate prevailing in 1939.

'General Motors-Holden's does not request that any special advantages be extended to them. This recognizes that any other concern will be equally free to enter into manufacture of any type under the same conditions as are accorded by the Government to General Motors-Holden's.'

"It was obvious to General Motors that since the Australian government had addressed its request to a number of world-wide manufacturers, the chances were that if it did not accept the challenge, some other manufacturer or manufacturers would. The consequence would have been to accept withdrawal from or severely curtailed participation in a motor vehicle market with substantial growth potential. General Motors, by accepting the challenge has seen its production of cars and trucks in Australia increase to 190,000 in 1970, and its continuation as a major supplier of the Australian motor vehicle market—35% annual average 1965–70.

"A number of other countries, such as Argentina, Brazil, Mexico, Republic of South Africa and Venezuela, which had been large export markets in the past for U.S. produced motor vehicles, have followed Australia's lead and are currently engaging in local automobile manufacturing to increasing or virtual exclusion of imported vehicles. Continued participation in these expanding markets by General Motors has been possible only by investments in facilities required by government-imposed local manufacturing programs.

"Before World War II, Argentina was one of General Motors' best export markets outside of Europe with average annual sales of 12,300 cars and trucks over the period 1935–39. While Argentina was moving ahead with general industrial expansion, General Motors was of the opinion that because it lacked strong supporting industries and was short of essential raw materials, its overall economic development would be advanced more effectively in the automotive sector by continued reliance on a combination of the economies of local vehicle assembly with the efficiencies of outside parts and component manufacture. However, in 1958 and early 1959, Argentina moved rapidly in the direction of local automobile manufacturing and General Motors had to reconsider its position in that country. Prohibitive import duties, surcharges and licensing requirements were instituted in 1959 aimed at an early phasing out of vehicle importation and assembly. For example, a Chevrolet passenger car then selling for around $2,500 in the United States would have cost over $20,000 with duty and surcharges. These import restrictions were followed by governmental decrees requiring the imported content by value to be reduced to 30 per cent for trucks and to 10% for passenger cars by 1964, and the institution of prohibitive surcharge scales—up to 200% of c.i.f. value for trucks and 400% for passenger cars. By 1969 the Argentine program effectively limited the maximum allowable import content to 2.5% for passenger cars and to 10% for commercial vehicles.

"For manufacturers with approved programs, machinery, tools and equipment could be brought into Argentina duty-free, and protection against imported products was provided through surcharge schedules favorable to local manufacturers. The decision confronting General Motors under these circumstances was whether to go along with the Argentine vehicle manufacturing program, or to abandon participation in that market. Its decision was to conform with the program, and it reflected primarily the desire on the part of General Motors to retain a position in one of its important traditional markts and one which it considered to hold promise of substantial future growth. In 1970 GM manufactured 34,700 cars and trucks in Argentina.

"In 1956 the Brazilian government decreed that by 1961 motor vehicles had to be produced almost entirely with locally manufactured parts and components. General Motors again decided not to abandon its participation in a market which showed signs of developing, in the years ahead, into not only the largest vehicle market in Latin America but also into one of the largest in the world. In 1970 the total market in Brazil was 417,700 units and GM's production was 70,100 units.

"In the cases of Mexico, the Republic of South Africa and Venezuela, local content requirements have also been instituted but not to the extent of Argentina and Brazil. Mexico and South Africa require the local manufacture of engines but not Venezuela. However, the local content percentages are in all cases being progressively increased. While they are not likely, at least for some time, to reach the levels of Argentina and Brazil, they nevertheless compel investment decisions determining continuing market participation. General Motors decided not to forgo the opportunity to participate in these markets (1970 total unit sales: Mexico 191,600; Republic of South Africa 297,600; Venezuela 76,400) and accordingly has made and will continue to make investments in facilities required under the respective automotive industry development programs.

"Japan has become the focus of a great deal of interest recently by the American automobile industry. General Motors has shared in that interest. Japan's motor vehicle production, domestic market sales and exports have in recent years significantly outperformed the phenomenal growth of that country's overall economic growth. Japan by 1970 had become the world's second largest manufacturer of cars and trucks as well as the second largest market for motor vehicles. In contrast to all other major automobile manufacturing countries which by 1970 had become fairly large importers of motor vehicles, (imports as a percentage of total passenger car market: U.S. 14.7%; U.K. 14.2%; France 19.8%; Italy 27.7%; Germany 22.5%; Australia 28.1%) Japan's market remained virtually closed to outside competition. Foreign source products account for but 0.7% of the total Japanese passenger car market in 1970. Thus while Japan was successfully keeping foreign manufacturers from participating in its large and expanding market through either investment or trade, its own automobile producers were in a position to compete freely in the United States and most other major makets of the world. This lack of reciprocity and denial of access to the Japanese market has constituted a major complaint of the U.S. automobile industry, including General Motors.

"Japan's rapid economic growth and expanding exports, together with increasing pressures from foreign governments and industries, have worked to bring about some relaxations in its import restrictions. In the case of the Japanese motor vehicle market, the absence of import quotas and duties would not necessarily open up opportunities to outside manufacturers for any significant sales volumes of foreign source products. High costs of transporting cars and trucks from North America and Western Europe to Japan; a well-developed, efficient and high volume domestic manufacturing industry; and, the unique feature of a large demand (700,000 units or 30% of total passenger car market in 1970) for 'mini' cars of under 22 cu. in. engine displacement produced nowhere else, provide that country with a high degree of special insulation from import competition. For General Motors to participate in the Japanese automobile market thus requires more than equitable entry terms for its cars and trucks produced in the United States or other countries. It requires access through investment in facilities for the manufacture in Japan at Japanese cost of types of vehicles that can compete for sales in that country against the products of other local manufacturers. Without such facilities General Motors has been denied the opportunity to compete at all effectively in a market that in 1970 had reached 4,200,000 cars and commercial vehicles and that is projected to increase to around 4,800,000 in 1975. In July 1971 GM reached agreement with Isuzu Motors, a Japanese motor vehicle company, on terms for an equity participation in manufacturing and distribution facilities in Japan. That agreement is now awaiting what is expected to be early formal approval by the Japanese government.

"The basic objective of the arrangement now governing trade in automotive products between the United States and Canada has been to enable Canada to develop and maintain a North American manufacturing position in this product area more commensurate with its consumer role. Neither the U.S. automobile industry as an industry nor General Motors as a company took the initiatives that culminated in the United States-Canadian Automotive Products Agreement of 1965. However, both the industry and General Motors have cooperated with the governments of the United States and Canada in implementing the terms of that Agreement and its related legislation. Total trade in motor vehicles and parts, components and accessories expanded from $1.2 billion in 1965 to $6.7 billion in 1970, with U.S. exports to Canada increasing from $931 million to $3.2 billion and Canadian exports to the U.S. rising from $227 million to $3.5 billion. The agreement is regarded as a trade-expansive solution to a trade imbalance problem Canada was determined to cope with. The alternatives being considered were negative in nature and would have resulted in sharply reducing the exports of U.S. automotive products to Canada. The United States would have experienced a major negative impact upon its annual automotive trade balance with Canada through greatly reduced export volumes. Canada would have succeeded in reducing its large trade imbalance with the United States, but at the high price involved in promoting import substitution for products whose unit manufacturing costs are closely correlated to output volumes.

"It is the challenge of the world motor vehicle market and not just the challenge of the United States market that has been the primary influence in determining the allocation and location of General Motors resources around the world. It is that challenge that has determined its evolution from a national company into a worldwide enterprise. The use of its resources to meet specialized consumer demand for motor vehicles has been influenced in certain instances by tariff and non-tariff barriers and national requirements to undertake local manufacturing. In no instance has the motivation been to seek and use low cost labor and substitute foreign production for U.S. production to supply that specialized demand.

"Finally, the General Motors responses to the 1959 (10%) and current (15%) import penetrations of the U.S. passenger car market were not those of drawing heavily on the outputs of its overseas subsidiaries to meet the competitive challenges. The response to the earlier import thrust was a peak import of some 63,300 units from Germany and U.K. in 1959. In the meantime it was developing its U.S. source compact cars. This was also the course taken by other U.S. automobile manufacturers. By 1963 imports of Opel and Vauxhall cars by General Motors had declined to 482 units. Imports as a whole had declined to 4.9% of the U.S. market by 1962. They stayed below 10% until 1968, the first year in which Japanese source passenger car imports exceeded 100,000 units. By that time it also became evident to General Motors that Japanese manufacturers, with access to the U.S. market free of any arbitrary restrictions on trade and investment and at low import duties (5.5% in 1968; 3.5% in 1971; and 3% after January 1, 1972), would become large suppliers of cars in the American market.

"The General Motors' response was to resume the importation of some of its Opel passenger cars while designing and engineering a competitive car for efficient low cost production entirely in the United States by American labor and almost completely of U.S. parts and componentry. This was the concept of the Chevrolet Vega introduced in 1970. Despite interruption of production during a long strike that same year, Vega ended its first model year production run at 269,900 units. Sales of Opels declined from 91,200 in 1969 to 83,200 in 1970. General Motors, while highly satisfied with the initial results of its second major effort to confront foreign competition head-on in the U.S. market, is, nevertheless, not complacent about the longer term implications of escalating costs in the United States in maintaining that successful competition. The comparative cost handicap of the United States in the manufacture of small import type cars is only too evident from a reading of the current cost of an hour of labor in the U.S. of $6 vs. $3 in West Germany and under $2 in Japan.

"General Motors, in its role as a worldwide automobile manufacturing enterprise, will in the future, as it has in the past, exert its maximum efforts to compete for customers for its products in as many different countries as possible. It will use its resources as efficiently as it can to provide the types of cars required to satisfy consumer demand. It does not expect any market to be more open or to offer more opportunities for substantial sales of a greater variety of motor vehicles than the United States. The extent to which General Motors or any other U.S. manufacturer will be able to supply that market over its entire product range from U.S. facilities will in the final analysis depend upon the degree to which cost and productivity increases can be kept in reasonable balance."

All the above Cases argue strongly for the *a priori* case that investment is needed to expand exports, particularly where governmental restrictions dictate a relocation of production and where local markets abroad are expanding rapidly enough to warrant the establishment of production facilities in the actual market.

TRANSFER OF TECHNOLOGY AND LOW-WAGE IMPORTS

The basic issues with respect to the second claim of Labor and other groups are: what constitutes "advanced technology," what constitutes "low labor costs" and the extent to which products that are manufactured abroad incorporating advanced technology and low labor costs are exported to the United States. Where such technology is employed at overseas manufacturing facilities having lower labor costs, such facilities are referred to as "runaway plants." The results of the NFTC survey show that the problem of runaway plants is centered in a very few industrial sectors and in a few components or relatively simple products. Here again, as with the analysis of whether export reductions result from foreign investment, we must exclude from this claim of Labor imports which arise from investment in certain industrial sectors abroad such as raw materials and items not produced in the United States.

Fifty of eighty companies responding to this question reported that they had no imports whatsoever from their foreign affiliates. One company reported it had traditionally imported from its affiliates, but that the volume had declined some five per cent during 1960–1970. Seven companies reported they were importing from their affiliates but the volume was exceedingly small: "components and materials equal 0.4% of sales, of which only a small fraction was from affiliates"; "infinitesimal amounts"; "less than $1 million on over $1 billion of sales"; "insignificant amounts of products not formerly produced in the U.S."; "less than 1% of sales, of items not in the U.S. line"; "less than 1% of sales, with ¼ of this exported"; "½ of 1% of total overseas business, specialty items."

The phenomenon of importing items not in the U.S. line was illustrated by still more companies: tires of "foreign" sizes household items, some office equipment, and machinery. These are items produced in volume for a different market and for which the market in the United States is not sufficiently large to justify local production. Two companies reported, however, that as soon as U.S. production was large enough, they would introduce production in the United States. One company, instead of exporting advanced technology so as to produce abroad, bought such technology abroad, is currently producing the item only abroad but will start up in the United States as demand increases.

The remaining companies were importing what they considered to be significant amounts (unstated) of components or final items for a variety of reasons. But none considered that the technology being transferred to support such production could be classified as "advanced." On the contrary nine companies categorically stated that the technology was quite low; another that the low-wage countries could not undertake the highly-advanced technologies within that industry; and still another that the imports were not from low-wage countries. Examples are as follows:

CASE 1—"The repurchase by us of certain parts and materials produced in such facilities to our quality standards enables us to offset some domestic inflationary pressures providing a more competitive product to our local customers who can, in turn, remain more competitive with their overseas competition in the U.S. market.

"While advanced technology is available for export, the conditions in overseas countries do not often permit the rapid incorporation of such technology in their products. The time phasing is generally such that new technology is kept on the favorable side of U.S. produced products." (Auto equipment company)

CASE 2—"[Our] imports, which have consistently been very low in relation to our exports, are primarily of older technology, labor intensive products. If we did not produce these products in lower cost areas we would be driven out of this market sector both in the U.S. and overseas by foreign competitors who would therefore become larger and stronger and more able to compete with us in other market sectors. The imports would, of course, come in anyhow in a price competitive environment; the question is whether the profits are to go to the U.S. or foreign companies. It is also true that our purchases of other countries' products provide the wherewithal for them to purchase our products.

"We feel there is a confusion in the charge of possible damaging effects to U.S. jobs of advanced technology being 'transferred' overseas and then incorporated in products to be imported into the U.S. Overseas manufacturers are offered the greatest economic advantage with labor intensive products. Characteristically such products embody relatively old technology—conversely the latest technology products minimize labor inputs and hence offer less of an advantage to overseas manufacturers, particularly when weighing up the prospects of jumping the U.S. tariff barrier to import into the U.S. In other words, the economic considerations are essentially in the area of relative quantity of labor input rather than technology per se. It should be pointed out that even products popularly thought of as being of 'advanced technology' are manufactured in stages and contain a number of levels of technology, some of which require very unskilled labor representing an older technology. In our case, we have found that when advanced technology is developed in the U.S., as a practical matter it is essentially impossible to transfer it abroad during the years when it remains relatively new. It is only when the technology matures that it can be successfully systematized and, if economic, transferred. There are of course many examples of the import into the U.S. of technology, including early work done in England and Germany on such advanced products as computers, radar and jet aircraft. Presumably a ban on export of technology would imply restrictions on import of technology." (Business equipment company)

CASE 3—"We manufacture one of our diesel fuel injection systems now overseas. This move was basically made for two reasons:

"a. to improve our competitive position in the U.S.A.

"b. to give us access to foreign markets at the original equipment level.

"Since its invention the diesel engine has been produced in much larger numbers abroad than in the U.S.A. For example, the publication 'Automotive Industries' stated in its March 15, 1971 issue that U.S. production of diesel engines in 1969 was 253,732 units. By comparison, the estimated production in 1969 in major producing countries abroad as published in the December 1970 issue of 'Diesel and Gas Turbine Progress' was:

England	829, 607
Japan	820, 000
Germany	392, 000
India	223, 000
France	167, 750
Italy	154, 100
Spain	115, 000
Brazil	62, 000
Scandinavia	45, 000

"While the U.S. market has shown growth, it has shown nothing compared to the growth of the market for diesel engines abroad. This trend was probably accelerated by the shift in market requirements. The trend in the U.S.A. has been generally to heavy-duty, higher horse power diesel engines for all applications. In the farm tractor market the U.S. trend has been to larger and larger farms and therefore requirements for larger tractors which are far too big to be efficiently used on the small European farms. As a result, the U.S. farm tractor manufacturers have gone abroad to manufacture foreign models and have imported from foreign sources their relatively limited number of smaller units required in the U.S.A.

"Our foreign competitors have therefore had not only the advantage of lower labor costs but also particularly of much larger production volume.

"If we wanted to obtain any OE business abroad from the U.S. we would have to develop fuel injection equipment suitable for European or other foreign engines, at U.S. engineering costs, produce it at a competitive price, sell in foreign markets without having the benefit of a large volume domestic market for the same items. This simply was not feasible from a cost standpoint.

"As a result of the large volume production benefits, our European competitors began to invade the U.S. market on a larger and larger scale. Thus we found ourselves forced to go abroad to try to recapture or retain our U.S. customers.

"If we had not moved abroad, then we would not enjoy the new business which we have obtained as a result of this move because we could not have produced this equipment at acceptable prices here in the U.S.A." (Automotive equipment supplier)

Eight of a total of eighty companies replying to this question reported situations that might be characterized as falling within Labor's second claim. Of these, however, one asserted that, though imports based on high-level technology were made in low-wage countries the components were not in fact low-cost because of the high fringe benefits and governmental costs imposed on the operation. One reported that it imports a single component produced in volume abroad; two reported that they import several components or simple products.

Of the remaining four, one acknowledges that there is some basis for the claim of Labor, but states it finds itself in strong competition straits because of the ability of low-cost producers of final products to enter the U.S. market.

The second [8] company reported that it had found the analysis of the U.S. Tariff Commission concerning Sec. 866.30 and 807.00 correct; namely that foreign components had to be used at times to keep costs down so as to permit production of the final product within the United States.

The third [9] and fourth [10] stated that the problem arose from third-country competitors and there was no way to handle it save to shut out these final producers.

Rather than there being a widespread escape of high-technology production abroad under the aegis of multinational companies, the NFTC survey has revealed only a handful of cases in which componentry or single products are imported by the parent company from affiliates abroad. Not all of these are in "low-wage" countries. Only a few embody what could be called "advanced technology." [11] In some instances, the items are not and were not produced in the United States previously. And in one case, the technology exchange was forced under an Antitrust Consent Decree, which opened the patents of the present to all comers.[12]

The survey shows that very often the reality of the situation with respect to this claim of Labor is that no choice exists between exporting from the United States and producing locally abroad. For as one respondent stated:

"In summary, if U.S. companies want to sell products in many of the better foreign markets, the only practical means is through local production operations in these markets which require foreign investments. It is not a question of choice between exports from this country and local production abroad; the only choice is between forgoing the business altogether and making the foreign investments.

"With regard to foreign investments made for the purpose of bringing manufactured products back to this country (aside from raw materials or extractive products), the solution is political, not a question of management choice or decision.

"Until U.S. productivity improves to at least equal that of leading foreign manufacturers; and unless political restraints are imposed against imports, U.S. manufacturers will have to resort to any and all means of achieving cost production including off-shore operations, in order to stay in business." (Electronics company)

Another answer was suggested in the response of another company which urges the United States to keep ahead rather than try to retain what is essentially a wasting asset. This respondent commented:

"One might say, 'Why not do more overseas?' The biggest drawback to this in our case is the loss of flexibility and the increased reaction time for change. We expect technology to originate in the U.S. for the foreseeable future. The rate of change of technology is rapid enough in our business that it simply cannot be transferred overseas rapidly enough to significantly increase the foreign percentage of our production. This phenomenon might not be the case, of course, for a technologically stable industry. I would say that any industry producing the same product with the same technology for five years is going to feel foreign competition or the need to import from foreign manufacturing facilities." (Electronics company)

BALANCE OF PAYMENTS EFFECTS

With respect to the claim of some Labor groups and others that direct foreign investment and the transfer of technology resulting in low-cost imports are damaging to the U.S. balance of payments, the NFTC survey requested information as to whether this assertion is supportable in terms of the respondents' operating experience. As stated earlier in this Section III, member companies were asked for narrative responses. Every such response with respect to balance of payments effects, clearly shows that the company had a favorable balance of payments in its total overseas operations.

Cited below are some case examples illustrating impressive results over the past decade which have been taken from some of the data:

CASE 1—"Our exports from domestic plants to foreign customers have increased by $1,980,000 or 47.2% in 1970 over 1960. Also our exports to our affiliates increased $500,000 or 53.6% in 1970 from 1960. During this period we have received $10,368,000 in foreign source income from dividends and royalties from our subsidiaries and licensees." (Transportation equipment company)

CASE 2—"Comparing the total inflows resulting from dividends, royalties, interest and export sales to the total outflows through investments, loans, and imports shows that [our] position has been the following:

Inflows exceeded outflows by:

1967	4.8 times
1969	10 times
1970	16.3 times."

Note: Glass products company.

CASE 3—"We feel that because of direct investments overseas we have contributed in a positive fashion to the U.S. balance of payments.

"(1) Over the last 10 years, exports of [our] U.S.-produced products have increased at an average rate of 10%/year compounded. In 1970 the figure was approximately $230-million.

We could not have afforded the marketing and technical service organizations to do this, had we not also had the business resulting from overseas production.

"(2) Profits generated from overseas production and returned to the U.S. parent company in the form of dividends certainly also support the U.S. economy.

"(3) In 1970, a particularly distressing year for U.S. business, our international business made a significant contribution in enabling our company to maintain the level of production in U.S. plants and therefore employment that we did." (Chemical company)

CASE 4—"In the 10 years 1961 through 1970, [this firm] contributed $4.7 billion to a favorable U.S. balance of payments. Our investment in overseas markets has been accompanied by a 150% increase in employment over that period of time contrasted to

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Footnotes at end of article.

a 200% increased contribution to the nation's balance of payments.

	Contribution to U.S. balance of payments (millions)	Overseas Employment
1961	$263.1	5,294
1962	263.8	5,416
1963	332.8	5,966
1964	384.1	7,313
1965	461.1	7,975
1966	443.7	8,649
1967	484.2	9,500
1968	582.6	10.948
1969	687.4	12,595
1970	791.2	13,605

'The contribution toward the U.S. balance of payments shown above consists chiefly of exports with, for example, $767 million exports in 1970 vs. the remainder of but $24.2 million in licensing fees, royalties, and return on investment." (Heavy equipment company)

CASE 5—"Combining net exports and net earnings remitted and capital transactions, the resulting total positive contribution to the U.S. balance of payments from General Motors—Attribution has been permitted by the respondent company—operations outside the United States during the period 1946 through 1970 was in the amount of $13,191 million.

"The performance indicated by the General Motors data can be construed in no other way than as highly beneficial for the United States balance of payments. These favorable results derive from the capabilities which General Motors has been able to develop as a world-wide enterprise in organizing and utilizing resources to manufacture and aggressively compete in a variety of automobile markets around the world."

CASE 6—"We have calculated our contribution to the United States balance of payments in 1960, 1965, and 1970 as follows:

[In millions of dollars]

	1960	1965	1970
U.S. PAYMENT INFLOWS			
Merchandise exports:			
To affiliates	5 (E)	7	12
To others	40 (E)	25	29
Purchases by affiliates from other U.S. sources	50 (E)	51	9
Subtotal	95 (E)	83	50
Income from fees, royalties, and miscellaneous services:			
From affiliates	1 (E)	3	4
From others	1 (E)	1	1
Subtotal	2 (E)	4	5
Direct investment income (dividends, branch earnings and net interest)	6 (E)	6	21
Total Inflow	103 (E)	93	76
U.S. PAYMENT OUTFLOWS			
Merchandise Imports:			
From affiliates	3 (E)	12	28
From others	8 (E)	10	11
Sales by affiliates to other U.S. producers	5 (E)	7	3
Subtotal	16 (E)	29	42
Payments for fees, royalties, and miscellaneous services:			
To affiliates			
To others			
Subtotal			
Capital outflows:			
Net investment in affiliates	(3) (E)	39	2
Net loans to affiliates	2 (E)	8	2
Total outflows	15 (E)	76	46

"Thus, [our] net contribution to the United States balance of payments has been as follows:

[In thousands of dollars]

	1960	1965	1970
Total inflow	103,000	93,000	76,000
Total outflow	15,000	76,000	46,000
Net benefit	88,000	17,000	30,000

"The foregoing benefits to our balance of payments have been achieved in a company which has been as aggressive as most, I think, in investing overseas. We have been very aggressive in particular over the last ten years in European investments.

"You may also find useful the statistics on our investments since the 1920's in [Country A]. Between 1926 and 1968 the significant figures were as follows:

	Million
Original investment—1926	$4.6
Investment by end 1968	60.0
Taxes paid to [Country A] 1926–1968	40.0
Wages and benefits 1926–1968 (including 10.0 in 1968)	90.0
Local purchases 1926–1968	63.0
Exports 1926–1968	75.0
Imports replaced 1926–1968	290.0
Net dividends remitted to United States 1926–1968 (none since 1963)	24.0
Purchases of U.S. machinery and other products 1926–1968	73.0
Cash contribution to [Country A's] economy 1926–1968: Taxes plus wages and benefits plus local purchases	193.0
Benefits to [Country A's] balance of payments 1926–1968: Original Investment plus exports plus imports replaced less Dividends less U.S. and estimated other foreign purchases (estimated)	200.0
Benefits to U.S. balance of payments 1926–1968: Dividends remitted plus U.S. purchases less original investment (estimated)	90.0

"For the purposes of your study the last figure may be of interest; that is, despite the enormous investment over a period of 40 years in this major installation (with 3,500 employees and a town of 20,000 people) the net benefit to the United States balance of payments was $90 million.

"[Country A's] balance of payments also benefitted heavily as shown above. In other words, both sides benefitted. Neither side took money out of the other's hide. Wealth was created for everyone concerned. This is the point which the 'liberals' never seem to understand; they think that if somebody makes money it has to come out of someone else. They don't understand that a good investment actually creates wealth."

(Diversified chemicals company)

FOOTNOTES

[1] "Our experience has shown that direct investments overseas have resulted in an increased market for our products overseas while causing an *increase* in domestic employment. Our foreign investments have increased our exports rather than decreasing them. A few pertinent factors may help in visualizing our operations. Approximately 30% of our sales are made overseas and virtually all of these sales are made through foreign subsidiaries. In general, the products manufactured overseas are the higher volumes and more simple products. Even with foreign manufacturing, our exports of the products manufactured overseas have continued to grow as foreign markets are enlarged." (Electronics company)

[2] "Building a mineral fiber ceilings plant in Great Britain reduced the amount of mineral fiber ceilings exported from the U.S. to Europe for the simple reason that ocean freight and duties on such shipments represented from 50% to 100% of the manufactured cost of the products. On the other hand, certain higher priced U.S.-made resilient floors now sell in greater volume in these markets, even though we have some kinds of flooring manufacturing facilities there, too. In the Far East, where we built a flooring plant in Australia during this period, our sales of U.S.-made flooring more than tripled." (Building materials company)

[3] "Placement of the manufacturing facilities of any international integrated aluminum company is dictated by several imperatives (none of which, incidentally, has anything to do with labor costs), e.g.:

"1. The location, quantity and quality of its raw material reserves, that is, bauxite. The bulk of world bauxite reserves is located outside the U.S. The U.S. has extremely limited reserves, and supplies an extremely small proportion of the total bauxite needed to support the U.S. aluminum industry.

"2. Requirements imposed by most bauxite-owning nations that make it necessary to process much of the bauxite into the intermediate product, alumina; and, in a growing number of instances, into crude aluminum and even into semi-fabricated and fabricated aluminum products. Generally, processing of the raw material is required as a condition for mining the reserve.

"3. Logistics requires the siting of plants in an integrated aluminum complex to obtain the lowest possible transportation costs (a major cost element in an industry such as the aluminum industry). Unless this is done efficiently, no aluminum firm can survive.

"4. Tariff walls that make it mandatory to build a facility in the country or economic bloc that has erected the wall in order to be able to compete in that marketplace.

"5. Growing nationalism, particularly among the developing nations, which is leading to establish their own aluminum industries as a matter of national pride. In these cases, there is no choice. An international aluminum company must either forego the market, or join with local partners in building an industry within the developing country. In many instances the national government requires that local partners own a majority interest in the business.

"Our participation in these ventures is not essential to their going forward. If we do not, our foreign competitors will. In other words, U.S. firms do not have the power or influence to stop this type of growth.

"6. The market for aluminum outside the U.S. is larger than in the U.S., and, in addition, is growing at a more rapid rate. This fact, plus the situation outlined in the above points, makes it essential for any international aluminum firm to produce its product in the international marketplace if it wishes to participate in this growth." (Aluminum company)

[4] "If we take the case of an economically essential and relatively cheap building material such as cement, requiring a large capital investment, and not lending itself to long distances of transportation, employment abroad is certainly created, but not at the expense of either U.S. exports or the employment of American workers. On the contrary, the need for the capital machinery creates the very same things that labor says are bypassed. Add to this the economic benefits accruing to the host country and the inflow to the United States as a result of both the export and investment; and you have a balanced situation benefitting all parties." (Cement company)

[5] Pharmaceuticals are highly regulated products, and our reasons for establishing manufacturing installations have usually

pertained directly to local regulations. Many countries, for example, ban the importation of finished pharmaceuticals, and others maintain a duty structure that, in effect, accomplishes the same result. This is to say that, more often than not, we manufacture abroad more out of necessity than choice. Local labor cost advantages have never been a critical consideration.

While our employees abroad number almost 10,000, fewer than one third of these are engaged in production jobs that in any sense could be construed as substituting for U.S. employment. The others—professional representatives, accountants, executives, physicians, lawyers, secretaries, clerks, etc.—are engaged in servicing a local market." (Pharmaceutical company)

[6] "Because of the complex nature of our products, it is only through self-owned fully responsive outlets that market coverage and product performance is maximized—thereby providing maximum demand for U.S. goods. Independent Dealer support has not been satisfactory.

"Some less economically developed areas offer a market for less sophisticated and less costly equipment—if expertly covered by a sound local marketing base. This provides an opportunity for export of those of our products approaching obsolescence in the domestic market extending the demand for U.S. labor." (Equipment company)

[7] "We have in two or three instances invested in assembly operations designed to take advantage of low labor rates outside this country. A prime consideration in each case was the existence of foreign competition, often Asian, which exported to the U.S. in quantity in product areas where voluntary quotas or other restrictions were unlikely. Without assembly operations at competitive rates, we would have been forced out of the business and some U.S. jobs would have been dropped as a result. The value added in this type of operation in our particular case is negligible in view of our total volume." (Electronics company)

[8] "In the event that a product is substantially less expensive overseas, and the economics are such that after paying freight and tariffs, the goods can be priced competitively in the United States, we at least are in a position to compete on a basis no less favorable than our foreign competitors. This is a protection to us, and it is also a protection to our work force." (Industrial products company)

[9] "The operation in Taiwan was organized in 1967. It was formed for an entirely different reason. The purpose was to secure a base from which to compete in this country with the Japanese product being imported in ever increasing quantities.

"A substantial portion of the material incorporated in the Taiwan product originates in the U.S. However, it has been the trend to seek to replace U.S. material with local material and/or material from other Far East sources." (Electronics company)

[10] "As we view the situation today with some of our plants (by no means the majority), the choice is fast becoming one of either liquidating the business or restructuring the business so that a portion at least, if not all, of the products sold by the business are manufactured abroad and brought back to the U.S. At least under the latter condition we maintain our sales and profits. An alternative, of course, is a tariff wall high enough to keep out foreign-made products of all kinds, and this means passing on to the public the relatively higher cost of U.S. labor. Carried to its ultimate, such a course eventually defeats the consumer's ability to pay." (Equipment company)

[11] "Here again a distinction needs to be made between technology transfer intended primarily to supply host country markets and that involved in countries and operations intended primarily for exports back to the U.S.

"Within each of these two categories there is also involved the definition of what constitutes 'advanced' technology as distinguished from 'mature' technology." (Electronics company)

[12] "Another general point relates to the fact that under U.S. anti-trust regulations, Department of Justice rulings and Consent Decrees, American companies must freely license their patents to all applicants, foreign or domestic, to avoid implications of divisions of markets, divisions of territories, etc." (Electronics company)

While these studies make a strong case for the positive effects of foreign investment and the severe competitive problems that would result without it, I think it is also significant that both reports also recognize the negative impact of this type of activity on certain groups of workers and indicate the need of some form of adjustment assistance to meet the very real problems faced by these individuals.

The second danger that we risk in a protectionist movement to impose restrictions on our trade with foreign countries is the almost certain fact that our trading partners will impose equal if not more restrictive measures on American exports. This would be severely damaging to our own economy and the economies of many of the nations of the world.

One nation very concerned with this problem is our neighbor to the north. Canada has long been one of our closest allies and best customers. The Canadians are deeply worried not only about the permanency of the 10-percent surcharge but also about the protectionist legislation currently before the Congress.

The Canadian Minister of Industry, Trade and Commerce, Jean-Luc Pépin, recently addressed the Canadian-California Symposium on Canada's Approach to International Trade. He offers an interesting analysis of the extent of American-Canadian relations. I would like to make his entire statement part of the RECORD.

CANADA'S APPROACH TO INTERNATIONAL TRADE

(By the Honourable Jean-Luc Pépin)

Let me remind you of the ABC's of Canadian Trade policy and performance.

1. Last year Canada exported $16.9 billion worth of goods and imported $13.9 billion worth for a surplus in merchandise trade of about $3 billion. A surplus of this size is a new phenomenon for Canada.

2. Canada's total exports of goods and services represent 25% of our GNP, as opposed to percentages of 5.3 in U.S.A. and 11.3 in Japan. For Canada, foreign trade is a necessity.

3. Canada and Australia are the only major industrialized countries without a domestic market of their own of at least 100 million people (or an unrestricted market equivalent to such a domestic market).

Because of our small domestic market, we couldn't make "it" without access to the U.S. market.

4. 50% of all goods produced in Canada are exported and presently 40% of our exports are in the category of finished goods as opposed to 12%, 10 years ago. It is essential that this trend continue as we have the fastest growing labour force in the industrialized world (3%).

5. We feel we cannot afford to concentrate on any particular group of products (e.g. natural resources) or on one geographic area (e.g. U.S.). We are active everywhere and in every commodity. We sell watches to Switzerland and ice skates to Puerto Rico! Diversification is our constant preoccupation.

6. Our import policy is one of the most liberal in the world. When we take protective measures we ensure that injury is demonstrated.

7. Because of these interests and because of its intrinsic value, we work toward freer trade through the multilateral system based on GATT. This system we believe is endangered now by three sets of factors:

(1) the formation of trade blocs and the continuation of restrictive trade practices.

(2) abnormalities in currency values.

(3) And now, particularly threatening both to Canada and the world, the U.S. economic measures (surcharge job development tax credit, DISC).

CANADA AND UNITED STATES TRADE

Because of geographic proximity, close corporate and labour inter-relationships, cultural and social affinities and because of the liberal economic policies prevailing in our two countries, the Canadian economy is oriented to the U.S. to a unique degree and consequently very exposed to U.S. policy changes.

In Houston recently I illustrated at length the unique nature of the relationship between our two countries.

In summary:

We exchange goods—in the amount of $19.8 billion last year. Canada exported to the United States $10.6 billion worth of merchandise in 1970, i.e. 65 per cent of our total exports and 28 per cent of your total imports. We in turn took $9.2 billion of U.S. goods (with 10 times fewer people) which is 20.7 per cent of your total exports and 72 per cent of our total imports.

These figures are even higher in 1971.

In fact, your sales to Canada in the first eight months of 1971 ($6.7 billion) exceed those to your next three best customers—Japan ($2.66 billion), Germany ($1.94 billion) and Britain ($1.60 billion) combined ($6.2 billion). Canada is your biggest, and I suggest, your best customer.

Manufactured products play an important role in the trade between our two countries. 71 per cent of your exports to Canada and 48 per cent of ours to you are manufactured items. When I translate the 48 per cent to $5.1 billion worth of labour intensive exports, you will understand our concern about the effects of the present 10 per cent surcharge on Canada's employment prospects. The adverse effects will be compounded in many cases, by the Investment Tax Credit.

Placing our purchases now on a per capita basis: in 1970 each of you bought $50 worth of Canadian goods while each Canadian imported $500 from the United States.

WE EXCHANGE TECHNOLOGY

We easily recognize that the United States is the principal source of technology for Canadian industry. At the same time we take credit for a number of innovations which are also of benefit to you. I have already referred to STOL aircraft. We have also pioneered the use of Cobalt radiation units for cancer therapy, snowmobiles, forest firefighting machinery, subway underground construction techniques, lasers. . . .

There is a book by Brown, "Ideas in Exile", which gives an idea of Canadian inventions that have been developed and marketed in the United States.

WE EXCHANGE SERVICES

Electric power companies in many parts of our nations have combined their services into grid systems.

Transportation companies of both countries provide air, road and rail services on both sides of the border. I am told, for example that nearly 14,000 rail boxcars are in common service.

We read your books and magazines—$168

million worth, "officially" last year. You imported from Canada, in the same year, only 10 per cent of that, in part due to the onerous restrictions of your copyright law.

WE EXCHANGE CAPITAL

The "book" value of U.S. direct investment in Canada at the end of 1970 was about $21 billion. This is concentrated in the mining and manufacturing industries. At the end of 1968, U.S. residents "controlled" (i.e. owned more than 50 per cent of) 51 per cent of all assets in the mining industry and 43 per cent in manufacturing. The degree of U.S. control in certain sectors of manufacturing is even higher, e.g., rubber products: 84 per cent; petroleum refining: 76 per cent; transportation equipment: 73 per cent (and that's why we say your "new economic policy" can go against your new interests).

Canadians have invested in the U.S. more than $3 billion. On a per capita basis, each American has invested about $100.00 in Canada and each Canadian has invested in the U.S. approximately $150.00!

WE EXCHANGE PEOPLE

It is, for example, estimated that over 2.5 million New Englanders are of French Canadian descent. (How many are there in California?)

Today, fully 15 per cent of academic staff at Canadian universities hold U.S. citizenship. Over 1 million Canadians winter annually in California, Arizona and Florida.

Last year 37 million visits from the United States resulted in $1.08 billion being spent in Canada while Canadians made 37 million visits to the United States where they spent $936 million. This, on a per capita basis, is $5.40 per American and $46.55 per Canadian.

We do economic "things" together—so many that it would take hours to list them. We work together to contain and remove pollution from the Great Lakes (although we don't always agree on what causes it!). Our labour unions work together (62 per cent of all unionized labour in Canada is affiliated with unions in the U.S.) . . .

Have I said enough to indicate the close ties in every sense between our two countries, to demonstrate the unique character, unique in quantitative as well as in qualitative terms, of our economic relationship?

THE U.S. ECONOMIC MEASURES

For a long time, people on both sides of the longest undefended border in the world" have been taking for granted that very unique economic relationship. Yes, we had problems but we usually managed to settle them in a spirit of cooperation. In moments of enthusiasm we were very eager to offer ourselves to the world as an example of neighbourly relations.

Canadian politicians and businessmen alike have postulated that the unique relationship" made it possible to develop trade freely between the two countries without fear of major "accidents." I suggest most American politicians and businessmen have done the same. That postulate is now questioned by the surcharge (which will affect $2.5 million of Canadian exports, mostly manufactured goods), the tax credit and the DISC concept.

1. *We share many of your preoccupations.*

The causes of the present disagreements between the U.S. and its trading partners are many and varied. There is no doubt that the U.S. administration has been less than successful in bringing its own impediments to trade, in keeping up the momentum generated by the Kennedy Round—because they had no further negotiating capacity from Congress and hesitated to ask for it.

But is the United States alone responsible for the disagreement? Certainly not.

Canada shares with the U.S. the belief that some countries have been reluctant to face up to the added international responsibility that comes with their emergence as leading industrial and economic powers;

Canada shares with the U.S. an interest in obtaining a realignment of exchange rates that would realistically reflect the industrial strength and competitive position of the world's industrial powers;

Canada shares with the U.S. a vital interest in obtaining a relaxation of restrictions by some countries, a relaxation that would reflect a fairer balance of trading advantages;

Canada shares also with the U.S. a deep concern about the emergence of preferential arrangements around the fringes of regional groups under the guise but not the reality of free trade.

But in contrast to the rather passive U.S. attitude to international trade negotiations since 1967, Canada has been working through the GATT to lay the basis for a new round of international trade negotiations in order to come to grips with some of these basic issues that the Americans rightly identify. We have been emphasizing, for example, the need for early negotiations as a means of mitigating the effects on outside countries of the prospective enlargement of the EEC.

I would think that the present situation created by the U.S. measures makes the pursuit of multilateral negotiations even more important and more urgent. This would have to be done sooner rather than later with the full support of the U.S.A., Japan and the E.E.C.

2. We say "it does apply to us" to the rationale for the U.S. measures advanced by President Nixon and Secretary Connolly—the correction of exchange rates and of trade practices.

The Canadian dollar has been floating for almost 18 months now and has experienced significant appreciation in value. We have not "played" with our U.S. dollar reserves. We implemented the full Kennedy Round tariff cuts ahead of schedule. We apply no unfair restrictions to the importation of U.S. goods; in fact, no other market is more open to U.S. goods than is the Canadian.

The DISC is designed to correct abnormalities of which Canada is not guilty. Canada does not have special tax incentives to favour exports. And we have no unfair "cultural" advantages either in terms of availability of cheaper labour, of less concern about pollution etc. . . .

3. We say that because of the size and depth of our bilateral trade, these measures will hurt us more than they will hurt any other country.

Their cumulative effect would, over time, have an impact on Canada going well beyond the need for temporary adjustments. Our industrial strategy over recent years has been aimed at developing specialized, efficient, and competitive manufacturing industries.

Some of our exporters *rely* on the U.S. market more than any other overseas market. Canada imports 50% to 60% of its machinery requirements, 90% from U.S.A.; is it fair to deprive our producers of the capacity to export to the U.S. in the same category of goods?

4. We suggest that by hurting us, you might hurt yourself to a certain extent in the process, both with respect to your trade and to your citizens' investments in Canada. The U.S. sales in Canada vary depending on our own economic domestic performance. In 1970 a year of slow growth in Canada, your exports to us went down by 3.3 per cent; in 1971 with a better performance in Canada, they are increasing by 5.2 per cent in the first nine months.

5. Your Secretaries (Treasury, Commerce, State) have indicated to us in conversation that the U.S. had a number of "irritants" with Canada having to do with the autopact safeguards, with the defense sharing agreement, etc.

We have a number too—the de facto uranium embargo, the copyright laws, the immigration rules making it difficult for Canadian executives to continue their corporate careers in the U.S.A. etc.

This is not too surprising. How can two countries trade 20 billion dollars worth of goods in a year and not have "irritants"?

6. We worry particularly because some U.S. leaders seem to be basing their attitudes towards Canada on misconceptions about the bilateral balance of trade. It is true that during the last three years Canada has had a surplus with the United States in commodity trade (280 million in 1968, 1,357 million in 1970). This is the first time it has occurred in many decades. Up to 1968, Canada had trade deficits with the United States financed in part by Canadian surpluses with other countries and in part by in-flows of capital.

Why did this change in 1968? Primarily, I think, because of the slow-down in Canada's economy following steps we had to take to restrain inflationary forces. Now that the Canadian economy has resumed a rapid rate of growth our imports are rising faster than our exports, and our surplus on current account with the world as a whole this year will probably be less than half what it was last year. In short, the adjustment is taking place through normal market forces.

I would remind you also that Canada has to finance every year very large payments to the United States for interest, travel, services and dividends arising from your considerable capital investments in my country. We had a deficit of $214 million with you on current account in 1970. If we are to make these payments and repay some of the investments themselves we will have to have surpluses on merchandise trade—not necessarily surpluses with the United States itself, I agree, but certainly with the world as a whole and there are limits to our capacity for diversification of trade patterns.

I believe that the present Canada-U.S. trade difficulties are transitory, are caused mostly by a temporary conflict between multilateral and bilateral U.S. interests, are essentially a "pause for station identification", a "do not adjust your set" situation.

Canadians must continue to regard the U.S. as their major and most valued customer, just as they expect that the U.S. will continue to regard Canada in the same way.

Even if so, things will be changed somehow. For better or for worse, from now on Canadians and Americans will not take each other for granted as easily as before. Canadians will certainly have to try even harder than they do now at industry and trade diversification in an attempt to decrease the degree of vulnerability of their economy.

CANADA AND THE PACIFIC RIM

But it was never and is certainly not the *design* of the Canadian Government to keep increasing the dependence on the U.S. market to the neglect of others. On the contrary, one of the reasons for what is sometimes called the Canadian Government "obsession" with multilateral trade policy is the creation of wide-ranging access opportunities for Canadian producers and manufacturers to the markets of the world.

We approach each opportunity in the most energetic way.

For example, this year alone I have led "ministerial missions" to three important overseas markets; the U.S.S.R., the People's Republic of China, the Republic of Germany. I intend to lead one to Japan in early 1972.

The Pacific Rim is one area of great interest. We are busy in one way or another almost everywhere, in Malaysia, Indonesia, Australia and New Zealand . . . but particularly in China and Japan.

Our *exports* to the area doubled from $669 million in 1965 to $1.3 billion in 1970. During the same period, our *imports* rose from $406 million to $1 billion for a total two-way trade of $2.3 billion, or 7.5 per cent of Canada's trade with the world. A better measure perhaps, is that the Pacific accounts for ⅓ of our total *overseas* trade.

The People's Republic of China represents a new and uncharted opportunity to most Canadian businessmen. Our objective in going there was to determine how best to tackle this potentially gigantic market.

Presidents of leading trade and business associations who came to China held detailed meetings with state trading corporations. As a result of these and of inter-governmental discussions, the Chinese authorities undertook to look to Canada as a source of supply for their import needs; as a primary source for wheat; and perhaps more important still, they promised to give us an advance look at their import requirements for the year ahead. We are following this up with further trade consulations in Peking early in December and we have set up a "working group" within my Department whose task is to ensure that trade opportunities uncovered in China are brought quickly to the attention of Canadian exporters.

Although it is too early to draw any conclusions about the shape and size of our future with China, there are already some encouraging signs. Partly as a result of better political relations between the two countries, our exports are running some 25 per cent ahead of last year and there is a good chance that they may reach $200 million by the end of the year (compared to $142 million last year). These exports still consist mainly of wheat but on the basis of my discussions with Chinese officials as well as with members of the trade mission, we might also witness an interesting broadening of our trade.

CANADA–JAPAN

Canada-Japan trade is generally good. In the space of six years, our exports to that country jumped from $316 million to almost $800 million, while imports . . . also jumped from $230 million to $582 million. Japan has been Canada's third largest market and might overtake Britain in the not too distant future as number two.

But there is another side to this picture, a little less attractive. In our view, Canada does not have a good enough product mix in this trade. Less than three per cent of our exports are in the form of end products. A further 32 per cent have some, often minimal, measure of upgrading. The bulk of Canada's exports to Japan move in the crudest form. As opposed to that, Japan finds Canada an open market for its processed and manufactured goods which account for 96 per cent of its total sales in the market. While the dollar balance is in Canada's favour, the more attractive balance of "job producing trade" is very much to Japan's advantage, as are the terms of access to each others markets. (In the first nine months of this year, Japan has exported $530 million (+26%) worth of merchandise to us and taken only $577 million worth (−5.7%).)

One might think that the Canadian performance in the Japanese market is due to our inability to compete in manufactured products. I would like to point out that this is not so. In 1970, 45 per cent of our total exports to the United States and 40 per cent of our exports to Australia were fully manufactured end products. In the Philippines where the Japanese and the American competition is keen, Canada was able to ship 61 per cent of its exports in fully manufactured form.

Quite naturally then, we wish to upgrade our exports to Japan and ship metals as well as ores, paper as well as pulp.

As an industrious country, short of raw materials and long on technology, one expects that Japan would import raw materials and export manufactured products. We do not argue with this "expectation," and, as I have said, we value the important market which Japan provides for our raw materials and foodstuffs. But we don't believe that the exchange of raw materials for fully manufactured goods should become a permanent and rigid trading pattern between our two countries.

We are not alone with this concern. Among the major trading countries of the world, Japan has the lowest proportion of manufactured products imported, i.e. 15 per cent, as percentage of total imports. Britain with an island economy similar to Japan's, takes 33 per cent of her total imports in the form of manufactured goods. In Japan, tariff and non-tariff barriers have tended to work excessively to control imports of manufactured products and to limit to a marked degree import competition.

In the Canada-Japan ministerial committee in Toronto only a few weeks ago, I expressed my disappointment. I pointed to their restrictive import policy as a major factor in the lack of satisfactory progress for Canadian manufactured exports. I also called on Japan to take a leading role among the world's major trading nations in pressing for new international trade negotiations.

The trade relations between Canada and the United States must be nurtured with patience and sensitivity on both sides. This is particularly true in the potentially dangerous situation we face today. For my part I remain an optimist. If these issues are attacked with good will and good sense they can surely be resolved and a basis can be established for further expansion of mutually profitable trade.

The Canadian Ambassador to the United States, Marcel Cadieux, discussed the future of United States-Canadian trade and economic relations in a presentation before the Economic Club of Detroit. Excerpts from his speech follow:

EXCERPTS

Let us now consider economics. Economics is not of course an isolated thing. As you know the original Greek word means . . . skilled in the management of a household. And a household—or a nation—has within it all the problems of man. There are economic aspects to our military alliances and—certainly—to our concerns about the pollution of the environment.

There are no other nations in the world that are as closely linked economically as the United States and Canada. The United States buys 68 percent of all the things we sell and sells us 75 percent of all the things we buy. That 75 percent is a quarter of all the United States' exports. We are your best customer and you are ours.

For many reasons—not accidental reasons but the consequences of bilateral planning—there are industrial areas in which our production efforts are integrated—in automobiles, in farm machinery and in defense materials. We are distinct and separate countries but in the twentieth century there are no countries that can exist alone economically and the economic ties between the United States and Canada are the most intricate in the world. We have been an enormous field for your investments—multinational corporations based in the United States control half of Canada's manufacturing and ninety percent of the petrochemical industry in Canada. Thirty percent of all U.S. moneys invested abroad are invested in Canada. And Canadian investments in the United States are—per capita—even greater.

We are your secure and reliable source of oil and forest products and minerals. The uninterrupted flow of these materials is essential to the United States economy. The extent of this economic involvement is, I think, only vaguely understood on either side of the border. It should be of vital concern to every citizen in both countries. There is a true interdependence between your country and mine but it is the interdependence of a great power and a small one.

What we do economically affects you—but what you do affects us ten times over. When you itch you scratch—and when you scratch too hard we are in danger of being cut to shreds.

The economic measures announced by the United States last August 15 have created extraordinary problems for Canada. I am referring to the 10 percent surcharge on dutiable imports.

I am referring to the proposed job development tax credit.

I am referring to the proposed domestic international sales corporation.

How remote and technical these words sound—surcharge, tax credits, DISC. They are words that people in your trades and mine use as tools. We hear them every day, familiar words but dry and abstract terms, words without emotion.

But for Canada the facts behind these words are not only harsh and very real, they are emotional in their social and human impact.

Without painful and expensive compensating action in Canada, the surcharge could cost the jobs of 90,000 Canadian wage earners in a year—it is laid on two-and-a-half billion dollars worth of Canadian exports to the United States, a quarter of the total—the most vulnerable quarter—the exports that come from our labour intensive secondary manufacturing sector. The sector where so many of our people work—a sector already adversely affected by the appreciation of the Canadian dollar.

If the surcharge remains in effect we will be exporting jobs—not products. We will lose them at a time when Canadian unemployment is dangerously high—persistently higher than in the United States.

A careful survey by the Canadian government of 1300 export firms suggests that the surcharge could cause the loss of export sales approaching $900 million in a year.

The proposed job development tax credit would discriminate against those Canadians who supply you with machinery and equipment.

The proposed domestic international sales corporation would defer corporate liability for United States income taxes on export sales and thereby discourage direct investment in Canada.

How remote these words and phrases sound and how real to Canada is their meaning. We would if we could avoid their consequences. But what—precisely—are we to do? The surcharge was designed to force the other trading nations to allow the United States' dollar to adjust freely to its fair level in international exchange. Canadian currency is free—Canada floated its dollar in May, 1970—its value in terms of the U.S. dollar has appreciated by some seven percent.

The surcharge was designed to persuade some trading nations to eliminate discriminatory tariffs and other barriers to the free flow of American goods.

Canada has no such barriers—it had none to eliminate.

The surcharge was designed to persuade some nations to assume their proper share of responsibility for aiding emerging nations.

Canada has long carried its share—its per capita aid to developing nations compares favorably with that of the United States and it is increasing steadily and substantially.

What actions then could Canada take?

We took the proper action for a friend and ally. Canadian ministers met with Secretaries Connally and Stans on August 19. Other officials from both governments met on August 27. Formal and informal talks began and continue. Canada told the United States clearly how it feels about the application of the surcharge to its exports.

It argued its case—earnestly and fully—

not only to the American government but at the annual meeting of the International Monetary Fund in September and in GATT, the Group of Ten.

We have tried to make clear to everyone what the new economic policy of the United States means to Canada—the magnitude of our difficulties.

Canada does not resist nor resent the efforts of the United States to bring its own economic house to order. We believe it necessary and wise for the United States to move to restore equilibrium in its balance of payments—to rebuild confidence in the United States dollar—to eliminate discriminatory trade barriers. Free, fair trade is in Canada's interest. We do not object to the ends but we object most strenuously to some of the means as they apply to Canada.

For 18 years the governments of the United States and Canada have had the machinery to discuss and resolve economic problems—the Canada-United States Ministerial Committee on Trade and Economic Affairs was established in 1953. It has met 13 times in those 18 years—most recently a year ago this month. It is a committee designed to serve friends and equals—the United States Secretary of State and the Canadian Minister of External Affairs are its cochairmen. The cabinet members from both countries concerned with economics—the ambassadors—other senior officials—sit across a table and formulate the broad strategies and policies that can best serve the people and businessmen of both countries.

This committee is probably the most important of all the joint Canada-United States organizations. It is most important that the machinery established for the resolution of economic problems not be ignored.

They are by their nature the most complex of problems—they involve not only the governments—Federal, State, Provincial and city—but also the buyers and the sellers, the manufacturers and the shippers, indeed the consumers. Our economic problems affect you. A weakened Canadian economy is not good for the United States. We are your best customer. We have been your most profitable field for investment. We are a secure and reliable source of raw materials and products vital to your economy.

We hope that the unhappy situation in which we find ourselves now will not damage this tried and valued machinery of negotiation.

We believe full, frequent and free consultation between all trading nations is the best way to achieve full, free and profitable trade. The world needs fewer trade barriers, not more—we can achieve that goal if the leading economic powers wish to achieve it. Canada will use every opportunity to promote consultations among all traders—to achieve the enlargement and liberalization of world trade—to lay a secure foundation for another generation of economic growth for Canada, for the United States and for all members of the world trading community.

By nature, by profession, I am an optimist. I do not believe that your country and my country can gain by a retreat to nationalism and bloc rivalry. I believe that though our problems are serious they will be resolved.

Our Prime Minister said only a few weeks ago that "Canada's long relationship with its oldest friends is proof to us that however uncertain may be the consequences from time to time of short term events, the long run consists of a climate of understanding and co-operation."

He made that statement in the presence of Premier Kosygin of the USSR.

I believe in that continuing fair climate despite the current storms.

Still I must be candid—if the United States regards these measures that are so injurious to us as measures for an emergency—as temporary measures for use in a phase of transition—then all will be well again.

If however we must accept such conditions for a long period then we will be compelled to make basic readjustments in our trading patterns. I find it hard to believe that we could so drastically rearrange the common structures of our economies without severely affecting our relationships in other respects. We have many fields in which we work together and we have kept them in separate compartments—we have not mingled our economic negotiations with our military ones, we have not considered the ecological challenge as a challenge to be met or not met depending on how we are faring in other fields.

But I do fear that if old structures are abandoned in one field, the machinery in other fields may be strained.

The incentives to co-operation are a blend of familiarity, respect, politics and economics. I believe that we will find solutions now as we have found solutions in the past—through negotiation—without any special concession or generosity from the larger power—nor any compromise of its independence by the smaller.

We need a solution. Our long history of respectful and fair negotiations encourages me to believe that we will find one—that we will find it soon—that it will be one with which we both continue to grow and prosper as full and free trading partners, side by side.

Mr. REID of New York. Mr. Speaker, I wish to commend the gentleman from Florida (Mr. GIBBONS) for reserving the time for a number of us to participate in a discussion on the dangers and costs of a protectionist trade policy.

I have long been opposed to imposing high trade barriers or restrictions, not only because I believe in general that free trade benefits our economy and the economy of other countries, but also because I believe that protectionism hurts the American worker. If this country raises trade barriers, retaliation from others will be imminent, thus reducing our exports as well as our imports. As I have pointed out before, we have probably more than 2.7 million export-related jobs. We must consider these in the light of protectionism and the dangers of other countries placing barriers against our goods.

Having looked into this question in some detail, I insert in the RECORD at this point my individual views on title III of H.R. 7130, the Fair Labor Standards Amendments of 1971, a title which moves dangerously toward protectionism:

INDIVIDUAL VIEWS OF MR. REID OF NEW YORK

Although I support increasing and extending the minimum wage as recommended in this legislation, I strongly oppose Title III of the bill, relating to imports. This is a highly protectionist section and an extreme form of "Buy American," which could invite a trade war, isolate the U.S. from foreign markets, and seriously hurt the American worker.

The first portion of Title III would, in effect, require the Secretary of Labor to recommend, and authorize the President to impose, higher tariffs or import quotas on competitive imports produced abroad under working conditions below the U.S. minimum standards which threaten to impair the "economic welfare" of some community of workers in the United States.

The second portion of the Title, Section 301(f), would impose restrictions on government procurement (or any procurement which is federally aided) of goods produced abroad under working conditions less favorable than those specified in the Fair Labor Standards Act. In other words, since no country except Canada has such standards, virtually all federally aided procurement under Sec. 301(f) would be limited to U.S.-made products.

To me, both of these provisions represent the theme of "Buy American" at its most extreme, since most procurement would have to be U.S.-made. Not only would this Title be inflationary and non-competitive, it could also severely limit the opportunities for private U.S. firms overseas to compete for public procurement in other countries on the same basis as their foreign competitors.

I object to these provisions not only because I believe generally that a free trade policy will help our economy more than a protectionist one through expanding our GNP and our tax base, but also because I believe specifically that protectionism, which would inevitably bring retaliatory measures by other nations, would injure American labor immediately as well as in the long run.

The following dangers could become realistic if Title III were passed, and must be closely considered:

1. Since there are more export-related jobs than there are import-affected jobs, a protectionist policy with retaliation by foreign countries could severely limit our exports and affect as many as 2.7 million American workers in export jobs.[1]

This excess of export-related jobs over import-related jobs is true even at the present time, when our trade balance is negative. It is even more true at other times, when our trade balance is positive, and when the difference between export jobs and import jobs is as much as 700,000 jobs.

Secretary of Labor Hodgson has noted that the implementation of Title III "would not serve the best interests of the U.S. and American workers:" He has stated that "the net effect of any broadscale restriction on our imports could be to reduce rather than increase employment opportunities in the U.S." (See appendix A for text of letter.)

At present, excluding Canada whose labor conditions are similar to ours and who would therefore not be subject to Title III, our three largest trading partners are Japan, Germany and the United Kingdom.

An analysis of the "Overseas Business Reports" (July 1971) published by the Department of Commerce reveals that if these three countries retaliated through GATT (General Agreement on Tariffs and Trade), or even some through the Common Market, or through informal pressures, to reduce American imports, the American workers most affected could be, in general, those involved in both electric and nonelectric machinery, transport equipment and agriculture, or, to put it another way, those who in many cases are already suffering from the effects of the national economic slump.[2] (See appendix B for trade tables)

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[1] The Bureau of Labor Statistics has noted that there were approximately 2.7 million American workers whose jobs depended directly and indirectly on exports in 1969. This estimate includes the direct employment which produced the exported goods, and also the indirect labor necessary for all supplies and services in the exported item, plus transportation and handling jobs. The BLS also estimated that if we had attempted to produce domestically products which are now being imported competitively into this country in 1969, we would have needed 2.5 million additional workers.

This sounds, at first glance, like 2½ million empty jobs to fill with our unemployed. But American trade, and American jobs, do not operate in a vacuum. If our trading partners retaliated, many if not all of our 2.7 million export-related jobs would be lost.

2. American agriculture would be devastated by reciprocal quotas imposed by foreign countries.

The agricultural produce from one out of every four acres is exported. This alone indicates what retaliatory actions could do to our farmers.

We exported over $1 billion in agricultural commodities to Japan in 1970, a large portion of which was wheat and corn. I Japan retaliated to a U.S. protectionist policy, or if Japan's purchasing power had become so reduced as to preclude their buying of our agricultural products, not only would our farmers be hurt, but also, the costs to the American taxpayer for storing agricultural surpluses, etc., would increase. The same would be true, of course, if European Common Market nations retaliated, by replacing U.S. wheat and soybean exports with Canadian or Australian exports.

3. Many of our trading partners, unable to sell to the U.S., would thus be unable to earn the necessary foreign exchange to purchase our exports, again threatening our export-related jobs. Take Japan, for instance, our second largest trading partner. Last year we exported $4.652 billion worth of goods to Japan. We imported almost $5.875 billion worth of Japanese goods, thus averaging a deficit of $1.2 billion. If we refused to import a significant portion of that $6 billion, which would be the case under Title III, Japan's net purchasing power would vastly decrease and Japan would be unable to purchase the almost $5 billion worth of U.S. goods we want to export. Not only, then, would this protectionist policy seriously affect Japan's economy; equally, it would affect our own exports because we would take away Japan's ability, let alone interest, in buying them.

4. The American consumer would be the loser, since reduced competition within the U.S. could produce both higher prices and lower quality.

There are 80 million workers in this country. They are all consumers. Competition is vital in a free enterprise economy to keep prices down and both consumer demand and quality up. As inflation takes its course, American products abroad will become less competitive, and our exports trade will suffer accordingly.

5. Title III would seriously jeopardize international efforts presently underway on trade and procurement practices, and would violate GATT.

Multilateral and bilateral negotiations are presently underway with a number of countries, including the Group of Ten, on the realignment of exchange rates, the surcharge, international liquidity and appropriate reserve instruments including special drawing rights and other reforms of the International Monetary Fund system, and on a number of other matters, with a view toward opening up markets for U.S. exports.

Further, title III in my view violates not only the spirit and the intent of GATT, but also the very letter of the agreements. First of all, under Article I,[3] all contracting parties are to be treated equally without discrimination or preference. Surely, however, under Title III, Canada's treatment certainly is preferential to that which Japan has in store.

Additionally, GATT requires the payment of compensation by any country which raises its tariffs unilaterally to those countries which are affected, either in terms of direct payments or in terms of lifting duties on some other product which would help the countries affected. Title III makes no such provision.

Finally, the spirit of GATT recognizes that hardships may occur to some communities due to imports, but urges the use of internal measures rather than tariffs or quotas to remedy the situation.

At this time when our credibility, let alone our popularity, is not high overseas, I think it would be unwise to break any solemn international agreements to which we are a party, let alone to sabotage those efforts presently underway.

6. In sum, we cannot export unemployment, and there must be a thoughtful national dialogue as to domestic, diplomatic and economic measures we can take as an alternative to protectionist legislation.

Our jobs gain more from exports, the figures reveal, than they lose from imports, and when we consider the trade war we could find ourselves in, protectionism is dangerous in the short run and could be devastating in the long run.

This is not to say that certain communities will not suffer from imports. Some will, and they should not be made to bear the brunt of the nation's trade policy. But neither should they control the direction of our trade policy and jeopardize the whole economy, or the whole labor market, by the writing of bad law in violation of international agreements.

There are mounting pressures in some areas of U.S. labor for "Buy American" and protectionist legislation. Accordingly, it is vital that there be a thoughtful national dialogue on this question and on viable alternatives to a policy of narrow economic nationalism. This will require both the Congress and the Executive, in concert with labor and management, to exert national leadership as to the problem and its remedies.

Diplomatically, there is much more we can do in the spirit of the initial Kennedy Round to open markets to U.S. goods and services.

Economically, we must remove the surcharge before we invite economic retaliation, consonant with our international agreements, including GATT.

Domestically, we should consider trade adjustment assistance legislation that will involve job training, tax incentives, and emergency subsidies to effect necessary transitions in humanitarian and economic terms.

American labor must show some leadership that in recent years has been lacking to work with other countries, either bilaterally or with international forums such as the ILO and the Organization for Economic Cooperation and Development (OECD), to develop international fair labor standards.

Finally, rather than return to the Smoot-Hawley era of high protectionism, we must control inflation, encourage greater productivity and competitiveness for U.S. products through fiscal, monetary and international trade policies promoting real growth in our GNP and in our overseas trade.

During mark-up of this bill in full Committee, I moved to strike Title III. The motion failed by a non-partisan vote of 16–19. I intend to do what I can when this legislation reaches the Floor of the House to eliminate the protectionist features of this otherwise valuable legislation.

APPENDIX A

U.S. DEPARTMENT OF LABOR,
OFFICE OF THE SECRETARY,
Washington, October 19, 1971.

Hon. OGDEN REID,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN REID: This is in response to your request for my views on Title III of H.R. 7130, a bill to amend the Fair Labor Standards Act of 1938.

Title III of H.R. 7130 deals with the question of the impact of imports on employment. As I indicated in my testimony on this bill on May 12, 1971 before the General Subcommittee on Labor, I believe that this is inappropriate legislation for dealing with trade problems. For that reason, I did not go into a detailed discussion of the substance of Title III at that time.

The Department of Labor is deeply concerned about the effects on labor of international trade. However, we do not favor Title III because its implementation would not serve the best interests of the United States and American workers.

The bill would, in effect, require the Secretary of Labor to recommend, and authorize the President to impose higher tariffs or import quotas on competitive imports produced abroad under working conditions below the U.S. minimum standards. This new grant of authority to the President would be sweeping. Since no other country, except possibly Canada, has such standards, virtually all U.S. imports would fall within its scope.

The President already has broad powers under existing legislation to curtail imports which adversely affect American industry and labor. Examples of such authority include the tariff adjustment provisions of the Trade Expansion Act of 1962, the Antidumping Act of 1921, the Agricultural Adjustment Acts of 1933 and 1956, and the Tariff Act of 1930. Further, the Administration is on record as favoring the liberalization of the adjustment assistance and escape clause procedures so that industries, workers, and firms can be better protected from import inquiry.

The net effect of any broad-scale restriction on our imports could be to reduce rather than increase employment opportunities in the United States. Other countries would be likely to take retaliatory action against our exports. Moreover, the ability of our trading partners to purchase U.S. goods would be curtailed since many of them depend on sales to the U.S. to earn the necessary foreign exchange to purchase our exports.

If enacted, the bill would have an inflationary impact by limiting the availability of competitive goods and by shifting U.S. consumption and production to higher cost goods.

Another proposed amendment would impose restrictions on government procurement and on any procurement financed in whole or in part by Federal funds of goods produced abroad under conditions less favorable than those specified in the Fair Labor Standards Act. In our view, this represents an extreme form of "Buy America" legislation, which in effect would require that practically all Federal procurements be limited to U.S.-made products. The effects would be inflationary and would reduce or destroy competition in many fields where it may be needed.

Moreover, this amendment would seriously jeopardize international efforts currently underway to reach agreement on a code of fair and equitable public procurement practices.

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[2] At the present time, for instance, Japan's largest American imports are electric computers and parts, civilian aircraft, inedible crude material other than fuel (such as soybeans, softwood logs and iron and steel scrap), and agricultural food products including corn and wheat.

Germany's largest American imports are agricultural machinery, civilian aircraft, agricultural food products, and crude material other than fuels.

Finally, the United Kingdom's largest imports are electrical apparatus, civilian aircraft, agricultural food products, and paper.

In all of these areas the U.S. exports significantly more than it imports. If, therefore, any or all of these countries retaliated, U.S. farmers and workers would be severely affected.

[3] GATT's article I says in part "* * * any advantage, favour, privilege or immunity granted by any contracting party to any product originating in or destined for any other country shall be accorded immediately and unconditionally to the like product originating in or destined for the territories of all other contracting parties."

One important objective of this effort has been to insure that U.S. exporters have the opportunity to compete for public procurement in other countries on the same basis as their foreign competitors.

I would like to emphasize that our opposition to Title III of H.R. 7130 in no way indicates a lack of concern about the problems faced by some workers adversely affected by import competition. However, in our view, this legislation is neither an appropriate nor feasible approach to such problems.

Sincerely,

J. D. Hodgson,
Secretary of Labor.

APPENDIX B

U.S. TRADE WITH JAPAN, THE FEDERAL REPUBLIC OF GERMANY, CANADA, AND THE UNITED KINGDOM

[In millions of dollars]

	1969	1970
JAPAN		
Exports, total	3,489.7	4,652.0
Foods, feeds, and beverages	756.9	971.3
Industrial supplies and materials	1,594.6	2,119.4
Capital goods including trucks and buses	853.2	1,201.3
Consumer goods, nonfood, including automobiles and parts	209.9	250.7
"Special category" and other exports	75.1	109.3
Imports, total	4,888.2	5,875.3
Foods, feeds, and beverages	137.1	169.9
Industrial supplies and materials	1,548.7	1,808.7
Capital goods including trucks and buses	613.3	658.2
Consumer goods, nonfood, including automobiles and parts	2,513.1	3.160.4
Other imports	66.0	78.1
FEDERAL REPUBLIC OF GERMANY		
Exports, total	2,142.1	2,740.2
Foods, feeds, and beverages	270.0	408.3
Industrial supplies and materials	802.5	961.7
Capital goods including trucks and buses	746.1	1,031.1
Consumer goods, nonfood, including automobiles and parts	131.2	159.7
"Special category" and other exports	192.3	179.4
Imports, total	2,603.4	3,129.6
Foods, feeds, and beverages	40.7	53.7
Industrial supplies and materials	618.5	722.1
Capital goods including trucks and buses	553.0	666.8
Consumer goods, nonfood, including automobiles and parts	1,305.6	1,599.8
Other imports	85.6	87.2
CANADA		
Exports, total	9,137.0	9,083.8
Foods, feeds, and beverages	646.8	741.7
Industrial supplies and materials	2,201.1	2,195.7
Capital goods including trucks and buses	2,825.0	2,793.5
Consumer goods, nonfood, including automobiles and parts	3,080.3	2,778.3
"Special category" and other exports	383.8	574.6
Imports, total	10,383.6	11,091.1
Foods, feeds, and beverages	577.9	644.6
Industrial supplies and materials	4,737.4	5,198.8
Capital goods including trucks and buses	1,384.1	1,481.8
Consumer goods, nonfood, including automobiles and parts	3,022.4	3,162.4
Other imports	661.8	603.5
UNITED KINGDOM		
Exports, total	2,334.6	2,536.8
Foods, feeds, and beverages	191.0	272.6
Industrial supplies and materials	794.0	886.6
Capital goods including trucks and buses	804.2	1,071.9
Consumer goods, nonfood, including automobiles and parts	158.0	166.7
"Special category" and other exports	387.4	139.0
Imports, total	2,120.4	2,195.8
Foods, feeds, and beverages	318.6	367.8
Industrial supplies and materials	463.9	485.7
Capital goods including trucks and buses	475.3	502.7
Consumer goods, nonfood, including automobiles and parts	747.5	727.2
Other imports	115.1	112.4
Total U.S. balance of trade with major partners:		
With Japan	−1,398.5	−1,223.3
With Germany	−461.3	−389.4
With Canada	−1,246.6	−2,007.3
With United Kingdom	+214.2	+341.0

Mr. ASPIN. Mr. Speaker, recently the Brookings Institution published part II of its annual three-part series on economic activity. In that volume there is an excellent and timely article by Lawrence Krause and his assistant, John Mathieson, entitled "How Much of Current Unemployment Do We Import?"

In his article, Mr. Krause has posed a very simple question: "Has the recent growth of imports been the cause of the high rate of unemployment in this country?" His answer is "No." By making the necessary adjustments for varying labor imports and the import-output factors calculated by the Bureau of Labor Statistics, Mr. Krause concludes that the job creation and job loss due to changes in international trade in the past year has resulted in a loss of only an estimated 17,100 jobs.

The loss of 17,100 jobs is insignificant when measured against the December 1971 unemployment rate of 6 percent that accounts for a total of 5,150,000 unemployed Americans. According to this article less than one-third of 1 percent of today's unemployment is the result of jobs lost to imports.

The fantastic rate of unemployment we have today is according to Mr. Krause the fault of the poor economic policies of the Nixon administration.

I recommend Mr. Krause's article which follows for careful study:

How Much of Current Unemployment Did We Import?

(By Lawrence B. Krause, assisted by John A. Mathieson)

In the first quarter of 1970, unemployment in the United States rose to 4 percent of the labor force, the presumed full employment target. By the first quarter of 1971, unemployment reached the undesirable level of nearly 6 percent. Over this same one-year period, imports into the United States increased by $4 billion (1971:1 over 1970:1 at annual rates) and exports increased by only $3 billion, reducing the net positive trade balance by $1 billion. An increase of competitive imports—considered in isolation—has the direct consequence of reducing job opportunities. A reduction of exports has a similar job-destruction effect. By the same token, a reduction of imports and an increase of exports have the opposite consequence on job opportunities. In view of the trade development, a seemingly natural question is how much of current unemployment did we import?

Actually the question is not as natural as it appears because international trade cannot be considered in isolation from other economic developments. In an efficiently evolving dynamic economy, job opportunities are constantly being lost because of many factors, but the losses are more than offset by job-creating developments. Shifts in consumer demand, changes in productive technology, restructuring of government expenditures, as well as increases in imports, cause unemployment among domestic workers whose product is no longer needed. General unemployment need not occur, however, as long as aggregate demand is maintained in the economy, if need be through governmental policy. In the particular events of 1970–71, full employment was not maintained and, therefore, the contribution of the decline of net exports to the increase in unemployment becomes meaningful. To be sure, the employment effects of the decline of net exports could have been offset by appropriate fiscal stimulation, but it can be argued that trade movements are relatively unpredictable and, therefore, some unintended unemployment may have resulted.

It is not legitimate, however, to count the entire decline in net exports since 1964 as a cause of current unemployment. Up to 1970, displaced workers in the aggregate were absorbed elsewhere in the economy and did not create an unemployment problem as such. Indeed, while the trade balance was declining from $6.8 billion in 1964 to $0.7 billion in 1969, unemployment also declined from 5.2 percent to 3.5 percent.

In addition to the issue of total employment, the economic welfare of the society depends on what kind of job opportunities are created in exchange for those being destroyed. When specific jobs are lost through technological change, for instance, there is a presumption that economic welfare is improved even though the workers actually displaced may not find equally remunerative work. A similar presumption, based on the theory of comparative advantage, exists concerning disturbances arising from international trade. Society's welfare should improve even though the individuals displaced may suffer a loss. This presumption, however, is dependent on the country's having an equilibrium exchange rate. An overvalued exchange rate would not directly prevent a country from reaching full employment; but at full employment, resource utilization would be distorted away from tradable goods toward nontradable goods and services with resulting welfare loss for the world as a whole.

METHODOLOGY

The purpose of this exercise is to obtain an estimate of the employment consequences of the decline in U.S. net exports between the first quarter of 1970 and the first quarter of 1971, the period in which unemployment rose. The first step in the estimation process was to record the changes in exports and imports at annual rates. Because different products have widely different labor inputs, some disaggregation was required. Since the intention is to relate trade changes to employment levels, the classification scheme utilized in employment reports was adopted as shown in Tables 1, 2, and 3. The trade statistics were taken from the Census report by end-use categories and aggregated to reach the proper classification. The trade data are given in Table 1, with exports and imports shown separately. Since the data come from Census reports, they differ from the merchandise totals reported in the balance of payments because they are unadjusted for timing and coverage. Furthermore, the rise in military sales ($307 million annual rate) and unclassified exports ($131 million annual rate) have been excluded from exports. The growth of unclassified imports was similarly excluded ($267 million), as was the decline of noncompetitive imports like coffee ($127 million) since these declines did not lead to increases in American production. The resulting increases were $4.1 billion in imports and $3.1 billion in exports.

The second step in the estimation process was to evaluate the number of jobs lost and jobs gained as a result of the trade changes. There is both a direct job effect within the trade-impacted industry and an indirect effect in industries supplying inputs to it. The technical coefficients for both the direct and indirect employment effects were taken from a study by the Bureau of Labor Statistics. This study is based on the 1958 input-output tables, but projected to 1970 based on trends in productivity. The prices are also on a 1958 base, which causes some difficulty. One would like to deflate the trade values by indexes of prices of imports and exports. But since indexes of traded goods of individual industries are not available, no adjustment was made. This will tend to bias upward the estimates of both jobs lost and jobs gained, but probably will not be very significant on the net balance.

FINDINGS

The consequences of the trade changes for employment are shown in Table 2. In direct employment, an estimated 47,800 jobs were lost due to decreases in some exports and 134,000 jobs were lost due to increases of imports, making a total loss of 182,200 jobs. However, 181,400 jobs were gained through increases in exports and a further 1,300 jobs were created through some import declines, making a total of 182,700 job increases. Thus there was on balance a slight edge toward job creation when direct employment effects are taken by themselves.

The inclusion of indirect effects shifts the balance slightly toward job destruction. There was a net loss of about 17,000 jobs due to indirect effects (227,600 losses, offset in part by 210,600 job gains). It is reasonable to expect the indirect effects to be more unfavorable to employment than the direct effects. Much of the growth of exports was in agriculture and mining. In both of these industries, the ratio of value added within the industry to total sales is much higher than it is in manufacturing, where most of the import increases were recorded. Since the indirect employment effects come from that portion of sales value not added by the industry itself, the observed differential was to be expected.

When the direct and indirect effects are taken together, a loss of 16,600 jobs between 1970:1 and 1971:1 can be attributed to changes in exports and imports. If the displaced workers stayed in the labor force and were not absorbed into employment, then approximately 16,600 people were added to the unemployment rolls from this cause. During this span, total unemployment rose by 1.7 million persons. Thus international trade contributed less than 1 percent of the increase. To put the results somewhat differently, if unemployment had increased only because of trade dislocations, the unemployment rate would have risen from 4.16 percent to 4.18 percent, rather than to the actual 1971:1 average of 5.93 percent. The net job loss may appear surprisingly small, given the decline in net exports. But it should be remembered that U.S. exports are labor-intensive relative to U.S. imports, as Leontief established and others subsequently confirmed. The United States need not have balanced increases in exports and imports to maintain employment in trade-related industries. If imports increase more than exports, as occurred in the period under investigation, job losses may not occur.

While only an insignificant portion of total unemployment can be attributed to international trade, the employment situation in particular industries could be greatly affected. Table 3 relates the net direct job changes due to trade to the employment situation in specific industries. Only direct job effects were used since indirect effects are spread widely throughout the economy. As is seen, employment was down 4.6 percent in primary metals (mainly steel); 2.5 percent in motor vehicles; and about 1.5 percent in textiles. On the other hand, coal mining gained 6.6 percent in employment; other transportation equipment (mainly aircraft), 4.4 percent; and machinery, 2.0 percent. These data suggest that a good case can be made for adjustment assistance to industries that are seriously affected by imports. However, the imposition of import barriers is very dangerous since it usually leads to retaliation, which can have serious consequences on export industries. The difficulties imports cause textile firms are well known, but little attention is paid to the effect on the hard-pressed aircraft industry if it could not export.

QUALIFICATIONS

The interpretation of these findings requires certain qualifications. First, with an expanding labor force, the avoidance of job destruction is not enough to ensure full employment: Jobs must be created in sufficient numbers to accommodate new workers. Thus, even though international trade did not destroy many jobs on balance, neither did it carry its weight in creating jobs for the new entrants into the labor force. Second, even when the total number of jobs created is equal to the total destroyed, if the absolute numbers are large, frictional unemployment could increase. To establish this point, the variance of employment due to changes in international trade must be compared with the variance in employment from all other causes, and this calculation was not made. Finally, net income flows in the economy were reduced by $1 billion due to the decline in net exports of goods, and the multiplier effects on employment were not estimated. However, these reductions were more than offset by the $2.7 billion rise in net exports of services during the same period. In any event, the multiplier effects would be small in an economy as large as that of the United States and impossible to calculate because expenditure patterns cannot be traced.

JOBS AND DOLLAR DEVALUATION

One of the pillars of the new economic policy announced by President Nixon on August 15, 1971, was a group of measures that should lead to the devaluation of the dollar. As noted above, this should improve economic welfare from international trade, since the dollar was overvalued. The devaluation will also stimulate U.S. exports. Domestic employment will rise as a direct consequence of the devaluation, for U.S. exports will be stimulated by it, and as imports rise in price, Americans should switch consumption toward domestically produced goods. It is important to recognize, however, that the devaluation is desirable not to alleviate unemployment, but because the dollar was overvalued, as evidenced by the disequilibrium in the overall U.S. balance of payments. At full employment, there will not be *more* jobs because of the devaluation, but *different* jobs. Employment in trade-related industries will be greater and employment in purely domestic industries will be lower because of it. The most fundamental principle of the International Monetary Fund is that depreciation of a currency should not be used to correct an unemployment problem, for that merely exports the unemployment to a nondepreciating country, a practice that can lead to competitive devaluations and a host of other beggar-my-neighbor policies.

There is an important tie, however, between the timing of a devaluation and the existence of unemployment. Devaluation by itself is stimulative and inflationary. Countries usually combine devaluation with monetary and fiscal policies designed to offset the stimulation so as not to lose through domestic inflation the competitive gain they achieve via devaluation. Given the current slack in the U.S. economy, the stimulative consequences of devaluation can be accommodated through greater production, but the direct inflationary effects will still be of some concern as the higher U.S. prices of imported goods raise the price level.

As part of the new economic policy, President Nixon imposed a temporary 10 percent import surcharge, presumably for the purpose of urging other countries to appreciate their currencies to effectuate the dollar devaluation the United States seeks. It should be noted, however, that the surcharge interferes with the formulation of a new pattern of exchange rates via market action since it artificially strengthens the dollar, as does the maintenance of capital controls. Permanent restrictions on trade merely maintain an overvalued dollar, thus sacrificing exports while restraining imports and on balance reducing job opportunities for Americans.

CONCLUSION

How much of current unemployment did we import, then? None, apparently, or at most an insignificantly small portion. Domestic economic policy must take the blame for the overall unemployment situation.

Nevertheless, individual industries are greatly affected by shifts in trade, some losing employment and some gaining it. Public policy should help ease the burden of adjustment to shifts in trade as it should for other causes of unemployment.

The proper policy instruments for dealing with general unemployment are monetary and fiscal policies. Since these work best when used in tandem, monetary policy cannot be, as is sometimes suggested, separately targeted for balance-of-payments purposes—at least not without significant costs. Monetary and fiscal policy must be free of external constraints, and this can be accomplished by keeping exchange rates at equilibrium values. Maintaining equilibrium will require some flexibility in spot exchange rates. With equilibrium exchange rates, one need not worry about the employment effects of a declining trade balance. Clearly, politicians must forgo the simplistic but appealing tie between imports and unemployment if a viable international system is to be maintained.

TABLE 1.—GROWTH OF U.S. EXPORTS AND IMPORTS, BY INDUSTRY GROUP, 1ST QUARTER 1970 TO 1ST QUARTER 1971

[Annual rates in millions of dollars]

Industry group	Exports 1971:1	Exports 1970:1	Exports Increase	Imports 1971:1	Imports 1970:1	Imports Increase
Total	44,986	41,416	3,571	42,109	37,823	4,286
Manufacturing	38,978	36,765	2,214	35,807	31,580	4,228
Durable goods	24,176	22,657	1,519	20,465	17,064	3,401
Primary metals	2,388	3,488	−1,100	4,326	3,657	670
Fabricated metals	439	419	20	468	450	18
Machinery	9,737	8,916	820	2,706	2,638	68
Electrical equipment	2,468	2,374	93	2,457	2,102	354

TABLE 1.—GROWTH OF U.S. EXPORTS AND IMPORTS, BY INDUSTRY GROUP, 1ST QUARTER 1970 TO 1ST QUARTER 1971—Continued

Industry group	Exports 1971:1	Exports 1970:1	Exports Increase	Imports 1971:1	Imports 1970:1	Imports Increase
Motor vehicles and equipment	4,404	3,626	778	7,676	5,771	1,905
Other transportation equipment	4,008	3,102	906	231	168	63
Other durables	732	731	1	2,600	2,278	322
Nondurable goods	14,802	14,108	694	15,342	14,516	827
Food and kindred goods	6,144	5,224	920	3,886	3,914	−29
Textile mill goods	712	701	11	1,373	1,258	116
Apparel, finished textiles	258	275	−17	1,288	1,060	228
Other nondurables	7,688	7,908	−220	8,795	8,283	512
Agriculture	2,069	1,401	668	(1)	(1)	(1)
Mining	992	741	252	1,556	1,638	−82
Coal and related fuels	952	724	228	9	5	4
Crude petroleum and natural gas	41	17	24	1,547	1,634	−86
Unclassified	1,472	1,341	131	1,528	1,262	267
Noncompetitive imports				3,216	3,343	−127
Military exports	1,474	1,168	307			

[1] Agricultural imports are mostly noncompetitive or food and kindred nondurable goods, and are included in these categories in the table. The balance of agricultural imports is negligible.

Source: U.S. Bureau of the Census, Highlights of U.S. Export and Import Trade, FT990 (March 1970), and Highlights of Exports and Imports, FT990 (March 1971), tables E-7 and I-8. Figures are rounded and may not add to totals.

TABLE 2.—DIRECT AND INDIRECT EMPLOYMENT CHANGES CAUSED BY U.S. EXPORT AND IMPORT TRADE, 1ST QUARTER 1970 TO 1ST QUARTER 1971

[Thousands of jobs]

Industry group	Direct job losses: Due to decreases in exports	Direct job losses: Due to increases in imports	Direct job losses: Total	Direct job gains: Due to increases in exports	Direct job gains: Due to decreases in imports	Direct job gains: Total	Net direct job loss [2]	Indirect job changes [1]: Total job loss	Indirect job changes [1]: Total job gain	Indirect job changes [1]: Net indirect job loss
Total	47.8	134.4	182.2	181.4	1.3	182.7	−0.5	227.6	210.6	17.1
Manufacturing	47.8	134.3	182.0	122.1	.7	122.8	59.2	227.5	172.8	54.7
Durable goods	37.5	94.5	132.0	99.1		99.1	33.0	179.5	108.6	71.0
Primary metals	37.5	22.8	60.3				60.3	56.5		56.5
Fabricated metals		.7	.7	.8		.8	(3)	.8	.9	−.1
Machinery		3.2	3.2	38.1		38.1	−34.9	2.8	33.2	−30.4
Electrical equipment		13.4	13.4	3.5		3.5	9.9	15.0	3.9	11.0
Motor vehicles and equipment		37.4	37.4	15.3		15.3	22.1	90.2	36.9	53.3
Other transportation equipment		2.9	2.9	41.3		41.3	−38.4	2.3	33.8	−33.4
Other durables		14.1	14.1	.1		.1	14.0	12.0	(3)	11.9
Nondurable goods	10.3	39.7	50.0	23.0	.7	23.7	26.3	48.0	64.2	−16.2
Food and kindred goods				22.6	.7	23.3	−23.3		63.7	−63.7
Textile mill goods		4.0	4.0	.4		.4	3.6	5.2	.5	4.7
Apparel, finished textiles	1.1	14.3	15.3				15.3	13.6		13.6
Other nondurables	9.2	21.4	30.7				30.7	29.3		29.2
Agriculture				49.6		49.6	−49.6		30.8	−30.8
Mining		.2	.2	9.8	.6	10.3	−10.1	.1	7.0	−6.9
Coal and related fuels		.2	.2	9.6		9.6	−9.4	.1	4.9	−4.8
Crude petroleum and natural gas				.2	.6	.7	−.7		2.1	−2.1

[1] Indirect job losses and gains are attributed here to the import or export industry but are actually found in the industries that supply it or are otherwise related to it.

[2] Total direct losses minus total direct gains.

[3] Less than 0.05.

Sources: Calculated from table 1, and input-output figures from U.S. Bureau of Labor Statistics, Projections 1970: Interindustry Relationships, Potential Demand, Employment, Bulletin 1536 (1966), table V-2. Figures are rounded and may not add to totals.

TABLE 3.—EMPLOYMENT, WITH AND WITHOUT EFFECTS OF CHANGES IN EXPORT AND IMPORT TRADE, BY INDUSTRY GROUP, 1ST QUARTER 1971

[Thousands of persons, seasonally adjusted]

Industry group	Average employment, 1971:1 [1]	Net primary job loss due to changes in export and import trade	Potential employment without trade effect	Job loss as percentage of potential employment
Total	74,027.2	−0.5	74,026.7	(2)
Trade related	22,536.4	−.5	22,535.9	(2)
Manufacturing	18,749.2	59.2	18,808.4	0.3
Durable goods	10,100.8	33.0	10,133.8	.3
Primary metals	1,255.3	60.3	1,315.6	4.6
Fabricated metals	1,327.7	0.0	1,327.7	
Machinery	1,806.0	−34.9	1,771.1	−2.0
Electrical equipment	1,791.0	9.9	1,800.9	.5
Motor vehicles and equipment [3]	879.5	22.1	901.6	2.5
Other transportation equipment [3]	914.3	−38.4	875.9	−4.4
Other durables	2,127.0	14.0	2,141.0	.7
Nondurable goods	8,648.4	26.3	8,674.7	.3
Food and kindred goods	1,781.3	−23.3	1,758.0	−1.3
Textile mill goods	946.7	3.6	950.3	.4
Apparel, finished textiles	1,378.7	15.3	1,394.0	1.1
Other nondurables	4,541.7	30.7	4,572.4	.7
Agriculture	3,380.0	−49.6	3,330.4	−1.5
Mining, total	624.0	−10.1	613.9	−1.6
Mining, trade related	407.2	−10.1	397.1	−2.5
Coal and related fuels [3]	152.9	−9.4	143.5	−6.6
Crude petroleum and natural gas [3]	254.3	−.7	253.6	−.3
Services	48,043.0		48,043.0	
Contract construction	3,231.0		3,231.0	

[1] Quarterly average.

[2] Less than 0.05 percent.

[3] Not seasonally adjusted.

Source: Employment and earnings, vol. 18 (July 1971). Figures are rounded and may not add to totals.

GENERAL LEAVE

Mr. GIBBONS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to extend their remarks on the subject of my special order today.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

FIFTEENTH ANNIVERSARY OF THE HUNGARIAN REVOLUTION COMMEMORATES DETERMINATION OF HUNGARIAN FREEDOM FIGHTERS AND REAFFIRMS THE PURSUIT OF LIBERTY AND FREEDOM FOR ALL PEOPLES

The SPEAKER. Under a previous order of the House, the gentleman from New York (Mr. Horton) is recognized for 30 minutes.

Mr. HORTON. Mr. Speaker, 15 years ago in 1956, Hungarian freedom fighters battled Soviet troops and tanks with sticks and stones in one of the most stirring expressions of a people's desire for freedom and liberty the world has known. Thousands of men and women sacrificed their lives in a courageous attempt to secure for themselves, their country, and for all captive nations people the right to self-determination.

Although this goal was not actually realized, their valiant efforts are a memorial not only to the courage of oppressed people, but to the desire of these people to live in freedom.

The American Citizens Committee for the Commemoration of the 15th Anniversary of the Hungarian Revolution, of which I was privileged to serve as national chairman, and the Hungarian Freedom Fighters Federation recognized the courage and valor of the 1956 freedom fighters with a dinner on October 23, the anniversary date of the revolution. During this occasion, tribute was paid to the deeds and goals of these people and special recognition was given to those who have worked to further their goals.

Mr. Speaker. I would like to share with my colleagues some of the citations, official proclamations and speeches made at this dinner and elsewhere in commemoration of this historic event. My purpose is not only to focus attention on the courageous actions of the 1956 Hungarian freedom fighters and their goals of liberty and self-determination, but also on the plight of the millions and millions of people presently living under Soviet oppression in Eastern and Central Europe.

The American Citizens Committee was the prime mover behind the October 23 dinner. This event could not have had the impact that it did without the participation of the distinguished members of the committee. They lent their time and support not only to the dinner itself but to the general recognition of this historic event.

The honorary chairmen of the committee were my distinguished colleagues in the House, the Speaker, the Honorable Carl Albert and the minority leader, the Honorable Gerald R. Ford, Senator Robert Dole, and Senator Daniel K. Inouye.

Cochairmen of the committee were Gen. Donald Dawson, a Washington attorney, and Philip Hannan, archbishop of New Orleans.

Congressmen Edward J. Derwinski and William J. Scherle were cochairmen of the executive committee. Dr. Andras Pogany, president of the Hungarian Freedom Fighters Federation, and Mr. Laszlo Pasztor, director of the Heritage Groups Division of the Republican National Committee, also served on the executive committee.

There is another man, Mr. Speaker, who perhaps more than any other single person has been responsible for keeping alive the memory and spirit of the Hungarian Revolution in the United States.

I am speaking of the copresident of the Hungarian Freedom Fighters Federation, Istvan B. Gereben. Steve is a renowned oceanographer, who, in his spare time, has organized and kept alive the activities of countless American public figures and others in our country, who have sought, over the years, to work for policies which could promote a greater degree of freedom for people of captive nations.

He certainly was the key man behind the successful efforts of the committee to win such widespread recognition for the 15th anniversary of the Hungarian revolution.

I would like to share with my colleagues some of the important events and messages which took place at the October 23 dinner to commemorate this 15th anniversary. The dinner was held in the National Press Building in Washington, D.C.

The underlying message of the speakers at this dinner was that Americans have forgotten the lessons of Hungary. We have, as a nation, forgotten the ruthlessness of Communist totalitarianism and we have forgotten what it is like to live under such a government. We as citizens of a nation which places such a premium on freedom, must do all that we can to see that it is extended to all peoples.

At the beginning of the dinner Mr. Gereben introduced Congressman Scherle, who welcomed the dinner guests on behalf of the committee.

Archbishop Hannan offered the invocation. He said:

> In the name of the Father and of the Son and of the Holy Spirit.
>
> Oh, God, the source of freedom bless all assembled here, and all the Freedom Fighters of 56. As their heroism sparked the rebirth of freedom in their beloved land, may the remembrance of their deed revive the cause of freedom everywhere.
>
> We pray also for Your continued blessing and support of that great champion of freedom, Jozsef Cardinal Mindszenty, that his example may feed the flame of freedom in all hearts! May every soul fulfill the words of scripture: live as free men, not using your freedom as cloth for malice, but as servants of God!
>
> Pour out your special blessing on Hungary, the land which sacrificed so much for freedom and hasten the day when it will take its rightful place again as an honored member of the Free World. Amen.
>
> In the name of the Father and of the Son and the Holy Spirit.

Mr. Speaker, at this point I would like to share with my colleagues a poem that was read at the dinner. Entitled "Hungary, 1956," it was composed by our colleague from Maryland, Lawrence J. Hogan.

Hungary, 1956

(By Lawrence J. Hogan)

Under Soviet oppression
And tyrannous aggression
People lived in deep despair
And dark clouds hung everywhere
In this nation without hope or goals.
But, under burned-out coals,
Freedom smoldered there
Beneath that blanket of despair.

Then, just as pressure of stifling suffocation
On a dying fire makes spontaneous combustion,
The long-dormant spark exploded
To enflame a patriotism so long eroded.
Old men and young boys,
Heady with freedom's joys,
Became rag-tag soldiers adrift,
Gambling God's most precious gift
For a chance to rescue their nation
By risking wild confrontation;
To make a choice
Which is no choice:
Quick, rewarding death
Or slow, living death.

Soft-skinned boys emerge as men
To learn what life might have been.
Old men forget infirmities
And women ignore their frailties,
As an inspired nation arises in bravery
To cast off the chains of slavery
And invest sacrifice and dedication
With prayer and desperation
In a wild gamble to be free—
To make impossibility, reality.
To the world's disbelief
And their own ecstatic relief—
Amazing, odds-defying success
Exhilarating, intoxicating, joyful success.

Freedom! Freedom is to be.
  Oh, to be free! To be free!
Hearts throb for love of country
  Throats, aching from shouting defiantly,
Constrict and tears leak out of eyes
  That had wept so many of despair's cries.

Now come, America, and give your solace
  To this proud, brave populace
And rejoice in this heroic spirit
  Arising from a coma, and share it.
Come, America, and help this rag-tag army grow
  As France helped you so long ago
By making your revolt her own.
  Come help reap what love of freedom has sown.
Come, America, with your mighty hands of friendship
  To shelter freedom's fire in kinship.
Hear the Freedom Fighter's shout
  Don't let freedom be snuffed out.
Come, America, and answer this plea
  From a nation hungry to be free.

As days pass awaiting America's hand
  An ominous quiet envelopes the land.
An eerie calm forewarns of storm
  As lines of desperate resistance form.
Suddenly, the bleak November sky
  Is pierced by Soviet MIGs' screaming cry.
And into every Budapest street
  Firing on all they meet
Russian tanks rumble
  To make all opposition crumble.
Tanks take vigil on each corner and wait.
  Come, America, the hour is late!

Salvo after salvo of artillery
  Bear witness to Soviet villainy.
Buildings crumble or are licked by flames
  As cruel retaliation takes its claims.
Wreckage chokes Hungarian streets
  And enemy fire cuts off retreats.

Behind blocked windows resisters stare
As smoke and stench of death poison the air.
Freedom Fighters spend dwindling rounds and wait
In hopeless defiance of their fate
As Soviet soldiers, recapturing a nation,
Bring house-to-house annihilation.
In a last gasp to make fate pause,
Anonymous heroes die in a lost cause.

Come, America, and watch a nation die
As all who love freedom cry!

The Russian shooting decreases
As the last remnant of resistance ceases.
Wisps of tell-tale smoke rise
Where the corpse of freedom lies,
Its acrid smell should shame
The nostrils of all who share the blame.

Where were you, America, as freedom died
To redeem the promise which you lied?
You whose own quest for freedom's chance
Would have failed without the aid of France.
Where were you, America, when children died in bravery
Fighting a war that could have saved the world from slavery?
Where were you, America, when the boot of tyranny stomped out freedom's fire?
You were there, America, as pallbearer at the funeral pyre!

Mr. Douglas Baldwin, a member of the steering committee, read the resolution of self-determination and neutrality of the Hungarian Freedom Fighters Federation. I would like to share this resolution with my colleagues:

STATEMENT OF THE HUNGARIAN FREEDOM FIGHTERS FEDERATION ON THE FIFTEENTH ANNIVERSARY OF HUNGARIAN REVOLUTION

In the 1970's, it is insufficient simply to attack or defend communism. We must know it: what moral, economic, military forces, what psychological modes hold it together; what new concepts and measures see the light of day, what kind of language the Communists use, that is understood differently by them and by us.

While there is no longer a single strong authoritarian leader who speaks for and rules over all communists, with its present polycentrism, Communism presents an equally great threat to free societies. The aim of Communism is still the domination of the world by elimination of free political systems and their transformation into fundamentally totalitarian Communist rule. The leaders of Communism reconfirm this goal day by day.

Communist strategy, in order to achieve this goal may have been changed. The nature of confrontation may be shifted from a primarily military arena to the ideological battlefield. We here in the West are much better prepared to cope with the articulate military threat than with the shapeless and deceptive tactics of ideological warfare.

The realization of the consequences of nuclear warfare has increased the prudence of the Communists leaders, but has not made them any more ready to abide by the U.N. Declaration of Human Rights or the Atlantic Charter than they did earlier. There is the problem of internal discontent in Communist countries, which moreover makes the Soviets less adventurous; however, the West has not tried to use this discontent to force the Communists to implement the very principles of the two mentioned documents and help restore self-determination among those nations which are deprived this right by their Soviet rulers.

Instead a staunch refusal to exacerbate the problems has been expressed. One cannot ignore the dehumanizing, aggressive ideology of the Communist powers and their military institutions which threaten the rest of the world. One cannot dream of coexistence and react only episodically to crises.

Systematic long term planning—based on the U.N. Declaration of Human Rights and the Atlantic Charter—is needed to help humanize the governments of the oppressed nations and restore lost freedoms in countries now occupied by foreign troops and foreign ideologies.

A man who has been sitting too long in one position in his chair and has become stiff has the right to change his position but not with the argument that he is doing it because the attitude of the chair has changed. Let us change policy; let us try new ways of bettering understanding between East and West! But let us not try to convince the world that Communism has changed because we did, for that is an illusion, and in politics, one cannot fall for an illusion without losing substance.

Are there more convincing examples of Soviet perfidy and perseverance than the Hungarian Revolution? The Berlin Wall? Czechoslovakia? The Russian writers in asylums?

In 1956, fifteen years ago, Hungary and her people of ten million tried to end the shameless double standard applied in international politics. To create reality from the myth of self-determination, they sacrificed their lives by the thousands. On November 4, 1956, the most principled, cleanest revolution of our century—Hungary's fight for freedom—was crushed by Red Starred tanks. A brave people and the great principle of self-determination were shockingly overrun and abandoned.

Because of the complexity of international politics and because of recurrent delusions, it is tempting to accept the status quo, arguing that not much can be done anyway, and that one must avoid an accidental nuclear war. But such a quietist approach assumes that the status quo is tolerable and just, which is simply not true. The international responsibilities incumbent on any great power cannot be avoided by Western governments. They must, therefore, creatively modify the situation in the direction of restoring lost freedoms and rectifying past injustices. The tacit acceptance of the Communist two-zone doctrine is erroneous and dangerous.

Legalization of present conditions, that is, prolongation of the status-quo, seems particularly injurious to Hungary. The economic conditions were improved and the standard of living of the average Hungarian has increased in the past decade.

The Revolution in 1956 was not fought over bread and butter issues. The essential issues rousing a whole nation in anger, sacrificing its youth, its men and women, are still there: The country is occupied by Soviet troops, the government put in power by Russian tanks and condemned by sixteen U.N. Resolutions continues to deny the basic human rights to the Hungarian people. The basic demands of the nation are not fulfilled. The withdrawal of foreign military forces from Hungarian soil, the declaration of neutrality and the establishment of a constitutional government through free elections with the participation of multiple parties representing multiple political and economic philosophies and interests, did not occur in the past fifteen years.

On the fifteenth anniversary of the Hungarian Revolution, the Hungarian Freedom Fighters Federation is compelled to declare that the demands of the Hungarian people as they have been expressed during the Revolution are still unfulfilled. Hungary is still a dictatorship, a police state permeated by a network of informants assuring total control over the people. The changes observed by naive tourists, eager reporters and shortsighted politicians are changes in outside appearance, changes in tactics and changes in the nonessentials.

The substance of the political, economic, and social system, which the revolution attempted to overthrow is still unchanged.

Hungary is ruled by foreign ideals and occupied by foreign troops. Therefore, we Hungarian Freedom Fighters and other Hungarians living in the United States shall continue to work for a sovereign, constitutionally established, free Hungary and for freedom for all oppressed peoples of the world!

Dr. Andras Pogany,
President.
Istvan B. Gereben,
Copresident.
Washington, D.C., *October 23, 1971.*

Following dinner, five men who have devoted an extraordinary effort to supporting the causes of the 1956 freedom fighters and to the cause of freedom for all men were cited. Receiving the 1971 Freedom Award were David Lawrence, renowned editor and newspaper columnist; Representative Lawrence J. Hogan; Frank N. Maloof, philanthropist and humanitarian; Paul Miller, chairman of the Gannett Co. and president of the Associated Press; and Dr. Stefan T. Possony, professor, the Hoover Institution on War, Revolution and Peace at Stanford University.

I would like to note here that the first recipient of this award in 1960 was then Vice President Richard M. Nixon.

Upon receiving his citation, Mr. Lawrence spoke about the need for Americans to be told more about the history of the Hungarian revolution and the plight of captive peoples. His remarks follow:

REMARKS OF MR. DAVID LAWRENCE, EDITOR OF U.S. NEWS & WORLD REPORT UPON RECEIVING THE "FREEDOM AWARD" OF THE HUNGARIAN FREEDOM FIGHTERS FEDERATION U.S.A.

I appreciate very much of this honor and I am glad to be one of those receiving the Freedom Award of the Hungarian Freedom Fighters Federation. I think Representative Horton's speech is one of the finest I have ever heard. We, in America little realize what has happened in the last fifteen years since the Hungarian Revolution. If you asked any ten people, aged 25–30 what happened then, what captive states there are in this world, they would not even know. They do not know what a captive state is, they do not know what Hungary is, and they do not know how it became captive, and how it lost its short lived freedom in 1956. We forget too quickly.

We are involved in a war in Vietnam to save a small country, to enable it to have the right of self-determination and to maintain true independence. Many people in this country found that a novelty. It is not a novelty, it is one of the things that we, as individuals and as a nation have always believed in. The example of Vietnam does not mean that we are helping every nation become free. But it does mean that the gospel of today is freedom. In the United Nations and all other international conferences the uppermost subject should be freedom for all the nations.

I am convinced that if the plight of people living in the captive nations were better known in the United States, if more public sentiment were mobilized behind the concept of freedom for captive nations peoples, we would see public opinion developed in America supporting that concept. In turn this would have its affect in the international forums of the world.

We became involved in World War II because we were attacked by Japan. At the start of that war, Russia was on the side of Hitler. When we entered the war they were fighting against each other and the Soviets were in trouble. We helped them out. It was the alliance with the United States and the West that saved Russia. At the end of the war, when peace was made, who took control of those states in Eastern Europe? Russia did! We apparently let it go by. We are the ones who saved Russia and by doing so we have part responsibility for the kind of settlement that was made. We have not told all the facts about the peace agreements.

The Captive Nation is a phrase that ought to be widely known in this country, so that Americans will be sympathetic to the peoples of captive nations, wish them freedom and try, through indirect ways to help them gain their freedom. We should do so because that is going to be the issue in the coming years—let small nations have their independence and let all nations choose their own form of government, even if they choose commuism, but they must choose it honestly. That is what is coming: a desire for autonomy of nations and not the rule of autocratic governments which give their subjects no right whatsoever.

Your meeting here is symbolic of the movement to save the captive nations. But we don't know enough about it in America. The average citizen, I am quite sure, does not know much about it. You have to tell him what a captive nation is and who are the captive nations. A big publicity campaign is yet to be undertaken.

Thank you.

Dr. Possony, one of the recipients of the 1971 Freedom Citation, also spoke on behalf of the men who received the awards. His eloquent remarks made clear the meaning of the Hungarian revolution for all peoples, especially for Americans.

Dr. Andras Pogany, national chairman of the Hungarian Freedom Fighters Federation, talked about the moral hypocrisy of freedom-loving countries forgetting the hundreds of millions of people living behind the Iron Curtain.

Following the benediction by Archbishop Hannan and the National Anthems of Hungary and the United States, this memorable and moving event was concluded.

In addition to this recognition of the 1956 Hungarian revolution, 18 Governors and 96 mayors proclaimed October 23, 1971, Hungarian Freedom Fighters Day. I would like to include the list of those who designated the day as such:

STATES AND THEIR RESPECTIVE GOVERNORS, PROCLAIMING OCTOBER 23, 1971, AS HUNGARIAN FREEDOM FIGHTERS DAY

Alaska—William A. Egan, Governor.

Colorado—John D. Vanderhoof, Lieutenant and Acting Governor.

Connecticut—Thomas J. Meskill, Governor.

Delaware—Russel W. Peterson, Governor.

Georgia—Jimmy Carter, Governor.

Illinois—Richard B. Ogilvie, Governor.

Kansas—Robert B. Docking, Governor.

Kentucky—Louie B. Nunn, Governor.

Louisiana—John J. McKeithen, Governor.

Maine—Kenneth M. Curtis, Governor.

Massachusetts—Francis W. Sargent, Governor.

Maryland—Blair Lee, Lieutenant and Acting Governor.

Michigan—James H. Brickley, Lieutenant and Acting Governor.

Nebraska—J. James Exon, Governor.

New Jersey—William T. Cahill, Governor.

New Mexico—Bruce King, Governor.

Tennessee—Winfield Dunn, Governor.

Vermont—Deane C. Davis, Governor.

CITIES AND THEIR RESPECTIVE MAYORS PROCLAIMING OCTOBER 23, 1971, AS HUNGARIAN FREEDOM FIGHTERS' DAY

Albany, New York—Erastus Corning.

Allentown, Pennsylvania—Clifford S. Bartholomew.

Anderson, Indiana—J. E. Flanagan.

Atlantic City, New Jersey—William I. Somers.

Aurora, Illinois—Albert D. McCoy.

Baltimore, Maryland—Thomas J. D'Alesandro III.

Barberton, Ohio—I. Kenneth R. Cox.

Bayonne, New Jersey—Francis G. Fitzpatrick.

Berkeley, California—Warren Widener.

Bethlehem, Pennsylvania—I. H. Gordon Payrow.

Binghamton, New York—Alfred J. Libous.

Billings, Montana—Willard E. Fraser.

Boston, Massachusetts—Kevin H. White.

Bowie, Maryland—Leo E. Green.

Bridgeport, Connecticut—Hugh C. Curran.

Buffalo, New York—Frank A. Sedita.

Canton, Ohio—Stanley A. Cmich.

Cedar Rapids, Iowa—Donald J. Canney.

Chattanooga, Tennessee—Robert Kirk Walker.

Chesapeake, Virginia—W. S. Overton.

Chester, Pennsylvania—John H. Nacrelli.

Corpus Christi, Texas—Ronnie Sizemore.

Cicero, Illinois—John Karner.

Concord, California—Laurence Azevedo.

Clifton, New Jersey—Anna M. Latteri.

Dearborn, Michigan—Orville L. Hubbard.

Dearborn Heights, Michigan—John L. Canfield.

Denver, Colorado—W. H. McNichols.

Detroit, Michigan—Roman S. Gribbs.

East Chicago, Indiana—Dr. John B. Nicosia.

Elmhurst, Illinois—Charles Weigel.

Euclid, Ohio—Harry J. Knuth.

Fort Worth, Texas—R. M. Stovall.

Gainesville, Florida—Neil A. Butler.

Garfield, New Jersey—Richard Visofiky.

Hialeah, Florida—Charles A. Whiteacre.

Hollywood, Florida—John T. Wulff.

Honolulu, Hawaii—Frank F. Fasi.

Indianapolis, Indiana—Richard G. Lugar.

Irving, Texas—R. Dan Matkin.

Jacksonville, Florida—Hans G. Tanzler.

Kansas City, Kansas—Richard F. Walsh.

Kettering, Ohio—Charles F. Horn.

Lafayette, Indiana—Donald W. Blue.

Los Angeles, California—Sam Yorty.

Lakewood, California—Charles T. Schweitzer.

Lancaster, Pennsylvania—Thomas J. Monaghan.

Lansing Michigan—Gerald W. Graves.

Lewiston, Maine—Robert W. Clifford.

Livonia, Michigan—Edward H. McNamara.

Long Beach, California—Edwin W. Wade.

Lorain, Ohio—Woodrow W. Mathna.

Macon, Georgia—Ronnie Thompson.

Madison, Wisconsin—William O. Styke.

Maple Heights, Ohio—Emil J. Lisy, Jr.

Memphis, Tennessee—Henry Loeb.

Miami, Florida—David T. Kennedy.

Milwaukee, Wisconsin—Henry W. Maier.

Mobile, Alabama—Robert B. Doyle, Jr.

Monterey Park, California—Al L. Kreger.

Mountain View, California—William L. Herfurth.

Nashua, New Hampshire—Dennis J. Sullivan.

Newark, New Jersey—Kenneth A. Gibson.

New Orleans, Louisiana—Moon Landrieu.

Newport News, Virginia—J. W. Hornsby.

Norwalk, Connecticut—Frank N. Zullo.

Oklahoma City, Okla.—Patience Latting.

Omaha, Nebraska—Eugene A. Leahy.

Onondaga County, New York—John H. Mulroy, County Executive.

Ontario, California—Howard J. Snider.

Orlando, Florida—Carl T. Langford.

Paterson, New Jersey—Lawrence F. Kramer.

Philadelphia, Pennsylvania—James H. J. Tate.

Pico Rivera, California—Anthony M. Santchez.

Portsmouth, Virginia—Jack P. Barnes.

Providence, Rhode Island—Joseph A. Doorley.

Pomona, California—Richard C. Brownell.

Rochester, New York—Stephen May.

Royal Oak, Michigan—James P. Cline.

Saint Louis, Missouri—Alfonso J. Cervantes.

Saint Paul, Minnesota—Charles P. McCarty.

Salt Lake City, Utah—J. Bracken Lee.

San Jose, California—Norman Y. Mineta.

Santa Barbara, California—Gerald S. Firestone.

Santa Clara, California—Gary G. Gilmor.

Santa Monica, California—Antony L. Dituri.

Santa Rosa, California—John H. Downey, Jr.

Savannah, Georgia—John P. Rousakis.

Simie Valley, California—Lester D. Cleveland.

South San Francisco, California—William A. Borba.

Tempe, Arizona—Dale R. Shumway.

Torrance, California— Ken Miller.

Trenton, New Jersey—Arthur J. Holland.

Virginia Beach, Virginia—Donald H. Rhodes.

Waukegan. Illinois—Robert Sabonjian.

West Haven, Connecticut—Alexander F. Zarnowski.

Westminster, California—Derek C. McWhinney.

The proclamations from these Governors and mayors were moving tributes to the freedom fighters and eloquent pleas for the right of self-determination by all peoples.

The following are among the proclamations issued on behalf of the October 23 Hungarian revolution.

The first one proclaimed by Mayor Stephen May is from Rochester, N.Y., in my congressional district:

CITY OF ROCHESTER, N.Y.

Whereas, the people of the City of Rochester are sympathetic toward the efforts of the people of Hungary to free themselves from the chains of communistic totalitarianism, and we, in America, are reminded of our commitment to the purposes of the Hungarian Revolution by the presence of nearly fifty thousand refugees within our borders; and

Whereas, we are merciful of the memory of several thousand Hungarian Freedom Fighters who died in their attempt to win freedom in the fall of 1956, and of countless thousands of human beings who were jailed or deported after the Soviet forces overran Hungary again, and there is ample evidence that, in spite of claims by Hungarian communists to the contrary, not one of the goals of human freedom which the Hungarian nation fought for in 1956 have been realized, which evidence is well illustrated by the barbed wire fences surrounding Hungary today; and

Whereas, it is crucially important for us, as Americans, to sustain the hope and faith of the Hungarians, and all captive peoples in their eventual freedom from communist domination, and the freedom-loving people of Hungary look to the United States as the citadel of human freedom and to the people of the United States as leaders in the effort to secure their freedom and independence; and

Whereas, October 23, 1971 will mark the fifteenth anniversary of the day on which the people of Hungary won their freedom, only later to be crushed by the brutal power of the Soviet army, and the desire for liberty and independence among the Hungarians and other oppressed peoples constitutes a powerful deterrent to any ambitions of Communist leaders to initiate a major war; and

Whereas, many Hungarians have chosen Rochester to be their home and have contributed significantly to the well-being of this community,

Now, therefore, I, Stephen May, Mayor of Rochester, do hereby proclaim October 23, 1971 to be Hungarian Freedom Fighters' Day in Rochester, and urge all Rochesterians to pay special tribute to these loyal and brave people by recognizing the plight of Hungary and recommitting ourselves to work and pray for the day when Hungary will once more take its proper place in the family of free nations.

PROCLAMATION

Whereas, October marks the 15th anniversary of the Hungarian Revolution, the brave effort of the Hungarian people to cast off the yoke of communist domination inflicted upon them in the aftermath of World War II; and

Whereas, the revolution which began in the streets of Budapest October 23, 1956 brought temporary freedom—until the Soviets brought in foreign troops and tanks for what became a blood bath; and

Whereas, the weeks following the revolution saw thousands of Hungarians risk their lives in leaving their beloved country to find freedom in western Europe and the United States; and

Whereas, today, Hungarian Americans are valued and productive citizens of every major American city and the personal qualities that built a splendid nation in the heart of Europe enrich America:

Now, Therefore, I, H. Gordon Payrow, Jr., Mayor of the City of Bethlehem, Pennsylvania, do hereby proclaim Saturday, October 23, 1971 as Hungarian Freedom Fighters Day, and urge that all of our citizens pay special tribute to these loyal and brave people by studying the plight of Hungary and recommit themselves to the just aspirations of the Hungarians.

TRENTON, N.J., PROCLAMATION

Whereas, the desire for liberty and independence by the Hungarians and other oppressed peoples constitutes a powerful deterrent to any ambitions of Communist leaders to initiate a major war; and

Whereas, it is incumbent upon free citizens to recognize appreciatively that the people of Hungary, with those others who share their destiny, in aggregate constitute not only a primary deterrent against a hot global war and further overt agression by Moscow's totalitarian imperialism, but also a prime positive means for the advance of world freedom in a struggle which in totalistic form is psychopolitical; and

Whereas, in pursuit of a diplomacy of truth we cannot for long avoid bringing into question Moscow's legalistic pretensions of "non-interference in the internal affairs of States" and other contrivances which are acutely subject to examination under the light of morally founded legal principles and political, economic and historical evidence; and

Whereas, the continued occupation of Hungary by Russian troops constitutes a violation of the principles of the Atlantic Charter and the Universal Declaration of Human Rights to which documents the Soviet Union itself is a cosignatory; and

Whereas, the people of Trenton wish to express their dismay over the denial of fundamental human rights and self determination to the people of Hungary:

Now therefore, I Arthur J. Holland, Mayor of the City of Trenton do hereby proclaim Saturday, October 23, 1971 as: "Hungarian Freedom Fighters' Day" and urge that all of our citizens pay special tribute to these loyal and brave people by studying the plight of Hungary and recommit themselves to the just aspirations of the Hungarians.

PROCLAMATION

The people of Alaska are sympathetic toward the efforts of the people of Hungary to free themselves from the chains of communist totalitarianism, and we, in America, are reminded of our commitment to the purposes of the Hungarian Revolution by the presence of nearly fifty thousand refugees within the borders of the United States.

October 23, 1971, will mark the 15th anniversary of the day that the people of Hungary won their freedom, later to be crushed. It is of crucial importance for us, as Americans, to morally sustain the hope and faith of the Hungarians, and all captive peoples in their eventual freedom.

The freedom loving people of Hungary look to the United States as the citadel of human freedom to the people of the United States as leaders in bringing about their freedom and independence. It is incumbent upon us free citizens to appreciatively recognize that the people of Hungary, with those others who share their destiny, constitute not only a primary deterrent against a global war and further aggression, but also a prime positive means for the advancement of world freedom.

The people of Alaska wish to express their dismay over the denial of fundamental human rights and self-determination to the people of Hungary.

Therefore, I, William A. Egan, Governor of Alaska, do hereby proclaim Saturday, October 23, 1971, as Hungarian Freedom Fighters' Day and urge that all of our citizens pay special tribute to these loyal and brave people by studying the plight of Hungary and by recommitting themselves to the just aspirations of the Hungarians.

Dated this 21st day of October, 1971.

PROCLAMATION BY THE GOVERNOR

To the people of Kansas, greetings:

Whereas, the desire for liberty and independence by the Hungarians and other opresesd peoples constitutes a powerful deterrent to any ambitions of Communist leadistic form is psychopolitical; and

Whereas, it is incumbent upon us free citizens to appreciatively recognize that the people of Hungary, with those others who share their destiny, in aggregate constitute not only a primary deterrent against a hot global war and further overt aggression by Moscow's totalitarian imperialism, but also a prime positive means for the advance of world freedom in a struggle which in totalistic form in psychopolitical; and

Whereas, in pursuit of a diplomacy of truth we cannot for long avoid bringing into question Moscow's legalistic pretensions of "non-interference in the internal affairs of States" and other contrivances which are acutely subject to examination under the light of morally founded legal principles and political, economic and historical evidence; and

Whereas, the continued occupation of Hungary by Russian troops constitutes a violation of the principles of the Atlantic Charter and the Universal Declaration of Human Rights to which documents the Soviet Union itself is a cosignatory; and

Whereas, the people of Kansas wish to express their dismay over the denial of fundamental human rights and self-determination to the people of Hungary:

Now, therefore, I, Robert B. Docking, Governor of the State of Kansas, do hereby proclaim Saturday, October 23, 1971, as Hungarian Freedom Fighters' Day and urge that all of our citizens pay special tribute to these loyal and brave people by studying the plight of Hungary and recommit themselves to the just aspirations of the Hungarians.

Mr. Speaker, in addition to these citations, proclamations, and speeches, there is an effort underway to express America's determination to see that the principles of democracy and freedom be restored to the people of Hungary. Many Members of Congress have joined in action to insure that the national treasure of Hungary, the Holy Crown of St. Stephen, remain in the safekeeping of our Government until the Government of Hungary improves the individual rights and freedoms of its citizens.

U.S. troops took the 11th century crown, a gift from Pope Sylvester II to St. Stephen, Hungary's first Christian king, at the end of World War II from surrendering Hungarian forces, who were allied with the Germans.

Congressmen LARRY HOGAN and WILLIAM SCHERLE have been leaders in the congressional effort to see that the Crown remain in the hands of the United States. Under the leadership of Congressman HOGAN, 25 Members of the House joined in a resolution expressing the wish that the Holy Crown be retained in the United States for the time being and seven Senators led by Senators ROBERT DOLE, introduced a similar resolution.

In August, in light of news reports that the Holy Crown was in danger of being returned to the current Hungarian Government, 25 Members of Congress signed a letter to President Nixon expressing the desire of Members of Congress that no further action be taken by our diplomats and negotiators with regard to the crown until the Congress has expressed itself on this resolution.

The position of the U.S. State Department on this issue is embodied in an Associated Press dispatch of August 6 which reads:

> WASHINGTON, Aug. 6.—A State Department spokesman said Friday there ought to be more improvement in U.S.-Hungarian relations before there could be any active discussion involving the return of the crown of St. Stephen and other jewels to the Hungarian people.
>
> The statement by Press Officer Robert J. McCloskey officially set at rest reports that negotiations were nearing an end for the return of the jewels to Hungary. The United States has acted as a custodian since the end of World War II of the Crown of St. Stephen.
>
> Earlier this week Istvan Darvasi, vice president of the Hungarian Peace Council, told 50 visiting professors from the United States that the U.S. and Hungary had resumed negotiations for the return of the jewels including the crown.
>
> McCloskey said there are no negotiations and "presently the U.S. government feels that generally there ought to be more improvement in U.S.-Hungarian relations before we get into active discussions involving the return of the crown." The report from Budapest had stirred concern among Hungarian groups in the United States.

It is important that we do all that we can to insure that this crown remains in the United States until Hungary once again functions as a government, established by the Hungarian people through free choice. We must continue to press diplomatic efforts to see that this is achieved.

Mr. Speaker, as we observe the 15th anniversary of the Hungarian revolution, these speeches, proclamations and other commemorative actions point up all too vividly the problems of the millions of people living under Soviet oppression in Eastern and central Europe.

Despite some lessening of tensions in the diplomatic relations between the United States and the Soviets, the plight of the people held captive in Communist controlled nations has not been diminished.

We, in America, often take our rights and freedoms for granted and forget what it is like to live under Soviet oppression. We must not forget. We must strive to do all that we can to recognize the tragic situation of people living under Soviet rule, and perhaps by doing so, bring closer the day when they can live in dignity and freedom.

Mr. HOGAN. Mr. Speaker, as a member of the American Citizens Committee for the Commemoration of the 15th anniversary of the Hungarian revolution I am pleased to join with our colleague, the gentleman from New York (Mr. HORTON), who served as chairman of that committee, in this dialog today.

On October 23 of this year, the American Citizens Committee sponsored a dinner here in Washington to commemorate the passing of 15 years since the Hungarian revolt in 1956. At that dinner, our colleague from New York (Mr. HORTON) presented the keynote address and discussed most cogently the present international realities of the 1970's and how they differ from the stark, cold war days of the mid-1950's.

I was deeply distressed by the American inaction during the 1956 Hungarian revolution. Since my election to Congress I have tried to focus attention on the plight of Hungary and other captive nations.

For the past year I have tried to get a commitment from the administration to guarantee the safekeeping of the Hungarian Holy Crown of Saint Stephen. Mr. Speaker I am particularly pleased at the number of our colleagues who have joined me in cosponsoring my concurrent resolution to maintain the holy crown in the safekeeping of the United States until such time as a constitutional government freely elected by the Hungarian people once again functions in Hungary. At the present time, there are 39 cosponsors in this body and seven in the other body.

Further, I received word this week from Chairman THOMAS MORGAN of the House Foreign Affairs Committee, to which this resolution was referred, that House Concurrent Resolution 385 has been assigned to the Subcommittee on Europe for further action.

Mr. Speaker, since becoming involved in this issue, I have written to President Nixon on several different occasions requesting a clarification of our present negotiating stance vis-a-vis the Hungarian Government on the subject of the disposition of the holy crown. For the record, I would like to include at this point that series of letters:

MAY 19, 1970.

THE PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: Recent news reports indicate that the diplomatic and commercial relations between the United States and Hungary are improving and it has come to my attention that the Holy Crown of St. Stephen, Hungary's national treasure and main symbol of constitutional government, may be surrendered by the United States in future negotiations. Allow me to impress upon you, Mr. President, that this should not be a negotiable item.

The Crown of St. Stephen is the symbolic source of all Hungarian laws and powers. It has become the symbol of Hungarian sovereignty, achieving particular significance since 1945 when the Crown was entrusted to the United States for safekeeping until Hungary would once again function as a constitutional government established by the Hungarian people through free choice.

Despite the current improvement in our relations with the leaders of the Hungarian government, the United States cannot violate her trust by surrendering this state symbol to the totalitarian regime of a Soviet satellite. The unresolved dispute over United States claims on American properties confiscated or nationalized by Hungary after World War II gives us ample legal justification for holding this Crown as security against those unpaid claims. I urge that we maintain a firm stance on this matter.

The hopes of the oppressed people of Hungary for a future of freedom and liberty and the hopes of their brothers and sisters, the American-Hungarians in this country, will be dashed forever if the United States breaks its sacred trust and relinquishes the Crown.

Sincerely,

LAWRENCE J. HOGAN,
Member of Congress.

[From the New York Times, Apr. 15, 1970]

UNITED STATES AND HUNGARY PLEASED BY IMPROVING RELATIONS

(By David Binder)

BUDAPEST, April 14.—A perceptible improvement in diplomatic and commercial relations between the United States and Hungary is prompting officials in Washington and Budapest to view the future with optimism.

According to reliable sources proving at the pace maintained in the last seven months, the day may be close when Washington finds an occasion to return Hungary's national treasure, the Crown of St. Stephen, to Budapest.

The jeweled crown is nearly 10 centuries old. It was given to St. Stephen, who was King of Hungary from 1000 to 1038, by Pope Sylvester II.

PROPERTY OF HUNGARY

Hungarian soldiers serving in Hitler Germany's Wehrmacht removed it from the Budapest Castle just 25 year ago as the Red army tightened its grip on the capital. The Hungarians took it to Salzburg, Austria, where they handed it over to a United States Army unit for safekeeping. It has been locked up in Washington in a secret place ever since.

However, the United States Government has regarded it as Hungarian property.

The recent improvement in relations has occurred in two areas—diplomatic courtesies and commere.

Last August, for example, the Hungarians lifted travel restrictions for Ambassador Alfred Puhan, only two months after he had arrived. For 13 years previously the United States ambassador had been denied access to most border regions and to many major cities. Washington responded with a similar removal of restrictions on the Hungarian ambassador.

The United States Information Agency has been allowed more leeway in presenting exhibitions in Hungary. A recent display of a moon rock at the National Museum was given public notice in the party organ, Nepszabadsag. More than 35,000 Hungarians went to view the rock in its two days on exhibition.

For a visitor familiar with Hungary since 1964 these changes represent a notable departure from the cold war attitudes that dominated relations in the past.

U.S. CONCERNS HAVE TIES

In the commercial field, three American concerns are developing cooperation with Hungarian counterparts. Corning Glass has a $7-million operation here, making light bulbs together with the Hungarian Tungsram concern. The Hilton chain is participating in the building of a hotel on Castle Mill in Buda, the Budapest section on the west bank of the Danube. They are also planning a joint undertaking here.

One topic in which both the United States and Hungarian governments are interested is a consular convention that would allow Hungary to open consulates in New York and Cleveland, both of which have sizable Hungarian minorities.

While there is no need for American consulates in Hungary, Washington is interested in a consular convention as a means of providing added protection for American travelers in distress.

A long-standing issue between Budapest and Washington is United States claims on American properties confiscated or nationalized by Hungary after World War II. The two sides have made several unsuccessful attempts to negotiate this issue and still remain far apart. But another round of negotiations, the first in five years, is in the offing.

THE WHITE HOUSE,
Washington, D.C., May 28, 1970.

Hon. LAWRENCE J. HOGAN,
House of Representatives,
Washington, D.C.

DEAR LARRY: This will acknowledge and thank you for your letter to the President regarding diplomatic and commercial relations between Hungary and the United States, with particular reference to the Holy Crown of St. Stephen. You may be assured that your views on this matter will be brought to the President's attention at the earliest opportunity.

With warm regard.

Sincerely,

WILLIAM E. TIMMONS,
Assistant to the President.

THE WHITE HOUSE,
Washington, D.C., June 11, 1970.

Hon. LAWRENCE J. HOGAN,
House of Representatives,
Washington, D.C.

DEAR LARRY: We have had an opportunity to look further into the question of the Crown of St. Stephen of Hungary on which you commented in your letter of May 19. You may be assured that the White House and the State Department are fully aware that the custody of the Crown and the question of its ultimate return to Hungary have many delicate aspects. As you pointed out, the Crown has a unique character of great symbolic and constitutional significance to the Hungarian people. Clearly, these and other sensitive factors must be taken into careful consideration.

I am informed that the Hungarian Government has raised the matter of the return of the Crown in recent years, as discussions have been carried on looking toward the settlement of various long standing problems, but there are no present plans for the return of the Crown. Any such eventual action must serve the objective of goodwill and not discord, and the problem will continue to be treated with the discretion its delicacy requires.

With cordial regard.

Sincerely,

Richard K. Cook,
Special Assistant to the President.

August 18, 1971.

Dear Mr. President: On July 30, 1971, I introduced H. Con. Res. 385, with the cosponsorship of 24 of my colleagues in the House of Representatives, expressing the sense of Congress that the Holy Crown of St. Stephen should remain in the safekeeping of the United States Government until Hungary once again functions as a constitutional government established by the Hungarian people through free choice. I have enclosed a copy of this resolution for your review.

Subsequent to the introduction of this concurrent resolution, a news story appeared in *The Washington Post* of August 4, 1971, indicating that the Holy Crown is in imminent danger of being returned to the current Hungarian Government through ongoing diplomatic and commercial negotiations.

I feel strongly that the Crown should not be returned at the present time and that this national treasure and symbol of constitutional government, which has been entrusted to the United States Government for safekeeping, not be considered a negotiable item by our diplomatic representatives. I strongly urge that no further action be taken with regard to the Holy Crown until such time as the Congress has expressed itself on the concurrent resolution which these 25 members of the House of Representatives have introduced.

Despite any changes in our relations with the leaders of the Hungarian Government, the United States cannot violate her trust by surrendering this state symbol to the totalitarian regime of a Soviet satellite. As I stated in my letter to you of May, 1970, the unresolved dispute over United States claims on American properties confiscated or nationalized by Hungary after World War II gives us ample legal justification for holding this Crown as security against those unpaid claims. I urge, again, that the United States maintain a firm stance on this matter.

Mr. President, the hopes of the oppressed people of Hungary for a future of freedom and liberty and the hopes of their brothers and sisters, the American-Hungarians in this country, will be dashed forever if the United States breaks its sacred trust and relinquishes the Holy Crown of St. Stephen at this time.

Sincerely,

Lawrence J. Hogan,
Member of Congress.

[From the Washington Post, Aug. 4, 1971]

United States and Hungary Resume Talks on Crown Jewels

Budapest, Aug. 3.—Negotiations have been resumed for the return to Communist Hungary of the holy crown of St. Stephen and other Hungarian crown jewels, which have been in U.S. custody since the end of World War II, a Hungarian official said today.

Hungarian sources said this could be the first indication of an early settlement of the jewels' fate.

Istvan Darvasi, vice president of the Hungarian Peace Council, made the statement to a group of 50 American professors visiting Hungary.

The 11th Century crown, a gift from Pope Sylvester II to St. Stephen, Hungary's first Christian king, is Hungary's most treasured historical relic. U.S. troops took the crown and other jewels at the end of World War II from surrendering Hungarian forces, who were allied with the Germans.

The White House,
Washington, D.C., August 30, 1971.

Hon. Lawrence J. Hogan,
House of Representatives,
Washington, D.C.

Dear Larry: I would like to acknowledge and thank you for your letter to the President with reference to the Holy Crown of St. Stephen and the House Concurrent Resolution regarding it which was introduced by several Members in July. You may be assured your letter will be brought to the President's attention at the earliest opportunity.

With warm regards,

Sincerely,

William E. Timmons,
Assistant to the President.

Congress of the United States,
Washington, D.C., September 15, 1971.

The President,
The White House,
Washington, D.C.

Dear Mr. President: On July 30, 1971, we, the undersigned Members of Congress, introduced H. Con. Res. 385, expressing the sense of Congress that the Holy Crown of St. Stephen should remain in the safekeeping of the United States Government until Hungary once again functions as a constitutional government established by the Hungarian people through free choice.

Subsequent to the introduction of this concurrent resolution, a news story appeared in the Washington Post of August 4, 1971, indicating that the Holy Crown is in imminent danger of being returned to the current Hungarian Government through ongoing diplomatic and commercial negotiations.

We, the undersigned, feel that the Crown should not be returned at the present time and that this natonal treasure and symbol of constitutional government, which has been entrusted to the United States Government for safekeeping, not be considered a negotiable item by our diplomatic representatives. We strongly urge, Mr. President, that no further action with regard to the Holy Crown be taken until such time as the Congress has expressed itself on the concurrent resolution which we have introduced.

Despite any changes in our relations with the leaders of the Hungarian Government, the United States cannot violate her trust by surrendering this state symbol to the totalitarian regime of a Soviet satellite. The unresolved dispute over United States claims on American properties confiscated or nationalized by Hungary after World War II gives us ample legal justification for holding this Crown as security against those unpaid claims. We urge that the United States maintain a firm stance on this matter.

Mr. President, the hopes of the oppressed people of Hungary for a future of freedom and liberty and the hopes of their brothers and sisters, the American-Hungarians in this country, will be dashed forever if the United States breaks its sacred trust and relinquishes the Holy Crown of St. Stephen at this time.

Sincerely,

Lawrence J. Hogan, Joseph P. Addabbo, John B. Anderson, Frank J. Brasco, James A. Byrne, Philip M. Crane, Edward J. Derwinski, Thaddeus J. Dulski.

Edwin B. Forsythe, Don Fuqua, Seymour Halpern, Henry Helstoski, Louise Day Hicks, Frank Horton, William J. Keating.

Jack F. Kemp, Earl F. Landgrebe, James D. McKevitt, Thomas M. Pelly, Roman C. Pucinski, John H. Rousselot, Charles W. Sandman, Jr., William J. Scherle, and Lawrence G. Williams, members of Congress.

The White House,
Washington, D.C., September 17, 1971.

Hon. Lawrence J. Hogan,
House of Representatives,
Washington, D.C.

Dear Larry: Thank you for your joint letter to the President in which you urge that no action be taken to return the Holy Crown of St. Stephen to the current Hungarian Government until such time as the Congress has expressed itself on the concurrent resolution which you have introduced.

You may be assured that I shall call your comments and requests to the President's attention.

With warm regards,

Sincerely,

William E. Timmons,
Assistant to the President.

December 3, 1971.

The President,
The White House,
Washington, D.C.

Dear Mr. President: Once again, news reports indicate that the United States is negotiating with the Hungarian Government for the return of the Hungarian Holy Crown of St. Stephen, which was entrusted for safekeeping to the United States in 1945.

I am enclosing for your further information the translation of an article which appeared in the October 21, 1971 issue of the *Salzburger Nachrichten*, entitled "Secret Exchange of Mindszenty for St. Stephen's Crown?", as well as a copy of The Scott Report which appeared in the November 11, 1971 edition of *The Wanderer* newspaper. These articles allege that negotiations for the return of the Crown are under way, and even go so far as to indicate that the Crown has been promised in exchange for the safe resettlement of Jozsef Cardinal Mindszenty in Rome and Vienna. Despite these allegations, the enclosed copy of a letter which I received from Jozsef Cardinal Mindszenty indicates that the Cardinal himself wishes the Holy Crown to be retained in the United States at this time.

To date, thirty-nine members of the House and seven Senators have co-sponsored my resolution providing for the safekeeping of the Holy Crown until such time as a constitutional government freely elected by the Hungarian people once again functions in Hungary. This support is, I believe, indicative that many members of the Federal legislature are gravely concerned with the fate of this symbol of constitutional government and of the American role in its preservation.

I have called on Chairman Thomas E. Morgan of the House Committee on Foreign Affairs to initiate hearings on this important resolution. Prior to any public hearings, I would appreciate having your comments about these reports of alleged negotiations concerning the return of the Crown.

Sincerely,

Lawrence J. Hogan,
Member of Congress.

Vienna, *November 20, 1971.*

Rep. Lawrence J. Hogan,
U.S. House of Representatives,
Washington, D.C., U.S.A.

Sir: It is with the deepest sense of gratitude that I received the information about a resolution action for the preservation of the Holy Crown of St. Stephen, for trying to prevent its being delivered into the hands of our worst enemies.

I express my feelings of hope in the success of your endeavours for this noble cause.

With the expression of my thanks,

I am, sincerely yours,

Jozsef Cardinal Mindszenty,
Primate of Hungary,
Archbishop of Esztergom.

[Translation (German) Source: "Salzburger Nachrichten" ("Salzburg News") October 21, 1971]

SECRET EXCHANGE OF MINDSZENTY FOR ST. STEPHEN'S CROWN?

München [Munich] October 20, 1971 (DPA). According to information received by the CSU organ "Bayernkurier", secret negotiations between the American and Hungarian Governments are underway concerning the crown of Saint Stephen, which is on deposit at Fort Knox in the United States.

As the Bavarian Party organ writes in its latest issue, "the return of the crown of the founder of the Hungarian Kingdom was one of the conditions which the Hungarian Government had made for the granting of safe conduct for Jozsef Cardinal Mindszenty during his recent resettlement to Rome. Allegedly, the negotiations concerning the departure of the Cardinal who had enjoyed asylum in the U.S.A. Embassy in Budapest since 1956, resulted in Pope Paul VI's "strict order" for the Cardinal to come to the Vatican, while the Budapest Government had given its approval of the exchange of St. Stephen's crown for Mindszenty's departure."

[From the St. Paul (Minn.) Wanderer, Nov. 11, 1971]

WILL REDS GET ST. STEPHEN'S CROWN?

(By Paul Scott)

WASHINGTON.—Secret diplomatic maneuvering is now underway for the State Department to turn over the Holy Crown of St. Stephen's to the Communist Government of Hungary.

The historic crown, the oldest Christian symbol of freedom and authority in Europe, was entrusted to the U.S. Government in 1945 to keep it out of the hands of attacking Russian armies and until Hungary is a free nation again.

The return of the Holy Crown and its jewels is being engineered by Dr. Henry Kissinger, the adviser, and is an integral part of President Nixon's new policy of accommodating Moscow and Peking to obtain a lowering of East-West tensions.

Under the Kissinger plan, the Holy Crown is to be returned to Hungary before the President visits Moscow. The return could come as early as this Christmas if a U.S.-Hungary claims settlement agreement can be worked out before then.

The return of the Holy Crown is to serve as a public gesture to Moscow and the other Soviet-bloc nations that the U.S. Government fully recognizes Communist control over Hungary and the other captive nations of Eastern Europe.

Given to King Stephen of Hungary by Pope Sylvester II in the year 1000 A.D., the Holy Crown is a national treasure of immense historic and symbolic significance to Hungarians and American Hungarians who believe that government power is inherent in the Holy Crown itself. To many Hungarians, the Holy Crown represents that Hungary always would be a Christian nation.

Discussions on the arrangements for the return of the Holy Crown are now going on in Budapest between Hungarian officials and U.S. Ambassador Alfred Puhan. The arrangements are expected to be completed soon unless Congress bars the move.

Twenty-five lawmakers led by Representative Lawrence Hogan (R., Md.), a leading Catholic layman and former FBI agent, have introduced a concurrent resolution in Congress designed to block the return. Their resolution expresses the sense of Congress that the Holy Crown should remain in the United States until Hungary once again functions as a constitutional government established through free elections.

The House legislators, who are from politically strategic States ranging from New York to California, and Massachusetts to Pennsylvania, are now pressing for public hearings before the House Foreign Affairs Committee. The Hogan group's objective is to expose the Kissinger plan before it can be consummated and rally public and Congressional support against the return.

Their argument against the return is that it would be taken by persons behind the Iron Curtain as a breaking of a sacred trust and a sign that the United States has given up hope that Hungary and the other captive nations will ever be free. As one member of the Hogan group put it:

"The return of the Holy Crown would be a symbol that the United States believes Communist rule will go on indefinitely in Hungary and the other Eastern European nations."

State Department officials so far have been able to delay public hearings by declining to answer the committee's request for the Nixon Administration's position on the resolution.

THE NEW POLICY

The significance of the present U.S.-Hungarian talks to return the Holy Crown is that they began shortly after President Nixon made his decision to support the legalization of Communist control over all the people and nations seized during and since World War II.

Although never announced by the President, this new doctrine of writing off the captive nations of Europe and Asia was secretly made known to Soviet and Chinese leaders several months ago and shortly after the decision was made.

Administration insiders say the new Nixon policy had a lot to do with those invitations from Moscow and Peking for President Nixon to visit those countries next year. Another sign of the policy is the red-carpet treatment that the White House accorded President Tito when the Communist boss of Yugoslavia visited Washington last week.

It was Tito who encouraged Nixon during their meeting last year in Belgrade to give "legal recognition" to the territorial changes that took place in Europe after the Second World War.

MINDSZENTY EXILED

The pressured exile of aging Cardinal Mindszenty recently from his self-imposed asylum in the U.S. Embassy in Budapest was part of the new Nixon policy toward the Communists. As a symbol of a free Hungary, the Communist government there wanted Cardinal Mindszenty removed from the country. The Nixon Administration agreed and put pressure on Rome to force Mindszenty to leave.

Significantly, one of the charges leveled against Cardinal Mindszenty, when he was jailed after the Communists took over Hungary, was that he had urged the United States to protect the Holy Crown or turn it over to Rome for safekeeping. Cardinal Mindszenty was freed from jail by the Hungarian Freedom Fighters during the October, 1956, uprising. He was forced to seek asylum in the U.S. Embassy when Soviet troops crushed the rebellion.

Now living in exile in Austria, Cardinal Mindszenty's private plea to his supporters here is to do everything possible to keep the Holy Crown out of the hands of the Communists. One of his long-time supporters here, former Speaker John McCormack, is telling members of Congress that "the return of the Crown to the present Hungarian government must be stopped."

Mr. Speaker, after reviewing this correspondence I think it becomes eminently clear that the vital issue at the moment is whether or not our diplomatic negotiators are indeed negotiating away the Holy Crown of St. Stephen, the Hungarian symbol of constitutional government.

I am anxiously awaiting the President's response to my letter of December 3. I think that, in view of the interest of numerous Members of Congress and of Jozsef Cardinal Mindszenty himself in safeguarding this holy crown, we cannot stand idly by while our diplomatic negotiators adopt the stance that the crown is simply a jewel which should be handed over to the present Soviet-dominated Government in Hungary.

The Holy Crown of St. Stephen is far more than a jewel and giving it to the present Hungarian Government would deal a crushing blow to all American-Hungarians and to their captive brethren in their Hungarian homeland.

Mr. Speaker, since I have become interested in this matter numerous documents have crossed my desk which touch on the Holy Crown of St. Stephen. I include them in the RECORD at this point for the further information of our colleagues and the American public:

MEMORANDUM ON THE HOLY CROWN OF ST. STEPHEN

AN AMERICAN APPRAISAL

A distinguished American, John F. Montgomery, for eight years President Roosevelt's Envoy to Hungary, has defined the meaning and the intrinsic value of St. Stephen's Crown for the Hungarian people. In his book, "Hungary the Willing Satellite" he explained (p. 36) that "Hungary, as contrasted with England and nearly every other kingdom, has always put the crown above its wearer: *the king really served as regent for the crown* in which rested the sublime power carried down through the ages from the time of King Stephen." That sober American also paid tribute to St. Stephen and his people by stating that "with the coronation of its medieval king, who after his death was sainted, Hungary became the most eastern of the western lands," (p. 37).

CUSTOM AND CONSENT

The Hungarian constitution—although its application was interrupted in 1945 by Soviet military occupation—remains based on St. Stephen's Crown. The constitution is the product of the Hungarian Realm's millenary history, gradually developed by custom and consent, with its roots extending far back into the tribal past of the nation. It is of primary importance that sovereignty attributed to the Holy Crown derives from the rule that decisions on affairs of public concern have to be made in the name of St. Stephen's Crown, personifying both the King and the Nation. Since the reign of Andrew II (1205–1235), "the strict observance of the rights, the freedoms, and the laws of the nation" has been included in the king's oath of coronation. Charles Robert was not accepted as the constitutional king in 1308 by the Hungarian nation when at first he was crowned with a substituted crown.[1] He had to be coronated a second time in 1310 with St. Stephen's Crown. Since that time the coronation implies the constitutional sanction that "only he shall be recognized as a legally reigning king of Hungary, whom the nation has crowned with St. Stephen's Crown."[2] Since then the crown is being designated and revered as the "Holy Crown" of Hungary, a unique concept among people living under a monarchy.

MYSTERY OF THE HOLY CROWN

The mystery of the Holy Crown had been developed gradually and its partly religious, partly political origins could hardly be explained rationally, except by the fact that it grew out of the historical necessity to synchronize the sovereign authority of the

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Footnotes at end of article.

King with the Nation's insistence on its sovereign right to freedom. Sovereignty, however, means: supreme power—it is therefore indivisible. Unity and balance within the state had been secured in Hungary by personalizing St. Stephen's Crown and attributing to it the ownership of Hungarian sovereignty with the King and the Nation participating jointly in the Crown's ownership, as members ("membra Sacrae Coronae" [3]).

This theory (in America it might be called a "doctrine") was born in the early XII century. King Coloman ("the Booklover") noted in 1103 that his treaty with the Doge of Venice "would have less validity unless it was concluded with the consent of the Kingdom's Council".[2] Personal rule by the King has been alien thereafter and unacceptable to the Hungarian people. In contrast to west European practice, donation of land in Hungary could only be effected as a reward for public service ("iusto servitio", according to King Andrew II's "Golden Bull", Art. XVII of 1222) and not as a personal favor.

In later centuries, landed aristocracy did gain more, but never exclusive influence on the conduct of state affairs; its power was never able, however, to eliminate the principle of constitutional government as incorporated into the personification of the Holy Crown. This theory remained the source not only of the King's sovereign power, but also of the people's inalienable right to freedom and self-determination. Political science, in modern times, has accepted the concept of "the state as a living organism." The Hungarian people have never deviated from that concept. They have considered the State as a society, established in order to serve the welfare of the entire community. Personified, the Holy Crown is the owner of all the public power originally rooted in the nation and held jointly by the King and the people. Always more than a symbol, the Crown during ten centuries also represented the statehood of Hungary and her sovereign independence from foreign nations. In 1440, the National Assembly of Hungary in its Manifesto already recognized the Holy Crown as a "Mystery".

WERBÖCZY'S "TRIPARTITUM"

This interpretation of the Holy Crown's sovereignty had been fully developed by the end of the XIVth century. Unquestionably, "the Kings of Hungary obtained loyalty of their subjects primarily because of the fidelity owed by them to the Crown." [4] The famous jurist, Stephen Werböczy, in the beginning of the XVIth century (1517) did not formulate but only compiled the principles and rules of the then existing Hungarian constitution, formed by custom. In his egregious work, the "Tripartitum," based on accepted tradition, but not codified ever before, he defined the constitutional theory of the Holy Crown which upholds the irrevocable sovereignty of the King once he was crowned but sets up the constitutional limits of his power also. St. Stephen's Crown remains the only source of power within the state: it confers sovereignty but also vindicates absolute rule. The Holy Crown is not only the symbol of national unity, it also owns all the land which forms "the territory of the Holy Crown." The Crown also maintains, though sometimes only in principle, the equality of rights among all noblemen ("una eademque nobilitas") and actually prevented the aristocracy from legally setting up its rule over the lesser nobles as did happen in Western European feudal states.[5] King Ferdinand II, in 1635 (Art. XVIII) con firmed on the part of the Hapsburg Dynasty Werböczy's statement that "legislative power belongs jointly to King and Parliament." The Kings of Hungary ruled not alone "by the grace of God", but with participation and consent of the nation also. The will of the Holy Crown has only been accepted as "the law of the land." And "the law is binding also the King," stated Werböczy,[6] as being the basic rule in the constitution.

ABSOLUTISM REPUDIATED

The "mystery" of the Holy Crown has not been derived from the medieval idea of the state ("Mysterium Christi"), but from the ancient Hungarian concept of divided sovereignty between King and Nation, held in indivisible unity by the Holy Crown. With the ascension of the Hapsburg Dynasty to the throne of Hungary (1529) valuable Western aid was secured against continuous Turkish invasions. But frictions also resulted from the difference between the Hungarian theory of the Holy Crown and the feudal concept of the monarch's personal (absolute) power in his germanic provinces. Attempts by the King at imposing similar absolute rules on Hungary have been consistently repelled by the Nation as contrary to the theory of the Holy Crown.

Such was the fate of King Rudolph's imposition in 1604 of Law XXII proclaimed by the King without the Nation's consent which two years later in Art. 1 of the Vienna Peace Treaty was repudiated as null and void. The same fate befell Joseph II's entire reign when the laws of his regime were cancelled under his own signature. The Law X of 1790 declared: "It is being recognized by His Majesty that in Hungary and her Associated Lands, the right to make laws, enforce and withdraw them remains a joint responsibility of the constitutionally crowned King and the estates convened in Parliament, and nothing can be imposed except through Parliament." In 1462, the great King Matthias I had already proclaimed this principle and in 1741 Quen Maria Theresa had also emphasized that supreme power of the King is power conferred on him by the Nation ("concessa potestas"),[7] through the instrumentality of the Holy Crown.

THE BASIC REFORM OF 1848

The supreme power of the Holy Crown remained intact with the abolition of the nobility's privileges in 1848. Up to then, Hungarians who could trace back their ownership of land to original settlement or donation by the King, had been accepted as noblemen and thus participating in the membership of the Holy Crown. Thereafter, all Hungarian citizens became entitled to participate in that membership and to form jointly with the King, after he has been duly crowned, the entire Body of the Holy Crown, ("totum corpus regni Sacrae Coronae") it being identical with the Hungarian State. Since 1848, therefore, every Hungarian citizen could claim the rights and freedom reserved previously for nobles only. At the end of the Second World War, however, the Soviet Union imposed on Hungary the dictatorship of the Proletariate.

THE CORONATION

Since the Holy Crown has been considered for centuries the personification of the State and of its sovereignty, the crowning of a King had become an indispensable condition for the King's possession of royal powers. No law was needed to establish this postulate for an alert national conscience saw to it that the legality of the King's rule be properly established. The law passed in 1723 (the "Pragmatica Sanctio") on the succession of the House of Habsburg-Lothringen to the throne of Hungary, stipulated also that before being crowned, the rightful heir to the throne issue a diploma and guarantee under oath to abide by the Constitution. The powers to sanction law and to confer donations were reserved—according to Werböczy—only for the legally crowned King ("rex legitime coronatus"). Law III of 1790 also stipulated that "irrefusably" ("inomisse") the King's crowning must take place within six months from the heir's accession to the throne, or else all his acts and orders shall lose validity.

CONCLUSION

Mindful of the veneration paid to St. Stephen's Crown by Hungarians of all walks of life and every creed, there is unanimity among them that the last irreplaceable remnant of Hungary's millenary constitution and her national sovereignty may not be exposed to seizure by the Soviet army. It is generally felt that the historical existence of the Hungarian nation is attached to the Crown's survival for which innumerable Hungarian lives have been sacrificed during thousand years. The shattered sovereignty of the Hungarian state, the downtrodden freedom of its citizens, the confiscated independence of the nation, the entire destiny of Hungary are being intimately tied in the Hungarian heart to the fate of the Holy Crown.

Years ago, in 1955, the Department of State has given assurance [8] that it is "fully cognizant of the character and importance of St. Stephen's Crown", and that "as property of a special status held in trust by the United States authorities, the Crown of St. Stephen is being properly safeguarded under wholly secure conditions of custody," and that furthermore any exigencies that might arise from some future action "cannot endanger or otherwise affect the safekeeping of the object [the Holy Crown] in any way."

The present government in Budapest is being inescapably controlled by the Soviet Union. Handing over the Holy Crown to that government while Soviet troops are stationed in the country would be deeply resented as a breach of promise. It would cause lasting alienation from America among Hungarians all over the world. For no cogent reason it would be generally damaging to the good name of the United States government.

Dr. TIBOR ECKHARDT,
Chairman, Coordinated Political Affairs Committee of Hungarian Organizations in North America

FOOTNOTES

[1] C. A. Macartney: "Hungary, A Short History", Aldine Publishing Co. Chicago, 1962, p. 40.

[2] A. Timon: Die Theorie der Heiligen Krone (p. 309), published in Weimar by Hegmann Bohlens.

[3] All the Latin terms in this Memorandum are quoted from Werböczy's Tripartitum.

[4] A. Timon, Ibid., p. 318.

[5] Francis Eckhart, "The History of Hungary," Budapest, Káldor Publishing Co., 1946, p. 120.

[6] Werböczy, Tripartitum, Tit. 5, part II.

[7] A. Timon, Ibid. p. 322.

[8] On April 6, 1955, Mr. Walworth Barbour, Deputy Assistant Secretary for Foreign Affairs, issued the attached statement.

DEPARTMENT OF STATE,
Washington, D.C., April 6, 1955.

Hon. DALLAS S. TOWNSEND,
Assistant Attorney General,
Washington, D.C.

DEAR COLONEL TOWNSEND: Thank you for your letter of March 22, 1955 which enclosed copies of your communication to Mr. Bernard M. Shanley and a letter from Dr. Tibor Eckhardt concerning the Crown of St. Stephen of Hungary. I greatly appreciate your courtesy in bringing this matter to my attention.

The Department of State is fully cognizant of the character and importance of St. Stephen's Crown. This historic and symbolic object is held in trust and safekeeping by United States authorities under circumstances of especial delicacy and responsibility. In view of the unique nature and status of the property, as well as of important considerations relating to its physical care and safeguarding, I regret to inform you that the Department of State is not prepared to permit the release of the Crown, however temporary, from official safekeeping or to accede under any circumstances or conditions to requests or proposals for its exhibition.

As property of a special status held in trust by United States authorities, the Crown of St. Stephen is being properly safeguarded under wholly secure conditions of custody. I can assure you, therefore, that any exigencies that might arise from the reestablishment of sovereignty by the Federal Republic of Germany or from some future action of a German government cannot endanger or otherwise affect the safekeeping of the object in any way.

Sincerely yours,

Walworth Barbour,
Deputy Assistant Secretary for European Affairs.

Cardinal Mindszenty on St. Stephen's Crown

1. The Crown of St. Stephen was given by Sylvester II to Stephen in the year 1000.

Stephen (named Vajk) who was merely the Dux or Leader of the Magyars became recognized as an Apostolic King of a European State, and Hungary became a new State in Europe.

2. In granting this crown, Pope Sylvester was acting in the manner similar to Pope Sylvester I, who was Pope when Emperor Constantine issued the Edict allowing Christians religious liberty in the Roman empire.

3. By accepting the crown, Stephen established the Hungarian State which recognized the right of religious liberty—that is, that the Christian faith would have its own institutions free of the State. A part of the agreement was the establishment of the Archbishopric of Esztergom (Mindszenty's See) and other bishoprics.

4. Thus the Crown has, over and above its political importance, an ecclesiastic and religious significance, which puts Cardinal Mindszenty under permanent obligation and right to preserve and protect it.

5. Because of the extraordinary circumstances surrounding the establishment of the Hungarian State, quite unlike the origins of any other European State, *Mindszenty felt and still feels*, that the liberty of the church is best safeguarded by the doctrine of the Holy Crown, which places reciprocal rights and duties on the secular authorities, the ecclesiastic authorities, and the *people* of Hungary.

6. The "doctrine of the Holy Crown of Hungary" thus denotes, as a symbol, the *constitutional* relationship between the political, or secular, power; the ecclesiastic power; and the national, or popular, power. *It is not the crown of a royal family or dynasty, but it has a significant symbolic meaning for the whole country. The Holy Crown is the source of national existence and the basis of sovereignty. The King* (*or it could be President*), *wearing the Holy Crown on the one hand,* and the nation as a whole on the other, together constitute the "body" of the Holy Crown—the Hungarian State in its entirety. The territory of the State is the territory of the Crown. All prerogatives are not rights of the King, but of the Holy Crown (that is, of the Constitutional State). The right of the Legislature, as well as the right of the executive or king, is also the right of the crown. Legislative authority is exercised jointly by the monarch and the "members of the nation" represented in Parliament. The right to sanction or veto legislation is thus conferred upon the King only by his coronation and on the understanding that the other rights of other branches of the government are honored by him. Included among these, of course, is the liberty of the church and of the right of churchmen to be in free contact with the Holy See.

7. Cardinal Mindszenty stressed recently to the religious leaders with whom he spoke in the Vatican that he did not change his opinion about this matter since 1948 when he expressed his views on the Crown in a letter to U.S. Minister Selvin Chapin in Budapest. The letter is preserved in the Archives of the State Department.

8. Cardinal Mindszenty has been writing while in the U.S. Embassy in Budapest a five volume history of the Hungarian church during five crisis periods, including the last one in World War II. He intends to publish it in Vienna where he hopes to document this work using the church archives.

[From Michigan Catholic, Nov. 17, 1971]

Mindszenty Asks Nixon To Keep Hungarian Crown

Washington.—Cardinal Joszef Mindszenty reportedly has written a letter to President Nixon asking that neither St. Stephen's crown nor cloak—symbols of Hungarian sovereignty—be released to Hungary's Communist rulers.

Although the White House did not confirm receipt of the letter, a source told NC News that it was sent to the President in care of Frank Shakespeare, director of the United States Information Agency. Shakespeare was not available for comment.

The source claimed that Cardinal Mindszenty's letter not only cautioned the President against transferring the crown from a U.S. hiding place to the Communists, but condemned Janos Kadar, head of Hungary's Communist regime, and requested that the United States give money to certain members of Hungarian nobility.

If the cardinal's letter reached the President, it could be considered something of a personal coup for the elderly prelate whose words were heavily guarded by the Vatican after he hesitantly agreed in September to end his self-exile in the U.S. embassy in Budapest at Pope Paul's insistence.

The whereabouts of St. Stephen's crown remained foremost in his mind because Hungarian tradition gives government leadership to its possessor who, many Hungarians believe, should be the country's Church leader in the absence of a ruling king.

Cardinal Mindszenty has placed so much importance on possession of the crown that he is believed to have earlier urged the late Cardinal Francis Spellman of New York "in a ferocious letter" not to let the crown fall into Communist control—an act which Cardinal Mindszenty thought would perhaps destroy the morale of Hungarians who trusted the symbolism of the crown's power.

This trust has led to some Hungarians' insistence that their country's leadership under Kadar is not legitimate because it does not possess the crown.

Lack of the crown does not seem to have affected Kadar's rule but Communist leaders have resumed their calls for the crown's return to Hungary.

The crown originally bestowed on King Stephen I of Hungary in 1000 A.D. by a Pope, has through the ages been a symbol of civil power.

The crown fell into U.S. hands in 1945 after a regent of Hungary fled Soviet invasion and took it to Austria where Americans found it with other valuables in a discarded wooden case.

A copy of the crown is on display in the Vatican museum but the original rests at a spot undisclosed by U.S. officials who remain reluctant to discuss it.

The source said that Cardinal Mindszenty's letter to President Nixon was written in faulty English and unclear terms and warned that "Kadar is evil because under his rule several million embryos will be handed over to satan."

The Trial of József Mindszenty

Mindszenty. Whether on the first or second occasion, I don't know. But it happened.

President. So it happened.

Mindszenty. Yes.

President. Did he also tell you that he was soon going abroad, to France, and so would get in touch with Otto?

Mindszenty. I think he said this, too.

President. He did, in fact, leave and discussed matters with Otto abroad in 1947, and returning home in October 1947, he visited you again?

Mindszenty. Whether in October, I don't know, it is unimportant. But he visited me.

President. It is unimportant. Is it correct that it could have been in 1947 in the autumn? The year before last?

Mindszenty. Yes, I think so.

President. Where did you meet? You will certainly remember the place better.

Mindszenty. I think at the central seminary.

President. Did Ullmann report what he had discussed with Otto?

Mindszenty. Yes. He sent his greetings.

President. Did you write to United States Minister Chapin on August 31, 1947, asking him that the Hungarian Holy Crown which was in the possession of the American Army should not be sent to Hungary but to Rome?

Mindszenty. Yes.

President. What was the reason for this? To whom does the Crown belong?

Mindszenty. Undoubtedly to the Hungarian nation.

President. Who is entitled to deal with the Crown? To it? And where should this be done?

Mindszenty. In any case, in normal times we all consider it natural that the Holy Crown be guarded in Budapest in the Castle of Buda. Nevertheless, in the given situation the matter did not appear to be so, since everybody thought the Holy Crown lost and was sorry about it.

President. It was known at that time that it was not lost. It survived the events of war and the excesses of the Arrow Cross.

Mindszenty. Yes.

President. Now I am going to review the letter marked A/8 (showing it). Is this your own handwriting?

Mindszenty. Yes.

President. Here is also Zakar's own English translation:

"Your Excellency,

The United States returned, her soldiers brought back the Holy Right Hand of Saint Stephen, our first king, which has remained preserved for 909 years. His Holy Crown our most valued constitutional and historical relic, is also in the hands of the United States Army in Wiesbaden, Germany.

My request to you is to obtain an order from your Government, effecting the transportation of the Crown by the Army and its transfer to the same Apostolic Power, His Holiness the Pope, whose predecessor presented St. Stephen with the Holy Crown in the year of 1000.

Since this cause is a very important one for our nation, and since demands for its return and military advances might be fatal for the Crown, only Rome could reassure us.

Please accept my sincere esteem, etc."

Defense Counsel: I beg the People's Court to permit the Prince Primate to sit down if he wishes.

President. I beg you, please tell me if you are tired, then of course. Are you? A chair please. (Guard brings a chair, Mindszenty sits down.) If you are also mentally tired, please tell me, and I shall order a recess. Should we go on with the trial?

MINDSZENTY. Yes.

PRESIDENT. So here is the original letter from Selden Chapin, dated September 2, 1947. It reads as follows:

"Legation of the United States of America

BUDAPEST, HUNGARY,
September 12, 1947.

MY DEAR CARDINAL MINDSZENTY: I have received your letter of August 31 with regard to the disposition of the Holy Crown of Saint Stephen that your state is now in the hands of the United States Army in Wiesbaden.

Permit me to assure you, my dear Cardinal, that your suggestion will be given due consideration at such time as the disposition of this relic is brought to the attention of this Legation.

Sincerely yours,

SELDEN CHAPIN,
American Minister.

His Eminence Joszef Cardinal Mindszenty, Arch Primate of Hungary, Archbishop of Esztergom, Esztergom, Hungary."

Did Zoltan Csáky visit you in September 1947? Did you know him formerly?

MINDSZENTY. No, never.

PRESIDENT. How did he happen to come to you? Who recommended him to you?

MINDSZENTY. I think he came with a letter from Professor Baranyai.

PRESIDENT. Here is the letter written to you by Baranyai on August 26, 1947. (*He reads the letter.*) Baranyai considers you alone competent to deal with the matter of the Crown. This also shows that you considered this matter from the Legitimists' viewpoint. Isn't it so? You said just now that only the Hungarian Government was competent.

MINDZENTY. In any case, I thought that for the religious side I had some role in this respect.

PRESIDENT. Did you report to any official of the Hungarian Government in what danger the Crown was, and that it would be a good idea to get it to Rome for the time being, and later after the international tension had ceased, we could bring it home? Did you suggest this to anybody?

MINDZENTY. No, I did not report this to anybody because I was told meanwhile that the American Government was already beginning to be reluctant about returning certain Hungarian property. This I heard in Hungary from the Ministry of Finance.

PRESIDENT. All the more reason! If you had wanted to save the Crown for the Hungarian nation and not to make use of it against the existing State, then you would have cooperated with the Government organs. We had an entire organization abroad searching for looted property, until its work was made impossible. This would have been the natural course to follow.

MINDZENTY. I never thought of it.

PRESIDENT. This would have been legal and natural, wouldn't it?

MINDZENTY. I didn't take such steps.

PRESIDENT. You didn't take any steps for this purpose. Did Zoltán Csáky visit you later on with the above mentioned letter? What did he report on?

MINDSZENTY. I think he referred to his relationship with Ernö Pajtás and said that he no longer doubted that the Holy Crown was in Wiesbaden. He said this and said he could cooperate in bringing the Holy Crown perhaps to Rome. Then I gave a commission to Csáky, wrote a letter for him that he could intervene with the authorities concerned. If I remember well, the Archbishop of Vienna and then the Archbishop of Salzburg, were directly mentioned.

PRESIDENT. (He reads Mindszenty's letter of recommendation. Is this your own writing? (He shows it.)

MINDSZENTY. Yes.

PRESIDENT. (He reads Mindszenty's letter to the Archbishop of Vienna and to the Archbishop of Salzburg and the letter of recommendation for Zoltán Csáky.) Did you send the two letters of recommendation to the above mentioned Archbishops?

MINDSZENTY. Yes. Then Csáky turned to other people whose names I had not expressly mentioned.

PRESIDENT. Did you know that Csáky returned home from the West illegally?

MINDSZENTY. This I only knew when he returned the following year. If I remember well it was in the middle of January, and he showed me the replies. I asked him why these letters had come so late, though they were addressed to me. He answered: "I didn't want to send them any other way. I wanted to bring them personally and I was not able to pass the frontier." Then I knew that he used to go illegally.

PRESIDENT. Csáky asked you for financial support for these trips on his first visit. Did he get it? Did you give him any financial support?

MINDSZENTY. Yes, I did. I couldn't say exactly how much. I gave him 4–5000 forints.

PRESIDENT. You gave him 4–5000 forints.

NATIONAL CAPTIVE NATIONS COMMITTEE,
Washington, D.C., October 6, 1971.

Hon. LAWRENCE J. HOGAN,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN: This committee and its associated members, such as the Ukrainian Congress Committee of America, express their full and wholehearted support for your measure, H. Con. Res. 385, seeking the retention of the Holy Crown of St. Stephen in the safekeeping of our Government until the Hungarian people are free again. This commendable measure cannot but receive the support of our concerned citizenry.

You have our highest praise and admiration in leading this endeavor, and rest assured of our supporting efforts.

With warmest personal regards and best wishes,

Sincerely,

LEV E. DOBRIANSKY.

RESOLUTION

Resolution adopted at the 9th World Congress of the Hungarian Freedom Fighters (Nemzetor) World Federation with the Hungarian October 23rd Movement and the Hungarian Freedom Fighters Parliament's session in New York on October 23, 1971.

In the perspective of the past fifteen years it becomes more and more obvious that the Hungarian Revolution and Freedom Fight of 1956 was the most outstanding history-shaping event of the Twentieth Century.

We Hungarian Freedom Fighters as well as all freedom loving peoples of the world condemn the treacherous attacks of the Soviet Union on the Hungarian people in October-November 1956 and protest against the continued occupation of Hungary. We solemnly remind the world of the fact that these attacks as well as the continued colonial rule of Hungary was and still is made possible only by the inaction, indifference and lack of understanding of their responsibilities of the still free nations of the world.

It must be emphasized before the peoples of the world that the present authorities in Hungary were imposed into power by the armed forces of the Soviet Union, and are maintained in power by the Soviet occupation forces against the expressed and manifested will of the Hungarian people and that the Hungarian people have no desire to participate in or to give support to such a Soviet-imposed Communist regime.

Therefore, we call upon the Peoples and Governments of the Free World to support the demands listed hereafter at the proper international forums:

1. Soviet troops to be withdrawn from the territory of Hungary without delay.
2. Law and order is to be maintained in the country after the withdrawal of Soviet troops by an international force that will observe the sovereignty of the country.
3. Free and secret elections to be held under international supervision to elect a truly representative Hungarian Parliament. A new representative Government be formed based on the results of these elections with the aim to lay the foundations of a free and democratic Hungary in accordance with the aims and purposes of the Hungarian Revolution and Freedom Fight of 1956.
4. People formerly sentenced for their participation in the Hungarian Revolution and Freedom Fight be rehabilitated.
5. Return of Hungarian citizens who were deported to the Soviet Union before and after the events of 1956.
6. An International Commission be sent to Transylvania, and to all other countries bordering Hungary with substantial Hungarian population to investigate and to bring to a stop the genocide of Hungarians there.
7. The Abortion Decree of Hungary be immediately revoked so the future of the Hungarian Nation will not be murderously undermined.
8. Rehabilitation and unconditional return of Jozsef Cardinal Mindszenty, primate of Hungary, to his seat in Esztergom.

We firmly believe that as long as these demands have not been fulfilled, the Hungarian question cannot be considered solved and no true peace can be established in the world.

Those present at the Congress unanimously call upon the joint Central Committee of the Hungarian Freedom Fighters (Nemzetor) World Federation with the Hungarian October 23rd Movement and the Hungarian Freedom Fighters Parliament to act as their representative and spokesmen for all Hungarians.

TIBOR TOLLAS: THEY'VE WALLED UP EVERY WINDOW . . .

Of life without, only this gleam was left,
A tiny patch of stars, a glimpse of sun.
In daily gloom, within dim walls bereft,
We watched the vent for this as day was done.
This too they stole, this streak of sunlight thin,
They've walled up every window tight with tin.

In memory's eye, I mark the azure sea
At Naples, and beside the shining shore
Vesuvius waits and smokes. Can you, like me.
See happy, sun-browned swimmers by the score?
We live in night like men who blind have been:
They've walled up every window tight with tin.

Our ten mouths gasping for the missing air,
Ten of us lie, in one close kennel pent,
As fish-gills on the bank might gasp despair.
To eat the food, which stinks of excrement,
Our stomachs lack the power to begin:
They've walled up every window tight with tin.

From the bright fragrance of the Alpine peaks
The west wind blows freshness of bouquets;
Of virtue to the soul that distance speaks,
And smiling summits swell the hymn of praise.
But phthisis grips my cell-mate, dark as sin,
They've walled up every window tight with tin.

For us no more the steamer's whistle blows;
All maiden laughter from our sense is wiped;
No pleasure in our ears sonorous flows;
No summer plays an organ, myriad-piped.
Our cells are deaf, all sound is dead herein:
They've walled up every window tight with tin.

By Barcelona, in a garden fair,
The warm vice of a tawny woman croons;
The streets are pied with dances here and there;
A gay guitar gives dusk its tinkling tunes.
Our leaden days flow silent in chagrin:
They've walled up every window tight with tin.

We probe in darkness towards the velvet skies
As if within a coffin we were nailed,
We only touch our rags and agonize,
Or feel our hands by vermin-hosts assailed.
We once caressed the sunlight, like soft skin,
They've walled up every window tight with tin.

There is a ball in London; like a rose
A girl glides, in her silks, on floors that gleam;
In all the bloom of lustrous hair she glows,
Soft-mirrored in the wainscot, like a dream.
The West is dancing. Has it Magyar kin?
They've walled up every window tight with tin.

Our tongues recall the pleasant taste of spring
Then swallow with a groan our morsel dank
Whose fecal horror chokes its entering
And turns our bellies sick, our reason blank;
Yet even this our famine forces in.
They've walled up every window tight with tin.

Sleep locks our hungered bodies in its spell
And there I sate a gourmet's appetites
On all that Paris offers—see as well.
Climbing above the city's neon-lights,
The Silent Ghost—but here no dawns begin;
They've walled up every window tight with tin.

The radios shout hoarsely of new deals,
Of freedom and of justice due to man.
But here my dungeoned body only feels
The million lashes of foul Stalin's plan,
From Vác to far Peking his slaves make din:
"Beware! Beware! Or through the entire world
They'll wall up every window tight with tin!"

(Translated by Watson Kirkconnell.)

(NOTE.—This poem was originally written in 1953 in the prison of Vac. Published first in the West after 1956, it became one of the most popular Hungarian poems. The "Windows Walled Up Tight With Tin" became a symbol of the retreating line of freedom everywhere.)

Mr. WAGGONNER. Mr. Speaker, the 15th anniversary of the Hungarian revolution once again brings into focus a valiant, but futile attempt to shake off Soviet shackles, and how fortunate we are to represent a freedom-loving country with none of the unsurmountable odds faced by the unarmed and unprepared Hungarians in their outcry for human dignity and liberty.

The cost of the Hungarian revolution to the Soviets was high, even though they crushed it, although the cost to the awe-inspiring Hungarians who revolted was much higher. Hungary is still a captive nation, an unhappy land of the averted glance and hushed conversation which come with living under a totalitarian system with no room for political freedom.

In painting a true picture of the Communist oppression, the Hungarian revolt goes down in history as a tragic contribution to man's struggle for independence and freedom. I pray that the Hungarian people may one day get the independence and freedom they so richly deserve, and that all people living under the yoke of oppression may one day be free.

Mr. MINSHALL. Mr. Speaker, on Monday of this week I joined with my good friend and very able colleague, Congressman HOGAN of Maryland, as a cosponsor of his resolution expressing it to be the sense of Congress that the Holy Crown of Saint Stephen remain in the safekeeping of our government until Hungary once again is a constitutional government established by the Hungarian people through free choice.

It seemed particularly appropriate to me to take this action as we observe the 15th anniversary of the Hungarian revolution.

Today we commemorate the incredible events of 13 years ago when for five wild, triumphant, and heartbreaking days, Hungary threw off her shackles and was free.

In those few days freedom of religion was restored. Free speech was possible on radio and in the small newspapers which sprang to life. Political parties of every shade of opinion began to take form.

After 11 years of oppression and tyranny, 11 years of despair, Hungarians seemed to have miraculously won their freedom from the Soviets.

The winning, and tragic losing, of those 5 memorable days cost Hungary, and all the free world, most dearly.

But those brief shining hours of freedom remain an inspiration to us all, a symbol of the undying determination of Hungary to gain real and lasting liberty. Today we reaffirm that we will keep burning the torch passed to us by those brave men and women, and even children, the freedom fighters whose unbelievable courage shook the world when they pitted their determination and love of country against armed Soviet tanks in the blood-drenched streets of Budapest.

Twenty-five thousand Hungarians died when the Kremlin crushed the 1956 revolution. More thousands remain in prison to this day for their participation. To them we pledge to carry on the freedom fighters' commitment to liberty, not only for Hungary but for all men, of all nations, for all time.

Those of us who watched and waited and prayed during those critical days of late October and early November 1956, will aways vividly remember the horror of the Soviet's treachery. After solemnly pledging that they were withdrawing troops from Budapest, promising that Russia was preparing to discuss a revision of the Warsaw Pact, the Soviets struck.

Sunday, November 4, eight divisions, seven of them armored, and fleets of bombers, clattered and roared through the dawn. I recall the urgent teletype messages sent by a newsman and freedom fighter from the Hungarian MTI News Agency on that dreadful morning. He graphically described the heroism and hell of that day. In a telephone message to the Associated Press in Vienna, he said:

> Russian gangsters have betrayed us. They are opening fire on all of Budapest. Please inform Europe and the Austrian government, they have opened fire on everyone. There is heavy fighting. I stay and continue with the news.

At 6:10 he reported by teletype:

> Young people are making Molotov cocktails and hand grenades to fight the tanks. We are not afraid. Send the news to the world. The fight is very close now and we haven't enough tommy guns in the building. I don't know how long we can resist. Heavy shells are exploding nearby. Above, jet planes are roaring. I am running over to the window to shoot, but I will be back.
>
> We will hold out to the last drop of blood. Downstairs there are men who have only one hand grenade. Now the firing is starting again. We are getting hits. It can't be allowed that people attack tanks with their bare hands! Goodbye friends, goodbye. God save our souls. The Russians are too near.

The teletype line went dead, not to be heard again.

The light of freedom was fast fading over Hungary.

> Civilized people of the world—on the watchtower of thousand-year-old Hungary the last flames begin to go out—

Cried a Budapest radio station in one of the last free broadcasts from that city—

> Do not forget there is no stopping the wild onslaught of Bolshevism. Your turn will come also if we perish.

In the rubble-choked streets of Budapest, Soviet and Hungarian dead lay strewn, and patriots crept forth to cover the fallen freedom fighters with the red, white and green flag of Hungary.

Soviet tanks had mowed down Hungarian crowds in Parliament Square in a massacre of brutality that never can be forgiven. Telephone communication with the outside world was cut off. Trains stopped running.

A Swiss businessman who fled the country reported seeing "people hanging in rows along the Danube Pier, 20 executed people hanging from flagpoles and street lights. The Russians have started a horror regime."

We carry in our memories the desperate battles at Maria Theresa Barracks, at the Communist Party headquarters, at the steel mills at Csepel Island. We remember the 10-year-old freedom fighter firing a rifle nearly as long as he was tall, and the 15-year-old girl who fought for freedom manning a submachine gun.

With only a few arms, but with fantastic courage and determination, the freedom fighters of Hungary fought one of the most spectacular revolutions of all times.

"Our weapon is our flag," shouted one freedom fighter in defiance of Soviet troops, and the chemistry of courage, anger, and desperation that makes men wager their lives for an ideal gave them the strength to roll back the curtain long enough for the entire world to see the ugly, brutal face of Communist totalitarianism.

The freedom fighters have gained an immortality comparable to Thermopylae.

We strive for them now, in their spirit, the freedom fighters who gave their lives, the freedom fighters who remain in Soviet prisons and slave labor camps, the freedom fighters exiled from their homeland.

There are many of us working for them, the brave Hungarian people, the tired, oppressed and wretched people under the yoke of communism. One man alone cannot achieve the goal of freedom for Hungary, any more than the freedom fighters of Budapest could achieve that goal unaided. But, banded together, we ultimately can win through sheer force of combined moral strength and determination.

I hope that Hungarian friends everywhere will carry with them the words of the poet and great Freedom Fighter Tibor Tollas, written on the eve of the revolution:

Our hearts rise out of darkness, opening,
The purple flower clambers out of the earth,
Out of dark slavery our light is ripening—
Weaponless, the conquerors come forth!

Mr. J. WILLIAM STANTON. Mr. Speaker, the Hungarian revolution of 1956 constitutes a landmark in the history of men's fight for freedom from foreign domination. Having experienced 10 years of oppression, the Hungarian people rose up in an attempt to throw off the shackles of subjugation. After a decade of Communist government, they wanted to be able to decide who should govern their country through free and secret elections. This they wanted to do without the presence of Soviet troops, without restriction on speech and movement and without the all-pervasive control of the Communist Party. In short, the Hungarian people wanted for themselves the freedoms which we as Americans take for granted.

While those heroic efforts did not succeed in obtaining the removal of Soviet troops, they marked the end of the conception of a ring of placid satellites whose purpose was to serve as a strategic and economic barrier for the Soviet Union. By their actions, the Hungarian people told the Russians that they were not going to tolerate their control indefinitely. The Communists still rule in Hungary today, but they remember the events of 15 years ago and know that the desire for freedom is still as strong. As we pause in homage to the sacrifices of the Hungarian freedom fighters, let us rededicate our own lives to the cause for which they fought—freedom and dignity for all men .

Mr. McKINNEY. Mr. Speaker, some 6 weeks ago, I shared with the Members of this House some of the thoughts I had concerning the anniversary which was then upon us—the 15th anniversary of the fight for freedom in Hungary.

It is with a special sense of pride that I join with my colleague the gentleman from New York (Mr. HORTON) in reflecting on these thoughts again today.

Late in 1956, the living symbol of Hungarian freedom, Jozsef Cardinal Mindszenty, spoke for all of his countrymen when he said:

> We Hungarians want to live and progress as the standard bearers of the family of peaceful European nations. We want to live in a spirit of friendship with all the people of Europe and not on the basis of an artificially-created friendship. And turning our eyes toward more distant parts, we, a small nation, want to live in friendship, in undisturbed, peaceful and mutual esteem with the great United States, as well as the powerful Russian empire, and in good neighborly relations with Prague, Bucharest, Warsaw and Belgrade.

But sadly, Mr. Speaker, in that same speech, he had to agree that—

> There is no country which in the course of its thousand years of history has suffered more than we have.

This is a truly unfortunate commentary on the world in which we live. A small nation, with peace in its heart, in a lifelong struggle for freedom. In large measure, the primary force contesting this independence has come from the great plains to the east: the Mongols, the Soviets. The domination continues to today and the presence is only exceeded by the spirit of freedom which burns as a glowing undercurrent. The Hungarian people, and the world, will remember always the men and women of courage who gave their lives during those 17 days of freedom in 1956. The historical resolution which came to the fore during that time lives on as it did then. Sadly, the good cardinal has now joined the Holy Crown of St. Stephen in exile but he, like it, will return and this proud nation will some day see its legacy become reality.

In recent days, Mr. Speaker, a poignant poem has come to my attention and it was written in the midst of the 1956 fighting by one of Hungary's foremost poets: Lajos Tamasi.

Mr. Speaker, I would like to share that poem with my colleagues at this time:

RED BLOOD ON THE STREETS OF PEST

(By Lajos Tamasi)

We march and now our hearts are stirred
And quickened by some mystic powers.
Although our song may falter, now
We know the streets of Pest are ours.

Nothing is left for us but this,
Our only haven now is here:
We know we are about to see
A holy radiance appear.

Our banners jubilantly rise,
They float above like glowing flowers;
The silken colours billow wide,
The streets of Pest again are ours.

Our brave song once again is heard,
Our free hearts follow their own star.
To fire the guns we now confront,
Whom do you order, Commissar?

The blood is on the streets of Pest,
Young men our brave defenders are.
Their blood is on the streets of Pest—
Whom do you order, Commissar?

Whom do you order now to fire,
You, Ministers, who cringe with fear?
No secret police can save you now,
The hour of reckoning is near.

And in the name of those you kill,
Where are you running in defeat?
Where will you hid your blood-stained hands,
You murderers in full retreat?

The streets of Pest are running red,
Until the storm sends down the rain
And washes all the blood away,
Yet cannot wash away the stain.

The streets of Pest are red with blood,
On these the blood of youth is spilled.
Beside the tricolour on high
Hoist mourning banners for the killed.

Beneath the tricolour above
We make a solemn, threefold vow:
First, we must sorrow for the dead
And second, hate the tyrant now.

And third, a pledge for this small land,
Let those who still with life are blessed,
Remember: freedom has been bought
With blood upon the streets of Pest.

Mrs. GRASSO. Mr. Speaker, 15 years have passed since the ill-fated Hungarian revolution of 1956. But the people of Hungary and the world have not forgotten those too few days of freedom.

The revolution began on October 23, when the workers—supposedly the major beneficiaries of Hungary's socialism—joined with students to protest conditions in their country. The revolution spread rapidly throughout the country until freedom, long smoldering under the cloak of oppression, again filled every corner of the land. Unfortunately the heavy treads of Soviet tanks crushed the Hungarian attempt to achieve freedom.

Nevertheless, the impact of those 13 days has not been lost on the peoples of the world. The heroic struggle of the Hungarian people for truth, justice, freedom, and peace shines as a glowing example of the inability of even overwhelming odds to extinguish the flame of freedom.

American ties with the free people of Hungary reach way back into our history. After another ill-fated revolt in 1848, America honored the hero of that day, Lajos Kossuth. Throughout the years, Hungarian immigrants have contributed to the growth of our Nation. Today, the United States is the custodian of the symbol of a free Hungary—the Holy Crown of St. Stephen. To return this crown to the Government of Hungary—a government that rules, but does not represent the people—would be a betrayal of all that freedom-loving Hungarians have died for.

Therefore, I am pleased to join my colleagues who have cosponsored a resolution calling for the rentention of the crown of Hungary by the United States until Hungary once again has a constitutional government. Mr. Speaker, it is our way of proving to the people of Hungary that their sacrifices have not been in vain.

Mr. GUDE. Mr. Speaker, I commend my colleague Representative FRANK HORTON for his interest in keeping the memory of the tragic Hungarian revolution of 1956 alive. A gentleman from my district has written an interesting article on the views of former Secretary of State John Foster Dulles concerning this matter and I would like to insert it for the information of my colleagues.

The following article was written by Francis S. Wagner of Kensington, Md., and appeared in the book "The Hungarian Revolution in Perspective," Freedom Fighters Memorial Foundation, 1967:

JOHN FOSTER DULLES ON THE HUNGARIAN REVOLUTION

(By Francis S. Wagner, Kensington, Md.)

The sudden, unexpected outbreak of the Hungarian Revolution caught most of the observers of world politics by surprise. This is why only a few statesmen were able to make a matter-of-fact analysis of the Hungarian situation simultaneously with those historic events. Besides that there were some other reasons which prevented the realistic approach towards the problems of Eastern Europe. It should be noted that since the meeting of heads of government of France, United Kingdom, Soviet Union, and the United States in Geneva, 1955, international atmosphere was filled with the idea of peaceful coexistence between the East and the West.

And in promoting the peace mission the overwhelming majority of political analysts, especially foreign correspondents of newspapers, became such wishful thinkers who were inclined to label some East European countries, first of all Hungary, as easy-going satellites. As a direct consequence of such preset views, no wonder there was no room for a realistic interpretation of the far-reaching East European development stemming from the Poznan-Budapest mass demonstrations. The Poznan and Budapest riots lacked objective and versatile chroniclers.

As I have mentioned above, only a few statesmen could pass a correctly focused opinion concurrent with the Polish and Hungarian occurrences of 1956. Secretary of State John Foster Dulles belonged to this group of statesmen.

On October 21, 1956, just on the eve of the Hungarian revolt, the following question was asked Secretary Dulles: if the Iron hand or Stalin's rule were reimposed once more on the Eastern European Satellites, especially in Poland now, without the United States taking some sort of specific action to encourage the revolt as it seems to be developing, wouldn't that discourage for a long time any of the other peoples behind the Iron Curtain from trying to rise up against Moscow?

Secretary Dulles: "I do not believe that it is possible to keep a whole people under that kind of military control . . . You run into all sorts of problems . . . Now you cannot run a country just by guns . . . But certain types of peril I think have disappeared, and I think the type of peril that resulted in the militaristic policies of Stalin, I do not think that can be recalled or resumed by the Soviet Union . . ."

The late Secretary's brilliant analysis of the Hungarian situation and its effect upon the balance of power in East-West relations is all the more evident since it was delivered only a few weeks after the Soviet troops had quelled the Uprising: "The Poznan riots and consequent unrest in Poland seem to have been accepted as capable of being restrained within tolerable limits. But when that was followed by the Hungarian revolution and signs of unrest within the other satellite countries, it seems that after a period of some irresolution the decision was taken to use open force without any restraint to the extent needed to quell the revolution. Furthermore there seems to have been an effort to check to liberalizing trend within the Soviet Union itself. However, it seems that the Soviet rulers are still able to contain and if need be extinguish the liberalizing trends which were set in motion by their decisions of 1955 and the spring of 1956. Such forces once given an opportunity readily prove to be irresistible and it does not now seem that the Soviet leadership can successfully go back to the Stalinist policies. These policies are not bringing successes but disasters. The brutal display of crude force in Hungary has revolted the Communist parties within the free nations of the world. It has dissipated the illusions which tended to weaken and divide the free nations and within the satellite nations themselves there has been a demonstration which must be shocking to the Soviet rulers—that whereas they had counted upon secure advanced positions in Western Europe upon satellite allies which would fight with them, the reality is that their advanced positions are insecure and that in the event of war the satellite divisions would probably be found fighting against and not with the Soviet Union. Thus the military power position, particularly in Europe, has been greatly altered and altered in a way which it seems cannot readily be remedied to Soviet advantage. The fact is that within the last year Soviet foreign policy has suffered grave setbacks and the Soviet rulers must be in a state of great perplexity and even distrust when they see the ruin of much that they had planned and counted upon. We can take great satisfaction from what has happened but we must also realize that it is not without great dangers . . ."

En route home during a brief stopover in Bermuda the late Secretary of State made some remarks unusually sincere from a responsible diplomat to a group of just arrived Hungarian refugees (December 15, 1956) in which he masterly emphasized the main objective of the Hungarian Revolution.

"I am very happy that you are going to find freedom and opportunity in the United States. But I want you to know that we shall also be thinking, as you will be thinking, of your compatriots who are still in Hungary and ways in which we can also get freedom for them."

It is a fact that John Foster Dulles as a roving ambassador of freedom frequently used the example of the Hungarian Revolution at his most significant diplomatic missions, referring to it as an epoch-making series of events.

On March 11, 1957, at the Seato Council meeting, in Canberra, Australia, he prepared an "Outline for Statement. Introduction" in which he dealt in detail with developments in Poland and in Hungary. In conjunction with Poland he stressed "the influence of nationalism versus colonial exploitation" among the causes of the Poznan revolts and foresaw "the evolution toward Titoism."

In reference to developments in Hungary, Secretary Dulles emphasized as a history-making factor "the influence of nationalism and also of capitalism." In the Soviet military intervention, he saw "proof of continued Communist willingness to use violence to preserve its colonial conquests." Section 5 of the Outline is devoted entirely to "Communist China's Enlarged Role." He clearsightedly stated that Red China was emerging from its isolated position to the scene of world politics due to the international constellation created by the Hungarian Revolution. Secretary Dulles' train of thought about China's enlarged role is well demonstrated in his Outline: "Communist China's close partnership with USSR manifested in continuing efforts to maintain Bloc unity, culminating in Chou's trip to Eastern Europe and Chinese Communist support for Soviet use of force in Hungary. Peiping's influence and role within the Bloc appear to be growing . . ."

The editor of this volume has made some efforts to specify the indisputable correlation between the Hungarian Revolution and the timing of the Suez crisis. Because heretofore published documents and writings have not revealed much on this correlation I sent a letter to one of the great statesmen of our times, Mr. David Ben-Gurion, Prime Minister of Israel during the Suez affair asking for his contribution to our collective work. Mr. Ben-Gurion in his handwritten letter addressed to me on June 6, 1966, from Tel Aviv, wrote that he was unable to comply with my request and said: "I know too little about Hungary and the Hungarian Revolution to make any contribution for your book."

Since my very first effort has failed I should postpone any further investigation into the correlation of these two topics which cannot be made solely on the basis of the Dulles Papers I was granted access to. Serious research on this problem can start only in the event when all nations involved will open their archives storing documents relating to the ill-timed Suez crisis to the historical profession.

Robert Murphy, former high-level international troubleshooter, involved in the Suez crisis, in his memoirs described briefly the unique situation as follows: "The concomitant of the military operations in Hungary and Egypt burdened the State Department with its most intense responsibilities since World War II, causing me and some other officers to work around the clock, while Secretary Dulles went to New York to take personal charge with Ambassador Lodge, of the simultaneous proceedings in the United Nations."

Dulles' published and unpublished views alike are all the more the true reflections of a farsighted statesman because for the already mentioned reasons the whole world was thoroughly unprepared to deal with the complex situations arising from the Poznan-Budapest riots. There were not enough statesmen and specialists of Dulles' caliber even in world relation to meet the grave foreign policy situations. To characterize the then existing global views of the foreign policy constellation here we should again quote Robert Murphy: "In retrospect, world acceptance of the Russian aggression in Hungary is still incredible. For sheer perfidy and relentless suppression of a courageous people longing for their liberty, Hungary will always remain a classic symbol. Perhaps history will demonstrate that the free world could have intervened to give the Hungarians the liberty they sought, but none of us in the State Department had the skill or the imagination to devise a way."

Mr. KEMP. Mr. Speaker, it is an honor to participate in this commemoration of the Hungarian Revolution.

Almost 200 years ago America fought a war of independence and succeeded in gaining her freedom. I believe that Americans today, mindful of our own struggle to obtain liberty and self-determination, can feel a unique kinship with the Hungarian people who still suffer under the bondage of communism.

Mr. Speaker, I am proud that many people of Hungarian origin have chosen the western New York area and my district as their home. More than 15 Hungarian organizations and churches have banded together to form the Hungarians of the Niagara Frontier. This group includes the Hungarian Freedom Fighters' Federation, the Hungarian Girl Scouts and Boy Scouts, and many others.

On October 24 of this year, a ceremony was held by the Hungarians of the Niagara Frontier in the city hall of Buffalo, N.Y., to commemorate the Hungarian revolution and those who so selflessly gave their lives in a courageous effort to regain their nation's freedom.

The master of ceremonies was Albert J. Weinert and the major speaker was Robert Curran whose column appears in the Buffalo Evening News. A proclamation from the mayor of Buffalo was read and the ceremony concluded with the singing of the Hungarian national anthem.

On October 31, an ecumenical service was held at the Westside Hungarian Reform Church in remembrance of the estimated 40,000 Hungarians who died in the revolution.

This was followed on November 20 by a concert by the Kodaly Ensemble, an amateur folklore group with professional qualities, which strives to perpetuate the music and folklore of Hungary.

Dr. Judith M. Lehotay, who is one of those who personally experienced the tragedy of the Hungarian revolution, was kind enough to provide me these details of the Buffalo commemoration.

Were the Hungarian people's sacrifices in vain? I do not believe so. Their courage lives on in organizations such as the Hungarians of the Niagara Frontier and October of 1956 will always remain a grim reminder of Soviet imperialism and the complete failure of communism.

Archibald MacLeish has, I feel, expressed our feelings well in his writings concerning Hungary's fight for freedom. I quote from his work, "For the People of Hungary":

> We do not speak of a Hungarian Revolution. We speak of the Hungarian agony. From the moment when the Communist regime in Budapest fired upon an unarmed crowd and turned its quarrel with the Hungarian people from a political quarrel which it could not win into an armed revolt which, with Soviet aid, it could not lose, the suppression of the Hungarian resistance was inevitable. The world seemed to feel that it had no choice, short of atomic war, but to sit back and watch, in horror and disgust, the brutal, methodical destruction of an angry people by overwhelming force and conscienceless treachery.
>
> It is understandable, certainly, that we in the United States should feel ashamed by our inability to act in this nightmare. Nevertheless, we should not forget, in all the suffering and pain, that we owe the people of Hungary more than our pity. We owe them also pride and praise. For their defeat has been itself a triumph. Those Hungarian students and workers and women and fighting children have done more to close the future to Communism than armies or diplomats have done before them. They have given more and done more. For what they have done has been to expose the brutal hypocrisy of Communism for all of Asia, all of Africa, all the world to see. So long as men live in any country who remember the murder of Hungary, Soviet Russia will never again be able to pose before the world as the benefactor of mankind. The Hungarian dead have torn that mask off. Their fingers hold its tatters in their graves.

Mr. Speaker, I join with freedom-loving individuals everywhere in commemorating the gallant efforts of the people of Hungary to free themselves from Communist tyranny.

I include at this time, for the attention of my colleagues, the following articles: "The Blood of the Hungarians," by Albert Camus; "Hungary in 1971," by Mihaly Hoka; "The Contribution of Magyars to America," from the magazine Faklyalang; "With Worry and Faith," by the Hungarian Writers' Association; and "Facts About the Hungarian Revolution of 1956," excerpts from the report of the Special Committee of U.N. on the Problem of Hungary:

THE BLOOD OF THE HUNGARIANS

(By Albert Camus)

I am not one of those who wish to see the people of Hungary take up arms again in a rising certain to be crushed, under the eyes of the nations of the world, who would spare them neither applause nor pious tears, but who would go back at once to their slippers by the fireside like a football crowd on a Sunday evening after a cup final.

There are already too many dead on the field, and we cannot be generous with any but our own blood. The blood of Hungary has re-emerged too precious to Europe and to freedom for us not to be jealous of it to the last drop.

But I am not one of those who think that there can be a compromise, even one made with resignation, even provisional, with a regime of terror which has as much right to call itself socialist as the executioners of the Inquisition had to call themselves Christians.

And on this anniversary of liberty, I hope with all my heart that the silent resistance of the people of Hungary will endure, will grow stronger, and, reinforced by all the voices which we can raise on their behalf, will induce unanimous international opinion to boycott their oppressors.

And if world opinion is too feeble or egotistical to do justice to a martyred people, and if our voices also are too weak, I hope that Hungary's resistance will endure until the counter-revolutionary State collapses everywhere in the East under the weight of its lies and contradictions.

Hungary conquered and in chains has done more for freedom and justice than any people for twenty years. But for this lesson to get through and convince those in the West who shut their eyes and ears, it was necessary, and it can be no comfort to us, for the people of Hungary to shed so much blood which is already drying in our memories.

In Europe's isolation today, we have only one way of being true to Hungary, and that is never to betray, among ourselves and everywhere, what the Hungarian heroes died for, never to condone, among ourselves and everywhere, even indirectly, those who killed them.

It would indeed be difficult for us to be worthy of such sacrifices. But we can try to be so, in uniting Europe at last, in forgetting our quarrels, in correcting our own errors, in increasing our creativeness, and our solidarity. We have faith that there is on the march in the world, parallel with the forces of oppression and death which are darkening our history, a force of conviction and life, an immense movement of emancipation which is culture and which is born of freedom to create and of freedom to work.

Those Hungarian workers and intellectuals, beside whom we stand today with such impotent sorrow, understood this and have made us the better understand it. That is why, if their distress is ours, their hope is ours also. In spite of their misery, their chains, their exile, they have left us a glorious heritage which we must deserve: freedom, which they not only chose, but which in one single day they gave back to us.

HUNGARY IN 1971

On the 15th anniversary of the Hungarian Revolution and Freedom Fight, the situation in the country is basically the same as it was in 1956. The fact is that the regime can remain in power only because of the continued presence of Soviet occupation forces. Patriotism, faithfulness to the interests of the Hungarian people are still regarded punishable crimes. Practicing of religion is still punished with imprisonment. Catholic priests are still being sentenced to long prison terms for teaching religion "without permit and in secret." The so-called process of "liberalization" is nothing but a facade since the Kadar regime is as much intolerant and inflexible as any time since 1956.

At the end of 1970, the country had a population of 10,342,000, showing only an increase of 32,000 over the previous year. Adding 18,000 to this increase to account for those who defected in 1970, the total annual increase amounts to about 50,000, an extremely low figure in the world. This slow increase may have serious demographic repercussions already in the immediate future. *Torchlight*—the English version of *Faklyalang*—was among the first ones who raised their voices against this criminal genocide in Hungary. If the regime in Hungary does not remedy the situation by abolishing legalized abortions, as in Rumania recently, the Hungarian freedom fighters in the free world will take steps before proper international forums to coerce the regime to put an end to this type of genocide.

The dictatorship has not relented any in the recent so-called National Assembly and local council elections. The one-party system is still the rule of the day in Hungary.

It is worthwhile to mention that in a country whose people so unanimously revolted against the one-party system of the Soviet-imposed Communist Party, and where only about 6 percent of the total population is, even if nominally, member of the Communist Party, the regime obtained a 99 percent majority. They do not confuse themselves, however, because they know that the whole election process was but a farce.

According to the official Hungarian News Agency, MTI, 7,432,420 people were on the list of eligible voters. Of them 98.7 percent, or 7,334,918 voted in the elections. The number of those who did not vote was 97,502 or 1.3 percent. Of the total votes cast 7,258,121 or 98.9 percent were valid votes.

This time the regime permitted the nomination of two candidates in each district, on paper, since only 48 districts had in fact two candidates. But in one, in Obuda, the electors put a third one on the ballot, Zoltan Szep, a blind historian, who was also elected to the National Assembly by obtaining 56.1 percent of the votes in the district, a clear-cut rejection of handpicked candidates.

The farcical character of the whole election process is clearly demonstrated by the fact that the candidates for various offices had been selected by the Communist-dominated and Communist-run Patriotic People's Front—as its name indicates: a Communist front organization. The names of these handpicked candidates were submitted to so-called nomination meetings. According to official statements, there were an average of 400 people at these meetings. Taking the total number of districts, it becomes quite evident that only about 1.5 percent of the eligible voters approved the proposed candidates for the various offices. But nowhere in a Communist country did the people demonstrate the rejection of even the second choice of the party—and consequently the entire system—as in April 1971, the people of the election district of Obuda.

No wonder that the Soviet Union uses Hungary as a shop-window, a Potemkin village towards the non-Communist world, to deceive the eager foreigner. Behind an attractive facade there are considerable stresses and tensions well hidden from the eyes of the visitors. Living conditions are steadily deteriorating. The hardship of elderly people, particularly of the retirees of agricultural production cooperatives, is reaching unbelievable proportions. Some of these retired people receive the sum equivalent of a pair of shoes as a monthly pension in the "socialist paradise," in a state of "the workers and peasants."

Paralleling the role of economic shop-window, Hungary is also being used as a political propaganda outlet especially in cases in which Soviet prestige is deeply involved. Kadar's regime is the most outspoken promoter of the so-called European conference designed to secure or neutralize the Soviet Union's western flank in the face of increasing Chinese Communist pressure. It is the Kadar regime that most noisily condemns the unruly "Chinese comrades." They are also condemning the Rumanian Communist comrades for their friendship with the Chinese Communist regime. Curiously enough, they remain silent over the unbearable oppression of Hungarian minorities in Czechoslovakia and Rumania, and to some degree, also in Yugoslavia. These Hungarians suffer under a two-fold oppression: 1. for being democrats and anti-Communists, and 2. for being of Hungarian origin.

Kadar and his henchmen are concerned about the fate of the 4 million Hungarians living in the territories detached from Hungary in 1918–19, and again in 1945, as much as they are concerned about the fate of the 10 million Hungarians living in the present dismembered Hungary. Being the puppets of the Soviet Union, they only care about the interests of their masters who let the Hungarians bear the blame for the maneuvers directed against the Balkans.

Unfortunately, in the present feverish search for a detente by the government of the free world, cursory observers hardly look beneath and beyond the very enticing surface they see in 1971.

— *Mihaly Hoka.*

The Contribution of Magyars to America

On this 15th anniversary of the Hungarian Revolution and Freedom Fight we feel obliged to commemorate those who sacrificed their lives or who fought for the freedom of mankind. We fervently believe that the time will come when their sacrifices will be remembered as great contributons to the cause of freedom all over the world.

It is generally conceded, that all the racial groups which came to America contributed to the character, culture and material advancement of this country.

We are content that the Magyars have given more than their share. This is not a zealous exaggeration. but a statement supported by irreputable facts. We are proud in the knowledge, that we gave, we gave to America of which we too are forever an integral and inseparable part!

The name of Colonel Michael de Kováts is written indelibly in the annals of the American Revolutionary War. Colonel-Commandant Michael Kováts de Fabricy, was born in Hungary, 1724; volunteered his service through Benjamin Franklin, then American Envoy to France. After two years of intensive campaigning under General George Washington, he fell mortally wounded on May 11, 1779 in the battle of Charleston, S.C. His motto "Faithful Unto Death," determines our primary aim toward these United States.

In 1860 there were only about 4000 Magyars living in the United States, when President Lincoln sent out his call for men to join the Northern Army; more than 800 Magyars volunteered. This means that practicaly every able-bodied Magyar lined up with the Union Army. As far as proportionate population is concerned, no other ethnic group can match this record!

Unquestionably, one of the most daring and amazing feats in the whole Civil War was the death-defying charge led by the Magyar Hussar-major Zágonyi, at Springfield, Mo., on October 25, 1861. An everlasting tribute is paid to this great Magyar soldier by a painting which vividly depicts his suicidal attack. This painting decorates the White House in Washington, D.C.

Major Zágonyi is the first among immigrants from Hungary to be merited a prominent memorial at the National Park in St. Louis; a full-size portrait of him can be seen at the Wilson Creek Battlefield, near Springfield, Missouri.

Leading American newspapers devoted front-page headlines to some outstanding exploits at the time and even today, over 100 years later, accounts such as the following appear in the metropolitan press: "One of the most celebrated events of the entire Civil War. Major Charles Zágonyi's capture of Springfield took place on the seventh anniversary of the famous 'Charge of the Light Brigade at Balaclava.' Mounted on bloodied bays, clad in blue uniforms and wearing kid gloves, everyone of Zágonyi's men was armed with two revolvers, a rifle and a saber. This crack cavalry became a legend of bravery throughout the United States. When only 165 of his men remained to attack a force 15 times greater, the undaunted Major Zágonyi, a veteran of the Hungarian uprising of 1848, led the troops, shouting 'Charge men, charge!'" (Quoted from the Civil War Scrapbook published serially in 1,400,000 copies of the Chicago Sunday Tribune Magazine.)—A.B.D.

Hungarian Heroes of Two Great American Wars

REVOLUTIONARY

Colonel-Commandant of the Pulaski Legion, Michael de Kovats, Exercise Master of Washington's Cavalry; Died at the Defense of Charlestown, South Carolina May 11th, 1779.

Count Francis Benyovszky, Lieutenant of Hussars, in Lausun's Legion.

Count John Polereczky, Major in Lausun's Legion.

CIVIL WAR

Major-General Julius Stahel, Commanded an Army-Corps and was decorated with the Congressional Medal of Honor.

Major-General Alexander Asboth, one of the designer's of the Central Park in New York Commanded a Division and after the war was sent as U.S. Ambassador to Argentine.

Brigadier-General Albin Schoepf, Commanded a Division and a Fort.

Brigadier Generals: Frederic Knopfler, Eugen Kozlay, Charles Mandy, George Pomutz.

Colonels: M. Adler, Anselm Albert, P. Peter Dobozy, T. John Fiala, Philip Figyelmesy, Gabriel Korponay, Aloysius Kozlay, Geysa Mihaloczy, Joseph Muzsik, Joseph Nemeth, Maurice Perczel, R. Julius Rombauer, Emerich Szabad, Joseph Vandor, Gustav Wagner, Ladislaus Zsulavsky.

Lieutenant Colonels: Zoltan Barothy, Anthony Pokorny, Stephen Szendy.

Majors: J. Csermely, E. Detshy (Decsi), Dr. Alexander Fekete, C. Fornet, Andrew Gallfy, L. Haskell, Hugo Hillebrandt, St. Kovacs, J. Kune, Mano Lulley, Emerich Meszaros, Charles Petri, G. R. Rombauer, Albert Ruttkay, Anthony Vekey; Charles Zagonyi, The Hero of Springfield.

Captains: Victor Chandory, Alexander Gaal, O. Gerster, G. Grehenek, G. Grossinger, Geysa Haraszthy, P. Hauser, Ch. Hochleitner, A. Jekelfalussy, J. Kemenfy, P. Komper, G. Kovats, J. G. Menyhart, E. Radnics, Stephen Radnics, R. I. Rombauer, T. Roland Rombauer, M. Rozsafy, Ch. Schwartz, F. Speletics, F. Takacs, L. Tenner, A. Toplanyi, J. Vertessy.

Lieutenants: N. Bauman, I. Cormany, N. George, I. Debrecenyi, L. M. Lecsy, Ch. Dolezich, Wm. Esti, S. Farkas, A. Kelemen, W. Kapus, F. Langenfeld, T. Majthenyi, A. Moliter, E. Zsulavszky.

Second Lieutenants: F. Bauer, H. Lang, P. Szerenyi, Ch. Szerdahelyi, A. P. Zimandy, S. Zsulavszky.

Field Surgeons: Dr. B. Bettelheim, Dr. I. Langer, Dr. G. Semig. Dr. R. Tausky. And so on. . . .

With Worry and Faith

On December 28, 1956, soon after the crushing of the Revolution and Freedom Fight, 250 members of the Hungarian Writers' Association assembled in Budapest and 237 of them adopted a resolution entitled: "With Worry and Faith." Hereafter follows its English translation:

Many a storm has battered our nation in a thousand years. Nevertheless two lights always remained faithful to us in the darkness of the storms. One of them was the star of the nation the shine of which showed through the darkness of tempests; the other was the torch-light of our watchful poets which again became teaching for the Hungarian nation.

For us it means more because it is a mandatory heritage.

We would like to carry out this heritage faithfully. Though, it is difficult. Its carrying out is, however, the only way for us because there can be no absolution. Thus, here we stand under the moral compulsion of reckoning and confession. Here we stand over the bloody hill of the freedom fight of October which is being besiged by the hope of a people. If we look back to the last decade from this hill we see the people suffering and expecting. It suffered because the ideas of its time which it greeted with hope ten years ago were attempted to be forced upon their lives in an alien form and tyrannical manner. During the long oppression the historic wounds reappeared on its character and saw that its national independence is being lost. It was yearning with hope for healing while suffering in its undeserved fate and languished to become a nation.

The spring that erupted from the depth on October 23 comes from this hope and longing. As the renowned witnesses of this spring we have to tell it with bitter heart that the Soviet Government committed a historic blunder when it has painted with blood the water of our spring. The living spirit of our glorious poets and human justice help us to make a prophecy: the time will come when the Soviets will confess to their sins just like the tzars had to repent for the crushing of the Hungarian freedom a hundred years earlier. We warn everybody against the misconception, convinced and knowing our people that the revolution would have destroyed the achievements of Socialism without the Soviet arms. We know that this is not true. Because the workers' class, the peasantry and the majority of the intelligentsia was and invariably is the follower of democracy and of the achievement of Socialism in society which they did not want to emaciate but rather to make it more living. It wanted to make it more living, i.e., to cut it to its Hungarian shape and also to fill it with the spirit of its national traditions.

That is what we wanted and this is what we still want today, we who preach the words of the hope of the people and who wager our writer's fate for a better future. This is what we stand for, individually and in mass, for the popular law of the 1945 land reform; similarly in the case of the mines, plants and banks that they should flourish in the property of society. But does the land produce enough if the peasant does not find his pleasure in the methods of production? And does the commonweal flourish if the society is not healthy?

Yes, indeed, the worker and the peasant, the hand and the intellect, are discouraged by the lack of national independence. Without a healthy society the commonweal does not grow. We must, therefore, gain the national independence and especially in the interest of social progress; and through popular self-government we must create the healthy society.

National independence and the democratic structure of social order: these are the hopes of the Hungarian people which we also share and try to put in work. And while this intent fills our hearts and the future days of our writers' life, we interpret it to everyone from besides the cradle of national unity. In caring for the common aim we offer our hands to the workers, we sent our greeting from our souls to the peasantry and from our hearts to the youth. Let us convince the leaders of policy together that policy cannot be an end in itself but a means for the salvation of the people; let us enduce them to use this means in accordance with the unanimous desire of the Hungarian people. In other words, for one, for attaining independence, as for our internal life, domestic affairs for the building of the united Hungarian society on the stock of workers and peasants, with the help of the intellect and the intelligentsia, on the democratic way of self-government. Only thus can the strong and rich state come into being, the friendship of which with other countries is true and long-lasting and which not only banishes human exploitation but it does not weigh upon the people with its oppressive burden. The nation thus will be a certain trustee over the quiet and working society, over the state safeguarding the welfare of the people.

We have spoken in brief in these words about our Hungarian worries and we declare our adherence to our opinion. The literary words will be our words, our worries go into the eternity of time, our opinion moves in the letters of public writing and literary works.

We pledge allegiance before the flag which signaled to us that from the revolutionary unity of the people the nation was reborn. According to our declaration of faith we shall care for and protect the spirit of the Hungarian people. Morale be the foundation stone of our work, the creative force of the people shall find reason intellect and form in our works, the era shall find harmony with mankind and its ideas.

Only thus shall we be worthy of the great ancestors and only thus may we become the worthy guardians of future generations."

HUNGARIAN WRITERS' ASSOCIATION.

[Excerpts from the report of the Special Committee of U.N. on the Problem of Hungary]

FACTS ABOUT THE HUNGARIAN REVOLUTION OF 1956

CONCLUSIONS

784. The terms of reference of the Special Committee covered a broad field, namely to report to the General Assembly of the United Nations after full and objective investigation, its findings on all aspects of the question of Soviet intervention in Hungary by armed force and by other means and the effects of such intervention on the political development of Hungary. The Committee's investigation, as has been explained, involved the study of copious documentation from various sources and in several languages, as well as the questioning of more than a hundred witnesses, whose testimony fills two thousand pages in the verbatim record. The Committee regrets that the attitude of the Hungarian Government has prevented it from basing its investigation on direct observation in Hungary, as required by the General Assembly resolution.

785. The Committee's findings relate to many aspects of the events in Hungary and are concerned with numerous points of detail that have a bearing on the origin and nature of those events. The report itself embodies the conclusions of the Committee, and these conclusions cannot be readily dissociated from the evidence which is there assembled. A summary of the Committee's findings on individual aspects of the situation in Hungary has been appended to certain of the chapters. It would, however, seem appropriate at this stage to summarize a number of conclusions drawn by the Committee from its study of the evidence as a whole. To the best of the Committee's belief, these conclusions represent the essential facts about the Hungarian uprising which are necessary to an understanding of its nature and outcome. They are as follows:

(i) What took place in Hungary in October and November 1956 was a spontaneous national uprising, due to long-standing grievances which had caused resentment among the people. One of these grievances was the inferior status of Hungary with regard to the USSR; the system of government was in part maintained by the weapon of terror, wielded by the AVH or political police, whose influence was exercised at least until the end of 1955, through a complex network of agents and informers permeating the whole of Hungarian society. In other respects also, Soviet pressure was resented. From the stifling of free speech to the adoption of a Soviet-style uniform for the Hungarian army, an alien influence existed in all walks of life. Hungarians felt no personal animosity towards the individual Soviet soldiers on Hungarian soil, but these armed forces were symbols of something which annoyed a proud people and fed the desire to be free;

(ii) The thesis that the uprising was fomented by reactionary circles in Hungary and that it drew its strength from such circles and from Western "Imperialists" failed to survive the Committee's examination. From start to finish, the uprising was led by students, workers, soldiers and intellectuals, many of whom were Communists or former Communists. The majority of political demands put forward during the revolution included a stipulation that democratic socialism should be the basis of the Hungarian political structure and that such social achievements as the land reform should be safeguarded. At no time was any proposal made for the return to power, or to the Government, of any figure associated with pre-war days. "Fascists" and "saboteurs", heavily armed, could not have succeeded in landing on Hungarian airfields which were under Soviet supervision, or in crossing the Austrian frontier, where a closed zone was shown by the Austrian authorities to the military attachés of France, the United Kingdom, the United States of America and the USSR;

(iii) The uprising was not planned in advance. It was the universal testimony of witnesses examined by the Committee that events took participants by surprise. No single explanation can determine exactly why the outbreak occurred just when it did. Communist spokesmen, including Mr. Kádár and the members of his present Government, have recognized the bitter grievances of the Hungarian people before 23 October. They have spoken of a "broad, popular movement" caused by the "bitterness and indignation" of the masses. Two factors would seem to have brought this resentment to a head. The first of these was the news received on 19 October of a successful move by Poland for greater independence from the USSR. This news was largely instrumental in bringing the Hungarian students together in the meetings of 22 October. The second factor was the acute disappointment felt by the people when Ernö Gerö, First Secretary of the Central Committee of the Hungarian Workers' (Communist) Party, in his speech on the evening of 23 October failed to meet any of the popular demands and adopted what was considered a truculent tone towards his hearers;

(iv) Although no evidence exists of advance planning, and although the whole course of the uprising bears the hallmark of continuous improvisation, it would appear that the Soviet authorities had taken steps as early as 20 October to make armed intervention in Hungary possible. Evidence exists of troop movements, or projected troop movements, from that date on. It would appear that plans for action had therefore been laid some time before the students met to discuss their demands. The Committee is not in a position to say whether the Soviet authorities anticipated that the grievances of the Hungarian people, stimulated by events in Poland, could no longer be contained. Signs of opposition were evident before the 23rd; the Hungarian Government had reason to foresee that trouble was brewing. While the evidence shows that Soviet troops from outside Hungary were used even in the first intervention, no clause of the Warsaw Treaty provides for intervention by armed forces of the Soviet Union to dictate political developments within any signatory's frontiers;

(v) The demonstrations on 23 October were at first entirely peaceable. None of the demonstrators appear to have carried arms, and no evidence has been discovered that any of those who voiced the political demands or joined the demonstrators had any intention to resort to force. While disappointment at Mr. Gerö's speech may have angered the crowds, it would hardly of itself have sufficed to turn the demonstration into an armed uprising. That this happened was due to the action of the AVH in opening fire on the people outside the radio building. Within a few hours, Soviet tanks were in action against the Hungarians. This appearance of Russian soldiers in their midst not as friendly allies, but as enemies in combat, had the effect of still further uniting the people;

(vi) Obscurity surrounds the invitation alleged to have been issued by the Hungarian Government to the Soviet authorities to assist in quelling the uprising by force. Mr. Nagy has denied, with every appearance of truth, that he issued this invitation or was even aware of it. Since Soviet tanks appeared on the streets of Budapest at about 2 a.m. on 24 October, it would have been impossible for him to have addressed any official message to the Soviet authorities, since he held no government post at the time when the tanks must have received their orders. An invitation may have been made privately by Mr. Gerö, First Secretary of the Central Committee of the Communist Party, or Mr. Hegedüs, the Prime Minister. The Committee, however, has had no opportunity of seeing a text of such an invitation, or of considering the exact circumstances in which it may have been issued. Until further information comes to light, it would be wise to suspend judgement as to whether such an invitation was issued at all.

Similar considerations apply to the invitation which is alleged to have been addressed to the Soviet authorities before the second intervention on 4 November. Mr. Kádár had remained a member of Mr. Nagy's Government when the latter was reconstituted on 3 November and the Committee is unaware of his having given any recorded indication of his disapproval of Mr. Nagy's policies. Mr. Kádár's movements at this time are not fully known, and he cannot be considered to have substantiated his own claim to have called, in the name of the Government, for Soviet help. In any event, there is abundant evidence that Soviet preparations for a further intervention, including the movement of troops and armour from abroad, had been under way since the last days of October. Mr. Kádár and his Ministers were absent from Budapest during the first few days after he formed his Government, and administrative instructions to the people of Hungary were issued by the commander of the Soviet troops;

(vii) When Mr. Nagy became Prime Minister, he was not at first able to exercise the full powers of that office. Only when the grip of the AVH was loosened by the victory of the insurgents was he able to take an independent stand. By this time, the real power in Hungary lay with the Revolutionary and Workers' Councils, which had sprung up spontaneously in different parts of the country and had replaced the collapsing structure of the Communist Party. Mr. Nagy, though himself a Communist of long standing who had lived for many years in the USSR, invited non-Communists into his new Government, and listened to the demands of various Revolutionary and Workers' Councils. It would appear that Mr. Nagy himself, like the country at large, was somewhat taken aback by the pace of developments. However, seeing that his countrymen were united in their desire for other forms of government and the departure of Soviet troops, he threw in his lot with the insurgents. By this action, he obliterated the impression which he had created while still under the domination of the AVH, and he became a symbolic figure in the uprising, although he had not instigated it, and was never its actual leader;

(viii) The few days of freedom enjoyed by the Hungarian people provided abundant evidence of the popular nature of the uprising. A free Press and radio came to life all over Hungary, and the disbanding of the AVH was the signal for general rejoicing, which revealed the degree of unity achieved by the people, once the burden of fear had been lifted from them;

(ix) There were a number of lynchings and beatings by the crowds. These were, in almost all cases, confined to members of the AVH or those who were believed to have cooperated with them.

(x) Steps were taken by the Workers' Councils during this period to give the workers real control of nationalized industrial undertakings and to abolish unpopular institutions, such as the production norms. These were widely resented as being unfair to workers and also a reflection of popularly suspected secret trade agreements with the USSR, which were said to make heavy demands on the Hungarian economy for the benefit of the Soviet Union. During the days of freedom, while negotiations continued with the Soviet authorities for the withdrawal of Russian troops, attempts were made to clear up the streets of Budapest and life was beginning to return to normal. The insurgents had agreed to amalgamate, while maintaining their identity, in a National Guard, which would have been responsible, with the Army and Police, for maintaining order;

(xi) In contrast to the demands for the reestablishment of political rights put forward during the uprising, is the fact that basic human rights of the Hungarian people were violated by the Hungarian Governments prior to 23 October, especially up to the autumn of 1955, and that such violations have been resumed since 4 November. The Committee is convinced that the numerous accounts of inhuman treatment and torture by the AVH are to be accepted as true. On the evidence, it is also convinced that numbers of Hungarians, including some women, were deported to the Soviet Union and that some may not have been returned to their homes.

These deportations were designed to break the back of the revolution. Action taken by the Hungarian people in their spontaneous uprising succeeded in ridding them for a few days of the apparatus of police terror. This democratic achievement of a united people was indeed threatened by a form of "counter-revolution" and it was to this that it succumbed. However, the "counter-revolution" consisted in the setting up by Soviet armed forces of Mr. Kádár and his colleagues in opposition to a Government which enjoyed the overwhelming support of the people of Hungary;

(xii) Following the second Soviet intervention on 4 November, there has been no evidence of popular support for Mr. Kádár's Government. Mr. Kádár has successively abandoned most of the points from the revolutionary programme which he had at first promised to the Hungarian people. On the central question of the withdrawal of Soviet troops, he has moved from complete acceptance of the nations' wishes to a refusal to discuss the subject in present circumstances. Against the workers, he has proceeded step by step to destroy their power and that of the Workers' Councils. Capital punishment is applicable to strike activities. The processes of justice have been distorted by the institution of special police and special courts and by the ignoring of the rights of the accused. The Social Democratic Party has again been forcibly liquidated. General elections have been postponed for two years. Writers and intellectuals are subjected to repressive measures. The Hungarian workers have shown no sign of support for Mr. Kádár's Government or for the prospect of continuous Soviet occupation. Only a small fraction of the 190,000 Hungarians, mostly young people, who fled the country have accepted his invitation to return. The peasants have reason to be grateful to Mr. Nagy for his attitude towards collectivization of agriculture and forced deliveries of farm produce;

(xiii) In the light of the extent of foreign intervention consideration of the Hungarian question by the United Nations was legally proper and, moreover, it was requested by a legal Government of Hungary. In the matter of human right, Hungary has accepted specific international obligations in the Treaty of Peace. Accordingly, the Committee does not regard objections based on paragraph 7 of Article 2 of the Charter as having validity in the present case. A massive armed intervention by one Power on the territory of another, with the avowed intention of interfering with the internal affairs of the country must, the Soviet's own definition of aggression, be a matter of international concern.

Mr. HICKS of Washington. Mr. Speaker, in commemoration of the 15th anniversary of the Hungarian revolution, we both recall the past and look to the future. We commemorate in sadness the time when Hungarian citizens who dared to speak out for the independence that makes life worth living were crushed by ruthless military power. But the force of the military cannot eradicate the idea and the wish and the inevitability of freedom.

For thousands of years the world has been moving toward greater individual and national freedom. And as we honor those who died in the struggle for the right of self-determination, and as we look back on the tragedy of a brave people who were brutally suppressed, we must also look ahead, knowing that the struggle has not been lost.

We recall the tyranny and re-affirm our continuing desire to institute liberty in its place. Aristotle said, "liberty and equality . . . will be best attained when all persons alike share in government to the utmost." We look ahead to a time of greater participation of citizens the world over in their governments, and must continue to work to bring human dignity and political freedom to all people and nations.

Today we are mindful of the need for renewed efforts on behalf of the living and imprisoned citizens of Hungary and other captive nations. As we mourn those who gave their lives to secure freedom, we are mindful that freedom is not yet secured. The struggle continues.

Mr. DERWINSKI. Mr. Speaker, I am especially pleased and privileged to bring to the attention of my distinguished colleagues today, the speech made by Dr. Stefan Possony before the National Press Club on October 23, 1971, commemorating the 15th anniversary of the Hungarian revolution. Dr. Possony, as director of the Hoover Institute, Stanford University, Stanford, Calif., is known and recognized as a great educator. He is also a great American and a great patriot. I believe tht Dr. Possony's thoughts deserve our attention and I recommend that my colleagues take a moment to review his comments:

Hungarian October

(Speech by Stefan T. Possony at the Dinner Commemorating the 15th Anniversary of the Hungarian Revolution, October 23, 1971, National Press Club, Washington D.C.)

The meaning of the 1956 October Revolution that occurred in Hungary is plain and overwhelming: it is that communist tyranny which oppresses personal and national freedom has only slim chances of survival.

Communist dictatorship is history's most elaborate system of power—it is force and violence at its most perfected and refined. Yet communist power exhibits an irremovable defect that is far more deadly to the CP hierarchs than his unprotected heel ever was to Achilles. This defect is that the communist dictators, their unlimited power and their power abuses are not acceptable to the peoples. There is no consent to enslavement in the hearts and minds—and in the bodies—of the captives and the enslaved. However much beaten down, the *demos* remains the source of lasting power.

The Hungarian revolution was not the first act of resistance against communist tyranny. That resistance began in 1918 and it has never ceased. The revolution of 1956 simply was the most convincing demonstration of the true will of an entire people and nation, of the depth of their opposition and rejection, and of the extent of communist failure.

The Hungarian revolution proved that dictatorship can never be strong enough to be invulnerable against the general will. It dispelled the myth that a totalitarian regime cannot be overthrown because it is fully armed with tanks and planes; because it is defended by an all-pervasive secret police equipped with the most modern technological devices; and because this police is openly resolved to employ terror and torture—history's oldest techniques of tyranny.

Overthrow remains feasible because political power does not rest upon force but upon the consent of the governed. Since force is a function of consent, the overthrow occurs in the minds of the people.

Earlier defiance manifested itself in revolt by a few. This was revolution by students, intellectuals, workers, peasants, and—most significantly—by the police, the army, and the Communist Party itself. The old party did not survive—it destroyed itself, and the opposition of and by the party led the revolution.

The revolution by the self-critical communist, the no-longer-communist and by the secret ex-communist against the party dictatorship of disenchanted communists—that was the pattern which Hungary initiated—the pattern of Czechoslovakia and less clearly but perhaps more profoundly, of China.

The street battle, the burnt-out tank, the dead secret policemen, the defecting Ukrainian soldier, all these denote the drama of the event, but not its meaning. That meaning was laid down in the demands by the revolutionaries for national independence, general and secret elections, freedom of press, assembly, and culture, economic freedom and political reform; in brief, for freedom not only against the excesses of dictatorship, but against the dictatorship itself. The revolutionaries fought for freedom from communism as a theory and a practice, and they wanted no part of Lenin's and Stalin's communism as an utopian idea, as foreign oppression, as a fascist and nazi reality, and as toil and poverty.

On October 23, 1956, the Communist Party "disappeared overnight", as Bela Kovacs, a non-communist minister of state in the Nagy government said. The CP disappeared, it was "not forced to dissolve", but it dissolved "by common consent." "Have you ever heard", Kovacs asked, "of a ruling party voting itself out of existence?" Well, the event was not unprecedented. Tyranny often ends through political suicide.

Communist suicide was the prophetic event of the Hungarian October.

The pessimists will tell you that the Hungarian revolution failed. It did not. Hungary was invaded by the far stronger USSR, and the revolution was crushed from the outside.

But the story is not over. The germs have invaded the communist body and they still are multiplying, even while soviet missiles, submarines, and megaton weapons are multiplying also. Hungarian communism was overthrown in one week of October, but the international communist system will not be overthrown within a few days. The victory of freedom must be achieved by a protracted historic process. In the meantime, there is something of an evolution continuing in Hungary—don't forget it and don't underrate the impact of that evolution. The old system was not put together again, and of all the satellites in the Soviet Outer Empire, Hungary is now the farthest removed from Stalinism.

The first lesson of 1956 was this: liberation is a protracted struggle.

The second lesson, alas, was that the U.S. did not understand what was happening. Some 15 years later, the U.S. still does not understand the significance of the self-destruction of the CP. In 1956, partly diverted by events in the Middle East, the U.S. adopted a passive policy—and this has become a pattern, too. In 1968 when the USSR invaded Czechoslovakia, this pattern was in full and painful evidence.

There are those who argue that the U.S. should have intervened in 1956, because the USSR would not have shot back. I reject such advice. If we confront the enemy, let us be prepared to fight. If we are not ready to fight, let us avoid the confrontation. In any event, let us not conceal the risk by wishful thinking. Instead, let us minimize the risk by being strong and by becoming stronger.

Whether or not non-intervention in 1956 saved this country from still another war, is debatable. But we did not do what we could have done. We failed to support Hungary psychologically and intellectually, and even our moral support was minimal. The American influence in the U.N. began to wane during the Hungarian October and during its aftermath. The reason for our moral and strategic ambivalence was that in a confused and half-conscious way we had—in our minds—recognized East Europe as belonging lastingly to the Soviet Outer Empire.

The Soviet Inner Empire will not last and the Outer Empire already is exhibiting decay. So the question posed in 1956 and 1968, and perhaps in 1970 in Poland, will be posed again and again—Rumania and Yugoslavia may be next in line. The question is this: do we want to *preserve* and even *salvage* soviet communism and soviet imperialism? Or do we recognize that fact that there will be no peace so long as aggressive communism is surviving?

The U.S. has written off liberation as a policy—but decommunization is a process which is under way and which cannot be halted or reversed permanently. This process will erupt in revolutionary outbursts, inevitably so. As in the past, the U.S. will be afraid to move. In an era when the USSR possesses military superiority over the U.S.—this era has come—American policy will be more timid and ambiguous than ever before. This timidity may well be the accessory cause of a future conflagration of which Soviet aggression will be the primary cause.

This situation requires a number of remedies in America.

1. U.S. military superiority must be reconstituted.

2. U.S. illusions that the international situation can be "stabilized" must be laid to rest—history never stands still, and freedom and progress must be secured daily wherever they are threatened.

3. U.S. thinking about the trends within the communist empire must cease being naive—communism is not stable and it will never be consolidated. Rather than appease the oppressors, it is a safer policy for the U.S. to assist the oppressed and help them recover their freedoms.

If there is to be security and peace—and freedom—and democracy—and social and economic development—liberation is the key pre-requisite for the attainment of those goals. The liberation of East Europe is the nearest door that might lead to a better future.

The skeptics will say that the East Europeans want to stick to socialism and that terms like democracy must be interpreted in their socialist meaning. Perhaps so, but there are many socialist meanings and many meanings of socialism. We were told that the revolution of 1956, exactly like the Czech event of 1968, was of socialist inspiration. The evidence shows that humane socialists or communists revolted against Stalinism, *among* non-socialists and non-communists who revolted *also*. Socialism is a cliché word conjuring the perfection of man. This word is the fashionable translation of the outmoded word "paradise". There is no point wasting time about the practical significance of figleaf or illusionary semantics.

It seems to me that the Hungarians of 1956 were socialists in the same way as the Hungarians of 1936 were Habsburg royalists: A principle was recognized for the celebration of holidays.

By whatever name, the oppressed and captive peoples want to lose their chains. This desire commands America's full support. But liberation through nuclear war would be counter-productive and it probably would not work, except in defense against communist aggression. Under all circumstances it would be best to avoid nuclear war.

Liberation must therefore *not* be conceived as a cataclysmic outburst but as a lengthy task of gradual reform. This task the East Europeans are showing they are able to perform—and the Russians are beginning to learn. The communists are wedded to protracted conflict. Let the anti-communists courageously resist the incessant assault and commit themselves to protracted reform.

The U.S., if it ever throws away its intellectual blinders, can help immensely, in a thousand and one ways. We merely have to realize that it is futile to seek accommodation with communist dictatorships, for the elementary reason that those dictatorships will not survive, while the people who are now struggling to achieve their liberation, will remain.

The old notion that to achieve liberation, the iron curtain must be broken, may safely be discarded. The iron curtain is now a sieve. The internal situation in *Communistia*, as Georg Mikes pointed out years ago, is like that of a tin can: once air gets in, the fish inside starts to rot. Plenty of air has gotten into the communist can. We must be most careful lest we poison ourselves with red herring that is rotting.

So in looking back to 1956, we are able to gain the proper perspective in looking forward to 1984, and beyond to 1986. The Hungarian October is a revolution that lives. It was a revolution that created symbols that point to the future. It was the dramatic beginning of liberation, of self-determined self-liberation.

It is not the U.S. which will spark the liberation of Eastern Europe, though I hope that the U.S. will be more helpful than it has been in the past. A revolution must not be mounted by subversion, conspiracy, and war like the Bolshevik October of 1917. A political change demanded by the vast majority of a people needs strategic cover, but otherwise it needs intellectual and economic assistance, and above all, instantaneous moral support. It needs exactly what the U.S. would be able to offer.

The East Europeans, together with the anti-communists in the USSR and China, will gradually liberate themselves. In the process the anti-communists within the communist bloc will protect the United States from defeat and enslavement. This is so because we free men do no longer know how to count our blessings, and because the oppressed cannot help but count their miseries.

There is no memory-hole big enough to conceal the eternal flame that was lit in 1956.

Long live the Hungarian October!

Mr. PATTEN. Mr. Speaker, I appreciate having the honor today of joining my colleague, the Honorable Frank Horton, in paying tribute to the Hungarian freedom fighters.

Fifteen years have now passed since these brave people stood up against tyranny and were counted in the fight for freedom. We all can well remember the suddenness with which news of the trouble in Hungary broke across our land. A nation had dared to stand up to the Soviet Union and demand the freedom which is the right of all men. The flame was lit, and the Russian military forces moved in quickly in overwhelming odds to put it out. But they really were not able to extinguish this flame of freedom, and it has surfaced on other occasions in Eastern Europe. With the help of our people and free people everywhere, it will continue to burn.

During the past year, I have heard from many constituents who have had contact with Eastern Europe. It saddens me to hear them tell about conditions there. People taking walks in the open parks whispering to each other, because this is the only way they know their conversation will not be overheard. The process of Russification is destroying all the customs and traditions of these people.

I hope as we meet here today and honor the Hungarian freedom fighters, we will think about the ordeal these people have gone through for the past 15 years and be inspired to continue our efforts to help them be free once again. I hope that all our citizens who learn of our discussion here today will also be inspired to join us. I further hope that our message will reach today's Hungarian freedom fighters, so that they will know we care and are with them in spirit and in action.

Mr. BIAGGI. Mr. Speaker, I am proud to stand here today with my colleagues to express together our support of all freedom fighters the world over. The Hungarian freedom fighters were among the first in postwar years to strike out against the tyranny that overtook their country. Today many others are engaged in a struggle against dictators and oppressors.

In the Midle East, the Jews are valiantly fighting to preserve their religious and ethnic heritage in a hostile land. Surrounded by nations who profess a foreign policy calling for elimination of Israel, these hardy people daily fight on to preserve their freedom.

In the Soviet Union another group of Jews is fighting to obtain their freedom. Their oppressors have systematically denied them their civil and humanitarian rights. They cannot peaceably assemble as a religious group, they cannot train their children in the faith of their fathers. They cannot emigrate to another land.

In Northern Ireland, yet another oppressed minority is fighting to gain the rights to human dignity and civil justice enjoyed by all Americans. Through the instrumentality of the infamous Special Powers Act, the British troops occupying that divided province have kept the minority from speaking out against the present government's stand on various issues. And woe be to the Irishman who calls for reunification with the Republic of Ireland. He will surely be interned without trial or charge and lost forever to his loved ones.

In Czechoslovakia as in Hungary, the citizenry attempted to rise up against the oppressive chain of the Soviet Union. The nation tried to steer an independent course in the international waters of world politics. But the Soviet excuse for justice was swift and sure. The tanks rolled, and the Czechs were soon brought back into the party line.

All around the periphery of the monolithic Soviet Union the so-called captive nations wait under the yoke of Communist tyranny for their day of freedom. The Ukraine, Estonia, Latvia, and Lithuania among others keep alive the hope that some day freedom and democracy will be theirs.

Tibet, North Vietnam, North Korea, and Mongolia are captive nations as well. Only the captor is another Communist terrorist—Red China. Little is said of these Far Eastern nations which have been absorbed behind the Bamboo Curtain, but the state of their existence puts fear into the hearts of those countries in Southeast Asia who live under the daily threat of a Communist takeover and a loss of their freedom.

Many people today are saying that the cold war is over and a new detente between the superpowers of the world will replace the strained relations of the fifties and sixties.

I say to you, my friends, that the cold war is not over for the people of Hungary, or the people of Czechoslovakia, or the people in the rice paddies of South Vietnam and Cambodia, or the street fighters in Northern Ireland.

This Nation committed its men and resources to fight the Second World War. The efforts of those men were directed towards building a world peace based on freedom and democracy. What have those sacrifices and the many sacrifices since then brought us? They have brought us a Hungary in 1956, a Vietnam in the 1960's and a Northern Ireland in 1970. Where is the peace and freedom in the world that this Nation fought so valiantly to keep alive?

Until the dream of Franklin Roosevelt to "make the world safe for democracy" is realized, the war of freedom-loving people the world over is not completed.

In this regard we are all freedom fighters. We as Americans must join with those oppressed people in other lands to assure every human being the right to self-determination of his future and that of his nation.

America was founded on the premise that there are certain inalienable rights, among them the right to life, liberty, and the pursuit of happiness, implied in this premise is the obligation to defend a person's privilege to share in these rights and to afford everyone the opportunity to enjoy them. Let that be our goal and freedom be our battle cry.

Mr. RODINO. Mr. Speaker, before October 23, 1956, the concept of socialism to the Hungarian citizen was an idea devoid of the ideals of truth, justice, and freedom. The word "socialism" was associated only with the realities of foreign occupation and control, of regimentation, of the curbing of liberties, and of an abnormally low standard of living. A man could not believe in the possibility of gaining social justice nor hope to bring an end to his exploitation. No room was allotted for criticism. Hungary was a country in which intellectuals were schooled in the joys of freedom of thought while every original idea was denounced as heresy, a country in which phrases stressing "this land is rightfully every man's land" were constantly reiterated yet after each harvest, its people were left with hardly enough grain to last until the next sowing.

Unexpectedly, late in 1953, Imre Nagy, former vice president of the Hungarian Council of Ministers, was suddenly elevated to the position of Hungary's Premier. Unlike his predecessors, Nagy did not look upon himself as a weak servant of the Soviet Union. By being the only Communist leader who dared to say "no" to his party superiors, he became the first and only one to whom the Hungarians said "yes." His strength lay in his ability to truly listen to the heartbeats of his people. He traveled his own course, step by step, solving each problem, probing each question. In his program, he called for equality of political and economic rights, for a revision of the economic structure by specialists in conformance with Hungary's needs and peculiarities, for a higher standard of living, for a more tolerant attitude toward questions of religion, of a new level of esteem for intellectuals, and for more humane treatment of workers. For the first time, if a peasant wished, he could leave the cooperative. Nagy closed the internment camps, proclaimed a broad political amnesty, suppressed blacklists, dissolved political tribunals, and began rehabilitation of the victims of past prefabricated trials. He set forth five basic principles, principles which are universally embraced by men everywhere who seek freedom, principles recognizing national independence, national sovereignty, national equality, territorial inviolability and noninterference in internal affairs.

Suddenly, the very party leaders who had expressed confidence in Nagy, who had brought Nagy to power, and who had a year and one-half earlier refused to allow Rakosi, the former premier, to speak, met with Nagy and by unanimous consent, "for his rightest deviationism, for his divisive actions, for surrounding himself with antiparty groups which had become the rallying point of the enemies of socialism," dismissed him from his position and expelled him from the party. Nagy's efforts of defense and of refutation fell upon deaf ears. Obviously, the men whom he addressed were not free men. Their instructions as to the disposition of the Nagy case had been sealed well in advance.

Nagy, unlike the Rakosis before him, refused to recant his views and confess his errors, so convinced was he in the validity of his decisions.

The revolt itself began as a peaceful student demonstration. The demands made were nationalist, not anti-Communist in nature, yet the 13 days between October 23 and November 4, 1956 will stand aside as separate and distinct from all the days of Hungary's thousand years of history. It is important to note that Nagy's supporters were not men on the fringes of party life or men who had tossed aside party doctrine. Nagy dreamed of a humanist socialism—a socialism which would respect individual freedom as well as national independence. Those who supported him did not want to change the existing system. They wanted only to improve it, to reform it. Yet, they all condemned one element deeply embedded in the system—the practice of inhumanity.

The Hungarians wanted more than merely a reinstatement of Nagy. Among their demands, they called for a multiparty system and for the removal of all Soviet troops from their soil.

> For us, there is no choice. Either we win or we fail. There is no third possibility—we will stay here and die, if necessary until the Russians agree to leave our homeland.

In the eyes of the Hungarian people, it could not be conceived that after so many words of ardent praise, the West could abandon Hungary and allow its quest for liberty to be crushed. The people of Hungary were convinced that the world could not be disinterested in their struggle. Their deep confidence in the West and their hope for U.N. action was perhaps their greatest source of strength.

The outcome of the Hungarian Revolution requires little reiteration. The Russians, who had agreed to begin troop evacuation on October 30, with no explanation, made an about face and returned en masse to a complete occupation of Hungarian soil. What had become of the solemn promise that no further Soviet units would enter Hungary? No answer came for Nagy—no answer from Russia, but more important, he received no response from the free peoples of the world.

Washington announced "a State Department spokesman refused comment for the time being on the message of the Hungarian Government relayed by the U.S. Embassy in Budapest." The U.N. Security Council, which had, on Saturday night, resumed its debate on the Hungarian situation, decided unanimously to adjourn until Monday morning.

No promises were kept. The newborn independence and sovereignty of Hungary lasted only a few days. Those who participated in the revolutionary struggle were subjected to pitiless persecution. Nagy was brought to trial, accused of high treason and sentenced to death.

Fifteen years after these events, Hungary has not forgotten the impact of those 13 days. According to the Hungarian writer Michael Polanyi in his "message of the Hungarian Revolution":

> Since October 23, 1956, ideas have never ceased to circulate freely in Hungary. Those who still hotly profess the Marxist interpretation of history, who proclaim the surpassing achievements of revolutionary socialism and predict the proximate coming of communism—these people are increasingly looked upon as ignorant fools . . . the young are immune to their teaching.

The Hungarian revolutionaries of 1956 revived the ideas of truth, justice and liberty and were resolved to fight for these ideals. Their taste of justice and of freedom, however brief, remains dear to them, be it expressed in a scream, a whisper or in an unuttered phrase.

FROM "ONE SENTENCE ON TYRANNY"

(By Gyula Illyes)

Where tyranny is,
There is omnipresent
In all things, as your very God was not
In days gone by

There tyranny is
In the nursery schools,
In the father's advice,
The mother's smile,
In children's
Answers to strangers;

Not only in barbed wire,
In slogans in lines of print,
More than barbed wire
Dulling the brain;

It is in
The farewell kiss,
As the wife says,
"When will you be home, dear?"

In how-are-you's exchanged
Every day in the street,
In the suddenly looser
Grip of a handshake,

As all at once
Your love's face freezes,
It is there

In all trysts,
Not only in grilling
But in the declaration
In the sweet ecstasy of words,
Like a fly in your wine,

Because not even in your dreams
Are you alone, . . .

Mr. HANLEY. Mr. Speaker, as we commemorate the 15th anniversary of the Hungarian uprising, I want to join with my colleagues in paying tribute to one of the bravest people on earth—the long suffering but undaunted Magyars.

I well remember the horrors of October 1956, when the Hungarians attempted to throw off the yoke of Communist oppression, and how their spirits were first ignited and then dashed by a free world outside which sat idly by and watched Russian tanks smash all vestiges of hope. The brutality and carnage which followed in the wake of Russia's invasion still send a shudder up and down the spine of any civilized human being.

But, Mr. Speaker, it is all too easy to forget, it is all too easy to sweep painful memories under the rug of time and distance. And so this commemoration takes on all the more importance, for we must not forget. We must not forget the brave men, women, and children who died in that struggle; we must not forget the thousands who were imprisoned, tortured, and murdered for their part in the uprising; and we must not forget those millions who still live a half life on the other side of the Iron Curtain.

For a thousand years, the Magyar people have known adversity and they have always weathered it. Let us, as free men, keep the light of public opinion and the pressure of human decency on the Communist oppressors, so that the Hungarians will once again join the community of free nations.

Mr. BURKE of Florida. Mr. Speaker, I wish to thank my colleague, Congressman FRANK HORTON, who, as chairman of the American Citizens Committee for the Commemoration of the 15th Anniversary of the Hungarian Revolution, has obtained this special order so we can focus attention on the courageous actions of the Hungarian freedom fighters during the 1956 Hungarian revolution.

Mr. Speaker, I honor their fight for liberty and self-determination, and reflect on the plight of the millions of people who are presently living under Soviet oppression in eastern and central Europe.

Mr. Speaker, we in the United States know the feelings of the Hungarian advocates of freedom for their people and for an independent nation. The statements and documents written by the Founding Fathers of our own country—specifically, the Declaration of Independence is unparalleled in the literature of the world as an expression of the right of nations to self-determination. Its opening paragraph eloquently states this principle:

> When in the course of human events, it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume among the powers of the earth, the separate and equal station to which the laws of nature and of nature's God entitle them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation.

The second paragraph, which is familiar to all Americans and most people of the world states succinctly and beautifully our national dedication to self-government:

> We hold these truths to be self-evident, that all men are created equal, that they are endowed by their creator with certain unalienable rights, that among these are Life, Liberty, and the Pursuit of Happiness—that to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed, that whenever any form of government becomes destructive of these ends, it is the right of the people to alter or to abolish it, and to institute new government, laying its foundation on such principles, and organizing its powers in such form, as to them shall seem most likely to effect their safety and happiness.

Unlike our revolution of 1776 which was successful, the Hungarian revolution of 1956 was not. From all appearances the Hungarian revolution was spontaneous, almost accidental.

On October 23, 1956, university students in Budapest organized a demonstration of sympathy for Poland; they used this occasion to publish demands for independence, free elections, and the end of Soviet political control and exploitation. Large crowds joined the demonstrators. The Hungarian police and later Soviet troops, called by Hungarian Premier Gero, fired into the crowds, igniting a revolution that enveloped the country.

By October 30 it looked as though the revolution had succeeded. Imre Nagy had formed a genuine coalition cabinet, announced a return to conditions that existed before the Communist seizure in 1947, abolished the one-party system, promised free elections, and negotiated for the immediate withdrawal of Soviet troops. However, on November 1, Soviet military units surrounded Hungary's airfields and Budapest, its capital. Fresh troops were reported pouring into the country. Nagy responded with a proclamation of neutrality and a request to the West and United Nations for assistance. Direct assistance, however, was not forthcoming, and on November 4, the Soviet military forces attacked Budapest. Heavy fighting went on for days and a general strike paralyzed the country for several weeks.

Within a few days the Russians crushed the rebellion and installed a new regime under the Hungarian Communist leader, Janos Kadar. During the weeks of disorder an estimated 160,000 Hungarians fled the country and thousands were killed in the fighting.

The year 1956 was a decisive year for Europe, especially for the Soviet satellite states in Eastern Europe. During nearly a decade after World War II, Stalin had established iron-fisted control over these states structuring all very rigidly in accordance with the Soviet model and collectively creating the image of a monolithic Communist empire. In March 1953, Stalin died, and the political forces changed, unleashing a new leadership.

Khrushchev, by reconciling with Tito in 1955 and sanctioning thereby the principle of "other roads to socialism," and by his speech at the 20th Party Congress in February 1956 launching his de-Stalinization program, raised the hopes of Hungarians for freedom. But, in November 1956 the Soviet tanks stilled those hopes, or at least, stopped the expression of those hopes.

The aftermath of the revolt was brutal. Retaliation against the rebel forces began immediately. Thousands of Hungarians were executed or imprisoned. In 1958, Premier Nagy, General Pal Maleter, commander of the resistance forces, and several associates were secretly executed. To insure continued Soviet control, the Russians stationed between 50,000 to 80,000 additional troops in the country.

Throughout the entire crisis, the United States assumed leadership in denouncing the Soviet action in the U.N. and in urging the United Nations to sponsor a resolution requiring Soviet withdrawal from Hungary and the admission of U.N. investigators. The Russians opposed these measures and defeated them by using their veto power in the Security Council but a condemnation of the Soviets by the General Assembly was, nevertheless, passed. Because there were no other measures that could be taken, short of risking a possible war with the Soviet Union by direct military intervention, the U.N. finally acquiesced to the Soviet militay reconquest of Hungary.

The United States lifted immigration barriers and accepted thousands of Hungarian refugees in addition to dispatching medical supplies and other forms of relief for Hungarian refugees awaiting transfer to other lands.

October 23, 1971, then marked the 15th anniversary of that bloody suppression of the Hungarian revolution which was one of the most stirring expressions of a people's desire for liberty the world has seen for many years. I am therefore proud of this opportunity to pay tribute to the deeds and goals of those freedom fighters of Hungary.

The U.S.S.R., without justification, still continues its acts of colonization against the Hungarian people. Let us hope the day will come when freedom will become a reality for the Hungarian people. Perhaps the Soviet Union will remove its armed forces from Hungary and allow the Hungarian people to exercise their right of self-determination. We can but hope and pray for freedom in Hungary.

Mr. SCHERLE. Mr. Speaker, the spirit and dedication of the Hungarian people to the cause of liberty has a most important meaning to me. As a first generation American of Hungarian and German descent, many of my relatives are now living behind the Iron Curtain suffering under the terror of Communist tyranny. Their plight is shared by millions of other human beings whose only desire is to live in justice and freedom. It is our responsibility as a free nation never to forsake these courageous people. That is why Presidents Eisenhower, Kennedy, and Nixon have called upon the citizens of the United States to never forget their obligation to these captive nations.

The attention of my colleagues is respectfully directed to the statements of these distinguished Americans which may be found in a book entitled "The Hungarian Revolution in Perspective," edited by Francis S. Wagner. This book was published by the Freedom Fighters Memorial Foundation, which is the cultural and educational organization of the Hungarian Freedom Fighters Federation, U.S.A. The members of this federation, of which I am an honorary member, deserve special recognition for their untiring devotion and work on behalf of freedom and liberty throughout the world.

Dwight D. Eisenhower

The terror imposed upon Hungary repudiates and negates almost every article in the Declaration of Human Rights.

It denies that men are born free and equal in dignity and rights and that all should act in the spirit of brotherhood.

It denies the right to life, liberty, and security of person.

It denies the principle that no one shall be subjected to cruel, inhuman or degrading treatment.

It denies that no person shall be arbitrarily arrested, detained or exiled.

It denies that all are equal before the law and entitled to its equal protection.

It denies the right to fair and public hearings by an independent and impartial tribunal.

It denies the right to freedom of thought, conscience, and religion.

It denies the right to freedom of opinion and expression.

It denies the right to freedom of peaceful assembly.

It denies that the individual may not be held in slavery or servitude.

It denies that the will of the people shall be the basis of the authority of government.

That these human rights have been so flagrantly repudiated is cause for world wide mourning.

John F. Kennedy

October 23, 1956, is a day that will forever live in the annals of free men and free nations. It was a day of courage, conscience, and triumph. No other day since history began has shown more clearly the eternal unquenchability of man's desire to be free, whatever the odds against success, whatever the sacrifice required.

Americans will never—at any summit meeting, in any treaty declaration, in words or even in our minds—recognize Soviet domination of Hungary. Hungary's claim to independence and liberty is not based on sentiment or politics. It is deeply rooted in history, in culture, and in law. No matter what sort of puppet government they may maintain, we do not mean to see that claim abandoned.

Americans intend to hasten by every honorable and reasonable means the arrival of the day when the men and women of Hungary will stand again in freedom and justice. On this anniversary we must, with Abraham Lincoln, "Here highly resolve that these dead shall not have died in vain . . . it is for us the living. . . to be dedicated to the unfinished work which they so nobly advanced."

Richard M. Nixon

It was very early in December when I arrived in Austria. I had been sent there by President Eisenhower to inspect the refugee camps which had sprouted overnight in that neutral country and to help determine the immediate needs of the thousands of Hungarians who had streamed across the frontier.

November had been the cruelest of months for the Hungarian people. Alone they had risen and cut the fetters of Communist tyranny, breathed for a few disquieting days the exhilarating air of personal freedom and national independence, and then had Soviet treachery and Soviet armor abruptly awaken them from their dream.

One could see many emotions carved in the faces of these people as I walked through their gerry-built camps and saw them then trickling across the guarded frontier at Andau.

In the young, the emotions were anger and disillusionment at having seen their victory stolen away. This was coupled in many with the feeling that they had been abandoned by their natural allies—the West and in particular the United States. There was undisguised hatred of the Russians, a measure of joy at having escaped and a great measure of sorrow as they knew the agony their less fortunate countrymen were then undergoing.

Confronted with such a spectacle of human suffering, the thoughts do not come singly but in battalions. Certainly, one sentiment I shared then with every free man was a sense of awe and admiration at the incredible courage of these people who had challenged the most powerful tyranny in history.

To have seen the men and women and children who had accomplished so much led to many other thoughts—about the system from which they had fled and the system to which they had come.

Some of these thoughts occurred at that time and some came to mind later as one recalled the camps, the frontier and the faces. One could not help but think what a thoroughly contemptible form of government Communism really is.

Communism was the only system most of those children who made the rebellion had ever known. It had rigidly controlled their education, fed them its propaganda since they had reached the age of reason, dictated their development and growth, and they had nothing but hatred for it and the men who ran it.

I recall President Kennedy's comment in 1961 that the character of Communism was forever stamped on the bloody streets of Budapest and so it was for the world to see.

How rank and odious must such a system be, if these people who loved their land and their country would give up families and home and friends and property just to escape from it.

I recall during the early fifties having been told by my own friends and others that most of the states of Eastern Europe had come to accept their Communist masters, that the young had known no other system, that it would be foolish to believe they had any burning desire to rid themselves of it. I was told that economic advances were being made in Eastern Europe, that the people then at least had the security they had been denied during the war years.

We are told the same things today. It is true I think that, as one man has written, the tyrant always seems absolutely secure until five minutes before he is overthrown.

Since those days in Austria I have often wondered why the plight of the captive and exploited peoples in once-free Eastern Europe should be so ignored in a world where "anti-colonialism" and "self-determination" have been raised to the level of gospel.

I have thought as well how good it would be for every American boy to have walked through those camps and to have watched while the Hungarians came across the border at Andau.

The same lesson might have been learned from watching the Vietnamese pour down from the Communist North in 1954, the Tibetans abandoning their ancient homes in 1959, the Cubans fleeing across the Florida Straits in the first years of this decade and the Germans crashing through the Berlin Wall in 1961 and 1962. Therein lies an education not to be found in books.

Mr. STRATTON. Mr. Speaker, I am proud to join in this special order to honor the brave men and women of Hungary who in 1956 fought so courageously for their independence from the ruthless Soviet domination.

It is hard to believe that 15 years have now passed since we were following the struggle day by day in the newspapers and cheered the early victories of the rebels who battled tanks with rocks. What had started out as a peaceful student demonstration to express sympathy toward a Polish insurrection against the Soviets suddenly became a nationwide revolution when troops fired into the crowd, killing many of the demonstrators. After a week of fighting it had appeared on October 30, 1956, that the forces of freedom had brought liberty to that country, as Imre Nagy assumed the premiership, formed a genuine coalition cabinet, and promised free elections. He negotiated an immediate withdrawal of Soviet troops from the country and began plans to return Hungary to conditions that existed prior to 1947, the year communism began its dictatorship over that country.

As we have seen happen in Eastern Europe and elsewhere many times before and many times after, the communists were not to be trusted at their word. On November 1, Soviet troops surrounded Budapest and Premier Nagy pleaded to the West and the United Nations for assistance. Can any of us forget the reports of bloodshed and atrocities plastered across the front pages of American newspapers in the days that followed? The rebellion was crushed and the Communist sickle of retribution swept quickly throughout the land, executing or imprisoning thousands of Hungarians.

But though the fight for freedom was ruthlessly put down by Soviet tanks in Hungary, just as it was later brutally put down in Czechoslovakia only 3 years ago, the spirit of freedom could never be crushed in the hearts of the brave Hungarian people.

I can still remember very clearly in the early months of 1957, as mayor of Schenectady, N.Y., being on hand to greet the brave Hungarian freedom fighters who had been fortunate enough to escape from Soviet control and who came to Schenectady, to friends and relatives of Hungarian descent, to seek a new life. How quickly these men and women began to build a new life for themselves. How quickly they rolled up their sleeves and went to work. How quickly they made a solid and prosperous new home for themselves, and became active and effective American citizens. Fifteen years later they are distinguished citizens of their adopted country and we are proud of them.

Yet for those who came to America, and for those who remained trapped behind the Iron Curtain, the hope is the same—to look forward to the day they will once again have the opportunity to welcome the restoration of freedom in their homeland. All of us here in America who are fortunate enough to have been born in the liberty won by our forefathers in another revolution share those hopes for Hungarian freedom.

President Eisenhower in the tragic days of November 1956, wrote Premier Bulganin, and uttered a plea that I think all Americans can reiterate again today, 15 years later:

> I urge in the name of humanity and in the cause of peace that the Soviet Union take action to withdraw Soviet forces from Hungary immediately and to permit the Hungarian people to enjoy and exercise the human rights and fundamental freedoms affirmed for all peoples in the United Nations Charter.

Mr. Speaker, as I recall saying in 1957 in greeting to the Hungarian freedom fighters who came to Schenectady:

> Ishten hozolt; ishten al wega Magyar!

Greeting to all, long live Hungary.

Mr. BUCHANAN. Mr. Speaker, it is with profound respect for the valiant efforts of Hungary's freedom fighters that I join my colleagues in their recognition today.

During those memorable and tragic days from October 23 to November 3, 1956, Hungary's freedom fighters captured the admiration and imagination of the free world on the one hand, and virtually shook the walls of the Kremlin on the other. It could be said, in fact, that from the date of the first revolutionary outbreak through November 4, 1956, when the Soviet armies returned to attack the outmanned Nagy government forces, a totalitarian society was in dissolution.

The late Prime Minister of India, Jawaharlal Nehru, said so well in the September 7, 1958, edition of the New York Times Magazine:

> What happened in Hungary demonstrated that the desire for national freedom is stronger even than any ideology and cannot ultimately be suppressed. What happened in Hungary . . . represented nationalism striving for freedom from foreign control.

The patriots envisaged an independent country outside the power blocs, where a multiparty system, parliamentary democracy, the observance of individual human rights, and an economy based on the concept of human justice would prevail.

After life had been crushed from the short-lived revolution against Soviet oppression and the United Nations finally agreed to investigate, Mayor Jozef Kovago of Budapest, testified before the U.N. Special Committee on the Problem of Hungary, January 29, 1957, as follows:

> Truth outdoes fiction. This epic struggle written in blood; a struggle where the participants rose high above the measure of mortals, where 14-year-old children rose to the heights achieved by ancient heroes and 70-year-old grandmothers acted like Roman matrons. And yet my task is to relate this in a manner conveying a sense of reality.
>
> There are memories of glorious days followed by gloom. First the joy of rapturous crowds in the smoke-filled streets; later the sombre calm of men to die in the rubble of the wounded city.
>
> The Hungarian Revolution proves that the fate of nations is molded by the emotions of people . . .
>
> I wish to emphasize that the Hungarian Revolution was not premeditated, nor organized by anyone. Hungarian youth as one man strained apart the Communist shackles, breaking them with volcanic force. In the heat of this sacred fire Communist indoctrination melted within minutes. The truth was suddenly revealed, and the repulsive farce of Communist lies and doctrines became apparent. These young people rose as one, rejecting Leninist-Stalinist teachings in a single resounding outcry.
>
> The very same evening hundreds of thousands of Hungarians voiced one wish with all their hearts: "We want to be free!"

Tragically, Hungary is not yet free as the millions and millions of people presently living under Soviet oppression in Eastern and Central Europe are not free. The United Nations Hungarian resolutions are still unhonored; namely, the withdrawal of Soviet troops and the restoration of Hungary's freedom and independence. But the spark of freedom still burns there as it does in the heart of every man and in the composite soul of every nation that must continue to live in bondage.

October 23 to November 4, 1956, were days that will live forever in the records of free man and free nations. It represents the epitome of courage. The action of Hungary's freedom fighters underscores the eternal unquenchability of man's desire to be free—whatever the odds, whatever the sacrifice.

As we today pay tribute to these gallant men and women on the 15th anniversary of the Hungarian revolution we must, with Abraham Lincoln:

> Here highly resolve that these dead shall not have died in vain . . . it is for us the living . . . to be dedicated to the unfinished work which they so nobly advanced.

RADIO AND TELEVISION LICENSES

The SPEAKER. Under a previous order of the House, the gentleman from Florida (Mr. FREY) is recognized for 5 minutes.

Mr. FREY. Mr. Speaker, as a member of the Power and Communications Subcommittee I have become aware of an injustice which is being imposed upon responsible broadcasters throughout our country.

As I am sure you know, in January of last year the Federal Communications Commission issued a policy statement that would give an incumbent licensee preference in seeking a renewal of his license provided, if, of course his past performance had shown substantial service to the public. In June of this year the U.S. Court of Appeals reversed that policy, saying it would substitute a standard of "substantial" service for the "best possible" service to the public.

I am sure that none of us in the Congress would want anything but the "best possible" programing to be shown on radio and television stations. However, this decision opens Pandora's box for any special interest group which may wish to harass a station.

By threatening contested license renewal hearings, special interest groups could coerce many broadcasters into changing parts of their programing to the detriment of the public in general. The Congress should not allow this possibility to exist.

My bill would exclude all new applications for a broadcast license when a station applies for a renewal, except in cases where the Federal Communications Commission had significant proof to show that the present licensee is not serving the "public interest, convenience, and necessity."

The bill would also make all commercial radio and television licenses valid for 5 years instead of the 3-year period provided in the present law.

As I am sure you know, the cost of buying and operating a radio or television station is phenomenal. In many cases it takes over 5 years for an owner just to break even. As the law now stands, the overwhelming majority of broadcast licenses are valid for only 3 years. Then the station owner must get a renewal which takes time and runs up additional expenses. I am introducing this bill extending the 3-year limit in order to give the broadcasters more stability while also giving the new broadcaster a better chance to break even on his financial investment.

B. JOHN TUTUSKA—DISTINGUISHED COUNTY EXECUTIVE

The SPEAKER. Under a previous order of the House, the gentleman from

New York (Mr. KEMP), is recognized for 15 minutes.

Mr. KEMP. Mr. Speaker, B. John Tutuska has devoted his life to public service. He has served honorably and with great distinction as a member of the Buffalo Police Department, as an officer of the U.S. Army during World War II and the Korean war, as sheriff of Erie County, N.Y., and most recently as county executive.

His record has been marked by a devotion to duty, a high regard for the welfare of people, and is characterized by his high sense of integrity and honesty.

Mr. Speaker, John will retire on December 31 as Erie County executive after 35 years of public service. This Saturday he will celebrate his 60th birthday and is grateful for an astonishing recovery from a massive heart attack which precluded his running for reelection. John is the type of dedicated public servant who was grateful for the opportunity to serve.

He was appointed county executive December 1, 1968, to succeed the late Edward A. Rath. He won election in 1969 to the balance of Mr. Rath's unexpired term. I believe the near 70,000 vote majority won by county executive elect, Ned Regan, as a manifestation from the electorate that the Tutuska led county government is one of the finest in the Nation and must be continued.

On April 7, 1971, I called the Erie County sesquicentennial to the attention of my colleagues and pointed out that as part of this anniversary celebration a new county office building was dedicated in memory of the first county executive, Edward A. Rath, Sr. In my extension, I remarked:

> Under the farsighted direction of Edward A. Rath, Sr., our county government was launched into a new era of collective cooperation and beneficial association with all levels of government, as it does today under B. John Tutuska.

Now a fitting tribute will be paid to B. John, for the many years he has dedicated to serving us. I personally have profited from his advice and counsel during my campaign and in this, my first term in Congress. I am happy to join with the many thousands of friends of John who will in some way participate in a testimonial dinner to be held in John's honor Sunday, December 12, 1971, in Buffalo. I am looking forward to being a part of this memorable evening.

Mr. Speaker, George Borrelli in the Buffalo Evening News and Robert O. Graves in the Buffalo Courier-Express, have recently written articles paying tribute to B. John Tutuska. I think it is appropriate to include these articles at this point.

[From the Buffalo Evening News, Dec. 5, 1971]

TUTUSKA TO LEAVE OFFICE WITH A SENSE OF PRIDE

(By George Borrelli)

As he prepares to leave office Dec. 31, County Executive Tutuska nurses no grudges, harbors no animosities, has no regrets.

B. John Tutuska is 60 years old today. A handsome 6-footer with iron gray hair, his manner is relaxed, his mood philosophical.

He's a man at peace with himself and his surroundings. And he's a grateful man—thankful for the opportunities that propelled him to the county's highest elective office and for his recovery from a severe heart attack.

"I don't think I'll ever want to run for office again," said Mr. Tutuska in an interview this week—in his office on the 16th floor of the Rath Office Bldg.

He plans to remain active in community affairs, but beyond that has no plans for the future.

"I'm really not concerned about that," Mr. Tutuska said. "The future has a way of taking care of itself. I've always been content, whether I was a private in the Army, a patrolman in the Buffalo Police Department or county executive.

"I'm convinced that everything happens for the best."

What the modest Mr. Tutuska didn't say about his background as a soldier, policeman and elected official was considerable.

He was inducted into the Army during Wolrd War II as a private and discharged as a captain. Another tour of duty came during the Korean conflict, from 1951–52, and finally service in the Army Reserve, from which he retired with the rank of lieutenant colonel.

As a Buffalo policeman, Mr. Tutuska started as a patrolman in 1936 and rose to captain. Later, he became undersheriff, then sheriff of Erie County.

Mr. Tutuska was appointed county executive Dec. 1, 1968, to succeed the late Edward A. Rath.

He won election in 1969 to the balance of Mr. Rath's unexpired term.

Earlier this year, Mr. Tutuska was endorsed by the GOP for election to a full, four-year term. But fate intervened. He suffered a heart attack May 22.

After he was discharged from the hospital, Mr. Tutuska announced he would continue his candidacy. But he later pulled out of the race on advice of his physicians.

Subsequently, Edward V. Regan, who had filed to oppose Mr. Tutuska in the primary, was substituted as the GOP organization candidate and went on to win the general election.

Mr. Tutuska said he bears no ill feelings towards Mr. Regan, for whom he campaigned.

"What happend was a blessing," Mr. Tutuska said of his heart attack.

"At least I've had a warning. Some of my friends didn't have that warning."

While he has no desire to again run for office, Mr. Tutuska doesn't rule out the possibility of an appointive post.

Mr. Tutuska has a good relationship with Gov. Rockefeller and there have been recurring reports that he might receive a state appointment.

One of the top vote-getters in the history of Erie County, Mr. Tutuska won four elections—three for sheriff, one for county executive.

A tireless campaigner, he believed in moving around the county to meet people and listen to their problems.

"You can't find out what's going on by just sitting in that chair," said Mr. Tutuska pointing to his desk.

So strenuously did Mr. Tutuska campaign that he lost an average of 15–17 pounds every time he ran for office.

In 1965, the last time he was elected sheriff, Mr. Tutuska attended 101 picnics.

"But I never had time to eat," he laughed.

Mr. Tutuska interprets the near 70,000-vote majority won by County Executive-elect Regan this year as a double-edged reaction from the electorate.

On the one hand, they were giving the Republican-controlled county government a vote of confidence, said Mr. Tutuska.

"Our county government is one of the best . . . we're recognized as one of the finest in the nation."

On the other hand, the voters were expressing a desire for a younger man in the office, Mr. Tutuska continued.

Mr. Regan, 41, whose campaign theme was "a new generation of leadership," defeated Mayor Sedita, 64, the Democratic candidate.

In the three years that he presided at the helm of county government, Mr. Tutuska was beset with a number of problems, some of which were solved easily, while others produced frustration and conflict.

Chief among the latter was the acrimonious fight over a new football stadium, a battle finally resolved this year when the county agreed to build an 80,000-seat facility in Orchard Park.

Mr. Tutuska had initially favored a domed stadium in Lancaster. But when plans for the project collapsed, he shifted his support to the open stadium.

"I thought it was absolutely essential that we go ahead," he explained. "I couldn't subscribe to the argument that it had to be a dome or nothing."

Mr. Tutuska is leaving office with a pride in a number of projects on the drawing boards, underway or completed.

Major ones include the new Comprehensive Health Care Center, for which bids have been taken; expansion of the Erie County Community College—opening of a temporary city campus and plans for two new permanent campuses, one in downtown Buffalo, the other in Hamburg; creation of an office for the aging; establishment of a County Youth Board, a drug abuse program and a clinic for alcoholics.

Mr. Tutuska speaks feelingly for the aged and the poor. He admits the Medicaid program has been costly, but cites its pervasive benefits to the poor, the aged and families hit with catastrophic illness.

Mr. Tutuska, who has deep roots in the Buffalo area, plans to spend a month or two in Florida after he leaves office. Then he'll return to Buffalo, where he resides at 301 Colvin Ave. with his wife Marie and their three sons, Peter, a senior at UB; William, a freshman at Hilbert College, and John, a Canisius College graduate who's employed as an accountant.

"The future will take care of itself," Mr. Tutuska repeated. "Everything happens for the best."

[From the Buffalo Courier-Express, Dec. 5, 1971]

TUTUSKA "GRATEFUL FOR OPPORTUNITY TO SERVE" COUNTY

(By Robert O. Groves)

After 35 years of public service, the patrolman who had no political ambitions when he joined the Buffalo Police in 1936 will retire Dec. 31 as the county executive.

While marking his 60th birthday Saturday, Erie County Executive B. John Tutuska reflected on his career as military officer, police captain, county sheriff, and county executive with a characteristically modest, "I was grateful for the opportunity to serve."

Since his appointment on Dec. 1, 1968 as successor to the late Edward A. Rath, the county's first executive, and his subsequent election as county executive in 1969, Tutuska has seen the position grow to become the most important political post in Upstate New York and to assume the responsibility this year of a landmark $266.6 million county budget.

It was only upon his physician's advice that Tutuska, after being hospitalized at Deaconess Hospital May 22 to July 4 for a heart attack, a massive coronary occlusion, which he suffered while appearing at the Buffalo Athletic Club, "reluctantly" declined the endorsement for reelection, thus stepping aside for Edward V. Regan, the victorious GOP candidate who will assume the post Jan. 1.

At the time of his withdrawal on July 30 from the 1971 campaign, Tutuska said, "I do not shrink from conflict. I never have and I never will. I have searched my heart. I have sought guidance from my family, my friends and almighty God. At this point in time I cannot serve the party at the needed 100 per cent level during the campaign. Less than 100 per cent would be a disservice."

"But I am still the executive," Tutuska emphasized Saturday, "and will work diligently as such until Dec. 31. I don't intend to lose interest in this community. This is my permanent area.

"After four or five months of sun and golfing in Pompano Beach, Fla., I will probably be itching to get back. Since I don't assume an official capacity, I will have more time to be active in various service organizations to which I belong."

There is a wide field of service open to him. Over the years he has belonged to, or is still a member of 53 charities and social clubs, 18 major law enforcement-related organizations and 12 veterans and armed forces groups.

Some of these activities, such as the New York State Sheriff's Assn., have involved him in extensive committee work, while others, such as the Buffalo Area Council on Alcoholism, of which he was president in 1963, and the United Fund, for which he has held various chairmanships, have profited from his leadership.

High on the Tutuska list of social projects on which he will concentrate as an activated retiree will be programs to benefit senior citizens.

During his administration, the county established a state and federally-funded Office for the Aging. It upgraded and awarded contracts for new facilities at the Erie County Home and Infirmary in the Town of Alden. Two years ago the county's first Advisory Committee on Recreation for the Elderly was set up.

In his last days as executive, Tutuska, who is on the board of directors for the Nazareth Nursing Home, said he is making efforts to establish temporary nursing homes for some 700 senior citizens in the county who are trying to get into one.

"There are 200 of the elderly persons in our hospitals for whom a home would be a better environment," he said. "An effort has to be made to get some of the 26.5 million senior citizens in the United States back into the mainstream of life. Loved ones can't take care of all of them."

Other achievements during his three years as executive of which he is especially pleased include:

Approval and start of construction of the County Comprehensive Health Care Center to replace Meyer Memorial Hospital in three years, and the completion of School No. 84 for Handicapped Children on the Meyer Hospital grounds.

The designation of parts of the country as a "special impact area" by the federal government, thus increasing employment by making Erie County eligible for public works grants.

Construction of the $700,000 Fire Training Center at Broadway and Union Rd., Cheektowaga, the Edward A. Rath County Office Bldg. in downtown Buffalo and the Torrax solid-waste disposal facility in Orchard Park and groundbreaking for Erie Community College's South Towns Campus.

Seven Special Achievement Awards to Erie County by the National Assn. of Counties for public service programs including those of the county departments of Social Services, Health, Mental Health, the County Youth Board's rehabilitation program in Buffalo's Lovejoy District and the Buffalo and Erie County Library.

The termination of the confused bitter battle of where to build a football stadium which began before Tutuska took office and which was resolved this fall with the county agreeing to build an 80,000-seat facility in Orchard Park.

Tutuska credits much of his organizational ability and feel for government to the experience he gained during World War II while serving with the U.S. Army Military Government unit which helped reorganize fire, police and public services in France, Belgium, Holland and Germany.

After serving from 1929 to 1932 as a corporal with the 106th Field Artillery of the N.Y. State National Guard, Tutuska was drafted into the Army as a private in 1942, served with the 17th Airborne Division and the Military Government Unit. He received among other decorations, the Middle Eastern Campaign Medal with four battle stars. He was discharged into the reserves in 1946 as a captain. He was recalled for 19 months of active duty during the Korean Conflict as a captain and retired from the U.S. Army Reserves in 1965 as a lieutenant colonel.

Tutuska joined the Buffalo Police Dept. in 1936 ("with the intent of just being a good police officer"). As a police lieutenant after World War II in charge of the department's Accident Prevention Bureau, he earned two National Awards for Buffalo from the National Safety Council. Following the Korean Conflict he was commander of the Niagara St. and the Fillmore Ave. stations as a captain.

He was appointed Erie County undersheriff in 1956 by former Sheriff Robert A. Glasser and was named by Gov. Rockefeller to succeed Glasser in September 1959.

"I had never wanted to be an elected official. But in the 1959 November elections I was faced with having to choose between running for office or getting out," said Tutuska. He ran and was elected to office four times by phenomenal majorities. As sheriff he fostered the establishment of the Erie County Sheriff's Training Academy and the development of modern communications systems and crimefighting techniques and equipment.

Tutuska, who saw the creation of the post of deputy county executive last April and who views his heart attack as a warning signal and "perhaps a blessing in disguise," believes the biggest help that the federal government can give counties is in the area of revenue sharing and welfare reform.

As for his own career, Tutuska recalled gratefully that "no matter where I went, whether I was directing traffic as a policeman or studying a town's sewer problems as county executive, I always found people willing and helpful."

The county executive said he plans to continue to maintain his home at 301 Colvin Ave.

TAKE PRIDE IN AMERICA

The SPEAKER. Under a previous order of the House, the gentleman from Ohio (Mr. MILLER), is recognized for 5 minutes.

Mr. MILLER of Ohio. Mr. Speaker, today we should take note of America's great accomplishments and in so doing renew our faith and confidence in ourselves as individuals and as a nation. The volume of commerce flowing through U.S. ports annually numbers in the millions of tons. The United States ranks consistently among the world leaders in shipping commercial tonnage. Through the ports of New York and New Jersey, for example, a total of 167,548,704 tons passed in 1 year.

JOHN MUSSO: A TRUE ALL AMERICAN

The SPEAKER. Under a previous order of the House, the gentleman from Alabama (Mr. BUCHANAN) is recognized for 5 minutes.

Mr. BUCHANAN. Mr. Speaker, the name Johnny Musso in the State of Alabama is synonymous with outstanding sportsmanship, performance on the football field, and scholastic achievement.

These qualities in this All-American running back from the University of Alabama were again recognized last night when John Musso received the Scholar-Athlete Award from the National Football Foundation and Hall of Fame in New York, becoming the first University of Alabama player to be so honored.

Those of us from Johnny's hometown of Birmingham, which it is my privilege to represent in the Congress, are especially proud of this young man. We have watched him from his days as a star of the Banks High School football team and student body president.

While at Alabama he was three times named all-SEC academic player. He has broken 22 University of Alabama records including seven for rushing and scoring.

During his senior year at Alabama he carried the ball 191 times for a total of 1,088 yards or an average of 5.7 yards per carry. He accounted for 16 Alabama touchdowns and 100 of the points which the university chalked up during its undefeated regular season—efforts which earned him fourth place in the ballotting for this year's Heisman Trophy.

Earlier this week John was named Football News' Collegiate Player of the Year and has been selected an All-American by United Press International and by football writers nationwide.

All of these honors and more which he will receive, such as the Co-Southeastern Conference Player of the Year Award next week, are reflective of the type athlete and scholar which John Musso is.

But he is also a young man of much humility and character, quick to credit his successes to his family, teammates and coaches.

I think his remarks upon being notified of his selection for the National Football Foundation Award are even more indicative of the personality which go to make him not only an outstanding athlete, but an outstanding individual.

He said, and I quote:

> I've had more thrills this season than a person deserves in a lifetime and I hope I can prove worthy of this honor in the future by my conduct as a person.

With this type of outlook on life, Mr. Speaker, I am sure he will be able to do so.

RETIREMENT OF CHARLIE PURYEAR

The SPEAKER. Under a previous order of the House, the gentleman from Mississippi (Mr. GRIFFIN) is recognized for 5 minutes.

Mr. GRIFFIN. Mr. Speaker, earlier this year one of the House of Representatives' most dedicated and faithful employees retired.

Charles A. Puryear started working in the House post office in August 1951 under the sponsorship of Representative John Bell Williams. He conscientiously performed his duties for nearly 20 years and became a well-known figure on Capitol Hill.

The life of Charles Puryear is a heartening example of what determination can achieve. Born without sight in one eye and with extremely limited vision in the other, Mr. Puryear was never deterred from seeking and obtaining productive employment. He made many friends while here and will be missed.

Mr. Puryear had great respect for the House of Representatives as an institution and the individual Members of Congress he knew on a personal basis. In turn, he was respected and admired by all who knew him.

The Griffin and Puryear families have ties that go back many years. Charlie Puryear's grandfather and my grandfather served together in the Mississippi Legislature. His father and my father served together on the Hinds County Board of Supervisors; and, as I tell Charlie, he and I served together in Congress.

Charlie and his charming wife Mary are living in retirement in Jackson, Miss. They have the sincere best wishes of many Members of this body as they enter this new phase in their life.

Upon Mr. Puryear's retirement last May, House Postmaster H. H. Morris had this to say about him:

> Charlie Puryear, who is retiring on Monday after over 19 years in the House Post Office, is in my opinion one of the most dedicated public servants I have ever known. He was very efficient, punctual and always performing a little above and beyond his assignment.
>
> He will be missed by his colleagues in the Post Office and the offices which he served.

Mr. Speaker, I include an Associated Press article which appeared in the Jackson Daily News on May 29, 1971, concerning Mr. Puryear. It follows:

> "HUMAN ENCYCLOPEDIA" OF RAYMOND RETIRES
>
> WASHINGTON.—Charles Puryear, whose encyclopedic knowledge of present and past members of Congress has served lawmakers and newsmen alike, is retiring after 19 years as a House employe.
>
> Ask about almost any member who has served in the House or Senate since 1900 and Puryear can tell you the congressman's full name, state, district, and years of service and probably name the man he succeeded and the man who succeeded him.
>
> Puryear, a native of Raymond, Miss., is one of the quiet, modest, unsung men who help the wheels of Congress turn smoothly.
>
> He has been a House mail messenger for 19 years, pushing a cart around the office building halls and collecting mail. He has no idea of the miles he has tramped along the marble corridors.
>
> Puryear's gift of almost total recall as to biographical infomration about congressmen is all the more remarkable since he was born almost blind. He has no sight in one eye, little in the other.
>
> But he has read—and memorized—congressional biographies of virtually all members since about 1900. He modestly disclaims this, saying he doubts he can even go back as far as 1910, but congressmen who have tested his knowledge, say he can come up with information on at least 99 of every 100 who have served since 1900.
>
> Puryear, now 60, came to Washington in 1952 as a patronage employe of Rep. John Bell Williams, D-Miss., now Mississippi governor. Puryear is due to retire at the end of June.
>
> House Postmaster H. H. Morris, said of Puryear. "He is one of the most dedicated public servants I have ever known—efficient, punctual and always performing a little above and beyond his assignment."
>
> A 1932 graduate of Mississippi College, Puryear began his hobby of reading up on congressmen as a boy in Raymond after his appetite for information was whetted by reading the Congressional Record.

POLLUTION CONTROL AND PREVENTION

The SPEAKER. Under a previous order of the House, the gentleman from Illinois (Mr. ROSTENKOWSKI) is recognized for 5 minutes.

Mr. ROSTENKOWSKI. Mr. Speaker, pollution is a devastating national problem that affects not only my city of Chicago, but every city and State throughout the country. It is a problem that has been propagandized, legislated, and reiterated. Time and again, in this body and in all the media, we are bombarded with it. It has become such a vogue issue that its slogans are almost rendered trite before they are written.

Until now, the impetus of effecting strong forceful change in pollution control and prevention has rested with small groups such as Citizen's Crusade for Clean Water. But, these action groups cannot hope to rectify the flagrant spoilage of our water and air. They lack unity, control, funds, and most important, manpower.

The public has been made growingly aware of pollution as a social evil through mass media. Legislation has provided us with the beginnings for reform, but as yet we have nothing more than a beginning. Both the people and their representatives are aware and eager to eliminate the problem. Why then has antipollution action been so painfully slow?

A possible reason for this retarded action, as well as an attempted solution is in the process of being formulated by Ralph Nader and his well-known following of young superstars. There have been many times when I have thought Nader and his barnstorming tactics personally and politically defeating, but here, credit is deserved.

Nader's concept as I understand it is this: To construct an autonomous organization, the Fisherman's Clean Water Action Project, uniting the nation's 60 million fishermen, on the premise that they have an immediate and firsthand interest in cleaning up our waters. This new organization would then function as a gap filler. It would operate with top experts in the fields of biochemistry and ecology, as well as in the law. It would be an agency which would provide legal services for individual pollution problems and assemble information and disperse it to the public. It would act with and provide advice to legislators, and mobilize citizen groups around focus issues. In other words, Mr. Nader proposes to create a national organization whose sole interest is pollution control, specifically, water pollution control. The assumption is that organized enterprise will be better able to facilitate change with more speed and accuracy.

Mr. Speaker, it is obvious that something is vitally needed to stimulate constructive and continual action in order to combat pollution in this country. The Great Lakes regions of Illinois are prime examples of this national disgrace and the immediate need for remedies. I believe that Mr. Nader and his program deserve attention and support. I am sure that as this new organization progresses, it will command a watchful eye from Congress. I have a feeling we will be hearing from the Fisherman's Clean Water Action Project, hopefully very soon.

THE VICE PRESIDENT'S TEMPESTUOUS TROPOLOGY

The SPEAKER. Under a previous order of the House, the gentleman from Michigan (Mr. WILLIAM D. FORD) is recognized for 15 minutes.

Mr. WILLIAM D. FORD. Mr. Speaker, once again the Nixon administration has unleased the Vice President to contaminate the countryside with more of his rambling rhetoric and reckless rancor.

This time the targets of the Vice President's tempestuous tropology were the Democratic presidential contenders, who were accused of being "economic morticians" and labeled as purveyors of "pallbearer polemics" by the Vice President.

Defending the disastrous economic policies of the Nixon administration in a speech to the National Association of Manufacturers in New York on December 3, the Vice President stated that—

> Pallbearer polemics and doomsday dispatches are unwarranted by an impartial examination of the facts readily at hand.

Mr. Speaker, the Vice President would be well advised to make his own "impartial examination of the facts readily at hand" before he so vigorously defends the Nixon administration's economic game plans.

Had he done so he may have learned that on the very day that he was making this speech the Department of Labor announced that the Nation's unemployment rate had once again edged upward in November to 6 percent of the labor force. This means that there are presently over 5 million Americans unable to find work.

The Vice President would have also learned that wholesale prices had again risen in November, although he probably would have chosen to defend this increase in the same manner he defended the October rise in the Consumer Price Index—by claiming that while inflation and prices may still be on the rise, they are not on the rise as fast as they used to be.

A further examination of the "facts readily at hand" would have indicated to the Vice President that after almost 3 full years of the Nixon administration, this Nation has seen the rate of unemployment climb from 3.3 to 6 percent, the Wholesale Index rise from 106.5 to a whopping 114.4, and the gross national product fall for the first time since 1958.

He would have learned that the Federal Reserve Index of Industrial Production has actually dropped by more than 4 points during this same period, that the Consumer Price Index has risen constantly, and that, for the first time since

1893, this country has suffered its first balance-of-trade deficit.

Mr. Speaker, the Vice President implied that part of the business leadership in this country has "allowed itself to be psychologically manipulated by the ritual doomsayers of the Democratic Party." After examining the "facts readily at hand," as the Vice President has suggested, it would appear to me that perhaps the Vice President himself is the one man who has been psychologically misled—by the public relations department of his own party.

I am certain, however, that the business leadership in this country has not been psychologically manipulated by the party out of power. The business leadership in this country has simply been victimized—by an administration which has chosen to cure the economic ills of the Nation with smooth talk and public relations gimmickry, rather than firm, positive action exercised by confident Executive leadership.

COTTER URGES PRESIDENT TO MAKE SOLUTION OF THE NORTHERN IRELAND CIVIL WAR THE HIGHEST PRIORITY IN HIS SUMMIT MEETING WITH THE ENGLISH PRIME MINISTER

The SPEAKER. Under a previous order of the House, the gentleman from Connecticut (Mr. COTTER) is recognized for 5 minutes.

Mr. COTTER. Mr. Speaker, the tragic situation in Northern Ireland demands more attention and action by the United States. I have attended several high level meetings on this complex matter and I believe the administration's laissez-faire attitude about this bloody civil war is misguided and inappropriate.

It was for this reason I joined with my distinguished colleague from New York (Mr. CAREY) in calling for the enactment of legislation that would move the United States into a more constructive role in seeking a peaceful solution to this tragic conflict. This resolution calls for the immediate termination of all unconstitutional internment, full respect for the civil rights of all citizens of Northern Ireland, and most importantly termination of all political, social, economic, and religious discrimination that is the root cause of the current violence. This reasonable goal can only be accomplished by the withdrawal of British troops from Northern Ireland and the convening of all interested parties to work for the unification of Ireland.

I do not underestimate the obstacles in such a proposal and only an effort at the highest level of Government can assure its success.

For this reason today I have written to President Nixon urging him to place the issue of the solution of the civil war in Ireland as one of the high priority items in his scheduled visit with Prime Minister Heath of Great Britain on December 20 and 21.

For the benefit of my colleagues, and the readers of this RECORD, I am including in the RECORD a copy of my letter to the President in addition to a copy of this resolution.

CONGRESS OF THE UNITED STATES,
Washington, D.C., December 8, 1971.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: I know that you share my deep concern over the tragic civil war that afflicts Northern Ireland.

Since you are preparing to meet with Prime Minister Heath on December Twenty-first and Twenty-second, I am hopeful that you will make the solution of the Northern Ireland conflict one of the highest priority issues in this summit conference.

After serious study of the situation, I can only conclude that an equitable solution will result in the unification of Ireland. This unification would, of course, ensure that all citizens are guaranteed their civil rights and the social and religious persecution that has characterized the history of Northern Ireland would be ended.

I am confident that you will give this matter your most detailed attention and exert U.S. influence in a constructive manner to end the tragic civil war.

Sincerely,

WILLIAM R. COTTER,
Member of Congress.

H. RES. 654

Whereas the continuing violence and bloodshed in Northern Ireland is a cause of the deepest concern to Americans of all faiths and political persuasions;

Whereas the causes of the present conflict may be traced to the systematic and deliberate discrimination in housing, employment, political representation, and educational opportunities practiced by the governmental authorities in Northern Ireland against the minority there;

Whereas the Governments of the United Kingdom and of Northern Ireland have failed to end the bloodshed and have failed to establish measures to meet the legitimate grievances of this minority;

Whereas continued repression and lack of fundamental reforms in Northern Ireland threaten to prolong and escalate the conflict and the denial of civil liberties: Now, therefore, be it

Resolved, That the House of Representatives expresses its deepest concern over the present situation in Northern Ireland and in accord with the fundamental concepts of nondiscrimination, fairness, democracy, self-determination, and justice requests the United States Government at the highest level to urge the immediate implementation of the following actions:

1. Termination of the current internment policy and simultaneous release of all persons detained thereunder.

2. Full respect for the civil rights of all the people of Northern Ireland and the termination of all political, social, economic, and religious discrimination.

3. Implementation of the reforms promised by the Government of the United Kingdom since 1968 including those reforms in the fields of law enforcement, housing, employment, and voting rights.

4. Dissolution of the Parliament of Northern Ireland.

5. Withdrawal of all British forces from Northern Ireland, and the institution of law enforcement and criminal justice under local control acceptable to all parties.

6. Convening of all interested parties for the purpose of accomplishing the unification of Ireland.

A FINAL TRIP TO THE RED BRICK CHURCH

The SPEAKER. Under a previous order of the House, the gentleman from Massachusetts (Mr. BURKE) is recognized for 10 minutes.

Mr. BURKE of Massachusetts. Mr. Speaker, not many hours ago, the Nation paused in its daily routine to bow its head and say a prayer with those gathered in a turn-of-the-century red brick church at the corner of Columbia Road and Dorchester Avenue in the Dorchester section of Boston. Never in their dream of dreams did the poor immigrants who built that church imagine the day would come when the leaders of the Nation—former President and President's wife, Cabinet members, Senators, Congressmen, ambassadors, cardinals and bishops, Governors, mayors, and legislators by the score would kneel in prayer and shed a tear in this, their humble parish church with pews so rough and altars plain. The neighborhood, never knowing what it was to be really rich and famous, was content to pride itself on its hardworking, honest, and God-fearing families. If, over the years, one of their number came to know power and fame in the inner councils of the Nation's Government, neither he nor the neighborhood forgot their humble beginnings, however justifiable their pride in his success.

Why then all this national attention and sorrow over a man advanced in years paying his last respects to his wife of half a century? To be sure, the fact that the man in question was the former speaker of the U.S. House of Representatives, the third most powerful office in the land, probably accounts for some of the interest of the event with national press and media coverage. But interest is not the same as sorrow or a deep sense of loss. What then made this funeral service the touching event it was? If I may be permitted the liberty of interpretation, it was as if the Nation intuitively understood that it was witnessing in many ways the passing of an era, an era which produced men and women with the backbone and character, the integrity and values of John and Harriet McCormack. It is as if the Nation sensed we would never see their likes again, either individually or together. The very rapture with which the press focused on their perfect marriage has all of the qualities of a storybook romance, a legend in our time. Not a legend in their time, for such marriages in their time were not all that rare or uncommon; but a legend in our time, in a world when even those who should be closest find it more and more difficult to find time even for each other. The very sense of incredulity expressed over the fact that for 42 years of one of the most distinguished careers in Congress, the last 9 of it as Speaker, John W. McCormack always had time for Harriet Joyce McCormack, shows how far we have strayed as a people from their world.

The fact is though John W. and Harriet McCormack came a long way from South Boston and St. Margaret's Church in Dorchester, they never really left it. It was then the most natural and fitting thing in the world for John to return with his Harriet to St. Margaret's Church the other day for the final time, for it was in this setting that both acquired the values and outlook that were to serve them in such good stead over their long and eventful lives together. I know it is common practice to declare that today we are living in an age of crisis and turmoil and chaos, of change and discord such as we have never known. A good deal of misplaced self-pity might be dispelled if we realized that the lifetimes of John and Harriet were not without their fair share of crises and disaster. Anyone who lived together through the Great World War, the Great Depression, the rise of Hitler, World War II, the dropping of the atomic bomb, Korea, and Vietnam and survived together, had to know the meaning of change and crises. What spells the difference between their generation and ours are probably such simple and basic virtues as faith and love—no more, no less. This is why I think the Nation paused the other day, because we knew what separated them from us and, realism being what it is, knew in our heart of hearts that we would probably never see their likes again. If John and Harriet McCormack leave no other legacy to this Nation from their years of undying and devoted service to their country, it will be their shining example of how two people can leave their home to serve their neighbors in the corridors of power and inner councils of Government and return home half a century later with their integrity, decency, and love intact and uncorrupted by power and fame. And so it was that even while a woman was being laid to rest a few hours ago in Dorchester, a legend was being born and which will live forever in the annals of the Nation's heroes. And it all began where it might have ended, in St. Margaret's Church in Dorchester.

MAINTAINING THE PUBLIC SAFETY

The SPEAKER. Under a previous order of the House, the gentleman from Ohio (Mr. JAMES V. STANTON) is recognized for 15 minutes.

Mr. JAMES V. STANTON. Mr. Speaker, those officials in our Nation charged with maintaining the public safety—and this term, in its broadest sense, includes not only policemen, but also firemen, judges, prison guards, and all others connected with the criminal justice system—bear a very great responsibility, for only through their efforts can our Government achieve the constitutionally stated goal of insuring domestic tranquillity. Their task has never been an easy one, and it is made even more difficult now by the fact that they come into contact daily with persons who have demonstrated a lack of respect for the law, and in addition a bitter hatred for it and all of those charged with enforcing it.

And yet despite the extraordinary hazards which these officials face in attempting to offer protection to our citizens, the benefits granted by many States to the survivors of law enforcement officers killed in the line of duty are shamefully inadequate. In fact, a recent Justice Department study showed that as of October 1970, 18 States provided no financial assistance at all to these families. Certainly the fact that these men cannot be sure that the needs of their family will be provided for should harm befall them is a tremendous burden upon them.

In order to rectify this situation, legislation was introduced earlier this year to provide a $50,000 death benefit to the survivors of any policeman killed in the line of duty. Because policemen are the most obvious targets of abuse, it was only natural that they would be thought of first.

However, I believe that all the other public safety officials I need are worthy of being covered under such a proposal. The killing in August 1970, of Judge Harold Haley of the Marin County, Calif., Superior Court, and the Attica prison riot make only too clear the dangers which they face. It is for this reason that I have introduced a bill, H.R. 11677, which would extend the $50,000 death benefit to the following officials: policemen, firemen, sheriffs, deputy sheriffs, highway patrolmen, parole and probation officers, investigatory and correctional personnel, alcoholic beverage control agents, judges, magistrates, justices of the peace, and other officers of the court.

The need for this legislation cannot be doubted. Last year 100 policemen were killed in the line of duty, a 16 percent increase over the previous year's toll. As of October 31 of this year, 112 policemen have been killed already. The International Association of Firefighters reports that 113 firemen were killed in the line of duty last year, and two prison guards were lost. Thus it is apparent that the cost of this legislation to the Federal Government would be minimal, and yet it would mean so much to these men and their families. By enacting this bill, we will be providing a measure of financial security to those families which have suffered the ultimate tragedy, and, in a larger sense, we will be affirming the support of the Federal Government for these officials in their effort to enforce the law and give to the public the protection it needs and deserves.

I am pleased to note that the Senate Judiciary Committee has taken an interest in legislation on this subject, and last week held its second set of hearings on it.

At that time I submitted a statement in support of the expanded coverage which I have proposed. My testimony relied heavily upon the many statements of support I have received from public safety officials in the Cleveland area and in Ohio, and I would now like to commend to my colleagues the full text of these statements:

OHIO ASSOCIATION OF
CHIEFS OF POLICE, INC.,
Columbus, Ohio, November 22, 1971.

Re H.R. 11677.
Hon. JAMES V. STANTON,
Longworth Building,
Washington, D.C.

MY DEAR CONGRESSMAN: On behalf of the Ohio Association of Chiefs of Police, I would like to wholeheartedly extend my support for the above bill.

This bill would have a tendency to bolster the feelings of all personnel in the Criminal Justice System, knowing they have backing while performing their duties.

This type of bill has been sorely needed for a long time.

If I can be of any assistance, please do not hesitate to call me.

Respectfully yours,

HARRY W. HIRD,
President.

CUYAHOGA COUNTY
POLICE CHIEFS ASSOCIATION, INC.,
Maple Heights, Ohio, November 22, 1971.

Hon. JAMES V. STANTON,
House of Representatives,
Washington, D.C.

SIR: At a recent meeting of this organization House Bill was discussed at length and it was a unanimous decision to offer you our support. We strongly feel, as you do, that the family of any peace officer killed in the line of duty should be assured, at least, that their loved one has not died in vain.

All sixty one (61) members join in support of this Bill and respect all your efforts in presenting and supporting legislation that enhances law enforcement.

Sincerely yours,

EDWARD J. PRASEK,
Secretary-Treasurer.

CLEVELAND POLICE PATROLMEN'S ASSOC.,
Cleveland, Ohio, November 23, 1971.

Hon. JAMES V. STANTON,
Longworth Building,
Washington, D.C.

DEAR CONGRESSMAN STANTON: As President of the Cleveland Police Patrolmen's Association and Vice-President of the International Conference of Police Associations I wish to express the gratitude of all police officers to you for the introduction of House Bill H.R. 11677, and to your fellow members of Congress who are in support of you on this Bill.

The upholding and enforcement of the law in accordance with the spirit of the Constitution is a monumental task that the vast majority of the police officers in this Country have dedicated their lives to accomplishing.

All police officers from time to time during the course of their tours of duty get the feeling that they are all 'Alone'. This might be while walking down a dark alley on a burglary call or while facing a man with a gun whom you have just surprised during a hold-up in progress.

Police Officers the length and breadth of this great land have demonstrated time and time again the sacrifices they are prepared to make for the safety of the people. These same officers unselfishly concern themselves with the question of the welfare and well-being of their families, wives, and children if they should be killed in the line of duty.

Knowing that their Government cares about the welfare of their families should they be killed in the discharge of their duties will give to police officers peace of mind in this respect and the knowledge that such a supreme sacrifice is not in vain.

Very truly yours,

JAMES MAGAS.

FRATERNAL ORDER OF POLICE,
Parma, Ohio, December 4, 1971.

Mr. JAMES V. STANTON,
Longworth Building,
Washington, D.C.

DEAR MR. STANTON: I am in receipt of your letter dated November 12, 1971 informing all persons connected with the administration of Criminal Justice of your bill, HR 11677. This bill was received and read to the members of Parma Lodge #15 of the Fraternal Order of Police at their regular meeting held on the 18th of November, 1971. All attending members were very gratified at the concern that you must have for law enforcement and related agencies. A motion was made and passed requesting me to send you this letter stating the position that Parma Lodge #15 is taking on your bill. Without exception, we the members, 244 in number, of Parma Lodge #15 of the Fraternal Order of Police, stand 100% in support of your bill.

It goes without saying that the members of the law enforcement field are concerned for the welfare of their families in case they are killed in the line of duty. If the bill becomes law, it would greatly reduce the fears that law enforcement officers now have for their families should they be killed. It is a good feeling to know that our loved ones will be cared for if we are not here to do so. The $50,000.00 death benefit that you propose is a giant step in the right direction.

I would like to take this opportunity to again express our thanks for your concern and wish you good fortune, not only in this endeavor, but in any endeavor that you may pursue in the future.

Sincerely,

C. R. KAHLER, *Secretary.*

CITY OF CLEVELAND,
November 18, 1971.

Hon. JAMES V. STANTON,
Congress of the United States,
House of Representatives,
Washington, D.C.

DEAR SIR: In reply to your letter of November 12, 1971 I feel I can speak for all of the members of the Cleveland Police Department in heartily supporting your legislation which would provide a $50,000 Federal death benefit for the family of any public safety or law enforcement officer killed in the line of duty.

We also endorse the extension of this coverage to all law enforcement officers employed on a full-time basis by that state or a unit of general local government within the state.

The most important thing to any man is the health and welfare of his family. It is, therefore, easy to conclude that a man performing a hazardous duty will be more proficient when he has knowledge that his family will be well provided for in the event of his demise.

When the burden of such responsibilities are provided for, the end results will not only benefit the law enforcement officer's family, but also the general public will be better served.

Very truly yours,

STEVE SZERETO,
Acting Chief of Police.

COUNTY OF CUYAHOGA,
Cleveland, Ohio, November 18, 1971.

Congressman JAMES V. STANTON,
Longworth Building,
Washington, D.C.

DEAR CONGRESSMAN STANTON: I appreciate receiving your letter of November 12, 1971 enclosing a copy of your bill identified as H.R. 11677. To emphasize the need for the "Public Safety and Criminal Justice and Correctional Personnel Benefits Act of 1971" would be fatuous. The facts have never been so patent, the crisis never so conspicuous, and the need never so manifest.

I whole-heartedly support this bill and shall encourage the many friends accumulated throughout my twenty-seven years of Law Enforcement at every level—Federal, State, and Local—to do likewise. My support is not only generated from my position as a Peace Officer, but also from my responsibility as a citizen of The United States.

I sincerely hope that this measure will be passed by the Congress of the United States, and that subsequently, similar considerations may be given to the civilian victims of crime as well.

Very truly yours,

RALPH E. KREIGER,
Sheriff, Cuyahoga County.

DEPARTMENT OF POLICE,
Maple Heights, Ohio, November 22, 1971.

Hon. JAMES V. STANTON,
House of Representatives,
Washington, D.C.

MY DEAR MR. STANTON: Please be advised that you have the undivided support of the forty nine (49) officers and men in this department, relative to House Bill 11677.

We appreciate sincerely your efforts on the part of law enforcement and assure you of support in matters of this nature.

Sincerely yours,

EDWARD J. PRASEK,
Chief of Police.

BROOKLYN HEIGHTS VILLAGE,
Cleveland, Ohio, November 19, 1971.

Hon. JAMES V. STANTON,
Member of Congress,
Longworth Building,
Washington, D.C.

MY DEAR CONGRESSMAN: I have just finished reading H.B. 11677, which you sponsored in the House of Representatives, and would like to add my support to this much needed piece of legislation.

As you may well remember, this is the first anniversary date of the kidnaping of one of the officers from this Department, Sgt. Ronald Baracz, who was held hostage for over twenty-four hours and finally released after being taken into Pennsylvania and then returned to Ohio. It is only by the grace of God that he is with us today and the kidnaper, James Kelley, is the one who lies in a grave. During those anxious and uncertain hours before his release, many thoughts went through my mind, not the least among them being how his wife and two young daughters would be provided for in the event that he did not return.

You are probably well aware that State and local laws fail to provide adequately for the financial needs of the family in such an event, and therefore I heartily support this bill.

Very truly yours,

JOSEPH E. VALINE, *Chief of Police.*

CLEVELAND FIRE DEPARTMENT,
Cleveland, Ohio, November 29, 1971.

Hon. JAMES V. STANTON,
Longworth Building,
Washington, D.C.

DEAR JIM: It was most satisfying to learn that firemen were included in the term "law enforcement officer" in the recent bill (H.R. 11677) you introduced.

From the ever increasing number of incendiary type fires, malicious false alarms, and incidents where firefighters have been shot at or otherwise harassed while in the performance of their duty, it becomes apparent that they should be included.

Assuredly you have my utmost support in gaining approval of this legislation.

Sincerely,

WILLIAM E. BARRY, *Chief.*

BROOKLYN HEIGHTS VILLAGE,
Cleveland, Ohio, November 26, 1971.

Hon. JAMES V. STANTON,
Member of Congress, Longworth Building,
Washington, D.C.

MY DEAR CONGRESSMAN: I have read H.R. 11677, the bill which you recently introduced in the House of Representatives, to provide Federal death benefits to the family of any public safety or law enforcement or judicial or correctional officer killed while performing his duty.

It is true that State and local laws fail to provide adequately for the financial needs of the family in such cases; therefore I heartily endorse this legislation.

Very truly yours,

LESLIE G. THOMPSON,
Fire Chief.

BROOKLYN FIRE DEPARTMENT,
Brooklyn, Ohio, November 19, 1971.

Hon. JAMES V. STANTON,
Member of Congress,
Washington, D.C.

DEAR MR. STANTON: The members of the Brooklyn Fire Department wholeheartedly support your Bill No. 11677.

We are certainly very appreciative of any consideration you can give, to the families, of the members, of our profession, in that time of dire necessity.

Very truly yours,

JOSEPH V. PUCCI,
Fire Chief.

THE JUVENILE COURT,
Cleveland, Ohio, November 18, 1971.

Re H.R. 11677.

Hon. JAMES V. STANTON,
Longworth Building,
Washington, D.C.

DEAR CONGRESSMAN STANTON: Thank you for sending me a copy of H.R. 11677. This is indeed legislation for which there is a real need in these troubled times.

As one who has been engaged in law enforcement and the administration of justice for many years, I am well aware of the extraordinary hazards faced by police and other officers of the law. I don't permit myself to dwell on the imminence of danger to my own person since if I did I'm certain it would destroy my effectiveness as a judge. However, when one considers the deranged, angry, hostile individuals, youth and adults, who daily come before the Court there is just no way to belittle the very dangerous situation of the judge who must rule on the cases of these individuals.

In our Court, and I'm sure in other Courts as well, there are times when the sheriff is unable to supply deputies to provide the necessary security and hence at such times the ordinary risks are greatly enhanced.

The logic of your legislation is irresistible; most certainly there should be compensation for the occupational hazards of police, probation officers, judges and others engaged in law enforcement and the administration of justice.

Most sincerely,

WALTER G. WHITLATCH,
Judge.

THE JUVENILE COURT,
Cleveland, Ohio, November 16, 1971.

Hon. JAMES V. STANTON,
House of Representatives,
Washington, D.C.

DEAR MR. STANTON: Thank you for calling my attention to your sponsorship of H.R. 11677 relating to death benefits which might be payable to the survivors of correctional personnel killed as a result of their employment.

Over the last six years there has been acute concern from time to time about the safety not only of Probation Officers but also on the part of administrative personnel, including the judiciary, as we carry out our function in the community and in the Court. Assaults which have occurred on our people and incipient threats in the form of concealed weapons taken from juveniles and adults worry staff in direct contact with an increasingly militant public.

Our direct service to probationers and in neglect cases has been affected by underlying fears our probation officers have expressed for their safety. Their decision not to go into the field in neighborhoods having high potential hazards to safety has been supported by the administration. As a consequence less dependable service has been given to wards for whom probation has been ordered. Further, to rectify this situation, we are hopeful that an application for Law Enforcement Assistance Administration funding under the Omnious Crime Control and Safe Streets Act of 1968 may enable us to get a grant to establish neighborhood based offices out of which probation officers and indigenous para-professionals may operate to improve our probation service.

Although we are conditioned to expect difficulties on occasion and thus far have experienced no killings of staff in the line of duty, it would be a comfort to know that this ultimate circumstance would not leave our families destitute and dependent upon public assistance. I therefore support your effort to amend Title I of the Omnibus Crime Control and Safe Streets Act of 1968 and trust that H.R. 11677 may be enacted.

Sincerely yours,

JOHN J. ALDEN,
Director of Social Services.

CLEVELAND MUNICIPAL COURT,
Cleveland, Ohio, November 16, 1971.

Hon. JAMES V. STANTON,
Member of Congress,
Congress of the United States,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN STANTON: I wish to take this opportunity to personally commend you for your efforts in the preparation and introduction of H.R. 11677, which provides for death benefits to survivors of certain public safety and law enforcement personnel.

In this age, when reason and understanding of the judicial processes are sadly lacking, a guarantee of financial survival must be considered for dependents of court attaches. In my opinion, H.R. 11677 more than adequately compensates in this regard.

I therefore earnestly endorse the provisions of your Bill.

Respectfully yours,
JOHN A. FLANAGAN,
Bailiff.

COUNTY OF CUYAHOGA,
Cleveland, Ohio, December 1, 1971.

Hon. JAMES V. STANTON,
House of Representatives,
Congress of the United States,
Washington, D.C.

MY DEAR CONGRESSMAN STANTON: Upon receiving your welcome letter regarding the proposal HR 11677 to provide total benefits to survivors of certain public safety and law enforcement personnel and public officials, concerned with the administration of criminal justice and corrections, I give my hearty and enthusiastic endorsement to such a significant proposal.

I feel that to provide survivor's benefits up to $50,000.00 in the event my Probation Officers and administrators are killed in the line of duty, is long overdue and accentuates the area of the administration of justice which too long has been ignored and unrecognized.

Not only will I endeavor to have the Greater Cleveland Area endorse such a proposal, but on December 8, 1971, I will submit to the State organization The Ohio Correctional and Court Services Association (of which I am currently President) a proposal for State endorsement of HR 11677.

Please advise me if there are any other ways in which we can assist and expedite this Bill to become a law.

Sincerely yours,
JOSEPH A. JANESZ,
Chief Probation Officer.

PARMA MUNICIPAL COURT,
Parma, Ohio, November 26, 1971.

Hon. JAMES V. STANTON,
Congress of the United States, House of Representatives, Washington, D.C.

DEAR CONGRESSMAN STANTON: Thank you for your letter of November 12, 1971 and the copy of H.R. 11677, the bill you are sponsoring. In addition I want to acknowledge receipt of a copy of the congressional record regarding this matter.

For any and all who are willing to listen please make it known that you have the whole hearted support of myself and Judge Spanagel on this matter. As Judges we appreciate the concern you are showing for the judiciary but more than that be assured that as American citizens we are pleased to see that this bill provides for assistance to all of those fine Americans who serve as public servants in the many branches of law enforcement throughout the United States on the city, county and state level.

I am, and have been for the past eight years, a member of the National Legislative Committee of the Veterans of Foreign Wars and I am taking the liberty of sending a copy of this letter to Francis Stover, our National Legislative Director in charge of our Washington office and I am asking him to get in touch with you to see if we can aid in some way in helping you get this bill enacted.

I want to thank you for your public service. I am sure you will be very effective in the Congress through a long and impressive career.

Very truly yours,
RICHARD E. RESS,
Presiding Judge.

OHIO DEPARTMENT OF
MENTAL HYGIENE AND CORRECTION,
Cleveland, Ohio, November 26, 1971.

Hon. JAMES V. STANTON,
Member of Congress,
Washington, D.C.

DEAR SIR: It was indeed a great pleasure to have had the opportunity to read the bill you introduced, H.R. 11677. In addition, it is comforting to know that there are men like yourself who will go on record as supporting the total Corrections Spectrum.

As you have indicated, the Criminal Justice System is not only composed of policemen. There are others: Parole and Probation Officers, Investigatory and Correctional personnel, Alcoholic Beverage Control Agents, Judges, Magistrates, and Officers of the Court; whose role is providing protection to this great nation and all that it stands for.

I have shared your bill with many of my colleagues. All are very grateful to you for the insight you have shown and the bill, H.R. 11677, is supported one hundred per cent by all.

In addition, I have discussed this bill with R. E. Giannetta, Superintendent of Parole, State of Ohio, and he has not only pledged the support of this Agency, the Adult Parole Authority, but that of the Department of Corrections.

The best of success in getting additional support from your fellow Congressmen as well as others in the Criminal Justice System.

Sincerely,
DAVID L. ROGERS,
Acting Regional Supervisor,
Cleveland Region.

STATE OF OHIO,
DEPARTMENT OF LIQUOR CONTROL,
Columbus, Ohio, November 15, 1971.

Hon. JAMES V. STANTON,
Member of Congress, Longworth Building,
Washington, D.C.

DEAR CONGRESSMAN: Your letter and copy of H.R. 11677 is greatly appreciated. It is indeed good to know that as a member of Congress, you are so deeply concerned with the problems of law enforcement.

The "Public Safety and Criminal Justice and Correctional Personnel Benefits Act of 1971" as introduced on November 9, 1971 is comprehensive and covers inadequacies of existing law. This bill presents a vehicle thru which the Congress can manifest its moral and financial support of public servants who are killed in public safety duty. Enactment will be a much needed morale booster and should help furnish impetus to the recruitment of qualified peace officers.

Please consider this to be a letter of endorsement from myself and those men under my supervision. Be assured of the cooperation of this office in matters of mutual concern.

Very truly yours,
JERRY J. FEIERTAG,
Investigator-in-Charge,
Cleveland District.

P.S.—Your letter and copy of bill has been forwarded to my superior, James L. Milburn, Chief of Enforcement Operations, Ohio Department Liquor Control, Columbus, Ohio.

TRANSPORTATION NEEDS OF THE ELDERLY

The SPEAKER. Under a previous order of the House, the gentleman from New Mexico (Mr. RUNNELS) is recognized for 5 minutes.

Mr. RUNNELS. Mr. Speaker, the airline business has been most attentive to the transportation needs of the college students in our country. That business has recognized the financial straits of the average student and has responded to their travel needs by generously offering travel reductions of 50 percent or more.

This is, of course, an admirable reflection on the transportation business in this Nation. However, there is another segment of our citizenry who are deserving and who are suffering even greater financial handicaps. I speak of the elderly people of this country, those who are 65 years or older.

According to national statistics, at least 40 percent of our elderly are living at the poverty level or below. No doubt, because of current transportation costs, they are unable to provide for their basic transportation. It is because of them and their plight that I propose this Half-Fare Travel Act.

The Half-Fare Travel Act will provide the eligible elderly person, that person 65 years of age or older, half-fare passage on any interstate common carrier on a space-available basis.

In this bill I insure full-paying passengers priority over half-fare paying passengers for all services purchased.

I also amend section 3 of the Urban Mass Transportation Act so that State and local public bodies and agencies which adopt special reduced rates for elderly persons will receive preference in their application for financial assistance.

The following is a text of my bill:

H.R. 12127

A bill to allow elderly people to travel on common carriers in interstate commerce at half fare and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, this Act may be cited as the "Half-Fare Travel Act".

TRANSPORTATION IN INTERSTATE COMMERCE

SEC. 2. (a) As used in this section, the term "eligible elderly person" means any individual sixty-five years of age or older.

(b) Notwithstanding any other provision of law, no common carrier for hire transporting persons in interstate commerce shall charge any eligible elderly person more than half the published tariff charged the general public in connection with any transportation which is requested by any such person.

With respect to all services purchased, all persons paying the full published tariff shall have priority over those persons paying half the published tariff as provided for in this section.

(c) In any case in which a common carrier can show that it incurred an economic loss during any calendar year solely because of the requirements imposed by subsection (b), that carrier may apply to the head of the Federal agency having jurisdiction over the filing and publishing of the tariffs of that carrier for Federal financial assistance with respect to all or part of its economic loss. The head of the Federal agency is authorized to pay to the carrier (1) an amount not exceeding one-half the difference between the published tariff and the tariff charged elderly persons during the calendar year covered by the carrier's application, or (2) an amount not exceeding the aggregate of the economic loss of the carrier claimed under such application, whichever is less.

(d) The head of each Federal agency is authorized to prescribe those regulations as he may deem necessary to carry out the provisions of this section, including but not limited to regulations requiring uniform accounting procedures.

(e) The head of each Federal agency is authorized to establish a commission of elderly persons to advise him in carrying out the provisions of this section.

TRANSPORTATION IN INTRASTATE COMMERCE

SEC. 3. Section 3 of the Urban Mass Transportation Act of 1964 is amended by adding at the end thereof the following new subsection:

"(d) In providing financial assistance under this Act, the Secretary shall give preference to applications made by States and local public bodies and agencies thereof which will adopt (or require the adoption of) specially reduced rates for elderly persons in the operation of the facilities and equipment financed with this assistance, whether the operation of these facilities and equipment is by the applicant or is by another entity under lease or otherwise. As used in this subsection, the term "elderly persons" means those individuals sixty-five years of age or older."

MONETT, MO., HIGH SCHOOL FOOTBALL TEAM OFFERS PRAYER AFTER PERFECT SEASON

(Mr. HALL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. HALL. Mr. Speaker, on November 12, 1971, the Monett, Mo., high school football team, "The Cubs," completed its first perfect season in 21 years, and in so doing also became the champions of the "Big Ten Conference." This amazing team outscored their opponents 295 to 34 during their season, and have now extended their winning streak to 15 games dating back to the middle of the 1970 season.

The outstanding season enjoyed by the Monett Cubs earned a place for them in the Missouri State Class "AA" playoffs. Needless to say, the team continued to play the excellent brand of football that it had displayed all season, and on November 29 before 6,000 spectators in Briggs Stadium, Springfield, Mo., convincingly won the AA crown by defeating the defending titleholder, South Shelby of Shelbina, Mo., by a score of 37 to 8.

While I am proud to represent in the Congress the good people and fine students of Monett, Mo., I would like to call the attention of my colleagues to an incident that happened the night the team won their conference championship.

Following the victory, while the team was in the center of the field, surrounded by its happy followers, the crowd suddenly became quiet, doing so at the request of some of the players. At that time the team asked the fans to stop momentarily and join them in the Lord's Prayer, which they did.

Mr. Speaker, I call attention to this incident, not to point up the fact that this House recently rejected an attempt to amend the Constitution in order to permit voluntary prayer in public places, but to show you the kind of people that can be found in the Seventh Congressional District of Missouri—a people who believe firmly that to "bring up a child in the way he would go, and when he is old he will not depart from it." I call my colleagues' attention to the following editorial, written by Mr. Kenneth Meuser, publisher of the Monett Times, which eloquently chronicles that fine moment:

THE SAFETY VALVE

The entire Monett community today salutes the Big Ten Football Champions of 1971, the Monett High School Cubs, who finished a most successful 10–0 season last night with a 28–0 victory over Cassville and a possible berth in the Missouri High School playoffs.

There were many reasons for this great season but aside from a dogged determination on the part of the entire squad and coaching staff, they had unified group spirit.

Trite as it is to say, they had real teamwork, both the offensive and defensive units. They worked together as a coordinated squad.

The 1971 Cubs were well coached, well conditioned and hard hitting. They can point with pride to their high scoring throughout the season of 295 points while holding their 10 opponents to only 34 points.

Credit also should go to the reserves who seldom get into a varsity game. They too made their important contributions to this undefeated season.

The 1971 Monett Cubs played clean ball, kept training rules and are a reflection of the decent youth of America.

Typical of this attitude was a moving gesture at the close of last night's game in Cassville when several hundred delirious fans surrounded the Monett team and coaches in the middle of the field shouting their enthusiasm and joy at the champions. In the midst of this turmoil, several players asked the fans to stop momentarily and join them in praying The Lord's Prayer. The crowd quieted and both fans and players bowed in reverence and together gave prayerful thanks. For about two minutes everything was quiet, there were tears of gratitude among several fans and players as they prayed together. Then happily the crowd and players broke into uproarious cheers for their victorious season.

Doesn't this make you proud of Monett youth, their parents, coaches, teachers and school administrators! I think that our entire community can stand taller today by the example set by these young men.

Irrespective of how far they go in the state playoffs, they have set a record that is bound to stand for some time and after 21 years they have brought the conference championship back to Monett.

I'm sure that I speak for the entire Monett community in saying "Congratulations Monett Cubs, Big 10 Champs, for a job very well done."—K. G. M.

GOP CONVENTION PREPAREDNESS

(Mr. VAN DEERLIN asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. VAN DEERLIN. Mr. Speaker, in August of next year my home community, the city of San Diego, Calif., will play host to its first national political convention.

Although most observers foresee little genuine excitement surrounding the 1972 Republican Convention—and even though I, as a Democrat, do not anticipate that it will be nominating our next President—the fact remains that many prominent Americans will be gathered on this occasion. Not all of them will be convention delegates. Estimates by militant leaders, not always reliable in the past, have ranged to as high as 1 million in the number of demonstrators which they hope to lead into San Diego. That would exceed our permanent population by more than 40 percent.

The prospect of seeing anything like a rerun of the violence and bloodshed surrounding the 1968 Democratic Convention in Chicago has understandably troubled San Diego's citizenry. It is comforting to note that Police Chief Ray Hoobler, encouraged by other city officials, moved early to plan for the protection of lives and property, and the physical safety of delegates and visitors—including most prominently the President of the United States.

All law enforcement agencies in San Diego County will contribute personnel to preserve public safety during the convention. Special study teams are to be dispatched to Chicago, Miami, Washington, D.C., and other cities with experience and expertise in crowd control. Moreover, those in charge have made it clear that they will not repeat the mistake of Chicago police in barring demonstrators from the vicinity of Convention Hall.

No city, relying upon its own resources alone, can be expected to underwrite the cost of mammoth police protection of an event which truly belongs to the whole Nation. Miami, which will host the 1972 Democratic Convention, already has been allotted a $400,000 grant from the Federal Government's Law Enforcement Assistance Administration.

Presently on file with the same agency is a grant application from the city of San Diego for $920,287, to help pay for advanced study and training, for the inevitably high cost of police overtime pay and for a variety of special equipment which could be needed in the event of violence or an imminent threat of violence.

Mr. Speaker, I can assure you that few San Diegoans would choose to witness the use of grenade launchers, or see police officers decked out in body armor flak suits and carrying heat-resistant shields, wielding "nonchip plastic batons" or something called "knee knockers." We would feel moved to no carnival spirit upon hearing the report of blast grenades, triple chaser grenades, speed heat grenades, or even "strike baseball grenades."

I do not anticipate that this array of artillery will be flaunted publicly. A highly visible display of antiriot gear has been known to increase tensions during disturbances elsewhere. But we San Diegoans would feel secure, as well as proud in our role of convention hosts, to know that law enforcement is equipped and ready for any level of disturbance.

In a letter to Jerris Leonard, Administrator of the Law Enforcement Assistance Administration, I am asking that San Diego's application be fully funded. It would doubtless help if other House Members express similar support.

A breakdown of the application follows:

GOP CONVENTION PREPAREDNESS PROGRAM

The purpose of this proposal is to train and equip law enforcement officers to insure the orderly conduct of the activities surrounding the G.O.P. Convention.

In order to fulfill the goal of an orderly G.O.P. Convention the Preparedness Task Force proposes to:

A. Investigate techniques utilized by other law enforcement agencies in handling major political conventions.

B. Conduct intensive training, utilizing the latest techniques at all levels of command and for all operating forces.

C. Coordinate the activities of all law enforcement agencies involved in the preparedness program.

D. Utilize the latest proven equipment to insure maximum deployment of manpower and efficient movement of people and equipment in the area at the time.

In order to accomplish the above, several phases will occur simultaneously:

1. A team of San Diego command personnel will be dispatched to Miami Beach, Florida; Chicago, Illinois; and Washington, D.C. to gather information and ascertain problem areas encountered by those departments in the handling of major political conventions and mass disturbances.

2. A required training program will commence within the San Diego Police Department for all law enforcement personnel which will have as its objective the successful coping with a major political convention. Subject matter such as philosophy of crowd control, containment techniques, types of crowds, arrest techniques, policies, special weapons training, etc., will be covered in depth. All law enforcement personnel who will be involved will receive training.

3. In addition to the above training, feedback obtained from the command team sent to the various cities will be incorporated into a training program, and the task force developed for the handling of the convention will undergo additional training to insure the orderly conduct of the G.O.P. Convention.

If the planning and training, and the information obtained from other agencies is effective, the following should occur. The conventions will progress in an orderly manner with a minimum of delays encountered. Mass demonstrations and potential violence will be minimized, and the participants in the G.O.P. Convention will not encounter delays and confusion experienced at other conventions in recent years.

An evaluation will be conducted by the San Diego Police Department, the City of San Diego, the G.O.P. National Convention Committee, and hopefully, by other federal agencies. The results of our participation will be available to any interested law enforcement agency.

A. PERSONNEL (EMPLOYEES)

1. Salaries:

Project Director, Inspector J. W. Connole. (1) 13 months—100% at $1715. per month (Grantee Contribution—$22,295.)

A fulltime Project Director has been appointed and has been functioning in this capacity since August 1, 1971. Inspector Connole has an extensive background in law enforcement, has attended the FBI National Academy, and has functioned in an administrative capacity for four years. He has served as a training officer and has commanded field tactical operations. He has the ability to make in-depth evaluation of the overall project. Since assuming the position of Project Director, he has undertaken the task of coordinating all law enforcement activities at the local, state and federal levels. Inspector Connole also holds an AA degree in Police Science and a bachelor's degree in Law.

Assistant Project Director, Captain K. J. O'Brien, (1) 12 months—100% at $1,555. per mo. (Grantee Contribution—$18,666.)

Captain O'Brien has been assigned as a full-time assistant to the Project Director and is presently involved in the planning of manpower, equipment and tactical operations concerning the G.O.P. Convention. Additionally, this position will be responsible for gathering all intelligence information. In addition to the above, the Assistant Project Director will have the following responsibilities: To conduct field research under the guidance of the Project Director; to relate findings to local resources and problems; and to assist the Project Director in the evaluation, training and execution of operational planning within the scope of the proposed project.

Supporting Professional Staff—

(2) Chiefs at 10.87/hr., 200 hrs. each, $4,348.

(5) Insps. at 9.86/hr., 200 hrs. each, $9,860.

(9) Capts. at 8.94/hr., 200 hrs. each, $16,092.

(9) Lieuts. at 7.72/hr., 300 hrs. each, $20,844.

(1) Sgt. at 6.84/hr., 181 hrs., $1,241.

Total, $52,385.

The above personnel will be involved in the planning activities of the convention. They will represent all participating agencies and will be responsible for developing plans in areas such as: security, manpower, transportation, traffic control, prisoner control, press relations, logistics, lodging, intelligence, health and sanitation, communications, etc. It is anticipated that the minimum time spent by the above personnel will be far in excess of the time indicated above and that more personnel will become involved as planning progresses; but for purposes of providing matching funds, the above positions and times can be isolated and verified if necessary.

Secretarial: (1) Intermediate Stenographer, 100%, 12 months at $616 per month—$7,392. (1) Intermediate Stenographer—100%, 4 months at $616 per month—$2,464. (Grantee Contribution—$9,856.)

Secretarial, receptionist and stenographic duties on a full-time basis is mandatory. In addition to providing assistance to the Project Director and Assistant Project Director, they will be responsible for preparing manuals, training aids, correspondence, and will maintain all files relevant to the planning of the convention. One secretary will be utilized for a total period of 12 months, and it is anticipated that additional help will be needed 4 months prior to the convention. Secretarial assistance will be needed to prepare information after the convention for purposes of evaluation.

1,000 Patrolmen, 175 Ranking Officers, 157 Special Detailed Officers. To be trained for a total of 39,385 hours. (Total LEAA contribution—$258,900.)

(See Attachment "A" for training breakdown).

Compensation will be paid to the above-numbered off-duty police personnel at their regular hourly rate. The rates for compensation are based on salary figures for the San Diego Police Department. This figure does not include possible salary increases or time and a half compensation that some of the participating agencies presently pay their personnel. The basic curriculum for the officers, subject to modification, is contained in Attachment "A".

2. FICA, Retirement, Social Security, Compensation Insurance, Group Insurance:

Retirement: 8.875% (for sworn personnel).

Retirement: 8.50% (for non-sworn personnel).

Social Security: 5.2% (for non-sworn personnel only).

Compensation Ins.: $390. per employee (sworn and non-sworn personnel).

Group Ins.: $107.70 per employee (sworn and non-sworn personnel).

These figures are also based upon City of San Diego computations for their employees. Other agencies may deviate from these figures and this percentage figure.

(Total Grantee Contribution—100%—$47,695 based upon 15.4% Category Total)

OVERTIME COMPUTATIONS

Agency and commitment	Overtime at time and ½	Hourly rate (overtime or straight time)	Total
Carlsbad:			
1 sergeant	Yes	$10.02	$10.02
4 patrolmen	Yes	9.08	36.32
Chula Vista:			
1 lieutenant	Yes	11.70	11.70
1 sergeant	Yes	10.35	10.35
15 patrolmen	Yes	9.00	135.00
Coronado:			
1 lieutenant	Yes	11.58	11.58
1 sergeant	Yes	10.26	10.26
7 patrolmen	Yes	8.85	61.95
El Caion:			
1 lieutenant	Yes	11.58	11.58
1 sergeant	Yes	10.26	10.26
13 patrolmen	Yes	8.85	115.05
Escondido:			
1 sergeant	No	6.54	6.54
9 patrolmen	No	6.01	54.09
Harbor Police: 10 patrolmen	Yes	8.43	84.30
Imperial Beach: 3 patrolmen	Yes	8.77	26.31
La Mesa:			
1 sergeant	Yes	10.26	10.26
9 patrolmen	Yes	8.85	79.65
National City:			
1 lieutenant	No	7.40	7.40
2 sergeants	No	6.72	13.44
13 patrolmen	No	5.80	75.40
Oceanside:			
1 lieutenant	No	7.94	7.94
3 sergeants	No	7.20	21.60
28 partolmen	No	6.22	174.16
San Diego City Police Department:			
2 assistant chiefs	No	10.87	21.74
4 inspectors	No	9.86	39.44
5 captains	No	8.94	44.70
16 lieutenants	No	7.72	123.52
60 sergeants	No	6.84	410.40
426 patrolmen	No	5.90	2,513.40
San Diego County D.A.: 27 investigators.	No	6.51	175.77
San Diego County Marshal:			
1 assistant marshal	No	11.53	11.53
1 captain	No	10.20	10.20
2 lieutenants	No	9.03	18.06
8 sergeants	No	7.61	60.88
75 deputies	No	6.58	493.50
2 matrons	No	6.58	13.16
San Diego County Sheriff:			
2 inspectors	No	10.61	21.22
2 captains	No	9.39	18.78
7 lieutenants	No	8.31	58.17
22 sergeants	No	7.18	157.96
267 deputies	No	6.51	1,738.17

NOTES

Total officers involved (tentative commitments) excluding CHP: 1,056 men.

Cost of 1 hour overtime for 1,056 men: $6,915.76. $6,915.76 ×8 hours=$55,326. (8 hours—the 1,056 men will work 12-hour days, and can be compensated 4 hours. An equivalent number will also have to work 12-hour shifts in order to have the above 1,056 men available for convention duties. These additional people must be compensated for 4 additional hours.) $55,326 ×5.5 days=$304,293 (5.5 days—12-hour shifts should probably continue for at least 5.5 days to insure maximum availability of manpower during peak convention activities.) Total: $304,293; LEAA contribution: $304,293; Matching funds: 0.

B. PROFESSIONAL SERVICES

Instructors: (15) 825 hours at $10. per hour (LEAA Contribution, $8,250.)

Instructors will handle the major portion of the total number of hours of instruction. The average rate of pay for instructors within our school system is $10. per hour. In addition to the 15 instructors listed above, some outside experts will be utilized in the presentation of material. All instructors to be utilized in the training phase are qualified under state law and possess teaching credentials. The instructors who are also police officers will conduct their instruction in an off-duty capacity so that dual compensation does not occur. Instructors will be required, at no cost to the project, to coordinate their instructional material with the Project Director, Assistant Project Director and training staff of the San Diego Police Department, and with all participating law enforcement agencies.

Professional Consulting Services—

It is envisioned that private professional consulting services will be required during the preparedness program. Services in areas such as telecommunications, training, command and control, etc., may be required for bringing, for example, communications equipment to standard, i.e. mismatching problems etc. Additional experts in the area of training law enforcement officers are anticipated, i.e. the psychology of control etc.

Total, $41,000. LEAA Contribution 41,000.

C. TRAVEL

1. Travel:

a. Miami: 5 men, 5 days at 339 per man, $1,696.

b. Chicago: 5 men, 5 days at 271 per man, $1,355.

c. Washington, D.C.: 5 men, 5 days at 341 per man, $1,705.

d. Unanticipated disturbance observation: Team, 5 men, 5 days at 350 per man, $1,750.

Total Travel, $6,505.

2. Per Diem:

a. Miami: 5 men, 5 days at 147.50 per day, $737.

b. Chicago: 5 men, 5 days at 127.50 per day, $638.

c. Washington, D.C.: 5 men, 5 days at 137.50 per day, $687.

d. Unanticipated disturbance observation: Team, 5 men, 5 days at 140.00 per day, $700.

Total Per Diem, $2,762.

3. Local Travel:

a. (2) autos for Director and Assistant Director, 100 miles per day at $.11 per mile (mileage and depreciation) $2,200.

b. Transportation cost for supporting professional staff (mileage and depreciation) $1,949.

4. Unallocated Travel Expenses, $4,823.

Category Total, $18,239.

LEAA Contribution, $14,090.

Grantee Contribution, $4,149.

The four trips listed in items 1 and 2 above are deemed essential if the Convention Task Force is expected to avoid the problems that other law enforcement agencies have encountered in past recent conventions. Since Miami Beach and Chicago are the last two major cities to sponsor political conventions, they are deemed to be appropriate sites for visitation. Washington, D.C., is included because of their recent experience in handling large scale disturbances involving considerable numbers of people. Item d is essential. If there is a major disturbance before the G.O.P. Convention, it would be necessary to dispatch a team of observers to ascertain such things as group composition, tactical differences, the effectiveness of control measures, etc. Based on the information obtained the plans made for coping with the G.O.P. Convention may be altered.

Local travel as listed in item 3 above will be undertaken to insure there is no breakdown in coordination among the various participating agencies as well as to facilitate the planning process.

The Director, Assistant Director and the Professional Supporting Staff will have to attend planning conferences and meetings within the area of Southern California.

Item 4, unallocated travel expenses, is included so that necessary travel not anticipated at this time, will not be jeopardized. A situation where an agency has equipment that we could borrow but no one within the parent agency is able to transport the equipment (vehicle etc), then one of our personnel would be dispatched.

D. EQUIPMENT

The following listed equipment is the minimum necessary to effectively cope with the G.O.P. National Convention.

Number and Item	Quantity	Unit cost	Total cost
1. Handi-talkies, 6 frequency, T. & R., 2 watt	5	$1,200.00	$6,000
2. Satellite receiver sites (antenna system)	7	675.00	4,725
3. Satellite receivers	42	450.00	18,900
4. Vehicle radio scramblers	17	935.00	15,895
5. Base station scramblers	6	1,050.00	6,300
6. Modifications to central station consoles for scramblers			1,000
7. Portable electronic megaphones	10	190.00	1,900
8. Central police station "A" modifications			2,600
9. 6 frequency 2-way sets, 18 watts R.F	6	1,735.00	10,410
10. Citizen band 23-channel scanner receivers	7	235.00	1,645
11. Portable Sony closed-circuit televisions with sound amplifiers	5	1,700.00	8,500
12. Small desk consoles	7	500.00	3,500
13. Gas masks with voice box	157	37.00	5,809
14. 10-ft. Econoline van	1	5,000.00	5,000
15. Plastic handcuffs	5,000	.50	2,500
16. Batons, plastic, nonchip	1,000	2.25	2,250
17. Mini-nova spotlight	5	670.00	3,350
18. Helmets with/face shield and neckguard	157	26.20	4,113
19. ½-in. rope, nylon, weight No. 38, 600-ft. coil	15	73.72	1,106
20. Binoculars	4	75.00	300
21. Portable vehicle antennas	25	4.85	121
22. Cassette recorders with adapters	20	60.00	1,200
23. Body shields, "Avco," 14 lbs	100	115.00	11,500
24. Portable video cameras with zoom lens and sound	4	2,000.00	8,000
25. Body armour flak suits, "H" weight	12	$200.00	$2,400
26. Tear agents (see attached list.)			7,495
27. Binocular cameras	2	350.00	700
28. Pepper fog machines	2	395.00	790
29. Night vision scope	1	4,000.00	4,000
30. Hi-intensity lantern, model WL-60	1	495.00	495
31. Earpieces for handi-talkies	125	1.00	125
32. Sony videotapes—30 min	10	10.00	100
33. Tele-land lines; leased 1 month and installed	20	30.00	600
34. Metal detection sweeper with amplifier	1	200.00	200
35. Metal detection "friskers," hand held	2		595
36. Impulse activated telephone recorder	2	260.00	520
37. Modification to command and control communications controllers			28,000
38. 12 inquiry stations for law enforcement agencies in San Diego County area	12	6,000.00	72,000
39. Installation cost, testing, and operations cost for 1 year for remote inquiry stations			[1] 25,000
40. Contingency fund			32,836
Total LEAA contribution			277,480
Total equipment			377,480
LEAA contribution			277,480
Grantee contribution			100,000

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[1] Matching funds.

TEAR AGENTS

Item	Quantity	Estimated cost
Pepper fog, C.S. formula (qt.)	30	$600
Pepper fog, gas can	5	25
Grenade launcher, Federal	7	120
Grenade launcher cartridges	300	150
#514 C.S. blast grenades	100	1,100
#515 C.S. triple chaser grenades	100	1,400
#555 C.S. speed heat grenades	100	1,200
Strike baseball grenades	100	1,400
Mini-fogger formula (pt.)	30	450
Mini-fogger propane tanks (pt.)	30	30
Ferrett shotgun rounds	100	300
Kneeknockers	150	750
Total		7,495

The first 12 items, categorized as communications equipment, are necessary to overcome the present inadequacies in our current telecommunications system. In order to communicate effectively between and among the various operating units, receivers and consoles are necessary. To avoid detection with regard to security information transmittal, and to provide monitoring capabilities of any clandestine messages that might be transmitted on citizen band radios, the scramblers and citizen band receivers are essential. Monitoring convention activities and surveillance of possible dissident groups for both intelligence purposes and possible prosecution necessitate the television equipment included. The handi-talkies will be utilized for more effective communications among command personnel.

Items 13 through 30 are the minimum necessary operational requirements for the operating forces who will be directly involved in the control and orderly conduct of the G.O.P. Convention. The items listed will provide what is considered minimum protection for the officers involved. Additionally, those items such as the night vision scope, spot lights, recorders and video equipment will be used by investigative personnel assigned either to provide security at the various installations or to conduct surveillance activity among the various dissident groups. The nylon rope will be used to effectively cordon off areas and to direct the flow of pedestrians. The econoline van will be assigned permanently with the special tactical sections and will provide them immediate access to needed weapons and tear agents in the event the situation warrants such equipment. The econoline will require extensive modification to its structure to provide security, communications and storage facilities for weapons, etc. Due to these required modifications, leasing is impractical. Because of the numerous locations involved such as convention headquarters, convention arena, and the numerous hotels where delegates will be residing, there is a particular need for a mobile van of this nature.

Items 31 through 36. Items 31 and 32, the handi-talkie earpieces, and Sony video tape, will provide security of radio transmissions, particularly within the convention complex, and enable recording of both surveillance and security activities at the various locations. Item 33, in addition to providing communication backup in case of jamming, will provide effective control and communication between command elements and operating forces. Item 34 through 36 are items of special security which are deemed necessary in case armed dissidents attempt to gain access, or calls are received regarding explosives.

Items 37 through 39 consist of command and control hardware for all law enforcement agencies within San Diego County as well as Installation cost and maintenance. These items will establish an adequate interface between agencies primarily involved in the convention preparedness and enable them to inquire into a common law enforcement data base regarding problems of crime, criminals and their apprehension. These items would markedly improve the ability of the various agencies in terms of coordinating their law enforcement activities. The present law enforcement command and control system is not presently geared to accommodate the large influx of persons anticipated during the convention period. This additional equipment will overcome the present deficiency.

Item 40, Contingency fund, is included in the event of equipment breakage and/or certain equipment is found to be ineffective and should be replaced. (Indirect Cost Allowance at approximately 5% of the total project cost of $723,777.00 would allow approximately $36,189.00 Indirect Costs. We are requesting $32,836.00)

The City of San Diego has in excess of $200,000 in communications equipment, approximately $70,000 in crowd control equipment, and approximately $25,000 in support equipment. These could be itemized if necessary to provide matching funds in justification of this Grant request.

NOTE.—Some items have been designated by brandname for purposes of identifying minimum specifications. Equipment with equivalent specifications will be acceptable.

(Total Grantee Contribution—$75,000.)

E. SUPPLIES AND OTHER OPERATING EXPENSES

1. Office space:

a. Rental value (present downtown San Diego market value is $.50/sq. ft./month. 1200 sq. ft. includes office space, classroom space, equipment storage space, etc.—$6,000.

b. Additional office space for the Convention Task Force will be required at the Royal Inns Hotel at the Wharf in downtown San Diego (present G.O.P. Convention headquarters), at $200.00/month.

Office space total, $8,000.00.

LEAA Contribution, $2,000.00.

Grantee Contribution, $6,000.00.

2. Telephones:

a. Long distance phone calls for convention business and coordination—$1,000.00.

2. Lease telephone lines for convention sites for law enforcement purposes—$2,000.

3. Postage—to cover cost of mailing correspondence between the various agencies involved in the preparedness program. This includes the mailing of reports—$1,000.00.

4. Miscellaneous costs:

Printing costs for training manuals (secretarial time, materials and printing costs) as well as the various reports required and miscellaneous supplies—graphs, pencils, notebooks, etc., $7,600.00.

Overhead projector (Bell & Howell Model 301 and necessary supplies, i.e. Overlays etc.) $380.00.

Total Supplies and Operating Expenses, $19,980.00.

LEAA Contribution, $2,380.00.

Grantee Contribution, $17,600.00.

P. I. GOALS

The primary goal of this project will be to train and equip law enforcement officers in handling the activities associated with the G.O.P. National Convention of 1972 without incurring any major disruption or disturbance.

In order to accomplish the above goal, the Convention Task Force will accomplish the below-listed objectives:

A. Thoroughly investigate techniques utilized by other agencies in handling major political conventions and large scale disturbances.

B. Conduct regional intensive training, incorporating the latest techniques, at all levels of command and for all operating forces to be utilized for the convention.

C. Coordinate the activities of all law enforcement agencies involved in the preparedness program. This includes the gathering of intelligence data, coordination with involved non-law enforcement agencies, and establishing the necessary logistics operations.

D. Utilize the latest proven equipment to insure maximum deployment of manpower and the efficient movement of people and equipment in the area at the time. This equipment will include not only crowd control equipment, but also communications equipment, monitoring equipment, and surveillance gear.

PART II. IMPACT AND RESULTS

If the above objectives are achieved, the program should have impact in the following ways:

A. The convention should progress in an orderly manner with a minimum of delays encountered. The participants in the convention, as well as spectators, will know exactly what is expected and how they are to proceed, thus minimizing confusion.

B. Mass demonstrations and potential violence will be minimized. By establishing proper channels of effective communication with those persons who would seek to become a disruptive force during the convention and setting parameters in a clear concise fashion, as well as delineating consequences, it is predicted that the dissident elements will work within the mutually conceived limits and avoid violence.

C. The use of a well disciplined, highly trained tactical force during the convention will demonstrate that local police can effectively cope with a national political convention in a professional manner. This tactical force will insure that the rights of all persons are safeguarded and that law violators are prosecuted and not persecuted.

P. III. METHODS AND TIMETABLE

In order to accomplish the above objectives, and obtain the desired impact, the following events will occur:

A. Planning: As of August 1, 1971, a convention planning unit was developed within the San Diego Police Department. This unit, consisting of Inspector Connole and Captain O'Brien, with support from the Police Department and the City of San Diego, has been responsible for establishing liaison with all other agencies, determining manpower and material needs, developing requirements for federal assistance, and with the assistance of the training director, establishing a meaningful training program.

The unit will be responsible for establishing the necessary channels of communication and logistics, and will assure that all necessary regional training conducted. They will maintain all necessary data and documentation required by the federal government.

B. Training: Regional training needs have been established for all participating police personnel who will be actively involved in the convention as well as support personnel. These training needs have been divided into three parts: Intensive training; Refresher training; and Tactical training.

This training program is designed to focus the attention of law officers on the special aspects of this convention. All levels of command will be involved either as students or instructors.

All officers involved in the program have received adequate training in the area of crowd control, tear agent devices, and mob and crowd control, but because of the specialized nature of this convention, some of the prior training is not applicable or desirable in this situation. It is for this reason the attached outline has been developed. (See attachment) All instruction has been designed to emphasize the special nature of this convention. Such topics as "types of crowds" focuses on the kinds of groups that might be encountered during the convention. "Policies" are those policies that will be in effect during the convention period. "Arrest techniques" are those techniques that will be standard operating procedure during the convention, and not those involved in the day-to-day operation of these departments. This training will enable the various enforcement agencies involved to work in a coordinated cohesive manner.

C. Equipment. After the federal grant is approved, the funds are received, and a logistics officer is appointed, bids will be solicited for the purchase of the equipment, listed previously. The logistics officer will assure that the equipment is serviceable and will be secure until such time as it is placed into service. The logistics officer will be required to maintain strict records for accounting purposes and to report to the Project Director any discrepancies noted during inspections.

Until such time as final lines of authority, with regard to the convention, are established, no item of equipment may be dispersed without the written approval of the Project Director or the Assistant Project Director. This equipment will be utilized by all the agencies involved in the program and its distribution will be based upon mutually agreeable terms.

D. Mutual Aid: When San Diego was selected as a site for the G.O.P. Convention, meetings were held with the various law enforcement agencies for the purpose of clarifying and delineating the mutual aid agreements. These meetings will continue and, approximately four to five months prior to the convention, the agreements will be reduced to writing.

E. Intelligence: Preliminary intelligence is being received, accumulated and incorporated into the convention planning program. Contacts are being developed, and intelligence efforts will be magnified as the program moves forward. Coordination among the various intelligence-gathering agencies is being developed and will be solidified within the next several months.

F. Manpower Commitments and Assignments. All law enforcement agencies within the region have been contacted and have made preliminary commitments. The final commitments and assignment of personnel should be complete, subject to last minute adjustment, by approximately March 1972.

It is presently anticipated that there will be a force of approximately 1,000 sworn police to participate in the preparedness program, in addition to the normal staffing requirements for the City of San Diego.

Regional Commitments: San Diego Police Department, 500 officers; San Diego Sheriff's Office, 300 officers; Other Regional Agencies, 200 officers.

REGIONAL TRAINING NEEDS FOR GOP CONVENTION

	Number	Hours
INTENSIVE		
Patrolmen, deputies:		
1. Types of crowds	500	8
2. Containment tactics	500	12
3. Philosophy of crowd control	500	6
3a. Constitutional protection of participants and dissenters		
3b. Law enforcement aspects of crowd control		
3c. Judicial aspects of crowd control		
4. Arrest techniques	500	8
5. Policies; local, regional, and State	500	4
6. Special weapons training	500	10
7. Location familiarization	500	4
Total		52
Sergeant:		
1. Types of crowds	65	4
2. Containment tactics	65	8
3. Philosophy of crowd control	65	2
4. Arrest techniques	65	2
5. Policies; local, regional, and State	65	4
6. Special weapons training	65	8
7. Location familiarization	65	4
Total		32
Lieutenant and Captain:		
1. Types of crowds and containment tactics	30	4
2. Command tactics and philosophy of crowd control	30	8
3. Command post operation	30	4
4. Location familiarization	30	4
5. Formations and deployment of manpower	30	8
6. Special Weapons	30	4
Total		32

	Number	Hours
REFRESHER		
Patrolmen, deputies:		
1. Types of crowds	500	1
2. Containment tactics	500	2
3. Philosophy of crowd control	500	1
4. Arrest techniques	500	2
5. Policies; local, regional, and State	500	1
6. Special weapons training	500	2
7. Location familiarization	500	1
8. Team functions	500	1
Total		11
Sergeant:		
1 Types of crowds	65	2
2. Containment tactics	65	3
3. Philosophy of crowd control	65	2
4. Arrest techniques	65	2
5. Policies; local, regional, and State	65	3
6. Special weapons training	65	2
7. Location familiarization	65	2
Total		16
Lieutenant and Captain:		
1. Types of crowds and containment tactics	15	3
2. Command tactics and the philosophy of crowd control	15	3
3. Command post operation	15	2
4. Location familiarization	15	1
5. Formations and deployment of manpower	15	1
6. Special weapons	15	1
Total		11
Grand total		36, 245

Suppliers and operating expenses for training

A. Special weapons:

1. Tear gas—$900 for tear gas demonstrations in the various training sessions.

2. Ammunition—Blanks, live rounds and special weapons demonstrations for .38 cal. and shot gun, as well as special weapons.

B. Protective devices (KENDO Equip.) for training in personal combat and overcoming resistance.

C. 137 patrolmen, 14 sergeants, 4 lieutenants, 2 captains. The above listed personnel will undergo 20 hours of tactical training and work as a team with all necessary equipment, i.e. communications gear, vehicles, etc. During this period they will be given special assignments and go through dress rehearsal type training.

Total training cost

Intensive and refresher training, $230,000.

Special equipment, $6,900.

Tactical training cost, $22,000.

Total cost, $258,900.

G. In addition to the above events, feedback will be obtained from the team of city representatives who will visit Chicago, Illinois in February, 1972, Washington, D.C., in March, 1972, and Miami, Florida during the Democratic Convention in July, 1972.

As a result of this feedback, any and/or all of the above events can be modified or the timetable (attached hereto in order) can be accelerated or retarded.

P. IV. EVALUATION

An evaluation of our preparedness program will be conducted by the San Diego Police Department, the City of San Diego, the G.O.P. National Convention Committee and, hopefully by other federal agencies.

The San Diego Police Department will be responsible for maintaining not only financial records, but records regarding training, planning, coordination, field deployment and results; i.e., number of arrests, dispositions, etc. These records will be available, approximately 60 days after the close of the convention, to any interested law enforcement agency.

It is suggested that an independent evaluation be conducted, under separate funding arrangements with LEAA, during the convention preparedness program period, and that this evaluation be made a part of any reports required to be submitted.

PART V. RESOURCES

A. J. W. Connole, Inspector, San Diego Police Department, Project Director.

Inspector Connole has 20 years' experience as a San Diego police officer. He has extensive experience in the areas of Patrol, Traffic, Investigations, Training and Administration.

He holds an AA degree in Police Science, a bachelor's degree in law, and has attended the FBI National Academy. Inspector Connole has received his Advanced Certificate, as well as the Middle Management Certificate from the Commission on Peace Officers Standards and Training (P.O.S.T.). He holds a lifetime teaching credential, and is an active member of the California Police Officers Association Legislative Committee.

B. K. J. O'Brien, Captain, San Diego Police Department, Assistant Project Director.

Captain O'Brien has 16 years' experience in the San Diego Police Department, with an extensive background in the areas of Burglary, Vice, Homicide, Intelligence, and Patrol. He has participated in intensive planning efforts in the areas of Vice and Intelligence. At this time, Captain O'Brien has 70 units of college credit, has a diploma in junior accounting, and has received his Advanced and Middle Management Certificates from P.O.S.T. He holds a lifetime teaching credential from the State of California, and has attended the Organized Crime School in Washington, D.C., as well as numerous Vice and Intelligence seminars.

C. O. W. Burkett, Captain, Director of Training, San Diego Police Department.

Captain Burkett has 21 years' experience as a San Diego Police officer. He has extensive experience in the areas of Patrol, Personnel, Training, and Investigations. He has received his Advanced Certificate from P.O.S.T., as well as the Middle Management Certificate. Captain Burkett is an active member of the California Association of Police Training Officers, and is currently president of the San Diego City College Advisory Committee on Criminal Justice.

ON THE PERSECUTION OF ROMAN CATHOLIC PRIESTS BY THE SOVIET UNION IN LITHUANIA

(Mr. KOCH asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, I address this distinguished House on behalf of five of my constituents and friends who are priests of the Roman Catholic Church and stationed in St. Francis de Sales Church located on East 96th Street in Manhattan.

All of us would like to bring to your attention an article that appeared in the November 27, 1971, edition of the New York Times. The article, datelined Moscow, November 26, spoke of two Roman Catholic Priests in Soviet Lithuania who were reported to have been sentenced to a year's imprisonment.

You will ask, of course, what their crime was? Their "crime" was, as recorded in the Times, "preparing children to take their first Holy Communion." But the indignity is not finished, for the article goes on to say that, according to underground reports, one of the priests in question was beaten so badly in prison during pre-trial investigation that his own mother had difficulty recognizing him during a subsequent visit.

The five priests of my constituency in their frustration and desperation at the senseless suffering of their fellow priests, turned to me to publicly protest in this House both the arrest and imprisonment of their brother priests for so outrageous a charge.

Both they and I join the moving petition of the parishioners of one of the imprisoned priests who, in charging that the arrest was contrary to Soviet law and the constitution, said:

> We ask the leaders of the Soviet State to give us real freedom of worship and religion and to give freedom to priests to fulfill their functions without fear of harassment.

In a day when one reads of increasing dialog between Marxists and Christians in Europe and elsewhere, the sad spectacle of the imprisonment of these two priests bespeaks not the spirit of the 1970's but rather the blood purges and pogroms of the Stalin era.

We appeal to the conscience and good sense of the Soviet Government to desist and withdraw from their present policy of religious harassment. The fact that the Soviet Government, after more than a quarter of a century of persecution has been unable to destroy Catholicism in Lithuania establishes what all of us should know innately, that freedom, religious and secular, cannot be extinguished. These brave people deserve the moral support of everyone who admires liberty and courage.

TO ADJUST THE ALLOWANCE FOR TRAVEL OF MEMBERS AND STAFF TO AND FROM CONGRESSIONAL DISTRICTS

(Mr. THOMPSON of New Jersey asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. THOMPSON of New Jersey. Mr. Speaker, House Resolution 457, adopted by the House of Representatives on July 21, 1971, provided the Committee on House Administration the authority to fix and adjust from time to time various allowances by order of the committee. During House debate on House Resolution 457, the Members were assured that any order adopted by the committee under the authority of the resolution would be published in the CONGRESSIONAL RECORD in the first issue following the committee action. Pursuant to that commitment, Order No. 2 of the Committee on House Administration is submitted for printing in the CONGRESSIONAL RECORD. After careful consideration, the order was approved unanimously by the Subcommittee on Accounts on November 11, 1971, and adopted unanimously by the Committee on House Administration on December 8, 1971.

Order No. 2 concerns the allowance for travel of Members and staff to and from congressional districts. The basic purpose of the order is to provide Members greater flexibility in using their travel allowance. Formerly, a Member was not allowed to carry over from one session to the next any unused portion of his travel allowance. This order permits a Member to use his travel allowance at any time during the 2-year term of a Congress, but not to carry over any unused portion of his travel allowance from one Congress to the next. The order permits similar flexibility in the use of the allowance for travel of a Member's staff.

Order No. 2 provides the same number of trips for Members and staff which was formerly allowed during a Congress which stayed in session 24 months.

Hence, the primary effect of this order is to provide greater flexibility in the use of the travel allowance.

Order No. 2 follows:

To Adjust the Allowance for Travel of Members and Staff to and From Congressional Districts

Resolved, that effective January 3, 1971, until otherwise provided by order of the Committee on House Administration;

(a) The contingent fund of the House of Representatives is made available for reimbursement of transportation expenses incurred by Members (including the Resident Commissioner from Puerto Rico and the Delegate from the District of Columbia) in traveling, on official business, by the nearest usual route, between Washington, District of Columbia, and any point in the district which he represents, for not more than 24 round-trips during each Congress, such reimbursement to be made in accordance with rules and regulations established by the Committee on House Administration of the House of Representatives.

(b) The contingent fund of the House of Representatives is made available for reimbursement of transportation expenses incurred by employees in the office of a Member (including the Resident Commissioner from Puerto Rico and the Delegate from the District of Columbia) for not more than four round-trips during any Congress between Washington, District of Columbia, and any point in the Congressional district represented by the Member. Such payment shall be made only upon vouchers approved by the Member, containing a certification by him that such travel was performed on official duty. The Committee on House Administration shall make such rules and regulations as may be necessary to carry out this section.

(c) This order shall not affect any allowance for travel of Members of the House of Representatives (including the Resident Commissioner from Puerto Rico and the Delegate from the District of Columbia) which is authorized to be paid from funds other than the contingent fund of the House of Representatives.

ADDRESS BY PRESIDENT MEDICI

(Mr. BOW asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. BOW. Mr. Speaker, it was my honor to attend a luncheon today given by the Vice President honoring the President of Brazil and Mrs. Medici. I was impressed by the response of the President of Brazil to a toast offered by Vice President Spiro Agnew. I include the text with these remarks:

Speech Delivered on December 8 by the President of the Republic of Brazil Upon the Occasion of the Luncheon Offered by Mr. Spiro Agnew, Vice President of the United States of America.

Mr. Vice-President: Both my wife and myself are extremely grateful to Mrs. Agnew and to you for the warm welcome accorded us in this house of noble traditions.

The purpose of my visit to this country is not so much to deal with specific questions and problems; I come rather in the same spirit which I discern in President Nixon, of wishing to establish a new point of departure for cooperation between our two countries in face of universal problems.

Such a dialogue has never seemed more necessary and timely than today, when enormous changes are occurring in the life, the way of thinking and the attitudes of our two nations.

We are living in a moment of transition in a world of transition. The abrupt changes of the last few months both in the diplomatic and political fields, and in the financial and monetary sectors, have put to hard test the ideas, doctrines and concepts that have upheld the Western world since World War II. Such changes are precipitating the advent of a period which is fluid and moveable, uncertain and ever-changing, fraught with both apprehension and hope, a period which finds a historical parallel with that of 1945–1948, when the foundations were laid and the great lines drawn that made possible the reconstruction and the progress of the world in which we then lived. In this transition stage, when new foundations are being discussed for international cooperation and life together, with necessary implications at a national level, Brazil cannot remain silent nor refuse its cooperation in the area of world and continental affairs, nor refrain from engaging in a bilateral dialogue with friendly nations such as yours, nations that are also old allies in the struggle for the defense of liberty and the dignity of Man—created by God, and creature, in his turn, of spiritual values.

Brazil has grown, matured and diversified itself, keeping at the same time its indestructible unity. It will not shun or shrink its share of responsibility within the community of nations, moved as it is by a profound and sincere desire to participate. It wants to participate both in the rights and in the duties of a new world order, an order which can only be a lasting one if it is not founded on considerations of power politics, which are ephemeral and changeable by nature besides being unfair and discriminatory.

Brazil does not believe that world problems can be examined and solved by a freezing of the world power structure, nor by the setting up of areas of influence. We cannot apply to our century outmoded political schemes and devices. The river of History has to follow its course; this implies mutations, changes and displacement of power. We believe in a community of free and sovereign nations, conscious of a historical need to assert themselves in a world in which the progress and development of some should not rest on the sacrifice and harming of others, in which sovereignty should be an instrument of liberty for all. For this very reason Brazil is convinced that, in order to be effective, any concrete steps towards the implementation of our concept of interdependence between the different members of the community of nations can only happen after political sovereignty and economic emancipation have been secured.

In the relations between our two countries we have to sift that which is transitory from that which is permanent, that which is contingent from that which is essential and prevent minor conflicting points from undermining the foundations of a long-term cooperation, which I consider to be vital and indispensable, not only for our two nations, but also for the preservation of peace and security in the hemisphere.

The Brazilian people cannot abide any intervention in matters of exclusively internal jurisdiction. In the face of threats of external interference we adopt security measures in order to defend ourselves from the schemes and intrigues of those who, resorting to violent methods of outside inspiration, have tried unsuccessfully to disturb our peace and tranquillity and to destroy the foundations of a free society, which is striving to achieve social progress and economic development. Such is the society we are building, oriented towards Man who must be the beginning, the middle and the end of any political organization. The measures undertaken by Brazil with that purpose in mind, for the defense of its survival, laid us open to incomprehension and misunderstandings, which we regret, but which cannot make us swerve from the course we, in our sovereignty, have chosen.

With a growth rate of 9 per cent a year in its Gross National Product; with a prosperous industrial sector; with an educational program that takes up the largest share of the national budget; with an ambitious plan of social betterment, designed to diminish regional differences and to assure the well-being of every family; with a population that grows steadily to meet the needs of occupying our territory, an area which has, like your own country, the characteristics and the size of a continent; with a daring and imagination in the way it is penetrating and occupying its Amazon region—Brazil is carrying on the only form of expansion to which it is entitled and which it cannot renounce, the great expansion which it is undertaking within its own boundaries, through the unceasing effort of its people and the contribution of science, technology and the resources of all of those who are willing to join us in this gigantic endeavor. Brazil today has absolute confidence in itself.

Mr. Vice-President, from Brazil we follow with brotherly interest what is being done and thought here and, even though at times we have had trouble in coming to an agreement, it has always been easy for us to understand each other. And maybe, understanding is even more important than agreement. Let us endeavor, then, to widen our areas of agreement and at the same time let us make our mutual understanding indestructible. We want to pursue in openness and objectivity our continuing dialogue with the United States of America, a peaceful dialogue, marked by mutual understanding and joint achievements.

I shall return to my country with the assurance that, in spite of the changes and transformations taking place here, as they are in Brazil, in the context of the social and economic conditions peculiar to each country, the American nation, just as the Brazilian nation, remains faithful to itself and to the ideals that presided over the shaping of the political structures of its country, faithful to the ideal of liberty, which is our reason for being and our destiny. In this spirit I promise a toast to the health of Mrs. Agnew and yourself, assured that new ties, strong and powerful, have been established, this month of December of 1971, between the United States of America and Brazil.

THE 1971 TAX ACT

(Mr. GIBBONS asked and was given permission to extend his remarks at the point in the Record and to include extraneous matter.)

Mr. GIBBONS. Mr. Speaker, on Thursday, December 9, 1971, we are going to consider a conference report on the 1971 Tax Act. I am opposed to this bill, because I do not feel that we can continue to run this Government with the kind of deficits that this bill will certainly produce.

The bill, H.R. 10947, is bad economic policy and bad tax policy. It is bad economic policy, because it does not provide the economic stimulus that the economy requires in the near future to get us back to full employment. In short term, it will, however, increase the deficit to nearly $35 billion on a Federal funds basis for fiscal year 1972, increasing the strain on financial markets and interest rates. The bill is also bad economic policy, because it means a shift of resources from needed public programs to less essential areas unless taxes are increased in the future.

It is bad tax policy, because it throws away a substantial amount of tax revenue on a permanent basis on the grounds of meeting a short-term problem. Ironically, however, it is not likely to be effective in meeting the short-term employment problem although it clearly will be effective in achieving a permanent revenue loss.

We have already seen signs of the consequences of the permanent revenue loss from this bill and its predecessor, the Tax Reform Act of 1969. The administration has indicated that there is not sufficient revenue for new programs in the next budget. There has been increased discussion of the value added tax, essentially a Federal sales tax, as a tax necessary to provide the funds to operate our Government in the future on a balanced budget basis even in the absence of a new program. We are in the process of chipping away at our best tax, the income tax, both individual and corporate, and moving toward greater reliance on the social security tax and possibly a Federal sales tax. This is an undesirable trend in our tax structure, but unless we reverse the pattern of permanent income tax reductions embodied in this bill, we may not have any feasible alternative.

Consider the tax reductions, most of which are income tax reductions that are involved. Under H.R. 10947 as approved by the conference, the reduction in tax liability is estimated as $1.7 billion in calendar year 1971, $8.0 billion in 1972, and $6.1 billion in 1973, a 3-year total of almost $16 billion. Over this decade, or through 1980, the total revenue loss from this bill is over $70 billion. This is only the effect of those provisions considered to be in the bill, however. The tax reduction from the revised depreciation method or ADR adopted by the Treasury earlier this year should also be considered in the context of how much income tax revenue we are giving away. The conference report treats the elimination of the so-called three-quarter year convention from ADR as a revenue gain. Therefore, to include the net revenue loss from ADR, the entire loss should be added to the revenue loss figures of the conference bill. This is an additional tax reduction of $2.8 billion in calendar year 1971, $3.4 billion in 1972, and $4.0 billion in 1973, a 3-year total addition to the tax reduction of the bill of over $10 billion, and an additional tax reduction over the period through 1980 of more than $40 billion. Combining the tax reductions from the bill and the reduction from ADR—shown in No. 1 of the attached table—the tax reduction for calendar year 1971 is $4.5 billion; for 1972, $11.4 billion; and for 1973, over $10 billion. This is a 3-year total of $26 billion and over the period through 1980 is a total tax reduction of more than $115 billion.

This is by no means the entire story of the tax reductions we have recently enacted. The reductions from the Tax Reform Act of 1969 also continue to reduce tax revenue. For the same 3 years 1971, 1972, and 1973, the reduction in tax liability from the Tax Reform Act of 1969 is $1 billion, $3.6 billion, and $6.0 billion, respectively. This is a 3-year total of $10.6 billion and for the period 1969 through 1980, the total tax reduction from the 1969 act is close to $55 billion.

When these reductions are combined with the tax reductions from this bill and ADR, we can see more clearly what we have really been doing recently in terms of permanent revenue loss from our existing tax structure. The combined tax reduction totals—shown in No. 2 of the attached table—are $5.5 billion for calendar year 1971, $15 billion for 1972, and about $16 billion for 1973. This is a 3-year total of nearly $37 billion and over the period 1969 through 1980 represents tax reduction of roughly $170 billion.

As I indicated before, the effect of these massive tax reductions means that in the immediate future and probably for years to come, we will be experiencing revenue shortfalls which will preclude the introduction of new programs and require the Federal Government to operate at a deficit even with existing programs. We have simply given away too much of our future growth in revenues to be compatible with a growing country and the growing Federal initiatives to deal with the increasingly serious problems that growth creates. The solution now being pressed is for a national sales tax or higher payroll taxes to undo the damage we have done by excessive income tax reductions. I think there is fairly general agreement that these taxes are inferior to our income tax. I suggest that in the near future, or preferably before the House passed this bill, we give serious attention to what we are doing to our long-run fiscal position and tax structure through the cumulative effect of short-run decisions.

I do not mean to suggest that I am necessarily opposed to tax reductions which stimulate the economy when it is operating at substantially less than full capacity. My objection is to permanent tax reductions which jeopardize our future fiscal structure, but are adopted to meet a short-run problem. My objection is even stronger when, in addition, the tax reductions are not likely to provide the short-run stimulus which is the principal justification for their adoption. This is the basis of my objection to this bill.

One way of evaluating the short-run stimulative effect of the bill is to look at who gets the tax reductions. Of the $26 billion of tax reduction from the combination of this bill and ADR over the 3 years 1971 to 1973, individuals in a nonbusiness capacity receive $10 billion and business, primarily corporations, receives $16 billion. In the present economic context, with substantial excess capacity in business, the stimulative effect of business tax reduction is not likely to be large. It is my view, and the majority of economists appear to agree, that more stimulus would result if the tax reductions from this bill were directed toward individuals, who would be more likely to spend these reductions, rather than toward business whose major problem is lack of sufficient sales volume. Over the longer run, this imbalance between individuals and business is even greater. Thus, the income tax reductions in this bill which may necessitate a sales tax in the future go primarily to business. In other words, we are making a Federal sales tax on individuals more likely, because of the income tax cuts this bill gives to business. This does not seem to be a fair trade or proper tax policy.

Another way of viewing the alleged incentive effects of this bill is to look at the specific provisions which are supposed to induce greater economic activity in particular areas. The major provisions are the investment credit, the repeal of the auto and light truck excise tax, the DISC provision, and the liberalized guideline lives under ADR—as shown in No. 4 in the attached table. The total tax reduction from these "incentive" provisions is $3.1 billion in 1971, $8 billion in 1972, and nearly $9 billion in 1973, a 3-year total of almost $20 billion out of the total of $26 billion for this period from the bill plus ADR. In other words, about three-fourths of the revenue loss over this period is for provisions which are designed to encourage individuals and business to increase their spending in particular ways. As I have already indicated, I do not believe that in the present economic context with substantial excess capacity, the investment credit or ADR will have any significant impact on business investment. The degree of excess capacity is indicated by the fact that the utilization rate in manufacturing in third quarter of this year was only 73.2 percent. This is the second lowest quarterly rate in almost 24 years. It is lower than the fourth quarter of 1970 in which the General Motors strike occurred and it is substantially less than the rate during 1962 when the investment credit was first adopted, a period when even its proponents admit that it did not have an immediate effect. Our experience with the investment credit has been, as was pointed in 1969 when we repealed it, that it is not effective in periods of excess capacity and less than full employment, but that it may be too effective when production is at high levels for other reasons.

It is also unlikely that the repeal of the auto excise tax, which loses nearly $6 billion over this period, will have a significant impact on the purchase on new automobiles.

It seems even more clear, given the failure of the industry to increase employment recently even though automobile production has increased, that additional automobile sales will result in a significant increase of employment. The first time we passed the DISC provision, I indicated my skepticism as to the extent it would stimulate exports. If anything, I am now more convinced that it is bad tax policy and will not stimulate exports anything like enough to justify the revenue loss involved.

In short, it is difficult to see how any of these provisions which are designed to provide short-run stimulus will provide the increase in economic activity which is the basis for their inclusion in this bill. As a consequence, we are left with the long-term revenue loss I discussed previously without any real economic benefit in exchange.

TABLE 1.—ESTIMATED CHANGE IN CALENDAR YEAR TAX LIABILITY, 1971-73[1]

[In billions of dollars]

	1971	1972	1973
H.R. 10947 as approved by the conference	−1.7	−8.0	−6.1
ADR	−2.8	−3.4	−4.0
Total	−4.5	−11.4	−10.

	1971	1972	1973
H.R. 10947 as approved by the conference	−4.5	−11.4	−10.1
1969 act	−1.0	−3.6	−6.0
Total	−5.5	−15.0	−16.1
H.R. 10947 as approved by the conference:			
Individual nonbusiness	−2.0	−5.2	−2.8
Corporate and individual business	+.3	−2.5	−3.3
ADR (business)	−2.8	−3.4	−4.0
Total business	−3.1	−5.9	−7.3

	1971	1972	1973
"Incentive" provisions:			
Investment credit	−1.5	−3.6	−3.9
DISC		−.1	−.2
Repeal of auto and light truck excise tax	−.9	−2.6	−2.3
Liberalized guideline lives under ADR	−.7	−1.7	−2.4
Total	−3.1	−8.0	−8.8

[1] H.R. 10947 figures include a pickup from the elimination of the ¾ year convention under ADR. Therefore, to reflect the liberalized guidelines under ADR, the entire ADR effect should be added to H.R. 10947 totals.

DISTRIBUTION OF INCOME TAX REVENUE LOSS, REVENUE ACT OF 1971

[In billions of dollars]

Calendar year	Business						Individuals						
	ADR	WIN	7-percent investment credit	DISC	Excise	Total business	Personal exemptions	Standard deductions	Child care	Low-income allowance	Excise	Total individuals
1971	$0.7		$1.5		$0.09	$2.2	$0.9			$0.4	$0.8	$1.3
1972	1.7	$0.025	3.6	$0.1	.26	5.4	1.9	$0.3	$0.2	1.0	2.3	3.4
1973	2.4	.030	3.9	.2	.23	6.5			.2	1.1	2.0	1.3
1974	2.9	.035	4.2	.2	.22	7.3			.2	1.1	1.9	1.3
1975	3.5	.040	4.5	.3	.23	8.3			.2	1.2	2.0	1.4
1976	3.7	.040	4.8	.3	.24	8.8			.2	1.2	2.1	1.4
1977	3.4	.040	5.1	.4	.25	8.9			.2	1.3	2.2	1.5
1978	3.1	.040	5.5	.4	.38	9.0			.2	1.3	1.8	1.5
1979	3.1	.040	5.9	.5	.34	9.5			.2	1.4	1.5	1.6
1980	3.0	.040	6.3	.6	.30	9.9			.2	1.4	1.1	1.6
1981	2.9	.040	6.7	.6	.25	10.2			.2	1.5	.6	1.7
Total	30.4	.4	52.0	3.6	2.79	88.79	2.8	.3	2.0	12.9	18.3	36.3

Note: Totals may not add due to rounding.

Source: Verified by U.S. Treasury.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. Mathis of Georgia (at the request of Mr. O'Neill), for today, on account of official business.

Mr. Curlin (at the request of Mr. O'Neill), for today, on account of official business.

Mr. Kluczynski (at the request of Mr. O'Neill), for Tuesday, December 7 and the balance of the week, on account of official business.

Mr. Fountain (at the request of Mr. O'Neill), on account of official business.

Mr. Broyhill of North Carolina (at the request of Mr. Gerald R. Ford), for today, on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. McKinney) and to revise and extend their remarks and include extraneous matter:)

Mr. Frey, for 5 minutes, today.

Mr. Keith, for 15 minutes, today.

Mr. Halpern, for 5 minutes, today.

Mr. Kemp, for 15 minutes, today.

Mr. Miller of Ohio, for 5 minutes, today.

Mr. Buchanan, for 5 minutes, today.

(The following Members (at the request of Mr. Denholm) to address the House and to revise and extend their remarks and include extraneous matter:)

Mr. Gonzalez, for 10 minutes, today.

Mr. Griffin, for 5 minutes, today.

Mr. Rostenkowski, for 5 minutes, today.

Mr. William D. Ford, for 15 minutes, today.

Mr. Cotter, for 5 minutes, today.

Mr. Burke of Massachusetts, for 10 minutes, today.

Mr. James V. Stanton, for 15 minutes, today.

Mr. Runnels, for 5 minutes, today.

Mr. Leggett, for 45 minutes, on December 9.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Yates and to include extraneous matter.

Mr. Yates to revise and extend and include extraneous matter with remarks to be made in Committee of Whole today.

Mr. Van Deerlin and to include extraneous matter.

Mr. Passman to revise and extend and include extraneous matter including tables with remarks made in Committee of the Whole.

Mrs. Abzug to extend her remarks following those of Mr. Ryan today on H.R. 12067.

All Members (at the request of Mr. Horton) for 5 legislative days to extend their remarks and include extraneous matter on the subject matter of his special order, today.

Mr. Rooney of New York, immediately preceding the remarks of Mr. Seiberling on the Fraser amendment in the Committee of the Whole today on the foreign assistance and related programs appropriation bill, 1972.

Mr. Scheuer, to include extraneous material in connection with his remarks today on the foreign aid appropriation bill.

Mr. Gibbons to extend his remarks immediately preceding consideration of House Resolution 728.

Mr. Findley during the Committee of the Whole on H.R. 1163 and to include extraneous matter.

Mr. Anderson of Illinois to revise and extend his remarks on the Conte amendment in Committee of the Whole on H.R. 12067.

Mr. Purcell to extend his remarks following those of Mr. Poage today on H.R. 1163.

(The following Members (at the request of Mr. McKinney) and to include extraneous matter:)

Mr. Buchanan in four instances.

Mrs. Dwyer in four instances.

Mr. Wyman in two instances.

Mr. Schwengel.

Mr. Findley.

Mr. Halpern in three instances.

Mr. O'Konski.

Mr. Schmitz in three instances.

Mr. Arends.

Mr. Esch.

Mr. Fish.

Mr. Derwinski.

Mr. Pelly in five instances.

Mr. Smith of New York in two instances.

Mr. Frenzel.

Mr. Brotzman.

Mr. McCloskey.

Mr. Anderson of Illinois.

Mr. Bob Wilson in two instances.

Mr. Price of Texas in two instances.

Mr. Gerald R. Ford.

Mr. du Pont.

Mr. Keith.

Mr. Ware.

Mr. Broyhill of Virginia.

Mr. Zwach.

Mr. Hall.

Mr. Shoup in two instances.

Mr. Baker.

(The following Members (at the request of Mr. Denholm) and to include extraneous matter:)

Mr. Gonzalez in three instances.

Mr. Rarick in three instances.

Mr. Hagan in three instances.

Mr. Dow in two instances.

Mr. Rogers in five instances.

Mr. Miller of California in five instances.

Mr. Badillo in five instances.

Mr. Drinan in two instances.

Mr. Charles H. Wilson.

Mr. Giaimo in 10 instances.

Mr. Pucinski in six instances.

Mrs. Hicks of Massachusetts in five instances.

Mr. Van Deerlin in two instances.

Mr. Cotter in two instances.

Mr. Pickle.

Mr. Ryan in three instances.

Mr. Nix.

Mr. Hicks of Washington in two instances.

Mr. Jacobs.

Mr. Anderson of California in three instances.

Mr. Wright.

Mr. Boland in two instances.

Mr. Rangel in three instances.

Mr. Jones of Tennessee in five instances.

Mr. Roy.

Mr. Moss.

Mr. Hathaway in two instances.

Mr. Diggs in two instances.

Mr. Vanik in two instances.

Mrs. Hansen of Washington.

Mr. Hamilton.

Mr. James V. Stanton.

Mr. Garmatz in two instances.

Mr. Fauntroy in five instances.

Mr. Burke of Massachusetts.

Mr. Pike.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 2007. An act to provide for the continuation of programs authorized under the Economic Opportunity Act of 1964, and for other purposes.

BILLS PRESENTED TO THE PRESIDENT

Mr. HAYS, from the Committee on House Administration, reported that that committee did on the following days present to the President, for his approval, bills of the House of the following titles:

On December 7, 1971:

H.R. 3628. A bill to amend title 5, United States Code, to provide equality of treatment for married women Federal employees with respect to preference eligible employment benefits, cost-of-living allowances in foreign areas, and regulations concerning marital status generally, and for other purposes;

H.R. 8381. A bill to authorize the sale of certain lands on the Kalispel Indian Reservation, and for other purposes;

H.R. 8548. A bill to curtail the mailing of certain articles which present a hazard to postal employees or mail processing machines by imposing restrictions on certain advertising and promotional matter in the mails, and for other purposes;

H.R. 8689. A bill to provide overtime pay for intermittent and part-time General Schedule employees who work in excess of 40 hours in a workweek;

H.R. 9097. A bill to define the terms "widow", "widower", "child", and "parent" for servicemen's group life insurance purposes;

H.R. 9442. A bill to authorize compensation for five General Accounting Offices positions at rates not to exceed the rate for executive schedule level IV;

H.R. 11220. A bill to designate the Veterans' Administration hospital in San Antonio, Tex., as the Audie L. Murphy Memorial Veterans' Hospital, and for other purposes;

H.R. 11335. A bill to amend section 704 of title 38, United States Code, to permit the conversion or exchange of National Service Life Insurance policies to insurance on a modified life span with reduction at age 70;

H.R. 11334. A bill to amend title 38 of the United States Code to provide that dividends may be used to purchase additional paid up national service life insurance;

H.R. 11651. A bill to amend title 38 of the United States Code to liberalize the provisions relating to payment of disability and death pension, and for other purposes; and

H.R. 11652. A bill to amend title 38 of the United States Code to liberalize the provisions relating to payment of dependency and indemnity compensation.

On December 8, 1971:

H.R. 5068. A bill to authorize grants for the Navajo Community College, and for other purposes.

ADJOURNMENT

Mr. DENHOLM. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 o'clock and 9 minutes a.m., Thursday, December 9, 1971), the House adjourned until 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1346. A letter from the Deputy Chief of Legislative Affairs, Department of the Navy, transmitting certain petitions which were forwarded to the Secretary of the Navy for transmittal to the Congress; to the Committee on Foreign Affairs.

1347. A letter from the Secretary of Health, Education, and Welfare, transmitting notice of the delay in completion of a "Systems Analysis of National Health Care Plans" required under Public Law 91–515; to the Committee on Interstate and Foreign Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. PATMAN: Committee of conference. Conference report on H.R. 9961; with amendment (Rept. No. 92–715). Ordered to be printed.

Mr. MILLER of California: Committee on Science and Astronautics. Report on a metric America. (Rept. No. 92–716). Referred to the Committee of the Whole House on the State of the Union.

Mr. COLMER: Committee on Rules. House Resolution 729. A resolution providing for the consideration of conference reports on the same day reported during the remainder of the first session of the 92d Congress (Rept. No. 92–717). Referred to the House Calendar.

Mr. HOLIFIELD: Committee on Government Operations. U.S. economic assistance for Laos—stabilization programs (Rept. No. 92–718). Referred to the Committee of the Whole House on the State of the Union.

Mr. EVINS of Tennessee: Select Committee on Small Business. Concentration by competing raw fuel industries in the energy market and its impact on small business (Rept. No. 92–719). Referred to the Committee of the Whole House on the State of the Union.

Mr. COLMER: Committee on Rules. House Resolution 730. Resolution providing for the consideration of H.R. 11309. A bill to extend and amend the Economic Stabilization Act of 1970, as amended, and for other purposes (Rept. No. 92–720). Referred to the House Calendar.

Mr. McMILLAN: Committee on the District of Columbia. H.R. 11628. A bill to authorize grants and loan guarantees for construction or modernization of hospitals and other medical facilities in the District of Columbia; with amendments (Rept. No. 92–721). Referred to the Committee of the Whole House on the State of the Union.

Mr. STAGGERS: Committee of conference. Conference report on S. 1828 (Rept. No. 92–722). Ordered to be printed.

Mr. McMILLAN: Committee on the District of Columbia. H.R. 10237. A bill to amend the District of Columbia Unemployment Compensation Act in order to conform to Federal law, and for other purposes; with amendments (Rept. No. 92–723). Referred to the Committee of the Whole House on the State of the Union.

Mr. McMILLAN: Committee on the District of Columbia. S. 1938. An act to amend certain provisions of subtitle II of title 28, District of Columbia Code, relating to interest and usury; with amendments (Rept. No. 92–724). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BROTZMAN:

H.R. 12100. A bill to amend the Social Security Act to provide for medical and hospital care through a system of voluntary health insurance including protection against the catastrophic expenses of illness, financed in whole for low-income groups through issuance of certificates, and in part for all other persons through allowance of tax credits; and to provide effective utilization of available financial resources, health manpower, and facilities; to the Committee on Ways and Means.

By Mr. CELLER:

H.R. 12101. A bill to amend title 28, United States Code, relating to annuities of widows of Supreme Court Justices; to the Committee on the Judiciary.

By Mr. CLANCY:

H.R. 12102. A bill to amend title 38 of the United States Code so as to provide that monthly social security benefit payments and annuity and pension payments under the Railroad Retirement Act of 1937 shall not be included as income for the purpose of determining eligibility for a veteran's or widow's pension; to the Committee on Veterans' Affairs.

By Mr. HALPERN:

H.R. 12103. A bill to establish a Special Action Office for Drug Abuse Prevention and to concentrate the resources of the Nation in a crusade against drug abuse; to the Committee on Interstate and Foreign Commerce.

By Mr. HALPERN (for himself, Mrs. Abzug, Mr. Danielson, Mr. Moss, Mr. Donohue, Mr. Koch, Mr. Hechler of West Virginia, Mr. Reid of New York, Mr. Conyers, Mr. Addabbo, Mr. Steele, Mr. Mitchell, Mr. Corman, and Mrs. Hicks of Massachusetts):

H.R. 12104. A bill to provide financial assistance for State and local small, community-based correctional facilities; for the creation of innovative programs of vocational training, job placement, and on-the-job counseling; to develop specialized curriculums, the training of educational personnel, and the funding of research and demonstration projects; to provide financial assistance to encourage the States to adopt special probation services; to establish a Federal Corrections Institute; and for other purposes; to the Committee on the Judiciary.

By Mrs. HICKS of Massachusetts:

H.R. 12105. A bill to provide a program to improve the opportunity of students in elementary and secondary schools to study cultural heritages of the various ethnic groups in the Nation; to the Committee on Education and Labor.

By Mr. HUNGATE:

H.R. 12106. A bill to provide protection for consumers in the District of Columbia with respect to credit sales and direct installment loans; to the Committee on the District of Columbia.

By Mr. KUYKENDALL:

H.R. 12107. A bill to amend section 8(e) of the National Labor Relations Act with respect to its application to labor agreements relating to construction; to the Committee on Education and Labor.

By Mr. MIKVA (for himself and Mr. Bingham):

H.R. 12108. A bill to change the minimum age qualification for serving as a juror in Federal courts from 21 years of age to 18 years of age; to the Committee on the Judiciary.

By Mr. PICKLE:

H.R. 12109. A bill to amend the Vocational Rehabilitation Act to provide special services, artificial kidneys, and supplies necessary for the treatment of individuals suffering from end stage renal disease; to the Committee on Education and Labor.

By Mr. PIRNIE:

H.R. 12110. A bill relating to comparability adjustments in pay rates of Federal employees; to the Committee on Post Office and Civil Service.

By Mr. STEED (for himself, Mr. Belcher, Mr. Jarman, Mr. Edmondson, and Mr. Camp):

H.R. 12111. A bill to declare that the United States hold certain land in trust for the Absentee Shawnee Tribe of Indians of Oklahoma; to the Committee on Interior and Insular Affairs.

H.R. 12112. A bill to declare that the United States hold certain lands in trust for the Citizen Bank of Potawatomi Indians of Oklahoma; to the Committee on Interior and Insular Affairs.

By Mr. STEED (for himself, Mr. Edmondson, and Mr. Camp):

H.R. 12113. A bill to provide for the reconveyance to the original Indian grantors their heirs or devisees, lands donated or conveyed for a nominal consideration to Indian tribes when surplus to tribal needs; to the Committee on Interior and Insular Affairs.

By Mr. ULLMAN:

H.R. 12114. A bill to declare title to certain Federal lands in the State of Oregon to be in the United States in trust for the use and benefit of the Confederated Tribes of the Warm Springs Reservation of Oregon; to the Committee on Interior and Insular Affairs.

By Mr. BROYHILL of Virginia:

H.R. 12115. A bill to amend certain provisions of subtitle II of title 28, District of Columbia Code, relating to interest and usury; to the Committee on the District of Columbia.

By Mr. BURKE of Massachusetts:

H.R. 12116. A bill to amend the Tariff Schedules of the United States so as to prevent the payment of multiple customs duties in the case of horses temporarily exported for the purpose of breeding; to the Committee on Ways and Means.

By Mr. ESCH:

H.R. 12117. A bill to provide financial assistance for a special manpower training and employment program for criminal offenders and for persons charged with crimes, and for other purposes; to the Committee on Education and Labor.

By Mr. FORSYTHE:

H.R. 12118. A bill to amend the Internal Revenue Code of 1954 to encourage higher education, and particularly the private funding thereof, by authorizing a deduction from gross income of reasonable amounts contributed to a qualified higher education fund established by the taxpayer for the purpose of funding the higher education of his dependents; to the Committee on Ways and Means.

By Mr. FREY:

H.R. 12119. A bill to amend the Communications Act of 1934 to establish orderly procedures for the consideration of applications for renewal of broadcast licenses, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. GARMATZ:

H.R. 12120. A bill to amend the Internal Revenue Code of 1954 to provide that the first $6,000 of compensation paid to law enforcement officers shall not be subject to the income tax; to the Committee on Ways and Means.

By Mr. GREEN of Pennsylvania:

H.R. 12121. A bill to amend title 13, United States Code, to establish within the Bureau of the Census a National Voter Registration Administration for the purpose of administering a voter registration program through the mail, and for other purposes; to the Committee on House Administration.

By Mr. HELSTOSKI:

H.R. 12122. A bill to establish and protect the rights of day laborers; to the Committee on Education and Labor.

H.R. 12123. A bill to amend the Internal Revenue Code of 1954 to grant an additional income tax exemption for each taxpayer and dependent of the taxpayer who is permanently handicapped; to the Committee on Ways and Means.

By Mr. PEYSER:

H.R. 12124. A bill to require pension plans to provide optional annuities for surviving spouses and certain vesting rights to employees whose employment is involuntarily terminated without cause; to the Committee on Education and Labor.

By Mr. RAILSBACK (for himself and Mr. Smith of New York):

H.R. 12125. A bill to amend the Social Security Act to provide for medical and hospital care through a system of voluntary health insurance including protection against the catastrophic expenses of illness, financed in whole for low-income groups through issuance of certificates, and in part for all other persons through allowance of tax credits; and to provide effective utilization of available financial resources, health manpower, and facilities; to the Committee on Ways and Means.

By Mr. ROY:

H.R. 12126. A bill to provide for the establishment of the Agricultural Hall of Fame National Cultural Park in the State of Kansas, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. RUNNELS:

H.R. 12127. A bill to allow elderly people to travel on common carriers in interstate commerce at half fare, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. STAGGERS:

H.R. 12128. A bill to extend the protection provided by the Federal securities laws to persons investing in securities of carriers regulated by the Interstate Commerce Commission; to the Committee on Interstate and Foreign Commerce.

By Mr. WOLFF (for himself, Mrs. Abzug, Mr. Addabbo, Mr. Biaggi, Mr. Bingham, Mr. Brasco, Mr. Carey of New York, Mrs. Chisholm, Mr. Cotter, Mr. Dent, Mr. Dow, Mr. Drinan, Mr. Daniels of New Jersey, Mr. Halpern, Mr. Harrington, Mr. Helstoski, Mr. Kemp, Mr. Koch, Mr. Kyros, Mr. Mitchell, Mr. Murphy of New York, Mr. O'Neill, Mr. Pepper, Mr. Pike, and Mr. Podell):

H.R. 12129. A bill to authorize the President to designate marine sanctuaries in areas of the oceans, coastal, and other waters, as far seaward as the outer edge of the Continental Shelf, for the purpose of preserving or restoring the ecological, esthetics, recreation, resource, and scientific values of and related to such areas; to the Committee on Merchant Marine and Fisheries.

By Mr. WOLFF (for himself, Mr. Boland, Mr. Delaney, Mr. Minish, Mr. Rangel, Mr. Reid of New York, Mr. Rodino, Mr. Roe, Mr. Ryan, Mr. Rosenthal, Mr. St Germain, Mr. Tiernan, and Mr. Hathaway):

H.R. 12130. A bill to authorize the President to designate marine sanctuaries in areas of the oceans, coastal, and other waters, as far seaward as the outer edge of the Continental Shelf, for the purpose of preserving or restoring the ecological, esthetics, recreation, resource, and scientific values of and related to such areas; to the Committee on Merchant Marine and Fisheries.

By Mr. KEATING:

H.R. 12131. A bill to provide a Federal Bureau of Investigation trust fund; to the Committee on the Judiciary.

By Mr. PRYOR of Arkansas:

H.J. Res. 999. Joint resolution designating November 11 of each year as "Armistice Day"; to the Committee on the Judiciary.

By Mr. BRINKLEY:

H.J. Res. 1000. Joint resolution to designate Christmas week as "Blood Donor Week"; to the Committee on the Judiciary.

By Mr. QUIE (for himself, Mr. Melcher, Mr. Boland, Mr. Jones of North Carolina, Mr. Bevill, Mr. Schneebeli, Mr. Mayne, Mr. Hechler of West Virginia, Mr. Skubitz, Mr. Ware, Mr. Baring, Mr. Anderson of Tennessee, Mr. Robinson of Virginia, Mr. Schwengel, Mr. Madden, Mr. Nix, Mr. Sandman, Mr. Rangel, Mr. Wyatt, Mr. Reid of New York, Mr. Karth, Mr. Hunt, Mr. Dulski, Mr. Minshall, and Mr. Saylor):

H.J. Res. 1001. Joint resolution to establish a Joint Committee on Aging; to the Committee on Rules.

By Mr. QUIE (for himself, Mr. Andrews of North Dakota, Mr. Thone, Mr. Steiger of Wisconsin, Mr. Teague of California, Mr. Gallagher, Mr. Keating, Mr. Myers, Mr. Morse, Mr. Mitchell, Mr. Blatnik, Mr. Staggers, Mr. Forsythe, Mr. Eilberg, Mr. Zwach, Mr. Steele, Mr. Kemp, Mr. Kee, Mr. Carter, Mr. Goodling, Mr. Halpern, Mr. Veysey, Mr. Talcott, Mr. Erlenborn, and Mr. Frenzel):

H.J. Res. 1002. Joint resolution to establish a Joint Committee on Aging; to the Committee on Rules.

By Mr. ST GERMAIN:

H.J. Res. 1003. Joint resolution to amend title 5, United States Code, in order to designate November 11 of each year as "Veterans Day"; to the Committee on the Judiciary.

By Mr. NIX:

H. Con. Res. 478. Concurrent resolution to relieve the suppression of Soviet Jewry; to the Committee on Foreign Affairs.

By Mr. RUPPE:

H. Con. Res. 479. Concurrent resolution to seek relief from restrictions on Soviet Jews; to the Committee on Foreign Affairs.

By Mr. NIX:

H. Res. 731. Resolution calling for the shipment of Phantom F-4 aircraft to Israel in order to maintain the arms balance in the Middle East; to the Committee on Foreign Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BURTON:

H.R. 12132. A bill for the relief of Candida Menes Malot; to the Committee on the Judiciary.

H.R. 12133. A bill for the relief of Maria Isaura Russo; to the Committee on the Judiciary.

By Mr. CORMAN:

H.R. 12134. A bill for the relief of Mrs. Rita Chelnek; to the Committee on the Judiciary.

By Mr. FUQUA:

H.R. 12135. A bill for the relief of Jorge Birnios; to the Committee on the Judiciary.

EXTENSIONS OF REMARKS

REFLECTIONS ON THANKSGIVING

HON. G. ELLIOTT HAGAN

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 7, 1971

Mr. HAGAN. Mr. Speaker, the Thanksgiving season just passed reminded all thinking Americans of our blessings. In our country it is traditionally a season of giving thanks for our abundances. It is a time for families to get together, a time for reflection, and one of our best holiday observances.

As we go along through the year we are prone to take all things for granted. We seldom pause long enough to realize that with 6 percent of the world's population we annually consume nearly 50 percent of its goods. That fact could be and often is interpreted by other nations as downright selfish and may, indeed, be the real reason we are despised by so many to whom we have given so much in material things.

We tie our Thanksgivings to the custom begun by the early Pilgrims, but many people do not know that there was a gap of many years in the observance of the feast day. Also, people do not generally know that a New Jersey Congressman named Elias Boudinot was responsible for the reappearance of Thanksgiving. We should all be grateful for him, as well as for the Pilgrims.

Mr. Louis Cassels, United Press International, in his column, "National Window," published in the Dublin, Ga., Courier Herald and other papers, on November 24, 1971, tells the story of Congressman Boudinot's revival of the custom of Thanksgiving through a resolution in the House. The story follows:

NATIONAL WINDOW

(By Louis Cassels)

The first Thanksgiving observance in America as every school child knows, was conducted by the Pilgrims who settled in what is now Massachusetts in 1621.

But contrary to what most school children and ex-school children think, the idea didn't just catch on and become a national custom.

Quite the opposite. Thanksgiving as a holiday disappeared from American life shortly after the Pilgrims had that legendary turkey feed, and may never have reappeared had it not been for a little-known New Jersey congressman named Elias Boudinot.

If anyone deserves to be remembered as originator of the national holiday Americans are observing today, it's not the Pilgrims fathers, but Rep. Boudinot.

Boudinot was a deeply religious man who was a founder and first president of the American Bible Society. In 1789, at the age of 49, he was elected to sit in the first Congress of the United States.

BOUDINOT DELIVERS SPEECH

On Sept. 25, 1789, the annals of the House disclose, Rep. Boudinot delivered a speech saying he "could not think of letting the session pass over without offering an opportunity to all the citizens of the United States of joining, with one voice, in returning to Almighty God their sincere thanks for the many blessings He has poured down upon them."

He introduced a resolution requesting the president to set aside "a day of public thanksgiving and prayer."

There was, inevitably, a certain amount of opposition. In the U.S. Congress, you can't introduce a resolution hoping the sun will rise tomorrow without some colleague finding fault with it. The annals show that Rep. Thomas T. Tucker of South Carolina "thought the House had no business to interfere in a matter which did not concern them."

"Why should the president direct the people to do what, perhaps, they have no mind to do?" asked Tucker, who either was an early exponent of church-state separation or was just feeling grumpy that day.

SHERMAN PROVIDES SUPPORT

Rep. Roger Sherman of Connecticut leaped to Boudinot's support with copious biblical quotations showing that the proposal was "warranted by a number of precedents in holy writ: For example, the solemn thanksgivings and rejoicings which took place in this time of Solomon after the building of the temple."

"The question was now put on the resolution, and it was carried," the annals record.

So President Washington issued a proclamation setting aside the last Thursday in November as a national day of thanksgiving for "the many signal favors of Almighty God, especially by affording (the people of America) an opportunity peaceably to establish a Constitution of government for their safety and happiness."

And that's how the whole thing started.

TEN BOSTON POLICEMEN GIVEN MEDALS FOR NOTABLE DEEDS

HON. LOUISE DAY HICKS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 7, 1971

Mrs. HICKS of Massachusetts. Mr. Speaker, on Saturday evening, December 4, at the 100th anniversary ball of the Boston Police Relief Association 10 outstanding Boston policemen were given medals for notable deeds.

The Walter Scott Medal for Valor was presented to Patrolman James E. Hickman of district 11 for courage he displayed on August 14, 1971, while accompanying a man who was making a large night deposit in a Dorchester bank.

Hickman was shot and wounded while successfully protecting the money from four would-be robbers. While being treated at Boston City Hospital, Hickman identified and arrested the man who had shot him in the attempted holdup. The man had been admitted to the hospital for a gunshot wound inflicted by Hickman earlier.

Hickman and nine other police officers were the recipients of department medals of honor, Thomas F. Sullivan awards, Boston Police Relief Association memorial awards and the Boston bank awards.

The awards went to Patrolmen Thomas J. Gleason, district 6; Loman C. McClinton, Jr., district 4; Francis V. Connelly, Houston Patrol Division; Joseph W. Rigney, district 11; John J. H. McLaughlin, district 1; Robert J. Regan and Joseph R. Memmo, district 4; and Paul W. Condon and James J. Welch, district 4.

Gleason was cited for courage displayed on December 9, 1970, when he rescued a man from the Charles River.

McClinton was awarded a medal because of action he took while off duty on January 7, 1971. He prevented a serious assault and possible loss of life of persons at a Dorchester real estate office.

Connelly was honored for his personal courage and devotion to duty despite a hostile crowd when on January 14, 1971, he arrested three persons for violation of the firearms laws.

Rigney was cited for courage displayed while rescuing a blind man and an elderly woman from a fire in Dorchester on February 16, 1971.

McLaughlin was honored for displaying unusual courage while making an arrest in the Washington Street area of downtown Boston on July 16, 1971. McLaughlin risked his own life by not returning the gunfire of the felon he was chasing.

Robert J. Regan and Joseph R. Memmo were awarded medals of honor for their alertness and keen observation on September 10, 1971, when they arrested a dangerous escaped prisoner who had threatened the life of a county official.

Condon and Welch were cited for meritorious police duty performed on September 13, 1971, when they chased and arrested an armed man who had just robbed a bank in the South End area.

All awards were presented by Police Commander Edmund L. McNamara. The officers receiving awards were selected by a board of merit consisting of Superintendent-in Chief William J. Taylor, Superintendent Herbert F. Mulloney and Superintendent William A. Bradley

REDESIGNATE NOVEMBER 11 AS VETERANS DAY

HON. ELLA T. GRASSO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 7, 1971

Mrs. GRASSO. Mr. Speaker, for years November 11 was a special day of commemoration by Americans for the veterans who had served this Nation. In the period immediately following World War I, it was known as Armistice Day—the anniversary of the day when the costly and tragic fighting ended in Europe. After World War II and the Korean conflict, November 11 was redesignated as Veterans Day, and our country honored all those brave individuals who answered the call of our Nation in time of war.

Veterans Day has always been a solemn occasion—a day to pay tribute to those who made the supreme sacrifice, and a day on which to express heartfelt gratitude to those who returned.

This year, the observance of Veterans Day occurred on October 25, and despite the worthiness of its purpose did not fulfill adequately the intent of the holiday. This is an opinion that has been communicated to me by many of my constituents. Indeed, in my own State of Connecticut, there is strong support for redesignating November 11 as Veterans Day. Dominic J. Romano, Connecticut Commander of the Veterans of Foreign Wars of the United States, believes that "it would be an excellent idea to redesignate November 11 as Veterans Day." Chet D. Hirsch, Connecticut commander of the American Legion, has mentioned that he was unable to find a single member of the American Legion who is content with the observance of this occasion on the fourth Monday of October.

Because November 11 is a day of meaningful historical significance to the people of our Nation, I have cosponsored legislation which would redesignate November 11 as Veterans Day throughout the land.

For the interest and information of my colleagues, some of the correspondence I have received on this matter follows:

VETERANS OF FOREIGN WARS OF THE
UNITED STATES, DEPARTMENT OF
CONNECTICUT,
November 23, 1971.

Hon. ELLA T. GRASSO,
U.S. Representative,
House Office Building,
Washington, D.C.

DEAR ELLA: I certainly want to thank you for your memo of November 15, 1971, and the copy of the letter written to you (and to other Congressmen) by Congressman Young of Florida, concerning his opposition to the last Monday of October each year as Veterans Day.

I believe that since we have had an opportunity to observe celebrations throughout Connecticut this year we are now in a position to comment.

I would have to say now that I agree with Congressman Young that it would be an excellent idea to redesignate November 11 as Veterans Day.

When the Monday Holiday Act was considered by the Congress most of the leaders of the Veterans of Foreign Wars opposed such legislation. However, when the law was enacted many of us said very little. Our reactions were definitely not violent. I think that there were a great many Americans, including veteran leaders, who felt that it made only a moderate difference. Far too many of us adopted the attitude that much of the meaning of November 11th could be readily transferred to another date during any given year.

How wrong we were! The experiences of 1971 in Connecticut prove that nearly all segments of our society absolutely refuse to accept any date near the end of October with any significance as Veterans Day. In spite of the fact that the "Law of the Land" called October 25, 1971, "Veterans Day", we could only muster a handful of our citizens to observe the day. Yet we found that with no organized effort on our part thousands of Connecticut's citizens observed November 11, 1971, as Veterans Day.

It would appear that, if the Monday Holiday Act stands, we will find that it will be only a matter of a very few years before Veterans Day becomes lost. This would, indeed, be tragic.

I do not feel that Congressman Young's resolution is the complete answer. I believe that it will become necessary to introduce legislation to remove "Veterans Day" from the provisions of the Monday Holiday Act and to designate November 11 as Veterans Day.

Representatives of this organization will be happy to discuss this further with you if you feel it to be necessary.

Sincerely,

DOMINIC J. ROMANO,
State Commander.

THE AMERICAN LEGION,
DEPARTMENT OF CONNECTICUT,
Hartford, Conn., November 22, 1971.

ELLA T. GRASSO,
House of Representatives,
Washington, D.C.

MRS. GRASSO: This is to acknowledge receipt of your letter concerning C. W. Bill Young's letter of 28 October, 1971 about the change of date of Veterans Day.

In my contacts with the Legionnaires at all seven Districts I have discussed this matter. I have yet to find one member who is content with having the date changed.

Our national convention passed a resolution to return Veterans Day to the date of November 11th.

I sincerely hope Mr. Young presents a bill to redesignate November 11th as Veterans Day. If this occurs I hope I will be informed so I may in turn inform our membership. I am sure they will express their approval.

Sincerely,

CHET D. HIRSCH,
Commander.

PAY BOARD CRITICIZED FOR LACK OF CONTROL

HON. RICHARD T. HANNA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 7, 1971

Mr. HANNA. Mr. Speaker, I am sure all of us are watching closely the development phases of the President's phase II program, both as to form and substance. I for one intend to compile a detailed track record of his program on which to base a continuing oversight which this body must pursue.

The quality more than the quantity of actions taken under phase II must be the starting point for this oversight activity, and it is in this regard that I am already having significant reservations. One of the more widely recognized economic reporters in the Washington area recently analyzed the day-to-day operations of the Board. I take this opportunity to bring to my colleagues' attention this critical assessment of the initial proceedings of one of the President's control bodies, the Pay Board, asking them to note particularly the observation that:

> Meetings are often so confused that members are not always aware of what they are voting on. Some members have failed to be recorded on an issue because they were unaware a vote was being taken.

An article follows:

[From the Washington Post, Dec. 7, 1971]

FEUDING, NITPICKING REIGN—PAY BOARD CRITICIZED FOR LACK OF CONTROL

(By James L. Rowe Jr.)

"It can't keep going on like this," one high-ranking observer said of the 15-man Pay Board—set up by the President to administer wage and salary increases during Phase II.

The meetings (swollen with the usual coterie of alternates and staff) sometimes become so unwieldly that members are not always aware of what they are voting on, according to one source close to the board.

The board sits again today—it now meets every Tuesday, Wednesday, and Thursday. If past sessions are any indication, much time will be taken up in procedural questions, nitpicking, and personal feuding, lessening the chance for substantive accomplishment.

"They're going to have to do something different," one official observed.

So far, the administration has not been critical of the Pay Board, though Treasury Secretary John B. Connally told newsmen that as a private citizen he disagreed with the tripartite board's approval of a 16.8 per cent first year increase for soft coal miners—well in excess of the board's own pay guideline of 5.5 per cent per year.

But its decision to approve the over-guidelines wage pay boost for coal miners has been denounced as inflationary by the Price Commission, which allowed only about 60 per cent of it to be translated into higher coal prices.

The Price Commission, presumably is concerned by reports—confirmed last week by management member Virgil Day—that the Pay Board will probably approve "catch-up" arrangements similar to coal for the railroad signalmen (46 per cent over 42 months), aerospace, and dockworkers.

Cost of Living Council executive director Donald Rumsfeld still holds publicly to the line that since the President chose a "participatory" Phase II—one administered by the citizenry rather than by government officials—certain inherent efficiency problems should be expected which retard quick promulgation of guidelines as well as totally tough enforcement.

The 15 Pay Board members include five from management, five from big labor, and five from the public. Unlike its counterpart Price Commission—with seven members from the public—the Pay Board has from the outset been beset by internal rancor.

Last week the rancor on the board got so intense, one source said, that chairman George A. Boldt told labor members he would not stand for any more "rudeness." Labor members often ridicule Boldt in the meetings, and, sources said, are particularly fond of calling public member Arnold R. Weber an administration "hatchet man." According to reports, Weber "goes through the ceiling" at the continued needling.

Meanwhile, the board has yet to devise some of the basic procedures under which it must operate. For example, although beginning Jan. 1, all wage settlements affecting more than 5,000 persons must receive board approval, the board has yet to devise a prenotification procedure.

It delegated to its staff the preparation of a form prenotification units must use. The staff in turn went to the Bureau of Labor Statistics—which came back with a detailed eight-page form. The Pay Board has directed the staff to redo, and simplify the form.

Meetings are often so confused that members are not always aware of what they are voting on. Some members have failed to be recorded on an issue because they were unaware a vote was being taken.

One source cited, as an example of confusion, the recent decision merit increases. Just before Thanksgiving the board issued a guideline on merit raises, which it had to immediately clarify the next day.

Last Thursday after worried businessmen flooded the Pay Board with queries, The Wall Street Journal—with the help of three Pay Board members—put together what purported to be an accurate summary of the Pay Board's policy on merit increases.

But Friday, the Board issued another clarification, which appeared to be in conflict with its ruling—and in points was. Sources said some Pay Board members were surprised that the Friday clarification was actually what they had voted.

In the initial Pay Board guidelines issued Nov. 7, provision was made for five or more members to challenge contracts they felt to be excessive in terms of the guidelines. But the board neglected to finalize procedures for such a challenge.

Last Wednesday, shortly after the Price Commission refused to allow coal companies to pass through the entire wage settlement, the Pay Board issued its first formal challenge to a contract.

The five business members said they had heard a settlement between the Carey Grain Corp. (which operates one grain elevator at the port of Chicago) and Local 418 of the International Longshoremen's Association was far in excess of the 5.5 per cent standard.

But they knew little more about it than that—and had to ask the Phase II compliance arm, the Internal Revenue Service, to investigate.

But challenge it they did, although the contract covered only nine workers, a spokesman for the union said. If the contract becomes a model for grain elevator operators in Chicago it would affect no more than 200 workers.

One board observer suggested the board's large size contributes highly to its problems. "It's just impossible for 15 men to agree on anything," he said. He suggested Chairman Boldt, in whom the law vests all legal powers of the board, might have to take things into his own hands.

Another said it might go to the "subcommittee approach"—three members "hassle out" the issue and come back with proposals which the board could vote on.

The board is now using this approach on the question of executive salaries and compensation.

A key to the board's future will be its treatment of John Dunlop, the chairman of the Construction Industry Stabilization Committee.

Last week, amid heavy labor objection, the board "temporarily" stripped the committee of its power to rule on wage increases in the construction industry until Dunlop met with the group for a "review." The CISC had approved about 450 contracts granting retroactive payment of wage increases held up by the freeze.

"It will be a sticky fight," one observer said. "Labor is heavily in favor of CISC's activities."

Another said the board would have to "survive this one if it's to have any chance at all."

Observers conclude that the Pay Board, in fact, is confused by so many problems that the President may be forced to scrap it and start all over again—though no one in the administration will concede the President has even though of such a move.

If history is a lesson, a complete breakdown of the Pay Board would not be a surprise. It happened twice during World War II and again during Korea.

WHERE DO LIBERALS ENROLL THEIR KIDS?

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 7, 1971

Mr. DERWINKSI. Mr. Speaker, with the debate continuing in Washington and across the country over busing of school students to achieve certain racial percentages of attendance and recognizing the political demagoguery that has been too much in evidence in this field, I believe the following article from the Perspective page of the November 25 edition cf the Chicago Tribune, by Columnist Nick Thimmesch, tells a very interesting story.

The story follows:

WHERE DO LIBERALS ENROLL THEIR KIDS?

(By Nick Thimmesch)

WASHINGTON.—I can listen to, endure, be amused by, constantly observe, but never run with political liberals. I can't take their consummate hypocrisy and exhortations to the masses, especially on terrible thorny matters like school integration.

Last week on CBS, Mike Wallace's Sixty Minutes revealed for the first time on television how rank hypocrisy is on the school question among Washington liberals. For years liberals scolded the South for balking on school integration. Now they denounce President Nixon's last-resort policy on busing as an integration tool, and they deplore the raw anger mothers in Pontiac, Mich., show when confronted with compulsory busing.

What Mike Wallace showed here [and got enormous mail in response] was an array of black and white liberals who managed to keep their own children out of Washington's heavily black schools by sending them to private or suburban schools. Their explanations amount to the same voiced by many Southerners and certainly by the Pontiac mothers—we want our children to have the best education.

USED TO WHITE PEOPLE

As Mrs. Donald Fraser, whose husband is Minnesota's most liberal congressman, put it to Wallace: "Your children get educated only once." That's why the Frasers took their daughter out of Washington public schools and placed them here in Georgetown Day School, a private school. She told Wallace that her daughter was used to having white people around in school, and while there were three or four black pupils with her in each class at Georgetown Day School, "they're much nicer" than the blacks in the public school she attended.

One of Mr. Nixon's severest critics on the busing issue is Sen. George McGovern [D., S.D.], who moved into Washington from nearby suburban Maryland, but sends his daughter back to the old Maryland neighborhood to go to high school. He pays $1,450 tuition for this privilege. McGovern wasn't available for Wallace to interview on this matter.

McGovern isn't alone. Democratic Senators Teddy Kennedy of Massachusetts, Birch Bayh of Indiana, Ed Muskie of Maine, and Eugene McCarthy all sent or are sending their children to private schools. They wouldn't talk with Mike Wallace either. When Sen. Stevenson (D., Ill.) was questioned on Meet the Press as to how he could criticize White House leadership, and, as a resident of Washington, send his children to private, mostly white, schools, he answered that he wanted to send them to public schools, "but regrettably the ones available to us are not very good, and I just didn't want to sacrifice the education of my kids."

The most perplexed man Wallace interviewed was Washington's black congressman, Walter Fauntroy, whose son is the only black in a private school here. Asked to explain, especially when a group of Pontiac mothers happened by during the interview, Fauntroy cried about "a whole history of neglect of the school system of the District of Columbia" (false: D.C. schools were once very good); and overcrowded classes and underfunding (false again: D.C. schools are relatively well-funded, and are not usually overcrowded).

RICH CAN "BUY OUT"

But he isn't the only black notable whose children are used as "tokens" in the private schools. Our mayor, Walter Washington, has his child driven by limousine to private school each day, as Wallace reported. Liberal columnist Carl Rowan has his children in private school. So does civil rights activist Clifford Alexander. Supreme Court Justice Thurgood Marshall's children attended private schools here.

Commentators, national correspondents, and the great lamas of journalism, columnists, also are hypocritical on this score. One sardonic columnist for the Washington Post, interviewed by Wallace, said, "Nobody wants to make their children pay for their own social philosophy." The columnist's own son is in private school and he admits the rich can "buy out."

Then why do liberals support integration and busing if they really don't believe in it down deep? The Washington Post columnist told Wallace:

"The lines get drawn in such a way that you end up supporting something that you think is unwise, perhaps unworkable, simply because of its symbolic content, simply because you get a bunch of rabid mouth-foaming racists opposing it, so you're forced to support it."

DEVELOPMENT OF STATE NARCOTIC TREATMENT PROGRAMS

HON. LOUIS FREY, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 7, 1971

Mr. FREY. Mr. Speaker, I am introducing legislation today which I feel may if enacted, provide the means to induce States to establish drug treatment programs for addicts who reside in the various States and, at the same time, insure that present Federal funding and, hopefully, increased levels in such funding for treatment programs will be spent on more effective programs.

The treatment of narcotic addicts, who either volunteer or are committed for treatment, is primarily a State and local responsibility. Only the State, through local law enforcement and health agencies, have the ability to assess what the narcotic treatment needs of the State are. Morover, the most successful treatment and rehabilitation programs have been community-based treatment programs. Addicts who have been removed from the communities in which they reside for treatment, have extreme difficulty in adjusting when returned to the community. A great many addicts can be successfully rehabilitated in carefully controlled out-patient programs in the community.

Few States, however, are administratively and financially geared up to effectively treat the narcotic addict population of the State. My own State of Florida, for instance, lacks a coordinated, State regulated and funded treatment program. Funding for those treatment programs which do exist comes entirely from local and/or Federal funds. Many States—at least 15—have no drug program whatsoever.

The means exist to induce the States to organize themselves and appropriate the necessary funds to treat their narcotic addict population, but neither the Congress nor the Federal granting agencies have seized upon it. Since several agencies, primarily LEAA within the Justice Department and NIMH within HEW, presently make grants to treatment programs, conditions or criteria can and should be established which States must adhere to before grants are made to that State.

Presently, however, grants are made by LEAA and NIMH directly to grantees within a State, irrespective of how that treatment program relates to an overall State's needs. Moreover, there is little, if any, coordination between LEAA and NIMH in making such grants. Mr. Dean Crowther, Associate Director of the Civil Division of GAO, which recently made a study of Federal treatment programs concluded that:

> While there is a reasonable amount of money being sent to communities by both the Department of Justice under LEAA and HEW under NIMH, there is not nearly as close a link-up as we would like to see.

In addition, LEAA lacks the competence to make such grants; LEAA is primarily a granting authority for State law enforcement activities.

The legislation I am introducing today will remedy this situation by: First, transferring the authority for making narcotic treatment grants to NIMH, thereby centralizing the bulk of grant authority in an agency competent to administer such programs; and second, inducing the various States to create narcotic treatment programs by making grants to State agencies established for such purposes for distribution to public and private programs which are components of community-based multimodality treatment programs.

Section 6 of the bill amends the Omnibus Crime Control and Safe Streets Act to delete the authority for LEAA to make grants for narcotic treatment and provides that any sum authorized to be appropriated to make such grants are "authorized to be appropriated for the purposes of section 251 of the Community Mental Health Centers Act in addition to any other sums to be appropriated for such section."

Section 5 of the bill amends the Community Mental Health Centers Act to allow States to make application for Federal funding for treatment and rehabilitation programs based upon their assessment of such needs in the State which cannot be met out of private or local and State funding, instead of private or public treatment programs making application directly to NIMH for funding of their individual program. The funds distributed to the State pursuant to such application would then be distributed by the State agency to the various private and public community treatment programs.

No application for a grant can be approved unless such application is made by a State agency—

> (1) which is established, with the assistance of the Secretary, for the purpose of receiving, administering, and distributing such grants to community-based multi-modality treatment programs; (2) which has submitted to the Secretary a comprehensive plan, prepared with the assistance of the Secretary, for the development of community-based multi-modality treatment programs based upon a detailed survey by such State agency of the narcotic addict treatment needs of the State; and (3) which has established, with the assistance of the Secretary, such standards as are necessary to provide criteria for the continuation of narcotic addict treatment programs in effect immediately prior to the effective date of this Act, and for the establishment of community-based multi-modality treatment programs; (4) which agrees that the State agency will from time to time, but not less often than annually, review its State plan and submit to the Secretary an analysis and evaluation of the effectiveness of the prevention and treatment programs and activities carried out under the plan, and any modifications in the plan which it considers necessary; and (5) which agrees to fund only those community-based multi-modality treatment programs which agree to treat addicts who have been committed for treatment either under the Narcotic Addict Rehabilitation Act of 1966 or under a state civil commitment program.

The term "community-based, multi-modality treatment program" is defined as—

> . . . a program for the treatment of narcotics addicts, and other persons with drug abuse and drug dependence problems, established by a State, or a political subdivision thereof, for the purpose of providing comprehensive treatment, including maintenance, detoxification, social and vocational rehabilitation, and other forms of treatment suited to the individual needs of the person treated. Such program may include such public and such comprehensive treatment. Any such nonprofit private treatment agencies and organizations as subsidiary components of such program as may be necessary to provide such comprehensive treatment. "Any such program shall be organized in conformity with the State plan and standards referred to earlier.

By requiring the States as a precondition to receiving treatment grants directly to establish a State narcotic treatment agency that would scientifically ascertain what the treatment needs of the State are, develop a comprehensive plan for the development of treatment programs, and establish standards with the assistance of NIMH for such programs, we are inducing the States to recognize the role they must play in treating narcotic addicts and, at the same time, insuring that both local, State, and Federal funds for narcotic treatment are spent in an orderly, effective manner.

Such funds would be expended on "community-based, multimodality programs" because such programs offer the best chance of success and by integrating various modalities of treatment, both public and private, into a comprehensive community program the needs of the individual addict can be more effectively and economically met. Effective treatment requires a multidimensional approach in which specific services for the addict are integrated with other related health and human services and such services must be provided in a milieu in which the addict and those close to him live and to which he must return after the initial phase of treatment.

The requirement that the State fund only those programs which agree to accept addicts committed to them by State, local, and Federal courts as well as those who voluntarily seek treatment is an outgrowth of the GAO report referred to earlier.

Oftentimes, under both the Narcotic Addict Rehabilitation Act of 1966 and under State civil commitment laws such as those in New York and California, addicts cannot be committed for treatment because programs at the community level will not accept such addicts. GAO reviewed 22 NIMH grants awarded through April 30, 1970, and none of the grants included a requirement to treat those addicts referred from State and local courts. A few were required to assist the Federal civil commitment program.

States will also be required to offer treatment in lieu of prosecution for an addict charged with both a State and Federal offense who is not prosecuted at the Federal level but would otherwise be eligible for treatment in lieu of prosecution under title I of the Narcotic Addict Rehabilitation Act of 1966. Title I was intended to apply to addicts who committed such Federal crimes as mail theft, check forgery, auto theft, and other nonviolent crimes. Many of these crimes are also violations of State statutes, only under the provisions of NARA only U.S. district courts can invoke title I. Thus, when in many of these cases, addicts are referred to State or local authorities for prosecution, opportunities for pretrial civil commitment in lieu of prosecution are lost if the State does not have a civil commitment program.

MAN'S INHUMANITY TO MAN—HOW LONG?

HON. WILLIAM J. SCHERLE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 7, 1971

Mr. SCHERLE. Mr. Speaker, a child asks: "Where is daddy?" A mother asks: "How is my son?" A wife asks: "Is my husband alive or dead?"

Communist North Vietnam is sadistically practicing spiritual and mental genocide on over 1,600 American prisoners of war and their families.

How long?

WEEKLY REPORT TO NINTH DISTRICT CONSTITUENTS, DECEMBER 6

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 7, 1971

Mr. HAMILTON. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the text of my last weekly report, December 6, on the problems of older Americans:

WASHINGTON REPORT BY CONGRESSMAN LEE HAMILTON

Some 4,000 delegates to the White House Conference on Aging gathered in Washington this week to discuss ways of focusing the Nation's attention on the problems of older Americans.

The immediate reaction to this conference among many people is either "Ho-hum, another White House Conference, so what?" or a feeling that older Americans are really pretty well taken care of with Medicare, Medicaid and Social Security. Either of these reactions is mistaken, as the delegates to the conference have made clear:

INCOME

Inadequate income is the most serious problem facing older Americans today. If their income can be raised, many of their other problems, like transportation, housing and isolation, can be solved.

One out of every 4 older Americans (about 5 million people) fall below the poverty line, and the number is accelerating. In addition, older Americans are often locked out of employment opportunities. For example, only 4% of the federal job training programs are designed for persons over 55 years of age. Many older Americans are out of work and those who are working are earning from half to three-fourths less than younger workers. Thousands of them have lost pensions which they thought they had earned.

Inflation and taxes hit them especially hard. They often live on fixed incomes (pensions, social security benefits) and the cost of many items, like medical services, which affect the elderly to a much greater degree than younger persons, have risen at a faster rate than other items. Taxes, and particularly property taxes, keep going up—property tax collections have increased by 40% in the last 5 years—even as their income keeps going down.

HEALTH

Health problems are compounded for older Americans. While they have about half the income of younger workers, they pay twice as much for health care, and are twice as likely to have chronic ailments requiring more prolonged and more expensive care. Nursing homes, which symbolize the neglect of older Americans, have come under special criticism in recent months for unsanitary conditions, poor food, fire hazards, misappropriation of funds and conditions which degrade human dignity.

HOUSING

Approximately 6 million older Americans live in unsatisfactory housing. At least 120,000 federally assisted units are needed to overcome the present deficit in housing, but we produce only about 37,000 units per year. Many of the 70% of the elderly who own their home face swiftly rising property taxes and other costs on very limited retirement incomes, and many lose their homes.

OTHER AREAS

Many older Americans retired because of age and not functional ability, are isolated by expensive or inadequate transportation and communications. They are unable to participate in their communities, although many can still make meaningful contributions, and they find few educational and recreational programs designed for them. Government research and implementation of programs for the elderly has been fragmented and haphazard.

Obviously, then, many things need to be done. The beginning point is to increase their incomes with adequate social security benefits, adjusted automatically for rising prices, and an increase in the amount they can earn without losing benefits. Relief from the crushing burden of taxes, assurance of pensions, additional health benefits are needed, too, but more important than anything is a drastic change in attitude.

We have to get away from the callous notion that old people are nice, have done their part, and should now be put on a shelf or sent to Florida or stashed away in an old age home. We must reject the idea that retirement is a status and view it as a gradual process prepared for over a period of time, and acknowledge and appreciate the useful and important contributions older Americans can and do make.

We are moving in this direction, but we are still far from achieving it.

NEW TOWNS IN MINNESOTA

HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1971

Mr. FRENZEL. Mr. Speaker, new Towns may well provide a partial solution to providing livable housing facilities to citizens of all socioeconomic levels. Just as Reston and Columbia have proved to be worthy experiments in this area, the Johathan and Cedar-Riverside projects in Minnesota are being carefully developed, and hold great promise.

The Washington Post carried the following informative article in their December 5 issue which I commend to my fellow Members.

The article follows:

TWO WAYS TO BUILD NEW TOWNS

(By Ellen Hoffman)

By freeway, it is about half an hour from one "new town" to the next in the Minneapolis area. At one end of the path, sandwiched between the corn crop and grazing land, lies Jonathan, Minnesota's answer to Columbia and Reston. At the other end is Cedar-Riverside, a "new town in-town" nestled near the University of Minnesota atop the bluffs of the Mississippi River.

Together the towns constitute the spearhead of a federal effort to foster planned, self-supporting communities free of suburban sprawl and urban decay.

It is the government's encouragement of combined development of an urban "new town" with a rural one that makes the Minnesota projects unique. Jonathan is the first rural town and Cedar-Riverside the first urban town in the country to receive loan guarantees under the "new communities" program established by Congress in 1968 to help new towns over the costly period of early development until they can become self-supporting.

Jonathan received its guarantee of $21 million in February, 1970, and approval of Cedar-Riverside's $24 million guarantee was announced by the Department of Housing and Urban Development at the end of June, 1971. The money must be used for land development. This includes clearing land, construction of roads and sidewalks, and installation of sewers and electric lines, for residential, industrial or commercial construction.

By late summer, Jonathan had about 500 residents. About 650 persons work there and the first village center opened in May. The early industrial occupants are in businesses such as computers, food processing and research.

Cedar-Riverside, unlike Jonathan, already had a resident population when it began its transformation into a "new community." Since the developers took over, 16 of the neighborhood's 33 bars have disappeared, many of them replaced by art galleries, theaters, owner-operated shops (a dulcimer-maker, a jeweler) and campus-related services like bookstores.

SEPARATE HISTORIES

Although the projects are being developed by two separate corporations, former Minnesota State Sen. Henry T. McKnight heads both of them. And HUD made it clear in announcing the Cedar-Riverside guarantee that the potential trade-offs between the two communities were a factor in the decision to back Cedar-Riverside.

Although an official link has now been forged between their futures, until a few months ago the two communities had quite separate histories.

McKnight announced his plans to build a community of 50,000 residents within the boundaries of Chaska, Minn., in August, 1967. But during the Minnesota winter of 1968–69, recalls McKnight, "We were really in a bind. No one was buying houses and we had to stop construction of the village center."

Passage of the New Communities Act provided new hope for planners and backers. The Jonathan Development Corp. (JDC) decided to aim for a loan guarantee under the new law, although it realized that securing a guarantee would bind them to social as well as financial obligations formulated by the federal government.

The planners of Jonathan, headed by Ben Cunningham, formerly of Richmond, Va., hired some consultants to join the 20 or so staff members of the corporation in planning Jonathan, whose site was described as "gently rolling land . . . heavily wooded ravines . . . broad leaf hardwoods" which supported "wildlife, ranging from . . . gophers, chipmunks, raccoons, squirrels and rabbits; white tailed deer . . ."

They looked at this pastoral setting and visualized a community of 50,000, with half the residents living in five villages and the other half around a town center, possibly one huge, continuous, winter-proof building. They saw the town as the home of a significant number of poor and working class residents, and of blacks and Indians.

Residents would be able to walk to shopping facilities, schools and possibly even to work. The buildings and landscaping would blend with the physical features of the hilly, wooded site. Three areas would be used for industrial development, and one village was expected to emerge as a sort of "college town" around a learning center that would provide education for students of all ages.

In return for the loan guarantee, JDC agreed to write and adhere to an "affirmative action" program designed to attract non-white residents and employees and to bring persons of all income groups to the town. The developers also agreed that one-fourth of the residences built would be in the price range available to a family with an income of $7,800 or less, and another fourth for families with an income of $7,800 to $10,500.

JDC must submit monthly and semi-annual reports to HUD as proof that these obligations are being carried out; it risks the possibility that the government will take over the project if the corporation defaults on either social or financial obligations.

RAZING A SLUM

The first houses had already appeared on the fields of Jonathan before the present concept of a "new town-in-town" to replace the old, seedy Cedar-Riverside neighborhood had been made public.

Starting in 1963, 250 land parcels constituting 90 per cent of the private property in the riverbank community were quietly bought up by Gloria Segal and Keith Heller. Mrs. Segal, now widely known as the "Jewish mother of Cedar-Riverside," was a housewife and sometimes student at the University of Minnesota. Heller had been assistant to the dean of the university's business school. He and Mrs. Segal started buying land with the intention of building an apartment house, but as their holdings increased, their concept of redevelopment for the neighborhood broadened.

An urban renewal plan for the area was approved by the city and Cedar-Riverside Associates (C-RA), as Heller and Mrs. Segal called their enterprise, was designated as redeveloper for the neighborhood. C-RA was given five years to prove to the housing authority that the corporation should be allowed to develop the whole area, and the public agency is "watching carefully," according to an official.

In 1968 McKnight joined C-RA as chairman of the board, bringing other investors along with him.

Seven Corners, as Cedar-Riverside's main commercial intersection was called, was part of Minneapolis' skid row of the 1950s. The streets were lined almost wall to wall with bars. Alcoholics were the omnipresent inhabitants of the neighborhood.

Then in 1959 the university decided to develop a campus for 20,000 students near Seven Corners and call it the "West Bank." In the early 1960s, department by department, the university began to cross the river into the salmon-colored high-rise buildings that became the nucleus of the campus.

With the university's decision to build a major campus there, the old way of life at Seven Corners was doomed. Most of the neighborhood was occupied by 3-story frame houses built around 1900. Many of these homes lacked indoor plumbing and most were in deteriorating condition. The residents were about one-third students, one-third faculty and one-third old people.

So C-RA launched a holding effort aimed at making existing housing livable and providing needed neighborhood facilities until large-scale reconstruction of the neighborhood could begin.

UNIVERSITY AS CORE

The immediate and future presence of the University and other educational and medical institutions in the area (two hospitals and a private college) has been the strongest influence on the Cedar-Riverside plan, which calls for combining different styles of housing, eventually serving 30,000 residents, within one project. Stage One, on which construction has just begun, will include units priced from public housing levels to luxury, a rent range of $40 to $500 a month. Eleven buildings, connected by a plaza and built atop a parking garage, will make up the development. Commercial and community facilities will be built into the residential area.

A university sociologist, David Cooperman, identified a series of lifestyles of potential residents and these were used in designing housing. Plans call for living units to accommodate the "independent student" who requires a lot of study space in his apartment and doesn't socialize at home; middle-class families of faculty members and civil servants; doctors and other professionals who congregate near a university or hospital.

Officials of the university, in the face of opposition from within the student body, have given their blessing to the Heller-Segal plans. Only one dormitory has been built by the university on the West Bank, and no others are planned. Students no longer like to live in dormitories, according to university planner Hale Champion, and the university doesn't particularly want to be a landlord.

The Minneapolis housing authority has given Cedar-Riverside top priority among its projects because of its proximity to three major freeways and downtown employment opportunities.

In a joint report entitled "Pairing," planners of both new towns suggest that the flow of ideas between them may be as important as the exchange of people or facilities. Jonathan planners, for example, have already done a lot of thinking about the installation of a joint cable television system and a transportation network that might link the town with downtown Minneapolis.

Cedar-Riverside has already established itself as a cultural center; the more isolated Jonathan has set up an art center, but activity there "has been impeded by the unavailability of qualified instructors," according to the report.

The planners foresee bringing cultural groups into Jonathan—which probably will not be able to provide the financial attraction for a movie theater and similar amenities until the population expands—for both education and entertainment.

With several years of thinking and experimentation behind them, a housing corporation put together by Jonathan has developed a new system of "stack housing" that promises to offer cheap, easy-to-construct dwellings. And Cedar-Riverside, with its heavy concentration of medical facilities and personnel, hopes to develop a pioneering health care plan for its residents.

Both towns, since they are in the same metropolitan area, will face the problems of creating racially and economically integrated communities. HUD has required Jonathan to absorb its "fair share" of the metropolitan area's 3.2 per cent non-white population and a similar measure is likely to be applied to the in-town project. (A detailed agreement between HUD and C–RA is still being negotiated.)

OVERCOMING PESSIMISM

It is too early to measure the long-range success of these and other satellite towns, but some attempts at urban renewal have already become notorious, among them Southwest Washington, where public housing residents live on one side of Delaware Avenue and middle-to-upper-class residents on the other.

The planners of Cedar-Riverside have already drawn criticism from members of the university community who believe that the main goal of the redevelopment is to make a huge profit.

An assumption of the new communities program accepted by the planners of the Minnesota project is that despite the failures of the past, new communities are still worth building. As the law puts it, what is happening in Minnesota will hopefully become a contribution to "the rational, orderly, efficient and economic growth . . . and redevelopment" of the places where Americans are going to live in coming decades.

Submitting monthly reports, meeting quotas for different types of housing, actively seeking black and Indian employees—these requirements may seem too troublesome to many developers to justify seeking a loan guarantee from HUD. But first at Jonathan and now at Cedar-Riverside, the approval of the loan guarantee has proven a boon to the credibility of the communities' plans, and is likely to be a stimulus for future private investment as well as public.

"There seems to be a great question as to whether a new town is worth doing. I don't understand it . . . We just have to look at every city in the U.S. and see how they have grown, in a random way," says Ben Cunningham, the chief planner of Jonathan. And chairman McKnight argues that the challenge of controlling urban growth is so great that it must be attacked from an infinite number of directions—(including new towns.)

RHODESIAN CHROME IMPORTS

HON. HARRY F. BYRD, JR.

OF VIRGINIA

IN THE SENATE OF THE UNITED STATES

Wednesday, December 8, 1971

Mr. BYRD of Virginia. Mr. President, on November 30 the Northern Virginia Daily of Strasburg, Va., published an excellent editorial on the subject of the agreement recently reached between representatives of the Governments of Rhodesia and Great Britain.

During the period when Congress was debating my proposal to eliminate the embargo on importing Rhodesian chrome into the United States, it was argued in opposition that to break this United Nations sanction would be to undermine the possibility of a reasonable settlement between Rhodesia and the British.

Events have clearly shown that this argument was without foundation. In fact, the action of Congress may have helped to obtain a settlement, as the late former Secretary of State Dean Acheson predicted.

I am pleased that an accord has been reached in the British-Rhodesian dispute, and I hope that the United Nations embargo soon will be abandoned.

I ask unanimous consent that the editorial, entitled "Triumph of Reason," be printed in the Extensions of Remarks.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

Triumph of Reason

It is interesting to note that Rhodesia is one of the few British colonies to declare its independence from the Mother Country and get away with it. Another notable example was the United States of America in 1776.

Last week Britain and Rhodesia signed a long-awaited agreement under which Britain recognizes Rhodesian independence, and undertook economic assistance aimed at improving the educational opportunities of Rhodesia's blacks. Rhodesia, on its part, undertook certain commitments regarding gradual easing of restrictions against its black majority.

Actually, since it has now been convincingly demonstrated that Rhodesia's independence is permanent and she could never be expected to return to British control, and since it is equally true that Rhodesia's problem of what to do eventually with a black majority outnumbering the white population by approximately 4,850,000, the agreement represents a compromise with reality for both parties.

It is not wholly what either side wanted but it contains the ingredients under which

Rhodesia can at least hope to solve a problem which certainly cannot be brushed away.

Rhodesia's leaders, their apparent apartheid convictions to the contrary, are practical men who doubtless realize that the emerging 4.5 million plus blacks in Rhodesia will require greater political and economic participation than now exists.

Under the agreement Rhodesia will give new political guarantees to the black majority; will limit the government's power to hold individuals without trial; and will fill civil service vacancies on merit irrespective of race. The concept is a program of gradualism under which Rhodesia's blacks will gain greater participation in the democratic process in direct proportion to the extent that improved educational and economic capabilities justify it.

To implement the process Britain promises $125 million over a 10 year period, the sum to be matched by Rhodesia, for a development program geared largely to improving the education of the black majority.

Because of rigid property and educational requirements, an electorate which is now made up of 85,000 white and 10,000 black voters, the present Rhodesian Assembly consists of 50 white and 16 black members. The long-range objective of the agreement is to put into motion a positive program of greater educational advantages for blacks under which their economic future will improve as the illiteracy decreases.

The final objective—political equality—will follow as the black majority earns it by gradually assuming a more meaningful role economically.

The agreement between Rhodesia and Britain, coming as it does only days after President Nixon signed into law the Byrd Amendment providing for the removal of U.S. sanctions against Rhodesian chrome, heralds a new day in the community of nations for this little country which up to now has been traveling a lonely road.

The new accord might be termed a triumph of reason on both sides.

THE REAL UNITED NATIONS

HON. FLOYD V. HICKS

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1971

Mr. HICKS of Washington. Mr. Speaker, in view of tensions around the world, and in the case of India and Pakistan, open conflict, and in view of the worldwide problems of malnutrition, ill health, and illiteracy, the world's need for the United Nations is more important than ever before. In his recent address to the board of directors, Washington State Division of the United Nations Association of the U.S.A., the Very Reverend Richard E. Twohy, president of Gonzaga University, Spokane, Wash., put forth the purpose and meaning of the United Nations with great lucidity and deep understanding. I am, therefore, pleased to insert excerpts from his remarks in the RECORD so that those who may be disinclined to support the United Nations or those who have misconstrued its goals may be enlightened:

EXCERPTS FROM ADDRESS DELIVERED BY THE VERY REVEREND RICHARD E. TWOHY

"With only slight transposition one can say of the UN what Voltaire said of God: If it did not exist we would have to create it. The proof of its necessity lies in its survival. It is something in these days of rapid change and future shock, of short-lived plans and quick-fading dreams that the entity created in San Francisco in 1945 not only still lives but has grown, and manifests every sign of the presence of the great and powerful genius which, according to Rousseau, presides over things made to endure.

There are many UN's, all but one of them phony and false. There is the UN of its fickle friends who imagined it to be some kind of world government. There is the UN of the dark nightmares of the extreme right—a conspiracy of world communism to infiltrate and destroy the United States. To detractors of the UN, so-called realists and cynics, it is a force put together to maintain the status quo to the advantage of the Great Powers. There is, of course, the occasional act or gesture on the part of UN leaders which at various points in its lifetime have cast suspicion upon its viability.

The real UN is something very different, something simpler and more grand. The UN is a voluntary grouping of sovereign states in agreement upon a charter which obliges them to seek peace and the conditions of peace, and to foster the development of the human and natural resources of our globe in the interests of mankind.

It is easy to sneer that this can hardly be a common bond uniting cultures so distinct as those of Russia, China and the United States. It is equally easy to grow disenchanted with the meager successes achieved by the UN. But here lies its true greatness: it does not ask nor seek the impossible. It does provide both a place and the opportunity for nations with much more to gain than to lose to exchange ideas, to make compromises, to be in constant negotiation over matters of the greatest interest and importance to the world.

The future of the UN is assured if one does not read into that future the ushering in of a Golden Age. Men will not cease to be men nor nations sovereign very soon; but continuing negotiations can overcome problems, untiring efforts bring about peace where peace is at all possible. The relief of millions of poor and distressed through the United Nations evinces this.

PEARL HARBOR DAY—1971

HON. CHARLES J. CARNEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 7, 1971

Mr. CARNEY. Mr. Speaker, today marks the 30th anniversary of the Japanese attack on Pearl Harbor. The enmities of those bitter days have now turned to friendship. Time has healed the wounds, both physical and spiritual, that were inflicted that day.

Those of us who are old enough to remember back three decades mark with pride the sacrifice of the 3,000 men who died on that terrible Sunday. Their courage in the face of adversity in the extreme would provide a rallying cry in the hard years to come.

The men who died at the Kaneohe Air Station, who breathed their last at Hickam Field, and who are entombed in the *Arizona* these 30 years, provide a lasting example of undaunted courage in battle.

God willing, we will not have to face another such attack again. However, we will never forget the courage, the devotion to duty, and the supreme sacrifice made by the American fighting men at Pearl Harbor a generation ago.

ECONOMIC STABILIZATION ACT

HON. JOHN B. ANDERSON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1971

Mr. ANDERSON of Illinois. Mr. Speaker, when the House takes up the renewal legislation for the Economic Stabilization Act of 1970, as reported by the House Committee on Banking and Currency, I plan to offer the following amendment at the appropriate time in the proceedings:

AMENDMENT TO H.R. — AS REPORTED BY THE HOUSE COMMITTEE ON BANKING AND CURRENCY OFFERED BY MR. ANDERSON OF ILLINOIS

At the end of section 220 insert the following new section to read as follows:

"SEC. 221. (a) (1) It is the policy of the United States to promote efficient production, marketing, distribution, and use of goods and services in the private sector, and improve the morale of the American worker, all of which are essential to a prosperous and secure free world, and to achieve the objectives of national economic policy.

"(2) The Congress finds that the persistence of inflationary pressures, and of a high rate of unemployment, the underutilization and obsolescence of production facilities, and the inadequacy of productivity are damaging to the effort to stabilize the economy.

"(3) The Congress, therefore, finds a national need to increase economic productivity which depends on the effectiveness of management, investment of capital for research, development, and advanced technology and on the training and motivation of the American worker.

"(4) The Congress further finds that at a time when economic stabilization programs require price-wage restraints, management and labor have a strong mutual interest in containing "cost-push" inflation and increasing output per man-hour so that real wages may increase without causing increased prices and that, without in any way infringing on the rights of management or labor, machinery should be provided for translating this mutuality of interest into voluntary action.

"(b) It shall be the objective of the President's National Commission on Productivity—

"(1) to enlist the cooperation of labor, management, and State and local governments, in a manner calculated to foster and promote increased productivity through free competitive enterprise toward the implementation of the national policy declared in the Employment Act of 1946 to create and maintain 'conditions under which there will be afforded useful employment opportunities, including self-employment, for those able, willing, and seeking to work, and to promote maximum employment, production, and purchasing power.'

"(2) to promote the maintenance and improvement of worker motivation and to enlist community interest in increasing productivity and reducing waste;

"(3) to promote the more effective use of labor and management personnel in the interest of increased productivity;

"(4) to promote sound wage and price policies in the public interest and to seek to accomplish that objective within a climate of cooperation and understanding between labor, management, and the public, and within a framework of peaceful labor-management relations and free and responsible collective bargaining;

"(5) to promote policies designed to insure that United States products are competitive in domestic and world markets;

"(6) to develop programs to deal with the social and economic problems of employees adversely affected by automation or other technological change or the relocation of industries.

"(c)(1) It shall be the duty and function of the Commission, in order to achieve the objectives set forth in subsection (b) of this section, to encourage and assist in the organization and the work of labor-management-public committees and similar groups on a plant, community, regional, and industry basis. Such assistance shall include aid—

"(A) in the development of apprenticeship, training, retraining, and other programs for employee and management education for development of greater upgraded and more diversified skills;

"(B) in the formulation of programs designed to reduce waste and absenteeism and to improve employee safety and health;

"(C) in the revision of building codes and other local ordinances and laws, in order to keep them continuously responsive to current economic conditions;

"(D) in planning for provision of adequate transportation for employees;

"(E) in the exploration of means to expand exports of the products of United States industry;

"(F) in the development, initiation, and expansion of employee incentive compensation, profit-sharing and stock ownership systems and other production incentive programs;

"(G) in the dissemination of technical information and other material to publicize its work and objectives;

"(H) to encourage studies of techniques and programs similar to those in paragraphs (A) to (H) of this subsection, as they are applied in foreign countries; and

"(1) In the dissemination of information and analyses concerning the economic opportunities and outlook in various regions and communities, and of information on industrial techniques designed for the increase of productivity.

"(2) The Commission shall transmit to the President and to the Congress not later than March 1 of each year an annual report of its previous year's activities under this Act.

"(3) The Commission shall perform such other functions, consistent with the foregoing, as it determines to be appropriate and necessary to achieve the objectives set forth in subsection (b) of this section.

(d) (1) In exercising its duties and functions under this Act—

"(A) The Commission may consult with such representatives of industry, labor, agriculture, consumers, State and local governments, and other groups, organizations, and individuals as it deems advisable to insure the participation of such interested parties;

"(B) the Commission shall, to the extent possible, use the services, facilities, and information (including statistical information) of other Government agencies as the President may direct as well as of private agencies and professional experts in order that duplication of effort and expense may be avoided;

"(C) the Commission shall coordinate such services and facilities referred to in subsection (B) above in order to supply technical and administrative assistance to labor-management-public committees and similar groups referred to in subsection (c)(1);

"(D) the Commission shall establish the regional offices and such local offices as it deems necessary;

"(E) the Commission shall hold regional and industrywide conferences to formulate ideas and programs for the fulfillment of the objectives set forth in subsection (C);

"(F) the Commission may formulate model programs to ameliorate the effects of unemployment caused by technological progress;

"(G) the Commission may furnish assistance to parties in collective bargaining entering into collective bargaining agreements; and

"(H) the Commission may review collective bargaining agreements already in effect or those being negotiated to ascertain their effects on productivity; and it may have the power to make recommendations with respect to the agreements made or about to be made in specific industries.

"(2) The Commission may accept gifts or bequests, either for carrying out specific programs which it deems desirable or for its general activities.

"(e)(1) The Executive Director of the Commission shall be the principal executive officer of the Commission in carrying out the objectives, functions, duties and powers of the Commission described in Sections 3(b) through 3(d) above.

"(2) The Executive Director of the Commission, with the approval of the Chairman of the Commision, is authorized to employ, and fix the compensation of, such specialists and other experts as may be necessary for carrying out its functions under this Act, with regard to the provision of Title 5, United States Code, governing appointments in the competitive service, and with regard to Chapter 51 and Subchapter III of Chapter 53 of such title relating to classification and General Schedule pay rates, and is authorized, subject to such provision, to employ such other officers and employees as may be necessary for carrying out its functions under this Act and fix their compensation in accordance with the provisions of such Chapter 51 and Subchapter II of Chapter 53.

"(f) There are hereby authorized to be appropriated the sum of $10,000,000 to carry out the purposes of this section during the period ending April 30, 1973."

KIDNEY DISEASE LEGISLATION

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1971

Mr. PICKLE. Mr. Speaker, every year kidney disease in the United States accounts for the loss of 140 million days of restricted activity, 63.5 million days of bed disability, and 17 million workdays lost.

And, although we are getting better, it still takes about 50,000 lives a year—about 25 percent of these at the prime ages of 15 to 54.

Tragically, even though we have made great advances in research in this field, the cost of preserving the lives of people struck by kidney disease is catastrophic to any normal family.

I am introducing today legislation that I hope will cut the cost of kidney disease treatment down to budget size.

Most of us have heard of "hemodialysis"—the magic "kidney machine" which not only can keep some types of kidney disease victims alive for years but can also return them to normal lives and jobs.

But it does not hurt to remind ourselves just how expensive such treatment is—around $18,000 for the first 2 years—and $5,000 a year thereafter if the treatment is done at home—and from $15,000 on up to $40,000 a year if it must be done in a hospital.

That, obviously, is more, a lot more, than many people in this country even make per year—people that are not considered near the "poverty" level.

The one hope a person on a kidney machine has of ending this yearly expense is to receive a kidney transplant—after we get a little better at those. He can do this to the tune of $10,000 to $20,000 or more, with $1,000 per year for as long as he lives for drug therapy to keep his body from rejecting the new kidney.

We have in the past considered legislation to aid much needed research in this field. Today I am introducing legislation to help make the scientific advances from this research financially available to the common man.

The legislation provides $25,000,000 of direct financial aid to pay the cost of special services, artificial kidneys, and supplies necessary for the treatment of individuals suffering from end stage renal diseases.

We are fortunate to have a medium available to handle this service without creating a new bureaucracy—the Vocational Rehabilitation Administration.

This agency not only has the tools to reach the people in need of treatment, but also is automatically geared toward recognizing that many of the problems the patient will encounter go beyond getting properly hooked up to a machine three times a week.

Already our own Texas Rehabilitation Commission has begun a pilot project along the lines envisioned by this bill—but it can at this time supply funds for only 6 months to a limited number of "test" patients.

Many other State programs find themselves in similar predicaments.

It is the same story no matter where we look in kidney disease—only the rich, the very, very rich, and the lucky subjects of newspaper headlines and local philanthropy, currently have a chance to live.

It is time that the Federal Government took a good look at the tragic sufferers of kidney disease and did something to help them live normal lives.

PERSONAL EXPLANATION

HON. PIERRE S. (PETE) du PONT

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1971

Mr. DU PONT. Mr. Speaker, on Monday, December 6, I was privileged to give the second in a series of talks to the students and faculty at the University of Delaware on the subject of issues facing the Congress. Due to this conflict I was unable to be present on the floor for the voting that day. Had I been present I would have noted "no" on rollcall No. 431 and "yes" on rollcall Nos. 433, 434, 435, and 436.

THE F-14—AN OBJECTIVE ANALYSIS

HON. OTIS G. PIKE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1971

Mr. PIKE. Mr. Speaker, there has been so much inaccurate reporting by people who ought to know better and so much biased reporting by people who do know better on the subject of the cost, the performance, and the potential of the Navy's F-14 aircraft that it is refreshing to see an article in the highly respected and objective Armed Forces Journal making detailed cost analyses and performance comparisons between the F-14, the F-4, and various Soviet fighters.

The Armed Forces Journal calls itself "Spokesman of the Services Since 1863." Despite this appellation, it is not simply an apologist for the Pentagon. It praises them when it thinks they are right and raps them when it thinks they are wrong. As such, I am delighted to insert their comprehensive analysis in the RECORD:

NAVY'S F-14: COSTLY, BUT NOTHING ELSE WILL DO THE JOB

(By Brooke Nihart)

Congressional critics, including Senator William Proxmire (D-Wis) and the watchdog Members of Congress for Peace Through Law, may well be hanging a "bum rap" on the Navy's F-14 fighter in their sweeping adverse findings. Charges leveled include claims that: (1) the Navy doesn't need such a fighter anyway; (2) a cheap lightweight fighter could do the job; (3) F-14 performance compares unfavorably with the existing F-4 improved with slatted wings and with Soviet fighters; and (4) it costs too much.

A much different picture emerges, however, after looking at test results, design predictions, and cost comparisons, and after talking to Grumman, Navy, and ODDR&E officials with F-14 program responsibilities.

The F-14 is the *only* type of fighter that can perform the mission the Navy has prescribed, and the mission *is* valid in the 1970s and 1980s.

The cheap lightweight fighter has its place in small numbers in the air forces of small friendly countries and in large numbers in NATO, but *not* in any number in a carrier task force.

Flight test progress to date has revealed performances dramatically better than the most advanced F-4, and design predictions indicate performance from 20% to 250% better in various characteristics. Similar superiorities exist over Soviet "threat" aircraft. The F-14B, with a more powerful advanced-technology engine, will be as superior to the F-14A as the F-14A is to the F-4.

Admittedly, the F-14 costs a lot of money, but a greater-than-ever capability is being bought. Planned and contract costs for comparable numbers of aircraft have *not* increased in the 2½ years since contract signing. But, because of runaway inflation and a reduced business base—both unpredictable at contract signing time in early 1969—Grumman may lose money if held to contract prices for 1972-1975 production.

The job the Navy wants the F-14 to do is twofold—fleet air defense and air superiority against the generally agreed-upon threat.

The agreed-upon threat to naval forces and to U.S. forces in any theater requires an aircraft-weapon system capable of meeting and defeating the existing Soviet sophisticated, missile-equipped fighters under electronic control, anti-ship missiles, mobile surface-to-air missiles, and bombers firing long-range air-to-surface missiles. The threat dictated the choice of an aircraft-weapon system that is both an air-to-air missile carrier and a dogfighter. All analyses to date show that the F-14A is clearly superior in these roles to the known and projected Soviet threat in the 1970-80 period.

Moreover, according to intelligence sources, the Soviet "missile-load trend" is up. This means the proportion of Soviet heavy missile-armed fighters is growing, compared to their lightweight agile fighters.

These two missions imply several seemingly inconsistent characteristics:

Low landing speeds and good low-speed maneuverability and stall characteristics for landing on aircraft carriers.

High power-to-weight ratio for short carrier takeoffs fully loaded and dogfight maneuverability.

Large payload to carry long-range air defense missiles, attendant radar, a second crewman to operate the radar, plus fuel for a large combat radius.

Twin engines to lift the load and for overwater redundancy.

These characteristics are the antithesis of the cheap lightweight fighter. They add up to a big plane—and an expensive one. Since each carrier will have only 24 fighters aboard, they should be the best possible to do the job, an ODDR&E official told the JOURNAL. "Suppose you buy F-4s for one-fourth the cost of F-14s. You can't get as many on a carrier," he said. According to Grumman officials, the deck loading factor is 1.7 for an F-14 and 1.8 for an F-4 (based on 1.0 for an A-4), so about 10% more F-14s can go aboard than F-4s. Given the much greater capability of the F-14, nothing is gained by a deckload of F-4s but "a much lesser force for a much lower cost," the ODDR&E official said.

"Maybe you could operate 36 lightweight fighters from a carrier," he said, "but you still would have an inferior force. The fighter would be lightweight because it carried little fuel, a smaller radar, fewer shorter range missiles, and only one man to operate the system. Therefore, both plane and weapons have a shorter range ,and the carrier would have to get closer to the target. Its attack aircraft couldn't have a fighter escort to their maximum range.

"The situation is quite the opposite in Europe," the official said. "Instead of having a limited number of carrier decks projecting their aircraft against limited objectives, you have a large number of airfields and the threat is thousands of enemy aircraft attacking your territory. We need, for Europe, the planned 700 F-15s, which will do for the Air Force what the F-14 will do for the Navy, plus about 2,000 lightweight fighters in the hands of NATO countries. They would be perfectly suitable, and indeed essential, for dogfighting with hordes of attacking aircraft over our territory.

"If you have a limited number of aircraft," the official continued, "they should have the greatest possible capability and versatility. This the F-14 has as a long-range carrier of air-to-air missiles and as a dogfighter. A lightweight fighter would not have both, and a carrier version of the F-15 would have both but to a lesser degree than the F-14." He added, "It is a simple matter to convert a good carrier aircraft to ground-based use, the F-4, A-4, and A-7 being recent examples. But the reverse is much more difficult. In fact, it is difficult to think of an example."

BROADENED VERSATILITY

Actually, the ODDR&E official would like to "broaden the base" of F-14 versatility and thus utility—not to justify current procurement, which needs no justification in his opinion, but to exploit the range and payload capability of the F-14 once it has been procured in quantity for ground attack missions in the many situations where there would be little or no threat from enemy fighters.

Broadening the capability base of the F-14 could be done by "podularization" or the hanging of a "real-time reconnaissance strike pod" on the aircraft, rather than by an expensive alteration of its structure or internal components. Such a pod would contain sensors and target designators, and "smart" guided bombs and standoff missiles such as Condor and Standard ARM. Included would be FLIR (forward-looking infrared sensor), LLLTV (low-light-level TV), TISEO (target identification system electro-optical—a TV telescope), laser target designators and receiving equipment, and Condor receiving link equipment.

Converted to a ground attack role by the quick addition of a real-time reconnaissance-strike pod, the costly F-14 wouldn't have to run in close to the target for ordnance delivery and risk damage from ground fire, but would drop or fire guided standoff bombs and missiles which would home in on the surface target. Recently, a Condor fired in this manner hit a target at 35 miles range (September Journal, cover).

The official suggested that, with the real-time recce-strike "podularization" available, perhaps three 12-plane squadrons of F-14s per carrier rather than two would be the correct number. A squadron of A-6 attack aircraft would thus be eliminated, and the fighter capability would be increased 50%. Such a solution could also be an alternative to HIPASS, an advanced attack aircraft replacement for the A-6 planned for the 1980s, he said.

F-14 VERSUS F-4

The F-14, fully loaded, weighs about as much as the F-4 (53,000 pounds) and, as has been noted, occupies about as much deck space. It is, however, a fully integrated and balanced weapon system employing the long-range AWG-9 radar, teamed with the long-range Phoenix (AIM-54) missile, the medium-range Sparrow (AIM-7), short-range Sidewinder (AIM-9), M-61 20mm Gatling gun, and the Agile dogfight missile, when developed.

The multi-mission performance has been attained through weight reduction, such as microminiaturization of avionics, improved engine and airframe design, and use of lightweight titanium and boron composites. Weight has been kept down with the F-14 as never before in an aircraft's development, according to Grumman officials.

Only 1% of the aircraft's weight is devoted to systems for carrying and firing the weapons, and much of this weight is in removable pods or pallets which are not used in the dogfight configuration. Thus, weight-driven performance penalties formerly associated with multi-mission fighters have been eliminated in the F-14.

F-14 performance to date has been dramatic and has met or exceeded both specification guarantees and Navy forecasts. For example, escort radius, on internal fuel only, will be almost 20% better than specified. Another example is approach speed, which was specified to be 132 knots but which actually is 117 knots.

Actual flight-test comparisons of prototype F-14s with an F-4 chase plane to date also reveal dramatic superiorities of the F-14. The F-14 requires only one-half of the F-4's takeoff and landing distances. Actually, the F-14 has taken off in less than 1,300 feet at maximum gross weight of 53,000 pounds. It has 30% less fuel flow at cruise speeds. It is more stable with the stability augmentation system off than the F-4 with its SAS on. The F-14 was almost 100 knots faster and two miles ahead after a side-by-side acceleration test with the F-4, going from Mach 0.8 to 1.2.

Finally—and very important, since the accident rate on aircraft carriers is directly proportional to landing speeds—the F–14 has approach and landing speeds 25 to 30 knots lower than those of the F–4, which are given in *Jane's Aircraft* as 150 knots.

Navy performance estimates of the F–14A and B show marked superiority over the F–4J equipped with slatted wings. At the request of Dr. John S. Foster, jr., Director of Defense Research and Engineering, the National Aeronautics and Space Agency (NASA) made an independent assessment which confirmed the Navy's estimates.

Specifically, in the dog fighting characteristics of turning, rolling, climbing, and accelerating, the F–14 is 20 to 40% better than the F–4J equipped with a slatted wing (see table). The only performance area where the slatted F–4J is better than the present F–4J, according to Grumman officials, is in a slow-speed-turning fight. And even here the F–14 is better.

In combat radius and loiter time, important in escorting A–6 and A–7 attack aircraft and on combat air patrol protecting the fleet, the F–14 shows marked advantages over the F–4J. Advantages include 80% greater combat radius on internal fuel with equal armament load, 100% more loiter time with four Sparrow missiles, and 50% more loiter time with six Phoenix missiles than a Sparrow-armed F–4J. The powerful AWG–9 radar gives the F–14 more than twice the radar range and the Phoenix more than 2½ times the missile range of the F–4J.

Another advantage over the F–4 cited by Grumman is that the F–14 requires only 50% of the maintenance manhours per flight hour. This permits more efficient operation and fewer maintenance men.

The F–14B performance estimates, verified by NASA, show the same performance margin over the F–14A that the F–14A has over the F–4J. While the weapons system capabilities and combat radius remain the same, sustained turning ability, acceleration, and rate of climb are increased by the greater thrust. For example, the F–14B has 40% higher rate of climb at Mach 1.0 speed and 10,000 feet altitude than the F–14A, 75% more rate of climb while executing 5g maneuver at Mach 0.9 speed at 10,000 feet, and 35% better acceleration.

F–14 VERSUS THE THREAT

The latest Soviet fighters usually considered in threat analyses are: the short-legged Mach 1.5–2.0 lightweight Mig–21 Fishbed–J; the Mach 2.5 interceptor Su–11 Flagon–A; and the very high altitude Mach 3.0+ interceptor MiG–23 Foxbat. Against them the F–14 is "superior" to "vastly superior" in all recognized fighter performance criteria (see table). The F–14's advantage against threat aircraft and against current and improved F–4s comes from the very favorable thrust-to-weight ratio, the long-range radar and long-range Phoenix missile, aerodynamic refinements, and, especially for superior maneuverability, the computer-controlled swing wing. While the pilot can override the variable-sweep wing controls, the computer can sense speed and "g" force and automatically set the wing-sweep angle to outmaneuver any comparable fighter without such a capability.

F–41 VERSUS FEARLESS

Technical intelligence experts teamed with aeronautical engineers, sources state, have closely examined the trend of Mikoyan's MiG fighter designs through the MiF–23 Foxbat, together with growing Soviet technological trends and capabilities, and have postulated a next-generation MiG fighter which, following the NATO designation system, they have dubbed "Fearless." Using design points and computer analyses, they have established performance parameters for Fearless. It is close to the F–14A in performance, but the F–14B is superior to Fearless in all categories except radar detection range and missile launch range, in which it is equal.

COST GROWTH MYTH

Another attack on the F–14 program has centered around its cost. Members of Congress and congressional staffers who, for various motivations, may oppose the Navy, expensive complex weapons, or perhaps even national defense and defense spending, view with concern an F–14 program unit cost of $16.6-million and speak damningly of excessive cost growth. The Navy, for its part, would probably like to emphasize a unit fly-away cost of less than half that, or $7.8-million. Admittedly, the Navy says, the two costs are an "apples and oranges" proposition. The Navy has explained it all to Congress, it says, which raises the question: "Are the Proxmires and the Members of Congress for Peace Through Law really listening?"

The "apples and oranges" problem relates to how many aircraft are being bought and what is included in the cost. The $7.8-million figure relates to fly-away cost—the actual production cost of airframe, engines, radar and other avionics, and gun—for a buy of 710 aircraft. This is the figure from the 31 March 1971 Selected Acquisition Report (SAR) rendered to Congress. If R&D costs of $1.4-billion, support costs—maintenance and training equipment—of $634-million, and spare parts costs of $832-million are added, the program unit cost of the 710 F–14s rises to $11.6-million.

But between the 31 March and the 30 June 1971 SAR, a SecDef decision was made to reduce the buy from 710 to 301. The rationale was to reduce the total outlay from $8.4-billion to $5.2-billion, with the option to build more than 301 F–14s if the Soviet threat in 1976, when production of the 301 would be complete, continued. The problem that rattled a vigilant Congress' cage was that, although total program cost *dropped* 38%, unit cost *jumped* 43%.

The flyaway unit cost of 301 F–14s averages $9.4-million, up a modest 20% from $7.8 million for 710, but when the constant R&D $1.4 billion and the near-constant support and spare parts costs were added in and divided by 301 aircraft, the alarming figure of $16.6 million program until cost became apparent.

"Liken it to buying a new car," one officer consulted by The Journal said, trying to explain flyaway costs versus program unit cost. "You buy a new compact for your 16-year-old for $3,000. That represents Detroit's R&D cost in bringing out a new model plus the production cost. We could call it a 'drive-away' cost. But how much do you add for driving school to teach your children to operate it, insurance, its share of the dealer's service facility—tools, hoists, test equipment, mechanic training—and its share of spare parts in the dealer's stockroom and the maker's parts central? Added up, these costs might make the 'program unit' cost $6,000 rather than $3,000. Do you *not* buy the car because of the additional costs?" he asked.

F–4 COST COMPARISON

Senator Proxmire not only would compare F–14 performance unfavorably with the F–4J and an improved F–4, but he compares his version of costs in an equally unfavorable light. Proxmire understated the flyaway cost of the *last* F–4 after 3,500 had been built without including any investment costs. He then—unfairly, in the eyes of Grumman officials—compared it with the *average* investment cost of the first 301 F–14s of $16.6-million each. After some 4,500 F–4s have rolled out of McDonnell-Douglas' St. Louis plant, the flyaway cost of today's F–4 is still about $3.5-million—and this is *without* the alleged improvements of slatted wings and engines—according to Grumman sources.

A fairer way of looking at it—which congressional critics apparently choose not to see—would be to compare the costs of the first 301 F–4s with those of the first 301 F–14s. In today's dollars the actual flyaway costs of the first 301 F–4s *average* $6-million each, or only 36% less than the first 301 F–14s, which average $9.4-million each. Both a fighter pilot and a cost-effectiveness analyst might question whether a 36% saving offsets the greatly inferior performance of even today's F–4J, compared to the F–14.

COST GROWTH?

So much for cost descriptions and comparisons—but has there been an increase in cost *other* than a unit cost increase due to a fewer number being bought? Reference to the cost table shows that a 30 September 1969 program unit cost estimate in the Five Year Defense Plan (FYDP)—less than eight months after the contract was signed with Grumman—for 293 R&D and production F–14s averaged $16.6-million each. The figure is the same as the 30 June 1971 SAR program unit cost based on 313 R&D and production F–14s.

Although congressional critics—who may recall the $25,000 to $50,000 pricetag of WWII fighters or the more recent $3.5- to $6-million cost of F–4s with nostalgia—have balked at the F–14 program unit cost of $16.6-million, they *and* the Administration are concerned still further. Grumman has stated that it cannot produce the F–14 indefinitely at the agreed-upon contract price and break even, let alone make a reasonable profit. The brutal fact is that Grumman may lose a considerable amount of money and face bankruptcy, even as Lockheed.

Congress, the Administration, and the public naturally ask if this is another C–5/Lockheed situation where cost overruns were alleged to be the result of "buying" the contract by an unrealistically low bid with the contractor hoping to "get well" later with contract adjustments. First, Grumman vehemently denies that it "bought in" the contract, and the Navy confirms the denial. Second, Grumman was hit with a couple of economy "unk-unks" (unknown unknowns) that will cause higher production costs and set it back financially. Third, while some ultimate relief for Grumman may not be ruled out, the Navy is holding it to the contract price and urging across-the-board economies.

Here is what happened. According to a highly placed Navy source, there were five bidders on the F–14 contract—North American Rockwell, General Dynamics, Ling-Temco-Vought, Grumman, and McDonnell-Douglas. The first three proposals were rejected as being unsuitable designs, even though LTV's bid was the lowest of the five. This left Grumman, whose design the Navy liked although its bid was $400-million higher than McDonnell-Douglas', and McD-D, who offered a design which was merely "acceptable." At the Navy's request, Grumman "scrubbed down" its bid to a point only $100-million higher than McD-D's and got the contract. So, although it won't admit it, the Navy shares the responsibility for Grumman's plight. Surprisingly, Grumman's estimated loss is only slightly more—between $367- and $410-million—than the amount the Navy had it shave its bid.

The "unk-unks" in the economy that are causing Grumman's distress are runaway inflation and a reduced business base. With Navy approval, the 1969 contract costs were based on a 3%-per-year labor cost increase and a 2½%-per-year materials cost increase. These figures were the averages for the 1958–68 period compiled by the Bureau of Labor Statistics. After the contract was signed, the inflation rate doubled to about 6% per year. An escalation clause in the contract gives Grumman some relief—up to a 5% inflationary rise—but only beginning in 1974. What effect, if any, the presidential wage/price freeze will have on Grumman's situation remains to be seen, but all concerned are hopeful that it will stem the 6%-per-year hemorrhage.

When preparing its bid, Grumman had planned on $1-billion of business a year, based on Navy, Air Force, and NASA predictions of work they would be giving Grumman. Due to cancellation or stretchout of these programs, Grumman's business base decreased to $700-million per year. This has meant that a higher proportion of Grumman's plant and administrative overhead must be assigned to the F-14 program than was originally estimated, with increased program costs the result.

Grumman's own austerity program and the wage/price freeze may enable Grumman to avoid financial disaster. Employment has been cut nearly 40%, or 14,000 people, since 1968 to enable just about a break-even on the R&D work, according to company officials. The production phase is another matter, officials say, and Grumman may have to "eat" some of its losses. However, they promise that Grumman will not become another Lockheed, while at the same time stating that they will not accept any more F-14 contracts at ruinous prices.

From the Navy's viewpoint, according to one high Navy spokesman, Naval Air Systems Command has never had a program so completely laid out, both technically and financially. This is the visibility necessary to monitor successfully all aspects of a program, say programming experts, and undoubtedly has led to early identification of the technical and costs problems that are now being dealt with.

Taking a philosophical view of the congressional critics of the F-14 program, RAdm Leonard A. Snead, program manager, said, "It's not bad to have critics sniping at you—otherwise we might get sloppy."

Most naval aviators would agree that, in 41 years of building naval aircraft, Grumman has built few, if any, sloppy ones. After talking to Grumman officials at middle to top level, it is the writer's opinion that Grumman isn't about to lose this reputation with the F-14. And, after talking with responsible Navy officials, the Navy—always capable of running a taut ship—isn't about to let Grumman get sloppy with the F-14, which the Navy badly needs.

HOW F-14A COSTS BREAK DOWN

Only about 25% of the $9.4-million flyaway cost of each of 301 F-14A's would go to Grumman. The balance goes to subcontractors, Pratt & Whitney for engines, and Hughes Aircraft and others for avionics. Such a breakdown is roughly typical of modern military aircraft. (Dollars shown below in millions.)

	Percent	Amount
Grumman in-house	25	$2.36
Grumman subcontractors	27	2.56
Pratt & Whitney engines	21	1.94
Avionics	27	2.54
Total	100	9.40

F-14 SUPERIORITY

Parameter	F-4J	F-4J Slatted	Mig-21 Fishbed-J	Su-11 Flagon-A	Mig-23 Foxbat	Mig-? Fearless
Turn radius	Vastly superior	40 percent better	Superior	Vastly superior	Vastly superior	Superior.
Maneuvering climb	do	27 percent better	Vastly Superior	do	Superior	Do.
Sustained "g"	Not available	21 percent better	Not available	Not available	Not available	Do.
Acceleration	Vastly superior	do	Vastly superior	Superior	Vastly superior	Do.
Rate of climb	Not available	20 percent better	Not available	Not available	Not available	Do.
Roll performance	Superior	21 percent better	Superior	Vastly superior	Vastly superior	Do.
Combat radius	Vastly superior	80 percent better	Vastly superior	do	Superior	Do.
Radar range	do	200 percent plus better	do	Superior	do	Equal.
Missile range	do	250 percent plus better	do	do	do	Do.
Cockpit visibility	do	Vastly superior	Superior	do	Vastly superior	Not available.

HOW F-14 COST 'GREW'—IT ALWAYS WAS A COSTLY FIGHTER

[Dollars in millions]

Program costs	Sept. 30, 1969 FYDP estimate	Mar. 31, 1971 SAR	June 30, 1971 SAR
R.D.T. & E.:			
F-14A	[1] $731.0	[2] $1,069.0	[2] $1,069.0
F-14B	243.0	324.0	324.0
Total	974.0	1,393.0	1,393.0
Procurement (F-14A):			
Flyaway	[3] 3,136.3	[4] 5,512.2	[5] 2,835.2
Support		634.1	464.6
Spares	763.4	832.9	514.2
Total	3,899.7	6,979.2	3,814.0
MilCon		4.9	4.9
Total program costs	4,873.7	8,376.1	5,211.9
F-14A unit cost:			
Flyaway unit	c. 11.0	7.8	9.4
Procurement unit	13.6	9.8	12.7
Program unit	16.6	11.6	16.6

[1] 6 aircraft.
[2] 12 aircraft.
[3] 287 aircraft.
[4] 710 aircraft.
[5] 301 aircraft.

Note: that the program unit cost ($16,600,000 per aircraft) was the same in 1969 (the year the contract was signed) as in 1971. The lower program unit cost ($11,600,000) in March 1971 was due to planning procurement of over twice the number of aircraft. Flyaway unit costs include only actual production costs. Procurement unit costs include flyaway plus support (maintenance and servicing equipment and training, etc.) and initial spare parts. Program unit costs include R.D.T. & E. costs added to the other costs.

THE 50TH ANNIVERSARY OF THE BURIAL OF THE UNKNOWN SOLDIER OF WORLD WAR I

HON. LESLIE C. ARENDS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1971

Mr. ARENDS. Mr. Speaker, under leave to revise and extend my remarks I am inserting in the RECORD a brief but meaningful speech delivered by Hon. Hamilton Fish in honor of the 50th anniversary of the burial of the Unknown Soldier of World War I at Arlington Memorial Cemetery.

It is fitting that former Congressman Fish should be the guest speaker on this occasion. He was the sponsor of the legislation to bring back the body of the Unknown Soldier of World War I. As a matter of historic interest, it was the last measure signed by Woodrow Wilson on March 4, 1921.

Congressman Fish served in the Congress for 25 years. It was my privilege to serve with him. No man served with greater distinction. In the fullest sense, he was an effective legislator. And, I might add, his son who presently serves here is proving the truth of the adage, "like father, like son."

I commend to your reading the following address by my good friend and former colleague. Bear in mind that from the very beginning former Congressman Fish recognized communism for what it has since proven to be.

The address follows:

SPEECH OF HON. HAMILTON FISH AT THE WOMEN'S NATIONAL REPUBLICAN CLUB DINNER

I appreciate very deeply the honor of speaking at your dinner as the author of the bill to bring back the body of the Unknown World War I Soldier. This bill was introduced by me in my first term in Congress and was the last measure signed by Woodrow Wilson on March 4, 1921.

I had intended to speak on the origin of the bill and to tell how the body of the Unknown Soldier was selected and transported to Washington for burial in the National Amphitheatre at Arlington and also to describe the magnificent ceremonies at that time. All I will say is that I was delegated by the War Department to place the first wreath and the only wreath representing all the Armed Forces of the United States, on the Tomb of our Unknown Soldier in the presence of all the top officials in the United States, and the commanding officers of most of our allies in the war, before a massive crowd. In placing the wreath on the Unknown's Tomb, I had this to say.

On behalf of the ex-servicemen of the Republic, I reverently place this wreath on the tomb of our unknown comrade in arms who paid the supreme sacrifice that we might live at peace with all the world.

During the 25 years that I served in Congress, and on the Foreign Affairs Committee of the House of Representatives, I invariably did everything in my power to promote and preserve peace with all the world.

No group in America is more for the preservation of peace than the veterans who fought in all of our wars, including Vietnam. But they know peace can only be preserved through strength, and that reduction in missiles and of our military and naval strength, would make us a second class power and is the road to destruction. President Nixon should be commended for his courage and constructive leadership in refusing to cancel the five megaton underground test in the Aleutian Islands. Without such tests, we could not defend the United States against a powerful nuclear attack. President Nixon deserves the support of the American people in trying to secure a generation of peace which is the hope and aspiration of most Americans.

The Reverend Billy Graham has warned the American people that "Communism is a dangerous threat not only to America but to Christianity everywhere. Many Communist leaders have stated openly that they intend to have the whole world under their control by 1975." I agree with Billy Graham, that the Communists at Moscow plan to destroy the United States by 1975 through lulling our public officials to sleep in order to prevent the United States maintaining nuclear parity or sufficiency and guarding our international missile sites. Any unilateral reduction would be an open invitation while Moscow builds powerful hydrogen weapons for a Communist sneak attack to destroy our missile sites and take over the country.

The time has come for some plain speaking regarding nuclear preparedness for defense and as a deterrent for peace. To sin by silence when you should protest unilateral reduction of nuclear power and also in the Navy and Air Force is almost treasonable.

I am using the word survival deliberately without reservations to shock the American people into casting aside their apathy and realizing the truth about the catastrophic menace of the world Communist conspiracy to the survival of the United States as a free, independent and sovereign nation. It would be unfair to remain silent as the whole world knows that we can no longer speak or act from top military and nuclear strength. What is not so obvious but far more dangerous is what this means to the lives of 200 million Americans.

Soviet Russia plots and plans to Communize the United States either by Socialist and Marxist infiltration or by nuclear superiority which the Communist dictators in Moscow now possess for the first time. There is only one answer, to arouse the American people to the gruesome and terrible truth that we are confronted with a satanic destruction by the Godless Communist tyrants within four or five years, from a hurricane of massive, modern super-brute hydrogen weapons, unless we take immediate steps to counteract it.

If a first strike by the Communist nuclear weapons is successful, it will at once be followed by an ultimatum to the remnants of the United States to surrender or die. What can be done to survive in this nuclear age? The Americans must know the frightful truth—that they are on an almost unprotected road that might suddenly without warning, be turned into their burial grounds by an avalanche of monstrous red hydrogen bombs. There is only one way to survive and that is to restore nuclear parity or sufficiency with Soviet Russia. The Congress must authorize, no matter what the cost, the production of the most modern nuclear weapons to confront any Communist challenge and to protect their deployment. Our unknown warriors and all those who paid the supreme sacrifice in all our wars in defense of freedom and democracy will have died in vain unless we face the terrible crisis by emergency measures.

Time is the essence. Any further delay in restoring near parity may be fatal. Unless Soviet Russia realizes that we can withstand a first nuclear attack, and have the power to immediately unleash an effective nuclear counterattack, that would inflict unbearable destruction and casualties, we are inviting disaster. If the Soviet fanatical high command believes that we will be able to counterattack successfully, they will hesitate to press the nuclear button.

Hon. Clare Boothe Luce rightly said, "Will mankind eventually stand in the light of freedom or crawl in the darkness of slavery."

The main reason for the existence of any government is to protect the lives of its people and the security of the nation.

The main issue in the Presidential campaign six months from now, will be preparedness to protect America from a disastrous nuclear attack. President Nixon should take the leadership in a non-partisan warning that we must have an adequate nuclear defense to safeguard the lives of our own people and the United States.

It must be self-evident that once the truth of the danger of our nuclear disparity is known to the public, that partisanship will disappear. Self preservation is by far the most important issue and no party has a monopoly of patriotism.

GOALS OF SECRETARY BUTZ

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1971

Mr. FINDLEY. Mr. Speaker, following closely on his confirmation as Secretary of Agriculture, Dr. Earl Butz this week addressed the annual meeting of the American Farm Bureau Federation in Chicago.

In his speech, Secretary Butz clearly identified his position on several issues which he has been questioned about during the past month. He outlined 11 specific items he supports.

It is important that all of us in the Congress understand the position of the new Secretary of Agriculture and I include as part of these remarks excerpts from the speech delivered by Secretary Butz:

REMARKS BY SECRETARY OF AGRICULTURE EARL BUTZ

There are some real problems facing agriculture. Just to name a few, they include:

Inadequate income;

Farm labor;

Over-production;

The use of farm chemicals;

Revitalizing our rural communities;

Family farms; and

Maintaining access to foreign markets for U.S. farm products.

As I take on the job of Secretary of Agriculture, I will need your help in finding answers to those problems. We will be looking for ideas, and my door will always be open. You are invited to use it. Likewise, I expect to be knocking on your door also from time to time.

I'll need the kind of help and sound counsel that come from the way you develop your policies from the ground up—with a very democratic process where you discuss farm issues at local and county meetings, at your state meetings, and then bring your elected delegates here to establish your policies for next year. I have always regarded that as a great self-governing procedure, and I heartily endorse it. We need and want to get everyone in this nation into the process of deciding our issues of the day—small farmers, big farmers—young people and adults—the poor and the well-to-do—minorities and the majorities—Democrats and Republicans—and those who are for Secretary Butz and those who aren't for him.

None of us should be afraid to stand up and speak up—nor to take the heat that comes from speaking frankly, and honestly. It is a part of the democratic process. I hope you will continue to be vigorous spokesmen for agriculture—each of you, in your own community, in your state, and in Washington, D.C.

And I intend to be right with you speaking up on behalf of farmers. Not speaking for farmers. That's your job, your responsibility and your right as farmers and as members of a free, volunteer farm organization. You do speak for yourself, and don't let anyone take that away from you. But as Secretary of Agriculture I intend—with all the vigor I have—to speak in behalf of farmers and ranchers to the President, to the Cabinet, to Congress, to consumers and to the American people.

Rural people bring to this nation an abundance of strengths and traits that the nation needs, and this generation and the times need. Your farm family life is more centered, community centered and church centered. You place a high value on such traits as work, production, integrity, dependability, self-reliance and what some call old-fashioned patriotism. I say it's a new-fashioned patriotism—something that will never go out of style. All of those qualities that are second nature to farm and rural people are important for the strength and vitality of this nation and its society. As we move from a predominately rural to an urban nation, we stand in danger of losing some of those fundamental virtues that have served us so well in decades past. They are more important today than ever. Let's never surrender them.

What you stand for is important. The resolutions that you develop at this meeting will tell what you stand for as an organization. Knowing you as I do, that is what you and your board and your officers will live by, and live up to, during the coming year. As I have read the principles that you have written into those resolutions over the years, I know that you have a great deal to be proud of. They show high principles of leadership and awareness and compassion. You can hold up those resolutions in your hands and put your shoulders back and be proud of what you stand for, proud to be farmers, and proud to be Farm Bureau members.

I have had some experience during the last three weeks in this business of what one stands for. I have had many people, Presidential candidates and would-be candidates, and members of high councils of political organizations, tell what I stand for. Sometimes I couldn't recognize what I heard them say I stood for.

I felt the need to have in my hand a set of resolutions that I could hold up that told the world where I stood. And I don't mind telling you now some of those things that Earl Butz stands for:

1. First, I am for farmers. It may seem unnecessary for me to say that. But not everybody is for farmers. I am, and I want you and everybody else to know it.

2. I am for farmers getting a fair economic return, both on their labor—and no one works harder—and a fair return on their investment—and agriculture is the biggest business in the nation. A fair return on farm labor and investment means higher farm prices and net returns. And I'm for that. And I think that consumers are in favor of farmers having a fair return too.

That's why last Friday, on my first day in office, my first decision was to take bids to buy corn to firm up farm prices.

3. I am for farm products being able to move to market at harvest time when the crop is ready. And I'm against that kind of disregard for farmers, for consumers and for our overseas markets

The $64 question we face is what will happen at the end of the 80-day cooling off period provided by the Taft-Hartley Act. If agreement is not reached during that time, we could go right back to another shutdown.

We simply must not continue to live in a situation where we can have these intolerable tie-ups in our vital transportation services without regard to the public interest.

Early this year the Administration sent to the Congress proposed legislation known as the Emergency Public Interest Protection Act of 1971, (S. 560).

This Bill would allow the President to extend the cooling off period beyond 80 days; it authorizes the President to set up a special board to study the potential damage of a continued strike; and provide for both parties to submit final offers to a panel that would select one of the offers as binding.

This proposal has been languishing for months in Committee in the Congress. Hearings are scheduled to be resumed December 9 before the Labor sub-committee of the Senate Committee on Labor and Public Welfare. This Administration Bill needs your support.

Some members of the Committee which is considering this legislation voted against my confirmation last week. That's all right, it's a political matter. But I'd like to see them vote for farmers, and get that bill out of committee. And I'm going to do everything I can to get that done.

4. I am for small farmers and young farmers having a chance to grow and dream and have those dreams come true. I'm not in favor of perpetual poverty. That means that small farmers and young farmers must have a chance to grow into an economic unit that keeps up with the times—so that they can live like other people. So that they can live like the people who are shedding such big tears while espousing a kind of economics that would tie farmers of the 1970's and 1980's to the farm size of the 1930's and 1940's. And anybody with any barnyard horse sense knows better.

5. I am for farm women having conveniences and decent things in their homes that they can be proud of and enjoy. That takes more farm income, and more opportunities for off-farm work for those who want it, so that farm women can have those conveniences. That among the farm women I know, is the kind of women's liberation that they are for.

6. I am for farmers having more bargaining power so that they can have more "say" over their prices and terms of sale so that they—the farmers—remain in control of farming. I stated three weeks ago before the Senate Committee on Agriculture and Forestry that I stand solidly behind the right of farmers and of farmer cooperatives to bargain with handlers and processors, just as surely as we have given that right to labor and to other groups. We obviously need legislation to implement that right. The American Farm Bureau Federation, along with other interested groups, is strongly backing the Sisk Bill. This is one of a number of bargaining bills before the Congress.

I am on record regarding the right of farmers to bargain. I now go on record favoring the principles and methods of bargaining embodied in the Sisk Bill. At the proper time I shall support it, subject of course to any minor modification that may seem appropriate as testimony proceeds before the Committee.

7. I am for farmers having strong volunteer farm organizations that develop their policies in a democratic process, after study and discussion, from the local communities on up. And I'm for preserving the freedom of farmers to do that.

8. I am for farm cooperatives that enable farmers to work together to market their products, to have electricity and telephones, and credit. And I'm for farmers running and owning these organizations.

9. I am for rural development and economic growth in the countryside so that farmers and rural towns people can enjoy schools, health care, housing, and community services that are on a par with larger cities. I'm for the kind of strong, local, private economic activity that will generate the growth and the vitality that will make this possible.

10. I am for reasonable farm labor legislation. Labor requirements are seasonal and unique for much of agriculture. Assurances must be maintained that such labor will be available when and where it is needed. Otherwise, highly perishable food will never be harvested.

Our farmers fully understand that such labor must be adequately paid and must enjoy the same amenities of family and community life as any other citizens. They also recognize the right of such labor to voluntarily join bargaining associations. However, our farmers are rightly incensed when such workers are forced, often against their will, to join any organization that employs such tactics as the secondary boycott to bring an industry to its knees. There should be no room on the American scene for such tactics.

11. I am for controlling inflation in this country. Inflation takes its toll on many fronts, but no where more strikingly than in the area of farm costs. The marked rise in farm costs over the last decade, more than the rise in farm prices received, has kept the parity ratio at an intolerabley low level. The farm community was pleased when President Nixon last August imposed a wage-price freeze in an effort to bring under control the inflated costs that had been galloping along without restraint. We are happy to note that many major farm costs have leveled off. Farm interests should and will support Phase II of our battle against inflation. The Department of Agriculture will vigorously represent your best interests in these matters.

I know that all of you are delighted with President Nixon's decision to retain a viable Department of Agriculture at a Cabinet level, streamlined to zero in on the interests of farmers and ranchers.

May I assure you that we have the full support of President Nixon and his staff in the White House as we move forward vigorously to preserve the family farm structure in American agriculture; and do our utmost to asssure a level of income for farm folks that will let them share adequately in the great American affluence; as we try to strengthen our rural communities all through America so that our young people may find good opportunities for purposeful employment and peaceful living in areas where they grew up; and finally to bring to all of us in Agriculture a deep inner sense of dignity and pride in our profession.

It is to the accomplishment of these noble goals that all of us in the United States Department of Agriculture unite in full partnership with all of you in this, the nation's largest volunteer farm organization.

FIFTIETH JUBILEE OBSERVANCE OF THE HOLY TRINITY ALBANIAN ORTHODOX CATHEDRAL

HON. LOUISE DAY HICKS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1971

Mrs. HICKS of Massachusetts. Mr. Speaker, on the occasion of the 50th jubilee observance of the Holy Trinity Albanian Orthodox Cathedral in my district, his grace, Bishop Mark, head of the Canonical Albanian Orthodox Church in America, delivered a most inspiring address which I would like to share with my colleagues.

The Honorable Congresswoman Hicks, Reverend Clergy, Commissioner Colatos, Distinguished guests, my beloved Faithful:

This evening truly, we bless the Name of Almighty God who gathers us together as He gathered the Holy Apostles for their mission into the world. And can our mission in life and purpose be any different from tonight onward? For we are the inheritors of the Apostolic Tradition in faith and witness. We are the continuing stream coming from that meager yet vibrant source of early immigrants who established Churches and created Communities. We are the one flowing current which preserves that tradition and that witness which identifies us as Albanian Orthodox people.

We cannot deny our heritage, rather we are gathered to honor it on the occasion of this 50th Jubilee observance. The heritage of your fathers and grandfathers who with deep faith and a fear of God established our Holy Trinity Church parish, is a priceless legacy which we must keep and perpetuate. The Apostles became the fishermen of men—made wise in Divine knowledge by the grace of the Holy Spirit—so too we become the example before men by our Orthodox faith and life.

Our task is not unlike that of the Apostles nor are we lacking the inspiration to act and to do all that needs to be done to preserve our religious and community life.

In our society today we see the sad results of a moral and social breakdown so critical that new and complex problems are created every day for government, education, industry and the professions, but most important for the sacred family unit. And yet it was that same family unit—and a deep concern for it, which motivated and directed the establishment of Churches—and Holy Trinity is not an exception. However, this Jubilee gives rise to yet another important factor for the future. The need for renewal and dedication—not simply to a glorious tradition of generations of membership in the Holy Trinity Church, but to the concepts of Christian living—the practical application of a Life style, unique and Christ-like.

It seems on this Jubilee we are all called to make change happen for the future—change brought about by courage and commitment which will give new and bold direction to our Church and our people. Changes which answer the needs of the 20th century just as our forefathers 50 years ago with courage and commitment made changes which insured for them the proper ecclesiastical leadership based on dignity and principle.

A jubilee is not only reflecting on the past—it is a promise to the future—and I invite you to commit yourselves to the future which offers greater dreams for success and progress.

A Jubilee is a celebration of thanksgiving when we—in all humility—give thanks to our Eternal Father for the love and vision of our pioneering forefathers—for the devotion and perseverence of those who have maintained the Church Community thus far—for the dedication and commitment of future generations—but above all for the spirit of God which directs our pathway in the right way of righteousness and service.

In this Land of freedom and opportunity which welcomed our immigrant fathers and guarantees us the constitutional right to practice our religious faith we are pledged to uphold the democratic principles of these United States. Regrettably we are reminded that in Albania today our brothers and sisters are denied freedom of religious activity. The atheistic Communist regime has closed all Churches and Mosques in a wave of persecution and terror. We here in America, endowed with inalienable rights, must assume the awesome burden of being the hope for the enslaved people of our fathers' homeland. A hope born of the American experience and unprecedented in human history. May God help us.

Have just returned from an extended trip to Europe and the Middle East where I was permitted the honor of meeting first: His Beatitude Justinian, Patriarch of Romania in Bucharest, then His Beatitude Elias, Patriarch of Antioch in Damascus, Syria, then His Beatitude Nicholas, Patriarch of Alexandria and finally His Beatitude Teronymos, Archbishop of Athens and All Greece, I am happy to say it was my privilege to extend the respectful greetings of our Albanian Church and Faithful to each of these world leaders of Orthodoxy. Their concern and interest in us was a moving experience for me and I can assure you of their abiding love and affection for the well being and progress of Orthodoxy in America.

The magnificent work of the 50th Jubilee Committee and the Board of Directors of our Church is a credit to all who have worked under the leadership of the Chairman, Mr. Nick Adams and the President, Mr. George Kondel. It is a credit to you—the faithful members and parishioners of Holy Trinity Church who have given your moral and financial support to this joyous celebration. I congratulate you and I thank you with a fervent prayer that the Holy Trinity bless and keep you in the abundance of all good things.

We are pleased to have the pleasure of greeting Congresswoman Louise Day Hicks whose deep concerns have made her a faithful public servant. We wish her sincere and good wishes as she continues her service to the citizens of our State. Her leadership in government has exemplified courage and conviction which are the marks of dedicated public officials. A sense of commitment to public duty distinguishes Congresswoman Hicks.

The presence of our good friend, a devoted Orthodox layman, Commissioner Charles Collatos, who brought us the greetings of our Governor, gives us much joy and honor.

The Orthodox clergy of our Diocese and of our City who share with us the joy of this Jubilee deserve our thanks and appreciation. The head table guests and especially the three members who are honored for their years of service to the Church since its establishment in 1921, all give us cause to be happy and gratified. The Honorable James E. Kondel, Mr. Sotir P. Adams and Mr. Nick Adams represent before us the great number of persons who have been members and parishioners over the past 50 years. They are indeed privileged to enjoy this means too, we must remember those who have passed on—without whose labors our Church would be the poorer. May their memory be eternal.

Last but not least I commend words of praise and affection to Fr. Michael Dali a past pastor of the Church and Fr. Ilia Katre the present pastor for the happiness and deep satisfaction of this day.

May the grace of our Lord Jesus Christ, and the love of God the Father and the Communion of the Holy Spirit be with you all.

THE CIVIL AERONAUTICS BOARD AND AIR FARES

HON. JOHN E. MOSS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1971

Mr. MOSS. Mr. Speaker, on December 3, 1971, 30 of my colleagues and I filed with the Civil Aeronautics Board a reply brief dealing with airline fares in a case known as the Domestic Passenger Fare Investigation.

Our reply brief follows:

(Before the Civil Aeronautics Board Washington, D.C.)

IN THE MATTER OF DOMESTIC PASSENGER FARE INVESTIGATION PHASE 9—FARE STRUCTURE, DOCKET 21866-9

(Reply Brief of Hon. John E. Moss, et al., Members of Congress to Examiner Robert M. Johnson)

I. INTRODUCTION

This reply brief is directed to several different issues: The nonapplicability of mail and military rate cases; the zone of reasonableness; rate-making mileages; revenue hour statistics; cost of service projections; earnings results.

II. MAIL AND MILITARY RATE CASES NOT APPLICABLE

In support of its "acid test" of how a rate formula actually affects individual carriers, Trans World Airlines (TWA) refers to the language of the Board in various mail and military charter rate situations; TW Brief, p. 5-9. For example, "so long as the overall yield to each carrier is reasonable, it is of no particular importance whether the various elements of the rate formula; *i.e.*, the line-haul charge and terminal charge, are directly related to costs involved in the particular functions; *Nonpriority Mail Rate Case,* 34 C.A.B. 143, 147 (1963).

This method of rate-making may be justified in the case of mail and military charter rates since there is no "undue" preference and prejudice because in any particular situation the party being preferred is at the same time the party being prejudiced; i.e., the U.S. Postal Service or Department of Defense. While this may also be the case in certain cases with respect to the purchase of regularly scheduled passenger services, it is not true in all cases. As a consequence, the overriding consideration in the development of a passenger fare structure is not just what the resulting payments will be to each carrier. Instead that factor must share equal consideration in the design of the formula with unjust discrimination and undue preference and prejudice because more than one purchaser of the service is involved. For this reason in designing the passenger fare structure, the question of whether the various elements are directly related to the costs involved in the particular function is equal in importance with the question of whether the overall yield to each carrier is reasonable, and mail rate law is not applicable.

III. ZONE OF REASONABLENESS

Eastern Air Lines (Eastern) does not feel that the Board should prescribe a range of fares where "carriers would be free without interference from the Board to set fares within a given range;" EA Brief, p. 33, 44. Accordingly, the Members of Congress believe the question of the application of a zone of reasonableness needs further clarification.

I

Under the Act every air carrier is entitled to file with the Board tariffs which are posted and published in such form and manner as the Board shall by regulation prescribe, Sec. 403(a). It is the duty of the carrier to establish in these tariffs fares which are just and reasonable, and not otherwise unlawful; Sec. 404. At the same time, the Board is empowered, upon complaint or its own initiative, to enter upon a hearing concerning the lawfulness of such a newly filed individual or joint fare, rule, regulation or practice; Sec. 1002(g). Pending such hearing and decision thereon, the Board may defer the use of such fares, etc., for a period of no longer than 180 days; *Ibid.* As a result, the determination and prescription of a zone of reasonableness cannot estop any carrier from filing a tariff with a fare greater than the maximum, nor lower than the minimum; nor does the prescription of such a zone of reasonableness change the Act to mean that the Board must suspend for at least 180 days any fare filed outside the zone. The Board's powers of whether or not to defer the use of a newly filed fare outside the zone of reasonableness pending its decision as to the fare's lawfulness is not affected by the establishment of a zone of reasonableness.

At the same time, neither does the establishment of minimum and maximum rates limit the Board's powers to enter upon a hearing concerning the lawfulness of a newly filed fare which falls within the zone of reasonableness; nor the Board's obligation upon complaint to either (1) hold such a hearing and issue a decision, or (2) deliver to such complainant a statement in writing of its opinion that the complaint does not state facts which warrant an investigation or action; Sec. 1002(a). Nor does the use of such a zone change the Economic Regulations of the C.A.B. which require that at any hearing involving a change in a fare, the burden of going forward with the evidence shall be upon the person proposing such change to show that the proposed changed fare is just and reasonable, and otherwise lawful; 14 C.F.R. 302.506.

Rather, all the establishment of minimum and maximum rates does is (1) to state in writing that it is the intent of the Board not to use its powers under Sec. 1002(g) to defer, upon grounds of unreasonableness, the use of any new fare falling within the zone of reasonableness pending any hearing and decision concerning the lawfulness of such fare, and (2) provide the various parties with one additional piece of rebuttable evidence as to the lawfulness or unlawfulness of any fare.

II

Given the foregoing interpretation of the zone of reasonableness and the fact that for a major part of the airline market, value of service exceeds cost of service by a great amount, the Members of Congress do not believe that cost of service should be used as the mid-point or minimum as urged by other parties. It is clear from even the most cursory reading of the Briefs of the carrier parties that the airlines are becoming increasingly aware that value of service is relatively high for businessmen and government officials, and that the carrier management desperately want to literally sock it to this group of captive travelers in order to maximize their revenues (We repeat, revenues as opposed to earnings.) Under these circumstances, the Members of Congress agree with the Department of Transportation (D.O.T.) that normally where there is more than one carrier, a rise in fare would precipitate an increase in non-price competition; DOT Brief, p. 8, and that therefore only the Board stands at the gatehouse to bar a repetition of the unsound economic conditions of the recent past brought about by a combination of too high fares resulting from an improper fare structure, and a sudden economic downturn which removed the captive traveler from the market place.

To foster sound economic conditions in air transportation under existing circumstances and conditions, the maximum rate must be based upon the Board's minimum rate-making guidelines, i.e., rate of return, load factors, etc., Sec. 102(b). As noted previously, this will not estop any carrier from filing higher fares, nor prevent the Board from permitting such fares to take effect pending a hearing, if any, as to their lawfulness. On the other hand, such a maximum rate will not tie the Board's hands from deferring the use of fares which do not even meet the Board's minimum rate-making guidelines, i.e., the lowest cost consistent with the furnishing of adequate and efficient transportation by air carrier given the Board's standards, Sec. 1002(e)(2). Instead, it will tend to assure that new fares which do appear to at least meet or exceed the Board's minimum rate-making guidelines will be allowed to go into effect pending any hearing as to their lawfulness, and that the benefits of greater flexibility provided by a zone will be directed in terms of price competition towards an alternative of more varied and potentially less sumptuous service at prices reflecting its lower cost which have heretofore been denied the public, DO Brief, p. 14, rather than continued competition in other areas such as flight frequency, lounges, piano bars, more spacious seating, etc., at inflated costs.

IV. SHORTEST OPERATED MILEAGE

The Bureau supports the use of shortest operated mileage for local service routes, BE Brief, p. 44-45, even though (1) its witness Mr. Randall D. Bennett stated in conjunction with trunkline service that "It does not make sense to charge more or less for a given trip depending on how the airplane happened to operate on a particular day," Exhibit BC t-7, p. 2-3, and (2) the Bureau admits that in the "not too distant future" it may become feasible to have all fares based on shortest authorized, or even direct non-stop mileage, BE Brief, p. 45. One must therefore speculate that the Bureau's argument is based not so much upon rate-making factors as consideration of subsidy requirements.

In regard to this latter point, the interwoven relationship between the fare structure, pattern of service provided, and subsidy requirements of the local service carriers should not be overlooked. Federal subsidy payments are made to certain domestic carriers to enable them to provide adequate and efficient service to markets where the density of traffic is not sufficient to support such service on a purely commercial basis; Sec. 102(a), (f) and 406(c). The amount of the subsidy need flows from three factors. First the type of the equipment used to furnish such service (primarily 2-Engine Prop-jets) is not as economical to operate as trunkline jets; e.g., $6.02 vs $5.45 (adjusted) Direct Operating Cost per available seat hour. At a 54% load factor this cost differential creates a subsidy need of $3.27 per passenger-hour flown.

Second, since subsidized services are furnished to less dense markets, actual onboard load factors are less than the 54% trunkline standard. In Phase 6B, the Board adopted a 44.4% load factor guideline for local service carriers. The difference between the 54% and 44.4% load factors adds another $5.42 per passenger-hour to the federal subsidy requirement. Finally, beyond a distance of around 100 miles there is an increasing disparity between the block times of propeller and jet aircraft. Economically this means that all other things being equal, the yield per hour of propeller aircraft will diminish with increasing distance—a difference that must be made up by higher federal subsidy payments. Under the fare proposal of the Members of Congress this will add another zero dollars at 100 miles, $2.27 per passenger-hour at 200 miles, $4.86 per passenger-hour at 300 miles, $7.16 per passenger-hour at 400 miles, and $7.21 per passenger-hour at 500 miles. The total federal subsidy per passenger at various distances is as follows:

TOTAL FEDERAL SUBSIDY PER PASSENGER

Mileage	Per hour	Per trip
100	$7.79	$5.45
200	10.06	10.06
300	12.65	17.71
400	14.05	28.41
500	15.00	33.00

Given these facts, it is clear that the federal subsidy requirement can be reduced three ways: (1) reduce the length of haul/block time on the subsidy segment, (2) reduce the total number of aircraft/seat hours flown to provide such service, and (3) use more economical equipment; see Exhibit MOC 3C and MOC Brief, p. 42. For example, a passenger from Topeka, Kan. to Denver or the West Coast will require approximately $3.90 federal subsidy if routed via Kansas City (56 miles) verses over $33.00 if routed directly in a linear manner to Denver (509 miles).

Airline fares should be based upon rate-making factors, subsidy needs on social considerations. For this reason, the Members of Congress feel the Bureau's argument for adoption of the shortest operated mileage in certain situations should be rejected as being unduly preferential and unduly prejudicial, and that instead more flexible passenger routing options should be allowed to provide a more adequate, economical and efficient manner of furnishing such service.

V. REVENUE HOUR STATISTICS

Ozark Air Lines (Ozark) states that "the revenue hour approach would require a new set of statistics and recordkeeping which would add substantially to the carriers' cost if a dual element system were involved;" OZ Brief, p. 9. As the Members of Congress pointed out on Brief at page 33, footnote 25, this argument is not entirely true. The Chairman of the C.A.B. has informed the Hon. John E. Moss, M.C., that revenue hour traffice data is available from the existing recordkeeping process on an original basis. The Members of Congress know of no reason to doubt the veracity of the Chairman's statement and therefore look forward confidently to the availability of such data in the very near future.

The Members of Congress further believe the greater accuracy of this system in the measurement of cost and *revenues* for the purpose of fare construction, OZ Brief, p. 10, has been established on this record; see MOC Brief, p. 34-35. In this regard it might be wise to further note that in Exhibit MOC 1, the system average revenue per hour, $6.36, is the same as Route 4, but the average revenue per mile, 50.62¢, is considerably different that Route 4's average of 44.92¢ per mile. Conversely, the system average revenue per mile is similar to the average revenue per mile for Route 1, 50.67¢, whereas the yield per hour for Route 1 ($6.94) is substantially greater than the system average yield per revenue hour ($6.36). These facts show that there is a significant difference in revenue per mile and revenue per hour, and that there is "no doubt that revenue per hour information is worth much more than revenue per mile information, and that to get the total evaluation the two should be compared;" Witness Tom W. Woodward, Exhibit MOC T-1, p. 2. The simple fact is that annual revenues are directly related to the yield per hour, and there is no relationship directly between revenues per annum and the revenue rate per mile.

VI. COST OF SERVICE

I

There is general agreement by all parties that air transportation involves two different costs: those related primarily to the activities on the ground regarding preparation of the aircraft and passengers for a trip, and those related to the actual air movement of the aircraft and the passenger. Both costs are fixed in the sense that it is a phenomenon of air transportation that the cost of flying and servicing a given aircraft type over a specific route is about the same regardless of the number of passengers carried; MOC Brief, p. 7. That is, both categories do not vary with traffic volume, or whether such traffic moves on a non-stop or multi-stop trip with or without on-line or inter-line connections, unless the overall magnitude of the operation is changed. In other words, we are dealing with a capacity cost industry both in the air and *on the ground*.

Historically, it has been the feeling of airline cost experts that the ground costs are fixed in the sense that they do not vary with trip length, EA Brief, p. 15. But the Bureau's exhibits in the BC-4600, 4700, 4800 and 4900 series do not support such a cost thesis. Their indirect cost unit input values for ground servicing do vary with trip length. The major difference in the 4900 series relates to the use of new departures by equipment group, BE Brief, p. 21, based upon a new R.P.M. distribution with the same aggregate indirect cost values and block hours. Only the average stage length and departures per hour varied. This undoubtedly is the most important fact on the record since a number of the fare structure proposals of the carriers, the Bureau, and other parties rise or fall literally on the basis of this one key fact. The entire argument that short-haul fares cannot cover costs, and that such difference must be made up by medium and long-haul traffic is moot if the ground handling costs allocated to each unit is in point of fact affected by average stage length/block time.[1]

The Members of Congress are willing to let the Bureau's exhibits speak for themselves—and they say that different lengths of hauls/block times do have an impact on the aircraft servicing, traffic servicing, reservation and sales costs allocated to each unit when aggregate total inputs remain the same. This fact explains why the local service carriers have historically had the same ratio of direct costs to total costs as the trunkline carriers; why under the present fare structure TWA is less profitable than American Airlines (American) and United Air Lines (United) (no cross-subsidization from medium haul markets), and these two latter carriers are in turn less profitable than the medium sized carriers (who do not have to use their medium haul revenues to cross-subsidize long-haul services); why a long-haul carrier like Pan American has the highest station costs, and a short-haul carrier like Pacific Southwest Airlines relatively low indirect costs; why the ratio of ground and indirect costs to total costs shot up to 64% during World War II when service was suspended to many smaller communities, length of hop increased, and frequency of service decreased;[2] which is also the same reason why the so-called terminal costs are at present increasing much more rapidly on a unit input basis than line-haul costs, EA Brief, p. 16, as the great concentration of labor costs in the terminal cost pools, *Ibid.*, 17, are being spread over fewer units with increases in length of haul and below average load factors on such flights.

The Members of Congress are aware of the catastrophic impact which this fact has on the fare proposals of a number of the other parties but we would hasten to remind all concerned that the Members of Congress have worked tirelessly to preserve the carriers' right to set their own fares and did urge the other parties during the hearings to submit their own fare proposals; see letter to Examiner Robert H. Johnson, from Richard W. Klabzuba, dated April 5, 1971, Re: Phase 9—Fare Structure.

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[1] The finding that ground costs do in fact vary with length of haul/block time is equal in importance to the discovery that annual revenues are a function of the yield per hour, because this finding closes the last major gap to understanding why airline costs act as they do. The development of this cost concept is clearly outlined in this record: In Exhibit MOC T-4, it was indicated that there appeared to be some reason to believe that ground costs were capacity costs; Subsequently in MOC T-6 it was stated that the ground costs were in fact capacity costs affected by peaking, i.e., simultaneous operations during a limited period of time; And then finally the Bureau's cost studies confirmed the ground costs were actually capacity costs and went on to disclose the fact that the allocation of such costs to each unit was affected by the number of departures and length of haul/block time; BC 4600, 4700, 4800, and 4900 series.

While it is a fact that at the outset of this proceeding the staff of the Members of Congress was generally persuaded by the carriers' cost experts argument that ground costs did not vary with distance, the fare proposal of the Members of Congress was nevertheless geared to the historical fact that the ratio of direct costs to indirect costs are the same at all distances. As a result, the Members of Congress fare proposal is not affected by the disclosure flowing from the Bureau's cost study. Prior to the finding made in the Bureau's cost study, the staff of the Members of Congress felt that the ground costs were related in some unexplainable fashion to the so-called "stop time", and that this stop time varied with length of haul/block time because flight operations vary with distance.

[2] Gill, Frederick W. & Bates, Gilbert, Airline Competition, Howard University, Boston (1954) 498-503.

Turning now to several other matters concerning the Bureau's cost study, the Members of Congress would first observe that when the new R.P.M. distribution (Exhibit BC–4811) was used in conjunction with the departure factors (by mileage block and equipment group) as developed by the Bureau for use in its costing program to develop the 4900 series departure "in a continuing effort to reflect the average cost per passenger by mileage block using the guidelines implicit in the Board's Phase 7 decision," BE Brief, p. 21–22, the resulting indirect costs were greater than direct costs before and after deleting belly cargo revenues; i.e., $3106.2 v. $3328.2 mixed service, $2925.3 v. $3104.8 passenger service; Exhibit BC–4902, footnote 3. In Phase 7 at page 30, the Board recognized a ratio of indirect to total costs projected by the Bureau for 1972 of 48.4%, which implies that indirect costs should be less than direct costs, not greater.

III

Second, when the Members of Congress applied a ratio of 1.938 (see Exhibit MOC 12) to the Bureau's direct cost of $2925.3 million for scheduled passenger service, Exhibit BC–4902, the resulting total Operating Expense is $5669.2 million as opposed to 5984.9 million in Appendix 1 of Order 71–4–60 and $5970.2 million after adjustment for standard seating in Exhibit BC–T–3, p. 2, or about 5% less.

IV

This latter finding brings the Members of Congress to the third and final point with respect to the Bureau's cost studies. The Bureau claims that the basic difference between the 4700 and 4800 series is occasioned by the use of a new R.P.M. distribution (Exhibit BC–4811), BE Brief, p. 21. A comparison of the carriers' projected block hours from Phase 7 which were used to prepare BC–4611 with those shown in BC–4905, developed by TS and TC factors (footnote 2, BC–4905) indicate a significant difference in block hours by equipment group.

BLOCK HOURS

Equipment type	Phase 7 (BC–4611)	BC–4905	Changes
4EWB	193, 454	170, 682. 4	(22, 771. 6)
3EWB	193, 713	174, 934. 5	(18, 778. 5)
4ETF	979, 428	781, 146. 6	(198, 281. 4)
3ETF	1, 815, 373	1, 559, 752. 8	(225, 620. 2)
2ETF	741, 054	921, 051. 1	179, 997. 1
4ETJ	461, 281	393, 971. 6	(67, 304. 4)
4ETP	23, 259	23, 681. 2	422. 2
Mixed totals	4, 407, 562	4, 025, 220. 2	(382, 341. 8)

Assuming an annual utilization of 3,000 hours per aircraft, the 179,997.1 block hours added to the Bureau's 2ETF cost program would require the trunk-line carriers to acquire an additional sixty 2-Engine Fan jets next year to reflect the Bureau's average cost per passenger. Absent these aircraft, the average stage length of the trunks would most likely increase further thereby reducing the number of departures and increasing the average cost per departure. Of course the Members of Congress do not feel that given the existing traffic and financial conditions surrounding the industry that it would be realistic for the Examiner and the Board to expect the airlines to acquire sixty more 2-Engine jet aircraft than previously planned.

V

For all these reasons, as well as those outlined previously in our Brief of November 24, 1971, the Members of Congress believe the Examiner and the Board must find those fare proposals based upon the Bureau's cost studies as being unjust and unreasonable, unduly preferential and unduly prejudicial, and otherwise unlawful.

VII. EARNINGS

It is now well settled law that under the statutory standard of "just and reasonableness" it is the result reached, not the method employed which is controlling; *F.P.C. v. Hope Gas Co.*, 320 U.S. 591, 602 (1943); it is not the theory but the impact of the rate order which counts, *Ibid.*; and that carriers must present evidence as to the rate of return they have earned and will earn if their proposal is allowed, *Increased Class & Commodity rates, Transcontinental*, 329 I.C.C. 420, 426 (1967), on the traffic that will bear the increase, *Ibid.*

A further examination of the Briefs of the various parties indicates that with the possible exception of the Associated Carriers, no party to this proceeding has attempted to determine what the results would be of their fare proposal in terms of earnings. As a consequence, the Examiner and the Board have no probative evidence upon which to make a finding that the total effect of these fare proposals would be just and reasonable to investors, and users of the services, as well as the carriers.

The Members of Congress, on the other hand, have shown in their exhibits what the revenues and earnings would be per passenger per trip, per mile, per hour. From a revenue standpoint, the individual fares in the Members of Congress proposal are lower than the other parties at certain distances for two reasons: (1) Certain costs burdens laid upon short-haul traffic by other parties are spread to longer medium- and long-haul services thereby reducing the costs of some short-haul services and raising the amount of costs allocated to longer haul flights;[3] and (2) The dilution recognized on long-haul services is reduced from 17% to 12% thereby lowering the fare charged a passenger paying a full fare in these markets despite the higher costs assigned to such passengers. Thus the total revenue is the same, the only difference being more long-haul passengers would travel at a lower full fare than a discount fare. In regards to this last, it is the opinion of the Members of Congress that the decision in Phase 5 is dependent upon the finding in Phase 9, not the other way around; re: DL Brief, p. 46–47.

Respectfully submitted,

RICHARD W. KLABZUBA,
Representative for Hon. John E. Moss, et al., Members of Congress.

December 3, 1971.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Reply Brief has been mailed to all parties on the Appearance and Exchange List in the *Domestic Passenger Fare Investigation, Phase 9—Fare Structure*, Docket 21866–9.

RICHARD W. KLABZUBA.

December 3, 1971.

NO SECURITY IN TREATIES

HON. JOHN G. SCHMITZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1971

Mr. SCHMITZ. Mr. Speaker, President Richard M. Nixon said:

> We are entering an era of negotiations.

And John Jay, said:

> I would not give a farthing for any parchment security whatever. They (have) never signified anything since the world began, when any prince or state, of either side, found it convenient to break them.

As the administration's stated fondness for negotiations increasingly shows itself to be more than just rhetoric, we must ask ourselves: Have men and nations appreciably altered their behavior toward those treaties and agreements which our Founding Fathers considered nothing more than "parchment security"? If there has been no demonstrable change, the long-range results of the administration's entire foreign policy can easily be predicted as our real power continues to decline at a rapid rate while negotiations and agreements are regarded as the mainstay of our national security.

As we examine the history of treaty performance to see if the essential realism of the Founding Fathers still holds, we can refer to a comprehensive study of every important political treaty negotiated by the United States and European nations over the last 300 years. In "The Treaty Trap," Laurence W. Beilenson reviews nearly a thousand political treaties concluded among nations between 1661 and 1965, seeking to determine whether there has been any consistent pattern of observance or nonobservance. As the author warns in the introduction to this valuable work:

> Before a nation relies on new promises, good sense suggests a scrutiny of the promises previously made.

The sad truth about treaty performance, past and present, revealed in this extensively documented work may come as a shock even to those who have never been inclined to place much faith in the hooked bait of words.

The author finds a "universal regularity of breach in every age by nations with all forms of government, embracing the entire spectrum of ideologies, and led by statesmen of widely varying characters." It is especially interesting to note his statement that:

> After the destruction of World War I, the statesmen erected the strongest paper structure for peace ever devised. It did not prevent as cynical a disregard for treaties as in any era of history, or the vast destruction of World War II.

Even more enlightening is the author's discovery that:

> During the longest period of relative European peace (1814–1914) in the 304 years tested, the treaty structure was the weakest. The relation between peace and treaty operated in inverse ratio.

In other words, not only do peace treaties and various other agreements not prevent war, but they may actually serve to bring on a war.

Treaties, the fruit of negotiations, can actually encourage war because, among other reasons, diplomats habitually assume that they provide some real national security. "Treaty reliance" is identified in "The Treaty Trap" as "the occupational disease of statesmen." From Biblical days to modern times at Munich and Yalta, treaty reliance has proved fatal for any number of peoples and nations.

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[3] The reduction in cost of service is sufficient to eliminate the need for cross-subsidization from other markets as proposed by some carriers.

Since the administration continues to act as if "negotiations" could actually prevent "confrontation" with the Soviet Union, while at the same time "reordering priorities" away from essential defense measures, it is apparent that the age-old and fatal error of treaty reliance is again rampant. When, as Mr. Beilenson shows, even allies have by and large been consistently unreliable in carrying out their treaty obligations, it is foolish to expect that those with unconcealed enmity toward our way of life will honor their promises. In a separate chapter devoted to Soviet treaty performance since 1917, the author calculates that based on the average number of breaches per year the Soviets are entitled to the crown as the champion treaty breakers of all time.

The author concludes his study of three centuries of treaty performance by setting forth a basic rule to guide present and future statesmen:

> In reaching a decision to act or not to act in foreign affairs—including maintenance of strong armed might in being—a nation should give little or no weight to the expectation of performance of political treaty.

This sound conclusion—echoing John Jay's—should be kept constantly in mind as we face the mounting barrage of "era of negotiations" propaganda.

THE NEW SUPREME COURT APPOINTMENTS

HON. JOHN G. SCHMITZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1971

Mr. SCHMITZ. Mr. Speaker, it is quite clear from the original discussion and debate concerning the Constitution of the United States that our Founding Fathers expected the House of Representatives, whose Members were popularly elected every 2 years, to be the "activist" branch of government, promoting change most vigorously. The President with his 4-year term and the Members of the Senate with their 6-year terms were expected to be a moderating influence, while life terms were provided for Justices of the Supreme Court because they were expected to be the most conservative of all, the guardians of the enduring meaning of the Constitution.

But the topsy-turvy age in which we live has completely reversed this pattern once regarded as the natural character of our Federal Government. Today the Supreme Court is the most "liberal" branch of that Government, the Senate next, and then the President, while the House of Representatives—still closest to the people—has for some time been—relatively speaking—the most conservative.

During his 1968 campaign President Nixon repeatedly promised that if elected one of his primary goals would be to right the imbalance created by the Warren Court by appointing Justices who would begin returning the Supreme Court to its proper role of constitutional guardian rather than innovator.

The best of all President Nixon's Supreme Court appointees was Judge Clement Haynsworth. A carefully planned and executed character assassination campaign, together with the "liberal" character of the Senate which must confirm all Supreme Court nominees, brought about Judge Haynsworth's defeat. The nominations of present Chief Justice Burger and Justice Blackmun were acceptable when made, if not particularly encouraging, to those aware of the immense harm the Warren Court had done to the Constitution and the country.

The two latest Supreme Court appointments, judging by the past record of the nominees, appear to be a longer step toward fulfilling President Nixon's promise.

In addition to his notable attainments in the legal profession, nominee Lewis F. Powell, of Virginia, is on record as an uncompromising defender of the fullest extent of law enforcement needed to preserve order. Interestingly enough, he also seems to have been primary author of the very valuable report of the President's Blue Ribbon Panel on Defense—see my newsletters 71-18, 71-19, and 71-20. One might almost wish he had been appointed White House adviser on defense policy, rather than Supreme Court Justice.

The other nominee, William Rehnquist of Phoenix, Ariz., seems even better. By all indications he was a genuine, philosophically committed supporter of Senator BARRY GOLDWATER in his presidential campaign of 1964, when principled conservatism finally became a major political force in modern America. If Rehnquist remains true to these principles and is confirmed by the Senate, he will finally give the "strict construction" of the Constitution a voice on the Supreme Court which it has not had since the days of Franklin Roosevelt.

Yet we dare not depend entirely on one or two individuals, however impressive their records. In the words of Thomas Jefferson in the Kentucky and Virginia resolutions of 1798:

> Let no more be heard of confidence in men, but bind him down from mischief by the chains of the Constitution.

The Constitution gives Congress the power to restrict by statute law the jurisdiction of the Supreme Court. Since the House of Representatives is now the most conservative body in our Federal Government—in that respect occupying the role foreseen for the Supreme Court by our Founding Fathers—the House should demonstrate its willingness to restrict the Court where it has clearly exceeded its authority, as in its notorious decision requiring forced busing of children to achieve racial integration in public schools.

FARMER COOPERATIVES IN DEVELOPING COUNTRIES

HON. WILLIAM D. HATHAWAY

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1971

Mr. HATHAWAY. Mr. Speaker, I wish to call the attention of my colleagues to a study called "Farmer Cooperatives in Developing Countries," just published by the Advisory Committee on Overseas Cooperative Development.

The Advisory Committee is an ad hoc committee of people, most of whom are business leaders of U.S. cooperatives. The organizations they represent include the American Institute of Cooperation, the Cooperative League of the U.S.A., the National Farmers Union, the National Council of Farmer Cooperatives, the National Rural Electric Cooperative Association, CUNA—credit unions—Inc., FS Services, Inc., Farmers Union Central Exchange, Inc., Agway, Inc., CF Industries, Inc., Wisconsin Federation of Cooperatives, the Foundation for Cooperative Housing, International Cooperative Petroleum Association, and League Life Insurance Co. The committee provides needed liason between U.S. cooperatives and various agencies involved with helping people in the developing countries.

The committee's report points out that:

> Small farmers make up three-fifths of the people of the developing countries. (Yet) two decades of development and foreign aid have left many of them no better off than when the Age of Development began.

The Advisory Committee believes one way to help these neglected small farmers is through cooperatives. It has singled out farmer cooperatives for special study, believing them to be an effective way of providing farmers, especially the small ones, with access to the elements of a modern agricultural system: credit, production inputs, farming know-how, and dependable markets.

There is now much concern over the population explosion and how to cope with the uncontrolled mass migration from the farm to the city, and the soaring underemployment and unemployment which follows. Even the United States is not immune to this mass migration which has seen 25 million people shift from rural to urban areas in a generation.

I find the following quotation from World Bank President Robert McNamara strikingly appropriate:

> The marginal men, the wretched strugglers for survival on the fringes of farm and city, may already number more than a half billion. By 1980 they may surpass a billion, by 1990, two billion. Can we imagine any human order surviving with so gross a mass of misery piling up at its base?

There is also the reminder of the Pearson Commission that:

> The failure to create meaningful employment is the most tragic failure of development.

So, any proposal that offers hope of meeting the problem of jobs is worth taking a look at. The proposal set forth in this study seeks to put people to work on the land. The report insists that:

> If small-farm, labor-intensive, capital-saving agriculture is to provide productive employment and is to be the strategy of the future, then the role of the cooperative becomes crucial.

The U.S. cooperatives are working overseas now in some 17 countries, trying to demonstrate the soundness of utilizing labor-intensive methods rather than capital inputs in agricultural development. The involvement of these organizations grows out of their conviction that the cooperative technique for organizing people is a proven way of inducing participation of rank-and-file citizens in development.

These programs operate on a people-to-people basis in agriculture, rural electrification, insurance, credit unions, housing, marketing and consumer distribution. The report points out the successful use of farmer cooperatives in Japan, Taiwan, and to a lesser degree in Egypt and Korea, and incipiently successful cooperative programs in Uganda and Ceylon. It also points out the reasons for failures in some other countries.

The Advisory Committee states that:

> Cooperatives in the developing countries have a much broader and more meaningful purpose than being a bargaining instrument to help farmer-members lower operating costs and get better prices, as important as these objectives are.
>
> Cooperatives to succeed must be strong enough to open their doors to millions of small subsistence farmers and give them access to tools of modern agriculture. In so doing they can wage war on unemployment by stimulating labor-intensive agriculture that will mean more jobs and better living for the people in the rural communities of the developing countries.

JAMES MADISON HIGH SCHOOL OF SAN DIEGO ANNUAL ARMISTICE DAY PROGRAM

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1971

Mr. BOB WILSON. Mr. Speaker, on Thursday, November 11, the students and faculty of James Madison Senior High School, San Diego city schools, again observed their traditional Armistice Day custom by presenting a special program in the high school auditorium in the morning and then student representatives proceeded to the national cemetery at Fort Rosecrans in the afternoon for a special ceremony conducted by them.

It is inspiring to know that the Armistice of 53 years ago and its significance is not lost to our young people—a great day of peace, of sacrifice for freedom, and a day that should be remembered as the program has expressed it; a day of heroic effort to maintain our way of life as a free people. I include the text of the program with the keynote address of guest speaker, the Reverend Robert H. Mayo, D.D., pastor of the First Presbyterian Church, San Diego, Calif.

JAMES MADISON HIGH SCHOOL PRESENTS THE ARMISTICE PROGRAM HONORING VETERANS DAY

Madison Auditorium—Period 4.

November 11, 1971—9:50 A.M.

Opening ceremonies—Madison Band.

Invocation.

Presentation of Colors—Madison R.O.T.C.

Language of Patriotism—Madison High School Students.

Music—Madison Band.

Keynote address—Removing the Veil, Second Corinthians, Chapter Two 4–18; Rev. Robert H. Mayo, D.D.

Closing Ceremonies—Madison Band.

The Armistice or Veterans Day draws our attention and respect for all veterans living and dead who served and are serving our country.

We also remind ourselves that the armistice is a day of peace, and high as the price was to win that day, it is our purpose to maintain peace and good will among men, but we do so as a free people.

VETERAN'S DAY PROGRAM, PERIOD FOUR

Chairman of the program, Tom Dargan, Madison Senior, 2nd period.

OBJECTIVE

To observe Veterans Day as a day of tribute and respect for all veterans living and dead who served their country and to unite with all citizens throughout the land, in celebrating the Armistice which means cessation of hostilities.

INTRODUCTION

This program is dedicated to the purpose of furthering our awareness of Veterans Day. It is a day of peace and thankfulness. It is also a day of looking into the future and wondering what it will bring in terms of peace or war.

We associate Veterans Day with the many who are fighting and dying every day. Think of their families and loved ones, also. And think too, of the response when these men have been called to serve their country. It is better expressed in a poem by Josiah Gilbert Holland.

Narrator.

GOD GIVE US MEN

God give us men. A time like this demands strong minds, great hearts, true faith, and ready hands.
Men whom the spoils of office cannot buy,
Men whom the lust of office cannot kill,
Men who possess opinions and a will,
Men who have honor, men who will not lie.
Men who can stand before a demagogue and damn his treacherous flatteries without winking.
Tall men, sun-crowned, who live above the fog
In public duty and in private thinking—
For while unruly mobs enflamed by those with baseless creeds
Their large professions and their little deeds
Mingle in selfish strife—Lo. Freedom weeps,
Wrong rules the land, and Justice sleeps.

Narrator or Chairman, Tom Dargan, 10:03.

We commemorate Veterans Day and honor every hard won peace—every effort to overcome aggression, tyranny, unjustice. We honor this day in tribute to our fighting forces, their families, sweethearts and friends who stood behind them. We pause as they did in the still Armistice after the conflict: Yorktown, Appomattox, No Man's Land on the morning of November 11, 1918, VE Day, VJ Day, to keep that momentary stillness a memory on an Armistice we hope some day will be permanent.

We also remind ourselves that Armistice or Veteran's Day is a day of peace and high as the price was that we paid for peace, it is our purpose to tread the path of peace and good will among men but we do so as a free people.

Finally, this day draws our attention and respect for all those we fought and are now fighting to keep our country free.

(Music Interval)

Narrator, Mary Jo Sandow, 10:05, 4th period.

The day set aside for Veterans Day is November 11. It is significant to remember this Armistice of November 11, 1918 because it symbolizes a peace after World War I that was to be peace for all time among all nations. It didn't quite turn out that way but we fought that war in a total effort and spirit that the men and women who gave their lives for this cause would not die in vain.

Narrator.

We honor all veterans on land, air, and sea. It has been exactly fifty-three years since the first World War ended with the Armistice on the battlefields of France. Only a few months earlier, American troops in force broke the three and one-half year stalemate that had soaked the earth of Europe with its blood since August, 1914. Around the world there was a universal joy with the news of peace. The war had been so gruesome and horrible. D. H. Lawrence: "All the great words to describe it had been used for a generation."

Narrator, Dennis Boudeaux, 10:06, Senior 8th period.

From March to August, 1918, the Germans massed eighty-two divisions and gave great offensives, all aimed at crossing the Marne River and on to Paris. For seventy-two days the Marne River rocked under a succession of major German attacks. "They shall not pass", was more than a by-word of the allied defenders.

The first real test for the American force was at Cantigny. Then at Chateau-Thierry and Belleau Wood, the Second and Third Divisions brilliantly smashed the spearhead of an enemy "V" pointing to Paris. Three days after it started, the German drive was crushed and the history of the world was played out in those three days. "Over the top" was heard all along the trenches as the allies prepared for the St. Mihiel and Meuse-Argonne offensives. The Americans beat their way through the vicious Argonne forest, and in the process they added the heroics of the Lost Battalion and Sgt. Alvin York.

Narrator, Laura Shiwanov, 10:08, Senior 2nd period.

American strength and spirit went into the war as though the effort would accomplish something of trancendental benefit for all mankind. When Johnny came marching home again, there were "welcome home" parades in towns and cities all over the land. At every depot and home port, our veterans hastened to rejoin their families—but for the thousands who would never come back, in our memory of them, we are reminded that winning by arms alone is not enough.

We must still win the peace.

Narrator, Denise McKenzie, 10:10, Senior 4th period.

The war had its lighter moments. There is the tale of the carrier pigeon direct from the Argonne battle swooping into headquarters with an "urgent" message which read: "I'm tired of carrying this stupid pigeon." Then there were the songs, the memorable unforgettable tunes of World War I—"K-K-K Katy", "Oh, How I Hate to Get Up in the Morning", "You're in the Army Now", "Till We Meet Again", 'It's a Long Way to Tipperary", "Pack Up Your Troubles", and "Good Morning, Mr. Zip, Zip, Zip." Those songs all conveyed a deeper meaning beneath the surface, they expressed the true nature of the American mood for peace, brotherhood with freedom.

(Music Interval)—World War I Songs and Marches.

Narrator continues.

These are the words of Captain John D. McCrae, a great soldier who fought in that war and didn't come back; but he left this message:

Denise McKenzie, 10:11, Senior 4th period.

IN FLANDERS FIELDS

In Flanders fields the poppies blow
Between the crosses, row on row,
That mark our places; and in the sky
The larks, still bravely singing, fly
Scarce heard amid the guns below.

We are the Dead. Short days ago
We lived, felt dawn, saw sunset glow,
Loved and were loved and now we lie
In Flanders Fields.

Take up our quarrel with thy foe.
To you from failing hands, we throw
The torch—be yours to hold it high.
If ye break faith with us who die
We shall not sleep, though poppies grow
In Flanders Fields.

Bob Calligan, 10:13, Senior 4th period.

Alan Seegar, a G.I. was among the first American soldiers to see action in France. He fell where he had a premonition he would in the midst of a barbwire entanglement during the Spring Offensive of 1918 in No Man's Land. A piece of paper dangling out of his back pocket contained his message; a poem that was to become the most famous verse of World War I.

Bob Calligan, 10:14, Senior, 4th period.

I HAVE A RENDEZVOUS WITH DEATH

I have a rendezvous with death
At some disputed barricade,
When Spring comes back with rustling shade
And apple blossoms fill the air—
I have a rendezvous with death
When Spring brings back blue days and fair.

It may be he shall take my hand
And lead me into his dark land.
And close my eyes and quench my breath—
It may be I shall pass him still.
I have a rendezvous with death
On some scarred slope of battered hill
When Spring comes round again this year
And the first meadow-flowers appear.

God knows 'twere better to be deep
Pillowed in silk and scented down,
Where Love throbs out in blissful sleep,
Pulse nigh to pulse, and breath to breath,
Where hushed awakenings are dear . . .
But I've a rendezvous with death
At midnight in some flaming town,
When Spring trips north again this year,
And to my pledged ward am true,
I shall not fail that rendezvous.

(Music Interlude)

Narrator, Arlene Hagey, 10:17, 4th period.

IN MEMORY OF HAMBURGER HILL

Albert Colletto wrote this poem after he fought in the battle of "Hamburger Hill" shortly before he was killed somewhere in the jungles of Viet Nam.

We owe many thanks to brave men like Albert Colletto.

Arlene Hagey, 10:18.

HAMBURGER HILL

As I crouch among the shattered trees
The fallen dead without shroud nor wreath
A soldier cried out "Come to me—please.
There was no need, he ceased to breathe.

The wounded dying, the dead already gone
A sergeant yelled, "get up, drive on."
With lead flying in from every way,
I didn't expect to last the day.

We fought hard trying to win
Pinned down halfway as night set in
"Dig in deep. Pass the word around."
Hold your positions and gain the high
ground."

They called our assault "Hamburger Hill."
It's one to remember as I always will.
Ask the wounded torn limb from limb
What more can they tell you
What could be more grim?

The dead left their message
On Hamburger Hill
For the living that is
That we bear no ill will.

The burden of war could be relieved
If love among men were somehow achieved.
That this be our purpose in word and in
deed
The promise of men as honor decreed.

Narrator concluding program, Sherri Lindmark, 10:20, 6th period.

In our respects to all Veterans on Nov. 11 this year we also respect their message to us which our program has tried to express. We particularly extend our regards and prayers to all Prisoners of War now in prison camps and who are serving their country there perhaps more than anywhere else. This poem was written by a Veteran American: Denise A. McCarthy. She inspires us all to celebrate Veteran's Day with thankfulness and compassion.

Sherri Lindmark, 10:21, 6th period.

"THE LAND WHERE HATE SHOULD DIE"

This is the land where hate should die—
No feuds of faith, no spleen of race,
No darkly brooding fear should try
Beneath our flag to find a place.
Lo, every people here has sent
Its sons to answer freedom's call;
Their lifeblood is the strong cement
That builds and binds the nation's wall.

This is the land where hate should die—
Tho dear to me my faith and shrine,
I serve my country well when I
Respect beliefs that are not mine.
He little loves his land who's cast
Upon his neighbor's word a doubt,
Or cite the wrongs of ages past
From present rights to bar him out.

This is the land where hate should die—
This is the land where strife should cease,
Where foul, suspicious fear should fly
Before our flag of light and peace.
Then let us purge from poisoned thought
That service to the States we give,
And so be worthy as we ought
Of this great Land in which we live.

Tom Dargan, 10:23.

We are honored to have with us as Guest Speaker for this program Dr. Robert H. Mayo who will deliver the Veteran's Day Address.

Dr. Robert H. Mayo, 10:25 to 10:35, closing ceremonies, Madison Band.

10:46 to 10:50, Dr. Robert H. Mayo places wreath on the tomb of the Unknown Soldier. Music by the Madison Band.

Continuation of this program at the National Cemetery, Fort Rosecrans—12:30 PM November 11, 1971.

Madison High School presentation of the Armistice wreath, Directed by Craig McNeil, Madison R.O.T.C.

Mr. W. J. Stratton, Superintendent, Rosecrans National Cemetery, Point Loma—San Diego, California.

At the Rostrum—12:30 PM—entrance to the National Cemetery from Highway 209 (Rosecrans Boulevard) near the Cabrillo Monument.

The Madison High School R.O.T.C. and student representatives will proceed to the National Cemetery and conduct the ceremonies for placing the wreath at the memorials for our war dead.

REMOVING THE VEIL

II CORINTHIANS 3:4–18

When Moses came down from Mount Sinai with the Ten Commandments, his face was veiled, presumably because the reflected glory of the Lord upon his face was so bright, the people could not gaze upon it. (Ex 34:33–35) But in our text (vs 13) the Apostle Paul adds the further suggestion that the face of Moses was veiled in order that people might not have to gaze upon the slow fading of that glory. It is a sad thing to see the fading glory of anything, whether it is a man past his prime, a nation in decay, or the fading glory of God in the life of an individual.

I have a thesis I want to suggest to you this morning—that the fading glory of a people is primarily a religious problem. The defeat of Athens in 404 B.C. was more than just a military defeat. Stripped of the things of which Athenians were once very proud, military power, Hellenic wisdom, and world leadership, Athens turned in upon herself and developed what Gilbert Murray, in lectures which he delivered at Columbia University in 1912, called "failure of nerve," compounded by a sense of guilt. During this period of her fading glory, Murray suggests the Athenian state developed four religious heresies: (1) Anti-nomianism, literally (anti-nomos from the Latin) anti-law, rebellion against the establishment. In the days of the Judges every man was described as doing what was right in his own eyes. (Judg 17:6) Today we describe the anti-nomian spirit, "Every man does his own thing." (2) An Athenian form of Zoroastrianism which divided the world into two warring factions, black and white. (3) Astrology. Murray says that astrology fell upon the Athenian people like some exotic disease on a remote island. (4) Cynicism. Diogenes and his Cynics dropped out of the world and forsook their culture to live the life of a dog.

Does history repeat itself? I really don't know, but the similarities are striking. (1) Cynical and disillusioned young people drop out of society to lead the life of a dog in hippie communes. (2) The anti-nomian spirit in youth rebels against the establishment and reacts against authority in the home, on the streets and on our campuses in their disrespect for our police officers. (3) Neurotic national guilt feelings are illustrated by My Lai and the trial of Lt. Calley. (4) A new interest in the occult, as even Presidential aspirants like Senator Harold Hughes express their faith in astrology. (5) The division of the world (literally) into warring factions within the ghettos, of the blacks and whites. Heresies thrive in spiritual emptiness! In a period of fading glory people seek to redeem a blighted culture with shallow and second-rate solutions and begin to worship false gods.

I plead not guilty! I refuse to be caught up in this national neurosis which results in a failure of nerve, and I refuse to yield to masochistic feelings which condemn our country for being imperialistic, mercenary, or warlike. I would suggest this morning that we stand before our God with unveiled faces, (vs 18) and these are some of the veils which I suggest need to be removed in this hour.

First, there's the veil of gloom and doom. Even our American history today is being taught in this kind of atmosphere. We are the first generation of Americans to be taught to be ashamed of ourselves. It is time for us to quit apologizing for our greatness and begin to take pride in those things which have made this nation to be great. We have heard it said so many times that civilizations become decadent after 200 years that, as we begin to approach our own Bicentennial, we have almost come to believe our culture is over the hill.

Secondly, I would remove the veil which has clothed Communism in a halo of decency and has made an aristocrat out of a wanton harlot. Actress Jane Fonda told 2,000 students at Michigan State University last November 22nd, "I would think that if you understood what Communism was, you would hope, you would pray on your knees that we would some day be Communists." (Detroit Free Press, Nov. 22, 1970) I presume Jane Fonda knows what Communism really is. She has spent enough time and money propagating its doctrines. But do you know what it really is? Do you know Lenin's legacy to youth? On October 16, 1905, Lenin wrote these revolutionary instructions: "Go to the youth. From fighting squads everywhere of 3, 10, 30 persons. Let them arm themselves at once as best they can, be it with a revolver, a knife, a rag soaked in kerosene for starting fires. . . . let 5 or 10 percent make the rounds of hundreds of workers' and student study circles, and supply each group with brief and simple recipes for making bombs." This prescription for revolution was given when the Russian people were bitter over their Naval defeat by the Japanese at Port

Arthur. The Encyclopedia Britannica says, "Patriotic feeling began to turn against the government. The war grew extremely unpopular." Be warned, Christian America! War weariness is Communism's opportunism.

Thirdly, I would remove the veil which confuses anarchy with dissent. The freedom to dissent is one of our most precious American freedoms. But the patriot exercises this freedom within the framework of the law. The anarchist expresses his dissatisfaction outside the law. The one is constructive; the other is destructive. President Nixon said to the graduating class at the Air Force Academy last year, "A nation needs many qualities, but it needs faith and confidence above all. Skeptics do not build societies; the idealists are the builders. Only societies that believe in themselves can rise to their challenges." I think it's time we began to believe in ourselves, to rally constructive support for our country, and to label the anarchist as the outlaw he really is.

Fourthly, I would remove the veil of military unpopularity, with the demonstrations outside recruiting offices, antagonism against recruiting offices on college campuses, and more recently, activities which sought to keep our ships from going to sea. The expulsion of Taiwan from the United Nations has greatly sobered me. The undisguised glee with which delegates from certain nations hailed the departure of Nationalist China is a very ominous sign that our U.S. diplomacy is at its lowest ebb. We cannot afford the luxury of fighting among ourselves, civilians against the military. We must recognize that we are all part of the same team.

A hundred years ago a British soldier wrote these words on a sentry box in Gibraltar:

"God and the soldier all men adore
In time of trouble and no more.
For when war is over and all things righted,
God is neglected and the soldier slighted."

There are no atheists in foxholes in wartime and no heroes at home in peace-time.

What if our military, fed up with their critics, vacated the perimeters of our national defense to the enemy and said, "All right, you armchair critics, you peaceniks, it's your war! You take it from here!" Military men don't initiate policy; they obey orders. They're not gangsters and assassins but patriots and Christians.

We all fight under the same national ensign, and live beneath the same banner of faith. We have the same common goal, the same idealism, the same citizenship, the same love for our Lord and for our country.

Fifthly, I would remove the veil which suggests that the only road to peace is the road of withdrawal and retreat. Moshe Dayan, Israeli Defense Minister, has said, "We would not achieve peace by retreating . . . what has been offered to us is retreat without peace." The bleeding hearts in Congress and in the clergy seek to convince us that our only alternative for peace is pacifism. We chip away and we chip away at our military preparedness until we have lost our military superiority. I do not believe that we could afford another Cuban crisis today in the Near East or the Far East or in Berlin, Korea, or South America. In an eyeball-to-eyeball confrontation with the Russians, I believe we would blink. And when we do, we relinquish our place of leadership in the world.

As Admiral Moorer, Chairman of our Joint Chief of Staffs, said to the graduating class at Annapolis a year and a half ago, "In international gamesmanship there is no prize for second place." Where did we ever get the idea that God can't operate through strength as well as weakness? Or that the solution to evil is to run from it, rather than stand and fight against it? Jesus said, "I have not come to bring peace, but a sword." (Mt 10:34) And if we remove from the Old Testament all the passages of Scripture in which God told the Israelites to fight against the enemy, we have a multilated Scripture. On one occasion He ordered the complete destruction of the Canaanites, every man, woman and child in order to eradicate evil from Israel. No commanding officer would give an order as harsh as that today. Take out of our Psalms the military songs, and we remove some of our most beloved hymns, including the Twenty-third Psalm. It is a privilege to be an American. Our faith is worth fighting for. But we don't preserve freedom with a naked ideal. We have to beef up our freedoms with the strength to sustain them.

Sixthly, I would remove the veil from patriotism itself. I am grateful for a service like this one. It sends chills up and down my spine to hear the voices in this great Sanctuary sing in unison "The Star-Spangled Banner." I think we as clergy and churchmen err by our silence when we fail to affirm those things which made this nation great. Before our Pilgrim forebears ever set a single foot upon that stern and rock-bound coast, they gathered together in the cabin of the Mayflower and signed a Compact: "In the Name of God, Amen. We whose names are underwritten. . . . Having undertaken, for the glory of God, and advancement of the Christian faith and honor of our King and Country, a voyage to plant the first colony in the northern parts of Virginia, do by these presents solemnly and mutually in the presence of God and one of another, covenant and combine ourselves together into a civil body politic." That is how it all began. That was the beginning of our country. "In the Name of God, Amen." Men and women, for the glory of God and the advancement of their faith, combined in a civil body politic. Never has that civil body politic been more threatened than it is in this hour. Never has it needed men and women to stand up and affirm their faith in this body politic more than now. We all abhor war as useless slaughter and waste. But cannot we, as Christians, seek peace with honor and victory and prove to the entire world that we have recovered from this failure of nerve?

Shakespeare wrote in Julius Caesar (Act IV, Sc 3):

There is a tide in the affairs of men,
Which taken at the flood leads on to fortune;
Omitted, all the voyage of their life
Is bound in shallows and in miseries.
On such a full sea are we now afloat,
And we must take the current when it serves,
Or lose our ventures.

We stand at the flood tide and a failure of nerve now can cause us to lose the venture. This is no time for the faint-hearted. Jesus said, "Would that you were cold or hot! So because you are lukewarm, and neither cold nor hot, I will spew you out of my mouth." (Rev 3:15–16) A vacillating people cry out, "Peace, Peace, when there is no peace" (Jer 8:11) because they have lost their pride, their honor, and their heritage. Jesus said, "Blessed are the peacemakers." Peace is something that has to be made. We have to work at it. It occurs only when we make sacrifices for it. There are no panaceas, no bargains in peacemaking. It will take the blood, sweat, and tears of every Christian to emancipate us from this failure of nerve. And that's why I feel that our problems today are primarily religious problems.

When Jesus came down from the Mount of Transfiguration, He was greeted by the father of an epileptic boy who said, "I asked your disciples to cast the devil from my son and they could not." (Mk 9:18 T.E.V.) Will the world say to us, the Christian churchmen of America today, "We asked you to cast out these devils which debilitate and destroy and you could not"?

There is an inscription on a 17th Century church in Leicestershire, England, "In the year 1653, when all things were throughout the nation either demolished or profaned, Sir Robert Shirley, Baronet, founded this church, whose singular praise it is to have done the best things in the worst times and hoped them in the most calamitous." What a tribute to a church! In an hour of crisis to do the best things in the worst times!

I believe we will rise to our challenge. Only a miracle can save our fading glory. Only a miracle can remove the veils caused by this failure of nerve. But within the church we believe in miracles. The Scripture said, "Where the Spirit of the Lord is, there is freedom," (Vs 17) and individuals filled with the Spirit of God will help us to recover our faith, preserve our freedoms, redeem the time (Eph 5: 16), and accomplish "the best things in the worst times." It will take a miracle. But Christian statesmen can pull it off. Then when we pledge allegiance to our flag, "One nation under God," it will not be blasphemous irony.

This is not the best possible of all worlds. There's room for improvement in the church and our nation, but I would rather be here, in this hour than any other place, at any other time, in the world's history. We can't rely solely upon our military leadership to provide the patriotism and they can't rely solely upon us to provide the faith. It's our privilege to serve both our God and our country in this hour. We will meet the challenge and we will solve our problems. I believe that this failure of nerve will become the foundation of our faith, and that through patriotic Americans and faithful Christians, we will recover our fading glory. But it is the flood time!

POLITICAL ADVERTISING ON TELEVISION

HON. SIDNEY R. YATES

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1971

Mr. YATES. Mr. Speaker, there has been a great deal of discussion about the quality of political advertising on television. Mr. John E. O'Toole, president of Foote, Cone & Belding Communications, Inc., discussed the subject in a speech on November 17, 1971, from the viewpoint of the experienced executive in the field of advertising.

I believe his views would interest Members of the House, and I am therefore attaching them to my remarks:

AND IF ELECTED, HERE'S WHAT I'D DO ABOUT POLITICAL TV SPOTS

Recently I found myself in Washington, D.C. In an earlier and more innocent era, that might be the last place you'd look for an adman. But in the balmy autumn of 1971 many of us were there at the cordial invitation of the Federal Trade Commission.

Washington is a city from which has been heard, in recent months, a lot of commentary about our business which might make the most hardened of us reluctant to tell our kids what we do for a living.

And as I was cabbing it back to National Airport, I thought about all the elected officials in that very city who had used television in their campaigns in ways that would never be tolerated for product advertising. I thought of abuses and misuses which, were they for a product, would never get past a continuity acceptance department. And I got mad. Not only because of the importance of the electoral process, but because I'm tired of the advertising business taking it in the seat of the pants for these excesses.

We have enough people on our backs now

without the thinking electorate of the United States accusing us of "packaging candidates" and "selling Presidents."

And we can do something about it. All of us in advertising agencies and particularly people in broadcasting. We can learn from the mistakes of 1970 and make 1972 the year some maturity enters the whole area of political campaigning on television.

And there is some evidence that mistakes were made in '70. A week after the November elections Foote, Cone & Belding interviewed more than 1600 people through our Monthly Information Service and the Gallup Organization. We wanted to know if voters shared our concern with the way TV was used. We found three-quarters of the sample favoring restriction or control of political advertising on television. Most were concerned about the inequity of TV time and funds among the candidates. Of those favoring restriction, 23% felt the content wasn't truthful or honorable enough. That percentage was higher here in the West, interestingly enough.

Well, how did we reach this sorry state?

It all began back in 1952, which happened to be the first election in which I was qualified to vote. More importantly, it was the first election in which television advertising was employed.

General Eisenhower, with the help of Robert Montgomery and Rosser Reeves, did a series of spots in which he answered questions asked by voters—usually ending with: "Let's clean up the mess in Washington." From there, for twenty years, the political use of television has, for the most part, gone downhill.

There have been some brilliant exceptions. The Kennedy-Nixon debates, for example—a format so candid and revealing it has been skillfully avoided by presidential hopefuls ever since.

There has been little subsequent use of debates and longer length expositions. In the 1968 campaign, 70% of the TV advertising was in "spots."

Meanwhile, television was getting a larger and larger proportion of the campaign media expenditure. 58 million dollars in 1968. And television time got more and more expensive.

As a result, the standard campaign today is a big reach/frequency spot effort of 10, 20, 30 and 60-second commercials: the most expensive form of communication this side of Telstar.

And if you can't afford it, you don't play. Even if you're an embryonic Abe Lincoln.

With that much cash going into media, needless to say a lot of people got their mitts into the creative work. A lot of people who don't share with most of us a certain respect for the powerful tools of mass communication and for the rationality of the individual.

Professional image-builders began to emerge and take over the creation and production of the messages. In the public mind, these people were lumped into the pejorative designation "Madison Avenue," although many of them didn't represent any recognized advertising agency.

But they talked like the worst huckster stereotype. And the statements they made about their craft—statements that would get one forcibly ejected from any reputable ad agency—sounded like this:

"Our job is to glamorize them and hide their weaknesses."

"It's much more important to know the man than to know his stand on an issue."

"If I had only three weeks for a campaign, I'd pick a pretty boy."

"He was a beautiful, beautiful body and we were selling sex."

"Voting is an emotional response."

Well, friends, in my opinion that's a sad compendium of cynicism.

The people behind those statements are making some mistakes about product advertising, too. But I won't get into that right now. Their fundamental error, if not sin, is in equating the communications program of a candidate for public office with the advertising of a consumer product.

If you say it's just like advertising packaged goods, the simile breaks down immediately. Most packaged goods are minor purchases. Most depend for their survival on establishing a predisposition to repurchase. The consumer's most effective response to a disparity between advertising claim and reality is never to buy it again.

When you "buy" a political candidate as a result of his advertising, you're stuck with the "purchase" for four years—with results that can be far more devastating than not getting your teeth as white as you'd hoped.

If you draw the comparison with a big-ticket purchase, the analogy crumbles just as quickly. An appliance, an automobile, an insurance policy are not sold by advertising. They are sold by a dealer or an agent. Advertising can only establish, in the mind of the prospect, an appropriateness between his need or life-style and the product, then direct him to the personal salesman and the actual product.

Unfortunately, this essential second step is missing if you apply the same techniques to selling a candidate. And the candidate offers you neither a money-back guarantee nor any kind of service warranty.

Furthermore, none of the safeguards imposed upon contemporary television advertising apply to political spots. Even the libel laws are suspended.

The NAB and network continuity acceptance departments wouldn't think of challenging the statements, claims and promises made by a political commercial.

Indeed, I wonder if the FTC is going to insist on the same kind of documentation from candidates as it demands from automobile manufacturers in 1972.

So it's not only insulting to the issues and office involved to equate them with claims for a can of soup, it's potentially quite dangerous.

But it's been done. Done consistently since 1952. And I'd like to show you some examples.

There have been commercials that didn't mention, much less provide an opinion on, a single issue.

Films:

JFK: "It's Up to You".

Nixon: "Nixon's the One".

Taft: "One Man Who Can Win".

There have been commercials that never once showed you the candidate.

Films:

Buckley: "John Wayne".

Evans: Water ID.

There have been commercials so caught up with image-building you wouldn't know there was a political campaign going on.

Film: Agnew: "My Kind of Man".

Some just registered the product name.

Film: Mezvinsky: "What's His Name?"

And there were unsubstantiated claims galore.

Film: Stokes: "Saturday Night".

Every now and then there's been one that attempts to emulate candor.

Film: Lindsay: "Snow Removal".

But primarily the theme has been disparagement.

Film: Johnson: "Hydrogen Bomb".

Disparagement and more disparagement.

Films:

Smith: "Police are Pigs".

Humphrey: "Laughing Man".

When communication like that can form an important part of a major political campaign, there's something very wrong. And since the advertising industry is being blamed for it, I think we ought to initiate some remedies.

One possibility is for advertising agencies not to accept a political account. This is the simplest solution. It's our solution at FCB at the moment. But I'm not sure it's the right solution.

I think the talents that reside in an agency could, under the right conditions, be ideal for creating and placing meaningful messages for a candidate.

What are those conditions? Well they certainly aren't a high-level, saturation barrage of spots.

The system adopted in England seems very reasonable to me. Under the Independent Television Act, political commercials are forbidden. However, during general elections the BBC and ITA allocate a certain number of free broadcasts to each party, the number based generally on the membership of the party.

In the 1970 elections, the Conservative and Labour parties each received five TV broadcasts of ten minutes duration and seven radio broadcasts of either ten or five-minute length. The Liberal party was given three TV broadcasts and four radio.

After a year-long study headed up by Newton Minow, the Twentieth Century Fund recommended something similar for the U.S.—one of the few nations in the world, incidentally, that allows political candidates to purchase TV time.

The Fund suggested that, during the last five weeks of a presidential campaign, all TV and radio stations simultaneously carry six prime-time half-hour programs featuring the candidates and attempting to "illuminate campaign issues and give the audience insight into the abilities and personal qualities of the candidates."

That sounds pretty reasonable, too. As an absolute minimum, I think we should have the restrictions on TV expenditures put forth in the bill approved by the Senate on August 5. This bill—which would also rescind the ridiculous equal-time proviso, at least for presidential candidates—made so much sense to both parties that it passed with an 88–2 vote.

But the House has turned it into a partisan political joke composed, as far as one can perceive through the procedural pandemonium, of a multiplicity of different plans.

Equally important is the *kind* of message to be used. Notice the word "message." The idea and terminology of political TV "spots" should be dumped forever.

10-second, 30-second, even 60-second lengths are inadequate and inappropriate for presenting a candidate to the voter.

These lengths defy a discussion of issues and encourage the shallowest kind of imagery, the shoddiest kind of logic and the most reprehensible kind of mud-slinging.

I'm in total agreement with Ward Quaal of WGN Continental Broadcasting who will not allow a political message of less than five minutes on his stations.

If, in an uncharacteristic display of responsibility, the broadcasting industry would follow Quaal's example and set a five-minute minimum on political messages, many of the abuses would automatically be eliminated.

I don't think any political image-builder would risk the ennui inherent in five minutes of groovy music and up-shots of a grinning candidate.

I don't think they could successfully refrain from giving us a glimpse of their man for five minutes or manage to elude every issue.

And I am at least hopeful that they would see the peril in a full five-minute implication that the other guy is a fascist freak.

But just in case, I would suggest a few simple guidelines that would not unduly restrict the creative construction of the message.

And these guidelines would be a code for political broadcast messages that the candidate himself would assent to in writing before he or his supporters would be sold time on any station.

One, the message should be designed to help the voter know and understand the candidate, his character and his ability to communicate.

Two, the message should establish what the issues are which the candidate feels are important.

Three, the message should clearly state where the candidate stands on these issues.

That's all. It's very simple. So simple that I'm sure many of the professional image-builders would smile at the naivety of such an ingenuous proposal. They'd probably point out that longer lengths would blow their reach and frequency and render their TV campaign ineffective.

I have a little too much faith in the intelligence of the American voter, having dealt with him as a consumer for some time, to buy that.

And, like a good adman, I also have some research. There was a study done on political broadcast advertising by the School of Journalism and Mass Communication at the University of Wisconsin. It was done in areas of Wisconsin and Colorado among 512 voters after the 1970 campaigns.

Here's the last paragraph of the introduction:

"The results of this study suggest that a moderate number of high-quality, substantively informative advertisements may be more effective than a saturation presentation of superficial image-oriented spots."

And here's the final sentence of the study: "Thus, the most effective advertising strategy would be one that allocates campaign funds away from a high frequency of exposure approach into a more modest number of ads containing substantive informational content that is presented in an interesting and entertaining manner by skilled producers."

"Yeah," reply the image-builders, "but how do you make it interesting and entertaining? Five minutes of a guy talking issues is about as exciting as watching paint dry."

Well, there's only one way to prove that this kind of political message doesn't have to be dull. To make one.

At the time that thought occurred, there were only two announced presidential candidates—Representative McCloskey and Senator McGovern. We placed calls to associates of both candidates. Only Senator McGovern's group responded, and he agreed to work with us in developing the kind of message I'm talking about under the guidelines I've set forth.

So last month, one of our producers named Burns Patterson and a damn good cameraman named Al Taffet went with the McGovern group to New Hampshire.

Out of the footage they shot, every inch of which was concerned with Senator McGovern's view of the problems and his proposed solutions, comes this model for the five-minute political message. At a cost, I might add, of about one-tenth of some of those orgies of imagery I showed earlier.

Film: McGovern.

I leave it to you to judge whether that kind of treatment is too dull or too cerebral for the American voter. It's serious, I'll admit. Not a pratfall or gag-line in it. But somehow I continue to regard that job on Pennsylvania Avenue as a rather serious matter.

Ever mindful of the equal-time provision, we're offering to do the same kind of message, at cost, for any announced presidential candidate from either major party.

So that's my platform, fellow Americans. I'm urging the House to stop weaving loopholes into the bill to restrict candidates' TV expenditures.

I'm urging the broadcast industry to set a minimum length of five minutes on all political messages. And to insist that the the content concern itself with the candidate, his view of the issues and his proposed solutions.

And I'm urging all of us in the advertising business not to be beguiled into making commercials that confuse a candidate and an office with a deodorant and an armpit.

If these minimum standards of responsibility aren't observed—if we have an encore of those abuses that characterized television campaigning in '70—those fragile strands of public confidence that we're trying so hard to maintain for advertising could be eroded entirely.

And November 1972, is only twelve months away.

TRIBUTE TO AMERICAN VETERANS OF WORLD WAR II

HON. LOUISE DAY HICKS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1971

Mrs. HICKS of Massachusetts. Mr. Speaker, on this occasion, exactly 30 years following the enemy attack on Pearl Harbor, I would take the opportunity of expressing the most profound admiration for those Americans who served in the ensuing global conflict and in so doing revealing to the world the spirit of democracy engaged against the greatest odds.

The exact moment of the attack in question is officially recorded at 7:55, Sunday morning, December 7, 1941. Actually, it may have been a few seconds earlier or later; nobody can be quite positive. Men were fighting and dying at that moment and 7:55 a.m. is as close as historical precision can come.

The first bomb cluster to fall wobbling from the first enemy plane engaged on that occasion exploded the United States into the shocking realities of a world war. It took a while for men to recognize the fact and some men died before they were fully aware of what was happening. But in a matter of moments everybody in the United States knew that war had come.

What was not then recognized was that in this moment the world itself had changed forever—for, in the lockstep of history, the first bomb to strike Pearl Harbor became the A-bomb, blasting the life out of Hiroshima; and with this development the machine age gave way to the nuclear age in which we live, precariously, today.

Forces set in motion by Pearl Harbor—dramatic as they have been over the past three decades—are expected to produce more changes equally dramatic before the turn of the century three decades hence.

The war triggered by Pearl Harbor altered the course of world politics, transformed the maps of Europe and Asia, shattered empires, and loosed the forces of change on every hand. When the fighting stopped in 1945, America stood as the unchallenged power of the world. As the one nation with nuclear capabilities at that moment, the chance for world domination was in our grasp. But America could not play that role, and turned away in hope of better things. Disarmament became our national policy and full dependence on the noble intentions of the United Nations.

Had we acted differently, who knows how it all would have worked out? As it is, we have seen a million hopes and dreams crushed by the impact of aggressive power politics, the ineffectiveness of world diplomacy, and the continued ravages of war.

We have seen, too, the dramatic growth of world communism, since World War II, establishing political domination over more than a billion people—a startling picture, tempered only by schisms in the Communist ranks and the growing realization that Communist economics are no match for the capitalist brand. Most Communist nations today are striving to find ways of incorporating the profit incentive and the mechanics of the marketplace in their own system.

But the changes generated by Pearl Harbor are not concerned exclusively with politics and power. In America, the aftermath of Pearl Harbor included the release of scientific and technological forces revolutionary in nature and of staggering significance. Nuclear power, challenging the position of all other forms of energy. Computer development, remaking the world of commerce and recordkeeping in general. Space exploration, opening avenues to intensive expansion of the rocket industry, to miniaturization in many fields, to development of new metals, and to new and broader horizons of scientific thought.

All of this evolved from the drama of World War II, and for every shortcoming we have suffered in the process there is the sobering realization of what would have happened had we not come out the victors in that war.

As national populations climb to a new zenith; as technology creates mechanical marvels to perform the work formerly performed by human hands; as minerals and other natural resources continue to be swallowed by the voracious gullet of hungry civilization—while all this goes on, mankind is rallying to meet the struggles of the future; as if, after years of internecine war, the people of the world were suddenly ready to make a stab at unity, in the knowledge that falilure in this regard could well mean the failure of all mankind in its long, perilous contest with the elements. Indeed, if this is to happen, it will be none too soon.

Whether or not such unity is possible remains to this day a major mystery. Certainly, if precedent is to be followed, universal action in behalf of peace is an impossible development. On the other hand, necessity is a powerful argument, and the threat of nuclear war just may, possibly turn out to be necessary, in the eyes of all the people and rulers of the world, regardless of moral, ethical, or spiritual training or understanding.

In this event, the participants in the conflict detonated by Pearl Harbor will be able to say—"Yes, we were there when it happened. We were there when the plain old nickles-and-dimes world of the 1940's changed overnight into the smashing, blinding wonder of the nuclear age. We were involved in the battle for survival that became, in time, atomic retaliation. In short, we were a part of the military miracle of the ages—the miracle that was to lead the world either to blazing universal destruction, or to the great era of the nuclear peace.

This is how the world changed at 7:55 a.m. on the morning of December 7, 1941. The first Japanese bomb led to Hiroshima and the creation of the total peril, the global target, the nameless burning city.

The event to which we pay homage on this occasion—American resistance to the Pearl Harbor attack of 1941—signaled the entrance of our country into a war against slavery, and as such shall be eternally remembered by freedom-loving people everywhere. That alone is sufficient reason for hailing its participants as heroes of the highest stature. But there is more to it that that. Those who gave their lives in that holocaust did so far a noble reason—to crush the power of the war mongers and war itself, if that were possible.

As beneficiaries of the American victory in World War II, we are called upon to attain the purposes for which our heroes died; and of all these, the most vital, it would seem to me, would be attainment of the peace so vital to our cause.

Anniversaries do not create real emotions. They merely italicize them. On any day of the year, a visitor to Pearl Harbor can feel sorrow and regret over death and defeat, and pride at men's bravery and a nation's recovery, or bitterness or hate, if that he brings with him. To feel these things it is not necessary to wait for December 7.

But anniversaries do have a way of distilling in the mind the meaning of the intervening years. In this instance, looking back to 1941, it would seem proper to think in terms of peace, whenever possible.

There are still all kinds of fish among us—sharks and minnows, tunas and whales—but Pearl Harbor created for us all the universal fishpond, of which it truly can be said that either everybody sinks or everybody swims. There is no longer a freedom of choice in this perilous regard.

PRINCE SIHANOUK'S PLANS FOR AN END TO THE WAR IN CAMBODIA

HON. PAUL N. McCLOSKEY, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1971

Mr. McCLOSKEY. Mr. Speaker, Mr. Cyrus Eaton, of Cleveland, Ohio, who has long been in the forefront of the search for world peace, recently received a cable from Cambodian Prince Norodom Sihanouk, now in exile in Peking.

The cable outlines Prince Sihanouk's plans for an end to the war in Cambodia and a return to the status quo which existed prior to our invasion of Cambodia on April 30, 1971.

In view of the fact that Premier Lom Nol has recently expressly abandoned the concept of a democratic government in Cambodia and in view of the immense devastation of Cambodia being wrought by U.S. air power at the present time—over 2 million refugees—it would seem appropriate that we reconsider our policy with respect to Cambodia. I am pleased to insert in the RECORD at this point a recent Chicago Sun-Times column on Prince Sihanouk's views as expressed to Mr. Eaton:

[From the Chicago Sun-Times, Dec. 1, 1971]

EATON TELLS SIHANOUK PLEA FOR END OF WAR IN CAMBODIA

(By William C. Harsh Jr.)

Industrialist Cyrus Eaton disclosed Tuesday a cable from exiled Cambodian Prince Norodom Sihanouk appealing to the U.S. people to aid him in restoring Cambodian independence and neutrality.

Sihanouk, who was deposed in a coup d'etat March 18, 1970, cabled Eaton, an old friend, from his exile residence in Peking. He asked Eaton to "inform the American people of the terms of this telegram."

Eaton disclosed the contents of the cable during an interview with the Sun-Times at at Drake Hotel Tuesday.

"I would dare to hope that the American Congress and government would soon cease the aerial warfare against my people and (bring about) the complete end of the war in Cambodia," Sihanouk said in the cable, dated Nov. 16.

"In order for this war to be brought to an end, it will be sufficient if the Congress definitely refuses credits from your country in aid of the warlike and unconstitutional fascist regime in Phnom Penh.

"I can assure you that my government has the simple goal of re-establishing the status quo ante of Cambodia, that is to say its independence and its neutrality.

"It will not be a question of communizing Cambodia and even less of letting it become a satellite of Communist Vietnam, which, regardless of the recent views of Washington personalities, has no designs on my country.

"Under these circumstances, President Nixon should not continue to dispense excessive sums paid by the American taxpayers to enable the unjust survival, at any cost, of the Lon Nol regime against the wishes of the Khmer (Cambodian) people, who crave peace and the return of Cambodia to its 1947 constitution, to its independence and to its nonalignment before March 18, 1970."

Eaton, chairman of the board of the Chesapeake and Ohio Ry., Co., is a world traveler and maverick capitalist who contends that U.S. industry is ignoring "unlimited markets" by refusing to trade with communist nations.

He said he visited Sihanouk in Cambodia prior to the prince's ouster.

"I think this man is honest," Eaton said. "He is kindly, gentle and fond of music. He stands for the finest things in life, and posterity will condemn the acts of statesmen who have been invading and destroying his beautiful country."

Mr. Nixon ordered U.S. troops to invade Cambodia in May, 1970, and troops of South Vietnam have operated inside the country at various times since then.

"It grieves me very deeply to have that little country, about the size of Missouri, devastated by giant American bombers, with their destructive bombs killing defenseless women and children," Eaton said.

"I feel that in the long history of man's inhumanity to man there has never been a greater example of cruelty than America has exhibited against that little country that never did any harm to us and sought friendship."

"The historian, the playwright and the novelist of the future will tell that story and it will arouse the pity of people all over the world. And they will reflect gravely upon the humanity and the integrity of the United States," Eaton said.

Cambodia is a remnant of the Khmer Empire, which built wonders such as the ruins at Angkor Wat before it fell in the 13th Century.

Sihanouk, 49, spent most of his time since assuming power in 1941 balancing the United States, France, Russia and, more recently, China in an attempt to ward off Cambodia's ancient enemies, the Thais and Vietnamese.

But, Eaton said, "I believe he was doing his best to keep his country neutral. At times there would be people from North Vietnam there, that's true. But there would also be a number from South Vietnam and the United States always had many people in Cambodia."

FARM SUBSIDY PROGRAM: CLASSIC EXAMPLE OF FOX GUARDING THE HENHOUSE

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1971

Mr. ANDERSON of California. Mr. Speaker, earlier today, I spoke on the waste involved in the farm subsidy program.

The current law, which allows a Federal payment of $55,000 per crop, per farm, is so fraught with loopholes and ambiguities that even the administrator of the program, according to the Washington Post, collected $190,000 in payments in 1970 and approximately $95,000 this year.

Not only are the giant agribusinesses reluctant to be weaned from the Federal trough, they have one of their own doling out the taxpayer's money.

Mr. Speaker, when a so-called public servant collects a Federal payment of $95,000—not for doing his job in the public interest, but rather for operating a farm that he is supposed to regulate—we need a reevaluation with an eye toward revamping both the program and its administrators.

For the benefit of those students of government who are interested in a classical example of "the fox in the henhouse" theory of government regulatory agencies, I include in the CONGRESSIONAL RECORD the following article which appeared in the Washington Post on December 8, 1971:

SUBSIDY CHIEF'S FARM PROBED

(By Nick Kotz)

Agriculture Department official Kenneth E. Frick, along with more than one-third of his farmer neighbors in Kern County, Calif., have been reported in violation of crop subsidy regulations. Frick runs the federal program.

Frick, administrator of USDA's Agricultural Stabilization and Conservation Service, confirmed reports to The Washington Post that his own farm, now operated by a trust, and 467 others have been cited for violating program regulations. Kern County is the nation's second richest in farm receipts and ranks second in federal subsidies. The county's 1,190 farmers will receive $27 million in federal payments this year, primarily from the cotton program.

Farmers are paid federal crop subsidies in return for taking part of their land out of production in an effort to balance supply and demand. The alleged Kern County violations include failure to take enough land out of production, counting non-farm land as retired land, and illegally evading the $55,000 per crop limitation on farm payments.

Frick stressed that official findings have not been made in any of the cases, and that farmers still may prove that they were complying with program regulations. Frick's office is in charge of enforcing regulations for the several million farmers in the subsidy program.

In addition to an investigation by Frick's farm program office, the Kern County situation now is being investigated by the General Accounting Office and USDA's Office of Inspector General.

Frick said the alleged violations in Kern County would be the most extensive in any county in the country. He said many violations probably resulted from the unfamiliarity of farmers with a new cotton program. Nevertheless, the federal official running the program in Kern County has been suspended.

Frick and his deputy administrator, Charles Cox, said the alleged violations on Frick's farm involved use of improper land as retirement land.

Cotton farmers such as Frick are required to "set aside" from production acreage equal to 20 per cent of their cotton allotment acreage. The retired acreage must be as productive as the land in production.

Cox said the Frick farm had been cited for using several acres of non-farm land (previously used as a windbreak) as his retirement land, and for using other land of questionable value for "set aside" purposes. The Frick farm and numerous others were cited by inspectors as retiring alkali land (high in salt content) rather than land comparable to that in production.

Frick said his farm interests are held in trust by the Bank of America and his farm land is managed by his brother Howard. He said the 3,000-acre farm received $190,000 in cotton payments in 1970 and about $95,000 this year. Both Frick and his brother would be entitled to a maximum $55,000 payment.

Questioned whether he is not, in effect, investigating a violation on his own farm, Frick said: "I have confidence in our inspection system. The system triggered this examination of farms. As to my farm, my brother is in charge of it and will have to answer for it."

Frick's assistant Cox then added: "Our instructions (from Frick) are to treat his farm like any other farm."

Frick said discrepancies were first turned up in Kern County in a routine "spot check," in which department inspectors visited states in which they do not normally work. Because of numerous discrepancies, Frick said, his deputies then ordered a check made of each of the county's 1,190 farms. Again, the check was made by inspectors from out of state.

He said the determination of violations is now in the hands of the Kern county ASCS committee, under supervision of the California state committee. However, he said one member of the three-man county committee is not participating in decisions because his own farm is being questioned.

Frick stressed that the county and state committeemen are elected by fellow farmers and thus are free to criticize any farm, including his own.

Cox said the inspection team turned up 547 violations on 468 farms. He said the team considered violations as "serious" on about 200 farms.

Cox said farmers could lose part of their federal farm payment for minor infractions and the entire payment for major violations. Severe violations, including fraudulent evasion of the $55,000 payment limitation, could lead to criminal prosecution.

Frick emphasized that he had initiated the "spot checks" that turned up the Kern County situation, because "we wanted to make sure that farmers understood the new cotton program and that it was working adequately."

"What we found in Kern County, I would have to describe as 'bad'," said Cox, in a joint interview with Frick. "It was not typical."

NATIONAL HEALTH INSURANCE

HON. DONALD G. BROTZMAN

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1971

Mr. BROTZMAN. Mr. Speaker, during Thanksgiving week the Ways and Means Committee, on which I am privileged to serve, completed 5 weeks of hearings on a myriad of proposals generally known as national health insurance. Witnesses from all sectors of the American society were heard, and I was highly impressed with the concern exhibited by all those who testified. The hearings have made it clear that some form of Federal assistance will be necessary if quality health care is to be within the reach of all Americans.

At the outset of the hearings, I had no preconceived notion as to which, if any, of the proposals offered the best solution. Most of them contain features which, to one degree or another, would ease the financial burden brought on by catastrophic illness. Also, many of the proposals seek alternate methods of providing for the medically indigent since nearly everyone agrees that medicaid is not the answer for the poor.

Although I was not partial to any one bill at the beginning of the committee's hearings, there were several principles which I felt had to be embodied in whatever solution the committee might devise.

The first overriding principle is that we must build on the best of the present system. The fact that our health delivery system and our health financing system are not perfect does not mean that they are devoid of merit. I cannot accept the notion that the only way to answer our health care problems is to create another Federal bureaucracy. To the contrary, some of the programs now having the most trouble are those run by the Federal Government. Thus, the best national health care bill must build on that which is good in the current system.

My second principle is that there must be a choice for the patient. The patient must be free to determine not only his physician, but also the type of delivery system he prefers—be it the sole practitioner, the prepaid group, the hospital emergency or outpatient department, or any other delivery system that enterprising individuals might develop in the future.

The third principle says that Federal dollars should go most to help those who need it the most. The supply of dollars is limited. Each of them comes from the earnings of the American taxpayer. The Government should help persons who cannot afford to pay their bills, because of illness. I cannot, however, support a program which would utilize tax money to care for those who can pay their own way without incurring special problems.

Fourth, a program involving public funds should provide standard comprehensive benefits to the recipient. Certainly some form of protection against a catastrophic illness must be included. At current hospital costs, very few persons could avoid financial ruin if they were to contract a long, serious illness requiring extensive hospitalization. Also, there must be a stress on preventive care and ambulatory care.

My fifth principle is that there be review mechanisms for cost and quality of care with true professional review at local levels. The public must be assured that it is receiving the maximum return on its dollars.

The sixth and final principle is that there should be cost sharing and coinsurance unless one is totally without resources. To me, it is imperative that the individual be aware of the cost involved. People must not be permitted to disregard the cost of health care, because they feel "the Government is paying for it."

Throughout the hearings I attempted to measure each of the national health insurance proposals against the six principles I have just mentioned. Naturally, some proposals fared better than others. One proposal, the Health Care Insurance Act, most closely reflects my own thinking at this point, and I am today introducing this measure.

The general approach of the Health Care Insurance Act is to provide tax credits against individual income taxes to offset the premium cost of qualified private health insurance policies. To qualify, a policy must include catastrophic benefits and certain specified basic hospitalization benefits. The amount of the credit would vary with the income of the taxpayer. Those who pay no tax at all would receive a voucher for the purchase of health insurance. Those whose tax liability is over $891 per year would receive a tax credit in the amount of 10 percent of their health insurance premiums. A sliding scale is provided for determining tax credits for persons in between those two extremes.

The bill utilizes the existing devices of financing health care. It in no way impinges upon the patient's right to choose a physician or method of health care. The greatest amount of public support goes to those most in need. Provision is made for catastrophic illness. And, except for the poorest members of our society there is coinsurance. In short, the approach taken by the bill parallels what I believe to be the essentials of a sound national health care plan.

Mr. Speaker, of particular importance in the Health Care Insurance Act is the provision for catastrophic illness. Ironically, it has been the great strides in medical knowledge which have made catastrophic illness such a threat. Illnesses which were once fatal, and rapidly fatal at that, can now be cured, but often the cures require long hospitalization and expensive initial surgery and sometimes continuing surgery and high cost treatment.

The point at which medical expenses become catastrophic varies from family to family, largely on the basis of family income. This is recognized by the bill which provides a sliding scale for the level at which catastrophic insurance coverage must be afforded. Essentially, the bill defines catastrophic illness in terms of family income. The deductible for catastrophic care would be 10 percent of the first $4,000 of taxable income

15 percent of the next $3,000, and 20 percent of additional income. Thus, in the case of a family of four with an income of $3,000, any expenses beyond basic hospitalization coverage would be viewed as catastrophic. For those families of four with an adjusted gross income of $7,500, the catastrophic deductible would be $338. Those with family adjusted gross incomes of $20,000 would be expected to pay for the first $2,250 of the excess of their basic hospitalization coverage, and so on.

No American family should lose its home and its hope for the future, because one family member has the misfortune of suffering from a catastrophic illness. One catastrophic illness would place the overwhelming majority of Americans on the brink of financial disaster. And, perhaps saddest of all, the next generation might be denied an education or otherwise denied a chance to get ahead in the world due to the loss of family savings brought on by a catastrophic illness.

Mr. Speaker, I still do not believe that a national health insurance bill has been drafted which cannot be improved. However, I believe the bill I am introducing today represents a solid approach, and I hope an approach which will be embraced in the Ways and Means Committee when consideration of the national health bills is resumed.

COAST GUARD COMMENDED FOR ROLE IN OPERATION DEEP FREEZE

HON. EDWARD A. GARMATZ

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1971

Mr. GARMATZ. Mr. Speaker, on Monday, December 6, the U.S. Coast Guard cutter and icebreaker, the *Southwind*, departed Baltimore for a 4-month expedition to Antarctica, where the ship and its officers and crew will participate in Operation Deep Freeze.

Operation Deep Freeze is basically a naval operation, conducted to support the United States programs in Antarctica, including military and scientific missions. Although the men who participate in these missions deserve recognition for their outstanding contributions, the hardships and rigors they endure receive little or no publicity or public attention.

Mr. Speaker, I want to say that I hold great esteem for the Coast Guard, and I participated in a bon voyage ceremony aboard the *Southwind*, because I felt the officers and men of this vessel should know that their outstanding service is valued and appreciated.

The schedule of the *Southwind*'s voyage is as follows:

December 14—Arrive Canal Zone.

December 15—Transit Canal Zone.

December 16–18—Visit Rodman, Canal Zone.

December 27–31—Visit Valparaiso, Chile.

January 6–7—Visit Punta Arenas, Chile.

At Punta Arenas, approximately 32 scientists from the universities of California, Idaho, Scripps Institute, Texas Tech, and Ohio State, and from numerous government agencies, will board the *Southwind* for transport to Deception Island and Palmer Station, which are located along the northern peninsula of Antarctic. These scientists will then form into separate smaller groups to conduct various studies on the land and water areas of the Antarctic Continent.

Upon arrival at Palmer Station, the *Southwind* will assist with resupply operations and will provide approximately 50,000 gallons of fuel for this year-round naval facility. Since the station is completely isolated during the long austral winter, these resupply activities take on a special significance in insuring the very survival of the wintering-over personnel.

After the completion of the resupply assignment, *Southwind* will journey even farther south into the Amundsen/Bellinghausen Seas to assist Dr. Albert Erickson and a scientific party from the University of Idaho in a study of the abundance, distribution, and status of the Antarctic seal population. The two amphibious helicopters aboard the *Southwind* will be used in this venture, and the study will provide essential propagation information for use in the future management of the entire world's seal population.

On approximately February 28, the *Southwind* will return to Palmer Station, then proceed back to Punta Arenas, Chile. The remainder of its return voyage home will be as follows:

March 4—Depart Punta Arenas.

March 9–13—Buenos Aires.

March 17–21—Rio de Janeiro.

April 6—Arrive Coast Guard Yard, Curtis Bay, Maryland.

Mr. Speaker, during my visit to the *Southwind* in Baltimore, I made a brief speech, in which I commended the Coast Guardsmen for their role in Operation Deep Freeze. At this point, I insert my remarks in the RECORD:

REMARKS BY CONGRESSMAN EDWARD A. GARMATZ

Captain Schwob, and officers and men of the *Southwind*.

Each time I see a Coast Guard cutter off, I marvel at the complete dedication of Coast Guardsmen.

My admiration is doubled today, because you are embarking on a rigorous and long voyage—and you will face many hardships and hazards—far away from your friends, family and other loved ones.

And yet, despite the difficulties you may encounter, as other Coast Guardsmen have in past tours of the Antarctic, I am sure your voyage will be a memorable one, and one of the outstanding experiences of your life.

Certainly, you can be proud, because you will be providing supplies to naval personnel that will be essential to their very existence. And you will be assisting scientific missions that will gather information which will help us all to better understand a hostile environment—and to preserve and protect the animals that live in that environment.

And so, because you will share in such a rewarding experience, and because you will be making such lasting contributions, I envy you as you depart for your adventure at the bottom of the world.

I am sure you have all heard the old adage about "wooden ships and iron men."

This seems to imply that our seamen are not up to the standards of those who sailed the seas before them.

But you, here on the *Southwind*, are living proof that this is not so. We now have steel ships and steel men.

As she has done for almost thirty years, *Southwind*, and the crew that mans her, will once again do the job quietly, efficiently—and with great pride.

Although I am not a sailorman in the true sense of the word, I have been so closely affiliated with the Coast Guard for so many years, that in the best traditions of the sea—

I wish you fair winds and following seas.

WHY IS THIS OFFICIAL STILL AROUND?

HON. JOHN G. SCHMITZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1971

Mr. SCHMITZ. Mr. Speaker, last month a most revealing article by veteran reporter, Clark Mollenhoff, appeared in a Washington publication detailing the questionable background of the Deputy U.S. Representative currently assigned to our negotiation team at SALT, Mr. J. Graham Parsons. As I previously pointed out before this body on May 12, Mr. Parsons was one of the key figures behind the incredible attempt by the State Department to smear the fine record of Mr. John D. Hemenway, a former Foreign Service officer who for 3 of his 14 years with the State Department had worked as Chief of the Berlin section in the Office of German Affairs. Indeed, after having served in Government service with loyalty and distinction for 24 years—and acquiring an unblemished record—he was dismissed without a pension.

And why was Mr. Hemenway the victim of such a harsh reprimand?

While occupying his important position in Berlin it appears that Mr. Hemenway had made the disturbing observation that his immediate superior, Mr. Alfred Puhan, was consistently deciding vital issues in favor of the Communists and actually engaging in activities which were clearly detrimental to the precarious prestige of the United States of America.

After trying in vain to warn Secretary of State Dean Rusk of the damaging activities of this serious security risk, Mr. Hemenway soon found that not only had his well-documented reports fallen on deaf ears, but that he himself had become the subject of a whitewash investigation requested by Secretary Rusk. Mr. Hemenway's reports were contemptuously rejected out of hand by the two investigators assigned to his case, former Ambassador to Iceland James Penfield—now retired—and J. Graham Parsons, a former Ambassador to both Laos and Sweden.

As a result of their investigation, in January 1969, Mr. Hemenway was fired by the Secretary of State he had tired so hard to alert. Stranger still, despite the fact that his adversary, Alfred Puhan, had long been known by intelligence agencies to be just what Mr. Hemenway had accidentally discovered—that is, a serious security risk—Mr. Puhan was actually promoted by Secretary Rusk to the strategic post of Ambassador to Hungary.

Just prior to the "selecting out" of John Hemenway, a derogatory report on his aggressive pro-American conduct was prepared by Ambassadors Parsons and Penfield and placed in his State Department file to justify that dismissal. Some further elements of this duplicity can be seen in an insertion made in the CONGRESSIONAL RECORD of December 3, 1971, by Hon. JOHN M. ASHBROOK, 44659, entitled "Dangling State Department Dirty Linen in Other People's Yards."

That highly distorted Parson-Penfield report purported to show that there had been no impropriety in Hemenway's discharge and while withheld by the State Department for many months became a key document vital to a hearing sought by Mr. Hemenway before an impartial grievance board. The report prepared by these two career officials, we might add, reached this extraordinary conclusion:

> While we are not qualified to evaluate the charges (raised by Hemenway) or the rebuttal (by Puhan and Johnpoll), we find the latter prima facie persuasive.

And, as has been previously noted, Mr. J. Graham Parson is presently our No. 2 man at Vienna in the sensitive and momentous arms control and disarmament talks with the U.S.S.R.

So that the record of this man Parsons will be abundantly clear, since he was one of the authors of that controversial and damaging report condemning John D. Hemenway, I insert at this point in the RECORD the article by Clark Mellenhoff as it appeared in the November 27, 1971, issue of Human Events: "Why Is This Official Still Around?":

WHY IS THIS OFFICIAL STILL AROUND?

(By Clark Mollenhoff)

Hopefully, the optimistic reports President Nixon has been making on progress at the Strategic Arms Limitation Talks (SALT) do not come only through Deputy U.S. Representative J. Graham Parsons.

The unwarranted optimism of Ambassador Parsons has become legend in the U.S. State Department. The questioning of that optimism started with a House Government Operations Committee report in 1959 that castigated Parsons for the overzealous projections of Communist weakness that turned out to be so poor that they served as the subject of the first chapter of William J. Lederer's book, *A Nation of Sheep*.

Lederer, one of the co-authors of *The Ugly American*—another controversial book on Americans in foreign affairs—used the "erroneous reports" of Ambassador Parsons to dramatize what was wrong with American foreign aid programs.

Those who followed the earlier investigation are astounded that Ambassador Parsons is still around after the stormy session he had in 1959 with the chairman of a House investigating subcommittee. Parsons was ambassador in Laos from 1956 to 1958, and so was ultimately responsible for major corruption and mismanagement that flourished in that troubled Southeast Asian country.

One section of the report dealt with the illegal manner in which Parsons ousted an investigator for the General Accounting Office (GAO) who was in Laos in 1957 to investigate favoritism, conflicts of interest, and bribery in foreign aid contracts.

Ambassador Parsons ignored the complaints of corruption and mismanagement but expended great energy in hiding the mess in Laos from Chairman Porter Hardy (D.-Va.) and his staff of investigators.

The subcommittee evidence indicated that International Cooperation Administration (ICA) Auditor Haynes Miller "was 'railroaded' out of Laos because he was close to discovering the truth about Universal (Construction Co.), its bribes, its virtual monopoly of U.S. AID construction projects . . . and its woefully inadequate performance."

The actions to remove Auditor Miller seemed to indicate a conspiracy was at work within the U.S. Embassy in Laos to eliminate those officials who were complaining of fraud and mismanagement and to shield the men involved in the wrongdoing.

Miller's reports and his persistent efforts to get something done about deficiencies in the program only brought trouble from Parsons. Some of Miller's superiors and associates complained to U.S. Ambassador Parsons that Miller was "unable to adjust" to duty in Laos. Parsons sent a telegram to Washington stating he had invited the investigator to resign "because of obvious signs of nervous disorder."

"Ambassador Parsons' opinion of Miller's 'nervous disorder' was rendered without benefit of medical advice," the House Government Operations Committee reported. "This is contrary to Department of State regulations. Competent medical advice was available to the ambassador and could have been solicited."

"One month later, on Oct. 30, 1957," the report went on, "Miller was subjected to a full medical examination in Washington, and certified as 'qualified for general duty.' "

Officials of the AID program excused the deficiencies and maladministration in the Laotian program, with the claim that the AID program had saved Laos from communism.

"The assertion is purely speculative, and can be neither proved nor disproved," the House said in 1959. That was two years before it was generally recognized that a corrupt AID program actually may have helped the Communists in Laos.

The corruption in the Laos program gave substance to the general Communist charge of U.S. decadence. The report said that "Edward T. McNamara, (ICA) public works and industry officer, accepted bribes totaling at least $13,000 from Willis H. Bird and Gerald A. Peabody of Universal Construction Co., in return for helping them secure lucrative contracts and overlooking deficiencies in their performance."

McNamara and several others were later convicted of federal crimes in connection with the incident, thanks to the work of the Hardy subcommittee and no thanks to Ambassador Parsons. Parsons sacked Miller, the first ICA investigator who called attention to the frauds.

Parsons, by that time, had been elevated to the post of assistant secretary of state for Far Eastern affairs, and he was later named as ambassador to Sweden.

Rep. Hardy, who has since retired, went to the White House to object to President John F. Kennedy. Kennedy, with an air of futility, commented: "There isn't much I can do about that State Department. He will not do us much harm as ambassador to Sweden."

Parsons served as ambassador to Sweden from 1961 until 1967, and then served as one of the senior ambassadors on promotion panels until he was named to be deputy U.S. representative to the SALT talks in September 1970.

But he is even now embroiled in two personnel cases in which it is charged that only superficial investigations were conducted that gave a completely distorted view of the facts. In each case Parsons went along with the State Department establishment and, instead of digging into the complaints, he pursued the complainer. Both of these cases are in litigation in the personnel division.

It would seem that the President and Secretary of State William P. Rogers could find a fact finder with a better record of reliability than J. Graham Parsons.

AMERICAN ACADEMY OF PEDIATRICS SUBMIT STATEMENT ON LEAD-BASED PAINT

HON. WILLIAM F. RYAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1971

Mr. RYAN. Mr. Speaker, childhood lead poisoning—a totally preventable disease—is plaguing the children of this Nation. Virtually every center of old, dilapidated housing constitutes a severe peril to the young children who pick up and eat the sweet-tasting, lead-tainted paint and plaster chips which fall from the walls and ceilings of their dwellings.

The toll of lead poisoning is devastating. Each year, it brings death and affliction to hundreds upon hundreds of youngsters. Yet childhood lead poisoning is a manmade disease, and the means are at hand to eradicate its menace from the face of this Nation.

The Food and Drug Administration presently has before it two proposals aimed at combatting lead-based paint poisoning. One, sponsored by five citizen petitioners and myself, would classify all paint containing lead as a banned hazardous substance. The other proposal, sponsored by the FDA itself, would require paints with a lead content in excess of .5 percent to bear a warning label. Interested persons have been given until December 28 to submit written comments to the Food and Drug Administration regarding either or both of these proposals.

As I have often stated to the House, it is my firm belief that if we are to eradicate lead-based paint poisoning, we must eliminate the lead in paint. Merely requiring warning labels on paint with lead content in excess of .5 percent is insufficient to safeguard the children of this country from the devastation of this disease.

On November 30, George Degnon, director of the American Academy of Pediatrics' Department of Government Liaison, submitted a statement on behalf of the academy detailing its views on the two proposals now pending before the FDA. It commented:

> The American Academy of Pediatrics endorses the principle contained in the petition filed with the Commissioner that paints containing more than minute traces of lead be declared as banned hazardous substances, if intended for use on children's products or interior surfaces. It appears that cautionary labeling will not adequately protect the public health and safety.

The academy, long in the forefront of the effort to combat childhood lead poisoning, presented a very thoughtful and thorough evaluation of the dangers of lead in paint, and some of those actions it believes are essential to protect youngsters from this dread disease.

The entire text of the statement of the American Academy of Pediatrics regarding this matter follows:

AMERICAN ACADEMY OF PEDIATRICS,
Evanston, Ill., November 30, 1971.
HEARING CLERK,
Department of Health, Education, and Welfare, Rockville, Md.

Subject: Lead Based Paint.

Reference: 21 CFR Part 191, Federal Register, November 2, 1971.

DEAR SIR: The attached statement regarding the content of lead in paints is filed with the Food and Drug Administration in response to the proposed regulations appearing in the November 2, 1971 Federal Register.

The American Academy of Pediatrics urges that the public health and safety be protected by early promulgation of final regulations pertaining to the lead content in paints, and that the limit for lead be revised downward to "minimum traces" or $<$0.06% of the total weight for paints intended for use on interior surfaces and on toys and other children's articles.

The Academy concurs with the statement of the Commissioner in issuing the proposed regulation that "paint containing small amounts of lead in excess of the proposed levels (.5%) may not be toxic in themselves; but when considered in conjunction with other sources of lead in the environment they constitute a substantial addition to the body burden that can reasonably be avoided through the application of available technology." It is our finding that paint with .5% lead will not provide sufficient protection for young children one to three years of age. We further concur with the FDA that "any unnecessary exposure should be eliminated or minimized," but differ in regard to the standard to be adopted to achieve this end.

Despite voluntary standards, reports indicate paint on children's toys in excess of the standard. Congressional testimony has revealed the continued availability of paints in excess of the standard for use on toys and products with which children usually come in contact. The implication that paints are safe for use on children's products through pictures thereof on paint containers nullifies the minimal value which might exist in cautionary labeling.

One of the Academy's current concerns is with the setting of limits which give some margin of safety with respect to prevention of lead poisoning in children. Unfortunately, labeling of paint containers will have little effect in preventing this disease. Consequently, it is our firm conclusion that firm action is now needed in order to minimize the lead poisoning health hazard to future generations of children.

The members of the Academy's Committee on Environmental Hazards are: Paul F. Wehrle, M.D., Chairman; Robert L. Brent, M.D.; J. Julian Chisolm, Jr., M.D.; John L. Doyle, M.D.; Emmett L. Fagan, M.D.; Laurence Finberg, M.D.; Robert W. Miller, M.D.; Andre J. Nahmias, M.D.; G. D. Caryle Thompson, M.D.; and Robert J. M. Horton, M.D., Consultant.

Please be assured of our continuing interest in this problem and our availability in further assisting the Food and Drug Administration staff.

Sincerely yours,
GEORGE K. DEGNON,
Director,
Department of Government Liaison.

LEAD BASED PAINT

Memorandum presented to: Food and Drug Administration, November 30, 1971.

Reference: 21 CFR Part 191, Federal Register, November 2, 1971.

The American Academy of Pediatrics files the following comments on the matter at issue and now under consideration:

It is recommended that the Food and Drug Administration promulgate a final regulation pertaining to the lead content in paints and that the limit for lead be revised downward from the proposed .5% to "minimum traces" or $<$0.06% of the total weight of the contained solids (including pigment, film solids and driers). This recommendation is based on the study of recently published materials (1, 2, 3, 4), based upon an evaluation of data published after the 1% voluntary standard for lead was originally established in 1955 by the American National Standards Institute. The American Academy of Pediatrics recommends that paints containing more than minimum traces of lead be declared banned hazardous substances, if intended for use on children's toys, furniture, or interior surfaces.

Upon review and evaluation of available data in children and adults, an Ad Hoc Committee (B. G. King, Chairman) (1) recently concluded that for children the maximum daily permissible intake (DPI) of lead from all sources should not exceed 300 μg Pb/day.—This DPI is concerned primarily with increments in oral intake of inorganic lead salts. In calculating this DPI, it was assumed that average daily respiratory exposure in most urban areas is approximately 2 μg Pb/m^3. Any significant increase in respiratory intake would have to be given added weight because respiratory retention is estimated at 35–40% of very small lead-bearing particulates in the lower respiratory tract. Assimilation in the GI tract is estimated at 5–10% of oral intake. It is understood that the comments which follow apply almost exclusively to increments in oral intake in the presence of constant but low levels of respiratory exposure (2 μg Pb/m^3 on the average).

If average daily intake is maintained below this level, blood lead concentrations are unlikely to exceed 40 μg Pb/100 G whole blood. At this level of intake, it is estimated that the amount assimilated by one to three year old children could probably be excreted, so that no net increment in total body lead burden would be anticipated. It is estimated that approximately one-half of this 300 μg Pb/day intake would be derived from usual food, water and air, so that intake from all other sources on the average should not exceed 150 μg Pb/day. In particular, average daily intakes below this DPI would not be associated with any significant increment in soft tissue lead content. It is this portion of the total body lead burden which appears to be responsible for the known toxic effects of lead.

Available data indicate that increments in total lead intake above this DPI increase assimilation (see Chapter 3 in Reference 2) and raise blood levels above 40 μg Pb/100 G whole blood. Such increments may be associated with increase in the soft tissue component of the total body lead burden. At blood lead concentrations of 40 to 50 μg Pb/100 G whole blood, some individuals may show minimal adverse metabolic response in the form of increased delta-aminolevulinic acid (ALA) excretion in urine (see reference No. 2, Chapter 4).

Increased ALA excretion in urine is the metabolic response most specifically associated with rising concentrations of lead in the soft tissues. Increments in total assimilation of lead to levels fivefold to tenfold above that assimilated from usual *dietary* intake, if continued for several weeks or months, clearly can bring such persons into the range of adverse metabolic effects and can be statistically correlated with blood lead levels in the range of 60–80 γg Pb/100 G whole blood. In some instances, persons with blood lead concentrations in this range may show nonspecific symptoms compatible with, but not diagnostic of, clinical plumbism. At blood lead concentrations of 60 γg Pb/100 G whole blood or higher, x-ray evidence of abnormal skeletal mineralization at the ends of growing long bones occurs in some children when excessive intake persists for several weeks or months or longer. Such undesirable effects should be avoided in young growing children.

It is concluded, therefore, to preserve health, prevent adverse metabolic effects attributable to increased soft tissue lead content in growing children and to minimize the risk of serious poisoning, the total daily intake of lead should be limited to $<$ 300 γg Pb/day. A policy statement recently approved by the Surgeon General of the U.S. Public Health Service similarly concluded that blood lead concentrations $>$ 40 γg Pb/100 whole blood be considered indicative of undue exposure to lead and that children with blood lead concentrations in the 50–80 γg Pb/100 G whole blood range be considered as *possible* cases of lead intoxication and that such children require further medical evaluation. (4) In view of the prevalence of pica in one to three year old children, the permissible content of lead in paint should be considered with the foregoing in mind

The content of lead in paint calculated as elemental lead and expressed as a percent of the total weight of the paint may be a good criterion by industry for the content of lead in paint per se. However, this is not a good criterion for evaluating the health hazard present in chips of paint from surface coverings of the walls, windows, doors, furniture, and other objects to which children may be exposed. It is the weight of lead in the chips that determines the health hazard. Recent studies (5) indicate that the weight of multilayer paint chips can be related to the number of layers of paint applied to a surface. In this way, the amount of lead in single and multiple layers of paint can be calculated from the percentage of lead contained in the paint. Such calculations are shown in Table 1. For example, studies at the U.S.P.H.S. Injury Control Laboratory, Providence, R.I. (5) indicate that 1 sq. cm. of one layer of interior paint may weigh 5.2–8.0 mg (avg.=6.5 mg) and that six layers of paint may weigh 37.0–40.6 mg (avg.=38.8). Sixty-nine samples of multilayer paint chips obtained from old dwellings in Philadelphia were found to weigh 89±33 mg per sq. cm. of exposed surface. (The term "sq. cm. of exposed surface" is used here because of the difficulty in sampling a precise and reproducible volume of paint under field conditions). Forty mg of interior paint (6 layers) containing 1% of lead in the final dried solids would contain 400 μg Pb. Using the same calculation, a 10-layered paint surface containing 1% lead might contain 650 μg Pb/sq. cm. of exposed surface. The calculated dose in either instance is in excess of the calculated DPI (daily permissible intake). One sq. cm. of 6 layers of paint on a surface containing 0.1% lead would contain 40 μg Pb; whereas at 0.05% lead, 1 sq. cm. of a 6-layered surface would contain 20 μg Pb. In this last instance, ingestion of a paint chip with 1 sq. cm. (6.25 cm.^{2}) of exposed surface per day on the average can be calculated to provide a dose of 125 μg Pb. Thus, 125 μg of lead from paint, together with an allowance of 150 μg of lead from the usual lead content of food, water, and air approaches the DPI of 300 μg Pb from all sources but would make little allowance for such other non-dietary sources as the child may encounter (2, 6).

Also to be considered is the prevalence of pica in young children. It is estimated that approximately 50% of children between one and three years of age repetitively ingest non-food substances. Abdominal X-rays obtained in the diagnostic evaluation of children suspected of having lead poisoning indicate that very large quantities of foreign substances such as paint, putty, and plaster may be ingested, often without the parents' awareness.

A federal standard for lead to $<$0.06% is needed in order to minimize this particular health hazard to future generations of children. At the present time, lead poisoning as seen in children is related to old, deteriorated housing so that a federal standard is unlikely to have a significant impact on plumbism as *now* seen. Nevertheless, as this old housing is replaced or rehabilitated, safe surface covering should be used in order to minimize hazards to the health of future children. Because pica has been a well-recognized habit among humans for many centuries, it appears unlikely that this behavioral pattern will quickly change.

The American Academy of Pediatrics endorses the principle contained in the petition filed with the Commissioner that paints containing more than minute traces of lead be declared as banned hazardous substances, if intended for use on children's products or interior surfaces. It appears that cautionary labeling will not adequately protect the public health and safety.

It should be further noted that therapy is not effective in reversing or preventing permanent brain damage associated with severe forms of acute lead poisoning such as acute encephalopathy. It is currently estimated that 40% or more survivors of encephalopathy sustain permanent brain damage. In order to provide a margin of safety against such occurrences, which are not reversible by current methods of chelation therapy, it is essential that the level of exposure be reduced. Promulgation of a federal standard with respect to lead to minimum traces and certainly to $<0.06\%$ Pb probably would provide a safety factor of five with respect to doses unequivocally associated with demonstrable adverse metabolic responses in virtually all individuals and clinical toxicity in some. Except in instances of voracious pica for paint, it would probably provide a safety factor of at least 20 with respect to the average daily intake, which is probably necessary to cause encephalopathy and fatalities in children. Such a safety factor would appear to be a minimum requirement.

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TABLE 1.—AMOUNT OF LEAD IN SINGLE AND MULTIPLE LAYERS OF PAINT VERSUS PERCENT LEAD CONTENT IN PAINT

Number layers	Painted surface covering—rounded average weight of paint chip (milligrams)[1]	Calculated lead content of paint chip with 1 cm.² of exposed surface	
		Percent by weight	Amount (micrograms)
1	6.5	1.0	65 μg Pb.
6	40.0	1.0	400 μg Pb.
10	65.0	1.0	650 μg Pb.
1	6.5	.1	6.5 μg Pb.
6	40.0	.1	40.0 μg Pb.
10	65.0	.1	65.0 μg Pb.
1	6.5	.05	3.2 μg Pb.
6	40.0	.05	20.0 μg Pb.
10	65.0	.05	32.0 μg Pb.

[1] Same area; e.g., 1 sq. cm. of 1, 6 and 10 layers of paint.

PROBLEMS OF AMERICAN AGRICULTURE

HON. RICHARD G. SHOUP

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1971

Mr. SHOUP. Mr. Speaker, I recently received a letter which I think underscores the problems faced by American agriculture. This letter from Mr. Ronald L. Moser of Missoula, Mont., speaks for itself and I insert it in the RECORD:

MISSOULA, MONT.,
November 1971.

President Richard M. Nixon,
The Reader's Digest, Orin Lee Staley, President, National Farmers Organization, Clyde Jarvis, President, Montana Farmers Union, Senate Majority Leader Mike Mansfield, Senator Lee Metcalf, Congressman John Melcher, Congressman Richard Shoup.

GENTLEMEN: I am damned irritated. I direct my letter to President Nixon because of his inexcusable ignorance and complete disregard of the depression now encompassing American Agriculture. The lowest prices received by farmers since the depth of the depression are evidence enough in support of my personal views; I direct it to the Reader's Digest because of its constant attack of subsidy payments to farmers, without which they would perish. I also challenge the Reader's Digest to print my protest. In so doing, I do not relenquish my rights to my letter or the views it contains. I also welcome the Digest's sane rebuttal based on hard, clear facts that emanate from the truth as it exists, rather than vote getting opinions it has published in the past six years; I direct the letter to Mr. Staley and Mr. Jarvis because I believe these two men and the organizations they represent truly paint a picture of the rotten conditions under which agriculture exists today; I direct the letter to the Senators and Congressmen because they represent Montana, and do a damned good job of it. I would hope it might provide them with additional ammunition to gain the desperately needed help in agriculture today *everywhere* across the nation; I would in fact like it entered in the Congressional Record that I may be assured my protest has in reality been heard, and by those in power to be able to do something about it. My reasons for the protest are as follows: On November 29, 1971, I went into a health food store in Missoula, Montana and purchased a two pound bag (plastic) of Red Cereal Wheat. The purchase price of this package was seventy-five cents retail, and wholesaled to the health store for fifty cents. I realize this wheat was "organically grown" i.e. not enhanced by commercial fertilizer or touched by toxic sprays or herbicides. Nevertheless, it has simply been cleaned of all alien seeds and packaged. It is high protein spring wheat grown in Montana and North Dakota. I don't know what the North Dakota farmer receives for it when he takes it to market, but the current price offered farmers at Brady, Montana is $1.27 per bushel. One bushel of wheat will make up *thirty* of these bags. In other words, the amount of wheat a local farmer receives $1.27 for "grows" into $38.10 in the market place. This is not the only example. For instance, my wife has in her cupboard a one pound package of cracked wheat that retailed for forty-one cents. That grew into $24.60 in the market place. Cracked wheat is discounted in the price the farmer receives when he sells it, yet develops into a luxury item when sold to the consumer. Consumers, WAKE UP!!!! A bushel of wheat will make *sixty-plus* loaves of bread. There are probably at least a hundred other such examples, and wheat is only *one* farm commodity. There are many others in a much shakier position. Now, who in hell is making all the money? I'll show you how much money I make on my own investment, and I feel that I and all other farmers are entitled to a decent return on our investment as well as Lockheed Aircraft, the Railroad industry, the Petroleum industry, the public utilities, and you name it. They are all subsidized, and to a much greater extent.

Now for my own investment. I farm 1,600 acres of the Triangle Area of North-Central Montana. I own 800 acres and rent the other 800 from my father. My dollar investment is as follows; Land—$91,000, Tractor—$14,600, Combine—$13,050, Truck—$7,050, Drills (used) $1,550, Pickup (used) $600, Cultivators—(new and used) $6,200, Grain augers (new and used) $865, Granaries and miscellaneous tools and equipment (new and used) $3,000, Operating capital (minimum annual) $12,800. The foregoing totals $150,765. We'll round that off to $150,000. The current cheapest local interest rate is 7½%. That figure applied to the total investment of $150,000 equals an annual cost of $11,250, or a total annual minimum production cost on my farm of $24,050. Of the 1,600 acres, I am only allowed to plant approximately 720 acres. My average crop dollar production per acre is approximately $40.00 per acre, or when applied to my share of 600 acres annually, a gross of $24,000. Without the ASCS payment, this reflects an annual loss of $50.00, without even considering my labor or repayment of borrowed capital. My ASCS payment currently approximates $9,000. To the latter can be added patronage dividends from local grain marketing coop and the Production Credit Association, from whom I borrow the capital. These dividends total about $2,000 annually. My gross income therefore amounts to about $35,000 annually, and after applying the $24,000 annual expenses, I realize an average of $11,000 net income, *before taxes*. Please note this is income from *two* farms, mine and my father's. Assume I will pay off my farm over the next forty years. We can then subtract $3,750 a year from my $11,000 income, leaving $7,250 before taxes. Also assuming I work 1,500 hours a year to produce that income, and I am worth $2.00 per hour, I am left with a poverty income from labor of $3,000 to support my wife and two children, in addition to a return, before taxes, on my investment of $150,000 of $4,250. Dividing $150,000 into $4,250 gives a net percentage return on investment of 2.83%. Is that a fair return? Montana Power Company is currently requesting a rate increase in Montana of 34% because they "can't make it." According to Senator Metcalf's findings, Montana Power had a net return on investment last year of 22.8%. The latter percentage figure is *eight times* that of my own. The President's Wage-Price guidelines call for a 5.5% maximum increase in wages and prices. In 1966 I sold winter wheat for $1.45 per bushel. If farmers would have had that 5% increase during the last five years, the current price for my wheat would be $1.82 per bushel. Instead, it is now $1.08, or almost a *25% decrease just in the last five years.* During the same time, my production costs have *increased* about 25%. This one-sided situation cannot go on. On top of that, the West Coast dock strikes cost Montana farmers a reported $14,000,000 this year alone, not to mention lost markets we may never recover. The President acted on that so late he may as well have ignored it completely. There are countless other current statistics that support the fact the Government and the Grain Trade are short-selling farmers. Unfortunately, I am not a human computer, can therefore not recall that much data and consequently am limited to providing those statistics that directly affect me. The Reader's Digest thrives on publishing articles by congressmen and others adverse to agriculture by quoting $7,000,000,000 USDA budgets which neglect to mention that at least 80% of that budget goes not to farmers, but rather to give cheap food to consumers to get more votes, and simply to cover administration costs of the USDA bureaucratic colossus. As much money has been spent every eighteen days during the last six years in Viet Nam as has been allocated to helping the Nation's farmers each year. Each senator and congressman receives an annual salary exceeding the GROSS INCOME of 80% of all the nation's farmers. The one million plus people in New York City alone that are on welfare have an average net income in excess of at least 20% of all the nation's farmers. The farmer's *entire* income is derived from taxes, the latter's entire income is derived from work. The welfare recipients feel justified in going on "strike" while the working poor farmers who pay taxes to support them are chastised and referred to as economic parasites. I constantly see reference to "expert economic advisors." Where in hell are they to allow such preposterous inequities to exist, let alone ever have come into being?

The USDA advertises a national average loan rate on wheat of $1.25 per bushel. It is average for sure, just as surely as it is inequitable. It means in fact that while farmers in one locale receive a guaranteed loan of $1.42, my neighbors and I make up the difference by getting a $1.08 per bushel guarantee. We in the Triangle Area of Montana raise some of the best milling quality wheat in the world, yet receive up to one dollar per bushel less than some areas producing wheat of dubious quality even for domestic animal feed. We are limited to raising primarily wheat and barley because of climate nad rainfall conditions. We also have to leave half our land fallow each year to conserve moisture, and now to add insult to injury, the administrations farm program forces us to set aside additional acres, while simultaneously allowing other regions in the nation to plant all the wheat they want in land that never before grew wheat and in other land in other regions in the same fields along with other grains. What kind of asinine approach is this? Now we have as a Presidential appointment to the position of Secretary of Agriculture a Mr. Butz. He represents Purdue University, the Ralston-Purina Corporation, and is most distinguished for having served under "Ez" Bensen and the greatest agricultural debauchery of history. Farmers are tired of so-called economists who can't seem to tell the difference between profit and loss. We would prefer a man with simple common sense. The only large organization supporting his appointment is the American Farm Bureau, which in reality has a membership neither completely made up nor adequately representative of farmers. The Farm Bureau's support was largely publicized by the USDA, while the only places I saw evidence of the strong opposition of the remaining large representative farm organizations such as the NFO and Farmers Union, was in their own publications, which are for the most part read only by their own members. Agriculture is our largest industry. Without it, our balance of payments deficit would have bankrupt this nation ten years ago. European nations subsidize the farmers to up to $4.00 a bushel and many of the consumers in those same nations pay out up to 50% of their income for food. In the U.S. tens of thousands of farmers are forced off their land annually while the consumers enjoy a standard of living in which only 16% of their income goes for food. How long would General Motors stay in business if it sold its cars for 3% above cost while simultaneously giving "foreign aid subsidies" to Toyota of Japan to compete with them?

I realize my foregoing efforts are almost futile. However, near futility is better than no action at all. I have taught, have been taught, and believe that the only reliable procedure lies within the system, hence my protest letter approach. Reader, take heed, though, that that belief is tottering on a poor foundation, in my own mind, and those of three million other farmers and ranchers.

Sincerely,

RONALD L. MOSER.

HON. GREGORY B. KHACHADOORIAN RECEIVES THE FROST-DUNPHY AWARD

HON. LOUISE DAY HICKS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1971

Mrs. HICKS of Massachusetts. Mr. Speaker, Hon. Gregory B. Khachadoorian was recently honored by the Massachusetts Society for the Prevention of Blindness, Inc., as the first recipient of the Frost-Dunphy award.

The Horace W. Frost-Edwin B. Dunphy, M.D., award is a special award granted only by a vote of the Board of MSPB for extraordinary achievement in prevention of blindness, which will affect the sight of large segments of the population.

The award will not be presented on a regular basis, but only when an individual's work has resulted in a great benefit to mankind.

The citation read as follows:

CITATION TO THE HONORABLE GREGORY B. KHACHADOORIAN, SIGHT-SAVER

Whereas—Blinded himself in an accident as a teenager Mr. Khachadoorian has devoted his professional life as a legislator to Prevention of Blindness legislation. He was the author of the Mass. School Eye Safety Law of 1964 and strengthened in 1966 (second such law in the U.S.) which provides that safety eye devices must be worn in all shops and labs in all private, public, parochial schools and colleges and universities in Massachusetts.

Whereas—Mr. Khachadoorian's historic legislation going back to 1965 to provide safer eyeglasses and sunglasses for all Massachusetts people has resulted in the 1970 FDA regulation which provides safer lenses for all people in the United States.

Whereas—Mr. Khachadoorian filed the first bills in the U.S. for safer lenses and safer frames. For years his bills were beaten in Massachusetts. Meanwhile several states enacted laws for safer eyewear based on Mr. Khachadoorian's model. However, in June 1970, Massachusetts passed the first complete Model Eyeglass law (based on NSPB text) in the U.S. The FDA regulation followed shortly thereafter.

Whereas—Mr. Khachadoorian gave legislative impetus to a program for safer eyewear long endorsed by NSPB. He has protected the vision of the millions of American men, women and children who now wear eyeglasses and sunglasses and the untold millions in generations to come.

Therefore we the Massachusetts Society for the Prevention of Blindness bestow the Frost-Dunphy Award on Hon. Gregory B. Khachadoorian for his extraordinary achievements in Prevention of Blindness.

TRADE ADJUSTMENT ASSISTANCE

HON. JAMES A. BURKE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1971

Mr. BURKE of Massachusetts. Mr. Speaker, I found the following article taken from this morning's Wall Street Journal to be a well documented account of the relative uselessness and ineffectiveness of the trade adjustment assistance provisions of the Trade Expansion Act of 1962, certainly as it has been interpreted by the Tariff Commission. While the article concentrates on the problems firms have had applying for adjustment assistance, the author could well devote any number of articles to an indepth study of problems workers' groups have had in petitioning for adjustment assistance. I have come to the conclusion that the only avenue for genuine relief, certainly for the shoe industry, would be for the President to act on the industrywide relief petition which has been before him for nearly a year now. Extensive correspondence with the White House, however, reveals only that for the time being at least, the White House feels that unemployed American shoe workers have to wait for some results to emerge from the Spanish negotiations before their needs can be met. In any event, even though the article bandies about phrases like "Protectionists" rather loosely to describe Members of Congress who have been singling out trade adjustment assistance for the farce that it is, it should be required reading for any Congressman who still might feel that the Trade Expansion Act of 1962 offers any kind of real relief to those who have lost their jobs as a result of our foreign trade policies since then. I am also including some of my back-and-forth correspondence with the White House on trade adjustment assistance.

The articles follow:

[From the Wall Street Journal, Dec. 8, 1971]

FIRMS HURT BY IMPORTS, ASSURED OF HELP IN 1962, FIND IT TOUGH TO GET

(By John Pierson)

WASHINGTON.—At stake, it would seem, is peace, prosperity, free trade and nothing less than the future of the plastic piano.

You see, Estey Piano Co. of Union, N.J., and Bluffton, Ind., has been badly hurt because the government agreed to lower the tariff that kept the price of foreign-made pianos high. So the government agreed to help Estey design a less expensive plastic model, which would make the company competitive again, to help keep Estey in business until the new piano was ready and then to help produce it.

Now, after a considerable outlay of time and money all around, the government has changed its mind. Estey has laid off its 100 workers and put its factory—situated in Indiana—up for sale. (There's only an office in New Jersey.) The fate of the plastic piano is in doubt. Says Estey President Robert Mehlin, whose family has been making pianos for six generations: "We have been very seriously injured by this whole thing."

What has happened to Estey is symptomatic of what has happened to a program enacted nine years ago that was supposed to be free trade's answer to protectionism. Let us cut tariffs, free-traders told business and labor, and we'll help you adjust to the individual flood of imports. For workers, the help was to come in the form of extra unemployment benefits, retraining and relocation money. For companies, the law specified loans, technical advice and tax breaks to help them modernize present product lines or move into new ones.

ONLY TWO GOT HELP

Nearly a decade after enactment of the Trade Expansion Act of 1962, U.S. imports have doubled, thousands of workers have lost their jobs and hundreds of companies have been hurt. While many workers have been getting benefits, only two companies—a shoe manufacturer and a producer of barber chairs—have received any substantial assistance from the government. Another shoe company has been told it will get help.

This failure of the government to make good on its promise to business can only swell pressure for new protectionist moves, free-trade advocates fear. This year the Nixon administration has imposed a 10% import surcharge and has won an agreement limiting Asian shipments of synthetic and woolen textiles—atop earlier restrictions on cotton textiles and steel. If new U.S. import restraints should follow, free-traders foresee higher prices for American consumers and added bitterness between the U.S. and its trading partners.

For the first seven years after Congress passed the law, the Tariff Commission was the villain of the piece. From October 1962 to October 1969, 13 industries, eight individual companies and six groups of workers asked for help but were turned down by the commission. In November 1969, after a change in membership, the commission began interpreting the law less strictly; it ruled that the piano industry had been injured by imports resulting from tariff cuts.

Since then, two other industries (flat glass and barber chairs), 17 individual companies and 64 worker groups have passed the injury test, either through yes votes of the commission or through tie votes that President Nixon has broken in favor of assistance. The latest to qualify are Bibb Manufacturing Co., a textile maker based in Macon, Ga., and 1,000 of its workers and former workers.

SO WHAT HAPPENED TO ESTEY?

The Labor Department has certified some 20,000 workers for extra unemployment benefits. But of the 18 injured companies that so far have applied to the Commerce Department for relief, one has been denied help, two have received loans, one has been promised a loan and 13 applications are pending; Estey, which once was authorized by the Commerce Department to obtain a loan, is getting only technical assistance.

Here's what happened to Estey.

In February 1970, two months after the Tariff Commission ruled that the piano industry was injured, President Nixon gave piano makers temporary "escape clause" relief from tariff cuts and made them eligible to seek adjustment assistance.

In March 1970, Estey asked the Commerce Department for permission to apply for help. In June 1970, after determining that Estey was indeed among the injured of the industry, Commerce Secretary Maurice Stans declared the company could submit an aid proposal.

During the next nine months, Estey, the department, a management consultant hired by it, and the Small Business Administration worked out a package that included a $90,000 grant and a $2.6 million loan. The grant was technical assistance for building a prototype plastic piano and for a study to make sure there was a market for the new product. The loan was for paying off Estey's prior creditors, financing continued production of wood pianos until the plastic one was ready and the story a big play.

BIG PLAY FOR STORY

Last March, Secretary Stans certified that Estey's proposal was "reasonably calculated materially to contribute to the economic adjustment of the firm" and "authorized" the grant and loan. A Commerce Department press release heralded Mr. Stans' action. Newspapers in New Jersey and Indiana gave the story big play.

In April, Edward Killam, then director of the department's trade adjustment assistance division, wrote Estey's creditors that the government money "will be available to liquidate obligations of the firm . . . including any obligations which may exist to you."

Under the law, once he has certified a company's adjustment assistance proposal, the Secretary of Commerce first asks the Small Business Administration if it wants to make the loan and the Economic Development Administration if it wants to make the grant. If either agency says "no," then the Secretary "may" provide the help himself.

In May, the EDA said it was willing to give Estey $90,000 for the prototype piano and the market study. Then things began falling apart.

In July the SBA said it was "deferring" action on Estey's loan. Until the prototype and the study were successfully done, the SBA said, there was no "reasonable assurance"—as required by the law—that Estey could repay the government. Commerce Department sources suspect that the SBA simply preferred to have the department risk its own money.

Meanwhile, Mr. Killam had been replaced as director of trade adjustment assistance by Lewis Kaufman, former Los Angeles partner of Goldman, Sachs & Co., an investment firm. Mr. Kaufman viewed the program somewhat differently from Mr. Killam. For example, he felt that no funds should go to pay off prior creditors. As he saw it, the program was meant "for the economic adjustment of firms, not as a creditors' relief act."

Bothering Mr. Kaufman, too, was the fact that some of Estey's creditors were also principal stockholders. Although Estey's proposal stipulated that the stockholders would wait for their money until the government got its money back, Mr. Kaufman says he still worried that the loan would go to "bailing out" stockholders rather than revitalizing Estey.

So despite Mr. Stans' March authorization, despite the Commerce Department's press release, despite Mr. Killam's letters to banks and other creditors, the department joined the SBA in deferring action on the $2.6 million loan.

And in September, it refused a request from Estey for enough money to keep going until the prototype was built and the market study completed early in 1972.

Late in September, Mr. Mehlin told a Senate Commerce subcommittee that the department had a right to change its mind about the program, but he argued that once Secretary Stans had approved Estey's proposal, "he should certainly live up to that commitment."

Harold Scott, Assistant Secretary of Commerce for domestic and international business, called the Estey case "unfortunate." According to Mr. Scott, trade adjustment assistance had "languished as a relatively inactive feature" of his department, handled mainly "at the staff level."

FROM CHAIRS TO CABINETS

Mr. Mehlin said he was closing his plant in Bluffton and laying off his 100 workers, many of them experts who would be hard to replace if and when the plastic piano went into production. But he now says he'll try to persuade his creditors to hold off and not force Estey into bankruptcy. With the help of the EDA's $90,000 grant, he's going ahead with the prototype and the market study. He still believes that the new piano has "terrific" potential, and he hopes, one way or another, to prove it.

While Estey was having its ups and downs, 17 other companies were applying for help in adjusting to imports. Two have received it.

In September 1970, the SBA loaned $2 million and guaranteed a private loan of another $2.1 million to Emil J. Paidar Co. of Chicago, a maker of barber chairs. The loans were to help Paidar diversify by moving into production of dental cabinets, too. The EDA has provided $22,000 of technical assistance.

Paidar used the loans to begin work on a new plant, but Paidar President John Dlouhy says he now wants to sell the new plant and acquire another company that makes dental cabinets. So he's asking Commerce for an additional $3 million.

And early this year, the SBA loaned $1.4 million to Benson Shoe Co. of Lynn, Mass. The EDA provided $200,000 of technical assistance, and the Commerce Department gave tax aid in the form of an extra two years of net operating loss carryback.

VARIOUS STAGES OF SUSPENSE

Benson President Phillip Kaplan says government aid has allowed him to reorganize management, production and sales methods. Volume has doubled with only 20% more help. "To us the program has been good," says Mr. Kaplan.

Both these loans included funds to pay off creditors, a standard SBA practice. Both were made before the Commerce Department got adjustment assistance money of its own. Thus, the SBA had to decide the issue for itself, unlike in the Estey case.

Now that it has its own money, the Commerce Department has just agreed to lend $662,000 to help breathe new life into Louis Shoe Co. of Amesbury, Mass. The EDA will kick in $100,000 of technical aid.

Meanwhile, 13 other companies are in various stages of suspense. Some submitted their aid proposals months ago and are waiting anxiously for a response. "I just hope they can get us the assistance in time," says Victor Pomper, president of H. H. Scott Inc., a Maynard, Mass., producer of hi-fi equipment.

A few companies have gotten past the Tariff Commission but are still waiting for Commerce Department permission to apply for help. Robert Bretzfelder, president of Krakauer Brothers, a New York City piano maker, says that every time he sends department officials some figures to prove that his company has been injured, "they ask for more figures." This has been going on for half a year. "If a company was really on the brink of going out of business and had to wait this long, they'd be out of business," he says.

Commerce officials deny it, but these delays may have had something to do with the resignation last month of Mr. Kaufman, the adjustment assistance director. "There have been some suggestions that things happen faster," Mr. Kaufman concedes. "Maybe my problem is that I'm used to dealing with large, successful companies and not with small, unsuccessful ones."

But clearly there are other obstacles to winning trade adjustment assistance. The requirements for proving injury are so tightly written that few companies to begin with get by the Tariff Commission. After that, the procedure for getting help is so complicated that only a few have received it. Division of the authority for dispensing aid permits apparent buck-passing, as in the Estey case.

There may be a basic inconsistency in the law's requirements that companies must be "seriously" injured to be eligible for help and give "reasonable assurance" of repayment. By allowing companies working capital to pay creditors and meet other current expenses only in "exceptional" cases, the law holds little hope for firms like Estey that are on the brink of ruin.

Recently, President Nixon's Commission on International Trade and Investment Policy recommended a number of reforms in adjustment assistance. Among other things, it said one agency should be responsible for operating the program and there should be easier loan terms. Going farther, it urged the government to anticipate import adjustment problems and identify industries most likely to be hurt.

SEPTEMBER 11, 1971.

Hon. RICHARD M. NIXON,
President of the United States, White House, Washington, D.C.

DEAR MR. PRESIDENT: In writing to you to request favorable action by you on the petition referred to you after a tie vote by the Tariff Commission for industry-wide relief to unemployed shoe workers under the provisions of the Trade Expansion Act of 1962 relating to trade adjustment assistance, I am aware I am repeating myself. We have, in fact, had previous correspondence on this subject. However, hope springs eternal, and in view of the August 15th economic policy statements, I feel there may be some merit in contacting you once again. Insofar as your speech addresses itself to the problems created by increasing imports into our economy and is motivated to a large degree by a concern for rising unemployment, I felt that it might be an opportune time to remind you that you still have before you a measure which would provide a measure of decent relief to thousands of unemployed workers in an industry which few would dispute has been hardest hit in all this land by skyrocketing imports.

There is little doubt that another reason I have decided to write to you once again on this matter is the fact that the Tariff Commission has recently handed down three negative decisions in a row in cases involving shoe workers in my District. That is not to mention the unfavorable decisions involving workers in surrounding Congressional Districts in my State. Discussions to date with the Tariff Commission indicate that they are laboring under a definite handicap in the legislative language of the Trade Expansion Act of 1962 and find it next to impossible to find injuries from imports a major factor on a firm-by-firm basis. I am led to believe from these discussions that the only hope for the shoe workers in the near future appears to be a favorable decision on your part to grant industry-wide relief to the workers.

As if I needed an additional reason to write you at this time, two days ago the major newspapers in Massachusetts all carried stories of the cutback in pension payments to former shoe workers because of the dwindling contributions to the system. In other words, so many firms have closed down and the shoe worker labor force has been so markedly reduced that it is no longer possible for the pension fund to continue to pay unemployed workers at the former rate. I think this Nation has some responsibility toward those who have given some of the best years of their lives to a once proud industry in this Nation, only to find that in their declining years what little bit they got from their pension funds is being reduced and could possibly disappear altogether in the months ahead. In view of the fact that the Tariff Commission split two to two on the question, there is clearly evidence that there is more than a shadow of a doubt that imports are at fault and as one of the Congressmen who insisted on some form of trade adjustment assistance provision in the Trade Expansion Act of 1962, I feel that it is incumbent upon those of us in positions of leadership to do all within our power to assist these people. This is particularly true in view of the lack of action to date on any form of quota legislation for this industry.

Thanking you in advance for your favorable consideration of this matter at this time I remain with all good wishes.

Sincerely,

JAMES A. BURKE,
Member of Congress.

THE WHITE HOUSE,
Washington, D.C., September 29, 1971.

Hon. JAMES A. BURKE,
U.S. House of Representatives,
Washington, D.C.

DEAR MR. BURKE: The President has asked me to respond further to your letter of September 11, requesting him to break the tie vote of the Tariff Commission on shoes.

As you may know, at the Council on International Economic Policy's first meeting, the President asked Ambassador-at-Large David M. Kennedy to consult with foreign governments on a number of trade issues, one of which was shoes. Following the first round of these discussions, the Italian shoe industry agreed to monitor its shoe exports to the U.S. under a visa system which, we believe, will be helpful in meeting our domestic problems. Discussions are currently under way with Spain. Should this effort fail, we would be prepared to give serious consideration to alternative actions, including that which you recommend.

Sincerely,

PETER G. PETERSON,
Assistant to the President for International Economic Affairs.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., October 20, 1971.

Mr. PETER G. PETERSON,
Assistant to the President for International Economic Affairs,
The White House,
Washington, D.C.

DEAR MR. PETERSON: This is to acknowledge and thank you for your reply of September 29th to my request for the President to break the tie vote of the Tariff Commission on shoes and grant a measure of industry-wide relief.

I appreciate your advising me of the very important mission assigned to Ambassador Kennedy. At the time the press reported the Italian shoe agreement, it was indicated that attempts were underway to reach a similar agreement with Spanish producers. Obviously, such an effort would require a period of time which would be difficult to predict in advance. Too, the Ambassador has obviously been very involved in the recently announced textile agreements. Now that this work has been completed, presumably the Spanish shoe problem will be moved to the forefront of his attention.

The facts, however, still remain pretty much the same for the unemployed shoe workers in Massachusetts as when I wrote to you over a month ago. While I realize that international negotiations take time, I hope you will appreciate my impatience. The passing of time is not materially helping the plight of those who have lost their jobs with the closing down of shoe plants in my District. I think that the enclosed petition sums up the frustration and despair of these workers better than any words of mine could do. It is appeals such as this which make me feel that the present system seems designed to produce stalemates and little else. The record of the Tariff Commission is deplorable and, as I have previously indicated, the recent trend of its decisions seems to hold out little hope for any worker looking to it for trade adjustment assistance. Their only recourse is to the President. Since the President is obviously relying on your advice in these matters, I have taken the liberty of writing to you directly on this matter. Is there not some way of having the President act on the industry-wide relief petition without hurting Ambassador Kennedy's chances of successful negotiations in Spain? As I look at it, the two problems seem quite separate and deserve separate treatment.

I would appreciate the benefit of your comments on this matter, as well as anything you could do to speed arrival of the day the President will finally make his decision.

With all good wishes, I remain

Sincerely,

JAMES A. BURKE,
Member of Congress.

THE WHITE HOUSE,
Washington, D.C., November 13, 1971.

Hon. JAMES A. BURKE,
House of Representatives,
Washington, D.C.

DEAR MR. BURKE: Thank you for your recent letter in which you ask whether there is some way that the President could act on the footwear industry's escape clause petition without hurting Ambassador Kennedy's chances of successful negotiations with Spain.

As you know, Secretary Kennedy is engaged in consultations seeking the adoption by Spain of a system of voluntary, unilateral restraints on footwear exports to the United States. It is our view that these efforts would be inconsisent with Presidential action under the Trade Expansion Act on the industry's petition for relief and, indeed, that such action by the President would probably eliminate the possibility of voluntary cooperation by Spain.

Moreover, I should note that the footwear industry is enjoying substantial protection by virtue of the 10 percent import surcharge which, as you know, applies to all footwear products and not merely the products covered by the escape clause petition.

I appreciate your letter and you may be assured that this matter is receiving our constant attention.

Sincerely,

PETER G. PETERSON,
Assistant to the President for International Economic Affairs.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., December 1, 1971.

Mr. PETER G. PETERSON,
Assistant to the President for International Economic Affairs, The White House, Washington, D.C.

DEAR MR. PETERSON: I regret that I find it necessary to write to you once again on the matter of relief for our domestic footwear industry. While I am doubtful that I will be any more successful this time than I have been in the past in getting you to see the serious plight of our domestic industry and the unemployed workers in the continued absence of Presidential action on the industry's escape clause petition, I feel I would be remiss in my duties, not only to my constituents, but to the nation, if I did not try once again.

Since I wrote you last, we both know of the very serious trade deficit registered for the month of October. While complete information on the effect of the 10% import surcharge is not yet available, and probably won't be until it is too late, one thing is clear and that is that it is not providing a solution in the short run to our trade problem and the ever increasing flood of imports. The optimism accompanying the rare surplus registered in September has, I trust, been effectively put to rest by October's performance. In my opinion, it would be a serious mistake for those in positions of responsibility to put too much store on the dock strike as the complete explanation for October's sorry performance. The trend has been apparent for some time now, the dock strike's momentary influence notwithstanding.

I just cannot bring myself to agree with the faith displayed in your most recent reply that the unemployed shoe workers in my District, and those threatened with unemployment, are well advised to put their trust in the 10% surcharge and Ambassador Kennedy's seemingly endless negotiations in

Spain. Aside from the fact that collections under the 10% surcharge increase each month together with imports, the fact of the matter is that a 10% surcharge is of absolutely no use as a deterrent where cheap, inexpensive foreign-made shoes are involved. Figures available to government departments should certainly confirm this, if you do not wish to rely on the word of trade associations. Ten percent of $4.50 is just not going to make American shoes competitive with those produced overseas.

In short, it seems to me that my constituents are being asked to pay an extremely high price for the dubious benefits of our present trade policies in being asked to forgo the industry-wide relief which should be available to them in their hour of need. Something must be done. If the White House does not act on this, then I am convinced that Congress will be forced to respond to the crisis at hand and undertake a complete overhaul of this nation's existing trade policies.

Believe me, I am sincere in what I say in urging prompt, immediate action from the only office in the government able to be of immediate assistance, the Presidency.

With all good wishes, I remain

Sincerely,

JAMES A. BURKE,
Member of Congress.

PROGRAM FOR MINORITIES

HON. MARVIN L. ESCH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1971

Mr. ESCH. Mr. Speaker, the University of Michigan has made an affirmative response to the need for improved programs for minority students.

In my view for too long we have allowed ourselves to emphasize the negative instead of the affirmative. This program which has been undertaken by the University of Michigan can form a basis for comparable advancements in other universities. I believe the following articles which I am inserting in the RECORD are informative and worthy of the attention of every Member of this body.

As an alumnus of the University of Michigan I am proud of the school's record in taking such a praiseworthy step.

The articles follow:

[A special report from the University Record, Apr. 19, 1971]

U-M PROGRAMS FOR MINORITIES—

OPPORTUNITY PROGRAM FUNDS AND SUPPORTS

The oldest, and perhaps the most vital program at U-M for minority group students, is the Opportunity Program.

The program began in the fall of 1964 and has continuously increased minority enrollment each year since. At that time, and up until very recently, the program was called the Opportunity Award Program.

Recent expansion of the program to include projects not specifically related to financial awards—prompted the dropping of "Award" from the name. Today, the program encompasses not only admissions and financial aid, but special "supportive" services.

Admissions

Great expansion of the admissions program came during this past year with the employment of six new staff members—four admissions counselors in the Ann Arbor office and two in Detroit. Before the summer months, another counselor will be hired for a Grand Rapids office.

A major task of the admissions counselors is to visit area high school and community colleges to present information about U-M to prospective students. During the fall this year, a total of 125 high schools and 14 community colleges were visited.

Largely because of this effort, the volume of applications for admission to the University through the Opportunity Program has increased tremendously over last year. As of April 8, 426 freshmen and 32 transfer students had been admitted on the Opportunity Program for next fall.

Financial aid

Those students in the Opportunity Program who need financial aid find assistance in several ways: through University scholarships and grants, with a combination of federal assistance and other resources. Undergraduate non-Michigan residents do not normally receive University-supported Opportunity Program funds but seek such federal and outside assistance. Beyond the freshman year, employment within the University is also an important part of the program.

Supportive services

Within the office of student services, the housing office coordinates several programs for minority groups. Working with the Personnel Office's Administrative Intern Program, two or three interns work in programing, accounting, or housing placement. In addition, the housing office plans next year to operate a resident-counselor program in cooperation with the CULS office.

As part of the Opportunity Program, several special projects under the direction of Gil Maddox, director of special academic projects, have been undertaken.

In the planning stages is a Detroit Rackham Building Task Force, in which the University will participate with other colleges to provide general informational and recruitment information to Detroit-area minority groups.

The office also provides coordination and encouragement of black alumni participation to aid students to find summer jobs; provides scholarship funding, especially for out-of-state minority students; and provides career counseling.

In addition to these projects, Maddox hosts a television show on Channel 4, Detroit, called "Profiles in Black." "One function of the show," says Maddox, "is an attempt to show the larger community—especially parents—of occupations and educational options now open to minorities which were not previously open. We consider the parental influence primary on affecting the student's ultimate choice regarding higher education."

The Exchange Program with Tuskegee Institute is also administered under the office of special projects, although not directly related to the Opportunity Program. The exchange program began with student and faculty exchanges in 1965, and has continued with many schools and colleges setting up special other exchanges apart from the regular program. In 1970–71, some six to eight U-M students studied at Tuskegee, and about 14 Tuskegee students came to the Ann Arbor campus.

Events

1959—Regents Adopt Non-Discrimination Policy.

Fall, 1964—First 70 students enrolled at U-M under the Opportunity Award Program.

1965—Student and faculty exchange between U-M and Tuskegee Institute begun.

1967—Administrative Intern Program begun.

1968—Coordinator for human relations affairs appointed.

1969—Black Studies Program for undergraduates in LS&A begun.

1970—March 19: Regents undertake commitment to a 10% black student enrollment and substantially increased numbers of other minority groups by 1973–74.

Fall, 1970—Center for Afro-American and African Studies opened.

While these events are not all inclusive of the many programs instituted for black and minority groups at U-M, they are major points in the history of U-M's program. The events point to a gradual working toward a particular goal—the betterment of internal organization to improve education for minorities at Michigan.

The most active year for expansion and realization of programs, however, is the current one: 1970–71. While many programs are continuing from these early beginnings, and many more are on the drawing boards, it is the 1970–71 academic year in which active steps have been taken to fulfill the Regents' commitment.

The articles in this special report bring up to date these U-M programs—what is happening now, and plans for future development of programs.

SCHOOLS AND COLLEGES HAVE VARIED PROGRAMS

At mid-year each year, U-M schools and colleges submit progress reports regarding an affirmative action program for minority groups in accordance with the requirements by the Department of Health, Education and Welfare. Summaries from some of the schools' reports which were submitted to the office of William L. Cash, Jr., assistant to the president for human relations affairs, follows.

School of dentistry

Recruitment for minority staff members included the addition of two part-time black professionals in the fall of 1970. Recruitment of students included help from the Wolverine Dental Society and present black students. In addition to these programs, the school sponsored visits from high school and junior college students. Last summer, and again this coming summer the school participates in a summer research program of black undergraduates. Funds were made available last year to support five students up to three months to work with research programs conducted by faculty members.

Education

Last fall, the School of Education set a goal of 20% minority faculty, staff, and students. An increase in minority faculty and staff from 22 in 1969 to 64 in 1970 has been realized; an increase of undergraduate students from 15 in 1969 to 58 in 1970; and an increase of graduate students (an incomplete count) in that same period of 56.

In addition to this recruitment effort, the school has developed special programs and services, specifically for inner-city urban programs. Some of these include a new course in teacher education: Urban Tutorial Experience; a day care project; a preschool program with a training emphasis for a person working with minorities; an urban teacher training program in the Western High School constellation in Detroit; and the Urban Program in Education, located in five all-black elementary schools in Detroit.

Social work

Between 1965 and 1970–71, black student enrollment increased by 268% in the School of Social Work. The school now has one of the largest minority group faculties in the country; and half the student scholarship and traineeship funds awarded go to minority students.

Curriculum at the school has been developed with courses specifically relevant to the black community. These courses deal with the social environment of the black community, focusing on providing a general introduction to examine the responses of black people to basic American institutions, the origins and development of racism in society, and to study the economic, political and social processes in the black community.

Rackham

Development of a graduate school opportunity program provided an increase of about 50 new black students this year over 1969–70. The school also coordinates counseling and recruiting of black students and faculty with the departments.

Natural resources

Through the Tuskegee Program, the School of Natural Resources transfers an equivalent of a full professor to Tuskegee for one semester during the year. During summer and fall term, a Tuskegee student attends the school. Also, a visitation program to schools of predominantly black students in the Detroit area, to recruit students to the school is under planning.

Law

As part of the Law School's affirmative action program, information on the Law School was sent to more than 100 black student groups across the nation. Members of the faculty visited students at a number of campuses, including predominantly black schools. The school estimates that more than 200 applications were received last year by students who received such contact. The Law School committed $100,000 of its own resources this year to assist minority group students.

Medical school

In addition to tutorial, counseling and recruitment programs during the regular academic year, the Medical School offers several summer programs responding to the needs of minority group students. In a Summer Research Program, 15–20 students from southern schools work in the Medical School's research laboratories. Special courses in an Intercollated Year Program offer special study skill work in medicine for medical students.

Architecture and design

A summer program for students in the third and fourth year at Tuskegee Institute has been instituted at the College of Architecture and Design. Students are offered a ten-week intensive study course in architecture. A new national scholarship program was initiated by the Department of Architecture this year, in which three students at U–M were awarded full six-year support through matching grants of the Ford Foundation and the American Institute of Architects.

In addition to these programs, two courses have been added to the curriculum to provide students with an overview of some of the economic, social, and political dynamics encountered by individuals and organizations involved in urban renewal and development.

Engineering

Special counseling, orientation, and tutoring are offered by the College of Engineering for minority group students, and much of the work is coordinated with the CULS. Study groups, much like the CULS groups, are operated by the College. A full-time recruiter has been appointed for minority group recruiting.

Pharmacy

The College of Pharmacy has expanded the summer Drug Sciences Program for high school students to include recruitment of black students. A position for a black faculty member has been approved, and candidates being interviewed. Student recruitment has included notification to colleges of pharmacy that within a graduate studies program, funds have been allotted for support of minority group students.

Public health

Two special programs have been adopted by the School of Public Health: a tutorial program in general academic skills and a content-oriented tutorial program for students in the Department of Medical Care Organization.

Business administration

Within the curriculum in the School of Business Administration, a seminar in Black Capitalism and research in Black Capitalism continue to be offered to all students. School representatives have discussed opportunities for graduate study in business at U–M with minority group students in visits to the Harvard-Yale-Columbia Intensive Summer Studies Program and several predominately black colleges. Research on opportunities for minority students in business has also been undertaken.

Literature, science and the arts

Much of the more publicized elements of programs for minority group students reside under the auspices of the College of Literature, Science and The Arts. It is within LS & A that the Center for Afro-American and African Studies and the Coalition for the Use of Learning Skills office operate.

Dearborn

U–M's Dearborn Campus has formed an alliance with the business administration division program and the Inner City Business Improvement Forum projects. Business administration internees are assigned to assist inner city residents in the establishment and operation of business enterprises under this program.

Flint

U–M at Flint offers a six-week Pre-College Seminar for about 60 11th and 12th grade students, designed to uncover those with college potential and aid in motivational skills, and encourage college attendance. A vital part of the program is the involvement of parents as active participants. Parents' nights are included in the program with discussion of college admission criteria, financial aid and teacher-parent relationhips.

Also, the program at Flint provides for the admittance of 25 students who, normally, would not be admitted. These students are provided with special counseling and tutorial help.

BLACK TEACHING FACULTY, THE UNIVERSITY OF MICHIGAN, 1970–71

School	Total	Professor	Associate professor	Assistant professor	Instructor	Lecturer
L. S. & A.	27	[1]5	6	[1]9		7
Medical	17	1	[1]2	4	[1][2]9	1
Law	1		1			
Engineering	2		2			
Education	18	[1]4	5	4	2	3
Library science	2					2
Nursing	2	1			1	
Public health	5			2	[1]1	[1]2
Dentistry	2	1			[1]1	
Architecture and design	3			1	2	
Natural resources	1					1
Music	1		1			
Social work	7	1	1	4		1
Total	88	13	18	24	16	17

[1] Includes 1 faculty member with dual appointment.

[2] Includes clinical instructor.

COMMITMENT FIRM, SAYS FLEMING

A year ago March 19 the Regents established a goal of 10 per cent black student enrollment by 1973–74, as well as "substantially increased numbers of other minority and disadvantaged groups." With the commitment went a stated recognition of increased funds for recruiting, counseling and financial aid.

Because of an apparent lack of faith in the commitment and an insistence upon greater detail, a coalition of black members of the University community called for a strike. The strike lasted for some 10 days, with as much as half the University's classes not meeting at the peak of the action. Meanwhile, a detailed understanding was worked out between representatives of the University administration and the Black Action Movement.

In the last year, higher education, including the University, has encountered increasing financial trouble. No special legislative support was given to the University for Opportunity Programs in the current fiscal year. In fact, because of a shortage of state revenue, the University was forced to cut expenses about one million dollars below the appropriation provided for this year.

Financial support in relation to obligations looks even less favorable for the coming year.

In light of inadequate funding, what happens to the commitment of the Regents of a year ago March?

"The priority of the Opportunity Program remains," says President Fleming. "We continue to hope the legislature will recognize our efforts with financial assistance. We hope to attract additional support from other sources. But as I said last year, 'We do not lightly undertake obligations, and when the University establishes a goal and says it will try to achieve that goal, it will make every effort to do so.' The commitment is firm."

OPPORTUNITY PROGRAM STUDENTS AT U–M, 1964–70

	1964–65	1965–66	1966–67	1967–68	1968–69	1969–70	1970–71
OAP students, total	70	110	176	321	429	531	726
Male	31	52	86	155	204	249	334
Female	39	58	90	166	225	282	392
By academic field:							
Architecture and design	1	1	3	6	18	24	35
Business administration	0	0	2	4	3	1	8
Education	1	1	5	10	9	15	58
Engineering	8	16	26	41	51	51	48
Literature, science, and arts	48	77	117	232	317	395	516
Music	5	6	6	6	4	7	21
Nursing	7	8	13	17	22	29	31
Pharmacy	0	1	1	2	4	2	4
Physical education	0	0	3	3	1	6	0

CENTER AIDS ACADEMIC BLACK STUDY

The Center for Afro-American and African Studies opened its doors last fall, under the auspices of the College of Literature, Science and the Arts. The main objective of the establishment of the Center is to provide programs of study and research for the black student as well as to other students interested in black culture, history, social issues and development.

"The Center provides not only the study of black culture," says Frank Yates, acting director, "but cultural analysis and applied knowledge and research—to provide some sense of where the black community is going."

Three major areas of pursuit make up the Center's programs: academic study, research, and service. At the present time, about 30-40 courses are available in the black studies program, with an undergraduate degree and hopes for a graduate degree in a year or so.

"We will be soon holding hearings on the advisability of a certificate program," says Yates, "to enable a student to specialize in another field, yet take a special program of work at the Center. This will enable the student to pursue a degree program on his own and yet provide a sense of perspective for the student by reshaping his skills to provide maximum benefit for his future employer.

"The emphasis is on the application of knowledge to the development of black institutions and a re-definition of the current institutions."

The Center offers a program whereby a U-M student may enroll in African or Caribbean universities. The program is called "Study in The Black World" and next year, eight students are expected to attend African universities and four at The University of the West Indies under its auspices.

A library and reading room have been established, providing basic periodicals as well as more esoteric materials. "We hope to have the library collections become a real research center, and include the many freedom journals from Africa which are not available elsewhere on campus," says Yates.

Speaker series and workshops are also part of the Center's overall program, with workshops on black creative writing, criticism in black arts, and art currently organizing. A special media project of filming and taping of lectures and events in black arts, history, social science and development and contemporary events, has also been undertaken by the Center's staff.

The first research efforts of the Center will be published in about three weeks, through a monograph and report series. Before the end of June, some eight to 10 papers are expected to be published by the Center.

"The series of papers will be printed in fairly small quantity, about 400 copies of each," says Yates, "and we would expect that the circulation of the papers will lead to reprints in various other journals. At the present time, the papers have been written by members of the Center staff, but this is not a prerequisite for publication."

Some of the reports to be released soon include Thomas Gordon's "Notes On The Limits of White Psychology"; William Suttles' "Voodoo And Conjuring As Ideologies In Slave Rebellions"; a paper on the African slave trade; and another on the political relationship and similarities between the black movements in North America, the Caribbean, and Africa.

Research projects include, says Yates, a survey of the black community in Ann Arbor, a study of black consumer experience and the development of approaches for the preschool education of black children.

MINORITY ENROLLMENT SURVEY, FALL, 1970, THE UNIVERSITY OF MICHIGAN

[All students (full and part time)]

	Fall 1970 headcount	Total minority	Black	Oriental	American Indian	Spanish surname	Other and non-response [1]
Ann Arbor	[2] 32,940	2,400	1,546	618	71	165	2,461
Architecture and design	871	61	40	17	2	2	3
Business administration	771	27	19	3	1	4	1
Dental and dental hygiene [2]	576	16	12	1	2	1	5
Education	1,441	146	126	5	6	9	105
Engineering	3,273	221	98	84	9	30	205
Graduate, Rackham [2]	6,772	781	366	343	10	62	930
Law	1,185	89	72	13	1	3	1
Library science	259	14	9	3	0	2	
L.S. & A [2]	12,539	652	510	98	25	19	1,200
Medicine [2]	861	68	60	4	4	0	0
Music	765	59	41	10	4	4	0
Natural resources	483	12	7	3	1	1	1
Nursing	815	34	28	3	2	1	0
Pharmacy	259	17	8	6	2	1	2
Public health	383	86	53	17	1	15	2
Social work	618	117	97	8	1	11	9
Others [2]	1,069						
Flint	1,819	149	125	11	7	6	1
Dearborn	875	47	34	9	3	1	1
All campuses	[3] 35,634	2,596	1,705	638	81	172	2 467

[1] This category includes those who do not consider themselves as either Caucasian or one of the designated minority groups, as well as those who did not respond.

[2] Of the total number of students on the Ann Arbor Campus, 1,069 were not requested to supply racial data. The programs excluded were postgraduate dentistry, postgraduate medicine, hospital training, anesthesiology, English language institute, and postdoctoral fellows. The total for the campus excluding the above is 31,871.

[3] In addition, 1,762 students are registered in the graduate resident centers; and 2,265 in other extension courses; adding up to a total fall term headcount of 39,661.

CULS PROVIDES UNIQUE STUDY GROUPS

The Coalition For The Use Of Learning Skills (CULS) is a vital part of the University's overall program for the education of minority groups. The CULS provides counseling, tutoring, reading and writing clinics, and study groups for approximately 60% of the "target" population of black and minority students.

Key to the entire program is the study group system. Approximately 30 study groups, for specific courses and sections, meet for two hours a week. The purpose of the study groups is to do four things:

Make certain that group members learn course materials and perform well on course examinations and papers;

Equip all group participants with learning and performance skills, e.g., effective reading, analytical note-taking;

Compensate for gaps in substantive material of the course with emphasis on materials related to and/or important to Black and minority communities;

Relate course material to the student's own life and the Black and minority communities.

Study groups include courses in Afro-American and African studies, botany and zoology, economics, chemistry, engineering, French, physics, mathematics, Latin, history, physiology, psychology, anthropology, English, and political science.

"The purpose of this program is not just 'getting a student through school'," says Frank Yates, director of CULS, "but to teach the things wanted by the black and minority constituencies."

"The main fault in attempts at other schools across the country is to make the black student like the white student—to change the student, to plug him into the present structure of the school."

In addition to the course study groups, several general study groups are planned for next fall in quantitative sciences, social sciences, and the humanities.

Several sections of English 123 are offered jointly between the CULS and the Department of English in LS&A. This summer, a special test will be compiled for those sections by CULS staff.

A new pre-orientation program for Opportunity Program students began this past weekend when CULS sponsored some 50 students (who will attend U-M next fall) for a special three-day weekend. The students joined present minority group students in attending classes on Friday, and met with representatives of the Black Students Union, and the financial aid and housing offices over the weekend.

"We are trying to find out what is necessary to achieve our objectives," says Yates, "and it should be emphasized that we don't have all the problems solved. But we are working in that direction."

CONGRESSIONAL WARMAKING POWERS

HON. EDWARD P. BOLAND

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1971

Mr. BOLAND. Mr. Speaker, the Congress has slowly surrendered its warmaking powers to the White House in a piecemeal process stretching over the past few decades. It is time to get those powers back. The Constitution, after all, makes one point explicitly plain: the Congress—and the Congress alone—has the authority to declare war. Yet President after President has stood stonily aloof to the Congress' legitimate role in shaping war policies, committing American troops to battlefields overseas without sanction from the legislative branch.

Long reluctant to delve into this issue, the Congress now appears on the threshold of taking action. The Senate Foreign Relations Committee yesterday reported out a bill that would recover our warmaking powers. The bill—virtually identical to one I am sponsoring here in the House—would prohibit any President from initiating combat activities without advance consent from the Congress. In emergency situations—four kinds are spelled out in the bill's provisions, ranging from a sudden attack against the United States to the evacuation of American civilians from places of danger—the President could act swiftly. Any American combat action stemming from his response, however, must be approved by the Congress within 30 days. Otherwise, it must cease.

For too long, Mr. Speaker, the Congress has been pressing its nose against the windows of the White House and Pentagon—peering in at the warmaking process, yet too restrained to take an active role in it.

The Vietnam war demonstrates, if nothing else, just how dangerous that posture can be.

We must reassert our Constitutional authority.

FARM GROUPS AGREE ON AGRICULTURE POLICY

HON. JOHN M. ZWACH

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1971

Mr. ZWACH. Mr. Speaker, on January 18 and 19 of this coming year, a two-State rural development conference will be held in Worthington, in southwestern Minnesota.

The conference is being sponsored by civic leaders in six Minnesota and four Iowa counties.

One of the major areas of concern will be agriculture. It is to note that the three leading farm organizations, the Farm Bureau, the National Farmers Organization, and the Farmers Union have already reached agreement on nine points where action is needed to help correct some of the problems of agriculture.

A series of conferences such as this held throughout the farm belt could well point the way to solutions to the problems now plaguing our countryside.

Mr. Speaker, I insert in the Congressional Record the story of this planned conference written by Lew Hudson, regional editor of the Worthington Daily Globe:

Three Area Farm Groups Agree on Wide Area of AG Policy Issues

(By Lew Hudson)

Planning for the January 18 and 19 two-state rural development conference to be held in Worthington has produced concrete results already and the event is still seven weeks away.

The conference is being sponsored by civic leaders in the six southwestern Minnesota and four northwestern Iowa counties. Discussions will take place in six major areas of concern, one of which will be agriculture.

Norman Larson, chairman of the agriculture sub-committee, said representatives of the Farm Bureau, National Farmers' Organization and Farmers' Union in the two-state area have begun discussing what they propose to present to the conference and have discovered in the process that there is more on which they agree than upon which they disagree.

At a Tuesday meeting of the planning committee, Larson said, "The news media always emphasize our disagreements, but this time we want to get together as a common voice and we're going to continue working together."

He went on to list nine points on which all three organizations agree action is needed to help correct some of the problems of agriculture.

They are:

1. Crop reporting services of USDA should be stopped.

2. No person, group or corporation should be allowed to use farm losses to obtain tax advantages from other activities.

3. Farmers should have representatives on Federal reciprocal trade agreement boards to protect farm interests in international trade.

4. Ways should be developed to enable farm representatives to follow grain from the farms to export ports to guard against deterioration, contamination and shrinkage said to take place frequently.

5. As long as farmers are docked when selling corn at more than 15 per cent moisture and soybeans at more than 13 per cent, they should get a bonus if they market grain below these levels of moisture.

6. USDA's budget should be broken down to reflect what amount is spent for farm aid and what helps consumers.

7. The secretary of agriculture should be producer oriented.

8. Quality standards should be the same for imported farm products as for domestically produced food.

9. Farmers oppose federal doleout programs and prefer programs serving broad farm and public benefit.

Larson said further meetings of the representatives of the three farm groups will be held to continue development of a meaningful platform on agriculture's needs to be given at the conference.

Minnesota Governor Wendell Anderson has offered support and will be present for a noon luncheon address on January 18. Invitations have also gone out to Iowa Governor Robert Ray as well as a long list of other state and federal officials.

The conference idea is to first present the major problems of the two-state area as seen by people who live here and then to bring out local ideas on potential solutions. After the local people have had their say, the visiting governmental officials will be asked to respond with their thinking.

Other than agriculture, topics to be discussed include transportation, inter-city planning and cooperation, provision of vital public services, needs of the elderly and the youth, and industrial development.

The four post secondary educational institutions in the area are co-sponsoring the conference. They are Worthington State Junior College, Pipestone Area Vocational School, Jackson Area Vocational School and Northwest Iowa Vocational School of Sheldon.

REMARKS

HON. HASTINGS KEITH

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1971

Mr. KEITH. Mr. Speaker, Donald R. Larrabee, the veteran Washington correspondent, has just returned from a 2-week tour of the Portuguese provinces of Angola and Mozambique. His observations, contained in a series of seven articles, provide fresh perspective on an area of the world that is as under-reported as it is under-developed.

This penetrating series gives new insights into the problems facing both Portugal and the Western World on the African continent. It wipes away some myths and misconceptions about Portuguese Africa while underscoring the positive developments that are reshaping the destiny of millions.

The series is currently appearing in the New Bedford Standard-Times, the Fall River Herald News, the Brockton Enterprise and the Quincy Patriot-Ledger, as well as numerous other newspapers in areas served by the Griffin-Larrabee News Bureau. I have the highest regard for Mr. Larrabee's integrity and objectivity as a Washington observer and commend this series to the attention of my colleagues.

Representing, as I do, more Portuguese Americans than any other Member of the Congress, I believe that my constituents will be pleased with the depth and perception of Mr. Larrabee's work—and I believe it will be of value to my colleagues.

The seven-part series follows:

The Portuguese in Africa—First in a Series

(By Donald R. Larrabee)

Lisbon.—Portugal's almost-forgotten war in its African provinces has wrought unbelievable changes, both at home and in the overseas territories, during the past ten years.

Guerilla warfare, on three separate fronts in Guinea, Angola and Mozambique, clearly has stiffened the resolve of the Lisbon government to "civilize" her African subjects until they are deemed ready for independence. But the war has helped to bring Portugal into the 20th Century.

Portugal has been at its own war longer than we have been fighting in Vietnam. But the terrorist activity, which remains a nagging problem in Portuguese Guinea and in isolated areas of the other provinces, is largely under control, thanks to the presence of a military force of around 170,000.

Still, it is questionable whether the Portuguese could stem the tide of nationalism and independence that has swept Africa in the past decade if they did not enjoy popular support among the natives they rule.

The fact is that Portugal has been shaken out of its lethargy and is moving swiftly in the fields of education, public health, housing, roadbuilding and industrial development.

There is evidence in northern Angola that thousands of blacks who fled to the Congo during the 1961 insurrection, expecting to find better living conditions, are filtering back to work in Gulf Oil's offshore operations at Cabinda (the company employs 4,000) or to share in the benefits of an expanding coffee-growing industry. They apparently failed to find the promised land.

They are being encouraged to live in secure villages with central water supplies, schools, health and community centers. Some are becoming entrepreneurs with their own coffee production. Coffee cooperatives are springing up.

Blessed with diamonds and oil, Angola is a boom territory and is only beginning to realize its potential. The slow, lazy servatile life has been replaced by a frontier spirit. The Portuguese black mixes with the Portuguese white but, more than that, he can see that life is improving steadily for him.

In Mozambique, on the East Coast of Africa, progress is slower but Portuguese authorities are raptuous over the potential of the $306 million Cabora Bassa Dam across the Zambesi River. When completed in 1974, it will be the largest hydroelectric project in Africa, fifth largest anywhere, and promises to be a veritable TVA for the Zambesi Valley.

This can mean cheap power for a vast area, including neighboring African states. But Portugal is even more intrigued by its possibilities for agriculture, for mineral development and for economic and social progress generally Mozambique.

To the east, the Portuguese are developing the finest natural deep water harbor in Africa at Nacala. Only 30 years ago, the port was a desolation of bush and sandhills. Today, its four bays are prepared to handle the biggest vessels afloat and could easily accommodate the entire Seventh Fleet. It is a port-builder's dream and will surely become a major repair berth for the era of the super-super tanker.

The first modern European nation to explore Africa, Portugal is not about to relinquish control without a fight, despite heavy and continuing pressures from the United Nations. Portuguese officials are privately fearful that these pressures will intensify with the admission of mainland China to the Security Council.

This can raise new embarrassments for the United States which has preferred to take a laissez faire policy toward Portugal's colonial policy, especially since the Nixon Administration came into power.

The U.S. attitude toward Portugal's African possessions, as expressed by Secretary of State William Rogers, is to encourage peaceful progress toward self-determination for the thirteen-million people who are living there. We respect Portugal's racial toleration, as contrasted with the apartheid (separateness) policy of South Africa and Rhodesia, and we are inclined to give the reform measures of Prime Minister Caetano a chance to work.

"I don't think our pushing them will get any action," one informed African diplomat told me. "There may be autonomy in the provinces one day but that is quite different from independence. That won't come without a lot of ferment and turmoil inside Portugal, an internal political upheaval and perhaps economic pressures."

High Portuguese officials are concerned that Americans generally, and including some important political leaders, do not fully understand the implications for the free world of a Portuguese withdrawal from Africa.

They see the anti-colonialism drive as a smokescreen for communist infiltration and takeover in Africa. They contend that it is in America's long-term self-interest to have a friend occupying seven per cent of the total land area in Africa, strategically distributed. Even a cursory glance at the map, the Portuguese say, shows that Lisbon controls points which are indispensible for the defense of the western world.

THE PORTUGUESE IN AFRICA—SECOND IN A SERIES

(By Donald R. Larrabee)

CARMONA, ANGOLA.—In this northern community of 11,000, the Capitol City of terrorist forces ten years ago, it is possible to walk down the main street at night and feel secure.

Stability and relative calm prevail in an area where there was savage slaughter and violence in 1961 in an abortive drive by "liberation" groups to separate Angola from the Portuguese nation. Large numbers of blacks fled to the bush and to the Democratic Republic of the Congo but they have returned in droves to a better life in their native tribal areas.

In the countryside, the terrorism continues sporadically. There are occasional ambushes. Land mines are used to harass both civilians and the Portuguese patrol forces concentrated in the Congo and the Zambian border areas. But there is a new security for the population.

The natives no longer live in small tribal clusters in the sparsely-settled countryside. Both for economic reasons and for their own safety, they have been regrouped in villages of 1,000 or more where they have a central water supply for the first time, their own schools and health facilities.

The men work at the biggest industry in this part of Africa—coffee production. Some of them are becoming small businessmen, if not capitalists, selling their own crops to world markets. Others are selling to cooperatives and managing their own farms at a profit.

In this once-hostile area, there is no evidence to support the claims of Radio Moscow that vast sections of Angola are controlled by the insurgent forces—either the Popular Movement for the Liberation of Angola (MPLA) or the Revolutionary Government of Angola in Exile, formerly known as UPA.

The Portuguese say the rival "liberation" movements are badly disunited and fighting among themselves, a factor which has undoubtedly bought time for the Government to launch the long-overdue educational and economic development projects which are blunting insurgency.

Guerrilla activities reportedly continue in the densely forested area in the northwest and the sparsely populated savannah region in eastern Angola. Here the Portuguese have not been able to pull the natives together in communal security. Vast areas are exposed and no wall could possibly be built to keep the enemy out.

In the eastern half of Angola, a scarce ten per cent of the population subsists in ancient tribal fashion and has barely been touched as yet by the economic and social reforms of the past few years although efforts are going forward.

In the comparative serenity of Carmona today, the Portuguese keep the population mindful of the fact that hundreds were killed and thousands hurt in the attacks of the early 1960's. A church at nearby Quitexe, where the first blows were struck, displays on either side of its portal the names of those killed since 1961. There are some 20 names with a 1970 date, silent testimony that peace still has not come to the land.

Small detachments of troops are visible in the area but much of the job of policing and protection is now handled in various ways by local militia and volunteers. The big coffee plantations, for instance, have their own security forces which are linked to military units in the area by radio.

The road from Carmona to the capital city of Luanda, a few hundred miles to the south, is not safe for individuals once they leave the city limits. Drivers must travel in convoys and there are reports of terrorist attacks along the way almost daily.

The Portuguese say armed attacks in all the affected areas of Angola average around a dozen a week among a population of 5,600,000 living in 16 districts. Casualties, country-wide, are running close to 20 a week including four or five deaths. The war in Angola is claiming about 100 lives each year.

But, clearly, subversion is being contained as the Portuguese move toward urgently needed social reforms. The war has accelerated this movement and it seems the natives, black and white, can't build schools and other community facilities fast enough to meet the demand. Carmona has a master development plan as elaborate as that of any American city's.

Beyond this, the black landowner has discovered his own earning power. He no longer wants to work for the white plantation owner south of town. The big coffee producers are finding they must import their labor.

In this northern area of ferment, those who fled to the Congo and listened to the promises of better living are filtering back. They are being welcomed and cared for. Paradoxically, the black Portuguese citizens in southern Angola who remained loyal during the terrorism are getting little reward in the way of better homes and education. They must wait until there is even greater stability in the North.

THE PORTUGUESE IN AFRICA—THIRD IN A SERIES

(By Donald R. Larrabee)

CABINDA, ANGOLA.—Missionaries have operated for many years in Angola but a new type of missionary is making his way to the northern coast of this 3,000 square mile Portuguese province these days.

This is the site of Gulf Oil's $225 million offshore petroleum discovery that has become a political issue in scores of American pulpits the past two or three years.

On the day we visited the Gulf operation, a minister from Dayton, Ohio was being shown around the premises. He had written a letter to the company complaining about Gulf's involvement in the Portuguese enclave north of the mouth of the Congo River. It has become a cause celebre among the clergy to oppose any American investment in African territories where the people remain under foreign control.

The minister will be writing his own report in due course but he indicated that at least one of his pre-conceived ideas had been dispelled. The war in Angola against the Portuguese, he found, did not have the support of any large segment of the native population. Gulf Oil, of course, has brought jobs and new opportunities to the blacks. They are working and happy.

Gulf officials said they were expecting a Presbyterian minister from the United States the next day. A Gulf spokesman commented wryly that it has become fashionable for ministers to make pilgrimages to Angola.

The anti-Gulf campaign reached a pitch last Spring when the Presbyterian Church's "Task Force on Southern Africa" took part in Gulf's annual meeting in Atlanta and backed three new members of the Board—two communist-supported African guerrila leaders and Angela Davis, a self-avowed communist and black activist now under indictment in California for complicity in murder. The issue divided thousands of church goers.

What the pilgrims to Cabinda are discovering these days is perhaps the most significant economic development in the history of Angola. There are 120 operating wells offshore. The bottom of the ocean is filled with pipe which sends the oil to an onshore tank farm. After a burn-off of final gasses, the crude oil is then delivered by gravity through a huge steel, concrete-coated pipeline to ships anchored nine miles at sea. The output averages 100,000 barrels a day and further increases in production are expected.

The operation employs 4,000 workers, mostly blacks, who are descendants of a tribal group which became a Portuguese territory in 1882 through a treaty signed between the Portuguese government and the local chieftains. The Barons of Cabinda did not want their territories incorporated into the encroaching colonial empires of France and Belgium.

One of the fascinating landmarks in the area today is a burial ground of the Negro Barons with the busts of three Portuguese kings majestically placed over the gravesites.

This wealthy enclave, surrounded by the two independent Congo Republics, is relatively immune to terrorist attacks these days. Soldiers who are sent to the Carmona-Cabinda region of Angola say it is common knowledge that Gulf Oil and the plantation owners in the area are paying off the insurgent leaders to keep the peace.

The young Portuguese soldier, who hears and believes this, can't be faulted for wondering why he has been sent to this outpost if peace is being purchased in a kind of phony truce.

For this reason, and others, it is becoming a difficult war for Portugal. Her young men are being uprooted from their careers for duty in remote areas where they are not directly encountering the enemy most of the time. Some of them openly question their government's policy although a Portuguese citizen, unlike America's Vietnam soldier, does not protest too much. There is no free press, as we know it, and veterans don't march on the President's palace in Lisbon.

The sporadic war in the bush country is consuming one-third of the nation's budget and involving every young man who is physically qualified for three years. Most of them must serve abroad. Portuguese Guinea, Angola and Mozambique are no longer strange and faraway places because the younger generation is seeing them at government expense. In short, the war is having a broadening effect on Portuguese youth.

Only time will tell what impact this educational experience will have on the central government in Lisbon but Portugal's young are quietly questioning time-honored policies. There is evidence that this resistiveness has not been lost on Prime Minister Marcello Caetano. He has begun to put his own liberalizing stamp on the legacy of the late Dr. Salazar.

The Portuguese in Africa—Fourth in a Series

(By Donald R. Larrabee)

Nampula, Mozambique.—Dr. Miguel Murupa, 32, son of a sub-chief of the Macuan tribe, will shortly become the first black editor of a major newspaper in Mozambique's second largest city, Beira.

But that is only the latest reason why the Portuguese consider the intense young graduate of Washington's Howard University to be exhibit number one for its policy of gradualism in the African provinces.

Just five years ago, as a Howard student, Marupa was recruited by the late Dr. Edouard Mondlane to join FRELIMO (the Liberation Front for Mozambique). He went to Tanzania where he interned in the terrorists' headquarters in Dar-es-Salaam, then to the guerrilla training camp at Nashingwea where the Chinese communists are helping to train insurgent forces to "liberate" Mozambique from the Portuguese.

Dr. Murupa quickly became the equivalent of a foreign minister for FRELIMO, a roving ambassador and the "house intellectual." Within the past year, he has defected and returned to the Portuguese, a disillusioned man who hopes to convince his people that they will prosper more under a peaceful revolution, even as Portuguese subjects, than under a violent one directed by outside communist forces.

We talked with Miguel Murupa for an hour or more. He confirmed the intelligence reports of the Portuguese that the Russians and Chinese are jointly training insurgents and supplying weapons and funds to the guerrilla forces.

But he also confirmed that the communist powers are locked in their own power struggle to win control in Africa. He finds all this inimical to the long-term hopes and aspirations of black Africans.

Dr. Murupa has an important story to tell. It belies the popularly-accepted accounts of the FRELIMO "freedom fighters" and reflects how little America understands of the forces at work in Africa.

"Dr. Mondlane was traveling to the United States frequently while I was at Howard University. He was trying to convince young men to come to work for FRELIMO. He was against the Portuguese but he was not for the communists. But by the time he arrived in Tanzania to lead the movement, it was already clear that it had been infiltrated by the communists.

"We were taken to the Nashingwea training center, first for political indoctrination to be brainwashed with Mao Tse-tung's revolutionary philosophy, and, second, to learn how to manage weapons. I was named assistant secretary for foreign affairs. I traveled a lot and began to see the new imperialist force that was preparing to come to Africa.

"Most Africans don't know that behind these struggles for freedom are the Soviet Union and the Chinese. I could see the strong communist penetration in government offices wherever I went and I became aware that if we were to support such movements as FRELIMO, we actually were supporting Chinese and Soviet imperialism.

"If these people (the guerrilla forces) took over, they don't have the capacity or the know-how to rule. That means that if the westerners were overcome, our leaders would come from Russia or China but it also means war between the two powers," he said.

Dr. Murupa told me that half of the Chinese teachings in the training camp were directed against the Soviets, the other half against the U.S. and the Portuguese. While he did not visit the Russian camps, which are physically located in the Soviet Union rather than Tanzania, he said others had told him that a trainee in Moscow learns that the enemy is China, as well as the U.S. and Portugal.

Dr. Mondlane was assassinated in early 1969. Dr. Murupa tried to leave FRELIMO but he was jailed. When he escaped a year ago, the Portuguese welcomed him "as a lost son coming back," he says. Now he is prepared to spread the word to Mozambique's blacks that their greatest hope lies with the Portuguese at this time.

He says blacks and whites are treated equally under the law in Portuguese Africa but he is convinced that the people are not yet prepared to run their own affairs. His greatest fear, in the wake of a revolutionary takeover, he says, is that Mozambique would actually become divided into a society which is all black in the north and all white in the south.

Dr. Murupa is not proclaiming Portuguese paternalism has been a perfect way of life. But he says the concept of a multi-racial community of peoples under one nation has been sound government policy, even if economic development and social progress have been slow in coming.

He says it has taken much too long to place Africans in key positions of authority but he also says that the opportunities are opening up quickly today as educational advantages are extended to more blacks.

He acknowledges the serious underdevelopment of Mozambique—the lack of enough good teachers, the need for more schools and roads and the benefits of modern agricultural techniques but he has faith in the sincerity of the Portuguese. He says they have proven themselves in the area of greatest need, racial equality, and he is confident they will deliver on their other promises.

"The world will see," he says quietly, "The world will see."

The Portuguese in Africa—Fifth in a Series

(By Donald R. Larrabee)

Cabora Bassa, Mozambique.—Explorer David Livingston, coming upon this narrow gorge where the Zambezi River has roared untamed for centuries, decided on a name that has stuck.

In the local dialect, Cabora Bassa means "the place where the hard work ends." In Livingston's time, it marked the end of the road from the coast. Boatmen had to make a wide overland detour. Today, the hard work of building one of the largest hydroelectric power projects in the world is proceeding around the clock amid breathtaking surroundings. The first power should

The harnessing of the Zambezi will make available huge blocks of cheap power to most of Southern Africa. It will open up the untapped potential of its hinterland, transfer ten million acres from arid wasteland to croplands and forests and trigger exploitation of significant deposits of coal, iron, manganese, and fluorite, as well as chrome, gold and nickel in the Zambezi Valley. A steel industry is inevitable.

It will mean thousands of jobs for Mozambiquans who now emigrate to find work and a type of socio-economic progress for the native population that Livingston never dreamed of. The huge lake created by the project will provide an inland commercial fishery and protein-rich fish flour. Tourism will be developed.

Finally, Cabora Bassa is expected to prevent the recurrent flooding of the lowlands while making the Zambezi navigable upstream as far as Tete, the capital city of the district, and possibly to the Rhodesian border, some 700 miles from the Indian Ocean.

In a sense, it will be a symbol of European presence in Africa since France, Italy and Germany are privately involved with Portugal in the construction.

For the Portuguese, it is no mere power production system but part of a basic infrastructure of a more ambitious plan to bring civilization and development to a remote part of Africa. It can also serve to strengthen Portugal's hold on the native population which has been under sometimes violent pressure since 1964 to throw off its foreign yoke and join the African independence movement.

Cabora Bassa is viewed less kindly by the United Nations Trusteeship Committee which called it a "crime against the people of Mozambique and a plot designed to perpetuate the domination, exploitation and continued oppression of the people in this part of Africa . . ." The theme is echoed on propaganda broadcasts by Radio Moscow and Radio Tanzania.

Amid the protests, however, the adjacent African countries are quietly showing more and more interest in obtaining some of the cheap power from the controversial project. Zambia, Malawi, Rhodesia and South Africa are already committed to buy some of the output.

The area is twice the size of European Portugal and 98 per cent of the two million natives live in tribal groups. The earliest studies gave heavy emphasis to the needs of these people and the best method of community development. There have been accidents caused by mines and terrorists have tried to disrupt resettlement of the population in the lake area. The resettlement program now has heavy military protection.

For several years, the Portuguese have lived with the threat that terrorists, trained by the Chinese in nearby Tanzania, would attack the construction camp and bomb the dam site. This seems a remote possibility to anyone who has seen the intricate security network at Cabora Bassa.

A more serious threat for the future may be posed by the 900 miles of transmission lines which will be largely unprotectable from sabotage. Asked about this danger, a Cabora Bassa official said: "We have to expect incidents. We have to be prepared for sabotage. It can happen anywhere in the world. But we have lived with danger for ten years."

This is no overnight scheme to keep the enemy at bay. The Portuguese have been studying Zambezi River development since 1953, intensively for nine years before the work began in 1968. Typical of the problems that have been solved is the system devised to get the ships through Cabora Bassa and four other downstream dams. There will be a special railway around the dams. Trains will carry dual purpose containers which can be transferred and placed in the water at the end of the line below the dams.

The big project is on schedule. One of the two diversion tunnels has been completed and already is shunting the unruly river around the site of the 550-foot high double-curvature arch dam. Boring is well along on the left bank tunnel. The diversion tunnels are scheduled to be closed in 1974 and, according to the engineers, Cabora Bassa will back up enough of the Zambezi's waters in six weeks to generate the first power.

Current plans call for a power station capable of producing some 17 billion kilowatt hours of electricity a year, compared with 10 billion from Egypt's Aswan Dam. Cabora Bassa, if it succeeds, will literally change the face of Africa, geographically and politically.

THE PORTUGUESE IN AFRICA—SIXTH IN A SERIES

(By Donald R. Larrabee)

NAMPULA, MOZAMBIQUE.—At this headquarters of the Portuguese military forces in the north, you hear worried whispers about China's intentions in Africa.

The Portuguese are particularly concerned about a reported 30,000 Chinese who are working on the so-called Tan-Zam railway project which is designed to link land-locked Zambia to the sea. The railroad workers are said to be members of the Popular Liberation Army. And the Portuguese are convinced they will not pull out when the line is completed.

An informant connected with a major newspaper claims knowledge that 147 members of FRELIMO, the principal guerrilla organization based in Tanzania, have been killed in recent action. There is nothing official on this, no such word in the public press or any mention of a battle with Portuguese forces.

But FRELIMO is a fact of life, getting its help in arms, training and money largely from the Chinese communists, while taking all the support it can get from the Soviets, as well. Yet, the Portuguese say FRELIMO has no ideas or political philosophy of its own.

Officials on the scene say FERLIMO operates very heavily as a propaganda machine through political commissars who are planted among the native population to arouse them against their white rulers. Their efforts are followed up methodically by terrorists and guerrillas and the Portuguese contend that any local chiefs who offer serious resistance are murdered.

Anti-Portuguese broadcasts from Radio Peking, Radio Moscow and Radio Tanzania, in Portuguese and tribal languages, charge that NATO weapons are being used to kill the native population. They say the Cabora Bassa power project, if completed, will continue the domination of the white man in Africa forever. The general theme is that it is a popular war but there is no evidence anywhere in Mozambique that the population is rushing to join the revolt.

Although the Portuguese say the guerrillas are really not very impressive as soldiers, the presence of an estimated 4,000 to 5,000 terrorists here in the North means that Portugal cannot let down its guard or withdraw its forces, even if there is no direct confrontation.

To combat the enemy propaganda, the Portuguese have a well-defined system for conducting a counter-campaign in the settlements. They use loudspeakers in helicopters ("sky shouting") to get the word to natives. The planes drop leaflets with posters and news pictures to convince the tribes that China and the Soviets are seeking control of all Africa.

Beyond this, the Portuguese have pushed a program of settlement villages on the northern border of Tanzania to show the natives on the other side what is happening. The "aldeamento" settlements are showpieces, with electricity and central water, health facilities, schools, small industries, tarred roads. They are designed as visible proof that change is taking place. They are designed, of course, to discourage subversion.

The Portuguese say that not only the Chinese and the Soviets, but also Cuba, North Korea, Algeria and Czechoslovakia have had a hand in helping to train guerrillas. They say 82mm mortars and 75mm recoilless rifles belonging to the Chinese and Russians have been captured. Most of the guns and ammunition are believed to emanate from China but the mines are said to be mainly Russian.

The Portuguese also produce documents alleging that American and world-wide church groups and private foundations are providing financial support, both directly and indirectly, to insurgent forces.

To the Portuguese in Africa, communism thus is an imminent threat. They are shaken by what appears to be an American retreat from its postwar containment policy. They wonder why the nature of the threat, as they see it, does not penetrate the West.

The central Portuguese argument, for American consumption, is that it is better for the U.S. to have Portugal in control than Soviet Russia or China. With the emerging nations, they say there is no guarantee that they will be on our side at any time, while we have a firm ally in Portugal which will be there when the chips are down.

THE PORTUGUESE IN AFRICA—SEVENTH IN A SERIES

(By Donald R. Larrabee)

LISBON, PORTUGAL.—Portugal today is a country in trial and transition.

It is a black mother standing at the airport in Beira, the bustling central city of Mozambique, her face drenched in tears as she watches her son board a military transport headed north where the terrorists engage in war games.

It is a military man, governor of the vulnerable Tete District in the North, who produces a set of pocket books with Mao Tse-Tung's "Revolution" translated into Portuguese. They were taken, he says, from a prisoner trained in neighboring Tanzania for guerrilla warfare aimed at ending Portuguese rule and giving the natives their independence.

It is a young, white Portuguese aeronautical engineer who has done his military service and is restless to see his country move ahead faster. He admits there is movement but says his country waited far too long to open up the rich potential of this part of Africa to the people who live there and to the outside world.

The war and the new generation of Portuguese who have been exposed to it are destined to change the face of Portugal and Africa. The mother will learn from her son. The professional soldier senses he is sending a new breed back to civilian life. The young veteran sees no reason to emigrate to France for jobs when he has seen first-hand the need for technicians and able bodies in the overseas territories.

The violence that has rocked Mozambique, Angola and Portuguese Guinea has made the difference. By staying neutral in World War Two, the Portuguese did not benefit from the strange fruits of participation. The post-war economic boom in Europe passed them by.

Now, insurgency is shaking the foundations of one of the oldest and most tradition-bound states of Europe. Portugal today is an old man with a zip in his step. The status quo is being replaced by a spirit of creative expansion.

Prime Minister Marcello Caetano is overseeing constitutional changes which reflect the changing mood. The national assembly is being strengthened to include more delegates from the African provinces. Enabling legislation has been passed to pave the way for various forms of local autonomy in the provinces, with Lisbon still calling the basic shots and directing foreign and military affairs.

There is still no provision for political parties as we know them, although there was an opposition campaign in the 1969 elections and the press covered it to some extent. While it still borders on treason to criticize war policy, a new press law was passed last summer which abolishes censorship of most newspaper material prior to publication.

Informed American diplomats, however, see the insurgency in the provinces acting as a drain on the Lisbon government and its budget for an indefinite period. If external communist support was ended, the Portuguese say, the "liberation" movement would evaporate but there are American observers who question this judgment.

It is a heartening sign to U.S. officials that the Portuguese provinces are beginning a dialogue with African states to the north where there still is no formal diplomatic recognition but where Portuguese diplomats are active on an informal basis. Trade and business contacts are increasing with the independent African states.

Only recently, President Mobutu of the Democratic Republic of the Congo, which has just assumed its own Portuguese name of Zaire, said he could find no fault with the racial policies in the provinces and would not turn down an invitation to visit Portugal.

Things cannot be all bad when a Portuguese soldier in Angola can put on his civilian attire, on his day off, and drive across the Zaire border without fear of being stopped.

The Portuguese, meantime, have a wary eye on the United Nations and the 1972 elections in the United States. The Nixon Administration's "no policy" toward the African provinces has been appreciated. In effect, the Administration, mindful of our defense and treaty commitments with Portugal, has looked the other way. It has endorsed the right of self-determination for the 13 million people in the provinces and has accepted the fact that Portugal is making progress in this direction, while practicing racial toleration.

The admission of mainland China to the United Nations could, and undoubtedly will, rekindle the smouldering issue of Portugal's presence in Africa. The Portuguese worry less about Mr. Nixon than the possibility of a Democratic successor next year.

With Nixon engaged in bold foreign policy initiatives with Peking and Moscow, the Portuguese are wondering if the Democrats will seize on Portuguese Africa as an issue. They were upset by the belligerence of the Kennedy Administration and continue to feel that some politicians used the African issue as a means of appealing to the black vote in America. Sen. Edmund S. Muskie, in one speech, has already suggested a much tougher, prodding line toward Portugal to force her to change her colonial policies. They think he has been ill-informed on the issue.

The aim of the insurgent forces in Portuguese Guinea, they say, is Cape Verde which the Portuguese regard as the key strategic position for defense of the western hemisphere. At the moment, these islands have the only major airport controlling communications in the middle Atlantic.

What does the future hold for the provinces? Can they ever expect to be granted independence? One high Portuguese official replied: "My only answer to that is, we did in Brazil. I don't know what will happen in 20 or 30 years but, at the moment, they cannot be independent. They are not ready. At this stage, it would be disastrous."

American diplomats tend to feel that as long as the Portuguese take a hard line and dig in, as they are now doing, there will be no immediate change barring a radical political upheaval in the Metripole. The Portuguese believe in their mission. They are ready to fight for it.

They see themselves as lonely defenders of western civilization in Africa against the imperialistic designs of Soviet and Chinese communism. And there are times when they think that no one in the West really cares.

DAIRY IMPORTS

HON. ALVIN E. O'KONSKI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1971

Mr. O'KONSKI. Mr. Speaker, the dairy industry is deeply concerned over the continued importation of certain specialty cheeses, which have been entering the country through price manipulation.

Almost a year ago, Swiss, Gruyere process and certain other cheeses were put under quotas; however, any of these cheeses costing 47 cents or over, were exempt from the quotas. This was an open invitation for the foreign dairy producers to raise the price of their cheese and thus legally evade the quotas. When it became evident that these importations were constituting almost one-fourth of all dairy imports, the President, in March of this year, requested the Tariff Commission to conduct hearings. This was the fourth hearing in recent years on closing the dairy importation loopholes.

I was very pleased when the Tariff Commission recommended to the President that the 47-cent price-break exemption should be eliminated and that the quotas for the specialty cheeses be set for a representative period of normal trade, before the foreign exporters flooded the market with "over 47-cent cheeses."

At the time of the March hearings, I testified for absolute quotas to protect the American cheese industry from unfair but legal quota manipulations. In September, I wrote to the President, urging prompt action in implementing the recommendations of the Tariff Commission. The White House replied to me that a Government interagency group was studying the report to prepare recommendations for the President's consideration.

During this delay, the imports of "price-break cheeses," outside of the quota have been increasing by leaps and bounds, with each month showing a dramatic increase over the previous month. For this reason, I am again urging that the President act promptly on the Tariff Commission recommendations to protect the domestic cheese and dairy industry.

CULTURE BOONDOGGLE

HON. DURWARD G. HALL

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1971

Mr. HALL. Mr. Speaker, an article in the December 6, 1971, issue of Barron's deals with a number of the ridiculous and scandalous aspects of the Federal Government's mushrooming love affair with artists of all stripes, professors of various bent, and at least one art collector.

I am pleased to note that our colleague, the gentleman from Iowa, Mr. H. R. GROSS, is recognized in the article for the leading role he has played in unearthing many of the most ludicrous grants that have been made in the name of "culture."

We are helping to spend ourselves into the poorhouse by such insane projects as are mentioned in the Barron's article and I would hope that every Member of this Congress will read it.

I include the article for insertion at this point:

CULTURE BOONDOGGLE—FEDERAL SUBSIDY OF THE "ARTS" LATELY HAS TRIPLED

(By Shirley Scheibla)

("We all, no doubt, remember the debate that went on in this nation over many years over government involvement in the arts, the feeling of some that it was a frivolous waste of the taxpayers' money, the concern of others that government support might lead to government control or a drying up of the private funds on which ultimately the arts, of course, depend.

"The important thing now is that the government has accepted support of the arts as one of its responsibilities not only on the federal level but on the state and local levels as well."—*President Richard M. Nixon, to the Fifth Annual Conference of the Associated Council of Arts, Washington, D.C., May 26, 1971.*)

WASHINGTON.—If President Nixon really means what he says about holding the line on inflation, perhaps he should put his foot down the next time someone offers the government a donation for culture.

Originally, the John F. Kennedy Center for the Performing Arts was supposed to be financed entirely from private resources. But by the time it opened here last September, the tab picked up by the taxpayers had soared to $67 million and threatens to go much higher.

ART FOR WHOSE SAKE?

Again, when Joseph Hirshhorn donated his collection of modern art to the government, it didn't look like bad news for the public purse. Now, however, construction is afoot on the edge of the Mall for a huge museum and sculpture garden as a proper setting in which to display the art treasures. For taxpayers this means a bite of at least $16 million just for construction, additional expenses for restoring the art works to museum condition, plus maintenance estimated at between $2 and $3 million per year annually—to say nothing of the cost of the most valuable land in Washington for the site (now occupied by the Armed Forces Medical Museum, which is slated to be torn down).

Besides receiving such costly "gifts," the government also boasts its own foundation to hand out federal grants for culture: the National Foundation for the Arts and Humanities (NFAH). Created on the premise that support would come chiefly from non-government foundations and individual philanthropists, NFAH now is dispensing federal funds at the rate of $61.2 million a year, double last year's total and triple that of the previous one.

NFAH operates through two subsidiaries, the National Endowment for the Arts and the National Endowment for the Humanities. Contributions to launch them came from foundations, including several noted for their support of liberal causes, like the Stern family funds, the Ford Foundation, the Field Foundation and the Southern Education Foundation. Thus fortified, NFAH swung into action to solicit gifts of money and then to cry there was a great unmet need for supporting culture which could be filled only by the federal government.

ECOLOGY OF GAZELLES

Several Congressmen, notably Rep. H. R. Gross (R., Iowa), have begun to question the "need" for some of the activities which NFAH has financed. They include studies on the biological rhythms of the catfish, ecology of gazelles in Israel, oral folk poems of Vietnam, Africans in the Roman Empire, relations of fishing boat crew members and how they relate to conflict groups in Yugoslavia, group encounter (sensitivity training) techniques as a means of determining user needs for low-income housing, and economic and cultural effectiveness of government arts programs during the New Deal.

Grants also have gone to former Senator Eugene McCarthy for an anthology and to the Vermont Council on the Arts at Montpelier for a pilot project "to demonstrate the feasibility of making minimal-cost public sculpture for what will become the first American sculpture highway."

NFAH grants are questionable on other grounds. Subsidies to the press, for instance, could jeopardize the latter's constitutionally guaranteed freedom. The agency has subsidized 152 "literary magazines" in 38 states. It also gave $25,300 to WETA Channel 26 in the District of Columbia for 'The Wolf von Eckardt Project on National Capitals." Wolf von Eckardt is a reporter for the Washington Post.

In Congressional testimony last April, Wallace B. Edgerton, acting chairman of the National Endowment for the Humanities, declared, "One goal of the Endowment in the coming years will be the broader use of the public media and the more effective use of them."

"QUALITY" ARTS PROGRAMING

According to the National Endowment for the Arts (NEA), it "is exploring cooperative programming with the Corporation for Public Broadcasting and will itself be making a limited number of grants aimed at bringing quality arts programming to audiences through the media.

The Washington Post recently reported that NEA has subsidized the American Film Institute, which, in turn, has subsidized a CBS News documentary. NEA also gives grants for the development of film courses in schools and colleges.

The National Foundation does not hesitate to plunge into controversy. At New York State University at Stony Brook, it is financing a study of "The subculture of youth, both American and European, on a comparative basis . . . The project is not an easy one but promises understanding of the worldwide phenomenon of youthful alienation and possibly some practical recommendations for dealing with it."

At the University of Hawaii, it is paying for the application of "ecological and humanistic understanding to the design of a new kind of community. Called 'eco-community,' such a community would encourage redefining the 'good life' in terms of less consumption, more perception of individual uniqueness, and more responsible use of both human and natural resources."

PARENTS BARRED

Funding of controversial ventures has received little unfavorable publicity, except in the case of Living Stage '71. In a play given for 6- to 12-year-olds, with guards barring parents from attendance, a production in Baltimore seemed to approve beating up a teacher for sending a child home for being rude. The actors were applauded when they told the audience to yell an obscenity whenever it saw something it did not like. But when the children used the same words at home that night, enraged protests from parents made the Baltimore papers. During Congressional hearings, Rep. William Scherle (R., Iowa) questioned Nancy Hanks, head of NEA, about the play. She explained that since it was improvisational theater, her organization could not pass on the performances it was underwriting. Federal support for the group continues.

PRIEST ON TRIAL

Through NEA, the government also funds the Baltimore Center Stage, which opened the season earlier this month with a play titled "The Trial of the Catonsville Nine." The author is Father Daniel Berrigan, convicted for throwing napalm on draft records, and the play is his story of his trial and that of eight others.

Charges of conflict of interest have been made by the House Administration Committee regarding the connection of Gordon Bunshaft with the Hirshhorn Museum. One of the conditions Mr. Hirshhorn set for giving his collection to the government was the right for him and the Secretary of the Smithsonian Institution to name the architect. Their choice was Mr. Bunshaft, who happens to be a member of the Fine Arts Commission. The Committee said it questioned "the propriety of appointing an architect to design the museum who at the time was a member of the Fine Arts Commission which would have to approve the final design." According to Congressional testimony, Mr. Bunshaft's fee for the $16 million museum and sculpture garden was $1.4 million. He is a partner in the firm of Skidmore, Owings & Merrill, which designed Lyndon Johnson's library in Texas and handled the controversial redesign of Pennsylvania Avenue in Washington, which has not yet been carried out.

Much more than a possible conflict of interest, however, is involved in the Hirshhorn deal. According to the agreement with the government, which fixes the conditions for his donation, the museum and sculpture garden will bear his name and be maintained by the government with free access by the public, all in perpetuity. (Traditionally, donors provide funds for the upkeep.) So far as can be determined, the agreement is the only one Congress has ever approved which binds future Congresses forever; Senator James B. Allen (D., Ala.) has questioned its legality on this ground. Nevertheless, it has been approved by Congress.

APPALLING DISCOVERY

Back in May of 1966, President Johnson held a special ceremony in the White House rose garden to announce acceptance of the collection and the conditions embodied in the pact. This was before it was submitted to Congress, although it could not be implemented without new law. The following month, however, the legislators perfunctorily approved it. Later they were appalled to learn that the garden would involve a 600-foot trench cut directly across the Mall, with vertical walls 16 feet high at some points. Now it has been redesigned at a cost of $55,000, to run beside the Mall.

Although construction is underway, and the government is committed to outlays of $16 million for it, the collection has not yet been turned over to the government and won't be until construction is complete. Meanwhile, the House Administration Committee reports that federal funds are being used for upkeep of the collection, although the Hirshhorn agreement stipulates that he will be responsible for its care until construction is finished.

HUGE TAX DEDUCTION

According to accounts in the press, Mr. Hirshhorn spent between $4 and $5 million to acquire the collection. It later was appraised at $22 million and then revised to $25 million to account for inflation. Newspaper columnist Clark Mollenhoff says S. Dillon Ripley, secretary of the Smithsonian Institution, now values the donation at $40 and $50 million, thus indicating that Mr. Hirshhorn will derive a huge tax deduction for his gift.

There's hardly a government agency without a cultural program. The Office of Education, for instance, recently gave $77,000 to the Academy Theater in Atlanta, "to extend its concept of 'involvement' of audiences into small Georgia communities, where it will attempt to influence thinking on the sensitive subject of school desegregation."

Even the National Park Service gets into the act. It is in charge of historic Ford's Theater, where President Lincoln was shot. Currently playing at Ford's, with federal subsidy, is a rock musical, "Mother Earth," with the message that because of pollution, doom is on the way. The show was given at the Interior Department on November 3 at the request of Secretary Rogers C. B. Morton.

SPECTACULAR OPENING

Ford's, of course, is dwarfed by the spectacular Kennedy Center, which opened to critics' brickbats. One of the chief complaints is that it caters more to the elite than to the general public. Orchestra tickets for opening night sold for $25.

According to Washington Star columnist Betty Beale, "Kennedy workers" want Congress to appropriate more money for additional guards and replacement of stolen items, including plated silver, crystal drops from Waterford wall brackets, pink marble handles from faucets, parts of chandeliers and hand-sewn table cloths.

In addition, Center officials are trying to persuade the National Park Service to construct an underpass or overpass to the center for pedestrians. With no public transportation to the door of the center, pedestrians now must risk life and limb to cross the interchange of highways surrounding the center. Further subsidies also are likely since, according to press reports, the Eisenhower theater does not contain enough seats to be self-supporting.

In response to the criticism, the Center's director, Roger Stevens, responded, "It's here, and there's nothing anybody can do about it." That's another way of saying, "The public be damned."

THE INDUSTRIAL WORLD AHEAD: A LOOK AT BUSINESS IN 1990

HON. GERALD R. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1971

Mr. GERALD R. FORD. Mr. Speaker, since the shape of American life in the future depends largely on a wide range of steps taken now, I wish to call attention to a significant event that relates directly to our economic future, the White House Conference on "The Industrial World Ahead: A Look at Business in 1990."

The Nation's business press has been briefed at the White House on the aim of the Conference: To prepare for the future.

Jointly chairing the Conference are Secretary of Labor James D. Hodgson and Secretary of Commerce Maurice H. Stans. The event will take place at the Sheraton-Park Hotel in Washington. It will last 3 days, starting February 7.

A major portion of the Conference will be devoted to examining and analyzing trends affecting workers and their jobs. Continuous change will dominate the world of work in the next two decades, Labor Department experts assert. For example, in the next 10 years alone, the labor force is expected to increase by 15 million to a total of 100 million.

At this Conference, key representatives of labor and business will work together to prepare for these changes affecting our work force and to devise sound and meaningful approaches for meeting other challenges posed between now and 1990. They will work with leading representatives of the professions, education, and Government, who will also participate.

Thus, more than 1,500 leaders will pool their ideas in an intensive study of our future industrial world. This will be a joint effort representative of all parts of the Nation. The conferees are exceptionally well qualified to help solve the social-economic challenges of the future.

Two of the broad themes established for the Conference agenda are related directly to the workingman: "The Human Side of Enterprise and the Social Responsibility of Business." The other two themes are: "The Private Enterprise System" and "Technology and Resources for Business."

In sponsoring this Conference now, the Labor and Commerce Departments are to be commended for looking ahead to insure our economic and social well-being in the future. I know that my colleagues will join me in wishing the best of success to this Conference.

DISCUSSION ON ARTHRITIS AND THE RHEUMATIC DISEASES AT THE ROBERT B. BRIGHAM HOSPITAL

HON. LOUISE DAY HICKS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1971

Mrs. HICKS of Massachusetts. Mr. Speaker, there is a very unique hospital located in my District in Boston, Mass., the Robert B. Brigham Hospital, the only hospital in the Nation devoted solely to arthritis and the rheumatic diseases.

It is my pleasure to include a very interesting roundtable discussion of three rheumatologists and a medical student as well as a biographical sketch of this dedicated group of specialists.

Dr. Theodore B. Bayles joined the medical staff at the Robert B. Brigham Hospital in 1939; at that time, he was one of only several dozen rheumatologists in the Nation. The Robert B. Brigham was established as a residential institution for incurables, and many of its early patients were disabled victims of arthritis and rheumatic diseases. Dr.

Bayles arrived during a period of transition, as the hospital's purpose was changing from caring for the disabled to preventing disability through enlightened treatment.

A dedicated teacher and crusader for expanded training programs in rheumatology, Dr. Bayles directs the rheumatology training grants at the hospital and is an association clinical professor in medicine at the Harvard Medical School. Physicians from throughout North America came to attend a 5-day American College of Physicians course on rheumatic diseases at the hospital recently, which Dr. Bayles directed. Dr. Bayles also vice chairs the hospital's joint venture development campaign for its future home in the affiliated hospitals center.

Dr. Jean Jackson is a second-year fellow in rheumatology at the hospital. Her time is divided between seeing patients and learning to use research tools and ogy, after being exposed to rheumatology, after being eposed to rheumatologists who were dynamic teachers. Dr. Jackson received her medical degree from the University of Maryland Medical School and stayed at that school's university hospital for 3 years as a medical intern and resident. She will return to the 708-bed hospital in Baltimore, Md., next summer to become chief resident in medicine. Then, after 10 years of professional medical education, Dr. Jackson plans to combine teaching with a private practice in rheumatology.

Dr. Arthur P. Hall followed his father to the Robert B. Brigham Hospital as one of the hospital's first fellows in rheumatology. His father, Dr. Francis D. Hall, was a pioneering rheumatologist who retired from the medical staff in 1966. In addition to his private practice and teaching responsibilities, as an assistant clinical professor of medicine, at the Harvard Medical School, Dr. Hall has led the movement from improved and expanded ambulatory care within the hospital. He is the current president of the New England Rheumatism Society.

Douglas Kelling came to the hospital to get a better understanding of the problem. In his fourth and final year at Harvard Medical School, Doug elected to take a comprehensive 1-month course in rheumatology and allergy sponsored by the Robert B. Brigham.

The one-to-one student-teacher relationship enabled him to see at firsthand the decisionmaking process that dictates care for arthritis patients. The training played an important role in Doug's future plans. He plans a career in internal medicine, specializing in family care.

ROUNDTABLE

Dr. HALL. Literally, rheumatology is the study of rheumatic diseases—diseases characterized by inflammation, particularly in the joints. The field is a sub-specialty of internal medicine, and internists who study rheumatic diseases either in patients or in the laboratory could be called rheumatologists.

Dr. BAYLES. You must realize that, since I've been in rheumatology, rheumatic fever has practically disappeared. Gout is now treatable, infectious arthritis, tubercular arthritis of the joints—all of that is essentially gone. I'd say thirty per cent of the type of patients I saw when I first came to this hospital in 1939 are no longer here. We are left with the problems that are as yet unanswered—rheumatoid arthritis, degenerative joint changes, some of the rarer forms of acute inflammatory diseases.

And steady gains are being made by researchers. About eighty per cent of our patients at the hospital have rheumatoid arthritis. Until a very few years ago, the disease was believed to be related to inheritance. Current work disproves this, so scientists at this and other centers are no longer looking for some kind of metabolic defect, but rather for an entirely new event—a virus perhaps—that might set off the process. Like all specialized hospitals that are deeply committed to research and training in addition to patient care, everyone—medical men, the surgeons, the paramedical personnel—everyone is devoted to a single goal, everyone is working on the same problem.

Dr. HALL. But in addition to being focused on a single goal, we approach that goal in a unique fashion. You'll rarely see the integration of medicine and surgery that's found in this hospital.

Dr. JACKSON. This is certainly true from my experience. Major medical centers usually have rheumatologists and always have an orthopedic surgery service. Yet the rehabilitation and care of arthritis patients is seldom such a cooperative effort.

DOUG KELLING. This should really be emphasized. In our education as medical students, there is a big separation between the medical and surgical aspects of treatment, and that is true at almost every hospital.

But in the short time I have been here at the Robert B. Brigham Hospital, I have become more sensitive to the possibilities for coordinated care. One day, when I am seeing my own patients, I will know that there is expertise available not only on the medical side but on the surgical side as well.

Dr. BAYLES. Cooperation would be the one word I would select if I had to describe the approach to patient care at the Robert B. Brigham. There is a lot of talk about team care but we have made it work.

DOUG KELLING. More and more it is becoming obvious that unless the efforts of the whole medical team are closely coordinated from the nurses through the physicians, the best patient care cannot be achieved. This is especially true for chronic diseases like rheumatoid arthritis.

Dr. BAYLES. In addition to providing comprehensive care for today's patients, we assure better care for future patients through extensive on-site training programs.

Dr. HALL. I think this is practically the only place in the country that can offer really in-depth clinical training in the area of rheumatic diseases—training on the house officer level and primarily on the fellowship level. It is one of the most valuable things that we are doing.

There are about two thousand rheumatologists in this country. They are too few in number, and they are concentrated in too few places. A clinical study I made showed that a third of the patients traveled more than fifty miles to get here. That's an indication of the need for our training programs. We've finally reached the point where we are really turning out people with solid training in the field. It is very gratifying to attend professional meetings and see doctors from all over the country who are making valuable contributions—doing the kinds of things they were taught to do at the Robert B. Brigham.

But you can't teach rheumatology off the cuff. Sometimes it takes patients three months, six months to respond, so it is essential for the student to be able to see a large patient population.

Dr. JACKSON. I came here as a Fellow in Rheumatology for precisely that reason. This hospital is the one of the few places where large numbers of patients with rheumatic diseases can be seen over the long term. I need this sort of experience to learn what can be done with drugs and therapy to learn when surgery is indicated, to learn just what surgery can accomplish. It's been a tremendous experience!

The training program here for fellows in rheumatology is relatively equally divided between clinical and research responsibilities. That is another reason that brought me to the Robert B. Brigham.

It is essential that a physician treating patients with rheumatic diseases has an understanding of research. Today's research may have a role in the treatment of patients five years from now. The rheumatologist must be able to understand and evaluate the implications of research and apply them to his practice.

Dr. BAYLES. There is no end to the training programs initiated by the Robert B. Brigham. We offer a graduate course for orthopedic surgeons. Residents come here from other hospitals. Practicing physicians from throughout the country come here to attend post-graduate courses in rheumatology. The members of our medical staff travel all over the world to speak at professional meetings. And, of course, we are committed to educating the public as well.

Dr. HALL. It is a particularly difficult disease in that there is practically nothing else which combines this constant discomfort or the continuous threat of discomfort with decreasing physical independence. People with heart disease can feel quite comfortable when they are not having a chest pain; diabetics can often take a pill or a shot and forget about it. It is awfully difficult for someone with rheumatoid arithritis to forget!

Arthritis patients have a general reputation for being difficult to get along with. Usually this is because nobody's doing anything for them and they know it. They fear being crippled or confined to a wheel chair. Arthritis is an off and on disease, and rheumatologists may see a patient over many years during his difficult periods. For the rheumatologist the greatest reward is the knowledge that without him there are many patients who probably wouldn't have received help.

CONCERNING THE FUTURE OF THE AFFILIATED HOSPITALS CENTER

Dr. HALL. The waiting period here for hospitalization and ambulatory care now exceeds eight weeks. We'll have 120 beds in our tower of the Affiliated Hospitals Center—a twenty per cent increase—and this will allow us to lower the waiting period and enlarge our medical staff.

Dr. BAYLES. Of course the facilities will be newer and better, and the economies of pooling resources with the Peter Bent Brigham Hospital and the Boston Hospital for Women will be tremendous. The operating rooms, for example, will be in the Peter Bent's tower, and the physical and occupational therapy departments will be in the Robert B. Brigham.

I think the geographic situation will be one of the biggest improvements for this hospital. We will have access to a number of services that are not usually available to a small chronic disease hospital—back-up anethesia, greater ease of consultation and a critical care unit.

In the past thirty-two years, I have seen the Robert B. Brigham Hospital become a hospital specializing in the rheumatic diseases, a teachig hospital of the Harvard Medical School, a major research center in immunology and rheumatology and a renowned postgraduate training institution. The Affiliated Hospitals Center is our next big step!

AIR CARRIER INSPECTORS—MISSION IMPOSSIBLE

HON. CHARLES H. WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1971

Mr. CHARLES H. WILSON. Mr. Speaker, I recently read an article pertaining to the duties and responsibilities of an elite corps of Federal employees that most of us do not even know exists. I am speaking of the air carrier inspectors of the Federal Aviation Administration who are charged daily with the responsibility of maintaining quality control over the more than 35,000 certified pilots who fly billions of scheduled passenger miles each year. The safety and success of air transportation rests to a great degree on the ability and integrity of this small group which must master the intricacies of a vast new spectrum pertaining to the hardware, terminology and procedures of "the jet environment." Not only must he pass the written, the oral, the simulator and flight checks on a particular plane, he must also be able to judge, examine and qualify designated airmen.

This fact filled article was written by training Capt. Ed Mack Miller, a pilot of some 33 years. Training Captain Miller started flying in 1938; he was an Air Force pilot during World War II; and, flew with the Minutemen, a jet precision team of the Colorado Air National Guard. Captain Miller, who is presently the senior Flight Instructor for United Airlines, has qualified and mastered the intricacies of our most sophisticated jet aircraft. In addition, Ed Miller is an author in his own right, having written numerous articles and books of aviation interest.

Mr. Speaker, I commend Captain Miller on the fine job he did with respect to a subject so few of us know exists. I think it appropriate at this time to submit this article for the benefit of my colleagues:

THE "MODERN" FAA INSPECTOR

(By Capt. Ed Mack Miller)

Under the pressures generated by the "technological explosion," the jet-qualified Air Carrier Inspector has found himself in a "new ball game," where he has had to scramble to keep abreast of a revolution in techniques, knowledge, and intelligent application.

Because the airline industry has fallen heir to the quantum strides and technical break-throughs engendered by the space program, the job of an FAA Air Carrier Inspector has taken on multiple new and difficult facets in the past dozen years.

In the mid-50's, an Air Carrier Inspector was usually a pilot who had qualified for the job by passing a type rating test in an antiquated DC–3 and who was then issued a certificate which stated "All Ratings Authorized." This quotation allowed him to flight check applicants on all equipment even though he was virtually unqualified. This being the case, he soon lost the respect of his aviation counterparts who were more knowledgeable of the current aircraft.

But how about the Air Carrier Inspector of today? If you were to illustrate his position with a cartoon, you would show him riding a rocket . . . hanging on for dear life. In the space of a few years, he has been projected into—and has had to master (in fact, show a greater mastery than those he is checking) the intricacies of theory and operation of such exotic equipment as complex Inertial Navigation Systems, Doppler, Loran and Consolan navigation systems, radar altimetry, automatic reporting devices . . . and a vast new spectrum of hardware and terminology and procedures termed "the jet environment."

In one giant step he had to stay abreast of a doubling, for instance, of aircraft speeds—from the 300-miles-an-hour of the Constellation and DC–6 type planes to the 600-mile-an-hour 707's, DC–8's, and 990's . . . and other first-generation jets, carrying passenger loads twice what had been normal before.

Hardly had he mastered the nuances of this vigorous new air-travel world, and its almost frantic need for newer and higher criteria of safety, when the industry began to stretch its jets . . . until, in the case of the DC–8–61, up to 250 persons could be carried.

The pressures on the small number of elite FAA jet-qualified Air Carrier Inspectors became even more agonizing as the individuals involved realized that they, and they alone, were responsible for a degree of quality control hardly ever imagined earlier. ACI's today monitor directly or indirectly over 35,000 certificated airmen in scheduled operation who fly billions of passenger miles each year.

For instance, they carried the burden of making sure that cockpit crew members, especially the Captain and the Flight Engineer, knew their equipment well and could handle it, at all times, with the maximum degree of safety—in normal or emergency circumstances. But also they had to make sure, God forbid, if something did go wrong and one of these huge "birds of burden" ended up off the runway . . . broken up, that everyone could be gotten out safely and expeditiously. They have with them now a vastly expanded area of "evacuation training." Where once it had been the pilot's simple statement, "Just follow me," now evacuation of a plane in a few seconds has become a well-planned and implemented semi-science . . . if the Inspector involved does his job well.

A world was on the move. There had been a revolution aloft. And its safety—and success—rested on the ability and integrity of a small group to monitor its standards and keep them high.

In the new jet world of great altitudes and tremendous speeds, new goblins leaped up to challenge the pilot and the Inspector; to name just a few, Clear Air Turbulence, the Jet Stream, and the Mountain Wave.

He had to insist on strict oxygen discipline ("mask on in five seconds"); he had to assure that a candidate captain could execute an emergency descent quickly, safely, and smoothly. The complications of a growing intermix of light and heavy traffic became another knotty problem confronting the Air Carrier Inspectors. They had to find time somewhere in a very tight schedule to accent and re-emphasize to flight crews "the constant and increasing importance of strict cockpit discipline and vigilance, especially in VFR flight conditions," as Mr. John H. Shaffer, the Administrator, has noted.

This flowerburst of technological expansion left little room for the Air Carrier Inspector who couldn't or wouldn't keep up. The "Stinson" days were gone forever. In addition to learning to fly newer and bigger equipment (almost every year, it seemed!), and learning it "from all three seats," there were new-type problems cropping up all the time: those associated with the Category II approaches and missed-approach procedures (especially critical); the unique problem for the jet airplane that became its particular *bete noir* . . . aquaplaning. The Inspector had to learn an entirely new kind of approach procedure (a much safer one), the high-drag approach . . . and then he had to sell it to the pilot group, which was often somewhat resistant.

He had to exert a tough quality control over pilots who often didn't "buy" such new "goodies" as the flight director—"goodies" absolutely necessary to the safe conduct of jet flight in weather conditions.

And scarcely had the overburdened Inspector almost caught up with the "sky revolution" (exploding on all fronts like Fourth of July in a fireworks factory), then along came the Wide Bodied Jets, carrying up to 362 people.

Beautiful planes, highly automated. But "quality control" was needed more than ever now. The planes were easy to fly for a veteran of ten years on first-generation jets who had been well trained on the new plane. But there were many new things for the Inspector to learn and "sell," again: autothrottles, autoland, altitude select, indicated airspeed hold . . . a raft of new and exotic "gadgets." He must hold the line for a complete program of training even though economic costs are skyrocketing. To relax now could be disastrous.

How far . . . how very far . . . the Air Carrier Inspector had been separated in a dozen years from his previous DC–3 and "All Ratings Authorized" paper qualification. The Air Carrier Inspector, with all of the learning and study, the long hours, the fantastic responsibility, now is qualified and rated on each jet aircraft from the Twin Engine DC–9 and B–737 to the jumbo B–747, and shortly the DC–10.

In addition to being able to pass the written, the oral, the simulator and flight checks on a particular plane, the jet-qualified Air Carrier Inspector must be able to do many other things. He must be able to judge, examine, and qualify designated check airmen.

He must become an expert in giving oral examinations, a fine art if it is to be done correctly. He must force himself, with the patience of a surgeon, the integrity of a District Attorney, and with the judgment and compassion of a priest . . . to efficiently but thoroughly test a man's knowledge and his reasoning capacity (especially under pressure) and have the courage to probe any soft spots. And—whether the man be a friend or the time be Christmas Eve—send him back for more training if that is the course that good sense and integrity dictate.

Giving an oral examination on a piece of airline equipment as exotic and sophisticated as a DC–10 or a B–747 is not easy. It presupposes a far greater knowledge on the part of the giver than on the part of the taker. The ACI must determine the applicant's understanding of aircraft systems, operating limitations, emergency and abnormal procedures, TERPS, and the basic pilot qualities of confidence and command.

Simulator checking is an art that has been called "almost arcane" with the advent of the "fantastic" second-generation ground trainers, which an Inspector must now be able to use for conducting the major portion of "rating rides."

Before the airline receives its approved simulator certificate, which allows it to use the flight simulator instead of the airplane, the Inspector runs the acceptance check on all the components and systems of the simulator to assure that they operate like the aircraft. He flies performance tests with the simulator and compares his findings with existing flight test data that has been compiled from actual aircraft flight data. The Inspector must also check the visual system so that the pictorial display will give a realistic environment. If an Inspector approved a simulator in a sub-standard condition, it could easily affect the entire training program and flight safety.

Learning to "fly" the 747 or DC–10 simulator is not too difficult compared with learning how to operate this "first cousin of the

Apollo simulator," with its myriad systems and complicated "trouble panels."

This type simulator has "six degrees of motion," actually "flies" in its auditorium home on tall, spindly legs. The motion system is so good that, with the loss of an engine on "takeoff," you can close your eyes and tell which engine quit from the sensory cues you receive. If you were to kick a rudder too hard, anyone standing up in the simulator had better be hanging on to something solid . . . because it moves . . . fast and far.

Inside the approved simulator, the crew seats are faithful to the aircraft set-up; all the panels are the same. Everything works. It is on the left wall, just back of the first observer's seat that things look much different from a first-generation jet simulator. The old "trouble panel"—the switches and selections uesd by the two instructors to set up procedures and techniques—have, as one writer said, "gone to college and got a doctorate."

At the far end is a section of "potpourri" controls, such miscellaneous items as "Motion on," control loading, ground reset, "Flight in progress," etc.

Above this grouping is the Aircraft Location Selector, and above it the Environmental Controls, where wind, barometric pressure, icing, lapse rate, temperature, and runway conditions can be set, as well as weight and payload.

Above this unit is the large MIDU (Malfunction Insertion and Display Unit), a big white screen onto which nearly fifty slides can be projected, using selector buttons just below. Schematics of all the major systems of the plane can be "called up" in visual display. On each side of the screen are lines of switches, with lines leading from the screen display out to the buttons. Selecting a particular switch-button will cause a malfunction to occur at some time during the simulated "flight."

As an example, if the Inspector wishes to test the pilot on one or more different fire-type situations, he calls up from the computer memory bank the slide labeled "fire protection." Here he can see some 18 different fire or overheat discrepancies. He selects the situations he wants (perhaps "wheel well fire" or "Engine No. 2 fuel fire" or "Aft cargo compartment overheat") and presses the buttons.

At some point in time downstream, the appropriate lights and bells will ring, and it is up to the pilot being checked to take care of the emergency at the same time that he continues to fly the airplane accurately (or have it flown by another crew member). When the problem is over, a reset button is punched to put the "plane" back in prime condition.

The possible combinations of things that can be used in the checking process runs into the tens of thousands. If the ACI is just checking a flight engineer, the flying of the plane (and the instrument displays up front) can be divorced from the "action in the back." He can pose many mechanical problems for the engineer, for instance, as though the plane were in cruise, while in actuality the crew "up front" is "shooting landings."

Just forward of the MIDU is another "far out" gadget, the CRT (Cathode Ray Tube) which will do nearly all the things the MIDU will do . . . and many more. Its button controls will set up thousands of flight and ground situations. The ACI can call up a page out of the manual on a particular system or emergency procedure he needs to consult; he can actually "build" an entire checkride for automatic sequencing of events, or he can instantly "initialize" the simulator to any airport or any aerial location in the world (one that has been programed into the computer).

The machine is so advanced and yet so versatile that it is almost unbelievable. An Inspector must be very careful *not* to overburden the student, not to "initialize" him too often so that he gets confused, or to "ring in" emergencies at too quick a pace.

Veteran ACI's caution extreme care with the machine because, they say, it is possible to drive a tense pilot "out of his gourd" if it isn't intelligently operated.

However, if a student has made a poor takeoff or executed a poor maneuver, the Inspector can punch a "demonstrate" beton and the machine (uncannily!) will, by itself, demonstrate how the maneuver (any maneuver programmed) should be flown.

Or, by pushing another button, the Inspector can have the machine reproduce exactly, with identical displacements of throttles, stick and rudder, how the person being checked flew the last maneuver.

Or, the ACI can evoke a complete printout of the last maneuver(s) to prove to an unbelieving checkee what parameters he touched on his last maneuver(s). It is a little unearthly, even unbelievable. And certainly a far cry from giving a check ride in an aircraft of yesteryear with his old certificate of "All Ratings Authorized."

The Aircraft Visual System (one system used is called VAMP, *Visuals Anamorphic Motion Picture*) allows the Inspector to set up variable weather situations to check the pilot's ability to transit from instrument to visual flight conditions—and effect a visual landing. In addition to allowing training in the most difficult decision the pilot must make, the VAMP system also gives a big bonus to the company and the Inspector—it allows most of the difficult rating flight to be given in the simulator—a great advantage from the safety standpoint, and a great economic saving. Other visual systems even allow circling approaches.

The VAMP is a 70 mm color motion picture (Cinerama) actually filmed from a helicopter, with an ability to be speeded up or slowed down to make it correspond with speed changes in the simulator/plane. Special effects are used to simulate fog, rain or low cloud. Night films are also used, and prisms are employed to warp the view for the pilot who is high, low, right or left of course.

The ACI, however, must be skilled in its employment to make it realistic. If he is careful and imaginative in setting up situations, the simulator becomes almost an airplane—better than the real thing in the situations of checking for proper procedures to be followed.

No one may ever be able to accurately determine how much credit the ACI should get for the airline industry's safety record—but it is considerable.

There really is no way of placing a price tag on the services of a highly trained, competent ACI.

"I only know," one veteran airline pilot said, "that the gap between what they are paid and what they should be paid is merely tremendous."

SOCIAL SECURITY BENEFITS PENALIZE OLDER AMERICANS

HON. ROBERT N. GIAIMO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1971

Mr. GIAIMO. Mr. Speaker, despite congressional intent to the contrary, many older Americans are penalized when social security benefit increases conflict with benefit restrictions tied to the medicare and medicaid programs.

A recent article in the Wall Street Journal as well as editorials in that paper and in the New York Times have again drawn attention to this problem. The problem is encapsulated in the Journal's headline: "Dismayed Aged Learn Social Security Raise Means Cut in Benefits."

These pieces make clear the fact that Congress never intended increases in social security benefits to bring penalties in loss of medical insurance coverage. They also note that an apparent remedy is at hand—a proposal legislatively tied to the welfare reform bills now pending.

The current White House Conference on the Aging lends timeliness to a consideration of this problem. But for 9 out of every 10 years there is no White House Conference focusing attention on the needs of the elderly in America. I sincerely hope that the good intentions and dedication of the Members of this and the other body who deal with tax legislation will work to eliminate once and for all this anomaly.

Mr. Speaker, we cannot do everything immediately that we should do to guarantee older American a dignified life, but the least we can do is reduce their unnecessary anxiety and suffering that stems from conflicting laws and regulations of the Federal Government.

The three above-mentioned articles follow:

[From the Wall Street Journal,
November 26, 1971]

DISMAYED AGED LEARN SOCIAL SECURITY RAISE MEANS CUT IN BENEFITS—IN MANY STATES, A $10 BOOST MAKES ELDERLY INELIGIBLE FOR FREE MEDICAL CARE

(By Tom Herman)

MIAMI BEACH, FLA.—Leah Miller is a diminutive, white-haired lady who lives alone in a small, $100-a-month hotel room here. For the past several years, Mrs. Miller has lived solely on the proceeds of her Social Security check, welfare benefits and the occasional gifts of a few close friends. Mrs. Miller is a diabetic, and after she buys her prescribed drugs and pays her rent, there's not much left over each month.

Mrs. Miller is probably just the kind of person Congress had in mind when it decided to increase Social Security payments 10%. Well, the 10% increase is in effect now, and Mrs. Miller says it has changed her life, all right.

For the worse.

"I begged the government not to make me take it," she says, "but they said I had to. I told them that's not fair. But they said their regulations won't allow them to take it back."

Mrs. Miller has not lost her mind. Because of some quirks in federal and state laws, she and thousands of other old folks in 25 states have discovered that their Social Security raises are costing them far more than they benefit them. Specifically, Mrs. Miller now gets at least $20 a month less than she did before the "increase." She also has less hospitalization insurance. And she isn't insured at all for many things she was once covered for.

NEW GARBAGE BILLS

The problem arises when elderly poor people receive just enough of a Social Security increase to make them ineligible for valuable other benefits they had been receiving, such as old-age assistance, Medicaid and free Medicare insurance. In some communities, the Social Security raise even disqualified recipients from receiving free garbage collection and forced them to pay more for their food stamps.

To some people in government, the unfairness of that ironic situation is plain, and legislation now is pending in Congress that would largely eliminate the problem. However, the proposal is a part of the controversial welfare-reform bill, which is bogged down in the Senate Finance Committee, so there's no telling when or if relief will come. In the meantime the problem is likely to be aired at the White House Conference on Aging, scheduled for Sunday through Thursday of next week.

Mrs. Miller hasn't been invited to that conference, but if she were she would have plenty to gripe about. Before the increase, Mrs. Miller's only income was $113 each month from Social Security and $6 from the state welfare department—or $1,428 a year. The state welfare department also furnished her with a little blue card that paid up to $20 a month for prescribed medicines, and it picked up her monthly Medicare insurance premiums of about $5.60.

MRS. MILLER'S SCISSORS

Then came the "raise." Now, Mrs. Miller gets $124 a month from Social Security—$11 more. But she no longer gets the $6 welfare check, or her $20 in medicines, or her $5.60 in insurance premiums. (Medicaid in Florida and 24 other states is available only to welfare recipients.) The Medicaid Mrs. Miller lost covered free X-ray treatment and skilled nursing home services—which, if the need should ever arise, she will now have to pay for herself. Medicaid also pays a patient's entire hospital bill for up to 60 days. Without Medicaid, Mrs. Miller must pay the first $60 of any hospitalization costs, and that figure will go up to $68 in January.

To make ends meet, Mrs. Miller has started cutting her most expensive pills in half with a scissors. "That way, I use them up only half as fast," she says. She also spends less on food now. She also worries.

"What would I do if I should have to go to the hospital?" she asks. "I don't know where I would get that $60. And the chances of my needing to go to the hospital get better every day. I'm 83, and I'm not getting any younger."

Mrs. Miller is confused, and she is bitter. "I still can't understand how anyone could let this happen," she says. "I told the welfare people, 'Thanks a lot for nothing.' They said they were sorry, but that their hands were tied by regulations. But what are we supposed to do, those of us who are much too old to do any work?"

Government officials don't have an answer to that question, but they say it isn't a new one. Thousands of cases like Mrs. Miller's pop up every time there's a Social Security increase, they say. "It's a real tragedy," says Virginia M. Smyth, a federal welfare official in Atlanta. "It's especially ironic because it runs completely counter to the intention of the law."

TOO OLD TO FIGHT

Although the problem may have been around for years, many government officials seem unaware of it, or assume it's not around any more. One official with the Social Security Administration in Miami recently insisted for several minutes that "the whole problem was cleared up last spring in some new legislation that you should know about." Later, after thumbing through several thick reference books, he confessed: "Well, I suppose you're right. The problem is still with us."

One reason few people seem aware of the situation is the extreme reluctance of many poor people to protest. In interviews, some people express fears that any protest would mean sharp cuts in their Social Security checks. Others simply shrug their shoulders and say they are too old to fight.

Some have reacted by pleading with Social Security officials to take back the "raise." Sam Salit, a short, stocky, 77-year-old man, lives with his wife, Julia, age 66, in a small one-room apartment in South Miami Beach, an area of the elderly and the poor. Sitting in his "living" (the front half of the apartment) on a hot afternoon, Mr. Salit mops his brow and recalls a conversation he had with a state official after he discovered that the "increase" was going to cost him at least $43 a month.

"First, I say to the man, look, I make you a deal: You take back my little increase and I won't tell a soul. In fact, I say to the man that I give back the increase gladly. The man smiles and says he's sorry. I say that sorry won't help. He says he knows. I say to myself, so what can I do? At my age, I'm going to fight the law?"

One answer, of course, would be for each state to give Medicaid to people whose incomes are too small to pay for the medical care they need. At the moment 23 states and the District of Columbia do just that. But in the others, only those on welfare are eligible for Medicaid. And it doesn't seem likely things will change. If anything, the trend is moving in the opposite direction; many states have begun or are considering cutbacks in medical care for the indigent.

Another answer would be to disregard Social Security altogether when computing welfare eligibility. That is the approach of a bill that will be introduced this winter by several Florida state senators; it is also an approach that has been proposed several times before and defeated, mainly because of cost.

Meanwhile, there is no help for people who lose money by getting money. That's especially tough on those with heavy medical expenses, such as Mary B. Powell, who lives near Miami. Back in the good old days before the Social Security increase, Mrs. Powell was technically on welfare and entitled to $45 a month in free prescription medicine. Now, she's off welfare, and the $45 a month comes from her own pocket—as does her $5.60 Medicare insurance premium.

That's not all. Mrs. Powell and her husband, James, live in an unincorporated area of Dade County, which means that, as welfare recipients, they were entitled to free garbage collection. Now that they're off welfare, they have to pay the $52 a year themselves. Like his wife, Mr. Powell lost his free medicines—$20 a month in his case. Both the Powells lost their welfare checks, of $1 each per month. The Powells figure their Social Security increase amounts to $206.40 and will cost them $810.40 a year, which means they must somehow find another $604.40—assuming they will need no X-rays, hospital care or nursing home services.

That's an unlikely assumption. Mrs. Powell is either 73 or 75—"I can't remember if I was born in 1896 or 1898, but when you're my age, what's a year or two?"—and uses a wheelchair and suffers from ulcers and arthritis. Mr. Powell, who is 76, had "a complete mental breakdown in 1965 or so" and since has had a stroke, Mrs. Powell says. So the Powells are not exactly top candidates for the labor poll.

Nor are many others. "What worries me isn't losing the welfare check," says William Lucas, age 66, of Atlanta, who is mostly paralyzed on his right side and suffers from hardening of the arteries and an arthritic left leg and wrist. "Hell, they can keep the welfare check. What I need is that $20 drug card and the Medicaid hospital coverage."

Lelia Comer, a 75-year-old St. Petersburg widow, can sympathize. Mrs. Comer's Social Security increase amounted to $12 a month and robbed her of $35.60 in welfare medical money as well as of the wide variety of hospital benefits paid by Medicaid.

Sitting on her porch with her shoes off, Mrs. Comer says: "I tell you what I think: Us old folks that worked hard, that can't work no longer, that need the money just to stay alive and buy medicine, they is the ones that can't get no money. But those young mothers that have all them babies, they get all the money they need. This raise ain't a raise none at all. It's just what they do to get us old folks off of welfare, that's all. You see what they done, they just put on to one check and took off from the other. So I'm worse off from where I was. It hurt me a heap. God knows, they think the old folks ain't got nothing to spend money on. Nothing to spend money on."

To save money for herself and he 51-year-old asthmatic daughter who lives with her Mrs. Comer says she borrows "from my neighbor on food. And I leave off (buying) some of the groceries. My daughter, she says she don't care none about leaving off some of the groceries. She say that medicine is the most important thing."

Some observers think cases like Mrs. Comer's reflect the government's—and the whole society's—lack of sensitivity to problems of the aged. Max Friedson, a 72-year-old activist for improved old age legislation, thinks he knows why no one cares: "You know why problems like this exist?" he asks. "You know why? Because some people in government today think they'll never grow old. Of course, I never thought I'd grow old either."

[From the Wall Street Journal, Nov. 30, 1971]

When More Is Less

Fatter Social Security benefits are naturally high on the agenda of the current White House Conference on Aging. In this connection, we trust the conferees have duly noted Tom Herman's article in the Journal a few days ago.

When it comes to government benefits, it seems that more can indeed be less, and we do not refer only to the erosion of Social Security payments through inflation. As Mr. Herman's article explains, thousands of old people in many states are finding that raises bring smaller total benefits. This crazy condition happens if a Social-Security increase is just enough to make a person ineligible for other benefits he had been receiving, such as Medicaid and free Medicare insurance. In one case cited, an 83-year-old woman is getting at least $20 a month less than before the last 10% Social-Security boost.

To the credit of the administration and Congress, legislation is pending that would largely clear up the anomaly, although it is tied to the welfare-reform bill and its prospects are thus uncertain. Anyway, the real question is how such a mess could have come about in the first place.

Without advocating the abolition of Social Security, we think it should be possible to note that the program has been oversold and overbureaucratized from the start. The addition of the vast new federal-state undertakings in health care probably made it inevitable that cross-purposes would develop. In fact, government appears to have a congenital proclivity toward cross-purposes in the social-economic domain, as is so painfully evident in aspects of the farm program, urban renewal and the like.

But whatever the basic explanation of this particular mix-up, it is bound to be cold comfort to all those old people on the receiving end of government help that hurts.

[From the New York Times, Dec. 1, 1971]

Elders' Lib

The elderly now represent 10 per cent of the population of the United States, cast more than 15 per cent of the vote and are growing fast enough to command major political attention. No doubt these facts account for the emphasis on action instead of rhetoric at the current White House Conference on Aging, the second of its kind. Arthur S. Flemming, its chairman, wants the emphasis to fall on the older citizen's "inadequacy of income"—a mild phrase, considering that one-fourth of all Americans over 65 are forced to live on a poverty-level income as defined by the Department of Labor. Many more must make do on fixed incomes little above that level while wrestling with inflationary prices, rising property taxes, wretched transportation systems and even nursing homes that would take a Dickens to excoriate adequately.

The five-day conference is expected to deal with these issues, but little can be hoped for unless it comes to grips with Mr. Flemming's salient point. It is nothing short of scandalous that the recent boost in Social Security payments has meant for many elderly not more income, but less. Increased payments from this source have, under varying state regulations, automatically cut thousands from Medicaid, hospitalization insurance, welfare assistance and even food stamps. Yet they are forced to take this "raise" which leaves them substantially worse off than they were.

An injustice of far longer standing is the penalty of reduced Social Security payments for those who exceed the low annual limit of $1,680 in earned income, while no such penalty is invoked against those well off enough to collect dividends from investments. Perhaps most urgent of all, education and possibly legislation are needed to end arbitrary discrimination based on a fixed age—for employment and various types of license—rather than on a person's physical and mental state.

In this age of self-liberators, the aging should certainly not let themselves be forgotten.

SALUTE TO SENATOR BILL BROCK

HON. LAMAR BAKER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1971

Mr. BAKER. Mr. Speaker, I was honored to participate in the appreciation dinner for Senator BILL BROCK of Tennessee in Chattanooga on December 2. It was a privilege to introduce the Senator and join his distinguished colleague, Hon. JAMES BUCKLEY of New York, in honoring this outstanding legislator.

Since his election to Congress in 1962, BILL BROCK has served the citizens of Tennessee well. In four terms in the U.S. House of Representatives, where he rose to fourth-ranking Republican on the important Committee on Banking and Currency, BILL combined expertise in national and international affairs with demonstrated concern for needs of Tennessee and Tennesseans.

He has carried his fine record into the United States Senate. Although midway through his first term in that distinguished body, Senator BROCK is not a freshman in experience. One of the Senate's youngest members, he has already made his mark on that body. Senator BROCK convincingly displayed his leadership and competence last week as floor manager for an administration bill to coordinate and direct all Federal programs against illicit drugs through a special action office. The bill, S. 2097, passed unanimously December 2.

Senator BROCK's performance is especially impressive in view of the usual Senate practice of allowing only members with several years' seniority to manage bills.

Now a national political figure, Senator BROCK has not forgotten the "folks back home" in Tennessee, as response to the Chattanooga dinner proved. He continues to work long and hard for all the people of our State.

The Chattanooga News-Free Press recently published an editorial "Salute to Senator Bill Brock" citing his fine record of public service. I join in its praise of Seantor BROCK as a man of conscience and legislator of high moral principle. I am pleased to incorporate the editorial into my remarks:

[From Chattanooga News-Free Press, Dec. 2, 1971]

SALUTE TO SENATOR BILL BROCK

There's going to be a dinner here tonight to express appreciation to Sen. Bill Brock for his service to Tennessee and the nation. The headline speaker will be outstanding conservative Sen. James Buckley of New York. Also appearing or sending messages of praise will be such leaders as President Richard M. Nixon, Sen. Barry Goldwater, Sen. John Tower, Gov. Winfield Dunn, Sen. Howard Baker and Rep. LaMar Baker.

All of these people have good reason to applaud Bill Brock because he has been an outstanding leader in association with them. But the ones who should be most appreciative are the rank and file Americans of Tennessee. Bill Brock has been a representative who has given outstanding attention to both the interests of his constituents and the national interest, a senator who has expanded his effectiveness in service.

There are few people in Congress whose efforts to give personal service to the inquiries and problems of the individual people back home can compare with those of Bill Brock. He has been more than just a representative and senator voting on the national level; he has been an accessible helping hand bridging the gap between the local people and the national government.

This is important. Also important in these grave times is upholding principle in the vital debates that shape the course of our nation. Sen. Brock has displayed intelligence in recognizing the varied aspects of national policy, strength in supporting good programs and courage in standing against bad ones. Sometimes the pressures are terrific. Often the forces that represent some narrow interest that can be harmful to the general welfare are organized and effective, while there is no equal lobby for the public or for sound principle. We need men in Congress who can stand against those pressures for what is right. Sen. Brock has shown a readiness to do that and effectiveness for sound decisions.

Few "freshman" senators have the influence and respect that Bill Brock has. He has earned that enviable position by an apprenticeship in the House of Representatives in which he showed himself eager to do his homework, willing to take the hard tasks, not seeking the spotlight as a self-promoter but always trying to make his actions and viewpoint coincide with the Constitution and the best concept of law, while lending his ear to all.

No one in Congress can make a perfect record that will suit everybody all of the time, simply because there are diversities of opinion and interest, some legitimate and some destructive. Sen. Brock has sought to uphold the common good, not by expediency, not by holding his finger to the political winds, but by adherence to the principles that have made America a great and progressing nation.

The thing that makes Bill Brock a great senator is not that he deserves credit from many of the big "names" in political life but that he has done a good job deserving credit from ordinary Americans whose names may not be known but whose interests he serves.

THE SPRINGFIELD, MASS., EXCHANGE CLUB AND ITS "STEP OUT FOR PEOPLE" PROJECT

HON. EDWARD P. BOLAND

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1971

Mr. BOLAND. Mr. Speaker, the Exchange Club in my home city of Springfield, Mass., raised a record $68,000 in contributions for its "Step Out for People" project last spring. The greatest amount ever raised by any Exchange Club in the United States—11,000 local chapters exist—the $68,000 went for an animal care facility at Springfield's Forest Park Zoo.

"The Exchangite," the national magazine for Exchange Clubs, has just published an article outlining the 6 months of planning and work behind the Springfield project's remarkable success.

Mr. Speaker, I put the article in the RECORD at this point:

SPRINGFIELD'S "STEP OUT FOR PEOPLE" RAISES A COOL $68,000

Take a group of creative, hard-working Exchangites, add a worthy cause, capture the enthusiasm and interest of youngsters, or citizens of any age, with a new and novel idea, and you have the formula for a fund-raiser that grossed a fantastic $68,000 for the community projects of the Exchange Club of Springfield, Mass., and untold dividends in community prestige and image.

That is the extraordinary story of the Springfield Club's "Step Out For People" project held last May 8th in the Greater Springfield area. To the best of anyone's recollection, the amount collected stands as a new record among Exchange Club fund-raisers.

How was this remarkable feat accomplished? According to Public Relations Chairman Bruce M. Elmer, it took six months of planning and six to seven thousand concerned citizens and Exchangites.

Late in 1970, the Club's board of directors began looking diligently for a fund-raising project. Someone recalled that at Holyoke, Mass., a nearby community, money had been raised through the efforts of a large portion of that community in planning and participating in a hike. Ted White, coordinator of the Holyoke hike, was contacted and later presented a program on the project at a Club meeting. It was learned that the hike concept had originated in Canada and had been done successfully for a number of years. Members were heartened to learn, also, that a city the size of Springfield could be expected to raise something in excess of $50,000.

Club members responded enthusiastically. Within a few weeks the wheels of progress were rolling. An initial problem faced by the Club was finding a cause sufficiently worthwhile to capture the interest, imagination and involvement of the public. One was found—Springfield's public park had 750 acres of recreation area and a zoo, but no animal care facility or hospital. This became the goal of the hike, and the name "Step Out For People," was established. The estimated cost of the animal care facility, $40,000, was set as the monetary objective. The size of the project and the work involved turned out to be much greater than anticipated. For one thing, if the hike were to be successful, the fullest support and cooperation of the community was needed.

The project's chairman, David H. Bass, who is now president of the Club, called a meeting of student council representatives of all the junior and senior high schools in the area. The student leaders responded vigorously. They organized student action committees within their own school systems. They held assemblies and gave individual classroom talks to all students from grade six through high school. The response was overwhelming.

Adults also responded enthusiastically, and by the Saturday of the hike, some 6,000 people were on hand to begin the 25-mile, circuitous trek routed through the streets of Springfield. Another 1,000 to 1,500 persons aided at checkpoints and first aid stations.

The idea was that interested people of the community would be hikers, with each hiker also responsible for obtaining sponsors. Every sponsor, most of them ordinary citizens and householders, would pledge to pay his hiker a set amount per mile for every mile of the 25 he completed. Sponsor pledges varied from as little as 1/25 of a cent per mile to several dollars per mile. Each hiker tried to obtain as many sponsors as possible. The record amount raised by one hiker was $603. The prodigious sum raised by all the hikers exceeded $68,000. Expenses were just slightly over $2,000, primarily for printing the various forms such as the sponsor list, map of the parade route, regulations and checkpoint card; and meeting, mailing, protection, and promotion expenses.

The animal care center is almost complete now and the cost was $33,255 with an additional $5,000 for furnishings and equipment. The public has shown continual interest in the disposition of the remaining funds. A committee of interested citizens has been formed to decide where the remaining money will be spent. The committee consists of several Exchange Club members, several students who worked on the hike, the president of the Chamber of Commerce, and several citizens. Club members find it important to keep the public well-informed to avoid any credibility gaps.

Publicity played a key role in the hike's success. At first the news media were slow to take up the cause, fearing that "Step Out For People" might not be well received. But as momentum increased, local television and radio stations ran public service announcements, special contests to interest hikers, and on the day of the hike, roving cameras and news reports. The newspapers were in continual contact with various members of the Club, seeking additional information and the most up-to-date facts.

The hike itself proved to be successful in more ways than raising money. Despite the bad weather—it rained steadily from noontime on—the enthusiasm of most of the marchers remained undaunted and was very inspiring. About 6,000 people began walking at 8 a.m. and about 2,500 completed the 25 miles. Among the hikers were a dog, a boa constrictor, several people over 65, and multitudes of young people ranging from 4 years old on up. But in addition to all the marchers, many others along the 25-mile route encouraged the hikers with comments like: "Keep going . . . you're doing a great thing!" and "I didn't think kids today could do any thing this good." At many places along the hike route, residents had left hoses running for those who wanted a drink. When the rain came, several people provided hot chocolate and hot soup from their homes, reacting spontaneously to the hike and the weather. One package store owner along the route gave free cans of soda to hikers as they passed the store. Local businesses provided drinks, food, and ambulance service. In short, there was total community involvement, free of any generation gaps, apathy, or prejudice. There was genuine giving—giving from the heart.

Indeed, "Step Out For People" was, in every way, an outstanding success. And plans for "Step Out Two" already are underway. The Exchange Club of Springfield, fast earning a reputation for excitingly bold and effective community projects, is proof positive than an Exchange Club can achieve—can involve its total membership in meaningful Club activity—and can inspire a large segment of the community to active participation in a worthwhile cause. Further, we'll wager that most of the people in Springfield and environs know what the Exchange Club is.

CONSTITUTIONAL AMENDMENT TO LOWER AGE REQUIREMENTS FOR SERVICE IN CONGRESS

HON. CHARLES A. VANIK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1971

Mr. VANIK. Mr. Speaker, I have recently joined with a number of other Members in cosponsoring an amendment to the Constitution which would lower the age requirement for service in the House of Representatives from 25 to 22 and in the Senate from 30 to 27.

Young Americans today are better educated and more able to assume the responsibilities of political office than a comparable group only a few generations ago. In 1910, 13.5 percent of the American people were high school graduates. College graduates were 2.7 percent of the population in 1910, but by 1970, 16.4 percent of all Americans had graduated from college. In addition, a large number of other persons had had some years of college training. Our vastly expanded educational system, accompanied by a growing communications media, has resulted in the largest, most educated electorate in the history of any democracy. Today's educated youth are more politically aware and active than at any other time in our Nation's history.

The fact that this Nation's youth deserves to and is able to participate in the political process at an earlier age was recognized by the passage, this year, of the 26th amendment, which lowered the voting age from 21 to 18. It now follows that we should allow this newly enfranchised electorate to enter directly into the business of democratic representation by lowering the age requirement for service in the Congress.

Other countries have already reacted to this need. In Australia, Canada, France, and Great Britain, to name only a few, individuals younger than 22 can serve in any legislative capacity. Among our various State legislatures, 42 permit the seating of individuals in the lower chamber before the age of 22. It is time that we permit this pool of interested talent to enter into the national legislative body.

The average age of the Nation is now approximately 26 years. The average age of Members in the House of Representatives is 52.7 to 53 years of age—nearly double the average age of the Nation. I believe that it is time that we afford an opportunity for representatives of the new generation to seek election to the National Legislature to serve, to represent, and to present the ideas of their peers.

World history gives us many examples of young men and women who displayed such remarkable talent that they rose to leadership at a young age—an age which would prohibit them from serving in our present National Legislature. Our own Nation's generation of Revolutionary War leaders were remarkably young. Jefferson wrote the Declaration of Independence at the age of 33.

During the Revolutionary War, Alexander Hamilton became one of Washington's chief artillery advisers at the age of 19 or 21. Henry Clay of Kentucky was elected Senator at the age of 29—and permitted by the Congress to which he was elected to take his seat. Clay, of course, decided to move from the Senate to the House and on his first day of service in the House was elected Speaker. These, of course, are all remarkable cases, but I believe that it is time that we change our fundamental law to permit remarkable individuals to contribute to our society when they are qualified. It is certain that it would be exceptional for a very young man or woman to be elected to the House or Senate. But these exceptional people should not be deprived of the opportunity to exercise their talents for the benefit of the Nation.

It is contrary to the best political traditions of this Nation that we should allow meaningless restrictions to hamper our political progress. Young Americans today hold their own views of where America should be going and they have their visons of what our future goals should be. To help make that future come true, we should allow participation of younger persons within the legislative process.

FREDERICK LUSSEN, A GREAT CHIEF OF DETECTIVES

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1971

Mr. BIAGGI. Mr. Speaker, on Wednesday, December 8, a host of fellow police officers and friends will be honoring a man who had an exemplary career in the New York City Police Department. Born in the Bronx and educated in the borough schools, and the son of a policeman, former chief of detectives, Frederick M. Lussen, followed in his father's footsteps and entered the department on March 9, 1936.

In a career which spanned some 35 years, Chief Lussen engaged in a wide variety of police duties—on patrol, youth work, lecturer at the police academy, desk officer, and finally, detective duty. During this period he rose steadily through the ranks and in March 1963 was appointed to the rank of chief of detectives. Former Police Commissioner Howard Leary called him the "best chief of detectives ever," and I want to take this opportunity to echo these sentiments.

Chief Lussen was well known for his superb administrative ability. While chief of detectives he made over 200 personnel changes to increase efficiency, but also undertook such innovations as creation of the Wall Street squad, the bond squad, the airport squad. He also fought for and succeeded in getting increased personnel assigned to the narcotics unit and the auto squad.

His renown, however, is not confined to the imaginative handling of administrative duties, for he has obtained an international reputation and is acquainted with most of the top figures in foreign governments. He is probably one of the few people whom Premier Alexei Kosygin invited to visit the Russian Embassy. The chief's intelligent handling of the United Nations environs and the many embassies and consulates prevented many incidents which might have created crises situations.

The list of important cases which were personally supervised by Chief Lussen would delight the crime story writers. Just to mention a few will indicate the extent of his work and ability—the Anastasia murder case, the assassination of Malcolm X, the "Mad Bomber," investigations of the Minutemen and the Black Panthers, the attempted assassination of the son of Chiang Kai-shek, the 11th Street explosion involving the Weathermen, and the bombings in various department stores.

As in the armed services, police departments have various means of granting recognition to those who have shown exceptional courage in the performance of duty. Chief Lussen is one of those dedicated peace officers who fall within this category. The holder of some 14 commendations, his bravery led to his being awarded the second-highest medal which can be given, the Police Combat Cross. Affiliated with many civic and fraternal organizations he treasures mostly his membership in the honor legion of the police department, an organization reserved for the "finest of the finest."

When a person thinks of all Chief Lussen has accomplished in his long and arduous police career, he would surely wonder what kind of family life he led. Yet, he and his lovely wife, Kay, have much to be proud of. They are parents of two sons and a daughter, and, not surprisingly, all three have some connection with the law. Timothy, following in the tradition of father and grandfather, is now a detective in the police department, John is an attorney, and Eileen is married to a treasury agent.

When Chief Lussen retired on July 1, 1971, the New York City Police Department lost one of its most intelligent, dedicated and resourceful members. I hope that the many men he helped train can carry on his great work. However, it was not only a loss to the department but to the citizens of New York City and for them I say, "Many thanks, thou good and faithful servants."

For myself, and with your legion of friends, I say: "May your golf handicap be lowered and may God bless you with many long, healthy and happy years of retirement."

REFORMS NEEDED TO IMPROVE VOTER PARTICIPATION

HON. JULIA BUTLER HANSEN

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1971

Mrs. HANSEN of Washington. Mr. Speaker, the fact that 47 million eligible citizens failed to vote in the 1968 presidential election is good reason to examine our election system and seek reforms aimed at improving voter participation. In 1972, 25 million young voters will then be allowed to vote for the first time and reforms passed by Congress will add another 14 million potential voters, but it is probable that fewer than one-half will actually register and vote. Unless some action is initiated in the coming months to reduce residence requirements, and to induce more citizens to register, there will be a tragic repeat of the low voter turnout we had in 1968.

It is gratifying to see a county election official who not only shares this concern but is doing something about it. Don Bonker, the Clark County auditor in my home district, has written an excellent article on this subject and proposes some needed reforms in Washington's registration system. At 34, he is the youngest county auditor in the State and has already received national recognition for his new and imaginative ideas on improving elections. His major accomplishment is use of punchcard voting which has cut election costs 50 percent. He was the first in the State to computerize voter lists and is the only one to mail election notices and sample ballots to all registered voters before every election.

Mr. Bonker believes that Government must assume greater responsibility to encourage citizens to register and vote. He has developed a program to register 90 percent of all eligible citizens in his county by the 1972 general election.

His article illustrates some of the problems he sees in voter registration and recommends needed changes in registration laws. I insert it at this point in the Record.

Article By Don Bonker

Why don't Americans vote?

Partly because it's so difficult.

The burden of registering and voting in this country is on the individual, and government has done very little to accommodate the process. Our election laws have been more concerned with controls and safeguards than with access and convenience to the voter.

The result is an election system which does more to frustrate and inhibit the voter than to encourage him on election day.

Indeed, it is ironic that America, which enjoys one of the highest literacy rates ever and which professes to be the guardian of democratic elections, claims one of the poorest voting records in the world today.

Voting statistics in our national and state elections are appalling.

Forty-seven million eligible Americans did not vote for president in 1968—a trend which, over the next 20 years, could lead to between 70 and 90 million adult citizens not voting for the highest office in the land.

Our average turnout in presidential elections is only 62 percent of the eligible voters, and in off-year elections we seldom do better than 50 percent. European countries, by contrast, average more than 75 percent of all eligible voters in their elections.

In Washington last year, we had the biggest turnout in the state's history, yet nearly 700,000 qualified Washingtonians failed to vote on election day.

Our non-voting phenomenon is serious enough that national foundations and private groups are funding projects to study the problem. Common Cause early this year launched the Voting Rights Project aimed at changing state laws in the areas of residency requirements and registration procedures. Since ratification of the 18 year old vote various youth groups have been busy with registration campaigns and they will also work towards reform of registration and voting practices.

Sensing the need for reform Congress enacted the Voting Rights Act of 1970 and lowered the voting age to eighteen in all elections. These reforms eliminate some long standing barriers in the registration system and will add 25 million potential voters in 1972, but history shows that less than half will actually vote.

The reasons for non-voting are complex and deep-rooted. It is not easy to explain why forty-seven million people did not vote in a presidential election.

Statistics show at least half that number are disenfranchised by archaic and restrictive state laws. Voter requirements (and turnout) vary greatly from state to state. In 1964 only 63% of the population voted for president—that was the average. Idaho had a high of 77.5% compared to 33.7% in Mississippi, the lowest in the country. The same election in the same country—yet a difference of 44%.

A look at the registration laws in these two states will tell us why. In neighboring Idaho registration is automatic, permanent and can be done right up to three days before an election. To be eligible a person need only reside in that state six months. By contrast, in Mississippi, an individual must have lived in that state for two years before he can vote. Registration closes early in July—four months before the election. And before the Supreme Court outlawed such things, prospective voters were expected to pay a poll tax and take a literacy test. Recently the state legislature authorized counties to cancel entire election rolls if it were felt records were outdated, thereby requiring re-registration.

The time has come for an extensive review and reform of our registration system.

Many of our registration laws were adopted at the turn of the century and were actually designed to prevent people from voting. Some were aimed at abuses of political machines and others to disenfranchise the Negro. Reasons for these requirements have long since been forgotten, but the laws remain on the books today.

State residency requirements alone exclude millions of mobile Americans from voting. In a two-year period nearly 12 million people in this country—most of them voting age—move from one state to another. Approximately 5.4 million voters were disqualified for this reason in 1968. It is obvious that a person who is qualified to vote for President in one state is no less qualified because he moves to another state. Congress agreed, and last year it reduced the residency requirement to thirty days in presidential elections.

Yet many states still have residency periods longer than is necessary. Three-fourths of the states have one year residency periods, including Washington. Twelve states have a six month requirement and in two, New York and New Jersey, it is three months. Citizens need wait only ninety days in Pennsylvania and sixty days in West Virginia before they qualify as voters.

The United States is one of the few nations in the world where the voter must qualify himself rather than being included automatically in some type of government enumeration. Given modern-day standards of literacy and communications, a voter should be able to prepare himself to vote on local candidates and issues within a few weeks or, at the most, a few months.

The "closing period" is another hurdle. In Washington a voter cannot register during the thirty days before the election—right at the time when he is most interested in voting. While the closing period may be convenient for election officials, it also inconveniences the potential voters—and prevents them from voting. There is no reason why this period could not be reduced to, say, seven days.

Also the manner of updating registration records is negative and self-defeating—it penalizes people for not voting. In Washington, if you fail to vote in a thirty-month period you are cancelled and must register anew. We could learn from the Oregon system which updates its voter records on the basis of residency rather than voter performance. Non-deliverable voter pamphlets serve as a means for election officials to verify a person's address, and if it has changed the voter simply returns a post card noting the change and is re-registered.

These are but a few examples of how state laws work to obstruct the registration process.

But laws represent only one aspect of the problem. If election reform is to be a reality we must also improve the attitudes and practices of those administering the laws. We must recognize that registration is more than a privilege—it is a right.

Government has a duty to encourage its citizens to vote and to facilitate the process in every way possible. We should do what Canada and other Western nations have done for years—put the burden of registration on government rather than on the individual.

In these countries registrars canvass every house—just as census takers do—and register everyone who is eligible.

Universal voter enrollment should be adopted in this country. Automatic, permanent, nationally valid registration of voters in national elections is long overdue. We are virtually the only advanced democratic nation without such a plan. There is legislation before Congress to tie voter registration with the social security system and to have universal voting by mail. The Federal government will step in if states are unable or unwilling to act in this area.

Washington could serve as a model in developing a voter enrollment program. Never before has state government assumed such a bold initiative in registering its citizens.

But never before has our voting system been confronted with such a challenge. The system which has at last brought voting rights into the twentieth century has failed to bring forth the additional reforms necessary for the realization of these rights by millions of Americans.

If we are to meet this challenge, government must assume greater initiative and responsibility. Certainly the same government that has so carefully devised bureaucratic systems to draft youngsters and to provide social security benefits is capable of making good the promises of democracy.

The time has come for government to shed its passive role concerning voter participation. The image does not accurately reflect our democratic ways. Here is a vital service that should clearly be taken to the people rather than waiting for people to come to it. And the public would accept and have every right to expect government to do everything possible to encourage its citizens to vote.

PRISON REFORM—AND INSPECTION

HON. FLORENCE P. DWYER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1971

Mrs. DWYER. Mr. Speaker, the Attorney General's speech Monday at the National Conference on Corrections in Williamsburg, Va., should be a source of considerable encouragement to all who recognize the urgent need to reform and modernize the Nation's antiquated correctional systems and institutions.

Speaking with the full support of the President, Attorney General Mitchell announced several new Federal initiatives in the area of prison reform, especially in the fields of inmate education and rehabilitation, the training of correctional personnel, and the design of correctional institutions.

As important as these initiatives are, however, I found the overall tone and sense of the Attorney General's message even more significant. It was thoughtful, humane, progressive and determined. He made it perfectly clear that the President and he recognize that correctional systems, especially at the State and local levels, represent the most neglected aspect of society, that our prison system is inefficient and counterproductive in that it neither reforms criminals nor protects society, and that abusive treatment of inmates does not cure crime or criminals.

On a personal level, Mr. Speaker, I was especially pleased to read the Attorney General's remarks because the philosophy he expressed coincides so closely to my own, a fact which led me, just a few days earlier, to propose the creation of a new and independent prison inspection system as a means of arousing public understanding and support of prison reform by studying and publicizing the conditions that actually exist in specific prisons and jails throughout the country.

As a part of my remarks in the Record, I include both the text of the Attorney General's speech and a brief description of my prison inspection proposal from my most recent newsletter.

"New Doors, Not Old Walls"

(An Address by John N. Mitchell, Attorney General of the United States)

Let me join the others in welcoming you to this National Conference on Corrections. As many of you know, this conference stems from the continuing concern over prison reform by the President of the United States, and is a part of the national corrections program that he set in motion two years ago.

In 1969 President Nixon directed his Administration to pursue correctional reform along 13 specific avenues. He also appointed a Task Force on Prisoner Rehabilitation, which made a number of significant recommendations in April 1970.

Together, these directives and recommendations represent the most determined and comprehensive approach to corrections ever made in this country. I refer not only to Federal corrections, but insofar as the Federal Government can provide funds, training and leadership, this approach is a Magna Carta of prison reform for all levels of government.

We are here to review how far we have come in implementing the reforms already proposed by the President and others, and to chart a course over the vast sea of problems remaining.

Until the last two years, it could be said of prison reform what Mark Twain is supposed to have said about the weather: "Everybody talks about it, but nobody ever does anything about it."

Some of the talking was done at a National Congress on Penitentiary and Reformatory Discipline, meeting in Cincinnati. Among other things, it recommended that:

The prime goal of prisons is not to punish, but to reform.

Prison personnel should be much better trained and developed to professional status.

Prisoners should be classified and treated appropriately and separately.

They should be handled with incentives and moral suasion, not physical punishment.

They should be given hope of reduced sentence and parole for good behavior.

Their academic education and vocational training should receive primary emphasis.

They should be helped to find their way in society after release.

When were these enlightened ideas proposed? Not last month or last year, but in 1870—more than a century ago.

Forty years ago a National Commission on Law Observance and Enforcement, known as the Wickersham Commission, devoted an entire volume of its report to the subject of corrections. Among its recommendations were the very same ones that had already been recommended in 1870.

Nearly five years ago a President's Commission on Law Enforcement and Administration of Justice devoted a chapter of its final report to corrections. Among its recommendations were ones previously made in 1870 and 1931.

What was the result of this century of recommendations?

In state after state, most of the prisons have no programs for correcting the prisoner. Only a fraction of inmates in the country are exposed to such programs.

Only from 10 to 20 percent of all prison system budgets in this country is spent on actual programs to correct the inmate; the rest is spent on custody and administration.

Only 20 percent of institutional personnel are assigned to correctional-type programs.

In many states, first offenders are mingled with hardened criminals; in many cases, juveniles are mingled with adults.

In any other profession this kind of neglect would be unthinkable. How would we react if a hospital put accident victims in the Communicable Disease Ward—and at that, a ward in which the patient received a bed, but no treatment? We should be just as appalled at the situation in many of our prisons today. Little wonder that, in sounding the call for prison reform, President Nixon declared, "The American system for correcting and rehabilitating criminals presents a convincing case of failure."

There are, of course, some outstanding exceptions. But in characterizing most American prisons I need only use the same language that the Wickersham Commission used 40 years ago:

"We conclude that the present prison system is antiquated and inefficient. It does not reform the criminal. It fails to protect society. There is reason to believe that it contributes to the increase of crime by hardening the prisoner."

Today we have figures to confirm that belief. According to the FBI, those arrested on Federal criminal charges in 1970 had an average of four prior criminal arrests and an average of nearly 1½ convictions at the local, state or Federal level. The nearly 38,000 arrested on Federal charges in 1970 had a total of more than 22,000 prior imprisonments of six months or longer in one type of institution or another.

These and many other studies with similar results should not surprise us. It is as simple as the words of the novelist, Dostoyevsky: ". . . neither convict prisons, nor prison ships, nor any system of hard labor ever cured a criminal."

The fact is that other trends in American life are going to make this corrections problem even more pressing in the future. The trend toward improved law enforcement systems will not only deter crime in the long run, but in the near term one of its effects should be to increase the arrest rate. Moreover, if the court reform movement proceeds as we hope, it will speed the prosecution of more defendants. Together, these two factors will send many more offenders through the criminal justice system, thus putting added strain on the corrections program.

We must be prepared for this new wave of offenders coming into the prison system—ready not just with added beds and benches, but ready to make the most of an opportunity to reach a large number of offenders with modern corrections techniques.

At the same time, the rising level of education in the United States is leaving a bigger gap between the undereducated offender and society at large. So our job training and educational programs in the prisons must be pushed even harder to keep up with successes in other aspects of society.

Recognizing that there are many successful corrections programs by various jurisdictions, I would like to examine briefly the particular program developed in response to President Nixon's directions two years ago.

First, the President's program has received growing financial support from Congress, thanks to some dedicated leaders in the corrections crusade such as Senator Roman L. Hruska of Nebraska. Funds specifically earmarked for corrections, over and above the other corrections grants, have been added to the program of the Law Enforcement Assistance Administration, part of the Department of Justice.

Second, in 1970 the Inter-agency Council on Corrections was created to focus the work of all relevant Federal agencies on prisoner rehabilitation. This consists of representatives from a dozen agencies within the Departments of Justice, Labor, Defense, and Health, Education, and Welfare, as well as from the Department of Housing and Urban Development, the Office of Economic Opportunity, and the U.S. Civil Service Commission.

Third, the United States Board of Parole was reorganized in 1969 to enable Parole Hearing Examiners to conduct many of the hearings in correctional institutions across the country. This permits the Board members to devote more time to the decision-making process and to hold more appellate reviews.

Fourth, the Federal Bureau of Prisons within the Department of Justice developed a comprehensive 10-year master plan to improve the effectiveness of the Federal Prison System and hopefully to make it a model of correctional endeavor for other agencies in this country to follow. This plan emphasizes individualized treatment and community orientation. The Bureau has already made a good start in achieving these goals, particularly in two vital areas—personnel training and new facilities.

The first regional staff training center was opened last January. It provides professional training to develop the correctional officer as an agent for change rather than as primarily a custodian or keeper. The second regional training center will be opened the first of this coming year, and three more are planned for the future. As soon as possible, these facilities will also be made available to state and local correctional personnel.

This month the Bureau plans to break ground for its first Metropolitan Correctional Center in New York City. This multipurpose facility will provide pre-sentence and post-sentence short-term detention, diagnostic service to the courts, pre-release services to offenders returning to the city from other institutions, and correctional services for parolees and probationers. Construction will begin on a similar center in Chicago in June 1972, and six other centers are scheduled for urban areas where the need is most acute.

Construction will begin early next year on a facility unique in correctional practice. This is the Behavioral Research Center at Butner, North Carolina, which will provide treatment for and research on special groups of offenders, including the mentally disturbed. And in the fiscal 1972 budget, Congress provided for construction of a West Coast complex of facilities in four metropolitan areas to provide better correctional techniques for youthful offenders.

Fifth, the Law Enforcement Assistance Administration has greatly increased its funding for correctional aid to the states and localities. In fiscal 1971 this reached $178,000,000, which included more than $47 million in Part E funds that Congress, for the first time, especially earmarked for corrections, at the urging of President Nixon. This Part E funding has been more than doubled in the current 1972 fiscal year, bringing the total LEAA funding for corrections in this current year to nearly a quarter of a billion dollars. For the first time, substantial funds are available for a coordinated program to bring American penology into the 20th Century.

From its inception, the entire LEAA corrections program has had a common theme—preparing the offender for assimilation into society. One reason is that community-based programs are within the financial reach of the Federal assistance program and of the states and localities. If these correctional programs are as successful as we hope, we may not need to build all the new facilities that now seem to be required by the antiquated condition of most penal institutions. Some funds are being used for construction, but on a very selective basis which emphasizes corrections, not just detention. Already, as a result of LEAA funding, we can see some visible areas of progress. To cite only a few:

Kentucky has begun its first organized pre-release program for prison inmates.

Arizona has begun treatment programs in county jails.

Michigan is developing a million-dollar model program to treat young offenders in community-based programs.

Missouri is opening 12 new community treatment centers for offenders and ex-offenders and 36 group homes for juveniles.

Louisiana is building a state institution for women and two regional centers for offenders.

Indiana has opened two new regional centers for juveniles in the past two years and will open four more.

Florida is implementing a major probation program for juveniles directed by the state.

New York is launching a massive series of professional training programs for existing correctional personnel at all levels.

Those programs are only a fraction of the whole picture.

Last Fiscal year LEAA put over $2 million into job training and placement programs operated by private industry.

LEAA has also made direct grants to cities and counties to finance community treatment centers, narcotics and drug treatment, job placement, juvenile probation, work release, group homes, rehabilitation of alcoholics, halfway houses, volunteer aid programs, psychiatric care, and a host of other offender rehabilitation efforts.

We are also aware that many states need technical advice on how their facilities need improving, and even on how their new buildings should be designed to make maximum use of modern correctional methods. I am able to announce that, to meet this need, LEAA has funded a National Clearinghouse for Criminal Justice Architecture at the University of Illinois.

Professional assistance in planning and implementing education programs for inmates is also a need of many states and localities. For this purpose I am today directing LEAA to establish a National Clearinghouse for Correctional Education, using such funds as are now available for its initial phase of development. This Clearinghouse will give technical help, including curriculum planning and classroom and correspondence course materials, to correctional agencies establishing education programs for primary through college level.

These are only a few highlights, and they do not include numerous research programs to advance the science of corrections.

Already, because this large LEAA funding is now available, state and local correctional administrators have begun to press for change. They are documenting their needs, with new confidence that those needs will be met. No longer are they voices in the wilderness.

In addition, other Federal agencies are providing strong support. At three Federal institutions, the Office of Economic Opportunity has funded programs to prepare selected inmates for advanced educational opportunities. A number of vocational training courses for handicapped inmates have been sponsored by the Rehabilitation Services Administration of HEW. The Manpower Administration of the Department of Labor has made numerous grants to provide occupational training for inmates of Federal, state and local institutions. And the Manpower Administration is also participating with United States Attorneys and the Federal Courts in a program to provide jobs and correctional guidance to selected defendants, without trial.

Recently, steps have been taken to bring even closer coordination of Federal and state corrections programs.

A National Advisory Commission on Criminal Justice Standards and Goals, chaired by Governor Russell Peterson of Delaware, has been established by LEAA. Among the standards it will consider and establish are those for corrections. I trust that when these are forthcoming, correctional institutions at all levels will give them the most serious consideration, to the end that all such American institutions can work toward the same goals.

In addition, the cabinet heads of the Departments of Justice, Labor, and HEW last week joined in sending a letter to the governors of all states and territories, offering fresh technical and financial assistance in a coordinated Federal-state program for correction of offenders. Grants for preparation of plans will be made to all participating states before the end of this fiscal year. Sometime in February the representatives designated by the Governors will meet with Federal officials in Washington to agree upon guidelines for the program plans. The result will be that the states can make comprehensive plans with the assurance that they will receive substantial Federal financial support starting in fiscal 1973.

So we have here the first major step in articulating and implementing a national program—Federal, state and local—on the correction of offenders. I hope that your deliberations here will provide a body of professional recommendations that will guide state and Federal planners.

In short, a number of factors have combined to give us the best opportunity in this century to bring some genuine reform to the most neglected aspect of our society.

We have concerned and enlightened leadership—a President who has made prison reform one of the priorities of his Administration.

We have significant funds available and a viable program for allocating them.

We have some outstanding examples of progress in both state and Federal prison institutions.

We have a higher level of public support than ever before.

For the first time, we can mount a national corrections program that does not simply repair old buildings, and is not based only on old concepts of restraint and deterrence. Instead we can make use of the imaginative corrections principles that have been advocated for at least a century.

More than this, we can be bold enough to consider new ideas. Let me close by sharing just a few with you.

First, as you know, the need for better training and common performance standards among correctional officials is shared by all government levels. In this connection I am today directing the Federal Bureau of Prisons and the LEAA to work with the states and localities in establishing a National Corrections Academy. This would serve as a national center for correctional learning research, executive seminars, and development of correctional policy recommendations. It would cover the whole range of correctional disciplines, from the new employee to the management level. Besides giving professional training of the highest quality, it would provide a continuing meeting ground for the exchange of advanced ideas on corrections. I believe it will be the most effective single means of upgrading the profession and assuring that correction is more than a euphemism for detention. I hope that the members of this Conference will give us the benefit of their ideas on implementing this Academy in the most effective way

Second, I call upon all agencies to increase minority employment among professional correctional personnel. In my opinion this would greatly increase the effectiveness of counseling and guidance at all stages of the corrections process. Practically all prison systems, including the Federal system, have a long way to go in this regard. I am pleased to report that the Director of the Federal Bureau of Prisons has directed all 28 Federal institutions to work toward a goal of one-third minority employment in all new hiring. I urge corrections institutions at all levels to make an extraordinary effort to find and recruit minority personnel—not only because it is the law, not only because it is fair, but because it can genuinely benefit the corrections process. LEAA is already funding a program to aid police departments in increasing their proportion of minority officers, and I am today directing LEAA to expand this program to include the same aid for correctional systems.

Third, let us recognize that correction should begin, not with the prisons, but with the courts. Let us ask whether in every case we need to achieve "the object so sublime" of the *Mikado*'s Lord High Executioner—"To make the punishment fit the crime." In many cases, society can best be served by diverting the accused to a voluntary community-oriented correctional program instead of bringing him to trial. The federal criminal justice system has already used this formula in many juvenile cases—the so-called Brooklyn plan. I believe this program could be expanded to include certain offenders beyond the juvenile age, without losing the general deterrent effect of the criminal justice system. I am therefore directing the Executive Office of United States Attorneys and the Criminal Division of the Justice Department to study the feasibility of enlarging the area of criminal cases in which the prosecutor might be justified in deferring prosecution in favor of an immediate community-oriented correctional program.

Finally, I propose for your consideration a more general problem—the need to elevate public attitudes toward the releasee. Studies have shown an appalling resistance to hiring ex-offenders, even by many governmental agencies at different levels, thus frustrating other efforts at correction. Some state laws prohibit the hiring of ex-offenders by government agencies, however well adjusted or corrected they may be. When such a releasee is thus denied the means of making an honest living, every sentence becomes a life sentence. The attitude of each citizen toward salvaging offenders as valuable human beings is one of the obvious cases covered by the popular saying, "If you're not part of the solution, you're part of the problem."

It is my hope that as the rehabilitation approach to penology begins to work, the public will begin to change its archaic feeling about ex-offenders. The public's predominant impression of penology will be, not of old walls, but of new doors. And this in turn can be the final breakthrough in the centuries-old battle to reclaim and assimilate the ex-offender.

Winston Churchill once said that attitudes toward the treatment of criminals are "one of the unfailing tests of the civilization of any country." Let us do all in our power to assure that our country may yet be able to meet this test, not in shame, but with pride.

Ladies and gentlemen, I wish to thank you for your participation in this Conference. We are counting on your counsel as we enter a new phase in a national correctional program, and I trust that your dedication to this cause will produce some truly inspired guidance that is equal to the challenge.

REPRESSION VS. REHABILITATION

(By Rep. Florence P. Dwyer)

The rebellion last week at the Rahway State Prison raises some serious questions which Congress, State legislatures and society in general will continue to ignore only at the peril of us all. These questions involve the very nature of prisons: do we intend them to be mindless institutions for repressive punishment or centers for rehabilitating offenders and restoring them to useful roles in the life of the community?

When one considers that the crime rate has increased from 1,123 per 100,000 population in 1960 to 2,471 in 1969, and that the rate of recidivism (crimes committed after release from prison) is in the neighborhood of 75–80 percent, the question answers itself. Every study I've seen shows that abusive conditions in prison only hardens the prisoner's determination to exact a further price from society. He becomes committed in prison to to a career of crime, not intimidated into conformity. Conversely, these same studies show that where prisons provide decent treatment, job training, and educational opportunities, the rate of recidivism declines.

Most of us don't like to think about these things. We want to put criminals in jail as quickly and for as long a time as possible, and then forget about them. But we do care about crime and we all suffer from the increased sense of personal threat and insecurity which the growing crime rate induces. Thus, since repeat offenses account for an important share of the crime rate, this "jail 'em and forget 'em" philosophy seems pretty shortsighted. It only makes more trouble for ourselves.

INSPECTION: A PRELUDE TO ACTION

Which is exactly what we're doing. Federal prison officials tell me that conditions in most State prisons and county and local jails are atrocious beyond description, that they physically sicken in some cases these experienced observers. It is instructive, I think, that riots almost never occur in Federal prisons, despite the many and admitted shortcomings of these institutions.

There is much that can be done to remedy this situation, and the U.S. Law Enforcement Assistance Administration is at last beginning to work with some State and local governments in the area of correctional reform. But this is just a beginning.

One way we could stimulate greater progress, I suggest, would be to institute an independent prison inspection system. Unbelievably—but Federal officials confirm this—there is no such thing as a systematic and effective means of inspecting prison conditions in the United States. We don't even know what's going on in institutions which are vital to our personal security. Until we do, we can't do much to change them.

My suggestion is a simple one. It won't bring reform automatically, but it would give us the foundation on which to make informed policy decisions. I have in mind an inspection corps completely independent of Federal, State or local prison systems, operating in teams of three or more experts in various areas of prison administration, empowered to make unannounced visits to any jail in the country, and authorized to make public reports of their findings and recommendations.

This is not a "do-gooder" idea. It won't work in many cases. But if it results in even a marginal reduction in the debilitating effects of crime, then it could be eminently worthwhile.

THE INDESTRUCTIBLE MRS. MANNIX

HON. RICHARD G. SHOUP

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1971

Mr. SHOUP. Mr. Speaker, in these days of increased concern for the rights of women to reap the fruits of man's labor by laboring alongside him, I respectfully refer then to the story of a recently deceased Montana lady who did not—because of necessity—wait for a law to be passed to be a man's equal.

In respect to the memory of an "indestructible" Montana mother, I insert the following article in the RECORD:

"INDESTRUCTIBLE" RANCHER DIES; BURIAL IN HELMVILLE

"The indestructible Mrs. Mannix," as she was referred to in a magazine sketch in 1963, died Friday in an Idaho Falls hospital where she had been admitted only a few days previously when stricken ill.

Mrs. Will (Nettie) Mannix, who had lived in the Avon-Helmville area for most of her life, was 95 years old.

Born Jan. 13, 1876 in Marysville, she moved with her family when she was 12 to the Nevada Creek valley where, in 1898, she married William Mannix.

A story written by an Avon author, T. J. Kerttula, which appeared in the "Western Livestock Journal" in 1963, related the hardiness and determination which led her to operate the ranch which they purchased, her husband crippled with polio—10 children to raise.

In addition to running the ranch she drove twice weekly a stage from Finn, north of Avon, to the railroad at Avon, a round-trip of 30 miles. The stage carried mail, freight and passengers. For 15 years she recorded 1,560 consecutive runs without a missed trip.

After her husband's death in 1927 she let the home ranch go but 20 years later bought it back, at the age of 70. She made it into a Hereford operation and in an average year the ranch put up 800 tons of wild hay. She operated the ranch with her sons until three years ago when she moved to Idaho Falls to live with a daughter Mrs. Herbert Kiss.

Mrs. Mannix leaves 92 direct descendents.

THE LATE THOMAS A. BURKE

HON. JAMES V. STANTON

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1971

Mr. JAMES V. STANTON. Mr. Speaker, it was with deep regret that I learned recently of the death of Thomas A. Burke, former mayor of Cleveland, and U.S. Senator from Ohio. During his tenure as mayor, Thomas Burke acted with courage and imagination both in meeting the unique problems which confronted the city in the years immediately following World War II, and in initiating new programs to faclitate the growth of Cleveland. His entire career was marked by a rare dedication to the public interest, and the people of Cleveland were most fortunate to have been blessed with leadership of this caliber.

In tribute to his many accomplishments, I include the following article concerning Thomas Burke in the CONGRESSIONAL RECORD.

THOMAS A. BURKE

Thomas A. Burke, mayor of the city of Cleveland first by succession and then by will of the people, and United States senator for a brief period by appointment, was a short, paunchy, affable man whose rose-red cheeks and ready smile gave a misleading impression that he always enjoyed a carefree political life.

This was not so. Mr. Burke, now dead at 73, met head on, and with serious determination, the vexing problems confronting the mayor of this large industrial city in the closing months of World War II and during the arduous transition to peace that followed.

He was head of the city when it was almost impossible at times to find personnel and equipment to take care of municipal chores. But Mr. Burke found ways to get the job done. It was not the most popular assignment in 1946 to convince voters, staggering out from under the load of world conflict, to agree to spend $35 million in civic improvements but Mr. Burke pushed bond issues in that amount across to keep the city moving.

He had to contend with labor problems and a utility strike and a transportation strike but he met these challenges firmly. He saw the need for a second Cleveland airport, one on the lakefront, and today there is such an airport and fittingly it bears his name.

In actual time, Mr. Burke served longer as mayor of Cleveland than any other man although Tom L. Johnson also was elected four times and Anthony J. Celebrezze, later to become secretary of health, education and welfare and now a federal judge, was chosen five times for the office.

Son of a physician, Mr. Burke grew up in what is now the Hough area. He received his law degree from Western Reserve University and after service in the county prosecutor's office, he decided to run for judge. He was defeated in 1937 and returned to private law practice but in 1941 the mayor, Frank J. Lausche, chose Mr. Burke as law director and this proved to be a turning point in his career. He succeeded Lausche as mayor in 1945 when the latter moved up to become governor of Ohio and later that year Mr. Burke sought, and was elected to, the city's top post.

Four times he steamrolled the opposition, serving a total of eight years, ten months and five days in office. In 1954 he succeeded, by appointment, the late Robert A. Taft in the U.S. Senate but when he ran for that seat later in the year he was defeated by the late George H. Bender in about as close a race as this state has witnessed. Mr. Burke lost by 6,000 votes and a possible factor in his defeat, yet one which illustrated his sense of fair play, was his announced opposition to the red-hunting tactics of the late Sen. Joseph R. McCarthy.

Mr. Burke then retired once more to private law practice but he remained, until his death, a Cleveland political figure respected and pleasantly received as a local boy who made good in his own home town.

KENT STUDENTS SEEK NIXON REVERSAL ON REQUEST FOR GRAND JURY INQUIRY

HON. WILLIAM S. MOORHEAD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1971

Mr. MOORHEAD. Mr. Speaker, earlier in the year, 19 of my colleagues joined me in asking the Attorney General to convene a Federal grand jury to put an end to the bickering and confusion concerning what happened on the Kent State campus in May of 1970 when four students were killed and several others wounded.

After waiting until the Congress recessed for its summer vacation, the Justice Department decided that they were not going to pursue this question and announced that there would be no Federal grand jury.

This was expected by all who understood that this administration's commitment to the status quo far surpassed its concern for justice at Kent State.

Now students of Kent, some 10,000 of them, more than half the student body, have petitioned the President to reconsider the decision of the Justice Department.

In Ohio, other campuses are joining the petition campaign and asking Mr. Nixon to make this effort which could go a long way in restoring the faith of young people in elected public officials.

For the information of my colleagues, I am enclosing a copy of the petition signed by various Kent student leaders, as well as an excellent article written by Mary McGrory when the Kent students came to Washington and sat down with the President's assistant, Leonard Garment, to make their feelings known.

The students came to my office and I suggested certain courses of action but the ultimate act would be the decision by the President of the United States that only a Federal Grand Jury can untangle the mass of claim and counterclaim which surrounds the incidents at Kent State.

The statement follows:

SATEMENT OF THE CAMPUS ACTION BOARD REGARDING PETITIONS CALLING FOR FEDERAL GRAND JURY

We have waited and watched; watched the pitiful attempts of the "system" to live up to its claims. Watched as many churches throughout the nation called for a Federal grand jury. Watched as Senators and Congressmen called for a Federal grand jury and a Congressional investigation. Watched as over 10,000 of our fellow students signed a petition calling for this same Federal grand jury.

It is nearly eighteen months since the guns fell silent on our campus. Eighteen months since four of our fellow students attended their last day of classes. Eighteen months since our Residence Hall rooms were systematically searched without our consent. Eighteen months since Paul Brown, former State Attorney General, emphatically stated no guardsman would be held legally accountable for his action. Fourteen months since Paul Brown convened a special state grand jury to investigate (among other things) whether any guardsman would be indicted. Twelve months since Seabury Ford revealed the true tenor of the state grand jury. Twelve months since Judge Jones of the Portage Common Pleas Court forbade public criticism of the state grand jury report. Nine months since Judge Thomas of the U.S. Federal District Court ordered the expulsion of that same report. Three months since Peter Davies raised many questions which are as yet, unanswered. Two months since John Mitchell, like Pilate, washed his hands of the entire affair.

Now we watch again, our eyes focused on one man alone—The President. We are waiting to see what Mr. Nixon's concept of "law and order" is as will be revealed through his response to the petitions. Is there really such a thing as "justice"? And is it achieved thru "law and order"? And finally "law and order" for whom?

We urge that a public comprehensive investigation be undertaken by the Federal Government to study all evidence available to that body to clarify the many discrepencies, legal and political, of the Kent State Incidents, May 1–4, 1970.

Campus Action Board of Kent State University:

Dave Altekruse, Student Senator, President Pro-Temp.

Donna Clark, Vice President of the Student Body.

Jack Eyman, Chairman of the Graduate Student Council.

Kathy Jackson, Student Senator.

Carol Keith, President of Panhellenic Council.

Edward Kramer, President of Commuter and Off-Campus Student Organization.

Karl Nelson, Past-President of Inter-Fraternity Council.

Nancy Slominski, President of Kent Interhall Council.

Bill Slocum, President of the Student Body.

[From the Washington Star, Nov. 16, 1971]

STUDENT PETITION FORCING ISSUE—KENT STATE TRAGEDY HAUNTING NIXON

(By Mary McGrory)

After three years of studied antipathy and occasional outright hostility, the President suddenly has decided to make overtures to the young, many of whom will be voting for the first time in 1972.

The official publication of the Republican National Committee, "First Monday," has blossomed out with a 16-page, full-color insert recounting the President's concern and exploits for youth, emphasizing his reference to the "alliance of the generations" as if it were an accomplished fact.

EPITOMIZED SPLIT

It so happens that the President has before him the surest means of reconciliation that has presented itself during his administration. Kent State University students have submitted a petition with 10,380 signatures asking him to reverse himself and order a federal grand jury investigation of the Kent State killings.

That tragedy epitomized, as one of the petitioners said, "everything that was wrong between him and us." The demonstration that ended in death was kicked off by announcement of the Cambodian invasion. The morning after his speech the President referred to campus demonstrators as "bums." Four days later, when the National Guard opened fire and left four dead and nine wounded, the President issued a cold statement that further outraged the mourners: "When dissent turns to violense, it invites tragedy."

The Scranton Commission on Campus Unrest issued a report calling the shootings "unnecessary, unwarranted and inexcusable." The President publicly put off reading the report for months. The vice president called it "pablum for permissivists."

The parents of the dead students, aided by an English-born insurance broker named Peter Davis, the Board of Christian Concern of the United Methodists and more recently by Sen. Edward Kennedy, agitated for a federal grand jury. Last August the attorney-general, in a statement expressing agreement with the Scranton findings of "unnecessary, unwarranted and inexcusable," said there nevertheless was nothing the Justice Department could do.

REPORT BURNED

An Ohio grand jury, meanwhile, had indicted 25 members of the student body and faculty of Kent State in the killings. No action was taken against the Guardsmen. A U.S. District judge ordered the ceremonial burning of that grand jury report, but allowed the indictments to stand.

Supreme Court Justice Potter Stewart yesterday ordered a stay in the trial of the 25, which was to have begun next week. Even if the full court rules against allowing the trial, the Kent State petition drive will go on, and indications are that the killings could become the principal issue of college youth in 1972.

The originators of the petition, graduate student Paul Keane and undergraduate Gregory Rambo, were flown to Washington on Oct. 23 in the university plane by Dr. Glenn A. Olds, the new Kent State president and an old friend of Nixon's. Dr. Olds escorted the pair to an audience with the Presiden't adviser on civil rights, Leonard Garment.

OLDS STYMIED

Olds told Garment that he could do "nothing creative or innovative at Kent until the issue is settled."

Garment promised the President's answer by Dec. 1.

The petition is becoming a national campus crusade. The president of the Kent State student body, Bill Slocum, sent out letters to 200 student body presidents and college editors, asking for signatures. The New York Student Law Council is appealing to 800 colleges to name student petition captains. If the President does not act, the organizers expect to take their case to both national conventions.

It would go hard with Richard Nixon to reverse the attorney general, his campaign manager and arbiter of domestic policies.

But there is a potential of 25 million new voters in the country. And in Ohio, as Rambo, who is president of the Kent State Young Republicans Club, points out, there is a cutting political edge.

TOWN OR GOWN?

No Republican has ever been elected president without carrying Ohio, he notes. Recently, a group of students won a suit in federal court granting Ohio students the right to register and vote on their campuses. The case is now under appeal. If the young win, the President, who has always chosen town over gown, may feel a certain counter-pressure.

He will be hearing more and more about Kent State, which has become a symbol of injustice and official insensitivity to unhappy students—unless, of course, he takes the unlikely course of ordering a federal grand jury investigation.

He has been content hitherto with campus silence and despair. But if the young are revived to rally round the Kent State dead, and as Nixon turns a deaf ear, he will be hard put to make any claim on their consideration at the polls.

MONTHLY CALENDAR OF THE SMITHSONIAN INSTITUTION

HON. HENRY P. SMITH III

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1971

Mr. SMITH of New York. Mr. Speaker, I am pleased to place in the RECORD the December Calendar of Events of the Smithsonian Institution, as follows:

DECEMBER AT THE SMITHSONIAN

Wednesday, December 1

Free Film Theatre: *Digging for the History of Man*. Part I—Archaeological explorations retrieve the long-buried evidence of the art and architecture of the Babylonians, Sumerians, Hittites, Greeks and Romans. Part II—An archaeological examination of the ruins of Sassanian architecture, which marked the finale of ancient Persia. 12:10 and 1:10 p.m., Natural History Building auditorium.

Exhibition. *Early Christian Manuscripts*. Illuminated leaves from Armenian Christian manuscripts of the 12th to 17th centuries, part of the outstanding collection of Biblical manuscripts in the Freer Gallery; and religious and decorative objects, some from a late Roman gold treasure found in Egypt. Freer Gallery. Closing indefinite.

Lunchbox Forum: *Air Refueling Begins*. An informal discussion by Lt. Gen. Ira C. Eaker, USAF Ret., Advisory Board, Hughes Aircraft Co. Sponsored by the National Air and Space Museum. Room 449, Smithsonian Institution Building. 12 noon.

Thursday, December 2

The Proposition. Return engagement. Completely improvised musical review directed by Allen Albert, and created spontaneously by the actors and musicians built on audience suggestions, phrases, psychological problems, political issues or public personalities. No two shows are alike. Sponsored by the Division of Performing Arts and the Resident Smithsonian Associates. 8:30 p.m., Natural History Building auditorium. Tickets $5. Student tickets $3 available with I.D. For reservations, call 381–5395.

Free Film Theatre: *Digging for the History of Man*. Repeat. See December 1 for details.

Creative Screen: *The Critic*—award-winning cartoon spoof produced by Ernest Pintoff with commentary by Mel Brooks; *The Art of Collecting*—Five American art collectors interviewed by former TV art critic Aline Saarinen. 11 a.m., noon, 1 and 2 p.m., National Collection of Fine Arts.

Exhibition: *John Steuart Curry (1897–1946)*. Fifteen paintings and 20 drawings make up a selective representation of this Midwestern regionalist who was a colleague of Thomas Hart Benton and Grant Wood. Part of the series of exhibitions on lesser known American artists. National Collection of Fine Arts, through February 29.

Friday, December 3

The Proposition: Return engagement. See December 2 for details.

Saturday, December 4

The Proposition Circus: Return engagement. Musical improvisational review directed by Allen Albert, for children, and adults accompanied by children only. Sponsored by the Division of Performing Arts and the Resident Smithsonian Associates. 1:30 and 3:30 p.m., Natural History Building auditorium. Tickets $2 children; $3 adults. For ticket information call 381–5395.

The Proposition: Return engagement. See December 2 for details.

Creative Screen: *The Critic; The Art of Collecting*. Repeat. See December 2 for details.

Illustrated Lectures: *Wild Dogs—The Wolves of Africa,* film and lecture by Baron Hugo van Lawick; *Chimpanzees in Africa,* a slide lecture by Dr. Jane van Lawick–Goodall on her 10-year study. Sponsored by the Friends of the National Zoo. 2:30 p.m., Lisner Auditorium. Admission $5 general public; $4 student rate in groups of 10 or more; $3 members of Friends of the National Zoo. For tickets, call 232–4500.

Sunday, December 5

The Proposition: Return engagement. See December 2 for details.

Monday, December 6

The Proposition: Return engagement. See December 2 for details.

Tuesday, December 7

The Film and the Producer: L. M. Kit Carson and *The Future's Ours*. First in a series of programs featuring films with the producer present to discuss his work and answer questions of the audience. *The Future's Ours* is half fiction and half documentary, photographed in color by Michael Wadleigh and featuring Michael Pollard and Louis Waldon. Sponsored by the Resident Smithsonian Associates. 8:30 p.m., Natural History Building auditorium.

Wednesday, December 8

Lunchbox Forum. *History of Balloons*. An informal discussion by Roger Pineau, Project Manager of the National Air and Space Museum. Sponsored by the National Air and Space Museum. Room 449, Smithsonian Institution Building. 12 noon.

Free Film Theatre: From the series, "The Glory That Remains." Part I—*The Sudden Empire*. The rise and fall of ancient Persia told against a background of the deserted courtyards of Persepolis, the rebuilt city of Darius the Great. Part II—*Invaders and Converts*. The glittering legacy of Persian culture which flourished despite a thousand years of invasions. 12:10 and 1:10 p.m., Natural History Building auditorium.

Thursday, December 9

Free Film Theatre: *The Sudden Empire; Invaders and Converts*. Repeat. See December 8 for details.

Friday, December 10

Folk Concert: Guitarist *David Bromberg* in a program of traditional country and blues as well as a selection of his own songs. Sponsored by the Division of Performing Arts and the Folklore Society of Greater Washington. Admission: FSGW members, free; non-members, $1. Reserved seats only—call 381-5395.

Films: *A Matter of Time*—The devastating changes man has wrought on his world from early man through the age of technology; *For All To Enjoy*—A search for the source of deterioration of many of the most beautiful national parks. Sponsored by the National Parks and Conservation Association. 8 p.m., Natural History Building auditorium.

Exhibition: *Discover Graphics '71*. Prints produced in the NCFA Printmaking Program held in October and November. Prints will be included by John Sirica, NCFA artist in residence, by Federal City College students, and by D.C. high school students. National Collection of Fine Arts, through January 3.

Saturday, December 11

Exhibition. *Society of Federal Designers award winners*. Display of the best graphic illustrations, including photographs and design work, done over the last year by federal government communications personnel.

Arts and Industries Building, through December 26.

Monday, December 13

Audubon Lecture: *East of the Mountain,* by Edward H. Schell, outstanding amateur ornithologist and photographer. Birds, wild flowers and nature scenery from the Potomac highlands through the Shenandoah Mountains and including the major Eastern Shore bird refuges, are shown through color slides taken by Mr. Schell. Sponsored by the Audubon Naturalist Society. 5:15 and 8:30 p.m., Natural History Building auditorium.

Wednesday, December 15

Free Film Theatre: *The Great Sophy.* A visit to the great city of Isfahan, built by Shah Abbas in the 16th century. Part III of "The Glory That Remains" series. *Star of Bethlehem.* The story of the nativity retold with minor woodcarved religious figures dressed in fabrics and styles of the 17th century. 12:10 and 1:10 p.m., Natural History Building auditorium.

Informal Concert: *Concerto III for organ and strings (Hallelujah)*, by Handel. John Fesperman on the organ, with a chamber orchestra. 3 p.m., Smithsonian Institution Building lounge, 1000 Jefferson Drive, S.W.

Lunchbox Forum: *The Wright Brothers.* An informal discussion by Paul E Garber, Historian Emeritus, National Air and Space Museum. Room 449, Smithsonian Institution Building. 12 noon. Sponsored by the National Air and Space Museum.

Thursday, December 16

National Capital Shell Club. *Study group* conducted by staff members of the Smithsonian's Division of Mollusks, 7:30 p.m. *Monthly meeting and slide program,* 8:15 p.m. Room 43, Natural History Building. Public is invited.

Free Film Theatre: *The Great Sophy; Star of Bethlehem.* Repeat. See December 15 for details.

Creative Screen: *Toccata for Toy Trains*—A nostalgic and historical record of great old toys from the world of trains; *Calder's Circus*—The miniature circus of Alexander Calder, brought to life with the sculptor's hands; *Snowman's Dilemma*—A sentimental, animated film of a bashful snowman and a little girl. National Collection of Fine Arts. 11 a.m., 12 noon, 1 and 2 p.m.

Saturday, December 18

Creative Screen: *Toccata for Toy Trains; Calder's Circus; Snowman's Dilemma.* Repeat. See December 16 for details.

Monday, December 20

Concert: *The Christmas Story,* by Heinrich Schütz, with Helen Boatwright, soprano; John Uhrig, tenor; George Harshaw, bass; and The Camerata Chorus of Washington conducted by Joan Reinthaler. Instruments from the Smithsonian collections will be used. 8:30 p.m., Hall of Musical Instruments, History and Technology Building. Tickets: $4; $1.50 student tickets available with I.D. at the door only. Sponsored by the Division of Musical Instruments and the Resident Smithsonian Associates. For tickets call 381-5395.

Exhibition: Cast Iron and Tinplate Toys of Yesteryear: Sears, Roebuck & Co. Collection of American Toys, 1880–1960. Some 500 toys from a collection given to the Smithsonian by Sears, most of them vehicles such as cars, fire engines, trains, and buggies. After the Washington showing, part of the collection will be circulated under the auspices of the Smithsonian Institution Traveling Exhibition Service. Museum of History and Technology, second floor, through January.

CHANGES OF ADDRESS AND CALENDAR REQUESTS

Mail to Central Information Desk, Great Hall, Smithsonian Institution Building, Washington, D.C. 20560. When applicable, please include old calendar label.

HOURS—CLOSED CHRISTMAS DAY

Smithsonian museums: 10 a.m.–5:30 p.m., 7 days a week.

Cafeteria: 11 a.m.–5 p.m., daily, MHT.

Snack Bar: 10 a.m.–2 p.m., daily, MHT.

National Zoo buildings: 9 a.m.–4:30 p.m., 7 days a week.

Anacostia Neighborhood Museum: 10 a.m.–6 p.m., weekdays; 1–6 p.m., weekends.

FOREIGN STUDY TOURS

For members of the National and Resident Associates. All 1971 tours are full. For further details on 1972 tours, listed below, write to Miss Kennedy, Smithsonian Institution, Washington, D.C., 20560.

Australia and New Zealand: Late March–April. Via Fiji and return via Tahiti, with visits to Canberra, the Australian Outback, and Christchurch.

Mexico and Guatemala: April 3–22. A visit to the historic sites including Yucatan, Oaxaca, Mexico City, Tikal, Antigua.

No-Tour Tour: Dulles-Paris-Dulles. May 29–June 19. Air France Excursion. Members make their own arrangements for travel in Europe.

Greece and Yugoslavia: June 12–July 10. Classical tour of Greek archeological sites plus Yugoslavia's Adriatic Coast and inland sites. Romanian churches and other areas may be included.

No-Tour Tour: New York-Frankfurt-New York. July 3–25. Qantas Excursion. Members make their own arrangements for travel in Europe.

King Arthur's England: July 12–Aug. 2. An archeological, architectural and literary adventure. Directed by Mrs. Helen Hill Miller, author of *Realms of Arthur.*

The Pilgrimage Road: Sept. 11–Oct. 9, traversing Burgundy, southwestern France and northern Spain, the route of the medieval pilgrims to Santiago de Campostela.

No-Tour Tour: Dulles-London-Dulles. Sept. 11–Oct. 2, BOAC Excursion. Members make their own arrangements for travel in the British Isles.

Pakistan and Afghanistan: Oct. 7–Nov. 5. Overnight stops en route in London and Paris; motoring through the provinces of Pakistan; tour will be joined by local scholars at the sites.

RADIO SMITHSONIAN

Radio Smithsonian, a program of music and conversation growing out of the Institution's many activities, is broadcast every Sunday on WGMS–AM (570) and FM (103.5) from 9–9:30 p.m. The program scheduled for December.

FAMILY VOLUNTEERS FOR ACTION

HON. HAMILTON FISH, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1971

Mr. FISH. Mr. Speaker, for over a decade the Peace Corps has been attracting dedicated Americans, who wish to participate in self-help programs in developing nations. Now, as part of the newly created volunteer service agency—ACTION—the Peace Corps has expanded its range of potential volunteers by permitting married couples with children, to serve overseas. Hence, a whole new source of skilled volunteers can now be tapped.

Recently, an article appeared in the Washington Evening Star, containing profiles of some of these families now serving in the Peace Corps. Included among them are Mr. and Mrs. Philip Haas, of Canajoharie, N.Y., in my Congressional District. The Haases, and their three children, will soon be serving in Brazil and I am most proud to call my colleagues attention to this dedicated family and those like them.

Mr. Speaker, I insert this article in the RECORD:

[From the Washington Evening Star, Nov. 17, 1971]

FAMILY VOLUNTEERS

(By Jeremiah O'Leary)

A funny thing happened to Peace Corps volunteer Margit Haas just before her scheduled departure for 27 months in Brazil: She found out she wasn't an American citizen.

But the Peace Corps is resourceful and Mrs. Haas got her citizenship two weeks ago, just in time to leave for South America today with her husband, Philip, and their three children—Heidi, 9, Sheryl, 7, and Bryan, 3.

Mrs. Haas was born in Germany, adopted and brought to the United States at the age of 4. She always assumed she was an American citizen. Now, at the age of 27 and with the expedited help of the State Department and a federal judge, she has her citizenship and the passport that goes with it.

The Haas family is one of a group of 46 persons, including 15 minor children, who are off to Brazil as part of the new Peace Corps emphasis on sending family units—and even senior citizens—into the field.

Almost all the early volunteers a decade ago were newly graduated collegians—generalists with a bachelor's degree. But Peace Corps Director Joseph H. Blatchford is turning increasingly to older and more experienced individuals.

Phil and Margit Haas got interested when they started bringing inner city children from New York City to their home in Canajoharie, N.Y., for summer experiences through the Fresh Air Fund. When they saw the wonder in the face of an 11-year-old Puerto Rican girl who had known nothing of small town life, they got the fever to join the Peace Corps and help people in yet other worlds.

When they found out the corps would accept volunteers with small children, they volunteered, were accepted and that's how Margit found out she technically was not an American. But she is now, and is off to their assignment in Natal, in Brazil's poverty-stricken northeast.

Phil will teach woodwork, ceramics and other industrial arts, while Margit will try to launch a program similar to Headstart in the United States.

The Haas family figures the experience will be worth it even though their income will shrink from about $17,000 to about $3,000.

Jim and Jo Glass from Gainesville, Fla., represent another type of the new volunteers. Jim, 58, already is drawing retirement checks from the Coast Guard, in which he was a chief petty officer, and from RCA. He isn't ready yet to admit that he cannot now start a third course in life. Jo, 59, has been a school-teacher for years. Their children now are raised and married.

The Glasses also will go to Natal, after 300 hours of Portuguese language instruction in Belo Horizonte with the other volunteers in the group. He will teach electronics, radio and TV repair while she will teach and work on community projects.

Ronald and Iris Sherman, both 31 and from New York's West Side, are leaving computer analyst jobs that brought them $40,000 a year. They will work in Rio de Janeiro for the Peace Corps subsistence wage. They got the itch to join when Ron saw a notice on a bulletin board at IBM about another employe who had gone to Kenya for the corps. The Shermans, who will teach computer sciences, are taking their 1-year-old son, Holt along.

William Young, 36, and his wife, Kay, 31, of Gridley, Calif. are going to Joao Pessoa with their children, Kim, 11, and Kirk, 9. Young was branch manager for an agricultural chemical company and is a soil science graduate. He will try to teach Brazilian farmers the uses of fertilizer and pesticides in a region where agriculture is practiced with traditional rather than scientific means.

James Kohl, 31, and his wife, 29, of Phoenix, Ariz., have a 1-year-old daughter, Jenifer and want more children. They were busy and involved here, but both resolved to take their special skills overseas as a commitment as well as an adventure. Jim has degrees in electronics and business administration, while Jeri is a home economics teacher. Both will serve in Belo Horzonte and have an advantage over the others because they already know Spanish.

Jim will work with INDI, the industrial development organization for the state of Minas Gerais, and Jeri will teach. They have only one mild regret: their hobby is skiing and they won't find any snow in Brazil.

These families are typical of the skilled volunteers Blatchford is bringing into the Peace Corps. By the end of this year, he estimates the level of young generalists in the Peace Corps will be down to about 34 percent of the current strength of 8,139 volunteers in 55 countries.

EAST HARLEM ENVIRONMENTAL EXTENSION SERVICE, INC.—A NEW APPROACH TO URBAN HEALTH AND ENVIRONMENT

HON. HERMAN BADILLO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1971

Mr. BADILLO. Mr. Speaker, housing—the need for shelter—represents one of our most urgent needs nationally. This need is particularly pressing in our urban ghettoes where lack of housing, health and sanitation services, employment and education all combine to create an environment that degrades those trapped by poverty in our slums. The East Harlem Environmental Extension Service, Inc., is trying a refreshing new combination approach to cure these ills—and it is succeeding quite well in motivating and enabling the poor to tackle and cope with their own problems. The program is encountering extreme funding difficulties, however, and needs all the assistance it can get. In fact, without the enthusiastic support given this project by the Senator from New York (Mr. JAVITS), the experimental extension service would no longer be in existence.

I have found it a pleasure to work with the Senator from New York on this very important project. He and I believe that programs similar to the environmental extension service's could profitably be undertaken in other cities of our nation.

For the information of my Colleagues, I would like to include here in the RECORD an excellent article by Robert J. Bazell on the program which appears in the most recent issue of Science magazine.

[From Science Magazine, Dec. 3, 1971]

URBAN HEALTH AND ENVIRONMENT: A NEW APPROACH

NEW YORK.—In the squalid tenements of inner-city slums—where children play in urine-soaked hallways alongside rats and junkies, where crumbling walls fill apartments with choking dust and deadly leaded paint, where often there is no heat in the winter and the plumbing doesn't work—the links between people's housing and their health are all too obvious. Thousands of people enter hospitals each year suffering from conditions ranging from carbon monoxide poisoning to asthma—all possibly resulting from wretched living conditions.

Construction of new housing and attempts at enforcing existing housing codes have done little to solve the problem. In New York City, for example, the number of low-rent units constructed between 1965 and 1968 housed less than one-tenth of the people forced out of tenements after the owners, unable or unwilling to maintain them, had left the buildings to decay. And, according to officials, for every house declared by the city to be abandoned, dozens of others are totally dilapidated, with people still living in them. Categorical health programs such as rat control and lead poisoning prevention—each aimed at a segment of the massive problem—have, by most accounts, accomplished little.

Talk of the environment as more than clean air and protected wildlife, and the use of phrases such as "comprehensive planning for environmental health services" have come into fashion recently. But few of these phrases have been translated into actions that actually improve people's surroundings and health.

At the East Harlem Environmental Extension Service, a year-old program that has already attracted national attention and may be the prototype of slum renewal efforts across the country, the rhetoric of preventive medicine and environmental improvement has been applied to training men from the East Harlem community to paint walls, repair plumbing, supervise buildings, fix boilers, organize tenants into building associations, and mop up the hallways. Such activities may appear at first sight as less than a dynamic solution to major health problems, but in the opinion of Elihu D. Richter, an associate of the Mt. Sinai Hospital Department of Environmental Medicine and one of the prime movers behind the project, "Large-scale preventive maintenance of tenement housing could do more for the health of East Harlem residents than the services of a thousand doctors."

EXTENSION SERVICE MODEL

Modeled after the agriculture extension services that give aid to farmers, the East Harlem program aims at cooperation with the area's landlords by offering them a variety of reasonably priced services that are intended to turn the dilapidated and dangerous tenements into safe and decent places to live.

Sponsors of the extension service, which is a nonprofit corporation, include a variety of groups that have often been at odds with each other in the past—groups such as tenant and landlord organizations, labor unions, and various city departments, as well as the Mt. Sinai School of Medicine.

To date, the program has trained and employed more than 70 men from the East Harlem area and, under contract for either continuing maintenance or for specific repairs, has serviced more than 40 tenement buildings. Observers with years of experience in East Harlem housing problems estimate that the extension service is directly responsible for saving as many as 20 tenement buildings from total abandonment.

FUNDING DIFFICULTIES

Despite these successes, the extension service has experienced extraordinary difficulties in obtaining funds. This for a number of reasons, not least of which is the difficulty of health and antipoverty officials in dealing with a program that solves a number of problems at once. According to the program's director, Victor Rivera, an energetic young Puerto Rican with experience in a variety of community affairs and minority labor projects, "The extension service's greatest problem has been our successes. Most antipoverty agencies are massive, self-perpetuating enterprises geared towards failure."

Originally the project, which earns an income from the fees charged landlords of about one-third of its expenses for training and subsidized services, received a 1-year $200,000 grant given to Mt. Sinai by the city's rat control program to cover the remaining two-thirds of the budget. But city officials refused to renew the grant because, in the words of one official, "our own funds were cut and the extension service is not strictly a rat control program." The program then became a football tossed from agency to agency—job training, welfare, health department, and so on—each of which endorsed the extension service but claimed it was beyond their responsibility. Finally, after considerable prodding by Democratic Representative Herman Badillo, whose district includes East Harlem, and Republican Senator Jacob Javits, both enthusiastic supporters of the program, the Urban Coalition promised the extension of some Model Cities funds—but these have yet to be allocated. As a result of the shortage of funds, says Rivera, the extension service had to cease training new men and refuse contract offers from the owners of dozens of buildings in the area.

The multifaceted aspect of the extension service is seen most clearly in the training program for the "urban extension agents," who perform the work of the program. Each man receives 2 months of in-school vocational training and an additional month of field training before beginning full-time, on-the-job training and work. At the Manhattan Vocational and Technical High School in East Harlem, the city's Board of Education uses federal Labor Department funds to train the men in boiler maintenance, building repair, plumbing, electrity, plastering, painting, and other maintenance skills. At the same time, faculty members at Mt. Sinai and personnel from the city's Health Department instruct the trainees in the health aspects of their work.

TEACHING THE SIGNIFICANCE

"What we do in the training," explains Richter, who helped set up the curriculum, "is teach the men the significance of their work in terms of improving the health of East Harlem residents." In explaining, for example, "why a working boiler is so important to the health of the people in your building," a manual prepared for the course details the physiological effects of cold on the body and the number of illnesses that can be caused by prolonged exposure to the cold. "Some of the men didn't like to mop," says Richter, "so we taught them about asthma." Other aspects of the health course include fire, poisoning, and accident prevention. In each category, instructors give considerable attention to methods that the extension agents can use to instruct the tenants to help themselves. The men have responded enthusiastically to the health course, even requesting additional instruction in subjects such as child abuse, where they thought they might be of help.

Preventive medicine is but one of many offshoots of the extension work in the field. In one building, which was turned over to the extension service by the city after it was abandoned by the owner, there had been no heat for over a year, there was no roof, no door, few windows, and, for several months, neither hot nor cold water. After reactivating the heat and the plumbing, fixing the roof and the windows, and plastering and painting the apartments, the extension agents organized regular meetings of the buildings' residents, which evolved into a tenants' association. The association now watches for people throwing garbage in the yard or the hallways, helps collect the rents, and forms a mechanism for requesting help when new problems appear. Such activities have earned the agents the respect of many members of the community—a factor that the program's supporters believe to be a key to its success.

"Other minority training programs, if they find a guy a job, send him downtown to be the token Black or Puerto Rican on some big construction job," says Rivera. "But here the trainee is guaranteed a job, and in his own community."

The 70 agents trained to date reflect the ethnic makeup of East Harlem—most are Puerto Ricans, with some blacks and a few Italians. While some of the men were experienced in the construction trades, others came to the program from jail, drugs, or the welfare rolls. Despite this disparity of backgrounds, the program has retained over 85 percent of its enrollees—even when the shortage of funds delayed pay checks. In fact, some of the men even left higher-paying jobs for the $100 a week paid during both training and fieldwork. Explaining this enthusiasm, one of the extension agents told *Science*, "there's no substitute for the feeling you get when you're really helping your own people."

The sense of accomplishment in the work is reflected in the men's personal lives. An East Harlem social worker reported a typical case of an extension agent who "seems to have a whole new interest and hope in his family" as a result of his work with the extension service. Referring to a second extension agent, the social worker remarked that his "increased sense of pride has begun to affect the entire family—knitting its torn ends together."

At the heat of the extension service program is the concept that the problems with housing, and hence with health, have fallen into what Richter dubbed "the semi-public domain"—building maintenance that is outside the responsibility of either the city or the individual tenants. While the program has drawn criticism from some quarters of the antipoverty movement for "catering to slumlords," Rivera believes that "the only way to get anything accomplished is to deal with everyone involved. Sure," he said, "there are plenty of landlords who would never fix anything, but the economics of East Harlem are such that, even if a landlord wanted to keep a building in decent shape, the services are either exorbitantly priced or totally unavailable."

Such attitudes are shared by Ray Galliani, president of the Federation of Lower and Middle Income Property Owners, and a member of the board of directors of the extension service. According to Galliani, the landlords of at least 200 buildings in East Harlem would take advantage of the extension service—if the facilities and manpower were available.

AMBITIOUS PLANS

Conversations with the director and the employees of the extension service reveal elaborate plans to turn the program into more than a preventive maintenance operation. They foresee, for example, hiring a full-time public health nurse to investigate medical problems and to offer health education in more detail, as well as constructing playgrounds, day-care centers, and a number of other facilities for the community. But for now, because of a chronic lack of funds, they can only perform piecemeal repair work—often scrounging up scrap materials to finish the jobs.

The triple concepts of the extension service—housing maintenance, job training, and preventive medicine—satisfy a number of the critical needs of the ghetto. And at a reasonable price: while it costs a few cents per apartment per day to maintain a building, the city spends as much as $20 per day to house refugee families from abandoned buildings in "welfare" hotels. Moreover, the controversy in the Forest Hills section of Queens over the construction of public housing indicates the resistance to construction of new low-income housing facilities—even when money is available. But as Richter told *Science*, "Everyone associated with the extension service is tired of hearing how logical we are. What the program needs now is money to do the job it can do."

ROBERT J. BAZELL.

CHARLES E. LOFGREN

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1971

Mr. BOB WILSON. Mr. Speaker, members of San Diego Branch 9 of the Fleet Reserve Association were deeply grieved to learn of the recent passing of National Secretary Emeritus Charles E. Lofgren. Words cannot express Shipmate Charlie's long years of devoted service to the Navy, the Fleet Reserve Association, and America, but I take this opportunity to share with my House colleagues a few highlights of his long and dedicated career and include the following obituary at the conclusion of my remarks:

COMDR. CHARLES ERIC LOFGREN

Retired Navy Commander Charles Eric Lofgren, 78, National Secretary Emeritus of the Fleet Reserve Association and a veteran of the Vera Cruz campaign and World Wars I and II died of cancer on Thanksgiving Day at the U.S. Naval Hospital in Bethesda, Maryland.

A native of Everett, Massachusetts, he ended his formal education after two years of attendance at Everett High School at the age of 17. Three weeks later he joined the U.S. Navy as a "landsman for yeoman second class" on 11 July 1911. Three years later he had advanced to Chief Yeoman and was the youngest, at age 20, Chief Petty Officer in the Navy. He was commissioned to Ensign on 3 July 1918 and was promoted to Lieutenant junior grade by the end of World War I. In 1920 he reverted to his permanent enlisted rating of Chief Yeoman and served in the Bureau of Navigation, which controlled naval personnel, until his transfer to the Fleet Reserve in January 1927.

A week after his military "retirement" he went to work as the national director of the Fleet Reserve Association, a comparatively new organization representing career enlisted men of the United States Navy and Marine Corps. As the F.R.A.'s national director he toured the mid-west building the Association's membership and organizing local Branches of the organization throughout the nation.

After eighteen months of F.R.A. labor, the lure of the sea and adventure called to him as he read of then—Commander Richard E. Byrd's proposed expedition to the Antarctic. He applied to Commander Byrd to become the business manager of the first Antarctic expedition. Six months later in October 1928 the Byrd expedition set out for the South Pole in the barque "City of New York." Chief Lofgren as aboard as the personnel officer and paymaster for the expedition. The expedition did not return until 22 months later. Fourteen months of that time was spent at "Little America."

When the expedition made its triumphant return in August 1930, Chief Lofgren was his American lecture tour. In January 1931 Mr. Lofgren received Commander Byrd's per-released from active duty. Commander Byrd then selected Lofgren to accompany him on mission to launch his own speaking tour. This lecture tour lasted until December 1934 with Mr. Lofgren addressing 2400 groups. The majority of "Chief" Lofgren's audiences were student bodies and he fired the imagination of his male listeners with his impeccable navy uniform and stories of the expedition's adventure and success.

Mr. Lofgren's interest in Fleet Reserve Association affairs remained strong despite his separation and travel. The organization fell on hard times in the depression years. At the Association's 10th National Convention in Boston, Massachusetts in September 1934 the delegates elected Lofgren "National Secretary." As such he was the head of the F.R.A.'s national executive offices and the organization's senior salaried officer. When he took the helm in January 1935 the group's membership had dropped to less than 2,000 and its finances were $5,000 in the red. Within six months his dynamic organizational ability and leadership had increased membership to almost 3,900 and the treasury's balance to almost $3,300 in the black.

In May 1942 he was recalled to active duty as a Chief Yeoman and promoted to Lieutenant. He again served in the Bureau of Navigation specializing in personnel matters until retired in April 1947 as a Commander. He was one of the eight enlisted men to reach that rank in that time.

He returned to work as the Fleet Reserve Association's National Secretary being reelected every two years until he voluntarily retired in October 1957. By this time the Association's membership increased to over 50,000 and its financial assets totaled more than $250,000. In recognition of his key role in this growth the F.R.A. created the office of "National Secretary Emeritus" to honor him in his full retirement.

As the head of the Association's executive offices, Shipmate Lofgren was a registered lobbyist and represented military personnel before Congressional Committees for twenty-two years. He played a key role in obtaining personnel benefits, oftentimes originating the benefits.

CDR Lofgren was a life member of Hiram #10 Masonic Lodge of Washington, D.C. He was raised on 18 September 1919.

CDR Lofgren was also a member of the Peary Ship Post 427, Veterans of Foreign Wars and served as Commander of the Post.

Shipmate Lofgren is survived by his wife, Una, of Seminole, Florida, a son Letcher A. Lofgren of Glenwood, Md., a daughter, Mrs. Marylin A. Henze of Poway, Calif., six grandchildren, one great granddaughter, a sister and four brothers.

Commander Lofgren was laid to rest with full military honors in Arlington National Cemetery on Tuesday, 30 November 1971. In the words of Dr. Paul W. Moody;

"The Measure of a man is not the number of his servants but in the number of people whom he serves."

As the leader of the most viable career enlisted man's organization in our nation, Shipmate Lofgren directly influenced the lives of all military personnel for a span of almost a quarter of a century. Using Dr. Moody's measure National Secretary Charles E. Lofgren was one of the giants of the military personnel benefits field.

DEPARTING ILLEGAL ALIENS

HON. JACK H. McDONALD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1971

Mr. McDONALD of Michigan. Mr. Speaker, the average citizen is unaware of the time-consuming, laborious process that must be completed before an illegal alien can be deported.

We have no Ellis Island now in which these people can be held pending disposition of their cases.

Instead, there is a three-step procedure involving hearing officers, a board of appeals and the U.S. Circuit Court of Appeals. Theoretically, a case can even go to the Supreme Court.

This intricate procedure, which adds to the burden of the Immigration and Naturalization Service and further clogs court dockets, starts when an alien is determined to be deportable.

He is usually given 30 days to leave voluntarily.

At the end of this period, if he has failed to depart, an order to show cause is issued by the district director of his area. The order cites the allegations concerning his entry into the United States and a conclusion on his deportability. He appears before a special inquiry officer, who is a member of the bar, and has the right to present evidence and to cross-examine. The Government has the same right. A transcript is made. If the inquiry officer upholds the deportation he then orders that the alien be given time, not less than 15 days, to depart at his own expense. The order states that if he fails to depart, he will be deported.

But the alien can appeal to a five-man Board of Immigration Appeals, which is not a part of INS but within the Justice Department. Briefs may be submitted and oral arguments heard.

The Board can uphold the special inquiry officer, extend the voluntary departure period, reverse the inquiry officer, or send the case back for further study.

If the Board rules against the alien, he can ask for judicial review in the Circuit Court of Appeals. Theoretically, if the Court of Appeals upholds his deportation, the alien can appeal to the Supreme Court.

When he has exhausted all the administrative and judicial avenues afforded him in his fight against deportation, he is given not less than 72 hours to surrender. A deportation warrant is issued and he is escorted by a deportation officer to the ship or plane that will remove him from the country.

It is clear from this outline of the actual process of deportation that something must be done to cut the time and expense involved.

SYLVA ZALMANSON KUZNETSOV: AN IMPRISONED RUSSIAN JEWISH HEROINE NEAR DEATH

HON. JOHN G. DOW

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1971

Mr. DOW. Mr. Speaker, yesterday, I introduced House Congressional Resolution 477 to call for the release of a Russian woman suffering from tuberculosis who is serving a 10-year sentence in a Soviet labor camp.

Mrs. Sylva Yosifovna Zalmanson Kuznetsov has been seeking permission from Soviet authorities since 1968 to immigrate to Israel, and she was a defendant in the 1970 "Leningrad 11" trial. The only medical care available to her is from a fellow prisoner, an old woman doctor, who has been unable to help Mrs. Kuznetsov.

I feel that the release of Lady Fleming by Greece on November 14 is a clear precedent for the release of Mrs. Kuznetsov by the Soviet Union. Lady Fleming, a consistent critic of the Athens military government, was expelled from Greece after a court said that continued imprisonment could cause irreparable damage to her precarious health.

It is discouraging enough that Mrs. Kuznetsov and other Soviet Jews cannot find freedom in their own country. I am hopeful that this effort will demonstrate the critical need for humanitarian treatment of Mrs. Kuznetsov and spur our Government into action to urge her release.

A biographical sketch, the text of the resolution, and the article concerning Lady Fleming are inserted at this point in the RECORD:

BIOGRAPHY

Sylva Yosifovna Zalmanson was born October 25, 1944 in Siberia. In 1968, she graduated from the Riga Polytechnical Institute, becoming a mechanical engineer. She worked as a designer at the "Sakana Zvaigzne" factory in Riga. In 1968, Sylva tried in vain to obtain permission to leave for Israel, and appealed through letters to Soviet and foreign organizations. In one letter to U Thant she wrote:

"I regard only Israel as my spiritual homeland and the people among whom I live consider me an alien element. . . . I believe that there will come a day when the happiness which now seems to me unbelievable will come true. But while I am outside Israel the awareness that my homeland is being created without my participation gives me unbearable pain and helplessness vis-a-vis the authorities which drives me to despair."

In 1970, Sylva married Edward Samuilovich Kuznetsov, an interpreter. During this time, she was deprived of the possibility of applying again for an exit visa to Israel since the management of her factory refused to give her the necessary personal reference.

On June 15, 1970, Sylva and her husband were arrested with a group of Jews at the Leningrad airport, and accused of an attempt to hijack a plane out from the USSR. A defendant in the infamous "Leningrad 11" trial which began December 15, 1970, she was sentenced to 10 years in a labor camp. Her husband was sentenced to death, commuted later to 15 years in a harsh prison camp.

Pregnant when arrested, Sylva lost her baby in the notorious Potma labor camp. Denied medical care, she is inflicted with severe ailments, and *is near death.*

HER COURAGE

Sylva showed remarkable bravery in the course of her trial. On December 23, 1970, in her final statement to the court, she declared:

"I don't think that Soviet law can consider anyone's 'intention' to live in another country 'treason' and I am convinced that the law ought to bring to court those who unlawfully deny our right to live where we want to. . . . Even now, I do not doubt for a minute that some time I shall go after all and that I *will* live in Israel. This dream, illuminated by 2000 years of hope, will never leave me. *NEXT YEAR IN JERUSALEM!* And now I repeat: 'If I forget you, oh, Jerusalem, let my right hand wither away—*Im eskachaich Yerushalayim tishkach yemini!*' "

Ruth Alexandrovich, in the same labor camp as Sylva, has testified to her exceptional courage, even when acutely ill.

H. CON. RES. 477

Whereas Sylva Yosifovna Zalmanson Kuznetsov is presently serving a ten-year sentence in the Soviet Union; and

Whereas this woman continues to be most desirous of immigrating to the State of Israel, and that visas have been granted to numerous other Soviet citizens; and

Whereas the condition of the health of Mrs. Kuznetsov while in prison continues to deteriorate and humanitarian considerations require an immediate change in her status by Soviet authorities: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of Congress that the United States Government urge the Soviet Union to release Sylva Yosifovna Zalmanson Kuznetsov for immigration to the State of Israel, an act which would redound to the benefit of the Soviet Union.

LADY FLEMING IS DEPORTED FROM GREECE TO ENGLAND

ATHENS, November 14.—Lady Fleming, who was convicted in September of having taken part in an unsuccessful plot to free the would-be assassin of the Premier, was stripped of her Greek citizenship and forced to board a London-bound plane at Athens airport today.

According to George Mangakis, her lawyer, the 62-year-old widow of Sir Alexander Fleming, the discoverer of penicillin, was taken from her bed in a downtown Athens apartment at 7:30 A.M. by a group of plainclothes policemen. She was driven to the Athens police headquarters for aliens before being escorted to the airport and deported aboard an Olympic Airways direct flight to London.

SHE OPPOSED DEPORTATION

Lady Fleming was temporarily released from prison three weeks ago after a court order stating that imprisonment could cause irreparable damage to her precarious health. She had been serving a 16-month prison term imposed by an Athens military tribunal.

After her release, Lady Fleming said she would not consent to deportation. "I would never leave Greece of my own will, never," she said. "I now want to live and die in this country because it is mine."

An anonymous telephone caller alerted foreign correspondents early today, saying that Lady Fleming's friends were alarmed because her telephone was being answered by a man unknown to them.

The caller said that Lady Fleming was ill and her doctor had ordered her to stay in bed because of some heart discomfort. The caller said a cardiogram was taken yesterday and another was scheduled for this week.

Lady Fleming's housekeeper said she was still asleep when the police came—four men and a woman, all in civilian clothes. "They asked her to dress and prepare a bag because she was going on a trip," she said "My lady protested and said she was ill and would not move. They asked me to pack her suitcase and help her get dressed."

GREEK CITIZENSHIP WITHDRAWN

The lawyer, Mr. Mangakis, said that the Athens Police Chief, Nikos Daskalopoulos, confirmed to him that an Interior Ministry order had been issued stripping her of her Greek citizenship for having engaged in "antinational activities."

He said this had been possible only because Lady Fleming (born Amalia Coutsouris) had dual citizenship—Greek and British—since her marriage. The regime issued the decree and an order deporting her as an "undesirable alien." She was expelled on her British passport.

It was not clear how the Greek authorities had overcome the legal complexities of deporting a person who was on an eight-month parole for health reasons, or of deporting a person against whom other martial-law charges were pending.

Mr. Mangakis confirmed that charges of "conspiring to commit sedition" and violation of the explosives laws had been pressed against Lady Fleming in August. Some 25 other Greeks have been charged in the same case, which was linked to an alleged attempt to set up an underground resistance movement.

Fourteen members of this group, rounded up since last November, are in custody awaiting trial, including Christos Sartzetakis, the investigating magistrate portrayed in the film "Z."

Lady Fleming was convicted of having taken part in a plot to free Alexander Panagoulis, a 32-year-old Greek imprisoned for having attempted to assassinate Premier George Papadopoulos.

SHE PLANS POLITICAL CAMPAIGN

LONDON, November 14.—Lady Fleming said at a news conference shortly after arriving at London's Heathrow Airport that she would start a "vigorous political campaign" against the Greek Government.

The first she knew of her deportation, she said, was the arrival of Greek officials at her Athens home. "They came for me in a car and took me to the airport," she said. "All they gave me was an aircraft ticket and my British passport."

She charged she was deported because her popularity in Athens after her release from prison had embarrassed the Government. "I received flowers, and people came up to me in the street to shake me by the hand," she said, "Yes, I got a wonderful reaction."

She accused the Greek Government of having betrayed an agreement that she had kept. "On the third day of my imprisonment, I was offered expulsion," she said. "I refused. But now, having gone through all that [prison], they have expelled me."

After landing at Heathrow, Lady Fleming at first refused to disembark. "I did not get off because I wanted to be taken back to Greece," she said. Officials argued vainly with her for about an hour to leave, before a friend persuaded her that there was no point in her gesture.

SARGENT SHRIVER DISCUSSES PROBLEMS AND CHALLENGES OF THE 1970'S.

HON. HERMAN BADILLO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1971

Mr. BADILLO. Mr. Speaker, last month, the first director of the Peace Corps and the Office of Economic Opportunity, Sargent Shriver, delivered a very penetrating and perceptive speech on the various problems and challenges confronting this Nation during the decade of the 1970's.

Speaking before the Puerto Rico Manufacturers Association in San Juan, the distinguished former U.S. Ambassador to France made some very cogent observations on our distorted national priorities and our frequently ineffective domestic and international policies for dealing with the problems we are currently experiencing. In discussing the commitments made during the 1960's and the failure of current institutions to meet these promises, Mr. Shriver very aptly observed that—

> There is a tragic shortfall between dreams and accomplishments.

Although the challenge presented by Ambassador Shriver was directed to businessmen and while he was urging that the mainland employ some of the attributes of Puerto Rico and its people, I believe his message is equally germane to the Congress. Mr. Shriver's speech and its recommendations are based on his many years of outstanding service and progressive leadership in both the domestic and international sector. I feel we would do well to carefully consider and reflect on his remarks and I am pleased to present Mr. Shriver's speech herewith for inclusion in the RECORD:

SPEECH TO THE PUERTO RICO MANUFACTURERS ASSOCIATION

Returning to Puerto Rico, brings back for me, the warmest memories of the excitement, imagination, and patriotic dedication of the early days of the Kennedy Administration.

When I first came here, the Peace Corps was being formed in Washington. Every night idealistic men and women worked till midnight, in small offices, across Lafayette Square from the White House. Already the enthusiastic response of young people was beginning to characterize the Kennedy Administration. Talented young men and women from all walks of life were pledging to give two years of their lives to help others, and at the same time, help themselves gain a better understanding of the whole world in which they were going to live.

As we matched the needs abroad with our manpower at home, we were aware that similar adventures had failed. Previous organizations became so cumbersome and tied up in red tape that the system—the bureaucracy itself—destroyed the original idea and ideal! We wanted to preserve the idealism and excitement, and yet meet the needs of the developing nations. The question was how to put together these two essential ingredients.

As we looked around the world for help with this problem, we saw two places where similar problems were faced and successfully solved. One was the new nation of Israel. The other was the new Commonwealth of Puerto Rico.

We were not embarrassed, in those days, to seek advice. So, in the very first days of the Peace Corps, we flew to San Juan to place our problems before one of the world's great leaders, Governor Luis Muños Marin.

The Governor opened to us the entire world of new institutions and concepts he was developing in Puerto Rico. Before long, many of our Peace Corps Volunteers were coming here for training at Arecibo. They needed to learn about the way you had changed your dreams into systems that worked. We were taking nourishment from a people who had pulled themselves up by their bootstraps from the depths of desperation and poverty. An entire generation of North Americans is in debt to Puerto Rico and Governor Muñoz. He was one of the godfathers of the Peace Corps—the symbol.

As we traveled around the world, we were able to tell others what we had seen here. From a people who ranked among the lowest economically in the developing world, you had raised yourselves to a level above every other nation in the hemisphere except the affluent United States and Canada. You had done this *without* natural, physical resources. Instead, you used your brains and imagination to create opportunities for capital investment; you educated and trained your men and women to respond to technological needs.

What was most impressive, and historic, is that you achieved a "quiet revolution." You brought about significant change with neither violence nor terror. You reached towards your goals with a fierce desire to preserve individual freedom and initiative.

By contrast, in many other parts of the world, I met young leaders who told me they could gain economic freedom only by restricting individual freedom. They thought that only a regimented state could produce economic growth.

Some of these foreign leaders listened to what I had to say about Puerto Rico—but too few agreed. Most believed that real freedom could not come except through violent revolution, or the restriction of human rights. That is the tragedy of the world today. Too many people have sold their souls into bondage for anticipated economic progress. And as a result, the question faces us: What can be done to stop that trend? What can be done to preserve and extend liberty and freedom? Can Puerto Rico show the way in the '70s, as it did in the sixties?

The world has changed drastically since Luis Muñoz Marin, Teodoro Moscoso, Rafael Pico, and Rafael Durand, and my personel friend Rafael Sancho-Bonet helped set Puerto Rico on its upward and progressive path. Youthful idealism has soured into cynicism. There is a worldwide pessimism as man questions his ability to control his destiny. The people have come down from the mountainous heights of the sixties, convinced that the world they glimpsed from those heights was either a mirage, or, at best, unobtainable through the political systems which now dominate the world.

Today you cannot go anywhere in the world and sell an "operation bootstrap." Even in Puerto Rico, where your government has miraculously maintained a ten percent growth rate, even here, where a brilliant, technologically oriented governor is reaching out to new horizons, even here the universal frustrations are evident. We move everywhere from the brink of atomic war to the brink of economic disaster.

Nowhere in the world are the dreams of the sixties matched by the institutions of the seventies. There is a tragic shortfall between dreams and accomplishment.

The dilemma is not backstage. It is "full center," in clear view of the young of the world, who are growing into maturity and power unencumbered by the promises of the past. They see with a clear eye the historical failures of religions and political philosophies and economic systems. They question Jesus as much as Marx.

In the sixties the prospects, or reality, of failure, were overcome or hidden by excitement and hope. We had the will to accomplish; the desire to succeed. Most of all, there was still time!

Now we hear there is no time left. Past failures are finally tearing apart the fabric of democratic society. More and more young people are arguing—like the foreign leaders I met in the days of the Peace Corps—that only the sacrifice of personal freedom can result in stability and growth. This is the worldwide cry of the far left *and* the far right—and, I fear, it is becoming the unarticulated desire of many who are not heard, but who have given up hope and are waiting to be shaped by events which they have given up the desire to control.

And, despite this universal crisis, we find very few new leaders rising from the populations of the world. Mao is an old man; the Russian leadership is past retirement age; the most dynamic labor leader is septuagenerian George Meany; my own Democratic Party seems to have only three or four men to offer for the most important office in the world.

If there are few men to lead, there are fewer ideas to follow. Despite their disdain for the present society, the young people of the world have not come forth with answers of their own. The most progressive of their philosophies—by their standards—is Mao, and his is an agrarian philosophy, limited in scope and imagination, and much too close to social scientist B. F. Skinner and his box, to suit contemporary, Western man. Mao is also a Marxist, and we now know that Marxism was designed for a world before World War I. It works only in nations still struggling to emerge from feudalism and serfdom.

Yet, our own democratic society flounders from one crisis to the next. We are a nation built on the dreams of a free-floating economy, now forced to impose wage and price controls, to curtail the free operation of that philosophy. There are many to blame for what has happened: the politicians, the businessmen, the unions.

But, the facts remain:

There is not enough housing, although there are materials and manpower to build each man his dream castle.

Food rots at one end of the nation while children starve at the other.

Young men fight wars they did not begin.

Diseases are conquered, vaccines are synthesized, yet millions still die in plagues.

Larger numbers of refugees now wander hopelessly in search of a home than wandered during the times when the world was under the domination of socalled barbarians.

The systems we have developed trap as many people as they free. They were not designed for that purpose, and could function otherwise, but somewhere along the line something happened. It may be the test of this decade to find that defect—or those defects—and make the changes to allow the democratic system to flourish.

In the United States we have always assigned the solution of these problems to the political system and seldom ventured beyond that remedy. Yes, of course, there have been yearly calls, especially during the Johnson and Eisenhower years, for businessmen to become involved in the process of government. But many of these requests were made only out of political necessity. As a result the impact of the business and industrial communities on the processes of government was more fringe than substance. Government continued to function as it had throughout recent history, solving only those problems which were so critical that they could not be ignored, and pushing aside all those which could be avoided or postponed. As a result, the gap between the services a government should provide, and those actually delivered, grew immense and has produced a national rebellion.

We must find ways to close that gap. And where better to begin to solve it than here in Puerto Rico? . . . The Puerto Rico which helped provide the vision of the Peace Corps . . . The Puerto Rico which can now show all of the *Americas* (North or South) that social and economic progress can be achieved in freedom—the Puerto Rico which can show the 50 United States that if we care about our common humanity, and work to solve our common problems, there still is time.

True, we business and professional men could decide to sit in our offices and try to avoid looking out the window, at the people whose lives are scarred by our failures to solve the problems of jobs, education, transportation, race, housing, hunger and starvation—but if we do that, time will run out on the society we love. We can repeat the old wisdom that business has only one job—to make profits. That business has only one responsibility—to the shareholders.

Or business can listen to the words of Senator Edmund Muskie when he spoke here in Puerto Rico before the National Conference of Governors on September 14. Senator Muskie said:

"When we are told that there is no constituency for prison reform, we must become that constituency . . ."

"When we are told that no one will speak for the poor, we must raise our voices . . ."

"When we are told that a race or a group has no influence, we must share our influence with them . . ." Muskie spoke to the governors. He could have spoken to businessmen and said in similar manner!—

"When we are told that there are insufficient jobs, then we businessmen must provide the jobs.

"When we are told there are no houses, we businessmen must provide them.

When we are told that the environment has been polluted by business, then we businessmen must change ourselves and our companies.

I used to visit Cuba in the thirties and forties and can remember the glistening skyscrapers and the great material prosperity of those days—but that prosperity produced Castro. Why?

I can remember in many countries of Latin America—Venezuela for example—standing at nighttime in Caracas and looking at the magnificent hills covered with neon signs, all advertising products made in the U.S.A.—Coca-Cola, Chevrolet, Sears—not a word of Spanish on any one of them. Is it any wonder that there is anti-Yankeeism all over Latin America.

I can remember visiting barrios outside of Lima, Peru, Santiago, Chile, Rio de Janeiro, wondering whether it would be possible for democratic governments to survive in countries where so little was being done for so many who needed so much. Democratic government has not survived in those places and it cannot survive in any place if the leaders of government and businessmen pay more attention to economic development and material progress—and not enough to human needs of the people.

Puerto Rico so far has not fallen into the abyss. Somehow you have, it seems, maintained your individuality, your culture, your religion, your customs, despite economic progress. Black may be beautiful in the United States, and God may be red on our Indian reservations. But here in San Juan one thing is true: Latin is lovely!! But still, my friends, I am uneasy. Even in Puerto Rico, even in the presence of successful businessmen, I cannot agree that here, or in the 50 states, "God is in his heaven and all's right with the world!"

Why does the stock market continue to decline? Why are the values less today than before President Nixon announced his allegedly revolutionary new economic policy?

Why is the United States "distrusted and despised" (to quote the London *Economist*) by our allies in Europe? Has John Connally done more in one year to unite Europe against the United States than Charles de Gaulle was able to accomplish in ten? That's what they say in Europe!

Why have we lost the friendship of India, of Tanzania, of Japan, of Nigeria, of Peru—yes, even of Canada? Are those the fruits of a successful foreign policy?

Why are we suddenly so popular with dictators—of the left and the right—whether in Spain and Greece, or in China and Romania?

Why is it that we sell arms to Venezuela, where the Army, which has never fought a war—and which, according to its own commander-in-chief, is never likely to fight one—buys more and more sophisticated weapons every year from the United States. Why?

Why is it that 13 supermarkets belonging to U.S. corporations were burned to the ground in "friendly Buenos Aires" last year alone?

Why does the United States veto Felipe Herrera as reported in the New York Times of November 18, a distinguished Latin American, for Secretary-General of the United Nations, despite his years of excellent service as President of the Latin American Development Bank?

Why have we reached the point where a Roman Catholic priest, a Jesuit, writing in a weekly magazine called "America," feels compelled to say . . .

"Latin Americans have lost faith (in United Nations' promises to terminate the colonial system). They don't even want development! They want liberation! After 20 years of pursuing development, and seeing where it has gotten him, they will have no more of it. Like the man with the broken ankle who was advised to cure it by constant exercise, Latin America learned the hard way that development is not the remedy. It wants all foreign exploiters—But especially the big exploiter, the United States—off its back!"

Do these questions, leave you with the impression that the 50 United States need Puerto Rico more than Puerto Rico needs the 50 United States?

I hope so, because that's what I believe.

We need your acceptance and understanding and toleration of different races!

We need your gaiety and love of life, your compassion for the poor, your gentleness with human weakness!

We need you as a bridge to deeper understanding and more meaningful cooperation with the nations of Latin America!

Your sanctimonious, uptight, "holier-than-thou," hard-working, driven, rich northern neighbors need you!

For, it is written, that it is easier for a camel to pass through the eye of a needle than for a rich man to enter into the kingdom of heaven.

SOVIET JEWS: THEY DO NOT SUFFER ALONE

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1971

Mr. DERWINSKI. Mr. Speaker, in inserting in the RECORD the following column from the Chicago Tribune by Mr. Frank Starr, Washington Bureau chief of that newspaper, I wish to remind the Members that for many years Mr. Starr was the Tribune correspondent in Moscow and as such is one of the few American newsmen who possess a penetrating insight into the Soviet Union:

SOVIET JEWS: THEY DO NOT SUFFER ALONE

WASHINGTON.—Americans can [and they should] do a good deal to publicize and thus ease the plight of Soviet Jewry.

But they ought to know what they are doing; they ought to have a balanced, sober, and unembellished picture of the problem. As things stand today they are not getting it.

The issue seems to have become an emotional and political one, with the result that the picture is getting pinched out of perspective.

Last week a House foreign affairs subcommittee chaired by Rep. Benjamin Rosenthal [D., N.Y.] conducted hearings with a view to producing this week a resolution on the subject and possibly getting the issue brought up in the United Nations General Assembly.

WELL EXPRESSED

The subcommittee's aim was probably well expressed by one witness, Richard Maass, chairman of the American Jewish Conference on Soviet Jewry, who spoke of the need "to bring about the removal of the restrictions and deprivations imposed on Jews in the Soviet Union.

"By exposing those restrictions to the world, we hope to bring a knowledgeable and concerned public opinion to focus upon the Soviet government for redress," he said.

This is a realistic objective; there is good evidence that on this issue the Soviets are sensitive enough that they will temporize to ease the pressure of international embarrasment. And there is no question that Soviet Jews are suffering violations of their civil rights and discrimination in those things that make them Jewish, i.e., Yiddish or Hebrew culture, education, language.

However, of 20 or so witnesses the committee heard, 9 were congressmen and 7 were representatives of American Jewish organizations. And some of the unrebutted testimony was at best misleading or at worst incorrect.

A few examples: "Nowhere among the other recognized Soviet minority groups is there anything like the repression of the Jewish community." Rep. James H. Scheuer [D., N.Y.].

"Jews, unlike other minority groups, have been placed on trial for 'hooliganism' and other crimes." Also from Rep. Scheuer.

"The Jews represent the single sustained dissent in the Soviet Union." Jerry Goodman, executive director of Maass' organization.

Then came Richard Davies, deputy assistant secretary of state, who is known to Soviet experts, both governmental and academic, as a professional's professional. He presented a scholarly treatment of the problem which the one recent Soviet emigrant there, Mrs. Rita Gluzman, 23, read and felt was well balanced.

But he also punctured some misrepresentations. He said all Soviet citizens—not just Jews—suffer from the Soviet government's policies and its restrictions on emigration, that claims that the majority of Soviet Jews live in terror seem overdrawn, and that altho sharp punishments are given Jewish militants it should be noted that "other Soviet civil rights activists and minority-group militants have been subjected to similar reprisals of severity similar to or greater than" those given Jewish militants.

His reception was decidedly cool. Rosenthal said the testimony was "out of tone with the facts" and said newspaper accounts of it were "a disservice to the Congress and the world at large."

Fault may be found with the State Department for many things, but Davies' testimony is not one of them.

In fact, a less circumspect man could argue that to the extent that 7,000 Jews have left the Soviet Union this year and that hope exists for others, they as a group have an advantage denied other Soviet minorities. That they achieved this is testimony to their courage and tenacity and to the support they found abroad.

The British scholar Robert Conquest, in a book entitled "The Nation Killers," recounts the fates of eight entire Soviet nations who were deported from their homes—history and geography being rewritten to deny their existence. Despite rehabilitation, three of these still are denied access to their former homelands altho these are within Soviet borders.

ONE EXAMPLE

One, Crimean Tatars, related ethnically to Turks, were given their rights back in 1967, but families who tried to return to the Crimea were beaten and physically deported again. Their cemeteries were ploughed up, everything written in their language burned, and the history of the land they knew for centuries rewritten to deny they had ever been there. Despite valiant resistance, as this observer can attent from firsthand experience, their plight is unchanged.

To the extent that Jewish militants challenge Soviet authority and policy they are subject to surveillance, arrest, and imprisonment like other civil activists who do.

Not only Jews should be concerned about suffering of Soviet Jewry, but such suffering in Russia is not only Jewish.

ATTORNEY GENERAL AND CHIEF JUSTICE CALL FOR REFORM OF OBSOLETE CORRECTIONS SYSTEM

HON. ABNER J. MIKVA

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1971

Mr. MIKVA. Mr. Speaker, this week an historic conference took place in Williamsburg, Va. The subject was corrections reform, and the guest list included several hundred experts from the State, local, and Federal level.

Similar conferences have been held in the past. There is no shortage of task force reports and conference recommendations in the field of corrections reform. What distinguishes this one is the breadth of the participants, going beyond academia to include corrections officials and policymakers from every level of government.

Two of the participants were Attorney General Mitchell and Chief Justice Burger. In remarks delivered to the conference, each of them revealed an encouraging sensitivity to the past failures of prisons, and to the urgent need for a change in our attitudes and programs to deal with people convicted of crimes.

Both the Attorney General and the Chief Justice affirmed the basic need for professionally trained corrections personnel, for decent prison conditions, for increased availability of rehabilitative programs and of noninstitutional corrections, and for recognition of the human needs and rights of convicts, both during and after their period of confinement.

It is clear that a corrections system which is truly rehabilitative is our best hope for reducing the level of crime in our society. As the Chief Justice stated in his speech, we would be taking a large step toward reducing recidivism if we could just guarantee that every convicted criminal learned to read and write, to do simple arithmetic, and to develop some basic marketable skill before being released from supervision. Unfortunately, our existing corrections system does not begin to meet even these most basic needs.

Mr. Speaker, the most heartening thing about the conference at Williamsburg is the evidence it provides of a welcome commitment on the part of government officials at all levels to do something about crime in our society by doing something about the way we treat—or fail to treat—people convicted of crimes. The addresses by the Attorney General and the Chief Justice indicate a welcome if overdue willingness to face the dismal reality of how monstrous a failure our past approaches to corrections have been, and a willingness to undertake an honest evaluation of approaches which have failed, regardless of the political consequences.

The cause of corrections reform has witnessed centuries of recommendations, and decades of promises, but a dearth of progress toward the agreed goal. I am hopeful that the Williamsburg conference, and the encouraging statements presented by Chief Justice Burger and Attorney General Mitchell, augur a new commitment to corrections reform, including the necessary resources of men and money to breathe life into recommendations and promises which are as old as the prisons themselves.

I would like to insert in the RECORD at this point the text of the speeches given by the Attorney General and the Chief Justice earlier this week!

NEW DOORS, NOT OLD WALLS

(Address by John N. Mitchell, Attorney General of the United States)

Let me join the others in welcoming you to this National Conference on Corrections. As many of you know, this conference stems from the continuing concern over prison reform by the President of the United States, and is a part of the national corrections program that he set in motion two years ago.

In 1969 President Nixon directed his Administration to pursue correctional reform along 13 specific avenues. He also appointed a Task Force on Prisoner Rehabilitation, which made a number of significant recommendations in April 1970.

Together, these directives and recommendations represent the most determined and comprehensive approach to corrections ever made in this country. I refer not only to Federal corrections, but insofar as the Federal Government can provide funds, training and leadership, this approach is a Magna Carta of prison reform for all levels of government.

We are here to review how far we have come in implementing the reforms already proposed by the President and others, and to chart a course over the vast sea of problems remaining.

Until the last two years, it could be said of prison reform what Mark Twain is supposed to have said about the weather: "Everybody talks about it, but nobody ever does anything about it."

Some of the talking was done at a National Congress on Penitentiary and Reformatory Discipline, meeting in Cincinnati. Among other things, it recommended that:

The prime goal of prisons is not to punish, but to reform.

Prison personnel should be much better trained and developed to professional status.

Prisoners should be classified and treated appropriately and separately.

They should be handled with incentives and moral suasion, not physical punishment.

They should be given hope of reduced sentence and parole for good behavior.

Their academic education and vocational training should receive primary emphasis.

They should be helped to find their way in society after release.

When were these enlightened ideas proposed? Not last month or last year, but in 1870—more than a century ago.

Forty years ago a National Commission on Law Observance and Enforcement, known as the Wickersham Commission, devoted an entire volume of its report to the subject of corrections. Among its recommendations were the very same ones that had already been recommended in 1870.

Nearly five years ago a President's Commission on Law Enforcement and Administration of Justice devoted a chapter of its final report to corrections. Among its recommendations were ones previously made in 1870 and 1931.

What was the result of this century of recommendations?

In state after state, most of the prisons have no programs for correcting the prisoner. Only a fraction of inmates in the country are exposed to such programs.

Only from 10 to 20 percent of all prison system budgets in this country is spent on actual programs to correct the inmate; the rest is spent on custody and administration.

Only 20 percent of institutional personnel are assigned to correctional-type programs.

In many states, first offenders are mingled with hardened criminals; in many cases, juveniles are mingled with adults.

In any other profession this kind of neglect would be unthinkable. How would we react if a hospital put accident victims in the Communicable Disease Ward—and at that, a ward in which the patient received a bed, but no treatment? We should be just as appalled at the situation in many of our prisons today. Little wonder that, in sounding the call for prison reform, President Nixon declared, "The American system for correcting and rehabilitating criminals presents a convincing case of failure."

There are, of course, some outstanding exceptions. But in characterizing most American prisons I need only use the same language that the Wickersham Commission used 40 years ago:

"We conclude that the present prison system is antiquated and inefficient. It does not reform the criminal. It fails to protect society. There is reason to believe that it contributes to the increase of crime by hardening the prisoner."

Today we have figures to confirm that belief. According to the FBI, those arrested on Federal criminal charges in 1970 had an average of four prior criminal arrests and an average of nearly 1½ convictions at the local, state or Federal level. The nearly 38,000 arrested on Federal charges in 1970 had a total of more than 22,000 prior imprisonments of six months or longer in one type of institution or another.

These and many other studies with similar results should not surprise us. It is as simple as the words of the novelist, Dostoyevsky: ". . . neither convict prisons, nor prison ships, nor any system of hard labor ever cured a criminal."

The fact is that other trends in American life are going to make this corrections problem even more pressing in the future. The trend toward improved law enforcement systems will not only deter crime in the long run, but in the near term one of its effects should be to increase the arrest rate. Moreover, if the court reform movement proceeds as we hope, it will speed the prosecution of more defendants. Together, these two factors will send many more offenders through the criminal justice system, thus putting added strain on the corrections program.

We must be prepared for this new wave of offenders coming into the prison system—ready not just with added beds and benches, but ready to make the most of an opportunity to reach a larger number of offenders with modern corrections techniques.

At the same time, the rising level of education in the United States is leaving a bigger gap between the undereducated offender and society at large. So our job training and educational programs in the prisons must be pushed even harder to keep up with successes in other aspects of society.

Recognizing that there are many successful corrections programs by various jurisdictions, I would like to examine briefly the particular program developed in response to President Nixon's directions two years ago.

First, the President's program has received growing financial support from Congress, thanks to some dedicated leaders in the corrections crusade such as Senator Roman L. Hruska of Nebraska. Funds specifically earmarked for corrections, over and above the other corrections grants, have been added to the program of the Law Enforcement Assistance Administration, part of the Department of Justice.

Second, in 1970 the Inter-agency Council on Corrections was created to focus the work of all relevant Federal agencies on prisoner rehabilitation. This consists of representatives from a dozen agencies within the Departments of Justice, Labor, Defense, and Health, Education, and Welfare, as well as from the Department of Housing and Urban Development, the Office of Economic Opportunity, and the U.S. Civil Service Commission.

Third, the United States Board of Parole was reorganized in 1969 to enable Parole Hearing Examiners to conduct many of the hearings in correctional institutions across the country. This permits the Board members to devote more time to the decision-making process and to hold more appellate reviews.

Fourth, the Federal Bureau of Prisons within the Department of Justice developed a comprehensive 10-year master plan to improve the effectiveness of the Federal Prison System and hopefully to make it a model of correctional endeavor for other agencies in this country to follow. This plan emphasizes individualized treatment and community orientation. The Bureau has already made a good start in achieving these goals, particularly in two vital areas—personnel training and new facilities.

The first regional staff training center was opened last January. It provides professional training to develop the correctional officer as an agent for change rather than as primarily a custodian or keeper. The second regional training center will be opened the first of this coming year, and three more are planned for the future. As soon as possible, these facilities will also be made available to state and local correctional personnel.

This month the Bureau plans to break ground for its first Metropolitan Correctional Center in New York City. This multipurpose facility will provide pre-sentence and post-sentence short-term detention, diagnostic service to the courts, prerelease services to offenders returning to the city from other institutions, and correctional services for parolees and probationers. Construction will begin on a similar center in Chicago in June 1972, and six other centers are scheduled for urban areas where the need is most acute.

Construction will begin early next year on a facility unique in correctional practice. This is the Behavioral Research Center at Butner, North Carolina, which will provide treatment for and research on special groups of offenders, including the mentally disturbed. And in the fiscal 1972 budget, Congress provided for construction of a West Coast complex of facilities in four metropolitan areas to provide better correctional techniques for youthful offenders.

Fifth, the Law Enforcement Assistance Administration has greatly increased its funding for correctional aid to the states and localities. In fiscal 1971 this reached $178 million, which included more than $47 million in Part E funds that Congress, for the first time, especially earmarked for corrections, at the urging of President Nixon. This Part E funding has been more than doubled in the current 1972 fiscal year, bringing the total LEAA funding for corrections in this current year to nearly a quarter of a billion dollars. For the first time, substantial funds are available for a coordinated program to bring American penology into the 20th Century.

From its inception, the entire LEAA corrections program has had a common theme—preparing the offender for assimilation into society. One reason is that community-based programs are within the financial reach of the Federal assistance program and of the states and localities. If these correctional programs are as successful as we hope, we may not need to build all the new facilities that now seem to be required by the antiquated condition of most penal institutions. Some funds are being used for construction, but on a very selective basis which emphasizes corrections, not just detention. Already, as a result of LEAA funding, we can see some visible areas of progress. To cite only a few:

Kentucky has begun its first organized pre-release program for prison inmates.

Arizona has begun treatment programs in county jails.

Michigan is developing a million-dollar model program to treat young offenders in community-based programs.

Missouri is opening 12 new community treatment centers for offenders and ex-offenders and 36 group homes for juveniles.

Louisiana is building a state institution for women and two regional centers for offenders.

Indiana has opened two new regional centers for juveniles in the past two years and will open four more.

Florida is implementing a major probation program for juveniles directed by the state.

New York is launching a massive series of professional training programs for existing correctional personnel at all levels.

Those programs are only a fraction of the whole picture.

Last Fiscal year LEAA put over $2 million into job training and placement programs operated by private industry.

LEAA has also made direct grants to cities and counties to finance community treatment centers, narcotics and drug treatment, job placement, juvenile probation, work release, group homes, rehabilitation of alcoholics, halfway houses, volunteer aid programs, psychiatric care, and a host of other offender rehabilitation efforts.

We are also aware that many states need technical advice on how their facilities need improving, and even on how their new buildings should be designed to make maximum use of modern correctional methods. I am able to announce that, to meet this need, LEAA has funded a National Clearinghouse for Criminal Justice Architecture at the University of Illinois.

Professional assistance in planning and implementing education programs for inmates is also a need of many states and localities. For this purpose I am today directing LEAA to establish a National Clearinghouse for Correctional Education, using such funds as are now available for its initial phase of development. This Clearinghouse will give technical help, including curriculum planning and classroom and correspondence course materials, to correctional agencies establishing education programs for primary through college level.

These are only a few highlights, and they do not include numerous research programs to advance the science of corrections.

Already, because this large LEAA funding is now available, state and local correctional administrators have begun to press for change. They are documenting their needs, with new confidence that those needs will be met. No longer are they voices in the wilderness.

In addition, other Federal agencies are providing strong support. At three Federal institutions, the Office of Economic Opportunity has funded programs to prepare selected inmates for advanced educational opportunities. A number of vocational training courses for handicapped inmates have been sponsored by the Rehabilitation Services Administration of HEW. The Manpower Administration of the Department of Labor has made numerous grants to provide occupational training for inmates of Federal, state and local institutions. And the Man power Administration is also participating with United States Attorneys and the Federal Courts in a program to provide jobs and correctional guidance to selected defendants, without trial.

Recently, steps have been taken to bring even closer coordination of Federal and state corrections programs.

A National Advisory Commission on Criminal Justice Standards and Goals, chaired by Governor Russell Peterson of Delaware, has been established by LEAA. Among the standards it will consider and establish are those for corrections. I trust that when these are forthcoming, correctional institutions at all levels will give them the most serious consideration, to the end that all such American institutions can work toward the same goals.

In addition, the cabinet heads of the Departments of Justice, Labor, and HEW last week joined in sending a letter to the governors of all states and territories, offering fresh technical and financial assistance in a coordinated Federal-state program for correction of offenders. Grants for preparation of plans will be made to all participating states before the end of this fiscal year. Some time in February the representatives designated by the Governors will meet with Federal officials in Washington to agree upon guidelines for the program plans. The result will be that the states can make comprehensive plans with the assurance that they will receive substantial Federal financial support starting in fiscal 1973.

So we have here the first major step in articulating and implementing a national program—Federal, state and local—on the correction of offenders. I hope that your deliberations here will provide a body of professional recommendations that will guide state and Federal planners.

In short, a number of factors have combined to give us the best opportunity in this century to bring some genuine reform to the most neglected aspect of our society.

We have concerned and enlightened leadership—a President who has made prison reform one of the priorities of his Administration.

We have significant funds available and a viable program for allocating them.

We have some outstanding examples of progress in both state and Federal prison institutions.

We have a higher level of public support than ever before.

For the first time, we can mount a national corrections program that does not simply repair old buildings, and is not based only on old concepts of restraint and deterrence. Instead we can make use of the imaginative corrections principles that have been advocated for at least a century.

More than this, we can be bold enough to consider new ideas. Let me close by sharing just a few with you.

First, as you know, the need for better training and common performance standards among correctional officials is shared by all government levels. In this connection I am today directing the Federal Bureau of Prisons and the LEAA to work with the states and localities in establishing a National Corrections Academy. This would serve as a national center for correctional learning, research, executive seminars, and development of correctional policy recommendations. It would cover the whole range of correctional disciplines, from the new employee to the management level. Besides giving professional training of the highest quality, it would provide a continuing meeting ground for the exchange of advanced ideas on corrections. I believe it will be the most effective single means of upgrading the profession and assuring that correction is more than a euphemism for detention. I hope that the members of this Conference will give us the benefit of their ideas on implementing this Academy in the most effective way.

Second, I call upon all agencies to increase minority employment among professional correctional personnel. In my opinion this would greatly increase the effectiveness of counseling and guidance at all stages of the corrections process. Practically all prison systems, including the Federal system, have a long way to go in this regard. I am pleased to report that the Director of the Federal Bureau of Prisons has directed all 28 Federal institutions to work toward a goal of one-third minority employment in all new hiring. I urge corrections institutions at all levels to make an extraordinary effort to find and recruit minority personnel—not only because it is the law, not only because it is fair, but because it can genuinely benefit the corrections process. LEAA is already funding a program to aid police departments in increasing their proportion of minority officers, and I am today directing LEAA to expand this program to include the same aid for correctional systems.

Third, let us recognize that correction should begin, not with the prisons, but with the courts. Let us ask whether in every case we need to achieve "the object so sublime" of the *Mikado's* Lord High Executioner—"To make the punishment fit the crime." In many cases, society can best be served by diverting the accused to a voluntary community-oriented correctional program instead of bringing him to trial. The federal criminal justice system has already used this formula in many juvenile cases—the so-called Brooklyn plan. I believe this program could be expanded to include certain offenders beyond the juvenile age, without losing the general deterrent effect of the criminal justice system. I am therefore directing the Executive Office of United States Attorneys and the Criminal Division of the Justice Department to study the feasibility of enlarging the area of criminal cases in which the prosecutor might be justified in deferring prosecution in favor of an immediate community-oriented correctional program.

Finally, I propose for your consideration a more general problem—the need to elevate public attitudes toward the releasee. Studies have shown an appalling resistance to hiring ex-offenders, even by many governmental agencies at different levels, thus frustrating other efforts at correction. Some state laws prohibit the hiring of ex-offenders by government agencies, however well adjusted or corrected they may be. When such a release is thus denied the means of making an honest living, every sentence becomes a life sentence. The attitude of each citizen toward salvaging offenders as valuable human beings is one of the obvious cases covered by the popular saying, "If you're not part of the solution, you're part of the problem."

It is my hope that as the rehabilitation approach to penology begins to work, the public will begin to change its archaic feeling about ex-offenders. The public's predominant impression of penology will be, not of old walls but of new doors. And this in turn can be the final breakthrough in the centuries-old battle to reclaim and assimilate the ex-offenders.

Winston Churchill once said that attitudes toward the treatment of criminals are "one of the unfailing tests of the civilization of any country." Let us do all in our power to assure that our country may yet be able to meet this test, not in shame, but with pride.

Ladies and gentlemen, I wish to thank you for your participation in this Conference. We are counting on your counsel as we enter a new phase in a national correctional program, and I trust that your dedication to this cause will produce some truly inspired guidance that is equal to the challenge.

REMARKS OF CHIEF JUSTICE WARREN E. BURGER

I am sure that everyone concerned about problems of corrections and prisons was heartened by the action of the President in convening this Conference. It is time for a massive coordinated effort by the state and federal governments.

It is also highly appropriate that these sessions are held in this historic place for it was a distinguished Virginian, George Keith Taylor, brother-in-law of Chief Justice Marshall, who, as a member of Virginia's House of Delegates, spoke here almost exactly 175 years ago—on December 1, 1796, to be precise—on behalf of legislation to improve the penal system of the Commonwealth.

Taylor is remembered as one of the first leaders on this continent to advocate the enlightened views of the great Italian reformer and legal philosopher, Beccaria. Thus, Virginia is a familiar forum for the problems this Conference is considering.

For as long as I have been a judge, I have tried to see the administration of criminal justice in terms of three major entities, or parts, all constituting interrelated parts of a single problem.

The first, obviously, is the police and enforcement function; the second is the judicial function; and the third is the correctional and confinement aspect, and, closely related, the vital release programs of probation, parole, and work parole.

This Conference is concerned with that third and final, and very crucial, aspect of justice. On other occasions I have said, and I strongly believe, that this third phase is perhaps the most neglected of all three of the aspects of justice, although each of the other two has strong claims, unfortunately, for first place in that respect.

The problem of what should be done with criminal offenders after they have been found guilty has baffled societies for thousands of years. Therefore, none of us would be so brash as to assume that this Conference can even discuss, let alone solve, all the enormous problems that have been with us for several thousands of years. Because of this terrifying magnitude of the problem, I hope the Conference will find a way to identify just a few of the most urgent but soluble problems and address ourselves to them at once. If we try to solve all the problems, we will solve none. We must be content with modest progress and small victories.

Ideals, hopes and long-range planning must have a place, but much can be accomplished without further research or studies in the essentially "nuts and bolts" side of corrections.

I hesitate to suggest, even in a tentative way, my own views of those solutions to an audience that includes so many genuine experts and authorities in this field. Since the recent events at Attica, New York and in California, the country has been recalling the warnings that many of you have uttered on the need to reexamine both the basic attitudes and the tools and techniques of correctional systems and prisons. (I need hardly add, to this audience, that there is a vast difference even though for shorthand we use the two terms interchangeably.)

Even to reach some solutions on the urgent, the acute, the immediate problems, will take large outlays of money, and this cannot be produced except with a high order of public leadership to develop a public commitment and, in turn, a legislative commitment at state and national levels.

As I see it, the urgent needs include these:

1. Institutions that provide decent living conditions, in terms of an environment in which hope can be kept alive.
2. Personnel at every level who are carefully selected, properly trained, with an attitude of understanding and motivation such as we seek in teachers; and with compensation related to the high responsibility.
3. Improved classification procedures to insure separation of incorrigibles from others.
4. A balanced program of productive work, intensive basic education, vocational education, and recreation.
5. Communication with inmates.
6. A system of justice in which judges, prosecutors and defense counsel recognize that prompt disposition of cases is imperative to any hope of success in the improvement of those convicted.

I. INSTITUTIONS AND FACILITIES

I will not dwell on the subject of institutional housing since most of you are better informed on the facts and more knowledgeable as to the needs than I am. I fear that if we took a realistic national inventory and determined how many states meet minimum standards that most of us would agree on, the result would be a melancholy commentary on a 20th century society. The rise in crime has crowded most prisons beyond any reasonable bounds and new structures are needed. We know, however, that many of our problems flow from having institutions that are too large, that are poorly located and inaccessible to the family of the inmates, too far away from facilities for work release programs, and located in areas that do not provide adequate housing for personnel of the institution.

As you well know, bricks and mortar do not make a sound correctional institution any more than bricks and mortar make a university, a newspaper, or a hospital. People and programs are crucial. The recent events in two of the largest and most affluent states are evidence that more than good "plant and equipment" are needed. With all that has been said and written about the problems in New York and California, there has been almost nothing communicated to the public about the fact that the particular institutions in question are among the more modern penal institutions in a physical sense. Attica and San Quentin serve to remind us that even the best of buildings have not provided solutions.

So even when we finally eliminate the 19th century dungeons and terrible overcrowding that prevails in so many places, we will still have enormous problems left to solve. It will take millions of dollars to accomplish the changes needed, but it must be done and we must have new thinking about what constitutes a correctional institution in a purely physical sense, where it should be located and how large it should be.

II. PERSONNEL

You are well aware, but the public is not, that well-trained personnel is far more important than the bricks and mortar. "Just anybody" cannot make a sound correctional institution any more than "just anybody" can make a good parent or a good teacher. We have yet to understand that the people who operate prisons, from the lowest guard to the highest administrator, are as important in the whole scheme of an organized society as the people who teach in the schools, colleges and universities. I suspect some experts would say that is an understatement in the sense that the reasonably normal people who go to schools can overcome the handicap of poor teaching. We know that most prison inmates are not mentally and emotionally healthy and therefore need something more than normal people require. Guards and guns are not enough.

As we are now slowly awakening to the need for more intensive training for policemen on the beat and in the patrol cars, we must sense that the guards, the attendants, the teachers, and the management of prisons must be specially selected for their temperament and attitudes and then specially trained for their crucial part in the task of helping prisoners to help themselves.

I am sure that every person here must be elated over the Attorney General's proposal to establish a National Corrections Academy patterned after the great training program of the FBI Police Academy. The management and operation of penal institutions has desperately needed such a nationally coordinated program to train every level of prison personnel from guards to wardens, as the Department of Justice has done with police administrators.

This decision on the part of the President and the Attorney General could be one of the milestones in correctional history.

III. IMPROVED CLASSIFICATION PROCEDURES

In many institutions we know that overcrowding and understaffing have led to a breakdown of classification procedures and practices. In some institutions there are no such procedures. One of the high prices we pay for that lack is a mingling of youthful offenders and first offenders with recidivists, incorrigibles, drug addicts and others who are seriously mentally disturbed. A very high priority must be given to separating inmates, and this is particularly important today with respect to the riotprone inmates. Those who would disrupt and destroy a penal institution must be separated to protect those who are trying to learn and to prepare themselves for the future. Every inmate has a right to be insulated from those who are bent on lawless acts.

IV. A BALANCED PROGRAM

We need look only at the median age of inmates to see at once the need for athletic and other recreational facilities so that these young men can burn off the surplus energies of youth as many of them would be doing if they were free. The corrosive impact of enforced idleness at any age is bad enough, but on young men it is devastating. Playing cards, watching television or an occasional movie, with nothing more, is building up to an expensive accounting when these men are released—if not before. Such crude recreation may keep men quiet for the time, but it is a quiet that is ominous for the society they will try to reenter.

Some states have recognized these needs and provided for them, but many have not. If anyone is tempted to regard this as "coddling of criminals" let him visit a prison and talk with inmates and staffs. I have visited some of the best and some of the worst prisons and I have never seen any signs of "coddling" but I have seen the terrible effects of the boredom and frustration of empty hours and a pointless existence.

V. RECREATION AND EDUCATION

Recreation and education programs really go hand in hand in prisons as they do in schools and in life.

When society places a person in confinement, it deprives him of most normal opportunities and much of the motivation for self-improvement. When society does this, it has a moral obligation to try to change that person—to make a reasonably successful human being out of him. Common sense and the self-interest of society dictate this even if we lay aside all considerations of human decency and our religious beliefs as to redemption.

Here perhaps our failure is the greatest. The percentage of inmates in all institutions who cannot read or write is staggering. Another, and largely overlapping category, is made up of those who have no marketable skills on which to base even a minimally successful life.

The figures on literacy alone are enough to make one wish that every sentence imposed could include a provision that would grant release when the prisoner had learned to read and write, to do simple arithmetic, and then to develop some basic skill that is salable in the market place of the outside world to which he must some day return and in which he must compete. Since the best of human beings need motivation and hope, why have we thought prisoners can do without both? We should develop sentencing techniques to impose a sentence so that an inmate can literally "learn his way" out of prison as we now try to let him earn his way out with "good behavior."

We know that day today the programs of education range from nonexistent to inadequate, with all too few exceptions. However we do it, the illiterate and the unskilled who are sentenced for substantial terms must be given the opportunity, the means and the motivation to learn his way to freedom.

Meanwhile, we should make certain that every inmate works and works hard. With countless thousands of law-abiding citizens "moonlighting" on second jobs to make both ends meet, there is no reason why every healthy prison inmate should not be required to work to earn at least a part of his "keep." Moreover, every consideration of rehabilitation demands that inmates be kept busy with productive work, with learning and self-improvement. With this must come an expansion of psychological and religious counseling to instill motivation and maintain hope.

VI. COMMUNICATION

We know that one of the deepest hungers of the human being is communication with others on his hopes, his fears, his problems. Inside the walls of a prison this basic need of Man does not vanish and indeed we know it is greater than ever. A means of regular communication should be established between inmates and those who run the institution. We cannot turn the management of a prison over to the inmates, but society, as represented by the "keepers," can listen to what the inmates have to say.

To the extent it is feasible and consistent with orderly administration, therefore, the inmates need to have a chance to regulate some limited part of their lives, however small, by the processes of deliberation and choice. If we tie a person in a chair for a long time, we can hardly be surprised if he can't walk when we let him loose. Within limiting regulations necessary for basic order, inmates should be allowed to think and walk and talk as we will demand that they do when they are released. What can be wrong with allowing prisoners to practice, on a small scale, the very things we will insist they do when they are again free?

VII. SPEED IN ADMINISTRATION—JUSTICE

Finally, a few words need be said about the functioning of the courts in relation to the correctional system. Time does not permit discussion of standards for sentencing and related matters that you are dealing with in "work shops" and seminars, but I am confident we would all agree the judicial system has a responsibility to see to it that every criminal charge is tried as promptly as possible and that the appeal is swiftly heard and decided. In some places the time lag between arrest and trial is hardly less than a public disgrace. Some of this is due to the maneuvering of lawyers who misconceive their function and seek to postpone the trial date as long as possible; some is due to overworked defender legal aid staffs, overworked prosecution staffs, and overloaded courts—and some to poor management of the courts.

Whatever the cause, the impact of the delay in disposing of criminal cases covers a range of consequences:

(a) For any person, guilty or innocent, a long pretrial confinement is a corrosive experience; it is an enforced idleness in an environment often worse than the poorest correctional institution.

(b) Prolonged confinement after sentence and before commitment to a conventional corrections institution is likely to erode whatever may be the prospects of making a useful and law-abiding citizen out of the convicted person.

(c) We have all seen examples of defendants who have exploited procedural devices to postpone the final verdict of guilt for years with the result that their warfare with society has embedded and intensified their hostilities and rendered prospects for future improvement virtually zero.

(d) Delay in final disposition also exposes the public to added dangers when the accused is in fact an incorrigible criminal whose release on bail is exploited to commit new crimes. Sometimes this rests on a belief, widely shared by sophisticated criminals, that when finally brought to justice he will receive concurrent sentences for multiple crimes. The measure of these risks can be found in the increasing percentage of recidivists on the criminal dockets of every court in the country.

We in the legal profession and the judiciary have an obligation to put our own house in order, and to this end the Judicial Conference of the United States in October approved programs to expedite trials and appeals in federal courts and to establish means of identifying the cases in which there is a likelihood that delays will occur. Other programs have been instituted and yet others are to come, all directed to insure the speedy justice to which every accused is entitled and which the society has a right to demand for the protection of all its members.

The statistics of the federal courts are only a small fraction of the total picture and they show nearly 42,000 new criminal cases annually, an increase of 45% in 10 years.

VIII. PRISON VISITATION

Two and one-half years ago, in discussing corrections problems at the ABA meeting in Dallas, Texas, I urged that lawyers and judges—and indeed citizens generally—visit prisons and form their own judgments. The Young Lawyers' Section of the ABA took on the burden of promoting a Prison Visitation Program. I am not currently informed on all the details but I do know that in some states a very large number of such visits have been organized and that more and more judges and lawyers are finding out about prisons. Few things would help more than having the public fully informed on the problems of prisons and the burdens of those who administer them. Most administrators know a great deal of what ought to be done and none of my cursory observations at this Conference present anything new to you. What is desperately needed is that you have the resources and the authority that only public support and legislative action can provide. The people of this country can bring that about if they will see first hand how their institutions are being run and what support they receive. We know that not all offenders can be salvaged, as we know that not all lives can be saved from disease, but like the physician, we must try.

It is most fortunate that one of the great organizations in the country saw, two years ago, that a national effort was called for to improve our correctional processes. The ABA created not one of the usual committees of lawyers, but a Commission that includes leaders of Labor, Industry, Judges, lawyers, penologists, and other specialists, including some of the most distinguished correctional administrators in the country, and a professional staff to carry on their work. All of the members of that Commission are invited members of this Conference and I know that Governor Richard J. Hughes, its Chairman, will cooperate in every way with you.

What I have been trying to express is my deep conviction that when society places a person behind walls we assume a collective moral responsibility to try to change and help that person. The law will define legal duties but I confess I have more faith in what a moral commitment of the American people can accomplish than I have in what can be done by the compulsion of judicial decrees.

The great tradition of America comes to us from the people who came here and by work, faith and moral fortitude turned a wilderness into a nation. Most of them were the poor and the oppressed of Europe. All of them wanted something better than the life they had abandoned.

Part of the American tradition has been to give of our bountiful treasure to others to restore them from the ravages of wars and natural disasters. We have not always shared our resources wisely but we have shared them generously.

Now we must try to give leadership and guidance to see that this generous spirit and this American tradition are applied to one of the large unsolved problems of Mankind and surely one of the unsolved problems of our society.

You accept this as your obligation by being here and I accept it as part of mine. Together we must let the people and the lawmakers know what need to be done.

HILLSDALE COLLEGE: ACADEMIC AND ATHLETIC EXCELLENCE

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1971

Mr. CRANE. Mr. Speaker, we are entering that time of the year when many of our colleagues undoubtedly will use this forum as a means of extolling the virtues of their favorite college football teams.

To be certain, this has been an exciting football season and alumnae of the Universities of Nebraska, Alabama, Oklahoma, and Michigan have much to be proud of as their schools prepare for bowl games.

But there also is much for the Nation's smaller colleges to be proud of, too, and as an alumnus of Hillsdale College in Hillsdale, Mich., I am particularly pleased that my alma mater has recently received national publicity for its football performance as well as for its dedication to educational excellence.

A recent article in Sports Illustrated about Chester Marcol, a Hillsdale football player who has attracted considerable attention as a placekicker, made reference to the school's philosophy.

Dr. Louis Pitchford, assistant to the president of Hillsdale, said:

> We try to maintain values of human dignity and a belief in a powerful God, which in turn brings out the individual and his potential.

I would like to share this fine article with my colleagues, and include it at this point:

CZESLAW MARCOL IS NO POLISH JOKE

It was as bad a day as Chester Marcol is likely to have. He missed a field-goal attempt of 38 yards, one of his punts was blocked and his team, Hillsdale College of Michigan, suffered its most depressing loss of the season, 43–10 to Indiana University of Pennsylvania. The fact that Marcol saved one touchdown by making an open-field tackle on a punt return, completed two passes from kick formation, averaged 44 yards on the seven punts that were not blocked and, before the game, warmed up with several 60-yard field goals—all that was of little consolation. Chester Marcol does these things frequently.

In case you are wondering what kind of kicker performs this way on a bad day, understand that Chester Marcol is hardly ordinary. He holds the modern collegiate records for longest field goal (62 yards) and most consecutive extra points (104) and has averaged better than 40 yards a punt in his career. In case you are wondering why you have never heard of Chester Marcol, keep wondering. As the prison boss said in *Cool Hand Luke*, "What we've got here is a failure to communicate."

"It's hard to phone someone and tell him about Hillsdale College," says Mike Mills, a senior who performs a full-time sports information director's chores in addition to completing 17 hours of studies. "They just think it's another small college, but when a man is kicking, he should be judged on an equal basis with someone from the Big Ten or Southeastern Conference."

Evidently, though, some people think it is easier to kick a 60-yard field goal for a small college than for a major university. True, Hillsdale, a school of about 1,100 students some 80 miles southwest of Detroit, became a camping ground for writers and photographers the week after Marcol's 62-yarder in 1969, but publicity subsided quickly. People forgot quickly, too. When Bill McClard of Arkansas kicked a 60-yarder last year, the feat was at first reported as a modern record. When the mistake was noticed, the guilty ones often replied, "Oh, we meant NCAA record. Hillsdale is an NAIA school, and they don't count."

Oddly enough, the two people who should most resent Marcol's anonymity—Marcol and his coach, Frank (Muddy) Waters—are on the whole unperturbed. "I got enough publicity when I set the record," Marcol says. Adds Waters: "For us, being a small school like we are, we don't command the attention. We're happy to get any publicity at all. In this area alone, we're competing with Michigan and Eastern Michigan—both ranked teams."

Marcol and Waters speak with some prescience. At least half a dozen NFL teams have serious enough kicking problems to be on the lookout for top college prospects, and Marcol is likely to be the least-known first-round pick. Well, least known to the public. Gil Brandt, the superscout of the Dallas Cowboys, has a voluminous file on him, and Cleveland scout Lou Groza, who kicked more points than anyone in pro history, has said, "Marcol is the best kicker I've seen so far this year."

His punts, which are high enough to allow for good coverage, are just what the pros want. That his dual kicking talents will save pro teams one specialist enhances his attractiveness, of course. Only one pro—Dennis Partee (San Diego)—is both punter and placekicker.

In his better-known capacity, placekicking, Marcol is already ahead of most pros. This season only four NFL regulars have missed fewer field goal attempts from inside the 40. Marcol is 2 for 3 from 40 to 49 yards and only some close calls from 50 and more, abetted by stiff winds and rain, have prevented him from joining the six pros who have hit from long range. Marcol attempted a 77-yarder on the last play of one game. It was five yards short and, as the students say, right on. Marcol has kicked eight field goals of 50 yards or more at Hillsdale. He was the first player indicates people other than pro scouts are indicates people other than pro scouts are getting the message, too.

Ever since he was Czeslaw Marcol, stopping soccer balls as the goalie for his town team in Opole, Poland back in the early 1960s, Marcol has been delivering the message in one language or another. He was such a good soccer player than when his mother decided to move the family in with relatives in Imlay City, Mich. upon the death of Chester's father in 1964, the town of Opole reputedly offered to buy Chester a house to keep him in Poland.

His introduction to America was relatively free of the usual cultural hazards. A girl cousin helped him through his early days at Imlay City High and a friendly teacher tutored him overtime in English. His soccer-style kicking talents were discovered in a gym class by a teacher named John Rowan, and it was just another step to the football field. While Imlay City people are vague about the length of his field goals—estimates of his longest range from 46 to 55—he was so accurate from short range that the only two extra points he missed as a senior were blocked.

Marcol was refused admission at Michigan State because he supposedly could not pass the English requirement. "I don't think so," he says. "They say I couldn't pass the English entrance exam, but they never gave it to me. I could have entered that school as a foreign student with no problem because they offer many more languages. I could have taken Polish and Russian, which I speak."

MSU never bothered to exercise that option, but John Rowan, a Hillsdale graduate, did. He introduced Marcol to Waters and Marcol was enrolled at Hillsdale as a foreign student taking English as a foreign language. He has since been naturalized. It hardly seems too much to suggest that if Chester Marcol had been able to speak English, he might even now be kicking his long field goals on national television.

As an NAIA kicker, he is unrecognized and a bit bitter about the short shrift all kickers, especially foreign-born ones, get. A remark by Alex Karras, the former Detroit Lion defensive tackle, especially irritates him. Karras said, "I think those foreign soccer kickers should have their visas taken away from them and be returned to wherever they come from. The game is predicated around the touchdown, that's the way I feel about it."

Marcol, who is 6′ 1″ and weighs 190 pounds, is a convincing rebuttal in action. He fields errant snaps from center like the goalie he was, made six solo tackles this year and threw a 38-yard scoring pass when a field-goal snap flew over his head. Indeed, Marcol, who was a defensive halfback and split end in high school, is most likely to jeopardize his pro chances through his outspoken love of contact.

Hillsdale College is about as well known to the public as Marcol, and with as little reason. The school has been best publicized for a UFO sighting there and for its academic dean, E. Harold Munn, the Prohibition Party candidate for President. Founded in 1844 by Free Will Baptists (it is nonsectarian now), Hillsdale graduated a first class of five that included a woman and a black man named Fisk who founded a school by the same name in Nashville. Hillsdale's major is business administration and the fraternities claim about 45% of the students. The energetic new president, 36-year-old Dr. George C. Roche III, is a widely published economist-historian and friend of William F. Buckley Jr. The school is immensely proud of the fact that it has never accepted state or government aid. It is a quiet campus amid small hills in country more New England than Midwest in character and the most riotous sound emanating of a fall night is the military cadence of fraternity pledges reciting their chants.

Yet Hillsdale is less conservative than liberal, liberal in the classical mold of an institution that values individualism above all else. The school's motto is "Preparation for Leadership." Business leaders conduct seminars at the Dow Leadership Conference Center, and students are invited to watch through one-way mirrors. There are student-faculty committees and a student is expected ultimately to join the board of trustees. "We try to maintain values of human dignity and a belief in a powerful God, which in turn brings out the individual and his potential," says the president's assistant, Dr. Louis Pitchford, a big, friendly man with a remarkable resemblance to Senator Muskie.

Blending in very nicely with the school is the athletic department, which is run by the benevolent presence of Muddy Waters, who looks like a beardless Santa Claus with his white hair, ruddy face and laugh wrinkles around the eyes. There are only 48 tuition grants and no full rides for any sport. Most scholarship athletes come from out of state and work at part-time jobs to remain at Hillsdale. "I don't want an athletic dorm," says Waters. "I wouldn't take one if you gave it to me. I want our athletes to have the full college experience."

Marcol was at first very lost at Hillsdale. "My first kickoff went 20 yards," he says. "I began to ask myself, 'What am I doing here?' " (Interjects Waters, "So did I.") Marcol is now happy about his college experience, speaking English quite fluently—only an occasionally missing article gives his origins away—with the usual quota of "Oh, wow" and "man" in his vocabulary. He is a fraternity member, is pinned to a girl and lives in a typical off-campus bachelor pad with Saad Jallad, an Arab from Jerusalem who is Marcol's understudy on the team.

Last spring Marcol saved up his money to vacation in Florida. At the end of a week Waters, who also was in Florida at the time, asked him how he was doing "Coach," Marcol said, "I'm spending money like mad. I came here with $17 and now I've got $6." Waters is anxious that Marcol isn't conned financially by the pros and a well-versed economist has been chosen to advise him at contract time. "Of course," says Waters, "we don't want to ask for too much. We just want Chester to earn a good salary."

You might say he already has earned it, Muddy.

THE EGG INDUSTRY

HON. JOHN G. DOW

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1971

Mr. DOW. Mr. Speaker, I know that many colleagues have been very interested in the bill I introduced on November 19, H.R. 11913, which is designed to assist the egg industry. I am inserting my view of the need for this important legislation and a summary of the bill so that the bill and its purposes are more easily understood.

Farm prices for eggs have been below the cost of production since 1970. This is an abnormal situation for the egg industry, and if it is allowed to continue, many of our commercial egg producers may be forced out of business.

The egg industry has had some hard times due to the control of Marek's disease, a disease of chickens, which caused 10 to 40 percent mortality in flocks prior to the discovery of a vaccine. Egg producers expanded their facilities over the years to compensate for losses caused by this disease, and now that it is under control there are simply too many eggs on the market to provide a good living from egg producing.

The egg industry, under the terms of the bill, can adjust its egg laying flocks equally and equitably among all egg producers.

My bill would provide for the registration of all commercial egg producers through county ASCS offices already established by USDA. It provides for an egg industry advisory board which would advise the Secretary of Agriculture when there was a need for adjusting the number of egg-laying fowl, and the Secretary could enforce a mandatory reduction in fowl among all commercial egg producers having over 10,000 laying fowl. Enforcement would be through county ASCS offices.

There are no bases, quotas, or farm histories required by this plan, and it only affects commercial egg producers. An adjustment program could only be put into effect after farm prices had been consistently below cost of production and only then after the egg board recommended the program. The program would cease after a specified period of time.

This emergency legislation is designed to last 2 years. It should require little or no appropriations since USDA already has the mechanism for carrying out the intent of the bill. There will be no restraint upon any person who wishes to enter or leave the business, and no adjustment program would be designed to bring about unreasonable prices to egg producers.

In capsule, this bill gives the Secretary authority to enforce a percentage adjustment in all commercial egg producing flocks upon need and request of the egg industry. Such slaughtered fowl would move into regular channels of commerce.

It should be noted that egg industry organizations have attempted, in the past, to recommend voluntary adjustment programs for the egg industry to follow. Producers have been reluctant to follow these voluntary programs for fear that any adjustment one might make would be canceled by another producer adding to his flock. Producers favor an adjustment program where each is assured the other is having to adjust accordingly.

The following organizations have already indicated their support for the bill:

Georgia Egg Association.
Georgia Egg Commission.
Georgia Poultry Federation.
Illinois Poultry Council.
Illinois Poultry and Hatchery Federation.
Midwest Egg Producers Cooperative Association.
Missouri Egg Industries Association.
Missouri Egg Merchandising Council.
National Egg Company.
New Jersey State Poultry Association.
North Carolina Egg Marketing Association.
Northeast Egg Producers Cooperative Association.
Northeastern Poultry Producers Council.
Northwest Egg Producers Cooperative Association.
Pacific Egg and Poultry Association.
Pacific Growers, Inc.
Pennsylvania Poultry Federation.
South Carolina Poultry Improvement Association.
SPICE (New York State Organization).
Southwestern Egg Producers.
United Egg Producers.
Vermont Poultry Association.
Virginia Poultry Products Commission.
Western Egg Company.

HEALTH CARE INSURANCE ACT OF 1971

HON. JOEL T. BROYHILL

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1971

Mr. BROYHILL of Virginia. Mr. Speaker, the Committee on Ways and Means has heard many hours of testimony in support of various national health insurance plans, and it will be some time before the hearings are printed and available to all our colleagues for study. As a principal sponsor of the bill entitled "Health Care Insurance Act of 1971," I am anxious that those concerned in this vital area have benefit of information concerning the bill I have sponsored with adequate time to study its provisions and what I believe would be advantages in enacting this measure.

I insert the full text of the testimony of Dr. Max H. Parrott, and Dr. Russell B. Roth, jointly representing the American Medical Association, in behalf of the Health Care Insurance Act of 1971, commonly referred to as the medicredit bill:

STATEMENT OF THE AMERICAN MEDICAL ASSOCIATION BEFORE THE COMMITTEE ON WAYS AND MEANS, U.S. HOUSE OF REPRESENTATIVES, IN SUPPORT OF HEALTH CARE INSURANCE ACT OF 1971

(By Max H. Parrott, M.D. and Russell B. Roth, M.D.)

Mr. Chairman and Members of the Committee: My name is Max H. Parrott. I am a practicing physician in Portland, Oregon and I am Chairman of the Board of Trustees of the American Medical Association. With me is Dr. Russell B. Roth of Erie, Pennsylvania, the Speaker of the House of Delegates of the AMA, and Harry N. Peterson, Director of the AMA's Legislative Department.

We are pleased to appear today to testify in support of the Health Care Insurance Act of 1971, which has been sponsored by Mr. Fulton and Mr. Broyhill. We are indeed grateful for this sponsorship as well as that of 158 other members of Congress, including additional members of this Committee. We believe that this legislation, commonly referred to as the Medicredit bill, reflects a sincere desire to meet a pressing social need in a responsible and workable way.

Doctor Roth will discuss Medicredit more fully in his testimony. I would like to speak broadly and provide a realistic background against which you can weigh the merits of the many proposals for national health insurance that have been put before this Committee.

HEALTH VERSUS MEDICINE: A DISTINCTION

It would be instructive, first, to identify and isolate some of the problems we are attempting to solve. We should keep in mind that medicine is relatively powerless before many of the major health concerns that trouble us all. This is not to say nothing can be done. But I do wish to emphasize—briefly—that approaches *other* than purely medical approaches can be more effective in raising the level of health in this country than staggering sums of money concentrated on the improvement of medical care. A distinction should be made between health objectives, which depend on preventive efforts, education, public health policy and research, and medical care, which is concerned with a physician's efforts to cure someone who is sick.

Let me give you some examples to highlight this distinction, to illustrate how some problems can be attacked through health care measures rather than medical care. Accident in our homes, in our factories and on our highways take more than 100,000 lives a year and send 8 million people annually to a hospital or a doctor's office. Bear in mind this is the most highly industrialized country in the world. It is the most highly mobile country there is. And it may well be the most violent. Such factors not only affect our health statistics. They also place a great strain on our medical system and add tremendously to our medical costs.

The choice of lifestyle also plays an important role in our health statistics. The sum of many millions of individual decisions as to health habits and risks have a profound effect on our overall health standards. To give you just one example of the way lifestyle rather than medical care can affect things, you might consider what's happened to our V.D. rate. We know how to prevent venereal diseases, diagnose them, treat them and cure them. Fifteen years ago we almost had them on the way out. But a changed lifestyle in a new generation has driven our V.D. rates to the highest level since World War II. V.D. is pandemic in this country, despite proven cures and simple preventives. It is pandemic—not because of any failing of medicine—but because of a change in lifestyle.

Medicine can ease these problems, and medicine is properly concerned with them. But the point is this: no matter how drastic a change is made in our medical care system, no matter how massive a program of national health insurance is undertaken, no matter what sort of system evolves, many of the really significant, underlying causes of ill health will remain largely unaffected. They will respond to public education and to research as much as they will to any sort of medical care program, no matter how well-intentioned or how generously financed. To tell the American people anything else is to mislead them.

Before turning to my next point, I should say a word about our organization's membership. It is said that the number of our dues-paying members is only about half the number of physicians in the country. The truth is that not all physicians are eligible for membership in the AMA. Nor are all our members charged dues. But of the active, private practice, office-based physicians in this country—the men or women you usually see when you want to see a doctor—82% belong to the AMA. I might add further that informal polls of doctors taken by two publications, the independent *Medical Opinion* and *Medical Economics,* indicate support for the legislative point of view we are advocating here today by substantial majorities.

ACCESS, COST, QUALITY

Success in reforming, modifying or improving any system of medical care depends basically on balancing three strong and competing dynamics. One of these is the desire to provide universal access to medical care, to make medical care available to all. The second dynamic is the desire to control cost. For many reasons, among them new capabilities for treatment, costs of medical care have risen sharply, as we are all well aware. The third dynamic is the desire for high quality of care. High quality demands a high professional standard for both the physician and the health care team—and the technology available to them.

Now when you devise a system of medical care and emphasize any two of these three dynamics, the two often tend to work against the third. For example, a system which combines universality of access with very tight cost controls can easily affect the quality of care. This combination reduces quality of care mainly because it causes a shift in medical priorities; it diverts a finite number of medical man-hours away from the sick to the well or worried-well. This created quite a problem for the Kaiser-Permanente plan, and I would like to read you something on the subject written by Dr. Sidney Garfield, one of Kaiser-Permanente's founders.

"Elimination of the fee has always been a must in our thinking, since it is a barrier to early entry into sick care. Early entry is essential for early treatment and for preventing serious illness and complications. Only after years of costly experience did we discover that the elimination of the fee is practically as much of a barrier to early sick care as the fee itself. The reason is that when we removed the fee, we removed the regulator of flow into the system and put nothing in its place. The result is an uncontrolled flood of well, worried-well, early-sick, and sick people into our point of entry—the doctor's appointment—on a first-come first-serve basis that has little relation to priority of need. The impact of this demand overloads the system, and, since the well and worried-well people are a considerable proportion of our entry mix, the usurping of available doctor's time by the healthy people actually interferes with the care of the sick."

Moving on to another combination of dynamics, let's see what happens when you link the quest for easy and universal access with a desire to maintain quality of care. That combination of factors works against cost. This has happened in at least two instances I can think of. During the years 1950 to 1966 Sweden, under its system of government control and financing, increased health expenditures by 614% while ours were rising 174%. I would also call your attention to the rise in hospital expenditures in Canada under a compulsory hospital insurance program. Between 1950 and 1967 per diem hospital expenditures rose 213% in Canada compared to the rise here of 148%.

Both experiences strongly suggest that when you link a desire for universal access with a desire for at least good medicine the combination works against costs—even within the framework of tight, government controls. Containment of costs does *not* automatically result from government controls. To argue so is simplistic.

Finally, if you link high quality with vigorous efforts to control costs, then there has to be pressure on access. This may explain what has happened to Medicaid in many states as deductibles have been put in effect or as the income levels for those eligible have been raised.

The search for a perfect health care system, an ideal harnessing of the three dynamics, a magic troika, if you will, is not impossible. But a system that encompasses universal access, low cost and high quality *is* difficult. No one that I am aware of has melded all three dynamics harmoniously and applied them successfully to a broad, across-the-board population base to the satisfaction of all—consumers, doctors and cost accountants. It is for this reason, I think, that we have evolved a pluralistic system of medicine in this country, and I feel we should continue this pluralism—this diverse approach—until there is clear evidence that something else will work better.

MEDICREDIT

This philosophy underlies our own Medicredit proposal for national health insurance—H.R. 4960. Medicredit replaces most of Medicaid, virtually removing the economic barriers between the poor and good medical care. It provides incentives for everyone to seek health insurance and provides generous benefits to middle income families. And it protects everyone against catastrophic costs. No family should have to suffer a financial disaster because of an accident or illness.

Most important, Medicredit preserves the flexibility of our medical system, the freedom so necessary to innovation, to evolution, to experimentation. It avoids the mistake inherent in proposals such as H.R. 22, which would lock medicine into a rigid, monolithic, no-choice, bureaucratic system before there is any real evidence that it would make things better.

Medicredit, while expensive, would be affordable. The federal cost would be some $14 billion a year, far less than H.R. 22, which under the guise of "free" medicine, would cost at least $60 billion a year. H.R. 22 would tax the average American family $1,271 a year according to one HEW estimate.

A vast, monolithic, Federalized health care system such as envisioned in H.R. 22 could easily warp our social priorities, take funds away from programs for housing, education and welfare, establish a new bureaucracy, and create new—and highly unpredictable—costs. It would be a creation almost impossible to change, a decision almost impossible to reverse, an undertaking full of early promise but empty of lasting benefit.

THE PLURALISTIC APPROACH

What has evolved in this country is a pluralistic system of medicine, just as we have a pluralistic educational system, a pluralistic agricultural system and a pluralistic economic system. And it is no wonder, for our country is unique. It is continental in size, varied as to climate and heterogeneous in background, with a population partly indigenous but drawn also from Europe, Latin America, Africa and Asia. We have population areas of high density and we have counties where the population density is less than one person per square mile. Medicine has to meet diverse needs in diverse ways, for what works in rural Alabama may not work in eastern Oregon, and what is efficient in urban Newark may not be efficient in Los Angeles.

Those who criticize our system of medicine imply that it is static and must be replaced. Let me call your attention to some of the salient accomplishments of our pluralistic medical system, accomplishments that are often obscured in the radical chic, by a disaster lobby which stridently proclaims the need for revolutionary change.

Probably our highest achievement is in the quality of medical care in this country. The world standard of medicine is here. American medical schools produce men and women with the best medical education there is. Our technology is unsurpassed. The ranks of allied medical manpower continue to grow in terms of both size and sophisticated training.

STRENGTHS, ACHIEVEMENTS, AND PROGRESS

Success, may I remind you, can never be complete in medicine, for we are all mortal. But we have made dramatic strides in increasing the number of years of useful life. Let me mention a few. Intensive care facilities and new surgical techniques prolong the lives of heart disease victims. We have in this country developed the most sophisticated cancer detection procedures that exist and we have led the advance in using high energy physics for the treatment of cancer. In dealing with accidents, we do better than anyone in repairing the human damage—in mending the wounds. In physiotherapy, plastic surgery, skin grafting. The new knowledge about the physiology of the kidney and the management of kidney failure have come from American medicine and research. New techniques of anesthesiology have increased the safety factor in all types of surgery. Amniocentesis—diagnosing genetic defects of babies still in the womb—is a product of American medicine. Vaccines that have virtually eliminated polio, and new therapeutics, especially the steroids, like cortisone, have emerged in the context of our pluralistic approach to medicine.

Maybe I should say a word about infant mortality since that is frequently—though incorrectly—offered as an index of how efficiently a nation's health system functions.

First of all, it is idle to argue whether it is the quality of medical care or the quality of a child's environment that is the more important factor in infant mortality. These cannot really be separated. No matter how good the medical care system is, mortality rates cannot be lowered below a certain point unless improvements are made in the social environment.

Nonetheless, you might consider the U.S. record in infant mortality.

In 1940 there were 47 infant deaths per thousand live births; in 1950, 29.2; in 1960, 26; and in June, 1971, 19.2.

That is better than a 25% drop just in the last decade.

We might look briefly at longevity, too. In 1940 the life expectancy of a child born in the United States was 62.9 years; in 1950 it was 68.2; in 1960 it was 69.7; and today it is 70.8 years.

Such figures argue—and argue cogently—that American medicine—our pluralistic, evolving, pragmatic system—is changing things for the better, that we *are* making progress. We are making dramatic progress in many areas, and Americans born today, both black and white, are not just living longer than their parents, but growing bigger and living longer than their older brothers and sisters.

EDUCATION AND COSTS

Change and progress can be observed in other areas, too, areas that relate more directly to the problems that are of immediate concern to this committee.

Not too long ago a medical education fell into rather neat compartments—four years of undergraduate work leading up to a Bachelor's degree, four years of medical school leading to an M.D., then a year as an intern followed by 3 to as many as 7 years in residency training.

The once visible dividing lines are blurred today. Some students now complete in college the basic science training once given in medical school. Others now enter what used to be part of the internship while still in medical school. What is taking place is an almost revolutionary telescoping of the traditional medical education. And the result, under many programs, is a physician equally or better trained than his predecessors but with a year or two years or sometimes three shaved off the time it takes to become one.

Simultaneously, there has been a sharp growth both in the size and number of medical schools. In 1967 there were 89 medical schools in the U.S. with a first year enrollment of about 9,000 students. This fall there were 108 schools—20% more—with a first year enrollment of 12,000. By 1975 with 10 or more new schools opening their doors—five of them next fall—enrollment should come to 15,000. That's probably a conservative estimate.

Now and in recent years we have been sharply increasing our physician population, adding some 8,000 doctors a year net, constantly increasing the ratio of physicians. The physician population of this country is growing at a rate more than double the general population rate.

As you know, special health manpower legislation, already passed by the House and Senate, will provide even greater impetus to medical education. The conference report resolving the differences between the House and Senate action has already been approved by the Senate. This legislation will provide greatly expanded training capability for physicians and other health personnel. It will carry greater funds for operation of medical schools, special assistance for schools in distress, and start-up funds for new schools. This legislation provides incentives for schools to shorten their curricula, thus enabling physicians to be trained in shorter time. It provides increased financial assistance to students through larger support for scholarships and loans, and it carries financial incentives to encourage students to be recruited from shortage areas and, upon completion of their training, to practice in shortage areas. It provides special assistance for the training of family physicians, for the training of physician's assistants, and for a variety of innovative training and health delivery projects.

I think it should be part of the record that the AMA has vigorously supported this legislative response to the manpower problem. As your colleagues will tell you, we have raised a strong voice in urging the passage of this legislation.

Next to questions about the number of doctors, the issue uppermost in the public mind is probably the matter of cost. Here again I think you should be aware of some things the profession itself is doing in response to the need for better controls. Again, I want to call your attention to some initiatives that have been undertaken already, some of the ways in which our pluralistic system is responding to a challenge.

PEER REVIEW

The broad principle involved is peer review—practicing physicians evaluating the quality and efficiency of services rendered by other physicians. Peer review is the means by which doctors themselves can question the necessity, quality and cost of a medical procedure. Peer review works in many ways and has for some time.

I want to draw your attention to a somewhat new and rapidly spreading application of peer review. This is the medical society foundation, which offers highly visible means of controlling costs. Foundations can and are screening hospital admissions. Other procedures work to reduce the number of days a patient stays in a hospital. Some foundations screen claims for commercial insurance programs, and when claims go beyond predetermined norms, the computers reject them. These claims then become the subject of peer review. Here physicians can examine all the circumstances and make the determinations that, in the long run, only physicians are qualified to make.

Medical society foundations are not all alike. They serve different communities in different ways, and there is no standard model of a foundation which can be applied universally. Yet they have proven effective in many localities. Foundations may not be *the* total answer to cost control. But they represent *an* answer. They give further evidence that our pluralistic system is responding to changed conditions, to new needs—in this case, the need to control rising costs.

To sum up now, I do not want to suggest to this committee that our present system of health care is perfect. It is not. It needs modifications and change. And it will serve people better with the kind of government supported health insurance we propose in our Medicredit bill.

On balance, we have a medical system with impressive accomplishments, a system that is flexible and innovative, a system responsive to the need for change and improvement. In whatever action this committee chooses to make, the American Medical Association strongly urges that you build on the very real strengths that now exist.

Mr. Chairman, this completes my testimony. I would now like to call on Dr. Russell B. Roth, Speaker of our House of Delegates.

STATEMENT BY DR. RUSSELL B. ROTH

Mr. Chairman and Members of the Committee:

I should like first to discuss the point of view of the practicing physicians who will be taking care of people under any program for the provision of medical services which may be devised. I am such a physician, engaged in private group practice.

It is our deep conviction that there are limitations to the capacity of our profession, as it now exists, and as it may be augmented in the near future. Sound planning cannot be based on promises which cannot be kept. By the same token sound planning cannot be based on misconceptions as to the facts of medical practice, nor on medical mythology which has seemed to dominate important aspects of some of the proposals which are before you.

Criticism is frequently leveled in some quarters at the American system of medical care, and various proposals call for a radical departure. References are made to such matters as emphasis on health care rather than sickness care to new technologies that must be installed, and distribution of physicians into ghetto and rural areas.

PREVENTIVE MEDICINE

First I should like to comment on the notion that it is practical or possible to try to restructure the practice of medicine so that there will be emphasis on health care rather than sickness care, and that this may be accomplished by the application of economic leverages.

Preventive medicine is not a new concept. Most physicians are trained to diagnose disease and to treat it, and inevitably, as they deal with individual patients, they do practice and preach preventive medicine. No one, as yet, has pointed out what it could be that the dermatologist, allergist, urologist, neurosurgeon or orthopedist should do differently under a restructured system. An orthopedist can scarcely ignore his waiting room full of sprains, fractures and dislocations while he preaches accident prevention. The idea of the legendary Chinese physician who was paid to keep people well is charming, but irrelevant to the facts of life in an age when there are so many useful things to do for people.

Multiphasic health screening, as an adjunct of preventive medicine, is an exciting development in the application of new technologies to the health care field. Techniques of computerization of the recording of medical histories, the use of multichannel analyzers for rapid economical laboratory testing, and the newer developments in electrocardiographic interpretations, plus many other existing or potential additions to the list occupy a great deal of professional attention. The Kaiser program has been pioneering in this field, along with significant projects in industry, in private groups and in university centers. It impresses us that this new science will mature more rapidly in unrestricted development than under a system circumscribed by the allocation of restricted governmental funds.

It is undeniable that multiphasic health screening has as a long range goal early diagnosis and economies to be realized through the avoidance of the necessity for treating advanced and extended illness and disability. The short and intermediate terms, however, hold no promise of economy. Quite the reverse. The sophisticated equipment is expensive. New personnel must be trained and employed to operate it. The yield, if the approach is successful, is a significant influx of previously unsuspected disease to be treated as an addition to the burden of already recognized illness.

One should not confuse automated multiphasic screening—which promotes early diagnosis—with preventive medicine. It is true that the individual undergoing the screening process is often an ideal candidate for supplementary health education, and this too is being developed.

It seems certain, however, that all of this is a development which does not require national health insurance as an economic base. It will progress as a part of what has been called our Super-Industrial Revolution.

SHORTAGE AREA PROBLEM

A mythology has built up around the motivation of physicians and should be examined. The facts which require examination are that there has been a flight from practice in center city slum areas, from small rural communities, and in truth a flight from the general, primary, family type practice which used to prevail. Quite contrary to most of the allegations, physicians who have been engaged in practice in the center city or the rural areas have left and continue to leave in spite of lucrative practices and good incomes. The usual switch is to a lower income level, in specialty training, research, teaching, occupational or administrative medicine, or simply to premature retirement. There have been many tries to offer economic inducements to physicians to reverse the flow—ranging from free rent, and subsidies of all sorts, to forgiveness of loans. None of these has worked very well. Trade offs against potential military service are now being tried. But too little attention has been paid to why doctors move out once they are there, or decline to go there in the first place. Dollars are not the explanation.

The center city has become a depressing, dangerous place to live. Few physicians with their wives and families are insensitive to the environmental disadvantages of the slum, the threats to safety of person and property, the problems of educating the children, school busing, drug culture, and the like.

Many rural areas likewise lack educational facilities, as well as the opportunities for cultural activities, professional associations, and modern social exchanges. In both settings the physician finds himself subject to unremitting patient demand from which he finds it difficult or impossible to escape. His life is not so much one of a 50, 60, or 70 hour work week as it is a 24 hour, seven day week of unrelieved duty status. He decides that there has to be a better deal.

No slogan, no change in the manner in which the doctor is paid, is doing to get at the root of the problem. It is better by far to experiment, innovate and adapt. Community health centers, satellite clinics, group practice arrangements, suited to the needs of the individual situation, the population involved, and the providers of service stand far more chance of success than does any centrally mandated program. In the rural areas maximal use must be made of improved transportation and modern communications. In both settings new kinds of allied health personnel will play valuable roles in solving the problems. It should be noted that medical schools and medical societies, in conjunction with hospitals, voluntary health agencies, and the many other cooperating organizations of the Regional Medical Programs are already involved deeply in pilot studies, demonstrations, and experimentation in these fields. New legislation would be far less appropriate than support of existing mechanisms. Nothing in any of the existing proposals for national health insurance seems more promising than pursuit of the widespread efforts already under way.

The essential ingredient in any plan for the provision of medical service is enthusiastic acceptance by physicians. This is a lesson which can be learned from looking abroad. Let me quote from David M. Cleary, the distinguished science writer for the Philadelphia Bulletin, who last year spent time in Europe studying a variety of national health insurance plans. "The most important part of any health care plan, say European planners, is the attitude of the medical profession toward it, since it will be the doctors who must make it work—or can cause it to fail. The biggest task before the United States in its development of national health insurance, the European authorities say unanimously, is to produce a package physicians will accept. Mere grudging acceptance isn't enough, they emphasize. The really good plan is one that the doctors will accept enthusiastically and work at diligently." Thus, in order to achieve maximum benefits for beneficiaries of any program it should be fashioned to assure fullest cooperation from all its providers.

COST CONSIDERATIONS

Then, of course, there is the thorny matter of the economics of medical care. This is a poorly understood field, and the new economists who have concentrated upon it freely caution against transferring standard economic dicta to the medical care marketplace. The role of the physician is quite unlike the role of almost any other professional when one fits him into the supply side of the usual economic equation, since he acts in a significant sense as the purchasing agent in behalf of his patient, exercising substantial control over the demand for the bulk of the goods and services of the health industry. In federal programs, as well as in certain private programs, there has been a focus upon physician fees with the imposition of freezes at specified payment levels, and an application of arbitrary percentiles on allowable fees. This has accomplished extraordinarily little except to annoy a multitude of physicians. Approximately 13¢ of the medical care dollar ends up as physician income. Even if payments to physicians could be decreased across the board by 5% the resultant reduction in medical service costs would be less than $^{7}/_{10}$ths of one percent. Meanwhile little has been done to exercise controls on hospital costs, other institutional costs, and administration costs, and those are areas in which physician cooperation and understanding would be far more desirable than physician estrangement. Physician fees suddenly increased after the passage of Medicare. Interestingly enough figures from the U.S. Bureau of Labor Statistics showed an initial 8.3% increase in physicians' fees, which actually masked a 24% increase for the one doctor out of three who raised his fee, usually by about one dollar. In the first few years of Medicare, physicians' fees stood out beyond other components of the cost of living index, except, of course, for hospital charges. But now many other things have surpassed the ten year increase rate for physicians. The increase has been greater in the cost of papering a room, shingling a roof, hiring a laundress, or going to a movie to name a few. It is clearly untrue that physician fees are out of line with the rest of the economy.

There has been a spurious assertion that under a restructed system of medical care delivery it would somehow be possible to provide much more preventive and therapeutic care for a great many more people, to be provided by substantially increased numbers of well-paid physicians and allied health personnel, and to spend no more than is now being spent. This flies in the face of experience and common sense.

Next it is worth noting that some planners have identified the private insurance industry as being the root of the fiscal trouble in our health care system. We believe that the insurance industry is quite capable of defending itself on that score, but we confess concern over the thought that the employees of a private competitive industry are to be replaced by government employees in a vast new bureaucracy, of a size that we can only conjecture, with complicated new duties to negotiate in advance with all providers of services concerning budgets, salaries, charges and the like. Here we would not try to enunciate a principle but would simply recall an old maxim about frying pans and fires.

FOREIGN PROGRAMS

Next, I must comment on what I would call the "greener pastures" approach to medical care planning. Planners so afflicted look abroad to Sweden, Holland, Yugoslavia or Great Britain. It seems rare for anyone to compare or contrast our medical care with the foreign country that has size and population somewhat akin to ours, and in which all the proposals of our critics have been carried out. That is Russia, where there is a ratio of physicians to population which is roughly double ours; where the profit motive has been so completely removed from medical practice that an airline hostess makes more than a young practicing physician; where there is tax paid group ambulatory outpatient care as the general pattern, and where all the mass communications media—radio, television, Pravda, Izvestia and the rest, preach incessantly to the populace that they have the finest medical care in the world. Russia, however, is not generally picked for invidious comparison because in spite of all these things their infant mortality is worse than ours and their life expectancy no better. The "greener pasture" people concentrate on a statistic—usually infant mortality. It makes no difference that they are dealing with a small country of rather homogeneous racial characteristics, little poverty, and with abortion available on demand. It makes no difference that, in Sweden for instance, tuberculosis mortality may be worse than ours, as are deaths from ulcers or pneumonia. It makes no difference that the inflationary element of health care costs has far outpaced ours. Sweden is far away, and one may play delightful statistical games. There is much more to be learned from a study of our own statistics, derived from areas of good experience and bad experience in order to identify the factors which can be modified.

If one looks at statistics in respect to the producing of physicians in the Philippines one finds that some 53 percent of the total number of registered Filipino physicians are not practicing medicine at all but have dropped from the labor force or have switched to other lower level occupations for lack of securing satisfactory employment in the medical profession. Notwithstanding an abundance of physicians, one must also remember that the Philippines, in their outislands, have a severe lack of physicians.

To be practical one might propound a principle that medical service problems in the United States are peculiarly American, and it may be seriously misleading to seek our solutions abroad.

HMO

We have studied intently the concept embraced in the new slogan, Health Maintenance Organization. Since virtually all of the descriptions of what is meant by an HMO stress that it may range from a Kaiser-Permanente prototype, complete with its own professional staff, hospitals, and the like, through looser organizations such as HIP of Greater New York which subcontracts with outside institutions, and on to a basis of medical society, hospital staff, or even less formal confederations of providers, we can only say that we have always approved of innovation and experimentation. It should be noted that our financing proposal—The Medicredit Bill—includes the option of beneficiary enrollment in such prepaid plans if they meet the criteria of approval of State Insurance Commissions. In general, it has been inherent in the prepaid group practice approach that there be available to the potential enrollee a choice of coverages. We also favor this, and it implies that medical practice shall not be frozen into a single pattern, as has so often happened abroad. The loss of a competitive factor in our estimation would be bad. Results in terms of quality, efficiency, and economy could scarcely be assessed if there were no other patterns with which to make comparisons.

Our misgivings are based on the fact that no evidence exists to prove that this type of organization guarantees greater accessibility of care, or better use of scarce professional talents, or that there are adequate safeguards against under-utilization. Paramount importance must be attached to the competence and integrity of the administrators of such a program and the physicians working within it. Given this high level of competence and integrity there is nothing to suggest that other organizational forms do not function as efficiently and economically.

AUXILIARY PROGRAMS

The American Medical Association believes that it has a sound overall program for accelerated progress toward the achievement of the agreed upon goal—the day when artificial barriers shall no longer stand between people needing professional medical service and those competent to provide it.

Ours is a program with many elements, attacking many barriers.

In every instance it builds upon the solid achievements of the past. It does not promise what cannot reasonably be delivered.

It approaches our manpower problems by supporting legislation which would enable existing schools to survive and enlarge their enrollments, as well as favoring the development of new schools. And in respect to allied medical personnel it is working diligently to construct standards for educational requirements, certifications, and the like to avoid a deluge of inadequately trained paraprofessionals.

It approaches the education of the public through extensive use of the mass communications media, seeking to reduce accidents, improve the environment, and to warn against over-eating, over-smoking, over-drugging, over-drinking and under-exercising. Its programs on emergency medical services have been making and continue to make significant contributions.

It approaches continuing medical education through promotion of refresher courses and its multiplicity of top quality professional scientific publications, as well as its convention programs, seminars and the rest.

The AMA champions peer review as the only promising method for application of quality and cost controls and has held regional and national conferences on it, together with the publication of relevant literature. Constituent and component medical societies are working with enthusiasm in experimental innovative programs applying the principles of peer review. Pending before this Congress is H.R. 8684, Peer Review Organization Act. This bill, sponsored by the AMA, would provide a system of review of need, cost and quality of medical services provided in federal health programs. There are many other things that the AMA has been doing and continues to do while others debate and philosophize.

MEDICREDIT

At this point, I want to turn to the Medicredit Bill, which addresses itself to the important problem of financing health care.

Under its basic coverage, Medicredit offers comprehensive benefits in respect to hospital inpatient (with availability of extended care services) and outpatient services, as well as full physician services. It also offers catastrophic coverage, including full hospitalization and additional extended care, with a continuation of outpatient services and full physicians' services, designed to prevent those few but highly visible disaster cases in which massive medical care costs may exhaust the resources of even the well-to-do. It puts these benefits within the reach of all Americans under age 65 as a prepaid insurance package. The benefits are uniform for all citizens under the program. For those with little or no income, the cost would be borne by the federal government from general revenues. For those with a capacity to pay part of the costs, the program is realistically geared to encourage them to do so. The motivation for participation would, we believe, be especially strong because of our incorporation of tax credits. It would cover most services now authorized under Medicaid. The details, in respect to scope of benefits and range of financial eligibility for full or partial subsidy, are not inflexible. They may be scaled to the willingness of Congress to assume the financing responsibility for those with limited means. The important principles are that Medicredit builds upon the outstanding accomplishments of American medicine which has shown a capability of being the best in the world. It reaches gaps and inadequacies in a constructive way. And it can be put into operation now. It has no dependence on untried theory or dubious economics. It does not require an unreasonable expenditure of federal dollars, and it would not jeopardize the funding of other vitally necessary programs to improve the nation's health. It places emphasis on greater financial support for persons needing this assistance. It does not create an unreasonable, unrealistic and burdensome administrative bureaucracy.

With that general description, let me now describe more fully what Medicredit does:

It is a program to give every person in America under the age of 65 equal access to high quality medical and health care regardless of ability to pay.

Without disturbing the present Medicare program for the elderly, covering services now provided under Medicaid for the poor and near-poor, it makes available to everyone under 65 a private program of comprehensive medical and health care protection, covering both the ordinary and the catastrophic expenses of illness or accident.

The protection may be in the form of a health insurance policy from a company; membership in a prepayment plan such as Blue Cross and Blue Shield; or membership in a prepaid group practice plan. Choice of the kind of protection desired is made by the family or individual; not by anyone else. All programs offered under Medicredit would be approved by the respective states to assure that benefits meets the national standards.

Payment for the private programs of health care protection would come wholly or partly from the federal government, depending on the financial condition of the family or individual.

For persons of low-income who are unable to buy protection for themselves and their dependents, the federal government will pay the total cost of the premium or membership. For persons whose income is higher, the federal contribution is reduced along a specified sliding scale; as income rises, the federal contribution diminishes. Every family, however, is eligible for at least a small amount of federal contribution to provide an incentive for them to protect themselves with an approved policy or plan.

The complete bill is available for your study, so I will provide only limited additional details. And we have also appended to this statement, for your convenience, a brochure containing a rather complete explanation of the proposal.

Each approved insurance program under Medicredit must provide payment of expenses for inpatient care in a hospital or extended care facility; outpatient and emergency care; and physicians' services wherever they are provided. In addition, there is a provision for catastrophic coverage which pays additional expenses beyond those in the basic coverage.

In each case under the basic coverage, the hospital services for which the program pays include all of the services customarily provided, including drugs, supplies, specialized rooms, all forms of care and all needed services.

Under the basic coverage part of the program, inpatient hospital or extended facility care covers 60 days, with two days in an ECF counting as only one day. For persons who need additional care as an inpatient, the catastrophic coverage portion of the program pays for unlimited hospital days and 30 extended care facility days. Medical services would of course continue under the broad basic coverage.

Catastrophic coverage also extends benefits of outpatient or emergency care to include blood and plasma, after the first three pints, as well as prosthetic aids ordered by a physician.

The federal government pays the premium for catastrophic coverage for everyone. The government pays for all or a part of basic coverage depending on the financial condition of the family or individual, measured by federal income tax liability. If a family owes no income tax, the government pays the entire premium. As a family's income tax liability rises, the government contribution reduces from 99 percent to 10 percent, remaining at 10 percent for everyone whose tax liability is $891 or more.

As the income tax liability rises in ten-dollar increments, the corresponding federal contribution toward basic coverage decreases by one percent.

Naturally enough, any broad-coverage

insurance policy, prepayment plan or membership group offering as many benefits as those offered under Medicredit's approved programs must have financial safeguards built into it. The Medicredit deductible and co-insurance are small, compared with the benefits, but they serve very important purposes. Primarily, they keep the total cost of the program lower. And secondly, they discourage abuse or overutilization of the program, either by patients or physicians.

There are deductibles and co-insurance in both the basic and catastrophic coverage, but it is important to note that those incurred under basic coverage apply to the deductible corridor required under catastrophic coverage.

Under basic coverage, the patient pays $50 per stay in the hospital as an inpatient. Second, the patient pays a co-insurance of 20 percent of the first $500 of expenses for outpatient or emergency care; and 20 percent of the first $500 for physicians' services. The co-insurance limit applies to the family as a unit.

Persons who need the additional help of hospital or extended care facility catastrophic coverage are required to satisfy a deductible "corridor" of expenses after basic coverage runs out. The size of the corridor is based on the family's taxable income, being 10 percent of the first $4,000; plus 15 percent of the next $3,000; plus 20 percent of any additional taxable income.

CONCLUSION

The American Medical Association is a responsible organization of responsible professional people dedicating its energies to professional and public education, the upholding of standards of quality, and the advancement on all fronts of the art and science of medicine for the public good. Along with its constituent and component state and county medical societies it strives to enable physicians to discharge those broad societal obligations with which individuals are virtually powerless to cope. Since part of this responsibility lies in giving public expression to convictions as to what may be constructively achieved by legislation, what may be adversely affected by legislation, and what is not amenable to legislative remedy at all, it has of necessity entered into public debate and the giving of congressional testimony. It has welcomed these opportunities, and it is pleased that there has been widespread approval of its position. It is neither surprised nor dismayed by inevitable opposition from those whose views may differ and who find the AMA views either too liberal or too conservative. It is our hope that you will find our considerations helpful in your difficult task.

Mr. Chairman, both Doctor Parrott and I want to thank you on behalf of the AMA for this opportunity of expressing our views on the subject of national health insurance. Let me assure you and this Committee that the physicians of this country want only the highest quality of health care possible to be available to all our citizens, and we want promises to be capable of fulfillment. We urge your full consideration of the Medicredit bill before you, and we sincerely offer our assistance to you in your deliberations on the important subject matter before you.

THE PILGRIMS AS OUTCASTS

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1971

Mr. DRINAN. Mr. Speaker, on Thanksgiving Day Mr. Thomas Boylston Adams, the president of the Massachusetts Historical Society, had a most perceptive, original, and striking article in The New York Times with regard to the contemporary meaning of the Pilgrims who first came to our shores.

I call this extraordinarily creative and thoughtful article to the attention of my colleagues:

THE PILGRIMS AS OUTCASTS

(By Thomas Boylston Adams)

BOSTON.—November is the pious month. In November, politicians, editorialists and sometimes historians spout platitudes as if Plymouth Rock were Old Faithful. It would be better this grim year to remember certain realities of the American experience that began with the Pilgrims.

Mylai is now a household word. It is not remembered that Mylai is in one of the worst and oldest American traditions. On a winter day in 1623 Myles Standish and a half-dozen men from the Plymouth Colony arrived in Quincy Bay, a part of Boston Harbor. Under pretense of trade they lured some of the local Indians into their stockade. Suddenly shutting the gates, they stabbed and murdered two chief warriors, hung another with rope and shot or hacked to death three more.

This is called "the Wessagusset Affair." No white man had been attacked by any Indian. The alleged reason for the massacre was a plot suspected against the settlement at Plymouth. It is a plot whose existence is substantiated only by the testimony of those who committed the murders. It was said to be a preventive action. As such it has been condoned by historians.

One notable protest was made, however, at the time. John Robinson, the Pilgrams' spiritual leader, wrote from Holland "concerning the killing of those poor Indians"—"where blood is once begun to be shed, it is seldom stanched off a long time after." And of their military men "there is cause to fear—there may be wanting that tenderness of the life of man (made after God's image) which is meet."

Robinson's warning has turned out to be unfortunately true. The record of Americans in dealing with weak groups of people of different race has been thoroughly savage. The Pilgrims got us off to a bad start.

This is much the worst, really the only serious crime that can be charged up against the Pilgrims. They were, compared to the later settlers of Boston Bay under Winthrop, decidedly tolerant, almost gentle. And there is another part of their story pertinent to our time. We are accustomed to celebrate their fortunate landing. Material success has always pleased Americans inordinately and a turkey dinner is one of its symbols. It is more appropriate this year to remember the flight of the Pilgrims from their homeland.

In many respects the Pilgrims resembled those we now call draft resisters. They found intolerable a society whose aims they totally deplored. In protest they risked life and property and took the chance of exile.

Tudor and Stuart England required complete compliance with the King's will. Dissent was a crime and the crime of advocating dissent in others was worse still.

The whole system seemed rotten to a gradually enlarging group of serious people. Those who felt deeply the guilt of association with the corruption of government fled to Holland. But their flight was little noticed by their contemporaries. To the authorities the chief interest of the refugees was the opportunity to confiscate their property. The populace called them "Brownists," a term of contempt like our word "hippie," and occasionally enjoyed watching the humiliation or execution of one of them.

Looking back into history we can see portents where contemporaries saw only subjects for ridicule or active dislike. For when conditions become sufficiently intolerable so that an appreciable number of people flee their country things may be getting serious. It is like the flight of geese southward. So it proved with the Pilgrims. Within their generation there was a complete overthrow of the regime that forced them out. The notion of divine right on which it was based was utterly discredited and the King was beheaded.

For intolerable governments have a tendency to destroy themselves while building up and enriching other nations. America has commonly been the beneficiary of such social profligacy. Those we call Pilgrims were but the first comers. The Reformation continued to send refugees for well over a hundred years, both Protestant and Catholic. And the repressions of liberty in nineteenth-century Europe kept up the flood, aided by economics and military conscription. The enrichment of our society by the flight from fascism is a major fact of our time.

Only black slaves found America intolerable in the nineteenth century. But the increasing flight of slaves from the South foreshadowed the Civil War. The flight of young men to escape the American draft may be a similar portent. It reveals a society ill at ease, a society that depends more than formerly on repression to hold itself together. There can be no Thanksgiving till the strange unnatural tide of young Americans away from their country is stopped. Till again America is a land that Pilgrims come to, not a land that they flee.

FUTURE U.S. POLICY FOR THE INDIAN OCEAN

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1971

Mr. HAMILTON. Mr. Speaker, the fall 1971 issue of the Johns Hopkins University S.A.I.S. Bulletin contains a useful and imaginative essay on what should be the future policy of the United States in the Indian Ocean area. In it, Prof. John Badgley argues persuasively for an international agreement to demilitarize this vast sea area and to promote the development of the Indian Ocean for economic and scientific purposes. I recommend his remarks to my colleagues.

AN AMERICAN POLICY TO ACCOMMODATE ASIAN INTERESTS IN THE INDIAN OCEAN

(By John Badgley)

(NOTE.—Dr. Badgley, Associate Professor of Asian Studies and Political Science, is presently Director of the SAIS Asian Studies Program.)

This essay deals with the interests of major Asian powers, as well as the principal concerns of lesser powers influenced by developments in the Indian Ocean. Such considerations should remind U.S. policymakers of Asian regional interests at a time when they weigh world issues primarily for their significance in Sino-Soviet-American relations. Granting the primal importance of advancing a detente between these three great powers, the effort should not be at the expense of other Asian countries, for to ignore their interests only invites their enmity, and eventually will lead to unnecessary conflict.

Although most of these remarks are directed toward the Indian Ocean concerns of Asian states, a basic assumption should be stated at the outset. This assumption is that the Soviet Union correctly perceives itself as an Asian power, with vital strategic interest along its vast border, in the Atlantic, Pacific, and in the Indian Ocean. As long as the United States has the capability of moving long range missile craft into each of these oceans, the USSR will be vulnerable and seek to ameliorate that threat.

An economic interest in the three oceans is also significant, for over half of the Soviet Union's territory rests within the continent of Asia and much of its unexploited natural resource base is there. Internal air and ground transportation to the Pacific Maritime States remains a basic problem, therefore open shipping lanes and warm water ports, the classic Russian quest, are still vital to domestic development. Because the Trans Siberian route is vulnerable to a Chinese threat, the Indian Ocean offers an important transportation option.

Objective analysis justifies Soviet strategic interest in the Indian Ocean. Therefore the real issue is whether a Soviet naval presence is an appropriate instrument to defend that interest. (See Marshall Shulman, "What Does Security Mean Today", *Foreign Affairs*, Vol. 49, #4, July, 1971). The current disposition of a small flotilla of a dozen ships stationed between the Mauritius and the Red Sea suggests some uncertainty on their part, for no base is being developed and these craft rotate from both Pacific and Atlantic commands. Soviet Middle East commitments and the goal of global strategic parity with the United States complicates the issue, but thus far have not induced the Russians to create a major Indian Ocean naval presence. This essay will return to that issue after considering interests of other Asian states, for such a competition would drastically affect their future.

ASIAN INTERESTS

Whereas every Asian state must eventually worry about the future of the Indian Ocean, Japan has an immediate interest there, for its economic survival is at stake. Over four fifths of Japan's petroleum (or $1.7 billion worth in 1970) comes from the Middle East, and while that proportion may decline by half over the next decade as Indonesian oil exports increase, Japan will retain a strategic interest in Indian Ocean accessibility. Apart from a critical need for petroleum energy and by-products, foreign trade (over $48 billion in 1970) accounts for a quarter of Japan's burgeoning national product, and increases at a high annual rate (between 15 and 23 percent annually over the past decade). Southeast Asia, Africa, and Europe account for a third of that total, about equal to the trade across the Pacific with the United States, and most of the non-Pacific trade is shipped across the Indian Ocean or its littoral waters in Southeast Asia.

Japanese interest in open sea lanes is self-evident for these several reasons, yet Japan does not compete for naval supremacy, parity, or even a token Indian Ocean presence to parallel the Soviet and American flag showing. Why? Ostensibly the reason is in Article Nine of the Constitution which prohibits offensive weapons; nonetheless, Japan's military power is expanding without planned expenditures for a distant naval reach. No responsible Japanese politician has even suggested that Japan should create a defense for its trade routes.

Opposition party leaders agree with the government that Japan's security is not advanced by armament for strategic purposes, while support continues to rise for a military posture akin to that of "a hedgehog with rabbit ears," to use former Defense Director Nakasone's phrase, that is a capacity for defense against non-nuclear attack and a sophisticated communications network. The fourth Defense Plan calls for increased expenditures on short-range, anti-submarine vessels, aircraft, and electronic detection devices, as well as research and development of short-range missiles with an anticipated defense budget of about $4 billion by 1976; the largest in Asia apart from the USSR. Japan's defense perimeter stops at its coastal waters, with "special interest" in South Korea, Taiwan, and the potentially oil rich China Sea.

Obviously, the American nuclear umbrella is vital to persistence of this policy, which is founded upon the assumption of prompt U.S. support against nuclear threats from either the USSR or China. To loosen the credibility of the alliance could trigger a complete reconsideration of defense posture in Japan, with an Indian Ocean and Southeast Asian fleet a plausible denouement.

The situation facing the Indian government is of the same dimension as that in Japan. India has a vital stake in the disposition of military forces in the Indian Ocean, for it is the preeminent power in the region with a 800,000 man army, a significant air force, but a small navy. Like Japan, India also requires open sea lanes as its foreign trade is growing rapidly and steady economic development is absolutely critical to internal political stability, yet neither power can defend its maritime interests.

Unlike Japan, India lacks the industrial capability to develop a strategic navy should it choose to show its flag outside immediate waters to defend its burgeoning merchant fleet. Since the USSR commenced to develop its Indian Ocean flotilla in 1968, and the United States subsequently committed itself to build a major communications installation at Diego Garcia, India has pressed forward a policy of neutralization for the entire Indian Ocean, which is an extension of its traditional non-alignment policy. However, it is not clear whether Mrs. Gandhi is advocating freedom of the seas, or is interested primarily in banning super-power competition in the Indian Ocean, by denying the area to Soviet and American navies. In any event, both powers now make annual port calls in Indian ports.

There is evidence that India aspires to improve its security by becoming the paramount power in the sub-continent, particularly given its current involvement in the Bangla Desh liberation movement. The substantial aid given to Ceylon during its recent crisis, the long-standing commitments to the Himalayan states, and a covert assurance to assist Burma in the event of a Chinese attack all point towards paramountcy. Pakistan, of course, remains the chief obstacle to India's aspirations, and the current crisis in East Pakistan seriously threatens the unstable peace arranged at Tashkent in 1965.

Enlargement of the Indian navy, now about 40,000 men, continues and is viewed as a threat by Islamabad because of India's ability to blockade both East and West Pakistan ports, although that step has never been taken. The Soviet Union, of course, is India's major source of military aid, although British-made vessels constitute most of the navy, with the number of Indian-built patrol vessels increasing rapidly. The basic defense posture parallels Japan, for Indian force disposition, allowing for the differences of geography, also resembles "a hedgehog with rabbit ears."

The People's Republic of China clearly has an interest in the Indian Ocean because of its potential as a base from which submarine missiles, either Soviet or American, might be launched. Also, China shares with Japan and India a need for open sea lanes as its external trade expands; however China is least dependent on trade of these three powers at the present time, despite the need for grain following the disruptions of the Cultural Revolution and bad crop years in the late '60's.

China shares with India a desire for paramount stature in its region. However Soviet and Japanese competition, in both military and economic terms, is viewed by the present government as a serious threat to China's security and future development. Unquestionably that perception of threat accounts for China's expressed interest in the demilitarization of the Indian Ocean, as well as the removal of foreign bases from Southeast Asia, for these are both areas that appear as links in the encirclement of China by the superpowers, in league with Japan, India, and the major Southeast Asian states hostile to communism.

Indonesia is the most significant power in Southeast Asia which might threaten China should it ally with either super-power, and it also represents an alternative pole to Indian dominance of Southern Asia. Under Sukarno that polar position was emphasized and China sought an alliance to expand its zone of influence in Asia. Since 1966, however, Indonesia has scarcely had an Indian Ocean Policy, for its Russian-supplied fleet has fallen into disrepair and Sukarno's, more accurately, Subandrio's, vision of a confederation of Malay peoples stretching from Malagasy to the Polynesian Islands seems to have died.

Nonetheless, as Indonesia's power increases with its economic growth, and as skillful diplomacy on the part of Jakarta weaves a respect for regional security without super-power involvement, the prospect for Indonesian preeminence in Southeast Asia seems more plausible. Indonesia's deep economic involvement with Japan, a condition shared with other non-communist states in Southeast Asia, contributes to China's fear of Japan's dominance in the area, but from the vantage point of insular Southeast Asian states, Jakarta represents the largest neighbor, and in recent years, a responsible government with reasonably foreign policy objectives. Continuance of that trend over the next decade may lead to renewed Indonesian interest in their own Indian Ocean presence, paralleling that of India's. For the present, the government speaks casually of neutralization in South and Southeast Asia, eschewing permanent bases by either super-power or Japan.

Although Australia is not an Asian power, its propinquity requires our consideration. As with the Asian states, Australia has no capability to defend its trade routes, despite a substantial dependency upon Japanese, American, and European trade. The ANZUS Treaty has provided Australians with a sense of security that was severely challenged by Japan during World War II. Removal of the British presence east of Suez increases Australia's need for the American alliance, particularly if the Soviet Union should further expand its naval presence and increase its ability to interdict Indian Ocean shipping. Probably for that reason, Australia accepted a new American communications installation on the North West Cape, bordering the Indian Ocean, which apparently provides the United States with satellite surveillance connections to the huge station in Ethiopia and Diego Garcia. Apart from the firm alliance with the U.S., however, Australia makes no pretense at developing an Indian Ocean navy. Its 13,000 man navy is relevant to SEATO maneuvers, the first of which were held in the Indian Ocean south of Indonesia last year, and to patrolling territorial waters, but is meaningless on the 25.3 million square miles of Indian Ocean waters.

The lesser powers in Southeast Asia, ranging from Burma to the Philippines, all advocate freedom of the seas. With American disengagement from the mainland of Southeast Asia, the foreign policies of all the non-communist states begin to converge. Burma and Thailand, so long at odds on the issue of alignment vs. nonalignment, now articulate a similar goal in their efforts to accommodate China. Malaysia, the Philippines, and Singapore share Indonesia's willingness to neutralize Southeast Asia from the Cold War, and also seek a new relationship with China in the wake of American negotiations.

Each depends upon external trade and investment for their development, yet none seeks an independent naval capability to defend the sea lanes. The Seventh Fleet has been re-assuring to those governments who perceive a threat from China, as do the present regimes in Saigon, Phnom Penh, and Vientiane; but no government in the region has raised the specter of Soviet interdiction of their shipping. Indeed, increased Soviet trade is actively sought by all but the Indo-China states at war with North Vietnam.

A NEW POLICY

This cursory summation of Asian states' interests in the Indian Ocean provides background for a proposed new policy departure by the United States. Another vast territory bordering the Indian Ocean, Antarctica, offers a model of international amity. On May 2, 1958, President Eisenhower proposed a dramatic step forward in the attainment of world peace by seeking an avenue whereby Antarctica could avoid becoming "an object of political conflict." At the time few students of the Cold War thought the proposal could be adopted; yet within two years the international agreement was reached which enabled these two elementary objectives to be achieved: 1) an accord compatible with the strategic and security interests of neighbors and the world community; and, 2) creation of an organization for efficient development of scientific knowledge, economic resources and exploration of the continent.

Few have thought of the relevance of Antarctica, with its six million square miles and its international situation, to the Indian Ocean. Despite the enormous differences in the strategic and legal problems involved between a land and an ocean area, it would be fitting for the present administration to seek an accord paralleling that Antarctic settlement.

Consider the similarity between the problem faced in 1958 and the one we deal with today. A huge area, claimed but unsettled by the interested powers, had a potential to threaten the security of both superpowers as well as the neighboring states. Its resources were untapped, although scientists speculated that they might be of substantial value. Above all, the competition of the Cold War forced the U.S. and the USSR to perceive the area as threatening should it come under the control of the other power.

The Indian Ocean, of course, is far more vital to the Asian states, Africa, and Europe as a broad highway upon which to ship critical oil and a supply of goods essential to world economic development. The area is too important to become a cockpit of rivalry between Chiefs of Staff, it demands the attention of Heads of State.

At the present time no power has such a naval investment in the Indian Ocean that it could not be removed and still ensure its interests if other exogenous powers also withdrew. Granting the technological difficulty of preventing submarine movement through the area, one has only to consider the problem of nuclear weapons in space to see the same issue, and to find it resolved in the Space Agreement.

Forty-two political entities abut or have immediate access to the Indian Ocean; in addition, France, Great Britain, the United States, the Soviet Union, and Portugal maintain installations in the Ocean. Agreement among these highly diverse states as well as the great powers of China and Japan will doubtless be difficult to obtain. Just how such an agreement might be attained is also difficult to imagine although two distinct approaches suggest themselves. Ambassador Soedjatmoko of Indonesia has proposed an arrangement for East Asia and the Pacific as envisaged by Article 52 of the United Nations Charter, an idea that could be applied with even greater force to the Indian Ocean. (Soedjatmoko, "The Role of the Major Powers in The New Asia." Paper presented at an Arlie House Conference, May 20, 1971.) With the forthcoming admittance of the People's Republic of China to the United Nations, one major obstacle is removed. As part of our negotiations with China, the United States should raise the Indian Ocean issue, with a view to engaging Peking's support for a settlement within the framework of the United Nations.

Another approach conceived by Philip Jessup for the Antarctic problem was the formation of a Commission, akin to that of the Caribbean Commission created in 1946. (Philip Jessup. *Controls for Outer Space and the Antarctic Analogy*, Columbia University Press, 1959.) Such a Commission might enlist the participation of all littoral powers as well as those with shipping interests, with a view to developing the Indian Ocean for economic and scientific purposes.

Unquestionably, the maritime interests of the Asian states would be served by a demilitarization agreement, and the expenditures saved from the refusal to develop navies with strategic capability would be enormous. Fortunately, none of the Asian powers currently plan such naval capability. American strategic interests would be served by Soviet Agreement to withdraw flotilla, in exchange for the three American ships stationed in the Persian Gulf. It is quite possible that Soviet-American agreement would be easier to attain than the approval of India and Iran, both of whom have recently developed navies of sufficient size to dominate their immediate waters in the Persian Gulf and the Bay of Bengal, if the super-powers withdraw.

It would not be inconsistent with such an agreement for the major and lesser powers flanking the Indian Ocean to seek such improvements of their naval forces as would be consistent with internal security needs. Thus continuance of military assistance programs, the training of officers and loans for the purpose of purchasing light naval craft and short-range air craft, might be permitted within restrictions agreed upon by the signators. Furthermore, the communications facilities needed by the United States, Soviet Union, Japan, Great Britain, China, France and other countries with communication satellite programs could also be accommodated by such an agreement, given the political will. Such open surveillance probably would be necessary as insurance for the major powers that others are not cheating. Should any exogenous power seek to take advantage of the settlement, through covert development of a naval installation, exposure would be practically assured because of the active non-military development programs encouraged by an Indian Ocean Settlement.

This brief proposal is insufficiently researched to make a compelling case, but it should elicit interest from those who aspire toward a major settlement of strategic conflict in Asia. Without some such arrangement in the Indian Ocean, it is quite possible that a new arms escalation will develop within the next year, at the moment of settlement in the SALT talks and Sino-American rapproachement. Certainly, American naval strategists are uneasy with the expanded Soviet presence in the area, and Soviet suspicions are aroused by American investment in a communications facility that could easily be transferred into a naval base, once the harbor is developed. None of the major Asian powers particularly desire extension of the superpower rivalry into "their" ocean. Indeed, both India and China are strongly opposed to such a development, albeit for different reasons.

Would not all the Asian powers be prudent to take a cue from the Japanese and deter exogenous naval expansion into the area, while improving their own capability to defend themselves against local attacks? The role of submarines in this situation complicates the problem, and memories of the Washington Naval Conference failure suggest pitfalls in maritime arms control agreements. For example, India already has four submarines and China is said to be building a nuclear powered submarine which would have the capability of firing nuclear missiles. In time, such expansion of naval capability would destroy any possible agreement; however it is just conceivable that an Indian Ocean agreement would be sufficient insurance for Asian powers to permit them to take the risk of having no strategic naval capability, and use the resources saved from such expenditures for land forces or, better yet, human resource development. Japan excepted, the population pressures on all the major Asian powers are so great that over the next three decades they may well seek to minimize the costs of military security, so as to enhance their capability to deal with threats to their political security from internal groups frustrated by the slow pace of modernization in the countryside.

SUMMARY

All of the major Asian powers, including the Soviet Union, have interests in the Indian Ocean. For Japan and India these interests represent a vital life line to continued economic growth through rapid expansion of their trade and, in the case of Japan, import of petroleum. China, Pakistan, Indonesia, and Australia are necessarily concerned about the disposition of strategic forces in the Indian Ocean for their security would be deeply influenced should a hostile power gain dominance. The lesser powers share the concerns for trade and security with the major powers, but are even less able to defend those interests.

Since no country has significant naval capabilities at the present time in the Indian Ocean, it is propitious to consider an Indian Ocean agreement that would prevent the growth of naval installations by exogenous powers, and would encourage the development of the Indian Ocean for economic and scientific purposes. Such an agreement might be an extension of the Antarctic accord which has worked to the advantage of the world community and demonstrates the feasibility of Soviet-American cooperation through elimination of the need for conflict in a region remote from both their vital interests.

COURT SHUTS DOWN A DRUG FIRM

HON. DAVID R. OBEY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1971

Mr. OBEY. Mr. Speaker, a story in the National Observer for the week ending December 11 reports that U.S. District Court Judge James A. Coolahan has ordered the Lit Drug Co., Union, N.J., to stop production and to recall 725 lots, or batches, of 243 different medicines.

The story by August Gribbin adds that the Food and Drug Administration regards Judge Coolahan's order as precedent setting, and quotes an FDA official as saying the decision:

> Will prove to be a great benefit to consumers. Now when our inspectors "request" that a company make a recall or otherwise shape up, the company will take us more seriously. We can march to court and get an injunction that might require the company to get the junk off the shelves, or shut down until it does.

The story, headed "Court Shuts Down a Drug Firm," follows:

COURT SHUTS DOWN A DRUG FIRM

(By August Gribbin)

A little-known drug manufacturer has been marketing misbranded, adulterated, and potentially deadly medicines. Finally a landmark court order has forced the Lit Drug Co., Union, N.J., to stop production and to recall 725 lots, or batches, of 243 different medicines.

The court order itself is significant. Federal officials believe this is the first order to require a product recall as a condition for resuming normal business.

It is still not clear what threat persists, if any, or what harm, if any, the Lit Co. medicines may have caused patients. But U.S. District Court Judge James A. Coolahan of Newark, N.J., among others, considers the situation serious. In issuing the injunction forcing Lit to stop production and recall its faulty medicines, the judge wrote:

"Clearly, the grave, apparent, and immediate threat to public health and safety in this case is incomparable to that faced by courts in . . . [similar injunction cases], and the scope of the injunction must necessarily be broadened to accommodate this wider interest."

The Food and Drug Administration (FDA) sees Judge Coolahan's order as precedent-setting. It provides the FDA with a powerful tool—one FDA official calls it a "tremendous club"—to force drug manufacturers to pay stricter attention to FDA requests.

Lit's 1,000-plus customers include drug wholesalers, drugstores, individual physicians, and larger, better-known companies that subcontract to Lit for private-label drugs. The FDA, which routinely listed the Lit recall last week, "does not know" exactly how many different labels contain Lit products.

Company president Stuart Lazarus "won't talk about that or anything else" with The National Observer; repeated efforts to obtain comments and information from the company failed.

The unusual Lit Drug case surfaced following a routine mention of the company's large recall campaign in FDA bulletins which became available last week. As it develops, the recall is almost anticlimactic.

In three years, Lit Drug Co. has issued more than a dozen recalls of drugs, and those were just a few of the recalls the FDA had requested. After three FDA hearings on charges of drug-code violations, the company earlier this year signed a consent decree agreeing to change certain practices. A consent decree is a legal document in which the accused agrees to specified remedies but doesn't admit guilt.

But subsequent FDA charges and court findings indicate the company did not change those practices. Later, before Judge Coolahan, Lit Drug admitted to improper, inadequate, and illegal recordskeeping and paid a fine of $3,000. But the company continued the practices, admitting to that continuation in the most recent court action against it.

Current FDA policy permits the agency to conduct lengthy prerecall transactions without making them public. After a recall is announced, however, the FDA normally will add details. In the Lit case, though, the agency hasn't yet established all the details.

MANY PRIVATE-LABEL DRUGS

For instance, the FDA says it can't tell how many companies buy Lit-made products for resale under their own brand names. So there may be more companies involved than the 40 cited in the recall notice, which lists such companies as Aetna Mail Order Corp., New York City; Scarborough Health Foods, Plantation, Fla.; Prime Pharmaceuticals, Inc., Miami; and Haberle Drug Co., Inc., Montclair, N.J.

FDA officials say that practically all Lit products manufactured since 1965 are suspect because of Lit's court-admitted disregard of normal production, labeling, and testing procedures for drugs. Government inspectors say that Lit has been shipping "finished products" that failed laboratory tests, and that the company has not made the required tests for potency of various over-the-counter and prescription drugs, including medications prescribed for heart-disease and hypertension patients.

Lit Drug Co. admitted that it didn't properly inspect such important raw materials as reserpine and rauwolfia serpentina before processing them into products used by chronic high-blood-pressure victims. FDA's legal department says that some of Lit's nitroglycerin pills failed to dissolve within the required time.

To ward off attacks, some heart-disease patients must take nitroglycerin pills at the first sign of stress. The pills must dissolve in the mouth—fast. Nitroglycerin's efficacy diminishes if the medicine passes to the stomach before dissolving.

The Government has found serious problems with other Lit Co. heart-disease drugs, such as digoxin and digitalis, and also with such common products as aspirin, Vitamin C, saccharin tablets, penicillin, and prescription remedies for asthma.

No one knows, or can yet know, whether or how much anyone has been hurt by Lit's products. That information may never come out. But in explaining the scope of his legal action against Lit, Judge Coolahan wrote:

JUDGE CLOSES THE PLANT

"The defendants have been engaged in an overt, long-standing schematic, and unpenitent thwarting of the law, particularly a law enacted for the protection of an otherwise helpless consumer public. . . ."

The judge also wrote, "Only during a brief span of months in 1968 did the FDA consider Lit Drug Co. to be in compliance with the law." He then ordered the company, before resuming business, to correct 10 specific "deficient practices" in manufacturing, quality control, and records-keeping. He stipulated that Lit must make available for Government inspection all products still at the company plant and reimburse the Government for inspection costs.

Then Judge Coolahan took the unusual step of ordering the company to recall, at its own expense, all of its defective products—before resuming operations. In these cases, a court typically fines a company for violating safety laws and enjoins it not to err again. Often the fines are relatively light, little more than a slap on the wrist, FDA officials say.

The FDA cannot recall products on its own. It must request the accused company to pull back its faulty wares; it depends on the company's "voluntary compliance." Ultimately the FDA can seek court authority to seize tainted foods or drugs. But it rarely does that, assertedly because of the operational difficulties and high costs of seizure actions.

In fact, the FDA did not seek seizure authority against Lit Drug Co. Rather, after requesting many recalls of which Lit agreed to honor 15, the FDA held three hearings in Brooklyn, N.Y., alleging that Lit was violating the law and producing drugs in a potentially dangerous way.

According to Judge Coolahan's written decision, Lit Co. officially asserted at each FDA hearing that it would clean up its operations; each time, Lit did nothing. In April 1971 the Justice Department, at FDA's request, filed a criminal complaint against Lit in Federal court. The company pleaded guilty and was fined $3,000. But its offenses continued.

The FDA then returned to court with another complaint. Normally Lit could have continued its procrastinations indefinitely, letting the FDA take it to court on a case-by-case basis and calculating the relatively light fines as a business cost. Judge Coolahan made that impossible.

PRECEDENT TO HELP CONSUMERS

Finally, five weeks after the judge's verdict and three years after the FDA began pressuring Lit, the company capitulated and issued its recall. Then, in the Nov. 11 issue of its letter-size "Recall Report," the FDA officially noted Lit's "voluntary" action. Even then, only persons with access to the recall circular would have known that a serious drug hazard existed.

Says one FDA official: "The [court] decision will prove to be a great benefit to consumers. Now when our inspectors 'request' that a company make a recall or otherwise shape up, the company will take us more seriously. We can march to court and get an injunction that might require the company to get the junk off the shelves, or shut down until it does."

In his written opinion, Judge Coolahan is less sanguine about the Lit Drug affair. Said the judge: "It may well be that the FDA has not yet uncovered all infractions of which defendants are guilty. . . . The facts give rise to this presumption."

PROPER ROLE OF THE PRESS

HON. LAWRENCE J. HOGAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1971

Mr. HOGAN. Mr. Speaker, the past year has been one of major controversy over the proper role of the press in our society. We have had an unprecedented number of court cases involving the boundaries of a reporter's right to withhold information about his sources

We have had the "brouhaha" over the publication of the Pentagon papers. And we have had the vote in these Chambers on the CBS news production, "The Selling of the Pentagon."

It is not my intention here today to discuss all the issues raised by these journalistic concerns but rather to focus briefly on "The Selling of the Pentagon" and in particular on an article written by Jimmie N. Rogers and Theodore Clevenger, Jr., which appeared in the October 1971, issue of the Quarterly Journal of Speech.

In the article the authors painstakingly document their case that the "Pentagon Propaganda Machine," written by the junior Senator from Arkansas, was the fundamental and major source for the arguments advanced, and the approach used, by CBS in "The Selling of the Pentagon."

And yet, the authors point out, nowhere in the broadcast did CBS acknowledge the role the Senator's book and arguments played in the documentary.

In conclusion the authors say:

> Since we share the position with CBS that the public has a right to know, we believe the public should be informed that the principal difference between the Fulbright case against "The Pentagon Propaganda Machine" and the CBS report on "The Selling of the Pentagon" is a difference in media; significant dimensions of the message in both cases are the same, and the primary source of that message is J. William Fulbright.

If the authors' thesis is correct, then surely presentation of the Senator's influence on the broadcast should have been considered part of the public service CBS is licensed to render the Nation.

Because of the importance of the issue and its relationship to our fundamental concepts of the freedom and responsibility of the press, I insert Messrs. Rogers and Clevenger's full article into the RECORD at this point.

The article follows:

"THE SELLING OF THE PENTAGON": WAS CBS THE FULBRIGHT PROPAGANDA MACHINE?

(By Jimmie N. Rogers and Theodore Clevenger, Jr.)

On the evening of February 23, 1971, CBS broadcast a special, hour-long report on The Selling of the Pentagon.[1] Heralded as an example of investigative reporting, the documentary carried strong evaluative overtones that roused a storm of protest.

In the ensuing media coverage, commenting on the validity of the CBS stand, J. William Fulbright, junior Senator from Arkansas, noted that he had called attention to many of these issues some time ago.[2] A careful reading of the record shows that Fulbright was much too modest. In a series of four widely publicized Senate speeches in December, 1969,[3] and in a book published in November, 1970,[4] just three months before CBS presented its report, Fulbright had in fact laid out virtually the entire CBS case.

Although Senator Fulbright is nowhere mentioned in the documentary, it follows his case against "The Pentagon Propaganda Machine" almost point for point, not merely with regard to themes and issues, but in both type and usage of supporting materials. This similarity is close enough to suggest that CBS merely provided TV coverage for the case already developed by Fulbright.

In this report, we document six points of remarkable similarity between the CBS case against Pentagon public relations policy and the case made earlier by Fulbright:

1. In summarizing his case against the Pentagon, Fulbright lists seven objections to presently used public relations devices of the Defense Department. In The Selling of the Pentagon, CBS emphasizes all seven.

2. A sequential outline of the broadcast reveals virtually no topics not previously covered by Fulbright.

3. An outline of the major and minor themes covered in The Selling of the Pentagon reveals virtually no themes not previously discussed by Fulbright.

4. There is a striking similarity between Fulbright and CBS in the use of statistical support.

5. There is a striking similarity between Fulbright and CBS in the use of references to specific individuals as authorities and supporting examples.

6. A surprising number of the individual sentences read by the narrator (Roger Mudd) in The Selling of the Pentagon contain assertions previously made by Fulbright.

The similarity in viewpoint between Fulbright and CBS is perhaps most quickly grasped by viewing the documentary in light of Fulbright's summary of a major part of his own case. In *The Pentagon Propaganda Machine*, he sums up his objections to the public relations activities of the Defense Department in the following points:

1. Of course the military needs an information program. But it should be one designed to inform, not promote or possibly deceive.

2. There is no need for production of self-promotional films for public consumption. . . .

3. There is no need for sending speakers at taxpayers' expense anywhere from Pensacola, Florida, to Portland, Oregon, to talk to luncheon clubs and veterans organizations.

4. There is no need for setting up expensive and elaborate exhibits at state and county fairs.

5. There is no need for taking VIP's on pleasant cruises to Hawaii aboard aircraft carriers.

6. There is no need for "Red," "White," and "Blue" teams criss-crossing the country, "educating" people about the dangers of communism, the need for patriotism, and the Gross National Product of newly independent lands.

7. There certainly is no need for military production of television shows for domestic, commercial use showing "feature" aspects of the Southeast Asian War.[5]

All of these major Fulbright issues constitute principal thrusts of the CBS expose: costly self-promotional films, the ready availability of military speakers, expensive promotional exhibits, red-carpet tours for civilian community leaders, the "touring Colonels" promoting an outmoded cold-war view of U.S. foreign relations, and Pentagon propaganda films on the Vietnam war, all designed, not to inform the electorate but to aggrandize the military and deceive the public. Each of these points emphasized by Fulbright also receives extended coverage in the CBS report. Taken together, Fulbright's seven points summarize the CBS case about as well as they summarize his own.

The major content of the CBS broadcast is arranged under three main points, with each of these divided into a number of subpoints, according to the outline below:

SEQUENTIAL OUTLINE OF MAIN AND SUBPOINTS IN "THE SELLING OF THE PENTAGON"

I. Pentagon Direct Contacts with Citizens
A. Armed Forces Day
B. The Touring Colonels
C. Travelling Exhibits
1. General Data
2. The Thunderbirds
3. The Green Berets
D. Military Speakers
E. VIP Tours
II. Armed Forces Promotional and Propaganda Films
A. Background Information (cost and number)
B. Use of Well-Known Stars
C. Propaganda Purpose of the Films (examples)
III. Defense Department Manipulation of the Media
A. Introductory Comments (the right to know)
B. The Press Briefing
C. Obstacles to the Press
D. The Hometown News Center
E. The V-Films
F. Staging Faked News Events
G. Military Use of Jargon

All three of the broadcast's main points are dealt with at great length in Fulbright's speeches and book. With regard to the subpoints, Fulbright had failed to discuss only I–A, I–C–3, and III–G. Thus it would seem fair to say that the great majority of entries in the sequential outline of the CBS report could easily have been taken directly from the prior works of Fulbright.

In making its case against the Pentagon propagandists, CBS develops six major themes, three of them clearly differentiated into a number of minor themes, which may be outlined as follows:

MAJOR AND MINOR THEMES IN THE CBS CASE AGAINST PENTAGON PUBLIC RELATIONS

I. The Pentagon pours enormous sums into public relations.
II. Millions of civilians are exposed to Pentagon propaganda each year.
III. Pentagon propaganda takes every conceivable form.
A. Special maneuvers.
B. Promotional films.
C. Red carpet tours.
D. Traveling exhibits.
E. Military speakers.
F. Use of entertainment and media figures as spokesmen.
G. Managed contacts with the news media.
IV. Pentagon propaganda projects a distorted view and warped values.
A. It emphasizes values.
B. It glamorizes violence.
C. It is out of line with State Department policy.
D. It is obsessed with monolithic communism.
E. It insists on America's role as the cop on every beat.
V. Pentagon spokesmen distort and deceive.
A. They mislead the media and the public about
1. their intentions.
2. their propaganda methods.
3. the cost of their public relations.
4. the role of the military in the nation and the world.
B. They mislead newsmen and the public by
1. placing obstacles to the free flow of information.
2. deliberately concealing information they do not want released to the public.
3. staging faked "news" films.
4. inundating the media with favorable news releases.
VI. Pentagon public relations activity continues to proliferate regardless of the administration in power.

This outline does not reflect the order of presentation in the documentary. It emerges when one extracts the assertions made by CBS and the inferences they drew from their examples, actualities, and interviews, and organizes these assertions and inferences into a consistent pattern. As we conducted the analysis, we were repeatedly struck by the peculiar ability of the TV medium to weave a variety of themes into a single sequence of brief duration. To sort out issues and relationships in a skillfully done TV broadcast is much more difficult than to perform the same operation on a speech or essay, even for the analyst with script and videotape at his disposal. For the average citizen watching TV in his home, truly critical viewing must be almost impossible.

When the major and minor themes developed by CBS are compared with Fulbright's earlier statements, one finds no major theme not previously covered by Fulbright. Two of the minor themes (4–B and 4–C) are not dealt with directly by Fulbright, but all of the other minor themes are recurring topics in Fulbright's book and speeches. Thematically speaking, the CBS special report could have been taken virtually in its entirety from earlier works of the junior Senator from Arkansas.

Both Fulbright and CBS make extensive use of statistical evidence to support and dramatize their arguments. In The Selling of the Pentagon CBS uses 33 specific statistics. Of these, eleven are identical with figures reported earlier by Fulbright. Given the wealth of data available from the Defense Department, it is notable that CBS should have used so much of the same data as Fulbright.

Even more notable, in some cases CBS used Fulbright's figures even though more recent information was presumably available. For example CBS listed the cost of the Army exhibits program as $906,000.00, which is the amount found in Fulbright's material for fiscal 1969.[6] A more interesting use of statistics can be demonstrated by both the network's and Fulbright's reference to the cost of the program for fiscal 1969 is found in a letter from Major General Wendell J. Coats, which Fulbright inserted into the *Record*.[7] The figure of $902,529.34 was rounded off by Fulbright in his speech [8] and that rounded figure was used by CBS to describe the cost of the activity.[9]

More striking still is the extent to which CBS uses statistics to support themes earlier emphasized by Fulbright. All of the CBS statistics are marshaled to support the propositions outlined below:

1. The DoD spends a vast and increasing amount of money on information and public relations.

Footnotes at end of article.

A. The amount is great.

B. This amount is increasing.

2. The military message is presented, at taxpayer expense, to millions of people all over the country.

A. The travelling speakers are active and costly.

1. They go to many cities.

2. They address large groups.

3. They meet many speaking engagements.

B. The military exhibits travel widely.

1. They go to many cities in many states.

2. They are seen by millions of people.

C. Specially staged war games and travelling demonstrations are seen by millions.

D. Guided tours for many influential civilians are staged at great cost.

1. Many local opinion leaders are treated to these lavish tours.

2. The guests pay only a fraction of the tour costs.

E. The Pentagon makes many films at great cost and distributes them widely.

1. The DoD makes hundreds of films a year.

2. The films cost millions per year.

3. The films are widely distributed to civilian audiences.

3. The Pentagon has a vast machinery to inundate press and media with favorable news releases, tapes and newsfilms, while concealing unfavorable news.

A. Millions of press releases and thousands of radio and TV tapes are sent out each year.

B. An enormous amount of personal communication passes into and out of the Pentagon each day.

4. Defense Department figures on the cost of these programs are unreliable.

A. Figures are adjusted to suit DoD purposes.

B. The cost of controversial programs is underestimated because certain expenses are not included in the accounting.

With the exception of point 3–B, each of the above propositions is a salient theme in the Fulbright case. He, too, uses statistical evidence generously in supporting these themes, and in most cases uses parallel figures. For instance, Fulbright reported the number of states and cities visited by the Army's Exhibit Unit (120 cities in 34 States) over a six month period.[10] CBS reported the number of cities and states (239 cities in 46 states) visited by the same exhibit in a year.[11] The cost reported for that activity was the same.

Clearly, the statistical evidence in the CBS documentary is similar where not identical in content, and is used in the same way, to support the same arguments, as statistical evidence presented earlier by Fulbright.

Both Fulbright and CBS make frequent reference to specific individuals, sometimes as authorities and sometimes as examples of a point. All together thirty individuals are mentioned by name in The Selling of the Pentagon. Fifteen of these thirty were previously identified by Fulbright, almost invariably in the same context as for CBS. Given that thousands of officers and enlisted men are engaged in public relations work for the Defense Department, and that dozens of entertainment and media personalities have contributed talent to Pentagon promotional films, it is hardly likely that coincidence would account for such a substantial overlap.

The point becomes even more convincing when we examine the themes or assertions individuals are introduced to support. The thirty specific individuals named by CBS are cited in support of the following themes:

1. Military speakers tour extensively, promoting a hawkish line on the Vietnam war at public expense.

2. The Defense Department seeks to influence local opinion leaders on expensive red-carpet tours of military bases and operations.

3. The Pentagon uses entertainment and media personnel to support their line, sometimes on a voluntary basis, sometimes in trade for direct support.

A. Many public figures are induced to cooperate out of patriotic motives.

B. Some movie makers trade talent for essential support in filming battle scenes.

4. Ex-military personnel testify to the deceptiveness of Pentagon informational techniques.

5. The Pentagon manipulates the media to achieve favorable coverage for their activities and viewpoint.

6. Pentagon representatives conceal and deceive.

Every one of these themes was earlier discussed at length by Fulbright. It is clear that CBS used references to individuals exclusively to support dominant themes first developed by Fulbright, and that in fifty per cent of the cases, the individuals were the same.

When we turn from the broad topics, main themes, and supporting materials of the CBS documentary to the individual sentences it contains, we find further evidence of close similarity between the broadcast and the earlier statements of Fulbright. So as to eliminate uncontrolled message sources, we restricted this analysis to the 191 sentences read or spoken by the narrator, Roger Mudd. These 191 sentences were under the direct and detailed control of CBS News, and our analysis of them proceeded in two stages. First, we deleted ten sentences that referred directly to CBS, its purposes, or its procedures in preparing the special report, and one sentence (a question) which was so brief as to contain no information. These eleven sentences were excluded from the analysis, leaving us with 180 sentences containing various amounts of information. Each of these sentences was then examined to determine whether it contained an assertion previously made by Fulbright or, if the sentence were a question, whether it called for specific information or evaluations previously offered by Fulbright.

TABLE 1.—NUMBER AND PERCENT OF SENTENCES IN THE BROADCAST CONTAINING ASSERTIONS PREVIOUSLY MADE BY FULBRIGHT

Part of broadcast	Number of sentences	Number containing Fulbright assertions	Percent containing Fulbright assertions
Introduction	14	12	86
Body:			
Direct contact	52	25	48
Film	39	25	64
Media	58	30	52
Total	149	80	54
Conclusion	17	3	18
Total	180	95	53

The results of this analysis may be seen in Table 1. To better display the distribution of similarities through the script, the broadcast was divided into an introduction, body, and conclusion, and the body was further divided into three main points: Direct Contacts with the Public, Pentagon Propaganda Films, and Pentagon Manipulation of the Media. These three points are readily identifiable as the main segments of the broadcast. (CBS organizes its material according to the information channels employed by the Pentagon.)

The data show that 86% of the sentences in the introduction, 54% of the sentences in the body, and 18% of the sentences in the conclusion contain assertions previously made by Fulbright. Of the total 180 sentences, 53% contain Fulbright assertions.

Apparently the conclusion contains the smallest proportion of Fulbright material; however, when we examine it sentence-by-sentence, we find eleven sentences that refer to developments since November, 1970. Since these events occurred after the publication of Fulbright's book, they could not possibly have been available to him. If these eleven sentences are deleted, 50% of the sentences in the conclusion contain Fulbright assertions, and the total for the broadcast as a whole goes up to 57%.

We conclude that the data reviewed here support our original hypothesis that the Fulbright case against "The Pentagon Propaganda Machine" and the CBS report on The Selling of the Pentagon are closely similar. We have shown that the seven Pentagon public relations techniques criticized most strongly by Fulbright are also attacked by CBS; that the main and subpoints covered in the broadcast were, with minor exceptions, previously discussed by Fulbright; that virtually all of the main themes of the broadcast were also dominant themes in Fulbright's earlier speeches and writings; that much of the CBS statistical support (some of it out-of-date at the time of the broadcast) is to be found in Fulbright's earlier statements, and that virtually all of the statistical support is used to support dominant Fulbright themes; that half of the specific individuals interviewed or mentioned in the documentary were originally identified by Fulbright, and that almost all of the others are introduced to support Fulbright's arguments; and, finally, that more than half of the sentences read by narrator Roger Mudd contain assertions previously made by Fulbright.

Striking though they undoubtedly are, these comparisons based on observable, countable content items, fail to reflect adequately the close similarity between Fulbright's position and that adopted by CBS. A viewer familiar with Fulbright's stand on foreign relations and the military establishment detects additional parallels in both semantics and lines of argument.

For example, both Fulbright and CBS give a prominent place in their arguments to the public speeches of certain high-ranking officers. Fulbright focuses most on General Westmoreland, CBS on the "touring Colonels"; thus in our content analysis the supporting materials and individual assertions relating to military speakers appear for the most part as differences between Fulbright and CBS. These differing examples, however, are used to support precisely the same two points: military officers travel widely spreading Pentagon propaganda at taxpayer expense, and the Pentagon holds an outmoded view of our relations with communist countries.

With respect to the military speakers, there is parallel even in inconsistency. In referring to the military speakers, Fulbright says that they travel about at public expense to "shape the public's mind"; [12] CBS points to military officers who "traverse the country shaping the views of their audiences." [13] Yet the excerpts given in both sources, apparently chosen to picture the military speaker at his worst, portray intellectual and oratorical skills in the dull-normal range. Thus in both sources one finds the curious inconsistency of enormous opinion-shaping power attributed to individuals whose speeches, to judge by the excerpts given, are anything but persuasive.

Considerable footage in the CBS report is devoted to showing that the Pentagon is promoting an outmoded view of our foreign relations, especially in its obsession with monolithic communism. In both the book and the speeches, Fulbright often moves close to this theme, but never specifically mentions it; thus for purposes of the content analysis, it was treated as unique to the broadcast and constitutes a major source of differences noted in the preceding analyses.

Footnotes at end of article.

But, though he never mentions it specifically in the materials used for this comparison, Fulbright is an ardent spokesman for this point of view and has advocated it longer than any other member of the Senate. Writing in *Look* magazine five years ago, Eric Sevareid (a prominent member of the CBS news staff) commented: "Fulbright thinks the world and the nature of the threat from Communism have greatly altered since Stalin's time." [14] And "he does not believe communism is a world, monolithic force, successfully spreading its tentacles." [15] Thus, even in this case of a major "difference" between the Fulbright case and the documentary, the CBS theme is ultimately traceable to Fulbright.

As the foregoing examples show, the parallel between the CBS report and Fulbright's earlier statements goes beyond those elements that can readily be established by standard content analytic procedures. Indeed, a viewer thoroughly familiar with Fulbright's stand on the military establishment and on our relations with communist powers would have to conclude that his case against "The Pentagon Propaganda Machine" and the CBS report on The Selling of the Pentagon are so similar as to represent essentially identical arguments.

In our judgment, there is no valid objection to a TV network giving high visibility to a controversial position taken by a well-known Senator. However, early in the broadcast, in describing the CBS news team's purpose and procedures for preparing the special report, Roger Mudd said: "We sought . . . no politicians pleading special causes." [16] In this context, the word "sought" is subject to a variety of interpretations; but it is too much to believe that similarities as extensive as these could result by chance from completely independent investigations. It seems highly probable that CBS at the very least made quite extensive use of materials Fulbright painstakingly compiled over the months preceding their investigation, and in editing the final version of the broadcast they adopted Fulbright's point of view, main lines of argument, style of support, and many of his specific supporting materials. Moreover, in expressing the CBS viewpoint, as reflected in the narration read by Roger Mudd, they seem to have relied heavily on specific assertions developed originally by the junior Senator from Arkansas.

Why, then, did the CBS report fail to mention Fulbright at any time, or even to refer to him indirectly? To avoid "politicians pleading special causes" is laudable; but in this instance it seems likely that the appearance of independent objectivity was substituted for its substance. Having adopted his viewpoint, arguments, supporting materials, and many of his specific assertions, would it not have been appropriate for the network news team to identify the ideas with their source?

That they failed to do so has no bearing on the validity of the charges leveled by Fulbright against the public relations practices of the Defense Department. Indeed, his speeches and writings point at the very least to a need for closer supervision of Pentagon budgets, and CBS has performed a public service to the extent that its special report has focused public attention on that need.

But like Fulbright, the CBS report goes far beyond the public affairs of the Pentagon. On perspective: Selling of the Pentagon, Fulbright stated that his remarks were not intended to be an attack on the men of the military or the military itself, but rather were aimed at the Congress that furnished taxpayers' funds for the Pentagon to use in such a manner, and at the civilian administrators of the programs who felt compelled to spend that money.[17] Although CBS did not make such a distinction, the image of the military projected by CBS, in almost every important respect, is identical with the one pictured originally by Fulbright. But even if the purpose of the two presentations were the same, the case for their mutual validity would have been greatly strengthened if the images had been formed on the basis of completely independent investigations. The CBS report was presented so as to create the impression that this was indeed true.

The analysis presented here raises serious doubts on that point. When Roger Mudd admitted that CBS has reported "only a fraction of the total public relations apparatus belonging to the Pentagon," [18] he could have admitted that a large part of that fraction came from Fulbright's material.

Since we share the position with CBS that the public has a right to know, we believe the public should be informed that the principal difference between the Fulbright case against the "Pentagon Propaganda Machine" and the CBS report on The Selling of the Pentagon is a difference in media; significant dimensions of the message in both cases are the same, and the primary source of that message is J. William Fulbright.

FOOTNOTES

[1] "Selling of the Pentagon," CBS Reports, February 23, 1971. The script used in this analysis was the first readily available to the public. It was printed in the U.S., *Congressional Record*, 92nd Cong., 1st Sess., CXVII (February 26, 1971), 4126–30, and all references to the script are located in this document.

[2] "Perspective: Selling of the Pentagon," CBS News Special, April 18, 1971.

[3] U.S., *Congressional Record*, 91st Cong., 1st Sess., CXV (December 1, 1969), 36129–42; *ibid*. (December 2, 1969), 36317–44; *ibid*. (December 4, 1969), 37003–28; and *ibid*. (December 5, 1969), 37248–89.

[4] *The Pentagon Propaganda Machine* (New York, 1970).

[5] *Ibid*., p. 150.

[6] *Congressional Record*, December 5, 1969, 37256.

[7] *Ibid*. 37250.

[8] *Ibid*., 37251.

[9] *Ibid*., February 26, 1971, 4128.

[10] *Ibid*., December 5, 1969, 37259.

[11] *Ibid*., February 26, 1971, 4127.

[12] *Pentagon Propaganda Machine*, p. 80.

[13] *Congressional Record*, February 26, 1971, 4127.

[24] Eric Sevareid, "Why Our Foreign Policy is Failing," *Look*, XXX (May 3, 1966), 25.

[15] *Ibid*., 24.

[16] *Congressional Record*, February 26, 1971, 4127.

[17] "Perspective: Selling of the Pentagon."

[18] *Congressional Record*, February 26, 1971, 4130.

NATIONAL PUBLIC RADIO REPORT ON HEALTH PROBLEMS

HON. WALTER E. FAUNTROY

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1971

Mr. FAUNTROY. Mr. Speaker, we are all well aware of the health care crisis that currently exists in the United States. A recent national poll showed that a large majority of the Nation's people placed health care problems high on their list of priorities. Over 45 health care related bills have been introduced into this session of the legislature.

National Public Radio, the noncommercial radio network with 100 members operating 118 stations in 36 States, Puerto Rico, and the District of Columbia recently sponsored a series of six congressional style "NPR Health Care Hearings" in six cities across the country: San Francisco, Ann Arbor, Boston, New York, Philadelphia, and Atlanta. The purpose of these hearings was to provide an open forum at the grassroots level on the problems facing health care today, as well as to discuss legislation currently before this body.

Representatives of various interest groups, Congressmen and Senators, as well as consumers, were invited to testify at the various hearings. All who accepted the invitation were allowed to appear.

National Public Radio has provided us with a highly unique contribution to our investigations into health care legislation—a contribution which would be difficult for the House to obtain in any other way. I want to share with my colleagues the National Public Radio health care summary, "Report to Congress and the Nation: National Public Radio Health Care Hearings."

The report follows:

REPORT TO CONGRESS AND THE NATION—NATIONAL PUBLIC RADIO "PUBLIC HEALTH CARE HEARINGS," MODERATOR, BARBARA NEWMAN.

My name is Donald Quayle and I am President of National Public Radio, which is the noncommercial radio network with 118 stations broadcasting in 36 States, Puerto Rico and the District of Columbia.

Mr. Chairman, we appreciate the opportunity to appear before you today and transmit to this committee the information which National Public Radio has gleaned from its six public hearings on health care and national health insurance which were held this past September in San Francisco, Boston, Atlanta, Philadelphia, Ann Arbor, and New York.

We do not appear here today as experts on the intricacies of national health insurance nor do we come here to espouse any of the proposed bills. We appear here today to transmit to you the findings of the NPR health hearings. First, I would like to give you a little background on these hearings. Our purpose in holding them was two-fold. Because the health crisis is undoubtedly one of the most important issues on the legislative agenda of this body, we felt that it was important to inform people regarding the complexities of the proposed national health insurance legislation to enable them to participate meaningfully in this public debate. Second, it was our purpose to facilitate communications between those most concerned about health—consumers, providers and insurers—and those who will ultimately enact health care legislation—members of the United States Congress.

We realize that this committee has permitted testimony from all who desire to appear here. However, the fact remains that the average citizen is not the customary congressional witness. So, it is our hope that we can transmit to you today knowledge which you otherwise might not have received.

I think the primary function which we can serve is to humanize the debate. These several weeks you have all been hearing testimony regarding the health crisis, testimony replete with statistics of the soaring costs of health care which command 7 percent of the GNP, of the inaccessibility of health care, of the health manpower shortage, and of uneven quality care. Statistics are a somewhat cold commodity, devoid of the urgency of human experience. What we found during our health hearings was a widespread concern about the health crisis and what we heard was the human agony which some people have experienced at the hands of the health system.

EINAR MOHN. According to the AFL–CIO

research department, sixty percent of all personal bankruptcies in America are directly attributable to health costs. But beyond the bankruptcies are the millions of people who simply do without health care except as a last resort; who delay treatment because they cannot afford it; who do not fill their prescriptions because of the cost of drugs; who must allow minor health problems to become major because in our health industry today the cash register sits next to the appointment book.

EVE MAPES. I am alone with, and support my three children, one of whom is asthmatic. Nearly every year of his life he must be hospitalized with pneumonia. Medical insurance for the whole family was cancelled on the grounds that we did not list the child's asthma as a pre-existing condition when in fact we did not know he had asthma.

This left us unexpectedly in debt for several hundred dollars. We had been a middle class tax paying family who believed in yearly medical checkups and trips to the dentists. But from that point on, our economic situation and the level of health care deteriorated. One of the worst effects of this situation was, of course, psychological. We found that we lost our dignity when we lost our money.

BARBARA NEWMAN. Health care in this nation is in crisis. Speak to almost any person in America and you get a health horror story. You hear about families with savings wiped out, about unavailability and shoddy quality of care, and a growing resentment against health providers. The image of the doctor has become somewhat tarnished.

Chairman Wilbur Mills of the House Ways and Means Committee recently opened his committee's health hearings with the remarks that Americans are increasingly resentful of trying to find their way through a maze of referring practitioners to find services for which a higher and higher part of the family budget must be used, and this without confidence that the care finally obtained is appropriate or of high quality.

Congress will undoubtedly pass a health bill within the next few years. A Harris Poll found public support for passage of national health insurance running at almost two to one, and most politicans on Capitol Hill are in favor of one of the health insurance proposals pending before Congress. The question is, what kind of a bill will be passed, and how adequate will it be in ending the health crisis?

Because health is such an important issue, and because the House Ways and Means Committee has not permitted live coverage of its health hearings, National Public Radio this past September sponsored a series of six public hearings on health care and national health insurance. With the belief that the public should be apprised of the differences in the pending legislation, and that legislators in turn should be apprised about the wishes of the public, we went to San Francisco, to Boston, to Ann Arbor, New York, Philadelphia, and Atlanta. As participants we invited those most concerned with the issue of health—health consumers, insurers, physicians, and hospital officials, as well as those who will enact national health legislation, U.S. Congressmen.

One of the most insistent themes throughout the hearings was the hardship brought by rising health costs. The two people you heard at the beginning of this program, Einar Mohn of the California Teamsters Union, and Eve Mapes, a Los Angeles housewife, testified at our San Francisco hearing.

National health costs—seventy billion dollars a year—are rising at twice the rate of the consumer price index. According to the Department of Health, Education, and Welfare medical expenses will rise fifty percent in the first half of this decade, and the rise in the health share of the gross national product will be as great as the rise in defense spending at the start of the Vietnam war.

One health planner characterizes health as the Vietnam of the 1970's. He sees billions and billions of dollars going into a quagmire. At the NPR New York health hearing, Shirley Kronberg, director of the Neighborhood Service Council of the New York Hotel Trades Council, recounted some incidents of high medical cost in a discussion with New York Republican Congressman Ogden Reid.

SHIRLEY KRONBERG. I have one bill here where a woman entered a hospital in this city at 9 AM, was discharged at 6 PM, and her bill is three hundred and nineteen dollars. Interestingly enough, laboratory services, a hundred and twenty-seven dollars. We asked the hospital for a breakdown of these laboratory costs. They sent us a list of all of the tests made. And we understand that there is now a computer through which they put these few drops of blood and they can obtain a variety of tests for a very, very small fee. Nevertheless, they charged her tests—you know, fifteen dollars, twenty dollars, twenty-five dollars—whereas in fact these tests cost them very, very little.

Congressman OGDEN REID. What was the actual room charge there?

KRONBERG. Seventy-five dollars. For room and board.

Congressman REID. For less than twenty-four hours?

KRONBERG. Six hours. Blue Cross pays eighty dollars for maternity confinement, and is now increasing this to a hundred dollars. But the average bill is over six hundred dollars. And I have a very interesting bill that was brought in by one of our workers this week in which his wife delivered prematurely at home. A policeman called, he got the ambulance, she was brought to the hospital, she was in the hospital three days. She had already delivered the baby. His bill for this three days in the hospital is two hundred and nineteen dollars for the baby, and three hundred and sixty-two dollars and fifty cents for the mother. Now this is for three days. And here are the two bills. And Blue Cross of this paid eighty dollars.

Congressman REID. Have you found, Mrs. Kronberg, that group medicine and peer pressure and peer judgment has lowered some of the costs?

KRONBERG. I don't see where the peer judgments have lowered anything. I know that the AMA spent millions of dollars fighting against Medicare, and they've been the greatest beneficiary of Medicare. The insurance companies haven't done anything over the years to stay the rising costs. And the insurance companies, and in some cases such as Blue Shield, which a doctor operated, have certainly not done anything about questioning their costs, either by the doctors or the hospitals.

NEWMAN. That was Shirley Kronberg at our New York hearing.

The greatest increase in health spending has been in hospital rates. They have risen five-fold in the last four years and now hover at about a hundred dollars a day. The *New York Times* states that some projections put average hospital room charges at a thousand dollars a day by 1981.

Critics of the health insurance industry charge that private insurance companies have not acted effectively to keep these costs down. Much of the criticism of the health industry is directed at Blue Cross, which pays about fifty percent of the nation's hospital bills. Blue Cross is non-profit and tax exempt. But some think that its very institutional structure perpetuates the interests of the hospitals at the expense of the health consumer. The American Hospital Association actually owns the Blue Cross trademark, and in most of the nation's seventy-four local Blue Cross plans, the boards of directors preponderantly represent hospitals' and physicians' interests.

The key area of debate, then, on national health insurance will be the role of the insurance industry. Of the major national health insurance bills pending before Congress, only the Health Security Act, introduced by Senator Edward Kennedy, would eliminate the insurance industry from health care. Under the Kennedy legislation, cradle-to-grave health coverage would be available to all U.S. residents. It would be administered by the Federal Government.

The administration's Health Insurance Partnership Act retains the insurance industry as fiscal intermediary in health care. It actually mandates that all employed persons must purchase private health insurance. The administration has proposed tighter regulation of the insurance industry, but would leave enforcement up to the states.

The AMA's Medicredit bill and the Health Insurance Association's Health Care bill both provide tax incentives for the voluntary purchase of private health insurance.

There are a great number of health experts who question the advisability of retaining the private insurance industry under national health insurance. From Boston, John O'Leary, former Massachusetts Rate Commissioner, and from Ann Arbor, Doctor S. J. Axelrod, Professor of Medical Care Organization at the University of Michigan. First, O'Leary.

JOHN O'LEARY. (Tape) I have considerable question in my mind as to the role that the health insurance industry should play in a national health insurance program. I cannot help but express extreme concern over the lack of effort on the part of the insurance industry, generally speaking, in the past, to try and influence the organization of the health care delivery system in order to bring about somewhat more efficient and economical delivery of service.

Doctor S. J. AXELROD. The very widespread interest in health insurance, as evidenced by the numerous proposals now before Congress, it seems to me is largely a response—a political response—the high and rising cost of medical care, primarily, and also a response to the inadequacies of private—that is to say voluntary—health insurance as a means for handling these costs. The private enterprise, or ethos, if you will, of our health service industry sees further expression in the fact that private commercial health insurance dominates the field, and this kind of dominance results in considering health insurance not so much a means of providing adequate service, but rather a means of paying bills. And along with this fiscal view of health insurance, of course, it is accepted that there will be payments levied on patients who regard themselves as insured, but payments through deductibles and co-insurance which very often act as important deterrents to the receipt of care.

The fiscal view of insurance concentrates on large medical bills which relatively few people have—very large medical bills, that is. And in general the whole coloration of the health insurance industry takes the view that health insurance should be a mechanism for exchanging dollars, rather than for providing necessary and adequate health services.

NEWMAN. That was Professor Axelrod of the University of Michigan. From California, labor leader Einar Mohn.

EINAR MOHN. For twenty-five years we have gone to the bargaining table with employers and come away with more and more money to pay for health care—money that was needed for wages and other benefits. For twenty-five years we have given the private insurance industry every opportunity to work, we have put our hard won health benefits into their hands, asking them to restrain costs, and to exercise some control over the quality of care provided in hospitals and physicians offices.

The record of achievement by the insurance industry is marked by failure, disinterest, neglect of health needs, and certainly profiteering. California's unions are now pumping one billion dollars annually into the health industry through negotiated benefits. Our estimates make us believe that at least twenty percent of the money negotiated for in our contracts does not go to provide health care. It goes for costs, it goes for a lot of other things, but do not provide health care. That's far too high a cost.

In good faith, labor has tried to live with the private insurance industry, and tried to live with voluntary methods of policing quality. But the experiment is over. We now want, and need, national legislation that will publicly manage our dollars and exercise public control over the health industry.

NEWMAN. On the other side of the issue are representatives of organized medicine, the insurance industry, and the hospitals who wish to retain the private health insurance industry. These views were best expressed at our San Francisco hearing by William Wayland. Executive Secretary of the California Hospital Association, and Dr. Roberta Fenlon, President of the California State Medical Society. In Ann Arbor, Edward Connors, Director of the University of Michigan Hospital, spoke for the hospital interests in favor of retaining the insurance industry and health care. First, William Wayland.

WILLIAM WAYLAND. Despite the criticism of the health industry, it has been eminently successful in fulfilling its basic goal, the provision of good quality health care.

Doctor ROBERTA FENLON. A national system of health care must be based on the insurance concept. Just as every driver in California is required to have automobile insurance, everyone should be required to carry adequate health insurance.

EDWARD CONNORS. I believe that government's role in financing should complement and strengthen the basic health insurance mechanisms, rather than replace them. I acknowledge without question that health insurance needs to be strengthened; it needs to be required or assured for all citizens. And it needs, I believe, to be subject to tighter regulation. But I think the record in many respects of health insurance in this country has been remarkably good, and I would disagree with some of the former speakers that implied that all they are interested in—these are health insurance now—that all they are interested in is just the financing portion—in trading dollars. And I think sitting from my perspective as a provider, there has been a fair amount of progress—probably more progress than in any other sector that I know of—prompted by particularly the Blues in health insurance on such important issues as the appropriate use of the hospital, and cost containment and control. And from my view I think it would be a tragedy as a public policy to dissolve this vital link in the system.

NEWMAN. That was Edward Connors, Director of the University of Michigan Hospital. In Philadelphia, Robert Carpenter, Vice President of the Penn Mutual Life Insurance Company, critiqued the proposed national health insurance bills from the insurance industry's viewpoint.

ROBERT CARPENTER. The health insurance industry's plan does not attempt to promise more than can be provided, establish a whole new government bureaucracy, create huge new demands on the existing facilities by promising "free care," and impose huge new taxes on the constituency which is already reeling from tremendously increased taxation in recent years, such as the health security act program sponsored by Senator Kennedy does. Neither does it force a substantial financial burden on employers, or provide different standards of care for different classes of citizens which the administration proposal includes. It covers the broad range of the problem as contrasted with the limited approach to covering catastrophic health care costs under Senator Long's bill. It does not place its complete reliance on the yet relatively untested organizational structure for delivering care as proposed by the American Hospital Association's Ameriplan, and it does not rely primarily upon tax incentives for private health insurance programs as proposed by the American Medical Association.

NEWMAN. Thank you very much, Mr. Carpenter. The report of the—the staff report of the Senate Finance Committee of 1970 stated: "Carrier performance under Medicare has in the majority of instances been erratic, inefficient, costly and inconsistent with congressional intent. Unquestionably, many millions of dollars of public funds have to subsidize carrier inefficiency." In view of this, why should we retain the insurance industry in national health insurance legislation?

CARPENTER. That's always an interesting question. And the health insurance industry does have to stand on its record. I believe that when any program is inaugurated you're going to have these types of problems. I think that if you were to move away from private insurance toward the direction of the national security health program advocated by Senator Kennedy you would find that the government bureaucracy to be created would be so much tremendously more inefficient that you would have much greater problems.

NEWMAN. Insurance executive Robert Carpenter found a surprising ally in Pennsylvania's State insurance Commissioner, Herbert Denenberg. Doctor Denenberg is a vociferous reformer and critic of the health insurance industry, but surprisingly refused to endorse the Kennedy health security bill. He questioned the advisability of administering national health insurance through a governmental bureaucracy.

HERBERT DENENBERG. Public confidence must be reestablished in the federal bureaucracy before great additional responsibilities are entrusted to it. The Kennedy proposal, the national health security plan, scraps private health insurance altogether. Thus, the proposal scraps good and bad insurance companies without distinction. It is true that private health insurance has not performed effectively. But it is also true that we have not subjected it to effective regulation. We are trying to make up for this shortcoming in Pennsylvania.

The Kennedy bill, in view of the deficiencies of private health insurance, would therefore abandon private insurance and substitute government insurance. Medicare demonstrates government is not the whole answer. And it can be as unsatisfactory as private insurance. Many non-profit insurance companies, for example, are doing a better job than Medicare in controlling costs and quality.

Here you see bureaucratic distortion of the intent of Congress in the establishment of the Medicare program. Congress intended Medicare to pay for the necessary costs of patient care to our senior citizens. The bureaucrats somehow distorted the congressional intent and turned Medicare for the aged into an uncontrolled educational subsidy for the medical profession. Medicare, however laudable in its social purpose, has greatly contributed to our runaway inflation of medical costs. Medicare, which should have been part of the solution, instead has become a central part of the problem of our health delivery system. Medicare not only contributes to the problem, but attempts to veil its operations in the cloak of secrecy.

We asked fo certain studies of Medicare fiscal intermediaries, and were turned down on the basis of executive privilege. The Medicare people though the studies might be "misinterpreted." Others were refused access to the studies as well. We finally obtained copies of the study, only for our own use, but they still have not been made public. How can we entrust further responsibility to a government agency that now betrays its public trust? How can we extend Medicare to national health insurance when Medicare now fails to perform its central function of cost and quality control over medical and hospital care?

The key issue is not so much the mixture of government and private insurance, as the mixture of cost and quality controls in the system that emerges.

NEWMAN. Pennsylvania's State Insurance Commissioner, Herbert Denenberg.

People often lump quality and cost together when they discuss the health crisis. For example, proponents of each of the national health insurance bills claim that their bill will provide cost controls while upgrading the quality of care.

New York City, under the direction of its Deputy Health Commissioner, Doctor Lowell Bellin, has embarked on a unique program of auditing costs and quality of care rendered by private practitioners to New York Medicaid patients. Doctor Bellin's staff actually goes into doctors' offices, randomly pulls patient files, and examines medical records. This is the only medical audit of its kind in the nation, and has aroused great resentment from physicians.

Doctor Bellin is one of the most outspoken critics of poor quality medicine and the ineffectiveness of medical peer review. Medicine is self-regulated. Traditionally, doctors have argued that only doctors can regulate quality and costs. Doctor Bellin doesn't dispute this point, but he does feel that peer review must involve outside physicians who don't have a stake in protecting their colleagues. He is not optimistic about quality controls within any of the national health insurance bills.

Doctor LOWELL BELLIN. In an attempt to meet the health care crisis, every proposal deals with financing, manpower, and improvement of the delivery system. Regrettably, every proposal also bypasses quality control of services provided to patients. For example, the major emphasis of the President's program and the Kennedy bill are cost controls and minimum standards. The American Hospital Association plan stresses cost controls and peer review. And the health insurance industry plan provides for state control and controls on over utilization through patient payments of deductibles and co-insurance.

Quality control, which includes the availability, acceptability, and nature of care, is defined as a system for verifying and maintaining a desired level of quality in a product or process by careful planning, use of proper equipment, continued inspection, and corrective action when required. Quality is the prerequisite element of that cost control. Without it any cost is too much. Because the major abuse in dollar value is over utilization of service, enormous sums of money can be saved by constraining over utilization, not only within private offices, but particularly within hospitals.

People who emphasize how much auditing of health care services cost the government are either uninformed or wish to keep others misinformed. At present the New York City Department of Health is saving and recovering two and a half to three dollars for every auditing dollar spent. There is only one spot to place ultimate auditing activities of publicly funded health care services. That spot is a public agency. This means that the public agency must have courage. Many of our public agencies are craven as well as technically incompetent.

After the instructive experience of the past five years with Medicare and Medicaid, it is incongruous that anyone dare suggest to legislators that the appropriate place for auditing is exclusively, a) within professional societies, or b) within the fiscal intermediary. They both are too intimately associated with the constituents to be granted the ultimate responsibility of either quality control or cost control. It is an administrative truism that evaluation must be isolated from operation. For the Federal government to violate this principle by funding evaluation of health care services primarily in professional societies, and/or in fiscal intermediaries, is to replicate the folly that has bedeviled Medicare and Medicaid since the mid 1960's.

Since 1965 we all should have learned that tokenistic regulation of quality and cost of health services always discredits any publicly funded health care program.

NEWMAN. Doctor Lowell Bellin, New York's Deputy Health Commissioner.

Supporters of the Kennedy National Health Security bill put great store in its quality controls. Its main quality control is that only board certified or qualified surgeons will be reimbursed for major surgery. There are currently twenty specialty boards in medicine and surgery. In order to be board certified, the doctor must participate in several additional years of post graduate work after residency, and must pass a rigorous written and clinical examination. The reason the Kennedy bill focuses on surgery is because many people feel that far too much surgery is performed in this country. Of the seventeen million surgical procedures that will be done in hospitals this year, many doctors feel that a great number will be inadvisable.

As surgery always involves risk of post operative infection or problems with anesthesia, the old adage, when in doubt, cut it out, is not good medicine. Yet *Fortune* magazine quotes an official of the AMA as saying that the rise in tonsillectomies under Medicaid verges on the scandalous. This unnecessary surgery has become so prevalent that a new term, remunerectomies, has been coined by critics.

Doctor Lowell Bellin, concerned about unnecessary surgery, does not think that even the Kennedy health bill has sufficient quality controls.

BELLIN. The basic, I think is not going to be attacked by addressing specifics, like whether or not there will be a board certified or a board eligible surgeon who is going to be reimbursed for his service. There is no guarantee, for example, that a board certified surgeon is going to do the job properly. This is only one step forward. We know, for example, the famous study carried out by Doctor Trussell, formerly the Hospital Commissioner and Dean of the Columbia University School of Public Health, some years ago here in the city of New York, that a significant portion of the surgery in New York—something like one-third was found to be inadequate, despite the fact that frequently, and most of the time, these were board certified and board qualified surgeons. When the study was continued, to actually ask the patients, what did you think of the quality of work you received; about eighty-five percent of the patients who had received this care, which in Doctor Trussell's and his staff's opinion was completely inadequate, were quite happy with that care and returned to their original doctor.

So what I'm trying to point out is this, that this is one step. But I'm even more concerned with something more fundamental, the actual issue of getting the right kind of structure to monitor this thing, to promulgate a number of standards, and to enforce these standards. This is what's the key to the entire issue.

NEWMAN. One of the basic reforms in the health system is the development of Health Maintenance Organizations—HMO's. Both the Kennedy and administration national health insurance bills provide funds and incentives for their creation. The largest HMO in the nation is the Kaiser plan on the west coast.

HMO's are actually pre-paid group practices, places where several doctors join together in a group practice and are paid a certain amount per patient per month, regardless of how often the patient uses the services. This is called payment on a capitation basis. Currently most doctors are paid on a fee-for-service basis. That is, you pay them for each office visit, and for each procedure they perform. Critics say that this encourages a system of sickness care and not health care. There is no incentive now for the physician to keep the patient well when he is paid only when they are sick.

In Atlanta, Reverend Andrew Young, Vice Chairman of the Southern Christian Leadership Conference, made a strong case for HMO's.

Reverend ANDREW YOUNG. I'd like to think of us as working toward a health care system that rewarded people and doctors for health rather than for sickness. Right now, the more operations they perform, the sicker people get, the richer doctors get. In fact, it's even more ridiculous because you get to go in the hospital and get an operation, and then your health insurance pays for it, when a doctor could probably do it in his office.

And I think the setup of our hospitalization insurance presently drives people to the hospital, and encourages hospitalization, when I think we've got to have some kind of health insurance or some kind of health plan that encourages people to stay well. Along with this I think the kind of system that would reward people for good nutrition. I'd like to see a group of patients or community served by a team of physicians where at the end of the year they would get a bonus if they had less than the national average of operations for people in that age and income bracket, rather than be rewarded for the more operations they have. I think in some health care plans—I think this was true in the Kaiser plan—where people were rewarded for going to get regular checkups. And they found that in certain categories of operations, they were remarkably less when people received rewards for staying well than they were when people almost had to get sick in order to get some kind of serious medical attention or some consideration from their insurance.

NEWMAN. Reverend Andrew Young of the Southern Christian Leadership Conference.

In San Francisco Republican William Mailliard and Kaiser Foundation Vice President Robert Erickson discuss how Kaiser has kept costs lower than commercial insurance plans. Congressman Mailliard speaks first about commercial health insurance.

Congressman WILLIAM MAILLIARD. The nature of the coverage is much more complete if a patient is hospitalized than if they're kept out of the hospital.

ROBERT ERICKSON. That's true. And our system does have comprehensive outpatient coverage as well as inpatient coverage so that the physician can choose the care that's most appropriate to the patient without being concerned about the out of pocket cost to the patient. I think the most unique feature is savings in hospital utilization.

NEWMAN. (Tape) Regarding Kaiser's ability to keep costs down and hospitalizations lower than other plans, doctors receive extra bonuses if costs are kept within a budget framework. Would you explain that, please?

ERICKSON. There is an incentive program that gives the physician an added piece of the action, you might say, in controlling costs and in accepting financial responsibility. And if there is a surplus above the budget at the end of the year, they receive a share of that surplus.

NEWMAN. Mr. Erickson, we hear that the surgical rate for those with group plans is half that for those with commercial health insurance. And people have indicated that there seems to be too much surgery—much unnecessary surgery in this country.

ERICKSON. I do know that studies have indicated that the rate of surgery in organized group practice programs, including Kaiser, is substantially less. And it may resemble a fifty to sixty percent rate, at least in many of the studies. I think it may be even more marked in some of the truly elective type of surgeries, such as tonsillectomies, OBGYN-type surgeries that are truly elective. The incentives for unnecessary surgeries are removed from an organized system, and this may be a factor in the surgical rates.

NEWMAN. Are you saying, in other words, that the doctors under the group plans such as yours are remunerated on an annual basis, and do not make extra money for doing surgery?

ERICKSON. That is correct. They are paid so much per member per month.

NEWMAN. Despite the fact that most health reformers advocate HMO's, there are some who doubt their ability to improve the nation's health system. Doctor Oliver Fein of the Health Policy Advisory Center, who has done extensive research on health, expressed his misgivings about HMO's at our New York hearing.

Doctor OLIVER FEIN. The health maintenance organization program, a program that Nixon—reorganization of the health system is pointed to as one program that is likely to keep costs down. But I say at the expense of the patient. Here's the way it works. The government contracts with an HMO to provide care to a certain population at a fixed pre-paid price. If the costs of providing care exceed the pre-paid price, the HMO will have to make up the deficit itself. If, on the other hand, the HMO keeps its costs under the pre-paid amount, then the HMO keeps the difference as profit. The profits lie in holding services to a minimum. HMO's are just one more way of reducing consumer demand. This will be done by long waiting lines, delays in elective surgery, rather than in real preventive care.

Without consumer control to monitor the practices of HMO's, they will end up serving the doctors and the hospitals interests, not the patient.

NEWMAN. Doctor Oliver Fein at the New York health hearing.

And this leads to a major issue for which we found a surprising amount of support. When one hears the words "consumer control" one tends to dismiss them as rhetoric of the left, or stale slogans of the Great Society. Yet in every city we went we found support for consumer practicipation and even control of a revitalized health system. The support came from doctors, nurses and from Pennsylvania Insurance Commissioner, Herbert Denenberg.

HERBERT DENENBERG. I think the most important thing in the whole system, and it's both the cost and quality control, is to be certain that the consumers are in control, and that the consumers are participating in these decisions as much as possible. Our health delivery system is a Frankenstein monster, built on Rube Goldberg principles, and it is now confronted by a public with rising expectations and by a new technology that is dramatically extensive and dynamic. But it goes on its merry way, indifferent to the needs of the community in its limited ability to pay ever increasing medical and hospital costs.

The system is basically run for the benefit of doctors, hospitals, the drug industry, and the other providers of medical care. I have seen first hand the contempt for consumer input and participation in our hospitals while I participated in the negotiations of a new hospital Blue Cross contract. As a result of this indifference, and even contempt, for the consumer, the system delivers bad medicine at high prices. For example, it duplicates facilities for open heart surgery for the convenience of doctors to the point where costs are way up, while quality is way down because of the limited volume in each facility.

The system's inability to control costs is exceeded only by its inability to control quality.

NEWMAN. In Philadelphia a spontaneous discussion developed on the issue of consumer control and peer review between Doctor Ted Tapper, a recent Harvard Medical School graduate, and Doctor Benjamin Friedman, a representative of the AMA.

Doctor Ted Tapper. I think that physicians reviewing their own quality and practices is like asking the owners of the National League and American League baseball teams to review their programs and practices. I think that if you have no outside people looking in, especially people who have no vested interests, as obviously physicians do, in medical schools, in practices in local areas, and in hospitals, if you have no outside people looking in, you're going to get the same kind of system that you have now. Which, in effect, is no quality control and no peer review of a true nature.

Doctor Benjamin Friedman. I do want to comment about peer review approach. Our desire is to create a structure so that there will be constant review of quality. We have seen in other nations where massive interference has resulted in decline in quality. It is our desire to set up a program which would not result in such massive, complicated, bureaucratic procedures so that we could not to the best of our advantage discharge our responsibility to our patients.

Tapper. I agree with you. I think that it would be undesirable to set up a vast bureaucratic structure. And I think it would be undesirable to compromise quality of control. My only point is that if you have physicians looking after other physicians, with no one else looking at them, you are going to have the same kind of very quiet behind the scenes covering up of poor quality and rampant cost non-control. I would hope that you would get much more truly representative consumers, other than some of the mainline types who are on hospital boards of trustees, on the utilization review committees and really get people who are going to start questioning doctors, who are going to start saying why was that very minor surgical procedure kept in the intensive care unit for four days after his tonsillectomy; why was that child with an upper respiratory tract infection admitted to hospital in the first place? Until you start getting people in who are going to make these questions very, very vivid to the physicians and hospital administrators, I think that you are going to have the same sort of system that you have now, which is a very inadequate one.

Newman. Doctor Ted Tapper in Philadelphia.

Several witnesses criticized all of the proposed national health insurance bills as inadequate in providing accountability to health consumers. Doctor Oliver Fein at our New York hearing.

Fein. If we look at all the proposed schemes on the spectrum from the Nixon administration proposal, which is among the most conservative, to the Kennedy proposal, which is the most liberal. it becomes apparent the Nixon administration proposals will change almost nothing—just a larger number of people will be insured with the inadequate health insurance that Mrs. Kronberg described earlier. The Kennedy proposals will likely leave control of the system unchanged, or shift it toward control by the corporate forces, such as the big hospitals, medical centers, and insurance companies.

To this dead end I can only propose a fundamental alternative. The only way to change the health system so that it provides adequate, dignified care for all is to take power over the health system away from the people who now control it. Not merely the funding of the system, but the system itself, must be public. It then becomes possible to face such questions as how we decentralize the national health care system to make it responsible to the community and accountable to it, and how we insure that patient care is the primary priority of the system, and how we insure equal access to health institutions and to practioners.

Newman. That was Doctor Oliver Fein in New York.

From Boston, Mrs. Ann Stokes, head of the Columbia Point Neighborhood Health Center's Consumer Organization.

Mrs. Ann Stokes. Health insurance bills, as they stand at the present time, do not include consumer participation in a way that the recipient of service can determine what kind of care will be given. The consumer areas of interest are: one, receiving comprehensive health care; two, to be able to give their reaction to the care received; and three, a degree of knowing that they will receive continuous family care.

The medical professionals, AMA, must begin to communicate with the communities. Information must be shared. And the professional and the communty will have to work together to develop a health plan, to define concerns, and identify those powers which belong to the community, those which belong to the professional, and those we share. Or else, like welfare reform, anti-poverty programs and the various health plans will be doomed before they are implemented.

Newman. Mrs. Ann Stokes in Boston.

Mrs. Ann Garland, chief outpatient nurse at Pennsylvania General Hospital.

Mrs. Ann Garland. Minority patients have great resentments in the hospital. Mainly among them are the first name basis. When a patient comes in the hospital, whether they're in a private room or a ward, they're not in the hospital five minutes before a nurse pops right into the room and greets them with a cherry smile and says how would this patient like to be addressed, Tom or Thomas? The hostility shield comes right down. This tends to make the patient not relate to the doctor or to the hospital. They do not tell the truth about what's wrong with them. And since the patient is not well informed about medical practice, they do not know that the doctor cannot treat them unless they tell them what's wrong with them. They think the doctor is all omnipotent, knows everything, not knowing, as we do, that they know very little unless you tell them. So when they do not tell the patient what's wrong with them—the doctor what's wrong with them—then the treatment, of course, is stymied.

There's a total lack of privacy offered to these patients in interviews or in an examination. The policies become nonflexible with poor patients. Research is done on these patients without their permission. They know nothing about it and they give no consent. There is a lot of drawing blood for special studies not relevant to their illness, drugs given for drug reactions for these companies. These things should not be.

Newman. Mrs. Ann Garland in Philadelphia.

If consumers had control over health expenditures, then according to the people we just heard they would upgrade medical care quality. They would presumably have a decisive voice in allocating health resources, and could channel funds into areas not now effectively covered by health insurance.

In Atlanta, former Congressman James Mackay, who is now President of the Metropolitan Atlanta Mental Health Association, and Reverend Andrew Young of the Southern Christian Leadership Conference each expressed a desire for greater attention to mental illness. Mr. Mackay speaks first.

James Mackay. Frankly I'm more concerned about a person's health than any other feature. If you don't feel well you can't relate to your wife and children, and you can't produce down where you work. And health is a fundamental need that we all have.

And the thing that bothers me, I might say to the members of the panel, is all of these programs are frightened by mental illness. And they generally cut you off pretty quick. And yet we know that—I think it's accepted that over half of the people in the hospital beds of America—not the mental hospital beds, but the general hospital beds—have no objective evidence of illness. But they're not functioning well. And mental health and physical health are inseparable.

Reverend Young. I happened to be in Chicago in 1967 when what is commonly called a riot began. We were having a meeting in a little church and heard a disturbance outside, and got outside the church just as the police were coming to the scene and breaking up a group of kids that were in a fight around a water faucet. In the summertime they wanted to be in the sprinkler system, and the police turned it off, and that started a little incident. The young people moved over into a housing project and we followed them over there, trying to calm them down. And they immediately became inflamed by a young man who was carrying the Bible and quoting from the book of Obediah and saying that this was the day of judgment for the Lord, and the white man's day was done. And he proceeded to try and inflame that group of kids. And did succeed. We were able to try to hold on to him. We tried to get the police to come and get him, to take him out of the crowd in hopes that we could control the crowd. But we were unable to do that. And it was so obvious to us that what ended up being a full-fledged riot, running into hundreds of millions of dollars in Chicago by the time it ended a week later, really was fanned out of an incident by a young man who needed mainly mental health care. Now, he also needed a job, and I would not want to minimize the problems of unemployment and inadequate housing and education and all the other things in causing urban unrest. But the primary situation there was here was a guy that needed a psychiatrist, or at least an outpatient mental health clinic in this impoverished community.

Now I say to you that Chicago nor Atlanta's health care will never be secure so long as you have the level of mental illness which floods through our communities. And I think one of the things I've been looking for in almost all of the present health care programs is some real full-fledged attention to the problems of mental health. When we have people living in overcrowded urban areas, it's not as though it was a century ago when we were living in small towns where you could get sick and you were a hundred yards away from the next family, and your disease, whether it was mental or physical, was not contagious. In an urban area, anything that happens to anybody inevitably will affect everyone else.

And so until we have a health plan that's so comprehensive that it gets the people who are unemployed, that it gets the people who are poorly educated, that it gets the people who are mentally ill, then I think any kind of health plan we come up with will be inadequate.

Newman. Reverend Andrew Young of the Southern Christian Leadership Conference in Atlanta.

Another key area of controversy surrounding national health insurance is whether legislation should restructure the health system, or simply provide health financing. Critics of the present health system feel that it is inadequate to producing enough manpower, and in rationally distributing the available resources. They point to the fact that certain suburban communities are replete with physicians, while hundreds of rural counties have not one physician.

The nation's leading advocate for restructure is Doctor S. J. Axelrod of the University of Michigan.

Doctor S. J. Axelrod. The proposed changes envisaged in the legislation with respect to the financing of health care—and the emphasis is on the financing of health care, whatever the source and the amount of funds—is not in and of itself adequate to handle the current deficiencies we have in our delivery system. We must have a significant restructuring of what it is we have at present. There is no regulation for control of the kinds of physicians that we produce or where they practice, and we have a situation, therefore, where we have many more neurosurgeons than we need, and not nearly enough family physicians. We have an excess of physicians in affluent communities, and a serious shortage of physicians and other health workers in our deprived communities.

The major proposals that have been put before the Congress respond in varying degrees to what seems to me to be the basic necessity, that is to say, to significantly restructure our medical care delivery system. Indeed, some of the bills, like the AMA's Medicredit bill, and the catastrophic health insurance bill, which are being proposed by two very important and influential legislators, the Chairman of the Senate Finance Committee and the Chairman of the House Ways and Means Committee, really make no pretense at all at restructuring the admittedly inadequate delivery system. But they preserve the status quo, and deal solely with the financing of care. The catastrophic health insurance bill has a lot of political attraction to it. That is, it costs very little—so few people get the benefits. Moreover, everyone knows the care of a family that really went broke because of truly catastrophic costs. And this kind of experience is a terrifying one indeed to large numbers of people.

Other kinds of major proposals—the administration's health insurance partnership and the health insurance industry's health care plan—rely heavily on the present health care system, with emphasis on extending the admittedly inadequate private health insurance. Both of these latter schemes, the Nixon plan and the health insurance industry plan, as a matter of fact set up two standards of care—one for the poor and one for the nonpoor. And they actually provide different levels of benefits—different services—for both categories of people. I'll leave it to you to decide which of the two groups get the lesser benefits.

Really only one of the major proposals—the Kennedy/Griffiths Bill—the so-called Health Security Bill—it seems to me addresses itself very seriously to the problems of organizing a more rational delivery system. There are incentives—strong incentives—to developing of primary health care centers having a full array of health personnel available in the centers to provide a full range of benefits. The Kennedy bill carries with it important incentives for establishing linkages between various parts of the system—between hospitals and nursing homes. It modifies current patterns of physicians' care, and reinforces the position of the family physician, so he is the one who refers to the specialist, and at the same time is not in the uncomfortable position of having to carry on specialist work himself—work for which he is not trained or not qualified.

The Kennedy bill foresees important redistribution of health personnel, and carried with it cost controls. I would suggest to you that the leverage for structural change does exist in any national health insurance plan, but only in a potential sense. And American medical care it seems to me cannot continue to be unresponsive to the need for change.

NEWMAN. University of Michigan Professor, Doctor S. J. Axelrod.

On the other side of the issue was Doctor Roger Mann, who appeared in Boston on behalf of the AMA's Medicredit Plan.

Doctor ROGER MANN. Medicredit does not require restructuring of the entire health care system, which provides care very well for the vast majority of Americans. Some of the other programs before Congress would dismantle what now exists, and rebuild along untried lines. It does not hold up group practice, or any other form of medical practice, as the best or only effective system of patient care. Finally, Medicredit does not obligate government—the nation's taxpayers—to pay for care of people who can afford to handle most of their medical problems themselves.

NEWMAN. Doctor Mann was referring to the Kennedy plan, which some think by offering basic health care as a right to all U.S. residents, would bankrupt the nation. HEW Secretary Elliot Richardson, appearing before the House Ways and Means Committee, said that the Kennedy bill will cost taxpayers sixty billion dollars in new taxes, and is simply unfeasible. Backers of the Kennedy bill deny this. They admit that it would cost about sixty billion dollars, but claim that they would simply reallocate health funds currently misspent by a wasteful health system.

When all is said and done, a nation must be judged on how well it takes care of its citizens; on how it provides for the needs; and how effective it is in insuring people a climate receptive to the accomplishment of individual potential. Sickness humbles. It saps strength, confidence and drive

We will have a national health insurance bill, but we must make sure that the legislation that passes will indeed hold the cost line while upgrading quality. As former Congressman James Mackay said in Atlanta:

MACKAY. (Tape) Within the next four to eight years there will be a national health bill passed. And I'm glad we've got some lead time, because I think this panel this morning has illustrated how intricate the subject is, and how much we need to know. Thinking in terms of politics, I think the real hazard here is that we could pass a very bad bill. But I believe that we need legislation, but I don't think legislation is a panacea. A very learned man has just written an article and said that we can pass a sweeping medical insurance bill that will not appreciably improve the services to the American people. And I believe that.

NEWMAN. Only an aware and informed public will insure passage of legislation which will truly protect its interests. It was the hope of National Public Radio that we might be helpful in this effort.

This is Barbara Newman.

PUBLIC BROADCASTING UNDER FIRE

HON. LIONEL VAN DEERLIN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1971

Mr. VAN DEERLIN. Mr. Speaker, the Corporation for Public Broadcasting has been taking its raps of late, for the salaries paid its talent and executives.

As one who has supported the corporation since its inception 4 years ago, I have been saddened by this criticism, and feel that to some extent it may be undeserved.

Nevertheless, the fact remains that pay scales in the corporation and its affiliate entities by most conventional standards seem uncommonly high. These salaries may well be modest in comparison with the commercial networks, but such comparisons are not entirely relevant since ABC, CBS and NBC exist without an infusion of tax dollars.

Joseph McCaffrey, one of the most astute observers of the congressional scene, delivered a succinct analysis of public broadcasting's dilemma last week over WMAL radio and television.

While I do not necessarily concur with all of Mr. McCaffrey's points nor his conclusion—that the "dream" of public television has been shattered—I do share his feeling that public broadcasters are ill served by efforts either to imitate or to compete with the commercial networks.

So that our colleagues may have the benefit of Mr. Caffrey's opinions on this difficult issue, I include his remarks as broadcast December 3:

COMMENTARY OF JOSEPH MCCAFFREY

Dan Thomasson of Scripps-Howard has been writing about the latest television give away. Public Broadcasting. In a recent story Thomasson quotes an unidentified official of the quasi-public broadcasting organization as saying that high salaries had to be paid to get people who would draw audiences. So here is another dream shattered. The dream that public television, educational television or whatever its designation, would not adopt the bad habits of commercial television.

But no, it, too, has joined the most deadly of all games—the rating game. Ratings are the bane of commercial television. The reason that most television shows have an appeal to the 13 year old mind, is that is the way to get the biggest rating.

The best 13 year old mind appealer can usually be found up in the top rated shows. This means that programs which could be constructive, which could be inspirational, which could contribute to the commonwealth are relegated to the off beat times. The hope was that non-commercial broadcasting would concentrate on its content—ignoring the so-called "star system," and the ratings—after all, non-commercial broadcasting isn't concerned with selling soap or deodorants. It is the only area where the concentration could be solely on the product which comes over the tube. Now that it has joined the most deadly game, the rating game—another dream is shattered.

PROTECTION OF THE LOW-INCOME CONSUMER

HON. SEYMOUR HALPERN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1971

Mr. HALPERN. Mr. Speaker, the Neighborhood Consumer Information Center, which is a Washington-based organization, recently published a comprehensive guide for the establishment of neighborhood centers which would exist for the purpose of educating the low-income consumer. It has been my feeling for some time, that in the course of educating the American public in this area, we have failed to realize that there are those less fortunate than you or I who do not have the means or education to gain access to this information. If a man living within the confines of the ghetto feels that he has been wronged by a given service or harmed by a product, it is likely that he will be unable to afford an attorney's fee in bringing suit. It is also probable that he will be totally unaware that there are laws which have been designed to protect him.

The Neighborhood Consumer Information Center is striving to correct these inequities through consumer education and I applaud their efforts. The following material summarizes the center's goals and I hope that my colleagues will take a few moments to read about this worthwhile program:

IX. EVALUATION

The preceding chapters have outlined the methods that we employed in transferring the system of institutional subordination from the unconscious and indirect to the conscious and direct. Through this process, we have come to several realizations.

First, if the system of institutional subordination is to be eliminated, the dimensions of administrative education must be expanded to include the low-income consumer. Traditional administrative education has been a process that supplemented middle-income consumers' formal education by way of periodicals, newspapers, the media, and social discussions. Unfortunately, because of low-income consumers' lack of sophistication, and because of the inability of government and industry to communicate with them in a positive manner, administrative education has been restricted to middle-income America. This has resulted in the low-income consumer not knowing the benefits to be derived from laws passed by the state and federal governments and other administrative agencies. Consequently, the alternatives, when available, have been restricted to the low-income consumer's own interpretation. With a restricted foundation upon which to base their conclusions, no positive alternatives in sight, and an increased array of problems, they become alienated and rely upon their own imagination and resources for solutions.

In many instances the low-income consumers' resources, frustration, and imagination direct them to methods of behavior that are rejected by society. It, therefore, becomes essential that they be provided with a knowledge of the laws that have been promulgated in their interest; the procedural aspects of the laws, so as to enable them to activate the enforcement of their rights. Alternatives must be recommended or their alienation shall continue, and the frustration will result in dissension.

Second, some segments of the business community have a sincere concern about the problems of low-income consumers. However, the burden for translating that concern into action must be a persistent and consistent objective analysis of the problem, and a candid presentation of the facts. In essence, the burden of the proof will rest with the organization that is attempting to convince industry that it is neglecting its responsibility to the low-income consumer.

This can only be accomplished by demonstrating the results of the procedures that the businesses are employing, and by connecting those procedures to the immediate cause. Once this is accomplished, business will recognize the problem. In some instances business readily implements changes; in other instances they become concerned about costs and the detriment that they may incur from any change. Consequently, the organization will have to assume the initiative in developing a system that remedies the industry's problem, while demonstrating how the long-term advantages will outweigh the costs. Generally, if this is accomplished, industry adopts the program. However, we would like to emphasize that industry is stubborn, and there will be areas of vivid disagreement; but if you remain persistent in your negotiations and consistent in the caliber of your documentation, the problems will be overcome.

Generally, we assume that industry is not concerned about the rights of low-income consumers. As a result, we do not approach it for policy changes. This assumption may or may not be true, but the fact remains that industry should be approached to determine its interest, if any, and the extent to which it is willing to cooperate in bringing about a change. This responsibility must be borne by the consumer organization. However, if after a sincere effort has been made and no response has resulted, you should assume that they are not interested and proceed accordingly. Conversely, if they are interested, you should develop and implement a mechanism for communication, and proceed to involve business in the process of administrative education.

Third, the media, like industry, are very dilatory in accepting their responsibility to low-income consumers. Although the media are slowly assuming the responsibility to the low-income consumer, they worry about the economic disadvantages that could ensue to them from aggressive awareness and educational materials that may offend their clients. In this instance, it is essential that the consumer organization become an advocate for proportionate distribution of media time to enable industry advertising to be balanced by consumer awareness and educational time.

When confronted with the competition for public service time, one recognizes that it becomes more imperative to acquire programming time rather than spot announcements. This decision, however, must be based upon your capacity and ability. If you have a very small staff specializing in complaints or counseling, spot announcements will be most effective. On the other hand, if you have a full-time educational staff, you can assign one person to develop a media telecasting program.

Fourth, government is willing to work with you in accomplishing small objectives, but when it appears that its aggression will have detrimental repercussions or significant impact upon a major industry, it rescinds its assistance or recommends that you proceed with caution. This factor must be attributed to the administrative procedures that the agencies employ, their leadership, and the political influence of business. In this instance you encounter procedural processes that allow a business to operate for two years after evidence has been submitted emphasizing the industry's impact upon the community, or you confront an agency that can only issue cease and desist orders, and has to transfer its materials to another agency to ensure compliance or to enforce its decision. However, these agencies, under the pretext of unfair competition, assist what are classified as legitimate merchants in protecting the interest and monopolization of unscrupulous merchants.

For example, a welfare recipient with a three or four thousand dollar income finds it difficult to acquire a bank loan, while a finance company with high interest rates that makes the loan to the consumer, or an unscrupulous merchant with an easy credit plan that gives the consumer credit, can acquire an exceptionally large loan with no difficulty.

Generally, when the problems are recognized, the government becomes concerned about the need for new legislation instead of evaluating whether existing legislation is being enforced, and if not, taking immediate steps to insure its enforcement; they then determine what additional legislation is needed to perfect the system. This process is generally increasing the consumer's expectations, but their expectations deteriorate as the administrative agency assumes its enforcement responsibility, without including an educational responsibility to notify the consumer of the processes to employ in insuring the enforcement of the regulations.

This can legitimately be accompanied under our present discriminatory system of justice, without any concern about its results. Fortunately, America's economic growth and the citizens' increased anxiety to acquire the American dream or the standards of expectation that have been set by the American society, have vividly demonstrated the deficiencies in the system and are demanding immediate reconciliation.

As a result of the preceding factors, we approach our fifth and final realization. If any low-income consumer protection agency is to become effective in eliminating the effects of institutional subordination, it must simultaneously assault, document, and develop alternatives to the present systems in the following areas:

1. Education—The consumer's lack of information and how to effectively use it within the framework of the present structure to bring about constructive change has contributed greatly to business infringement upon his rights. In this instance, you must compare the rights of the people (consumers) that spend their money on an individual basis to the rights of the people (industry) that concentrate dollars to influence consumer's behavior and market demand. In essence, you are developing an unpredictable market and subjecting industry to competition, while using the collective rights of the individual consumers to balance the political influence that industry has on the administrative agencies' enforcement authority.

2. Communication—The consumer's assets, i.e., his earnings and his rights, are sufficient instruments, when properly documented, to demonstrate the infringement by any external source, i.e., industry or government, and to demand that a mode of communication be developed whereby he can negotiate the terms under which he is willing to relinquish some of his rights of earnings to acquire certain services and benefits.

a. In requesting the development of channels of communication from industry, the consumer is to argue for his percentage of participation in the profits that the industry acquires, and the industry's ability to sustain itself by continuing to acquire a percentage of his earnings.

b. In requesting the development of channels of communication with the broadcasting media, the consumer is arguing his rights to public service programming—including entertaining, instructional, educational, etc. Although the consumer has no direct rights over the media, he has indirect rights via the Federal Communications Commission's requirement that the industry do business within the country. This requirement carries certain specifics of the obligation that the station has to the total segment of the community.

c. In requesting the development of channels of communication with the administrative agencies, you are automatically requesting the implementation of your rights as a citizen of the municipality, state, or Federal government. Moreover, you are requesting a recognition of your rights as a shareholder who has invested his hard-earned dollars (through taxes) in the establishment of a system that will provide you with certain services and benefits. In essence, your rights to communicate are legitimate ones that are entitled to be recognized and respected.

3. Organization—In this area, the consumer protection agency must accept the initiative in developing the procedures and structures that will enable the community and the other segments of the society to have a direct interchange.

4. Coordination—This is another responsibility that must rest with the consumer protection agency. It must always supervise, analyze and determine when the various segments of the society are deficient in input, and immediately proceed to provide them with the incentive that will allow them to participate at their maximum. Consequently, the program must be able to analyze internally and have such a rapport with the various segments so as to provide it with the information that would enable it to draw some type of conclusion.

5. Enforcement—With effective organization and coordination of effort, the consumer protection agency is able to detect those reg-

ulations that are not being enforced, and recognize those areas where additional legislation is necessary.

We would like to emphasize that we have found it wiser to pursue policy change in industry as a form of immediate relief that can be delivered directly to the consumer, and pursue legislative and administrative change as a long-range remedy. This decision was based upon the political nature of the District of Columbia and the low-income consumer's demand for immediate relief. However, in a state where the consumers are in a political position to elect their own officials, the reverse approach may be more beneficial.

HOSPITAL CONSOLIDATION: ANSWER TO COMPETITION?

HON. DAVID R. OBEY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1971

Mr. OBEY. Mr. Speaker, in an article in the November issue of Hospital Trustee, Marshall C. Petring, administrator of Columbia Hospital in Pittsburgh, Pa., points out that 7,000 hospitals in the United States are competing for physicians, nurses, technicians, secretaries, janitors, community support, patients, and Government money for medicare, medicaid, and building programs.

He asks:

> Why is it necessary to compete in the hospital field? Is it because it has always been this way? Because each hospital is proud of what it has and feels it is better than the hospital a mile away or in the next town? Or is it because hospitals are unwilling to change; to compromise; to consider the benefits of not competing, of consolidating, of joining forces to bring prices down and to bring more services to more people in more areas.

Mr. Petring's article is thoughtful and timely, and I insert it in the RECORD at this point:

HOSPITAL CONSOLIDATION: ANSWER TO "COMPETITION?"

(By Marshall C. Petring)

Seven thousand hospitals in the United States. Seven thousand individual institutions competing for physicians, nurses, technicians, secretaries, janitors. All of these individual hospitals, from 25 beds to 2,500 beds, are competing for managers, community support, patients, and government money for Medicare, Medicaid, and building programs.

Each year, the number of hospital internship positions exceed the number of new physicians graduating from medical schools in this country, creating another area for competition. In the 1969–70 school year, the most recent one for which the total is available, there were 8,367 graduates while approximately 15,000 internship positions were offered. This situation has forced increases in the annual salary for an intern, and it forces hospitals to seek interns from outside the United States.

Most of the 7,000 individual hospitals have emergency departments that require 24-hour coverage by physicians. Therefore, hospitals are forced to compete with each other for physicians, paying from $10 to $25 per hour for physician coverage of the emergency department. This raises the question, it is necessary to have an emergency department in every hospital?

As the competition for personnel goes on and on among hospitals, what happens? Some hospitals find themselves referred to as the "haves" and some as the "have nots." Some have the money to pay large amounts for good management, good physicians and, in general, good personnel. Some do not.

IS COMPETITION NECESSARY?

Why is it necessary to compete in the hospital field? Is it because it always has been this way? Because each hospital is proud of what it has and feels it is better than the hospital a mile away or in the next town? Or is it because hospitals are unwilling to change; to compromise; to consider the benefits of not competing, of consolidating, of joining forces to bring prices down and to bring more services to more people in more areas?

How can hospitals eliminate competition among themselves? The board of trustees of each hospital can look at industry to evaluate the advantages when two companies merge. In most cases, they could see it helps both companies and provides continued and even greater service to the public. Why cannot this be true in hospitals? Why cannot hospitals consolidate or merge or work together? Why must they be behind industry? What would be wrong with having consolidated internships in which the intern rotates service in several hospitals instead of working in just one? What would be wrong with having surgical residents assist, on a rotating basis, at surgery in several hospitals with different surgeons? Would not such a system give a wealth of experience to the intern or the resident who took part in it?

MULTIPLE APPOINTMENTS

Many physicians have appointments on the medical staffs of three or more hospitals. Some specialists, such as neurosurgeons, plastic surgeons, gastroenterologists, and thoracic surgeons, have appointments on the medical staffs of as many as 11 hospitals in large urban areas.

The physicians have different committee functions to fulfill on each medical staff in accordance with the different medical staff bylaws of each hospital. How can a physician do it? Would it not be easier if several hospitals consolidated, had the same medical staff bylaws, the same committees, and the same physicians on each committee in order to spread the administrative duties among many physicians instead of giving many duties to a few physicians in several hospitals?

COMPETITION FOR MANAGEMENT

What about management? Each hospital hires an administrator, director of nursing, controller, executive housekeeper, purchasing agent, and other department heads. The hospital's size and location and the amount of competition will determine the salary the hospital pays to obtain the department head it needs. Does the hospital get the management it needs? An organization is measured by its growth, and this can be traced to the effectiveness of its management. A small organization usually cannot compete in salaries with a large organization, and, therefore, it cannot attract the most effective managers.

When the pros and cons of consolidation are examined objectively, there seem to be few negative aspects and many positive points. Improved care, reduction in the rise of cost, and cooperation—the best features of consolidation—should be considered heavily, and then the forward growth of all hospitals should proceed.

HEXACHLOROPHENE: THE FDA'S RESPONSE

HON. WILLIAM F. RYAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1971

Mr. RYAN. Mr. Speaker, the Food and Drug Administration has announced that it will act favorably on a portion of my request that the use of hexachlorophene be restricted.

For the past 20 years, hexachlorophene has been extensively used as an antibacterial agent in a wide variety of products. Yet recent studies have linked this chemical to serious neurological disturbances in children and in laboratory animals.

Therefore, on September 12, I wrote Food and Drug Administration Commissioner Charles Edwards expressing my deep concern over the unfettered use of this chemical and urging him "to take every possible effort to insure that the consumer is protected from its hazards, including a restriction of its use and adequate labeling which will alert the citizen to the dangers presented by this chemical."

On September 22, the FDA responded to my request by noting that it was aware of the concern relating to the potential hazards attributable to the use of hexachlorophene, but stated that it was unwilling to take any action until it had completed studies then underway.

Although in agreement that additional research was essential, I wrote back to Commissioner Edwards expressing my belief that the public should be made aware immediately of the findings of past research in this field and the severe hazards it has uncovered. And I again urged that he advise a restriction of use, pending the final outcome of those studies being undertaken by the FDA.

Thus, I was pleased by the announcement of the FDA on December 6 questioning both the safety and effectiveness of hexachlorophene as a germ fighter and warning against certain uses. Further, the FDA revealed that it will require a warning label on soaps and skin cleansers containing 3 percent or more of this chemical and has sent a separate warning to some 600,000 physicians and health professionals.

This warning, however, does not affect the 300 to 400 other household products containing concentrations of hexachlorophene lower than 3 percent. The Food and Drug Administration is continuing its investigation into these products. Again, although I am in accord with the need for continued research, I believe that it is imperative that the public have a full understanding of the current status of research and its implications.

Therefore, I am including in the RECORD the text of the Food and Drug Administration's conclusions relating to hexachlorophene, my correspondence with the FDA on this issue, and several recent newspaper articles on hexachlorophene and its dangers:

CONGRESS OF THE UNITED STATES,
Washington, D.C., September 12, 1971.
Hon. CHARLES EDWARDS,
Commissioner, Food and Drug Administration, Rockville, Md.

DEAR COMMISSIONER EDWARDS: I am deeply concerned by the medical hazards of hexachlorophene, widely used as a disinfectant in soap, detergents, cosmetics, mouthwashes and infant preparations.

Recent studies have linked the use of hexachlorophene with severe neurological disturbances in children and laboratory animals. These studies have disclosed that infant burn patients who were washed daily with hexachlorophene detergent suffered brain seizures and that rats fed certain doses developed paralysis, brain lesions, and poisoning.

In light of the wide variety of products in which hexachlorophene is used, I urge you to take every possible effort to insure that the consumer is protected from its hazards, including restriction of its use and adequate labeling which will alert the citizen to the dangers presented by this chemical.

I would appreciate a full report on all steps taken by the Food and Drug Administration in regard to hexachlorophene, including any studies or reviews you have undertaken.

With kindest regards,

Sincerely,

WILLIAM F. RYAN,
Member of Congress.

DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE,
Rockville, Md., September 22, 1971.
Hon. WILLIAM F. RYAN,
House of Representatives,
Washington, D.C.

DEAR MR. RYAN: This is in reply to your September 12, 1971 request for a full report on all steps taken by the Food and Drug Administration in regard to hexachlorophene, including any studies or reviews undertaken.

We are fully cognizant of the concern for possible hazards which have been suggested as attributable to the use of hexachlorophene.

Scientists in the Food and Drug Administration are completing comprehensive investigation of hexachlorophene which includes methods of chemical analysis, amounts of contamination of commercial samples with toxic dioxins, toxicologic studies in man and animals and metabolism of hexachlorophene *in vivo* and *in vitro*.

In the near future a report will be prepared which will consolidate the information we have on hexachlorophene. When this report is completed we will forward a copy to you together with any other information we have available at that time.

If we can furnish any further assistance, please let us know.

Sincerely yours,

M. J. RYAN,
Director, Office of Legislative Services.

UPDATED RESPONSE STATEMENT ON HEXACHLOROPHENE—JUNE 16, 1971

(To be used to answer inquiries)

Hexachlorophene has been used extensively for the past twenty years as an antiseptic for application to the skin. In addition to soaps and solutions, it has also been used in recent years as a constituent of some deodorants, anti-perspirants, feminine hygiene products, mouthwashes, toothpastes, cosmetics, and certain OTC drugs.

Hexachlorophene as an active ingredient in various formulations was cleared for safety through the new drug procedure early in the history of the 1938 Food, Drug and Cosmetic Act. More recent experience has indicated that in certain circumstances toxic amounts can be absorbed. Studies by FDA toxicologists and other FDA scientists, as well as outside investigators, are currently underway to extend our knowledge of hexachlorophene under various conditions of use.

FDA scientists have also asked cosmetic manufacturers (as reported in the Cosmetic, Toiletry and Fragrance Association, Inc. *Scientific Newsletter*, April 1971) to re-evaluate the use of hexachlorophene in their products, with respect to its need, and the optimum levels required. With these data, FDA will then be better able to ascertain the need—if any—to curtail its use.

A CT&FA survey conducted last year indicated that hexachlorophene is used at levels as low as .0003% and as high as 3%. Most uses were well below 1%.

CONGRESS OF THE UNITED STATES,
Washington, D.C., September 24, 1971.
Hon. CHARLES EDWARDS,
Commissioner, Food and Drug Administration, Rockville, Md.

DEAR COMMISSIONER EDWARDS: This letter is in further regard to my correspondence of September 12, 1971, relating to the possible health hazards of hexachlorophene.

In his letter to me of September 22, Mr. Ryan, Director, Office of Legislative Services, informed me that the Food and Drug Administration is currently undertaking a comprehensive investigation of hexachlorophene and its uses. Although such a study is absolutely essential, I believe that the public should be made aware immediately of the findings of past research in this field and the severe hazards that it has uncovered.

Specifically, I bring to your attention the article by Dr. Renate D. Kimbrough which appeared in the Archives of Environmental Health, Vol. 23, August 1971, and the study by August Curley, Robert Hawk, Renate Kimbrough, George Nathenson, and Laurence Finberg which appeared in The Lancet, August 7, 1971, entitled "Dermal Absorption of Hexachlorophene in Infants."

These studies have linked the use of hexachlorophene with severe neurological disturbances in children and laboratory animals. The conclusions of both these articles raise serious questions as to the safety of this chemical, and indicate that excessive or unnecessary use be avoided.

In light of these findings and the wide variety of products in which hexachlorophene is used, I urge that the Food and Drug Administration make every possible effort to alert the public of the potential harm of hexachlorophene and that the FDA advise a restriction of its use, pending the final results of those studies currently being undertaken by your agency.

Again, I urge you to take all appropriate actions to insure that the consumer is protected from any dangers that might be posed by this chemical.

I look forward to receiving a full report on any steps taken by the Food and Drug Administration in regard to hexachlorophene, including the results of those studies that FDA now has underway.

With kindest regards,

Sincerely,

WILLIAM F. RYAN,
Member of Congress.

DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE,
Rockville, Md., October 1, 1971.
Hon. WILLIAM F. RYAN,
House of Representatives,
Washington, D.C.

DEAR MR. RYAN: Commissioner Edwards has asked me to reply to your September 24, 1971 letter in further regard to possible health hazards of hexachlorophene.

We understand your concern and appreciate the depth of your interest in the recent evidence that has linked hexachlorophene to neurological disturbances in children and laboratory animals.

As you are aware, hexachlorophene has been widely used in a great many products subject to the jurisdiction of the Food and Drug Administration. Our study and evaluation of hexachlorophene has had top priority and is now nearing completion. In this connection, full consideration will be given to the position you have taken.

We will advise you as soon as possible as to the precise course of action we plan to take with respect to products containing hexachlorophene. Please be assured that any action we take will be with the idea of providing full protection to the consumer.

Sincerely yours,

M. J. RYAN,
Director, Office of Legislative Services.

DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE,
Rockville, Md., December 7, 1971.
Hon. WILLIAM F. RYAN,
House of Representatives,
Washington, D.C.

DEAR MR. RYAN: This is in further reply to your September 24, 1971 letter to Commissioner Edwards concerning possible health hazards of hexachlorophene. An interim reply was sent to you on October 1, 1971.

The enclosed *Federal Register* document was published after consideration was given to reports from the National Academy of Sciences/National Research Council, current labeling for products containing hexachlorophene, and other available evidence including that of toxic effects associated with hexachlorophene use.

We are enclosing a Drug Bulletin concerning toxicity in the use of hexachlorophene in bathing infants.

We will keep you apprised of any further action we take with respect to hexachlorophene. If we can furnish any other assistance, please let us know.

Sincerely yours,

M. J. RYAN,
Director, Office of Legislative Services.

Department of Health, Education, and Welfare—Food and Drug Administration, [Docket No. FDC-D-400; NDA 6270 etc., DESI 6270]

DRUGS FOR HUMAN USE—DRUG EFFICACY STUDY IMPLEMENTATION CERTAIN PREPARATIONS CONTAINING HEXACHLOROPHENE

The Food and Drug Administration has evaluated reports received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following drugs:

1. Gamophen Surgical Cake Soap with Hexachlorophene; Arbrook, Div. of Ethicon Inc., Rt. 22, Somerville, N.J. 08876 (NDA 6-270).

2. pHisoHex skin cleanser containing hexachlorophene; Winthrop Laboratories, Div. of Sterling Drug, Inc., 90 Park Avenue, New York, N.Y. 10016 (NDA 6-882).

3. PHisoHex Detergent Cream containing hexachlorophene; Cook-Waite Laboratories, Inc., Div. of Sterling Drug, Inc., 90 Park Avenue, New York, N.Y. 10016 (NDA 8-402).

Such drugs are regarded as new drugs (21 U.S.C. 321(p)). Supplemental new drug applications are required to revise the labeling in and to update previously approved applications providing for such drugs. A new drug application is required from any person marketing such drug without approval.

The Commissioner concludes that, on an interim basis the labeling stated below will be acceptable pending the results of a major study of all over-the-counter drugs which is being undertaken by the Food and Drug Administration with the assistance of advisory committees.

A. Effectiveness classification

The Food and Drug Administration has considered the Academy's reports, current labeling for these products, and other available evidence including evidence of toxic effects associated with the use of hexachlorophene, and concludes that such preparations are:

1. Effective for use as a bacteriostatic skin cleanser.

2. Possibly effective for use in the treatment of impetigo in newborns and other staphylococcal skin infections, cradle cap, and in helping to clear acne.

3. Lacking substantial evidence of effectiveness for use in the relief of pruritus ani, for the broad claim as a vaginal douche, in the treatment of chronic eczema, in irrigating or cleansing wounds and burns, and as an "aid to personal hygiene."

B. Conditions for approval and marketing

The Food and Drug Administration is prepared to approve new drug applications and supplements to previously approved new drug applications under conditions described herein.

1. *Form of drug*—Such preparations are in a form suitable for topical administration.

2. *Labeling conditions*—

a. The drug is labeled to comply with all requirements of the Act and regulations. The labeling bears adequate information for sale and effective use of the drug. The "Indications" section is as follows:

INDICATIONS

For use as a bacteriostatic skin cleanser.

b. The labeling shall also include prominent and conspicuous warnings. Recent studies confirm absorption into the blood stream when such products are used for daily bathing on infants and adults. Since this use has not been shown to be safe and is only possibly effective, it is contraindicated at this time except under the direction and care of a physician. When used on large burn areas, there are high blood levels and clinical signs of neurotoxicity. The warning statement should read:

WARNING

Do not use for total body bathing.
Rinse thoroughly after use.

3. *Marketing status*—

Marketing of such drugs may be continued under the conditions described in the notice entitled *Conditions for Marketing New Drugs Evaluated in Drug Efficacy Study* published in the Federal Register July 14, 1970 (35 F.R. 11273), as follows:

a. For holders of "deemed approved" new drug applications (i.e., an application which became effective on the basis of safety prior to October 10, 1962), the submission of a supplement for revised labeling and a supplement for updating information as described in paragraphs (a)(1)(i) and (iii) of the notice of July 14, 1970.

b. For any person who does not hold an approved or effective new drug application, the submission of a full new drug application as described in paragraph (a)(3)(iii) of that notice.

(c) For any distributor of the drug, the use of labeling in accord with this announcement for any such drug shipped within the jurisdiction of the Act as described in paragraph (b) of that notice.

d. For indications for which the drug has been classified as possibly effective (not included in the "Indications" section above), continued use as described in paragraphs (d), (e), and (f) of that notice.

C. *Opportunity for a hearing*—

1. The Commissioner of Food and Drugs proposes to issue an order under the provisions of section 505(e) of the Federal Food, Drug, and Cosmetic Act withdrawing approval of all new drug applications and all amendments and supplements thereto providing for the indications for which substantial evidence of effectiveness is lacking as described in paragraph A. 3. of this announcement. An order withdrawing approval of the applications will not issue if such applications are supplemented, in accord with this notice, to delete such indications. Any related drug for human use, not the subject of an approved new drug application, offered for the indications for which substantial evidence of effectiveness is lacking may be affected by this action.

2. In accordance with the provisions of section 505 of the Act (21 U.S.C. 355), and the regulations promulgated thereunder (21 CFR Part 130), the Commissioner will give the holders of any such applications, and any interested person who would be adversely affected by such an order, an opportunity for a hearing to show why such indications should not be deleted from labeling. A request for a hearing must be filed within 30 days after the date of publication of this notice in the Federal Register.

3. A request for a hearing may not rest upon mere allegations or denials but must set forth specific facts showing that a genuine and substantial issue of fact requires a hearing, together with a well organized and full factual analysis of the clinical and other investigational data that the objector is prepared to prove in a hearing. Any data submitted in response to this notice must be previously unsubmitted and include data from adequate and well controlled clinical investigations (identified for ready review) as described in section 130.12(a)(5) of the regulations published in the Federal Register of May 8, 1970 (35 F.R. 7250). Carefully conducted and documented clinical studies obtained under uncontrolled or partially controlled situations are not acceptable as a sole basis for approval of claims of effectiveness, but such studies may be considered on their merits for corroborative support of efficacy and evidence of safety.

4. If a hearing is requested and is justified by the response to this notice, the issues will be defined, a hearing examiner will be named, and he shall issue a written notice of the time and place at which the hearing will commence.

A copy of the Academy's report has been furnished to each firm referred to above. Communications forwarded in response to this announcement should be identified with the reference number DESI 6270, directed to the attention of the appropriate office listed below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20852:

Supplements (identify with NDA number): Office of Scientific Evaluation (BD-100), Bureau of Drugs.

Original abbreviated new drug applications (identify as such): Drug Efficacy Study Implementation Project Office (BD-60), Bureau of Drugs.

Request for hearing (identify with Docket number): Hearing Clerk, Office of General Counsel (GC-1) Room 6-88, Parklawn Building.

Request for the Academy's report: Drug Efficacy Study Information Control (BD-67), Bureau of Drugs.

All other communications regarding this announcement: Drug Efficacy Study Implementation Project Office (BD-60), Bureau of Drugs.

Received requests for a hearing may be seen in the office of the Hearing Clerk (address given above) during regular business hours, Monday through Friday.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050-53, as amended; 21 U.S.C. 352, 355) and under the authority delegated to the Commissioner of Food and Drugs (21 CFR 2.210).

JAMES D. GRANT.

Dated: November 29, 1971.

[From the FDA Drug Bulletin, December 1971]

HEXACHLOROPHENE AND NEWBORNS

A number of recent studies have raised serious questions concerning the toxicity of hexachlorophene preparations used for total body bathing of newborn infants. A summary of three such studies follows:

1. Fifty newborn infants, bathed daily with a 3% hexachlorophene product, showed hexachlorophene blood levels of .009 to .646 micrograms/ml. on the day of hospital discharge. No obvious toxic symptoms were noted in the newborns. (Curley, A., et al. Lancet, Aug. 7, 1971.)

2. Rats fed hexachlorophene to achieve mean hexachlorophene blood levels of 1.21 micrograms/ml. showed brain changes characterized by cerebral edema limited to the white matter, and cystic spaces of the brain believed produced by fluid accumulation. (Gaines, T.B., Kimbrough, R.D. Paper read at the 10th annual meeting of the Society of Toxicology, Washington, D.C., March 7-11, 1971. See also Kimbrough & Gaines, Arch. Environ. Health 23:114-118, Aug. 1971.)

3. Newborn monkeys washed daily with 3% hexachlorophene for 90 days showed mean hexachlorophene plasma levels of 2.3 micrograms/ml. When they were sacrificed, the white matter of the brain, particularly the cerebellum, brain stem and all parts of the cord, showed lesions consisting of cystic spaces like those described above. (Studies submitted by Winthrop Laboratories to FDA on November 18, 1971.)

These studies challenge the safety of hexachlorophene bathing of infants, a practice which has been widely advocated as effective prophylaxis against nursery epidemics of staphylococcal skin infections. A critical review of the studies on which this claim is based indicates that whereas there is no doubt that hexachlorophene bathing decreases skin colonization of gram-positive organisms, there is a lack of substantial evidence that hexachlorophene washings by themselves prevent staphylococcal disease or show antibacterial activity against gram-negative organisms. Hospitals are known to operate nurseries safely without the use of this product.

The FDA has been in close contact with the Committee on Fetus and Newborn of the American Academy of Pediatrics regarding these findings. In light of these findings and since other methods of control of infection are available, we have jointly concluded that the use of hexachlorophene for total body bathing of infants in hospital nurseries or at home is not recommended. In its place the committee recommends the following procedures:

"At present we recommend dry skin care, washing with plain soap and water or tap water alone for skin care of the newborn infants. It should be emphasized that the most important factor in the transmission of infection from infant to infant is hand contact. This can be minimized by scrupulous hand washing before entering the nursery as well as just before and just after handling each infant. Either an iodophor preparation or 3% hexachlorophene emulsion is recommended."

The labeling of 3% hexachlorophene products is being amended to advise against their use for total body bathing.

The effectiveness of 3% hexachlorophene for other uses has been studied by the Food and Drug Administration and the National Academy of Sciences. On December 8, 1971, FDA published NAS Drug Efficacy Study evaluations rating such products effective for use as bacteriostatic skin cleanser (including surgical scrub). They are rated possibly effective[1] for use in the treatment of impetigo in newborns and of other staphylococcal skin infections, and in the treatment of cradle cap and in helping to clear acne. They are found to be lacking in substantial evidence of effectiveness for use in the relief of pruritus ani, for the broad claim as a vaginal douche, in the treatment of chronic eczema, in irrigating or cleansing wounds and burns, and as an "aid to personal hygiene".

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[1] A rating of possibly effective means that there is little evidence of effectiveness for the given indication. Substantial evidence of the effectiveness of drugs is required by law. The responsibility for substantial evidence of effectiveness of a drug rests with the manufacturer.

Further studies will be necessary to determine the ultimate usefulness of hexachlorophene preparations.

[From the Wall Street Journal, Dec. 7, 1971]

FDA ORDERS LABEL WARNINGS ON HAZARDS OF HEXACHLORAPHENE IN CLEANSERS FOR SKIN

(By Jonathan Spivak)

WASHINGTON.—The Food and Drug Administration issued new warnings about the potential health hazards of hexachloraphene and ordered drug companies to adopt precautionary labeling for some products containing the germ-killing agent.

The action will have major impact on skin cleansers containing 2% to 3% concentrations of hexachlorophene, officials said. The substance has been shown to be absorbed through the skin, and in high concentrations in animal tests or in use with human burn patients, to cause severe damage to brain tissue.

The products affected by the FDA action include pHisoHex skin cleanser and pHisoHex detergent cream, made by Sterling Drug Inc., and Gamophen surgical cake soap, made by the Arbrook Inc., division of Johnson & Johnson, and HyperHaze made by Colgate-Palmolive.

While the FDA didn't offer any added information for the record, the agency is known to be considering a far more sweeping series of actions to limit the public's exposure to hexachlorophene. The chemical is contained in lesser concentrations in about 4,000 different products. These include the highly promoted feminine hygiene sprays as well as numerous bath soaps, shampoos, deodorants and numerous cosmetics, where it serves a preservative function against bacteria.

Thus, it's almost certain the agency's action against the hexachlorophene cleansers is only its first step in a regulatory policy that could have far-reaching implications for the cosmetics industry.

The high-concentration hexachlorophene products are widely used for antiseptic purposes in hospitals, particularly with infants, and also are promoted to the public for a variety of other purposes. The FDA announcement challenged the value of many of these other applications, because of a critical evaluation by the nongovernment National Academy of Sciences.

The agency said the products were only "possibly effective" for the treatment of impetigo in newborn babies and other staphylococcal skin infections, cradle cap and in helping clear acne, and lacked "substantial evidence of effectiveness" for treatment of chronic eczema, cleansing wounds and burns and as an "aid to personal hygiene."

But the FDA's chief concern was safety. It warned physicians that studies have raised "serious questions concerning the toxicity of hexachlorophene preparations used for total body bathing or newborn infants." The agency told manufacturers to include safety warnings in their labeling and advertising to caution against use either by adults or infants for "total body bathing." The FDA said such use should be permitted only under the direction and care of a physician.

The producers were given 30 days to request a hearing on the required label warnings and the deletion of specific claims for the concentrated solutions. The hearing would stay the action, but the FDA needn't grant a hearing unless it's convinced the companies can make a persuasive case that the requirements are unjustified. The companies will be given six months or more to come up with the necessary supporting evidence for those claims judged to be "possibly effective."

FDA officials said there hadn't been any evidence that widespread use of the highly concentrated products had caused health hazards except to burn patients whose skin is particularly susceptible to absorption. But, they said, recent animal experiments by Sterling Drug show that hexachlorophene may be more easily absorbed through normal skin than previously thought. Newborn monkeys that were washed daily with a 3% solution for 90 days, the normal human use, absorbed 2.3 parts a million their blood plasma, more than enough to cause damage to parts of the brain and the spinal cord. These new findings, coupled with other evidence of higher-than-expected levels of hexachlorophene in certain population groups with special exposures, such as surgeons and animal handlers, have produced a new sense of urgency about the chemical among government people.

A spokesman for Winthrop Laboratories division of Sterling Drug said the company hadn't yet seen the FDA rulings on hexachlorophene solutions such as its pHisoHex. He said, however, the ruling didn't come as a complete surprise, as there had been publicity over the hexachlorophene controversy.

The spokesman said, though, that Sterling's pHisoHex has been on the market for 22 years. "In all this time and these millions and millions of uses, there hasn't been one single report of neurotoxic reaction when (the product) was used as directed, which I think is a pretty good record." In regard to the animal studies on skin absorption of hexachlorophene, he said: "We don't know what they mean as far as their application to humans; you can't compare a rat or monkey to man."

FDA officials sketch a broad range of potential regulatory approaches, but caution that Commissioner Charles Edwards has yet to commit himself to any one. These include:

Leaving alone products that are washed off immediately, like low-concentration soaps, but restricting hexachlorophene in products like underarm deodorants and vaginal sprays, which remain in close contact with the skin.

Moving hexachlorophene soaps, like pHisoHex, Armour & Co.'s Dial and others, which are considered drugs, to prescription-only basis.

Establishing an overall limit on use of hexachlorophene in any product at preservative levels, which are a fraction of 1%, and banning concentrations above this level. The concentrations in vaginal sprays range from 0.08% to 0.1%, FDA experts say.

The FDA's dilemma with hexachlorophene stems from a continuing lack of hard scientific data on what constitutes a safe exposure level and uncertainty over how much exposure many persons currently have. Furthermore the agency doesn't have any way of knowing precisely what products contain the chemical and in what concentrations, because cosmetics makers needn't disclose their formulas.

But the agency appears to be moving toward setting a maximum safe exposure level for the public. Concentrations of 0.28 parts a million in the blood have been shown to be safe in feeding experiments with rats, while concentrations of 1.2 parts a million in the blood have produced brain lesions and concentrations of 8.5 parts a million have caused severe brain damage.

[From The New York Times, Dec. 7, 1971]

FDA WARNS OF HEXACHLOROPHENE BATHS

(By Jane E. Brody)

The Food and Drug Administration, citing findings of brain damage in baby monkeys, warned yesterday against regular bathing of infants and adults with cleansers containing 3 per cent or more hexachlorophene.

In a letter to be sent today to 600,000 doctors and other health professionals, the agency says recent studies showed that hexachlorophene can be absorbed through the skin into the blood stream, and that this absorption resulted in damage to the white matter of the brains of newborn monkeys.

The white matter is made up of bundles of white-coated axons, the parts of the nerve cells that act as intercommunicating fibers.

The agency also cites a study in rats involving ingestion of hexachlorophene, which also showed damage to the brain's white matter. The rats developed leg weakness and paralysis, but the monkeys showed no outward ill-effects.

Hexochlorophene cleansers, the most popular of which is pHisoHex, made by Winthrop Laboratories, are widely used in hospitals and in homes for daily bathing of infants to prevent skin infections.

The blood level of hexachlorophene in the monkey and rat studies was not much higher than levels that have been found in newborn human infants upon their discharge from the hospital.

The drug agency also announced that it would publish in the Federal Register today proposed new labeling for products containing 3 per cent or more of hexachlorophene. The new label would require "prominent and conspicuous warnings" against the use of such products for daily bathing of infants and adults.

Dr. Louis Gluck, pediatrician at the University of California in San Diego whose studies helped to establish routine bathing with hexachlorophene in hospital nurseries, said in a telephone interview yesterday that the result of the F.D.A.'s action "could be disastrous—it could set back infant care by many years."

Dr. Gluck noted that the Canadian Food and Drug Administration had reviewed the same study findings and had seen no reason to take such action. He added that the widespread use of hexachlorophene in nurseries had resulted in staphylococcus infections being "wiped out all over the world."

The American drug agency's decision to halt this use was reached in concordance with the American Academy of Pediatrics. Dr. Gluck said he was barred from the academy's deliberations.

In place of hexachlorophene, the American Academy recommended washing with soap and water, or plain water.

The F.D.A. also said that it would publish today the results of a drug efficacy study by the National Academy of Science which seriously questions several contentions on the effectiveness of hexachlorophene preparations.

The National Academy said that there was no substantial evidence of hexachlorophene's effectiveness as a vaginal douche and "as an aid to personal hygiene."

Hexachlorophene is an ingredient in the so-called "feminine hygiene" (vaginal deodorant) sprays, which now is said to have a $53-million market. The sprays are currently marketed as "cosmetics" and do not fall under F.D.A.'s regulatory umbrella at this time.

The National Academy described hexachlorophene as "possibly effective" in treating acne, one of the most common uses for hexachlorophene preparations.

Last week, Ralph Nader, the consumer advocate, urged the F.D.A. to end over-the-counter sales of hexachlorophene products and make them prescription items. The action announced yesterday was the first time that the drug agency has attempted to regulate hexachlorophene products.

Hexachlorophene has become a ubiquitous chemical since its discovery in 1939. In varying amounts, it can be found in 300 to 400 different products, including soaps, shampoos, foot powders, underarm deodorants, baby lotion, shoe liners, shower curtains and wearing apparel.

USED AS A FUNGICIDE

It is also registered for use as a fungicide on citrus fruits and a number of vegetables, including cucumbers, peppers, tomatoes and potatoes.

As a result, the chemical has become a common human contaminant, typically present in the bloodstream in amounts in the neighborhood of one part per billion.

Adults who shower with hexachlorophene preparations have been found with blood levels of nearly a third of that which caused brain damage in the rats.

Although it has generally been considered an extremely safe compound when used externally, hexachlorophene. which is a synthetic compound, has been associated with several hazards over the years.

One condition called chloasma, a darkening of the skin on the face, was reported a decade ago. And three years ago, coma and muscle twitching were reported to occur in burn patients treated with hexachlorophene.

The chemical has also caused on occasion a skin allergy, called photocontact dermatitis, a reaction following exposure to sunlight in which the sun's rays interact with the residue of hexachlorophene on the skin.

The damage to rats' brains was demonstrated a year and a half ago by an F.D.A. scientist, Renate Kimbrough, but her findings did not reach the public eye until last summer when they were published in the Archives of Environmental Health.

And last spring, two F.D.A. scientists—Robert E. Hawk and August Curley of the agency's Atlanta Toxicology branch—reported that individuals who had no unusual exposure to hexachlorophene commonly had blood levels of the chemical that were almost one-tenth of the levels that caused brain damage in the rats—a very small margin of safety.

These two scientists subsequently studied 50 newborn infants who had been bathed daily with hexaclorophene during their stay in the nursery at Montefiore Hospital in New York. The infants had blood levels of hexachlorophene averaging one-tenth of those levels that damaged the rats, and the highest level found in a baby was more than half that in the rats.

The latest study in the monkeys, done by Winthrop Laboratories, the manufacturers of pHisoHex, and reported to the F.D.A. two and a half weeks ago, was apparently the one that sparked the agency's action.

[From the Baltimore Sun, Dec. 7, 1971]

FDA Questions Hexachlorophene and Orders Warning Labels

Washington.—The Food and Drug Administration questioned both the safety and effectiveness of hexachlorophene as a germ fighter yesterday and warned against its use in bathing babies and adults.

The U.S. agency ordered warning labels to be placed on soaps and skin cleaners containing 3 per cent or more of the chemical, and sent a separate warning to 600,000 physicians and other health professionals.

In controlled studies cited by the FDA, 50 newborn infants were bathed daily with hexachlorophene preparations absorbed measurable quantities of the chemical into their blood by the time they were discharged from the hospital. None displayed toxic symptoms.

It added that a group of baby monkeys bathed with a 3 per cent solution for 90 days developed brain lesions. In addition, rats fed hexachlorophene showed physical changes in the brain.

The FDA action was based on studies by the National Academy of Sciences-National Research Council which found hexachlorophene effective as a skin cleanser, at best possibly effective in treating impetigo and other staphylococcal skin infections and acne, and lacking substantial effectiveness as a vaginal douche and for treating chronic eczema, wounds and burns.

The study found the chemical lacked effectiveness as an "aid to personal hygiene," a phrase that could signal an impending inquiry into the use of hexachlorophene in aerosol deodorants and feminine-hygiene sprays. The chemical has been blamed by some doctors for skin and membrane irritations.

"Further studies will be necessary to determine the ultimate usefulness of hexachlorophene preparations," the FDA said.

The new FDA requirement for labels warning against its use in body bathing and advising thorough rinsing applies to such products as Phisohex skin cleanser and detergent cream manufactured by Winthrop Laboratories, Hyper Phase by Colgate-Palmolive, and Gamophen soap by Arbrook Division of Ethicon.

Companies have 30 days to comment on the order to be published in the *Federal Register* tomorrow and six months to prove that hexachlorophene fights staph.

In place of hexachlorophene bathing of infants, the FDA and the American Academy of Pediatrics recommended "washing with plain soap and water or tap water alone."

"It should be emphasized that the most important factor in the transmission of infection from infant to infant is hand contact," physicians were told by the FDA. "This can be minimized by scrupulous hand washing before entering the nursery, as well as just before and just after handling each infant."

IN THOUSANDS OF PRODUCTS

Hexachlorophene, introduced about 22 years ago, now is found in thousands of household products including soaps, deodorants, acne creams, hand and body lotions, shampoos, makeup, mouthwashes, toothpastes and over-the-counter drugs.

In less than five years, feminine-hygiene deodorant sprays have grown to sales this year of $53 million and are used by an estimated 24 million women.

[From the Washington Post, Dec. 7, 1971]

FDA Acts On Germ Killer

(By Nancy L. Ross)

The Food and Drug Administration made its first move yesterday against hexachlorophene, announcing it would require a warning label on concentrated cleansing solutions containing that well-known germ-killer.

Tests have shown pHiso-Hex and similar products—used for years to bathe babies or cleanse wounds—with 3 percent hexachlorophene can produce toxic effects, the FDA said. In addition to the warning, the agency today will send physicians bulletins which seriously question the effectiveness of hexachlorophene as an anti-bacterial agent.

The warning does not affect 300 to 400 other household products containing hexachlorophene in lower concentrations, from minute traces up to about 1 percent. However, an FDA spokesman called the move a "door-opening action," which could pave the way for regulation of other products such as aerosol deodorants and the newly popular feminine hygiene deodorant sprays. The FDA is at present investigating these sprays, said by some users and gynecologists to cause skin and membrane irritations.

The warning label, to be published Wednesday in the Federal Register, would read: "Do not use for total body bathing. Rinse thoroughly after use."

Winthrop Laboratories, a division of Sterling Drug Inc. which manufactures pHiso-Hex, have repeatedly said they have never received a report of harm in 20 years and tens of millions of cases of the product when used as directed. (The directions urge thorough rinsing.)

Studies submitted by Winthrop itself, the FDA said, showed that newborn monkeys washed daily with 3 percent hexachlorophene for 90 days showed traces of hexachlorophene in their blood and brain damage.

Other recent studies, said the agency, have shown the substance to be not only potentially dangerous but ineffective in combating staphylococcal germs. Hexachlorophene cleansers are widely used in hospital nurseries for this purpose.

But the FDA noted: "Hospitals are known to operate nurseries safely without the use of this product."

The FDA, in conjunction with the American Academy of Pediatrics, recommends "dry skin care, washing with plain soap and water or tap water alone for skin care of the newborn infants. Either an iodophor preparation or 3 per cent hexachlorophene emulsion" is recommended by the FDA, however, for adults washing their hands before handling infants.

An efficacy rating done by the National Academy of Sciences for the FDA considers concentrated hexachlorophene products "effective" for surgical scrubs, but only "possibly effective" (little evidence of effectiveness) against impetigo in newborns, cradle cap and acne.

Hexachlorophene products were found to be "lacking in substantial evidence of effectiveness" for anal itching, as a vaginal douche, chronic eczema, cleansing wounds or burns and as an aid to personal hygiene."

The FDA said yesterday that further study is needed to determine whether action is warranted in the case of feminine hygiene deodorant sprays.

Unlike concentrated anti-bacterial cleansers which are classified as drugs, the sprays are considered cosmetics. As such their manufacturers do not have to get government clearance of ingredients nor must they list them on the label.

If FDA should seek to regulate these products, it has several possible alternatives. The agency could ban hexachlorophene outright—which it has already indicated it would not do—or try to discourage its use by manufacturers. It could require a warning or instructions on the label about how to stop the spray from getting into the vagina. Or it could seek to prevent manufacturers from making any unproven "medical claim," thus forcing the removal of such words as "hygiene" that imply medical benefit.

MRS. JOHN McCORMACK

HON. ROBERT N. C. NIX

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1971

Mr. NIX. Mr. Speaker, I rise to honor the memory of a dear woman who was a lady in every sense of the word. She was Harriet Joyce McCormack, beloved and loving wife of our former Speaker John McCormack.

A woman of many talents, Mrs. McCormack gave up a promising operatic career to become the wife of a young lawyer. The supportive role she played in helping John McCormack realize his great potential and achieve his ambitions was true dedication and undoubtedly was his great inspiration.

The selflessness of this woman enobled the spirit of Harriet McCormack and enriched the life of a great leader of this body. With the strength of her religious convictions she was a serene source of inspiration to us all and the warmth of her memory will remain with us all.

I wish to join with my colleagues in extending to our distinguished and beloved former Speaker our heartfelt condolences for his great and irreparable loss.

THE ENERGY CRISIS: A FURTHER VIEW

HON. ROBERT PRICE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1971

Mr. PRICE of Texas. Mr. Speaker, this Nation's history is one of record growth. Let us just look at the record of the last two decades. Population has soared. Industry has rapidly expanded. And, even with its current problems, the economy—as measured by the Gross National Product—has nearly quadrupled.

No nation approaches the industrial strength of the United States. And no society in the history of the world has reached our degree of prosperity. This prosperity has been generated largely by the existence and ready availability of large amounts of energy.

A look at the nations of the world points out the intimate relationship between energy supplies and prosperity. The higher a nation's per capita use of energy—as is the case in the United States and Canada—the higher its per capita real income. On the other hand, nations with low rates of energy consumption—such as India and Brazil—have low positions on the per capita income scale.

Because of the reliability of oil and gas supplies—and their low cost—the general public has given little thought about the national energy situation. To the average citizen it has been inconceivable that supplies of energy could be depleted. In fact, a recent survey conducted by Newsweek and the American Forest Institute concluded that nearly twice as many Americans are concerned that our timberlands may be nearing exhaustion than are concerned about the adequacy of our oil and natural gas supplies. Yet, despite this show of public unconcern, we are on a collision course with the energy problem.

The United States was blessed with an abundant supply of energy resources and these resources have been heavily drawn upon. This is particularly true as far as our oil and gas resources are concerned. Today, approximately 75 percent of our national energy demand is met by oil and natural gas. Not only are tremendous amounts of these fuels being consumed annually, the Department of the Interior projects that the demand for both oil and gas will just about double by the end of this century. Forecasts like this mean that the United States will consume more than twice as much oil between now and the year 2000 as it has in the entire 112-year history of the oil industry.

There are those who have made the claim that even though our energy needs are expanding, we do not need petroleum to satisfy these needs. As a matter of cold fact, nothing could be further from the truth. Alternative sources of energy production simply are inadequate for our growing energy needs.

In the past few years, the consumption of coal has been restricted due to environmental problems. Coal users have had a difficult if not impossible time meeting various tough air pollution control standards. As a consequence, there has been a marked slowdown in capital investment in coal mining and production.

Construction of nuclear power plants is running years behind the schedules of those who hailed nuclear power as the answer to the energy problem. On the basis of the number of nuclear plants that have been built, or are on the drawing boards, it is clear that nuclear capacity in the next decade may be as much as a third less than had been predicted. In fact, even further delays may occur in the construction of nuclear power plants because the courts have recently ruled that environmental impact evaluations must be conducted for about 100 operating and planned nuclear facilities.

As far as hydroelectric power goes, it has almost reached its peak in terms of utilization. Fewer and fewer sites remain suitable for hydroelectric development and stiff opposition from environmental groups is casting substantial doubt on even some of those. As a consequence of these factors, the share of the energy market taken up by hydroelectric power—which is currently about 4 percent—is expected to slowly wither away.

Finally, although synthetic fuels will ultimately become an important source of energy, they are unlikely to provide a significant share of our energy needs for many years to come. The technical feasibility of synthetic fuels has been proven in some cases, but substantial research and development must take place before these fuels can be economically produced on a large scale basis.

The meaning of these conditions in the energy industry is clear. Oil and natural gas are and will remain for some time to come the foundation of the energy industry and the foundation of our national prosperity.

From a natural resource point of view, this Nation cannot, under present circumstances, continue to rely on its own petroleum resources. For almost three decades, we have drawn heavily on our own resources. We have drawn on them to provide ourselves and the rest of our Nation with an ever-increasing level of material comforts. We have drawn upon them to fight one major war in Europe and two more in Asia. We have drawn upon them to supply our less self-reliant allies when they have been cut off from their usual supply sources.

These heavy uses have had their consequences. In 1957, we had a 12-year supply of crude oil in the lower 48 States based on then-current production rates. Today, we have less than a 9-year supply. In 1957, we had more than a 21-year supply of proven natural gas reserves. Today, we have only a 12-year supply.

Not only are our domestic supplies rapidly dwindling, exploration for new domestic reserves is at the lowest level in 23 years. In effect, we have been living off reserves discovered years ago, while making few new discoveries to compensate for the drain.

What has happened is that this Nation is turning more and more to foreign supplies of oil to meet its needs. Last year, total U.S. demand for oil was 5.4 billion barrels. Of this amount, 1.2 billion barrels—nearly one-fourth of the total demand—was imported. In light of the current status of the struggle between the Middle Eastern powers, and the ever-present maneuvering of the Soviet Union in that area of the world, it is obvious we are engaged in a very high risk enterprise by turning to the Middle East for oil supplies. If the present importation trend continues, this Nation could one day find itself at the mercy of Middle Eastern potentates and their Communist allies.

This increased reliance on foreign oil has also had its effect on the supplies of natural gas and, as those such as myself have been warning over the last few years, this Nation is starting to experience what may well become a real shortage in natural gas supplies. In fact, in the Washington, D.C., area, the supplies of natural gas are so tight, that suppliers are being forced to cut back their deliveries to some consumers, and eliminate them in the case of others.

When the key facts about the energy problem are drawn together and laid out, the picture that emerges is not a pleasant one. While we are not in the grips of an immediate energy crisis, we are facing the threat of an energy gap, with energy demands threatening to outrun available supplies by larger and larger margins. If an energy gap does develop, it will mean we may be hard pressed to supply the fuels necessary to keep our homes, schools, and offices heated. We may encounter difficulty in keeping our personal and public transportation operating. As a nation, we may find it hard to keep our industries producing. We may find it impossible to satisfy our internal energy needs while satisfying the needs that our national security forces—the Army, the Navy, and the Air Force—have. And needless to say, without a strong and healthy defense force, there may not be any domestic energy needs for us to worry about.

We should all take heart by the fact that the difference between our dwindling supply of energy and our growing demand for energy has not yet reached the critical point. We can take no comfort, however, from the thought that the critical point may soon be upon us. This means that if the energy crisis is to be avoided, action must be taken soon.

What this means is that by far the most important challenge facing the Nation now and in the near future is that of providing adequate supplies of energy at reasonable costs in a way that is consistent with our desire to preserve a quality environment.

When I am asked the question, how did a country which seemingly had an unlimited supply of fuel reach a point where demand is now outstripping newly found supplies, I have to answer that it was not easy. It did not happen overnight.

For years, knowledgeable people in the petroleum industry and in Government have been forecasting just such a predicament. Instead of their warnings being listened to, they were charged with having self-serving interests, and their predictions were ignored. As a consequence, nothing was done in the way of governmental policy to stimulate the search for new reserves, and what was even more deadly, various governmental policies have run in precisely the opposite direction than what was needed.

Sometimes I wonder whether if we had intentionally tried to create an energy crisis, we could have been as successful in sowing the seeds of one. As it stands, the governmental policies and actions that have created the present problems were largely arrived at on a piecemeal basis, without adequate thought being given to their cumulative effects on our energy supply picture.

Fortunately, the voices of the petroleum industry and other concerned individuals in Government such as myself are at last beginning to be not only heard, but listened to. As a result, a number of meaningful studies have been or are being undertaken in search of solutions to our pressing energy problems.

President Nixon has called for a comprehensive study of the total energy problem and for the development of a coordinated program designed to meet the energy needs of the Nation at the same time it meets the national environmental needs. Several Executive agencies are actively engaged in such studies right now. In addition, privately sponsored forums and seminars on the energy problem are on the increase—in fact, one was held in Washington several weeks ago, just days after a similar forum sponsored by the Southern Governors' Conference.

Among the most important of these energy studies is the one approved last May by the U.S. Senate. It is conducting a 2-year study under the auspices of the Senate Committee on Interior and Insular Affairs. This study is designed to develop the necessary background information required for establishing a long-range fuels and energy policy.

While all this is going on, I have been busy introducing various pieces of legislation in the House of Representatives, legislation designed to strike at some of the root causes of our energy problems and to stimulate our domestic industry. I have two bills pending: One would encourage the exploration for domestic petroleum resources by allowing oil and gas operators to offset exploration and drilling expenses with a 12.5-percent annual tax credit over a 10-year period and would give a similar tax credit to those who develop a deposit of oil or gas on a secondary recovery basis. My second bill would amend the Natural Gas Act and wipe out the Federal Power Commission's power to regulate the price of natural gas at the wellhead.

While I am by no means finished with my legislative attack on the energy problem, these two bills, if enacted, would significantly increase the incentives for domestic producers to explore for and develop new reserves. But to get these bills enacted as well as to get established a rational national energy program will take a massive surge of public opinion and support. And if the energy gap is to be averted and if the energy problem avoided, then the public must provide the impetus for these larger goals as well.

The American Petroleum Institute—along with other members and representatives of the oil and gas industry—is waging a campaign to increase the level of public awareness about the energy gap and to educate the American people as to the seriousness of the problem. We have all probably seen some of the advertising messages which have appeared on television—messages centered on the theme:

America runs on oil . . . and a country that runs on oil can't afford to run short.

This is a solid theme. It is an accurate theme. For truly a country that runs on oil cannot afford to run short.

Whether this theme has an impact, whether the energy problem is brought before the American people with such clarity and directness that they force a change in our present governmental policies and laws, will depend on more than an industrywide advertising campaign, no matter how effective it is. Concerned persons everywhere must shoulder a share of the great effort to awaken the American people to the existence and dangers of the energy gap.

I strongly urge the Congress to consider the imperative need for a comprehensive long-term energy policy as well as the need to give domestic producers better business reasons to search for and develop new reserves. The energy problem faces us all—because it is a common problem we must work together for its resolution.

POW EVEN FOR ANOTHER DAY

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1971

Mr. JACOBS. Mr. Speaker, I was wondering if, at this late date, any member of Congress or any member of the executive branch would care to say he or she is willing, from this day forward, to give his or her life, limb, sanity or freedom—POW even for another day—further to prop up the Saigon dictatorship.

Other Americans are being ordered to do so today.

Following is the language of House Resolution 630, which I introduced on September 30, 1971:

House Resolution 630

Whereas the President of the United States on March 4, 1971, stated that his policy is that: "as long as there are American POW's in North Vietnam we will have to maintain a residual force in South Vietnam. That is the least we can negotiate for."

Whereas Madame Nguyen Thi Binh, chief delegate of the Provisional Revolutionary Government of the Republic of South Vietnam stated on July 1, 1971, that the policy of her government is: "If the United States Government sets a terminal date for the withdrawal from South Vietnam in 1971 of the totality of United States forces and those of the other foreign countries in the United States camp, the parties will at the same time agree on the modalities:

"A. Of the withdrawal in safety from South Vietnam of the totality of United States forces and those of the other foreign countries in the United States camp;

"B. Of the release of the totality of military men of all parties and the civilians captured in the war (including American pilots captured in North Vietnam), so that they may all rapidly return to their homes.

"These two operations will begin on the same date and will end on the same date.

"A cease-fire will be observed between the South Vietnam People's Liberation Armed Forces and the Armed Forces of the other foreign countries in the United States camp, as soon as the parties reach agreement on the withdrawal from South Vietnam of the totality of United States forces and those of the other foreign countries in the United States camp."

Resolved, That the United States shall forthwith propose at the Paris peace talks that in return for the return of all American prisoners held in Indochina, the United States shall withdraw all its Armed Forces from South Vietnam within sixty days following the signing of the agreement: PROVIDED, That the agreement shall contain guarantee by the Democratic Republic of Vietnam and the Provisional Revolutionary Government of the Republic of South Vietnam of safe conduct out of Vietnam for all American prisoners and all American Armed Forces simultaneously.

TRIBUTE TO HON. THOMAS JEFFERSON MURRAY

HON. ED JONES

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, November 29, 1971

Mr. JONES of Tennessee. Mr. Speaker, it was with deep regret that I learned of the death of Hon. Thomas Jefferson Murray, my good friend and one of Tennessee's foremost statesmen. Congressman Murray distinguished himself as a Representative from Tennessee for 24 years, January 3, 1943 until January 3, 1967.

I have known and worked with Tom in many capacities throughout my life. I can state without reservation that he was a man of outstanding character. He served the people of West Tennessee in a manner befitting their true nature of unselfishness and good will. While in the House, Congressman Murray became chairman of the Post Office Committee due to his vast knowledge and demonstrated ability.

Tom Murray's life centered around service to west Tennessee. He was born in Jackson, Tenn. on August 1, 1894. After attending public schools and Union University in Jackson, Mr. Murray took a law degree at Cumberland University in Lebanon, Tenn. Tom demonstrated his patriotism by serving overseas in the U.S. Army during World War I.

Following the war, he started law practice in Jackson and became attorney general for the Twelfth Judicial Circuit of Tennessee in 1922. In 1933 he became associated with the office of the Solicitor of the Post Office Department, where he stayed until being elected to the House of Representatives.

Tom's many friends and acquaintances share with me a deep sense of loss. I want to express personal sympathy to Tom's family but ask them to remember Tom in the light of his many contributions to his fellow men and his outstanding accomplishments.

DOING BUSINESS WITH THE U.S.S.R.

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1971

Mr. RARICK. Mr. Speaker, the prospect of doing business with the Soviets has been made so fashionable that a primer is now available as a guideline for U.S. traders.

We are not told who paid for the treatise, but we do know who expects to profit in the final analysis—our enemy.

I include a related newsclipping in the RECORD at this point:

[From the Washington Post, Dec. 5, 1971]

PRIMER TELLS HOW TO DEAL WITH SOVIETS

Moscow.—"Half a liter of vodka is nothing for a well-trained Russian, but may greatly diminish the negotiating abilities of a Westerner the next day."

This is just one of many hints in a primer on how to do business with the Russians, a topic of major concern to many U.S. corporation chiefs these days as trade relations between the two superpowers begin to thaw.

The 199-page primer was prepared for 108 Western businessmen, mostly Americans, who are in Moscow sounding out prospects for trade with the Russians. Their companies sell a wide variety of products, and they belong to Business International, a trade promotion service with headquarters in New York.

The briefing paper put together by the organization's research staff is called "Doing Business with the U.S.S.R." It is full of details on such topics as financing sales, licensing and patent arrangements. But it also discusses some of the social pitfalls a Westerner may encounter in Communist society.

MOST GENEROUS HOST

"In the Soviet Union, Russian officials are the most generous hosts one can imagine," says the book, which appropriately has a bright red cover. "The Western businessman must be prepared to test his drinking ability with his hosts.

"This may be fine after negotiations have been concluded, but it can have disastrous effect on the Westerner if he must attend talks the next morning."

The book advises:

"Drink one large glass of mineral water after each vodka toast, whether the Russians like it or not. In this way you may drink three liters of water in one evening, but you have a good chance to be alert and firm next morning when negotiations are resumed."

A clear head is an absolute necessity, the book warns, because "Soviet officials are certainly among the toughest and smartest negotiators in Eastern Europe.

CRAFTIEST PARTNER

"Top executives of one German company that has been doing business with the Soviet Union since 1953 consider the Soviets the craftiest negotiating partners in the world, with the possible exception of the Chinese."

Other tips:

Russians are impressed by negotiators with university degrees and business cards printed in the Cyrillic, alphabet used in the Soviet Union.

"A sufficient supply of calling cards is a must. At negotiations involving half a dozen or more Soviet officials, it can be embarassing to give two or three officials a card and overlook someone who turns out to be head of the team."

"Russians are famous for their hospitality. They are also known for their love of family and children. Questions about their private life, the well-being of their family, or requests to see a picture of their children will also be most welcome."

"A Western businessman who is impressed by Moscow and its landmarks should not hesitate to say so. Proof of his sincerity is when his wife accompanies him on a later visit to see the sights too."

About 60 of the Business International party brought their wives.

"Small gifts from the West are always appreciated and help to further good personal relations."

"Western businessmen will also receive small gifts, mainly Russian handicraft, and this is a good occasion for asking the Soviet official what small Western gift he would like for the next visit."

"We haven't found anybody who disagrees with the information," said Eldridge Baynes, board chairman of Business International.

"We've given some to our Soviet friends—those who could read it—and they've been unofficially and privately complimentary."

DRUG PUSHERS: THE ONE THAT GOT AWAY

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1971

Mr. RANGEL. Mr. Speaker, narcotics are devouring my community, Harlem, and those of us who have looked to the police and the courts for action have been sorely disappointed. The widespread corruption exposed in the New York City Police Department has been a major factor in the immunity of drug traffickers in Harlem, as the residents of my community have long known. Now, the New York State Joint Legislative Committee on Crime has completed a study on the failure of our criminal justice system to put the drug merchants in prison.

The committee's report details how narcotics dealers have more than twice as good a chance of having their cases dismissed in my borough of Manhattan than they do in the Bronx. The discrepancies in the conviction rate are matched by the shocking revelation that only 2.4 percent of those arrested for felony drug sales in the period from January 1970 to May 1971 in Manhattan were ever jailed for the offense for which they were charged. In that period, 12.5 percent of those charged with felonious sale of narcotics in the Bronx were sent to prison on the original charge—over five times the rate for Manhattan.

The pattern is clear: any big-time dealer knows where to go into business, where he faces the smallest chance of conviction and imprisonment. At the same time, the citizens of communities like mine will continue to be terrorized by the increased likelihood that they will become victims of a narcotics-related robbery, mugging or assault. They will live in fear that their own children might be caught in the deadly spider web of heroin addiction.

I will shortly be calling together the district attorneys of the five boroughs of New York City to see what we, in Congress, can do to decrease the number of arrested narcotics kingpins who are released. It is imperative that funds be made available to improve cooperation among them and to provide them with as many staff members as necessary to assure the safety of our city.

The New York Times carried an account by David Burnham of the committee's report on December 2 which I would like to share with my colleagues at this point. The article follows:

[From the New York Times, Dec. 2, 1971]

DISPARITIES FOUND IN SENTENCING OF CITY'S BIG PUSHERS

(By David Burnham)

Major narcotics dealers arrested for illegal possession of a pound or more of heroin or cocaine receive substantially more lenient treatment in Manhattan and Brooklyn than they do in the Bronx and Queens, according to a study by the Joint Legislative Committee on Crime.

The study showed, for example, that while 31.6 per cent of such persons were sent to prison for more than a year in the Bronx, only 6 per cent received such a sentence in Brooklyn.

This disparity in the disposition of major narcotics arrests made by the Police Department in 1969 and 1970 prompted State Senator Abraham Bernstein, the committee's acting chairman, to say yesterday that "the people in one county don't appear to be getting the protection the people are getting in another county."

The Bronx Democrat also said the committee's study "indicates to me that something is rotten someplace."

SUBSTANTIAL DISPARITY

While the disparity was less between Manhattan and Queens than between Brooklyn and the Bronx, it was still substantial. According to the study, 27.7 per cent of the major narcotics dealers were sentenced to state prison from Queens, and 10.4 per cent were so sentenced from Manhattan.

In addition to comparing sentences for narcotics dealers, the study also compared the number of dismissals of such cases in each of the four major counties.

According to the committee, 42 per cent of such cases were dismissed in Brooklyn, 37.6 per cent in Manhattan, 33 per cent in Queens and only 15 per cent in the Bronx.

Brooklyn District Attorney Eugene Gold, responding to the report—which was released yesterday during a committee hearing at the State Building at 270 Broadway—said he was "extremely suspicious of the statistics presented by the committee; they do not reflect the facts."

David S. Worgan, the executive assistant district attorney in Manhattan, said the office of District Attorney Frank S. Hogan had "a number of basic questions about the committee's figures."

He added that the study was "of interest and concern to us, and I am sure will be discussed at the next joint meeting of the city's District Attorneys."

Because most criminal dispositions are the result of plea-bargaining betweeen the District Attorney and defense counsel, the prosecutors—rather than individual judges—have a controlling role in the broad range of sentences received by virtually all prisoners.

REASONS FOR DIFFERENCES UNCLEAR

After the comparative statistics had been presented to the committee by its executive director, John O'Connor, Senator Bernstein commented that because there was only one Police Department in New York City, "the percentages should be stable throughout the city."

"Is it a question of more efficiency or some other factor?" Senator Bernstein asked Mr. O'Connor.

The executive director first said he did not feel that the other District Attorneys were using the same methods of control exercised by Bronx District Attorney Burton B. Roberts. But he later said he was not prepared "at this time to evaluate the various District Attorney's offices."

Senator Bernstein said that "if I was going in the narcotics business, I'd look at that chart and base my operations in Brooklyn."

Another committee member, Assemblyman Arthur O. Eve, Democrat of Buffalo, said he felt the statistics indicated "something is very wrong."

A second committee study examined the disposition of selected felony narcotics sale cases in each case of the four major counties between January, 1970, and May, 1971.

This study also found a wide disparity. In the Bronx, for example, the committee found 12.5 percent of its sample was jailed for the offense charged. This compared with 3.3 percent in Brooklyn, 2.4 percent in Manhattan and no jailings in Queens.

Considering those who went to jail on a lesser charge, the committee found 68.6 percent of the sample serving some time in Manhattan, 52.5 percent serving time in the Bronx, 14.6 percent in Queens and 11.3 percent in Brooklyn.

One of the committee's studies found that in eight instances prisoners had been granted conditional discharges after being convicted of a narcotics felony charge. Mr. O'Connor said that under the state's penal law such sentences appeared to be "illegal."

DISPOSITION OF SELECTED NARCOTICS ARRESTS (16 OUNCES OR MORE) 1969 AND 1970

	Total		Manhattan		Brooklyn		Queens		Bronx	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent
Defendants	213		85		50		18		60	
Dismissed	68	31.9	32	37.6	21	42	8	33.0	9	15.0
State prison	36	16.9	9	10.4	3	6	5	27.7	19	31.6
City prison	15	7.1	9	10.4	0	0	1	5.5	5	.3
Conditional discharge	17	7.9	8	9.4	6	12	0	0	3	5.0
Probation	11	5.2	2	2.4	5	10	0	0	4	6.6
Discharge on own recognition	4	1.8	1	1.2	0	0	0	0	3	5.0
Bench warrant	23	10.8	12	14.1	4	8	2	11.1	5	8.3
Pending	34	15.9	9	10.4	11	22	4	22.2	10	16.6
Other	5	2.3	3	3.5	0	0	0	0	2	3.3

DISPOSITION OF CONVICTIONS FOR FELONY DRUG SALE ARRESTS IN NEW YORK CITY (JANUARY 1970–MAY 1971)

	Total		Manhattan		Brooklyn		Queens		Bronx	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent
Jailed for offense charged	31	3.0	11	2.4	15	3.3	0	0	5	12.5
Jailed for lesser charge	402	38.5	317	68.6	51	11.3	13	14.6	21	52.5
Probation	196	18.8	65	14.1	108	23.8	16	18.0	7	17.5
Narcotics Addiction Control Comm	302	28.9	26	5.6	258	57.0	14	15.7	4	10.0
Discharged	73	7.0	29	6.3	14	3.1	28	31.5	2	5.0
Other	40	3.8	14	3.0	7	1.5	18	20.2	1	2.5
Total	1,044		462		453		89		40	

LET IT NOT HAPPEN AGAIN

HON. FRED SCHWENGEL

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 7, 1971

Mr. SCHWENGEL. Mr. Speaker, George T. Nickolas, of Davenport, Iowa, has written an essay on the meaning of the 30th anniversary of the attack on Pearl Harbor.

It is an excellent work which I like to share with my colleagues:

LET IT NOT HAPPEN AGAIN

(By George T. Nickolas)

Wounds of the body and spirit are healed in time. The passage of time also clouds the horrible events of history and causes them to disappear from conscious memory. The people of the United States of America should not forget, nor should they be permitted to forget, one of the darkest days of our history. Do you remember that day? It was almost only yesterday. The sun shown brightly on the Pearl of the Pacific. It was a lovely, sleepy, early December Sunday. Men were at Sunday routine, some having a leisurely breakfast, some just lying in bed catching a few extra minutes of sleep, when out of the sun streaked a formation of planes delivering a rain of horror and terror down on citizens of the United States of America.

How could this have happened? Why would any nation dare to attack this powerful country? Yes, few could believe that anyone would sneak to attack the United States of America, but it happened. President Franklin Roosevelt, in his request for a Declaration of War, said that the day would live in infamy. The deaths of three thousand servicemen stand as eternal reminder of that day—December 7, 1941.

Over half of the people alive in this country today were not yet born on December 7, 1941. Have they heard the cries of pain and anguish of those three thousand silent sentinels who stand eternal sentry on the shores of Hawaii, or have their cries been muted by the passage of time? Have these men, in the long run, died in vain? Has the world forgotten and relegated to a page, or maybe only a paragraph in some dusty history book, that day on which they died? Or, does that day, as President Roosevelt claimed, "live in infamy"?

As long as I can stroke a key on a typewriter, as long as I can take a breath of air in a free country, I shall remind people of that day and the fact that the price of freedom is vigilence—not apathy.

This year as we observe the thirtieth anniversary of that Day of Infamy. Let us all remember—Pearl Harbor.

MAN'S INHUMANITY TO MAN—HOW LONG?

HON. WILLIAM J. SCHERLE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1971

Mr. SCHERLE. Mr. Speaker, a child asks: "Where is daddy?" A mother asks: "How is my son?" A wife asks: "Is my husband alive or dead?"

Communist North Vietnam is sadistically practicing spiritual and mental genocide on over 1,600 American prisoners of war and their families.

How long?

CHICAGO NEWSPAPERS REJECT FAVORITISM UNDER PHASE II CONTROLS

HON. ABNER J. MIKVA

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1971

Mr. MIKVA. Mr. Speaker, when the Senate passed the wage and price control bill recently, an amendment was added exempting newspapers from the operation of the statute. I was proud to read on the editorial pages of the Field Newspapers in Chicago, and also in the Chicago Tribune, that these newspapers disavow any special privileges such as the Senate has offered:

As the Chicago Sun-Times stated:

> The press and other communications media would be more credible in the eyes of the public if they operate under the same laws witten for other businesses.

The Chicago Daily News wrote:

> We expect to be subjected to the same regulations as any other business operating under the free enterprise system. We expect and will insist that the controls be fair and uniform, but we want no special privileges on questionable constitutional grounds.

The Chicago Tribune aptly noted that—

> The appearance of favoritism is ill-becoming to the press at a time when the rest of the country is being urged to make sacrifices.

Mr. Speaker, the freedom of the press is not threatened by fair and impartial regulation of circulation and advertising rates as part of a uniform system of economic controls. To the contrary, it is political favoritism which endangers the freedom of the press, by placing the press in the compromising position of relying on the good will of Congress.

I commend the Chicago newspapers for their principled stand, and am pleased to insert in the Record the three editorials referred to above:

[From the Chicago Sun-Times, Nov. 12, 1971]

Price Controls for the Media

Exemption of news media—newspapers, magazines and broadcasters—from Phase II price controls is under study by the government. It is the position of the Field Newspapers—publishers of The Chicago Sun-Times and The Chicago Daily News—that there should be no such exemption; circulation and advertising rates should be subject to whatever government controls and regulations are adopted for all businesses.

Our position is contrary to that taken by some media spokesmen. They believe that the exemptions of World War II and the Korean War for the communications media should be allowed.

We do not believe the present conditions or the state of the communications industry warrant such exemptions. The wartime exemptions were granted by Congress which listened to arguments that any power to regulate the news media would collide with the First Amendment of the Constitution which forbids passage of any law that would abridge freedom of the press. Congress wished to avoid any challenge that controls might be used to affect editorial judgment.

We yield to no one in our zeal to protect freedom of the press which is a fundamental right of the people to an uninhibited and untrammeled flow of news and opinion. We have, for example, stood firm against proposals for licensing or other state or federal special legislation intended to put government in a position to interfere with a newspaper's right to be the sole judge of its editorial content or its right to access of information. We most recently argued against the right of the government to prohibit publication of the Pentagon Papers, a position upheld by the U.S. Supreme Court.

We do not, however, believe that a general price regulation, applied with uniformity to business and industry generally, falls in the category of the restrictions described here. During the present freeze, we have been prevented from putting into effect an increase in advertising rates that was announced before the Aug. 15 presidential proclamation and which was to take effect Sept. 1. The increase was deemed necessary because of increases in our own expenses, particularly new and more costly labor contracts already in effect. If the Price Commission should authorize an increase under such particular circumstances, as the Pay Board has authorized noninflationary wage boosts, we surely will accept it. But this would be under rules adopted for all businesses and not because of an exemption for the media. During the freeze and the economic burden it has put on us, we have no complaint that our rights under the First Amendment have been imperiled.

Price controls will not inhibit our freedom of expression or our responsibility to criticize the government itself or the operations of the controls themselves. Publishers should not feel that they must be exempt from the law so as to preserve their duty to act as a check on government. To the contrary we believe the press and other communications media would be more credible in the eyes of the public if they operate under the same laws written for other businesses.

[From the Chicago Daily News, Nov. 12, 1971]

No Special Favors, Please

In the discussion of Phase II wage and price controls, the possibility of exempting newspapers and other news media has been advanced by various media representatives. Some publisher spokesmen favor such an exemption on ground that applying controls to the media would collide with the First Amendment's guarantee of freedom of the press. We do not agree.

We believe that in matters pertaining to their commercial operations, newspapers and other media should be treated like other private businesses. We consider ourself subject to the same rules, regulations and laws that apply generally to our readers and advertisers. As we see it, the special protection of the First Amendment was intended to protect our right to print what we consider fit in our news and editorial columns.

We would of course oppose any efforts by government officials to use their regulatory or lawmaking powers to gag the media so as to cover up corruption or suppress embarrassing news, or attempt to stifle the free expression of editorial opinions. But Phase II economic controls are not intended to intimidate the media or compromise the integrity of news reporting or editorial views.

In World War II and the Korean War the media were exempted from price controls. This was done by Congress to avoid any possible contention that such controls were invoked unconstitutionally to influence the editorial content of newspapers and other media. Such exemptions were unnecessary then, and are now.

It so happens that as a business the Field Newspapers—The Daily News and The Sun-Times—did suffer financially from President Nixon's wage-price freeze in August. Increases in advertising rates that we had scheduled for Sept. 1 were postponed by the freeze, resulting in a substantial loss of revenue. Because a newspaper cannot recoup losses in the way a manufacturer of less perishable products sometimes can, this is a permanent loss. Our losses (other media were more fortunate in their timing) were our bad luck; we accept them as such.

We are prepared to continue to cooperate down the line with the President's Phase II. We expect to be subjected to the same regulations as any other business operating under the free enterprise system. We expect and will insist that the controls be fair and uniform, but we want no special privileges on questionable constitutional grounds. We will stand on our constitutional rights only when doing so coincides with the public interest—specifically, the people's right to know. The main thrust of the wage-price controls is to try to contain the inflation that long threatened to make beggars of us all. The public interest will be best served if the controls work. So far as we are concerned, making them apply to the media is one way of helping to ensure success.

[From the Chicago Tribune, Dec. 3, 1971]

A Favor We Don't Want

We appreciate the solicitous thoughts of the senators who voted to exempt the information media from wage and price controls, but this is a favor that The Tribune, for one, would prefer to do without.

The exemption was approved by the Senate in the form of an amendment to the wage and price control bill sponsored by a coalition of senators led by Alan Cranston of California. Their argument is that the press was exempted from controls during World War II and that, in Mr. Cranston's words, the present controls would give the government "economic life-or-death power over every publishing and broadcasting operation in the country."

The Tribune has a long tradition of opposition to special privileges for special interests, whether for the newspapers or anybody else. There is only one special privilege we demand, and that is the privilege of freedom granted to the press under the First Amendment to the Constitution. We have fought for this privilege and will continue to do so, because in fighting for this privilege we are fighting for the public's right to know and are not seeking to set ourselves apart from the public.

We don't consider that the present wage and price controls constitute a threat to the freedom of the press. We think Mr. Cranston exaggerates the danger. The Pay Board and the Price Commission are autonomous bodies, unlike the wartime control boards; and while we may not always approve of their decisions, there is no evidence that they are subject to improper political influence.

As finally passed by the Senate, the Cranston amendment does call on the press to abide by the guidelines on a voluntary basis. Even so, the appearance of favoritism is ill-becoming to the press at a time when the rest of the country is being urged to make sacrifices. If the amendment is approved by the House and the President, The Tribune will strive to live within the framework of the existing regulations and assume the same burdens and responsibilities as we expect of other businesses.

The country is facing a serious economic challenge. We have urged business and labor to subordinate their interests to the national interest. We are willing to do the same ourselves.

THE IDAHO SUNDAY STATESMAN, DECEMBER 7, 1941

HON. JAMES A. McCLURE

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1971

Mr. McCLURE. Mr. Speaker, dateline—the Idaho Sunday Statesman, first edition—December 7, 1941. Boise weather forecasters predicted "the day of infamy" would be partly cloudy with temperatures somewhat cooler than the 39 degrees registered on Saturday. Additionally, Boise readers were told that scattered snow flurries could be expected in the mountains. In a big bold-type headline on the front page, the Statesman disclosed that bitter fighting continued as Nazi armies pushed toward Moscow. Also highlighted was the message F.D.R. sent to Japan's Emperor expressing dissatisfaction with Japanese troop concentrations in French Indochina. Little did my fellow Idahoans realize that this country, known to us today as Vietnam, would be so prominently in the news 30 years later.

Page 2. Boise citizens were told of the approaching Christmas decoration contest, with cash prizes to winners. Ten-foot Santas were soon to be positioned on the Capitol and Fairview Bridges for the holiday season. All seemed quite normal. If you needed antifreeze for your car, it was being advertised in the Statesman as a weekend special for 89 cents a gallon. Moreover, if your automobile tires were getting worn, one store offered a recognized brand for $7.99 each. More significant than the price, there was no reference to any Federal excise taxes on purchases. If you anticipated an unusually hard winter, a 12-month guaranteed battery for $6.44 may have interested you.

Sunday's editorial comment centered around economy in Government, and their words still have application today as our Federal Government struggles with the problem of establishing new priorities for the 1970's. The Statesman said:

> No one in Washington seems to know how to save money. Non-defense squandering continues. America needs some oldfashioned pinchfist economy. A curious phenomenon has arisen, every bureau and department of the government whose existence is threatened by the demand for all-out defense has evolved some scheme to prove its worthiness as a defense project."

Continuing our search through the first edition, we noted the attention given to the problems of organized labor. Concern for such things as cost of living and wages was finding its way to the printed word, no doubt as inflation crept into our economic society.

If you were thinking about a bicycle for a Christmas present, Montgomery Ward had a "honey" for $39.95 with terms available—in case you needed to stretch your hard-earned dollars. If your wife's sweeper was worn out, one was available, with all of the attachments, for $39.95.

For entertainment, Jack Benny was at his usual spot on radio station KIDO at 5 o'clock—but you already knew that without looking. Charlie McCarthy was next, then, the entire family generally liked to listen to the Ford Sunday Evening Hour before tuning in Walter Winchel's "Dateline" at 10 on KSL.

If you happened to be a football fan, you no doubt noticed the drubbing Oregon received from the Texas Longhorns in Austin the day before. Final score 71 to 7 in favor of Texas—before a sellout crowd of 26,000. How many among us would have predicted 30 years ago that 60 million Americans would view a sports event, as was the case this year in the first televised World Series night game.

A baseball owners meeting was scheduled in Chicago the week of December 8 to discuss trades and player deals. Two new managers were destined to receive the scrutiny of watchful baseball lovers' eyes. They were: Mel Ott of the New York Giants and Lou Boudreau of the Cleveland Indians.

If you planned to go to a December 7, 1941, movie, "Blossoms in the Dust," starring Greer Garson and Walter Pidgeon, was playing at a Boise theater. However, the "best bet" for the kids was "Blondie in Society" at the Rio.

The New York Stock Exchange reported a pretty good week, posting across-the-board gains. Eastman Kodak—to name one—closed at $134.50, but not many of us had $134.50 to gamble on the market.

If you read the comics it was ironic that on that December 7, 1941, morning, Flash Gordon was engaged in an air battle over water with unidentified planes launched from enemy aircraft carriers.

Unfortunately, what started out to be just another Sunday morning was not to end uneventful. The afternoon at the movies, the Jack Benny program, were soon to be forgotten as Boise citizens and all Americans awaited anxiously for news about a place called Pearl Harbor. Statesman extras and "read all about it" soon hit the streets and people everywhere stayed glued to their radio stations for the latest news broadcasts. Tuesday, December 7, 1971 marks the 30th anniversary of "the day of infamy." We all know that 30 years ago today history turned the corner.

We know too that countless articles and books have been written on the subject of the Japanese attack on Pearl Harbor. However, I am reminded of the words of Vice Adm. Homer N. Wallin, U.S.N. retired, who was commissioned to document the series of events that led to the attack and subsequent salvaging operations. Admiral Wallin had this to say:

> Warfare with its tremendous sacrifice in lives and treasure is abhorrent to all civilized people.
>
> History tells us that armed conflict is and always has been a fact of life whenever covetous governments desire their neighbors' property or whenever thirst for power dictates the purpose and aim of officials in control.
>
> Peace loving people teach and preach that National aggression and military force do not pay. But that would depend, it seems, whether or not the aggressor is met and repelled by a more powerful force in which righteousness adds to the power. That fact is true among nations even as among citizens who are menaced by criminals and bandits.

As we give thanks for the prospects for peace this December 7, 1971, let us use the occasion of the 30th anniversary of Pearl Harbor to remind our people that the United States of America remains, as it did 30 years ago, as mankind's last best hope for a generation of peace throughout the world.

And above all else let's make certain our Government has essential military and naval forces—not to "make war" but to discourage any would-be aggressor from launching another one.

SENATE—*Thursday, December 9, 1971*

The Senate met at 9 a.m. and was called to order by Hon. LAWTON CHILES, a Senator from the State of Florida.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

O God whose splendor fills the earth, grant us eyes to behold and ears to hear the message of this holy season—of singing skies, of a baby's low murmur, of a mother's tender care, of simple shepherds and peasant workmen, of God in the midst of the family circle.

May we be star-guided to the manger where men of old tarried for wisdom. Quicken all our senses that each may be an opening door into the presence of the eternal. And may the anthem "Glory to God in the highest and on earth peace" become a reality in all men's hearts and in all the nations of the earth. And to Thee shall be all honor and glory, world without end. Amen.

DESIGNATION OF THE ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. ELLENDER).

The legislative clerk read the following letter.

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., December 9, 1971.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. LAWTON CHILES, a Senator from the State of Florida, to perform the duties of the Chair during my absence.

ALLEN J. ELLENDER,
President pro tempore.

Mr. CHILES thereupon took the chair as Acting President pro tempore.

REPORT OF A COMMITTEE SUBMITTED DURING ADJOURNMENT

Under authority of the order of the Senate of December 8, 1971, Mr. KENNEDY, from the Committee on Labor and Public Welfare, reported favorably, with an amendment, on December 8, 1971, the bill (S. 1874) to provide for the establishment of projects for the dental health of children, to increase the number of dental auxiliaries, to increase the availability of dental care through efficient use of dental personnel, and for other purposes, and submitted a report (No. 92–564) thereon, which was printed.

CONFERENCE REPORT SUBMITTED DURING ADJOURNMENT

Under authority of the order of the Senate of December 8, 1971, Mr. KENNEDY, from the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1828) to amend the Public Health Service Act so as to establish a Conquest of Cancer Agency in order to conquer cancer at the earliest possible date, submitted a conference report (No. 92–565) thereon, which was printed.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Wednesday, December 8, 1971, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the calendar beginning with No. 539 and ending with and including No. 542.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RESTORATION OF POSTAL SERVICE SENIORITY TO ELMER ERICKSON

The Senate proceeded to consider the bill (S. 889) to restore the postal service seniority of Elmer Erickson, which had been reported from the Committee on Post Office and Civil Service with an amendment, on page 2, after line 13, insert a new section, as follows:

SEC. 2. In making any adjustment in salary level or step authorized by section 1 of this Act, no payment shall be made by the United States Postal Service for any period prior to the date of enactment of this Act.

So as to make the bill read:

S. 889

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the laws, rules, and regulations pertaining to the seniority rights of employees of the Post Office Department, Elmer O. Erickson, of Minneapolis, Minnesota, an employee of the postal service assigned to the Saint Paul and Aberdeen railway post office, Minnesota, shall be entitled to receive credit for service performed by him in the postal service during the period from August 12, 1940, through January 13, 1961, in like manner as if the provisions of sections 748.1 through 748.17 of the Postal Transportation Service seniority rules, Post Office Department Publication 31, dated August 18, 1958, under which certain employees who transfer from and later reenter an occupational group subject to such rules will have service seniority based upon the seniority they had attained before transferring from such group, had been applicable with respect to the said Elmer O. Erickson during the period from January 14, 1961, the date he transferred from the clerical group, which is the occupational group into which he and all other former employees of the Postal Transportation Service were placed when such Service was merged into the post offices, to April 29, 1961, the date he retransferred to such group.

SEC. 2. In making any adjustment in salary level or step authorized by section 1 of this Act, no payment shall be made by the United States Postal Service for any period prior to the date of enactment of this Act.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 92-559), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

The purpose of this legislation is to provide that, in the administration of the laws, rules, and regulations pertaining to the seniority rights of employees of the U.S. Postal Service, Elmer O. Erickson, of Minneapolis, Minn., an employee of the Postal Service formerly assigned to the St. Paul and Aberdeen railway post office, Minnesota, shall be entitled to receive credit for service performed by him in the Post Office Department during the period August 12, 1940, through January 13, 1961, as if the provisions of sections 748.1 through 748.17 of the Postal Transportation Service seniority rules, Post Office Department Publication 31, dated August 18, 1958, had been applicable to him in that period, and to permit him to retain his seniority as provided in those rules, which were terminated upon the merger of the Postal Transportation Service with the Post Office Service.

STATEMENT

On August 12, 1940, Elmer O. Erickson entered the Railway Mail Service, later known as the Postal Transportation Service. He served continuously with this branch of the post office until January 13, 1961. On January 14, 1961, Mr. Erickson transferred to a rural mail route in New Richland, Minn., and served as a rural mail carrier for approximately 15 weeks. At the end of that time, on April 29, 1961, he returned to the mobile unit section of the St. Paul and Aberdeen post office.

Under the Postal Transportation Service seniority rules (secs. 748.1 through 748.17 and particularly sec. 748.125) as they appeared in the Post Office Department Publication 31, dated August 18, 1958, Mr. Erickson could have transferred from the Postal Transportation Service into the rural mail service and, upon reentry into the Postal Transportation Service, lost only the 15 weeks' service acquired as a rural mail carrier. However, Mr. Erickson lost not only the 15 weeks' service he acquired as a rural mail carrier, but also the 20 years and 5 months' seniority he had attained in the Postal Transportation Service.

This 20 years' and 5 months' service seniority was lost by Mr. Erickson because of changes occurring in the functioning structure and rules of the Post Office beginning July 23, 1960. At that time, the Postal Transportation Service ceased to be a separate branch of the Post Office Department and was merged into the Post Office Service. In connection with this change, sections 748.1 through 748.17 of the Postal Transportation Service seniority rules were discarded. Employees of the Postal Transportation Service where to learn of these changes through notifications printed in the July 28, 1960, and the February 2, 1961, editions of the Postal Bulletin. However, at these times, employees like Mr. Erickson were primarily concerned with overcoming the difficulties involved in transferring the Postal Transportation Service from separate management into the management of the Mobile Unit Service in the Post Office Service. This involved the establishment of a completely new concept of mail service whereby sectional centers were established and a new network of star routes created. Mr. Erickson was not aware of the change in his seniority rules, and was not advised of these changes until after his seniority had been removed.

Mr. Erickson's seniority date is now listed as April 29, 1961. He is receiving credit for 10 years' seniority when, in reality, he has completed 30 years' service to the Postal Service.

The committee believes that under these particular circumstances, legislative relief should be granted to Mr. Erickson. Accordingly, it is recommended that the bill, as amended, be considered favorably.

The committee has amended the bill as referred to insure that no retroactive payment of salary shall be made to Elmer Erickson on account of the enactment of this legislation.

CIVIL SERVICE RETIREMENT CREDIT

The Senate proceeded to consider the bill (S. 1031) to credit certain service rendered by District of Columbia substitute teachers for purposes of civil service retirement, which had been reported from the Committee on Post Office and Civil Service with an amendment to strike out all after the enacting clause and insert:

That section 8332(b) of title 5, United States Code, is amended by—

(1) striking out the word "and" at the end of paragraph (7);

(2) striking out the period at the end of paragraph (8) and inserting in lieu thereof a semicolon and the word "and"; and

(3) inserting after paragraph (8) the following new paragraph:

"(9) subject to sections 8334(c) and 8339(h) of this title, service as a substitute teacher for the government of the District of Columbia after July 1, 1955, if such service is not credited for benefits under any other retirement system established by a law of the United States."

SEC. 2. An annuity or survivor annuity based on the service of an employee or annuitant who performed service described in section 1 of this Act shall, upon application to the Civil Service Commission, be recomputed, effective on the first day of the first month following the date of enactment of this Act, in accordance with section 1 of this Act.

SEC. 3. Section 22 of Public Law 243, 84th Congress, enacted August 5, 1955 (69 Stat. 530), is repealed.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

DISTRICT OF COLUMBIA UNEMPLOYMENT COMPENSATION ACT AMENDMENTS OF 1971

The Senate proceeded to consider the bill (S. 2429) to amend the District of Columbia Unemployment Compensation Act in order to conform to Federal law, and for other purposes which had been reported from the Committee on the District of Columbia with amendments on page 2, line 15, after the word "as", strike out "any" and insert "an"; on page 3, line 23, after the word "education", strike out "located in the District"; on page 9, line 8, after the word "and", strike out "(III)" and insert "(II)"; on page 10, line 21, after the word "amended", strike out "by striking out paragraph (3)."; after line 21, insert:

(A) by striking out "; or" at the end of paragraph (2) and inserting in lieu thereof a period; and

(B) by striking out paragraph (3).

On page 11, line 4, after the word "as", strike out "wages" and insert "earnings"; on page 12, at the beginning of line 12, insert "all colleges and universities in the District are institutions of higher education for purposes of this section"; on page 18, line 25, after "3301", strike out "3308" and insert "3311"; on page 19, at the beginning of line 12, strike out "46–303 (f)) is amended by striking out in the first sentence '(i)' and inserting in lieu thereof '(A)." and insert "46–303) (f) is amended—"; after line 14, insert:

"(A) by striking out in the first sentence "(i)" and inserting in lieu thereof "(A), or in the event any of its instrumentalities are required to be covered under this Act,"; and

"(B) by adding at the end of the second paragraph thereof the following: "The District of Columbia shall be liable only for 50 per centum of any extended benefits paid."

On page 25, line 18, after the word "in", strike out "paragraph" and insert "section"; on page 26, line 1, after the word "of", strike out "it selection" and insert "its election"; on page 35, line 14, after the word "wages", strike out "for" and insert "actually"; on page 40, line 25, after the word "benefits", insert "or"; on page 44, after line 21, insert:

(39) Section 10(d) of such Act (D.C. Code, sec. 46–310(d)) is amended by adding the following new paragraph:

"(3) Notwithstanding any other provision of this Act, compensation shall not be denied or reduced to an individual solely because he files a claim in another State (or a contiguous country with which the United States has an agreement with respect to unemployment compensation) or because he resides in another State (or such a contiguous country) at the time he files a claim for unemployment compensation."

On page 45, at the beginning of line 6, strike out "(39)" and insert "(40)"; after line 7, insert:

(A) by striking out the fifth sentence in subsection (b) and inserting in lieu thereof "The Board shall promptly notify the claimant and any party to the proceeding of its determination, and such determination shall be final within 10 days after the mailing of notice thereof to the party's last known address or in the absence of such mailing, within 10 days of actual delivery of such notice."

(B) by striking out the sixth sentence in subsection (b); by striking out the seventh sentence through the words "*Provided*, That" in subsection (b) and capitalize the word "if" immediately thereafter.

(C) by striking out "after the date of notification or" in the fourth sentence of subsection (e) and inserting in lieu thereof "of".

At the beginning of line 23, strike out "(A)" and insert "(D)"; at the beginning of line 25, strike out "(B)" and insert "(E)"; on page 46, at the beginning of line 3, strike out "(40)" and insert "(41)"; in line 17, after "1970", insert a comma and "or other Manpower Acts"; on page 47, after the word "Act", where it appears the second time, strike out the period and insert "and (B) by striking out 'the District of Columbia' in the third sentence of subsection (f) and inserting in lieu thereof 'any State'"; at the beginning of line 6, strike out "(40)" and insert "(42)"; on page 49, at the beginning of line 23, strike out "(41)" and insert "(43)"; on page 50, at the beginning of line 1, strike out "(42)" and insert "(44)"; so as to make the bill read:

S. 2429

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "District of Columbia Unemployment Compensation Act Amendments of 1971".

Sec. 2. The District of Columbia Unemployment Compensation Act, approved August 28, 1935, as amended, is further amended as **follows:**

(1) Section 1(b)(1) of such Act (D.C. Code, sec. 46–301(b)(1)) is amended to read as follows:

"(1) 'Employment' means:

"(A) Any service performed prior to January 1, 1972, which was employment as defined in this subsection prior to such date and, subject to the other provisions of this subsection, service performed after December 31, 1971, including service in interstate commerce, by—

"(i) any officer of a corporation; or

"(ii) any individual who, under the usual common law rules applicable in determining the employer-employee relationship, has the status of an employee; or

"(iii) any individual other than an individual who is an employee under subdivision (i) or (ii) who performs services for remuneration for any person—

"(I) as an agent-driver or commission-driver engaged in distributing meat products, vegetable products, fruit products, bakery products, beverages (other than milk), or laundry or drycleaning services, for his principal;

"(II) as a traveling or city salesman, other than as an agent-driver or commission-driver, engaged upon a full-time basis in the solicitation on behalf of, and the transmission to, his principal (except for side-line sales activities on behalf of some other person) of orders from wholesalers, retailers, contractors, or operators of hotels, restaurants, or other similar establishments for merchandise for resale or supplies for use in their business operations: *Provided*, That for purposes of subparagraph (A)(iii), the term 'employment' shall include services described in (I) and (II) above performed after December 31, 1971, only if:

"1. The contract of service contemplates that substantially all of the services are to be performed personally by such individual;

"2. The individual does not have a substantial investment in facilities used in connection with the performance of the services (other than in facilities for transportation); and

"3. The services are not in the nature of a single transaction that is not part of a continuing relationship with the person for whom the services are performed.

"(B) Service performed after December 31, 1971, by an individual in the employ of the District or any of its instrumentalities (or in the employ of the District and one or more States or their instrumentalities) for a hospital or institution of higher education: *Provided*, That such service is excluded from 'employment' as defined in the Federal Unemployment Tax Act solely by reason of section 3306(c)(7) of that Act and is not excluded from 'employment' under section 1(b)(1)(D) of this Act;

"(C) Service performed after March 30, 1962, by an individual in the employ of an educational organization, and service performed after December 31, 1971, by an individual in the employ of a religious, charitable, or other organization which is excluded from the term 'employment' as defined in the Federal Unemployment Tax Act solely by reason of section 3306(c)(8) of that Act, except as provided in section 1(b)(1)(D) of this Act;

"(D) For the purposes of subparagraphs (B) and (C) the term 'employment' does not apply to service performed after December 31, 1971—

"(i) in the employ of (I) a church or convention or association of churches, or (II) an organization which is operated primarily for religious purposes and which is operated, supervised, controlled, or principally supported by a church or convention or association of churches; or

"(ii) by a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry or by a member of a religious order in the exercise of duties required by such order; or

"(iii) in a facility conducted for the purpose of carrying out a program of rehabilitation for individuals whose earning capacity is impaired by age or physical or mental deficiency or injury providing remunerative work for individuals who because of their impaired physical or mental capacity cannot be readily absorbed in the competitive labor market, by an individual receiving such rehabilitation or remunerative work; or

"(iv) as part of an unemployment work-relief or work-training program assisted or financed in whole or in part by any Federal agency or an agency of a State or political subdivision thereof, by an individual receiving such work relief or work training; or

"(v) for a hospital in a State prison or other State correctional institution, by an inmate of the prison or correctional institution.

"(E) The term 'employment' shall include the service of an individual who is a citizen of the United States, performed outside the United States (except in Canada or the Virgin Islands), after December 31, 1971, in the employ of an American employer (other than service which is deemed 'employment' under the provisions of section 1(b)(2) of this Act or the parallel provisions of another State's law), if:

"(i) the employer's principal place of business in the United States is located in the District; or

"(ii) the employer has no place of business in the United States, but

"(I) the employer is an individual who is a resident of the District; or

"(II) the employer is a corporation which is organized under the laws of the District or the laws of the United States; or

"(III) the employer is a partnership or a trust and the number of the partners or trustees who are residents of the District is greater than the number who are residents of any one other State; or

"(iii) none of the criteria of clauses (i) and (ii) of this subparagraph are met but the employer has elected coverage in the District or, the employer having failed to elect coverage in any State, the individual has filed a claim for benefits, based on such service, under the law of the District.

"(iv) an 'American employer', for purposes of this subparagraph, means a person who is—

"(I) an individual who is a resident of the United States; or

"(II) a partnership if two-thirds or more of the partners are residents of the United States; or

"(III) a trust, if all of the trustees are residents of the United States; or

"(IV) a corporation organized under the laws of the United States or of any State.

"(v) as used in this subparagraph the term 'United States' includes the States, the District of Columbia, and the Commonwealth of Puerto Rico.

"(F) The term 'employment' shall include personal or domestic service in a private home for an employer who paid cash remuneration of $500 or more in any calendar quarter. 'Personal or domestic service' for the purpose of this subparagraph shall include all persons employed by an employer in his capacity as a householder, as distinguished from a person employed by the employer in the pursuit of a trade, occupation, profession, enterprise, or vocation."

(2) Section 1(b)(2) of such Act (D.C. Code, sec. 46–301(b)(2)) is amended—

(A) by striking out "or" after "performed within" and inserting in lieu thereof a comma;

(B) by inserting after "within and without" the following: "or entirely without";

(C) by adding after subparagraph (B) the following new paragraph:

"(C) the service is performed anywhere within the United States, the Virgin Islands, or Canada: *Provided,* That (i) such service is not covered under the unemployment compensation law of any State, the Virgin Islands, or Canada, and (ii) the place from which the service is directed or controlled is in the District."

(3) Section 1(b)(4) of such Act (D.C. Code, sec. 46–301(b)(4)) is amended to read as follows:

"(4) Notwithstanding any other provisions of this subsection, the term 'employment' shall also include all service performed after January 1, 1955, by an officer or member of the crew of an American vessel or American aircraft on or in connection with such vessel or aircraft: *Provided,* That the operating office from which the operations of such vessel or aircraft are ordinarily and regularly supervised, managed, directed, and controlled, is within the District."

(4) Section 1(b)(5) of such Act (D.C. Code, sec. 46–301(b)(5)) is amended—

(A) by amending subparagraph (A) to read as follows:

"(A) service performed by an individual under 18 years of age as a babysitter;";

(B) by redesignating clauses (a) and (b) of subparagraph (D) as (i) and (ii), respectively;

(C) by inserting immediately before the semicolon at the end of subparagraph (E) the following: ", except for service performed after December 31, 1971, as provided in section 1(b)(1)(B) of this Act";

(D) by striikng out in subparagraph (I) (1)(c) "at a" and inserting in lieu thereof "at such";

(E) by redesignating clauses (1), (2), and (5) of subparagraph (I) as (i), (ii), and (iii), respectively;

(F) by striking out clauses (3) and (4) of subparagraph (I);

(G) by redesignating (a) and (c) of clause (i) as (I) and (III) (II) respectively;

(H) by striking out (b) of clause (i);

(I) by redesignating clauses (1) and (2) of subparagraph (K) as (i) and (ii), respectively;

(J) by inserting in subparagraph (Q) "or aircraft" after "vessel" the first and third times it appears, and by inserting "or American aircraft" after "vessel" the second time it appears;

(K) by redesignating clauses (A) and (B) of subparagraph (R) as (i) and (ii), respectively;

(L) by striking out subparagraphs (G) and (P); and

(M) by redesignating subparagraphs (H) through (T) as subparagraphs (G) through (R), respectively.

(5) Section 1(b)(6) of such Act (D.C. Code, sec. 46–301(b)(6)) is amended by striking out "5(H)" in the last sentence and inserting in lieu thereof "5(G)".

(6) Section 1(b)(7) of such Act (D.C. Code, sec. 46–301(b)(7)) is amended by inserting before the period at the end thereof the following: "or which as a condition for full tax credit against the tax imposed by the Federal Unemployment Tax Act is required to be covered under this Act".

(7) Section 1(b)(8) of such Act (D.C. Code, sec. 46–301(b)(8)) is amended—

(A) by inserting "localized" after "Any" in subparagraph (i);

(B) by striking out "section 1(b)(5)" in such subparagraph (i) and inserting in lieu thereof "section 1(b)";

(C) by striking out "section 1(b)(8)(i)" in subparagraph (ii) and inserting in lieu thereof "section 1(b)(8)(A)";

(D) by redesignating clauses (A) and (B) of subparagraph (i) as (i) and (ii), respectively; and

(E) by redesignating subparagraphs (i), (ii), and (iii) as (A), (B), and (C), respectively.

(8) Section 1(c) of such Act (D.C. Code, sec. 46–301(c)) is amended—

(A) by striking out "; or" at the end of paragraph (2) and inserting in lieu thereof a period; and

(B) by striking out paragraph (3).

(9) Section 1(d) of such Act (D.C. Code, sec. 46–301(d)) is amended by inserting immediately after the first sentence the following new sentence: "After August 29, 1946, back pay awarded under any statute of the District or of the United States shall be treated as earnings."

(10) Section 1(q) of such Act (D.C. Code, sec. 46–301(q)) is amended to read as follows:

"(q) 'State' includes, in addition to the States of the United States of America, the District of Columbia (herein referred to as the 'District'), Puerto Rico, and the Virgin Islands."

(11) Section 1(r) of such Act (D.C. Code, sec. 46–301(r)) is amended by inserting immediately after "including" the following: "the District government and its instrumentalities (as specified in section 1(b)(1)(B)) of this Act,".

(12) Section 1(t) of such Act (D.C. Code, sec. 46–301(t)) is amended by inserting immediately before the period at the end thereof the following "; and the term 'American aircraft' means an aircraft registered under the laws of the United States".

(13) Section 1 of such Act (D.C. Code, sec. 46–301) is amended by adding at the end thereof the following new subsections:

"(w) 'Institution of higher education', for the purposes of this section, means an educational institution which—

"(1) admits as regular students only individuals having a certificate of graduation from a high school, or recognized equivalent of such a certificate;

"(2) is legally authorized in the District to provide a program of education beyond high school;

"(3) provides an educational program for which it awards a bachelor's or higher degree, or provides a program which is acceptable for full credit toward such a degree, a program of postgraduate or postdoctoral studies, or a program of training to prepare students for gainful employment in a recognized occupation; and *all colleges and universities in the District are institutions of higher education for purposes of this section.*

"(4) is a public or other nonprofit institution.

"(x) 'Hospital' means an institution which has been licensed by the Commissioner of the District as a hospital."

(14) Section 3(b) of such Act (D.C. Code, sec. 46–303(b)) is amended by striking out ", until the effective date of this Act,".

(15) Section 3(c)(2) of such Act (D.C. Code, sec. 46–303(c)(2)) is amended by inserting immediately before the period at the end of the first sentence thereof a colon and the following: "*Provided,* That after December 31, 1971, benefits paid to an individual for any week during which he is attending a training or retraining course under the provisions of section 10(d)(2) of this Act or extended benefits paid to an exhaustee under the provisions of section 7(g) of this Act shall not be charged against such employer accounts".

(16) Section 3(c)(3) of such Act (D.C. Code, sec. 46–303(c)(3)) is amended to read as follows:

"(3) The standard rate of contributions shall be 2.7 per centum, except that after December 31, 1971, each employer newly subject to this Act shall pay contributions at a rate equal to the average rate on taxable wages of all employers for the preceding calendar year (rounded to the next higher one-tenth of 1 per centum), or 1 per centum, whichever is higher (not exceeding 2.7 per centum) until he has been an employer for a sufficient period to meet the requirement to qualify for a reduced rate as provided in paragraph (4) of this subsection; thereafter, his contribution rate shall be determined in accordance with the provisions of such paragraph (4)."

(17) Section 3(c)(4) of such Act (D.C. Code, sec. 46–303(c)(4) is amended—

(A) by striking out subparagraph (i) and inserting in lieu thereof:

"(A) No employer's rate of contribution for any calendar year or part thereof shall be reduced below the standard rate unless and until his account could have been charged with benefits paid throughout the thirty-six-consecutive-calendar-month period ending on the computation date applicable to such year or part thereof. For the calendar years 1963 to 1971, inclusive, any employer who is subject to this Act by virtue of the amendment of former section (1)(b)(5)(G) of this Act by the Act of March 30, 1962, and who has not been subject to this Act for a sufficient period to meet this requirement, may qualify for a rate less than the standard rate if his account could have been charged with benefit payments throughout a lesser period but, in no event, less than the twelve consecutive calendar months ending on the computation date (as herein defined) for that calendar year.";

(B) by striking out subparagraph (ii) and inserting in lieu thereof:

"(B) If the amount of the fund as of June 30 of any year is less than 4 per centum of the total payrolls subject to contributions under this Act for the twelve-consecutive-month period ending on the preceding December 31, the contribution rate for each employer (including newly subject employers) shall be increased by the percentage differential between said 4 per centum of such total payrolls and said fund's percentage of such total payrolls, but in no event shall the contribution rate for any employer be more than 2.7 per centum. Said percentage differential for each employer shall be computed to the next higher one-tenth of 1 per centum.";

(C) by striking out subparagraph (iii) and inserting in lieu thereof:

"(C) If on December 20 of any year, the amount in the fund becomes less than 2 per centum of the total annual payrolls subject to contributions under the Act for the twelve-consecutive-month period ending on the preceding June 30, the Board shall make a declaration to that effect. Effective the quarter following such announcement, each employer's (including each new subject employer's) rate of contribution shall be the standard rate.";

(D) by striking out "paragraph (iv)" in the last sentence of subparagraph (iv) and inserting in lieu thereof "subparagraph (D)"; and

(E) by redesignating subparagraph (iv) as subparagraph (D).

(18) Section 3(c)(5) of such Act (D.C. Code, sec. 46–303(c)(5)) is amended—

(A) by amending the first sentence to read as follows: "The Board shall for any uncompleted portion of the calendar year beginning July 1, 1943, and for each calendar year thereafter classify employers in accordance with their actual experience in the payment of contributions and with respect to benefits charged against their accounts, except as provided in section 3(c)(3) of this Act."; and

(B) by striking out "3(c)(4)(i)" and inserting in lieu thereof "3(c)(4)(A)".

(19) Section 3(c)(7) of such Act (D.C. Code, sec. 46–303(c)(7)) is amended—

(A) by redesignating subclauses (1), (2), (3), and (4) of clause (ii) as (I), (II), (III), and (IV), respectively; and

(B) by redesignating subparagraphs (a) through (f) as subparagraphs (A) through (F), respectively.

(20) Section 3(c)(8) of such Act (D.C. Code, sec. 46–303(c)(8)) is amended—

(A) by amending subparagraph (i) to read as follows:

"(A) If as of the computation date the total of all contributions credited to any employer's account, with respect to employment since May 31, 1939, is in excess of the total benefits paid after June 30, 1939, then chargeable or charged to his account, such excess shall be known as the employer's reserve, and his contribution rate for the ensuing calendar year or part thereof shall be—

"(i) 2.7 per centum if such reserve is less than 0.5 per centum of his average annual payroll;

"(ii) 2 per centum if such reserve equals or exceeds 0.5 per centum but is less than 1 per centum of his average annual payroll;

"(iii) 1.5 per centum if such reserve equals or exceeds 1 per centum but is less than 1.5 per centum of his average annual payroll;

"(iv) 1 per centum if such reserve equals or exceeds 1.5 per centum but is less than 2.5 per centum of his average annual payroll;

"(v) 0.5 per centum if such reserve equals or exceeds 2.5 per centum but is less than 3 per centum of his average annual payroll;

"(vi) 0.1 per centum if such reserve equals or exceeds 3 per centum of his average annual payroll.";

(B) by inserting immediately before the period at the end of subparagraph (ii) "except as provided in subsection (c)(3) of this section."; and

(C) by redesignating subparagraphs (ii), (iii), and (iv) as subparagraphs (B), (C), and (D), respectively.

(21) Section 3(c)(9) of such Act (D.C. Code, sec. 46–303(c)(9)) is amended—

(A) by striking out "(iv)" in subparagraph (b) and inserting in lieu thereof "(D)"; and

(B) by redesignating subparagraphs (a), (b), (c), (d), and (e) as (A), (B), (C), (D), and (E), respectively.

(22) Section 3(c) of such Act (D.C. Code, sec. 46–303(c)) is amended by adding at the end thereof the following new paragraph:

"(11) After December 31, 1971, the separate account established for an employer under the provisions of paragraph (1) of this subsection shall be discontinued effective the calendar quarter next succeeding three calendar years after the employer has been determined out of business. Thereafter no employer shall have any right to or interest in such discontinued account."

(23) Section 3(e) of such Act (D.C. Code, sec. 46–303(e)) is amended to read as follows:

"(e) From December 31, 1939, to January 1, 1955, wages, for the purpose of section 3, shall not include any amount in excess of $3,000 paid by an employer to any person arising out of his or her employment during any calendar year. From January 1, 1955, to December 31, 1971, wages shall not include any amount in excess of $3,000 actually paid by an employer to any person during any calendar year. After December 31, 1971, wages shall not include any amount in excess of $4,200 (or in excess of the limitation on the amount of taxable wages fixed by the Federal Unemployment Tax Act (26 U.S.C. 3301–3311), whichever is greater) actually paid by an employer to any person during any calendar year. After December 31, 1954, the term 'employment' for the purpose of this subsection shall include services constituting employment under any employment security law of a State or of the Federal Government. After December 31, 1971, the term 'employment' for the purpose of this subsection shall include services constituting employment performed in the employ of a transferor as determined under the provisions of section 3(c)(7) of this Act."

(24) Section 3(f) of such Act (D.C. Code, sec. 46–303(f)) is amended—

"(A) by striking out in the first sentence "(i)" and inserting in lieu thereof "(A), or in the event any of its instrumentalities are required to be covered under this Act,"; and

"(B) by adding at the end of the second paragraph thereof the following: "The District of Columbia shall be liable only for 50 per centum of any extended benefits paid."

(25) Section 3(g) of such Act (D.C. Code, sec. 46–303(g)) is amended by inserting immediately before the period at the end of the first sentence a colon and the following: "*Provided*, That liability to the fund shall not exceed contributions for the three calendar years next preceding the quarter in which liability was determined."

(26) Section 3 of such Act (D.C. Code, sec. 46–303) is amended by adding at the end thereof the following new subsections:

"(h) Notwithstanding any other provisions of this section, benefits paid to employees of nonprofit organizations shall be financed in accordance with the provisions of this subsection. For the purpose of this subsection and subsection (i), a nonprofit organization is an organization (or group of organizations) described in section 501(c)(3) of the Internal Revenue Code of 1954 which is exempt from income tax under section 501(a) of such Code.

"(1) Any nonprofit organization which, pursuant to section 1(b)(1)(C), is, or becomes, subject to this Act on or after January 1, 1972, shall pay contributions under the provisions of section 3(c), unless it elects, in accordance with this paragraph to pay to the Board for the District Unemployment Fund an amount equal to the amount of regular benefits plus one-half of the amount of extended benefits paid that is attributable to service in the employ of such nonprofit organization, to individuals for weeks of unemployment which begin during the effective period of such election.

"(A) Any nonprofit organization which is, or becomes, subject to this Act on January 1, 1972, may elect to become liable for payments in lieu of contributions for a period of not less than one taxable year beginning with January 1, 1972: *Provided*, That it files with the Board a written notice of its election within the thirty-day period immediately following such date or within a like period immediately following the date of enactment of this subparagraph whichever occurs later.

"(B) Any nonprofit organization which becomes subject to this Act after January 1, 1972, may elect to become liable for payments in lieu of contributions for a period of not less than the remainder of that and the next year beginning with the date on which such liability begins by filing a written notice of its election with the Board not later than thirty days immediately following the date of the determination of such liability.

"(C) Any nonprofit organization which makes an election in accordance with subparagraph (A) or subparagraph (B) of this paragraph will continue to be liable for payments in lieu of contributions until it files with the Board a written notice terminating its election not later than thirty days prior to the beginning of the taxable year for which such termination shall first be effective.

"(D) Any nonprofit organization which has been paying contributions under this Act for a period subsequent to January 1, 1972 may change to a reimbursable basis by filing with the Board not later than thirty days prior to the beginning of any taxable year a written notice of election to become liable for payments in lieu of contributions. Such election shall not be terminable by the organization for that and the next year.

"(E) The Board may for good cause extend the period within which a notice of election, or a notice of termination, must be filed and may permit an election to be retroactive but not any earlier than with respect to benefits paid after December 31, 1969.

"(F) The Board, in accordance with such regulations as it may prescribe, shall notify each nonprofit organization of any determination which the Board may make of its status as an employer and of the effective date of any election which it makes and of any termination of such election. Such determinations shall be subject to reconsideration, appeal and review in accordance with the provisions of section 3(c).

"(2) Payments in lieu of contributions shall be made in accordance with the provisions of this paragraph including either subparagraph (A) or subparagraph (B).

"(A) At the end of each calendar quarter, or at the end of any other period as determined by the Board, the Board shall bill each nonprofit organization (or group of such organizations) which has elected to make payments in lieu of contributions for an amount equal to the full amount of regular benefits plus one-half of the amount of extended benefits paid that is attributable to service in the employ of such organization.

"(B) (i) Each nonprofit organization that has elected payments in lieu of contributions may request permission to make such payments as provided in this subparagraph. Such method of payment shall become effective upon approval by the Board.

"(ii) At the end of each calendar quarter, or at the end of such other period as determined by the Board, the Board shall bill each nonprofit organization for an amount representing one of the following:

"(I) For 1972, one-fourth of 1 percent of its total payroll for 1971.

"(II) For years after 1972, such percentage of its total payroll for the immediately preceding calendar year as the Board shall determine. Such determination shall be based each year on the average benefit costs attributable to service in the employ of nonprofit organizations during the preceding calendar year.

"(III) For any organization which did not pay wages throughout the four calendar quarters of the preceding calendar year, such percentage of its payroll during such year as the Board shall determine.

"(iii) At the end of each taxable year, the Board may modify the quarterly percentage of payroll thereafter payable by the nonprofit organization in order to minimize excess or insufficient payments.

"(iv) At the end of each taxable year, the Board shall determine whether the total of payments for such year made by a nonprofit organization is less than, or in excess of, the total amount of regular benefits plus one-half of the amount of extended benefits paid to individuals during such taxable year based on wages attributable to service in the employ of such organization. Each nonprofit organization whose total payments for such year are less than the amount so determined shall be liable for payment of the unpaid balance to the fund in accordance with subparagraph (C). If the total payments exceed the amount so determined for the taxable year, all or a part of the excess may, at the discretion of the Board, be refunded from the fund or retained in the fund as part of the payments which may be required for the next taxable year.

"(C) Payment of any bill rendered under subparagraph (A) or subparagraph (B) shall be made not later than thirty days after such bill was mailed to the last known address of the nonprofit organization or was otherwise delivered to it, unless there has been an application for review and redetermination in accordance with subparagraph (E).

"(D) Payments made by a nonprofit organization under the provisions of this subsection shall not be deducted or deductible, in whole or in part, from the remuneration of individuals in the employ of the organization.

"(E) The amount due specified in any bill from the Board shall be conclusive on the organization unless, not later than fifteen days after the bill was mailed to its last known address or otherwise delivered to it, the organization files an application for redetermination by the Board, setting forth the grounds for such application or appeal. The Board shall promptly review and reconsider the amount due specified in the bill and shall thereafter issue a redetermination in any case in which such application for redetermination has been filed. Any such redetermination shall be conclusive on the organization unless the organization files an appeal as set forth in section 3(c)(10), setting forth the grounds for the appeal.

"(F) Past due payments of amounts in lieu of contributions shall be subject to the same interest and penalties that, pursuant to section 4(c), apply to past due contributions.

"(3) In the discretion of the Director, any nonprofit organization that elects to become liable for payments in lieu of contributions shall be required within thirty days after the effective date of its election, to execute and file with the Board a surety bond approved by the Director, or it may elect instead to deposit with the Board money. The amount of such bond or deposit shall be determined in accordance with the provisions of this paragraph.

"(A) The amount of the bond or deposit required by this paragraph shall be equal to one-fourth of 1 per centum of the organization's total wages paid for employment as defined in section 1(b)(1)(C) for the four calendar quarters immediately preceding the effective date of the election, the renewal date in the case of a bond, or the biennial anniversary of the effective date of election in the case of a deposit of money, whichever date shall be most recent and applicable. If the nonprofit organization did not pay wages in each of such four calendar quarters, the amount of the bond or deposit shall be as determined by the Director.

"(B) Any bond deposited under this paragraph shall be in force for a period of not less than two taxable years and shall be renewed with the approval of the Director at such times as the Director may prescribe, but not less frequently than at two-year intervals as long as the organization continues to be liable for payments in lieu of contributions. The Director shall require adjustments to be made in a previously filed bond as he deems appropriate. If the bond is to be increased, the adjusted bond shall be filed by the organization within fifteen days of the date notice of the required adjustment was mailed or otherwise delivered to it. Failure by any organization covered by such bond to pay the full amount of payments in lieu of contributions when due, together with any applicable interest and penalties provided for in section 4(c) of this Act, shall render the surety liable on said bond to the extent of the bond, as though the surety was such organization.

"(C) Any deposit of money in accordance with this paragraph shall be retained by the Board in an escrow account until liability under the election is terminated, at which time it shall be returned to the organization, less any deductions as hereinafter provided. The Director may deduct from the money deposited under this paragraph by a nonprofit organization to the extent necessary to satisfy any due and unpaid payments in lieu of contributions and any applicable interest and penalties provided for in section 4(c). The Director shall require the organization within fifteen days following any deduction from a money deposit under the provisions of this subparagraph to deposit sufficient additional money to make whole the organization's deposit at the prior level. The Director may, at anytime, review the adequacy of the deposit made by any organization. If, as the result of such review, he determines that an adjustment is necessary, he shall require the organization to make additional deposit within fifteen days of written notice of his determination or shall return to it such portion of the deposit as he no longer considers necessary, whichever action is appropriate.

"(D) If any nonprofit organization fails to file a bond or make a deposit, or to file a bond in an increased amount or to increase or make whole the amount of a previously made deposit, as provided under this paragraph, the Director may terminate such organization's election to make payments in lieu of contributions and such termination shall continue for not less than the four-consecutive-calendar-quarter period beginning with the quarter in which such termination becomes effective: *Provided*, That the Director may extend for good cause the applicable filing, deposit or adjustment period by not more than fifteen days.

"(4) If any nonprofit organization is delinquent in making payments in lieu of contributions as required under paragraph (2) of this subsection, the Board may terminate such organization's election to make payments in lieu of contributions as of the beginning of the next taxable year, and such termination shall be effective for that and the next taxable year.

"(5) Each employer that is liable for payments in lieu of contributions shall pay to the Board for the fund the amount of regular benefits plus one-half of the amount of extended benefits paid that are attributable to service in the employ of such employer. If benefits paid to an individual are based on wages paid by more than one employer and one or more of such employers are liable for payments in lieu of contributions, the amount payable to the fund by each employer that is liable for such payments shall be determined in accordance with the provisions of subparagraph (A) or subparagraph (B).

"(A) If benefits paid to an individual are based on wages paid by one or more employers that are liable for payments in lieu of contributions and on wages paid by one or more employers who are liable for contributions, the amount of benefits payable by each employer that is liable for payments in lieu of contributions shall be an amount which bears the same ratio to the total benefits paid to the individual as the total base-period wages paid to the individual by such employer bear to the total base-period wages paid to the individual by all of his base-period employers.

"(B) If benefits paid to an individual are based on wages paid by two or more employers that are liable for payments in lieu of contributions, the amount of benefits payable by each such employer shall be an amount which bears the same ratio to the total benefits paid to the individual as the total base-period wages paid to the individual by such employer bear to the total base-period wages paid to the individual by all of his base-period employers.

"(6) Two or more employers that have become liable for payments in lieu of contributions, in accordance with the provisions of subsection (h)(1), may file a joint application to the Board for the establishment of a group account for the purpose of sharing the cost of benefits paid that are attributable to service in the employ of such employers. Each such application shall identify and authorize a group representative to act as the group's agent for the purposes of this paragraph. Upon approval of the application, the Board shall establish a group account for such employers effective as of the beginning of the calendar quarter in which it receives the application and shall notify the group's representative of the effective date of the account. Such account shall remain in effect for not less than two years and thereafter until terminated at the discretion of the Board or upon application by the group. Upon establishment of the account, each member of the group shall be liable for payments in lieu of contributions with respect to each calendar quarter in the amount that bears the same ratio to the total benefits paid in such quarter that are attributable to service performed in the employ of all members of the group as the total wages paid for service in employment by such member in such quarter bear to the total wages paid during such quarter for service performed in the employ of all members of the group. The Board shall prescribe such regulations as it deems necessary with respect to applications for establishment, maintenance, and termination of group accounts that are authorized by this paragraph, for addition of new members to, and withdrawal of active members from, such accounts, and for the determination of the amounts that are payable under this paragraph by members of the group and the time and manner of such payments.

"(i) Notwithstanding any provisions in subsection (h) any nonprofit organization that prior to January 1, 1969, paid contributions required by subsection (c) of this section and, pursuant to subsection (h) of this section, elects, within thirty days after the effective date of such subsection (h), to make payments in lieu of contributions, shall not be required to make any such payment on account of any benefits paid, on the basis of wages paid by such organization to individuals for weeks of unemployment which began on or after the effective date of such election until the total amount of such benefits equals the amount of the positive balance in the experience rating account of such organization."

(27) Section 4(a) of such Act (D.C. Code, sec. 46–304(a)) is amended by inserting ", or payments in lieu of contributions under section 3(h)," immediately after "section 3".

(28) Section 4(b) of such Act (D.C. Code, sec. 46–304(b)) is amended my inserting ", except as provided in section 3(h) of this Act" immediately before the period at the end of the first sentence.

(29) Section 4(c) of such Act (D.C. Code, sec. 46–304(c)) is amended to read as follows:

"(c)(1) If contributions or payments in lieu of contributions under section 3(h) are not paid when due, there shall be added interest at the rate of one-half of 1 per centum per month or fraction thereof from the date they become due until paid: *Provided*, That interest shall not run against a court-appointed fiduciary when the contributions or payments in lieu of contributions under section 3(h) are not paid timely because of a court order.

"(2) If contributions or wage reports are not filed on or before the fifteenth day of the second month following the close of the calendar quarter for which they are due or contributions, or payments in lieu of contributions under section 3(h), are not paid by that time, there shall be added a penalty of 10 per centum of the contributions, or payments in lieu of contributions under section 3(h), but such penalty shall not be less than $5 nor more than $25 and for good cause such penalty may be waived by the Board."

(30) Section 4(d) of such Act (D.C. Code, sec. 46–304(d)) is amended by inserting ", or payments in lieu of contributions under section 3(h)," immediately after "contributions".

(31) Section 4(e) of such Act (D.C. Code, sec. 46–304(e)) is amended by striking out

"or tax" in the first and fifteenth sentences and inserting in lieu thereof ", or payments in lieu of contributions under section 3(h),".

(32) Section 4(h) of such Act (D.C. Code, sec. 46-304(h)) is amended by inserting "or penalty" immediately after "interest" in the second sentence.

(33) Section 4(i) of such Act (D.C. Code, sec. 46-304(i)) is amended to read as follows:

"(i) REFUNDS.—If not later than three years after the date on which any contributions (or payments in lieu of contributions under section 3(h) or interest thereon were paid, an employing unit which has paid such contributions (or payments in lieu of contributions under section 3(h)) or interest thereon shall make application for an adjustment thereof in connection with subsequent contribution payments (or payments in lieu of contributions under section 3(h)) or for a refund thereof because such adjustment cannot be made, and the Board shall determine that such contributions (or payments in lieu of contributions under section 3(h)) or interest on any portion thereof was erroneously collected, the Board shall allow such employing unit to make an adjustment thereof, without interest, in connection with subsequent contribution payments (or payments in lieu of contributions under section 3(h)) by it, or if such adjustment cannot be made the Board shall refund said amount, without interest, from the clearing account or benefit account upon checks issued by the Board or its duly authorized agent. For like cause and within the same period, adjustment or refund may be so made on the Board's own initiative. Should benefits have been paid based upon work records filed by the employing unit, claiming an adjustment or refund, such benefit should be disregarded for purposes of figuring such adjustment or refund, and any such benefit payments already having been made at the time of the adjustment or refund, based upon records filed with this Board by such employing unit, shall to that extent be allowed and shall not be deemed to have been paid erroneously."

(34) Section 4(l) of such Act (D.C. Code, sec. 46-304(l)) is amended by striking out the first and second sentences and inserting in lieu thereof the following:

"(l) The Board may compromise any civil case arising under this Act. Whenever a compromise is made by the Board in each such case, there shall be placed in the minutes of the Board the opinion of an attorney of the Board with the reasons therefor, including a statement of (1) the amount of the contributions, or payments in lieu of contributions under section 3(h), due, (2) the amount of interest due on the same, and (3) the amount actually paid in accordance with the terms of the compromise."

(35) Section 7(b) of such Act (D.C. Code, sec. 46-307(b)) is amended—

(A) by striking out the second sentence; and

(B) by striking out in the third sentence "50 per centum" and inserting in lieu thereof "66⅔ per centum".

(36) Section 7(c) of such Act (D.C. Code, sec. 46-307(c)) is amended to read as follows:

"(c) To qualify for benefits an individual must have (1) been paid wages for employment of not less than $300 in one quarter in his base period, (2) been paid wages for employment of not less than $450 in not less than two quarters in such period, and (3) received during such period wages the total amount of which is equal to at least one and one-half times the amount of his wages actually received in the quarter in such period in which his wages were the highest. Notwithstanding the provisions of paragraph (3), any otherwise qualified individual, the total amount of whose wages during such period is less than the amount required to have been received during such period under such paragraph, may qualify for benefits if the difference between the amounts so required to have been received and the total amount of his wages during such period does not exceed $70, but the amount of his weekly benefit, as computed under section 7(b), shall be reduced by $1 if such difference does not exceed $35 or by $2 if such difference is more than $35. Wages received by an individual in the period intervening between the end of his last base period and the beginning of his last benefit year shall not be available for benefit purposes in a subsequent benefit year unless he has, subsequent to the commencement of such last benefit year, performed services for which he received remuneration for personal services, whether or not such services were performed in employment as defined in this Act, in an amount equal to at least ten times the weekly benefit amount for which he qualifies in such last benefit year. Benefits payable to an individual with respect to a week shall be reduced, under regulations prescribed by the Board, by any amount received or applied for with respect to such week as a retirement pension or annuity under a public or private retirement plan or system provided, or contributed to, by any base period employer. An amount received with respect to a period other than a week shall be prorated by weeks. No reduction shall be made under the preceding two sentences for any amount received under title II of the Social Security Act."

(37) Section 7 of such Act (D.C. Code, sec. 46-307) is amended by adding the following new subsection:

(g) EXTENDED BENEFITS PROGRAM.—Notwithstanding any other provisions of this section, this subsection provides a program of extended benefits on and after January 1, 1972.

"(1) DEFINITIONS.—As used in this subsection, unless the context clearly requires otherwise—

"(A) 'Extended benefit period' means a period which—

"(i) begins with the third week after whichever of the following weeks occurs first: (I) a week for which there is a national 'on' indicator, or (II) a week for which there is a State 'on' indicator; and

"(ii) ends with either the following weeks, whichever occurs later: (I) the third week after the first week for which there is both a national 'off' indicator and a State 'off' indicator; or (II) the thirteenth consecutive week of such period: *Provided*, That no extended benefit period may begin by reason of a State 'on' indicator before the fourteenth week following the end of a prior extended benefit period which was in effect with respect to the District.

"(B) There is a 'national' 'on' 'indicator' for a week if the Secretary of Labor determines that for each of the three most recent completed calendar months ending before such week, the rate of insured unemployment (seasonally adjusted) for all the States equaled or exceeded 4.5 per centum.

"(C) There is a 'national' 'off' 'indicator' for a week if the Secretary of Labor determines that for each of the three most recent completed calendar months ending before such week, the rate of insured unemployment (seasonally adjusted) for all States was less than 4.5 per centum.

"(D) There is a 'State' 'on' 'indicator' for the District for a week if the Board determines, in accordance with regulations of the Secretary of Labor, that for the period consisting of such week and the immediately preceding twelve weeks, the rate of insured unemployment (not seasonally adjusted) under this Act—

"(i) equaled or exceeded 120 per centum of the average of such rates for the corresponding thirteen-week period ending in each of the preceding two calendar years, and

"(ii) equaled or exceeded 4 per centum.

"(E) There is a 'State' 'off' 'indicator' for the District for a week if the Board determines in accordance with regulations of the Secretary of Labor, that for the period consisting of such week and the immediately preceding twelve weeks, the rate of insured unemployment (not seasonally adjusted) under this Act—

"(i) was less than 120 per centum of the average of such rates for the corresponding thirteen week period ending in each of the preceding two calendar years, or

"(ii) was less than 4 per centum.

"(F) 'Rate of insured unemployment', for purposes of subparagraphs (D) and (E) of this subsection, means the percentage derived by dividing (i) the average weekly number of individuals filing claims in the District for weeks of unemployment with respect to the most recent thirteen-consecutive-week period, as determined by the Board on the basis of its reports to the Secretary of Labor, by (ii) the average monthly employment covered under this Act for the first four of the most recent six completed calendar quarters ending before the end of such thirteen-week period.

"(G) 'Regular benefits' means benefits payable to an individual under this Act or under any State law (including benefits payable to Federal civilian employees and to ex-servicemen pursuant to chapter 85 of title 5, United States Code) other than extended benefits.

"(H) 'Extended benefits' mean benefits (including benefits payable to Federal civilian employees and to ex-servicemen pursuant to chapter 85 of title 5, United States Code) payable to an individual under the provisions of this subsection for weeks of unemployment in his eligibility period.

"(I) 'Eligibility period' of an individual means the period consisting of the weeks in his benefit year which begin in an extended benefit period and, if his benefit year ends within such extended benefit period, any weeks thereafter which begins in such period.

"(J) 'Exhaustee' means an individual who, with respect to any week of unemployment in his eligibility period:

"(i) has received, prior to such week, all of the regular benefits that were available to him under this Act or any State law (including dependents' allowances and benefits payable to Federal civilian employees and ex-servicemen under chapter 85 of title 5, United States Code) in his current benefit year that includes such week: *Provided*, That, for the purposes of this subparagraph, an individual shall be deemed to have received all of the regular benefits that were available to him although as a result of a pending appeal with respect to wages that were not considered in the original monetary determination in his benefit year, he may subsequently be determined to be entitled to added regular benefits; or

"(ii) his benefit year having expired prior to such week, has no, or insufficient, wages on the basis of which he could establish a new benefit year that would include such week; and

"(iii)(I) has no right to unemployment benefits or allowances, as the case may be, under the Railroad Unemployment Insurance Act, the Trade Expansion Act of 1962, the Automotive Products Trade Act of 1965, and such other Federal laws as are specified in regulations issued by the Secretary of Labor; and (II) has not received and is not seeking unemployment benefits under the unemployment compensation law of the Virgin Islands or of Canada; but if he is seeking such benefits and the appropriate agency finally determines that he is not entitled to benefits under such law he is considered an exhaustee.

"(K) 'State law' means the unemployment insurance law of any State, approved by the Secretary of Labor under section 3304 of the Internal Revenue Code of 1954.

"(2) Except when the result would be inconsistent with the other provisions of this subsection, as provided in the regulations of the Board, the provisions of this Act which apply to claims for, or the payment of, regular benefits shall apply to claims for, and the payment of, extended benefits.

"(3) An individual shall be eligible to receive extended benefits with respect to any week of unemployment in his eligibility period only if the Board finds that with respect to such week:

"(A) he is an 'exhaustee' as defined in paragraph (1)(J) of this subsection, and

"(B) he has satisfied the requirements of this Act for the receipt of regular benefits that are applicable to individuals claiming extended benefits, including not being subject to a disqualification for the receipt of benefits.

"(4) The weekly extended benefit amount payable to an individual for a week of total unemployment in his eligibility period shall be an amount equal to the weekly basic or augmented benefit amount, whichever is appropriate, payable to him during his applicable benefit year.

"(5) The total extended benefit amount payable to any eligible individual with respect to his applicable year shall be the least of the following amounts:

"(A) 50 percent of the total amount of regular benefits (including dependents' allowances) which were payable to him under this Act in his applicable benefit year;

"(B) thirteen times his weekly benefit amount (including dependent's allowances) which was payable to him under this Act for a week of total unemployment in the applicable benefit year; or

"(C) thirty-nine times his weekly benefit amount (including dependents' allowances) which was payable to him under this Act for a week of total unemployment in the applicable benefit year, reduced by the total amount of regular benefits which were paid (or deemed paid) to him under this Act with respect to the benefit year.

"(D) For purposes of this paragraph, the total regular benefit amount shall be that amount (including dependents' allowances) provided in the individual's monetary determination or the amount of regular benefits (including dependents' allowances) actually received, whichever is the greater.

"(6) (A) Whenever an extended benefit period is to become effective in the District (or in all States) as a result of a State or a National 'on' indicator, or an extended benefit period is to be terminated in the District as a result of State and National 'off' indicators, the Director shall make an appropriate public announcement as provided in the regulations of the Board.

"(B) Computations required by the provisions of paragraph (1)(F) of this subsection shall be made by the Board in accordance with regulations prescribed by the Secretary of Labor."

(38) Section 9 of such Act (D.C. Code, sec. 46–309) is amended by adding the following new subsection:

"(g) Benefits based on service in employment defined in section 1(b)(1) (B) and (C) shall be payable in the same amount, on the same terms, and subject to the same conditions as compensation payable on the basis of other service subject to this Act; except that benefits based on service in an instructional, research, or principal administrative capacity in an institution of higher education (as defined in section 1(w)) shall not be paid to an individual for any week of unemployment which begins during the period between two successive academic years, or during a similar period between two regular terms, whether or not successive, or during a period of paid sabbatical leave provided for in the individual's contract, if the individual has a contract or contracts to perform services in any such capacity for any institution or institutions of higher education for both such academic years or both such terms."

(39) Section 10(d) of such Act (D.C. Code, sec. 46–310(d)) is amended by adding the following new paragraph:

"(3) Notwithstanding any other provision of this Act, compensation shall not be denied or reduced to an individual solely because he files a claim in another State (or a contiguous country with which the United States has an agreement with respect to unemployment compensation) or because he resides in another State (or such a contiguous country) at the time he files a claim for unemployment compensation."

(40) Section 11 of such Act (D.C. Code, sec. 46–311) is amended—

(A) by striking out the fifth sentence in subsection (b) and inserting in lieu thereof "The Board shall promptly notify the claimant and any party to the proceeding of its determination, and such determinations shall be final within 10 days after the mailing of notice thereof to the party's last known address or in the absence of such mailing, within 10 days of actual delivery of such notice."

(B) by striking out the sixth sentence in subsection (b); by striking out the seventh sentence through the words "Provided, That" in subsection (b) and capitalize the word "if" immediately thereafter.

(C) by striking out "after the date of notification or" in the fourth sentence of subsection (e) and inserting in lieu thereof "of".

(D) by striking out "(a)" in the penultimate sentence of subsection (e); and

(E) by inserting "or recording device" immediately after "stenographer" in the second sentence of subsection (f).

(41) Section 13 of such Act (D.C. Code, sec. 46–313) is amended (A) by amending subsection (e) to read as follows:

"(e) Federal-State Cooperation.—(1) In the administration of this Act, the Board shall cooperate with the Department of Labor to the fullest extent consistent with the provisions of this Act, and shall take such action, through the adoption of appropriate rules, regulations, administrative methods, and standards, as may be necessary to secure to the District and its citizens all advantages available under the provisions of the Social Security Act that relate to unemployment compensation, the Federal Unemployment Tax Act, the Wagner-Peyser Act, and the Federal-State Extended Unemployment Compensation Act of 1970, or other Manpower Acts.

"(2) In the administration of the provisions in section 7 (g) of this Act, which are enacted to conform with the requirements of the Federal-State Extended Unemployment Compensation Act of 1970, the Board shall take such action as may be necessary (A) to ensure that the provisions are so interpreted and applied as to meet the requirements of such Federal Act as interpreted by the Department of Labor, and (B) to secure to the District the full reimbursement of the Federal share of extended and regular benefits paid under this Act that are reimbursable under the Federal Act." and (B) by striking out "the District of Columbia" in the third sentence of subsection (f) and inserting in lieu thereof "any State".

(42) Section 14 of such Act (D.C. Code, sec. 46–314) is amended—

(A) by inserting the subsection designation "(a)" immediately before "All";

(B) by striking out "$40" in such subsection (a) and inserting in lieu thereof "$65"; and

(C) by adding at the end thereof the following new subsection:

"(b) (1) There is hereby created a special deposit fund in the Treasury of the United States, separate and apart from the District Unemployment Fund, to be known as the Special Administrative Expense Fund. Notwithstanding any contrary provisions of this Act, (A) interest and penalties collected from employers, and dishonored check penalties authorized by Public Law 89–208 (79 Stat. 844), shall after January 31, 1972, be deposited into the clearing account in the District Unemployment Fund in the Treasury of the United States for clearance only and shall not, except as provided in paragraph (4) of this subsection, be deemed a part of the District Unemployment Fund; (B) thereafter, during each calendar quarter, there shall be transferred from the clearing account to such Special Administrative Expense Fund all moneys described in subparagraph (A) of this subsection collected during the preceding quarter; and (C) refunds of such moneys paid into the Special Administrative Expense Fund shall be made from such fund.

"(2) Said moneys shall not be expended or available for expenditure in any manner which would permit their substitution for, or a corresponding reduction in, Federal funds which would, in the absence of said moneys, be available to finance expenditures for the administration of this Act. Nothing in this subsection shall prevent said moneys from being used as a revolving fund to cover expenditures, necessary and proper under the law, for which Federal funds have been duly requested but not yet received, subject to the charging of such expenditures against such funds when received. The moneys in this fund shall be used by the Board for the payment of costs of administration which are found by the Board not to be proper and valid charges payable out of Federal grants or other funds received for the administration of this Act. All such payments of expenses shall be made by checks drawn by the Board and shall be subject to audit by the District in the same manner as are payments of other expenses of the District.

"(3) No expenditure of this fund shall be made unless and until the Board by resolution duly entered in its minutes finds that no other funds are available or can properly be used to finance such expenditures. Vouchers drawn to pay expenditures of this fund shall, among other things, include a duly certified copy of the resolution of the Board hereinbefore referred to.

"(4) The moneys in this fund shall be continuously available to the Board for expenditures and refunds in accordance with the provisions of this subsection and shall not lapse at any time or be transferred to any other fund or account except as herein provided. If, on June 30 of any calendar year, the balance in this fund exceeds $250,000 by $1,000 or more, the Board shall transfer such excess to the Unemployment Trust Fund. It shall be the duty of the Secretary of the Treasury to invest such portion of this fund in excess of $10,000 at the end of each month. Such investments shall be made in the same manner as provided in section 904 of the Social Security Act. The interest on, and the proceeds from, the sale of redemptions or any obligations held in this fund shall be credited to and form a part of this fund."

(43) Section 15 of such Act (D.C. Code, sec. 46–315) is amended by striking out "$25" in subsection (c) and inserting in lieu thereof "$50".

(44) Section 16 of such Act (D.C. Code, sec. 46–316) is amended to read as follows:

"(a) The Board is hereby authorized to enter into reciprocal arrangements with appropriate and duly authorized agencies of other States or of the Federal Government, or both, whereby services performed by an individual for a single employing unit for which services are customarily performed by such individual in more than one State shall be deemed to be services performed entirely within any one of the States (1) in which any part of such individual's service is performed or (2) in which such individual has his residence or (3) in which the employing unit maintains a place of business, provided there is in effect, as to such services, an election, approved by the agency charged with the administration of such State's unemployment-compensation law, pursuant to which all the services performed by such individual for such employing unit are deemed to be performed entirely within such State.

"(b) The Board is hereby authorized to enter into reciprocal arrangements with appropriate and duly authorized agencies of other States or of the Federal Government, or both, whereby potential rights to benefits accumulated under the unemployment-compensation laws of one or more States or under one or more such laws of the Federal Government, or both, may constitute the basis for the payment of benefits through a single appropriate agency under terms which the Board finds will be fair and reasonable as to all affected interests and will not result in any substantial loss to the fund.

"(c) The Board shall participate in any arrangements for the payment of compensation on the basis of combining an individual's wages and employment covered under this Act with his wages and employment covered under the unemployment-compensation laws of other States which are approved by the Secretary of Labor in consultation with the State unemployment-compensation agencies as reasonbly calculated to assure the prompt and full payment of compensation in such situations and which include provisions for (1) applying the base period of a single State law to a claim involving the combining of an individual's wages and employment covered under two or more State unemployment-compensation laws, and (2) avoiding the duplicate use of wages and employment by reason of such combining.

"(d) The Board is hereby authorized to enter into reciprocal arrangements with appropriate and duly authorized agencies of other States or of the Federal Government, or both, whereby contributions due under this Act with respect to wages for employment shall for the purposes of section 4 of this Act be deemed to have been paid to the fund as of the date payment was made as contributions therefor under another State or Federal unemployment-compensation law, but no such arrangement shall be entered into unless it contains provisions for such reimbursement to the fund of such contributions and the actual earnings thereon as the Board finds will be fair and reasonable as to all affected interests.

"(e) Reimbursement paid from the fund pursuant to subsection (c) of this section shall be deemed to be benefits for the purpose of sections 6, 7, and 8 of this Act. The Board is authorized to make to other State or Federal agencies and to receive from such other State or Federal agencies reimbursements from or to the fund, in accordance with arrangements entered into pursuant to this section.

"(f) The administration of this Act and of State and Federal unemployment-compensation and public-employment-service laws will be promoted by cooperation between the District and such States and the appropriate Federal agencies in exchanging services and making available facilities and information. The Board is therefore authorized to make such investigations, secure and transmit such information, make available such services and facilities, and exercise such of the other powers provided herein with respect to the administration of this Act as it deems necessary or appropriate to facilitate the administration of any such unemployment-compensation or public-employment-service law, and in like manner to accept and utilize information, services, and facilities made available to the District by the agency charged with the administration of any such other unemployment-compensation or public-employment-service law.

"(g) To the extent permissible under the laws and Constitution of the United States, the Board is authorized to enter into or cooperate in arrangements whereby facilities and services provided under this Act and facilities and services provided under the unemployment-compensation law of any foreign government may be utilized for the taking of claims and the payment of benefits under the employment-security law of the District or under a similar law of such government."

Sec. 3. The amendments made by this Act shall take effect on January 1, 1972, except that the amendments made by sections 2(35) and 2(36) of this Act shall take effect only with respect to benefit years that begin on or after January 2, 1972.

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 92–563), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

PURPOSE OF THE BILL

S. 2429, as amended, is designed to implement provisions of the Employment Security Amendments of 1970 (P.L. 91–373) which made amendments to the Social Security Act and to the Federal Unemployment Tax Act, and for other purposes.

PROVISIONS OF THE BILL

In addition to giving effect to and implementing the amendments of the Employment Security Amendments of 1970 which extended and improved the protection provided to jobless workers, thus bringing the District of Columbia Unemployment Act in conformity with the federal law, the bill incorporates additional recommendations made by the President concerning state programs.

S. 2429 amends the D.C. unemployment compensation law by increasing the maximum weekly benefit amount, or ceiling on benefits, from 50 percent of the average wage of covered workers to 66⅔ percent. This would implement the goal for State benefit maximums established by President Nixon in his message to Congress of July 8, 1969. It also implements the recommendations of the Department of Labor with respect to maximum weekly benefit amounts in State laws. (The Federal Unemployment Tax and Social Security Acts provide that, for the purpose of those Acts, the District of Columbia is deemed to be a State.)

S. 2429 would also extend the coverage provisions and the protections of the District of Columbia law to workers employed in domestic service. The term "employment" in such law would be redefined to include "personal or domestic service in a private home for an employer who paid cash remuneration of $500 or more in any calendar quarter." The Department of Labor has recommended to States that State law coverage provisions be extended to include domestic service. The proposed D.C. extension is almost identical to a similiar provision in the unemployment insurance law of the State of New York which has successfully covered domestic service for more than 30 years. Coverage of domestic service employment in the District of Columbia is of particular importance to the District in view of the fact that domestic employment in the District labor market is of proportionately greater importance than in most States and because of the dependence on this type of employment in the District of significant numbers of members or disadvantaged groups.

Except for the provisions with respect to the maximum weekly benefit amount and domestic service coverage, the provisions of S. 2429 are designed merely to implement the provisions which P.L. 91–373 added to the Federal Unemployment Tax Act. The added Federal law provisions are, with few exceptions, *requirements*, and the District law must contain these required provisions effective January 1, 1972, if all employers in the District of Columbia are to continue to receive normal and additional credit against the Federal 3.2 percent tax on wages up to $4,200 in annual wages per individual worker. Should the D.C. law fail to contain all of the provisions which P.L. 91–373 requires State laws to contain by January 1, 1972, effective as of that date, the net Federal tax of D.C. employers of 0.5 percent on annual wages paid up to $4,200 per employee will increase to 3.2 percent of annual wages paid up to $4,200 per employee while their liability for tax payments to the D.C. fund would also continue. The additional and unnecessary Federal tax burden on D.C. employers, who have taxable payrolls approaching $1 billion, could amount to more than $25 million annually.

As recommended by the Committee, S. 2429 would be sufficient to implement the requirements of P.L. 91–373 and to keep the D.C. law in conformity with the Federal Unemployment Tax and Social Security Acts.

COMMITTEE AMENDMENTS

The bill contains amendments to the District of Columbia law that are designed to bring into conformity with the Social Security Act requirement for full payment of unemployment compensation when due (section 303(a)(1), Social Security Act) as interpreted by the U.S. Supreme Court in its April 26, 1971 decision in *Java* v. *California Department of Human Resources Development* 402 U.S. 121).

In that decision the Court held that payment of unemployment benefits awarded an individual by an initial eligibility determination may not be withheld during the pendency of an employer's appeal from that determination or during the period provided for the taking of such an appeal. Provisions for such withholding of benefit payments have hitherto been included in the District of Columbia law, as has also been the case in most State unemployment insurance laws.

This change is reflected on page 44 of the bill, lines 9 through 15.

In addition this same section is amended because of a difference in recent decisions of the District of Columbia Court of Appeals and the United States Court of Appeals for the District of Columbia Circuit. If the language remains unchanged under the District of Columbia Court of Appeals, the District Unemployment Compensation Board could never have any certainty about the finality of any of its determinations as all an interested party would have to do would be to testify that he did not receive the decision until a date within 10 days of the mailing of his appeal.

Other amendments are technical in nature.

HISTORY

On June 18, 1971, the Commissioner of the District of Columbia wrote a letter to the President of the Senate transmitting and recommending the proposed legislation. S. 2429 was introduced in the Senate on August 4, 1971, and hearings were held by the Subcommittee on Public Health, Education, Welfare, and Safety of the District Committee on November 24, 1971. Representatives of the District of Columbia government, the Metropolitan Washington Board of Trade, and the Greater Washington Central Labor Council of AFL–CIO were heard.

SICKLE CELL ANEMIA

The Senate proceeded to consider the bill (S. 2677) to authorize programs in the District of Columbia to combat and control the disease known as sickle cell anemia which had been reported from the Committee on the District of Columbia with an amendment on page 1, after line 3 strike out:

(1) that sickle cell anemia is a disease resulting from the inheritance of a genetic factor relating to the so-called sickle cell trait which afflicts large numbers of American citizens, primarily among the black population of the United States;

(2) that this disease is a deadly and tragic burden which strikes approximately one of every five hundred young black children, and that less than half of these young people survive beyond the age of twenty;

And, in lieu thereof, insert:

(1) that sickle cell anemia is a disease resulting from the inheritance of a genetic factor relating to the so-called sickle cell trait which afflicts large numbers of American citizens;

(2) that this disease is a deadly and tragic burden which strikes many young children, and kills half of its victims before the age of twenty;

So as to make the bill read:

S. 2677

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Congress hereby finds—

(1) that sickle cell anemia is a disease resulting from the inheritance of a genetic factor relating to the so-called sickle cell trait which afflicts large numbers of American citizens;

(2) that this disease is a deadly and tragic burden which strikes many young children, and kills half of its victims before the age of twenty;

(3) that approximately one thousand young children in the District of Columbia suffer from this disease and approximately fifty-four thousand persons in the District are carriers of the sickle cell trait;

(4) that sickle cell anemia has been one of the more common and serious childhood diseases, yet has not received the national commitment required to eradicate the disease;

(5) that efforts to control sickle cell enemia must be directed toward increased research in the causes and treatment of the disease and the education, voluntary screening, and counseling of carriers of the sickle cell trait;

(6) that simple and inexpensive screening tests have been devised which will identify those who have the disease or carry the trait; and

(7) that programs to combat sickle cell anemia must be based entirely upon the voluntary cooperation of citizens.

(b) Upon the basis of these findings, Congress declares that in order to preserve and protect the health and well-being of citizens of the District of Columbia and to provide a model for the health of the Nation, it is necessary to establish a pilot program for the prevention of sickle cell anemia in the District of Columbia, to authorize the establishment of programs to assist in that prevention and to enlist the voluntary cooperation of all citizens in that effort.

Sec. 2. (a) The Commissioner of the District of Columbia is authorized to establish and carry out programs in the District of Columbia involving the identification and counseling of persons with sickle cell anemia or the sickle cell trait, and educating the public concerning the nature and inheritance of the aforementioned disease and trait.

(b) As used in this section, the term "programs" includes programs—

(1) for the purpose of identifying and counseling of persons with the sickle cell trait and educating the public about the nature and inheritance of the sickle cell trait;

(2) providing for screening for the sickle cell trait at appropriate locations throughout the District or Columbia, including—

(A) educational institutions;
(B) day care centers;
(C) neighborhood health centers;
(D) family planning clinics;
(E) hospitals and medical clinics;

(3) providing referral services, for persons found to carry the sickle cell trait, to appropriate organizations which provide counseling services on the nature and inheritance of the sickle cell trait;

(4) providing counseling services regarding the nature and inheritance of the sickle cell trait; and

(5) to educate the public regarding the nature and inheritance of the sickle cell trait and sickle cell anemia.

(c) no program established pursuant to this Act shall be carried out other than on a voluntary basis.

DEMONSTRATION GRANTS

Sec. 3. For the purpose of financially assisting the District of Columbia in establishing programs to identify and counsel persons with the sickle cell trait and to educate the public concerning the nature and inheritance of the aforementioned trait and sickle cell anemia, the Secretary of Health, Education, and Welfare is authorized to make demonstration grants to: (a) the Commissioner of the District of Columbia for use in defraying expenses or other costs incurred by him in establishing and carrying out such programs; and (b) medical schools, hospitals, and research institutions in the District of Columbia for use in defraying expenses and other costs incurred by such institutions in developing and operating centers or programs for research, testing, counseling, or treatment regarding the sickle cell trait or sickle cell anemia.

Any application for a grant under this section shall be made in such manner and form and contain such information as the Secretary shall require. Such grants may be made on such conditions as the Secretary finds necessary to carry out the purposes of this Act.

Sec. 4. Any program established pursuant to this Act shall provide for strict confidentiality of all test results, medical records, and other information regarding screening, counseling, or treatment of any person treated, except for (A) such information as the patient or his guardian consents to be released or (B) statistical data compiled without reference to the identity of any such patient.

Sec. 5. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act. Such sums shall remain available until expended.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 92–562), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

PURPOSE OF THE BILL

The purpose of S. 2677 is to authorize programs in order to conduct voluntary screening, counseling, and public education regarding sickle cell anemia, and to aid in increased research in the prevention and treatment of the disease. The bill would achieve its purpose by authorizing two sources of funding, direct appropriations to the District of Columbia government and grants by the Department of Health, Education, and Welfare. To protect the rights and privacy of every individual, the bill provides that such programs must provide for voluntary participation and confidentiality of medical data.

HISTORY

The bill (S. 2677) was introduced on August 4, 1971, and hearings were held by the Subcommittee on Public Health, Education, Welfare, and Safety of the District Committee on October 27, 1971. Testimony was heard from Representatives of the Congress, Representatives of the District government, Howard University, Black Athlete's Foundation for Sickle Cell Anemia, National Medical Association, and the National Association for the the Advancement of Colored People. No testimony was received in opposition to the bill, nor has any expression of opposition to the legislation been received by the committee.

AMENDMENT

The committee amendment is in the nature of clarification of the findings of Congress and does not relate to the substantive provisions of the bill.

DESCRIPTION OF THE DISEASE

Sickle cell anemia is an inherited blood disease in which red blood cells form a crescent or sickle shape when deprived of oxygen. As the cells pass through the blood vessels, these sharp-edged, sickle-shaped cells tend to become snagged along the blood vessels' inner lining. When large numbers of the sickled cells have collected in one place, the flow of blood to vital organs is impeded. Characteristically, the resulting symptoms are stunted growth, pain, swelling of the joints, hemorrhage, and tissue death, with subsequent failure of such organs as the heart, the spleen, and the kidneys. Blindness, stroke, and ulcers of the leg are also observed in victims of the disease. While it is characteristic for the cells to assume the sickle shape, the victims of sickle cell disease also tend to lack energy and tire easily because their body produces too few blood cells, and those cells have a shortened life.

Medical records show that the lifespan of sickle cell anemia victims themselves is shorter than normal. Most patients fail to live beyond age 20, and only rarely do they live beyond age 40. The repeated crises resulting from oxygen shortages soon take their toll on the body's vital organs, so that sickle cell anemia patients frequently die from heart attack, stroke, kidney disease, respiratory infections, or a breakdown of other critical body functions.

Sickle cell anemia is believed to have developed in Africa centuries ago as a defense against certain types of malaria. African babies who received the sickle cell gene from both parents suffered the same effects seen today among many black Americans born with the disease. But those who carried the sickle cell trait—that is, carried only one hemoglobin gene for sickling—were usually successful in warding off the effects of malaria. Through the years, sickle cell anemia has been reported in people who live in southern European countries and in India. So that today, while the principal victims in this country are believed to be blacks, the disease is known among citizens of many other lands. In fact, the World Health Organization estimates that each year 80,000 children around the world die from sickle cell anemia.

It is important to distinguish between the people who suffer with the disease and those who bear the so-called sickle cell trait. Victims of sickle cell disease suffer attacks of excruciating pain, brought on as often as six to 10 times a year in children under age 6. It is during these crises that the seriously debilitating effects described above are likely to occur.

Genetically, we know that each child receives two genes from his parents that determine the kind of hemoglobin in the infant's body. Scientists use an "S" to denote the abnormal hemoglobin that sickles. If both parents donate hemoglobin S, their child will suffer from the disease. If the child receives only one abnormal or S gene, he will have the trait and can transmit it to his children, but most likely he won't suffer from the disease himself. The child who receives two normal hemoglobin genes, however, will in no way be affected by sickle cell anemia. Thus, for parents who both carry the abnormal or S trait, one quarter of their offspring are likely to have two S genes and therefore suffer with the disease; another quarter can be expected to have two normal genes; and the remaining half will be expected to carry one S gene and one normal hemoglobin gene. Using that formula, experts have determined that of the 25 million black people in America, approximately 2.5 million may have the trait and at least 50,000 may suffer with the disease. The crucial importance of counseling can be seen in those screening programs that have identified people who carry the trait; that is, one S gene. Through continuing education and awareness projects, they can be advised of the possibility of transmitting sickle cell disease if they bear children with someone who also carries a gene for abnormal S hemoglobin.

TREATMENT OF THE DISEASE

Because people who suffer with sickle cell anemia undergo crises that are marked by attacks of extreme pain the principal efforts of treatment are designed to provide relief for these painful bouts. It is not known what precipitates such crises; neither is it possible to predict or anticipate when a crisis may occur, although some researchers have noted that conditions involving increased bodily demands for oxygen, such as high altitudes, severe infection, and stress, have been noted to precede the onset of a crisis in sickle cell patients. Most practitioners in treating sickle cell patients have used blood transfusions, surgery, and intravenous therapy to combat the disease effects. Patients are scheduled for periodic visits to clinics or hospitals in order to provide a constant monitoring of their condition. Consequently, treatment procedures for many sicklers involve a continuing contact with medical personnel to obtain therapy, medication, and vocational rehabilitation. Research to develop improved treatment procedures is receiving promising interest from many sources. Relief available for sicklers is clearly advanced beyond that of years ago. But the hope of the future lies in the development of a systematic effort to bring about the kind of effective control needed to end the scourage of sickle cell anemia.

In the meantime, with adequate medical attention from properly trained personnel, sickle cell victims can be counseled and guided so that they may enjoy life with the same fervor as others.

There is no doubt that if the problems associated with this disease had received the attention given to other maladies, particularly those striking white families, we may be much further along in understanding and learning to cope with it. But sickle cell anemia, like most other conditions affecting only blacks, has been grossly neglected through the 60 years since the first American case was diagnosed. Pioneers in the treatment and research of sickle cell anemia, like Dr. Roland Scott of Howard University, have seen sickle cell anemia patients grow to adulthood, marry, bear children, and maintain an otherwise normal life.

CONCLUSION

The committee urges the enactment of S. 2677 to establish a pilot program in the District of Columbia in view of the fact that the city has the highest percentage of black population among the major cities of the Nation and thus offers an opportunity as a demonstration laboratory.

DEATH OF FRANK CARPENTER PORTER—A GREAT REPORTER

Mr. MANSFIELD. Mr. President, all of us who knew Frank Carpenter Porter, a Washington Post reporter of outstanding ability, integrity, and knowledge, are saddened today because of his passing from life's scene.

I know that I speak for all who knew Frank and who bemoan the passing of this outstanding member of the news gathering and reporting profession. He was, as I have indicated, a man of solid knowledge—a decent man, a kindly man, a man who loved his work, and who always held the trust and confidence of those who came in contact with him.

It is ironic, as an article published in the Post this morning indicates, that one of the last acts in the life of Frank Carpenter Porter was to donate his eyes and his kidneys to patients who, unlike him, could still live. It is a mark of the generosity, the foresight, and the kindness of the man himself.

I express my deep personal sadness in the passing of this great reporter and extend to Mrs. Porter and the members of her family the Senate's deepest sympathy.

May his soul rest in peace.

Mr. President, I ask unanimous consent to have printed in the Record the editorial and the obituary published in today's Washington Post.

There being no objection, the editorial and obituary were ordered to be printed in the Record, as follows:

[From the Washington Post, Dec. 9, 1971]

Frank Carpenter Porter

Frank C. Porter, The Washington Post economics and labor reporter, who died Wednesday at the age of 53, was a man very much in the middle of life—his own and the life of this newspaper and the life of the capital city whose economic policy struggles he had covered for years. Mr. Porter was the father of four young children. He was a reporter who plunged with ease and good humor into the demanding wage-price story that has dominated the news since summer. And he died as the result of a cruel and sudden accident, so that the sense of a life interrupted rather than finished is especially acute. Even the legendary disorder of his desk—a mountain of teetering papers in which it was alleged (and denied) that the telephone could be heard to ring from time to time but not found—only seemed, when he died, a painful confirmation of how deeply engaged he had been in life's affairs at the time and how abruptly cut off from them.

Frank Porter was known around this newspaper and among his colleagues and friends and news sources outside it for his gentleness, his humor, his hardworking objective approach to a story, and his thoroughly professional capacity to turn out good copy under pressure in an unflappable way. He had none of the posturing or pushiness about him that is supposed to go with the aggressive, "Front Page" reporter of widespread stereotype, especially with the "old pro," who, like Frank Porter, is respected for his ability to get the story and for his inability to permit himself to be conned.

If you were to seek a summation of the man, none could be more to the point than the manner in which he managed, before death, to transform the terrible nature of his death itself. He had told his wife that if the circumstances were such when he died that his own vital organs could be of help in saving others, he wanted the necessary steps to be taken. And the circumstances turned out—tragically for him—to be the right ones. So as a last act of life, Frank Porter donated eyes and kidneys to patients who, unlike him, could still live. That, as it turns out, is what can and must redeem the sheer cruelty of his death and take it from the grip of blind chance and give it meaning. No one who knew him could be surprised that even suffering such a sudden and untimely death, Frank Porter managed to memorialize his own generosity and his life by giving life and vision to others.

[From the Washington Post, Dec. 9, 1971]

Post Reporter Frank Porter Dies

Frank C. Porter, 53, national labor and business reporter for The Washington Post, died yesterday at George Washington University Hospital after choking on food and falling unconscious Monday night at a downtown restaurant.

He was having a business dinner at Duke Zeibert's Restaurant when a piece of steak lodged in his throat. He was temporarily unable to breathe and never regained consciousness.

Mr. Porter was described by his colleagues and competitors and the labor, business and government officials he covered as a master of one of the most complex specialties in journalism.

"Frank Porter was a credit to his profession—a dedicated, honest, careful reporter," said AFL-CIO President George Meany. "He was a fine and decent gentleman. All of us in the trade union movement which he covered so long and so well truly mourn his death."

Secretary of Labor James D. Hodgson said, "The death of Frank Porter comes as a shock to all of us.

"He was a knowledgeable and perceptive reporter. His coverage of the labor and economic scene was characterized by objectivity and fairness. The high level of professionalism he brought to his work, combined with his gracious and considerate manner toward people he dealt with, earned him the respect of all of us.

"Personally, he was sharp and incisive, without being biting or bitter. He lightened numerous press gatherings with a warm wit and humor which aptly capsulized a situation.

"Both personally and professionally, he will be missed."

Walter Heller, former president of the President's Council of Economic Advisers, said Mr. Porter's coverage of the national economic scene "was very high fidelity reporting of facts and events it was very hard to reach the essence of; he was superb."

"He came to the job without the necessary background, but he gradually enveloped the field," Heller said. "The rate of growth was tremendous. He became such a perceptive reporter and was so full of compassion and concern about the human elements of economics."

Benjamin C. Bradlee, executive editor of The Washington Post, said, "What can you say? It always sounds so trite and stupid. He was a marvelous man, a marvelous journalist, a fine reporter. You could read his stories and understand what the hell it was all about."

"He was one of the best reporters in town," said Lee M. Cohn, labor reporter for the Washington Evening Star. "I competed with him for many years, and he was always fair and friendly as well as a fine reporter.

"I think he liked the labor part of the beat more because it was a more personal sort of thing with more colorful personalities and events. But he could do anything and do it well. He earned the respect of all his colleagues and of his news sources. We're going to miss him."

Mr. Porter was born on Jan. 16, 1918, in Winchester, Mass. He was graduated from Winchester High School in 1935, attended

Phillips Academy at Andover, Mass. the next year and was graduated from Amherst College in 1940.

At Amherst, he sang in the glee club, wrote for the school paper and played both defensive and offensive tackle for the football team.

After graduation, he applied for a copy boy's job at Times Magazine that then paid $15 a week. The slots were all filled, but he was able to sign in as a contributing editor at $35 a week, writing for the People, Milestone, Miscellany, Business & Finance and Books sections of the magazine until May, 1941.

His reason for leaving: "Discharged because I was apparently too young and inexperienced for the job and because of imminence of military service."

In December, 1941, he enlisted in the Navy and was assigned to the first class of "90 day wonders" at Annapolis, an emergency program to produce officers for service in the war.

After two years in Washington, he was assigned to the destroyer USS Mugford. He served as communications officer, surviving a kamikaze attack in the Pacific.

In 1946, he transferred to the reserves as a lieutenant commander. A civilian again, he joined the staff of the Daytona Beach, Fla., Journal and in two years covered "everything but society: editorials, movie reviews, features, substituting for telegraph and city editors."

His reason for leaving in June, 1948: "Low pay and dead-end job; wanderlust, wanted to try my hand at fiction."

He went to Peru. What became of The Novel is obscure, but while in Lima he atended the University of San Marcos for seven months and wrote the Peruvian Affairs section of La Semana, a Time-style weekly published in Arequipa. It folded after seven issues.

Mr. Porter returned to the States in 1949 and in November went to work for the Baltimore Evening Sun, where he worked as a copyreader, general assignment reporter, feature writer, rewrite man, picture editor and drama critic.

He came to The Post on March 5, 1954. One of the reporters who worked for him while Mr. Porter was assistant city editor was Jean Belle Jones. They were married in 1957. Their children are John King Porter, 7; Laurie Wing Porter, 9; Robert Carpenter Porter, 12, and Stephen Jones Porter, 13.

Other members of the Porter household at 3702 Morrison St. NW have included a host of Latin American students, who have been tutored in English and in American customs and who tried without much success to improve Mr. Porter's Spanish.

Mr. Porter was fond of sailing with the family on their 32-foot, raked ketch, the "Long Gone."

He was a licensed pilot who managed to keep an old two-seater flying when he was making only $110 a week at the Sun.

His kidneys were donated to two recipients at Georgetown University Hospital yesterday, and his corneas to the Lions Club eye bank.

A memorial service will be held at 11 a.m. Saturday at All Saints Episcopal Church on Chevy Chase Circle. The family asks that any contributions be given to the Foreign Student Council of Washington or Amherst College, and requests no flowers.

Mr. GRIFFIN. Mr. President, the distinguished majority leader has eloquently stated what is on the minds of many people today, following the news of the untimely and unfortunate death of Frank Porter.

His able and distinguished service earned him great respect, not only among his colleagues in the profession of journalism, but also among those whom he wrote about in the executive and legislative branches of the Government.

I wish to associate myself with what the distinguished majority leader has said, and I wish to indicate that he speaks for Senators on both sides of the aisle. I join him in extending sympathy and our condolences to the family of Frank Porter.

Mr. PROXMIRE. Mr. President, I was shocked and saddened to hear of the tragic death of Frank Porter who reported on economic affairs for the Washington Post. In a field dubbed "the dismal science" and in which so much writing is obscure and complex, Frank Porter did a marvelous job day in and day out covering the events concerned with economic activity.

He was present at most of the major hearings of the Joint Economic Committee where we came to know him as an able, honest, diligent working reporter. Frank knew his subject. He had a vast background and experience on which to draw. He sharpened the issues in a way which clarified them and made them meaningful in the public discussion of economic matters.

Not only was Frank Porter a superb reporter and craftsman—a man who excelled in his chosen profession—but he was also a thoroughly good man and a thoroughly decent man. He was calm, thoughtful, dedicated, and fair. And his humanity became even more clear when we learned on his tragic death that he had dedicated the organs of his body for the use of the living.

Frank Porter's death is a tragedy in every way. He was struck down at the peak of his career by a disastrous and freakish event. We can all take solace in knowing that the world is a better place and a better informed place because Frank Porter lived and worked here.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the distinguished Senator from West Virginia (Mr. BYRD) is now recognized for 15 minutes.

SENATE RESOLUTION 211—SUBMISSION OF A RESOLUTION RELATING TO THE PLACING OF A LIKENESS OF THE LATE SENATOR RICHARD BREVARD RUSSELL IN THE SENATE RECEPTION ROOM

(Referred to the Committee on Rules and Administration.)

Mr. BYRD of West Virginia. Mr. President, I submit a resolution and ask that it be appropriately referred.

The purpose of this resolution—which is being jointly offered and cosponsored by the distinguished senior Senator from Georgia (Mr. TALMADGE), the distinguished junior Senator from Georgia (Mr. GAMBRELL), the distinguished majority leader (Mr. MANSFIELD), and myself—is to authorize the placing of a likeness of the late Senator Richard Brevard Russell in the Senate reception room. This proposed likeness would be approximately the same size and type as the paintings of the five Senators which currently grace the walls of that room.

Senator Russell was a great man and one of the most highly respected Members ever to serve in this body. He was a man of the highest honor—a man of exceptional distinction. I am grateful to have counted myself among those who benefited from his wisdom. I am honored to have served with him and honored to have been his friend.

From the beginning of Senator Russell's service in the Senate in 1933 until his death in January of this year, he accumulated a vast wealth of knowledge and experience. For almost four decades, this outstanding Georgian used this knowledge and experience and gave of his unique intellect and extraordinary skill to enhance and protect the integrity of the Senate he so deeply revered. More than any other individual I have known, Senator Russell reflected the essence of what the U.S. Senate should be.

No tribute that we could pay to this distinguished American would be too great for his 38 years of love and dedication to the Senate and to his country. It is fitting that he take his place in the company of the most renowned Senators of all time. For:

They shall not grow old, as we that are left
grow old . . .
At the going down of the sun and in the
morning
We shall remember them . . .

Mr. President, the resolution reads as follows:

Resolved, That, in order to honor appropriately the late Senator Richard Brevard Russell of Georgia as an outstanding American and Senator, the Committee on Rules and Administration shall have an appropriate likeness of the said Senator Richard Brevard Russell painted on a wall of the Senate reception room outside the Senate Chamber. The likeness may be procured by purchase or gift and shall be of approximately the same size as the size of each of the likenesses of the other five outstanding Senators placed in the Senate reception room.

SEC. 2. The expenses of carrying out the provisions of the first section of this resolution shall be paid out of the contingent fund of the Senate upon vouchers signed by the chairman of the committee.

Mr. President, I ask unanimous consent to insert in the RECORD a statement by the distinguished junior Senator from Georgia (Mr. DAVID H. GAMBRELL).

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR GAMBRELL

I am honored today to join with my distinguished colleague, the Senator from West Virginia, in co-sponsoring a bill to have Senator Russell's portrait placed in the Senate Reception Room.

Senator Russell exemplified all that the United States Senate is. His legislative skill, his courage of conviction and his personal brilliance made him a leader in this Senate, a mentor to Presidents. His presence is still felt, nearly a year after his passing, by the many who sought his guidance and inspiration.

I can think of no more fitting honor to his memory than that he stand with other giants of the Senate like Clay and Calhoun, in the anteroom of the Senate Chamber to remind those who enter the Senate Floor of the standard of excellence and dedication to our country, set by their forebears.

The ACTING PRESIDENT pro tempore. Without objection, the resolution will be received and appropriately referred.

Mr. TALMADGE. Mr. President, will the Senator yield?

Mr. BYRD of West Virginia. Mr. President, I yield to the distinguished senior Senator from Georgia.

Mr. TALMADGE. Mr. President, I congratulate my warm friend, the distinguished Senator from West Virginia, the majority whip of the Senate, for offering the resolution.

It is a particular pleasure for me to join as a cosponsor of the resolution. Dick Russell was admired and loved by every Member of the U.S. Senate from both parties.

By his unique skill and his tremendous ability he contributed greatly to this parliamentary body and to the Nation he loved and served so well and so honorably.

The late Senator Russell served this body for 38 years. He was the only Member of the Senate in the history of our country who served more than half of his life in the U.S. Senate. Only one other Senator in the long history of our country, Senator Hayden, served for a longer period of years in this body than did the late Senator Russell.

As the Senator from West Virginia has pointed out, the skills and the great ability of Dick Russell are qualities that we all respect.

I think it is immensely proper and appropriate that his portrait be placed in the Senate reception room with those of the alltime great Senators.

Mr. BYRD of West Virginia. Mr. President, I thank the senior Senator from Georgia.

Mr. GRIFFIN. Will the distinguished majority whip yield to me?

Mr. BYRD of West Virginia. Mr. President, I yield to the distinguished assistant Republican leader.

Mr. GRIFFIN. I wish to join and associate myself with the distinguished majority whip in his eloquent tribute to the late Senator Richard Russell, and I ask unanimous consent that I may be added as a cosponsor of the resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRIFFIN. Without doubt, Senator Russell was one of the greatest Senators in the entire history of the U.S. Senate. I believe the resolution merits not only consideration but also a favorable report by the Committee on Rules and Administration. As a member of that committee, I am glad to join in this effort.

Incidentally, I should like to take note of the fact, while I have such an appropriate opportunity—that there is no likeness of the late Senator Arthur Vandenberg in the Vandenberg Room. I believe that situation should be remedied. This room had been officially named after the late Senator from Michigan, Senator Vandenberg. There is a plaque on the wall which was authorized by the Senate.

So far as I have been able to determine, only one portrait was ever made of Senator Vandenberg. He only sat for only one artist, and that painting is in Grand Rapids, Mich. At a relatively nominal cost, I am sure that an artist could be commisisoned to duplicate and produce another painting to hang in the Vandenberg Room. Accordingly, at a later date I may offer an appropriate resolution for that purpose.

Mr. BYRD of West Virginia. Mr. President, I think it would be very appropriate—very appropriate—to have prepared such a likeness of the late Senator Vandenberg and have it placed in the Vandenberg Room. At some future time, should the distinguished assistant Republican leader deem it wise to take whatever action is necessary to consummate this suggestion, I should like to add my efforts to that cause.

I appreciate so much the request by the assistant Republican leader to join as a cosponsor in connection with the resolution I have introduced. I am very grateful for his cosponsorship.

The late Senator Russell was the man whom I most admired in Washington during my years of service in the Congress. I felt in my own heart that he was my mentor, and I have often stated that the two greatest men I ever knew, insofar as character and integrity were concerned, were my own foster father and the late Senator Richard B. Russell.

I thank all who have joined in the cosponsorship of the measure.

Mr. President, I yield the floor.

The PRESIDING OFFICER. What is the will of the Senate?

TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business for not to exceed 30 minutes, with statements limited therein to 3 minutes, at the conclusion of which the Senate will return to executive session and resume its consideration of the nomination of Mr. William H. Rehnquist for the office of Associate Justice of the Supreme Court of the United States.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. CHILES) laid before the Senate the following letters, which were referred as indicated:

REPORT OF COMPTROLLER GENERAL

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Coordinating Deep-Ocean Geophysical Surveys Would Save Money", National Oceanic and Atmospheric Administration, Department of Commerce, Department of the Navy, dated December 8, 1971 (with an accompanying report); to the Committee on Government Operations.

REPORT ON SYSTEMS ANALYSIS OF NATIONAL HEALTH CARE PLANS

A letter from the Secretary of Health, Education, and Welfare, reporting, pursuant to law, that a report on Systems Analysis of National Health Care Plans had been delayed in order to include relevant analytical material that had not been received; to the Committee on Labor and Public Welfare.

PROPOSED EMPLOYEE BENEFITS PROTECTION ACT

A letter from the Secretary of Labor, transmitting a draft of proposed legislation to amend the Welfare and Pension Plans Disclosure Act (with accompanying papers); to the Committee on Labor and Public Welfare.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the ACTING PRESIDENT pro tempore (Mr. CHILES):

A letter from the Deputy Chief of Legislative Affairs, Department of the Navy, transmitting certain petitions signed by members of the Armed Forces, praying for an immediate cessation of hostilities in Southeast Asia; to the Committee on Foreign Relations.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MCINTYRE, from the Committee on Armed Services, without amendment:

S. 2945. A bill to amend title 10 of the United States Code to permit the appointment by the President of certain additional persons to the service academies (S. Rept. No. 92–566).

By Mr. PELL, from the Committee on Rules and Administration, without amendment:

S.J. Res. 173. A joint resolution to provide for the appointment of A. Leon Higginbotham, Jr., as citizen regent of the Board of Regents of the Smithsonian Institution (Rept. No. 92–567);

S.J. Res. 174. A joint resolution to provide for the appointment of John Paul Austin as citizen regent of the Board of Regents of the Smithsonian Institution (Rept. No. 92–568); and

S.J. Res. 175. A joint resolution to provide for the appointment of Robert Francis Goheen as citizen regent of the Board of Regents of the Smithsonian Institution (Rept. No. 92–569).

EXECUTIVE REPORTS OF COMMITTEES

The following favorable reports of nominations were submitted:

By Mr. GOLDWATER, from the Committee on Armed Services:

Maj. Gen. Louis Metzger, U.S. Marine Corps, for commands and other duties determined by the President, for appointment to the grade of lieutenant general while so serving.

Mr. GOLDWATER. Mr. President, I report favorably 1,357 appointments and promotions in the Army in grade of colonel and below; on appointment to grade of lieutenant general and 2,610 appointments and promotions in grade of lieutenant colonel and below in the Marine Corps, and 75 appointments in the Air Force to captain and below. Since these names have already appeared in the Congressional Record, in order to save the expense of printing on the Executive Calendar, I ask unanimous consent that they be ordered to lie on the Secretary's desk for the information of any Senator.

The PRESIDING OFFICER (Mr. Stevenson). Without objection, it is so ordered.

The nominations, ordered to lie on the desk, are as follows:

Aaron H. Wilson, and sundry other officers, for appointment in the Regular Air Force;

Kenneth W. Copeland, and sundry other persons, for appointment in the Regular Army of the United States;

Ralph P. Aaron, and sundry other distinguished military students, for appointment in the Regular Army of the United States;

Walter F. Dick, and sundry other scholarship students, for appointment in the Regular Army of the United States;

Patricia Accountius, and sundry other officers, for promotion in the Army of the United States;

James L. Anderson, for appointment as professor of physical education, U.S. Military Academy;

Maureen A. Ebert, for reappointment in the active list of the Regular Army of the United States;

Edwin H. J. Cairns, Jr., and sundry other persons, for appointment in the Regular Army;

John J. McFatridge, and sundry other persons, for appointment in the Regular Army of the United States;

Mark W. Appling, and sundry other distinguished military students, for appointment in the Regular Army of the United States;

John W. King, Jr., and sundry other scholarship students, for appointment in the Regular Army of the United States;

Carolyn J. Auldridge, and sundry other officers, for promotion in the Marine Corps; and

Russell R. Allen, Jr., and sundry other officers, for promotion in the Marine Corps.

By Mr. BYRD of Virginia, from the Committee on Armed Services:

Lt. Gen. Robert E. Cushman, Jr., U.S. Marine Corps, to be Commandant of the Marine Corps, with the rank of general.

By Mr. WILLIAMS, from the Committee on Labor and Public Welfare:

Nicholas W. Craw, of the District of Columbia, to be an Associate Director of Action.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. BIBLE (for himself and Mr. Cannon):

S. 2975. A bill to declare that certain federally owned land is held by the United States in trust for the Fort McDermitt Paiute and Shoshone Tribe of the Fort McDermitt Indian Reservation, Nevada. Referred to the Committee on Interior and Insular Affairs.

By Mr. McCLELLAN:

S. 2976. A bill for the relief of United States Forgecraft Corp. Referred to the Committee on the Judiciary.

By Mr. BROOKE:

S. 2977. A bill to authorize the establishment of the Springfield Armory National Historic Site, Mass., and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. GOLDWATER:

S. 2978. A bill to amend section 1331(c) of title 10, United States Code, to authorize the granting of retired pay to persons otherwise qualified who were Reserves before August 16, 1945, and who served on active duty during the Berlin crisis. Referred to the Committee on Armed Services.

By Mr. INOUYE (for himself and Mr. Fong):

S. 2979. A bill to authorize the Secretary of the Navy to provide shoreside facilities for the education and convenience of visitors to the U.S.S. *Arizona* Memorial at Pearl Harbor. Referred to the Committee on Armed Services.

By Mr. INOUYE:

S. 2980. A bill for the relief of Miss Natividad F. Gonzales. Referred to the Committee on the Judiciary.

By Mr. AIKEN (for himself and Mr. Talmadge):

S. 2981. A bill to provide for environmental improvement in rural America. Referred to the Committee on Agriculture and Forestry.

By Mr. STEVENSON:

S. 2982. A bill for the relief of Minnie E. Solger. Referred to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BIBLE (for himself and Mr. Cannon):

S. 2975. A bill to declare that certain federally owned land is held by the United States in trust for the Fort McDermitt Paiute and Shoshone Tribe of the Fort McDermitt Indian Reservation, Nevada. Referred to the Committee on Interior and Insular Affairs.

Mr. BIBLE. Mr. President, on behalf of myself and my colleague, Senator Cannon, I introduce for appropriate reference a bill to declare that certain federally owned land is held by the United States in trust for the Fort McDermitt Paiute and Shoshone Tribe of the Fort McDermitt Indian Reservation, Nevada.

The purpose of the legislation is to add some 19,000 acres of grazing land to the existing reservation.

The Fort McDermitt Indians are an impoverished tribe living on the Nevada-Oregon border. Their chief source of income has historically been the result of inadequate livestock operations.

The Bureau of Land Management of the Department of the Interior has advised that the lands in question have been recommended for disposal. The inclusion of these public domain lands in the reservation would consolidate tribal ownership and improve range and other resource management. It would appear that the best use of this acreage would be to transfer the ownership in trust status to the tribe.

By resolution dated July 20, 1971, signed by Herman Crutcher, chairman, Fort McDermitt Paiute and Shoshone Tribe, the tribe petitioned the Nevada congressional delegation to introduce legislation to accomplish this purpose. I ask unanimous consent that this resolution be printed in the Record following my remarks.

I urge favorable action by the committee to secure enactment of this proposal.

There being no objection, the resolution was ordered to be printed in the Record, as follows:

Resolution of the Governing Body of the Fort McDermitt Paiute and Shoshone Tribe

Be it resolved by the Fort McDermitt Tribal Council that:

Whereas, the Bureau of Land Management has advised that certain public domain lands in the vicinity of the Fort McDermitt Indian Reservation (see attached list) is being recommended for disposal, and

Whereas, the inclusion of these public domain lands in the Reservation would consolidate tribal ownership and improve range and other resource management, and

Whereas, the Tribe can utilize these adjacent lands to economic advantage,

Now, therefore, be it resolved that the Tribal Council of the Fort McDermitt Paiute and Shoshone Tribe does hereby request the Nevada Congressional Delegation to introduce legislation to declare that 19,094.16 acres of vacant public domain land is held in trust by the United States of America for the Fort McDermitt Paiute and Shoshone Tribe.

Be it further resolved that the Superintendent, Nevada Agency, is requested to endorse this application and notify the Bureau of Land Management to note their records of our intent to withdraw these lands in aid of legislation.

By Mr. BROOKE:

S. 2977. A bill to authorize the establishment of the Springfield Armory National Historic Site, Mass., and for other purposes. Referred to the Committee on Interior and Insular Affairs.

SPRINGFIELD ARMORY: A NATIONAL HISTORIC SITE

Mr. BROOKE. Mr. President, the legislation which I introduce today would authorize the establishment of the Springfield Armory as a national historic site.

Commissioned in 1794, the armory was the first so designated to serve the United States. Through the years until its deactivation in 1968, it produced high quality munitions that served to defend our Nation well. Its closing was regrettable because it signaled the termination of a facility to which generations of citizens of western Massachusetts had rendered dedicated and highly proficient service.

Coupled with the armory is a museum founded in 1871 and operated by the city of Springfield. The museum includes valuable collections of cannons and guns dating back to the 14th century. Owned by the Department of the Army, these instruments represent the most complete small arms collection in the Nation that is open to public view. Each year, more than 25,000 visitors tour the museum, including large numbers of school groups.

The legislation which I propose would authorize the Secretary of the Interior to take control of the property, which is currently on loan to the city of Springfield, as well as to make appropriate arrangements with the Secretary of the Army concerning the Armory's arms collection and other museum objects. The Secretary of the Interior would also be authorized to negotiate with the Commonwealth of Massachusetts for the preservation of historic buildings and lands within the Armory which are not owned by the Federal Government.

I believe this is a most worthwhile proposal which will help to preserve an historic monument for future generations.

I ask unanimous consent that the text of this bill be printed in full at this point in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2977

A bill to authorize the establishment of the Springfield Armory National Historic Site, Massachusetts, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in order to preserve in public ownership for the benefit and inspiration of the people of the United States the property comprising the historically significant Springfield Armory, commissioned by President Washington in 1794 and, until deactivation in 1968, the oldest manufacturing arsenal in the United States, and the site of the defeat of insurgent farmers in Shays' Rebellion (1786–1787), the Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized to accept a donation of such real property, as in his judgment will constitute an administrable unit, together with improvements and personal property thereon, which constitutes a part of the historic Springfield Armory property, Springfield, Massachusetts, from the city of Springfield or any instrumentality thereof, for establishment as the Springfield Armory National Historic Site.

Sec. 2. The Secretary shall establish the Springfield Armory National Historic Site by publication of a notice to that effect in the Federal Register when (a) he has accepted title to the real and personal property described in section 1 of this Act, (b) he has reached a satisfactory agreement with the Commonwealth of Massachusetts, or any agency or instrumentality thereof, for preservation of historic buildings and the physical setting of lands not in Federal ownership which comprised part of the historic Springfield Armory, and (c) he has reached a satisfactory agreement with the Secretary of the Army concerning the retention or transfer of the arms collection and other museum objects at the Armory. Prior to such establishment and thereafter, the property acquired for the Springfield Armory National Historic Site shall be administered by the Secretary in accordance with the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2–4), as amended and supplemented, and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461 et seq.).

Sec. 3. There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

By Mr. AIKEN (for himself and Mr. Talmadge):

S. 2981. A bill to provide for environmental improvement in rural America. Referred to the Committee on Agriculture and Forestry.

Mr. AIKEN. Mr. President, I send a bill to the desk on behalf of myself and the senior Senator from Georgia (Mr. Talmadge), the chairman of the Committee on Agriculture and Forestry.

The bill provides amendments to the Hope-Aiken Watershed Protection and Flood Prevention Act, Public Law 566, and also amendments to the Bankhead-Jones Farm Tenant Act, as amended.

Mr. President, I also point out that at the present time only the Senator from Georgia and I are listed as sponsors of the bill. Undoubtedly many other Senators will want to join as cosponsors. There will be an ample opportunity to do so before the next printing of the bill.

Mr. President, I ask unanimous consent that a short explanation of the bill and the bill, itself, be printed in the Record.

There being no objection, the explanation and bill were ordered to be printed in the Record, as follows:

TITLE I—AMENDMENTS TO THE HOPE-AIKEN WATERSHED PROTECTION AND FLOOD PREVENTION ACT, PUBLIC LAW 566

1. Authorize federal cost-sharing for project measures to improve water quality and provide assistance in solving problems of land utilization and agricultural waste management within watershed projects.
2. Provide for federal cost-sharing of the costs of present and future municipal, industrial, and rural community water supply needs.
3. Allow the use of non-P.L. 566 funds (such as HUD and EDA funds) in acquiring land rights needed for works of improvement.
4. Enable the Department of Agriculture to enter into long-term contracts with landowners in watershed areas to assure orderly and complete establishment of needed land treatment measures. The contracts would be based on conservation plans developed with the cooperation and approval of the conservation districts concerned, and applications for assistance would be made to the districts.

TITLE II—AMENDMENTS TO THE BANKHEAD JONES FARM TENANT ACT, AS AMENDED

1. Provide for cost-sharing of costs of rural community water storage and water quality management.
2. Make assistance available in the control of agricultural pollution.
3. Authorize technical and cost-sharing assistance for storage of water for rural fire protection.
4. Direct the Secretary of Agriculture to inventory and monitor soil, water, and related resources conditions at five-year intervals.

S. 2981

A bill to provide for environmental improvement in rural America

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Rural Development Act of 1972."

TITLE I—AMENDMENTS TO THE WATERSHED PROTECTION AND FLOOD PREVENTION ACT, AS AMENDED

Sec. 101. The Watershed Protection and Flood Prevention Act (68 Stat. 666), as amended, is amended as follows:

(a) Section 1 is amended by striking out the words "the purpose of preventing such damages and of furthering the conservation, development, utilization, and disposal of water, and thereby of preserving and protecting the Nation's land and water resources" and substituting therefor the words "the purpose of preventing such damages, of furthering the conservation, development, utilization, and disposal of water, and the conservation and utilization of land and thereby of preserving, protecting, and improving the Nation's land and water resources and the quality of the environment."

(b) Section 2 is amended by substituting a comma for the word "or" after clause (1) and adding after the phrase "(2) the conservation, development, utilization, and disposal of water" a comma and the words "or (3) the conservation and proper utilization of land."

(c) Section 3 is amended by changing the period at the end of paragraph (5) to a semicolon and adding the following: "(6) to enter into agreements with landowners, operators, and occupiers, individually or collectively, based on conservation plans of such landowners, operators, and occupiers which are developed in cooperation with and approved by the soil and water conservation district in which the land described in the agreement is situated, to be carried out on such land during a period of not to exceed ten years, providing for changes in cropping systems and land uses and for the installation of soil and water conservation practices and measures needed to conserve and develop the soil, water, woodland, wildlife, and recreation resources of lands within the area included in plans for works of improvement, as provided for in such plans, including watershed or sub-watershed work plans in connection with the eleven watershed improvement programs authorized by section 13 of the Act of December 22, 1944 (58 Stat. 887), as amended and supplemented. Applications for assistance in developing such conservation plans shall be made in writing to the soil and water conservation district involved, and the proposed agreement shall be reviewed by such district. In return for such agreements by landowners, operators, and occupiers the Secretary shall agree to share the costs of carrying out those practices and measures set forth in the agreement for which he determines that cost sharing is appropriate and in the public interest. The portion of such costs, including labor, to be shared shall be that part which the Secretary determines is appropriate and in the public interest for the carrying out of the practices and measures set forth in the agreement, except that the Federal assistance shall not exceed the rate of assistance for similar practices and measures under existing national programs.

The Secretary may terminate any agreement with a landowner, operator, or occupier by mutual agreement if the Secretary determines that such termination would be in the public interest, and may agree to such modifications of agreements, previously entered into hereunder, as he deems desirable to carry out the purposes of this paragraph or to facilitate the practical administration of the agreements provided for herein. Notwithstanding any other provision of law, the Secretary, to the extent he deems it desirable to carry out the purposes of this paragraph, may provide in any agreement hereunder for (1) preservation for a period not to exceed the period covered by the agreement and an equal period thereafter of the cropland, crop acreage, and allotment history applicable to land covered by the agreement for the purpose of any Federal program under which such history is used as a basis for an allotment or other limitation on the production of any crop; or (2) surrender of any such history and allotments.

(d) Paragraph (1) of section 4 is amended by inserting after "without cost to the Federal Government" the words "from funds appropriated for the purposes of this Act."

(e) Clause (A) of paragraph (2) of section 4 is amended by striking all words after "fish and wildlife" and substituting therefor the words "development, recreational development, water quality management, or the conservation and proper utilization of land, and".

(f) All that part of clause (B) of paragraph (2) of section 4 which follows the word "Provided," is amended to read as follows: "That, in addition to and without limitation on the authority of the Secretary to make loans or advancements under section 8, the Secretary may pay for any storage of water for present or anticipated future demands or needs for municipal or industrial water included in any reservoir structure constucted or modified under the provisions of this Act as hereinafter provided: *Provided further*, That the cost of water storage to meet future demands may not exceed 30 per centum of the total estimated cost of such reservoir structure and the local organization shall give reasonable assurances, and there is evidence, that such demands for the use of such storage will be made within a period of time which will permit repayment within the life of the reservoir structure of the cost of such storage: *Provided further*, That the local organization shall, prior to initiation of construction or modification of any reservoir structure including water supply storage, make provision satisfactory to the Secretary to pay for not less than 50 per centum of the cost of storage for present water supply demands, and all of the cost of storage for anticipated future demands; And provided further, That the cost to be borne by the local organization for anticipated future demand may be repaid within the life of the reservoir structure but in no event to exceed fifty years after the reservoir structure is first used for the storage of water for anticipated future water supply demands, except that (1) no payment on account of such cost need be made until such supply is first used, and (2) no interest shall be charged on such cost until such supply is first used, but in no case shall the interest-free period exceed ten years. The interest rate used for purposes of computing the interest on the unpaid balance shall be determined in accordance with the provisions of section 8."

(g) Subsection (4) of section 5 is amended to read as follows:

"(4) Any plans for works of improvement involving an estimated Federal contribution to construction costs in excess of $250,000 or including any structure having a total capacity in excess of twenty-five hundred acre-feet which includes (a) works of improvement for reclamation, irrigation, or which affects public or other lands or wildlife under the jurisdiction of the Secretary of the Interior, (b) Federal assistance for floodwater detention structures, (c) features which may affect the public health, or (d) measures for control or abatement of water pollution, shall be submitted to the Secretary of the Interior, the Secretary of the Army, the Secretary of Health, Education, and Welfare, or the Administrator of the Environmental Protection Agency, respectively, for his views and recommendations at least thirty days prior to transmission of the plan to the Congress through the President. The views and recommendations of the Secretary of the Interior, the Secretary of the Army, the Secretary of Health, Education, and Welfare, and the Administrator of the Environmental Protection Agency, if received by the Secretary prior to the expiration of the above thirty-day period, shall accompany the plan transmitted by the Secretary to the Congress through the President."

TITLE II—AMENDMENTS TO THE BANKHEAD-JONES FARM TENANT ACT, AS AMENDED

SEC. 201. Section 32(e) of title III of the Bankhead-Jones Farm Tenant Act, as amended (7 U.S.C. 1011), is amended by adding at the end thereof the following:

"The Secretary shall also be authorized in providing assistance for carrying out plans developed under this title:

"(1) To provide technical and other assistance, and to pay for any storage of water for present or anticipated future demands or needs for rural community water supply included in any reservoir structure constructed or modified pursuant to such plans: *Provided*, That the cost of water storage to meet future demands may not exceed 30 per centum of the total estimated cost of such reservoir structure and the public agency or local nonprofit organization shall give reasonable assurances, and there is evidence, that such demands for the use of such storage will be made within a period of time which will permit repayment of the cost of such water supply storage within the life of the reservoir structure: *Provided further*, That the public agency or local nonprofit organization prior to initiation or construction or modification of any reservoir structure including water supply storage, make provision satisfactory to the Secretary to pay for not less than 50 per centum of the cost of storage for present water supply demands, and all of the cost of storage for anticipated future demands: *And provided further*, That the cost to be borne by the public agency or local nonprofit organization for anticipated future demands may be repaid within the life of the reservoir structure but in no event to exceed fifty years after the reservoir structure is first used for the storage of water for anticipated future water supply demands except that (1) no payment on account of such cost need be made until such supply is first used, and (2) no interest shall be charged on such cost until such supply is first used, but in no case shall the interest-free period exceed ten years. The interest rate used for purposes of computing the interest on the unpaid balance shall be the average rate, as determined by the Secretary of the Treasury, payable by the Treasury upon its marketable public obligations outstanding at the beginning of the fiscal year in which the advancement for such water supply is first made, which are neither due nor callable for redemption for fifteen years from date of issue;

"(2) To provide, for the benefit of rural communities technical and other assistance and such proportionate share of the costs of installing measures and facilities for water quality management, for the control and abatement of agriculture-related pollution, for the disposal of solid wastes, and for the storage of water in reservoirs, farm ponds, or other impoundments, together with necessary water withdrawal appurtenances, for rural fire protection, as is determined by the Secretary to be equitable in consideration of national needs and assistance authorized for similar purposes under other Federal programs."

SEC. 202. In recognition of the increasing need for soil, water, and related resource data for land conservation, use, and development, for guidance of community development for a balanced rural-urban growth, for identification of prime agriculture producing areas that should be protected, and for use in protecting the quality of the environment, the Secretary of Agriculture is directed to carry out a land inventory and monitoring program to include, but not be limited to, studies and surveys of erosion and sediment damages, land use changes and trends, and degradation of the environment resulting from improper use of soil, water, and related resources. The Secretary shall issue at not less than five-year intervals a land inventory report reflecting soil, water, and related resource conditions.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTION

S. 2689

At the request of Mr. CHURCH, the Senator from West Virginia (Mr. RANDOLPH), was added as a cosponsor of S. 2689, a bill to promote development and expansion of community schools throughout the United States.

S. 2843

At the request of Mr. DOLE, the Senator from New Hampshire (Mr. COTTON) was added as a cosponsor of S. 2843, a bill to designate November 11, each year, as Veterans Day and to make such a day a legal public holiday.

S. 2954

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent, at the request of the Senator from North Dakota (Mr. BURDICK), that the name of the Senator from North Dakota (Mr. YOUNG) be added as a cosponsor at the next printing of S. 2954, a bill to authorize the establishment of the Knife River Indian Villages National Historic Site.

The PRESIDING OFFICER (Mr. ALLEN). Without objection, it is so ordered.

SENATE JOINT RESOLUTION 171

At the request of Mr. MATHIAS, the Senator from New York (Mr. JAVITS), the Senator from Massachusetts (Mr. BROOKE), and the Senator from Maryland (Mr. BEALL) were added as cosponsors of Senate Joint Resolution 171, a joint resolution to designate March 1972 as "Exceptional Children's Month."

SENATE JOINT RESOLUTION 164

At the request of Mr. GRIFFIN, the Senator from Wyoming (Mr. HANSEN) was added as a cosponsor of Senate Joint Resolution 164, proposing an amendment to the Constitution of the United States relating to the assignment and transportation of pupils to public schools.

SENATE JOINT RESOLUTION 181

Mr. TOWER. Mr. President, I am extremely pleased to join with the Senator from Maryland (Mr. BEALL) in sponsoring Senate Joint Resolution 181, to establish a Joint Committee on Aging.

The passage of this joint resolution and the subsequent establishment of such a joint committee would represent the proper mechanism in which Congress could focus on the needs of elderly Americans.

President Nixon has already pledged to make the Federal establishment more responsive to the interests of older Americans. I believe the President has already established an excellent record in this field.

Yet, there is a great need for Congress to oversee and monitor better the actions of the executive branch of Government. No less than five departments within the executive branch are involved in programs directly benefiting the elderly. The problem is complicated by the diversity of congressional committee responsibility. In the Senate alone, the Committees on Finance, Banking, Housing, and Urban Affairs; Agriculture, Labor, and Public Welfare; and Veterans' Affairs all have the power to authorize legislation in this broad general area.

The Joint Committee on the Aging would have the potential to pool all of these executive and legislative resources in order to determine where we are in meeting the needs of elderly Americans, what we have done wrong, and what new steps should be taken to upgrade the living standards of the more than 20 million Americans who are age 65 and older.

It is timely that such a proposal might be considered as an aftermath to the White House Conference on the Aging. The White House Conference provided a splendid forum for the opportunity to express divergent opinions on what type of role government should play in advancing the interests of our elderly population.

Congress must meet its responsibility. The legislative branch can no longer afford to take a back seat to the executive branch in how policy affecting our elderly citizens is to be effectuated. Over the years we have seen a proliferation of programs affecting the elderly emanating from the executive branch. Yet, there are many concerned older members of our society who believe that the Government has not taken an active enough role in this field. Perhaps what Government is doing is simply not effective. It is the constitutional responsibility of the Congress to investigate our Federal policy and see what can be done to improve it. I am convinced that a Joint Committee on the Aging could provide the means to achieve realistic and long sought after ends.

Mr. President, as a Senator representing a State having a large elderly population whose problems are in many instances compounded by unique geographical and cultural considerations, I am vitally concerned with how governmental policy is shaped. I have introduced legislation to bring about more equity into our social security system which would provide increased benefits for recipients as well as offering more incentives for these Americans to continue as a working force within our productive economic system. In addition, I have been a strong supporter of veterans' affairs legislation and continue to support such programs as the Department of Labor's Green Thumb Program which enables our elderly citizens to regain their sense of dignity by providing meaningful public service within their local community. Generally, I believe government should set as an overall objective the enactment of policies that will give elderly Americans a conclusive feeling that they are not simply to be given a small pension at retirement, but rather that they have a great stake in our system and in a variety of ways can work toward a fulfillment of the American dream for all citizens.

Congress must play an important role in seeing to it that government is responsive to the interests of older Americans in the manner I have just presented. The legislative branch can be a coordinating point between State and local governments, the executive branch, and society as a whole in focusing on these matters. There are a number of reforms and new initiatives that should be considered by the Congress. While the Joint Committee on Aging would have no real legislative authority, it would provide the impetus for a most intelligent congressional response to the myriad of ideas worthy of study that have been proposed and will be proposed in the future.

I urge Senators to give this joint resolution their close attention in the months ahead. All Americans have both a public and personal relationship with our elderly citizens who have made such a great contribution to our society and its Government.

NATIONAL COASTAL AND ESTUARINE ZONE MANAGEMENT ACT OF 1971—AMENDMENT

AMENDMENT NO. 786

(Ordered to be printed and to lie on the table.)

Mr. KENNEDY. Mr. President, I am submitting today an amendment to the coastal zone management bill S. 582, to provide for an independent in-depth investigation of the environmental risks and alternatives to offshore oil drilling on the Atlantic Outer Continental Shelf.

The amendment authorizes a $500,000 study to be conducted by the National Academy of Sciences and to be reported to the Congress and the Secretary of the Interior, by July 1, 1973.

The study would examine what the potential costs of offshore drilling could be to east coast residents—costs to the environment, costs to the area's beaches and recreation resources, costs to fishing grounds.

It is fine for the Secretary of the Interior to come to the Hill and discuss the geologic research that buttresses the oil compaies' view that there is a profit to be made in Atlantic offshore oil drilling. There may well be an enormous profit to be made; but if it is to be at the expense of the majority of citizens of the east coast, then the oil companies may have to forego the profit.

In that regard, let me quote from the statement of the U.S. Representative at a United Nations conclave. His opening words were:

> Subsea mineral exploitation inevitable carries the potential to create hazards to other uses of the sea and to damage other marine resources.

With that potential, it seems evident that insufficient information is now available to assure us that a go-ahead for the sale of oil leases will not expose the east coast to a Santa Barbara blowout.

For that reason, an independent, nongovernmental evaluation of the risks seems to be the least that we can demand. The National Academy has indicated its willingness and its competence to undertake this study. Also, I appreciate Secretary Morton's statement that he would favor such a study. But since he would not commit himself to requesting funding for such a study, I am joining with Senator NELSON and other Senators to offer this amendment for that purpose.

The independent study is also essential because regardless of the competence of Interior Department scientists, we have seen all too frequently that studies which conflict with the administration point of view may never see the light of day.

We found that to be the case with studies dealing with the SST. More recently, we discovered that the U.S. Geological Survey and Council of Environmental Quality comments on the Amchitka underground nuclear test were suppressed for nearly a year. Only a Federal court order permitted the Congress to have access to those studies and then only 3 days before the blast itself.

I believe that the Congress has a responsibility to acquire sufficient information upon which to judge Interior Department assertions concerning both the need for and the danger of Atlantic offshore drilling.

For that reason, Mr. President, I am submitting the amendment today. And I ask unanimous consent that the amendment, and certain correspondence relating thereto, be printed in the RECORD at this point.

There being no objection, the amendment and letters were ordered to be printed in the RECORD, as follows:

On page 43, line 25, insert the following:

SEC. 316. (a) The Secretary of the Interior shall enter into appropriate arrangements with the National Academy of Sciences to undertake a full investigation of the environmental hazards attendant on offshore drilling on the Atlantic outer continental shelf. Such study should take into consideration the recreational, marine resources, ecological, esthetic and research values which might be impaired by the proposed drilling, as well as alternatives to such drilling in meeting the nation's energy needs. A report shall be made to the Congress and to the Secretary by July 1, 1973.

(b) There are authorized to be appropriated for the fiscal year in which this Act is enacted and for the next fiscal year thereafter such sums as may be necessary to carry out this section, but the sums appropriated may not exceed $500,000.

NOVEMBER 3, 1971.

Hon. ROGERS C. B. MORTON,
Secretary, Department of the Interior,
Washington, D.C.

DEAR MR. SECRETARY: I am most disturbed at recent news accounts that the Department of Interior is preparing to lease Georges Bank for off shore oil-drilling. I strongly urge that no further action be taken until complete, objective environmental reports have been issued. That action would assure that public hearings will take place with all relevant information available.

I have written today to the Environmental Protection Agency and the National Academy of Sciences urging an immediate study of the potential environmental hazards of the proposed oil drilling and requested those agencies to make public their recommendations and conclusions. I would hope that all action to permit any drilling would be suspended until the Environmental Protection Agency could prepare a study on this question. Oil spills have occurred in the Louisiana Gulf and in Santa Barbara. I am deeply concerned of what an accident might do to the beaches of New England and to the fishing area of the Georges Bank. The same threat exists along the shores of the other Atlantic Coast states where your Department has indicated its plans to permit exploratory drilling.

It seems to me that the ecological investigation and concerned citizen comment should precede the plans, not follow in the uproar of announced intentions. If reports are accurate that oil companies and public utilities have been canvassed regarding their interest in the project, then it is doubly disheartening that no similar canvas was made of the area's residents, the fishermen who depend on those waters for their livelihood, or those most concerned about the preservation of our natural resurces.

If we have not learned from the history of giant oil spills, if the impact of these plans on a severely depressed industry such as the U.S. fishing industry has not been found terribly important, if the citizens most directly affected are the last to be consulted, then perhaps a major re-evaluation of governmental planning is in order.

I would hope that there will be no further action until after independent studies by the Environmental Protection Agency and the National Academy of Science are completed.

Thank you for your consideration.

Sincerely,

EDWARD M. KENNEDY.

NOVEMBER 3, 1971.

Hon. WILLIAM D. RUCKELSHAUS,
Administrator, Environmental Protection Agency, Washington, D.C.

DEAR MR. RUCKELSHAUS: The Interior Department has disclosed plans for permitting exploratory drilling for oil off the New England and New Jersey shores. Despite the indications from the Department that precautions will be undertaken to assure the protection of the environment, I would hope that a complete and objective investigation could be begun now into the potential ecological dangers presented by such drilling.

Both fishing and recreation resources for the 44 million residents of the Northeast Corridor would be endangered by oil spills in this area. I believe a full investigation of this situation is absolutely essential before any further steps are taken to permit exploratory drilling.

I would urge that this study be coordinated with outside environmental specialists and I might add that I have contacted the National Academy of Sciences and urged that they appoint a special task force to provide a study of this situation.

Sincerely,

EDWARD M. KENNEDY.

NOVEMBER 3, 1971.

Hon. PHILIP HANDLER,
President, National Academy of Sciences,
Washington, D.C.

DEAR MR. HANDLER: The Interior Department has disclosed plans for permitting exploratory drilling for oil off the New England and New Jersey shores. Despite assurances from the Department that precautions will be undertaken to protect the environment, I believe it would be invaluable to have an independent study by a special task force of the National Academy of Sciences. I am sure such a study would be helpful to the Department of Interior in order to alleviate the natural fears of East Coast residents. We have seen the results of oil spills in the ocean near Santa Barbara and in the Gulf of Mexico and it would be tragic if we did not learn from those experiences.

There are unique recreation facilities and fishing resources that are vital to the 44 million residents of the Northeast Corridor which could be permanently damaged by a spill.

I would hope that a full investigation of the ecological hazards from oil drilling could be conducted by the Academy, which, I believe, would be a particularly appropriate institution for this undertaking.

Sincerely,

EDWARD M. KENNEDY.

NOVEMBER 8, 1971.

Hon. ROGERS C. B. MORTON,
Secretary, Department of the Interior,
Washington, D.C.

DEAR MR. SECRETARY: I appreciate your expeditious reply to my letter concerning the Department's plans for leasing oil drilling rights off the east coast.

Although I appreciate your statement of intent to follow the requirements of the National Environmental Protection Act, I believe that the magnitude of the environmental dangers attendant on off-shore oil drilling in the Atlantic requires some additional precautions. At the outset, let me note that the history of the Santa Barbara spill and the oil spills in the Gulf of Mexico are sufficient in my mind to veto any off-shore drilling in the Atlantic in the absence of new technology that absolutely guarantees against oil spills.

Therefore, in addition to the planned activities within the Department to evaluate the environmental hazards, I would suggest that you consider the following actions:

First, I suggest that you request the Environmental Protection Agency to undertake a separate investigation of the potential environmental hazards of off-shore drilling.

Second, for a totally independent study of these matters, I would urge that you request a study from the National Academy of Sciences of the ecological risks attendant on off-shore drilling in the Atlantic.

I have contacted the Academy, and I am informed that they have the scientific skills necessary to undertake this task.

I would appreciate hearing from you on this subject.

Sincerely,

EDWARD M. KENNEDY.

NATIONAL ACADEMY OF SCIENCES,
Washington, D.C., November 12, 1971.

Hon. EDWARD M. KENNEDY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR KENNEDY: I am responding to the issue raised in your letter of 2 November 1971 suggesting that the National Academy of Sciences study the question of ecological hazards from proposed exploratory drilling for oil off the New England and New Jersey shores. The Academy is quite willing to consider a request for conduct of such a study from the Department of the Interior, from any other component of the Executive Branch of the government, or indeed, from a committee of either House of the Congress, which is prepared to finance such an undertaking. It is my understanding that the Department of the Interior already has various aspects of these problems under consideration, although I am not in position to provide any details thereof.

I regret that the response of the Academy must be conditioned by financial considerations, but we receive no directly appropriated funds from the government, have limited internal financial resources, and can undertake major studies for the government only on a cost reimbursement basis. As you may also know, neither those who serve on our advisory committees nor the Academy itself receive a fee for such services. These considerations are particularly relevant in the present instance, since the matter you have raised for our consideration would require a major study which should be carried out in a broad, multidisciplinary fashion that would include examination of social and economic, as well as biological, engineering, and geological questions.

Moreover the study should also examine alternative courses of action, and their probable consequences. It might, in fact, be desirable to broaden the study to include the entire coastline of the United States, since oil seems to appear in so many new and unexpected places under the ocean these days.

As an alternative to this broad, thorough investigation, the Academy might also review, upon request from a sponsoring agency in the government, environmental impact statements that now have to be issued in connection with any offshore drilling proposals. This is a much narrower task and, although perhaps not quite so well suited to the resources and style of the Academy, would indeed be feasible.

A committee has recently been established in our Environmental Studies Board to plan a major, multidisciplinary study of "the energy problem," with particular emphasis on the questions of resources, environmental effects, and factors that influence the demand for energy. I am certain that this study will give much thought to the issues involved in offshore drilling for oil, and I trust that some of the answers we all seek may emerge from that study.

Sincerely yours,

PHILIP HANDLER, *President.*

U.S. DEPARTMENT
OF THE INTERIOR,
Washington, D.C., November 24, 1971.

Hon. EDWARD M. KENNEDY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR KENNEDY: In the absence of Secretary Morton, permit me to acknowledge your letter to him dated November 8 on the subject of the Atlantic Outer Continental Shelf.

Following the Chevron fire in the Gulf of Mexico in 1970, the Department established a continuing advisory arrangement with the National Academy of Engineering. A symposium is being jointly planned for next Spring on offshore safety systems. Also, at the request of the Geological Survey, a NASA quality control study of offshore drilling and production facilities has been underway for some time and the report nearly complete. Since 1962, the Woods Hole Oceanographic Institute has engaged in joint research with the Geological Survey of the bottom features of the Atlantic Continental Shelf which, with other information that has been or will be published, has provided valuable scientific information for continuing assessment.

We see no immediacy of leasing and subsequent exploratory deep drilling. As pointed out in the Secretary's telegram of November 4 to Governor Sargent, full public disclosure will be made as soon as our current geologic assessment is completed. This may take a few weeks to a few months. Review and substantive comment from the Environmental Protection Agency, National Academy of Sciences/Engineering and other institutions will form a valuable part of the analytical process.

It is our belief that scientists in the Department of the Interior and their counterparts in the Coastal States possess the greatest competency in evaluating the environmental and technical aspects of current and potential continental shelf resources. If, as information to date suggests, the petroleum and gas potential reservoirs lie at considerable distance off shore, the circumstances will have to be reviewed in light of present technology for safety of personnel and operations, as well as potential pollution probability and consequences. In either case, "zero risk" is the ideal goal to be aimed at, and hopefully to be achieved. There appears to be no potential near shore.

I would hope that you and your colleagues will continue to have the highest confidence in the Department's professionals for carrying out the obligations imposed by the Outer Continental Shelf Act of 1953 and the National Environmental Policy Act of 1969. We have an important mission in acquiring adequate information relating to our total resource base. This is particularly important to such regions as New England, which lack indigenous energy resources and which must rely totally on economics and deliverability instead of a secure supply. We really don't know if oil and gas do or do not exist in deep lying geologic formations off shore. We have the need to know.

In 1970, 886 tankers delivered 188 million barrels of oil to the single port of Portland, Maine. More than 50 percent of the cargo on the high seas is recorded as petroleum or its derivatives. Pollution from tankers is calculated to be more than 10 times greater than pollution from drilling off shore. As a matter of record, the one accident near Santa Barbara was the first significant shoreline pollution incident in several thousand drilling operations over a 20-year period.

The primary question before the nation is not exclusion or reduction of petroleum and natural gas from our economy, but development of technologically safer delivery systems to provide adequate and secure resources to our nation. The Executive and Legislative Branches of Government need to know what and where our resources are before they can make policy decisions for the future.

Sincerely yours,

W. T. PECORA,
Under Secretary.

ENROLLED BILL SIGNED

The PRESIDENT pro tempore signed the enrolled bill (S. 2007) to provide for the continuation of programs authorized under the Economic Opportunity Act of 1964, and for other purposes, which had

previously been signed by the Speaker of the House of Representatives.

POSTPONEMENT OF HEARINGS ON EGG INDUSTRY ADJUSTMENT ACT

Mr. JORDAN of North Carolina. Mr. President, due to the imminent adjournment of this session of the 92d Congress, there is insufficient time for witnesses to prepare for and attend hearings this session on the Egg Industry Adjustment Act, S. 2895. It is, therefore, my intention that my Subcommittee on Agricultural Production, Marketing and Stabilization of Prices will hold these hearings as soon as is practical after Congress resumes business in January.

ANNOUNCEMENT OF HEARINGS BY DISTRICT OF COLUMBIA COMMITTEE

Mr. EAGLETON. Mr. President, on behalf of the District of Columbia Committee, I wish to announce that at 9:30 a.m. on Monday, December 13, 1971, a public hearing will be held on the nominations of H. Mason Neely, to be a member of the Public Service Commission of the District of Columbia, and George Draper, to be a judge in the Superior Court of the District of Columbia. Persons wishing to testify on these nominations should contact Robert Harris, staff director of the District Committee, 6222 New Senate Office Building.

ADDITIONAL STATEMENTS

ANOTHER FRENCH GIFT TO AMERICA

Mr. MONTOYA. Mr. President, America has always shown strong loyalties toward allies, particularly those of long standing. One such is France. The United States has, in the 20th century, more than repaid any debt owed to France incurred during the American Revolution.

In World War I, as France lay exhausted, fresh American doughboys saved the day. Approximately 175,000 American boys gave their lives on French soil in that conflict.

In World War II, American troops again poured into France to liberate her from Hitler's rule. Many French villages contain two American military cemeteries; one from each war. We even bowed aside and allowed French troops under General LeClerc to officially liberate Paris, to lift the spirit of the French people.

Billions of dollars in Marshall plan money were given to France after the war to re-create her economy. All this the United States has given, and more. What have we received in return?

In the past several years it has been heroin, smuggled in vast quantities into the United States from France after being processed in facilities on French soil. A startling, severe accusation, to be sure.

Nevertheless, mounting evidence continues to point a finger at France as the source of so much of the hard drugs which can only be characterized as a cancer within the body of our society. Even worse, it is more than likely that this traffic is being carried on with the knowledge and even connivance of certain segments of French officialdom.

Today our country is face to face with the horror of hard drug addiction. Heroin is seeping into this Nation from many sources, addicting our youth, compounding the crime problem and tearing apart the fabric of millions of lives. New addicts, or potential ones are trickling back to the United States from Southeast Asia, ready to be exploited by the purveyors of this poison here at home.

Our streets have become addict-infested jungles. Street corners teem with pushers. Colleges each contain their share of heroin users. Now even our high schools are beginning to crawl with this infamous traffic, courtesy of the international drug smuggling rings.

Entire neighborhoods of many cities are almost uninhabitable by law-abiding people because of this state of affairs. The fabric of our society is straining to cope with it. No family, whatever its social standing or economic well-being, is immune.

It has reached a point where we either successfully choke off the overseas sources of heroin, or face the consequences, which are out of the question. For all these reasons, I believe the time has come for very plain talk, regardless of whose sensibilities are involved. In this case, they affect France, a so-called ally of this country. In light of recent developments, this is a highly questionable claim.

My first premise is simple. The U.S. Government and its law enforcement people know quite well where the raw opium is coming from, who buys and ships it, where it goes to, where it is refined, who ships it, and who takes over the business end of it here at home.

Dick Gregory, well known for his bitter humor in the face of ugly realities, has coined a devastating phrase. It goes as follows: "If a 12-year-old child can find the heroin man, how come the police cannot?"

That fact lands like a salvo from a battleship. And what is true of every city in the land is also true of every foreign supplier. Narcotics bureaus of Federal law enforcement agencies know the entire structure of this traffic, yet do nothing, or are prevented from doing so. Why? It seems that offending our foreign allies comes before stamping out this obscene presence pervading American life.

Most of the heroin marketed in the United States has its genesis in the opium poppy fields of Turkey. Harvested there, it is shipped to the western Mediterranean in bulk. In the process, much of it is transshipped across Syria and through Lebanon. Some traffic in the raw material takes place in Beruit, Lebanon. Governments of both countries are fully aware of what is transpiring within their borders.

Purchasers of this bulk opium are cartels of Sicilian and Corsican criminals, who oversee shipment of the material to the southern French port of Marseilles. Here is the center of refining for the drug market. Raw opium in bulk is taken to one of a dozen sophisticated chemical laboratories in that city, most or all of which are known to the French authorities. Opium must be first converted to morphine base by one reasonably sophisticated and rather dangerous chemical refining process. Then it is again treated in order to be turned into pure heroin. This is the poison that eventually reaches America's cities and our children.

It has been known for years that such operations are carried out in such manner in this area. Significant amounts of electric power are required for these transformations. At least half a dozen such operations are presently working merrily away with full knowledge of the French authorities. Once converted, pure heroin again enters the conduit that leads it eventually into the United States and hands of those who cut, wholesale, and peddle it to our children. Every Member of this House knows the truth of these accusations. We also know what the end result is in every town and city of this Nation.

Dead teenagers. Shoplifting. Muggings. Housebreaking. Fences. Prostitution. Bought-off officials and law enforcement personnel. Filthy needles. Infectious hepatitis. Scarred arms. Murder. Utter degradation. Ad infinitum. Ad nauseum.

We can stop it. We must stop it. Let every parent know the truth. Let every addict know the facts. Now is the time for us to rip away the false mask of friendship from France's face and expose the deceit, duplicity, and hatred underlying its grotesque grimace.

Here are a few hard facts. Claude Gravagna, spokesman for the French Confederation of Labor, has stated that the number of customs agents at Marseilles has dropped from 940 in 1950 to 670 in 1971. Meanwhile, traffic passing through this major port has been constantly escalating.

This gentleman has also exposed French duplicity in another area of concern. While she boasts of her share in the international war upon narcotics, the U.N. Division of Narcotics Drugs reports France has not paid her promised contribution to the U.N. Fund for Drug Abuse Control as of the end of last month. Under intense light and heat of such publicity, she at last announced a $100,000 contribution for 1972.

Even the efforts and courage of dedicated public servants go by the boards in this situation. Mr. Fitzgerald of C5–A fame may be joined by John Cusak, who is, or has been, desk chief for Europe for the Bureau of Narcotics and Dangerous Drugs. In spite of obvious efforts to shut him up, he has courageously spoken out about this intolerable situation, estimating that between eight and 12 clandestine laboratories are currently operating in the Marseilles area alone.

And as for shutting them down, only 13 such facilities have been closed by the French since the early 1950's. None have been raided and closed since fall of 1969—a period of more than 2 years.

In light of the safe environment existing in France, it is not particularly surprising that so much heroin is finding its way from there to the United States. Interceptions made here are an indication of the extent of this traffic.

On April 5, 1971, 96 pounds of pure heroin, worth $12 million, is found in a car shipped from Le Havre by an American customs agent. In May of 1971, 201 pounds of heroin, worth an estimated $30 million at street prices, is found in San Juan, hidden in a Citroen being shipped here by two French citizens. One was an employee of the French city of Menasque.

On July 23 of this year, 100 kilos of heroin, seized in San Juan, was found hidden in a car shipped from Marseilles, 113 kilos were seized at Valencia, Spain, and a French couple en route from Marseilles were arrested.

Mr. President, at this point we should remember a few little blessings this traffic is giving America. In New York, addiction is the greatest single cause of death among those between 15 and 35. Drug related crime now costs us at least $8 billion annually in theft and court costs.

Yet Cusak is deliberately shut up by our own Government because he had the outraged courage to damn official French corruption protecting the scum profiting from American teenagers' drug addiction.

The most recent imbroglio points up the situation even more glaringly. A former French ambassador, Roger Barberot, said recently that charges of French counterespionage agents smuggling narcotics into the United States were justified. A former French ambassador to Uruguay, he made the charge in an interview on radio Luxembourg reported by Reuters several weeks ago.

Again it is obvious top French and American governmental figures are battling frantically to hush this matter up—to make it sink out of public sight—to muffle the impact it undoubtedly must make. Do mangled lives of hundreds of thousands of American young people mean anything to these diplomatic gentlemen? Do they know about young addicts returning from Vietnam? Have they any idea of the degradation a young prostitute endures to maintain her heroin habit? Do they have to live in the atmosphere of terror prevailing in so many American neighborhoods? Have they ever been confronted with the living fruits of their complicity?

Most Americans must. Most Americans should know what is going on. Most Americans are asking in bewildered outrage why we cannot stem this tide of destruction. As it grows, their frustration and anger mounts.

Mr. President, this is the truth of it and America must know. Ordinary French opportunism would be one matter. We have watched her purvey arms to all who will buy, except Israel. She has taken advantage of every opportunity to harm America. Our leading critic on Southeast Asia, France has conveniently forgotten her vicious colonialism which created the Indochinese morass. She has contentedly squatted on the sidelines, enjoying our agony, while selling weapons, encouraging Quebec separatism, opposing us in the U.N. and generally doing Uncle Sam as much harm as possible.

The growing heroin epidemic in this country, however, is another matter altogether. Obviously, France has neither the desire nor ability to act. So we must act in self-defense. The evidence is overwhelming. The United Nations is helpless and unwilling to act. In fact, I believe its officials in charge of such activities, like the French, secretly enjoy what is taking place in our country because of the heroin traffic. Our own State Department, always ready to sublimate American well-being to false foreign friends, merely makes excuses for our French "allies." While French heroin is eviscerating our youngsters, they blatter on about "unique relationships" and "long term views." Mr. President, this is so much idiocy. Congress and the President are our court of last resort. We can and must do something.

President Nixon emits noisy gurglings ever so often about law and order. What better way to commence an assault upon crime than by holding France's feet to the fire over the heroin traffic and be damned to their indignation? No amount of protestations can refute such evidence.

A nationwide boycott of French goods is another distinct possibility. Or perhaps a double surcharge on all French-made goods entering this Nation. No matter what anyone says, we must do something. Certainly the time has come to an end when we can sit calmly by and watch this situation grow worse daily with equanimity.

VIOLATIONS OF CROP SUBSIDY REGULATIONS

Mr. BELLMON. Mr. President, yesterday, the Washington Post published an article entitled "Subsidy Chief's Farm Probed," written by reporter Nick Kotz. The article points out that—

> Mr. Kenneth Frick, along with more than one-third of his farmer neighbors in Kern County, California, have been reported in violation of crop subsidy regulations. Frick runs the Federal program.

The article goes on to describe a condition brought out 3 months ago by a check of compliance with farm program requirements in Kern County by an out-of-State team of USDA spot checkers. The article further states that—

> The Frick farm had been cited for using several acres of nonfarm land—previously used as a windbreak—as a retirement land, and for using other land of questionable value for "set aside" purposes. The Frick farm and numerous others were cited by inspectors as retiring alkali land—high in salt content—rather than land comparable to that in production.

The article further states:

> Questioned whether he is not, in effect, investigating a violation of his own farm, Frick said: "I have confidence in our inspection system. The system triggered this examination of farms. As to my farm, my brother is in charge of it and will have to answer for it."

Mr. President, I ask unanimous consent that the complete text of the article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Washington Post, Dec. 8, 1971]

Subsidy Chief's Farm Probed

(By Nick Kotz)

Agriculture Department official Kenneth E. Frick, along with more than one-third of his farmer neighbors in Kern County, Calif., have been reported in violation of crop subsidy regulations. Frick runs the federal program.

Frick, administrator of USDA's Agricultural Stabilization and Conservation Service, confirmed reports to The Washington Post that his own farm, now operated by a trust, and 467 others have been cited for violations. Kern County is the nation's second richest in farm receipts and ranks second in federal subsidies. The county's 1,190 farmers will receive $27 billion in federal payments this year, primarily from the cotton program.

Farmers are paid federal crop subsidies in return for taking part of their land out of production in an effort to balance supply and demand. The alleged Kern County violations include failure to take enough land out of production, counting non-farm land as retired land, and illegally evading the $55,000 per crop limitation on farm payments.

Frick stressed that official findings have not been made in any of the cases, and that farmers still may prove that they were complying with program regulations. Frick's office is in charge of enforcing regulations for the several million farmers in the subsidy program.

In addition to an investigation by Frick's farm program office, the Kern County situation now is being investigated by the General Accounting Office and USDA's Office of Inspector General.

Frick said the alleged violations in Kern County would be the most extensive in any county in the country. He said many violations probably resulted from the unfamiliarity of farmers with a new cotton program. Nevertheless, the federal official running the program in Kern County has been suspended.

Frick and his deputy administrator, Charles Cox, said the alleged violations on Frick's farm involved use of improper land as retirement land.

Cotton farmers such as Frick are required to "set aside" from production acreage equal to 20 per cent of their cotton allotment acreage. The retired acreage must be as productive as the land in production.

Cox said the Frick farm had been cited for using several acres of non-farm land (previously used as a windbreak) as his retirement land, and for using other land of questionable value for "set aside" purposes. The Frick farm and numerous others were cited by inspectors as retiring alkali land (high in salt content) rather than land comparable to that in production.

Frick said his farm interests are held in trust by the Bank of America and his farm land is managed by his brother Howard. He said the 3,000-acre farm received $190,000 in cotton payments in 1970 and about $95,000 this year. Both Frick and his brother would be entitled to a maximum $55,000 payment.

Questioned whether he is not, in effect, investigating a violation on his own farm, Frick said: "I have confidence in our inspection system. The system triggered this examination of farms. As to my farm, my brother is in charge of it and will have to answer for it."

Frick's assistant Cox then added: "Our instructions (from Frick) are to treat his farm like any other farm."

Frick said discrepancies were first turned up in Kern County in a routine "spot check," in which department inspectors visited states in which they do not normally work. Because of numerous discrepancies, Frick said, his deputies then ordered a check made of each of the county's 1,190 farms. Again, the check was made by inspectors from out of state.

He said the determination of violations is now in the hands of the Kern county ASCS committee, under supervision of the California state committee. However, he said one member of the three-man county committee is not participating in decisions because his own farm is being questioned.

Frick stressed that the county and state committeemen are elected by fellow farmers and thus are free to criticize any farm, including his own.

Cox said the inspection team turned up 547 violations on 468 farms. He said the team considered violations as "serious" on about 200 farms.

Cox said farmers could lose part of their federal farm payment for minor infractions and the entire payment for major violations. Severe violations, including fraudulent evasion of the $55,000 payment limitation, could lead to criminal prosecution.

Frick emphasized that he had initiated the "spot checks" that turned up the Kern County situation, because "we wanted to make sure that farmers understood the new cotton program and that it was working adequately."

"What we found in Kern County, I would have to describe as 'bad'," said Cox, in a joint interview with Frick. "It was not typical."

Mr. BELLMON. Mr. President, as an active farmer and a Member of the Senate, I know of the importance of the farm program to the prosperity of American agriculture and the ability of this Nation's food producers to provide the abundant low-cost food which American consumers have come to expect. I also know the farm program has many problems and that it is increasingly difficult to gain the support which it must have to secure passage through the Congress.

These conditions make it absolutely imperative that the farm program be administered in a way that is completely above reproach. Certainly, in an effort as vast as the farm program, there is reason to expect that there will be cases where—either intentionally or through ignorance—violations occur. When this happens, immediate corrective action must be taken. But when it appears that a farm owned by the official charged with the national administration of the program is in violation and when he excuses this condition by saying, "My brother is in charge and will have to answer for it," I am appalled.

My personal investigation into this matter convinces me that there is much more going on inside the farm program in Kern County, Calif., than even reporter Kotz has stated. The situation there seems to raise real questions as to whether the present system for policing the program is adequate, since it places enforcement responsibility upon the same persons the program is intended to regulate.

Mr. President, I have today addressed a letter to the distinguished senior Senator from Georgia, Chairman TALMADGE of the Senate Agriculture Committee, suggesting that an investigation of this matter be undertaken by the Senate Agriculture Committee at the earliest possible date. I ask unanimous consent that the text be made a part of the record.

Mr. President, I believe the Senate and the country need the full facts of this matter.

DECEMBER 9, 1971.

Hon. HERMAN E. TALMADGE,
Chairman, Senate Committee on Agriculture and Forestry, Senate Building, Washington, D.C.

DEAR MR. CHAIRMAN: It has come to my attention that serious allegations regarding evasion of provisions of the Farm Program have been made, concerning the administration of the farm program in Kern County, California. These conditions have been brought to light as a result of the work of a team of out-of-state USDA spot checkers. Apparently, these conditions have existed with the knowledge and the sanction of the Kern County Committee.

These charges, if true, raise several serious questions in my mind:

1. Is there a serious deficiency in the policing provisions of the 1970 Farm Bill.

2. Are the compliance requirements of the Bill strong enough to give administrators the authority they need to assure compliance.

3. Is the provision which places primary responsibility for policing the program in the hands of cooperating farmers proper, or does it contribute to evasion of the law.

4. Is the Department of Agriculture making maximum effort to uncover the true conditions in Kern County and to punish any persons found guilty of violating the law.

In an effort to get the answers to these and any other questions which may arise, I strongly recommend the Senate Agriculture Committee undertake full investigation of the administration of the farm program in Kern County, California.

Sincerely,

HENRY BELLMON.

THE PRESIDENT, THE BRITISH PRIME MINISTER, AND NORTHERN IRELAND

Mr. RIBICOFF. Mr. President, while attention has been focused on the conflict raging on the Indian subcontinent, the violence and killing in Northern Ireland continues with new fury.

As I have pointed out before, the causes of the conflict in Ulster should concern all of us because they involve a denial of the basic principles of human decency and social justice. The evil of religious and racial intolerance should be denounced and opposed whether it occurs in Northern Ireland, East Pakistan, the Soviet Union, or in our own country.

Later this month, the President will be meeting with British Prime Minister Heath in Bermuda. The agenda for their discussions is certain to contain a lengthy list of outstanding issues of active interest to both governments. But I would urge the President to add another topic—the subject of Northern Ireland. In doing so, the President would not only be following in the highest traditions of compassion and concern for the suffering of others, but also would be acting in the interests of an ally whose present role in Northern Ireland raises the real possibility that Northern Ireland is becoming Britain's Vietnam.

Our own Nation's failure to speak out at the highest levels when clear moral issues are raised is puzzling to many of our friends abroad and to concerned Americans.

The President's expression of concern over the situation in Northern Ireland to Prime Minister Heath coupled with an offer of appropriate support for new British policies in Ulster would help Britain to face up to its growing dilemma. It would also be an important step in bringing justice to the oppressed minority in Northern Ireland.

The signs are becoming clear that major changes in British policy are now urgently needed. A majority of the British public now favors removal of British troops from Northern Ireland and former Prime Minister Wilson is now advocating the unification of Ireland.

If he takes up this issue with Prime Minister Heath, the President will have the support and gratitude of growing numbers of Americans concerned over developments in Northern Ireland. The guidelines set forth in Senate Resolution 180, which I introduced originally with Senator KENNEDY's cosponsorship, and which is now also being cosponsored by Senator WILLIAMS, are attracting increasing support both in this country and in Britain. On November 22, at its meeting in Miami, the AFL–CIO unanimously passed its own resolution on Northern Ireland. I invite attention to this expression of sentiment whose provisions are similar to those of Senate Resolution 180.

I ask unanimous consent that this resolution be printed in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

DISCRIMINATION IN NORTHERN IRELAND

Whereas, For a period of half a century there has existed in Northern Ireland, a government sponsored practice of deliberate discrimination against the state's half million Catholics in a variety of ways causing them to be reduced to second-class citizens in their own country, and

Whereas, discrimination in employment has caused a chronic high rate of unemployment to exist amongst the Catholic minority for several decades, and

Whereas, For an equal period of time the government of Northern Ireland has practiced discrimination in housing against the same minority relegating them into barely habitable ghettos, and

Whereas, This program has existed in public as well as private employment and has been devised to cause unnatural divisions between the Catholic and Protestant workers of Northern Ireland, and

Whereas, After long and continued suffering from the aforesaid conditions the Catholic minority sought to demand their civil rights by marches and other peaceful and constitutional means, and

Whereas, These minority protests were met with vicious attacks and shootings, including the burning of the homes of the Catholic minority, and

Whereas, To protect the Catholic minority against Protestant extremists, the London Government sent military troops into the Derry-Belfast regions, and

Whereas, The troops were at first welcomed by the Catholic minority, but soon were found to be used to aid the persecutors, and

Whereas, Over 400 Catholics have been arrested by the British Army and interned without charge and are held without hope of trial, and

Whereas, London based prestigious Amnesty International, an organization dedicated to investigating the conditions of political prisoners everywhere, have concluded from its investigation that prisoners in Belfast are being subjected to torture, and

Whereas, The representatives of the Catholic minority have withdrawn from the Stormont Government, and

Whereas, The Catholic minority are in the streets in open revolt against these oppressors, armed resistance to the British Army is seen everywhere, and there exists an atmosphere of hate and bloodshed, and

Whereas, The source of this deplorable situation can be traced to the unnatural division of Ireland by an Act of the British Parliament in 1920 which allocated Six Counties from the 32 Counties of Ireland with a puppet government, dominated by an all Protestant Sectarian Unionist Party which has gerrymandered the population so as to maintain Sectarian control of the governmental bureaucratics and which party has been directed and manipulated by aristocrats and landlords, who for fifty years past have been exploiting the working class of Northern Ireland and for their purpose have been keeping the working population divided on religious lines, and

Whereas, Labor Representatives of our sister trade unions in England and Ireland have condemned this exploitation and discrimination pattern, and a national poll of the people of England shows that 60 percent of the people of Great Britain wish to have their military totally withdrawn from Ireland, and

Whereas, Many of our brethren in the trade union movement in England have demanded an end to British involvement in Ireland and many of the leaders of the Labor Party of England have severely criticized the prevailing British Government for permitting the British Army to be used by the Stormont Government in one sided activities against the Catholic minority; therefore, be it

Resolved: We the AFL–CIO, at its National Convention held in Miami, Florida on November 18, 1971, do hereby join our brothers and sisters in the Republic of Ireland and our brothers and sisters in Northern Ireland in condemning these insidious practices which have caused so much bloodshed and which threaten to engulf Ireland in further needless carnage and Civil War, and

We further call for the withdrawal of British troops from Northern Ireland and the establishment of a U.N. peacekeeping force until peace and reason prevails, and

We urge an immediate end to the Hitlerian policy of internment without charge or trial and a dissolution of the Stormont Parliament and the immediate establishment of laws which guarantee equal and just treatment for all the citizens of Northern Ireland.

We urge the establishment of a Free and Independent United Ireland with guarantees of liberty and justice to all its people.

We urge the Congress of the United States and our President to make our people's wishes known to the Government of Great Britain to the end that violence ends and peace, and full freedom come to a United Free Ireland.

Referred to Committee on Resolutions.

A JOURNEY TO INDIA AND PAKISTAN

Mr. SAXBE. Mr. President, I returned Sunday night from an informative but saddening journey which took me to both India and Pakistan and gave me an opportunity to meet with leaders of both countries. Upon my return I was asked by the Cleveland Plain Dealer to write an article detailing some of my views on the war and events leading up to it.

Because I know that Senators are interested in the subject, I ask unanimous consent that the article be printed in the Record. I also ask unanimous consent to have printed in the Record an editorial and a signed column published in today's New York Times.

There being no objection, the items were ordered to be printed in the Record, as follows:

A Journey to India and Pakistan

(By Senator William B. Saxbe)

Washington.—The Indian-Pakistan war can only end in tragedy, and I am more convinced than ever that both sides are at fault. This is perhaps the basic conclusion I gained during my just-ended mission to that troubled part of a troubled world.

I thought that if I could talk to both Mrs. Gandhi and Pakistan's Yahya Khan and impress on them the danger of the war they were plunging headlong into, that perhaps we could help get a political settlement. This will have to be done sooner or later, and I'm further convinced that tens of thousands of lives will be saved if it's sooner. The real danger, of course, is communal or religious war. They've had communal war, hot and cold, since 1947. Passions run very deeply there, and the only thing the fighting can do is plunge the picture more deeply into gloom.

My plan when I departed for India before Thanksgiving was a simple one. India, for whom I hold high regard, was feeling the pressure of public opinion. Everyone knew that in the beginning, Pakistan had invaded East Pakistan. This conflict ended up in the forming of the Bangladesh military arm—the Mukti Bahini—and India was training these troops, giving them arms. India wanted East Pakistan to succeed in revolting.

It soon became apparent to India, however, that the Bangladesh wasn't capable of making many inroads against the organized, professional, West Pakistan army. So India began putting on pressure with her own troops—there are hawks in India just as there are in the United States—and this finally resulted in Indians crossing the border last week. I talked to Mrs. Gandhi with the idea that, if she didn't want to lose the world support she had, then the wisest course would be not to invade East Pakistan.

Meantime, I talked to Yahya Khan. Certainly as a military man, I said, you know that this is a ridiculous logistic situation for West Pakistan. There are 1,500 miles of kinks and turns between West and East Pakistan, thus making extremely difficult the supplying of 70,000 or 75,000 troops in East Pakistan. Moreover, I told him, you are completely surrounded by Indians, the people are hostile to you because the Awami League (the majority party in East Pakistan) was outlawed by West Pakistani leaders. I suggested to Yahya that he proceed with granting at least a degree of autonomy to East Pakistan. He told me he was willing to do this and he seemed very sincere. But 10 hours later, Pakistani planes bombed six military airfields inside India and this, in turn, triggered a land invasion of East Pakistan by Indian troops. Yahya Khan lied to me. He had planned that bombing mission at the time he talked to me. I believe the shooting war could have been averted and India could have been kept from launching an invasion if Pakistan had granted autonomy to East Pakistan.

Of course, Mrs. Gandhi was somewhat less than candid when I spoke with her a week earlier. There are strong doses of arrogance and pride on both sides.

In a way, this mutual arrogance and pride constitute a supreme irony. Here we have both sides telling me and others that they are reasonable people, that they don't want war, that war would be giant blows to the people and economy of both sides. Moreover, Pakistan knows it is outgunned by India on every level—planes, tanks and manpower—and it would be ridiculous for them to presume they could carry on a long war. Neither country has more than three weeks oil supply, vital in fighting any kind of prolonged war. In short, this entire pending bloodbath makes no sense whatsoever.

Another distressing factor driven home to me on the trip: substantial anti-American feeling exists on both sides, perhaps even more in India than Pakistan. This is particularly saddening. We have funneled literally billions of dollars to India since 1947. We have virtually saved entire states within India with our economic aid. We have staved off famine in dozens of places. Russia has done none of these things, but the Soviets have given India tanks and planes. Isn't it odd that our humanitarian and economic relief has resulted in very little friendship, in fact, open hostility in many quarters, where Russia—by supplying arms—is India's bosom friend today. This is precisely why I have said so often that America, despite its honorable intentions, can't buy friendship.

I found myself on more than one occasion during the trip forced into the position as an unofficial peacemaker, yet here I was without official authority outside of a strong personal interest—without portfolio, so to speak. My point is that I believe the United States maybe didn't do all it could have or should have to bring about a solution before the two sides went over the brink.

Our good offices simply were not used as much as they should have been. Look at my situation, for example. It developed that I was the only person from the United States to talk to both Mrs. Gandhi and Yahya in the final 10 days before the shooting war broke out in full fury. It seems to me that there could have been more work at the top level—our Secretary of State, for example—to accomplish a little more. They were both galloping into war.

As I indicated earlier, this shooting war will be over within three weeks or so, when both sides have exhausted their fuel supplies. India, with its superior arms and manpower, will crush Pakistan. And then our country and Russia will likely be able to impose some sort of political settlement. But what is most troublesome of all to me is that even a political agreement may not end the bloodshed on the Indian subcontinent.

The spectre of communal riots hangs over the subcontinent. This would be a holocaust, a blood bath of the kind the world has never seen. And a tragedy during the holidays of the first order. I am very sad.

The Emergence of Bangla Desh

Defying a United Nations plea for a ceasefire, Indian forces appear on the verge of achieving New Delhi's major objectives in East Pakistan. These are the defeat of West Pakistani military repression in the disaffected Bengali province and the creation of conditions that will facilitate the speedy repatriation of nearly ten million refugees—Moslem and Hindu—to an independent, friendly and secular "Bangla Desh."

These would represent large short-term gains for the Indians, whose fragile internal stability has been gravely threatened by recent events in East Pakistan. The dismemberment of Pakistan would all but eliminate the menace of a militant Moslem neighbor which would be reduced to less than half of its original size.

But India will have paid a heavy price for these achievements, even if the wider war with Pakistan is speedily ended without further serious loss of Indian territory in the West.

New Delhi's resort to force without first exhausting all possibilities for a peaceful resolution of the conflict—especially the cold rejection of U.N. Secretary General Thant's reasonable mediation offer—has shocked many of India's stanchest friends and alienated important segments of world opinion. India's violation of the United Nations

Charter and defiance of the General Assembly has sharply diminished India's once proud moral standing.

India's support for full Bengali independence may have been made inescapable by the incredibly shortsighted and brutal policies of the Pakistani Government. But no one—especially the Indians—can ignore the new dangers and problems that will be posed by the emergence of Bangla Desh.

The success of secession in East Bengal could touch off a chain reaction of separatist demands throughout the subcontinent, in India as well as Pakistan. Desperately poor and heavily overpopulated—the present population of 75 million is expected to double in twenty years—Bangla Desh is likely to become a breeding ground for domestic unrest and a lightning rod for foreign meddling. It could become a magnet for the Bengalis of India and a destructive influence on the delicate structure of Indian unity.

To avert further impoverishment, fragmentation and conflict throughout the subcontinent it is essential that leaders in Delhi, Dacca and Islamabad thrust aside present divisions and acrimony and join in a search for new ties and institutions that will enable them to attack overriding common problems in dignity and peace. As the emerging dominant power, India has a special responsibility to assert the moral leadership for reconciliation that has been so sadly lacking in the present conflict.

[From the New York Times, Dec. 9, 1971]

WAR ON THE SUBCONTINENT—MR. NIXON AND SOUTH ASIA

(By John P. Lewis)

PRINCETON, N.J.—The Nixon Administration's South Asia policy, which had been edging toward disaster for the last eight months, finally, in a cloud of pious inanities, plunged over the brink this last weekend. Presumably for the time being the policy is beyond redemption. What now selfishly concerns me as an American is that India's leaders may exaggerate the degree to which the Administration's present aberrations represent thoughtful and enduring American opinion.

All the evidence suggests that within the Administration the aberrations trace directly and primarily to Mr. Nixon himself. For eight months he has remained officially blind to the most massive calculated savagery that has been visited on a civil population in recent times. He has been faithful to his good friend, the chairman of the savagery, Yahya Khan. Neither his hand-holding of nor any hidden leverage on the Pakistan regime has had evident effect in advancing a political solution in East Bengal.

To an Indian Government that, in the face of moral and human outrage next door and of an outlandish refugee burden, was showing remarkable restraint until recently, Mr. Nixon offered mainly counsels of restraint. He supplied no moral support. Instead for months he continued to trickle arms to Pakistan like so much gasoline onto smouldering Indian passions. The President has been fully aware both of the explosive domestic political risks the refugees posed in Indian Bengal and of the way they have totally derailed the cause of Indian development at its very moment of greatest opportunity. Yet he has not begun to exercise the leadership, either before the Congress or in the international community, needed to accomplish a quick and adequate sharing of refugee costs.

Such is the footing from which Mr. Nixon, first via his nameless State Department mouthpiece last Saturday, now from the White House itself, has branded India an aggressor. It is on this record that he has turned off, not just fresh economic assistance (which he had, in any event, been blocking since early in the fiscal year) but the unobligated portions of loans already committed. This last is extraordinarily tough action in terms of past aid practice, and one—lacking any prospect of cramping India's military capability—that can have only punitive intent.

Historians are bound to boggle at the cumulative ineptitude of this performance. In one series of strokes we have managed to align ourselves with the wrong side of about as big and simple a moral issue as the world has seen lately; we have sided with a minor military dictatorship against the world's second largest nation which happens also to be the stanches of all developing countries in its adherence to our own deepest political values; we have joined the sure-fire loser in a subcontinental confrontation; and we have depleted a once abundant, durable fund of Indo-American goodwill at a sickening rate.

It certainly would be wrong to claim to our Indian friends that, in all this, the President is swimming against a tide of public opinion. There is little American tide of opinion of any kind about the subcontinent, and its surface flow is considerably influenced by what any President does and says. Moreover many of our best editorial writers and columnists have such an absolute abhorrence of war—especially when escalated by others—whatever the provocation and whatever the closure of other options, that they cannot, just now, see much beyond the proximate causes of the Bengal border crossings.

I would like to emphasize one point that tends to be skirted, because no one wants to be caught these days suggesting that any good—even relative good, weighed against the alternative—can come of a war. The point, and it is pivotal, is that the only possible basis for a stable, peaceful East Bengal to which a large portion of the ten million refugees can return and help rebuild their nations is an independent East Bengal. Such is the effect of the program of terror since March 25; the scenario cannot be wound backwards. Hence (1) the premise of undivided Pakistan's sovereign integrity upon which American policy has rested, for at least five months, has been a nonstarter, and (2) India's support of the insurgency by the previously elected Bangla Desh regime has not been merely human and understandable; lacking alternatives, it has been the only constructive policy available.

I myself wish the Indians had escalated less, accepted a longer time frame, and kept their support less overt. But if there is any group which, having contributed most to the frustration of restraint, has least cause to fault her ensuing impatience, it is the Nixon Administration. It remains now for India to demonstrate that her objectives are those, and only those, she held out; namely, establishment of a genuinely independent East Bengal to which the refugees can return. There is a heavy obligation on Indian leaders to make sure that war fervor does not spill over into more self-serving ventures, either to the east or to the west. Meanwhile, as this demonstration is being rendered there is an obligation on Washington to keep quiet.

THE WHITE HOUSE CONFERENCE ON AGING—ADDRESS BY RUBIN MORRIS HANAN

Mr. ALLEN. Mr. President, all of us have been much impressed by the comprehensive and well-reasoned policies and recommendations emanating from the recently concluded 1971 White House Conference on Aging. The senior citizens of Alabama were well and ably represented at the Conference and particularly so by a close personal friend, Hon. Rubin Morris Hanan, president of the Alabama League of Aging Citizens, Inc., Montgomery, Ala.

Mr. President, Mr. Hanan delivered a very persuasive speech to the income maintenance section of the Conference in which he made some very forceful observations and thoughtful recommendations on the tremendously important problem of providing a workable solution to the problems of national health care under conditions which do not Sovietize our people or socialize medical care.

Mr. President, I am sure that Senators will find Mr. Hanan's speech informative and constructive. I ask unanimous consent that his speech entitled "The Right to Health," be printed in the Record.

There being no objection, the speech was ordered to be printed in the Record, as follows:

THE RIGHT TO HEALTH

(Speech by Rubin Morris Hanan)

Fellow delegates, ladies and gentlemen, the health of the American people is the basic foundation upon which all their happiness and their security rests. Regardless of a person's wealth or his freedom or independence, he cannot truly be happy or secure without good health and good health care. Although America is a country of unlimited wealth, offering great personal freedom and possessing the highest standard of medical technology in the world-America still has great problems providing adequate health care to all its citizens.

We find ourselves living through dramatic hours; hours which demand of each of you, as delegates to the White House Conference on Aging, and as Americans, a determined and unwavering course in support of the right of health care for all Americans.

One of the great unresolved issues of the Conference is whether or not a national health system of some type should be adopted. Before going any further, I want to make one point very clear. America cannot solve its national health problem by sovietizing its people and socializing its medicine.

The type health care program made available to our citizens is something that should be examined in depth in order to safeguard quality and quantity of medicine. In my opinion, Senator Edward Kennedy's Health Security Plan has many flaws, and this and other similar plans must be studied in detail before Congress forces them upon the American people.

It is often said and agreed by many in the health field that at its best, American medicine is the best in the world. I know that because I have visited Europe and most recently the Middle East Countries. I know what socialized medicine is: half slave and half man. No American who truly prides freedom can really wish to see himself and his fellow citizens plagued by unreasonable health taxation, unwarranted government interference in his health, and unfair restriction on the exercise of individual rights. But in a society governed totally by bureaucracy, there is no such thing as total freedom. I believe the Federal Government can improve health care in America without Federal domination of the healing arts profession and the patients.

The Federal Government could rectify the shortage of medical manpower, medical schools facilities and equipment, regional cancer, heart and diabetes hospitals and research centers. The Federal Government, through its great wealth, can assist in establishing more medical schools and can create a resource distribution pattern which will assure access to health care for all Americans.

In attempting to solve America's major problems, Congress has forgotten the need to improve financially our medical colleges, our regional research centers, and centers for many other areas of service.

I am Chairman of the joint City and County of Montgomery Health Clinic. We are charged with the responsibility of providing health care service to the indigent population of the city and county. I can verify that approximately 40,300 persons live in families which earn less than $3,000 per year in our area. Our present clinic of 9,072 square feet has overflowed into four mobile trailers in order to better serve the 10,755 patients who made over 24,000 visits to the clinic last year. Our facilities are being taxed beyond all reasonable limits. Add to this the average of 300 new patients who visit the clinic each month and it becomes obvious that either services must be curtailed, new eligible patients refused, or additional facilities must be provided. The same situation exists all over America today.

The social and economic problems of America's poor, are directly related to the solution of their health care problems. Major diseases do not respect national boundaries, neither do they respect age, sex, race or economic levels. There can be no North-South conflict over health care in this country.

What America needs is to launch an all-out attack on the causes of disease. Medical colleges and research centers and clinics need hard cash in order to conquer cancer, heart disease, diabetes, and the many crippling diseases, and to make health care and medical research in America second to no other nation.

What we don't need is Federal control of the doctor-patient relationship, and socialized medicine.

In 1968 I, and a few other ordinary citizens of Alabama started one of the largest public fund drives in the State's history to build a cancer hospital and research center as a lasting memorial to Alabama's only woman governor who died of cancer. What makes this memorial unique however is that unlike other memorials, it will provide life. The Lurleen B. Wallace Memorial Hospital and Tumor Institute will be more than brick and mortar. It will be the embodiment of a comprehensive concept for the care of cancer patients which will be available to all the people in the Southeastern part of the United States. This great hospital will become part of the University of Alabama Medical Center in Birmingham, under the leadership of Dr. Joseph Volker, Dr. S. Richardson Hill, Dr. John Durant, and the Dean of the Medical College of Alabama, Dr. Clifton K. Meador.

If we supply each citizen with a form of national health insurance, but we do not provide enough doctors, and fail in our research of major diseases, then we have taken the wrong approach to health care. Our citizens should not look to government first for all health care. I have traveled widely to participate in planning and acceleration of research programs against the dread diseases. Wherever I have gone, I have seen human beings reacting much the same way. Whatever the claims of nationality, the peculiarities of religions, the color of skin, or political practices, they have the same human reactions. The anguished cry of a mother who has lost her child, of the grief of one marriage partner after the death of the other is basically the same everywhere. Giving these people health insurance is little help, if the dread diseases are not conquered in the research centers and medical schools of the nation.

I make the following recommendations:

1. We must urge adequate Hill-Burton appropriations for constructing medical colleges and for construction and improvement of regional medical centers, research centers dedicated to conquering cancer, heart disease, diabetes, and the major crippling diseases.

2. The Federal Government must target all health resources assistance on bringing health care to all people who are sick with the dreaded diseases. We must focus our primary concern—not on expanded research for the sake of publishing more technical monographs—nor improving hospitals for the greater convenience of doctors or nurses alone but on regional medical research and treatment centers.

3. The number of medical personnel is growing less every day in relation to the population. We must urge the administration and Congress to reinstate the financial assistance to medical schools, and must assist individual students with scholarships and tax incentives in order to bring doctors into the areas most needed. The time has come when America must recognize that for millions of people the financing of educational costs is more than a mere personal problem. It is a vital national problem, and should be recognized as such in our tax laws.

4. The present shortage of health manpower is in part due to maldistribution. It is concentrated in middle class suburban America. The total supply of health personnel to all citizens is more important than a national health insurance program.

5. We must expand the range of health education opportunities, particularly for youths of lower income families. This can be done through expanded and improved medical schools and streamlined curriculum by placing greater emphasis on the paraprofessional fields. We recommend screening programs in a limited number of regional and community clinical centers, equipped with the latest in instrumentation and communication systems. It could become the cornerstone for a genuine national effort to prevent or reduce chronic diseases by detecting them in their early stages. In other words, doctors treat disease when it occurs. It has been said that the American doctors do not attempt to put obstacles in the path of disease. The American people give disease a head start, then we run to catch up with it, after it has already begun to cause real damage to the body.

6. We must permit admissions directly to nursing homes rather than only via hospitals, so that persons who are too sick to remain in their homes, but not eligible for hospital care could not be denied service.

7. We should recommend "Fall Tune Up" Programs to provide free medical tests for people 55 and over.

And finally, just as we have a Federal system of guaranteeing bank accounts, I recommend the same type system to guarantee the insurers, the physicians, nurses, and hospitals of their rights to receive fair and just compensation for their services.

I believe that every person at this conference is a humanitarian, attending today to seek a means to better man's life. Then, let the conference embrace with fatherly love, all those who suffer—the sick, the poor, the disabled.

In closing, I want to read a prayer I wrote which I hope this conference will adopt:

"Dear God, give us an understanding heart,
Clear thinking to find the essential good,
Purpose to find true goals for lasting values,
Honesty to hold and do what's right in God's sight,
Humility to know our weakness and mistakes,
Strength to meet the increasing daily demands,
Recognition to see the words of our colleague's sincere plan,
Confidence to always press forward when the cause is just,
Independence if needs to stand alone when our conscience says we must,
Gratitude for this great privilege to serve America and mankind,
Spiritual Awareness of our Nation's pledge "In God We Trust",
And now we pledge with grateful hearts our loyal service to man and God.

Thank You.

ECONOMIC PRESSURES AND NATIONAL SECURITY

Mr. HANSEN. Mr. President, a former Secretary of State, the late distinguished Dean Acheson, wrote, shortly before his passing in October, an article comparing the self-absorption circumstances prior to World War II with the inclinations among some in the Nation today to concentrate on domestic interests to the extent of ignoring the very real necessity of maintaining adequate defense capabilities.

The article was published in the Washington Evening Star of December 5, 1971. I ask unanimous consent that Mr. Acheson's thoughtful reflections be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ECONOMIC PRESSURES ENDANGER OUR SECURITY

(By Dean Acheson)

Crises do not always come upon us with premonitory crashes of thunder. Too often they move at a "petty pace from day to day." So, just 40 years ago, there was moving upon us, if not the greatest crisis in our history, at least the greatest since that of 1861. Made up of convergent foreign dangers, it was hidden from us by pressing domestic troubles. Across both eastern and western oceans formidable and hostile states were finding this country an obstacle to their ambitions and were preparing to remove or reduce that obstacle. At home our economy was approaching collapse. Skillful attack on maladroit government was destroying confidence in the leadership of the state. Growing panic gripped the country and for years obscured the foreign menace.

In Germany the same depression had brought havoc to the Weimar republic. In 1930 the Nazi party rose to second place in the state. In 1933, a month before Roosevelt's inauguration, Hitler became Chancellor. By July the Nazis were the only legal political party in Germany. A year later, after President von Hindenburg's death and the murders of the "second revolution," Hitler was declared *Fuhrer und Reichskanzler* and the supreme power in the state. In "Mein Kampf" he had proclaimed his plans and methods.

Meanwhile Roosevelt, turning impatiently from international affairs after the aborted London Economic Conference, plunged into the bravura of the New Deal, pumping depreciated currency into a flat economy.

COLLISION COURSE

Japan for years had been committed to a collision course, absorbing Western technology and building an industrial and military system to drive the foreigner out of East Asia. Controversy between the strike-north and strike-south strategists—the former seeing Russia as the enemy; the latter, the United States-France-Britain-the Netherlands—was decided by imperial decision to strike south. Movement began in 1931 into Manchuria. When the League of Nations and Secretary of State Stimson fulminated, a diversionary attack on Shanghai distracted attention. Neither the League nor Washington acted.

On the contrary Mr. Roosevelt as the 1930's progressed led the country into bitter division by attacks on economic royalists, the

Supreme Court, and "horse-and-buggy" philosophy. Europe and the League fell apart over the Spanish Civil War. Meanwhile, the Germans and Japanese, undisturbed and unopposed, pushed to near completion their conquests of Europe and East Asia; the former by a series of brilliant coups d'etat backed by force; the latter, by armed attack at its most brutal. In 1939 Hitler grasped at hegemony in Europe by outright war. The President reacted with the Chicago speech calling for quarantine of aggression, but a divided country shrank from involvement abroad and the rebuffed President, in the third-term election, promised there would be none. When Europe collapsed before Hitler, Hitler turned eastward smashing Russian defenses. Japanese armies having taken eastern and northern China moved south, overwhelming French and British resistance. Still the United States seemed paralyzed until the suicidal folly of the blow at Pearl Harbor, followed four days later by Hitler's equally mad declaration of war, forced the country to fight.

Now, 40 years on, our economy is again in trouble, though its productivity has vastly increased. New consumption demands are enforced by paralyzing strikes. Population growth and movement have created seemingly insoluble problems. Social discontent and frustration are widespread. Again an anarchaic activity is busy destroying confidence in government as in 1931 and 1951—though this time aimed at the past party leaders of those instigating it.

"If I feel," with Justice Holmes, "what are perhaps an old man's apprehensions, that competition from new races (and, I may add, more disciplined peoples) will cut deeper than workinug men's disputes and will test whether we can hang together and can fight," it is because I remember and see once again foreign menace hanging over us even more ominously than 40 years ago.

STALIN AND ARMS

Since 1946, when Stalin announced that he would amass armaments capable of overcoming any that might (and according to Communist doctrine would) be brought against the Soviet Union, we have watched it happen. In 1949 Stalin added nuclear weapons, after rejecting proposals for international control of the atom; and two years later, limitation and control of all armaments. Despite Soviet aggression in eastern Europe and eastern Asia, wishful thinkers maintained, as they still do, belief in the peaceful intentions of the Kremlin. Wishful thought springs eternal and strong.

In appraising the future deterrent value of our present nuclear armament, it makes little difference whether we assume that it is now somewhat greater or less than or equal to that of the Soviet Union. Both ours and theirs have been in movement, with theirs gaining. In the Strategic Arms Limitation Talks both sides are seeking some sort of standstill; we, on offensive weapons, ICBMs, they on defensive ones. These positions throw light on each side's view of its own strength and concern. As in all bargaining, the side more eager for agreement will pay more to get it.

The coming crisis will be decided not only by the nature of an agreement made with Moscow but by what we do with one or without one. In 1922 Secretary of State Hughes negotiated an unwise treaty on limitation of naval armaments with, among others, Japan. Not only was it founded on erroneous premises but the United States did not build up to its limitations. Japan did. In 1936, Japan repudiated the treaty, obtained superiority in the western Pacific, and in 1941 took it over.

Today the pressures here to increase domestic spending are enormous. So is distrust of "the military-industrial complex." The legislative and executive branches of our government are deeply divided. Under our present suffrage, the separation of powers of government, and political method, it will be hard to stop the upward movement of wages and prices and maintain an adequate national defense. We apparently do not believe in the existence of a foreign menace and are pricing ourselves out of national security. The real crisis is thus concealed.

REPORT OF CARNEGIE COMMISSION ON HIGHER EDUCATION—"INSTITUTIONAL AID: FEDERAL SUPPORT TO COLLEGES AND UNIVERSITIES"

Mr. PELL. Mr. President, I am delighted that the Carnegie Commission on Higher Education, in its report entitled "Institutional Aid: Federal Support to Colleges and Universities," supported the philosophy and principles pertaining to student assistance and institutional aid, which are part and parcel of the Pell bill, S. 659. The subcommittee in its deliberations on higher education studied the work of the Commission, and it is, indeed, gratifying to read this latest report which clearly buttresses the Senate position. It is my hope that the report will prompt the higher education community to support our bill.

DEMOCRACY AND THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, some people who oppose the Genocide Convention do so because they believe that its adoption will mean the end of democracy in the United States. They believe that if the Senate gives its consent to the ratification of this treaty the American people will lose rights guaranteed them under the Constitution. To determine if there is any truth to this fear, it will be helpful for us to consider other nations which have democracies and which have ratified the Genocide Convention.

Two nations which are very similar to the United States in the rights accorded their citizens are the United Kingdom and Canada. Both guarantee freedom of speech, press, religion, assembly, and the right to a fair trial by an impartial jury. Canada has been a party to the Genocide Convention since 1952. England gave its ratification in 1970. No Canadian or British citizen has been extradited for genocide. No Canadian or British citizen has had his freedom of speech abridged by this treaty. No Canadian or British citizen has been denied his right to a fair trial, because his country ratified the Genocide Convention.

The Genocide Convention has not threatened or reduced democracy in these two countries. It is reasonable to believe that it will not do so in the United States. Rather, the Genocide Convention will protect the people of Canada, the United Kingdom, and the United States from the prospect of mass murder. Instead of denying freedom, it will increase freedom by helping to protect the greatest freedom of all—the freedom to live.

Mr. President, I call upon the Senate to ratify the Genocide Convention without delay.

IGNORANCE OF INTERNATIONAL MONETARY AFFAIRS

Mr. McINTYRE. Mr. President, since August 15 the topic of international economics has shifted from the back page of the financial section of the paper to a front page story. As a member of the Committee on Banking, Housing, and Urban Affairs, I can testify how little is known about monetary affairs in general and international monetary affairs in particular. This is unfortunate, because international monetary affairs affect all of us.

Recently the Florida Times-Union in Jacksonville, Fla., published a UPI story on the comments of John F. Cogan, Jr. Mr. Cogan, president of Fund Research and Management, Inc., of Boston, commented on the lack of general knowledge of most Americans about international monetary affairs. If we are to compete successfully in the world's markets of tomorrow, Americans and their representatives must enhance their knowledge of international economics.

Mr. President, I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

DOLLLAR "IGNORANCE" HIT

BOSTON.—Most Americans are ignorant about the international economic developments that affect their own welfare and the welfare of the country, according to John F. Cogan Jr., president of Fund Research & Management Inc.

"Only a handful of Americans are even faintly aware of effects on our economy, of developments on the international monetary scene," he said. "About the only currency devaluation is what happens when they are traveling abroad. They discover their dollars will not buy as much as they would like. In some places, U.S. dollars aren't even accepted."

Cogan said people show no more understanding of the consequences of balance of payments deficits than they do of the current state of the art in nuclear physics.

He said the confused reactions of Americans to the dramatic developments on the international monetary front in recent months is shocking.

RELIGIOUS FREEDOM

Mr. SCHWEIKER. Mr. President, yesterday the Supreme Court of the United States heard arguments in the case of the State of Wisconsin against Jonas Yoder et al. The ultimate decision of the Court in this case will no doubt be one of its most significant on the question of religious freedom. The issue involves the right of a State to require the children of the members of the Amish faith to attend public schools under a compulsory education law which is contary to the religious principles of the Amish. Clearly, this is a most sensitive matter.

I ask unanimous consent that an article written by Mr. William R. MacKaye, entitled "High Court Hears Amish School Case" and published in the Washington Post today be printed in the RECORD. The article briefly describes the case.

Mr. President, also I ask that a summary of the case with excerpts of the brief filed on behalf of the Amish provided by the Reverend William C. Lindholm, Holy Cross Lutheran Church, Livonia, Mich., who is chairman of the National Committee for Amish Religious Freedom, be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

High Court Hears Amish School Case

(By William R. MacKaye)

The U.S. Supreme Court was asked yesterday to decide whether the responsibility of a state to ensure the adequate education of children should override the religious conviction of the Amish that eight years' schooling is enough.

The case, which pits the state of Wisconsin against three Amish fathers, poses one of the most critical religious freedom questions to come before the high court in some time.

The Wisconsin Supreme Court ruled in January that the three fathers, Jonas Yoder, Wallace Miller and Adin Yutzy, had a constitutionally guaranteed religious right to keep their children out of high school despite Wisconsin's compulsory education law.

One of Wisconsin's assistant attorneys general, John W. Calhoun, urged the federal high court to overturn the 6-to-1 ruling of his state's justices. Wisconsin's responsibility to defend its citizens' children from "the disease of ignorance" must take precedence over the Amish religious position, he said.

William B. Ball, a Harrisburg, Pa., lawyer who is one of the nation's principal legal experts on church-state matters, argued on behalf of the parents.

He laid before the clearly fascinated justices a picture of a tightly knit religious community in which wisdom is learned in the household and at the plow, and secondary schools are seen largely as purveyors of temptation and worldliness.

Wisconsin vs Yoder, as the case is known, represents the first time that the conflicts between the technology-shunning Amish and the government have been argued before the nation's highest court.

But it stands at the end of a long line of efforts by governments on this continent and in Europe to compel the Amish to soften their sturdy resistance to the ways of the modern world.

Usually the "plain people" have not combatted these efforts, but simply packed up and moved somewhere else in a continuing search to find a place where they will be left alone.

Four bearded, overalled Amish elders, three from Lancaster County, Pennsylvania, and one from Mifflin County, Pennsylvania, sat quietly in the courtroom yesterday listening to the arguments.

There are in the United States about 20,000 adherents of the most conservative Amish tradition, the Old Order Amish Church, according to the 1971 Yearbook of American Churches. Many of them may emigrate to other countries if the Supreme Court rules against them, Dr. John A. Hostetler predicted after yesterday's hearing.

Hostetler, a former Amish member who left the fold and is now a professor at Temple University and the world's leading academic expert on Amish custom, has served as an expert witness for the defense since Wisconsin vs. Yoder began.

Yoder, Miller and Yutzy, at that time all farmers in the rolling countryside outside New Glarus, Wis., were haled into county court in October, 1968, on charges that they had failed to enroll their children, Frieda Yoder, 15, Barbara Miller, 15, and Vernon Yutzy, 14, in school.

Testimony in the case noted that the New Glarus school administrator signed the criminal complaint against the three fathers immediately after learning that the Amish in the public school district had opened a private church-run elementary school.

The three fathers were convicted in the county court and again in the circuit court, and fined $5 each. At that point they appealed to the state supreme court, where for the first time in American legal history they won a decision that the Amish have a constitutional right to keep their children out of high school.

Earlier state supreme court decisions on similar cases in Kansas, Ohio and Pennsylvania upheld the right of states to maintain compulsory education.

Funds to defend the New Glarus fathers were raised by the National Committee for Amish Religious Freedom, an organization created by a Livonia, Mich., Lutheran pastor, the Rev. William C. Lindholm. Contributions paved the way for the participation by Hostetler, University of Chicago education expert Donald A. Erickson, and attorney Ball from the inception of the case.

Lindholm said he formed the organization some years ago after seeing photographs of truant officers chasing terrified Amish children through a cornfield in his native Iowa.

"I decided it wasn't right," he said.

U.S. Supreme Court Case—Is There Religious Freedom in America—for the Amish?

(By the Reverend William C. Lindholm)

If the Old Order Amish must partake of the value system in a regular high school "their religion will be destroyed," said an anthropologist from Temple University at the trial of three Amish fathers in Wisconsin who refused to send their children to high school.

The Wisconsin Supreme Court last January in a landmark decision overturned the arrests of the Amish saying that "no liberty is more important . . . than religious liberty," and the Amish "will not be required to attend school beyond the eighth grade" because the state had shown no "compelling state interest" which would justify the overriding of the freedom of religion guarantee of the Constitution of the United States.

Moreover, the court said that Amish "education produces as good a product as two additional years of compulsory high school."

Compulsory education laws in Wisconsin require attendance to age sixteen.

The State of Wisconsin claiming that religious liberty is no defense against compulsory education laws appealed to the United States Supreme Court, and this court heard oral arguments on Wednesday, December 8, 1971.

The U.S. Supreme Court will probably issue this term their ruling on whether the Amish can be forced into high school, which is against their religious beliefs and which will apparently result in the destruction of their church-community. The questions involved in the Amish case are significant ones, may the government require a religious group to perform an action which they believe will send them to hell? Specifically, is the government's policy requiring a certain type of secondary schooling so important that it can command that policy against the religious conscience of the Amish young people and their parents to produce the effect of destroying their church?

The Old Order Amish—a minority religious group known for their shunning of modern conveniences and the driving of horses and buggies, who were among America's earliest settlers—are supported in the high court by many of America's religious denominations.

Filing friend of the court briefs in support of the Amish were the National Council of Churches of Christ in the U.S.A. representing thirty-three Protestant and Orthodox denominations, the Seventh-day Adventist Church, the Mennonite Central Committee, the American Jewish Congress, the Synagogue Council of America and the National Jewish Commission on Law and Public Affairs.

The U.S. Catholic Conference (although not filing legal briefs) also supported the Amish.

The three Amish fathers—Jonas Yoder and Wallace Miller of rural New Glarus, and Adin Yutzy, now of Elsinore, Missouri—were arrested for failure to send their high school-age youth to the two years of required high school attendance and instead gave them what the Amish always give their adolescent youth—vocational training in the community. Wisconsin law requires attendance until age sixteen.

All three courts in Wisconsin were unanimous in their findings: "the Wisconsin compulsory education law does interfere with the freedom of the defendants to act in accordance with their sincere religious beliefs." Said the Wisconsin Supreme Court, "Any high school—public or private—represents a deterrent to Amish salvation." "To the Amish secondary schools not only teach an unacceptable value system," said the court, "but they seek to integrate ethnic groups into a homogenized society, resulting in psychological alienation from their parents and cause great harm to the child"

Defense attorneys for the Amish were William B. Ball, chief counsel; Joseph Skelly both of Harrisburg, Pennsylvania and Thomas Eckerle of Madison, Wisconsin. Assistant Attorney General John W. Calhoun handled the prosecution.

Since the Amish will not defend themselves, believing literally in the Bible—"turn the other cheek," it says—their defense was paid for by public donations through an inter faith group called the National Committee for Amish Religious Freedom, 30650 Six Mile Road, Livonia, Michigan 48152.

FACTS OF THE CASE

The facts of the case before the U.S. Supreme Court are:

Dr. John A. Hostetler, an anthropologist from Temple University testified that if the Amish are forced to partake of the values in a regular high school, "their religion will be destroyed."

A U.S. Office of Education study introduced into the trial record concluded that the Amish youth tested slightly above the norm on basic skills when compared to regular high school students.

Dr. Donald A. Erickson, education professor at the University of Chicago, said the Amish received in their own communities definitely what could be called "an education." The Amish training is of the "best kind," he said, "they learn by doing, and I would be inclined to say they do a better job than most of the rest of us judging by the fact that they have little unemployment, delinquency or divorce."

A law officer (Wilbur E. Deininger) of Monroe, Wisconsin said that even though the Amish do not go to high school, they were not involved in any crime.

The Welfare Director (Ray F. Kaskey) said that the fact that Amish to do not go to high school does not threaten the tax structure of the county because no Amish have ever been on welfare or public assistance.

Frieda Yoder, 15 year old Amish girl and old enough to marry in Wisconsin, took the stand and testified that it was against her beliefs to attend high school, and that she wanted to live the way of her people.

It was brought out at the trial that the arrests against the Amish were lodged directly upon the loss of $17,000 in state aid to the New Glarus school district because the Amish opened their own schools after disputes with authorities over such problems as shorts for gym classes.

Beyond establishing that the Amish were not attending New Glarus High School, the prosecution presented no other testimony or witnesses.

Upon these facts the Wisconsin Supreme Court ruled that the state had failed its proofs. "There is not such a compelling state interest in two years high school compulsory education as will justify the burden it places upon appellant's free exercise of their religion."

DEATH KNELL FOR AMISH?

William B. Ball, defense lawyer for the Amish, said, "The State makes no bones about its desire to enter the minds of these young people, expose them to worldly education, fill up their minds with state packaged learning, alien to the Amish way, threatening the privacy of their psyche and threatening painful personality restructuring by placing them in a high school with stress upon competition, ambition, consumerism and speed."

The attorney said in his brief to the U.S. Supreme Court, "The state is insisting that there cannot be different kinds of education . . . all education must be dictated by the state with values derived from technology or related to consumption and competition and must be imposed upon every child."

"As all three courts in Wisconsin found," said Ball, "the state is violating the free exercise of the Amish religion by interfering with the whole fabric of Amish worship life which permiates the whole of their ceremonial community and daily farm living, stopping parents from nurturing their children in the Amish faith, preventing the Amish youth from following their religious faith and farm vocations, and violating their right of communal association."

Ball said that if the U.S. Supreme Court does not stop this invasion by the state "it will sound the death knell for an old, distinctive and innocent culture."

The Wisconsin Attorney General, Robert W. Warren, in his brief to the U.S. Supreme Court said that the Amish are "neglecting" their children. Moreover, he asserts, the legislature alone controls educational policy and until that body changes the law the Amish "should be required to attend a more 'worldly' high school." (Pennsylvania, Indiana and Kansas have exempted Amish, but Wisconsin's legislature rejected consideration of the Amish problems).

The Supreme Court will now have to decide whether the constitutional guarantees of religious freedom apply to the Amish, or whether they will have to move once more this time from the United States to find a haven where they can be let alone. One whole group left Arkansas a few years ago for Central America saying, "The government is gradually taken away our religious freedom."

FRIENDS OF THE COURT

The National Council of Churches urged the U.S. Supreme Court to affirm the decision favorable to the Amish and said, "responsible religious groups in this country have the right to undertake, not just an imitation of conventional education, but a fundamentally different *type* of education from that generally prevailing in a given state—if necessary to embody and inculcate their understanding of what the Divine Will requires." The Council further said, the Amish "were engaged in general education centuries before there was a State of Wisconsin and are as fully capable of choosing among arguable theories of pedagogy as are the civil entities which have entered the field of education more recently. The Amish have made significant contributions to Western Civilization as a whole," stated the NCC, "and the entire Christian movement would be poorer if the Amish were forced to conform or emigrate."

In addition to the National Council of Churches several other religious groups supported the Amish.

The brief of the Seventh-day Adventist Church said, "A child should not, except for the gravest causes, be forced to make the psychological decision of disobeying the religious precepts of his parent . . . and the denial to a parent of the right to control the religious upbringing of his child is a denial of the free exercise of religion."

The Mennonite Central Committee through its attorney Donald Showalter of Harrisonburg, Virginia said in his friend of the court brief, "The education given Amish youth adequately prepares them for the future. . . . then clearly the legitimate state interest has been satisfied. . . . enforcement of the law beyond the rudiments will threaten the "very existence of the Amish religion in America." "Freedom of religion—a constitutionally guaranteed right—must prevail over the more nebulous and uncertain claim of the State of Wisconsin."

Nathan Lewis of Washington, D.C., counsel for the National Jewish Commission on Law and Public Affairs, said in his brief *amicus curiae*, "This case presents a disturbing illustration of an attempt by the state authorities to compel nonconformists, whose beliefs and practices are constitutionally protected, to adhere to norms that are entirely sound and desirable for most inhabitants of this country, but are offensive and harmful to the affected religious minority. . . . the Constituition and the traditions of this nation do not permit this kind of coercion which endangers all religious or ethnic minorities."

Attorney Leo Pfeffer of New York City representing the Synagogue Council of America and the American Jewish Congress said their organizations have "a strong interest in religious freedom and a religiously and culturally pluralistic America. . . . a reversal of the decision of the Supreme Court of the State of Wisconsin may imperil these precious values." Wisconsin has failed to "establish a compelling state interest to outweigh the religious freedom, parental liberty, the rights of mature minors and family privacy," said the Jewish group, and moreover, "an education which includes eight grades is adequate to insure an informed citizenry."

AMISH ARE NOT IGNORANT

Some people who are uninformed are under the impression that the Amish are ignorant and that their children are denied an exposure to a knowledge of the world and will not be able to make their living. Such is contrary to fact. The Amish are not against education, but are dissenting from a culture which is increasingly materialistic and technical. They want an education that makes men good, compassionate, God-fearing, law-abiding, heaven-preparing, and which will enable a person to earn an honest living. Since their culture is transmitted in the oral tradition—from faith to faith and father to son—and consists of on-the-job training not within four walls, it is felt by some to be "no school." However, Dr. John A. Hostetler of Temple University did a three year study under the auspices of the U.S. Office of Education and testified as to his findings at the trial of the Amish fathers. Comparing Amish students with students in regular schools "the Amish," he said, "test above the norm on the Iowa Test of Basic Skills and their I.Q. is above the norm." Dr. Donald A. Erickson, education professor at the University of Chicago, testified at their trial that the Amish are "educated" by their community. "They do a better job than most of us judging by the fact that there is no unemployment among them, very little divorce and juvenile delinquency." "They learn by doing," he said, "which is the best way." They are not an ignorant people, and these facts were in no way disputed by the State of Wisconsin. No one is contending that Amish education would fit the needs of all, but it is obviously adequate for them. Bear in mind that we are talking about only one or two years of required compulsory schooling which will not go far toward making them become scientists or engineers, but it does deprive them of a serious amount of liberty.

Chief Justice E. Harold Hallows of the Wisconsin Supreme Court stated in his eighteen page opinion favoring the Amish: "The Amish claim, with compelling merit, that their education produces as good a product as two additional years of compulsory high school education does." The Court further stated. "To force a wordly education on all Amish children, the majority of whom do not want it or need it, in order to confer a dubious benefit on the few who might later reject their religion, is not a compelling interest. Two more years of schooling do not help the Amish in his environment," the Court said.

Two former Amishmen are members of the National Committee for Amish Religious Freedom and who now hold doctorates in their fields; they strongly support the Amish in their struggle for religious freedom. These scholars say that Amish children are not seriously deprived of leaving the church if they wish—some do—and those who leave have had no difficulty in finding a place in the larger society. Employers have been eager to hire the honest self-reliant Amish craftsmen, and a number have easily passed college entrance tests. In the Wisconsin case the Amish young people testified that they did not want to go to high school, and that they wanted to follow the religion of their parents. These young people—physically capable of being parents in their own right—asked the court to grant their religious liberty to choose their faith. What many people do not realize is that they are really punishing the Amish children when they advocate that they be removed from their community for schooling, because they are being deprived of meaningful relationships which they want in their own community—and this causes psychological harm.

EXEMPTION FOR THE AMISH

Wisconsin is contending before the United States Supreme Court that the exemption of the Amish as required by the Wisconsin Supreme Court will cause educational chaos, and other dangerous groups will rush through the open doors. Experience contradicts such an assertion. States which have granted the Amish legislative or administrative exemption report that in fifteen years there have not been other groups rushing in to seek an exemption. Also the states which do not require such high school attendance report that their rates of voluntary high school attendance is not different from Wisconsin's compulsory attendance.

It must be remembered also that the Wisconsin Supreme Court only excused the readily identifiable Amish church groups until they "pose a threat" to the state. There is no known similar group which has such unique religious requirements and constitutional claims.

The Amish still drive horses and buggies, shun modern conveniences such as electricity and telephones, wear plain clothing and observe the Bible literally, "Be ye not conformed to this world."

These "Plain People" are descendants of an impressive list of Christian martyrs. In the sixtenth century their women were buried alive and the men were put in sacks and drowned in rivers because they would not accept infant baptism and the union of church and state. They were saved from extinction by William Penn who afforded them freedom in America.

The "crime" of the Amish people today is that they are dissenting from an education that is increasingly technical, secular and materialistic. The Amish want an education that makes men good, compassionate, law abiding, heaven-preparing and able to earn an honest living. They believe that "God has shown that the world's wisdom is foolishness with God." (I Cor. 1:20).

The larger society socializes young people in a culture that stresses competitiveness, emphasizing the materialistic, pecuniary, highly technical pursuits in a teenage atmosphere of fast cars, rock music and Hot Pants. While the Amish are taught by their elders a different set of attitudes and religious values—like slowness of pace, peace, love of hard work, democratic cooperativeness, close-to-the-soil living. Sitting at a desk learning intellectual disciplines blocks Amish religious training and takes them from the training in the skills and attitudes the special life in the shops and fields requires.

(The following are summary paragraphs and excerpts of Attorney William B. Ball's defense brief for the Amish:)

Who the Amish Are. The Amish come in a familiar role: the passive and peaceful objects of civil wrath. Neither wanderers nor gypsies, but seeking always to hold fast to the land, their history nevertheless reaches back from today in Washington, D.C., and Wisconsin through yesterdays of many migrations and ultimately to the Switzerland of 1525 where their ancestors sought a return to a Golden Age. These were the "Anabaptists" who attempted, not Church reform, but restoration of a lost and primitive Christianity. To be "First Century Christians" demanded *nonconformity* to all things worldly and sinful and therefore both a life style of *austerity* and a *separated community of peaceableness and mutual aid*, the individual—*baptized only when adult*—undergoing a rebirth through Christ and the working of the Holy Spirit. See generally, F. Littell, *Secretarian Protestantism and the Pursuit of Wisdom*, Public Control of Nonpublic Schools (Erickson ed.) 61–82 (1969).)

The "separated community" implied not only separation from "the world" but also *the separation of church and state* as a safeguard of religious liberty.

From their literal reading of the New Testament ("I will destroy the wisdom of the wise, and the cleverness of the clever I will thwart . . . Has not God made foolish the wisdom of the world?" I Cor. 1:21, and ". . . I thank thee, O Father, Lord of heaven and earth, that thou has hid these things from the wise and prudent and revealed them unto babes . . ." Luke 10:21) came their sense of austerity from which flowed the "rejection of speculative philosophy and sophisticated theological reasoning" as well as rejection of technology—"opposition to the achievements of the artificer, the inventor, the scientist." Indeed it was exactly the violent persecution that well-educated authorities launched against these simple Christians that made firm their theological position and made them more determined to stress the strict moral principles of the Sermon on the Mount and the "turning of the other cheek", rather than technical cunning. Therefore, they emphasized the manifestations of God "in closeness to nature, in the soil, and in the weather, among plants and animals,"[7] which were to be enjoyed and embraced.

The Anabaptists felt the fury of persecution in Europe especially for their rejecting of infant baptism, and refusal to bear arms.

"The anti-social character of these [Anabaptist] sects disturbed the Lutherans just as much as Catholics. Charles V legislated against them most rigorously. Of 877 names which appear in the Protestant martyrologies for the Low Countries, 617 were those of Anabaptists. Numerous executions took place at Louvain, Ruremonde, Maastricht, Liege, Antwerp and Bruges; the men were burned and the women buried alive. But this did not stop Mennonism and other kindred types of Anabaptism from gaining grounds . . . Slowly but surely this extremely simple form of Christianity, with its elementary dogmas, continued to spread. It was soon found in Prussia, in the duchy of Holstein, in southern Russia and in England. Crossing the Atlantic it reached North America . . ." (Danil-Rops, The Protestant Reformation)

The Anabaptists who come under the leadership of Jakob Amman (*circa* 1693), and hence were known as "Amish", migrated to America from Switzerland at least as early as 1727. They came to Pennsylvania, having selected that colony in reliance upon the pledge of religious freedom given in William Penn's "Great Law" of 1682 and the repute gained by that colony for religious freedom in actual practice. In perfect integrity, the foregoing religious beliefs, actualized in living communities, have come down to the Amish of today. To call their beliefs "non-doctrinal", or to infer that these beliefs constitute eccentric but dispensable customs, merely because they are not expressed in printed texts, decrees and regulations, is misleading. Amish "doctrine" (*i.e.*, teaching) is supremely certain and clearly known, being safeguarded to each generation by means of an *oral tradition* which contains and repeats the essential teachings. "Antiquity much preferred that which was taught from the lips of a living person and was skeptical of the written word. The same spirit prevails in much sectarian Protestantism." (See: Littell, "Sectarian Protestantism", at 76). The moral character of any "teacher" in Amish life is basic. "There is no distinct boundary between these deliberate pedagogical measures [of the oral tradition] and the teacher's way of life as a whole.'")

Amish Education. Some contend that Amish children are consigned to a life of "ignorance" and that the Amish do not receive an "education". But these charges depend upon definitions of education and of education's proper goals. Wisconsin infers that only a secondary education which is aimed at fitting a person for acceptance and "success" in the technological society—and which comes out of books and takes place in school buildings—is a genuine education, indeed the only education which may be constitutionally enjoyed. But, as has been seen, Amish religious principles forbid the "higher learning" whether in a public high school or any other high school.

The Amish are emphatically in favor of education—but an "education for life" as seen in terms of their religious view as to how life should be lived and as to the single goal of life which is union with God. Amish education has followed the pattern of classical *wisdom* rather than *technos*. It has emphasized the moral wisdom of producing good men, rather than the technical, which can produce the competent barbarian, the intellectual rioter, the revolutionist, and the criminal.

Only if it be deemed a crime to be an Amishman, or that the Amish should have no liberty to live the Amish life, can it be said that Amish education is not a real "education". The Amish consider that the study of elementary reading, writing and arithmetic has its place in helping a child become a participating member of the community.

As has also been shown, the Amish system of education beyond the eighth grade of "learning by doing" in the agricultural life of crop-raising, animal husbandry, farm maintenance and management—coupled with living as a helping and responsible family man and neighbor in the self-sustaining Amish faith-community—may be regarded as ideal education. Surely, not all education need take place in a school. Only those will disagree who, like the State of Wisconsin, deny that there can be *different kinds of education*, or who insist that all education must be aimed at life goals dictated by the state, or who demand that values derived from science and technology, or related to consumption and competition, must be imposed upon every child. While products of Amish education measure up well in certain accepted forms of standardized testing, showing secular competence, their admirable attitudes toward nature, the ecology, war, peace, violence, lawfulness, thrift, family, marriage, hard work, and love of neighbor are the direct outflow of that great area of their educational formation which is *religious* and concerned with the possession of *wisdom*.

Amish society uniquely recognizes the desire of individuals at the dawn of young manhood and young womanhood to get on with their life's work and to be challenged by high responsibility. Adult baptism implies, for the Amish, a time of choice, and its taking place in late adolescence accords with that recognition. Far from being denied his rights at the coming of adolescence, as the State of Wisconsin charges, the Amish person begins to move rapidly into the full enjoyment of adult rights and privileges.

The Action of the State Directly Violates Amish Religious Freedom Through Penalizing, by Criminal Sanctions, the Enjoyment of Religious Liberties Related to: Worship, Parental Nurture, Individual Choice of Religion, Vocation, Communal Association, Teaching and Learning, and Privacy

The State of Wisconsin seeks to provide Amishmen with its own definition of their religion. Carefully ignoring authoritative sources, the State bids the Amish to get in line with that version of the Amish religion which the State feels it can tolerate. So, for example, the State asserts:

"The Amish may establish their own secondary schools consistent with their religious beliefs."

This, as has been seen, the Amish religion does not permit. Similarly, in lieu of Amish high schooling, the State would require public high schooling. Indeed it is because the Amish defendants in this case refused to send their children to the New Glarus Public High School that the present criminal prosecution was instituted. But in a public high school, the Amish young person plainly could not pursue the religious life which his faith requires. The State, however, telescopes these claims into "the right to worship", thus inferentially redefining the Amish religion by reducing it to one core essential and dismissing all of the other manifestations of the Amish Way as nonessential.

It is no business of the state to define men's religions. The Petitioner State can no more do away with an essential of the Amish religion than it can an essential of any other religion. Surely, the State would not be heard to redefine Orthodox Judaism so as to exclude from it the concept of authority of the Bible. The State's contracting of the essential Amish religion into an affair consisting of worship (with beards and buggies perhaps thrown in) is an effort to camouflage and minimize the scope and impact of Wisconsin's free exercise violation. That violation strikes at the following essentials of Amish religious liberty:

Worship. Worship, in Amish life, whether for the old or the young, is not confined to a "prayer period" or a weekly hour of church-attendance. Worship permeates Amish life, and in a variety of forms. The Amish society is a "ceremonial community", its religious ceremonial life being governed by the days of the week, by seasons and by the calendar. At the time of adolescence, the Amish young adult is growing rapidly in the *life of worship* of the "ceremonial community" in which harvesting, sewing and all daily work, learning and activity are consciously offered in praise and love of God. If he is forced into high schooling at this point in his life, this life of worship is very largely ousted.

Parental nurture. The Amish religion requires Amish parents to raise their children in the Amish faith. Family life is extremely strong in the Amish community, and the close bonds related to love, nurture and obedience between parent and child are considered to be founded upon the Bible.

The U.S. Supreme Court has stated that "[t]he child is not the mere creature of the state; those who nurture him and direct his destiny have the right, coupled with the high duty, to recognize and prepare him for additional obligations." *Pierce* v. *Society of Sisters,* 268 U.S. 510, 534 (1925). While the Amish parents are in the very midst of recognizing and preparing their children for the "additional obligations" of Amish life, the State of Wisconsin seeks to stop these parents in their carrying out this work of nurture which is to them a fundamental religious obligation.

Individual religious choice. Implicit in the State's defense of its criminal prosecution is its view—based on nothing in the record—that the Amish young people in question are not able to make a real choice that they desire to follow the Amish religion and that, for religious reasons, they feel compelled to not attend high school. Upon the trial, the defense placed on the witness stand one of the three Amish children here involved, Frieda Yoder, in order that testimony representative of Amish young people of like age might be heard with respect to whether these young men and women choose to pursue the Amish way of life. Miss Yoder was fifteen, an age at which a female in Wisconsin may marry. She testified that she believed in the Amish religion, desired to pursue the Amish way of life and that going to high school would be against her religious beliefs. It is clear the one effect of enforced high schooling of Amish young people is to violate their liberty to pursue the Amish religion.

Vocation. A unique feature of the Amish religion is that it allows of but one vocation: farm life. To interfere with the vocation is to interfere with the religion. The State interferes with the farming and farm life vocations of Amish young men and women by requiring them to attend high school, this necessarily displacing (at a vital time in the young person's development and maturation) their vocational training in the Amish farming community. They are thus "prevented from learning things they must know in order to live a successful life in the Amish community." The technical skills, attitudes toward manual work, and knowledge required to live in the Amish community cannot be acquired in the classroom. "A boy learns to plow by plowing, by knowing the condition of the soil, the degrees of moisture, the weight of the plow, the temperament of the horses." (See: J. Hostetler and G. Huntington, Children in Amish Society, 102 (1971).)

Communal association. The Amish religion is a communal religion. There exists no Amish religion apart from the concept of the Amish community. A person cannot take up the Amish religion and practice it individually. The community subsists spiritually upon the bonds of a common, lived faith, sustained by "common traditions and ideals which have been revered by the whole community from generation to generation." The Amish community remains a small brotherhood where primary face-to-face relationships are essential. The Amish religion requires pursuit of the simple life of the soil and mutual assistance; it is the community which is the indispensable means for such a life. The Amish religion requires separation from the world; this separation is made possible only through the closed, symbolic community. As expert witnesses upon the trial showed the action of the State of Wisconsin directly threatens the continued existence of the Amish church-community, *which will plainly not be able to sustain itself against the disruption caused to it by the marshalling of its youth into high schools.* This Court, however, has held that there is a fundamental constitutional "freedom to engage in association for the advancement of beliefs" *NAACP* v. *Alabama,* 377 U.S. 288, 307 (1964), and that "[t]he the right of 'association', like the right of belief" is necessary to make the guarantees of the First Amendment meaningful. *Griswold* v. *Connecticut,* 381 U.S. 479, 483 (1965). In the Amish case, the right of association is inseparable from the right of free exercise of religion and must be deemed a part of the latter right, now directly attacked by the State.

Privacy. Closely related to the right of association is the right of privacy. The Amish principle of separation of the self-sustaining faith-community from the world is not based upon hatred of other human beings and arises out of no tradition of aggressions against others, or any principle of racial pride. It is based, rather, upon love of God and the belief that the life of separation, as a pilgrim people, is necessary to salvation. But here the right of privacy is also inextricably bound up with the right of free exercise of religion, since the Amish religion cannot be lived except in separation of the community from the world.

The State of Wisconsin seeks to invade the privacy of the Amish, so far as the Amish of high school age are concerned. The State makes no bones about its desire to enter into the lives of these young people, expose them to "worldly" education, fill up their minds with state-packaged learning, alien to the Amish way, which (in the phrasing of the dissenting opinion below) will "equip them for modern American life". Even the privacy of the psyche is here threatened. Amish personalities are quiet mannered, nonaggressive, considerate and careful in action; they are threatened with painful restructuring by stress upon the competition, ambition, consumerism, and speed emphasized in the larger society. For the State to reach into the Amish community with this sort of conscription of minor children is plainly to enter upon the domain of privacy of the Amish people. As has been seen, the effect will necessarily be disruptive of the Amish community, which here seeks only protection of "conditions favorable to the pursuit of happiness" among which is "the right to be let alone.",

Teaching and learning. Central to free exercise is the right of religious groups to transmit their religious beliefs and heritage to their young. Correlative to the right of the parent to teach his religion to his child is the right of the child to receive this religion—a right asserted in testimony given in this case. That the Amish religion is taught according to methods which, in considerable part, differ from those employed by other religious bodies, should in no sense be deemed to result in a diminution of those liberties for Amish people. While, for many Catholics, Jews and Protestants religious expression in the family, attendance at a parochial high school, or involvement in events at church or temple are the means whereby religion is taught and received, the Amish religion is transmitted, at the time of adolescence, through directed participation and apprenticed community activities, in addition to the formal religious teaching which is carried out in instruction for baptism and in church services. The moral example of the teacher's life is central. Thus the teaching of the Amish religion does not consist of a weekly Sunday sermon, or morning and night prayers, or an hour of religion class per day, or school instruction in secular subjects with religious insights thrown in—but instead in a constant directing, in a "school without walls", of life, in its totality, to religious ends. The State of Wisconsin would here interpose itself between parent and child in the transmitting of a sacred deposit of the Amish religion and at a supremely sensitive time in the life of the child when such interposition will interrupt and thus plainly upset and supplant (perhaps permanenty) the effort to impart the religion.

The religious liberty invasion in sum. As all three courts in Wisconsin found, the State's action, as applied to the Amish, plainly impinges upon the free exercise of their religion. They face an impossible choice: to obey the State and thereby violate their religion, or to follow their religion and thereby suffer criminal penalty. But the action of the State entails more. The Amish religion is a single fabric into which strands of worship, community, farm life, nature, parental role and the role of children are inseparably interwoven with one another, and all with the set religious teaching. The pulling out of any one strand destroys the fabric.

What is more high schooling presents the Amish with an unacceptable value system. Not only is this due to the very fact of "higher education" but to numerous specifics related to the education afforded at New Glarus High School. These pertain not only to social life, entertainment, curriculum, and the encouraging of competition, but also to the effort of that school to "teach values" with respect to life and moral conduct—without, however, offering the law of God as normative. The defense presented testimony, moreover, as to the traumatic effect upon an Amish person of fourteen or fifteen years of age caused by placing him or her in a high school. After living for that period of time within the Amish community and being completely conditioned by it, it is only logical that the most severe disturbance and alienation will result to the Amish person from the radical forced change of daily environment, especially at adolescence. As the court below truly stated,

"They would experience a useless anguish in living in two worlds. Either the education they receive in the public school is irrelevant to their lives as members of the Old Order Amish or these secondary school values will make life as Amish impossible."

The State nevertheless demands the obedience of the Amish. Placing all of the foregoing considerations of religious liberty on one side of the scale, the State says that these are outweighed by state interests so compelling as to require conformity by the Amish. While the punishment demanded by the State may have to be suffered by defendants, the State's demand that they violate their religion will almost certainly be in vain. The Amish answer to forms of legal harassment, which would force them to violate their religion, has been to sell their farms and to remove to jurisdictions, here or abroad, wherein hopefully they will be allowed peaceably to follow the will of God. While such enforced exile of the Wisconsin Amish community would constitute but one further aspect of the State's invasion of Amish freedom, it would, if this Court sustains this prosecution, sound the death knell, in this country, for an old, distinctive and innocent culture. The Amish could very soon have no place to go in this country, nowhere to be themselves, and there would take place in America yet another tragic example of the forced extinction of a culture. ("The whites were always trying to make the Indians give up their life and live like white men . . . and the Indians did not know how to do that, and did not want to anyway. . . . If the Indians had tried to make the whites live like them, the whites would have resisted, and it was the same way with many Indians." Statement of Wamditanka, Chief of the Santee Sioux, *circa* 1885, in D. Brown, Bury My Heart at Wounded Knee, 38 (1970).).

In 1849 Henry David Thoreau expressed a principle of justice profoundly relevant here:

"I please myself with imagining a State at last which can afford to be just to all men, and to treat the individual with respect as a neighbor; which even would not think it inconsistent with its own repose if a few were to live aloof from it, not meddling with it, nor embraced by it, who fulfilled all the duties of neighbors and fellow-men."

TRAGIC HEROISM

Mr. SPARKMAN. Mr. President, all too often these days, we read newspaper accounts of people being attacked on streets or in other public places within the presence or the hearing of bystanders who completely ignore the victim's plight. It would seem that many people today simply will not get involved in behalf of their fellow man.

Fortunately, everyone does not react in such a selfish way, and I feel that recognition should be given to more of the incidents that occur concerning people who do get involved with and for others. One such incident involves the late Carlton Allen Thomas, Jr., of Albertville, Ala.

On November 25, 1971, Carlton Thomas, who could not swim, plunged into the icy waters of Guntersville Lake in Alabama, trying to save the life of a man he did not know, whose car had moments before gone out of control and fallen into the lake. Carlton Thomas died as a result of this heroic act. The unselfish concern for others that was a part of Carlton Thomas' character will never be forgotten by his family and those who knew him. It should also be recognized and remembered by others. It is for this purpose and for the purpose of saluting him that I speak on this occasion.

Mr. President, the entire incident that occurred last month at Guntersville was described in an article published in the Birmingham Post Herald of November 27. I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

MAN WHO COULD NOT SWIM DROWNS IN RESCUE ATTEMPT

GUNTERSVILLE.—A 29-year-old Guntersville man, who family members say couldn't swim, drowned in 30 feet of icy water in Lake Guntersville Thursday trying to save another man's life.

Marshall County Coroner Billy Dyar said Carlton Allen Thomas Jr., 29, of Albertville Rt. 5, drowned trying to save the life of James Breedlove of Albertville, who had lost control of his car and run off in the lake.

The accident happened at about 3:30 p.m. in the Spring Creek section of the lake off Alabama Highway 227.

Dyar and State Trooper Cpl. Larry Hardin said Thomas was traveling along the road behind Breedlove and saw him lose control and go off into the lake.

Thomas immediately stopped his car, his wife told officers, and said he was going to try to save the man whom he didn't know who had left the road. Mrs. Thomas said she urged her husband not to try the rescue because he couldn't swim, but he insisted he would be all right, she said.

Mrs. Thomas said her husband said he didn't think the water was too deep, and he was going to try and save the man.

A policeman who arrived on the scene in minutes was able to get Breedlove to shore but couldn't find Thomas.

A local rescue squad came and in their first dive, located Thomas' body.

Breedlove was taken to a Guntersville hospital where he was treated and released.

In addition to his wife. Audrey, Thomas is survived by his parents, Mr. and Mrs. Carlton Thomas.

Funeral arrangements will be announced by Adams Funeral Home in Albertville.

THE ISSUES IN THE INDIA-PAKISTAN WAR

Mr. GOLDWATER. Mr. President, having had more than a little experience in presidential election years, I know what a temptation it is to look under every rug, to listen to every whim, and to peer into every corner for issues. We have a prime example of this in presidential hopefuls now attacking the Nixon administration for action, or lack of action, or not too much action in the India-Pakistan War.

The Nixon administration's position in this unfortunate incident is, to me, sound and wise as it will not pull us into another war as we have been pulled into before by Democratic Presidents.

The best way to understand the administration's position, in my mind, is to go to the root of it, which I have done by asking the White House to send me a copy of the background briefing held December 7, 1971. The briefing, conducted by Dr. Henry Kissinger and Mr. Ronald Ziegler, points out step by step what this administration has been doing and is doing and will do, first to prevent this war, but it having started, to end it and do our best to patch up the differences that exist on that continent.

I ask unanimous consent that the background briefing and an accompanying paper entitled "The Issues" be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

INDIA-PAKISTAN

(Background briefing with Henry A. Kissinger)

Mr. ZIEGLER. Dr. Kissinger is here with us this afternoon. What he says to you will be background. You can attribute it to White House officials, but no direct quotations.

We have, of course, had a number of inquiries and questions about the situation in South Asia. What I am saying to you now is, of course, on background because it relates to this. We thought it might be worthwhile for Henry to come out this afternoon to discuss our views on a background basis with you to put the matter into further perspective for you.

Q. Ron, is there any necessity for no direct quotation? Could you explain why that is?

Mr. ZIEGLER. The purpose of this session is more putting our view and our position into perspective, and we would just prefer no direct quotation. I think it would be more productive for you.

Dr. KISSINGER. I thought I would talk to you about how we have approached the problem in South Asia: what we have done and what has led to the number of pronouncements that have been made by official spokesmen at the U.N. in recent days.

I do not have any organized notes, so I am going to speak to you extemporaneously, and I may refer to an occasional paper just for accuracy in the question period.

First of all, let us get a number of things straight. There have been some comments that the Administration is anti-Indian. This is totally inaccurate. India is a great country. It is the most populous free country. It is governed by democratic procedures.

Americans through all Administrations in the postwar period have felt a commitment to the progress and development of India, and the American people have contributed to this to the extent of $10 billion. Last year, in this Administration, India received from all sources $1.2 billion for development assistance, economic assistance, of which $700 million came from the United States in various forms. Therefore, we have a commitment to the progress and to the future of India, and we have always recognized that the success of India, and the Indian democratic experiment, would be of profound significance to many of the countries in the underdeveloped world.

Therefore, when we have differed with India, as we have in recent weeks, we do so with great sadness and with great disappointment.

Now let me describe the situation as we saw it going back to March 25th. March 25th is, of course, the day when the central government of Pakistan decided to establish military rule in East Bengal and started the process which has led to the present situation.

The United States has never supported the particular action that led to this tragic series of events, and the United States has always recognized that this action had consequences which had a considerable impact on India. We have always recognized that the influx of refugees into India produced the danger of communal strife in a country always precariously poised on the edge of communal strife. We have known that it is a strain on the already scarce economic resources of a country in the process of development.

Therefore, from the beginning, the United States has played a very active role in attempting to ease the suffering of the refugees and the impact on India of this large influx of unexpected people. The United States position has been to attempt two efforts simultaneously: One, to ease the human suffering and to bring about the return of the refugees; and secondly, we have attempted to bring about a political resolution of the conflict which generated the refugees in the first place.

One of the difficulties has been that the time required to bring about a political evolution is somewhat longer than what is needed to be done immediately to bring about an easing of human suffering.

Now, you have been given by Ron the figures of what we have contributed, but let me summarize them and let me refer here, because I do not have them all in my head.

There were two aspects to the refugee problem: One, taking care of the refugees that were inside India; and secondly, to avert conditions inside East Pakistan that would generate more refugees, particularly to ease famine conditions. We committed $90 million for the support of the refugees in India and $155 million to avert famine in East Pakistan, which is more than the rest of the world has done combined.

I might add that the sums that have been devoted to averting famine in East Pakistan have been contributed at the specific request of the Indian Government, which was concerned that there would be another major outflow of refugees which would make their problem totally unmanageable.

The President has requested Congress, in the present AID appropriation, for an additional $250 million to continue this work, and this is in addition to food shipments which we were prepared to make. In other words, the United States has contributed $500 million for the relief of refugees and to ease suffering in India, and to prevent more refugees from coming into India.

The United States also financed the chartering of 26 vessels to increase their capacity to transport grain from ocean ports into the interior of East Pakistan. We will give you a breakdown of all of these figures, but we wanted to give you a flavor of what was done.

Now, the United States did not condone what happened in March 1971; on the contrary, the United States has made no new development loans to Pakistan since March 1971.

Secondly, there has been a great deal of talk about military supplies to Pakistan. The fact of the matter is that immediately after the actions in East Pakistan at the end of March of this past year, the United States suspended any new licenses. It stopped the shipment of all military supplies out of American depots or that were under American governmental control. The only arms that were continued to be shipped to Pakistan were arms on old licenses in commercial channels, and those were spare parts. There were no lethal end-items involved.

To give you a sense of the magnitude, the United States cut off $35 million worth of arms at the end of March of this year, or early April of this year, immediately after the actions in East Bengal, and continued to ship something less than $5 million worth; whereupon, all the remainder of the pipeline was cut off. In other words, when one is reading some of the commentaries, the impression is created that we were equipping four armored divisions. The fact of the matter is that $35 million worth of arms were cut off immediately, and the only thing that was continued to be shipped was something less than $5 million—I don't have the precise figure; I think it is between $4 and $5 million—of spare parts that were in commercial channels under existing licenses.

So I believe it is correct to say that the United States, by its actions, took a stand, starting in March of this year; and that the United States did indicate, through its performance, what evolution it wanted to take, and that the United States has made a greater contribution than the rest of the world combined to ease the suffering in India and Pakistan, but especially the suffering generated by the actions of the end of March.

Now, then, we come to the problem of political evolution. What has the United States done in this respect?

It is true the United States did not make any public declarations on its views of the evolution, because the United States wanted to use its influence with both Delhi and Islamabad to bring about a political settlement that would enable the refugees to return. At the request of the President, this was explained by me to the Indian Foreign Minister and to the Indian Prime Minister when I was in New Delhi in early July, and both indicated that they understood our decision in this respect and made no criticism of our decision.

They did make a criticism of the arms shipments. Secondly, we consistently used our influence that we gained in this manner to urge the Government of Pakistan in the direction of a political evolution. We urged the Government of Pakistan and they agreed that relief supplies be distributed by international agencies, in order to take away the criticism in East Pakistan that they might be used to strengthen the central authority, and the Government agreed that a timetable be established for returning Pakistan to civilian rule. That was supposed to be done by the end of December.

We urged a mutual withdrawal of troops from the border, and when India rejected this, we urged a unilateral withdrawal of Pakistan troops from the border, and that was accepted by Pakistan and never replied to by India.

We urged an amnesty for all refugees, and that was accepted.

Q. By whom?

Dr. KISSINGER. By Pakistan. There are no refugees from India in Pakistan.

We urged Pakistan to extend an amnesty to all refugees so that they could return without fear of reprisals.

We went further. We established contact with the Bangla Desh people in Calcutta, and during August, September and October of this year no fewer than eight such contacts took place.

We approached President Yahya Khan three times in order to begin negotiations with the Bangla Desh people in Calcutta. The Government of Pakistan accepted. We were told by our contacts in Calcutta that the Indian Government discouraged such negotiations. In other words, we attempted to promote a political settlement, and if I can sum up the difference that may have existed between us and the Government of India, it was this:

We told the Government of India on many occasions—the Secretary of State saw the Indian Ambassador 18 times; I saw him seven times since the end of August on behalf of the President. We all said that political autonomy for East Bengal was the inevitable outcome of a political evolution, and that we favored it. The difference may have been that the Government of India wanted things so rapidly that it was no longer talking about political evolution, but about political collapse.

Without attempting to speculate on the motives of the Indian Government, the fact of the matter, as they presented themselves to us, was as follows: We told the Indian Prime Minister when she was here of the Pakistan offer to withdraw their troops unilaterally from the border. There was no response.

We told the Indian Prime Minister when she was here that we would try to arrange negotiations between the Pakistanis and members of the Awami League, specifically approved by Mujibur, who is in prison. We told the Indian Ambassador shortly before his return to India that we were prepared even to discuss with them a political timetable, a precise timetable for the establishment of political autonomy in East Bengal. That conversation was held on November 19th. On November 22nd, military action started in East Bengal.

We told the Pakistan Foreign Secretary when he was here that it was desirable on November 15th; that we thought it was time for Pakistan to develop a maximum program. He said he could not give us an answer until the week of November 22nd when he would return to his country. He also pointed out to us that there would be a return to civilian rule at the end of December, at which time it might be easier to bring about such matters as the release of Mujibur, whose imprisonment had occurred under military rule.

This information was transmitted, and military action, nevertheless, started during the week of November 22nd. So when we say that there was no need for military action, we do not say that India did not suffer. We do not say that we are unsympathetic to India's problems or that we do not value India.

This country, which in many respects has had a love affair with India, can only, with enormous pain, accept the fact that military action was taken in our view without adequate cause, and if we express this opinion in the United Nations, we do not do so because we want to support one particular point of view on the subcontinent, or because we want to forego our friendship with what will always be one of the great countries in the world; but because we believe that if, as some of the phrases go, the right of military attack is determined by arithmetic, if political wisdom consists of saying the attacker has 500 million and the defender has 100 million, and, therefore, the United States must always be on the side of the numerically stronger, then we are creating a situation where, in the foreseeable future, we will have international anarchy, and where the period of peace, which is the greatest desire for the President to establish, will be jeopardized; not at first for Americans, necessarily, but for peoples all over the world.

I have taken the liberty of coming in here to explain our point of view. You can see the necessity for a background basis, because there have been misconceptions of what we have done and of our motives. I have given you extemporaneously this brief sketch, and now I will be glad to answer any questions, or to go into more detail.

Q. Why was the first semi-public explanation of the American position one of condemning India, and why this belated explanation that you are now giving? The perception of the world is that the United States regards India as an aggressor; that it is anti-India, and you make a fairly persuasive case here that that is not the case. So why this late date?

Dr. KISSINGER. This is the highest praise I have ever had from Peter Lisagor. (Laughter)

We were reluctant to believe for a long time that the matter had come down to a naked recourse to force, and we were attempting for the first two weeks of the military operations to see what could be done to quiet it through personal diplomacy conducted by the Department of State.

We made two appeals to the Indian Prime Minister. We appealed also to the Pakistan President, and we appealed also to the Soviet Union.

Now, then, on Friday the situation burst into full-blown war and it was decided to put the facts before the public. Now, I cannot, of course, accept the characterization that you made of the way these facts were put forward; that they were put forward as anti-Indian.

Q. I said the perception of the world public was that the United States was anti-Indian because of the nature of that first background briefing at the State Department on Friday.

Dr. KISSINGER. We are opposed to the use of military force in this crisis, and we do not believe that it was necessary to engage in military action. We believe that what started as a tragedy in East Bengal is now becoming an attempt to dismember a sovereign state and a member of the United Nations.

So the view that was expressed on Saturday is not inconsistent with the view that is expressed today. What was done today is an explanation of the background that led to the statement on Saturday, and it might have been better if we had put the whole case forward.

Q. If I understand what you said, you said prior to the outbreak of full-scale hostilities between India and Pakistan that the Pakistani Government had assured the United States that it was going to take a number of steps, including return to civilian rule by the end of this month, to enter into negotiations with the Bangla Desh representatives operating in Calcutta, to withdraw its troops from the borders unilaterally. Do you know at this point whether any of those commitments by the Pakistani Government still stand? If the war can be stopped some way, are they still willing to do all those things?

Dr. KISSINGER. In fairness, let me put these into perspective, these various things.

The unilateral withdrawal, that was without any qualifications. The willingness to talk to the Bangla Desh people involved a disagreement between the Indians and the Bangla Desh on the one side, and the Pakistanis on the other. The Indians took the view that the negotiations had to begin with Mujibur, who was in prison.

What we attempted to promote was a negotiation with Bangla Desh people who were not in prison, and who were in Calcutta. The Pakistanis said they would talk only to those Bangla Desh people who were not charged with any particular crime in Pakistan, and I don't know whom that would have excluded.

But I think that part of it was not the breakdown. What created the major difference between us—not us so much, because we were not a party; we were just transmitting information—between those who wanted to get negotiations started and the Indian side, was that the Indians took the view that the negotiations had to begin with Mujibur.

Let me go off the record here for a minute.

We took the view that once negotiations started, the release of Mujibur would be an inevitable consequence after some period of time, and, therefore, we felt that the most important thing was to get the negotiations started.

This part I consider off the record. It is simply for your understanding. I think it is safe to say the Indian side wanted a maximum of rapidity, and perhaps more speed than the Pakistan political process would stand. We were urging movement at the greatest speed that the Pakistan political process could stand. We felt that one way to resolve this would be for the Indians to give us a timetable of what they would consider a reasonable timetable, and this was raised first when I was there in the summer, and received no clear reply. It was raised again with the Indian Ambassador just before he left, and it was not answered.

So we never got a concrete expression of what the difference in time was. They knew that we believed that political autonomy was the logical outcome of a negotiation. Do these offers still stand? I don't know. [End off the record.]

We would be prepared, certainly from our side, if the fighting stopped and there were a withdrawal of forces, if anything, to redouble our efforts to move matters in the direction in which I have indicated.

Q. Is it a fact that two other factors that you did not deal with in your opening remarks here were also major causes in your and the President accepting India as an aggressor—that is, accusing India as an aggressor—the fact that (1) to do otherwise might lead to a collapse of the President's trip to China and the often stated in print personal preference of the President and you for General Khan over what were considered to be the unrealistic leaders in New Delhi?

Dr. Kissinger. With respect to the first question, we do not have the impression that the Peoples Republic of China considers agreement with us a prerequisite for a successful visit on other issues in the United Nations, and, therefore, we do not consider that the Peoples Republic of China has a veto over our policies.

In short, our policy has been consistent. We have told the Indian Government all summer long that we want or favored political evolution leading toward autonomy; and secondly, that we were opposed to the use of military force, and we did this quite independent of what the Chinese views might be. We had no advance information of what position the Chinese would take at the United Nations, and we operated quite independently.

Secondly, speaking first about myself, the first time I visited the Indian subcontinent I was the subject, in 1962, as can easily be checked in newspaper files, to the most violent newspaper criticisms in Pakistan for my allegedly Harvard-produced preference for Indians, and so much so that I even suggested that I might cancel my visit to Pakistan.

There is no personal preference on my part for Pakistan, and the views that I expressed at the beginning, of the American position—that is, about the crucial importance of India as a country in the world and in the subcontinent—have always been strongly held by me, and I, therefore, enthusiastically support those as an expression of bipartisan American policy in the postwar period.

As for the President, I was not aware of his preference for Pakistan leaders over Indian leaders, and I, therefore, asked him this morning what this might be based on. He pointed out—as you know, I was not acquainted with the President before his present position—but he pointed out to me that on his trip in 1967, he was received very warmly by the Prime Minister and by the President of India; that the reports that he was snubbed at any point are without any foundation, and that in any event, the warmth of the reception that we extended to the Indian Prime Minister two weeks before the attacks on Pakistan started should make clear what enormous value we attach to Indian friendship.

While I can understand that there can be sincere differences of opinion about the wise course to take, I do not think we do ourselves any justice if we ascribe policies to the personal pique of individuals. Besides, the charge of aggression was not made in this building in the first place.

Q. Was there a failure of understanding between the President and the Prime Minister when she was here last month; a failure of understanding of what this country wanted and what she was planning to do?

Dr. Kissinger. We explained to the Indian leaders, the President did and so did the Secretary of State, exactly what our position was. We pointed out the offers that had been made. We were not given any reply to the offers, and we were not given the slightest inkling that such a military operation was in any way imminent; indeed, in the interval between her departure and the beginning of military operations, we did three things:

One, we attempted to promote these negotiations between the government in Islamabad and Bangla Desh representatives approved by Mujibur. We did not get the agreement of the government in Islamabad, at the time the war had broken out, to that procedure. I am just saying what we were trying to do.

Secondly, we urged very strenuously on the Pakistan Foreign Secretary when he was here that the greatest possible number of concessions that could be made were urgently required and we were promised an answer, as it turned out, for the week that the military attacks took place.

Thirdly, and I did not mention this before, we had the approval of the Government of Pakistan to establish contact with Mujibur through his defense lawyer. All of these facts were communicated to the Indian Government, and nevertheless, military attacks took place.

Q. Dr. Kissinger, I would like to ask you a clarifying question about something you said just a moment ago.

You said that the charge of aggression was not made in this building. Two questions about that. One,——

Dr. Kissinger. We do not disagree with it, but it was in reference to a point that the President and I have an anti-Indian bias.

Q. Does this carry the implication that you are putting the responsibility for that original charge of aggression on the State Department? That is my first question.

Dr. Kissinger. No. There is a united governmental view on it.

Q. Secondly, I am still trying to clarify the question in Mr. Lisagor's mind and others, Mr. Ziegler did say in Florida on Saturday that India had engaged in a massive military action and he used the word "massive" which sounds like this building to us.

Dr. Kissinger. Sounds like a what?

Q. Like a charge of aggression from this building, to me, at least.

Dr. Kissinger. We don't disagree with it. I was trying to explain that this was not a personal idiosyncrasy. The phrase "massive military action" that Ron Ziegler used was a quote from an official Indian statement saying that massive military operations have begun in East Pakistan and Ron was simply referring to the quote from the Indian officials' statement.

Q. Dr. Kissinger, would you clarify the situation on the negotiations between the Islamabad Government and Bangla Desh? How much did they agree to do? I seem to be totally confused on what you said. Did the Government agree to negotiate with Bangla Desh representatives approved by Mujibur?

Dr. Kissinger. No. That was a point which we were still trying to get accomplished. They had said they would consider it. They had agreed to talk to Bangla Desh representatives.

Q. Why, then, were you so certain that the results of these negotiations for which apparently you had no assurances would end in autonomy?

Dr. Kissinger. Wait a minute. We had assurances for negotiations between the Bangla Desh people and Islamabad. We did not have assurances yet that Mujibur would select the negotiator.

Q. What, then, was the basis of your belief that the result of these negotiations would in fact be autonomy for East Pakistan?

Dr. Kissinger. I didn't say that this would in fact be the case. I said that we had said we would support this, that we would use our influence in Pakistan to help bring this about and that we were willing to listen to a specific timetable.

Q. I thought you said that——

Dr. Kissinger. I said it was our personal judgment; that could not be proved, and it was off the record, that it was likely that once negotiations started and were showing some progress that it would lead to the release of Mujibur, but we don't insist on this.

Q. I thought you said it was inevitable.

Dr. Kissinger. I said off the record, that it was our judgment that the inevitable outcome would be political autonomy for East Pakistan and we had talked in this sense to the Government of Pakistan and they had in fact proclaimed that they were prepared to grant political autonomy for everything but foreign policy, defense, and currency, I believe.

Q. We have been very much involved in the negotiations, from what you say.

Dr. Kissinger. Not on substance.

Q. Not on substance? Autonomy for East Pakistan, et cetera?

Dr. Kissinger. Well, the negotiations had never, in fact, started.

Q. Well, in arranging them. The question I really have is: Today there is a report that Yahya Khan has called for assistance from East Pakistan in forming a coalition government. Is this in accordance with the path we were following and our goals? Did we approve this and is it encouraging in any way?

Dr. Kissinger. We cannot accept the position that we are responsible for every detail of this negotiation. We, in general, have encouraged the return to civilian government. I do not want to go into the details of the political moves that are now being made. We were not in the position where we were taking responsibility, as a country, for every move in this negotiation. I was simply trying to explain, one, that we did show humanitarian concern, two, that we did take action at the end of March with respect to the East Bengal situation, three, that we did try to bring about the political conditions in East Pakistan that would make it possible for refugees to return.

The details of the negotiations would have had to be between Islamabad and the Bangla Desh and whether one particular government or another is the right mix is a detail into which we cannot go, particularly since I have not studied this now.

Q. May I follow that up? Were we then actually attempting to play the same role in South Asia as we have attempted to play in the Middle East, that of an honest broker? Is that what you are telling us?

Dr. Kissinger. We were attempting to promote a political evolution which would make recourse to war unnecessary. We recognized that India had a major problem. We recognized that the conditions in East Bengal made it difficult for the refugees to return and we tried for humanitarian and other reasons and in order to preserve the peace, to bring about a humane and peaceful solution.

What we are saying now and what we said on Saturday was that the peaceful means had not been exhausted and that in the circumstances that existed on November 22 and November 29, the use of military force was not justified. That is the basis for our position and that has nothing to do with any preference for one country or another. It has to do with the impact on the peace of the world of such matters.

Q. Is it your judgment that the Indians were never interested solely in political autonomy for Bangla Desh, but wanted this——

Dr. **Kissinger**. I cannot speculate on this. We have certainly told them from the beginning what we were willing to do and I don't want to speculate on that.

Q. Regardless of who was to blame for the breakdown in the negotiations you referred to, do you and the President feel personally that India is the sole aggressor in the current outbreak of hostilities?

Dr. **Kissinger**. I can only repeat—I don't want to use emotionally-charged words—we are saying that military action was not justified. We are saying that there should be a cease-fire and a withdrawal of forces, after which the political evolution which we have described should be addressed with even greater vigor than before.

Q. Henry, what explanation, if any, have we received in the United States from India as to why it did resort to military action?

Dr. **Kissinger**. We have received no explanation.

Q. Henry, in the beginning you talked about using our political influence with the Pakistanis as one of the reasons why we did not do anything in public; we were working privately. Can you give us any concrete illustration of where that private political influence was successful, other than promises which were either not kept or impossible to keep because of the problems that occurred subsequently?

Dr. **Kissinger**. Now, wait a minute, we are not talking about promises that were not kept. Let me mention a few of the things that had been accomplished since May 1: The fact that all of the relief supplies, the relief supplies in East Pakistan, were distributed through international agencies; the announcement of a timetable for the return to civilian rule; the replacement of the military governor who had been in charge at the time that the Pakistan Army moved in at the end of March; the replacement of that military governor in East Pakistan and the establishment of a civilian governor; the declaration of amnesty; the willingness to talk to Bangla Desh representatives, even if there might have been some dispute about who they were, it never even reached that point because the thing aborted before candidates for the negotiations were ever presented by the Bangla Desh people or rejected by the Pakistanis. They never rejected anybody. The willingness to let us establish contact with Mujibur by talking to his defense attorney; the indication that substantial political autonomy would be granted to East Pakistan—all of these, I am not saying they did them only because we urged them, but it is true that they were always done after we urged them.

But I don't want to speak for the Pakistan Government and claim that everything they did was as a result of our urging, but all of these actions I have mentioned occurred after we recommended them.

Q. Do you feel that Madam Gandhi betrayed us?

Dr. **Kissinger**. I would not use such words.

Q. Did she give any indication that she would seek a peaceful solution and instead do something else?

Dr. **Kissinger**. All I can say is we had no reason to believe that military action was that imminent and that we did not have some time to begin to work on a peaceful resolution.

Let me make it clear, we recognize that there was not an unlimited period of time, but it seemed to us that either they could have given us a timetable or one could have waited for the return to civilian rule which was only three weeks away, to see whether that would bring about a change in the situation by bringing to the forefront individuals less intimately connected with the events that brought about the difficulties.

Q. Henry, you said earlier that we have had contact with the Soviet Union, consultations with them on the problems there. Were they aware of our actions and the progress and the hopeful circumstances as time went along, from March up until the shooting started Friday?

Dr. **Kissinger**. I think they were generally aware.

Q. Were they kept aware?

Dr. **Kissinger**. Well, maybe not of every last move, but I think they were aware of our general approach.

Q. What was their attitude as far as it was given to us, can you tell us?

Dr. **Kissinger**. They took a formal "hands-off" attitude which may or may not have had the practical consequence of at least not discouraging what happened.

Q. What impact do you think the crisis will have on our relations with the Soviet Union now? Do you think it might have an impact on the President's trip to Moscow, for example?

Dr. **Kissinger**. We believe that the basis of a peaceful evolution with the Soviet Union requires that both countries exercise great restraint in the many crisis areas around the world and that they both subordinate short-term advantages to the long-term interests of peace.

We certainly are making a great effort. We may not always succeed, but we are making an effort to approach problems everywhere, including in South Asia, with this attitude. As I have pointed out in innumerable backgrounders, the attempt to achieve unilateral advantage sooner or later will lead to an escalation of tensions which must jeopardize the prospects of relaxation. We hope that the Soviet Union will use its undoubted influence to approach problems in the subcontinent in the same spirit and not to jeopardize the very hopeful evolution that has started by a short-term approach, but we are still waiting to see. We have no judgment yet.

Q. Is it a proper role for a great nation which has maintained a posture of impartiality in South Asia for about 25 years now to take a side or to appear to take a side in this present crisis?

Dr. **Kissinger**. Well, we have attempted to alleviate the suffering and we have attempted to be true to our principles of giving people an opportunity to determine their political future, but we have not done it in a pressing way. We have done it in an attempt to preserve the peace with the approval of both sides. With respect to the immediate issue which is before the United Nations, we have an obligation to make clear for the sake of peace that we do not favor recourse to military forces as a member of the United Nations, and as one of the principal countries in the world.

So, you have to separate, Peter, our attitude towards the overall problem from our attitude towards the immediate problem. On the immediate problem the facts are that, one, the vote in the Security Council has been 11 to 2. There were only two countries against our position—the Soviet Union and Poland. Eleven other countries supported our position. It is not our position. It is not a quarrel between us and India. It is our attempt to make clear to the world community that we do stand for a peaceful resolution of disputes, and it would be wrong to say one side has 600 million, and whoever has the power to settle disputes by force should do it. That would lead to international anarchy.

So what was said on Saturday refers to the military actions that are now taking place, and what was said today was to put our overall attitude in its right perspective.

Q. Why didn't you do that Saturday? You said a while ago it might have been better if you had.

Dr. **Kissinger**. Because we thought that what was done on Saturday would take care of the then existing problem. There was no profound reason.

The **Press**. Thank you.

THE ISSUES

The policy of this Administration toward South Asia must be understood. It is neither anti-Indian nor pro-Pakistani.

Americans through all administrations in the post-war period have felt a commitment to the progress and development of India.

India is the most populous free country in the world. It is the world's largest working democracy.

The American people in the post-war period have contributed some $10 billion to the progress and development of India.

Last year in this Administration, India received from all sources $1.2 billion for development assistance. $700 million dollars of that came from the United States in various forms.

In short, the United States has always recognized that the success of India and India's democratic experiment would be of profound significance to many countries in the underdeveloped world.

The issue today is not opposition to India but opposition to the use of armed forces across borders to change the political structure of a neighboring state.

There is no question that the events in East Pakistan since March 25 require a political solution. The position of the United States has been that any solution must be worked out between the people of East and West Pakistan. The United States has not supported the particular solution that was attempted in March. The United States has also recognized that events there—principally the influx of refugees into India—imposed a substantial burden on India. We have recognized that it imposed a strain on the already scarce economic resources of that developing country and created the danger of communal strife there.

U.S. STRATEGY

What has been the Administration's strategy? United States has attempted two efforts simultaneously:

On the one hand, the Administration has made a major humanitarian effort (a) to ease the suffering of those refugees who had already fled their homes and (b) to avert the possibility of famine in East Pakistan which could have created more refugees.

On the other hand, we have attempted to bring about a political resolution of the conflict which caused the refugees to leave their homes in the first place.

The US recognized that the time required to bring about a political evolution would be longer than the time required to alleviate the immediate suffering of human beings and also might be longer than the Indian capacity to withstand the pressures generated by the refugees.

HUMANITARIAN

Nevertheless, the President directed an all-out effort to cope with the humanitarian problem (a) because of the simple human need to alleviate suffering and (b) the necessity to lessen the political pressures generated by the refugees in order to buy time for the necessary political evolution.

We committed $90 million for the support of the refugees in India and $155 million to avert famine in East Pakistan. [Note: The problem in India was to care for upwards of 5 million refugees during this period. The problem in Pakistan was to avert famine for a province of 60–70 million people.]

The President requested the Congress to appropriate under the Foreign Assistance Act an additional $250 million to continue this work. He made clear that this would be supplemented by food shipment as necessary.

In short, the United States has committed or has in prospect some $500 million for the relief of refugees already in India and to prevent more refugees from coming into India, and to create a framework within which normal political and Administrative life could return to East Pakistan.

This humanitarian effort by October had assured that there would be no province-wide famine in East Pakistan. There would be no new flood of refugees from hunger.

DEVELOPMENT ASSISTANCE AND MILITARY AID

At the same time, the Administration did not support what was done in East Pakistan.

No new development assistance has been committed to Pakistan since March. All of the economic assistance committed has been for the purpose of relief in East Pakistan.

The Administration also began the prospect of restricting military supplies immediately after the outbreak of fighting in March The U.S. immediately suspended the issuance of any new licenses for Munitions List exports and stopped the shipment of military supplies out of American depots that were under American governmental control. It stopped renewing old licenses. This immediately ended the prospect of some $35 million worth of arms in early April. In the months that followed old licenses progressively expired until the pipeline was dried up at the end of October. During these intervening months only some $5 million worth of spare parts were shipped to Pakistan on old licenses in commercial channels. There was no lethal equipment involved.

POLITICAL

As has been said, the Administration recognized that the problem was essentially one of political evolution. There were limits on what an outsider could achieve in this field because the problem was essentially an internal problem of Pakistan. The United States did not make any public declarations of its views on the kind of political settlement required because the United States wanted to retain influence both in New Delhi and in Islamabad to bring about a political settlement that would enable the refugees to return.

This was explained to the Indian Foreign Minister here in June and to the Indian Prime Minister in New Delhi in July.

The government of Pakistan agreed to a number of steps that could facilitate a return to normal conditions in East Pakistan: They agreed that relief supplies should be distributed by international agencies in order to increase assurance of their fair distribution. The government of Pakistan agreed that a timetable would be established for returning to civilian rule by the end of December. The government of Pakistan announced an amnesty for refugees, established a civilian governor in East Pakistan and finally, as tension mounted this fall, accepted the idea of a unilateral pullback of Pakistan troops from the border.

The Administration also established contact with the Bangla Desh people in Calcutta in August, September and October. President Yahya expressed his willingness to begin negotiations with those in Calcutta who had not been charged with crime in Pakistan. The Administration understood that the Indian government discouraged such negotiations.

In short, the Administration attempted to supplement the political process in Pakistan with negotiations between the government of Pakistan and those Pakistanis outside Pakistan. The government of India was aware of this exercise and was invited to help make it a serious negotiation. The Administration also told Prime Minister Gandhi when she was here of Pakistan's offer to withdraw its troops to the border, but there was no response.

No one claims that the negotiating procedures were adequate or that they had achieved the necessary. The point is that efforts were made at negotiation and that there was little effort in India to make those potential negotiations the principal vehicle of their policy.

SUMMARY

In summary, the Administration:

Through humanitarian efforts sought to achieve a framework which would allow sufficient time for a political solution;

Supplemented the political process already going on within Pakistan by seeking to facilitate a serious negotiation between the government of Pakistan and Bangla Desh leaders outside;

Painstakingly, though unsuccessfully, sought India's cooperation in making the necessary political process succeed;

Put forward numerous proposals to reduce military tension which threatened to disrupt the political process—proposals which were by and large accepted by Pakistan and ignored by India.

In short, the Administration made energetic efforts towards the achievement of a peaceful solution. Throughout the process, India refused to contribute in a constructive way and instead chose to resort to armed force to achieve its objectives. It is the U.S. view that India's recourse to military action was unjustified. Under these circumstances, the American people cannot but question the use to which extensive U.S. economic assistance to India will be put. If the U.S. were to accept the principle that "might makes right" and that a nation, by greater numbers and power, can impose political solutions on its neighbors, then anarchy must ensue.

THE FINAL TRAGEDY OF THE VIETNAM WAR

Mr. MONDALE. Mr. President, almost a year ago I read to the Senate a letter from a mother in Minnesota. Her son was killed in Vietnam in December 1970. This is a part of what she wrote me:

> We have just buried my son, who never had a chance to hold his baby daughter in his arms . . . Mike went not believing in the cause but only because he felt he was no better than anyone else who was forced to go.
>
> From the outpouring of sympathy from our relatives, friends and total strangers, I realize the people want an immediate withdrawal so no more will die in vain.
>
> Please lead the people of this truly great country in a cry for immediate withdrawal so no more sons, brothers, and fathers will die in vain.

I said then, a year ago, that all of us—the Congress as well as the President—had to answer this mother.

But we have not answered her plea. And our failure will earn for all of us a cruel indictment in history.

As I said in that speech a year ago, this issue is far beyond partisan differences. It can never be simply Johnson's war or Nixon's war. This tragedy is the responsibility of every public official—including myself—who watched it begin and go on and on.

Some of us may have had doubts in the early years, but we found reasons to hesitate, reasons to go along.

Just as I suspect so many of us are going along now, mercifully returning to other business because we somehow believe that this horrible war is no longer an issue. And our escape now is no less blind or irresponsible than the rationalizations so many of us made in supporting the war earlier.

That mother in Minnesota, and too many others like her around the country, know what we have preferred to forget—that behind all the talk about winding down the war, behind all the claims of progress in declining casualty rates, behind all the seeming public apathy is the inexcusable fact that their sons, brothers, and fathers are still dying and suffering in this war.

For 1971, through November 20, the Pentagon informs me that only 1,355 Americans have died from hostile action in Indochina. It is even hard nowadays to find the casualty figures tucked away in the back pages of the newspaper or spoken as an incidental item on television news programs.

But how can we pretend that those 1,355 lives are incidental items for the men who died, for their loved ones, or indeed for a country whose historic greatness is supposed to be the value it places on the individual human being.

Since 1969, only 207 young men from my State of Minnesota have been killed in action in Vietnam. Yet how is any one of these deaths less painful, how can any one be less an issue for this Government, simply because it is a part of a dropping line on casualty charts in the Pentagon?

What does it say about us as a people that we turn our backs, that we go along to other business, that we let this nightmare continue one more day, because 1,355 Americans are somehow a better, more acceptable number than 9,000 or 15,000? Have we become so numb by the carnage of the last several years that American boys can go on dying so long as their numbers are below some gruesome threshold of public outrage?

It is not only our own loss we have tried to put out of our minds. The dehumanized illusions of "progress" in ending the war also hide the terrible toll of what we are doing to others.

A recent Cornell University study on the air war in Indochina tells us that civilian casualties in Laos have totalled 10,000 more in the period 1969 to 1971 than in the earlier period 1965 through 1968. That study estimated that throughout Indochina an average of 130,000 civilians have been killed, wounded, or refugeed each month since 1969. That compares to an estimated 98,000 each month during the period 1965–68.

According to Senator KENNEDY's Subcommittee on Refugees, the number of refugees in Laos since 1969 has grown to twice the total number during the period from 1965 through 1968. Homeless victims of the war in Laos now number more than 10 percent of the population of that country. Senator KENNEDY told us last April that our bombing in Laos is responsible for at least 75 percent of these refugees.

If one is a villager in Laos, Cambodia, or South Vietnam, the terror of this supposedly disappearing war is greater than ever before. According to our own official Department of Defense figures, the United States dropped 400,000 tons of bombs more in the period 1969 to the present than in the period 1965 to 1968. The tonnage totals for the period since 1969 are greater than those of all the bombs we dropped in World War II and the Korean war combined.

Or to put it another way, every month our bombs are falling on Indochina at the equivalent tonnage of twice the nuclear bomb we dropped on Hiroshima.

Of course there is no end to these numbers games. This administration and its supporters—like the last administration and those of us who supported it—can always summon reassuring statistics. The sorties are substantially down, they tell us; the casualties are low; the troops are withdrawing; the other side is exhausted; and the end is in sight.

And so it may be.

Perhaps this President will find a way to make the war disappear before the American people by the time he faces them for his reelection. Perhaps this Congress will find a way to explain to its constituents why it has not been able to cut through all the words and claims to end this war thousands of lives and billions of dollars earlier than the President would end it.

But I do not think those answers are ever going to be enough for the mother in Minneapolis. Her son's death was one of those lonely single tragedies lost in statistics that just need not have happened. For her and others like her, there will be no explanation slick enough to conceal the truth that when they cried out, no one really listened.

I do not know—nor, I suspect, does President Nixon know—exactly what will happen in Indochina when we have finally gone. But the odds are that we will leave behind there largely the same corruption and turmoil and unhappiness that we came upon more than a decade ago.

I am afraid that when that depressing fact sinks in on the American people—when they know at last the awful truth that we really had no business there and that we made so little difference in the long run—there will be no comfort in comparative casualty rates or the dropping lines on Pentagon graphs.

Then the American people are going to see clearly that their Government too long lacked the courage to face the facts, and that it too long asked American sons, brothers, and fathers to die for that lack of courage.

One of the final casualties of this war will surely be the belief of the American people in all of us in public life. And one of its ultimate tragedies will be that this casualty, like the others, could have been avoided.

U.S. RELATIONS WITH LATIN AMERICA

Mr. JAVITS. Mr. President, on December 6, David Rockefeller, the honorary chairman of the Council of the Americas, made an enlightened address about U.S. relations with Latin America. Mr. Rockefeller called for a new cooperative effort between the nations of North and South America—an Alliance for Development.

In describing this concept, Mr. Rockefeller stated:

> It should embrace political development, economic development, and social development. To accomplish this far reaching goal, it would have to draw together business and governments—organizations and people—universities and international agencies. Only through such concerted efforts can it expect to overcome the common and inter-related problems that have stalled true development as one sector or the other sought domination.

Mr. Rockefeller also had some wise words on the future role of private capital in Latin America and continuing U.S. private sector involvement in the area.

I ask unanimous consent that his speech be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

REMARKS BY DAVID ROCKEFELLER

Seven years ago this week, I was one of a group of businessmen who had an appointment with the President of the United States. We were to discuss ways in which the U.S. Business Group for Latin America could help to realize the goals of an ambitious program—an Alliance between the free and independent countries of the Southern and Northern continents of America to assure the economic and social advancement of all the people.

President John F. Kennedy was unable to keep that appointment, having decided at the last moment to go to Dallas. The next day, he met his tragic end; so that our group never did meet with President Kennedy. Although the idea of government-business cooperation in Latin America was picked up and actively pursued by President Johnson and his Administration.

Regrettably, the main thrust of his Alliance for Progress, which started with such promise, has since been blunted, deflected and largely dissipated by a steadily rising demand for nationalization in Latin America and, more recently, by a short-sighted reversion to "Fortress America" sentiment here at home. Nevertheless, the Alliance in its conception, despite its critics then and now, was a significant move in the right direction.

That Alliance bound us together for a while in a single purpose—to make human existence throughout the Americas something more than merely scratching out inadequate food from the barren soil of the hills. It held out the hope that being alive in the Americas need not mean the wail of hungry children or the unbearable knowledge that there would not be enough schools or enough jobs for them even if they managed to survive and grow.

The Alliance was to have coordinated a flow of technical skills and investment resources from the U.S. private sector—in cooperation with our own and Latin American governments—to create jobs, modernize agricultural techniques, stimulate manufacturing and increase international trade in Latin American nations. To understand why an Alliance founded on these worthy objectives has fallen into its present disarray, we will have to consider—without the emotions that usually surround it—the rise of chauvinism and nationalization in many countries of Latin America.

To a considerable extent their striving for self-identity and self sufficiency, however premature from an economic viewpoint, is understandable, especially when one takes into account the extreme youthfulness of the people of Latin countries. Because of their high birth rate and rapid population growth, nearly two-thirds of the Latin American population is less than twenty-five years old. As Eduardo Frei Montalvo, former President of Chile, has pointed out, "This youthful mass is in a deeply critical mood, like their peers in the rest of the world." Consequently, he concludes, "headquarters, both for ideas and for actual change, are . . . the universities and student groups."

If that sounds familiar, it is because we, in the United States, have been responding to the same passionate involvement and political concern of our own young people who are playing a growing role in public issues. In response to their concerns, we amended our Constitution to lower the voting age to eighteen. As a nation, we should have little trouble in recognizing and accepting the reality of comparable changes in other countries. But many of us are reluctant to accept the consequences.

When these youthful nations express their independence of thought and purpose through aggressive action affecting our interests, we find many of our own legislators are tempted to respond in kind with punitive and retaliatory measures.

But neither an arbitrary, uncompensated expropriation of foreign investments, nor a resort to violence in retaliation, is an acceptable assertion of self-determination in the context of today's world. In the long run, however, ill-considered expropriation is bound to be self-defeating for those nations that have not as yet accumulated sufficient capital or managerial depth to plan and carry out self-sustaining programs for internal development. On the other hand, in view of our own revolutionary origins as a nation, there are many other expressions of the new rising nationalism in Latin America to which we should not be able to comprehend and accept with patience and insight.

This breach in our hemispheric alliance, caused in large part by the growing spirit of independence in Latin America, is further widened by a growing indifference here at home. As we approach 1972, we are preoccupied with the problems of our own people and our own nation. The young and the radicals among us, the disadvantaged minorities, the affluent and the conservative are all asking if we shouldn't solve our own internal problems of the cities, of our economy, of our youth and of our educational system before we worry about others outside our borders.

But even if it were possible to solve all our own problems without concern for and in total isolation from the rest of the world, it would prove an empty victory to emerge as an island of prosperity in a sea of misery. The truth is, of course, that we share too many common interests, cultural ties, and mutual dependencies with other nations ever to return to "Fortress America." Whether we like it or not, we live in one world and we have to act accordingly.

When I spoke before this Council one year ago, I expressed the earnest hope that we would be able to prevail on Congress, our State Department and the Executive Branch generally to respond more fully to that mutuality of interests especially as it concerns our neighbors to the south. Now, a year later, we must regretfully acknowledge that the need is greater than ever. But we can temper our disappointment by reflecting that on a number of fronts progress has been made in meeting the goals of the Alliance.

As a result of cooperative efforts over the past decade, I know of tens of thousands of miles of new roads—thousands of new schools—millions of children going to them—falling death rates—more jobs—more income—and hope that was not there before. But in the face of rapidly rising populations, the question remains, how can more progress be accomplished? The record as revealed in case after case, seems to indicate that government-to-government programs alone never really affect the root problems of development. What is needed is the total involvement of all sectors . . . government and private.

In the United States, the business sector from the beginning has been an integral part of our own highly successful development process and so, we realize that it must play a comparable role in helping other nations now in the process of development. The faith that this gives the Council of the Americas a noble mission which we must not abandon. It has been part of our credo from the beginning.

In my years as Chairman, I saw many U.S. companies offer their help, their manpower, their technology and their skills to the governments and people of Latin America. They were "citizens first and businessmen second." They did this without publicity or full-page advertisements boasting of their involvement. As appropriate as this modesty may have been, the lack of publicity about what U.S. companies were doing, has often resulted—even in the business community itself—in ignorance of the facts. This in turn has sometimes drawn the criticism that perhaps the Council was not fulfilling its primary mission and I fear that no detailed accounting of the impact of the U.S. private investor in Latin America, such as Herbert May's study for the Council of the Americas last year will convince the unconvinced. But even though more has been done than is generally recognized, I still do not believe the full potential of the private sector has been tapped—either by local businessmen or by foreign investors. For this reason, I hope the Council programs for 1972 which you have heard this morning will be pursued aggressively by all of us.

The U.S. business community must make the case in the most forceful terms that development depends not only on capital, manpower, technology, and skills, but on a willingness to employ every opportunity that presents itself. Development is not the exclusive goal of one political system—or of one economic system. It can best be achieved by an electric synthesis of whatever works, regardless of its origin.

The Council program for 1972 calls for a heightening of business-to-government and business-to-business missions. It does not call for confrontation, but rather for cooperation. And planning for the future, it requires genuine appreciation by all of us of the necessary elements of development, and a continuous dialogue between those who desire development assistance and those who believe they can provide it. This calls for a new Alliance, if you will—not one pronounced by governments but one agreed to by the participants.

Societies and economies, like people, must grow. They cannot simply be conceived and executed by the fiat of an outside government or by the spontaneous inspiration of an academic theorist. Only governments within the developing nations must be the ones to engage in the long-range and sustained planning necessary for their own lasting development.

On the other hand, I do not find that governments anywhere are accomplishing development entirely by themselves. Certainly the Soviet Union and the other nations of Eastern Europe are not only recognizing the necessity for private initiative, but they are approaching the great companies of the West to become involved in their development process.

But curiously as the Marxist countries in the Soviet orbit are opening their doors to Western technology. Western capital and Western know-how, some countries in Latin America are slamming their doors against such foreign assistance. That is but one paradox in a "continent of paradoxes." Another is that many Latin American nations which openly admit their need for the free enterprise elements of development, adopt regulations, sign mutual investment codes, and create a climate of uncertainty by expropriation which inevitably militate against the very investments they concede they must have.

There is still another paradox which relates to attitudes in this country. Latin America represents an enormous actual and potential market to U.S. businessmen. And yet, we find many, both in business and in government, who through neglect and by actions that discourage trade seem prepared to place our Latin trade in jeopardy.

These paradoxes do not have to remain forever unsolved. They are not riddles wrapped in mysteries inside enigmas. They are quite simply differences or outlook. Just as business no longer looks to the countries of the development world as mere stockpiles of raw materials for Western industry, Latin governments, however youthful and impetuous, should not look at business as sinister and exploitative. To resolve these misunderstandings, I believe there should be a new Alliance—an Alliance for Development. It should embrace political development, economic development and social development. To accomplish this far reaching goal, it would have to draw together business and governments—organizations and people—universities and international agencies. Only through such concerted effort can it expect to overcome the common and interrelated problems that have stalled true development as one sector or the other sought domination.

What I have described is what the Council will be attempting to do in 1972—coalesce all those who are sincere in their desire for true development, into a well-planned, coordinated, thoroughly expert and professional effort—an all-out Alliance which has the will and capacity to help.

I urge that you engage yourselves wholeheartedly to that new Alliance for Development and that you support the Council of the Americas as it seeks to lead the way.

OUR CONTEMPT FOR A POPULAR CAUSE

Mr. CHURCH. Mr. President, an informed and thoughtful columnist, Milton Viorst, has written a three-part series about the historical antecedents to the hostilities between India and Pakistan. These pieces, which appeared in the Washington, D.C., Evening Star of November 18, 20, and 22, are based on the findings of Mr. Viorst during a recent trip to that troubled region.

He demonstrates that American military assistance to Pakistan has materially helped to make its military government intransigent toward the legitimate grievances of East Pakistan—grievances which have led to bloodshed and an estimated 10 million East Pakistanis fleeing across the border into India.

At one point, Mr. Viorst correctly points out:

> Sadly, the United States has once again fallen in with the oppressors—as we did in Cuba, the Dominican Republic, Greece, China, Vietnam. We have a tragic talent for it."

Mr. President, I ask unanimous consent that these three articles be printed in the Record.

There being no objection, the items were ordered to be printed in the Record, as follows:

India Conditioned To Accept War

New Delhi.—Within the highest circles of the Indian government, one can feel the elation that comes with the imminent war.

It's not that anyone is seeking war—and certainly no one will admit to looking forward to war. But there is a feeling that war is inevitable—if not within weeks, then within months—and no one is wringing his hands in despair.

Why? War, as an adventure, would surely be a relief from the relentless and tedious struggle in which the government is engaged against the unbelievable poverty one sees everywhere. War, as every Indian official sees it, would bring an exhilarating and prestigious victory.

But most important, war would remove—once and for all—the one military threat and the single greatest irritant that Indians see to their historical development: Pakistan.

It's apparent, after many talks in the ministries here, that India has no territorial designs in the present crisis. Whatever resentment Indians may have felt over the partition of the subcontinent when the British left in 1947, they now seem to recognize that they have enough problems without trying to swallow up parts of Pakistan, too.

But they are angry at Pakistan for continuing to be a thorn in their side—as they are angry at the United States for having made Pakistan, with a fraction of India's wealth and population, into a military power capable of giving them a good fight.

Somehow, John Foster Dulles got the idea back in the 1950s that the Pakistani nation could be forged with tanks and planes into the ring he was building around the Sino-Soviet bloc. It was a grieviously bad forecast.

Within a few years, there was no Sino-Soviet bloc. Pakistan, after flirting on and off with Russia, became an intimate friend of Communist China. America's tanks and planes, furthermore, were used only to threaten its neighbor, India. India, as a neutrality had moved closer and closer to the Soviet camp.

Now, the final proof of short-sighted—and counterproductive—American foreign policy is being played out. Pakistan is coming apart at the seams. The artificial product of British decolonization, it is showing itself to a no nation at all.

To sum up the current crisis, East Pakistan, an enclave of 75 million Bengalis surrounded on three sides by India, is in open revolt against West Pakistan, whose 65 million Punjabis have dominated the union since independence.

While West Pakistan's 60,000-man army has brutally attempted—with American arms—to suppress the rebellion, no fewer than 10 million East Pakistanis have fled into India. The number could reach 15 million by Christmas.

For India, those refugees are the rub. The Indian government is paying out at the rate of $700 million a year to support them. That's more than even a rich country could afford. For India, it represents a substantial proportion of the funds that would otherwise go to economic development.

Quite understandably, the Indians regard the burden as intolerable. The pledges of assistance made by a few countries—including our own—come up to a fraction of the cost.

The refugees, furthermore, are concentrated in the northeast, particularly around Calcutta, which is already the poorest and most explosive section of the country. They are an additional bit of kindling, waiting for a spark.

The Indians say they would like to settle the matter peaceably, and no doubt they would. But they maintain—probably correctly—that no solution short of independence for East Pakistan would get the refugees back home.

The Pakistani government, however, does not seem disposed to compromise. It has declared it will attack India if the rebels—to whom Indian help is indispensable—show signs of defeating their army.

Both sides may be bluffing about war—but there is an ominous quality to the bluff of both. Pakistan is tempted to gamble, while India is sure it would win. Indeed, the Indian government seems elated at the prospect of a rousing fight.

The Refugees and Bangla Desh

Calcutta.—Of the 550 camps that the Indians have set up for the refugees of military terror in East Pakistan, I have just visited three—and the spirit I found was unmistakably of buoyancy and of anticipation.

They are restless. Yet, if they are still in the camps next year, they will, like the Palestinians, be broken, too.

The Indians know that, and are frightened by it. Once the refugees get comfortable and lethargy triumphs, they may never want to return home. There are 10 million of them. They are still coming. India cannot support them indefinitely.

Yet India has done a remarkable job in the camps. The refugees are adequately fed. They receive medical attention. Though sanitation is a problem, it is generally under control. It's not saying much—but life in the camps is probably equal to what it is here in Calcutta and in the surrounding countryside.

Winter is coming, however, and already refugee families must huddle together in their bamboo shacks to keep warm at night. The Bengalis fled with what they had on their backs. They have no warm clothes. They desperately need blankets. So the pressure intensifies to settle the matter—quickly.

Hussein Ali is the nearest thing the refugees have to a spokesman. An East Bengali Moslem, he was Pakistan's high commissioner in Calcutta. A husky, fiery man in his 40s, he describes himself as a civil servant, not a revolutionary.

But he became a revolutionary after Gen. Yahya Khan, head of the Pakistani military junta, revoked the election that had given East Bengal a majority in the Pakistan assembly and jailed Mujibur Rahman, its political leader.

Ali says he declared his loyalty to an independent East Bengal only after he became convinced of the truth of the refugees' stories of rape and pillage by the Pakistan army. Now he represents Bangla Desh in India.

"Bangla Desh is a reality," said Hussein Ali. "It's gone from West Pakistan forever. After what they did to us, there can be no compromise. It's independence or death."

Indeed, in the refugee camps, Bangla Desh is on the lips of everyone, especially the young men. They all insist they are waiting only for space to open up in the training camps, so they can fight for their country's liberation.

When asked whether a compromise was possible between Pakistan and Bangla Desh, Ali gave the standard Hanoi-Viet Cong answer: "We will be glad to negotiate the withdrawal of the Pakistani army from our country. What else is there?"

Ali dismissed Yahya's contention that the rebel movement is just another episode—stirred up by India—in the timeless conflict between Hindus and Moslems on the subcontinent.

"Pakistan has used Islam as a political weapon to suppress dissent," he said. "They have destroyed our mosques and our temples. They have desecrated the name of God."

He said that, though India was assisting the rebels, it had not in any way instigated the rebellion. He said Bangla Desh would never become a client state of India. It would, he said, be a secular democracy in which Hindus and Moslems would be treated as equals.

Ali insisted the rebels would defeat the Pakistani army—and would have done so long ago, were it not for American arms. In fact, most dispassionate observers here see rebel strength gaining, and consider it a matter of time before West Pakistan must surrender its rule of East Bengal.

But time is the key factor. Washington has asked India and Pakistan to withdraw their forces from the frontiers, to avoid provocations. But withdrawal does not deal with the problems of Pakistani tyranny and the 10 million refugees.

The refugees want to go home—and India wants them to go even more. But they will never go back to an East Bengal governed by West Pakistanis and ruled by their murderous army.

India will not wait much longer—but will Yahya Khan recognize his defeat in Bangla Desh soon enough? If not, there's going to be one fierce and terrible war.

Our Contempt for a Popular Cause

New Delhi.—If 10 million refugees from East Bengal explain the imminence of an Indo-Pakistan war, the imperatives of recent recent history explain its underlying causes.

On India's side, this imperative grows out of a drive toward the concentration of power in the single entity, the central government, that has the capacity to move a basically primitive country into the 20th century.

When India was a colony, the British always pursued a divide-and-rule strategy. After independence, power remained scattered and the central government was weak.

Since becoming prime minister in 1966, Mrs. Indira Gandhi has pursued a course designed to change that. She is easily the most powerful figure of the post-independence era, far more so than her revered but indecisive father, Jawaharlal Nehru.

One by one, Mrs. Gandhi has broken bastions of resistance to strong government. She routed the conservative oligarchy that dominated the Congress party. She wiped away the anachronistic prerogatives of the maharajas, who used their princedoms to thwart Delhi and enrich themselves.

In last year's election, Mrs. Gandhi won 352 of 518 parliamentary seats, an unprecedented majority. Her leadership is currently undisputed.

To Mrs. Gandhi, Pakistan is just one more obstacle to India's aspirations. As long as the government must look over its shoulder at a threatening neighbor, it is not free to pursue economic and social development at home.

To say the refugees are India's pretext for neutralizing Pakistan is an exaggeration. But they certainly present an opportunity—and Mrs. Gandhi is decisive enough to seize it.

As for Pakistan, the imperative toward war proceeds from a determination by a military and landed elite—nurtured by the United States—to retain control of the state.

The efforts of this elite began when Pakistan was founded in 1947. Its victory over the democratic forces within the country was sealed when the United States decided in 1953 to add Pakistan to its worldwide anti-Communist network.

Once Washington resolved to arm Pakistan, power gravitated relentlessly to the military. The army negotiated with the Pentagon behind the government's back. In 1958, it abandoned all pretense of working within a constitutional framework and simply took over.

The role that the military-landed ruling elite cut out for itself, thenceforth, had little to do with the American crusade against communism.

On the one hand, Pakistan used its new military hardware to threaten India, against which—in the territorial dispute over Kashmir—it had an arguable grievance. On the other, this hardware was devoted to the suppression of dissent in East Bengal, whose inhabitants were never happy sharing nationality with the dominating Punjabis of West Pakistan.

Indeed, the military junta and its moneyed allies treated East Bengal like a colony. The figures show, for instance, that only an eighth of developmental funds were spent in East Pakistan, though it is poorer and more populous than West Pakistan.

Pakistan, then, became a classic example of American foreign aid principles gone fearsomely awry. American liberals surely thought they were helping the Pakistanis. But all they achieved was to destroy Pakistan's democracy, drive India into closer relations with the Soviet Union and insure that, ultimately, the repression in East Bengal would lead to civil war.

The military-landed ruling caste still refuses to surrender its colonial prerogatives. The repression of two decades has, since the revolutionary movement surfaced in March, turned to outright terror. By this time, too much blood has been spilled for either side to turn back.

To be sure, India took advantage of the crisis by encouraging the Bengali rebels and by welcoming the refugees from the terror. Yet it would have been inhumane to do otherwise. The conflict is not of India's making but of Pakistan's.

Sadly, the United States has once again fallen in with the oppressors—as we did in Cuba, the Dominican Republic, Greece, China, Vietnam. We have a tragic talent for it.

But we also seem to have a talent—as Vietnam best demonstrates—for siding with losers. The favorites in this conflict are India and East Bengal. In our contempt for a popular cause, we seem again to be at odds with history.

THE 25 MILLION NEW VOTERS

Mr. BROCK. Mr. President, we are all aware that there will be 25 million new voters eligible to cast their first ballot for President of the United States.

President Nixon has always supported the 18-year-old vote. He endorsed it in his campaign of 1968 and he kept that promise.

The President and other Americans supported that measure because they believe that the young Americans—18, 19, and 20 years old—have the competence and the intelligence to make their own decisions as to who should govern in Washington, D.C.

And that is how we will approach the new voters in 1972—as thinking individuals, not as a voting bloc awaiting manipulation.

However, there are those who would do otherwise. There are those who believe the new voters are a political resource to be exploited, not as individuals, but in the aggregate, en masse.

We saw an example of that type thinking last weekend during the Emergency Conference of New Voters, hosted in Chicago by the Association of Student Governments.

The announced purpose was to get young voters involved in the political process to gain a voice.

However, the supposedly nonpartisan conference leadership carefully controlled the presentations and refused to allow all points of view to be presented.

No supporter of the President, for example, was allowed to speak at the conference although several offered. One Congressman, in fact, had his invitation withdrawn at the last minute when it was learned he would support the President.

One word of advice to those who seek the support of this generation—no one is going to tell them how to vote, or think. Those who believe they can refuse to present both sides, can limit the input for these young men and women, or try to make their decisions for them, are in for a shock.

Our young deserve better, and they know better.

U.S. RELATIONS WITH PERU

Mr. CHURCH. Mr. President, in April 1969, the Subcommittee on Western Hemisphere Affairs of the Foreign Relations Committee held hearings on U.S. Relations with Peru. One of the witnesses at those hearings was Richard M. Goodwin, a former Deputy Assistant Secretary of State for Inter-American Affairs.

A portion of Mr. Goodwin's testimony, referring to past U.S. Government policies, has elicited a demurrer from former Ambassador J. Wesley Jones. Ambassador Jones has sent me a copy of a letter which he wrote to Mr. Goodwin and has asked that it be included in the Record. Inasmuch as the hearings on Peru have long since been printed, I ask unanimous consent that Ambassador Jones' letter be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Fort Lesley J. McNair,
Washington, D.C., June 22, 1971.

Prof. Richard N. Goodwin,
Boston, Mass.

Dear Professor Goodwin: Your testimony before the Senate Foreign Relations Committee (Western Hemisphere Subcommittee) in April 1969 has only recently come to my attention and I have some reservation about that portion of it relating to the 1963 elections. On page 85 of the Hearings on "United States Relations with Peru" you are reported to have testified:

"In 1963 Belaunde was elected against our wishes, because the United States supported the candidacy of Raul *Haya de la TORRE.*"

In response to a question from Sen. Church you went on, reportedly, to say:

"Well, I suppose all I am saying at this point is that we strongly expressed and made clear to the people in Peru *through the Embassy* and elsewhere that he (Haya) was strongly favored, that we were for him, etc." (italics are mine)

Since, as you know, I was the Ambassador to Peru during that period (I presented my credentials in early February 1963 and the elections were held in mid-June of that year) I can assure you that the Embassy maintained a policy of complete neutrality and non-intervention in those elections both overtly and covertly. Further, from the time I arrived in Peru until the 1963 elections, some 4½ months later, the policy of the U.S. Government as it emanated from Washington was also one of absolute non-intervention in the electoral campaign involving Belaunde, Haya de la Torre, Odria and Samame.

Consequently the statements attributed to you and quoted above have absolutely no basis in fact and I would be greatful if you would write to the Senate Foreign Relations Staff to correct the record. I am sending a copy of this letter to Pat Holt, the Consultant to the Western Hemisphere Subcommittee.

It has occurred to me that the error in your statement may be attributable to a confusion in dates; that you were referring in your testimony to the Elections of June 1962, when the principal candidates, Haya de la Torre, Belaunde and Odria were the same, when Jim Loeb was ambassador to Peru and when you were Deputy Assistant Secretary of State. (As I remember, you left the Department in April 1963 at least 2 months before the Peruvian Elections of that year which resulted in Belaunde's election). Since I was still in Libya for that Electoral Campaign I cannot answer for our policies and actions in it. But for the 1963 Elections, I was in Peru and very much in charge of our Embassy and its activities.

Sincerely yours,

J. Wesley Jones.

BUSING

Mr. TOWER. Mr. President, as this year, 1971, is drawing to a close, I believe that a truly significant thing has happened in the Nation. The people of this country, North, South, East, and West, have realized that the busing of schoolchildren for the sake of racial balance simply does not make sense, nor does it further education. As the year started, the only ones vitally concerned with this issue were the parents and schoolchildren living in the South. Very quickly, however, people all over the country discovered this threat to their school systems and began trying to do something about it.

In June of this year, my colleague from Tennessee (Mr. Brock) and I, along with several of our other Senators, introduced a constitutional amendment which would prohibit forced busing in order to achieve a racial balance. At the time that we introduced the resolution, Senate Joint Resolution 112, few thought that we had much chance to get hearings held on it. We knew that the odds against us in Congress were long, but we were determined to pursue our goal. With the help of many colleagues in the House of Representatives, we have finally reached the first stage in our goal of eventual passage of the constitutional amendment. On Tuesday, December 7, Chairman Celler, of the House Judiciary Committee, officially announced that his committee would have full hearings on the proposed amendment early in the next session of Congress. I plan to make certain that the case of Texans on this issue is fully heard at that time.

Much yet remains to be done before we can say with certainty that the amendment will be passed and forced busing eradicated. In the meantime, we will try to see that the strong, House-passed antibusing amendments to the Higher Education Act are also adopted by the Senate. A bipartisan group, of which I am a member, is already at work in this regard. We will also be aware of other ways by which we can combat the wasteful practice of busing. Nevertheless, in the long run, I believe that what we haved one in 1971, what the people of Texas and the Nation have said this year, will hasten the day when we can restore the neighborhood school and work diligently on ways to make it an even better place to get an education. When, as the Gallup poll reports, 76 percent of all Americans say that they are opposed to busing and say that they would rather spend this money on sound, educational purposes, then I believe that we will get action. I pledge my continuing activity in this fight.

A LOOK BEHIND THE SCENES

Mr. CHURCH. Mr. President, our bloody military involvement in the unnecessary war in Indochina has not even yet been concluded, but memoirs, recountings, and recollections are already being circulated in books and newspapers and periodicals.

A most recent example was printed in Science magazine for November 26, 1971, under the title "After the Pentagon Papers: Talk With Kistiakowsky, Wiesner."

Drs. Kistiakowsky and Wiesner give us a fascinating glimpse of what they saw—and were kept from seeing—during their service in the Federal Government as Presidential scientific advisers. Particularly disturbing is the misshaping of background information as it is channeled through the governmental labyrinths to the heads of departments and to the desk of the President.

I found this oral description of the powerlessness of men in high positions most disturbing, and I hope that the Science magazine's exclusive interview will be widely read. I ask unanimous consent that the interview, as published, be printed in the Record.

There being no objection, the items were ordered to be printed in the Record, as follows:

After the Pentagon Papers: Talk with Kistiakowsky, Wiesner

(Note.—The interview took place in mid-August at Woods Hole, Massachusetts, in the offices of the National Academy of Sciences. Readers should know the conditions on which it was agreed that the interview would appear in print. Wiesner and Kistiakowsky retained the right to edit their remarks, a right both have exercised. The few places where the printed version truncates the actual discussion, or where amplification is required, are indicated in italics. A few topics have left no traces. It does not seem fair, in the case of an interview, for the interviewer to have the last word. Readers can judge for themselves to what extent the interview measured up to its purpose in candor and relevance.—E.L.)

The interview transcribed below grew out of the belief of the *Science* news department that the Pentagon Papers published by The *New York Times* in July deserved further study and discussion by the scientific community. Accordingly, *Science* asked Jerome Wiesner, now president of Massachusetts Institute of Technology, and George Kistiakowsky, professor emeritus of chemistry at Harvard University, to participate in an interview that would take the Pentagon Papers at least as a starting point. Wiesner and Kistiakowsky were science advisers to Presidents Kennedy and Eisenhower, respectively, and were among the leading spokesmen for the scientific community during the period covered by the Pentagon Papers. The interviewer was Elinor Langer, a former member of the *Science* news staff. In the introduction that follows, Miss Langer describes the ground rules under which the interview was conducted.

Langer. [Let me start by saying that] the assumption behind this interview is that the Pentagon Papers may have more serious implications than the level of public discussion so far has really indicated. It was conceived as a kind of fishing expedition to see what people like yourselves, who were in positions of some power—at least we were led to believe at the time—[and of] relative knowledgeability when some of the events were going on, made of the Papers. I have the impression that you're both very anxious to talk about Scientists and Engineers for Johnson, and your support for Johnson in 1964 [which is,of course, a very important part of it], but I hope our discussion can go beyond that.

WIESNER. I told you on the phone that I didn't think that anything has come out in the Pentagon Papers—though I haven't read all 47 volumes or even studied everything that's been printed—that would change my view of what Johnson did, or my attitude towards my participation in Scientists and Engineers for Johnson. I became badly disenchanted long before these papers came out, so they didn't really affect me in this respect. I don't know whether George has different views.

KISTIAKOWSKY. I have really little to say about Scientists and Engineers for Johnson-Humphrey. The amount of my active, personal involvement was relatively small.

WIESNER. Well, it was never really for Johnson, it was against Goldwater. That was the central thing. I think both of us were reacting against what Goldwater stood for and, on balance, I think I am still not sure. I wouldn't work for Johnson knowing what I know, but I would not care for Goldwater either.

KISTIAKOWSKY. I might add to that now. I vividly remember one specific issue when Dr. [Donald)] McArthur, [former deputy director for research and technology, Office of the Director of Defense Research and Engineering (DDR&E)], who was the moving spirit behind the organization, sent me, as one of the members of the central committee, a draft of election-year pamphlets to be distributed by the million. When I read it, I telephoned him and said that I was flatly opposed to it because the whole theme of it was to extol Lyndon Johnson. I said that Scientists and Engineers were a nonpartisan group who were against what Goldwater stood for, and that a pamphlet saying so is the only kind of pamphlet that I would authorize over my signature. But I would not sign the pamphlet that was being proposed. Do you remember that?

WIESNER. I remember that, and I concurred, because my own personal experiences with Lyndon Johnson in the Kennedy administration did not leave me fond of him. But nonetheless, I must admit that I believed he was interested in de-escalating the war in Vietnam.

LANGER. You were not familiar, at that time, with the plans and projections that were being made about the bombing campaign in North Vietnam?

WIESNER. I certainly knew nothing about it.

KISTIAKOWSKY. Well, you were already out of office.

WIESNER. I had been out of Washington since March '64 and the war blew up after that. In addition, I haven't studied newly released papers sufficiently to be able to talk about what was just contingency planning that is necessary and what was, in effect, government policy. I think that one has to be very careful in making such interpretations.

KISTIAKOWSKY. Yes, I must say for myself that by that time I was already, I think, sophisticated enough to sense the internal workings of the government: the fact that not everybody speaks the same language, not everybody has the same objectives. The Pentagon, for instance, is very different from the Arms Control and Disarmament Agency, and so on. But I was naive enough to think that when the President of the United States was running for election and made quite a flat, public statement that he was for peace as contrasted with his opponent—I was naive enough to believe him.

WIESNER. Well, I believed him for other reasons, too, in spite of the fact that, as I said earlier, I was not on good terms with the President. I had seen him push for disarmament initiatives inside the White House: press on the White House staff, including myself. I was not involved in Vietnam discussions because they were not a prominent part of the government business during the first months that he was President and I was still working there. There were other issues that were much more important. But in the contacts we had with him and with his senior staff during the campaign, he certainly gave us the impression of very different views about Vietnam than those that emerged later. And I suspect that neither of us would have worked for him to the degree that we did, or at all, if we had been able to anticipate the way the war was going to go.

LANGER. Does it strike you in retrospect as surprising that in your position you didn't know very much? I'm struck by the way you both sound like ordinary citizens, like the "man on the street," when in fact you both were in and out of Washington, knew a lot of people, and presumably had some power.

KISTIAKOWSKY. I think you exaggerate my position. By then I ceased to be—not that I was fired or anything—I ceased to be a member of the President's Science Advisory Committee [PSAC]. Jerry, you still were a member, weren't you?

WIESNER. Yes, I attended meetings, but even so, strategy issues were not discussed in PSAC. The point is, the thing that appalled us about Goldwater was his threats to use nuclear weapons and his very strong jingoism. Johnson never talked like that, and the contrast was attractive. We never asked the President about Vietnam specifically, so we can't say we were deceived in any literal sense. On the other hand, we were given the impression that we were supporting a peace platform: there is no question about that.

LANGER. I have a question that might clarify what the role and limits of the science advisory apparatus was at that time. When you were science adviser, did you attend National Security Council [NSC] meetings?

WIESNER. Yes.

LANGER. And did you when you were science adviser under Eisenhower?

KISTIAKOWSKY. I had a standing invitation to attend all of them. Did you?

WIESNER. I occasionally did not go if the issue was far outside my field of competence and I was not interested in it. I wasn't concerned about gold flow, for example. And occasionally I would elect not to go if I was very busy on something vital. You should remember that the National Security Council mechanism was much less formal under Kennedy than under Eisenhower, and I believe that it remained that way under Johnson. Frequently Kennedy would call together small groups of particularly interested people to discuss an issue, the Cuba crisis, for example. Before an issue was finally resolved, the entire National Security Council would discuss it, but I believe that there were many more informal discussions in the Kennedy government than there were under Eisenhower.

KISTIAKOWSKY. There were very few. The NSC met once a week unless the President was out of town, and most of the issues were usually discussed. There were a few very sensitive issues, such as U-2, which were not discussed in NSC, to some of which I nonetheless was privy. My impression is that in the Kennedy administration three men, namely the President, [Secretary of Defense Robert] McNamara, and [McGeorge] Bundy [special assistant to the President for national security affairs in the Kennedy and Johnson administrations], met frequently in private and made the major military decisions.

WIESNER. No major decision was made without a full NSC discussion, but it was frequently obvious that there had been a lot of private talk beforehand.

KISTIAKOWSKY. Were plans for the Cuban invasion discussed in NSC?

WIESNER. The Cuban invasion was not. But I think that was the experience from which he learned that he should be more careful.

LANGER. In preparing for meeting with you today, I reread a story I wrote for *Science* in 1967 based on telephone interviews with everybody who had been on Scientists and Engineers for Johnson. The range of disaffection then was certainly very great, but the article ended up by commenting on the feeling of powerlessness of all the people who had been on that committee, and I remembered wondering to myself, if those people felt powerless, who was feeling powerful at that time? Who was feeling in control?

WIESNER. I don't know.

KISTIAKOWSKY. As a reward for my services during the election campaign, I was appointed a member of—as it turned out—a fictitious organization called something like the President's advisors or board of advisors on foreign policy. It met once or twice during the campaign for a briefing and never met afterwards. But I was never formally dismissed. Hence, I wrote a letter to the President urging him to de-escalate the war in the fall of '65, about Christmas of '65. Remember?

WIESNER. I remember that.

KISTIAKOWSKY. You and I were working on it together. And that letter got no attention, shall we say?

WIESNER. And I later wrote another one with Roger Fisher [professor of law, Harvard University] which we sent in through the vice president, but the only effect was that the vice president caught a lot of hell for delivering it, according to him.

KISTIAKOWSKY. That's right, and a third letter was written by [former Ambassador to India, John Kenneth] Galbraith, who also got only a telephone message in return asking him to desist.

WIESNER. I don't know what you mean by power, because I don't think we organized Scientists and Engineers to achieve power. What we were attempting to do was publicize the issues and avoid having Barry Goldwater for President.

KISTIAKOWSKY. It was a strictly election-year organization.

WIESNER. Afterwards, many people tried to persuade us to keep it together, but we didn't believe this made any sense because it had been organized for a specific purpose and it would be wrong to try to use it for something else.

KISTIAKOWSKY. I must say my first strong, explicit disappointment with President Johnson was in January or early February '65, when the so-called Gilpatrick [Roswell Gilpatrick, Deputy Secretary of Defense, 1961–1964] committee (appointed by the President) of which I was a member, orally recommended to him that he should place great emphasis on the issue of nonproliferation of nuclear weapons. The recommendation was immediately buried. There was hardly a "thank you" to the members of that committee.

WIESNER. Well, you remember what happened to us on the ABM issue? In '67 we were inivited by Secretary McNamara to come to the White House to discuss the ABM.

LANGER. You two, or you two with a large group?

WIESNER. With a larger group.

KISTIAKOWSKY. All the former science advisers.

WIESNER. All the science advisers and all the previous directors of DDR&E, including [Harold] York and Harold Brown, who was head of DDR&E at that time. To a man, we were opposed to both the big system and, as far as I recall, the smaller system too, some of us more vigorously than others. And he not only made the decision to deploy the small system, but McNamara then sort of misused, I'd say, our position there in *support* of the small system. I think that we may have had many reasons to feel ill-used, but I didn't think the President ever owed me anything. I wasn't supporting him for his own sake or because of any personal trust. I did it for what I thought was the best interest of the country. You can question whether it was, of course, as things turned out. I think it was probably still better to have had Johnson than Goldwater, but that's a poor choice.

Kistiakowsky. And of course the issue of the use of nuclear weapons in Vietnam was very much in our minds. I might mention another episode. It was about the period of of the Tet offensive, when one of our senior generals from Vietnam made a public statement saying that there was no need to worry about the fate of Khe Sanh, because if conventional weapons didn't work, we would use tactical nuclear weapons. When I read that I became very much exercised and I telephoned the two gentlemen, who were science advisers before I was, and chairmen of PSAC under Eisenhower, namely [James] Killian [chairman, M.I.T. Corporation] and [I. I.] Rabi [professor of physics, Columbia University]. They agreed with me that this was a very dangerous thing even to talk about. And we constructed a telegram to ex-President Eisenhower (who was then in Palm Springs) quoting the general and saying that this would be disastrous in its own right and also raised a danger of expanding the war. We sent that telegram to Eisenhower, and as luck would have it, President Johnson was visiting Eisenhower a day or so after he got the telegram. Apparently Eisenhower was very much concerned and talked very vigorously to Johnson about it. I judge that that was the case because within less than 48 hours, each of us, Killian, Rabi, and myself, had a personal phone call from Secretary McNamara saying that he had been instructed by the President to state firmly that there was no planning, even contingency planning, to use nuclear weapons.

The "summer study" discussed below was a seminar of 47 scientists which was held under the auspices of the Jason Division of the Institute for Defense Analyses in the summer of 1966. Further discussion of it can be found in the Bantam edition of the Pentagon Papers, (pp. 483–485) and in Document No. 117 (p. 502). The New York Times, citing the original Pentagon study, emphasizes that the scientists' work was a major influence in persuading then Secretary of Defense Robert McNamara that the bombing of North Vietnam was ineffective in curtailing North Vietnam's military activities in the south.

Langer. What was the kind of thinking that led up eventually to the 1966 summer study which at least according to the Times, turns out to have been so important?

Kistiakowsky. I'll try to summarize that briefly. Jerry and I probably were responsible for its start. We had prepared several letters to President Johnson in the winter of '65–'66. We got what amounted very much to a brush-off.

Wiesner. A pointed brush-off.

Langer. Did the study require some kind of presidential assent to set it up?

Wiesner. No, the study came about in another way. We had a small, self-initiated discussion group in Boston whose purpose was to see whether we couldn't find an acceptable way of stopping the war. We looked at a large variety of different ideas, and every time we thought we had one that looked acceptable to all sides, we would try to get the President to listen to it.

Kistiakowsky. There was no substantive consideration of our proposals. They were all just dismissed.

Wiesner. What actually happened on the study referred to in the Times was that we began to examine General [James] Cavin's enclave proposal seriously and we decided we didn't have enough facts about where the troops were, where the civilian population was, and a great number of other important questions. We called somebody, I believe it was John McNaughton [Assistant Secretary of Defense for international security affairs] and asked him for a briefing and he said he would send up [Adam] Yarmolinsky [Special Assistant to the Secretary of Defense] to give us the data we wanted. And Yarmolinsky came up with a lot of facts and data and . . .

Kistiakowsky. Then he went back and there were some discussions in which I didn't take part. The result of them, however, was an offer to finance, out of the funds available to the Office of International Security Affairs, a study in the summer of '66 in which a considerable group, largely of physical scientists but also some social scientists, would be involved. I don't know that I'm at liberty to mention who they were, though Jerry and I were in the steering group. Out of that study came a number of recommendations to the Secretary.

Wiesner. And a number of observations, some of which have been in the Pentagon Papers. I think, as the paper said, the study probably played a very decisive role in convincing Secretary McNamara that, in certain respects, the intelligence information he was getting was wrong, that the estimates he was getting of where they were going were not very useful.

Langer. Just reading what's in the New York Times edition, [I think] the study seemed remarkable for the character of its thinking. It is a very agnostic document. It keeps stressing the things which can't be known—such as the effects of the bombing—and asking how can you go on basing your assumptions on these unknowables. It seems as if the social scientists around the government, the Bundys, Rostows, [Walt W. Rostow, special assistant to President Johnson for national security affairs] et cetera, were always making recommendations which implied that a certain level of military action would have certain results. What seemed remarkable to me about this was its caution and conservatism and its insistence that the relationship between the bombing and Hanoi's "will to resist" could not be known.

Wiesner. Well, you see, we were trying to deal with known facts, with statements that were being made then.

Kistiakowsky. Let me put it a little differently. What we found was that the, so to speak, low-echelon findings—whether on the effect of bombing North Vietnam or on the amount of materiel and military supplies and manpower which were being brought into the south, or the number of the enemy killed—that extraordinary device, the body count . . . On all these things we found that the numbers which were deduced at the lower echelons were uncritically and selectively used. By the time this enormous mass of detailed bits and pieces are synthesized into papers of manageable size to be read by the top echelon of the government, those people—for instance the Secretary of Defense—were in no position to find the time to read the detailed stacks.

Wiesner. You see, what is important to McNamara is how the information is distilled.

Kistiakowsky. He gets a short summary. The President gets a summary of a few pages and the Secretary gets 50 pages, but it is that kind of thing. By the time those papers were prepared, there was so much selection and value judgment and so-called agency position—in other words, you don't admit when you are wrong—that, in effect, the top-level papers were bearing very little resemblance to the basic background data.

Wiesner. And this is very important—they didn't show the true uncertainty. That was particularly striking. They simply appeared as if they had real validity. Of course, this problem isn't particularly unique to this situation. I remember that, after I became science adviser, I set out to see where some of the data we were given came from: information that was given as hard intelligence, like the number of Soviet missiles, or the numbers of tanks the Soviets had, or the number of divisions. And as I penetrated into the raw material I discovered that it often wasn't based on solid basic information. In fact, we caused the intelligence people to modify their estimates extensively by making them throw out the raw data they couldn't justify.

Kistiakowsky. That goes even farther back. I recall that in 1959 a well known columnist, Joseph Alsop, upon hearing that I was going to be the next science adviser, but while I was still a private person, invited me to have breakfast with him. He told me that he had hard intelligence information that the Soviets had deployed about 150 ICBM's. He had pretty good intelligence that they were going to attack the United States about July 1, 1959. It so happens that I was then in possession of relevant intelligence data because I was a member of the Ballistic Missile Advisory Committee to the Secretary of Defense. But of course, listening to Mr. Alsop, I had to act as if I was innocent. And Alsop didn't keep this information to himself. You will find articles that he wrote in which he made dire predictions. And this sort of thing happens incredibly frequently in Washington.

Langer. He's got quite a record for predictions, I think. Well, did you feel obligated for political reasons in the summer study to include something about a barrier, or was that McNamara's previous idea?

Kistiakowsky. No.

Langer. How did that proposal come about?

Kistiakowsky. In our agenda proposal, one of the topics we wanted to look into was a way of minimizing or reducing the flow of supplies and manpower from the north in a way that would lead to de-escalation of the war rather than escalation and bombing.

Wiesner. You see the avowed purpose of the bombing effort was trying to stop . . .

Langer. To stop infiltration.

Wiesner. To stop the flow of munitions. And we wanted to see whether there was an alternate way to achieve that end.

Langer. Was there no possibility of arguing about that objective?

Wiesner. We did that too, but first of all we looked at the question of whether the bombing was an effective way of achieving that objective, and it became clear that it was not. In fact, that's one of the things we said. But we also then asked whether the materiel coming in was significant. I think the general impression was that there was a significant flow of munitions. Isn't that correct? As I recall it, the amount of munitions coming along the trail could sustain the VC, [Vietcong] although a good deal of munitions were coming in other ways too. So then the question was whether there were any technical means that we could see that might do a better job and be much less destructive. We wanted a more benign way of achieving the same end.

Kistiakowsky. We were looking for ways of minimizing the casualties and minimizing . . .

Wiesner. The destruction.

Kistiakowsky. The idea was to lay the so-called barrier—which had nothing to do with a fence—through the uninhabited jungles through which the Ho Chi Minh trails are cut. We were very uncertain of the feasibility of this scheme. There was a very heated internal debate in August whether we should even present the plan to Mr. McNamara.

Langer. Because of its feasibility or because of its politics?

WIESNER. Because of its feasibility. I don't think we ever argued the politics.

LANGER. I didn't understand that the issue was breaking a law.

At this point, there ensued a brief discussion, largely excised by the interviewees, in which they explained the reasons for their reluctance to continue discussion of the barrier plan for publication. The conversation then turned to their subsequent discouragement and withdrawal from activity that was designed directly to affect the course of the Vietnam war. Wiesner, in particular, stressed that at that point his interest became focused primarily on the ABM.

WIESNER. The McNamara decision was announced in the fall of '67 and it was then that I began to oppose the ABM deployment publicly. I also stopped working within the government and started to work outside. After the so-called thin system decision, I gave up trying to convince anybody in the government to make sense on the ABM, for I regarded that as basically a political decision. There was no question in my mind that Mr. Johnson made the deployment decision for political reasons. He still expected to run for President, and he was protecting his flank by making that thin ABM decision. At least this is my view of what he did. There was no rationale to justify the ABM that I could see, and I decided to see if this waste for political reasons could be stopped.

LANGER. How do you feel about the ABM battle? What do you make of it?

WIESNER. My feelings are complicated. I'm sorry we didn't win it. I think, nonetheless, it was a vital fight. It showed that you could make a good fight against a foolish decision. I believe that it exposed the military issues in a public way for the first time, I think that personally I spent far too much time on it. But I never really felt we lost it, because we kept it down, we helped Congress be responsible, we helped the public become informed. I think much of what has happened since, in the way of public debate on many things like the environment and the SST, grew out of the ABM experience.

KISTIAKOWSKY. I very much agree with Jerry on that. In a personal sense, you might say, Jerry lost; I was a much more minor character in that one, though I lost also. So did York. But in a more fundamental sense we won, because we generated a completely new phenomenon.

WIESNER. I think in a real sense the nation won. Congress looks at everything seriously now. The public will not buy . . . new weapons without looking at their purposes. You can't scare them by telling them the Russians have three, as they used to do.

KISTIAKOWSKY. The proposals of these, I might call them "hot-rod military" types, are not sacrosanct anymore. They are challenged, and the ABM debate was the first of these public debates. You have to be aware that we thought of ourselves as what might be referred to as His Majesty's Loyal Opposition. We were working through the channels, within the organization, as yet. In my case it was a bitter experience, and it led me outside the channels. Our recommendation to Mr. McNamara, made about Labor Day, 1966, was to confirm our ideas by a detailed, larger study of professionals to be organized within the Department of Defense. You remember that?

WIESNER. Yes.

KISTIAKOWSKY. It was a very emphatic recommendation. We had even outlined a plan of what the study would involve in manpower and time and so on. Mr. McNamara's feeling was that time was of the essence. He wanted to develop details of the plan concurrently with the development of special devices, the so-called sensors, and so on, and also with plans for deployment. He felt if it were done in an orderly succession, it just would be much too slow. I think this is as far as I will go because I don't know how much of subsequent history of the fence has been revealed in the papers.

WIESNER. I don't either.

LANGER. Well, I was going to ask about that. The only thing I knew was that at a certain point you [Kistiakowsky] resigned from the committee. But I don't think it is generally known how far work proceeded.

WIESNER. I don't think we know or should talk about it.

KISTIAKOWSKY. Let's put it ths way: it's none of your business.

LANGER. It's not a question of what's my business. It's a question of what is public business.

WIESNER. Well, it's a question of what it is our right to talk about.

KISTIAKOWSKY. All I can say is that I was in one way or another connected on a part-time basis with this project. And at the end of '67, particularly after seeing that Mr. McNamara was essentially fired from his job, I reached the conclusion that it was completely futile to continue. At that point, I resigned, and resigned in what might be called a tactless way. In other words, I didn't claim illness or family business or fatigue. I just wrote that I vehemently opposed the present Vietnam policy and could not be even a minor party to it anymore. That's all I think I can say about it.

LANGER. I'd like to say that I think the question of what is public business is sort of up for grabs at this point, and the more that is public, it seems to me, the healthier things can be.

WIESNER. I think that's right, and I believe that we ought to get rid of all secrecy on such matters, I feel strongly about this. But I think that, until there is a change in the security laws, violations of security represent a form of civil disobedience, and when one undertakes to do that, he should do it for a reason. I don't think that there's an issue on this point that justifies either of us doing it.

The ABM has been held to a modest waste of money, you know, a couple of billion dollars instead of 40 or 50 billion. So even on that score I think there was substantial gain.

KISTIAKOWSKY. You see, in the first years of the existence of the President's Science Advisory Committee, when we were really very involved in military technology, there were similar battles about proposals of the military, but they were held completely *in camera*, they were on a highly classified level between the White House office and the Pentagon. The new phase is the public debate.

WIESNER. When Johnson became President, he already had a history of differences with the scientists on issues that had nothing to do with Vietnam. We had differed on the space effort. Most of us were against the crash manned space program, and we had, of course, argued about that. I had been opposed to the Mach 3 SST and he was for it. There were a whole variety of issues that had caused tensions between the Science Advisory Committee and Johnson. So when [Donald F.] Hornig became science adviser, he had to carry the burden of Johnson's alienation from the scientists. The tension was greatest on the Vietnam issue. The result was that Johnson's Science Advisory Committee didn't have as much influence on military technology as it had under Eisenhower and Kennedy. Kennedy once told a reporter that the Science Advisory Committee and the science adviser kept the government from going all one way. He appreciated what it did and President Eisenhower appreciated it too. I don't think that Johnson felt a need for such help. Once that estrangement happened, it became necessary to take the battle elsewhere.

KISTIAKOWSKY. Some of these quarrels that you are referring to, Jerry, took place long before he became President.

WIESNER. Right; when he was vice-president and chairman of the space council and space was the only real problem on which he had initiative.

KISTIAKOWSKY. And I think he thought of the scientific community as being against him.

WIESNER. Because we were. We didn't really believe that the large manned space program made any sense scientifically and we kept saying so. In the end, we were willing to accept the President's judgment that it was necessary politically, but we fought against it being started, on technical grounds.

KISTIAKOWSKY. Of course you know Johnson pushed for it before he was vice-president, while he was in the Senate.

WIESNER. Then, in the case of the SST, I wanted the United States to join the British-French consortium and build the Mach 2 aircraft. There were many reasons why, in my office, we didn't believe a Mach 3 SST made sense, but it ultimately went that route because the vice-president wanted it.

KISTIAKOWSKY. And I contributed earlier than that, in the Eisenhower administration, to rejecting an SST project that was pushed about '59 or '60.

WIESNER. So there were many issues of this kind that we disagreed on.

LANGER. When you refer to "going outside the system," you mean going outside the administrative channels in government and going to congressional channels in government.

WIESNER. Congressional and public. I made my first attempt to do something about the ABM in a public speech for the Center [for the Study of Democratic Institutions] in Santa Barbara.

LANGER. It's interesting because that distinction, which looms very large in your mind, doesn't necessarily loom so large to an outsider.

WIESNER. But it does to anyone who's worked in the government. It makes a tremendous difference for a variety of reasons. First of all, one is privy to large amounts of privileged or classified information, and so one has the problem of how to carry out an intelligent, useful discussion about something like the ABM without violating security. It was a serious problem. And, in fact, there were times when all of us were accused of violating security and threatened with prosecution for having done so.

KISTIAKOWSKY. If you go back to, say the late 50's and early 60's, you will find that there was hardly a scientist who was privy to classified information because of his active part in government operations who ever made any public—either written or oral—statements on these matters involving security. The first change in that came about when the partial test ban treaty was signed and came up for Senate ratification. At that time, I was asked by the Administration to testify along with a number of others, like York, who had been in the government but were not in it full time anymore. I had vague qualms as to whether I should testify or not.

WIESNER. But of course, you were talking in support of the Administration.

KISTIAKOWSKY. I was supporting the Administration and so I decided I would testify.

WIESNER. It was regarded as gauche.

LANGER. I remember there was a lot of criticism of you [Wiesner] and your office at that time, for not testifying in public, being secretive about the people on your staff, and so on.

WIESNER. I remember an article to that effect in *The Reporter*, but I think—I thought at the time—it was a total misreading of the role of science adviser. When I became science adviser, it was to be an assistant to the President, not as the representative of the scientific community or anyone else. At least this was my view of the situation. So in that role, I obviously couldn't, and didn't intend to, oppose the President. But there are obviously many different roles. In some you have much less obligation, such as when you become a member of the President's Science Advisory Committee or a Defense Department advisory committee, but are not a full-time participant. Even for such people, it's still regarded as bad taste to engage in public debate.

Some of the younger people do testify before Congress, and they've been criticized for doing so. Dick Garwin [adjunct professor of physics, Columbia University] was critized for his SST testimony because it opposed the Administration's position. There is a general view that, if you're going to be part of the Administration, you shouldn't simultaneously attack its posture. I believe that, if you join an Administration as a full-time employee, that is a reasonable position. If you become so disaffected with its programs that you want to fight, the proper thing to do is quit. But I don't think advisers should be throttled, that is, silenced on all issues, or the country is handicapped in making decisions. I've personally concluded—and I've thought about this since the Pentagon Papers were published—that the nation has paid a much higher price for its secrecy than it would have paid through a policy of complete openness. We've done many things on the basis of inadequate information, not only in the Vietnam war: I question whether the arms race would have taken the extreme form it did if the intelligence fellows had been required to say what the bases of their estimates were and to defend them. If they had been exposed to serious questioning and hammered at by skeptics and asked for example, "What makes you think the Russians are going to have a thousand bombers?" If they had been required to show their evidence, we would never have had that "bomber gap."

And there are many other examples. You mentioned, for instance, the U–2, and the extensive border penetration by U.S. electromagnetic intelligence in the 60's. When I first told Kennedy about it, he said, "My God, if the Russians did that to us, we'd go to war." And it was top secret, so secret that I, as science adviser, had a hard fight to learn about it. And after I finally had a briefing on it, I asked a colleague, "Who the hell are they keeping it from? The Russians know about it." And we concluded it was being kept from the American people so they would not know what was being done in their name. The Pentagon Papers show that there are many things of this kind. Not only should people who are government consultants not be in this embarrassing position, but the people of the nation should know what their government is doing in their name to a much greater extent than they do. I think democracy cannot function properly with so much secrecy.

The discussion ended with a brief exploration of Wiesner and Kistiakowsky's future political plans. Wiesner was asked to explain a comment he made when he assumed the presidency of M.I.T.—in effect, that he anticipated an end to his political involvements. He replied that he intended to avoid partisan politics, but not to withdraw from battle on them to be important. Kistiakowsky added that he was concerned with restoring the dignity of science in the public mind. I indicated that, if I had had their experiences in Washington, I would feel particularly discouraged about continuing to believe, as they appeared to do, that individual men, and not the system, were responsible for the country's present difficulties. "What's the choice?" Wiesner asked. And the interview came to a stop.

EXEMPTION OF NEWS MEDIA FROM WAGE-PRICE GUIDELINES

Mr. BROCK. Mr. President, I was appalled by the course of events surrounding last week's deliberations on the Cranston amendment to exempt the news media from wage-price guidelines established for all Americans.

This body was led to believe that this amendment would eliminate the possibility of subtle Government control of the public media and would strengthen and protect rights guaranteed by the first amendment. The leaders of this movement offered it under the mistaken assumption that wage-price controls over the news media would be an infringement on the freedom of the press. The subsequent progression of events followed a peculiar course of non sequitur whose end result was the passage of an amendment exempting an industry which really does not need it.

The media have no greater claim to receive exemption than any other. All indications are that in fact if there were any efforts to obtain such an exemption, it was conducted by a small minority. A frequent response from officials representing the media is that in affairs relating to their commercial operations, they should be treated equally with other members of the business community.

Many have publicly stated that should such an exemption become law, they will voluntarily submit to the guidelines which will be applied to other industries.

This reaction is admirable and refreshing. It indicates that many members of public media do not view the controls of phase II to be a threat to their freedom to broadcast, print, or publish. Further, there are adequate safeguards in phase II to allow exemptions in specific situations where they are obviously warranted.

I wish the proponents of the Cranston amendment had as much faith in this system as the people they claim to be protecting. To think that wage-price regulations applied equally could be used overtly to muffle the press is a sham. To support the exemption of this industry on the basis that phase II regulations represent a threat to our constitutional system is unjustified.

No one likes freezes or economic controls, but once instituted they should apply to all. Everyone must make sacrifices in their daily operations. Exemption should be granted solely on the basis of need. Such need has not been documented by representatives of the news media. As a part of our free enterprise system, the public media has as great a responsibility to aid in the present program to restore our economic well-being as any other industry in the Nation.

Let there be no misunderstanding: my position clearly stated is based not upon fear for the Constitution, but upon faith in it. The first amendment will be respected. Yet, I believe this exemption is patently unfair. If there is a valid constitutional question, it lies against a law which affects some and not others.

When the House begins the consideration of the economic stabilization program, I hope that Senators will honestly analyze all arguments and oppose any attempts to include such an exemption in the bill.

THE BARRINGTON SCHOOL PROJECT IMPROVES QUALITY OF EDUCATION

Mr. McINTYRE. Mr. President, I would like to share with Senators one of the most exciting projects in education that I have seen in recent years. A group of individuals in New Hampshire took it upon themselves to improve greatly the quality of education in our State by the use of a successful project in the town of Barrington.

Perhaps the most encouraging aspect of the entire project is the fact that this success story was written by the tireless efforts of private citizens, without Federal funds or even private grants. This is an example of people helping people. I am especially proud that it took place in the Granite State.

The program began with a new teaching technique introduced to the Barrington school system by Miss Catherine Harmon. Miss Harmon recognized that the technique known as individual instruction, normally used for the teaching of exceptional children could be utilized in the regular classroom as well.

This system, using a system of individual microfilm and tape devices, was then instituted by Miss Harmon into her third-grade class with the cooperation of the school principal and the superintendent of schools. Miss Harmon's father, George H. Harmon, organized interest in the project and contacted many companies which offered materials that were vital for the success of the project.

These companies, and the men who run them, deserve our special thanks for their willingness to cooperate with this pilot project in education. They are listed for recognition in the statement which I shall place in the RECORD.

The use of individualized microfilm learning may well be the course of the future education in this Nation. That the Barrington school played an important role in the development of knowledge and expertise in this area cannot be denied.

Mr. President, I ask unanimous consent to have excerpts of the Barrington school project's final report printed in the RECORD. I am confident that every Senator will be pleased by the exceptional initiative shown in this most important educational effort.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

THE BARRINGTON SCHOOL PROJECT

The report to follow is about an educational experiment carried out in Barrington, New Hampshire. Although, not the usual method of presenting a report, we would like to begin with the ending.

The Barrington School Project was a success. The children who participated have experienced a better relationship with the educational process and, if one can believe test results, are farther advanced than they would have been had it not been for the Project.

It is not known exactly what factors contributed to the successful educational experience of these third grade children in Barrington. The success may have been due to the teacher, the individualized instruction technique, the use of microfilm, the expanded resource that microfilm provided, the novelty of the Project, the excitement of the attention given, or some factor not even considered.

Since there has been apparent educational growth beyond normal expectations, there should be effort expended to determine what factors induced this growth and whether it is possible to induce such growth under controlled conditions.

BACKGROUND

While a student at Gorham State College, a division of the University of Maine, Catherine Harmon became interested in the educational technique known as individualized instruction. One specific method intrigued her. This is the situation where two children with vastly different capabilities study together. The system had been used with "exceptional" children with good results. The theory is that the advanced child becomes a teacher with the additional challenge while the slower child progresses at a faster rate because of the closer affinity for the child teacher than for the adult teacher. Thus, for both there is better education. Miss Harmon felt the procedure could easily be applied in a regular elementary classroom.

When Miss Harmon was interviewed for a job as a third grade teacher in Barrington, New Hampshire, she and the school principal, Mr. Barry Clough, discussed the use of individualized instruction the classroom. She then talked with her father about the subject, wondering whether microfilm and microfilm readers, rather than the book or a pair of books, could be used in the classroom for the dual studying technique. It seemed to offer great possibilities, and perhaps, should be tried. Thus began what is now known as the "Barrington School Project."

The School District was contacted to assure cooperation. Mr. Charles Morgan, the School Superintendent, approved and also received approval from the Barrington School Board. Mr. Clough was pleased to have the Project take place in his school.

It was next necessary to obtain permission from the individual publishers to microfilm those books scheduled for use in the third grade classroom. The primary publishers all gave permission to copy that material which they controlled. Total cooperation was received from American Book Company, Science Research Associates, Scott Foresman & Co., Harcourt Brace Jovanovich, and Follett Educational Corporation. The individual copyright owners were then contacted. All publishers and authors with one exception gave permission to microfilm for the Project.

Microfilming then began. Microfilming Corporation of America, Graphic Microfilm of New England and Arcata Microfilm copied the books in various microforms. Eastman Kodak produced color microfiche copies of the science book. National Cash Register produced ultrafiche copies and the Keuffel and Esser Company made some special reduction microfilm copies.

The wide variety of microforms included 16mm and 35mm roll film, 16mm in containers, and microfiche. Both negative and positive images were produced and various sizes of imagery. It was intended to check which type of microform was most appropriate for use in an elementary classroom.

Many in the microfilm industry, upon learning of the Project, offered readers, projectors and reader printers. Other equipment, such as duplicators, was offered but had to be refused for this first year of the study. Readers were received from Realist, Micro-Scan, Eastman Kodak, Arcata, University Microfilms-Xerox, Bell & Howell, Ednalite, Reproduction Systems, Viewonics, Dasa, Taylor-Merchant, Dioptrix, Information Handling Services, Washington Scientific, National Cash Register, Dietzgen, Stromberg Datagraphix and Micro Design. A reader-printer was loaned for a short period of time by SEMCO Business Products.

It was learned that a variety of other programs were being conducted. A few of these programs had generated materials for the elementary grades although most programs had been directed toward high school, junior college, and college situations. Materials on microfilm from these Projects were contributed to the Barrington School. A large number of books on film were provided by University Microfilms-Xerox and by Arcata Microfilm. Other materials were provided by Bell & Howell, Instant Information, Arbutus Publishing, Dasa, and Information Handling Services.

To judge the effectiveness of this new approach to education in the elementary school, a formal test program was devised. The use of the other third grade class at the Barrington School was not considered to be a suitable control group. It was believed that a drastic difference within the school would impose an adverse learning pattern on those students deprived of equipment and special attention. Therefore, a special program was instituted for the other third graders, and the national averages were considered the base to compare relative educational growth. Some comparisons were also to be made between the two classes.

Nancy Fletcher, the other third grade teacher brought to her class several years of teaching experience as well as background as a librarian. In the judgment of most, including the principal and other teachers, Mrs. Fletcher is an outstanding educator. (She will not be returning to the school because of winning a much sought Ford Fellowship.) The program instituted by Mrs. Fletcher involved using two readers in her classroom as a library supplement and additional educational resource. The units were placed in the rear of the room and were available for special assignments and for children who had completed their regular assignments.

The parents were kept informed about the new program. A well attended PTA meeting acquainted them with the Project. Notes to the parents advised them of the progress being made.

BLUE CROSS RATE INCREASES—CHALLENGE TO PUBLIC CONFIDENCE IN PHASE II

Mr. MOSS. Mr. President, in recent weeks I have joined a number of Senators in demanding some kind of predictability in this administration's response to our country's economical difficulties. We have stressed on numerous occasions that new guidelines must be understood widely and applied consistently if they are to inspire the broad public confidence so vital to a vigorous economic recovery.

Wage and price decisions by the administration's phase II stabilization boards, however, continue to leave most Americans entirely in the dark as to how the administration hopes to control inflation. My office has been flooded with thousands of letters and petitions expressing dismay at the gap between the declared goals and the actual performance of the President's anti-inflation machinery.

I invite attention specifically to the Civil Service Commission's announcement that Federal employees will be required to pay an additional 47.5 percent for Blue Cross protection this coming January. No single price action in memory has produced such a massive outpouring of public dismay.

Even under normal circumstances such an astounding 1-year jump in the cost of medical insurance would have created a justified public reaction. Coming as it did, at the very outset of the administration's phase II program, it led many to wonder just how serious the President could be about fighting inflation if such increases are to be permitted. To the Federal employee, who has had to bear the full brunt of wage controls during the 90-day freeze and during phase II, the Blue Cross premium hike appears as just one more example of the inequity they have felt throughout the entire stabilization program.

Mr. President, the administration has got to recognize the public's right to be informed on this matter. The Federal employee must be told the basis for wage and price decisionmaking. Political expediency alone should dictate that the President insure a nationwide recognition of the purposes and procedures of the newly instituted Pay Board and Price Commission in implementing national policy. It has been a disgrace how people have been led to expect one kind of performance by these boards and have had to witness something else altogether.

President Nixon has declared his intention to keep nationwide 1972 price increases below the 3-percent level. Quite justifiably my constituents ask me, "How can this be if Blue Cross is allowed to raise its premiums a full 47.5 percent?"

The administration informs us that such a simplistic interpretation of national guidelines is misleading. While the across-the-board national goal is to keep inflation in the 2- to 3-percent range, individual price increases will be allowed to exceed this level when they are based upon increases in the firm's costs.

Mr. President, I do not question that the implementation of a vast new economic policy requires a period of broad public education. We cannot expect everyone in the country to grasp the President's intentions overnight. What disturbs me about the administration's response to the Blue Cross rate hike has been its demonstration of an almost total breakdown of communication here in Washington.

When we see how this case was handled, at the apparent failure of both the Civil Service Commission and the Blue Cross Association to recognize their responsibilities to the Price Commission with regard to the 1972 premium increase, it is not hard to appreciate why the general public is so confused as to just what is going on in phase II.

Let us review for a moment the events surrounding the rate increase. On November 10, the Civil Service Commission made its first public announcement of the Blue Cross rate hike. Five days later the Federal Employees' News Digest carried the following lead:

> Health Premiums Up—Government employees under the Blue Cross-Blue Shield high-option coverage of the Federal employee health insurance program will pay 47.5 percent more in premiums starting January 1, the Civil Service Commission has announced.

During the weeks after the announcement was made, thousands of justifiably irate Government employees wrote to me to express their concern that such an increase could be allowed during a period of national wage and price restraint. These letters contained a general assumption that the Civil Service Commission had the last word on the premium increases.

My constituents' view was apparently shared by Blue Cross Association and the Civil Service Commission itself. Called before a House subcommittee to explain the reasons for the 47.5 percent increase, the witnesses stated that the rate hikes were based entirely on cost increases and they did not have to give prior notification to the Price Commission. They maintained that increased medical costs, in general, and a higher rate of utilization of outpatient diagnostic services, in particular, resulted in a Blue Cross loss of $8 million in 1970 and projected loss of $60 million in 1971. The company needed the rate increases to remain solvent.

During the course of testimony, an interesting fact came to light. Blue Cross had actually negotiated only a 34.1 percent premium increase. The employee will have to pay 47.5 percent more next year because the Government could not legally increase its own contribution to the high-option premium. The Blue Cross Association submitted a cost-analysis to demonstrate their need of the 34.1 percent rate hike. I ask unanimous consent that it be printed at this point in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

	Amount	Percent
1972 income based on 1971 rates	$677, 166, 700	100. 0
1971 anticipated claims	755, 011, 800	111. 5
Enrollment decrease	(30, 672, 700)	(4. 5)
Utilization increase	65, 202, 700	9. 6
Inflation increase	14, 872, 100	2. 2
1972 anticipated claims	804, 413, 900	118. 8
Reducation of December 31, 1971 deficit	68, 536, 500	10. 1
Establishment of Dec. 31, 1972 reserve	0	0
Expenses and other retention	48, 390, 800	7. 1
Less:		
Investment income	(5, 000, 000)	(. 7)
Payment from contingency reserve	(24, 696, 400)	(3. 6)
Required 1972 subscription income	891, 644, 800	131. 7
High option only		134. 1

Mr. MOSS. Mr. President, the real value of the December 1 hearings was to point out the role of the Price Commission in the whole episode. A spokesman for the Commission declared that Blue Cross was, in fact, required to give prior notification before going through with the rate increase. The Association had to allow 30 days for the Commission to rule on the hike.

The following day, another Price Commission official appeared to restate that Blue Cross, as a "category No. 1" firm—one whose annual revenues are greater than $100 million—risked criminal prosecution and a $5,000 fine if it failed to make the necessary formal request for the increase.

Since the time of the hearings, counsel for the Blue Cross Association has continued to assert that they received no communication, public or private, from the Price Commission to the effect that they had to gain prior approval for the premium increase.

Moreover, Blue Cross cites Office of Emergency Preparedness regulations which they claim back up their contention. Their counsel maintains that economic stabilization regulations explicitly exempt Blue Cross from seeking approval since the premium increases resulted entirely from increased payment of benefits and not in a change in the formula used to determine the size of the premium.

Mr. President, I believe that this situation indicates a distressing breakdown in communication with regard to implementation of the administration's phase II policy. Here we have the Civil Service Commission—a Federal agency—and the Blue Cross Association, a firm which works closely with the Federal Establishment, holding an interpretation of price control guidelines totally at odds with the interpretation presented by the Price Commission. Is it any wonder that the general public finds it hard to appreciate the administration's intentions?

Today there is an obvious need for the Senate to conduct studies into ways of cutting down on the cost of medical insurance programs to the Federal employee. Such reductions could perhaps best be achieved through the institution of coverage plans designed to allow benefits for clinical and medical services which reduce utilization of hospital facilities.

I also believe that the Government should increase its contribution to the Federal employee insurance premium. I have, in fact, introduced legislation to do just that.

There is an even more urgent need, however, for administration anti-inflation programs to avoid the general turmoil we have experienced with respect to the Blue Cross-Blue Shield rate increases. Until the administration takes responsibility for creating orderly and well-advertised procedures for regulating price increases, we are all doomed to more confusion and recurring crises.

THE SOVIET MILITARY BUILDUP—WHY?

Mr. THURMOND. Mr. President, a recent editorial published in one of South Carolina's leading newspapers placed priorities in what I consider to be their proper order.

During recent months, it has become a matter of increasing concern to note the continuing rise in the Soviet military buildup. One must ask himself, "Why?"

If our national security is a subject to be taken seriously, we must consider the motivation of any nation which strives so determinedly to surpass us in offensive weaponry.

When the priorities of another nation, whose good will toward us is, at best, questionable, and so obviously involves military superiority, it behooves us to give great consideration to our own priorities.

I believe, as the editorial so eloquently states, that our national survival must take precedence over all other considerations. It would be good for all of us to read the editorial and heed its advice.

I ask unanimous consent that the editorial entitled "Our Top Priority Must Be The Nation's Survival," published in The State of Columbia, S.C., on November 26, 1971, be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

OUR TOP PRIORITY MUST BE THE NATION'S SURVIVAL

In speeches, magazine articles, and other means of communications, the same tune—or rather dirge—is being played: the Soviet Union has overtaken or is overtaking the United States in various critical categories of military preparedness.

There are charges that this theme is being orchestrated in the Pentagon, and therefore is self-serving. But self-serving to whom? The generals?

Perhaps. Military careers are indeed enhanced when America becomes concerned about its military strength in relation to its potential enemies. However, there are those who are prepared to argue that it is self-serving to all Americans of every ethnic and political hue.

Most of the articles and speeches that have come to our attention are heavily documented with intelligence data on the extent of the Soviet military build-up in qualitative and quantitative terms.

In a recent speech, Gen. George S. Brown said, "Admittedly, such weapons capabilities do not reveal intentions—but intentions are meaningless except in the context of capabilities. If someone has a loaded and cocked pistol pointed at your head, there are very few valid conclusions you can draw. Either he proposes to blow your head off—or, more likely, he is going to force you to do something you wouldn't otherwise plan to do."

The question of Soviet intent is one for the political leaders, the diplomats, and the high-level military strategists to figure out. But the most universal intelligence estimate is that the Russians have significantly increased and are continuing to increase their *offensive* capabilities.

For what purpose? Maybe it is out of a fear of Red China or out of a desire to do something about Red China. Maybe it is out of a desire to flex larger muscles in Europe or to undertake adventures in other parts of the world.

Maybe the Russians just like to waste money and resources on excessive armaments. (They have, for example, now achieved a numerical superiority over the United States in intercontinental ballistic missiles—ICBMs—and theirs are monsters with warheads of up to 25 megatons. There's obviously a lot of wasteful overkill here.)

Whatever, the Soviet Union since 1963 has been pouring a sizable segment of its budget into the military, leaving even Nikita Khrushchev to complain in his memoirs, "I can't help noticing that the economizing trend we started seems to have been reversed, that now money is being wasted on unnecessary items and categories and that this new trend in military overspending is putting a pinch on some of the more important but still underfinanced areas of our country's life."

It is useful to ask, with General Brown, if the Soviet people would be required to make such sacrifices "without a clear and powerful purpose."

The most charitable thought that comes to mind is that the Soviets sought to achieve parity (or something better) with the United States before agreeing to any arms limitations in the SALT talks. Unfortunately, charitable thoughts about Soviet intentions are not often healthy.

The United States can't take for granted that the Soviet buildup is for any other purpose than a continuation of its anti-American, anti-democratic policies.

As the Vietnam war grinds down, this country must guard against severe military cutbacks of the kind that followed World Wars I and II. We don't have to be wasteful and try to match the Soviets bomb for bomb. But we must maintain a defensive capability sufficient to counter the threat.

This is what patriots—in and out of the Pentagon—are trying to tell America. It's a hard proposition to sell to a nation that is suffering from a growing shortage of will power and a growing dislike for the military.

Yet the first duty of our government is to "provide for the common defense." That task, like it or not, is or should be, still priority one.

WHITE HOUSE CONFERENCE ON AGING

Mr. CHURCH. Mr. President, during the past week, approximately 3,400 concerned Americans met in Washington to participate in the second White House Conference on Aging.

Following 5 days of intensive deliberations, the participants issued a comprehensive 176-page report to establish a national policy on aging.

These recommendations—ranging from the income problems of the elderly to training deficiencies—merit the very serious attention of every Member of Congress.

Equally important, the conference provided helpful momentum for far-reaching Senate action on two fronts for 20 million older Americans. First, on Tuesday the Senate unanimously approved the Nutrition Program for the Elderly Act, a bill which I have sponsored with the Senator from Massachusetts (Mr. KENNEDY). This legislation establishes a national hot meals program for aged persons in conveniently located centers, such as senior citizen centers, schools, and other nonprofit institutions. And on Friday, the Senate approved an amendment to the supplemental appropriations bill to raise the funding level for the Older Americans Act from $44.75 to $100 million. Because I was away on official business, my remarks in support of this provision did not appear in the RECORD.

Mr. President, I ask unanimous consent that my statement, urging the adoption of this proposal, be printed at the close of my remarks.

Additionally, two recent articles, published in the New York Times and the Evening Star, raise crucial issues which should receive serious and thoughtful consideration after the White House Conference.

Mr. President, I commend these items to the Senate and ask unanimous consent that they be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

MORE FUNDS FOR AOA

(Statement of Senator CHURCH)

Mr. President, I urge favorable action on the amendment to provide more adequate funding for the Administration on Aging by raising appropriations from $44.75 million to $100 million.

My reasons for supporting the amendment are these:

Congress has already authorized $105 million for the Older Americans Act. The Administration, however, did not call for appropriations equal to authorizations. In fact, the first Administration budget request was only $29.5 million. Only strenuous bipartisan efforts resulted in an appropriation of $44.75 million.

Knowledgeable witnesses have told the Senate Special Committee on Aging, of which I am chairman, again and again, that service systems for the elderly fall dismally short of need. The Gerontological Society has declared that no community in the United States has yet developed a comprehensive network of services for the aging and aged.

Delegates at this week's White House Conference on Aging declared:

"In addition to adequate income, an effective network of facilities, programs and services must be readily available and accessible to permit them to exercise a wide range of options, regardless of their individual circumstances or where they happen to live."

Until President Nixon spoke before the White House Conference—and announced for the first time that he would support a $100 million funding level for the Administration on Aging—Congress had no real assurance that the administration would support an appropriation anywhere near the amount authorized. Now that he has reversed administration policy, the way should be clear for immediate action.

[From the Evening Star, Dec. 3, 1971]

WILL CONFERENCE ON AGING PRODUCE RESULTS?

(By Carl T. Rowan)

When a nice guy like Arthur Flemming works so hard to organize something like the White House Conference on Aging, you want it to be a success.

When the outcome involves the health, well-being and dignity of more than 20 million people, most of whom sacrificed to project their children and grandchildren into happy affluence, you hope that the fruits of the conference will be many—and immediate.

That is why I have struggled to fight off the skeptics who insist that Flemming and those 3,500 delegates were just props in a political ploy to woo 1972 votes from the aged (who make up 10 percent of the population but cast 17 percent of the vote).

But when you look at the ideology of the Nixon administration and its track record over 34 months, you find it hard to believe that our senior citizens will be much better off in 1973 than they are in 1971.

As Flemming pointed out forcefully, the great need of our aged is money. One-fourth of them live below the poverty line in hunger, sickness, squalor and lonely isolation. Most of those above the poverty line still know an abundance of misery, with inadequate fixed incomes eroded away by incessantly rising prices and soaring taxes.

When all the rhetoric has faded it remains clear that Social Security is woefully inadequate. The private pension plans in too many cases have been unfulfilled promises. There simply will never be sufficient income available to our aged until the government adopts a policy of a guaranteed minimum income.

Leon H. Keyserling says the country must have a universal minimum income program, administered by the federal government and "financed entirely out of progressive taxation on a pay-as-you-go basis."

In other words, those middle aged Americans who now live lives of luxury would be taxed—heavily—so that aged people who opened the doors to their affluence might know something more than shameful neglect.

Some will tell you that the Nixon administration's proposed Family Assistance Plan (with an income floor of roughly $2,400) would be a step in this direction. The trouble is, the President has personally led a campaign to build up anti-welfare emotions in this country, with the result that his "welfare reform" bill faces a future almost as bleak as that of the very young and the very old who need a humane welfare program so desperately.

Then there is housing. Six million of the 20 million aged live in sub-standard housing. Yet in 10 years only 350,000 apartment units have been built specifically for the aged.

Why can't we have tax exemptions for the aged who own less than a decent level of possessions? Our tax laws offer myriad bonanzas (fast depreciation, investment credits, depletion allowances) for the well-heeled. Isn't it about time we lifted the burden off 70-year-olds who have sweated and strained to get most of us where we are?

Then there is health. People over 65 are shelling out an average outlay by those 19 to 64. Medicare covers only 43 percent of this and, even counting other help, it means an annual out-of-pocket health expense of $225 for a person over 65. That is a stupendous outlay for a person with what the Census Bureau says is a median annual income of $1,951.

Even as the aged were meeting here, agonizing over their health problems, Vice President * * * on the basis of his speaking before the American Medical Association in New Orleans, attacking Sen. Edward M. Kennedy's national health insurance plan.

If you think this society's failure to serve aged people in general is a crime—and that is the word Flemming used to describe it—have a look at even-more-shameful plight of nonwhites over 65.

A special Senate committee reports that while 23 percent of white older Americans live in poverty, 48 percent of non-whites live in the degradation of human want.

Under intense pressure, Flemming tried to assure blacks a meaningful voice in the conference by inviting 390 as delegates.

But when it all was over every black delegate still faced the fact that the poverty of almost one of every two aged blacks is just an extension of the poverty of black people at every age level.

If this society cannot find a way to deliver food, decent housing, adequate health care and a sense of belonging—of dignity—to nonwhites in the prime of their lives, how much dare we hope that all these things will be available in the twilight years?

Most White House conferences tend to be political exercises that cost a lot of money, produce a mountain of promises and yield a molehill of results.

Our aged have known enough cruelty. Let us hope that the conference that has just ended becomes the source of some joy for them and not just another bitter pool of political gamesmanship.

[From the New York Times, Dec. 1, 1971]

ELDERS' LIB . . .

The elderly now represent 10 per cent of the population of the United States, cast more than 15 per cent of the vote and are growing fast enough to command major political attention. No doubt these facts account for the emphasis on action instead of rhetoric at the current White House Conference on Aging, the second of its kind. Arthur S. Flemming, its chairman, wants the emphasis to fall on the older citizen's "inadequacy of income"—a mild phrase, considering that one-fourth of all Americans over 65 are forced to live on a poverty-level income as defined by the Department of Labor. Many more must make do on fixed incomes little above that level while wrestling with inflationary prices, rising property taxes, wretched transportation systems and even nursing homes that would take a Dickens to excoriate adequately.

The five-day conference is expected to deal with these issues, but little can be hoped for unless it comes to grips with Mr. Flemming's salient point. It is nothing short of scandalous that the recent boost in Social Security payments has meant for many elderly not more income, but less. Increased payments from this source have, under varying state regulations, automatically cut thousands from Medicaid, hospitalization insurance, welfare assistance and even food stamps. Yet they are forced to take this "raise" which leaves them substantially worse off than they were.

An injustice of far longer standing is the penalty of reduced Social Security payments for those who exceed the low annual limit of $1,680 in earned income, while no such penalty is invoked against those well off enough to collect dividends from investments. Perhaps most urgent of all, education and possibly legislation are needed to end arbitrary discrimination based on a fixed age—for employment and various types of license—rather than on a person's physical and mental state.

In this age of self-liberators, the aging should certainly not let themselves be forgotten.

NEW RAIL ROUTE PROPOSAL BY NASHVILLE CHAPTER, NATIONAL RAILWAY HISTORICAL SOCIETY

Mr. BROCK. Mr. President, the Nashville chapter of the National Railway Historical Society has prepared a report that my colleague from Tennessee (Mr. BAKER) and I will soon be presenting to Amtrak, which proposes a new route between Nashville and Atlanta via Chattanooga, Tenn.

We hope that Amtrak officials will give this excellent report every consideration and see its way clear to establish rail passenger service along this vital route in the not-too-distant future.

I ask unanimous consent that the report be printed in the RECORD so that we may share its valuable information with all Senators and other readers of the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

A CASE FOR THE "GEORGIAN"

(By the Committee on Passenger Service)

Atlanta, Georgia, metropolitan population 1,390,164, is now the largest city in the United States not served by the Amtrak system.

Though connected to the East by Southern Railway's "Southern Crescent" and to New Orleans three days a week by the same train, Atlanta, the center and hub city of the South, has no direct service to the nation's transportation center, Chicago, or to the Mid-West in general.

In addition, Tennessee's industrial corridor, East Tennessee, including two of the state's largest cities, is left with no rail passenger service at all. The need for service to these populous areas is undeniable. The question is how to provide this service most efficiently, effectively, and economically. A careful examination of possible routes, schedules, and needed equipment will indicate unequivocally that the best solution is the establishment of a new section of the existing Chicago-Miami train, the "Floridian" (formerly the "Southwind"). This new section, called in this report, the "Georgian," would provide through service between Chicago and Nashville, breaking off from the "Floridian" in Nashville, and trâveling as a separate train between Nashville and Atlanta via Chattanooga.

As a result, Atlanta would have its connection to the Mid-West, and East Tennessee, i.e. Chattanooga, would once again be a part of the nation's rail passenger system. The advantages of this route are not limited to the cities served, however, for Amtrak could anticipate increased patronage of the Nashville-Chicago portion of the "Floridian" because of its connection to Chattanooga and Atlanta, as well as Birmingham and Montgomery. In addition, patronage of the proposed "Georgian" would be enhanced by its ability to connect with the "Southern Crescent" to the East, thus providing such cities as Nashville and Chattanooga with east-west service, which they do not presently have.*

A careful examination of the following proposed schedule, connections, equipment, and terminals will indicate that the establishment of the "Georgian" as a section of the "Floridian" will undoubtedly provide the best north-south service for East Tennessee and Atlanta, most economically and practically.

PROPOSED SCHEDULE

As stated earlier, the "Georgian" would operate as a section of the "Floridian," with the two trains dividing in Nashville. This schedule would facilitate a mid-afternoon arrival in Chattanooga and an early evening arrival in Atlanta. Return scheduling would call for the "Georgian" to leave Atlanta in early afternoon, arriving in Chattanooga in mid-afternoon, and connecting with the "Floridian" in Nashville in early evening. The attached schedule (based on the November 4, 1971, schedule of the "Floridian") indicates the convenience and feasibility of operating this train.

PROPOSED SCHEDULE

Read down							Read up	
Georgian	No. 52 Floridian	Miles from Chicago		Chicago to Florida Chicago to Georgia			No. 53 Floridian	Georgian
	11:30 PM	0	Dp	Chicago, Ill	CST	Ar	7:00 AM	
	11:59 PM	22		Homewood	CST		6:30 AM	
	12:35 AM	55		Kankakee	CST		5:50 AM	
	3:10 AM	129		Lafayette, Ind	EST		4:40 AM	
	4:40 AM	193		Indianapolis	EST		3:10 AM	
	7:40 AM	304	Ar	Louisville, Ky	EST	Dp	12:10 AM	
	7:50 AM	304	Dp	Louisville, Ky	EST	Ar	11:40 PM	
	8:50 AM	418		Bowling Green	CST		8:20 PM	
	10:35 AM	491	Ar	Nashville, Tenn	CST	Dp	6:50 PM	
11:00 AM		491	Dp	Nashville, Tenn	CST	Ar		6:20 PM
11:45 AM		522		Murfreesboro	CST			5:40 PM
12:24 PM		560		Tullahoma	CST			4:44 PM
3:30 PM		642	Ar	Chattanooga	EST	Dp		3:45 PM
3:40 PM		642	Dp	Chattanooga	EST	Ar		3:30 PM
4:35 PM		680		Dalton, Ga	EST			2:23 PM
5:36 PM		731		Cartersville	EST			1:25 PM
6:15 PM		756		Marietta	EST			12:51 PM
7:00 PM		776	Ar	Atlanta	EST	Dp		12:15 PM
	10:45 AM	491	Dp	Nashville, Tenn	CST	Ar	6:40 PM	
	3:15 PM	696		Birmingham, Ala	CST		2:20 PM	
	5:40 PM	794		Montgomery	CST		12:10 PM	
	2:55 AM	1, 184		Jacksonville	EST		4:30 AM	
	6:00 AM			Orlando	EST		12:45 AM	
8:45 AM		1, 422		Tampa	EST			10:10 PM
10:15 AM		1, 478	Ar	St. Petersburg	EST	Dp		8:30 PM
	9:50 AM	1, 456	Dp	West Palm Beach	EST		9:05 PM	
	10:45 AM	1, 499		Fort Lauderdale	EST		8:15 PM	
	11:40 AM	1, 696	Ar	Miami	EST	Dp	7:30 PM	

CONNECTIONS

The prime connection of the "Georgian" is, of course, with the "Floridian" in Nashville so that through service is provided between Chicago, Indianapolis, Louisville, Nashville, Chattanooga, and Atlanta. However, an additional connection in Atlanta with Southern Railway's "Southern Crescent" would provide service to Charlotte, Washington, and other cities in the East.

Coming from New York, Washington, and Charlotte, the "Southern Crescent" arrives in Atlanta at 8:30 a.m., in more than sufficient time to connect with the northbound "Georgian" leaving Atlanta at 12:15 p.m. for Chattanooga, Nashville, Louisville and Chicago. In addition, with a little juggling of schedules (one hour earlier arrival in Nashville), the southbound "Georgian" could arrive in Atlanta in time to easily connect with the eastbound "Southern Crescent." With the existing schedule, the "Georgian" would arrive in Atlanta at 7:00 p.m., the same time that the "Southern Crescent" is scheduled to leave Atlanta.

The Georgia Railroad operates a mixed train daily between Atlanta and Augusta, Georgia. The present westbound schedule of this train calls for Atlanta arrival at 11:00 a.m., enabling it to connect with the northbound "Georgian," also.

Thus, with one minor alteration of scheduling, the addition of the "Georgian" route would not only provide direct service north from Atlanta, but it would also provide excellent connecting service between Nashville and Chattanooga and Charlotte, Washington, and other eastern cities.

EQUIPMENT

Service between Atlanta and Chicago offers such potential that through cars should be provided. Thus, the initial operation should include one through coach and one through sleeper. In addition, a snack bar/coach, providing sandwiches, light meals, and complete beverage service, and a baggage/coach should be added to run between Nashville and Atlanta. (Since the proposed run between Nashville and Atlanta would start a little before noon and end in the early evening, full dining car service would not be necessary for this section of the train.) Also, because the "Georgian" would cross the scenic Cumberland Mountains during the day, a dome coach would be a worthwhile addition to the proposed run.

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*NOTE.—Although not discussed in this report, the "Georgian" could continue through Atlanta to Savannah over the tracks of Amtrak member Central of Georgia Railway, where it could connect with Amtrak's New York-Miami "Silver Star." Taking into account a six-hour running time between Atlanta and Savannah, this train, with a slight alteration of schedules, could connect with the southbound "Silver Star" operating on its winter schedule, effective December 17, 1971. Likewise, the northbound "Silver Star" could connect with the proposed "Georgian" in Savannah for Atlanta, Chattanooga, and the Mid-West. This Atlanta-Savannah run would operate on a schedule similar to the former "Nancy Hanks."

The following equipment would be needed under this proposal:

Equipment	Use	Cars per train	Total cars
Coach	Chicago to Atlanta	1	3
Sleeper	do	1	3
Snack bar/coach	Nashville to Atlanta	1	2
Dome coach	do	1	2
Baggage/coach	do	1	2

TERMINAL FACILITIES

Nashville's Union Station, already in Amtrak service, would serve as the junction point of the train, with switching crews from the adjoining Kayne Avenue yard handling the switching needed to make up the proposed section.

The next major stop, Chattanooga, is the only one that would require a new terminal facility. For economy, a mobile home or prefabricated structure could be used for a ticket office and passenger waiting room. With the change L & N will soon make in its lines through Chattanooga, the new station could be conveniently located in the downtown area between Market and South Broad. This new location would eliminate the need to back into the old Union Station in Chattanooga, while at the same time providing a new, clean, inexpensive facility.

In Atlanta, the "Georgian" should use Southern Railway's Peachtree Street Station to facilitate connection with the "Southern Crescent." Located on Southern's main line, the station also sits at the intersection of two major midtown expressways. Although use of this station would require approximately two miles of backing, the availability of a facility already in use, coupled with the convenience of connections for passengers, far outweighs this minor drawback. Amtrak should be responsible only for its proportionate share of the expenses at this facility.

Flag stops or other scheduled stops could be handled in existing station facilities in selected small towns, incurring no additional expense for facility construction.

Because of the availability of existing facilities in Nashville, Atlanta, and various small towns, and because of the minimum expense required for a facility in Chattanooga, terminal costs will be both minimal and feasible, especially when compared to such cities as Cleveland and Toledo.

COST

A provision of the legislation establishing Amtrak states that trains may be added to the system in either of two ways:

(1) Local and state governments can demand service by agreeing to pay two-thirds of any losses incurred in providing the service.

(2) Amtrak's Board of Directors, on their own, can decide to provide service on a trial basis on any route they select.

For three pertinent reasons, Amtrak is urged to initiate the "Georgian" under the second method. The first reason is that because of the short distance of the route (285 miles) and the relatively few pieces of equipment needed to service the route, start-up and operating costs would be relatively low. Anticipated local patronge should cover most of these costs, keeping direct losses to a minimum.

The second reason is that establishment of this route would stimulate patronage and increase revenues on the "Floridian." It would certainly be unfair, then, for Amtrak to require local and state governments to bear the direct losses (if any) incurred, when, in fact, the overall Amtrak system stands to gain revenue-wise with the establishment of this route.

Finally, Amtrak, through the establishment of several less attractive routes at its own expense, has established a precedent that must surely apply to this potentially prosperous route.

For the reasons stated in this report, this committee urges Amtrak at its expense to implement the proposed section of the "Floridian" between Nashville and Atlanta on a daily basis for a trial period of one year.

William B. Strong,
Chairman.
Robert W. Thurman,
Co-Chairman.

ELDERLY POOR HARD HIT BY SOCIAL SECURITY-OLD AGE ASSISTANCE OFFSET

Mr. CHURCH. Mr. President, passage of the urgently needed 10-percent social security increase last March brought some relief for millions of older Americans living on limited, fixed incomes.

However, for others—especially those who also receive old age assistance—this increase has been neutralized, to a large degree, because their assistance payments have frequently been cut back by the amount of their social security raise. The net impact is that they continue on an economic treadmill. And in some cases, these low-income individuals are actually in a worse economic situation because the reduction or loss of other valuable assistance—such as reimbursement for their payments for medicare insurance, medicaid, and old age assistance—has outstripped the limited dollar gains from the stopgap 10-percent raise.

One of the major pieces of pending legislation before this Congress is the social security-welfare reform amendments, H.R. 1. And one of the key issues which merits serious congressional consideration is the problem of the "offset" for persons who receive both social security benefits and old age assistance payments.

In order to provide more information about this problem, the Senate Committee on Aging, of which I am chairman, asked the Congressional Research Service to prepare a memorandum on the effect of the 1971 social security increase on welfare payments. Mr. President, I commend this statement to the Senate and ask unanimous consent that it be printed in the Record.

Additionally, a recent article in the Wall Street Journal describes in very human terms the impact of this "offset" on the lives of old age assistance recipients. Mr. President, I also ask unanimous consent that this item be printed in the Record.

Finally, an article by Richard Critchfield, published in the Washington Evening Star of November 30, deals with the problem as it affects individuals in the District of Columbia. This excellent article is also worthy of note, and I ask unanimous consent that it be printed in the Record.

There being no objection, the items were ordered to be printed in the Record, as follows:

The Library of Congress,
Congressional Research Service,
Washington, D.C., July 26, 1971.

To: Special Committee on Aging.
From: Education and Public Welfare Division.
Subject: Effect of March 1971 social security increase on welfare payments.

This is in response to your request for information as to the general effects of the social security benefit increase enacted in March of this year on the public assistance payments for which social security beneficiaries may be eligible. The March 1971 social security amendments provided benefit increases retroactively to January 1971. The first month for which the increased benefits were payable as a part of the regular social security check was the month of May 1971, the checks for which were issued in June. The increased benefit for the months of January–April 1971 was paid in a separate check also issued in June. The March 1971 act which effected these social security increases included a special provision under which the single check for the retroactive January–April increase could, at the option of each State, be disregarded in determining the amount of public assistance payable to an individual. No such special provision was, however, included with respect to the increased benefits which are regularly payable starting with June. Thus, these increased benefits would be treated the same as any other income available to recipients and, as such, would serve to reduce the amount of assistance payable.

In general, States are required under the public assistance titles of the social security act to take into consideration all the income and resources of an individual in determining his need and, consequently, the extent of his eligibility. Ordinarily, this would mean that if an individual's income goes up (as through a social security benefit increase) the amount of his assistance would go down. States are permitted (in the programs for the aged, blind, and disabled) to disregard up to $7.50 of monthly income from any sources in determining an individual's assistance. (There are also special exclusions for earnings from employment.) Even if a State were already making use of the provision under which it is permitted to disregard up to $7.50 per month of any kind of income prior to the adoption of the recent social security benefit increases, it could, if it wished, prevent those increases in social security from being offset by decreases in public assistance payments by raising the standards of need under which it determines the amount of public assistance an individual will receive. In general, however, an increase in the needs standard would also have the effect of raising assistance payments for persons not getting social security benefits and making newly eligible for assistance persons whose incomes are above the old standard but below the new standard.

[From the Wall Street Journal, Nov. 26, 1971]

"Thanks a Lot": Dismayed Aged Learn Social Security Raise Means Cut in Benefits—In Many States, a $10 Boost Makes Elderly Ineligible for Free Medical Care; Will Bureaucrats Ever Age?

(By Tom Herman, Staff Reporter of The Wall Street Journal)

Miami Beach, Fla.—Leah Miller is a diminutive, white-haired lady who lives alone in a small, $100-a-month hotel room here. For the past several years, Mrs. Miller has lived solely on the proceeds of her Social Security check, welfare benefits and the occasional gifts of a few close friends. Mrs. Miller is a diabetic, and after she buys her prescribed drugs and pays her rent, there's not much left over each month.

Mrs. Miller is probably just the kind of person Congress had in mind when it decided to increase Social Security payments 10%. Well, the 10% increase is in effect now, and Mrs. Miller says it has changed her life. all right.

For the worse.

"I begged the government not to make me take it," she says, "but they said I had to. I told them that's not fair. But they said regulations won't allow them to take it back."

Mrs. Miller has not lost her mind. Because of some quirks in federal and state laws, she and thousands of other old folks in 25 states have discovered that their Social Security raises are costing them far more than they benefit them. Specifically, Mrs. Miller now gets at least $20 a month less than she did before the "increase." She also has less hospitalization insurance. And she isn't insured at all for many things she was once covered for.

NEW GARBAGE BILLS

The problem arises when elderly poor people receive just enough of a Social Security increase to make them ineligible for valuable other benefits they had been receiving, such as old-age assistance, Medicaid and free Medicare insurance. In some communities, the Social Security raise even disqualified recipients from receiving free garbage collection and forced them to pay more for their food stamps.

To some people in government, the unfairness of that ironic situation is plain, and legislation now is pending in Congress that would largely eliminate the problem. However, the proposal is a part of the controversial welfare-reform bill, which is bogged down in the Senate Finance Committee, so there's no telling when or if relief will come. In the meantime, the problem is likely to be aired at the White House Conference on Aging, scheduled for Sunday through Thursday of next week.

Mrs. Miller hasn't been invited to that conference, but if she were she would have plenty to gripe about. Before the increase, Mrs. Miller's only income was $113 each month from Social Security and $6 from the state welfare department—or $1,428 a year. The state welfare department also furnished her with a little blue card that paid up to $20 a month for prescribed medicines, and it picked up her monthly Medicare insurance premiums of about $5.60.

MRS. MILLER'S SCISSORS

Then came the "raise." Now, Mrs. Miller gets $124 a month from Social Security—$11 more. But she no longer gets the $6 welfare check, or her $20 in medicines, or $5.60 in insurance premiums. (Medicaid in Florida and 24 other states is available only to welfare recipients.) The Medicaid Mrs. Miller lost covered free X-ray treatment and skilled nursing home services—which, if the need should ever arise, she will now have to pay for herself. Medicaid also pays a patient's entire hospital bill for up to 60 days. Without Medicaid, Mrs. Miller must pay the first $60 of hospitalization costs, and that figure will go up to $68 in January.

To make ends meet, Mrs. Miller has started cutting her most expensive pills in half with a scissors. "That way, I use them up only half as fast," she says. She also spends less on food now. She also worries.

"What would I do if I should have to go to the hospital?" she asks. "I don't know where I would get that $60. And the chances of my needing to go to the hospital get better every day. I'm 83, and I'm not getting any younger."

Mrs. Miller is confused, and she is bitter. "I still can't understand how anyone could let this happen," she says. "I told the welfare people. 'Thanks a lot for nothing.' They said they were sorry, but that their hands were tied by regulations. But what are we supposed to do, those of us who are much too old to do any work?"

Government officials don't have an answer to that question, but they say it isn't a new one. Thousands of cases like Mrs. Miller's pop up every time there's a Social Security increase, they say. "It's a real tragedy," says Virginia M. Smyth, a federal welfare official in Atlanta. "It's especially ironic because it runs completely counter to the intention of the law."

TOO OLD TO FIGHT

Although the problem may have been around for years, many government officials seem unaware of it, or assume it's not around any more. One official with the Social Security Administration in Miami recently insisted for several minutes that "the whole problem was cleared up last spring in some new legislation that you should know about." Later, after thumbing through several thick reference books, he confessed: "Well, I suppose you're right. The problem is still with us."

One reason few people seem aware of the situation is the extreme reluctance of many poor people to protest. In interviews, some people express fears that any protest would mean sharp cuts in their Social Security checks. Others simply shrug their shoulders and say they are too old to fight.

Some have reacted by pleading with Social Security officials to take back the "raise." Sam Salit, a short, stocky, 77-year-old man, lives with his wife, Julia, age 66, in a small, one-room apartment in South Miami Beach, an area of the elderly and the poor. Sitting in his "living room" (the front half of the apartment) on a hot afternoon, Mr. Salit mops his brow and recalls a conversation he had with a state official after he discovered that the "increase" was going to cost him at least $43 a month.

"First, I say to the man, look, I make you a deal: You take back my little increase and I won't tell a soul. In fact, I say to the man that I give back the increase gladly. The man smiles and says he's sorry. I say that sorry won't help. He says he knows. I say to myself, so what can I do? At my age, I'm going to fight the law?"

One answer, of course, would be for each state to give Medicaid to people whose incomes are too small to pay for the medical care they need. At the moment, 23 states and the District of Columbia do just that. But in the others, only those on welfare are eligible for Medicaid. And it doesn't seem likely things will change. If anything, the trend is moving in the opposite direction; many states have begun or are considering cutbacks in medical care for the indigent.

Another answer would be to disregard Social Security altogether when computing welfare eligibility. That is the approach of a bill that will be introduced this winter by several Florida state senators; it is also an approach that has been proposed several times before and defeated, mainly because of cost.

SIX HUNDRED DOLLARS IN THE HOLE

Meanwhile, there is no help for people who lose money by getting money. That's especially tough on those with heavy medical expenses, such as Mary B. Powell, who lives near Miami. Back in the good old days before the Social Security increase. Mrs. Powell was technically on welfare and entitled to $45 a month in free prescription medicine. Now, she's off welfare, and the $45 a month comes from her own pocket—as does her $5.60 Medicare insurance premium.

That's not all. Mrs. Powell and her husband, James, live in an unincorporated area of Dade County, which means that, as welfare recipients, they were entitled to free garbage collection. Now that they're off welfare, they have to pay the $52 a year themselves. Like his wife, Mr. Powell lost his free medicines—$20 month in his case. Both the Powells lost their welfare checks, of $1 each per month. The Powells figure their Social Security increase amounts to $206.40 and will cost them $814.40 a year, which means they must somehow find another $604.40—assuming they will need no X-rays, hospital care or nursing home services.

That's an unlikely assumption. Mrs. Powell is either 73 or 75—"I can't remember if I was born in 1896 or 1898, but when you're my age, what's a year or two?"—and uses a wheelchair and suffers from ulcers and arthritis. Mr. Powell, who is 76, had "a complete mental breakdown in 1965 or so" and since has had a stroke, Mrs. Powell says. So the Powells are not exactly top candidates for the labor pool.

Nor are many others. "What worries me isn't losing the welfare check," says William Lucas, age 68, of Atlanta, who is mostly paralyzed on his right side and suffers from hardening of the arteries and an arthritic left leg and wrist. "Hell, they can keep the welfare check. What I need is that $20 drug card and the Medicaid hospital coverage."

GROCERIES OR MEDICINE

Lelia Comer, a 75-year-old St. Petersburg widow, can sympathize. Mrs. Comer's Social Security increase amounted to $12 a month and robbed her of $35.60 in welfare medical money as well as of the wide variety of hospital benefits paid by Medicaid.

Sitting on her porch with her shoes off, Mrs. Comer says: "I tell you what I think: Us old folks that worked hard, that can't work no longer, that need the money just to stay alive and buy medicine, they is the ones that can't get no money. But those young mothers that have all them babies, they get all the money they need. This raise ain't a raise none at all. It's just what they do to get us old folks off of welfare, that's all. You see what they done, they just put on to one check and took off from the other. So I'm worse off from where I was. It hurt me a heap. God knows, they think the old folks ain't got nothing to spend money on. Nothing to spend money on."

To save money for herself and her 51-year-old asthmatic daughter who lives with her, Mrs. Comer says she borrows "from my neighbor on food. And I leave off (buying) some of the groceries. My daughter, she say she don't care none about leaving off some of the groceries. She say that medicine is the most important thing."

Some observers think cases like Mrs. Comer's reflect the government's—and the whole society's—lack of sensitivity to problems of the aged. Max Friedson, a 72-year-old activist for improved old age legislation, thinks he knows why no one cares: "You know why problems like this exist?" he asks. "You know why? Because some people in government today think they'll never grow old. Of course, I don't think that's too unusual, because I never thought I'd grow old either."

[From the Evening Star, Nov. 30, 1971]

THE RAISE SPELLS HARDSHIPS

(By Richard Critchfield)

Daniel Styles is a gentle, soft-spoken, nearly blind old man who pays $35 a week for his meals and a single room in an Arlington apartment house, on South Wise Street. Since his vision turned so poor that he had to stop working as a janitor at Arlington's Colonial Village two years ago, he has lived entirely on the proceeds of a $107.45 monthly Social Security check and $20 in old-age assistance.

He is probably the kind of elderly person beset by rising living costs that Congress had in mind to help when it voted to increase Social Security payments 10 percent.

Yet as soon as the increase went into effect in July and his Social Security went up to $122.10 a month, Wise was notified he was no longer eligible for welfare. This left him $5 poorer than before.

Or take the case of a retired 65-year-old Washington business executive—call him John Martin—who lives with his wife in a public-housing project in Montgomery County. Martin had to retire prematurely because of his health. He has been hospitalized six times in the past two years with two prostate operations, cancer surgery, a heart attack and intestinal ulcer.

While he was sick recovering from his latest ailment, Martin received notice that because his Social Security had been increased, he was now $16 over the eligibility limit and would no longer receive medicaid. He was also told he would have to pay his own $5.60 medicare monthly insurance premiums. Between Sept. 30 and Oct. 1, Martin had to pay $57.48 in medical bills.

He has since appealed the decision.

These are only two examples of how a Social Security raise really cuts benefits to the elderly.

Because Social Security is a national program and medicaid, old-age assistance and food stamps are District or county-administered state programs, hundreds in the Washington area have discovered that Social Security raises are costing them in benefits more than their dollar gain.

The problem arises when a poor person receives just enough of a Social Security increase to make ineligible for valuable benefits such as old-age assistance, medicaid, $5.60 monthly free medicaid insurance or food stamps. Eligibility for the federally funded medicaid program are set locally.

This cutoff point varies from community to community. In Maryland, where anywhere up to 10 percent of the low-income group may have lost medicaid as a result of the Social Security increase in some counties in Montgomery and Prince Georges, the income eligibility ceiling is low, $1,800 for a single person, figured on a gross total income basis.

In the District, to be eligible for medicaid, a single person's net income after taxes and certain deductible expenses can be as high as $2,100 a year. In the Virginia suburbs, it can be up to $1,900 net income.

As a result, the situation is much more serious in Maryland suburbs than elsewhere in the Washigton area, where comparatively fewer people were "bumped" from benefits because of the Social Security rise. At present, maximum welfare benefits in Maryland meet only 61 percent of what a state commission has determined as a reasonable minimum living standard.

The Maryland legislature has asked counties to report on the effect of the increases but so far has taken no remedial action.

The full extent of the problem is hard to measure. Few suburban counties outside Arlington have kept records on who lost benefits solely because of the raise.

Robert C. Logan, who heads certification for the District's medicaid program, said in an interview "no one has been bumped off" since July for this reason. Yet a majority of appeals made during the last six months for restoration of canceled medicaid have been on the basis that Social Security increases made people ineligible.

A spokesman for the District's Human Resources Department declined to give out figures on medicaid appeals involving the Social Security increases, on the grounds that Health, Education and Welfare Department regulations made such statistics confidential.

One reason there is so little awareness of the problem is the reluctance of many elderly poor people to protest. Most of what has come to the surface has come from social workers who deal with the elderly in public housing. The workers often carry appeals on their behalf to the county social services departments.

The problem also has political overtones. For instance, President Nixon's proposal for another 5 percent increase in Social Security could eliminate significant numbers of elderly people in the District from medicaid, medicare payments and food stamps, since the rise puts them above the income eligibility ceiling.

The administration's proposals and other legislation before Congress contain features to help alleviate the problem. But as long as Social Security is national and most benefits to the aged are locally regulated and administered, it cannot be eliminated entirely, especially if the states do not have the money. William C. Hudelson, the director of Prince Georges County's programs for the aging, pointed out that while Maryland law stipulates that the rise in Social Security can be disregarded for anyone receiving old-age assitance "the case workers are so poorly informed and the flow of information so slow in Maryland," that some people lost their benefits anyway.

In Virginia, the rise in Social Security was canceled out by a drop in old-age assistance for the most desperately poor, as in the case of Daniel Styles. For many others, the only real gain from the Social Security raise was a new $11.50 "disregard" payment and from $40 to $50 in back payments since the raise was made retroactive to Jan. 1.

FINANCING OF THE AMERICAN PUBLIC EDUCATIONAL SYSTEM—A GROWING DILEMMA

Mr. SAXBE. Mr. President, the time to analyze our present system of financing education is at hand.

Today, more than ever before, the education of our children is one of the most important functions of our society. We strive to teach our children well. We seek to offer them an educational foundation that will enable them not only to understand our national, state, and local problems but to solve them. We desire that they learn to improve our society and eliminate much of man's inhumanity to man. But because of the gross inequities created by our method of financing education it seems as if we are giving with one hand and taking away with the other.

We have traditionally considered education important enough to require compulsory school attendance for our children. And when it comes to raising funds for public schools the Constitution requires a system that gives a child with poor parents and neighbors the same qualified instructors and physical facilities that are given to the more wealthy. The rights and privileges held by a child cannot be increased or decreased because of the financial situation of his parents and neighbors.

We have come to the point however, where the difference between structural facilities and teachers among even neighboring school districts is so great that it is akin to sending children in high income areas to spacious "country clubs" while casting upon the financially disabled child the complexion of a prisoner; complete a 12-year sentence. The child cannot help but reflect this attitude in later life—an attitude which we have struggled to eliminate. Obviously, even with expenditures equalized, the children of the affluent will still have vast advantages. But we must now be cognizant of the fact that if public schools do not make a zealous effort to offer equality of opportunity, there will be little hope for the poor breaking out of the vicious circle of poverty, poor education, involuntary oppression, and more poverty.

Our present system, in all but two States, relies heavily upon local property taxes which causes substantial discrepancies among individual school districts in the amount of revenue available per pupil for that district's educational program. As a result, districts with a smaller tax base are not able to spend as much money per child as a district with a higher assessed valuation. At this moment in Ohio, one district may be able to afford to spend more than $1,300 per year per pupil while a contiguous, poorer district may only be able to afford $300.

Although the amount of money raised locally is often a reflection of the rate at which residents of a particular district are willing to tax themselves, as a practical matter districts with small tax bases simply cannot levy at a rate sufficient to produce the revenue that more affluent areas reap with minimal tax efforts. Thus, to a lot more educational dollars to the children of one district than another merely because of the fortuitous presence of highly valued property, is to make the quality of the child's education depend upon the existence of private, commercial and industrial complexes in his particular area.

The most significant and recent stride toward educational finance reform was taken by the California Supreme Court in Serrano against Priest, August 30, 1971. The Court held that California's present system which applies local property taxes to support individual school districts was in violation of the equal protection clause and the 14th amendment and therefore unconstitutional.

There should be no class distinctions in public education. I have long believed that Federal funds should only be used when absolutely necessary and immediate direction and control should come from State and local governments. No, I have not the solution to this imminent and perplexing problem. However, I have suggested in the past that a uniform millage tax rate may be a partial answer to this ever growing problem. Under a uniform millage system all citizens would continue to pay property tax at a uniform rate. But instead of returning the collected tax to the same districts from which it was taken it would go into a State fund and be distributed on an equal basis to all districts in the particular State. This taxing process could be supplemented by State and Federal funds until such a time when all public schools within the State can offer basically equal opportunities to all the children.

While a uniform millage may not be the total answer, it at least presents a more equitable system than presently exists. After taking the first step toward giving our young Americans the equal protection in education which they deserve we will be on our way to a better, more efficient, more equitable and more effective educational system. We must develop a method by which funds would be distributed in a manner that will enable all children regardless of the relative wealth or poverty of the school district in which they live to receive equal educational opportunities. A change will not be easy, but it must be made. We cannot continue to raise our children in an educational system that discriminates against them.

MILITARY COST OVERRUNS—A CASE OF MISPLACED MILLIONS

Mr. CHURCH. Mr. President, cost overruns and military procurements have become synonymous in recent years. These inflated expenditures stand in stark contrast to the legislative battles waged here in the Senate Chamber each year in order to add an extra dollar or two to our domestic services budgets.

The belief held by defenders of Defense Department practices that the more we spend on the military the more security we buy was recently demolished by a former Pentagon official in testimony before the Senate Armed Services Committee.

The witness, Pierre Sprey, formerly a weapons analyst in the Office of Systems Analysis, is quoted in the Washington Post of December 9, 1971, as saying that—

> The weapons cost explosion has reached the stage where national defense is being severely impaired.

This is not the only published account of DOD waste in respect to military weaponry development. The inattention of the Pentagon to unnecessary expenditures is perhaps best illustrated by William Evans, an Air Force general, as quoted in an article in the Boston Globe on December 5, 1971. General Evans, according to the dispatch, was asked about the whereabouts of $95.1 million for weapons. In reply to the question at a meeting of the Senate Armed Services Committee, General Evans is quoted as saying:

> That amount of money loses its identity when it goes back into the Air Force budget . . . I cannot tell you how the money was spent.

Our cost-conscious colleague, the Senator from Wisconsin (Mr. PROXMIRE), has focused on military mismanagement and lists several spectacular examples in a highly readable article entitled "The U.S. Navy Jet That Shot Itself Down, and Other Pentagon Lemons," published in the Washington Post of December 5, 1971.

Senator PROXMIRE describes one episode in which a Navy fighter jet, the F11F1 Grumman, was disabled in flight by shells fired from its own cannon. He goes on to relate a second episode in which a Lockheed Cheyenne attack helicopter fell apart during a test flight and a third episode in which a mammoth overland supply "train" was built for $3.7 million, but never used after testing.

The article concludes with four constructive recommendations as to how to avoid wasteful expenditures of taxpayers' funds by the Defense Department.

I ask unanimous consent that the three articles referred to in my remarks be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Post, Dec. 9, 1971]

PENTAGON REWARDS COSTLY WEAPONS AT EXPENSE OF SIMPLICITY, HILL TOLD

(By Michael Getler)

Claiming that "the really brilliant advances in weapons come from simplification" and not from making military hardware ever more complex, a former Pentagon official warned a Senate committee yesterday that the "weapons cost explosion has reached the stage where national defense is being severely impaired."

At the same session, the Senate Armed Services Committee heard the man responsible for developing one of the simplest, cheapest and best weapons ever built—the Navy's Sidewinder missile—say that the current system for developing new weapons "rewards the design of complex and expensive systems and penalizes work on simpler and therefore less expensive ones."

The military budget process, said the Navy's Dr. William B. McLean, now "ends up being a problem of guessing what will sell rather than what is really needed or can be produced."

The former official, Pierre Sprey, who spent four years as a weapons analyst in the Office of Systems Analysis, said the fascination with sophisticated weapons technology since World War II has greatly increased the "career possibilities and influence of both civilian and military technology advocates." That influence remains relatively unchecked by "counter-advocacy and by critical and realistic testing," he added.

Sprey, who left the Pentagon in 1970, is a strong advocate of more austere weapons of all types so the United States would not be outnumbered in future battles.

But he, along with a small group of Air Force fighter experts, has pressed hard for the United States to build a lightweight, low-cost fighter stripped of everything not essential for its primary role of knocking down enemy planes under the most likely combat conditions during daylight and at speeds normally well below the top speed of new fighters.

Pressing his case in 1968 while still in the Pentagon, Sprey wrote studies which irritated some higher-ups by showing, according to his calculations, that such a plane could out fight not only Soviet Migs, but the U.S. F–4 Phantom as well, and would be a lot cheaper than the Air Force's new F–15 and Navy F–14.

Although the Senate committee's special hearings are intended to help solve the problem of ballooning weapons cost and complexity, Sprey's testimony yesterday appeared to ruffle at least two committee members.

Sen. Stuart Symington (D-Mo.), who has been sharply critical of Pentagon buying policies and has praised most of the critics who have come before the committee, said he disagreed with some of Sprey's comments and questioned Sprey mostly about his background. Both the F–15 and the Phantom are built in St. Louis.

Sen. Howard Cannon (D-Nev.), a strong advocate of tactical air power, said he disagreed with "a lot" of what Sprey said, and read aloud memoranda written by civilian Navy officials working on the new F–14 fighter which criticized Sprey's earlier studies.

Sprey said he knew about those memos but the actual technical critiques had never been shown to him for rebuttal.

Since the F–14 and F–15 programs have begun, the Pentagon has decided to undertake an experimental lightweight fighter project, with strong support by Deputy Defense Secretary David Packard.

Sprey drew support from Sen. Barry Goldwater (R-Ariz.) who said "part of our trouble lies in some of our career civilian and military who can't see anything good in a new idea."

Sprey said that the best "Mig-killer" today is the French Mirage III, which has virtually none of the sophisticated electronics going into new U.S. fighters. Nor does the Mig carry such equipment, he said.

Sprey charged that the price the military is paying for radars, radios and navigational equipment was hundreds of time higher than the price commercial airliners pay and that the commercial equipment was far more reliable, another point on which he received strong backing from Goldwater.

[From the Boston Sunday Globe, Dec. 5, 1971]

SENATE PROBING HOW THE MILITARY MISPLACED MILLIONS

WASHINGTON.—The Pentagon's solution to the Vietnam conflict—electronic warfare in which computerized air and ground weapons systems replace GI's—has spawned a financial muddle in which $460 million has been spent on other projects, some of them unspecified.

The case of the misplaced millions was first uncovered by the Electronic Battlefield Subcommittee of the Senate Armed Services Committee under Sen. John C. Stennis (D-Miss.) a year ago.

On Friday the full committee began a formal investigation into the whole question of how the United States does its military shopping.

Announcing the start of this new inquiry, Senator Stennis said: "individuals with widely varying views of defense issues are united in their concern about the serious implications of cost and effectiveness of weapons systems."

At last year's hearings—which excited little public interest—Air Force Gen. William Evans was asked about a figure of $95.1 million which had vanished into other channels. He said: "That amount of money loses its identity when it goes back into the Air Force budget. . . . I cannot tell you how the money was spent."

His colleague Gen. Carlos Talbott, added: "I don't think we're providing a very good answer."

A later documented reply suggested the $20 million of the $95 million may have been used for bombs and ammunition, but it admitted: "The funds . . . do not retain their identities . . . to enable us to specify where that money was applied."

The Navy, which uses the new electronic techniques in river warfare, has been content to redirect a mere $8.1 million to other plans.

But Army funds have been diverted on a massive scale: A total of $356.6 million has been "reprogrammed."

The funds fall into two categories, both related to a night targeting system known as "STANO."

One is the Procurement of Equipment and Missiles, Army Fund (PEMA). The other is the Operation and Maintenance Army Fund (OMA).

PEMA was meant to buy such things as weapons sites cost $1,180 each and Mohawk surveillance aircraft at $2.2 million apiece. In fact, much of the money was devoted to "border sites," military helicopters and items which have not been specified.

Army Gen. William B. Fulton told the subcommittee that in 1967, $7.5 million was "reprogrammed" from the PEMA fund. In 1968, the sum was $68.2 million; in 1969, $172.8 million and in 1970, $94.1 million; a total of $342.6 million or almost 18 percent of the $1,700,000,000 diverted to the entire army's night targeting system.

Similarly, in 1969, $5.3 million was withdrawn from the OMA budget and in 1970, $7.7 million, a total of $13 million. Of this money, $3.7 million was "reprogrammed" for "southeast Asia supplies and spare parts" and the rest devoted to a scheme enigmatically described as "Project 703".

General Fulton's statement, implied that of the Army's reprogrammed $356.6 million, a sum of $111.9 million was not accounted for by details which were later supplied by the Army at the subcommittee's request.

This "deficit" however, was virtually eliminated in the revised estimate.

The later figures—which were now described as "net amounts"—suggested that no PEMA funds were redirected in 1967 or 1968; but that $156.8 million was in 1969 (against the earlier estimate of $172.8 million for that year) and that $77.9 million was redirected in 1970 (compared wih Fulton's figure of $94.1 million).

Thus, the general's earlier total of "reprogrammed" money had now shrunk from $356.6 million to $234.7 million.

When he was asked why the surplus PEMA funds were carried over to finance the following year's electronic warfare budget, Gen. Fulton said: The way the Army has handled this funding has been to apply it to future years."

The Army's later explanation was: "There is no provision for using these funds in subsequent years for new requirements without reprogramming and congressional approval. Funds provided from program reductions are therefore reprogrammed for unforseen requirements and program changes. . . ."

This commentary went on to claim that "the major proportion of the excess (PEMA) funds were applied as offsets to urgent unprogrammed PEMA requirements . . ."

In other words, after being "reprogrammed" out of PEMA, a major but unspecified amount was "reprogrammed" back again.

Yet even the considered reply conceded that in 1969 and 1970, a total of $234.7 million of PEMA funds was spent on M16 rifles, forklift trucks, and other items which had nothing to do with the electronic warfare project for which the money was intended in the first place.

It is hardly surprising that when he opened the latest inquiry into military spending on Friday, Sen. Stennis should complain that "we reduce and even endanger our national security by developing and procuring costly and ineffective weapons systems."

[From the Washington Post, Dec. 5, 1971]

THE U.S. NAVY JET THAT SHOT ITSELF DOWN, AND OTHER PENTAGON LEMONS

(By Senator WILLIAM PROXMIRE)

Back in 1956 there was a news story about a new Navy fighter jet, the F11F1 Grumman. It seems the jet managed to shoot itself down while flying over the Atlantic Ocean. A test pilot fired two bursts of shells from the plane's four cannon while flying along at 880 m.p.h. The jet was apparently going faster than the cannon shells, which pierced the windshield and knocked out the jet engine.

In the middle of 1969 a Lockheed Cheyenne attack helicopter was on a test flight over the Pacific Ocean. During testing for vibration, the main rotor split the body in half, killing two test pilots.

While such happenings may not be everyday events in the military, the Defense Department is plagued by waste, duplication of effort, and inter-service rivalry to the point that the security of the United States is endangered. Military procurement, the method by which jets and helicopters and a host of other expensive weapons are acquired, is in such a sad state that one can look in vain for a major weapons system which has been delivered on time, costs what the military estimated it would cost, and works according to specifications.

One need not go back to 1956 or 1969 for examples of costly projects that ended up in Uncle Sam's trash heap. Last spring, for example, a giant overland train built for the Army was sold by the government at a loss of over $3.6 million. The 500-foot lemon built nine years ago for $3.7 million was sold for $50,000. The giant vehicle, with tires 10 feet in diameter, was tested on an Arizona desert for possible use in moving equipment across roadless areas. The train's drivers' compartment is capable of housing a small family for weeks. It was never used after testing.

The C-5A cargo plane scandal is a classic example of waste and coverup. Originally the Air Force estimated it needed 40 of these planes to carry one outsized equipment of an armored division during the first two weeks of a military crisis. The Air Force argued that it should buy 120 instead of 40, because at the estimated price of $28 million per copy, the additional planes would be made cost-effective by carrying general cargo as well.

Now the costs of the plane have risen by $2 billion. The price per copy has gone up from $28 million to over $60 million, and may go even higher. But the Air Force repeatedly denied before congressional committees that any overrun existed. Finally, A. E. Fitzgerald, an Air Force industrial efficiency expert, truthfully testified before my Joint Economic Committee that the costs had gone up from $3.3 billion to $5.3 billion for the 120 planes.

Instead of giving him a medal for protecting the interests of the taxpayer and the government, the Air Force fired Fitzgerald. Instead of acting to correct the problem by holding the contractor's feet to the fire, the Air Force figuratively shot the messenger who bore the bad news.

Fitzgerald's revelations have been proved correct—in spades. Not only has the cost gone up but the performance qualifies of the plane fall so far below the original requirements that the time has come when not one more C-5A should be built.

Landing gears have collapsed. The recent Air Force grounding of the plane after a motor fell off during a takeoff run is only the latest in a series of defects and deficiencies which have come to public attention. Wing cracks, lost wheels, malfunctioning detection analysis and recording systems, lack of an operational automatic throttle-control system, malfunctioning electronic circuits, defects in the radar altimeter, and unreliable navigation equipment are all deficiencies of the C-5A which were detailed in the General Accounting Office staff study as early as March 1971.

In addition there is now a vast, unused cargo-carrying capacity in the Air Force. New planes will largely remain idle. While commercial cargo planes such as the 707 and DC-8 are used 10 to 12 hours a day, and some commercial airlines use their cargo planes as much as 14 hours a day the year round, present Air Force plans call for using the C-5A's on the average of only four hours a day

Some 60 planes are on the C-5A assembly line, or 20 more than needed for any military purpose. There is, therefore, no military or economic justification for building even one more C-5A. The program should be stopped now.

At my committee's instigation, the General Accounting Office (GAO) now makes routine reports on the difference between original Pentagon estimates of the cost of weapons and their actual cost. In their latest effort, the GAO reported that 45 major military weapons systems will cost the government $35.2 billion more than original estimates.

Cargo planes are not the only lemons in the military hardware business. The F-14 Navy fighter jet is now costing over $16 million a copy. And I predict it will go over $20 million if the program continues. This figure is three to four times the cost per copy of the F-4 fighter plane it will replace. Unfortunately, the performance of the F-14 is no better than an improved model of the F-4, and the successor to the Russian MIG-21 will no doubt exceed the F-14's performance. (Even the premise on which it is all based appears ridiculous: the F-14's basic mission is to protect an aircraft carrier against Russian-launched missiles in a nonnuclear war. The chances of ever having a non-nuclear war with Russia are slim, to say the least.)

The carriers the F-14's are supposed to protect are costly—about $2 billion per carrier, its planes, and supporting ships—and they are sitting ducks for modern missiles, especially in confined areas. As one senator said: "It is as easy to knock them out as it is to hit a bull in the butt with a bass fiddle." Yet the Navy is pressing to build new carriers, even though much of their weaponry, supporting fleet, and planes are for the defense of the carrier itself rather than for any effective military purpose.

The Main Battle Tank (MBT-70) also ranks in the category of trying to meet a need with the wrong weapon. At $1 million a copy it functions less well than the M-60. The West Germans, who were our partners in this endeavor, have gotten out. It's too bad we haven't.

Even traditional defenders of the Pentagon are beginning to get worried. "We have a real mess on our hands," said Deputy Secretary of Defense David Packard last year. "We don't need more people in the act—we need fewer people. We overorganize, overman, overspend and underaccomplish."

Packard is not alone in his condemnation of military procurement procedures. Commented Gilbert Fitzhugh, the chairman of the Blue Ribbon Defense Panel (a panel loaded with sympathetic supporters of Pentagon practices): "Defense Department policies have contributed to serious cost overruns, schedule slippage and performance weakness."

And while all this is going on, the Pentagon repeats its old chants that the Russians are threatening our military superiority and only an overblown defense budget can save America.

Tied in with the procurement of weapons is interservice rivalry which has sometimes spurred the Army, Navy, Air Force, and Marines to produce duplicate weapons systems. Such duplication obviously increases costs. For example, the Air Force is building the AX to serve as a close-support aircraft to hover over the battlefield and support the infantry at their call. The Army is producing the Cheyenne helicopter for the same purpose; so is the Marine Corps (the Harrier, built by the British). The bill for all three has thus far totaled $600 million. If the United States continues to fund production of all three, we will spend $12 billion.

Of the three, the AX is the superior plane in almost every respect. It also costs less than half of either of the other two planes. The Pentagon should back the AX and assign the close-support mission to the Air Force where it belongs. The Cheyenne, which is both a lemon and expensive, should be scrapped. And purchase of Harriers should end with the 60 planes scheduled for this year. The potential savings: $6 billion.

The military's anti-submarine warfare program is also plagued with duplication and gross overspending. At a total estimated cost of $23.3 billion, the military is producing no fewer than six major anti-submarine warfare programs. One of these, the Navy's antisub torpedo, the Mark 48, has one of the biggest cost overruns (on a percentage basis) of any single weapon. The original estimated cost was $720.5 million. Two years later, even with a reduction in the number of models to be purchased, the estimated cost is $2.239 billion. And it still doesn't work as well as it should.

Another drain on American dollars are the more than 400 major and nearly 3,000 minor military bases the United States has, scattered in 30 countries throughout the world. This, especially, applies to the 300,000 troops and $14 billion a year the United States provides for the NATO alliance. Although economically the Europeans are as strong as the U. S. (and stronger than the Russians), we still supply the brunt of NATO's manpower. We should, in my opinion, continue to provide the nuclear umbrella and the sea protection for NATO, but the time has come to Europeanize the defense of Europe as we are now Vietnamizing the defense of Vietnam.

The military-procurement mess, the duplication of money and effort as a result of inter-service rivalry and our disproportionate share of supporting the NATO alliance all mean one thing: the domestic needs of this country are being shortchanged. Essentially security is based on a balance between our military and our domestic needs, and between the strength of our weapons and the strength of our economy. Because of the excesses of the military, that balance now is not being maintained.

In a careful study, a group of former high-level Pentagon experts writing in the National Urban Coalition's *Counterbudget*, detailed how the military budget could be cut from $75 billion in fiscal year 1971 to $60 billion in fiscal year 1972 without endangering our military security in the slightest degree. I agree with their conclusions and support several changes that will help bring some realism and frugality back to military spending.

An independent procurement agency. The British have a Ministry of Technology, a civilian agency which purchases military planes after needs have been determined. Their interest is the best value for the money spent, unlike our Pentagon buyers who are determined to buy specific weapons at any price. We should establish a similar independent, civilian agency for Pentagon weapons buying.

Expand the Bureau of the Budget. Its present small staff of military experts is hardly a match for the Pentagon's rows of computers and offices of planners. The Bureau of the Budget should expand its staff in order to challenge Pentagon requests on a detailed, exacting, scientific basis. While the bureau examines small requests for model cities or poverty programs with minute care, billions of dollars in Pentagon requests are approved with only nominal analysis and critque.

Broader representation on existing congressional Armed Forces Committees. These committees now consist primarily of members whose home districts house huge defense establishments. Their biases toward military spending are built-in. Also, congressional research and technical staffs are overwhelmed by the volume of the Pentagon's presentations. Just as the Budget Bureau's research staff is ill-equipped to deal carefully with the military budget, so also are the supporting staffs or congressional committees incapable of the close inspection and argument which must be given the Pentagon's requests.

Better, more balanced testimony. Almost all the testimony during congressional budget hearings is presented by the Pentagon. Instead of hearings that provide a solution based on the clash of ideas, the hearings are often secret, *ex-parte* gatherings.

The results of these changes should help avoid the building of 500-foot trains and planes that shoot themselves down. By more careful equipment procurement and expenditure of military funds, we can be assured of a more adequate defense while saving billions that can be applied to other national priorities.

CREDIBILITY IN CONTEMPORARY POLITICS

Mr. **BROCK.** Mr. President, credibility is a highly potent word in a time when many suggest there is a great lack of it in the realm of contemporary politics. Again and again I hear the complaint that we live in a time when there is truely a lack of "statesmen," men who can grasp valuable issues and intelligently and honestly convey their feelings to the public.

Many politicians too often speak of Utopia, of the next unsurmountable mountain, as a height that is attainable or surely within reach.

Too many politicians speak words that people want to hear instead of the truth. We must as a Nation begin to deal with situations as they exist if we are going to, in the end, alter or change their complexion. Hollow banalities and unfullfilled promises can only destroy faith in a system that has unexplored, titan possibilities.

I ask unanimous consent to have printed in the Record an article by Mr. Irving Kristol, which appeared in the New York Times Magazine. In his candid article Mr. Irving Kristol states that "highflown utopian double-talk has driven statesman-like reasonableness out of the American forum."

There being no objection, the article was ordered to be printed in the Record, as follows:

A Foolish American Ism—Utopianism

(By Irving Kristol)

Let us suppose that we have provided the President of the United States with two imaginary speeches, both of which he is dutifully prepared to deliver. They deal, in a highly general way, with the goals of American foreign policy. The first speech goes somewhat as follows.

"Our American nation, ever since its foundation, has pursued the ideal of a world without war. This ideal—the abolition of war—has been the ultimate foundation of our foreign policy, despite all circumstantial changes of strategy and tactics. The ideal is as alive today, in our hearts and minds, as it ever was. This Administration is dedicated to pursuing it with the utmost vigor, and with all the patience and skill that is necessary. We seek, by our policies, to create a world in which man's inhumanity to man will become but a horrible memory, in which men will, under the conditions of a just and secure peace, live harmoniously and creatively together. We seek a world without war, without bloodshed, without poverty, without oppression or discrimination. Such a world, I am convinced, is within our reach if only the statesmen of all nations are sufficiently farsighted to seize the opportunity. I am confident, moreover, that they will display such farsightedness, and will not let the opportunity for a universal and enduring peace slip from their grasp. The people of the world—the people of all nations—demand such a peace. We shall betray their aspirations, and shall certainly be held to account, if we fail to resolve our quarrels and conflicts so as to make man's dream of permanent peace a reality in our own time."

What would happen if the President gave this speech (in a considerably lengthier version, of course). It is fair to predict—it is indeed absolutely certain—that nothing would happen. It is a perfectly conventional speech, of a kind that many Presidents have given many times. The press corps would yawn over the familiar clichés; the citizenry would scan the headline ("President Reaffirms Goal of World Peace") and then turn to the sports or financial pages; the heads of all nations would formally indicate their approval of these noble sentiments; and "informed sources" in Washington would explain that it is too early to tell what significance, if any, the speech had for any particular area of American foreign policy. As I said: nothing would happen.

Now, let us have the President deliver a rather different speech—our second version. And let it proceed somewhat as follows:

"This American nation, ever since its foundation has for the most part pursued its national interests in a moderate and prudent way. This Administration is determined to continue on this path of moderation and prudence. However, we are well aware that there is no guaranteed path to peace with justice. True, men have always dreamed of perpetual peace, and presumably always will. This dream is a noble one, and a man must be deficient in humanity not to have felt its appeal. But let us remember: It is a dream, whereas we live out our lives in a real and material world that is governed, not by dreams, but by limited possibilities. In this real and material world, conflict between men and war between nations appear to be permanent features of the human condition. It has always been so; we must, if we are responsible statesmen, assume that it always will be so. I shall minimize our chances of experiencing war; if war is unavoidable, I shall do my best to limit its extent and the mischief it is bound to create; and whether I am able to limit it or not, I shall always do my utmost to ensure that the war we shall be engaged in will be a just war, and will be justly conducted. I cannot promise you a world without war, but such a promise is is inherently fraudulent. But I can promise that we shall conduct our foreign affairs in a responsible and honorable fashion, that we shall make every effort to achieve a reasonable compromise of our differences with other nations, and that whatever calamities befall us will be as little as possible of our own making."

What would happen if the President gave this speech? One's imagination is inadequate to the prospect. It is fair to predict, however, that after a shorter or longer period of stunned silence, a storm of censure would gather round the President's head. The press corps would explode with moral indignation, and the headlines this time would be eye-catching ("President Denounces Peace as Impossible Dream"); the citizenry would be alarmed; the heads of all nations would express concern at "the new American belligerency"; only the "informed sources" in Washington would remain steady, explaining that it is too early to tell what significance, if any, the speech had for any particular area of American foreign policy.

And yet—what is wrong with the second speech? I submit that there is nothing wrong with it. It is, in every respect, superior to the meaningless banalities of the first speech. It reads 5,000 years of human experience truthfully and sagaciously, and it announces the results of this reading with a pleasing directness and candor. It is a statesman's speech—whereas the first version was nothing more than a politician's speech. True, it is an American statesman's speech; not everyone would agree that this nation's foreign policy has always displayed such moderation and prudence. But that sort of bias is comprehensible, easily discountable and even justifiable—after all, Presidents of the United States are not supposed to be objective and neutral political philosophers.

So the question arises: If the second speech is so much superior to the first, why is it that no President would ever dare to make it? Why is it that, if the President were to say that no reasonable man can expect enduring peace on earth until the day that our Redeemer cometh, this would be regarded as a terrible, cynical blasphemy—even though it is recognizably one of the most venerable platitudes of the Judaeo-Christian tradition? What is it about our political condition that constrains our leaders to define politics as the pursuit of impossible dreams? Are we the most high-minded people who ever lived, or the most hypocritical?

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For more than a century, these two traditions coexisted amiably if uneasily in American life. The exultant prophetic-utopian tradition was always the more popular, it represented, as it were, the vernacular of American political discourse. It was, and is, the natural rhetoric of the journalist and the political candidate, both of whom instinctively seek to touch the deepest springs of American sentiment. In contrast, the constitutional-legal tradition supplied the rhetoric for official occasions and for the official business of government—for Presidential messages, debates in Congress, Supreme Court decisions and the like.

Andrew Jackson, for example, was a radical populist in his time, and when he vetoed the bank bill in 1832, his followers celebrated this as "driving the money changers from the temple." He himself, however, in sending his message to the Senate, began it as follows:

"The bill 'to modify and continue' the act entitled 'An Act to incorporate the Subscribers to the Bank' was presented to me on the 4th July instant. Having considered it with that solemn regard to the principles of the Constitution which the day was calculated to inspire, and come to the conclusion that it ought not to become a law, I herewith return it to the Senate, in which it originated, with my objections.

"A bank of the United States is in many respects convenient for the Government and useful to the people. Entertaining this opinion, and deeply impressed with the belief that some of the powers and privileges possessed by the existing bank are unauthorized by the Constitution, subversive of the rights of the states, and dangerous to the liberties of the people, I felt it my duty at an early period of my Administration to call the attention of Congress to the practicability of organizing an institution continuing all its advantages and obviating these objections. I sincerely regret that in the act before me I can perceive none of those modifications of the bank charter which are necessary, in my opinion, to make it compatible with justice, with sound policy, or with the Constitution of our country."

This "high" mode of discourse—without cant, without demagogy, without bombast—was then thought to be the normal way in which the American Government should engage in public conversation with its own people or with the world at large. Concurrently, the political vernacular was infused with a declamatory passion. John L. O'Sullivan, a Jacksonian Democrat journalist who subsequently became a leading popular exponent of the United States' "Manifest Destiny" to expand over the entire continent, composed an endless stream of demagogic-prophetic editorials. They are perfect specimens of their type. Thus he wrote in 1839:

"The far-reaching, the boundless future, will be the era of American greatness. In its magnificent domain of space and time, the nation of many nations is destined to manifest to mankind the excellence of divine principles, to establish on earth the noblest temple ever dedicated to the worship of the Most High—the Sacred and the True. Its floor shall be a hemisphere. . . ."

And so on and so forth. The public lapped it up, and the Fourth of July orations continued to serve it up. But if one turns to the official statements of American foreign policy—statements by Presidents and Secretaries of State—one finds almost nothing of this sort. From George Washington to William McKinley, practically all such statements are sober and measured formulations of "sound policy," composed by constitutional lawyers who felt the need to argue the merits of their cases before the bar of rational and informed opinion. It is rare for any kind of breathless utopian or shrill prophetic notes to be sounded. Even at the outbreak of the Spanish-American War, when jingoistic rhetoric was deafening in its persistence and intensity, President McKinley's War Message to Congress was a lawyer's brief, arguing the legality of American actions, emphasizing their moderate and prudent qualities, outlining the material issues involved, and offering only a minimum of that "high idealism" that has since become obligatory in Presidential prose.

Sometime around the turn of the century, the impact of the Populist and Progressive movements combined to establish the vernacular utopian-prophetic rhetoric as the official rhetoric of American statesmen. It happened gradually, and it was not until the nineteen-thirties that the victory of the vernacular was complete and unchallengeable. But it also happened with a kind of irresistible momentum, as the egalitarian, "democratic" temper of the American people remorselessly destroyed the last vestiges of the neo-Whiggish, "republican" cast of mind. By now, we no longer find it in any way odd that American Presidents should sound like demagogic journalists of yester-year. Indeed, we would take alarm and regard them as eccentric if they sounded like anything else.

The effects of this transformation have been momentous, though not much noticed or commented upon. High-flown double-talk has become the normal jargon of American Government. This flatters and soothes the citizenry, but at the same time engenders a permanent credibility gap; instead of paying attention to what the Government literally says—a waste of anyone's time—we expend much energy trying to figure out what the Government really means. Official or quasi-official state documents, for the historian of today, have become trivial, superficial and unreliable sources of information. No historian of Abraham Lincoln's period would dare minimize the importance of what he said during his debates with Douglas or in his two inaugural addresses; no historian of the nineteen-sixties would bother paying nearly as close attention to the public words of John F. Kennedy, Lyndon B. Johnson or Richard M. Nixon. Our public rhetoric has become largely ritualistic—resounding utopian clichés that obfuscate a presumed "inside story" our reporters are always snuffling after.

The kinds of dangers this situation creates in the area of American foreign policy have been noted by some critics. Hans J. Morgenthau has pointed out that the closer we get to the Founding Fathers, the more sensible, the more forthright, the more realistic are our official statements of foreign policy. Conversely, the more we approach the present, the windier and more meaningless they become. Even our vocabularly becomes corrupted. The countries of Asia and Africa and South America used to be "poor"; in the course of the past 20 years they became first "underdeveloped," and now "less-developed." Plain language that accords with reality has become positively offensive to our sensibilities.

The corruption of plain language has been accompanied by—one might even say it has resulted in—the corruption of plain speaking. No Secretary of State can today describe the Governments of Greece or Peru or Bolivia or Spain or Argentina or Egypt as what they obivously are: military dictatorships. It would cause a diplomatic row; these nations have become so accustomed to our hypocritical double-talk they would sense some sinister intentions in any deviation from it. Similarly, no Secretary of State could ever say that a particular regime—for example, the Communist Government of China—is abhorrent to our own political values but that we are nevertheless prepared to have diplomatic relations with it and do business with it, since it suits our national interests at this time to do so. No, he has to announce the dawn of a new diplomatic era, a giant step to world peace, and all the rest of that nonsense. It is nonsense because he has no grounds whatever for believing this, and it is altogether possible that a United States-China *rapprochement* could heighten the possibility of war in some parts of the world—on the Russian-Chinese border, for instance, or the India-Pakistan frontier.

A particularly striking instance of how impossible it is for simple and incontestable truths to be uttered in high places is provided by the rhetoric in which our foreign aid programs are cocooned. Never mind, for the moment, whether these programs are good or bad, overly generous or terribly niggardly. The one certain fact about these programs is that they cannot even begin to do what they promise: Namely, in our life-time to bring the standard of living of the "less-developed" countries closer to the American-West European standard. Nothing can do that. If we allow that India's economy might grow at an uninterruptedly rapid rate (say, 10 per cent) for the next 29 years, and assume that the American growth rate will sustain itself at the modest level of 5 per cent during that period, then—because of the initial huge disparity—by the magic year 2000 the gap between the Indian and American per capita income will, in absolute terms, be greater than it is today. The notion, therefore, that any significant portion of the "third world" can even begin to "catch up" to the West in the next generation is an absurdity. Indeed, given the fact that the "less-developed" countries are dependent on fairly high growth rates in the United States and Europe for their own economic growth, the probability is that they will not "catch up" anytime in the next several generations, and there is a good chance they may never "catch up" at all.

Yet, who can say this? No United States Government official can—he would be denounced as a sour pessimist and driven from office. No official or political leader in a "less-developed" county can—he would be denounced as a traitor and driven from office. So, no one says it. Instead we talk grandly about "economic development" in a deceitful and misleading way. The inevitable result is that the economic growth which does take place in poorer lands—and many of them are doing quite well, by historical standards—is universally denounced as "inadequate." A more perfect recipe for permanent political instability in these nations cannot be imagined.

Worst of all, the corruption of language and speech results in the corruption of thought. One has only to observe the hearings before the Senate or House Foreign Relations Committees to realize that, once you surrender the liberty to speak plainly, you lose the capacity to think clearly. Sustained hypocrisy is one of the most intolerable regimens for the mind: In the end, you find yourself believing yourself and taking your own empty rhetoric seriously.

Thus, it is one of the oldest and truest proverbs in international relations that, under certain circumstances, the enemy of your enemy becomes your friend—even if, had you a freer choice, you would never want such a friend at all. All nation's operate on this essential principle, and the United States is no exception. Yet one can read the testimony of Government officials and "expert witnesses" for years on end without coming across a clear enunciation of it as the rationale for some aspect of American policy. We have a terrible time explaining to ourselves that, while we have an instinctive, democratic (and healthy) dislike for dictatorships, we have precious little control over the way other peoples govern or misgovern themselves. Our relations with other nations, and theirs with us, are determined for the most part by calculations of mutual advantage. One gets the distinct impression that our Government is not only ashamed to admit it engages in such calculations—it actually is reluctant to engage in them, except under the random pressure of necessity which it then perceives as an "emergency." We have been telling ourselves for so long that our foreign policy proceeds on quite other principles that we have lost the art and skill of coping with the principles that do, in fact, prevail. Our statesmen are always reacting to reality as an "emergency," in an *ad hoc* fashion, and having at the same time to invent a fancy, "idealistic" motive for the most prosaic and practical actions.

Witness the typically American fuss and furor in recent months over whether the elections in South Vietnam were truly democratic—and if they were not, what we should then be doing about it. The assumption seems to be that the original purpose of our intervention in Vietnam was to establish parliamentary government there, and that the absence of such government presents us with a crisis. But this is a childish assumption. We did not intervene for any such purpose. (At least I hope we didn't—I can't bring myself to believe that the men who make our foreign policy were quite that idiotic.) Our intervention was to help establish a friendly, relatively stable regime which could coexist peacefully with the other nations of Southeast Asia.

If such a regime prefers corrupt elections to the kind of overt military dictatorship that more usually prevails in that part of the world, this is its own affair. It constitutes no problem for us—any more than does the fact that Communist China prefers to manage with no elections at all. Our relations with both of these Asian nations are based mainly on considerations of international stability and world peace, not on how they go about governing themselves.

To be sure, being an American I am keenly aware of the merits of representative government, and I do hope that the Vietnamese (South and North) will at some time recognize these merits. But I am also aware that these merits do not automatically commend themselves to all nations, at all times, everywhere. Our foreign relations, therefore, must of necessity be more concerned with the external policies of any particular nation than with its internal form of government. This is as true for South Vietnam as it is for China or Russia or Cuba. We are perfectly free, as Americans, to be critical of, or even to have contempt for, their systems of government. But, as Americans, we are also free not to live there, and we are therefore bound to be more interested in their behavior to others than in their behavior to themselves. I think most Americans would subscribe to this common-sense proposition. But it is not a proposition we would permit our spokesman at the United Nations to enunciate. And there do seem to be many eminent Americans—notably, an entire class of liberal journalists—who have been utterly bewitched by our official platitudes. These men and women, after traveling freely throughout South Vietnam, heap scorn upon its "corrupt" democracy. They then make a strictly guided tour of China to return aglow with admiration! One can only assume that such men and women think it natural to judge our allies by quite utopian standards, but are ready to give unfriendly nations the benefit of every possible doubt.

But it is not only in foreign affairs that our Government proceeds by utopian promises of future benefits and hypocritical explanations of actual performance. Our entire domestic policy is suffused with this same self-defeating duality. Thus, as a domestic counterpart to a "war to end all wars," we have in the past decade launched a "war to end poverty." The very title of that crusade reveals a mindless enthusiasm which could only lead to bitter disillusionment.

There are two ways of defining poverty: in absolute terms or relative terms. The absolute definition, involving estimates by Government agencies of an adequate diet, adequate shelter, adequate clothing for an average family, is relatively easy to make. It is also largely meaningless in a context of "the abolition of poverty." To see just how meaningless it is, one has only to report that the majority of welfare families in New York City are now above the officially determined "poverty line." Have we ceased regarding them—have they ceased regarding themselves—as poor? Of course not, if you take a family with an annual income of $3,800 and, one way or another, increase this income to $4,500, you have helped them somewhat—but you certainly have not abolished their poverty, as grandly promised. The consequence is that the modest but real improvement is obliterated by an exacerbated sense of "relative deprivation."

Most people, when they hear talk of "abolishing poverty," inevitably and immediately have in mind a substantial relative improvement, not merely a modest absolute one. They think in terms of elevating all those below the United States median family income—approximately $9,500 a year—to the vicinity of this level. That does not look like such an unreasonable goal. After all, families that make $9,500 a year have to watch their nickels and dimes if they are to make ends meet. (Ask them, and they'll tell you—and they'll be telling the truth.) But this is one of those cases where appearances are deceptive, and what looks like a reasonable goal is in fact utopian. To achieve it would require either the creation of new income or the redistribution of existing income to the tune of perhaps $200-billion a year.[*] This is simply impossible; there is no policy, however "radical," that could come close to accomplishing this. We may be an "affluent" society by historical standards, but we are not nearly that affluent. (Total corporate profits last year, after taxes, were a little less than $50-billion). Yet who dares to say so? Instead, our politicians (and our journalists and professors, too) persist in holding up this impossible ideal, with the quite predictable effect of making people intensely dissatisfied with social policies that achieve (though never easily) smaller increments to their income or smaller improvements of their condition.

The upshot of this state of affairs is that any American who, today, passes his working life in moving from $4,000 a year to an ultimate $9,500 is regarded as a pathetic victim of circumstances, a prisoner in a "dead-end job." Yet just about half of all Americans pass their working lives in this way, and are going to do so regardless of anything said or done in Washington. All that our utopian rhetoric can do is to convince them that the normal working-class experience—the *inevitable* working-class experience, which would be as common in a socialist United States as in a capitalist United States—is a fate akin to degradation.

Or take "welfare problem." Welfare policy in the United States is based on a very simple—and enormously flattering—thesis about American human nature. The thesis consists of the following propositions: (1) all Americans are highly motivated to work as a means of improving their material condition; (2) those Americans who seem not to be so motivated are suffering from temporary "psychological deprivation" as a result of poverty, bad housing, bad health and so on; (3) improve their material environment and the "normal" impulse to self-betterment will automatically assert itself. It is a plausible thesis to our American ears. Moreover, there is enough historical experience behind it to suggest it is not entirely false. Only, when applied indiscriminately, it turns out to be more false than true. Some people, whether in the United States or elsewhere, respond according to this formula. A great many others, however, do not. It turns out there are lots of people in this world, including a great many Americans, who do not fill the American prescription for "human nature."

Once you think about it, this is not really surprising. For what our high expectations and our high-flown rhetoric overlook—are bound to overlook, because they are so high-flying—is that we are for the most part talking about motivation directed toward *small* improvements. You can motivate almost anyone to become a millionaire, if the possibility is offered; but that possibility rarely is. And it is another thing entirely to motivate people to move from a badly paying situation (say, casual laborer) to a slightly better-paying but also more arduous one (say, laundry worker or drill-press operator). That is the kind of grim motivation you need to get "self-sustained" economic growth, whether among nations or among individuals. Not all human beings are born with this kind of grim motivation—which is just as well, I'd say, since the earth would then be a pretty dreary, if industrious, place.

In the absence of such ingrained motivation, the usual way we motivate people—even in America—has been by adding the spur of necessity to the offer of modest opportunity. That small improvement has to make a real difference: the difference between squalor and poverty, or between poverty and minimum comfort. These "little" differences—almost invisible to the middle-class eye, and never taken seriously by middle-class reformers—are absolutely crucial to the self-discipline and self-respect of ordinary working people. They need to be very much aware of the costs of not achieving them, if the achievement is to have any merit or meaning in their eyes.

I suspect that all of this sounds petty, and sordid, and mean-spirited. We are accustomed to thinking about poor people, and about ways of helping poor people, in more elevated terms than these. And so we introduce something like our present welfare policies. The policies, at one swoop, abolish all those important little differences in achievement. They generously offer all poor people more in the way of welfare than they can get for their unskilled labor on the open market—more, often, than they would earn at the legal minimum wage. Naturally, these people, not being fanatics about work, move onto the welfare rolls in very large numbers. To be precise, the wives and children are pushed onto welfare. The men themselves drift away from their homes, demoralized by the knowledge that their function as breadwinner has been pre-empted by welfare. These men then merge into the shadows of street-corner society-superfluous men, subsisting by casual labor or casual crime, men whose families are materially no worse off for their absence and would be no better off for their presence. Has there ever been a more ingenious formula for the destruction of poor families? Indeed, one can fairly speculate how many middle-class families would hang together if the family suffered no financial inconvenience as a result of the husband's vanishing.

Welfare is wreaking devastation on the American poor—making the child fatherless, the wife husbandless, the husband useless. We see this "welfare explosion" happening and, disconcerted, turn this calamity of our own creation into an indictment of our social order.

Once you have put people on welfare, it is a nasty business getting them off. You can either (1) cut welfare rates so as to make it distinctly worth their while to go to work, or (2) keep welfare rates high for those truly unable to work—the aged, the sick, the disabled, the unemployed—but have a severe suspicious welfare bureaucracy that defines its mission as getting as many of the rest off the rolls as is possible. Neither alternative is attractive, though the latter seems to me considerably more humane. (Its social consequences are also likely to be beneficial, since we know that families on welfare tend to develop social pathologies: they produce relatively more criminals, drug addicts, alcoholics, illegitimate children, etc.) But the second option does involve our taking a more realistic view of human nature and human motivation—and this we are most unlikely to do. So we shall either veer toward the first course, indiscriminately penalizing all welfare recipients in the name of "economy," or, more probably, we shall simply stagger on until some kind of social explosion takes place.

It really is a curious phenomenon we are witnessing: a nation preferring to live under a perpetual, self-inflicted indictment of "social injustice," and amidst an ever-swelling and ever-more-demoralized population on the dole, rather than revise its utterly fanciful and utopian idea of human nature. There cannot have been many instances in history of such high-minded masochism. We may even be the first.

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[*] One must remember: If you establish a guaranteed minimum family income of, say $8,000 a year, you are then faced with the problems of those who work to earn $9,000 or $10,000. Are they to labor for a measly $1,000 or $2,000 a year? You cannot ask that, and they would not tolerate it if you did. So you have to make some kind of supplementary payments to these families, too. And *then* you are faced with the problem of those who work to earn $12,000 a year—and so on, and on. It is this "ripple effect" that makes the guaranteed income, at any level above a ludicrously low one, such a fantastically expensive proposition.

What is true of welfare is even more blatantly true of our other social problems. Our utopian illusions always are preferred to realistic assessments of human beings, and to the world in which real human beings live.

In no area are the ravages of American utopianism more visible than in education. Here intellectual fads and fashions reign supreme, all of them exultant in promise, all of them negligible in accomplishment. Our professional educators today are perpetually and enthusiastically engaged in deception and self-deception, in part out of necessity, in part because they actually feel this is their "responsibility." We know a great deal about the relationship between schools and academic achievement. But it is the rare educator who dares to say what we know, to challenge the sovereign platitudes as to what a school can do to the young people who enter it.

We know from the Coleman Report and other studies, for instance, that there is practically no correlation between the physical plant of our schools and the academic achievement of our students. We may desire new, well-equipped schools for all sorts of reasons. They may be good reasons; they may even, in some vague sense, qualify as "educational" reasons; but they are not academic reasons. Students learn as well in old, decrepit school buildings as in new, shiny ones; or they learn as little in the latter as in the former. Middle-class parents who think they are improving their children's academic potential by sending them to a brand-new school with a fine library, a sumptuous gymnasium, a lovely lunchroom are kidding themselves. So are slum parents who think that their children's academic potential is weakened by old buildings, cramped gymnasiums (or no gymnasium), shabby lunchrooms, paltry libraries (or no library). What determines a child's academic achievement is his genetic endowment plus the values and motivation he acquires at home. All the rest may have significant consequences for a child's life-style, his appearance, perhaps (and I myself regard this as the most important function of schools) what we call his character." But it will have little to do with his academic achievement.

Even class size turns out to have nothing to do with academic achievement. There are, in my view, good reasons—having to do with the role of the teacher as an "adult model" in the process of "character formation"—for preferring smaller classes to larger ones. But they are not academic reasons. Whether a class has 20 pupils or 30 or even 40 simply doesn't matter. Students who do well in small classes will do well in large ones. Students who do poorly in large classes will do no better in small ones. This subject has been studied to death by generations of educational researchers, and the results are conclusive.

Nevertheless, the educator who dares to utter these truths publicly is instantly classified as, best, an eccentric. His opinions are marked as "controversial"—though they are not—whereas an educator who stresses the academic importance of new schools and small classes is simply seen as tediously "sound." Every year, in New York City, a furious debate breaks out when the statistics on the reading levels in the city schools are made available. These statistics always show that the average reading levels in New York's schools are lower than the national average—and they usually show that, with each year, they are steadily falling further below the national average. The publication of these figures always shocks, always provokes front-page news stories. But far from being shocking, these statistics aren't even newsworthy, since they are perfectly predictable. The reason that reading scores in New York's schools are falling away from the national average is that an ever-icreasing percentage of our students come from very low-income families that are also broken, transient and generally problem-ridden families. The children in these families show low academic motivation and low academic aptitude. We insist that our schools "do something" about increasing the academic ability of these youngsters, and our educational leaders furiously institute every gimmick they can think of with the assurance that this time they will turn the trick.

Our insistence is as unreasonable as their assurances are worthless. The schools cannot perform this sociological miracle—which if it is to take place at all, will happen in the family, at home, over a period of time that is rarely shorter than a couple of generations. As such poor families move up the economic and social ladder, as their home life becomes more stable and the family concern for education becomes more emphatic, the student's academic performance improves. In individual cases, "miracles" do certainly occur. But in the mass, statistical probability reigns supreme—and the schools play no role in the calculations. If you want to estimate the chances of a student doing well or badly in school, give him a physical examination, look at his home, and give him an intelligence test. But don't bother him with questions about his school—it is of no importance for this purpose.

And how do we react to this fact? With furious indignation, usually. So, as the schools' importance to satisfy our realistic demands becomes ever more clear, we shall—it is already beginning to happen—abolish reading scores and reading tests on the grounds that they are irrelevant to eventual academic achievement. This monumental act of self-deception will, of course, fool nobody and change nothing. But it will certainly be hailed by professional educators as a marvelous innovation.

Of late, many educators have waxed enthusiastic over the educational possibilities of small mixed classes, with the older students helping to instruct the younger, and with every student proceeding "at his own pace." This is, of course, exactly what used to happen in the "little red schoolhouse." I have always been fond of the little red schoolhouse and was unhappy that, after a determined campaign over many decades, our professional educators succeeded in outlawing it. If they now wish to reinstitute it, I certainly have no objections. But I find it more than a little nauseating that they should now present it as a brilliant educational innovation which will solve all our educational problems. And I find it unconscionable that these educators can be so easy in mind and spirit about their newest fad when the huge educational parks which—only yesterday—they insisted were absolutely necessary, are just now coming into existence.

A good principal can always make a *small* difference in the academic power of a school—and a small difference is surely better than none at all. A dedicated teacher may make a big difference to a *few* students—and this difference is to be treasured. But none of this satisfies us. We insist that our schools fulfill impossible dreams—and so they pretend to be able to do this (given a larger budget, of course). As a result, the world of American education is at the moment suffused with charlatanism, and anyone with a sober word to say is encouraged to go elsewhere.

The consequence of this public insistence on a utopian vision of man, history and society is that our public life is shot through with a permanent streak of hysteria. We are constantly indicting ourselves, denouncing our nation, lamenting our fate. Indeed, an entire profession has emerged—we call it "the media"—which has taken upon itself the responsibility for leading this chorus. Just imagine what our TV commentators and "news analysts" would do with a man who sought elected office with the promise that, during his tenure, he hoped to effect some small improvements in our condition. They would ridicule him into oblivion. In contrast, they are very fond of someone like John Lindsay, who will settle for only the finest and most glowing goals. Public figures in our society get credit for their utopian rhetoric—for their "charisma," as we now say—and only demerits if they emphasize their (necessarily modest) achievements.

Every society needs ideals and self-criticism and some prophetic admonition. It needs faction. But when the countertendency toward insistent self-dissatisfaction becomes overwhelming, then such a society is in grave insistent self-dissatisfaction becomes overwhelming, then such a society is in grave trouble. The capacity for contentment is atrophied. So is the willingness to see things as they really are, and then to improve them in a matter-of-fact way. We certainly do have it in our power to make improvements in the human estate. But to think we have it in our power to change people so as to make the human estate radically better than it is, radically different from what it is, and in very short order, is to assume that this generation of Americans can do what no other generation in all of human history could accomplish. American though I be, I cannot bring myself to accept this arrogant assumption. I think, rather, that by acting upon this assumption we shall surely end up making our world worse than it need have been.

DEFENSE RESEARCH AND DEVELOPMENT—SOME OBSERVATIONS

Mr. McINTYRE. Mr. President, it was my privilege recently to have been invited to address a meeting of the Defense Science Board of the Department of Defense. The Defense Science Board is an organization comprised of a number of highly qualified scientists and engineers who serve as advisers to the Secretary of Defense and the Director of Defense Research and Engineering on overall research and engineering matters and provide long range guidance to the Department of Defense.

I used that opportunity to expound on some major concerns which have occurred to me as chairman of the Armed Services Committee's Ad Hoc Subcommittee on Research and Development. As a matter of fact, I consider these matters to be of sufficient importance to be brought to the attention of the entire Senate.

Before addressing these subjects, Mr. President, let me mention that the Defense research and development program consumes some $7 to $7.5 billion annually which is a staggering amount of money by any measure. This of itself does not mean that too much is being spent on defense research and development. What it does mean is that we cannot afford the erosive and wasteful practices that have dissipated and undermined this important program in the past. Mr. President, as I have stated in the past, I am convinced that there is much room for improvement in the management of the research and development program of the Department of Defense, as there is for other programs of that Department.

I am reminded, Mr. President, about the country preacher who came across an old farmer who was standing in the road and cussing out his stubborn mule because it would not move. The preacher was shocked and reprimanded the farmer for using abusive language. The preacher then picked up a heavy stick and hit the animal with all his might. The surprised farmer asked the preacher why, and the preacher promptly responded, "Oh, that was just to get the mule's attention."

Mr. President, although this treatment was rather extreme, I feel that there is a continuing need to get the attention of the Department of Defense.

At the same time that we recite the frequent criticisms of parochialism, unwarranted duplication, nonproductive perpetuation of efforts, unnecessary paperwork, gold plating, mutual backscratching, excessive concurrency, and over-selling, it is only fair that we give due credit for some of the improvements which are becoming visible in the management of the Department of Defense. To cite a few examples, the innovative management approach adopted in the B–1 development program promises to produce significant savings in time, paperwork, and cost. However, this has yet to be demonstrated. The increased emphasis placed on the use of prototypes as a means for determining the suitability of hardware and weaponry before a major commitment to production promises to minimize cost overruns and provide effective weapon systems in a more timely manner than heretofore. Closely related is the emphasis being given to the operational test and evaluation function to insure the usefulness of weapon systems during the various stages of the weapons acquisition process. The importance of this function was recognized by the Armed Services Committee by including a new provision in the fiscal year 1972 Procurement bill, section 506, requiring the Secretary of Defense to submit periodic reports on operational test and evaluation beginning with calendar year 1973.

Now, Mr. President, I would like to turn to the specific points which I addressed at the Defense Science Board meeting. I have updated some of my remarks to reflect later events.

ADVANCEMENT PROTOTYPE PROGRAM

Several months ago Secretary Packard briefed the committee on a proposed program to increase the use of prototypes in the development and procurement of weapon systems. This is not really a new idea since it is really a throwback to an old way of doing business. I believe that it holds out much promise if properly pursued. The objective of this approach as he stated it is "to place more reliance on the performance of hardware and less reliance on paper analysis." It would also discourage precipitous production decisions by delaying production until sufficient progress had been completed in development to provide the confidence needed to progress to the next phase. The program which he outlined involves $67.5 million in fiscal 1972 and covers 12 separate programs or systems for the entire Department of Defense. It is unfortunate that the proposal was not included in the original budget request since the likelihood of having the Congress add it was even then in doubt.

Subsequently the military procurement authorization bill, as enacted by the Congress, provided only half of the funds requested. More recently, in acting on the Defense Appropriations bill, the House disapproved all but $12 million of the original amount requested and directed that these funds be used by the Air Force to support prototype development programs involving a new lightweight fighter and a medium STOL transport aircraft.

In retrospect, the most convincing method for expressing the importance that the Department attaches to this new approach would have been to propose reprograming from programs of lower priority. The next step would be to propose a logical follow-on effort in the fiscal year 1973 budget.

The key point in my view is to keep a balanced perspective in the increased use of prototyping and to avoid becoming unduly enamored of this approach as a cure-all. Instead, I believe that selectivity of programs, the assurance of competition, and top-level management attention are the basic ingredients to make this work. I believe also that multimission capability, high degree of complexity and sophistication, and unnecessary redundancy should be great deemphasized if the lessons of the past are to be taken seriously.

OPERATIONAL TEST AND EVALUATION

The Department is to be complimented on its efforts to establish an organization and a program to perform the important task of operational test and evaluation. This recommendation of the blue ribbon defense panel has great merit and offers great promise in the acquisition of weapon systems. It is less important where this function and organization is placed in the Department of Defense than that it be made directly responsible to the Secretary of Defense, at least for the major weapon systems programs. The head of that organization, General Starbird, has a reputation which speaks for itself. Some of my colleagues, as you are aware, are concerned that the organization should be directly under the Secretary rather than under D.D.R. & E., but that may be rather an academic concern. The most convincing manner in which to make this program work, both to the satisfaction of the Department and to the Congress, is to insure that there is compete objectivity and realism in establishing the requirements which must be met by a weapon system. The field tests which are conducted against real hardware where possible, or in a simulated environment if absolutely necessary, can only have meaning if biases are prevented from creeping in, and if foregone conclusions are prevented from overriding the objectivity of the tests. Even if these influences are subtle and not apparent, they must be resisted. Otherwise the whole concept could fall flat on its face. I am aware that the situation will vary by system, and that new ground must be broken, but the promise which this offers is of such potential significance that the challenge must be met. This program will be watched very closely and I would hope that some results of significance could be made known when the Department appears before the Committee next year.

UNITED STATES VERSUS SOVIET TECHNOLOGY

Let us now consider the problem of United States versus Soviet technology. This subject has been widely covered in numerous statements made by the Department of Defense to the Congress and in the press. Although there is general agreement that the Soviets have made significant gains both in the quality and the quantity of the weapons which are in their inventory today, there is some question concerning the ability of the Department of Defense to measure the relative efforts of the two countries as it concerns technology. The same doubt was expressed by the General Accounting Office, who undertook to examine into the details of the Department of Defense study. I am inclined to look at what I consider to be a more basic question. I find it hard to believe that with our tremendous intelligence capabilities, with the benefit of participation in international scientific symposia, that our own scientists are unable to lift the cloud of secrecy that covers much of the Soviet research and development work and detect what important technology the Soviets in fact are emphasizing. I find it hard to believe that we have to wait for the Paris Air Show to learn for the first time that the Soviets have produced a prototype of a new swept wing strategic bomber. It just does not add up. From a layman's point of view, I would have thought that the competence of our scientists applied to whatever information can be gleaned as to Soviet developmental work would enable us to extrapolate or project the logical progression of their work to the point that we could, with some degree of competence, determine what weapons systems were being developed or were planned for development.

In my view, the hard questions which should be addressed are: What is the threat? What specific weapons systems and other specific capabilities do we realistically anticipate the Soviets will have 5 to 10 years from now? And finally, what specific weapons systems and other capabilities should we be developing so that we can counter those of the Soviets during that time period?

These, to me, are reasonable questions which should evoke reasonable answers which can be translated into specific items to be included in the budget submitted to the Congress. I realize that there must be a degree of judgment in these determinations, but I am prepared to accept such a degree of judgment if it is tough-minded, unprejudiced and reasonable. The days of the "grab-bag" and "wish list" are long gone. We must make hard decisions, and they must be the right decisions. What we need is not a super selling job but just the plain unadulterated facts.

NATIONAL ATTITUDE TOWARD THE MILITARY

I found it interesting that in the letter of invitation to address the Defense Science Board there was mention that the agenda reveals concern about the problem of maintaining a strong research and development base for our national defense program in the face of a deteriorating climate for defense spending.

What has happened to the image of the military in recent years is very obvious to us all. I can not recall any time in my experience when the military has fallen into such general disfavor. Of course, the strain of a very unpopular and prolonged war has much to do with it. Historically, after our country has come through a major conflict, the tendency has been to retrench to a marked degree in the size and activity of our military organization. We saw this happen after World War II and again after Korea.

Now, how does research and development fit into this picture? It appears always to have been somewhat paradoxical. We, as a Nation have been wise enough in the past to have maintained a virile research and development program during those same years when all other military programs have been reduced. I think that the importance of this is generally recognized and supported by most of my colleagues in the Senate.

There is a general acceptance of the fact that we can protect our future military capability in a qualitative sense only by maintaining an adequate research and development program today. There is a danger, however, in the attitude of some people that gross dollars alone are a reasonable measure of adequacy. And, of course, one must take into account the erosive effect of inflation. But we are today faced with perhaps the most adverse climate for the Department of Defense. We could not depend alone on the general recognition of the need to maintain a relatively high level of research and development spending. The pressures to keep the levels down exist and will grow. The hard question we must ask ourselves is "What can be done to get more for the research and development dollar than in the past?" A number of possibilities comes to mind when we examine this question. Recognizing the likelihood of a ceiling on research and development in the total defense budget to be submitted for fiscal 1973, what can be done? Can we make the hard decisions to eliminate marginal research and development programs? Is there room for improvement and economy in tightening up the operations of our defense laboratories? Are there some laboratory facilities which can be closed down or consolidated with other similar laboratories?

Are we aggressively pursuing the lead laboratory concept? Is satisfactory progress being made in pursuing the increased emphasis that the Department of Defense has placed on making greater use of laboratory personnel as part of the Defense teams which manage the development of major weapons systems? This last thought promises to reduce the dependence upon and save the costs involved in continuing to employ the services of the Federal Contract Research Centers. Do we have to maintain all of the test facilities in Defense, NASA, and in industry? That's a mouthful of questions, but these and other similar questions deserve serious attention and constructive action however painful it might be.

CONTRACTOR INCENTIVES IN THE SYSTEMS ACQUISITION PROCESS

Another broad area which I would like to talk about briefly involves the practice of the use of incentives in the acquisition process for the three elements—cost, performance, and schedule. As some of you may know, the General Accounting Office has been rather critical of the use of incentives by the Department of Defense. The problem narrows down to incentives for performance and schedule. The General Accounting Office, in its investigations, has found instances where performance and schedule requirements agreed upon in negotiation appeared to have been artificially established in such a manner as to permit contractors to be rewarded where a prudent man could argue that the reward was not earned. I will not cite specific examples, but I might state a hypothetical case. A contractor may bid on a program, knowing that he can exceed the performance requirement which is established by the Government. However, he is also aware that he will win the award because of his unique competence in a particular field. When the contract is awarded, it includes incentives which will accrue to the contractor if he is able to exceed the performance requirements specified. He then proceeds to exceed the specification requirements and thereby is entitled to additional payments by the Government. This situation reflects as much on the Defense program manager and the procurement officer as it does on the contractor. In another case, a schedule is established which, under the contract, rewards the contractor if he beats certain dates which has been specified. In many cases there is nothing magic about these dates, and if the dates were met as specified, the Government would be in as good a position as if the contractor had achieved them earlier. These are just two oversimplified illustrations of what has been found. It raises the serious question as to whether or not incentives for performance and schedule should be completely eliminated, or used only infrequently when a specific justification can be made. This whole issue may be debated but, based on what little I have heard to date, it looks like an area which deserves increasing attention.

FEDERAL CONTRACT RESEARCH CENTERS

Mr. President, the history of this problem is a matter of record. Those of you who have read the Senate committee report on the fiscal year 1972 procurement bill know that a dollar ceiling again has been established on the Federal contract research centers. However, in doing so the Secretary of Defense was provided with a 5-percent increase above fiscal year 1971 for inflation and was granted a large flexibility in shifting dollars among the various contractors as the need requires.

Both appropriations bills now in conference have a somewhat different approach to the question of the Federal contract research centers. However, these differences are resolved in conference. The continuing scrutiny of this issue by Congress shows our concern that the Department of Defense is not doing much of a job of coming to grips with the question of the role that the Federal contract research centers should play in the future defense programs. I understand that D.D.R. & E. has had this matter under study recently, but I am not aware of what, if any, conclusions have been reached. This action is a subject that I expect the Department will address specifically, and I would hope to have the benefit of the knowledge gained as a result of this study.

On a related matter, let me discuss the B–1 and subsonic cruise armed decoy programs as they are presently being pursued, and the role that the Cornell Aeronautical Laboratory is playing in these programs. I have not had an opportunity yet to get into this subject in complete detail, but just on the face of it, it raises a question. On a broader basis, is there a need to continue to draw upon outside contractor assistance to provide the program manager with a degree of expertise in running a major weapon system development that he is unable to find within the Department of Defense military and civilian community? In past years, a major reason given for the difficulty encountered in attracting higher caliber civilian scientists and engineers into government service was the relatively low-salary structure of the Government. This is no longer true today. As a matter of fact, with the very sharp layoffs in defense industry, the security of government employment for such people has become highly attractive. If the Department is on its toes, it is taking full advantage of this situation.

If not, it is missing a solid bet. In effect, what I am saying is that to the extent you need people such as these, hire them and use them instead of continuing to rely upon outside contractors.

HIRING OF UNEMPLOYED SCIENTISTS AND ENGINEERS

Although I did not address the subject of unemployed scientists and engineers before the Defense Science Board, I would like to use this opportunity to express my views since this subject is so closely related to the Defense research and development program. Today, Mr. President, we are confronted with an extremely difficult situation which at the same time offers a rather unique opportunity. The very high percentage of unemployed scientists and engineers throughout the country who have lost their jobs largely because of the sharp cutback in defense contracts poses a serious problem for the entire country. It is generally accepted that the unemployment rates of these people in the aerospace industries and in the defense-related industries is higher than any other group of workers throughout the country. There are few major cities in the United States which have not felt the serious impact of this situation. Legislation has been introduced to provide a means for diverting some of these people to nondefense industries when their skills may be applied to other problems such as those of environment.

To solve the critical problem we face as a nation at home we must use to the fullest the rich reservoir of scientific and technical talent we have.

But we must also minimize the dislocations in employment of this talent by responsible action on the part of the Department of Defense. Right now, Mr. President, the Department of Defense is embarked on a program of entrenchment. Not only is the Department reducing the number of military personnel on its rolls but also civilian personnel. This can only serve to aggravate the overall situation.

As I have mentioned previously in my discussion of Federal contract research centers, the environment of government employment is highly conducive to the attraction of highly skilled scientists and engineers into government service. Salary levels in government today are comparable with those in industry and the security of government employment is particularly attractive in a period of high unemployment. Now what does this mean to our defense research and development organization?

Defense laboratories today are staffed with many senior scientists and engineers who are holdovers from World War II. This is not a criticism. However, many of these people are approaching, or have achieved, the age of retirement. Inducements may be offered to encourage their retirement as a means for making room for the younger generations of unemployed but highly trained and experienced workers from industry. In addition, the Department of Defense should also consider providing increased manpower authorizations on a selective basis in its laboratories, test facilities, and engineering organizations to permit the talents of these unemployed industry workers to be profitably used. This can be done either at the expense of other defense organizations or by obtaining executive branch approval to allow for these additions.

I am convinced, Mr. President, that our most important national asset is our trained and educated manpower. To remain passive in today's situation and permit the dissipation or misapplication of this vital national resource borders on being derelict. I am afraid that if we do not face up to this problem immediately it will be too late.

Mr. President, I appreciate having this opportunity to expose my colleagues to some of the concerns which have occupied my mind. These are some of the broader considerations, and they are by no means all inclusive. In closing, I would like to assure Senators that within the time available I will continue to direct my energies toward the objective of a Department of Defense research and development program which will insure our technological lead and our most efficient use of the American taxpayers' defense dollar.

THE FIGHT AGAINST SICKLE CELL

Mr. BAYH. Mr. President, the Senate voted 81 to 0 in its passage of the National Sickle Cell Anemia Control Act, which I cosponsored.

The unanimous vote of my colleagues reflects recognition of the serious effects that sickle cell anemia has had on a great number of our citizens. The introduction and passage of this legislation by the Senate has brought to the attention of the Congress and the American people a disease which is selective in its victims and deadly to those among us who suffer from its effects.

I was very much interested to learn that the sickle cell trait is found most often among black citizens of our country. Its cause is traceable to past generations of persons living in areas of the world where exposure to malarial infection is commonplace.

The National Sickle Cell Anemia Act is a modest beginning in what must become an all-out attack on this killer. The bill authorizes appropriations for operational programs totaling $100 million over a 3-year period—$25 million in fiscal year 1973; $35 million in fiscal year 1974; and $40 million in fiscal year 1975. In addition, research and training grants are authorized for the same period—$5 million in fiscal year 1973; $10 million in fiscal year 1974; and $15 million in fiscal year 1975.

The program will be administered by the National Institutes of Health in cooperation with the Defense Department and Veterans' Administration. Public Health Service programs of screening, counseling, and treament are also authorized.

A recent article concerning sickle cell anemia appeared in the October issue of The Black Child Advocate, a publication of the Washington-based Black Child Development Institute. The article presents a quick look at several developments at the community and university level in the fight against sickle cell. I commend this article to the Senate and ask unanimous consent that it be printed in the RECORD with a view toward broadening our understanding of this disease.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SICKLE CELL: KILLER OF OUR CHILDREN

Sickle cell anemia is a blood disease which has tormented Black people almost exclusively. But until recently little or nothing has been done about it.

According to Lawrence D. Robinson, M.D.'s article "Sickle Cell Anemia—Danger to Our Children" in the September issue of *Essence* magazine, the disease usually begins in infancy and ends with death in the third or fourth decade of life.

"The infant with sickle cell anemia is usually pale, lethargic, irritable and subject to sudden attacks of excruciating hand or leg pain called 'pain crises,'" says the doctor.

"The chronic nature of sickle cell anemia is responsible for the lack of physical activity on the part of the child so afflicted and their inability to adopt to sudden environment changes, such as those experienced when flying," he says.

The National Sickle Cell Disease Research Foundation located at Howard University, and the Foundation for Research and Education in Sickle Cell Disease are the main groups working towards wiping out the disease. But they are small and not well funded.

In addition, Howard University and Meharry Medical College are doing research in the area.

About one out of every 500 Black people may have the disease and about 5 percent of the Puerto Rican population is also affected, statistics show. It is treated by massive blood transfusions.

Sickle Cell Anemia is inherited. If two persons possessing the trait should have children, the chances are strong that one or more of their offspring will be born with the disease. However, persons with only the sickle cell trait (carriers) can live relatively normal lives. See Dr. Robinson's article for more detailed information.

OTHER DEVELOPMENTS

The first annual Sickle Cell Anemia T.V. telethon broadcasted last month in New York and Los Angeles collected some $600,000 in donations raised on behalf of the National Sickle Cell Anemia Foundation. The six-hour New York show, hosted by Nipsey Russel, featured such noted personalities as Lena Horne, Nancy Wilson, Melvin Van Peebles, all of New York's Black Congressmen and Rev. Jesse Jackson who is a victim of the disease.

The Los Angeles Telethon, broadcast over KHJ–TV collected close to $100,000. Original plans called for the airing of the New York telethon with limited local involvement. This plan was abandoned and a local show was put together in four days. Stu Gilliam hosted the show which included Stevie Wonder and Kim Weston.

School-age children must now be tested for sickle cell anemia in New York State according to a new law. Black doctors have been urging this for years.

Some $6 million stated for sickle cell treatment and research has been delayed by HEW. The money "would have put a clinic in every city where there is a substantial Black population," according to a national Sickle Cell Disease Research Foundation spokesman.

The Black Athlete Foundation for Sickle Cell Research was formed last May to raise money to help find a cure for the disease. Thirty-two Black athletes, including Muhammed Ali, Dock Ellis and Connie Hawkins donated $1,000 a piece to start the drive. Ellis has a sickle trait. Five thousand children were tested at a carnival type fair held in Pittsburgh last month. Similar fairs are planned for other cities.

The Cook County Physicians Association, a Chicago Black group headed by Dr. Andrew Thomas, is operating a Mobile Unit for mass testing for sickle cell. Since June, the unit has tested some 15,000 persons, ten per cent of whom were found to have had the trait, throughout Chicago and in surrounding communities. The unit soon plans to move to Malcolm X College to test an estimated 3,000 students.

Chicago is also the site of a Black Panther Party Medical Clinic opened in 1969 and conducting free sickle cell tests since May. Operating on a skimpy budget from private donations and proceeds from benefits, the Panthers have managed to keep open despite threats from the Board of Health to close it and a lack of enough volunteers.

Since last May, the Panthers have conducted tests at five Chicago elementary schools, five in Maywood and at eight neighborhood sites on the north, south and west sides. Out of 4,718 persons tested, 371 were found to have a trait and seven with the full disease, according to Ronald Satchel, one of the Clinic's three directors.

HOUSE APPROVES GRAIN PRICE SUPPORT INCREASE; THE SENATE MUST ACT

Mr. METCALF. Mr. President, I invite the attention to the action of the House of Representatives late last night in passing H.R. 1136, the strategic storable grain reserve bill after amending it to include Congressman JOHN MELCHER's bill to raise wheat and feed grain price supports, on the 1971 and 1972 crops, by 25 percent.

The House voted 182 to 170 for the bill as amended, a rather close vote but, for a farm bill in that predominantly urban body, a better than average margin.

The House of Representatives is impressed that grain farmers face an extremely critical economic situation as a result of this year's abnormally large crops under the new set-aside farm program.

The corn crop, at 5.5 billion bushels, is at least a billion bushels in excess of requirements. A big crop was encouraged as a result of fear of another year of corn blight. But that is not the only big crop resulting from relaxed acreage restrictions. The wheat crop is up more than 250 million bushels from last year. Grain sorghum is up 195 million bushels and barley is up 65 million bushels.

Totally, the grain crop this year has run 1,800 million bushels more than in 1970, with a prospect that wheat carryover will be pushed close to a billion bushels next July 1 and our feed grain surplus will reach a serious surplus level—57 million tons instead of the comfortable 24 million tons as this year started.

As a result of this surplus, wheat and feed grain prices have dropped disastrously. Corn, worth $1.45 and more at times last summer, is selling under $1 in some Corn Belt States. Wheat has dropped to about $1.30 national average farm price, and it is well below that in my State of Montana.

Farmers write me daily that they are losing money on every bushel of grain they have to sell and will be unable to renew their operating loans next spring unless they get some relief.

Senator MIKE MANSFIELD, the distinguished majority leader, and I have pending before the Agriculture Committee the companion measure to the 25 percent price support increase approved by the House yesterday. Senators MCGOVERN, HUMPHREY, and others have strategic reserve bills pending. Hearings have been held.

Mr. President, action on this farm measure is imperative before we adjourn. We need to raise the price support loan level before any more of the 1971 crops move out of the hands of farmer producers, and before they have to sacrifice their grain at substantially less than cost of production.

The Department of Agriculture has estimated the cost of the increase in loan rates at $39 million in subsidies to keep wheat exports moving, and $242 million in additional loans. Much of this will be recovered, of course, when the wheat is sold. The $281 million total is after a credit of $160 million savings on wheat certificates because the farmers would get higher prices in the market. The loan increase is advantageous because it will mean higher returns on 100 percent of the cooperators' crop, not just the 40 percent protected by certificates.

The House bill was not only supported by the major national farm organizations, except Farm Bureau, but by the AFL–CIO who advised that it would have negligible effect on consumer prices.

What the proposed increase in price support rates will do is lift wheat and feed grain prices back to about their level before harvest, when price ceilings were imposed by the President.

It is estimated that the higher price supports will increase farm income $1.5 to $2 billion, at small cost to either Government or consumers, by readjusting market prices for grain toward the levels prior to the retail price ceilings.

Mr. President, the Senate should be able to handle this bill speedily. We must find time.

ADMINISTRATION PUBLIC WORKS PROGRAM IS PLANNED—PRESIDENTIAL VETO OF SUCH PROJECTS IS RECALLED

Mr. RANDOLPH. Mr. President, I was surprised by a story which appeared on the front page of the Friday, December 3, New York Times. The headline announced that a $50 million plan for jobs has been set up and a program of public works is to start in February 1972, in high unemployment areas.

The article, by Jack Rosenthal, was based on an announcement by the administration that it is activating a program to create public works jobs in communities with high unemployment. It was noted that funds would be committed to "projects that can be started quickly and whose costs are made up largely of labor costs."

This Senator and other Members of the Congress worked diligently for the passage of legislation earlier this year to create a national public works program to alleviate severe unemployment. We feel the administration's announcement is ironic.

My colleagues recall that on June 29, the President vetoed S. 575, which reached the White House as a combination of three bills—Appalachian regional development, economic development, and accelerated public works—because of President Nixon's stated opposition to the construction of public works projects as a means of relieving unemployment.

It is noted that the program said to be nearing implementation is really authorized in the language developed by the Congress as S. 2317—Public Works and Economic Development Act of 1971—and passed after S. 575 had been vetoed.

The new administration program is, in effect, a cut down version of the accelerated public works program disapproved by the President.

In his S. 575 veto message, the President bluntly stated it to be his view that a public works program would not assist the unemployed because of the long leadtime which he alleged to be required to initiate construction. And he cited inflation in the construction industry.

The President, in vetoing S. 575, the bill I sponsored, also spoke of "fear of inefficiency in a crash program," and, finally, gave this unique rationale:

> False hopes would be created in many communities and this administration does not wish to be a party to these misleading impressions. The previous accelerated public works program resulted in applications for nearly double the amounts. On the basis of these expectations communities deferred locally funded projects. Therefore, the net economic impact in many communities was, actually, delayed public works projects.

Advocates of a public works program to cope with the needs of many communities, while placing unemployed people at work on useful projects, flatly rejected the President's view. Following last Friday's announcement, I do not know whether to be amazed by a complete reversal by the President or gratified by his switch of positions. Because I am a believer in the validity of well-planned public works—and in their job-providing potential—I am gratified that the administration is activating the $50 million program in high unemployment areas, even though the amount seems to me to be much too small.

The story in the Times indicated that the administration will seek a supplemental appropriation in the range of $30 to $40 million to carry the public works program beyond the limits of current appropriations for the Economic Development Administration. Coupled with existing funds, the amount is not large when gaged by the public facility needs of the country and the large number of unemployed people who could be assisted by a substantial public works effort. It is particularly ironic that the President would suggest this relatively small amount in view of the fact that his veto of S. 575 was allegedly to prevent "false hopes" and "misleading impressions" in many communities about the availability of an adequate supply of Federal funds for public works projects. There are going to be more "false hopes" and "misleading impressions" as a result of the $50 million program than we would have had with the $2 billion program which this Congress passed by overwhelming margins in both Houses and which was killed by the President's veto.

Perhaps the administration now indicates a trend toward more concern for the unemployed people of this country. Such concern is long overdue. It is my hope that the Senate will review this matter carefully when it receives the indicated request by the administration for a supplemental appropriation. And I hope Congress will provide a more adequate amount of money.

Mr. President, I ask unanimous consent that the newspaper article to which I have referred be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

FIFTY MILLION DOLLAR PLAN FOR JOBS SET UP—PROGRAM OF PUBLIC WORKS TO START IN FEBRUARY IN HIGH UNEMPLOYMENT AREAS

(By Jack Rosenthal)

WASHINGTON, December 2.—The Nixon Administration announced today an immediate $50-million program to create public work jobs in communities with high unemployment.

The first phase will involve 7,000 jobs and cost $27-million, officials said. The first paychecks, they estimated, will be issued before the end of February.

Jobs created by the program will be in construction of roads, community centers and other projects that can be started quickly and whose costs are made up largely of labor costs.

Small communities are more likely than urban centers to benefit from the program, it appeared. But, officials said, projects will be undertaken across the country.

The new program was ordered by Congress in legislation passed Aug. 5. That measure followed a far more massive bill, calling for $2-billion and 175,000 jobs, that the President vetoed in June.

The program was announced today by the Department of Commerce, which said it had been ordered by the President to proceed immediately.

The Economic Development Administration, a Commerce agency, will administer the program. The agency's general responsibility is to promote long-term economic gains in depressed areas.

The emphasis in the new program on speed will dictate short-term projects, officials said. These will involve a mix of full-time and part-time and full-year and part-year jobs.

Thus, they cautioned, the figure of 7,000 jobs should not be taken literally, since the program could bring short-term benefits to a larger number of workers.

The initial $27-million will come out of long-term program funds. But, the Commerce announcement said, the President will ask Congress for additional funds to replace at least some of this amount and to fund the new program.

Of the $50-million cost of the new program, from $30-million to $40-million will be in new funds.

The Economic Development Administration now spends about $730-million a year for long-term programs in Appalachia, parts of New England, among Indians, and in other depressed areas.

Officials said today that the new emergency program funds would be apportioned among communities with a high concentration of unemployment or poverty, whether temporary or not.

It is probable, they added, that smaller communities will benefit most. The impact of the new public works jobs will be greater in them, they said.

Communities to receive the funds, officials said, will be chosen both on the basis of assessments of need by the development agency and from among those who apply.

IMPACT OF DOCK STRIKES ON AGRICULTURE

Mr. PACKWOOD. Mr. President, Senators are well aware that the disastrous impact of recent longshore strikes, particularly the Northwest strike, has been of critical concern to me. Not only must we face growing losses in the Northwest, the east coast, and the gulf area resulting from the inability of longshoremen and shippers to resolve their current disputes, but we must also face, whether we like it or not, repetition of similar crises at unforeseeable times and places in the future. This is our destiny, Mr. President, until this body agrees to explicitly assess the problem, evaluate the alternative solutions, and make some firm decisions on new procedures for settling emergency labor disputes in the transportation industry.

In an effort to shed some light on the nature of the problem we face, I would like today to address myself to the impact of the recent dock strikes on agriculture, and particularly on agricultural exports.

Any disruption of normal marketing of agricultural products will reduce farm prices and be reflected in lower farm income and higher government costs. Therefore the dock strikes which have occurred in the past and which are occurring now constitute a major threat to our farm marketing system and consequently to farm income and farm prices.

The dock strikes seriously limit our ability to compete in the international agricultural market, and the international market is essential to our wellbeing. Last year agricultural exports reached a new high of $7.8 billion, and these exports contributed heavily to our Nation's trade balance. Without these farm exports our balance-of-payments problem would have reached a crisis stage long ago.

During 1970, production from 1 out of every 4 acres was exported. These markets accounted for over one-half of our wheat, soybeans and rice, nearly two-fifths of our cattle hides, and one-third of the tallow, tobacco, and cotton produced, and about one-fifth of our feed grain sales.

Our farmers are aware that their competitive position in the international market is in jeopardy, because of the transportation tieup caused by the dock strikes. The international market is a tough one to compete in and prices weigh heavily in the decision by importers as to where they will buy their products. Our one big plus in this competition has been that of the dependable supplier. But how dependable are we when we have strikes every 3 years?

The Japanese are beginning to question us regarding our dependability as a supplier. In recent bilateral discussions with the Japanese we learned that they are sending missions to other supplying countries to urge that they increase their output, especially of grains, in order to reduce Japan's dependence on the United States.

If the Japanese turn to other sources for supplies of grains, especially wheat, this would be a tragic loss to our farmers. In the Northwest wheat is produced largely for export to Japan. During the July–September period last year our sales of wheat and flour off the west coast were 58 million bushels, and during the same period this year they were less than 1 million bushels.

Our share of the Japanese wheat market for the April–October period declined from 58 percent last year to 42 percent this year. This is a decline of approximately 15 million bushels worth roughly $25 million. All of this business went to our competitors. At this time the Japanese are buying wheat for delivery next year, but because of the threat of a continuance of the west coast dock strike at Christmas, they are not buying from the United States.

During the 100-day strike on the west coast this summer and fall we suffered export losses in many commodities besides wheat. Rice exports were down from 157,000 metric tons to 35,000 metric tons. Cotton exports were down by 85 percent; fruits and vegetables were down 55 percent. Certain industries suffered severely. California alfalfa producers are a good example. Exports of alfalfa meal usually account for about two-thirds of the California output, but during the west coast strike 10 alfalfa meal dehydration plants in California had to close down. Our market was flooded with alfalfa that would normally be dehydrated for export. Furthermore, alfalfa pellets and cubes destined for export and held by the strike were exposed to the sun which reduces carotene content to no more than that of ordinary hay. As a result, their value dropped to $30 per ton compared with the prestrike price of about $50 per ton. In total, our agricultural exports off the west coast during the 100-day strike declined by $200 million over the same period a year earlier.

What happened on the west coast was repeated on the east coast, gulf coast, and in Chicago. Corn and soybeans have been backed up throughout the Midwest, and farm prices have been discounted by 5 cents per bushel for these commodities. At one time there were 60 million bushels of corn and soybeans stranded in the approaches to New Orleans.

Because so many commodities are involved, I ask unanimous consent to have printed in the RECORD a listing of several northwest export crops and the dollar volume in the summer of 1970 as compared with the volume in summer, 1971.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

PACIFIC COAST EXPORTS—JULY–SEPTEMBER, 1970 AND 1971

[Dollars in millions]

Commodity	1970	1971	Percent 1971 of 1970
Grain and feed	$141.8	$13.8	10.0
Wheat and flour	88.7	1.4	2.0
Rice	25.7	5.6	22.0
Prepared feed/alfalfa meal	8.8	.7	8.0
Fats and oils	12.3	7.4	60.0
Tobacco	0	0	
Cotton	17.4	2.5	14.0
Dairy	7.0	1.5	21.0
Poultry	2.8	1.1	39.0
Livestock and meat	32.4	13.7	42.0
Tallow and greases	10.9	4.3	39.0
Hides and skins	12.0	5.3	44.0
Fruits and vegetables	69.3	30.9	45.0
Citrus fruits	11.0	8.5	77.0
Fruit cocktail	2.7	.3	11.0
Fruit juices	3.3	1.1	33.0
Other fruits and nuts	37.6	14.8	39.0
Vegetables	13.0	6.2	48.0
Sugar and tropical products	5.3	2.1	40.0
Total—all agricultural commodities	288.3	73.0	25.3

Mr. PACKWOOD. Mr. President, these figures speak for themselves. Magnify them severalfold and you can gage the effect of the longshore strikes around the Nation on our agricultural economy. Anyone who cares about equity for this Nation's farmers cannot close his eyes to this situation for much longer.

THE STIMULUS TO READ

Mr. EAGLETON. Mr. President, Daniel Fader, an English professor at the University of Michigan, conducted a reading experiment in a Washington, D.C. school several years ago. He has recently published a book entitled, "The Naked Children," based on his experiences with the children in Garnet-Patterson Junior High School. It is Dr. Fader's belief that children are failed by the schools. It is not that they cannot read; it is that they would not read unless given the proper stimulus.

To test his theory, Dr. Fader used newspapers, current issue magazines and paperback books to stimulate the children's interest, rather than traditional textbooks. "The Naked Children" describes the success of the experiment in terms of stimulating interest in reading and thereby improving the reading level of many of the children. Although Garnet-Patterson still reflects his new approach to the teaching of reading, the school no longer has the benefit of Dr. Fader's leadership, nor his resources.

The Washington Post recently carried excerpts from the book along with critical comments of the teachers involved. I ask unanimous consent that this article be inserted in the Record at the end of my remarks.

This experimental reading program is particularly important in light of the administration's right to read program. You may recall that this program was first announced in October 1969, by the late Dr. James Allen, then U.S. Commissioner of Education. Dr. Allen spoke of the 10 million American children and teenagers with serious reading difficulties. He committed the administration to a far-reaching program of educational support for these youngsters to enable them to enjoy their right to read.

Not long thereafter, President Nixon added his endorsement in a message to Congress on education reform. The President said:

> I propose new steps to help States and communities to achieve the Right to Read for every young American. I will shortly request that funds totalling $200 million be devoted to this objective during Fiscal 1971. The basic ability to read is a right that should be denied to no one, and the pleasures found in books and libraries should be available to all.

Two full years have now passed since this ambitious and comprehensive program was announced and still there are no funds earmarked for such a program. Funds siphoned from other education appropriations, totaling $10 million this year, are the sole means of carrying out the administration's most worthy proposal. Isolated grants are being awarded, but their scope is extremely limited and they affect relatively few children. This is a beginning but it is not enough. The President must back up his promise to establish a comprehensive right-to-read program with the necessary funds.

Mr. President, I ask unanimous consent that an article from the Washington Post Potomac magazine of December 5, 1971, describing Professor Fadler's reading experiment be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

White Teacher, Black Students at a District of Columbia School: An Experiment in Reading and Love

(By Aileen Jacobson)

(Note.—During the school year of 1965–66, Daniel Fader commuted weekly from the University of Michigan in Ann Arbor, where he teaches Shakespeare, to Garnet-Patterson Junior High at 10th and U Streets NW, to try to teach reading.

Fader had a federal grant to test a theory he had evolved and used once before. It was a simple, almost common-sensical theory: If children are having problems learning to read, perhaps one of the reasons is that they do not like what they are given to read. Perhaps "Silas Marner" and the works of Shakespeare are written in language that is impenetrable to them. And perhaps the very books themselves, as objects, are alien and forbidding. On the other hand, what becomes familiar to these same children, and what they naturally respond to are newspapers, magazines, and paperback books on subjects they are personally interested in. So, why not give them newspapers, magazines and paperbacks? If they can learn to read from those printed pages, rather than the traditional texts, what does it matter? They still have learned to read. And maybe they even have the sensation of pleasure associated with learning. Very rare for a young student. And, perhaps, since he has found pleasure in reading one kind of publication, he will, of his own free choice, go on to read other kinds of publications. Maybe even "Silas Marner" and Shakespeare.

For his basic reading materials, Fader used 450 copies daily of The Washington Post—the "capital" or first edition, which the students especially liked because it was so full of errors. (Theoretically, errors are caught and corrected for subsequent editions.) He also used magazines and paperbacks, which he got from Joseph Ottenstein, owner of The District News Company. Ottenstein liked Fader's theory, gave him the magazines for nothing, the books at his own wholesale price.

As with any new theory and experiment, Fader encountered a certain amount of opposition at Garnet-Patterson from both teachers and students. Yet, during the year, he was able to convert many, and most important, to get students reading. Not only did they read The Post and Ottenstein's magazines, but by the Spring of that year, there was a run on the school's library.

In ways direct and subtle, whatever Fader taught and learned at Garnet-Patterson evolved from an association, a rare and special friendship he developed with five students—Cleo, Wentworth, Snapper, Rubbergut and Uncle Wiggly. Cleo, 14, was the leader of this small gang, and she maintained her leadership by her extraordinary clarity of vision, wit and toughness, and by offering her body to the four boys, ages 13 to 14, on a planned and regular basis.

Fader has written about himself and Cleo and Wentworth and the others at Garnet-Patterson in a recently published book, "Naked Children." It is an intriguing, affecting story, and privileged look at life in Washington's inner city. Excerpts from the book follow. And also, since there is still opposition to Fader and his theory at Garnet-Patterson, included after the excerpt are some comments from teachers who were at the school when Fader's narrative was being lived.)

For two days I had hounded him. It began on Thursday morning when I sat in his English classroom during the first period of the day. Charles Dickens would have recognized the teacher. Invented and educated in another age, she was uncomfortable and unhappy in the seventh decade of the 20th century. If silence is golden, her classroom was the Fort Knox of the neighborhood. Thirty-eight children in her room that morning, breathing not apparent in 35. They had long since gotten the message: Keep quiet. Keep your mouth shut and nothing can happen to you. Say something, anything, and you've said too much. Thirty-five children sat stifled in silence.

Wentworth sat second seat from the front, second row from the wall, I sat in the last seat of the row next to the wall, the teacher's desk was diagonally, across the room from me and at right angles to Wentworth. She had a view of his left side and front while I could see his right side and back. What she saw from the left-front was one more of the silent creatures who inhabited the room like fish displaced from voiceless depths. What I saw from the right-rear was a boy slowly turning the pages of a hot-rod magazine.

For all that remained of Thursday and again on Friday I followed him from class to class. By Friday noon I had seen enough; we spoke in the cafeteria.

"She says you can't read. I don't believe it."

"Maybe she jus' puttin' you on."

"Maybe you're just putting her on." We had a talking acquaintance, no more. I knew I might be presuming too much, might be invading the place where the boy kept himself hidden, but the week was nearly done and I knew I was close to the truth I had begun to suspect. When he said, in a flat voice, "I ain't doin' nothin' to nobody," my impatience and irritation must have shown in my face, for suddenly he turned away from me—we had been standing together in the cafeteria line—and took a place farther back, his face averted.

I ate quickly at a table with several teachers and waited for Wentworth to finish. I knew I wouldn't get anything from him that he didn't want to give, and I thought he would be least likely to feel like giving when he was in the company of friends. As in so many of my estimates of children, I was wrong about the effect of his friends upon Wentworth. But I erred even more than habitual underestimation can explain. I was so wrong because Cleo was completely beyond my experience.

After I had eaten quickly, wanting to be ready whenever Wentworth decided to leave, I found myself feeling like a fool as both teachers and children, who had eaten at a more sensible rate, finished their meals and their conversations and left the cafeteria. No one had left Wentworth's table by the time the last teacher departed from mine. As the only adult remaining in the room, I suddenly felt conspicuous and alone.

When the last teacher left the cafeteria, five expressionless children got up together and walked toward me across the room. As they slowly made their way through the tables, I realized that I was not only conspicuous and alone, I was also uneasy and apprehensive. Had I harassed Wentworth to the point that he had enlisted his friends to help him handle me? I pushed my chair back from the table and stood up to meet them. The cafeteria was empty but for the six of us. They formed a semicircle in the aisle while I faced them from between the tables.

"Why you messin' on Wentworth?" The only girl in the group was speaking to me. No preliminaries. Just the question.

"I'm not messing on anybody," I said.

With a word, Wentworth commented on the truth of my answer. The girl ignored him and watched me.

"He don't wanna talk to you," she said.

"But I want to talk to him. He could help me a lot if he wanted to."

"He don't want to."

"He should."

"Why he *should?*" She was surprised and turned to look at Wentworth to see if there was something he hadn't told her. A gesture of his shoulders was enough. She turned her attention to me.

"What were you looking at during your English class yesterday and today?" I asked Wentworth.

"Nothin'."

I imitated his response to my earlier untruthful answer. The girl laughed loudly. The others grinned, their attention on Wentworth and not on me.

"Lookin' at a hogbook," he said slowly, a smile lighting his face as he realized what I had said and who I was imitating.

"Which one?"

"Don't you know the name."

"Hot Rod?"

"'At the one."

"You like it?"

"Some."

"Where'd you get it from?"

"Teacher had a pile of 'em onna table."

"You know where *she* got it from?" An eloquent movement of his shoulders and eyes. "I gave it to her," I said.

"You the one brung all them newspapers and magazines?" The girl was interested. So were the others.

"Yes. Friends give them to me and I bring them to you." It was hard to find the right tone. Whom was I speaking to? Children? Adults who looked like children? I needed them for what they could tell me, especially Wentworth. But I didn't seem to be getting any closer to the information I wanted.

"So Wentworth oughta talk to you on accoun' of he was lookin' at a magazine you brung?" Skepticism was in her voice.

"No," I said, realizing that was exactly what I had meant. "He ought to talk to me because he knows a lot of things I need to know."

"Like what?" she asked, disbelief spreading from her voice to her face. Like what?" she said again, more sadly, as the bell rang for change of class.

I was helpless. The whole thing was in her hands now, this girl with her retinue of grinning, disbelieving boys. Mine may not be the oldest profession, I thought, but it has to be the worst. Who else has to depend on the whims of children? I had already given up hope when I answered her: "Like why his teachers say he can't read and I see him reading a hog-book for two days in his English class?"

I was waiting on the corner across from school. It was Cleo who brought them to see me. She was in front, with Wentworth, Snapper, and Rubbergut walking together in the rear. Because I was sitting, she sat too. Snapper squatted behind me, Wentworth and Rubbergut leaned against the telephone pole, while Uncle Wiggly continued to shadowbox in the street.

"You still wanna know?" she asked.

I told her that I did.

"All right," she said. "Go on, Wentworth. Tell him."

Wentworth told me. "Sure I can read," he said. "I been able to read ever since I can remember. But I ain't never gonna let *them* know, on accoun' of iff'n I do I'm gonna have to read all that crap they got."

I knew what he said was true. I knew it was true because I had seen him reading; I knew it was true because I'd seen the brightness in his eyes and heard the deft quickness of his responses. I had assumed such children existed when I first conceived the approach to teaching literacy that was slowly making its way from Michigan to the District of Columbia. But though I knew it was true with every sense and instinct I had. I could barely believe what I had heard. A theory is a disembodied thing. To watch a theory take arms and legs and tongue . . . I realized that they were all waiting for me to speak.

"You know who Albert Einstein is?" I asked.

"Sure," said Cleo. "He was a dumbhead when he was a kid. Then he done all kind a smart things. I read 'bout him in a magazine."

My question had been pure rhetoric. They must get mighty tired of being underestimated, I thought. Tired enough to pretend they're too stupid to read. "You know what," I said, "I didn't think you'd know who he was. I'm sorry."

"Don't matter. How come you wanna know?"

"Because when Wentworth told me he really can read even though everybody thinks he can't, I guess I felt like Einstein after astronomers proved he was right when he said there had to be a planet like Neptune. He must have felt pretty good, and so do I."

"Just 'cause Wentworth can read?"

"Just because I've always been sure there must be a lot of people like Wentworth but I never met one before. It's worth a lot to me to know I'm right."

"How much?"

"How much what?"

"How much it worth to know you right?"

"I'll have to think about it some. You got a suggestion?"

"Anyway a dollar."

"Anyway," I said. "How about a dollar and a quarter? That comes out to. . . ."

"I know what it come to. A dollar and 25 is a quarter for ever' one of us. You can give it to us now if you wants to."

I counted the money out and she put it in the pocket of her coat. Thinking the interview was done, I got up from the curb to go to my car parked across the street.

"Don't you wanna hear Wentworth read somethin'?"

"Should I?" I was too surprised to find the right response.

"He could fool his teachers, he could fool you."

She was right. He could, and so could she if she wanted to. Maybe they all could. I sat down again while Wentworth opened the paperbound book that Snapper was carrying. It was Joy Adamson's "Born Free," the story of Elsa the lioness who grows up as a member of the Adamson family. Wentworth chose to read the passage that describes Elsa's first meeting with an elephant:

> It was an exciting moment when the cub met her first elephant, an anxious one too, for poor Elsa had no mother to warn her against those animals who regard lions as the only enemies of their young and therefore sometimes kill them. . . .

As he read, I managed to look at their faces. Rubbergut's mouth was open; Uncle Wiggly was momentarily in repose. He had their rapt attention. I was sure that all I had to do was close my eyes and I'd find myself walking through the looking glass or down the yellowbrick road—nothing I could imagine would be less likely than sitting on a street corner in northwest Washington while an illiterate boy read "Born Free" to me and the other members of his gang.

"O.K.?" It was Cleo, and she was speaking to me.

"Sure. Fine. I'm satisfied."

"You bring the books, too?"

"Yes. From a friend of mine." "He some friend." It was Snapper, breaking his silence for the first time.

"He is. Would you like to meet him sometime and see all the books he has?"

"Sometime." The meeting was finished. Cleo had spoken the last word with a finality that none of us could miss. I watched them walk down the street in a close group. Again, none looked back.

One of the few times I saw Cleo angry—so angry that she almost lost control of herself—was when Snapper provoked a teacher into name-calling. None of us witnessed the event; all we knew of it was Snapper's report, obliquely delivered, that afternoon. We were sitting in my car, parked on 10th Street in front of school, when a teacher left the building and crossed the street in front of us.

"She ain't worth nothin'," Snapper said flatly.

"Who?"

"Her. Big Butt."

"What she do on you?"

"Lay a name on me."

"Will-*yum*?" Rubbergut said it with emphasis and with a smile. But Snapper didn't respond.

"What she call you?" Cleo's question required an answer. I was surprised at its sharpness; was there something I had missed? Why did she care what the name was? I thought Snapper felt as I did when he answered mildly—

"It don't matter none."

"You tell me what she say, I tell you iff'n it don't matter none." I had never heard her use that tone before. She was obviously prepared to be angry, but I was unable to understand why. Did a day pass that some vengeful adult didn't call them a name? It hardly seemed worth the pain to live through one of those incidents again. I was already turning the key in the ignition, hoping that noise and motion would distract them, when Snapper responded to his leader's command:

"She call me a jungle nigger."

We sat in the nearest thing to absolute silence that six people, five of them adolescents, can attain. Drops from a brief rain shower ran soundlessly down the windshield while schoolchildren hurried across the street in front of us. Sitting in the outside front seat, Cleo suddenly brought her fist down hard on the dashboard and her lips moved, though she said nothing I could hear. Then, after a brief pause—the car still soundless—she reached across Wentworth and patted my arm. They couldn't go for a ride, she explained, apology and regret in her voice. They were mighty sorry, but maybe we could all go to that place next week. And she knew it was two times that word had been laid on my ears. It wasn't no way to talk in front of a friend. The three from the back seat were already waiting on the sidewalk when Cleo and Wentworth left me alone in the car.

It showed me how thin the skin is that protects constantly abused children from their own violence. I knew perfectly well I had witnessed a prelude to vengeance. I knew the teacher, and I knew how well she deserved her reputation for a vicious mouth. I knew the children, and I had seen rage and determination in Cleo's face. Only one product was possible from those volatile elements in combination. Knowing, I was powerless to prevent it.

I was a fool to think I had witnessed a prelude to immediate violence. At least Cleo and Wentworth were too smart for that, if not the others. Which is probably to do the others an injustice, for I believe now that Snapper's reluctance to repeat the teacher's epithet grew out of his foreknowledge of Cleo's response. Whatever the reason, he had not been anxious to provoke immediate retaliation and I should have known better than to fear it. The children were as cautious and circumspect in their vengeance as they were in their friendship.

A month passed before they retaliated. Had the event occurred early in the week, I might not have known of it. Since they acted on a Wednesday, however, it was the teachers' prime topic for conversation on Thursday. What they had done was simple and devastating: they had slashed all four tires on the woman's car, and they had added sand to her gas tank, radiator, and oil system. When I heard about it, I felt only relief. I had been afraid they would act against her person instead of her possession.

Only then did I realize how certain I had been of their intent, and how much a party—though passive—I had been to their act. In spite of my bad conscience, I do not think I would have said or done anything about their vandalism had they not thrust the opportunity upon me.

The opportunity arose from another brief clash between Cleo and Wentworth. An increasing number of these confrontations marked the passage of our year together; what was happening, I think, is that the relationship between them was about to reverse itself and both were searching for new ground on which to stand. As I came to understand this, both became more admirable in my eyes for the genuine kindness with which they treated each other. Especially Cleo, who understood that Wentworth needed help in shedding his outgrown skin.

Occasion for the clash was Wentworth's admiration of Dick Gregory and Cleo's supersensitivity about the word "nigger". When we went to visit Joe Ottenstein and his District News Company, Wentworth acquired copies of "From the Back of the Bus" and "Nigger." At the time I thought Cleo had them too, but I was mistaken. She was shocked by the title of "Nigger" and had refused to take any of Gregory's books. I discovered this when Wentworth took "Nigger" out of his pocket one day and passed it to Uncle Wiggly.

" I brung it for you," he said. "Give it back when you done."

"My ma kin read it?" Uncle Wiggly's mother read everything he brought home. He had told us about her when he met us one Friday after school with three women's magazines rolled up in his hand.

"Sure," Wentworth said, and added expansively, "you gramma, too, iff'n she wants."

"Ain't fit for nobody," Cleo pronounced emphatically. She made a pushing motion with her hand, as though shoving the book away from her.

"How you know?" asked Wentworth. "You ain't never read it."

"Ain't never gonna read it neither!"

"Then how you know so much?"

"I know."

"Just 'cause he call it 'Nigger,' you ain't even gonna find out what he say?"

"Man use that word, he don't say nothin' I wanna hear."

"Ain't it a good book?" Wentworth was appealing to me. I was in, whether I wanted to be or not.

"You remember what he writes to his mother?" I asked Wentworth. He didn't, so I repeated as accurately as I could the dedication which I now quote from the book: "Dear Momma—Wherever you are, if ever you hear the word *nigger* again, remember they are advertising my book."

"Yeah," Wentworth said. "That's good."

"I like it, too," I said. "He puts that word right where it belongs."

"It don't belong on no book." Cleo shook her finger at the book in Uncle Wiggly's hand.

"You're right," I said. "It doesn't belong on a book and it doesn't belong in anybody's mouth or mind. But it's there. And it won't disappear because you want it to. It won't disappear unless you do something about it. Like Dick Gregory's doing by bringing it out in the open and laughing at it. That's one way of getting rid of it."

I knew I was walking on thin cover but I was tired of unnameable and unmentionable things: "You can laugh at it and it'll disappear. Or you can talk it away. But you can't turn your back on it. It's got to be dealt with. And when you mess up somebody's car after she calls you a jungle nigger, you aren't dealing with it because you aren't teaching her anything. Messing up her car isn't going to cost her anything but money."

"Cost her plenty a that."

"You handle it right, you could cost her her job. Insurance takes care of her car. Nothing takes care of her job. When it's gone, it's gone."

"Now how *we* gonna get *her* job?" Cleo, with interest and disbelief.

"You're not. You got sore and lost your chance. You're not the only ones who know how bad she is. But you and the rest of her students are the only ones who can prove it. When she called Snapper a jungle nigger you could all have gone to see the principal. He's a good man and you know it. He'd do something about it."

"You could tell him."

"No, I can't. I can't because I'm white and she's black and I'm a stranger here. She or somebody would swear race was the problem and the whole thing would get lost in black and white. No, not me. It had to be you." I hadn't meant my words to be so final, but they were. A depressed silence wrapped us like a winding sheet. I thought I'd buried the subject, which I hadn't wanted to do, until Snapper revived it with a sad, quiet observation:

"We could have got her *good*."

"We done it. That car ain't goin' nowhere." Uncle Wiggly, hopefully.

"Naw," Cleo, speaking slowly. "We didn't do *nothin*.' She still here, mean as ever. Messin' on her car didn't keep her from comin.' She still here, niggerin' everybody to death." Then a longer silence before she turned to me and said. "You tell us. You tell us what we kin do."

I soon discovered that they were far less interested in what I had done than where I had been when I had done it. The discovery may have been hard on my ego but it was easy on our relationship, for it freed me of identity and allowed me to become a conveyor of picture and place.

Their favorite place was San Francisco, their favorite picture the view of that pastel city from Twin Peaks. Each time they asked about it I tried to describe another aspect of the city or its peninsula. Casting about in my memory for something different on a comfortable afternoon, I remembered Chinese New Year celebrations held in San Francisco's Chinatown and told them about the great dragon that danced through the streets. The picture brought them pleasure and desire. They decided that if the Chinese New Year were celebrated in February, as I thought perhaps it was, then next month they would just have to leave their nothing school and their nowhere neighborhood (no mention of their city; they never thought of it as theirs) to go out to San Francisco and never come back.

Remembering who they were and where they were momentarily dimmed the brightness of the day. "Ever' year the Year of the Dog 'round here,' said Cleo flatly when I told her about the Chinese practice of naming each new year.

"You don't bark loud," Snapper said, to no one in particular, "You don't never get heard."

The Year of the Dog. The boys liked the image. Rubbergut picked it up and stretched it slowly in the afternoon sun. "Wouldn't be so bad to be a big old tick hound with nothin' to do but eat and sleep and run."

"What you hunt wouldn't scare you weak?" asked Snapper disdainfully. Rubbergut was a notorious coward. The rest of the boys tolerated him because he was Cleo's choice and Snapper's half brother, but his cowardice was like a rat which they threw stones at whenever it showed its head. Rubbergut retreated as Cleo turned the subject to business.

"Ever' year the Year of the Dog here," she repeated. "This school don't teach us nothin' 'cept to bark."

Spontaneously, almost in unison, the boys began to bark. I looked around, suddenly self-conscious, aware that I was a grown man sitting on steps of an unused school entrance with four barking boys and one grinning girl. A man came to the second floor window of a house across the street. I saw a dog farther down the block stop in confusion. I couldn't blame him. We must have been something to see and hear.

"I'd hunt me a teacher," Rubbergut said unexpectedly when the barking had quieted. "I'd hunt me a teacher rabbit and have me a stew."

"What else you put in?" asked Cleo, not unkindly. "Sure be a mighty thin stew iff'n you only got you a teacher rabbit."

The limits expanded that afternoon as daylight waned. For the first time the children asked me about myself, about where and how I had grown up, about my childhood family in Baltimore and my present family in Ann Arbor. The questions grew out of sudden embarrassment and tenderness of feeling when the conversation turned to teachers, and the children realized that one example of that thin and stringy stew meat was sitting beside them on the school steps.

"Wouldn't need nothin' else in no stew with you," Cleo said to me. Except for the few times when she was blinded by prejudice, she was always first to perceive and mollify hurt feelings.

"How come you a teacher?" Uncle Wiggly, oblivious to Cleo's glare. His question was kindly meant.

"Woke up one morning with a terrible itch. Turned out to be the teaching itch, so I've been scratching and teaching ever since." What I had meant to be light had turned out to be heavy and dull, but Uncle Wiggly was not put off. He was used to forgiving dullness in adults.

"You like going' to school?"

"Sometimes."

"You like goin' to our school?"

"No." Their silence invited me to say more, but I wanted a sign before taking the wrong direction.

"Then why you keep comin' back?"

"Keep hopin' it'll change, I guess."

"Hoping' never changed nothin'," Wentworth said. He had been quieter than usual, but now he was so emphatic that we all turned to look at him. *"Hope* this school gonna fall down but it don't. It stand right here, ever' mornin', ugly and mean."

"Too *gross* to fall down." Uncle Wiggly had used their favorite word. Wherever they had found it, they found a treasure; for them it summed all that was stupid, mean, and ugly into a single syllable.

"Gross," echoed Wentworth. "Grossest place in the whole world."

I meant to distract them with my question: "You want to do something about changing it?"

"Do Wentworth want a Cadillac?" Cleo, a quicker mind at 14 than most of us at any age. It was the question she had been waiting for. She had been leaning forward, resting her chin in her hands; I watched her sit up and fold her hands in her lap. She was prepared to do business.

"Let me tell you why I come down here every week. Then we can talk about changing the school."

"Tell us iff'n you wants," replied Cleo. "We done already read that little blue book."

I have never been so disconcerted by a child's direct response. "That little blue book," a pamphlet written by me and published by the University of Michigan, described the penal school program called "English In Every Classroom" which I was struggling to transfer into public school practice. That little blue book had been imported into Garnet-Patterson in August of 1965 when I first distributed a copy to each teacher. If the faculty agreed upon anything, it was that those booklets should be kept from their students. As one teacher informed me, children resent learning things that are taught in reform school. She neglected to add that they could not possibly resent it as much as some of their teachers resent teaching things that are taught in reform school.

"All of you?" I asked, foolishly. I was astounded. Later I would realize that my astonishment grew from disbelief in their literacy. I did not believe they could have read that pamphlet.

"Sure. *Ever*body want to know what you doin' here."

It was so reasonable if you were willing to credit them with normal sensibilities. You have a friend, you naturally want to know what he does with himself. If he doesn't know about Neptune, you find out for him. If he writes a little blue book, you read it.

"But how did you get the book? I mean. . . ." It was a stupid question. Did I want them to admit they had pilfered it? In one copy or five? I tried to retrieve my error. "I mean, I'm glad you read it."

"Anyway, we read it. You gonna tell us what we kin do?"

And that's how it began. In one way it started with Wentworth's magazine, with the Cadillac and trip to the airport, our visit to District News, a mounted policeman in front of the National Gallery. We made a number of beginnings in the last four months of 1965, but we did not begin our campaign until a Thursday in January when we sat together on the school steps in an unseasonably warm and weakening light.

We talked until the street was dark and cars were turning on their headlights as they passed. I explained the theory and operation of the program; they in turn told me where it was working in their classes and where it wasn't. In writing now about that first exchange of confidence and act of mutual recruitment, I realize how much their previous discretion made the conversation possible. Except for Snapper's reluctant revelation about the teacher who called names, and Wentworth's explicit feeling about his English teacher, none of the children had revealed to me their opinions of individual teachers and I had never asked. They had said much in general and invitation to talk about individuals, they preferred first to talk about ideas:

"If *ever'* teacher teach readin' and writin', some a them dumbheads still ain't gonna learn."

"He ain't worried none about them. He aimin' to get all the ones just *sits* there."

"Can't make a smarthead out of a dumbhead no way."

"Throw away them books, you see who's a dumbhead."

"Iff'n I could put my magazine on 'at desk, it sure be easier on my eyes." That was Wentworth's way of cooling the conversation. Any reference to the way I'd gotten to know him was usually good for a laugh.

I couldn't repeat all of that conversation even if I had full notes instead of a few words and memories in front of me. Four children actively argued the merits and deficiencies of a plan for teaching literacy, while a fifth echoed whoever was most vociferous and made occasional contributions of his own. My sense of reality, already diminished by Cleo's matter-of-fact statement that all five of them had read the booklet called "Teaching English At Boys Training School," was further weakened by evidence that they had not only read it but understood.

AT GARNET-PATTERSON THE MEMORIES ARE NOT SO FOND—"IF I COULD IDENTIFY ONE OF THE KIDS, I WOULD TELL THE PARENTS TO SUE HIM"

Teachers at Garnet-Patterson Junior High feel that Fader's book is unfair and inaccurate, and some are quite bitter about it, according to the principal of the school, Margaret Labat. Most of them, however, have not read the book, including the principal. "Dan didn't bother to send us any complementary copies," she said.

The teachers have seen articles and a review of the book, though, and the general reaction of some, expressed at a recent meeting of the Reading Mobilization Team, is that Fader has capitalized on—even exploited—his visits to the school for fame and fortune. The teachers expressed disbelief that he had spent enough time to establish a sustained relationship with any children. "Is this book fact or fiction?" one teacher asked. Another implied that he might have lifted his case histories from the teachers' weekly reports on the program.

"If he had any contact sufficient to come up with a full description for a book, then it was most unusual," Mrs. Labat said. "Contact was not approved as part of 'English in Every Classroom.' It was never intended that he should be involved with the youngsters. He was supposed to explain the intent of the program, to introduce it to us. How he could have had contact with the children is beyond me. If I could identify one of the kids, I would tell the parents to sue him." She added, "People who write are usually very creative, and it would have been easy for Dan to be creative when no one can document his facts."

Mrs. Labat said she felt "pretty excited" about the program when it first came. "The concept is not new, but it was innovative for this particular school situation. Paperbacks were just beginning to be popular then." She has read "Hooked on Books," Fader's first description of the program he brought to Garnet-Patterson, published in 1966, and felt that book was "pretty accurate."

Like the teachers, she regrets that today there are no more funds for the program, but tried to clear up one error which she thinks (from reports of teachers and newspaper accounts) the book might be perpetrating: "It's not true that teachers have gone back to their old methods of teaching. There has been a change, and the teaching here is different from that in other classrooms in the city. The English teachers say that because of Fader's experiment they have changed their teaching styles."

The teachers, meeting without Mrs. Labat, differed from her. They felt that if indeed Fader had close relationships with some of the children, that would have been fine. They just didn't believe it. In fact, they complained that he never entered the classrooms. Like their principal, thought, they had praise for the program.

Midway throught the meeting, as they were discussing their lack of knowledge of what was actually in the book, one teacher suggested, "Hey, why don't we get the library to order a copy?" Other teachers thought it a good idea, and one suggested they might even order several.

"Fader was very impatient. He couldn't understand why we couldn't pull the program out of a hat, even though the materials weren't here the first semester. He didn't give us enough information about the program. He gave us one booklet, and it was not very clear, so we had to ask him questions. And then he left the meetings displeased because of the questions we had asked.

"My criticism of the program is that there was no way of evaluating it. We asked for a diagnostic test at the beginning and at the end, but he didn't want it.

"We didn't find that much resistance to the program, though there was some resentment that it had been used in a prison before it came here. But it was the beginning of our teaching in teams, which I thought was pretty effective. It provided for a carry-over, because the English teacher would see the papers written in other classes and could correct them for grammar and for the structure of a composition. The children kept journals, though we had to censor them, because they were writing obscenities in them, and the parents objected. But the children are better-read now, and they have become accustomed to handling books. They began to write better, too, in some instances—not in all.

"We found that boys who supposedly couldn't read would keep the sports pages, and read them later. We found that if we wanted to get across to the child, we had to use the sports section.

"We feel overworked now because we have to teach these skills that should be taught, but we no longer have any hardback textbooks. Though the paperbacks are excellent, it's hard to get enough material for nine months out of them. There's no anthology, and that's what we need—if there is a good one available. That's another thing. Someone should let us know if there is."

"Most of us haven't read the book because it costs $7. If it were here, I would read it. But there aren't even any bookstores in this neighborhood.

"There's no doubt that the program is a good one. But we got no preconditoning for it. It was handed to us prefabricated, copyrighted downtown, and then laid on our desks. It's as though one morning someone came and said, 'No more books.' The teachers were in a state of shock. Since then, we've become more sophisticated. We get the community, the parents, and the teachers involved when we start a new program.

"He gave us an outline with no meat, and left us to figure it out. He had so many irons in the fire, he was hardly here at all, and he never visited the classrooms. He was no more competent to teach in junior high than I would be to take over his college Shakespeare course.

"The first semester we were very frustrated because there was only the newspaper to teach with. The rest of the materials didn't arrive until the second semester. But by the second year, when the redtape was out of the way, we were pleased.

"There were many successes, though Fader wouldn't know who they were. I think the reading level has improved. But now we are running a modified version of the program, with the paperbacks we have left and with the little money we can get in the name of 'English in Every Classroom.' I don't have the connections that Mr. Fader had. We don't have *The Post* this year because we don't have the money for it. We have adapted the program.

"There was an initial resistance to the program, but this was no more than the usual resistance you get to any new program."

FADER'S "FRIEND" REMEMBERS FONDLY: "MY GRANDCHILDREN ARE ALWAYS HAPPY WHEN I BRING THEM A NEW BOOK . . . CHILDREN ARE CHILDREN AND THEY ALL WANT THE SAME THING"

Fader's "friend" was Joseph Ottenstein, founder and president of District News, and distributor of all magazines and paperbacks for the area.

In the first of several trips they were to take, to venture together, Fader took the children to Cottage City, Md., to visit Ottenstein and his warehouse.

The visit was memorable, as Fader relates it, for a couple of reasons. First, because Ottenstein was the first Jew Cleo and her gang had ever met, outside of fleeting ghetto contacts, and the meeting affected a basic notion, or prejudice, or two.

Then, the day was lasting because Ottenstein gave them the run of his stacks, told them they could take as many books as they could carry and gave them cartons to help in the carrying.

Today, Ottenstein is "going on 76" and semi-retired, his son running most of the business. To Potomac, recently, he recalled that he began selling papers when he was nine, a year after he emigrated here from Russia, and has been selling—and giving away—papers, magazines and books ever since.

"Mr. Fader did a good job on the book, and he did a good job in person, on the program. He wanted to get the kids 'hooked on books,' that's what he said. I gave away thousands of paperbacks, in other programs, too. The kids ate it up. Kids do learn to read if they have access to books. They enjoy reading about something they know, in the sports field primarily, and if they can choose the book. We had a bookmobile once, and the kids were supposed to buy the books, but many of them stole them. But I don't care if they get away with a few under their shirt, if they want to read them. I would have liked to have given books to every child in town.

"I have 11 grandchildren, and so naturally I'm interested in the welfare of children. My grandchildren are always happy when I bring them a new book, and they always want me to read to them. Well, children are children, and they all want the same thing, and they all have the same tastes. Business is so hard and cold and cruel, and the bigger you get, the harder it is to make human contact. Before, you could encourage a young man by taking him to the ball game and buying him a hot dog and a soda. Now you buy the tickets and distribute them. It's not the same thing."

CURRENT ECONOMIC DIFFICULTIES

Mr. PACKWOOD. Mr. President, the attached editorial comment was sent to me by a very good friend who asked that it be submitted for the RECORD so that Senators might have the opportunity to review it. While some of us may differ with this analysis of the basis of our current economic difficulties, it is certainly worth reading as it represents the thinking of a successful small businessman—one who represents the backbone of the American economy.

I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ON SHAPING UP—OR SHIPPING OUT

By the time this appears in print the President will have revealed what measures will be taken to replace the temporary wage-price freeze due to end this month. Regardless of the details, however, and regardless of the obvious necessity to exert some sort of stabilizing influence on the economy in order to halt or at least slow down the destructive inflation/unemployment spiral, more needs to be said on the subject.

What we are looking at here are measures designed to deal with the symptoms of the problem and not the sickness that is causing it. And that sickness is, of course, the fact that we are—and have been for many years—spending more money than we have been taking in. The deficit in trade payments is part of it, but only part. What the government is handing out to support other governments, many if not most of which are of questionable viability and morality, makes our import-export imbalance pale by comparison. But add both to our deficit spending here at home and the sickness begins to look terminal.

The truth of the matter is that, despite the roseate glow cast by our still ascending gross national product, we are facing national bankruptcy somewhere down the road. Before this point is reached we will all have to bite the bullet and shape up financially or ship out to a new status as a declining world power, dependent upon other nations for survival. Perhaps a good place to start would be with the public payroll, which is growing faster than the private payroll which supports it.

Sincerely yours,

KENNETH W. FORD,
President.

THE NATIONAL ENVIRONMENTAL CENTER ACT

Mr. EAGLETON. Mr. President, no nation in the world is as richly endowed with scientific expertise and capabilities in the environmental field as the United States. Literally thousands of American engineers and scientists connected with hundreds of organizations are engaged in research on our environmental ills.

It is probably correct to say that few environmental problems are receiving too much attention from the scientific community at the present time. However, it is equally true that some environmental problems have been overlooked in the past and have not received the scientific attention they deserved, and that other environmental problems have been studied from too narrow a perspective.

These shortcomings result from the fact that environmental science in the United States is so heavily dispersed among literally hundreds of organizations, and because too little attention has been devoted to coordinating the use of our environmental scientific resources to insure that they are applied in the most effective and efficient manner. S. 1113 passed by the Senate earlier this week establishes an independent environmental research agency to focus and coordinate environmental research. It should insure that priority problems receive priority attention, that significant environmental problems will not be allowed to fall between the cracks, and that environmental research will be conducted from a broad enough viewpoint to make the results of that research pertinent and useful to decisionmakers and the public.

It should be pointed out, though, that the National Environmental Center—though independent—will not be an irresponsible or unresponsive body. A full-time Board of Trustees comprised of seven nongovernment members will be responsible to the Congress and the President for the operation of the center and its work.

Responsiveness of the National Environmental Center to the needs of the Government agencies engaged in environmental protection efforts will be insured through a Federal Agency Liaison Committee comprised of the heads of the Federal agencies concerned with, or involved in, environmental protection efforts. This committee will serve as a two-way channel of communication between the center and the several environmental agencies, and should serve a valuable mechanism in the center's efforts to provide focus and direction for Government and Government-assisted environmental research.

S. 1113 also provides for another important channel of communication from the general public to the National Environmental Center through a General Public Advisory Committee comprised of nine public members who will represent the public in advising the Board of Trustees on the conduct of the center's business.

Mr. President, the point is often made that we have enough—or nearly enough—organizations and individuals engaged in environmental research, and that our most urgent need is for better utilization of these existing resources. S. 1113 responds to that point. It authorizes the Board of Trustees of the National Environmental Center to designate or establish not more than six national environmental laboratories to carry out the work of the Center on environmental problems. Thus it permits, but does not require, the establishment of new scientific organizations manned by new scientists. Where national needs would be served better by such action, it permits designation of existing organizations and the scientific talent that goes with them as environmental laboratories.

In addition to its important authority to establish or designate national environmental laboratories, the Board of Trustees has a broad array of other organizational and managerial tools to enable it to call upon a wide variety of scientific resources in the performance of its responsibilities. I want to call particular attention to one of these tools. It is the authority conferred upon the Board to contract with State, local, and private agencies and with organizations, institutions, and individuals for the performance of scientific research. Thus, in addition to the power to conduct in-house research, the National Environmental Center clearly is authorized to engage the services of an almost infinite array of organizations and individuals to perform research for the Center when and where it is appropriate.

Mr. President, I hope—and I expect—that the Board will make a special effort to use this authority and the other authorities available to it in structuring imaginative, productive, working relationships with scientists and engineers in the private sector of our economy. These men and women, and the organizations with which they are affiliated, bring to bear exciting knowledge and analytical skills in their research on environmental and other problems. Far too frequently, this environmental scientific resource is overlooked by those responsible for Government research efforts and very substantial public benefits are denied the American public as a result.

Another vital responsibility of the Center and its Board to which I would call the Members' attention is its responsibility to insure that the public is informed about its work of the Center and the scientific findings it produces. The explicit requirement that the National Environmental Center provide support for an appropriate mechanism to insure public understanding of environmental issues is of great importance generally, and is of particular importance since our system of government depends, in the ultimate analysis, upon the involvement of a public that is well informed about the problems the Government faces.

Mr. President, the State Environmental Center Act amendment is truly a beneficial and worthwhile addition to S. 1113. That amendment will fill an important gap in many State environmental programs by insuring that each State is provided with scientific research capabilities to attack the problems that affect it most directly. Additionally, the State centers authorized by the amendment will, as one of their principal responsibilities, conduct a uniquely valuable education extension program to provide a full range of educational and communications services. Those services will be directed toward the general public, all units of government in the State, the private sector, and to civic, fraternal, and other public interest groups. Included among the educational and communications services to be provided by State environmental centers is the critically important function of providing reference services to facilitate rapid identification, acquisition, retrieval and use of environmental information.

Mr. President, I think S. 1113 is a sound, constructive, and much-needed piece of legislation and I am pleased that Senators have given it their support.

ANTIOCH'S NEW APPROACH TO LAW STUDY

Mr. HART. Mr. President, over the weekend, I was pleased to note that the Board of Trustees of Antioch College, in Yellow Springs, Ohio, unanimously decided to establish the Antioch School of Law in Washington, D.C., to open in September 1972. My understanding is that the school will utilize the "learning by doing" approach for which Antioch is nationally known. The Urban Law Institute, a federally funded public law firm, will be at the core of the teaching institution.

It will not be just another law school. Rather, it will be the first to incorporate a wholly "clinical" approach to the teaching of law, much as an intern's affiliation with a teaching hospital. The school will be both a public law firm, involved in class action litigation on behalf of the poor, as well as an educational institution where students will be active participants throughout their schooling in advocacy procedures. I am told that there will be a heavy emphasis on course work in Federal programs, housing for the poor, consumer protection, and other areas of urban law.

It is a significant achievement for the Urban Law Institute, Antioch College, and for the designated co-deans, Jean Camper Cahn, director of the Urban Law Institute, and Edgar S. Cahn, director of the Citizens Advocate Center, both eminent attorneys who have made bold breakthroughs in many areas of civil rights and public interest law. The Cahns are credited with developing the basic blueprint for the national legal services program, which now employs over 2,000 attorneys representing the poor. Four years ago the Urban Law Institute began as a small pilot project, funded by the Office of Economic Opportunity, in reforming legal education. Over a period of 3 years it has won national recognition and acclaim for pioneering the concept of the teaching law firm as an instrument for training law students and young lawyers in what has been termed the "medical school approach."

Chief Justice Burger in earlier speeches has declared that:

> One could hardly conceive a system of legal education further removed from the realities of life than the case method," and further criticized that, "Today, in many courtrooms, cases are being inadequately tried by poorly trained lawyers, and people suffer because lawyers are licensed, with very few exceptions, without slightest inquiry into their capacity to perform the intensely practical functions of a counselor or advocate.

The Antioch School of Law plans to expose students first hand to the problems of the poor by having them spend a night in jail, ride in police cars, and make applications for public housing, welfare, and food stamps.

This new concept seems an attractive and exciting way to enhance the practice of law as an instrument for securing justice for all people.

JUSTICE BRANDEIS—ADDRESS BY SENATOR MUSKIE

Mr. RIBICOFF. Mr. President, last month, the distinguished Senator from Maine (Mr. Muskie) addressed the annual Brandeis University dinner. His eloquent remarks were more than a testimonial to a great jurist—but a tribute to the ideals for which Louis Brandeis lived.

Senator Muskie reminded his audience that Brandeis not only represented judicial excellence, but as a Jew was devoted to what was in his lifetime only a dream—the creation of a Jewish state.

Commenting on the reality of Israel today, Senator Muskie reasserted his support for greater American diplomatic and military assistance to Israel and called for a reversal of the administration's "senseless decision to put more pressure on Israel and less pressure on Cairo which moves us further from peace, not closer."

In his address, Senator Muskie called attention to Brandeis' pursuit of social justice and individual freedom for all Americans, worthy goals for all of us.

I am pleased to call my colleagues' attention to the Senator from Maine's speech and I ask unanimous consent that the full text be inserted in the Record.

There being no objection, the address was ordered to be printed in the Record, as follows:

To Stand in the Brandeis Tradition

I am proud to join you tonight at the Twenty-Second Annual Brandeis Dinner—to speak with you about a remarkable past and to work with you in building the future of a great American university.

Since the hopeful spring of 1948, when the Jewish people founded a college in the countryside of Massachusetts and a homeland in the desert half a world away, Brandeis University has stood for all that is new and good in higher education . . .

For the breakdown of barriers which deny poor and minority students a decent change.

For the freedom to teach and to learn in an atmosphere untrammeled by political or ideological doctrine . . .

And for the creation of a just society . . . worthy of the young men and women who will inherit it.

But Brandeis is more than a distinguished university. It is also the namesake and the symbol of one of those very few, very special men who define the history and the heritage of America.

Louis Brandeis died before most of the students in Waltham were born. They read his words only when an occasional assignment requires reference to a Court decision. They speak his name only when others ask what school they attend. They see his image only in the bronze statue on the hill in front of Sherman Hall—and they see him, if at all, as nothing more than a figure from the fading past.

But Louis Brandeis is very much a part of our future. His parents escaped the oppression of central Europe in 1848 to seek the refuge of freedom in America. Like my own father and mother fifty years later, they taught their son to catch the spirit that moved our country and to care for the people who found hope and decency in this land.

Brandeis devoted his public life to those people—to their human rights and their personal dignity. He fought for the same fundamental equality that we must fight for today. And his efforts were inspired by the same faith and vision that later gave birth to Brandeis University.

So tonight, as we look ahead to the next twenty-three years in Waltham and in the country, we should pause for a few minutes and look back to the Brandeis tradition.

The talents and ideals of Louis Brandeis took him into countless areas of social importance . . . more than I could mention here. But three of his many lives bear a special relevance to the kind of world we hope to shape in the 1970's—his life as a Jew . . . his life as a Justice . . . and his life as a public servant.

For many years, as a leader of the Zionist movement in America, Brandeis worked for a Jewish homeland in Palestine. He was always aware of his heritage—of the four thousand years of joy and pain which had combined to make him a Jew. And he saw that only the protection of nationhood could ultimately preserve the ageless traditions of the Hebrew people.

Brandeis did not live to witness the birth of the state he helped to create. But he was always more concerned about today's challenge than yesterday's triumph. And so he left us with the challenge of safeguarding the life and strength of Israel . . .

Not just because Israel's independence serves our interests, but because it serves the interests of every nation . . .

Not for Jews alone, but for all humanity . . .

And not with mere words and promises, but in our actions and our deeds.

That is why we must help to sustain the prosperity of Israel and ease the burdens which threaten to undermine one of history's most stunning economic miracles.

That is why we must provide the tools to do the work of survival and send the Phantom jets to Israel now.

And that is why the Nixon Administration must stop undermining Israel's bargaining position. The President must reverse the senseless decision to put more pressure on Israel and less pressure on Cairo, which moves us further from peace, not closer. And Israel must become as certain of our support as she is of her own resolution.

Brandeis joined in the effort to end two thousand years of homelessness. Now we must stand in the Brandeis tradition—to guarantee that the children of Israel have and hold their promised land forever.

Brandeis knew that the Jewish people could find freedom and peace in the Middle East. But he also believed that people from all religions and all races could build a decent nation here in America. And his life was an eloquent witness to that belief. On June 5, 1916, Louis Brandeis took his place in his country's destiny, when he became the first Jew to sit on the United States Supreme Court.

He served the Court as he served his faith, with absolute respect for its traditions and its heritage. He thought of the Supreme Court as the one institution in our society insulated from the passions and tides of politics and the caprice of personal ideology. "I have no rigid social philohophy," he explained. "I have been too intent on the concrete problems of practical social justice."

Brandeis had no tolerance for anyone who showed less than his own respect for the Court. He spoke out against what he called "the subtle encroachments of men of great zeal" who aimed to bend the Court's integrity to their own purposes.

We could use his voice today. He would have been appalled by the exploitation of the Supreme Court in the last three years . . .

By the selection of some nominees who lacked the depth and objectivity to reach conclusions which serve the country and no one else . . .

By the attempt to make a seat on the Supreme Court a gift to a political region or a hostage to hardened judicial ideology.

By the willingness to surrender constitutional principles and human rights to domestic political concerns.

Last month, the President named two men to the Court . . . one an outstanding leader in legal affairs—the other a lawyer with at least the intellectual talents Brandeis would have demanded. Though I have other doubts about William Rehnquist, I have no questions about his competence. But we must all question the leadership of the President who appointed these men because public opinion forced him to—not because he shared Louis Brandeis' reverence for the Constitution and the Court. President Nixon has yet to stand in the Brandeis tradition—to recognize that he has an obligation to the Court he is sworn to protect, as well as to the voters he wishes to influence.

But Louis Brandeis stood for more than judicial excellence and the promise of Israel. He was also deeply concerned with the quality of life in America.

By the time he was twenty, after compiling the highest grade average in the history of the Harvard Law School, Brandeis had established one of the most successful law practices in Boston. In the years that followed, he amassed a fortune representing corporate clients. But at the age of forty—in the midst of social turmoil, of strikes and violence and the pains of growth—he abandoned his private practice and took the American people as his only client. He had incredible vision—Franklin Roosevelt called him Isaiah, the Prophet—and he perceived fifty years ago the dangers which still surround us.

Brandeis was a prophet in the struggle for individual liberty. With his law partner, he defined and created a new legal concept—the right to privacy. He argued that every citizen should be safe from unwarranted surveillance and prying. And he convinced the Courts.

And now, more than ever, we must stand in the Brandeis tradition—and fight for every American's right to be left alone. When a CBS reporter named Daniel Schorr is subjected to a full field security check because he reports facts which upset the White House—when a Harvard Law Professor named Laurence Tribe becomes the object of federal harassment because he exposes the mediocrity of a Supreme Court nominee—when credit bureaus and employers and government agencies keep personal files on countless citizens—then the Brandeis plea for privacy must be heard and heeded again. We must speak up—and we must stand in the Brandeis tradition.

Brandeis was also a prophet for the people who are now demanding more power over their own lives.

He fought to protect the rights of individuals against the exploitation of large and powerful interests. "Some men buy yachts," he once said, "others collect fine paintings and precious works of art, but I consider my hobby or pleasure the pursuit of the public interest."

And we must make the cause of Brandeis the cause of every American. Together, we must wage his fight—

To redistribute wealth and power in this society . . .

To develop a tax system which no longer lets some millionaires pay less than their secretaries . . .

To develop a welfare system which will never again permit another year like last year, when the number of people in poverty actually increased . . .

To use our economic greatness to help the many who are in need instead of the few who are already well-off.

Louis Brandeis dreamed of a fair and good America . . . of at least one place on this planet where there could be full justice for the least member of our society. He never defined his country by the wrong that it did—only by the right that it could do. And he devoted his energy and his genius to improving the lives of other human beings. He sought justice through the law and on the Supreme Court. He sought peace and hope in the Middle East. And he sought compassion and equality at home.

By the time of his death, Brandeis had moved America in the right direction. Now all of us must work to make a nation's plan from the Brandeis dream.

You have started in Waltham, Massachusetts at the school which bears his name. Brandeis University has always been a symbol of change and progress. The students have sometimes expressed their hopes and frustrations in disruptive and even violent ways. But most of them have sought to reform their country in peace and with respect. For twenty-three years, the students at Brandeis have stood in the Brandeis tradition. You have built well—for them—and for America. And in the years to come, that may make all the difference.

ST. MARY'S CITY: MARYLAND'S ORIGINAL SETTLEMENT AND FIRST CAPITAL

Mr. MATHIAS. Mr. President, in these uncertain times, it is often useful to recall our past and the courageous men and women who established and developed this Nation. One site that is particularly conducive to such contemplation is historic St. Mary's City, Md. St. Mary's City, near the point at which the Potomac River flows into Chesapeake Bay, was the first white settlement in Maryland and the first capital of Maryland.

This lovely site is now undergoing important archeological and restoration work, under the aegis of the St. Mary's City Commission which was established by the State in 1966.

Visitors may inspect the reconstructed statehouse of 1676 and view the site where the first colonists landed, establishing on this continent the principle of religious freedom.

Mr. President, one of the local newspapers in St. Mary's County, the Enterprise, recently published a special supplement on St. Mary's City which outlines in detail the beauty and significance of this community. I ask unanimous consent that articles from this supplement be printed in the RECORD; and on behalf of the St. Mary's City Commission, I extend a cordial invitation to all Senators to visit St. Mary's City.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

WELCOME FROM THE ST. MARY'S CITY COMMISSION

(By Robert E. Hogaboom)

As Chairman of the St. Mary's City Commission I am happy to assure the people of Maryland, and particularly those of Southern Maryland and St. Mary's County, of their continuing welcome to ancient St. Mary's City, Maryland's original settlement and for 61 years its capital. We are in the process of designing and developing a historic park of statewide and even national significance. We hope you will not only visit this inspiring and beautiful site at an early date but will return from time to time to witness its progressive development.

In the current state of development of the historic park, visitors are greeted at the Reconstructed State House. This replica of the State House of 1676 is the central point of interest today as it was three centuries ago. Additionally, it presently serves as a visitor reception center and museum. The visitor to St. Mary's City should begin his tour by going first to the old State House where a guide is prepared to provide informational material and guide services. A visitors' parking area is provided adjacent to the State House.

From the State House the visitor can explore on foot portions of the Governor's Field, the waterfront at Brome's Wharf, Trinity Church and churchyard and Church Point. By car the visitor can inspect and enjoy such sites as the Father White Memorial Garden, the Anne Pope Washington Garden at Pope's Freehold, the St. John's Palace site, John Hicks site and the natural history trail at Chancellor's Point.

Visitors to St. Mary's City who arrive by sail or power boat will find convenient docking at the newly restored Brome's Wharf in front of the old State House.

Whether your interest be historic, scenic, natural history study, simple relaxation or some combination of these, you will find a visit to St. Mary's City an experience well worth the time.

MARYLAND'S STATE HOUSE OF 1676

Maryland's first formal State House, designed specifically for that purpose was constructed in 1676 at the period of greatest development of St. Mary's City. Even so, the town at that time was hardly larger than a good sized English village. The town was essentially a transplanted English settlement.

The brick State House of 1676 fitted quite naturally into that riverside village. Its brick and tile roofing were locally manufactured from the native clay. The timbers were of native white oak and the upper flooring of "Pine of this Country sawmen while the Turpentine is in them."

For many years following the initial landing and prior to 1676, there was no regularly appointed place of meeting for the Maryland Assembly. It met in such places as St. Mary's Fort, St. Inigoes' Fort, St. John's Palace, West St. Mary's Manor, and on occasion, at Patuxent. In 1662 the Province acquired an inn and tavern where the Assembly, when in session, ate, slept, drank and legislated.

Not until 1674 did the Assembly pass an act providing for the construction of a proper State House. The appropriation for construction was the "sum of three hundred and thirty thousand pounds of Tobacco." The structure was completed in 1676 and served as Maryland's State House until the seat of government was moved to Anne Arundel (now Annapolis) in 1695.

Thereafter the old State House was used as a Court House for St. Mary's County until the county seat was moved to Seymour Town (now Leonardtown). It then was used as a chapel and in 1720 the Assembly in Annapolis deeded it to the Church of England. After being used as a church for over 100 years it was dismantled in 1829 and its brick used to construct Trinity Church close by. Twelve stones in Trinity churchyard mark the location of the original State House.

The old State House you now visit at St. Mary's City is a replica of the original. It was reconstructed in 1934 by the State to commemorate the 300th anniversary of the founding of the colony. It is essentially authentic, rebuilt to its original dimensions and structural features with brick and lime prepared as they were originally. It was reconstructed on land given to the State by the Howard and Brome families.

The old state House is an interesting place to visit and revisit. In the past few years it has been greatly improved for visitors. Heating has been added, the woodwork treated and preserved and the interior cleaned and repainted. Informative and educational exhibits, a model of the ancient city and a model of the planned development have been placed on the second floor.

The grounds have been extended to include the waterfront, Brome's Wharf and a portion of the Governor's Field. From this beautiful naturally landscaped area a magnificent view can be had of St. Mary's River, of Chancellor's and Church Points and of West St. Mary's and Porto Bello on the far shore.

The State House today serves additionally as a Visitor's Center. Here well trained guides can provide informational and guide services as well as historical material and maps. For your visit to St. Mary's City, the State House should be your starting point. Adjacent parking is provided.

ST. MARY'S CITY—A PLACE TO VISIT

Indians standing on Chancellor's Point might have looked down the river in late March of 1634 and been surprised at the approach of Lord Baltimore's two ships, the Ark and the Dove, coming to safe harbor and beginning the history of Maryland. The scene remains now, as it was then, essentially untouched and under-developed; the entire St. Mary's River not so changed as to be unrecognizable to the first colonists. Chancellor's Point, once again a property of the state, as were all the lands of Maryland during the 150 years of proprietary government, and about 1000 adjoining acres, are planned for permanent preservation by the state as a great historic park.

The place chosen for settlement, and named St. Mary's, was an Indian village. A voyager on the Ark says that young Governor Leonard Calvert spent the night in the house of the Indian leader, and they went the next day to look at the country and "that day being spent in viewing the places about that towne, and the fresh waters which there are very plentifull and excellent good (but the maine rivers are salt) the Governor determined to make his first Colony there and so gave order for the ship and pinnacles to come hither." The fresh cold water still runs into the river from the hillsides around St. Mary's City.

Apparently the Maryland colonists came well prepared. Perhaps they had learned not only from the already established settlements in Virginia and Massachusetts but also from the many unsuccessful, half-planned, half-hearted tries at placing the English flag permanently on the landmass that blocked the way to Cathay. And also the hard-won rights of Englishmen were transported to Maryland via the charter that was read by the Governor to the settlers upon landing.

So the colony was off to a good start; the grant of land to Lord Baltimore contained millions of acres from the ocean to the headwaters of the Potomac, and settlement moved north and west up both the rivers Potomac and Patuxent and the Chesapeake Bay. St. Mary's City became inconvenient, out-of-the-way. The English religious wars and revolution and suppression were used against the tolerance established at St. Mary's and eventually Annapolis was selected for the place to be the seat of government.

St. Mary's gradually was forgotten, "the ancient city was stripped of her privileges, of everything that gave her life, and she was left to waste and perish from the earth." An occasional eloquent 19th century author recalled her significance as the beginning place and as a place where a unique experiment in the relationship between man and the state had once worked well.

Now in our time, the state once again concerns itself with St. Mary's. In 1966 a Commission was established consisting of seven members appointed by the Governor to make plans for its preservation. From this Commission has evolved the concept of a great historic park. Entering the park via a wooded parkway incorporating the 17th century Mattapony Street, and on a hill overlooking the site, the visitor will learn at the orientation center and museum what he will see when he descends to the plain below. When he strolls on the patios or verandahs of the visitor center, he will see lying before him the last great dormant 17th century town site in English-settled America.

All the buildings are gone, but the ground is to be mined for the treasure of information and artifacts it contains. Here at St. Mary's City, amazingly still undisturbed, are 335 years of occupation representing an early successful English colonizing experiment, and then the gradual modification of the Englishness of the colony into the new country and culture that the modern United States has become. To be discovered under the English settlement is the village of the Indians who had occupied the lands as early as 5,000 years before the advent of Lord Baltimore's people.

The visitor, sensing the excitement of the developing park, might return over the years, watch the phasing out of much of the imprint of the 20th century on the land—and it was within the 20th century only—except for the intrusion of the college in the 19th century—that any notable change occurred in the area after the first structures of the 1600's. He will be able to note the location and redevelopment of the early roads—almost paths. There will be little reconstruction or restoration since this type of interpretation requires large expenditures on buildings whose original appearance is largely conjectural. Over around Clocker's Fancy, one of only two early structures remaining, he will see a colonial farm developing and will discover animals and plants bred back to the scruffy, runty ancestors of today's pure bred cow and horse, and hybrid corn and tobacco.

Perhaps illustrated will be the farming methods which wore out the land, forced abandonment of fields to broomsedge, scrub pine and erosion, and ultimately contributed to the westward search for new land. Coastal vessels will be moored in the river, a boat trip available to St. Clements Island or to St. Andrews Creek to watch the small boat building and seasonal crabbing and oystering activities going on there.

The returning visitor will also be pleased to see good motels being built, recreational facilities and inns and activities that will invite his longer stay.

Along walking trails to sites and reconstructions will be presented the natural history of the park—its flower, tree and bird and animal life. The visitor will sense the close relationship man has always had to a nature that has, until these times, controlled him almost completely. And by presenting to the visitor the natural history and great beauty of the St. Mary's area, through the medium of trails and nature center, the historic park will enhance the story being told and will utilize fully the ample meadows and woods of the town-land.

There exists at St. Mary's City, here in St. Mary's County, the unparalleled opportunity to probe deeply the beginnings, growth and maturity of America itself, and in the years of historical, archaeological and social research that lie ahead, perhaps to find in the buried past here some answers to show us the way to a more secure and happy future. Our country today seems to be reconsidering its present course; perhaps clues can be supplied for guidance from the tenacious, sometimes tragic, yet enduring 17th century colony of Englishmen at St. Mary's City.

ANNE POPE WASHINGTON GARDEN

Just east of Route 5 as you enter St. Mary's City from the north is an attractively landscaped garden area separated from the road by a rustic two-rail post and rail fence. The entrance sign reads "Pope's Freehold Scenic Overlook." Many visitors find this quiet garden spot an interesting place to visit. Anne Pope Washington, George Washington's great grandmother lived here and most probably was born here.

Anne's father, Nathaniel Pope, a friend of Leonard Calvert, came to Maryland prior to 1637; by 1642 he was a member of the Assembly and had patented a 100 acre freehold which now lies largely in the north campus of St. Mary's College. Here Nathaniel erected a house and lived there until he moved across the Potomac and up river from St. Clements Island into Virginia where he patented land on Pope's Creek near an area now known as Wakefield.

It was here at Pope's Creek, in 1657, that John Washington arrived as mate and part owner of the ketch, Sea Horse of London. John was the first Washington to come to America and here at Pope's Creek in Virginia he met Miss Anne Pope, formerly of St. Mary's City. John Washington's ship, laden with tobacco, suffered damage in a storm and ran aground near Pope's Creek, whereupon he decided to quit the sea, marry Anne Pope and become a planter in America. John Washington and his wife Anne thus became the great-grandparents of George, our great Revolutionary War leader and first president.

A visit to the Pope's Freehold site at St. Mary's is historically informative and here at the present time a very interesting archeological project is being dug. Additionally, this site provides a beautiful view of St. Mary's Bay and Pagan Point and West St. Mary's on the far shore.

FATHER WHITE MEMORIAL

The Father Andrew White Memorial site is well worth a visit from those with an historical interest or who can enjoy and appreciate a quiet secluded garden with an impressive view of St. Mary's Bay and the long stretch of the St. Mary's River toward St. George's Island and the Potomac. To reach this inviting spot the visitor should turn off Route 5 on the Father White Memorial Road just north of St. Mary's City and proceed about three-tenths of a mile and turn left into the small wooded parking lot.

This small park is a memorial to Father Andrew White who accompanied Leonard Calvert and the first settlers in the two small ships, the Ark and the Dove. The park contains a brick and stone structure in the form of a segment of a circle, shaped like an altar. On either side a few dark-colored bricks are inserted crosswise, taken from the original St. Mary's Chapel at St. Mary's City. The altar was erected in 1934 by the Society of the Pilgrims of St. Mary's to commemorate the landing of the settlers of Maryland and to honor the principal chronicler of the voyage from England to America and of the early years of the colony.

The altar was designed by Christopher La Farge, a noted architect, nephew of Father La Farge who served in St. Mary's County for many years and is fondly remembered by many older persons in the County. The site overlooks St. Mary's Bay. The visitor standing on the altar steps commands a sweeping view of St. Mary's City, Pagan Point, Chancellor's Point and the channel up which the Ark and the Dove sailed in March of 1634.

This two and one-half acre garden was deeded to the State of Maryland in 1969 by the Pilgrims of St. Mary's and is being maintained and developed by the St. Mary's City

Commission. When you visit St. Mary's City this quiet and beautiful spot should be included in your itinerary.

Research for a Better Museum

From the beginning the Commission recognized the importance of research in building an outstanding museum and in providing a creative educational experience for visitors to St. Mary's City. Today nearly half of its yearly appropriation of operating funds goes to support the work of a professional staff that includes a historian, an archaeologist, and an architectural historian.

Their research is most visible to the public during the summer, although it continues year around. In June and July, for example, our archaeologist, Mr. Gary Stone, excavated an area in front of the Reconstructed State House to test the location of one of two main streets that ran through the old town. In August he and his crew of ten students opened another excavation on the site of Pope's Freehold, traditionally the residence of George Washington's great-great grandfather and home of his great grandmother. Visitors are always welcome to come and see what the archaeologists are finding.

Two other current projects will be of special interest to southern Marylanders. Dr. Lois Carr, the Commission's historian, has recently compiled a series of four detailed 17th-century maps of St. Mary's County on which she has identified and located nearly every patent and land grant made prior to 1705. Some of these three hundred year old tracts still have colonial dwellings standing on them. Too many, unfortunately, are neglected and in poor repair. Those that are most dilapidated will be photographed and recorded by a team of architectural historians headed by Mr. Cary Carson, the Co-ordinator of Research for the Commission. This project, sponsored jointly by the Commission and the Maryland Historical Trust, is made possible by generous grants from the United States Department of the Interior and the Smithsonian Institution.

Each of these research activities is designed to add a fresh dimension to our understanding of the planting society that flourished in tidewater Maryland during the colonial period. Over the years archaeologists will lay bare more and more of the vanished capital. The architectural historians' studies of surviving colonial buildings will provide information about the appearance of the public buildings, the inns, the houses, and the outbuildings that once made St. Mary's City look like an English village. Finally, it is the historians' job to stand back and view St. Mary's City in the wider, more meaningful context of the Chesapeake region and indeed, as part of a far flung Atlantic community. Together these separate specialities contribute to the Commission's central work of building a rich and varied historical park. Increasingly, the results of its research will be seen in better exhibits, films, reconstructions of typical buildings, and innovative artifact displays.

Still, many people ask if all this research is really necessary. It may dot i's and cross t's, but will it bring more visitors and more money to the county? Our practical answer to a practical question is "yes." The St. Mary's City Commission is trying to make its way in a tough league. The competition for visitors is keen. The Williamsburgs and the Sturbridge Villages already sustain large research establishments. St. Mary's City must make up in quality and imagination what it now lacks in size and experience.

Good research is also vital in obtaining government and private grants-in-aid which increasingly are the major source of outside funding. Agencies such as the National Endowment for the Humanities are ready to give liberal financial support to museums that take seriously their educational responsibilities. Funds are not available to mere amusement parks and tourist traps. So far the Commission has done well in earning a share of the grant monies. Since January its research division has received over $10,000 from public and private institutional donors. Most of the money is spent here in the county employing local students in the excavations, the architectural surveys, the archaeological laboratory, and as guides at the State House.

Good research makes good sense in the process of making a good museum and historical park at ancient St. Mary's City.

Chancellor's Point

One of the most serene and beautiful spots in all of the serene and beautiful extent of ancient St. Mary's town-land is Chancellor's Point. This site is the traditional landing point of the Ark and Dove upon their arrival in March of 1634. Though recent historical research casts doubt upon this tradition the site is still a scenic and historic place to visit.

A house was built here shortly after the colony was founded. We know Henry Wiseman, one of the "gentlemen adventurers" who came to Maryland on the Ark, lived here as early as 1642. The foundations of his house and nearby buildings will one day be excavated by the archaeologist.

The name, Chancellor's Point, is derived from its 17th century owner, Philip Calvert, who served as Chancellor of the Province and later as its Governor. Philip was a brother of Cecil, the second Lord Baltimore. It is now a beautifully wooded river-side site with several hundreds of yards of waterfront and with a scheduled lagoon at its northern limits.

Mrs. Dudley Chase, former owner of Chancellor's Point, wished this site to be preserved for the people of Maryland and generously granted a portion of the value of the property and sold it to the state well below its fair market value.

The visitor to Chancellor's Point will find a parking space provided from which point natural history trails lead through the woods to the lagoon and along the beach to the point. A spectacular view is offered of St. Mary's River and the stretch leading down stream to St. George's Island and a vista across the Potomac into Virginia. Upstream Church Point and the State House can be viewed and across the river Porto Bello and West St. Mary's Manor.

Eventually the results of archaeological investigation will be on display here and a Natural History Center located in the vicinity to tell the story of the flora and fauna of early Maryland.

John Hicks's Wine Bottles

The visitor to St. Mary's City may note a small wooded park in front of Caroline Hall, the newer of the two women's dormitories at St. Mary's College. This park is identified by a marker that reads "John Hicks Site." Its nicely landscaped garden embraces the site and remains of the house of one of St. Mary's City's early citizens.

John Hicks probably came to Maryland sometimes between 1683 and the end of the century, lived and prospered in St. Mary's City and finally returned to England in 1749. There he died about 1753 and his name and deeds passed into the mist of the past only to reappear last year when the Commission through its archaeologist and historian brought them back to light.

Learning of the plans for a new college dormitory the research staff, by probes and hasty trenching of the site, discovered a foundation and began an orderly archaeological dig. Gradually uncovered by the shovels, trowels, root cutters, brushes and other tools of the diggers was evidence of a frame dwelling some 16' x 40' with large brick chimneys at each end. The chimney foundations have been newly capped with brick above ground level, and the extent of the dwelling and cellar are now outlined on the ground.

In the cellar and in trash pits scattered about the dwelling was uncovered a great variety of artifacts embracing the whole range of household utensils and equipment and farm and craftsmen tools and products. Outstanding in the dig, however, was an array of wine bottles, mostly broken but several choice samples were found intact or with only minor chips. And the most positive clues of the dwelling's occupant were the dated wine bottle seals, stamped in the glass; seals that read "John Hicks" together with the vintage date, some as early as 1723.

Of interest to the visitor to the John Hicks site are facts that have been uncovered by the Commission's Historian. John Hicks came from an English family of substance, and perhaps of gentility. He was appointed a commissioner to divide St. Mary's County into parishes, he attained the title of "Captain," was a justice of the peace, and of the Provincial Court and for three years served as sheriff of St. Mary's County.

John Hicks's will listed 3½ pounds of silver, a great deal of pewter, a decanter (a fitting accessory to his many wine bottles), a clock, slaves to the value of 465 English pounds sterling and 3,050 acres of land.

On the second floor of the old State House is an interesting display of artifacts uncovered at the Hicks House site together with a couple of his wine bottles and wine bottle seals.

St. Mary's City Visitor and School Children History Program

The purposes of the St. Mary's City preservation and development project are declared by its enabling law to be educational in nature. To put this educational obligation into effect the Commission provides the widest possible scope of historical and cultural information relating to early Maryland for the visitor to St. Mary's City. Additionally, the Commission has now for a number of years been involved in a program of bringing to St. Mary's City the school children of Maryland to give them a practical and vivid lesson in their state's history.

In the schools of Maryland the state's history is generally covered at the elementary level in the 4th grade and at high school level in the 11th grade. The Commission therefore, has a program of inviting annually the 4th and 11th grade pupils of the public and parochial schools to visit St. Mary's City for a combined walk and bus study-field trip of the historic town-land under the guidance of specially trained guides.

The program initially started with the school children of St. Mary's County but has been extended to the counties of Southern Maryland and is gradually being broadened to embrace the schools of the whole state. Letters are addressed to county superintendents of education, to school principals and to individual grade teachers inviting them to schedule history field trips to their state's original settlement and first capital. Increasingly large numbers of classes are scheduling trips each year.

The field trip is normally preceded by class room instruction and preparation with lecture and reading assignments relating to the founding of Maryland as a province of the Lords Baltimore dedicated to the concepts of peace and tolerance. The actual field trip begins at the old State House where the bus loads of pupils, with their teachers, are grouped into small sections of 10 to 20 pupils each with a trained guide designated to conduct the tour. Both visually through prepared exhibits and by oral description the students are given a brief but accurate and inspiring story of the Lords Baltimore and the Calvert family, of the voyage of the Ark and the Dove, of the founding of the colony, of the Indians who were here when the settlers arrived, of the concept of peace and tolerance and of the life and customs of the early settlers.

The tour takes the pupil groups through the State House and grounds, the church yard and grounds of Trinity Church and if their schedule so permits they tour by bus such points as the Father White Memorial, Pope's Freehold, St. John's, Chancellor's Point and St. Ignatius Church at St. Inigoes. Usually a picnic luncheon is scheduled for the Governor's Field or on Church Point. During the past spring session 1,441 pupils visited St. Mary's City for this program.

GUIDE PROGRAM

To provide adequate well trained guides for this Program the Commission recruits and trains volunteers from history students of St. Mary's College. Each fall St. Mary's College students receive questionnaires to determine their interest in the program. Those well motivated and best qualified are selected and given a course of reading, lecture and demonstration to qualify them for this guide service. The response and results have been very successful. For this portion of the program the college student receives academic credit.

The student participating in this program has an opportunity to learn much of Maryland's early history and at the same time profits from the practical experience of teaching, guiding and leading a group of young future citizens of Maryland. Additionally, the guide is aided in meeting his tuition and college expenses by receiving a compensation for each hour spent in this program.

SELF-GUIDED TOUR OF ST. MARY'S CITY

For those who wish to make a self-guided tour of St. Mary's City in its present state of preservation and development, and many do, the following is suggested, though the sequence of sites visited may be varied to meet individual taste. The numbers refer to the map to the left. (Map not printed in RECORD.)

1. The tour should begin at the Reconstructed State House of 1676. Visitor parking lot available. Here, a trained information guide can provide maps, pamphlets and information for specific interests. Tour the State House including the historic exhibits and models on the second floor.

A walking tour of The Governor's Field and Trinity Churchyard should follow and should include:

2. Leonard Calvert Monument, erected by the state in 1890 on site of historic mulberry tree.

3. Lord Copley's Tomb, first royal governor of Maryland, erected 1922 by Colonial Dames.

4. The twelve stones marking the outline of foundations of original State House of 1676.

5. Margaret Brent Stone, erected 1955 by Daughters of Founders and Patriots of America.

6. Ark and Dove Monument, erected 1934 by Daughters of the Revolution.

7. Trinity Church, constructed 1829 of brick of original State House. Communion rail made from historic mulberry tree.

8. Church Point, Commemorative Cross, picnic tables.

9. Reconstructed Broome's Wharf. Beautiful view of the river and far shore.

From the State House the remainder of the tour should be by car. Visitors parking is available at exact site:

10. Freedom of Conscience Monument, by the noted sculptor Hans Schuler; erected 1934.

11. Father White Memorial Park. Brick and stone altar designed by Christopher La Farge, 1934.

12. Pope's Freehold. Garden dedicated to Anne Pope Washington, great-grandmother of George Washington.

13. St. John's Palace Site. Dwelling site of Charles Calvert, the Third Lord Baltimore. Here on June 24, 1648, Margaret Brent made her plea for the right to vote.

14. John Hicks Site; late 17th and early 18th century resident of St. Mary's City.

15. Chancellor's Point. Natural History Trail. Traditional landing site of the Ark and Dove.

16. St. Ignatius Church; located near Webster Field.

17. Should you wish to visit the offices of St. Mary's City Commission they are presently located on the first floor of Calvert Hall.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is concluded.

EXECUTIVE SESSION—NOMINATION OF WILLIAM H. REHNQUIST

The ACTING PRESIDENT pro tempore. In accordance with the previous order, the Senate will now go into executive session to continue the consideration of the nomination of William H. Rehnquist to be an Associate Justice of the Supreme Court of the United States.

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the Senate return to legislative session for not to exceed 10 minutes and that the distinguished Senator from Nevada (Mr. BIBLE) be recognized.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

CAPITOL REEF NATIONAL PARK, UTAH—CONFERENCE REPORT

Mr. BIBLE. Mr. President, I submit a report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 29) to establish the Capitol Reef National Park in the State of Utah.

I ask unanimous consent for the present consideration of the report.

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the report?

There being no objection, the Senate proceeded to consider the report.

(The conference report is printed in the House proceedings of the CONGRESSIONAL RECORD of November 30, 1971, at p. 43360–43361.)

Mr. BIBLE. Mr. President, I move the adoption of the conference report.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion of the Senator from Nevada.

The motion was agreed to.

CONNECTICUT HISTORIC RIVERWAY

Mr. BIBLE. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. 36.

The ACTING PRESIDENT pro tempore. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 36) to preserve and promote the resources of the Connecticut River Valley, and for other purposes.

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Interior and Insular Affairs with amendments on page 3, line 1, after the word "the", strike out "advisory committee" and insert "Gateway Committee"; in line 12, after the word "he", strike out "determines are" and insert "shall designate as being"; in line 17, after the word "this", strike out "Act." and insert "Act, or whenever in his judgment the estimated cost of acquiring the lesser interest would be a substantial percentage of the estimated cost of acquiring the fee simple title."; in line 21, after the word "property", strike out "within such unit" and insert "not so designated"; on page 7, line 23, after the word "thereof", strike out "or permanently preserved for conservation purposes under the ownership of a nonprofit, nonstock organization"; on page 10, line 3, strike out "Advisory" and insert "Gateway"; in line 5, after the word "Riverway", strike out "Advisory" and insert "Gateway"; and, on page 14, at the beginning of line 19, strike out "not to exceed $23,000,000 to carry out the provisions of this Act" and insert "such sums as may be necessary to carry out the provisions of this Act, not to exceed, however, $17,450,000 for the acquisition of land and interests therein, and not to exceed $4,569,000 (August 1971 prices) for development, plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs as indicated by engineering cost indexes applicable to the types of construction involved herein"; so as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled

STATEMENT OF POLICY

SECTION 1. The Congress finds that the Connecticut River and the first tier of towns bordering the river in the States of Connecticut, Vermont, and New Hampshire, and the Commonwealth of Massachusetts, as generally depicted on the map entitled "Connecticut River Valley corridor", numbered NSR–CON–91,000 and dated August 1970, which is on file and available for public inspection in the offices of the National Park Service, Department of the Interior, possess unusual scenic, ecological, scientific, historic, recreational, and other values contributing to public enjoyment, inspiration, and scientific study. The Congress further finds that it is in the best interests of the citizens of the United States for the United States to take action to preserve and promote such values for the enjoyment of present and future generations, to preserve the natural ecological environment and develop the recreational potential of the area, and to encourage maximum complementary action by State and local governments and private individuals, groups, and associations.

CONNECTICUT HISTORIC RIVERWAY

SEC. 2. In order to provide for conservation of the scenic, scientific, historic, ecological, and other values contributing to public enjoyment, as well as the public outdoor recreation use and enjoyment of the Connecticut River Valley corridor, consistent with the well-being of present and future residents of the area, there is hereby established the Connecticut Historic Riverway (hereinafter referred to as the "riverway"). The boundaries of such riverway shall be as generally delineated on the map numbered NR–CON–40,000, and dated July 1970. The Secretary of the Interior (hereinafter referred to as the "Secretary") may revise the boundaries of the riverway from time to time with a view to carrying out the purposes of this Act, with the approval of a majority of the Gateway Committee for such unit, as established and described in section 6 of this Act and hereinafter referred to as the "committee", but the total acreage within the revised boundaries of the unit shall not exceed twenty-three thousand and five hundred acres.

ACQUISITION OF PROPERTY FOR THE CONNECTICUT HISTORIC RIVERWAY

SEC. 3. (a) Within the boundaries of the riverway, the Secretary may acquire without the consent of the owner not to exceed five thousand acres of privately owned lands, waters, and interests therein which he *shall designate as being* presently needed to carry out the purposes of this Act: *Provided*, That the Secretary may acquire a fee title only in cases where, in his judgment, the acquisition of scenic easements or other less-than-fee interests would not be adequate to carry out the purposes of this *Act, or whenever in his judgment the estimated cost of acquiring the lesser interest would be a substantial percentage of the estimated cost of acquiring the fee simple title*. The remaining privately owned property *not so designated* may not be acquired by the Secretary without the consent of the owner or owners (hereinafter referred to as "owner") for one year following the date of enactment of this Act, and thereafter so long as an appropriate local zoning agency shall have in force and applicable to such a property a duly adopted, valid zoning ordinance approved by the Secretary. In order to carry out the provisions of this section, and following public hearings, the Secretary shall issue regulations, specifying standards that are consistent with the purposes of this Act. Such regulations and amendments thereto must receive the approval of a majority of the committee before issuance.

(b) The standards specified in such regulations shall have the object of (i) regulating new commercial or industrial uses of such property consistent with the purposes of this Act, and (ii) promoting the protection and development for purposes of this Act of such property by means of acreage, frontage, setback design, and subdivision controls and by prohibiting the cutting of timber, burning of undergrowth, removing soil or other landfill, and dumping or storing refuse in such a manner that would detract from the natural or traditional riverway scene: *Provided*, That such standards shall not discourage the constructive development and use of land for industrial and commercial purposes which are consistent with the purposes of this Act.

(c) Following issuance of such regulations the Secretary shall approve any zoning ordinance or any amendment to any approved zoning ordinance submitted to him that conforms to the standards contained in the regulations in effect at the time of adoption of the ordinance or amendment. Such approval shall remain effective for so long as such ordinance or amendment remains in effect as approved.

(d) No zoning ordinance or amendment thereof shall be approved by the Secretary which (i) contains any provisions that he considers adverse to the protection and development of such property in accordance with the purposes of this Act, or (ii) fails to have the effect of providing that the Secretary shall receive notice of any variance granted under, or any exception made to, the application of such ordinance or amendment.

(e) If any property, with respect to which the Secretary's authority to acquire by condemnation has been suspended according to the provisions of this section, is made the subject of a variance under, or becomes for any reason an exception to, such zoning ordinance, or is subject to any variance, exception, or use that fails to conform to any applicable standard contained in regulations of the Secretary issued pursuant to this section and in effect at the time of passage of such ordinance, the Secretary may terminate the suspension of his authority to acquire such property by condemnation: *Provided*, That the owner of any such property shall have ninety days after written notification from the Secretary to discontinue the variance, exception, or use referred to in such notification.

(f) The Secretary shall furnish to any party in interest, upon request, a certificate indicating the property with respect to which the Secretary's authority to acquire by condemnation is suspended.

ADDITIONAL PROPERTY ACQUISITION PROVISIONS

SEC. 4. (a) The Secretary is authorized to acquire the lands, waters, and interests therein (including scenic easements) within the riverway by donation, negotiated purchase with donated or appropriated funds, transfer, exchange, or condemnation except that such authority to acquire by condemnation shall be exercised only in the manner and to the extent specifically provided in section 3 of this Act.

(b) With the exception of any lands which the Secretary determines are presently needed for public use facilities to carry out the purposes of this Act, any owner of improved property within the unit on the date of its acquisition by the Secretary may elect, as a condition to such acquisition to retain a right of use and occupancy of the improved property for noncommercial residential and agricultural purposes for a period ending at the death of the owner or his spouse, whichever occurs later, or for a fixed term not to exceed twenty-five years. The Secretary shall pay to the owner the fair market value of the property on the date of its acquisition less the fair market value on such date of any right retained by the owner. Any retained right of use and occupancy may be transferred or assigned. Whenever the Secretary finds that the property or any portion thereof has ceased to be used for noncommercial residential purposes, he may terminate the right of use and occupancy upon tendering to the holder thereof an amount equal to the fair market value of the portion of said right which remains unexpired on the date of termination.

(c) As used in this section, the term "improved property" shall mean a one-family dwelling the construction of which was begun before July 1, 1970, together with so much of the land on which the dwelling is situated, the said land being in the same ownership as the dwelling, as the Secretary shall designate to be reasonably necessary for the enjoyment of the dwelling and land for noncommercial residential or agricultural purposes, together with any structures accessory to the dwelling which are situated on the land so designated: *Provided*, That the Secretary may exclude from the land so designated any water bodies together with so much of the adjacent land as he deems necessary for public access thereto.

(d) Any property or interests therein within the riverway which are owned by a State or by any political subdivision thereof may be acquired only by donation. Notwithstanding any other provision of law, any Federal property located within the riverway may, with the concurrence of the agency having custody thereof, be transferred to the administrative jurisdiction of the Secretary, without transfer of funds, for administration by him as part of the recreation area.

ADMINISTRATIVE PROVISIONS

SEC. 5. (a) The Secretary shall administer and protect the riverway with the primary aim of conserving the natural resources located within it and preserving the area in as nearly its natural state and condition as possible. No development or plan for the convenience of visitors shall be undertaken in the riverway which would be incompatible with the overall lifestyle of residents of the area, accepted ecological principles, the preservation of the physiographic conditions now prevailing, or with the preservation of such historic sites and structures as the Secretary may designate.

(b) The riverway shall be administered, protected, and developed by the Secretary in accordance with the provisions of this Act and the Act of August 25, 1916 (39 Stat. 535), as amended and supplemented (16 U.S.C. 1 et seq.), except that the Secretary may utilize any other statutory authority available to him for the conservation and management of natural resources to the extent he finds such authority will further the purposes of this Act.

(c) The Secretary shall permit hunting, fishing, and trapping on lands and waters under his jurisdiction within the riverway in accordance with the applicable laws of the States concerned and of the United States, except that the Secretary may designate zones where, and establish periods when, no hunting, no fishing, or trapping shall be permitted for reasons of public safety, fish or wildlife management, administration, or public use and enjoyment. Except in emergencies, any regulations of the Secretary prescribing any such restrictions shall be issued only after consultation with the appropriate agency of the State concerned.

(d) The Federal Power Commission shall not authorize the construction, operation, or maintenance within the riverway of any dam, water conduit, reservoir, transmission line, or other project works under the Federal Power Act (41 Stat. 1063), as amended (16 U.S.C. 791a et seq.): *Provided*, That the provisions of that Act shall continue to apply to any project, as defined in that Act, already licensed.

(e) Designated National Park Service employees of the riverway may make arrests for violations of any Federal laws or regulations applicable to the area, and they may bring the accused person before the nearest magistrate, judge, or court of the United States having jurisdiction in the premises.

GATEWAY COMMITTEE

SEC. 6. (a) There is hereby established the Connecticut Historic Riverway Gateway Committee.

(b) Such committee shall be composed of members appointed for a term of two years by the Secretary as follows:

(1) a member appointed to represent the State of Connecticut. Such appointments shall be made from recommendations of the Governor of the State of Connecticut;

(2) a member appointed to represent the appropriate regional planning commissions or agencies of Connecticut. Such appointments shall be made from recommendations of the heads of such commissions or agencies;

(3) a member appointed to represent each town referred to in section 1 of this Act that

is directly affected by the establishment of the riverway and such appointments shall be made from recommendations of the governing body of such towns; and

(4) a member to be designated by the Secretary; and

(5) a member to be designated by the Administrator of the Environmental Protection Agency or other such Federal agency which assumes the responsibility for the protection of the environment by change of law or by Executive order, unless that agency is under the administrative jurisdiction of the Secretary of the Interior.

(c) The chairman of the committee shall be elected by the membership thereafter for a term of not to exceed two years. Any vacancy in the committee shall be filled in the same manner in which the original appointment was made.

(d) All members of the committee shall serve without compensation as such. The Secretary is authorized to pay the expenses reasonably incurred by the committee in carrying out their responsibilities under this Act on the presentation of vouchers signed by the chairman.

(e) The Secretary or his delegate shall consult regularly with the committee with respect to all matters relating to the development and administration of the riverway, and with respect to carrying out the provisions of this Act, including but not limited to matters relating to the acquisition of lands, the issuance of regulations specifying standards for zoning ordinances, and the administration of the riverway.

(f) The committee shall make available to the Secretary an annual report reviewing matters relating to the development of the riverway, including land acquisition and the zoning standards policies, and shall make recommendations thereto.

CONNECTICUT RIVER VALLEY CORRIDOR

SEC. 7. (a) The Secretary, in accordance with authority contained in the Act of May 28, 1963 (77 Stat. 49), and in consultation with the New England River Basin Commission and the advisory committee established by section 6 of this Act, shall encourage coordinated planning for the conservation and development of the scenic, ecological, scientific, historic, and recreational resources of the Connecticut River Valley corridor which is defined for the purpose of this section as that part of the Connecticut River Valley corridor depicted on the map referred to in section 1 of this Act which is located within the State of Connecticut. The Secretary shall give particular attention to encouraging and coordinating the conservation and development of the outdoor recreation resources of the corridor that are outside the boundaries of the riverway, and he is authorized to provide technical assistance to State and local governments and private individuals, groups, and associations with respect to the conservation and development of such resources. The Secretary is authorized to establish a regional office of the Bureau of Outdoor Recreation within the boundaries of the Connecticut River Valley corridor in order to facilitate the planning and coordination under this section.

(b) The Secretary shall encourage State, regional, county, and municipal bodies to adopt and enforce adequate master plans and zoning ordinances which will promote the use and development of private owned lands within the corridor in a manner consistent with the purposes of this section, and he is authorized to provide technical assistance to such bodies in the development of such plans and ordinances.

(c) The Secretary shall cooperate with the appropriate State and local agencies to provide safeguards against pollution of the Connecticut River and unnecessary impairment to the scenery thereof.

(d) In order to avoid, insofar as possible, decisions or actions by any department, agency, or instrumentality of the United States which could have a direct or adverse effect on the outdoor recreation resources of the corridor, all departments, agencies, and instrumentalities of the United States shall consult with the Secretary concerning any plans, programs, projects, and grants under their jurisdiction within the corridor. Any Federal department, agency, or instrumentality before which there is pending an application for a license for any activity which could have such effect on the outdoor recreation resources of the corridor shall notify the Secretary, and, before taking final action on such application, shall allow the Secretary ninety days to present his views on the matter.

(e) The Secretary of Agriculture shall study means of preserving the agricultural, forest, and rural open space character of the corridor, and shall submit a report of his findings and recommendations to the President and Congress within one year after the date of this Act.

SHORELINE EROSION CONTROL

SEC. 8. The Secretary of the Interior and the Secretary of the Army shall cooperate in the study and formulation of plans for shoreline erosion control of the Connecticut River; and any protective works for such control undertaken by the Chief of Engineers, Department of the Army, shall be carried out in accordance with a plan that is acceptable to the Secretary of the Interior and is consistent with the purposes of this Act.

APPROPRIATIONS

SEC. 9. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act, not to exceed, however, $17,450,000 for the acquisition of land and interests therein, and not to exceed $4,569,000 (August 1971 prices) for development, plus or minus such amounts if any, as may be justified by reason of ordinary fluctuations in construction costs as indicated by engineering cost indexes applicable to the types of construction involved herein.

Mr. BIBLE. Mr. President, I ask unanimous consent that the committee amendments be considered and agreed to en bloc and that the bill as thus amended be considered as original text for the purpose of further amendment.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BIBLE. Mr. President, I send amendments to the desk and ask unanimous consent that they be considered en bloc.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendments will be stated.

The legislative clerk read as follows:

On page 3, line 1, insert "Connecticut Historic Riverway" prior to the word "Gateway."

On page 3, line 17, add a period after the word "Act" and strike all thereafter through the period on line 20.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendments.

The amendments were agreed to.

Mr. BIBLE. Mr. President, the Committee on Interior and Insular Affairs has approved S. 36 with amendments, to authorize the establishment of a Connecticut historic riverway.

The riverway would be composed of 23,500 acres of land and water extending for 11 miles along the Connecticut River from Old Saybrook to East Haddam in the State of Connecticut. The bill authorizes the Federal Government to purchase, by eminent domain proceedings if necessary, up to 5,000 acres of land. The remaining portions of the riverway would remain in private ownership under a "conservation zone" arrangement. The total cost of land and development would be $22,019,000.

The Connecticut River flows for 400 miles through the very heart of New England. Fifty million Americans live within 250 miles of its banks. The proposed riverway area itself is within 90 miles of New York City and 120 miles of Boston. Yet, despite its proximity to major metropolitan areas, many parts of the river retain a scenic and historic charm.

The Committee on Interior and Insular Affairs has been deeply concerned with the need to provide open space, recreational and park areas for the people of the northeast sections of the United States. It is also aware of the growing need to protect the quality of the national environment by preserving those areas of especial beauty and tranquillity which remain in the most crowded parts of our country.

The committee believes that authorization of the Connecticut historic riverway is another urgently needed step toward these goals.

Three years ago, the Secretary of the Interior, Stewart Udall, presented a comprehensive report recommending the establishment of a Connecticut national recreation area. A short time ago, Secretary Morton voiced his strong support of this proposal.

The Interior Department report, entitled "New England Heritage," proposed three Federal enclaves along the Connecticut River to be complemented by other State and local conservation efforts. The Connecticut historic riverway encompasses the first of these Federal areas.

The area is one of quiet beauty and historical interest. The Connecticut River at this point is a major estuary flowing freely toward Long Island Sound. It is the only major river remaining on the eastern seaboard without an urban or industrial center at its mouth. The riverbank is alternately low-lying marshes and steep forest-covered slopes. Small islands are scattered here and there. Picturesque Yankee towns such as East Haddam, Chester, Deep River, and Essex are settled amidst the slopes and flatlands. The area remains one where commercial and industrial development has been slow.

The bill would permit Federal acquisition of land and waters up to 5,000 acres. Of the land 93 percent so acquired is completely undeveloped. The cost of land acquisition is estimated to be $17,450,000.

The remainder of the area—17,500 acres—would remain in private ownership under a "conservation zone" arrangement. In such a zone privately owned land would be exempt from Federal acquisition as long as prevailing zone regulations met standards developed by the Secretary of the Interior with the assistance of a local advisory committee. These standards, while not designed to inhibit normal growth patterns, would protect the area from developments which would detract from the natural or traditional riverway scene.

The committee expects development costs of the National Park Service within the Connecticut Historic Riverway to be limited. The nature of the countryside and environment will not sustain new road systems or massive development. Much of the Yankee heritage and scenic tranquillity of the area would be lost. It is expected that group camping, hiking, boating, fishing, and cycling will be major activities. In addition, the Federal land acquisition will protect most of the valuable estuarine marsh areas along the riverbanks.

Mr. President, many sections of the Connecticut River are polluted. But, a comprehensive State and Federal program of abatement is now underway to clean the river. A Connecticut River free of pollution will attract a higher intensity of uncontrolled commercial development. Already, the signs of such development are present.

As a result, much of what we seek to preserve will be threatened. The committee believes action is needed now to have the Connecticut River.

Mr. RIBICOFF. Mr. President, S. 36, the bill now before the Senate, will be the first step toward preserving the few remaining unspoiled sections of the 400-mile-long Connecticut River Valley.

Before commenting on the particulars of this bill, I would like to express my thanks and pay tribute to the distinguished chairman of the Interior Committee's Subcommittee on Parks and Recreation (Mr. BIBLE) for the significant role he has played in the development of this legislation.

Ever since the idea for preserving the Connecticut River Valley area was proposed, Senator BIBLE has worked closely with me, representatives of the National Park Service, and local residents in an attempt to develop the best possible legislation. He fully understands the many problems which arise in such an undertaking and has shown great patience as we have worked to create a park in an area which has been settled for over 300 years and has deeply ingrained traditions.

Situated in the center of historic New England, and in part surrounded by the great urban sprawl in industrial America, the Connecticut River provides an unmatched array of the vital natural resources which are fast disappearing in our modern society. The preservation and renewal of these assets is of both regional and national concern.

We in New England have been the fortunate beneficiaries of a river which has remained largely unspoiled even to the present day. By a quirk of fate, the sand bars along the Connecticut shore have limited the flow of commercial river traffic. As a result, the Connecticut stands alone as the single major American river without an industrial or urban center at its mouth. Thus, despite some pollution and normal commercial growth, much of the river valley retains its original unique charm.

But how long this situation will continue is a question of great importance. More than 6 million people live within 50 miles of the river. The clean salt marshes at its mouth lie less than 100 miles from the center of Manhattan. Seven interstate or limited access highways serve the Connecticut River corridor. Now the trout filled headwaters on the Canadian border are only a few hours drive for New Yorkers and Bostonians.

While, with few exceptions, the river's shoreline and surrounding countryside have not been marred by commercial developments, the river itself is seriously polluted in many sections and has been for several years. This pollution has discouraged developers and other businessmen from seeking to tamper with the beauty of the river valley.

But the pollution problem, thanks to Federal and State programs, is being solved and hopefully the river will be clean again in a few years. Once the purity of the waters of the Connecticut is restored, careless, uncontrolled developments projects may begin.

In an attempt to prevent this, I introduced in 1966, with the support of the entire New England senatorial delegation, legislation authorizing a comprehensive study of the Connecticut River Valley in order to formulate the necessary steps to preserve this great river.

In 1968, the Department of the Interior issued its report, "New England Heritage," which gave us, for the first time, a regional format within which we could work to restore and preserve the beauty of the Connecticut River Valley.

"New England Heritage" recommended a three-unit Connecticut River National Recreation Area in Connecticut, Massachusetts, Vermont, and New Hampshire.

Following an inspection trip of the entire river valley with Senator BIBLE, I introduced in July 1970, a bill to create the Connecticut historic riverway in the estuary region of southern Connecticut. This bill, which was almost identical to the legislation we are now considering, passed the Senate on October 7, 1970. Unfortunately, the House of Representatives was not able to act on the matter before the end of the 91st Congress.

Because of the importance I place on the riverway, the first piece of legislation I introduced in the 92d Congress was another bill to create the Connecticut historic riverway.

This bill, which is now before us, would cover 23,500 acres along an 11-mile stretch of the river from Old Saybrook to Haddam, Conn. Within the riverway, the Secretary of the Interior would be authorized to acquire up to 5,000 acres. The preliminary studies reveal that only 4,100 acres need be bought and that almost all of it is still undeveloped. In fact, 870 acres will be tidal marshland which, while of limited economic value, is essential to the survival of aquatic and marine wildlife.

The remaining acreage would constitute a conservation zone similar to the one in Cape Cod and Fire Island National Seashore. Property in this zone would remain in private ownership exempt from condemnation as long as zoning standards approved by the Secretary are effectively administered.

Because the riverway encompasses a relatively heavily settled area, the bill establishes a local committee to assist in the administration of the riverway. This committee would consist of representatives from the several towns adjacent to the area as well as representatives from the State and regional planning commissions. Consultation with the Secretary of the Interior on matters relating to the development and administration of the area would be on a regular basis.

Mr. President, the basic principle around which this legislation has been developed is that the nature of the resource should dictate its best use. As every person familiar with the area knows, the lower Connecticut Valley cannot sustain intensive development. The small coves, the marshlands, the forested hills, and valley are locations of rare solitude and beauty. The Connecticut towns and countryside are of continuing historic interest. The protection and maintenance of the serene character of this part of the river is the best overall use of this resource. That is exactly what this bill will do.

I hope that after the Senate acts today, my colleagues in the House of Representatives will support prompt approval of this legislation. Time is crucial to the success of our efforts. If further delays occur, there may be little left in the estuary region to preserve.

The **ACTING PRESIDENT** pro tempore. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill (S. 36) was ordered to be engrossed for a third reading, was read the third time, and was passed, as follows:

S. 36

An act to preserve and promote the resources of the Connecticut River Valley, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled:

STATEMENT OF POLICY

SECTION 1. The Congress finds that the Connecticut River and the first tier of towns bordering the river in the States of Connecticut, Vermont, and New Hampshire, and the Commonwealth of Massachusetts, as generally depicted on the map entitled "Connecticut River Valley corridor", numbered NSR–CON–91,000 and dated August 1970, which is on file and available for public inspection in the offices of the National Park Service, Department of the Interior, possess unusual scenic, ecological, scientific, historic, recreational, and other values contributing to public enjoyment, inspiration, and scientific study. The Congress further finds that it is in the best interests of the citizens of the United States for the United States to take action to preserve and promote such values for the enjoyment of present and future generations, to preserve the natural ecological environment and develop the recreational potential of the area, and to encourage maximum complementary action by State and local governments and private individuals, groups, and associations.

CONNECTICUT HISTORIC RIVERWAY

SEC. 2. In order to provide for conservation of the scenic, scientific, historic, ecological, and other values contributing to public enjoyment, as well as the public outdoor recreation use and enjoyment of the Connecticut River Valley corridor, consistent with the well-being of present and future residents of the area, there is hereby established the Connecticut Historic Riverway (hereinafter referred to as the "riverway"). The boundaries of such riverway shall be as generally delineated on the map numbered NR–CON–40,000, and dated July 1970. The Secretary of the Interior (hereinafter referred to as the "Secretary") may revise the boundaries of the riverway from time to time with a view to carrying out the purposes of this Act, with the approval of a majority of the Connecticut Historic Riverway Gateway Committee for such unit, as established and described in section 6 of this Act and hereinafter referred to as the "committee", but the total acreage within the revised boundaries of the unit shall not exceed twenty-three thousand and five hundred acres.

ACQUISITION OF PROPERTY FOR THE CONNECTICUT HISTORIC RIVERWAY

SEC. 3. (a) Within the boundaries of the riverway, the Secretary may acquire without the consent of the owner not to exceed five thousand acres of privately owned lands, waters, and interests therein which he shall designate as being presently needed to carry out the purposes of this Act: *Provided*, That the Secretary may acquire a fee title only in cases where, in his judgment, the acquisition of scenic easements or other less-than-fee interests would not be adequate to carry out the purposes of this Act. The remaining privately owned property not so designated may not be acquired by the Secretary without the consent of the owner or owners (hereinafter referred to as "owner") for one year following the date of enactment of this Act, and thereafter so long as an appropriate local zoning agency shall have in force and applicable to such a property a duly adopted, valid zoning ordinance approved by the Secretary. In order to carry out the provisions of this section, and following public hearings, the Secretary shall issue regulations, specifying standards that are consistent with the purposes of this Act. Such regulations and amendments thereto must receive the approval of a majority of the committee before issuance.

(b) The standards specified in such regulations shall have the object of (i) regulating new commercial or industrial uses of such property consistent with the purposes of this Act, and (ii) promoting the protection and development for purposes of this Act of such property by means of acreage, frontage, setback design, and subdivision controls and by prohibiting the cutting of timber, burning of undergrowth, removing soil or other landfill, and dumping or storing refuse in such a manner that would detract from the natural or traditional riverway scene: *Provided*, That such standards shall not discourage the constructive development and use of land for industrial and commercial purposes which are consistent with the purposes of this Act.

(c) Following issuance of such regulations the Secretary shall approve any zoning ordinance or any amendment to any approved zoning ordinance submitted to him that conforms to the standards contained in the regulations in effect at the time of adoption of the ordinance or amendment. Such approval shall remain effective for so long as such ordinance or amendment remains in effect as approved.

(d) No zoning ordinance or amendment thereof shall be approved by the Secretary which (i) contains any provisions that he considers adverse to the protection and development of such property in accordance with the purposes of this Act, or (ii) fails to have the effect of providing that the Secretary shall receive notice of any variance granted under, or any exception made to, the application of such ordinance or amendment.

(e) If any property, with respect to which the Secretary's authority to acquire by condemnation has been suspended according to the provisions of this section, is made the subject of a variance under, or becomes for any reason an exception to, such zoning ordinance, or is subject to any variance, exception, or use that fails to conform to any applicable standard contained in regulations of the Secretary issued pursuant to this section and in effect at the time of passage of such ordinance, the Secretary may terminate the suspension of his authority to acquire such property by condemnation: *Provided*, That the owner of any such property shall have ninety days after written notification from the Secretary to discontinue the variance, exception, or use referred to in such notification.

(f) The Secretary shall furnish to any party in interest, upon request, a certificate indicating the property with respect to which the Secretary's authority to acquire by condemnation is suspended.

ADDITIONAL PROPERTY ACQUISITION PROVISIONS

SEC. 4. (a) The Secretary is authorized to acquire the lands, waters, and interests therein (including scenic easements) within the riverway by donation, negotiated purchase with donated or appropriated funds, transfer, exchange, or condemnation except that such authority to acquire by condemnation shall be exercised only in the manner and to the extent specifically provided in section 3 of this Act.

(b) With the exception of any lands which the Secretary determines are presently needed for public use facilities to carry out the purposes of this Act, any owner of improved property within the unit on the date of its acquisition by the Secretary may elect, as a condition to such acquisition to retain a right of use and occupancy of the improved property for noncommercial residential and agricultural purposes for a period ending at the death of the owner or his spouse, whichever occurs later, or for a fixed term not to exceed twenty-five years. The Secretary shall pay to the owner the fair market value of the property on the date of its acquisition less the fair market value on such date of any right retained by the owner. Any retained right of use and occupancy may be transferred or assigned. Whenever the Secretary finds that the property or any portion thereof has ceased to be used for noncommercial residential purposes, he may terminate the right of use and occupancy upon tendering to the holder thereof an amount equal to the fair market value of the portion of said right which remains unexpired on the date of termination.

(c) As used in this section, the term "improved property" shall mean a one-family dwelling the construction of which was begun before July 1, 1970, together with so much of the land on which the dwelling is situated, the said land being in the same ownership as the dwelling, as the Secretary shall designate to be reasonably necessary for the enjoyment of the dwelling and land for noncommercial residential or agricultural purposes, together with any structures accessory to the dwelling which are situated on the land so designated: *Provided*, That the Secretary may exclude from the land so designated any water bodies together with so much of the adjacent land as he deems necessary for public access thereto.

(d) Any property or interests therein within the riverway which are owned by a State or by any political subdivision thereof may be acquired only by donation. Notwithstanding any other provision of law, any Federal property located within the riverway may, with the concurrence of the agency having custody thereof, be transferred to the administrative jurisdiction of the Secretary, without transfer of funds, for administration by him as part of the recreation area.

ADMINISTRATIVE PROVISIONS

SEC. 5. (a) The Secretary shall administer and protect the riverway with the primary aim of conserving the natural resources located within it and preserving the area in as nearly its natural state and condition as possible. No development or plan for the convenience of visitors shall be undertaken in the riverway which would be incompatible with the overall lifestyle of residents of the area, accepted ecological principles, the preservation of the physiographic conditions now prevailing, or with the preservation of such historic sites and structures as the Secretary may designate.

(b) The riverway shall be administered, protected, and developed by the Secretary in accordance with the provisions of this Act and the Act of August 25, 1916 (39 Stat. 535), as amended and supplemented (16 U.S.C. 1 et seq.), except that the Secretary may utilize any other statutory authority available to him for the conservation and management of natural resources to the extent he finds such authority will further the purposes of this Act.

(c) The Secretary shall permit hunting, fishing, and trapping on lands and waters under his jurisdiction within the riverway in accordance with the applicable laws of the States concerned and of the United States, except that the Secretary may designate zones where, and establish periods when, no hunting, no fishing, or trapping shall be permitted for reasons of public safety, fish or wildlife management, administration, or public use and enjoyment. Except in emergencies, any regulations of the Secretary prescribing any such restrictions shall be issued only after consultation with the appropriate agency of the State concerned.

(d) The Federal Power Commission shall not authorize the construction, operation, or maintenance within the riverway of any dam, water conduit, reservoir, transmission line, or other project works under the Federal Power Act (41 Stat. 1063), as amended (16 U.S.C. 791a et seq.): *Provided*, That the provision of that Act shall continue to apply to any project, as defined in that Act, already licensed.

(e) Designated National Park Service employees of the riverway may make arrests for violations of any Federal laws or regulations applicable to the area, and they may bring the accused person before the nearest magistrate, judge, or court of the United States having jurisdiction in the premises.

GATEWAY COMMITTEE

SEC. 6. (a) There is hereby established the Connecticut Historic Riverway Gateway Committee.

(b) Such committee shall be composed of members appointed for a term of two years by the Secretary as follows:

(1) a member appointed to represent the State of Connecticut. Such appointments shall be made from recommendations of the Governor of the State of Connecticut;

(2) a member appointed to represent the appropriate regional planning commissions or agencies of Connecticut. Such appointments shall be made from recommendations of the heads of such commission or agencies;

(3) a member appointed to represent each town referred to in section 1 of this Act that is directly affected by the establishment of the riverway and such appointments shall be made from recommendations of the governing body of such towns; and

(4) a member to be designated by the Secretary; and

(5) a member to be designated by the Administrator of the Environmental Protection

Agency or other such Federal agency which assumes the responsibility for the protection of the environment by change of law or by Executive order, unless that agency is under the administrative jurisdiction of the Secretary of the Interior.

(c) The Chairman of the committee shall be elected by the membership thereafter for a term of not to exceed two years. Any vacancy in the committee shall be filled in the same manner in which the original appointment was made.

(d) All members of the committee shall serve without compensation as such. The Secretary is authorized to pay the expenses reasonably incurred by the committee in carrying out their responsibilities under this Act on the presentation of vouchers signed by the chairman.

(e) The Secretary or his delegate shall consult regularly with the committee with respect to all matters relating to the development and administration of the riverway, and with respect to carrying out the provisions of this Act, including but not limited to matters relating to the acquisition of lands, the issuance of regulations specifying standards for zoning ordinances, and the administration of the riverway.

(f) The committee shall make available to the Secretary an annual report reviewing matters relating to the development of the riverway, including land acquisition and zoning standards policies, and shall make recommendations thereto.

CONNECTICUT RIVER VALLEY CORRIDOR

Sec. 7. (a) The Secretary, in accordance with authority contained in the Act of May 28, 1963 (77 Stat. 49), and in consultation with the New England River Basin Commission and the advisory committee established by section 6 of this Act, shall encourage coordinated planning for the conservation and development of the scenic, ecological, scientific, historic, and recreational resources of the Connecticut River Valley corridor which is defined for the purpose of this section as that part of the Connecticut River Valley corridor depicted on the map referred to in section 1 of this Act which is located within the State of Connecticut. The Secretary shall give particular attention to encouraging and coordinating the conservation and development of the outdoor recreation resources of the corridor that are outside the boundaries of the riverway, and he is authorized to provide technical assistance to State and local governments and private individuals, groups, and associations with respect to the conservation and development of such resources. The Secretary is authorized to establish a regional office of the Bureau of Outdoor Recreation within the boundaries of the Connecticut River Valley corridor in order to facilitate the planning and coordination under this section.

(b) The Secretary shall encourage State, regional, county, and municipal bodies to adopt and enforce adequate master plans and zoning ordinances which will promote the use and development of private owned lands within the corridor in a manner consistent with the purposes of this section, and he is authorized to provide technical assistance to such bodies in the development of such plans and ordinances.

(c) The Secretary shall cooperate with the appropriate State and local agencies to provide safeguards against pollution of the Connecticut River and unnecessary impairment to the scenery thereof.

(d) In order to avoid, insofar as possible, decisions or actions by any department, agency, or instrumentality of the United States which could have a direct or adverse effect on the outdoor recreation resources of the corridor, all departments, agencies, and instrumentalities of the United States shall consult with the Secretary concerning any plans, programs, projects, and grants under their jurisdiction within the corridor. Any Federal department, agency, or instrumentality before which there is pending an application for a license for any activity which could have such effect on the outdoor recreation resources of the corridor shall notify the Secretary, and, before taking final action on such application, shall allow the Secretary ninety days to present his views on the matter.

(e) The Secretary of Agriculture shall study means of preserving the agricultural, forest, and rural open space character of the corridor, and shall submit a report of his findings and recommendations to the President and Congress within one year after the date of this Act.

SHORELINE EROSION CONTROL

Sec. 8. The Secretary of the Interior and the Secretary of the Army shall cooperate in the study and formulation of plans for shoreline erosion control of the Connecticut River; and any protective works for such control undertaken by the Chief of Engineers, Department of the Army, shall be carried out in accordance with a plan that is acceptable to the Secretary of the Interior and is consistent with the purposes of this Act.

APPROPRIATIONS

Sec. 9. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act, not to exceed, however, $17,450,000 for the acquisition of land and interests therein, and not to exceed $4,569,000. (August 1971 prices) for development, plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs as indicated by engineering cost indexes applicable to the types of construction involved herein.

EXECUTIVE SESSION

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the Senate return to the consideration of executive business.

There being no objection, the Senate proceeded to the consideration of executive business.

NOMINATION OF WILLIAM H. REHNQUIST

The Senate continued with the consideration of the nomination of William H. Rehnquist to be Associate Justice of the Supreme Court of the United States.

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Byrd of West Virginia). Without objection, it is so ordered.

NOTICE OF VOTE ON CLOTURE MOTION ON FRIDAY, DECEMBER 10, 1971

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the hour to be set aside, after the first legislative day, for consideration prior to the vote on the cloture motion, begin at the hour of 11 a.m. and that the vote occur at 12 o'clock noon.

The PRESIDING OFFICER (Mr. Byrd of West Virginia). Is there objection to the request of the Senator from Montana? The Chair hears none, and it is so ordered.

QUORUM CALL

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BAYH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BAYH. Mr. President, we are at present as a body operating under the mandatory requirements and time limitations provided for under rule XXII designed to deal with how the Senate as an institution can terminate debate. In language which is perhaps more apropos and more widely understood by average citizens throughout the country, we are operating under those provisions which have been historically used as a vehicle to terminate a filibuster.

The Senate's history is filled with instances of filibustering—whether we call it that or prolonged debate. The Senate Record is filled with instances in which some Members of this body, as is their right, have resorted to all of the parliamentary shenanigans and tactics available. Every loophole has been utilized by various Senators in the past to keep issues from being put. All-night sessions, prolonged dissertations on subjects and substances totally irrelevant to the discussion, repetitive speeches revealing no new information, as well as being totally irrelevant, the business of reading poetry and prose and documents totally unrelated or only vaguely related to the question at issue have been utilized on many occasions.

It was to try to stem this type of tactic, the arbitrary use of parliamentary rights on the part of a minority—ofttimes a very small and scant minority—that the Senate enacted in its rules the cloture provision to terminate debate.

Mr. President, I hope that between now and noon tomorrow Senators will examine the Record, will examine what has been said on the floor of the Senate, will examine the tactics that have been used by those of us who have deep concern and reservations about the nominee, as well as the tactics and rhetoric used by those who are supporting the nominee, and then, and only then, be prepared for the vote to determine whether the Senate is indeed in the process of being filibustered or whether the Senate is going through the common legislative process of trying to decide a very controversial issue.

I have been in public life for 17 years. Many in this body have been in public life a good deal longer. Perhaps this confession or admission is not a good one, but I have not yet reached a place where criticism does not hurt. I have learned to accept it and tolerate it. I have not yet reached the place where I do not care about being readily accepted and being on friendly terms and likable terms with my colleagues. I think it is relevant to say that, because I am not totally unaware of the pressures which exist in this body today that have absolutely nothing to do with the issues before us.

There is great pressure to adjourn. There is great pressure on all of us to be with our families, our friends, and our constituents, and to have the chance to enjoy a well-deserved rest. It is a very difficult position for those of us who are concerned over the nomination of Mr. William Rehnquist to be in. The Christmas spirit exists outside this Chamber. For this reason it is hard sometimes to keep attention on the legislative process. And some interpret the process as far from the Christmas spirit.

Be that as it may, and at the risk of offending some of my colleagues whose friendship I value highly, nevertheless, I, as one Member of the Senate, do not intend to be as much concerned about waging a popularity contest as I am about seeing that all the issues about the Rehnquist nomination are properly put.

This body in its finest moment has not avoided controversy. It has not sought the easy way and the convenient way. I intend, as much as one Senator can accomplish his own desires, to see that this is one of those moments in which the Senate rises above its own personal convenience and deals with this issue only after it has been fully discussed and some of the critical questions that are yet unanswered are put to rest.

I do not believe several of the issues have been as clearly stated as I would like, and I must admit that it is extremely difficult to get individual Senators at this time, with their minds filled with the other problems that they have individually, with the other problems that confront our country and the world, and with the pressures that they all have to terminate their legislative business, to look at the merits, pro and con, of the Rehnquist nomination. The general attitude seems to be, "Well, let's give the President his way and go home."

In my judgment, this is a very dangerous attitude, one which needs to be changed.

In light of some of the dialog that we have had on the floor of the Senate and indeed in light of some of the comments I have heard some Senators make off the floor, I fear that the Senate does not yet properly understand its role in the advise-and-consent process.

I did not have the good fortune of hearing my distinguished friend and colleague, the Senator from Kentucky—who I notice is on the floor—respond to a WTOP letter to the editor, or an editorial, but I did have it relayed to me by a member of my staff who heard him. The Senator is a persuasive advocate, and he is an honest, tenacious man who pursues his thoughts in as dedicated a manner as any other Member of this body. On many issues we find ourselves comrades in arms. I do not want to put words in his mouth, nor do I want to bring him unnecessarily into the debate, but I do not believe that it is the feeling of those of us in the Senate, nor do I believe that the WTOP editorial that I now have before me can be accurately described as opposing Mr. Rehnquist because he is an ultraconservative. We are concerned not about the general judicial conservative philosophy attributed to him by the press, but we are concerned about how Mr. Rehnquist would vote, what he has said, and thus what he appears to believe in two general areas that go far beyond the general philosophy of liberal and conservative, or strict constructionist or judicial conservative.

The concerns that the WTOP editorial expresses, after talking in terms of Lewis Powell, Harry Blackmun, and Warren Burger, when it says, "In our judgment, all three of these men have what Mr. Rehnquist lacks, a sense of the unique and perishable character of the American experiment," over Mr. Rehnquist's views on civil liberties and on human rights, are concerns about matters which characteristically are not divided into little packages marked conservative and liberal. In fact, as was brought out during the debate yesterday, the main proponents of individual liberties, the main protectors of those liberties from incursions and encroachments by the Federal Government or the State governments, have been the stalwart conservative judges who have sat on the Supreme Court of the United States.

I suggest that it is fully within the role of the Senate to look at the legal qualifications, to look at the integrity, to look at the intellect, and to look at the views of any nominee, particularly the basic fundamental views in the area of human rights, civil rights, and civil liberties.

Mr. President, there is no stronger advocate for the rule that the basic philosophy of a nominee should be considered than the nominee himself. In the Harvard Law Record, he wrote persuasively that the Senate was not fulfilling its responsibility unless it looked at the general philosophy of a nominee.

But the general philosophy of the nominee does not concern the Senator from Indiana. I have said previously that that battle was lost in the 1968 election, and those who are now concerned about the Rehnquist nomination perhaps wish they had been a bit more concerned about the outcome of the 1968 election. But that is past history. When Richard Nixon was elected President, anyone with a nickel's worth of sense should have recognized that it was only reasonable to expect that nominees would be forthcoming whose views would be closer to the Richard Nixon philosophy than to the philosophies of some of the Members of this body.

But in the specific area of civil liberties, the great fundamental principles of the Bill of Rights, and in the area of basic human rights, civil rights, if the nominee is wrong there, then in my judgment he is wrong for the Court.

There have been several issues raised that I hope Senators will direct their attention to between now and the vote on cloture. It seems only reasonable to expect that until each Senator in his own mind has resolved the issues on the merits and has had the questions which have been raised laid to rest to his own satisfaction, he can hardly suggest that the Senate is involved in a filibuster.

Our distinguished minority leader yesterday talked about a lonely vigil, and I suppose by inference suggested that the Senator from Indiana alone was concerned about this nomination. It is rather ironic that shortly after that, for about a 2- or 3-hour period, we had the most vigorous debate of the entire period of time in which we have been going into the matter; and for the first time, those who supported the nomination attempted—I say attempted because I do not think they succeeded—to deal with the questions some of us have raised that have caused our concern about the qualifications of the nominee.

There are a number of Senators who wish to speak and will speak between now and the cloture vote tomorrow, and hopefully if the issue is not laid to rest then, will have the opportunity to continue speaking, and continue to articulate the issue. The questions that have been raised have not yet been sufficiently answered in the minds of several of our colleagues. In fact, I doubt if many of our colleagues have had the opportunity even to study some of these issues. I say this not as criticism, but out of recognition of the fact that there are many competing interests for the minds and concerns of each Senator right now. There could be no more disadvantageous time to have a critical, controversial, complicated issue before the Senate than at this particular moment.

I want to, for the sake of the RECORD—with the hope that now that this issue has been perhaps more clearly joined, because there are those who are suggesting that we should no longer have the chance to debate it—touch on some of these questions, and hopefully my colleagues will take the opportunity of looking at this RECORD before the rollcall vote tomorrow, and then they can decide in their own minds and their own consciences, as each Senator must do, whether these particular questions have been laid to rest in the mind of the individual Senator involved.

Do Senators realize the position of the nominee as far as the basic guarantees of the Bill of Rights are concerned?

Are they aware that both in his speeches and in his testimony before the Judiciary Committee at his nomination hearings, he said, in response to questioning, that he saw no constitutional issue involved in the right to privacy where surveillance was involved?

It is all well and good for us to say, "Well, now, this really does not mean anything"; but every Senator had better be prepared to know what it means. It does not mean that we are not going to make new law. It means we are going to change present law; because the Supreme Court, in the Griswold against Connecticut case, has held that there is a constitutional right to privacy, and if we put on that Court a man who says there is not a constitutional right to privacy, I suggest we are in the process of changing the law—not just staying where we are; not just preventing legislation on the Court, but increasing the chance of it; not just preventing positive movement ahead by the Court, but in danger of regressing and going backward.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. CRANSTON. Mr. President, I rise to speak in opposition to Senate confirmation of the nomination of William H. Rehnquist to be an Associate Justice of the Supreme Court of the United States. Although the Senate has already voted 89 to 1 to advise and consent to the nomination of Lewis F. Powell, Jr., to be an Associate Justice of the Supreme Court, I will also in this statement explain my reasons for my vote for confirmation of Mr. Powell's nomination.

Mr. President, at the outset I think we can all agree that the overwhelming vote of confirmation of Mr. Powell's nomination, to borrow a phrase, "makes one thing perfectly clear"—that the Senate will indeed give its advice and consent to the Supreme Court nomination of a qualified southerner. This was my contention at the time that the Senate withheld confirmation of the Haynsworth and Carswell nominations, and I am delighted my prophesy has become reality in such an overwhelming way.

A DUAL NOMINATION PLAY

Before going further, Mr. President, I wish to comment on the way in which these nominations came to us in the Senate. I most strongly object to the attempt which has been made to compel the Senate to make a judgment on two such vital nominations concurrently. It may have seemed cagey strategy to the President to confront the Senate with a pair of nominations so as, seemingly, to dilute the focus of critical judgment with respect to each nomination. But, to me, presenting "an entry" of nominees is an attempt to manipulate the Senate in its exercise of the constitutional responsibility to advise and consent in Supreme Court nominations.

Mr. President, I understand from press reports that the President of the United States is an ardent football fan. Indeed, I share with him a keen interest, both as participant and spectator, in sports and physical fitness. But I do not believe it appropriate to make decisions of state by borrowing from a chalkboard diagram of a football play, and, thus, it seems to me particularly regrettable that the President has seen fit to devise and execute a dual nominee play, in which one nominee is assigned the role of running interference for the other. Which nominee is to be the running back and which the blocking back in this play is to be determined later based on whom the other team—the Senate—wishes most to tackle.

This kind of "tie in" has long been declared illegal under the antitrust laws and, in my judgment, serves to demean the nomination of each man by casting an inference that the nomination of neither is sufficiently secure to stand separate and independent scrutiny if the gordian knot binding them together should be severed.

It is, therefore, extremely fortunate that the distinguished majority leader (Mr. MANSFIELD) decided to put an end to this misbegotten strategy by scheduling Senate consideration of the noncontroversial nomination before we turned to consideration of the pending one.

I congratulate the leader for this excellent decision.

Mr. President, since the two nominations came before us during the same week, it is instructive, in evaluating Mr. Rehnquist's qualifications in certain respects, to indicate how Mr. Powell's differ, and I will do so during the course of this statement where appropriate.

STANDARDS GOVERNING SENATORIAL ADVICE AND CONSENT RESPONSIBILITY

In preface to discussion of the individual qualifications of the two nominees, it is first necessary to discuss both the standards for evaluation of Supreme Court nominations and the singular importance of such nominations under our Constitution.

First, I would like to suggest what standards should not be applied.

It has been suggested by some that perhaps it would be the better part of discretion for a Senator to swallow his concerns and principles and accept a nomination because it appears far less outrageous by comparison with a nomination that might have been made.

Similarly, some also suggest that if acquiescence is not secured by relief at being spared a worse fate, toleration of a questionable nomination should be prompted by fear of the kind of nominee which might be put forward if the present nomination should be rejected. This latter postulate draws both support and nonsupport from the parade of nominees for the last vacancy which was ultimately filled by Mr. Justice Blackmun. Many felt that the nomination of then Judge Carswell was considerably more intolerable than the nominee rejected before him for that position. But the Senate, despite expressions of concern as to who might be a third nominee should Mr. Carswell be defeated, performed its constitutional responsibility, regardless of such fears or concerns.

Mr. President, I find these two apologist standards totally unacceptable. The only end they serve is to encourage a President to follow a pattern of sending mediocre or worse nominations to the Senate and to adopt a strategy of compiling smokescreen lists of mythical nominations which might be seen as placing his actual nominations in a more favorable light by contrast.

Rather, in my view it is the responsibility of each Senator to judge each nomination on its own individual merits and to reach an independent decision without regard to the qualifications or lack thereof of any other nominee, past, present, or potential. That is what I have attempted to do with respect to the four Supreme Court nominations which I have been called upon to consider prior to these and what I have attempted to do with respect to the two present nominations.

SINGULAR IMPORTANCE OF SUPREME COURT NOMINATIONS

Mr. President, a nomination to the Supreme Court of the United States and the coordinate action of the Senate in giving or withholding its advice and consent is a more important appointment than any other within Presidential and senatorial prerogative. Whereas Presidential appointments of Cabinet or sub-Cabinet rank usually serve no longer than 4 years and would be most unlikely to serve more than 8 years, it is not uncommon for Supreme Court Justices to sit for two or sometimes three decades on the High Court. A Supreme Court Justice is in a virtually unparalleled position in our society of laws to have impact on the most pressing legal, social, ethical, and political questions facing several generations of Americans.

I should point out that this opportunity for decades of influence on the future course of Supreme Court decisions is singularly available to Mr. Rehnquist, who at 47 years old, promises to serve far longer, if confirmed, than Lewis Powell, Jr., who is 17 years his senior.

Unlike a Cabinet Secretary or a President, unlike a Senator or a Congressman, a Federal judge has lifetime tenure and can be removed from office only upon impeachment and conviction of the most severe of high crimes. Presidential appointees in the executive branch, by contrast, serve at the pleasure of the President, and we elected officials are directly accountable to the electorate every 2, 4, or 6 years.

Thus, once appointed after Senate confirmation, a Supreme Court Justice is accountable only to himself for the judgments which his high office calls upon him to make. For all practical purposes he is removed from control or sanction by the people. In contrast, these other appointed and elected officials are able to make their decisions on the merits at best only imperfectly, given the vicissitudes of public life and the various pressures and interests which permeate the political, democratic processes in our country.

It thus becomes startingly important, based upon the available information, for each individual Senator to make a sound judgment as to how a Supreme Court nominee would perform this enormous responsibility of decisionmaking free, virtually entirely, from any dictates other than those of his own sense of justice and conscience.

The framers of our Constitution, in the exercise of their characteristically extraordinary wisdom, refused to entrust the selection to fill such a mighty office to any one official. And they chose also not to entrust the appointment separately to either of the other two coequal branches of Government. Rather, the appointment of Federal judges with lifetime tenure was made a shared responsibility between the President and the Senate of the United States.

Thus, whereas the benefit of the doubt should, I believe, be afforded nominations by the President of appointees to serve him in the executive branch, where they are subject to the scope and continuation of his popular mandate—and I have tried to give the President's executive branch nominations such a presumption—no such presumption should properly govern the exercise of senatorial advice and consent in the case of lifetime judicial appointments. This is particularly so in the case of the highest of all such appointments, nominations to the Supreme Court of the United States.

At the same time, however, I do not mean to suggest that it is the province of the Senate or an individual Senator to attempt to substitute his judgment for that of the President when deciding upon advice and consent to a Federal judicial nomination. Clearly, the question for a Senator is not whether or not this is a nominee whom he would have chosen had he been President, but whether the nominee meets minimum standards of qualification for the judicial position to which he has been nominated.

MINIMUM QUALIFICATIONS FOR SUPREME COURT NOMINATIONS

This brings me, then, to a description of the criteria I believe should govern a Senator's determination of the qualifications of a Supreme Court nominee.

As stated in the individual views of Messrs. BAYH, HART, KENNEDY, and TUNNEY (exec. rept. No. 92–16), the very minimum qualifications are intellectual and legal excellence and personal integrity. No nominee who does not possess at least these qualifications should even be submitted to Senate consideration. To be confirmed, a nominee should possess more.

Surely, a third qualification is judicial temperament. Judicial temperament, it seems to me, can comprehend more than merely the ability to present a dignified and dispassionate demeanor on the bench.

In the broadest sense, judicial temperament includes the capacity to perform the essential functions of a judge; that is, to be dispassionate—in the sense of being personally "disinterested," although not uninterested, in the result of a case, to be impartial, to be balanced in approaching a judicial question, and to be able to maintain the appearance, as well as the reality, of those qualities. Webster's new collegiate dictionary—1961—defines the word "temperament" as "internal constitution with respect to balance or mixture of qualities or parts."

To a considerable extent, this notion of the capacity for judicial balance may involve the question of "judicial philosophy" which, itself, can also be considered a fourth qualification for Supreme Court appointment.

Regarding the appropriateness of such a judicial philosophy qualification, I find no valid argument, in either senatorial practice or tradition, or in commonsense, for holding that a judicial nominee's prospective judicial philosophy is no business of the Senate.

In fact, the history of Senate action in advising and consenting to Supreme Court nominations presents a compelling brief that judicial philosophy is, and has always been, a legitimate matter for Senate scrutiny. According to the excellent memorandum prepared for the Senator from Indiana (Mr. BAYH) by Professors Brest, Grey, and Paul—which appears in the CONGRESSIONAL RECORD of November 5, page 34591, during the 19th century the Senate refused to confirm 21 nominees to the Supreme Court. And the grounds for Senate rejection were by and large based upon the political views of the nominees.

In the 20th century, prior to this administration, this memorandum indicates, there were at least seven instances in which significant concern was expressed by Senators and nominations were opposed, because of a nominee's prospective judicial philosophy. Of course, the nominees substantive views on the fundamental question of racial justice were deeply involved in the Carswell and Haynsworth confirmation battles.

Thus, it is clear that many, many Senators in the past, as well as very recently, have voted against Supreme Court nominations, because these Senators strongly objected to the judicial philosophy of a particular nominee. I might add that quite often those applying this qualification to a judicial nominee have been Senators who themselves have held a politically conservative philosophy.

Second, regarding evaluation of judicial philosophy, given all that has recently been said and written with regard to the Senate's coequal role in appointments to the Supreme Court, when the President himself in the most explicit way—in a clearly calculated attempt to arouse public opinion in support of his nominee—states publicly that probably the overriding qualification sought by him in making the nomination was consistency with his own judicial philosophy, how can it possibly be contended that a Senator should not concern himself with that same qualification when he makes his decision on confirmation?

In this particular instance, on October 21, 1971, the day before the President sent these two nominations to the Senate, he appeared on nationwide radio and television and stated:

> You will recall, I am sure, that during my campaign for the presidency, I pledged to nominate to the Supreme Court individuals who shared my judicial philosophy which is basically a conservative philosophy.

He said quite openly that he had this in mind when he nominated Mr. Rehnquist and Mr. Powell. It is pure sophistry to suggest that we should not employ the same criterion in evaluating these nominations.

THE REHNQUIST AND POWELL NOMINATIONS

Mr. President, since I do not serve on the Judiciary Committee, I have reserved judgment on these nominations until I have had a full opportunity to review the record of their nomination hearings, the committee reports and individual views on their respective nominations, and other respective nominations, and other materials relevant to their qualifications, as well as to discuss the nomination with fellow Senators who have had a similar opportunity to brief themselves. Yesterday, during debate on the nomination, I asked a number of questions of the Senator from Indiana (Mr. BAYH) and the Senator from North Carolina (Mr. ERVIN), both outstanding lawyers and members of the Judiciary Committee. Their answers were most helpful and I thank them.

INTELLECTUAL AND LEGAL EXCELLENCE AND PERSONAL INTEGRITY

There is no real question raised with respect to either nominee in terms of their satisfying standards of intellectual and legal excellence or personal integrity. All members of the Judiciary Committee were in agreement of this score as were the members of the American Bar Associations Standing Committee on Federal Judiciary. Nor have I seen any contrary indication on these accounts in what I have read regarding these two nominees.

JUDICIAL TEMPERAMENT

With regard to judicial temperament in terms of such matters as demeanor, there would seem no question that each nominee passes muster. But, regarding the broader and more significant characteristics also involved in judicial temperament, I find Mr. Rehnquist not qualified and Mr. Powell qualified. To explain the reasons for my conclusions requires some discussion of the judicial philosophy question as well.

I find nothing in what I have learned of Mr. Powell's activities, viewpoints and statements to lead me to conclude that he is not capable of making dispassionate, impartial and balanced judicial judgments. Indeed, the evidence is to the contrary. His balanced approach to highly sensitive and controversial problems is nowhere more critically evidenced than in his statements and actions as chairman of the Richmond City School Board following the historic Supreme Court decision in Brown against Board of Education. Whatever may have been Mr. Powell's personal views, predilections or preferences in that highly complex emotion-charged situation, his posture was at all times measured, judicious and firm in promoting clear movement toward compliance with the supreme law of the land as laid down in the Brown case. In addition to this clearly balanced behavior, Mr. Powell's actions were also most courageous in terms of the tide of opinion in his community.

The same temperament was evidenced in Mr. Powell's work as president of the American Bar Association in 1964–65 in pressing for and beginning a comprehensive and scholarly study to formulate minimum standards for the administration of criminal justice, and urging strong support from the organized bar for the legal services program.

The judicious way in which he dealt with these highly emotion-charged issues convinces me of his capacity for appropriate judicial temperament.

I might add, Mr. President, that the directions in which he was moving were also directions which accord with my personal policy views in these particular instances. But that is hardly the case with respect to some of his views on other matters particularly, questions of criminal law.

With respect to Mr. Rehnquist, on the other hand, I find his record almost totally lacking evidence of a balanced, dispassionate, impartial approach to legal and policy questions. From an extensive review of his writings and his testimony before the judiciary committee, I find him to be an extraordinarily committed idealog who first forms conclusions according to the dictates of his ideology and then afterwards reasons backwards to justify those conclusions. Mr. Rehnquist uses his considerable intellect to examine microscopically arguments opposed to his conclusion, but often applies this same intellect only superficially to probe the merits of the arguments supporting his position.

I am convinced that he uses this backward reasoning process with respect to his position regarding racial equality, civil disobedience, the 18-year-old vote, and equal rights for women amendments, the President's war powers, rights of arrested persons, privacy, political association, Government surveillance, and other first amendment issues.

The evidence supporting my conclusion in these areas has been clearly laid on the public record in the Judiciary Committee hearings, the individual views of Messrs. BAYH, HART, KENNEDY, and TUNNEY, and in the CONGRESSIONAL RECORD.

It has been argued that Mr. Rehnquist's expressions of views and legal analysis while he was Assistant Attorney General were often made in the posture of an advocate and do not necessarily represent his personal views. There is no way we can find out if that is the case. For Mr. Rehnquist refused to clarify this issue for the Judiciary Committee. The burden of proof is, therefore, on those who would conclude that his official statements as Attorney General do not represent his personal views.

On this question Mr. Rehnquist was uncooperative with the Judiciary Committee members who tried to determine and explore his personal viewpoints. His invocation of an attorney-client relationship with the Attorney General and the President is unique. Based on advice I have received, it is also insupportable. I might add, parenthetically, that Mr. Rehnquist's capacity in this instance for innovative theorization in the face of the doctrine of stare decisis is not without appeal, but, again, he uses this new theory only to support his end result. Moreover, on several occasions on which he might also have refused to answer based on this new found privilege, he chose not to invoke the privilege.

I am not suggesting that Mr. Rehnquist at his confirmation hearing should have engaged in discussions of specific fact situations that might later form the basis for actual cases that might come before him on the Supreme Court should he be confirmed. Nor did any member of the Judiciary Committee quarrel with his altogether commendable desire to avoid such prejudgments. But he carried this reluctance to a point where he was not forthcoming in many of his responses.

There are four more points that should be made regarding his failure to discuss his personal views.

First, his attitude on civil rights is expressed largely in statements and actions prior to his tenure as Assistant Attorney General.

Second, at no time during his confirmation hearing did he suggest that his official expressions of views were hostile to his own personal views. He did admit he would have resigned had he felt he was being called upon to defend indefensible or unconscionable Government policies.

Third, Mr. Rehnquist, himself, has stated in a 1970 Arizona Law Review article that he was chosen Assistant Attorney General on the basis of his intellectual compatibility with the views he subsequently advocated in that position. His selection for that position was recommended by Deputy Attorney General Kleindeinst whose views he knew well and shared during their political collaboration in Arizona. So he had every reason to know what he was undertaking as John Mitchell's advocate.

Fourth, even if one should disregard the ultimate positions he was called upon to defend as Assistant Attorney General, the thought processes and legal analysis underlying his defense are undeniably his own. And on that score, in my judgment, his work evidences a clear lack of balance and essential fairness in evaluating competing contentions. He displays none of the characteristics of judiciousness one would hope to find in an intellect of his stature.

Thus, I conclude that Mr. Rehnquist by refusing to answer specific questions at the Judiciary Committee hearings regarding which of the views he espoused were as an advocate and which were his own, left us no alternative but to judge his capacity for a balanced approach and his judicial philosophy on the basis of what he has said and done, including his activities as Assistant Attorney General for legal counsel.

Essentially, I find that Mr. Rehnquist consistently accords the most narrow interpretation to Supreme Court decisions and constitutional concepts that protect individual rights and liberties. At the same time, he accords the broadest possible interpretation to opinions and concepts that sanction Government restrictions on individual rights and liberties.

For example, he places great weight on the need to avoid constraints which might "dampen the ardor" of government investigators. But he generally gives no weight to the danger that such investigations can have a "chilling effect" on the exercise of free speech or association by those being investigated or placed under surveillance. For him there is no real effort to balance the scales of justice with the interests of the individual. His scales of justice are those of the horserace handicapper with the Government's interest already weighted before the ostensible balance is made.

His result-oriented approach is perhaps most clearly evidenced by his failing completely to recognize the very substantial societal and governmental interest in our democracy in the widest official sanctioning and encouraging of the exercise of freedom of speech, association, and belief. He seems to consider the first amendment as something designed only in the interests of particular individuals—a few "radicals," pornographers, or Communist sympathizers—and not in the interest of all of us and the Government that serves us all.

Another example of his lack of dispassionate approach is in his calculated use of McCarthyite innuendo to characterize the authors of Supreme Court first amendment cases with which he disagrees. I say "calculated" because Mr. Rehnquist is too able a lawyer and verbal stylist to use words carelessly.

In characterizing two decisions handed down by Mr. Justice Black in 1957 which dealt with the permissible scope of inquiry by State bar examiners about previous political beliefs, Mr. Rehnquist impugned the motives of Mr. Justice Black and the majority of the Court. In describing these decisions which happened to deal with an admitted former Communist and an alleged former Communist, he stated in a Bar Journal article that these decisions were "based on a combination of charity and ideological sympathy." This is a highly inflammatory piece of not very subtle rhetoric straight from the red-baiters school of politics.

Mr. Rehnquist began this same Bar Journal article with the lead sentence:

> Communists, former Communists, and others of like political philosophy scored significant victories during the October, 1956, term of the Supreme Court of the United States.

This hardly ranks as a piece of scholarly, measured legal analysis and judicious evaluation of the decisions of the highest judicial body in our Nation.

Mr. President, this is hardly the kind of reverence for the rule of law that is expected of an attorney—an officer of the court.

JUDICIAL PHILOSOPHY

With respect to the judicial philosophy of Mr. Powell, I am willing to accept the conclusion of Messrs. BAYH, HART, KENNEDY, and TUNNEY in their individual views—Executive report No. 92–17—that—

> He does, indeed, possess the strong dedication to preserving our basic civil liberties which we believe any nominee to the Supreme Court must have.
>
> We believe he is committed to guaranteeing for every citizen all of the protections of the Bill of Rights.

I have already cited Mr. Powell's record of work to bring peaceful desegregation of schools to Richmond, Va., and his devotion to the OEO legal services program I am also deeply impressed by the testimony in support of his nomination by a number of blacks. Including particularly that of Mrs. Jean Camper Cahn, a black attorney known for telling it straight from her shoulder.

She says, based upon her close working relationship with Mr. Powell in setting up the legal services program:

> My support is based upon the fact that I am drawn inescapably to the sense that Lewis Powell is, above all, humane, that he has a capacity to empathize, respond to the plight of a single human being to a degree that transcends ideologies of fixed position. And it is that ultimate capacity to respond with humanity to the individual instances of injustice and hurt that is the best and only guarantee I would take that his conscience and his very soul will wrestle with every case until he can live in peace with a decision that embodies a sense of decency and fair play and common sense.

Would that such a credible witness had attributed the same characteristics to Mr. Rehnquist.

My conclusion that Mr. Powell is qualified in terms of judicial philosophy does not mean that I am in accord with all of his views on public policy, but rather that I believe that in the crucial area of respect for individual rights and liberties he has the basic commitment which I believe is a minimum qualification for a Supreme Court Justice.

With respect to Mr. Rehnquist's judicial philosophy, first it should be noted that he, himself, in a 1959 Harvard Law Review article called on the Senate when considering Supreme Court nominations, to "restore its practice of thoroughly informing itself on the judicial philosophy of a Supreme Court nominee before voting to confirm him." He expanded on this by saying:

> The only way for the Senate to learn of these sympathies of nominees on great legal issues is to inquire of men on their way to the Supreme Court something of their views on these questions.

As I pointed out earlier, under questioning Mr. Rehnquist was extremely reluctant to discuss his personal views on the basic questions of human rights and individual liberties.

I find virtually no indication in his record of statements or actions which do other than raise the most significant doubts in my mind about his commitment to civil rights. His grudging statement at his confirmation hearing that he now no longer opposes a public accommodations law is too self-serving, and too lacking in an essential understanding of equal justice, to be accorded any weight.

At his confirmation hearing, he described his change of heart—to the view that it is now acceptable for the Government to insure that a black man can receive service at a lunch counter in public accommodations facility—as being motivated by his present greater realization in 1971 than he had in 1964 of "the strong concern that minorities have for the recognition of these rights." I am totally unimpressed with this new vision of light which on its stated justification misses the essential of fundamental justice and dignity involved in human rights matters.

The same callous insensitivity to human rights is displayed in Mr. Rehnquist's 1967 letter to the Arizona Republic in which he stated strong opposition to a series of prior articles discussing the need to take moderate steps to achieve integration of the Phoenix schools. Mr. Rehnquist first seemed to indicate that issues of minority group individual rights were somehow under our system appropriate for resolution by the majority based on their personal convenience. He put forth for serious consideration—13 years after the Supreme Court in Brown against Board of Education had held that separate educational facilities are "inherently unequal"—the proposition that—

> We are no more dedicated to an integrated society than we are to a segregated society. . . .

Mr. Rehnquist's nomination is a shattering blow to all minority Americans and all Americans aspiring for equal justice and opportunity in this country and who, in the last analysis, must look to and rely upon the Supreme Court to vindicate the human rights they are guaranteed under our Constitution.

With respect to civil liberties, I have already cited a number of areas in which Mr. Rehnquist comes down on the side of less liberty rather than more. This is no coincidence. I find his record devoid of evidence of any basic commitment to the individual liberties which are inherent in the fabric of the Bill of Rights and serve as the last bulwark between the overwhelming force of the Government and the individual citizens' privacy, person, and interests.

In the area of wiretap and government surveillance of persons, I find Mr. Rehnquist's statements to be so extreme as to raise grave questions about his fundamental grasp of the system of checks and balances under our Constitution. The distrust of the unfettered exercise of the power of the sovereign, particularly in the area of belief, association, and speech, led directly to the founding of our Nation and permeates the philosophy underlying and explicit in the Bill of Rights.

In a March 19, 1971, speech, Mr. Rehnquist stated:

> I do not believe, therefore, that there should be any judicially enforceable limitations on the gathering of this kind of public information—[through surveillance by government agents]—by the executive branch of the government.

Eight days before, he made this remarkable statement, Mr. Rehnquist explained this view in testimony before the Subcommittee on Constitutional Rights of the Senate Committee on the Judiciary as follows:

> I think it quite likely that self-discipline on the part of the executive branch will provide an answer to virtually all of the legitimate complaints against excesses of information-gathering.

Could our individual freedoms and our constitutional democracy survive if this totalitarian doctrine became the doctrine of the Supreme Court? Why have a Constitution? Why have three branches of Government? Why have checks and balances?

Mr. Rehnquist's extraordinary trust in the good faith of the executive branch of the Federal establishment is frighteningly naive to me. He says there is no serious constitutional question in the Government placing people under surveillance for exercising their first amendment rights.

I say such a procedure arrogates to what should be a democratic government the tools of the dictator. In my view, Mr. Rehnquist is sadly and totally out of step with our basic constitutional protections against unwarranted invasions of personal privacy.

In the same way, Mr. Rehnquist contends that the Attorney General has power to authorize wiretaps when he concludes there is a domestic threat to national security even though the Supreme Court in Katz against United States in 1967 held that wiretapping falls within the protection against unreasonable searches and seizures under the fourth amendment. Mr. Rehnquist's position on this score manifests a basic insensitivity to the historic framework leading up to the adoption of the fourth amendment: The abusive searches and seizures directed against the colonists under the sovereign and inherent powers of King George III. He also ignores the reasons why three coordinate branches of Government were created to share governmental power under the Constitution.

Consistently, in the area of individual liberties, Mr. Rehnquist disregards the fact that the Government represents each of us and all of us collectively in keeping us secure in our persons, beliefs and associations and treating each of us with maximum recognition of and respect for our privacy. He thus disregards the most basic principle of our constitutional democracy—that the Government itself and all of us collectively have a fundamental stake in not invading or denying individual liberties.

I, unlike Mr. Rehnquist, do not believe that it is even a tenable position simply to rely upon the good faith of the executive branch to vindicate the privacy of each individual citizen.

Finally, a somewhat novel but to me, very signficant argument was made to me in a recent letter from assistant professor of law Loftis Becker, Jr., of the University of Minnesota Law School.

Professor Becker alluded to the current conflicts between the powers of the Congress and the powers of the President, for example, in the area for foreign and military affairs. He points out that the Senate must take into consideration a nominee's opinion of the balance between congressional and executive branch powers.

The Senate, Professor Becker said, would be "arranging in advance to lose its own battles" if it sent to the Court a man who has evidenced his belief that in virtually all conflicts between Congress and the President, the Court should strike the balance on the side of the executive branch.

Mr. Rehnquist has indicated on a number of occasions a very clear disregard for the prerogatives of the Congress when they come into conflict with those of the executive branch. Two notable examples are his enormously broad reading of the President's so-called war powers with respect to the Cambodian invasion—he says that the Government of Cambodia's protest at this violation of its sovereignty was only perfunctory and thus not deserving of respect—and his creation of an attorney-client privilege under which he refused to provide information to the Senate Judiciary Committee exercising its constitutional function of evaluating presidential Supreme Court nominations.

Mr. President, I ask unanimous consent that Professor Becker's November 22 letter to me be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NOVEMBER 22, 1971.

Senator ALAN CRANSTON,
Washington, D.C.

DEAR SENATOR CRANSTON: May I presume upon a brief meeting for a few minutes of your time? It seems to me that discussion of the Senate's role in confirmation of William Rehnquist's nomination to the Supreme Court has ignored one important point. Even if it be assumed that as a general matter the Senate should not deny confirmation to a nominee because of his political and legal views, I question whether this proposition has any force when the views in question relate to the relative powers of Congress and the President. Such conflicts these days are coming increasingly to the fore. Some of them, doubtless, will not result in any justiciable questions; *but some of them will.* In these cases, the Supreme Court must be the ultimate arbiter of the relative powers of the two branches. Yet unless the Senate takes into consideration a nominee's opinions on congressional and executive power, these cases will finally be decided by judges chosen entirely by one of the two parties to the dispute. It seems to me nonsensical to suggest that the Constitution was intended to so bias decisions against the Congress.

With regard specifically to Mr. Rehnquist, it is apparent to me that he would give little weight indeed to the prerogatives of Congress when it comes into conflict with the executive branch. To give merely a single example, he has argued that to disclose his personal views with regard to matters about which he counselled the Justice Department would be to violate the attorney-client privilege. Of course, if he is serious in this claim it would of itself disqualify him from service on the Supreme Court, since the privilege protects against all forms of public disclosure, and disclosure in the form of judicial opinions is hardly less public than disclosure to the Senate. If Mr. Rehnquist's claim makes any sense at all, it must be simply a claim that the executive branch is entitled to withhold information from Congress whenever it desires to do so. Such a broad claim of executive privilege is startling, to say the least; it is frightening when made by one who, if confirmed, may be deciding precisely this question if the issue should ever come to litigation. If the Senate refuses to take such views into consideration in deciding whether it wants Mr. Rehnquist on the Supreme Court, it is arranging in advance to lose its own battles. If the Congress is ever to reassert its power vis-a-vis the executive branch, it cannot afford to allow the President to guarantee the outcome of a struggle.

Sincerely yours,

LOFTUS E. BECKER, Jr.,
Assistant Professor of Law.

Mr. CRANSTON. It is thus my conclusion that on a broad range of questions involving human rights, individual liberties, and the prerogatives of the Congress, Mr. Rehnquist's judicial philosophy is so extreme as to raise grave questions about his qualifications to serve on the Supreme Court.

CONCLUSION

Mr. President, because I find Mr. Rehnquist lacks requisite judicial temperament and because I find that he embraces an extreme and unbalanced judicial philosophy, I shall vote against the confirmation of his nomination as Associate Justice of the Supreme Court.

Because I find that Mr. Powell possesses not only intellectual and legal excellence and personal integrity, but also requisite judicial temperament and a judicial philosophy which is not extreme, I have already voted to confirm his nomination as Associate Justice of the Supreme Court.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. EAGLETON). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. EASTLAND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EASTLAND. Mr. President, I ask unanimous consent to have printed in the RECORD an editorial broadcast on radio station WTOP against the nomination of William H. Rehnquist, and a very fine reply to the editorial by the distinguished junior Senator from Kentucky (Mr. COOK).

There being no objection, the material was ordered to be printed in the RECORD, as follows:

WTOP EDITORIAL REGARDING REHNQUIST

WTOP urges the Senate to vote no on the nomination to the Supreme Court of William Rehnquist. The Senate is confronted with the difficult and distinctive prospect of refusing to confirm a man on what amounts to ideological ground. But a seat on the Supreme Court is too powerful, the condition of individual freedom on this planet is too perilous and the nominee's record is too extreme for the Senate to do otherwise. The issue is not one of liberalism versus conservatism, nor is it one of being pro-Nixon or anti-Nixon. Lewis F. Powell, Jr., who was endorsed by the Senate almost unanimously this week for a seat on the Supreme Court is by common understanding a judicial conservative. The same can be said of Chief Justice Warren Burger and Justice Harry Blackmun, both of whom also were Nixon appointees. In our judgment all three of these men have what Mr. Rehnquist lacks—a sense of unique and inperishable character of the American experiment in government. The civil liberties of American citizens, those principles enshrined in the Bill of Rights distinguish this nation from every other nation which has ever existed in the history of the world. Yet they are the most fragile part of our contract with our government. The nub of the case against Mr. Rehnquist that he has consistently displayed in his writings and his speeches insensitivity toward our basic freedoms which approaches blindness. If he sits on the Court he can be counted on in our view to assist and promote the erosion of our liberties and the enhancement of the already chilling powers of the government. After very long and very careful deliberation we have concluded that William Rehnquist would be a distinct liability for the Supreme Court and for the nation. The Senate we hope will deny him the seat.

STATEMENT BY SENATOR MARLOW W. COOK

A WTOP editorial urged that William H. Rehnquist's nomination be denied. In essence, the editorial said that the nominee's ideology or political philosophy disqualified him for a position on the Supreme Court.

I do not believe this to be the proper criteria for either rejection or confirmation. The legislative branch is the correct arena for bloody battles in politics and ideology; the Supreme Court is not.

The High Court has often rejected legislative acts passed by an emotionally charged or overly politicized Congress. Would WTOP have our future Supreme Court act in a manner similar to these past Congresses? I think not.

I believe WTOP is opting for a political Court, not a judicial Court.

Tom Wicker of the New York Times, a writer of impeccable liberal credentials, said that to reject Rehnquist solely on his political views "would tend to politicize the court, would punish some people for their ideas, while frightening others out of having any, and would lead inevitably to political retaliation."

As Senator Kennedy so aptly stated during the Senate's consideration of Thurgood Marshall,

I believe it is recognized by most Senators that we are not charged with the responsibilities of approving a man to be associate justice of the Supreme Court only if his views always coincide with our own. We are not seeking a nominee for the Supreme Court who will express the majority view of the Senate on every given issue, or on a given issue of fundamental importance; we are interested really in knowing whether the nominee has the background, experience, qualifications, temperament and integrity to handle this most sensitive, important, responsible job.

Even taking into full account Mr. Rehnquist's alleged anti-libertarian views on the first ten amendments, I believe if conservative or even arch conservative views can disqualify a person, then what prevents future Senates from rejecting a nominee for his liberal or "new left" views?

WTOP should know that this is not a one-way street.

Supreme Court nominees should be considered on the basis of intellectual and legal ability, temperament and ethical and personal conduct. They should not be considered on the basis that they will stand in my stead and adjudicate as I would.

On these grounds there is little dispute; Mr. William Rehnquist should be confirmed.

Mr. FANNIN. Mr. President, a column in today's Washington Post carries the headline "Rehnquist: Top Mind."

Joseph Kraft is the writer who points out that William H. Rehnquist has the intellect that can in fact help expand the capacity of the Supreme Court to deal with the issues of today.

Let me make clear that I do not subscribe 100 percent to Mr. Kraft's column, but I do think that he makes some very worthwhile observations concerning the excellent qualifications of Mr. Rehnquist.

Mr. President, I ask unanimous consent to insert the Kraft column in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Dec. 9, 1971]

REHNQUIST: TOP MIND

(By Joseph Kraft)

Justice Holmes, on being asked what he thought of the intellectual abilities of another judge, once replied: "I never thought of him in that connection." And there lies the nub of the powerful, positive case that can be made for Senate confirmation of President Nixon's latest nominee for the Supreme Court, William Rehnquist.

For years now hardly anybody has thought of the Supreme Court as performing an intellectual function. Mr. Rehnquist, far more than any other recent nominee, has the calibre to restore intellectual distinction to the Court.

To understand why, it is necessary to say a word about the role of the Court in the country. The country is dominated by the million and one daily actions of an energetic population largely unconstrained in its capacity to buy and sell, move and dream, educate and obscure, build and tear down.

Given the nearly universal disposition toward almost constant action, it is ludicrous to think of tyranny being imposed on this country from above by some establishment eager to freeze the status quo or turn back the clock.

The central political problem of a populist country is to preserve some modicum of elite values—respect for achievement; toleration for difference of outlook; regularity of procedure. Partly by original design, but even more by the chance accretions of history, the Supreme Court has come to be the defender of those values—the elitist institution in a populist country.

Unfortunately for the Court, certain political decisions were thrust upon it by the deadlock that developed between Executive and Legislature during the post-war period. In the fields of civil rights and legislative reapportionment, the Court felt obliged—understandably considering that all other avenues seemed closed—to make rulings that might much more appropriately have been the work of the President and the Congress.

In the heady atmosphere engendered by those decisions, the Court headed by Chief Justice Earl Warren became result-oriented. In case after case, it was increasingly hard to discover the inner logic of decision-making. Blacks seemed to be favored because they were blacks, baseball because it was a good clean American sport, anti-trust plaintiffs because they were against economic monsters.

President Nixon's efforts to correct the imbalance have been fumbling to the point of casting doubt on the sincerity of his claim to want "strict constructionists." His preferred candidates have been right-wingers, so little distinguished that the Senate and the American Bar Association have constrained him to throw them back in the pond.

Mr. Rehnquist is something else. He has not shown sensitivity to the needs of people in trouble, and he has said some hardline—and to me silly-sounding—things about the influence of Supreme Court clerks and the softness of judges towards communism. Some of these comments may be what ambitious juniors are required to say in order to get ahead in the Republican Party of Barry Goldwater and the Justice Department of John Mitchell. Still, I suppose they represent a genuine right-wing conviction.

But Mr. Rehnquist also has a mind of the highest candle-power. His comments in the Judiciary Committee hearings have been unfailingly lucid and discriminating. He has been "hesitant"—a favorite word—when unsure of the fine details of a problem.

Even one of his staunchest opponents, Sen. Edward Kennedy, described him as "a man with a quick, sharp intellect, who quotes Byron, Burke, and Tennyson, who never splits an infinitive, who uses the subjunctive at least once in every speech, who cringes when he sees an English word created from a Greek prefix and a Latin suffix."

Only it happens that the qualities that Senator Kennedy is pleased to dismiss so crudely express a critical aspect of the Court's present work. The Court does not now need more liberals, more conservatives, or more middle-of-the-roaders. There are enough of those to assure that nothing drastic is going to happen in civil rights or criminal law.

What the Court needs is more brains. Mr. Rehnquist has them—more abundantly perhaps than any present member. And by uplifting the quality of the Court in general, he will do far more than any particular decision in any particular case can do to advance the values thoughtful men hold dear.

Mr. FANNIN. Mr. President, Mr. Rehnquist has a keen legal mind, a great ability to understand issues and the human qualities we all want to see in those concerned with justice in America.

It is significant that the opposition to Mr. Rehnquist comes exclusively from people who never have really known the man. Those who have worked with him, or against him, and have personal knowledge of his character, have come out strongly in favor of confirmation. These supporters include men who are quick to say that they have been in disagreement with Mr. Rehnquist concerning political philosophy in general or some issue in particular.

In this morning's Washington Post there was another example of this.

Mr. President, I ask unanimous consent to include in the Record a letter to the editor which appeared in the newspaper.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Rehnquist's Approach

Since the public discussion of the nomination of William Rehnquist to the Supreme Court has turned to a considerable extent on his civil rights record, I believe that some comments of mine may be pertinent.

I served as an attorney in the Office of Legal Counsel of the Department of Justice for eight years (1961–65, 1967–71). In the latter period, which included two years under Mr. Rehnquist, I worked on most of the civil rights problems handled by the Office, including the question of the legality of the Philadelphia Plan.

Mr. Rehnquist's approach to these problems, like his approach to all other matters on which we worked together, was objective and lawyerlike in the highest degree. He never expressed or showed, to my knowledge, any reluctance or disinclination to interpret or enforce the laws against discrimination in accordance with a sympathetic reading of their terms. Indeed, the legal opinions and memoranda on civil rights matters issued by the Office during Mr. Rehnquist's tenure differed little, if at all, in general philosophy from those issued by his predecessors.

It was suggested, however, in Professor Arthur Miller's article of some weeks ago that Mr. Rehnquist's legal conclusions as head of the Office of Legal Counsel were shaped by a desire to please his superiors. No lawyer can be oblivious to the needs of his client, and the President's lawyer's lawyer is no exception. For any head of the Office of Legal Counsel there is an obvious tension between his role as advisor to and advocate for the Executive Branch and his role as the foremost interpreter and expounder of the law to the Executive Branch. I served in the office under four assistant attorneys general, all lawyers of uncommon ability and integrity. Of the four, Mr. Rehnquist was, in my opinion, the most objective, and the most rigorous in excluding nonlegal considerations from the process of resolving a legal problem.

In his tenure as head of the Office of Legal Counsel Mr. Rehnquist has won the respect and high regard of his colleagues, including many, like myself, whose views on political and social issues differ considerably from his. I believe that Mr. Rehnquist is highly qualified for service on the Supreme Court and that the Senate should confirm his nomination.

Richard K. Berg.

Arlington.

Mr. EASTLAND. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HARTKE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the Senate by Mr. Leonard, one of his secretaries.

REPORTS OF THE SECRETARY OF DEFENSE AND THE SECRETARY OF TRANSPORTATION ON AWARDS FOR SUGGESTIONS

The ACTING PRESIDENT pro tempore (Mr. Chiles) laid before the Senate the following message from the President of the United States, which was referred to the Committee on Armed Services:

To the Congress of the United States:

In accordance with the provisions of 10 U.S.C. 1124, I am pleased to forward the reports of the Secretary of Defense and the Secretary of Transportation on awards made during fiscal year 1971 to members of the Armed Forces for suggestions, inventions and scientific achievements.

Participation by military personnel in the cash awards program was authorized by the Congress in September 1965. There could be no better demonstration of the program's success than the fact that tangible first-year benefits in excess of $555 million have been realized from the suggestions of military personnel since the program began.

The tangible first-year benefits resulting from adopted suggestions submitted by Department of Defense and Coast Guard military personnel during fiscal year 1971 totaled $117,676,188, the second highest annual amount in the history of the program. Cash awards presented to military personnel for their adopted suggestions during fiscal year 1971 totaled $1,919,121.

Richard Nixon.

The White House, *December 9, 1971.*

NOMINATION OF WILLIAM H. REHNQUIST

The Senate continued with the consideration of the nomination of William H. Rehnquist to be Associate Justice of the Supreme Court of the United States.

Mr. HARTKE. Mr. President, the Senate has been called upon to give advice and consent to the nomination of William Rehnquist to the Supreme Court of the United States. The role of the U.S. Senate in giving advice and consent on executive nominations is a serious matter. This is a function that can only be carried out after due deliberation and consideration. Although the President has and continues to show the highest disregard for the advice of the Senate, I hope my colleagues will remain strongly committed to their constitutional obligation to make a susbtantive analysis of the President's nominees for the Supreme Court. This penchant for failing to take cognizance of the sense of the Senate has been the subject of recent action I have taken. On Monday, July 26 of this year, I introduced a Senate resolution affirming the constitutional prerogatives of the Senate with respect to the foreign relations of the United States. It is my contention that consideration of Supreme Court nominees are similar to negotiation of treaties in that both of these functions are to be shared by the Senate and the President. The Senate resolution that I offered was designed to restore the Senate to its rightful constitutional place in the treatymaking process of the United States and thereby, facilitate a speedy end to our involvement in the Indochina war.

Writing in 1969 in a book entitled "You and Your Senator," I pointed out that:

> The Senate—may—be posed against the President in dramatic confrontation because of the treaty-making power of the constitution—jealous of its responsibility as a partner in treaty-making the Senate has insisted on its right to deliberate a treaty with due regard for all the considerations attached to it, relying on the executives advice and information, but feeling free to accept or refute provisions as its independent authority deems wise. From the start, the Senate has made it clear that it prefers to deliberate freely—and without pressure presence of the President or his representatives.

Mr. President, today the Senate is facing a similar situation. The Senate is called upon to exercise its responsibility as a partner in the political process. Although it relies on the Executive's advice and information regarding nominees to the Supreme Court, the Senate must be able to deliberate freely and without pressure presence of the President or his representative.

The role of the Senate in considering nominations to the Supreme Court is an integral part of separations of power principle that has embodied the governmental development of this nation. This position has been well developed in a number of Federalist papers.

At this time, I feel it would be appropriate to reflect on selections of those documents central to this discussion. In Federalist No. 48, James Madison stated:

> It will not be denied, that power is of an encroaching nature, and that it ought to be effectually restrained from passing the limits assigned to it. After discriminating, therefore, in theory, the several clasess of power, as they may in their nature be legislative, executive, or judiciary; the next, and most difficult task, is to provide some practical security for each, against the invasion of the others. What this security ought to be, is the great problem to be solved.

Madison realized that this was by no means an easy task. He continues:

> Will it be sufficient to mark, with precision, the boundaries of these departments, in the Constitution of the Government, and to trust to these parchment barriers against the encroaching spirit of power? This is the security which appears to have been principally relied on by the composers of most of the American Constitution. But experience assures us, that the efficacy of the provision has been greatly overrated; and that some more adequate defense is indispensably necessary for the more feeble, against the more powerful members of the Government.

A most important point made in this section is that:

> Power is of an encroaching nature, and that it ought to be effectually restrained from passing the limits assigned to it.

In No. 51, James Madison continues to discuss the need for limiting the encroachment of one branch of government over the other. He says:

> To what expedient then shall we finally resort, for maintaining in practice the necessary partition of power among the several departments, as laid down in the Constitution? The only answer that can be given is that as all these exterior provisions are found to be inadequate, the defect must be supplied, by so contriving the interior structure of the Government, as that its several constituent parts may, by their mutual relations, be the means of keeping each other in their proper places.
>
> But the great security against a gradual concentration of the several powers in the same department, consists in giving to those who administer each department, the necessary constitutional means, and personal motives to resist encroachments of the others.

Mr. President, Mr. Madison has stated a precept that has become part of the underlying theory of our constitutional framework which is being constantly eroded. I ask where have we seen the erosion of the role of the Senate? We have seen the erosion of the role of the Senate in numerous activities that I will discuss later.

Madison recognized that there must be vigilance to control the abuses of government. He stated:

> If men were angels, no government would be necessary. If angels were to govern men, neither external nor internal controls on government would be necessary. In framing a government, which is to be administered by men over men, the great difficulty lies in this: You must first enable the government to control the governed; and in the next place, oblige it to control itself.

Therefore, to maintain the necessary control, the constant aim is to divide and arrange the several offices in such a manner as that each may be a check on the other; that the private interest of every individual may be a sentinel over the public rights. These inventions of prudence cannot be less requisite to the distribution of the supreme powers of the state.

Mr. President, a section of this fine work captures the essence of all attempts to develop workable and viable governments. I will repeat it:

> But what is government itself, but the greatest of all reflections on human nature? If men were angels, no government would be necessary. If angels were to govern men, neither external nor internal controls on government would be necessary. In framing a government, which is to be administered by men over men, the great difficulty lies in this: You must first enable the government to control the governed; and in the next place, oblige it to control itself.

I ask: Have we seen self-imposed restraint on the part of this administration? I say we have seen example after example of attempts to aggrandize rather than to limit power.

One example with which I am very familiar is the attempt to aggrandize executive power in the area of treatymaking. The treatymaking power is a matter of great concern to the Senate, and has been the subject of considerable discussion in this body.

During the course of the debate on the Indochina war, the Senate questioned the extent of the President's power to make war. It has examined scholarly writings on the constitutional limitations of the war power and it has examined the history of the exercise of that power. The result of this study and this debate, caused the Senate to pass the national commitments resolution, which attempts to limit the warmaking powers to the proper constitutional boundaries. It was in the same spirit that I offered a resolution to attempt to restore the Senate to its proper role in treatymaking.

One of the arguments made against the resolution that I offered was that senatorial involvement in delicate and necessarily confidential international negotiations, can only be dangerously counterproductive. It asserted that had the authors of the Constitution been able to foresee the perilous world political conditions in which we are obliged to operate, they would surely have posed no obstacles to the exclusive conduct of foreign affairs by the Executive.

We have seen this argument offered time and again by this administration. They want to participate alone because they are afraid of a "leak." This is important because the nominee we are considering today has been the architect of much of the administration action. This attitude has been reflected on numerous occasions, and has been directed against the judicial branch as well as the Senate.

One example is in the area of wiretapping. Even though the case of *McDonald* v. *United States,* 335 U.S. 451, raised serious doubts as to the unilateral action by law enforcement authorities in conducting surveillance activities, the administration failed to perceive that grave constitutional questions are involved. The Government brief's basic inference was that by requiring court action prior to surveillance activities, there was too strong a possibility of a "leak."

We have seen this type of attitude in other administration activity; that is, the Pentagon papers, Cambodian invasion, and even secrecy shrouds the nomination process, most recent examples being the Supreme Court nominees, and the nomination of Mr. Butz as Secretary of Agriculture.

Surprisingly, the minority leader, who is attempting at this time to do everything he can to insure that Mr. Rehnquist's nomination is confirmed, has been a complainant against this procedure. After all, not only is he a Member of the Senate, entitled to be advising the President in that capacity; he is a member of the political party of the President, entitled, under courtesy, to be an adviser to the President. My distinguished colleague from Pennsylvania, Mr. SCOTT, has made public disclosure of the fact that, rather than being in a position of advice, he was merely notified of the nomination of Mr. Butz. The minority leader has stated that much difficulty can have been avoided, if the advice of the minority party is sought, or at least consulted on Executive nominations.

Mr. BAYH. Mr. President, will the Senator yield?

Mr. HARTKE. I am glad to yield.

Mr. BAYH. I think my colleague hit on a very important matter here on which I would like to get his further views, if

I may, before he goes on to the substance of his argument.

The way in which the President has consulted with his leaders in the Senate and the great speed with which we are now urged to rush through this nomination indicate almost a fear that the Senate might reject the nominee if it had adequate time to explore all the ramifications of the nomination. We were only in the second full day of debate—almost 48 hours to the moment when the debate had started—over the critical nomination to the Supreme Court, when the first cloture motion was filed.

Does the Senator from Indiana feel that it is the obligation of the Senate to jump when the Executive feels that a nomination such as this should be confirmed, or does the Senator from Indiana feel that the history of the Senate would show a number of instances in which long deliberation has resulted both in the turning down and the seating of nominees, but that the decision was not made until the questions had been fully discussed and laid to rest in the minds of the Senators?

Mr. HARTKE. I think the Senator is correct in his assumption which comes from the first part of his question, which is simply that there is haste here. Every attempt is being made to bring this nomination to a close quickly. Of course, I will have to say that there are Members of the Senate who are interested in having a termination of this debate for reasons other than merely pushing through the nomination of Mr. Rehnquist and putting him on the bench of the Supreme Court. The Christmas vacation is held up as a sort of carrot in front of everyone's eyes, and they are saying, very simply, "If you really want to adjourn, why don't you cut off the debate on Mr. Rehnquist and go home?"

If they are really interested in simply assuring a Christmas holiday, we can adjourn after making an agreement to return at a date certain and vote on the nomination. I think my colleague from Indiana has agreed to such a procedure, as long as the debate is permitted to be of the type and nature which would permit each Senator to fully discuss this nomination. This would also permit an opportunity for the public to analyze this appointment.

This takes time, and it cannot be done in 48 hours.

I agree with my distinguished colleague from Indiana that it is not in the best interests of the Nation to push this nomination through in a hurry.

The difference between this nomination and that of a Cabinet officer is substantial.

If the Supreme Court is to maintain its role as a coordinate body of our Government, we cannot limit the period of time for debate of the qualifications of the nominee.

Mr. BAYH. The Senator has expressed another good point in mentioning the time reference. The Senator from Massachusetts (Mr. KENNEDY) pointed out yesterday that a few years ago, when one of the truly great Justices of the Supreme Court in history, Justice Cardozo, was before the Senate for confirmation, there was a very heated, harried, and lengthy debate. In fact, the hearings were reopened a time or two. That was done not by a minority of the opposition that was dragging the Senate into it, but by the proponents of Cardozo who wanted to see that all the questions were appropriately laid to rest. After they had gone through the series of hearings, and had had extended and sufficient floor debate, Cardozo was put on the Court, but not until all the questions had been laid to rest.

I am not suggesting that we need the kind of time that was utilized by the Senate when it was discussing the Cardozo nomination. Nor do I believe that we need the same long time used by some of the opponents of Justice Fortas and the nominee Thornberry, but I do believe that it is premature to suggest that the debate should be cut off after only 2, 3, or 4 days of debate, particularly in light of the new information brought to the attention of the Senate, in the Brown against Board of Education memorandum and now the letter of yesterday afternoon. What are Jackson's views? I do not know. I have three staff members in the process now of trying to find out, so that it will be easy to see whether the memorandum comes close to what Justice Jackson said in the Koramatsu case, in the Jehovah Witnesses' flag case, the Pledge of Allegiance flag case.

I must say, from what I know of the cases, that Justice Jackson always defended the right of individuals, and did not suggest that property rights should take equal or greater priority precedence in the eyes of the law. We have to have some time to investigate these matters in order to make an intelligent decision. The Senator from Indiana intends to make such an investigation and such a decision.

I am very glad that my colleague from Indiana has brought out the strange shortness of in this case.

Mr. HARTKE. Mr. President, I notice the chairman of the National Republican Party (Mr. DOLE) the Senator from Kansas, is in the Chamber. He may wish to comment on the degree to which the administration has sought advice on executive nominations requiring Senate approval.

Under the rules, the cloture motion will have to be acted on. Nonetheless, I think that it is in order that this matter be temporarily laid aside, to permit Senate consultation with the President upon this nomination. The President has not done what the Constitution requires in that regard, which is that advice be transmitted to the President other than through debate on the floor of the Senate. This might be a question of procedure subject to a point of order, and I do not know that a point of order would be sustained, but the fact remains that the President has not sought the advice of the Senate.

There is an argument made, for example, that Senators should not be consulted. I think that argument has little reason and no precedent. In the case of this nomination it is evident that everyone was caught by surprise. That may be good politics for 1972 but I do not think it is a very good way to select a Supreme Court Justice. We are not talking about the politics of the future, we are talking about the people of the future. They are the ones ultimately who are going to have their rights and privileges adjudicated by the Supreme Court.

Mr. DOLE. Mr. President, will the Senator from Indiana yield for a unanimous-consent request which has nothing to do with the nominee?

Mr. HARTKE. Perhaps the Senator, who is chairman of the Republican National Party, would like to advise the Senate as to when he was notified of the choice of this nominee. I am glad to yield to the Senator from Kansas.

Mr. DOLE. That has been so long ago that I cannot remember when I first knew about it.

Mr. BAYH. Mr. President, let me make one last reference and then I will stop interrupting my distinguished colleague. He mentioned a moment ago that the Christmas vacation was being held as a carrot in front of our colleagues. That is accurate, but I must say that it is also being held as a stick over the backs of some of us who are desirous of getting full debate.

I want to say for the record now, and I will document it in further detail later on during the day, that the Senator from Indiana has not and will not refuse to accept a date certain after a reasonable amount of debate. I do not suggest the type of lengthy, protracted debate that some of the proponents of Mr. Rehnquist had in trying to keep Mr. Fortas off the Court or in keeping him from being the Chief Justice.

I have not totally resolved what that reasonable time length is. However, I am opposed, if we should be successful in voting down the cloture motion, to trying to defeat Mr. Rehnquist by a one-third vote. I want the Senate to work its will but only after there has been sufficient time for this body to do so under circumstances in which it can give some attention to the nominee and not just what has been before the Senate in the last few hours.

Mr. HARTKE. I hope that my colleague from Indiana would make that intention known to Senators immediately prior to the time of the vote on the cloture motion. I think it is very important for Senators to understand that there is no intention of any protracted debate being envisioned by my colleague from Indiana.

Now, Mr. President, I would like to return to my prepared remarks.

I have raised the issue of executive aggrandizement of power because Mr. Rehnquist has been inextricably intertwined in this activity of the administration. He has written the legal defense of the Cambodian invasion. He played an integral part in the preparation of activity to stop the publication of the Pentagon Papers and he has appeared before the Senate to justify the administration's policies on numerous occasions.

In March of this year, Mr. Rehnquist appeared before the Senate Judiciary Subcommittee on Constitutional Rights. At that time, he said:

> I do not conceive it to be any part of the function of the Department of Justice or of any other governmental agency to survey or otherwise observe people who are simply exercising their first amendment rights.
>
> When you go further as, say: "Isn't a serious constitutional question involved?" I am inclined to think not . . . this practice is undesirable and vigorously should be condemned, but I do not believe it violates the particular constitutional rights of the individuals who are surveyed.

He was then questioned by my distinguished colleague from North Carolina, Senator ERVIN:

> Doesn't surveillance tend to stifle the exercise of first amendment rights?

And Mr. Rehnquist responded by saying:

> No. When the Army did this—and it apparently was generally known that they were doing it—about 250,000 people came to Washington on two occasions to protest the President's war policies.

In effect what Mr. Rehnquist has done is to say that the Government is entitled not only to be a "Peeping Tom," but also to look over shoulders. It is certainly that type of activity which creates apprehension in the minds of everyone. I do not mind telling the Senate that I was the only one who spoke in Washington on April 24. It is hard to say how many people were there. All I do know is that there was a massive crowd. I do know there was apprehension by many citizens, citizens who were afraid to come for fear they might be incarcerated for exercising their constitutional rights.

Mr. Rehnquist has stated that surveillance does not raise a serious constitutional question. The point is made that if someone is under surveillance and is aware of the fact that he is under surveillance, this somehow justifies such surveillance. Nothing could be further from the truth.

This is the argument to be expected from one who is committed to the proposition that surveillance of any type is not only permissible, but desirable. The Senator from Arkansas (Mr. FULBRIGHT) has recognized the constitutional issues inherent in surveillance activities and has pondered the effect such conduct may have on the country. Surveillance activities can contribute to a gradual erosion of the democratic spirit of our Nation. Unfortunately in some quarters the feeling that this country is dependent on individual rights has little currency.

We have recently seen the erosion of individual rights in other nations of the world. That creates anguish for us all. For example, we have all witnessed the distortion of human rights in Greece.

I have heard defense of that Government from many quarters. Yet, I might point out that the Council of Europe, a great protector of human rights was ready to expel Greece because of the fact that country failed to respond to the necessary prerequisite of human dignity and human rights. Knowing that this action was going to occur, Greece withdrew from the Council of Europe.

I later had a conversation regarding that matter with the Prime Minister of Sweden. He pointed out that if democracy was going to be defended by the United States and its NATO allies, as was done in Greece, that Sweden could do without that type of defense.

Lady Flemming, the widow of the discoverer of penicillin came to the United States at my request, after her release from a Greek jail.

She told me that after her arrest in Greece, the Greek Government offered to make her the minister of education of Greece if she would endorse the dictatorship in Greece. She told them that she would not.

She told me that that offer was made to her three separate times and that on three separate times the alternative was explained to her. The alternative was that she would suffer physical punishment. I suppose perhaps some people would have yielded at that point. She did not.

This is just one example of the infringement of human rights. This type of activity is contrary to every precept of American constitutionalism. It is contrary to the reasons that brought our ancestors to this country.

In an earlier appearance before the Senate Judiciary Subcommittee on constitutional rights, Mr. Rehnquist conceded that some improper surveillance and investigation may occur—that is, in the absence of statutory authority, constitutional authority, or need. He stated:

> I think it quite likely that self-discipline on the part of the executive branch will provide an answer to virtually all of the legitimate complaints against excesses of information gathering.

That is one of the statements which we frequently hear. It is a statement which is based on an assertion rather than fact. It is a statement used by those who have nothing else on which to rely.

Again, we see the attitude that the executive branch can carry on the function of Government quite well, alone. In his testimony, Mr. Rehnquist failed to recognize that the legislative and judicial branches are coequal with the executive branch in our governmental framework.

Unfortunately this attitude of executive supremacy is a malaise sweeping the entire administration.

Mr. President, the administration must realize that the Senate and judiciary are intended to help the President in a common enterprise: they are not hostile institutions. The President must realize that the Senate is his constitutional and only responsible counselor; that the Senate and the courts are jointly responsible for the function of Government.

Section 2 of article II of the Constitution provides that the President "shall nominate, and by and with the advice and consent of the Senate, shall appoint Judges of the Supreme Court and all other officers of the United States," including Federal judges. There can be no question from the language of the Constitution, or the history of article II, that the power of the President to nominate is absolute and unfettered. Nor can there be any question that the appointment is subject to the advice and consent of the Senate.

History shows that originally it was suggested that Supreme Court appointments be exclusively under the control of the Senate.

Subsequently, the decision was made that the nominations would be made by the President, with the advice and consent of the Senate.

Alexander Hamilton stated in the Federalist Papers—numbers 76 and 77:

> It will be the Office of the President to *nominate*, and, with the advice and consent of the Senate, to *appoint*. There will, of course, be no exertion of choice on the part of the Senate. They may defeat one choice of the Executive, and oblige him to make another: But they cannot themselves *choose*—they can only ratify or reject the choice of the President.
>
> But might not his nomination be overruled? I grant it might, yet this could only be to make place for another nomination by himself. The person ultimately appointed must be the object of his preference though perhaps not in the first degree. It is also not very probable that his nomination would often be overruled. The Senate could not be tempted, by the preference they might feel to another, to reject the one proposed: Because they could not assure themselves, that the person they might wish would be brought forward by a second or by any subsequent nomination. They could not even be certain, that a future nomination would present a candidate in any degree more acceptable to them; and as their dissent might cast a kind of stigma upon the individual rejected, and might have the appearance of a reflection upon the judgment of the chief magistrate, it is not likely that their sanction would often be refused, where there were not special and strong reasons for the refusal.

Hamilton then states, "To what purpose then require the cooperation of the Senate?" He answers, that the necessity of their concurrence would have a powerful, though, in general, a silent operation. It would be an excellent check upon a spirit of favoritism in the President, and would tend greatly to prevent the appointment of unfit characters from State prejudice, from family connection, from personal attachment, or from a view to popularity. In addition to this, it would be an efficacious source of stability in the administration.

It will readily be comprehended, that a man who had himself the sole disposition of offices, woud be governed much more by his private inclinations and interests, than when he was bound to submit the propriety of his choice to the discussion and determination of a different and independent body, and that body an entire branch of the legislature. The possibility of rejection would be a strong motive to care in proposing. The danger to his own reputation, and, in the case of an elective magistrate, to his political existence, from betraying a spirit of favoritism, or an unbecoming pursuit of popularity, to the observation of a body whose opinion would have great weight in forming that of the public, could not fail to operate as a barrier to the one and to the other. He would be both ashamed and afraid to bring forward, for the most distinguished or lucrative stations, candidates who had no other merit than that of coming from the same State, to which he particularly belonged, or of being in some way or other personally allied to him, or of possessing the necessary insignificance and pliancy to render them the obsequious instruments of his pleasure.

Hamilton further stated:

> "If it be said they might sometimes gratify him by an acquiescence in a favorite choice, when public motives might dictate a different conduct, I answer, that the instances in which the President could be personally interested in the result, would be too few to admit of his being materially affected by the compliances of the Senate. The *power* which can *originate* the disposition of honors and emoluments, is more likely to attract than to be attracted by the *power* which can merely obstruct their course. If by influencing the President be meant restraining him, this is precisely what must have been intended. And it has been shown that the restraint would be salutary. At the same time that it would not be such as to destroy a single advantage to be looked for from the uncontrolled agency of that magistrate. The right of nomination would produce all the good of that of appointment, and would in a great measure avoid its evils.

Mr. President, it is clear that Mr. Hamilton believed the confirmation process to be a serious one. I call upon my colleagues to reflect on the thoughts of Mr. Hamilton as we consider this nomination.

Mr. Rehnquist himself has recognized that the confirmation process is a serious constitutional function. Writing in 1959 he stated:

> The Supreme Court of the United States is now in the midst of one of the storms of criticism which have periodically assailed it. Bills have been introduced in Congress to limit the jurisdiction of the High Court, to overrule some of its controversial non-constitutional decisions, and to declare the sentiment of the Senate as to the necessity of judicial background on the part of a nominee to the court. It has been urged that the "advice" of Senate be sought by the President before any nomination to the court is made.
>
> Criticism of the Supreme Court can easily become frustrating to the critics, because the individual justices are not accountable in any formal sense to even the strongest current of public opinion. Nonetheless, it ill behooves the critics of the present Court to seek imposition of new curbs on it until such controls as now exist are fully tested and found wanting. Specifically, until the Senate restores its practice of thoroughly informing itself on the judicial philosophy of a Supreme Court nominee before voting to confirm him, it will have a hard time convincing doubters that it could make effective use of any additional part in the selection process.
>
> The Supreme Court, in interpreting the Constitution, is the highest authority in the land. Nor is the law of the Constitution just "there," waiting to be applied in the same sense that an inferior court may match precedents. There are those who bemoan the absence of stare decisis in constitutional law, but of its absence there can be no doubt. And it is no accident that the provisions of the Constitution which have been most productive of judicial law-making—the "due process of law" and "equal protection of the laws" clauses—are about the vaguest and most general of any in the instrument. The Court in *Brown* v. *Board of Education*, supra, held in effect that the framers of the fourteenth amendment left it to the Court to decide what "due process" and "equal protection" meant. Whether or not the framers thought this, it is sufficient for this discussion that the present Court thinks the framers thought it.
>
> Given this state of things in March, 1957, what could have been more important to the Senate than Mr. Justice Whittaker's views on equal protection and due process? It is high time that those critical of the present Court recognize with the late Charles Evans Hughes that for one hundred seventy-five years the Constitution has been what the judges say it is. If greater judicial self-restraint is desired, or a different interpretation of the phrases "due process of law" or "equal protection of the laws", then men sympathetic to such desires must sit upon the High Court. The only way for the Senate to learn of these sympathies is to "inquire of men on their way to the Supreme Court something of their views on these questions."

Although Mr. Rehnquist has recognized the need for inquiry by the Senate into the fitness of one to serve on the Supreme Court, it has been suggested by my colleagues that he has failed to candidly discuss his judicial philosophy with the Senate.

In essence he has failed to follow his own advice. This action would rebut his own admission that the Senate has not only the right but the obligation to obtain an incisive view into a nominee's views on constitutional issues.

I have heard that this action has been taken under the cloak of privileged communication. Unfortunately, Mr. Rehnquist has approached the Senate hearings as an adversary proceeding. He may have followed this role as the "President's lawyer" but a nominee to the Supreme Court of the United States has an obligation to more than the President. The Supreme Court nominee must be able to transcend his political affiliations and recognize that he may become part of an institution that owes an obligation to the Nation and not to one man. The country is not only entitled to know, but demands to know how William Rehnquist, the Supreme Court nominee, views the Constitution. So far we have seen only the view of William Rehnquist the "President's lawyer."

In considering this nomination, there are still many unanswered questions that must be considered.

First, will the Senate perform its proper constitutional function in giving advice and consent on the Supreme Court nominee? I have outlined how the President has been allowed to pre-empt the role of the Senate in foreign affairs. The question is, will the Senate stand up to its constitutional role in the confirmation process?

Secondly, this issue of Presidential aggrandizement of power is of particular importance in this nomination because William Rehnquist has played a significant role in the President's action to restrict the role of, not only the Senate, but the judicial branch as well. I am sure many of my colleagues can cite examples of this conduct.

Third, as a result of the failure of the nominee to develop his constitutional views before the judiciary committee, many questions have been raised that should be answered before the nominee is confirmed.

Some of these serious charges have appeared in a recent New York Times editorial and articles. One article states that Mr. Rehnquist:

> Has repeatedly shown himself opposed to judicial or legislative efforts to eliminate racial discrimination. There was a time decades ago when a nominee with Mr. Rehnquist's opinions would have been confirmed for the court with hardly a ripple of controversy. But twenty-five years of Supreme Court rulings, congressional legislation and social upheaval have made him an anachronism. Commitment to equality of treatment and opportunity for all races has become one of the indisputable standards of modern constitutional democracy. Since Mr. Rehnquist is lacking in such a commitment, the Senate, if it confirmed him, would be voting to turn back the clock.
>
> Mr. Rehnquist's evident lack of sympathy for individual liberties also disqualifies him. The Constitution is a libertarian document. The first ten amendments and many other provisions are prohibitions against the exercise of certain kinds of power by the Federal Government and against the arbitrary, excessive, or unreviewed exercise of other powers.
>
> As a political activist and as an Assistant Attorney General, Mr. Rehnquist has relentlessly argued in favor of abridging and diminishing the liberties of the citizen and enhancing the powers of government—to tap the citizen's phone and "bug" his home and office, to enter his premises without knocking, to use tainted evidence against him, to arrest him in dragnet sweeps, to compel him to testify against himself, to deprive him of his right to practice his profession if he is a radical lawyer.
>
> It is easy and comfortable for the ordinary, law-abiding citizen to assume that these intrusions of governmental authority will never touch his life, but the whole history of human liberty shows that the unpopular dissenter is the first—but rarely the only—victim of arbitrary power.
>
> In voting for the first time in fifty years to oppose a nominee for public office, the national board of directors of the American Civil Liberties Union stated: "We know Mr. Rehnquist as a person committed to the notion that in every clash between civil liberty and state power, it is civil liberty that should be sacrificed."
>
> Free societies are judged by how they treat their racial minorities and by the extent of the liberty they allow the individual citizen. On both counts, Mr. Rehnquist fails to qualify as one of the guardians of a Constitution of free men.

This article raises important questions of the nominees sensitivity to the crucial issues of our times. It may be that he has lived a sheltered life unexposed to the human side of the masses of people. When a man has failed to have that experience, or at least to have the time to understand that part of life, it is frequent that he takes a viewpoint that is similar to that which Mr. Rehnquist has followed.

Oftentimes this is the view of those who have never seen an unemployment line, or never visited a ghetto, or seen the anguish and deep suffering that is the daily fare of many of our citizens.

Mr. President, the Members of the Senate must bring these questions out into the open. This must be done to ensure that the public can continue to feel that the Supreme Court is truly an impartial body. Under our constitutional theory the Supreme Court is to be an umpire. The questions that have been raised about Mr. Rehnquist's actions, both as a lawyer and a public official, threaten the feeling of confidence the public has in the impartiality of the Supreme Court. We must determine whether we are confirming a man committed to the preservation of that institution as a viable force in our Government or whether we are adding a member of the executive branch to the Supreme Court, and in essence "turning the blade inward."

I yield the floor.

Mr. FULBRIGHT. Mr. President, even though I agree with George Washington when he said:

> As the President has a right to nominate without giving his reasons, so has the Senate a right to dissent without giving theirs.

Nevertheless, I wish to give some of my reasons for opposing the nomination of Mr. Rehnquist as a Justice of the Supreme Court.

In this age of Executive predominance in so many areas of our Nation's affairs, it is suggested that it is improper for the Senate to withhold confirmation on any but the most narrow grounds of personal dishonesty or intellectual deficiency. We in the Senate have no right, it is said, to take into account the nominee's constitutional philosophy in making our decision, although the right of the President to nominate an individual because of his political, or constitutional or judicial philosophy is unchallenged.

President Nixon himself asserted this viewpoint in a letter dated March 31, 1970, in support of an earlier nomination.

The President said:

> What is centrally at issue in this nomination is the constitutional responsibility of the President to appoint members of the Court—and whether this responsibility can be frustrated by those who wish to substitute their own philosophy or their own subjective judgment for that of the one person entrusted by the Constitution with the power of appointment.

President Nixon went on to say that—

> If the Senate attempts to substitute its judgment as to who should be appointed, the traditional constitutional balance is in jeopardy and the duty of the President under the Constitution impaired.

This letter, with its extraordinary claims of Executive supremacy, was reportedly drafted for President Nixon by the nominee now under consideration, Assistant Attorney General William Rehnquist. It demanded that the Senate voluntarily abstain from exercising a power explicitly vested in it by the Constitution in order to allow the President the privilege of absolute appointment power for which there is no constitutional sanction whatever.

As the individual views accompanying the Judiciary Committee's report on this nomination point out, the Constitution intended the Senate to play a positive role in determining whether to give its advice and consent to a judicial nomination. During the Constitutional Convention of 1787 it was at first anticipated that Congress or the Senate alone would have the power to appoint Supreme Court Justices. Only near the end of the Convention was the existing system adopted under which the President has the power to appoint judges but only with the advice and consent of the Senate.

The notion that the Senate is somehow acting illegitimately when it weighs the qualifications of a judicial nominee in more than a superficial and perfunctory way appears to me to be one more manifestation of the prevailing and undemocratic "cult of the Presidency." The President's insistence upon his exclusive right to appoint members of the Court, as expressed in his letter of March 1970, contains disturbing echoes of something like royal prerogative. Living as we do in a time in which independent legislative bodies are in decline all over the world, it seems to me imperative that we assert once again the right and indeed the responsibility of the Senate to make an independent judgment on a matter entrusted to it by the Constitution. I contend, therefore, that the social, and, above all, constitutional philosophy of William Rehnquist is of the greatest relevance and importance to the Senate's deliberations on whether to grant or withhold its consent to his nomination.

It should also be recalled that President Nixon, in his televised address of October 21, placed great emphasis on "philosophy" as a basis for his selection of his nominee.

By all available evidence—and there is a great deal of it—Mr. Rehnquist's constitutional philosophy is one of executive supremacy in virtually all areas of public policy. A great deal has been said and written in recent weeks on Mr. Rehnquist's views on the Bill of Rights and on past Supreme Court decisions in the area of civil rights. Relatively little, however, has been called to public attention regarding Mr. Rehnquist's advocacy of sweeping Presidential authority in relation to the Congress, particularly in the field of foreign relations. Far from adhering to the strict constitutional constructionism which many of us in the Senate support, and which Mr. Nixon says that he supports, the nominee has shown in his writings and public statements that he favors an exceedingly liberal construction of the Constitution, that indeed he is a judicial activist, at least to the extent of advocating an expansive view of the powers of the Executive as against the constitutional role of the Congress and the rights of individuals.

The nominee has demonstrated his lack of understanding of the proper role of the Congress in our constitutional system on at least two recent occasions. As the individual views accompanying the report of the Judiciary Committee pointed out, Mr. Rehnquist declined to express his opinions on such topical matters as national security, wire tapping, preventive detention, no-knock, the legality of the Executive order granting certain powers to the Subversive Activities Control Board, the scope and extent of executive privilege, Government surveillance practices, and other matters. Mr. Rehnquist invoked the "privilege" of an attorney in relation to his client as an excuse for withholding this information, although the "clients" in question were not individuals whose rights were at stake but the President and the Attorney General who had nothing at stake but the risk of political embarrassment. Mr. Rehnquist himself has on previous occasions acknowledged the right and duty of the Senate to inquire into a nominee's judicial philosophy in considering confirmation. Nonetheless, he invoked a dubious form of "privilege" to escape such accountability himself.

The other recent demonstration of Mr. Rehnquist's disdain for the authority of Congress occurred last July when he argued before Senator ERVIN's Subcommittee on Separation of Powers in support of a sweeping doctrine of executive privilege. He based his argument not on the Constitution but on an accumulation of historical precedents—and approach which is the classic resort of "loose" constructionists. The essence of the doctrine of executive privilege is the claim of executive branch officials to a freedom from accountablity to Congress. Both by argument and by example, Mr. Rehnquist has demonstrated his strong commitment to that claim.

There have been other noteworthy instances of the nominee's support of arbitrary Executive authority. During the May Day demonstrations last spring, Mr. Rehnquist espoused a doctrine of "qualified martial law," a doctrine totally inconsistent with the guarantees enumerated in the Bill of Rights, and one which fortunately was dismissed summarily in a recent decision by the U.S. Court of Appeals, which invalidated most of the mass arrests made at the time by the Washington police. Another striking instance of this attitude occurred during testimony before Senator ERVIN's Subcommittee on Constitutional Rights when Mr. Rehnquist stated that even Senators ought to be put under surveillance if the Executive thought it necessary. Asked by the Senator from North Carolina whether he as a Senator could legitimately be spied upon, Mr. Rehnquist replied in part:

> I don't think it raises a First Amendment violation.

Finally, to turn to a matter which has received less attention than it warrants, Mr. Rehnquist has been an active and articulate supporter of the Executive's claim to an unrestrained and unlimited power to make war. In a speech in New York in May 1970, subsequently reproduced in the New York Law Journal on June 8 and 9, 1970, Mr. Rehnquist defended President Nixon's invasion of neutral Cambodia. Raising the question whether the United States may lawfully engage in armed conflict with a foreign power in the absence of a congressional declaration of war, Mr. Rehnquist said:

> I believe that the only supportable answer to this question is "yes".

Going on to consider the limits—if any—of the President's power as Commander in Chief, Mr. Rehnquist asserted that—

> One need not approach anything like the outer limits of his power, as defined by judicial decision and historical practice, in order to conclude that it supports the action that he took in Cambodia.

In the manner of the loose constructionist, Mr. Rehnquist went on to cite previous instances of unauthorized Presidential action as if these precedents gave constitutional sanctity to patently unconstitutional actions. "Our history," said Mr. Rehnquist, "is replete with instances of 'undeclared wars.' It simply will not do, then," he asserted, "either as a matter of constitutional law or as a matter of historical practice, to say that armed hostilities engaged in by the United States in the absence of a declaration of war by Congress are unlawful."

It is pertinent to contrast Mr. Rehnquist's claim of an unchecked Presidential power to make war with the view of the late Justice Jackson for whom Mr. Rehnquist once served as a law clerk. In this opinion in Youngstown against Sawyer in 1952, Mr. Justice Jackson stated:

> Nothing in our Constitution is plainer than that declaration of a war is entrusted only to Congress. Of course a state of war may in fact exist without a formal declaration. But no doctrine that the Court could promulgate would seem to me more sinister and alarming than that a President whose conduct of foreign affairs is so largely uncontrolled, and often even is unknown, can vastly enlarge his mastery over the internal affairs of the country by his own commitment of the Nation's armed forces to some foreign venture.

On December 7, the Foreign Relations Committee gave its unanimous support of a war powers bill which purports to implement the philosophy expressed by Mr. Justice Jackson, which is also a philosophy that has gained increasing support in the Congress in recent years, most notably with the adoption of the National Commitments Resolution in 1969.

Mr. Rehnquist has shown himself to hold a philosophy strikingly at variance with the strict constructionist view of the Constitution, not only in matters of individual liberties but also in matters relating to the constitutional authority of the Congress, particularly the authority to initiate war.

To summarize my views, during the past 30 years, three wars and a succession of major crises have caused serious domestic turmoil and disunity, and have induced an atmosphere of apprehension and insecurity which in turn has resulted in a serious distortion in our constitutional system.

The legislative branch, under these circumstances, has acquiesced in the usurpation of power by the Executive to such an extent that some spokesmen for the Executive have asserted that the Constitution is obsolete in such fundamental provisions as the power to initiate war against a foreign nation, the rights of individuals under the fourth amendment and the freedom of the press of the first amendment.

My opposition, therefore, is not based upon Mr. Rehnquist's views about current social or political issues about which there are legitimate differences of opinion among reasonable and honorable men.

My opposition is based upon his attitude toward the constitutional system of government under which our Nation grew and flourished for nearly 200 years. The essential virtue of that system is a balance among the three branches, the legislative, the executive, and the judicial.

From his record, it seems to me that Mr. Rehnquist is committed to the supremacy of the Executive power to such an extent that his influence on the Court would undermine that essential virtue of our Constitution, and, therefore, I shall vote against his confirmation.

Mr. BAYH. Mr. President, will the Senator yield?

Mr. FULBRIGHT. I yield.

Mr. BAYH. Mr. President, I listened with great care to the concern expressed by my colleague from Arkansas. As one who has not had the opportunity to study the foreign policy issues that have come before the Senate as thoroughly as the chairman of the Committee on Foreign Relations has, I was very impressed with the way in which the Senator from Arkansas brought into this debate the feelings of the nominee relative to the expansion that he feels is appropriate in Executive authority.

This has been a matter of grave concern to the Senator from Indiana, whether it is the invasion of our individual privacy—by stating that surveillance presents no constitutional question—or by suggesting that voluntary restraint would appropriately curb executive excesses in the domestic field, which are the matters stressed by the Senator from Arkansas.

I think the issue here is much broader than most of our colleagues have described it. It is not a conservative versus liberal situation. It is not a matter of how a person might believe philosophically. It is a matter of how a man believes and will vote on the court. It concerns some of the very basic assignments of power that will determine the direction this court will go in the future. I appreciate the comments of the Senator from Arkansas. I think this will make a great contribution to the Record.

Mr. FULBRIGHT. I appreciate the comments of the Senator from Indiana. I have read that the nominee has written a long letter to the Senator from Mississippi stating that he now affirms his commitment to the doctrine of the Brown decision. This is a matter on which men of good will can have legitimate differences.

I think people can differ on this, and I certainly would not vote against Mr. Rehnquist, because he and I did not agree upon the Brown decision.

My concern is that the press and those who have commented on this nominee have neglected this fundamental problem of our constitutional system itself. I do not think there is really anyone in this body who would say that he does not believe in our constitutional system. In fact, when Senators enter this body everyone of them takes the oath, just as the President does, to support the Constitution, and we thereby assert that we believe in it.

Here is a man who, it seems to me, on several occasions has evidenced a lack of acceptance of the Constitution, as I read it, especially in the field of foreign relations. This is the area that currently is causing most of our trouble. I firmly believe that much of our internal domestic turmoil and trouble flows from the disregard of the Constitution by previous Executives—particularly the preceding one.

I think that our major troubles—the worst troubles we have had since the Civil War—have arisen from the disregard of our constitutional system, and from the disregard of the provision that the Congress, including the Senate, should be consulted, and must exercise the war power granted to it by the Constitution.

From that disregard have come so many of the troubles that afflict us. They have given rise to circumstances which have caused these further usurpations by the Executive mentioned by the Senator from Indiana, such as the mass arrests, the invasion of privacy, and wiretapping.

The Executive felt, I think erroneously, the necessity of infringing upon other parts of the Constitution, because of these conditions arising out of this serious and fundamental disregard of our Constitution.

What bothers me in considering the nominee as a future Justice of the Supreme Court is that these issues will continue to plague us, because our country is in trouble. Everybody knows that. Matters of major importance—involving the constitutional rights of the Congress are dealt with by the Court—such as the declaration of war, which has already been before the Court, or such issues as the publication of the Pentagon papers, which relates to this question of declaration of war, and power of the Executive to conceal what they are doing from everybody, Congress as well as the public. This nominee's attitude would seem to me to be in the direction of saying "Anything the Executive says goes," and I think that would undermine our constitutional system.

Mr. BAYH. The Senator has been one of the leaders in this body who has tried to reverse the trend over the years in which the Senate has really forfeited some of its prerogatives. He is one who has said, "Let us turn it around. Let us restore this balance of power."

Is the Senator concerned, now that we have realized our role in foreign policy as well as national policy and that we have begun to move in that direction, and more and more Senators are aware of what has been happening, that if, indeed, we put a man on the Supreme Court who feels differently about it, that could reverse the process once again?

Mr. FULBRIGHT. It certainly would be an influence in that direction insofar as the Supreme Court might become involved. These issues have a way of getting to the Supreme Court. Therefore, I am concerned that, while the Senate has, since 1969, at least, begun moving in the direction of reestablishing a better balance between the executive and the legislative, there could be this possibility that the process would be reversed. The war powers bill that has just been reported on this subject has sponsorship from various elements in the Senate—the Senator from New York (Mr. Javits), the Senator from Missouri (Mr. Eagleton), the Senator from Mississippi (Mr. Stennis), and the Senator from Virginia (Mr. Spong).

Mr. BAYH. I think the Senator from Indiana is on that bill. If not, I wish the Senator would make me a cosponsor.

Mr. FULBRIGHT. There were four original sponsors. I do not make it a practice of becoming a sponsor on a bill that is before the Committee on Foreign Relations, but this measure has been approved by the committee.

It is an important step on behalf of the committee, supported by other prominent Senators, in the restoration of the Senate's proper role. This, it seems to me, is quite contrary to the views of the nominee. He apparently does not think there is any necessity for this kind of action.

This is not new with the nominee. One of his predecessors, not precisely in the same position, but one of the preceding Attorneys General and Under Secretary of State, Mr. Katzenbach, absorbed this kind of philosophy in the executive branch and made statements in public sessions of the Committee on Foreign Relations very much in accord with some of the statements by Mr. Rehnquist. I took issue with him then. There were considerable objections, by Senators and others, Mr. Katzenbach's thesis that the war power provisions of the Constitution were obsolete, which was essentially what he said. That is an oversimplification, but the gist of it was that in this modern day it is no longer possible to have Congress participate in the declaration of war.

This is a tendency on the part of the executive branch, not just Mr. Rehnquist. However, he has been an outspoken and strong voice in expressing this attitude.

In today's Washington Post one of the columnists remarked upon Mr. Rehnquist's powerful intellect. However, this is no consolation at all if that intellect is going to be directed at the undermining of our constitutional system. We have seen other instances in our Government of great intellects, including some of the past and present members of the White House staff. These are very intellectual gentlemen, extremely well versed in history and literature, and, as the columnist said this morning, who never split an infinitive. But what was the result of their judgment? Was their judgment in the interest of this country? I do not mind if one splits an infinitive now and then if his judgment is correct and he does not help lead us to the destruction of this Government. That is what bothers me—the tendency to alter the basic constitutional system.

Through distortion of constitutional principles in the last 6 or 7 years, the system has not worked as it should. It has not worked, because the Executive departed from these principles. When we ignore fundamental constitutional principles, as we have in recent years, the system does not work. It is not because the system is at fault. In my opinion, it is because we have not adhered to sound constitutional doctrine. That is what bothers me about this nomination.

Mr. BAYH. The Senator is doubly concerned, as I understand his remarks this morning, that the system has not been working as the Constitution and as our forefathers intended to have it work, and the nominee has supported such a malfunction.

Mr. FULBRIGHT. He apparently does assert and support the supremacy of the executive, but I think the legislative has a proper role to play. I do not mean that the Senate is infallible. I have never thought that Members of Congress were infallible and that we do not make mistakes, but I believe in the collective judgment of the Congress. It is the best way to prevent mistakes that destroy a country. If we do not assert our prerogatives or are not allowed to function, if we are not allowed to participate in basic decisions, I think our country is in serious trouble. I think one of the reasons the Nation is in as serious trouble as it is today is because we have departed from our constitutional provisions. I make no apologies. I believe in the Constitution, and I believe the nominee is not a strict constructionist. I believe he is a loose constructionist, especially in the very important areas that we have been discussing.

Mr. BAYH. I appreciate the contribution of the distinguished Senator from Arkansas, who is uniquely qualified because of the experience he has had on this committee——

Mr. FULBRIGHT. I am uniquely qualified only because I have been here a long time and have observed the diminution of the influence of Congress. I do not believe the Executive alone is at fault. We have acquiesced in much of it. I would not claim I have not participated in it. Nevertheless, that is no reason why we should not recognize it when it becomes clear, and certainly a number of us have recognized it for years, but not for as long as we should have. No one of us here is endowed with as much foresight as we should have. That does not mean we should not move in the right direction. We ought to take whatever measures are necessary to reverse that trend and to reestablish the primacy of the constitutional provisions themselves. Among them is the importance of the legislative branch. I do not know why people make a cult of the Presidency. It is not just in this country; it is worldwide. We are not immune to it. Look all over the world. We played court just yesterday to the President of Brazil. Brazil is a great country, larger than we are in geography, although with not as many people, that formerly had a legislature and a parliamentary system. They became impatient with it and they abolished it, so that country now has a dictatorship.

I do not necessarily mean this as criticism of Brazil, but simply as an observation. They were unable to make a parliamentary system function, I assume. I do not want my remarks to be interpreted as meaning that I am trying to criticize Brazil or any other country. It is simply that I do not wish to promote a different form of government here or anywhere else. I do not wish to intervene or cause trouble to Brazil. However, I do not think we ought to give our substance to support them.

If they wish that kind of a system, that is their business. But this is true all around the world. Very few people are left in this world community who are governed by a system in which a legislature such as ours participates. I would doubt if it is a fourth of the human race today. I have not calculated it on that basis, but I would doubt whether a fourth are under systems comparable to ours.

So it is a trend. The complexity of modern life may make our system unworkable. I do not think it is unworkable. I think it will work if we abide by our fundamental constitutional principles. If Congress has a fair chance, even though it has acquiesced in the past in the erosion of its own powers, I think we can prevent some of the grave mistakes that threaten the future of our country and our world.

I do not necessarily take issue with the nominee's views about current events and current issues, with which, in some cases, my own views have been in accord. I accept the idea that just because one's views about current political issues are different, that is not a basis for rejection.

But on the question of whether or not our Constitution should be supported, I do not see much room for difference of opinion. Especially, it seems to me, when Senators have taken an oath to support the Constitution, it is odd that they would approve of a man whose views and actions seem to be contrary to the popular construction of what our Constitution means.

That is the sum and substance of my argument.

Mr. BAYH. I certainly thank the Senator.

WILLIAM H. REHNQUIST A JUDICIAL CONSERVATIVE

Mr. DOLE. Mr. President, in his television address to the Nation announcing the Supreme Court nominations of William H. Rehnquist and Lewis F. Powell, Jr., President Nixon described his nominees as judicial conservatives. The meaning of this term has since been the subject of some debate and considerable misunderstanding, particularly with regard to Mr. Rehnquist. Indeed, in some quarters there seems to have been an effort to put the nominee on the defensive about his philosophy, as if there were something sinister or at least out of date in being a judicial conservative.

As a lawyer and citizen who has looked with apprehension and concern on some of the Supreme Court's decisions over the past 10 to 20 years I have been hopeful that the Court's activist-interventionist phase would be ended some day by the seating of Justices who would swing the Court away from the role of a super-legislative, policymaking body and back to its proper function as an arbiter of cases and controversies in line with the intent of the Constitution's framers.

As a Senator who supports the President in his efforts to provide the Supreme Court with a new philosophical orientation and a shifted emphasis in the trend of its decisions, I have never felt the need to defend, excuse or apologize for a conservative judicial approach.

VALUABLE HEARINGS

Thus, I welcomed the nominations of Mr. Powell and Mr. Rehnquist, because these men promise to become important influences for change within the Court and because the hearings on their nominations offered an exceptional opportunity to explore and illuminate the meaning of the term judicial conservative.

To my view, those hearings demonstrate convincingly that the Senate, far from being defensive or reluctant about confirming persons with this philosophy, should welcome their appointment and the opportunity to join in placing them on the Court. As I understand Mr. Rehnquist's views, confirmation of his nomination—like that of Mr. Powell earlier—will serve the best interests of all three branches of the Federal Government and thereby the best interests of the American people.

It will serve the interests of the Court by giving it another extremely able and vigorous Justice. It will benefit the executive branch by providing a Justice who will view the enforcement and execution of the laws fairly, impartially, and with an effective understanding of the executive branch's operation. The best interests of the legislative branch will be served by putting on the Court a Justice whose belief in the principle of judicial restraint and whose recognition of the Court's strictly adjudicative character will enhance the prestige and powers of the Congress as the proper source of the laws the Court is bound to interpret.

PRINCIPLES OF JUDICIAL CONSERVATISM

To call one person a judicial conservative and another a judicial activist or liberal in the context of Supreme Court decisions on constitutional law is to attempt a distinction between general attitudes or approaches that those who sit on the Court may take in deciding issues before them. Of course, these terms are not precise, and Justices can fall anywhere along the broad spectrum between extremes of conservative and liberal judicial behavior. Generally, however, a judicially conservative Justice observes two primary principles. First, he refuses to make decisions on the basis of his personal views of what he believes the law should be. Second, he believes the proper judicial function lies solely in interpreting the law and that public policy decisions on the formulation and execution of the law should be left entirely to the political branches of Government.

Mr. Rehnquist's testimony amply demonstrates that he subscribes to both of these principles. In response to a question from the Senator from Maryland (Mr. Mathias) concerning the liberal-conservative distinction, the nominee stated:

> It is so difficult to pin down the terms "Liberal" and "Conservative," and I suspect they may mean something different when one is talking about a political alignment as opposed to a judicial philosophy on the Supreme Court.
>
> I think to an extent, in discussion about the Court, there has been a tendency to equate conservatism of judicial philosophy not with a conservative bias, but with a tendency to want to assure one's self that the constitution does indeed require a particular result before saying so, and to equate liberalism with a feeling that, at least on the part of the person making the observation, that the person tends to read his own views into the constitution.

These views comport with those of a long line of judicially conservative judges, including, notably, Justices Holmes, Frankfurter and, in recent years, Mr. Justice Black. I think we might better understand judicial conservatism and its importance to the good functioning of our Government by looking at some decisions by those Justices.

NOT A POLITICAL CONSERVATIVE OR LOWER COURT JUDGE

At the outset, however, I think we need to understand what a judicial conservative is not. First of all, as Mr. Rehnquist indicated in his response to Senator Mathias, a judicial conservative is not the same thing as a political conservative. His political philosophy may be conservative or it may be liberal, experience showing a wide variation on this score, but there is no real correlation. The pre-Roosevelt Court of the nine old men, it will be recalled, was politically conservative, but from the standpoint of economic regulation it can fairly be termed judicially liberal and active. That Court sought to read its own notions of public policy into the Constitution with the result that freedom of contract was given constitutional sanctity to the detriment of executive and legislative views on economic policy.

On the other hand the liberal-activist Warren Court did demonstrate a fairly close relationship between political and judicial philosophies.

It also seems to me that judicial conservatism as observed in Supreme Court Justices does not relate to methods employed by lower court judges to interpret decisions of higher courts. Judges in trial and midlevel appellate courts are in the position of applying a decision of a higher court to a situation that is distinguishable from the one that gave rise to the original case. The judge must determine how to construe the earlier decision; he may do so either narrowly, to make it inapplicable to the case under consideration, or broadly, to cover the new situation. The role of the judge in this instance is not to state or define the law but to predict what the higher court would do in the situation at hand. Thus, a judge might be liberal in construing decisions of higher courts, yet, were he promoted to a higher bench, he might be conservative in his statements of legal principles to be followed by lower courts. On the Supreme Court, the Justices do not predict the law; rather, they determine what it is in an absolute sense. There is a significant difference in these judicial roles.

I would like to focus now on the sort of Supreme Court jurist I believe the President had in mind when he chose to term William Rehnquist a judicial conservative. As I indicated earlier we may be able to get a better understanding of what a judicial conservative is by examining the statements of past Justices who exemplified this philosophy. Several individuals fit this mold, although I suspect that Oliver Wendell Holmes, Felix Frankfurter, and Hugo Black are the best examples.

JUSTICE HOLMES REJECTED PERSONAL VIEWS

Mr. Justice Holmes sat on the Court at a time when its political conservatives had adopted a policy of judicial activism with respect to economic matters. A majority of the Court had used the doctrine of substantive due process to read into the Constitution its own notion of freedom of contract. Consequently, for many years, they prevented the States and the Federal Government from regulating property rights to any significant extent.

One of the more significant cases, in this area was *Lochner* v. *New York*, 198 U.S. 45 (1903), a case involving a New York State statute which provided that no bakery employee be required to work more than 60 hours a week or 10 hours a day. The Court held that the statute was an unreasonable, unnecessary, and arbitrary interference with the right and liberty of the individual to contract and thus void as a matter of constitutional law. Holmes viewed the case as an attempt by the Court to decide public policy and impose its desires on the political branches of Government under the guise of constitutional interpretation. His dissent is a classic statement of judicial conservatism:

> This case is decided upon an economic theory which a large part of the country does not entertain. If it were a question whether I agree with that theory, I should desire to study it further and long before making up my mind. But I do not conceive that to be my duty, because I strongly believe that my agreement or disagreement has nothing to do with the right of a majority to embody their opinion in law. It is settled by various decisions of this court that state constitutions and state laws may regulate life in many ways which we as legislators might think as injudicious, or if you like as tyrannical, as this, and which, equally with this, interfere with the liberty to contract . . . The fourteenth amendment does not enact Mr. Herbert Spencer's social statics . . . [A] Constitution is not intended to embody a particular economic theory, whether of paternalism and the organic relation of the citizen to the State or of *Laissez Faire*. It is made for people of fundamentally differing views, and the accident of our finding certain opinions natural and familiar or novel and even shocking ought not to conclude our judgment upon the question whether statutes embodying them conflict with the constitution of the United States.

It seems to me, that it is difficult for any student of government or the Constitution who sits in the Senate to quarrel with this position. In fact, we should be enthusiastic in our reception of nominees sent to us for confirmation who embrace it and, regardless of their personal feelings, believe that the Supreme Court ought not substitute its judgment on the formulation of the laws for that of the Congress.

JUSTICE FRANKFURTER ADVOCATED JUDICIAL RESTRAINT

Felix Frankfurter is a second outstanding example of a judicial conservative, and in the record of the hearings it can be seen that Mr. Rehnquist believes his philosophy to the Judiciary Committee as Frankfurter's.

The nominee described Frankfurter's philosophy to the judiciary committee as follows:

> [He] came on the Court at a time when I think it was clear to most observers that the old court of the nine old men of the twenties and thirties was indeed, on any objective analysis, reading its own views into the Constitution. and Justice Frankfurter. of course. prior to his ascent to the bench had been critical of this, and as a Justice he helped demolish the notion that there was some sort of freedom of contract written into the Constitution which protected businessmen from economic regulation. And yet, when other doctrines were tested later in the Court, it proved that he was not simply an exponent of the current politically liberal ideology and reading that into the Constitution. He was careful to try to read neither the

> doctrine of the preceding court nor perhaps his own personal views at a later time into the Constitution, but to simply read it as he saw it.

As we all know, Frankfurter was one of the foremost advocates of judicial restraint as a principle of constitutional law. He was also by most accounts a political liberal. In speaking of Frankfurter during the hearings Mr. Rehnquist stated again and again that he approved of this philosophy. For example, he said:

> I subscribe unreservedly to that philosophy, that when you put on the robe, you are not there to enforce your own notions as to what is desirable public policy. You are there to construe as objectively as you possibly can the Constitution of the United States, the statutes of Congress and whatever relevant legal materials there may be in the case before you.

JUSTICE BLACK SAW COURT'S LIMITS

In addition to the writings of Holmes and Frankfurter, I think the later opinions of Mr. Justice Black demonstrate that he too believed the proper role of the Court was defined by the tenets of judicial conservatism. In recent years, there have been several examples of divisions on the Court between judicial conservatives and judicial activists. One example, is found in the poll tax case, *Harper* v. *Virginia Board of Elections*, 383 U.S. 663 (1966). A split in this case developed between Justices Black and Douglas, two generally acknowledged political liberals, over the constitutionality of Virginia's poll tax. An earlier supreme court case had upheld the constitutionality of the poll tax as a prerequisite to voting, and on the strength of this earlier case a lower Federal court had refused to strike down Virginia's tax. Douglas, for a majority of the Court, said that notwithstanding the earlier precedent, the poll tax violated the equal protection clause. In the course of his opinion he sated:

> Notions of what constitutes equal treatment for purposes of the equal protection clause *do* change (383 U.S. at 669).

This attempt by the majority to update the Constitution in accordance with its opinions as to the best public policy, prompted Black to write a strong dissent in which he stated:

> I can only conclude that the primary controlling, predominate, if not the exclusive reason for declaring the Virginia law unconstitutional is the Court's deep-seated hostility and antagonism, which I share, to making payment of a tax a prerequisite to voting.
>
> The Court's justification for consulting its own notions rather than following the original meaning of the Constitution, as I would, apparently is based on the belief of the majority of the Court that for this Court to be bound by the original meaning of the Constitution is an intolerable and debilitating evil; that our Constitution should not be "shackled to the political theory of a particular era," and that to save the country from the original Constitution the Court must have constant power to renew it and keep it abreast of this Court's more enlightened theories of what is best for our society. It seems to me that this is an attack not only on the great value of our Constitution itself but also on the concept of a written Constitution which is to survive through the years as originally written unless changed through the amendment process which the framers wisely provided. (383 U.S. at 6770678).

Black alternatively concluded that, since Congress had the constitutional authority to abolish the poll tax, the decision should be left to it and not be made by the Court. The important aspect of his dissent is that, although he clearly believed that as a matter of policy the poll tax should be abolished, he declined to require it on the basis of a twisted interpretation of the Constitution.

During the hearings, the Senator from Arkansas (Mr. McCLELLAN) quoted several passages from opinions written by Black in two other cases, *Lee* v. *Florida* 392 U.S. 378 (1968) and *Katz* v. *United States* 389 U.S. 347 (1967). All were similar in import to the passage from the Harper case. One was as follows:

> In interpreting the Bill of Rights, I willingly go as far as a liberal construction of the language takes me, but I simply cannot in good conscience give a meaning to words which they have never before been thought to have, and which they certainly do not have in common with ordinary usage. I will not distort the words of the [fourth] amendment in order "to keep the Constitution up to date or to bring it into harmony with the times. It was never meant that this court have such power, which in effect would make us a continuously functioning Constitutional convention.

When asked if he agreed with this statement, the nominee replied:

> I subscribe to the statement read unequivocally.

CLEARLY STATED BELIEFS

I have cited only a few instances in the hearings when Mr. Rehnquist illuminated his judicial philosophy. There are many other examples in the record, and they all have the same thrust. First, he believes that personal views are irrelevant to the decisionmaking role of a Supreme Court Justice. Second, he believes the Court's proper role is constitutional interpretation and that decisions of policy must be reserved to the political branches of Government, the Congress and the executive.

THE VALUE OF JUDICIAL CONSERVATIVES

I said at the outset, I believe it is in the best interests of the Senate to confirm the nomination of William Rehnquist precisely because he has embraced this philosophy. Regardless of our political philosophies, we in the Senate should appreciate that the presence on the Supreme Court of the judicial conservatives in the tradition of Holmes, Frankfurter and Black, is a firm cement for the foundation of our governmental system.

Judicial conservatives respect the boundaries and lines of demarcation established by the Constitution between the separate branches of Government. They recognize the necessity of upholding the Constitution and requiring conformity with it of legislative acts and executive undertakings, but they also seek to avoid the temptation to translate their personal opinions and preferences into fundamental law. Judicial supremacy in constitutional interpretation is one thing; judicial lawmaking and policysetting is quite another. Judicial conservatives know the distinction and observe it in the fulfillment of their offices.

REHNQUIST SHOULD BE CONFIRMED

Because William Rehnquist is a judicial conservative and unquestionably possesses other qualifications which meet the Senate's necessarily high standards for professional competence and unimpeachable integrity, he should be speedily confirmed.

ORDER FOR STAR PRINT OF A BILL

Mr. DOLE. Mr. President, as in legislative session, I ask unanimous consent that a star print be made of my bill, S. 2800, dealing with assistance to rural areas, in order to include corrections in the text of the bill and for the purpose of adding the names of additional cosponsors.

The ACTING PRESIDENT pro tempore (Mr. CHILES). Without objection, it is so ordered.

THE DEATH OF RALPH BUNCHE

Mr. BROOKE. Mr. President, it was with great personal sadness that I have learned of the death of Ralph J. Bunche.

I have known Dr. Bunche for many years. He was my professor of political science at Howard University. As a teacher he had the extraordinary capacity to inform and inspire his students.

His passing is an irreplaceable loss to the Nation and the world he served. Few men have had so great an opportunity to dedicate their lives to the attainment of peace. And even fewer men have had so many accomplishments in pursuit of that good.

Ralph Bunche was a founder of the United Nations and served that organization as its Under Secretary for Special Political Affairs.

It was Ralph Bunche who brought about the armistice between Israel and the Arab states in 1949. For this accomplishment, he received the Nobel Peace Prize in 1950.

It was Ralph Bunche who directed the U.N. operations in the Congo in 1960, which were primarily responsible for keeping the Great Powers out of an internal struggle and enabling the people of what is now the Republic of Zaire to resolve their own differences.

It was Ralph Bunche who directed the U.N. peacekeeping force on Cyprus, which prevented the outbreak of further hostilities between that island's Turkish and Greek citizens.

In his quarter century of service to the United Nations, Ralph Bunche has been personally responsible for most of the U.N.'s accomplishments in the achievement and preservation of peace. Over the last quarter century, his name has become virtually synonymous with that of the world body which he helped to found. His values and principles, and those of the United Nations, have been one: peace, human rights, justice, and social progress.

Others will follow in his footsteps, and will seek to carry out his goals. But few if any will ever be able to equal the personal and professional accomplishments of this great statesman, great scholar, great peacemaker, and great man.

To his wife, Ruth, and to his surviving children, Joan and Ralph, Jr., I extend my heartfelt sympathy, for theirs is the greatest loss of all.

Mr. FULBRIGHT. Mr. President, will the Senator yield?

Mr. BROOKE. I yield.

Mr. FULBRIGHT. Mr. President, I wish to associate myself with the Senator's comments. I had not heard, until listening to what the Senator from Massachusetts has just stated, that Ralph Bunche had died. I have known Mr. Bunche for many years, and there is no man in public life for whom I have had a higher respect. He was extraordinarily helpful and effective in his position in the United Nations, and we were extremely lucky to have him.

I am very sad to hear the news of his death. Although I had heard he was in ill health, I did not know he had died until the Senator just stated it. So I wish to associate myself with his comments about the services of Mr. Ralph Bunche.

Mr. BROOKE. Mr. President, I thank the chairman of the Committee on Foreign Relations for his expression of sympathy. I know that the passing of Ralph Bunche, even though he had been sick, as the chairman has stated, for a long period of time, comes as a great shock to the Nation and to the world.

Mr. FULBRIGHT. He was a great man, I think, in every respect.

Mr. BROOKE. I thank the Senator. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I wish to add my statement to those of other Senators in respect to the passing of Ralph Bunche, the Deputy Secretary General of the United Nations, who was a friend of mine for 25 years or more, and a man whom I considered most skillful and most authoritative in every way, and a Nobel laureate—a prize which he probably considered the greatest recognition of his life.

He was for me, Mr. President, one of the true world figures of our times, with a passion for peace, and yet, when he sought for peace, he sought it with a determination and a dedication that were a complete absorption, which, unhappily for our world, meant generally to vote for war.

In addition to all of that, of course, he was such a magnificent exemplar of the capacity of black people as to dash completely the parochial ideas of those who seek to draw a distinction between the intellectual capacities of black and white people.

I join the other Senators who have spoken in my expression of sadness and of loss personally and in behalf of my constituency, at Ralph Bunche's passing; and Mrs. Javits and I, since we both knew them well, and they had been in our home many times, extend our profound condolences and sympathy to Mrs. Bunche, and only hope that this exalted position of esteem in which the world held Ralph Bunche may be of comfort to her and to their family in such a trying hour.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Hackney, one of its reading clerks, informed the Senate that Mr. NELSEN of Minnesota had been appointed as a conferee at the conference on the bill (S. 382) to promote fair practices in the conduct of election campaigns for Federal political offices, and for other purposes, vice Mr. SPRINGER, excused.

The message announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1828) to amend the Public Health Service Act so as to establish a Conquest of Cancer Agency in order to conquer cancer at the earliest possible date.

The message also announced that the House had agreed to the amendments of the Senate to the bill (H.R. 6893) to provide for the reporting of weather modification activities to the Federal Government.

The message further announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

H.R. 1163. An act to authorize the establishment and maintenance of reserve supplies of corn, grain, sorghum, barley, oats, and wheat for national security and to protect domestic consumers against an inadequate supply of such commodities; to maintain and promote foreign trade; to protect producers of such commodities against an unfair loss of income resulting from the establishment of a reserve supply; to assist in marketing such commodities; to assure the availability of commodities to promote world peace and understanding; to protect producers' incomes when rebuilding reserve stocks of wheat or feed grains; and for other purposes; and

H.R. 12067. An act making appropriations for Foreign Assistance and related programs for the fiscal year ending June 30, 1972, and for other purposes.

ENROLLED BILLS SIGNED

The message also announced that the Speaker had affixed his signature to the following enrolled bills:

S. 29. An act to establish the Capitol Reef National Park in the State of Utah; and

S. 1237. An act to provide Federal financial assistance for the reconstruction or repair of private nonprofit medical care facilities which are damaged or destroyed by a major disaster.

The PRESIDENT pro tempore subsequently signed the enrolled bills.

HOUSE BILLS REFERRED

The following bills were each read twice by their titles and referred, as indicated:

H.R. 1163. An act to authorize the establishment and maintenance of reserve supplies of corn, grain, sorghum, barley, oats, and wheat for national security and to protect domestic consumers against an inadequate supply of such commodities; to maintain and promote foreign trade; to protect producers of such commodities against an unfair loss of income resulting from the establishment of a reserve supply; to assist is marketing such commodities; to assure the availability of commodities to promote world peace and understanding; to protect producers' incomes when rebuilding reserve stocks of wheat or feed grains; and for other purposes; to the Committee on Agriculture and Forestry.

H.R. 12067. An act making appropriations for Foreign Assistance and related programs for the fiscal year ending June 30, 1972, and for other purposes; to the Committee on Appropriations.

NOMINATION OF WILLIAM H. REHNQUIST

The Senate continued with the consideration of the nomination of William H. Rehnquist to be Associate Justice of the Supreme Court of the United States.

Mr. JAVITS. Mr. President, the time has now come for Senators who have come to a final decision on the Rehnquist nomination, which we are now debating, to state their point of view. One could just wait for the vote and cast it without comment, but it seems fairer, in a matter which is of such deep interest to the country, where Members wish to evaluate the arguments of those for and those against the nomination, where perhaps even factual replies may come forward when particular issues are raised, to declare oneself as well as one's reasons as a matter of conscience and public duty, and it is in that spirit that I speak today. I bear in mind the dignity of this appointment, and of the individual, who is a well-known member of the bar, highly respected, and I know that most of his colleagues who have made any statements in opposition to the nomination have not expressed themselves in derogation of the nominee as an individual or as a lawyer.

Probably the most important single factor affecting my own judgment in this matter—and I have concluded that I must vote against this nomination—is a speech I made in the Senate on October 20, when it was believed that the President was considering a group of individuals from which to make appointments to the Court. That compelled me to think through my own attitude on the confirmation of Supreme Court nominations and what criteria I would follow in deciding upon my vote on those subjects, in the best interests of the people of my State and of the Nation.

I came to the conclusion that I had, in the case of the nomination of a Supreme Court Justice, the same obligations that the President did, and this is the reason why I have decided to vote "no," because I am applying that standard of value to the nomination of Mr. Rehnquist.

The standards that I established for myself as to what I would seek in a Supreme Court nominee are the following:

First, an abiding love of freedom and human dignity and justice, and deep faith in and respect for the people.

Second, a high level of professional competence and technical craftsmanship as a lawyer, and personal integrity worthy of the Supreme Court.

Third, high intellectual quality, with the capacity to understand complex sociological issues, and the ability to see those issues within the framework of broader social, economic, and Government concerns.

Fourth, objectivity on the great national questions which are before, or likely to come before, the Court, combined with a sure understanding of the governmental imperatives embodied in our Constitution and the place of the Supreme Court in a government with an independent judiciary.

Fifth, an understanding of the constitutional limits upon the powers of the executive and legislative branches and of the States, particularly with respect to the individual's rights, and importantly also with respect to the individual rights of the weak and the unpopular.

Sixth, an understanding of the constitutional limits upon the judicial power also, with respect for the authority of the other branches of Government—particularly as Supreme Court Justices are not subject to removal through the political process.

In that same speech I noted a distinction between nominees for the High Court and nominees for the President's Cabinet. For example, because the same standards do not apply to the latter, and because I believe the President should be allowed great latitude in choosing his own official family, I had no hesitation about voting to confirm the nomination of Secretary of Agriculture Butz only last week, though I may not have agreed with him in many of the things he has advocated, or is said to have advocated.

But a lifetime appointment to a judicial post of such power and importance—particularly when the nominee is of an age where he will most probably influence constitutional history for a quarter of a century or more—requires a far larger role by the Senate if it is to fulfill its constitutional duty. So, in establishing my own criteria for acting on Supreme Court nominations, I said:

> I have heard it said that the Senate ought to confirm a nominee unless we find the nominee either lacking in integrity or basically incompetent, and that otherwise the choice is for the President. I thoroughly disagree, for both historical and practical reasons.

Interestingly enough, Mr. President, my staff has discovered a quotation from the nominee himself which may be illuminating on that score.

Twelve years ago, a young attorney, writing in the Harvard Law Record deplored the failure of the Senate to inquire into the judicial philosophy of nominees for the Supreme Court prior to confirmation. Arguing that those who would change the Court could best do so by exercising a coequal role with the President in filling vacancies on the Court, the author, Mr. Rehnquist, favored a broad ranging interview of the nominee. While a nominee's "integrity, his learning, his success at the bar would be the only necessary subjects of inquiry in the case of a judge appointed to a lower court" since "he is not there to apply his own judicial philosophy, willy-nilly to the litigants before him, but rather to decide the case of those litigants by application of the principles laid down by higher courts," different standards should be applied to nominees to the higher court.

Referring to the then recent—14 years ago—confirmation of Mr. Justice Whittaker, Mr. Rehnquist asked—and this is very illuminating:

> Given this state of things in March 1957, what could have been more important to the Senate than Mr. Justice Whittaker's views on equal protection and due process? It is high time that those critical of the present Court recognize with the late Charles Evans Hughes that for one hundred seventy-five years the constitution has been what the judges say it is. If greater judicial self-restraint is desired, or a different interpretation of the phrases "due process of law" or "equal protection of the laws," then men sympathetic to such desires must sit upon the high court. The only way for the Senate to learn of these sympathies is to "inquire of men on their way to the Supreme Court something of their views on these questions."

It is, Mr. President, precisely those criteria that I established before this nomination came to us, and it is those criteria which have led me to the conclusion that I must vote "no" on the confirmation of this nomination.

There has never been any question about Mr. Rehnquist's high intelligence, ability as a legal craftsman or his personal integrity; and none is raised now. I might say parenthetically that I heard with deepest interest the very moving statement by the Senator from Wisconsin (Mr. PROXMIRE), with whom I am very closely associated in many things, and for whom I have a very high regard, on that subject. The nominee is a man of high intelligence, great ability as a lawyer, and great personal integrity, and I raised no question about that whatever. But I believe it is my duty to oppose the nomination solely on the basis of my disagreement with Mr. Rehnquist on many questions of constitutional law, and that were I not true to my own beliefs, I would be failing in my duty to my State and to the Nation and its future.

One must be specific. So here are some specific areas in which I disagree with Mr. Rehnquist's concepts of the Constitution.

I gather that the nominee believes that the Attorney General may wiretap without judicial authority, the communication of any person he believes to pose a threat to the national security. I emphasize the word "he." I believe the extraordinary right to wiretap without a warrant granted by the 1968 act is limited to cases of subversion from abroad and not to a threat to national security known as "internal subversion." In the latter case the Attorney General should be required to get a court order. While Mr. Rehnquist has every right so to interpret the statute until the Supreme Court makes a final decision this term, I believe this distinction illustrates a deep philosophical gap between us.

I might add, in substantiation of that, that when I was attorney general of the State of New York, I also had wiretap authority with regard to every kind of crime, including very serious crime. I practiced what I preach; I got court orders, and got them under a code of practice which I initiated myself, and which contained all the requirements since recommended by bar associations and civil libertarians.

The next point upon which I disagree with the nominee is the question of Government surveillance. The nominee believes "that self restraint on the part of the executive branch will provide an answer to virtually all of the legitimate complaints against excesses of information gathering." I am far less sanguine, given recent revelations about the magnitude and scope of Army Intelligence activities, regarding the preservation of every American's right to be let alone. Courts are vital to the preservation of this right, and justices who see no danger of excesses amounting to a threat to freedom in such surveillance are unlikely to be vigilant in its protection. I thoroughly disagree, therefore, with that philosophical concept.

The nominee, in an article published just this year, makes a case for restricting the free speech rights of Government employees in terms indicating that he values efficiency in Government more highly than first amendment rights in such cases. Again, I philosophically disagree.

Another point, and this is very recent, and I do not think it has been adequately discussed in this very fine debate—I say that for both sides—is the nominee's role in the arrest and prosecution of thousands of May Day demonstrators this year—which I characterized at the time as "clearly improper," and precluding the possibility of successful prosecutions. The nominee had a significant role in those May Day arrests. According to the hearing record, he attended numerous strategy sessions in the Justice Department, in which he was an important official, when this policy was being formulated, and significantly, within days of this disaster in law enforcement, defended the Government's actions in a lengthy speech citing, in the course of that justification, the rather original and highly dubious doctrine of "qualified martial law."

To me, if there is anything outstanding about the record of the nominee which is exceedingly relevant because it is so contemporary, it is this relationship to the May Day arrests—not the demonstrations and not how they were dealt with, but with the arrests. There he was addressing himself to a legal problem which he must meet as a Justice of the U.S. Supreme Court.

In my judgment, a lawyer worthy to sit on the Court should have seen the fact that the nature of the arrests, and so forth, the manner in which they were carried out, guaranteed the shambles that resulted, characterized by strict detention without law and, in my judgment, without even color of law.

To me, this is a critically important point, because I believe that prosecutors have a duty to show people innocent as well as guilty; and they have a duty, certainly, to see that the rights of the accused are protected, even though he may not have a lawyer or an adequate lawyer. How much more is this true of so supreme a judge as a justice of the U.S. Supreme Court?

So, to me, this is a very critically important point. And it did not rest upon silence. I understand that he sat in on the strategy sessions. When my staff wrote this statement for me—or a good deal of it, in terms of the basic facts—they made the point that according to his own testimony he did not protest decisions made at the Justice Department on the handling of demonstrators. I struck it out and paid no attention to it. If he wanted to sit silent, that was his business. But he did not continue to sit silent, a few days later when he spoke in North Carolina.

So far as I am concerned, when he expressed himself on the critical basis involved, that was very critical testimony as to his capability for being a Justice of the U.S. Supreme Court, in my eyes.

The next point is the nominee's critical role in the enactment of the District of Columbia crime bill last year included unqualified support for the repressive doctrines of preventive detention and no-knock warrants which I characterized in voting against the conference report as "a drastic overreaction to a critical problem."

Lest I leave some of those who want to be tough on crime with the idea that I am soft on crime, let me say that I have had enough experience on both sides of the issues, in highly litigated cases, to believe—and I state this not only as a Senator but also as a lawyer of very great experience—that right now, with the state of the law as it is, if a prosecutor has a case, he is not being inhibited or restricted by any of the protections which the so-called Warren court has established for the accused. On the contrary, if a citizen has no right to be pilloried or is innocent, he has an infinitely better chance, under those rules, than he had before; and it is right that he should, because that is the whole concept, philosophically, of our criminal justice system.

So, on the whole, it has been a completely net plus, and has not in any way, in my judgment, invalidated or jeopardized law enforcement by any prosecutor who had a case worthy of the name. If you are looking for shortcuts or ways in which to shut your eyes to the innocence of the accused because it is your job to get convictions—then, yes; it could embarrass you as a prosecutor. But that is not my idea of a prosecutor or a judge.

Finally, Mr. President, is what I consider to be—and this has been referred to in the debate—an almost incredible insensitivity to the critical national problem of the last decade and for perhaps decades to come, legislation to correct unconstitutional racial discrimination, which I find in the nominee.

When a private citizen with no constituency, "without a client" as Mr. Rehnquist himself put it, voluntarily works, writes and speaks against those necessary changes time and time again, his acts clearly reflect a deep personal conviction.

So I specify, Mr. President, as the ground for my opposition to confirmation, certain of the signal instances in which the nominee has shown this position.

I respectfully submit—and I have read it in detail—that a blanket statement which the nominee just made, literally the other day, about one of these incidents, in which he said:

> I wish to state unequivocally that I fully support the legal reasoning and the rightness from the standpoint of fundamental fairness of the Brown decision, does not seduce me in the face of the record.

Not that I am callous and indifferent to changes in man. It is properly in the mind of many Senators, and in my mind, that in the case of Mr. Justice Black, who turned out to be a great lawyer on the issue of equal rights in terms of racial discrimination, there was a great deal of record which went the other way. But where you have deep philosophical concepts, not just rumors about what Justice Black's connections were with the Ku Klux Klan, but where a man of ability and standing expresses profound philosophical concepts, the number of cases in which the Brown decision has to be applied practically, whether it is the pupil placement or busing or something else, are so infinite and so varied that the basic philosophical concept is infinitely more important than the generous statement of support for Brown against Board of Education, which is now the highest law of the land, anyhow, and is very unlikely, as a basic principle, to be overturned. Operating within it, you can either destroy or dismantle all those civil rights or establish and secure them. That is where I think the nominee falls short.

I say that for this reason: I took special note of his attitude toward local public accommodations statutes as recently as 1964, and the questions raised about practicality in respect to those statutes. I also took significant account of the general philosophical attitude that Mr. Rehnquist is not on the side of segregation or desegregation. If that is his attitude, then what is the Constitution all about?

Mr. President, on the issue of restraints on government under questioning by the distinguished Senator from North Carolina (Mr. ERVIN), the nominee said:

> I think it quite likely that self-restraint on the part of the Executive Branch will provide the answer to virtually all the legitimate complaints against excesses of information-gathering.

Mr. President, this, plus what I consider to be the neutrality on a firm constitutional guarantee represents, to me, profound philosophical approaches which I cannot agree with in terms of applying the criteria I have established for myself in sending a lawyer to be a Justice of the Supreme Court.

The much quoted text of the memorandum which the nominee drew for Mr. Jackson 19 years ago in which he sustained the rightness of the equal but separate doctrine of Plessy against Ferguson could properly be objected to by him. Mr. Rehnquist should have the right to explain the memorandum he wrote as a law clerk for Justice Jackson 19 years ago, and he should be permitted to explain that away, as to his present struggle, and in light of the passing of 19 years. I agree with that.

But when we have a constant succession of reiterations of the same philosophy going on through the years until the May Day arrests which are so current, there I must give weight to the previous statement because, in my judgment, this is a materially uncontradicted statement by the historical record based on the philosophical approach to the enforcement of constitutional rights.

Thus, I shall vote "no" for the reasons which I have stated.

I wish to refer also, as I think it is important, to a letter to Members of the Senate sent by 20 members of the Harvard Law School faculty who wrote as follows:

> Our opposition to Mr. Rehnquist is based on our perception that his views on the relation between government and the individual in the area of security and the relation between established power and the disadvantaged in the area of human rights are so exceedingly deferential to the former and so undervalue the latter as to place him outside that central stream.

Mr. President, I concur in that assessment and ask unanimous consent that the letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

LAW SCHOOL OF HARVARD UNIVERSITY,
Cambridge, Mass., November 29, 1971.

Hon. JACOB K. JAVITS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR JAVITS: I enclose a statement on the subject of the pending nomination of William H. Rehnquist signed by those members of the Harvard Law School faculty whose names appear at the bottom of the attached page.

Sincerely,

LOUIS L. JAFFE,
Byrne Professor of Administrative Law.

STATEMENT

It is doubtless appropriate for the President to exercise his power of nomination to shift the Supreme Court in the direction of his constitutional philosophy. But history, from 1795 to the present, demonstrates that it is no less appropriate for the Senate to deny confirmation to a Presidential nominee, despite his personal integrity and professional competence, because the Senate believes that the addition of a man of the nominee's philosophy is, under the existing circumstances, against the best interests of the country and the effective functioning of the Court.

In deciding whether to confirm the Hon. William H. Rehnquist in this period of deep change and conflict, the Senate has a special obligation to preserve the position of the Supreme Court as an effective organ in our system of government. Recent changes have already shifted the consensus or balance of opinion in the Court. Within the central stream of contemporary constitutional thought exemplified by all present members of the Court and their predecessors for the past thirty years, there is a wide range for differences of constitutional view—and thus for Presidential and Senatorial choice. Our opposition to Mr. Rehnquist is based on our perception that his views on the relation between government and the individual in the area of security, and on the relation between established power and the disadvantaged in the area of human rights, are so exceedingly deferential to the former and so undervalue the latter as to place him outside that central stream. Twentieth century problems require Justices with a clearer sense of the ingredients of constitutional decision.

Accordingly, we urge that confirmation of William H. Rehnquist be denied.

Victor Brudney, Derrick A. Bell, Jr., Vern Countryman, Abram Chayes, Alan M. Dershowitz, Ruth B. Ginsburg, William B. Gould, Philip B. Heymann, Louis L. Jaffe, Andrew L. Kaufman, Frank I. Michelman, Arthur R. Miller, Karen S. Metzger, David Rosenberg, Henry J. Steiner, Stanley S. Surrey, Laurence H. Tribe, James Vorenberg, Robert B. Washington, Jr., Lloyd L. Weinreb.

November 29, 1971.

Mr. JAVITS. Mr. President, I conclude as follows: With all respect—and I do not in any way beg that question—for Mr. Rehnquist's intelligence, ability, and integrity—and I have had the privilege of conferring with him personally and I am grateful to him for being willing to meet Members like myself on a direct basis—and with respect to his right as a private citizen to his convictions on equal rights and equal opportunity, this is a nominee whose philosophy as a lawyer and a citizen, in my judgment, makes him unacceptable as one of the final arbiters of the rights of 200 million Americans so that I cannot, in good conscience, vote to put him on the Supreme Court.

Mr. President, I ask unanimous consent to have printed in the Record an editorial from the New York Post of December 8, 1971, entitled, "The Rehnquist Rush," and an editorial from the New York Times of December 8, 1971.

There being no objection, the editorials were ordered to be printed in the Record, as follows:

[From the New York Post, Dec. 8, 1971]

THE REHNQUIST RUSH

While all sorts of important responsibilities and obligations go with the post of U.S. Senate Majority Leader, it is nowhere specified that the incumbent must assume the meek role of a minority follower.

Nevertheless, that seemed to be the preference of Sen. Mansfield (D.-Mont.) yesterday when he was asked about the prospects for a confirmation vote on Assistant Attorney General Rehnquist's appointment to the U.S. Supreme Court.

"I would hope we wouldn't have to spend too much time on Rehnquist," the Senate leader commented. "I don't think any minds are going to be changed." He said he was hoping for a vote by tomorrow.

With that kind of opposition, perhaps neither Rehnquist nor his allies need worry. In fact, however, there are many grounds for differentiation between Lewis F. Powell Jr., the Virginia lawyer confirmed yesterday, and Rehnquist. There is a clear case for re-examining at length on the Senate floor the discrepancies and evasions in Rehnquist's testimony. Surely the fact that the American Civil Liberties Union has reversed a 51-year-old policy of neutrality toward court nominees in rejecting Rehnquist deserves thoughtful attention from every wavering Senator.

At this moment, no agency except the U.S. Senate can hold up this obnoxious appointment and subject it to extended scrutiny—and it has the duty to do so. We urge Sen. Javits and others who have spoken out against Rehnquist's nomination to join in stopping the stampede. Rehnquist could well be serving—if confirmed—on the high court in the year 2000. What's the rush? Are his sponsors fearful that the record will not survive full debate—or new disclosure?

[From the New York Times, Dec. 8, 1971]

THE REHNQUIST NOMINATION

With only one dissenting vote, the Senate has confirmed the nomination of Lewis Powell to the Supreme Court. In this decisive manner, the Senate has shown how false was the imputation that it would not approve a Southerner or a conservative. When a nominee is a man of professional stature, wide experience, and a fundamental belief in the basic guarantees of the Constitution, no regional bias or philosophical disagreement bars his way.

It is a source of profound regret that President Nixon's other nominee for the Court is not of the same quality. Instead, by submitting the name of William Rehnquist, the President has once again provoked the turmoil of a confirmation struggle.

The grounds for rejecting Mr. Rehnquist are quite different from those on which the Senate refused to confirm two earlier Nixon nominees. His record does not show either insensitivity to potential conflicts of interest or deficient professional qualifications. Rather, his are the defects of basic insensitivity to racial equality and seriously deficient understanding of the Bill of Rights.

He has repeatedly shown himself opposed to judicial or legislative efforts to eliminate racial discrimination. There was a time decades ago when a nominee with Mr. Rehnquist's opinions would have been confirmed for the Court with hardly a ripple of controversy. But twenty-five years of Supreme Court rulings, Congressional legislation and social upheaval have made him an anachronism. Commitment to equality of treatment and opportunity for all races has become one of the indisputable standards of modern constitutional democracy. Since Mr. Rehnquist is lacking in such a commitment, the Senate if it confirmed him would be voting to turn back the clock.

Mr. Rehnquist's evident lack of sympathy for individual liberties also disqualifies him. The Constitution is a libertarian document. The first ten amendments and many other provisions are prohibitions against the exercise of certain kinds of power by the Federal Government and against the arbitrary, excessive, or unreviewed exercise of other powers.

As a political activist and as an Assistant Attorney General, Mr. Rehnquist has relentlessly argued in favor of abridging and diminishing the liberties of the citizen and enhancing the powers of Government—to tap the citizen's phone and "bug" his home and office, to enter his premises without knocking, to use tainted evidence against him, to arrest him in dragnet sweeps, to compel him to testify against himself, to deprive him of his right to practice his profession if he is a radical lawyer.

It is easy and comfortable for the ordinary, law-abiding citizen to assume that these intrusions of governmental authority will never touch his life, but the whole history of human liberty shows that the unpopular dissenter is the first—but rarely the only—victim of arbitrary power.

In voting for the first time in fifty years to oppose a nominee for public office, the national board of directors of the American Civil Liberties Union stated: "We know Mr. Rehnquist as a person committed to the notion that in every clash between civil liberty and state power, it is civil liberty that should be sacrificed."

Free societies are judged by how they treat their racial minorities and by the extent of the liberty they allow the individual citizen. On both counts, Mr. Rehnquist fails to qualify as one of the guardians of a Constitution of free men.

Mr. BAYH. Mr. President, will the Senator from New York yield?

Mr. JAVITS. I yield.

Mr. BAYH. I have listened with great interest to the statement of my friend and colleague from New York and I just want to add my voice in agreement to the position he has espoused.

I could not help thinking that the editorial that the Senator put in the Record entitled "The Rehnquist Rush" is most appropriate here, on the eve of the vote on the cloture motion, particularly when we look at the amount of time that has been utilized during past deliberations on Supreme Court nominees. It is even more relevant when we compare this situation with the way other legislation of less significance has been treated in this body, and when we consider the critical nature of the decision we are making here. It is not a transitory decision that can be changed when we come back, or with a new Congress or a new President, but this decision is one for life—not for the life of any Member of the Senate, or for any President, but for the life of the nominee.

I, for one, hope that it will be a long one. But, because of the duration as well as the philosophy of the nominee, I think that the Senate would be better advised to consider this nomination more carefully under present circumstances. We are about to be denied this opportunity and I appreciate the insistence of the Senator from New York that we study this more carefully.

Mr. JAVITS. I thank my colleague very much for his graciousness. I am not satisfied that we will be denied this opportunity. I would like to state my own judgment as to the votes on cloture. I am glad that the Senator from Indiana (Mr. Bayh) was the principal leader of the opposition, as a member of the Committee on the Judiciary and as a Senator, and has stated that he does not intend to and is not filibustering this nominee, and that he certainly will not be a party to a filibuster. That ground rule having been laid down, I believe that the opponents are entitled to full and fair debate. I believe also that Senators are fair enough, even if they will vote for Mr. Rehnquist—although I will vote against him—to assure that debate—just as I will, at a given time, if I am satisfied—and I am against the Rehnquist nomination—I am satisfied that the opponents have had full and fair debate. I shall vote for cloture and then I shall vote against the nominee.

The matter needs to be fully explored. We have a literal veneration for this body, and I have that, too, of course, and I know it is shared by every Senator. It will be further justified by the fact that Members will vote on cloture, and they should vote on cloture, whatever our feelings about our desire to go home, which we all share—and we will go home—it is not a matter of weeks or months but only a few days.

It is the feeling of all of us that we have enough self-discipline to see that everyone gets a fair chance at it, and then when we have had that fair chance, we will vote our consciences yea and nay; but it will not affect what we consider to be a fair opportunity to debate. I hope that will be the history of the votes on successive cloture motions.

Mr. BAYH. I hope that the Senator is right. I appreciate not only his confidence but also his articulating so clearly and well what our responsibility is.

I came on the floor when my colleague from Indiana made reference to the fact that the Christmas vacation was like a carrot that was being dangled in front of our noses, urging our rapid solution to this problem. On the one hand it is a carrot being dangled in front of our noses, and on the other it is a stick on the back of those of us who feel we have not had enough time. I think the way to be the most unpopular Member of the U.S. Senate is to proceed as the Senator from Indiana has, because we all do want to go home. Unfortunately, most Senators have other specific jurisdictions within the Senate that demand their attention immediately on a day-to-day basis. They do not have the time to study this matter thoroughly, as some of us on the Committee on the Judiciary do. Perhaps they would reach contrary conclusions from the Senator from Indiana, but at least it would seem to me that, in light of everything else that has been happening over the past few days—everything that is calling the attention of almost every Senator—that we ought to have a little time to meditate upon and to deliberate upon the matter before us.

I appreciate the concurrence of the Senator from New York.

Mr. SAXBE. Will the Senator yield?

Mr. BAYH. I yield.

Mr. SAXBE. I just must point out at this time when we are talking about sufficient time, the lengthy quorum calls and the absence of many on the floor. We worked last Monday at probably the slowest pace the Senate could work. I was here this morning at 9 o'clock, and we could not find anybody to talk until after 10 o'clock. Last night the Senate quit at 4:30 or 4:45, and probably will want to do it again today.

I just think, with all the gratuitous words in the past about this, we need time to discuss this, and we need time to debate this. It seems to me that these self-serving words should not go unchallenged, when there is nobody to talk and nobody wants to talk.

Mr. JAVITS. Mr. President, I did not complain about the Senator's rights or his point of view. I have been here a long time, 15 years, and with all respect, I do not believe that it is indicated that all time should have expired and the debate ended. A debate has to incubate. I have seen it happen time and again where on the 14th, or the 15th day, or the 13th day, or the 8th day—whatever is the given situation—the debate suddenly becomes hot and things come up which have not come up before.

A new light is cast on a given situation somehow which takes months, like a baby, to just state the fundamental issues in a debate and argument. I think it is rather more our fault, I say to the Senator, that we do not have enough Senators on the floor. We are all terribly preoccupied with many, many things. I will not give an accounting for myself, although I think the Senator will agree that I work as hard as anybody does here. I do want to say—and I say it unilaterally—I have no desire to have controversy with the Senator, but I do think in putting the matter before the country in terms of the length of debate, that something must be said for the fact that it does take a certain amount of time, even if that time is consumed in quorum calls, or days on which there is an early adjournment, in order to develop that climate and understanding which represents the consummation of a complete debate. I say that unilaterally. That is my idea.

Mr. SAXBE. I would just like to say on that matter that the nomination was made October 21 and the hearings began on November 3. That is some time ago. The hearings concluded on November 10, and the committee wanted to act, and Senator BAYH and a few others did not want them to act. They met on November 11. They met on November 18. They met on November 23. The minority views were filed on November 30, and the debate began on December 6. That was not yesterday, and I would like to also point out that Mr. BAYH at the time on December 6 said, "and maybe the week after that."

They were talking about time, and Senator HRUSKA was trying to say that we will be here all week and everyone will have his day in court, but Mr. BAYH said:

> Maybe not that week; maybe the week after that. Does not the Senator from Nebraska feel that perhaps it would be more helpful to those who are trying to study this, since he has made certain charges, for the Senator from Indiana to have a chance to have a colloquy right now?

Mr. BAYH. Would the Senator put those remarks in proper perspective? Are those words out of the air, or are they from the hearings, or are they from the RECORD?

Mr. SAXBE. I am reading them from the RECORD.

Mr. BAYH. Since the Senator is using my words, I would like to know where I used them.

Mr. SAXBE. This is in the CONGRESSIONAL RECORD of the Senate of December 6, 1971.

Mr. BAYH. I thank the Senator for informing me where I was when I said that.

I would also point out to my friend, the Senator from Ohio, that he has not had the opportunity, because he had duties elsewhere, to follow this debate on a day-to-day basis or an hour-to-hour basis, as the Senator from Indiana has. That is not his responsibility, and I do not say that critically at all.

Perhaps he was unaware, when he suggested that the Senator from Indiana was holding up debate, that Senator HRUSKA and members on his side of the Committee on the Judiciary absolutely refused to let us vote on the first day the Committee on the Judiciary met on the nomination of Lewis Powell. Therefore, we sat here until the day before yesterday with one totally unnecessary vacancy. There was no opposition to Mr. Powell then. We were the ones who urged that this man, over whom there was no opposition, be sent to the Senate as soon as possible. The other side refused.

Mr. SAXBE. All I am trying to point out in my statements here today—and I felt called upon after the statement of the Senator from New York—is that a small minority of Senators who are opposed to the nomination are trying to prevent a vote on this nomination, and while saying that it is not a filibuster, at the same time they are not taking the time that is available, if they want to present their views. They are dragging their feet. It is a filibuster, and I hope that they will recognize that the majority should have the opportunty to express their will.

Mr. JAVITS. Mr. President, as I have the floor, I wish to say that this particular member of that minority—if it be a minority, which is yet to be seen—will act diligently. I have already made plain my view. Given a reasonable period for gestation of this issue, I will myself vote for cloture, and my vote will help to bring it about. So I have no trouble with my own conscience in terms of the length of the debate. I would say that debate having opened on December 6 on a matter as portentous as this—again it has been unilateral, and my friend and colleague, the Senator from Ohio is entitled to his views as much as I am to mine—this is not a totally inordinate period to close off debate by cloture tomorrow. This is still the same week in which debate opened in the Senate.

I used to be on the Committee on the Judiciary; I am not now. Most of us who had to await the action of the committee, then had to analyze a record which is very complex, and a record that one must really dig into. It took me most of a day and a half to acquaint myself with the ins and outs of this controversy until I felt I was ready to make up my mind.

I insisted to the press that I be listed as undecided because I was. It was only after giving it time and attention that the nomination deserves that I was able to announce my views today.

Mr. President, as I say, I have no desire to claim that my view is superior to that of my colleague, the Senator from Ohio, but I do not believe that has been foot dragging or a filibuster. And I hope very much that whatever may be the views, the Senators will agree to that in terms of fairness and free and open debate.

Mr. COOPER. Will the Senator yield?

Mr. JAVITS. I yield to the Senator from Kentucky.

Mr. COOPER. I agree with the Senator from New York on the question of voting on cloture.

The Senator from Ohio may be correct in stating there was delay in reporting the nomination to the Senate, a delay which need not have occurred; but nevertheless we have had a week to debate this matter.

Without regard to my position on confirmation, which I will state, because of the importance of the confirmation of a Supreme Court Justice, I will not vote for cloture this week. I will vote for cloture next week, but I think it summary to close debate tomorrow or Saturday on an issue which is of importance to the country.

Will the Senator from New York yield to me for 4 or 5 minutes?

Mr. JAVITS. Yes. Why does not the Senator get the floor himself?

Mr. COOPER. I want the Senator from New York to be here.

Mr. JAVITS. Of course.

Mr. COOPER. I am always glad to listen to my colleague and close friend from New York, and particularly on legal and constitutional matters. I consider him the greatest lawyer in this body, dispassionate, a man of judgment, restraint, and one whose conscience and mind always moves him to what he thinks is right.

He has concluded to take the position he has stated, because of a series of statements and actions by the nominee for Associate Justice of the Supreme Court.

His conclusion that the nominee has fixed philosophical and institutional views on the question of civil rights and civil liberties which would not change if he became a Justice of the Supreme Court causes me to say that there are certain matters in his record which have given me trouble and pause. But I have reached a different conclusion than that of my friend from New York and I would like to address myself to the specific issues raised by the Senator from New York.

First, I shall speak of the memorandum the nominee wrote to Justice Jackson in 1952 when he was his law clerk, dealing with the segregation of schools, supporting Plessy against Fergusen and stare decisis. I think we have to consider the memorandum in the context of the times. In 1952, the Supreme Court had not made its decision, and could not reach a decision until 2 years later. Four cases had been appealed from the lower courts. The lower courts had held in the two cases from the Southern States, and from the non-Southern States involved, Delaware and Kansas, essentially to the doctrine of Plessy against Ferguson, although they had trouble with it. As I have said, it took 2 years for the Supreme Court to reach a unanimous and proper decision Brown against Board of Education in 1954. I do not believe the memorandum can be taken out of the context of the times. Many judges and lawyers were in disagreement on that subject.

I am troubled about the nominee's statement on the public accommodations ordinance, proposed in Phoenix City in 1964. The House had passed a bill approving public accommodation and there was a continuing debate in the Congress and throughout the country upon the subject.

The Senator from New York will remember that we served together as members of an ad hoc committee, to manage on the floor certain titles of the Civil Rights Act of 1964. Senator Douglas and I were assigned to assist in the management of the title dealing with education and desegregation of schools.

I supported the act, voted for it, and had introduced bills on public accommodation and civil rights before the administration introduced its bill. So naturally I have been troubled about the statement.

But in fairness, I must bring out a fact that has not been mentioned in this debate, to my knowledge. It has been argued by my distinguished friend from Indiana that Mr. Rehnquist did not change his mind about public accommodations until he was a witness before the committee. The RECORD shows that in 1966, when he was a representative to the conference on uniform State laws, one of the subjects of that conference was public accommodations, as a part of a uniform act for adoption by the States. The nominee voted for the draft model act, which included public accommodations. That was 5 years ago. So we cannot say, as was argued in the minority views, and in speeches on the floor that he only reached support of public accomodations in 1971.

Mr. BAYH. Mr. President, will the Senator yield?

Mr. COOPER. I yield.

Mr. BAYH. I do not wish to interrupt the Senator, but this is one of the points I was going to bring up relative to my good friend from Ohio, who asserted that we were conducting a filibuster.

One aspect that did not come to our attention when the hearings were held, and did not come to light until the final day in executive session when we voted, was this uniform commission matter.

I would like to point out to my friend from Kentucky that although he did vote as was stated, he did everything he could to lessen the impact of that effort so that it was not a uniform bill but a model act, relieving himself of the responsibility to go home and urge its adoption.

Mr. COOPER. It was a model act, hoped to be made uniform throughout the United States. I say this in all respect, but I do not agree with the Senator. The nominee, according to the RECORD, did not oppose the accommodations section and voted for it in 1966.

Mr. BAYH. With all respect, that is not what I said. I said he not only did everything he could to oppose the uniform act and public accommodations, but he led the effort to make it a model act. That commission did not adopt a uniform act; it adopted a model act.

Mr. COOPER. I understand, but I am talking about the public accommodations section.

The contrast between his position in 1964 and 1966 is much different than arguing that he waited until 1971, as a witness before the committee, to assert his support of public accommodations.

I now proceed to the next charge concerning his position on proposals for the city of Phoenix, Ariz., on schools—desegregation and other problems relating to discrimination in the schools. The minority brief does not quote his statement on integration fully. The last clause is left out, in which he said he believed in a free society where every man stands equal before the law to have the maximum liberty. It may be construed in various ways, but that is what he said. It does not appear in the minority brief, and I have not voted in reference to it in the speeches made against his confirmation.

With respect to the subject of busing, raised in connection with Phoenix and inherent in the "neighborhood school" position that also is still very much before the country. So far the Supreme Court has not passed comprehensively on the issue. There have been a number of decisions in Circuit Courts of Appeals varying decisions, some ruling against busing, some giving it large scope, some allowing it in limited circumstances, but the Supreme Court has not yet made a comprehensive decision. The debate in Congress on busing continues.

I know that some leaders of liberal beliefs—and I hope I am considered a liberal in my viewpoints—have changed their position of support of busing, and with the exception of a few brave men—the Senator from New York (Mr. JAVITS) is one, the Senator from Michigan (Mr. HART) is one, are fleeing from what they believe to be the opinion of their constituents.

So the argument about what the nominee said in 1967 is not conclusive either on the issue or on his past beliefs. The courts continue to decide the cases on "busing" and "neighborhood schools" on the facts.

Now I go to the question of wiretapping and surveillance. I wish the Senator from New York were here, because I believe that his statements on that subject do not conform wholly with the record of the Congress and the Executive. On the question of wiretapping for national security, it has been noted that not only has every President claimed this right, but has used it. The distinction between its use against external subversion or internal subversion I do not believe has been closely examined, but it has been used, and inferentially, supported by the Congress.

Also, it appears in the RECORD that the nominee, on this issue of the absolute right of the Executive to exercise the right of wiretapping in cases of national security, has questioned the theory of absolute right.

On the question of general wiretapping and surveillance, I would like to point to the attention of the Senate the fact that Congress in 1968 passed the omnibus crime bill, expanding authority for wiretapping, and the bill passed almost unanimously. It had a provision which allows officers to wiretap without a warrant if the officers make the decision that they do not have time to secure warrants in the proper manner.

Mr. President, I spoke against the bill on the floor of the Senate, upon the basis that it gave an unwarranted right and power to the Attorney General, or police officers. I voted against the bill. In that same bill, there were sections designed to weaken the famous cases of Miranda and Mallory, concerning the admission of confessions and the right of a person not to be detained after arrest and to be taken immediately before a magistrate. I make these points to indicate that the Congress seemed to have approved these provisions now used as arguments against the nominee.

In these circumstances, I find nothing

on the question of wiretapping which argues against the confirmation of the nominee.

Finally, on the question of the May Day arrests, I have some questions about the arrests. I do not know how much the nominee had to do with it. I assume he could not give an order. There is a statute which prohibits demonstrations upon the Capitol Grounds. I do not think it is constitutional. If there is any place where the people should have a right to present their petitions, it is the Capitol. The statute is on the books, however, and police authorities must carry out the law and its provisions. I am a supporter of first amendment rights; but a great many of the practices claimed by some as rights—violence, disobedience of law—are not first amendment rights.

Yet, reviewing each one of the arguments made against the nominee, I have come to the conclusion that in several cases they have been strained, and I do not see a case for voting against the nominee.

Finally, may I say this: It is said by all that he is a man of unquestioned integrity and great ability. If a man is of unquestioned integrity and great ability, it implies that he also has the quality of mind and of intellect, and character that he can look at cases upon their merits, that he can change, if necessary, any views he may have had, upon that great Court.

As my colleague, the Senator from Ohio, has said that is the record of the Supreme Court and of great Justices. There are Justices who have changed their minds. Justice Black was not a great lawyer when appointed to the Court. His practice was as a police court lawyer. I did not say police court lawyers are not good lawyers, but they do not try a great variety of cases. He had been a member of the Ku Klux Klan. He said he had been a member of the Ku Klux Klan. But he became a great champion of civil rights and civil liberties.

There are many other examples.

A few days ago the Senator from Arizona (Mr. GOLDWATER) placed a statement in the RECORD which, honest as he is, he said, not being a lawyer, it was prepared by his legal counsel. He named eight or 10 great Justices of the Supreme Court, described their background, their early views and how—as Justice Frankfurter once said in an opinion—the law itself, the times come to bear upon them as judges.

I think, with the exception of Justice Taney, I would agree with the estimates of the Justices made by the Senator from Arizona (Mr. GOLDWATER). Two of them were natives of my State. Judge Brandeis was born in Louisville, Ky., and Justice Harlan, the grandfather of the great Justice who has just completed service on the Supreme Court, was from Kentucky. The earlier Justice Harlan was a southerner, who had served in the Confederate Army, and was a former slaveowner. He wrote the great dissenting opinion in the civil rights cases for public accommodations based on the 14th amendment.

I take no issue with any of my colleagues in this Chamber. I have the greatest respect for their positions but there are organizations that want members of the Supreme Court to be with them in all matters, whether or not justified. That is not the proper function of a Justice.

Finally, I cannot accept the position that a man of integrity, which is admitted, a man of ability, which is admitted, a man of scholarly attainments and intellectual ability, which are admitted, cannot meet the problems of this country as a member of the Supreme Court.

Recently, I read a statement of Justice Frankfurter on this very issue expressing his belief in the conscience and mind of a Justice to discharge this duty. I read a little book a few nights ago by Justice Jackson, "U.S. Supreme Court—American System of Government."

He asserted the same faith.

We remember the writings by Brandeis, Cardozo, Holmes, maintaining that a man of character, intellect, integrity, and ability deserves that same faith.

I think it illiberal to hold otherwise. I think to say that a man is frozen, because of a few statements or positions—and there are four or five, and they have been strained, not by the argument of my friend from New York, but strained in the minority report. There have been omissions from the minority report. I noted an omission upon the question of harassment at the polls. The minority report does not contain the full text of the letter by Judge Hardy.

I have faith that a man of his ability, integrity, and scholarship can meet the challenges and the great problems of the Supreme Court, which are our problems, in the future.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. COOPER. I yield.

Mr. JAVITS. Mr. President, I could say evey word the Senator from Kentucky has said about me about him, in terms of his being a lawyer, his character, and his honesty; and I do think that by an interchange between us, we might helpfully sharpen the issue for our colleagues.

But I shall not endeavor to do anything, but emphasize the two points that I think are most important when laid side by side with what my beloved friend, the Senator from Kentucky, has said.

I think the two important points are these:

First, I have based my judgment not upon the individual instances, beginning in 1952, because I said myself—the Senator may not have heard me, but that is not material—that surely I have said things myself that I would be very sorry about, and I would expect to be understood and forgiven within the context of my life.

So I based my judgment on the total 19 years from the time he was a clerk up until the May Day demonstrations, and his testimony before the committee as a whole, and I see, after considering it as a whole, rather a hardening, in his professional capacity as a lawyer, of opinions with which I could not agree. That is point one.

My second point is that there may be a basic difference between my criteria in casting my vote and those of the Senator from Kentucy or other Senators. I do not believe my criteria can be based solely on the fact that he is a man of integrity, ability, and professional standing, and a sincere man, because a man can be extremely wrong and yet extremely sincere. Some of the most inveterate opponents of civil rights in this body, in all the years I have fought for it since I have been here, since 1957, have met fully every one of those qualifications—able, sincere, and good lawyers; but they were absolutely wrong, and the Court said they were wrong time and time again.

I believe that it is my duty to determine, in my best conscience, whether this is a nascent Justice Black or whether this would be an influence on the Court which I think would be inimical to the future of our country. In this particular case, I came down on the latter side.

I might have voted against Black. I do not know what I would have done then. But then I would have been the first to throw myself at the feet of the Senate and confess my error. But I believe I would have had to judge at that time, not just on my finding of the fact that he was a man of quality, integrity, and professional skill, but that his basic constitutional philosophy gave an assurance of an approach to constitutional questions which might be for me or against me, but which I thought was consonant with the fundamental thrust of the Constitution itself.

Mr. COOPER. Let me say just one more word.

I agree with the Senator from New York that we cannot consider this nomination solely on the question of ability, integrity, and scholarship, as important as those qualities are. But I came to the conclusion, after looking into the broader questions, that the statements in question did not confine him, and that he could rule justly upon questions before the Court, not only from a sense of justice, but from a mind which, by reason of his abilities, is more likely to be enlightened than the mind of a lesser man.

A Senator's position will always be interpreted in different ways. I do not know that I have ever been more consonant with the views of another Senator on civil rights and liberties than I have been with those of the Senator from New York than with anyone else in this Chamber. I do not think we have ever differed upon the issue or the necessity for action, and we have voted together. Once or twice we have differed as to the best means to accomplish the end, I remember once on the question of voting rights and on another occasion upon public accommodations; but we have usually been together, and I am very proud to say that while in my whole life, this question has never been a problem to me, at home before I came here, as a judge, or as a Member of the Senate, I have been helped greatly by the ability, the reasoning, and my association with the Senator from New York.

Mr. JAVITS. I thank my colleague very much.

Mr. BAYH. Mr. President, I listened with a great deal of interest to the statement of my friend from Kentucky. As he knows, I have the greatest of respect and admiration for him.

I want to say just one or two words to clarify some statements that have been made on this issue, wherein our efforts have been attributed to filibustering. On occasion certain Senators who had suggested they had a speech to make were not here at the appointed hour. But I would suggest that anyone who is familiar with what most of the Senators are doing now—working on conference committees and trying to wind up the last minute legislative issues for which they are responsible—knows full well why it is extremely difficult for any Senator to be on this floor at any specific time. That reaffirms the position of the Senator from Indiana that we need more time for Senators who want to speak and who want to listen to the colloquy to be here.

Perhaps my friend was not here when the distinguished minority whip suggested we had a filibuster going on before even one word had been spoken.

I want to give one word of explanation to my friend from Kentucky relative to some items that he characterizes as omissions from the minority report: We have taken sentences and we have taken parts of letters and included them in the minority views. But certainly this is in no way designed to distort their true meaning. Nor does it result in any distortion.

Anyone who is at all familiar with the hearing proceedings knows that there is a full, detailed, word-for-word record of everything that was said, and both statements, parts of which are in the minority views, are listed fully not only in the hearing record but also in the CONGRESSIONAL RECORD. If we had listed every document to which we referred in the minority views, we would have had minority views fully as voluminous as the hearings.

I hope that any Senator who reads the minority views will not take part of a sentence or part of the letter but will look to the whole content here. Normally when a report is printed one tries to hit the high points and decrease the volume that otherwise would result.

I am concerned about cloture being invoked at this time because we still have facts that just now are being brought to our attention which have not been considered thoroughly. I have to admit that some of these facts have not even been adequately considered by the Senator from Indiana, much as I have tried to be familiar with the issue before us. There has been a great deal of discussion relative to the Brown against Board of Education memorandum written by Mr. Rehnquist. Only yesterday afternoon—not even a day ago—a letter came from the nominee trying to explain the content of that previous memorandum.

On first examination, the explanation of that earlier memorandum and the efforts to try to attribute those thoughts not to the nominee but to a former Justice of the Supreme Court, who is no longer alive and is unable to defend himself, raise rather critical questions in the mind of the Senator from Indiana. I am hard pressed to know what the man thinks. I would like to take everyone at his word, just as I would like to be taken at my word. It is only when I find contradictory remarks attributed to an individual on the issue at point that I then have cause to wonder.

Because of the critical nature of the Brown against Board of Education case, because of the controversy surrounding the Brown against Board of Education memorandum, and because of the letter yesterday, the Senator from Indiana would like to take a few minutes of the Senate's time to try to put this whole thing in perspective, with emphasis on the fact that we do not know—and probably cannot know—the answers. I do not know. I have deep concerns, but I must say that if I were called to judge beyond a reasonable doubt now on the question I am about to raise, I could not.

Last Sunday, December 5, it became known that William Rehnquist had written a memorandum to Mr. Justice Jackson during the 1952 term of the Supreme Court, while he was clerking. This memorandum urged that Plessy against Ferguson was right and should be reaffirmed. I was not out searching for this; neither was anybody on my staff. I received a phone call from a newspaper reporter who said, "Did you know this article was going to appear in Newsweek?" And there it was.

I still do not know what the source of that memorandum was. But nobody has doubted that Mr. Rehnquist did, indeed, prepare it. There is now some question as to the reason why he prepared it and whether these were his thoughts or those of Justice Jackson. But there it came Sunday night, about 6 or 7 o'clock.

The conclusion, the tone, and the language of this memorandum are strikingly close to the hostility that Mr. Rehnquist expressed to equal justice under law throughout his later life, including his opposition to a public accommodations ordinance in Phoenix in 1964, his opposition to anti-blockbusting and other key provisions of the Model State Antidiscrimination Law of 1966, and his opposition to modest efforts to deal with de facto school desegregation in 1967, coupled with his statement at that time that we are "no more dedicated to an integrated society than a segregated society."

Despite the very substantial questions presented by this memorandum, and in contrast to the Justice Department's almost instantaneous—indeed, in some cases, anticipatory—response to other questions raised by the nominee's nomination, no response was made until the afternoon of Wednesday, December 8. We learned of this on Sunday, and it was not until late in the day yesterday that somebody came forth with an explanation.

Mr. Rehnquist's letter now says unequivocally that he fully supports Brown against Board of Education. One would certainly hope this statement was the fact and is, indeed, his true feeling. But I must admit that a statement made at the crucial moment in a nominee's confirmation debate, in which we now find ourselves, must certainly be read in the light of this circumstance and the condition in which it is made, and with a view to a lifetime of prior opposition and, indeed, on occasion antagonism toward the rights of minorities. The most recent example of that antagonism occurred less than 2 years before he became an official of the Federal Government back in 1969. One has cause to wonder.

A matter of even greater concern than Mr. Rehnquist's recent statement on Brown against Board of Education is his questionable effort to attribute the ideas expressed in the memorandum to the late Justice Jackson. I do not think any of us, in fairness to the nominee, can really recall with total precision what was going on in our minds 19 years ago. I could not. I think most of us would be quick to say, "I do not know. I do not remember." The Senator from Indiana is concerned about the efforts not to say, "I do not know," or, "I do not remember." Any of us could understand that. But the attempt is made to suggest that these thoughts were not Mr. Rehnquist's although his initials appeared on the memorandum, and he has not denied preparing it. Instead he has said that these were really thoughts of the late Justice Jackson.

Mr. Rehnquist claims that his memorandum was written after an oral discussion with Justice Jackson and "as a statement of his views to be used at the conference of Justices rather than as a statement of my views." Unfortunately, as Mr. Rehnquist knows, it is impossible for Mr. Justice Jackson to deny these allegations. But a good deal can be inferred from the text of Mr. Rehnquist's 1952 memorandum.

An examination raises the gravest question of basic honesty and candor. If a man felt something in 1952, he ought to admit it and say he has changed his mind; or, if he cannot remember, he ought to say that. But I am deeply concerned when, instead of following either of these alternatives, there is an effort to shift the blame for these thoughts and attribute these thoughts to someone who is no longer alive.

In the first place, contrary to Mr. Rehnquist's explanation, the entire tone of the memorandum is one from a law clerk to his Justice, not one of a Justice's draft statement prepared by a clerk. Would a law clerk really have put such conclusory language, such sweeping statements, into the mouth of a Justice, after an oral discussion on the subject? If the views were really prepared for the purpose Mr. Rehnquist suggests, would they have been headed "A Random Thought on the Segregation Cases"? That is hardly the kind of brief a Supreme Court Justice would carry into a conference to argue with his fellow justices.

Even more damaging is the final paragraph of Mr. Rehnquist's 1952 memorandum. Even after an "oral discussion", would any law clerk have written for his justice's mouth the sentence:

> I realize that it is an unpopular and unhumanitarian position, for which I have been excoriated by "liberal" colleagues, but I think Plessy against Ferguson was right and should be reaffirmed?

Mr. Rehnquist now claims in this letter that this sentence "is not an accurate statement of my own views at the time." But does this sentence express the beliefs of Mr. Justice Jackson—who joined the court's unanimous decision in Brown against Board of Education—or does the memorandum instead contain the thoughts and language of William Rehnquist, the same William Rehnquist who in 1957 wrote an article for U.S. News & World Report criticizing:

> The tenets of the "liberal" point of view which commanded the sympathy of a majority of the—Supreme Court—clerks I knew?

Mr. President, there is a great similarity between the feelings of Mr. Rehnquist's acknowledged piece from 1957 and the concluding paragraph of the 1952 memorandum.

Mr. BAYH. I appreciate the comments of the Senator from Kentucky. I certainly hope that will always be the case even when we are sometimes on opposite sides of an issue.

Mr. President, equally damaging is the fact that the thoughts in this memorandum are consistently at odds with the most fundamental principles of Mr. Justice Jackson, principles enunciated year after year in his writings, in his decisions, and in his opinions on the High Court, and this is something I am still trying to answer in my mind. I do not know the answer to the question. I do not know what conversation went on between Mr. Rehnquist and Justice Jackson. It is difficult for me to believe that anyone could really remember it in detail 19 years later. But we do have some positive evidence to look to. We can look to the specific wording in the memorandum under the authorship—whatever its purpose—of Mr. Rehnquist, and then we can look at some of the great decisions which were authored by Justice Jackson. Then we have to ask ourselves whose thoughts were really reflected in the 1952 memorandum.

The memorandum states:

> Urging a view palpably at variance with precedent and probably with legislative history, appellants seek to convince the Court of the moral wrongness of the treatment they are receiving. I would suggest that this is a question the Court need never reach; for regardless of the Justice's individual views on the merits of segregation, it quite clearly is not one of those extreme cases which command intervention from one of any conviction.

Now those were the thoughts that Mr. Rehnquist now says he composed to represent what were Justice Jackson's views. He claims that it was Mr. Justice Jackson who did not feel that segregation was one of those extreme cases which merited intervention from one of any conviction.

Well, I ask the Senate, is this the thought of Mr. Justice Jackson, who 2 years earlier had voted with the Court in *Sweatt* v. *Painter*, 339 U.S. 629 (1950), to strike down under the Equal Protection Clause a State's refusal to admit Negro law students to the State law school? Is this the thought of Justice Jackson who voted with the Court in *McLaurin* v. *Oklahoma State Regents*, 339 U.S. 637 (1950), to prohibit a State university from treating black graduate students differently than white graduate students? Or is this the thought of William Rehnquist who still believed in 1967 that "we are no more dedicated to an 'integrated' society than a 'segregated' society"?

That is a question that the Senate has to raise or should raise and should answer.

The memorandum states further:

> To those who would argue that "personal" rights are more sacrosanct than "property" rights, the short answer is that the Constitution makes no such distinction. To the argument made by Thurgood, not John Marshall, that a majority may not deprive a minority of its constitutional rights, the answer must be made that while this is sound in theory, in the long run it is the majority who will determine what the constitutional rights of the minority are.

Now Mr. Rehnquist says these were the views of Justice Jackson. I wonder. Is this the thought of Justice Jackson who dissented in *Korematsu* v. *United States*, 323 U.S. 314 (1944), the case upholding the right to exclude American citizens of Japanese descent from the west coast of the United States? Is this the Justice Jackson who attacked the majority in Korematsu, saying they had—

> Validated the principle of racial discrimination in criminal procedure and of transplanting American Citizens. The principle then lies about like a loaded weapon ready for the hand of any authority that can bring forward a plausible claim of an urgent need. Every repetition imbeds that principle more deeply in our law and thinking and expands it to new purposes?

Is this the Justice Jackson who spoke out against the arbitrary treatment of Japanese American citizens or, instead, is it the thought of Mr. Rehnquist himself who, in 1964, opposed a Phoenix public accommodations ordinance that would have allowed black people into the drugstores and lunch counters of his home town, saying—

> Now there have been other restrictions on private property. There have been zoning ordinances and that sort of thing but I venture to say that there has never been this sort of an assault on the institution where you are told, not what you can build on your property, but who can come on your property?

Is it the thought of a nominee who agreed at the hearings that it could fairly be said that in 1964 he felt that personal property rights were more important than individual freedoms, the individual freedom of the black to go up to a lunch counter?

Is that the thought of a nominee who agreed at the hearings that in 1964 he felt that personal property rights were more important than individual freedoms, the individual freedom of the black to go up to a lunch counter?

Finally, the memorandum says:

> One hundred and fifty years of attempts on the part of this Court to protect minority rights of any kind—whether those of business, slaveholders, or Jehovah's Witnesses—have all met the same fate. One by one the cases establishing such rights have been sloughed off, and crept silently to rest.

Mr. President, we are told by Nominee Rehnquist that these words contained in the 1952 memorandum were not the words of William Rehnquist but were the words of Justice Jackson. I wonder. Are these the words of Mr. Justice Jackson who wrote the majority decision in the landmark case of *West Virginia State Board of Education* v. *Barnette*, 319 U.S. 624 (1943), ruling that the first and 14th amendments guarantees of religious freedom prohibit the state from forcing Jehovah's Witnesses to perform a flag salute?

Some Members of the Senate may disagree with the *Barnette* opinion, but the late Justice Jackson is the man who wrote the majority opinion. Could this be the same Mr. Justice Jackson who had the insensitivity portrayed in the 1952 memorandum?

Could this be the same Mr. Justice Jackson who said in that opinion:

> But freedom to differ is not limited to things that do not matter much. That would be a mere shadow of freedom. The test of its substance is the right to differ as to things that touch the heart of the existing order.
>
> If there is any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism religion, or other matters of opinion or force citizens to confess by word or act their faith therein. If there are any circumstances which permit an exception, they do not now occur to us.

That was what Justice Jackson wrote in the published opinion about the rights of a minority, the right of a child of a Jehovah's Witness father not to stand up and pledge allegiance to the flag if that violated his constitutional principle.

I wonder. Was that antipersonal antiminority language in the 1952 memorandum really the writing of Mr. Justice Jackson, as Mr. Rehnquist now professes, or was that the thought of William Rehnquist himself who, in 1964, wrote the editor of his local newspaper that—

> If in fact discrimination against minorities in Phoenix eating-places were well nigh universal, the question would be posed as to whether the freedom of the property owner ought to be sacrificed in order to give these minorities a chance to have access to integrated eating places at all?

Mr. President, I have struggled with the inconsistencies contained in the 1952 memorandum and the great documents written by the late great Justice Jackson. They are in no way similar. I must say that, since it was only less than a full day ago that the Senate was advised for the first time that these views were not really the views of Mr. Rehnquist, but were those of Mr. Justice Jackson, I have not had the opportunity to read all of the cases that were authored by the late Justice Jackson. However, as of this moment, I cannot believe that this memorandum written in 1952 reflects the views of Justice Jackson, a man who, after suffering a heart attack in the spring of 1954, returned to the bench on May 17 of that year in order to demonstrate by his personal presence his support of the antisegregation decision that was handed down that day. He did so despite warning of the risk of a recurrence of his ailment, choosing to continue at the work to which he had dedicated his life. A second and fatal heart attack finally overtook him on October 9, 1954.

No, Mr. President, there is no similarity between the Plessy against Ferguson views expressed in that 1952 memorandum and the dramatic personal effort that was made by the justice, who was to die before the year was out, but who was determined to be present and vote "yea" in a unanimous decision in that landmark, keystone case that for the first time in history opened the school house doors.

Mr. President, I am deeply concerned that the nominee's attempt to explain away the memorandum has only succeeded in raising a serious quesion concerning Mr. Rehnquist's candor. I for one believe this question must be answered before the Senate votes on the nominee.

This is not a charge that the Senator from Indiana makes lightly, because he realizes its critical nature. As I said earlier, I have not had a chance as yet to fully document it by reading all of the cases of Justice Jackson. However, since on tomorrow at noon we are going to be forced to vote on whether we will be given more time to explore the critical nature of this charge which, I think, can legitimately be speculated upon, I have no alternative, but to raise this question at this time for the consideration of my colleagues.

I for one believe that this question must be answered before the Senate votes on the nominee. It is a judgment which each Senator must make for himself on the basis of the evidence. But there is no argument in favor of making such a weighty judgment under the threat of cloture in the haste to get home for Christmas, when we are tired at the end of a long session.

ORDER OF BUSINESS

The PRESIDING OFFICER. The Senator from Vermont is recognized.

(The remarks of Mr. Aiken when he introduced S. 2981 are printed in the Record under Statements on Introduced Bills and Joint Resolutions.)

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Hackney, one of its reading clerks, announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the concurrent resolution (S. Con. Res. 6) to express the sense of Congress relative to certain activities of Public Health Service hospitals and outpatient clinics.

The message also announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 10947) to provide a job development investment credit, to reduce individual income taxes, to reduce certain excise taxes, and for other purposes.

DISPOSITION OF CERTAIN INDIAN CLAIMS

Mr. METCALF. Mr. President, as in legislative session, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 602.

The PRESIDING OFFICER (Mr. Brock) laid before the Senate the amendment of the House of Representatives to the bill (S. 602) to provide for the disposition of judgments, when appropriated, recovered by the Confederated Salish and Kootenal Tribes of the Flathead Reservation, Mont., in paragraphs 7 and 10, docket numbered 50233, U.S. Court of Claims, and for other purposes, which was to strike out all after the enacting clause, and insert:

That the funds appropriated to the credit of the Confederated Salish and Kootenai Tribes of the Flathead Reservation, Montana, in satisfaction of judgments awarded in paragraphs 7 and 10 in docket numbered 50233, United States Court of Claims, including interest thereon, after payment of attorneys fees and other litigation expenses, shall be used as follows: 90 per centum thereof shall be distributed in equal per capita shares to each person who is enrolled or entitled to be enrolled on the date of this Act; the remainder may be advanced, expended, invested or reinvested for any purposes that are authorized by the tribal governing body and approved by the Secretary of the Interior.

Sec. 2. Any part of such funds that may be distributed to members of the Tribes shall not be subject to Federal or State income tax.

Sec. 3. Sums payable under this Act to enrollees or their heirs or legatees who are less than eighteen years of age or who are under a legal disability shall be paid in accordance with such procedures, including the establishment of trusts, as the Secretary of the Interior determines appropriate to protect the best interests of such persons.

Mr. METCALF. Mr. President, I move that the Senate disagree to the amendment of the House and request a conference with the House thereon, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to, and the Chair appointed Mr. McGovern, Mr. Burdick, Mr. Metcalf, Mr. Fannin, and Mr. Hansen conferees on the part of the Senate.

NOMINATION OF WILLIAM H. REHNQUIST

The Senate, in executive session, continued with the consideration of the nomination of William H. Rehnquist to be Associate Justice of the Supreme Court of the United States.

Mr. GOLDWATER. Mr. President, earlier today my friend from New York (Mr. Javits) indicated that a critically important point relative to his own position on Mr. Rehnquist was his stand relative to the rights of persons arrested during the May Day incident in Washington.

Mr. President, it is a fact that there have been many erroneous news reports printed about Mr. Rehnquist's views on the May Day matter, and I hope that none of these exaggerated misstatements entered into my distinguished friend's thinking about the nominee.

It is important that all Senators should be aware that the nominee took the opportunity of the recent hearings on his nomination to rebut these false reports and to explain exactly what his very limited role and his impressions were in connection with the May Day situation.

In order to set the record straight today and to show that Mr. Rehnquist took no actual part at all in the arrest procedures, I ask unanimous consent to insert the remarks which Mr. Rehnquist made on this issue during questioning at the Judiciary Committee hearings.

There being no objection, the excerpts were ordered to be printed in the Record, as follows:

Testimony of William Rehnquist at Hearings Before the Committee on the Judiciary, U.S. Senate, Wednesday, November 3, 1971

Senator Kennedy. Could I move to another area. Mr. Rehnquist, in the May Day situation, could you tell us what your role was? Did you have a role, to start off with?

Mr. Rehnquist. This presents me with the same sort of problem, which I must resolve for myself, realizing that if I resolve it against answering anybody on the committee, or anybody in the Senate, is entitled to hold against me my refusal to answer.

I did speak publicly on the May Day matter down in North Carolina 2 or 3 days after it and I, therefore, feel that I do owe an obligation to the committee to describe at least in a general nature my role, without necessarily, without revealing, and "revealing" probably is not the right word, describing the various internal deliberations that went on in the Department. And this is a difficult line to walk.

I will try to walk it. My role, up until the time of the events that actually took place was being consulted as to the propriety of the use of the Federal troops in certain situations under the provisions of 10 U.S.C. 331 through 334. And I drafted an opinion which the Attorney General gave to the Secretary of Defense, saying that it was legally permissible to use Federal troops in order to preserve the operation of the Federal Government under the situation where a fairly large number of people had announced their intention to shut it down.

And that opinion was transmitted by the Attorney General to the Secretary of Defense. I participated in two or three meetings over the weekend, immediately prior to the demonstrations, at which a good number of people were present. I do not really think I had any significant input or contribution to make at those meetings.

During the time the events were actually happening, I was in and out of the Attorney General's office. I was at a large meeting in the Criminal Division at which a number of people from the Corporation Counsel's office, the U.S. Attorney's Office, our Criminal Division, our Internal Security Division, were present.

I do not believe I remained long, and since my own knowledge of the local practice of arraignment and arrest and that sort of thing is not very large, I found I had very little to contribute. There may have been more, but that is all that occurs to me now.

Senator Kennedy. Well, at any time that how to handle the demonstrators was being discussed, did you raise any objections to the anticipated plans or programs?

Mr. Rehnquist. One decision reached at a meeting that I was at over the weekend, was that the permit should be revoked for the campground down at Hains Point, I believe it was. I made no objection to that decision.

Senator Kennedy. Well, at some time during the weekend there was a decision made to suspend the constitutional rights of the demonstrators and impose martial law, or qualified martial law were the words I think you used. And I was wondering whether, at any time during the meetings which you attended, you expressed any reservation about such a suspension or the imposition of qualified martial law?

Mr. Rehnquist. I believe you have misread my statement, Senator.

Senator Kennedy. This was at Boone, N.C.?

Mr. Rehnquist. Yes.

Senator Kennedy. Did you make a statement there defending the law enforcement actions that were taken at the May Day demonstrations?

Mr. Rehnquist. I made a statement saying that the abandonment of the field arrest procedures and the consequent, or perhaps not necessarily consequent, delay in bringing the defendants before an arresting magistrate, or a committing magistrate, was, I thought, defensible because the requirements that a defendant be brought before a magistrate were that he brought before the magistrate within a reasonable time, and that in my opinion a reasonable time in this situation should take into consideration the necessity of the arresting officer, having made the arrest, continuing to be the field to prevent the occurrence of other violence.

I went on to say in the statement in Boone that in a situation more serious than that which prevailed in Washington on May Day, the doctrine of qualified martial law had on occasion been invoked. I made, I thought, quite clear, not only that it had not been invoked in Washington, but that it would be justified only in a more aggravated situation.

Senator Kennedy. You are suggesting it was not imposed on May Day?

Mr. Rehnquist. I certainly am suggesting that.

Senator Kennedy. Well, what doctrine was imposed on May Day? It certainly was not probable cause in terms of the arrest procedures, was it?

Mr. Rehnquist. Well, knowing the volume of arrests which were made, I simply would not be in a position to comment on whether any particular arrest was made with or without——

Senator Kennedy. Well, do it in a general kind of way. You made a general endorsement of the procedures which were followed at May Day. You did that in North Carolina.

Mr. Rehnquist. Well, I stand by the language I used in North Carolina, and I would call it something less than a general endorsement of everything that was done on May Day.

Senator Kennedy. What was done on May Day that you did not think was right?

Mr. Rehnquist. Well, I would have to know more about the facts to be satisfied that a particular thing done was not right. I did specifically say that I thought the abandonment of the field arrest forms by Chief Wilson was a legitimate and proper decision under the circumstances which he had to, I understand, confront.

Senator Kennedy. What about the arresting without probable cause?

Mr. Rehnquist. I do not think arresting without probable cause is ever proper, and if, in fact, it happened on May Day, I do not agree with it. I do not know enough about the facts to say that there were or were not arrests without probable cause on May Day.

Senator Kennedy. Well, the thing I am driving at, Mr. Rehnquist, is that at some time, as you described here, you were involved in the development of the procedures which were outlined for May Day. I can understand that there may have been actions which preceded the suggested procedures which were agreed on at the meetings which you attended, and that you are not prepared to comment or describe or elaborate because you do not have those particular facts. But, nonetheless, you cannot get away from the fact that of the approximately 12,000 arrested, only really a handful ever were found guilty of any charge.

Mr. Rehnquist. That is my understanding.

Senator Kennedy. Which would suggest that the procedures—well, what does that suggest to you?

Mr. Rehnquist. It suggests to me that whereas there may have been probably cause for the arrest of the great number of people, the District of Columbia police were faced with such an overwhelming situation of violation of the law that they chose to try to keep the streets free, and rather than to preserve the necessary information that would enable them to later show either that there had been probable cause for an arrest, or probable cause to bind a man over.

Senator Kennedy. Well, if there are so many people that deserve arrests, I do not see why they followed a procedure that resulted in the arrest of a lot of people who were innocent.

Mr. Rehnquist. I am not satisfied that they did arrest a lot of people who were innocent.

Senator Kennedy. That were just bystanders, that were just walking to work, that were just students coming out of restaurants. The newspapers were full of these instances. I do not think there were many of us in the Congress who did not have constituents that had reports of this type of occurrence. With the cases that they had, so many that were violating the law, I find it difficult to understand why they were arresting so many others that were not.

And as well, thousands were "detained" on the basis of no evidence at all. Others were called for trial and came to trial where there was not the slightest basis for trying them. There were judicial findings for refund of bonds and recall of arrest records. You could almost say, given the results of the courts' rulings, what really went wrong with the development——

The Chairman. That is a rollcall.

Senator Kennedy. Can he just answer this?

The Chairman. That is a rollcall vote.

Mr. Rehnquist. Could I have the question repeated?

Could I have either the reporter read the question back or——

Senator Kennedy. Yes. I was just saying that given the fact that there were thousands that were detained on the basis of no evidence at all, and these are court findings, others called for trial when there were no basis for trying them, and there were judicial orders for the refund of bonds and the recall of arrest records, I am just wondering what went wrong? Was it the development of the procedures to be followed on May Day or the execution of them?

Mr. Rehnquist. I think one thing that happened was that the number of people who were to be involved in May Day was an overwhelming large number, larger than the Metropolitan Police contemplated. As a result, they were faced with a choice of either, when an individual policeman arrested a law violator, or someone he thought was a law violator, of himself taking that man to the stationhouse, booking him, and going through the usual procedures, or simply having the man taken in some other manner to the stationhouse.

And the policemen then would stay on the streets to try to arrest the next bunch who were coming along. And as I understand it, they were very deliberately trying to obstruct the movement of traffic, frequently by hazardous means. I think the District police opted in favor of the latter choice, and I cannot find it in myself to fault them for it.

The Chairman. The committee will stand in recess for a few minutes and will return right after a vote.

(Short recess.)

The Chairman. The committee will come to order, please.

Senator Kennedy.

Senator Kennedy. If I got your final response to the question right, Mr. Rehnquist, you indicated that you were in general support of the law enforcement activities which were undertaken during the course of May Day. You had expressed earlier some reservations about particular actions and were unprepared to comment on some cases, but you were in general agreement.

Am I correct in that?

Mr. Rehnquist. No; I would not interpret my final answer that way.

Senator Kennedy. Would you restate it, then?

Mr. Rehnquist. I think what I said was that the Chief of the Metropolitan Police made a decision to abandon field arrest forms and run some risk of being unable to follow up on the prosecution of arrestees in the interest of keeping his forces on the street in order to preserve order, and that I could not fault him for that decision.

Senator Kennedy. Is there any procedure that was used during the course of that day, related to regulations, rules, or procedures which were established within the Justice Department, that you would have disagreed with?

Mr. Rehnquist. Well, the abandonment of field arrest forms, as I understand it, there was no decision taken within the Department.

Senator Kennedy. No; that was done in the field. But, in terms of the regulations and procedures to be followed on May Day, you were involved in these decisions at the Justice Department. As I understand from what you are saying here, you did not express any reservations about them during the course of their development, nor even in the wake of how they were implemented that particular day. In hindsight, would you have done anything differently?

Mr. Rehnquist. I was involved in some of the decisions, Senator. I suspect there were a great many that I was not involved in. It is, of course, relatively easy to look back in hindsight and say that one would have done something differently.

And the one thing that occurs to me, and this is strictly a matter of hindsight, and I do not believe this was something that could have been fairly anticipated, was to supply more adequate facilities for those who were detained.

Senator Kennedy. This is the only, the only point of departure?

Mr. Rehnquist. Well, you have made the statement that there were arrests made without probable cause simply as bystanders and people who were walking to work. If that was the case I would certainly have done that differently.

Senator Kennedy. Did you ever come to the belief that that was the case any time prior to the point where the court was throwing these cases out?

Mr. Rehnquist. No; I did not.

Senator Kennedy. Did you, in the course of those days, read the newspapers and hear about innocent people being arrested, put in the jails or the detentiton centers? Did you feel that there was a possibility of people being arrested without probable cause?

Mr. Rehnquist. Well, certainly after newspaper accounts occurred one could not rule out that possibility.

Senator Kennedy. Well, I am just trying to think back with you, Mr. Rehnquist, to that time. It appears to me that just from a general reading of the newspapers it was clear that there were hundreds of young people being detained under very trying circumstances, under very desperate conditions. I am just wondering whether you independently might have been sufficiently concerned about the possibility of false arrests or indiscriminate arrests or any of the other practices which led to the courts throwing these cases out, whether the chance that a great deal had gone wrong struck you prior to the time that the courts made these decisions?

Mr. Rehnquist. Well, it certainly struck me after reading the stories in the newspapers, that if those accounts were true, people have been improperly arrested.

Senator Kennedy. Did you feel you ought to do anything about it, as somebody who is in an important and responsible position in the Justice Department, and who has responsibility for insuring the protection of the rights of individuals?

I am wondering whether this aroused you so much that you felt that maybe you would walk down the corridor, so to speak, and speak to the Attorney General, and say: "If this is what is happening, Mr. Attorney General, I think we ought to do thus and so; we should not wait for the courts?"

Mr. REHNQUIST. By the time the newspaper accounts occurred, I think whatever had happened had happened and the Corporation Counsel and United States' Attorney's Office, as I understand it, were already engaged in a screening process. I did not do anything. I did not feel there was anything that would be appropriate for me to do.

Senator KENNEDY. Well, again, it was 2 days after the demonstrations you were down in North Carolina, I think, and one would have to say from your speech you were endorsing or supporting the May Day procedures. Was that a time when the Attorney General was suggesting that these procedures ought to be duplicated in cities all over the country? And this was 2 days afterwards, and it seems to be during that period of time it became eloquently apparent to many in the House and the Senate that there were many travesties of justice. Certainly that opinion was supported almost unanimously by the various court decisions that ruled on those cases. And I am just interested whether, when it became apparent to you that there had been an entrenching on basic rights——

Mr. REHNQUIST. My statement in North Carolina, Senator, as I recall it, and as I see it, glancing through it, dealt with the abandonment of field-arrest forms, and the concept of a reasonable time in which to take a person before a committing magistrate. It did not purport to sweepingly endorse everything that had been done during the May Day demonstrations.

As to what I may have done on my own, my own initiative, after becoming aware, I have already answered that I did nothing, and I did not think it was appropriate to do anything.

Senator KENNEDY. You would not deny that your statement down in North Carolina was a general endorsement of the steps that were taken by——

Mr. REHNQUIST. I have it in front of me, if you want me to read over a few pages and answer your question, I will do it or I will give you my recollection.

Senator KENNEDY. Well, why don't you give us your recollections?

Mr. REHNQUIST. I do not concede it to be a general endorsement.

Senator KENNEDY. Well, at any time did you express any dismay, either privately or publicly, about the procedures which were followed? You had a situation where you had about 12,000 arrests, practically all but a handful thrown out for a variety of different reasons, and I am just interested in whether you——

THURSDAY, NOVEMBER 4, 1971

Senator COOK. Getting back to another discussion of yesterday, I feel that great emphasis was made of how you completely and absolutely condoned, and were enthusiastic about, or words to that effect, the Government action in the May Day affair in Washington. Again, Mr. Chairman, I would like to put into the record the speech that Mr. Rehnquist made at Appalachian State University, I might say out of a speech of some 24 pages, the first five and a half pages dealt with a very general discussion of the ability of police departments to function, the ability to formulate a policy in its broadest sense under certain conditions. I find nowhere in here any endorsement of the actions of, or any mention of the police officials in the city of Washington other than the fact that you made reference to the fact that there was a metropolitan police force of approximately 5,000 men and that within the first few hours they had to make no less than 7,000 arrests.

Then you allude to what is referred to as qualified martial law. I might suggest I hope you and I both agree that this qualification is nothing new in the law.

I have before me a book entitled "A Practical Manual of Martial Law" that was written in 1940 by Frederick B. Wiener, Special Assistant to the Attorney General of the United States. It has quite a dissertation in the field of qualified martial law.

Would you tell me what you feel would be a definition of qualified martial law?

Mr. REHNQUIST. Recalling as best I can from Mr. Wiener's book, which I believe is the source of my knowledge on the subject, it is the situation where the force brought to bear against the law enforcement forces is such that the normal procedure of individual arrest and booking and admission to bail and appearance before a community magistrate simply cannot be carried out and in this situation it is my understanding that the courts, including the Supreme Court of the United States in the case of *Moyer* v. *Peabody*, have said it was lawful for the Government in that situation to resort to a situation of arrest not on the basis of criminal charge of individual wrongdoing but on a very temporary basis of simply restoring order, and that the process was not arrest in the normal sense and that release was required in a very short order as soon as the serious emergency has passed.

That is a short summary of my understanding of it, Senator.

Senator COOK. And, as a matter of fact, rather than be of the opinion as we discussed yesterday that there may have been either martial law or qualified martial law on that occasion, in your speech in North Carolina you took the position that there had been neither. I quote from page 4, "Indeed if one takes a more extreme situation than that which prevailed in Washington during the past couple of days," and then you went into a dissertation on qualified martial law. Is that not correct?

Mr. REHNQUIST. It is correct, Senator.

Senator COOK. Thank you, Mr. Rehnquist. Thank you, Mr. Chairman.

Mr. ALLEN. Mr. President, when the President announced in his speech on television that he was going to nominate Mr. Lewis Powell and Mr. William Rehnquist for positions on the Supreme Court made vacant by the retirement of Mr. Justice Black and of Mr. Justice Harlan, the junior Senator from Alabama felt that the President had made two excellent choices for these positions.

From that moment on, the junior Senator from Alabama has been ready to vote on these nominations. He has been ready to vote at all times since that time. He is ready now to vote, and he hopes that at an early date we will be allowed to vote on the nomination of Mr. Rehnquist, the Senate already having acted favorably on Mr. Powell's nomination by a vote of 89 to 1.

But tomorrow the question is not going to be whether we favor the confirmation of the nomination of Mr. Rehnquist to be a Justice on the Supreme Court; the question is going to be whether we shall cut off the debate on this question.

Since coming to the Senate almost 3 years ago, the junior Senator from Alabama never has voted to apply cloture. He has never voted to end debate on any subject under debate in the Senate. The right to engage in unlimited debate is one of the great rights that sets the U.S. Senate apart from all other legislative bodies in the world.

We have had debates on this floor on several occasions since I came to the Senate having to do with amending rule XXII to allow 60 percent of the Senators to cut off debate rather than the two-thirds that are now necessary.

The Senate never has been willing to cut off debate by a two-thirds vote on the question of reducing to 60 percent the number necessary to cut off debate.

Just recently three distinguished Senators in this body, the Senator from Idaho (Mr. CHURCH), the Senator from California (Mr. CRANSTON), and the Senator from Maryland (Mr. MATHIAS), who theretofore had supported the concept of reducing the number of Senators necessary to cut off debate from two-thirds down to 60 percent, changed their position herein the Senate Chamber and stated they were going to support the requirement of a two-thirds vote to cut off debate in the Senate.

So, much as I disagree with the Senator from Indiana on whether Mr. Rehnquist's nomination should be confirmed—he taking the position that his nomination should not be confirmed and the Senator from Alabama taking the position that his nomination should be confirmed—I will on tomorrow vote against the cloture motion seeking to cut off debate.

I want to make the record clear that my vote on this question on tomorrow does in no sense indicate that I am not a staunch supporter of Mr. Rehnquist for the position on the Supreme Court to which he has been nominated, but I believe that the question of allowing this debate to continue should be decided in the affirmative—that debate should not be cut off.

In due time debate will be cut off, and I certainly am not going to regret seeing that action taken, but it cannot be taken, certainly at this time, with the vote of the junior Senator from Alabama.

So I believe the concept of free and unlimited debate should continue. If we do not set any store by the principle of allowing free and unlimited debate in the Senate, it soon is going to be that if any question has the support of two-thirds of the Senate, then it can pass, whether or no, even though full debate has not yet been had.

If there is no validity to the concept of allowing free and unlimited debate in the Senate, then we might just as well say that if any question can get two-thirds of the votes, then debate automatically is cut off; that if that many want to vote for it, then there is no need of having the limitation of rule XXII, because the question would be: "Are you for a measure or against it?" If two-thirds are for it, then there is no need to have any debate.

Mr. TOWER. Mr. President, does the Senator conceive of any occasion in which he would vote for cloture?

Mr. ALLEN. I do not see any occasion at this time. Yes, I would feel that if the fate of the Republic were at stake, certainly to that extent I might be, but I am not allowing myself to speculate that on this issue I would and on that I would not.

I will say to the Senator from Texas that, on the matter of the extension of the draft, while I was strongly for the extension of the draft and voted for it on every occasion, I did not vote to apply cloture, and have not since coming to the Senate voted to apply cloture. From time to time the distinguished Senator from Texas has voted on some occasions to apply cloture and on other occasions not to apply cloture, and the junior Senator from Alabama would infer from that that on those proposals that the Senator favors he would vote for cloture and on those proposals that he opposes he would not vote for cloture.

The junior Senator from Alabama is trying to be a little more consistent than that and to allow free and unlimited debate even on questions that he supports, because the principle of free and unlimited debate in the Senate is more important to the junior Senator from Alabama than whether we confirm Mr. Rehnquist on Friday, on Saturday, or next week.

I yield the floor.

A TRIBUTE TO RALPH BUNCHE

Mr. KENNEDY. Mr. President, I join in mourning the death of Ralph Bunche. His life was typified by the tremendous force of his dedication to the cause of peace and justice throughout the world. During the years of his magnificent career, Ralph Bunche symbolized the ideals of human understanding and social equality. Perhaps, more than any other single person, he represented the true spirit of self-determination for the developing era of the United Nations. Ralph Bunche was admired by peoples all over the world. Yet, here in his own country, black Americans were denied access to social justice and equality at a time when his brilliance and skill were helping to bridge the gaps of despair between nations.

It is my hope that the work of Ralph Bunche will be properly recorded in the annals of historic triumphs by great Americans. For in these times, when conflict and warfare seem to appear as normal and natural aspects of modern life, we must highlight the work of those among us who have tried to achieve peace and understanding among all men.

It is my hope that his life will be an inspiration for all who work and pray for an end to the turmoil and anguish of human conflict.

ORDER FOR RECOGNITION OF SENATOR McGOVERN AND SENATOR MAGNUSON TOMORROW

Mr. BYRD of West Virginia. Mr. President, as in legislative session, I ask unanimous consent that on tomorrow, immediately following the remarks of the distinguished Senator from New Jersey (Mr. WILLIAMS), the distinguished Senator from South Dakota (Mr. McGOVERN) be recognized for not to exceed 15 minutes, and that at the conclusion of his remarks, the distinguished senior Senator from Washington (Mr. MAGNUSON) be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

DIVISION OF THE HOUR PRECEDING THE VOTE ON CLOTURE

Mr. BYRD of West Virginia. Mr. President, has the time under the rule with respect to the 1 hour preceding the vote tomorrow on cloture been divided yet?

The PRESIDING OFFICER. No; it has not.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the 1 hour under rule XXII be equally divided tomorrow between the distinguished Senator from Indiana (Mr. BAYH) and the distinguished minority leader or his designee.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. BYRD of West Virginia. Mr. President, as in legislative session, I ask unanimous consent that, at the conclusion of the remarks by the distinguished Senator from Washington (Mr. MAGNUSON) on tomorrow, there be a period for routine morning business for not to exceed 30 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Does the Senator wish to include a limitation of 3 minutes on speeches of Senators?

Mr. BYRD of West Virginia. Yes, Mr. President, with a 3-minute limitation on statements made therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO RESUME CONSIDERATION OF NOMINATION TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that at the conclusion of routine morning business on tomorrow, the Senate return to executive session and resume the consideration of the nomination of Mr. William H. Rehnquist to the office of Associate Justice of the Supreme Court of the United States.

The PRESIDING OFFICER. Without objection, it is so ordered.

QUORUM CALL

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. TOWER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

NOMINATION OF WILLIAM H. REHNQUIST

The Senate continued with the consideration of the nomination of William H. Rehnquist to be Associate Justice of the Supreme Court of the United States.

Mr. TOWER. Mr. President, I have always believed in the thesis advanced by William S. White that one of the vital functions performed by the Senate is to protect the minority against the precipitate and emotional tyranny of the majority. Until recent years I never voted for cloture, even when I was in disagreement with those who were filibustering, an example being the communications satellite, but I have suddenly come to realize—perhaps not so suddenly, but gradually come to realize—that rule XXII, which provides for virtually unlimited debate, is not being used in the way that it has traditionally and historically been used in this Chamber, and that is on issues of vital, profound, deep-seated social, and constitutional concern.

As a matter of fact, it appears now that a certain group of willful men have discovered unlimited debate as a means of preventing the Senate from working its will on almost anything that they want to prevent the Senate from working its will upon, and I have come to the conclusion also that some people tend to claim unlimited debate, not as a means to an end, but as an end unto itself. I have, therefore, in recent months voted for cloture.

As a matter of fact, during the debate on the loan guarantee, I filed three cloture motions myself—quite a departure from my traditional stance. Many times I participated in what we might as well call filibusters, or, in the words of the late great Everett Dirksen, attenuated educational dialog, in an attempt to prevent matters from coming to a vote; but in each instance I have participated in those extended debates in order to prevent coming to a vote on a measure I thought was being carried on the wave of popular emotion, but that was contrary to the letter and the spirit of the Constitution of the United States.

We desperately need in this country to change the complexion of the Court, and that is what this debate is all about. I intend not only to vote for cloture as many times as is necessary so that this issue can be voted upon—the confirmation of Mr. Rehnquist—because I think everybody is pretty adequately informed, and I think arguments against Mr. Rehnquist are without substance and are so recognized by most commentators, but, Mr. President, I will go beyond that. I believe that the next time the issue of rule XXII comes up, I will abandon my traditional position of favoring a two-thirds majority to cut off debate and will accept the motion that 60 percent should be adequate to cut off debate, because I think too many matters of great public import have been postponed beyond a reasonable time by virtue of the fact that only one-third can thwart the Senate from working its will.

Mr. GRIFFIN. Mr. President, will the Senator yield?

Mr. TOWER. I yield to the Senator from Michigan.

Mr. GRIFFIN. I wish to commend the Senator from Texas for his statement. Although I come from a different part of the country, and I have approached the question of cloture from a different point of view, I believe he has made a very significant statement that deserves the attention and consideration of other Senators, particularly those from the South.

In the past, the junior Senator from Michigan has voted for proposals to change the cloture requirement to three-fifths rather than two-thirds. Frankly, I will say that, in some respects, it is too bad that the Senate should have to make such a change. There is a good deal to be said for keeping the cloture rule as it is now. But when there are Senators who are so inflexible that they will never vote to invoke cloture under any circumstances—when it gets to the point where the Senate cannot get to a vote even on appropriation bills, which was the case in the last session, then it would seem clear that we are left with no real choice but to change the rule.

Mr. TOWER. The Senator will note that several southerners have signed cloture motions this year—the distinguished Senators from Mississippi, for example. I would think otherwise if unlimited debate were used as it was formerly used in the Senate, only on matters that involved vast and sweeping social change, or involved interpretation of the Constitution of the United States or matters that involved State sovereignty or statehood—as in the case of the State of Arizona. I remember our recent great colleague, Carl Hayden from Arizona, never voted for cloture except one time when he conceived that it was in the national interest to do so.

I have come to my current view reluctantly, because I wish we could leave it at two-thirds; but right now, as I have noted, there are willful men who from time to time will use unlimited debate on any issue to prevent the Senate from working its will.

I think that those of us, myself included, who have in the past been inflexible on the matter of cloture have done a disservice to the right of unlimited debate. I have mended my ways, and the next time the issue comes up, I will certainly support a vote of 60 percent of those present and voting to bring debate to a close. I think in the context of the current times that is reasonable and rational.

Mr. THURMOND. Mr. President, will the Senator yield?

Mr. TOWER. I yield.

Mr. THURMOND. Mr. President, President Nixon is to be congratulated on his selection of William H. Rehnquist to be an Associate Justice of the Supreme Court. In making this selection, the President has chosen a man unquestionably qualified to fill this high office.

Having served as a law clerk for Associate Justice Robert H. Jackson and having personally tried several cases before the Supreme Court, William H. Rehnquist is uniquely familiar with the operation of the Court.

Mr. President, the Supreme Court is the ultimate body of the judicial branch of our Government, and it is the duty of the Senate to carefully examine the qualifications of a nominee for this body. William Rehnquist is well qualified for the position of Associate Justice. He is an exceptionally qualified attorney with positive scholastic achievements. In his engagements in the practice of law and in his position as Associate Attorney General of the United States, he has performed with legal and professional excellence.

Mr. Rehnquist received his B.A. degree from Stanford University "with great distinction" and was Phi Beta Kappa. He earned his M.A. degree from Harvard University, and received his LL.B. degree from Stanford University with a ranking of No. 1 in his class. While he was attending law school at Stanford, he was a member of the board of editors of the Stanford Law Review.

Mr. Rehnquist was engaged in the private practice of law in Phoenix, Ariz., for 16 years before he was appointed Assistant Attorney General, Office of Legal Counsel by President Nixon in January 1969. His job description in this position was described by Mr. Nixon as "the President's lawyer's lawyer."

Mr. President, as Assistant Attorney General, Mr. Rehnquist frequently appeared before various congressional committees testifying as to the position of the Department of Justice on various issues. On several occasions he appeared before the Committee on the Judiciary of which I am a member. His testimony, and analysis and perceptive responses to inquiries were always of the highest calibre, and I have always been impressed with his intelligence and professional competency.

The Constitution is the guiding document upon which our great country functions. The ultimate interpretation as to its application is made by the Supreme Court. As a member of that body, William Rehnquist will insure that equal justice under law will have real meaning and application.

Mr. President, it is with distinct pleasure that I shall vote to confirm the nomination of William H. Rehnquist to be an Associate Justice of the Supreme Court. As a member of that body Mr. Rehnquist will be a strong advocate for the quality of life under the Constitution as envisioned our forefathers.

Today an article appeared in the Washington Post by Joseph Kraft entitled, "Rehnquist: Top Mind." This article concisely establishes the fact that Mr. Rehnquist is eminently qualified to be an Associate Justice of the Supreme Court.

Even though I do not agree with every idea expressed in this column, I agree with its basic premise, that is, "Mr. Rehnquist, far more than any other recent nominee, has the calibre to restore intellectual distinction to the Court."

Mr. President, I believe this article by Mr. Kraft sufficiently evidences the fact that Mr. Rehnquist is qualified for the Supreme Court and I ask unanimous consent that the article entitled, "Rehnquist: Top Mind," which appeared in the Washington Post on December 9, 1971, be printed in the Congressional Record following these remarks.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Washington Post, Dec. 9, 1971]

Rehnquist: Top Mind

(By Joseph Kraft)

Justice Holmes, on being asked what he thought of the intellectual abilities of another judge, once replied: "I never thought of him in that connection." And there lies the nub of the powerful, positive case that can be made for Senate confirmation of President Nixon's latest nominee for the Supreme Court, William Rehnquist.

For years now hardly anybody has thought of the Supreme Court as performing an intellectual function. Mr. Rehnquist, far more than any other recent nominee, has the calibre to restore intellectual distinction to the Court.

To understand why, it is necessary to say a word about the role of the Court in the country. The country is dominated by the million and one daily actions of an energetic population largely unconstrained in its capacity to buy and sell, move and dream, educate and obscure, build and tear down.

Given the nearly universal disposition toward almost constant action, it is ludicrous to think of tyranny being imposed on this country from above by some establishment eager to freeze the status quo or turn back the clock.

The central political problem of a populist country is to preserve some modicum of elite values—respect for achievement; toleration for difference of outlook; regularity of procedure. Partly by original design, but even more by the chance accretions of history, the Supreme Court has come to be the defender of those values—the elitist institution in a populist country.

Unfortunately for the Court, certain political decisions were thrust upon it by the deadlock that developed between Executive and Legislature during the post-war period. In the fields of civil rights and legislative reapportionment, the Court felt obliged—understandably considering that all other avenues seemed closed—to make rulings that might much more appropriately been the work of the President and the Congress.

In the heady atmosphere engendered by those decisions, the Court headed by Chief Justice Earl Warren became result-oriented. In case after case, it was increasingly hard to discover the inner logic of decisionmaking. Blacks seemed to be favored because they were blacks, baseball because it was a good clean American sport, anti-trust plaintiffs because they were against economic monsters.

President Nixon's efforts to correct the imbalance have been fumbling to the point of casting doubt on the sincerity of his claim to want "strict constructionists." His preferred candidates have been right-wingers, so little distinguished that the Senate and the American Bar Association have constrained him to throw them back in the pond.

Mr. Rehnquist is something else. He has not shown sensitivity to the needs of people in trouble, and he has said some hardline—and to me silly-sounding—things about the influence of Supreme Court clerks and the softness of judges towards communism. Some of these comments may be what ambitious juniors are required to say in order to get ahead in the Republican Party of Barry Goldwater and the Justice Department of John Mitchell. Still, I suppose they represent a genuine right-wing conviction.

But Mr. Rehnquist also has a mind of the highest candle-power. His comments in the Judiciary Committee hearings have been unfailingly lucid and discriminating. He has

> been "hesitant"—a favorite word—when unsure of the fine details of a problem.
>
> Even one of his staunchest opponents, Sen. Edward Kennedy, described him as "a man with a quick, sharp intellect, who quotes Byron, Burke, and Tennyson, who never splits an infinitive, who uses the subjunctive, at least once in every speech, who cringes when he sees an English word created from a Greek prefix and a Latin suffix."
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> Only it happens that the qualities that Senator Kennedy is pleased to dismiss so crudely express a critical aspect of the Court's present work. The Court does not now need more liberals, more conservatives, or more middle-of-the-roaders. There are enough of those to assure that nothing drastic is going to happen in civil rights or criminal law.
>
> What the Court needs is more brains. Mr. Rehnquist has them—more abundantly perhaps than any present member. And by uplifting the quality of the Court in general, he will do far more than any particular decision in any particular case can do to advance the values thoughtful men hold dear.

Mr. COOK. Mr. President, earlier, I addressed the Senate in regard to the qualifications of Lewis F. Powell to be an Associate Justice of the Supreme Court as judged by the criteria or standards that I developed in previous Supreme Court nominations.

I now wish to examine the other nominee, Mr. William H. Rehnquist, in light of these standards.

WILLIAM H. REHNQUIST

In this instance, I am also combining the first two standards and considering them together.

1 AND 2. COMPETENCY; ACHIEVEMENT OR DISTINCTION

In 1948 Mr. Rehnquist graduated "with great distinction" from Stanford University and was elected to Phi Beta Kappa. The next year he received an M.A. from Harvard in government. At Stanford Law School he received his LL.B. degree, graduated first in his class, was elected to the Order of the Coif and served on the board of directors of the Stanford Law Review. Phil C. Neal, dean of the University of Chicago Law School has stated to the committee:

> Rehnquist was a student of mine at Stanford Law School. He was not only the top student in his class but one of the best students in the school over a number of years. He has remained in my mind as one of the most impressive students I have had in some twenty-two years of teaching.

Mr. Jarril F. Kaplan, a Phoenix attorney who has publicly stated that he does not share the nominee's political views or philosophy, said in a letter to Senator BROOKE:

> I have known Mr. Rehnquist well as a professional colleague for many years. He is an outstanding lawyer, completely thorough, scholarly, perceptive, articulate and possessed of the utmost integrity as well as a keen wit. He enjoys the highest respect of his fellow lawyers for his legal talent. There is, in my mind, no question about Mr. Rehnquist's legal qualifications to serve upon the Supreme Court.

Another prominent Arizonian familiar with the nominee, but who also disagrees with some of his views, Representative MORRIS K. UDALL, stated:

> I say this though I can attest to his complete integrity and adherence to the highest ethical standards. In addition, he has had excellent legal training and experience and possesses a clearly superior legal mind. He certainly meets the demanding professional standards for and would bring intellectual distinction to the Supreme Court.

A number of law professors have given the nominee very high marks. Ralph K. Winter, Jr., of Yale Law School, said in a letter to the committee:

> Mr. Rehnquist is experienced in matters of constitutional law. He will bring to the Court knowledge and a sense of history as well as intellectual power. He understands, and accepts, the fundamental principles of government established by the Constitution and appreciates the difficult role a court must play as a constitutional arbiter in a democratic society.

Thomas E. Kauper, professor of law at Michigan, said that:

> He has all the qualities to become a truly great judge.

Willard H. Pederick, dean of the Arizona State University College of Law, thought so highly of Mr. Rehnquist's qualifications that he "was moved to approach him a year ago about the possibility of an academic career with the faculty of the college of law."

John Bingham Hurlbut, Jackson Eli Reynolds, professor of law at Stanford and a former law clerk to Chief Justice Earl Warren, and also a former teacher of the nominee, praised his abilities in the following manner:

> Mr. Rehnquist is the product of the Stanford Law School, a member of one of those remarkable and very competent postwar classes, composed largely of veterans, eager to exploit what the law school had to offer in the pursuit of a solid foundation for a professional career in private practice and in public service, and for satisfying those heavy obligations of a lawyer citizen. And on the other side of the platform a strong, demanding, dedicated faculty including such names as Phil Neal (now law dean at Chicago), Sam Thurman (now law dean at Utah), Harold Shepherd (former dean at Duke), and Paul Freund (visiting professor from Harvard for a term). In this setting he was graduated first in his class—and as one of my former colleagues at Stanford has put it, "he was the outstanding student of his law school generation."
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> I can, I think, speak with some authority on William Rehnquist the student. He was a member of my class in criminal law in his first year and evidence in his third year. For a while he was my research assistant. We had a common interest in intercollegiate athletics as well as the law. So I saw a great deal of him in the classroom, in my office and in my home.
>
> As a student he was nothing short of brilliant, determined to achieve excellence, and persistent in his expectation of excellence on the other side of the podium. In the give and take of the classroom he was sharp, forthright, courageous, and objective—precise and deep in his analysis of difficult problems—insistent that a problem be turned over and over to expose all of its facets before its solution—and always a gentleman.

Upon graduation from law school, the nominee served as a law clerk for Mr. Justice Robert H. Jackson. From 1953 through 1969 he was a lawyer in private practice in Phoenix and according to the American Bar Association's report to the committee:

> Was clearly a person of recognized professional quality who, for his age, was highly regarded.

The ABA standing committee on Federal judiciary further stated that his rating, AV, in Martindale-Hubbell was the highest rating a lawyer could receive. In his present position as an Assistant Attorney General of the United States and head of the Office of Legal Counsel, he has clearly demonstrated for the public record that he is all of what his many admirers say he is. A perusal of his statements before the various House and Senate committees clearly reveals the qualities of legal scholarship and keen intellect for which he is famous. He has demonstrated his expertise in broad areas of constitutional law through these writings.

Mr. President, only time and space in the CONGRESSIONAL RECORD prevent me from continuing in the documentation of his competency and level of achievement and distinction within his chosen profession.

3. TEMPERAMENT

Here, I once again turn to those who know the nominee best, even though many of them are in fundamental disagreement with his political or philosophical views. I believe this to be an important qualification, because hostility to a certain class of litigants cannot be condoned in any judge, but especially for a Justice of the Supreme Court. Self-discipline is essential.

Judge Walter E. Craig, U.S. District Judge for the District of Arizona, a former president of the American Bar Association, and a man who has known the nominee for 25 years had the highest praise for patience and temperament. In testimony before the committee, Judge Craig said:

> He has demonstrated, I think, his patience and judicial temperament in appearing before this body. I have observed it for 19 years, so it does not come as a surprise to me that he has handled himself so magnificently here. I have seen only a relatively few minutes of his testimony, but I have kept in some touch with the progress of the hearings.
>
> In his appearances before my court, Mr. Rehnquist conducted himself not only with outstanding professional skills but with dignity, intelligence, and integrity. I think he has conducted his life that way so long as I have known him.

Prof. Thomas E. Kauper declared that—

> William H. Rehnquist is as fine a lawyer as I have encountered. He has a scholarly, intellectual approach to legal problems which is not found in many practicing lawyers. While he and I did not always agree on the resolution of legal issues, I always received a fair hearing and found him eager to learn all that he could before making a decision.

There have been many allegations that the nominee is a "racist" or an extremist and that he, therefore, does not possess the necessary open-mindedness and judicial temperament.

Jarril F. Kaplan, a former chairman of the Phoenix human relations commission, said that during all of his years of service he never once heard reference to the nominee's hostility toward any minority group. In his letter to Senator BROOKE urging favorable consideration, he stated:

> Parenthetically, I wish to state that I do not share much of Mr. Rehnquist's political views or philosophy. But that hardly detracts from his legal abilities or from my recognition of those abilities. Nor am I aware of any real basis for characterizing his views as extremist. Mr. Rehnquist is a consummate advocate, as any good lawyer must be. He states his views (or the views of those whom he represents) with the zeal of a skilled advocate. This is what he is trained to do, and should not be misunderstood as extremism.

Another supporter of the nominee, a professor of law at Yale University Law School, and a man who has seen him in action was equally impressed. Robert H. Bork stated in a letter to the committee:

> I have seen Mr. Rehnquist engage in debate on highly controversial subjects. Though some persons on both sides of the issue became quite heated, he did not. He remained calm but forceful in the presentation of his views, marshalling his arguments with great skill. That performance was indicative not merely of great professional qualifications, but also of a judicial temperament.

The Reverend George Brooks, a former president of the Arizona NAACP, had charged at one time that Mr. Rehnquist harrassed and denounced in an abusive manner certain civil rights demonstrators in 1964 at the Arizona State Capitol. As the Nov. 3 edition of the Washington Post reported, the Reverend Mr. Brooks has clarified his original statement:

> By the end of last week, Brooks was telling a different story. He now says that the discussion with Rehnquist was calm, "the tone was professional, constitutional, and philosophical," he said. He was neither harassed nor intimidated, Brooks added.

His latest opinion certainly agrees with that of all the others who have commented on the nominee's temperament.

Finally, the nominee has been charged with attempting to deprive certain minority groups of their voting rights in the 1960's. The committee report more than adequately replies to these unsubstantiated allegations. I refer to pages 8–13. In addition, Mr. Rehinquist in a reply to questions from Senators Bayh, Hart, and Kennedy categoricaly denies these assertions. I ask unanimous consent that question No. 10 of the Senator's letter, and Mr. Rehnquist's reply be printed in the Record at this point.

Mr. President, in summary, many have called Mr. Rehnquist, "the ultimate reasonable man." The record certainly supports this description.

4 AND 5. ETHICAL CONDUCT; PERSONAL CONDUCT

Mr. Rehnquist has undergone a thorough investigation of his personal life by the Federal Bureau of Investigation as well as by private individuals and groups. Furthermore, Senator Bayh questioned him extensively about his law practice and the record reveals absolutely nothing which would indicate that he violated either the canons of ethics or the statutes governing the standard of conduct required of members of the bar. Professor Hurlbut succinctly summarized the thinking of everyone who knows William Rehnquist when he said that:

> Above all else he is a man of complete intellectual and personal integrity.

CONCLUSION

Mr. President, as I have repeatedly stated, I do not believe that political philosophy or ideology is a relevant factor in the Senate's confirmation of Supreme Court nominations.

On November 28, Representative Paul McCloskey, during an appearance on the WTOP–TV program "Newsmakers," stated his opinion as to Mr. Rehinquist's qualifications and temperament. He said, in part, that—

> Bill Rehnquist, in my judgment, has a reverence, respect for the law.

In reply to a question about the nominee's philosophy, Representative McCloskey summarized my feelings on this matter when he said,

> I think—as I say, his political views I don't agree with at all. But I hate to see us get to the point in this country where because a man is behind the times politically we deny him a seat on the court. I think the law's too important to have political views play a part in whether he's qualified or not.

Because Mr. McCloskey's comments on "Newsmakers" were so timely and pertinent, I ask unanimous consent that the relevant portions of that program, exhibit "B", be printed in the Record at the conclusion of my remarks.

In an article entitled "The Rehnquist Dilemma," Tom Wicker said in the November 11, 1971, edition of the New York Times concerning the nominee's rejection on ideological grounds:

> So the real question before the Senate is whether it can, or should, reject Mr. Rehnquist solely because of his political views. On the one hand, the writers of the Constitution, in giving the Senate the power to confirm or reject presidential nominees to the Judiciary, clearly meant the legislative branch to play a substantive role with the executive branch in this process. The Senate has the right, therefore, to judge for itself the qualifications of a man to sit on the Supreme Court.
>
> On the other hand, to make that judgment solely on the basis of his political views (which, after all, may change) is dangerous business. It presumes some kind of rightful political orthodoxy.

In that same column he rebutted the argument of rejecting Rehnquist because the President has nominated a conservative, political activist by saying:

> And the Senate is likely to compound the damage if it denies Mr. Rehnquist his court seat solely because of his political views.

Tom Wicker's credentials as a stout defender of political liberalism are, I believe, impeccable. However, he believes so strongly that Mr. Rehnquist should not be opposed on philosophical grounds that he wrote another column on this subject. In speaking once more of the liberal's dilemma, Mr. Wicker stated:

> That means that the battle has to be fought, if at all, on the tricky ground of Mr. Rehnquist's political views—whether it is called his "judicial philosophy" or his "constitutional approach." The view was put forward in this space on November 11 that this kind of opposition was "dangerous business"—that it suggested the existence of a kind of political orthodoxy, would tend to politicize the Court, would punish some people for their ideas while frightening others out of having any and would lead inevitably to political retaliation.

He further went on to say:

> On balance, with full awareness that Mr. Rehnquist's views on the Bill of Rights seem antilibertarian, and despite weighty arguments from many who disagree, it still is "dangerous business" to reject him for his political views. Is it seriously to be asserted that conservative—even arch-conservative—views disqualify a man for service on the Supreme Court? If so, then what prevents some other Senate from disqualifying a man for strongly liberal views or for being a "new leftist" or a "neo-isolationist" or some other stereotype?

I believe, as does Mr. Wicker, that it is much too late for many of Mr. Rehnquist's opponents to be faulting him on constitutional interpretation. Mr. Wicker has this to say:

> Can it be shown that Mr. Rehnquist's views are factually in error or substantively wrong? No, it is a matter of interpretation, and it is late in the day for liberals to start asserting that the Constitution is an absolute document not subject to interpretation or differing ideas. It is, in fact, the prime duty of the Supreme Court to decide what the Constitution means, on given subjects at given times in history.

I ask unanimous consent that both of these columns by Mr. Wicker be inserted in the Record at the conclusion of my remarks as exhibits "C" and "D."

In conclusion, after attending the judiciary hearings, and examining the record I wish to give my unqualified endorsement of this very distinguished lawyer and legal scholar. As with Mr. Justice Powell, I believe Mr. Rehnquist to be uniquely qualified to sit on the Supreme Court of the United States.

If I may depart from my objectivity for just a moment, and insert a personal note, this is the first instance that I have had the opportunity to be personally acquainted with a Supreme Court nominee. I know that Bill Rehnquist is a superior human being in every sense of the word. He is superior in intellect, temperament and compassion. I wish him well.

Mr. President, I urge the immediate confirmation of the nomination of Mr. William H. Rehnquist to be an Associate Justice of the Supreme Court of the United States.

I ask unanimous consent that other exhibits be printed in the Record.

There being no objection, the items were ordered to be printed in the Record, as follows:

EXHIBIT A

QUESTION 10 BY SENATORS BAYH, HART, AND KENNEDY

10. Please describe in as much detail as possible your position (including title and the manner in which you were selected); responsibility, and activities in connection with Republican Party efforts to challenge Democratic voters in Arizona for each of the following elections, separately: 1958, 1960, 1962, 1964, 1966, 1968.

In addition, please answer the following questions concerning your position, responsibility or activities in each of the above-mentioned years:

(*a*) Did you personally engage in challenging the qualifications of any voters? If so, please describe the nature and extent of the challenging you did and the bases on which the challenges were made.

(*b*) Did you train or counsel persons selected to be pollwatchers or challengers about the procedures to be used in challenging? If so, please elaborate concerning how the persons were selected, and the training that you gave. Did you in any of the above-mentioned years train or counsel persons selected to be pollwatchers on the bases on which challenges could be made? If so, please elaborate concerning what you advised these persons were proper bases under law for challenges in each of the relevant years.

(*c*) Did you prepare, select or advise on the use of printed passage from the Constitution designed to be employed by challengers to determine the literacy of a potential voter? Did any such practice come to your attention? Did you think it proper and lawful? If not, did you take steps to curb such procedures?

ANSWERS TO QUESTION 10 BY MR. REHNQUIST

10. During the course of the Committee's deliberations, I submitted the following affidavit to the Chairman of the Committee:

"I have read the affidavits of Jordan Harris and Robert Tate, both notarized in Maricopa County, Arizona. Insofar as these affidavits pertain to me, they are false. I have not, either in the general election of 1964 or in any election, at Bethun precinct or in any other precinct, either myself harassed or intimidated voters, or encouraged or approved the harassment or intimidation of voters by other persons."

In order to fully respond to question 10, an understanding of the background of Republican challenging procedures in Maricopa County is necessary. I have therefore tried as best I can to recall and set forth that background.

A combination of the peculiarities of Arizona election law, the customary practices of the Board of Supervisors in appointing precinct election officials, and the numerical weakness of registered Republicans in part of the County resulted in the fact that the only method by which a Republican observer or poll watcher could be stationed inside a particular polling place in many precincts in order to watch for voting irregularities was to be there as a "challenger." While he was authorized by law to challenge voters, the prospects of his being successful were not great, since the challenges he made were ruled upon by a three-man election board (two judges and an inspector) and in the precincts with extraordinarily heavy Democratic registration at least two and often three members of this board would be Democrats. The challenger's real usefulness to the Party, therefore, was not that he was going to be able to prevail upon the election board to disqualify any large number of voters, but that his mere presence as a party representative would have a tendency to discourage any large-scale irregularities in voting procedures at that precinct. My recollection is that the most frequent cause of dispute which arose in Election Day during the late 50s and early 60s was the nature of the credentials required for a challenger to be allowed to enter and remain in a polling place, since in many of these precincts there had never been a Republican representation on the scene during Election Day.

With respect to the specific questions posed, I have attempted to refresh my recollection by speaking with several persons in Arizona who acted in Republican Party affairs during the years covered in this question and to Judge Hardy, who was active for the Democratic Party at the same time. I have also had occasion to see two local newspaper articles which appeared in the Fall of 1964, describing my position during the elections of 1960, 1962, and 1964. I recall that at the time there were written schedules, instructions, and the like prepared at least for the elections of 1960, 1962, and 1964, but I have not found anyone who was able to locate any of this written material, and it may no longer be in existence.

In 1958, I became involved in the Election Day program on quite short notice, and spent all the day at Republican County Headquarters in Phoenix answering questions as to the election laws on the telephone. So far as I remember, I was the only person having this responsibility at County Headquarters. I don't believe I had a title, and I cannot remember by whom I was selected. As I recall, Don Reese, then of Phoenix but presently of Houston, Texas, was County Chairman in 1958.

My attention has been called to a clipping from the *Arizona Republic* in October 1964, which states that in 1960 I was co-chairman of the "Ballot Security Program." I do not have any independent recollection of this fact, but I have no reason to dispute the account in the newspaper. As I recall, however, the program in 1960 was not called the "Ballot Security Program," since I don't remember hearing that term used before 1964.

In 1960, I supervised and assisted in the preparation of envelopes to be mailed out in advance of the election for the purpose of challenging voters on the basis of their having moved from the residence address shown on the poll list; I also recruited about a half a dozen lawyers to work on a "Lawyers Committee" on Election Day. I did not myself recruit challengers, but I did speak to a "school" held for challengers shortly before election, in order to advise them on the law. I believe I also supervised and assisted in the assembling of returns of our mailings which were returned "addressee unknown", so that they could be made available to the particular challenger who was stationed in the precinct in which the address was located. On Election Day, I believe that I spent most of the day in County Headquarters. In that year, however, we had enough other lawyers available in County Headquarters so that I probably spent some of the day going to precincts where a dispute had arisen, and attempting to resolve it.

I cannot remember whether Don Reese or Ralph Staggs was County Chairman in 1960; I believe I was designated by whoever was County Chairman that year.

With respect to 1962, I have been shown an article in the October 1964, *Arizona Republic* which states that I was Chairman of a Lawyers Committee which operated on Election Day. This is consistent with my own recollection. I do not believe that in this year I participated in the mailing out of envelopes prior to election, though I may have. I did speak at a school for challengers, I believe, in much the same manner as in 1960. On Election Day, my recollection is that I spent most of the day in Republican County Headquarters; however, I think that on several occasions in 1962, just as in 1960, I went to precincts where disputes had arisen in an effort to resolve them.

With respect to 1964, I have seen an article in the *Arizona Republic* dated October 1964, stating that I was Chairman of the "Ballot Security Program." This is consistent with my recollection. I presume that I had overall responsibility for the mailing out of envelopes, the recruiting of challengers, and the recruiting of members of the Lawyers Committee to work in County Headquarters; however, I believe that there were individuals other than me who were directly responsible for each of these aspects of the program. At this time, Wayne Legg was Chairman of the Republican County Committee, and I presume it was he who designated me as chairman. My recollection is that on Election Day during this particular election I spent all of my time in County Headquarters.

I also think, though I am not certain, that I spoke at the school for challengers held just before the election; if I did not speak to the school, I believe I was present when someone else spoke on the law. Challengers were advised in this year, pursuant to an opinion issued by the State Attorney General, that challenging at the polls on the basis of literacy or interpretation of the Constitution was unlawful by virtue of the Federal Civil Rights Act of 1964.

In 1966, my best recollection is that I played no part at all in the election activities, though I am not absolutely certain. If I played any part, it was simply to serve as a lawyer on duty at County Headquarters for a period of several hours in order to handle questions that might come in over the phone.

In 1968, I played no part at all in the election activities.

(*a*) In none of these years did I personally engage in challenging the qualifications of any voters.

(*b*) The recruitment of challengers in each of these years was under the direct supervision of someone other than me. However, in at least two of these elections—1960 and 1962—and perhaps in 1964, I spoke at a challengers' school conducted shortly before the election. The purpose of my talk was to advise the various persons who were to act as challengers as to what authorization was required in order to enable them to be present in a polling place during the time the election was being conducted, and also as to the various legal grounds for challenging as provided by applicable Arizona law. My recollection is that I simply recited the grounds set forth in the Arizona Revised Statutes as to the basis for challenge, the method of making the challenge, and the manner in which the challenge was to be decided by the Election Board of the precinct in question.

(*c*) I did not. No such practice came to my attention until sometime on Election Day, 1962. The manner in which I saw this type of challenge being used, when I visited one precinct, struck me as amounting to harassment and intimidation, and I advised the Republican challenger to stop using these tactics. Since no question was raised at that time as to the propriety or lawfulness of the use of printed passages from the Constitution by challengers in conjunction with the election board in an otherwise courteous and lawful manner, I did not consider it. Shortly after the election, I discussed this type of challenge with Charles Hardy, now Judge of the Superior Court of Maricopa County, and expressed my vigorous disapproval of any scattergun use of literacy challenges. By the time of the next biennial election, in 1964, such challenges were no longer permitted under federal law.

Exhibit B

U.S. Representative McCloskey Comments on Rehnquist Nomination

Program: Newsmakers. Station: WTOP–TV. Date: November 28, 1971, 7:00 p.m. City: Washington, D.C.

Carolyn Lewis. Paul McCloskey is a third term congressman from the State of California. He's also the only announced Republican candidate for President. McCloskey served as a Marine in Korea and was decorated three times. He says he isn't against all wars; he is against America's involvement in Vietnam. The Vietnam war, however, is not the only issue dividing Paul McCloskey from Richard Nixon.

Joining us this evening is columnist and commentator Carl Rowan.

Mr. McCloskey, not long ago you criticized President Nixon for what you called a lack of moral leadership on civil rights. Today civil rights leaders are strongly opposed to the Supreme Court nomination of William Rehnquist. Yet you support William Rehnquist. Why?

Representative Paul N. McCloskey, Jr. Bill Rehnquist, in my judgment, has a reverence, respect for the law. I disagree almost entirely with his political views. But I think that the crucial thing with our courts and our legal system is that the law must be absolutely separated from politics. You can't have legal involvement in politics, and you shouldn't have political influence in the court.

I've known Bill for I guess twenty years. He's always had almost a fetish that people should not have their political views intrude in their judicial decisions. If there's going to be any conservative judge on the court, this would be the man I would pick.

CARL ROWAN. I find this interesting because some months ago you said this to *Congressional Quarterly:* "The attack on crime, in my judgment, is not a matter of removing civil liberties, as the Attorney General now prefers." There are a lot of people who think Rehnquist was the ringleader in the Justice Department's efforts to destroy civil liberties. How do you reconcile this to your view?

Representative McCLOSKEY. Well, I don't know that to be true. And I have some skepticism about assigning to the counsel or the attorney for someone the basis for the arguments that were made. I know that Bill Rehnquist carries out the Attorney General's instruction. I know that he probably carries out the President's instructions. And I don't think you blame the attorney for the position that they necessarily take on all occasions.

ROWAN. Now you also have been harshly critical of President Nixon for backing away from enforcement of civil rights laws, particularly the Voting Rights Act. We've had some criticism come out of Arizona claiming that Rehnquist tried to stop blacks from voting. Is it that you don't believe the criticism, or what?

Representative McCLOSKEY. No, I honestly don't believe that. As I say, I've known Bill since law school. He was the top man in the class the year that I left law school and went to Korea. He's not the kind of a man that would be down in the voting line elbowing people out. He just isn't the kind of a guy to do that. And I can recall in those years back in the early sixties when sometimes Democratic politicians did run people through the voting lines that may or may not have been qualified to vote in specific urban precincts. I accept Bill's explanation that he advised the people that were checking on the polls, but did not participate in it himself.

LEWIS. Mr. McCloskey, only recently Mr. Rehnquist admitted that he was a little behind the times on wanting blacks to have equal access to public accommodations. Don't you think this shows that he lags at least behind the general populace even on these issues and perhaps has . . .

Representative McCLOSKEY. I think so.

LEWIS. . . . What did you say?

Representative McCLOSKEY. I think so. I think—as I say, his political views I don't agree with at all. But I hate to see us get to the point in this country where because a man is behind the times politically we deny him a seat on the court. I think the law's too important to have political views play a part in whether he's qualified or not.

LEWIS. What about his sensitivity to these major issues which are cropping up and will crop up in the seventies and eighties, and probably the nineties? Don't you think a man on the court should have a sensitivity to these things?

Representative McCLOSKEY. Very much so. But I don't think that the speed at which sensitivity comes to him—Bill is forty-seven. He's still learning; he's still growing. He's a man who, I think, is capable of changing his mind. And, you know, what are the real attributes of a judge? Reverence, respect for the law, an open mind, an absolute insistence on not having his political views intrude into his judicial decisions.

I disagree strongly with most everything Bill believes politically. But it seems to me that this is precisely what we need—is a man unwilling to let his political views intrude in his judicial decisions.

ROWAN. Well, you've touched upon a critical question there, and that is whether political views do intrude. You remember that marvelous quote from Chief Justice Hughes, who said the Constitution is what the judges say it is. Well, a man's political views go a long way toward determining how he rules on critical cases like *Brown* v. *Board of Education,* the 1954 school desegregation decision . . .

Representative McCLOSKEY. I agree with you.

ROWAN. . . . So how can you assure the public that Rehnquist will not let his political views get into his interpretation of the Constitution?

Representative McCLOSKEY. Well, because if you go back into Bill's history you find that even in law school he was concerned that liberal judges were writing their political opinions into judicial decisions. It's almost been a fetish with him, as I say, that he has opposed this concept.

Now when you take a judge ruling on the Constitution, he's taking the history of the country, the history of the Constitution, the evolution of our laws, the prior court decisions. Now, Bill Rehnquist could no more bring himself to back away from, say, *Brown* v. *Board of Education,* or any one of the great civil rights cases of our time, than the man in the moon.

I don't worry about him at all in that respect. My worry about his political views goes to his authoritarian comments about the position of the executive branch of government. I think we've reached the stage where if you took Attorney General Mitchell's concept that we're entitled to wire tap because we think it's right, or we're entitled to keep these papers secret because we think it is right, there is the real danger that you have. And there I'm convinced Bill Rehnquist is a far better lawyer than to permit his political views to intrude in his decisions.

LEWIS. But he's the lawyer who argued that case for the Attorney General.

Representative McCLOSKEY. I know. I've debated with him at tremendous length and in some violent disagreement before my own committee on government information.

ROWAN. What we really have here is you expressing a hope and trying to reassure the public on the basis of your personal friendship with Rehnquist. Isn't that about the shape of things?

Representative McCLOSKEY. No, because you can't really say that we're friends. We've known each other. We're not of the same temperament. We have as I've mentioned, I think we disagree on nearly everything. But I would feel very comfortable, Mr. Rowan, arguing a civil rights or a human rights, or a sensitivity case in front of Bill Rehnquist. I think he'd bend over backwards to try to base his judgment on the law and the facts. And that's what you're looking for in a judge. The whole practice of law—and I come from three generations of lawyers—the whole beauty of the law is the independence and the judicious temperament of the judge that rules on it. That's where the confidence and the support and the faith in the law comes from.

And I think this man can do it, even though we disagree so violently politically.

ROWAN: Well, of course, the Rehnquist appointment is only one tiny aspect of the performance of the Nixon administration, civil rights-wise and otherwise. Does this indicate a general satisfaction, on your part, with the performance of the administration?

Representative McCLOSKEY. Not at all. I—you know, I'm accused of being a one issue candidate, because I've opposed the war. And I run against the President primarily because of the war. But the two things that bother me almost equally as much is this administration's secrecy, concealment of information, deception. That's the first thing, because they've made news management, concealment and deception almost a trademark of this administration.

The second is their failure and their refusal to enforce the civil rights acts, particularly the Voting Rights Act of 1965. When this Attorney General refused to enforce that law down in Mississippi, when he pulled the voting registrars out, refused to send them back; when he said I can't enforce the law—I think there's a Circuit Court of Appeals down in Alabama that has bitterly characterized the Attorney General as a Pontius Pilate washing his hands of the civil rights act and his responsibility even to respond when they asked whether or not the Voting Rights program received his approval.

If I thought Bill Rehnquist had any part of the advice to the President or the participation in not enforcing the Voting Rights Act, it would certainly change my opinion. I can't believe that he'd do this . . .

[From the New York Times, Nov. 11, 1971]

EXHIBIT C

THE REHNQUIST DILEMMA

(By Tom Wicker)

The spectacle of Senator Edward Kennedy defending the reputation of William Rehnquist against allegations by Joseph Rauh of the A.D.A. suggests the painful dilemma in which liberals and civil libertarians have been placed by Mr. Rehnquist's nomination to the Supreme Court.

This nomination is not like that of Clement Haynsworth, whom President Nixon earlier tried to put on the Court. Judge Haynsworth was not confirmed by the Senate on the ostensible ground that his record on the bench showed a lack of perception of possible conflict-of-interest situations.

Nor is the Rehnquist case similar to that of Mr. Nixon's other rejected nominee, G. Harrold Carswell. Judge Carswell was found to have made misstatements to a Senate committee, and his confirmation hearings disclosed a glaring lack of qualification for the Supreme Court.

The Rehnquist matter is not even like that of Lewis Powell, whom Mr. Nixon has also named to the Court.

Mr. Powell is a pillar of the Southern establishment, a good credential in the Senate, he is 64 years old and his tenure on the Court will be limited by that; he is not expected by most observers to become a powerful leader within the Court.

Mr. Rehnquist is a horse of a very different color. At 47, he can look forward to a long and active tenure on the bench. Moreover, his record is that of a hard-working and vigorous champion of conservative political causes, both in Arizona and within the Nixon Administration. Persons in and out of the Administration who know his work credit him with superior intellect and skill in the law.

Thus Mr. Rehnquist on the Court is altogether likely to become a driving force for the principles he espouses. There are those who believe that as the years go along he will be a more formidable leader than Chief Justice Burger in the conservative wing of the Court—a wing that may already be in the majority on some issues and will almost surely become dominant if Mr. Nixon wins another term in the White House.

It is no wonder, then, that liberals and liberatarians are desperately casting about for means of defeating the Rehnquist nomination in the Senate. Mr. Rehnquist's record of opposition to civil rights measures, his strong advocacy of state powers that would threaten Bill of Rights guarantees—at least what many people passionately believe to be guarantees—his youth and his obvious leadership qualities might alter the course of the Supreme Court for decades to come.

But the hard fact is that no one has as yet produced any evidence of the kind of ethical tangles that ruined Judge Haynsworth's chances—and before that led to the resignation of Abe Fortas from the Court; nor has anyone been able to identify misstatements like those that sank Judge Carswell, let alone a lack of legal or intellectual qualifications.

It was, in fact, on the matter of Mr. Rehnquist's integrity that Senator Kennedy rebuked Mr. Rauh. The latter had suggested that the nominee had been less than candid in denying ever having been a member of the John Birch Society. The Senator could hardly be sympathetic to a man of Mr. Rehnquist's views, but he insisted that the nominee's basic integrity was unchallenged.

So the real question before the Senate is whether it can, or should, reject Mr. Rehnquist solely because of his political views. On the one hand, the writers of the Constitution, in giving the Senate the power to confirm or reject Presidential nominees to the judiciary, clearly meant the legislative branch to play a substantive role with the executive branch in this process. The Senate has the right, therefore, to judge for itself the qualifications of a man to sit on the Supreme Court.

On the other hand, to make that judgment solely on the basis of his political views (which, after all, may change) is dangerous business. It presumes some kind of rightful political orthodoxy; it would tend to politicize the courts according to the temporary political coloration of Congress; it could punish some individuals for their ideas and frighten others out of having any.

Moreover, it is bound to lead to retaliation, as it did when Republicans and conservatives defeated President Johnson's nomination of Justice Fortas to be Chief Justice, at least partially on political grounds. Paying off that score had a good deal to do with Jude Haynsworth's subsequent rejection.

It may be argued that Mr. Nixon should not have handed Senators this dilemma by appointing an activist political figure to a nonpolitical court; but the precedents are ample, and the Senate is likely to compound the damage if it denies Mr. Rehnquist his Court seat solely because of his political views.

EXHIBIT D

IN RE REHNQUIST

(By Tom Wicker)

WASHINGTON.—The Senate apparently will confirm Lewis Powell next week as an Associate Justice of the Supreme Court. After that, it will either face up to or delay the far more controversial and difficult matter of William Rehnquist, President Nixon's other nominee to the Court.

As it now appears, Mr. Rehnquist will be confirmed, too, unless those who oppose him are determined enough and able to put together something like the filibuster that, in 1968, prevented confirmation of Abe Fortas as Chief Justice.

This is at least a long-shot possibility because of Mr. Rehnquist's comparative youth (47) and his reputation as a skilled, active and intent champion of strongly conservative causes. Liberals fear he may become for many years the vigorous leader of a reactionary Court, but their dilemma is that no ethical or professional charges sufficient to warrant Mr. Rehnquist's rejection have so far been proved.

That means that the battle has to be fought, if at all, on the tricky ground of Mr. Rehnquist's political views—whether it is called his "judicial philosophy" or his "constitutional approach." The view was put forward in this space on Nov. 11 that this kind of opposition was "dangerous business"—that it suggested the existence of a kind of political orthodoxy, would tend to politicize the Court, would punish some people for their ideas while frightening others out of having any and would lead inevitably to political retaliation.

On balance, with full awareness that Mr. Rehnquist's views on the Bill of Rights seem antilibertarian, and despite weighty arguments from many who disagree, it still is "dangerous business" to reject him for his political views. Is it seriously to be asserted that conservative—even arch-conservative—views disqualify a man for service on the Supreme Court? If so, then what prevents some other Senate from disqualifying a man for strongly liberal views or for being a "new leftist" or a "neo-isolationist" or some other sterotype?

This is not to deny that the Senate has a duty to consider the qualifications of a nominee to sit upon the Court. Or that among the qualifications it ought to consider is his general political, constitutional and judicial view of things. Judge Carswell, for instance, was judged to be lacking in intellectual and legal competence, a judgment that could be solidly documented.

But can it be shown that Mr. Rehnquist lacks fidelity to the Constitution? No, only that in his view it allows more power to the state and less to the individual than many other Americans believe to be the case.

Can it be shown that Mr. Rehnquist's views are factually in error or substantively wrong? No, it is a matter of interpretation, and it is late in the day for liberals to start asserting that the Constitution is an absolute document not subject to interpretation or differing ideas. It is, in fact, the prime duty of the Supreme Court to decide what the Constitution means, on given subjects at given times in history.

Nor is the political aspect of the Rehnquist nomination an open-and-shut affair. No doubt Mr. Rehnquist will be a formidable conservative force on the Court (although that remains a supposition that only time can justify). Even so, the damage he might do to liberal causes could well be less than the political consequences of a third rejected Nixon nominee, a third defeated conservative, in a Senate dominated by liberal Democrats. Just as the Court itself must sometimes practice "judicial restraint," so it may be that the Senate ought to practice some political restraint. This, of course, is a value judgment that each Senator must make for himself.

That also is true of the really crucial question about Mr. Rehnquist, which can best be explained by reference to Mr. Powell. Those who know the Virginia lawyer, a former American Bar Association president, concede that his views in many ways are as conservative as those of Mr. Rehnquist—and that fact was documented in an article by Mr. Powell recently reprinted on this page.

But Mr. Powell, it is said, is an experienced and fair-minded man of judicial temperament who, in deciding legal and constitutional questions, will put aside any personal or political preferences and prejudices that can't be squared with the law and the facts of a case. He might, for instance, generally approve wiretapping as a law-enforcement tool—yet be willing to rule against it when, in some particular case, the facts showed that the law and the Constitution had been violated.

It is to be hoped that this is true—of Mr. Powell and of any nominee, liberal or conservative. Whether or not it is true of William Rehnquist is the vital question about his nomination, and one that each Senator must judge for himself. If Mr. Rehnquist can put his personal views aside when they can't be fairly justified by the law and the facts, then those views should not be the deciding factor; but if any Senator feels that Mr. Rehnquist, or any other nominee, could not so discipline himself intellectually, voting to reject him would surely be a duty.

[From the Washington Post, Dec. 9, 1971]

REHNQUIST: TOP MIND

(By Joseph Kraft)

Justice Holmes, on being asked what he thought of the intellectual abilities of another judge, once replied: "I never thought of him in that connection." And there lies the nub of the powerful, positive case that can be made for Senate confirmation of President Nixon's latest nominee for the Supreme Court, William Rehnquist.

For years now hardly anybody has thought of the Supreme Court as performing an intellectual function. Mr. Rehnquist, far more than any other recent nominee, has the calibre to restore intellectual distinction to the Court.

To understand why, it is necessary to say a word about the role of the Court in the country. The country is dominated by the million and one daily actions of an energetic population largely unconstrained in its capacity to buy and sell, move and dream, educate and obscure, build and tear down.

Given the nearly universal disposition toward almost constant action, it is ludicrous to think of tyranny being imposed on this country from above by some establishment eager to freeze the status quo or turn back the clock.

The central political problem of a populist country is to preserve some modicum of elite values—respect for achievement; toleration for difference of outlook; regularity of procedure. Partly by original design, but even more by the chance accretions of history, the Supreme Court has come to be the defender of those values—the elitist institution in a populist country.

Unfortunately for the Court, certain political decisions were thrust upon it by the deadlock that developed between Executive and Legislature during the post-war period. In the fields of civil rights and legislative reapportionment, the Court felt obliged—understandably considering that all other avenues seemed closed—to make rulings that might much more appropriately been the work of the President and the Congress.

In the heady atmosphere engendered by those decisions, the Court headed by Chief Justice Earl Warren became result-oriented. In case after case, it was increasingly hard to discover the inner logic of decision-making. Blacks seemed to be favored because they were blacks, baseball because it was a good clean American sport, anti-trust plaintiffs because they were against economic monsters.

President Nixon's efforts to correct the imbalance have been fumbling to the point of casting doubt on the sincerity of his claim to want "strict constructionists." His preferred candidates have been right-wingers, so little distinguished that the Senate and the American Bar Association have constrained him to throw them back in the pond.

Mr. Rehnquist is something else. He has not shown sensitivity to the needs of people in trouble, and he has said some hardline—and to me silly-sounding—things about the influence of Supreme Court clerks and the softness of judges toward communism. Some of these comments may be what ambitious juniors are required to say in order to get ahead in the Republican Party of Barry Goldwater and the Department of Justice of John Mitchell. Still, I suppose they represent a genuine right-wing conviction.

But Mr. Rehnquist also has a mind of the highest candle-power. His comments in the Judiciary Committee hearings have been unfailingly lucid and discriminating. He has been "hesitant"—a favorite word—when unsure of the fine details of a problem.

Even one of his staunchest opponents, Sen. Edward Kennedy, described him as "a man with a quick, sharp intellect, who quotes Byron, Burke, and Tennyson, who never splits an infinitive, who uses the subjunctive at least once in every speech, who cringes when he sees an English word created from a Greek prefix and a Latin suffix."

Only it happens that the qualities that Senator Kennedy is pleased to dismiss so crudely express a critical aspect of the Court's present work. The Court does not now need more liberals, more conservatives, or more middle-of-the-roaders. There are enough of those to assure that nothing drastic is going to happen in civil rights or criminal law.

What the Court needs is more brains. Mr. Rehnquist has them—more abundantly perhaps than any present member. And by uplifting the quality of the Court in general, he will do far more than any particular case can do to advance the values thoughtful men hold dear.

Mr. BROOKE. Mr. President, the confirmation proceedings on the nomination of William H. Rehnquist to be an Associate Justice of the Supreme Court appear to have narrowed to the actual intent of the nominee's 1952 memorandum to the late Justice Jackson. In a letter to the chairman of the Judiciary Committee (Mr. Eastland), Mr. Rehnquist has set the memorandum into a narrow context of a statement for Justice Jackson's tentative use in conference. Without attacking Mr. Rehnquist's candor in regard to this memorandum, I believe that serious questions can be raised as to the actual context in which the memorandum was drafted and for which the memorandum was to serve.

I ask unanimous consent that the memorandum be printed in the Record.

There being no objection, the memorandum was ordered to be printed in the Record, as follows:

Memorandum

Rehnquist states that the memorandum was prepared "as a statement of Justice Jackson's tentative views for his own use" for the conference of the Justices in the *Brown* case rather than as a statement of Rehnquist's own position and recommendation to the Justice.

1. The memorandum does not represent what is known of Justice Jackson's views on minority rights. It is highly improbable that he at any time believed that *Plessy* v. *Ferguson* had been rightly decided. Justice Jackson had a strong record against racial discrimination, exemplified most notably by his dissenting opinion in the Japanese relocation case, *Korematsu* v. *United States,* 323 U.S. 214, 242. (I should point out two cases in which he voted to sustain California's restrictions on aliens' rights to own land and fish, *Oyama* v. *California,* 332 U.S. 633, *Takahashi* v. *Fish & Game Commission,* 334 U.S. 410.) More telling, perhaps, is that Mr. Justice Jackson ultimately not only voted with the rest of the Court in *Brown* v. *Board of Education* but actually left his hospital bed to go directly to the Court to be present for the announcement of the decision on May 17, 1954. And aside from his judicial career, Justice Jackson had been America's chief prosecutor at the Nuremburg trials where his opposition to racism was manifested and reinforced. He referred to that experience in *Beauharnais* v. *Illinois,* 342 U.S. 250, 304 (dissent):

"Group libel statutes represent a commendable desire to reduce sinister abuses of our freedoms of expression—abuses which I have had occasion to learn can tear apart a society, brutalize its dominant elements, and persecute, even to extermination, its minorities. While laws or prosecutions might not alleviate racial or sectarian hatreds and may even invest scoundrels with a specious martyrdom, I should be loath to foreclose the States from a considerable latitude of experimentation in this field."

Even in that context, however, he was conscious that such laws must be carefully drafted because "the shoe may be on the other foot in some prosecution tomorrow." *Id.*

Not only does Justice Jackson's prior record on race repel the attribution of a pro-*Plessy* v. *Ferguson* view to him, but the memorandum contains another position which could not possibly have been intended to reflect that of the Justice:

"To the argument made by Thurgood, not John Marshall that a majority may not deprive a minority of its constitutional right, the answer must be made that while this is sound in theory, in the long run it is the majority who will determine what the constitutional rights of the minority are. One hundred and fifty years of attempts on the part of this Court to protect minority rights of any kind—whether those of business, slaveholders, or Jehovah's Witnesses—have all met the same fate. One by one the cases establishing such rights have been sloughed off, and crept silently to rest. If the present Court is unable to profit by this example, it must be prepared to see its work fade in time, too, as embodying only the sentiments of a transient majority of nine men."

Even if it stood alone, his opinion in *West Virginia Board of Education* v. *Barnette,* 319 U.S. 624, would be eloquent testimonial that he believed that the Court can and must protect the rights of minorities, including "Jehovah's Witnesses." Of the many passages in the opinion which bear this out, quotation of one is sufficient:

"It seems trite but necessary to say that the First Amendment to our Constitution was designed to avoid these ends by avoiding these beginnings. There is no mysticism in the American concept of the State or of the nature or origin of its authority. We set up government by consent of the governed, and the Bill of Rights denies those in power any legal opportunity to coerce that consent. Authority here is to be controlled by public opinion, not public opinion by authority.

"The case is made difficult not because the principles of its decision are obscure but because the flag involved is our own. Nevertheless, we apply the limitations of the Constitution with no fear that freedom to be intellectually and spiritually diverse or even contrary will disintegrate the social organization. To believe that patriotism will not flourish if patriotic ceremonies are voluntary and spontaneous instead of a compulsory routine is to make an unflattering estimate of the appeal of our institutions to free minds. We can have intellectual individualism and the rich cultural diversities that we owe to exceptional minds only at the price of occasional eccentricity and abnormal attitudes. When they are so harmless to others or to the State as those we deal with here, the price is not too great. But freedom to differ is not limited to things that do not matter much. That would be a mere shadow of freedom. The test of its substance is the right to differ as to things that touch the heart of the existing order.

"If there is any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion or force citizens to confess by word or act their faith therein. If there are any circumstances which permit an exception, they do not now occur to us." *Id.* at 641–642 (footnote omitted).

Indeed, Mr. Justice Jackson's entire career repudiates the claim that the memorandum reflected the Justice's view that

"* * * where a legislature was dealing with its own citizens, it was not part of the judicial function to thwart public opinion except in extreme cases."

See, e.g., *American Communication Assn.* v. *Douds,* 339 U.S. 382, 422 (separate opinion) (freedom of speech and association); *Johnson* v. *United States,* 333 U.S. 10 (Fourth Amendment); *Everson* v. *Board of Education,* 330 U.S. 1, 18 (dissenting opinion), and *Zorach* v. *Clauson,* 343 U.S. 306, 323 (dissenting opinion) (both dealing with minority rights under First Amendment's Religion clauses). Justice Jackson sometimes disagreed with other members of the Court as to the scope of individual rights under the Constitution, but he yielded to no one in his insistence that the protection of such rights was a primary function of the Supreme Court. To put into his mouth the sentence "One by one the cases establishing such rights have been sloughed off, and crept silently to rest" is to contend that Justice Jackson was willing to repudiate a substantial part of his life's work.

2. There is considerable internal evidence in the memorandum, aside from the views which it expresses, to show that it could not have been intended for the use of Justice Jackson in a conference.

a. Taking the memorandum as a whole, it contains nothing that Justice Jackson did not know, or of which he would have to be reminded by a written memorandum. Doubtless, Justices ask their law clerks to draft summaries of precedents, or arguments of counsel to be used by a Justice at conference. But this memorandum does not contain that kind of legal analysis. It is, rather, a statement of judicial philosophy and well known, if somewhat one-sided, judicial history. It is doubtful whether any Justice would have needed a memorandum to refresh his recollection of the matters contained in that memorandum, but surely Justice Jackson, who was generally regarded as the most able and eloquent advocate on the Court, was unneedful of this kind of prop and would not have asked for it.

b. The title itself is a giveaway, "A Random Thought on the Segregation Cases." A memorandum drafted for use by a Justice in conference would probably have no title at all, but "random" is hardly an appropriate description of a memorandum written pursuant to instructions and for use in serious deliberations. On the other hand, the title is entirely appropriate if the memorandum is indeed what it otherwise appears to be, a memorandum from Mr. Rehnquist to Justice Jackson expressing the law clerk's views.

c. The history recited in the memorandum is so elementary that it would have insulted the intelligence of the other Justices if it had been recited in conference.

d. The personal references to the Justices are inconsistent with the tone which Mr. Jackson would have used, or could have been expected to use. There are three examples of this in the memorandum. Each of these is sufficiently telling that it merits separate attention.

i. "I would suggest that this is a question the Court need never reach; *for regardless of the Justice's* individual views on the merits of segregation, it quite clearly is not one of those extreme cases which commands intervention from one of any conviction."

If the "I" throughout this memorandum is Justice Jackson (that is, if the memorandum was, as Mr. Rehnquist asserts, a statement of Justice Jackson's own position), then the phrase *"for regardless of the Justice's* individual views on the merits of segregation" does not ring true. Rather, Justice Jackson would have said "I would suggest that this is a question the Court need never reach; for regardless of *our* individual views * * *." Indeed, the singular "Justice's" is (unless it is a typographical error) evidence that the Justice referred to is Justice Jackson being addressed by Mr. Rehnquist.

ii. "If this Court, because its members individually are 'liberal' and dislike segregation, now chooses to strike it down, it differs from the McReynolds court only in the kinds of litigants it favors and the kinds of special claims it protects."

It is at least unlikely that Jackson would have referred to the other members of the Court as "liberal" or that Rehnquist would have thought that this usage was proper for a statement that Jackson would make.

iii. The Third passage leaves little doubt that the "I" is Rehnquist, not Justice Jackson.

"I realize that it is an unpopular and unhumanitarian position, for which I have been excoriated by 'liberal' colleagues, but I think *Plessy* v. *Ferguson* was right and should be re-affirmed."

I know of no evidence that Justice Jackson was ever "excoriated by 'liberal' colleagues," that is, by other members of the Court. Indeed, since Justice Jackson had never previously taken any position suggesting that *Plessy* v. *Ferguson* was correct, there would have been no occasion for such excoriation. Mr. Rehnquist's explanation is questionable also because the " 'liberal' colleagues" are referred to in the third person, which would have been inappropriate if the memorandum was drafted for Justice Jackson to use in conference when only those colleagues would be addressed. If the memorandum was really intended for Justice Jackson's use in conference, it would have read something like "I realize that it is an unpopular and unhumanitarian position, for which I may be excoriated by some of my brethren * * *."

A minor, and perhaps less compelling, point as to the use of the third person is that one member of the Court is more likely to refer to the others as "brethren," and that a clerk writing for a Justice would adopt this formula. On the other hand, the word "colleague" is precisely the one which one would expect if a clerk was complaining about the treatment he was receiving from his fellow law clerks. Finally, it is particularly unlikely that Mr. Justice Jackson, of all people, should have required a law clerk to draft language for him in response to other members of the Court who had excoriated him for his position. Mr. Justice Jackson, as is well known, was entirely able to take care of himself in such intramural debate.

e. The tone of the memorandum is uncharacteristic of Justice Jackson, but more characteristic of Mr. Rehnquist. Most obvious, perhaps, is the *ad hominem* thrust, "To the argument made by Thurgood, not John Marshall * * *."

3. Evidence of Mr. Rehnquist's subsequent actions strongly suggests that the memorandum is a representation of Mr. Rehnquist's own views.

As I pointed out in an earlier floor speech.

a. The memorandum is entirely consistent with the position Mr. Rehnquist took on racial issues until the time of his nomination. For, even a decade after the *Brown* decision Mr. Rehnquist opposed a local anti-discrimination ordinance, expressing greater concern for the discriminator than those discriminated against. And in 1967 Mr. Rehnquist opposed integration of the Phoenix public schools saying, in that context, "we are no more dedicated to an 'integrated' society than we are to a 'segregated' society." It is far more plausible to attribute the views of that memorandum to one with Mr. Rehnquist's unfortunate record on racial matters than to Mr. Justice Jackson.

b. The passage quoted earlier, "I have been excoriated by 'liberal' colleagues," is illuminated by Mr. Rehnquist's article about the practices of law clerks at the Supreme Court. In that article in *U.S. News & World Report* he objected that "the political cast of the clerks as a group was to the 'left' of either the nation or the Court". It would now appear that the article was, in part, Mr. Rehnquist's reaction to the excoriation to which he referred in his memorandum to Justice Jackson. In that same article Mr. Rehnquist said:

"An ideal clerk ought, in most aspects of his official capacity, to mirror as best he can the mind of the Justice for whom he works. There is room for sensibly presented difference of opinion when the lines of dispute are clearly drawn and in the open, but there is no room for the clerk's deliberate use of his position as research assistant to champion a cause to which his Justice does not subscribe."

As we have already shown, the statement does not appear to mirror Mr. Justice Jackson's mind, particularly on the question of the role of the Court in protecting minority rights. Indeed, if the memorandum is what it appears to be, Mr. Rehnquist's statement of his own views to Justice Jackson, it violates the very precepts which Mr. Rehnquist purported to set forth in the article and whose unconscious violation he ascribed to the other clerks.

c. The *ad hominen* approach of the memorandum is consistent with Mr. Rehnquist's normal style. As I pointed out in my remarks Tuesday, "the contemptuous tone of Mr. Rehnquist's letter [of October 21, 1971, to the *Washington Post*] is almost as disturbing as its content."

d. Mr. Rehnquist's cavalier use of history in the memorandum is mirrored by his argument in opposition to the proposed public accommodation ordinance in Phoenix where he stated:

"There have been zoning ordinances and that sort of thing but I venture to say that there has never been this sort of an assault on the institution where you are told, not what you can build on your property, but who can come on your property."

Yet, in fact, since 1701 the common law has been that a businessman, particularly an innkeeper, is "bound to serve the subject in all things that are within the reach and contemplation of" his calling. *Lane* v. *Cotton*, 12 Mod. 472, 484 (1701), quoted in *Lombard* v. *Louisiana*, 373 U.S. 267, 274 at 277 (concurring opinion). As of 1964 many states and cities had ordinances such as the one proposed for Phoenix. One such was sustained by the Supreme Court during Mr. Rehnquist's own tenure as law clerk. *District of Columbia* v. *John R. Thompson*, 346 U.S. 100.

Mr. SCOTT subsequently said: Mr. President, I have a cablegram addressed to Mr. J. R. Kendall, International Government Relations Adviser, Washington, from "Mobileurope, London." The cablegram is from Mr. Donald Cronson. The cablegram, which is from London, reads as follows:

> Please relay following memorandum to William Rehnquist.
>
> A reporter telephoned me from the States last night and asked if I had any recollection concerning the memorandum on the segregation cases attributed to you in Newsweek. As a result of his request I have examined my files and reflected on the matter. It is my recollection that the memorandum in question is my work at least as much as it is yours and that it was prepared in response to a request from Justice Jackson to prepare such a memorandum. My recollection of the events leading to it is as follows.
>
> Prior to the preparation of the memorandum referred to in Newsweek another memorandum was prepared of which I still have a copy. It is my recollection that I actually typed the first memorandum, although it is possible that you did. It was in any case the result of collaboration between us. That first memorandum supported the position that Plessy was wrongly decided, and that the Court should announce that it was wrongly decided, but that the Court should leave to the Congress the responsibility for taking action to change the system of segregated education that had grown up on the basis of the wrong decision in Plessy. After examining that memorandum—

I say parenthetically that it is still in the possession of Mr. Cronson, in London.

> Justice Jackson requested that a memorandum be prepared supporting the proposition that Plessy was correctly decided. The memorandum supporting Plessy was typed by you, but a great deal of its content was the result of my suggestions. A number of phrases quoted in Newsweek I can recognize as having been composed by me, and it is probable that the memorandum is more mine than yours.
>
> I leave to your good judgment whether my recollection as set forth above should be publicized.
>
> If you think I can provide any further information that will be helpful please telephone me. My office number in London is 839 1262. My home number is London 493 8181 or Gstaad, Switzerland, 43674.
>
> DONALD CRONSON.

I think that this furnishes some very interesting and further enlightenment and establishes the credibility of Mr. Rehnquist which was so unwarrantedly attacked today.

If reporters are interested, let them call Mr. Cronson in London.

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BROCK). Without objection, it is so ordered.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Hackney, one of its reading clerks, announced that the House had disagreed to the amendments of the Senate to the bill (H.R. 6065) to amend section 903(c)(2) of the Social Security Act; agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. MILLS of Arkansas, Mr. ULLMAN, Mr. BURKE of Massachusetts, Mr. BYRNES of Wisconsin, and Mr. BETTS were appointed managers on the part of the House at the conference.

The message also announced that the House had disagreed to the amendments of the Senate to the bill (H.R. 10604) to amend title II of the Social Security Act to permit the payment of the lump-sum death payment to pay the burial and memorial services expenses and related expenses for an insured individual whose body is unavailable for burial; asked a conference with the Senate on the disagreeing votes of the two Houses thereon, and that Mr. MILLS of Arkansas, Mr. ULLMAN, Mr. BURKE of Massachusetts, Mr. BYRNES of Wisconsin, and Mr. BETTS were appointed managers on the part of the House at the conference.

LEGISLATIVE SESSION

Mr. BYRD of West Virginia. Mr. President, I move that the Senate resume the consideration of legislative business.

The motion was agreed to, and the Senate resumed the consideration of legislative business.

ORDER OF BUSINESS

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the distinguished Senator from Louisiana (Mr. Long) be recognized.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that time on the conference report which the Senator from Louisiana is about to call up be limited to 1 hour, to be equally divided between the able Senator from Louisiana (Mr. Long) and the able Senator from Nebraska (Mr. Curtis).

Mr. JAVITS. Mr. President, reserving the right to object—and I shall not object—I want to ask the Senator from Louisiana, if it will suit his convenience, to give me a few minutes for colloquy, as we struck out the amendment we carried in the Senate unanimously. I understand why we have structured it out, but we should spread the facts on the Record and whenever the Senator could accommodate me in that respect, I would appreciate it.

Mr. LONG. Of course.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia? The Chair hears none, and it is so ordered.

Mr. BYRD of West Virginia. Mr. President, my understanding is that we are in agreement that a yea and nay vote will be requested on this conference report.

Mr. GRIFFIN. I am glad the Senator from West Virginia has indicated that.

Mr. BYRD of West Virginia. So Senators should be alerted to that fact.

Mr. LONG. Mr. President, I would like to have the attention of the Secretary of the Senate or his representative and ask that he undertake to see that the staffs of the Committee on Finance and the Joint Committee on Internal Revenue Taxation be alerted to the fact that this conference report is now under consideration, in order that members of those staffs may be available to consult with and advise Senators on technical aspects of the conference report while it is being considered on the floor.

REVENUE ACT OF 1971—CONFERENCE REPORT

Mr. LONG. Mr. President, I submit a report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 10947) to provide a job development investment credit, to reduce individual income taxes, to reduce certain excise taxes, and for other purposes. I ask unanimous consent for the present consideration of the report.

The PRESIDING OFFICER (Mr. Brock). Is there objection to the present consideration of the report?

There being no objection, the Senate proceeded to consider the report.

(The conference report is printed in the House proceedings of the Congressional Record of December 4, 1971 at pages 44768–44776.

Mr. LONG. Mr. President, I cannot say that I view this as a very satisfactory conference agreement from the standpoint of the Senate. I say this because the Senate will find that many of the provisions added here on the Senate floor have been deleted. Despite this, there were many Senate provisions which were accepted in conference and which will become part of the final law.

As I analyze the situation, there are two basic reasons which account for the deletion of most of the Senate provisions which proved to be unacceptable to the House conferees. The first of these reasons is that the Senate in its action here on the floor added very appreciably to the revenue loss. Some of us recognized that this might occur and tried—I know that I tried—although unsuccessfully—to prevail upon the Senate to accept other amendments—such as the cutback in depreciation—which would have recouped an appreciable amount of this loss. That, in my judgment, would have been necessary if we were to persuade the House to agree to some of the Senate provisions entailing a large tax reduction and a large revenue loss.

The result of this was that the House passed a bill which, in the 3 years 1971, 1972, and 1973, would lose $15.4 billion.

The Senate action increased the total for this 3-year period to $27.9 billion—actually some $12.5 billion more than that provided by the House bill. I should note that virtually all of this was added on the Senate floor. The House conferees felt that a revenue loss in the range of $15 to $16 billion was all that was appropriate at this time. They believed that any appreciably larger revenue loss would tend to refuel the inflationary fires despite our wage and price controls. This was the principal reason why the House conferees were unwilling to accept the following amendments—

First, extending the investment credit for farm machinery back to January 1. This involves a revenue loss of $75 million in 1971.

Second, allowing a 10-percent investment credit in place of a 7-percent credit in rural areas and in central city areas. This represents a revenue loss of $100 million in 1971, $750 million in 1972, and $750 million in 1973.

Third, increasing the minimum standard deduction from $1,050 to $1,300 for 1971. The revenue cost of this was $1.4 billion in 1971.

Fourth, increasing the personal exemption for 1972 and subsequent years from $750 to $800. This involves a revenue loss of slightly over $1.8 billion in 1972 and slightly over $1.9 billion in 1973.

Fifth, providing a tax credit for college education expenses. This involved a revenue loss of $2.2 billion in 1972 and $2.3 billion in 1973.

Sixth, providing a tax credit for real property taxes or rents paid by the elderly. This involves a revenue loss of $225 million in 1972 and $235 million in 1973.

Seventh, providing an extra exemption for the disabled. This involves a revenue loss of $190 million in 1972 and $200 million in 1973.

Eighth, finally, in this category, requiring only quarterly deposits of withholding and social security taxes collected by employers from employees where the number of employees is 50 or less. In terms of the fiscal year collections for 1972, this would have involved a decrease in collections of $1.5 billion.

In some of the other modifications of Senate amendments also, the modifications were designed, at least in part, to save revenue.

The second reason the House conferees refused to accept an appreciable number of Senate amendments was that they considered a number of the amendments as not being germane under their rules. That included six items some of which I sponsored and fought for hard myself, and some of which I hope we may yet enact. In the Legislative Reorganization Act of 1970 a provision was added which, with respect to the House rules, had the effect of providing that the House conferees may not accept—without subjecting the conference report to a point of order—a provision which could not have been added on the floor of the House when the bill was originally considered.

No one can be quite sure how this would be interpreted under the House rules since, with the closed rule under which the House customarily acts on a tax bill, there have been very few prior tests of germaneness in the case of tax provisions. The House conferees seemed to feel, however, that since the bill the House sent over to the Senate constituted basically an amendment to the Internal Revenue Code of 1954, amendments to be germane must either be amendments directly to the Internal Revenue Code or amendments which were clearly related to material which is in that code.

If this interpretation of the House rules is correct, this represents a severe restriction on Senate action, not only with respect to tax bills, but also with respect to other legislation. It seems to me that this is a problem which the Senate must face up to if it is to maintain its position in legislation, not only in the area of taxation but in other areas as well.

The Senate provisions which were not agreed to in large part because the House conferees believed the provisions were not germane under the House rules are as follows—

First, the Senate provision allocating 7 percent of alcohol tax receipts to the highway trust fund—this was an amendment to the highway trust fund rather than to the Internal Revenue Code.

Second, the Senate provision which would authorize the President to impose quotas and import surcharges up to 15 percent on articles imported during a balance-of-payments emergency period. This amendment also directed the Secretary of the Treasury to exempt from the present import surcharge, piston-type internal combustion engines to be installed in snowmobiles.

Third, the portion of the work incentive program—WIN—amendments which relates to changes in the WIN program in the Social Security Act. As indicated elsewhere, the tax credit relating to the

WIN program was agreed to by the conferees.

Fourth, the amendemnt offered by Senator MAGNUSON which would have provided unemployment compensation benefits for up to 26 weeks to unemployed individuals who have exhausted their right to both regular unemployment benefits and emergency benefits provided for under the 1970 Act. This is the amendment which would have provided the additional unemployment benefits in those States where unemployment benefits in those States where unemployment was at a rate of 6 percent or above.

Fifth, the amendment which would have required the President to transmit reports to the Congress and the Comptroller General containing information as to appropriated funds which are impounded.

Sixth, and finally, the amendment offered by Senator COTTON which would have authorized the President under certain conditions to impose import quotas and other import restrictions on imported articles.

Those were amendments that, under the House rules, we were informed could not be agreed to because they were subject to a point of order. I regret that the Senate agreed to a provision, as part of the Reorganization Act, which, in effect, prevented the Senate from obtaining consideration of amendments which were in order under the Senate rules. This rule in effect, set the foundation for the House to decline to accept Senate amendments because they are not germane under the rules of the House of Representatives.

In my judgment, when the Senate did that, it did a very foolhardy thing. It tended to make the Senate an inferior, rather than a coequal body in this legislative process.

I would hope that the Senate some day would realize the folly of that action and try to do something about it. I had hoped to try to prevent this from happening in the first instance.

That was the reason why the Senate was not even able to obtain consideration of six important Senate amendments, some of which I was privileged to sponsor myself while this measure was being considered in the Committee on Finance.

Mr. President, turning now to the political contribution and public campaign financing amendments, as Senators undoubtedly know, the House did agree to the Senate amendments but with some very significant modifications. The House agreed to the tax credit of up to $25 for joint returns and $12.50 for single returns, as well as the alternative of a deduction for up to $100 in the case of joint returns and up to $50 in the case of separate or single returns.

In addition, the House conferees agreed to the checkoff system for the public financing of presidential elections. However, in view of the President's attitude toward this provision, the House conferees were unwilling to make this provision effective for the 1972 election. The House conferees believed, given the President's direct statement that he would veto the bill if this provision were in it, that to make this provision applicable to the 1972 elections would defeat any public campaign financing either for 1972 or for subsequent years. In addition, the President's attitude, would presumably also defeat the passage of any tax reduction for individuals and provisions of an investment credit for business, at least in this session of Congress.

I must say that it is with great reluctance that I and the majority of the other Senate conferees went along with the change making the checkoff system inapplicable to the 1972 election. However, as unfortunate as I believe that is, this provision is still in the bill and will be applicable to all presidential elections after the 1972 election. I believe that this is a great step forward as I am sure the majority in this body will believe also. In any event, let us hope that postponing the provision beyond the 1972 election will, in fact, give us a little bit more bipartisan support for the provision.

Despite the fact that I have devoted some time to pointing out the unsatisfactory aspects of our conference on the Revenue bill of 1971, there were a great number of changes proposed by the Senate which were accepted by the House conferees. In fact, I think I can say that for the most part, the Senate amendments which did not involve an appreciable revenue loss or which did not fall before the House germaneness rule in almost all cases survived and are in the conference report before us. These include some 26 provisions. They are as follows:

First, the provision which gave taxpayers the option in their accounting methods of either flowing through the benefit of the investment credit to profits currently or of flowing these benefits through to profits ratably over the life of the property. As approved by the conferees, this provision applies both to the report to Federal agencies and also to all reports over which any Federal agency has jurisdiction—this includes financial reports to shareholders over which the SEC has jurisdiction. The conferees provided an exception to this treatment in the case of regulated public utilities subject to the special rules relating to the treatment of the investment credit for ratemaking purposes. This was provided because taxpayers taking the second option—namely, the option of flowing the benefits of the investment credit through in profits over the life of the asset—also are required to account generally in their financial reporting for the credit on the same basis. However, it is expected that regulated companies which do not select this option will have the same rights as taxpayers generally to either flow the benefits of the credit through in profits currently or ratably over the life of the asset as they choose.

Second, the Senate amendment which would have permitted the administration to deny the investment credit for foreign produced property on a country-by-country basis even though the surcharge is repealed. The House agreed to a version of this amendment under which this is treated as another method of offsetting under the Trade Act of 1962, discriminations imposed by foreign countries with respect to U.S. products.

Third, the treatment of used property under the investment credit provided by the Senate bill. Thus, the investment credit will be available for up to $50,000 of used property and the amount of the credit which can be taken for used property will not be offset by any new property purchased by the taxpayer and eligible for the investment credit.

Fourth, the Senate modifications of the House bill designed to perfect the treatment of the investment credit in the case of regulated public utilities. These were accepted with virtually no modifications from the Senate-passed provisions.

Fifth, the Senate version of the limitation which permitted only 20 percent of pre-1969 investment credit carryovers to be used in any one year. The Senate version of the bill made this inapplicable to the portion of the year coming after August 15, 1971. The House would have continued the application of this 20-percent rule with respect to the second portion of 1971.

Sixth, the Senate provision for deduction for domestic service and child care. The Senators will recall that the Senate version of the bill contained a provision making a deduction of up to $400 a month available for domestic service or child care expenses either in the home, or in the case of child care expenses, to a limited extent, outside the home. In the case of single persons and also in the case of couples where one spouse was disabled, this was available under the Senate version without any income limitation. For married couples, the provision was limited to those where both were working and the combined incomes were $18,000 or less. A transitional rule provided for those with incomes immediately above $18,000. The House conferees agreed to the Senate provision but made this $18,000 rule applicable across the board, not only to married couples but also to single persons as well. In addition, as agreed to by the conferees, this deduction will be available only to those who itemize their personal deductions. This modification from the Senate provision is expected to save $170 million.

Seventh, the Senate provision requiring that a levy generally cannot be made on a salary or wages of an individual until he is notified of this in writing.

Eighth, the Senate provision providing that, in the case of a taxpayer who is the dependent of another taxpayer, the percentage standard deduction and low-income allowance are to be computed only with reference to that individual's earned income.

Ninth, the Senate modification of the House provision relating to the limitation on the carryover of unused investment credits, foreign tax credits and unused net capital losses. The Senate amendment provides that this rule is not to apply to reorganizations and other changes in ownership in the case of plans or contracts entered into before September 29, 1971.

Tenth, the changes in the definition of a net lease agreed to by the Senate. These apply for purposes of the minimum tax on tax preferences and also for purposes of the limitation of the deductibility of excess investment interest.

Eleventh, the Senate provision postponing for 1 year the application of the capital gain distribution rules applicable in the case of accumulation trusts in existence on December 31, 1969.

Twelfth, the modifications made in the provision relating to whether a corporation qualifies for Western Hemisphere Trade Corp. treatment when it derives income from within the Virgin Islands.

Thirteenth, the Senate provisions providing that bribes, kickbacks, medical referral payments, and other illegal payments are not to be deductible for income tax purposes with two modifications. First, the conferees provided that the burden of proof as to whether a payment is an illegal payment is to be upon the Government to the same extent as the Government bears this burden of proof in tax cases relating to fraud. Second, in the case of medical referral payments, instead of amending the Social Security Act to make these illegal as such, the conference agreement treats such payments as not being deductible. I expect the Finance Committee, in connection with subsequent social security legislation, to again propose a provision making medical referral payments illegal.

Fourteenth, the modification made by the Senate in the provision of present law which provides a rebuttable presumption that an activity is engaged in for profit if there is a profit in the activity in 2 out of 5 of the last taxable years—or 2 out of the last 7 in the case of the breeding or raising of horses.

Fifteenth, the Senate amendment providing that a distribution of property to a foreign corporation—unless effectively connected to a trade or business in the United States—is, for tax purposes, to be the fair market value of the property distributed.

Sixteenth, the Senate provisions relating to original issue discount.

Seventeenth, the Senate provision providing that if a taxpayer leases a domestically produced aircraft or vessel to a U.S. person he may treat the income derived as income from sources within the United States.

Eighteenth, a portion of the Senate amendment relating to industrial development bonds. The House conferees accepted the portion of this amendment which places in a separate category bonds issued with respect to the furnishing of water. It did not, however, agree to permit the issuance of industrial revenue bonds in the amount of $5 million irrespective of the size of the other capital investments made by the company involved. Instead, the conferees agreed that the escape valve which does not deny the exemption where the capital expenditures made in the period 3 years before or 3 years after the issuance of the tax exempt bonds exceed the $5 million limit by no more than $250,000 was to be raised to $1 million.

Nineteenth, the Mathias amendment prohibiting those who prepare tax returns for compensation from disclosing information on the returns or from using the information for other purposes, except to the extent provided for by regulations.

Twentieth, in the case of the amendment which would have required the publication of estimates of tax expenditures in the budget or related budget documents each year, although the amendment as such was deleted, the Treasury has promised to make these reports annually to the tax committees and it may also include estimates of this type in the annual report of the Secretary of the Treasury. In any event, the material will be published in a form which will be available to the general public on an annual basis.

Twenty-first, the Senate amendment repealing the excise tax on trailers used primarily in connection with light-duty trucks where the gross vehicle weight of the trailer is 10,000 pounds or less.

Twenty-second, the amendments providing for exemption of the tax on busses used in urban mass transportation service and the truck tax on domestic trash containers.

Twenty-third, the Senate amendment subjecting to tax tires and tubes on imported vehicles.

Twenty-fourth, the Senate amendment providing for a credit against the Federal occupational tax on coin-operated gaming devices where similar State taxes are imposed. However, the conference agreement omits the requirement that the State tax be one which is in effect on the date of enactment of this bill.

Twenty-fifth, most of the Senate amendments with respect to the DISC—domestic international sales corporation—provision. The House conferees did not agree to the termination of the provision after a 5-year period but they agreed to the other basic changes made by the Senate.

Twenty-sixth, the tax credit provided to employers who, through the work incentive—WIN—program, hire individuals who are on welfare. The tax credit in this case is 20 percent of the payments made in the first year.

Despite the fact that the House conferees were unwilling to go along with the Senate on those amendments which involved a large revenue loss or those which were considered not germane under the House rules, in virtually all other cases, the House conferees did accept the Senate amendments. In view of this and the importance of this bill in increasing production in the period ahead, I would urge the Senate to agree to the conference report.

In summary, let me add these personal thoughts. I believe the bill we have brought from the conference is a good bill as far as it goes, but should have gone further in the direction of tax relief for individuals than it did. Personally, I supported many of the Senate amendments calculated to make the bill more responsive to what I considered to be in the best interest of the people of the United States, and I hated to lose them in conference.

When one examines the tax bill it is apparent that permanent new tax relief of tremendous magnitude is being provided for the business community. I do not quarrel with that; taxes are too high. But, unfortunately, so far as individual taxpayers are concerned the bill adds little new relief to the tax cuts Congress approved in 1969. Rather, it merely accelerates these tax cuts and makes them available a little sooner than otherwise would be the case.

I recognize fully that the effect is lower taxes now and now is when the economy needs the stimulus that comes from lower taxes. I remain convinced, however, that in the long run Congress is going to have to do more to lift the burden of individual income taxes either through changes in the tax rates, or by permanent increases in the personal exemption, and I intend to direct my efforts to this end.

I have made reference to the fact that many important Senate amendments to the bill were rejected because it was claimed that the rule of germaneness in the House of Representatives would not permit them. I believe that provision is wrong in principle. It is, in fact, an affront to the Senate. There is no doubt in my mind that we made a grievous error when we permitted that provision to be included in the Legislative Reorganization Act. No doubt it will haunt future conferees.

In my many years as a conferee with those conferees who represent the House of Representatives in the conferences, the conferees have always been willing to consider the proposals of the Senate. However, they are now less willing to discuss proposals properly made in accordance with the Senate's rules. In fact, they were never less willing to consider amendments appropriate under the Senate rules than they were on this bill. The Senate can blame itself for that result, especially in having, in effect, imposed a House rule upon the Senate.

I repeat this is a good bill as far as it goes. It is my hope that on another bill at another time we can persuade the House conferees of the wisdom and desirability of some of the tax-cutting amendments, as well as some of those proposals which were considered nongermane on this bill, which they so adamantly refused to accept as part of this bill.

Mr. MOSS. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. MOSS. Mr. President, do I correctly understand from the Senator's report that the conferees did keep a tax checkoff on the return, but set off the date until 1976?

Mr. LONG. The Senator is essentially correct. Under the compromise agreed to between the two Houses, a taxpayer for returns filed starting in January 1973 would have the privilege of marking on the tax return whether he wanted his dollar to go to the party of his choice or whether he wanted that dollar to go into the nonpartisan presidential election account.

The House was unwilling to agree to the automatic appropriation. It was contended that that might be subject to a point of order in the House of Representatives. It also was anticipated by the House conferees that there would be serious opposition from members of the

House Appropriations Committee. Therefore, the House was willing to agree only that this be an authorization subject to annual appropriations.

I honestly think that if this provision works as we think it will work and tens of millions of people signify their desire that their dollars be used in the fashion they indicate, Congress in practice will be required to respect their wishes.

Whether the checkoff can be provided for the 1972 election or not before the 1976 election, it still would be very desirable that what we propose again what we did in our version of the bill, a permanent appropriation that would automatically take effect and make the will of the people felt when they mark on their tax return that they want their $1 used in the manner in which I have described.

Mr. MOSS. This was objected to by the House conferees as a nongermane item. They thought there would be objection from their Appropriations Committee.

Mr. LONG. In the conference every Democrat voted to agree at least in part to what the Senate did in regard to the tax checkoff; every Republican voted against it. It was a partyline vote, insofar as the conference was concerned. Those who agreed to go along with the tax checkoff did not feel that, in view of the problems I have mentioned, they could persuade the House at this point to accept the automatic appropriations.

I would hope we could renew this issue on the permanent appropriation, but I would submit to the Senator if the people of this country do what I think they will do, and that is mark on their tax returns that they want $1 used in this fashion, it will strengthen our hand and help us prevail on the Congress and the President to respect the wishes of the people in this regard.

Mr. MOSS. It seems to me we made a most significant change in the Senate. The Senator well remembers, because he was the manager of the bill, that we spent many hours debating this provision. There were a number of rollcall votes perfecting that part of the bill.

As a matter of fact, I felt that was one of the many great strides forward we had made toward relieving the election process of the one who could scare up the biggest contributors. To set it aside now and say that because there is an election in the offing and that we will put it off until after that election, seems to me to take most of the steam out of it and put it back in the debating situation rather than one of action.

I deeply regret that the conferees came to that conclusion.

If it were not so late in the session, with the pressures that are on us so much for the tax features of the bill, with which I agree, and I think that is important to our economy, I think this is one instance where we should disagree and have some further conference with the House.

Mr. LONG. I have been struggling in this area for more than 6 years, as the Senator well knows. If I thought we could have achieved any more than we accomplished at this point I would never have signed the conference report. The Senator can be sure of that.

I am reminded of an illustration one of our colleagues who has since departed this body gave on one occasion. He said that the situation could be compared to that of a farmer trying to get a wagon up a steep hill, with a horse pulling on the wagon and the farmer pushing on the wagon. He would manage to move the wagon up the steep hill to the point where the horse could not pull any further and he could not push it any further. When this point was reached our former colleague suggested it was a good idea to put a rock under the wheel, rest both the horse and the man and then, thereafter, to see if they could push the wagon farther, and if not, go down the hill to get help to push it farther.

In a similar fashion I think we have done everything we could at this time. My guess is that if we had refused to make this agreement we would have accomplished nothing. We would have wound up either defeating the entire bill, which the country much needs for the purpose of economic recovery, and in any event we would have failed to get any part of our tax checkoff proposal.

As it stands now, we have provided the Ameircan people with the oportunity to express their wishes, and we have the authorization on which the appropriation can be voted as an amendment to any appropriation bill. Further, I am persuaded that having moved this far, we are now in a position to take this matter to the American people. I do not have the slightest doubt that even though we cannot finance the campaign this way in 1972, this will be discussed more. Every time I explain this to an audience, as I did today to a group of young people, they say they have no doubt that those of us who voted for this were right.

Mr. President, I would like to say this takes effect in 1972, and for the small amount of money involved—about $50 million once every 4 years, which is the equivalent of a revenue impact of about $12.5 million a year—it will be a most significant change. It will change our way of financing campaigns. It will be a most important stride toward making the Government a government of the people, not controlled by the power of private financial contributions.

Mr. MOSS. I hope it has that effect. I agree that to establish the principle is a very significant step. If we have done that, it is significant.

Did the tax credit remain in where a person may contribute $25, or a couple $50, and get a 50-percent tax credit?

Mr. LONG. The Senator is correct.

Mr. MOSS. That is a significant step, and it will encourage the small contributor, who in no way could be suspected of buying influence. This gets away from the big, heavy contributor.

Mr. LONG. I wish to say to the Senator that it does this. This feature of the Senate amendment will be in effect in 1972 and it will make money easier to raise, particularly insofar as the little people are concerned, people who are willing to make a modest contribution that could not possibly result in any undue influence.

Mr. MOSS. Their names could not even be known, there would be so many.

Mr. LONG. Then there also is the deduction of $50 a couple that will be the law, which should make it easier to raise money for the next campaign.

Further, we succeeded in enacting a law where there is a limit as to how much can be spent through the news media. Also we have provided ways which should make money in small amounts easier to raise.

I am sorry we could not prevail with the $1 checkoff for the coming election. If the Senator had his way and I had my way it would have been in effect in the last presidential election, not to mention 1972. The Senator did the best he could to help me enact that measure.

Mr. MOSS. I thank the Senator.

Mr. LONG. Mr. President, I ask for the yeas and nays on the conference report.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. MOSS. Mr. President, I would like to commend the Senator from Louisiana for the job he has done on this very complex and difficult bill, for managing it through the Senate, as well as serving on the conference. I recognize that when we go to conferences it is a matter of compromise in order to get a bill.

In expressing my disappointment I do not want to reflect at all on my confidence in the work done by the chairman of the Committee on Finance. I think we are making a fundamental step forward in the entire financial picture of our country, as well as the matter we are talking about on the political checkoff.

Mr. JAVITS. Mr. President, will the Senator yield to me briefly?

Mr. LONG. I yield.

Mr. JAVITS. Mr. President, when the Senate debated the tax bill it agreed to an amendment, which I had offered, which would have required inclusion in the annual budget of Treasury estimates of "tax expenditures," which are revenue losses from special tax provisions. Naturally I had hoped that the House would recede from its disagreement to this amendment and I am disappointed that it did not. However, I am gratified that the conferees have arranged for reporting of the tax expenditure data compiled by the Treasury to the tax committees of the Congress. It is my understanding that this data will be presented in no less detail than in the 1968 annual report of the Secretary of the Treasury; this format will be most useful. The Department of the Treasury has also undertaken to furnish this information to the Joint Economic Committee, which will thereby be in a position to analyze tax expenditures in connection with its annual report. It is my hope that current data will be provided to the Joint Economic Committee promptly at the beginning of each calendar year, at the same time as the annual and the committee's preparation of its report. I very much appreciate the efforts of the conferees and the cooperation of the Department of the Treasury on this matter. I ask unanimous consent that the appropriate passage from the conference report, describing the arrangement with the Treasury for making this information available to the Congress, and also the letter from

Senator PROXMIRE and myself to Secretary Connally and the reply of John S. Nolan, Deputy Assistant Secretary, be printed in the RECORD at the conclusion of my remarks.

There being no objection, the materials were ordered to be printed in the RECORD, as follows:

BUDGET INFORMATION WITH RESPECT TO REVENUE LOSSES AND INDIRECT EXPENDITURES

Amendment No. 74: The Senate amendment amends the budget and accounting act to require the budget submitted by the President (or special analyses presented with the budget) to contain estimates of losses in revenue from provisions of the Federal income tax laws and also estimates of indirect expenditures through the operation of Federal tax laws.

The conferees concluded that it would be more appropriate to have such estimates of tax expenditures made by the Treasury Department and to have the estimates submitted annually to the Committee on Ways and Means of the House, the Committee on Finance of the Senate and the Joint Committee on Internal Revenue Taxation. It is expected that these tax expenditure reports to the tax committees will initially be modeled after similar reports previously made and included in the Annual Reports of the Secretary of the Treasury in 1968 and 1970. Modifications may, of course, be made from time to time in consultation with the tax committees. In addition to making these reports to the tax committees on an annual basis, the Treasury Department may desire to include these data on tax expenditures in the annual report of the Secretary of the Treasury. The Treasury Department has indicated its willingness to submit information to the tax committees in the manner indicated above and as a result the amendment no longer appears necessary.

The Senate recedes.

DECEMBER 9, 1971.

Hon. JOHN B. CONNALLY, Jr.,
Secretary, Department of the Treasury,
Washington, D.C.

DEAR MR. SECRETARY: The Conference Report on H.R. 10947, the Revenue Act of 1971, states that the Treasury Department is willing to submit annually to the Committee on Ways and Means of the House, the Senate Finance Committee and the Joint Committee on Internal Revenue Taxation estimates of tax expenditures, in addition to including these tax expenditures in the annual report of the Secretary of the Treasury. Because of this willingness on the part of the Treasury Department, the conferees on H.R. 10947 felt that there was no need to publish estimates of tax expenditures in the U.S. budget as required by the Javits amendment to the Revenue Act of 1971.

We consider the Treasury's action to be a significant step toward giving the public balanced information as to the economic effect of the Federal government's activities and commend you for your willingness to supply this information to the Congress.

However, we also feel that the information submitted to the tax Committees should be made available to the Joint Economic Committee at such time as it may request the information. The Joint Economic Committee would find such information extremely useful in its continuing review of the economy and would be the most appropriate vehicle for any public discussion of the tax expenditure figures. Therefore, we request that the Treasury Department agree to make this information available to the Joint Economic Committee as well.

Sincerely yours,
WILLIAM PROXMIRE,
Chairman, Joint Economic Comittee.
JACOB K. JAVITS,
Member, Joint Economic Committee.

THE DEPARTMENT OF THE TREASURY,
Washington, D.C., December 9, 1971

Hon. WILLIAM PROXMIRE,
Hon. JACOB K. JAVITS,
Joint Economic Committee, U.S. Senate,
Washington, D.C.

DEAR SENATORS PROXMIRE AND JAVITS:

In your letter of December 9, 1971, you have requested that the Treasury Department make available to the Joint Economic Committee information as to so-called "tax expenditures" which we will be furnishing annually to the House Ways and Means Committee, the Senate Finance Committee, and the Joint Committee on Internal Revenue Taxation. As I am sure you know, we have agreed to make such information available on the basis that it was previously compiled by the Treasury Department or as specifically requested by those Committees. We do not propose to make decisions as to what are to be deemed "tax expenditures" in compiling such information. On this basis we are entirely agreeable to supplying the information to the Joint Economic Committee as well.

Sincerely yours,
JOHN S. NOLAN,
Deputy Assistant Secretary.

Mr. JAVITS. Mr. President, my question is this, Will it be understood that the tax expenditure information will be made available, generally speaking, about the time the President submits his budget and the special analysis presented with the budget?

Mr. LONG. It might not be quite that soon, but we will request the presentation of the material as early in the year as it is practicable.

Mr. JAVITS. The Senator satisfies us and assures us that it will be made available to us, to be utilized in connection with our report and recommendations, which are so heavily based on the President's budget.

Mr. LONG. I think I can assure the Senator that that will be the case.

Mr. JAVITS. Mr. President, I believe that the regular availability of tax expenditure information to the Congress is a step toward rational budget priorities and tax reform. I understand that it is the intention of the Joint Economic Committee to publish this information so that it will also be available to the public, which should be fully informed of the revenue losses in question.

Furthermore, now that it has been agreed that tax expenditure data can and will be provided in a meaningful and systematic manner to the Congress and to the public, I believe that it is appropriate for the Committee on Government Operations to consider how such data can best be coordinated with the annual budget. It may still be useful in clarifying the meaning of tax expenditures to have a format setting forth and comparing both indirect tax expenditures and direct outlays. In his testimony before the Joint Economic Committee in 1969 Secretary Barr made such a comparison and it was most illuminating.

I thank my colleague.

Mr. CURTIS. Mr. President, the chairman has accurately described the content of the conference report. It is true we lost a lot of good amendments to the House, but it is also true that the House accepted a good many Senate amendments. Many of those the House did not accept were accurately portrayed by the President as "budget busting" amendments.

At another time in a different context, no doubt, some of these Senate provisions would have been more attractive than the House conferees found them in this bill. But today, we are confronted with a serious situation. Our balance of payments is in trouble, unemployment continues at record highs, and the stifling influence of today's tax law discourages job development investments by business enterprise.

We undo in this legislation some of the things that were done in the so-called Tax Reform Act of 1969, which was one of the greatest mistakes this Congress ever made. I am delighted that we are undoing part of that law now. The act of 1969, in my opinion, was responsible to a large degree, for our present recession.

The bill is, I believe, accurately called a job development bill. The investment tax credit has already established its ability to spur job developing investments. The repeal of the automobile excise tax on cars and on light-duty trucks will substantially reduce the cost of these items and generate greater sales activity leading to the creation of more jobs in automobile manufacturing, sales, and service.

The codification of the so-called asset depreciation range rules of the Treasury Department, as this bill provides, will create certainty in the business community where today uncertainty prevails. Taxpayers will know that faster depreciation is theirs if they wish to take advantage of it. This more rapid depreciation, coupled with the restoration of the investment tax credit, goes a long way toward equalizing the cost of capital formation in this country, as compared to the other leading industrial nations of the world. It will not completely close the gap, and we need to do more in the future. But it is a good, desirable first step in recognizing that American business must be competitive with foreign business if it is going to survive.

I am pleased at the conference decisions with respect to the DISC. These provisions are now written in such a way as to be a true incentive to export stimulation. Today, far too many American businesses are expanding their production facilities abroad, rather than at home. This has taken jobs out of America, and no doubt, it has influenced the level of unemployment we face today. The DISC can, and I am hopeful will, encourage plant expansion in this country, rather than abroad, and that jobs which today are being lost to overseas plants will be retained here, and the products we make will be sold in foreign markets in volumes sufficient to help restore a fair balance in our international payments position.

The acceleration of the increase in the personal exemptions and standard deduction gives balance to the bill by cutting personal taxes and increasing consumer purchasing power now when the economy can stand an increased flow of dollars without setting off another round of inflationary pressures.

H.R. 10947 is thus a balanced attack on the economic problems facing the Nation. On the one hand, it encourages business to invest more, to produce more, and to sell more. On the other hand, it assures lower prices for one of the most costly items in the American economy—the automobile. It also assures more dollars in the hands of consumers to buy the greater output of American industry.

Frankly, I am pleased that this integral, double-barrel assault on inflation and business lethargy, as recommended by President Nixon in his August 15 speech, has been retained in the bill.

Now, a word about political campaign financing. Speaking candidly, making the checkoff plan apply to the 1976 election, rather than in 1972, is a victory for this bill. In my opinion, the Senate amendment represented an unwise abrogation by Congress of its appropriation responsibility. It involved nothing less than an appropriation of public moneys without the benefit of current congressional scrutiny.

As it is now drafted, we will have 4 years within which to explore, debate, and amend the checkoff plan, and we can do this in a more orderly fashion than we could hope to achieve if this tax bill—so badly needed by today's economy—were held up by prolongation of the tax checkoff debate.

Now let me say a word about the conference procedure. In my experience, I cannot recall a conference where the House conferees were less willing to consider the merits of Senate amendments than this one. In far too many instances, they took the position—from which they would not budge—that Senate amendments were not germane to this bill. Strangely, the House conferees on the public debt bill earlier this year raised no objection on the ground of germaneness to the Senate amendment attaching a social security increase to that bill. But this time any amendment, no matter how trivial, which amended an act outside the Internal Revenue Code was resisted on the ground of germaneness with a fervor uncommon to the House conferees.

Despite the efforts of our distinguished chairman and the support he got from other Senate conferees, we could not breach the solidarity of the House conferees on the germaneness question. In my opinion, if this situation continues in the future, it is going to affect comity between the House and the Senate.

Mr. President, I urge the Senate to approve the conference report.

Mr. ALLOTT. Mr. President, a few weeks ago in good conscience I had to vote against final passage of this bill. I pointed out how the Senate had nearly doubled the revenue loss and had warped the President's economic measures out of recognition. The bill we have before us today for approval is a much improved piece of legislation.

Mr. President, I wish to, at this time, commend the conferees for their diligent and admirable work in arriving at this compromise. The present revenue losses contained in the conference bill are in line with fiscal realities; and ungermane and amendments unnecessary to economic recovery have for the most part been eliminated.

It is for these reasons that I am voting for the conference report.

Mr. President, I ask unanimous consent that a table supplied by the Treasury Department, setting forth the revenue losses for fiscal years, 1972, 1973, and 1974, be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

REVENUE LOSSES UNDER H.R. 10947

[In billions]

	Fiscal year—		
	1972	1973	1974
As proposed by administration	$6.0	$7.6	$5.2
As passed by Senate	8.8	12.3	11.6
As passed by House	5.0	6.1	6.0
As agreed in conference	4.4	6.9	6.1

Mr. DOLE. Mr. President, President Nixon's position on the economy further illustrates his nonpartisan concern for the American people and this country. I want to focus, for a moment, on two recent issues.

The economy and phase II of the economic program have dominated national interest. Many national figures have criticized phase II even though their criticisms bear no foundation. The fact is that these people who criticize the economic policy of the present administration do not offer a better approach for tackling this problem nor do they offer a stronger alternative program. While criticism is highlighted by the media, President Nixon continues his honest effort to rejuvenate the economy for the long term. He is not interested in producing a false prosperity which would assure him reelection. Rather, he is risking his political life in order to save the economy and strengthen America. President Nixon must share the responsibility of this effort with the American people.

An honest man could not suggest that this burden is the President's alone, or that any citizen is capable of restoring the economy without cooperation from the people involved daily with the economy of the United States. Yet, only a few weeks ago, George Meany and the AFL–CIO officials welcomed President Nixon and the new economic policy to their convention in Miami with threats and demeaning treatment. While Mr. Meany's behavior does not reflect that of the people he supposedly represents, it was inexcusable and an obvious effort to deter a stable and prosperous economy from the American people. President Nixon has created a Pay Board with members representing labor, business, and the general public. Mr. Meany's harassments accomplish nothing except the degradation of the position he maintains. The President's economic program is working and will continue to work with the cooperation and participation of all the American people, including the rank and file of organized labor.

Another economic issue is President Nixon's tax program. Some of my colleagues, both in the Senate and House have sought to tack a campaign financing scheme to the tax program. Interested supporters of this effort are contenders for the Democratic presidential nomination in 1972.

What does this "tax checkoff" campaign finance provision really accomplish? Millions of dollars of Federal tax money which could finance important concerns such as health, aid for the poor, and education would instead finance presidential campaigns. And we must expect the figure to escalate with the growth of the population. Proliferation of funds through taxes will not be controlled. Organized labor would have a disproportionately powerful role in presidential elections since the "education" fund would exempt it from the amendment's provision. Minor party candidates who generally lack national credibility would have nothing to lose by running in a presidential campaign since the taxpayer would finance the expense.

And the question of whether the amendment is constitutional surfaces. Would Congress be delegating a nondelegable function to private citizens—that of appropriating funds from the Federal Treasury? We must also consider the amendment's impingement on freedom of expression and its discriminatory treatment of splinter party candidates.

Two of President Nixon's most serious efforts to renovate the economy—phase II of the economic policy and the tax program—have been under attack by men with partisan concerns. The President's interest is only with what is good and wise for all the American people. We must not allow fabricated issues to overshadow concrete solution. This time America cannot afford the intolerable burden of selfish citizens.

I have here a column from the New York Times written by Tom Wicker, not normally a supporter of the President, which offers further insight to the situation we confront. This administration piloted the programs. President Nixon has made the initial efforts. The responsibility is now ours in the Congress. We must rise about partisan politics and personal gain to consider what is best for the people. The decisions this Congress makes concerning the economic policies of this Nation must be decisions which are not only for the constituency each of us represents, but for the Nation and the entire citizenship of the United States.

I commend the entire column to the attention of Senators and ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Dec. 2, 1971]

THE BLAME GAME

(By Tom Wicker)

The public is likely to consider even the most partisan President as more nearly concerned for the general welfare than is any representative of a narrower interest. That is because the President is elected by the people; no matter how narrow his margin, he can rather effectively claim to represent them.

That is a lesson George Meany and organized labor ought to be learning as a result of their confrontation with President Nixon on Phase Two of his economic program. It will be difficult for them to maintain their hostility without looking as if they are grabbing for advantage or sulking in a corner while the President tries to curb inflation and boost the economy.

It is a lesson that Congressional Democrats and their party's National Committee also may be taught in their conflict with Mr. Nixon over the campaign financing scheme they have inflicted on his tax program. The elimination by a House-Senate conference committee of some tax reduction amendments the President did not want has narrowed the issue to ground on which Mr. Nixon can fight most effectively. That is, if the conferees do not eliminate the campaign financing plan too, he can throw down the gauntlet with a veto.

What position would the Democrats then be in? Theoretically, they could override the veto, but that takes a two-thirds majority in each house and the dollar check-off amendment barely scraped through the Senate on a virtual party-line vote. Overriding, therefore, is a forlorn hope.

Alternatively, the Democrats controlling Congress could refuse to pass a new tax bill embodying Mr. Nixon's economic program. But aside from the merits, or lack thereof, of the campaign financing plan, it would clearly provide a terrific windfall for the Democratic party in 1972—a year when they badly need such largesse and the well-heeled Republicans do not.

Thus, if the Democrats allowed the Nixon tax program to go down the drain because he would not countenance their dollar check-off windfall, they are bound to look as if they were willing to sacrifice the general welfare to their own financial needs. This is doubly true since the President's economic proposals are mostly tax reductions, and he would not hesitate to point out who had kept them from going into effect.

Larry O'Brien, the Democratic chairman, has attempted to get out front on this issue by charging that Mr. Nixon wants to keep political finance in the hands of fat-cat contributors. This is a splendid example of Mr. O'Brien's gift for Irish blarney, and a pretty good political try, but as Lyndon Johnson used to say, "That dog won't hunt."

No party in history ever fell further into dependence on big contributors than the Democrats under Mr. Johnson and in the 1968 campaign. One of the main reasons that the party is in such financial straits today is because for so long it put its reliance on devices like the $1,000-a-membership President Club, while signally failing to develop any widespread base of financial support against the time when it would be out of power. In the same years, the Republicans were developing the best small-contributor financial support any modern American party has had. Barry Goldwater in 1964 had the most broadly based financial support of any major-party nominee.

This is not to suggest that Mr. Nixon does not have many big contributors behind him; he does, but to picture him and his party as the only offenders in this respect is poppycock. In fact, through the years since President Kennedy's elections finance commission recommended tax incentives to stimulate small contributions, Democratic Congresses have repeatedly refused to take this major, necessary step.

Even as the Democrats gear themselves up to picture the Republicans as the villains of the piece, what are they doing on another front in the Congress they control? In the bill to limit campaign spending they are carving a loophole big enough to push a fat cat through.

Another set of House-Senate conferees has eliminated the Republican-sponsored plan to have tough disclosure reports filed with a new, bipartisan Federal Elections Commission; instead, contributor and spending reports will continue to be filed with political employes of Congress, the secretary of the Senate and the clerk of the House. This all but guarantees that absolutely nothing will be done, as nothing ever is under present law, about violations of the statutes controlling political contributions and expenditures; and it assures that the public will remain mostly in the dark, where it now is kept.

Thus, it will not be easy for the Democrats to pose as fervent reformers of campaign finance; and anyway, if they go so far as to frustrate the President's proposed tax reductions, what grounds can they then find for blaming a lack of economic recovery on him?

Mr. HOLLINGS. Mr. President, if any article of our American faith should be held sacred, it is that each individual have the opportunity to share in both the burdens and the benefits of democracy. That faith has seen us through two centuries of challenge and change, including the most awful wars in the history of man. When there is a burden to be shouldered, the people must shoulder it together. Similarly, when there is a break to be enjoyed, the people should enjoy it together.

When it comes to giving a tax break, Congress has always found the opportunity to take care of the big businessmen who are afforded loophole after loophole, incentive after incentive, depreciation allowance after depreciation allowance, write-off after write-off. And what about Mr. and Mrs. Average American? Well, they work hard and file their returns and pay their taxes, and do not get any special breaks—but watch out if they deduct a dollar too much or list a questionable expense. It is long past time that the hard-working breadwinner—the backbone of America—got some tax relief and some tax incentive. He has been watching Congress help the Haves and the Have Nots—and he wonders what about himself. What about the Have Somes who keep America going?

On November 15, I offered an amendment to the Tax Revenue Act to provide relief to parents who are struggling to provide their children with a college or trade school education. The provision was not new. It had passed the Senate on two prior occasions—only to be deleted in conference with the House. On November 15, the Senate again approved the amendment by a margin of two-to-one.

By adopting this amendment, we recognized two vitally important facts. First, the tax bill had to be balanced more in favor of the individual middle-income bracket taxpayer. Secondly, the soaring costs of education are rapidly pricing most families out of the market.

I was hopeful that this amendment would be agreed to by the House conferees. The old argument that the budget would not allow such a break was clearly irrelevant this time around. A small reduction in the write-off benefits given the wealthy in the $30 billion package would have easily afforded the $2.2 billion for the tax credit in 1972.

The amendment was deleted in conference. My surprise in learning of its deletion was exceeded only by my dismay in learning that almost no time was devoted to study of the measure. Certainly tuition credit affects more people than the Presidential Campaign Fund provisions, which were debated for days. Meanwhile, 8 million students were callously disregarded—not to mention their tax-paying parents.

Mr. President, legislators spend a lot of time talking about what is germane and what is not germane. Let us be germane. If we would spend a tenth as much time talking about the financing of education as we do about busing students miles away from their homes, then we could make some real progress. If we would worry about the substance of bills rather than about some legislator's fear that his prestige might be damaged by a set-back on the floor or a presidential veto, we would be much better off.

I do not believe that the conferees' decision to delete the tuition tax credit represents the will of the majority of Congressmen. We know the Senate favors the bill—it has passed it three times now. And the chairman of the House Ways and Means Committee (Mr. MILLS) has indicated that if the tuition tax credit were considered on the floor of the House, it would pass overwhelmingly.

Mr. President, I stand opposed to the conference report. I will vote against it. I will not be party to a measure which ignores completely the interests of the average American taxpayer. Mr. and Mrs. Average American are tired of rhetoric, tired of can't, tired of promises. They want performance. And they want a little recognition for their contribution to making America what it is. This conference report gives them nothing but the back of the hand. I urge my colleagues to vote "Nay" on the report of the conference committee. And I urge them to go to work on a tax revenue bill which lives up to the ideals of fairness and equity which Americans have been fighting for throughout history.

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States, submitting nominations, were communicated to the Senate by Mr. Beisler, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

The Presiding Officer (Mr. BROCK) laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of Senate proceedings.)

CONQUEST OF CANCER—S. 1828—UNANIMOUS-CONSENT AGREEMENT ON CONFERENCE REPORT

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that time on the conference report on S. 1828, conquest of cancer, be limited to 30 minutes, to be equally divided between the Senator from Massachusetts (Mr. KENNEDY) and the Senator from New York (Mr. JAVITS).

The PRESIDING OFFICER. Without objection, it is so ordered.

INCREASED AVAILABILITY OF DENTAL CARE, S. 1874—UNANIMOUS-CONSENT AGREEMENT

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that time on S. 1874, a bill to provide for increased availability of dental care, be limited to 30 minutes, to be equally divided between the distinguished Senator from Washington (Mr. MAGNUSON) and the distinguished minority leader or his designee.

Mr. GRIFFIN. Mr. President, would the majority whip think he should provide some limit of time for the possibility of amendments?

Mr. BYRD of West Virginia. Yes; shortly I shall do so.

S. 2945—SERVICE ACADEMY ADMISSIONS—A UNANIMOUS-CONSENT AGREEMENT

Mr. BYRD of West Virginia. I ask unanimous consent that at such time as S. 2945—a bill by the Senator from New York (Mr. BUCKLEY) to provide for service academy admissions to sons of prisoners of war—is called up, there be a time limitation thereon of 30 minutes, to be equally divided between the distinguished Senator from New York (Mr. BUCKLEY) and the distinguished Senator from Mississippi (Mr. STENNIS).

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD of West Virginia. I ask unanimous consent that time on any amendments in the second degree, motions, appeals, or points of order, with the exception of nondebatable motions, to any of the foregoing, be limited to 10 minutes, to be equally divided between the mover of such and the manager of the bill or conference report whichever is the case.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

ORDER FOR CONSIDERATION OF CONFERENCE REPORT ON S. 1828

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that following the vote on the pending conference report, the Senate proceed to the consideration of the conference report on the conquest of cancer, S. 1828, and that upon the expiration of the time on that conference report, or the yielding back thereof, whichever may occur, the Senate proceed without a vote thereon to the consideration of S. 1874, a bill to provide for increased availability of dental care; and that at the expiration of the time thereon, or the yielding back thereof, whichever may occur, the Senate then return to the consideration of executive business for a resumption of consideration of the pending nomination, with the understanding that the votes on the conquest of cancer conference report and the bill (S. 1874) dealing with dental care occur in that order, and without further debate thereon, tomorrow morning immediately following the remarks of the distinguished Senator from Illinois (Mr. PERCY).

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that it be in order to order the yeas and nays on the conquest of cancer conference report and on S. 1874 the dental care conference report at this time, and with one show of seconds.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia? Without objection, it is so ordered.

Mr. BYRD of West Virginia. Mr. President, at the request of the distinguished Senator from Massachusetts (Mr. KENNEDY), I asked for the yeas and nays on the conference report on the conquest of cancer and on S. 1828, dealing with dental care.

The yeas and nays were ordered.

Mr. GRIFFIN. Have the yeas and nays been ordered on the pending conference report?

Mr. BYRD of West Virginia. Yes.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. GRIFFIN. I yield.

Mr. PASTORE. Mr. President, may we have an indication of when a vote on the conference report may take place? We are engaged in a serious conference over on the House side, and away from a telephone.

The PRESIDING OFFICER. The Chair would advise the Senator from Rhode Island that the time for debate on the conference report expires at 5:03.

ORDER FOR RECOGNITION OF SENATORS JACKSON AND PERCY TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that following the remarks of the distinguished Senator from Washington (Mr. MAGNUSON) tomorrow, the distinguished junior Senator from Washington (Mr. JACKSON) be recognized for not to exceed 15 minutes, and that at the conclusion of his remarks, the distinguished Senator from Illinois (Mr. PERCY) be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT OF TITLE II OF SOCIAL SECURITY ACT

Mr. LONG. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 10604.

The PRESIDING OFFICER (Mr. BROCK) laid before the Senate a message from the House of Representatives announcing its disagreement to the amendments of the Senate to the bill (H.R. 10604) to amend title II of the Social Security Act to permit the payment of the lump-sum death payment to pay the burial and memorial services expenses and related expenses for an insured individual whose body is unavailable for burial, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. LONG. I move that the Senate insist upon its amendments and agree to the request of the House for a conference on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. LONG, Mr. ANDERSON, Mr. TALMADGE, Mr. CURTIS, and Mr. MILLER conferees on the part of the Senate.

REVENUE ACT OF 1971—CONFERENCE REPORT

The Senate continued with the consideration of the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 10947) to provide a job development investment credit, to reduce individual income taxes, to reduce certain excise taxes, and for other purposes.

Mr. GRIFFIN. Mr. President, will the Senator from Nebraska yield a few minutes to me?

Mr. CURTIS. I yield 5 minutes to the Senator from Michigan.

AUTO AND LIGHT-DUTY TRUCK PARTS AND ACCESSORIES

Mr. GRIFFIN. Mr. President, for the purpose of establishing legislative history, I wish to direct an inquiry to the distinguished chairman of the Finance Committee as to his understanding, and what he believes to be the committee's understanding, of how parts and accessories are treated under the manufacturers' excise-tax provisions.

Both the Senate and the House decided against exempting parts and accessories for light-duty trucks in this bill, even though light-duty trucks are themselves exempt from the tax. There were a number of considerations involved in not exempting replacement parts, including the factor that many of the parts or accessories used for replacement purposes on the light-duty trucks are interchangeable with parts and accessories which are used in connection with passenger automobiles. These interchangeable parts have been exempt since the Excise Tax Reduction Act of 1965 and continue to be exempt under this bill. I believe it would be helpful to clarify the treatment of these replacement parts for the benefit of those who manufacture interchangeable parts.

As I understand it, the parts and accessories tax will not be imposed upon any part or accessory which is suitable for use and ordinarily is used on or in connection with, or as a component part of, passenger automobiles, passenger automobile trailers and semitrailers, and house trailers, whether of domestic or foreign manufacture.

In my State of Michigan, there are at least 50 manufacturers of replacement parts and accessories for all types of motor vehicles. I understand there has been substantial difficulty in dealing with the application of the present parts tax because no regulations have been promulgated in the 6 years since the 1965 act was enacted. It appears that the Internal Revenue Service has averaged a little more than one published ruling per year with no straightforward criteria to assist taxpayers in evaluating their potential tax liability. The lack of regulations has caused considerable difficulty because

Internal Revenue agents, not only in Michigan but throughout the United States, have different viewpoints on what parts and accessories should be considered as exempt.

In my view the lack of regulations is particularly distressing because the 1965 changes are permanent law, not simply a transitory change in Federal excise taxation. The need for a common understanding and uniform application of the parts tax is imperative to a healthy and competitive industry. As evidenced by a recent Court of Claims decision (*IBM* v. *United States*, 343 F. 2d 914), the lack of uniformity in applying manufacturer's excise taxes can cause severe dislocation of business opportunities.

Just this past week the Service published two rulings establishing some useful guidelines. One important element that remains to be established, however, is how large a portion must be passenger auto usage in order to satisfy the common usage or interchangeability test.

Now, I have no brief for any particular numbers in this area, but one approach that I have heard suggested would be that if at least one-third of the highway vehicle usage is on passenger autos, then the part is commonly used on passenger autos and is exempt; if less than one-third is on passenger autos, then each case would be decided on its own facts and circumstances under criteria which could be set forth in regulations.

In view of Congress' decision not to exempt light-duty truck parts and accessories the administration of present law remains critical, and I would appreciate any comments of the distinguished chairman of the Finance Committee on this point.

Mr. LONG. Mr. President, as the Senator from Michigan has so well noted, the committee decided not to exempt light-duty truck parts and accessories, largely because most of these parts and accessories are interchangeably usable on passenger autos, and so are exempt. I think that the Senator's description of how the Internal Revenue Service could go about deciding what is a taxable part and what is an exempt part, is sensible and is in accord with what the committee understood to be the effect of these provisions when it reached its decisions.

Mr. GRIFFIN. I thank the distinguished chairman very much.

Mr. KENNEDY. Mr. President, I am pleased to support the conference report on the Revenue Act of 1971. Although I disagree with a number of its specific tax provisions, and although I regret that some of the most important Senate floor amendments were dropped by the conferees, I believe that overall, the legislation will be of substantial assistance in restoring the good health of our economy, and I also believe that it will become a landmark in our efforts to reform the financing of campaigns for public office.

Indeed, I believe that the importance of the election reform aspects of this legislation—the tax incentives for small contributions, and the public financing provisions for presidential campaigns—will be recorded as among the truly significant reforms of this century in the political process in America. It is for this reason that I wish to take the opportunity to make some general remarks on the constitutionality of the public financing amendment, as well as some comments on the deepening crisis the Nation now faces over the abuses in campaign financing.

An analysis of the relevant Supreme Court precedents—which follows as an appendix to these remarks—demonstrates that the Senate had adequate constitutional authority to enact the campaign fund provision, and that there is ample justification for the President to sign it. Inevitably, of course, the final determination of constitutionality will be made by the courts, and that is where the issue ought to be tested.

Now that the Senate and House conferees have removed the most bitterly contested provision of the bill by deleting its application to the 1972 campaign, there appears to be no real doubt that President Nixon will sign the bill into law. In approving this legislation, the President will be following essentially the same course he followed in the case of the bill approved by the Senate in 1970 lowering the voting age to 18. There, the President signed the bill, expressed his reservations as to its constitutionality, and directed the Attorney General to seek a rapid court test of the issue.

As it should be, the real question over the public financing amendment is not the constitutional issue, but the policy issue squarely raised in the Senate debate—whether the financing of presidential election campaigns belongs to the people or to the special interests.

The more we learn about the present system, the more distressed we are, and the more momentum we accumulate for real reform. The enormous recent escalation in the cost of political campaigns has brought new and unparalleled urgency to the movement for reform. I am pleased that the conferees were able to salvage the essential parts of the public financing amendment, because I believe it will become the centerpiece of all our efforts for reform.

Long after the partisan aspects of this controversy are forgotten, the enactment of public financing will be remembered as a landmark reform in the political process in America. It will rank with the Civil Rights Acts of the sixties, and with the constitutional amendments extending the franchise to women and lowering the voting age to 18, as the major milestones in election reform in this century. And let us hope that the 1972 campaign will be recorded as the last campaign that was the private preserve of the special interests.

The American people are fed up with the abuses of money in politics. A rising tide of public and congressional opinion supports the principle of public financing for political campaigns, and the action of the Senate will bring rich rewards to our democratic system of government in the future. I hope the conference report will be approved by an overwhelming margin in the Senate, and that it will be signed into law by the President.

I ask unanimous consent to have the appendix printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The appendix follows:

APPENDIX—MEMORANDUM SUPPORTING THE CONSTITUTIONALITY OF THE PUBLIC FINANCING AMENDMENT FOR PRESIDENTIAL CAMPAIGNS

Although the following paragraphs are not intended as an exhaustive analysis of all the constitutional issues that may be raised with respect to the provisions of the so-called Campaign Fund or public financing amendment for Presidential elections—Title VIII of H.R. 10947 as approved by the conferees of the House and Senate—they do deal with the principal issues, and they establish, I submit, both that Congress has ample constitutional authority to enact the amendment, and that whatever doubts that may remain may appropriately be left for final resolution by the courts.

A. CONGRESS HAS BROAD GENERAL POWER TO LEGISLATE IN THE AREA OF FINANCING OF PRESIDENTIAL ELECTION CAMPAIGNS

A long line of Supreme Court decisions, extending back over nearly a century, establishes the power of Congress to regulate financial and other abuses in Federal elections in general, and in Presidential elections in particular. Thus, *Ex parte Siebold*, 100 U.S. 371 (1880), sustained a Federal criminal statute prohibiting fraud in Congressional elections.

Smiley v. Holm, 285 U.S. 355 (1932), contains the famous declaration of Chief Justice Charles Evans Hughes, writing for a unanimous court, that Article I, Section 4 of the Constitution, which gives Congress the power to regulate the "Times, Places, and Manner," of Congressional elections, is broad enough to authorize Congress to write a complete election code, including the prevention of "corrupt practices" and other abuses in the area of campaign financing.

In *Ex Parte Yarbrough*, 110 U.S. 651 (1884) sustaining a reconstruction statute prohibiting the intimidation of voters in Federal elections, the court dealt with the question of the influence of money in elections, suggesting that the power of Congress to protect the election of Federal officials from violence, corruption, and fraud was an inherent power of sovereignty. As the Court stated,

"If the recurrence of such acts as these prisoners stand convicted of are too common in one quarter of the country, and give omen of danger from lawless violence, the free use of money in elections, arising from the vast growth of recent wealth in other quarters, presents equal cause for anxiety.

"If the government of the United States has within its constitutional domain no authority to provide against these evils, if the very sources of power may be poisoned by corruption or controlled by violence and outrage, without legal restraint, then, indeed, is the country in danger, and its best powers, its highest purposes, the hopes which it inspires, and the love which enshrines it, are at the mercy of the combinations of those who respect no right but brute force, on the one hand, and unprincipled corruptionists on the other." *Id.*, at 667.

In a separate passage in the Yarbrough case, the court had dealt specifically with the power of Congress in presidential elections:

"That a government whose essential character is republican, whose *executive head* and legislative body are both elective . . . has no power by appropriate laws to secure this election from the influence of violence, of corruption, and of fraud, is a proposition so startling as to arrest attention and demand the gravest consideration." (Emphasis added.) *Id.*, at 657.

Fifty years later, in *Burroughs* v. *United States*, 290, U.S. 534 (1934), the Supreme Court held unequivocally that Congress had extensive power to control the use of money in Presidential elections. As the Court stated:

"The President is vested with the executive power of the nation. The importance of his election and the vital character of its relationship to and effect upon the welfare and safety of the whole people cannot be too strongly stated. To say that Congress is without power to pass appropriate legislation to safeguard such an election from the improper use of money to influence the result is to deny to the nation in a vital particular the power of self-protection. Congress undoubtedly possesses that power, as it possesses every other power essential to preserve the departments and institutions of the general government from impairment or destruction, whether threatened by force or by corruption." *Id.*, at 545.

The decision in the Burroughs case also establishes a separate and equally important principle for present purposes—the principle that it is for Congress, and Congress alone, to determine the manner of safeguarding Presidential elections. So long as the judgment of Congress bears a reasonable relation to the goal to be achieved, the Courts will not substitute their judgment for the judgment of Congress. In language reminiscent of Chief Justice John Marshall's famous definition of Congressional power under the Necessary and Proper Clause of the Constitution in *McCulloch* v. *Maryland*, 4. Wheat. 316 (1819), the Supreme Court went on to state in the Burroughs case that:

"The power of Congress to protect the election of President and Vice President from corruption being clear, the choice of means to that end presents a question primarily addressed to the judgment of Congress. If it can be seen that the means adopted are really calculated to attain the end, the degree of their necessity, the extent to which they conduce to the end, the closeness of the relationship of the means adopted and the end to be attained, are matters for congressional determination alone." *Id.*, at 547–548.

Obviously, the broad principles enunciated in these decisions do not decide the concrete issues involved in the public financing amendment. They do, however, set the overall tone in which these issues must be considered. That tone is clearly one of broad congressional power over Presidential elections, and broad judicial deference to the exercise by Congress of its admitted power.

An analysis of three of the most significant constitutional issues follows:

B. THE 5-PERCENT—25-PERCENT FORMULA IN THE PUBLIC FINANCING AMENDMENT IS A REASONABLE AND CONSTITUTIONAL ACCOMMODATION OF THE INTERESTS OF MINOR PARTIES AND NEW PARTIES IN THE ALLOCATION OF PUBLIC FUNDS

The public financing amendment contains a series of provisions enabling both minor parties and new parties to participate in the allocation of public funds. In order to qualify for public funds, such parties must attain at least 5% of the vote in either the preceding Presidential election or the current election. If such parties achieve more than 25% of the vote, they are entitled to share in the public funds on an equal basis with major parties.

The constitutional question contained in the provisions dealing with minor parties and new parties is the question whether the provisions unconstitutionally discriminate against such parties. The most relevant constitutional guidelines have been set out by the Supreme Court in two recent decisions dealing with the restrictions that States have traditionally imposed upon minor parties seeking a position on the ballot.

Williams v. Rhodes, 393 U.S. 23 (1968), involved the constitutionality of the election laws of the State of Ohio, which contained a provision that minor parties must file a petition signed by 15% of the voters in the past election, as well as a number of other extremely onerous requirements, including prohibitions against write-in votes and against independent candidates and unreasonably early filing deadlines for candidates not endorsed by established parties. The Supreme Court held that these requirements were so severely restrictive that they effectively limited the ballot to the Republican and Democratic candidates, and thereby precluded minor parties from qualifying on the ballot, in violation of the rights of free speech and association protected by the First Amendment and the Due Process and Equal Protection Clauses of the Fourteenth Amendment of the Constitution.

Subsequently, however, in *Jenness v. Fortson*, 403 U.S. 431 (1971), the Court distinguished the Williams case and sustained a Georgia law establishing a series of much more lenient requirements for minor parties to qualify on the ballot, including a provision requiring such parties to file petitions signed by at least 5% of those eligible to vote in the last election. In upholding the Georgia law, the Court pointed specifically to provisions freely allowing write-in votes, recognizing independent candidates, and establishing reasonable filing deadlines.

Thus, in the treatment of minor parties, as in so many other areas of the Constitution, the Supreme Court applies a balancing test that weighs the legitimate interests of minor parties against the legitimate interests of government in enacting reasonable measures regulating the election process. A wide range of other Supreme Court precedents in the area of election laws could be cited to establish the same principle. It is clear that the Court will require proof of a "compelling state interest" in sustaining laws that differentiate between major and minor parties, but it is also clear that the Constitution does not prohibit all such differentiations.

A strong argument can be made that the provisions of the public financing amendment meet this test of reasonable differentiation. The 5% cut-off for minor parties to qualify for public funds is precisely the sort of reasonable provision sustained by the Supreme Court in the Jenness case. The amendment contains none of the onerous requirements held unconstitutional by the Court in the Williams case. Thus, write-in designations are permitted, and designations may be made for independent candidates. If a tax return is filed before a candidacy is declared, the taxpayer may file an amended return at a later date to make his designation.

In addition, the amendment contains additional safeguards enabling new parties that meet the 5% requirement in the current election to qualify for retroactive reimbursement of their expenses, so that new parties may enjoy the benefit of the amendment even if they have no prior election record.

In enacting the public financing amendment, Congress clearly weighed the interests of minor parties. The resulting legislation contains a series of provisions that are designed neither to encourage the artificial proliferation of minor parties formed solely for the benefit of obtaining public funds, nor to freeze the status quo of the present two parties. As such, the legislation is a reasonable exercise of Congressional power in the area of election reform. The Constitution demands no more.

C. THE PROVISIONS OF THE AMENDMENT LIMITING INDIVIDUAL CONTRIBUTIONS AND EXPENDITURES ON BEHALF OF CANDIDATES USING PUBLIC FUNDS DO NOT VIOLATE THE CONSTITUTION

In general the public financing amendment prohibits major party candidates using public funds and their authorized committees from accepting private contributions. Candidates and committees of minor parties receiving public funds are authorized to accept private contributions in order to reach the expenditure limit imposed on major parties. In addition, no unauthorized committee may spend more than $1,000 on behalf of a candidate receiving public funds.

The constitutional issues that arise under these provisions present a variety of different and complex questions, virtually all of which were extremely well canvassed and debated in the present Congress in connection with S. 382, the Election Reform Act passed by the Senate last August, and H R. 11060, the similar Act passed last week by the House of Representatives. These bills contain a series of major provisions limiting campaign expenditures by or on behalf of candidates for Federal office, and they also contain strict requirements for the reporting and disclosure of such contributions and expenditures.

The Federal Corrupt Practices Act of 1925, for all its loopholes and lack of enforcement, has long been accepted as establishing the principle that Congress has the authority to enact reasonable limitations on campaign contributions and expenditures. See *Burroughs* v. *United States*, supra. The principal constitutional questions deal with the First Amendment problem of the restrictions on freedom of speech and freedom of association inherent in any such limitations, and the application of these vital constitutional guarantees to such diverse issues as: limits on the amount of contributions; limits on the source of contribution, such as contributions by individuals as opposed to corporations or labor unions; limits on expenditures as opposed to contributions; limits on expenditures by individuals, as opposed to expenditures by committees; limits on certain categories of expenditures, such as broadcasting expenditures, as opposed to expenditures for the written press or other media; and, the appropriate level of all such limits.

Apart from the Supreme Court decisions previously cited in Part A, two of the most important precedents setting forth the constitutional considerations in this area are the statement of Justice Douglas in *United States* v. *Auto Workers* 352 U.S. 567 (1957), and Justice Rutledge in *United States* v. *C.I.O.*, 335 U.S. 106 (1948). As Justice Douglas stated, in an opinion joined by Chief Justice Warren and Justice Black in the Auto Workers case:

"If Congress is of the opinion that large contributions . . . to candidates for office and to political parties have had an undue influence upon the conduct of elections, it can prohibit such contributions." *United States* v. *Auto Workers, supra*, at 598, n. 2.

And as Justice Rutledge stated in the C. I. O. case:

"There is therefore an effect in restricting expenditures for the publicizing of political views not inherently present in restricting other types of expenditure, namely, that it necessarily deprives the electorate, the persons entitled to hear, as well as the author of the utterance, whether an individual or a group, of the advantage of free and full discussion and of the right of free assembly for that purpose." *United States* v. *C. I. O., supra*, at 144.

Another leading Supreme Court decision with strong implications in this area is *United Public Workers* v. *Mitchell*, 330 U.S. 75 (1947), in which the Supreme Court sustained the constitutionality of the Hatch Act and its severe restrictions on political activity by Federal employees. The decision involved in part the case of a Mr. Poole, a skilled mechanic employed in the Federal mint, whose job involved no contact with the public. Mr. Poole asked the Court to declare that his outside political activities as an individual in his free time were a negligible threat to the integrity of the Federal Civil Service, as compared to the infringement on his constitutional rights. The Court rejected his contention, saying:

"There are hundreds of thousands of United States employees with positions no more influential upon policy determination than that of Mr. Poole. Evidently, what Congress feared was the cumulative effect on employee morale of political activity by all employees who could be induced to participate actively. It does not seem to us an unconstitutional basis for legislation." *Id.*, at 101.

By analogy, it may be argued in the present circumstances that Congress is equally entitled to protect the Presidential election process from the collective influence of political committees in a position to give or to spend more than $1,000 on the candidate of their choice, thereby achieving the twin goal of not only limiting the influence of large contributions, but also reducing the disparity between the rich and the poor in their ability to make political contributions.

According to this view, in the exercise of its broad power to regulate Presidential elections, Congress is constitutionally entitled to set a $1,000 limit on expenditures, as a reasonable accommodation between the First Amendment interests of groups of citizens in expressing their views, and the power of Congress to prevent the undue influence of money in Presidential elections. In addition, by deleting the provision in the Senate amendment that set a similar limit on spending by individuals—so that the limit now applies only to political committees—the Senate-House conferees have avoided altogether the need to deal with one of the most difficult aspects of this issue.

Moreover, the present amendment, with its $1,000 limit, offers a somewhat easier case than would exist in the absence of the tie between the limitation and the public financing provisions. The limitation applies only to Presidential candidates who choose to go the route of public financing for their campaigns. It does not apply to candidates who elect to finance their campaigns with private contributions. In these circumstances, it may be argued, the $1,000 limitation is an even more clearly reasonable restriction on the expression of political views, since substantial public funds are already being made available to advance the views of the candidate, and since the individual still retains the right to spend a substantial sum from his own funds.

Finally, it is worth emphasizing that, whatever the result of a court challenge to the $1,000 limit, it would have no impact on the central and crucial feature of the public financing amendment—the allocation of public funds to Presidential candidates. Under traditional constitutional doctrines of severability, a holding of unconstitutionality with respect to the $1,000 limit would not invalidate other provisions of the amendment. The sole result would be that Presidential candidates using public funds would also be entitled to receive private contributions, and political committees would be subject to no restrictions on their expenditures, other than those now applicable under existing law. Congress clearly stated its preference in the amendment to limit private financing for candidates using public funds, but just as clearly, the overriding goal of the amendment was to provide public funds for Presidential campaigns. That goal can be accomplished regardless of the outcome of litigation on the $1,000 limit.

D. THE TAX CHECKOFF PROCEDURE IS A CONSTITUTIONALLY PERMISSIBLE METHOD FOR CONGRESS TO DETERMINE THE ALLOCATION OF PUBLIC FUNDS

The funds to be made available under the public financing amendment are determined in the first instance by the actions of individual taxpayers, who are authorized to designate that $1 of their income tax may go either into a special account established in the Treasury for the Presidential candidate of a particular party, or into a general account that may be allocated in certain circumstances for the benefit of all the candidates.

Far from being an unconstitutional delegation of the power of Congress to appropriate Federal funds, the so-called "check-off" procedure actually helps to meet a number of the constitutional objections that might possibly be raised against the amendment. In effect, by adopting the check-off procedure, Congress has removed itself from a major part of the decision on the allocation of public funds, and thereby eliminated a corresponding part of the constitutional objections, whether valid or not, that might possibly be raised were Congress simply to legislate its own formula for allocating funds between major and minor parties. By the simple expedient of the check-off procedure, Congress enables individual taxpayers to determine the amount of public funds that candidates are entitled to receive, subject only to the 5% threshold mentioned above and to specified ceilings on the total amount of public funds for which they are eligible.

In effect, the check-off procedure is comparable in many respects to a 100% tax credit for political contributions, with the Treasury serving as transfer agent for the individual to forward his contribution to the candidate of his choice. A separate title of the tax bill contains a provision enacting a 50% tax credit, up to a total credit of $25, for contributions to candidates for all public offices—Federal, State, or local—and for all elections—primary, general, or special. Surely, it may be argued, Congress has the power to enact a 100%, $1 tax credit solely for Presidential candidates and solely for the general Presidential election.

Two additional considerations lead to the view that the check-off procedure is not an unconstitutional delegation by Congress of its power of appropriation. First, as Section 9006 of the amendment as approved by the conferees makes clear, Congress itself has specifically provided for the separate appropriation of Federal funds, in accord with the amounts designated by taxpayers for the accounts of the various candidates.

The check-off procedure simply provides a method by which the amount of the appropriation is to be determined, with Congress itself retaining the final power to transfer the funds. In this respect, the check-off procedure is not substantially different from countless other formulas in other Federal statutes that determine how Federal funds are to be allocated. Traditionally, for example, the funds appropriated for many Federal grant programs are apportioned among the States according to formulas that take into account such factors as population, per capita income, and the local need for the specific programs. As such, the formula in the check-off procedure is unobjectionable.

Second, the Supreme Court has repeatedly sustained the relatively broad delegation by Congress of its legislative powers. I know of only three major decisions in which such delegation has been held unconstitutional.

The decisions in *Panama Refining Co. v. Ryan*, 293 U.S. 388 (1935), and *A.L.A. Schechter Poultry Corp. v. United States*, 295 U.S. 495 (1935), involved the broad economic controls given President Roosevelt under the National Industry Recovery Act of 1933. If those decisions are still law today, they would probably require a holding of unconstitutionality with respect to the recent delegation by Congress of the powers the President is now using to justify the current wage and price controls over the economy.

The other precedent is *Carter v. Carter Coal Co.*, 198 U.S. 238 (1936), which authorized coal producers and miners to exercise broad and coercive economic powers over minority producers and miners. As such it is hardly a valid precedent for the public financing amendment, since the objectionable element of coercion is absent.

In fact, the judicial precedent most nearly in point strongly supports the constitutionality of the delegation of powers in the check-off procedure. In *Cincinnati Soap Co. v. United States*, 301 U.S. 308 (1937), the Supreme Court specifically sustained a statute providing that taxes collected from the local manufacturers of coconut oil in the Philippines were to be held in a separate fund for the Philippine Treasury. The Court upheld the tax, even though the proceeds were earmarked for a special purpose. As the Court stated:

"If Congress, for reasons deemed by it to be satisfactory, chose to adopt the quantum of receipts from this particular tax as the measure of the appropriation, we perceive no valid basis for challenging its power to do so." *Id.*, at 313.

Similarly, Congress is entitled to measure the appropriation of public funds for presidential candidates in accord with the designations of individual taxpayers, without violating any constitutional prohibition against the undue delegation of its powers.

Mr. MANSFIELD. Mr. President, I am happy to note that the conferees have now completed work on the President's economic tax package. I wish at this time to commend them for the expeditious manner in which they addressed themselves to the task of constructing a measure that we all hope will put this Nation's economy back on its feet. Particularly, I am pleased that the conferees retained the concept of election financing.

Overall, in this endeavor, the conferees undertook an enormous task, thrashed out the differences and pieced together what appears to be a reasonably balanced package; one that we hope will both stimulate productivity, encourage employment and for the first time remove the primary dependency on election costs from the large economic interests of the Nation.

My personal view is that the measure is somewhat defective in at least one major respect. For the first 3 years of operation the permanent revenue loss under this measure will reach close to $16 billion; and the permanent loss of well into the billions will continue every year thereafter. Such losses will occur in my judgment at too great an expense to the consumer and lower income Americans and with too great a benefit to the large economic business interests of the Nation. Aside from this imbalance, however, for the sake of this Nation and its floundering economy, I hope and pray this program achieves the ends it seeks.

The ravages of inflation, unemployment and the host of ills that have followed in their wake have been permitted to endure for too long. Too many Americans have been made to suffer. To put it plainly, the need for this tax bill is now, and I am pleased indeed that the veto talk which greeted its reference to conference has subsided.

Of course, it is the President's prerogative at any time to indicate to the Congress through his press secretary, or otherwise, his concern over various features of legislation passed by both Houses. Just as certainly, conferees meeting in such cases are not bound by such admonitions. Indeed, in the conference, the President's views may or may not be helpful.

What is clear is that the conference on the economic tax measure is now over and what must come first and foremost is this Nation's economy. It was out of a deep concern for the economy that the Congress—the Senate and the House alike—joined to expedite this measure as the President's No. 1 priority legislative item. It did so to help an economy that has been plagued for too long by worsening unemployment, increasing inflation and a dollar that has been severely and permanently weakened.

In the process, other legislative business of the Senate—also most important and even vital to the American people—has been postponed, or otherwise moved aside to help turn the economic tide and get this Nation back on its feet. As a result, the economic tax bill went through in record time for a measure of such far-reaching dimensions. As was expected, too, the proposal underwent the give and take and working out that is an essential part of the legislative process.

In that respect, I think a word ought to be said about those provisions of the measure which for the first time will permit the public to help finance election costs. Let me first dispel all doubts on this matter at this time; election financing is here to stay as far as this Senator is concerned. The issue is larger than 1972. It is larger than any party as well. Much larger. The law is on the books, and as a first step, commencing next year, all citizens, no matter their income status, will be encouraged to participate in the elective process with tax credits and tax deductions. They will benefit all candidates to whatever office—Federal, State, or local.

It is only in this way, may I say, that a candidate can be able to overcome his becoming just another investment for some large economic interest. Only with such assurance can an end be put to the notion that this elected official or that is "labor's man" or "industry's man" or whoever else's man. Only with such a system can there be a man elected by and for all people, insulated from dependency upon either his own personal fortune or that of some wealthy interest group that chooses to back him or, to state it honestly—to buy him.

For the presidential campaign the feature of this proposal that allows the people to participate is enormously important. It was most unfortunate that its effect was postponed. The sooner implemented, the better off will be this Nation and its ability to protect and preserve the democratic institutions we love and cherish so much.

If by postponing its effective date a veto was avoided, that is well. In my judgment there is nothing sacred about the year 1972. But it is tragic that this matter was viewed by some in such political and partisan terms. The particular financial condition of one or another of the political parties at a given time should not be a factor. Whether it has $40 million in the bank obtained largely from enormous economic interests or whether it is in debt, the people should not be precluded from joining the elective process.

Beginning in 1973, what this proposal provides is that on a voluntary basis, citizens themselves can authorize the campaign funds for the presidential race. That is well. It would make it permissible for the American people—if they so choose—to absorb a portion of election costs that have skyrocketed beyond all reason. In turn, it would compel those seekers of this Nation's highest elective office to be beholden but to a single, solitary interest group—the American people themselves.

Indeed, this provision must remain. Without it, democracy as it has been here constituted and as we have come to know and love it today, simply cannot endure.

Mr. CURTIS. Mr. President, I am prepared to yield back the remainder of my time.

Mr. LONG. Mr. President, I yield back the remainder of my time.

Mr. BYRD of West Virginia. Mr. President, before the Senator yields back his time, will he yield to me?

Mr. LONG. I yield.

Mr. BYRD of West Virginia. Mr. President, Senators will recall that the distinguished Senator from Rhode Island (Mr. PASTORE) came into the Chamber a moment ago, and it was indicated to him that the time would be up on the pending conference report at 3 minutes after 5. Would the Senator allow a quorum call so that Senator PASTORE and other Senators could be advised?

Mr. LONG. If the Senator has no objection, we can yield back the time and then can have the quorum call.

Mr. BYRD of West Virginia. Yes.

Mr. LONG. I yield back the remainder of my time.

Mr. CURTIS. I yield back the remainder of my time.

QUORUM CALL

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BURDICK). Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent to be recognized for 1 minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

WAIVER OF RULE XII ON S. 1874

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that rule XII be considered to be waived with reference to the vote on S. 1874, a bill to provide for the establishment of projects for dental care.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR EXECUTIVE SESSION

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that, immediately following the vote on the pending conference report on H.R. 10947, the Senate go into executive session for not to exceed 5 minutes, and then return to legislative session to take up the conference report on the conquest of cancer, S. 1828.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR MOSS

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that when the Senate returns to legislative session, following the 5 minutes within executive session, the distinguished Senator from Utah (Mr. MOSS) be recognized for 2 minutes prior to the calling up of the conference report on the conquest of cancer, S. 1828.

The PRESIDING OFFICER. Without objection, it is so ordered.

REVENUE ACT OF 1971—CONFERENCE REPORT

The Senate continued with the consideration of the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 10947) to provide a job development investment credit, to reduce individual income taxes, to reduce certain excise taxes, and for other purposes.

Mr. TOWER. Mr. President, it is with reluctance that I shall vote to support the conference report on the Revenue Act of 1971. I voted against the bill when it passed the Senate, believing that not only was the revenue loss too great, nearly $45 billion, but that the so-called campaign financing plan was an unconscionable raid on the Federal Treasury.

To its credit, the conference committee was able to significantly clean up this bill and report it back to the Senate in very nearly the form that the President had requested. The reduction in taxes is close to the figure that the President had suggested. It is a figure that should stimulate economic growth without generating a new inflationary spiral.

Unfortunately, the Conference Committee did not eliminate the checkoff campaign financing provision, though it did change its effective date until 1973. I very strongly beleve that the Federal Government should not become involved in structuring and financing political institutions. From past experience, it is quite evident that what the Federal Government finances, it eventually controls. Should the Government ever control our political parties, freedom in this country will be extinguished. I believe that this proposal is most unwise and should not be enacted.

I urge the President to seek an early court challenge to the constitutionality of this section. The checkoff is a partisan raid on the hard-earned tax dollars of the American people and should not be allowed.

Mr. HART. Mr. President, shortly before we began debate on the Revenue Act of 1971, I made the following statement regarding my intention to vote against it as it was proposed by the administration:

> We all want inflation slowed and more jobs created.
>
> We all want Phase II to work effectively and fairly.
>
> Unhappily, Phase II is stacked against the individual wage earner. And even worse, perhaps, not only does the Phase II tax bill heavily favor industry, but it will probably do little to increase employment.
>
> If it isn't changed from its present form, I will vote against it, while opposing any effort to water down repeal of the excise tax on cars and trucks.
>
> Also, in the interest of fairness and in the interest of creating more jobs, wage increases frozen during Phase I should be treated in the same way as future wage increases will be treated. That means workers should be paid retroactively for all frozen back wages if the payments fall within the general guidelines established for the months ahead.

When the proposed tax cuts were totaled, industry was getting a $75 billion cut over the next 9 years, while reductions for individuals would have been less than one-fifth that figure. Clearly, such a proposal was out of balance.

This body labored long and hard to redress this imbalance. The bill we have before us now is a mixed bag. Although many of the changes we made were not sustained in conference, happily enough were kept so that the individual taxpayer is assured a somewhat better break. Over a 3-year period, estimates indicate that tax cuts for business will now be $15 billion, compared with $11 billion for individuals.

The opportunity to move on the issue of public financing of presidential campaigns, as represented by the Senate's inclusion of the contribution check-off system, was one which I welcomed. My views of the necessity of eliminating the real or imputed influence of large contributors have been expressed before. When a presidential campaign is planned on such a grand scale that $5 million must be raised in a single evening, to support a candidacy yet to be announced, it is time we revamped the whole system.

So I see the postponement to 1976 of the opportunity to avoid private fundraising in a presidential race as a great loss—a loss not to the candidates who might use public funds so much as a loss of the chance to restore integrity and dignity to political campaigning and to restore confidence in the political structure.

Of course, I am delighted that the conferees retained provisions for tax credits and deductions for political contributions. This at least begins the process of moving away from reliance on the fat cats of politics.

On balance, then, I support passage of the Revenue Act of 1971, fully realizing that the proposals we sent to the conference represented a preferable approach.

Mr. HARTKE. Mr. President, I am disappointed by the actions taken in conference on this legislation—I shall reluctantly, vote for this bill.

But I do not blame the conferees for their action. It was clear that they were working under the threat of a Presidential veto.

Apparently the President believes that it is big industry and not the average consumer who needs tax relief at this time. The simple facts are, that this legislation contains three times as much tax savings for business as it does for the individual taxpayer. I believe that that is a mistake, perhaps a fatal one for our economy. What we need now are balanced incentives which help both the businessman and the ordinary consumer, and not lopsided bonuses for industry.

The proposal that I offered, which would have increased the personal exemption to $800 next year, was a responsible attempt to bolster consumer demand at a time when such bolstering is desperately needed. I regret that it was deleted in conference, but I do not blame the conferees, I blame the President.

As the author of legislation which would have reinstated the investment tax credit at a level of 10 percent, I am not unmindful of the legitimate capital needs of business at this time. However, there is no logic in also accepting the fantastically expensive accelerated depreciation system which merely adds to the capital investment incentives already provided in the investment tax credit.

In sum, I am saying that this bill lacks equity. At a time when it is the average taxpayer who needs help the most, we are giving the juiciest plums to those who need it the least.

Mr. EAGLETON. Mr. President, the Senate worked long and hard on the Revenue Act of 1971. Some very positive good could have come out of our effort including, I believe, my own amendment to provide tax relief for the elderly. This revenue bill, as it left the Senate, would have provided roughly $21 billion worth of tax relief for individuals which would soon have been converted into consumer spending. It provided roughly $15 billion in tax relief for business.

The conference committee has reversed this balance. It provides $15 billion relief to business and $11 billion for the individual taxpayer, with a total loss to the Treasury of $25 billion for the 3-year period 1971–73.

The catch is that the tax relief for individuals is simply an acceleration of what was already scheduled, whereas the corporate tax breaks represent a permanent loss of revenue—investment tax credit, ADR, repeal of the excise tax.

Of all the tax adjustment amendments we passed, only the child care deduction provision remains in the bill. The improvements we made, the efforts we expended, have gone for naught.

Mr. President, the tax bill before us is supposed to provide the shot in the arm required to get the economy moving again. We need a short-run stimulus that will not undermine the inflation control goals of phase II.

How can we accomplish this objective? With an investment credit, when the lead time of many businesses for their major capital projects is sometimes as long as 5 or 6 years? By liberalizing depreciation rules when no one can produce conclusive evidence that establishing an arbitrary time period for the useful life of a machine in any way affects the actual usefulness or encourages increased productive investment? Does it help to create a billion dollar loophole in the corporate income tax law by exempting the export profits of a DISC, without any incentive to increase exports?

The essential trigger for an economic resurgence is consumer demand. The inflation we now have in this country is not a demand-pull, but a cost-push inflation. The phase II controls will be sufficient to ward off pressures that might ordinarily be generated by an increase in demand. So we have a reasonably good opportunity to stimulate the economy in the short run without undermining the efforts to curb inflation. Instead, this bill opts for tax cuts which, if they have an effect at all, provide longrun stimulus, and result in permanent loss of revenues.

Furthermore, the erosion of the tax base in the face of so many pressing national needs is something for which we will pay heavily in the future. Charles L. Schultze, former Budget Director and now senior fellow at the Brookings Institution, in testimony before the Joint Economic Committee on August 20, 1971, articulated my sentiments exactly:

> While welcoming the aggregate stimulating effect (of the particular components of the President's proposals), I do not believe they are at all well-balanced from the standpoint of equity or national priorities.
>
> A related point has to do with the *permanent* nature of part of the tax reductions proposed by the President. The auto excise tax repeal and 5% of the investment credit represent permanent tax reductions, losing about $5 billion a year in revenues. While we need tax cuts at the present time, to help bring the economy out of recession, we will—once the economy has returned to full employment—need every dime of revenue generated by the present tax system to meet even a minimal estimate of national needs in the public sector. Almost every future projection of the fiscal dividend for the mid 1970's shows that it is very slim indeed, and far too small to be eroded by permanent tax cuts.

Finally, I direct my attention to the conference committee action on the Pastore campaign financing amendment.

In analyzing this "compromise" we must first examine the basic premise behind the amendment.

The essence of our democratic process is that there will be competition among candidates of different parties and differing philosophies seeking the same public office. This is true whether the office sought is the Presidency, U.S. Senator, Governor, mayor, or alderman. In recent years, the campaign expenses entailed in seeking any of these offices have soared astronomically. The traditional methods of campaigning—large public rallies, placards, handout cards, radio speeches, et cetera—were relatively speaking, inexpensive. These methods have been either replaced or supplemented by the "modern" techniques—television commercials including half-hour, Hollywood-style films, jet aircraft caravans, direct mailings to every registered voter, et cetera. These techniques are horrendously expensive and for our only nationwide offices, President and Vice President, ridiculously so.

Analysts are still guessing as to the cost of the 1968 campaign. Newsweek magazine this week estimated $300 million. Newsweek says the figure for 1972 will likely be $400 million.

The costs are such that a presidential aspirant has to place himself at the mercy of big money—big money from individuals, big money from special interest groups, big money from big labor. A big campaign contribution is a big investment—an investment in seeing to it that the candidate espouses a certain position.

Thus, a candidate for President, in order to be competitively viable and have the financial wherewithal to pursue an effective campaign, must pander to the "big boys" for their monetary aid.

The thrust of the original Pastore amendment was to take the Presidency off the big money auction block and put it where it traditionally belongs, in the public domain for all of the people.

I strongly supported that amendment.

But now, Mr. President, the conference committee has injected a new ingredient into the picture which disquiets me.

I am not referring to the postponement of the implementation of the amendment beyond the 1972 election. I presume the Nation can endure one more "money bag" election. I realize that in the art of legislative compromise the postponement may have been a pragmatic necessity.

I am referring to the addition of the new ingredient that these funds must now be appropriated by the Appropriations Committees of the House and Senate.

The privilege to appropriate or not to appropriate puts in these two already powerful congressional committees an additional awesome power. If it should result, as we get close to the 1976 presidential campaign, that one or two candidates in each party appear to be emerging as the likely nominees, and if such likely nominees appear to be philosophically at variance with the concensus philosophy of the Appropriations Committees, then these committees could legally use their discretionary power to influence the outcome of the respective national political conventions.

Thus, Mr. President, we may be substituting for the power of big private money the power of a few Members of Congress serving on the Appropriations Committees.

The revenue bill we vote on today is in its present form for one simple reason: This is the way President Nixon wants it.

This is the way he wants the tax package balanced.

This is the way he wants the 1972 presidential campaign financed.

He made it plain that the bill would be vetoed if it did not suit—and a veto would mean delay and further uncertainty in an economy already suffering deeply from delay and uncertainty. Regrettably, a veto of the conference report by the Senate would have about the same result.

Therefore I shall reluctantly vote "aye"—hoping as I do it that the bill will at least contribute some buoyancy to the American economy—that there will be at least a few beneficiaries of the administration's latest exercise in trickle down economics—and that we will soon make another opportunity to save ourselves from the evils of big money politics.

Mr. ROTH. Mr. President, this tax bill is entirely different from the one we sent to the conference committee. It is, in my judgment, a far more equitable measure and one that deserves our prompt support.

In the course of the two week debate on the bill, we added provisions which would have reduced Federal revenues nearly $13 billion over fiscal years 1972–74, and added more than $2.5 billion to the $34 billion anticipated deficit for this year.

Now, the bill returning from conference has been stripped of $12 billion in revenue losing proposals, over these 3 fiscal years. The remaining provisions are, I believe, designed to produce a balanced and prudent incentive to businesses and individuals alike.

The added exemptions and larger minimum deductions will provide particularly lower income families much needed funds. We have seen savings rates increase and consumer credit decrease over the last 18 months. A tax measure designed to reverse these trends will be an important contributor to restoring consumer confidence, a key stimulus in generating new buying power.

Further, the investment tax credit and the accelerated depreciation schedules will help to spur the needed capital investment which is necessary to keep our physical plant competitive with foreign manufacturers. Repeal of discriminatory excise taxes on autos and light trucks will stimulate—as it already has—sales in one of our most important business sectors.

THE INEVITABILITY OF TAX INCREASES

Mr. STENNIS. Mr. President, at the time that the Senate originally passed the Revenue Act of 1971, I voted against it. Having studied the bill as it emerged from conference, I have decided to vote affirmatively on the conference report. I believe this bill should pass, and that the tax cuts incorporated in it will be beneficial to the economy by spurring its growth. But, I must state that the stimulus of tax cuts can only be effective in the short-run, and that tax increases are inevitable. We can cut taxes now but will later have to bear the responsibility of increasing them.

The philosophy behind the tax cut in the Revenue Act of 1971 is that decreased taxes will leave more spending money in the hands of the consumer, and the increased spending will stimulate the economy. The increased spending would bring in revenues in such forms as the excise tax, but the question is whether the amount of increased revenue tax generated by the growth in the economy will be sufficient to cover the increased cost of Government programs or to cover the gap left in tax revenue by the cuts incorporated in the bill.

Facts and figures that I have studied and will briefly discuss to make my point lead me to believe that the current tax cuts may well stimulate the economy in the short-run, but in the long run these cuts cannot be maintained, or if they are maintained, our Government spending must be drastically reduced and new programs envisioned by the administration, the public, or both, and by many Members of Congress, must be abandoned.

The national debt, created by the difference between spending and revenues, is now $418 billion, up $100 billion from 1965. For fiscal year 1972, with unemployment running 6 percent, the budget deficit is estimated to be $28.1 billion. In fiscal year 1971, the deficit was $24.2 billion.

Having so high a national debt—and increasing it so much each year—necessitates paying a huge amount of interest each year. For fiscal year 1971, the gross interest expense on our national debt was almost $40,000 per minute, or a total of about $21 billion. That $21 billion that paid the interest could have bought all HEW programs except social security or covered all allowances and pay, except retirement, of all military personnel including Reserves for fiscal year 1971.

The larger the gap between revenues and spending, the larger the deficit is each year to add to the national debt. Federal spending is rising sharply each year and is running at about $232 billion this fiscal year. Expenditures increased at an annual rate from the first quarter to the third quarter of 1971 of 11 percent, more than double the 4.7 percent annual rate from mid-1968 to early 1970. If spending is increasing at this rate, revenue—to cover the expenditures—must also increase.

Fiscal spending has been increasing from $10–$20 billion per year, as follows: Fiscal year 1970—$197 billion; fiscal year 1971—$212 billion; fiscal year 1972—$232 billion (estimated).

If this trend continues, and there are no indications to the contrary, the budget for fiscal year 1973 will be as high as $245 billion. Revenue this fiscal year is estimated at $204 billion and would have to increase about $12 billion in fiscal year 1973 just to hold the deficit at its current $28 billion level.

The trend of increased Federal spending, which has occurred throughout the Government and its many functions and interests, is best seen in the human resources area—an undeniably important area of high public priority. In the 6 years from fiscal year 1966 to 1972, education and manpower costs have doubled; income security costs, which include welfare and retirement, have more than doubled; health costs have increased sixfold. These demands will increase rather than decrease.

Briefly looking at the defense budget, it was lower in fiscal years 1971 and 1972 than it had been previously (fiscal years 1967–70). I have done what I could to bring about reasonable reductions and shall continue to do so. Secretary Laird has said that the request for the military will go up next year. I hope this is error. There are other unfunded obligations of large sums and these will continue to increase.

One large part of the national defense figure is military retirement, which increases yearly. From fiscal year 1966 to 1972, the cost of paying military retirement more than doubled. And the accrued, unpaid military retirement rose from $66 billion in fiscal year 1966 to $113.8 billion in fiscal year 1972.

I have given just a few examples of the trends in Government spending, but it is evident that we are spending more and more. The current tax cut can only be effective in the short-run as a stimulus to the economy and will, I believe, inevitably give way to tax increases to cover the rising cost of Government programs. I think the people should be fully advised of this fact now so that they may fully understand the situation and make their plans accordingly.

HIGHWAY TRUST FUNDS MUST BE PROVIDED TO COMPLETE PROGRAM

Mr. RANDOLPH. Mr. President, I call the attention of the Senate to the deletion by the conferees of a section of the Revenue Act of 1971 which would have prevented a reduction in income for the Highway Trust Fund.

In its original consideration of this measure, the House Ways and Means Committee repealed the excise tax on light trucks, a tax that is dedicated to the Highway Trust Fund and one that would provide approximately $350 million during the current fiscal year for highway transportation development. I called this situation to the attention of the Senate Finance Committee, explaining that this loss of income for the trust fund would prolong the meeting of highway program commitments. To compensate for this loss, the Senate Finance Committee designated 7 percent of the excise tax on wine and beer for the Highway Trust Fund.

During floor consideration of the bill, there were proposals to earmark this money for other purposes and others to delete it entirely from the trust fund. All of these proposals were rejected by the Senate.

I inquire of my friend, the chairman of the Finance Committee, if it is correct that the germaneness rule of the House of Representatives was imposed on the Senate during the conference on this bill so that the transfer of money to the trust fund could not be agreed to. Did this rule give the Senate conferees no choice but to accede to avoid a total impasse on important legislation?

Mr. LONG. That was exactly the situation. It was purely a matter of germaneness. I regret that was the case. However, as I said in my previous statement, unfortunately under the Reorganization Act, the Senate has permitted itself to be governed by the House of Representatives rule of germaneness rather than by the Senate rule.

Mr. RANDOLPH. Is it also true, Mr. Chairman, that the elimination of the transfer was not based on opposition by the conferees to the highway trust fund or the program it supports, but was solely a matter of adhering to the House rule?

Mr. LONG. The Senator is entirely correct.

Mr. RANDOLPH. I remind Senators that the action they approved last month was not an addition of new revenues to the highway trust fund. It was compensation for revenues that will be lost because of the repeal of the light truck tax. The deletion of this income will cause a total loss estimated at $2.2 billion over the present statutory life of the trust fund. This is equivalent to approximately 40 percent of 1 year's income for the Federal highway program.

I ask the chairman of the Finance Committee if this deficiency in income means that the trust fund will have to be continued beyond its present 1977 expiration date since the lost revenues are needed to complete the Interstate System and to carry out other facets of the highway program already authorized?

Mr. LONG. If we are unable to provide additional tax so as to provide for this, I hope the Committee on Appropriations will be willing to vote an appropriation into the trust fund to assure enough funds will be available to keep the highway program on schedule.

Mr. RANDOLPH. The concept of the highway trust fund is being questioned and there are those who believe its resources should be committed to other transportation purposes.

The action of the conferees in reducing the trust fund's income, however, can not be looked at as a victory for this point of view. It must, instead, be recognized as a setback. Not only does the loss of revenue to the trust fund prolong the day when consideration can be given to altering the form and direction of the highway program, it denies improved transportation to the American people and raises the ultimate cost they must pay for highway construction.

Mr. President, I thank the chairman for his responsiveness and his attention to the subject. Our debate highlights the importance of restoring this lost revenue in the future.

The PRESIDING OFFICER (Mr. Burdick). All time on the conference report has expired.

The question is on agreeing to the conference report. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. MANSFIELD (after having voted in the affirmative). On this vote I have a pair with the distinguished Senator from Texas (Mr Bentsen), who is absent on official business. If he were present and voting, he would vote "yea;" if I were at liberty to vote, I would vote "nay." I withdraw my vote.

Mr. BYRD of West Virginia. I announce that the Senator from New Mexico (Mr. Anderson), the Senator from Virginia (Mr. Byrd), the Senator from Georgia (Mr. Gambrell), the Senator from Oklahoma (Mr. Harris), the Senator from Iowa (Mr. Hughes), the Senator from Minnesota (Mr. Humphrey), the Senator from Washington (Mr. Jackson), the Senator from Arkansas (Mr. McClellan), the Senator from South Dakota (Mr. McGovern), the Senator from Maine (Mr. Muskie), the Senator from Georgia (Mr. Talmadge), and the Senator from California (Mr. Tunney) are necessarily absent.

I further announce that the Senator from Texas (Mr. Bentsen) is absent on official business.

I also announce that the Senator from Idaho (Mr. Church) is absent because of illness.

I further announce that, if present and voting, the Senator from Georgia (Mr. Gambrell), the Senator from Minnesota (Mr. Humphrey), the Senator from Washington (Mr. Jackson), and the Senator from California (Mr. Tunney) would each vote "yea."

I further announce that, if present and voting, the Senator from Oklahoma (Mr. Harris) and the Senator from South Dakota (Mr. McGovern), would each vote "nay."

Mr. GRIFFIN. I announce that the Senator from Utah (Mr. Bennett) and the Senator from South Dakota (Mr. Mundt) are absent because of illness.

The Senator from Nebraska (Mr. Hruska), the Senator from Maine (Mrs. Smith), and the Senator from Vermont (Mr. Stafford) are necessarily absent.

Also, the Senator from New York (Mr. Buckley), the Senator from Oregon (Mr. Hatfield), and the Senator from Illinois (Mr. Percy) are necessarily absent.

If present and voting, the Senator from Nebraska (Mr. Hruska), the Senator from Illinois (Mr. Percy), and the Senator from Maine (Mrs. Smith) would each vote "yea."

The result was announced—yeas 71, nays 6, as follows:

[No. 443 Leg.]

YEAS—71

Aiken
Allen
Allott
Baker
Bayh
Beall
Bellmon
Bible
Boggs
Brooke
Burdick
Byrd, W. Va.
Cannon
Case
Chiles
Cook
Cooper
Cotton
Cranston
Curtis
Dole
Dominick
Eagleton
Eastland
Ellender
Fong
Fulbright
Goldwater
Griffin
Gurney
Hansen
Hart
Hartke
Inouye
Javits
Jordan, N.C.
Jordan, Idaho
Kennedy
Long
Magnuson
Mathias
McGee
McIntyre
Metcalf
Miller
Mondale
Montoya
Moss
Packwood
Pastore
Pearson
Pell
Proxmire
Randolph
Ribicoff
Roth
Saxbe
Schweiker
Scott
Sparkman
Spong
Stennis
Stevens
Stevenson
Symington
Taft
Thurmond
Tower
Weicker
Williams
Young

NAYS—6

Brock
Ervin
Fannin
Gravel
Hollings
Nelson

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Mansfield, against.

NOT VOTING—22

Anderson
Bennett
Bentsen
Buckley
Byrd, Va.
Church
Gambrell
Harris
Hatfield
Hruska
Hughes
Humphrey
Jackson
McClellan
McGovern
Mundt
Muskie
Percy
Smith
Stafford
Talmadge
Tunney

So the conference report was agreed to.

EXECUTIVE SESSION—NOMINATION OF WILLIAM H. REHNQUIST

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session and that the distinguished minority leader be recognized.

The PRESIDING OFFICER. Without objection, it is so ordered.

CLOTURE MOTION

Mr. SCOTT. Mr. President, I send to the desk a cloture motion and ask that it be stated.

The PRESIDING OFFICER. The motion for cloture having been filed, the clerk will state the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the confirmation of the nomination of William Rehnquist, to be an Associate Justice of the Supreme Court of the United States.

1. Hugh Scott.
2. Paul J. Fannin.
3. William B. Saxbe.
4. Marlow W. Cook.
5. Lowell P. Weicker, Jr.
6. J. Caleb Boggs.
7. Robert Dole.
8. Robert Taft, Jr.
9. Carl T. Curtis.
10. Howard H. Baker, Jr.
11. Henry Bellmon.
12. Peter H. Dominick.
13. Gordon Allott.
14. Ernest F. Hollings.
15. Strom Thurmond.
16. Bill Brock.
17. Richard S. Schweiker.
18. William V. Roth, Jr.
19. Robert P. Griffin.
20. James O. Eastland.
21. Len B. Jordan.
22. Clifford P. Hansen.
23. Barry Goldwater.
24. Jack Miller.
25. James B. Pearson.
26. James L. Buckley.
27. Edward J. Gurney.
28. Norris Cotton.
29. J. Glenn Beall, Jr.
30. John G. Tower.

Mr. SCOTT. Mr. President, after consultation with the distinguished majority leader, I ask unanimous consent that the time on this motion start running on Saturday morning at 10 a.m.

The PRESIDING OFFICER. Is there objection?

Mr. BAYH. Mr. President, reserving the right to object, I want to ask a question of our distinguished minority leader. Is it a sign of weakness that the Senator might have to use that second cloture motion?

Mr. SCOTT. I will be glad to reply on my time.

The Senator reserved the right to object?

Mr. BAYH. I shall not object.

Mr. SCOTT. I understand. I am glad to reply. It is a sign of convenience. We are trying to accommodate Senators; and also it is a sign of credibility, because I promised Senators that I will file a cloture motion every day from now until the end of the session.

I assume that if the stars are in the right ascendancy perhaps the motion on Saturday will not be necessary and that we may be able to bring matters to a solution tomorrow in the vote.

But I am one who believes in caution and confidence, as I said to my friend the other day. Therefore, I will be doing this every day until Senators decide they want to go home. I rather think two-thirds of the Senators want to go home now. If they do not, we will give them another chance, and another next week.

Mr. BAYH. Mr. President, will the Senator yield for an observation?

Mr. SCOTT. I yield.

Mr. BAYH. I hope that more than one-third of the Senate and hopefully a majority of the Senate on both sides will be more concerned about other things than how the stars are, and weigh the merits of this man who will be on the Supreme Court for many moons if he is confirmed.

Mr. SCOTT. The merits bring us to invoke the rule. We are convinced, I believe, that a vast majority of the Senators, based on the merits, are in favor of the nominee, and believing that, we see in our minds that the time has come to vote. The Senator from Indiana may be unwilling to vote now or at any time in the foreseeable future, but this is one of the things on which we disagree.

Mr. BAYH. I respect the Senator's right to disagree, but I assure the Senator there are foreseeable dates in the future when the Senator from Indiana would be willing to vote.

I would like to ask my friend, the Senator from Pennsylvania, if he had an opportunity to read or have discussed with him the remarks that the Senator from Indiana made today in which he read into the RECORD the historical decisions that had been decided by the late distinguished Justice Jackson, and if he had a chance to review the memorandum, which the nominee said were Justice Jackson's views and not his own. The decisions, I cited we know, are Justice Jackson's.

Mr. SCOTT. I would say this to the Senator.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. SCOTT. Mr. President, I ask unanimous consent that I may proceed for an additional 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCOTT. The distinguished Senator will remember I said yesterday that the nominee had been requested by the Justice to furnish him information on one side, one point of view of the question. I made the point that I, myself, disagreed with that point of view. I further went on to say that those who knew Justice Jackson, and we had outside information on this, know he already had the views of his brethren on the bench on the opposite side and he was, therefore, asking an employee to prepare information on one side of an issue, having been informed on the other. I do not see anything wrong with that.

The Senator from Indiana has staff members and he probably asks them to give him both sides of a question because he wants to be a well-rounded Senator—because the Senator is not as well rounded in some aspects as I may be, but well rounded—and I am sure he likes to hear both sides of the question.

Mr. BAYH. The observation of the Senator from Indiana is that these are various questions that we are trying to resolve. The Senator from Indiana and some of us are concerned, deeply concerned. I understand the junior Senator from Massachusetts has a presentation he wishes to make. We are looking at information on Rehnquist as we received it 24 hours ago. It is rather contrary to that stated by the Senator from Pennsylvania. This is the kind of thing we want the Senate to consider without thinking of the tinkling of Christmas bells and without being under the pressure of cloture. This is hardly the way to put a man on the Supreme Court.

Mr. SCOTT. I may be wrong but I have a strong impression the Senator from Indiana was prepared to vote against the nominee before he heard of him and certainly from the moment he did hear of him, but I am not sure too many others have been similarly persuaded. We will find out if the Senator lets us get to a vote. If we apply the standards which the Senator from Indiana is seeking to apply he very well knows one-half of the Founding Fathers of this Nation would never have qualified for confirmation to the Supreme Court.

He knows that Abraham Lincoln could not have made it before he came to the Presidency because of the Lincoln-Douglas debate in which his remarks in today's context would certainly be deemed negative in some respects by some people—by many people. Certainly I think the only member of the Founding Fathers who was in the clear, by the Senator's test, would be Benjamin Franklin.

Mr. BAYH. The Senator from Indiana has read some chapters of history relative to some of the activities of our beloved Mr. Franklin in Paris that might bring into question whether he would be qualified under the test placed by some, but I am not suggesting this type of thing.

I think my friend, the Senator from Pennsylvania, is not his usual benevolent and straightforward self when he suggests that any Member of this body is prepared to vote against a nominee before he has even heard of him.

I was more than happy to go along with Justice-designate Lewis H. Powell. I was hoping to be able to go along with William H. Rehnquist, but I must say I am concerned, and I think I have the obligation to express this concern. I would like to have the question fully discussed before the Senate votes on him, even if we are voted down by an overwhelming vote.

Mr. SCOTT. I thank the Senator. He has expressed his views, and he has done so with considerable opportunity to appear many times, more often than any other single Senator has appeared, on this issue.

The Senator opened this colloquy by asking me whether the filing of a cloture motion was a sign of weakness. I think I had better answer that it is a sign of strength. If the Senator thinks there are any signs of weakness around here, why does he not bring the matter to a vote and we shall see where the weakness is?

Mr. BAYH. The Senator from Indiana is perfectly happy to suggest that the nomination be put to a vote when the Senate has had an adequate time to discuss it; this is my position now, and I do not intend to change it.

Mr. SCOTT. The Senator continues to hold that time when we can come to a vote, if I can use a papal term, in pectore—only in his own breast. He has not confided to the Senate and to his colleagues when it will be revealed from within his breast his intention to let the remainder of the Senate express its will.

We have been through this sort of thing before, and we have only one remedy, which is cloture, and I am sure the Senator applauds my filing of the cloture motion, because I am so clearly within the rule.

Mr. BAYH. The Senator from Indiana in no way suggested that his friend, the Senator from Pennsylvania, would violate that first rule of the Senate, and I think he approaches this with not only his conscience but his duty in mind. I would suggest that I can better answer that question, whether it is in pectore, or ad infinitim, or whatever it might be.

Mr. SCOTT. Or even ad nauseam.

Mr. BAYH. Well, perhaps it is ad nauseam to all of us.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request of the Senator from Pennsylvania? Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. BYRD of West Virginia. Mr. President, has the Senate gone back into legislative session?

The PRESIDING OFFICER. No, it has not.

Mr. BYRD of West Virginia. Under the order, the Senate was to go back into legislative session.

The PRESIDING OFFICER. Without objection, the Senate will return to legislative session.

LEGISLATIVE SESSION

The Senate resumed the consideration of legislative business.

ORDER FOR RECOGNITION OF SENATOR JORDAN OF NORTH CAROLINA

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that following the recognition of the Senator from Utah (Mr. Moss) under the previous order, the Senator from North Carolina (Mr. JORDAN) be recognized for not to exceed 2 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

CLAIM OF SHOSHONE TRIBE OF INDIANS

Mr. MOSS. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 2042.

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the bill (S. 2042) to provide for the apportionment of funds in payment of a judgment in favor of the Shoshone Tribe in consolidated dockets numbered 326–D, 326–E, 326–F, 326–G, 326–H, 366, and 367 before the Indian Claims Commission, and for other purposes, which was to strike out all after the enacting clause, and insert:

That the funds on deposit in the Treasury of the United States to the credit of the Shoshone Nation or Tribe of Indians and the Shoshone-Bannock Tribes that were appropriated by the Act of June 19, 1968 (82 Stat. 239), to pay a judgment in the sum of $15,700,000 entered by the Indian Claims Commission in consolidated dockets numbered 326–D, 326–E, 326–F, 326–G, 326–H, 366, and 367, and the interest thereon, after deducting attorneys' fees, litigation expenses, and other appropriate deductions, shall be apportioned by the Secretary of the Interior to the Shoshone Tribe of the Wind River Reservation, Wyoming, the Shoshone-Bannock Tribes of the Fort Hall Reservation, Idaho, and the Northwest Band of Shoshone Indians (hereinafter the "three groups"), as set forth in this Act.

SEC. 2. The sum of $500,000, and the interest thereon, less attorneys' fees and other appropriate deductions all in the proportion that the $500,000 bears to the $15,700,000, shall be credited to the Shoshone-Bannock Tribes of the Fort Hall Reservation for claims of the tribes enumerated in dockets numbered 326–D, 326–E, 326–F, 326–G, and 366.

SEC. 3. The sum of $1,375,000 plus the earned interest thereon less $181,732 shall be credited to the Northwestern Bands of Shoshone Indians for claims of the bands enumerated in dockets numbered 326–H and 367.

SEC. 4. The remainder of the award shall be apportioned between the Shoshone-Bannock Tribes of the Fort Hall Reservation and the Shoshone Tribe of the Wind River Reservation in accordance with an agreement entered into between the Shoshone-Bannock Tribes and the Shoshone Tribe of the Wind River Reservation in May 1965, approved by the Associate Commissioner of Indian Affairs in December 1965.

SEC. 5. For the purpose of apportioning the award in accordance with this Act, membership rolls, duly approved by the Secretary of the Interior, shall be prepared for each of the three groups, as follows:

(a) The governing body of the Shoshone Tribe of the Wind River Reservation and the governing body of the Shoshone-Bannock Tribes, each shall, with the assistance of the Secretary, bring current the membership rolls of their respective tribes, to include all persons born prior to and alive on the date of this Act, who are enrolled or eligible to be enrolled in accordance with the membership requirements of their respective tribes.

(b) The proposed roll of the Northwestern Bands of Shoshone Indians entitled to participate in the distribution of the judgment funds shall be prepared by the governing officers of said Northwestern Bands, with the assistance of the Secretary of the Interior, within six months after the date of the enactment of this Act authorizing distribution of said funds. The roll shall include all persons who meet all of the following requirements of eligibility:

(1) They were born prior to and alive on the date of the enactment of this Act;

(2) Either their names appear on one of the following Indian census rolls of the Washakie Sub-Agency of the Fort Hall jurisdiction:

(a) Roll dated January 1, 1937, by F. A. Gross, Superintendent of the Fort Hall Reservation.

(b) Roll dated January 1, 1940, by F. A. Gross, Superintendent of the Fort Hall Reservation.

(c) Roll dated March 10, 1954.

(d) Roll dated April 21, 1964.

or they possess one-quarter Shoshone Indian blood and they are descendants of those appearing on at least one of said rolls;

(3) They are not recognized as members of the Shoshone-Bannock Tribes of the Fort Hall Reservation, the Shoshone Tribe of the Wind River Reservation, or any other Indian Tribe; and

(4) They shall elect not to participate in any settlement of claims pending before the Indian Claims Commission in docket 326–J, Shoshone-Goshute, and docket 326–K, Western Shoshone.

The proposed roll shall be published in the Federal Register, and in a newspaper of general circulation in the State of Utah. Any person claiming membership rights in the Northwestern Bands of Shoshone Indians, or any interest in said judgment funds, or a representative of the Secretary on behalf of any such person, within sixty days from the date of publication in the Federal Register, or in the newspaper of general circulation, as hereinbefore provided, whichever publication date is last, may file an appeal with the Secretary contesting the inclusion or omission of the name of any person on or from such proposed roll. The Secretary shall review such appeals, and his decision thereon shall be final and conclusive. After disposition of all such appeals to the Secretary, the roll of the Northwestern Bands of Shoshone Indians shall be published in the Federal Register and such roll shall be final.

SEC. 6. The funds apportioned to the Northwestern Band of Shoshone Indians, less attorneys' fees, and expenses due the attorneys representing the Northwestern Band under an approved contract, effective March 1, 1968, shall be placed to its credit in the United States Treasury and shall be distributed equally to the members whose names appear on the final roll and in accordance with the provisions of this Act.

(a) The per capita shares shall be determined on the basis of the number of persons listed on the proposed roll published as hereinbefore provided and the number of persons on whose behalf an appeal has been taken to the Secretary contesting omission from such proposed roll. The share of those persons excluded from the final roll by reason of the decision of the Secretary on appeal shall be distributed equally to the persons included on the final roll.

(b) The Secretary shall distribute a share payable to a living enrollee directly to such enrollee. The per capita share of a deceased enrollee shall be paid to his heirs or legatees upon proof of death and inheritance satisfactory to the Secretary, whose findings upon such proof shall be final and conclusive. A share or interest therein payable to enrollees or their heirs or legatees who are less than twenty-one years of age or who are under legal disability shall be paid in accordance with such procedures, including the establishment of trusts, as the Secretary determines appropriate to protect the best interest of such persons.

SEC. 7. (a) The funds apportioned to the Shoshone-Bannock Tribes of the Fort Hall Reservation shall be placed to their credit in the United States Treasury. Seventy-five percent of such funds shall be distributed per capita to all persons born on or before and living on the date of this Act who are duly enrolled on the roll prepared in accordance with section 5(a) of this Act.

(b) The per capita shares shall be determined on the basis of the number of persons eligible for per capitas and the number of persons rejected for per capitas who have taken a timely appeal. The shares of those persons whose appeals are denied shall revert to the Shoshone-Bannock Tribes to be expended for any purpose designated by the tribal governing body and approved by the Secretary.

(c) Sums payable to enrollees or their heirs or legatees who are less than twenty-one years of age or who are under a legal disability shall be paid in accordance with such procedures, including the establishment of trusts, as the Secretary of the Interior determines appropriate to protect the best interests of such persons.

(d) The funds remaining after provision is made for the per capita distribution may be used, advanced, expended, invested, or reinvested for any purpose authorized by the tribal governing body and approved by the Secretary of the Interior.

SEC. 8. The funds apportioned to the Shoshone Tribe of the Wind River Reservation shall be placed to its credit in the United States Treasury and shall be distributed in accordance with the provisions of the Act of May 19, 1947, as amended (61 Stat. 102; 25 U.S.C. 611–613).

SEC. 9. Any funds distributed per capita under provisions of this Act shall not be subject to Federal or State income tax.

SEC. 10. The Secretary of the Interior is authorized to prescribe rules and regulations to carry out the provisions of this Act.

Mr. MOSS. Mr. President, on October 13, 1971, the Senate passed with committee amendments, S. 2042, to provide for the apportionment of funds in payment of a judgment in favor of the Shoshone Tribe in consolidated dockets, No. 326–D, 326–E, 326–F, 326–G, 326–H, and 367 before the Indian Claims Commission and for other purposes.

The purpose of S. 2042, which I sponsored with others, is to provide for the division of a $15,700,000 judgment, plus accumulated interest, between the three tribal groups of the Shoshone Tribe or Nation of Indians and to authorize the use of the funds. The money has been appropriated. A sum of $500,000 is specifically earmarked in favor of the Shoshone-Bannock Tribes at Fort Hall, Idaho. Legislation (S. 101) covering this portion of the award was approved by the Senate on June 9, 1971.

On December 6, 1971, the House passed H.R. 10846, a similar bill with a committee amendment. The committee amendment struck the provision which would have exempted any funds distributed per capita from consideration as income, revenue, or expendable funds under the provisions of the Social Security Act.

In considering S. 2042, the House struck out all after the enacting clause and substituted in lieu thereof, the provisions of H.R. 10846.

Mr. President, while I continue to believe that the provision in my bill which was stricken by the House amendment was meritorious, I am prepared to accept the change in S. 2042 for several reasons. First, the several tribal groups authorized to share in the judgment fund award have waited patiently for many years for the successful prosecution of their claim through the Indian Claims Commission. Second, the Indian recipients of the award have constructive plans for the individual and collective uses of their funds. In order that we may fulfill our obligation to the Indian people and bring justice to this long awaited claim against the Federal Government, I recommend to the Senate that it concur in the House-passed version of S. 2042.

Mr. President, I move that the Senate concur in the amendment of the House.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Utah.

The motion was agreed to.

RIVER BASIN MONETARY AUTHORIZATION ACT OF 1971

The PRESIDING OFFICER. Under the previous order, the Senator from North Carolina (Mr. JORDAN) is recognized for not to exceed 2 minutes.

Mr. JORDAN of North Carolina. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 2887.

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the bill (S. 2887) authorizing additional appropriations for prosecution of projects in certain comprehensive river basin plans for flood control, navigation, and for other purposes which was to strike out all after the enacting clause, and insert:

That (a) in addition to previous authorizations, there is hereby authorized to be appropriated for the prosecution of the comprehensive plan of development of each river basin under the jurisdiction of the Secretary of the Army referred to in the first column below, which was basically authorized by the Act referred to by date of enactment in the second column below, an amount not to exceed that shown opposite such river basin in the third column below:

Basin	Act of Congress	Amount
Alabama-Coosa River	Mar. 2, 1945	$38,000,000
Arkansas River	June 28, 1938	57,000,000
Brazos River	Sept. 3, 1954	20,000,000
Central and southern Florida	June 30, 1948	18,000,000
Columbia River	June 28, 1938	130,000,000
Mississippi River and tributaries	May 15, 1928	97,000,000
Missouri River	June 28, 1938	101,000,000
North Branch, Susquehanna River	July 3, 1958	17,000,000
Ohio River	June 22, 1936	62,000,000
Quachita River	May 17, 1950	1,000,000
San Joaquin River	Dec. 22, 1944	44,000,000
South Platte River	May 17, 1950	37,000,000
Upper Mississippi River	June 28, 1938	2,000,000
White River	do	4,000,000

(b) The total amount authorized to be appropriated by this section shall not exceed $628,000,000.

SEC. 2. The Chief of Engineers, under the direction of the Secretary of the Army, is hereby authorized to perform such work as may be required, including the construction of dikes, to prevent shoaling near the pumping plant intake of the Frazer-Wolf Point irrigation unit on the Fort Peck Indian Reservation, located on the north bank of the Missouri River about thirty miles downstream from the Fort Peck Dam, at an estimated cost of $335,000 subject to the provision that the Bureau of Indian Affairs, Department of the Interior, obtain all necessary lands, easements, and rights-of-way, and maintain the project after completion.

SEC. 3. (a) That in connection with the improvements authorized by section 6 of the Act approved October 3, 1962 (76 Stat. 704, 706), to be undertaken on the Crow Creek Sioux Reservation in South Dakota, the Secretary of the Army is authorized and directed to provide the following under plans approved by the Crow Creek Sioux Tribal Council, at an estimated cost of $800,000:

(1) in connection with the community center building which serves as the Crow Creek Tribal Council offices: offices or conference rooms for visiting Bureau of Indian Affairs personnel, auditorium facilities, sufficient offices and conference rooms for tribal offices, and an adequately sized and equipped kitchen to serve community gatherings;

(2) adequate water, sewer, and drainage facilities;

(3) a street lighting system throughout the townsite;

(4) widening of streets and provision of offstreet residential parking;

(5) sufficient parking near the community center for community gatherings;

(b) The Secretary of the Interior is hereby authorized and directed to reimburse the Crow Creek Sioux Tribe, from appropriations authorized by subsection (a) of this section, for all attorneys' fees and engineering fees, and expenses related thereto, as approved by the Secretary of the Interior, that the tribe has incurred or will incur in obtaining and implementing legislation to remedy difficulties arising from implementation of the Act of October 3, 1962 (76 Stat. 704), but such reimbursement shall not exceed a total of $22,500.

SEC. 4. Section 221 of the Flood Control Act of 1970 (84 Stat. 1824, 1831) is amended by striking the period at the end of subsection (f), substituting a comma therefor, and adding the following: "or to the assurances for future demands required by the Water Supply Act of 1958, as amended."

SEC. 5. The Secretary of the Army, acting through Chief of Engineers, is hereby authorized to cause a survey to be made for flood control and allied purposes, including channel and major drainage improvements, and floods aggravated by or due to wind or tidal effects on Chiltipin Creek at and in the vicinity of Sinton, Texas.

SEC. 6. The project for flood protection on Fourmile Run, city of Alexandria and Arlington County, Virginia, approved by resolutions of the Committees on Public Works of the United States Senate and House of Representatives, dated June 25, 1970, and July 14, 1970, respectively, in accordance with the provisions of section 201 of the Flood Control Act of 1965 (Public Law 89–298), is hereby modified to provide that the Secretary of the Army, acting through the Chief of Engineers, shall replace the George Washington Memorial Parkway bridge over Fourmile Run, at Federal expense, substantially as recommended by the Chief of Engineers in his report dated March 2, 1970, published as House Document Numbered 91–358.

SEC. 7. The project for flood control and improvement of the lower Mississippi River, adopted by the Act of May 15, 1928 (45 Stat. 534), as amended and modified, is hereby further modified to provide that local cooperation to be hereafter furnished in connection with the Obion River Diversion aspect of the Tiptonville to Obion River, Tennessee project, authorized by the Act approved June 22, 1936, and amended by the Act approved July 24, 1946, shall consist of the requirement that local interests agree to maintain the completed works in accordance with the provisions of section 3 of the Act of May 15, 1928, and hold and save the United States free from damages due to the construction works.

SEC. 8. Nothing in any prior Act of Congress, committee report, or congressional document, shall be construed as requiring the State of West Virginia, in connection with the construction of the Stonewall Jackson Lake, West Fork River, West Virginia, and the Rowlesburg Lake project, Cheat River, West Virginia, to furnish assurances that it will hold and save the United States free from any claims for damages from storage of water.

SEC. 9. The Act entitled "An Act to provide for municipal use of storage water in Benbrook Dam, Texas" approved July 24, 1956 (70 Stat. 632) as amended by Public Law 91–282, is further amended by inserting immediately after the end of the Act the following:

"The Secretary of the Army is authorized to contract with the city of Arlington, Texas, for the use of water supply storage in the Benbrook Reservoir for municipal water supply for any storage not used by the city of

Fort Worth or the Benbrook Water and Sewer Authority, for a period not to exceed four years or until such time as the water supply storage is needed for navigation purposes, whichever first occurs."

Sec. 10. (a) In order to protect the environment, promote safety, and provide access to the public use recreation area around Perry Reservoir, Kansas, the Secretary of the Army, acting through the Corps of Engineers, is authorized and directed, notwithstanding any other provision of law, to take such action as may be necessary to improve the following roads in the vicinity of the Perry Reservoir area, Kansas:

(1) The road leading north from United States Highway Numbered 24, at Perry, Kansas, to an intersection with a black top road east of the dam, consisting of approximately three miles;

(2) The road on the west side of Perry Reservoir beginning at the north end of Delaware State Park running north and west and intersecting State Highway K Numbered 92 approximately one and one half miles west of Ozawkie, Kansas, consisting of approximately six miles; and

(3) The road beginning on State Highway K Numbered 92, one mile east of Old Town Public Use Area, and running north approximately eight miles to intersect with State Highway K Numbered 4 and State Highway K Numbered 16 east of Valley Falls, consisting of approximately nine miles.

(b) In carrying out such improvements, the Secretary of the Army shall be authorized to realign and grade such roads, and to pave such roads with a plant-mix bituminous surface (including chemical stabilization), in accordance with secondary road standards of the State of Kansas.

Sec. 11. (a) In order to provide adjustments in the lands or interests in land heretofore acquired for the Verdigris River portion of the McClellan-Kerr River Navigation Project in Oklahoma to conform such acquisition to a lesser estate in lands now being acquired to complete the real estate requirements of the project the Secretary of the Army (hereinafter referred to as the "Secretary") is authorized to reconvey any such land heretofore acquired to the former owners thereof whenever he shall determine that such land is not required for public purposes, including public recreational use, and he shall have received an application for reconveyance as hereinafter provided, subject to the following limitations:

(1) No reconveyance shall be made if within thirty days after the last date that notice of the proposed reconveyance has been published by the Secretary in a local newspaper, an objection in writing is received by the former owner and the Secretary from a present record owner of land abutting a portion of the reservoir made available for reconveyance unless within ninety days after receipt by the former owner and the Secretary of such notice of objection, the present record owner of land and the former owner involved indicate to the Secretary that agreement has been reached concerning the reconveyance.

(2) If no agreement is reached between the present record owner of land and the former owner within ninety days after notice of objection has been filed with the former owner and the Secretary, the land made available for reconveyance in accordance with this section shall be reported to the Administrator of General Services for disposal in accordance with the Federal Property and Administrative Services Act of 1949, as amended (63 Stat. 377).

(b) Any such reconveyance of any such land or interests shall be made only after the Secretary (1) has given notice, in such manner (including publication) as regulations prescribe to the former owner of such land or interests, and (2) has received an application for the reconveyance of such land or interests from such former owner in such form as he shall by regulation prescribe. Such application shall be made within a period of ninety days following the date of issuance of such notice, but on good cause the Secretary may waive this requirement.

(c) Any reconveyance of land therein made under this section shall be subject to such exceptions, restrictions, and reservations (including a reservation to the United States of flowage rights) as the Secretary may determine are in the public interest, except that no mineral rights may be reserved in said lands unless the Secretary finds that such reservation is needed for the efficient operation of the reservoir project designated in this section.

(d) Any land reconveyed under this section shall be sold for an amount determined by the Secretary to be equal to the price for which the land was acquired by the United States, adjusted to reflect (1) any increase in the value thereof resulting from improvements made thereon by the United States (the Government shall receive no payment as a result of any enhancement of values resulting from the construction of the reservoir project specified in subsection (a) of this section), or (2) any decrease in the value thereof resulting from (A) any reservation, exception, restrictions, and condition to which the reconveyance is made subject, and (B) any damage to the land caused by the United States. In addition, the cost of any surveys or boundary markings necessary as an incident of such reconveyance shall be borne by the grantee.

(e) The requirements of this section shall not be applicable with respect to the disposition of any land, or interest therein, described in subsection (a) if the Secretary shall certify that notice has been given to the former owner of such land or interest as provided in subsection (b) and that no qualified applicant has made timely application for the reconveyance of such land or interest.

(f) As used in this section the term "former owner" means the person from whom any land, or interests therein, was acquired by the United States, or if such person is deceased, his spouse, or if such spouse is deceased, his children or the heirs at law; and the term "present record owner of land" shall mean the person or persons in whose name such land shall, on the date of approval of this Act, be recorded on the deed records of the respective county in which such land is located.

(g) The Secretary of the Army may delegate any authority conferred upon him by this section to any officer or employee of the Department of the Army. Any such officer or employee shall exercise the authority so delegated under rules and regulations approved by the Secretary.

(h) Any proceeds from reconveyances made under this Act shall be covered into the Treasury of the United States as miscellaneous receipts.

(i) This section shall terminate three years after the date of its enactment.

Sec. 12. The project for Whiteoak Dam and Reservoir on Whiteoak Creek, Ohio, Ohio River Basin, for flood protection and other purposes, is hereby authorized substantially in accordance with the recommendations of the Secretary of the Army in his report on the Development of Water Resources in Appalachia, dated April 1971, at an estimated cost of $40,031,000, except that no funds shall be appropriated to carry out this section until the project is approved by the Appalachian Regional Commission and the President.

Sec. 13. (a) The Lower Monumental Lock and Dam Project, Snake River, Washington, authorized by the River and Harbor Act approved March 2, 1945 (59 Stat. 10), is hereby modified to provide that the United States shall perform, or pay the cost of performance of, such measures as the Secretary of the Army determines are or may have been necessary to protect any railway bridge or structure from damage caused by the project.

(b) The Secretary of the Army in making the determination required by subsection (a) of this section shall charge to the owner of any such bridge or structure an amount equal to the net value to such owner of any direct and special benefits accruing to the owner from any improvement or addition to or betterment of the bridge or structure, including any expectable decrease in repair, maintenance, or operating expense.

Sec. 14. This Act may be cited as the "River Basin Monetary Authorization Act of 1971".

Mr. JORDAN of North Carolina. Mr. President, it is my understanding that the Senator from Kentucky (Mr. Cooper) has some remarks to make on this matter, and I am glad to yield to him.

Mr. COOPER. Mr. President, I do not oppose this measure. I had understood that three amendments were added by the House, one dealing with the reconveyance of some acres purchased by the Corps of Engineers to the original owner along the Kerr-McClellan River Basin. I understand there is no objection to that. There were two other items added by the House which I understand have not been the subject of hearings.

I think it has become more common for items and great river basin developments costing millions of dollars to be placed in the bill when no hearings have been held on those projects. We usually have a clause that it shall be subject to the approval——

Mr. BYRD of West Virginia. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will suspend until there is order. Will Senators desist from conversation?

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the Senator be allowed 2 additional minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COOPER. Mr. President, the amendments authorizing river projects on which no hearings have been held usually have in them a clause that they will not be final until approved by the President. I think it places a burden on the President that he should not be required to bear. I believe the growing habit of placing in the bill projects on which no hearings have been held, costing millions of dollars, is bad. I just wanted to say that. I am not going to object, but I think it is something that should be considered by the Public Works Committee next year.

I thank the Senator for yielding.

Mr. JORDAN of North Carolina. Mr. President, each of the projects that were added by the House have been checked out by the committee staff and with the Senators in whose States the projects will be located. They have all been cleared. There is no opposition to these items. The Committee on Public Works of the Senate did hold a hearing on one of the projects last year. Whether the House did or not, I do not know, but they have all been checked out. As I have stated, they have been checked by the staff of the Public Works Committee and cleared by the Senator in whose State the project will be located.

Mr. President, I move that the Senate concur in the amendment of the House of Representatives.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

ORDER OF BUSINESS

The PRESIDING OFFICER. Pursuant to previous order, the Senate will proceed to the consideration of the conference report on S. 1828.

NATIONAL CANCER ACT OF 1971—CONFERENCE REPORT

Mr. KENNEDY. Mr. President, I submit a report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1828) to amend the Public Health Service Act so as to establish a Conquest of Cancer Agency in order to conquer cancer at the earliest possible date.

The PRESIDING OFFICER (Mr. Burdick). In accordance with the previous order, the Senate will proceed to consideration of the report.

(The conference report is printed in the House proceedings of the Congressional Record of December 8, 1971, at pages 45220–45222.)

Mr. KENNEDY. Mr. President, as I understand, there has been a time set aside for a vote on the conference report. Am I correct in that assumption?

The PRESIDING OFFICER. Will the Senator repeat the question?

Mr. KENNEDY. There has been a time set aside for a vote on the conference report tomorrow, as I understand it; is that correct?

The PRESIDING OFFICER. The vote will occur tomorrow morning after the speech by the Senator from Illinois (Mr. Percy).

Mr. KENNEDY. Have the yeas and nays been ordered, Mr. President?

The PRESIDING OFFICER. The yeas and nays have been ordered.

Mr. KENNEDY. Mr. President, first of all, I wish to express my very warm appreciation to the senior Senator from New York (Mr. Javits)—Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. KENNEDY. To the distinguished senior Senator from New York (Mr. Javits) and the distinguished Senator from Colorado (Mr. Dominick) for the work they have done in bringing S. 1828 to the Senate, in the Health Subcommittee, the full Committee on Labor and Public Welfare, and also for the very extraordinary degree of support that they gave to the Senate position in the conference. I also thank the distinguished Senator from Pennsylvania (Mr. Schweiker), who is now the ranking Republican member of the Health Subcommittee, for his efforts.

Mr. President, some time ago, in 1970, the Health Subcommittee held some 2 days of hearings to hear the report of a very distinguished group of lay and professional citizens who had been charged, under a Senate resolution, to consider how this country could best develop a program to meet what I think is really perhaps the No. 1 health hazard today, which is the danger of cancer.

This panel, made up of some very distinguished lay and research people and successful businessmen charged with this responsibility, gave an extraordinary amount of their time to an effort to developing a series of recommendations which were the basis of the initial bill which the former Senator from Texas, Mr. Yarborough, had considered, developed, and introduced as well as the basis of the bill that I introduced, of the bill that Senator Dominick introduced, and also of the conference report which is now before the Senate.

The chairman of that committee was the very distinguished Mr. Benno Schmidt, of New York City, who has achieved preeminence in the field of business and has also had a very deep concern for the problems of cancer. He has devoted his very considerable talents to helping us develop a program to meet the cancer problem.

We have heard the report of that panel. Initially, legislation was developed and introduced. After the elections of 1970, I assumed the chairmanship of the Senate Health Subcommittee and reintroduced such legislation with numerous cosponsors.

We had extensive hearings, and modified the legislation in conformance with a number of recommendations that were made by the administration. I must say at this point that I have yet to see the kind of cooperation and close working relationships that were developed between both Democrats and Republicans on the committee and the administration, on any other piece of legislation, as were developed on this program.

A considerable number of hearings were held, we debated the proposition on the floor of the Senate, and it was passed overwhelmingly by a vote of 79 to 1, I believe, in the Senate. Then we went to conference.

The House of Representatives had the benefit of our legislation and patterned their program very much after the Senate bill, with one key exception. Many of us had felt that in order to develop a sufficient program to attack the problems of cancer, we ought to create a type of program modeled on the Space Agency. There were those in the scientific and biomedical research field who felt it should remain within the National Cancer Institute, and the House provided accordingly. But in most other respects, the Senate and the House programs were consistent.

The conference met on three different occasions, and at this time we are prepared to present the conference report, which I do enthusiastically. I believe that the conference report retains the better features of both the House and Senate bills. It preserves the National Cancer Institute, but provides that the Director of the National Cancer Institute be a Presidential appointee.

It provides as well for a new advisory board, with much expanded responsibilities and with an expanded participation by the scientific community as well as the lay community. It provides for a President's cancer panel that will work very closely with the President of the United States to provide him with a direct line, direct liaison, and direct oversight into the progress of the Cancer Institute, and also to the contributions that are being made by the Cancer Advisory Board. It provides for independent budgeting, for independent reporting to the President of the United States, and for what I think is a greater sense of line authority by the President, in selecting the person that he wants to develop and direct this effort to meet the attack on cancer. It provides as well for the establishment of some 15 cancer research centers around the country, refunded at approximately $5 million each, so that we can develop an even greater effort in the research areas on cancer. It also provides for some line authority for a 3-year authorization, with some $400 million, $500 million, and $600 million in 3 successive years. That will bring a continuing oversight responsibility to the Congress of the United States which has heretofore not existed or had existed only in a very general way in the National Institutes of Health.

I believe that we have here, Mr. President, legislation which will give the President of the United States the necessary tools so that he can direct his very considerable sense of urgency toward meeting the problems of cancer. I think we have provided authorization for the resources which are necessary. I think we have provided the kind of line authority in management which was recommended by the panel to obtain the greatest sense of managerial technique and skill and to avoid the bureaucracy which often slows down programs.

I am extremely pleased and delighted to present this program to the Senate, and to say that it does, I believe, represent the best judgment of the members of the Health Subcommittee, the ranking Republican members of the full Committee on Labor and Public Welfare (Mr. Javits), Senator Schweiker, Senator Dominick, and the members of the committee on the Democratic side, who have devoted such energy and effort to seeing that this is achieved.

I feel that it is important that we have a rollcall vote on this issue. I think it is important that those who will be charged with the responsibility for the program have a very clear indication of the kind of support this program has in Congress, and I think it is important that the American people understand the very strong commitment that we in the Senate feel about this effort and the energies that we are going to continue to devote to see that this scourge is ended.

Mr. JAVITS. Mr. President, I strongly support the report on the National Cancer Act of 1971 and hope that the Senate will approve it. This legislation will enable us to establish a national program for the conquest of cancer, essential if we are to exploit effectively the great opportunities which are presented as the result of our knowledge about cancer research, treatment, and diagnosis.

There was not nearly the abyss of differences between the Senate and the House versions that we have been led to believe. To illustrate that the legislative differences were matters of rhetoric, not reality:

First, both bills were essentially the same in their findings and declarations, except the Senate did not make reference to other major diseases. I might note that the conference substitute now before us also limits itself to the problem under attack, cancer.

Second, both bills provide for direct transmittal of the cancer budget to the President. Although the House did permit others to comment, the House bill specifically precluded any change in the budget sent to the President.

Third, both bills assured dissemination and exchange of scientific knowledge regarding cancer within the institutes of the National Institutes of Health and other scientific, medical, and biomedical disciplines.

Fourth, both bills provide for the utilization of existing peer review groups and the establishment of new ones where necessary.

Fifth, both bills provide for the direct submission of annual reports to the President.

Finally, both bills, in essence, sought to achieve the same goals by providing new authorities to the existing cancer institute. However, where the Senate bill renamed the Cancer Institute as an agency within the National Institutes of Health and gave direct access to the Director the House sought to accomplish the same results through the formation of a cancer attack panel.

Also, I might add that the Senate's National Cancer Advisory Board prevailed, which was a thoroughly implemented and a well-articulated provision, which will engage the best brains in the field so far as the Senate is concerned.

The real difference was in direct access by the Director of the Cancer Institute to the President or an attack panel to monitor the work of the institute, which was in the House bill. We took the House bill, but there is nothing in this provision of the House bill which would prevent the President from putting the Director of the Cancer Institute, if he wishes to do so, on the Panel, or making him a Presidential special assistant. The President sent us a letter, when we wrote to him and asked him exactly how he wanted this worked out, in which he said that if he wants access to the Director, he is sure he can get it. And he is right.

There can be no question regarding the accuracy of the President's position. The President said:

> The normal powers of the executive could still be used to include the agency heads when desirable if the House view is adopted.

The Senate conferees concurred. There is nothing in the House amendment which could preclude the President from naming to membership on the Panel or naming as Chairman of the Panel a Federal employee, such as the man or woman the President appoints as Director of the National Cancer Institute. Also, the President could utilize his Executive powers to also name the presidentially appointed National Cancer Institute Director to be a special assistant to the President.

I ask unanimous consent that our letter to the President—that of Senator KENNEDY and myself—and the President's letter to us be printed at this point in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., December 3, 1971.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: As you know, the Senate and the House of Representatives are now in conference on the bill S. 1828, the cancer legislation. Given the urgency for the Congress to enact effective legislation in respect to an enhanced effort to conquer cancer and given your strong personal interest in assuring that such a program be practically capable of early implementation at the Executive level, we would greatly appreciate your views in respect to the substantive areas of differences between the Senate and House bills. We are hopeful that such specific guidance from you will form a basis upon which all of the conferees will find it possible accordingly to agree upon a bill which can be sent to you for your signature.

Specifically, we would find it helpful to have your views regarding the principal function and requisite membership of the Cancer Attack Panel. As you know, the House-passed bill envisions such a panel as performing oversight functions and therefore its membership to consist of non-governmental experts whose responsibility is to advise you in respect to the cancer program. The Senate conferees have suggested that the functions of the panel be enlarged to include three of the key program experts so as to make it possible for them to have a suitable channel for direct access to you that will ensure that they can directly advise you regarding the implementation of the entire cancer program. In this regard, the Senate conferees have suggested that the Attack Panel be enlarged to six members by adding to it the Director of the Cancer Program, the Chairman of the Cancer Advisory Board, and the Director of the National Institutes of Health. With such an arrangement we believe that it would be possible for the Senate to concur with the provisions in the House bill which are designed to further assure that the cancer program will remain an integral part of the broad-based biomedical research programs carried out by the National Institutes of Health. Related to this enlarged concept of the Attack Panel, proposed by the Senate conferees, of course, is the enlarged scope of responsibilities contained in the Senate bill for the National Cancer Advisory Board.

Your assistance in this matter will be greatly appreciated. Our conference is scheduled to resume Tuesday, December 7, 1971.

Sincerely yours,
EDWARD M. KENNEDY, HARRISON A. WILLIAMS, JR., WALTER F. MONDALE, CLAIBORNE PELL, HAROLD E. HUGHES, ALAN CRANSTON, THOMAS F. EAGLETON, RICHARD S. SCHWEIKER, AND JACOB K. JAVITS.

THE WHITE HOUSE,
Washington, December 6, 1971.

Hon. JACOB K. JAVITS,
U.S. Senate,
Washington, D.C.

DEAR JACK: Thank you for your letter of Decemmber 3, 1971 requesting my views concerning the differences between the Senate and House versions of pending legislation to help conquer cancer.

With respect to your specific question regarding the function and membership of the Cancer Attack Panel, my view is that I could work effectively with either version. The Senate version would have the advantage of bringing those who are directly responsible for the Government's cancer effort into all discussions with the President concerning its progress. On the other hand, I can understand the feeling of the House conferees that the activities of the National Cancer Institute can be more effectively monitored if the heads of that program are not monitoring their own performance. In any event, the normal powers of the executive could still be used to include the agency heads when desirable if the House view is adopted, or to exclude them when appropriate if the Senate view prevails.

With respect to the National Cancer Advisory Board, I would like to see the legislation provide functions and powers for the board along the lines of those which are provided in the Senate bill. This provision would allow for the greatest possible scientific contribution from the private sector. Here again, we could work with the provisions of the House bill if that is necessary to gain prompt passage of the legislation. I hope, however, that we will not let the opportunity which the Senate version provides for expanded outside assistance slip by for unfounded bureaucratic reasons.

The most important point I can make about the cancer legislation concerns the need to pass it promptly. The differences which still exist are largely a matter of detail and I urge the conferees to resolve them during the current session of the Congress so that I can sign cancer legislation into law in the very near future.

Both the Senate and House bills clearly recognize the complexities and difficulties we face in the cancer field and both provide the avenue for hope which the American people deserve and desire.

The fact that we are now so close to final legislation reflects great credit on the members of the Senate and the House who have given so much time and thought and energy to this subject—which is so critically important to so many millions of Americans.

As you know, I have personally favored an approach to the Government's cancer program which gives the person in charge of the program a high degree of independence and responsibility, so that he can cut through the red tape which so often has choked other Government programs. It is my judgment that, with strong leadership, either of the bills now being considered would allow us to mount and sustain an effective attack against cancer. I intend to provide this kind of leadership—and I again urge the Congress to move quickly in passing this vital legislation.

Sincerely,
RICHARD NIXON.

Mr. JAVITS. Mr. President, it was on that basis that we settled the situation.

I deeply believe that this is a landmark, historic bill.

I wish to mention the name of former Senator Yarborough, of Texas, as the one who introduced Senate Resolution 376, causing the establishment of a panel of consultants on the conquest of cancer chaired by Benno C. Schmidt, and to pay my tribute to Senator Yarborough, with whom I cooperated in this matter—as I have cooperated with Senator KENNEDY—and to Benno C. Schmidt, managing partner of J. H. Whitney & Co., New York City, who has rendered fantastic public service, and to Dr. Sidney Farber, of Boston, the scientific cochairman of the panel, and to each member of the panel, who were:

I. W. Abel, William McC. Blair, Jr., Elmer Bobst, Dr. Joseph Burchenal, Dr. R. Lee Clark, Dr. Paul B. Cornely, Emerson Foote, G. Keith Funston, Emil Mazey, Michael J. O'Neill, Jubal R. Parten, Laurance S. Rockefeller.

Dr. Solomon Garb, Mrs. Anna Rosenberg Hoffman, Dr. James F. Holland, Dr. William B. Hutchinson, Dr. Henry S. Kaplan, Dr. Mathilde Krim, Mrs. Mary Wells Lawrence, Dr. Joshua Lederberg. Dr. Jonathan E. Rhoads, Dr. Harold P. Rusch, Dr. Wendell G. Scott, Lew Wasserman.

Mr. President, I hope the Senate will—as it certainly should—agree to this conference report and I am confident that the President will provide the kind of leadership necessary to mount, coordinate, and sustain an effective attack against cancer which is of critical importance to so many millions of Americans.

Mr. KENNEDY. Mr. President, I ask unanimous consent to have printed in the RECORD a summary report of the special panel of cancer consultants; a letter dated December 3, 1971, the President; and a letter dated December 6, 1971, from the President.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUMMARY REPORT OF THE SPECIAL PANEL OF CANCER CONSULTANTS

The principal findings and recommendations of the Panel were as follows:

1. Cancer is the No. 1 health concern of the American people. A poll conducted in 1966 showed that 62 percent of the public feared cancer more than any other disease. Of the 200 million Americans alive today, 50 million will develop cancer at present rates of incidence, and 34 million will die of this painful and often ugly disease, if better methods of prevention and treatment are not discovered. About one-half of cancer deaths occur before the age of 65, and cancer causes more deaths among children under age 15 than any other disease. Over 16 percent of all deaths in the United States are caused by cancer, making it by a wide margin our second greatest killer (after cardiovascular diseases). Cancer often strikes as harshly at human dignity as at human life, and more often than not it represents financial catastrophe for the family in which it strikes.

2. The amount spent on cancer research is grossly inadequate today. For every man, woman, and child in the United States, we spent in 1969; $410 on national defense; $125 on the war in Vietnam; $19 on the space program; $19 on foreign aid and only $0.89 on cancer research. Cancer deaths last year were 8 times the number of lives lost in 6 years in Vietnam, 5½ times the number killed in automobile accidents, and greater than the number of Americans killed in battle in all 4 years of World War II. Given the seriousness of the cancer problem to the heath and morale of our society, this allocation of national priorities seems open to serious question. In addition to the poignancy of the disease, and the death and suffering that it causes, the economic loss is staggering, with estimates of its costs to the Nation running as high as $15 billion per year, of which some $3 to $5 billions represents direct care and treatment costs and the balance is loss of earning power and productivity.

3. The incidence of cancer is increasing. This is partly due to the fact that a greater number of our citizens are reaching more advanced ages, where cancer strikes more frequently, but it is also due to the sharp increase in lung cancer, undoubtedly attributable to the air pollution in certain environments and most importantly to the self-pollution of those who smoke cigarettes. It is estimated that if the American people stopped smoking cigarettes this alone would eliminate about 15 percent of all cancer deaths.

4. The nature of cancer is not yet fully known. We know that human cancers are caused by certain chemicals, by certain types of radiation, and probably by viruses. The precise mechanisms by which these carcinogenic agents cause, or interact to cause, cancer is not known, and very little is known about the natural defense mechanisms that prevent cancer in some cases and not in others. A great deal more must be learned about chemical carcinogens, radiation, and viruses, and how they work. We must also learn more about what takes place at the cellular level when cancer occurs. There is very strong suggestive evidence that viruses cause some human cancers, but which viruses, how they are transmitted, and how they operate are unknown. It is erroneous to think of cancer as a single disease with a single cause that will be subject to a single form of immunization (as in the case of polio) or a single cure. Cancer comprises many diseases and results from a variety of causes that will have to be dealt with in a variety of ways. However, as our knowledge is expanded, more and more cancers will become preventable or curable.

5. The cure rate for cancer is gradually improving. In 1930 we were able to cure only about one case in five; today we cure one case in three; and it is estimated that the cure rate could be brought close to one in two by a better application of knowledge which exists today, i.e. detection at an earlier stage through the more widespread use of existing techniques (such as the Papanicolaou test for women and mammography), coupled with an extension to all citizens of the same quality of diagnosis and treatment now available at the best treatment centers. There are three methods for curing cancer today; surgery, radiation therapy, and chemotherapy. Often two or even three of these methods are used in combination. Some types of cancer are far more curable than others. For example, early breast cancer treated by surgery, cancer of the cervix by radiation or surgery, and choriocarcinoma and Burkitt's tumor by chemotherapy, are among those most susceptible to cure today. Treatment techniques are improving markedly, particularly in radiation therapy and chemotherapy, and more widespread availability of the best quality detection and treatment will give us more and more cures. However, it is still true that those cancers which disseminate rapidly are seldom curable today, and this represents a major gap in our existing knowledge. Where we stand today in our knowledge of the causes, nature, prevention, diagnosis, treatment, and control of cancer is set forth in detail in part II of this report.

6. There have been major advances in the fundamental knowledge of cancer in the past decade, and these advances in knowledge have opened up far more promising areas for intensive investigation than have ever heretofore existed. These areas of special promise must be explored with vigor, if we are to exploit the great opportunities that lie before us. They are examined in detail in part II of this report.

Among the areas of special promise which must be aggressively pursued are:

(*a*) The identification and study of the chemical, physical, and other environmental factors that cause cancer (food additives, air pollutants, industrial hazards, radiation, and other carcinogens);

(*b*) Viruses causing cancer (what viruses cause cancer, how are they transmitted, and how do they act);

(*c*) Cell and tumor biology (including cell surface phenomena, molecular functions, differentiation and genic expression, controls of cell division mechanisms of metastasis, nutritional requirements and other biological factors);

(*d*) Immunology (host resistance against cancer, its nature, causes and therapeutic use);

(*e*) Epidemiology (the variables in cancer incidence and types stemming from geographic, social, economic, nutritional, occupational, and constitutional differences);

(*f*) Cancer prevention (more effective utilization of existing knowledge and intensified research on preventive measures);

(*g*) Diagnosis (the development of new and improved diagnostic techniques);

(*h*) Chemotherapy (the development of new and better drugs and improvement in their uses);

(*i*) Radiotherapy (development of new and better techniques and apparatus for radiation therapy);

(*j*) Surgery (the best techniques in cancer surgery coupled with earlier diagnosis must be made generally available in order to further increase the cure of cancer. Better rehabilitation techniques must be further developed and utilized to return the cancer patient to an active and full life);

(*k*) Combinations of treatment modalities (improvement in treatment results by better combinations of surgery, radiotherapy, chemotherapy, and immunotherapy).

7. A national program for the conquest of cancer is now essential if we are to exploit effectively the great opportunities which are presented as a result of recent advances in our knowledge. However, such a program will require three major ingredients that are not present today:

First, effective administrative with clearly defined authority and responsibility;

Second, the development of a comprehensive national plan for a coherent and systematic attack on the vastly complex problems of cancer. Such a plan would include not only programmatic research where that is appropriate, but also major segments of much more loosely coordinated research where plans cannot be definitively laid out nor long-range objectives clearly specified; and

Third, the necessary financial resources.

At the present time there is no coordinated national program or program plan. The National Cancer Institute has done excellent work itself and has supported grants and contracts in the scientific community which have resulted in much outstanding work, but the overall research effort is fragmented and, for the most part, uncoordinated. The effort in cancer should now be expanded and intensified under an effective administration charged with developing and executing a comprehensive national plan for the conquest of cancer at the earliest possible time. The three foregoing elements are considered separately in more detail in the succeeding paragraphs 8, 9, and 10.

8. *Administration.*—An effective major assault on cancer requires an administrative setup which can efficiently administer the coherent program that is required in this formidable and complex scientific field. Such a setup will not be easy to achieve within the Federal Government. The effective implementation of such a program will require a simplification of organization arrangements and a drastic reduction in the number of people involved in administrative decisions. This type of straight-line organizational efficiency does not exist today in the National Cancer Institute, the National Institutes of Health, or the Department of Health, Education, and Welfare. Obviously, from many standpoints it can be argued that any cancer programs should be in the Department of Health, Education, and Welfare and indeed that it should be in the National Institutes of Health. However, there is real doubt whether the kind of organization that is required for this program can in fact be achieved within the National Institutes of Health or within the Department of Health, Education, and Welfare.

Apart from the question of whether it can be done, there is also the question of whether it would be wise to require the Secretary of Health, Education, and Welfare to attempt to give cancer the priority necessary to carry out the congressional mandate in a department charged with the multiple health and other responsibilities of that Department.

In the past when the Federal Government has desired to give top priority to a major scientific project of the magnitude of that involved in the conquest of cancer, it has on occasion, with considerable success, given the responsibility for the project to an independent agency. Such an agency provides a degree of independence in management, planning, budget presentation, and assessment of progress which is difficult if not impossible to achieve in a large government department. Accordingly, if the Congress and the administration are truly committed to making the conquest of cancer a "national crusade", as expressed in the concurrent resolution of the Congress, it is the view of the Committee that a National Cancer Authority should be established whose mission is defined by statute to be the conquest of cancer at the earliest possible time. All the functions, personnel, facilities, appropriations, programs, and authorities of the National Cancer Institute should be transferred to the National Cancer Authority. The Authority should be headed by an Administrator appointed by the President with the advice and consent of the Senate, and he should report directly to the President and present his budgets and programs to the Congress. In considering the feasibility of an independent agency, it should be borne in mind that we are talking about a major scientific program and, as pointed out in subsequent paragraphs, not the delivery of patient care generally in cancer cases. The only patient care involved in this program will be that associated with clinical research and teaching and the development and demonstration of improved methods in the delivery of patient care undertaken as a part of the comprehensive program plan.

The powers of such a National Cancer Authority should be very broadly defined in order to accomplish a mission of this complexity. It would not be useful to attempt to enumerate here all the powers that such an Authority should have and in the writing of the implementing legislation, the Committee believes that the powers should be broadly defined and not enumerated. However, the following are illustrative of the kinds of powers which the National Cancer Authority will have to be able to exercise in order to carry out a comprehensive program of the type envisaged:

(a) The power to enter into prime contracts with authority in the prime contractor to enter into subcontracts;

(b) The power to commit available funds until expended rather than on a year-to-year basis;

(c) The power to authorize exceptions to existing regulations, where necessary, to permit the use of experimental drugs, biologicals, and devices in cancer research;

(d) The power to establish or support the large-scale production of specialized biological materials for cancer research, such as viruses, cell cultures, animals, and the like, as well as the power to set standards of safety and care for those using such materials;

(e) The power to support research outside the United States by highly qualified foreign nationals, collaborative research involving American and foreign participants, and training of American scientists abroad and foreign scientists in the United States, to the extent that such activities will promote the accomplishment of the mission. The Committee believes that cancer research offers a particularly fruitful field for collaboration with other nations, including those nations with whom present cooperation is limited but with whom greater collaboration is desired;

(f) The power to fund by loan, grant, contract, or otherwise any facilities or programs, or to take such other actions, as may be required for the accomplishment of the mission.

9. *Program plan.*—A comprehensive national plan for the conquest of cancer should be developed as promptly as possible. The development of a coherent overall program plan should include the following features:

(*a*) The present research activities now being carried forward under the National Cancer Institute should in no way be impeded or interrupted while plans are being made for the expansion, intensification, and coordination of the cancer research program;

(*b*) Existing research facilities and manpower should be used as promptly as possible for the accelerated exploitation of the opportunities in the areas of special promise. There is substantial unused capacity in this country today that should be utilized in order to attract and retain the manpower that is needed. It is a myth that we could not spend effectively on cancer very much more than is now being spent. The fact that Federal support for cancer research has leveled off since 1967 and that, due to inflation, the actual amount of work done has decreased, has created a serious gap between what we are doing now and what we could and should be doing in cancer research. It is estimated that current expenditures could be doubled within the framework of the existing facilities and manpower potential of this country today, exclusive of the great industrial research capability in this field which should be brought to bear on an appreciable scale in high priority areas to which this type of capability is particularly suited.

(*c*) Existing cancer centers should be strengthened and additional cancer centers in different parts of the country should be created. The solution of the cancer problem lends itself to a multidisciplinary effort, where teams of highly qualified specialists are available to interact on problems of research, both clinical and nonclinical, teaching, diagnosis, preventive programs, and the development of improved methods in the delivery of patient care, including rehabilitation. Among those who work in the cancer field, there is great emphasis on the advantages of critical mass—a critical mass of scientists and physicians committed to the cooperative solution of the cancer problem, of research facilities, of patients, and of financial and other resources. This is simply another way of saying that the comprehensive cancer center offers the best organizational structure for the expanded attack on cancer. In addition to the few comprehensive cancer centers that exist in the United States today, there are a number of other institutions which combine all or most of the capabilities for a multidisciplinary effort in cancer. These could serve as a base for the creation of additional centers. The new centers should have appropriate geographic distribution and should, wherever possible, be created where a nucleus of scientific, professional and managerial personnel already exists and preferably where a university or a medical school affiliation exists or is planned.

In the creation of new cancer centers, manpower limitations should be taken into account, and new centers should not be created where there would be a dilution in the effectiveness of existing centers which would offset any gain from the new center. There should be a realistic operating plan for each center which assures the scientific and managerial commitment and ability necessary to the creation and operation of a successful center.

It should be emphasized that the strengthening of existing cancer centers and the creation of new cancer centers does not mean that under this program general responsibility should be undertaken for the care of the Nation's cancer patients. The delivery of patient care in cancer cases is a part of the general problem of the delivery of patient care and should be so dealt with. However, this inhibition must not prevent the cancer centers from including such patient care facilities as are necessary for clinical research and teaching and for the development and demonstration of the best methods of treatment in cancer cases.

(*d*) The cancer centers should also serve as administrative coordinators of those programs which require regional coordination. Such centers should support and assist clinics and community medical centers in their own geographic areas in order to assure the widespread use of the best available methods for early detection and treatment of cancer. They should also serve to collect data useful in the prevention and cure of cancer, including patient follow-up information, and be responsible for the dissemination of information, both at the lay and professional levels, that is useful in the prevention, diagnosis and cure of cancer. The effective dissemination and utilization of such information is a most important part of any national plan to conquer cancer.

(*e*) A national plan of the type envisaged must take account of the manpower requirements for this effort. There is a critical need for training and career opportunities for young scientists, physicians, and other personnel in this program. We must reaffirm to young investigators our confidence in the future of American science and in our national dedication to success in the conquest of cancer. A manpower program in this field should include training stipends, predoctoral fellowships for particularly promising candidates, postdoctoral fellowships for brilliant investigators, and career positions where appropriate through career initiation awards, career development awards, and senior career awards.

(*f*) A national plan for the conquest of cancer should provide for the generous use of grants as well as contracts and other methods of funding. There should be increased emphasis on the grants mechanism in order to stimulate continued independent exploration, particularly in those areas where knowledge is not sufficiently mature for a coordinated program aimed at reaching defined objectives.

(*g*) A comprehensive national program requires optimum communication and centralized banks of information. There must be an accurate and prompt information flow in both directions. This will call for integrated data processing, storage, and retrieval in order to rationalize the decision-making and where needed. As indicated above, the an to make information available when centers can be important foci in both the collection and dissemination of this information.

(*h*) A coordinated national program plan should, to the greatest possible extent, be generated by the voluntary productive interaction and joint planning of the scientists who will be responsible for doing the work. The program should not be the result of the happenstance of a multitude of random decisions independently arrived at. An integrated and coherent plan resulting from the joint effort of representative scientists who will be responsible for its execution is fundamentally different from the hierarchial imposition or direction of a research program from above. However, the effective use of collective planning does not mean that centralized administration or management of resources should be sacrificed.

10. *Funding.*—The Committee estimates that a coordinated national program aimed at the conquest of cancer at the earliest possible time, as envisaged by the concurrent resolution of the Congress, would require

an appropriation in fiscal 1972 of approximately $400 million. Thereafter, the cost of the program would increase at the rate of approximately $100 to $150 million per year, reaching a level of $800 million to $1 billion in 1976. These sums are not large in terms of our national resources or of the human suffering and economic loss attributable to cancer. A program of the type herein recommended is so important to the American people and to the world that we feel that the amounts called for should be provided even if this necessitates the raising of additional revenues. It is of utmost importance that the financing of this program not result in cutbacks in other health programs.

11. *National Cancer Advisory Board.*—Both the public and the scientific community must be effectively represented in this effort, and must have a part in its planning as well as its execution. To this end, a National Cancer Advisory Board should be created with 18 members, nine of whom are distinguished scientists and doctors in the field of cancer, and nine of whom are distinguished laymen. The members should serve for a term of 6 years with the terms of one-third of the members expiring every 2 years. Members of the Board should be appointed by the President of the United States with the advice and consent of the Senate. The Chairman of the Board should be elected by the members and should serve for a term of 2 years. The Board should meet not less than once each quarter and its function should be to advise and assist the National Cancer Authority and its Administrator in the development and execution of the program. The Administrator should be an ex-officio member of the Board. The Board should have statutory responsibility for the approval of each year's program plan and budget, but the responsibility for administering the program should rest with the Administrator. The Board should have full investigatory powers and should be required to report once each year to the President and the Congress on the progress of the National Cancer Authority in the accomplishment of its mission. This Board should supersede the presently existing National Advisory Cancer Council, and the members of that Council should serve as additional members of the National Cancer Advisory Board for the duration of their present terms.

12. Cancer is an implacable foe and the difficulty of eliminating it as a major disease must not be underestimated. A top priority commitment by the Congress, the President, and the American people is required if we are to mount and sustain an assault on cancer of the magnitude envisaged by Senate Resolution 376 and the concurrent resolution of the Congress. Such a commitment involves a recognition not only of the difficulty and complexity of cancer but also of the time and resources required to attack it effectively. While it is probably unrealistic at this time to talk about the total elimination of cancer within a short period of time or to expect a single vaccine or cure that will eradicate the disease completely, the progress that has been made in the past decade provides a strong basis for the belief that an accelerated and intensified assault on cancer at this time will produce extraordinary rewards. The Committee is unanimously of the view that an effective national program for the conquest of cancer should be promptly initiated and relentlessly pursued.

U.S. SENATE, COMMITTEE ON LABOR
AND PUBLIC WELFARE,
Washington, D.C., December 3, 1971.
The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: As you know, the Senate and the House of Representatives are now in conference on the bill S. 1828, the cancer legislation. Given the urgent need for the Congress to enact effective legislation in respect to an enhanced effort to conquer cancer and given your strong personal interest in assuring that such a program be practically capable of early implementation at the Executive level, we would greatly appreciate your views in respect to the substantive areas of differences between the Senate and House bills. We are hopeful that such specific guidance from you will form a basis upon which all of the conferees will find it possible accordingly to agree upon a bill which can be sent to you for your signature.

Specifically, we would find it helpful to have your views regarding the principal function and requisite membership of the Cancer Attack Panel. As you know, the House-passed bill envisions such a panel as performing oversight functions and therefore its membership to consist of non-governmental experts whose responsibility is to advise you in respect to the cancer program. The Senate conferees have suggested that the functions of the panel be enlarged to include three of the key program experts so as to make it possible for them to have a suitable channel for direct access to you that will ensure that they can directly advise you regarding the implementation of the entire cancer program. In this regard, the Senate conferees have suggested that the Attack Panel be enlarged to six members by adding to it the Director of the Cancer Program, the Chairman of the Cancer Advisory Board, and the Director of the National Institutes of Health. With such an arrangement we believe that it would be possible for the Senate to concur with the provisions in the House bill which are designed to further assure that the cancer program will remain an integral part of the broad-based biomedical research programs carried out by the National Institutes of Health. Related to this enlarged concept of the Attack Panel, proposed by the Senate conferees, of course, is the enlarged scope of responsibilities contained in the Senate bill for the National Cancer Advisory Board.

Your assistance in this matter will be greatly appreciated. Our conference is scheduled to resume Tuesday, December 7, 1971.

THE WHITE HOUSE,
Washington, D.C., December 6, 1971.
Hon. EDWARD M. KENNEDY,
U.S. Senate,
Washington, D.C.

DEAR TED: Thank you for your letter of December 3, 1971 requesting my views concerning the differences between the Senate and House versions of pending legislation to help conquer cancer.

With respect to your specific question regarding the function and membership of the Cancer Attack Panel, my view is that I could work effectively with either version. The Senate version would have the advantage of bringing those who are directly responsible for the Government's cancer effort into all discussions with the President concerning its progress. On the other hand, I can understand the feelings of the House conferees that the activities of the National Cancer Institute can be more effectively monitored if the heads of that program are not monitoring their own performance. In any event, the normal powers of the executive could still be used to include the agency heads when desirable if the House view is adopted, or to exclude them when appropriate if the Senate view prevails.

With respect to the National Cancer Advisory Board, I would like to see the legislation provide functions and powers for the board along the lines of those which are provided in the Senate bill. This provision would allow for the greatest possible scientific contribution from the private sector. Here again, we could work with the provisions of the House bill if that is necessary to gain prompt passage of the legislation. I hope, however, that we will not let the opportunity which the Senate version provides for expanded outside assistance slip by for unfounded bureaucratic reasons.

The most important point I can make about the cancer legislation concerns the need to pass it promptly. The differences which still exist are largely a matter of detail and I urge the conferees to resolve them during the current session of the Congress so that I can sign cancer legislation into law in the very near future.

Both the Senate and House bills clearly recognize the complexities and difficulties we face in the cancer field and both provide the avenue for hope which the American people deserve and desire.

The fact that we are now so close to final legislation reflects great credit on the members of the Senate and the House who have given so much time and thought and energy to this subject—which is so critically important to so many millions of Americans.

As you know, I have personally favored an approach to the Government's cancer program which gives the person in charge of the program a high degree of independence and responsibility, so that he can cut through the red tape which so often has choked other Government programs. It is my judgment that, with strong leadership, either of the bills now being considered would allow us to mount and sustain an effective attack against cancer. I intend to provide this kind of leadership—and I again urge the Congress to move quickly in passing this vital legislation.

Sincerely,

RICHARD NIXON.

Mr. KENNEDY. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from New York has 12 minutes, and the Senator from Massachusetts has 4 minutes.

Mr. JAVITS. I yield myself 2 additional minutes.

Mr. President, I believe that all the information which is required to show the legislative intent respecting this act is clearly spelled out in everything we have already stated and put into the RECORD.

I believe that one thing must be emphasized—that our debate here and our debate in the conference showed that we expect a massive attack to be made on cancer, that that is the purpose of this. It is not just to absorb it as another one of the activities of the National Institutes of Health, just with more money; but, really, we expect that we are going to use this particular scourge as a breakthrough point. We want to break through on cancer. We believe it can be done. We believe that the American people want it done, even though the bigger killer is heart disease. We believe—and scientific analysis seems to bear it out—that a real breakthrough, not just one cure—there are an infinite variety of cancers—is possible in this field.

Therefore, we hope that in the administration of the law, the President will have in mind our strong intention that this shall be the point of breakthrough with respect to a massive killer the American people believe can be broken through with this massive application of means.

Mr. ROTH. Mr. President, I join with my colleagues today in applauding the fine work of the cancer conferees with regard to the National Cancer Act of

1971. Their promptness in reaching an agreement will insure final congressional consideration of this important legislation before adjournment. The timely action of the conferees is consistent with the fact that throughout this session of Congress, the cancer issue has both deserved and received consideration of the highest priority.

The National Cancer Act of 1971 will provide our country with the means to develop and implement an effective and coordinated national program against a disease which annually claims the lives of over 300,000 Americans. By greatly strengthening and streamlining the cancer program at the National Institutes of Health, the act incorporates the major recommendations of the Senate Panel of Consultants and also permits maximum utilization of the fine resources already available through NIH. In addition, the authorizations of approximately $1.6 billion over a 3-year period insure that the program will have the requisite financial resources to conduct and support the type of research programs necessary for the achievement of its goals. Without causing major disruption of the existing cancer program, the act also provides for incorporating new approaches and new ideas—through creation of a new National Cancer Advisory Board and a three-member Presidential Cancer Panel to monitor the progress of the program.

Mr. President, the National Cancer Act is among the most important of the legislative matters now before the Congress. Its prompt passage and enactment will provide us with the means by which to strengthen the program aimed at eliminating the disease which is the major health concern to the American people.

Mr. KENNEDY. Mr. President, I yield back the remainder of my time.

Mr. JAVITS. Mr. President, so do I.

The PRESIDING OFFICER (Mr. ALLEN). All time has now been yielded back.

CHILDREN'S DENTAL HEALTH ACT OF 1971

The PRESIDING OFFICER (Mr. ALLEN). Under the previous order, the Senate will now proceed to consider the bill, S. 1874, which the clerk will state.

The assistant legislative clerk read as follows:

S. 1874, a bill to provide for the establishment of projects for the dental auxiliaries, to increase the availability of dental care through efficient use of dental personnel, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Labor and Public Welfare with an amendment to strike out all after the enacting clause and insert:

That this Act may be cited as the "Children's Dental Health Act of 1971".

SEC. 2. The Public Health Service Act is amended by adding at the end thereof the following new title:

"TITLE XI—DENTAL HEALTH PROJECTS

"GRANTS FOR PROJECTS FOR DENTAL CARE FOR CHILDREN

"SEC. 1101. (a) There are authorized to be appropriated $5,000,000 for the fiscal year ending June 30, 1972; $15,000,000 for the fiscal year ending June 30, 1973; and $30,000,000 for the fiscal year ending June 30, 1974; which shall be used by the Secretary to make grants to the health agency of any State (or political subdivision thereof) or to any other public or nonprofit private agency, organization, or institution to pay for part of the cost of the carrying out (on a planned and systematic basis) by such agency, organization, or institution, of one or more comprehensive projects for dental care and services for children of preschool and school age. Any such project shall include such comprehensive corrective, followup and preventive services (including dental health education), and treatment as many be required under regulations of the Secretary.

"(b) Grants under this section shall not be utilized to provide or pay for dental care and services for children unless such children are determined (in accordance with regulations of the Secretary) to be (A) from low-income families, or (B) unable, for other reasons beyond their control, to obtain such care and services.

"(c) Grants under this section may be utilized for the conduct of research, demonstrations, or experimentation carried on with a view of developing new methods for (A) the prevention, diagnosis, or treatment of dental problems, (B) the payment of dental care and services, or (C) the utilization of dental health care personnel with various levels of training; except that not more than 10 per centum of any grant under this section shall be so utilized.

"(d) In making grants under this section, the Secretary shall accord priority to projects designed to provide dental care and preventive services for children of preschool age and school age children who are in the first five grades of school.

"GRANTS FOR WATER TREATMENT PROGRAMS

"SEC. 1102. (a) There are hereby authorized to be appropriated $2,000,000 for the fiscal year ending June 30, 1972; $3,000,000 for the fiscal year ending June 30, 1973; and $4,000,000 for the fiscal year ending June 30, 1974; which shall be used by the Secretary to make grants to States, political subdivisions of States, and other public or nonprofit private agencies, organizations, and institutions to assist them in initiating, in communities or in public elementary or secondary schools, water treatment programs designed to reduce the incidence of oral disease or dental defects among residents of such communities or the students in such schools (as the case may be).

"(b) Grants under this section may be utilized for (but are not limited to) the purchase and installation of water treatment equipment.

"(c) Grants under this section shall not exceed—

"(1) 80 per centum of the cost of the treatment program with respect to which such grant under this section is made in the case of any grant under section 1101; and

"(2) 66⅔ per centum of the cost of the treatment program with respect to which such grant is made in the case of any other grant.

"GRANTS TO TRAIN AUXILIARY DENTAL PERSONNEL

"SEC. 1103. There are hereby authorized to be appropriated $12,000,000 for the fiscal year ending June 30, 1972; $20,000,000 for the fiscal year ending June 30, 1973; and $25,000,000 for the fiscal year ending June 30, 1974; which shall be used by the Secretary to make grants to public and nonprofit private institutions to assist them in establishing and carrying out programs to educate and train persons for careers as auxiliary dental personnel with special emphasis on the education and training of veterans of the Armed Forces who have received experience and training in dental auxiliary functions.

"PROJECTS TO PROMOTE EFFECTIVE USE OF AUXILIARY DENTAL PERSONNEL

"SEC. 1104. (a) There are hereby authorized to be appropriated $6,000,000 for the fiscal year ending June 30, 1972; $10,000,000 for the fiscal year ending June 30, 1973; and $10,000,000 for the fiscal year ending June 30, 1974; which shall be used by the Secretary to make grants and enter into contracts (without regard to section 3648 of the Revised Statutes, 31 U.S.C. 539) under subsection (c) and to make grants to dental schools, and to other public or nonprofit private agencies, organizations, and institutions, and to enter into contracts (without regard to section 3648 of the Revised Statutes, 31 U.S.C. 529) with individuals, agencies, organizations, and institutions, for projects described in subsection (b),

"(b) Grants and contracts under this section may be made or entered into for projects for—

"(1) planning, establishing, demonstrating, or supporting programs to teach dental students and dentists the efficient and effective utilization of dental auxiliaries and the management and supervision of total dental health teams (including, but not limited to, teams consisting of various types of auxiliary dental personnel who are trained in carrying out expanded functions or procedures which do not require the knowledge and skill of the dentist), with special emphasis on the employment and utilization of veterans of the armed forces who have received experience and training in dental auxiliary functions;

"(2) demonstration and experimentation of ways to organize dental health services to achieve maximum effectiveness in the use of auxiliary dental personnel, which projects take into account such factors as patient acceptance, quality of care, and cost of services; and

"(3) planning, establishing, demonstrating, or supporting field training programs for dental students and auxiliary dental personnel in which dental care and preventive services are provided by such persons under professional supervision in areas characterized by low family incomes or shortages of and need for dental services.

"(c) The Secretary is authorized to utilize sums appropriated pursuant to subsection (a) to make grants to dental schools and to other public or nonprofit private agencies, organizations, and institutions, and to enter into contracts with individuals, agencies, organizations, and institutions for special projects related to investigation and demonstration of ways of providing incentives for developing or establishing dental facilities or services in areas or communities in a State determined by the appropriate State health authority in such State to have a shortage of and need for dentists.

"DENTAL ADVISORY COMMITTEE

"SEC. 1105. (a) The President shall appoint a Dental Advisory Committee consisting of seven members, four of whom shall be selected from the dental profession and three from the general public. Members shall be appointed from among persons who, by virtue of their training, experience, and background, are exceptionally qualified to appraise the programs established by this title. The Secretary shall be an ex officio member of the Committee.

"(b)(1) Members shall be appointed for six-year terms, except that of the members first appointed three shall be appointed for two years, two shall be appointed for four years, and two shall be appointed for a term of six years as designated by the President at the time of appointment. The members shall select their own chairman.

"(2) Any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall serve only for the remainder of such term. Members shall be eligible for reappointment and may serve after the expiration of their terms until their successors have taken office.

"(3) The Dental Advisory Committee shall advise the Secretary in regard to the reports required under section 1006, in regard to programs established under this title, and in regard to activities carried on by the Department of Health, Education, and Welfare related to dental health, dental manpower, or dental training and services, and shall serve as a reviewing body for grants made pursuant to this title, where such review is deemed necessary by the Secretary.

"(4) Members of the Dental Advisory Committee who are not officers or employees of the United States shall receive compensation at rates not to exceed the daily rate prescribed for GS–18 under section 5332, title 5, United States Code, for each day they are engaged in the actual performance of their duties, including traveltime, and while so serving away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as the expenses authorized by section 5703, title 5, United States Code, for persons in Government service employed intermittently.

"(5) The Secretary shall make available to the Dental Advisory Committee such staff, information, and other assistance as it may require to carry out its activities.

"(6) The Secretary, after consultation with the Dental Advisory Committee, shall promulgate such rules and regulations as are necessary to carry out the purposes of this title.

"REPORT

"SEC. 1106. (a) The Secretary shall submit a report to the Congress not later than January 31 of each year on the progress of the implementation and administration of the programs established under this title.

"(b) The Secretary shall submit to the Congress a report containing his recommendations concerning the need and feasibility of a comprehensive national dental health program for children within ninety days before the end of the fiscal year ending June 30, 1974."

SEC. 3. Section 1902(a)(10) of title XIX of the Social Security Act is amended by adding at the end thereof the following: "and except that services described in paragraph (10) of section 1905(a) may be made available to individuals or groups of individuals under age eighteen without making available such services of the same amount, duration, and scope to individuals of any other ages;".

SEC. 4. (a) Section 1 of the Public Health Service Act is amended to read as follows:

"SECTION 1. Titles I to XI, inclusive, of this Act may be cited as the 'Public Health Service Act'."

(b) The Act of July 1, 1944 (58 Stat. 682), as amended, is further amended by renumbering title XI (as in effect prior to the enactment of this Act) as title XII, and by renumbering sections 1101 through 1114 (as in effect prior to the enactment of this Act), as sections 1201 through 1214, respectively.

SEC. 5. Section 602 of the Federal Food, Drug, and Cosmetic Act is amended by adding at the end thereof the following new subsection:

"(g)(1) If it is a dentifrice and (A) because of its nature, composition, or packaging it involves a potential risk to consumers including but not limited to its potential sensitizing, allergenic, or abrasive character or (B) because of any foreseeable handling, storage, or use by individuals it presents such a potential risk; then such dentifrice shall bear adequate cautionary labeling (such labeling shall be conspicuous and shall include first-aid information if appropriate). Whenever the Secretary finds any dentifrice or class of dentifrices to be subject to this subsection and in his judgment a declaration to that effect will reduce the potential risk to the consumer, he may by regulation declare such dentifrice or class thereof to be subject to such provision and may in such regulation specify the content of such cautionary information, the appropriate type size to be used for such warning, its placement on labels and may in pursuance of the objective of this subsection require the submission of the quantitative formula for such dentifrice or class thereof by the manufacturers of such dentifrice.

"(2) If it is a dentifrice and its labeling fails to bear cautionary information in the manner prescribed in clause (1) of this subsection.".

SEC. 6. Section 201 of the Federal Food, Drug, and Cosmetic Act is amended by adding at the end thereof the following new subsection:

"(y) The term 'dentifrice' means any cosmetic, drug, or other article recommended, suggested, or indicated for use by humans in the cure, mitigation, treatment, or prevention of diseases of the teeth or for cleansing or beautifying teeth.".

SEC. 7. Title V of the Lead-Based Paint Poisoning Prevention Act is amended by adding at the end thereof the following new section:

"AUTHORITY TO MAKE GRANTS TO STATE AGENCIES IN CERTAIN CASES

"SEC. 504. Notwithstanding any other provision of this Act, grants under sections 101 and 201 may be made to an agency of State government in any case where State government provides direct services to citizens in local communities or where units of general local government within the State are prevented by State law from implementing or receiving such grants or from expending such grants in accordance with their intended purpose; and in any such case the term 'local' when used in section 101 or 201 with respect to any program shall be deemed to read 'State'."

Mr. KENNEDY. Mr. President, I yield myself what time I need. This bill was introduced by the distinguished Senator from Washington. It has been carefully examined, and amended as a result of hearings held by the Health Subcommittee I have the privilege of chairing. It has been unanimously approved by the full Committee on Labor and Public Welfare. It bears the cosponsorship of 38 Members of this body from both sides of the aisle. It has been warmly endorsed by such concerned national organizations as the American Dental Association, the National Dental Association, the AFL–CIO, the American Academy of Pediatrics, the National Congress of Parents and Teachers, the Consumer Federation of America, and the American Society of Dentistry for Children.

Its progress, then, has been swift but measured. That has come about, I think, for a number of sound reasons.

The first that should be mentioned is that the bill has been authored and introduced by the distinguished senior Senator from the State of Washington. Few Members of this body enjoy the high level of affection and respect that he does. His very authorship of a bill commends it favorably to the attention of all of us.

Another powerful reason for our committee's prompt action on this bill is the simple fact that it is so well designed to meet needs we all know have existed not for a few months nor even a few years, but literally for decades; needs that are far from being met.

It is, I should think, a common experience in most congressional offices to receive inquiries about dental care services for poor children, or ways in which readier access to dental services can be achieved by those living in small, semi-isolated communities, or ways in which Federal resources can be used to assist the States and localities to improve the dental health of their people. It has been exceedingly difficult to be responsive to such legitimate requests for help. It has been difficult, first of all, because the size of the problem is such that one hardly knew where to begin. A decade ago, Wilbur Cohen, then as Assistant HEW Secretary, noted that—

> Dental disorders are the most neglected of all health conditions plaguing the American people.

It has been difficult, second, because the Federal Government has never really gotten down to the business of analyzing what appropriate role it could play in the area of dental health. And, as with any area victimized by inattention, the result has been administratively chaotic as well as, in instances, fiscally wasteful.

S. 1874 would begin to rectify this situation. It would not solve overnight the complex problems that have been festering for so long, but it would put us on the right path. It would permit rational planning and establishment of a sound order of priorities. It is long overdue.

The heart of the bill is contained in four sections: First, project grants for dental care of children; second, grants for water treatment programs; third, grants to train auxiliary dental personnel. The sections would have a 3-year life and the total authorization for them is $142 million. While the section-by-section analysis of S. 1874, which I am placing into the RECORD, explains fully the thrust of each aspect of S. 1874, there are some additional comments that can usefully be made on these four sections in particular.

PROJECT GRANTS FOR DENTAL CARE FOR CHILDREN

There are today some 63 million youngsters in this Nation between the ages of 2 and 17. Of that total, approximately 14 million are members of families with annual incomes of under $5,000.

Current estimates being made by the American Dental Association indicate that nearly 50 percent of the children in this Nation under the age of 15 have never been to a dentist. Among poor children, almost 70 percent have never been to a dentist.

As a result, statistics show that the average 15-year-old American child has had 11 teeth attacked by decay while, for every 100 selective service recruits, the Armed Forces needs to perform or supply 500 fillings, 80 extractions, 25 bridges, and 20 dentures. Nor is tooth decay the only manifestation of dental disease suffered by children. It is estimated that nearly half of America's children have the beginnings of gum disease and each year in this country some 6,500 children are born with cleft lip, cleft palate, or both.

As is generally true with all aspects of health, the burden of disease falls most heavily on the poor. The progressive nature of dental disease—tooth decay and gum disease are not self-healing, they continually worsen if not attended to—means that the oral health of the poor child can deteriorate to the point where it seriously affects not only his physical well-being, but also his capacity to fulfill his potential in the classroom and elsewhere. The national nutrition survey, conducted by the U.S. Public Health Service, discovered cases of children whose general nutrition was deficient, because their teeth hurt them so badly they could not chew food.

This is disgraceful and unconscionable.

S. 1874 could move into this area with both short-range and long-range effect. The authorized funds would permit direct care to be given to perhaps as many as 1 million children who do not now receive dental treatment; children in inner cities as well as those living in rural poverty. That in itself justified the $60 million expenditure that is authorized by the committee's bill under section 1101.

The bill would do more than that, however. By directing that these care projects be established in various settings and by making use of various administrative and delivery methods, we can derive hard, reliable data on which methods show the greatest promise in terms of efficiency and economy. Such data will be invaluable when we move, as we soon must, toward a dental health program encompassing all the Nation's children.

GRANTS FOR WATER TREATMENT PROGRAMS

The universal incidence of dental disease has long impelled researchers to search for methods whereby we might be protected against the beginning of such disease. In the case of the most common sort of dental disease, tooth decay, the search has long proved frustrating. There may someday be a vaccine against tooth decay or some other method of inoculation. Today, there is not and we spend an estimated $2 billion a year in repairing the damage done by it.

The early years of the 20th century, however, witnessed the discovery of a public health measure that, after years of meticulous testing, proved to be an eminently safe, effective, and economical weapon against tooth decay. This is, of course, fluoridation.

The efficacy of fluoridation was widely known for some years before it was put into practice as a public health measure. Its safety had to be conclusively documented before any community should be asked to begin fluoridating. The scientific literature establishing fluoridation's acceptability includes literally thousands of references.

Our committee, Mr. President, received overwhelming scientific evidence of the safety and the effectiveness of fluoridation as a powerful preventive weapon against dental disease. I ask unanimous consent to include in the RECORD at the conclusion of my remarks a brief summary of some of that evidence which caused our committee to unanimously order this bill favorably reported to the Senate.

Fluoridation in the United States celebrated in 1970 its 25th anniversary. It bears the endorsement of every reputable health organization that has investigated it, including the U.S. Public Health Service, the American Medical Association, the Pan American Health Organization, the American Heart Association, the American Public Health Association, the Association of State and Territorial Health Officers and, of course, every major dental organization beginning with the American Dental Association. It is unequivocally endorsed, as well, by such groups as the National Congress of Parents and Teachers, the National Education Association, the American Public Welfare Association, and the AFL–CIO.

The progress of fluoridation has been heartening, particularly with respect to major, urban areas. Regrettably, though, there are still more than 100 million people who do not enjoy its benefits, which include documented reduction of tooth decay by as much as 65 percent.

For many smaller communities, the major obstacle to fluoridating has been the one-time costs incurred at the time it begins. Equipment must be purchased and installed and initial operating expenses must be met.

An informal survey of a number of States taken late this summer by the directors of dental health confirms this belief that financial considerations are indeed a barrier. In response to an inquiry, for example, the dental health department in Wisconsin noted that—

> There were 257 communities below 5,000 in population . . . Many of these smaller communities would, we feel, fluoridate if funds were made available for the purchase and maintenance of equipment.

A reply from Massachusetts indicated that in towns containing fully 10 percent of the total State population, fluoridation has been "ordered and legal steps accomplished but not funded." Georgia noted that 60 communities in that State, with a total population of more than 200,000, said they were not yet fluoridating because they had not the money to begin. Arkansas pointed to 40 communities within its jurisdiction that wish to fluoridate but lacked the money to do so. Tennessee, in 1965, carried out a State-level program of financial assistance to communities wishing to fluoridate and, the first 9 months, had received requests from 25 communities. Twenty more came into the program during the remainder of its life.

The evidence is clear, then, that a modest amount of assistance could produce enormous benefits. Section 1102 of S. 1874 authorizes the expenditure of only $9 million. These would be one-time, matching grants and, it is estimated, could bring fluoridation benefits to as many as 30 million more people, or about one-third of those who do not now enjoy the benefits of fluoridated water.

One more thing remains to be said. Fluoridation, we all know, has been the subject of political controversy on more than one occasion and in more than one community. While the controversy has subsided considerably in recent years, it still exists in some places. I regret that there are still those who still suffer fears and doubts. I do not believe, however, that the fears of a few should stand in the way of a community if it decides that it wishes to fluoridate. And, of course, it should be clearly kept in mind that S. 1874 provides that each community must decide this issue on its own by whatever method is acceptable to it. Only after a community has decided in favor of fluoridation and only after it has initiated a request to the Federal Government would S. 1874 come into play. There is nothing compulsory in this provision of the bill. It is wholly voluntary. I do not see how a more reasonable provision could have been written.

What we are talking about, then, is tooth decay on which we spend as much as $2 billion a year. What we are suggesting is that $9 million be authorized over a 3-year period to help as many as 30 million people, if they wish, to fluoridate their water supplies and thus reduce the incidence of tooth decay by as much as 65 percent.

DENTAL AUXILIARY TRAINING

The dental profession in the United States has traditionally shown an enlightened, progressive attitude toward the question of auxiliary assistance. Investigation after investigation has shown how substantially an individual dentist can increase his productivity by the judicious use of well-trained auxiliaries. Productivity increase is of substantial importance in an area where you are faced with universal incidence of disease and a severe shortage of professional practitioners.

The most recent of such studies shows that a dentist who increases from one to two auxiliaries could increase his office's productivity by 44.2 percent; a dentist who increases from two to three auxiliaries increases productivity by 25 percent; and a dentist who increases from three to four auxiliaries increases productivity by 21.9 percent. If a dentist increased his staff from zero auxiliaries to four auxiliaries, the same study shows, his office productivity could jump as much as 225 percent.

These are exciting findings. They have urgent relevance today as we are moving toward implementation of the right to health care for all Americans. The problems, however, is that there is a desperate shortage of dental auxiliaries and, at the present rate of progress, that shortage will not significantly improve during the decade of the 1970's.

There is today one dental hygienist for every five or six dentists. There ought to be at least one hygienist for every two dentists. We have today some 103,000 dental auxiliaries, but there ought to be about 225,000 such auxiliaries. By 1980, under present circumstances, we will be short about 25,000 hygienists and 137,000 dental auxiliaries.

The funds available under S. 1874 would enable us to narrow that gap significantly. Or, to put it more positively, it means we could have available an immensely greater dental care capability than would otherwise be obtainable. The amount being asked by way of authorizations is $57 million. That would fund 3 years of programs. Today, we are spending more than $60 million every week, 52 weeks a year, in purchasing dental care services. What we are suggesting, then, is the equivalent of 1 week's expenditure to be invested over a 3-year period in order to substantially increase the capability of the dental care system. And, also, it is reasonable to suggest this will reduce the per unit cost of dental care since auxiliary personnel will be available to perform many of the duties now undertaken only by the dentist himself.

There will be those, I know, who contend that this section of S. 1874 duplicates existing legislation. This may have some theoretical truth, but the facts of the situation are otherwise.

The only funds currently available for the purpose of this section are authorized under the Health Manpower Training Act. Experience with that program, which is designed to cover the whole spectrum of health professions personnel and thus encompass literally thousands of institutions, demonstrates that it cannot do the job unaided, much less do it with sufficient swiftness to fill shortage gaps in any one area. Regrettably, the administration's recent meager budget request for that act reinforces my conviction that this legislation is urgently required.

In fiscal 1971, for example, more than 800 dental auxiliary curriculums had distributed to them only some $9 million in basic improvement grants. This translates to about $12,000 per curriculum. There are some 26,000 students in the total curriculums.

The provision in S. 1874, then, contemplates a targeted approach designed to meet a specific, identifiable need in the field of dental health. The productivity statistics that I have cited earlier demonstrate that we know precisely how much assistance we can purchase with the grants and how valuable it will be.

EFFECTIVE USE OF AUXILIARY PERSONNEL

Section 1104 of S. 1874 is closely related to provisions of section 1103 in respect to manpower. This section would provide some $26 million over the life of the bill to promote effective use of dental auxiliary personnel. If a young man or woman enters dental school and spends 3 or 4 years being trained to render care on a solo basis, we can hardly expect that, after graduation, that young dentist will be inclined to begin practicing with the assistance of auxiliaries. The student must, instead, be taught how to use such assistance properly during the education process. Such a program, I might add, has been in existence, with Federal support, in dental schools for some time and has proved invaluable. The Federal funding, however, has never had a statutory existence and the annual uncertainties of the budgetmaking process has militated against effective planning and efficient use of the available funds. Section 1104 of S. 1874 will remedy that. In addition, this section will permit the schools to broaden the work they are doing in this area in a number of other interesting and useful ways. It asks the dental schools, for example, to make greater use than they do now of veterans who have received training and had experience in dental auxiliary duties while in military service. It would encourage field training programs, using the dental team approach, that will bring properly supervised dental students and auxiliaries to areas where there is a shortage of dental care. And it will also permit exploration of incentives for developing more permanent solutions for areas suffering from a dentist shortage.

SUMMARY

The 18th century English scholar Samuel Johnson once remarked that "those who do not feel pain seldom think it is felt." An admittedly bitter remark, it nonetheless has some relevance here today.

I would suppose, in one sense, that there is no one within range of my voice who has not felt the pain of dental disease at some time or other. But, for a great many of us, it is a pain that is under control because there is a dentist to whom we can go and whose services we can afford. For too many millions of Americans, over too many long years, this has not been so. That, I think we can all agree, must change.

If it is going to change, however, we must undertake a sober reconsideration of what we have been doing, or not doing, about dental disease. We have invested too little thought and, on the Federal level, even less money to the subject.

The universality of dental disease has long made it plain to those who have invested time, thought, and effort that the only sane approach to control of it is prevention. And to prevent dental disease means to pay special attention to children. It also means that we must somehow achieve a sufficient supply of manpower so that preventive services are readily available to everyone. And, finally, it means that we must make intelligent use of safe and effective preventive measures as are now available.

S. 1874 takes these steps. It is a modest bill in terms of its years of life and in the amounts of money it would authorize. But it is a most significant proposal.

The time is swiftly drawing near, as every Member of this body realizes, when this Nation will at long last inaugurate a national health insurance program. Dental care is inescapably an integral part of such a program; dental care today consumes some 9.3 percent of the private health dollar. S. 1874 is an important precursor to national health insurance with respect to the prevention of dental disease. I urge my colleagues on both sides of the aisle to vote for this excellent bill.

Mr. President, I ask unanimous consent to have printed in the Record the strong letter of support for the provisions of S. 1874 which I received from the chairman of the Labor-HEW Appropriations Subcommittee, Senator Magnuson.

There being no objection, the letter was ordered to be printed in the Record, as follows:

U.S. Senate,
Washington, D.C., November 9, 1971.

Hon. Edward M. Kennedy,
Chairman, Senate Health Subcommittee,
Old Senate Office Building.

Dear Mr. Chairman: I am writing to reiterate my conviction that enactment of the Children's Dental Health Act (S. 1874) would be a responsible and effective step toward the eventual solution of this country's dental health problem. I am very hopeful that the full Labor and Public Welfare Committee will act on this legislation before the Senate adjourns for the holidays and that it will report favorably on the bill as it was approved by the Health Subcommittee.

Each of the four major components of this legislation would serve an important part in an effective national dental health effort. Congress recognized the need for dental care projects to serve low-income children when it enacted Title V of the Social Security Act in 1967. Unfortunately, however, that law's failure to provide a separate authorization for children's dental care projects has resulted in an almost total disregard by the executive branch of Congress' concern for the dental health of poor children. As you know, since 1967 only slightly more than $1 million has been spent on the dental projects authorized under Title V and, at best, only about 15,000 youngsters have been served by them. Section 1101 of the Children's Dental Health Act would provide the separate authorization for pilot dental care projects for economically disadvantaged children which is necessary if the Congress' concern for the dental health of these youngsters is to ever be translated into meaningful action.

The $9 million authorized in Section 1102 for matching grants to public schools and communities wishing to fluoridate their water supplies would be a sound investment in preventive dental care. At a time when Americans are spending nearly $4 billion each year for corrective dental care it is entirely appropriate that the federal government should spend $9 million to assist those communities and schools which wish to utilize water fluoridation to prevent costly dental disease. As you know, the decision to fluoridate or not fluoridate any school or community's water supply would be made entirely by local officials and no community or school would be required by this bill to fluoridate its water.

Projections indicate that unless we sharply accelerate the training of new paradental personnel we will face a shortage of 23.500 technicians, 25,000 hygienists and 137,000 assistants by 1980. Concern over these forthcoming shortages is evidenced in the recently enacted Comprehensive Health Manpower Training Act, but it must be noted that separate authorizations are not provided in that Act for programs to train *dental* auxiliaries. Without separate authorizations, I fear that dental auxiliary training programs will meet the same fate as have the children's dental care projects provided for under Title V of the Social Security Act. That fear is heightened by a close reading of the Administration's White Paper entitled "Towards a Comprehensive Health Policy for the 1970's." Written last Spring by Secretary Richardson, this policy statement indicates no intention on the Administration's part to increase our output of dental auxiliaries. In view of the fact that there *is* specific reference in the White Paper to increasing the supply of *physicians* assistants, the omission of any reference to dental auxiliaries does not appear to be an inadvertent one. For these reasons, then, a separate authorization for programs to train dental auxiliaries is included in S. 1874 as Section 1103. Similarly, Section 1104 provides a separate authorization for programs to teach dentists and dental students how to effectively utilize dental auxiliaries whereas the Health Manpower Training Act does not.

In sum, passage of the Children's Dental Health Act as it is now written would, for the first time, identify dental disease as the major national health problem it is and would provide a coordinated beginning toward an effective national dental health effort.

Warmest personal regards.

Sincerely,

WARREN G. MAGNUSON,
U.S. Senator.

Mr. JAVITS. Mr. President, will the Senator from Massachusetts yield?

Mr. KENNEDY. I yield.

Mr. JAVITS. I tell the Senator that I think this is a very fine bill. I have only one comment to make on the question of fluoridation which was raised in committee. It was able to be shown that the evidence is so overwhelming on that subject now that the cliches and the prejudices which persisted sometime ago are not tenable in the face of the facts.

I deeply believe that this may prove to be one of the best things to come out of the bill in a peripheral sense. It is a very fine bill dealing with the health of our children in a basic and constructive way and in which the chairman of the subcommittee, the Senator from Massachusetts (Mr. KENNEDY), has taken a fine lead. I am very much pleased to see it come so close to the voting stage now.

Mr. KENNEDY. I thank the Senator from New York. There is an area that has been of some concern to Members; namely, the second provision dealing with fluoridation. As we indicated previously, the program of fluoridation can have a significant impact in terms of dental health for all the people of this country.

Mr. JAVITS. Mr. President, as I said before, I strongly support the Children's Dental Health Act, S. 1874. This legislation—authored by Senator MAGNUSON and of which I am a cosponsor—permits us to launch a substantially expanded Federal dental health effort in this area of critical need.

To begin to bring dental care to the more than half the children in this Nation who have never visited a dentist—and I might note that among low-income groups the number approaches 70 percent, which is to say that almost three-quarters of these children have never seen a dentist—a total of $50 million is authorized over 3 years for pilot dental care projects providing preventive, corrective, and followup care to children. These dental projects will not provide care to all children or even to all economically disadvantaged children. We have neither the funds nor the manpower to set out upon such an ambitious course. Instead, these would be pilot projects which—while providing direct care to 1.5 million disadvantaged children—would also provide an opportunity for determining how quality dental care can be provided to large numbers of people with maximum efficiency and minimum cost.

No child should be permitted to suffer ill health because he lives in an isolated area or because his father is poor and this provision would move that principle from promise to performance. To make it possible for the American people to save a sizable proportion of the nearly $4 billion which they are spending every year on corrective dental care, the bill provides $9 million over 3 years for Federal matching grants to schools or communities wishing to fluoridate their water supplies. The effectiveness and safety of fluoridation in preventing tooth decay has been demonstrated again and again and in March 1969, the Surgeon General stated:

> The United States Public Health Service endorses water fluoridation as a safe and effective public health measure and urges all communities to make its benefits available at the earliest possible time.

I wish to repeat that I recognize that fluoridation has been the subject of intense controversy; however, dental, medical, and statistical data, judged by a committee of experts and special councils of national and international organizations concerned with public health, concluded that the adjustment of the fluoride content of water supplies to a concentration optimal for dental health is a safe and beneficial procedure with no detrimental effects of any kind. In addition, long-term health studies in cities having controlled fluoridation continue to attest to the effectiveness and safety of fluoridation. Also, this bill would not require any school or community to fluoridate its water. What the bill would do is assist those schools and communities which decide—on their own—that they wished to fluoridate their water.

We must not only improve our dental care delivery system but also train much larger numbers of dental health personnel. While we must continue to increase our supply of dentists, we can no longer rely upon dentists alone to provide dental care. The bill authorizes $57 million over 3 years to train new dental auxiliaries and thus improve our capacity for meeting increased demands for dental services. In addition, $26 million is authorized to train dentists and dental students to work with auxiliary personnel. We will thus be provided with dentists and dental auxiliaries trained to work as efficient, productive teams capable of providing higher quality dental care to more Americans than ever before.

For both philosophical and practical reasons, dental auxiliaries assume today more importance than ever before in our history.

We know there are a number of dental care duties that auxiliaries can perform and that they can be educated in a much shorter period of time, and at much less expense than a dentist. We know that a dentist with just one well-trained auxiliary can stretch his productivity by more than 50 percent.

If our shortage of dentists is acute, the shortage of dental auxiliaries is even more critical. At the present time, there are some 18,000 full-time—or full-time equivalent—dental hygienists in practice. This gives a ratio of one hygienist to every five or six dentists. At a minimum, the desirable ratio should be one hygienist for every two dentists.

The numerical shortage of trained dental assistants is even worse. Presently, there are some 103,000 dental assistants in practice, giving a ratio of about 1 to 1 with repect to dentists. A minimally desirable ratio would be two assistants for every dentist.

The third auxiliary, the dental laboratory technician, does not engage in chairside care nor is he normally employed directly by the dentist. His work, however, is vital and the shortage here is also quite severe.

Based on the current graduation rate, the deficit by 1980 for these three auxiliaries with respect to the desirable ratios will be 25,000 hygienists, 137,000 assistants and 23,500 technicians.

The bill would help move us toward achievement of the proper ratios in an accelerated way.

The next logical step in the attempt to stretch dentists' productivity—and as provided for by this bill—is to institute, on a much broader scale than has heretofore existed, programing to instruct both the practicing dentist and the dental student on how to work most effectively with auxiliaries and thus create and use the most effective dental team possible.

Given what we know about the potential to be realized from effective use of auxiliaries, it would be logical to assume that no dental student is permitted to graduate today without intensive instruction in this subject area. In fact, this is not so. Current surveys indicate that almost no first- or second-year students receive it, and that few third-year students have such training. Moreover, senior students have far less of it than necessary.

This relative inattention lies in the fiscal crisis that has gripped the dental education system for some years now. The lack of such education during school years—coupled with the shortage of auxiliary personnel—goes far toward explaining why there are still some 15,000 dentists who practice without auxiliaries. This legislation would enable us to change this and increase the availability of dental care in a relatively short period of time.

Mr. KENNEDY. Mr. President, I ask unanimous consent to have printed in the RECORD a very fine statement containing some facts concerning the safety of fluoridation and various studies which justify the action which has been taken in the inclusion of that provision in this legislation.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT ON THE SAFETY OF FLUORIDATION

The Division of Dental Health endorses and actively promotes the fluoridation of community water supplies as an effective method of preventing tooth decay. This stand is based on several decades of study of the effects of fluorides. Because of the widespread occurrence of fluorides as a normal constituent of water supplies, research scientists have had a natural laboratory of unprecedented scope.

The first established relationship between fluorides and dental health concerned mottled tooth enamel. Culminating investigations that began about 1908, researchers reported in 1931 that persons with noticeably mottled enamel had invariably been reared in areas where *excessive* quantities of fluoride appeared naturally in the water supply. Those who were studying the mottling phenomenon noticed that mottled teeth, although they were not considered well developed, did not suffer as much decay as teeth that were apparently normally developed. This observation led to studies to determine the exact relationship between tooth decay and fluoride in drinking water.

Results of these studies and others conducted in several countries were remarkably uniform. They demonstrated conclusively that persons born and reared in temperate-climate communities having from 1.0 to 1.5 parts per million of fluoride in the water had only one-third as much tooth decay as persons living in areas where the drinking water was without fluoride.

Further, at this level of fluoride concentration teeth did not show undesirable mottling. These and other epidemiological findings, together with the results of animal studies on the caries-inhibiting effects of ingested fluorides, led to the conclusion that fluorides added in optimum amounts to water supplies would result in substantial reductions in the incidence of tooth decay.

The early dental investigations were carried out in areas where millions of people had been using naturally fluoridated water throughout their lifetimes, with fluoride concentrations ranging up to 14 parts per million. Later, medical and dental teams also conducted detailed long-term general health studies in high fluoride areas. Though tooth mottling was evident in people from communities having high fluoride concentrations, neither the dental researchers nor the medical teams found any detectable adverse effect on the general health of the population examined.

The evaluation of mortality-morbidity rate data in relation to the use of fluoride-bearing water was another method used in investigating the influence of fluoride ingestion on general health. Both the incidence of selected diseases and the numbers of deaths resulting from them in areas having significant concentrations of fluoride in drinking water have been compared with those in areas having very little fluoride. No patterns were found that suggest any relationship between mortality-morbidity rates and the consumption of fluoride-bearing water.

The dental, medical, and statistical evidence has been judged by committees of experts and special councils of National and international organizations concerned with public health. Specific allegations of injury or hazard have been carefully evaluated. The conclusions have been that the adjustment of the fluoride content of water supplies to a concentration optimal for dental health is a safe and beneficial procedure with no detrimental effects of any kind. Long-term health studies in cities having controlled fluoridation, some of them under way nearly twenty-five years, continue to attest to the effectiveness and safety of fluoridation.

In March 1969, Surgeon General William H. Stewart reiterated the position of the Public Health Service by saying:

"The United States Public Health Service endorses water fluoridation as a safe and effective public health measure and urges all communities to make its benefits available at the earliest possible time."

COMPREHENSIVE DOCUMENTATION, WITH INDEX, OF SAFETY AND EFFECTIVENESS OF FLUORIDATION

INDEX

The following publications present a comprehensive scientific basis for water fluoridation as a safe, effective caries-preventive public health measure. After the complete bibliographic reference, there appears in parenthesis an abbreviated title as used in this index to the publications.

Water Fluoridation—The Search and the Victory by Frank J. McClure, National Institute of Dental Research, National Institutes of Health, Department of Health, Education, and Welfare. Government Printing Office, Washington, D.C., 1970. (Fluoridation.)

The Role of Fluoride in Public Health—the Soundness of Fluoridation of Communal Water Supplies, a Selected Bibliography by Irene R. Campbell, Kettering Laboratory, College of Medicine, University of Cincinnati, Cincinnati, Ohio, 1963. (Role of Fluoride.)

Classification and Appraisal of Objections to Fluoridation by Kenneth R. Elwell and Kenneth A. Easlick, The University of Michigan, Ann Arbor, Michigan, 1960. (Objections.)

Fluoridation: A Modern Paradox in Science and Public Policy by Freeman H. Quimby, Science Policy Research Division, Legislative Reference Service, the Library of Congress, Washington, D.C., February 17, 1970. (Paradox.)

Fluoridation Issue, the Journal of the American Dental Association, Vol. 65, No. 5, November 1962. (1962 JADA)

Special Issue, the Journal of the American Dental Association, Vol. 74, No. 2, January 1967. (1967 JADA)

Background

Books and general reviews, Pp. 1–5—Role of Fluoride.

General, pp. 3–10—Paradox.

Occurrence of fluoride in nature, pp. 6–9—Role of Fluoride; pp. 191–5—Fluoridation.

Biology and safety

Metabolism and deposition of fluoride in animals and man, Pp. 10–50—Role of Fluoride; pp. 197–200—Fluoridation; pp. 82–87—Paradox; pp. 598–602—1962 JADA.

Nature and extent of scientific consensus, Pp. 14–22—Paradox.

Use of fluoridated water in artificial kidneys, PHS statement, enclosed.

Diseases alleged to be caused or made worse by consumption of fluoridated water, PHS statement on allergy, enclosed Pp. 1–17—Objections; a copy of the table of contents listing specific diseases is attached.

Mortality statistics, Pp. 233–8—Fluoridation; pp 15–16—Paradox.

Caries reduction and fluoride water, Pp. 51–62—Role of Fluoride; pp. 75–108—Fluoridation.

Preventive effects in adult life Caries, Pp. 153–6—Fluoridation.

Possible skeletal benefits, pp. 161–3—Fluoridation.

Studies of populations drinking fluoride waters, Pp. 109–152, 220–231—Fluoridation; pp. 11–13, 21—Paradox; pp. 581–7, 608–21—1962 JADA; pp. 233–302—1967 JADA.

Mottled enamel and fluoride water, Pp. 57–74—Fluoridation.

Endemic skeletal fluorosis, U.S., Pp. 231–3—Fluoridation.

Approval of water fluoridation, Pp. 245–61—Fluoridation.

Approving organizations, pp. 249–52—Fluoridation; Statement on Health Insurance Assn., enclosed.

Other means of controlling caries by fluoride, Pp. 175–88—Fluoridation; pp. 62–8—Role of Fluoride, pp. 63–8—Paradox.

CURRENT STATUS REPORT ON THE FLUORIDATION OF PUBLIC WATER SUPPLIES

OCTOBER 21, 1971.

A comprehensive study on the need for funds for purchase and installation of fluoridation equipment was carried out in 1967 by the Division of Dental Health of the Public Health Service. Results of this study clearly showed that serious problems in the fluoridation of community's water systems centered around the need for the federal funding of community programs.

A more recent (August 9, 1971) survey of the Directors of Dental Health in several states revealed the following facts on status of fluoridation of communal water systems:

1. There are a significant number of community water supplies in the various states polled that understand the positive value of fluoridation, and honestly desire to implement such a system.

2. A major factor preventing implementation is simply the initial cost of purchasing equipment and supplies.

The following are excerpts from the responses to an inquiry that asked the States Department of Dental Health Director if there were any communities that would fluoridate their water supplies, but could not because of lack of funds to purchase equipment.

Wisconsin: "We have 257 communities below 5,000 in population who would benefit from the passage of the Children's Dental Health Act of 1971. Many of these smaller communities would, we feel, fluoridate if funds were made available for the purchase and maintenance of equipment. Costs are always an issue whenever fluoridation is mentioned."

Massachusetts: "Fluoridation ordered and legal steps accomplished but *not funded* (in) 10% of total Massachusetts population." This includes a list of 14 towns of 586,811 people.

Illinois: "There are a number of small communities in Illinois who state that due to financial reasons it is difficult for them to comply with the Mandatory Fluoridation Law in Illinois. Since the Mandatory Fluoridation Law passed in 1967, we have increased 6.5 million to more than 10 million people now receiving fluoridated water; however, we still do have some small communities who have not fluoridated or implemented their plans which they have sent to us."

Maryland: "Enclosed please find a list of communities in Maryland with central water supplies that can feasibly be fluoridated. It appears that the main obstacle to fluoridation is the original cost of fluoridation equipment." The list had 36 towns of 40,000 population.

Colorado: "Approximately three years ago we made such monies available for the town of Walden to install fluoridation equipment. This represented approximately $4,900. This year the town of Trinidad is considering installing fluoridation equipment." Attached were news clippings from the communities of Walsenburg and Del Norte indicating that they were ready for fluoridation if money was available.

West Virginia: "In answer to your telegram of August 9, 1971, we can assure you there have been and will continue to be towns in West Virginia that cannot fluoridate solely because of a lack of funds to purchase equipment."

Georgia: "In sixty communities in Georgia, lack of funds to purchase equipment is given as the reason for not fluoridating. These communities serve more than two hundred thousand population."

Kansas: "We have known for several years that the reason some of the smaller communities in Kansas have not initiated the fluoride adjustment of their fluoride-deficient public water supplies is because of the initial cost involved in the purchase of fluoridation equipment."

Arkansas: "We have about forty small communities that would be willing to install fluoridation but for the lack of funds. These communities all do not have full time water works employees so that too is a cost factor."

Tennessee: The State Public Health Service instituted a program in 1965 to provide matching funds to qualified small community applicants that desired to install fluoridation equipment in their water systems. The purpose of the program was to spur the fluoridation effort and test the often given reason of financial embarrassment for not fluoridating. In the first nine months of the program, 28 communities applied, and 25 communities remitted their share of the costs. In a five year period, 45 towns had taken advantage of this after asking for financial assistance. It is conceivable that this program could serve very well as a pilot study in considering financial assistance programs to fluoridate on a nationwide basis.

Wyoming: "I am personally convinced that availability of funds would solve at least ¾ of our problems. I have said this to Federal people for years and I have said this at the American Dental Association level. I hope I live long enough to see something done."

The last statement perhaps represents most closely the concern of the profession that has in its hands a safe and effective means of alleviating dental decay, yet cannot complete its implementation because of the lack of financial resources.

Forty-seven per cent of the nation's population are now effectively protected by properly fluoridated communal water systems. But those covered are mainly from large urban centers with fiscal resources to implement this safeguard of children's oral health. The smaller communities, the rural communities are not able to avail themselves of this positively beneficial health program. This inequity could be resolved with a one-time matching grant fund that would help communities to begin fluoridation if they desire to do so, such as are found in the provisions of the Children's dental Health Act of 1971.

Mr. KENNEDY. Mr. President, I yield back the remainder of my time.

Mr. JAVITS. Mr. President, I yield back my time.

The PRESIDING OFFICER (Mr. Allen). All time has now been yielded back. The vote on this bill will take place tomorrow, following the vote on the conference report on S. 1828.

THE CLOSING OF PUBLIC HEALTH SERVICE HOSPITALS

Mr. SPONG. Mr. President, this morning's Washington Post included a news item attributing to an Assistant Secretary of the Department of Health, Education, and Welfare a memorandum to the Secretary of Health, Education, and Welfare concerning the closing of public health service hospitals. The memorandum is quoted as suggesting to Secretary Richardson that we tell the Congress "as little as we can get away with." A similar article in the New York Times quotes the memorandum more fully. It says: "Hopefully, decisions about these two cases"—that is, the Boston and San Francisco hospitals—"will be made prior to any further detailed discussion with key elements of the Congress." The memorandum further states:

> We decided that the better part of valor at this time would be to offer them as few materials as we can get away with and hold off for as long as possible a confrontation concerning what we will or will not do vis-a-vis each of the hospitals.

Just four pages further on in the Washington Post than the first item, the Secretary of Health, Education, and Welfare is quoted as having blamed the low public image of Federal employees on "the propensity of politicians who promise more than they can obviously deliver."

If there is any bad image, the Secretary obviously has not named the full cause. I have stated on a number of occasions that one of our major problems in this country is overpromise, but that can hardly create a bad image of executive branch employees themselves. Both Senate and House committees have been attempting to obtain definitive information concerning HEW's plans with respect to the public health service hospitals. I have been unable to obtain any information concerning the advantages of either closure of these hospitals or transfer of operation to some other agency. So far as I know neither of the committees involved has been able to obtain information.

The news articles referred to a letter of November 24 to key Members of Congress, and I have a letter from the Secretary dated November 15 which says that:

> None of the proposals is at this time sufficiently well spelled out to provide us with all of the data and information we would need to take final action hospital by hospital.

Apparently, HEW, without adequate information, has already decided to discontinue its operation of the Boston and San Francisco hospitals, has established its priority for closing all eight of the hospitals, and has informed the administrators of the hospitals of the procedures to follow in negotiating with other bodies for the operation of these hospitals.

In the meantime, those individuals authorized medical care in public health service hospitals including merchant seamen, fishermen, Coast Guard personnel, and armed services' dependents are just as much in the dark as the Congress.

The distinguished chairman of the Subcommittee on Public Health and Environment in the other body, the Honorable Paul Rogers of Florida, has scheduled a hearing for tomorrow morning on the matter. I hope the chairman can obtain information concerning just what HEW plans to do. In the meantime, perhaps the Secretary should look to his own house and his own executives for the cause of any bad images the public may see.

ORDER TO VACATE ORDER FOR RECOGNITION OF SENATOR McGOVERN

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the previous order recognizing the distinguished Senator from South Dakota (Mr. McGovern) tomorrow for 15 minues be vacated.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR BYRD OF WEST VIRGINIA TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous concent that immediately following the remarks of the distinguished Senator from Illinois (Mr. Percy) on tomorrow, the junior Senator from West Virginia (Mr. Byrd) be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR TIME OF VOTE ON CONFERENCE REPORT ON NATIONAL CANCER ACT OF 1971

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that at the conclusion of the orders for the recognition of the Senators for 15-minute speeches on tomorrow, the first rollcall vote, the vote on the conference report on the National Cancer Act of 1971, then occur.

Mr. GRIFFIN. Mr. President, reserving the right to object, would the Senator restate that request?

Mr. BYRD of West Virginia. Mr. President, my request was that at the conclusion of the 15-minute speeches on tomorrow, the rollcall vote, which had been ordered on the cancer conference report, then occur. That would make it occur at about 10:15 a.m., in the event all orders are consumed.

Mr. GRIFFIN. Mr. President, reserving the right to object, several Senators have asked for assurance that the first vote not occur prior to 10 o'clock. It is my best judgment that it would not occur prior to 10 o'clock. I wonder if we might not have that understanding.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the vote on the conference report on the National Cancer Act of 1971 begin at 10:15 tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. BYRD of West Virginia. Mr. President, if one of the Senators should decide tomorrow to vacate his order for a 15-minute speech, and should a hiatus occur, I ask unanimous consent that, following the conclusion of the remarks of the last Senator on the list and until the hour of 10:15 tomorrow morning, there be a period devoted to the transaction of routine morning business, with statements therein limited to 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. BYRD of West Virginia. Mr. President, has an order been entered for the return to executive session immediately following the two rollcall votes that are scheduled for tomorrow morning?

The PRESIDING OFFICER. The Senator is correct. An order has been entered to that effect.

PROVISIONAL ORDER ON DIVISION OF TIME UNDER RULE XXII ON SATURDAY

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the time during the 1 hour for debate under rule XXII on Saturday—if a vote occurs on cloture again on Saturday—be equally divided between the distinguished Senator from Indiana (Mr. Bayh) and the distinguished minority leader or his designee.

The PRESIDING OFFICER. Without objection, it is so ordered.

QUORUM CALL

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO VACATE ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. BYRD of West Virginia. Mr. President, I wish to make a slight revision in the schedule for tomorrow morning. There was an earlier order for the transaction of routine morning business for not to exceed 30 minutes on tomorrow. I ask unanimous consent that that order be vacated.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO CONSIDER HOUSE MESSAGE ON S. 1866 TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that at the conclusion of the remarks by the junior Senator from West Virginia (Mr. Byrd) on tomorrow, the Senate proceed to consideration of the House message on S. 1866.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD of West Virginia. I ask unanimous consent that the time thereon be limited to 20 minutes, to be divided as follows: 15 minutes under the control of the distinguished Senator from New York (Mr. Javits) and 5 minutes under the control of the distinguished Senator from North Dakota (Mr. Burdick).

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that at the conclusion of the action on the House message on S. 1866 tomorrow, the Senate proceed to the consideration of routine morning business, with statements limited therein, and that such period not extend beyond 10:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ROLLCALL VOTE ON CANCER ACT CONFERENCE REPORT TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that at 10:30 a.m. tomorrow the rollcall vote on the cancer conference report occur.

The PRESIDING OFFICER. Without objection, it is so ordered.

QUORUM CALL

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum, and I trust that this will be the final quorum call of the day.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SPONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

REVISION OF ORDER RECOGNIZING SENATOR BYRD OF WEST VIRGINIA TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order recognizing the junior Senator from West Virginia (Mr. Byrd) for remarks tomorrow be revised to place a limitation thereon of 5 minutes instead of 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. BYRD of West Virginia. Mr. President, the program for tomorrow is as follows:

The Senate will convene at 9 o'clock a.m. After the two leaders have been recognized, the following Senators will be recognized for not to exceed 15 minutes each, and in the order stated: Mr. Williams, Mr. Magnuson, Mr. Jackson, and Mr. Percy, after which the junior Senator from West Virginia (Mr. Byrd) will be recognized for not to exceed 5 minutes.

At the conclusion of such orders the Senate will proceed to the consideration of a message from the House of Representatives on S. 1866, with a time limitation thereon of 20 minutes, to be divided as follows: 15 minutes under the control of the distinguished senior Senator from New York (Mr. Javits) and 5 minutes under the control of the distinguished junior Senator from North Dakota (Mr. Burdick).

At the conclusion thereof, if the hour of 10:30 a.m. has not arrived, there will be a period for the transaction of routine morning business not to extend beyond 10:30 a.m., with statements limited therein to 3 minutes. In any event, when the hour of 10:30 a.m. arrives, the Senate will proceed to vote by rollcall on the cancer conference report, without any debate thereon.

Immediately following the rollcall vote on the cancer conference report, the Senate will proceed by rollcall to vote on the so-called dental care bill, without debate thereon.

At the conclusion of the rollcall vote on the dental care bill, the Senate will go into executive session to resume the consideration of the nomination of Mr. William H. Rehnquist to the office of Associate Justice of the Supreme Court of the United States.

At 11 o'clock a.m., the 1 hour for debate under rule XXII will begin to run. The time will be divided between the distinguished junior Senator from Indiana (Mr. Bayh) and the distinguished Republican leader (Mr. Scott) or his designee.

At the conclusion of the 1 hour, in accordance with the rule, at 12 noon, the Senate will proceed to establish a quorum, which is mandatory under the rule. Once a quorum has been established, the rollcall on the motion to invoke cloture will occur, it being mandatory under the rule. Hence, the rollcall vote on the motion to invoke cloture will begin at about 12:15 p.m. tomorrow.

Other votes will likely occur tomorrow, but, Mr. President, we are certain that there will be at least three rollcall votes tomorrow, the first to occur at 10:30 a.m. Various conference reports remain to be acted upon, and they may be called up at any time, and rollcall votes may be ordered thereon.

There will be a session Saturday.

A second motion to invoke cloture has been introduced today, and in the event that the first motion to invoke cloture fails of approval on tomorrow, a second vote to invoke cloture will occur on Saturday.

Mr. President, the distinguished majority leader has already entered an order for the convening of the Senate at 9 o'clock a.m. on tomorrow and on Saturday. Was an order entered with respect to whether or not the Senate would adjourn or recess today and tomorrow?

The PRESIDING OFFICER. No such order has been entered.

Mr. BYRD of West Virginia. I thank the distinguished Presiding Officer.

ORDER FOR ADJOURNMENT UNTIL 9 A.M.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9 o'clock a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT FROM TOMORROW UNTIL 9 A.M. SATURDAY

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that when the Senate completes its business tomorrow, it stand in adjournment until 9 o'clock a.m. on Saturday.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADJOURNMENT UNTIL 9 A.M. TOMORROW

Mr. BYRD of West Virginia. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 9 o'clock a.m. tomorrow.

The motion was agreed to; and (at 6 o'clock and 35 minutes p.m.) the Senate adjourned until tomorrow, Friday, December 10, 1971, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate December 9, 1971:

Superior Court of the District of Columbia

George W. Draper II, of Maryland, to be an associate judge, Superior Court of the District of Columbia, for the term of 15 years, as prescribed by Public Law 91-358, approved July 29, 1970, vice Mary C. Barlow, retired.

Joseph M. F. Ryan, Jr., of Maryland, to be an associate judge, Superior Court of the District of Columbia, for the term of 15 years, as prescribed by Public Law 91-358, approved July 29, 1970. He is now serving in this office under an appointment which expired September 26, 1971.

HOUSE OF REPRESENTATIVES—*Thursday, December 9, 1971*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

Trust ye in the Lord forever: for in the Lord God is everlasting strength.—Isaiah 26: 4.

O God, most merciful and gracious, may this new day glow with a deep experience of Thy presence and an actual awareness of the leading of Thy spirit.

Inspire us with the conviction that as we live and labor for Thee we also live and labor for the good of our country and the peace of the world.

Give us the assurance that there is a power working for righteousness, justice, and good will in our world and may we have faith enough to work with it and strength enough to live by it, for Thine is the kingdom, and the power, and the glory forever. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Leonard, one of his secretaries.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 29) entitled "An act to establish the Capitol Reef National Park in the State of Utah."

The message also announced that the Senate agrees to the amendment of the House to a bill of the Senate of the following title:

S. 1237. An act to provide Federal financial assistance for the reconstruction or repair of private nonprofit medical care facilities which are damaged or destroyed by a major disaster.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 978. An act authorizing the conveyance of certain lands to the University of Utah, and for other purposes;

S. 1113. An act to establish a structure that will provide integrated knowledge and understanding of the ecological, social, and technological problems associated with air pollution, water pollution, solid waste disposal, general pollution, and degradation of the environment, and other related problems;

S. 1438. An act to protect the civilian employees of the executive branch of the U.S. Government in the enjoyment of their constitutional rights and to prevent unwarranted governmental invasions of their privacy; and

S. 2676. An act to provide for the control of sickle cell anemia.

ELECTION TO COMMITTEE

Mr. GERALD R. FORD. Mr. Speaker, I offer a privileged resolution (H. Res. 732) and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. Res. 732

Resolved, That H. John Heinz III of Pennsylvania be, and he is hereby, elected a member of the standing committee of the House of Representatives on Government Operations.

The resolution was agreed to.

A motion to reconsider was laid on the table.

REPORTING OF WEATHER MODIFICATION ACTIVITIES

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 6893) to provide for the reporting of weather modification activities to the Federal Government, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments as follows:

Page 1, line 10, strike out "which" and insert "who".

Page 1, line 10, strike out "not".

Page 2, line 1, after "tivities" insert: ", except where acting solely".

Page 2, lines 3 and 4, strike out "intentional, artificially produced change" and insert: "activity performed with the intention of producing artificial changes".

Page 2, line 15, after "before" insert: ", during,".

Page 2, after line 24, insert:

"(c) In carrying out the provisions of this section, the Secretary shall not disclose any information referred to in section 1905 of title 18, United States Code, and is otherwise unavailable to the public, except that such information shall be disclosed—

"(1) to other Federal Government departments, agencies, and officials for official use upon request;

"(2) in any judicial proceeding under a court order formulated to preserve the confidentiality of such information without impairing the proceeding; and

"(3) to the public if necessary to protect their health and safety.".

Page 2, line 25, after "person" insert: "whose activities relate to weather modification".

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

The Senate amendments were concurred in.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON SENATE CONCURRENT RESOLUTION 6—PUBLIC HEALTH SERVICE HOSPITALS AND OUTPATIENT CLINICS

Mr. STAGGERS. Mr. Speaker, I call up the conference report on the Senate concurrent resolution (S. Con. Res. 6) to express the sense of Congress relative to certain activities of Public Health Service hospitals and outpatient clinics, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the Senate concurrent resolution.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia.

Mr. HALL. Mr. Speaker, reserving the right to object, may I inquire of the distinguished gentleman from West Virginia, the chairman of the Committee on Interstate and Foreign Commerce, if this is the sense of Congress resolution having to do with the utilization of U.S. Public Health Service hospitals?

Mr. STAGGERS. Mr. Speaker, if the gentleman will yield, yes, it is.

I might explain this briefly to the gentleman from Missouri. The conference, in the first instance, broke up in disagreement. In the meanwhile one of the U.S. hospitals closed at Fort Worth. We went back into conference and we accepted the fact that we had to get together in order to keep these hospitals operating and until we did have a study made of the situation. We came together, and this is essentially the House proposition that that facility be kept open until July 1972.

Mr. HALL. This "hospital" that closed was the Fort Worth, Tex., narcotics treatment facility of the Public Health Service which has been closed in the interim by the executive branch?

Mr. STAGGERS. That is right.

Mr. HALL. Then we are just accepting that as a fait accompli and going ahead in expressing the will of the Congress that the remainder be kept open? In other words, the will of the House, except for that one facility, has been preserved; is that correct?

Mr. STAGGERS. That is correct.

Mr. HALL. And, are we bringing this up after it has been duly filed, because I notice a conference report is not available to the Members?

Mr. STAGGERS. Yes. However, I have one here which I shall be glad to furnish to the gentleman.

Mr. HALL. I thank the gentleman.

Mr. STAGGERS. This is essentially what passed the House.

Mr. HALL. Is there any increase in cost or are there any nongermane amendments in the conference report?

Mr. STAGGERS. None whatsoever.

Mr. HALL. I thank the gentleman.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of December 2, 1971.)

Mr. STAGGERS. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

CONFERENCE REPORT NO. S. 1828, NATIONAL CANCER ACT OF 1971

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent for the immediate consideration of the conference report on the bill (S. 1828) to amend the Public Health Service Act so as to establish a Conquest of Cancer Agency in order to conquer cancer at the earliest possible date, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

Mr. HALL. Mr. Speaker, reserving the right to object, will the gentleman again explain exactly what happened under this reservation, provided the unanimous-consent request is granted for this to be taken up at this time.

Mr. STAGGERS. Mr. Speaker, if the gentleman will yield, the cancer bill is a very important bill, as you well know. We just finished the conference night before last, late in the evening, and in order to get the conference report ready it was finished last night. However, it does appear in the RECORD for today. I might explain briefly what it does.

Mr. HALL. Mr. Speaker, I will point out to the gentleman that it still requires unanimous consent because otherwise its consideration at this time would be in violation of the rules of the House concerning the 3-day provision, and inasmuch as the conference report is not available to the Members.

Further, I would ask the gentleman whether or not the Members on the part of the minority have been notified as to its being called up at this particular time?

Mr. STAGGERS. Yes. I had the permission of the gentleman from Ohio (Mr. DEVINE) who is present in the Chamber at the present time. The gentleman from Illinois (Mr. SPRINGER) is not present but I cleared it with him and with the distinguished minority leader to the effect that we were going to bring it up this morning.

Mr. Speaker, I support the adoption of the conference report on S. 1828, the proposed National Cancer Act of 1971.

I am sure the House is familiar with the general outline of the way the legislation before us developed.

Last year the House and the Senate both passed House Concurrent Resolution 675 expressing the sense of the Congress that the conquest of cancer is a national crusade.

In addition, a distinguished panel of experts was established by the Senate Labor and Public Welfare Committee to recommend necessary program changes to improve our national effort against cancer. That panel, chaired by Benno Schmidt, submitted a report to the Senate, and made a number of recommendations.

Legislation carrying out those recommendations was introduced in both the House and the Senate last Congress and this Congress. Hearings were held in the Senate, and legislation passed that body establishing an independent conquest of cancer agency, ostensibly within the National Institutes of Health, but actually so independent in its administrative structure that, as a practical matter, it was taken out of the National Institutes of Health. That legislation then passed the Senate by an overwhelming vote.

Hearings were held before the Subcommittee on Public Health and Environment on this legislation, and it developed that there was a serious spread in the scientific community. A substantial percentage of cancer researchers favored the Senate approach, but the overwhelming majority of the remainder of the scientific community was opposed to taking the National Cancer Institute out of the National Institutes of Health.

The compromise between these positions was devised by the gentleman from Minnesota, Mr. NELSEN, which was to leave the Cancer Institute within the National Institutes of Health; to provide that Institute with independent budget authority; and to establish a three-man panel which would oversee the work of the Institute, and report directly thereon to the President. That revised version passed the House overwhelmingly.

In conference our disagreement over these two philosophies was quite sharp, but we were able to reach agreement.

In general, the conference substitute follows the provisions of the House version, and leaves the National Cancer Institute within the National Institutes of Health. The Cancer Institute will retain independent budget authority, and the three-man panel is preserved just as the House bill provided.

The Senate amendment had revised the structure and function of the National Advisory Cancer Council, by creating it as an independent Board, with expanded duties. The conference agreement accepted this expanded Board, with revisions. Membership on that Board consisting of representatives of the Veterans' Administration and of the Department of Defense is continued, as well as providing for membership of three officers provided by the Senate amendment—the Secretary of HEW, the Director of the Office of Science and Technology, and the Director of NIH. This Board will carry out the same functions as are today carried out by the National Advisory Cancer Council, but has authority to hold hearings, make recommendations with respect to the overall plans and budget of the Institute, and will make reports to the Congress and the President.

The House bill had provided some upgrading of the Director of the National Cancer Institute, the National Institute of Neurological Diseases and Stroke, and the National Institute of Heart and Lung Diseases. The conference substitute eliminates this feature, as a part of an overall conference agreement to limit this bill exclusively to cancer.

Mr. Speaker, as often happens in conference between the two Houses, I believe we have brought to the House a better bill than either of the two bodies have passed, and I urge the adoption of the conference report.

This was signed by all members of the conference, and we had the full subcommittee present, I just did not take the usual number, because I wanted all of the subcommittee present to debate the bill. We all came to a unanimous conclusion. We brought back practically what the House passed without exception, really, of anything important, because we wanted to keep the National Institutes of Health together. We have done that. It still retains the name, the National Cancer Institute under the National Institutes of Health.

Mr. HALL. Then, Mr. Speaker, am I to understand that this will be a working, integral part of the National Institutes of Health with the added emphasis for cancer research which of course we are all anxious to conquer?

Mr. STAGGERS. The answer is yes, and with the same amount of money that the House passed in the first instance.

Mr. HALL. With the same amount of money?

Mr. STAGGERS. That is correct.

Mr. HALL. And there have been no nongermane amendments added on by the other body, that were accepted by the conferees of this body?

Mr. STAGGERS. That is right; there are no nongermane amendments. We made some small changes, but they are very small. We took the Board that the House agreed to, and agreed to the inclusion of the ex officio members to make the Surgeon General and the health officers and the Department of Defense, and also the Veterans' Administration members on the Board. We kept the panel, as the gentleman from Minnesota (Mr. NELSEN) had proposed in the committee, and the National Cancer Institute will get their money direct to the Cancer Institute so that it will not have to go through different branches.

Mr. HALL. Mr. Speaker, it seems to me that the members of the conference committee on the part of the House are to be congratulated. Inasmuch as we did have a record vote in the House on this, and in view of the gentleman's explanation, I see no reason for not expediting acceptance of this conference report.

So, Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

Mr. ROGERS. Mr. Speaker, reserving the right to object, and I shall not object, of course, because I strongly support the legislation, this is an excellent piece of legislation, and as the chairman, the distinguished gentleman from West Virginia (Mr. Staggers) has stated, it is basically the House bill which the House approved, and I would urge the adoption.

Mr. Speaker, this report represents a substantial victory for the House of Representatives, the biomedical community, and the American people. It insures a national attack on cancer—the most dramatic attack ever mounted on a single disease—through building on the existing strengths of the National Cancer Institute within the National Institutes of Health. By insuring that the well-integrated research program of the NIH will participate in the fight against the disease most feared by Americans, the American public is guaranteed that this Nation's attack on cancer will be through a marshalling of all our resources.

The members of the Subcommittee on Public Health and Environment—Mr. Satterfield, Mr. Kyros, Mr. Preyer of North Carolina, Mr. Symington, Mr. Roy, Mr. Nelsen, Mr. Carter, Mr. Hastings, and Mr. Schmitz—have worked tirelessly throughout this session to attempt to develop significant legislation in the health and environment field. I am grateful to each of them.

Mr. Speaker, I wish to compliment all my colleagues on the subcommittee, as well as the full committee chairman, Mr. Staggers, and the ranking minority member, Mr. Springer, for their efforts in support of the concept of maintaining the Federal cancer research effort within the NIH. Their work paid off, because almost all of the features of the House bill were retained by the conferees.

Mr. Speaker, briefly, besides providing for a stepped-up research effort within the National Institutes of Health, the conference report provides for the following significant improvements in existing procedures, all of which were contained in the House version:

The three-man panel created by the House to oversee the functions of the National Cancer Institute was retained intact. The conferees discussed a Senate proposal that the membership of the panel include the Director of the National Institutes of Health, the Director of the NCI, and the Chairman of the National Advisory Council. This proposal was rejected by the conferees, and it is clearly intended that the members of the panel should not be affiliated with Government. As the House report states, one panelist should be skilled in management and the other two should be distinguished scientists or physicians. Of these, one should be from the clinical research community and one should be selected from the basic research community.

Clinical research centers, which now number eight, will be increased by 15 and will be eligible for block grants from the NCI Director. These grants can provide up to $5 million per center. In the past, as many as 30 or 40 separate grants were required to maintain a clinic's work.

Cancer control programs, which were financially phased out a year ago, will be reactivated and placed under the control of NCI. Funds for these programs over a 3-year period are $90 million. This includes Pap tests for cervical cancer, breast checks, and oral examinations, and the training for personnel in cancer. The gathering of cancer statistics will also be included to give the medical-scientific communities better profiles of the disease.

The budget for NCI is sent directly to the President, with the Director of NIH and the Secretary instructed to comment, but not alter it. As a further check on the adequacy of the budget, the Advisory Board will also comment.

The budget is $1.590 million for 3 years.

To develop a comprehensive program the bill requires a national plan of attack, to be revised annually.

Mr. Speaker, two other provisions deserve mention. In the House bill, the Directors of three of the National Institutes—the National Cancer Institute, the National Heart and Lung Institute, and the National Institute of Neurological Diseases and Stroke— were designated as Associate Directors of the NIH. This provision was intended to insure that the research effort against heart and lung disease and stroke would not be placed on a level of less importance than cancer research. The other body's conferees felt that references to diseases other than cancer should not be made in the National Cancer bill. For this reason, the conferees agreed that none of the three would be designated as Associate Directors. In this way, the three Directors shall continue to have equal status.

The Director of the NIH and the NCI are to be appointed by the President, but the Senate receded from its provision that the appointment be with the advice and consent of the Senate. The conferees felt that confirmation would not be appropriate for appointments which are based, in the first instance, on scientific excellence, and that the prestige of a Presidential appointment will be sufficient to insure selection of highly qualified candidates.

Also, Mr. Speaker, the conferees accepted the Senate provision which reconstitutes the National Cancer Advisory Council as a 23-member Board, whose appointive members will be selected by the President. It is to be fully understood that the integrity of the present peer review system, and its present means of insuring adequate scientific review by study groups is not to be altered. The only effect this act is to have on scientific review is the section authorizing the Director of the National Cancer Institute to approve grants-in-aid of $35,000 or less without Board review.

Mr. Speaker, I can think of no better Christmas present for the American people than to have this bill passed by this body and signed by the President without delay. I urge unanimous approval of this measure by the House and Senate and hope that the President can sign it into law as soon as possible.

Mr. PICKLE. Mr. Speaker, will the gentleman yield?

Mr. ROGERS. I yield to the gentleman from Texas.

Mr. PICKLE. Mr. Speaker, the House has taken a giant step forward with this legislation. We now have reason for hope.

Unfortunately, we nearly get mired down within the scientific community on "how" to direct the fight. Regrettably, the split was small in nature when compared to the enormity of the disease. I still cling to the conviction that the American public does not care so much about the "how" as they do about the "when."

Personally, I would still prefer giving the President the flexibility to require the Director of National Institutes of Health to report directly to the White House. However, only time and pride will prove whether this is needed.

The important thing now is that we get underway with the fight. To date, progress on cancer has been painfully slow; yet we know that cancer is the one disease feared by most Americans. Let us get busy and put aside the smaller arguments that nearly scuttled the program before we got underway. At last, the cry for help has been heard.

Mr. CARTER. Mr. Speaker, today we face a great problem in America. Today we have before us an opportunity to commence an expanded search for solutions to this problem. Let us now move forward to conquer cancer.

Mr. Speaker, I urge adoption of this conference report.

Mr. PEPPER. Mr. Speaker, I strongly urge acceptance of this conference report and wish to commend the distinguished chairman of the Interstate and Foreign Commerce Committee (Mr. Staggers) and my very able colleague from Florida (Mr. Rogers) for their leadership in bringing to legislative fruitition this program to mount a massive cancer attack.

Last year, when I joined the then chairman of the Senate Health Subcommittee, Senator Yarborough, in sponsoring legislation to create a National Cancer Authority, I emphasized that the most important thing was for the Congress to make, on behalf of the American people, a national commitment to find a cure to cancer.

Later, on February 4 of this year, when I introduced with 111 other Members, H.R. 3655 and companion bills, to authorize a new cancer research program is noted that there was a "vicious cycle" of too little funding for cancer research, which was used an an excuse—as late as July 28, 1970, by Secretary of Health, Education, and Welfare Richardson—for not supporting more funds for training biomedical researchers, and a lack of funding for researchers, which was then used as an excuse for not appropriating more funds for cancer research.

I said then:

> It is time to break this vicious cycle with a national commitment to provide enough money for cancer research to finance all the researchers we can train and to train the researchers as fast as they may be needed to utilize massive amounts of cancer research funds.

I spoke of this problem out of long familiarity with the Nation's cancer research program. I was privileged during my first year in the Senate to be a sponsor of the legislation establishing the National Cancer Institute, the first of our National Institutes of Health. I voted for our first cancer appropriation—a mere $400,000 for the fiscal year 1938.

It may now seem surprising, but the sums appropriated for cancer research were not significantly increased until after World War II. On January 8, 1947, I introduced in the Senate S. 93, which is described in the Digest of General Public Bills as a bill:

> To authorize and request the President to undertake to mobilize at some convenient place or places in the United States an adequate number of the world's outstanding experts and coordinate and utilize their services in a supreme endeavor to discover means of curing and preventing cancer.

My bill—in 1947—would have authorized $100 million a year for this "supreme endeavor to discover means of curing and preventing cancer."

As chairman of a subcommittee of the Senate Education and Labor Committee I held lengthy hearings on S. 93, in which some of the outstanding authorities of the country appeared in behalf of my bill. Due to our efforts—the bill was cosponsored in the House by former Senator M. M. Neely—the Congress and the country became conscious of the need to increase our cancer research effort, which was funded in 1946 at only $549,000.

As a result, we were able to obtain an appropriation of $1,821,000 for fiscal 1947, and a very significant jump to $14,500,000 for fiscal 1948. This was a major milestone in our efforts to conquer cancer and I am proud to have been a part of its accomplishment, as I am proud to have played a role in this new increase in the order of magnitude of our commitment to cancer research, which is the thrust of the conference report we are considering today.

In the postwar years our investment in cancer research grew gradually until it reached $190 million for fiscal 1970. The Congress sought to raise this to $230 million for fiscal 1971, only to have the administration withhold most of the increase—at least until another bold effort was made to arouse the consciousness of the American people to the momentous challenge and opportunity of conquering cancer.

The proposal to create a National Cancer Authority has served this function—of breaking us through to a new level of commitment in the fight against cancer—just as my 1947 bill and hearings served to raise our sights in the period immediately after the Second World War.

The President soon proposed to add $100 million to cancer research and, upon the disclosure that his administration was holding up some of the money already appropriated, released the remainder of the 1971 funds. Thus, with congressional concurrence in the addition of the $100 million, our investment in cancer research has risen for the current fiscal year to $337 million.

This legislation would increase the authorization for the current fiscal year to $400 million, and would authorize $500 million for fiscal 1973 and $600 million for fiscal 1974. I would have preferred higher authorization figures, but, as I have said, I believe the most important aspect of our action here today is the ratification of a new commitment by the Congress and the American people to raise the fight against cancer to a new level, to a higher scale of assault which can promise victory in the foreseeable future.

This new commitment is not represented by money alone. We have also, as a result of the effort to create a National Cancer Authority, shaken the National Institutes of Health and the medical research establishment out of the comfortable, if not complacent, attitude of research for research sake, and research business as usual.

I am confident that the administrative changes incorporated in S. 1828, as reported by the conference, will mean a more effective attack upon the problem of cancer, which has such a widespread and terrifying impact upon the consciousness of the people of the world. I feel I can support this legislation with all of my heart and be secure in the conviction that we have made a bold and effective step forward.

This bill gives to the Congress and the country and to all of those who are working in the field of cancer research an awareness of the emergency, a sense of the imperative motivation which must guide cancer research. I consider this an achievement of the first magnitude for this, or for any other, Congress.

Mr. ROGERS. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of December 8, 1971.)

Mr. STAGGERS. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON H.R. 10947, REVENUE ACT OF 1971

Mr. MILLS of Arkansas. Mr. Speaker, I call up the conference report on the bill (H.R. 10947) to provide a job development investment credit, to reduce individual income taxes, to reduce certain excise taxes, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of December 4, 1971.)

Mr. MILLS of Arkansas (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the statement be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

Mr. MILLS of Arkansas. Mr. Speaker, I yield myself 10 minutes.

The revenue bill of 1971, in terms of the welfare of our economy, could well be the most important legislation before us in 1971. As you will recall, the tax measure passed by the House was carefully designed to—

Put our lagging economy on a high growth path;

Increase the number of jobs and decrease the high unemployment rate;

Relieve the hardships imposed by inflation on those with modest incomes;

Provide a rational system of tax incentives to aid in the modernization of our productive facilities; and

Increase our exports and improve our balance of payments.

The most difficult aspect of this has been to obtain a balance of providing enough stimulus, but at the same time not providing so much stimulus that our price and wage control program becomes ineffective. This bill, of course, is not the only determinate in that respect, but certainly is a major contributor in any such determination.

The Senate made substantial changes in the bill which meant that we had no small task in the conference committee. The conferees had to go through 126 Senate amendments to the House bill, some of which consisted of six or eight different parts requiring separate consideration.

In addition, the Senate amendments, had the conferees accepted them all, would have changed the revenue impact of the bill drastically. The House passed a bill which granted $15.4 billion of tax reduction in the 3-year period 1971 through 1973. Certainly, this was a very appreciable tax reduction and one which, in the view of the House conferees, represented about as large a reduction as it was appropriate to make at this time, in view of the conflicting considerations of holding down inflationary pressures while, at the same time, providing a stimulant for the economy. However, as a result of a number of floor amendments added in the Senate, the bill as it came to us would have granted $27.9 billion of tax reductions over the 3-year period 1971 through 1973—actually $12.5 billion more than the $15.4 billion provided by the House bill. In our estimation this substantially exceeded what can be viewed as prudent in the present circumstances.

A number of the amendments that the Senate sought to add were measures which would have an appeal under a different fiscal situation, but we believe they could not be justified in the present circumstances.

In conference we accepted many of the Senate amendments but most of these were in the nature of perfecting changes—improvements that we could expect and hope to see as a result of the additional study which the Senate had the opportunity to give to the bill. Nevertheless, in conference we eliminated the bulk of the revenue losing provisions added by the Senate. This can be seen from the fact that the revenue loss of the conference action over the 3-year period 1971 through 1973, is estimated at $15.7 billion, or only three-tenths of a billion dollars more than the House total.

The bill, as agreed to by the conference committee, carries out the basic objectives of the House bill. It provides a balanced program of tax reductions for individuals and tax incentives for business. It will help put our economy back on a high growth path and improve our balance-of-payments position.

Let us turn now to the major provisions of the House bill. I believe it would be most useful if I would spend my time with you outlining the significant modifications in these provisions. I will attach a summary indicating all of the important changes in the House bill as agreed to by the conferees.

As you know, the 7-percent investment credit—4-percent for public utility property—was provided for property acquired after August 15, 1971. Also, the House bill provided for the credit in the case of property ordered after March 31, 1971, even though acquired before August 16 in order to avoid discriminating against those who took action on or after April 1 on the basis of assurances that they would receive any credit provided. The conference committee retained these basic dates of the House bill, although in the case of the exclusion for foreign produced property, as I will outline in a moment, the rules of the House are modified somewhat.

In the case of used property a Senate amendment extends the investment credit to up to $50,000 of such property. This is the same treatment as was provided under prior investment credit. We concluded that this was simpler and more effective than the House provision which would have extended the credit to $65,000 of used property but reduced the amount of credit available for used property by the amount of new property acquired by the taxpayer which is eligible for the credit.

We also accepted several Senate amendments designed to give the President greater flexibility in the treatment of foreign produced property under the investment credit. As a general rule, foreign property is not eligible for the investment credit during the period when the import surcharge applies. However, the President is given the authority to continue the exclusion of foreign property from the investment credit after the expiration of the 10-percent surcharge if he determines that the foreign country concerned makes use of nontariff trade restrictions. In addition, the President is given the authority to allow the investment credit to be extended to foreign property retroactively to any date after August 15, 1971, where he determines this to be in the public interest.

We also agreed to a Senate provision extending the investment credit to foreign property in cases where the order was placed after March 31, 1971, and before August 16, 1971. This treatment appears appropriate since taxpayers purchasing foreign property during this period of time could not have known that such property would be excluded from the investment credit subsequently provided.

In addition, a Senate amendment specifically gave taxpayers the option in their accounting methods of either flowing through currently the tax benefit of the investment credit in their profits or of flowing these benefits through to profits ratably over the life of the asset. This is consistent with prior practice and the conferees concluded that it was appropriate to incorporate this provision in the bill.

As approved by the conferees, this provision applies both to the reports to the Federal agencies and also to all reports over which any Federal agency has jurisdiction—this includes financial reports to shareholders over which the SEC has jurisdiction. The conferees provided an exception to this treatment in the case of regulated public utilities subject to the special rules relating to the treatment of the investment credit for ratemaking purposes. This was provided because taxpayers taking the second option—namely, the option of flowing the benefits of the investment credit through in profits over the life of the asset—also are required to account generally in their financial reporting of the credit on the same basis. However, it is expected that regulated companies which do not select this option will have the same rights as taxpayers generally to either flow the benefits of the credit through in profits currently or ratably over the life of the asset as they choose.

In addition, a provision as to accounting for the investment credit in profits is to be under a method consistently followed by the taxpayer except that the Secretary of the Treasury or his delegate may permit changes in practice where this is appropriate.

One more change should be noted in the case of the investment credit. Under the House bill the so-called 20-percent rule wherein no more than 20 percent of the carryovers of investment credit from before 1969 could be used in any year was made inapplicable to 1972 and subsequent years. A Senate amendment to which the conferees agreed would make this 20-percent rule inapplicable for the portion of the year 1971 which occurs after August 15.

The House provision incorporating the class life system of depreciation in the Internal Revenue Code, as passed by the House, was basically accepted by the Senate without change. This includes the House removal from the prior ADR system of the Treasury Department of the right of taxpayers to use the so-called three-quarter-year convention in the first year an asset is put in operation. You will recall that we concluded that this convention granted excessive depreciation allowances with respect to a depreciable asset in its first year in service.

The conference action, however, would accept a Senate amendment providing transitional rules for depreciation on real property and depreciation on subsidiary assets such as tools, jigs, and dies. These assets have not been adequately worked into the ADR system developed by the Treasury Department and it was concluded that the prior practices in these cases appropriately should be continued during a 3-year transitional period or until such time as the Treasury was able to develop appropriate class lives for these assets.

The Senate also added a provision to the bill designed to encourage the hiring of individuals who otherwise would be on welfare. The Senate granted employers an income tax credit equal to 20 percent of the wages paid during the first 12 months of employment in the case of an individual hired under a work incentive program—WIN—established under the Social Security Act.

In the area of the individual income tax, the conference bill also follows the main outlines of the House bill. Individuals are given significant tax benefits through the acceleration of the tax relief measures scheduled under the Tax Reform Act of 1969 and by the adoption of additional tax relief provisions. These substantial tax reductions for individuals will increase consumption and accelerate our economic recovery.

In 1971, the personal exemption is moved up to $675 and the low-income allowance is liberalized by removing limitations which cut back on the allowance as income increases over specified levels. In 1972, the personal exemption is moved up to $750 and the standard deduction is increased to 15 percent of income with a ceiling of $2,000. Also accepted is the House provision which raises the low-income allowance in 1972 to $1,300 in order to grant tax relief to low-income people who have been particularly hard hit by inflation.

In the area of individual income taxes, however, two quite significant Senate provisions were agreed to by the House conferees. The first of these provides a special deduction for single individuals and working couples who support a child under the age of 15, or disabled dependents or disabled spouses in the household. The deduction in this case is for domestic help expenses and child care expenses incurred in order to permit the taxpayer or taxpayers in the case of married couples to be gainfully employed. The deduction permitted is for up to $400 a month for child care and domestic help expenses where these expenses are incurred in the home. The $400 deductible amount also covers child care expenses outside of the home up to $200 a month in the case of one child, $300 a month for the care of two children and $400 a month for the care of three or more children.

In the case of married couples, this

deduction is available only where both are working and where the income of the two does not exceed $18,000. In addition, the conferees limited this deduction even for single people to those with incomes not over $18,000. For those with incomes above $18,000 the deduction is phased out by 50 cents for each dollar of income above $18,000. This deduction is allowed only where the taxpayer, or taxpayers in the case of a married couple, are employed on a substantially full-time basis.

I should also emphasize that this deduction covers only domestic help or child care help incurred in order to enable the taxpayer or taxpayers to be gainfully employed. It would not, for example, include an individual who is employed predominantly as a gardner, bartender, chauffeur, or for any other purpose which is not predominantly related to freeing the taxpayer or taxpayers for employment. This deduction is to be a personal deduction available only to those who itemize their deductions.

This provision replaces the quite limited child care provision in existing law. The House managers believe this change is a good idea. The new provision will provide significant relief to large numbers of working individuals who incur substantial extra expenses in the case of a household where there are dependent children, disabled dependents or a disabled spouse. This provision is also beneficial because it should encourage employment of domestic help.

The second significant change in the area of individual income taxes agreed to by the conferees relates to the withholding tax provisions. In order to prevent approximately $2 billion of under withholding which would otherwise result, the House bill adjusted withholding in two stages. The first step was to be effective with respect to wages paid after November 14, 1971, and the second stage with respect to wages paid after December 31, 1972. The November 14 date, since it already has passed, obviously had to be changed. The withholding changes, in order to give adequate time to employers will be made effective after January 15, 1972. In addition, we agreed to the Senate amendment providing that the withholding changes would take effect in one stage—that is, with respect to wages paid after January 15, 1972. This change will have the effect of placing everyone under the best possible withholding system as soon as possible. It will mean some increases in withholding in some cases. This is inevitable, however, since in some cases—for example, where both husband and wife work—the present withholding rates are altogether too low.

The conferees also agreed to a number of modifications in the structural improvements passed by the House and in some cases added new ones. For the most part these are of a relatively technical nature and will be included in my summary at the end of my statement. However, let me mention three.

First, the Senate added an amendment which we agreed to in a modified form providing that private firms which have been preparing tax returns for individuals may not make the information they obtain from these returns available to third parties for purposes such as solicitation for the sale of products or services. We believe that this amendment was wholly desirable and after having worked out some of the technical problems have included it in the conference agreement.

A second structural improvement worth noting deals with the situation where a taxpayer has a dependent—generally a child—who also must file a return. In this case there has been some tax avoidance whereby stocks or other property which were income-producing were transferred to the dependent in order to obtain both the exemption and $1300 low income allowance available to the dependent who filed separately and also available to the person who claimed him as a dependent. The House bill contained a provision dealing with this matter but there was an opportunity to work it out on a better basis on the Senate side and we agreed to the Senate amendment.

Third, the Senate added a provision agreed to by the House conferees, providing that bribes, kickbacks, and other illegal payments may not be deducted for Federal tax purposes. Certain payments of this type already were not deductible. The action by the Senate makes this more comprehensive. We agreed to this provision with minor modifications.

Let me turn now to the repeal of the 7-percent excise tax on autos and the 10-percent excise tax on light-duty trucks. As you will recall, these taxes were repealed by the House bill. The Senate, for the most part, accepted these provisions and they are incorporated in the conference agreement.

I might note that the Senate amended these provisions to repeal the tax on trailers used in connection with light trucks. In addition, the Senate subjected to excise tax original tires and tubes on imported vehicles in order to place these tires and tubes in the same tax status as domestically produced tires and tubes. We agreed to these modifications along with a few other relatively technical changes in this area.

I am glad to report that the conferees' agreement includes the basic provisions relating to DISC—Domestic International Sales Corporation—that were in the House bill. We agreed to a Senate amendment, however, which applies the deferred tax treatment available to a DISC Corporation only to one-half of the export profits of the DISC. This replaces the House provision which would have granted the deferred tax treatment only to incremental exports above 75 percent of the level in the period 1968 to 1970. The conferees concluded that this change is desirable because it achieves the desired objective of providing significant incentive to expand export operations but provides this treatment more simply and equitably than did the House provision.

We also accepted a Senate provision denying tax deferral to DISC profits which are invested in foreign plant and equipment. The conferees agreed with the Senate that to allow tax deferral on amounts invested abroad would be inconsistent with the primary purpose of the DISC provision which is to encourage our exports abroad.

In accepting these amendments, however, the House conferees did not accept a Senate amendment which would have provided for the automatic termination of the DISC provision on January 1, 1977.

I now come to the final major set of provisions on which agreement was reached by the conferees. These were clearly the most controversial provisions in the bill. I am referring, of course, to the Senate amendments relating to political campaign financing. These have received widespread public attention and I think that it is important that the reasons for our action in this regard be fully understood.

The Senate bill provided for campaign financing in three ways: First, individuals were allowed a credit against their income tax for one-half of their political contributions with a maximum credit of $25 on the joint return of a married couple and a maximum of $12.50 on the return of a single person or married person filing separately.

As an alternative to the credit, individuals were permitted to deduct their political contributions up to a level of $100 in the case of a joint return or $50 in the case of a single person or married person filing separately.

These two provisions were generally agreeable and we accepted them for contributions made in 1972 and later years.

The third set of provisions concerned the so-called checkoff procedure for financing presidential election campaigns. Under the Senate amendment an individual can designate that $1 of his tax liability is to be set aside in a special account in the presidential election campaign fund for the candidate of the party of his choice. In the case of a joint return with a tax liability of $2 or more, both husband and wife can designate that $1 is to be paid into such an account. Taxpayers can designate that the dollar they check off either may be set aside for the candidate for a specific political party or they can designate that it be set aside in a nonpartisan general account in the fund or they can make no designation at all. If no designation is made, then nothing is to be set aside in any account. Under the Senate amendment this checkoff system would have been effective for tax returns filed for 1971 and, as a result, would have been in time to make the funds available for the 1972 presidential election. There are, of course, ceilings on the funds which can be made available in this manner for candidates for President. For major parties the limit is 15 cents per person over age 18 or given the present population, $20.4 million. Minor parties receive the same proportion of this $20.4 million which their vote is of the average major party vote.

I want to make it clear at the outset that I believe that this check-off system for the financing of presidential elections is an eminently reasonable and fair procedure. In a democratic system it is only appropriate that there be equality of financing for the major political parties. The issues should be fought out with words and ideas and not with dollars.

Moreover, there should not be the slightest hint or inference that Presidential actions, after a campaign, have been influenced by campaign contributions of private persons. The checkoff system of financing presidential elections, although it may have some shortcomings, would achieve this result.

After enacting campaign financing in 1966, I understand the then President Johnson, appointed an informal three-man committee to explore every possible alternative way of financing a presidential campaign. Two of the three-man committee, after spending 3 or 4 months exploring all of the possible alternatives, concluded that the checkoff system, while it might not be perfect, was the best available method of financing the campaigns of presidential candidates. The third member of the committee, while not approving of the checkoff system, was unable to come up with a satisfactory alternative. I understand this report is now reposing somewhere in the LBJ Library in Austin.

I think we should give the checkoff system a chance to operate—a chance to see it in operation during a presidential campaign. We will not find the difficulties with it or improvements needed until we do that.

Frankly, I would favor making the checkoff system of financing presidential elections effective for the 1971 tax returns so that the funds could be used for the financing of the 1972 election. However, the administration has made it perfectly clear that it is opposed to the checkoff procedure and is willing to jetison the entire tax bill if it cannot have its way on this matter.

I concluded that with this attitude on the part of the administration there would not, in any event, be a checkoff system in operation for 1971 returns. Moreover, I believe that this tax bill is essential to a healthy American economy and I believe that this commands the highest priority in decisionmaking. I should also say that I recognize that the checkoff system had become a partisan matter insofar as the 1972 election is concerned. That would have represented an unfortunate climate for the adoption of a provision making a fundamental change of this type. In view of all of these factors, I and the majority of the House conferees, concluded that the best solution was to postpone the effective date of the public financing provision so that it becomes operative after the 1972 presidential campaign.

In the checkoff system we have made provision for a quick court review of any issues raised with respect to the system so that it will not interfere with the public financing of the presidential campaign after this next one. In addition, before the funds which taxpayers have asked be set aside in the presidential election campaign fund under the checkoff system may be made available, it will be necessary for the Congress to act through the regular appropriation process. I regret the necessity of the postponement involved in making this provision effective, but in view of all of the hard facts that we face, we had no justifiable alternative.

We must give priority to the economic needs of the country which requires the prompt action on this conference report.

I ask that action on the part of the House.

I include at this point the summary of the significant changes included in the conference agreement as well as a series of tables setting forth the revenue effects of the bill as agreed to by the conferees:

SUMMARY OF SIGNIFICANT ADDITIONAL CHANGES INCLUDED IN CONFERENCE AGREEMENT

A summary of the more significant provisions as agreed to by the conferees is presented below.

(1) Taxpayers are to be permitted, in making financial reports to (or under the jurisdiction of) Federal agencies, to account for the investment credit either as a tax reduction in the year in which the credit arises or ratably over the life of the asset which generates the credit. This will permit taxpayers who so desire to account for the credit in a manner which has a favorable effect on net income and, thus, a significant stimulative effect on the economy. The method of accounting for the investment credit selected by a taxpayer under this provision must be consistently followed by him in all his financial reports. The House bill did not contain a provision of this nature.

(2) Since taxpayers who ordered (or commenced construction of) investment credit property after March 31, 1971, in reliance on Secretary Connally's statements could not have known that foreign property would not be eligible for the investment credit until the President's announcement in August, it is provided that the foreign property limitation is not to be applicable to property otherwise eligible for the credit which was ordered before (or the construction of which began after March 31, 1971, and before) August 16, 1971. Accordingly, this property will not be denied the credit under the foreign property limitation. The House bill would not have allowed a credit in these cases.

(3) As a further means of aiding the achievement of more equitable international trading conditions and the restoration of the U.S. balance-of-trade position, the President is given authority to continue the exclusion from the investment credit for foreign produced property after the termination of the temporary additional import duty. He may exercise this authority with respect to an article (or class of articles) manufactured in a foreign country if he determines that the country maintains burdensome non-tariff trade restrictions against U.S. exports or engages in discriminatory actions or policies which unjustifiably restrict U.S. exports. The House bill did not provide for the continuation of the exclusion past the termination of the additional import duty.

(4) To prevent the allowance of the credit for livestock (other than horses) from creating an artificial tax shelter, it is provided that the cost of acquired livestock taken into account for purposes of the credit is to be reduced by the amount realized on the sale or other disposition (other than an involuntary conversion or disposition subject to the recapture rules) of substantially identical livestock within the period of 6 months before or 6 months after the acquisition. The House bill did not contain a provision of this nature.

(5) To resolve the difficulties which arose under prior law in determining the type of property which qualified for the credit as a "storage facility," it is provided that this provision applies only to the facilities for the bulk storage of fungible commodities, including commodities in a liquid or gaseous state. In addition, congressional intent regarding the allowance of the credit for railroad track is clarified. It is provided that a railroad which uses the retirement-replacement method of accounting for depreciation for railroad track may claim the credit for replacement track generally where the replacement is made pursuant to a systematic program, mechanical detection, physical observation or as a result of a casualty. The House bill did not contain provisions dealing with these matters.

(6) The investment credit is to be available, as under prior law, for up to $50,000 of used property placed in service during a year. Under the House bill, the limit was $65,000, but was reduced by any new property placed in service by the taxpayer during the year which would have significantly limited the availability of the credit to many small business taxpayers who use both new and used property in their businesses.

(7) To prevent the credit from resulting in improper discrimination between regulated companies and unregulated businesses which install their own communications equipment, the 4-percent credit generally available to regulated utilities is also to be applicable (instead of the 7-percent credit) with respect to communication property acquired by an unregulated business, if the property is of the type used by regulated companies in providing telephone or microwave communications services and is used predominantly for communication purposes. The House bill would have allowed a 7-percent credit with respect to this property.

(8) At the time of the termination of the investment credit in 1969, it was provided, in general, that not more than 20 percent of a taxpayer's aggregate carryovers and carrybacks of unused investment credits to a taxable year could be claimed in that year. This was designed to prevent the delay in the impact of the repeal which could have occurred from the use of carryovers which would have been allowed by the absence of currently generated credits. Since the restoration of the investment credit as of August 16, 1971, will result in currently generated credits from that date on, the 20-percent limitation is made inapplicable to carryovers and carrybacks to that portion of a taxable year ending in 1971 which occurs on or after that date as well as for carryovers to future years. The House bill removed the 20-percent limitation in the case of carryovers and carrybacks to future years (i.e., taxable years ending after 1971).

(9) New tax withholding provisions which reflect the changes in the personal exemption and the standard deduction made by the bill, as well as minimize the underwithholding which exists under present law, are to take effect in one stage with respect to wages paid after January 15, 1972. This will correct the present underwithholding as soon as possible and thus avoid an additional year of large final tax payments. Under the House bill the new withholding provisions took effect in two stages. The first stage would have applied to wages paid after November 14, 1971, and the second stage to wages paid after 1972.

(10) The conference agreement substantially liberalizes the very limited deduction allowed under present law for child care expenses to provide more adequate recognition in the tax laws of expenses which taxpayers must incur for child care services and household help to enable them to be gainfully employed and to encourage the providing of employment opportunities for domestic help. Under the conference agreement, an itemized deduction is to be allowed for household service expenses and dependent care expenses incurred to enable the taxpayer to be gainfully employed in situations where the taxpayer's household includes a dependent child under age 15, a disabled dependent or a disabled spouse. The deduction is to be allowed for up to $400 a month of expenses for services of these types which are provided in the home. In addition, in the case of expenses for child care outside the home, up to $200 a month of the $400 amount may be for

the care of one child, up to $300 a month for the care of two children, and up to the full $400 for the care of three or more children. The deduction is to be available only for household or child care services which are necessary to enable the taxpayer to be gainfully employed and, thus, is not to be available for amounts paid to an individual who is predominantly employed, for example, as a gardener, bartender, or chauffeur.

The deduction under this provision is to be available to single taxpayers who are employed on a substantially full time basis whose annual adjusted gross income is not above $18,000. It is also to be available to married taxpayers who file a joint return if both spouses are employed on a substantially full time basis and their combined annual adjusted gross income is not above $18.000. For single persons or married couples whose income is above $18,000, the otherwise available deduction under this provision is to be reduced by 50 cents for each dollar of income above $18,000. A reduction in the amount of expenses otherwise eligible for deduction with respect to a disabled dependent or spouse is provided for adjusted gross income or nontaxable disability payments in excess of $750 received by the dependent or in the case of a spouse for the amount of nontaxable disability payments received by the spouse. The reduction applies, however, only to those expenses which relate solely to the disability of the dependent or spouse and not to general household service expenses allocable to the dependent or spouse. The House bill did not contain a provision of this nature.

(11) A taxpayer who is a dependent, generally a child, of another taxpayer is not to be allowed to claim the standard deduction (either the minimum standard deduction or the percentage standard deduction) with respect to his unearned income, such as dividends or interest. He may, however, claim the personal exemption against this type of income. This will prevent the abuse of allowing two standard deductions (one to the parent and one to the child) for unearned income of the same family unit, but, on the other hand, will avoid practical administrative problems by not requiring a return to be filed by a child with only a few dollars of unearned income. The House bill would have disallowed both the personal exemption and the standard deduction, but only with respect to income from certain types of trusts.

(12) Under present law, excess investment interest is subject to the minimum tax on tax preferences (before 1972) and to a limitation on its deductibility (for 1972 and later years). Interest with respect to property which is not leased is considered investment interest. For this purpose property is considered net leased if the trade or business deductions with respect to it are less than 15 percent of the rental income from the property. To provide taxpayers with a means of avoiding administrative allocation problems which arise in applying the 15-percent rule in situations where the taxpayer has leased a parcel of real property under a number of leases, taxpayers are to be allowed to aggregate all their leases on a single parcel of real property and treat them as a single lease in determining whether in the aggregate the property is net leased under the 15-percent rule. In addition, to make the treatment of excess investment interest more equitable in situations where an actual out-of-pocket loss is incurred on leased property, it is provided that the amount of excess investment interest (subject to the minimum tax or to disallowance) is to be reduced by the amount of the taxpayer's out-of-pocket losses with respect to the leased property (i.e., the excess of the taxpayers' deductions for business or investment expenses, interest, and property taxes with respect to the property over the rental income from the property). The House bill did not contain provisions of this nature.

(13) No deduction is to be allowed for bribes, kickbacks or other payments which are illegal under a U.S. law or a generally enforced State law if the law involves a criminal penalty or a loss of license to engage in business. Under present law, a deduction may be denied for these illegal payments only if there is an actual conviction, which unduly restricts the application of the denial provision. The Internal Revenue Service is to have the same burden of proof as to whether a payment is illegal as it does in cases involving fraud under the tax laws. In addition, a deduction is not to be allowed for kickbacks, bribes or referral fees made with respect to medical services covered under the Medicare or Medicaid programs. The House bill did not contain a provision of this nature.

(14) To prevent the avoidance of U.S. income tax on the appreciation element of property which is distributed as a dividend by a domestic corporation to a foreign corporate shareholder, it is provided that the amount of the dividend is to be the fair market value of the property distributed (unless the amount is effectively connected with a U.S. business of the shareholder). Under prior law, the amount of the dividend in this case was only the adjusted basis of the property to the distributing corporation and, thus, the appreciation element could escape U.S. taxation. The House bill did not contain a provision of this nature.

(15) To increase the availability of financing for ships and aircraft used in international commerce and, thus, to allow the desired stimulative effect of the investment credit in this sector to be achieved, rules are provided to deal with the situation where the financing is accomplished under a lease arrangement between the lender, such as a financial institution, which purchases the ship or aircraft and the air carrier or ship operator. These rules allow the lessor to engage in a transaction of this type without it causing a loss of its otherwise available foreign tax credits (which could occur since typically the lease produces a tax loss in the early years that under present law is considered a foreign source loss that reduces the foreign tax credit limitation). Generally, the conference agreement provides that a taxpayer leasing a domestically produced aircraft or vessel may elect to treat all income (or losses) with respect to the aircraft or vessel (whether arising under the lease or otherwise) as U.S. source income (or loss). The loss then will not affect its foreign tax credits. The House bill did not contain a provision of this nature.

(16) Under present law, although interest on industrial development bonds generally is subject to tax, an exemption from this rule is provided for certain small issues of industrial development bonds. Generally, the exemption applies to bond issues of up to $5 million with respect to a facility if the total cost of the facility is not over $5 million. The cost of a facility for this purpose is measured by the capital expenditures made with respect to it during the 3 years before and the 3 years after the bonds are issued. Present law contains a safe-haven rule which allows the $5 million limit on the size of the facility to be exceeded by up to $250,000 in situations where expenditures which could not have been reasonably foreseen at the time of the bond issue are incurred for the facility. To increase the workability of this provision, the conference agreement increases the limit on the sale-haven rule to $1 million so that up to this amount of unforeseen expenditures may be incurred for a facility without causing a loss of the tax-exempt status of the bonds relating to the facility. The conference agreement also clarifies the fact that unforeseen expenditures include those caused by things such as erroneous cost estimates, increases in cost due to inflation, strikes, delays or minor architectural modifications (but not expansions). The conference agreement also eliminates the unintended requirement of present law under which a facility for the furnishing of water may not serve more than a local area (i.e., not more than 2 contiguous counties) if the interest on the bonds issued with respect to the facility is to be tax exempt. The House bill did not contain a provision of this nature.

(17) To assure that tax return information provided to a tax return preparer is treated in a confidential manner, a criminal penalty (a fine of up to $1,000 or not more than a year imprisonment, or both) is provided in the case where a person engaged in the business of, or in providing services connected with, preparing tax returns (or who does so for compensation) either discloses the information furnished to him in connection with the return or uses the information for any other purposes. It is provided, however, that the information may be used in the preparation of State tax returns or declarations of estimated tax of the person to whom the information relates and also as the result of an order of a court. In addition the provision is not to apply to a disclosure or the use of information which is permitted by regulation prescribed by the Treasury Department. Presumably, where appropriate the Treasury Department will permit the use of the information within the business organization of the preparer of the return if the taxpayers has indicated in writing that he desires the information to be used by the organization for some purpose specifically benefitting the taxpayer. The taxpayer could, for example, if the Treasury regulations approve, authorize the use of the information in determining his qualifications for a loan from the same organization which prepared the return. In no event, however is it contemplated that the regulations would permit the use of the information outside of the organization of the preparer of the return.

(18) To provide Congress with a more accurate picture of the operation of the tax laws and their indirect effect, the Treasury Department is to annually submit estimates of indirect expenditures made through the operation of the Federal tax laws to the House Ways and Means Committee, the Senate Finance Committee, and the Joint Committee on Internal Revenue Taxation. Initially, these reports will be modeled on similar reports made by the Treasury in 1968 and 1970. Since the Treasury Department has indicated its willingness to submit information of this type to the tax committees, this provision has been included by the conferees in the Joint Explanatory Statement rather than in the conference report. The House bill did not contain a provision of this nature.

(19) To provide parity of treatment between trailers which are used in connection with passenger automobiles and trailers which are used in connection with light-duty trucks, the 10-percent truck excise tax is made inapplicable to light-duty trucks. The House bill eliminated the auto excise tax on small auto-towed trailers suitable for use with passenger automobiles but would have retained the truck tax on light-duty truck trailers.

(20) To prevent imported vehicles from being treated more favorably than domestic automobiles and trucks, the 10-cents-a-pound manufacturers' excise tax on vehicle tires and tubes which under existing law continues to be applicable to original tires on domestic vehicles is also made applicable under the conference agreement to original tires and tubes on imported vehicles. The House bill did not contain a provision of this nature.

(21) Tax deferral is to be available for 50 percent of the export related profits of a domestic international sales corporation

(DISC). This eliminates the inequities and complexity which would have arisen under the incremental approach of the House bill which provided tax deferral for that portion of a DISC's profits attributable to the exports of the DISC and its corporate group in excess of 75 percent of the group's average exports in the period 1968–1970.

(22) To provide assurance that tax-deferred DISC profits which are loaned to a related U.S. manufacturing company producing for export are not used for foreign manufacturing facilities, it is provided that the tax deferral will terminate if these profits are considered invested in foreign plant or equipment. The amount considered invested in this manner generally is the net increase in foreign assets of members of the DISC's corporate group but not more than the smaller of the actual amount transferred abroad by the domestic members of the group or the outstanding amount of the DISC's loans of tax deferred profits to the domestic members. In determining the extent to which tax-deferred DISC profits are invested by the group in foreign assets, foreign assets are to be considered acquired first from specified types of foreign funds obtained by the group after 1971 as well as transitional amounts of funds obtained prior to 1972. The House bill did not contain a limitation of this nature.

(23) The benefits of the export trade corporation provisions of present law are to continue to be available in the case of any corporation which qualified as an export trade corporation for a year beginning before November 1, 1971, and which continues to qualify after that time. The House bill would have repealed the export trade corporation provisions for years after 1975.

(24) To provide an incentive to private employers to hire individuals who would otherwise be on welfare, employers are provided an income tax credit for hiring individuals under a work incentive (WIN) program established under the Social Security Act. The credit is to be an amount equal to 20 percent of the cash wages paid to the individual during the first 12 months of his employment. If the employer does not retain the individual for a total of 24 months, then the credit is to be recaptured. There is not to be a recapture, however, if the employee becomes disabled, leaves work voluntarily, or is terminated due to his misconduct as determined under the relevant State unemployment compensation law. The House bill did not contain a provision of this nature.

(25) The conference agreement provides for the allowance of an income tax deduction, or alternatively, a tax credit for small political contributions. It also provides a system of public financing for the general election campaigns of presidential and vice-presidential candidates. Under the conference agreement an individual is to be allowed an income tax credit for one-half of his political contributions during the year up to a maximum credit of $12.50 (or $25 in the case of a joint return of a husband and wife). Alternatively, the taxpayer is to be allowed an itemized deduction for political contributions made by him during the taxable year up to a maximum amount of $50 (or $100 in the case of a joint return). This credit or deduction is to be available for political contributions made to candidates for nomination or election to Federal, State or local office in a primary, general, or special election. In addition, contributions may be made to a political committee. The credit or deduction is to be available only for contributions made after 1971. Public financing is provided under the conference agreement for presidential and vice-presidential general election campaigns by the so-called check-off system starting with income tax returns for the calendar year 1972. Under this system an individual can designate that $1 of his tax liability (and in the case of a joint return with a taxable liability of $2 or more, each spouse may designate that $1 of the liability) is to be set aside in the Presidential Election Campaign Fund in a special account for the candidates of the party of his choice or in a general nonpartisan fund. If the taxpayer makes no designation, nothing is to be set aside. The amounts checked off and designated into the accounts in the fund are to be available to presidential and vice-presidential candidates who elect public financing beginning with the 1976 general presidential election campaign. These amounts may be paid to the candidates, however, only after they have been so appropriated by Congress through the normal appropriation process. The presidential and vice-presidential candidates of each major party would be entitled to a maximum amount of public financing equal to 15 cents multiplied by the number of U.S. residents age 18 or more as of the first day of June in the year preceding the presidential election.

A major party is one which received 25 percent or more of the total popular votes cast for president in the preceding election. A minor party (one that received more than 5 percent and less than 25 percent of the popular vote in the preceding election) would be entitled to a maximum amount of public financing equal to that percentage of a major party's entitlement which the minor party's vote in the preceding election is of the average vote of the two major parties in that election. Provision is also made for new parties which obtain more than 5 percent of the popular vote in a presidential election to share in public financing after the election. Payments to candidates of a major or minor political party which elect public financing are to be made out of the special account designated for that party. If on the 60th day before the election the amount in any account is less than the entitlement of the party, it is provided that there is to be transferred to the separate account up to 80 percent of the amount in the general account. The amounts transferred are to be based on the entitlements of the major and minor parties at that time. No amount is to be transferred to a special account to the extent it would bring that account above the entitlement of the party to which it relates. Provision is also made for the transfer of any amounts remaining in the general account 30 days after the election to make up deficiencies in the separate accounts.

A major party which elects public financing cannot spend on the general campaign more than its entitlement and may accept contributions for the general campaign only to the extent of any deficiencies in its account. A minor party or a new party which accepts public financing cannot spend more on the general campaign than the entitlement of a major party and may retain private contributions only to the extent its allowable amount of campaign expenses is not covered by public financing. Public financing funds may be used only for campaign expenditures incurred by the electing candidates or their authorized committees with respect to the campaign period beginning on the first of September (or in the case of a major party, the date on which it nominates its candidate for President if earlier), and ending 30 days after the presidential election. Reports on amounts candidates spend, and propose to spend, are to be made throughout the campaign to the Comptroller General who is to certify the amounts payable out of the accounts to the eligible candidates. Provision is also made to allow the Comptroller General (who may use his own legal counsel) as well as individuals, organizations, and political parties to obtain expeditious judicial review of, or with respect to, the public financing provisions. Generally, it is provided that actions under these provisions are to be brought before a three-judge district court and are to be expeditiously tried. Appeals from decisions of that court are to go directly to the Supreme Court. The House bill did not contain provisions of this nature.

TABLE 1.—ESTIMATED EFFECT OF THE REVENUE ACT OF 1971, AS APPROVED BY THE CONFERENCE ON CALENDAR YEAR TAX LIABILITY 1971–73, FISCAL YEAR TAX RECEIPTS 1972–74 [1]

[In millions of dollars]

Provision	Calendar year tax liability			Fiscal year tax receipts		
	1971	1972	1973	1972	1973	1974
Liberalizing exemption and standard deduction provisions of the individual income tax:						
Eliminating phaseout from 1971 minimum standard deduction and increasing exemption from $650 to $675	−1,370			−1,370		
Advancing 1973's 15 percent standard deduction and $750 exemption to 1972		−2,190		−855	−1,335	
Increasing the minimum standard deduction to $1,300 for 1972 and thereafter		−1,040	−1,090	−405	−1,105	−1,110
Denying the standard deduction (both minimum and percentage) to the unearned income of taxpayers who are dependent children of other taxpayers		+70	+75	+5	+70	+75
Providing household-help, and liberalizing child care, deduction		−145	−150	−15	−145	−105
Providing a tax credit for political contributions		−100	−25	−10	−90	−30
Collecting individual income tax withholding				+725	−75	
Providing tax credit to employers of public assistance recipients under the work incentive program (WIN)		−25	−30	−10	−25	−3
Reinstating investment credit:						
As passed by the House	−1,500	−3,600	−3,900	−2,420	−3,590	−3,960
Reducing the limitation on used property to $50,000	+5	+10	+10	+5	+10	+10
Allowing credit for $50,000 of used property without reducing it for purchases of new property	−15	−20	−20	−15	−20	−20
Eliminating ¾-year convention from the asset depreciation range (ADR) system	+2,100	+1,700	+1,500	+2,470	+1,660	+1,470
Repealing automobile excise tax	−800	−2,200	−1,900	−2,200	−2,000	−1,800
Allowing credit for State tax on coin operated gaming devices		−10	−10		−10	−10
Imposing excise tax (10¢ per lb.) on tires of imported automobiles	Neg.	+25	+25	+10	+25	+25
Repealing truck (10,000 G.V.W. lbs. or less) and local transit bus excise tax	−100	−365	−365	−280	−365	−365
Providing tax deferral for domestic international sales corporations (DISC)		−100	−170	Neg.	−100	−170
Total	−1,680	−7,990	−6,050	−4,365	6,945	−6,115

[1] Estimates for all provisions in this table reflect growth except for the provisions relating to excise taxes.

TABLE 2.—ESTIMATED EFFECT OF THE REVENUE ACT OF 1971 AS APPROVED BY THE CONFERENCE BY TYPE OF TAXPAYER, CALENDAR YEAR TAX LIABILITY 1971-73, FISCAL YEAR TAX RECEIPTS 1972-74 [1]

[In millions of dollars]

Provision	Calendar year tax liability			Fiscal year tax receipts		
	1971	1972	1973	1972	1973	1974
Liberalizing exemption and standard deduction provisions of the individual income tax:						
Eliminating phaseout from 1971 minimum standard deduction and increasing exemption from $650 to $675	−1,370			−1,370		
Advancing 1973's 15-percent standard deduction and $750 exemption to 1972		−2,190		−855	−1,335	
Increasing the minimum standard deduction to $1,300 for 1972 and thereafter		−1,040	−1,090	−405	−1,105	−1,110
Denying the standard deduction (both minimum and percentage) to the unearned income of taxpayers who are dependent children of other taxpayers		+70	+75	+5	+70	+75
Providing household-help, and liberalizing child-care deduction		−145	−150	−15	−145	−150
Providing a tax credit for political contributions		−100	−25	−10	−90	−30
Correcting individual income tax withholding				+725	+75	
Individual, nonbusiness	−1,370	−3,405	−1,190	−1,925	−2,530	−1,215
Providing tax credit to employers of public assistance recipients under the Work Incentive Program (WIN): Corporate		−25	−30	−10	−25	−30
Reinstating investment credit:						
Individual, business	−305	−725	−785	−375	−735	−785
Corporate	−1,205	−2,885	−3,125	−2,055	−2,865	−3,185
Corporate and individual, business	−1,510	−3,610	−3,910	−2,430	−3,600	−3,970
Eliminating ¾ year convention from the asset depreciation range system:						
Individual, business	+420	+340	+300	+450	+340	+290
Corporate	+1,680	+1,360	+1,200	+2,020	+1,320	+1,130
Corporate and individual, business	+2,100	+1,700	+1,500	+2,470	+1,660	+1,420
Repealing automobile excise tax: [2]						
Individual, business	−120	−330	−280	−330	−300	−270
Individual, nonbusiness	−600	−1,650	−1,430	−1,650	−1,500	−1,350
Individual, business and nonbusiness	−720	−1,980	−1,710	−1,980	−1,800	−1,620
Corporate	−80	−220	−190	−220	200	−180
Corporate and individual	−800	−2,200	−1,900	−2,200	−2,000	−1,800
Allowing credit for State tax on coin operated gaming devices: Corporate		−10	−10		−10	−10
Imposing excise tax (10¢ per lb.) on tires of imported automobiles: [2] Individual, nonbusiness	Neg.	+25	+25	+10	+25	+25
Repealing truck (10,000 G.V.W. lbs. less) excise tax: [2]						
Individual business	−40	−165	−165	−120	−165	−165
Individual, nonbusiness	−50	−160	−160	−130	−160	−160
Individual, business and nonbusiness	−90	−325	−325	−250	−325	−325
Corporate	−10	−40	−40	−30	−40	−40
Corporate and individual	−100	−365	−365	−280	−365	−365
Providing tax deferral for domestic international sales corporations (DISC): Corporate		−100	−170	Neg.	−100	−170
Total:						
Individual, nonbusiness	−2,020	−5,190	−2,755	−3,695	−4,165	−2,700
Individual, business	−45	−880	−930	−375	−860	−930
Individual, business and nonbusiness	−2,065	−6,070	−3,685	−4,070	−5,025	−3,630
Corporate	+345	−1,920	−2,365	−295	−1,920	−2,485
Corporate and individual business	+340	−2,800	−3,295	−670	−2,780	−3,415
Grand total, corporate and individual	−1,680	−7,990	−6,050	−4,365	−6,945	−6,115

[1] Estimates for all provisions in this table reflect growth except for the provisions relating to excise taxes.

[2] Assumes that the tax changes under these provisions are passed on to the purchasers of the automobiles and trucks.

TABLE 3.—ESTIMATED INCREASE (+) OR DECREASE (−) IN INDIVIDUAL INCOME TAX LIABILITY [1] UNDER THE REVENUE ACT OF 1971 AS APPROVED BY THE CONFERENCE, CALENDAR YEARS 1971-73, BY ADJUSTED GROSS INCOME CLASS

[In millions of dollars]

	Liberalization of exemption and/or standard deduction provisions (1971 income levels)			Reinstatement of the investment credit [2] (current income levels)			Elimination of ¾ year convention from the Asset Depreciation Range (ADR) System [2] (current income levels)			Denial of the standard deduction to the unearned income of taxpayers who are dependent children of other taxpayers (current income levels)			Provision of a household-help, and liberalization of the child-care, deduction (current income levels)			Provision of a tax credit or a deduction for political contributions			Total		
Adjusted gross income class (thousands)	1971 [3]	1972 [4]	1973 and thereafter [5]	1971	1972	1973	1971	1972	1973	1971	1972	1973	1971	1972	1973	1971	1972	1973	1971	1972	1973
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)	(15)	(16)	(17)	(18)	(19)	(20)	(21)	(22)
$0 to $3	−56	−225	−180	−3	−6	−7	+4	+3	+3		+48	+52		−1	−1		(6)	(6)	−55	−181	−133
$3 to $5	−227	−487	−358	−16	−37	−40	+22	+18	+16		+19	+20		−3	−3		−1	(6)	−221	−491	−365
$5 to $7	−310	−526	−339	−27	−66	−71	+38	+31	+27		+3	+3		−8	−8		−2	−1	−299	−568	−389
$7 to $10	−223	−608	−115	−41	−96	−104	+56	+45	+40		(6)	(6)		−32	−34		−7	−2	−208	−698	−215
$10 to $15	−276	−689		−51	−122	−132	+70	+57	+50		(6)	(6)		−37	−39		−21	−6	−257	−812	−127
$15 to $20	−135	−267		−32	−76	−82	−44	+36	+31		(6)	(6)		−40	−42		−17	−4	−123	−364	−97
$20 to $50	−116	−231		−73	−173	−187	+100	+81	+72		(6)	(6)		−24	−25		−36	−9	−89	−383	−149
$50 to $100	−20	−39		−33	−78	−85	+45	+36	+32		(6)	(6)					−11	−3	−8	−92	−56
$100 and over	−5	−11		−29	−71	−77	+41	+33	+29		(6)	(6)					−4	−1	+7	−53	−49
Total	−1,368	−3,083	−992	−305	−725	−785	+420	+340	+300		+70	+75		−145	−152		−99	−26	−1,253	−3,642	−1,580

[1] Exclusive of the impact of the excise tax on automobiles and small trucks on the individual income tax liability of sole proprietors and partners.

[2] Change in tax liability of sole proprietors and partners.

[3] Elimination of the phaseout from the 1971 minimum standard deduction and increasing the exemption from $650 to $675.

[4] Advancement of 1973's 15 percent standard deduction and $750 exemption to 1972 and increase in the minimum standard deduction from $1,000 to $1,300.

[5] Increase in the minimum standard deduction from $1,000 to $1,300.

[6] Less than $500,000.

TABLE 4.—INDIVIDUAL INCOME TAX LIABILITY UNDER PRESENT LAW AND DECREASE (−) OR INCREASE (+) UNDER THE REVENUE ACT OF 1971 AS APPROVED BY THE CONFERENCE, CALENDAR YEARS 1971–73—BY ADJUSTED GROSS INCOME CLASS

[Dollar amounts in millions]

Adjusted gross income class (thousands)	1971			1972			1973 and thereafter		
	Tax under present law	Tax change under bill		Tax under present law	Tax change under bill		Tax under present law	Tax change under bill	
		Amount[1]	Percent		Amount[2]	Percent		Amount[3]	Percent
$0 to $3	$531	−$55	−10.4	$490	−$181	−36.9	$445	−$133	−29.9
$3 to $5	2,715	−221	−8.1	2,482	−491	−19.8	2,352	−365	−15.5
$5 to $7	4,905	−299	−6.1	4,550	−568	−12.5	4,364	−389	−8.9
$7 to $10	11,222	−208	−1.9	10,721	−698	−6.5	10,228	−215	−2.1
$10 to $15	20,754	−257	−1.2	19,891	−812	−4.1	19,202	−127	−.7
$15 to $20	14,630	−123	−.8	14,158	−364	−2.6	13,891	−97	−.7
$20 to $50	18,912	−89	−.5	18,608	−383	−2.1	18,377	−149	−.8
$50 to $100	7,323	−8	−.1	7,257	−92	−1.3	7,217	−56	−.8
$100 and over	7,696	+7	+.1	7,669	−53	−.7	7,658	−49	−.6
Total	88,687	−1,253	−1.4	85,826	−3,642	−4.2	83,735	−1,580	−1.9

[1] Col. 20, table 3.

[2] Col. 21, table 3.

[3] Col. 22, table 3.

TABLE 5.—FEDERAL INDIVIDUAL INCOME TAX BURDEN[1] UNDER PRESENT LAW AND UNDER THE REVENUE ACT OF 1971 AS APPROVED BY THE CONFERENCE, TAX LIABILITY, CALENDAR YEARS 1971, 1972, AND 1973 AND THEREAFTER

[Assuming deductible personal expenses of 10 percent of income]

Adjusted gross income (wages and salaries)	1971				1972				1973 and thereafter			
		Bill[2]				Bill[3]				Bill[4]		
			Tax decrease				Tax decrease				Tax decrease	
	Present law tax	Tax	Amount	Percent	Present law tax	Tax	Amount	Percent	Present law tax	Tax	Amount	Percent
Single person:												
$1,700[5]	0	0	0		0	0	0		0	0	0	
$1,725[6]	$4	0	$4	100.0	$4	0	$4	100.0	0	0	0	
$1,750[7]	7	$4	3	42.9	7	0	7	100.0	0	0	0	
$2,050[8]	52	46	6	11.5	49	0	49	100.0	$42	0	$42	100.0
$3,000	207	189	18	8.7	193	$138	55	28.5	185	$138	47	25.4
$3,500	296	272	24	8.1	276	217	59	21.4	268	217	51	19.0
$4,000	396	362	34	8.6	367	302	65	17.7	358	302	56	15.6
$5,000	599	552	47	7.8	557	491	66	11.8	548	491	57	10.4
$7,500	1,084	1,063	21	1.9	1,058	995	63	6.0	1,031	995	36	3.5
$10,000	1,603	1,596	7	.4	1,566	1,530	36	2.3	1,530	1,530	0	
$12,500	2,185	2,178	7	.3	2,104	2,059	45	2.1	2,059	2,059	0	
$15,000	2,877	2,869	8	.3	2,717	2,703	14	.5	2,703	2,703	0	
$17,500	3,551	3,543	8	.2	3,458	3,443	15	.4	3,443	3,443	0	
$20,000	4,289	4,281	8	.2	4,272	4,255	17	.4	4,255	4,255	0	
$25,000	5,933	5,924	9	.2	5,914	5,895	19	.3	5,895	5,895	0	
Married couple with no dependents:												
$2,350[9]	0	0	0		0	0	0		0	0	0	
$2,400[6] [10]	7	0	7	100.0	0	0	0		0	0	0	
$2,500[7]	22	14	8	36.4	14	0	14	100.0	0	0	0	
$2,800[8]	67	56	11	16.4	56	0	56	100.0	42	0	42	100.0
$3,000	79	84	13	13.4	84	28	56	66.7	70	28	42	60.0
$3,500	174	155	19	10.9	155	98	57	36.8	140	98	42	30.0
$4,000	254	230	24	9.4	230	170	60	26.1	215	170	45	20.9
$5,000	422	386	36	8.5	386	322	64	16.6	370	322	48	13.0
$7,500	835	829	24	2.8	820	753	67	8.2	786	753	33	4.2
$10,000	1,266	1,257	9	.7	1,228	1,190	38	3.1	1,190	1,190	0	
$12,500	1,754	1,743	11	.6	1,677	1,628	49	2.9	1,628	1,628	0	
$15,000	2,310	2,298	12	.5	2,172	2,150	22	1.0	2,150	2,150	0	
$17,500	2,873	2,860	13	.5	2,785	2,760	25	.9	2,760	2,760	0	
$20,000	3,456	3,442	14	.4	3,428	3,400	28	.8	3,400	3,400	0	
$25,000	4,764	4,748	16	.3	4,732	4,700	32	.7	4,700	4,700	0	
Married couple with 2 dependents:												
$3,650[9]	0	0	0		0	0	0		0	0	0	
$3,750[6]	15	0	15	100.0	0	0	0		0	0	0	
$3,800[10]	22	7	15	68.2	0	0	0		0	0	0	
$4,000[7]	52	35	17	32.7	28	0	28	100.0	0	0	0	
$4,300[8]	97	77	20	20.6	70	0	70	100.0	42	0	42	100.0
$5,000	206	178	28	13.6	170	98	72	42.4	140	98	42	30.0
$7,500	607	578	29	4.8	561	484	77	13.7	514	484	30	5.8
$10,000	1,019	1,000	19	1.9	962	905	57	5.9	905	905	0	
$12,500	1,468	1,446	22	1.5	1,371	1,309	62	4.5	1,309	1,309	0	
$15,000	2,018	1,996	22	1.1	1,864	1,820	44	2.4	1,820	1,820	0	
$17,500	2,548	2,523	25	1.0	2,435	2,385	50	2.1	2,385	2,385	0	
$20,000	3,110	3,085	25	.8	3,060	3,010	50	1.6	3,010	3,010	0	
$25,000	4,352	4,324	28	.6	4,296	4,240	56	1.3	4,240	4,240	0	

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[1] These burdens have been computed without use of the optional tax table.

[2] Eliminates the phaseout from the minimum standard deduction and increases the exemption from $650 to $675.

[3] Advances 1973's 15-percent standard deduction and $750 exemption to 1972 and increases the minimum standard deduction from $1,000 to $1,300.

[4] Increases the minimum standard deduction from $1,000 to $1,300.

[5] Highest level at which there is no tax in 1971 and 1972 under present law.

[6] Highest level at which there is no tax in 1971 under the House bill.

[7] Highest level at which there is no tax in 1973 under present law.

[8] Highest level at which there is no tax in 1972 and 1973 under the House bill.

[9] Highest level at which there is no tax in 1971 under present law.

[10] Highest level at which there is no tax in 1972 under present law.

TABLE 6.—FEDERAL INDIVIDUAL INCOME TAX BURDEN [1] UNDER PRESENT LAW AND UNDER THE REVENUE ACT OF 1971 AS APPROVED BY THE CONFERENCE, TAX LIABILITY, CALENDAR YEARS 1971, 1972, AND 1973 AND THEREAFTER

[Assuming deductible personal expenses of 18 percent of income]

Adjusted gross income (wages and salaries)	1971				1972				1973 and thereafter			
		Bill [2]				Bill [3]				Bill [4]		
			Tax decrease				Tax decrease				Tax decrease	
	Present law tax	Tax	Amount	Percent	Present law tax	Tax	Amount	Percent	Present law tax	Tax	Amount	Percent
Single person:												
$1,700 [5]	0	0	0	------------	0	0	0	------------	0	0	0	------------
$1,725 [6]	$4	0	$4	100.0	$4	0	$4	100.0	0	0	0	------------
$1,750 [7]	7	$4	3	42.9	7	0	7	100.0	0	0	0	------------
$2,050 [8]	52	46	6	11.5	49	0	49	100.0	$42	0	$42	100.0
$3,000	207	189	18	8.7	193	$138	55	28.5	185	$138	47	25.4
$3,500	296	272	24	8.1	276	217	59	21.4	268	217	51	19.0
$4,000	396	362	34	8.6	367	302	65	17.7	358	302	56	15.6
$5,000	586	552	34	5.8	557	491	66	11.8	548	491	57	10.4
$7,500	1,005	1,000	5	.5	995	984	11	1.1	984	984	0	------------
$10,000	1,482	1,476	6	.4	1,470	1,458	12	.8	1,458	1,458	0	------------
$12,500	1,990	1,984	6	.3	1,978	1,965	13	.7	1,965	1,965	0	------------
$15,000	2,536	2,529	7	.3	2,522	2,509	13	.5	2,509	2,509	0	------------
$17,500	3,123	3,116	7	.2	3,109	3,094	15	.5	3,094	3,094	0	------------
$20,000	3,753	3,745	8	.2	3,737	3,722	15	.4	3,722	3,722	0	------------
$25,000	5,176	5,167	9	.2	5,158	5,140	18	.3	5,140	5,140	0	------------
Married couple with no dependents:												
$2,350 [9]	0	0	0	------------	0	0	0	------------	0	0	0	------------
$2,400 [6, 10]	7	0	7	100.0	0	0	0	------------	0	0	0	------------
$2,500 [7]	22	14	8	36.4	14	0	14	100.0	0	0	0	------------
$2,800 [8]	67	56	11	16.4	56	0	56	100.0	42	0	42	100.0
$3,000	97	84	13	13.4	84	28	56	66.7	70	28	42	60.0
$3,500	174	155	19	10.9	155	98	57	36.8	140	98	42	30.0
$4,000	254	230	24	9.4	230	170	60	26.1	215	170	45	20.9
$5,000	418	386	32	7.7	386	322	64	16.6	370	322	48	13.0
$7,500	782	772	10	1.3	763	744	19	2.5	744	744	0	------------
$10,000	1,171	1,162	9	.8	1,152	1,133	19	1.6	1,133	1,133	0	------------
$12,500	1,589	1,578	11	.7	1,567	1,545	22	1.4	1,545	1,545	0	------------
$15,000	2,040	2,029	11	.5	2,018	1,996	22	1.1	1,996	1,996	0	------------
$17,500	2,523	2,510	13	.5	2,498	2,473	25	1.0	2,473	2,473	0	------------
$20,000	3,035	3,023	12	.4	3,010	2,985	25	.8	2,985	2,985	0	------------
$25,000	4,156	4,142	14	.3	4,128	4,100	28	.7	4,100	4,100	0	------------
Married couple with 2 dependents.												
$3,650 [9]	0	0	0	------------	0	0	0	------------	0	0	0	------------
$3,750 [6]	15	0	15	100.0	0	0	0	------------	0	0	0	------------
$3,800 [10]	22	7	15	68.2	0	0	0	------------	0	0	0	------------
$4,000 [7]	52	35	17	32.7	28	0	28	100.0	0	0	0	------------
$4,300 [8]	97	77	20	20.6	70	0	70	100.0	42	0	42	100.0
$5,000	206	178	28	13.6	170	98	72	42.4	140	98	42	30.0
$7,500	544	527	17	3.1	510	476	34	6.7	476	476	0	------------
$10,000	924	905	19	2.1	886	848	38	4.3	848	848	0	------------
$12,500	1,314	1,295	19	1.4	1,276	1,238	38	3.0	1,238	1,238	0	------------
$15,000	1,754	1,732	22	1.3	1,710	1,666	44	2.6	1,666	1,666	0	------------
$17,500	2,205	2,183	22	1.0	2,161	2,117	44	2.0	2,117	2,117	0	------------
$20,000	2,710	2,685	25	.9	2,660	2,610	50	1.9	2,610	2,610	0	------------
$25,000	3,792	3,764	28	.7	3,736	3,680	56	1.5	3,680	3,680	0	------------

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[1] These burdens have been computed without use of the optional tax table.

[2] Eliminates the phaseout from the minimum standard deduction and increases the exemption from $650 to $675.

[3] Advances 1973's 15-percent standard deduction and $750 exemption to 1972 and increases the minimum standard deduction from $1,000 to $1,300.

[4] Increases the minimum standard deduction from $1,000 to $1,300.

[5] Highest level at which there is no tax in 1971 and 1972 under present law.

[6] Highest level at which there is no tax in 1971 under the House bill.

[7] Highest level at which there is no tax in 1973 under present law.

[8] Highest level at which there is no tax in 1972 and 1973 under the House bill.

[9] Highest level at which there is no tax in 1971 under present law.

[10] Highest level at which there is no tax in 1972 under present law.

Mr. VANIK. Mr. Speaker, will the gentleman yield?

Mr. MILLS of Arkansas. I yield to the gentleman from Ohio.

Mr. VANIK. I wonder if the distinguished chairman could provide the House with the estimated Treasury loss resulting from the investment credit, the statutory establishment of the asset depreciation range, the changes in personal exemptions and the minimum deductions, the excise taxes, and DISC as developed through the conference just completed?

Mr. MILLS of Arkansas. Let me give you some figures for the calendar year 1972.

Title I, which is the investment credit, involves the loss of $3.6 billion, but after offsetting this far the savings through cutbacks in depreciation which the bill also contains, the loss from this title is reduced to $1.9 billion.

Title II, individuals, involves a loss of $3.4 billion.

We gain in title III on structural change—that is, the elimination of loopholes—some $70 million.

Title IV, excise taxes involves a revenue loss of $2.6 billion.

Title V, the DISC provision, in 1972 will cost about $100 million.

Title VI, the WIN credit—that is the work credit for employment of these people who were on welfare—will result in a loss of about $25 million.

The political contributions part, which is title VII, the one that makes provision for the deduction and credit, the Treasury estimates will result in a loss of revenue of $100 million. That covers contributions for campaign expenses for local officials, for State officials, as well as for those running for Federal office. The contributions can be for expenses in the general elections, special elections and primaries. These contributions may cover campaign excuses for the 1972 campaign, contrary to the general impression that has been created around the country.

Mr. GIBBONS. Mr. Speaker, will the gentleman yield?

Mr. MILLS of Arkansas. I am glad to yield to the gentleman.

Mr. GIBBONS. Mr. Speaker, I notice you had estimates with regard to the figures for 1971.

Mr. MILLS of Arkansas. For the 1972 calendar year.

Mr. GIBBONS. Do you have any estimates for a 10-year projection on this thing and what it will cost us?

Mr. MILLS of Arkansas. No, I do not. I gave you the estimates of the cost for a 3-year period, calendar years 1971, 1972, and 1973. I do not have estimates as to the cost over a 10-year period.

Mr. GIBBONS. Let me ask you a question about the conference report. On page 42, in the next to the last paragraph down there it is discussing what we call certain expenditures to enable individuals to be gainfully employed. As I understand it, this was a provision Senator Long pushed over in the Senate and it was one we had not discussed in the House. I wanted to get a little better concept of what you could do under this provision.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. MILLS of Arkansas. I yield myself an additional minute.

Mr. GIBBONS. As I understand it, a couple with an average gross income of up to $18,000 is allowed under this to hire a maid or a babysitter or someone who is not predominantly—and that is what worries me—not predominantly a bartender or not predominantly a gardener or not predominantly a chauffeur. Does that mean you get a tax deduction for that?

Mr. MILLS of Arkansas. What we are trying to do is to say we are limiting this deduction for expenses which must occur in a household to a situation where a man and his wife are both working or one of them is unable to work because of disability or where there is only one adult. The deduction even then will be available only where there are minor children in the household or a disabled dependent or spouse. This both makes an allowance for the cost of child care in these situations and also represents an inducement to employ individuals who might not otherwise be employed except for this provision.

The Senate conferees advocated this very strongly.

What we are trying to do is not to pick up the salaries of people who would be employed in the house or as chauffeurs, for example, in any event but only those who are employed to enable the taxpayer and his spouse—if he has one—to be gainfully employed. In addition we are trying to create jobs that are not now being filled. These are the whole purposes of this provision.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. MILLS of Arkansas. I am glad to yield to the gentleman from Iowa.

Mr. GROSS. In the deductions for political campaign purposes of $100 million, does the gentleman know whether the Treasury estimated that $100 million in loss or credit or whatever it is called to cover administrative expenses? It seems to me the administrative expenses would be quite high.

Mr. MILLS of Arkansas. It is my understanding that ordinarily they do not include administrative costs incident to the enforcement of a provision in their revenue loss estimate.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. MILLS of Arkansas. I yield myself 1 additional minute.

Mr. HALL. Will the gentleman yield?

Mr. MILLS of Arkansas. I am glad to yield to the gentleman.

Mr. HALL. Mr. Speaker, inasmuch as I have gone through the statement of the managers on the part of the House and noted the number of times that the other body receded and the House receded, is it a fair assumption that your statement was we receded only on the technical amendments of the other body or the unimportant amendments of the other body and that we came through on the major subjects because the tally is 33 to 18 in favor of the other body?

Mr. MILLS of Arkansas. We accepted many of their amendments but we accepted very few of their amendments representing any appreciable revenue loss. What we did was to reduce this $12.5 billion of additional loss to the Treasury involved in the Senate amendments to $300 million. So as a result of the conference report the loss over this 3-year period will be about $15.7 billion as compared to the loss of about $15.4 billion as contained in the House bill and as compared to about $27.9 billion under the Senate bill.

Mr. HALL. I appreciate the gentleman's statement. I have presumed that was true in view of the gentleman's original statement.

I wonder if the distinguished chairman of the Committee on Ways and Means would care to comment as to whether or not in your report you detail changes in the treatment of stock options or capital gains, and whether or not we allow incentives for executive personnel types to operate businesses after the entrepreneurs establish them, and in this respect provide more jobs.

Is there a worry on the part of the distinguished chairman in this respect?

Mr. MILLS of Arkansas. I do not have that concern primarily because in the 1969 act we provided a maximum tax rate of 50 percent for earned income for those who do not have tax preference incomes. However, I am greatly concerned about some aspects of the pension problem and I think action needs to be taken on this matter. I do not think we did much in the Tax Reform Act of 1969 with respect to stock options except provide alternative ways of paying young executives—such as in the form of cash bonuses which may be subject to the 50-percent limit.

We do, however, have this great problem of treating more fairly many who do not have adequate pensions or whose pension rights do not vest soon enough. I do not believe we have yet dealt adequately with differences in the treatment of executives and the self-employed.

Mr. HALL. Mr. Speaker, I appreciate the gentleman's statement. Certainly, the abuses should be corrected as we discussed at the time we passed the 1969 revision.

However, I am concerned for the young executive type that did not live through the last depression but who has had the personnel and organizational techniques and the drive to continue to build businesses, or the ones who since World War II have provided the job opportunities without which we would be in a far greater jobless position than we are today.

We need to have some pension rights and incentives in business in order that they may be continually attracted to take up this cudgel.

Mr. CAREY of New York. Mr. Speaker, will the gentleman yield?

Mr. MILLS of Arkansas. I yield to the gentleman from New York.

Mr. CAREY of New York. I note the "Ship American" amendment is in here that was in the House bill and was extended so that future trade would be encouraged not only with U.S. vessels but also with U.S. aircraft.

Mr. MILLS of Arkansas. Yes; the Senate extended the DISC 10 percent deferral provisions to transportation by U.S. aircraft. I though this was appropriate.

Mr. CAREY of New York. I think it is an excellent amendment. I notice that the balance of payments is adversely affected by about $4 million, but this should help correct that balance-of-payments problem. I think it is an excellent amendment and I urge its approval.

Mr. MILLS of Arkansas. I appreciate the comments of the gentleman from New York.

Mr. Speaker, I urge my colleagues to accept the conference report that was approved between the House and the other body.

Mr. BYRNES of Wisconsin. Mr. Speaker, I yield myself 10 minutes.

Mr. Speaker, before commenting generally on the conference report. I would like to point out that one part of it is in error as far as explaining the action of the conference is concerned. While this is a relatively small item, I think it is important that the actions of the conference be accurately reported and accurately understood. Therefore, I have prepared a statement with respect to it, and I would ask the gentleman from Arkansas, the chairman of the committee, his views on it.

Mr. Speaker, you will recall that the Senate version of the bill contained an amendment designed to remove from the surcharge internal combustion engines installed in snowmobiles. As you know, we did not accept this amendment in the conference. Instead, a statement relative to this matter was incorporated in the joint explanatory statement of the committee of conference. This statement indicates that the United States-Canadian Auto Products Agreement is, in practice, achieving unreciprocal results, an example being the inclusion of snowmobiles in an agreement on trade in automobiles. The explanatory statement of the conferees notes that one would not ordinarily expect that an agreement, designed to provide for free trade in automotive products, would cover the duty-free treatment of snowmobiles. The report goes on to state, however, that this is the fact, in terms of how the agreement was implemented, and that the conferees urged the Secretary of the Treasury to give consideration to the competitive position of domestic manufacturers of snowmobiles by providing an exemption from the surcharge for engines imported for installation in snowmobiles.

I believe the speaker will agree that this is actually a misinterpretation of the decision of the conferees and certainly does not accurately reflect the desires of the House conferees. My recollection is that we recognized that U.S. manufacturers of snowmobiles who use engines from Japan or Germany, which are now subject to the import surcharge, are placed at a competitive disadvantage with respect to manufacturers in Canada who incorporate the same types of engines, also imported from Japan or Germany, in their snowmobiles, which are then brought into the United States duty-free under the Automotive Products Trade Act. The temporary disadvantage to some U.S. manufacturers of snowmobiles as a result of this situation is clear. However, it is my recollection that, rather than urge the removal of the surcharge in this case, the consensus of the conferees was to urge a reinterpretation of the United States-Canadian Automotive Products Trade Act more in line with the common, ordinary facts of life—that snowmobiles are not automobiles and their free importation should not be provided for under this act.

If we were to urge the removal of the surcharge in the cases of engines installed in snowmobiles, as the joint statement of managers seems to imply is our desire, we would be discriminating against U.S. producers of engines for installation in snowmobiles and also against domestic manufacturers of snowmobiles who install domestically produced engines in snowmobiles. I thought it was clear that the intent of the conferees was not to urge that the surcharge in the case of engines for snowmobiles be removed but rather that snowmobiles imported from Canada be removed from the United States-Canadian Auto Products Agreement. Only by providing for an import surcharge on all foreign snowmobile engines imported in the United States is it possible to protect domestic manufacturers of snowmobile engines from discrimination due to in appropriate valuation of foreign currencies relative to those in the United States. Could the chairman express his view on this subject?

Mr. MILLS of Arkansas. The gentleman from Wisconsin is entirely correct. The joint explanatory statement of the conference committee on page 54 does not, in my opinion, accurately reflect the intent of the conference. At the time, some confusion existed as to why the automotive agreement applied to snowmobiles in the first place. As the gentleman from Wisconsin has said, our belief was that the United States-Canadian Automotive Products Agreement should not apply to imports of snowmobiles from Canada. If snowmobiles were removed from the agreement and the implementing legislation, the surcharge would not only apply to the snowmobile engines imported directly from Japan, but also to the snowmobiles imported from Canada, whether they contained Canadian or Japanese engines. I certainly felt it was the desire of the conference that the State Department and the Treasury Department seek a change in the interpretation of the United States-Canadian Automotive Products Agreement so as to exclude snowmobiles from its application.

We took no action in conference as to what should be done with respect to the application, or exemption from the application, of the surcharge to foreign engines used in snowmobiles.

Mr. STEIGER of Wisconsin. Mr. Speaker, will the gentleman yield?

Mr. MILLS of Arkansas. I yield to the gentleman.

Mr. STEIGER of Wisconsin. Mr. Speaker, I am grateful to the distinguished gentlemen, Mr. MILLS of Arkansas and Mr. BYRNES of Wisconsin for taking the time to clarify the intent of the conferees with respect to the amendment exempting improved snowmobile engines from the import surcharge.

The colloquy that has just taken place does clarify and resolve an issue which is of great concern to the snowmobile engine manufacturers of my State of Wisconsin.

When the amendment was adopted by the Senate a few weeks ago, there was a widespread misunderstanding that no American company makes an engine suitable for installation in snowmobiles and, therefore, domestic manufacturers of snowmobiles faced a double difficulty in competing with Canadian snowmobile manufacturers, because these machines come into the United States duty free and also contain Japanese and European engines on which the Canadian manufacturers pay no surcharge.

The premise that no American company makes snowmobile engines was a false premise. A number of Wisconsin companies produce such engines. Among them are Kiekhaefer Aeromarine, Inc., the Kohler Co., the Harley-Davidson Motor Co., and two divisions of the Outboard Marine Corp.

If the conferees had accepted the Senate-passed amendment this action would have done unintentional but severe injury to the above-named companies as well as other American producers of snowmobile engines. I am grateful to the House conferees for not receding to the other body on this amendment. The remarks of Mr. MILLS of Arkansas and Mr. BYRNES of Wisconsin, clarifying that decision, deserve a special note of appreciation.

Mr. Speaker, I want also to express my support for the adoption of the conference bill. While I disagree with the checkoff provision in title X, I am hopeful that the 92d Congress will repeal that particular title. At a time when all taxpayers feel strongly for or against one Federal program or another, it is a dangerous precedent for Congress to approve the earmarking of tax payments for a single purpose whatever. I feel certain that the Houses of Congress will again recognize this precedent as ill-advised and mischievous, and accordingly I have no hesitation in voting for the entire conference report.

Mr. COLMER. Mr. Speaker, will the gentleman yield to me for one question?

Mr. BYRNES of Wisconsin. I yield to the distinguished gentleman, chairman of the Committee on Rules.

Mr. COLMER. Mr. Speaker, if I understand correctly, and I have not seen the conference report, you have this checkoff provision in the bill for the contributions in presidential elections.

As I understand it, it is agreed to by both sides that the only way we can express our disapproval of it, and I certainly do disapprove of it, is to vote against the conference report. Does the gentleman agree?

Mr. BYRNES of Wisconsin. Oh, no, I disagree completely.

Let me address myself generally to the conference report and then specifically to that particular matter.

Mr. COLMER. If the gentleman will permit me——

Mr. BYRNES of Wisconsin. I think the gentleman under any circumstances should support the conference report at this time.

Mr. COLMER. I did not understand the gentleman.

Mr. BYRNES of Wisconsin. The gentleman should, as all Members of this Congress should, support the conference report.

Mr. COLMER. Well, I would be happy to support the conference report under certain conditions—and I am not saying now what I will do on it—but I do disagree most emphatically with bringing the camel's nose under the tent here on this thing of checking off contributions for presidential elections.

Mr. BYRNES of Wisconsin. Mr. Speaker, I agree with the gentleman's judgment as to the merits of title X of the Senate bill.

Mr. COLMER. With the indulgence of my good friend, may I continue further?

Mr. BYRNES of Wisconsin. I yield to the gentleman from Mississippi.

Mr. COLMER. If this is bad medicine in 1972, then it would be bad medicine in 1973, 1976, and from here on out. Once this thing starts, it will grow like Topsy and it will not be confined to presidential elections. I merely wish to file my protest. I thank the gentleman for yielding.

Mr. BYRNES of Wisconsin. I appreciate the statement of the gentleman.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. BYRNES of Wisconsin. I would like to conclude my general statement with respect to the conference report and then get into the specific issue of title X, but I will yield to the gentleman from Iowa at this point.

Mr. GROSS. Just to ask a question of the gentleman. As I understand it, there is no way to get a separate vote on this checkoff business, to which I am utterly and absolutely opposed. Can the gentleman suggest any way by which we can get a separate vote on that provision?

Mr. BYRNES of Wisconsin. I am advised that it is a germane amendment and, therefore, does not come under the new rule which requires a separate vote. That would have been the case had it not been a germane amendment.

Mr. GROSS. Or brought back in disagreement.

Mr. BYRNES of Wisconsin. Or brought back in disagreement, yes. Let me complete my remarks generally on the conference report, and then I will comment on this particular matter briefly.

It seems to me the real need right now is to get this tax bill to the President for signature, so that it can become law at the earliest possible time. That, to me, is the essential point as we discuss this conference report.

If our economy is to move ahead and expand, it needs this tax bill. It also needs, it seems to me, to be freed from some of the clouds of uncertainty that overhang it.

One of those clouds of uncertainty has to do with what is going to happen with respect to the tax recommendations of the President and the tax provisions contained in both the House and Senate versions of the bill with which there is no disagreement. Another cloud of uncertainty involves the question of what is going to happen with respect to the dollar in international markets and international trade.

Uncertainty also exists as to what

Congress is going to do about extending control authority beyond April 30, 1972. And it seems to me the sooner we can get all of these uncertainties cleared from the atmosphere, the sooner we will give our economy an opportunity to move forward and upward.

The stimulus that would be provided by the tax bill, then, quite obviously is desirable as far as moving the economy ahead is concerned. And equally desirable is elimination of the uncertainty that has existed over the last several months as to exactly what Congress finally would do. So the Congress will be accomplishing two very necessary objectives, it seems to me, as it adopts this conference report and sends it to the President to be signed and enacted into law.

The only real controversy with respect to the report, I believe, is that which relates to title X, the so-called checkoff for Presidential election campaigns.

Let me comment on that very briefly, because I do not see any point at this time of going into the details of this particular proposal.

We had a similar provision before us in 1966. It was somewhat less refined but it was the same basic proposition, and it followed practically the same route. It was added by the Senate to another tax measure which was enacted. However, Congress moved to make the provision in operative before its true effective date, in 1968.

Let me emphasize that the provision was mischievous in 1966, but we had a year in which to correct it, and we did correct it. Congress made it inoperative through amendments in 1967.

Now we have before us a provision which is also mischievous in my book. But its effective date is not 1972, as provided by the Senate. The conference made the effective date January 1973.

Let us understand that this bill relates only to Presidential elections, and no payments will be made under it, therefore, until 1976. So instead of having 1 year in which to correct a bad provision, as was the case in 1966, in this situation we have 3 years.

So it seems to me the situation we face today is this. Yes, there is a provision in this bill that many of us find most defective—and I could talk on virtually indefinitely about the defects of title X—but I would rather save that until a later time when we can address ourselves to that issue on an unemotional basis and without having hanging over our heads the urgency of getting much needed tax provisions written into law.

So, Mr. Speaker, while this one provision is bad, I would urge adoption of the conference report in order to get these tax provisions into law. Later, we can address ourselves, bearing in mind the defects of this particular provision on the taxpayer checkoff, to either the improvement or the correction of those defects, or their elimination at as early a date as possible within the next 3 years.

Mr. LANDRUM. Mr. Speaker, will the gentleman yield?

Mr. BYRNES of Wisconsin. I yield to the gentleman from Georgia.

Mr. LANDRUM. Mr. Speaker, let me say I agree completely with the statements the gentleman from Wisconsin is making, and then say that I, with him, believe that the importance of adopting this conference report is so overriding that we can postpone this emotional proposition, this opposition to the checkoff proposition.

I am opposed to it. I believe the gentleman from Wisconsin is stating logically and clearly here that we have ample time to correct this provision.

I want to commend the conferees, the chairman of the Committee on Ways and Means, and the gentleman from Wisconsin for putting an effective date on this over beyond 1972. I am opposed to that part of it, but I shall support the conference report.

Mr. BYRNES of Wisconsin. I thank the gentleman.

The important thing is to get this bill on the way to the White House, to get the President's signature, and to have it as a part of the Internal Revenue Code at the earliest possible date.

Mr. CONABLE. Mr. Speaker, will the gentleman yield?

Mr. BYRNES of Wisconsin. I yield to the gentleman from New York (Mr. CONABLE).

Mr. CONABLE. I agree with the statement the gentleman has made. Beyond agreement. I should like to thank him and the other conferees for the services they have rendered the Nation in bringing this conference report back characterized by good sense and not by some of the ridiculous proposals added by the other body.

Mr. LATTA. Mr. Speaker, will the gentleman yield?

Mr. BYRNES of Wisconsin. Mr. Speaker, I yield myself 1 additional minute, and I yield to the gentleman from Ohio.

Mr. LATTA. I want to compliment the gentleman in the well and the members of the committee for the excellent job they have done on this comprehensive tax bill, which is the most comprehensive since I have been in the Congress. They have done an excellent job.

I join my colleague from Georgia (Mr. LANDRUM) in opposing the checkoff system and I hope that in the future we can take it out completely.

Mr. MYERS. Mr. Speaker, will the gentleman yield?

Mr. BYRNES of Wisconsin. I yield to the gentleman from Indiana.

Mr. MYERS. I completely agree with the gentleman's remarks about the urgency of this tax reform, but for the life of me I do not understand how we have hope that next year or the year after that we can get this reversed, if you were not able to do it in conference. What hope is there, if there is no leverage? I would hope that they would have the same feeling of urgency about tax reform and would go along with the House in not liking the tax checkoff.

I agree with the gentleman from Mississippi, who says this is the nose of the camel under the tent.

What hope is there for a reversal?

Mr. BYRNES of Wisconsin. All one has to do is to look at history to get some pretty substantial hope. We had this same basic proposition presented to us under similar circumstances in 1966. We accepted the amendment in conference. One of the factors that led us to accept it was that it was effective a year later and we had a chance to change it. And the Congress did change it. I believe we will do it again.

The SPEAKER pro tempore. The gentleman from Wisconsin has consumed 21 minutes.

Mr. BYRNES of Wisconsin. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio (Mr. BETTS), a member of the committee.

Mr. BETTS. Mr. Speaker, I take this time to direct an inquiry to the chairman of the committee, if I may.

On page 71 of the Senate report on this bill it is stated that in some situations under section 308 of the bill involving stock options and capital gains derived from sources outside the United States, a foreign country will impose no tax on capital gain increases because the transaction on which the gain arises is not considered to be a taxable transaction and that it may be so considered under U.S. laws. The Finance Committee further states that it wishes to make it clear that in such cases the minimum tax would not apply.

Mr. Speaker, simply for the purpose of clarifying the record, am I correct in assuming that the conference committee agreed with the Senate Finance Committee on this point?

Mr. MILLS of Arkansas. The answer is "yes."

Mr. BETTS. I thank the chairman.

Mr. GIBBONS. Mr. Speaker, I should like to make a unanimous-consent request.

Mr. BYRNES of Wisconsin. I am glad to yield to the gentleman from Florida.

Mr. GIBBONS. The gentleman may want to object after he yields.

Mr. BYRNES of Wisconsin. Mr. Speaker, I yield to the gentleman so that he may make the request.

Mr. GIBBONS. Mr. Speaker, I ask unanimous consent that we have 30 additional minutes to continue the explanation of this conference report, the time to be equally divided.

Mr. BYRNES of Wisconsin. Mr. Speaker, I do not know why we need more time. Does the gentleman need more?

Mr. GIBBONS. The chairman only has 3 minutes, and I do not want him——

Mr. BYRNES of Wisconsin. May I ask, Mr. Speaker, how much time I have left? Maybe I can accommodate the gentleman in time.

Mr. VANIK. I have a request, too.

The SPEAKER. The gentleman from Wisconsin has 7 minutes remaining.

Mr. MILLS of Arkansas. Mr. Speaker, I am perfectly willing to yield my 3 minutes to either of the gentlemen who want to speak in opposition to the conference report.

Mr. VANIK. I think we ought to have 3 minutes of opposition talk.

Mr. MILLS of Arkansas. Let me yield my 3 minutes to the gentleman from Ohio.

Mr. BYRNES of Wisconsin. I will yield some of my time.

Mr. MILLS of Arkansas. I will yield 3 minutes and you yield 2.

Mr. GIBBONS. Mr. Speaker, I made a unanimous consent request.

Mr. BYRNES of Wisconsin. I object to the added time, because I think we can try to accommodate the gentleman in the time we have.

Mr. MILLS of Arkansas. Mr. Speaker, I yield to the gentleman 3 minutes.

Mr. HAYS. Mr. Speaker, I make the point of order that a quorum is not present.

Mr. BYRNES of Wisconsin. Mr. Speaker, I yield to the gentleman from Ohio 2 minutes.

CALL OF THE HOUSE

Mr. HAYS. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. The gentleman from Ohio makes the point of order that a quorum is not present. Evidently a quorum is not present.

Mr. MILLS of Arkansas. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 449]

Andrews, Ala.
Annunzio
Belcher
Blackburn
Blanton
Blatnik
Casey, Tex.
Chisholm
Clark
Clay
Collins, Ill.
Daniels, N.J.
Derwinski
Diggs
Dowdy
Edwards, La.
Erlenborn
Evins, Tenn.
Fish
Ford, William D.
Gallagher
Gray
Gubser
Hastings
Hébert
Jarman
Jones, Ala.
Kluczynski
Lujan
McCormack
Mikva
Mills, Md.
Montgomery
Murphy, N.Y.
Pepper
Roncalio
Rostenkowski
Sarbanes
Scheuer
Sisk
Spence
Springer
Stanton, James V.
Steed
Stokes
Stuckey
Sullivan
Tiernan
Waldie
Wilson, Bob
Winn

The SPEAKER. On this rollcall 380 Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

CONFERENCE REPORT ON H.R. 10947, REVENUE ACT OF 1971

Mr. MILLS of Arkansas, Mr. Speaker, I yield to the gentleman from Ohio (Mr. VANIK), a member of the committee, the 3 minutes I have remaining.

Mr. VANIK. Mr. Speaker, when this tax bill was first reported out of the House Ways and Means Committee on September 29, I set forth my opposition in dissenting views appended to the report.

I oppose this legislation because there is not an acceptable relationship between the loss of Treasury revenue and the touted potential of the legislation to stimulate employment and to fire up the economy.

There are varying estimates of the Treasury loss—one of the most reliable is the September 1971 Monthly Review of the Federal Reserve Bank, which points out that the investment credit, plus the asset-depreciation range, should mean a reduction of $8 billion or more in business taxes during the next year alone.

This bill does provide a few crumbs for the average taxpayer—but there is little need for rejoicing—what is given by the one hand will be taken away by higher social security taxes next year.

In the passion of September, the House of Representatives very quickly adopted the President's investment credit proposal—get the economy moving—restore employment—stimulate purchasing and production. The House acted passionately and quickly to turn things around.

As the weeks rolled on, it became quite apparent that the investment credit was not meeting its expectations.

At the end of November, machine tool orders were down. Machine tool orders are generally regarded as the best barometer of a developing recovery. The late November reports also indicated a substantial rise in unemployment from 5.8 percent to 6 percent, followed by a continued rise in the wholesale price index.

From these circumstances, it is apparent that the economy is offering very little—if any—response to the administration's investment credit incentive program, a costly and wasteful diversion of critically essential tax revenues.

Not until the administration suggested the possibility of increasing the dollar price for gold—officially devaluating the American dollar—did the economy develop some signs of life and vitality.

For all purposes, the investment credit is a give-away—a tax loss—a form of revenue wasting with no purpose. Seventy-five percent of the revenue loss provides tax credit for capital expenditures which would be made without the tax credit. There are other ways to stimulate the economy—the investment credit is the most costly and the most uncertain.

A vote for this massive and perhaps permanent longterm give-away of Federal revenues is a vote for reduced expenditures for health and welfare needs of the American people. A vote for this tax give-away is a vote to reduce Federal expenditures for education, for public works, and for restoring the quality of the environment.

With the tax loss compounded by the cost of the Investment Credit and the Asset Depreciation Range, the huge annual deficit—the difference between government receipts and expenditures—will become permanent. The pressures will continue to erode essential Federal programs and services—and the citizen will be the loser.

Finally, a vote for this tax give-away is a vote for higher taxes in 1973.

The SPEAKER. The time of the gentleman has expired.

Mr. BYRNES of Wisconsin. Mr. Speaker, I am going to yield 2 minutes to the gentleman from Ohio, if that will help him, even though I disagree with him 1000 percent in what he says. I want him to have time to say whatever he wants to say.

Mr. VANIK. Mr. Speaker, I thank the gentleman.

Finally, a vote for this tax giveaway is a vote for higher taxes in 1973. The billions of dollars given away to a few special taxpayers will have to be collected from all of the taxpayers when we come to our senses after the politics of 1972.

Make no mistake about it. The taxpayers of America will be called upon very soon to make up—to pay for the folly of this day. You will have to vote for either a regressive value-added tax or a surtax of at least 10 percent.

I urge you to vote down this conference report. I urge that this Congress undertake a more certain and less costly program of creating jobs and restoring the economy. We should prudently legislate for the decade—instead of the election year.

I urge defeat of the conference report.

Mr. FRASER. Will the gentleman yield?

Mr. VANIK. I yield to the gentleman from Minnesota.

Mr. FRASER. Mr. Speaker, I want to associate myself with the remarks of the gentleman. I think this is a most unwise measure, and I, too, plan to vote against it.

Mrs. ABZUG. Mr. Speaker, the conference report on the Revenue Act of 1971, represents no material improvement on the version of this bill which the House adopted in October. Most of the benefits contained in this bill will go to those who least need additional help at the expense of those who need it most. Big business is the major beneficiary by virtue of the investment credit and accelerated depreciation provisions. The individual tax relief provided as a sweetener falls far short of what is needed.

One of the most remarkable aspects about this bill and the discussion which has surrounded it is the extent to which the paramount cause of inflation has been ignored. I refer, of course, to the inflationary pressures created by our military spending. This cancer now amounts to $76 billion a year, and the administration seeks to increase it. That is the real cause of our economic problems—let us not lose sight of that fact. The most positive steps which could be taken to strengthen our economy would be to end, immediately and completely, American involvement in the war in Indochina, cut back dollar-draining military bases in Europe and elsewhere, and apply the resulting "peace dividend" to pressing national problems such as mass transit, adequate housing, child care facilities, and job-creating public projects.

One aspect of the conference report which should be brought into proper perspective, lest it be mistaken for a provision which assists the truly needy, is the tax deducation provided for day care expenses. The conference provision increases the maximum amount which may be deducted from $900 to $4,800 a year and extends the availability of the deduction to more people. However, the crucial flaw in this provision is that it is only available to upper-middle and upper-income individuals because the deduction can only be taken as an itemized deduction. Poor and middle-income people do not itemize deductions—in most cases, they use the standard deduction. Thus, in the guise of individual tax relief, we again would benefit the least needy at the expense of the most needy.

I have introduced legislation which would treat this issue comprehensively, granting tax relief to those who need it most—women in low- and middle-income families who work or want to work, but cannot afford to bear the high cost of child care without any attendant tax relief. I regret that this legislation has not been brought to the floor.

The provision before us is not even a drop in the ocean. Coupled with the President's veto of the Child Development Act which we passed earlier this week, it is a tragic fraud.

H.R. 10947 does not do anything to solve the basic economic distortions which are ripping this Nation apart. The bill embodies the administration's "job development credit," the discredited investment tax credit under a new name, without any evidence that it will stimulate the creation of any sizable number of new jobs or that it will even stimulate prudent, productive business investments. It also legitimizes the accelerated depreciation rate—the asset depreciation range—which the President illegally instituted earlier this year.

This bill will result in a business boondoggle of perhaps $9 billion over the next 2 years, a giveaway of money which will then not be available to meet the desperate needs of the cities and of the people. And what is worse, this boondoggle to business is no one-shot deal. We will lose this revenue for years and years to come. We are not just damaging our present, we are damaging our future and our childrens' future.

I oppose this conference report as I opposed the Revenue Act when it first came before the House. It is a big business bill. I urge my colleagues to join me in defeating the conference report on H.R. 10947.

Mr. REUSS. Mr. Speaker, will the gentleman yield?

Mr. VANIK. I yield to the gentleman.

Mr. REUSS. Mr. Speaker, I shall vote against the adoption of the conference report on H.R. 10947, the Revenue Act of 1971.

H.R. 10947 is basically the same bill President Nixon sent to Congress in August, although some changes and improvements were made, principally by the House Ways and Means Committee. The purpose of his tax proposals, President Nixon said, was to "create 500,000 new jobs in the coming year"—address to Congress, September 9, 1971.

A laudable purpose, certainly. But the means he has chosen to achieve it are ill-designed and wasteful. Multibillion-dollar tax reductions for business may perhaps lead to more jobs in the long run. But that is small comfort to the 5 million unemployed who need jobs now. President Nixon, a self-proclaimed Keynesian, should recall that it was Lord Keynes who laid down the dictum that "in the long run we shall all be dead."

If it is the creation of jobs that we are concerned about, there is an instrument ready at hand that will create 500,000 jobs far more quickly and less expensively than granting $8 billion a year in tax breaks to corporations with the fond hope that maybe someday some of it will trickle down in the form of more jobs. It is to expand the present token public service jobs program, to create a total of 500,000 immediate federally financed public service jobs. Legislation to do just this was introduced last week by more than 50 Democratic Members of the House—see Congressional Record, December 2, 1971, pages 44359–44361. It would cost less than half as much as President Nixon's budget-busting tax handouts for corporations.

It is possible to make the case that the economy needs a temporary fiscal stimulus. But to proceed from this to the granting of permanent tax reductions like the investment tax credit and accelerated depreciation schemes—which will cost the Treasury some $8 billion a year for the next 10 years—is an economic non sequitur over and beyond the call of duty. If the economy needs a temporary boost, by all means let there be temporary tax reductions or temporary increases in spending. The expanded public service jobs program would be just the kind of temporary fiscal stimulus, since it is designed to operate only when national unemployment exceeds 4 percent. But now is not the time to erode the permanent Federal tax base any further. The Tax Reform Act of 1969 cost the Treasury about $8 billion a year in lost revenue. And now, just 2 years later, there is going to be another permanent revenue loss of about the same size piled on top of it.

There must be an end to this. The demand for health, education, housing, transportation, and pollution control is not going to decline over the next 10 years. The money for them is going to have to come from somewhere.

The shortsightedness of these revenue-fracturing exercises is illustrated by two recent projections of Federal revenues and expenditures through the 1976 fiscal year.

The first, the National Urban Coalition's "counterbudget," recommends a substantial reordering of budget priorities and concludes by estimating that their recommended fiscal year 1976 budget of $353 billion would exceed revenues from the present tax system by nearly $70 billion. H.R. 10947 would obviously widen the gap even further.

The second study, prepared by a Brookings Institution team headed by former Budget Director Charles L. Shultz—"Setting National Priorities: The 1972 Budget"—attempts to project the so-called fiscal dividend for the 1974 and 1976 fiscal years. This projection assumes no changes in existing programs, and no new programs beyond those proposed in the President's fiscal year 1972 budget. Their conclusion, briefly, is that there will be no fiscal dividend at all in 1974, and only a small—1 percent of GNP—and somewhat conjectural dividend of $17 billion in 1976. Again, H.R. 10947 would simply make things worse.

Reducing taxes has its charms for all politicians, and I certainly include myself in this. But the day of reckoning eventually comes. In this case, I predict it is going to come sooner than many think. I will not be surprised if President Nixon, after discovering shortly that his fiscal year 1973 budget is going to show an even bigger deficit than his first two, comes up to Congress early next year with proposals for new taxes. Already the talk of a regressive, tough-on-the-average-taxpayer value-added tax is becoming prevalent.

The tax bill should be defeated.

Mr. VANIK. Mr. Speaker, I thank the gentleman.

Mr. Speaker, I yield the balance of my time to the gentleman from Florida (Mr. Gibbons).

Mr. GIBBONS. Mr. Speaker, I appreciate the gentleman yielding me the 1 minute to discuss this $170 billion giveaway that we have here today.

This is bad economics; it is bad tax policy. You are going to have to swallow a value-added tax or a national sales tax to make up for this. We are already $35 billion in the hole for this fiscal year, and you are going $115 billion more in the hole in this specific bill alone in the next 10 years. If that is not fiscal irresponsibility, I have never seen it.

I intend to vote against this bill, and I hope the other Members will, also.

Mr. BYRNES of Wisconsin. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. Corman).

Mr. CORMAN. Mr. Speaker, I would like to make use of this time given to me to inquire of the chairman.

Mr. Chairman, page 34 of the Senate report states that in determining the amount of credit available with respect to a motion picture or TV film, all costs of production which the taxpayer capitalizes should be taken into account in determining the basis of the film.

Mr. Chairman, simply for the purpose of clarifying the record, am I correct in my understanding that this rule was adopted by the committee of conference?

Mr. MILLS of Arkansas. Will the gentleman yield?

Mr. CORMAN. I am glad to yield to the chairman.

Mr. MILLS of Arkansas. The gentleman is correct. The answer is "Yes."

Mr. BYRNES of Wisconsin. Mr. Speaker, I yield to the chairman of the committee in order that he might make a request for all Members.

GENERAL LEAVE TO EXTEND

Mr. MILLS of Arkansas Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to extend their remarks at this point in the Record on the conference report being considered.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

Mr. BURLESON of Texas. Mr. Speaker, in my judgment there is little choice but to support this conference report. It is an essential part in the overall effort to combat inflation and make the adjustments in our economy now so heavily challenged by foreign trade deficits, unemployment, and underproduction in industry.

As is the case in many instances where it is a case of "take it or leave it," there are things included in this legislation which I regret to have to vote for and which I feel to be basically wrong.

Especially do I disapprove of the scheme to finance future political campaigns with taxpayers' money. I am aware, of course, that this provision is not effective until 1973 and will not be available for financing presidential campaigns until 1976 but we are voting on a fundamental change in the system and in my opinion it is not justified.

Under the rules of the House there is no way by which a separate vote may be had on this provision and that is unfortunate. I have the feeling that there would be a fair chance of rejecting this section of the bill, put in by the Senate, if the Members of the House had the opportunity of a direct vote on this issue. Since this is not possible under the circumstances here today I hope the Congress will, in its wisdom, repeal this portion of this legislation before it become effective in 1973.

In the meantime, I feel that it would be an irresponsible act to turn down this entire package because of this and a few other objectionable provisions, which could have a vital effect on the immediate direction of our economy.

Mr. COTTER. Mr. Speaker, I reluctantly support the conference on the tax bill.

My concern over this bill is twofold. First, I am concerned that the tax relief for business; that is, the investment tax credit, the previously approved accelerated depreciation schedule and the repeal of the auto excise tax, will not accomplish the goals for which they were ostensibly designed: The creation of new jobs.

Our Nation is currently in the midst of an unemployment crisis. The figures show that 6 percent of our Nation's work force is unemployed. It is reliably estimated that an additional one-half million have stopped looking for work and as a result are not even counted in this figure. The adjusted unemployment figure for the State of Connecticut is a shocking 9.5 percent of the work force, and the Hartford area reflects this unacceptably high figure.

I have listened to the experts carefully and the consensus of these economic analysts is that our current recession is caused primarily by the underutilization of our productive capacity. Over 25 percent of our production facilities are currently not in use. The message is clear: Low production equals fewer jobs. Unfortunately, the latest figures on our economy suggest that this trend will continue with only the slightest upturn. Productive output has registered only meager advances during this year. Further, and more to the point, the relationship of the investment tax credit and the accelerated depreciation allowance to the creation of new jobs is not very clear.

One current example reinforces my concern in this area. The repeal of the auto excise tax—which I support because the savings will be passed on to the consumer—has not generated any new jobs and information from the auto manufactures indicates that there is no likelyhood that this tax relief will produce any new jobs in the future. Therefore, my colleagues can understand why I am skeptical about the job-producing aspects of this tax cut.

Second, I am concerned, and in this I am supported by many economists, that the current recession is caused by the lack of consumer spending. The reason for this lack of consumer confidence is easily understood. My constituents who are unemployed cannot afford to spend nonexistant wages. Those who are employed are realistically hesitant to spend because they do not feel secure in their jobs. It was for this reason that I supported efforts to increase economic stimulation by putting more money in the pockets of workingmen and women. Last September, before the House even considered the tax bill, I wrote to the Ways and Means Committee urging that a new higher personal tax deduction of $800 be added to the tax bill. Such a proposal would have granted realistic tax relief and increased the availability of money to the consumer. This, in turn, would have increased consumer demand and thereby stimulated production and created new jobs. I was happy when the Senate adopted this constructive proposal and keenly disappointed when the conference rejected it.

However, in spite of these serious reservations, I have decided to support the tax conference report. I believe the modest increase in personal exemption is long overdue, the repeal of the auto excise tax will provide increased savings to the workingmen and women of our Nation and tax relief to our poorer citizens. Yet, I will continue to follow the effectiveness of the investment tax credit and the accelerated depreciation allowance to assure that these expensive tax breaks really provide the new jobs that they were designed to create.

On the issue of the campaign writeoff I support this concept. There has been considerable misunderstanding on this matter. First the writeoff is completely voluntary. The individual taxpayer must elect a party to which he contributes or he can elect not to contribute at all. The choice is his alone to make. Further, I believe that the American political system would be more representative if presidential candidates were not dependent on the campaign funds of wealthy contributors. It is unfortunate, but nontheless a fact, that presidential campaigns cost millions of dollars. I have supported and will continue to support limitations on campaign expenditures but it is patently obvious that the costs of campaigns will continue to require great amounts of money and I believe that this tax writeoff is a constructive step in providing these funds.

Therefore, Mr. Speaker, I will vote for the conference report, but only with serious reservations.

Mr. DRINAN. Mr. Speaker, I wish indeed that I could support the Revenue Act of 1971, H.R. 10947. I find, however, that after a careful inspection of the 1,362 pages of testimony before our Ways and Means Committee and thorough reading of the committee report and conference report on this bill I am persuaded by the Members of Congress on the Ways and Means Committee who dissented from the recommendations of their committee.

I regret that I cannot concur in the recommendations made by the conference committee since I want desperately the restoration of a sound economy, the elimination of unemployment and the stabilization of inflation. I think that all of us agree that the restoration of a sound economy in this country transcends all partisanship because the restoration of a sound economy is an absolute prerequisite to the resolution of all the problems of poverty, crime, delinquency, and racial disorders which now plague us.

If the Members of Congress had been permitted to discuss each of the proposals in the Revenue Act of 1971 and had been able to vote each of them in order, a much more reasoned choice could be made by the Members of this House. By the mechanism of a completely closed rule, however, the members of the Ways and Means Committee along with the members of the Rules Committee have deprived their colleagues of participating in a dialog which surely would have led to a better bill. Now, we are presented with another fait accompli in the form of a conference report.

I would like to talk about the major provisions of the Revenue Act of 1971:

I. INVESTMENT TAX CREDIT AND RAPID DEPRECIATION RULES

It should be noted that President Nixon in his tax reform message to Congress on April 21, 1969, spoke of the investment tax credit, which he now recommends for enactment, in these words:

> This subsidy to business investment no longer has priority over other pressing national needs.

President Nixon in these words was consistent with the February 1970 statement of the President's Council of Economic Advisers which declared:

> The national priorities of the 1970's do not require or justify this special incentive.

The Tax Reform Act of 1969 repealed the investment tax credit presumably because it was bad tax policy and bad economics.

The conference committee report and the President's recent message change the term "investment tax credit" to "job development investment credit." No satisfactory explanation, in my judgment, has been offered to justify this change in name with no change in substance of the allowance given to business.

The fact is that there is scarcely any evidence that more capital equipment is needed by industry at this particular time. Business is currently operating at only 73 percent of capacity. Most companies today have more plants and more equipment than they can use. They do not need tax credits to purchase more capital equipment, but rather consumers to buy the products and consume the services which they are equipped to provide. I doubt that massive purchasing of new machines will create jobs at this time. Indeed, some argue credibly that such a program will result in job attrition through automation.

When President Nixon agreed in 1969 that the investment tax credit was no longer needed to stimulate industrial investment, business at that time was operating at 85 percent of capacity. If, as Mr. Nixon agreed, the investment tax credit was not necessary in April of 1969 under those conditions, it is difficult to see how a case for more capital spending at this time can be made. When the investment tax credit is added to the benefits obtained by business under the asset depreciation range system—ADR—the need for which is challenged by many economists—the result is that business pays lower taxes and obtains a subsidy from the Government for doing those things which it would be doing anyway.

It seems probable that the tax credit and the rapid depreciation made available by the administration without the authorization of Congress will tend to encourage marginal investments of dubious economic value.

An artificial stimulant to capital investment by way of tax credits and rapid depreciation also makes it much more difficult to keep interest rates at a normal level. If businessmen are seeking loans for a new plant and for new equipment in which they have been induced to invest, everyone else who must borrow money for home or auto loans will almost inevitably find himself paying more to obtain loans. Banks, like businesses, should be expected to act in their pecuniary self-interest.

The investment tax credit coupled with the rapid depreciation formula represents an almost fantastic and permanent drain on the Treasury of the United States. It is estimated that this bill, the Revenue Act of 1971, will cost the Treasury $25.8 billion in lost revenue in the period 1971–73, or, according to another computation, $9 billion every year over the next 10 years. At the same time there is little indication that the investment tax credit will in fact result in a significant number of jobs for the more than 5 million men and women who are now unemployed. The Emergency Employment Act of 1971, which provides $2.25 billion over 2 years, is calculated to produce some 130,000 jobs. These public service jobs could be quadrupled for only a fraction of the $9 billion dollars a year which the Revenue Act of 1971 will cost the Treasury. In my judgment greater increases in net employment would result from direct incentives for consumer spending.

It seems to me that any proposed new economic plan must have as its central target the creation of jobs which will not be dead ends but which, as in the Emergency Employment Act of 1971, will be the starting point of new careers for people who are currently unemployed. In that connection, I have joined with Congressman HENRY REUSS and others in sponsoring legislation to create 500,000 additional federally funded public service jobs.

There is little evidence that I have found in the hearings or in the reports that the so-called trickle down theory will result in any significant number of jobs for the unemployed. What the Revenue Act of 1971 does is to reduce the tax base by startling dimensions at the very time when it is clear that we need ever more generous resources from the Government for elementary and secondary education, for health research and medical care, for mass transit and for expanding the budget of the Environmental Protection Agency.

One of my fundamental objections to this bill is that it drastically reduces the amount of revenue that will be available to the Federal Government over the next decade. If there were substantial evidence that this reeducation is necessary to reduce unemployment and to stabilize the inflationary spiral I would be persuaded to vote for this bill. Under those circumstances the bill would offer a resolution to the two most agonizing problems of the economy at this time—massive unemployment which has again risen to 6 percent and uncontrolled inflation. But there is little evidence that these two closely interrelated problems will be resolved by the Revenue Act of 1971. I cannot vote for a bill which drastically erodes the permanent tax base and makes $25.8 billion unavailable over 3 years for spending in such areas as health, education, transportation, pollution control and housing.

II. EQUALIZING THE FINANCING OF SOCIAL SECURITY

Business will improve if consumers have money and are prepared to spend it. The most certain way of producing this consumer demand is to place more income in the hands of the poor or those with a low income, since it is these groups which most certainly will need to spend and will not be able to save. Virtually the only relief that low-income taxpayers receive in this bill is a very small acceleration of the deduction and exemption increases. This alteration in the tax structure can hardly be expected to increase disposable income so that business, now operating at 73 percent of capacity, might return to at least the 85 percent of capacity at which it was operating when Mr. Nixon entered the White House.

One way of increasing money in the hands of moderate income families would be to revamp the social security system. As it now stands social security is paid for by a 10.4-percent tax on all wages and salaries up to a ceiling of $7,800 a year—$9,000 a year beginning January 1, 1972. This tax, which has no ceiling and no floor, is very regressive. It actually penalizes the wage earner with a low or moderate income. This tax, which is in effect a payroll tax, inhibits and therefore tends to depress the economy. If the ceiling were removed from this tax and the floor raised so that no one under the poverty level would have to pay this payroll tax a vast amount of disposable income would be created. If changes in taxes are necessary to stimulate the economy it makes much more sense in my judgment to change the social security tax so that low and moderate income taxpayers have more disposable income rather than having corporations permanently excused from billions of dollars in taxes in the foreseeable future.

III. DOMESTIC INTERNATIONAL SALES CORPORATIONS—DISC

The Members of Congress under the closed rule by which H.R. 10947 originally came to the floor and in the context of the Conference Report are precluded from voting for or against the Domestic International Sales Corporations—DISC—authorized in this bill.

Under the DISC scheme an American corporation would be allowed to establish a subsidiary for the exclusive purpose of exporting. Taxes on the profits of these DISC subsidiaries would be deferred so long as the gains were retained by the subsidiaries for activities related to the business of exporting goods. The purpose of the creation of DISC tax benefits is to stimulate and increase the volume of exports by U.S. firms. It appears, however, that large corporations that are now major exporters may reap the benefits of this new provision without actually expanding their export volume in any significant way.

It may be that the Domestic International Sales Corporations would be a very valuable device to maximize the exportation of goods made in the United States. But the Members of the House of Representatives can hardly be expected to make a sensible judgment on this matter when they are asked to vote on an extremely complex and potentially very costly proposal inserted into a bill already replete with other complex and potentially very expensive proposals.

One of the reasons why I am voting today against the Revenue Act of 1971 is the conviction that, as a trustee of the taxpayers' money, I cannot vote for a proposal like DISC, which might turn out to be a fantastic handout in the millions, or even billions, to those corporations that already account for the vast majority of U.S. exports. The DISC provision in H.R. 10947 is, to be sure, improved over a similar provision which was incorporated in the Trade Act of 1970 which passed the House. In my judgment, however, there are still inadequate safeguards for the taxpayers' money against the claims of this new type of U.S. corporation, to be known as the Domestic International Sales Corporations.

IV. TAX REFORM

This bill is entitled "The Revenue Act of 1971." I regret to say that I find that this act does more to decrease revenue than increase it. We are already confronting a deficit substantially in excess of $27 billion for the present fiscal year. Now this bill proposes to add more than $25 billion to the deficit over the next 3 calendar years from 1971 to 1973.

The burden is on the House Ways and Means Committee to turn up in the immediate future with proposals which will recoup some of the revenue which H.R. 10947 gives away. Despite the Tax Reform Act of 1969, the fact is that the percentage depletion in excess of cost for oil, gas, and other minerals, deprives the Treasury annually of $1.3 billion. The absence of a capital gains tax on property transferred at death results in a revenue loss of $3.1 billion.

In the report of the 1969 Tax Reform Act the Ways and Means Committee said that—

> Estate and gift taxes are an area of the tax law your committee will undertake to study as soon as possible.

The committee went on to say in its report, under date of August 2, 1969, that it had "the expectation of reporting out a bill on this subject in this Congress." I would hope that, in view of the billions lost by the Revenue Act of 1971, the Committee on Ways and Means would fulfill the promise which it made more than 2 years ago and bring forward reform measures relating to the revision of the estate and gift tax laws—areas clearly in need of a substantial measure of reform.

I regret that by opposing this bill I am unable to register my endorsement of those provisions of the bill which increase the permissible deduction for child care expenses of working parents. I believe these provisions are a step in the right direction and they are consistent with the OEO-child care bill which I have supported and which recently passed in the House. However, taken as a whole this bill does not justify a yes vote, notwithstanding such provisions.

Unfortunately this bill does virtually nothing directly or indirectly to improve living conditions in the cities and towns of our Nation which are desperately near bankruptcy. Unfortunately the Revenue Act of 1971 offers little evidence that it can produce jobs for 5 million American citizens, or even one-tenth that number. Unfortunately it contains no likely remedy for inflation. I must therefore vote against it since the bad outweighs the good. The priorities implicit in this bill are out of step wth our real national needs in 1971.

Mr. SEIBERLING. Mr. Speaker, I rise in opposition to the Tax Reform Act—H.R. 10947—as reported by the House-Senate conference committee.

When this bill came before the House in October, I spoke at some length on my reasons for opposing it at that time. In brief, I concluded that the bill fell far short of meeting its avowed purpose of stimulating the economy, and that in providing business with a $14.1 billion tax break and consumers with only a $5.7 billion tax break, the bill was both unfair and inadequate.

I was hopeful that as the bill moved through the legislative process some of the objections which I, and many of my colleagues voiced against it would be met. However, the bill before us today is substantially the same as the one passed by the House on October 6.

In my opinion, passage of this bill will result in such a serious revenue loss, and will so aggravate the already huge Government deficit that it can only be justified if it is clearly going to have the beneficial effects on the economy that is its stated purpose.

Unfortunately, for the reasons I pointed out in my October 5 speech before the House, the stimulation to the economy will be relatively weak compared to the serious loss to Federal revenues, and I cannot justify voting for such irresponsible financing.

Mr. WYMAN. Mr. Speaker, while I support and am prepared to vote in favor of the revenue provisions of this conference report, I cannot vote for the report because it also includes a provision designed to fatten the campaign chests of incumbent Congressmen and Senators. Unfortunately, under the rules, we are not provided an opportunity to vote separately on the outrageous proposal added by the Senate that would permit taxpayers to take a credit against their taxes due the United States of America for political contributions to candidates for election to either State or Federal office, up to $25 in each calendar year starting with 1972. In the alternative, they may deduct political contributions up to $100 in each year.

I never thought I would live to witness a situation where elected public office holders with constitutional authority to take money from people in taxes and impose criminal penalties for willful failure to pay, would deliberately vote to permit taxpayers to pay a portion of their taxes to a political fund for their reelection. This is a scandalous abuse of the taxing power. It is a violation of public trust and confidence. In my opinion it represents a total abdication of the responsibilities of public office and should be so remembered at the polls.

There are also serious constitutional questions inherent in this sort of venture, such as whether each taxpayer has a right that the taxes paid by any other taxpayer must be applied to the costs of Government? In no sense except the most specious, can it be contended that political campaigns are a cost of Government.

The conference report we are about to vote on contains another Senate amendment for a checkoff starting in 1972 of a dollar on each taxpayer's return to the political party of his choice, to be applied to the presidential election in 1976 and thereafter. Not only does this offend those concerned with proper application of taxes, but it presents a blatant opportunity for tax return tampering to any politically inclined examiner of returns, for individual taxpayers may not check a dollar off to a political party, but the examiner easily can do so on their return, and who is to know the difference?

For the foregoing reasons, Mr. Speaker, I feel conscientiously obliged to vote against this conference report. I am constrained to say once again, that I am shocked and amazed that such a proposal should be proposed to this Congress, but even more disturbed that it should be presented in such a way that Members must vote down meaningful tax revision in order to register their protest.

Public money should not be diverted to political campaigns. Initiation of such a precedent is to open a Pandora's box of enormous potential harm to the political structure of this country.

Mr. PICKLE. Mr. Speaker, the House leadership is to be commended for their approach to this difficult tax bill. Today, I hope—and I think we are—taking an important move toward stabilizing our economy.

In general, the approach is sound, although I do have some reservations. Specifically, I wonder if enough safeguards have been written into title 10 dealing with checkoff of an individual's tax dollar for political campaign spending. I cannot help but question whether we have cleared the way for even higher campaign spending in the long run. It will take history to bear me out on this theory—but I can forsee the day when a bill will come forth raising this $1 checkoff to $2—and if we take that step, $5 and $10 are within reach. There is a serious question whether we can or should fund Federal tax money for Federal elections on a partisan basis.

Instead of curbing spending, I wonder if we are not instead encouraging spending in the long run. This bill today is merely an authorization; it is not an actual appropriation. Between now and the 1976 effective date, we have a presidential election campaign year—I think we should use this year to measure this checkoff proposal. Further, I think we should look long and hard at the appropriations when that time comes.

I offer this word of caution: A campaign spending ceiling is only as good as the enforcement of the ceiling. If there is no strong enforcement, the ceiling would be merely acoustical—that is, it would merely sound nice. The only real solution is complete and mandatory full reporting of spending and the abolition of dummy committees.

Regrettably this bill comes to us with no vote possible on this separate issue.

Mr. BADILLO. Mr. Speaker, I voted against the legislation carrying out the administration's tax proposals when it first came before the House. Although I was encouraged by the action of the Senate in scaling down the tax concessions to corporations while expanding the tax relief provisions for individuals and families, the action of the conference committee in emasculating the Senate amendments leaves me no choice but to oppose this conference report.

This bill does little more than perpetuate the administration's distorted fiscal priorities and makes Congress a full partner in the crime. Just this week, we heard threats of a presidential veto aimed at the OEO-child development bill—a measure of vital necessity to millions of American families—on the ground that it was too costly. At the same time, that same administration is seeking to spend $3 billion more in the defense budget, even as the Vietnam war purportedly winds down. Those are typical of this administration's priorities and a tax bill that simply exaggerates the existing inequities in our tax structure should not be allowed to pass.

Finally, it should be realized that at a time when this Nation is yearning for Congress to assert itself and realize its constitutional obligations to set national policy, the action of the conferees in bowing to the President's threat of a veto over the tax-checkoff for presidential campaigns provision was nothing less than cowardice. Is it not enough that we are permitting the executive branch to pervert the intent of Congress by administratively rewriting the laws and refusing to spend appropriated funds? Must we also roll over and play dead just because the President looks us in the eye and threatens a veto?

The tax-checkoff for presidential campaigns was perhaps the most redeeming feature of the Senate version of the tax bill. It represented a major step toward taking the influence of private and corporate wealth out of national politics. It was not, to my mind, a provision in the Democratic or Republican interest, but rather in the national interest and it should have been retained. Including this provision and making it effective not in next year's presidential election but in 1976, is not sufficient reason to support the bill overall.

Mr. Speaker, this legislation does no credit to the Congress. It may represent a short-term political victory for Richard Nixon and it certainly represents a major victory for the giant corporations and their lobbyists, but it is not a measure of which Congress or the American people can be proud.

Mr. UDALL. Mr. Speaker, there is much that I approve in the bill we will undoubtedly pass today. But I feel compelled to vote against the conference report and I think I owe an explanation to my constituents and to my respected and distinguished colleagues from the Committee on Ways and Means who have worked so hard on this difficult legislation.

And I vote as I do despite the fact that I support much—but not all—of President Nixon's New Economic program.

We have all heard about new priorities for our nation. Certainly this bill is perhaps the most important priorities decision of the 92d Congress. And the decision being made is not for new priorities but for huge new consumer expenditures—against more Federal dollars for healing the cities, building mass transit systems, improved medical facilities, fighting crime, drug abuse, pollution, and hodge-podge development of our lands. Passage of the bill is a decision that building schools and hospitals and ending hunger are less important than more cars and crowded highways.

It has been said that this bill, over the next 10 years, will take more than $100 billion from the Treasury. Yet when a new President takes over the White House in 1973 or if Mr. Nixon then begins his second term, the demands will be heavy indeed for money to carry out programs to overcome many of this country's really serious troubles. But those moneys are being voted away.

Granted the economy needs stimulation. But increased public spending will stimulate it just as effectively as taxcuts and would allow us some of the moneys we need to rescue this country. Of course, paying higher taxes—or not cutting taxes—is not very appealing. As I have noted before the bill says to industry: go ahead and produce, whether we really need it or not, and it gives the public some of the money to buy whatever is produced.

I would like to add that the Senate, where there is so often strong talk about bold new priorities, engaged in an orgy of tax cutting on its own. The conferees had the good sense to throw out those cuts.

Cutting back our appetite for material gadgets is not a prospect which stirs the brave impulses that pulled us through times of war or other crises. It is really too bad. If it did we might really put together a sound priorities game plan.

Mr. BINGHAM. Mr. Speaker, the gentleman from Ohio (Mr. VANIK) and the gentleman from Florida (Mr. GIBBONS), both members of the Ways and Means Committee, have stated very eloquently the reasons which impel me to vote against this conference report. I do so reluctantly, because there are some good things in this bill as it now stands and nobody likes to vote against tax cuts, but I believe the overriding national interest calls for a negative vote.

I have also found useful for my thinking a recent letter from the AFL–CIO. The text of the letter follows:

AMERICAN FEDERATION OF LABOR
AND CONGRESS OF INDUSTRIAL
ORGANIZATIONS,
Washington, D.C., Dec. 7, 1971.

Hon. JONATHAN B. BINGHAM,
U.S. House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN BINGHAM: The Conference Committee report on the Administration's tax proposals would, if enacted, undermine the federal tax structure. Fairness to the individual taxpayer demands the defeat of this unconscionable redistribution of wealth to those who already have much.

The miniscule benefits to individual taxpayers provided in this bill are more than wiped out by the unwarranted expansion of tax loopholes for corporate America. Corporate income taxes, as a percentage of total income tax receipts, have been declining in recent years. This raid on the Treasury would add a further 15 to 20 percent tax cut for corporations.

The billions of dollars that will now go into corporate treasuries will be diverted from America's pressing public investment needs in schools, hospitals, medical facilities, housing, mass transit and pollution control.

While the individual taxpayers would be shouldering an increasing percentage of the tax burden, this measure offers meager sops in the form of increased personal exemptions and an increased standard deduction. But the American people deserve more than sops, they deserve true tax reform and tax justice.

The only other redeeming feature of this bill is the elimination of the excise tax on automobiles. But this benefit to taxpayers is not sufficient to gain acceptance of the entire package. The elimination of the auto excise tax—indeed, the elimination of all excise taxes which are only disguised sales taxes—could be easily accomplished in a separate bill after the present measure is defeated.

Tax justice must be the goal of the Congress. Tax folly, such as this measure, must be defeated and individual taxpayers spared the ignominy of further tax cuts for business at their expense.

No one should be deceived by the Madison Avenue gimmickry in the title. It will not develop jobs or revive America's badly depressed economy. All it would do is give public money to private corporations who certainly don't need a government handout.

Therefore, the AFL–CIO strongly urges your vote to reject the Conference Committee report.

Sincerely yours,
ANDREW J. BIEMILLER,
Director, Department of Legislation.

Mr. RANDALL. Mr. Speaker, I shall support the conference report on what is described as the Revenue Act of 1971.

The purpose of this measure is to provide for the development of jobs in this time of rising unemployment by a new investment credit and at the same time to increase consumer purchasing power by the reduction of certain individual income taxes. Equally important as a job development measure is the repeal of the 7-percent excise tax on passenger automobiles.

Time or space will not permit comment on each change. In our judgment some things were not done which should have been done and other things were done which would have been better omitted. Taken overall, the conference report merits the approval of the membership.

We are sorry to see that our conferees forced the Senate to recede on the Senate provision that as to property placed in service in rural areas the investment credit would be 10 percent instead of 7 percent. Everyone recognizes the desperate plight of our farmers at the present time. Moreover, if there is ever to be a turnaround of the migration of thousands upon thousands from the farms to the cities, there must be some type of rural revitalization or redevelopment, to be achieved by such tax credits.

As to child care, only this week we had a lengthy debate over an amendment added to the poverty bill called the comprehensive child development program. As we said when we opposed this far-reaching and very expensive plan for which $2 billion was appropriated for just 1 fiscal year, we were not opposed to reasonable tax credits or deductions for child care expenses to provide for those expenses which taxpayers must incur for child care and household help to enable them to be gainfully employed. This conference report for the Revenue Act of 1971 contains the very thing that many had in mind as the best course, rather than a comprehensive program for all the children of America including medical expenses, nutrition, and education of pre-school children. We believe the best way to approach the problem of child care is to allow deductions for necessary care services for gainfully employed mothers and others. The conference report allows a deduction of up to $400 a month for dependent care expenses in the home. Up to $200 of the $400 may be for the care of one child and up to $300 for the care of two children and the full $400 for the care of three or more children. This kind of child care provision makes sense. It is something we are able to afford in contrast to the $2 billion cost for the first year of the so-called comprehensive child development program attached to the poverty bill.

This year both bodies of Congress have spent a considerable portion of their time on matters debating welfare and social security amendments. One instance is our own H.R. 1. But now in the Revenue Act of 1971 is a provision which gives a tax incentive to private employers to hire individuals who would otherwise be on welfare. This is the WIN program and gives employers an income tax credit for hiring individuals under a work incentive program in an amount equal to 20 percent of the cash wages paid to individuals during 12 months of employment, with the stipulation that the employee must be retained for a period of 24 months or else the credit would be recaptured. Because our House bill did not contain such provision we are indebted to the other body for translating oft-repeated rhetoric into action to get people off the welfare rolls and on payrolls through these tax credits.

In this time of talk rather than action to help our older Americans it is a shame that our managers insisted upon and caused the Senate to recede in the matter of an income tax credit not to exceed $300 for real property taxes paid by individuals 65 or older whose income does not exceed $6,500. While it could be appropriately argued that tax credits for our elderly is a matter that should be handled by the States through homestead exemptions, the facts are the States have not acted and most States give no indication they will act. As chairman of the House committee charged with investigations of problems of the aging, I can report that more and more attention is being given to what is called outreach, meaning home visitation and one hot meal a day to our elderly with low incomes in their own homes, rather than transferring them to the much more expensive and also less desirable or acceptable institutional care.

Mr. Speaker, along with all of the others who represent rural areas, I was most pleased that the conferees accepted the repeal or suspension of excise taxes not only on passenger automobiles but on light-duty trucks, although the exemption as to said light-duty trucks applies only after September 22, 1971 rather than August 15. It should be recalled that in some of the earlier drafts of the House bill, only passenger cars were included. This meant that the pickup trucks used and operated on the farms all over America and the thousands upon thousands of sleepers and campers used by our sportsmen would not have been included in this excise tax repeal. To have left the excise tax on these pickup trucks would have been another blow against our hard-pressed small farmers. Their situation, because of falling farm prices is desperate enough. Yesterday, we passed a farm bill which was designed to increase the income of these small farmers. This added measure to relieve them of the 10 percent excise tax on their small trucks is not only welcome, but sorely needed. I am proud to be one of three members of the Missouri delegation who called the attention of our House Ways and Means Committee to this first omission leaving out these pickup trucks and campers used by our farmers and the sportsmen.

In conversations with several of my colleagues whether to support or oppose the conference report, doubts were raised again and again, whether it is responsible to support a bill which would result in the loss of substantial Federal revenues at a time of increasing Federal deficits.

It is true there are increasing deficits. It is also true that our economy is floundering. Somehow, some way, we must stimulate or quicken the pace of the economy if we can expect any reduction in unemployment.

Mr. Speaker, I decided to support this conference report as a calculated risk. If it produces the desired result and stimulates the economy everything will come up roses. If it does not and things do not improve we will be worse off because after suffering a loss of revenues we are still without the much-needed new jobs. But the question must be raised, would we not all be blamed much more if we do not show the courage to take this risk?

After we support these tax concessions to business and to individuals it means that every one of us must vote against all nonessential Federal expenditures the rest of this year and all of next year and thereafter until such time as a reviewed and healthy economy produces new revenues to offset the losses from this bill.

With the personal resolve and firm determination to oppose all nonessential expenditures hereafter, all that is left to reach a good decision is the willingness to take the risk that this measure will generate, because of increased business activity, more new revenues as the economy quickens then the short-term losses of revenue required to get the economy moving again. It is only after a consideration of the foregoing that an affirmative decision should be reached to support a tax reduction of this kind. I am prepared to take the risk with the hope and prayer that the result is successful. It is better than to do nothing to save our sinking economy.

Mr. RARICK. Mr. Speaker, the many tax breaks contained in the conference report on the Revenue Act of 1971 are indeed tempting, but the tax checkoff to finance national political parties dulls the luster of the Christmas tree.

In governments as in religion, we must occasionally return to basics to decide if we are on or off course.

I am reminded of the warning by President George Washington in his Farewell Address when he cautioned us—his posterity—against the evils of partisan faction and loyalty over our constitutional obligations.

The Constitution does not even mention political party, let alone national parties, nor any delegated power or right of this body to take taxpayers' dollars to subsidize political candidates—deduction from individual taxpayer or not—the dollars still come from the U.S. treasury.

The inevitable result of such a program can be but to give added financial power and control to the national party with tendencies to ever diminish the candidate's basic loyalty to the Constitution.

My people sent me to Congress to perform under my constitutional oath and not to subsidize political parties or candidates with their tax dollars. I must cast my people's vote "no."

Mr. MIZELL. Mr. Speaker, I rise at this time to offer my support for this tax bill, which is so essential to the success of President Nixon's new economic policy.

I would hasten to add, however, that my support for the tax measures the President has requested does not extend to the $1 income tax checkoff system providing for Federal financing of Presidential campaigns.

I am very definitely opposed to this system, and I intend to introduce legislation to repeal that section of the bill as soon as it is signed into law, if we decide to pass it here.

As some of my Republican colleagues in the Senate have already pointed out, this checkoff system represents nothing more and nothing less than a raid on the Federal Treasury by the opposition party which is apparently in desperate need of campaign contributions.

At this time of year we all feel, perhaps, a bit more charitable toward those less fortunate than we are, but even in the generous Christmas season, the American taxpayer should not have to play Santa Claus for the Democratic Party.

On a more serious side, I sincerely believe the provision for political contributions and political identification on income tax returns opens the door for political harassment of the taxpayer.

Such harassment is not a probability, but it is a possibility. It could happen, and that is a real danger.

Anyone who wants to contribute to a political party or a candidate has that freedom now. He does not need a checkoff system to make that contribution, and if the Democrats do not have enough popular support left to get a voluntary contribution, it certainly should not be incumbent on the American taxpayer to bail them out.

It is interesting to me that many of the same people who so vehemently opposed guaranteeing a loan for Lockheed Aircraft not long ago, spoke so eloquently and passionately in favor of the government giving the Democratic party's Presidential contenders—including roughly the entire left-hand side of the U.S. Senate—an outright subsidy.

I want to make clear that I am casting my vote for this measure in spite of this checkoff provision, not because of it. I resent the fact that some in the opposition party have sought to hold the economic recovery of this country as ransom for a $20.4 million reward. I applaud the conferees for delaying this provision until after the 1972 election, and I fully intend to press with vigor and determination to get this notorious checkoff system repealed completely and without delay. If I have my way, this provision will be repealed before the ink in President Nixon's signature beneath this bill is dry.

Mr. FRENZEL. Mr. Speaker, I am pleased that the conference committee has finally produced a tax bill that most of the Members of Congress, the President, and the people of this country can support.

I am dismayed that it has taken us 3

months to pass this bill, but pleased that the House of Representatives, at least, moved it along with dispatch proportional to our economic emergency.

I greatly regret that the other body saw fit to play political games with the bill. Senate treatment not only imperiled passage, but delayed the effect of this needed incentive legislation. The delay in passing the vital legislation has shaken the confidence of the people of this country in our economy and the Congress.

Mr. Speaker, President Nixon has presented us with a fine, and most necessary, piece of legislation. The personal incentives, the capital goods spending incentives, and the auto excise repeal are desperately needed. Fortunately the politically motivated checkoff to replenish the depleted coffers of the Democratic National Committee has been deferred. It should be removed as an affront to democracy.

The conference report comes close enough to the original wishes of the President that I can support it with enthusiasm.

Mr. BYRNES of Wisconsin. Mr. Speaker, I yield 3 minutes to the gentleman from Louisiana (Mr. WAGGONNER).

Mr. WAGGONNER. Mr. Speaker, I rise in support of this conference report.

I would like, for a moment, to ask one brief question which has been raised to me and that is whether or not underground storage tanks for service stations are intended to be included in the investment credit?

Mr. MILLS of Arkansas. Mr. Speaker, if the gentleman will yield, they certainly are.

Mr. WAGGONNER. I thank the chairman for that affirmative response.

Ladies and gentlemen of the House, we have come to the point where if we are going to get a tax package and an economic program in support of the administration's efforts and America's efforts to do something soon as we must about inflation and the economy in this country, we will have to vote for this conference report. Without this economic package there is no conceivable way that we can attack our economic problems as we should except to adopt this conference report. Even this may not be enough.

Now, Mr. Speaker, the conference report which we have before us today is one which most of us supported when it was before the House.

I call to your attention that insofar as dollars are concerned there are only $300 million more involved in revenue loss in the conference report than was the case when the tax package passed the House on October 6. Revenue losses are to be compensated for by reductions in Federal expenditures.

Mr. Speaker, there is only one major provision which has been added, other than the tax checkoff for campaign finances and that is the provision having to do with a tax deduction for day care for working parents. It is a good provision in my opinion.

But, Mr. Speaker, let me speak specifically to the real controversy here today, and that has to do with campaign finances by checkoff.

I have probably helped generate as much opposition to the checkoff system of campaign finances as has any man in this House. In my opinion it is completely wrong and should never be. I say to you today that the compromise which has been made by the conferees, whether we like it or not and I do not, must be subordinated to the major tax and economic provisions of the bill. We have got to support our Nation's needs with regard to this question, and give due and priority consideration to the economic needs of this country and the need for this tax package.

Therefore, I say to you that we must, in spite of our dislike of this checkoff provision, we must support this conference report. We must do so, I repeat, even though you do not like it and because there has been a compromise made, perhaps, not to your liking and certainly not to my liking, but it does represent something in which the Congress will have another voice.

This is an authorization, no more and no less, that requires an appropriation, and Congress must make that appropriation if indeed there ever is an appropriation. You know as well as I do what action is required for this to come about. No trust fund is created. A trust fund can only come into play when Congress votes to appropriate money to that trust fund. I say to you here and now that I will vigorously oppose any such appropriation. In fact, I am going to try to repeal the authorization.

The SPEAKER. The time of the gentleman from Louisiana has expired.

Mr. BYRNES of Wisconsin. Mr. Speaker, I yield the 1 remaining minute on our side to the gentleman from Louisiana (Mr. WAGGONNER).

Mr. DENT. Mr. Speaker, will the gentleman yield?

Mr. WAGGONNER. Yes, I yield to the gentleman from Pennsylvania.

Mr. DENT. Mr. Speaker, I want to say that I am going to support this conference report although it is not to my liking. However, there must be something done to give some relief for the betterment of our production facilities with the tax incentive of 7 percent. However, I do not know how, by what stretch of the imagination, that a 7-percent excise tax forgiveness can be given to foreign manufacturers. On the Japanese automobiles coming into this country there was a 3.5-percent tariff. Yet, when we are through, the 7-percent excise forgiveness on Japanese cars coming into America the tariff will be 3 percent further adversely affecting our own automobile industry. Sooner or later we will learn that the only ingredient in a prosperous economy is a job—at home here in the U.S.A.

Mr. WAGGONNER. I thank the gentleman for his comments.

Mr. CORMAN. Mr. Speaker, will the gentleman yield?

Mr. WAGGONNER. I yield to the gentleman from California.

Mr. CORMAN. I thank the gentleman for yielding, and although I do not share his view on the dollar checkoff, I certainly do agree with his view in support of this tax bill. In my opinion it is the only hope of getting industry moving again and getting men back to work.

Mr. WAGGONNER. Ladies and gentlemen of the House, the overriding consideration is the economic condition of this country. The best and only help we can get for the foreseeable future for our economy comes from the adoption of this bill, and we should support this package in spite of some logcal and legitimate objections on the part of some Members of this body, objections which I share. This is not an ideal choice, in the instance of checkoffs it may not even be desirable, but to say the least it is the best of poor alternatives.

Mr. MILLS of Arkansas. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER. The question is on the conference report.

Mr. MILLS of Arkansas. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 321, nays 75, not voting 35, as follows:

[Roll No. 450]

YEAS—321

Abbitt
Abernethy
Adams
Addabbo
Alexander
Anderson, Calif.
Anderson, Ill.
Anderson, Tenn.
Andrews, N. Dak.
Archer
Arends
Ashley
Aspinall
Baker
Baring
Barrett
Bell
Bennett
Bergland
Betts
Bevill
Biaggi
Biester
Boggs
Boland
Bow
Brasco
Bray
Brinkley
Brooks
Broomfield
Brotzman
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Byrne, Pa.
Byrnes, Wis.
Byron
Cabell
Caffery
Camp
Carey, N.Y.
Carter
Cederberg
Celler
Chamberlain
Chappell
Clancy
Clark
Clausen, Don H.
Clawson, Del
Cleveland
Collier
Collins, Tex.
Colmer
Conable
Conte
Corman
Cotter
Coughlin
Curlin
Daniel, Va.
Daniels, N.J.
Danielson
Davis, Ga.
Davis, S.C.
Davis, Wis.
de la Garza
Delaney
Dellenback
Dennis
Dent
Devine
Dickinson
Dingell
Donohue
Dorn
Downing
Dulski
Duncan
du Pont
Dwyer
Edmondson
Edwards, Ala.
Eilberg
Esch
Eshleman
Fascell
Fish
Fisher
Flood
Flowers
Flynt
Foley
Ford, Gerald R.
Forsythe
Fountain
Frelinghuysen
Frenzel
Frey
Fulton, Tenn.
Fuqua
Galifianakis
Gallagher
Garmatz
Gaydos
Gettys
Giaimo
Goldwater
Goodling
Gray
Green, Oreg.
Griffin
Griffiths
Grover
Gubser
Gude
Hagan
Halpern
Hamilton
Hammerschmidt
Hanley
Hanna
Hansen, Idaho
Hansen, Wash.
Harrington
Harsha
Harvey
Hastings
Hathaway
Hays
Hébert
Heckler, Mass.
Heinz
Henderson
Hicks, Mass.
Hillis
Hogan
Holifield
Horton
Hosmer
Hull
Hunt
Hutchinson
Ichord
Jarman
Johnson, Calif.
Johnson, Pa.
Jonas
Jones, Ala.
Jones, N.C.
Jones, Tenn.
Karth
Kazen
Keating
Kee
Keith
Kemp
King
Koch
Kuykendall
Kyl
Kyros
Landgrebe
Landrum
Latta
Leggett
Lennon
Lent
Link
Lloyd
Long, La.
McClory
McCloskey
McClure
McCollister
McCulloch
McDade
McDonald, Mich.
McEwen
McFall
McKay
McKevitt
McKinney
McMillan
Macdonald, Mass.
Mailliard
Mann
Martin
Mathias, Calif.
Mathis, Ga.

Matsunaga
Mayne
Mazzoli
Meeds
Melcher
Michel
Miller, Calif.
Miller, Ohio
Mills, Ark.
Minish
Minshall
Mizell
Mollohan
Monagan
Moorhead
Morgan
Morse
Mosher
Murphy, Ill.
Myers
Natcher
Nelsen
Nichols
O'Konski
O'Neill
Patten
Pelly
Perkins
Pettis
Peyser
Pickle
Pirnie
Poage
Podell
Poff
Powell
Preyer, N.C.
Price, Ill.
Price, Tex.
Pryor, Ark.
Pucinski
Purcell
Quie
Quillen
Railsback
Randall
Reid, N.Y.
Rhodes
Riegle
Roberts
Robinson, Va.
Robison, N.Y.
Rodino
Roe
Rogers
Rooney, N.Y.
Rooney, Pa.
Roush
Rousselot
Roy
Runnels
Ruppe
Ruth
Sandman
Satterfield
Saylor
Scherle
Schneebeli
Schwengel
Scott
Sebelius
Shipley
Shoup
Shriver
Sikes
Sisk
Skubitz
Slack
Smith, Calif.
Smith, Iowa
Smith, N.Y.
Snyder
Staggers
Stanton, J. William
Steele
Steiger, Ariz.
Steiger, Wis.
Stephens
Stratton
Stubblefield
Stuckey
Symington
Talcott
Taylor
Teague, Calif.
Teague, Tex.
Terry
Thompson, Ga.
Thomson, Wis.
Thone
Ullman
Van Deerlin
Vander Jagt
Vigorito
Waggonner
Ware
Whalen
Whalley
White
Whitten
Widnall
Wiggins
Williams
Wilson, Charles H.
Winn
Wolff
Wyatt
Wydler
Wylie
Yatron
Young, Fla.
Zablocki
Zion
Zwach

NAYS—75

Abourezk
Abzug
Ashbrook
Aspin
Badillo
Begich
Bingham
Bolling
Brademas
Burton
Carney
Chisholm
Clay
Conyers
Culver
Dellums
Denholm
Dow
Drinan
Eckhardt
Edwards, Calif.
Evans, Colo.
Findley
Ford, William D.
Fraser
Gibbons
Gonzalez
Grasso
Green, Pa.
Gross
Haley
Hall
Hawkins
Hechler, W. Va.
Helstoski
Hicks, Wash.
Howard
Hungate
Jacobs
Kastenmeier
Long, Md.
Madden
Mahon
Mink
Mitchell
Moss
Nedzi
Nix
Obey
O'Hara
Passman
Patman
Pike
Rangel
Rarick
Rees
Reuss
Rosenthal
Roybal
Ryan
St Germain
Scheuer
Schmitz
Seiberling
Stanton, James V.
Stokes
Thompson, N.J.
Udall
Vanik
Veysey
Wampler
Whitehurst
Wyman
Yates
Young, Tex.

NOT VOTING—35

Andrews, Ala.
Annunzio
Belcher
Blackburn
Blanton
Blatnik
Casey, Tex.
Collins, Ill.
Crane
Derwinski
Diggs
Dowdy
Edwards, La.
Erlenborn
Evins, Tenn.
Kluczynski
Lujan
McCormack
Metcalfe
Mikva
Mills, Md.
Montgomery
Murphy, N.Y.
Pepper
Roncalio
Rostenkowski
Sarbanes
Spence
Springer
Steed
Sullivan
Tiernan
Waldie
Wilson, Bob
Wright

So the conference report was agreed to.

The Clerk announced the following pairs:

Mr. Annunzio with Mr. Springer.

Mr. Rostenkowski with Mr. Erlenborn.

Mr. Blatnik with Mr. Belcher.

Mr. Andrews of Alabama with Mr. Blackburn.

Mr. Kluczynski with Mr. Crane.

Mr. Casey of Texas with Mr. Derwinski.

Mr. Tiernan with Mr. Lujan.

Mr. Mikva with Mr. Metcalfe.

Mr. Montgomery with Mr. Mills of Maryland.

Mr. Evins of Tennessee with Mr. Spence.

Mr. Roncalio with Mr. Diggs.

Mr. Waldie with Mr. Bob Wilson.

Mr. Steed with Mr. Pepper.

Mr. Wright with Mr. McCormack.

Mr. Blanton with Mr. Dowdy.

Mr. Collins of Illinois with Mr. Sarbanes.

Mr. DENHOLM changed his vote from "yea" to "nay."

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. PEPPER. Mr. Speaker, I missed the vote on rollcall No. 450 on account of attending a hearing in the House Committee on Crime.

If present, I would have voted "yea."

APPOINTMENT OF CONFEREES ON H.R. 6065, TO AMEND SECTION 903 OF THE SOCIAL SECURITY ACT

Mr. MILLS of Arkansas. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 6065) to amend section 903(c)(2) of the Social Security Act, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas? The Chair hears none, and appoints the following conferees: Messrs. MILLS of Arkansas, ULLMAN, BURKE of Massachusetts, BYRNES of Wisconsin, and BETTS.

APPOINTMENT OF CONFEREES ON H.R. 10604, TO AMEND TITLE II OF THE SOCIAL SECURITY ACT

Mr. MILLS of Arkansas. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 10604) to amend title II of the Social Security Act to permit the payment of the lump-sum death payment to pay the burial and memorial services expenses and unrelated expenses for an insured individual whose body is unavailable for burial, with Senate amendments thereto, disagree to the Senate amendments, and request a conference with the Senate thereon.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas? The Chair hears none, and appoints the following conferees: Messrs. MILLS of Arkansas, ULLMAN, BURKE of Massachusetts, BYRNES of Wisconsin, and BETTS.

RICHARD C. WALKER—ADDITIONAL JUDICIAL DISTRICT, LOUISIANA

Mr. CELLER. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 3749) for the relief of Richard C. Walker, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 2, after line 17, insert:

SEC. 3. (a) Section 98 of title 28 of the United States Code is amended to read as follows:

"§ 98. Louisiana

"Louisiana is divided into three judicial districts to be known as the Eastern, Middle, and Western Districts of Louisiana.

"Eastern District

"(a) The Eastern District comprises the parishes of Assumption, Jefferson, Lafourche, Orleans, Plaquemines, Saint Bernard, Saint Charles, Saint James, Saint John the Baptist, Saint Tammany, Tangipahoa, Terrebonne, and Washington.

"Court for the Eastern District shall be held at New Orleans.

"Middle District

"(b) The Middle District comprises the parishes of Ascension, East Baton Rouge, East Feliciana, Iberville, Livingston, Point Coupee, Saint Helena, West Baton Rouge, and West Feliciana.

"Court of the Middle District shall be held at Baton Rouge.

"Western District

"(c) The Western District comprises six divisions.

"(1) The Opelousas Division comprises the parishes of Evangeline and Saint Landry.

"Court for the Opelousas Division shall be held at Opelousas.

"(2) The Alexandria Division comprises the parishes of Avoyelles, Catahoula, Grant, La Salle, Rapides, and Winn.

"Court for the Alexandria Division shall be held at Alexandria.

"(3) The Shreveport Division comprises the parishes of Bienville, Bossier, Caddo, Claiborne, De Soto, Natchitoches, Red River, Sabine, and Webster.

"Court for the Shreveport Division shall be held at Shreveport.

"(4) The Monroe Division comprises the parishes of Caldwell, Concordia, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, and West Carroll.

"Court for the Monroe Division shall be held at Monroe.

"(5) The Lake Charles Division comprises the parishes of Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis, and Vernon.

"Court for the Lake Charles Division shall be held at Lake Charles.

"(6) The Lafayette Division comprises the parishes of Acadia, Iberia, Lafayette, Saint Martin, Saint Mary, and Vermilion.

"Court for the Lafayette Division shall be held at Lafayette."

(b) The district judge for the Eastern District of Louisiana holding office on the day immediately prior to the effective date of this section, and whose official station on such date is Baton Rouge, shall, on and after such date, be the district judge for the Middle District of Louisiana. All other district judges for the Eastern District of Louisiana holding office on the day immediately prior to the effective date of this section shall be district judges for the Eastern District of Louisiana as constituted by this section.

(c) (1) Nothing in this section shall in any manner affect the tenure of office of the United States attorney and the United States marshal for the Eastern District of Louisiana who are in office on the effective date of this section, and who shall be during the remainder of their present terms of office the United States attorney and marshal for the Eastern District of Louisiana as constituted by this section.

(2) The President shall appoint, by and with the advice and consent of the Senate, a United States attorney and marshal for the Middle District of Louisiana.

(d) The table contained in section 133 of title 28 of the United States Code is amended to read as follows with respect to the State of Louisiana:

"Districts Judges

* * * * *

"Louisiana:
"Eastern ---------------------------- 9
"Middle ----------------------------- 1
"Western ---------------------------- 4".

(e) Section 134(c) of title 28 of the United States Code is amended by deleting the first sentence.

(f) The provisions of this section shall become effective one hundred and twenty days after the date of enactment of this Act.

Amend the title so as to read: "An Act for the relief of Richard C. Walker and to create an additional judicial district in the State of Louisiana."

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

(Mr. CELLER asked and was given permission to extend his remarks at this point in the RECORD).

Mr. CELLER. Mr. Speaker, the Senate amendment to the text of H.R. 3749 provides for the creation of a new judicial district in the State of Louisiana by dividing the present eastern district of Louisiana into two districts, the eastern and middle districts. Identical provisions creating a new judicial district in the State of Louisiana have been favorably reported to the House by the Committee on the Judiciary in another measure—H.R. 11394; House Report No. 92–677. The Senate amendment does not create any new judgeship.

The Senate amendment to the title of the bill conforms the title to the bill, as amended.

With respect to the creation of a new judicial district in the State of Louisiana, the following excerpt from the Judiciary Committee report (H. Rept. No. 92–677) is relevant:

> At present, the eastern district of Louisiana consists of two divisions, one of which sits in New Orleans and the other in Baton Rouge, the State capital. The bill would convert the Baton Rouge division into a new district to be known as the middle district of Louisiana.
>
> In recent years the eastern district of Louisiana has had one of the most persistent civil backlog problems in the United States. At the end of fiscal year 1970, there were 4,385 civil cases pending on the docket, an increase of 4.2 percent over the prior year. The civil business of the eastern district is exceeded in only three other Federal districts, the District of Columbia, the southern district of New York, and the eastern district of Pennsylvania.
>
> The major portion of the workload in the district is in the New Orleans division, where, through the efforts of the judges and personnel of the eastern district, the Federal Judicial Center, and the Administrative Office of the U.S. Courts, better calendar control and new procedures in the clerk's office have been accomplished recently. These joint efforts have been directed almost entirely at the New Orleans division. Indeed, the problems and caseload demands of the Baton Rouge division are very different from those confronting the New Orleans division.
>
> A major part of the civil caseload of the Baton Rouge division consists of maritime and seaman's cases attributable to the port of Baton Rouge, ranked seventh in the Nation in total annual tonnage handled. Since the State penitentiary at Angola, La., is located in the Baton Rouge division, a majority of the habeas corpus petitions for the entire State of Louisiana are brought in this division.
>
> The total number of civil cases filed in the Baton Rouge division in fiscal year 1970 exceeded the civil filings in 24 districts in the United States. In fiscal 1969, the civil filings in this division exceeded those in 28 other districts. Thus, the size of the Baton Rouge division's civil caseload is certainly sufficient to justify the creation of a separate district.
>
> In fiscal year 1970, 57 civil cases involving the United States of America and 58 criminal cases were filed in the Baton Rouge division. In fiscal year 1971, 58 civil cases involving the United States and 72 criminal cases were filed. Hearings or trials in these cases require the presence of the U.S. attorney or one of his assistants. There is no assistant U.S. attorney assigned to the Baton Rouge division, and for each civil or criminal case appearance the U.S. attorney or an assistant must travel from New Orleans, a distance of nearly 80 miles. The division could be much more efficiently operated if it were a district unto itself. Furthermore, since the Federal court building has recently been extensively renovated, no new physical facilities are anticipated if this bill becomes law.
>
> The bill has the support of the Judicial Council of the Fifth Circuit, the judges of the eastern district, and the Louisiana State Bar Association. Support has also been expressed by the U.S. attorney, the chief probation officer, and the U.S. marshal for the eastern district. More significantly, despite a general policy in opposition to the creation of new districts, the Judicial Conference of the United States has expressed its approval. The Department of Justice has deferred to the recommendations of the Judicial Conference of the United States and the Judicial Council of the Fifth Circuit.

(Mr. BOGGS asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. BOGGS. Mr. Speaker, I rise in support of H.R. 3749, as amended by the other body.

This bill would establish, for reasons of judicial efficiency, a third judicial district in Louisiana, to be known as the middle district of Louisiana.

I wish to emphasize that this bill would not create new judgeships in Louisiana. Its sole purpose is to create a third judicial district from portions of the present, eastern and western districts of Louisiana. A new middle district of Louisiana will enable the U.S. district court in Baton Rouge to better administer justice in the large and growing central Louisiana area.

This area is presently served either by the eastern district, headquartered more than 200 miles away in New Orleans, or the western district, equally distant, in Shreveport.

This bill is supported by the Louisiana delegation and by everyone from the local chambers of commerce to the judges of the district courts, the Fifth Circuit Court of Appeals, and the Judicial Conference of the United States.

I urge my colleagues to join me in supporting passage of this legislation to improve the administrative efficiency of the U.S. district courts in Louisiana.

The Senate amendments were concurred in.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF CONFERENCE REPORTS THE SAME DAY REPORTED DURING REMAINDER OF FIRST SESSION, 92D CONGRESS

Mr. COLMER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 729 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 729

Resolved, That during the remainder of the first session of the Ninety-second Congress it shall be in order to consider conference reports the same day reported, notwithstanding the provisions of clause 2, rule XXVIII.

Mr. COLMER. Mr. Speaker, I yield the usual 30 minutes to the distinguished and able gentleman from Illinois (Mr. ANDERSON), pending which I yield myself such time as I may consume.

Mr. Speaker, I assure the Speaker and the Members of the House that I do not intend to use anything like the time that is permitted under the rule.

Mr. Speaker, this is a very simple resolution.

Under the rules of the House conference reports on bills must lay over, for a period of 3 days and be printed in the RECORD.

Now, under the standing rules of the House, for the last 6 days of the session, the House can take such action.

Mr. Speaker, since we are in the drive for adjournment and since no one can predict accurately when the 6 days begins, this is a simple resolution to expedite the consideration of the conference reports. Otherwise we would be forced to await the joint adoption of a sine die resolution before this waiver could become effective.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. COLMER. I yield to the gentleman from Iowa.

Mr. GROSS. Mr. Speaker, the gentleman never spoke truer words in his life than when he said this is a simple resolution but, believe me, it covers the waterfront.

Apparently the Rules of the House are to be scrapped for the sake of expediency. The gentleman well knows, and he has already stated it, that the House has a process at hand for the immediate consideration of legislation and that is to fix an adjournment date. But apparently no one wants to fix the sine die adjournment date, and so there is this resort to expedients of this kind. This resolution will abrogate for the remainder of this session the rule that requires that certain legislation be filed in the House for 3 days before consideration, and if I remember correctly it was only last year that we adopted this 3-day rule. Now it is proposed to throw it right out the window.

Mr. COLMER. If the gentleman will permit, he is absolutely correct. This rule was not provided until last year in the Reorganization Act. I think it is a wise rule. But I repeat, and I am sure that the gentleman from Iowa is just as anxious as the rest of us are to expedite this adjournment of the Congress—which I think is the best thing that could happen to this country; because if we adjourn then we will not be enacting a lot of hasty and unwise legislation around here.

So I am sure that on reflection the gentleman from Iowa would agree that this is not only expedient, but it is wise, if we are going to reach that goal of adjournment.

Mr. GROSS. If the gentleman will yield for another 30 seconds or so——

Mr. COLMER. I will be happy to yield further to the gentleman from Iowa.

Mr. GROSS. I think it is a most unholy proceeding. Was this resolution supported unanimously in the Committee on Rules?

Mr. COLMER. It was.

Mr. SISK. Mr. Speaker, would the gentleman yield?

Mr. COLMER. I will be happy to yield to my friend, the gentleman from California (Mr. Sisk), the chairman of the Subcommittee on Reorganization, responsible for the basic rule.

Mr. SISK. Mr. Speaker, let me say to my good friend, the gentleman from Iowa, that I think what we did in the reorganization bill last year was a good thing—to require a 3-day rule of laying over of conference reports so that Members might know what was in those conference reports.

I am strongly—and I want to make it clear—and vigorously and continuously in support of that kind of a procedure. However, as my good friend, the gentleman from Iowa, I am sure, knows, and I agree with him, we need to adjourn this Congress. I agree completely with my friend, the gentleman from Mississippi (Mr. Colmer) that I think the sooner we get out of here the sooner we are going to cease to pass what may be, I am afraid, bad legislation.

In essence, what we did yesterday in the Committee on Rules in supporting this is in a sense, in my opinion, actually a 6-day adjournment resolution.

Apparently there seems to be a problem about arriving at a date certain to adjourn. I wish that that did not exist, and that we might pass such a 6-day resolution to adjourn, so that these things could occur, but that is the basis upon which I am supporting it, in an effort to get the Congress adjourned, I would hope, within the next 5, 6, or 7 days.

Mr. GROSS. Mr. Speaker, would my friend, the gentleman from Mississippi, yield further so that I might respond very briefly to the gentleman from California?

Mr. COLMER. I am happy to yield to the gentleman from Iowa.

Mr. GROSS. If the 3-day rule was good at the start of this session, and during the intermediate stages of this session, what is wrong with it now?

Mr. SISK. Mr. Speaker, would the gentleman from Mississippi yield to me again for a response?

Mr. COLMER. I yield further to the gentleman from California, for a response.

Mr. SISK. Of course, as my good friend knows, under the existing rules of the House, if we pass a resolution of adjournment on a day certain, then on the last 6 days of the session automatically this would be permitted. In other words, the 3 days are not required in the closing 6 days of the session. That is already a part of the rules.

My colleague agrees with that—is that not correct? That was not repealed or changed by the Reorganization Act.

Mr. GROSS. You could resort to suspension of the rules for 6 days preceding sine die adjournment. But the reason that rule is not available is because the leadership in Congress will not fix the date for sine die adjournment 6 days in advance.

If it is so good to get this Congress out of session, why do you not fix the sine die adjournment date right now?

Mr. SISK. That is not a matter within the hands of this particular Member, I am sure, any more than it is with my good friend, the gentleman from Iowa.

In essence what we are saying is that here I am acting on the basis that we are within, let us say, a week of adjourning this Congress. For all practical purposes in order to expedite the adjournment, we actually are adopting a rule which will permit that. I would hope, I may say, that this Congress will adjourn within the next 5, 6, or 7 days.

Mr. COLMER. Mr. Speaker, in further reference to the statement of my friend, the gentleman from Iowa, of course, no one in this House is more familiar with the rules of this House or the procedure of the Congress. Now the gentleman is certainly aware of the fact that we cannot unilaterally pass an adjournment resolution—the other body has to concur in that. Therefore, all we are doing here is trying to expedite adjournment and we are not trying to put anything over on my friend, the gentleman from Iowa, or anyone else.

I can assure the gentleman, while I am not authorized to speak for the House leadership, but I can assure him that in my judgment the leadership is most anxious to adjourn this Congress sine die. This resolution is one of the things they are trying to do in order to accomplish that objective.

Mr. HALL. Mr. Speaker, will the gentleman yield?

Mr. COLMER. I yield to the gentleman from Missouri.

Mr. HALL. Mr. Speaker, I appreciate the distinguished chairman of the Committee on Rules yielding to me.

Mr. Speaker, it is indeed disheartening and even difficult to believe, that the Committee on Rules would spring a resolution like this, which denies due process, after having been the savior of the Reorganization of the Congress Act in 1970. Had it not been for the Committee on Rules, as we who served on the Joint Commission on the Reorganization of the Congress in 1965 through 1970 well know, that reorganization, whatever it may eventually come to mean, would have gone down the drain. In fact, it was revived in the 91st Congress after having died on the Speaker's desk in the 90th Congress as a result of the good work of the Subcommittee of the Committee on Rules.

Now this was simply in the interest of due process so that Members would have an opportunity to see, to study, and to do their homework on conference reports or those of committees. The other remedies have not been mentioned and I will not belabor that, but I will take exception to my friend's statement, the gentleman from Mississippi, that we need this as a technique for adjournment; or that we must depend on the other body in order to adjourn sine die.

There is history and precedents replete in the annals of the House where we have passed a 3-day resolution on the completion of our work and passed the responsibility off of our shoulders on to the other body and gone to our districts and homes for the celebration of the season of the advent.

Our leadership knows that if we had the intestinal fortitude to set the sine die adjournment on a day certain, we will start toward adjournment over a 3- to 6-day period and do only what is necessary thereafter in the recognized legislative manner. On the completion of our work we would long since have been under the rule of suspension and we would not now be denying due process. I for one refuse to let that fraternity known as the other body call the tune.

Mr. Speaker, I say it is a travesty and unconscionable. This resolution like other tricks of technique by which we have obviated the reorganization rule should be voted down out of hand.

Mr. COLMER. If the gentleman will give me an opportunity to do so, I would like to advise my friend from Missouri, a man for whom I have the greatest admiration and one whom I consider one of my leaders around here, that I follow him a great deal. He is a dedicated legislator, and although I have gotten personal, I do not want to get personal in the opposite way. But if I recall correctly, only yesterday I heard my distinguished leader (Mr. Hall) on the floor of this House arguing for adjournment and hasty adjournment. I know he is in the same position that I and most of the Members of this House are in. We want to expedite the business and get the Members out of here.

The gentleman has used some pretty strong language. Ordinarily he is a little more temperate than he has been on this occasion. The gentleman, of course, has the privilege of voting against this resolution. But I want to say that I am amazed that my friend should be raising questions about the resolution since it would bring us closer to the objective that we all seek. There is nothing underhanded about this matter.

Let me say further, while I have the floor, in my own position I think the gentleman knows that I have done everything that I possibly could to expedite the business of the House. We have practically placed a padlock on the doors of the Rules Committee Room in order to expedite adjournment, which I still contend would be in the best interests of this country, preventing the passage of hastily conceived legislation, in my opinion. I know I am not going to make any friends by this remark, but yesterday we had a good illustration of hastily enacted legislation which I do not think is for the best interests of the country.

The doors of that committee are going to be open only in extreme matters of emergency, and that of a procedural nature. We have tried to hold the line. We have held the line with very few exceptions.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. COLMER. I yield to the gentleman from Iowa, and when I have time available on any occasion I am glad to yield to the gentleman further.

Mr. GROSS. The gentleman from Mississippi referred to my friend from Missouri as having used rather pointed language a few minutes ago. Let me say to the gentleman from Mississippi that he plays no favorites in that department. He sometimes uses pointed language when talking to me.

Mr. COLMER. Privately.

Mr. GROSS. And sometimes semipublicly, and even publicly. So I hope the gentleman takes no umbrage from what has been said here this afternoon.

Mr. COLMER. Let me thank my friend for his further contribution here. If I have offended either of my leaders, the gentleman from Iowa or the gentleman from Missouri, I want to publicly apologize.

Mr. ANDERSON of Illinois. Mr. Speaker, for reasons already adequately explained by the chairman of the Rules Committee, I merely concur with him and urge the House to adopt House Resolution 729.

Mr. COLMER. Mr. Speaker, I yield 2 minutes to the gentlewoman from Michigan (Mrs. Griffiths) and ask unanimous consent that she may speak out of order.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

REPORT ON HOUSE BEAUTY SHOP

Mrs. GRIFFITHS. Mr. Speaker, I would like to make a very happy announcement. The House Beauty Parlor is running in just great shape. This year we have paid for medical examinations for all these girls. The doctor's office has examined the shop itself. We guarantee that it is clean and well run and efficiently managed.

Now for the really happy news. This beauty shop has returned to the Treasury of the United States this year, in lieu of rent, $9,400.

Mr. COLMER. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana (Mr. Madden) and ask unanimous consent that he may speak out of order.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

IMPORTANT VICTORY FOR FAMILY FARMS

Mr. MADDEN. Mr. Speaker, last night at midnight after 6 hours of teller votes, numerous amendments, strong White House opposition and the use of every tactic in the book by the Republican leaders to defeat a farm bill, the House passed the bill with almost exclusive Democratic votes.

This was a bill to help the family farmers of America. They are in a desperate situation and the smaller farmers are unable to tide themselves over for another year without some help. Without help, hundreds of thousands of them will move into cities. It is far cheaper and better to give them a chance to survive in their rural homes instead of moving into the cities at a time when we have too much congestion and unemployment.

The Republican leaders fought this bill every step of the way. It took 3 days to complete hearings before the Rules Committee. The Farm Bureau bombarded the Congress with telegrams against the bill. The Farmers Union, NFO, National Grange, and some other farm organizations helped, as well as the AFL–CIO, but the opposition was diehard and the White House pulled out every stopper in trying to defeat the bill.

How can a bill pass over all of these obstacles? The answer is that some midwestern Democrats who are interested in rural problems simply had enough ability and experience to get the job done. In the last election, nine out of 10 seats that were won from Republicans came from the farm belt. The rest of the country notices this and, to those of us in the cities, this means that the farmers are expressing the need for change. Back in 1965 and following the 1964 election when a new group of Democrats came to Congress, we passed a meaningful farm bill but in 1966 most of those congressional Democrats were defeated and farmers apparently did not express alarm again until this last election. In the meantime, legislation went from bad to worse and the farm situation with it. My congressional district is the Calumet industrial area in northwest Indiana.

I am not from a farm area but it gave me great heart to see these farm State representatives at work and getting the cooperation from some of us in the cities whose problems they have tried to appreciate and understand when we needed their help. The author of the bill was Congressman Neal Smith of Iowa, who, with his several years of seniority, has gained a personal and working relationship with his urban colleagues. Members elected in the last Congress who helped to rally the votes included Bob Bergland, of Minnesota; Arthur Link, of North Dakota; Les Aspin, of Wisconsin; James Abourezk, of South Dakota; Frank Denholm, of South Dakota; Gunn McKay, of Utah; William Roy, of Kansas; and Mike McCormack, of Washington.

Others who have been here longer but played important roles included Wayne Hays, of Ohio; John Culver, of Iowa; William Hungate, of Missouri; Dave Obey, of Wisconsin; Ed Jones of Tennessee; Bill Burlison of Missouri; Lee Hamilton, of Indiana; John Melcher, of Montana; J. Edward Roush, of Indiana, and Thomas Foley, of Washington.

The chairman of the subcommittee handling the bill was Graham Purcell, of Texas, and they reported a bill that would be good for the family farmers of America supported by these respected voices from the Midwest.

The White House steamroller, the Farm Bureau bombardment and Republican leaders maneuvers were overridden. It may have taken until midnight to get the job done but it was a great victory for this group of Democratic Congressmen and shows what an area can do if they have the right kind of representation.

If the Senate will enact the House Farm legislation, without major amendments and President Nixon signs, the American Family Farm can enjoy prosperity in the not too distant future.

Mr. COLMER. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. Miller).

(Mr. MILLER of California asked and was given permission to speak out of order.)

PICTURE OF DR. GODDARD FOR THE COMMITTEE ROOM

Mr. MILLER of California. Mr. Speaker, I would just like to announce to the House that last night the National Space Club presented a very fine picture of Dr. Robert Goddard, the father of rocketry, that now hangs in the Science and Astronautic committee room. I expressed the desire to get such a picture for our hearing room to the National Space Club. The club acting on my desire had this picture made. It is a fine picture of Dr. Goddard and a credit to the man who is the founder of rocketry in this country and one of its greatest scientists.

I thank the Club for this fine and appropriate gift.

Mr. ANDERSON of Illinois. Mr. Speaker, I have no further requests for time.

Mr. COLMER. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER. The question is on the resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. GROSS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 342, nays 48, not voting 41, as follows:

[Roll No. 451]

YEAS—342

Abbitt
Abernethy
Abourezk
Adams
Addabbo
Anderson, Calif.
Anderson, Ill.
Andrews, N. Dak.
Arends
Ashbrook
Ashley
Aspin
Aspinall
Badillo
Baker
Baring
Barrett
Begich
Bell
Bennett
Bergland
Betts
Bevill
Biaggi
Boggs
Boland
Bolling
Bow
Brademas
Brasco
Bray
Brinkley
Brooks
Broomfield
Brotzman
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton
Byrne, Pa.
Byrnes, Wis.
Byron
Cabell
Caffery
Camp
Carey, N.Y.
Carney
Carter
Cederberg
Celler
Chappell
Chisholm
Clancy
Clark
Clausen, Don H.
Clawson, Del
Cleveland
Collier
Collins, Tex.
Colmer
Conable
Conte
Corman
Cotter
Culver
Curlin
Daniel, Va.
Daniels, N.J.
Danielson
Davis, Ga.
Davis, S.C.
Davis, Wis.
de la Garza
Delaney
Dellenback
Dellums
Denholm
Dent
Devine
Dickinson
Dingell
Donohue
Dorn
Dow
Downing
Drinan
Dulski
Duncan
Dwyer
Eckhardt
Edmondson
Eilberg
Esch
Eshleman
Evans, Colo.
Fascell
Findley
Fish
Fisher
Flood
Flowers
Flynt
Foley
Ford, Gerald R.
Ford, William D.

Forsythe
Fountain
Frelinghuysen
Frey
Fulton, Tenn.
Fuqua
Galifianakis
Gallagher
Garmatz
Gaydos
Gettys
Giaimo
Goodling
Grasso
Green, Oreg.
Green, Pa.
Griffin
Griffiths
Grover
Gubser
Gude
Hagan
Haley
Halpern
Hamilton
Hanley
Hanna
Hansen, Idaho
Harrington
Harsha
Harvey
Hastings
Hathaway
Hawkins
Hays
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Henderson
Hicks, Mass.
Hicks, Wash.
Hillis
Hogan
Holifield
Horton
Hosmer
Howard
Hull
Hutchinson
Ichord
Jacobs
Jarman
Johnson, Calif.
Johnson, Pa.
Jonas
Jones, Ala.
Jones, N.C.
Jones, Tenn.
Karth
Kastenmeier
Kee
Keith
King
Koch
Kyl
Kyros
Landrum
Latta
Leggett
Lennon
Lent
Link
Lloyd
Long, La.
Long, Md.
McClory
McClure
McCulloch
McDade
McDonald, Mich.
McEwen
McFall
McKay
McKevitt
McMillan
Macdonald, Mass.
Madden
Mahon
Mailliard
Mann
Martin
Mathias, Calif.
Matsunaga
Mazzoli
Meeds
Michel
Miller, Calif.
Mills, Md.
Minish
Mink
Minshall
Mitchell
Mizell
Mollohan
Monagan
Moorhead
Morgan
Mosher
Murphy, Ill.
Murphy, N.Y.
Myers
Natcher
Nedzi
Nelsen
Nichols
Nix
Obey
O'Hara
O'Konski
O'Neill
Passman
Patman
Patten
Pelly
Pepper
Perkins
Pettis
Peyser
Pike
Pirnie
Poage
Podell
Poff
Powell
Preyer, N.C.
Price, Ill.
Pryor, Ark.
Pucinski
Purcell
Quie
Quillen
Railsback
Randall
Rangel
Rarick
Rees
Reuss
Rhodes
Riegle
Roberts
Robinson, Va.
Robison, N.Y.
Rodino
Roe
Rogers
Rooney, N.Y.
Rooney, Pa.
Roy
Roybal
Runnels
Ruppe
Ruth
Ryan
St Germain
Sandman
Satterfield
Saylor
Scheuer
Schneebeli
Schwengel
Scott
Sebelius
Shipley
Shoup
Shriver
Sikes
Sisk
Slack
Smith, Calif.
Smith, Iowa
Smith, N.Y.
Snyder
Staggers
Stanton, J. William
Stanton, James V.
Steed
Steele
Steiger, Ariz.
Stephens
Stratton
Stubblefield
Stuckey
Symington
Talcott
Taylor
Teague, Calif.
Teague, Tex.
Terry
Thompson, Ga.
Thompson, N.J.
Thomson, Wis.
Thone
Udall
Ullman
Van Deerlin
Vander Jagt
Veysey
Vigorito
Waggonner
Wampler
Ware
Whalen
Whalley
White
Whitehurst
Whitten
Widnall
Wiggins
Williams
Winn
Wolff
Wyatt
Wydler
Wyman
Yates
Yatron
Young, Fla.
Young, Tex.
Zablocki
Zion
Zwach

NAYS—48

Abzug
Archer
Biester
Bingham
Buchanan
Conyers
Coughlin
Crane
Dennis
du Pont
Edwards, Ala.
Edwards, Calif.
Fraser
Frenzel
Gibbons
Goldwater
Gonzalez
Gross
Hall
Hammerschmidt
Hungate
Hunt
Kazen
Keating
Kemp
Kuykendall
Landgrebe
McCloskey
McCollister
McKinney
Mathis, Ga.
Mayne
Miller, Ohio
Moss
Pickle
Price, Tex.
Reid, N.Y.
Rosenthal
Rousselot
Sarbanes
Scherle
Schmitz
Seiberling
Skubitz
Steiger, Wis.
Vanik
Wilson, Bob
Wylie

NOT VOTING—41

Alexander
Anderson, Tenn.
Andrews, Ala.
Annunzio
Belcher
Blackburn
Blanton
Blatnik
Casey, Tex.
Chamberlain
Clay
Collins, Ill.
Derwinski
Diggs
Dowdy
Edwards, La.
Erlenborn
Evins, Tenn.
Gray
Hansen, Wash.
Hébert
Kluczynski
Lujan
McCormack
Melcher
Metcalfe
Mikva
Mills, Ark.
Montgomery
Morse
Roncalio
Rostenkowski
Roush
Spence
Springer
Stokes
Sullivan
Tiernan
Waldie
Wilson, Charles H.
Wright

So the resolution was agreed to.

Mr. SEIBERLING changed his vote from "yea" to "nay."

The result of the vote was announced as above recorded.

MOTION TO RECONSIDER OFFERED BY MR. THOMPSON OF GEORGIA

Mr. THOMPSON of Georgia. Mr. Speaker, I voted in the affirmative, on the majority side.

Mr. Speaker, I move to reconsider the vote by which the resolution was agreed to.

The SPEAKER. The gentleman from Georgia moves to reconsider.

MOTION TO TABLE OFFERED BY MR. COLMER

Mr. COLMER. Mr. Speaker, I move to lay that motion on the table.

The SPEAKER. The question is on the motion to table, offered by the gentleman from Mississippi.

The question was taken and the Speaker announced that the ayes appeared to have it.

PARLIAMENTARY INQUIRY

Mr. THOMPSON of Georgia. Mr. Speaker, a parliamentary inquiry. According to rule XVIII, section 819, debate on the motion to reconsider:

> A motion to reconsider is debatable only if the motion proposed to be reconsidered was debatable.

The motion was debatable.

The SPEAKER. The House is not voting on the motion to reconsider. It is voting on the motion to table. That motion is not debatable.

So the motion to table was agreed to.

PERSONAL ANNOUNCEMENT

Mr. CRANE. Mr. Speaker, I was not present for rollcall vote No. 450. Had I been here I would have voted "nay." I ask that the Record show my vote would have been "nay."

CONFERENCE REPORT ON H.R. 11955, SUPPLEMENTAL APPROPRIATIONS 1972

Mr. MAHON submitted the following conference report and statement on the bill (H.R. 11955) making supplemental appropriations for the fiscal year ending June 30, 1972, and for other purposes:

Conference Report (H. Rept. No. 92–725)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 11955) "making supplemental appropriations for the fiscal year ending June 30, 1972, and for other purposes," having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 14, 17, 23, 25, 26, 47, 59, 65, 66, 67, and 74.

That the House recede from its disagreement to the amendments of the Senate numbered 1, 2, 3, 4, 5, 8, 18, 19, 27, 30, 50, 52, 53, 54, 56, 58, 63, 64, 69, 70, 71, 72, and 73, and agree to the same.

Amendment numbered 7: That the House recede from its disagreement to the amendment of the Senate numbered 7, and agree to the same with an amendment, as follows: In lieu of the sum named in said amendment insert "$650,000"; and the Senate agree to the same.

Amendment numbered 9: That the House recede from its disagreement to the amendment of the Senate numbered 9, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$6,250,000"; and the Senate agree to the same.

Amendment numbered 10: That the House recede from its disagreement to the amendment of the Senate numbered 10, and agree to the same with an amendment, as follows:

Insert the matter proposed by said amendment, amended to read as follows:

"OFFICE OF COAL RESEARCH

"For an additional amount for 'Salaries and expenses', $5,120,000, to remain available until expended, of which not to exceed $40,000 shall be available for administration and supervision."

And the Senate agree to the same.

Amendment numbered 22: That the House recede from its disagreement to the amendment of the Senate numbered 22, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$6,000,000"; and the Senate agree to the same.

The committee of conference report in disagreement amendments numbered 6, 11, 12, 13, 15, 16, 20, 21, 24, 28, 29, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 48, 49, 51, 55, 57, 60, 61, 62, 68, and 75.

George Mahon,
Jamie Whitten,
John J. Rooney (except as to amendment No. 25),
Edward P. Boland,
William H. Natcher,
Daniel J. Flood,
Tom Steed,
Neal Smith,
Julia Butler Hansen,
John J. McFall,
E. A. Cederberg,
John J. Rhodes,
Robert H. Michel,
Garner E. Shriver,
Joseph M. McDade,
Managers on the Part of the House.

Allen J. Ellender,
John L. McClellan,
Warren G. Magnuson,
John C. Stennis,
John O. Pastore,
Alan Bible,
Gale W. McGee,
Joseph M. Montoya,
Ernest F. Hollings,
Milton R. Young,
Margaret Chase Smith,
Roman L. Hruska,
Gordon Allott,
Norris Cotton,
Clifford P. Case (except as to amendment No. 25),
Managers on the Part of the Senate.

Joint Explanatory Statement of the Committee of Conference

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 11955) making supplemental appropriations for the fiscal year ending June 30, 1972, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

CHAPTER I—SECURITIES AND EXCHANGE COMMISSION

Amendment No. 1: Inserts headings and appropriates $1,587,000 for salaries and expenses as proposed by the Senate. The committee of conference is agreed that the funds should be used solely in problem areas and to administer direct workload increases. No positions are approved at this time for additions in public information, policy research, and organization, and management improvement activities. The critical need to strengthen regulatory, investigative, and enforcement activities in regional offices should receive primary attention by the Commission in allocating the funds that are provided.

CHAPTER II—DEPARTMENT OF THE INTERIOR

Amendment No. 2: Changes chapter number.

Amendment No. 3: Appropriates $85,000 for "Bureau of Land Management, management of lands and resources" as proposed by the Senate instead of $160,000 as proposed by the House.

Amendment No. 4: Inserts name of Bureau "Bureau of Indian Affairs".

Amendment No. 5: Appropriates $230,000 for "Bureau of Indian Affairs, resources management" as proposed by the Senate.

Amendment No. 6: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment which provides $550,000 for "Bureau of Indian Affairs, construction".

Amendment No. 7: Appropriates $650,000 for "Geological Survey, surveys, investigations, and research" instead of $1,190,000 as proposed by the Senate. The amount provided includes $150,000 for establishing an Experiment and Evaluation Office for the Earth Resources Observation System at the Mississippi Test Facility, and $500,000 for implementation of the Gulf Coast Hydro-Science Center.

Amendment No. 8: Appropriates $300,000 for "Bureau of Mines, conservation and development of mineral resources" as proposed by the Senate.

Amendment No. 9: Appropriates $6,250,000 for "Bureau of Mines, health and safety" instead of $5,250,000 as proposed by the House and $7,225,000 as proposed by the Senate. The increase over the amount provided by the House includes $1,000,000 for development and purchase of specialized equipment needed to detect and rescue trapped miners.

Amendment No. 10: Appropriates $5,120,000 for "Office of Coal Research" instead of $10,280,000 as proposed by the Senate. The amount provided includes $1,170,000 for the Hydrogasification Project at Chicago, Illinois; $450,000 for the Lignite Gasification Project at Rapid City, South Dakota; and $3,500,000 for the BI-GAS Process at Homer City, Pennsylvania. Of the total amount provided, $40,000 shall be available for administration and supervision, instead of $80,000 as proposed by the Senate.

Amendment No. 11: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment which provides $2,325,000 for "National Park Service, construction" instead of $110,000 as proposed by the House.

Amendment No. 12: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur with Senate language providing that notwithstanding the Act of March 18, 1950, as amended, not to exceed $2,215,000 shall be available for airport planning, development, or improvement at the Jackson Hole Airport pursuant to the Act of March 18, 1950, including availability through the Jackson Hole Airport Authority as sponsor's share of project costs for any grant made pursuant to Public Law 91–258.

The conferees recommend approval of the construction project at the Jackson Hole Airport in Grand Teton National Park, solely in the interest of safety and with the clear understanding that this action shall not be construed as a precedent for the establishment or construction of airport facilities in other National Parks by the National Park Service. It is further agreed that the National Park Service shall be responsible for monitoring the construction so that any interference with various conservation practices which exist in this area will be restricted to an absolute minimum.

Amendment No. 13: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment which provides $96,000 for "National Park Service, parkway and road construction (liquidation of contract authority)".

Amendment No. 14: Appropriates $500,000 for "Office of the Secretary, salaries and expenses" as proposed by the House instead of $518,000 as proposed by the Senate.

Related Agencies

Amendment No. 15: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment which provides $3,500,000 for "Youth Conservation Corps, salaries and expenses".

Amendment No. 16: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment which provides $42,000 for "Health Services and Mental Health Administration, Indian Health Facilities".

Amendment No. 17: Deletes item proposed by the Senate to appropriate $1,500,000 for "Smithsonian Institution, The John F. Kennedy Center for the Performing Arts".

Amendment No. 18: Appropriates $1,400,000 for "American Revolution Bicentennial Commission, salaries and expenses" as proposed by the Senate instead of $1,800,000 as proposed by the House.

CHAPTER III

Amendment No. 19: Changes chapter number.

Department of Labor

Amendment No. 20: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment to appropriate $26,207,000 for "Manpower Administration, Salaries and expenses" instead of $26,607,000 as proposed by the Senate, and delete language making the appropriation available only upon enactment of authorizing legislation. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate. The amount of $26,207,000 includes no additional funds for the Veterans Employment Service.

Amendment No. 21: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment to appropriate $776,717,000 for "Manpower Administration, Manpower training services instead of $817,597,000 as proposed by the Senate, and delete language making the appropriation available only upon enactment of authorizing legislation. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 22: Appropriates $6,000,000 for "Limitation on grants to States for unemployment insurance and employment services" instead of $4,500,000 as proposed by the House and $24,640,000 as proposed by the Senate.

Amendment No. 23: Deletes appropriation of $400,000 for "Office of the Secretary, Salaries and expenses" proposed by the Senate.

Department of Health, Education, and Welfare

Office of Education

Amendment No. 24: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate to appropriate $32,500,000 for "Elementary and secondary education" with language providing that the aggregate amounts made available to each State in fiscal year 1972 under Title I–A of the Elementary and Secondary Education Act for grants to local educational agencies within that State shall not be less than such amounts as were made available for that purpose in fiscal year 1971.

Amendment No. 25: Deletes appropriation of $265,000,000 for "School assistance in Federally affected areas" proposed by the Senate.

Amendment No. 26: Deletes appropriation of $2,500,000 for "Environmental education" proposed by the Senate.

Amendment No. 27: Appropriates $3,000,000 for "Higher education" as proposed by the Senate.

Amendment No. 28: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment which will appropriate $492,980,000 for "Health manpower" instead of $707,157,000 as proposed by the Senate. The managers on the part of the Senate will move to agree to the amendment of the House to the amendment of the Senate.

Pertinent statistics for the entire Health Manpower program are shown in the following table, including sums in connection with the Labor, and Health, Education, and Welfare Appropriation Act for 1972 (Public Law 92–80):

	Budget estimate	Senate amendment	Conference agreement
I. Medical, dental, and related health professions:			
a. Institutional support:			
(1) Capitation grants:			
MOD	$120,000,000	$160,000,000	$130,000,000
VOPP	20,400,000	30,000,000	25,200,000
(2) Startup assistance:			
New schools	2,580,000	2,900,000	2,580,000
Converting schools	4,700,000	4,700,000	4,700,000
(3) Special projects	36,000,000	70,000,000	53,000,000
(4) Financial distress	20,000,000	20,000,000	20,000,000
(5) Health manpower education improvement awards	20,000,000	30,000,000	20,000,000
b. Student Assistance:			
(1) Student loans: United States	30,000,000	40,000,000	30,000,000
(2) Scholarships:			
United States	15,500,000	35,000,000	15,500,000
Physician shortage		1,000,000	
(3) Traineeship and fellowships:			
Family medicine	5,000,000	5,000,000	5,000,000
Family Practice of Medicine Act		1,000,000	100,000
Health professional teachers	1,000,000	1,000,000	1,000,000

	Budget estimate	Senate amendment	Conference agreement
c. Construction:			
(1) Grants	82,000,000	190,616,000	142,385,000
(2) Interest subsidy	800,000	2,000,000	800,000
d. Computer technology	1,000,000	3,000,000	3,000,000
e. Education cost studies	2,015,000	2,015,000	2,015,000
f. Educational grants and contracts and direct operations:			
(1) Grants	927,000	927,000	927,000
(2) Direct operations	4,232,000	4,232,000	4,232,000
Total, health professions	366,154,000	603,390,000	460,439,000
Dental health:			
(1) Educational grants and contracts	5,909,000	6,409,000	5,909,000
(2) Direct operations	5,941,000	5,941,000	5,941,000
Total, dental health	11,850,000	12,350,000	11,850,000
Nursing:			
a. Institutional support:			
(1) Capitation grants		$53,000,000	$31,500,000
(2) Special projects (G&C)	$18,000,000	20,000,000	20,000,000
(3) Financial distress	5,000,000	10,000,000	10,000,000
b. Student assistance:			
(1) Student loans	21,000,000	25,000,000	21,000,000
(2) Scholarships	19,500,000	35,000,000	19,500,000
(3) Traineeships	10,470,000	15,000,000	10,470,000
c. Construction:			
(1) Grants	9,500,000	25,000,000	19,500,000
(2) Interest subsidy	200,000	200,000	200,000
d. Educational grants and contracts and direct operations:			
(1) Recruitment (G&C)	2,000,000	2,000,000	2,000,000
(2) Grants and contracts	3,805,000	3,805,000	3,805,000
(3) Direct operations	6,915,000	6,915,000	6,915,000
Total, nursing	96,390,000	205,920,000	144,890,000
Public health:			
a. Institutional support:			
(1) Schools of public health	5,554,000	7,000,000	5,554,000
(2) Graduate public health training	4,517,000	4,517,000	4,517,000
(3) Traineeships	8,400,000	8,400,000	8,400,000
(4) Direct operations	573,000	573,000	573,000
Total, public health	19,044,000	20,490,000	19,044,000
Allied health:			
a. Institutional support	10,000,000	15,000,000	10,000,000
Traineeships	3,750,000	6,000,000	3,750,000
Allied health special projects (grants and contracts)	14,745,000	15,745,000	14,745,000
Direct operations	2,159,000	2,159,000	2,159,000
Total, allied health	30,654,000	38,904,000	30,654,000
Program direction and manpower analysis:			
Planning and analysis	4,068,000	4,068,000	4,068,000
Program direction	2,655,000	2,655,000	2,655,000
Total, program direction	6,723,000	6,723,000	6,723,000
Grand total	530,815,000	887,777,000	673,600,000

NOTE: The conferees are agreed that $10,616,000 of the funds made available for construction shall be for the construction of a veterinary school in the southern part of the Nation.

Social and Rehabilitation Service

Amendment No. 29: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate to appropriate $45,750,000 for "Special programs for the aging" and $9,500,000 for "Research and training", with an amendment to make the appropriations available for obligation through December 31, 1972. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Office of Child Development

Amendment No. 30: Inserts heading as proposed by the Senate.

Amendment No. 31: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment to appropriate $376,317,000 for "Child development" instead of $376,817,000 as proposed by the Senate, and delete language proposed by the Senate making the appropriation available only upon the enactment of authorizing legislation. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate. The committee of conference is agreed that the reduction from the amount proposed by the Senate is to be applied against the amount budgeted for evaluation programs.

Amendment No. 32: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides that maternal and child health grants under sections 508, 509, or 510 of the Social Security Act may be for periods ending prior to July 1, 1973.

Related Agencies

Occupational Safety and Health Review Commission

Amendment No. 33: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate to appropriate $660,000 for "Salaries and expenses" to be derived by transfer from the appropriation to the Department of Labor, "Workplace Standards Administration, Salaries and expenses".

Office of Economic Opportunity

Amendment No. 34: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment to appropriate $741,380,000 for "Economic opportunity program" instead of $780,400,000 as proposed by the Senate, and delete language proposed by the Senate making the appropriation available only upon the enactment of authorizing legislation. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

CHAPTER IV—LEGISLATIVE BRANCH

Amendments Nos. 35 through 46: Reported in technical disagreement. Inasmuch as these amendments relate solely to the Senate and in accord with long practice, under which each body determines its own housekeeping requirements, and the other concurs without intervention, the managers on the part of the House will offer motions to recede and concur in Senate amendments nos. 35 through 46.

Amendment No. 47: Deletes appropriation of $1,521,000 for "Restoration of the Old Senate Chamber and Old Supreme Court Chamber in the Capitol" proposed by the Senate.

Amendment No. 48: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment which will appropriate $66,000 for "Senate Office Buildings".

Amendment No. 49: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment which will appropriate $270,000 for "Extension of Additional Senate Office Building Site".

CHAPTER V—CORPS OF ENGINEERS—CIVIL

Amendment No. 50: Changes chapter number.

Amendment No. 51: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment appropriating $102,400,000 for "Construction, General", instead of $34,100,000 as proposed by the House, and inserting language providing that not to exceed $1,400,000 shall be available for emergency flood control construction of debris basins and channel clearing in the Carpinteria, California, area affected by recent fires.

The funds appropriated under this heading are to be allocated for construction on projects as shown in the following tabulation:

State and project	*Conference allowance*
Arkansas: Dierks Lake	$600,000
California:	
Alameda Creek	435,000
Buchanan Lake	400,000
Dry Creek Lake	1,850,000
Lytle and Warm Creeks	500,000
Martis Creek Lake	210,000
Mojave River Reservoir	200,000
New Melones Lake	3,650,000
Sacramento River bank protection	800,000
San Diego Harbor	500,000
Santa Barbara County fires (Carpinteria)	1,400,000
Recreation facilities, completed projects:	
Lake Mendocino	149,000
Harry L. Engelbright Lake	87,000
Connecticut:	
Derby	400,000
Trumbull Lake	1,000,000
Illinois:	
Kaskaskia River navigation	8,000,000
Rend Lake	1,400,000
Smithland lock and dam, Illinois, Indiana, and Kentucky	9,000,000
Iowa:	
Missouri River Levee System, Iowa, Nebraska, Kansas, and Missouri	425,000
Kansas:	
Clinton Lake	2,200,000
Louisiana:	
Lake Pontchartrain	3,245,000
New Orleans to Venice	250,000
Red River emergency bank protection	1,100,000
Massachusetts:	
Charles River Dam	400,000
Michigan:	
River Rouge	500,000
Missouri:	
Harry S. Truman Dam and Reservoir	7,600,000
St. Louis	925,000
Montana:	
Libby Dam (Lake Koocanusa)	8,000,000

New Mexico:	
Cochiti Lake	9,000,000
Ohio:	
Alum Creek Lake	725,000
Caesar Creek Lake	1,200,000
Clarence J. Brown Lake	500,000
Fremont	1,440,000
North Branch, Kokosing River Lake	400,000
Paint Creek Lake	560,000
Willow Island lock and dam	800,000
Oklahoma:	
Hugo Lake	2,000,000
Webbers Falls lock and dam	1,000,000
Oregon:	
Yaquina Bay and Harbor	700,000
Texas:	
Wallisville Lake	$2,600,000
Washington:	
Ice Harbor lock and dam	200,000
Lower Granite lock and dam	16,300,000
Lower Monumental lock and dam	1,455,000
The Dalles lock and dam	6,000,000
Wynoochee Lake	2,759,000
Miscellaneous:	
Reduction for anticipated savings and slippages	−465,000
Total, construction, general	102,400,000

Bureau of Reclamation

Amendment No. 52: Appropriates $9,210,000 for "Construction and Rehabilitation" as proposed by the Senate instead of $7,000,000 as proposed by the House.

The funds appropriated under this heading are to be allocated for construction on projects as shown in the following tabulation:

	Conference allowance
California:	
Central Valley project:	
Sacramento River division	$2,550,000
San Luis unit	3,650,000
Auburn Folsom south unit	210,000
Washoe project	40,000
Klamath project	80,000
Kansas: Pick-Sloan Missouri Basin program: Bostwick division	40,000
Oklahoma: Mountain Park project	1,000,000
Texas: Palmetto Bend project	1,000,000
Washington: Columbia Basin irrigation facilities	715,000
Reduction for anticipated savings and slippages	−75,000
Total, construction and rehabilitation	9,210,000

Amendment No. 53: Appropriates $6,800,000 for the "Upper Colorado River Storage Project" as proposed by the Senate instead of $4,800,000 as proposed by the House.

The funds appropriated under this heading are to be allocated for construction on projects as shown in the following tabulation:

	Conference allowance
Colorado:	
Curecanti unit	$1,000,000
Utah:	
Bonneville unit, Central Utah project	5,500,000
Jensen unit, Central Utah project	300,000
Total, Upper Colorado River storage project	6,800,000

The Managers have approved the acceptance of $30,000 in contributed funds from local interests for preliminary data gathering activities on the West Divide project, Colorado, preparatory to the review and approval of the initiation of advance engineering and design work.

CHAPTER VI

Amendment No. 54: Changes chapter number.

Department of Commerce

Amendment No. 55: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment appropriating $4,000,000 for National Oceanic and Atmospheric Administration. Satellite Operations, instead of $4,919,000 as proposed by the Senate. The managers on the part of the Senate will offer a motion to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 56: Appropriates $2,035,000 for the Patent Office as proposed by the Senate.

Related Agencies

Amendment No. 57: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment appropriating $32,225,000 for International Radio Broadcasting Activities instead of $36,225,000 as proposed by the Senate, and providing not to exceed $32,000,000, rather than $36,000,000 proposed by the Senate, for grants to Radio Free Europe and Radio Liberty. The managers on the part of the Senate will offer a motion to concur in the amendments of the House to the amendment of the Senate.

CHAPTER VII

Department of Transportation

Amendment No. 58: Changes chapter number.

Amendment No. 59: Appropriates $2,500,000 for Office of the Secretary, transportation planning, research, and development as proposed by the House instead of $5,000,000 as proposed by the Senate. The committee of conference is agreed that this program should be reviewed carefully during the consideration of the regular fiscal year 1973 budget.

Amendment No. 60: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment to provide that $200,000 of the $2,200,000 proposed by the Senate for Federal Aviation Administration, United States International Aeronautical Exposition, shall be derived from the appropriation for "Office of the Secretary, salaries and expenses". The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 61: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate to provide that $2,000,000 of the appropriation for Federal Aviation Administration, United States International Aeronautical Exposition, shall be available only upon the enactment of authorizing legislation by the Ninety-Second Congress.

Related Agencies

Amendment No. 62: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate to appropriate $750,000 for Aviation Advisory Commission, salaries and expenses (Airport and Airway Trust Fund) and to extend to March 1, 1973, the availability of the funds appropriated in the Second Supplemental Appropriations Act, 1971.

CHAPTER VIII

Amendment No. 63: Changes chapter number.

Postal Service

Amendment No. 64: Appropriates $200,000,000 for payment to the Postal Service Fund as proposed by the Senate instead of $216,400,000 as proposed by the House.

General Services Administration

Amendment No. 65: Deletes center heading proposed by the Senate.

Amendment No. 66: Deletes the appropriation of $11,200,000 for Construction, Public Buildings Projects as proposed by the Senate.

Amendment No. 67: Deletes the appropriation of $250,000 for Sites and Expenses, Public Buildings Project as proposed by the Senate.

Funds appropriated to the President

Economic Stabilization Activities

Amendment No. 68: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment striking the proviso in the Senate language requiring that not less than $3,000,000 of the amount allowed be derived by transfer from the Exchange Stabilization Fund. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees direct that the Office of Management and Budget report to the Committees on Appropriations of the House and Senate, at the end of each calendar quarter, the amounts and sources of funds transferred under this authority.

CHAPTER IX

Amendment No. 69: Changes chapter number.

Amendments Nos. 70 and 71: Add the citation to include claims and judgments contained in Senate Document Numbered 92–45 as proposed by the Senate; and appropriate $21,569,856 for claims and judgments as proposed by the Senate instead of $19,029,734 as proposed by the House.

CHAPTER X

Amendments Nos. 72 and 73: Modify headings as proposed by the Senate.

Amendment No. 74: Deletes General Provision, Section 902, proposed by the Senate which provided that certain property should continue to be Federal property for the purposes of Public Law 81–874 for the fiscal year ending June 30, 1972. H.R. 11809, which passed the House under suspension of the rules on December 6, will accomplish the same purpose if enacted into law.

Amendment No. 75: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate permitting the appropriation for Salaries and Expenses, Federal Bureau of Investigation to be used for the exchange of identification records with officials of certain banking institutions and state and local governments, with an amendment to change the section number. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 1972 recommended by the committee of conference, with comparisons to the 1972 budget estimate total, and the House and Senate bills follows:

Budget estimates	$3,254,924,371
House bill	786,282,654
Senate bill	3,998,045,371
Conference agreement	[1] 3,406,385,371

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[1] Includes amounts in amendments reported in technical disagreement.

Conference agreement compared with—	
Budget estimates	+151,461,000
House bill	+2,620,102,717
Senate bill	−591,660,000

GEORGE MAHON,
JAMIE WHITTEN,
JOHN J. ROONEY
(except as to amendment No. 25).
EDWARD P. BOLAND,
WILLIAM H. NATCHER,
DANIEL J. FLOOD,
TOM STEED,
NEAL SMITH,
JULIA BUTLER HANSEN,
JOHN J. MCFALL,
E. A. CEDERBERG,
JOHN J. RHODES,
ROBERT H. MICHEL,
GARNER E. SHRIVER,
JOSEPH M. MCDADE,
Managers on the Part of the House.
ALLEN J. ELLENDER,
JOHN L. MCCLELLAN,
WARREN G. MAGNUSON,
JOHN C. STENNIS,
JOHN O. PASTORE,
ALAN BIBLE,
GALE W. MCGEE,
JOSEPH M. MONTOYA,
ERNEST F. HOLLINGS,
MILTON R. YOUNG,
MARGARET CHASE SMITH,
ROMAN L. HRUSKA,
GORDON ALLOTT,
NORRIS COTTON,
CLIFFORD P. CASE
(except as to amendment No. 25)
Managers on the Part of the Senate.

Mr. MAHON. Mr. Speaker, I call up the conference report on the bill (H.R. 11955) making supplemental appropriations for the fiscal year ending June 30, 1972, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

PARLIAMENTARY INQUIRIES

Mr. GROSS. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. GROSS. Is this conference report being called up under the authority of House Resolution 729?

The SPEAKER. The gentleman from Texas is calling up the conference report.

Mr. GROSS. Which was passed 1½ minutes ago, or the vote announced 1½ minutes ago?

The SPEAKER. The gentleman is calling it up under a resolution of the House.

Mr. GROSS. Mr. Speaker, a further parliamentary inquiry. Are there any copies anywhere in existence of the conference report?

The SPEAKER. The Chair is unable to answer.

Mr. MAHON. Copies of the conference report are not generally available. Copies of the bill showing all the amendments are available; H.R. 11955. I propose that we will explain exactly what is in the bill. It is the supplemental bill that passed the House and went to the other body. We whittled it down by some $200 million or $300 million. We will present it to you if we can.

Mr. GROSS. A further parliamentary inquiry, Mr. Speaker. When might a point of order be made against consideration of the conference report?

The SPEAKER. Before the reading of the same.

Mr. GROSS. Before the reading of the same. Has the conference report been read?

The SPEAKER. Is has not.

Mr. GROSS. I thank the Speaker.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House today.)

Mr. GROSS. Mr. Speaker, I now rise to make a point of order, if it is in order to make a point of order, against the consideration of the conference report.

The SPEAKER. The gentleman's request comes too late.

Mr. GROSS. I thought the Speaker said after the reading of the conference report.

The SPEAKER. A unanimous consent request to read the statement in lieu of the report was granted, and the Speaker waited and there was no point of order raised and no objection.

Mr. GROSS. Mr. Speaker, in view of the fact that I told the Speaker that at the proper time I wanted to make a point of order against the conference report, I thought my rights would be protected.

The SPEAKER. The Chair answered the only inquiry the gentleman made. I have no recollection and I do not think the RECORD will show any inquiry made except when would it be in order to make a point of order. The Chair said after the reading of the report, and the request was made that the statement be read in lieu of the report, and there was unanimous consent given to the reading of the statement.

CALL OF THE HOUSE

Mr. GROSS. Mr. Speaker, I will make a point of order that a quorum is not present.

The SPEAKER. The Chair will count. Evidently a quorum is not present.

Mr. MAHON. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 452]

Adams
Alexander
Anderson, Tenn.
Andrews, Ala.
Annunzio
Aspinall
Baring
Belcher
Bell
Blackburn
Blanton
Blatnik
Brademas
Buchanan
Carey, N.Y.
Carney
Carter
Casey, Tex.
Celler
Chamberlain
Clark
Clausen, Don H.
Clay
Collins, Ill.
Coughlin
Dent
Derwinski
Devine
Diggs
Dingell
Dowdy
Dulski
Edwards, Ala.
Edwards, La.
Erlenborn
Evins, Tenn.
Fish
Fraser
Frey
Gibbons
Gray
Griffiths
Gubser
Hastings
Hébert
Horton
Jones, Ala.
Kluczynski
Kyros
Lujan
McCormack
McCulloch
McKevitt
Martin
Meeds
Metcalfe
Mikva
Mills, Ark.
Mizell
Mollohan
Montgomery
O'Hara
Pepper
Peyser
Podell
Preyer, N.C.
Rodino
Roncalio
Rostenkowski
Roush
Scheuer
Schneebeli
Spence
Springer
Steiger, Ariz.
Stokes
Sullivan
Tiernan
Udall
Vander Jagt
Waldie
Widnall
Wilson, Charles H.
Wright
Young, Tex.
Zion

The SPEAKER. On this rollcall 345 Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

CONFERENCE REPORT ON H.R. 11955, SUPPLEMENTAL APPROPRIATIONS, 1972

The SPEAKER. The gentleman from Texas is recognized for 1 hour.

PARLIAMENTARY INQUIRIES

Mr. BOW. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. BOW. I was wondering whether, under the rules of the House, we do not divide the time on this, with 50 percent of the time to the minority under the rule.

The SPEAKER. The gentleman is correct; 50 percent of the time belongs to the majority and 50 percent to the minority.

Mr. BOW. I thank the Chair.

Mr. GROSS. Mr. Speaker, a further parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. GROSS. That rule has not been suspended by the Rules Committee?

The SPEAKER. That was the rule adopted by the House.

OVERALL CONFERENCE SUMMARY

Mr. MAHON. Mr. Speaker, we are considering today the conference agreement on the supplemental appropriations bill for 1972.

The conference agreement on the measure before us provides an appropriation of $3.4 billion.

When this bill left the House it contained appropriations totaling $786 million. It went to the other body, which also considered estimates of $2.3 billion deferred by the House, because they lacked authorization. The other body increased the President's budget request by $742 million. The increases were made principally in the areas of health manpower and education.

I, for one, was most disturbed when the other body raised the bill above the budget by $742 million, but I can say to you now that the conference agreement is—and this is still a large sum—about $152 million above the budget requests rather than $742 million.

I am pleased that we are able to say that. It must be explained perhaps in some more detail why the bill passed the House at a figure of less than $1 billion, while it passed the other body by a figure close to $4 billion. This is partly explained, of course, by the increases in the budget made by the other body, but also by the fact that the House did not consider certain budget estimates which were considered by the other body. For example, about $2 billion for OEO programs was not considered by the House, but was considered by the other body. Estimates for health manpower programs totaling about $350 million were also deferred by the House and considered only by the other body. In addition to these programs on which the House deferred action, because of the lack of authorization there were also regular 1972 supplemental estimates considered only by the other body, because they were submitted after the House had acted on the supplemental bill.

I submit for the RECORD a summary table that will help to explain in broad terms the recommendations of the conferees:

SUMMARY STATEMENT OF CONFERENCE ACTION, THE SUPPLEMENTAL APPROPRIATION BILL, 1972 (H.R. 11955)

Chapter No.	Department or activity	Budget estimate	House bill	Senate bill	Conference action	Conference action compared with—		
						Budget estimates	House bill	Senate bill
I	HUD-Space-Science-Veterans	$1,587,000		$1,587,000	$1,587,000		+$1,587,000	
II	Interior and related agencies:							
	New budget (obligational) authority	26,076,000	$8,170,000	29,495,000	21,302,000	−$4,774,000	+13,132,000	−$8,193,000
	Appropriation to liquidate contract authority	(10,000,000)	(10,000,000)	(10,096,000)	(10,096,000)	(+96,000)	(+96,000)	
	Transfers	(4,172,000)	(3,746,100)	(3,746,100)	(3,746,100)	(−425,900)		
III	Labor and Health, Education, and Welfare:							
	New budget (obligational) authority	2,684,655,000	334,439,000	3,401,667,000	2,838,790,000	+154,135,000	+2,504,351,000	−562,877,000
	Transfer	(2,560,000)	(1,900,000)	(2,560,000)	(2,560,000)		(+660,000)	
IV	Legislative:							
	New budget (obligational) authority	27,719,515	23,549,920	26,443,515	24,922,515	−2,797,000	+1,372,595	−1,521,000
	Fiscal year 1971 (by transfer)			(250,000)	(250,000)	(+250,000)	(+250,000)	
V	Public Works—AEC: New budget (obligational) authority	$119,010,000	$46,500,000	$119,010,000	$119,010,000		+$72,510,000	
VI	State, Justice, Commerce, and Judiciary:							
	New budget (obligational) authority	86,471,000	72,094,000	115,273,000	110,354,000	$+23,883,000	+38,260,000	−$4,919,000
VII	Transportation:							
	New budget (obligational) authority	60,244,000	55,544,000	60,994,000	58,294,000	−1,950,000	+2,750,000	−2,700,000
	Appropriation to liquidate contract authority.	(10,000,000)	(10,000,000)	(10,000,000)	(10,000,000)			
	Transfer		(200,000)		(200,000)	(+200,000)		(+200,000)
VIII	Treasury, Postal Service, and General Government:							
	New budget (obligational) authority	227,592,000	226,956,000	222,006,000	210,556,000	−17,036,000	−16,400,000	−11,450,000
	Transfer	(2)		(20,153,000)	[1] (20,153,000)	[1] (+20,153,000)	[1] (20,153,000)	
IX	Claims and judgments	21,569,856	19,029,734	21,569,856	21,569,856		+2,540,122	
	Grand total:							
	Fiscal year 1972:							
	New budget (obligational) authority	3,254,924,371	786,282,654	3,998,045,371	3,406,385,371	+151,461,000	+2,620,102,717	−591,660,000
	Appropriations to liquidate contract authority	(20,000,000)	(20,000,000)	(20,096,000)	(20,096,000)	(+96,000)	(+96,000)	
	Transfers	(6,732,000)	(5,846,100)	(26,459,100)	[1] (26,659,100)	[1] (+19,927,100)	[1] (+20,813,000)	(+200,000)
	Fiscal year 1971 (by transfer)			(250,000)	(250,000)	(+250,000)	(+250,000)	

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[1] Reflects a specific transfer of $20,153,000 for "Economic Stablization Activities, salaries and expenses," for which unimited transfer authority was requested.

[2] Unlimited transfer language.

It all comes down to this: The contest in the supplemental relates to large items which the House deferred, for health manpower and poverty programs and to the large increase in the budget for education. Funding for the poverty program is recommended below the President's request. The other body added to the bill for the impacted school construction program about $200 million. The House position was maintained and the whole sum was eliminated in conference. The other body added $65 million above the budget for impacted aid under so-called category C. That was all eliminated in the conference recommendations.

In the bill as we bring it back to you there are $143 million above the budget agreed to by the House as a compromise in the health-manpower items. That would include such things as capitation grants for medicine, osteopathy, dentistry, the field of veterinary medicine, podiatry, and various school assistance programs, scholarships, training, and fellowships, additional assistance for nurses programs, and grants of various types.

I would say the managers on the part of the House did the best we could in the closing days of the session to bring in a bill which was as reasonably acceptable as we thought it could be from the standpoint of the House.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. MAHON. I yield to the gentleman from Iowa.

Mr. GROSS. I thank the gentleman from Texas for yielding, and I must make an observation before asking a question, that observation being that it was my understanding in a private conversation with the gentleman from Texas yesterday afternoon or evening as the case may be, that the conference report would be filed yesterday, that it would be printed in the RECORD this morning and thus Members of the House would have the opportunity to scrutinize the conference report.

Mr. MAHON. Yes.

Mr. GROSS. That did not happen. Therefore, I must ask this question: Would the gentleman be good enough to enumerate the unauthorized items which the House conferees accepted, if there are unauthorized items in this conference report?

Mr. MAHON. The gentleman is speaking now not of the appropriations above the budget but within the level of authorizations? The gentleman is speakof unauthorized items?

Mr. GROSS. Yes, that is correct; unauthorized items.

Mr. MAHON. Not how much below authorization, but items for which authorization had not been enacted through the authorizing committee procedures.

Mr. GROSS. By authorizing committees of the House.

Mr. MAHON. The main item would be about $2 billion added for the poverty program. That was the item on which final action had not been taken when the House considered the supplemental bill. It had not been enacted into law although it had been voted on in the House. However, it is a continuing program and the poverty program was continued under the continuing resolution.

There are one or two others, but there is certainly nothing major.

Mr. GROSS. Well, if the gentleman's very efficient committee staff should discover any other items, I would personally appreciate knowing about them, because I would like to know what we are going to vote on in this conference report—whether or not there are any other unauthorized items in this conference report.

Mr. MAHON. I will have the staff check at the moment and inform you as to whether or not there may be any other unauthorized items. As the gentleman knows, the House considered the supplemental appropriation bill under a rule.

Mr. GROSS. If the gentleman from Texas would yield for an additional 30 seconds, I would only say that I hope he appreciates the position of those of us who try to do some homework in the

House of Representatives and would like to know what is going on. I hope the gentleman appreciates the dilemma in which we find ourselves here this afternoon, to have a sheet like this presented to us and not a detailed printed copy of the conference report. This is all the information that we have on this $3.4 billion conference report.

I hope the gentleman appreciates the position in which we find ourselves.

Mr. MAHON. I thoroughly appreciate the situation and I regret the situation.

If we had had authorization bills earlier and if we had been able to come to an agreement earlier, this information would be available. But, the House is seeking to adjourn, and we are doing the best we can to accommodate the will of the leadership and the House.

HEALTH MANPOWER PROGRAMS

Mr. ROGERS. Mr. Speaker, will the gentleman yield?

Mr. MAHON. I yield to the distinguished gentleman from Florida, who must be unhappy, because we reduced some of the high dollar figures in the other body's version of the bill in the area of health manpower.

Let me say that the members of the conference are very sympathetic, and unquestionably next year additional moneys will be appropriated in this area. But we did the best we could within the realm of reality.

So, Mr. Speaker, I am glad to yield to the gentleman for a question.

Mr. ROGERS. Mr. Speaker, my question is, and in that question I would like to express some shock at the astoundingly low figure that the committee has come back with from the conference for health-manpower, when the Senate figure was $707 million.

Mr. MAHON. Above the budget?

Mr. ROGERS. No; that was not above the budget, I think that was the total figure.

Mr. MAHON. Oh, yes; on health manpower.

Mr. ROGERS. On health manpower. And it is my understanding, as I said, that the Senate figure was $707 million, although we had authorized $861 million, and it is my understanding that the conferees did not even split the difference, in spite of the fact that we know we have a health manpower shortage.

We are 50,000 doctors short, and 150,000 nurses short, and this appropriation does not even begin to address itself to the problem.

These appropriations are intended to provide the first real measure of support for the landmark provisions of the Comprehensive Health Manpower Training Act of 1971 and the Nurse Training Act of 1971 which we enacted last month—just last month. It is clear from the appropriations levels in the conference agreement that support is to be pegged far below the level of need established in this health manpower legislation. I think this is a sorrowful day for American medical care.

Effective funding of the programs contained in those two bills is essential for a meaningful effort to deal with the crisis in health manpower that faces this Nation. Now the country is doomed to remain still longer in the grip of its health manpower crisis.

The need for health manpower is critical. The fact that today's demand for health services and for health manpower in the United States outruns the supply is so well known that it hardly seems to need proof. Although much remains to be done to refine methods of measuring manpower needs and demands, there is overwhelming evidence of both needs and demands that are unmet today. Demand for health services has been growing—and will continue to grow—in response to a variety of changing and interrelated circumstances and needs. These include: Population growth, rising consumer incomes, increasing insurance coverage, public policies giving increased attention to the disadvantaged, and developments of medical science and growth of specialization.

Between 1970 and 1980, the population of the United States will increase by about 27 million—from 205 million to a projected total of 232 million in 1980. This increase alone will add substantially to future demand for the services of health manpower. The amount of health care which people seek and receive is significantly affected by their purchasing power. Between 1950 and 1965, personal income per capita—after taxes and in 1958 prices—increased about 34 percent. This increase is estimated to have added at least 13 percent to the demand for physicians' services. It has been estimated that by 1975, rising personal income would further increase the demand for physicians' visits by 6.5 to 7.0 percent.

Health insurance coverage has done much to reduce economic barriers to health care. The continued growth of such insurance and the general inclusion of group health insurance among workers' fringe benefits is adding to the demands for health service. The 92d Congress is debating bills to provide a national system of health insurance. But experts in health care delivery are sounding urgent warnings about setting up and funding such insurance before enough health workers are available to provide the services.

In answer to those warnings we developed the Comprehensive Health Manpower Training Act of 1971 and the Nurse Training Act of 1971. They are major commitments of substantial and continuing assistance to health manpower education. The Public Health and Environment Subcommittee held 9 days of hearings to document the health manpower problem. We worked with experts in the health field from across the Nation. And we prepared goal-oriented legislation which was to close the health manpower gap. We assessed the realistic financial requirements necessary to achieve that goal and we authorized that level of appropriations in the legislation.

Here in Congress, we approved those authorizations. In the White House, the President signed the authorizations into law. When he signed the laws, the President declared:

> They constitute the most comprehensive health manpower legislation in the Nation's history.

He went on to say that legislation was only a first step. Said the President:

> These new programs must now be adequately funded and effectively carried out.

Then the Office of Management and Budget took out its scalpel and started to cut. We stand here today in witness of its work.

The supplemental budget request for Federal assistance in the education of health professionals and of nurses was $350.2 milion. Together with the $180.6 million included in the regular Labor-HEW apropriations bill for fiscal 1972, the supplemental request would have made available only $530.8 million out of authorized appropriations of $1,116 million. Close scrutiny of the supplemental request showed that it actually sought $15.9 million less than had been sought initially for the same programs in the January budget. And this was true despite the intervening enactment of the Comprehensive Health Manpower Training Act of 1971 and the Nurse Training Act of 1971. Although 63 medical schools in fiscal 1971 faced such serious financial pressure that they required special Government assistance, the fiscal 1972 supplemental request for special project and financial distress grants for medical schools was actually $13.5 million below fiscal 1971 appropriations. Although approved but unfunded construction projects for all of the health professions include a total of 2,464 additional first-year places, the fiscal 1972 supplemental request for construction assistance was $48.8 million below fiscal 1971 appropriations.

I remember when the President said in his February message on health that to make good health care readily available to all of our citizens:

> It is important that we produce more health professionals and that we educate more of them to perform more critically needed services.

The sad fact is, however, that the supplemental appropriations request and the funding levels in the conference report fall far below the levels authorized in the health-manpower legislation and far below the needs of this Nation.

I know that it is too late to do anything now, but I would urge the Members of this House to check on the health-manpower problems in their districts, so that when we come back in session next year, we can do something about this if we are serious about improving the health of the people of this Nation.

Mr. Speaker, I thank the gentleman for yielding.

Mr. MAHON. Mr. Speaker, I would say to my good friend, the gentleman from Florida (Mr. Rogers) that we have many shortages in this country. All of us want to do something about health-manpower training. The funding levels are moving up rather precipitously this year, and next year we will, I suspect, move up even more rapidly. And we will no doubt go on and on to higher and higher figures.

However, while we do have a health-manpower shortage, we are also confronted currently with a money shortage, with a deficit this year in Federal funds of probably $35 to $40 billion. So the managers on the part of the House attempted to be as realistic as possible. We agreed that we would go on this figure $143 million above the budget. Then we very carefully applied it where the funds would be allocated the best, and that is where we are at this time.

It is impossible to do everything that we all want to do.

Mr. SMITH of Iowa. Mr. Speaker, will the gentleman yield?

Mr. MAHON. I yield to the gentleman from Iowa.

Mr. SMITH of Iowa. Mr. Speaker, I want to point out that the money to be spent in fiscal year 1972 should have been authorized a year ago last October, but the authorization for this money was never enacted into law until November 18 of this year. In this very important field, the authorizing committee's legislation was 13.5 months late with the authorizing legislation; and when the authorization is some 13.5 months late, they cannot expect full consideration for the money.

Mr. MAHON. That is correct.

Let us proceed. I would suggest that the gentleman from Ohio (Mr. Bow) use time at this point.

Mr. BOW. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I did not sign this conference report. This conference report is $151,400,000 over the budget.

I have heard a great deal of talk here recently from a number of people in the well about a large deficit and about the amount of money that is being spent and about the national debt. If we all believe what has been said here, then when we bring in this appropriation bill for $151 million, I admit the committee did a good job, cutting down the amount in the budget from $700 million. I still think $151 million over the budget is too much of an amount of spending.

So far as the gentleman from Florida is concerned, I think the gentleman knows that I supported his bill. I believe in it, but it has been pointed out by the gentleman from Iowa, and I agree with him that if we had had the authorizations so that the committee could have taken it up in the regular bill—that is, if we had had the authorization early enough.

But this is a supplemental for 1972 and you cannot expect full funding in a supplemental bill of this kind.

I think the committee was most liberal.

Mr. ROGERS. Mr. Speaker, will the gentleman yield?

Mr. BOW. I yield to the gentleman.

Mr. ROGERS. I realize the situation, but I do think, and this is the point I was making, that, since the Senate held hearings and approved $707 million, I think it is regrettable that our conferees were not even willing to go 50–50 on the difference went only 40 percent.

Mr. BOW. Let me say to the gentleman, perhaps the other body had some hearings, and I have respect for the other body—but I am not willing to take the fact that they had some hearings and came to a conclusion—and we had not.

It would seem to me that we should not depend on their hearings. If the gentleman will look sometimes at the difference between the House hearings and the hearings of the other body, and the details that are gone into in the House hearings as compared with them, I think you will understand why some of us would like to see House hearings rather than rely on hearings of the other body.

So we were not given an opportunity—and I do not believe the gentleman really believes that the mere fact that there is an authorization for a larger amount is binding on the Committee on Appropriations for this new word that we have found recently of "full funding."

I think the committee has the responsibility of hearing and making a determination by the committee and then coming to the House and giving to the House its right to work its will upon the hearings conducted by the Committee on Appropriations.

Mr. ROGERS. Mr. Speaker, if the gentleman will yield further, that is the optimum condition. But we are not operating under those circumstances.

What I am saying is that your committee has not had an opportunity to have hearings, but the Senate has and I was hopeful that that even though we are not expecting full funding, you would provide sufficient money to constitute at least a beginning to get at the manpower shortage problems that we have.

Mr. BOW. Mr. Speaker, I had not expected to take as much time as I have.

Again I will point out this is $150 million over the budget. I have not signed the report. Other members of the committee of the minority did. So at this time I ask unanimous consent that the further control of the time on this side of the aisle be given to the gentleman from Michigan (Mr. CEDERBERG).

The SPEAKER. Without objection, it is so ordered.

Mr. CEDERBERG. Mr. Speaker, it is not our purpose on our side of the aisle to take very much time on this conference report. We have worked long and hard in conference. You do not make any friends really when you are a member of the Committee on Appropriations because we do have decisions that are very difficult to make.

We had conferees, ranking Members on our side, conferees on the committee available to answer any questions that anyone may have.

Mr. STEIGER of Wisconsin. Mr. Speaker, will the gentleman yield?

Mr. CEDERBERG. I yield to the gentleman.

Mr. STEIGER of Wisconsin. First of all, along with the gentleman from Iowa, I want to express dismay that this conference report of over $3 billion comes to us in the way that it does.

I have two specific questions on which the gentleman from Pennsylvania (Mr. FLOOD), chairman of the subcommittee, and Mr. MICHEL of Illinois, the ranking minority Member, might wish to comment, if the gentleman will yield for that purpose.

With reference to amendment No. 21, Manpower Administration—the figure recommended, as I understand it in the supplemental, is $776,717,000 instead of $817,597,000, as recommended by the other body.

That reduction in manpower training funds I find difficult to understand, when we consider the rate of unemployment and the contribution that manpower training makes to counter unemployment. It is the one program that enables the unemployed and unskilled to achieve skilled training. I wonder if you would be willing to give the House some idea as to why that reduction was made.

Mr. MICHEL. Mr. Speaker, will the gentleman yield?

Mr. CEDERBERG. I yield to the gentleman from Illinois.

Mr. MICHEL. I appreciate the gentleman's yielding. That represents a 5-percent cut in the item to which the gentleman makes reference. I must confess that I, too, am rather concerned that the cut should come from that particular item. There was some controversy in the conference with respect to where we should make a cut in the overall economic opportunity program, and it was the general feeling that we would like to recoup $80 to $100 million. Rather than taking a 10-percent cut from the OEO item, which was suggested, it was agreed that a 5-percent cut in the manpower training and a 5-percent cut in the OEO would be made.

Mr. STEIGER of Wisconsin. Mr. Speaker, will the gentleman yield further?

Mr. CEDERBERG. I yield to the gentleman from Wisconsin.

Mr. STEIGER of Wisconsin. I appreciate very much the candid response of the gentleman from Illinois. I can but indicate my unhappiness with the reductions that are made in both the manpower training and OEO items.

Let me go back to amendment No. 33, which would provide $660,000 for the Occupational Safety and Health Review Commission by transferring funds from the Department of Labor. Am I correct in understanding that the additional appropriation provided by this amendment would enable the Occupational Safety and Health Review Commission to hire the review officers which are needed to handle the large case load that is now pending?

Mr. MICHEL. If the gentleman will yield further the answer is "Yes." So far as funds are concerned this is strictly a transfer item a transfer from Department of Labor appropriations. There is no appropriation of new money.

Mr. STEIGER of Wisconsin. I thank the gentleman from Michigan and the gentleman from Illinois for their responses. I would only stress that the need is great for Safety and Health hearing examiners; we in the Congress must make sure we provide the funds that are necessary for this new agency.

Mr. CEDERBERG. Mr. Speaker, before yielding the floor, I would like, if I may, to enter into a little colloquy with my distinguished friend, the Chairman of the Post Office Subcommittee, Mr. STEED of Oklahoma. The gentleman will recall that the Senate had placed in the bill an item of $11,200,000 to begin the construction of the Pat McNamara Federal Building in the City of Detroit. The gentleman from Oklahoma objected to this method in going about construction of this building. He felt in the conference, and so stated, that it would be better to appropriate the full amount of money in the next year's budget that he will handle, and that in the light of his experience, he felt that if it was done in this manner, it would have a year's time, I believe he said, and also the cost would probably be less than if we proceeded as the Senate had indicated by appropriating $11,200,000.

So that we can get a little legislative history on the subject, am I correct in stating that it is the gentleman's position that this is a very high-priority item, and that he looks upon it with favor and will give it serious consideration and be of assistance in seeing that this matter is taken care of next year?

Mr. STEED. Mr. Speaker, will the gentleman yield?

Mr. CEDERBERG. I yield to the gentleman from Oklahoma.

Mr. STEED. I want to assure the gentleman it is true that the Detroit project is probably as deserving of top priority as any of the many projects that are pending in the country today. I have made my views in this regard known to both the GSA and OMB. The reason why we object to it had nothing whatsoever to do with the need for the building or the merit of the project.

As the gentleman knows, we got into the business some years ago of the partial construction of buildings, and it proved to be very costly; plus the fact that it had the effect of delaying the construction of the buildings. In order to get away from that system, we devoted 78 percent of the budget this year to cleaning up all of those old projects.

So we are now in a position to enter into the type of construction where we do the whole job in one movement. We are talking here, I think, only about a 6 months' delay, because it will be possible in the upcoming budget to fund that project in its entirety, and we have been assured by GSA that this can well save 2 years and maybe more from the date of the start until the building can be occupied.

As the gentleman knows, it is very expensive not to have the building already, and the sooner we can have the building, the sooner that unnecessary outflow of cost can be eliminated.

So far as I know, I know of no other project in the country that is more badly needed than the Detroit one, and I intend to do everyhing I can to see that it is in the next budget.

Mr. CEDERBERG. Mr. Speaker, I appreciate the comments of the gentleman from Oklahoma.

I did want to say this was authorized in 1963, ground was broken in 1968, and the mayor and the other people in Detroit are concerned. They will be gratified with the remarks of the gentleman from Oklahoma. I appreciate the gentleman's remarks very much.

Mr. MAHON. Mr. Speaker, at this late hour in the session of the Congress, we did our best to bring in a bill that would be reasonably acceptable to, shall I say, the high-dollar people and the low-dollar people. Of course, in relation to the budget requests, we are more on the low-dollar side, as compared to the Senate bill, as has been indicated. This is the best we were able to do in conference on the many matters involved.

Mr. Speaker, unless there is further desire for discussion, I shall presently move the previous question.

Mr. HALL. Mr. Speaker, will the gentleman yield?

Mr. MAHON. I yield to the gentleman from Missouri.

Mr. HALL. Mr. Speaker, I appreciate the gentleman yielding.

I cannot help but ask in wonderment how someone could refer to a specific amendment, as those in a prior discussion did, for example, amendment 29 or amendment 31. I have no way of knowing whether there are any specific amendments anywhere, in the odd "crash" situation in which we find ourselves, or whether or not there are any amendments in technical disagreement.

Of course, under the procedures of the House, there are options available when there are amendments in technical disagreement, and the gentleman from Texas will file separate motions at a later date. Are there any amendments in technical disagreement?

Mr. MAHON. There are quite a number of amendments in technical disagreement.

Mr. HALL. It would certainly be nice had we had an opportunity to see those.

ECONOMIC OPPORTUNITY AND HEALTH MANPOWER PROGRAMS

Now, under item No. 3 of the chart—or worksheet—just supplied, I will ask the gentleman from Texas, are we to presume that the whopping big increase over the House bill of $2,504,351,000, plus $660,000 in transfers, as has been discussed here, does that include $2 billion for that unconscionable OEO, and something like $200 million for additional impacted aid that the gentleman alleges the other body put in, and for the capitation grants for the Health Manpower and Health Professions Training Act—is there anything else in that $2,504,000,000 increase, I will ask the gentleman? If so, are any of them in disagreement?

Mr. MAHON. Referring to chapter III, the conference agreement is above the budget by $142 million in the case of the health manpower. But, since that item was not in the House bill, but was added by the Senate, the entire amount of the conference agreement on health manpower, shows as an increase over the House bill. The OEO programs were likewise not in the House bill. The conference agreement is about $2 billion.

Mr. HALL. If the gentleman will yield further, does the gentleman know how much that makes us totally over last year's appropriation in the same area—for total appropriations?

Mr. MICHEL. Mr. Speaker, if the gentleman will yield, I think it should be pointed out that for OEO we are at the budget figure minus the 5 percent cut which the conferees agreed to. For Headstart there is $376,317,000 in the bill. It is at last year's program level and $500,000 under the budget. That reduction represents the budgeted increase for evaluation. I think that was one appropriation to which the gentleman made reference.

Mr. HALL. That is very interesting. What I am really trying to find out is, where is the rest of the half billion dollars, the $504,351,000?

I understand some of it is for impact aid and some of it is for health.

Mr. MAHON. The other half-billon dollars is essentially represented by the health manpower increases, which we have been discussing with the gentleman from Florida. The House bill did not include any provision for health manpower, so the entire conference amount, namely, $493 million, shows as an increase over the House bill.

Mr. HALL. Does the gentleman have the answer to my other question, about how much it is over last year's appropriation?

Mr. MAHON. I do not have the figure at my fingertips. I yield to the gentleman from Illinois, a member of the conference committee.

Mr. MICHEL. In the regular fiscal 1972 bill there was $180 million for health manpower. The supplemental request by the administration was for $350 million to augment the health manpower legislation which was signed into law just a few days ago. The Senate added to that $357 million. As the chairman pointed out, we agreed to $143 million of that increase. So we would add $143 million plus $350 million plus $180 million to get the total amount of $673 million for health manpower in the current fiscal year.

Mr. HALL. That is over and above last year's appropriation?

Mr. MICHEL. Considerably, yes.

Mr. HALL. I have only one other question.

LEGISLATIVE BRANCH ITEMS

Is there anything in item four of this "poop sheet" which came to us after we took up the conference report, under "Legislative" that would explain the additional $1,372,595 above the House-passed figure? I am well aware, Mr. Speaker, it is custom and comity with the other body to allow their expenses. Specifically I want to know whether there is anything there for land acquisition or building on the part of the other body?

Mr. MAHON. There were a number of housekeeping items inserted by the other body. They are shown in the Senate passed bill and explained in the Senate report, which I have here at the table.

For example, there is $42,500 for a gratuity to the widow of the late Senator Prouty.

There is $21,770 for committee employees of the Senate.

There is $597,535 for administrative and clerical assistants to Senators, and language increasing clerk hire allowances.

Mr. HALL. That probably will account for all the self-styled presidential candidates' "staffs" in that other body, I would presume.

Mr. MAHON. I am not acquainted with that.

There is $68,390 for the Sergeant at Arms and Doorkeeper.

There is $14,000 for folding documents.

There is $275,000 for miscellaneous items, including $145,000 to modernize the Senate disbursing office and $130,000 and language to increase the number of home-State offices from two to three, and an increase of allowances for operations of home-State offices.

There is a transfer of $250,000 from fiscal year 1971 appropriations to miscellaneous items, and so forth.

There is $17,000 for an increase in stationary allowances of Senators in various population categories, and so forth.

It is all set out in the Senate committee report, which is available to Members.

Mr. HALL. I will phrase the question again for the gentleman. Is there anything in the miscellaneous and the various "and so forths," he has related, which will be used for land acquisition on the part of the other body?

Mr. MAHON. There is one amendment that involves a land purchase.

In the Senate committee report, of December 2, page 51, it is stated in part:

> The Committee recommends an appropriation of $270,000 for the acquisition of lot 18 in square 724 of the District of Columbia, located directly to the north of the New Senate Office Building and bounded by C, First, D and Second Streets, N.E. The site is presently being used as a commercial parking facility open to the public on a fee basis.
>
> This appropriation is authorized in S. 2687, which passed the Senate October 29, 1971. Following is an excerpt from the report on this bill submitted by the Senate Committee on Public Works:

Mr. HALL. I thought so; and I thank the gentleman.

ECONOMIC OPPORTUNITY PROGRAMS

Mr. PERKINS. Mr. Speaker, will the distinguished chairman yield to me briefly?

Mr. MAHON. I yield to the distinguished chairman of the Committee on Education and Labor.

Mr. PERKINS. If I understand the discussion, you cut the funds by 5 percent in the Economic Opportunity Act, including training programs. Is that correct?

Mr. MAHON. That is correct.

Mr. PERKINS. One other item. I understood the gentleman from Illinois to state the figure for Headstart of $500 million was cut back to about $376 million. Am I correct in that, I ask the gentleman from Illinois?

Mr. MAHON. I yield to the gentleman from Illinois to respond to the question as to what was done in conference with respect to Headstart.

Mr. MICHEL. I am not sure what the authorization is but we agreed to the budget figure that the Senate had in the bill with a relatively small reduction of $500,000.

Mr. PERKINS. I thank the gentleman.

Mr. MAHON. I yield to the gentleman from West Virginia (Mr. HECHLER).

Mr. HECHLER of West Virginia. Mr. Speaker, I want to be absolutely sure that 350 positions added for coal mine health safety inspection and the 19 positions added for the assessment of civil penalties by the House were retained by the conferees.

Mr. MAHON. With respect to that item, the total amount in the House bill was retained in conference.

Mr. HECHLER of West Virginia. I thank the gentleman.

Mr. FINDLEY. Mr. Speaker, will the gentleman yield to me?

Mr. MAHON. I yield to the gentleman from Illinois.

INCREASING DISINCLINATION TO HOLD THE LINE ON SPENDING

Mr. FINDLEY. I thank the gentleman for yielding.

Mr. Speaker, I have been in this body for just 11 years, and I do not have the background of the gentleman from Texas. In fact, I do not know of anyone in this body who is better equipped to deal with the question that I would like to raise than the gentleman from Texas.

I heard the gentleman in a statement during a colloquy the other day make an estimate that we would probably finish this fiscal year with a deficit of about $40 billion. Am I correct on that?

Mr. MAHON. I believe I said that in the current fiscal year, which is fiscal year 1972, we would probably finish the year with a deficit of from $35 billion to $40 billion in Federal funds. Of course, we borrow certain moneys from the trust funds, which must be paid back with interest, but I am talking about Federal funds. That is really the area which concerns me most, because there is where the public debt goes up. That is the key figure.

Mr. FINDLEY. As I recall it, we finished the last fiscal year with a deficit in the neighborhood of $30 billion.

Mr. MAHON. $30 billion in Federal funds.

Mr. FINDLEY. The reason why I mention this, Mr. Chairman, is my concern of what is happening in the appropriation discipline. The Committee on Appropriations was established, as I understand it, in an effort to bring about a discipline throughout the Federal Establishment so that our outflow would roughly equal the income of the Government. We have lost control some place. I wonder if the gentleman from Texas can tell us what we can do to bring about a better discipline on the part of the appropriation process.

Mr. MAHON. Well, it is fundamentally a question of will. A democracy will perish unless the people have the will and the restraint necessary to make democracy work. Formerly on the Committee on Appropriations we would take pride in saving the taxpayers' dollars and reducing the budget as much as possible. To reduce below the budget is becoming more and more difficult. Now our fight tends to consist in trying to prevent going inordinately above the budget.

WILL SPENDING APPROACH A GOOGOL OR A GOOGOLPLEX?

For example, we are saying here for health manpower that we went above the budget only $143 million. Of course, many of these programs are attractive and important, and we are finding it more and more difficult to resist the temptation to spend. We are finding ourselves under constant attack because Members say to the Appropriations Committee:

> Well, you did not provide for full funding.

If we provided full funding for all projects, public spending would go so high that the public debt sooner or later would probably approach a googol.

A googol is the figure 1 followed by 100 zeros. Then beyond that you step to what is called a googolplex. That is, indeed, an astronomical sum.

What the committee is trying to do is to prevent the public debt and the annual budget from going to a googol and, certainly, we want to avoid for this country a debt in the sum of a googolplex.

It is a most disturbing situation.

Congress is going far beyond appropriating all the money there is in hand and all the money there is in sight. It is becoming increasingly more difficult to hold the line. This lack of restraint jeopardizes the dollar. It is perhaps the principal cause of the great economic distress.

The SPEAKER. All time of the gentleman from Texas has expired.

Mr. CEDERBERG. Mr. Speaker, I would like to reply to the gentleman from Illinois (Mr. FINDLEY) and say that all the gentleman has to do is to vote against several of these authorization bills that keep coming down the road and not put the total blame on the Appropriations Committee. When the programs are authorized, then the Appropriations Committee has to make some effort to fund these programs to some degree.

I think the colloquy which we have had today has been very interesting because here we have a supplemental well above the budget, but all I have heard is complaining about the fact that it is not above the budget enough. Most of the colloquy has been that it has not been above the budget enough.

Mr. FINDLEY. Mr. Speaker, if the gentleman will yield, I raised the question to the chairman of the Appropriations Committee in all sincerity because my understanding of the appropriations process is that the reason the Appropriations Committee was established originally was to provide a central discipline within the House of Representatives over the spending of money. I want to know why it is not working and what can be done about it.

Mr. CEDERBERG. It is working within the committee quite well, but it does not work quite that well after we get it out of the committee.

Mr. FINDLEY. I am speaking about right here on the floor of the House right now.

Mr. MAHON. Mr. Speaker, will the gentleman from Michigan yield?

Mr. CEDERBERG. I am glad to yield to the chairman of the Appropriations Committee.

Mr. MAHON. Another factor in the current fiscal and budgetary picture is that in the interest of stimulating employment and the economy generally, we are adopting legislation cutting taxes some $15 billion over a 3-year period. We have also cut taxes in some recent years but we have not reaped the rewards that we had hoped to reap in increased revenues as a result of this effort at stimulation of the economy.

BUDGET WILL NOT BE EXCEEDED IN THE APPROPRIATION BILLS

But, that is another problem. However, let me say this: This Congress this year will not, in the appropriation bills, appropriate more money than has been requested by the executive branch. We are sharply below the Executive request for foreign aid appropriations. We are sharply below the Executive request for Defense appropriations. We are below the Executive request in certain other areas. However, in many of these social programs, there seems to be an irresistible urge to go higher and higher and higher.

What the Congress will eventually do about these trends, I do not know. But I believe the Congress and the people generally must somehow find the will to exercise more restraint in fiscal matters.

Mr. CEDERBERG. What the gentleman from Texas says may be true as far as our committee is concerned, but looking down the road to the future, we have authorized far more than has been requested. That is what gets us in trouble in future years.

NEED FOR MORE TIMELY AUTHORIZATIONS

Mr. WHITTEN. Mr. Speaker, will the gentleman yield?

Mr. CEDERBERG. I yield to the gentleman from Mississippi.

Mr. WHITTEN. I would like to point out that when we refer to the orderly proceedings in connection with the appropriations, I am sure I speak my own feelings and that of many others when I say that one of our major problems is that the authorizations never get out in time for us to complete the appropriations hearings and markup by the time we should and that is July 1, the beginning of the new fiscal year.

Mr. Speaker, it was considered by the Appropriations Committee and more or less agreed on at the conclusion of our work 2 years ago that we would proceed with our hearings with or without authorizations and when we got through, we would mark up the bill based on the prior year's appropriation, and as I recall this was agreed to by the leadership, and see whether or not we had enough authorizations and if we did not, then we could have a rule. We did this. That is one approach that we could follow in order to bring about an orderly process out of what appears to be chaos. However, that still leaves the problem that the gentleman from Texas pointed out and that is the problem of trying to hold the lid on after we complete our work. But we cannot bring order out of chaos if we mark our bills up on preceding appropriations, and if we had no authorization which raises another dilemma that we went through and that is to give us a rule on these authorizations.

Give us a rule or give us an authorization. That could be done, and I hope it will be seriously considered.

Mr. CEDERBERG. The gentleman from Mississippi makes a good point.

Mr. Speaker, I yield back the balance of my time because I know we have other business to take care of.

Mr. MAHON. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER. The question is on the conference report.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. HALL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant-at-Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 302, nays 73, not voting 56, as follows:

[Roll No. 453]

YEAS—302

Abernethy
Abourezk
Abzug
Adams
Addabbo
Alexander
Anderson, Calif.
Anderson, Ill.
Andrews, N. Dak.
Ashley
Aspin
Aspinall
Badillo
Begich
Bergland
Bevill
Biaggi
Biester
Bingham
Boggs
Boland
Bolling
Brademas
Brasco
Brinkley
Brooks
Broomfield
Brotzman
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton
Byrnes, Wis.
Cabell
Caffery
Carey, N.Y.
Carney
Carter
Cederberg
Chamberlain
Chappell
Chisholm
Clark
Clausen, Don H.
Clay
Cleveland
Collier
Colmer
Conable
Conte
Corman
Cotter
Coughlin
Culver
Curlin
Daniels, N.J.
Davis, Ga.
Davis, S.C.
de la Garza
Delaney
Dellums
Dent
Dingell
Donohue
Dorn
Dow
Downing
Drinan
Dulski
Duncan
du Pont
Dwyer
Eckhardt
Edwards, Calif.
Esch
Eshleman
Evans, Colo.
Fascell
Fish
Flood
Foley
Ford, Gerald R.
Ford, William D.
Forsythe
Fountain
Fraser
Frelinghuysen
Frenzel
Frey
Fulton, Tenn.
Galifianakis
Garmatz
Gaydos
Gettys
Giaimo
Gibbons
Gonzalez
Grasso
Gray
Green, Oreg.
Griffin
Gubser
Hagan
Halpern
Hamilton
Hammerschmidt
Hanley
Hanna
Hansen, Idaho
Hansen, Wash.
Harrington
Harsha
Harvey
Hastings
Hathaway
Hawkins
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Henderson
Hicks, Mass.
Hogan
Holifield
Horton
Hosmer
Howard
Hull
Hungate
Ichord
Jacobs
Jarman
Johnson, Calif.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Tenn.
Karth
Kastenmeier
Kazen
Keating
Kee
Keith
Kemp
Koch
Kuykendall
Kyl
Kyros
Landrum
Leggett
Lennon
Lent
Link
Lloyd
Long, La.
Long, Md.
McClory
McCloskey
McClure
McCulloch
McDade
McDonald, Mich.
McEwen
McFall
McKay
McKinney
McMillan
Macdonald, Mass.
Madden
Mahon
Mailliard
Martin
Mathias, Calif.
Mathis, Ga.
Matsunaga
Mazzoli
Meeds
Melcher
Michel
Miller, Calif.
Miller, Ohio
Minish
Mink
Minshall
Mitchell
Mollohan
Monagan
Moorhead
Morgan
Morse
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Natcher
Nedzi
Nelsen
Obey
O'Hara
O'Neill
Passman
Patman
Patten
Pepper
Perkins
Pettis
Peyser
Pickle
Pike
Pirnie
Poage
Podell
Preyer, N.C.
Price, Ill.
Pryor, Ark.
Pucinski
Quie
Railsback
Randall
Rangel
Rees
Reid, N.Y.
Rhodes
Riegle
Robison, N.Y.
Rodino
Roe
Rogers
Rooney, N.Y.
Rooney, Pa.
Rosenthal
Roy
Roybal
Runnels
Ruppe
Ryan
St Germain
Sandman
Sarbanes
Saylor
Scherle
Scheuer
Schwengel
Sebelius
Seiberling
Shipley
Shriver
Sikes
Sisk
Skubitz
Slack
Smith, Iowa
Smith, N.Y.
Staggers
Stanton, J. William
Stanton, James V.
Steed
Steele
Steiger, Wis.
Stephens
Stratton
Stubblefield
Stuckey
Symington
Taylor
Teague, Calif.
Teague, Tex.
Terry
Thompson, N.J.
Thomson, Wis.
Ullman
Van Deerlin
Vander Jagt
Vanik
Vigorito
Waggonner
Wampler
Ware
Whalen
Whalley
White
Whitten
Widnall
Williams
Wilson, Bob
Wilson, Charles H.
Winn
Wolff
Wyatt
Wydler
Wyman
Yates
Yatron
Young, Tex.
Zablocki
Zion
Zwach

NAYS—73

Abbitt
Archer
Arends
Ashbrook
Baker
Bennett
Betts
Bow
Bray
Burke, Fla.
Byron
Camp
Clancy
Clawson, Del
Collins, Tex.
Crane
Daniel, Va.
Danielson
Davis, Wis.
Dellenback
Denholm
Dennis
Dickinson
Edwards, Ala.
Findley
Fisher
Flowers
Flynt
Goldwater
Goodling
Gross
Grover
Haley
Hall
Hays
Hillis
Hunt
Hutchinson
Jonas
King
Landgrebe
Latta
McCollister
Mann
Mayne
Mills, Md.
Myers
Nichols
O'Konski
Pelly
Poff
Powell
Price, Tex.
Quillen
Rarick
Roberts
Robinson, Va.
Rousselot
Ruth
Satterfield
Schmitz
Schneebeli
Scott
Shoup
Smith, Calif.
Snyder
Steiger, Ariz.
Thompson, Ga.
Thone
Whitehurst
Wiggins
Wylie
Young, Fla.

NOT VOTING—56

Anderson, Tenn.
Andrews, Ala.
Annunzio
Baring
Barrett
Belcher
Bell
Blackburn
Blanton
Blatnik
Byrne, Pa.
Casey, Tex.
Celler
Collins, Ill.
Conyers
Derwinski
Devine
Diggs
Dowdy
Edmondson
Edwards, La.
Eilberg
Erlenborn
Evins, Tenn.
Fuqua
Gallagher
Green, Pa.
Griffiths
Gude
Hébert
Hicks, Wash.
Kluczynski
Lujan
McCormack
McKevitt
Metcalfe
Mikva
Mills, Ark.
Mizell
Montgomery
Nix
Purcell
Reuss
Roncalio
Rostenkowski
Roush
Spence
Springer
Stokes
Sullivan
Talcott
Tiernan
Udall
Veysey
Waldie
Wright

So the conference report was agreed to.

The Clerk announced the following pairs:

Mr. Annunzio with Mr. Springer.

Mr. Hébert with Mr. Devine.

Mr. Blatnik with Mr. Belcher.

Mr. Tiernan with Mr. Spence.

Mr. Barrett with Mr. Talcott.

Mr. Hicks of Washington with Mr. Bell.

Mr. Reuss with Mr. Veysey.

Mr. Rostenkowski with Mr. Gude.

Mr. Byrne of Pennsylvania with Mr. Collins of Illinois.

Mr. Andrews of Alabama with Mr. Blackburn.

Mr. Blanton with Mr. Lujan .

Mr. Green of Pennsylvania with Mr. Conyers.

Mr. Gallagher with Mr. McKevitt.

Mr. Evins of Tennessee with Mr. Erlenborn.

Mr. Eilberg with Mr. Derwinski.

Mr. Mikva with Mr. Metcalfe.

Mr. Nix with Mr. Roush.

Mr. Kluczynski with Mr. Dowdy.
Mr. Casey of Texas with Mr. Mizell.
Mr. Celler with Mr. Diggs.
Mr. Montgomery with Mr. Mills of Arkansas.
Mr. Wright with Mr. Waldie.
Mr. Udall with Mr. Stokes.
Mrs. Sullivan with Mr. Anderson of Tennessee.
Mr. Baring with Mr. Edmondson.
Mr. Purcell with Mr. Fuqua.
Mr. Roncalio with Mrs. Griffiths.

Mr. CARNEY changed his vote from "nay" to "yea."

Mr. SNYDER changed his vote from "yea" to "nay."

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

AMENDMENTS IN DISAGREEMENT

The SPEAKER. The Clerk will report the first amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 6: Page 2, line 20, insert:

"CONSTRUCTION

"For an additional amount for 'Construction,' $550,000, to remain available until expended."

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 6 and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 11: On page 3, line 21, strike out "$110,000," and insert "$2,325,000,"

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 11 and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 12:

Page 3, line 22, insert: "*Provided*, That notwithstanding the Act of March 18, 1950, as amended, not to exceed $2,215,000 shall be available for airport planning, development, or improvement at the Jackson Hole Airport pursuant to the Act of March 18, 1950, including availability through the Jackson Hole Airport Authority as sponsor's share of project costs for any grant made pursuant to Public Law 91–258."

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 12 and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 13: Page 4, line 4, insert:

"PARKWAY AND ROAD CONSTRUCTION (LIQUIDATION OF CONTRACT AUTHORITY)

"For an additional amount for 'Parkway and road construction (liquidation of contract authority)', $96,000, to remain available until expended."

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 13 and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 15: Page 5, line 9, insert:

"YOUTH CONSERVATION CORPS

"SALARIES AND EXPENSES

"For expenses necessary to carry out the provisions of the Act of August 13, 1970 (Public Law 91–378), establishing the Youth Conservation Corps, $3,500,000, to remain available until expended: *Provided*, That $1,750,000 shall be available to the Secretary of the Interior and $1,750,000 shall be available to the Secretary of Agriculture."

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 15 and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 16: Page 5, line 17, insert:

"DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

"HEALTH SERVICES AND MENTAL HEALTH ADMINISTRATION

"INDIAN HEALTH FACILITIES

"For an additional amount for 'Indian health facilities', $42,000, to remain available until expended."

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 16 and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 20: Page 6, line 24, insert:

"SALARIES AND EXPENSES

"For an additional amount for the Manpower Administration, $26,607,000: *Provided*, That $26,207,000 of this appropriation shall be available only upon the enactment into law of S. 2007 or other authorizing legislation by the Ninety-second Congress."

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 20 and concur therein with an amendment, as follows: In lieu of the matter proposed in said amendment insert

"SALARIES AND EXPENSES

"For an additional amount for the Manpower Administration, $26,207,000."

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 21: Page 7, line 4, insert:

"MANPOWER TRAINING SERVICES

"For expenses necessary to carry into effect title I of the Economic Opportunity Act of 1964, as amended, $817,597,000: *Provided*, That the amounts heretofore appropriated for title II, parts A and B of the Manpower Development and Training Act of 1962, as amended, for expenses of programs authorized under the provisions of subsection 123(a) (5) and (8) of the Economic Opportunity Act of 1964, as amended, shall not be subject to the apportionment of benefits provisions of section 301 of the Manpower Development and Training Act: *Provided further*, That this appropriation shall not be available for contracts made under title I of the Economic Opportunity Act extending for more than twenty-four months: *Provided further*, That all grants agreements shall provide that the General Accounting Office shall have access to the records of the grantee which bears exclusively upon the Federal grant: *Provided further*, That this appropriation shall be available for the purchase and hire of passenger motor vehicles, and for construction, alteration, and repair of buildings and other facilities, as authorized by section 602 of the Economic Opportunity Act of 1964 and for the purchase of real property for training centers: *Provided further*, That this appropriation shall be available only upon the enactment into law of S. 2007 or other authorizing legislation by the Ninety-second Congress."

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 21 and concur therein with an amendment as follows: In lieu of the sum named in said amendment insert "$776,717,000," and delete the last proviso.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 24: On page 9, line 4, insert:

"ELEMENTARY AND SECONDARY EDUCATION

"For an additional amount for 'Elementary and Secondary Education', $32,500,000, which shall be for title I–A of the Elementary and Secondary Education Act: *Provided*, That the aggregate amounts made available to each State in fiscal year 1972 under such title for grants to local educational agencies within that State shall not be less than such amounts as were made available for that purpose in fiscal year 1971."

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 24 and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 28: Page 11, line 14, insert:

"NATIONAL INSTITUTES OF HEALTH

"HEALTH MANPOWER

"For an additional amount for 'Health manpower', $707,157,000 of which $217,816,000 shall remain available until expended to carry out part B of title VII and part A of title VIII of the Public Health Service Act: *Provided*, That $120,000,000 to carry out sections 772, 773, and 774 shall remain available for obligation through September 30, 1972: *Provided further*, That $10,616,000 shall be for a construction grant to the Louisiana State University, as authorized by title VII of the Public Health Service Act and $1,000,000 shall be used to carry out programs in the family practice of medicine, as authorized by the Family Practice of Medicine Act of 1970 (S. 3418, Ninety-first Congress).

"Loans, grants, and payments for the next succeeding fiscal year: For making, after December 31 of the current fiscal year, loans, grants, and payments under section 306, parts C, F, and G of title VII, and parts B and D of title VIII of the Public Health Service Act for the first quarter of the next succeeding fiscal year, such sums as may be necessary, and obligations incurred and expenditures made hereunder shall be charged to the appropriation for that purpose for such fiscal year: *Provided*, That such loans, grants, and payments pursuant to this paragraph may not exceed 50 per centum of the amounts authorized in section 306, parts C and G of title VII, and in part B of title VIII for these purposes for the next succeeding fiscal year."

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 28 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment insert the following:

"NATIONAL INSTITUTES OF HEALTH

"HEALTH MANPOWER

"For an additional amount for 'Health manpower", $492,980,000 of which $162,885,000 shall remain available until expended to carry out part B of title VII and part A of title VIII of the Public Health Service Act: *Provided*, That $93,000,000 to carry out sections 772, 773, and 774 shall remain available for obligation through September 30, 1972: *Provided further*, That $100,000 shall be used to carry out programs in the family practice of medicine, as authorized by the Family Practice of Medicine Act of 1970 (S. 3418, Ninety-first Congress).

"Loans, grants, and payments for the next succeeding fiscal year: For making, after December 31 of the current fiscal year, loans, grants, and payments under section 306, parts C, F, and G of title VII, and parts B and D of title VIII of the Public Health Service Act for the first quarter of the next succeeding fiscal year, such sums as may be necessary, and obligations incurred and expenditures made hereunder shall be charged to the appropriation for that purpose for such fiscal year: *Provided*, That such loans, grants, and payments pursuant to this paragraph may not exceed 50 per centum of the amounts authorized in section 306, parts C and G of title VII, and in part B of title VIII for these purposes for the next succeeding fiscal year."

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 29. Page 12, line 17, insert:

"SOCIAL AND REHABILITATION SERVICE

"SPECIAL PROGRAMS FOR THE AGING

"For an additional amount to carry out, except as otherwise provided, the Older Americans Act of 1965, $45,750,000.

"RESEARCH AND TRAINING

"For an additional amount to carry out, except as otherwise provided, titles IV and V of the Older Americans Act of 1965, $9,500,000."

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 29 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment insert:

"SOCIAL AND REHABILITATION SERVICE

"SPECIAL PROGRAMS FOR THE AGING

"For an additional amount to carry out, except as otherwise provided, the Older Americans Act of 1965, $45,750,000, to remain available for obligation through December 31, 1972.

"RESEARCH AND TRAINING

"For an additional amount to carry out, except as otherwise provided, titles IV and V of the Older Americans Act of 1965, $9,500,000, to remain available for obligation through December 31, 1972."

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 31: Page 13, line 2, insert:

"CHILD DEVELOPMENT

"For an additional amount for 'Child Development', $376,817,000, to carry out Project Headstart, as authorized by section 222(a)(1) of the Economic Opportunity Act of 1964: Provided, That this appropriation shall be available only upon the enactment into law of S. 2007 or other authorizing legislation by the Ninety-second Congress."

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 31 and concur therein with an amendment, as follows: In lieu of the sum named in said amendment insert "$376,317,000" and delete the proviso.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate Amendment No. 32: Page 13, line 9, insert:

"MATERNAL AND CHILD HEALTH

"Grants made during the current fiscal year for any project under section 508, 509, or 510 of the Social Security Act may be for periods ending prior to July 1, 1973."

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 32 and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 33: Page 14, line 1, insert:

"OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

"SALARIES AND EXPENSES

"For an additional amount for 'Salaries and expenses,' for expenses of additional hearing examiners, $660,000, to be derived by transfer from the appropriation to the Department of Labor, the Workplace Standards Administration, for 'Salaries and expenses.'"

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 33 and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 34: Page 14, line 9, insert:

"OFFICE OF ECONOMIC OPPORTUNITY

"FEDERAL FUNDS

"ECONOMIC OPPORTUNITY PROGRAM

"For expenses necessary to carry out the provisions of the Economic Opportunity Act of 1964 (Public Law 88-452, approved August 20, 1964), as amended, $780,400,000, plus reimbursements: *Provided*, That this appropriation shall be available for the purchase and hire of passenger motor vehicles, and for construction, alteration, and repair of buildings and other facilities, as authorized by section 602 of the Economic Opportunity Act of 1964: *Provided further*, That no part of the funds appropriated in this paragraph shall be available for any grant until the Director has determined that the grantee is qualified to administer the funds and programs involved in the proposed grant: *Provided further*, That all grant agreements shall provide that the General Accounting Office shall have access to the records of the grantee which bear exclusively upon the Federal grant: *Provided further*, That this appropriation shall be available only upon the enactment of S. 2007 or other authorizing legislation by the Ninety-second Congress."

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 34 and concur therein with an amendment, as follows: In lieu of the sum named in said amendment insert "$741,380,000" and delete the last proviso.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

Mr. MAHON. Mr. Speaker, inasmuch as amendments Nos. 35 through 46 relate solely to the other body, I ask unanimous consent that these amendments—that is, Nos. 35 through 46, inclusive—be considered en bloc.

SENATE HOUSEKEEPING-TYPE ITEMS

Mr. GROSS. Mr. Speaker, reserving the right to object, I would like to ask the gentleman from Texas if he thinks the other body would do as much for us as he requests in an attempt to expedite the effort to adjourn.

Mr. MAHON. Normally when we insert housekeeping items of the House, the other body does not object but concurs in the House action.

Mr. GROSS. I have long understood the business of comity between the two bodies. I have long since learned all about that. I can see a tremendous amount of reading here for the reading clerk, and I am not going to object, but I just want to be assured that the Senate will do as much to cooperate in the rush to adjourn when the occasion presents itself.

Mr. MAHON. I am most hopeful that now that we have all the appropriation bills delivered to the other body, the other body will act. If the other body does not, then we will have to decide what to do.

Mr. GROSS. Mr. Speaker, I withdraw my reservation.

Mrs. GREEN of Oregon. Reserving the right to object, and I know that this question comes a little bit later than it should but I would like to address a question to the Chairman of the Appropriations Committee, if I may, in regard to the OEO legislation. If a veto message comes to the House this afternoon and the entire OEO bill with the child development program is vetoed, the appropriation is still in the conference report. Does the appropriation then have the impact of authorizing the legislation, and the appropriation would be in effect this year?

Mr. MAHON. I believe that the appropriation bill would control and that the funds for the OEO would be available even though there should be a veto of the OEO authorizing legislation, S. 2007.

There was language in the Senate bill making the availability of the funds contingent upon an authorization bill being enacted into law, but this language was stricken out in conference. The language that was stricken out reads as follows:

> Provided further, that this appropriation shall be available only upon the enactment of S. 2007 or other authorizing legislation by the 92d Congress.

That language appeared in four places in the appropriation bill with regard to Economic Opportunity activities. That was stricken from the bill in each instance. So under the circumstances I believe that this bill would control and that the funds would be available even if there is a veto of the Economic Opportunity authorization bill.

Mrs. GREEN of Oregon. Mr. Speaker, further reserving the right to object, then if this legislation that we are now considering has the effect of both authorizing and appropriating funds, would the chairman tell me whether it would be the appropriations for the new bill that was written this year and was passed by the House or would it be for the OEO bill as it existed last year?

Mr. MAHON. It will be for the authorization that lost was in effect if the bill that Congress has recently passed is vetoed. It will tie to legislation that had been continued to be funded by the continuing resolution and will not be based upon the new proposed legislation if it is vetoed.

Mrs. GREEN of Oregon. But your contingency clause, "contingent upon S. 2007 being enacted into law," that legislative history would not change what the gentleman has just said? It would not have the effect of appropriating funds for the bill as it was passed this year instead of the OEO legislation that was passed last year or the year before?

Mr. MAHON. I believe it would have the effect of appropriating funds for the program as it is now being carried on, and that is under the old law rather than the new legislation recently passed by the House and the Senate.

Mrs. GREEN of Oregon. Does the conference report make that clear that it is the old bill without any changes?

Mr. MAHON. We just say a certain amount is available, for the Headstart program, for the manpower programs, and for the Office of Economic Opportunity.

Mrs. GREEN of Oregon. And it does not include, for instance, child development or the other changes?

Mr. MAHON. It does not include the new programs which would be initiated under the new legislation which recently went to the White House. For example, regarding the Office of Child Development on page 13, amendment No. 31, the language of the bill is—

> For an additional amount for "child development" $376,817,000 to carry out Project Headstart, as authorized by section 222(a) (1) of the Economic Opportunity Act of 1964 . . ."

So that would be the proviso.

Mrs. GREEN of Oregon. And not the new program.

Mr. MAHON. That is right, whether the President signs the new bill or vetoes it there are no funds provided for the proposed child development program or any other new program.

Mrs. GREEN of Oregon. I thank the gentleman.

Mr. WILLIAM D. FORD. Mr. Speaker, will the gentleman yield?

Mr. MAHON. I yield to the gentleman from Michigan.

Mr. WILLIAM D. FORD. Mr. Speaker, I did not quite understand the answer given to the gentlewoman. It appears that it is the intention of the amendment now before us to make the spending of the funds that are appropriated herein subject to all the provisions of the Economic Opportunity Act of 1964, which was Public Law 88-452. Is that correct?

Mr. MAHON. Will the gentleman advise what amendment he is looking at, the page?

Mr. WILLIAM D. FORD. On OEO.

Mr. MAHON. On OEO?

Mr. WILLIAM D. FORD. It is No. 34 on page 14.

Mr. MAHON. And it continues on page 15 with language that was stricken in conference. The language that was stricken is:

> *Provided further,* That this appropriation shall be available only upon the enactment of S. 2007 or other authorizing legislation by the 92d Congress.

So it would be based upon existing law, the Economic Opportunity Act of 1964, as amended.

Mr. WILLIAM D. FORD. There is no existing law. The law expired on July 1 of this year. That is why I wanted to determine from the gentleman if we would interpret this language as if we were reenacting that act?

Mr. MAHON. We gave the act of 1964 a transfusion and we have kept it alive through the technique of the continuing resolution, and now continue its funding in this bill.

Mr. WILLIAM D. FORD. Is it the interpretation of the Chairman then that the restrictions contained in that statute, would apply to the funds under this conference report?

Mr. MAHON. I would say the existing restrictions would apply. There are other members of the committee who are far more expert in this field than I am.

The Chairman of the Subcommittee, the gentleman from Pennsylvania (Mr. FLOOD) is here.

Mr. FLOOD. If the gentleman will yield, that is quite right, yes.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER. The Clerk will report the Senate amendments.

The Clerk read the Senate amendments, as follows:

Senate amendments Nos. 35 through 46: Beginning on page 15, line 5, strike out "CHAPTER III" and insert "CHAPTER IV" LEGISLATIVE BRANCH.

And on line 7 insert: "SENATE"

And on line 8 insert: "For payment to Jennette Herbert Hall Prouty, widow of Winston L. Prouty, late a Senator from the State of Vermont, $42,500."

And on line 11 insert:

"SALARIES, OFFICERS AND EMPLOYEES"

And on line 12 insert:

"COMMITTEE EMPLOYEES

"For an additional amount for 'Committee Employees', $21,770, to include herein, from and after January 1, 1972, the positions made permanent by Public Law 92-136, approved October 11, 1971."

And on line 17 insert:

"ADMINISTRATIVE AND CLERICAL ASSISTANTS TO SENATORS

"For an additional amount for 'Administrative and Clerical Assistants to Senators', $597,535: *Provided,* That the clerk hire allowance of each Senator from the States of Maryland and Tennessee shall be increased to that allowed Senators from States having a population of four million, the populations of said States having exceeded four million inhabitants, that the clerk hire allowance of each Senator from the State of Florida shall be increased to that allowed Senators from States having a population of seven million, the population of said State having exceeded seven million inhabitants, and that the clerk hire allowance of each Senator from the State of Michigan shall be increased to that allowed Senators from States having a population of nine million, the population of said State having exceeded nine million inhabitants: *Provided further,* That effective January 1, 1972, the table contained in section 105(d)(1) of the Legislative Branch Appropriation Act, 1968, as amended and modified, is amended to read as follows:

"$295,938 if the population of his State is less than 3,000,000;

"$321,768 if such population is 3,000,000 but less than 4,000,000;

"$345,138 if such population is 4,000,000 but less than 5,000,000;

"$362,850 if such population is 5,000,000 but less than 7,000,000;

"$382,038 if such population is 7,000,000 but less than 9,000,000;

"$403,440 if such population is 9,000,000 but less than 10,000,000;

"$424,842 if such population is 10,000,000 but less than 11,000,000;

"$446,244 if such population is 11,000,000 but less than 12,000,000;

"$467,646 if such population is 12,000,000 but less than 13,000,000;

"$488,556 if such population is 13,000,000 but less than 15,000,000;

"$509,466 if such population is 15,000,000 but less than 17,000,000;

"$530,130 if such population is 17,000,000 or more.'."

On page 17, line 10, insert:

"OFFICE OF SERGEANT AT ARMS AND DOORKEEPER

"For an additional amount for 'Office of Sergeant at Arms and Doorkeeper', $68,390: *Provided*, That effective January 1, 1972, the Sergeant at Arms may appoint and fix the compensation of an additional assistant video engineer at not to exceed $17,958 per annum, a senior programer at not to exceed $17,712 per annum, two program analysts at not to exceed $15,006 per annum each, four operators at not to exceed $10,086 per annum each, a liaison and documentation specialist at not to exceed $12,054 per annum, a job controller at not to exceed $12,054 per annum, and a key punch operator at not to exceed $6,642 per annum."

And on line 22 insert:

"Contingent Expenses of the Senate"

And on line 23 insert:

"FOLDING DOCUMENTS

"For an additional amount for 'Folding Documents' $14,000."

On page 18, line 1, insert:

"MISCELLANEOUS ITEMS

"For an additional amount for 'Miscellaneous Items', fiscal year 1971, $250,000 to be derived by transfer from the appropriation 'Salaries, Officers and Employees', fiscal year 1971.

"For an additional amount for 'Miscellaneous Items', $275,000: *Provided*, That each Senator shall be entitled to office space suitable for his official use at not more than three places designated by him in the State he represents. The Sergeant at Arms shall secure for each Senator such suitable office space in post offices or other Federal buildings at the places designated by each Senator. In the event suitable space is not available in post offices or other Federal buildings at any place designated by a Senator within his State, the Senator may lease or rent other office space for the purpose at such place, and the Sergeant at Arms shall approve for payment from the contingent fund of the Senate vouchers covering bona fide statements of rentals due for such office. In addition, the Sergeant at Arms shall approve for payment from the contingent fund of the Senate to each Senator, upon his certification, the official office expenses incurred in his State, telephone service charges officially incurred outside Washington, District of Columbia, and charges incurred for subscriptions to newspapers, magazines, periodicals, or clipping or similar services. Payment of rentals due and such expenses and charges shall not exceed the amount of $7,800 each calendar year, of which amount not to exceed $3,600 shall be available for the payment of rentals due, except that in the case of a Senator holding his office as Senator for less than a full calendar year, such $7,800 and $3,600 shall be prorated for that portion of such year he has served as a Senator. The aggregate of payments to or on behalf of a Senator shall not exceed at any time the sum of $650 multiplied by the number of months (or fractions thereof) elapsing from (1) the first day of the calendar year in which the payment is made, or (2) the day during such year in which the Senator assumed the duties of his office, whichever day is applicable, to the date of payment, and the amounts included in such sum as payment for rentals due shall not exceed $300 multiplied by the number of such months (or fractions thereof), except that nothing in this sentence shall preclude the payment of rentals at the beginning of the month for which they are due. In the case of the death of any Senator, the chairman of the Committee on Rules and Administration may certify for such deceased Senator for any portion of such sum already obligated but not certified to at the time of such Senator's death, and for any additional amount which may be reasonably needed for the purpose of closing such deceased Senator's State office, for payment to the person or persons designated as entitled to such payment by such chairman. The proviso relating to strictly official telephone service charges incurred by Senators outside the District of Columbia appearing in the first paragraph of chapter VIII of the Second Supplemental Appropriation Act, 1967 (2 U.S.C. 46d–3), is repealed, and the paragraphs relating to the securing of office space for Senators in post office or other Federal buildings in their States and to the payment of official office expenses incurred by Senators in their States appearing under the heading 'Senate' in the Legislative Branch Appropriation Act, 1957, as amended (2 U.S.C. 52, 53), are repealed. The preceding seven sentences and the proviso preceding such sentences are effective January 1, 1972."

On page 20, line 14, insert:

"STATIONERY (REVOLVING FUND)

"For an additional amount for 'Stationery (Revolving Fund)', $17,400: *Provided*, That effective with the fiscal year 1972 and thereafter, the annual allowance for stationery for the President of the Senate shall be $3,600, and such allowance for each Senator shall be as follows:

"$3,600 if the population of his State is less than 3,000,000;

"$3,800 if such population is 3,000,000 but less than 5,000,000;

"$4,000 if such population is 5,000,000 but less than 9,000,000.

"$4,200 if such population is 9,000,000 but less than 11,000,000;

"$4,500 if such population is 11,000,000 but less than 13,000,000;

"$4,800 if such population is 13,000,000 but less than 17,000,000;

"$5,000 if such population is 17,000,000 or more."

On page 21, line 8, insert:

"ADMINISTRATIVE PROVISION

"In the event of the death, resignation, or disability of the Secretary of the Senate, the Assistant Secretary of the Senate shall act as Secretary in carrying out the duties and responsibilities of that office in all matters, except those matters relating to the Secretary's duties as disbursing officer of the Senate, until such time as a new Secretary shall have been elected and qualified or such disability shall have been ended. For purposes of this paragraph and the last full paragraph under the heading 'SENATE' in the First Deficiency Act, fiscal year 1936 (44 Stat. 162; 2 U.S.C. 64a), the Secretary of the Senate shall be considered as disabled only during such period of time as the Majority and Minority Leaders and the President pro tempore of the Senate certify jointly to the Senate that the Secretary is unable to perform his duties."

Mr. MAHON (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments numbered 35 through 46 be considered as read and printed in the Record.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. GROSS. Mr. Speaker, reserving the right to object, that covers, I take it, the extension of the additional Senate Office Building site?

Mr. MAHON. No, I believe not. That, I believe, is a subsequent amendment.

Mr. GROSS. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Mahon moves that the House recede from its disagreement to the amendments of the Senate numbered 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, and 46, and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 48: On page 24, line 17, insert:

"SENATE OFFICE BUILDINGS

"For an additional amount for 'Senate Office Buildings', $66,000, to remain available until expended."

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Mahon moves that the House recede from its disagreement to the amendment of the Senate numbered 48 and concur therein.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. MAHON. I yield to the gentleman from Iowa.

Mr. GROSS. Does the mean an additional Senate office building?

Mr. MAHON. I believe you refer to the next amendment.

The SPEAKER. The question is on the motion offered by the gentleman from Texas (Mr. Mahon).

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 49: Beginning on page 24, line 20, insert the following:

"EXTENSION OF ADDITIONAL SENATE OFFICE BUILDING SITE

"To enable the Architect of the Capitol, under the direction of the Senate Office Building Commission, to acquire on behalf of the United States, by purchase, condemnation, transfer, or otherwise, in addition to the real property contained in square 724 in the District of Columbia heretofore acquired under Public Law 85–429, approved May 29, 1958 (72 Stat. 148–149), and Public Law 91–382, approved August 18, 1970 (84 Stat. 819), for purposes of further extension of such site or for additions to the United States Capitol Grounds, all publicly or privately owned real property contained in lot 18 in square 724 in the District of Columbia, as such square appears on the records in the Office of the Surveyor of the District of Columbia as of the date of the approval of this Act: *Provided*, That for the purposes of this Act, square 724 shall be deemed to extend to the outer face of the curbs surrounding such square: *Provided further*, That, upon acquisition of any real property under this Act, the jurisdiction of the Capitol Police shall extend over such property: *Provided further*, That, any proceeding for condemnation brought under this Act shall be conducted in accordance with the Act of December 23, 1963 (16 D.C. Code, secs. 1351–1368): *Provided further*, That upon acquisition of any real property pursuant to this Act, the Architect of the Capitol, when directed by the Senate Office Building Commission to so act, is authorized to provide for the demolition and/or removal of any structures on, or constituting a part of, such property and to use the property for Government purposes or to lease any or all of such property for such periods and under such terms and conditions as he may deem most advantageous to the United States and to incur any necessary expenses in connection therewith: *Provided further*, That, such real property, when acquired under authority of this Act, shall be subject to the provisions of the Act of July 31, 1946, as amended (40 U.S.C. 193a–193m, 212a, and 212b): *Provided further*, That, the Architect of the Capitol under the direction of the Senate Office Building Commission, is authorized to enter into contracts and to make such expenditures, including expenditures for personal and other services, expenditures authorized by Public Law 91–646, approved January 2, 1971 (84 Stat. 1894–1907), applicable to the Architect of the Capitol, and expenditures for any other required items, as may be necessary to carry out the provisions of this appropriation; $270,000, to remain available until expended.

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 49 and concur therein.

PURCHASE OF PROPERTY FOR THE SENATE

Mr. MAHON. Mr. Speaker, I believe the gentleman from Iowa is interested in discussing amendment No. 49, which has been the subject of an earlier colloquy and which is described on page 51 of the Senate report on the supplemental appropriation bill.

This is an appropriation agreed to by the House conferees. It would provide $270,000 for the acquisition of lot 18 in square 724 of the District of Columbia located north of the New Senate Office Building, and is for the use of the Senate.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. MAHON. I yield to the gentleman from Iowa.

Mr. GROSS. Does that mean the Senate is preparing to construct another Senate office building? Is that the purpose of it?

Mr. MAHON. My understanding is that this is for a parking lot. That is what the report indicates.

Mr. GROSS. I thank the gentleman.

The SPEAKER. The question is on the motion offered by the gentleman from Texas (Mr. MAHON).

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 51: On page 28, line 7, strike out "For an additional amount for "Construction General", $34,100,000, to remain available until expended."

and insert in lieu thereof:

"For an additional amount for "Construction, General," $102,400,000, to remain available until expended or which not to exceed $1,400,000 shall be available for emergency flood control construction of debris basins and channel clearing in the Carpinteria, California, area affected by recent fires, and such work is hereby authorized."

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 51 and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 55: On page 30, line 1, insert:

"NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

"SATELLITE OPERATIONS

"For an additional amount for 'Satellite operations,' $4,919,000, to remain available until expended."

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 55 and concur therein with an amendment, as follows: In lieu of the sum named in said amendment, insert the following: "$4,000,000".

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 57: On page 30, line 20, insert:

"For expenses necessary for international radio broadcasting and related activities, as authorized by law, including not to exceed $36,000,000 for grants to Radio Free Europe and Radio Liberty, $36,225,000: *Provided*, That this appropriation shall be available only upon the enactment into law of S. 18 or other authorizing legislation, 92d Congress."

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 57 and concur therein with an amendment, as follows: In lieu of $36,000,000 named in said amendment, insert the following: "$32,000,000";

And in lieu of $36,225,000 named in said amendment insert the following: "$32,225,000".

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 60: On page 31, line 22, strike out "$200,000, to be derived from the appropriation 'Office of the Secretary, salaries and expenses'" and insert in lieu thereof "$2,200,000".

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 60 and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted, insert the following: "$2,200,000, of which $200,000 shall be derived from the appropriation 'Office of the Secretary, salaries and expenses'".

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. MAHON. I yield to the distinguished gentleman from Iowa.

Mr. GROSS. Is this the item for which authorizing legislation was sought, I believe on Monday of this week, and was defeated?

Mr. MAHON. It failed because it did not have the necessary two-thirds vote.

Mr. GROSS. Yes. But it was defeated, was it not?

Mr. MAHON. Yes.

Mr. GROSS. So it is right back here now on a forward funding basis, is it not?

Mr. MAHON. No. There is contained in the appropriation paragraph the statement that the funds shall not be available unless authorizing legislation is enacted.

Mr. GROSS. I say that Congress has now come to forward funding. We cannot wait, so we make the money available. It is a before-the-fact situation. Is that not right?

Mr. MAHON. The contingency clause governs. The money will not be available unless Congress provides the authorization. This aviation show is scheduled for next spring, and if the Congress does not see fit to enact additional authorization, these funds cannot be expended.

Mr. GROSS. But what we are really saying here is "the money is all ready for you. Just pass the authorization. Then hop to it and spend it." That is about the story, is it not?

Mr. MAHON. We are simply saying here that, unless it is authorized, the money cannot be made available.

The SPEAKER. The question is on the motion offered by the gentleman from Texas.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 61: Page 31, line 25, insert: "*Provided*, That $2,000,000 of this appropriation shall be available only upon the enactment into law of authorizing legislation by the Ninety-second Congress."

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 61 and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 62: Page 32, line 10, insert:

"AVIATION ADVISORY COMMISSION

"SALARIES AND EXPENSES

"(Airport and Airway Trust Fund)

"For an additional amount for the Aviation Advisory Commission, authorized by section 12 of the Act of May 21, 1970 (Public Law 91–258), as amended, $750,000 to be derived from the Airport and Airway Trust Fund and to remain available until March 1, 1973: *Provided*, That funds for the Aviation Advisory Commission, as provided for in chapter XI of title I of the Second Supplemental Appropriations Act, 1971, shall also remain available until March 1, 1973."

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Mahon moves that the House recede from its disagreement to the amendment of the Senate numbered 62 and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 68: Page 34, line 15, insert:

"FUNDS APPROPRIATED TO THE PRESIDENT

"Economic Stabilization Activities

"salaries and expenses

"For expenses necessary to carry out the Economic Stabilization Act of 1970, as amended, including activities under Executive Orders No. 11615 of August 15, 1971, and No. 11627 of October 15, 1971, both as amended; activities under Proclamation 4074 of August 15, 1971; and hire of passenger motor vehicles, and services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem equivalent of the rate for GS–18, such amounts as may be determined from time to time by the Director of the Office of Management and Budget but not to exceed $20,153,000, of which not less than $3,000,000 will be derived by transfer from the Exchange Stabilization Fund and the remainder to be derived by transfer from balances reserved for savings in such appropriations to the departments and agencies of the Executive Branch for the current fiscal year as the Director may determine: *Provided*, That advances or repayments from the above amounts may be made to any department or agency for expenses of carrying out such activities."

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Mahon moves that the House recede from its disagreement to the amendment of the Senate numbered 68 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment insert the following:

"FUNDS APPROPRIATED TO THE PRESIDENT

"Economic Stabilization Activities

"salaries and expenses

"For expenses necessary to carry out the Economic Stabilization Act of 1970, as amended, including activities under Executive Orders No. 11615 of August 15, 1971, and No. 11627 of October 15, 1971, both as amended; activities under Proclamation 4074 of August 15, 1971; and hire of passenger motor vehicles, and services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem equivalent of the rate for GS–18, such amounts as may be determined from time to time by the Director of the Office of Management and Budget but not to exceed $20,153,000, to be derived by transfer from balances reserved for savings in such appropriations to the departments and agencies of the Executive Branch for the current fiscal year as the Director may determine: *Provided*, That advances or repayments from the above amounts may be made to any department or agency for expenses of carrying out such activities."

FUNDS FOR ECONOMIC STABILIZATION ACTIVITIES

Mr. GROSS (during the reading). Mr. Speaker, I ask unanimous consent that the remainder of the motion be considered as read and printed at this point in the Record.

The SPEAKER. Is there objection to the request of the gentleman from Iowa?

There was no objection.

Mr. GROSS. Will the gentleman yield?

Mr. MAHON. I yield to the gentleman.

Mr. GROSS. Is it impossible to wait for the bill to come up to authorize this?

Mr. MAHON. There is now economic stabilization legislation on the books which does not expire until April 30, 1972. This paragraph is not contingent on further authorization. This does not make available new funds, but it provides for the salaries and expenses of the economic stabilization program by transfers of certain funds heretofore appropriated.

Mr. GROSS. Hopefully, within the next 15 minutes we will take up the extension of the Stabilization Act, is that not right?

Mr. MAHON. This item relates to the economic stabilization activities which are underway now. The measure which the House is scheduled to consider shortly provides authority for economic stabilization activities for an additional year—through April 30, 1973. This amendment which we are considering now is for the present program.

Mr. GROSS. This is wonderful procedure, I will say to the gentleman from Texas.

The SPEAKER. The question is on the motion offered by the gentleman from Texas (Mr. Mahon).

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 75: Page 36, line 19, insert the following:

Sec. 903. The funds provided in the Department of Justice Appropriation Act, 1972, for Salaries and Expenses, Federal Bureau of Investigation, may be used, in addition to those uses authorized thereunder, for the exchange of identification records with officials of federally chartered or insured banking institutions to promote or maintain the security of those institutions, and, if authorized by State statute and approved by the Attorney General, to officials of State and local governments for purposes of employment and licensing, any such exchange to be made only for the official use of any such official and subject to the same restriction with respect to dissemination as that provided for under the aforementioned Act.

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Mahon moves that the House recede from its disagreement to the amendment of the Senate numbered 75 and concur therein with an amendment, as follows: In lieu of the section number named in said amendment insert the following: "902".

The motion was agreed to.

A motion to reconsider the votes by which action was taken on the several motions was laid on the table.

GENERAL LEAVE

Mr. MAHON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks in the Record on the conference report and on the various amendments which have been considered herein, and that they be permitted to include pertinent extraneous material and that I be permitted to insert appropriate tables and other pertinent matters.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

CONFERENCE REPORT ON SENATE JOINT RESOLUTION 176, TO EXTEND THE AUTHORITY OF THE SECRETARY OF HOUSING AND URBAN DEVELOPMENT WITH RESPECT TO INTEREST RATES ON INSURED MORTGAGES

Mr. PATMAN submitted the following conference report and statement on the Senate joint resolution (S.J. Res. 176) to extend the authority of the Secretary of Housing and Urban Development with respect to interest rates on insured mortgages, to extend and modify certain provisions of the National Flood Insurance Act of 1968, and for other purposes:

Conference Report (H. Rept. No. 92–727)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the joint resolution (S.J. Res. 176) to extend the authority of the Secretary of Housing and Urban Development with respect to interest rates on insured mortgages, to extend and modify certain provisions of the National Flood Insurance Act of 1968, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the House amendment insert the following:

FLEXIBLE INTEREST RATE AUTHORITY

Section 1. Section 3(a) of the Act entitled "An Act to amend chapter 37 of title 38 of the United States Code with respect to the veterans' home loan program, to amend the National Housing Act with respect to interest rates on insured mortgages, and for other purposes", approved May 7, 1968, as amended (12 U.S.C. 1709–1), is amended by striking out "January 1, 1972" and inserting in lieu thereof "June 30, 1972".

AMENDMENTS TO THE FEDERAL FLOOD INSURANCE ACT OF 1968

Sec. 2. (a) Section 1336 (a) of the Housing and Urban Development Act of 1968 is amended by striking out "December 31, 1971" and inserting in lieu thereof "December 31, 1973".

(b) The provisions of section 1314(a)(2) of such Act shall not apply with respect to any loss, destruction, or damage of real or personal property that occurs on or before December 31, 1973.

(c)(1) Section 1305(a) of such Act is amended by striking out "and" after "families" and inserting in lieu thereof ", church properties, and".

(2) Section 1306(b)(1)(C) of such Act is amended by inserting "church properties, and" immediately before "any other properties which may become".

TEMPORARY WAIVER OF CERTAIN LIMITATIONS APPLICABLE TO THE PURCHASE OF MORTGAGES BY THE GOVERNMENT NATIONAL MORTGAGE ASSOCIATION

Sec. 3. When the Secretary of Housing and Urban Development determines that such action is necessary to avoid excessive discounts on federally insured or guaranteed mortgages, the Government National Mortgage Association may, for a period of six months after the date of approval of this joint resolution, issue commitments to purchase mortgages with original principal obligations not more than 50 per centum in excess of the limitations imposed by clause (3) of the proviso to the first sentence of section 302(b)(1) of the National Housing Act, and it may purchase the mortgages so committed to be purchased.

EXTENSION OF DATES APPLICABLE TO CERTAIN PROVISIONS OF LAW RELATING TO THE TAXATION OF NATIONAL BANKS

SEC. 4. (a) The Act entitled "An Act to clarify the liability of national banks for certain taxes", approved December 24, 1969 (83 Stat. 434), is amended by striking out "1972" in sections 2(b) and 3(a) and inserting in lieu thereof "1973".

(b) The Board of Governors of the Federal Reserve System shall make a study of the probable impact on the revenues of State and local governments of the extension under subsection (a) of the termination date of interim provisions regarding intangible personal property taxes of State and local governments on national banks. The Board shall report the results of its study to the Congress not later than six months after the date of approval of this joint resolution.

REQUIREMENT AFFECTING THE PREPAYMENT OF PREMIUMS BY INSURED INSTITUTIONS TO THE FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

SEC. 5. Section 404(g) of the National Housing Act is amended by striking out "1¾" and inserting in lieu thereof "1⅗".

WAIVER OF CERTAIN REQUIREMENTS APPLICABLE TO GRANTS FOR BASIC WATER AND SEWER FACILITIES

SEC. 6. Section 702(c) of the Housing and Urban Development Act of 1965 is amended by striking out "October 1, 1971" and inserting in lieu thereof "June 30, 1972".

EXPANSION OF SUPPLEMENTAL GRANT ASSISTANCE UNDER NEW COMMUNITY ASSISTANCE PROGRAM

SEC. 7. The first sentence of section 718(a) of the Housing and Urban Development Act of 1970 is amended by striking out "State or local public body or agency" and inserting in lieu thereof "State, local public body or agency, or other entity".

INCREASE OF AUTHORIZATIONS FOR COMPREHENSIVE PLANNING GRANTS AND OPEN-SPACE LAND GRANTS

SEC. 8. (a) The fifth sentence of section 701(b) of the Housing Act of 1954 is amended by striking out "$420,000,000" and inserting in lieu thereof "$470,000,000".

(b) Section 708 of the Housing Act of 1961 is amended by striking out "$560,000,000" and inserting in lieu thereof "$660,000,000".

PUBLIC HOUSING RENT REDUCTIONS

SEC. 9. Section 2(1) of the United States Housing Act of 1937 is amended by adding at the end thereof a new paragraph as follows:

"Notwithstanding any other provision of Federal law or regulations thereunder, a public agency shall not reduce welfare assistance payments to any tenant or group of tenants in low-rent housing as a result of any reduction in rent resulting from the application of the rent limitation set forth in this paragraph (1) and required by such limitation."

SBA GUARANTEE OF DEBENTURES ISSUED BY SMALL BUSINESS INVESTMENT COMPANIES

SEC. 10. Section 303(b) of the Small Business Investment Act of 1958 is amended—

(1) by inserting the following in lieu of the first sentence thereof: "To encourage the formation and growth of small business investment companies the Administration is authorized (but only to the extent that the necessary funds are not available to said company from private sources on reasonable terms) when authorized in appropriation Acts, to purchase, or to guarantee the timely payment of all principal and interest as scheduled on, debentures issued by such companies. Such purchases or guarantees may be made by the Administration on such terms and conditions as it deems appropriate, pursuant to regulations issued by the Administration. The full faith and credit of the United States is pledged to the payment of all amounts which may be required to be paid under any guarantee under this subsection.";

(2) by inserting "or guaranteed" following "purchased" each time it appears in paragraphs (1) and (2) thereof and in the second sentence thereof;

(3) by inserting "or guarantees" following "purchases" in the last sentence of paragraph (2) thereof; and

(4) by inserting "or guarantee" following "purchase" in paragraph (3) thereof.

And the House agree to the same.

WRIGHT PATMAN,
W. BARRETT,
LEONOR SULLIVAN,
HENRY S. REUSS,
FERNAND J. ST GERMAIN,
FRANK ANNUNZIO,
WILLIAM B. WIDNALL,
FLORENCE P. DWYER,
GARRY BROWN,
J. WM. STANTON,
Managers on the Part of the House.

JOHN SPARKMAN,
WILLIAM PROXMIRE,
HARRISON WILLIAMS, Jr.,
THOMAS J. MCINTYRE,
JOHN TOWER,
W. V. ROTH, Jr.,
EDWARD W. BROOKE,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the joint resolution (S.J. Res. 176) to extend the authority of the Secretary of Housing and Urban Development with respect to interest rates on insured mortgages, to extend and modify certain provisions of the National Flood Insurance Act of 1968, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

NATIONAL FLOOD INSURANCE PROGRAM

Land use and control measures

The House amendment extended for 24 months to December 31, 1973, the period in which states and localities could adopt adequate land use and control measures in order to qualify for the National Flood Insurance program. The Senate Resolution contained no such provision and none is contained in the conference report.

Flood insurance coverage for church properties

The House amendment included church properties within the definition of those properties eligible to be covered under the National Flood Insurance program. The Senate Resolution contained no such provision. The conference report contains the House provision. The conferees wish to state that the purpose of this provision is to cover only those church properties actively used for religious purposes and not those properties owned by churches for income producing purposes.

GNMA—TEMPORARY WAIVER OF MORTGAGE LIMITATIONS

The Senate Resolution authorized the Government National Mortgage Association (GNMA), upon declaration by the President, until June 30, 1972, to purchase mortgages under its special assistance functions without regard to the limits that apply to such purchases under section 302(b)(1) of the National Housing Act; under that section, GNMA cannot purchase mortgages with a principal amount in excess of $22,000 ($24,500 for four-bedroom or larger units). The House amendment authorized GNMA, until June 30, 1972, to purchase mortgages up to 150 percent of the mortgage limits in section 302(b)(1) in areas where the HUD Secretary determines that cost levels so require or that such action is necessary to avoid excessive discounts on Federally-insured or guaranteed mortgages. The conference report contains the House amendment with an amendment which authorizes an increase in mortgage limits simply upon a determination by the HUD Secretary that such action is necessary to avoid excessive discounts.

STATE TAXATION OF NATIONAL BANKS

The Senate Resolution delayed for one year to January 1, 1973, the termination of interim provisions governing state authority to tax national banks. The House amendment contained no such provision. The conference report contains the Senate provision with an amendment which directs the Board of Governors of the Federal Reserve System to make a study of the estimated fiscal impact on state and local governments due to the loss of revenue resulting from the extension of interim provisions governing state authority to tax the intangible personal property of banks. The Board shall report the results of this study to the Congress no later than 6 months after date of enactment of this Resolution.

WATER AND SEWER PLANNING REQUIREMENTS

The House amendment extended to June 30, 1972, the period within which communities must meet full comprehensive planning requirements in order to be eligible for basic water and sewer grants. The Senate Resolution contained no such provision. The conference report contains the House provision.

NEW COMMUNITIES SUPPLEMENTAL GRANT ASSISTANCE

The Senate Resolution permitted any entities eligible for a basic categorical grant to also be eligible for a supplemental grant to assist construction of public facilities in new communities. The House amendment contained no such provision. The conference report contains the Senate provision.

AUTHORIZATION FOR COMPREHENSIVE PLANNING AND OPEN SPACE PROGRAMS

The Senate Resolution increased the authorization for the comprehensive planning program by $50 million and for the open space program by $100 million. The House amendment contained no such provision. The conference report contains the Senate provision.

PUBLIC HOUSING

The Senate Resolution prohibited the reduction of welfare assistance payments to public housing residents who benefit from reductions in rents required by law under the HUD Act of 1969 which provides that the rent of a public housing tenant may not exceed 25 percent of the family's income. The House amendment contained no such provision. The conference report contains the Senate provision.

SMALL BUSINESS INVESTMENT COMPANIES

The House amendment clarified the authority of the Small Business Administration to guarantee debentures issued by small business investment companies. The Senate Resolution contained no such provision. The conference report contains the House provision.

Wright Patman,
W. A. Barrett,
Leonor Sullivan,
Henry S. Reuss,
Fernand J. St Germain,
Frank Annunzio,
William B. Widnall,
Florence P. Dwyer,
Garry Brown,
J. William Stanton,
Managers on the Part of the House.

John Sparkman,
William Proxmire,
Harrison A. Williams,
Thomas J. McIntyre,
John Tower,
W. V. Roth, Jr.,
Edward W. Brooke,
Managers on the Part of the Senate.

PERMISSION FOR COMMITTEE ON DISTRICT OF COLUMBIA TO FILE CERTAIN REPORTS

Mr. CABELL. Mr. Speaker, I ask unanimous consent that the Committee on the District of Columbia may have until midnight tonight to file certain reports.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

PRINTING OF "REVIEW OF SEC RECORDS OF THE DEMISE OF SELECTED BROKER-DEALERS"

Mr. BRADEMAS. Mr. Speaker, by direction of the Committee on House Administration, I submit a privileged report (Rept. No. 92–728) on the resolution (H. Res. 633), providing for the printing of additional copies of the committee print entitled "Review of SEC Records of the Demise of Selected Broker-Dealers," and ask for immediate consideration of the resolution.

The Clerk read the resolution as follows:

H. Res. 633

Resolved, That there shall be printed one thousand additional copies of the committee print entitled "Review of SEC Records of the Demise of Selected Broker-Dealers" for the use of the Committee on Interstate and Foreign Commerce.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PRINTING OF DEDICATION CEREMONY OF PORTRAIT OF HON. F. EDWARD HÉBERT

Mr. BRADEMAS. Mr. Speaker, by direction of the Committee on House Administration, I submit a privileged report (Rept. No. 92–929) on the resolution (H. Res. 648), authorizing the printing as a House document the dedication ceremony of the portrait of the Honorable F. Edward Hébert, chairman, Committee on Armed Services, and ask for immediate consideration of the resolution.

The Clerk read the resolution as follows:

H. Res. 648

Resolved, That the transcript of the proceedings in the Committee on Armed Services of October 12, 1971, incident to the presentation of a portrait of the Honorable F. Edward Hébert to the Committee on Armed Services be printed as a House document with illustrations and suitable binding.

Sec. 2. In addition to the usual number, there shall be printed two thousand copies of such document for the use of the Committee on Armed Services.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PRINTING OF "A PRIMER ON MONEY"

Mr. BRADEMAS. Mr. Speaker, by direction of the Committee on House Administration, I submit a priviledged report (Rept. No. 92–730) on the concurrent resolution (H. Con. Res. 439) to provide for the printing of 50,000 additional copies of the subcommittee print of the Subcommittee on Domestic Finance, of the House Committee on Banking and Currency, entitled "A Primer on Money," and ask for immediate consideration of the resolution.

The Clerk read the concurrent resolution, as follows:

H. Con. Res. 439

Resolved by the House of Representatives (the Senate concurring), That fifty thousand additional copies of the Subcommittee Print of the Subcommittee on Domestic Finance of the Committee on Banking and Currency, of the House of Representatives, Eighty-eighth Congress, second session, entitled "A Primer on Money" be printed for the use of the Committee on Banking and Currency of the House of Representatives.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

PRINTING OF "THE JOINT COMMITTEE ON CONGRESSIONAL OPERATIONS: PURPOSE, LEGISLATIVE HISTORY, JURISDICTION, AND RULES"

Mr. BRADEMAS. Mr. Speaker, by direction of the Committee on House Administration, I submit a privileged report (Rept. No. 92–731) on the concurrent resolution (H. Con. Res. 441) authorizing the printing of "The Joint Committee on Congressional Operations: Purpose, Legislative History, Jurisdiction, and Rules" as a House document, and for other purposes, and ask for immediate consideration of the concurrent resolution.

The Clerk read the concurrent resolution as follows:

H. Con. Res. 441

Resolved by the House of Representatives (the Senate concurring), That there shall be printed as a House document, with illustrations and with a suitable cover approved by the Joint Committee on Printing, a compilation of materials entitled "The Joint Committee on Congressional Operations: Purpose, Legislative History, Jurisdiction, and Rules"; and that there shall be printed two thousand five hundred additional copies of such compilation for the use of the Joint Committee on Congressional Operations.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

PRINTING OF EULOGIES ON THE LATE JUSTICE HUGO L. BLACK

Mr. BRADEMAS. Mr. Speaker, by direction of the Committee on House Administration, I submit a privileged report (Rept. No. 92–732) on the concurrent resolution (H. Con. Res. 469) to provide for the printing as a House document a compilation of the eulogies on the late Justice Hugo L. Black, and ask for immediate consideration of the concurrent resolution.

The Clerk read the concurrent resolution, as follows:

H. Con. Res. 469

Resolved by the House of Representatives (the Senate concurring), That there be printed with illustrations as a House document a compilation containing the eulogies on the late Justice Hugo L. Black delivered in the Congress and such other materials as Congressman Bob Eckhardt deems appropriate.

Sec. 2. There shall be printed and bound, as directed by the Joint Committee on Printing, five thousand five hundred and fifty copies, of which four thousand three hundred and fifty copies shall be for the use of the House of Representatives, one thousand copies shall be for the use of the Senate, and one hundred and fifty copies shall be for the use of the widow of the late Justice Hugo L. Black, Mrs. Elizabeth Seay Black.

Sec. 3. Copies of such document shall be prorated to Members of the House of Representatives and the Senate for a period of sixty days, after which the unused balance shall revert to the respective House and Senate document rooms.

With the following committee amendments:

Page 1, line 5, strike out the words "Congressman Bob Eckhardt deems" and insert in lieu thereof "may be deemed".

Page 1, line 9, strike out the words "and fifty".

The committee amendments were agreed to.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

PRINTING OF THE STUDY "SOVIET SPACE PROGRAMS, 1966–70" AS A SENATE DOCUMENT

Mr. BRADEMAS. Mr. Speaker, by direction of the Committee on House Administration, I submit a privileged report (Rept. No. 92–733) on the Senate concurrent resolution (S. Con. Res. 30) authorizing the printing of the study entitled "Soviet Space Programs, 1966–70" as a Senate document, and ask for immediate consideration of the Senate concurrent resolution.

The Clerk read the Senate's concurrent resolution as follows:

S. Con. Res. 30

Resolved by the Senate (the House of Representatives concurring), That the study entitled "Soviet Space Programs, 1966–70", prepared for the use of the Senate Committee on Aeronautical and Space Sciences by the Congressional Research Service with the cooperation of the Law Library, Library of Congress, be printed with illustrations as a Senate document, and that there be printed three thousand additional copies of such document for the use of that committee.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

PRINTING OF "FEDERAL AND STATE STUDENT AID PROGRAMS, 1971" AS A SENATE DOCUMENT

Mr. BRADEMAS. Mr. Speaker, by direction of the Committee on House Administration, I submit a privileged report (Rept. No. 92–734) on the Senate concurrent resolution (S. Con. Res. 31) authorizing the printing of the compilation entitled "Federal and State Student Aid Programs, 1971" as a Senate document, and ask for immediate consideration of the Senate concurrent resolution.

The Clerk read the Senate concurrent resolution as follows:

S. CON. RES. 31

Resolved by the Senate (the House of Representatives concurring), That the compilation entitled "Federal and State Student Aid Programs, 1971", prepared by the Library of Congress for the Senate Committee on Labor and Public Welfare be printed as a Senate document; and that there be printed sixty-eight thousand two hundred additional copies of such document, of which forty-three thousand nine hundred copies shall be for the use of the House of Representatives, ten thousand three hundred copies shall be for the use of the Senate, ten thousand copies shall be for the use of the Senate Committee on Labor and Public Welfare, and four thousand copies shall be for the use of the House Committee on Education and Labor.

SEC. 2. Copies of such document shall be prorated to Members of the Senate and the House of Representatives for a period of sixty days, after which the unused balances shall revert to the respective Senate and House document rooms.

With the following committee amendment:

Page 1, lines 7 and 8; strike out "forty-three thousand nine hundred" and insert in lieu thereof "forty-four thousand".

The committee amendment was agreed to.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

PRINTING OF THE PRAYERS OF THE CHAPLAIN OF THE SENATE DURING THE 91ST CONGRESS AS A SENATE DOCUMENT

Mr. BRADEMAS. Mr. Speaker, by direction of the Committee on House Administration, I submit a privileged report (Rept. No. 92–735) on the Senate concurrent resolution (S. Con. Res. 34) authorizing the printing of the prayers of the Chaplain of the Senate during the 91st Congress as a Senate document, and ask for immediate consideration of the Senate concurrent resolution.

The Clerk read the Senate concurrent resolution as follows:

S. CON. RES. 34

Resolved by the Senate (the House of Representatives concurring), That there be printed with an illustration as a Senate document, the prayers by the Reverend Edward L. R. Elston, S.T.D., the Chaplain of the Senate, at the opening of the daily sessions of the Senate during the Ninety-first Congress, together with any other prayers offered by him during that period in his official capacity as Chaplain of the Senate; and that there be printed two thousand additional copies of such document, of which one thousand thirty would be for the use of the Senate and nine hundred seventy would be for the use of the Joint Committee on Printing.

SEC. 2. The copy for the document authorized in section 1 shall be prepared under the direction of the Joint Committee on Printing.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

PRINTING OF "INTERNATIONAL COOPERATION IN OUTER SPACE: A SYMPOSIUM" AS A SENATE DOCUMENT

Mr. BRADEMAS. Mr. Speaker, by direction of the Committee on House Administration, I submit a privileged report (Rept. No. 92–736) on the Senate concurrent resolution (S. Con. Res. 44) authorizing the printing of the study entitled "International Cooperation in Outer Space: A Symposium" as a Senate document, and ask for immediate consideration of the Senate concurrent resolution.

The Clerk read the Senate concurrent resolution as follows:

S. CON. RES. 44

Resolved by the Senate (the House of Representatives concurring), That the study entitled "International Cooperation in Outer Space: A Symposium", prepared for the use of the Senate Committee on Aeronautical and Space Sciences under the direction of the staff of such committee, be printed with illustrations as a Senate document, and that there be printed three thousand additional copies of such document for the use of that committee.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

PRINTING OF HANDBOOK "GUIDE TO FEDERAL PROGRAMS FOR RURAL DEVELOPMENT"

Mr. BRADEMAS. Mr. Speaker, by direction of the Committee on House Administration, I submit a privileged report (Rept. No. 92–737) on the Senate Concurrent resolution (S. Con. Res. 50) authorizing the printing of the handbook entitled "Guide to Federal Programs for Rural Development" as a Senate document, and ask for immediate consideration of the Senate concurrent resolution.

The Clerk read the Senate concurrent resolution as follows:

S. CON. RES. 50

Resolved by the Senate (the House of Representatives concurring), That with the permission of the copyright owner the handbook entitled "Guide to Federal Programs for Rural Development", published by the Independent Bankers Association of America, be printed with emendations as a Senate document, and that there be printed twelve thousand additional copies of such document for the use of the Senate Committee on Agriculture and Forestry.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

KADASHAN BOTTOM WATERSHED

The SPEAKER laid before the House the following communication; which was read and, together with the accompanying papers, referred to the Committee on Appropriations:

WASHINGTON, D.C.,
December 2, 1971.

Hon. CARL ALBERT,
Speaker of the House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: Pursuant to the provisions of section 2 of the Watershed Protection and Flood Prevention Act, as amended, the Committee on Agriculture today considered and unanimously approved the following work plan transferred to you by executive communication and referred to this Committee. The work plan is:

Watershed: Kadashan Bottom.

State: Oklahoma.

Executive communication: 556, 92nd Congress.

With every good wish, I am,

Sincerely yours,
W. R. POAGE, *Chairman.*

AWARDS TO MEMBERS OF ARMED FORCES—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Armed Services:

To the Congress of the United States:

In accordance with the provisions of 10 U.S.C. 1124, I am pleased to forward the reports of the Secretary of Defense and the Secretary of Transportation on awards made during fiscal year 1971 to members of the Armed Forces for suggestions, inventions and scientific achievements.

Participation by military personnel in the cash awards program was authorized by the Congress in September 1965. There could be no better demonstration of the program's success than the fact that tangible first-year benefits in excess of $555 million have been realized from the suggestions of military personnel since the program began.

The tangible first-year benefits resulting from adopted suggestions submitted by Department of Defense and Coast Guard military personnel during fiscal year 1971 totaled $117,676,188, the second highest annual amount in the history of the program. Cash awards presented to military personnel for their adopted suggestions during fiscal year 1971 totaled $1,919,121.

RICHARD NIXON.

THE WHITE HOUSE, *December 9, 1971.*

HOUR OF MEETING TOMORROW

Mr. BOGGS. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at 10 o'clock tomorrow morning.

The SPEAKER. Is there objection to the request of the gentleman from Louisiana?

Mr. GROSS. Mr. Speaker, reserving the right to object, would the gentleman be good enough to wait to see whether we are going to stay until midnight tonight or some such hour before making this request?

I would suggest to the gentleman that we proceed for a time.

Mr. BOGGS. Mr. Speaker, will the gentleman yield?

Mr. GROSS. I am glad to yield to the distinguished majority leader.

Mr. BOGGS. I will be happy to comply with the gentleman's request. But I would inform the gentleman that we are not going on until midnight tonight. The House was in session until after midnight last night.

It is asking too much of the Members to sit here again until midnight tonight. I would hope in further response to my friend that we could dispose of the debate on the rule and the general debate on the phase II program and then rise and come back tomorrow morning, when we would conclude this bill. The gentleman has talked to me several times about adjournment, and this bill is essential to adjournment. That is the only reason I am asking for this consent.

Mr. GROSS. The distinguished gentleman is making a request which is somewhat out of the ordinary. Could the gentleman now tell us when we might expect adjournment sine die?

Mr. BOGGS. The gentleman is asking a very fair question and I shall try to respond to the best of my ability. Except for four District bills, the bill which the gentleman from Texas (Mr. PATMAN), has scheduled is all of the legislative business remaining in this session, except for the conference reports which must be considered. The principal conference reports are, of course, coming from the Appropriations Committee, and, as the gentleman knows, there has been difficulty in relation to the foreign aid authorization bill and the foreign aid appropriation bill.

As far as I know, this bill and the conference report on the bill which must follow the four District bills will conclude the business of this session. We would hope to conclude the business of this session no later than next Wednesday.

Mr. GROSS. Does the gentleman anticipate a Saturday session?

Mr. BOGGS. To be quite frank with the gentleman, I do not, unless a Saturday session would expedite adjournment. If there is still some difficulty about the conference on foreign aid and some of the other matters, that would not necessarily be the case, and the gentleman from Texas has a matter of great importance that will require him to be absent on Saturday, so that the conference cannot take place on Saturday.

Mr. GROSS. Of course, we would all like to accommodate the gentleman or any other Member of the House.

Mr. ARENDS. Mr. Speaker, will the gentleman yield?

Mr. GROSS. I yield to the gentleman from Illinois.

Mr. ARENDS. I would like to ask the gentleman from Texas whether it is his intention, should we convene at 10 o'clock tomorrow morning, to finish consideration of the bill before he leaves town.

Mr. PATMAN. If the gentleman will yield, yes, I believe it can be completed within 3 hours if no more amendments are submitted, or no more than I have been told will be submitted. I believe we can get through with the bill in 3 hours. I would hope, of course, to dispense with the reading of the bill. The first section is not controversial.

Mr. GROSS. Then the majority leader would like to bring up the bills of which he spoke from the House District Committee thereafter, tomorrow afternoon, is that correct?

Mr. BOGGS. No, I cannot, because those bills can only be brought up on District Day unless we have rules; and at this time we do not have rules. So they will have to be called up on Monday. I will tell the gentleman that I would be very happy to bring up those bills tomorrow afternoon if I could.

Mr. GROSS. In the immediate situation, it is an hour under the rule and an hour for general debate; is that correct?

Mr. BOGGS. That is correct.

Mr. GROSS. Mr. Speaker, I withdraw my reservation.

The SPEAKER. Is there objection to the request of the gentleman from Louisiana?

Mr. RYAN. Mr. Speaker, reserving the right to object, I wonder if we could have some assurance on the part of the distinguished majority leader as to what is contemplated for tomorrow after completion of the economic stabilization bill.

Mr. BOGGS. The conference reports that have been completed and are in order. Several of them will be available at that time.

Mr. RYAN. For instance?

Mr. BOGGS. There are a number of conference reports. It is difficult for me to answer that question categorically because the conferees are meeting. In the case of the Appropriations Committee, there is the District of Columbia appropriation and the defense appropriation bills. We have completed action on the supplemental. That is it. I have already mentioned the foreign aid authorization and appropriation bills.

Mr. RYAN. Are they coming up tomorrow?

Mr. BOGGS. They will come up if they are ready. There is a whole series of conferences. They are all important measures. Among them there is the Flood Insurance Act of 1968 and the District of Columbia revenue bill. I do not have a complete list of the bills. The chances are that unless we can adjourn on Saturday night, the House will complete its business early tomorrow evening.

Mr. RYAN. Mr. Speaker, it would be helpful if we could have some indication so that Members may plan tomorrow. Once the economic stabilization bill is out of the way, will it be necessary to be in session? When does the chairman of the Banking and Currency Committee expect to be finished?

Mr. PATMAN. We cannot tell.

Mr. BOGGS. The gentleman knows we are close to adjournment and that as conference reports become available, it is the intention of the leadership to call up as many as we can expeditiously take care of. As I said to the gentleman, the gentleman from Texas plans to leave after the completion of this bill, and if these conference reports are available we will call them up, but it is my belief we will conclude the work tomorrow by 5 or 6 o'clock in the afternoon.

Mr. RYAN. Would the distinguished majority leader be able to give us some assurance that the defense appropriation bill conference report will not come up until next week?

Mr. BOGGS. The chairman of the committee is not here. I cannot give that assurance. We are trying to adjourn Congress. But the Defense Department appropriation bill is a very important bill, and I am not in a position to give the gentleman assurance that the conference report will not be called up. I would say if the conference report is available, it will be called up.

The SPEAKER. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

ECONOMIC STABILIZATION ACT AMENDMENTS OF 1971

Mr. COLMER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 730 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 730

Resolved, That upon the adoption of this resolution it shall be in order to move, clause 27(d)(4) of rule XI to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for consideration of the bill (H.R. 11309) to extend and amend the Economic Stabilization Act of 1970, as amended, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Banking and Currency, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Banking and Currency now printed in the bill as an original bill for the purpose of amendment under the five-minute rule, and shall be read by sections. It shall also be in order to consider without the intervention of any point of order the text of the bill H.R. 11902 as an amendment to the committee amendment in the nature of a substitute. At the conclusion of the consideration of H.R. 11309 for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions. After the passage of H.R. 11309, it shall be in order in the House to take from the Speaker's table the bill S. 2891 and to move to strike out all after the enacting clause of the said Senate bill and insert in lieu thereof the provisions contained in H.R 11309 as passed by the House.

Mr. COLMER. Mr. Speaker, it is regrettable that we do not have more Members here for consideration of what I regard as one of the most important bills that has come up or will come up for consideration in this session of the Congress.

I have never been one who liked to speak just for the purpose of hearing his own voice, and I do not propose to go into any great, lengthy discussion of this bill. Members have heard the resolution read. They know what it provides for.

I would just reiterate, briefly, for any of those who might not have heard the reading of the resolution, that there will be 1 hour of general debate. Then there will be an open, free consideration, under an open rule for the offering of such amendments as the membership might see fit to offer.

The resolution makes in order the offering of an amendment upon certain classified employees that are requested by the administration and included in the bill. The only reason for this is that the Committee on Post Office and Civil Service felt this was an invasion of the jurisdiction of that committee. Therefore, the Rules Committee made in order an amendment, to wit, a bill, H.R. 11902, that would provide for these classified employees and further to reduce the number from 40 to 20. At the appropriate time, it is my understanding, the gentleman from North Carolina (Mr. HENDERSON) representing the Post Office and Civil Service Committee, will offer such an amendment to the bill H.R. 11902, that is made in order under the rule.

For the benefit of those who might be interested in offering amendments to the bill under consideration, the rule provides that the bill shall be read by section. There is nothing unusual about this. This is the usual procedure. Ordinarily and usually when a bill is read for amendment under the 5-minute rule it is so read by section. But I mention this particularly because there might be some confusion among the membership when Members desire to offer amendments.

The bill itself consists of only two general sections. Yet the bill consists of a number of specific sections. Therefore, when the bill is read and the second section is completed—and that is the only one, I assume, that would be amendable or which anyone would want to amend—then they may offer amendments to that particular section.

Mr. GONZALEZ. Will the gentleman yield to me?

Mr. COLMER. I am happy to yield to the gentleman from Texas.

Mr. GONZALEZ. I thank the distinguished gentleman for yielding.

I am a little in need of clarification. This is the usual way to bring up a bill, reading it section by section. So what would be the difference in this instance in our ability to offer amendments section by section?

Mr. COLMER. There will be no difference, I say to my friend. I merely want to emphasize that the rule providing for the usual procedure might be misconstrued because of the number of sections under section 2 of the bill that the gentleman's committee reported.

Mr. GONZALEZ. I understand that. I thank the gentleman.

Mr. COLMER. So I think I should clarify that matter. So much for the rule.

I just want to comment briefly on the necessity for this legislation. I am not going to go into any lengthy or detailed discussion of it. I just want to call the attention of the membership and of those interested citizens throughout the country to the fact that we have reached a point in the inflationary trend where we are either going to have to do something to stop this inflationary trend or we are going to lose the most precious heritage that any people have ever received, that is, the form of this American Republic.

This is strong language, but I think we have reached the point where we have become oblivious to the question of fiscal responsibility. We owe well over $400 billion; we are spending somewhere in the neighborhood of $40,000 or more a minute just to pay the interest on the national debt; but more important than that is the fact that the value of the 1939 dollar has now reached a value of 33 cents plus. And I am talking about plus in fractions.

What does this deficit spending do? This all adds to inflation. And we in this Congress keep passing bills calling for more and more and more expenditures. In my humble judgment, we are spending the people's money like a drunken sailor or a Santa Claus.

Somewhere along the line there has got to be a point at which we have got to halt. I do not know but what we have gone too far already.

Mr. Speaker, what does that do? I respect that all contributes to inflation. It is the biggest contributor toward inflation.

The Members of this House have an opportunity here to reverse that trend; at least to halt inflation. You are giving the President of the United States unusual powers to do something about stopping this inflation. I hope he will use them and I hope he will use them wisely. I hope he will use them firmly. I believe he will.

Again, I want to contribute to my unpopularity with certain people by pointing out the fact that the very people in many instances who criticize the President for not using the powers that we gave him earlier are now opposing the granting of these powers to him or of his using them. You, in this bill are giving him a great responsibility, one that we ordinarily would not conceive of giving to a President in a nonwartime period.

However, I would say to you that we are engaged now in warfare, and I am not talking about Vietnam. I am talking about war against inflation. If we lose this battle against inflation, then we have lost everything. You let the value of the dollar continue to depreciate—and it is already at a most dangerously low level—you let that continue and when your dollar has no value, the confidence in your Government is gone. The wheels of industry stop and then it is—and I have said this at least a dozen times in this House before over the past 20 years—then it is that the Communists who have not fired a single gun with a Russian soldier will move in and take over, or in the alternative—and it does not really make much difference—the strong man on the horse will take over. Then all of the precious, priceless heritage that our forefathers have left us—the men whose crosses shine overseas who have defended their country—will be lost.

I know that there are those who feel that they have to respond to certain minority groups. I am not talking now about race. I am speaking of special interest groups. These seats here in order to be secure to them, those who occupy them, will listen to certain groups. What is it going to profit you who feel that way, if you not only lose the seat that you occupy, but you lose to posterity the most perfect embodiment of human government ever conceived by the mind of man?

There are going to be amendments offered to strengthen this bill. I wish it were a stronger bill as far as I am concerned. I do not want to go back home and face my constituency and tell them what I felt the true condition of this country was, and what our fiscal affairs had gotten into, and the dangers of the future; I would not be too much concerned about that, and if I were returned to the tranquillity of domestic life it would not worry me too much because the minority groups thought that they ought to have this, that, and the other, because I could still remember that I struck a blow for the preservation of this Republic.

Mr. Speaker, I think the resolution should be adopted. I think that the bill should be adopted, I hope with some strengthening amendments.

I hope that, above everything else, Mr. Speaker, in the consideration of this bill that partisanship will be forgotten, the 1972 election will be forgotten, but that uppermost in the minds of the Congress will be the preservation of our form of government.

Mr. BOGGS. Mr. Speaker, will the gentleman yield?

Mr. COLMER. I yield to the gentleman from Louisiana, our distinguished majority leader.

Mr. BOGGS. Mr. Speaker, I wish to take one moment to extend our appreciation to the Committee on Rules for their expeditious consideration of this legislation, and to the members of the Committee on Banking and Currency for reporting out the bill which, we concede, is an important one.

I hope the rule will be adopted, and the bill will be passed.

Mr. Speaker, despite the desire which I feel certain we all must possess to expedite the pending phase 2 economic stabilization legislation. I believe I would be more than derelict in failing to salute the outstanding job of legislative craftsmanship which the House Banking and Currency Committee under the leadership of its able chairman, the gentleman from Texas (Mr. PATMAN), has brought to the floor today. I am personally certainly not lacking in knowledge of the difficulties involved in drafting wage and price control legislation. A generation ago, as a freshman Member of this body, I sat on the Banking and Currency Committee and was a participant in the creation of World War II's OPA. I can recall no more arduous task during my some 30 years of congressional service.

The gentleman from Texas, likewise sat on the Banking and Currency Committee during that period. He also played a leading role in fashioning the economic stabilization legislation of the Korean conflict years. But he is most certainly not an intellectual prisoner of the past. The measure which he presents to us this afternoon is by no means just a retread of the OPA of the 1940's or the OES of the 1950's. Rather it is tailored to meet the particular economic problems of the present.

There were certain highly placed officials in the executive branch who expected this Congress to merely rubber stamp whatever legislation in this area which the bureaucracy might choose to devise. My friends, the Congress is constitutionally certainly a co-equal branch of Government, but I feel very strongly that this co-equalness poses a character far greater in scope than the purely legalistic framework within which it is customarily treated.

This is not a matter of partisanship. Rather, it is illustrative of the fact that our congressional committee system, unique among the parliamentary bodies of the world, is in a position to make a valuable and balanced contribution to the development of national economic policy. The reason for this is two-fold. First, to the senior members of such a committee as Banking and Currency Committee, there is very little in the way of public issues, entirely novel or unusual, presented to it. Besides the chairman's World War II experience, the committee possesses a number of members as well as staff personnel who wrestled with comparable problems during the Korean years. There is no similar bank of historical experience in the executive branch; the emergency agencies who administered earlier anti-inflationary programs, of course, have long since disappeared from the scene. Second, the Banking and Currency Committee is an open input system. By this, I mean that the various elements in the American economy whose cooperation is prerequisite for any successful stabilization program can be and were given their day in court to present their views. The committee then adjudicated and balanced those views and, drawing on its institutional "memory bank," produced the compromise product which we have here before us. Of course, it is not entirely satisfactory to any of those groups, but when enacted into law, it will not grossly offend any of them, they will cooperate with its enforcement and we can get on with the job of economic stabilization.

In effect, our Banking and Currency Committee has done the administration a favor. It has fashioned a product which no element of our national economy will find intolerable. It has done what a few technicians in the Treasury Department could not accomplish, even if they were of the mind to, because they simply do not possess the institutional mechanism to accomplish this highly delicate and sophisticated task. A congressional committee, solely within the Federal Government, is the instrument competent to attain this end.

Once again, my congratulations to Chairman PATMAN and his committee for a task superbly well done. Theirs has been a classic display of the congressional committee process at its very best.

Mr. ANDERSON OF Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I appreciate the fact that many Members of this body are now taking a very well-earned and well-deserved respite from the Chamber. I somehow wish that there were more Members here at this hour, but I do appreciate the fact we are well into the dinner hour, not because any of the words that I have to say possess any great intrinsic value, but because as I listened to the words of my distinguished chairman of the Committee on Rules, the gentleman from Mississippi (Mr. COLMER) a few moments ago, it occurred to me that as we near the end of a long and even enervating session of the Congress that I would certainly want to pay tribute to the gentleman as one of the most dedicated men in this House.

Those of you who know me will appreciate the fact that we have not always agreed on every issue, we have not always voted alike, and yet as he spoke movingly, eloquently, and with deep feeling just a few minutes ago, it seemed to me that I would be remiss if at this time I did not pay him my respects—my very deep personal respects.

He is a man who feels and believes very deeply in the viewpoint that he espouses on each and every occasion that he takes the well of this House, and I honor him and I respect him for it.

Mr. Speaker, I certainly concur in his observation that House Resolution 730 does bring, if adopted, before this House one of the most important measures to be considered in this first session of the 92d Congress.

And appreciating with him, as I do, the importance of this legislation and not wishing to trespass on the time of members of the legislative committee who have been allotted only 1 hour under this rule to discuss this very vital legislation, perhaps those of you who are still here at this late hour will indulge me these few minutes, if I state and I hope rather briefly some of the reasons why I think it is important that we adopt this rule and the legislation that it makes in order.

Mr. Speaker, it is imperative that we act today to provide the President with economic stabilization powers for an additional year beyond April 30, 1972. Phase I was an overwhelming success precisely because there was certainty about the ground rules and about the duration of the freeze. As a result, we saw a remarkable turnaround on almost every economic front. Where the wholesale price index had been increasing at almost a 5-percent annual rate during the first half of this year, it actually declined during the last 3 months under the freeze; where interest rates had begun to climb again during the second quarter, rates have dropped significantly in recent months on almost every type of financial instrument—the prime lending rate, corporate bonds, Treasury bills, home mortgages. Until the President's dramatic announcement of August 15, both consumers and businessmen had been cautious and wary: New investment plans were delayed or put on the shelf, and the consumer savings rate stuck at over 8 percent—one of the highest rates in the post-war period.

Mr. Speaker, now all of that has changed. We are in the midst of the biggest auto sales boom since the middle of the last decades with new sales during September and October registering an $11 billion annual rate; during the third quarter new consumer installment credit rose at over a $10 billion annual rate—more than three times the growth rate of the first quarter; a recent survey shows that businessmen plan to increase their investment outlays by over 7 percent during the coming year, almost twice the rate of 1971; and, finally, the consensus of economic forecasters now suggests a $100 billion GNP increase next year with 6 percent of that 9 percent gain consisting of real growth rather than inflation. As Hobart Rowen concluded in an article in the Washington Post this morning:

> Production will climb, jobs will expand, and 1972 will look like that "very good year" Mr. Nixon promised.

Mr. Speaker, this is an impressive performance for which much of the credit must go to the imaginative and decisive leadership that the President has displayed on the economic front since last August. Today, it is our responsibility to help insure that this heartening upturn is not halted or reversed, to help insure that the new surge of confidence and vigor displayed by consumers, businessmen, and the stock market continues its upward trend. By giving the President the 1-year extension of the economic stabilization powers that he has requested, we can fulfill that responsibility; our action will provide the public with the certainty about the scope and duration of phase II that will be essential to its success.

Mr. Speaker, in general, I think the committee has reported a good bill that provides the President, and the phase II machinery that he has established, the necessary tools and powers to get the job done, and to achieve the goal of a 2 to 3 percent inflation rate by the end of next year. The bill is not perfect, however, and I think there are a number of changes that we ought to make on the floor this afternoon that would improve this legislation, and enhance the chances for a successful phase II effort.

First, I think we ought to delete the so-called Minish amendment in its entirety. It not only contradicts and nullifies a previous section in the bill concerning the question of retroactive pay increases, but makes no economic sense besides. Now, I know the argument is made that if workers were promised pay increases and took on financial responsibilities with the expectation that they would be fulfilled, that those increases should be forthcoming. But I would remind my colleagues this afternoon that this question is a two-way street. For every group of employees that were caught on the short end of the stick on August 15, there are just as many employers and businesses caught in the same position; in the period just before the freeze, they too took on forward financial commitments in the form of wage increases or contracts for new supplies, equipment or services on the expectation that compensating price increases could be made at a later date, increases that now have been denied. Yet if we allowed for retroactivity in all of these cases, obviously all the gains of the freeze would be undone. By its very nature a freeze is bound to arbitrarily cut through the intricate adjustment cycle in a complex economy of billions of transactions like ours, and as a result, there is simply no way that we can provide for complete equity, if we think a freeze and economic controls are the price we must pay to get our economy back on the path of noninflationary growth and prosperity.

Mr. Speaker, it is also argued in behalf of complete retroactivity that the additional wage costs involved are miniscule compared to the size and volume of overall activity in our economy. This may be true if these costs are examined in isolation—I believe the figure is less than $1 billion. But what this argument ignores is that nothing in a dynamic economy like ours occurs in a vacuum.

While the Price Board has ruled that no price adjustments will be allowed to cover the costs of retroactive wage payments, I would point out that this ruling was made on the premise that retroactivity would be only allowed in a narrow range of cases as provided in a previous decision of the Pay Board. If we are now to throw that Pay Board ruling overboard and allow across-the-board retroactivity, the pressures will be enormous for a corresponding revision of the price regulations.

Yet, many firms are, obviously, merely suppliers of other firms just down the line. So if price compensation to cover the retroactive wage costs of firm A is in order—and I think it should be—would not compensation to cover the increated supply cost of firm B be in order as well, and would not this kind of ripple effect work its way through the entire economy taking on increased magnitude at each successive stage of the adjustment process? In short, full retroactivity would likely have a multiplier effect that would have a far greater ultimate impact on the price level than the mere additional wage costs taken in isolation. This is to say nothing about the administrative nightmares that it would cause for the Price Board and other stabilization agencies.

Mr. Speaker, having said this, I want to also make clear that there is one condition under which retroactive pay adjustments should be in order; namely, in those cases where employers—whether they be manufacturing firms, school boards or whatever, had already taken the necessary action through price, tax, or other revenue adjustments to cover the costs of wage or salary hikes that were scheduled to take effect during the freeze. To prohibit retroactive adjustments in these cases would result in unfair windfall gains for which there can be no justification. So I would support an amendment that I understand will be offered by the gentleman from Georgia (Mr. STEPHENS) that would allow for adjustments in these cases. This kind of retroactivity adjustment would be far preferable to the Minish amendment and to the provision in section 203(c)(2) as well.

Finally, Mr. Speaker, I believe that the provision in section 210, which would allow individuals to bring treble damage suits in U.S. district court, is extremely ill advised and unwarranted. It is an open invitation to a deluge of litigation that would cripple the administration of phase II, possibly undermine the process of economic recovery, and is something that is totally out-of-step with the spirit of cooperation and voluntary compliance on which this whole undertaking rests. I think this provision should be stricken from the bill, or failing that, the liability should only be for the excess charged, not the entire transaction. To allow treble damages for the entire amount of the transaction will, in my view, be an irresistible temptation for some to bring litigation and could become a source of contention and irritation of such magnitude that the entire program would be jeopardized. I think the kind of widespread voluntary cooperation we saw during the freeze provides ample evidence that phase II controls can be enforced without this kind of potentially disruptive provision.

Mr. Speaker, I have no further requests for time.

Mr. COLMER. Mr. Speaker, I move the previous question on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. PATMAN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 11309) to extend and amend the Economic Stabilization Act of 1970, as amended, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Texas.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 11309, with Mr. HOLIFIELD in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Texas (Mr. PATMAN) will be recognized for 30 minutes, and the gentleman from New Jersey (Mr. WIDNALL) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Texas.

Mr. PATMAN. Mr. Chairman, I yield myself 10 minutes.

Mr. Chairman, the passage of H.R. 11309 is necessary to assure the continuation of the economic stabilization program—the so-called phase II of wage-price controls.

It is an important piece of legislation—certainly one of the most far-reaching economic measures to come before this Congress in some years. Your Banking and Currency Committee has kept in mind the magnitude of this legislation and the bill before you today has been thoroughly studied and carefully amended in an attempt to provide a truly workable and equitable phase II economic program.

The administration originally sent this legislation to Congress on October 19. The original bill was short on equity and workability and long on vagueness and administrative shortcuts. The committee labored to revise the bill and to establish an equitable law which would withstand legal challenges and build the confidence of the American people in the phase II program.

The original bill sent forward by the administration wiped out application of the basic safeguards of the Administrative Procedures Act. The committee insisted that administrative review procedures be inserted requiring hearings with adequate advance notification and opportunity for interested persons to be heard on rulemaking procedures.

The original administration bill provided no wage-price machinery at the local level. The committee adopted an amendment requiring the establishment of local protest boards to help clarify rulings and to provide an entity—at the local level—to receive complaints about the operation of the law.

The original bill did not recognize the plight of low-income workers, the working poor, and those required to subsist on substandard wages. The committee insisted on an amendment which would exempt the working poor from regulations which might prevent their escaping poverty.

The original bill provided no means for policing prices except in the most general sense. The committee insisted that consumers, small businessmen, and others—who are the victims of willful price violations—be given the opportunity to seek civil damages three times the amount of the transaction. The committee established a price-policing mechanism which costs the taxpayers nothing and provided a strong deterrent to cheating.

The gentleman from Illinois (Mr. ANDERSON) made a good speech. He made some criticism of this particular section about treble damages. I most respectfully take issue with him so far as the small businessman is concerned. The small businessman has more to gain from this than any other person, the consumer or any other person. He will be protected against the unfair practices of the large competitors. In a similar law—the Robinson-Patman Act—small businesses have profited more from this type of legislation, which helps to enforce the law, incidentally, without public expense; and the small businessman will gain more than all the rest on this provision.

The original administration bill did not mention the word "profits." The committee insisted that the spotlight be thrown on excess profits and provided for the establishment of a Board on Profits which must keep check on excessive profits and make at least quarterly reports on the issue.

The original administration bill did not recognize the special problems of wage earners and others who must depend on mass transit facilities, many of which are totally unregulated by local authorities. The committee insisted that mass transportation companies be required to seek prior approval from the President—presumably delegated to the Price Commission—before any fare increase could go into effect

The original administration bill provided for a temporary emergency court of appeals and other judicial procedures in connection with the wage-price program. The committee accepted the basic thrust of the administration proposal in this area, but restructured the section to place it in more orderly, logical, and understandable form.

The original bill tied the President's powers to roll back prices to levels not less than those existing on May 25, 1970. The committee felt that this was much too rigid and insisted that the President be allowed to determine whatever levels were appropriate to achieve the goals of the Economic Stabilization Act—without regard to the arbitrary May 25, 1970, date.

The original bill gave extraordinary powers to the chairmen of the stabilization boards and commissions without regard to the other members of these bodies. The committee insisted that any action taken be based on a decision by a majority of the members of the particular board or commission and not solely by the chairmen.

The administration bill did not deal with the question of pay contracts and agreements entered into prior to August 15, 1971—before the President revealed his plans to control prices and wages. The committee insisted that this nagging—and divisive—question be dealt with by providing that such contracts and agreements were to be honored unless the President could determine that they were unreasonably inconsistent with the rate of wages in the economy generally.

The administration bill provided only a vague standby authority for the possible control of interest rates. The committee felt the provision was far too weak and insisted that it be broadened to include finance charges, and that the President be required to stabilize interest rates and finance charges whenever he triggered any other part of the wage-price authority. The committee further provided that any exception to this would have to be by a specific determination issued by the President—accompanied by a statement of reasons—that interest rates in a given category were satisfactory and approved by the administration.

Mr. Chairman, these are some of the significant areas where the committee felt it important to make substantive improvements and clarifications. All of you have access to the report which describes these and other provisions which were dealt with in detail in the committee. The legislation extends the President's authority to carry out the economic stabilization program until April 30, 1973—as he requested—and authorizes the hiring of personnel and funds necessary to administer the act. Once this legislation is enacted, phase II will be fully on the road.

THE PAY QUESTION

Much controversy has centered around the question of retroactive and deferred pay. It has been a nagging question that has caused divisiveness at a time when we should be pulling the country together behind the phase II program. As I noted earlier, the committee decided that this question should be dealt with firmly and we provided that wage contracts and agreements entered into prior to August 15 should be validated unless they were "unreasonably inconsistent" with the rate of increases of wages in the economy generally.

We feel that it is best that this question be resolved by the Congress in a firm manner so that we can put an end to the political and administrative jockeying which seems to have surrounded the issue. It seems only fair that the Congress take the steps necessary to remove the administrative uncertainties which have been hanging over the heads of teachers and other wage and salary earners concerning contracts which were legally entered before anyone had any idea that a wage-price freeze was to be implemented.

In many cases, wage earners made employment decisions—and other commitments—based on the contracts entered into prior to August 15.

For example, there were teachers who signed contracts as early as March and April of this year and then—based on the anticipation of higher earnings—made decisions to go back to school and take special and expensive education courses during the summer.

Other wage earners decided to buy homes—made downpayments—and committed themselves to high interest charges based on the anticipation that they had a legal and binding contract. In these cases, on the one hand the administration is insisting that the mortgage contract remain intact, while, on the other hand, attempting to invalidate the wage contract.

More importantly, it is obvious that some prices were raised as soon as contracts were signed and these increases have been allowed to remain while the wage contracts—on which they were based—are not being honored. This means that many corporations have reaped a large bonanza by retaining the funds that were due their workers during the freeze.

Administration spokesmen have plainly indicated that the payment of the retroactive contracts will not upset the phase II program despite the propaganda to the contrary. Dr. Charls Walker, the Under Secretary of the Treasury, on November 23, in a speech to the District of Columbia Bankers Association, minimized the idea that the payment of the contracts would have an inflationary impact. He said:

> If all the deferred increases were suddenly granted, we would still have used up only one-half per cent of what we have to work with . . . Economically, we can't say that there will be a catastrophe if the deferred increases were granted.

In addition, the President retains full power to block any "unreasonably inconsistent" contracts. In short, we are leaving the President with all of his anti-inflationary tools intact and at the same time providing equity in the wage-price program.

INTEREST RATE PROVISION

Some in the administration have defended the failure to control the prices of banks and other lenders by insisting that interest rates have been coming down. Most of the talk has centered around various fluctuations in the money market rates and some reductions in the rates paid by the largest and most affluent—the prime—customers of the big banks.

These money market rates have varied over the past few months and all of them remain at extremely high levels. More important, however, is that these reductions have in very few instances filtered down to the small businessman, the farmer, the consumer—the people who are demanding—rightfully—that the program be administered equitably.

The decision to control interest rates cannot be made solely on the basis of what the largest—the prime—business corporations are charged. This Congress should concern itself with what the majority of the American people are required to pay on mortgages, consumer loans, and similar borrowings. In addition, there have been many predictions that the money market rates will start rising again in 1972. If the efforts to stimulate the economy are successful—as the administration assures us they will be—then there will be a heavy business loan demand. In the past, such loan demands have provided an excuse for an increase in interest rates at all levels.

The time to apply controls is now and not after these money market rates have skyrocketed again. Once the rates go up in the money markets, the pressure by the big banks would be heavy for the administration to keep hands off. To avoid this pressure which is sure to mount as the months go by in 1972, the President can use the powers provided in this bill to issue immediate orders covering the interest rates on the various classes of loans.

The bill provides that he must stabilize interest rates whenever controls are used on any sector of the economy unless he issues a precise determination—accompanied by a definite statement of reasons—that interest rates imposed on each category of loans are satisfactory and approved by the administration.

Today, home mortgages—according to the surveys of the Federal Home Loan Bank Board—are in the range of 7.83 percent and, in some areas, the rate is more than 8 percent plus points. Millions of consumers are forced to obtain small loans at interest rates of 36 percent, and the Washington Post in recent weeks has carried lengthy investigative news stories revealing that second mortgages are as high as 68 percent. Even high-grade corporate bonds are going at interest rates well over 7½ percent. It would appear unlikely that any President would determine that such levels of interest rates should bear the imprint of approval from the Federal Government.

The CHAIRMAN. The time of the gentleman has expired.

Mr. PATMAN. Mr. Chairman, I yield myself 3 additional minutes.

All of you have access to the report which describes this, and I hope that you read the report.

The legislation extends the President's authority to carry out the economic stabilization program until April 30, 1973. That is what the President wanted. He wanted to extend it for 1 year in the beginning. The House has granted that and the Senate has granted it, so that there will be no difference to be settled by the conferees. It will be a 1-year extension from April 30, 1972, to April 30, 1973.

Personally I think it is a good thing to pass it now and get it behind us so that when we have the conventions coming up next year preceding a general election in the fall. We are in a better position to consider this legislation now.

So, it will be more conducive to sober thought and meditation to follow this procedure, Mr. Chairman, when politics will not be connected with it. I think that is a good move that the President made and I am glad that the Congress has supported his efforts and the legislation extends the President's authority to carry out this act and authorizes the hiring of the personnel and the funds necessary to administer the act.

Mr. Chairman, once this legislation is enacted, phase II will be on the road.

Now, Mr. Chairman, the distinguished gentleman from Illinois (Mr. ANDERSON) mentioned the fact about interest rates. It is true that some interest rates have been lowered. But, may I invite your attention to the fact that the consumer rates are just about exactly where they were before. The rates on the poor people and the middle-income group. These people are required under existing law and regulations to obligate themselves to pay on the purchase of a $20,000 home $35,000 in interest on that home, or $55,000 for a $20,000 home. So, that does not mean that interest rates have been reduced much to the person who has become a homeowner. It is about the same and the record will show that.

And, did you know that the consumers are still paying 18 percent interest and 36 on the purchases through retail establishments. They are also paying more percent interest on small loans all over this Nation.

This is against conscience, but you never hear of them saying anything about reducing the 36 percent interest. However, you hear them say, "Let us pass the Uniform Credit Code in all the States." It has been submitted to every State legislature, all 50, and it has actually passed in a number of States. That provides for an increase from 18 percent to 24 percent on revolving credit to 36 percent on other loans. That is not helpful to the consumer. It is harmful to him.

Mr. Chairman, the more money that is taken from the poor man in interest rates, the less money that goes into the channels of trade and distribution. It hurts everyone.

Mr. Chairman, I believe that this bill protects the consumer more than any bill that we have had in a long time. I hope and trust that the consideration given to this bill will be divorced from politics. We do not want politics in it. This is one time we must work shoulder to shoulder with the President. We must win this fight against inflation. We do not want it to happen in this country like it happened in Germany and one time in France where it required a wheelbarrow load of paper money to buy one loaf of bread.

It can happen, gentlemen; it could happen here. Let us not let it happen here. Let us pass this bill for effective controls in order to lick inflation.

Mr. WIDNALL. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 11309.

In view of the short time the report has been before the House and my personal disagreement with some of the views expressed in it I would like to review this with you a little more completely than I sometimes do.

First I think it important to give the proper recognition to the background of this legislation.

I think it is fair to say that when the President made his announcement of wage and price controls on August 14 he deviated from the firmest personal convictions about his abhorrence of economic controls in the interests of the Nation's welfare. He recognized, as surely we must that this Nation is in the midst of a grave economic crisis. To cope with it he initiated a series of domestic controls and incentives and international monetary and trade policies which I think most of us would agree are, or were, a good if painful first step toward the resolution of that crisis. The bill before us today deals only with the domestic controls so let me restrict my further remarks to that problem.

Twice since the 92d Congress convened we have voted to extend the President's authority to exercise wage and price controls. On each occasion, and in between, Members have advocated the exercise of this authority. On August 14 the President acceded to those admonitions and introduced a 90-day freeze which he and all of his administrators are willing to admit resulted in numerous inequities because the freeze was applied across-the-board and was not riddled with special treatment for a favored few. On October 7, after lengthly consultations with labor, management, and representatives of the public, he announced the outlines of a second phase of the program. If not perfect it was at least a program designed to assure that all affected parties would have some say in deciding what sacrifices each would have to make if this Nation was to successfully resolve its problems and bring inflation under control.

Twelve days after his October 7 announcement the President sent to us the proposal for the legislation now before us. Having acceded to our urgings these proposals said in effect, "Having yielded to your judgment give me time, give me people, and give me some temporary tools to make it work." In the meantime, while we deliberated on this request, the President, having embarked on a new economic policy affecting the well-being of over 200 million Americans, has had to try and make that policy work. It would be folly for me to stand here and try to convince you those efforts have been wholly successful to date; but it would be equally foolish for any of us to think that the boards and commissions which the President has established can do any kind of a job if, and as long as, we sit up here second guessing every decision they make.

This then brings me to the question of what kind of a bill we are dealing with today. I think it is largely—and I think it should be—only a bill which sets forth the broadest guidelines of a program. We are not equipped here in the Congress to deal with all of the ramifications of even such basic questions as retroactivity of pay increases negotiated prior to August 15. From all the evidence we have seen it is quite obvious that some retroactive payments can and should be made—while others, which if required, would plunge companies into bankruptcy and employees onto welfare. Under the circumstances it would be foolhardy for us to dictate more than a mandate requiring an examination of all the facts in individual cases before decisions are made—and prohibiting blanket rules that are not subject to appeal.

In considering this legislation we must avoid legislative provisions which restrict the administrators' flexibility. Let us not kid ourselves, economic controls mean sacrifices. Nor should we kid ourselves that we here in Congress could ever write the thousands of pages of rules, regulations, and interpretations that have accompanied every other attempt at such controls. The best we can do is provide the guidelines. Having induced the President to embark on this program let us not tie his hands before he has a chance to make it work.

If you can agree with me that we do not have the ability to legislate every detail of an economic control program I think you can agree that H.R. 11309 contains ample guidelines for the President to follow. Unfortunately some of its provisions are too limiting and should be deleted particularly if they deny the President authority to determine facts before deciding what is equitable. Any other amendments of this nature offered on the floor should be defeated.

In summary let me say this:

First, I think it is obvious from the problems which have presented themselves since August 15 why economic controls are abhorrent to us.

Second, having finally embarked on this distasteful route to the solution of our domestic economic problems I think it would be a big mistake to vacillate at this time by denying a 1-year extension of this authority or by trying to change all the rules the administration laid down in the absence of more complete congressional guidance; and

Last, but not least, I think it is time we recognized that the problems our Nation faces today transcend political issues and require that we face up squarely to the fact that to get inflation under control is going to require some personal sacrifices. In the long run we are going to face far less difficulty if we accept that fact realistically. I still hear the applause that followed John F. Kennedy's statement—

> Ask not what your country can do for you, ask what you can do for your country.

I think we can ask people to tighten up on prices, wages, rents, and all the rest right now for the sake of their country without any apologies, and I think that when we stop second-guessing the people down the street who have the time to listen to the facts in each case they can administer this program fairly.

Let me point out that there has been a tremendous amount of misunderstanding about the operations of the economic controls and their relationship to H.R. 11309. I hope that during our debate today Members will recognize that the rules which prevailed during phase I have been changed and do not justify the inclusion in this legislation of amendments directed at problems which no longer exist. Let me assure you that your committee has heard every conceivable kind of complaint and it is my judgment that the guidelines set forth within the bill represent an adequate framework for the administration of a fair and equitable program. I urge the enactment of the bill with a few amendments we feel are needed.

Mr. BARRETT. Mr. Chairman, in some quarters, the Economic Stabilization Act has been seized on as a great opportunity to make the workingman and labor unions the whipping boys for all our economic troubles.

It is easier for some to talk about the $15 a month increase of a worker than it is to discuss the excesses of the big business and banking community and the other fat cats in our society.

Mr. Chairman, I have talked with many labor people and I know that the American workingmen and women are willing to cooperate with this program so long as it is equitable—so long as everyone—big and small—is treated alike.

The AFL–CIO has made its position clear in testimony before the Banking and Currency Committee. The official position is contained in this statement adopted by the Executive Council of AFL–CIO:

> **If the President determines that the situation warrants extraordinary overall stabilization measures, the AFL–CIO will cooperate so long as such restraints are equitably placed on all costs and incomes—including all prices, profits, dividends, rents and executive compensation, as well as employees' wages and salaires. We are prepared to sacrifice as much as anyone else, as long as anyone else, so long as there is equality of sacrifice.**

Mr. Chairman, we can help provide the equity so badly needed in this program by adopting the committee bill which provides that wage contracts and agreements entered into prior to August 15 be valid unless they are unreasonably inconsistent with other increases in wages in the economy generally.

The working people had no knowledge that the President was planning to impose a freeze on August 15. They entered into these agreements in good faith and in many instances made commitments to purchase homes, automobiles or to send their children to school based on the belief that they had a binding contract for higher wages. Many of these contracts were entered into months—and in some cases—years—before the President's freeze order of August 15. Teacher contracts, in most school districts, were signed in the spring and many of these teachers made employment decisions based on these binding agreements.

These contracts—contrary to the propaganda flowing forth from the administration—do not involve high-paid affluent workers. Hundreds of these contracts involve low income workers, many of whom are supporting families on less than $6,000 a year.

The administrative rulings that have come forth under this program have blocked, in some cases, wage increases as low as $8 a month and, in one instance, prevented employees from obtaining the right to sick leave. The great majority of these contracts involve relatively small sums, but amounts which are important to the individual worker.

It is not the fault of the workers that the Nixon administration waited so long to control inflation and failed to do something about unemployment. The President's economic hesitation has cost the country dearly, but it is wrong—very wrong—for the administration to now say that the working people must bear the burden of these mistakes.

Mr. Chairman, the pay contracts entered into prior to August 15 should be validated by the Congress and not left to further maneuvering in the political and administrative arena. We should put the phase II show on the road and put behind us these divisive questions hanging over from the prefreeze period.

Mr. PATMAN. Mr. Chairman, I yield 5 minutes to the gentleman from Ohio (Mr. Ashley).

Mr. ASHLEY. Mr. Chairman, because of the importance of the legislation before us, I would like to direct my remarks to section 203 of H.R. 11309 because this section really goes to the heart of the matter which we are considering.

Section 203 deals with presidential authority.

Paragraph (a) authorizes the President to issue such orders and regulations as may be appropriate—

First, to stabilize prices, wages, rents, and salaries;

Second, to stabilize Federal expenditures; and

Third, to stabilize interest rate and finance charges and corporate dividends.

Paragraph (b) says—in stabilizing the above components of the economy, the President, in effect the Pay Board, shall issue standards to serve as a guide in determining the levels of wages and prices and so forth.

These standards shall, pursuant to the legislation: First, be generally fair and equitable; and second, provide for making such general exceptions and variations as are necessary to foster orderly economic growth and to prevent gross inequities, hardships, and serious market disruptions, domestic shortages of raw materials, localized shortages of labor, and windfall profits.

Third, take into account changes in productivity and cost of living.

Fourth, provide for reductions in prices and rents whenever warranted.

Fifth, call for generally comparable sacrifices by business and labor as well as other segments of the economy.

Section 203(c)—and this begins to get critical—says that retroactive and deferred pay increases that were contracted for before August 15, but not paid because of the freeze, shall be paid unless the Pay Board—again, in effect, the President—the Pay Board finds that the increase is unreasonably inconsistent with standards promulgated by the Pay Board pursuant to paragraph (b) which I have just read.

I want to point out that this language found in paragraph (c)(1) of section 203 on page 4 of the bill presents a very different test for the payment of retroactive and deferred pay increases than that contained in section 216 on page 23. In fact, as the gentleman from Illinois (Mr. Anderson) has pointed out, the two sections are quite contradictory, which can only be explained by the extremely close division within the committee itself.

During committee consideration an amendment similar to section 216 was offered by the gentleman from New Jersey (Mr. Minish) in place of section 203, but it was defeated by a 1-vote margin. The same amendment with slight modification was later offered by Mr. Minish as section 216, and on this occasion it prevailed by a 1-vote margin.

Section 216 also provides for the payment of retroactive and deferred pay increases, but the test which it applies is much more loosely drawn and all inclusive. It states that all such increases must be paid unless the Pay Board finds that an increase is unreasonably inconsistent with the rate at which wage and salary increases have increased in the economy generally. We know that the average rate of wage and salary increase in the economy generally during the 8½ months immediately prior to the August 15 freeze was between 7½ and 8 percent. Thus section 216, the so-called Minish amendment, mandates the payment of retroactive and deferred increases that are not unreasonably inconsistent with the general increase in the neighborhood of 8 percent.

What this would mean I would ask Mr. Minish on tomorrow, but I would suppose an increase of 10 percent would not be construed to be unreasonably inconsistent with an 8-percent rate of increase in the economy generally.

The CHAIRMAN. The time of the gentleman from Ohio has expired.

Mr. ASHLEY. Mr. Chairman, will the gentleman yield 1 more minute to me?

Mr. PATMAN. I am sorry I cannot do so.

Mr. ASHLEY. Mr. Chairman, will the gentleman from New Jersey yield me 2 minutes?

Mr. WIDNALL. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio.

Mr. ASHLEY. I appreciate the gentleman's yielding me this time.

Unlike the test in section 203, section 216 strips the Pay Board of any flexibility by adopting a standard which accepts and is predicated upon a rate of wage and salary increase that contributed directly to the August 15 freeze. At the appropriate time, therefore, Mr. Chairman, I will either offer, or in case it is offered by Mr. Stephens, I will support an amendment to strike section 216.

In closing, let me say that the legislation before us offers the opportunity but not the assurance of checking inflation and promoting orderly growth. If the Congress elects to direct the Pay Board or the Price Commission, for that matter, to approve increases that are not consonant with economic stability and they will have this option, then it will have forfeited its responsibility to the Nation. If, as I trust will be the case, we treat economic stability as a national priority of the highest order and are faithful to this goal, then we will have succeeded in overcoming differences among us for the common good of our society, and perhaps for the preservation of our competitive enterprise system as we know it.

Mr. WIDNALL. Mr. Chairman, I yield 5 minutes to the gentleman from Michigan (Mr. Brown).

The CHAIRMAN. The gentleman from Michigan (Mr. Brown) is recognized for 5 minutes.

Mr. BROWN of Michigan. Mr. Chairman, the first responsibility of this body, it seems to me, is to act properly as a legislative body and not as a pay board, a price commission, an interest and dividends commission, or any other body to which may be delegated by the President the implementation of our economic and stabilization program. Included within this responsibility is a further obligation to make sure that equity to all within the control structure is not jeopardized by our legislative action. Since no one in this Congress would suggest that he has the all-encompassing knowledge to appreciate all the diverse and varied situations, whether in wages or prices or in other factors with which the pay and price boards will be confronted, it is absolute folly for us to adopt too rigid, too restrictive, too inflexible legislative provisions, thereby denying to these boards and commissions an opportunity to do justice to all affected by the just concluded freeze of wages and prices as well as those who will be affected in the future.

To the extent that we write into this legislation a general overall fix on wages, especially increases therein which occurred but were not paid during the freeze, we are rewarding the good and the bad, the just and the unjust, in exactly the same way and to the same extent. There can be little question but what this question of retroactive wages will occupy more of the time and attention of this House than any other issue incorporated in this legislation.

Sound economic growth cannot occur unless there is an opportunity for all to share in it equitably, receiving from it according to the amount they have contributed to it. The freeze caused and perpetuated inequities which must be corrected. Phase II legislation should provide the tools for the correction of these inequities. The failure to pay any wages during the freeze period would clearly be unconscionable. Failure to pay the increases in wages which were scheduled to that effect during the freeze would be likewise unconscionable if such retroactive wages were contemplated by the industry, the income of the industry was increased through an increase in prices, or similar prefundng of the payment of the increases had been contemplated.

This is equally applicable, whether we are talking about products or services, and certainly those in the teaching profession, who have raised the question with many Members, in many cases are in the situation where it would be unconscionable for their raises that occurred during the freeze not to have been paid.

But, Mr. Chairman, in addition to this basic inequity, if we are going to have the sound orderly economic growth that this whole program is aimed at, we must make sure that the equity has been or is incorporated into the implementation of the program through guidelines where applicable or through the handling of individual cases where applicable, so that there will not be an impact upon the economy which will continue again the spiral of inflation, or which will be so inequitable as to be insupportable by the public, even though there may be special interest opposition.

In conclusion, let me just say that there are many facets to this legislation which permit—not only permit, but provoke—special interest political considerations. I will only trust that this body will not permit itself to succumb to that type of determination in writing the legislation tonight or tomorrow.

Mr. PATMAN. Mr. Chairman, I yield 3 minutes to the gentleman from New Jersey (Mr. Minish).

Mr. MINISH. Mr. Chairman, it is time for the Congress to deal in a clear and decisive manner with the question of deferred and retroactive pay.

The Banking and Currency Committee—on a 19 to 17 vote—has adopted an amendment to the President's phase II legislation which will provide a firm resolution to this issue. The amendment which I sponsored in the committee simply provides that the pay contracts entered into prior to August 15 be honored unless the President determines that the wage increases are "unreasonably inconsistent" with the rate at which wages have increased in the economy generally.

This amendment clears the air and puts an end to the conflicting and ambiguous rulings which have surrounded this issue since the freeze was imposed on August 15. This amendment will help put an end to the divisiveness and controversy which has plagued the economic stabilization program.

So today I sincerely hope we can provide the kind of equity, fairness, and logic which are so badly needed to make phase II succeed.

It is well known that many corporations raised prices when wage contracts were signed earlier this year. These corporations have continued to charge these higher prices based on wage agreements which have now been invalidated. These corporations have been reaping windfall profits while workers and teachers have been refused the benefits which they openly and fairly contracted for before the President announced his freeze.

Mr. Chairman, this provision covers both union and nonunion agreements that were entered into at a time when no one had an inkling that the Economic Stabilization Act was to be triggered. Millions of teachers and workers made employment decisions based on what they believed were binding agreements. Many purchased homes and entered into long-term mortgage contracts at high interest rates based on the anticipation that their contracts were valid. Now we learn that many wage contracts are to be declared invalid while allowing the mortgage contracts—and other commitments—to remain in full force and effect. This is a double standard which the Congress cannot condone and which is corrected by the legislation before us today.

Mr. Chairman, most of the people involved in this question of deferred and retroactive pay are low- and moderate-income families, teachers, and public employees who are not among the affluent. Hundreds of these contracts involve sums of only $15, $20, or $25 a month. I have seen some of these contracts where the increases are as small as $8 a month. These are the increases which the opponents of my amendment are fighting on the grounds that they are inflationary.

Mr. Chairman, at this point I should like to place in the Record a series of examples of various contracts in different parts of the Nation involving low-income workers earning from $1.70 to slightly more than $3 an hour. These are all wage agreements which were entered into prior to August 15, but which have been denied under the wage-price freeze:

MANY LOW WAGE WORKERS EARNING $2 TO $3 AN HOUR (LESS THAN $6,000 A YEAR) WERE DENIED DEFERRED INCREASES DURING THE FREEZE PERIOD

Union	Firm	Location	Industry	Number of workers	Previous existing rate	Deferred increase due between Aug. 15 and Sept. 13
RCIA	Miracle Mart, Inc	Cumberland, Md	Retail	150	$1.70 to $2.10	+$0.05-$0.10
RCIA	Topps	Baltimore, Md	do	800	$1.85 to $2.20	+.25
RCIA	do	Menandes, N.Y	do		$1.85 to $2.25	+.20
ATU		Eastern & Allentown, Pa	Transit	75	$3.27	+.10
ATU		Wilkes-Barre, Pa	do	75	$3.03	+.05
ATU		New Bedford, Mass	do	75	$3.03	+.14
ATU	Broward Transport	Palm Beach, Fla	do	75	$2.80	+.10
ATU		Richmond, Va	do	400	$3.29	+.13
IUE	Wynnewood Products, Inc	Jacksonville, Tex		25	$1.88 to $2.30	+.12
IUE	Redmond Industries	Washington Court House, Ohio	Mobile homes	110	$2.15 to $3.05	+.10
IUE	P. R. Mallory & Co	Indianapolis, Ind	Metal parts	306	$2.70 average	+.10
IUE	Eastern Air Devices	Dover, N. H		136	$2.35½ to $3.90½	+.08
IUE	Queen City Dinettes	Florence, Ky		239	$1.78 to $2.14	+.07
IUE	Singer Co	Elizabeth, N.J		2,300	$2.27 to ?	+.13-.28
ACWA	Cotton Garment Industry (Nationwide)		Clothing	120,000		+.12½
AIW	Essex International Controls	Logansport, Ind	Electrical equipment	1,000	$2.67	+.08
LWIU	Pittsburgh Laundry	Pittsburgh, Pa	Laundry		$1.94	+.40
IBEW	Admiral Corp	Chicago, Ill	Electronics	3,000	$2.84 (assembler)	+.15
IBEW	Amphenol	Danbury, Conn	do	350	$2.65 (assembler)	+.21
IBEW	Burns Airking	Chicago, Ill	Metal	500	$2.75 to $3.81	+.15
MCBW	R. J. Reynolds Foods	Jackson, Ohio	Food processing	350	$2.03	+.10
MCBW	Maplewood Packing Co	Belfast, Maine	Poultry	300	$2.15	+.08
MCBW	Wayne Poultry	Albertville, Ala	do	250	$2.13	+.06
MCBW	Fish Industry	Southbend, Wash	Fish processing	250	$2.35	+.07

Mr. WIDNALL. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. ROUSSELOT).

Mr. ROUSSELOT. Mr. Chairman, I rise in opposition to H.R. 11309.

I am not in favor of wage and price controls.

I am in favor of economic stabilization.

For 25 years, since the declaration of the national policy on employment—generally called the Employment Act of 1946—we have followed a course of deficit budgets and increased Federal intervention into every aspect of national activity obsessed with the misguided notion that this was the only route to full employment. This policy has been a prime cause of inflation.

If there is one good thing in this bill, it is the recognition in the Statement of Findings—section 202—that a stable dollar is the keystone to economic growth, a healthy economy, and full employment.

I wholeheartedly endorse the statement in this bill that "it is necessary to stabilize Federal taxes and expenditures" and the congressional expression that "the President should make every effort to reduce Federal expenditures and taxes by submitting a balanced budget in an effort to stabilize the economy and eliminate the need for the exercise of any controls under this title." I hope every Member will recognize the significance of these expressions, and keep this policy in mind as we vote authorizations and appropriations in the months ahead.

I recommend my colleagues carefully consider the dissenting views of my fellow Congressmen BLACKBURN, CRANE, WYLIE, and myself on page 43 and pages 45 through 56 of the report of the House Committee of the Banking and Currency, entitled Economic Stabilization Act Amendments of 1971, dated December 7, 1971 (Rept. No. 92-714).

Mr. WIDNALL. Mr. Chairman, I yield 2 minutes to the gentleman from Connecticut (Mr. MCKINNEY).

Mr. McKINNEY. Mr. Chairman, I do not believe anyone is happy with the idea of wage and price controls, but tomorrow, when we move into the reading of this bill and get to the 5-minute rule there are two tremendous dangers which will face this House as a whole.

One is that this Congress, representing people of all different types of special interests from all different parts of the country, may see fit in its wisdom the desire to change this bill for one interest group or another.

The greatest danger that we could possibly do to this bill and to the economic stabilization of this country would be to take the special interest of any one group and put it above the good of the whole of this Nation.

Mr. Chairman, no one in the free enterprise system can be happy with controls. It would take a genius; in fact, it would take a Solomon to make them fair and equitable across the board. But for Congress itself to try to set out here and change for each different special interest group the general thrust of this bill would be to destroy the President's chance of bringing economic stability to this country.

There is another danger. There are people here who are against this bill and who feel that this bill is not needed and that the President has powers that last until April 30, 1972.

But, Mr. Chairman, I would suggest that one of the reasons that this country is still having the economic problems it has, one of the reasons for business not going ahead with investments—and we heard the statements last night about the farmers—is the fact that when this Congress has so held up action that the business community; yes, the workers, the teachers, the entire Nation has no way of knowing where it is or where it is going, and until we fully back this bill, and achieve a sense of permanancy we will not fully solve our problem.

Mr. WODNALL. Mr. Chairman, I yield 3 minutes to the gentleman from Minnesota (Mr. FRENZEL).

Mr. FRENZEL. Mr. Chairman, as a member of the Committee on Banking and Currency which considered this economic stability legislation, H.R. 11309, I am satisfied that we have produced a bill which generally is going to be satisfactory.

It authorizes and ratifies the machinery which the President has asked for, and which is operating at this time. This machinery and the operation thereof is going to move us closer to our goals of containing inflation and moving our economy back to a vigorous and full employment level that we seek.

Mr. Chairman, I would like to commend the chairman of the committee, the gentleman from Texas (Mr. PATMAN) and the members of the committee who showed such determination to bring this bill to the floor promptly in order that we might give to the President these powers.

The committee, as the gentleman from Connecticut (Mr. MCKINNEY) pointed out, exercised a good deal of self-restraint in not adding to this bill a large number of special interest amendments.

Mr. Chairman, in fact, many of the committee amendments were positive. Some of these were: Administrative procedures; eliminating the poor from the list controls; and adding to the findings that it is necessary for the Federal Government to reduce its expenditures.

On the other hand, Mr. Chairman, there were some unwise amendments. The Minish amendment which has already been discussed was, in fact, unwise. It is my understanding that an amendment will be offered in the consideration of this bill which will provide for the allowance of retroactive wage increases where prices have been raised or budgets approved. This amendment should satisfy the arguments of the gentleman from New Jersey (Mr. MINISH).

In section 203(f), we have put in another discriminatory amendment regarding pensions that applies to some wage earners but unfortunately not to most.

In section 210 there is another unwise amendment which makes the triple damages apply to "transactions" instead of "overages."

If some of these discrepancies can be cleaned up, Mr. Chairman, I think we can have a fine bill of which we can all be proud.

Again and again in our hearings in the committee, leaders of organized labor asked us, and the country, for equality of sacrifice. Every loophole, and every Minish amendment, and discriminatory pension amendment that we put in this bill lessens the equality of sacrifice. I call on this House and on each of us in the Committee of the Whole to exercise at least the self-restraint which the committee exercised.

An amendment to repair the Minish language is necessary. Some good work in conference is also necessary. But other amendments should be resisted to maintain equality of sacrifice.

Mr. PATMAN. Mr. Chairman, I yield 1 minute to the gentleman from New York (Mr. HANLEY).

Mr. HANLEY. Mr. Chairman, I rise in support of this legislation and was privileged to cosponsor it. Though wage and price controls are bitter, we do have to deal with the problem of inflation and hopefully overcome the challenge it provides.

Other efforts have been made but they failed, thus this appears to be the remaining option. I am optimistic that this program, given sufficient time, can succeed.

I want to reflect on an issue, though not referred to in this bill, but indeed vital to its intent, and that is the Federal employee pay freeze. The Senate version of this legislation considered the problem and by an overwhelming vote of 79 to 1 adopted an amendment which has the effect of lifting the July 1, 1972, freeze, and thus treats Federal employees identical to those in the private sector.

The pay increase due Federal employees on January 1, 1972, is not a creature of the Congress, but instead it is the well thought out product of the President's Advisory Committee on Federal Pay. It determined that to assure compliance with the law, and that is the Comparability Act, a January 1, 1972, wage increase was due Federal employees in recognition of prevailing Bureau of Labor statistic figures, and thus in its first official act, presented the recommendation to the President who was virtually committed to acceptance.

Subsequently, on August 15, the President announced his new economic plan, and to the disenchantment of many, stated that he was delaying this increase until July 1, 1972.

Certainly the Advisory Committee must have been jolted, as were the Federal employees, who have since wondered why they were being treated as second-class citizens. All they ask is treatment equal to the rest of our society. In fact the language of the present act actually restricts the President from imposing selective treatment on any segment within our society.

This Federal pay freeze was ill conceived. In fact, it was announced prior to the establishment of any guidelines, thus it was apparently predetermined that this category of employees were to be scapegoats, not really to assist the inflationary problem, but rather to accommodate the impending budget deficit.

The issue is one of fairness—I commend the Senate action and urge the House conferees to agree.

Mr. PATMAN. Mr. Chairman, I yield 1 minute to the gentleman from New York (Mr. KOCH).

Mr. KOCH. Mr. Chairman, I would like to bring to the attention of the House a gap that exists between the Pay Board's regulations and the directive in H.R. 11309 to allow retroactive payments to cover wage increases not paid during phase I for contracts negotiated prior to August 15.

The Pay Board has ruled that payments may be made retroactively to cover wage increases not made in phase I in instances of contracts adopted after August 15 if approved by the Pay Board. According to the regulations, the Pay Board may approve these retroactive payments if it can be established that the contract adopted after August 15, 1971:

> Succeeded an agreement, schedule, or practice that expired or terminated prior to August 16, 1971, and retroactively is demonstrated to be an established past practice of an employer and his employees or retroactivity had been agreed to prior to November 14, 1971.

The problem is that neither the committee bill nor the Pay Board regulations cover new contracts; that is, first collective bargaining agreements, reached during phase I. I have a case in my congressional district in which an initial contract was signed September 1 with an effective date of July 1, 1971. Even though retroactivity had been established well before November 14, as required by the Pay Board, this new contract cannot meet the requirements of succeeding a prior agreement or contract; there was no prior contract—people simply were the employees of the institution.

Thus, the Pay Board's position, out of failure to issue regulations for an initial contract agreed to during phase I, is discriminatory toward a new union. The employees of new unions are being placed at a disadvantage. Equity requires, however, that every advantage be given to the new unions whose employees are at the verge of obtaining the first fruits of collective bargaining. Generally, it is the employees of the new unions that have labored under substandard wages—indeed in the case I have in mind, most of the employees are women who have been the victims of a discriminatory labor market that could command their employment at lower wages.

The problem of the Pay Board seems to be one of establishing that the date of retroactivity established in the contract reached during phase I was reached in good faith. In the case I have referred to, every effort was made to comply with the policies and objectives of the Cost of Living Council. Negotiations had started in early July. The effective date of July 1, 1971, was established early in the negotiating process prior to August 15. Nevertheless, when this new union consulted with the Pay Board after the issuance of the regulations on November 23, 1971, they were advised informally by the general counsel's office here in Washington that they would not be eligible for retroactive payment of scheduled increases in wages that had not been payed between August 16 and November 14, because of the freeze.

It is only equitable that the existence of new unions—and their unique circumstances—that concluded agreements during phase I receive the attention of the Pay Board.

Would the distinguished chairman of the Banking and Currency Committee, (Mr. PATMAN) agree that the bill does not make any provision for the payment of wage increases retroactively for agreements reached during phase I with an effective date either prior or during phase I, because there was an assumption that the Pay Board would establish a procedure by which such parties, particularly in the instance of an initial contract, could show that the effective date was established in good faith by the bargaining parties, and without any reference to any existing guidelines or contemplated regulations?

Mr. PATMAN. The gentleman is absolutely correct.

Mr. Chairman, I yield to the gentleman from New Jersey (Mr. HELSTOSKI) such time as he may use.

Mr. HELSTOSKI. Mr. Chairman, I rise in support of the committee amendment which directs the retroactive payment of wage increases negotiated prior to August 15, but prevented from going into effect by the President's freeze orders.

Since the President first announced this ex-post facto abrogation of solemnly negotiated contracts, I have been actively working to reverse this injustice done to millions of wage earners in the United States. I have had a round of correspondence with General Lincoln urging him to modify the freeze as it related to previously negotiated wage increases. And I have filed my own bill, H.R. 11879, which is similar to the amendment adopted by the Committee on Banking and Currency. I am happy to have the opportunity to speak and vote this afternoon in support of that amendment.

As a former educator, who is well acquainted with the contracting procedures concerning teachers, I am greatly distressed by the administration's apparent ignorance of faculty members' pay situations both in New Jersey and across the United States.

In New Jersey, for example, teachers are employed on a 12-month basis, but 95 percent of the educators in my congressional district negotiated their contracts on a 10-month basis. These are negotiated usually in January preceding the start of a new academic year, the school budget is approved in February and teachers sign their contracts in April. Raises go into effect with the start of each academic year in September. Thus, teachers in New Jersey had their pay raises signed and sealed last April and in good faith waited for them to be delivered in September. Mr. Nixon's arbitrary choice of August 15 as the beginning of the freeze period thus did a grave injustice to teachers simply on the basis of the unique features of their work year and contracting features. I would also like to point out that the salaries most of these teachers are working for were negotiated in January of 1970; these educators, therefore, having had their wages frozen in effect for almost 2 years.

The inequities of the freeze as it applies to teachers are legion. In one case, some teachers are working under contracts with raises, since they elected to work during the summer intersession.

School boards are continuing to pay them at the new level. In another instance, some teachers are working under contracts which also became effective July 1. However, they did not teach during the intersession and did not receive scheduled raises. This creates an extremely unfortunate situation as these experienced teachers find new faculty members, without equivalent experience and who taught during the summer, receiving the same salaries since they were eligible for scheduled increases.

In still another case, the experienced teachers in one school system find their colleagues with equal experience receiving salaries at the newly negotiated rate since the latter worked during the intersession. Finally, in other cases, teachers accrued raises during the summer months, but received cutbacks on September 1. And, some school systems decided to give all teachers raises despite the freeze.

Mr. Chairman, these rampant inequities can only be eliminated by adoption of the committee amendment to H.R. 11309.

The situation of teachers is serious, but the hardship and inequities imposed on other workers by the President's actions call for rectification as well. In all of these instances, I am concerned with the dangerous precedent established by the President's freeze orders. I find it shocking that a "law and order" administration can, by a stroke of a pen, abrogate contracts legally and solemnly entered into by Americans. The implications of such an action are most disturbing: With the President's directives of August 15, the groundwork is now laid for the nullification by executive fiat of any other type of voluntary contract, be it a mortgage, corporate bond issue, or sales contract.

Furthermore, I believe that we should consider the windfall which the President's actions provided for industries which had raised their prices before August 15 in anticipation of wage increases. The extra money generated by these price hikes has now gone into corporate vaults instead of workers' pockets. By avoiding payment of an agreed 5-percent increase for their workers, the railroads alone are estimated to have kept in their treasuries some $40 million due to employees under a pre-August 15 contract.

Mr. Chairman, I would point out also that only the incomes of wage earners have been frozen in this respect. There is no legal limit on corporate profits, interest rates, dividends, the incomes of land speculators or stock market players. In one of his letters to me, General Lincoln of the Office of Emergency Preparedness wrote:

> The implementation of any new economic program carries with it the possibility that all sectors of the economy will not be affected equally.

In view of the so-called new economic policy's abject failure to control the incomes of the rich and the corporations, its call for massive, multibillion dollar tax breaks for industry and its approval of phase II price hikes well above the 2½ percent guideline, I can only say that General Lincoln has come up with the understatement of the year.

Mr. Chairman, let us ratify the committee amendment and give the wage earner a break for a change.

Mr. WIDNALL. Mr. Chairman, I yield to the gentleman from Michigan (Mr. Brown) such time as he may require.

Mr. BROWN of Michigan. Mr. Chairman, I thank the gentleman for yielding, because I want to comment or, more accurately, to ask a question of the gentleman from New Jersey (Mr. Minish) regarding his statements, since he seems to cast the impression that a contract once negotiated and once executed and once entered into should be inviolate and should never be subject to reconsideration or renegotiation.

It is my recollection—and I could be wrong on this so therefore I am posing the question to anyone on that side of the aisle—in the automobile industry back at the first time a cost-of-living increment was added to and negotiated in the contract that cost-of-living factor was one that moved both up and down with regard to wages and that there was a triggering device which caused an increase in wages when the cost of living went up but that triggering device also prompted a reduction in wages when the cost of living went down.

Following the Korean war, when there was a slowdown in the economy and the cost of living went down, the triggering device which would have reduced wages was activated. At that time it was the late and the very respected Water Reuther who argued that a contract is not written in concrete and that a contract is not inviolate from that standpoint but, rather, a contract is a living contract; it is a living contract concept. You have to be able to look at that contract and you have to be able to follow it up basically and make adjustments to it when there are circumstances or a situation which occurs that was not contemplated by those who entered into the original contract.

I ask anyone on that side of the aisle if he would care to answer what happened to the living contract concept.

Mr. MINISH. Will the gentleman yield?

Mr. BROWN of Michigan. I certainly will.

Mr. MINISH. Is that a question or a speech?

Mr. BROWN of Michigan. Both.

Mr. MINISH. Just let me recall what the Secretary of Labor said yesterday.

Mr. BROWN of Michigan. Excuse me. When I yield to the gentleman I am only yielding to him for the purpose of answering my question.

Mr. MINISH. I do not negotiate the UAW contracts. Maybe you do and know better than I do.

Mr. BROWN of Michigan. Do you agree or do you disagree with the living contract concept?

Mr. HANNA. Will the gentleman yield?

Mr. BROWN of Michigan. It is not my time.

Mr. WIDNALL. I control the time.

Mr. HANNA. I think the answer to the gentleman's question is very simple. A living contract goes to the parties of the contract. We are here dealing with the actions of somebody who is outside the purview of the parties to the contract. So the gentleman's question is not relevant to this particular legislation.

Mr. BROWN of Michigan. Will the gentleman yield so I can respond?

Is the gentleman saying that the self-interest of the parties to the contract shall be, in effect, superior to the welfare of the country?

Mr. HANNA. No. The gentleman is saying that the contract is made by parties to the contract and the only people who can change it or make it live are the people who are the original parties to the contract.

Mr. WIDNALL. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio (Mr. Wylie).

Mr. WYLIE. Mr. Chairman, I thank the gentleman for yielding.

There is no question in my mind but that we must pass this legislation. I voted against reporting the bill from the Committee on Banking and Currency, because of the so-called Minish amendment. Treasury Secretary Connally, during a recent press conference, said that if we pass the bill with the Minish amendment in it we might as well forget wage and price controls. Wage and price controls have been working, and I hope we can pass this bill without the Minish amendment in it.

No one can predict with any degree of certainty as to the state of the economy a year hence. I am reminded of a quotation of a judge who was deciding a dispute surrounding a contract in a law case. One of the parties suggested that certain things had happened after the contract was entered into and, therefore, the contract should be void. The judge said a classic quote which I shall never forget—I read this while I was in law school:

> A wisdom born after the event is the cheapest wisdom of all. Anybody could have discovered America after 1492.

It is too bad we cannot start next December with 20–20 hindsight and see what might happen over the next year.

For a short time after President Nixon was elected, Vietnam was the No. 1 issue according to every poll. When the President announced his program of troop withdrawal, the state of the economy became the No. 1 issue.

I will not go into the causes of the inflation which we had when Mr. Nixon was sworn in as President in 1969.

But in 1969 various solutions were suggested to cope with the rising inflation. Most of them started with the proposition that Federal spending needed to be reduced or brought in line with tax receipts.

I can still recall those first hearings of the Banking and Currency Committee after the President was elected. Many witnesses came before the Banking and Currency Committee. One day we would have a professor of economics from Harvard, summa cum laude, telling us how to reduce inflation and save the country. And the next day we would have a professor of economics from Yale, summa cum laude, telling us something else. To say the least, economics is not an exact science. The fact remains that in 1969 the American people would not have accepted wage and price controls. Every poll indicated otherwise. In my own congressional district, 55 percent said no wage and price controls—mandatory or voluntary. The other 45 percent said some wage and price controls. Less than a year later, people felt otherwise. Again, in my own district the reverse was true. Now 45 percent were against wage and price controls; 55 percent were in favor. In our democracy, the people govern, and economics and the problems of inflation are difficult even for brilliant economists, this is not something on which the average American thinks on a day-to-day basis. Still, those of us who are elected to public office do not make it a practice to say the people are wrong.

It was evident to everyone by July 1971 that the policies which had been invoked to control inflation were not working. So, something drastic had to be done and drastic it was when President Nixon announced on August 15 of this year that wage and price controls would be imposed for a period of 90 days. The American people applauded him and the President's popularity shot up overnight. Best of all, it worked. The wholesale price index dropped three-tenths of a percent in September and again by one-tenth of a percent in October. The industrial commodities component of the wholesale price index dropped by three-tenths of 1 percent in October, the largest 1-month decline in 11 years. Savings accounts, which were unusually large, reflecting a lack of confidence, now declined. Consumer installment credit, as you know, reached a $12-billion annual rate in September, the largest single increase on record. Every economic indicator showed that the President's wage and price freeze was working, except one. The stock market continued to decline. In recent days, it has begun to improve.

On November 15, phase I ended and phase II began. Just before the announcement of phase II on October 19, 1971, the President sent to Congress a message containing a proposed bill to extend and amend the Economic Stabilization Act of 1970. Generally, the phase II program might be said to entail flexible controls with certain exemptions and authority for adjustments to bring about equity, rather than across-the-board freezes on wages, salaries, rents, and prices. On December 1, the Senate passed its version of a bill on wage and price stabilization. Among other things, the bill would extend the authority to control prices, rents, wages, and salaries to include interest rates and corporate dividends. The language of the bill set standards, the characteristics of which would be increases which would be: First, generally fair and equitable; second, provide for the making of such general exceptions and variations as are necessary to foster orderly economic growth and to prevent gross inequities, hardships, serious market disruptions, domestic shortages of raw material, localized shortages of labor, and windfall profits; third, take into account changes in productivity and the cost of living, as well as other such factors consistent with the purposes of this act as are appropriate; fourth, provide for the requiring of appropriate reductions in prices and rents whenever warranted after consideration of such matters as lower costs, labor shortages, and other pertinent factors; and fifth, call for generally comparable sacrifices by business and labor as well as other segments of the economy.

It was found that the job of the Pay Board and Price Commission would be so tremendous if they were required to rule on every application for a wage and price increase that specific exemptions were included such as: First, firms with annual sales or revenues of less than $50 million during their most recent fiscal year; second, firms whose prices or rents have increased at a rate of less than 2 percent during their most recent fiscal year; third, pay adjustments which apply to or affect less than 1,000 employees; fourth, pay adjustments which apply to or affect employees of State or local governments; fifth, pay adjustments which apply to or affect workers whose rate of pay increase was less than 5 percent during the most recent calendar year; sixth, rates charged by any common carrier or other public utility whose rates are regulated by a Federal, State, or local governmental agency.

Generally, the Senate agreed that there may be many firms and employees which have not contributed to inflationary prices and wages and should not be included in the general wage-price guideline. The Senate agreed with two exceptions that granting broad exemptions from the legislation could make it impossible for the administering agencies to meet the criteria of fair and equitable which the bill established as a broad principle. Despite the decision not to grant general exemptions, first, was made to wages or salaries of any individual receiving substandard earnings—generaly defined as poverty wages; second, wage increases that might be required under the first Labor Standards Act; third, another was added on the floor which would exempt employees of all news media. Another section would provide for retroactive pay increases entered into before August 15 unless the President determines that the increase provided in the contract is unreasonably inconsistent with the standards for wage and salary increases required to be published by subsection (b) of this section.

The major difference between the House bill and the Senate bill on retroactive pay increases is in the language. But, what a difference. An amendment was offered in the House bill by Congressman MINISH which would permit retroactive wage increases unless such increases would be grossly disproportionate with wage and salary increases in the economy generally. Now what does grossly disproportionate mean? This amendment was defeated by a vote of 18 to 18 during the reading of the bill. After the reading of the bill and after all amendments had supposedly been considered, Congressman MINISH was permitted to offer an amendment in the form of an addition of a separate section which would say that retroactive pay increases are permitted unless the Pay Board determines that such increases would be unreasonably inconsistent to the rate at which wages or salaries have increased in the economy generally. In other words, the words "grossly disproportionate" were changed to read "unreasonably inconsistent." This amendment was adopted 19 to 17. This amendment is for all intents and purposes all inclusive. What does unreasonably inconsistent mean? The language pertaining to this subject in the Senate bill was the reverse. The pay increase had to be generally fair and equitable and would not contribute to inflationary wages and prices. In one instance, the wages would go into effect if the Pay Board approved same; in the other instance, the Pay Board would make these findings subsequent to the wage increase. Generally, I feel the program is working. The whole concept of the phase II program is voluntary compliance. The administration is convinced that the move from the rigid freeze of phase I to a slow and careful thaw of phase II is more likely to gain public support and that if the thaw is too rapid, controls may well dribble away into unacceptable nothings. If this occurs, we will have merely jumped from the inflationary pot into the inflationary frying pan.

Voluntary compliance, of course, depends on the cooperation of labor. It is known that the administration set up the Pay Board, as Mr. Meany requested, so that Labor would be one part of the tripartite Board. Generally, I think the 80 million working people across the Nation support the wage-price freeze and feel that generally they would not favor the Minish amendment knowing it would surely defeat the whole purpose of phase II.

Mr. WIDNALL. Mr. Chairman, I have no further requests for time.

Mr. PATMAN. Mr. Chairman, I presume that the gentleman from New Jersey (Mr. WIDNALL) has finished his time?

The CHAIRMAN. The Chair will state that the gentleman from New Jersey (Mr. WIDNALL) said he had no further requests for time.

Mr. PATMAN. I thank the Chairman.

Mr. Chairman, I yield 4 minutes to the gentleman from Rhode Island (Mr. ST GERMAIN).

Mr. CRANE. Mr. Chairman, would the gentleman yield?

Mr. ST GERMAIN. I yield to the gentleman from Illinois.

Mr. CRANE. Mr. Chairman, those who have asked Congress to approve a program in which the executive branch of Government is free to institute compulsory wage and price controls as it sees fit, have done so for a variety of reasons. They argue that the first and most important of these is that such compulsory wage and price controls will stem the mounting inflation with which we have been faced in recent years.

In reviewing the arguments of the advocates of controls, it appears that great hope is held forth for such controls as the answer to our economic problems. It is almost as if the concept of compulsory controls was a new one, and had not been attempted in other societies at other times.

Yet, a brief review of only our own

century shows that compulsory controls have been tried in other societies for precisely the reasons they are being advocated in our own. It was said then, and is said now, that such controls will ease inflation and will not, in the long run, damage individual freedom, either economic or otherwise.

Let us review the experiences of three societies which instituted the kinds of controls now being requested.

ARGENTINA

Wage and price controls implemented from time to time during the administration of Juan Peron in Argentina from 1946 to 1955 did not have the desired effect of controlling inflation. What did happen was that these measures, along with other factors, contributed to general discontent and resulted in the ouster of Peron by the military on September 19, 1945.

Peron's stated objectives for Argentina were social justice, economic independence, and complete national sovereignty. These, he argued, were to be achieved by combining the best features of both socialism and capitalism. Peron had to work within an economy which was characterized by rampant inflation. He decided to use State intervention in an attempt to balance public finances. Shortly before his inauguration, Peron attempted to convince Argentine businessmen that they should not raise prices and at the same time tried to persuade the workers that prices were not being raised. This so-called battle of 60 days, as he labeled the measure, was generally ineffectual.

In June 1947 the Government instituted a program of fixing retail prices and seized factory stocks of clothing and shoes for distribution at these prices. Numerous price violators were arrested. Then, in an attempt to control prices, the Government began to subsidize foodstuffs in the 1948–49 period. It bought wheat from the farmers and sold it to the miller in an attempt to control the price of bread. The same policy was followed with regard to meat, cooking oils, and the milk supply. The controls did not work and in 1949 all public services, including railroads, increased prices. The cost of other commodities increased: gasoline rose from 35 to 60 centavos per liter, bread from 50 to 80 centavos per loaf, meat from 1.80 pesos to 2.50 pesos, and clothing prices soared.

During this 1946–49 period, Peron supported increases in salaries although he tried to keep labor demands at a minimum. Peron settled a strike in the important sugar industry in Tucuman, however, in 1949 by granting workers a 60-percent increase in wages. Peron began to grant further wage increases in the face of growing labor discontent. In these first years of Peron's administration, the workers received an increase of 34 percent in real wages. The military also received substantial pay increases.

After 1950, Peron attempted to contain the inflationary process. He attempted to reduce public expenditures, to restrict credit granted to the private sector, and to curb salary increases. He took measures to prolong labor's collective bargaining agreements and attempted to assure "equilibrium" between prices and salaries. This equilibrium implied curbing increases of salaries although the increase in the price level made salaries smaller.

Although Peron controlled the important General Confederation of Labor, support began to wane. Peron began to link wage increases to increases in productivity and put pressure on the workers to moderate their demands for wage increases. In 1954 he granted such small wage increases that an epidemic of wildcat strikes in various industries posed serious problems with the labor movement.

Because of his failures, Peron lost support and he resigned the Presidency under military pressure on September 19, 1955, and soon afterward fled to Paraguay. Compulsory wage-price controls in Argentina did not solve inflation. Instead, they led directly to the downfall of the leader who instituted them.

ITALY

In Italy, Benito Mussolini formed his first cabinet on October 31, 1922, which included several non-Fascists who were later eliminated. He then devised several measures with the aim of concentrating all power in his own hands. On December 24, 1925, and July 31, 1926, Mussolini introduced laws which gave him a special position as prime minister and as head of the executive, legislative, and judicial prerogatives. On November 6, 1926, all opposition activity was prohibited. On May 17 and September 2, 1928, a new electoral law was also approved which gave the electors only the right to accept or reject the whole list submitted by Mussolini.

For the purpose of bringing Italian economic life under the control of the executive, Mussolini created the 22 "Corporazionie," which he presided over. The Rocco law of corporations, April 3, 1926, created an organization of employers and employees over which the dictatorship could exercise its complete authority. Mussolini also promulgated the Labor Charter of April 21, 1927, which spelled out Fascist principles regarding labor and management. These principles were that the life and aims of the state were superior to the individual and that labor was a social duty and under the guardianship of the state. Article IX of the charter specifically allowed the state and the dictatorship to intervene in all economic matters:

> State intervention in economic production takes place only when private initiative is lacking or insufficient, or when the state's political interests are at stake. Such intervention may take the form of controls encouragement or direct management.

Intervention and control was established and maintained by the corporative machinery. This was soon expanded to provide controls of and plans for the economy and to establish a new corporate mechanism for governing. This machinery, created primarily by the law of February 5, 1934, and the law of January 19, 1939, envisaged the governmental structure representing the corporate bodies and dictatorial authority. Despite the attempts to keep prices stable by rigid price fixing, Italian prices declined and the generally depressed economic conditions threatened many businesses. To save them, the state established the Instituto per la Ricostruzione Industriale—January 23, 1933—which provided state funds for recovery. This, of course, led to the state acquiring large holdings in business. The corporate state structure envisaged to represent the cooperation between capital and labor, in reality established a structure which gave Mussolini tight and absolute control over the domestic labor movement and somewhat less control over management.

Here again, compulsory wage and price controls failed to provide economic stability. What they produced, instead, was total government control over the economy—fascism.

GERMANY

The course of events was similar in Nazi Germany. On March 23, 1933, Hitler secured passage of an Enabling Act, which gave the government the power to issue decrees independently of the Reichstag and of the President. The Enabling Act remained the constitutional basis of Hitler's dictatorship. No new constitution was ever introduced to replace that of the Weimar Republic. New laws were simply promulgated as they were required.

In May 1933, trade unions were suppressed and merged into a German labor front. On January 20, 1934, the law regulating national labor, known as the Charter of Labor, was enacted. Paragraph 2 of the law set down that "the leader of the enterprise makes the decision for the employees and laborers in all matters concerning the enterprise."

Wages were set by the so-called labor trustees, appointed by the Labor Front. In practice, they set the rates according to the wishes of the employer. There was no provision for the workers even to be consulted in such matters, though after 1936, when help became scarce in the armament industries and some employers attempted to raise wages in order to attract men, wage scales were held down by orders of the state. Hitler was quite frank about keeping wages low.

> It has been the iron principle of the National Socialist leadership . . . not to permit any rise in the hourly wage rates but to raise income solely by an increase in performance.

On October 24, 1934, the law of the Labor Front was enacted, depriving the German worker of his trade unions, collective bargaining, and the right to strike. In September 1938 the 4-year plan was inaugurated, designed to put Germany on a total war economy.

According to Historian William Shirer in "The Rise and Fall of the Third Reich":

> The purpose of the plan was to make Germany self-sufficient in four years, so that a wartime blockade would not stifle it. Imports were reduced to a bare minimum, severe price and wage controls were introduced, dividends restricted to 6 percent, great factories set up to make synthetic rubber, textiles, fuel and other products from Germany's own sources of raw materials, and a giant Hermann Goering Works established to make steel out of the local low-grade ore.

William Shirer also points out that during the 1930's wages were reduced despite a 25-percent increase in the cost of living.

In the case of Germany, compulsory wage and price controls were simply a component part of the march toward dictatorship. In the cases of all three of these examples—Argentina, Italy, and Germany—wage and price controls did not solve economic problems but did result in the end not only of economic freedom, but of religious, political, and intellectual freedom as well.

SYMPTOMS NOT CAUSES

Why, for example, will compulsory wage and price controls not solve our economic problems? The reason is that they treat only the symptoms of inflation, not its causes. This fact seemed to be well understood by Richard Nixon during the 1968 presidential campaign. At that time he declared that—

> The accelerated rise in prices in recent years has resulted primarily from an excessively expanding money supply which in turn has been fed by the monetization of federal government deficits. The way to stop inflation is to reverse the irresponsible fiscal policies which produce it.

Concerning the specific question of wage and price controls, Mr. Nixon stated quite clearly that—

> The imposition of price and wage controls during peacetime is an abdication of fiscal responsibility. Such controls treat symptoms and not causes. Experience has indicated that they do not work, can never be administered equitably and are not compatible with a free economy.

What has happened to change the administration's approach to this question is difficult to understand. The facts with regard to the basic cause of inflation remain unchanged.

One economist, Prof. Murray Rothbard, gives this brief description of why such controls cannot work:

> The controls won't work. The prime reason why they won't work is that they do not tackle the cause of inflation, but only lash out at the symptoms . . . Every price is simply the terms of an exchange on the market . . . When I buy a newspaper for a dime, ten cents of money is being exchanged for one newspaper . . . And so the key to what makes price high or low is the relationship between the supply of goods available and the supply of money . . . Suppose that by some magic process, the quantity of money in the country doubles overnight. The supply of goods remains the same, for nothing has really happened to lower or raise them. But then we will all enter the market with twice as many dollars burning a hole in our pocket as compared to yesterday . . . we will all have to pay twenty cents for the same newspaper.

Professor Rothbard states that—

> The supply of dollars has continued to go up, and even to accelerate especially under the Johnson and Nixon Administrations. And as the supply of dollars has risen and risen ever faster, prices have gone up as well . . . This year, for example, the supply of money has been increasing at a rate of 12–16% . . . The culprit is none other than the federal government itself. It is the federal government . . . that has absolute control of the supply of money, and regulates it to its own content. It has been the federal government that has been merrily increasing the supply of money, to "stimulate" the economy, to finance its own enormous budget deficits, to help out favored borrowers, to lower interest rates, or for any other reason.

Yet, those who call for compulsory wage and price controls do not call for a balanced budget, a new policy for the Federal Reserve System with regard to the money supply, or anything else that might deal with the real causes of inflation. What is being called for is only an effort to deal with inflation's symptoms and to do so by government decree, thereby eliminating the operation of the market system.

There are some who argue that economic freedom can be limited, or even eliminated, without also limiting or eliminating political freedom. While this viewpoint may be arguable in theory, it has never been evident in practice. Too few of those who have endorsed a government-controlled economy seem to have considered the intrinsic link between these two freedoms.

In his important volume, "Capitalism and Freedom," Prof. Milton Friedman points out that—

> The kind of economic organization that provides economic freedom directly, namely, competitive capitalism, also promoted political freedom because it separates economic power from political power and in this way enables the one to offset the other.

Professor Friedman notes that—

> Political freedom means the absence of coercion of a man by his fellow men. The fundamental threat to freedom is power to coerce, be it in the hands of a monarch, a dictator, an oligarchy, or a momentary majority. The preservation of freedom requires the elimination of such concentration of power to the fullest possible extent and the dispersal and distribution of whatever power cannot be eliminated—a system of checks and balances. By removing the organization of economic activity from the control of political authority, the market eliminates this source of coercive power. It enables economic strength to be a check to political power rather than a reinforcement.

THE CAUSE OF INFLATION

Inflation will not be stopped until those in authority understand its cause. That cause was explained in these terms by the noted economist, Prof. Ludwig von Mises:

> Inflation is the process of a great increase in the quantity of money in circulation. . . . In this country inflation consists mainly in government borrowing from the commercial banks and also in an increase in the quantity of paper money of various types and of token coins. The government finances its deficit spending through inflation.

Discussing those who advocate such solutions as compulsory wage and price controls, Professor Von Mises states that—

> While fighting the symptoms they pretend to fight the root causes of the evil. And because they do not comprehend the causal relation between the increase in money in circulation and credit expansion on the one hand and the rise in prices on the other, they practically make things worse. . . . The problems the world must face today are those of runaway inflation. Such an inflation is always the outcome of a deliberate government policy. The government is on the one hand not prepared to restrict its expenditure. On the other hand it does not want to balance its budget by taxes levied or by loans from the public. It chooses inflation because it considers it as the minor evil. . . .

The tremendous German inflation which reduced the purchasing power of the mark in 1923 to one-billionth of its prewar value is relevant to America at this time. Professor Von Mises states that—

> It would have been possible to balance Germany's postwar budget without resorting to the Reichsbank's printing press. The proof is that the Reich's budget was easily balanced as soon as the breakdown of the old Reichsbank forced the government to abandon its inflationary policy. But before this happened, all German would-be experts stubbornly denied that the rise in commodity prices, wage rates and foreign exchange rates had anything to do with the government's method of reckless spending. In their eyes only profiteering was to blame. They advocated thoroughgoing enforcement of price control as the panacea and called those recommending a change in financial methods "deflationists."

HISTORY REPEATS ITSELF

Unfortunately, we seem to have learned no lessons from the economic experience of even the recent past. Once again we are going down the road to Government intervention in the economy when inflation can, in fact, only be alleviated by a reduction of Government spending and a balanced Government budget and contraction of the money supply. The same Government officials who urge wage and price controls also urge a huge new welfare reform measure, an expensive health care bill, a costly child development scheme, and a myriad of other new projects. The end result will be not only continued inflation but the possible end to economic freedom for all of us.

Commenting upon this dangerous possibility, the Wall Street Journal editorialized that—

> Without wanting to sound apocalyptic, we find rather dismaying the ease with which the business community and a Republican Administration have accepted—and often welcomed—the prospect of a controlled economy.

The Journal reminded its readers of the larger questions which are often forgotten:

> Beyond all that is a question of politico-economic philosophy. We see a free economy—and we would have assumed most businessmen and supposedly conservative government officials do likewise) not only as something good and marvelously productive in itself. It is also part and parcel of the whole broader concept of individual freedom. This is what has made the U.S. pre-eminent both economically and as a political model. But at root individual freedom is a moral issue.

It is to the question of the morality of wage and price controls that Prof. Milton Friedman turned his attention in two important articles which appeared in the New York Times. He wrote that—

> The controls are deeply and inherently immoral. By substituting the rule of men for the rule of law and for voluntary cooperation in the marketplace, the controls threaten the very foundations of a free society. By encouraging men to spy and report on one another, by making it in the private interest of large numbers of citizens to evade the controls, and by making actions illegal that are in the public interest, the controls undermine individual morality. . . . The freeze and even more the pay board and price board of the Phase II controls are clearly another massive step away from the rule of law and back to the rule of men. True, the rule of men will be under law but that is a far cry from the rule of law—Stalin, Hitler, Mussolini, and now Kosygin, Mao and Franco all rule under law.

Professor Friedman reminds us that the excuse for the destruction of liberty is always the plea of necessity, that there is no alternative:

> If, indeed, the economy were in a state of crisis, of a life-and-death emergency, and if controls promised a sure way out, all their

> evil social and moral effects might be a price that would have to be paid for survival. But not even the gloomiest observer of the economic scene would describe it in any such terms. Prices rising at 4 per cent a year, unemployment at a level of 6 per cent—these are higher than we would like to have or than we need to have, but they are very far indeed from crisis levels. On the contrary, they are rather moderate by historical standards. And there is far from uniform agreement that wage and price controls will improve matters. I happen to believe that they will make matters worse after an initial deceptive period of apparent success.

THE U.S. EXPERIENCE

The experience in our own country with wage and price controls during World War II certainly justifies the skepticism about such a policy expressed by Professor Friedman, Professor Rothbard, Professor Von Mises, and other leading economists.

The initial effort to keep prices from rising through a combination of "moral suasion" and of requiring sellers to set ceiling prices on their merchandise had little if any effect. From January 1941 to October 1942 wholesale prices rose almost 24 percent and consumer prices over 18 percent. Following the imposition of more severe controls in October, the rise in prices was sharply curtailed. Between October 1942 and August 1945 wholesale prices rose only 5.7 percent and consumer prices approximately 8.7 percent. The record is actually not as good as the indexes indicate, however, because an allowance must be made for the deterioration in the quality of some goods and for the volume of black market sales at high prices. During this period in which the controls were relatively successful, OPA officials in each community set ceiling prices for groceries and required that lists of these prices be posted in all grocery stores. In addition the OPA rationed most consumer goods, controlled all rents, and established a system of subsidies for certain agricultural commodities to stabilize their prices despite rising costs. After the war the controls broke down and prices rose rapidly. During the 15 months from August 1945 to November 1946 wholesale prices rose over 32 percent and consumer prices almost 18 percent.

The following table from the U.S. Bureau of Labor Statistics shows the increases in wholesale prices, consumers' prices, and hourly wage rates in manufacturing during selected periods from January 1941 to November 1946, a period of controls:

Period	Percentage increase		
	Wholesale prices	Consumers' prices	Hourly wage rates in manufacturing
January 1941 to October 1942	23.8	18.1	30.7
October 1942 to August 1945	5.7	8.7	14.7
August 1945 to November 1946	32.1	17.7	11.2

Source: U.S. Department of Labor, Bureau of Labor Statistics, Handbook of Labor Statistics, 1947 edition, Bulletin 916 (Washington: Government Printing Office, 1948), pp. 107–8, 127–28, and 54; and Monthly Labor Review, November 1943, p. 879; November 1945, p. 1045; and November 1947, p. 609.

Prof. Colin Campbell, another noted economist, reports that—

> The National War Labor Board's control of wages was not as effective as OPA's control of prices, despite severe restrictions on unions. Thus hourly wage rates in manufacturing rose 30.7 per cent from January 1941 to October 1942 and 14.7 per cent from October 1942 to August 1945."

It seems clear that wage and price controls have never stemmed inflation either in our own society or in those other societies in which such a policy has been instituted. The reason is that these controls do not deal with the cause of inflation but only with its symptoms. This is something which the Republican Party and Richard Nixon stated quite clearly in 1968. It remains equally true today.

Freedom can be lost in a society in many ways, and those who take it from us do not always announce their intention. In his study, "The Rise and Fall of the Roman Empire," Gibbon notes that—

> Augustus was sensible that mankind is governed by names; nor was he deceived in his expectation that the Senate and people would submit to slavery provided that they were respectfully assured that they still enjoyed their ancient freedom.

Congress should not abdicate its authority by passing what is, in effect, an economic Gulf of Tonkin resolution, giving all authority over the economy to the Executive, to do whatever he sees fit. Our Government was created as one of strict checks and balances. In the Federalist Papers James Madison states plainly that—

> In framing a government which is to be administered by men over men, the great difficulty lies in this; you must first enable the government to control the governed; and in the next place oblige it to control itself.

Only by limiting Government spending, eliminating unbalanced budgets, and repaying our previous deficits, can we restore our economy to the health and vigor it once had. We cannot accomplish this by going even further down the road to Government power and control. The end of that road, as we have seen historically, is not an end to inflation but an end to freedom.

Mr. ST GERMAIN. Mr. Chairman, and Members of the House, we have heard I think what the thrust of tomorrow's efforts are going to be. Most of the action will be directed at the Minish amendment, and at retroactivity.

Mr. Chairman, H.R. 11309, as amended and reported out of the House Banking and Currency Committee, requires the President to impose generally comparable sacrifices on business and labor, and for that matter all segments of the economy. The bill states clearly that insofar as it is possible, everyone is to be treated equally in this unprecedented and painful effort underway to return the Nation to economic stability, halt inflation and reduce the country's agonizing rate of unemployment. In effect, the bill says we are equal under the authority the President is utilizing and we must be treated that way.

This provision is in the bill because the President has lost sight of, if he has not in truth ignored, the fact that his economic stabilization program has made sacrificial victims of millions of working people of the Nation.

In announcing provisions of phase II of this stabilization program, the President allowed that for the most part all wage increases negotiated prior to phase I which were temporarily barred under the general wage and price freeze of phase I were for the most part to be permanently barred, and wage increases scheduled to be implemented thereafter were to be restricted. Wage contracts affecting millions of people—wage contracts which were negotiated in good faith without the slightest knowledge that the President was going to invoke the authority of the Economic Stabilization Act—are to be invalidated with a casual flick of the Presidential pen. Presumably it does not matter to the President that the wage increases these contracts provide mirror inflationary cost rises that had occurred prior to ratification of these agreements. The President told the working people of the Nation that, in his view, drowning in a sea of rising costs was not such a bad thing and that in any case they would have to get used to the sensation.

It did not matter that the beneficiaries of these contracts might have made serious financial commitments in expectation of receiving pay raises. It did not matter they signed mortgage contracts for new homes in the expectation that they could now afford them. It did not matter that families thought they now could afford to send children to college or to technical schools and had borrowed in anticipation of being able to repay these loans on the basis of increased wages. It did not matter that medical care that had been delayed was now being purchased with the expectation that there would now be enough money to pay for it. None of these things seem to matter to the President.

Well, Mr. Chairman, they matter to me, and they ought to matter to every Member of this Chamber.

There is something else that ought to matter equally as much. The President, under the authority of the Economic Stabilization Act, singled out labor contracts alone to receive the harsh restrictions he imposed on them under his phase II program. No such restrictions were placed on any other contracts which were negotiated prior to August 15, 1971, when he launched his economic stabilization program. No restrictions were placed on rising mortgage contracts carrying interest rates of 8 percent and more. No restrictions were placed on contracts for the installment purchase of cars under interest rates of 18 percent and more. No restrictions were placed on consumer loan contracts with inflationary interest rates of 18, 24, and 36 percent. No restrictions at all, yet every one of these agreements reflect rising cost increases.

Frankly, Mr. Chairman, the President's action mystifies me. He seems to be saying that all other contracts, however inflationary they may be, are to be condoned, despite the fact that he has prevented a large number of people from meeting these costs by keeping from them pay increases they have every right to receive.

The final cruel irony of the situation rests in the fact that the wage increases management had agreed to pay the workers of the country are now being pocketed in the form of windfall profits in the name of achieving economic stabilization. This is not economic stabilization. This is economic instability. In the name of justice, we must adopt the provisions of H.R. 11309—the Minish amendment—that require payment of wage increases negotiated prior to August 15, 1971, unless they are grossly out of line with wage increases that were generally being made at the time these contracts were being negotiated.

It is true that the Senate bill to amend the Economic Stabilization Act, S. 2891, contains language similar to the House Banking and Currency bill on the subject of allowing retroactive pay increases. But the provisions of the Senate bill on this point are totally inadequate. In substance, the Senate bill says to the President that he must grant wage increases negotiated before August 15, 1971, unless he finds that they exceed the wage guidelines he himself has established. What kind of double talk is this? This is telling the President that he must grant the increases under the standards he has adopted to bar and restrict these same increases.

Mr. Chairman, the Members of this Chamber cannot adopt halfway measures to right a severe wrong. We can do no less than adopt the provisions of H.R. 11309 as it was reported by the House Banking and Currency Committee.

I would like to touch slightly upon the Stephens amendment. I have a great deal of respect for my colleague, the gentleman from Georgia (Mr. STEPHENS), but when we examine his amendment it states that the President shall be permitted—not required—to grant the increases.

The Stephens amendment says that it would "permit" the Pay Board to approve these pay increases. The Pay Board is "permitted" to approve any or all pay raises at this very moment under existing law. The Stephens amendment changes absolutely nothing. It does nothing but provide a congressional sanction for administrative policies which deprive teachers and workers of the benefits of contracts legally entered into prior to the President's freeze announcement on August 15.

Moreover, the Stephens amendment can be interpreted to allow price increases to go into effect without requiring corresponding wage increases thus continuing the intolerable situation that exists today by virtue of the fact that wage increases, which were to have been, and should be, paid the workers in question, are now counted as corporate profits.

Mr. UDALL. Mr. Chairman, the bill that is being debated today is one that I wholeheartedly support since such measures are necessary if we are to get our economy moving again. The work we do here tonight will be of great benefit to all Americans during the coming years. But there is one group of Americans whom we must not forget and this is what I want to discuss at this point.

I am referring to our employees, the Federal worker. In the bill before us today, there is no language which will allow the Federal worker to be treated as an equal partner in our struggle against inflation. All other Americans are allowed at least a 5.5-percent annual increase in their pay right now. But the Federal worker is denied such action until next July, at the earliest; for some, it will even be longer.

The Senate's version of the Economic Stabilization Act recognized this inequality and by an overwhelming margin voted to treat the Federal worker as an equal with his private sector counterpart. Their bill provides that the Federal worker can have his pay adjusted exactly as those in the private sector—under no circumstances could the pay adjustments be greater for the Federal employee than for the private employee. This action on the part of the other body has my support and the support of a majority of my colleagues on the Post Office and Civil Service Committee.

I understand and appreciate the complications of inserting such language in the House version but want to register my strong hope that our colleagues who are appointed to the conference committee will vote to accept the Senate language on this matter.

If the conference report comes back without such language, I would surely feel obliged to register a protest and vote against it. I hesitate to do so, but there is no good reason why we should unfairly discriminate against our own employees, especially when the adjustments due them in January of 1972 would not violate the provisions in President Nixon's phase II economic program.

I also would remind my colleagues that many of you previously voted to support President Nixon's action in postponing the Federal employee pay raise on the basis that if we did not, harm might be done to phase II of the President's program. At that time, my esteemed colleague, the minority leader, Mr. FORD, assured us that he would support action in phase II which guaranteed equity for all Federal workers.

I would quote, at this point, Mr. FORD's words:

> If there is a general increase granted to those in the private sector in Phase II then I will be willing to support legislation that would add a comparable amount for those in the employment of the Federal Government. I think that is a fair promise on my part under the circumstances.

Mr. Chairman, that is my position exactly. We have legislation before us that allows us to do exactly that and I hope the conferees on the part of the House will agree to the Senate language so that all of us, including the distinguished minority leader, can vote in favor of equality for Federal employees.

Mr. LLOYD. Mr. Chairman, it is with real regret that I support a continuation of controls over our economy even though they be flexible and even though there is a cutoff date of April 30, 1973. The leadership provided by this country in the interests of the world's freedom, the opportunity that is provided to all our citizens and the leading standard of living which we have achieved have been a direct result of the competitive system where free people have been encouraged to compete against each other to see who could produce better products at lower prices. To anyone but the hopelessly prejudiced, this free system has proved its superiority over any other system in the blessings it bestows upon those who live within it.

There are many factors which have contributed to the overriding necessity which now confronts us to place some controls upon this free system for a temporary period. The factors are too numerous for mention but among the most prominent are:

First. The dedicated resolve to reduce our Armed Forces in Southeast Asia and to wind down and wind out our military operations there. This has resulted in a reduction of forces and a reentry into the civilian job market of over 350,000 men in 3 years.

Second. Federal expenditures beyond the Nation's ability to pay, going back more than 10 years, much of the fault of which can be laid at the doorstep of the Congress of the United States.

Third. The success of organized labor in the securing of wage increases for their members in excess of increases in productivity and in many cases in excess of the increases of the cost of living.

The 90-day freeze, which ended on November 15, was supported overwhelmingly by the citizens of this country, many of whom bore inequities, in most cases cheerfully, in order to place a halt to the inflation which had over the years approached runaway proportions. Inasmuch as the prime forces of excessive inflation are still with us, it becomes necessary to continue controls over our free system during a phaseout period. During this period there are inequities which should be corrected.

To me the No. 1 inequity involves schoolteachers. These are the members of our society who cannot, by any stretch of the imagination, be said to be overpaid. In most cases they are underpaid. In most cases their contracts were negotiated prior to August 15 and in most cases there had been projection of income to accommodate the wages which had been negotiated. Teacher salaries are not inflationary in the first place and they would be higher were it not for the inhibiting nature of the taxes required to pay the bills. Recognition of negotiated contracts for teachers is an absolute necessity based on merit and justice and should not be delayed further.

For those employers who cooperated in freezing prices during the 90-day freeze, it is unconscionable that retroactive wage increases should now be forced upon them except in those cases where price increases were already made to accommodate previously negotiated settlements.

These are two of the most important of the issues which call for resolution by this Congress before it acts on the overriding necessity of continuing phaseout controls in a manner which will allow the competitive system to outlive the controls in a healthy and vigorous state.

Mr. PATMAN. Mr. Chairman, since all time has expired, I ask that the Clerk read.

The CHAIRMAN. Under the rule, the amendment in the nature of a substitute recommended by the committee and printed in the bill will be read by sections as an original bill for the purpose of amendment.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Economic Stabilization Act Amendments of 1971".

Mr. PATMAN. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker having resumed the Chair, Mr. HOLIFIELD, Chairman of the Committee of the Whole House on the State of the Union reported that that Committee, having had under consideration the bill (H.R. 11309) to extend and amend the Economic Stabilization Act of 1970, as amended, and for other purposes, had come to no resolution thereon.

GENERAL LEAVE

Mr. PATMAN. Mr. Speaker, I ask unanimous consent that all Members may have the privilege of revising and extending their remarks within 5 days and to include extraneous matter.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

PERMISSION FOR MANAGERS TO FILE CONFERENCE REPORT ON H.R. 11341, DISTRICT OF COLUMBIA REVENUE BILL

Mr. CABELL. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a conference report on the bill, H.R. 11341.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. HALL. Mr. Speaker, reserving the right to object, may I ask if the conference report is complete and whether the conferees have completed their work?

Mr. CABELL. The conference has been completed. This has been cleared with the members of the committee, the leadership on both sides of the aisle and the ranking minority member.

Mr. HALL. Mr. Speaker, I withdraw my reservation of objection.

Mr. GROSS. Mr. Speaker, further reserving the right to object, what is the nature of the legislation?

Mr. CABELL. This is the District of Columbia revenue bill for the fiscal year 1972.

Mr. GROSS. Mr. Speaker, I thank the gentleman and withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

CONFERENCE REPORT (H. REPT. NO. 92-740)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 11341) to provide additional revenue for the District of Columbia, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 1, 2, 3, 4, 5, 6, 7, 9, 15, 16, 17, 19, 20, 21, 22, 28, 30, 31, 32, 33, 34, 35, and 37.

That the House recede from its disagreement to the amendments of the Senate numbered 8 and 10 and agree to the same.

Amendment numbered 11: That the House recede from its disagreement to the amendment of the Senate numbered 11, and agree to the same with an amendment, as follows:

On page 4, line 3, of the Senate engrossed amendments, strike out "502" and insert in lieu thereof the following: "402".

And the Senate agree to the same.

Amendment numbered 12: That the House recede from its disagreement to the amendment of the Senate numbered 12, and agree to the same with amendments, as follows:

On page 4, line 7, of the Senate engrossed amendments, strike out "503" and insert in lieu thereof the following: "403," and strike out the period immediately following "Act".

On page 4, line 8, of the Senate engrossed amendments, strike out "7-1571a" and insert in lieu thereof the following: "47-1571a".

And the Senate agree to the same.

Amendment numbered 13: That the House recede from its disagreement to the amendment of the Senate numbered 13, and agree to the same with an amendment, as follows:

On page 4, line 11, of the Senate engrossed amendments, strike out "504" and insert in lieu thereof the following: "404".

And the Senate agree to the same.

Amendment numbered 14: That the House recede from its disagreement to the amendment of the Senate numbered 14, and agree to the same with an amendment, as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

"SEC. 405. The amendments made by sections 401 and 402 of this title shall apply with respect to taxable years beginning after December 31, 1971, but before January 1, 1974. The amendments made by sections 403 and 404 of this title shall apply with respect to taxable years beginning on or after January 1, 1974."

And the Senate agree to the same.

Amendment numbered 18: That the House recede from its disagreement to the amendment of the Senate numbered 18, and agree to the same with amendments as follows:

Restore the matter proposed to be stricken out by the Senate amendment and—

On page 7, line 17, of the House engrossed bill insert "(a)" immediately after "601.".

On page 7 of the House engrossed bill, strike out lines 19 through 21 and insert in lieu thereof the following: "is amended to read as follows:

" 'SECTION 1. There are authorized to be appropriated, as the annual payment by the United States toward defraying the expenses of the government of the District of Columbia, not to exceed $173,000,000 for the fiscal year ending June 30, 1972, and not to exceed $178,000,000 for the fiscal year ending June 30, 1973, and for each fiscal year thereafter. Sums appropriated under this section shall be credited to the general fund of the District of Columbia.'

"(b) (1) In addition to the amount authorized to be appropriated under section 1 of Article VI of the District of Columbia Revenue Act of 1947 (D.C. Code, sec. 47-2501a) for the fiscal year ending June 30, 1972, there is authorized to be appropriated to the District of Columbia for such fiscal year not to exceed $6,000,000 which may only be used in such fiscal year to pay officers and employees of the District of Columbia increased compensation which is required by comparability adjustments made on or after January 1, 1972, in the rates of pay of statutory pay systems (as defined in secton 5301(c) of title 5, United States Code), based on the 1971 Bureau of Labor Statistics Survey.

"(2) In addition to the amount authorized to be appropriated under section 1 of Article VI of the District of Columbia Revenue Act of 1947 (D.C. Code, sec. 47-2501a) for the fiscal year ending June 30, 1973, and for each fiscal year thereafter, there is authorized to be appropriated to the District of Columbia not to exceed $12,000,000 for each such fiscal year which may only be used to pay officers and employees of the District of Columbia increased compensation which is required by comparability adjustments made on or after January 1, 1972, in the rates of pay of statutory pay systems (as defined in section 5301(c) of title 5, United States Code), based on the 1971 Bureau of Labor Statistics survey."

And the Senate agree to the same.

Amendment Numbered 23: That the House recede from its disagreement to the amendment of the Senate numbered 23, and agree to the same with amendments as follows:

Restore the matter proposed to be stricken out by the Senate amendment, and—

On page 10, line 16, of the House engrossed bill, strike out "(including a sublessor)".

On page 10, line 18, of the House engrossed bill, strike out "shall" and insert in lieu thereof the following: ", after appropriate notice to all interested parties and an opportunity for a hearing, may."

On page 10, line 20, of the House engrossed bill, strike out "such notice" and insert in lieu thereof the following: "the notice to the Commissioner".

On page 11, line 22, of the House engrossed bill, strike out "shall" and insert in lieu thereof the following: ", after appropriate notice to all interested parties and an opportunity for a hearing, may".

On page 12 of the House engrossed bill, insert after the period at the end of line 11 the following: "If such recipient vacates the premises with respect to which such allegation was made, rents other premises in the District of Columbia, and the Commissioner determines on the basis of such allegation that such recipient was justified in vacating the premises with respect to which the allegation was made, the Commissioner may pay to the recipient an amount (not to exceed his monthly shelter allotment) to enable him to make the rental payment required (if any) for such other premises for the period preceding the period for which the receipent will first receive his monthly shelter allotment under the preceding sentence."

On page 12, of the House engrossed bill, strike out lines 12 through 14 and insert in lieu thereof the following:

"(d) The failure of any lessor to receive all or part of a monthly shelter allotment withheld from any recipient pursuant to subsection (b), or the suspension of rental payments under subsection (c), of this section shall not be cause for eviction of any recipient.

On page 12, line 25, of the House engrossed bill, strike out the quotation marks and add after line 25 the following:

"(f) For purposes of subsections (b) and (c), the term 'lessor' includes a sublessor.

"(g) The District of Columbia Council is authorized to issue such regulations as may be necessary to carry out the provisions of this section.".

And the Senate agree to the same.

Amendment numbered 24: That the House recede from its disagreement to the amendment of the Senate numbered 24 and agree to the same with an amendment as follows:

On page 7, line 10, of the Senate engrossed amendments, strike out "804" and insert in lieu thereof the following: "705".

And the Senate agree to the same.

Amendment numbered 25: That the House recede from its disagreement to the amendment of the Senate numbered 25 and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following: "706".

And the Senate agree to the same.

Amendment numbered 26: That the House recede from its disagreement to the amendment of the Senate numbered 26 and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following: "707".

And the Senate agree to the same.

Amendment numbered 27: That the House recede from its disagreement to the amendment of the Senate numbered 27, and agree to the same with an amendment as follows:

Strike out the matter proposed to be stricken out by the Senate amendment and on page 14 of the House engrossed bill insert the following after line 21:

"Sec. 708. (a) Section 4(b) of the District of Columbia Minimum Wage Act (D.C. Code, sec. 36–404(b)) is amended—

"(1) by inserting 'or' at the end of paragraph (4),

"(2) by striking out '; or' at the end of paragraph (5) and inserting in lieu thereof a period, and

"(3) by striking out paragraph (6).

"(b) The amendments made by subsection (a) of this section shall take effect January 1, 1972."

And the Senate agree to the same.

Amendment numbered 29: That the House recede from its disagreement to the amendment of the Senate numbered 29 and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following: "709".

And the Senate agree to the same.

Senate amendment numbered 36: That the House recede from its disagreement to the amendment of the Senate numbered 36 and agree to the same with an amendment as follows:

On page 10, line 18, of the Senate engrossed amendments strike out "905" and insert in lieu thereof the following: "805".

JOHN L. MCMILLAN,
EARLE CABELL,
W. S. (BILL) STUCKEY, Jr.,
ANCHER NELSEN,
JOEL T. BROYHILL,
Managers on the Part of the House.

THOMAS F. EAGLETON,
DANIEL K. INOUYE,
ADLAI E. STEVENSON III,
CHARLES MCC. MATHIAS, Jr.,
LOWELL P. WEICKER, Jr.,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 11341) to provide additional revenue for the District of Columbia, and for other purposes, submit the following joint statement to the House and Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The following Senate amendments made technical, clerical, clarifying, or conforming changes: 2, 3, 4, 5, 6, 7, 8, 9, 10, 15, 16, 17, 19, 20, 21, 22, 25, 26, 29, 31, 32, 33, 34, and 35.

With respect to these amendments (1) the House either recedes or recedes with amendments which are technical, clerical, clarifying, or conforming in nature; or (2) the Senate recedes in order to conform to other action agreed upon by the committee of conference.

CIGARETTE TAX

Amendment No. 1. This amendment added to the House bill a provision which increases the sales tax in the District of Columbia on cigarettes from 4 cents per pack to 6 cents per pack. The Senate recedes.

UNINCORPORATED BUSINESS TAX

Amendments Nos. 11, 13 and 14. These amendments added to the House bill provisions which increase, in two stages, the rate of the tax on the income of unincorporated businesses in the District of Columbia. The first increase, Senate Amendment No. 11, increases the tax rate from 6 percent to 7 percent, effective with respect to taxable years beginning after December 31, 1971, but before January 1, 1974. The second increase, Senate Amendment No. 13, increases the tax rate from 7 percent to 8 percent, effective with respect to taxable years beginning on or after January 1, 1974. The House recedes with technical amendments.

The House conferees have agreed to the second increase in the tax rate on the income of unincorporated businesses because they believe that the additional revenue derived therefrom will be needed to offset the loss of revenue to the District of Columbia on account of the three-staged repeal of the business inventory tax made in section 201 of the House bill.

CORPORATE INCOME TAX

Amendments Nos. 12 and 14. A provision in the House bill raised the tax rate of the tax on the income of corporations in the District of Columbia effective with respect to taxable years beginning after December 31, 1971 but before January 1, 1974. The Senate amendments add a second increase of such tax rate, from 7 per centum to 8 per centum, effective with respect to taxable years beginning on or after January 1, 1974. The House recedes.

The House conferees have agreed to the second increase in the tax rate on the income of incorporated businesses because they believe that the additional revenue derived therefrom will be needed to offset the loss of revenue to the District of Columbia on account of the three-staged repeal of the business inventory tax made in section 201 of the House bill.

FEDERAL PAYMENT FORMULA

Amendment No. 18. This amendment added to the House bill a provision authorizing an annual Federal payment to the District of Columbia equal to 43 percent of all general fund revenues derived by the District of Columbia from taxes, and that part of the motor vehicle registration fees which is credited to the general fund. Senate Amendment No. 18 is in lieu of the House provision which increased the authorization of the annual Federal payment from $126,000,000 to $170,000,000.

The conference agreement authorizes the Federal payment to the District of Columbia to be increased in two steps. For the fiscal year ending June 30, 1972 there is authorized not to exceed $173,000,000, and not to exceed $178,000,000 for the fiscal year ending June 30, 1973, and for each fiscal year thereafter. In addition to such amounts authorized for such fiscal years, the conference agreement authorizes not to exceed $6,000,000 for the fiscal year ending June 30, 1972, and not to exceed $12,000,000 for the fiscal year ending June 30, 1973, and for each fiscal year thereafter, which may only be used to pay officers and employees of the District of Columbia (other than teachers, policemen, and firemen) increased compensation required by comparability adjustments made on or after January 1, 1972, in the rates of pay of statutory pay systems, based on the 1971 Bureau of Labor Statistics survey.

The managers believe that the Federal payment which is being authorized for the District of Columbia is a sum which represents not only, as it has in the past, a sum representing the amount of real estate taxes which would be paid to the District if the real property owned or held by the Federal Government in the District were subject to taxation, but also an amount to compensate the District because the Congress has decided that at this time it is unwise to levy an income tax on non-residents of the District who are employed in the District. Were the Congress to decide to authorize a nonresident income tax, it is expected that there would be a reduction in the Federal payment.

The managers have also for the first time authorized a two-step increase in the Federal Payment taking into account the anticipated revenue needs of the District government. This is to enable the District government to plan intelligently the allocation of its resources prior to the beginning of its fiscal year. By Congress setting the authorization in advance, the District government will know exactly what the authorized Federal Payment will be and, barring completely unforseen circumstances, the payment authorized will not be raised. In fact, barring such circumstances the appropriate committees of the Congress do not intend to be dealing with the Federal Payment during the second session of this Congress.

It should be noted that $6 million of the amount authorized for the Federal payment for fiscal year 1972 and $12 million of the amount authorized for fiscal year 1973, and for each succeeding fiscal year, have been specifically allocated to pay increases in compensation of officers and employees of the District of Columbia if authorized by Congress. These pay increases do not include any increases for policemen, firemen, or teachers. If the District government intends to ask Congress to consider pay increases for these groups, it is expected that in the same legislation there will be a financing proposal which in some way raises local taxes. There will be no increase in the Federal payment to cover this type of pay increase.

RENTAL PAYMENTS

Amendment No. 23. A provision of the House bill authorized the Commissioner of the District of Columbia to withhold a rental allotment payable to a tenant who fails to make his regular rental payment for 10 days. The tenant would retain possession of the rented premises until entitlement to the rent payments could be established. If the landlord is entitled to such payments, future monthly shelter allotments for such tenant would be made directly to the landlord. Similarly, the tenant could have such payments which were being made on his behalf stopped if the landlord failed to properly maintain the premises, or otherwise breached the rental agreement. Senate Amendment No. 23 strikes out this provision.

The conference agreement follows the House bill with changes which provide for notice to be sent to a tenant when his landlord notifies the Commissioner of a default on his rent payment and which give the tenant an opportunity for a hearing before his monthly shelter allotment is withheld. In addition, the conference agreement provides that if a tenant, on whose behalf rental payments are being made by the Commissioner, moves because the landlord has failed to maintain the premises according to applicable District housing regulations, the Commissoner may make a payment to such tenant, in an amount not to exceed his monthly shelter allotment, to enable him to rent new quarters.

IMPOUNDMENT OF MOTOR VEHICLES

Amendment No. 24. This amendment added to the House bill a provision which would authorize the police in the District of Columbia to impound a motor vehicle, against which there are at least two warrants or outstanding unsettled traffic tickets, if found unattended and without regard to whether it is at that time parked in violation of the traffic laws of the District of Columbia. The House recedes with a technical amendment.

OVERTIME REQUIREMENTS

Amendment No. 27. A provision of the House bill amended paragraph (6) of section 4(b) of the District of Columbia Minimum Wage Act to exempt interstate motor carriers domiciled in the District of Columbia from regulations imposed by the Wage and Hour Board of the District of Columbia if the carrier was subject to regulation by the Secretary of Transportation under section 204 of part II of the Interstate Commerce Act. Senate Amendment No. 27 strikes out this provision.

The conference agreement repeals the provisions of paragraph (6) of section 4(b) of the District of Columbia Minimum Wage Act.

REAL PROPERTY TAX EXEMPTION

Amendment No. 28. This amendment added to the House bill a provision authorizing the Commissioner of the District of Columbia, under regulations prescribed by the District of Columbia Council, to exempt property from real estate taxes. The Senate recedes.

COUNCIL TAXING AUTHORITY

Amendment No. 30. This amendment added to the House bill a provision authorizing the District of Columbia Council to impose any new tax in the District, except for an income tax on nonresidents, and to change the rate of any existing tax in the District. The Senate recedes.

CONGRESSIONAL POLICY ON METRO

Amendment No. 36. This amendment added to the House bill a provision reaffirming the policy of the Congress that the costs of the regional transit project not covered by user charges should be equitably shared among the Federal, District of Columbia, and participating local governments in the transit zone. The House recedes with a technical amendment.

TRANSPORTATION FUND

Amendment No. 37. This amendment added to the House bill a provision authorizing the District of Columbia to issue bonds, to be marketed through public sale on sealed bids and to be repayable in substantially equal installments over up to thirty years, in order to finance the District's share of capital outlays for approved transportation projects. The Senate recedes.

This amendment proposed a new method of financing the District's obligations for the Metro system and approved highway projects. The amendment is also relevant to the general problem of financing the District's capital outlays in the most efficient and economical way. While the Senate recedes on this amendment, the managers on the part of both Houses believe that these questions should receive further attention in this Congress, and hereby announce an intention to pursue the subject and explore all alternatives, including recommendations which may be made by the Nelsen Commission next spring.

JOHN L. MCMILLAN,
EARLE CABELL,
W. S. (BILL) STUCKEY, Jr.,
ANCHER NELSEN,
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Managers on the Part of the House.

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CHARLES MCC. MATHIAS, Jr.,
LOWELL P. WEICKER, Jr.,
Managers on the Part of the Senate.

GENERAL LEAVE ON CONFERENCE REPORT ON S. 1828

Mr. McKINNEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on the conference report on S. 1828, approved by the House today.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

PROPOSED AMENDMENTS TO THE OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1968

(Mr. McCULLOCH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McCULLOCH. Mr. Speaker, today I have introduced legislation to amend the Omnibus Crime Control and Safe Streets Act of 1968, to provide benefits to survivors of law enforcement officers killed in the line of duty. Cosponsoring this legislation are the distinguished minority leader, GERALD R. FORD, and Messrs. MCCLORY, SMITH of New York, SANDMAN, RAILSBACK, FISH, COUGHLIN, HOGAN, and KEATING.

This bill would enable the Law Enforcement Assistance Administration to make payments from funds appropriated for that purpose upon certification to LEAA by the Governor of any State that a law enforcement officer, employed on a full time basis by that State or a unit of local government within that State, has been killed in the line of duty.

In June of this year, President Nixon recommended similar legislation that would provide $50,000 to survivors of policemen killed in the line of duty. Mr. Speaker, my bill differs in that it expands the coverage to include, in addition to police officers, correction officers, sheriffs, court guards, prison guards, judges, magistrates, and prosecuting attorneys.

In recognition of the every-day perils faced by our law enforcement officers and the disparity in benefits among the several States, this legislation would authorize payment of a gratuity of $50,000 to the family of a slain law enforcement officer. This gratuity would be in addition to any other benefit or payment made under any other State or local law or plan.

The major benefactor of this legislation, Mr. Speaker, will be the policeman. It is common knowledge that police officers are in increasing danger of their lives and well-being. During 1969, 35,202 policemen were assaulted, stabbed, beaten, or shot while on duty. This dismal statistic is unbecoming a civilized society.

In 1968, 64 police officers died in the line of duty. This figure jumped to 86 in 1969, and to 100 in 1970. In 1971, 99 policemen were murdered while protecting society. In the 10-year period—1961–71—more than 1,024 officers died in the line of duty. Despite all the dangers involved in keeping the peace, many States and communities have failed to provide death benefits to the survivors of the slain policeman. The Department of Justice reported in September of this year that:

> As of October 1970, there were 18 States that provided no financial assistance to the immediate survivors of law enforcement men and women. Moreover, many small cities and towns throughout the land do not provide such benefits, or make only minimal compensation payments compared to that provided by large municipalities.
>
> Even in those States that have compensation programs, there are wide gaps between the various plans, and an individual officer may or may not be covered by one or the other of them.
>
> Workmen's compensation programs are spotty. Many local law enforcement officers are not covered for one reason or another. In many instances where they are eligible, the payments to their families are only minimal.

Although the Deputy Attorney General was addressing the problem of the deficiency in police officers death benefits, I am sure that most of his discussion is also germane to corrections. We are all well aware of the tragedies that have recently occurred at some State penitentiaries. Correctional officers, like policemen, confront daily the criminal element in our society. These people play a very important part in our system of criminal justice.

If we expect these hard-working and dedicated men and women to put their lives and safety on the line, day after day, the least this Government can do is provide some financial protection for their families.

Law enforcement like medicine will always have 24 hour responsibilities. Recruitment problems are aggravated by occupational dangers, low salaries, and long working hours. Law enforcement is, in fact, a difficult and often frustrating and discouraging field. Mr. Speaker, I am of the opinion that the benefits authorized in this legislative proposal may make these important jobs a little more acceptable and a little more attractive to those people interested in a career in law enforcement.

TRIBUTE TO TURNER N. ROBERTSON, MAJORITY CHIEF PAGE

The SPEAKER pro tempore (Mr. GONZALEZ). Under a previous order of the House, the gentleman from North Carolina (Mr. FOUNTAIN) is recognized for 60 minutes.

Mr. FOUNTAIN. Mr. Speaker, a man whose face and name have been familiar to most members of this body for more than 32 years will soon enter into a well-earned retirement. I am referring to our good friend, Turner N. Robertson who has served the House of Representatives so ably and faithfully in his present capacity, as majority chief page, since 1947.

I think it is both fitting and proper that we pay tribute to this dedicated public servant before he leaves us.

The smooth and efficient functioning of the House of Representatives depends upon the dedicated work of many, many people—some in the limelight and some behind the scenes. In his unassuming way Turner Robertson has contributed greatly to this process during his years of dependable service to the Members of this body. Although Turner is officially an employee of the majority, I am sure his many helpful services are appreciated by Members on both sides of the aisle.

My predecessor in the Second Congressional District of North Carolina, the late John Kerr, brought Turner Robertson to Washington on April 6, 1939. Under Congressman Kerr's patronage, Turner served successively as an elevator operator, as a member of the Capitol Police Force, as a doorman on the House floor, as assistant librarian of the House of Representatives, and as librarian.

Then, on June 1, 1947, Turner Robertson was appointed chief page by the Speaker, who was then the Honorable Sam Rayburn. Subsequently, he was reappointed by Speaker McCormack and, also, by Speaker Albert.

The duties of chief page are well known to every Member of this body and to our staffs. We call upon Turner Robertson and his hardworking staff of 51 young men every day of every session, and we know that we can always count on their faithful service.

It is not easy to supervise 51 high-spirited and bright young men, but Turner does the job with skill and great patience and understanding. He not only has trained these young men to serve us courteously and efficiently, but he has in so many ways served them—as a friend, confidant, and, at times, a substitute father. The smooth and efficient way in which our page system functions is a great tribute to his tact, wisdom, and leadership.

Only eight Members of this 92d Congress were here as Congressmen in 1939 when Turner Robertson came to Washington from Scotland Neck, N.C. Many Members have come and gone since then, and Turner has greeted each of them with a winning, friendly smile, and a willingness to be of assistance in every way possible.

Turner Robertson is a native of Macon, N.C. Mrs. Robertson, the former Dorothy Ernestine Whitehead, hails from Hobgood, N.C. Both towns are located in the Second Congressional District of North Carolina, which I have the honor to represent. The Robertsons have one daughter, Mrs. Barbara Cooksey of Manassas, Va.

Not long ago I asked Turner to reminisce about his years on Capitol Hill. He spoke of memorable, but tragic days, such as when war was declared in 1941, and when news of the assassination of President John F. Kennedy reached Washington; he spoke of historic votes on legislation of great national consequence; he spoke of longer and longer sessions, and more and more legislation; he also spoke of physical changes to the Chamber and to the Capitol Building.

But, mostly, he spoke of how much he has enjoyed every day of his career on the Hill and how each Member he has known—and I expect he has known them all—has been helpful and considerate to him.

I suspect that his greatest thrill, through the years, has come from seeing our young pages develop and mature under his sympathetic and understanding guidance.

Well, Turner, you have been helpful and considerate to each one of us, too, and I know I express the sentiment of the entire House when I say Godspeed to you and your wonderful, loving, and devoted wife, Ernestine—wherever you go and in whatever you undertake. If at any time you would like to return here, I am confident we would quickly put you back to work.

Mr. Speaker, I now yield to my distinguished colleague from North Carolina (Mr. Preyer).

Mr. PREYER of North Carolina. Mr. Speaker, I thank the gentleman. It is an honor to rise to note the retirement of one of nature's gentlemen, Turner Robertson.

I want to commend the gentleman in the well for bringing about this special order, to give us an opportunity to express our feelings about Turner. I regret that it occurs at this hour of the night, at this stage of the legislative week, but I am sure the special order appearing in the Record tomorrow will provoke a great outpouring of expression of appreciation to Turner.

As a relatively new Member of Congress, I want to pay tribute to Turner Robertson for all he has meant to the new Members of Congress. Turner is efficient, helpful, and useful to all Members of Congress; but to freshman Members he is much more—he is essential. To the neophyte lost in the parliamentary and legislative maze of the House, there was only one solution—"Ask Turner." I speak for all who have ever been freshmen Congressmen during Turner's reign in expressing to him our sincere appreciation for his unfailing courtesy and sympathy to those who stand lowest on the seniority totem pole, and for sharing so generously with us the legislative lore he has accumulated over 32 years of service to the House of Representatives.

Turner comes naturally by his courtesy and intelligence since he was born and raised in North Carolina. We are proud of our native son and his record. Scotland Neck, N.C., his home, is famous for two things—Turner Robertson, and the millions of starlings which unaccountably settle there near Turner's home each winter. The word is that when Turner retires and moves to Fort Lauderdale, the birds are going, too. They know a good man when they see him. We will miss Turner much more than the birds.

We hope Turner will remember North Carolina, and I know he will never forget the House of Representatives and the years he has spent here and the friends he has made. The House of Representatives will never forget its faithful servant, Turner Robertson.

Mr. FOUNTAIN. Mr. Speaker, I thank my distinguished colleague from North Carolina (Mr. Preyer) for his generous remarks. I, too, should like to say that I regret we did have to pay this tribute at such a late hour, because I am sure there are many, many Members of the House who would like to express themselves.

As the gentleman has pointed out, I hope that this discussion, as it appears in the Record, will serve notice to the Members that they will have time within which to express themselves.

GENERAL LEAVE

Mr. Speaker, at this point I ask unanimous consent that all of the Members of the North Carolina delegation be permitted to revise and extend their remarks relative to Turner Robertson immediately following the remarks just made by the gentleman from North Carolina (Mr. Preyer), and I ask unanimous consent that all Members of the House have 5 legislative days within which to extend their remarks on the same subject.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

Mr. JONAS. Mr. Speaker, I am pleased to join my distinguished colleague from North Carolina (Mr. Fountain) and others who will be participating in this discussion, in saying a few words of tribute to Turner N. Robertson who is retiring after more than 32 years of service to the Members of the House of Representatives.

Although Turner Robertson's title has been that of chief Democratic page, he has rendered services from time to time to those of us who sit on the Republican side of the aisle. I wish to comment especially on his uniformly friendly attitude and his willingness to go beyond the call of duty in accommodating me on many occasions during my 19 years of service in this body. I have had occasion frequently to seek information from him and to solicit his help and always found him willing to cooperate and anxious to please.

I can say without any fear of contradiction that Turner Robertson enjoys the respect and confidence of all the Members of the House of Representatives, and this includes Republicans as well as Democrats.

Mr. Robertson is completing a career of outstanding service as an employee of the House, where he has directed the activities of the pages under his jurisdiction with efficiency, courtesy and dedication, and in doing so he has gained the affectionate regard of all of us who serve here.

I join his many friends in this body and elsewhere in wishing for him in his retirement many long years of happiness and peace of mind. As he leaves Washington he will go with the understanding that he will be missed by all of us who have been the beneficiaries of his service.

Mr. LENNON. Mr. Speaker, I rise today to honor a fellow Tarheel, who has served the U.S. House of Representatives for over 32 years with dedication, sincerity, modesty, and pride. His service has been marked with distinction and honor, because he is a sensitive individual and responsive to the needs of those about him. As you know, Mr. Speaker, I am talking about our own chief page, Mr. Turner Robertson.

Turner has served with some great Representatives in the U.S. Congress as Democratic Chief Page. His appointment by Sam Rayburn on January 4, 1947, and his subsequent appointments by Speaker John McCormack and Speaker Carl Albert are living testimony of their faith in his ability and his outstanding performance.

It is a privilege to have worked with Turner Robertson, and I join with my many colleagues in wishing him a continued long life of service to mankind in his future undertakings.

Mr. HENDERSON. Mr. Speaker, I want to join my colleagues in paying tribute to one who has served us all faithfully and well for a long time.

Turner Robertson, our chief page, has been foster father, boss and field general of our pages for many years. It is significant of the job he did that we seldom received any complaints from the pages and very few from Members regarding the quality of the service they received.

On the surface, it might seem that the job of heading up the page service would be an easy one or at least one lacking in significant pressures or responsibility, but often some of the most vital and important communications in the Nation have been entrusted to our page service and mistakes or dalliance in their handling could have been of critical importance.

Turner Robertson has approached his work on the theory that service to the Members of the Congress is the sole reason for being of the page setup, and he has performed his function so well that we have come to take for granted the extremely high degree of excellence he has maintained.

We will all miss Turner. He has set a high standard for his successor to follow and I know all of us wish him well as he begins a well-deserved retirement and enters a new phase of his activity.

Mr. TAYLOR. Mr. Speaker, during the time that I have been in Congress, "calling Turner" has been the quickest and most effective way of finding out what is happening on the House floor and what will most likely happen next.

Very few people outside of Congress realize the full responsibilities of a chief page or the contribution that an outstanding chief page can make to the orderly and efficient operations of the House. Turner Robertson has made us realize that a chief page can be one of the most important officials connected with this body.

When I think of Turner Robertson's 32 years of service in the House of Representatives, competence, integrity and performance are the words that enter my mind. I appreciate his competence and I treasure his friendship.

Turner Robertson is retiring as chief page at a point in time when the House is on the threshold of joining the computer era. Within a year, plastic cards will instantly register our votes and better technical methods may be devised for getting information from the House floor to our offices; but technological progress will never replace the warm, personal responsiveness that has been Turner Robertson's hallmark. His willingness to serve, his unusual degree of knowledge and diligence and his unfailing loyalty to the House have earned for him the respect and admiration of all Members of this body.

Doubtless, other Members of Congress who have sponsored more pages than I will comment on the personal confidence which Turner has given to the hundreds of young men whose good fortune placed them under his supervision.

I feel a deep sense of loss in thinking of Turner's absence from the daily sessions of this body, but this is coupled with a feeling of appreciation for being for 11½ years a beneficiary of his labors.

I will miss my fellow North Carolinian, Turner Robertson, and the example he has set for us in our daily operations here. Let us hope that his retirement will be long and enjoyable and rewarding as his career has been, and that when the fish are not biting in Florida he will frequently pay us surprise visits and we can again be "calling Turner."

Mr. BROYHILL of North Carolina. Mr. Speaker, after more than 32 years of service in the House of Representatives, Turner Robertson has decided to retire to Fort Lauderdale, Fla. In my five terms in the House, I have found Turner to be most helpful. He has always been ready to lend assistance and he has been a storehouse of knowledge. When called upon for information, he has always responded quickly and accurately, and I am most appreciative of his friendly and courteous manner.

Of course, I have urged that Turner stay with us in the House, but I respect his personal decision to seek a little quieter life. I want to extend to Turner my sincere thanks for a job well done and to offer to him my best wishes for many more years of happiness.

Mr. JONES of North Carolina. Mr. Speaker, I am happy to participate in this tribute to my good friend, and as a matter of fact, a friend to every Member of this House—Turner Robertson. All of us have observed during his many years of service his pleasant disposition and genuine warmth, and I challenge anyone to recall a day or an occasion when we were not greeted by Turner with a warm, friendly smile, and more important, a pleasant word. In fact, the word "service" must be his motto.

His job of advising and directing the young pages I am sure at times has been most trying. But their admiration and respect for him was evidenced at a reception given him by his employees a few days ago. Yes; the House floor will not seem the same when Turner and his wife leave the Capital City for a well deserved retirement in the State of Florida.

Along with others, I sincerely wish him many years of health and happiness, and this includes hopefully, pleasant memories of the Members of Congress just as we shall hold the same kind memories of him.

Mr. GALIFIANAKIS. Mr. Speaker, the playwright Ibsen once wrote:

> A thousand words will not leave so deep an impression as one deed.

After 32 years of Turner Robertson's deeds, there are few words that could add to the indelible impression this remarkable man is leaving on the U.S. House of Representatives.

Those of us from North Carolina feel a very special pride in the accomplishments and contributions made here by our fellow Tar Heel and Turner has reciprocated by making all of us feel very special.

I think it can be safely said that this conscientious, courteous, and kind gentleman is truly loved by all those who have had the privilege of knowing him. His perennial patience, calmness, and cheerfulness have made many dull, dark days sparkle because of his particular brand of sunshine.

As he goes now to enjoy his own well-deserved days of sunshine, Turner will be missed, but the spirit of friendship and cheer with which he has touched all our lives will remain in this body forever.

It is with great gratitude that I join my fellow Tar Heels today in offering a heartfelt thank you to this splendid public servant.

And I would like to share with my colleagues the recent unsolicited expression of one of Turner's pages, who offered perhaps the most significant tribute of all. He said simply, "Turner Robertson is the greatest guy in the world."

Mr. FOUNTAIN. Mr. Speaker, I am happy to yield to the gentleman from West Virginia (Mr. KEE).

Mr. KEE. I thank the gentleman in the well very much.

Having known Turner during his entire career here, I could not agree with the gentleman more. He has been the most effective man that we have had to help us, to guide us; not only the new Members but also folks who have been here for a few years and folks who have been here during his entire service.

I have never seen a more dedicated and more cooperative public servant or man to help us do our job.

I thank you very much.

Mr. FOUNTAIN. I thank the gentleman very much.

Mr. McKINNEY. Will the gentleman yield?

Mr. FOUNTAIN. I am delighted to yield to the gentleman from Connecticut.

Mr. McKINNEY. I am a freshman here myself. I know that if the minority leader were here, he would want to join in personally congratulating Turner Robinson for all his good service to this House.

I would simply state that although I am a freshman and certainly not having known Turner very long, I would like to pay all of the respect that the Members on the minority side of the aisle feel for Turner on this occasion.

Mr. FOUNTAIN. I thank the gentleman for his remarks.

I am sure, also, the minority leader would want to express himself on this subject, and I hope he will take advantage of the opportunity to do so.

I yield to the gentleman from New Jersey (Mr. PATTEN).

Mr. PATTEN. Mr. Speaker, I would like to be associated with the gentleman's remarks regarding Turner Robinson. The appraisal you make is a truthful and well founded one.

I know in the 9 years I have been here Turner has been truly helpful at every turn. He has always been gracious and polite. It is amazing how he handles these young, bright upstarts, as you say.

So it has all been delightful. You are on a good foundation when you praise Turner Robinson.

I do not know the details and I did not know you had this special order, but I am happy to join with you and vouchsafe that we have learned to love and admire him, and we wish him and his family the best of everything that may be in their plans.

Mr. FOUNTAIN. I thank the gentleman very much.

I have just been advised that three of these "upstarts" to whom the gentleman makes reference are Members of Congress of the United States today and are Members who served under Turner when they were pages here in this body.

Mr. WYLIE. Will the gentleman yield?

Mr. FOUNTAIN. Yes. I yield to the gentleman.

Mr. WYLIE. I would like to associate myself with the remarks of the gentleman in the well and join him in paying tribute to Mr. Turner Robinson.

Mr. Robinson will not remember this incident as I do. It is a little personal incident that took place on the first day I arrived in the Capitol after having just been elected to Congress in December of 1966.

Fishbait Miller was introducing me around when Turner Robinson came into his office. He was very cordial and made me feel most welcome at a time when I was a little awed by the whole situation, by the circumstances and the setting.

I would like, because of that little personal incident and the friendship he showed me, to acknowledge in my own way his outstanding contribution to this Nation as a person who has worked effectively for this House of Representatives for such a long time.

Now, I have heard it said that Turner has a little place that he is going to retire to in Florida. Well, I go down to Florida rather frequently myself, and I intend to be down there over the holidays this year, as I have every Christmas since 1952, I guess, and I hope that we can get together so that I can further pay my heartfelt respect to this great gentleman.

I thank the gentleman for yielding.

Mr. FOUNTAIN. I thank the gentleman for his very kind remarks.

Someone suggested at a luncheon today given to Turner by the North Carolina delegation at which time they presented him with a plaque commemorating his many years of service here that Turner Robinson ought to erect a guesthouse back of his home in Fort Lauderdale, Fla., so that those of us who had been associated with him for these many years would have the opportunity of visiting with him.

He said he did not know about that, but we were all welcome. So, I am sure there will be some bedrooms and some floorspace if we get stranded there on any occasion, or if we under any other circumstances are there, I am sure Turner will be delighted to see us.

Mr. GONZALEZ. Mr. Speaker, I take this opportunity to add my voice to that of my colleagues who have extolled the virtues of Mr. Turner Robertson and have expressed regrets because of his retirement from service.

I wish to express my deep and heartfelt gratitude to Turner for his many courtesies and kindness. I will say, by way of conclusions, as we say in Texas: "Hasta la vista, Turner."

PROPERTY TAX RELIEF FOR THE ELDERLY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. FINDLEY) is recognized for 5 minutes.

Mr. FINDLEY. Mr. Speaker, 40 Members of Congress are joining me today in reintroducing H.R. 11640, a bill to allow a credit against Federal income taxes or a payment from the U.S. Treasury for State and local real property taxes or an equivalent portion of rent paid on their residences by individuals who have attained age 65. A list of the cosponsors follows my remarks. Each believes that it is time to do something about—to use the President's phrase—"the crushing burden of property taxes for older Americans."

Probably the one thing which most jeopardizes the security of old age, which most threatens the happiness of older Americans, is the property tax. The effect which it can have upon the elderly can be devastating.

The facts are that 70 percent of all Americans over 65 own their homes. It is the accumulation of a life's work, containing the memories, both happy and sad, of marriage, children, and all the things that make up life.

Yet, spiraling property taxes are forcing many to sell their homes and move into small, cramped, unfamiliar quarters, or to liquidate precious retirement assets which should be used sparingly only to provide for the necessities of old age. Those who live in apartments feel the burden just as painfully in the form of rent increases.

In the last 5 years alone, property taxes have shot up by 40 percent. Those over 65 generally live on greatly reduced incomes which are either fixed or declining. Income taxes take their changed economic status into account, but ever-increasing property taxes do not. As the President told the White House Conference on Aging, "because of property taxes, the same home which has been a symbol of their independence often becomes the cause of their impoverishment."

This bill we are introducing today provides older Americans of low income a $300 Federal income tax credit, or a payment from the U.S. Treasury if they pay no income taxes, to offset State and local property taxes they must pay on their homes.

Those over 65 whose annual income is under $6,500 would be eligible, whether they own their own house or not. If they rent, the portion of rent which covers taxes will be computed. If their Federal income tax is $300 or less, they will be eligible for a payment from the U.S. Treasury instead of a tax credit to make up the difference. The maximum tax credit or payment will be $300.

This tax break for the elderly will not be inexpensive, but we can be sure that the money will be going to those who most need it. It is estimated that three quarters of the cost to the Treasury will be in the form of direct payments to those elderly whose income is so low that they pay no income taxes at all. This should surprise no one, since a congressional committee has estimated that 25 percent of all older Americans have an income of less than $2,000 per year.

These are the people who desperately need help. These are the ones who will not be helped at all by other proposals for property tax reform. President Nixon has wisely recommended a "complete overhaul of our property taxes and of our whole system of financing public education," but such an overhaul will undoubtedly be too little and too late to help the elderly who are now being crushed by property taxes. Whatever reform is finally adopted—whether it be revenue sharing, "piggybacking," a national sales tax, or some other—no one suggests that already high property taxes will decline. Yet it is today's high property taxes which are forcing too many Americans to sell their homes and spend their last years in poverty.

President Nixon told the aging conference last week:

> These remedies will involve large sums of money. But we are prepared, however, to make the hard decisions we are going to have to make to provide property tax relief.

The Members who cosponsor this bill today are similarly prepared to make those hard decisions.

I hope that at an early date hearings will be scheduled on this bill, and that when older Americans file their 1972 tax returns, they can look forward to a Federal tax credit or payment for the property taxes they must pay.

LIST OF COSPONSORS

James Abourezk, Democrat, of South Dakota; Joseph P. Addabbo, Democrat, of New York; Tom Bevill, Democrat, of Alabama; Edward P. Boland, Democrat, of Massachusetts; James M. Collins, Republican, of Texas; William R. Cotter, Democrat, of Connecticut; John G. Dow, Democrat, of New York; Robert F. Drinan, Democrat, of Massachusetts; Thaddeus J. Dulski, Democrat, of New York; Paul Findley, Republican, of Illinois; Hamilton Fish, Jr., Republican, of New York; Edwin B. Forsythe, Republican, of New Jersey.

Cornelius E. Gallagher, Democrat, of New Jersey; Barry M. Goldwater, Jr., Republican, of California; Ella T. Grasso, Democrat, of Connecticut; Seymour Halpern, Republican, of New York; Lee H. Hamilton, Democrat, of Indiana; Michael Harrington, Democrat, of Massachusetts; Augustus F. Hawkins, Democrat, of California; Ken Hechler, Democrat, of West Virginia; Floyd V. Hicks, Democrat, of Washington.

Frank Horton, Republican, of New York; Jack F. Kemp, Republican, of New York; Joseph M. McDade, Republican, of Pennsylvania; F. Bradford Morse, Republican, of Massachusetts; Robert N. C. Nix, Democrat, of Pennsylvania; David Pryor, Democrat, of Arkansas; Tom Railsback, Republican, of Illinois; John J. Rhodes, Republican, of Arizona; Donald W. Reigle, Jr. Republican, of Michigan; Robert A. Roe, Democrat, of New Jersey.

William R. Roy, Democrat, of Kansas; Fernand J. St Germain, Democrat, of Rhode Island; Fred Schwengel, Republican, of Iowa; Robert L. F. Sikes, Democrat, of Florida; Robert H. Steele, Republican, of Connecticut; Charles Thone, Republican, of Nebraska; John Ware, Republican, of Pennsylvania; Gus Yatron, Democrat, of Pennsylvania; John M. Zwach, Republican, of Minnesota.

Mr. Speaker, my distinguished colleague from Illinois, Congressman RAILSBACK, is a cosponsor of this bill. He has long demonstrated a deep and abiding interest and concern for the problems of the elderly. I yield to my good friend for such comments as he may wish to make.

Mr. RAILSBACK. Mr. Speaker, property taxes affect all homeowners, but for those who live on a fixed and limited income they are a heavy burden.

About 70 percent of the 20 million senior citizens in the United States own their own home. However, one in four of these Americans is now living on an income of less than $2,000. They are desperately in need of a tax break.

Unlike our Federal income tax, property taxes have no relation to the income of the taxed. Instead, the value of the property, achieved only after years and years of mortgage payments, is considered. In the past 5 years, property taxes have risen 40 percent. Relief must be offered to our senior citizens, whose incomes have not kept pace with inflation.

In Fairfax, Va., a new ordinance will exempt certain senior citizens from property tax liability. Those included will be individuals 65 or older with gross incomes of less than $7,500 a year and net worth—excluding their homes—of $20,000. It has not as yet been determined how the loss of revenue is to be absorbed, but it is clear that some assistance to senior citizens is long overdue.

President Nixon has also pledged to ease the crushing burden of property taxes on the aged. At the White House Conference on Aging, he stated we must do something because, "the entire Nation has a high stake in a better life for its older citizens."

Therefore, I am pleased to join the gentleman from Illinois (Mr. Findley) in sponsoring legislation which will give senior citizens of limited income a Federal income tax credit to offset the local and State taxes they presently pay on their home property.

Under this proposal, a person whose annual income is under $6,500 would be eligible. He would receive a tax credit or payment of up to $300 from the U.S. Treasury.

I certainly hope this legislation will be given a hearing and an evaluation at the earliest possible time. We must provide relief for the many millions of Americans whose tax problems have been ignored too long.

GENERAL LEAVE

Mr. FINDLEY. Mr. Speaker, I ask unanimous consent that all Members may have permission to revise and extend their remarks as a part of my special order today.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

THE BUFFALO RIVER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. Kemp) is recognized for 15 minutes.

Mr. KEMP. Mr. Speaker, on behalf of myself and Congressmen Dulski and Conable, I am introducing a bill to authorize a program for the improvement and restoration of the Buffalo River Basin, N.Y.

Mr. Speaker, the bill contains the following provisions:

First, the Secretary of the Army, acting through the Chief of Engineers, would be authorized to investigate, study, and undertake measures in the interest of water quality, environmental quality, waste-water management, recreation, fish and wildlife, and flood control, for the Buffalo River Basin, N.Y. Such measures would include, but not be limited to, clearing, snagging, and removal of debris and derelict structures from the river's bed and banks; removal of polluted materials; esthetic and structural measure to improve appearance and water quality; and bank stabilization by vegetation and other means. In carrying out such studies and investigations the Secretary of the Army, acting through the Chief of Engineers, would cooperate with interested Federal and State agencies.

Second, in the words of the bill, prior to initiation of measures authorized by the act, such non-Federal public interests as the Secretary of the Army, acting through the Chief of Engineers, may require, shall agree to such conditions of cooperation as the Secretary of the Army, acting through the Chief of Engineers, determines appropriate, except that such conditions shall be similar to those required for similar project purposes in other Federal water resources projects.

Since the late 1960's, considerable local, State, and Federal efforts have been expended to abate the pollution discharged into the streams in the Buffalo, N.Y., area. Industries, which include some of the largest steel, coke, refinery, and chemical manufacturing complexes in the United States, have met and exceeded Federal and State standards through the installation of equipment at a cost of more than $50 million.

In a joint venture with the city of Buffalo, these industries developed a low-flow augmentation project at an initial cost of $8 million. The companies have assumed the cost of the loan for the project, as well as operating expenses. The city also sought and received a matching grant in 1969 from the Federal Government to abate oil pollution. To date, these efforts have been highly successful.

The cleanup of municipal wastes has not been as rapid. However, all of the communities whose sewage discharge to the Buffalo River and its tributaries, are within State timetables to remedy their respective problems. Most of the pollution will be solved through the construction of a $73 million tertiary treatment plant by the city of Buffalo to which wastes from more than 500,000 individuals who reside in the Buffalo River watershed will be transported. Therefore, by 1975, the date the Buffalo sewage treatment plant will be in operation, most of these wastes will be abated.

Despite these efforts, the Buffalo River, which drains more than 400 square miles, will remain a liability if additional measures are not taken. These problems include flooding, erosion, and the leaching of pollutants from the sediment. To solve these situations that could negate more than $100 million in past and present expenditures, a comprehensive improvement program must be instituted. This must include upstream dredging, removing debris—fallen trees, cars, and so forth—and bank improvements. The bill which is being introduced today would accomplish these objectives.

Mr. Speaker, I believe that there is an urgent need for this legislation. We are all aware of the tragic condition of the Cuyahoga River which is so badly polluted, that not long ago it caught fire and damaged a number of bridges. Imagine—if you can—a river even more polluted than the Cuyahoga. In 1966, the Buffalo River was described by the Commissioner of the Federal Water Pollution Control Administration as "the worst polluted river in the country." The commissioner put the Cuyahoga River and the Detroit River in the same unhealthy category and stated:

> These are three of the most grossly polluted rivers in the country. There are other sources of pollution, but these three rivers are the worst examples.

Our goal of a clean Lake Erie will never be achieved until these rivers are restored. Last year a bill similar to the Buffalo River proposal was introduced for the improvement of the Cuyahoga River. That legislation is now public law and the Corps of Engineers informs me that studies for the Cuyahoga's restoration are now in progress.

The passage of the Buffalo River bill would mean that two out of three of the worst polluted waterways in our country would be well on their way to being restored.

Furthermore, a restored Buffalo River could serve as a model and incentive for other pollution abatement programs in the United States, as well as a graphic example to the Canadian Government whose section of the Niagara River and Falls is fouled by this tributary, of our cooperation in the improvement of the quality of boundary waters.

A beginning has been made and I believe that the bill which I am introducing today for myself and Congressmen Dulski and Conable will be another vital step forward toward a pollution-free Lake Erie and clean waterways for our Nation.

The Buffalo River has been described by the environment editor of the Chicago Tribune, Casey Bukro, as a "swamp in slow motion." I include at this time his article concerning the Buffalo River which gives a vivid description of the extent of its pollution.

[From the Chicago Tribune, Oct. 13, 1970]

The Buffalo River: Swamp in Slow Motion

(Three years ago, The Chicago Tribune began a campaign to end the pollution of Lake Michigan and other Great Lakes. Its slogan was "Save Our Lake," which caught the imagination of millions of people thruout the country. Its symbol was a pollution-coated black band. This is a progress report)

(By Casey Bukro)

The Buffalo River in Buffalo, N.Y., looks like a swamp in slow motion.

The water is black and seemingly motionless. Years of heavy oil pollution have left the river water syrupy, so that waves formed by passing boats are flattened by the weight of the dense pollution. There is no biological life in the lower river.

The Buffalo is one of the many grossly polluted rivers that contribute to the pollution of the Great Lakes.

COULD BE USED FOR ROAD

"It is the only water I've seen in the country outside of a swamp that looks like that," said a federal pollution official of the river. He looked serious when he said that waste sediment covering the river bottom to a depth of six or seven feet is so much like asphalt, it could be used to pave a road.

Crumbling timber docks and abandoned warehouses give the riverside area the dilapidated look of a ghost town. The water comes alive, tho, where industrial wastes tumble and gush into the waterway that once was described as "a stagnant cesspool."

"We are not happy with the state of the Buffalo River," said William M. Friedman, regional director of environmental quality for the New York Department of Environmental Conservation. "It's a mess, but it was a messier mess a year and two years ago. It is improving and will continue to improve."

OIL REFINERY SUED

In the last three years, the state of New York has sued the Mobil Oil refinery in Buffalo for failing to comply with an order to improve waste treatment at the plant by 1969. The town of West Seneca also was sued. Both of them discharge wastes into the Buffalo River.

The Buffalo Dye Division of Allied Chemical Corp., Republic Steel Corp., and the Donner-Hanna Coke plant have been ordered by the state to complete water pollution control improvements by next year. Asked if industry in the area was dragging its feet on pollution control, Friedman replied:

"The fact that some of them have been referred for legal action meant they were lagging."

POLLUTION IS NOTORIOUS

Pollution in the Buffalo River is notorious because slow flow caused wastes to stay in the river as long as 70 days, while industry continued to draw water from the river and discharge more wastes. Industrial wastes and oil became highly concentrated and rotted until the river flow moved again, forcing giant slugs of concentrated pollution into the northeastern tip of Lake Erie and into the Niagara River, then over Niagara Falls.

A TRIBUNE reporter-photographer team accompanied Lawrence Moriarty, acting regional director of the Lake Ontario basin office of the Federal Water Quality Administration on an inspection tour of the Buffalo River by boat to view its legendary pollution.

The still black waters offered a stark backdrop for the multicolored display of pollution we saw.

WATER IS RUST COLORED

Rust-colored wastes rushed from a small tunnel from the Republic Steel plant, like a boiling river of red paint. The river seemed alive with billowing clouds of red sand swirling in the water, leaving a dusty film of iron particles on the surface.

The most brilliant and diverse pollution display came from the Buffalo Dye Division of Allied Chemical Corp. Every few minutes, wastes of a different color would spill from the dye plant and into the river—blue, green, red, yellow, orange and purple.

Some colors combine on the surface, forming psychedelic swirling patterns. When the dyes mixed with clumps of rotting sewage, they turned purple and gave the river surface the lumpy, discolored look of skin cancer. The air was heavy with the smell of shoe polish.

The Buffalo dye plant has been spilling its wastes into the Buffalo river for decades. The dyes, reacting with the river water, are what has turned the river black, said federal officials.

DETERGENT SUDS FLOW

White detergent suds streamed from another Allied Chemical plant nearby.

The Buffalo River is always coated with oil, its most visible problem. It has been estimated that industry in the Lackawanna-Buffalo area dumps 43,000 pounds of oil into waterways every day. Principal sources of oil were identified as the Pennsylvania railroad shops, Mobil Oil refinery, Donner-Hanna Coke, and the Republic Steel Corp.

The amount of oil accumulating on the river has dropped noticeably since last year, when the department of the interior announced it intended to trace all sources of oil being discharged into the river as an oil removal demonstration project. Mere announcement of the program caused Buffalo industry to begin tightening up on oil disposal practices, said an official.

Some improvement in the appearance of the river has been made by five Buffalo River industries that began pumping water from Lake Erie in 1967, and discharging the used water into the Buffalo River at the rate of 100 to 150 million gallons a day. This gives the five industries cleaner water than they got from the Buffalo River, and creates a flow in the river so wastes do not stagnate over long periods of time.

"It serves to flush out the stagnant river and add a little dilution water," said a federal official, but it does not reduce the amount of wastes being discharged.

The so-called Buffalo River Improvement Project had been under consideration by Buffalo industry since 1937. Among the industries taking part are the Buffalo dye plant, Mobil Oil, Republic Steel and Donner-Hanna Coke.

Moriarty points out that as old problems are corrected, new ones appear. His staff is engaged in field surveys and reports on the mercury content of the waters of Lake Ontario and the Buffalo and Niagara Rivers.

"Right now, they're driving us crazy with this mercury business," said Moriarty. The only commercial fisherman in Buffalo left last year when state officials confiscated $15,000 worth of fish found to be contaminated with mercury.

OMNIBUS CORRECTIONAL REFORM ACT OF 1971

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. HALPERN) is recognized for 10 minutes.

Mr. HALPERN. Mr. Speaker, I would like to bring to the attention of my colleagues the Omnibus Correctional Reform Act of 1971. This act is designed to change the nature and direction of the Nation's correctional system over the next 20 years. The need for such legislation is vital and I trust the subject will be given top priority when Congress reconvenes for the 1972 session.

The main feature of the five-part bill is its emphasis upon replacing the present system of large penal institutions located far from major urban areas with small, community-based corrections facilities designed to make rehabilitation a realistic goal. More than $800 million would be authorized in the first year alone for this and other purposes, including expanded rehabilitation services, new training and education programs, special probation programs, and a Federal Corrections Institute.

For too long, the Congress and the Nation have wasted billions of dollars in a vain attempt to salvage an archaic system which does far more harm than good. Our prisons do not correct offenders; they create them, toughen them, embitter them, and further educate them in the ways of crime. My proposal would give us a chance, in the course of the next 20 years, to sweep away the present system and replace it with a system that is correctional in the true sense of the word.

The events of the last week at Attica State Prison dramatically illustrate the dire need for penal reform. The Tombs, San Quentin, and Attica will merely be the first in a long line of prison uprisings, unless we face the fact that a major overhaul of our prison system is the only way to overcome its failure.

Arrest, court, and prison records all testify to the fact that the American prison system actually contributes to the Nation's crime problem. According to the FBI's Uniform Crime Reports, 70 percent of all crimes committed in this country last year were committed by people with previous convictions. Of the approximately 100,000 persons released from confinement each year and returned to society, 75 percent again commit serious crimes and return to confinement.

The proposed legislation contains five approaches:

First, the bill would provide funds to phase out the large penal institutions located a substantial distance from major urban areas and replace them with small, community-based corrections designed to utilize the most modern corrections theory.

Second, the bill would provide funds for programs of rehabilitation, job placement, on-the-job counseling, and correctional education for criminal offenders, youth offenders, and juvenile delinquents.

Third, the bill would provide special funding for the development of specialized school curricula, for the training of educational personnel, and for research and demonstration projects. These programs would be primarily tailored to the needs of persons detained in State and local correctional institutions.

Fourth, the bill would provide financial assistance to the States for the creation of special probation programs designed to reduce the necessity of committing youthful offenders to State correctional institutions.

Fifth, the bill would create a Federal Corrections Institute to provide a focal point for the collection and dissemination of information in the corrections field.

It would be ironic, indeed, if it were to take a tragedy of the magnitude of Attica to bring major correction reform to our Nation, but the greatest irony of all would be to learn no lesson from the lamentable events still so fresh in our memory.

In light of these facts, Mr. Speaker, I would like to submit an article from the Christian Science Monitor depicting the problems faced by those released from prison and the efforts being made to help them.

[From the Christian Science Monitor, Apr. 28, 1971]

HELPING CONVICTS KEEP "EX" RATING

(By Landt Dennis)

NEW YORK.—First one telephone rang, then the other. David Rothenberg answered both. Could he wangle two tickets to "Hair," one caller asked. Her husband was in jail. Could he help her find a way to support herself and her two children, queried the other. "I said, yes, to the prisoner's wife. No, to the other."

That was the moment Mr. Rothenberg gave up the theater publicist job, to devote all his time to helping prisoners and their families. "The importance of the one clearly outweighed the routine of the other," Mr. Rothenberg remembered.

Today Fortune Society, which he founded in 1967, attracts more than 150 ex-convicts each week. "All of them come to us because they know they will receive understanding in their fight against fright, and search for direction," the young crusader says.

"Many of these men and women have spent the majority of their lives behind bars. For the most part, they haven't been motivated or rehabilitated to cope with 'the outside world.'

"They need jobs, housing. Sometimes, they're drug addicts. Others are alcoholics. We held them with all these problems. But above all, we're out to show the public that indifference to prison reform breeds crime's expansion.

"Over 90 percent of the people in jail will get out. But, the majority of them will return after committing another crime, perhaps worse than the one they're in for now," he contends.

Originally oblivious to prison life and inmate frustration, Mr. Rothenberg's exposure to it came unexpectedly. As a highly successful press agent for Broadway shows, including "Hamlet" with Richard Burton, he was asked to read the script to "Fortune in Men's Eyes." It was written by an exconvict, John Burton.

"The play's honesty about prison life and the need for change struck me immediately," Mr. Rothenberg said. "Producers everywhere turned it down. It was too strong for the public, they said. So, I stepped in. On $12,000, we opened off-Broadway. For the 11 months it ran, it was commercially unsuccessful. We never had a full house. Not once, But, what happened was more important. We exposed a desperately overlooked cry for help."

Advertising post-performance discussions on prison problems between the cast and the audience, "Fortune in Men's Eyes" began to attract ex-convicts to the theater.

"I'll never forget the first time one of them stood up," Mr. Rothenberg continued. "He admitted he'd been in prison 20 years, then proceeded to tell what it was really like. The audience was electrified. 'If there's a fault in the play, it's because it understates the situation,' he said."

Soon Mr. Rothenberg felt compelled to form an unofficial organization to assist the growing number of parolees and former inmates who came to the theater for help. He named it Fortune Society.

Shortly afterward ex-convicts appeared on the David Susskind television program. "Twice they mentioned the informal help Fortune Society gave and the address of the office," Mr. Rothenberg said. "Both times, they were asides, since the men were on the show to talk about prison reform, not our work."

Next day he was barely able to fight his way into his office because of the several hundred people, who had seen the show and come for assistance. Mr. Rothenberg immediately took steps to expand.

Today, backed financially by over 5,000 contributors, and with more space, and a larger staff, he still is barely staying afloat. "Shortly, we'll have to move again. Over 150 ex-cons come here each week and there just isn't space to fit everyone in."

Away from the theater entirely now, the Fortune Society director scratches his full head of curly black hair over the nation's penal system.

"Because all prisoners, from petty thieves to psychopathic murderers are put together, prisons breed criminals," he says. "Prison systems are to help correct, to heal people, right? You can therefore say they're like hospitals in a way. But, it turns out they're hospitals which release patients in such poor health they need a rest home to recover."

A "rest home" which, to date, has helped over 5,000 ex-convicts, the Fortune Society's hope is "to go out of business eventually," according to Mr. Rothenberg. By that he means the day may arrive when prison reform makes his job unnecessary.

"Right now, things look better, but I'm not counting on closing down for a long time to come," he says.

TAKE PRIDE IN AMERICA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. MILLER) is recognized for 5 minutes.

Mr. MILLER of Ohio. Mr. Speaker, today we should take note of America's great accomplishments and in so doing renew our faith and confidence in ourselves as individuals and as a nation.

According to the Federal Power Commission, the United States still leads the world in electric generating capacity, with more than twice the kilowatt hours as the Soviet Union.

OLDER AMERICANS ACT AMENDMENTS OF 1972

The SPEAKER pro tempore. Under a previous order of the House the gentleman from Indiana (Mr. BRADEMAS) is recognized for 15 minutes.

Mr. BRADEMAS. Mr. Speaker, during the past 20 years the average life span here in the United States has increased by over 20 years. Uncounted millions of dollars and years of human energy have been expended toward this achievement. Ironically, however, not nearly as much money or dedication has been spent to see that these added years are not only years of comfort and enjoyment but also years of contribution to society.

There are today in the United States 21.5 million men and women over the age of 65 and by 1990, the Census Bureau tells us, there will be nearly 30 million older persons in the nation.

Over and over again we have been reminded of the needs of the elderly in American life—adequate retirement income, decent health care, sound nutrition, recreational and community service opportunities, housing, transportation, education and employment, housing—to cite only the most obvious.

Last week the second White House Conference on Aging in 10 years was completed in Washington. I call your attention to material which I inserted into the RECORD—December 2, page 41326–41327—from that conference.

Mr. Speaker, local, State, and national conferences on problems of aging are all well and good. But if nothing but reports and rhetoric come out of them, such conferences might as well not be held.

On June 25, 1971, President Nixon declared that "the generation over 65 is a very special group which faces very special problems—it deserves very special attention."

I concur with these words of the President and it is for that reason that along with other colleagues of this Body, I am sponsoring H.R. 12017, the Older American Act Amendments of 1972—aimed at providing comprehensive services for the elderly, including nutrition, transportation, preretirement training, health and expanded work service opportunities.

Mr. Speaker, let me conclude with some words of an old friend of mine whom I once had the honor to serve for nearly a year, the late Adlai E. Stevenson.

Said Mr. Stevenson:

> What a man knows at 50 that he did not know at 20 is, for the most part, incommunicable. The knowledge that he has acquired with age is not the knowledge of formulas or forms or words, but of people, places, action—a knowledge not gained by words but by touch, sight, sound, victories, failures, sleeplessness, devotion, love—the experiences and emotions of this earth and one's self and of other men and perhaps, too, a little faith and a little reverence for the things you cannot see.

The kind of knowledge, the kind of faith, the kind of reverence which characterizes the older people of our society is much too scarce and much too precious in this great and wealthy Nation of ours to be either wasted or, perhaps worse, ignored.

The time has come then—the time is now—for a genuine commitment—not of words but of deeds—to lifting the quality of life of the older citizens of the United States.

Mr. Speaker, on December 2, 1971, on behalf of myself and other members of the Committee on Education and Labor, I introduced H.R. 12017, the Older Americans Act Amendments of 1972 and today, I introduce identical companion bills on behalf of other Members of the House who are cosponsoring this legislation.

Following is a list of cosponsors to date of the Older Americans Act Amendments of 1972:

Mr. Brademas, Mr. Perkins, Mrs. Mink, Mr. Meeds, Mr. Scheuer, Mr. Gaydos, Mr. Clay, Mrs. Chisholm, Mr. Dent, Mr. Reid, Mr. Melcher, Mr. Badillo, Mr. Mikva, Mr. Dingell, Mr. Boland, Mr. Bevill, Mr. Rosenthal, Mr. Carney, Mr. Harrington, Mr. Koch, Mr. Hechler (W. Va.), Mr. Hawkins, Mr. Podell, Mr. Vanik, Mr. Green (Pa.), Mr. Yates, Mr. Bingham, Mr. Halpern, Mr. Rangel, Mr. Nix, Mr. Sarbanes, Mr. Miller (Calif.), Mr. Addabbo, Mr. Karth, Mr. Brasco, Mr. Dulski, Mr. McDonald, Mr. Gonzalez, Mr. St Germain, Mr. Yatron, Mr. Gallagher, Mr. Rees, Mr. Moorhead, Mr. Keating, Mr. Hathaway, Mr. Ryan, Mr. Cotter, Mr. Mitchell, Mr. Link, Mr. Eilberg, Mr. Fascell, Mr. Stokes, Mr. William Ford (Mich.), Mr. Ullman, Mr. Roncalio, Mr. Biaggi, Mr. Begich, Mr. Corman, Mr. Abourezk, Mr. Pucinski, Mr. Roy, Mr. Rooney (Pa.), Mrs. Hicks, Mr. Helstoski, Mr. Edwards (Calif.), Mr. Denholm, Mr. Burke (Mass.), Mr. Roe, and Mr. Rodino.

LEGISLATION FOR SENIOR CITIZENS

Mr. ST GERMAIN. Mr. Speaker, the empty promises that have marked Federal efforts to help the elderly under the Older Americans Act of 1965 have dramatically demonstrated the need for stronger and more comprehensive legislation.

In order to revitalize and strengthen these programs, I have today joined a number of colleagues in the House in introducing a comprehensive older Americans services bill.

I am sponsoring this legislation because I understand the problems facing the Nation's 20 million citizens over 65. Present laws, or the lack of them, have forced many hardworking citizens into poverty and an early grave.

Regardless of where they live, in the big city or the rural hamlet, the biggest problem of the aging is always the same—money. Today's economic situation puts particularly acute burdens on the elderly, and the longer they live the worse it gets.

Understandably, the elderly blame the Government for the constant erosion of their incomes in the squeeze between rising costs and their fixed incomes. They feel the Government has failed to take adequate steps to protect them against inflation. I have repeatedly called for social security increases to keep pace with our rising cost of living.

Increased school and property taxes, food allowances that are far below survival levels, and the limitations of medicare and medicaid conspire to deprive the elderly of essential nutrition and health care at a time when they need it most.

As one senior citizen recently told a Senate Committee on Aging:

> We are not beggars, neither do we want to feel that we are a burden on our children. As long as we are able to work, we would like to be engaged in some part-time employment to furnish these extras. Low-cost housing would eliminate worries of high fuel bills and constant repairs, and our lives would be more carefree and, consequently longer.

Old age should be more than a period when people decline and die. Life has been hard for many of our citizens. They have made many sacrifices, and yet for the great majority, the margin of savings has been small. Furthermore, they have made many worthwhile contributions to society and have a right to enjoy the remaining years they have to live. In short, they would like to be happy, but happiness is not something one can buy, it is not something that can be given us. To those for whom life is dear, it cannot be found by making adventurous explorations in space. For many aged citizens happiness is a state of mind that results from a sense of well-being based on an independence they can maintain if given the opportunity of part-time employment.

That is one of the goals of the legislation being introduced today. This measure will provide effective coordination of Federal aging programs, upgrade the Administration on Aging to a position directly responsible to the Secretary of Health, Education, and Welfare; establish multipurpose senior citizen community centers, authorize a new national information and resource center on aging, create a research center to study the aging process, and establish a new system of delivering services to older citizens.

More concretely, it is designed to provide a wide range of services including nutrition, pre-retirement training, low cost transportation, and health services.

Previous efforts to create a central agency to coordinate Federal programs for the elderly, such as the Older Americans Act of 1965, were hobbled by shortsighted planning. These efforts fell apart when their authority was splintered and their programs were scattered with few clearcut goals.

I believe 1972 is the year in which mounting doubts about the effectiveness of these programs have reached their peak.

The Older Americans Act of 1965, which expires in June 1972, has raised a crucial question about the future of Federal programs for the aging: How should these programs be changed to best help the Nation's 20 million elderly?

I feel our senior citizens deserve something better than being forced into poverty. Retirement should not be a form of solitary confinement; it should be a time of happiness, a time to do things and see places that they have never before been able to do or see.

To a very large degree, all Americans, regardless of their ages, have a vital stake in the future of this legislation. For someday we must all face old age.

This legislation I am sponsoring today is the first step toward the kind of national policy for the aging we need to provide the kind of happiness and comfort our older citizens deserve.

ASPIN SCORES AIR WAR OVER NORTH VIETNAM

The SPEAKER pro tempore. Under a previous order of the House the gentleman from Wisconsin (Mr. ASPIN) is recognized for 5 minutes.

Mr. ASPIN. Mr. Speaker, the Pentagon recently released statistics detailing the level of bombing over North Vietnam. Those figures indicate that the air war over North Vietnam is increasing at an alarming rate.

The Cornell air study, which was released November 7 and which I discussed with my colleagues on November 9, contained data through July of this year indicating an escalation of the air war over North Vietnam in 1971 compared to 1970. However, since July, there has been, according to the most recent Pentagon figures, an even more dramatic escalation of the bombing compared to previous years. From July 1, to December 1, 1971, there have been 37 protective reaction raids. Only four such raids were conducted during the same period last year, and only six during 1969. Since December 1, there have already been five raids over North Vietnam. No protective reaction raids occurred during either December 1970 or December 1969.

Protective reaction raids have been described by the administration as air strikes to protect aircraft operating over North Vietnam, Laos, and South Vietnam, and occasionally for the protection of ground troops. Some attacks are massive raids involving as many as 200 sorties and more than 300 tons of bombs against SAM missile sites, others against antiaircraft guns, against artillery in North Vietnam, and the demilitarized zone.

These raids are divided into three types, according to the Pentagon. The first type is described as immediate protective reaction for North Vietnam reconnaissance missions. If a plane over North Vietnam is fired upon, often we will return to attack the antiaircraft position. The second category of raid is an immediate protective reaction for aircraft in Laos and the Republic of Vietnam near the North Vietnam border. The Pentagon also indicates that this type of raid may be used in response to enemy action against U.S. and Allied forces, including ground troops. The third category is termed by the Pentagon as limited duration protective reaction strikes.

The third type of raid is the most destructive. This type is carried out not because of a specific provocation, but as a normal bombing raid. Some of the raids, according to the command in Saigon, have been directed against not only missile sites but also oilfields.

It is clear now what is happening. With no notice to the American people, the administration is sharply stepping up the pace of bombing over North Vietnam.

These raids have little, if anything, to do with the withdrawal of American troops, which is going on hundreds of miles away in the south. The Nixon administration, with its troop withdrawals, has attempted to lull the American people into believing that the war is ending. The war is not ending.

As the Cornell air war study indicated and the latest Pentagon figures confirmed, the war is now being conducted in the air, including over North Vietnam.

The Cornell air war study indicated that there had been an increase in air activity over North Vietnam during the first 7 months of 1971. During 1970 there was a total of 20 protective reaction raids over North Vietnam. That number was doubled during the first 7 months of 1971. A total of 46 raids were conducted over North Vietnam during the first 7 months of 1971.

I was very concerned when I read the Cornell air war study about the increase of air activity over North Vietnam. I am now shocked to learn that the air war has so dramatically escalated over North Vietnam during the past several months. During November 1971 there was a total of 15 raids over North Vietnam. During November 1969 there was only one protective reaction raid. In November 1970 there were only two such raids. There is no doubt that the air war has intensified over North Vietnam during the past year.

The administration has indicated the use of air power is the key to success of the Vietnamization program. That policy, more than any other, results in the death of innocent people in Indochina. As the Cornell air war study indicated, air power has failed to reach our objectives in Indochina. Yet the United States continues to follow a policy that not only emphasizes but, in fact, is totally dependent upon the use of air power. The lesson of the Cornell air war study clearly has not been learned. This administration plans to continue to rely on the often indiscriminate bombing of sites both military and civilian throughout Indochina.

As the data which follows indicates one aspect of that air war over North Vietnam has escalated during the last several months. The chart follows.

CHART I

PROTECTIVE REACTION RAIDS AGAINST NORTH VIETNAM

	1969	1970	1971
Total number of raids	75	20	[1] 88
Total number of raids (July–November)	6	4	37
Total number of raids, November	1	2	7
Total number of raids, December	0	0	[2] 5

[1] As of Dec. 9, 1971.

[2] Through Dec. 9, 1971.

CALLING OFF THE COLD WAR IN EASTERN EUROPE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. REUSS) is recognized for 30 minutes.

Mr. REUSS. Mr. Speaker, the time is opportune for U.S. initiatives to seek improved political relations with the countries of Eastern Europe and a substantial increase in trade between our countries. In particular, if the United States move to settle some disputes with various Eastern European countries that date back to the immediate post-World War II years, and to lift our many restrictions on trade with these countries, we will have gone a long way toward calling off the cold war in Eastern Europe.

The United States and the countries of Eastern Europe obviously stand to benefit directly from increased contacts and exchanges of goods. Because the accompanying reduction in cold war tensions between our countries should also further the cause of detente throughout Europe, all countries stand to gain.

Much has transpired in the recent past to indicate that U.S. overtures to Eastern Europe would now be timely. First, there is evidence of some softening in Soviet policies toward Eastern Europe. Second, there are increasing contacts between the countries of Western Europe and Eastern Europe. Third, several countries in Eastern Europe now appear disposed to respond favorably to U.S. initiatives.

Even though it has been only 3 years since the invasion of Czechoslovakia and the announcement of the interventionist Brezhnev doctrine, the Soviet Union has recently indicated that it is finding such an extreme position counterproductive. While Russia certainly has not instituted a "Good Neighbor Policy" toward the Communist countries on its periphery, there are signs of a greater toleration of independent activities by the countries of Eastern Europe. Several examples of this toleration come to mind. The most prominent is the willingness of Soviet Communist Party Leader Brezhnev to recognize the special status of Yugoslavia in his recent visit to Belgrade. Probably the most significant aspect of the worker's riots in Poland last December was that Moscow refused to intervene directly to assist Polish Communist Party First Secretary Gomulka. In the last analysis it would appear that the Russians are willing to go to fairly great lengths to avoid another Czechoslovakia, even though that invasion effectively halted Czechoslovakia's headlong rush toward independence.

There are other indications that the Soviet Union wants to pursue a policy of detente in Eastern Europe. The initialling of the Four Power Berlin Agreement is one of these. Further, the Russians have pressured the East Germans to negotiate seriously with Bonn on the provisions necessary to implement the accords. It would have been easy for the Russians to allow their East German clients to stall sufficiently to prevent implementation of the accords.

In addition to local Eastern European considerations, there are special factors which have helped condition the Soviet Union to seek detente in Europe. It is evident that the Russians are very concerned about the Chinese. Whether or not this fear is justified, it is real and is a significant incentive to Soviet cooperation in efforts to promote restraint and calm in Europe. There are also special economic reasons for present Soviet policy. Clearly, Moscow desires more normal relations with the West in order to obtain advanced Western technological and managerial assistance.

From the point of view of U.S. policy, the main problem in calling off the cold war in Eastern Europe lies in reconciling the immediate, direct interests of the Soviet Union in the area with the more general, indirect U.S. interests in the same area. We must move to improve our position in Eastern Europe and, at the same time, make it clear that we have no intention of trying to supplant the Soviet Union. We must not directly threaten Russian political and economic interests in Eastern Europe while carrying out our policy. The best way of achieving our goals here is by enlisting the aid of our European allies.

We are now reaching a time when the unnatural division of Europe as a result of the Second World War makes less and less sense to all Europeans. There are several indicators that this division is becoming less effective as a barrier. Perhaps the most significant of these is the burgeoning economic interchange between Eastern and Western Europe. East European imports from the West have doubled since 1963, from $9 billion to $18.4 billion a year. The largest share of this trade in 1970 was with West Germany—$2.1 billion—and Italy—$1.5 billion. The U.S. portion of this $18.4 billion was a meager $240 million.

Members of the European Economic Community are the major trading partners of the countries of Eastern Europe for reasons of contiguity, cultural affinity, and immediate availability of many desired goods. For these same reasons, political relations between the Six and Eastern Europe have improved steadily.

This situation offers a rare opportunity for the United States to build upon the foundations that the West Europeans have laid without appearing to directly threaten Soviet interests. In this respect, the Ostpolitik of West German Chancellor Willy Brandt could be considered an extension of U.S. policy, since it is an attempt to lessen tensions in an area of direct U.S. concern. As the specter of an aggressive, militaristic Germany fades, the Soviet Union will have less and less justification for repressive policies in Eastern Europe.

As for the countries of Eastern Europe, it is clear that the neighbors of the Soviet Union are themselves the strongest supporters of detente. A policy of detente will allow them more latitude in their unequal relationship with Moscow. The history of Eastern Europe since 1945 has been that of the efforts of various countries to gain the maximum freedom from Russian domination that their geographic position would allow. The East German worker's riot in 1954, the Hungarian revolt and Polish near-revolt in 1956, and the Prague spring are all manifestations of the strong desires of the Eastern Europeans to control their own affairs. This same basic desire for more independence lies at the base of East European support for the proposed European Security Conference.

Thus, if we examine the situation in Eastern Europe today, we see several factors working toward detente. The West Europeans, for both economic and political reasons, wish to normalize relations in Eastern Europe. The Eastern Europeans themselves, for political and economic reasons—though different in motivation from their western brethren—seek the same goal. And finally, the Soviet Union appears to realize that change in Eastern Europe is inevitable, and that it had better adjust rather than risk the creation of a ring of chronically unsettled satellites that prove to be an economic and strategic liability rather than an economic and strategic asset.

Having touched upon the general background in which a realistic U.S. policy must operate, I would now like to look at some specific relationships between Eastern European countries and the United States, to identify some issues of particular concern and to examine the potential for better U.S. trade relations.

U.S. relations with Rumania are a good example of what can be accomplished by flexible U.S. policies in situations which at first glance may not be economically and politically promising.

The policy followed by Rumanian President Nicolae Ceausescu has as its basic goal establishing economic independence from Russia to accompany Rumania's independence in foreign policy. President Ceausescu is trying to place his country in a stronger position to resist the use of economic pressures by the Soviet Union designed to force compliance with Soviet foreign policy. In addition to differences on foreign policy, Rumania was unwilling to accept the second class status assigned to it by the Soviet union in Comecon planning. Rumania's desire not to be the hewer of wood and drawer of water for Eastern Europe means that Bucharest will be extremely interested in importing capital goods, from whatever source, that will allow it to industrialize its economy. As a result of Rumania's independent economic policy, Russia's share of Rumanian exports has fallen from 40 percent in the mid-1960's to 28 percent, while imports from Russia have declined from 38 percent to 27 percent. U.S. exports to Rumania total some $32 million a year. While this is an increase from the $6 million figure for 1965, it is still an extremely small percentage of total Rumanian imports of $1.8 billion.

President Nixon, to his credit, has cultivated improved relations with Rumania. His visit to Bucharest in August 1969 was the first visit of an American President to a Communist country. By October 1970, United States-Rumanian relations had reached the point where President Ceausescu's visit to Washington included talks with the Secretary of Commerce and American industrialists designed to improve conditions for U.S. investment in Rumania and for expansion of trade between the two countries.

In Yugoslavia, the political system is relatively responsive to the wishes of the people, there are no state trading agencies to deal with, the economy is open to foreign investment under certain conditions, and the country studiously avoids bloc politics. The desire of President Tito for complete independence has been the foundation for the relatively open social and economic structure in Yugoslavia. The visit of President Tito to this country in late October of this year served to strengthen further recent good relations between the United States and Yugoslavia. The level of trade and investment between our two countries remains disappointingly small, however. Total U.S. exports in 1970 amounted to $160 million out of total Yugoslav imports of $3.2 billion.

Other East European countries offer a rather different picture. All still have tightly controlled economies and political systems, and all follow closely the Soviet line in foreign policy. In recent years the Hungarians and Poles have made tentative moves in the direction of rationalizing and decentralizing their economies. Such changes in direction, however beneficial, are often difficult to implement. In Poland, for example, movement toward rationalization led to riots by workers last December. Both Hungary and Poland have indicated that they intend to devote more resources to consumer goods production. The United States can have only a peripheral indirect role in such an evolutionary process. We can encourage the trends toward liberalization, all the while keeping in mind our limited leverage and the complications that could result from an overactive policy.

Even with major changes in U.S. policy, there seems to be little prospect for any quick improvement in relations with East Germany. The departure of Walter Ulbricht from power has brought no change in the rigid, orthodox, cold war position of the East German government. East German Communist Party First Secretary Eric Honecker has indicated that he intends to forge even closer ties with the Soviet Union while, at the same time, continuing to rationalize the East German economy. Honecker's desire to forge closer ties with the Russians has already had unexpected repercussions. The most interesting of these, already noted, was the pressure on the East Germans by the Russians to negotiate the operational portions of the Berlin Accords in good faith. Thus, it is possible the Russians may actually encourage further East German flexibility to fit in with present Soviet policy. However, even if East Germany did move toward more normal relations with the West, the most likely beneficiary would be West Germany—already East Germany's major western trading partner.

The possibility for improved relations with Poland is greater than it is for East Germany, Czechoslovakia, or Hungary. Because of the riots at the end of 1970 and the leadership change which resulted from them, an atmosphere of change exists. The Polish Politbureau has stated that more resources were to be devoted to consumer goods and that expanded trade with the West would be given a high priority. The presence of First Secretary Giereck and a large delegation at the Poznan Trade Fair is an indication of the seriousness of Polish intentions to expand trade, some 70 percent of which now comes from or goes to other Communist countries.

In foreign policy, the Poles fall somewhere between East German rigidity and Romanian independence. Former Party First Secretary Gomulka negotiated the treaty normalizing relations between Poland and West Germany and gradually responded to Chancellor Brandt's Ostpolitik. As time passes and Polish fear of West Germany decreases, the flexibility of Polish foreign policy should increase. Any increase in Polish flexibility is likely to benefit United States-Polish relations, which have already registered steady improvement over the last several years.

So much for the present status of U.S. policy toward the area, and the specific problems facing us. I now turn to some of the possible steps we can take to indicate that we are willing to call off the cold war in Eastern Europe.

In the economic sphere, it should be emphasized that there is potentially a sizable market for U.S. goods and services in Eastern Europe. It has been estimated that total U.S. sales to this area could reach $2 billion in 5 years. Regardless of the actual amounts, a ready market exists today for certain American goods, specifically, computers and advanced office equipment, electronic numerically controlled machine tools, specialized road construction machinery, and agricultural produce, especially soybeans and soybean derivatives. In addition to these immediate commodity needs, there is a very strong demand in the East European countries for American management skills and techniques in the operation of the advanced capital equipment needed for development. This demand is universal, and we are excellently placed to meet it since we possess the most advanced managerial and industrial technology. And unlike the Soviet Union, our own development requirements do not impede our ability to meet the demand for these exports.

Thus, there are real opportunities in Eastern Europe for American firms offering both advanced technology items and specific agricultural commodities. Now we must develop the potential market.

There are several specific policies we could adopt that would make it easier to increase the level of trade with Eastern Europe.

First, a generalized most-favored-nation treatment could be accorded all of the countries of the area. At present, only Yugoslavia and Poland receive most-favored-nation treatment, leaving the other countries of Eastern Europe to face high tariffs on their exports to this country. Generalized most-favored-nation treatment would make it easier for Eastern Europeans to trade with us in order to generate hard currency to pay for U.S. exports. In addition, granting most-favored-nation treatment would be tangible evidence of our interest in accelerating the reduction of cold war tensions in Eastern Europe.

In the Senate, Senators MAGNUSON, RIBICOFF, and COOPER, along with 22 of their colleagues, have introduced the East-West Trade Relations Act of 1971 (S. 2620), which would authorize the President to extend most-favored-nation treatment to all the countries of Eastern Europe. Along with eight of my colleagues in this body, I have sponsored similar legislation (H.R. 10443). It is my hope that in the next session of the Congress, the administration will actively support consideration and passage of this legislation.

A second step which should be taken is to liberalize export controls. U.S. strategic export controls are the most stringent in the non-Communist world. None of our NATO allies or trading partners have the extensive limitations on trade that we do. One result of our policy is that Eastern Europeans often purchase second-hand American technology or management techniques from non-Communist European countries rather than buying direct from American firms. A general loosening of export controls would allow American firms to compete in the areas of our greatest strength. Specifically, manufacturers of electron tubes and very heavy transportation equipment have indicated that a ready market exists for their products, but that it is effectively blocked because of export controls. A corollary to liberalized export control is more even-handed administration. While U.S. permission for Rumania to purchase a catalytic cracking petroleum plant may have furthered United States-Romanian relations, denial of a similar request by Poland certainly did not help United States-Poland relations at all.

The recent passage of Public Law 92–126, the Export Expansion Finance Act of 1971, is a good example of our willingness to move toward a normalization of trade relations with Eastern Europe. However, the 1971 act did not go far enough, since a presidential determination is still required, according to section 2(b)2 of the basic legislation, before any sales to Eastern European countries can take place. Therefore, section 2(b)2 of the Export-Import Bank Act should be deleted in future legislation. The language of section 2(b)3 contained in Public Law 92-126 provides adequate protection to American national interests without unduly restricting trade.

In the political sphere, we should give our enthusiastic backing to Chancellor Brandt's Ostpolitik, since this is the best route to detente in Europe itself. As the Russians and East Europeans begin to lose their fear of West Germany, political, cultural, and economic relations will return to a more normal basis. While there are potential commercial problems with this policy—the West Germans taking economic advantage of good political relations—the resulting overall detente will mean much greater opportunities for sales of those categories of goods in which the United States is clearly the world leader.

Politically, the United States could also accelerate the process of detente in Eastern Europe by resolving the expropriation and war damage claims against Czechoslovakia and Hungary. In 1962, the Foreign Claims Settlement Commission recognized some 2,630 claims against the Czech Government. The total of these claims, including interest, now amounts to $113 million. No negotiations concerning these claims have taken place between our Government and the Czech Government since 1968. In return for an equitable resolution of the claims, we could give our agreement to the Tripartite Gold Commission to release the $20 million worth of Czech gold that was stored in London during the Second World War. Since the British and French have already agreed to the return of the gold, our permission is all that is lacking. A similar process should be undertaken with Hungary where there are some $58 million in claims outstanding.

In general, efforts by the administration to normalize relations with the Soviet Union should be encouraged. While it is not the primary goal of his trip to Moscow next spring, the President can further detente in Eastern Europe by confirming our interest in improved trade relations with this area as well as with the Soviet Union. Visits by U.S. Cabinet figures to Eastern European countries also serve to indicate that the United States is prepared to do its part to call off the Cold War in Eastern Europe. The recent visits to the Soviet Union and Poland by Commerce Secretary Stans, and to Poland by Transportation Secretary Volpe, are good starts on demonstrating our interest in improved trade relations. These visits should be followed by others.

The role of Congress in promoting improved relations with Eastern Europe can be a major one. Building on past investigations, hearings by the appropriate committees can follow and project the impact of increased political and economic interchange with Eastern Europe. As part of a continuing reexamination of United States-East European relations, more visits to Eastern Europe by Congressmen and Senators should be undertaken in order to gather first-hand information.

The Congress could also take the initiative and pass the Ribicoff-Magnuson East-West Trade Exchange Act (S. 2460). The act is designed to help develop academic, business, and financial expertise on Eastern Europe and the Soviet Union through personnel exchanges, participation in educational and technical conferences, and reciprocal studies of market and nonmarket economics. Through such legislation, Congress can take the lead in making available to its members and the general public realistic and comprehensive data on the social, political, and economic structures of Eastern Europe and the Soviet Union.

I believe that U.S. relations with Eastern Europe can be improved substantially. But we must approach that region with an appreciation of the existing political and economic realities, or our policy will be either destructive or nonproductive. We know that a substantial market for American goods exists there. Breaking into it will require thorough preparation, and it is by no means an uncompetitive situation. Regardless, this market should be developed.

If we proceed with a realistic awareness of the power relations in the area, our interests in detente can coincide with the interests of the Russians in achieving the same goal. Finally, the Congress can and should play a major role in persuading the American people that the cold war in Eastern Europe can be ended, and should be ended.

STATEMENT OF CONGRESSWOMAN ABZUG IN SUPPORT OF HER RESOLUTION REQUESTING THE PRESIDENT TO DECLARE AN INDEFINITE MORATORIUM ON ALL U.S. UNDERGROUND NUCLEAR TEST EXPLOSIONS, TO INITIATE ACTIVE NEGOTIATIONS SEEKING AGREEMENT WITH THE SOVIET UNION ON A COMPREHENSIVE BAN ON ALL NUCLEAR TEST EXPLOSIONS, AND TO WORK TOWARD EXTENSION OF A PROHIBITION AGAINST NUCLEAR TEST EXPLOSIONS TO THE OTHER NUCLEAR POWERS, INCLUDING FRANCE AND CHINA

The SPEAKER pro tempore. Under previous order of the House the gentlewoman from New York (Mrs. ABZUG) is recognized for 15 minutes.

Mrs. ABZUG. Mr. Speaker, the Atomic Energy Commission, under express orders from the President of the United States, and evidently contrary to the advice of the majority of advisers in his own executive family, has detonated "Cannikin," a 5-megaton nuclear weapons test on the Island of Amchitka in the Aleutians. This test was finally admitted to be a test of the Spartan missile, a major component of the ABM system.

The test was said to have been "successful" from the military point of view, and the AEC promised that it would be the last of the large underground tests and the last at Amchitka. Where does that leave us? The AEC has already resumed testing of smaller weapons in the Southwest of the United States.

The test was said to have "yielded the necessary information," although the full extent of the damage to the ecology will not be known for months, if ever. Already the AEC has admitted that the effects of the explosion on the creatures of the ocean and their watery environment was greater than anticipated by the "experts." While we mourn for uncounted and uncountable numbers of sea otters and other wildlife, including fish, which perished from the effects of the blast, we are relieved that to date no catastrophe to man appears to have occurred as a result.

The AEC promised that "Cannikin" would be the last of the large underground tests and the last at Amchitka. Where does that leave us? Testing of smaller nuclear devices in the Southwest of the United States has already resumed.

In the Soviet Union, likewise, these explosions will go on. More radioactive poisons will be locked into the earth's crust—unless, of course, there is some kind of mishap, and Mother Earth decides to regurgitate them.

The United States has announced a total of 336 underground nuclear tests. The Soviet Union is believed to have conducted 59. This makes us a few up in this game of underground overkill—the ratio is about 6 to 1 in our favor. If quantity is any indicator, it appears that we know a whole lot more than they do.

What else do we need to know? We know how to kill people with big nuclear bombs and small nuclear bombs, with intercontinental ballistic missiles—ICBM's—with weapons launched from aircraft, from ships and submarines, in single shots and in clusters. Our ABM marksmen now claim to be able to stop a nuclear "bullet" in midair.

American taxpayers have spent billions and billions of dollars and exploited the talents of thousands of scientists to gain this information, this capability.

Is there anything more to be gained from piling on more and more refinements, more and more sophisticated methods of killing with weapons which will never be used? If we continue this madness, will we be any more secure?

The time is long overdue to put a stop to it. Our true security, as we are learning to our sorrow, lies not in weapons of destruction but in the health, prosperity, and well-being of our citizens, in the soundness of our economy, and in the permanent reduction of world tensions.

I am therefore today introducing a resolution, which I hope will be overwhelmingly endorsed by my colleagues in the House and in the Senate, that the United States declare and observe an indefinite moratorium on all future underground nuclear testing. The resolution recommends that active negotiations be undertaken immediately with the Soviet Union to extend the limited test ban treaty negotiated in 1963 to all nuclear tests of any kind. It further recommends that the United States actively seek to extend the prohibition on nuclear testing to the other nuclear powers, including France and China, through negotiations conducted at the Geneva Disarmament Conference scheduled for early next year.

At the time the limited test ban treaty was negotiated, grave fears were expressed in Congress that the Soviets would abrogate the treaty or cheat in some way that would bring mortal peril to the United States. These fears have proved groundless.

Nevertheless, our Government is still sound by four "safeguards" which were recommended by the Joint Chiefs at that time and exacted by suspicious legislators in return for approving the treaty. These so-called safeguards include the maintenance of nuclear weapons laboratories at peak efficiency and capacity, constant readiness to test nuclear weapons in the atmosphere, and the conduct of an aggressive underground nuclear test program. These programs have cost the taxpayers literally billions of dollars over the past 8 years. It is time—long past time—to let them fade away.

As for the proposed comprehensive test ban treaty, I do not intend to become mired in the quicksands of arguments supporting or opposing this or that number of onsite inspections. Nor shall I attempt to explore the possibilities of hiding illegal nuclear weapons tests in natural earthquakes or masking their size through various diabolical techniques. Dr. John Foster, Director of Research and Engineering in the Department of Defense, and his opposite number in the Soviet Union, can doubtless dream up ways to "cheat" on any arms control treaty either nation might sign, if they continue to be provided with the funds and the will to do so.

When will we begin to use a little commonsense in these life and death matters? The Soviets have not abrogated the limited test ban treaty. Why should they now abrogate a comprehensive test ban treaty? They can simply refuse to sign it, as they have before. Then the onus for continuing the arms spiral will be on them.

Our nuclear weapons technology is in fact what the weapons experts call "mature." That means that we have reached the point of diminishing returns on further testing. I should like to read to you the figures supplied to me by the Atomic Energy Commission since the Amchitka test on the total numbers of tests conducted in the atmosphere, under the sea, and under the ground by the Soviet Union and the United States. They are:

	U.S.	U.S.S.R.
Underground	336	59
Atmospheric	181	124
Underwater	5	1
	522	184

These figures indicate that we have a 4-to-1 lead in all types of nuclear test explosions and about a 6-to-1 lead in underground tests.

It appears that every scientist of note who through government service has had access to the facts of nuclear weaponry agrees that it is time to stop this continuously dangerous test program. The environmentalists certainly oppose it. Only a few diehards in the Pentagon, and a few politicians who, for undeclared purposes, desire to continue the arms spiral, press for continuation.

The former Director of the Arms Control and Disarmament Agency, William C. Foster, in a speech at Fairleigh Dickinson College February 21 of this year, stated categorically:

> It is fully within our scientific competence to monitor . . . a total test ban. With our present means of instrumentation and other sources of information, it is not conceivable that the Soviets could carry out clandestine testing *on a scale which could affect the strategic balance.* (Emphasis added.)

William Foster went on to point out that the risks of continuing the arms race are infinitely greater than the miniscule risks of undetected violation. A comprehensive test ban, he said, would "deal a blow at the very heart of the nuclear arms race." He believes that a total test ban would make progress on the limitation of strategic nuclear weapons—that is, progress at the SALT talks—much more likely.

There is an argument to the effect that nuclear testing is needed to assure the continuing reliability of our nuclear deterrent. In answer to this, let me read a sentence from a recent report of the Subcommittee on Arms Control, International Law, and Organization of the Senate Foreign Relations Committee, as follows:

> Any diminution of confidence in the reliability of the nuclear stockpile should operate with comparable effect on all nuclear powers which are parties to [a comprehensive test ban] treaty, and hence a CTB could be a stabilizing factor *which would actually enhance the existing state of mutual deterrence.* (Emphasis added.)

In other words, under a total test ban agreement, any limitations on us, would be equally operable on them. It is as if the referee in a boxing match said, "OK, fellahs, I am going to tie one of your hands behind your backs."

And we are going to have to agree to keep one hand tied behind our backs. David Packard, the Deputy Director of the Department of Defense, in a remarkable conversation with the Aviation Space Writers Association at the National Press Club on October 21, 1971, put it this way, and I quote from an unofficial transcript:

> I think we're in a situation today that almost any conceivable nuclear exchange is going to be almost unlivable for both the Soviet Union and the U.S. So, when you talk about superiority in terms of nuclear war, the question of whether you have a few more or less is not really the issue.
>
> Both the U.S. and the Soviet Union have adequate number of weapons that [sic] a nuclear war is unthinkable today, particularly in terms of what it was 10 or 15 years ago; it was unthinkable then but it's just completely unthinkable today.

The Deputy Secretary of Defense says the nuclear war is unthinkable. Let us pause a moment to think about the unthinkable. Let us resolve to make it impossible. And the sooner the better.

Finally, I should like to urge my colleagues to recall that in two separate treaties within this past decade, this Nation solemnly pledged to work for "discontinuance of all test explosions of nuclear weapons for all time," and agreed to continue negotiations to this end. This was the language incorporated into the limited test ban treaty of 1963. The same pledge was made by us in the preamble of the nonproliferation treaty which came into force on March 5, 1970, having been consented to by the Senate on March 13, 1969, and signed by the President on November 24, 1969.

We have made some progress in the past decade in getting this genie of nuclear weapons back into its bottle. China's entry into the world family of nations is an encouraging development and it may soon be possible to conduct arms control negotiations with China.

Certainly, China's statement at the United Nations that she will never be the first to use nuclear weapons should be welcomed by all nations, and a similar pledge should be made by the United States and the other nuclear powers.

At a time when we see an old war continuing in Indochina, a new one developing between India and Pakistan, and the Middle East still standing on the precipice of armed conflict, the United States has an obligation to change those policies that, by example, encourage other nations to attempt to resolve disputes by military force.

As the House knows, I believe our Government should promptly withdraw all its forces from Indochina. This action, together with a moratorium on nuclear testing as a prelude to a comprehensive nuclear test ban, could dramatically change the international situation and strengthen the hopes of all mankind for world peace. These two steps can be taken by the President without his having to set foot out of the White House. They would certainly make his coming visits to China, the Soviet Union and other foreign countries much more productive.

I know that my colleagues in the House share my concern on these issues, and I hope that this resolution will receive speedy consideration.

The resolution follows:

H. Con. Res. 480

Concurrent Resolution expressing the sense of Congress that the President should take the necessary steps to initiate active negotiations seeking agreement with the Soviet Union on a comprehensive ban on all nuclear tests, explosions, to work towards extension of a prohibition against nuclear testing to the other nuclear powers, including France and China, and to declare and observe an indefinite moratorium on all nuclear test explosions

Whereas, the United States solemnly pledged itself in both the Limited Test Ban Treaty and the Nonproliferation Treaty to work towards "discontinuance of all test explosions of nuclear weapons for all time" and to continue negotiations to this end; and,

Whereas, the security of our nation and of all mankind is diminished by the continuing upward spiral of the nuclear arms race; and,

Whereas, due to progress in methods of detection, the risks of "cheating" on underground nuclear tests are now virtually nil; and,

Whereas, such "cheating," if it occurred, could in no way affect the military strategic balance; and,

Whereas, a comprehensive ban on nuclear weapons test explosions would stabilize and retard the arms race and make early agreement among the nuclear powers on a mutual limitation on strategic nuclear weapons much more likely; and,

Whereas the requirements of national security include the health, prosperity and well-being of our citizens, the soundness of our economy and the reduction of tensions at home and abroad;

Resolved by the House of Representatives (the Senate concurring), that it is the sense of Congress that the President should immediately take the necessary steps to initiate active negotiations seeking agreement with the Soviet Union on a comprehensive ban on all nuclear test explosions; and,

Resolved further, that it is the sense of Congress that the President should take the necesary steps to work toward extension of a prohibition against nuclear testing to the other nuclear powers, including France and China; and,

Resolved further, that it is the sense of Congress that the President should immediately declare an indefinite moratorium on all nuclear test explosions.

[KENNEDY LETTER, SEPTEMBER 11]

LETTER FROM PRESIDENT KENNEDY TO SENATORS MANSFIELD AND DIRKSEN REGARDING THE TEST-BAN TREATY, SEPTEMBER 11, 1963[1]

DEAR SENATOR MANSFIELD AND SENATOR DIRKSEN: I am deeply appreciative of the suggestion which you made to me on Monday morning that it would be helpful to have a further clarifying statement about the policy of this Administration toward certain aspects of our nuclear weapons defenses, under the proposed test ban treaty now before the Senate.[2] I share your view that it is desirable to dispel any fears or concerns in the minds of Senators or of the people of our country on these matters. And while I believe that fully adequate statements have been made on these matters before the various committees of the Senate by the Secretary of State,[3] the Secretary of Defense,[4] the Director of Central Intelligence, the Chairman of the Atomic Energy Commission, and the Joint Chiefs of Staff, nevertheless I am happy to accept your judgment that it would be helpful if I restated what has already been said so that there may be no misapprehension.

In confidence that the Congress will share and support the policies of the Administration in this field, I am happy to give these unqualified and unequivocal assurances to the members of the Senate, to the entire Congress, and to the country:

1. Underground nuclear testing, which is permitted under the treaty, will be vigorously and diligently carried forward, and the equipment, facilities, personnel and funds necessary for that purpose will be provided. As the Senate knows, such testing is now going on. While we must all hope that at some future time a more comprehensive treaty may become possible by changes in the policies of other nations, until that time our underground testing program will continue.

2. The United States will maintain a posture of readiness to resume testing in the environments prohibited by the present treaty, and it will take all the necessary steps to safeguard our national security in the event that there should be an abrogation or violation of any treaty provision. In particular, the United States retains the right to resume atmospheric testing forthwith if the Soviet Union should conduct tests in violation of the treaty.

3. Our facilities for the detection of possible violations of this treaty will be expanded and improved as required to increase our assurance against clandestine violation by others.

4. In response to the suggestion made by President Eisenhower to the Foreign Relations Committee on August 23, 1963,[5] and in conformity with the opinion of the Legal Adviser of the Department of State, set forth in the report of the Committee on Foreign Relations,[6] I am glad to emphasize again that the treaty in no way limits the authority of the Commander-in-Chief to use nuclear weapons for the defense of the United States and its allies, if a situation should develop requiring such a grave decision. Any decision to use such weapons would be made by the United States in accordance with its Constitutional processes and would in no way be affected by the terms of the nuclear test ban treaty.

5. While the abnormal and dangerous presence of Soviet military personnel in the neighboring island of Cuba is not a matter which can be dealt with through the instrumentality of this treaty, I am able to assure the Senate that if that unhappy island should be used either directly or indirectly to circumvent or nullify this treaty, the United States will take all necessary action in response.

6. The treaty in no way changes the status of the authorities in East Germany. As the Secretary of State has made clear, "We do not recognize, and we do not intend to recognize, the Soviet occupation zone of East Germany as a state or as an entity possessing national sovereignty, or to recognize the local authorities as a government. Those authorities cannot alter these facts by the act of subscribing to the test ban treaty."[7]

7. This Government will maintain strong weapons laboratories in a vigorous program of weapons development, in order to ensure that the United States will continue to have in the future a strength fully adequate for an effective national defense. In particular, as the Secretary of Defense has made clear, we will maintain strategic forces fully ensuring that this nation will continue to be in a position to destroy any aggressor, even after absorbing a first striking by a surprise attack.[8]

8. The United States will diligently pursue its programs for the further development of nuclear explosives for peaceful purposes by underground tests within the terms of the treaty, and as and when such developments make possible constructive uses of atmospheric nuclear explosions for peaceful purposes, the United States will seek international agreement under the treaty to permit such explosions.

I trust that these assurances may be helpful in dispelling any concern or misgivings which any member of the Senate or any citizen may have as to our determination to maintain the interests and security of the United States. It is not only safe but necessary, in the interest of this country and the interest of mankind, that this treaty should now be approved, and the hope for peace which it offers firmly sustained, by the Senate of the United States.

Once more, let me express my appreciation to you both for your visit and for your suggestions

Sincerely,

JOHN F. KENNEDY.

MCNAMARA-SEABORG LETTER, APRIL 16

LETTER FROM SECRETARY OF DEFENSE MCNAMARA AND AEC CHAIRMAN SEABORG TO PRESIDENT JOHNSON: IMPLEMENTATION OF TEST-BAN TREATY SAFEGUARDS, APRIL 16, 1964[1]

DEAR MR. PRESIDENT: The Department of Defense and the Atomic Energy Commission have reviewed the status of our joint progress on the implementation of the limited test ban treaty safeguards recommended by the Joint Chiefs of Staff and approved by President Kennedy.

The status of implementation of the safeguards is as follows:

SAFEGUARD 1

"The conduct of comprehensive, aggressive, and continuing underground nuclear test programs designed to add to our knowledge and improve our weapons in all areas of significance to our military posture for the future."

In the eight months since the signing of the limited test ban treaty, the United States has announced a total of 20 underground detonations. The test program has in fact been more extensive than this since it has been and will continue to be the policy that the AEC will not announce all detonations at the Nevada Test Site.

Important information has been obtained on new weapons designs and weapons effects. The highest yield nuclear device ever detonated in the continental United States was fired underground at the Nevada Test Site. Weapons effects tests have been carried out underground and others are being planned and prepared.

SAFEGUARD 2

"The maintenance of modern nuclear laboratory facilities and programs in theoretical and exploratory nuclear technology which will attract, retain and insure the continued application of our human scientific resources to these programs on which continued progress in nuclear technology depends."

During Fiscal Year 1964, the AEC and DoD will spend about $350 million on weapons development and effects laboratory research. During this period, over $25 million will be expended on improvements of AEC nuclear laboratory facilities. Technical programs are being maintained at a high level to meet military requirements and increased effort is being placed on research and development programs to gain more fundamental knowledge in nuclear weapons technology.

Program adjustments are underway in the Department of Defense weapons effects laboratories. These adjustments are designed to emphasize development of improved laboratory simulation and analytical approaches to weapons effects problems, as well as full exploitation of underground testing.

SAFEGUARD 3

"The maintenance of the facilities and resources necessary to institute promptly nuclear tests in the atmosphere should they be deemed essential to our national security or should the treaty or any of its terms be abrogated by the Soviet Union."

The DoD and AEC are proceeding on schedule, with the development of a capability "to institute promptly nuclear weapons tests in the atmosphere" on minimum reaction times. As of January 1, 1965, the United States will have the capability to proceed with: (a) tests to verify designs of stockpile weapons within two months; (b) tests of entire nuclear weapons systems, including delivery vehicles, missile and nuclear warhead proof tests within two months; (c) tests of experimental devices designed to explore new concepts of nuclear weapons technology within three months; and (d) tests relating to military effects of nuclear detonations within a period of six to nine months.

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[1] *Department of State Bulletin*, Sept. 30, 1963, pp. 496–498.

[2] *Ante*, pp. 291–293.

[3] *Ante*, pp. 302–311.

[4] *Ante*, pp. 312–326.

[5] Nuclear Test Ban Treaty: *Hearings Before the Committee on Foreign Relations, United States Senate, Eighty-eighth Congress, First Session, on Executive M, 88th Congress, 1st Session*, pp. 846–848.

[6] *Ante*, pp. 343–346.

[7] *Ante*, p. 308.

[8] See *ante*, p. 313.

[1] White House press release, Apr. 20, 1964. The White House also made the following statement:

"In releasing this letter, the President reemphasized the statement he made today in a speech before the Associated Press [*infra*] that his administration is committed to the policy first expressed in the four points in President Kennedy's letter to Senators Mansfield and Dirksen on September 11, 1963 [*Documents on Disarmament, 1963*, pp. 489–490]. These four points were restated in the McNamara-Seaborg letter released today.

"The President also pointed out that while an adequate underground testing program is, under present circumstances, essential to our national security, the United States continues to be alert to possibilities for the relaxation of tensions and the building of a permanent peace. Although we are testing nuclear weapons as now permitted by the limited test ban treaty [*ibid.*, pp. 291–293], we still support a complete cessation of all testing of nuclear weapons accompanied by an adequate system of inspection to insure both sides against violations. The United States Government is ready at any time to negotiate a treaty providing for such a comprehensive test ban."

SAFEGUARD 4

"The improvement of our capability, within feasible and practical limits, to monitor the terms of the treaty, to detect violations, and to maintain our knowledge of the Sino-Soviet nuclear activity, capabilities, and achievements.

The Atomic Energy Detection System is being augmented to improve our capability to monitor atmospheric tests by other countries and to improve our identification ability at higher altitudes. Studies are continuing in ways and means to improve detection techniques and systems for both underground and space shots. The detonations at the Nevada Test Site are providing valuable information to improve techniques for detection of underground nuclear shots. A nuclear experiment designed specifically to provide data for improvement of underground nuclear shots. A nuclear experiment designed specifically to provide data for improvement of underground detection systems was executed on October 26, 1963, near Fallon, Nevada. Construction is proceeding for other experiments designed to investigate the phenomenology of underground detonations. In mid-October 1963 an Atlas Agena rocket successfully placed into orbit two instrumented satellites designed for the detection of nuclear explosions in deep space. Work is continuing on ground based detectors of nuclear explosions in space.

We will be pleased to discuss any aspects of these programs at your convenience.

Respectfully yours,
ROBERT S. MCNAMARA,
Secretary of Defense.
GLENN T. SEABORG,
Chairman, Atomic Energy Commission.

[Limited Test Ban Treaty Preamble, 1963]

TREATY BANNING NUCLEAR WEAPON TESTS IN THE ATMOSPHERE, IN OUTER SPACE AND UNDER WATER

The Governments of the United States of America, the United Kingdom of Great Britain and Northern Ireland, and the Union of Soviet Socialist Republics, hereinafter referred to as the "Original Parties",

Proclaiming as their principal aim the speediest possible achievement of an agreement on general and complete disarmament under strict international control in accordance with the objectives of the United Nations which would put an end to the armaments race and eliminate the incentive to the production and testing of all kinds of weapons, including nuclear weapons,

Seeking to achieve the discontinuance of all test explosions of nuclear weapons for all time, determined to continue negotiations to this end, and desiring to put an end to the contamination of man's environment by radioactive substances,

Have agreed as follows:

ARTICLE I

1. Each of the Parties to this Treaty undertakes to prohibit, to prevent, and not to carry out any nuclear weapon test explosion, or any other nuclear explosion, at any place under its jurisdiction or control:

(a) in the atmosphere; beyond its limits, including outer space; or underwater, including territorial waters or high seas; or

(b) in any other environment if such explosion causes radioactive debris to be present outside the territorial limits of the State under whose jurisdiction or control such explosion is conducted. It is understood in this connection that the provisions of this subparagraph are without prejudice to the conclusion of a treaty resulting in the permanent banning of all nuclear test explosions, including all such explosions underground, the conclusion of which, as the Parties have stated in the Preamble to this Treaty, they seek to achieve.

2. Each of the Parties to this Treaty undertakes furthermore to refrain from * * *

TREATY ON THE NONPROLIFERATION OF NUCLEAR WEAPONS. JULY 1, 1968 [70]

The States concluding this Treaty, hereinafter referred to as the "Parties to the Treaty",

Considering the devastation that would be visited upon all mankind by a nuclear war and the consequent need to make every effort to avert the danger of such a war and to take measures to safeguard the security of peoples,

Believing that the proliferation of nuclear weapons would seriously enhance the danger of nuclear war,

In conformity with resolutions of the United Nations General Assembly calling for the conclusion of an agreement on the prevention of wider dissemination of nuclear weapons,

Undertaking to cooperate in facilitating the application of International Atomic Energy Agency safeguards on peaceful nuclear activities,

Expressing their support for research, development and other efforts to further the application, within the framework of the International Atomic Energy Agency safeguards system, of the principle of safeguarding effectively the flow of source and special fissionable materials by use of instruments and other techniques at certain strategic points,

Affirming the principle that the benefits of peaceful applications of nuclear technology, including any technological by-products which may be derived by nuclear-weapon States from the development of nuclear explosive devices, should be available for peaceful purposes to all Parties to the Treaty, whether nuclear-weapon or non-nuclear-weapon States.

Convinced that, in furtherance of this principle, all Parties to the Treaty are entitled to participate in the fullest possible exchange of scientific information for, and to contribute alone or in cooperation with other States to, the further development of the applications of atomic energy for peaceful purposes,

Declaring their intention to achieve at the earliest possible date the cessation of the nuclear arms race and to undertake effective measures in the direction of nuclear disarmament,

Urging the cooperation of all States in the attainment of this objective,

Recalling the determination expressed by the Parties to the 1963 Treaty banning nuclear weapon tests in the atmosphere in outer space and under water in its Preamble to seek to achieve the discontinuance of all test explosions of nuclear weapons for all time and to continue negotiations to this end,[71]

Desiring to further the easing of international tension and the strengthening of trust between States in order to facilitate the cessation of the manufacture of nuclear weapons, the liquidation of all their existing stockpiles, and the elimination from national arsenals of nuclear weapons and the means of their delivery pursuant to a treaty on general and complete disarmament under strict and effective international control,

Recalling that, in accordance with the Charter of the United Nations, States must refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the Purposes of the United Nations, and that the establishment and maintenance of international peace and security are to be promoted with the least diversion for armaments of the world's human and economic resources,

Have agreed as follows:

ARTICLE I

Each nuclear-weapon State Party to the Treaty undertakes not to transfer to any recipient whatsoever nuclear weapons or other nuclear explosive devices or control over such weapons or explosive devices directly, or indirectly; and not in any way to assist, encourage, or induce any non-nuclear-weapon State to manufacture or otherwise acquire nuclear weapons or other nuclear explosive devices, or control over such weapons or explosive devices.

ARTICLE II

Each non-nuclear weapon State Party to the Treaty undertakes not to receive the transfer from any transferor whatsoever of nuclear weapons or other nuclear explosive devices or of control over such weapons or explosive devices directly, or indirectly; not to manufacture or otherwise acquire nuclear weapons or other nuclear explosive devices; and not to seek or receive any assistance in the manufacture of nuclear weapons or other nuclear explosive devices.

ARTICLE III

1. Each non-nuclear weapon State Party to the Treaty undertakes to accept safeguards, as set forth in an agreement to be negotiated and concluded with the International Atomic Energy Agency in accordance with the Statute of the International Atomic Energy Agency[72] and the Agency's safeguards system, for the exclusive purpose of verification of the fulfillment of its obligations assumed under this Treaty with a view to preventing diversion of nuclear energy from peaceful uses to nuclear weapons or other nuclear explosive devices.

FOOTNOTES

[70] ACDA files. The treaty was opened for signature on July 1, 1968, at Washington, London, and Moscow. The following countries signed it on that date at Washington: Afghanistan, Austria, Barbados, Bolivia, Botswana, Bulgaria, Ceylon, China, Colombia, Costa Rica, Cyprus, Czechoslovakia, Dahomey, Denmark, Dominican Republic, El Salvador, Finland, Ghana, Greece, Haiti, Honduras, Hungary, Iceland, Iran, Ireland, Ivory Coast, Kenya, Korea, Laos, Lebanon, Liberia, Malaysia, Mauritius, Morocco, Nepal, New Zealand, Nicaragua, Nigeria, Norway, Panama, Paraguay, Peru, Philippines, Poland, Romania, San Marino, Senegal, Somalia, Togo, Tunisia, U.K., U.S., U.S.S.R., Uruguay, Venezuela, Vietnam. The U.S., the U.K., the U.S.S.R., and many of these countries also signed the treaty at London and Moscow. The U.A.R. signed it at Moscow and London. The treaty was signed at Moscow by Chad, the so-called German Democratic Republic, Iraq, Mongolia, and Syria. For the U.S. attitude toward signature by the G.D.R. or other unrecognized regimes, see statement of June 12 by Ambassador Goldberg (*Department of State Bulletin,* July 1, 1965, pp. 7–8).

[71] *Documents on Disarmament, 1963,* pp. 291–293.

[72] *American Foreign Policy: Current Documents, 1956*, p. 915.

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We have also been talking in Geneva about other first-step measures of arms control, designed to limit the intensity of the arms race and to reduce the risks of accidental war. Our primary long-range interest in Geneva, however, is general and complete disarmament, designed to take place by stages, permitting parallel political developments to build the new institutions of peace which would take the place of arms. The pursuit of disarmament has been an effort of this Government since the 1920's. It has been urgently sought by the past three administrations. And however dim the prospects may be today, we intend to continue this effort—to continue it in order that all countries, including our own, can better grasp what the problems and possibilities of disarmament are.

The one major area of these negotiations where the end is in sight, yet where a fresh start is badly needed, is in a treaty to outlaw nuclear tests. The conclusion of such a treaty—so near and yet so far—would check the spiraling arms race in one of its most dangerous areas. It would place the nuclear powers in a position to deal more effectively with one of the greatest hazards which man faces in 1963, the further spread of nuclear arms. It would increase our security; it would decrease the prospects of war. Surely this goal is sufficiently important to require our steady pursuit, yielding neither to the temptation to give up the whole effort nor the temptation to give up our insistence on vital and responsible safeguards.

I am taking this opportunity, therefore, to announce two important decisions in this regard.

First: Chairman Khrushchev, Prime Minister Macmillan, and I have agreed that high-level discussions will shortly begin in Moscow looking toward early agreement on a comprehensive test ban treaty. Our hopes must be tempered with the caution of history, but with our hopes go the hopes of all mankind.

Second: To make clear our good faith and solemn convictions on the matter, I now declare that the **United States does not propose** to conduct nuclear tests in the atmosphere so long as other states do not do so. We will not be the first to resume. Such a declaration is no substitute for a formal binding treaty, but I hope it will help us achieve one. Nor would such a treaty be a substitute for disarmament, but I hope it will help us achieve it.

PAYMENT OF CLAIMS RESULTING FROM DAMAGE ASSOCIATED WITH METRO CONSTRUCTION

The SPEAKER pro tempore. Under a previous order of the House the gentleman from California (Mr. McFall) is recognized for 5 minutes.

Mr. McFALL. Mr. Speaker, during the consideration of the supplemental appropriations bill—H.R. 11955—a question was asked me concerning the payment of claims for damages incidental to the construction of the Metro system.

Subsequent to that inquiry, I requested that the Washington Metropolitan Area Transit Authority provide a statement on this subject. Their statement is as follows:

> ### Cost of Damage Associated with Metro Construction
>
> In all construction projects, it is anticipated that some damage may be occasioned through circumstances unforeseen by the contractors. For this reason, contractors are required to be covered by sufficient insurance to meet any claims which may develop.
>
> Thus far Metro has had little experience in this regard. Some superficial damage resulted in connection with the underpinning of the Smithsonian Fine Arts Gallery. The cost of this will be covered by the contractor. It has been erroneously reported that some damage was caused to the Treasury Department Building. This report is incorrect. The only damage in the vicinity of the Treasury relates to cracks in sidewalks. These will be repaired by the contractors.
>
> In short, damages incidental to construction will not increase cost of Metro.

ADDITIONAL SPONSORS IN REFILING THE FOREIGN TRADE AND INVESTMENT ACT OF 1972

The SPEAKER pro tempore. Under a previous order of the House the gentleman from Massachusetts (Mr. Burke) is recognized for 5 minutes.

Mr. BURKE of Massachusetts. Mr. Speaker, my action today in refiling the Foreign Trade and Investment Act of 1972 with 24 additional cosponsors should be viewed against the depressing backdrop of dismal unemployment figures, dismal trade figures, and dismal balance-of-payment figures that we have been experiencing these past few months. Legislation as complicated and far reaching as this act does not pick up support all that easily. Members who agreed to cosponsor this legislation know full well they are cosponsoring controversial legislation. Thus, just as it is true that legislation such as this would not have been filed in the first place were it not for the serious situation our country is facing, it is also the reason why so many have since agreed to cosponsor it. In fact, they were compelled to do so because of the extreme gravity of the economic crisis currently facing this country. The last thing that this Nation can afford at the present moment is more unemployment from any cause. When a cause such as cheap foreign imports is so easily singled out as a major contributor to the serious decline into which many of our key industries have fallen lately, then it is time to act. Certainly it is time to begin to act, for Congress to begin consideration of remedial legislation. In this case, nothing more nor less than a complete review of this Nation's existing trade policies is in order. As I said the other day:

> If there is a need for action on the domestic front in the form of phase I and phase II, there is as much need for action on the international front. Without such corresponding action, phase I and phase II will be doomed to failure.

Therefore, I am very happy to be welcoming to the ranks of the ad hoc committee to save our jobs, 24 new members; I am particularly pleased that a number of my colleagues on the Ways and Means Committee, which has jurisdiction in this area, have seen fit to join me in this important legislation. I am also proud that a number of Members have seen fit to file in their own name legislation either exactly the same as mine or a modified version. These, too, I welcome to the save our jobs committee of the House of Representatives. The complete list of the committee is as follows:

Bella S. Abzug, New York; Joseph P. Addabbo, New York; Frank Annunzio, Illinois; William A. Barrett, Pennsylvania; and Nick Begich, Alaska.

Tom Bevill, Alabama; Ray Blanton, Tennessee; Edward P. Boland, Massachusetts; Frank J. Brasco, New York; and Jack Brinkley, Georgia.

James A. Byrne, Pennsylvania; Goodloe E. Byron, Maryland; Charles J. Carney, Ohio; Shirley Chisholm, New York; and Frank M. Clark, Pennsylvania.

James C. Cleveland, New Hampshire; George W. Collins, Illinois; William R. Cotter, Connecticut; Dominick V. Daniels, New Jersey; and George E. Danielson, California.

John H. Dent, Pennsylvania; Thaddeus J. Dulski, New York; Joshua Eilberg, Pennsylvania; Daniel J. Flood, Pennsylvania; and Richard H. Fulton, Tennessee.

Edward A. Garmatz, Maryland; Joseph M. Gaydos, Pennsylvania; Ella T. Grasso, Connecticut; William J. Green, Pennsylvania; and Charles H. Griffin, Mississippi.

Seymour Halpern, New York; James M. Hanley, New York; William D. Hathaway, Maine; Augustus F. Hawkins, California; and Ken Hechler, West Virginia.

Louise Day Hicks, Massachusetts; Ed Jones, Tennessee; James Kee, West Virginia; Peter N. Kyros, Maine; and Mike McCormack, Washington.

Joseph M. McDade, Pennsylvania; Spark M. Matsunaga, Hawaii; Ralph H. Metcalfe, Illinois; Joseph G. Minish, New Jersey; and Robert H. Mollohan, West Virginia.

Thomas E. Morgan, Pennsylvania; John M. Murphy, New York; Robert N. C. Nix, Pennsylvania; Carl D. Perkins, Kentucky; Bertram L. Podell, New York; and Melvin Price, Illinois.

James H. Quillen, Tennessee; Roman C. Pucinski, Illinois; William J. Randall, Missouri; Teno Roncalio, Wyoming; Fernand J. St Germain, Rhode Island; and John P. Saylor, Pennsylvania.

Robert L. F. Sikes, Florida; John M. Slack, West Virginia; Harley O. Staggers, West Virginia; Samuel S. Stratton, New York; Robert O. Tiernan, Rhode Island; Joe D. Waggonner Jr., Louisiana; and Gus Yatron, Pennsylvania.

FELONIOUS ASSAULTS AGAINST FIREMEN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. James V. Stanton) is recognized for 15 minutes.

Mr. JAMES V. STANTON. Mr. Speaker, I take no joy in doing this, but it is imperative that I set the Record straight on the personal danger that confronts the firefighters of this Nation and that brings anxiety to their families. Who would believe that the Nixon administration, which has produced reams of propaganda about law and order, would profess not to know that our city firemen literally place their lives in jeopardy every day that they report for duty? Time and again, this Congress has been given the facts on this situation, yet we find that on November 30 an administration spokesman made an appearance before Members of the Senate and said:

> By and large, they (the firefighters) are not victims of felonious assaults.

The witness, Mr. Speaker, was Richard Velde of the Law Enforcement Assistance Administration. He was objecting to a proposal under which the families of firemen would be included in legislation that provides a $50,000 death benefit when law enforcement officers get killed while performing their duty.

I would like to know, Mr. Speaker, how many more firemen will have to lose their lives, or be wounded, or be shot at, or become the target of rocks and other missiles, before the administration will bring itself to admit that what we are dealing with may safely be defined as "felonious assaults?" I, for one—and I am certain this is true of most of my colleagues here—became convinced of this fact a long time ago. I have statistics which I am about to produce, but I want to say first that, long before I obtained these figures, I was aware of what was happening. In fact, virtually every citizen knows this. Is it possible that the administration is ignorant of what is going on?

As a citizen of Cleveland, Ohio, I know that about a dozen bullets were sent crashing into a fire station at East 105th Street and Superior Avenue about a year and a half ago. I know that the men working out of that station were returning from a false alarm a short time afterward and were fired at four times by snipers. I know that a fire station at East 66th Street and Chester Avenue twice became the target of snipers, the first assault occurring while two firemen stood on the sidewalk in front of the station. I know that firemen working out of the station at East 79th Street and Holton Avenue were stoned when they responded to still another alarm.

I know too, Mr. Speaker, because I come from a family of firefighters, that these hazards are not part of custom or tradition. They constitute new perils that afflict these public servants as a result of the troubled times we live in. I recall the stories I was told about my grandfather, the late Fire Lieutenant Peter McFadden. When he would arrive at the scene of a fire, half the neighborhood would turn out to help the firemen in any way they could. Today, my brother Thomas Stanton, also a firefighter, often finds himself in need of a police escort when he rushes to the scene of a conflagration. He goes there to save lives, and then finds that his own life is threatened.

Mr. Speaker, on the same day that Mr. Velde gave his testimony on behalf of the administration, a statement was submitted to the Senate Subcommittee on Criminal Laws and Procedures by the International Association of Firefighters. This statement asserted:

> The Federal Government's own investigation into the loss of life and injury during the riots of Watts, Detroit, Newark and Cleveland showed that firefighters suffered more casualties than police officers.

One year ago, a House judiciary subcommittee was advised by this same organization:

> Any discussion of firefighting today must include acknowledgment of a new hazard. Fire fighters are prime targets—sitting ducks—to those who foment and promote civil disorders. Virtually every city in the land is experiencing a fantastic increase in the number of false alarms to which firefighters must respond. A firefighter is just as dead when killed by a fall from his truck as he is when killed in a burning building. And every additional false alarm increases the chances of such a fatal accident. A firefighter is just as dead when killed by a sniper's bullet as he is when killed in a burning building. And our newspapers and other news media have been filled with stories of sniping attacks on firefighters during times of civil disorder. Indeed, one study of civil disturbances in 11 cities reported four firefighters killed and some 400 injured, a greater toll than that suffered by police.

At about the same time, the Senate Internal Security Subcommittee heard this testimony from the firefighters' organization:

> If there is a conspiracy against the establishment, and we believe there is, we firefighters are a part of the establishment, and in our every day work are sitting ducks for attacks from this sick element in our society. Will you picture in your mind a firefighter on a ladder silhouetted against a fire-filled window—what a target for that sniper atop the building across the street.
>
> Do you gentlemen, of this Committee, realize that in many of our cities fire equipment will not roll into certain sections until police protection arrives, and when attacks, throwing of rocks and bottles, and sniper fire become too intense, the firefighter is under orders to withdraw and let the fire rage until it burns itself out. This is an intolerable situation and a solution must be found.

The facts are, Mr. Speaker, that from 1967 to 1969, over 600 firefighters were injured during civil disorders. In 1970, 195 firefighters were injured during such disturbances, and an additional 113 sustained injuries due to acts of individual violence. In my own vocabulary, these are felonious assaults.

However, as I pointed out to my colleagues here yesterday, it is not only policemen and firemen who are threatened—or who feel threatened. All persons involved in law enforcement, public safety work, and the administration of criminal justice, with their families, have become the victims of fear. For this reason, I have introduced legislation, H.R. 11677, which extends the $50,000 death benefit coverage to all these public servants. For technical reasons, I have also introduced a companion bill, H.R. 11993: I expect hearings to be scheduled early next year on one or both of these bills, and I urge all my colleagues here to support the legislation.

At this time, as another showing of the scope of this problem, I would like to commend to the attention of my colleagues a letter I received today from the Chief Probation Officer of the Cleveland Municipal Court. The letter follows:

CLEVELAND MUNICIPAL COURT,
PROBATION DEPARTMENT,
Cleveland, Ohio, December 7, 1971.

Hon. JAMES V. STANTON,
Congress of the United States,
Washington, D.C.

DEAR JIM: It was with relief that I read the copy of your bill since each working day begins with fear and trepidation as our probation officers set out to visit the homes of their probationers. No area is safe and many persons have suggested that we discontinue field calls. I have resisted setting such a policy since our work requires a close relationship with persons placed on probation by the court. Our offenders are misdemeanants, often thought of as persons in trouble rather than criminals. If we are to succeed even remotely in our efforts to help them become productive members of society, we must do so by individualized counselling through the establishment of a professional relationship based on knowledge, confidence and trust. Such a relationship must be preceded by getting to know the person in his individual milieu.

Our departmental problems in this area have to date been somewhat minor, but the atmosphere of fear prevails. It is only just that in the event of the death of a probation officer, some consideration might be given to his family. I would wish that your bill could include some plan for compensation in the event of attack and injury.

Thank you for your consideration of this problem and I wish you unqualified success.

Sincerely,

MARY E. BUSHER,
Chief Probation Officer.

GENERAL LEAVE TO EXTEND

Mr. KEE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks and to include extraneous matter on the conference report on House Concurrent Resolution No. 6.

The SPEAKER pro tempore (Mr. GONZALEZ). Is there objection to the request of the gentleman from West Virginia?

There was no objection.

GENERAL LEAVE

Mr. KEE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks and to include extraneous matter on the special order given today by the gentleman from Indiana (Mr. BRADEMAS).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

REMARKS OF GENERAL STILLWELL TO THE GRADUATING CLASS OF THE INTERNATIONAL POLICE ACADEMY

(Mr. HALL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. HALL. Mr. Speaker, on November 5, 1971, the International Police Academy, a part of the Office of Public Safety of our Agency for International Development, graduated another class of security officers and national police officers, who come from many nations in the world to learn the techniques of law enforcement.

At the request of Mr. Byron Engle, Director of the Office of Public Safety, General Stillwell delivered the address at the graduating ceremony, a task that was enjoyed by this Member of Congress on an earlier occasion.

Herewith for the enlightenment of our colleagues, are the remarks of Gen. Richard Stillwell:

INTERNATIONAL POLICE ACADEMY GRADUATION

Members of the Diplomatic Corps, members of the graduating classes of the International Police Academy, Mr. Engle, Mr. Finn and distinguished guests:

There are several reasons why I consider it a privilege to have the opportunity to participate in this graduation ceremony.

The first—and most obvious—is to extend heartfelt congratulations to the 81 officers who have completed their studies at this Academy. Each of you has full reason to be proud of the achievement this graduation represents. Even cursory examination of the several curricula makes one appreciate that these past few weeks have placed heavy demands on mind and spirit—in terms of intellectual concentration and exercise of reasoning powers; in terms of absorption through linguistic and cultural barriers; and in terms of distilling from total intakes that which has application to your special environment and responsibilities.

This is a unique institution—one that exemplifies multi-lateral co-operation. Its real value and strength stem from the pooling of knowledge and experience, the sharing of problems (some peculiar to individual countries and some common to many) and the joint addressal of solutions. No one could have explained this synergistic effect better than did Commissioner Tapesar in his perceptive remarks. Thus, each participant contributes much and each gains more. And the Academy itself constitutes a permanent and expanding memory bank from which all can draw. This is the essence of a viable partnership among nations. So I'd like to pay homage to the late President Kennedy who inspired the concept; to the high-level group—chaired by Ambassador Alexis Johnson—that developed the design; and to the chief architect who translated blueprint into structure: my long time friend, Mr. Byron Engle. The two of us have been associated off and on for twenty years. I have a deep respect for him and for the Office of Public Safety over which he presides. The latter has contributed significantly to the collective security of the Free World.

Thirdly, this occasion allows me, as a representative of the Armed Forces, to express admiration for the professionalism and dedication of members of National Police Forces throughout the Free World. In more than three decades of soldiering—mostly abroad—I have had the good fortune to have been in many of the 22 countries you represent; and have rubbed shoulders with your fellow police officers in areas urban and rural, on highways, waterways and frontiers, during the conduct of investigations and in the combating of active insurgency. I have deep appreciation for the challenges and vicissitudes your organizations face, and full understanding of the vital role you play in the quest for the establishment for the rule of law—locally, nationally and throughout the international community.

The police officer and the soldier have much in common. Both wear a uniform; both are symbols of order and authority; both are sworn to defend the institutions and populace from enemies, foreign or domestic; and both are prepared to lay down their precious lives in the execution of their tasks. The policeman and soldier come from the people; their effectiveness depends on close affinity with and support of the people; and yet they are men apart. Neither the soldier nor the policeman get much in the way of intrinsic reward for the dangers to which exposed, the arduous conditions under which they operate or the relentless pressures which engulf them. The sustaining strength which makes soldier and policeman brave in battle, and circumspect of conduct before the civilian populace, is a deeply held belief in the supreme importance of their role as guardian of country and people.

These points of commonality between the military and the police in no way suggest interchangeability of roles. The enforcement of a country's laws, the guaranteeing of social justice, the collection, analysis and evaluation of intelligence vital to the security of the nation are all indisputable police tasks demanding the utmost professionalism and meticulous preparation. The vital and sensitive duties of search, arrest, criminal investigation, detention, and interrogation must be carried out with precision and in a framework of civil law which all understand. By the same token, a policeman cannot also be a field soldier, chasing guerrillas through mountains, jungle, and swamp. Consequently, one must be skeptical about programs for mobile police reserves, armed and equipped as light infantry and charged with tasks which parallel the traditional functions of the military.

Every country needs a police force. And every country—except those few fortunate enough to have no potential external threat—needs an Army. Each force has exclusive tasks which shape its doctrine, organization equipment and training. Conversely, each force has—or should have—the capability to complement and assist the work of the other. And indeed, experience of the past two decades—the world over—has taught us that mutual cooperation and support between the military and the police are vital to the security of countries threatened from within or without. Permit me just a few observations in this regard.

We of the military—while constantly prepared for war in the conventional sense—will hopefully always be in reserve; when and if required to do battle, it will normally be on the frontiers—apart from the populace. Not so the police. Your duties are constant, around the clock; and your "front lines" are in the midst of your countrymen. In any nation, a government's concern for the security and well-being of its citizens is manifested through its programs and the representatives who administer those programs at various echelons. The people's judgment of responsiveness of government to their basic needs will depend, in large measure, on the manner in which these representatives carry out their duties.

The police constitute the most visible link between the government and the people; and bear the enormous responsibility of carrying out the two most crucial obligations of any state: the maintenance of order and the protection of person and property. These are tough tasks under any circumstances; they are doubly so when banditry and terrorism and subversion are rife. They can only be accomplished by a police force that reflects high discipline, professionalism, scrupulous personal conduct and rigid observance of local custom. Conversely, the police force that can meet these basic needs of the people, can in fact be the "keepers of the law" and arbiters of social justice, will do more to insure local acceptance and support of the government than any other national instrument.

A police force which has demonstrated its competence, its interest, its objectivity will earn the respect of the population and the confidence that flows therefrom. A policeman isolated from the community has only one pair of eyes and ears—and these not fully effective. A policeman who is as one with the population finds he has 1000 eyes and ears. He will then be able to discern aberrations on the local scene, to have early evidence of incipient problems, to detect subversive activities outside the law. Such a police force can deal with threats to internal security in the early stages. And that is certainly the common objective!

In the turbulent years of 1964–65 in Vietnam, it was the absence of this kind of police force which led to the rapid loss of confidence of the people in the government and the equally rapid expansion of the Viet Cong structure and capabilities. When, at length, the rebuilding of the Vietnamese National Police Force was addressed, it proceeded all too slowly due to misjudgments as to correct priorities. Happily, the situation has since been rectified thanks to the diligent efforts of Mr. Engle's Office of Public Safety and key decisions by the Vietnamese Chief of State. In my estimate, a principal reason for the current advanced state of pacification throughout South Vietnam is the fact that over 50% of the National Police Force of over 110,000 is positioned at the village level.

There is at least one very major lesson from the Vietnam conflict with universal applicability. When a country is confronted by an aggravated threat to its internal security, the *first* countermeasure—and the *top* claimant for additional resources—*must* be the strengthening of the National Police.

The scope and diversity of specialized functions a National Police Force must perform are bewildering—even your wide ranging coverage here was not all-inclusive. A related fact is the limited human resources that a country can afford to put in uniform. We have a saying in our reducing Army, "every man must count." I submit this is a lesson to which the National Police must be attentive. This means a professional force—with high standards for acceptance and retention; and training programs which are rigorous and progressively more advanced. Poorly motivated and poorly trained policemen are worse than none at all. I remember the comments of Sir Robert Thompson in a field Special Branch installation in Southeast Asia two years ago. Twelve men proved incapable of dealing with the jobs at hand. Sir Robert's analysis was that two properly prepared men could easily accomplish what the twelve could not do.

While the primary responsibilities for maintenance of the rule of law and of internal security reside with the police, the military has key support roles on both an ad hoc and a continuing basis.

When police resources are inadequate to meet unexpected crises, the military should be called upon for reinforcement. The length of time required to field a professional policeman and the size of the training establishment preclude rapid expansion of the police force; furthermore, it would be an unwise diversion of resources to attempt such expansion for short term needs. Conversely, the military constitute a ready force-in-being to directly augment a police unit, or to cordon off an infected area or to help enforce population/resource control and perform related tasks, in coordination with and as agents of the police. As you have learned, the U.S. Armed Forces, primarily Army, have a contingent responsibility to assist our State authorities in quelling civil disturbances, when the President so directs. But even then the fundamental principle remains inviolate: the enforcement of law is still the responsibility of civil authorities. Our military forces are employed in a security role only; and they have performed this role with commendable restraint and discipline—as late as last May in Washington.

Second, the military can assist importantly in training regular police and auxiliaries. In the interest of economy, efficiency and speed, maximum use should be made of military facilities and instructor capability for police specialty training and to handle unprogrammed requirements beyond normal capacity of the police establishment. The same applies for training of para-military forces intended to operate under police aegis. As one example, my Army runs a periodic Civil Disturbance Training Course for large numbers of civil police at Fort Gordon.

Thirdly, the military can provide significant help to the police in the area of recruitment by earmarking capable, knowledgeable personnel on the eve of their release from active srvice; by providing their names and records to police authorities; and by facilitating their transfer. The U.S. Army does this in major degree. In close coordination with the International Association of Chiefs of Police, we even provide such personnel, while still on active duty, an initial 240-hour course of instruction in law enforcement.

These are typical of areas in which the military can be of help to the police and other agencies charged with the maintenance of the kind of order and internal stability within which a society may evolve without violent upheavals. But I would stress that these military contributions can only be of a supporting nature. Even under conditions of insurgency, most of the myriad of countermeasures are outside the military ken; all must be in accordance with the body of law—and law enforcement is *not* a military function. What is vital is to insure the closest liaison, planning and co-operation among the military, the police and the civil authorities to insure the decisive concentration and application of all available resources.

Although we would wish it otherwise, there is nothing on the horizon to suggest that the tasks you face in your respective countries will ease in the years ahead. To the contrary, the prospect is for problems of heightened complexity and difficulty. You can expect accelerated pressures for change—political, economic, societal—in your country; and all the pressures associated with such changes. These are natural concomitants of the evolution of any society; but they do bring into play dislocations and turbulence which place the great demands on the police. Beyond that, however, there will be darkly sinister forces at play in Latin America, in Asia, throughout the Free World—to include my country. Such forces will continue to seek by all means—clandestine and overt, outside of the law and by clever manipulation thereof—to undermine the fabric of government, subvert values and destroy relations between government and governed. Externally inspired guerrilla warfare will still be in vogue; and urban areas will be increasingly the focus of attack. In combating these inimical and dangerous forces, your National Police Forces, as Ambassador Johnson said some weeks ago, "will be the first line of defense." And the supreme challenge to your professionalism will be to achieve full success in suppressing the violent and ruthless attempts to overthrow your nation's institutions while allowing orderly change to occur. No element of your government will be as embattled as the police; but no other service has such potential to bring about realization of the legitimate aspirations of your peoples.

The final thing that the soldier and the police officer have in common is concept of duty, in the performance of which they must be uncompromising and unyielding. It is that fierce allegiance—to country, institutions and citizenry—which summons from within us that extra effort which ofttimes spells the difference between success and failure. I know that you possess that concept of duty.

In conclusion, let me repeat that it has been an honor to have been with you on this auspicious occasion. On behalf of the United States military, and on the eve of your return home to loved ones and to assume your most significant responsibilities, I wish you an abundance of all things good, personal and professional.

Thank you.

THE PRAYER AMENDMENT—A THOUGHTFUL COMMENTARY BY THE LAWRENCE EAGLE-TRIBUNE

(Mr. CLEVELAND asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. CLEVELAND. Mr. Speaker, recently the House considered the proposed constitutional amendment to allow voluntary prayers in the public schools of America. I supported this amendment, because of my belief that our Founding Fathers intended to allow such prayers when they wrote the Constitution. It is my firm belief that it is the courts which have altered the Constitution and that the amendment we considered would have restored it to what it was throughout our history until the 1960's.

It is important that this House not lose sight of the important fact that an overwhelming majority of the American people favor allowing voluntary prayers to be said in our schools. Recently the Lawrence, Mass. Eagle-Tribune commented on this situation, in an editorial which is deserving of our attention.

The editorial follows:

NO PRAYER IN SCHOOL

The session of the House as usual was opened with prayer. And chiselled in sight of all the representatives was the national motto, "In God We Trust." Then the House refused to approve an amendment to the Constitution that would permit voluntary prayer in public schools. The effort required for success a two-thirds majority. The vote was 28 short.

The strongest reason for rejecting the amendment is the fact that the Supreme Court in its original decision did not invalidate voluntary prayer in the schools. It invalidated only officially prescribed prayer.

Thus theoretically voluntary prayer can be uttered in public schools without statutory action or constitutional amendment. Actually, however, it can't as the Massachusetts town of Leyden learned when it tried to restore prayer to its classroom in strict conformity with the court's original decision.

The amendment failed, however, for the traditional reason—fear of violating the First Amendment by inviting or encouraging the establishment of a state religion. This fear was expanded by the American Jewish Congress which called the proposed prayer amendment a dangerous precedent, "paving the way to other restraints on our basic liberties such as freedom of speech, press and assembly."

This reasoning baffles us. The First Amendment sternly forbids Congress to make any law respecting an establishment of religion or abridging the freedom of speech and press and the right of assembly. Nothing in prayer in school has even the remotest bearing on a law to establish a religion.

Prayer in school was an American tradition until less than a decade ago. No religious tyranny developed from this tradition.

The question of prayer in school should be resolved locally. In scme communities there may be in classrooms students of so many different faiths or lack of them that prayer would be objectionable. In others, however, it could be a inoffensive and beneficial custom.

If God is as dangerous, as the foes of His presence in the classroom believe, then the national motto should be abolished and Congress should not open its sessions with prayer.

LYNDON B. JOHNSON, A MOST REMARKABLE LEGISLATIVE LEADER

(Mr. ROBERTS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. ROBERTS. Mr. Speaker, one of the most controversial and difficult issues to come before this Congress has been the foreign aid bill. And yet, this is not a new struggle. A recent column by Robert E. Thompson which appeared in the Hearst newspapers traces another long and arduous congressional deliberation over the foreign aid bill which took place 8 years ago.

Mr. Thompson's comments concern President Lyndon B. Johnson's account of the December 1963 passage of the foreign aid bill in his book, "The Vantage Point." I share his deep admiration and sense of awe for Lyndon Johnson's legislation and leadership ability. History has shown again and again that Lyndon Johnson is truly "a most remarkable man."

I would like to share Mr. Thompson's excellent article with my colleagues. I think it offers an interesting perspective for all of us as the session draws to a close.

PERSPECTIVE

(By Robert E. Thompson)

NEW YORK.—It is difficult, if not impossible, to imagine that the Senate could have indulged itself in such a shocking and reckless charade as the recent 41–27 rejection of foreign aid in the days when Lyndon Johnson was a majority leader or president.

This is a thought that comes to mind while reading the former president's new book, "The Vantage Point," and from having watched him at close hand during the tumultuous White House years when he initiated and successfully passed an unparalleled domestic legislative program.

Johnson was not only a staunch advocate, and sometimes savior, of American economic and military assistance abroad, he was a master at counting heads, influencing votes and timing legislative showdowns so that he could win. He understood the storage, intricate maneuverings of Congress as well as any man who ever sat in its halls and he knew how to utilize them to achieve his objectives.

As majority leader, Johnson simply would not have permitted so crucial a vote to take place with one-fourth of that body's members absent. As president, he would have not been caught off guard by the vote nor would he have spared himself or his staff in his relentless battle to save foreign aid.

It goes without saying that had Johnson or the 1968 Democratic presidential nominee, Hubert Humphrey, been at the helm of government when the United Nations voted to exclude Taiwan and include mainland China, they would have been crucified by the Republican right wing. But even under such circumstances, Johnson would have recognized the impending doom in the Senate and refused to lose his foreign aid bill by default.

I recall vividly the dramatic role played by Johnson, then Senate majority leader, in the final, hectic hours of a congressional session at the end of the Eisenhower Administration. In and out of conferences, on and off the telephone, Johnson spent an entire night working out compromises that would prevent the demise of Ike's foreign assistance program.

When he suddenly was thrust into the presidency in November, 1963, Johnson's first major legislative battle was over foreign aid, a struggle that he describes graphically in "The Vantage Point."

It began as soon as he and Lawrence O'Brien, then the president's congressional liaison chieftain, returned to the White House from laying John Kennedy to rest in Arlington National Cemetery. Faced with a Senate vote the following day on a foreign aid amendment that would have prevented the United States from selling wheat to the Soviet Union, Johnson summoned the grief-stricken O'Brien to his office to map their strategy.

The issue involved not just continuation of foreign aid but also a threat to the new president's executive authority. Johnson was not about to forfeit either after only four days in office.

"If those legislators had tasted blood then," Johnson writes in his book, "they would have run over us like a steamroller when they returned in January, when much more than foreign aid would depend on their actions."

Johnson and O'Brien won their skirmish in the Senate. But, despite their valiant efforts, they suffered a setback in the House, where many congressmen sympathetic to the legislation already had headed home for the Christmas recess.

The new president refused to be defeated. He summoned the congressmen back to Washington. He and Ladybird entertained them with a Dec. 23 reception at the White House, where Johnson mounted a chair to make a passionate plea for his foreign aid bill. Then, at 7 o'clock the next morning the House approved the bill and defeated the crippling amendment.

Writing of the incident, Johnson recalls: "A weary Congress headed for home. An even wearier president boarded Air Force One and flew to the LBJ ranch for the Christmas holidays.

"I had just completed one of the most trying and most intensive, sustained efforts of my life. While I knew there would be hard days ahead—and bitter fought battles—I knew at least that the reins of government were in my hands for a while. And I believe the nation knew it too."

This is but one memorable anecdote from "The Vantage Point" that provides us with an insight into Johnson's monumental success with Congress. He fought for what he believed in and he did not give up until he had won.

It is true, as others have written, that the great power and sweep of Johnson's personality—the humor, the mimicry, the folksiness, the fantastic fund of memories—are diluted by the formal prose of the book. He obviously felt it necessary in this first major endeavor since leaving the White House simply to record, as he says, "a president's personal and political philosophy, a president's experience and knowledge, a president's aspirations, and a president's response to the demands that were made on him."

Perhaps now that he has accomplished this task, he will undertake to write, in his own inimitable personal style, the colorful story of his life. It is one of the most remarkable stories in the annals of American history because Lyndon Johnson himself is a most remarkable man.

MR. PRESIDENT, HAVE YOU FORGOTTEN THE HOUSEWIVES?

(Mr. PODELL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PODELL. Mr. Speaker, yesterday, President Nixon proposed a plan to reform and expand private retirement programs and to preserve pension rights of employees. This program, while laudable, omits from consideration our Nation's hard-working homemakers who toil daily to maintain their homes and families. In this era of equal rights I am surprised that the President neglected our Nation's housewives.

In order to render justice to the American housewife, today I am introducing, along with 39 cosponsors, a bill to provide a pension plan for these forgotten workers. This proposal is unique because it is the first attempt to afford our housewives the right to their own pension. My plan would give these working Americans a chance to save for their later years, just as every other self-employed American is allowed.

The American housewife is not covered by existing minimum wage and hour laws; yet her work, as the traditional saying goes, "is never done:" her services are essential to the well being of our Nation's homes, families, and our society. I believe that the American housewife should be financially secure in her later years, and my plan would provide for this security.

For too long a period of time the housewife has taken a back seat when benefits were administered. Now, every household manager, whether married or single, would be eligible to participate if they have no other pension or retirement plan. Women who manage homes are fulfilling a vocation. On any form or questionnaire asking for "occupation," the response "housewife" is accepted.

Managing a home is most definitely employment. Housewives surely rate benefits that accrue to other employees in general. Pensions or retirement plans are one of the benefits of employment. Under my proposal, almost 30 million American women would qualify as household managers and be eligible for the housewives pension plan. Under my plan, the housewife could use a percentage of the money that she received for the weekly management of her household to create a retirement fund for herself. She would receive the designation of "independent proprietor." After all, her proprietary work includes a range of activities from child care to accountancy. She must be a combination manager-economist, laborer-psychologist. Moreover, while all currently eligible pensionees leave their work at the end of their day, our Nation's housewives, currently ineligible for pension rights, can never truly leave their work.

It is a fact of life and death that women usually outlive men. There are many cases of widows living on their husband's social security or retirement benefits. But if the woman is fortunate to have her retired husband alive, and if she were a housewife throughout her life, the two would have to share only the husband's retirement benefits. The woman, never having had an independent income, would have no fund of her own to draw upon.

The plain fact is that the notion that two can live as cheaply as one is sheer fantasy when the two must worry about high medical expenses and the rising cost of living. Too often, the benefits received by our senior citizens are below subsistence level. My proposal would provide a partial solution by creating a fund that a woman could draw upon if she were suddenly widowed or that she and her husband could use upon retirement.

The plan itself is simple in concept and operation. A housewife would deposit in a bank or invest a sum of money up to $25 per week. This maximum of $1,250 per year could be invested until retirement at the age of 59. At that time, the housewife would draw upon this sum as a pension until her death. This fund could take the form of a trust, an annuity, or a custodial account. The money would not be subject to taxation until it is withdrawn from the fund upon the retirement of the individual. The $25 maximum per week was designated to prevent the retirement fund from becoming an income averaging plan in which the wealthy could put away money to prevent its being taxed at the present rate. There would be penalties established for any funds withdrawn earlier than the law permits.

President Nixon's proposal announced yesterday would allow individuals to deduct from their tax returns up to $1,500 per year. Self-employed individuals would be given a more generous credit, with up to $7,500 per year being tucked away in a retirement plan. This $5,000 a year increase for self-employed individuals and the $1,500 a year deduction for other workers do not provide for our Nation's hard-working housewives. My proposal of $1,250 per year for housewife retirement is not outrageously large but is essential in order to provide some equality for all American workers.

In addition to creating equality for all occupations, this bill will provide a sense of recognition to all housewives that her occupation is definitely part of America's labor force.

The bill also encourages the housewife to provide for her retirement. The $25 per week would be tax exempt at the time it is earned. The fact that this money would earn interest would add a new dimension to the traditional idea of the "rainy day fund."

If my plan were instituted by Congress, I believe that it would free the American housewife from the financial insecurity she often must face. By providing an incentive for the housewife to put away money from her household management funds, I believe that we will meet the American housewife's desire for some financial independence and security.

While this proposal does not liberate our women from the kitchen or any of the other household chores, it is a start toward recognizing their work as legitimate employment. Twenty-five dollars per week put toward a pension fund is a sum we must allow the housewife when considering all the cleaning, cooking, darning, dishwashing, laundering, and marketing she labors at without any monetary compensation.

REORGANIZATION WITHIN NASA

(Mr. MILLER of California asked and was given permission to extend his remarks at this point in the RECORD.

Mr. MILLER of California. Mr. Speaker, the Science and Astronautics Committee was recently notified of a reorganization within NASA whereby the Office of Space Science and Applications has been divided into two new offices, one for science and the other for applications, with an Associate Administrator at the head of each.

The stated purpose is to strengthen NASA activities in the development of space applications.

I want to call my colleagues' attention to the fact that one of our most distinguished Members was instrumental in bringing about this reorganization in NASA.

I am referring to our colleague the Honorable THOMAS N. DOWNING of Virginia, a senior member of the Science and Astronautics Committee who has served for several years as the ranking majority member of the Subcommittee on Space Science and Applications.

Congressman DOWNING saw the need to place greater emphasis on space applications some time ago, and has made public statements urging NASA to do so.

Let me quote briefly from a speech he made last October in which he observed that the need for increased public support is a matter of great importance to the future of the space program.

He went on to say:

> I believe that NASA must place a much stronger emphasis on those activities in space that will result in economic benefits for our people.
>
> I have in mind, of course, applications satellite systems—communication, meteorology, earth resources surveys, navigation and air traffic control . . . .
>
> Much more can and should be done in this area. In order to insure that the space applications program will receive appropriate emphasis in the future, I would recommend that NASA establish a separate office of applications and appoint an associate administrator as its head.

Congressman DOWNING has earned the respect of NASA's top management because of his thoughtful and dispassionate contributions to that Agency's policymaking.

I am proud to have THOMAS DOWNING with me on the Science and Astronautics Committee, and I am pleased that the National Aeronautics and Space Administration has the wisdom to listen when he speaks.

CONSTITUENT GIFT TO FIGHT DRUG ABUSE

(Mr. MILLER of California asked and was given permission to extend his remarks at this point in the RECORD).

Mr. MILLER of California. Mr. Speaker, I would like to share with my colleagues a story of extraordinary generosity on behalf of one of my constituents, Mr. Mervin G. Morris, chairman of the board of Mervyn's, a northern California department store chain. Mr. Morris has given to the San Lorenzo Unified School District a gift of $36,000 to be used over the next 2 years for their drug abuse project.

The major objective of this project is to establish effective drug treatment and prevention programs within the school system. In order to achieve the major objective, the following are the specific objectives of the program:

First. To establish on-campus centers to deal with drug-related crises at the high school level;

Second. To provide direct counseling and treatment services for all students who have a drug problem and wish to obtain help;

Third. To create a school environment and educational program which enhances the self-concepts of all young people, thereby equipping them to confront realities without resorting to drugs;

Fourth. To enhance the home environment by facilitating greater mutual understanding between parents and youth; and

Fifth. To attempt to develop interest alternatives for young people of a recreational, social and educational nature.

To achieve the stated objectives, the project will be composed of five basic components, which will be implemented systematically through the district, over a 2-year period.

TRAINING

In-service activities to train teachers, counselors and students in group counseling techniques will be provided. This will establish a pool of training personnel to work at the various levels within the schools in both the treatment and prevention of drug problems.

PARENT

Parent groups of the following types will be made available:

First, counseling groups for parents of drug abusers;

Second, counseling groups for parents whose children are presenting serious nondrug oriented behavioral problems at home and/or school;

Third, small discussion groups centering on the general problems of drug abuse; and

Fourth, small group workshops designed specifically to enhance communication skills.

STUDENT

Student groups will be established at each school as need develops. Leadership will be provided by trained teachers and counselors. It is anticipated that some student leadership will be employed. Groups will not necessarily be formed on the basis of drug abuse.

TEACHER

Teachers will be trained in methods which make them more sensitive to the needs of youth. The classroom atmosphere will facilitate improved self-concepts and an increased sense of personal worth and acceptance of responsibility for one's behavior.

EVALUATION

At the end of each year, an evaluation will be made of the effectiveness of the various components of the project. Evaluations will involve self-appraisal, subjective evaluation of all participants, and analysis of numbers participating in each of the components.

Mr. and Mrs. Morris have four children. Mr. Morris, a third-generation Californian, was born in San Francisco and raised in the San Joaquin Valley. Following service in the U.S. Army in World War II, he opened a small two-employee clothing store in San Lorenzo in 1949. Today, Mervyn's has eight stores and 2,000 employees. Mr. Morris is active in numerous civic and community affairs throughout the San Francisco Bay area.

Commenting on his gift, Mr. Morris said:

> I shall always be grateful to the community which helped launch this business and which today provides a cordian environment for the corporation's headquarters. I share, with others, a deep concern for all young people to overcome the tragic menace of drug abuse.

THE ORGANIZATION FOR ECONOMIC COOPERATION AND DEVELOPMENT

(Mr. MILLER of California asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. MILLER of California. Mr. Speaker, a few weeks ago it was my privilege to serve as the congressional adviser to the American delegation at the meeting of the Ministers of Science of the OECD in Paris.

As many members are aware, the OECD, which is the Organization for Economic Cooperation and Development, is the organizational outgrowth of the Marshall Plan. Originally it consisted only of those industrial European nations which had common postwar economic problems. Now it has been expanded to include 25 of the most advanced countries in the world, and aside from the Western European nations includes the United States, Canada, Japan, Australia, and others.

Essentially, the OECD has grown into one of the more influential international bodies which concentrates on the following areas: Economic affairs, environment, development assistance, international trade, financial affairs, science and education, manpower and social affairs, industry and energy, agriculture and fisheries, and nuclear power.

The meeting of the Ministers of Science of the OECD countries, held in mid-October, was the fourth plenary session of its kind since the OECD was formed 11 years ago. It was, however, the first meeting of the Science Ministers of the 25 nations involved since 1968.

The entire conference was devoted to the problems of "Science and Technology for Society." Particular attention was given to: First, changing patterns of national R. & D. priorities toward qualitative objectives; second, the encouragement of technological innovation in the context of economic growth; third, the need for innovation in the social and service sectors; and fourth, international cooperative projects designed to assess technological options for social and environmental improvement.

The U.S. delegation was headed by Dr. Edward David, Jr., Science Adviser to the President and Director of the Office of Science and Technology. His alternates were the Honorable Joseph A. Greenwald, the American Ambassador to the OECD, and Dr. John V. Granger, Deputy Director, Bureau of International Scientific and Technological Affairs of the Department of State. In addition to the congressional adviser, the delegation included such advisers as the Honorable James Wakelin, Assistant Secretary for Science and Technology of the Department of Commerce, and Dr. Raymond L. Bisplinghoff, Deputy Director of the National Science Foundation.

Mr. Speaker, in a few days I shall issue a complete report of the meeting to the Committee on Science and Astronautics and to the Congress. The report will undertake to describe not only the background of the conference, but the American philosophy presented there, the observations of the congressional adviser, the action taken by the OECD and its significance.

I will not take the time at this point to elaborate further on the details of the conference.

I do wish to point out, however, that it would hardly be possible for anyone to observe a meeting of this kind and remain unaware of the marked extent of two things: First, the close relationship which technology and its applications has for the respective economies of each of the nations involved; second, the degree of interface, or interrelation, mutually shared in these matters by the OECD nations. Indeed, it is my belief that one could go further and apply the same rules not only to the OECD nations but to virtually all of the world's national political units.

Mr. Speaker, it is my hope that when the report I have referred to is issued that it will serve as a useful communication not only to the appropriate committees of the House and Senate, but to the executive departments and agencies as well.

LEAA COMMUNICATIONS EQUIPMENT GRANTS SUSPENDED IN IOWA

(Mr. MONAGAN asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MONAGAN. Mr. Speaker, recently the House Government Operations Subcommittee on Legal and Monetary Affairs, which I chair, concluded a series of hearings on the administration of the block grant programs of the Law Enforcement Assistance Administration—LEAA. In the course of the testimony it was disclosed that purchases of communications equipment by State and local governmental agencies in Arkansas and Wisconsin were frequently made without competitive bidding and on specifications prepared predominantly by one supplier and that LEAA had failed to act effectively to insure adherence by State agencies to proper purchasing practices. It was announced at the hearings that the Governor of Wisconsin would impose a freeze on grants for the purchase of communications equipment pending implementation of new procurement policies and completion of State investigations on the extent of abuses in the purchase of such equipment under the LEAA programs. The State of Arkansas has informed the subcommittee of a series of basic reforms that it has instituted in this area subsequent to the subcommittee's hearings.

I have been advised that in the last few days another State has imposed a freeze on grants for the purchase of communications equipment under the LEAA block grant program. Gov. Robert Ray of Iowa is to be commended for the forthright action he has taken to make this important program function honestly and effectively in that State. The suspension of grants and the investigations that his and the State's attorney general's offices have commenced in this area are evidence that a nationwide attack on this problem is necessary.

Following are a series of newspaper articles from the Des Moines newspapers reporting the actions which have been taken and the reasons for those actions:

[From the Des Moines Register, Nov. 21, 1971]

FREEZE IOWA CRIME FUNDS; PROBE BIDS—QUESTION CONTRACTS FOR RADIOS

(By Michael Serkin)

A $665,000 federal anticrime grant to Iowa lawmen has been frozen pending an investigation into suspected bid-rigging on police communications equipment.

The freeze affects funds that were to have been distributed to police and sheriff's departments in some 60 Iowa counties by the Iowa Crime Commission, which administers the money.

The commission ordered a ban on distribution of the funds immediately after it was discovered that the Cerro Gordo County Crime Commission had awarded a contract for a police radio setup to a supplier who bid almost $14,000 higher than the lowest bid, The Sunday Register learned.

METHOD USED

The winning supplier had made it impossible for competitors to get the contract by drafting the exact specifications used by the Cerro Gordo County commission and then analyzing for the commission all of the bids received, said George Orr, director of the state Crime Commission.

The winner bid $79,800 for the equipment, he said, adding that another firm offered a comparable "if not better system" for $65,950. He declined to name the winning supplier.

The same supplier has had "amazing luck" in winning other contracts throughout the state, said John Van Brocklin, the state Crime Commission's project director.

He said a still-uncompleted survey of all county and multi-county crime commissions reveals that this supplier has been awarded "an extremely high percentage" of contracts for police and sheriff's department radio and other communications networks.

Orr said he ordered the statewide ban on distribution of the funds after conferring with the Iowa attorney general's office.

A recommendation to Orr from Asst. Atty. Gen. Bennett Cullison, jr., said:

"Pending completion of the investigation, no further Crime Commission funds be released for purchase of communications equipment where there is reason to believe all suppliers have not had an equal opportunity to submit proposals, or that suppliers themselves have allocated customers or rigged their bids."

Van Brocklin said he and agents of the State Bureau of Criminal Investigation will be in Mason City this week to investigate the Cerro Gordo County situation.

Said Orr: "It is timely that the state . . . make sure that bid rigging, price fixing or other unethical practice is not making victims of the taxpayers of Iowa."

The frozen funds are part of $5.7 million allocated to Iowa for 1973 by the Law Enforcement Assistance Administration (LEAA) of the U.S. Justice Department. The program is the Nixon administration's anticrime revenue sharing assistance to state and local governments.

The federal government funds 75 per cent of these programs, while local governments pay the remaining 25 per cent.

There are indications the LEAA program may be in trouble nationwide.

Recently the governor of Wisconsin put a freeze on LEAA funds for communications purchases in that state. A Wisconsin official told a congressional commitee investigating the LEAA that grants for communications equipment will be held up "until we are satisfied at the bidding practices."

One communications company, Motorola, Inc., has captured nearly all the market for communications equipment in both Wisconsin and Arkansas, the committee was told.

Motorola had 90 per cent of the market for police communications equipment in Arkansas in 1969 and 100 per cent of the sales there so far this year, David Hodges of the Arkansas Crime Commission told the House investigating committee in October.

One problem in Iowa, Van Brocklin said, is that there is no state law requiring government agencies to take formal bids on equipment purchases.

But there is a state law requiring agencies to use "sound business practices," Van Brocklin said. "That means you have to have a pretty good reason not to take the lowest offer," he added.

Van Brocklin said he also is concerned about "the small town official who is being taken in by the smarty."

State Crime Commission records list the following allocations to county and multi-county crime commissions for now-frozen communications purchases. In some cases, the allocations are tentative:

Allamakee, $14,000; Benton, $9,893; Black Hawk, $15,000; Buchanan, $12.800; Beuna Vista, $9,700; Cass, $17,460; Cedar, $4,162; Cerro Gordo, $30,500; Clay, $2,800; Clayton, $3,600; Davis, $4,000.

Also, Des Moines, $32,600; Dickinson, $1,500; Dubuque, $2,600; Fayette, $3,200; Floyd, $20,616; Franklin, $2,700; Fremont, not specified; Grundy, $850; Hancock, $11,778; Harding, $16,600; Henry, $5,540.

Howard, $2,900; Humboldt, $1,675; Iowa, $1,300; Jackson, $3,250; Lee, $13,700; Linn, $14,263; Louisa, $1,200; Lucas, $325; Mahaska, $6,750; Marshall, $7,900; Mills, $3,500.

Also, Mitchell, $5,000; Muscatine, $1,750; Northwest Iowa Regional Crime Commission, $14,202; Palo Alto, $1,250; Plymouth, $3,300; Central Iowa Regional Crime Commission (Polk County), $524,000; Powshiek, $1,304.

Ringgold, $5,200; Sac, $6,700; Scott, $4,315; Shelby, $1,400; Southwest Iowa Regional Crime Commission, $7,401; Stony, $1,080; Tama, $1,650; Van Buren, $600; Washington, $5,300; Winnebago, $3,535; Woodbury, $23,310; and Wright, $8,525.

[From the Des Moines Register, Nov. 23, 1971]

ORDERS RADIO BIDDING PROBE

(By James Flansburg)

Gov. Robert Ray said Monday he has ordered a check of state purchases of radio equipment.

The governor's order came on the heels of a freeze on a $665,000 federal anticrime grant pending an investigation of suspected bid-rigging on police communications equipment by local crime commissions.

Ray said he wants to know if the bid specifications on radio equipment bought by the state—primarily the Public Safety Department—are fair to all equipment suppliers.

He said investigators are working on reports—involving the freeze on the anticrime money—that an equipment supplier has written specifications for local crime commissions so that the supplier's equipment is the only equipment meeting the specifications.

Ray identified the supplier as Motorola, Inc., which has captured nearly all the market for communications equipment in Arkansas and in Wisconsin, where Gov. Patrick Lucey has ordered a similar freeze on purchases of radio equipment.

[From the Des Moines Tribune, Nov. 23, 1971]

DENY BIDS REVIEWED BY FIRM

MASON CITY, IOWA.—City officials have denied that the company that won the contract for Mason City police communications equipment analyzed the bids for the city before they were awarded.

The denial followed disclosure by the Iowa Crime Commission that an investigation was under way into suspected bid-rigging in connection with a contract awarded by the Cerro Gordo County Crime Commission for police radio equipment in Mason City.

The state agency ordered a freeze on $565,000 in federal anti-crime funds to lawmen in some 60 counties pending completion of the Cerro Gordo County probe.

Motorola, Inc., an electronics and communications manufacturing firm, was awarded the contract here even though its bid was $13,850 higher than the only other bid—submitted by General Electric.

Iowa Crime Commission Director George Orr charged that the winning supplier made it impossible for competitors to get the contract by drafting the exact specifications used by the Cerro Gordo County commission and then analyzing for the county unit all bids received.

COMPLAINT

Orr said Monday a complaint from General Electric prompted the investigation by his office.

But Mason City Mayor Tom Jolas said,

"General Electric never complained about the specifications."

Orr said Monday he was "asking the question if there was a possibility" that incorrect bidding procedures had been used.

Orr said Glenn Anderson, state communications director, analyzed the bids and the review of the bids and had told Orr "the review was awfully close in the way the specifications were written."

Jolas said no engineer from Motorola or General Electric analyzed the bids for the city council.

REVIEW

He said sales representatives of the two firms reviewed each other's bids when they were opened by the council.

"The council reviewed the bids," Jolas said. "We used the specifications from a Waterloo communications system and modified them for Mason City."

Orr said it would be "foolish in the light of national concern over the bidding procedures that we not investigate these charges."

Meanwhile, Gov. Robert D. Ray has ordered a check of state purchases of radio equipment. He said he wants to know if the bid specifications on radio equipment bought by the state—primarily the Public Safety Department—are fair to all suppliers.

[From the Des Moines Register, Nov. 26, 1971]

Almost Paid $6,744 More on Equipment—State Had Accepted Higher Bid

(By James Flansburg)

The Iowa Executive Council almost paid $75,544 last year for radio equipment that could be bought for $68,800, says a staff report to Gov. Robert Ray.

Ray had ordered a check on state purchases after a freeze on a $665,000 federal anticrime grant pending an investigation of suspected bid-rigging on police communications equipment by local crime commissions.

CURRENT PROBE

The staff report said that the Executive Council in the summer of 1970 had thrown out a low bid of another supplier and had accepted a higher bid by Motorola, Inc. of Chicago, Ill.—the firm in the center of the current investigation—to supply eight pieces of radio equipment to the state.

Later, the council reversed itself and accepted the lower bid of Technical Products Engineering Co., Hollywood, Calif.

The Executive Council makes many of the day-to-day administrative decisions in state government and consists of Ray, Secretary of State Melvin Synhorst, State Auditor Lloyd Smith, State Treasurer Maurice Baringer and Secretary of Agriculture L. B. Liddy.

Executive Council minutes say that the acceptance of the Motorola bid, which was $6,744 higher than Technical Products' bid, was recommended by State Communications Director Glen Anderson and by Boyd Porter, communications supervisor in the Department of Public Safety.

They argued that the Technical Products' equipment used only one common power supply so that the whole radio console, to be used by the Iowa Highway Patrol, would break down—unlike the Motorola unit, which would only partially break down because the different parts of the console have different power supplies.

STIFF PROTEST

A stiff protest by the Technical Products firm led the council to turn down the recommendation by Porter and Anderson and to buy the Technical Products' equipment.

All of the Executive Council actions were unanimous.

Motorola, in a letter to the council, complained that the Technical Products' bid did not meet specifications.

Earlier this week, Ray said that state investigators are working on reports—involving the state's freeze on the anti-crime money—that Motorola has written specifications for local crime commissions so that Motorola equipment is the only equipment meeting the specifications.

Motorola has captured nearly all the market for communications equipment in Arkansas and in Wisconsin, where Gov. Patrick Lucey has ordered a similar freeze on the purchases of radio equipment.

RURAL POST OFFICES ON THE CHOPPING BLOCK?

(Mr. PICKLE asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. PICKLE. Mr. Speaker, already we are seeing the results of the Postal Reform Act. Already we are seeing the price of stamps keep marvelous pace with the inflationary cycle—and we will see even more increases in the costs of stamps.

But there is another move afoot that sounds unbelievable and almost sinister on the face of it. Postal Service officials tell me that surveys are underway throughout the Nation with an eye toward closing out many small rural post offices. Is that what the Congress intended?

I suspect that many of these small post offices could shortly become window dressing only—that is, they would become one-window operations with no postmark, little service, and little function.

This survey is being conducted in the name of efficiency. Mr. Speaker, I contend this is counter-productive. I might even be so bold to say that it will not speed the mail service and will, instead, impede the flow of mail in rural America. I am unconvinced that a streamline operation in a large metropolitan area can offset the miles of mail that will be trucked into the sectional centers.

There are two basic ways to cut the cost of mail: Reduce service and increase the price of stamps. Unfortunately, the Postal Service has done both.

Unfortunately, we see the signs of less and less service for rural America—instead of more and more.

For some time now, we have known that the Postal Service was considering putting the torch to the smaller third and fourth class post offices. While this is regrettable, what I am telling you is even more so. In addition to the third and fourth class facilities, the Postal Service is considering closing or severely reducing the services of some second class and even first class post offices in rural communities.

This is serious—real serious. Just the fact that a task force is even considering closing down first class operations is a sober, shocking realization. I think all Members of Congress should begin to give this development their long, hard attention. The new Postmaster General should personally look into this matter immediately.

DO NOT DRAFT MARITIME CADETS

(Mr. MONAGAN asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MONAGAN. Mr. Speaker, a constituent of mine recently brought to my attention the fact that cadets attending State maritime academies are eligible for the draft while cadets attending the U.S. Merchant Marine Academy are deferred from being drafted. The Assistant Secretary of the Navy for Manpower and Reserve Affairs, James E. Johnson, has stated:

> As cadets in the U.S. Maritime Service, and as members of a quasi-military organization, they (cadets at state academies) are required to take naval science courses and U.S. Naval Reserve commissions upon graduation. They appear, from the viewpoint of the Navy, to be entitled to deferments in much the same manner as midshipmen in the U.S. Merchant Marine Academy.

Because of the concerns of my constituent, which I share, I requested the Department of Defense to review the apparent inequity in draft classification policy afforded cadets of State maritime academies.

I was gratified to receive a reply from Assistant Secretary Johnson indicating the Navy is requesting the Director of Selective Service to grant draft exemption for cadets at the maritime colleges. In addition, Mr. Johnson indicates he has initiated action to consider the appropriateness and the legality of appointing the cadets at the various State maritime academies as midshipmen in the U.S. Naval Reserve.

Assistant Secretary Johnson, on behalf of the Navy, has taken commendable action. I am hopeful that the Director of the Selective Service System will do likewise. The correspondence follows:

WASHINGTON, D.C.,
December 6, 1971.

Hon. JOHN S. MONAGAN,
House of Representatives,
Washington, D.C.

DEAR MR. MONAGAN: Your letter of December 1, 1971, addressed to Mr. Richard G. Capen, Jr., has been referred to me for reply as a matter under the cognizance of the Department of the Navy.

Your letter forwarded correspondence from Mr. Albert Gartland, Trumbull, Connecticut, and the Selective Service Headquarters, Washington, D.C. Both letters referred to the Selective Service status of cadets attending State Maritime Academies. This matter is of primary concern to me and I am requesting the Director of the Selective Service System to reconsider his decision concerning the eligibility of the cadets at the Maritime Colleges for draft deferments. I am urging him to grant draft exemptions for these individuals so that the Maritime Colleges may continue to contribute to all aspects of our maritime capability. I have every hope that the Director of the Selective Service System will be able to grant these students a deferment by virtue of their cadet status. A copy of my letter to Dr. Tarr is attached.

I have also initiated action to consider the appropriateness and the legality of appointing the cadets at the various State Maritime Academies as midshipmen in the U.S. Naval Reserve.

The Department of the Navy is genuinely concerned over the draft status of the cadets involved, and we will continue to take appropriate action to insure that the cadets may complete their training in an orderly fashion.

Your interest in this matter is sincerely appreciated.

Sincerely yours,
JAMES E. JOHNSON,
Assistant Secretary of the Navy,
Manpower and Reserve Affairs.

Department of the Navy,
Washington, D.C., November 22, 1971.
Dr. Curtis W. Tarr,
Director, Selective Service System,
Washington, D.C.

Dear Curtis: It is my understanding that young men enrolled as cadets in the state maritime academies of Maine, Massachusetts, New York, Texas and California are no longer eligible for student deferments under the 1971 revisions to the Selective Service Act.

I would urge you to reconsider their eligibility. As cadets in the U.S. Maritime Service, and as members of a quasi-military organization, they are required to take naval science courses and accept U.S. Naval Reserve commissions upon graduation. They appear, from the viewpoint of the Navy, to be entitled to deferments in much the same manner as midshipmen at the U.S. Merchant Marine Academy.

The historic close association of the Merchant Marine with the Navy, as separate but complementary forces to exploit seapower in support of the National Interest, especially in time of war, is a matter of history. The need for a viable merchant marine, manned by professionally trained officers has been amply demonstrated, but perhaps we in the Navy realize better than anyone the vast amount of cooperation and coordination which is essential to effective joint operations. Such operations can only be conducted by officers knowledgeable of each other's capabilities and limitations. The state supported maritime academies currently furnish over 50% of the officers required by the various merchant shipping companies.

In the Navy of today and tomorrow, implementation of the All Volunteer Force has dramatically reemphasized the role of the Reserve components within the Total Force concept for the defense of our country. If we are to attract and retain Reserve officers qualified to exercise, in addition, the unique capabilities of the U.S. Merchant Marine in peace and in war, we must support the state maritime academies as well as the federal academy, as the only viable sources of such officers. Continuation of draft exemptions for the cadets at the state supported maritime academies will enable these institutions to continue to contribute to all aspects of our maritime capability. I highly recommend such a course of action to you.

I would be pleased to discuss this matter further with you at your convenience.

Sincerely yours,
James E. Johnson,
Assistant Secretary of the Navy,
Manpower and Reserve Affairs.

CLAREMONT DAILY EAGLE PRAISES INNOVATIVE EDUCATIONAL PROGRAM

(Mr. CLEVELAND asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. CLEVELAND. Mr. Speaker, for some time now I have been disturbed by the apparent lack of results commensurate with the large investment the Federal Government makes annually to improve education. Recently an editorial was brought to my attention which lauds the achievements of a program called "performance contracting," initiated as an experiment in 1970 by the Office of Economic Opportunity. I believe that the preliminary success of this program deserves recognition and consideration.

Performance contracting introduces into the educational system a profit motive, keener competition and, consequently, more tangible results. The contractor gets paid according to the actual advances made by the students and does not get paid if there are no gains.

Initially many teachers feared they might lose their jobs to performance contractors, but evidently they are benefiting instead by learning how to be "more efficient, more effective teachers."

Many people have accepted as absolute the premise that the quality of education is directly proportional to the quantity of money spent. In turning attention more towards performance and results, perhaps, as the editorial states, we might be "on some sort of right track."

The editorial, which appeared in the Claremont, N.H., Daily Eagle, a respected New Hampshire newspaper, on October 21, 1971, follows:

> Don't look now, but after all these years educators may finally be discovering why Johnny can't read, especially if Johnny comes from an inner-city school. To be more accurate, they are finding out more about the how-to of reading, which is only the other side of the why-not.
>
> One of the most promising, certainly one of the most controversial, developments is "performance contracting." A publisher of learning materials guarantees to raise the performance levels of a certain number of pupils by a certain amount in a certain period of time. No performance, no payment.
>
> The first experiment took place in Texarkana in 1969 when Dorsett Educational Systems contracted to teach reading and mathematics to potential high school dropouts. Results were encouraging but marred by charges that some of the pupils had been coached on tests.
>
> In April, 1970, the Office of Economic Opportunity initiated a $6.5-million experiment involving six companies in 18 school districts. By the next school year, more than 40 companies were negotiating performance contracts in 170 school districts.
>
> The results from one of them, Philadelphia's inner-city District 4, were released recently and are the most encouraging to date.
>
> A total of 14,261 students participated in a program known as "Project Read G," conducted by Behavioral Research Laboratories (BRL) of Palo Alto, Calif. Project Read is a system of individualized reading materials. Each student works at his own pace in the programmed text and receives continual testing, reinforcement and encouragement from the classroom teacher, who is assisted by professional BRL consultants.
>
> Of the total, 9,914 students were eligible for the money-back guarantee by attending classes 150 days or more. Of these, 50 per cent gained one full academic year or more. About 60 per cent achieved month-for-month gains. The average growth for all students was nine months during the eight months of the program.
>
> The results are particularly striking when it is realized that about 5,000 of the students were selected for the program because they were underachievers. Included among them were 506 retarded children.
>
> The company lost money on the majority of these, yet according to District 4 superintendent, Dr. Ruth W. Hayre, "many of them did make gains of as much as six to nine months, or more than they had ever achieved previously."
>
> In this as in other performance contracts there are a number of beneficial side effects. Probably the most important is a feeling of pride and accomplishment in children who have known mostly failure in school work. Success in reading, the most basic of knowledge skills, cannot help but be reflected in other studies.
>
> The principal of a Lansing, Mich., high school also took part in a Project Read program, reports that since the children now experience success rather than frustration, his discipline problems have been cut in half.
>
> Teachers are also discovering that performance contractors are not taking over their jobs or "programming" them out of the classroom. Instead, they are being helped to be more efficient, more effective teachers.
>
> Performance contracting is not, of course, a magic wand that will transform every student into a scholar. As the experiments continue, there will undoubtedly be mixed results from some teaching methods or programs and possibly some negative results.
>
> But we do seem to be on some sort of right track.

THREE GOOD MONTHS ON THE INFLATION FRONT

(Mr. ARENDS asked and was given permission to extend his remarks at this point in the Record.)

Mr. ARENDS. Mr. Speaker, release of the wholesale price index for November shows that since the freeze began we have had 3 extremely good months on the inflation front. For the whole period of the freeze wholesale prices actually declined. The seasonally adjusted index for all commodities at wholesale rose only one-tenth of 1 percent in November, following a similar small rise in October and a decline of four-tenths of 1 percent in September. The index for industrial commodities is especially significant, because the prices there are less volatile and because the prices of raw agricultural products are not controlled. The index for industrial commodities did not rise at all in November, declined by three-tenths of 1 percent in October, and declined by one-tenth of 1 percent in September. Altogether the total index fell by two-tenths of 1 percent during the 3-month freeze period and industrial commodities fell by three-tenths of 1 percent.

Mr. Speaker, despite these statistics we are constantly barraged by political-type statements to the effect that the President's economic program is not working. We in this House understand the dialog of politics, but at a time when inflationary expectations are being rapidly eroded by the new economic policy, it is quite clear that there are some in this country who for their own special interests do not want to see this all-out effort succeed. I, for one, hope the American people will reject these divisive voices and will base their economic plans on the more positive factors implicit in the official statistics.

NATIONAL FORESTS IN JEOPARDY

(Mr. SAYLOR asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. SAYLOR. Mr. Speaker, the St. Louis Post-Dispatch of November 22, 1971, carried an editorial under the heading "National Forests in Jeopardy" in which this outstanding newspaper took note of the fact that our national forests are "being needlessly wasted and abused."

The article refers to a bill, H.R. 7383, which I have had the honor to cosponsor with my good friend, Congressman JOHN D. DINGELL of Michigan. I commend this editorial to my colleagues and that its text appear at this point in the RECORD:

NATIONAL FORESTS IN JEOPARDY

Americans, as they take to the open road during the vacation season, can observe how a priceless part of their natural heritage—the national forests—is being needlessly wasted and abused. The deterioration of this great material and recreational asset, described in a recent series of articles by Gladwin Hill of *The New York Times*, is all the more regrettable because, unlike other aspects of the environmental crisis, it is due largely to mismanagement by the federal government.

Although the 187,000,000 acres in the national forests (including 1,426,000 acres in Missouri) are by law supposed to serve multiple functions, the Forest Service has allowed the commercial functions of timber production, grazing and mining to take precedence over the conservation functions of watershed maintenance, recreation and wildlife preservation.

The commercial emphasis takes visible form in Montana, where whole mountainsides have been skinned of centuries' growth of Douglas fir and ponderosa pine; in West Virginia, where the Monongahela National Forest is riddled by coal mining oprations and the landscape defaced and wild game routed by clear-cutting of timber; in various parts of the West, where 18 million acres have been declared in "poor" condition as a result of systematic over-grazing.

As Senator Gale McGee of Wyoming has pointed out, "soil is eroding, reforestation is neglected if not ignored, streams are silting, and clear-cutting remains a basic practice." Clear-cutting is a major example of bad management. Adopted in 1964 under pressure from the timber industry, it consists of stripping forest tracts bare, a practice which not only undermines watershed maintenance, wildlife protection and recreational values but also runs counter to the selective cutting and sustained yield concepts by which the Forest Service is supposed to operate.

So strong has been the commercial bias of the Forest Service that it has increased the "allowable cut" from 5.6 billion board feet in 1950 to 13.74 billion feet in 1971 without a corresponding increase in the yield of comparable timber. As a result, some critics foresee a timber "deficit" in less than 50 years.

While the Forest Service has concentrated on timber production, it has let its recreational facilities and services deteriorate and has resisted and hampered efforts to set aside some 6,000,000 to 8,000,000 acres (about 4 per cent of its lands) as wilderness areas. Already under heavy pressure from timber, mining and grazing interests and poorly organized for its task of management for multiple purposes, the Forest Service's job is being made even more difficult by White House insistence on still higher timber production to meet projected future needs for housing lumber. And Senator Mark Hatfield of Oregon, a state with big timber interests, has introduced a bill with the same objective. (Meanwhile timber exports are running at about 5 billion board-feet a year.)

To protect the public interest in both national and private forests, Rep. John Dingell has drafted a bill to set up federal standards for timber management, logging and environmental protection on public and private forest lands. And the President's Advisory Council on Executive Reorganization—viewing the Forest Service as a land management rather than a crop-growing agency—has recommended that it be removed from the Department of Agriculture and put into a new Department of Natural Resources.

To rescue the Forest Service from its commercial constituency and give it a better chance to serve its 200,000,000 owners, Congress should give prompt consideration to both the Dingell bill and the reorganization plan.

LEST WE FORGET—THE NATIONAL DEBT REACHED $414,620,110,923.89 ON NOVEMBER 30

(Mr. SAYLOR asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SAYLOR. Mr. Speaker, on November 30, 1971, the gross public debt of the United States of America reached the grand total of $414,620,110,923.89. That amount represented an increase of $2.7 billion since November 1. Compared to the same date 1 year ago, the gross public debt increased over $30 billion.

I bring these staggering figures to your attention, because there is an all too unfortunate tendency on the part of Members of both Houses of Congress to forget that the American taxpayer is forced to shoulder the financial burden resulting from our deliberations.

Day after day, month after month, and year after year, Federal programs for this, that, and everything are added to the law books and the money used to pay for the schemes thus created comes from the citizen's wallet.

When, and usually, money is not readily available to pay for the programs voted by Congress and approved by the President, the size of the national debt is increased; the resulting debt is financed through the issuance of Government securities. In order to pay the interest cost on this whopping debt of nearly $415 billion, the Federal Government has budgeted the tidy sum of $21,150 million for fiscal year 1972.

To pay interest on the debt, during the month of November, the Federal Government made withdrawals in the amount of $2,247,188,533.92 from the accounts of the Treasurer of the United States. That amount was the third largest withdrawal for the month following withdrawals for, first, the Department of Defense; second, Federal old-age, disability, and health insurance trust funds; and third, "all other" withdrawals.

One tends to ignore figures of the magnitude thus far mentioned—therefore, a more meaningful and personal comparison is made: The current gross national debt on November 30, 1971, is a financial burden to the tune of $1,989.52 for each of the 208,402,503 men, women, and children in the United States. For the average family of four, its national debt bill was $7,958.08 on November 30.

In times past, when the people demanded that the Federal Government give to the public without first taking from the public, the solution was the printing of worthless paper money, commonly referred to as "greenbacks." When used by the Central Government to pay its bills, such paper money acquired value at the expense of the value of all the other money. The printing of greenbacks—to permit "giving" without seeming to be taking—was, in effect, an invisible tax on anybody who had any money.

Today, under the more sophisticated modern banking system, Government no longer prints greenbacks when it is called upon to spend more money than it takes in from taxes or through the sale of bonds to the public. In order to raise additional funds necessitated by congressional and executive action, the Government sells interest-bearing securities in the financial market. Many of the Government IOU's become a part of the commercial bank's reserves thus permitting the creation of "checkbook" money. The effect of this checkbook money on the value of the public's money is the same as if greenbacks had been printed. But it also has an effect that greenbacks did not have: The public must be taxed to pay the bank interest on the IOU's and then taxed again to pay back the banks.

This custom of governments everywhere, and particularly the Federal Government of the United States—the creation and spending of new, unearned money—is the root cause of inflation. The simple lesson to be learned from this admittedly abbreviated discourse on economics is that in order to control inflation, the Federal Government must be controlled. And that is our primary responsibility as Members of Congress.

TRIBUTE TO THE LATE RALPH J. BUNCHE

(Mr. FRASER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. FRASER. Mr. Speaker, early this morning death came to one of the greatest citizens of this country and of the world—Ralph J. Bunche. Born in poverty in the black ghetto of Detroit, Ralph Bunche rose to become one of the world's foremost international statesmen as Under Secretary General of the United Nations. No American has ever surpassed his record of accomplishment in the United Nations system.

As the U.N. mediator in Palestine his efforts resulted in the armistice agreements between Israel and the Arab States in 1949. In recognition of his work there he was awarded the Nobel Peace Prize in 1950. As Under Secretary General for Special Political Affairs he played the leading role in U.N. peacekeeping for almost two decades in the Middle East, Kashmir, the Congo, Yemen, and Cyprus. Long active in efforts to create international systems for the control and peaceful use of atomic energy he was principally responsible for the establishment of the International Atomic Energy Agency.

In the field of education he held professorships for many years at Howard and Harvard Universities. A fighter for human rights for more than 40 years, he was instrumental in achieving racial desegregation of public facilities in the District of Columbia during the 1930's. In recognition of his outstanding work in many fields the President of the United States awarded him the Presidential Medal of Freedom in 1963.

While attaining positions of world prominence, Ralph Bunche never lost his feeling of basic humility and compassion toward his fellow man—qualities which endeared him to both friend and foe in the international community. He was the epitomy of the unselfish international civil servant, an untiring soldier for peace, whose passing will be mourned by men and women of peace throughout the world.

I am planning a special order next Tuesday for a more extended discussion of the enormous contributions which Ralph Bunche made to our Nation and to the world.

NIXON VETO A CRUEL FREEZE ON THE LIVES OF CHILDREN

(Mr. BRADEMAS asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. BRADEMAS. Mr. Speaker, President Nixon's veto today of the legislation containing the comprehensive child development program imposes a cruel freeze on the lives of millions of children.

With one stroke of the pen, President Nixon has broken his own promise to support child development and has shattered the chances for healthful and stimulating growth of preschool children of middle-income families as well as children of the poor.

Mr. Speaker, President Nixon's veto of this historic advance for young children and working mothers is one more example of his failure to match his political promises with action.

For it was, I remind you, President Nixon, who in February 1969, told Congress:

> So critical is the matter of early growth that we must make a national commitment to providing all American children an opportunity for healthful and stimulating development during the first 5 years of life.

And I remind you, Mr. Speaker, that it was President Nixon who on August 11, 1969, in proposing his welfare reform bill and calling for federally supported child development centers said:

> The child care I propose is more than custodial. This Administration is committed to a new emphasis on child development in the first five years of life.

Mr. Speaker, the child development program contained in the bill extending the Economic Opportunity Act provides just the kind of quality services for all American children that President Nixon has repeatedly said he wants.

That he killed this bill for children is therefore all the more astonishing. Moreover, Mr. Speaker, until the White House mounted a campaign to defeat the child development bill in the House of Representatives, this legislation had enjoyed wide bipartisan support.

For example, Republican Members of the Senate voted for the bill by a margin of over 2 to 1.

Indeed, the Republican leader of the Senate and the Republican whip both voted for the bill as did the chairman of the Republican National Committee, also a Senator.

Still further I would add, Mr. Speaker, nearly 100 Members of the House of Representatives, Republicans as well as Democrats, introduced child development legislation this year, thereby indicating their support for such programs.

Mr. Speaker, I would recall to your attention that it was the White House Conference on Children of 1970, called by President Nixon himself, that endorsed the comprehensive child development bill and declared this legislation to be its No. 1 priority.

I was struck, Mr. Speaker, by the irony of the speech delivered in Washington yesterday by the distinguished Secretary of Health, Education, and Welfare, the Honorable Elliot Richardson, in which he attacked, to quote him, "the propensity of politicians who promise more than they can possibly deliver."

Mr. Speaker, I am sure you will agree that in light of what Mr. Nixon has been promising for children, today's veto makes President Nixon a prime example of what Mr. Richardson was complaining about.

WHY CHILD DEVELOPMENT LEGISLATION

Now, Mr. Speaker, why is child development legislation so important?

First, more and more research has told us of the significance for the rest of human life of what happens in the earliest years.

Again and again child psychologists and educators have attested to the value of early childhood education. I here cite only one of the most frequently quoted findings—that of Benjamin Bloom; namely, that:

> In terms of intelligence measured at age 17, about 50% of the development takes place between conception and age 4, and 30% between ages 4 and 8, and about 20% between ages 8 and 17.

A second reason for the comprehensive child development bill is the finding of the Coleman report that poor children develop much more rapidly when they participate in programs with children of middle-income backgrounds than when they are segregated by family income.

This is not a function of race; poor black children in classes with middle-class black children progress more rapidly than do poor black children segregated by socioeconomic background.

Our bill seeks to encourage the mixture of children of various social and economic backgrounds.

There is yet a third aspect of this legislation which makes it so significant that we must not forget it.

There are today some 8 million preschool children below the age of 6 in the United States whose mothers work; yet, day-care services are available to less than 700,000 of these children.

And this problem will be immensely compounded in the coming years because the U.S. Department of Labor estimates are that by 1980 there will be close to 7.6 million working mothers with children under 6 years of age—an increase of 43 percent between 1970 and 1980. This is a fact with obvious immense implications for the development of very young children in our country.

I have given you only three of the manifold reasons that those of us in Congress who have shaped this legislation—Senator Walter Mondale, of Minnesota, Representatives Patsy Mink, of Hawaii, Ogden Reid, of New York, and I—believe it so important.

As I have said, Mr. Speaker, nearly 100 Members of the House of both parties introduced the comprehensive child development bill on March 25, 1971.

On September 23, 1971, the full Committee on Education and Labor voted favorably to report the bill by a record vote of 28 to 3 and one present, with only two Republican votes against the measure.

PRINCIPAL CHARGES AGAINST THE LEGISLATION

Now, Mr. Speaker, I want to comment on three of the principal charges brought against the bill.

ADMINISTRATION OF PROGRAMS

First, it is contended that the bill does not allow an adequate role to the States in child development and that the program authorized is administratively unworkable.

Over two-thirds of the Republicans in the Senate obviously did not agree with this judgment.

But to get to the point it is simply inaccurate to charge that the States do not have a significant role.

Indeed, the language is specific in requiring State involvement at every stage: creation of prime sponsors, formation of comprehensive child development plans and project operation.

Moreover, up to 5 percent of operating funds will become available to States to carry out their functions. In this way, States are encouraged to provide technical assistance and coordination of child programs within their boundaries. The States can thus identify problems, help in solving them, and advise the Department of Health, Education, and Welfare on how effectively programs are meeting child development standards.

But there is still another way in which States may participate in the program. The bill specifically authorizes the Secretary to fund directly any program—including that of a State—whenever he finds that a local community has not submitted a program, submitted an inadequate program, or where a program does not or cannot meet the needs of children.

In fact, there can be no question that the comprehensive child development program which the President today vetoed provides a more important role for the States than does the present Headstart program.

So the argument that there is an inadequate role for the States is patently incorrect.

I must further add, Mr. Speaker, that the legislation also provides encouragement to local communities to join together to apply as prime sponsors for child development programs and the suggestion therefore that every small community in the country will be directly applying to the Federal Government is equally without foundation.

COST

Mr. Speaker, another major objection advanced by opponents of the bill is that its costs will be execessive and will damage attempts to reduce governmental spending during phase II.

Let me point out, however, that the bill requires the creation of a Child Development Council and the preparation and approval of a comprehensive child development plan. This means that 12 to 18 months will elapse before any substantial number of communities will be able even to qualify for operating funds. Therefore, neither the budget for the current fiscal year nor for fiscal year 1973 will be significantly affected.

The first substantial impact of the legislation will therefore not occur until fiscal year 1974. Even then, it is doubtful that communities will be prepared to spend more than $200 to $300 million above present levels. Surely, that level of funding, or even twice that level, is not excessive when viewed in light of the present total Federal budget of nearly $200 billion.

But, Mr. Speaker, we must look at the question of cost of the program as measured against the need for it.

Let me here cite two estimates. If $2 billion were available—the amount authorized for the next fiscal year—and if there were provided part-day services to children 0 to 5, we would be able to serve 1,538,462 children—42 percent of the eligible population under the family income level of $4,320.

For purposes of comparison, we are today serving only 20 percent of that population. In fiscal year 1972 all children served totaled 479,400.

Let me cite another estimate. With $2 billion, if it were decided to serve children of school age up to 14, and to provide full-day services for children 0 to 5 from families under $4,320 income, it would be possible to serve 625,000 preschool and 1,428,572 children of school age, a total of 2,053,572.

So clearly, Mr. Speaker, the funds authorized in this bill—even assuming full appropriations—would be far short of meeting the need.

Mr. Speaker, there is another charge on which I wish to comment.

COMMUNAL APPROACH

Some rightwing extremists are contending that the bill will produce a Sovietization of our children or as President Nixon said "commit the vast moral authority of the National Government to the side of communal approaches to child rearing" and their takeover by the Federal Government.

This charge of course is absurd and irresponsible. We have carefully drafted the bill to protect the rights of parents and their children.

First. Participation in the program is completely voluntary. Children will not participate without the specific request of a parent or legal guardian.

Second. Children will not be tested unless the parent or guardian is informed and given an opportunity to accept the child.

Third. The bill contains specific language providing protection against any infringement of the moral or legal right of parents or guardians with respect to the moral, mental, emotional, or physical development of their children.

To reiterate, the Child Development program, unlike the Public School program, is totally voluntary.

PARENTAL CONTROL

But even beyond what I have already said, I can tell you that no item in the bill received more attention than parental involvement and control.

The sponsors of the bill went to great extremes to assure that the legislation would help strengthen the family and family ties rather than weakening them.

I should explain that the bill provides Federal money to support comprehensive child development programs which includes day care, health, and educational programs. These programs must be planned, created, and operated at the local level by parents or by persons of their choosing. The Office of Child Development in the Department of Health, Education, and Welfare would be involved only in setting common standards and administering the funds on an allotment basis.

Indeed, we wanted this program to be operated locally without a new army of bureaucrats, as Mr. Nixon claims this legislation would produce.

Indeed, a principal purpose of the bill is to give the taxpayer some of his money back so that churches, schools, settlement houses, and parents of the local level can provide preschool programs for their children without the control of either State or Federal Governments.

Clearly, therefore, the bill would not mean, as some have charged, that the Federal Government take over responsibility for child development. This legislation should be viewed rather as providing an incentive to States and local communities to help them in developing their own child development programs.

NEED

Mr. Speaker, in his veto message President Nixon states that—

> Neither the immediate need nor the desirability of a national child development program of this character has been demonstrated.

Mr. Speaker, I am tomorrow going to send President Nixon a set of the hearings of the Select Subcommittee on Education of the House Committee on Education and Labor during the period between 1969 and 1971 during which hundreds of witnesses—166 witnesses and statements—including parents, officials representing the Nixon administration, Governors from across the country testified on the need for precisely the kind of program which President Nixon today killed.

If the President will read these hearings he will see that many Republicans as well as Democrats on our committee indicated their conviction that indeed there is "immediate need" for such a program and that, moreover, it is highly desirable.

President Nixon has evidently not followed the expressed views of members of his own party in Congress nor indeed does his veto message reflect an awareness of his own previously stated calls for a national commitment to exactly the kind of program in the bill he has vetoed.

For, Mr. Speaker, to reiterate, President Nixon calls for day-care centers in his welfare program contained in H.R. 1.

In his August address, he said that he called for these day-care centers to provide care that would be "more than custodial."

He said then that the day care that would be part of this plan would be a quality that would help in development of children and provide for their health and safety.

But in his veto message today the President has retreated from this commitment and says only of H.R. 1 that day-care centers are needed for the children of the poor so that their parents can leave the welfare rolls to go on the payrolls. All of us, of course, want to encourage people on welfare to work whenever possible.

But it is indeed distressing that the President now seems to view day-care programs as simply babysitting centers to enable parents to work and has abandoned his earlier, more understanding view, that child development programs must focus on the good of the child.

All those who have been champions of child development legislation including, I have little doubt, some of my Republican friends, must be astonished at this latest Presidential retreat.

And, Mr. Speaker, do not forget that the Republican leader of the House, the gentleman from Michigan, Mr. GERALD R. FORD, was a cosponsor of a comprehensive child development bill last year, so I must assume that he thought there was a need for it.

In this connection, Mr. Speaker, is the President seriously charging—to quote his veto message once more—that the National Government is going to support "communal approaches to child rearing over against the family-centered approach"?

Is the President seriously charging that all those Republican Senators who voted for this legislation were voting for "communal approaches to child rearing over against the family-centered approach."

No thoughtful person would suggest that they would, any more than those of us who have championed this legislation do.

The President's charge is a specious one and is an indication of the extreme to which he has found it necessary to go to appease his radical rightwing critics who are distressed over his forthcoming visits to Moscow and Peking. He seems more interested in appeasing them than he does in making good on his 1969 commitment to American children.

Mr. Speaker, President Nixon said today in his veto message—

> We owe our children something more than good intentions.

We owe the children of America, to quote Richard Milhous Nixon, "a national commitment to providing all American children an opportunity for healthful and stimulating development during the first 5 years of life."

NEW NATION OF BANGLA DESH

(Mr. HELSTOSKI asked and was given permission to extend his remarks at this point and to include a resolution and extraneous matter.)

Mr. HELSTOSKI. Mr. Speaker, I am today introducing a simple House resolution calling on the administration to extend full diplomatic recognition to the new nation of Bangla Desh.

My resolution, the text of which I shall include in the Record at the conclusion of my remarks, speaks for itself. The Government of Pakistan, through its heinous repression of the Awami League and the civilian population of East Bengal has forfeited any claim to the allegiance of the citizens of that region. The civil war which was initiated by Yahya Khan on March 25 and the recent outbreak of hostilities between India and Pakistan have sealed the fate of Pakistan as a unified nation.

Mr. Speaker, it is only a matter of time before Bangla Desh is an independent country. This morning's reports from that region indicate that Indian forces and the Mukti Bahini have surrounded and nearly defeated the Pakistani Army in what was once East Pakistan. I see no reason why victory will not be in the hands of these forces very shortly.

The United States, if acting only from realism, should take note of these recent developments and extend diplomatic recognition to this new nation of Bangla Desh. But reasons more compelling than international political pragmatism should prompt our Government to reverse its callous policy of support for the repressive Yahya regime and face up to the facts of life in South Asia.

Since March 25. our Government has, through its policy of silence, countenanced the genocidal attack which the West Pakistani Government launched against the East. India's vehement protests that this civil war, which had driven 10 million refugees into the environs of Calcutta, must be ended through international pressure on Yahya Khan fell on deaf ears in the White House and Foggy Botton. The unresponsiveness of our Government and its addiction to cold-war attitudes which required continued support of the Yahya government, served only to heighten tensions in South Asia and drive India to a friendship pact with the Soviet Union. The bankruptcy of our Government's ambivalent policy toward the tragedy of Bangla Desh is no better exemplified than by the administration's allowing arms shipment to continue to Pakistan for 8 months after the outbreak of the civil war.

Our policy of equivocation and appeasement of the Pakistani Government must end if the United States is to regain its good name in South Asia and hope for any measure of influence there in the decades ahead. Unfortunately, even in light of the rapidly changing political and military situation surrounding Bangla Desh, the U.S. Government fails to divorce itself from the Yahya dictatorship.

American policy in South Asia, thus, must be modified. The resolution I am introducing today provides us with a broad, new South Asian policy framework which would serve the interests of the United States and the peoples of South Asia well.

Apart from granting belated American recognition to the valiant independence efforts of the people of Bangla Desh my resolution calls for an immediate cease-fire coupled with withdrawal of all foreign troops from all sectors of South Asia. This would mean, among other things, withdrawal of Indian troops from Bangla Desh and a Pakistani withdrawal from Kashmir. We must not ignore, as well, the plight of West Pakistani troops now surrounded in Bangla Desh. In light of the atrocities perpetrated by the Pakistani Government in the past 9 months, it is not surprising that revenge might be wreaked on these survivors by elements in Bangla Desh. However, simple morality and respect for international law requires that no reprisals be undertaken. Accordingly, my resolution calls for prompt and safe repatriation of these West Pakistani troops. We must also press for similar treatment of Bengalis now in West Pakistan.

And, of course, my resolution recognizes that immediate efforts must be made to repatriate the millions of homeless refugees now in India. Our traditional American policy of giving succor to the suffering of the world dictates that we take the lead among developed nations in providing funds and material for this repatriation effort.

Mr. Speaker, I am convinced that time and a sense of belated concern for the masses in East Pakistan will require eventual recognition of Bangla Desh. Why not initiate such a policy now before the people of that new nation are totally alienated from the United States as well as from their former government in Islamabad? We must recover our sense of justice and morality in the field of foreign affairs. A start can be made by undertaking this long-overdue revision of our policy toward the peoples of South Asia.

Under unanimous consent, Mr. Speaker, I am including at this point in the Record several relevant articles from the New York Times as well as the text of my resolution:

RESOLUTION

Expressing the sense of the House of Representatives relative to the crisis in South Asia.

Whereas the people of East Bengal voted overwhelmingly last year for self-determination and autonomy, and

Whereas the government of Pakistan has engaged in a ruthless suppression of the civilian population of that region, has slaughtered hundreds of thousands and has driven 10 million refugees into India, and

Whereas the government of Pakistan has thereby forfeited any moral authority over East Bengal and has permanently and totally alienated the population of that region, and

Whereas the government of the United States has consistently failed to take note of the moral imperatives for ceasing support of the brutal and anti-democratic government of Pakistan, and

Whereas the current crisis has been aggravated by hostilities between India and Pakistan: Now, therefore, be it

Resolved, that it is the sense of the House that:

(1) The United States government should immediately take steps to modify significantly its policy in South Asia, especially with respect to the serious deterioration of its relations with the Government of India,

(2) The current embargo on arms shipments to both India and Pakistan should be extended indefinitely, and the United States should scrupulously avoid any military involvement in South Asia,

(3) The President should extend full diplomatic recognition to Bangla Desh as a free and independent nation,

(4) The government of the United States should press for a total cease-fire in South Asia, coupled with complete withdrawal of all foreign troops from Bangla Desh, Pakistan and India, including Kashmir,

(5) There should be a swift repatriation of all captives and refugees and full compliance with international law governing the treatment of prisoners and the conduct of war,

(6) There should be held, as soon as peace is restored, free elections in Bangla Desh to establish a provisional government, and

(7) The United States government should undertake maximum diplomatic efforts and should provide full economic and humanitarian relief assistance to aid in the attainment of the goals of this resolution.

STATE THAT NEVER WAS

LONDON.—On the Indian subcontinent a state is dying and a new nation has been born.

The theocratic state of Pakistan is struggling to avoid dismemberment, though it has but one unifying force within its boundaries: the Islamic faith of the majority of its citizens. It was in deference to religious bigotry that the geographic and cultural monstrosity called Pakistan came into existence in the first place.

Now the nationalism of the Bengalis has shattered Muslim unity, set an example for the disaffected Pathans and reduced the loyal area of Pakistan to the two provinces of Punjab and Sind. Since India cannot cope with the ten million refugees from East Bengal and wishes to send them back over the border, Mrs. Gandhi has seized upon President Yahya Khan's difficulties and by a skillful military escalation hopes to give the new nation of Bangla Desh the chance of self-government. The supply lines of the Pakistan Army are hopelessly stretched and they are being harassed by the Mukti Bahini in East Bengal. Since the Pakistanis also face trouble in the North-West Frontier Province and Baluchistan, they cannot long sustain Indian military pressure. As the chances of Chinese help recede their plight is desperate.

Pakistan has little claim upon our sympathy. She became a state because the intransigence of Mr. Jinnah and the Moslem League destroyed the chance of a secular all-Indian confederation. From its foundation this artificial state has been militaristic and bellicose and for two decades has spent 80 per cent of its budget on defense. Its present rulers are as stupid as they are brutal. Instead of working for a compromise with Sheik Mujibur Rahman and his Bengali Awami League, President Yahya Khan unleashed Gen. Tikko Khan and the Pakistan Army upon the hapless Bengalis in a campaign of indiscriminate slaughter.

Last week, as if to confirm the fact that he has very little political judgment, he banned the West Pakistan National Awami party and arrested some of its leaders. In so doing he has disfranchised the North-West Frontier Province and Baluchistan, which are now disaffected and may require watching by the already very much over-committed Pakistan Army.

Perhaps the Pakistanis calculated that all internal risks were manageable because of the assured support of China. If so, they have been outmaneuvered by India and badly served by the U.N. vote that admitted China to membership. The Indians have exerted military pressure at a time when the mountain passes, through which Chinese help would have to come, are blocked by snow. They will stay blocked for at least another three months, which gives the Indian Army plenty of time to intensify its military activity to the point where Pakistan breaks.

Not that it is very likely that the Chinese have considered sending help. It would be a bad start to China's U.N. membership for her to become involved in an Asian land war that might well involve not only India but also the U.S.S.R. The Chinese have more important aims than the maintenance in power of Yahya Khan. The Sino-Pakistan alliance has always been an opportunistic deal between utterly dissimilar societies who believe they have common enemies. China will not wish to be saddled with an ally who cannot maintain internal peace and so threatens to embroil the Chinese in conflicts which do not affect their national interests.

The Pakistanis fear that if they wait upon events the Indian Army will not confine its activities to the frontier regions of East Bengal but will strike at Lahore in an attempt to cut West Pakistan in two. India has 29 divisions to Pakistan's 19, a million men to 400,000, command of the sea, more and better tanks and twice as many military aircraft. Despite the excellent quality of the Pakistani forces there is little doubt about the result of full-scale warfare. The Indians hold the initiative and it is to be hoped that circumstances will allow them to use it for ending the existence of the unitary despotism which is the present Pakistan and bringing to birth new states with more reasonable aims and boundaries.

ALIENATING INDIA

President Nixon's declaration of "absolute neutrality" in the Indian-Pakistani conflict fails to conceal Administration policies, which have, in fact, been obviously biased in favor of the Government of President Yahya Khan in Islamabad.

During the eight months of repression in East Pakistan which led to the present international conflict on the subcontinent, Washington's "neutrality" consisted of maintaining silence while Yahya's troops suppressed a freely elected autonomy movement in East Pakistan, were responsible for the death of thousands of Bengalis and forced millions more, mostly Hindus, to flee to India where their presence has posed a growing threat to Indian political, economic and social stability. For many months the Administration actually gave material support to this unconscionable repression by continuing to ship small amounts of military supplies to Islamabad.

Administration officials argue, as a White House briefing emphasized yesterday, that their public silence and the continuance of aid were designed to strengthen quiet efforts to promote a political settlement in East Pakistan that would bring peace and the return of the refugees. But there is no evidence that President Yahya has tried to reach any accommodation with the imprisoned Sheik Mujibur Rahman and the other elected representatives who command the confidence of the overwhelming majority of Pakistan Bengalis.

Having failed to condemn the repression in East Pakistan, the United States now charges India with "major responsibility" for the resulting international conflict; having waited months to suspend arms aid to Pakistan, the Administration has promptly suspended military and economic aid to India. This is hardly "absolute neutrality"—even though it must be fully recognized that India is by no means guiltless in the actual outbreak of armed conflict, and, despite all the hypocritical and self-serving statements issued from New Delhi almost daily, has been aggressively maneuvering against her northern neighbor. There is plenty of blame to go all the way around.

United States efforts at the United Nations, first in the Security Council and now in the General Assembly, have been aimed at bringing about a simple cease-fire and withdrawal of forces. Urgent and desirable as such action surely is, it cannot be practically effective unless the United Nations and its leading members—especially the United States—are prepared at the same time to recognize and attempt to deal with the root cause of the problem in Pakistan.

AN EFFECTIVE NATIONAL DEFENSE—WHY?

(Mr. HOLIFIELD asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. HOLIFIELD. Mr. Speaker, in October 1962 the world witnessed the Cuban missile confrontation between the two nuclear superpowers. In those few days the world moved rapidly toward the precipice of nuclear disaster. Because of the courage and determination of a great President and because of the strength of U.S. defensive power, the crisis passed and stability was returned to the Caribbean area.

Since that time it appears the Soviet Union has embarked on a deliberate course of obtaining military superiority over the United States. The Soviets have the SS–9 nuclear missiles with a capability of over 20 megatons—the equivalent of 20 million tons of TNT, an almost unimaginable explosion. This power is far in excess of the largest single nuclear missile in our stockpile. Their naval nuclear submarine strength has grown appreciably over the past few years and it is estimated that within a few years they will have more nuclear submarines capable of striking the United States than we have on station in the Atlantic, Mediterranean, and Far East in support of our commitments.

It is to prevent a recurrence of a Cuban missile crisis that both the United States and the Soviet Union are striving to develop an agreement at the strategic arms limitation conference currently underway in Vienna. I believe everyone in the Congress and the country joins me in the hope that there will be success at the SALT conference, and we will take a step away from the abyss of nuclear disaster.

It is well to look at both sides of the delicate balance of terror between the United States and the U.S.S.R. We pray for peace but yet we watch with anguish the ever-growing strength of the Soviet Union.

In this connection on Wednesday, November 17, 1971, Vice Adm. H. G. Rickover spoke before the American Ordnance Association in New York to discuss the need for an effective national defense. His speech gives cause for concern and, I think, deserves the attention of all of us.

In his speech, Admiral Rickover says:

> If history teaches anything it is surely that weakness invites attack; that it takes but one aggressor to plunge the world into war against the wishes of dozens of peace loving nations, if the former is militarily strong and the latter are not. . . . What it means to be weak and without American protection should be evident to all who observed the tragic drama of Czechoslovakia "negotiating" with Russia the continuing subjugation of her people.

This week marks the 30th anniversary of the attack on Pearl Harbor. At that time our Nation was ill-prepared for war; our Pacific Fleet based in Hawaii presented an inviting target; the country was divided on our role in the ever-widening war abroad; and many of our Government leaders were attending a Redskins football game when the attack came.

Sound familiar—well it has been suggested that what is past is prolog but I do not believe that history should be allowed to repeat itself. I believe that we should never again issue an invitation to disaster. We must remain militarily strong, at the same time we must strive for peace through mutual arms reduction. These twin goals can and must be accomplished.

I include Admiral Rickover's remarks in the RECORD at this point:

AN EFFECTIVE NATIONAL DEFENSE—WHY?

(By Vice Adm. H. G. Rickover)

I have been asked to give you an estimate as to where we are and where we are going and what needs to be done in a military way in these times of turmoil and peril. There is, as you know, a division of opinion among the American people regarding the necessity of reinforcing our military strength.

The first point I would like to make is that in judging between conflicting views on this matter, the deciding factor must be their relevance to the world as it is, not as we would wish it to be. Granted the hideousness of modern war, can we deduce therefrom that mankind is now wise enough to forego recourse to arms? A look at history should put us on guard against those who claim that humanity has now reached a state where, in formulating national policy, the possibility of armed aggression can be safely disregarded.

I am reminded of the intense opposition to the Navy's 15-cruiser bill in 1929. It was argued by many that with the signing of the Kellogg Peace Pact the year before it was no longer necessary to build new warships. And this in light of the lessons of World War I which erupted despite the various Hague peace treaties. These ships were of inestimable value in helping us win World War II. The war itself was prolonged because Congress—heeding the "merchants of death" argument—in 1939 prohibited shipment of war materials to Britain and France.

Then, too, weight must be given to the *credentials* of those propounding opposite views. Are they public servants charged with the awesome responsibility to secure our country against foreign conquest, or are they private individuals not accountable to anyone for the consequences of their opinions; are they private individuals who feel free to express their personal abhorrence of war and to agitate, within the screen of rhetoric, for a reduction of the financial burden that military preparedness imposes on the taxpayer? Would the majority of the electorate accept their argument that, given our unmet domestic needs, we cannot afford an effective defense position vis-a-vis our potential adversaries? Or that war is so horrible that it is better to suffer defeat than to fight?

There can surely be no doubt that the overwhelming majority of the American people are opposed to relinquishment of our defense capability, recognizing full well that there will then be no one left to prevent the takeover by Communist power. Whether one takes the optimistic view that a permanent East-West détente can be negotiated, or the pessimistic view that ultimately we shall have to fight for our liberties, this Nation has no future if it allows itself to be outmatched militarily.

As for the high cost of preparedness, the approximately 70 billion dollars allocated to defense for fiscal year 1971 was the smallest percentage of our Gross National Product in 20 years—just seven percent. Defense expenditures in that fiscal year represented about 35 percent of our total Federal budget outlays, compared to 44 percent in FY66. Omitting the costs of the Vietnam war and allowing for inflation, our Armed Forces have less buying power today than they had two decades ago. In the Soviet Union, on the other hand, resources have been diverted from the farm sector to defense, and there appears to be increasing preoccupation with national security. And you must bear in mind that actual war costs absorb but a small portion of their expenditures while we are spending many billions of dollars a year in Vietnam. As for myself, I would rather be alive at ten percent than dead at seven percent.

If history teaches anything it is surely that weakness invites attack; that it takes but one aggressor to plunge the world into war against the wishes of dozens of peace loving nations, if the former is militarily strong and the latter are not. Yet there are those who deprecate the need to maintain military supremacy or at least parity with the Communist empires, on the grounds that other nations have accepted a decline from first to second or third rank and that we ourselves for most of our history were militarily a second-rate power yet secure enough within our borders. They forget that we then profited from the Pax Britannica, even as the former great powers of Europe who have lost their defense capability enjoy political freedom today only because we are strong enough to defend them and ready to do so. What it means to be weak and without American protection should be evident to all who observed the tragic drama of Czechoslovakia "negotiating" with Russia the continuing subjugation of her people.

The concept that a "weapons race" is the cause of war was a widely held theory prior to World War I. Many historical studies of the causes of that war have disproved this fallacy. And certainly it cannot be claimed that World War II was caused by an armaments race. In fact that war might well have been prevented had Britain, France, and the United States been better prepared. It was for this very reason that at the end of World Wars I and II we vowed never again to be caught unprepared. Whether or not to use our military forces is decided by our civilian leaders, not by the military. The military is asked for advice, but the decision is that of the civilian leadership.

Our Navy is not a direct threat to any country. Its strength lies in its ability to be deployed rapidly at distances from the United States. Its very existence as a "fleet in being" serves to deter those who might otherwise think lightly about starting hostilities.

Many valuable lessons for today can be drawn from our experiences in past years. For example, when Germany decided to invade Russia in 1941, their staff studies showed that the Soviet Union would be defeated in eight weeks, ten weeks at most. Our military attaché in Moscow advised the War Department that the war would be over in three months. I well remember that the German estimate for the length of World War I was also three months.

These estimates should place us on guard against those who believe that long, worldwide wars are no longer possible. Even the present "minor" Vietnamese war has endured for longer than the foremost defense civilians and our military leaders predicted. Having served in both World Wars, I may perhaps be forgiven for not being as optimistic about permanent peace, the beneficence of unilateral disarmament, and the current belief held by many—especially by our "intellectuals"—that the sheer horror of a long war will compel its avoidance.

A brief look at some of the grim statistics of World War II will show why prevention of war is an order of magnitude less costly than engaging in it. The money we save today in lowering our defense will surely be but a pittance compared to what it will cost us if we are not strong enough to deter war.

Russia was invaded in June 1941. By winter of that year the cost of the war was already truly colossal. To the six million, possibly as many as eight million military losses in killed and captured were added millions of civilian casualties, a million or more dead of starvation alone in Leningrad during the winter of 1941–1942.

By the end of 1941 the Soviet Union had lost 47 percent of her inhabited places, territory in which 80 million persons had lived. That territory had produced 71 percent of Soviet pig iron, 58 percent of its steel, 63 percent of its coal, and 42 percent of its electricity. By the end of their 1941 offensive the Germans had occupied areas that had produced 38 percent of the grain and cattle and 84 percent of the Soviet sugar.

The total military service deaths on the Soviet side reached more than 12 million. The West German estimate of Soviet military losses is 13.6 million, including 1.75 million permanently disabled. The war also cost the Soviets some seven million civilians. The losses, civilian and military, of Finland, the Baltic States, and of eastern and southeastern European countries added millions more.

The German military dead in World War II numbered between three and 3.5 million; their civilian dead 1.5 million.

The figures I have stated are vastly increased by the military and civilian dead of Great Britain, France, the United States, Austria, Hungary, Italy, Japan, China, and of many more countries. Poland lost one-quarter of her entire people. The total of all soldiers killed in World War II was 26.8 million.

Unfortunately, few people study history, which accounts for the truism that history repeats itself. In fact, not many of our people understand the devastation wrought by World War II. That war ended a quarter of a century ago. Half the people in the United States were not alive then; they, as well as people then in their early teens had no direct connection with the war. It is not too farfetched to say that 75 percent of the American people have no vivid memory of what a world war really means. The lesson of that war, its page of history, is worth a book of logic.

You may remember Blackstone's statement that security of the person is the first, and liberty of the individual the second "absolute right inherent in every Englishman." Just so, the first right of every American is to be protected against foreign attack, and the first duty of Government is to keep our Nation alive. Given the world situation, this calls for maintenance of a defense capability adequate to discourage potential aggressors. President Nixon has said: ". . . it is essential to avoid putting an American President, either this President or the next President, in the position where the United States would be second rather than first, or at least equal to any potential enemy." He has also said, in discussing the Cuban Missile Crisis: "I do not want to see an American President in the future, in the event of any crisis, have his diplomatic credibility impaired because the United States was in a second-class or inferior position. We saw what it meant to the Soviets when they were second."

Turning back to the present, you may ask what needs to be done in these times of turmoil and peril. The blunt situation facing us is that Soviet Russia is doing all the things a nation would do if it wanted to be the number one military power with clear unequivocal superiority. The U.S. Navy has not taken any further steps to increase its strategic offensive force. There has not been an arms race; the Soviets have been running at full speed all by themselves.

However, as I am most familiar with the threat posed by the Soviets to our naval power, I would like to confine myself to this area, and specifically to submarines. But the logic of what I say is valid for our land, sea, and airpower as well.

The Soviets are embarked on a program which reveals a singular awareness of the importance of seapower, and an unmistakable resolve to become the most powerful maritime force in the world. They demonstrate a thorough understanding of the basic elements of seapower: knowledge of the seas, a strong, modern merchant marine, and a powerful new navy. They are surging forward with a naval and maritime program that is a technological marvel.

Starting with 200 diesel powered submarines at the end of World War II, most of which were obsolete, the Soviet Union embarked on the largest peacetime submarine construction program in history, producing over 580 modern submarines in 26 years—most designed for long-range operations. During the same period the United States built 113 submarines. In two years alone, 1955 and 1956, the Soviets completed 150 submarines, almost one and one half times the total number of submarines this country has produced in the past 26 years.

The Soviets have applied tremendous national resources to the expansion and modernization of their submarine construction yards. They now have the largest and most modern submarine building yards in the world, giving them several times the nuclear submarine construction capacity possessed by the United States.

They are credited with a nuclear submarine production capability of 20 ships a year on a single shift basis. They have the facilities to increase this rate of production considerably. At present, while our Poseidon conversions are going on, the maximum U.S. capacity to build nuclear submarines is less than half that of the Soviets. Upon completion of these conversions—about 1977—the best we could do would still be well below their capacity.

One of the most important steps they have taken has been the development of a large reservoir of trained engineers to support their submarine design and building program. They graduate ten times as many naval architects and marine engineers per year as we. While we cannot specifically count the number of Soviet scientists and engineers devoted to naval work, it is apparent that they have created a broad technological base. They have committed extensive resources to support development of their naval forces.

According to the latest unclassified data the Soviets now have a total of about 340 submarines, all built since World War II. About 100 of these are nuclear powered. The total U.S. force is 137 submarines, 95 of which are nuclear powered, the remainder diesel powered. Most of our diesel units were built during World War II.

Today, as a result of the Soviet large-scale construction program, our lead in nuclear powered submarines has disappeared. They are yearly outproducing us in nuclear submarines by 3 or 4 to 1. Even if we should decide at once to reverse this trend, our efforts could not begin to bear fruit for several years; in the interim the Russian lead will grow substantially. By 1975 it is estimated they will have something like 50 percent more nuclear submarines than the United States.

Of even greater concern than total numbers is the fact that since 1968 the Soviets have introduced several new designs besides converting older designs to improve their capabilities. They have introduced significantly improved second generation versions of the first generation attack, cruise-missile and ballistic-missile nuclear submarine designs.

One of their current new designs is the Yankee Class nuclear powered ballistic-missile submarine introduced in 1968. These submarines look very much like our latest Polaris type, and are capable of submerged launching of 16 ballistic missiles with a range of 1,300 miles.

They now have some 35 of the Yankee Class in operation or under construction; this class is being built at a rate of about six to eight a year. It is estimated that they will surpass our Polaris fleet of 41 by 1974, probably sooner. Further, it must not be forgotten that the Soviets also have over 30 conventional and nuclear powered ballistic-missile submarines of an earlier design. Thus, we are faced with the imminent loss of our lead in numbers of sea based strategic missiles—no matter what action we take today.

While the extent of their submarine design and construction effort is alarming, this is not the only area of concern. We have long relied on superior quality in our submarines to compensate for lack of numbers. But recent evidence indicates that the Soviets are making considerable progress in all aspects of submarine capability, thus markedly reducing whatever qualitative advantage we may have had. Weapon systems, speed, detection devices, quietness of operation all make a significant contribution to the effectiveness of a submarine force. From what we have been able to learn, they have attained equality in a number of these characteristics, and superiority in some.

The Soviet submarine force, like the entire Soviet Navy, has become capable of sustained open ocean operations and is being used to support foreign policy in various areas of the world. Last year the tempo of worldwide Soviet submarine operations was at an all time high. During their 1970 large-scale naval maneuvers that included over 200 ships in the Atlantic and Pacific Oceans and in nine adjoining seas, they deployed a large number of nuclear submarines away from their home bases.

Because of their expanding range of operations, the Soviet Navy can now deploy long-range missiles in submarines hidden underwater along the entire length of our Atlantic and Pacific coasts and in the Gulf of Mexico. Thus, they can bring 95 percent of American population and industrial centers within the range of their submarine based missiles. We must now reconcile ourselves to living with the possibility of Russian submarines targeting their nuclear missiles on us from nearby ocean areas we thought of until recently as friendly American waters.

The Russians are in the Mediterranean. They operate regularly and continually in the North Atlantic and the Norwegian Sea. Russian naval units now are being seen with regularity in the Indian Ocean and off both coasts of Africa. They are in the Pacific, the Arctic, and the Antarctic. The swimming Russian bear is not yet ten feet tall, but he is five feet, eight inches, and growing rapidly. He has not yet wrested supremacy of the seas from the free world but he is making a very determined effort to do so. If we are not alert, we may find tomorrow that our strength has been checkmated at sea.

Throughout our history the waters that wash our shores have been friendly. They have given us geographical protection, making it practically impossible for anyone to attack us. They have also given us time to build up our strength when danger threatened.

But the tempo of modern technology has changed all this, as it has changed so many other things. It has stripped this country of our "friendly oceans." The Atlantic and the Pacific are no longer "friendly"; they have become broad highways whence attacks can be launched against us.

The fact that our country, previously invulnerable, has now become vulnerable must sink into the public consciousness.

Today it is fashionable to advocate a reduction in defense and to use the money saved for domestic purposes. Those who so advocate do not test their theories for their deductions by events. While men are perishing from the eruption of a volcano they are blissfully beating time and listening to the music of the heavenly spheres and marveling at the harmony. Meanwhile Soviet Russia is preparing a military establishment which, by 1975, can be ahead of ours in virtually all respects.

The bearer of bad news is always punished. In ancient times, he might be put to death. Today he becomes "controversial" and unpopular. But if there is one subject on which the American people must know the truth, however unpalatable, it is our military position vis-a-vis the Soviets.

"Peace for our time!" declared Neville Chamberlain. And what was to follow was six years of one of the bloodiest conflicts ever experienced by mankind—a conflict that nearly wrecked Western Civilization. Let us hope that the lessons of appeasement and unpreparedness have not receded into the dim shadows of past victory.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. Veysey, for December 10 and balance of the week, on account of meeting in Sacramento, Calif., with Federal and State officials on Salton Sea feasibility study.

Mr. Thompson of New Jersey, for December 13, 14, and 15, on account of official business.

Mrs. Mink, for December 10, 1971, and for 10 days thereafter, on account of official business.

Mr. Gude (at the request of Mr. Gerald R. Ford), from 4:30 p.m. today and balance of week, on account of official business.

Mr. Talcott (at the request of Mr. Gerald R. Ford), after 4 p.m. today, on account of official business.

Mr. McKevitt (at the request of Mr. Gerald R. Ford), from 3:30 p.m. today, on account of death in family.

Mr. Mizell (at the request of Mr. Gerald R. Ford), after 3:30 p.m. today, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. McKinney), to revise and extend their remarks, and to include extraneous matter:)

Mr. Findley, today, for 5 minutes.

Mr. Kemp, today, for 15 minutes.

Mr. Halpern, today, for 10 minutes.

(The following Members (at the request of Mr. Kee), to revise and extend their remarks, and to include extraneous matter:)

Mr. Burke of Massachusetts, today, for 5 minutes.

Mr. Gonzalez, today, for 10 minutes.

Mr. Brademas, today, for 15 minutes.

Mr. Aspin, today, for 5 minutes.

Mr. Reuss, today, for 30 minutes.

Mr. Fuqua, today, for 10 minutes.

Mrs. Abzug, today, for 15 minutes.

Mr. McFall, today, for 5 minutes.

Mr. James V. Stanton, today, for 15 minutes.

Mr. Diggs, on December 14, for 60 minutes.

Mr. Fraser, on December 14, for 60 minutes.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mrs. Abzug to extend her remarks on the tax bill following the remarks of Representative Fraser.

Mr. Barrett (at the request of Mr. Patman) to extend his remarks in committee of the Whole on H.R. 11309.

Mr. Holifield to follow special orders today and include a speech by Adm. H. G. Rickover.

Mr. Miller of Ohio in the body of the Record.

(The following Members (at the request of Mr. McKinney), and to include extraneous matter:)

Mr. Ware.

Mr. Gerald R. Ford.

Mr. Frey.

Mr. Carter in three instances.

Mr. Johnson of Pennsylvania.

Mr. Steiger of Arizona.

Mr. Thomson of Wisconsin in two instances.

Mr. Hosmer.

Mr. Fish.

Mr. Bray in two instances.

Mr. Gude in two instances.

Mr. Hastings.

Mr. Minshall in two instances.

Mr. Bob Wilson.

Mr. McDonald of Michigan.

Mr. McClory in two instances.

(The following Members (at the request of Mr. Kee), and to include extraneous matter:)

Mr. Dingell in two instances.

Mr. Roy.

Mr. Gonzalez in two instances.

Mr. Rarick in three instances.

Mr. Rogers in five instances.

Mr. Hagan in three instances.

Mr. Kluczynski in three instances.

Mr. Fountain in three instances.

Mr. Pucinski in six instances.

Mr. Aspin.

Mr. Bolling in two instances.

Mr. Kastenmeier in two instances.

Mr. Pryor of Arkansas.

Mr. Symington in four instances.

Mr. Matsunaga in two instances.

Mr. Brinkley.

Mr. Fulton of Tennessee in two instances.

Mr. Foley in two instances.

Mr. Karth.

Mr. Vanik in two instances.

Mr. Biaggi in five instances.

Mr. Byrne of Pennsylvania.

Mr. Harrington.

Mr. James V. Stanton.

Mr. Jacobs.

Mr. Burke of Massachusetts.

Mr. Mikva in five instances.

Mr. Wolff.

Mr. Ryan in three instances.

Mr. Boggs.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 978. An act authorizing the conveyance of certain lands to the University of Utah, and for other purposes; to the Committee on Interior and Insular Affairs.

S. 1113. An act to establish a structure that will provide integrated knowledge and understanding of the ecological, social, and technological problems associated with air pollution, water pollution, solid waste disposal, general pollution, and degradation of the environment, and other related problems; to the Committee on Science and Astronautics.

S. 1438. An act to protect the civilian employees of the executive branch of the U.S. Government in the enjoyment of their constitutional rights and to prevent unwarranted governmental invasions of their privacy; to the Committee on Post Office and Civil Service.

S. 2676. An act to provide for the control of sickle cell anemia; to the Committee on Interstate and Foreign Commerce.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 29. An act to establish the Capitol Reef National Park in the State of Utah; and

S. 1237. An act to provide Federal financial assistance for the reconstruction or repair of private nonprofit medical care facilities which are damaged or destroyed by a major disaster.

ADJOURNMENT

Mr. KEE. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to: accordingly (at 8 o'clock and 16 minutes p.m.), under its previous order, the House adjourned until tomorrow, Friday, December 10, 1971, at 10 o'clock a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1348. A letter from the Secretary of Labor, transmitting a draft of proposed legislation to amend the Welfare and Pension Plans Disclosure Act; to the Committee on Education and Labor.

RECEIVED FROM THE COMPTROLLER GENERAL

1349. A letter from the Comptroller General of the United States, transmitting a report on the management of selected aspects of the strategic and critical materials stockpile by the Office of Emergency Preparedness and the General Services Administration; to the Committee on Government Operations.

1350. A letter from the Comptroller General of the United States, transmitting a report on the feasibility of coordinating the deep-ocean geophysical surveys of the National Oceanic and Atmospheric Administration, Department of Commerce, and the Department of the Navy; to the Committee on Government Operations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. MAHON: Committee of conference. Conference report on H.R. 11955. (Rept. No. 92–725). Ordered to be printed.

Mr. PERKINS: Committee on Education and Labor. S. 1163. An act to amend the Older Americans Act of 1965 to provide grants to States for the establishment, maintenance, operation, and expansion of low-cost meal projects, nutrition training and education projects, opportunity for social contacts, and for other purposes; with an amendment (Rept. No. 92–726). Referred to the Committee of the Whole House on the State of the Union.

Mr. PATMAN: Committee of conference. Conference report on Senate Joint Resolution 176 (Rept. No. 92–727). Ordered to be printed.

Mr. BRADEMAS: Committee on House Administration. House Resolution 633. Resolution providing for the printing of additional copies of the committee print entitled "Review of SEC Records of the Demise of Selected Broker-Dealers" (Rept. No. 92–728). Ordered to be printed.

Mr. BRADEMAS: Committee on House Administration. House Resolution 648. Resolution authorizing the printing as a House document the dedication ceremony of the portrait of Hon. F. Edward Hébert, chairman, Committee on Armed Services (Rept. No. 92–729). Ordered to be printed.

Mr. BRADEMAS: Committee on House Administration. House Concurrent Resolution 439. Concurrent resolution to provide for the printing of 50,000 additional copies of the subcommittee print of the Subcommittee on Domestic Finance, of the House Committee on Banking and Currency, entitled "A Primer on Money" (Rept. No. 92–730). Ordered to be printed.

Mr. BRADEMAS: Committee on House Administration. House Concurrent Resolution 441. Concurrent resolution authorizing the printing of "The Joint Committee on Congressional Operations: Purpose, Legislative History, Jurisdiction, and Rules" as a House document, and for other purposes (Rept. No. 92–731). Ordered to be printed.

Mr. BRADEMAS: Committee on House Administration. House Concurrent Resolution 469. Concurrent resolution to provide for the printing as a House document a compilation of the eulogies on the late Justice Hugo L. Black; with amendments (Rept. No. 92–732). Ordered to be printed.

Mr. BRADEMAS: Committee on House Administration. Senate Concurrent Resolution 30. Concurrent resolution authorizing the printing of the study entitled "Soviet Space Programs, 1966–70" as a Senate document (Rept. No. 92–733). Ordered to be printed.

Mr. BRADEMAS: Committee on House Administration. Senate Concurrent Resolution 31. Concurrent resolution authorizing the printing of the compilation entitled "Federal and State Student Aid Programs, 1971" as a Senate document; with an amendment (Rept. No. 92–734). Ordered to be printed.

Mr. BRADEMAS: Committee on House Administration. Senate Concurrent Resolution 34. Concurrent resolution authorizing the printing of the prayers of the Chaplain of the Senate during the 91st Congress as a Senate document (Rept. No. 92–735). Ordered to be printed.

Mr. BRADEMAS: Committee on House Administration. Senate Concurrent Resolution 44. Concurrent resolution authorizing the printing of the study entitled "International Cooperation in Outer Space: A Symposium" as a Senate document (Rept. No. 92–736). Ordered to be printed.

Mr. BRADEMAS: Committee on House Administration. Senate Concurrent Resolution 50. Concurrent resolution authorizing the printing of the handbook entitled "Guide to Federal Programs for Rural Development" as a Senate document (Rept. No. 92–737). Ordered to be printed.

Mr. McMILLAN: Committee on the District of Columbia. H.R. 11992. A bill to amend the District of Columbia Election Act, and for other purposes; with amendments (Rept. No. 92–738). Referred to the Committee of the Whole House on the State of the Union.

Mr. McMILLAN: Committee on the District of Columbia. H.R. 12115. A bill to amend certain provisions of subtitle II of title 28, District of Columbia Code, relating to interest and usury; with amendments (Rept. No. 92–739). Referred to the Committee of the Whole House on the State of the Union.

Mr. McMILLAN: Committee of Conference. Conference report on H.R. 11341, with amendment (Rept. No. 92–740). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BRADEMAS (for himself, Mr. Reid of New York, Mr. Melcher, Mr. Badillo, Mr. Mikva, Mr. Dingell, Mr. Boland, Mr. Bevill, Mr. Rosenthal, Mr. Carney, Mr. Harrington, Mr. Hechler of West Virginia, Mr. Koch, Mr. Hawkins, Mr. Podell, Mr. Vanik, Mr. Green of Pennsylvania, Mr. Yates, and Mr. Bingham):

H.R. 12136. A bill to strengthen and improve the Older Americans Act of 1965; to the Committee on Education and Labor.

By Mr. BRADEMAS (for himself, Mr. Halpern, Mr. Rangel, Mr. Nix, Mr. Sarbanes, Mr. Miller of California, Mr. Addabbo, Mr. Karth, Mr. Brasco, Mr. Dulski, Mr. McDonald of Michigan, Mr. Gonzalez, Mr. St Germain, Mr. Yatron, Mr. Gallagher, Mr. Rees, Mr. Moorhead, Mr. Keating, Mr. Hathaway, Mr. Roe, Mr. Rodino, and Mr. Ryan):

H.R. 12137. A bill to strengthen and improve the Older Americans Act of 1965; to the Committee on Education and Labor.

By Mr. BRADEMAS (for himself, Mr. Cotter, Mr. Mitchell, Mr. Link, Mr. Eilberg, Mr. Fascell, Mr. Stokes, Mr. William D. Ford, Mr. Ullman, Mr. Roncalio, Mr. Biaggi, Mr. Begich, Mr. Corman, Mr. Abourezk, Mr. Pucinski, Mr. Roy, Mr. Rooney of Pennsylvania, Mrs. Hicks of Massachusetts, Mr. Helstoski, Mr. Edwards of California, Mr. Denholm, and Mr. Burke of Massachusetts):

H.R. 12138. A bill to strengthen and improve the Older Americans Act of 1965; to the Committee on Education and Labor.

By Mr. CHAMBERLAIN:

H.R. 12139. A bill to amend the Communications Act of 1934 to establish orderly procedures for the consideration of applications for renewal of broadcast licenses; to the Committee on Interstate and Foreign Commerce.

By Mr. CHAPPELL (for himself, Mr. Frey, and Mr. Rogers):

H.R. 12140. A bill to provide for the establishment of a national cemetery in Florida; to the Committee on Veterans' Affairs.

By Mr. DANIELSON:

H.R. 12141. A bill to amend the Internal Revenue Code of 1954 to raise the limitations on contributions by self-employed individuals to certain retirement plans and to permit certain employees to established qualified pension plans for themselevs in the same manner as if they were self-employed; to the Committee on Ways and Means.

By Mr. EDMONDSON:

H.R. 12142. A bill to amend the Federal Meat Inspection Act to require that imported meat and meat food products made in whole or in part of imported meat be labeled "imported" at all stages of distribution until delivery to the ultimate consumer; to the Committee on Agriculture.

By Mr. EDWARDS of California (for himself, Mr. Burton, Mr. Dellums, Mr. Gubser, Mr. Leggett, Mr. Mc-

Closkey, Mr. Moss, Mr. Waldie, Mr. Garmatz, Mr. Pelly, Mr. Clark, Mr. Mailliard, Mr. Dingell, Mr. Mosher, Mr. Lennon, Mr. Keith, Mr. Downing, Mr. Bray, Mr. Biaggi, Mr. Steele, Mr. Anderson of California, Mr. Forsythe, Mr. Kyros, Mr. du Pont, and Mr. Tiernan):

H.R. 12143. A bill to provide for the establishment of the San Francisco Bay National Wildlife Refuge; to the Committee on Merchant Marine and Fisheries.

By Mr. GUDE:

H.R. 12144. A bill to authorize the Secretary of the Interior to establish the George Washington Boyhood Home National Historic Site in the State of Virginia; to the Committee on Interior and Insular Affairs.

By Mr. McCULLOCH (for himself, Mr. Gerald R. Ford, Mr. McClory, Mr. Smith of New York, Mr. Sandman, Mr. Railsback, Mr. Fish, Mr. Coughlin, Mr. Hogan, and Mr. Keating):

H.R. 12145. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968, as amended, to provide benefits to survivors of law enforcement officers killed in the line of duty; to the Committee on the Judiciary.

By Mr. MONAGAN:

H.R. 12146. A bill to amend the Outer Continental Shelf Lands Act, to establish a National Marine Mineral Resources Trust, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. OBEY:

H.R. 12147. A bill to authorize emergency loans under subtitle C of the Consolidated Farmers Home Administration Act of 1961 to mink farmers who suffer severe losses caused by economic conditions; to the Committee on Agriculture.

By Mr. O'HARA:

H.R. 12148. A bill to require that all schoolbuses be equipped with seatbelts for passengers and seatbacks of sufficient height to prevent injury to passengers; to the Committee on Interstate and Foreign Commerce.

By Mr. PODELL (for himself, Mr. Fraser, Mrs. Mink, Mrs. Chisholm, Mr. Koch, Mr. Gettys, Mr. Burton, Mr. Thompson of New Jersey, Mrs. Hicks of Massachusetts, Mr. Annunzio, Mr. Symington, Mr. Danielson, Mr. Garmatz, Mr. Collins of Illinois, Mr. Barrett, Mr. Thompson of Georgia, Mr. Matsunaga, Mr. Pepper, Mr. Steele, Mr. Mazzoli, Mr. Pucinski, Mrs. Green of Oregon, Mrs. Abzug, Mr. Gallagher, and Mr. Biaggi):

H.R. 12149. A bill to amend the Internal Revenue Code of 1954 to provide that the retirement benefits available to self-employed individuals shall be available to women who are able to put part of their household allowances into savings; to the Committee on Ways and Means.

By Mr. PODELL (for himself, Mr. Mikva, Mr. Rosenthal, Mr. Brasco, Mr. Waldie, Mr. Howard, Mr. Nix, Mr. Scheuer, Mr. Mitchell, Mr. Bingham, Mr. Badillo, Mr. Halpern, Mr. Wolff, Mr. Rangel, Mr. Ryan, and Mr. Waggonner):

H.R. 12150. A bill to amend the Internal Revenue Code of 1954 to provide that the retirement benefits available to self-employed individuals shall be available to women who are able to put part of their household allowances into savings; to the Committee on Ways and Means.

By Mr. THOMPSON of Wisconsin:

H.R. 12151. A bill to make an appropriation for fiscal year 1972 for grants for programs to prevent and control measles; to the Committee on Appropriations.

H.R. 12152. A bill to amend section 6 of the United Nations Participation Act of 1945 to require approval by the Congress of the use of Armed Forces of the United States under article 42 of the Charter of the United Nations; to the Committee on Foreign Affairs.

H.R. 12153. A bill to amend title 38 of the United States Code so as to provide that public or private retirement, annuity, or endowment payments (including monthly social security insurance benefits) shall not be included in computing annual income for the purpose of determining eligibility for a pension under chapter 15 of that title; to the Commitee on Veterans' Affairs.

By Mr. VANIK:

H.R. 12154. A bill to amend the Civil Rights Act of 1964 in order to prohibit discrimination on the basis of physical or mental handicap in federally assisted programs; to the Committee on the Judiciary.

By Mr. VEYSEY (for himself, Mr. Addabbo, Mr. Brinkley, Mr. Danielson, Mr. Edwards of California, Mr. Eilberg, Mr. Esch, Mr. Eshleman, Mr. Frenzel, Mr. Garmatz, Mrs. Grasso, Mrs. Green of Oregon, Mr. Gude, Mr. Halpern, Mr. Hosmer, Mr. Kemp, Mr. McDade, Mr. Mazzoli, Mr. Mitchell, Mr. Morse, Mr. Rangel, Mr. Rees, Mr. Rodino, Mr. Runnels, and Mr. Steele):

H.R. 12155. A bill to establish a Federal program to encourage the voluntary donation of pure and safe blood, to require licensing and inspection of all blood banks, and to establish a national registry of blood donors; to the Committee on Interstate and Foreign Commerce.

By Mr. WOLFF (for himself, Mrs. Abzug, Mr. Addabbo, Mr. Biaggi, Mr. Bingham, Mr. Brasco, Mr. Carey of New York, Mrs. Chisholm, Mr. Cotter, Mr. Dent, Mr. Dow, Mr. Drinan, Mr. Daniels of New Jersey, Mr. Halpern, Mr. Harrington, Mr. Helstoski, Mr. Kemp, Mr. Koch, Mr. Kyros, Mr. Mitchell, Mr. Murphy of New York, Mr. O'Neill, Mr. Pepper, Mr. Pike, and Mr. Podell):

H.R. 12156. A bill to authorize an investigation and study of coastal hazards from offshore drilling on the Outer Continental Shelf in the Atlantic Ocean; to the Committee on Interior and Insular Affairs.

By Mr. WOLFF (for himself, Mr. Boland, Mr. Burke of Massachusetts, Mr. Delaney, Mr. Forsythe, Mrs. Grasso, Mr. Hathaway, Mr. Minish, Mr. Rangel, Mr. Reid of New York, Mr. Rodino, Mr. Roe, Mr. Rosenthal, Mr. Ryan, Mr. St Germain, Mr. Sarbanes, and Mr. Tiernan):

H.R. 12157. A bill to authorize an investigation and study of coastal hazards from offshore drilling on the Outer Continental Shelf in the Atlantic Ocean; to the Committee on Interior and Insular Affairs.

By Mr. WOLFF (for himself, Mr. Burke of Massachusetts, Mr. Forsythe, Mrs. Grasso, and Mr. Sarbanes):

H.R. 12158. A bill to authorize the President to designate marine sanctuaries in areas of the oceans, coastal, and other waters, as far seaward as the outer edge of the Continental Shelf, for the purpose of preserving or restoring the ecological, esthetics, recreation, resource and scientific values of and related to such areas; to the Committee on Merchant Marine and Fisheries.

By Mr. YOUNG of Texas:

H.R. 12159. A bill to amend title 37, United States Code, to continue the retired or retainer pay of a member or former member of the uniformed services while in a missing status; and for other purposes; to the Committee on Armed Services.

By Mr. BIAGGI (for himself, Mr. Halpern, Mr. Boland, Mr. Badillo, Mr. Delaney, Mr. Rangel, Mr. Byrnes, of Pennsylvania, Mr. Thompson of New Jersey, Mr. Helstoski, Mr. Corman, Mr. Carey of New York, Mr. Donohue, Mr. Addabbo, Mr. Harrington, Mr. Bingham, Mr. St Germain, and Mrs. Hicks of Massachusetts):

H.R. 12160. A bill for the relief of residents of northern Ireland; to the Committee on the Judiciary.

By Mr. BINGHAM:

H.R. 12161. A bill to amend the Social Security Act to provide for the payment (from the old-age and survivors insurance trust fund) of special allowances to help elderly low-income persons and families to meet their housing costs; to the Committee on Ways and Means.

By Mr. BROYHILL of Virginia (for himself, Mr. Gude, and Mr. Stubblefield):

H.R. 12162. A bill to exempt from taxation certain property in the District of Columbia owned by the Daughters of the American Revolution, Inc., and for other purposes; to the Committee on the District of Columbia.

By Mr. BURKE of Massachusetts (for himself, Mr. Addabbo, Mr. Barrett, Mr. Begich, Mr. Bevill, Mr. Boland, Mr. Byron, Mr. Clark, Mr. Collins of Illinois, Mr. Daniels of New Jersey, Mr. Danielson, Mr. Fulton of Tennessee, Mr. Garmatz, Mrs. Grasso, Mr. Green of Pennsylvania, Mr. Griffin, Mr. Kee, Mr. Kyros, Mr. McCormack, Mr. McDade, Mr. Morgan, Mr. Murphy of New York, Mr. Nix, Mr. St Germain, and Mr. Saylor):

H.R. 12163. A bill to amend the tariff and trade laws of the United States to promote full employment and restore a diversified production base; to amend the Internal Revenue Code of 1954 to stem the outflow of U.S. capital, jobs, technology, and production, and for other purposes; to the Committee on Ways and Means.

By Mr. BYRNE of Pennsylvania:

H.R. 12164. A bill to amend title 10, United States Code, to broaden the definition of the term "dependent," for certain purposes; to the Committee on Armed Services.

By Mr. DELLENBACK:

H.R. 12165. A bill for the relief of the city of Oakridge, Oreg.; to the Committee on the Judiciary.

By Mr. FINDLEY (for himself. Mr. Abourezk, Mr. Addabbo Mr. Bevill, Mr. Boland, Mr. Collins of Texas, Mr. Cotter, Mr. Dow, Mr. Drinan, Mr. Dulski, Mr. Fish, Mr. Forsythe, Mr. Gallagher, Mr Goldwater, Mrs. Grasso, Mr. Halpern, Mr. Hamilton, Mr. Harrington, Mr Hawkins, Mr. Hechler of West Virginia, and Mr. Hicks of Washington):

H.R. 12166. A bill to allow a credit against Federal income taxes or a payment from the U.S. Treasury for State and local real property taxes or an equivalent portion of rent paid on their residences by individuals who have attained age 65; to the Committee on Ways and Means.

By Mr. FINDLEY (for himself, Mr. Horton, Mr. Kemp, Mr. McDade Mr. Morse, Mr. Nix, Mr Pryor of Arkansas, Mr. Railsback, Mr. Rhodes, Mr. Riegle, Mr. Roe, Mr Roy, Mr. St Germain, Mr. Scherle, Mr. Schwengel, Mr. Sikes, Mr. Steele, Mr. Thone, Mr Ware, Mr. Yatron, and Mr. Zwach):

H.R. 12167. A bill to allow a credit against Federal income taxes or a payment from the U.S. Treasury for State and local real property taxes or an equivalent portion of rent paid on their residences by individuals who have attained age 65; to the Committee on Ways and Means.

By Mr. REUSS (for himself, Mr. Abourezk, Mr. Burton, Mr. Carney, Mrs. Grasso, Mr. Hanna, Mr. Metcalfe, Mr. Murphy of Illinois, Mr. Patten, and Mr. Rodino):

H.R. 12168. A bill to amend and expand the

Emergency Employment Act of 1971 to reduce national unemployment and stimulate noninflationary economic growth; to the Committee on Education and Labor.

By Mr. ROY:

H.R. 12169. A bill to amend the Watershed Protection and Flood Prevention Act so as to provide necessary assistance in connection with rural development; to the Committee on Agriculture.

By Mr. SEBELIUS:

H.R. 12170. A bill to amend the Communications Act of 1934 to establish orderly procedures for the consideration of applications for renewal of broadcast licenses; to the Committee on Interstate and Foreign Commerce.

H.R. 12171. A bill to amend the Internal Revenue Code of 1954 to provide income tax simplification, reform, and relief for small business; to the Committee on Ways and Means.

By Mr. STRATTON (for himself and Mr. REID of New York):

H.R. 12172. A bill to authorize the Secretary of the Treasury to make grants to Eisenhower College, Seneca Falls, N.Y., out of the proceeds of the sale of minted proof dollar coins bearing the likeness of the late President of the United States, Dwight D. Eisenhower; to the Committee on Appropriations.

By Mrs. ABZUG:

H. Con. Res. 480. Concurrent resolution expressing the sense of Congress that the President should take necessary steps to initiate active negotiations seeking agreement with the Soviet Union on a comprehensive ban on all nuclear test explosions, to work toward extension of a prohibition against nuclear testing to the other nuclear powers, including France and China, and to declare and observe an indefinite moratorium on all nuclear test explosions; to the Committee on Foreign Affairs.

By Mr. HARRINGTON:

H. Con. Res. 481. Concurrent resolution expressing the sense of the Congress with respect to the rights of mentally or physically handicapped persons; to the Committee on Interstate and Foreign Commerce.

By Mr. ROE:

H. Con. Res. 482. Concurrent resolution expressing the sense of Congress with respect to placing before the United Nations General Assembly the issue of the dual right of all persons to emigrate from and also return to one's country; to the Committee on Foreign Affairs.

By Mr. STAGGERS:

H. Con. Res. 483. Concurrent resolution providing for the reprinting of a House document entitled, "Report of Special Study of Securities Markets by the Securities and Exchange Commission"; to the Committee on House Administration.

By Mr. HELSTOSKI:

H. Res. 733. Resolution expressing the sense of the House of Representatives relative to the crisis in south Asia; to the Committee on Foreign Affairs.

By Mr. MORSE (for himself, Mr. SCHWENGEL, and Mr. GUDE):

H. Res. 734. Resolution to amend rules X, XI, and XIII of the Rules of the House of Representatives; to the Committee on Rules.

By Mr. REES:

H. Res. 735. Resolution expressing the sense of the House of Representatives concerning the situation in Bangla Desh; to the Committee on Foreign Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred to as follows:

By Mr. DORN:

H.R. 12173. A bill for the relief of Edwin A. Manos, lieutenant colonel, U.S. Air Force; to the Committee on the Judiciary.

By Mr. MATSUNAGA:

H.R. 12174. A bill for the relief of Alma Carrillio Custodio; to the Committee on the Judiciary.

By Mr. MURPHY of New York:

H.R. 12175. A bill for the relief of Azucena Castillo-Artavia; to the Committee on the Judiciary.

H.R. 12176. A bill for the relief of Gloria Hernandez; to the Committee on the Judiciary.

By Mr. WHITE:

H.R. 12177. A bill for the relief of Rico, Inc.; to the Committee on the Judiciary.

By Mr. BOB WILSON:

H.R. 12178. A bill for the relief of Timothy J. Mayer; to the Committee on the Judiciary.

By Mr. YOUNG of Texas:

H.R. 12179. A bill for the relief of Swiff-Train Co.; to the Committee on the Judiciary.

EXTENSIONS OF REMARKS

EMPHASIS IN SOLID WASTE HAS SHIFTED FROM DISPOSAL TO RESOURCE RECOVERY

HON. WILLIAM B. SPONG, JR.

OF VIRGINIA

IN THE SENATE OF THE UNITED STATES

Thursday, December 9, 1971

Mr. SPONG. Mr. President, Mr. David P. Reynolds, executive vice president and general manager of Reynolds Metals Co., recently was named "Packaging Man of the Year" by the Packaging Education Foundation, Inc.

In accepting the award, Mr. Reynolds called upon the packing industry to use its technology and creativity in a united effort to solve the solid waste problem. He observed that technology is available now for separating steel, aluminum, glass, paper, and other materials from mixed garbage, and for recycling them into new products or useful energy.

He said the packaging industry is seeking to develop the most efficient and economical systems for bringing all of this technology into plants that can serve a whole municipality or region. He predicted that within the next several years the Nation will see the first municipal recycling plants begin operations in major cities.

Mr. President, it was Mr. Reynold's company, headquartered in Richmond, Va., which initiated the first national program to reclaim and recycle aluminum cans and other aluminum packaging at the consumer level. Representatives of the company testified on this achievement during hearings that led to the development of the Resource Recovery Act of 1970.

Mr. President, Mr. Reynold's comments on recycling will be of interest to every Member of the Senate, and I ask unanimous consent that the text of his remarks be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

REMARKS BY DAVID P. REYNOLDS

Mr. Chairman, Mrs. Knauer, distinguished guests, and my friends in the packaging industry: Thank you for this great honor. Nothing could be more gratifying to me than this award, because my company began as a packaging company, and I have spent the greater part of my life in packaging. I accept your award with humility, because no single person or company can claim more than a small role in an industry so large, so diverse and so important to modern life.

I am sure I don't have to sing the glories of packaging to this audience. Many of you have been in it longer than I have. But, since this is National Packaging Week, let us remind ourselves—and the world—of some of the contributions which packaging makes to the quality of life.

The packaging industry today is a vital part of our economy and society. It's a $21 billion-a-year industry in which hundreds of thousands of people design, engineer, manufacture and recycle billions of packages which bring us nature's bounty from all over the world—improve nutrition—protect our health—save us money—and add beauty, brightness and convenience to our lives.

And by all means—and I'm sure Mrs. Knauer would agree—let's not forget what packaging has done for women's liberation. It has telescoped meal preparation from hours to minutes.

There are some who decry our material progress and prosperity . . . our labor saving appliances . . . our convenience foods and packaging. They say we need more emphasis on spiritual and cultural values. This is true. But we must not forget that our business system and our technology have given us the leisure and resources to pursue the good and the beautiful.

Today there is rising public concern over solid waste and conservation of resources. It is ironic that this concern is focused on packaging, for packaging of all kinds amounts to only 13½ per cent of urban and industrial solid waste.

You are aware of the misguided legislative moves to restrict packaging . . . most numerous of which are bills to ban, tax or impose a deposit on non-returnable beer and soft drink containers.

The fallacies and futility in such legislation have been pointed out by William D. Ruckelshaus, head of the Environmental Protection Agency. In a press conference two weeks ago he made these points.

No. 1, increased use of returnable containers could worsen the solid waste problem because returnables have to be heavier to stand up to repeated use.

No. 2, requiring a deposit does not make the public return containers. Several surveys of litter have shown that people throw away returnable bottles—those on which they paid a deposit—almost as much as non-returnables.

No. 3, if the deposit was raised high enough to encourage people to return them, that would bring a new problem—counterfeiting. In a federally aided test in California, in which a deposit of 11 cents was established, counterfeiters discovered they could make the bottles cheaper than that, so they began making unauthorized bottles just to collect the deposit.

It is gratifying that a federal statesman like Mr. Ruckelshaus is "telling it like it is" in this era when so many public officials are tempted, by uninformed public pressure, to impose non-solutions on the litter and solid waste problems.

Even though it is subjected to much unjust criticism, the packaging industry recognizes packaging's role in ecological problems. Our industry has launched an enlightened, all-out attack on many fronts against litter and solid waste.

Recycling projects for all the packaging materials—glass, paper, steel, aluminum and plastics—are in high gear. Many of the major packaging suppliers and users are setting up collection programs at the consumer level. Many are doing research directed at total recycling.

You are doing this with individual company programs, through your trade associations, and in cooperative work with universities, research organizations and governmental agencies.

You are the main supporters of Keep America Beautiful in its fight against litter. Last June, when two million children and adults participated in Scouting Keep America Beautiful Day—the biggest one-day nationwide cleanup in history—the packaging industry played a leading role. More than a million tons of litter were picked up on that day.

Our progress in controlling the litter problem is not limited to a single day, either. The National Litter Index compiled by Keep America Beautiful went *down* in 1969, and went *down* again in 1970, for a total decline of 8½ per cent after five years of annual increases.

All of us in packaging, along with organized labor, are supporting the research and coordinating efforts of the National Center for Resource Recovery.

When that organization was established a year ago it was called the National Center for Solid Waste Disposal. The recent name change reflects the transition that has occurred in everybody's thinking. We started with a problem of solid waste disposal. Now we see that solving it through recycling will make another key contribution, that of conserving natural resources for future generations.

Colleges and universities have started training young people to help us. I'm happy to see that those with packaging departments and degrees, which are supported by the Packaging Education Foundation, have been adding courses on ecology and solid waste technology. The packaging executive of the future will have to be just as knowledgeable on solid waste systems and recycling as he is on merchandising and package design.

I'll frankly admit that five years ago—when my company launched its program to collect aluminum cans from the public—I did not dream that things would move as rapidly as they have.

But, our thinking soon leaped ahead . . . from the litter problem to the solid waste problem, and on to the larger concept of recycling for resource recovery.

By the summer of 1969, I knew we had gotten involved in something pretty big and complicated. We looked for know-how in solid waste technology and hired Dr. Robert F. Testin of Battelle Memorial Institute.

Once he was aboard it became obvious that the biggest contribution he could make, to aluminum and the whole packaging industry, was to find ways of "mining" municipal refuse and garbage. He and his colleagues have been giving top priority to that assignment and are making significant progress. I know that many of you and your organizations also are vigorously advancing programs of this type.

I think I can speak for the packaging industry when I say that our objective is nothing short of total recycling at the municipal level. We have the technology now—for separating paper, glass, steel, aluminum and other materials from mixed garbage—and for recycling them into new products or useful energy. What we are working toward are the most efficient and economical systems for bringing all of this technology together into plants that can serve a whole municipality or region.

Such plants already are on the drawing board. Pieces of the system are already in operation in scattered locations. Industry and government are working hard on plans that will "put it all together."

Within the next year or two we will see that first of such municipal recycling plants begin operations in major cities. The impact on society is going to be revolutionary in terms not only of cleaning up our environment but in conserving our earth's precious but limited treasure hoard of raw materials and energy. And the packaging industry is leading the way.

At the same time, we can count on public cooperation in our programs to collect packaging materials at the consumer level for recycling. Personally, I *know* this public enthusiasm is no temporary phenomenon, because aluminum can collections are constantly increasing and will exceed 750 million cans this year. The 660 collection stations in 31 states, supplemented by a fleet of mobile units, are operated by soft drink bottlers and beer distributors, an oil company and the aluminum companies.

In addition there are hundreds of collection centers being operated by the steel can and glass bottle industries, bringing in millions of additional cans and bottles. Every container recycled through these programs relieves the burden on our municipal facilities.

Now that the emphasis in solid waste has shifted from disposal to resource recovery, a lot of good things can happen. The packaging industry can help solve problems in other industries. Take the housing industry, where our nation is still struggling to fill the vast need for good, low-cost housing. Recycled material could help here.

Our friends in the glass industry are pointing the way with experimental bricks made from recycled glass, and with 'Glasphalt' paving material.

Waste paper could be made into roofing felt or pressed board for insulation and interior walls.

Aluminum beverage cans and other aluminum scraps already are being recycled and can become residential siding and other home components.

Scrap polyvinyl chloride could be recycled into sewer pipe, floor title or combined with waste paper and aluminum foil to make decorative panels.

Those of you in the steel industry know that the surface treatment of steel leaves a waste liquor which can be processed to yield gypsum. Of course, the steel industry also is recycling, and manufactures building products.

If we think enough along these lines, I can envision a house that is completely built of recycled materials.

There are some who point to technology as the villain in contemporary social and ecological problems. But, it's impossible to shut off inventive imagination. A public policy directed at stopping technological development would be tragic. It's the best way to insure that we don't solve our environmental and social problems.

The real problem is that technology has progressed unevenly. In certain areas—like aerospace—we advanced technology thousands of years in less than a century. But in other areas—like housing and solid waste disposal—we are still using essentially the same technology as the ancient Greeks and Romans.

Fortunately, because of work already done, we know it is now technically possible to recycle any and every packaging material. But much work needs to be done, each industry doing its part with its own material.

We should look at the potential markets for salvaged packaging materials. If there is no market in the salvaged form, can we convert it to somethiing that is in demand in the marketplace? To answer that, we need experimental technical work along with economic studies.

All our knowledge and expertise must be combiined into comprehensive systems to handle everything in solid waste.

The meat industry has long boasted that it uses every part of the pig except the squeal. I believe we'll see the day when we use everything in garbage except the smell.

But this will require all of us to consult and cooperate with each other and to form a united effort. The packaging industry has always been ahead of its time in serving the public with better product protection, distribution and merchandising and consumer convenience.

I am confident we'll be leading the recycling revolution as well. Gentlemen, let us work together on this.

REPORT TO THE NATION

HON. DAVID PRYOR

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 9, 1971

Mr. PRYOR of Arkansas. Mr. Speaker, last week I had the privilege of meeting with some of the young officers of the Vocational-Industrial Clubs of America. I would like to bring to the attention of my colleagues a report to the Nation presented by Mr. Larry Allen of Searcy, Ark., at the Vocational-Industrial Youth luncheon held on November 18 in the Rayburn Building. Larry, who is a senior at Searcy High School, is the national president of this organization.

I include his report at this point in the Record:

Report to the Nation

Reaching out . . . for new experiences, new horizons, new opportunities, new ways to serve. Reaching out . . .

The past year, 1970–71, has been a time for just that . . . for VICA members. We've been reaching out, doing things, getting involved.

United in VICA, industrial-technical youth have the strength, the opportunity, the obligation to serve, and VICA youth are stretching to meet the challenge . . . reaching out and asking other youth and adults as well—people like those of you here with us today—to join with us.

It has been a growing year. A top 103,000 membership figure . . . two new state associations, Idaho and Mississippi . . . and much new interest and activity in other states that may join this year—Connecticut, South Dakota and Maryland. Based on the groundwork in our state associations and on strong involvement, we are striving for a membership this year of 150,000.

It has been an involvement year. The highest number ever—1800—took part in the National VICA Leadership Conference in Indianapolis last June. What's more, over 800 of the students participating were involved in the VICA competitive activities program. They were there to compete in 25 general ability and skill contests, to test themselves, to win . . . or lose . . . but to gain something from the experience—a pride in self and recognition for achievement. We think the expanding competitive activities program is a strength of the VICA program. drawing new members to VICA.

At our National Conference, we kicked off a student-initiated drive—"Pennies for the Center." We had a wishing well to collect member contributions toward the national center we will build to house conference facilities, national staff and a supply service. Several state VICA associations also made contributions during the year to the building fund. Special thanks to the members from Virginia, Ohio and Illinois and to all those who made individual contributions.

Speaking of involvement, many of you chose to become involved with VICA and we're glad and proud. New associate industrial members are the National Associated General Contractors of America and the Virginia branch of this distinguished group; the General Motors Corporation; and a long-time supporter, Mr. Harry Sears, representing the American Technical Society.

Contributors to our Youth Development Foundation included International Business Machines Corporation, The James F. Lincoln Arc Welding Foundation, The Alcoa Foundation, American Institute of Cooperation, L. G. Balfour Company, The American Vocational Association and E. I. duPont de Nemours and Company.

Our thanks is also extended to the National Machine Tool Builders Association whose Education Committee has endorsed the aims and goals of VICA.

It has been an *expansion* year for our National VICA Office. For those who remember when a few people seemed to be doing everything—and indeed they were!—it may seem incredible that there are now nine VICA staff members; two have been added this year—making it possible to better and more efficiently serve VICA as it grows. The National Office has also expanded to nearly twice its size in office space. One important addition has been a conference room where smaller meetings can be handled without the need to use hotel facilities.

For the readers of *VICA* magazine, perhaps you've already noted an innovation of which we're very proud. We're talking about the new look for *VICA* with a four-color cover and even a touch of color inside. We're just as happy as *VICA's* readers that we no longer have to look at the world through strictly black and white glasses!

It has been a *planning* year—planning for the future. The post-secondary national and state officers who met in Washington in October were concerned with planning for growth, the growth of their own division within VICA. They are especially anxious to reach out and involve interested adults. Many adults are already participating in VICA; many others would like VICA to serve them a professional organization.

More planning, on the part of interested VICA alumni, was underway during our last National Conference. Former VICA members with an interest in continuing ties to VICA, will meet again with us at our National meeting in Roanoke, Virginia to discuss an alumni division. Others will be laying groundwork for bringing younger members into VICA, to form a Junior VICA organization.

It has been a good year . . . a year, as we put it, for reaching out. And we are especially proud of the way VICA members have been making an impact, not just on the state and national scene, but at home—in their schools and their communities. President Richard M. Nixon is particularly concerned just now with the loss of faith in "the work ethic." He and his very youth-oriented staff are interested in VICA because this is one of our concerns and one of the reasons for being—to instill pride in the dignity of work. Just two weeks ago, we were thrilled with an invitation for our post-secondary secretary, Arthur Gilmore, to witness, at the White House, the signing by the President of a proclamation for National Youth Appreciation Week. The White House has also requested information on the many community service activities of VICA clubs. The President, we were told, might like to visit one of our clubs during his travels.

This was a request that sent us scurrying for a good hard look at our club programs . . . and we were proud of what we found. So many members . . . reaching out to serve.

VICA members . . . like those in Yuba City, California who tutor handicapped adults in a sheltered workshop . . . sheet metal students at Kent County Vocational-Technical Center in Woodside, Delaware who are lending their skills to help a financially hard-pressed parochial school . . . others at Middlesex County Vo-Tech in Woodbridge, New Jersey—a school that serves many black and Puerto Rican families. The VICA members there plan to introduce community organization services to students who need them and will steer students with problems to agencies that can help. In Charleston, West Virginia, VICA members last year raised more than any other organization in the state for the drive on muscular dystrophy. These are just a few of the many, many ways in which VICA members have chosen to serve.

Yes. VICA members are reaching out. And as we do, the future looks bright, the horizon is expanding. We're more excited than ever about what we're doing and we're humble, yet proud, that you have taken an interest and are with us . . . all the way!

RECENT DEVELOPMENTS IN THE UNITED NATIONS

HON. STROM THURMOND

OF SOUTH CAROLINA

IN THE SENATE OF THE UNITED STATES

Thursday, December 9, 1971

Mr. THURMOND. Mr. President, on October 27, 1971, Gen. Ho Ying-chin, president of the U.N. Association of the Republic of China, made a statement concerning recent developments in the United Nations.

Gen. Ho Ying-chin points out the utter disregard the members of the U.N. have for the very principles of the U.N. Charter.

The Red Chinese Government has engaged in a policy of aggression and Communist world domination for many years. They have not set aside these goals, and continue to espouse world takeover.

Mr. President, the United States can ill afford to forget such long standing allies as the Republic of China. The U.N. has become unduly influenced by Communist nations, and we should give serious consideration to a drastic reduction of our financial support to the U.N. These comments deserve the consideration of the Congress.

I ask unanimous consent that the statement by Gen. Ho Ying-chin be printed in the Extensions of Remarks.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY GEN. HO YING-CHIN

The twenty-sixth session of the United Nations General Assembly, in utter disregard of righteousness and justice, and in violation of the provisions of Articles 4, 18 and 23 of the Charter, rejected the resolution proposed by the United States of America and other democratic countries to designate any proposal for the expulsion of the Republic of China an important question, but adopted instead the resolution for the expulsion of the Republic of China and admission of the Chinese Communist regime proposed by Albania and other countries which are currying favour with the Chinese Communists. This is tantamount to inviting disaster to the United Nations itself and destroying its own future. Henceforward this sacred and solemn international organization will become a place where Machiavellian machinations of power politics will grow reckless. It will disintegrate and decompose with time. As a result the world situation will gradually move closer to disorder and chaos. This Association resolutely opposes to the validity of this illegal resolution of the current session of United Nations General Assembly which was adopted in flagrant violation of the provisions of its own Charter.

The fact that Albania should have had its scheme eventually realized by taking advantage of the mob psychology has proved that a number of nations, fearful of the threat of the group of violence, have abnegated the Charter of the United Nations vainly hoping for a peace of humiliation. However, this hallucination of appeasement is certain to be completely dissipated after the Chinese Communist bandit regime usurps the seats in both the General Assembly and the Security Council, and these very nations will then eat their own bitter fruit.

It has been well known to the whole world that the Republic of China, ever since it initiated and played an active role in the establishment of the United Nations Organization, had strictly observed the purposes and principles of the United Nations Charter and faithfully fulfilled the obligations of a member nation. On the other hand, the Chinese Communist bandit regime, ever since its being formally condemned by the United Nations General Assembly as an aggressor on the last of February, 1951 for its invasion of the Republic of Korea by force, not only has its roaring blaze of aggression not been curtailed, but has turned from bad to worse by creating numerous disturbances in different parts of the world, not to mention the preposterous plans for the destruction of the United Nations as advocated by Mao Tse-tung. And yet, many pro-Chinese Communist countries should choose to adopt the resolution for the admission of the Chinese Communists proposed by Albania when the Chinese Communists had either indicated their willingness to support world peace or their readiness to apply for U.N. membership. It is particularly lamentable that the authorities of a certain number of countries should have no remembrance of the material and moral support given them by the United States which saved them from certain destruction in the two world wars, and chose to join the camp of Chinese Communists Supporters, thus degrading their national dignity.

Having undergone such a calamity, the sanctity of the United Nations Charter and justice have been violated. Only the outer image of the United Nations is left while its inner life is already dead. Not only it has no more power to settle the tense situation of the world, but owing to the illegal participation of the Chinese Communist regime the United Nations will instead become into an arena for the so-called "International United Front." As a result we are apprehensive that this critical situation will lead to another world war and invite irretrievably once again a scourge to mankind. The timely announcement made by our country to withdraw from the organization that has destroyed its own Charter and degraded itself into a den of calamities and disasters, is indeed an act of wisdom. It no doubt is supported unanimously by our whole nation.

Although the Republic of China has already withdrawn from this international organization, we shall continue to be guided by the purposes and principles of the United Nations Charter in the international community and shall continue to fight for the upholding of international right and justice, and for the vindication of world peace and security. On this occasion, we wish to express our profound gratitude to the governments, parliaments and peoples of the United States of America, Japan and other friendly nations for their efforts in support of our legal status and rights in the United Nations and their appeal for justice. All of our fellow citizens should abide faithfully by the guidance and instructions of our President Chiang Kai-shek: "we are not fearful, or disappointed, and do not cheat ourselves when the storm comes; all of us should strengthen our will and spirit as the going worsens." We can be sure to break through all adversities, overcome all difficulties, turn the tide and create new opportunities.

NIXON DRUG BILL ASSESSED

HON. JAMES W. SYMINGTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 9, 1971

Mr. SYMINGTON. Mr. Speaker, I would like to call to the attention of my colleagues and the public an extremely informative article written by Representative Paul G. Rogers, chairman of the Public Health and Environment Subcommittee. The article appeared in the New York Law Journal, Monday, December 6, 1971.

Chairman Rogers' assessment of the administration drug bill is of special value to all those concerned with consolidation and improvement of the many Federal drug programs. Mr. Rogers reviews the world of drugs, the GI drug abuse in Vietnam, and the crisis among our youth.

Most importantly, Chairman Rogers calls for a total commitment, in terms of personnel and dollars, to conquer drug abuse.

In his perceptive analysis of the whole administration approach, Representative Rogers points out the need to utilize more fully the resources and expertise of the FBI to combat drugs. He says the fight against drugs must go to the very sources, particularly the Far East region of Laos, Thailand, and Burma. I agree with Chairman Rogers, and I am privileged to cosponsor with him a modified version of the new drug action bill. Finally, I commend this article to my colleagues as indicative of the insight and diligence Mr. Rogers has shown in this area.

[From New York Law Journal, Dec. 6, 1971]

Nixon Drug Bill Assessed

(By Paul G. Rogers)

More than a decade ago the American public was given and quickly accepted a new and somewhat technical vocabulary as this nation's space flight program jumped off the drawing boards into our living rooms via the six o'clock news.

Trajectory, apogee, lunar modules. From the first A-OK to the time that the first man circled the moon, the nation was fed technical jargon that entered the language as we entered a new world—the world of space flight.

This was the result of a national program of which all Americans were keenly aware.

WORLD OF DRUGS

And during the past five years the American public has seen the uncovering of yet another world—an underground world, yet one they are now eminently more familiar and involved with—the world of drugs.

Five years ago a parent who knew the meaning of "pot" was either an adult whose children had a run-in with the law, living in the ghetto, or someone in the professional area of drugs.

The vernacular now runs to acidheads, speed freaks, main-lining, uppers, downers, narcs and on and on. The difference now is that Americans are on speaking acquaintances with these terms because we are in the midst of a national crisis involving the use of drugs.

Parents now familiar with the terms of the drug subculture are not necessarily parents of children involved with drugs. But one can be assured that the parent of a child past the age of ten in a major metropolitan area has the fear of this subculture adding his child to its growing population.

Laws were examined and at first were amended to make them more punitive. Then the question of what marijuana really did to the individual was posed and the scientific body was split at best on its estimates of the harm done by this ancient product. Some state laws were relaxed and the Congress relaxed federal penalties for possession. A Presidential Commission on Marijuana and Drug Abuse was formed to afford the question of Marijuana a truly scientific examination.

MORE FRIGHTENING

But hardly had this effort got off the ground when lines of communication from the subculture started throbbing a new and much more frightful story.

Heroin, an absolute tyrant over man's body and mind, was spreading and spreading fast.

Unlike marijuana, there was no question about heroin. Marijuana is relatively cheap, a take-it-or-leave-it item. But a man embarking on an adventure with heroin is doomed to a slavery more insidious than anything practiced 100 years ago.

Reports from Asia indicated that large numbers of American servicemen were becoming addicts. And because of inadequate treatment and rehabilitation, these men were being sent back into society with "a monkey on their backs." The overwhelming number of heroin addicts must turn to crime to support their habit and no matter what statistics are used, this amounts to millions of dollars and thousands of crimes against society.

GI USE STUDIED

I and other members of the Subcommittee on Public Health and Environment went to Vietnam earlier this year to investigate the extent of heroin addiction among our servicemen stationed there. Our findings were not encouraging. We found that heroin addiction has crippled from 15 per cent to 40 per cent of some units.

Heroin became a recognized national problem. The President, on June 1, sent to the Congress a legislative proposal to create a Special Action Office to combat this situation and the bill was referred to the House Subcommittee on Public Health and Environment.

Congress and the President recognized heroin as a national problem, and earlier in this session of Congress, legislative proposals designed to combat the admittedly fragmented and under-funded attempts to treat and rehabilitate addicts were improved.

SHADOWY DIRECTION

Essentially the bill called for a director to coordinate the various agencies already responsible for the educational programs, treatment and rehabilitation of the addicts and gives him somewhat shadowy direction to effect policy on military activities in the area of drugs, but is silent on law enforcement effort activities.

I believe efforts to coordinate treatment and rehabilitation are necessary, and I support the concept of the formulation of a Special Action Office to assist in this effort. Nevertheless, I view the President's legislative proposal as an interim measure which principally attempts only one sector of the approach necessary if an effective national effort is to be mounted.

To me this represents a totally "after-the-fact" attack. This office would treat and rehabilitate, but it would not go on the offensive to mount an effective national program against drugs.

An addict represents the final product of drug operations. To halt the use of drugs, the problem must be attacked prior to the addiction stage where treatment is required. The addict represents the evidence of an unsuccessful effect to combat drug traffic.

There could be no addict without an addicting drug. We know where heroin is grown and refined. Should not then a national strike force program include provisions which would allow us to direct efforts at halting the growth of heroin which is grown exclusively abroad?

UTILIZING THE FBI

The second step in the heroin chain is the distribution system which carries it from the fields to the street corner. Should not a national effort have as part of its machinery provisions for increased detection and enforcement? A ready asset exists through use of the FBI, with its thousands of highly trained agents and vast expertise, in addition to the current force within the Bureau of Narcotics and Dangerous Drugs. Under the existing proposal the FBI is not called upon to act in this national effort, and the BNDD would be outside the guidance of the special action office.

Naturally, education rehabilitation and treatment are necessary. But I do not think we can call a coordinated treatment-rehabilitation program a national effort against drugs. If we are to find a solution to this nation's drug crisis, coordination efforts must include not only treatment and rehabilitation, but also controls over international aspects of narcotics production and trafficking and domestic law enforcement. The legislation proposed by the President, if enacted unchanged, would be more correctly titled "Special Action Office for Coordination of Treatment and Rehabilitation of Drug Addicts."

CHAIN OF COMMAND

A diagram of the program which I envision as necessary would have a director in a box with lines going directly down to three other boxes. These lower boxes would represent deputy directors for Enforcement, Rehabilitation, and International Affairs.

This program would not take from existing departments and agencies their drug-related activities. The Bureau of Narcotics and Dangerous Drugs would not be lifted from the Department of Justice. Nor would the FBI, nor the Immigration and Naturalization Service. Nor would the Bureau of Customs be removed from the Treasury Department.

The deputy in each of the boxes would not have absolute power over these areas. But they would have responsibility in these areas and provisions for proper budgets would come under the director's purview.

As an example, the Deputy for International Affairs would meet with those in the Department of State who are on the Far East Desk. He would oversee their efforts at negotiations to reach agreements with the governments of Laos, Thailand, Burma and Vietnam to halt the production, refining and trafficking of heroin.

FUNDING ACTION

This might require financial commitment, and the deputy would recommend this to the director for approval and budgetary action.

If we are determined to organize a strike force against drugs, then we will have to do more than simply go to the area of rehabilitation. For such an effort would soon collapse under the weight created by non-action in the area that produces the addicts.

The Subcommittee on Public Health and Environment is now writing the final legislation in response to the President's recommendations. I believe that we will give the President the authority he has requested to coordinate treatment and rehabilitation programs. But I also believe that the subcommittee will make it clear that this is to be viewed as an interim measure—and only a partial attack on heroin.

The final measure must represent a total commitment to this fight, marshaling the total resources of this nation.

ARIZONA HEART INSTITUTE COMPLETES PHASE I OF CONSTRUCTION

HON. SAM STEIGER

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 9, 1971

Mr. STEIGER of Arizona. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following five-page typewritten statement entitled "Arizona Heart Institute Completes Phase I of Construction."

ARIZONA HEART INSTITUTE COMPLETES PHASE I OF CONSTRUCTION

Phase I of the Arizona Heart Institute's $3,280,000 construction program came to a close today (Oct. 18) with the completion of its major surgical and intensive care areas. Further construction of special diagnostic laboratories is scheduled for completion by Dec. 2.

Unique in the Southwest, the Institute is designed as a one-floor facility on the second floor of the Northeast Wing of St. Joseph's Hospital and Medical Center, Phoenix. According to the Hospital's executive director, Sister Mary dePaul, "The heart institute offers a means for providing the most advanced forms of diagnosis and treatment currently available for all forms of cardiovascular disease.

"The Institute has been established at St. Joseph's to provide a multi-disciplinary approach to the cardiovascular disease problem in the area of patient care, research and education. It will serve not only the local Phoenix area and Arizona, generally, but will provide a referral center for patients from any section of the United States as well as foreign countries.

"A staff of eminently qualified physicians and personnel—headed by Dr. Edward B. Diethrich—has been selected to participate in the activities of the institute thereby assuring the highest quality of patient care, research and educational activity. This staff has committed itself to meet the challenge of the cardiovascular disease problem."

In the compact 17,300-square-foot area of the institute are contained two cardiovascular operating rooms, four diagnostic laboratories, a six-bed coronary care and intensive care unit, a monitoring area and supporting facilities.

"The geographic relationship between the diagnostic and therapeutic facilities of the Institute is unique in relation to any other cardiovascular institute in the world," said Dr. Diethrich, medical director of the Arizona Heart Institute.

"It has been our belief for some time," he commented, "that when you are dealing with a serious cardiovascular disease, it is vitally important that the diagnostic areas be close to the therapeutic—both surgical and medical—so you don't find yourself in the awkward position of having a very ill patient on the sixth floor of the main hospital when you are in dire need of an operating room . . . which just happens to be several floors away!"

This kind of sound reasoning has been the ground plan for the entire institute. It will mean, as Dr. Diethrich pointed out, "that patients, regardless of their disease problem, can be quickly transported to the proper areas of the institute, whether it be the operating rooms, the coronary care or intensive care units, or one of the diagnostic areas—with a minimum of delay."

Patient services in the institute will cover coronary, valvular and congenital diseases, said Dr. Diethrich: "We will be concentrating on the diagnosis and treatment of diseases afflicting the blood vessels and heart. Although we call this a 'heart' institute, we are actually interested in cardiovascular disease anywhere in the body."

To support the institute's far-reaching program is an investment of over $1 million in highly specialized equipment. Among such "old standbys" as heart-lung machines are a number of space-age spin-offs.

For example, an Anesthesia Console, developed for the surgical suites of the institute by Grumman Aerospace of Houston, brings together in one neat, compact space—thanks to miniaturization—over a dozen separate tools and therapeutic aids which by themselves would clutter the surgical floor.

Suspended from the ceiling in the surgical suites is another space-age device called a Diagnostic Op. This elaborate x-ray device allows surgeons to watch the ebb and flow of blood in a patient's coronary arteries prior to, during and following a surgical procedure, to assure that the surgical correction is functioning as it should.

The Diagnostic Op is used in conjunction with another advanced piece of equipment in surgery: an operating table mounted to a fixed base which provides full x-ray capabilities and can be used as a litter to transport patients from their rooms to surgery.

In the intensive and coronary care units special monitoring systems have been installed which utilize a unique single screen to project changes in patient's blood pressure and EKG.

From the nursing viewpoint, another important design aspect of the intensive care areas is the development of identical bedside facilities. "This," said T. Abner Huff, hospital administrator, "allows the nursing staff to become oriented to the disease entity and the patient, instead of the physical plant, and enables nurses to rotate through other areas of the unit without delays for retraining."

Project architects for the Institute are Varney, Sexton, Sydnor Associates of Phoenix, in cooperation with Magadina Associates, Phoenix, consultants on structural engineering; and Lowry and Sorensen, mechanical and electrical engineering consultants.

Following over 200 hours of conference time, working drawings for the project were submitted in February, 1971.

On March 29 full field direction for construction of the Arizona Heart Institute became the responsibility of Kitchell Contractors, Inc., of Phoenix. Under Superintendent Charles Nelson, the company remodeled the second floor of the Northeast Wing of the hospital, built a two-story structural shell for a new addition to be completed by Dec. 2, 1971, and installed 27 tons of new highly-specialized diagnostic and therapeutic equipment.

JOBS FOR VETERANS REPORT

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 9, 1971

Mr. ASPIN. Mr. Speaker, I was delighted to read in the JFV—Jobs for Veterans—report an editorial from the Beloit Daily News, one of the leading dailies in my congressional district, concerning the need for finding jobs for veterans. I think the statement of the Beloit Daily News editorial column of September 21 is an excellent one, and I insert it in the RECORD for the consideration of my fellow Congressmen:

NOTES AND QUOTES

"This nation is doing a lot for its Vietnam and other veterans, but the most important thing it could do for the returning young men is to make sure that each of them has an opportunity to work.

"This is a special concern of President Nixon, who has stressed the need to find the jobs for them as a first priority in the efforts to cut the persistently high rate of unemployment.

" . . . The government is spending $11 billion a year to help veterans and some 28 million from past wars are still living, with more being added every month.

"Many are in hospitals and nursing homes, receiving disability compensation, or educational financing.

"In the current crop of veterans are many who are under-educated, underskilled and underprivileged. They need special attention that they are not getting despite the nation's massive expenditures.

"Not every veteran needs or asks assistance, and of the Vietnam veterans, 9 out of 10 are in school or working a year after discharge.

"The other 10 per cent pose the most serious problem. The dismal prospects of welfare and unemployment must be changed and the best way to do it is through creation of jobs in private enterprise." (Editorial, *The News*, Beloit, Wis., Sept. 21)

PETER McGUIRE TO RECEIVE MAN OF THE YEAR AWARD BY NEW YORK'S WEST SIDE

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 9, 1971

Mr. BIAGGI. Mr. Speaker, on Saturday, December 18, 1971, the West Side Businessmen Associates, and the West Side Youth Council, New York City, will honor Peter McGuire, as their "Man of the Year." He is one of the real angels that came out of Hell's Kitchen.

Pete, as he is affectionately known to his friends on the West Side and here in Washington, has achieved an admirable position in the world of labor. He presently serves as national legislative representative of the Brotherhood of Railway, Airline, and Steamship Clerks.

Pete, was born and raised on West 67th Street, Upper Hell's Kitchen. He was chosen for this honor, because of his dedication to vocation, loyalty to friends, and service to the community. It is particularly gratifying to me and his many friends to know he has been singled out for this award.

Twenty-five years ago Pete started working with and for the kids on the West Side. He organized a voluntary group to promote the idea that juvenile decency should be nourished and delinquency played down to keep it from becoming glorified.

He has been "Mister Volunteer," when

it came to organizing citizen action groups to aid the youth in Hell's Kitchen. Through his efforts problems affecting youth where highlighted, programs designed to attack and solve these problems were formulated, and the activities of various groups were coordinated to achieve success. Today the West Side Businessmen Associates sponsor holiday parties, boat and bus rides, little league teams, and achievement contests as well as an annual children's Christmas-Chanukah party at the Hotel New Yorker.

Pete's boundless energy moved him to an active career in other organizations. He is a past Grand Knight of McGivney Council, Knights of Columbus, past president of the NYCRR Anchor Club, and an active member of Elks No. 1 Lodge, the Ancient Order of Hibernians, and the Grand Street Boys Association.

An inspiration to his many friends and associates, a model for the youth of the community, a person of wit and wisdom, Pete is most deserving of the honor to be bestowed upon him.

May God grant him a long, healthy, and active life so that he can continue his selfless dedication to coworkers, friends, and his fellow countrymen.

OFFSHORE OIL DRILLING

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 9, 1971

Mr. WOLFF. Mr. Speaker, as a result of a meeting yesterday morning between our congressional working group on offshore oil drilling and Secretary of the Interior Rogers Morton, I, along with 40 of my colleagues, have introduced legislation which we feel is imperative in view of the material contained in the Secretary's briefing.

The two measures which we have introduced provide for a 2-year ban on offshore drilling and lease sales in the Atlantic, and would authorize the National Academy of Sciences to conduct a full investigation of the environmental dangers of offshore drilling and possible alternatives to it.

I feel that the adoption of these bills is crucial to the preservation of the valuable marine resources and priceless recreation areas along the Atlantic coast. Earlier this year, the Interior Department stated that:

> It is recognized that incremental amounts of oil will be released into the environment during production operations. Furthermore, the potential of a major spill, either by error or accident, is ever present.

Due to statements such as this and the rumored accelerated efforts of the Interior Department to lease offshore lands, we formed our working group and requested Secretary Morton to discuss this matter with us.

The Secretary could not assure our group that disastrous oil spills could be prevented or that the Atlantic coast submerged lands would not be put up for sale. This legislation would guarantee against environmental damage by preventing the drilling operations until we fully evaluate the energy needs and the technology involved.

We cannot allow technological progress to be based, as the Secretary indicated, on experimental tragedies. We must not allow our environment to be sacrificed in this rush for oil.

Similar legislation has been introduced on the Senate side by the distinguished Senator from Massachusetts (Mr. KENNEDY), a member of our working group and a leader in the effort to protect our environment. Because of the Secretary's comments on exploration areas, I have requested our colleagues in both bodies from Virginia to Florida to join the present group, composed of Members from Maine to Maryland, in its efforts on this critically important issue.

WHAT THE WAR HAS DONE TO THE SOUTH VIETNAMESE LANDSCAPE

HON. ROBERT W. KASTENMEIER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 9, 1971

Mr. KASTENMEIER. Mr. Speaker, I would like to call to the attention of my colleagues three articles on Vietnam that were prepared for Environment magazine by two distinguished scientists, Dr. E. W. Pfeiffer from the University of Montana and Dr. Arthur H. Westing from Windham College, Putney, Vt. Both Dr. Pfeiffer and Dr. Westing are familiar with South Vietnam since the two scientists previously had traveled there to analyze the effects of the wartime use of herbicides. Last August, they visited South Vietnam again on behalf of the Scientists' Institute for Public Information and Environment to investigate the extent to which U.S. military operations have altered the landscape of South Vietnam by the weapons of war.

Mr. Speaker, the reports of Dr. Pfeiffer and Dr. Westing follow:

I. CRATERS

(By E. W. Pfeiffer)

During the Indochina war the U.S. has dropped more than two times the tonnage of bombs that was dropped in Europe, Asia, and Africa during World War II, most of it in Vietnam, a country about the size of New England or one-half the size of the state of Montana. Rockets, artillery shells, and mines have been exploded on a vast scale in many areas in Vietnam, in addition to explosives dropped from aircraft. This ordnance has been used principally in free-fire zones or special strike zones, which all people except the National Liberation Front and its North Vietnamese allies have supposedly vacated. Data on the extent of the free-fire zones of South Vietnam would permit calculation of the percent of Vietnamese land surface that has been intensively subjected to these weapons. These data are not, however, presently available.

Although few details have been released regarding expenditures or target locations for the various types of munitions, the following summary figures for all of Indochina have been made available by the Department of Defense.

MUNITIONS USED IN INDOCHINA WAR

[In millions of pounds]

	Air munitions	Surface munitions	Total
Year:			
1965	630	?	630
1966	1,024	1,164	2,188
1967	1,866	2,413	4,278
1968	2,863	3,003	5,866
1969	2,774	2,808	5,583
1970	1,955	2,389	4,344
Total	11,112	11,777	22,889

We do not know what fraction of the 23 billion pounds of munitions expended during these six years was small arms and other ordnance that would not produce craters (nor do we know what the distribution is among South Vietnam, North Vietnam, Cambodia, and Laos). To make some wild assumptions, if half the munitions (by weight) were of the sort that produce craters (bombs, shells, etc.) and if each was a 500-pound bomb, then Indochina's landscape would now be more or less permanently rearranged by more than twenty million craters. Using an estimated average diameter of 30 feet, the holes alone would cover a combined area of about 325,000 acres. Although occasional, scattered craters can be found almost anywhere in rural South Vietnam, we have observed large areas of severe craterization in the provinces of Tay Ninh, Long Khanh, Gia Dinh, Hau Nghia, Binh Duong, Quang Ngai, Quang Tin, and Quang Nam. We have been told about similar areas in Kien Giang, An Xuyen, and Quang Tri. No type of habitat seems to be spared, including forests and swamps, fields and paddies. Many severely craterized areas—such as the so-called free-fire zones, free-bomb zones, or specified strike zones—were formerly inhabited and farmed. Such regions of important military activity as War Zones C and D, the Iron Triangle, the Rung Sat and U Minh Special War Zones, the Demilitarized Zone, and the Ho Chi Minh Trail are among those regions that have been subjected to repeated saturation or pattern bombing.

What is this unprecedented bombardment doing to Vietnam and its people? In order to make a preliminary assessment of the effects of these explosives, Arthur H. Westing and I visited Vietnam in August 1971. In preparation for our trip we had sought information from many sources on effects of bomb craters resulting from military activities, but were unable to find any significant information.

We flew over bombed areas in helicopters and rode in armored personnel carriers to observe at first hand craters from B-52 strikes. We interviewed in the field Vietnamese farmers who were trying to reclaim bombed land, Vietnamese loggers who were operating in bombed and shelled areas, and several Vietnamese and American officials.

In order to judge the magnitude of the problem it is necessary to have some idea of the number of bombs dropped and the amount of territory affected. Earlier studies have presented data which suggest that some 7.5 million craters have been formed as a result of the massive bombardment. Although we estimate that the current figure for South Vietnam is in excess of 10 million, we are currently awaiting Department of Defense data to verify this figure.

The standard weapon of the B-52s is a 500-pound bomb; each B-52 carries 108 five-hundred pound bombs. Each bomb produces a hole 20 to 50 feet wide and 5 to 20 feet deep, depending on soil conditions. The bombs are usually dropped from over 30,000 feet by the B-52 aircraft and can have sufficient force on impact to penetrate deeply into certain types of soil.

Severely bombed areas observed on our trip included the following land types:

heavily cultivated areas of the Mekong Delta, intensively cultivated mountain valleys in the northern region of Vietnam, mangrove forests, evergreen hardwood forests of the flat terraces northwest of Saigon, and evergreen hardwood forests of the precipitous mountain areas in the Da Nang-Quang Ngai area.

Because of the war situation at the time of our visit, we were unable to fly over, even at high altitude, the most intensively bombed regions of South Vietnam which lie in the northwest corner of the country and along the Demilitarized Zone. We were also very disappointed to find that security problems made it very difficult to visit on foot bombed areas in all of the regions that we attempted to study. It is important to note that there are areas of South Vietnam, particularly in the delta region, that do not reveal, at least from the air at 3,000 feet, much evidence of war damage. Large areas, however, have been hit very intensively by several types of ecologically devastating weapons.

What are the effects of the massive bombardments on cultivated areas such as the Mekong Delta? Our observations made both in wet and (on previous visits) dry seasons show that in the delta the B-52 craters and those caused by large artillery shells are permanently filled with water, probably because the craters penetrate the water table. In many areas waters of different colors fill adjacent craters. Some of the waters in the craters are aquamarine while others have a more bluish to greenish tint, and many are simply a muddy brown. These differences in coloration are apparently due to growths of varying types of algae. It is interesting that different growths occurred in contiguous craters.

I was able to visit on foot three such craters in an agricultural area about 31 miles south of My Tho in the heart of the Meking Delta. The area, near the hamlet of Hoi Son, had been a free-fire zone until fairly recently, but farmers were now being resettled on their land because senior officials considered the region relatively secure. The degree of security became evidence. During my stay in the area U.S. aircraft were rocketing and strafing only a few miles away. I interviewed some families who had left the area eleven years ago because of the fighting. They took me to three craters made in 1967. I would estimate that they were caused by 500-pound bombs dropped by fighter bombers. Each crater was about 30 feet in diameter, filled with water and, at the time of my visit, about 5 feet deep in the center, as proven by one of my guides. He waded into the center of the crater where he could just manage to keep his nose above water while standing. The entire immediate vicinity had been a rice paddie; the rice had been replaced by a very tall reed (6 to 8 feet), genus *Phragmites,* which surrounded the craters at a distance of 10 to 20 feet. Growing from the rim of the craters and into the reeds was a species of relatively short grass, genus *Brachiaria.* A taller grass, *Scirpus,* was also prevalent. The whole area was inundated by very shallow water, as it was the middle of the wet season. The farmers were growing seed rice near the craters and were plowing under reeds and grasses in preparation for planting rice. It was obvious that they could not use the cratered areas for rice cultivation, because the water was much too deep. One solution to the problem is to bring in soil from elsewhere. Although I could not confirm it, one farmer said that the craters I observed yielded exceptionally good fish catches. The fish presumably had moved into the craters during the monsoon flooding. Surrounding the area that had been cultivated in rice were banana, coconut, and jackfruit trees. The jackfruit was dead as a result of herbicides; the coconut trees were destroyed by the bombing, leaving only bare stumps.

In our conversations with these and other farmers who were trying to resettle their fought-over land, it became obvious that their main problem was the presence of unexploded munitions in the areas. The Hoi Son people stated that within the last few weeks three women had been killed and one badly wounded when plows detonated unexploded weapons. We learned that mines in some resettled areas have been cleared, but the problem of locating and neutralizing unexploded ordnance before land is resettled is an urgent one. On several occasions we encountered the fear of unexploded munitions, which probably accounts for a phenomenon we often observed from the air: fields with craters were usually not being cultivated although nearby fields were. One farmer whom we interviewed stated that the people do not like to plow in the bombed areas because the shrapnel in the dirt cuts the buffalos hoofs, resulting in infection.

According to science spokesmen of the U.S. Agency for International Development (USAID) and the Military Assistance Command, Vietnam (MACV), bomb craters are sometimes used as sources of freshwater for irrigation. In much of the southern Mekong Delta, brackish (salty) water floods cultivated lands at high tides if it is not kept back by dikes. Thus, irrigation is necessary and freshwater in the craters could be useful.

Presumably the permanently water-filled crater areas of the delta region are excellent breeding grounds for certain species of mosquitoes and other carriers (vectors) of disease. Those craters not invaded by predators of mosquito larvae provide conditions for greatly accelerated reproduction of mosquitos and other vectors. According to MACV-Command Information pamphlet 6-70, February 1970, "malaria has been causing increasing concern in Vietnam. . . . Up until recently it (*Plasmodium falciparum*) only affected regions of I and II Corps but has now spread to other areas throughout the country." We discussed with several scientists the possible relationship between craterization and this increase in malaria, but no studies have yet been made of this problem as far as we could determine. A USAID specialist in public health with headquarters in Saigon stated that the current alarming increase in hemorrhagic (dengue) fever seen in the Vietnamese was *not* related to craterization because the mosquito vector for this disease, *Aëdes aegypti,* lives only in and around houses and would thus not be affected by ecological changes such as craterization. (We do not know of any field research which supports this view.) We flew a mosquito-control spray mission in a C-123 aircraft from which malathion was being sprayed (one-half pound per acre) over and around an Australian military base. There are only two aircraft now carrying out this program, and, as far as we were able to determine, there is no spray program involving treatment of cratered areas.

We observed many craters in isolated mountain valleys near Da Nang. They were in small clusters in mountain rice fields and thus were probably caused either by artillery or fighter-bomber strikes and not by B-52s. In these valleys the craters were generally filled with water as in the delta, but they probably are without water in the dry season and thus cannot be used for fish culture. The paddies that had been cratered were not being cultivated. During our visit we flew over many rice paddies with ponds in the centers almost comparable in size (about ten feet across) to the bomb craters, but these were fish ponds and apparently did not interfere with the cultivation of the rice surrounding the ponds. It is thus unlikely that scattered craters could create changes in soil moisture or other conditions that would make cratered paddies uncultivatable.

We observed from the air large areas of the mangrove swamps of the Rung Sat Zone which had been subjected to very heavy B-52 strikes. These are all permanently water-filled and obviously would make transportation into the area very difficult. Thus could be of some significance because the mangrove forests have been regularly used as sources of wood for charcoal and for fishing grounds.

We observed many craters at first hand in the Boi Loi woods area. This had been an evergreen hardwood forest on the flat terrace northwest of Saigon. Most mature trees were dead from defoliation (herbicide spraying) but there was a very thick understory of useless broadleafed brush, vines, bamboo, and *Imperata* grass reaching a height of 15 to 20 feet. Craters were very numerous in this area and were scattered at least every 100 feet or so. Each crater was 20 to 30 feet across and 5 to 10 or more feet deep. They were all in a grey podzolic soil (a poor soil often formed in cool, humid climates) with poorly defined horizons (layers). There were many generations of craters. The most recent ones were bare of vegetation but contained a little rain at the bottom. In the older ones a few sprigs of grass, probably *Imperata,* were sprouting in the center. (We also noted the beginning of plant growth in the center of some of the water-filled craters in the delta.) As the craters age the grass grows radially, covering the bottom, and finally grows up the sides to meet vines growing down from the peripheral vegetation. There is some filling of old craters with soil washed down from the sides, but this is limited because old craters completely covered with grass were still 5 to 10 feet deep. We did not observe any broadleafed plants invading these holes.

We were able to learn something of the effects of saturation bombing and artillery fire upon forest timber resources through interviews with loggers and saw mill operators and by inspection of damaged logs, mainly in the Ben Cat and Chon Thanh areas. We also interviewed South Vietnam forestry officials about the problems of utilizing bombed forest areas. These officials indicated that loggers do not like to operate in bombed timber because the trees have metal fragments in them which greatly reduce the value of the logs. (One logger estimated that the price of logs containing metal is reduced by 30 percent.) We could understand the reason for the reduced value when we observed piles of saws with teeth ripped out and examined discarded logs from which we dug pieces of metal. In some logs there were dead areas about twelve inches in diameter and six inches deep from which we recovered bomb fragments. We learned that when mature timber is punctured by metals such as steel shards or bullets, entry is provided for disease organisms, probably fungi, which result in dead areas that increase in size as the wound ages. Thus, largely unlike trees in temperate zones, the trees of Vietnam are susceptible to rot when penetrated by metal. This greatly decreases the value of the timber and also weakens trees so that they are much more subject to being blown down. An official of a French rubber plantation told us that he had lost many rubber trees on his plantation because the trees had been weakened by fungous infection followed bomb damage and then blown down in one of the frequent violent wind storms that occur in the area. The loggers whom we interviewed said that the craters in the forest made passage very difficult for trucks and loaders, a situation that necessitated cutting much shorter logs than desirable in such areas. (We saw 90 foot logs coming out of undamaged forests.)

We were able to observe from a high-flying helicopter the craters caused in a mountain forest near Da Nang by a B-52 strike about one and one-half years earlier. The craters were still obvious on the mountainside and along the ridges. The large burned areas in these forests appeared to be even more significant; they had apparently resulted from fires started by various types of ordnance such as white phosphorus, napalm, and flares.

We tentatively conclude that those cultivated areas hit heavily with conventional high explosives will be very difficult, if not impossible, to recultivate. They can perhaps be used as fish-rearing ponds or, in certain situations, as sources of freshwater for irrigation. They may provide additional breeding areas for insect vectors of disease. In the forested areas that have not been killed by chemical defoliation, the bombing has created problems that are probably just as great as those caused by defoliation. However, the immediate problem of greatest concern is the vast number of unexploded mines, bombs, rockets, and so forth, that must be removed if the land is to be resettled. Since the Department of Defense reports that approximately 1 to 2 percent of our air and ground munitions fail to explode, there are several hundred thousand of these randomly buried throughout Indochina.

We recommend studies to determine the relationship of water-filled craters to the spread of certain diseases, and to determine how cratered areas can best be rehabilitated. We also recommend that greatly expanded operations be initiated to locate and neutralize unexploded ordnance in agriculturally useful areas.

II. LEVELING THE JUNGLE

(By Arthur H. Westing)

Despite the lavish application of great wealth and superior technology, the U.S. has made suprisingly little headway over the years against the National Liberation Front and its North Vietnamese allies. With the growing realization that the forest functions as a key ally of guerrilla fighters by providing cover and sanctuary, more and more effort has been directed toward its obliteration. For a number of years reliance was placed primarily on chemical destruction. This approach reached its peak in 1967, but largely because of pressure exerted by the scientific community, it now not only has been reduced to a low level (see *Environment*, July/August 1970, p. 16) but also has been entirely "Vietnamized." The herbicidal assault has left South Vietnam with a legacy of many millions of dead, now rotting trees, and with locally debilitated ecosystems. A second approach that has been employed through the years to make the forest less hospitable to the other side is a bombing and shelling program of incredible magnitude. The 23 billion pounds of total munitions expended in Indochina between 1965 and 1970 alone are more than double those used by us throughout World War II in all theaters.

In recent years, however, a new technique has emerged. Born about 1965, developing into major proportions in 1968, and growing ever since, a vast program of systematic forest bulldozing now exists. The U.S. Engineer Command in Vietnam is daily putting Hercules and his twelve labors to shame. This report outlines the methods, scope, and magnitude of this "jungle eating" program and speculates on its economic and ecological impacts.

The basic tool of the landclearing operations in Vietnam is the 20-ton D–7E Caterpillar tractor fitted with a massive 11-foot wide, 2.5-ton "Rome plow" blade equipped with a special 3-foot splitting lance or "stinger," and with 14 tons of added armor. A very limited number of the even more immense D–9 tractors are also in use. More than twice the size and weight of the D–7, each of these machines is said to be the operational equal of several. The tractors are presently organized into five companies of three platoons each, each company operating 30 or more tractors. Unofficially, the companies go under such names as Rome Runners, Land Barons, and Jungle Eaters. These outfits bulldoze continuously from dawn to dusk, seven days a week under what can only be described as spine-twisting and gut-wrenching (to say nothing of dangerous) conditions. No tree appears to be too large and no jungle too dense to escape these powerful machines in what must certainly be the most intense land-clearing program known to history.

The bulldozing began on a very small scale in 1965 and was devoted primarily to the clearing of roadsides and other lines of communication in order to discourage enemy ambushes. It was not until mid-1967 that the tractors were organized into small units. By the beginning of 1968, most of the major road systems in the central half of South Vietnam (Military Regions II and III) had already been cleared. Although this mission still continues, virtually all major roads in the country have now been cleared for 300 to 600 feet or more on each side. These swaths throughout forest and plantations are now a conspicuous feature of the Vietnamese landscape. In some instances chemical herbicide treatment has helped to maintain these strips in a treeless condition.

The employment of massed tractors organized into companies for extensive forest clearing began in 1968, and the program has expanded ever since. In it's primary mission of denying forest cover and sanctuary, the "Rome plow" appears to be without equal. Effectiveness of the tractors is clearly superior to that of aerial application of chemical antiplant agents. The devices are considered, for example, to be playing an instrumental role in the attempt to "secure" the region centered around Saigon (Military Region III). They are also of considerable importance in the northern half of the country (Military Regions I and II). The U.S. has outfitted and is training two Vietnamese landclearing companies as one of the facets of "Vietnamization."

We were able to spend one day in action with the 984th Landclearing Company, which at the time was operating in the southeastern corner of Tay Ninh province. During our stay, the company was in the final stages of obliterating the Boi Loi woods. More accurately, it was supplying the *coup de grace* to this longtime enemy stronghold that previously had been treated at least once with herbicides, had been subjected to saturation bombing from B–52 stratofortresses, and had also been shelled by artillery.

We joined the outfit on its twenty-seventh day in the Boi Loi woods. During the past 26 it had already scraped clean 6,037 acres. Several days more and this job would be finished, permitting the 984th to move on to greener pastures. Before this job, the men had eliminated the 9,000-acre Ho Bo woods in nearby west-central Binh Duong province.

The Boi Loi woods was enemy territory and we were dropped in by helicopter. We accompanied one of the platoon commanders in his armored personnel carrier and were flanked by several Sheridan tanks of the Eleventh Armored Cavalry. Although we had no contact with the enemy that day and hit no landmines, we were informed that both were regular occurrences. In the past 26 days, for example, several enemy attacks had been repulsed and the tractors had set off no less than 37 mines in the course of their work. (Seven casualties from landmines had been sustained during this period.)

In operation, the tractors were strung out in a long staggered formation, the lead tractor being directed for much of the time by the company commander circling overhead in a small helicopter. The large number of bomb craters made the job of maneuvering the large tracked vehicles most difficult. The heat was oppressive (hovering around 130 degrees F. in the tractor cabs) and the work was truly arduous. But the morale of the men seemed very high, despite their fifteen-hour work days, seven days a week, wet season and dry. The company was proud of its abilities and accomplishments and, we are told, was among the rare units in Vietnam without a drug problem.

At the time of our visit, the unbulldozed terrain was covered largely by a tangle of head-high, broad-leafed brushly plants and vines intermingled with *Imperata* grass and shrubby bamboos. Of the scattered trees, more than half were dead. The plow blades were set to skim the surface, each tractor scraping bare almost an acre per hour. The big trees came crashing to the ground with great regularity. Most were simply pushed over, but the really large ones were first split by the stinger.

The terrain was flat and the soil a heavy grey podzolic, so that neither erosion nor laterization (hardening of soils to a brick-like substance) are likely to be problems here. In view of available seed (or other reproductive plant parts) and shadeless conditions, this area is likely to be quickly dominated by a combination of *Imperata* grass and shrubby bamboos, thereby largely precluding reforestation for years (perhaps decades) to come. In other areas we inspected in Binh Duong province that had been bulldozed two or three years previously, by far the most prevalent vegetation was the worthless and pernicious weed *Imperata*. Indeed, of the thousands of acres of formerly bulldozed areas that we were able to see on this and our previous visits, there was only one area where forest trees (a commercially low-grade species of *Dipterocarpus*) were recolonizing naturally. Where bulldozing is done in more hilly terrain, erosion can become a severe liability. Moreover, with the elimination of the enormous water-holding capacity of an extant forest, the heavy rains characteristic of Vietnam can produce severe flood damage. We learned of one devastating flash flood in a recently bulldozed area in Khanh Hoa province.

It cannot be denied that there are advantages to the bulldozing, given the conditions of this grim war. First, bulldozing largely clears areas of landmines, an ever-present horror throughout much of Vietnam to all who attempt to reutilize a war-visited area. (One Vietnamese whom we came to know has so far lost six relatives to mines left behind by one side or the other.) Secondly, some of the timber can subsequently be salvaged, particularly for firewood and charcoal manufacture. Thirdly, some of the bulldozed lands in "secure" areas have been taken over for agricultural pursuits, although this is often not feasible even in such areas because of extensive craterization by explosives. Farming is particularly evident in the roadside strips near population centers. A small fraction of the clearing by bulldozers is actually said to be done with subsequent resettlement or agricultural pursuits in mind (see, for example, *New York Times*, July 15, 1971, p. 3).

Bulldozing has, according to official military sources, leveled over 750,000 acres to date. I estimate that clearing continues at a rate of more than 1,000 acres per day. Because I was unable to obtain a breakdown of land and land use categories that have fallen to the relentless bulldozers, it is difficult to estimate the overall economic loss that can be attributed to these operations. However, some partial indications can be presented. With respect to the timber resource, the South Vietnamese forest service has determined that at least 126,000 acres of prime timber lands accessible to lumber operations have been destroyed through 1970, together with an estimated twenty million board feet of marketable tropical hardwood timber. At recent Saigon market values, averaging about $72 per thousand board feet, this amounts to a loss of $14.7 million. To this sum must be added a future loss due to destruction of growing stock. With respect to the rubber resource, the French rubber interests in South Vietnam have determined that substantially more than 2,500 acres of producing rubber trees (representing just over 1 percent of South Vietnam's total rubber) have so far been destroyed by bulldozers. There are about 120 rubber trees per acre, with an average value of $88 per tree. Total loss here can thus be estimated to exceed

$26.4 million. (I might add that to the consternation of the French owners, they have received no compensation.)

There are, of course, many other losses attributable to the bulldozer program, most of which are impossible to quantify. Among them can be listed site degradation, erosion, weed invasion, destruction of wildlife habitat, flood damage, and miscellaneous property loss. One recent press report from western Hau Nghia province tells of the obliteration by bulldozers of a still partially inhabited farming region and the consequent disruptive impact (*New York Times*, May 7, 1971, p. 5). Even whole villages have been obliterated (*Nation*, Oct. 23, 1967, p. 397). Discussions with professional Vietnamese foresters revealed yet another headache connected with the landclearing operations. In its nationwide forest conservation program, the South Vietnamese forest service issues timber-cutting permits on a judiciously restricted basis. However, corrupt province chiefs have, during the past year or so, come to realize that a denied local cutting permit can often be circumvented by turning to the Vietnamese Defense Department and, for pretended reasons of military necessity, request that the area be designated for bulldozing. If the request is granted, the chiefs can then cut the timber for personal profit. Finally, another use of the bulldozers results in a small amount of additional and unnecessary damage. In their lighter moments the engineers occasionally turn to carving up the landscape for the sheer hell of it. Thus one can now find a U.S. First Infantry Division emblem, covering some 1,500 acres, carved into the landscape about 25 miles northwest of Saigon (*New York Times*, Apr. 5, 1970, p. 7); a giant peace symbol is similarly engraved near Hue (*Life* magazine, July 2, 1971, p. 72).

In conclusion, the question is raised—although not answered—of how much forest loss can be sustained by an area before the regional ecology is adversely affected to a substantial extent. Before the war, more than 25 million acres of South Vietnam were covered by forest, representing about 60 percent of the country's total area of 43 million acres. So far, the war has claimed at the very least 3 million acres of the forest cover. The herbicide program has accounted for somewhat more than a third of this, the bulldozing somewhat less than a third, and the bomb, rocket, and shell craters (plus damage from other munitions) the remainder. Although the estimated 12 percent reduction in forest cover may not have a dramatic influence on the overall ecology of South Vietnam, detailed investigation will elucidate the magnitude of the subtle changes that have resulted. In the numerous local areas of severe damage, often covering several thousands of contiguous acres, the repercussions—both ecological and sociological—will be profound.

III. THE BIG BOMB

(By Arthur H. Westing)

In this report I summarize our findings about a new bomb in the U.S. arsenal, a bomb unique to the Second Indochina War. Owing to the paucity of information domestically available, I describe in some detail the bomb's general characteristics and employment.

The BLU-82/B general-purpose high-explosive concussion bomb turns out to be one of the most awesome and least publicized weapons to have been spawned by the war. It is a bomb with record-breaking dimensions: It is 4.5 feet in diameter, over 11 feet long, and weighs 15,000 pounds. Within its thin steel case are 12,600 pounds of a special, dense blasting agent (DBA-22M) consisting of a gelled aqueous slurry of ammonium nitrate and aluminum powder (plus a binding agent). This formulation provides a concussive blast surpassed only by that of a nuclear bomb.

Often referred to in Vietnam as the "Daisy Cutter" and sometimes as the "Cheeseburger," this super bomb is delivered by C-130E aircraft, of the 463rd Wing of the Seventh Air Force flying out of Cam Ranh Bay air base). Even though the bomb is floated to the ground by parachute from altitudes of 7,000 to 10,000 feet and occasionally even over 20,000 feet, the Seventh Air Force claims that the point of impact seldom is more than 300 feet off target and usually less than 150 feet. Timing of the drop is determined by ground radar.

The Daisy Cutter was developed primarily for the instant creation of clearings in dense jungle. Such clearings can then be used immediately as a landing zone by assault helicopters in locations inaccessible to conventional land-clearing equipment and techniques. The progenitor of this unique bomb was the 10,000 pound "blockbuster" bomb of World War II. Several dozen or more of these bombs were left over from that conflict. These were used in Indochina on an experimental basis, apparently beginning in 1967. The presently used BLU-82/B was developed and became operational in early 1970.

The bomb is detonated by an impact fuse at the end of an attached three-foot probe which sets off the main charge simultaneously at both ends of the bomb just above the ground. If all goes well, the resulting radial blast leaves no crater, but rather uproots and blows away all trees and other obstructions—even in heavy jungle—to create a virtually perfect clearing about the size of a football field. Although the size of each clearing differs, of course, according to local conditions of terrain and vegetation, the average radius of the opening, according to the Air Force, is about 160 feet, and its area thus about two acres. No fires are reported to have been set by these bombs and only minimal charring occurs. The blast is spectacular: A mushroom cloud rises some 6,000 feet into the air, and light aircraft flying more than two miles from the explosion are badly shaken by the shockwave. The landing zone, suitable for landing within minutes of the blast, can accommodate one to several assault helicopters at a time. The military code name for such an operation is "Commando Vault."

According to the Seventh Air Force, the average rate of use of the Daisy Cutters in South Vietnam has been one to two per week in recent months. (We were made aware of five drops during a one-week period in mid-August.) Although the total number of drops to date is classified information, an official spokesman for the U.S. Military Assistance Command in Vietnam (MACV) informed me that it is well in excess of 100. One press report claims that 160 drops occurred prior to June of 1970 (*Los Angeles Times*, June 1, 1970, p. 20). Most of the drops in South Vietnam have occurred in the northern half of the country and in the delta region to the south (Military Regions I, II, and IV). Information on the drops in Cambodia and Laos was not made available to us.

In the briefing we received on the Commando Vault operations, an official spokesman for the Seventh Air Force stressed and restressed that use of the Daisy Cutters was restricted to the creation of landing zones and that they were nothing more than "explosive bulldozers." He went into some detail on how the local populace is always alerted prior to a drop. On the other hand, we learned from another local Air Force source that exceedingly strict security is always maintained before a drop to avoid alerting the enemy; the flight crew does not even receive the target location or drop time until just before takeoff.

The Daisy Cutter is officially designated as a general-purpose bomb and has been used in a number of ways in Indochina beyond the creation of landing zones. One Air Force report explains that the bomb can be used for road interdiction by triggering landslides. In the Hanoi press this past spring (in an otherwise unconfirmed report) there is a description of the obliteration of an entire hamlet in Laos by this means. We also learned from three independent sources (two military and one embassy) that the Daisy Cutter has been and is being employed against enemy or suspected enemy troop concentrations. Moreover, in one of Commando Vault missions we inspected from the air, the bomb had been dropped, according to our official military guide, onto a suspected enemy rocket emplacement. This mission had been carried out in June of this year in Quang Nam province nineteen miles southwest of Da Nang. The antipersonnel use of this bomb has also been reported in the press (for example, *New York Times*, Apr. 13, 1971, p. 1; Apr. 15, 1971, p. 5; Apr. 18, 1971, p. E2). Press reports describe one additional use for the bomb, that of removing the thick jungle canopy above suspected enemy storage areas (*New York Times*, Apr. 15, 1971, p. 5).

What is the environmental impact of a Daisy Cutter? Here I am chagrined to report that of the scores of Commando Vault missions, old and new, no site could be found by MACV in an area secure enough for us to visit. U.S. citizens are generally not aware that the National Liberation Front and its North Vietnamese allies control virtually all of the forest and other wild lands of South Vietnam. Moreover, we could find no one who had examined or even thought about these sites with ecology in mind, not even the MACV science advisor or his staff. Although the immediate overt impact is easy to surmise, the more subtle and long-term effects must await further study.

According to an official Seventh Air Force source, the blast of a Daisy Cutter is of such intensity that all terrestrial and arboreal wildlife (as well as any luckless humans) within a radius of approximately 3,280 feet are killed outright by the concussive shockwave. The lethal zone from one such bomb thus covers an area of about 776 acres.

Beyond this circle of death, concussion injury diminishes to insignificance radially outward for a distance of another 1,640 feet or so. This larger area of both death and injury to wildlife thus encompasses about 1,746 acres per bomb. Assuming that the total number of bomb drops to date has been 150, the forest area totally eliminated by this means has been only about 300 acres. Of much greater concern, all the wildlife occupying 116,400 acres or more have been killed. The wildlife on again as much area have sustained injuries. The Daisy Cutter thus adds significantly to the already severe stress impossed by the war on Vietnam's wildlife.

With respect to the vegetation, my information on damage is less complete. The innermost circle of two acres is, of course, totally annihilated. (One press report claims that even the worms in the ground are killed in this zone [*Life* magazine, May 21, 1971, p. 41].) I suspect that damage to the flora beyond the central, cleared area becomes negligible within a modest distance, but actual extent of damage will require on-site investigations. Recolonization by plants in the central, cleared zone seems to be fairly rapid, at least in the delta region. An Air Force officer familiar with the delta told us that a Commando Vault landing zone blasted out in that region looks green from the air within several weeks; it often becomes unusable within several months because of the regrowth of brush. Past experience suggests that the upland clearings will be quickly invaded primarily by *Imperata* gross and/or a variety of low-growing, brushy bamboo species, all tenacious and worthless weeds.

The Daisy Cutter is, in the words of one military officer we met in Vietnam, "a super bomb with super punch." MACV has been using these bombs on a steady basis for more than a year and a half now, apparently with no mention of them in the official daily, weekly, or monthly war news summaries. One senior Seventh Air Force officer explained to us, "they have such a devastating effect that we hate to give them much publicity."

The Commando Vault 7.5 ton bombs provide just one more means by which we casually rearrange the environment of Indochina with little if any concern about either the immediate or the long-term impact on the ecology of the area. I am painfully aware of how little in the way of biological data this report contains, but in providing the first detailed account of this new, indiscriminately wide-area weapon for the open literature, I hope that it will stimulate the necessary wildlife and other ecological studies as conditions permit.

NEWSLETTER FROM YOUR OPEN DOOR IN WASHINGTON—CONGRESSMAN ALBERT W. JOHNSON

HON. ALBERT W. JOHNSON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 9, 1971

Mr. JOHNSON of Pennsylvania. Mr. Speaker, for the information of the Members and other interested persons, I am presenting today the completed computation of the results of my recent special questionnaire. As has been my custom in the past, the results of the questionnaire are set out in the form of a newsletter containing the following caption: "Newsletter From Your Open Door in Washington—Congressman ALBERT W. JOHNSON, 23d District of Pennsylvania—Newsletter 20, November 1971."

The newsletter also contains a picture of myself in front of the door of my office, in which picture I am holding a publication of the Pennsylvania Department of Commerce entitled, "Discover the New Pennsylvania." The newsletter then continues as follows:

NEWSLETTER

Dear Folks in the 23rd Congressional District:

Last month, because of the unusual interest generated by President Nixon's announcements of his planned trip to Red China and the imposition of Wage and Price Controls, and the furor over busing of school children to achieve a racial balance, I issued a Special Questionnaire to homes in my district. I am now pleased to present the results along with my comments. This questionnaire was a punch out form to be counted by a computer. My January 1972 questionnaire will resume its regular format, with room for comments, and will cover a wide variety of current topics.

Question No. 1—Do you favor President Nixon's efforts in trying to establish friendlier relations with Mainland China?

The answer: Yes: 78.6%. No: 17.3%. No response: 4.1%.

Since World War II our Red China policy has been one of containment. President Nixon became convinced this policy has been a failure, and during this period we became involved in the Korean and Vietnam Wars, all backed and greatly financed by the Red Chinese. Any American policy toward Asia must come urgently to grips with the reality of China. We must recognize the present and potential danger from Communist China. The President, therefore, feels we simply cannot afford to leave China forever outside the family of nations. It is estimated that China, in the not too distant future, will have a significant deliverable nuclear capability and, if outside any Nonproliferation Treaty, could, if it chooses, scatter its weapons among "liberation" forces anywhere in the world. We cannot afford then to have China exiled from society forever.

Seven years have passed since Red China exploded its first nuclaer device. Five years ago they flew a nuclear-tipped missile across 400 miles of desert, and have recently sent one 2,200 miles. Just 16 months ago the Chinese first placed a satellite in earth orbit. They have set off 11 nuclear explosions, bigger than the Hiroshima bomb. Reports are that they have 100 to 150 nuclear bombs and missile warheads. They are building a 3,000 mile range bomber.

It is within this range of potential for destruction that the President made his decision. I am sure the President will be gratified to hear that 78.6% of the people in the 23rd Congressional District agree with him.

Question No. 2—Do you favor the President's proposed trip to Mainland China?

The Answer: Yes: 67.5%. No: 27.8%. No response: 4.7%.

While 67.5% approve of the President's trip to China, somewhat less than the 76.5% who favor the establishment of friendlier relations, this reduction is of course due to the uncertainties involved in the journey.

The President's announcement on July 15, 1971 that he would visit Red China next year came as a virtual bombshell. In announcing the trip, he made one of the shortest Presidential Messages on record. He opened his speech by saying: "I have requested this television time tonight to announce a major development in our efforts to build a lasting peace in the world."

The plan of the China mission has great importance beyond the trip itself:

(a) it could well mean an earlier peaceful end of the Vietnam war.

(b) it has resulted in Nixon's plan to also visit Russia in order to relieve tensions.

(c) 20 years of distrust between U.S. and China is being eased.

(d) Arms control talks between U.S. and China and vast trade are a fervent hope.

While Members of Congress, the Nation, and the World were astonished by the announcement the response to the "Journey for Peace" has been an overwhelming approval. The Senate adopted the following Resolution: "Resolved by the Senate (the House of Representatives concurring), That the President of the United States be and is hereby commended for his outstanding initiative in furtherance of the foreign relations of the United States and world peace by deciding to undertake a 'journey for peace' to the People's Republic of China. Resolved further, that the Congress offer and does hereby offer its full support to the President in seeking the normalization of relations with the People's Republic of China."

Question No. 3—Would you favor the admission of Mainland China to the United Nations provided Nationalist China retains its seat in the United Nations?

The answer: Yes: 74.3%. No: 17.8%. No response: 8%.

The admission of Red China to the United Nations at this current Session was almost inevitable. It reminds me of the saying often quoted by the late Senator Dirksen: "As strong as an army is the strength of an idea whose time has come." As indicative of the world-wide mistrust of Red China in the last 20 years, the 1952 vote to seat her in the United Nations was 7 for and 47 against. Support for seating increased, and in 1970 the vote was 51 to 49 in favor of seating, however, at that time the Assembly said the issue required a 2/3's majority so membership was denied. In 1970, President Nixon appointed a 50-member Commission to study the problem and make a report. On April 26th of this year the Commission, headed by Henry Cabot Lodge, recommended that Red China be admitted to the United Nations, but also called the continued membership of Nationalist China "imperative." Following this finding, on August 2nd, the United States announced it would no longer stand against Red China's entry to the United Nations, thus reversing a position held and defended for two decades. Our plan, however, called for Nationalist China to remain a member.

Question No. 4—Would you favor the admission of Mainland China to the United Nations, even if the result is Nationalist China's withdrawal or removal from the United Nations?

The answer: Yes: 23.3%. No: 69.7%. No response: 7%.

The negative response to this question in the district pretty much reflects the opinion held nationwide as the country reacted drastically against the expulsion of Nationalist China from the United Nations. The policy of the United States was to admit Red China providing Nationalist China also kept its seat. We were playing a losing game and did not realize it. In the first place, the policy of 2 Chinas was unacceptable to the 2 Chinas themselves as each claimed to be the one and only legitimate government of China. Red China vehemently stated they would not accept the seat if Nationalist China remained. The problem this year was also compounded by the fact that there are now 131 member countries in the United Nations, and 71 of these countries have fewer people than New York City, and several fewer than Syracuse, New York. Also, 65 of these countries have a gross annual income less than our state of Connecticut. However, they each have one vote in the United Nations.

Secretary of State Rogers and UN Ambassador Bush made a valiant effort to save Nationalist China. We contended that the matter of expulsion was an "important question," which required ⅔'s vote. It was on the vote on this matter that Nationalist China was excluded. The Resolution failed by a vote of 59 to 55. The vote to seat Red China, and expel Nationalist China was 73 to 35 (with 17 abstentions).

This action has had an adverse reaction in the United States. The U.S. Senate defeated the Foreign Aid bill for the first time since World War II. It was pointed out that 54 nations on the receiving end of U.S. aid refused to support the United States on the UN vote. The Foreign Aid bill will pass later, cut considerably and with new direction. Awaiting action in the Congress are 3 other aid bills to International institutions who dish out foreign aid, and in the Congress itself the United Nations appropriation is under fire, as we supply 31% of the annual $200 million in budget.

Question No. 5—Do you favor extension of the 90-day price-rent freeze order beyond November 13, 1971?

The answer: Yes: 69.6% No: 25.4%: No response: 5%.

On August 14th, President Nixon dropped another bombshell when he announced the imposition of a Wage-Price freeze as well as other drastic economic measures. The possibility of this action had been imminent since Congress passed the Economic Stabilization Act in August of 1970. This Act was a maneuver by the Democratic Party whose policy advocated wage and price controls. The power to impose them was attached to another bill, and when the President signed the law, they began pushing him for controls. George Meany, on "Meet the Press" July 11, 1971, said: "If I were President Nixon, I would impose controls at this time. I don't see any other way that this situation is going to get under control." In March of 1971, the Gallup Poll indicated that Wage-Price curbs were backed 49% to 38%, with members of labor-union families just as likely to favor the controls as non-union families.

On August 14, 1971, when the President and his advisors went to Camp David to draft the control order, it was apparent to the

President that his call for voluntary restraints had fallen on deaf ears. He was presented with some pretty grim facts:

(1) There was another jump in living costs and inflation was at an all-time high and going higher.

(2) Unemployment was around the 6% mark and was not improving.

(3) A deficit in our International balance of payments had been incurred during the first 6 months of 1971 of $11.5 billion.

(4) There had been a drop in spending by business for new plants and machinery of over $3 billion.

(5) Many new 1971 cars remained unsold in dealers hands.

(6) Industrial output had dropped 5½%.

(7) Our Gold supply had dropped to $9.8 billion.

(8) There were approximately 32 billion in dollars abroad which we had guaranteed to buy back in gold.

(9) Japanese imports were up to $7.2 billion, while our exports to Japan had dropped from $4.9 billion to $4.2 billion.

From the Camp David meeting emerged the following new economic plan:

(1) A 90-day freeze of all prices, wages, and rents, now continued in Phase II.

(2) The United States to discontinue buying back dollars abroad with gold.

(3) A 10% surcharge on all imports.

(4) A request to Congress to: (a) give industry a 10% Investment Tax credit (reduced to 7%); (b) to repeal the 7% excise tax on automobiles; (c) to increase personal exemptions by $50; (d) a cut in Federal spending of $4.7 billion and a 6-month freeze of Federal pay increases.

Question No. 6—Do you favor a freeze on interest rates?

The Answer: Yes: 72.6%. No: 21.9%. No response: 5.5%.

The freeze has been criticized because it did not cover interest, profits, and dividends. The Administration does not favor a freeze on interest charges because they claim the frozen interest rate would be forever the fixed rate, with no hope of a reduction. Also, Secretary of Treasury Connally stated that interest rates have been going down this year and since controls were put on. On local Washington, D.C. radio stations, the Savings and Loan Associations are advertising that they will pay 5% in passbook savings, and 6% on Certificates of Deposits. It is obvious that a lowering of mortgage interest rates will of necessity reduce the rate depositors receive. Instead of a fixed interest rate control, the President has established a Committee on Interest and Dividends, the main role of the Committee being to concentrate on home mortgage interest charges, and otherwise stabilize interest charges. However, the new Price Control Bill before the Congress could well require frozen interest ceilings.

Question No. 7—Do you favor a limit on profits?

The Answer: Yes: 55%. No: 39%. No response: 6%.

A smaller number of persons favor this control than the other categories. Here again the Administration does not favor a limit on profits. This is because American business profits have been steadily decreasing percentagewise during the past few years, and the competition from cheaper goods made abroad makes it increasingly more difficult for American businessmen. To limit profits will require an Act of Congress renewing the old excess profits tax, which has been discredited.

Present Corporation tax rates, both Federal and in Pennsylvania, are high enough now to keep profits in line. For instance, the Pennsylvania Legislature recently raised the Corporate Business Tax to 12%. The Pennsylvania tax on capital stock was also sharply increased. However, the President does not rule out an excess profits tax law, if the Wage and Price Board deem it necessary.

Question No. 8—Do you favor imposition of the 10% import tax?

The answer: Yes: 73.3%. No: 21%. No response: 5.6%.

As previously stated, when the President acted on August 15th, the U.S. International balance of payments deficit was $11.5 billion the first 6 months of 1971. Great demands were being made on the President and Congress to impose import controls on goods coming into the United States from abroad, mostly Japan, which has been causing widespread unemployment in the United States. As stated earlier, our trade with Japan was reduced, and their trade with the United States went skyrocketing.

For the past 25 years the United States has championed free trade because protective tariffs in the 1930's divided the world into trade blocs. But the time had come for Nixon to blow the whistle. For instance, the Japanese have placed extremely tight restrictions on imports into Japan making it almost impossible for American businessmen to sell their goods in Japan, whereas we have given Japanese goods and machinery quite free access to our markets. And other countries have held down the value of their currencies, making it possible to sell exports to the United States at extremely low prices.

It is said that the 10% surcharge was really directed at Japan, but it has hit other countries especially hard. Canada for instance is facing a real crisis as their immensely favorable balance of payments surplus was due to trade with the United States, especially cars, and auto parts. However, despite the drastic nature of the surcharge, United States business has already shown signs of improvement as a result.

Question No. 9—Do you favor the repudiation of the promise to buy back U.S. dollars abroad with gold?

The Answer: Yes: 53.2%. No: 33.3%. No response: 13.5%.

On August 15, 1971, President Nixon, in addition to putting on the 10% import surcharge, announced that the U.S. would no longer ship gold abroad in settlement of dollar claims of other nations, and would no longer maintain the dollar at fixed rates of exchange with other currencies. Our agreement to freely exchange gold for dollars was decided at the International Bretton Woods (New Hampshire) Conference in 1944. At that time the United States held most of the world's gold, and by 1949 had $25 billion worth at Fort Knox valued at $35 an ounce. Following World War II the nations of the world needed a strong currency to peg their money to and that was the dollar. We could afford to make this agreement because we had a trade balance and Europe needed to buy huge quantities of everything to rebuild. The system worked well for 15 years, until the United States, because of its huge foreign aid gifts, tourist travel and defense activities abroad, accumulated a balance of payments deficit of over $50 billion. Nations abroad had received gold for dollars so that on August 15th our gold reserve was down to $9.8 billion, with over $32 billion abroad eligible to receive gold in exchange. These nations were ready to demand our remaining gold supply, despite the fact that they had stubbornly in the past maintained low exchange rates for their currencies, while the Bretton Woods system was rigged against a fixed dollar value.

Now as a result of the President's move, we have a floating dollar and we will keep our gold supply. Nations need a gold reserve for use in times of financial panic when their currencies will not be accepted for food and supplies necessary for survival. This is especially true in times of war. The nations of the world are now making moves to substitute a new medium of exchange to supplant the Bretton Woods agreement which survived 27 years.

Question No. 10—Do you favor the 10% tax credit for one year on the cost of new machinery and equipment to expand jobs and modernize U.S. plants?

The Answer: Yes: 72.6% No: 21.8%. No response: 5.7%.

Granting industry this investment tax credit has in the past proven to be a tremendous stimulant for new jobs and industry expansion. This credit, first proposed by President Kennedy as a measure to foster long-term economic growth, worked out so well that President Johnson had it suspended in October 1966 as an anti-inflation measure, but had to replace it 5 months later to combat a minirecession. President Nixon rescinded it in early 1969 also as an anti-inflation move. Now, in a time of necessity to revive business, he is asking Congress to restore it. In the bill before Congress, the credit is fixed at 7% instead of 10% and is only applicable if the machinery is bought in the United States. This has of course aroused foreign indignation. President Nixon predicts the credit will quicken the pace of recovery and take thousands of men off the unemployment rolls. I personally feel the credit is necessary and never should have been suspended.

Question No. 11—Do you favor an amendment to the U.S. Constitution which would require that no public school student shall because of his race, color, or creed be assigned to or required to attend a particular school?

The Answer: Yes: 72.1%. No: 23%. No response: 4.9%.

This spring, by a unanimous decision, the U.S. Supreme Court decided that busing of school pupils is a proper means of ending school segregation, but did hold that the decision does not mean that "every school in every community must always reflect the ratio of composition of the school system as a whole." On August 3, Chief Justice Burger delivered a clarifying opinion in another case and warned Federal Judges that they were misreading the Court if they believed it now required racial balance in every school in a system. To add to the confusion, the U.S. Supreme Court on October 26th refused to review a Federal District Court's order that requires the busing of some 10,000 pupils to improve racial balance in public schools in Pontiac, Michigan.

This year the school bus became a symbol of one of the most controversial developments in American life: the forced transportation of children away from neighborhood schools to distant classrooms, in obedience to court-ordered desegregation plans.

Busing is beginning to emerge as one of the major political issues of 1972. President Nixon, sensing the mood, has made it plain that he strongly opposes "busing of children for the sake of busing," and has repudiated the Department of Health, Education and Welfare's massive busing plan for Austin, Texas. Over 100 Congressmen have endorsed the Constitutional Amendment in this question 11. And early in November Northerners and Southerners (Conservatives as well as Liberals) united to insert in an Education appropriations bill a ban on any use of the money for busing.

The latest Gallup Poll shows 76% of the nation's voters are opposed to busing. In many school districts where busing is now in use to bring about desegregation it is meeting with success. However, in many other school districts it has been a failure and has increased drug addiction, robberies and violence.

ADJOURNMENT OF CONGRESS

As I complete this Newsletter, Congress is about to adjourn until January 1972. This Congress has not passed the President's program in the field of Revenue Sharing nor the President's Plan for Governmental Reorganization, both of which I favor in general. Congress has put into law the request of President Nixon relating to the Wage-Price freeze. The power of the President to free wages and prices will have been extended from April 30, 1972 to May 31, 1973. Also, the Tax Reform bill is in conference, and by the time you receive this Newsletter, it will be on the President's desk for signature.

This Tax bill postpones the right of taxpayers to earmark $1 of their income tax to finance a presidential campaign until 1976. Also in the political area, the bill would allow limited tax credits and deductions for federal, state and local campaign contributions, effective next year.

The bill reduces taxes by $15.8 billion. The bill would cut individual income taxes by increasing the personal exemption from $650 to $675 on 1971 income and to $750 starting with 1972 income; by raising the low-income allowance from $1,050 to $1,300, by increasing the standard deduction from 13% of gross income, up to $1,500, to new levels of 15% or $2,000, and by allowing deductions up to $400 a month for child-care expenses. I intend to support this Conference Report.

MONETARY CRISIS IMPROVING

The monetary crisis continues as a problem but it is moving toward a solution as a result of a 10-nation Conference held in Rome the first week in December. The U.S. agreed to consider concessions, and European countries agreed to enter serious talks on lowering trade barriers against U.S. goods. The Conference will reconvene in Washington on December 17. The U.S. does not want to revalue the dollar in terms of gold, but is ready to make concessions as other nations agree to also revalue their currencies as against the dollar. The Wharton School of the University of Pennsylvania, which I attended, reports that business next year will be considerably better. They predict that the 1972 gross national product will be $1,150 billion or an increase of $106 billion over 1971. They state further this gain will be from solid, real growth rather than price increases. They also forecast a drop in unemployment in 1972. However, the U.S. Commerce Department reported during the 3rd quarter of this year the balance of payments deficit was $12.1 billion, a dangerous figure. This compares with $11.5 billion the first six months. Watch for further dramatic moves by the Administration as a result of this excess of the import over the export dollar.

In closing, I want to thank those who took the time and made the effort to return the Questionnaire. The return of the Questionnaire makes this Newsletter possible, which I trust you will find interesting.

Sincerely yours,

ALBERT W. JOHNSON.

LEGISLATION TO REMOVE AN INADVERTENT INEQUITY IN THE CHAMPUS PROGRAM

HON. JAMES A. BYRNE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 9, 1971

Mr. BYRNE of Pennsylvania. Mr. Speaker, I am introducing a bill today that is intended to remove a serious and, I believe, inadvertent inequity in the civilian health and medical program of the uniformed services, which is more commonly known by its acronym of CHAMPUS.

In 1956, when the legislation authorizing the establishment of this program was first enacted, the framers of that legislation very wisely included a provision under which the children of members of the uniformed services who have been incapacitated and rendered incapable of self-support before reaching the age of 21, which is the normal cutoff age for dependent children under the CHAMPUS, may continue to be covered by the CHAMPUS regardless of age so long as the incapacity exists. Apparently, however, they overlooked the fact that dependent children who are in college retain their eligibility through age 22.

Recently, several cases have come to my attention involving cases—particularly cases involving serious automobile accidents—which occurred at age 22 while the child was attending college. These children are rapidly reaching age 23 at which time, under present law, they will lose all of their CHAMPUS benefits. The result will be financial disaster for their parents since these cases not infrequently cost as much as $150 per day.

My bill would apply the "incapacity" rule to the student group I have just described and remove this unintended inequity from the law.

TENNESSEE AND THE MAGNAVOX CORP.—A SILVER ANNIVERSARY

HON. RICHARD H. FULTON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 9, 1971

Mr. FULTON of Tennessee. Mr. Speaker, the State of Tennessee and the Magnavox Corp. are celebrating their 25th year together. For both it has been a rewarding and productive association.

A quarter of a century ago, Magnavox chose the quiet and picturesque town of Greeneville, Tenn., to initiate their operations in the South. It all began in a leased tobacco warehouse at Greeneville which was converted into a cabinet manufacturing plant. A year and a half later, Magnavox launched its first radio assembly at Greeneville. Two years later, in 1950, television production made its debut at Magnavox's Greeneville facility.

So it has gone and grown through the years until the Magnavox Corp. today is one of Tennessee's largest employers and finest corporate citizens.

Today, the firm employs 6,500 persons with an annual payroll of $29 million. Today, Magnavox pays $1 million in State and local taxes each year. In addition, over the past 5 years this firm has contributed some $600,000 in money, equipment, and products in the State of Tennessee. These donations went to schools, hospitals, United Funds, local charities, and civic organizations.

Magnavox sponsors a scholarship program to assist deserving individuals and many thousands of dollars more worth of Magnavox products and equipment are donated by Magnavox to technical schools, hospitals, and so forth. Last year, the firm spent more than $100,000 to reduce and eliminate pollution in Tennessee.

Mr. Speaker, this very briefly is the story of Magnavox and Tennessee. A quarter of a century ago firm officials came south looking for a place to settle a part of their organization. They discovered Tennessee and for a period of 25 years this association has been advantageous to Tennessee and to Magnavox.

We anticipate and look forward to another 25 years over which the rewards and achievements of the past will be mere fractional yardsticks of those to come.

Magnavox means "great voice." For Tennessee Magnavox also means great employer, great contributor, and great citizen.

PHYSICAL FITNESS CAN BE FUN

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 9, 1971

Mr. BOB WILSON. Mr. Speaker, staying fit is not always fun or for that matter very easy. But in my district of San Diego, citizens have found that physical fitness can be fun, as well as a family affair. This unusual project is the result of the genius and energies of Deborah Szekely and Dr. John L. Boyer, both members of President Nixon's Council on Physical Fitness and Sports. They have three family fitness centers operating in San Diego and hopefully 13 new ones will be in business early next year, all as part of the city's park and recreation program. The success of this program was reported recently in a Los Angeles Times article which I know will be of interest to our colleagues. Therefore, I insert it in the RECORD along with a statement that gives additional details about this unique effort to keep Americans active in a healthy way:

SAN DIEGO'S NEW FAMILY FITNESS NIGHTS SOON TO BE A SWEET 16

Family Fitness Fun Centers, a project just begun this October, have been operating at capacity three nights a week Tuesday through Thursday, 5:30 to 7:30 p.m., at three San Diego park and recreation centers. The reception has been so enthusiastic that announcement now is made of thirteen additional centers to be opened three at a time right after the first of the year, augmenting the original program at Allied Gardens, Colina del Sol, and at the Pacific Beach Recreation Center.

Conducted without charge for anyone from kindergarten age and up who wishes to participate, the centers drew their first crowds by promising fun and fitness, *now* music and something far removed from the usual calisthenics. The program delivered, and the first registrants quickly became regulars. They will tell you that they enjoy the sessions, they enjoy the way the sessions make them feel—and they are happy about the unwanted pounds they have lost.

Part of the popularity of the Family Fitness Fun Nights is that they are not entirely structured but remain sensitive to the moods of any particular group on any particular night. Some crowds, once they get moving and establish their own rhythm and style, don't want to quit but stay with the music until closing time. Others may break off into supervised splinter groups for sports, jogging or what appear to be rousing parlor games. Sometimes gimmicks are employed—everything from sticks to ropes to colored parachutes and pastel tires. Often a participant is called upon to lead his own group.

"These classes are so far removed from ordinary calisthenics that they are most easily taught by someone who simply is a good dancer," says Deborah Szekely. Mrs. Szekely and John L. Boyer, M.D., both members of President Nixon's Council on Physical Fitness and Sports, are co-sponsors of the family fitness movement. "People find their own pace and intensity. Improvement comes through repetition, rather than through a do-or-die effort. The people are shown ways to test themselves, but most emphasis is placed upon fun.

"The fact, of course, is that we are trying to set up the first workable solution to the terrifying statistics about heart disease affecting young and old.

"Everybody agrees that Americans must change their inactive patterns. This is the first attempt to offer an alternative pattern, a workable scheme to keep dad from settling into an easy chair right after work and preventing the kids from following six hours at school desks with another solid six hours in front of the television set.

"We are encouraging families to get out together before dinner, move around, be a family, and then go home and all sit down to dinner at the same time. Dinner becomes a joyous occasion, because dad and mom are relaxed and unwound by a change in pace, and one eats less food with more pleasure. Since dinner is at 7:30 or 8 instead of 6 p.m., the late-night snack is no longer a problem."

All this doesn't sound hard to do. Many people are finding it very easy. And if the system spreads as extensively as the sponsors dream, it may prove an answer to the question: How to prevent some of these one million yearly deaths from heart and circulatory problems?

The almost dance-like steps and maneuvers look simple enough, but Doctor Boyer emphasizes that each little movement has a meaning all its own. "Everything that is done in these exercise classes is very specific. Each exercise is designed to increase something, to improve something—muscular agility, endurance, strength.

"For a long time in this country, we were taught it was most important to be strong. But strength alone doesn't guarantee fitness. You have to have a balanced combination of all three to be really fit. One of these qualities alone won't bring you the other two.

"Another myth was that sports would make us fit because they increase our agility. However, in a game like bowling, for instance, one minute and fifty-seven seconds are spent in actual activity during any bowling contest. The rest of the time you're walking back in line, chatting, watching the other guy perform, drinking a beer.

"We begin the physical fitness nights with little warmups that scarcely look important. But they are getting our joints and tissues ready. Then we do things specifically for agility, specifically for strength, and we get our cardiovascular engine running."

The potential of these Family Fitness Nights is considered sufficiently impressive to merit federal funding. This provides the instructors, under San Diego Park and Recreation Department jurisdiction, whose director, Miss Pauline des Granges, has given much personal attention to the program.

Jack Krasovich of the City Recreation Department is coordinating. Assisting each center's supervisor are undergraduate students; in charge of their recruiting is Ray Butler, chairman of San Diego State College's Recreation Department.

The San Diego City Schools system also has lent is sponsorship to the program, and is represented by Ash Hayes, health and physical education specialist.

PHYSICAL FITNESS NOW A FAMILY AFFAIR

(By Patricia Lee Murphy)

SAN DIEGO.—"I'm overwhelmingly enthused," puffed Mrs. Grace Dorman, a Pacific Beach real estate agent, midway through a volleyball game in which her co-players were a truck driver, a punch press operator, a school secretary, a dance teacher, a housewife, a mechanical engineer and a student.

That game in the Pacific Beach Recreation Center was a U.S. first under a pilot "Family Fitness Center" program expected to trumpet similar drop-the-blubber sessions across the country—resulting eventually in a trimmer, healthier citizenry.

Mrs. Dorman and 790 other San Diego residents came three nights last week to what is billed as the city's "fresh, new solution for physical fitness." After three years of planning, it got off the ground because of a one-year $20,000 federal grant.

The inaugural "Family Fitness Centers" opened at Pacific, Colina del Sol and Allied Gardens recreation centers under the guidance of two members of President Nixon's Council on Physical Fitness and Sports.

One is Dr. John H. Boyer, a San Diego cardiologist and associate professor of physical education at San Diego State College; the other, Mrs. Deborah Szekely, who adapted the high priced exercise routines of her two spas, Golden Door and Rancho la Puerta at Tecate, B.C., into free family routines.

The project is being presented by the city's school and recreation departments, the latter under the guidance of Pauline des Granges, director of the San Diego Park and Recreation Department.

Federal funds pay for a professional supervisor in each recreation center. San Diego State College supplies students—working for credit and exactingly trained—to conduct the classes. The city provides facilities. And citizens tote in the extra pounds and inches.

Dr. Boyer is an enthusiastic supporter of the project because he says. "the effect of sedentary living beginning early in life is one of the major causes of heart disease.

"Physical inactivity leads to weight gain with increased body fat. The average American has 25% to 30% body weight as fat—the total should be 12%."

PROVEN AT RESORTS

"The idea is based largely on a fitness approach which has been proven popular and effective at private resorts," Mrs. Szekely said. "This is the first time such a program has been adapted for extensive general use and offered to the public without charge."

Last Tuesday, Wednesday and Thursday evenings—the first week of the fitness sessions—families and adult and student singles often came back all three nights, something the leaders had not anticipated.

The program is unstructured, scaled to individual capacity and no one frowns if a participant attends only a part of the 5:30 to 7:30 p.m. sessions.

Children under 11 are presently segregated into their own class, but Dr. Boyer said there is no rigid age division.

INCENTIVE PLAN

"We have a kind of incentive plan," he explained. "Those youngsters who show sufficient coordination will move up into the older group and do their thing right along with their parents. It might just be some answer to the generation problem, a kind of 'the family that plays together, stays together' thing."

He expressed surprise that the rigorous exercise periods seemed to be what people liked best during the first week, more than the volleyball and basketball games.

"It's probably because we do it to today's music—people respond to the rhythm," he said.

The exercise periods are hard work. There was a lot of amiable groaning and frequent dropping out for rest. There was also a lot of laughter and camaraderie among people who had arrived as strangers.

"Once you're huffing and puffing together," said Dr. Boyer, "you find you are all on the same communications channel."

The plan calls not just for physical exercise, both patterned and free play, he said. Attention will be given to diet control, low-fat cooking, weight management and an antismoking clinic, steps towards what he calls "total family fitness."

During the pilot period Dr. Boyer feels many mistakes will probably be made and rectified; that the program will undergo many changes. After a year he will present an analysis to the President's council and certain scientific journals.

It is probable, too, that a workbook or manual will be published for use by recreation departments of other cities in establishing similar programs.

The first night at Pacific Beach Recreation Center was a melange of some 80 people including 16 of the under-11 group, many students, housewives, two San Diego firemen, a teaching couple from Rancho Santa Fe (with their 9-year-old daughter), a food service worker, bookkeepers, data processors, a saleswoman, an unemployed federal worker with his wife, two children and an aunt, a dental assistant and one who listed herself as a "professional sitter." In response to the part of the questionnaire that asks, "How many hours a week do you spend sitting?"—meaning "How sedentary are you?"—the latter woman answered, "I sit too much."

Relating to this, Dr. Boyer advises, "Mother and the kids should bring dad a sweatsuit and a pair of comfortable shoes and meet him at the center. It's important that dad go directly from work because once he's home and sits down, the evening is gone.

"Sitting has become such a habit that it interferes with the human animal's normal need to move in spurts of real activity during waking hours," Dr. Boyer said.

"Perfect strangers have been calling to tell me how great they think the program is and how much they feel it will do for them."

SUPREME COURT AND AMISH SCHOOLCHILDREN

HON. TIM LEE CARTER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 9, 1971

Mr. CARTER. Mr. Speaker, I was very much interested this morning to read the article concerning a case in which the U.S. Supreme Court has been asked to decide whether it is the responsibility of a State to insure that adequate education of children should override the religious conviction of the Amish that 8 years' schooling is enough.

For several years, I have asked myself what education actually is. The dictionary states that to educate is to provide schooling for; to develop mentally and morally, especially by instruction; to train, instruct, or teach.

Mr. Speaker, I submit the training the Amish fathers and mothers give their children is a basic and vocational form of education.

"Ye shall know them by their fruits."

If anyone visited in an Amish agricultural area, it immediately became apparent that they are the finest farmers in the United States. Again, I submit that they did not learn this in school, but on the farm and from their fathers and mothers.

In 8 years of training our schools should give the basic elements of education, reading, writing, and arithmetic. Further training by these parents has developed the Amish children into fine Christian farm men and women.

It is my devout wish that the Supreme Court will decide in favor of the Amish people.

[From the Washington Post, Dec. 9, 1971]

HIGH COURT HEARS AMISH SCHOOL CASE

(By William R. MacKaye)

The U.S. Supreme Court was asked yesterday to decide whether the responsibility of a state to ensure the adequate education of children should override the religious conviction of the Amish that eight years' schooling is enough.

The case, which pits the state of Wisconsin against three Amish fathers, poses one of the most critical religious freedom questions to come before the high court in some time.

The Wisconsin Supreme Court ruled in January that the three fathers, Jonas Yoder, Wallace Miller and Adin Yutzy, had a constitutionally guaranteed religious right to keep their children out of high school despite Wisconsin's compulsory education law.

One of Wisconsin's assistant attorneys general, John W. Calhoun, urged the federal high court to overturn the 6-to-1 ruling of his state's justices. Wisconsin's responsibility to defend its citizens' children from "the disease of ignorance" must take precedence over the Amish religious position, he said.

William B. Ball, a Harrisburg, Pa., lawyer who is one of the nation's principal legal experts on church-state matters, argued on behalf of the parents.

He laid before the clearly fascinated justices a picture of a tightly knit religious community in which wisdom is learned in the household and at the plow, and secondary schools are seen largely as purveyors of temptation and worldliness.

Wisconsin vs Yoder, as the case is known, represents the first time that the conflicts between the technology-shunning Amish and the government have been argued before the nation's highest court.

But it stands at the end of a long line of efforts by governments on this continent and in Europe to compel the Amish to soften their sturdy resistance to the ways of the modern world.

Usually the "plain people" have not combatted these efforts, but simply packed up and moved somewhere else in a continuing search to find a place where they will be left alone.

Four bearded, overalled Amish elders, three from Lancaster County, Pennsylvania, and one from Mifflin County, Pennsylvania, sat quietly in the courtroom yesterday listening to the arguments.

There are in the United States about 20,000 adherents of the most conservative Amish tradition, the Old Order Amish Church, according to the 1971 Yearbook of American Churches. Many of them may emigrate to other countries if the Supreme Court rules against them, Dr. John A. Hostetler predicted after yesterday's hearing.

Hostetler, a former Amish member who left the fold and is now a professor at Temple University and the world's leading academic expert on Amish custom, has served as an expert witness for the defense since Wisconsin vs Yoder began.

Yoder, Miller and Yutzy, at that time all farmers in the rolling countryside outside New Glarus, Wis., were hauled into county court in October, 1968, on charges that they had failed to enroll their children, Frieda Yoder, 15, Barbara Miller, 15, and Vernon Yutzy, 14, in school.

Testimony in the case noted that the New Glarus school administrator signed the criminal complaint against the three fathers immediately after learning that the Amish in the public school district had opened a private, church-run elementary school.

The three fathers were convicted in the county court and again in the circuit court, and fined $5 each. At that point they appealed to the state supreme court, where for the first time in American legal history they won a decision that the Amish have a constitutional right to keep their children out of high school.

Earlier state supreme court decisions on similar cases in Kansas, Ohio and Pennsylvania upheld the right of states to maintain compulsory education.

Funds to defend the New Glarus fathers were raised by the National Committee for Amish Religious Freedom, an organization created by a Livonia, Mich., Lutheran pastor, the Rev. William C. Lindholm. Contributions paved the way for the participation by Hostetler, University of Chicago education expert Donald A. Erickson, and attorney Ball from the inception of the case.

Lindholm said he formed the organization some years ago after seeing photographs of truant officers chasing terrified Amish children through a cornfield in his native Iowa.

"I decided it wasn't right," he said.

ILLINOIS LEGISLATURE BACKS NATIONALIST CHINA

HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 9, 1971

Mr. McCLORY. Mr. Speaker, reaction to the recent expulsion of Nationalist China from the United Nations has been pouring into my office in the form of constituent letters, letters from concerned citizens from all over the country, newspaper editorials, and most recently, in the form of House Resolution 437 which passed the Illinois General Assembly on November 13, 1971.

The comments which have reached me generally reflect my own feelings about the unfortunate situation prevailing at the U.N. as a result of the expulsion of the Republic of China. I am dismayed not only because the U.S. proposal for accommodating both mainland China and Taiwan was defeated, but also because the U.N. vote appears to set a dangerous precedent whereby a viable and dedicated member nation which has complied fully with the U.N. Charter can be expelled without any evidence whatsoever of wrongdoing.

Mr. Speaker, I applaud the action taken by the Illinois General Assembly, and I commend House Resolution 437 to my colleagues' attention:

HOUSE RESOLUTION 437

Whereas, The United States, by official vote of its delegates in the United Nations over the recent span of 2 decades, has stood resolute in support of the Nationalist Chinese Government of Taiwan to continued permanent membership in the world body for that government; and

Whereas, The United States during this period in the United Nations has rightfully and repeatedly resisted each effort to recognize and seat the Communist regime on the Chinese mainland as the claimed sole representative of the Chinese people, while in the meantime emphatically and consistently voting "no" to unseating the Taiwan Government; and

Whereas, The Taiwan Government has not committed nor has it been charged with infraction of the U.N. Charter which would support its expulsion; and

Whereas, Not one member nation heretofore has been expelled from the United Nations; and

Whereas, On October 25, 1971 the Chinese Government of Taiwan was expelled from the World Body by vote of the General Assembly; and

Whereas, On this same date the Communist regime was voted an U.N. membership seat as the only lawful representative of the Chinese people; and

Whereas, These actions may set a precedent with serious implications; and

Whereas, The United States delegation vigorously opposed such expulsion and seating and voted in opposition to it; therefore, be it

Resolved, By the House of Representatives of the Seventy-seventh General Assembly of the State of Illinois, that we commend the United States Government's delegation in the United Nations on the occasion of its courageous stand and vote against the expulsion of Nationalist China from the United Nations and the seating in its place of the Communist Government of China, and express how much we deplore the loss of our staunch friend and ally of long-standing, the Taiwan Government as a member nation of the United Nations and signatory to its historic Charter; and, be it further

Resolved, That in the light of these unprecedented actions we urge the Congress of the United States to curtail the extensive financial support so generously furnished to the United Nations by each United States taxpayer; and, be it further

Resolved, That a suitable copy of this preamble and resolution be forwarded by the Office of the Secretary of State to each member of the Illinois congressional delegation.

Adopted by the House, November 13, 1971.

TRIBUTE TO HERBERT LINCOLN HARLEY, FOUNDER OF THE AMERICAN JUDICATURE SOCIETY

HON. GERALD R. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 9, 1971

Mr. GERALD R. FORD. Mr. Speaker, 58 years ago a Michigan native—Herbert Lincoln Harley—founded an organization dedicated to the promotion of the efficient administration of justice. All of us with a legal background know and admire the work of the American Judicature Society. The end of this year—December 31—marks the 100th anniversary of Herbert Lincoln Harley's birth, and so it is appropriate at this time that we pay tribute to the American Judicature Society and to its founder.

Harley was one of a small group of men who organized the Judicature Society as a means of reforming and modernizing our judicial system from within.

Through the early years of the society, Harley served as a central force within the organization, holding it together and guiding it into new frontiers of judicial administration.

Born in Manistee, Mich., on December 31, 1871, Harley earned his law degree at the University of Michigan and engaged in private practice in Manistee. In conversations with Charles Ruggles, a wealthy Michigan lumberman, Harley conceived the idea of forming a society to promote the efficient administration of justice.

Harley took his plans for an American Judicature Society to Dean Henry M. Bates of the University of Michigan Law School. Although the society first was housed at Northwestern University, it moved to the University of Michigan in 1931 and remained there until 1954.

In 1964 the society offered a Herbert Lincoln Harley Fellowship in Judicial Administration covering a year's graduate study in the University of Michigan Law School.

Michigan was among the first States to embrace the society and to benefit from many of Harley's proposed reforms. Court organization, centralized administrative control of the courts, the integrated bar and pretrial conferences were all accepted early in Michigan, largely through the efforts of the society.

Harley's establishment of the Judicature Society in 1913 marked the beginning of an unusual career that spanned more than a third of a century. During this time, Harley became one of the most outspoken leaders in judicial administration. His advice and expertise were sought for almost every important project dealing with the improvement of the administration of justice in this country.

Although Harley was the secretary treasurer of the society, he served it in any way he could—at various times as errand boy, workhorse or record-keeper. His goal was to improve the U.S. court system. Because of Harley, great improvements were made in our court system although many more must still be implemented.

It is to this man that tribute is due this month, as we look ahead to the 100th anniversary of his birth.

AMERICAN TROOP WITHDRAWALS FROM WESTERN EUROPE

HON. RICHARD BOLLING

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 9, 1971

Mr. BOLLING. Mr. Speaker, Crosby S. Noyes, writing in the Evening Star of December 7, analyzes the implications of American troop withdrawals from Western Europe. The article follows:

[From the Washington Star, Dec. 2, 1971]

U.S. PULLBACK FROM EUROPE AN ILLUSORY THESIS

(By Crosby S. Noyes)

Highly recommended reading for Sen. Mike Mansfield, D-Mont., and others who have been calling and voting for large, unilateral American troop withdrawals from NATO is a new study of the question released by the Brookings Institution here.

The book, "U.S. Troops in Europe," was written by John Newhouse, author of "De Gaulle and the Anglo-Saxons," together with Melvin Croan, a specialist in Soviet affairs; Edward R. Fried, a former staff member of the National Security Council, and Timothy W. Stanley, executive vice president of the International Economic Policy Association.

Unlike most of its kind, it rates as a genuine study. It is not a book that starts out from a predetermined conclusion and simply marshals the arguments and evidence to support it. Indeed, the authors seem to reach their conclusions with considerable reluctance after examining all the alternatives. Their judgements, although far from categorical, are very different from those drawn by Mansfield and his friends.

All of the many arguments and rationalizations advanced to justify significant American troop withdrawals from Western Europe are carefully analyzed and found wanting in terms of American interests. The findings on the political and military realities in Europe today make sobering reading for those who have long concluded that NATO and the American contribution to it are an anachronism left over from the cold war.

Europe, and particularly Eastern Europe, is still an essentially unstable area and probably will remain so for many years to come. Although some progress has been made in the direction of East-West negotiation and the easing of tensions, the achievement in Europe will be a long, hard business.

The problem for the Soviet Union is how to expand its contacts with Western Europe while maintaining its control of its Eastern European client states. The problem for the West is how to maintain a security system capable of minimizing or containing the consequences of instability in the East.

Stability in Europe, the study finds, depends on maintaining a rough balance in the conventional forces available to NATO in the West and the Warsaw Pact nations in the East. Such a balance as now exists depends very heavily on the present American contribution to that balance. A significant reduction of these forces would have a highly destabilizing effect, gravely weakening the political-military deterrence the NATO represents.

A favorite thesis of the pullout enthusiasts—that an American withdrawal from NATO would be followed by a similar withdrawal of Russian forces in Eastern Europe—is found to be more than somewhat unlikely. Such a move by the United States probably would be seen by Moscow as an opportunity to bring stronger political leverage to bear on Western Europe, and particularly on West Germany.

The Bonn government always has shown strong anxiety when it comes to the political effect of an American withdrawal. A rising sense of insecurity in West Germany would provide the Soviet Union with an opportunity to apply the kind of pressure made possible by nearby Soviet military strength. If Germany reacted to an America pullout by pressing for closer West European defense cooperation, the need for strong Soviet forces in Eastern Europe would be greater than ever.

The ability of Western Europe to defend itself at this stage of its development is, in any case, extremely doubtful. As a group of small and medium powers, none of the Western European countries is capable of defending itself or assuming a significantly larger share of the joint burden.

The belief that Europe can be defended only as long as the United States maintains its commitments and a strong military presence in NATO is close to being an article of faith in European political and defense circles. In time, perhaps, developing political unity in Europe may change this sense of dependence on the American presence. But for the forseeable future, the stability of the area will depend essentially on a bipolar balance between the two super powers.

Finally, the savings that would be realized by bringing American forces back to the United States are found to be very largely illusory.

Although it should be possible to offset the $2 billion yearly cost in foreign exchange for our European forces, little, if anything, would be saved by stationing them in this country. Complete deactivation of our NATO forces would imply a very major reduction of our peacetime force structure and a return to a strategy of heavy reliance on nuclear deterrence.

Altogether, the evidence advanced in this study firmly supports the final conclusion about the existing security system in Western Europe and the American contribution to it:

"It is likely to remain the safest, least troublesome, and quite possibly the most economical way to meet the security requirements of NATO countries and at the same time provide a basis for healthy change."

EDUCATION AID FOR VETERANS

HON. THADDEUS J. DULSKI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 9, 1971

Mr. DULSKI. Mr. Speaker, the Subcommittee on Education and Training of the Committee on Veterans' Affairs, of which I am a member, is holding hearings on veterans' education programs.

A witness today was Frederic W. Ness, president of the Association of American Colleges and executive vice chairman of the National Council of Independent Colleges and Universities.

Mr. Ness made a very interesting presentation on this overall subject from the college standpoint which I believe will be of interest to my colleagues. Following is his text:

STATEMENT BY FREDERIC W. NESS

Thank you for the opportunity to testify this morning on veterans' educational benefits.

First of all, permit me an observation which is well understood by every member of this subcommittee: the veterans educational legislation created by the Congress of the United States, particularly the Servicemen's Readjustment Act of 1944, more familiarly known as the World War II GI Bill, has had a greater positive effect on higher education, both as far as institutions of higher learning are concerned as well as the aspirations of our citizenry to obtain higher learning, than any single piece of any kind of legislation to date, with the possible exception of the Morrill Act of 1862.

We in higher education speak to, and hear about, the need to reform and change higher education. The Congress has literally transformed higher education in the instances referred to above, in the process of assuring our returning veterans an education they might not otherwise have been able to afford and restoring lost educational opportunities for those whose careers have been interrupted or impeded by military service to our country. We support you in your primary efforts to serve the educational needs of veterans and accept gratefully all the benefits which flow concomitantly to the institutions of higher learning.

Second, let me state briefly the nature of the educational associations I represent today. The Association of American Colleges dates back some sixty years and is dedicated to undergraduate liberal learning. Because most of our membership comprises the independent sector, and these members have requested the development of their own voice to speak to their unique contributions and interests, this Association has affiliated and funded this year the National Council of Independent Colleges and Universities. It is for the latter group of almost 1,000 colleges and universities that I speak this morning.

GI BILL 25 YEARS AGO

Twenty-five years ago the first GI's hit the campuses. They immediately added new dimensions, not only in numbers but also, and particularly, in maturity. They brought a new purpose and determination to study, they provided leadership in greatly needed ways—in short, they brought for the first time a broader cultural and intellectual mix to the campuses of our country.

The prominent educator who felt that the GI's would turn the campuses into intellectual hobo jungles could not have been more in error. Today, twenty-five years later, these same veterans as the parents of college youth, are still providing the surge toward educational aspirations and proving the title in *American Education* (September, 1965, USOE) that "Education Begets Education," a report which highlighted the first twenty years of veterans' educational benefits.

While the colleges in 1946 were ill-prepared to accommodate greatly increased numbers of students, they undertook the task; the colleges and the veterans grew simultaneously. In the peak year of World War II GI enrollment, 1947–48, there were 1,245,000 GI's on our college campuses, two-thirds of which were independent (1,221) and one-third public (638). Slightly more than one-half of all students were in independent colleges, a proportion true also for veterans as a group.

A second surge of veterans' impact on education was felt in the early sixties when the "war babies" began following their parents' footsteps. It took a Higher Education Facilities Act (1963) and a Higher Education Act (1965) to help the institutions keep pace with that growth period.

KOREAN VETERANS

Before the "war babies" fully reached college age, however, another international crisis in the form of the Korean Conflict was upon the nation. Only one-third as many men and women were needed then by the military services.

And when the conflict ceased about one-half the number of veterans as after World War II used federal benefits to pursue higher learning. The colleges were in a somewhat better position to handle this smaller number, with 38% of the veterans choosing independent colleges and 62% public colleges under a new GI Bill.

This year, on the silver anniversary of the original GI Bill, the Congress continues, on behalf of the nation, to assist veterans through a variety of training programs, by no means exclusively those in higher learning.

We are encouraged by the soaring veterans participation rate since 1967 and are pleased to learn that it may this year or next year surpass 50%, exceeding the original GI Bill in this respect. Indeed, the number in training in higher education this year (917,000) is fast approaching the peak year (1947–48) after World War II (1,245,000).

Colleges and universities are further encouraged by the rate at which veterans are choosing higher learning over other options, a rate almost double compared with the original GI Bill. What was true in 1946 is still true today—the veteran is a highly desired citizen and student on our campuses. They bring a highly desirable balance to a student body.

The Report of the President's Committee on the Vietnam Veteran may state its best when it refers to the Vietnam-era veteran as showing great potential, generally being young (between ages 20–24), better educated than veterans of earlier wars, reflecting the same racial proportions as the total American society, and representing high economic potential. These references are true, whether or not they apply to veterans from a war that was wise, popular, or successful.

OUTREACH PROGRAM

Our association is so interested in these young men and women we have joined the Association of American Junior Colleges in a program sponsored by the American Legion, the Veterans Outreach Program, whose intent is to bring the veteran back into the education process.

We ore pleased that limited federal student assistance programs are now available to veterans with demonstrated financial need. Our colleges will benefit from their enrollment.

In this silver anniversary year of the World War II GI Bill, however, the independent colleges benefit less from veteran enrollment than in earlier years. Not benefit less in the sense of reduced tuition income, although more dollars would be helpful, but in terms of the insights these men and women would bring to our campuses.

For, while our independent colleges continue to grow (although at a slower rate than public colleges), we have fewer veterans. An associate dean in New Jersey says we miss those serious-minded students (veterans); another dean in Minnesota says, "The principal benefit of having veterans among our student body would be the perspectives which these persons would bring to the student body as a whole."

The shift of veterans from independent colleges is attributed largely, we believe, to the change in providing benefits from the World War II GI Bill system. Veterans are being forced to make higher learning decisions based on economic considerations rather than on educational preferences.

While independent colleges still enroll one-third of the students pursuing a college degree, and while 57 percent of all institutions of higher learning are independent, and while there are approximately only 25 percent fewer veterans in training in 1971–72 than in 1947–48, only slightly more than 20 percent of the veterans in higher learning, according to Veterans Administration information (Information Bulletin, September 1971), are enrolled in independent colleges.

It would appear that more than two-thirds of our member colleges which enrolled more than 200 veterans in 1947–48 now have less than fifteen percent of that number.

FINANCES ARE DECIDING

The determinative factor is financial: where our college costs have at least tripled (300%) in the last twenty-five years at 90% of our colleges, the federal support of veterans has increased about 30%.

A retired U.S. Marine Colonel, now Registrar at one of our member colleges, says, "As I am sure you are aware, the World War II GI Bill benefits were such that they paid for most, if not all, of a veterans' (college name) expenses. Now the benefits amount to about $1600 for a single veteran, which cover only about 40% of his expenses. I am sure the percentage of expenses covered at a public institution are much higher. This in itself offers mute explanation of why the percentage of veterans at (college name) is so much lower now."

We respectfully urge, therefore, the Congress to increase its support to veterans, consistent with its intention to aid the veteran in completing his education without underwriting its full cost. This recommended increase should be sufficient to provide the veteran a wider choice of colleges.

This could be achieved either by an increase of 50% or more in educational assistance payments to a veteran himself or by a tuition payment of $1,000 or 75% of tuition, whichever is lesser, directly to the college.

Not to do either means, in effect, that from one-fourth to one-third of our college students will not benefit from close association with a Vietnam veteran, or that the veteran himself will be denied the range of choices which he richly deserves.

We respectfully request in conclusion to associate ourselves with the testimony of the Association of American Junior Colleges and the written communication of December 3 from the American Council on Education suggesting the reduction of clock time for PREP and section 1691, plus permitting high school equivalency programs under PREP.

JOURNALISTIC ADVOCACY

HON. GILBERT GUDE

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 9, 1971

Mr. GUDE. Mr. Speaker, television performs invaluable service when it focuses with such clarity on a public issue as station WRC has recently done with the problems of the institutional treatment of the mentally retarded. WRC's series on Maryland's Rosewood State Hospital through investigative reporting and editorial advocacy has brought home to us the tragedy of the conditions at Rosewood and society's continued neglect.

The Baltimore Sun pointed up TV's contribution to public awareness of this problem in the following commentary on the WRC series by reporter Clare Crawford:

[From the Baltimore Sun, Nov. 17, 1971]

TUBE LIGHTS UP TRAGIC RECESSES OF ROSEWOOD

(By Judy Bachrach)

For those of you who would like to see what fine investigative reporting executed on a local level is really like, try tuning in Channel 4 at 7 P.M. Because, from what I have seen, Claire Crawford has done a magnificent job on Rosewood.

If we are to look for radical improvements within the confines of Baltimore's public institutions it would appear that electronic journalists are under stringent professional as well as moral obligations to expose conditions for what they are. At present there is no medium around that can compare with television's capacity for engendering the mass visceral response requisite for massive change. It is television, therefore, that must shoulder a large measure of that responsibility. Clare Crawford began her three-part report on Baltimore's home for the retarded Monday night; on Tuesday the Rosewood administration was shuffled around.

Mrs. Crawford has spared no one—least of all the audience—in her attempt to bring the full atmosphere of Rosewood into the living room. There is little narration, and most of the footage speaks more than eloquently for itself; close-up shots of vacuous, purposeless faces stuffed into overcrowded, understaffed rooms; scenes of restless children spraying around the slop that constitutes their dinner; mute pictorial epitaphs for the bed-ridden, not all of whom are mentally retarded, but who are all given the same program as the mentally retarded. Rosewood's inmates are beyond conventional deception: private agony distorts features, convulses the body.

PERSONAL TRIBULATIONS

It is the reporter's contention that people who happen to possess low intelligence quotients do not necessarily pose a threat to society, but she has wisely refrained from being the sole speaker. A young woman named Linda, endowed with a higher degree of intelligence than most Rosewood inmates, vented her own grievances last night—poor food, unhealthy, malodorous conditions, shapeless uniforms—and that quintessential element of personal tribulation was precisely what was missing from last year's treatment of Rosewood.

There are problems, of course, the most notable being that Mrs. Crawford speaks too fast, and a lot of important statistics get lost in the jumble of slurred words. But I guess what impresses me most about her work is that it is well-calculated, well-defined, well photographed, and yet local. There is, after all, no law that specifies that local endeavors must be low-level endeavors, and none that relegates advocacy journalism to the dim confines of the occasional TV editorial. The only sad thing about the series is that we must look to Washington to reveal our problems.

YOUTH

HON. VERNON W. THOMSON

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 9, 1971

Mr. THOMSON of Wisconsin. Mr. Speaker, there has been great confusion about what our young people are thinking today and their potential impact in the elections of 1972. Editor Edwin W. Shear of the Hillsboro Sentry-Enterprise in Hillsboro, Wis., makes some thought-provoking editorial comments in his December 2 issue under the title "Youth Today Wants Old Promises Made Real." We would all do well to remember that the idealism of today's young people is essentially the same as that of each preceding generation. I, for one, hope that they are as successful in building their dream for America as have been the past generations which founded this Nation and developed it into the most prosperous and most protective of individual liberty in the history of man.

YOUTH TODAY WANTS OLD PROMISES MADE REAL

This country seems now to be among the most disjointed nations on the face of the earth. The gaps between its different components have been increased at a rate that is alarmingly injurious to the traditional social and political conglomerate we know as America.

The separations between generations, vocations, classes, races, organizations, ethnic and culture groups of many kinds seem to widen as each tries to save and propagate benefits they have had, while often striving for new benefits which they believe justified.

But why all the turmoil, the uncertain striving, the fears for tomorrow and the growing lack of confidence in united objectives and national destiny? It seems unreal and unjustified—and the need to reassert reality grows with each cry for justice in behalf of this nation and its people.

It's time to hearken to today's youth who seem now and then to be radicals because they shout forth—ask for—demand—the policies their parents and their grandparents sought.

A recent survey by Newsweek Magazine (October 15, 1971) shows that of new voters, under 21 years—a total of 49 percent want less U.S. funds expended for economic foreign aid, 68 percent want less spent for space exploration and 64 percent want less spent for military foreign aid.

In contrast—the survey showed that 78 percent of the young people want more federal funds expended in the fight against air and water pollution; 68 percent want job training for the unemployed; 56 percent want more money to fight organized crime; 55 percent want to invest more money in improving schools; 49 percent want bigger appropriations to fight steet crime; 48 percent want increased medicare benefits and 51 percent want more housing for the poor.

None of these hopes are new. All date prior to World War II or before. Youth has enlisted in the crusades of their forefathers—crusades that were postponed while the nation fought, sacrificed and invested to guarantee its safety. Even while America is still in the midst of an armed conflict (in Vietnam), most of its citizens have decided that the time for war is over—that the decisions war was to bring have long since arrived.

And now the nation—and especially its youth—is awaiting the opportunity to return to the pattern of peace and the planning and working for peaceful benefit begun by other generations of Americans.

The foremost and wisest leaders have heard the voice of peace—the voices of youth—and in many instances, the revived voices of the middle aged and older (voices which have been mute for several decades). President Richard Nixon is one that has heard and he is trying to lead the nation into the new day he sees coming.

In an article that was primarily concerned with America's relations with other countries, U.S. Justice William O. Douglas penned some lines which are of poignant importance within our nation. These lines, originally printed in the Center Magazine and quoted in the magazine, "Intellectual Digest" of October 1971, say:

"There is no growth in democratic traditions unless there is a chance to develop them. There is no opportunity as long as the people do not exercise the franchise." In other words—to make democracy work—people have to have interest in it and a willingness to participate in it.

Justice Douglas quoted President Abraham Lincoln who, as a campaigner in 1857, said of the signers of the Declaration of Independence (1776):

"They meant to set up a standard maxim for free society, which should be familiar to all, and revered by all; constantly looked to, constantly labored for, and even though never perfectly attained, constantly approximated, and thereby constantly spreading and deepening its influence, and augmenting the happiness and value of life to all people of all colors everywhere."

The late Professor Clinton Rossiter, in an article which was also first printed in The Center Magazine and quoted in The Intellectual Digest, said that after American Independence had been won in the 1770's—

"Social and economic development . . . was a half century in the coming, and was largely achieved by the self-starting ambitions and energies of thousands of free men. The result was an unplanned, erratic, and yet dynamic process of economic expansion and social progress."

During the past several decades the United States has spread its wealth thin around the world, helping many deserving nations and also many which were not and are not deserving of that assistance.

At home American government has initiated, in this same time, only a few basically beneficial programs for its people (as compared to the great reforms from 1890 to 1920) and has given much consideration to the organization of government and the establishment of a powerful bureaucracy to direct, strengthen and perpetuate that organization. While this has been in progress, national legislators have come to fear the bureaucrats and to be servants of the latter more than advocates for the people.

Meanwhile the people have remembered the promises—the hoped for efforts of government to build a better United States and with the pondering of many citizens there grew a new realization—that government is growing away from the people and that consequently many of the people feel embittered, frustrated and even betrayed.

Now comes the new generation to demand that the promises made to their elders be kept. These younger people do not defy the government—but they do remember a much older and sincerely ordered directive relating to the direction and use of power—"honor thy father and mother." And they know the elder members of their families are leaders in true moral sense when they ask that American democracy be restored to its rightful eminence and that the promises of governmental leadership for a better life in the United States be brought to actual realization.

In all this there is neither conservative nor liberal—neither radical nor traditionalist—but a great national surge of sentiment which rises above and engulfs these blocs. It is simply a growing demand that the federal government, and those who lead or administer, give genuine heed to the "manifest destiny" of a growing, surging, confident America.

THE STRATEGIC GRAIN RESERVE BILL

HON. JAMES W. SYMINGTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 9, 1971

Mr. SYMINGTON. Mr. Speaker, yesterday's passage of the strategic grain reserve bill by the House of Representatives reminds us again of the great productive capacity of American farms—the great agricultural wealth that sometimes, ironically, means hardship to America's farmers.

But this debate might serve to illuminate another responsibility which such abundance implies—the responsibility which the United States has long recognized—to share this plenty with less productive and less fortunate nations.

It would, indeed, be a tragedy if we allowed the political confusion generated by the current confrontation between India and Pakistan to blind us to the intense human distress that exists in those countries.

Food for peace agreements were signed with Pakistan on August 6 and September 10, with the commodities earmarked for East Pakistan relief. Of the amounts allotted, 275,000 metric tons of wheat, 50,000 metric tons of rice, and 8,700 tons of vegetable oil have been shipped. But due to jammed receiving facilities, the effect of the war on insurance rates, and the difficulties with landing food shipments due to the hostilities, a promised 500,000 metric tons of wheat and 35,000 metric tons of vegetable oil have not been delivered.

Although the cut off of developmental assistance to India did not include shipments of food for peace commodities for counterpart funds, nevertheless, no agreements have been signed with India for fiscal 1972 under title I of Public Law 480. But since the end of fiscal 1971, carryover shipments under that year's agreements have amounted to 437,000 metric tons of wheat, 8,000 metric tons of vegetable oil, and 75,000 bales of cotton. It is incumbent on this Nation, in my judgment, to make every effort to conclude the fiscal 1972 agreements with India at the earliest possible date.

Beyond the present efforts, we would do well to consider the future relationship between our anticipated food surpluses and the anticipated needs of the people on the Indian subcontinent when the war ends. To people whose existence is marginal at the best of times, war, with its interruptions of food production and upheaval of population, can only mean widespread starvation.

My own interest in these problems and belief in the wisdom of our food for peace efforts stems from my experience as deputy director of the program under Senator McGOVERN in the early 1960's. I felt then as I do now that in a world of hunger, American agricultural abundance should not be considered a problem but an opportunity.

TRIBUTE TO WES BURMEISTER, ROADBUILDER

HON. VERNON W. THOMSON

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 9, 1971

Mr. THOMSON of Wisconsin. Mr. Speaker, the citizens of Wisconsin have been well served for 42 years by their present State highway engineer, Wesley J. Burmeister, who will retire early next year.

I have known Wes personally for many years and can testify to his thorough knowledge of highway engineering and his high sense of dedication in his duties as State highway engineer. It was during my years as Governor of Wisconsin that Wes Burmeister moved from relative obscurity as district engineer at Waukesha, to become statewide chief maintenance engineer in 1957.

Wes has been a dedicated public servant since his days of summer school employment with the Wisconsin Highway Commission in 1927 and 1928. He received his civil engineering degree in 1929 from the University of Wisconsin.

Wes went on from being chief maintenance engineer to become director of planning and research in 1960, served as director of research for the highway advisory committee of the legislative council of the Wisconsin Legislature from 1960 to 1965, and since 1965 has had a distinguished tenure as State highway engineer.

Wes is a registered professional engineer. He has served as president—1955—of the southwest chapter, Wisconsin Society of Professional Engineers, and a director of the State chapter—1958. He was secretary-treasurer of the Mississippi Valley Conference of State Highway Departments in 1962 and president in 1963.

Currently, Wes Burmeister serves as president of the American Association of State Highway Officials and a member of the executive committee. He is a director of the American Road Builders' Association and a member of its cooperative educational committee.

The people of Wisconsin will miss the experience and dedication of Wes Burmeister when he retires in January.

CENTER HILL, ARK.—FASTEST GROWING MUNICIPALITY

HON. BILL ALEXANDER

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 9, 1971

Mr. ALEXANDER. Mr. Speaker, the testimony from my community development hearing in Walnut Ridge, Ark., which I would like to share with my colleagues today presents a contrast in municipalities, but a similarity in problems.

Minturn, Ark., which is represented by the statement of Mayor Charles L. Jones, is one of the First Congressional District's smallest municipalities. Mayor Charles Harvill talks about Center Hill, the second fastest growing municipality in Arkansas, according to the 1970 census. William B. Fisher, president of the Chamber of Commerce of Paragould, testified about a medium-sized Arkansas city which has achieved steady growth progress.

Despite their differences in size and circumstance, it is clear to me, as I believe it will be to my colleagues who read this testimony, that they share a common problem—lack of funds to carry on the necessary community improvements. This is a problem of nonmetropolitan areas which the Congress has begun to give increasing recognition. I believe the comments of these officials should be included in our consideration of solutions to these difficulties of community development and revitalization.

The testimony follows:

A TESTIMONY PRESENTED TO CONGRESSMAN BILL ALEXANDER AT WALNUT RIDGE, ARK., OCTOBER 23, 1971

I have been asked to present the most urgent needs of Minturn, Arkansas. I would like to list them and then explain why I feel they are urgent. They include: a water treatment plant, a sewer treatment plant, police and fire protection and census taking.

The citizens of Minturn, Arkansas are drinking water that is unfit for human consumption! They are drinking water that has been condemned by the State Health Department. Why? Supposedly because the rates would be too high for an F.H.A. financed water system. However, what is the price of a person's health?

In 1965 a preliminary engineering plan for city water was drawn up for Minturn. The estimated cost was $39,000 or a $10/month average bill. The plan was discarded by the administration because this average bill was too high. In June of 1971 I asked for another preliminary report. This time the estimate was $68,000.

Unless we could receive at least a 50% grant there would be no way for Minturn to obtain water and have it at a reasonable cost. I consider a reasonable cost not to average over $5/month because this is all the residents can afford.

I would also like to say that in the preliminary survey only two people in the whole town refused to accept city water if it could be obtained. That speaks for itself.

In 1970 six cases of hepatitis occurred in Minturn. A check by the State Health Department traced the cause to drinking water. This immediately caused a condemnation of a well at one dwelling. This is only one example, there are many more. Several residents cannot and will not drink the water on their premises. I would also like to bring out that there are only two towns between the Missouri border and Little Rock that do not have water and Minturn is one of these.

We must have a water system in a short time and we must have a source of income to pay for it.

This brings me to another urgent need of our municipality. That need being adequate sewer treatment facilities. Practically every road ditch is full of sewage. This makes a healthy place for germs and an unhealthy place for habitation of humans. Several of the citizens cannot even enjoy a cook-out in their backyard because of the smell.

One resident of the town wanted to put in an F.H.A. financed trailer court. However, after inquiring, he could not obtain the money because of lack of adequate water and sewer facilities. That caused the town of Minturn to lose 10 or 15 new citizens.

The town cannot mow weeds in several of the ditches because they stay wet from sewer drainage. Something must be done!

I have already been informed by an F.H.A. representative that Minturn would be unable to have a sewage treatment plant due to its small size. That sounds ridiculous and it is ridiculous. Size is not the question. It is the amount of pollution and contamination that is occurring.

Another urgent need is police protection. Our present budget will not allow us to hire a city marshal. We must depend on the sheriff's office in Walnut Ridge or the state police. There needs to be some way other than the Crime Commission grants to obtain money for police protection. The grants given out by the Arkansas Crime Commission are generally missed by the smaller towns such as Minturn due to a lack of matching funds.

Along with police protection comes fire protection. Minturn must depend upon Walnut Ridge for protection and then the cost is $50 per run.

The last need I will bring out is more of a gripe than a need. It concerns the taking of census. The population count of Minturn has fluctuated from 69 to 136 in 10 years.

In the 1950's the population was 136. When the count was taken for 1960 the population fell to 69 but a special census taken showed 118. Then in 1970 the population fell to 96 and recently an unofficial count has revealed the population at 130. We are losing much needed state turnbacks from this inefficient census taking. This is a loss of $610.50 for 1971! Perhaps that is a small sum to many towns but to Minturn that is a lot of money.

The people of Minturn need help and need it quickly. I know that many people would like to live in Minturn if there was only adequate water, sewer and police protection. No one wants to raise a family where conditions are unsanitary. These are the main problems faced by our city.

The day of the outdoor privy is gone. It has been replaced by open ditch cesspools!

Thank you,

CHARLES L. JONES, *Mayor, Minturn, Ark.*

CITY OF CENTER HILL—CHARLES HARVILL, MAYOR

The city of Center Hill was incorporated in October 1959. It joins Paragould on Center Hill's east side and was the second fastest growing city in Arkansas during the last census.

Our immediate needs are public utilities—sewers, fire protection, competitive electrical rates, and garbage service. I realize that most cities have passed this stage of development and their immediate needs will be our future needs. The most urgent need of Center Hill is a $600,000 loan and grant from for a sewer system and improvement to the existing water system.

Center Hill is the largest city in Arkansas without a sewer system. Proceedings began in November 1965 for a loan and at the time I took office in January two requirements were necessary to become eligible: (1) that the city own the existing water system, and (2) that the proposed water sewer project be economically feasible for the citizens of Center Hill. The only possible method of obtaining the existing water system was through eminent domain proceedings. At that time we did not have $40,000 on hand or an avenue through which we could borrow this amount. One possible way of starting eminent domain proceeding was to ask the citizens of Center Hill to deed their interest in the existing water system to the city of Center Hill. Eighty-six percent conveyed their interest, however, this meant that we still needed $6,500. We had some money and I thought that we had the problem solved. However, I find that just because a city has money doesn't mean it can use it for such an urgent need.

At that time we needed a channel like this community development program where a city could borrow money on an economically sound program. We were able to solve our problem by borrowing the money locally. Banns certainly enjoy making short-term loans to cities at six percent.

Eminent domain proceedings were filed July 6 and a revised application on the water and sewer project was submitted to HUD. We have received no word at this time; and frankly, citizens of Center Hill are let down with the governmental processes.

At the present time we are faced with the problem of operating a water system without any revenue. Water is provided by the city of Paragould and the existing meters are owned by the city of Paragould. Therefore, all the revenue goes to the city of Paragould. We need immediate approval of the pending application or a method of obtaining $10,000 to buy a master meter and the existing water meters. By doing this we could buy water wholesale and retail to the citizens of Center Hill, therefore keeping any profit made on the water within our system.

Our source of electrical supply is a unique situation. Paragould is on the east side with a very economical electrical rate. Center Hill is served by Craighead Electric Co-Op and Ark-Mo Power Company. Electrical rates of these three companies are not the same. Providing a competitive electrical rate may be solved by buying the existing line. I do not have any idea of the value of these lines, the cost of operation and maintenance, the cost of city lighting, or the cost of necessary parks needed by the city of Center Hill. I am sure that the city of Center Hill will need a source of revenue for these necessary expansions.

PARAGOULD, ARK.

(By William B. Fisher)

Political Science teaches that there are three distinct levels of government: Local, State and Federal. Local government is responsible for developing programs through local effort, obtaining local approval for those programs and financing those local programs through taxation or other means. The role of the State government is usually in the area of technical assistance for promoting local growth within the various communities that comprise the State. The State often times approves taxing means whereby State funds may be returned to local communities for approved programs. However, the bulk of taxation is on the Federal level and thus the role of the Federal government becomes one of tax collection and disbursement of those taxes to States and local communities. Then the local community with its limited taxation structure can only impose so much tax in keeping with the wishes of the electorate. This is somewhat true at the State level because people can identify with State government and feel that limits can be imposed here also. This, however, does not seem to be true with the Federal government, because people have a difficult time relating with Federal taxation programs but do relate very closely with the disbursement of those tax dollars. Thus, a taxing avenue has been created (one which the electorate takes for "here-to-stay") and each community must of necessity seek Federal funds to construct, plan, or develop community projects and programs (a concept which has become accepted).

With this prelude the following community services are addressed in terms of existing problems of expansion to meet community needs and the financing of those expansion needs.

HEALTH SERVICES

Manpower: Various assistance programs are presently underway to assist teaching institutions in preparing persons for health work, also various programs to assist individuals in their pursuits of health careers are available. Then the real problem in health manpower apparently lies in the distribution of health manpower.

Solution: Some type of incentive program should be prepared to entice manpower to move to the area of need.

Facilities: The cost of construction of new or additional health care facilities imposes a great financial burden on local communities. Local taxing programs are not adequate, in most cases, to meet the need in a growing community like Paragould.

Solution: Hill-Burton funds should be increased from the present ⅓ matching to at least ⅔ matching, for inpatient and outpatient construction projects. Low interest loans to private physicians to construct and equip clinic facilities is needed.

COMMUNITY MEETING AND RECREATION FACILITIES

Community facilities for meeting and recreation should be encouraged through governmental grants of at least 75%.

LIBRARY FACILITIES AND MATERIALS

Material: Federal Government grants to local and regional libraries should be available to purchase books, audio-visual aids, and etc. on at least a 50% matching basis.

Facilities: Construction or addition of new facilities should be encouraged by governmental grants of at least 75%.

Adequate public facilities such as Courthouses, and city halls should be encouraged by Federal grants of at least 50% for construction.

HOUSING

Presently there are various Federal housing programs, which could adequately meet the needs if H.U.D. would authorize more units.

STREETS AND HIGHWAYS

Good highways are essential to industrial growth as well as continued agricultural development and a return of our population to living on the land. As jobs are offered in principal cities and roads are developed, we can see the redevelopment of the rural areas of Eastern Arkansas. If our needs can be summarized and stated in a brief form, the following would be our answer:

1. An expanded development of our trunk line highways that serve our principal towns which contain our industry. The Interstate system is nearing completion but we need to connect our county seats and other population centers to this system by an adequate system of big highways. This will promote industry, recreation, travel, education and all the other facilities essential to healthy growth.

2. A continued development of our rural roads so that people can return to the land and work in our growing industrial cities. This will help in school transportation as well as agricultural marketing. We need to offer good paved roads so that our growing population can spread into the rural areas.

3. The development of our street systems in our towns and cities should be modernized to meet present traffic with room for expansion in the future. Urban transportation problems are not confined to our large metropolitan areas but exist in all of our cities and towns.

EDUCATION

How can the Federal Government provide specialized services at the local level? The problems of boys and girls are such today, that better trained guidance counselors, social workers, and psychologists are needed at the local level to help these boys and girls. Financial incentives are needed to encourage young men and women to go into these specialized fields.

Can the Federal Government furnish more financial aid for vocational education to the local school districts? Most of the vocational education training schools in the State of Arkansas are now being conducted by the State Department of Education at the regional post-secondary level. Why can't more vocational education money be administered at the local level? Categorical aid based upon the needs at the local level could better provide the training needed for boys and girls before they drop out of school or graduate.

Buildings for instructional activities, such as media centers, special education, vocational education, and remedial instruction, are inadequate to meet the specialized needs of today. Help is needed because the local tax base is insufficient to provide for all the changes needed in today's highly specialized instructional program.

AGRICULTURE

1. Drainage on Cache River would open up a more diversified farming area for western Greene County and would hold the people on the farm.

2. High cost of production is causing many people to stop farming. They need more research on lowering the cost of major crops such as cotton, soybeans, and rice.

3. Pesticides are necessary in the production of food and fiber. Farmers do not need any additional restrictions on these items of production.

ELECTRIC POWER

Light Plant Commission's present and future requirements:

1. In the year 1971, the Light Company's peak load was 26,400 KW.

2. Our projected KW demand for 1975 is 45,342 KW.

3. Our present contract demand with Southwestern Power Administration calls for 30,500 KW.

4. This leaves 14,842 KW to be provided for by the City of Paragould, either in purchased power or power obtained from some outside source.

5. The most economical source of providing this 14,842 KW would be gas turbines. The smallest size that can be purchased are 20,000 KW, which, at $1.25 per KW, would amount to an investment of $2,250,000. The gas turbine is almost prohibitive in our area because of the high fuel cost, as are most other sources of generation.

6. The most logical solution to our problem would be a joint venture between surrounding municipalities building a steam plant in some location near an abundant water supply.

This would require some government aid in both securing a generation site, necessary monies to fund such a project, and to help enact laws that would permit such joint effects.

PARAGOULD AIRPORT

Paragould is a city of approximately 10,000 people that is the center of a trade and industrial area with 100,000 people within 25 miles.

Paragould has five major industries and several smaller ones that employ 3,500 people in industrial jobs. All of these major industries and several smaller ones fly in material, supplies, corporate people, maintenance people and customers. They also fly out a large quantity of products manufactured here.

Paragould has a 130 bed hospital that serves this area that is the best equipped and staffed with specialists of any hospital in the area from St. Louis to Memphis to Little Rock. Specialized physicians and equipment technicians for sophisticated equipment are flown in and out of Paragould quite frequently.

The larger aircraft and larger loads require longer and better runways and a better airport facility.

Correspondence is being carried in advance of an application to the Federal Aviation Agency for financial assistance to acquire additional land, lengthen and improve the runways and taxiways and improve the airport lighting.

The Federal Government would contribute substantially to the economic situation in this area by making available financial assistance for this project. The estimated cost of these improvements is $150,000.

WATER AND SEWER

1. Wastewater treatment must be updated to meet requirements of the Environmental Protection Agency, New Lagoons or more treatments Plants, also

Extend sewer and water lines to every part of the city, including areas which will be annexed the next 10 years.

2. We must look at the E.P.A. Interim Basin Plan with regard to wastewater. This should include Center Hill and other small Communities around Paragould, also subdivisions already planned for our system. Projected cost of approximately 2 million dollars in the next 10 years. There are many needs to repair and maintain our present system to handle the new load.

3. With new cost requirements under E.P.A. and the Interim Basin Plan, more and bigger grants under PL 660, also new grants for small towns with the Interim Basin Plan.

PARAGOULD—CENTRAL BUSINESS DISTRICT REDEVELOPMENT—CBD

"Bootstrap" is a favorite and familar word and popular concept with both the public and private sectors of our country. The redevelopment of the central business district (CBD) of Paragould is the prime goal of the entire Paragould area and supported by all groups. The urgency and reasoning is as follows:

A. Paragould is unique in that the CBD is and has been in the past the most dynamic, vigorous, and vital focus point of the city. Paragould's trade area is vast. It extends to neighboring counties and Southeast Missouri. Paragould probably has more furniture stores, beauty shops, barber shops, and service and related businesses than Fayetteville, a town of almost three times this size.

B. The entire community and area would suffer if the central business is allowed to deteriorate such as has recently been seen in Jonesboro. The tax base for the Paragould Public Schools, the same school district being the smallest (six square miles) in the state would virtually spell economic doom for the schools and community. Attractive shopping areas developing in Missouri and Jonesboro have greatly hurt and damaged this community which has been the key servant of Northeast Arkansas.

C. Money spent in the redevelopment of the CBD of Paragould, Arkansas would thus be the "Bootstrap" of rural Northeast Arkansas.

D. Plans are well under-way and applications have been made for financial assistance. Paragould appreciates this opportunity to acquaint our representatives of this plan and program and would welcome further opportunity to place it within its proper prime place in the goals of Eastern Arkansas. Our current plan is ambitious; and we feel will attract not only additional trade to the entire area, but additional tourists.

FINANCING DEVELOPMENT

The success enjoyed by our community through the utilization of Act 9 Bonds has been outlined in detail in another section of this document. Therefore, I shall merely refer to this success in urging that serious consideration be given to raising the limits placed on tax free bonds. The request is logical in nature, in our opinion, because of increased cost of construction and equipment. Many communities are experiencing difficulties within the present framework of the limitations of tax free nature of bonds, because the industries in question are requiring more financing than can presently be provided.

It is widely recognized by all authorities that Arkansas is seriously deficient in capital for expansion of existing industries, the development of commerce, and the orderly development of our natural resources. Thus, the majority of industrial bonds sold over the past ten years have been unrated bonds (bonds not rated by any recognized rating authority, i.e. Moody's or Standard & Poors). The reasons our bonds are unrated are many, primarily one of an expense, and one of Arkansas' bonds continuing to receive poor ratings. This emphasis is given to the fact to point out the urgency of retaining the advantage of tax free bonds in order to provide for capital to develop our area.

Banks in the immediate area and throughout Arkansas and the investing public have bought bonds for two primary reasons:

1. In order to aid and assist in the development of the State, and

2. Because of the tax free nature of the bonds and the yields that may be derived therefrom.

The interest rates bonds would sell for if they were not tax free would be exorbitantly high to the extent that it would render most industrial programs unfeasible.

We strongly urge that the limit of tax free bonds that may be issued for the purpose of financing industrialization be increased. With equal urgency we urge that any attempts to remove the tax free nature of the industrial revenue bonds be abandoned forthwith.

FINANCING DEVELOPMENT OF NATURAL RESOURCES

The Paragould Area Chamber of Commerce strongly recommends that some means be devised to finance the development of a broad area of resources (*The Crawley's Ridge Area*). These resources are rapidly becoming recognized as a most important facet of our society. That being the natural resources enjoyed throughout most of rural Arkansas.

We recommend that consideration be given to the establishment of a natural resources finance program similar to the present urban renewal programs utilized in many of the larger cities. If rural areas were permitted to adequately develop their facilities immediately, you would see substantial alleviation of the ghetto problem. We commend the Congress for its attention to the development needs of Arkansas, and we particularly commend the delegation representing us.

RÉSUMÉ OF PAST PROJECTS

Water and Sewer system

In 1964, the Paragould Water Works received a total of $760,000 from two Federal Agencies—namely: Accelerated Public Works and Health, Education and Welfare. An equal amount of money was raised locally through a Bond Issue. The total amount of $1,520,000 was spent to renovate the then existing water and sewer systems and in extensions of both systems to better serve our Community.

Municipal airport

In 1955–56, the Industrial Development Committee of the Paragould Chamber of Commerce conducted a survey to ascertain the value of having a municipal airport in or near Paragould. Approximately 100 acres of land was purchased with funds solicited within the city of Paragould. The lands were conveyed to the city of Paragould, Arkansas. Following the purchase of the lands and the appointments of a Municipal Airport Commission, an application was lodged with the U.S. Department of Commerce, Civil Aeronautics Commission.

On August 8, 1958, the Civil Aeronautics Commission awarded a grant to the city of Paragould in the amount of $30,985 for the purpose of constructing and hard-surfacing runways, and general development of a municipal airport. The end results was that with this grant and matching funds one 2800 x 60 ft. hard-surfacing runway was constructed. Other improvements have been made from time to time in order that the facility could serve the Community.

City light and power

In 1939, the city of Paragould received a Federal Grant in the amount of $90,000 to be used in the construction and development of a municipal electric facility. A Light Plant Commission was named and a $110,000 matching fund was secured through a revenue bond issue.

The City Light and Power began serving our Community on December 13, 1939 and has continued to do so since that time with no further grants from any Government Source.

Industrial development

Paragould has neither applied for or received any Federal Grant to be used in securing and developing new industries. Our Community has had great success in its industrial development programs. Various methods of financing have been used for some industries, such as public subscriptions, bank loans, etc. Arkansas Act 9 and Arkansas approved method of municipal financing of industries have been used in some cases for a total of $10 Million.

Public housing

In 1969, the city of Paragould received a $180,000 preliminary loan to be used in the planning, development and construction of a public housing project. Recently the city of Paragould received approval through Housing and Urban Development a Federal Grant in the amount of $1,823,000 for the purchase of lands and construction of 120 family dwelling units.

Some three or four residential builders have been building and selling homes under title No. 235. No exact count is available on the number of units or monies expended.

Community Methodist Hospital

Paragould has received a total of $658,000 through the Hill Burton Act as follows: 1949—$99,000, 1969—$359,500, 1971—$200,000. Matching funds for these grants were secured through municipal bond issues.

These grants have made it possible for Paragould to have a modern hospital in which to care for the entire population of Paragould and Greene County.

Community center

In 1969, Paragould received a grant in the amount of $369,000 from the Federal Government to be used in the construction of a Community Center in which to serve Paragould and Greene County. Matching funds were solicited locally without bond issue. Thus, we now have a Community Center worth more than One Half Million Dollars, free of debt.

Community park

In 1971, the city of Paragoud received two grants from the Federal Government totaling $111,000. Matching funds were raised locally without bond issue. All funds are being used to purchase 20 acres of ground and constructing facilites such as park lots, concession stands, four baseball diamonds, and several tennis courts. Additional plans call for play ground equipment for younger chidren.

Mr. Speaker, this is the 11th insertion in the CONGRESSIONAL RECORD of testimony and other materials which I have gathered during my search for ways to assist community development in nonmetropolitan areas. Other materials on this subject appear in the CONGRESSIONAL RECORD, volume 117, part 25, pages 32740–32741; part 26, pages 34505–34506; part 27, pages 35409–35410; 36133–36135; part 28, pages 37358–37360; part 29, pages 38121–38123; part 30, pages 39156–39158; part 31, pages 40813–40817; part 32, pages 41882–41884; part 34, pages 44697–44699.

A TRIBUTE TO JACK ROSEN, CARICATURIST EXTRAORDINAIRE

HON. SEYMOUR HALPERN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 9, 1971

Mr. HALPERN. Mr. Speaker, I would like on this occasion to commend the work, the spirit, and philosophy of a great American, the internationally renowned cartoonist Jack Rosen of New York. Mr. Rosen's talent for caricature has involved him in direct contact with the great and the humble, rich and poor, the mighty and the meek. To people of every class and every kind, he has brought to bear the force of his abilities, with remarkable effect.

It is a notable fact that Jack Rosen has just completed his 100,000th caricature. In his long and distinguished career this brilliant artist has sketched wounded veterans, hospitalized kids around the world, orphaned kids and other victims of misfortune, as well as scores of dignitaries, from Presidents Eisenhower and Roosevelt, Winston Churchill, and Wendell Willkie to Moshe Dayan, Nikita Khrushchev, General Westmoreland, and at least 70 heads of state—not to mention the countless world leaders in all walks of life.

Jack Rosen has wisely utilized his vantage point while serving in the security department of the Waldorf-Astoria for 28 years by meeting with many of these leading world figures during their stay at the hotel. He has captured remarkable likenesses of about 400 notables, all of whom have recognized his skill by signing their own portraits, many by commenting laudably on the accuracy of his portrayals. The resulting signature collection is one of the most incredible in the world.

Since retiring from the Waldorf in 1959, Jack has been involved in many endeavors in behalf of those in need, touring hospitals around the world, drawing pictures of the patients, to their delight. He has visited orphanages in 48 States and is a member of the 52d Association which works for veterans 52 weeks of the year. Upon returning from Vietnam, following a recent tour of hospitals in the vicinity of Da Nang, he received a personal citation from the President.

The value of humor and laughter in the world is self-evident, and as a humorist Jack Rosen has proven his abilities beyond question. Having charmed the important and the influential, on the one hand, and the unfortunate on the other, he has revealed a special understanding of the human spirit that renders him important to all mankind.

Through his efforts and good humor, laughter has found its way to the hearts of many thousands of Americans, and his performance is worthy of our fond best wishes and heartiest congratulations. Our hats are off to you, Jack Rosen.

ONE GIANT STEP FOR MANKIND

HON. JAMES F. HASTINGS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 9, 1971

Mr. HASTINGS. Mr. Speaker, today's passage of the House-Senate Cancer Conference report on the bill S. 1828, is the culmination of untold hours of effort by Members of Congress to develop an effective and comprehensive program to attack the Nation's most dreaded disease.

Cancer, the cruelest of killers, has stalked mankind bringing agony and despair not only to the victims, but also to their loved ones.

I commend the gentleman from Florida (Mr. ROGERS) chairman of the Subcommittee on Public Health and Welfare, and the gentleman from Minnesota (Mr. NELSEN) who untiringly worked to develop a bill to meet the needs of the Nation, the expectations of the public and give the necessary impetus to the scientific community for an expanded effort to find a treatment and cure for all forms of cancer.

Much progress has been reported in the early treatment of cancer, but the key to a cure remains tragically elusive. This legislation represents a major effort by the Federal Government to marshal all its resources to relocate that key.

In fact, it is the first time that such impressive resources have been unleased in a single effort against a single disease.

The $1.6 billion in program and research funds for the next 3 years will implement a program that will allow the President to monitor and optimize the national research and clinical efforts against cancer.

The primary thrust for the new program will be in the National Cancer Institute at the National Institutes of Health. The NCI director, who will be appointed by the President, will have direct budget and reporting access to the Chief Executive. Also, the NIH director will be appointed by the President. In addition, a three-member panel, composed of two distinguished cancer scientist-doctors and a layman of expert management background, will monitor the Institute's efforts and report its progress directly to the President.

This measure also provides for the establishment and funding of 15 new cancer centers throughout the United States which will bring the latest research breakthroughs immediately into the clinical setting to help those stricken with cancer.

Mr. Speaker, this is truly a giant, and humanitarian, step for all mankind.

WENATCHEE HAS TWO OF STATE'S TOP FOOTBALL TEAMS

HON. THOMAS S. FOLEY

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 9, 1971

Mr. FOLEY. Mr. Speaker, the city of Wenatchee has long been recognized by the people of the Fifth Congressional District as the apple capital of the world. This year, the city has the honor of being the football capital of Washington State, because two of its teams have become State champions.

The amazing Wenatchee High School Panthers, coached by Lee Bofto, completed a second straight undefeated season and were rated the No. 1 class AAA high school team in the State by both the Associated Press and United Press International. It was the second straight year the Panthers were the State's top high school team.

The community was further honored by having the No. 1 community college football team in the State—the hard-driving Wenatchee Valley College Knights, coached by Paul Seale.

The Knights won the State championship and have been rated the No. 10 community college team in the Nation.

I know that everyone in the community is extremely proud of these accomplishments.

Mr. Speaker, I include in the RECORD at this point several newspaper articles which tell the story of these two outstanding football teams:

[From the Wenatchee Daily World, Nov. 23, 1971]

PANTHERS HONORED AFTER BIG SEASON

Tackle Rebb Firman and linebacker Bob Simpson shared the inspirational award in Wenatchee High School football for the 1971 season.

Firman and Simpson were among those receiving special awards at the annual parents-organized banquet honoring the Wenatchee High School football team.

A huge throng packed the spacious lodge room of the Elks building to pay tribute to Wenatchee's second successive unbeaten football team and Big Nine Conference champions Monday evening. The attendance was estimated at 390, including football players.

The banquet hall was colorfully decorated. One wall was plastered with gold stars bearing the names of each Panther; another wall was decorated with symbols of the Panther opponents, with a Panther in the middle, and the table decorations included gold, foot-high figure 1's, each bearing a cut-out of the state of Washington and signifying Wenatchee's claim to the mythical state championship.

In addition to Firman and Simpson, those receiving special awards were:

Honorary Captains: Rick Mitchell and Jim Pruss.

Ron Weeks Memorial award for most improved player: shared by Stan Bratton and Larry Duncan.

Scholarship award: Kurt Collyer with a perfect 4.0 grade point ("Burrelle Duvauchelle was close behind with one 'B'," Principal Tom Byne said in making the presentation).

Oil Can award (goes to the player who keeps everybody loose): Rick Colwell.

Head Coach Lee Bofto and his staff received a standing ovation.

Bofto had special praise for each of his coaches: Gene Baker, Dale Skalisky, Dennis Esser, Paul Reasor and Brad Riggs. He acknowledged all the individuals and organizations who had a hand in making the season a success.

"It's all these people working at a unified effort," he said. Among those receiving plaudits from Bofto were volunteer trainer Jim Duck, team physician Dr. Phil Davenport, stats-man Manuel Diaz, films-man John Rutherford Jr., band director Gene Huber ("We probably have the best band in the league, if not the state," Bofto commented. "Our halftime performances are second to none"), veteran p.a. announcer Paul Pugh, custodian Coy McGaha, junior high coaches Bob Pell and Darrel Lee, the cheerleaders, Apple-ettes drill team and pep club.

"All these things together are what make the program a success," Bofto emphasized.

Bofto also had special praise for Managers Andy Barthol, Mike Reister and Gary Harris and student trainers Jon Pifer and Rick Mulligan.

Featured speaker Mel Thompson, a member of Jim Owens' coaching staff at the University of Washington, told the audience: "You've got something here that's very vital—you've got pride and you've got involvement." He was referring to Wenatchee High School's successful football program, along with the solid backing of the community.

Esser, in presenting the junior varsity players, noted that the JV teams played 18 games this fall and that the 105 boys in the program (including varsity) all had game action on the same night once during the season.

The football players serenaded the coaches with their own musical composition and then presented novelty awards. Bofto received a buddha statue, Baker a baker's hat symbolic of his position as head man of "Baker's Dozen," and Skalisky a gold-plated spittoon and a lifetime supply of sunflower seeds.

The players also gave plaques of appreciation to Duck Diaz and Dr. Davenport.

The football banquet was combined with a sprinkling of information on other Panther sports.

Bill Sauve, in reporting on the Panthers' 5–5 (wins and losses) year in cross-country, said of his boys: "They work very hard at what they do." He estimated that a cross-country man runs 250 to 300 miles per season.

Looking ahead to the winter sports seasons. Wrestling Coach Tom Black said: "I think we have the best potential that we've ever had—provided everybody performs up to his potential." The wrestlers open against Moses Lake Dec. 2.

"I'm really looking forward to it," commented newly-appointed basketball Coach Jack Brantner. "We're got some great kids."

The climax of the evening came when master-of-ceremonies Charles (Bud) Preston presented each coach and his wife with reservations for a Jan. 1 Rose Bowl date.

Spearheading the banquet organization were Mr. and Mrs. Wally Collyer, Mr. and Mrs. Louis Crollard, Mr. and Mrs. Mike Madland, Mr. and Mrs. Roger Johnson, Mr. and Mrs. Gordon Isaacson, Mr. and Mrs. Chuck McHaney and Wanda Skalisky.

[From the Wenatchee Daily World, Nov. 23, 1971]

Coaches, Wives Honored With Rose Bowl Trip

The three members of the Wenatchee High School varsity coaching staff, and their wives, were stunned by a special presentation at the tailend of the Panther football banquet Monday evening.

Master-of-Ceremonies Charles (Bud) Preston, representing "Panther fans," presented each couple with airline reservations and all the other trimmings which will provide them with an all-expense paid trip to the Rose Bowl in Pasadena, Calif.

The "Panther fans," in showing their appreciation for the dedicated efforts of Coaches Lee Bofto, Gene Baker and Dale Skalisky, in a week's time raised the necessary money to send the three and their spouses to the Rose Bowl.

Judging from the emotional reaction of the wives, the presentation, indeed, came as quite a surprise and provided a fitting climax to the banquet.

[From the Wenatchee Daily World, Nov. 30, 1971]

Knights Feted; McDonald, Coen Share Honor

Two record-breaking offensive stars, quarterback John Coen and split end Mark McDonald, shared the "most valuable player" award, a presentation which climaxed an evening of accolades for the Northwest JC football champion Wenatchee Valley College Knights.

Coen, the Knights' sophomore leader from Hawaii, and McDonald, the freshman will-of-the-wisp from Vancouver, B.C. were the key offensive players in the Knights' championship campaign. Coen passed for a school record 1,230 yards and McDonald shattered all WVC pass receiving records with 64 catches for 831 yards and nine touchdowns.

They were among eight Knights to receive special awards at the post-season banquet honoring the team at Roy's Chuck Wagon Monday evening.

The team's "most inspirational player" award was shared by two sophomores from West Seattle, linebacker Steve Adelson and fullback Tom Jensen.

Another former West Seattle gridder, sophomore defensive guard Rick Ritch, shared the "On the Spot" outstanding lineman award with center Vince Kauzlarich, sophomore from Issaquah.

Other major award winners were Ken McEachern, 18-year-old sophomore from Regina, Sask., outstanding defensive back, and Harry Knell, rugged wingback from Honolulu, outstanding offensive back.

The banquet had its moments of nostalgia, as the large gathering paid tribute to long-time line Coach Bill Penhallegon, who earlier had informed WVC President Dr. William Steward of his plans to retire from coaching.

As the banquet drew to a close, Penhallegon was presented with a plaque in recognition of his 18 years of dedicated service to the football program. Earlier, he and his wife Barbara were given a standing ovation.

"I feel that I have been rewarded by the boys who have gone on to play elsewhere," Penhallegon said in accepting the plaque. He called the 1971 team "the greatest group of boys since I've been here."

Head Coach Paul Seale, who once played under Penhallegon, commented: "He's just so invaluable to this whole program."

No player went home without a trophy. Each was awarded a small trophy symbolizing his participation on a championship team by the conference.

In giving out the awards to the defensive troops, defensive line coach Jim Norton said: "All the boys performed admirably, both in practice and in the games."

There was "real competitiveness in the secondary," defensive backfield Coach Sandy Cooprider said of his boys.

Other comments by the coaches:

Norton, on his 170-pound defensive terror: "Jim Carter, I believe, was the best defensive lineman we had all year."

Penhallegon, on center Vince Kauzlarich: "This guy started 19 games for us—which is a record."

Seale: "There's just not enough you can say about the best quarterback in the nation and that is John Coen—he took a loser and made it a winner. . . . A lot of the success of John Coen and our other backs goes to one tough son-of-a-gun—Tom Jensen (in recognition of the fullback's great blocking). . . . The toughest game of the year was in our practice (in paying tribute to the defense)."

In introducing the assistant coaches, Quarterback Club President Frank Kuntz said:

Of Norton—"I don't think anyone can overemphasize Jim's contribution to the team this year."

Of Cooprider—"I know he's going to go a long ways in coaching, but I hope he doesn't go anywhere for awhile."

Commented Atheltic Director-basketball Coach Frank Mataya: "Coach Seale, you really are a tough act to follow."

Mataya mentioned some of the unheralded sophomores who played little, yet hung with the squad until the end: "The attitude of this ball club was exemplified by these young men."

In opening the program, livewire master-of-ceremonies Kuntz read congratulatory messages from Congressman Tom Foley, Governor Evans and State Rep. Stu Blensoe.

Seale gave special recognition to the many unsung people wo helped make the season a success, including the Quarterback Club ("It's the real reason why we're here tonight"); Al Schuster, unofficial host at each of the WVC Quarterback Club's weekly meeting; veteran bus driver Roy Reinstra ("an extra coach"); the cheerleaders ("Tremendous job of support by the cheerleaders and also the Royal Squires"); the team doctors, John Jacobsen and Dale Peterson; student trainer Keith Kladnick and manager Barry Dollis ("A lot of long, hard hours").

COUNTDOWN '72

HON. WILLIAM R. ROY

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 9, 1971

Mr. ROY. Mr. Speaker, in order for the American political system to be a success, it must have the participation of all segments of society. Realizing this, it is extremely encouraging to note that an increasing number of young people are working seriously and constructively in politics.

The National Youth Caucus, formed in Chicago this past weekend, holds great possibilities for responsible student action.

Kansas has been one of the leading States in regard to student interest and involvement in political activity. On October 30–31, a statewide voter registration conference called "Countdown '72" was held on the campus of Kansas State University in Manhattan, Kans.

The conference drew 375 of Kansas' most able young leaders together for an in-depth briefing on the electoral process. Mr. Speaker, I would like to take this opportunity to congratulate the staff of Young Kansans for Kansas who organized this excellent meeting.

I participated personally in the conference, and I can attest to the fine job done by the conference coordinators and the entire staff, and the enthusiasm shown by the hundreds of delegates.

For 7 weeks a staff of 14 student volunteers worked long hours and traveled many miles in an effort to develop a truly bipartisan conference. They set about this task not aiming at a student takeover of college communities, but because it is their conviction that the only avenue for responsible, positive change in our society is through the polls—not in the streets.

For too many years the young people of our country have been led down the primrose path in the name of some magical, mystical revolution in our streets. Now with the passage of the Voting Rights Act of 1970 and the advent of the 26th amendment, the Congress of the United States and its people have offered our young citizens an alternative route.

Those two measures alone have done much to relieve a degree of the frustration felt by the young. But that in itself is not enough. It now becomes incumbent upon individuals of this body and public officials everywhere to help assure the exercising of this new right.

I believe participation in projects such as "Countdown '72" is one method to accomplish that. If conferences and follow-up programs such as our "Countdown '72" are carried on in a responsible fashion by responsible people, we can be sure that the 304,000 new voters in my State, and the other 24,821,000 in other States, will be motivated and educated as to the intricacies of the voting laws.

Once this great task is completed and we have registered the young laborer in Kansas City, the PFC at Fort Riley, the high school student in Wichita, the sophomore at Kansas State University, the housewife in Topeka, and the farmworker in Fredonia, we will have established these young people as a responsible and respected portion of the electorate.

Conscience demands no more than that we try—history will accept no less.

The "Countdown" in Kansas has begun, and I believe the coordinators of that conference have done the young people in my State a great service. I thank them.

SUMMER INTERN PROGRAM

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 9, 1971

Mr. HARRINGTON. Mr. Speaker, I am today refiling along with 89 cosponsors, a bill which would extend the summer intern program as originally provided for by House Resolution 416 of the 89th Congress.

In 1966 when the House passed House Resolution 416, minimal funds were set aside enabling each Member to employ one summer intern. In order to qualify for the internship, a person must have been a bona fide student at a college during the academic year immediately preceding his employment. Each Member was allotted an allowance of $750 for the 2½-month intern period, payable from the contingency fund of the House.

I have taken advantage of this opportunity for the past two summers and found the internship program a welcome addition to my office. More importantly, spending productive time in a congressional office affords a young person the opportunity to learn about his Government first-hand. It has been widely publicized that many young people are disenchanted with the Government and unsure about its responsiveness. In order to increase understanding of how our political system operates and to foster individual participation, I think it would be beneficial to expose more of our young people to the congressional system.

Unfortunately, many young people who want the opportunity to work within the congressional process are denied the chance because funding is not available. Today's high cost of university education coupled with the present state of the economy necessarily eliminates many qualified students of government from ever taking part in a congressional intern program.

Because the minimal intern program now in effect has worked very well and has even greater possibilities, I reintroduced with 41 of my colleagues in May an amended version of House Resolution 416 expanding the program to include two additional student congressional interns. Today I am reintroducing the legislation in a further amended version with my original 41 colleagues and with an additional 48 colleagues. The legislation we are reintroducing today would allow student interns to be employed here in Washington or in our local congressional offices, thereby enabling those students who may not be able to afford the living or moving expenses in Washington to participate in the program.

My colleagues and I hope this resolution will find widespread support in the House and will have a hearing in the near future. The resolution as proposed is a modest but important beginning for the establishment of a more meaningful intern program. The ensuing advantages to both the young people hired and the congressional office are enormous.

Those in the House who have lamented the lack of understanding of our processes on the part of many young people should welcome the chance to provide this experience to them.

I include the list of cosponsors and the resolution at this point:

LIST OF COSPONSORS

Mr. Abourezk, Mrs. Abzug, Mr. Anderson of Tennessee, Mr. Aspin, Mr. Badillo, Mr. Bell, Mr. Begich, Mr. Biester, Mr. Brademas, Mr. Burke of Massachusetts, Mr. Chappell, Mrs. Chisholm, Mr. Clay, Mr. Collins of Illinois, Mr. Conte, Mr. Corman, Mr. Coughlin, Mr. Dellenback, Mr. Denholm, and Mr. Diggs.

Mr. Dow, Mr. Drinan, Mr. Dupont, Mr. Eckhardt, Mr. Edwards of California, Mr. Edwards of Louisiana, Mr. Eilberg, Mr. Esch, Mr. Forsythe, Mr. Frenzel, Mrs. Grasso, Mr. Gray, Mr. Halpern, Mr. Hamilton, Mr. Hathaway, Mr. Hawkins, Mr. Hechler of West Virginia, Mrs. Heckler of Massachusetts, Mr. Helstoski, and Mrs. Hicks of Massachusetts.

Mr. Horton, Mr. Hungate, Mr. Keating, Mr. Kemp, Mr. Leggett, Mr. McCloskey, Mr. McCollister, Mr. McCormack, Mr. McCulloch, Mr. McKinney, Mr. MacDonald of Massachusetts, Mr. Matsunaga, Mr. Mazzoli, Mr. Metcalfe, Mr. Mikva, Mrs. Mink, Mr. Mitchell, Mr. Morse, Mr. Mosher, and Mr. Moss.

Mr. Pepper, Mr. Peyser, Mr. Podell, Mr. Powell, Mr. Rangel, Mr. Rees, Mr. Reid, Mr. Riegle, Mr. Rodino, Mr. Roe, Mr. Roncalio, Mr. Rosenthal, Mr. Roy, Mr. Runnels, Mr. Ryan, Mr. St Germain, Mr. Sandman, Mr. Scheuer, Mr. Schwengle, and Mr. Shoup.

Mr. Steele, Mr. Stokes, Mr. Teague, Mr. Thone, Mr. Tiernan, Mr. Udall, Mr. Ullman, Mr. Vander Jagt, Mr. Williams of Pennsylvania, and Mr. Wolff.

H. RES. —

Resolution providing for two additional student congressional interns for Members of the House of Representatives, the Resident Commissioner from Puerto Rico, and the Delegate from the District of Columbia

Resolved, That, until otherwise provided by law, each Member of the House of Representatives (including the Resident Commissioner from Puerto Rico and the Delegate from the District of Columbia) is authorized to hire and pay not more than two additional student congressional interns (to serve as such within or outside the District of Columbia) in accordance with and subject to the provisions of H. Res. 416, Eighty-ninth Congress, adopted June 16, 1965, as enacted into permanent law by section 103 of the Legislative Branch Appropriation Act, 1967 (80 Stat. 369; Public Law 89-545; 2 U.S.C. 60g-2), which are hereby made applicable with respect to each additional student congressional intern hired and paid under authority of this resolution. The contingent fund of the House is made available to carry out the purposes of this resolution.

HOUSE RESOLUTION 630

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 9, 1971

Mr. JACOBS. Mr. Speaker, I was wondering if, at this late date, if any Member of Congress or any member of the executive branch would care to say he or she is willing, from this day forward, to give his or her life, limb, sanity, or freedom—POW even for another day—further to prop up the Saigon dictatorship.

Other Americans are being ordered to do so today.

Following is the language of House Resolution 630, which I introduced on September 30, 1971:

H. RES. 630

Whereas the President of the United States on March 4, 1971, stated that his policy is that: "as long as there are American POW's in North Vietnam we will have to maintain a residual force in South Vietnam. That is the least we can negotiate for."

Whereas Madame Nguyen Thi Binh, chief delegate of the Provisional Revolutionary Government of the Republic of South Viet-

> nam stated on July 1, 1971, that the policy of her government is: "If the United States Government sets a terminal date for the withdrawal from South Vietnam in 1971 of the totality of United States forces and those of the other foreign countries in the United States camp, the parties will at the same time agree on the modalities:
>
> "A. Of the withdrawal in safety from South Vietnam of the totality of United States forces and those of the other foreign countries in the United States camp;
>
> "B. Of the release of the totality of military men of all parties and the civilians captured in the war (including American pilots captured in North Vietnam), so that they may all rapidly return to their homes.
>
> "These two operations will begin on the same date and will end on the same date.
>
> "A cease-fire will be observed between the South Vietnam People's Liberation Armed Forces and the Armed Forces of the other foreign countries in the United States camp, as soon as the parties reach agreement on the withdrawal from South Vietnam of the totality of United States forces and those of the other foreign countries in the United States camp."
>
> Resolved, That the United States shall forthwith propose at the Paris peace talks that in return for the return of all American prisoners held in Indochina, the United States shall withdraw all its Armed Forces from South Vietnam within sixty days following the signing of the agreement: Provided, That the agreement shall contain guarantee by the Democratic Republic of Vietnam and the Provisional Revolutionary Government of the Republic of South Vietnam of safe conduct out of Vietnam for all American prisoners and all American Armed Forces simultaneously.

SOVIETS SEEK CONTROL OF WORLD BEEF MARKET

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 9, 1971

Mr. RARICK. Mr. Speaker, yesterday the House passed the foreign aid bill and the Agriculture Committee held hearings on how the U.S. taxpayers have subsidized Soviet agriculture. It is a strange double standard that on one hand we arm the nations of the world to stop Russian expansionism and aggression while on the other we are not only trading with the enemy, but also discounting his purchases. I use the term "enemy" because it would seem that if the taxpayers are to put up $552 million for defensive armament of our foreign aid "friends," there must be someone who is the bad guy. In the final analysis it is the Soviet Union.

The members of the Agriculture Committee heard testimony from Clarence D. Palmby, Assistant Secretary of Agriculture, confirming the sale of oats and barley to the Soviet Union at prices far below any available to the American farmer.

The Department spokesman testified that in excess of 20 million bushels of oats were sold to the Soviet Union at prices ranging from 40 cents per bushel to 47 cents per bushel at a time when the market price in the United States stood at 60 cents a bushel.

Mr. Palmby also testified that 11½ million bushels of barley were sold at 91 cents a bushel at a time when the U.S. farmer was paying 10 to 12 cents a bushel higher.

Inasmuch as the sales came from the Commodity Credit Corporation, a taxpayer-supported Government agency whose purpose is to support farm prices, the losses suffered in the sale to Russia were at the expense of the U.S. taxpayers.

The Department representative testified that:

> The Department's authority to sell CCC-owned commodities for export without limitation as to price stems from the Agricultural Act of 1949. That act specifically exempts sales for export from the requirement that CCC-owned grain may not be sold at less than 115 percent of the average loan rate plus carrying charges.

The same Department representative commented on significant herds of breeding cattle being purchased by the Soviet Union:

> Also important in the long run is the significant number of beef breeding cattle Russia is buying from free world markets. This includes 300 head of U.S. cattle shipped from Richmond last September, nearly 1,000 head of Canadian cattle, and more than 100 Hereford bulls from the United Kingdom.
>
> These purchases of breeding stock are thoroughly consistent with the ambitious goals the U.S.S.R. has set for itself in the production of animal products. Its latest 5-year plan projects a 27-percent increase from 1971 to 1975 in the case of both meat and eggs and a 19-percent increase in the case of milk.

Any doubt that the Russian goal is to enter the international beef market in competition with the U.S. cattleman is dispelled by an article entitled "Cyrus Eaton: The Communists Best Capitalist Friend," appearing in the Parade magazine, a Sunday supplement for December 4, 1971. We read:

> KOSYGIN BUYS BEEF
>
> Cyrus Eaton's most recent venture with the Soviets occurred a few weeks ago when he sold Premier Kosygin 350 head of choice beef cattle, 80 of which came from his own prize-winning stock.
>
> This deal, Eaton points out, could lead to Soviet purchases of as many as 200,000 American beef and dairy cattle within the next two years.
>
> "The Russians," he says, "are trying to expand meat consumption among their people. They want to change from their present dual-type of cattle, raised for meat and milk, to specialized breeds of fast-gaining beef cattle and high yielding dairy cattle which we raise in this country."
>
> Eaton has urged U.S. authorities to allow giant transport planes to land in Illinois, Ohio, Colorado, and other states to load cattle and thereby avoid lengthy shipment by sea. He feels strongly that if a dollar can be earned by trading with the Soviets, the American farmer should get his rightful share. Why should the Soviets trade with France, England, West Germany, Japan, and other major capitalistic countries and not with us?

The Assistant Secretary's testimony contained many excuses in an attempt to justify the sale. He testified that—

> First, it opens up a brand new market for U.S. feed grain exports in Russia at a time when that country and many of its East European neighbors have established huge goals for increased livestock production and show signs of a swing to Western feeding practices.
>
> Second, it paves the way for expanded future grain trade with Russia following the President's decision in reversing the earlier directive that required at least half of grain tonnage destined for the U.S.S.R. and certain other East European nations to be carried in U.S.-flag vessels.
>
> Third, it provides for the export during the present marketing season of up to 80 million bushels of U.S. corn for which no market was otherwise in sight. This is approximately one-sixth of total U.S. corn exports during the 1970–71 marketing season.
>
> Fourth, it cuts burdensome Government inventories of barley and oats, recovers almost $45 million of public funds invested in these commodities, and saves storage costs in excess of $9 million a year.

The Department official even went so far as to explain the sale as an indication that the Russians were interested in increasing their beef production to improve the Russian citizen's diet with more meat. If this assumption is true, then it would seem that the U.S. taxpayer is footing the bill for a new kind of international food stamp to improve the diet of the impoverished Russian people. No one would dare suggest that if the Communist power structure is able to improve their beef production and quality, the increase will be used as another item for export on the world market in competition with U.S. beef.

When has the Soviet ever placed its people before world domination?

If transactions such as these are allowed to continue unchecked, the American beef producer will soon find himself in competition with the Soviets at a distinct disadvantage because the Soviet beef has been raised on subsidized American grain available to the Russians at a much lower cost than to America's own farmers.

The simple truth is that only a few people in either country will profit by the grain sale. It is, on the face of it, trading with the enemy—not for profit, but at a loss to the U.S. taxpayers. Next we can expect the Ex-Im Bank, which was included in the Foreign Aid bill, to extend easy credit to assist the Russians in purchasing American grain at a price discounted far below the U.S. open market.

The Russian grain deal is comparable to the Federal Reserve Bank selling $100 bills to the Soviets for $80 with the explanation that such action is beneficial to the U.S. economy by spurring United States-Soviet trade.

A related newsclipping follows:

> [From the Evening Star, Dec. 9, 1971]
>
> STANS HOPEFUL RUSSIAN TRADE WILL MOUNT INTO THE BILLIONS
>
> Commerce Secretary Maurice Stans today said he is "very hopeful" that the present small volume of trade between the United States and the Soviet Union can be expanded to billions of dollars a year.
>
> Just returned from a 17-day trip to Russia, Poland and Sweden, Stans emphasized, however, that he made it clear to Soviet leaders that continued improvements of political relations is necessary for two-way trade to grow.
>
> At present U.S.-Soviet trade totals about $170 million annually. "As Chairman Kosygin said, that's no trade at all," Stans says.
>
> The Commerce secretary, while declining

to name a specific target, said he thought U.S.-Soviet trade could total billions of dollars a year if political differences and problems facing businessmen are worked out.

"But, believe me, it's at a very preliminary stage," he said.

Stans rejected the idea that increased trade with the Soviet Union might contribute to Russia's warmaking capabilities.

"We put ourselves in a rather ridiculous position if we refuse to sell to the Soviet Union items of equipment which they can buy in Germany, France, Italy, Switzerland or Britain," Stans said.

The secretary, who consulted with Premier Alexi Kosygin and many other Russian leaders during his trip, cited natural gas as one of many raw materials that the Soviet Union could export to the United States in exchange for U.S. technology and goods.

As the Russians see things, he said, American business interests would help develop gas fields, build a pipeline to a port and provide the ships to take the gas to the United States in liquid form.

This would cost billions of dollars, Stans said, but he noted that the Soviet Union appeared prepared to deliver $1 billion worth of natural gas per year for many years under such an arrangement.

Asked about an outstanding World War II lend-lease debt owed the United States by Russia, Stans indicated this was one of the things that would have to be settled as part of increasing trade relations.

When negotiations between the United States and the Soviet Union were broken off ten years ago, the Russians were offering a $300 million settlement while the United States was asking $800 million, Stans noted.

[From the Washington Post, Dec. 9, 1971]

FEW OBJECT TO SOVIET GRAIN DEAL

(By Murrey Marder)

Only scattered protests about "trading with the enemy" were raised yesterday over the U.S. sale of grain to the Soviet Union, which a Nixon administration official called a "history-making" event.

If the hearing before two House Agriculture subcommittees accurately reflects the national mood for expanding East-West trade, even while the Indochina war continues, a considerable shift of U.S. attitude has occurred.

Nixon administration officials, many of whom have reversed their own positions, are convinced there is such a national change of attitude. They believe these trade initiatives, now overshadowed by more dramatic international news, can be a more important long-term development in East-West relations.

"To call this transaction history-making is putting it mildly," testified Assistant Secretary of Agriculture Clarence D. Palmby. "It is one of the most significant agricultural events in my public career."

An administration-negotiated deal with the U.S. maritime unions last month cleared the barrier to the sale of $135 million to $190 million worth of American corn, barley and oats to the Soviet Union. The unions dropped their insistence on shipping half of American commercial grain exports to Communist nations on higher-cost U.S. shipping. All foreign shipping can now be used for this sale, with the unions counting on an assured share for American shipping out of future U.S.-Soviet trade deals and government subsidies.

Continental Grain Co. of New York, and Cargill, Inc., of Minneapolis, both are handling the grain sale to the Soviet Union. It includes barley and oats from U.S. government stocks at world market prices below domestic prices, plus huge amounts of overabundant American corn.

Grain traders recalled yesterday that President Nixon, in private law practice, had an association with Cargill.

Political biographies of the President list Cargill among the many large corporations represented by the law firm which Mr. Nixon joined in 1963 and which became Nixon, Mudge, Rose, Guthrie, Alexander and Mitchell.

Published accounts note that Mr. Nixon politically was personally opposed to such trade when Continental and Cargill in 1963-64 made the first and very controversial grain sale to the Soviets. The 50-50 U.S. shipping requirement ordered by President Kennedy blocked all intervening sales.

Palmby testified yesterday that there was no direct contact between the U.S. and Soviet governments for the current sale, initiated by Continental with Cargill coming in later and obtaining a "much smaller" contract. Palmby said "White House leadership" cleared the shipping obstacles to this sale.

A hearing, concluded in one day, was called on charges that use of government-owned oats and barley at lower world prices in the sale amounts to "subsidizing the Russians." Palmby disagreed, saying "the (U.S.) taxpayer benefits, on all counts."

Most of the congressmen present indicated agreement with him. However, Rep. John R. Rarick (D-La.) charged "that we are not only trading with the enemy at discount rate . . . some of these farmers have their sons in Vietnam" and "of course, it is Russian hardware that is being used to shoot at our men."

"Mr. Congressman, I have a son in Vietnam too," countered Palmby sharply. The issue is not whether the Russians will get grain, said Palmby, but whether the United States will continue to foreclose itself from world trade competition.

Rep. Robert D. Price (R-Tex.) said, "I have never advocated trade with Communist nations" and he said the Soviet Union supplies North Vietnam with the bulk of its weaponry. But if a decision has been made to trade with the Russians, said Price, "I feel that the American farmer should not be left out."

SALUTE TO COMDR. HUGH O. DEFRIES

HON. JAMES V. STANTON

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 9, 1971

Mr. JAMES V. STANTON. Mr. Speaker, at times we become so involved with the political issues at stake in the Vietnam war that we lose sight of some of the very real human problems which have arisen because of it. Specifically, I am referring to the extraordinarily large number of our soldiers who have suffered serious wounds which, a decade or so ago, would almost certainly have resulted in death, but who are now able to be saved because of the great advances in medical science. For these soldiers, the main question becomes one, not of life or death, but rather how they will adjust to life with the handicap imposed upon them by their disability. In this connection, I would like to pay tribute to the excellent work now being done by Comdr. Hugh O. deFries and his colleagues at the Bethesda Naval Hospital in treating soldiers who have suffered some form of serious facial wound.

Dr. deFries has evolved a new grafting technique which, in essense, provides a new jawbone for those who have suffered a serious injury of this kind. Many soldiers have been the victims of such disfigurement in combat. However, because of the work of Dr. deFries, these wounds can now be repaired, and the soldiers will be able to return to a normal life. In addition, this technique reportedly may be used in treating cancer victims.

I salute Dr. deFries for his fine efforts which will, I am certain, immeasurably improve the lives of a great many people.

WILL THE FDA GET THE LEAD OUT?

HON. WILLIAM F. RYAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 9, 1971

Mr. RYAN. Mr. Speaker, each year some 400,000 children are the victims of lead-based paint poisoning. The effects of this disease can be devastating—mental retardation, cerebral palsy, convulsive seizures, blindness, learning defects, behavior disorders, kidney diseases, and even death.

The striking aspect of this disease, however, is that it is totally preventable. As Dr. Jane S. Lin-Fu, pediatric consultant, Division of Health Services, Department of Health, Education, and Welfare, wrote in an article entitled "Childhood Lead Poisoning—An Eradicable Disease," Children magazine, January-February 1970, page 2, said:

> In the history of modern medicine, few childhood diseases occupy a position as unique as lead poisoning. It is a preventable disease. The etiology, pathogenesis, epidemiology, and symptomatology have all been well defined. Methods for screening, diagnosis, and treatment have long been available.

Yet, despite the fact that lead poisoning is preventable, this disease, as Dr. Lin-Fu writes, "exists in epidemic proportions in many cities."

The problem lies in the congruence of two factors. The first is the disposition in young children to eat foreign materials, a craving called pica. The second factor is the presence of lead in paint used on interior surfaces of many dwellings. These two factors combine to result in young children, most but not all living in decaying slum housing, eating lead-tainted paint and plaster chips fallen from the walls and ceilings of their apartments and hallways, and thus developing lead-based paint poisoning.

To combat this menace, I have joined with five child health advocates in petitioning the Food and Drug Administration to classify lead-based paint as a banned hazardous substance, under the provisions of the Hazardous Substances Act.

On November 2, the FDA published our petition in the Federal Register. At the same time, however, that agency also published a proposal of its own, which would merely require that paint with a lead content in excess of 5 percent bear a warning label. Interested persons have until December 28 to submit written comments on either or both of these proposals.

Unfortunately, the FDA-sponsored labeling requirement would be totally insufficient to protect the children of this Nation from the peril of lead-based paint poisoning. If we are to eradicate this disease, we must eliminate the lead from paint.

Joseph A. Page, associate professor of law at the Georgetown University Law Center, has written a compelling article on the hazards of childhood lead poisoning and the failure of the Food and Drug Administration to take decisive measures against this silent epidemic. This article appears in the December 10 edition of Commonweal magazine and I am including it in the Record at this point for the benefit of my colleagues:

[From Commonweal, Dec. 10, 1971]

Will the FDA Get the Lead Out?

(By Joseph A. Page)

The timid regulations recently proposed by the Food and Drug Administration (FDA) requiring cautionary labels on certain lead-based household paints typify the shameful refusal of officials at all levels of government to take decisive measures against the "silent epidemic" of lead poisoning that afflicts some 400,000 predominantly poor children annually

Though city air, foods and water contain concentrations of lead, the ingestion of flakes of lead-based paint is by far the most common and dominant cause of lead poisoning among children. The disease has long been recognized as an environmental hazard. Yet it was not until 1970 that Congress finally acted, with the passage of the Lead-Based Paint Poisoning Prevention Act.

The law itself is limited in scope. It seeks to promote the removal of lead paint from existing homes and to curtail its use in federally assisted housing. The Nixon Administration tried to smother the Act at its birth by asking for an appropriation of only $2 million for its implementation. The efforts of Congressman William F. Ryan of New York and others secured an appropriation of $7.5 million, still only a fraction of what a meaningful attack on the "silent epidemic" would require.

The dimensions of the lead-poisoning problem are staggering. The Department of Health, Education and Welfare (HEW) estimates that each year 16,000 victims of the disease need treatment, 3,200 incur moderate to serious brain damage, and 800 must have medical care for the rest of their lives. A recent study found that 30 to 50 percent of the babies born in the District of Columbia may be expected to develop undue body burdens of lead, producing effects ranging from nervous disorders to severe mental retardation.

Though the worst cases of lead poisoning result from children eating flakes of paint manufactured before World War II and containing a high content of lead, the human body can accumulate dangerous lead levels from the ingestion of paint with a low lead content. The paint industry itself recognized this 16 years ago when it adopted a voluntary standard limiting the lead content in household paint to 1 percent.

But the FDA, charged for more than a decade with responsibility for protecting the public against hazardous household products, has moved with glacial speed to utilize its legal authority to counter the lead-paint problem. On October 28, 1971, the agency finally proposed regulations under the Hazardous Substances Act dealing with lead-based paint. They provide for mandatory cautionary labeling of household paint containing more than 0.5 percent lead.

The National Paint, Varnish and Lacquer Association, which represents 90 percent of the paint industry, immedately applauded this proposal, as did the lead industry's trade association. On the other hand, the dictates of common sense suggest that warning labels remain with the containers, and are of no use after the paint is applied to a surface. A tenant will scarcely be in a position to know the lead content of the paint in the house or apartment he is renting.

This past summer, despite the paint industry's own voluntary standard, paints with up to 10.8 percent lead levels were found on the shelves of New York stores. The FDA regulations would not prohibit the sale of these paints so long as their containers bear warning labels.

The Lead-Based Paint Poisoning Prevention Act, which went into effect on January 13, 1971, authorized the Secretary of HEW to take steps to prohibit the use of paint with 1 percent or more lead content in homes constructed or rehabilitated with federal funds. It was not until November 16 that the Secretary got around to implementing this mandate by publishing a regulation that calls upon other federal agencies to prohibit the use of such paint by means of clauses in contracts for the federally assisted construction or rehabilitation of houses or apartments. Experience with other forms of contract-compliance enforcement as a method of carrying out federal policies teaches that this approach is very often a sham, a classic "no-law law" in its de facto nonapplication.

An obvious way to prevent the sale and application of leaded household paints is to invoke provisions of the Hazardous Substances Act enabling the FDA to ban the marketing of dangerous products used in the home. Under the Act, the FDA can invoke such a ban after finding that no amount of cautionary labeling would be sufficient to protect the public health and safety from a serious, substantial hazard.

An ad hoc committee of doctors and scientists brought together by the Bureau of Community Management of the U.S. Public Health Service recently concluded that the maximum daily permissible intake of lead from all sources for children is 300 micrograms. Studies have shown that a child ingests 106 to 146 micrograms each day from food, water and air. An average chip of paint with 0.5 percent lead contains 450 micrograms of lead.

Despite these figures and increasing medical concern over the dangers of low levels of lead intake, the FDA has thus far eschewed an aggressive attack on the problem, preferring instead to keep the paint and lead industries happy. Its performance adds fuel to the fires of those supporting a bill latterly drafted by the Senate Commerce Committee to dismantle the FDA and build a new Consumer Safety Agency from scratch.

Congressman Ryan, *Village Voice* editor Jack Newfield, Dr. Edmund O. Rothschild of New York, myself and two Georgetown law students have filed their own petition with the FDA, calling for a ban of all household paints containing more than trace elements of lead. During the next month and a half, interested parties may file with the agency comments on both this petition and the FDA's proposed regulations. The FDA itself must then decide which route to take.

The Environmental Hazards Committee of the American Academy of Pediatrics has just taken a position favoring the petition filed by Congressman Ryan *et al.* The Committee has urged that the maximum limit of lead content in paints be set at minimum traces, or 0.06 percent.

It is, and has been for some time, technologically feasible to take the lead out of paints. Hence bureaucratic and Congressional lethargy must bear more than a small share of the blame for debilitating the health of countless children.

CLAYTON KIRKPATRICK, EDITOR OF CHICAGO TRIBUNE, HONORED AS COMMUNICATOR OF THE YEAR

HON. ROMAN C. PUCINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 9, 1971

Mr. PUCINSKI. Mr. Speaker, last night at the Pick-Congress Hotel in Chicago, Mr. Clayton Kirkpatrick, editor of the Chicago Tribune, was honored by the State of Israel as the "Communicator of the Year" for 1971.

Several hundred people assembled to pay tribute to Mr. Kirkpatrick, one of the Nation's most intuitive journalists, who in January 1, 1969 took a great newspaper and as its editor, made it even greater.

It was in 1969 that Mr. Kirkpatrick assumed the awesome responsibility of becoming editor of the Chicago Tribune—one of the world's greatest newspapers.

Through his good judgment and insight, Mr. Kirkpatrick has brought a new dimension of leadership to the Chicago Tribune.

He has made it one of the most objective publications in America and one of the most informative.

Clayton Kirkpatrick's influence is being felt throughout this beautifully edited publication.

The news stories have taken on a new and exciting scope of objectivity, accuracy, and thoroughness.

The layout has come alive and the photos literally breath excitement in depicting graphically the news events of the day.

The special features have taken on new and exacting meaning: The financial section is a storehouse of knowledge; the sports sections poignantly describe the living drama of American sport and the women's section is one of the best in the world.

The Chicago Tribune's editorials have taken on a new dimension of objectivity and are not only a chronicle of Tribune editorial opinion but a warehouse of facts and figures unparalleled in American journalism.

Mr. Kirkpatrick gives living meaning to the Tribune's credo that a free press provides for our Nation that guarantee of freedom no Constitution in itself could provide.

Significantly, Mr. Kirkpatrick was selected as communicator of the year by the State of Israel because both he and the Tribune have shown an inspiring degree of understanding of Israel's struggle for survival.

The Chicago Tribune has become one of the world's most impressive communicators in providing full coverage of Israel's enormous struggle for freedom.

Mr. Kirkpatrick will deserve the honor for himself and his newspaper.

The tribute to Mr. Kirkpatrick was announced by Harry Zaidenberg, general chairman of the greater Chicago committee for the State of Israel bonds.•

Jack Mabley, distinguished columnist and associate editor of Chicago Today served as banquet chairman.

It was my privilege to participate in the tribute to Mr. Kirkpatrick last night and in brief remarks I was pleased to point out Israel's struggle is no longer a sentimental journey for the Jewish people alone—it is in the highest interest of all freedom-loving nations.

Israel is our first line of defense against Soviet colonialization of the Middle East. If Israel should ever fall, Russia would have an open field to take over the rich-in-natural-resources continent of Africa.

I was pleased to note that in a recent article by the Tribune's financial editor, Nick Poulos, it was pointed out not one dollar of American money loaned to Israel banks ever leaves the United States.

The tribute to Mr. Kirkpatrick made it possible to rekindle our determination that Israel must be given all the weapons she needs to protect her survival. There can be no equivocation. on this subject.

Mr. Speaker, in his introduction of Mr. Kirkpatrick, Mr. Zaidenberg paid high tribute to the honoree.

Mr. Zaidenberg asserted that Mr. Kirkpatrick is being honored "for bringing a new standard of excellence to the field of mass communications."

"Mr. Kirkpatrick is a man of wit and exceptional brilliance, a social commentator whose view of the news is colored only by his love of humanity," Zaidenberg said. "As editor of one of the most influential newspapers in the country, he has brought a new and vital leadership to the Chicago Tribune which has added another chapter of greatness to its proud history."

Mr. Kirkpatrick, who also serves as vice president of the Chicago Tribune Company, was appointed editor of the Tribune on January 1, 1969. He was elected to his fourth term as president of the City News Bureau in 1968.

During his journalistic career with the Chicago Tribune, which spans more than three decades, Kirkpatrick has worked at numerous reportorial and editorial assignments. He was appointed city editor of the Chicago Tribune in 1961, assistant managing editor in charge of local news in 1963, and managing editor in February, 1965. In 1967 he was elected a vice president of Chicago Tribune Company and promoted to executive editor.

Clayton Kirkpatrick joined the Chicago Tribune in October, 1938, as a reporter for the northwest neighborhood section. A year later, he was transferred to the newsroom as a general assignment reporter. In 1940 he was assigned to the federal beat where he remained until his enlistment in the U.S. Army in March, 1942.

Two of Kirkpatrick's three and one-half years in the army were spent in England in the intelligence section of the 100th bombardment group of the 8th Air Force. Discharged from the army in November, 1945, he returned to the Tribune and resumed work as a general assignment reporter. He won the Edward Scott Beck award in 1950 for a series of seven articles on the dictatorship of certain trade unions.

In 1954 he was assigned to the paper's local desk as a copy editor. He was named assistant make-up editor in July, 1954, and early in 1955 was assigned as chief of the Thursday neighborhood news section. In 1957, he returned to the copy desk as copy editor and relief slot man, where he served until he was named day city editor in 1958.

Mr. Kirkpatrick is a member of the American Society of Newspaper Editors; Associated Press Managing Editors Association; and a committee member of the American Newspaper Publishers Association. He belongs to the Chicago Club, the Commercial Club, the Executives Club, the Glen Oak Country Club, the Tavern Club, and is a member of Northwestern University Associates and of the Citizens Board of the University of Chicago.

Born in Waterman, Illinois on January 8, 1915, Kirkpatrick was educated at Waterman public schools and the University of Illinois, from which he was graduated with honors in 3½ years. He married Thelma DeMott of Chicago on February 13, 1943. They have four children; Pamela, born in 1946; Bruce, born in 1948; Eileen, born in 1952; and James, born in 1954.

ENERGY AND THE ENVIRONMENT

HON. JOHN WARE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 9, 1971

Mr. WARE. Mr. Speaker, I want to take this opportunity to bring to the attention of Members of the House of Representatives the remarks made by Robert G. Dunlop, chairman of the board, Sun Oil Co., before the Wharton School Alumni Society, University of Pennsylvania, upon receipt of the Wharton Gold Medal on December 2.

I feel that the subject "Energy and the Environment" should be of particular interest at this time and I am pleased to share Mr. Dunlop's views with my colleagues:

ENERGY AND THE ENVIRONMENT: BALANCING REQUIREMENTS AND RESPONSIBILITIES

President Meyerson, Governor Shapp, ladies and gentlemen:

It would be difficult for me to express fully the deep sense of pride I feel in accepting the Wharton Gold Medal this evening.

I am proud because I am keenly aware of the extraordinary reputation for excellence that the Wharton School and its staff and graduates have achieved in the academic and business worlds. To be associated with that reputation for excellence and with the people who fashioned it, through the medium of this award, is an outstanding honor, indeed, and I thank you.

It is particularly a pleasure to receive the Gold Medal on the 50th Anniversary of the Graduate Division. I wish you a happy birthday, and at the same time extend my congratulations to the five distinguished alumni whom you are honoring on this memorable occasion.

Perhaps at this point I ought to share with you a personal story. In announcing my selection, the University said it was a break with the tradition of not considering Wharton alumni for the award. What it didn't say was that for some years now my voice has probably been the loudest and most persistent in pushing for precisely that—recognition of alumni. So I face you this evening with the lingering thought that maybe my selection was simply a means of finally shutting up Dunlop on the alumni issue.

If that is the case, I am only slightly embarrassed.

I want to add that the pride I feel this evening is tempered by an equally strong sense of humility. For I recognize that in honoring me you are really honoring many others who have contributed very directly to whatever measure of success I have achieved.

Among those in my thoughts tonight are my mother and father, who taught me early in life the importance of establishing personal goals and persisting in efforts to attain them. My wife, who has given me wise counsel, honest but gentle criticism, and continuous encouragement. Mr. J. Howard Pew, who over a period of many years has shared with me his wisdom and knowledge and honored me with his confidence and trust. Other business associates who have given me unswerving loyalty and true friendship. And the Wharton School itself, which prepared me to take advantage of the opportunities that have made my career in business an unending source of challenge, satisfaction and enjoyment. I have much to be thankful for, and many to be thankful to, and I am intensely aware of both this evening.

Now I am going to ask you to consider with me briefly a matter that I feel is vital to the future well-being of our Nation and all of its people. I refer to the gathering storm over energy and the environment. I know the issues involved are not new to you, for they have been highly visible in the news media during the past year. But today the controversy is with increasing frequency being billed as energy *vs.* the environment. And the grave implications of those words point to a compelling national need to dig below the surface of day-to-day developments and to confront directly the basic issues we face—our requirements and our responsibilities—in the intertwined areas of energy and the quality of life.

The heart of the matter is that for the first time ever in peace-time we face the real possibility of a shortage in energy supplies, particularly petroleum supplies. In a sense we are faced with potentially starving in the midst of plenty. For the National Petroleum Council recently estimated that 55 per cent of the discoverable oil in this Country and 66 per cent of the discoverable natural gas are still in place waiting to be found.

We simply are not finding and developing those reserves at a rate commensurate with steadily rising demand. Since 1960, proved reserves of natural gas have dropped from a 20-year to a 13-year supply, and oil reserves have fallen from a 13-year to a 9-year supply (excluding Alaskan oil which is not now available for use). Our reserve oil producing capacity—the capacity that enabled our Country and our allies to weather such past emergencies as the Suez Canal closure in 1967—is steadily disappearing, and will be completely gone by 1975 if the present trend continues.

The result is that we are becoming increasingly dependent upon foreign oil. The National Petroleum Council has warned that if present policies are continued we will depend upon foreign nations for almost 60 per cent of our oil by 1985. That reliance would be heavily concentrated in the Middle East, where most of the oil is and where political considerations raise grave questions about continuity of supply.

The growing concern over energy supplies has been matched by a growing concern for preservation of the environment. And since both the development and use of energy have a relatively high pollution potential, much of the environmental anxiety has tended to focus on petroleum-related issues. Several accidental oil spills, particularly the major spill in the Santa Barbara Channel off California, have heightened tensions. As a result, strong opposition has developed to offshore exploration and drilling and to the location of transportation and processing facilities in what are regarded as ecologically-sensitive areas.

It is against this background that I want to direct your attention to the urgent need for rational discussion and reasoned judgment in working out policies that will effectively balance our environmental and energy requirements and responsibilities in the national interest.

The requirements are clear-cut, and quickly stated.

We depend upon petroleum for fully three-quarters of all the energy we consume in this Country. And much of it is used in the form of transportation fuels for whicn there is essentially no substitute technologically available today. In brief, our military security and our economic productivity—and, therefore, our very existence as a Nation—are directly and inescapably tied to the availability of petroleum.

In the face of rising petroleum demand, environmentalists and others have argued eloquently for conservation of our energy supplies through more efficient use. I wholeheartedly support that objective. But I must say also that even maximum efficiency in use will not solve our energy supply problem. For energy requirements will steadily rise as our population grows, and as we produce more to meet the essential needs of people who are not now fully sharing in our economic progress. I suspect that there are few among us who would seriously opt for zero growth. Surely those who want improved educational and vocational opportunities for their children would not—nor, significantly, would those who realize what tremendous capital investments will be required to clean up our air and water.

Equally important as the need for fully developing our energy resources is the nonnegotiable need to do so in a way that is not damaging to the environment.

The responsibilities that parallel these energy and environmental requirements are not quite so clear. So defining and accepting the responsibilities are the real challenges we face.

I acknowledge at the outset that the heaviest responsibility rests squarely upon the petroleum industry. I see this as a three-fold one.

First, our industry must improve its technical capability to find and produce efficiently conventional supplies of oal and gas. Concurrently, we must develop through continuing research and experimentation a new capability to produce at acceptable costs synthetic fuels from the coal and oil shale deposits which we have in abundance.

Second, we must accomplish this without damaging our air and water resources or otherwise harming the environment. This requires, first, that environmental impact be a priority consideration in all policy and operational decision-making. And it further requires continuous effort to build environmental safeguards into equipment and procedures and processes, and continuing research on new and more effective approaches to eliminating or controlling pollution.

Third, we must make our special knowledge of the energy business and its problems and prospects available to those in government who are charged with formulating energy policies that will effectively advance the national interest.

I will add very frankly that in my view we can and must improve our performance in each of these areas.

The responsibilities of government rank just below those of the petroleum industry in priority.

Over-riding all others is the direct responsibility of government to establish energy policies that will encourage and stimulate effective private development of our resources. This will require, above all else, policies that are based on minimal government interference with market processes.

To put it another way, to assure the energy this Nation needs for the future we must halt the trend toward public decision-making on energy matters and permit market forces to operate with the maximum degree of freedom consistent with military and economic security requirements. The outstanding example of counter-productive interference with the market is the natural gas price control our industry has lived with since 1954. It has played an important part in precipitating the energy problems we face today, and will be equally damaging in the future if continued.

I realize that economic measures now being implemented by the Administration run directly counter to the free market concepts I have just espoused. Hopefully, they will be of short duration, for I am convinced that protracted interference with the market will have disastrous consequences.

Second, Government must provide leadership in the environmental improvement effort through the formulation of basic policies and the setting of standards. It is extremely important here that the policies established be directed toward the achievement of realistic goals, and that regulations be sufficiently flexible to permit varied and innovative responses to problem situations.

In my view, effective fulfillment of these responsibilities by government will require major changes in direction in energy policy and a much more objective and much less political approach to decision-making on environmental matters.

Next are the responsibilities of those who have chosen to assume leadership roles in the environmental improvement and conservation areas. I suggest that these people and organizations have two major responsibilities of equal importance.

The first is functioning in a watchdog role to assure that full consideration is given to environmental factors in resource development and other undertakings. This monitoring activity is a service to the entire Nation, and deserves the support of the entire Nation.

Second is a responsibility to provide objective evaluation of the environmental impact of proposed developments and reasoned recommendations that honor both environmental goals and other essential needs of people. And here, I think, many environmentalists have a considerable distance to go to reach a posture that is in the best interests of the American people.

The essence of the problem as I see it was caught very neatly in a recent *New York Times* review of a new book by Barry Commoner. The reviewer, who gave Mr. Commoner a high mark for objectivity, made the point that environmentalists usually speak in one of two voices: A high, thin hysterical shriek, or a deep rumbling anticipation of gloom. Both seem to reflect a complete preoccupation with the environment as an entity, to the exclusion of people and the processes that support people. A moderated voice of reason between the two extremes is heard far too infrequently.

But the need for reason and realism on all sides is essential if we are to deal effectively with the energy-environment issue. For it is a fact of life today that offshore and onshore areas that are considered to be ecologically sensitive are the most promising for new petroleum discoveries. Atlantic Coast offshore areas and Alaska are key examples. Many environmentalists are opposing petroleum exploration and development projects in these locations on grounds ranging from unsightliness to disturbing wilderness areas to seriously upsetting ecological balances.

The primary example of the impact of these views is the Santa Barbara Channel, where the Federal Government recently refused to permit the placement of additional drilling platforms.

Perhaps an even more significant example is the opposition that is building to petroleum exploration offshore of the Atlantic Coast. No leases have yet been offered for sale, but the scheduling of an environmental impact hearing for next November has drawn sharp criticism from East Coast government officials and environmentalists. The nature and philosophy of the opposition came through clearly at a conference earlier this year sponsored by the New York Ocean Science Laboratory:

The Speaker of the New York General Assembly warned that (and I quote) "those who would like to find new energy sources are in for serious trouble" . . . representatives of Long Island conservation groups said they were preparing for (and I quote) "the biggest environmental lawsuit in history" . . . and another New York assemblyman promised to introduce legislation establishing a sanctuary and banning drilling.

The danger is that in this flood of rhetoric and charge and counter-charge the thread of the public interest is going to be completely lost. For there is an unfortunate tendency among environmentalists to take positions based on their perception of what is necessary to preserve the environment, with little or no consideration of the other needs and expectations of people.

What we desperately need today are objective analyses of the facts and reasoned judgments about how we can best protect our environment and meet our essential energy needs at the same time. To achieve this we must keep two points firmly in mind.

First, we need to realize that new legislation and new investments in facilities and research have set the stage for real progress in pollution abatement and control in the next five to 10 years. But time *is* required to get results, and in the interim we should avoid rash actions or reactions that could have dangerous implications for the future.

Second, we must consider environmental issues in the light of past performance and experience over time and not just on the basis of individual incidents. I submit, for example, that the petroleum industry's conservation record is a good one—not the best possible, not impossible of improvement, and not even as good as we would like it to be—but still a good one. There have been only six major mishaps, three spills and three fires, in the drilling of more than 14,000 offshore oil and gas wells up through 1971—and the fires involved little or no pollution. This is an accident rate of four ten-thousandths of one per cent. And we are working to do better.

What the issues boil down to, ultimately, are judgments about the acceptance of reasonable risks. And I think objective analysis will show that the environmental risks involved in offshore drilling are, indeed, reasonable and acceptable.

The final responsibility I want to mention is in some respects the most important of all. I refer to the responsibility of the academic community—a responsibility shared by many of you.

If there is one group to which we look above all others for objective analysis, intellectual honesty and reasoned judgments, it is you. Traditionally, you have carried a heavy responsibility to represent the general public interest, as a balancing factor in groups where others have special interests. I suspect that seldom in our history has the need for calm deliberation and wise judgment in the public interest been more vital than it is now in relation to energy and the environment. The issue literally demands your attention, your analysis, your deliberation, and ultimately, your policy recomendations in the public interest.

I am convinced that what we need most as a Nation today is a new commitment to cooperative effort in striving to reach common goals. And I think you can contribute much to building that commitment. For you who represent our great universities have a unique opportunity, through a combination of talent, and tradition to help develop the climate in which conflicting views can be reconciled, and to identify the common ground on which issues can be resolved.

Early in the preparation of my remarks for this evening, I faced the question of whether I should lay this heavy burden on your shoulders. I decided that I must because the security and economic well-being of our Country are at stake. Furthermore, time is running out. So I urge you to become involved, to contribute your special capabilities to a shared effort to secure the future.

In asking this, I am reminded of these words of Albert Schweitzer:

"The development of civilization comes about, to put it quite generally, by individual men thinking out ideals which aim at the progress of the whole, and then so fitting them to the realities of life that they assume the shape in which they can influence most effectively the circumstances of the time."

THE RIGHT OF HANDICAPPED CITIZENS TO PARTICIPATE IN FEDERAL PROGRAMS

HON. CHARLES A. VANIK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 9, 1971

Mr. VANIK. Mr. Speaker, the treatment and regard for the rights of handicapped citizens in our country is one of America's shameful oversights. In an effort to provide increased assistance and equal opportunity for the handicapped of our Nation, I am today introducing legislation to provide equal treatment of the handicapped in all programs which receive Federal assistance.

More than 40 million Americans of all walks of life have been disabled in our wars, in our highway accidents, through disease, and by the ravages of poverty.

Twenty-two million people in the United States have a physically disabling condition severe enough to interfere with their major daily activity; one in 10 Americans has a mental condition severe enough to require psychiatric treatment; 6 million persons are mentally retarded; hundreds of thousands have been crippled in traffic accidents. Disabled war veterans from World War I and II, Korea, and Vietnam number several million. Two hundred thousand Vietnam veterans are receiving compensation from the Veterans' Administration for service-connected disabilities.

The number of handicapped is growing daily. Every year 100,000 babies are born with defects that will force them to use crutches, braces, or wheelchairs for all of their lives.

The masses of the handicapped live and struggle among us, often shunted aside, hidden and ignored. How have we as a nation treated these fellow citizens?

In this country we still have the snakepit mental institutions—institutions for confinement without treatment, where brutality and unexplained deaths are common. We have 1 million handicapped children who are excluded from school. We have employers who fear to hire the handicapped believing that the handicapped are more likely to have accidents, thus raising the workmen's compensation rates and insurance costs. Our Governments tax these people, their parents and relatives, but fail to provide services for them. The parents of handicapped children pay school taxes—and cannot send their children to public school. They pay Federal taxes, but how much effort is made to help educate the nonschool handicapped child through ESEA, impacted aid, and other programs. The armed services train hundreds of thousands for jobs—but have abandoned efforts to use slow learners and retarded persons in low skilled jobs. Where is there a Job Corps camp for the handicapped? The opportunities provided by the Government almost always exclude the handicapped.

Today, the handicapped are generally a hidden population. Only the most daring and brave risk the dangers and suffer the humiliations they encounter when they try to live normal, productive lives. But the time has come when we can no longer tolerate the invisibility of the handicapped in America. We can no longer ignore the fact that the U.S. Office of Education estimates that over 1 million handicapped children are excluded from school and exist in a no-man's land between school, the State institution, and home. The opening statement of the report of the Joint Committee on Mental Health of Children speaks of this cold reality:

> We proclaim that we are a nation devoted to its young. We believe that we have made great strides toward recognizing the needs of children and youth. Yet we find ourselves dismayed by the sheer number of emotionally, mentally, physically, and socially handicapped youngsters in our midst. It is shocking to know that thousands of children are still excluded from our schools, that millions in need go untreated, and that many still suffer from hunger and malnutrition . . . . Unwillingly, we have failed to commit our vast resources to promote the healthy development of our young.

Education and vocation training is perhaps the great equalizer of employment opportunity in that it provides the individual with the most basic tools of any trade. Education of the handicapped is one of the most cost-effective endeavors the American educational enterprise has ever undertaken. It costs the State $150,000 for the lifetime of a mentally handicapped person in an institution, but appropriate educational services for the handicapped can turn a negative societal contribution into a positive one for the individual and for the whole society.

Handicapped children, even the most severely handicapped, do learn when given the chance to participate in educational programs tailored to meet their special needs. The incredible number of mentally handicapped not receiving any educational services is one of the great tragedies in the American way of life. I discovered from the U.S. Office of Education that less than 40 percent of the 7 million handicapped children receive the educational services they need.

"Closer Look," a project funded by the Bureau of Education for the Handicapped, receives 35,000 inquiries a year from parents seeking appropriate educational services for their children. The following cases are examples of the inquiries they receive:

> (1) I have an emotionally disturbed son, one of five children. He is nine years old. I have tried to get him in special education for almost two years. I keep hearing he's on a list: wait. He had all tests, I talked to teachers, principals, psychologists. That does no good, if they go on ignoring the problem. I am very concerned and wonder how many other children are neglected like this. You advertise on TV, in newspapers, then have no room for these children! Maybe it is only in my area. I hope it isn't a widespread problem.
>
> (2) My son is very unhappy. I hear so often, "I want to die." I know his environment and also I am partly to blame. I am raising the children alone now. I'm on welfare out of necessity. I would like to work but with his problem plus the other children I feel I should be here to give him some kind of security. He had a tumor removed in June, and needs orthodontic work I can't afford and eye problems which also add to his inferiority feeling and depression. If only I knew who to turn to for help, I would. I would also like to help others with similar problems.
>
> (3) If you can give me any information or help, it would be very much appreciated. Sometimes I wonder if you even know how little help is really given to the ones that need it. I've already been to Mental Health Services and Family Service which I go to regularly. Mental Health Services saw him once a week for a while but didn't seem to think it helped. I really don't mean to blame anyone, I'm just trying to find help.

Another letter from a California dentist indicates that the problem is not limited to financial means:

> My wife and I have exhausted all local agencies in an effort to get schooling for our thirteen year old autistic son. With only two years of schooling (in private school) our son can read at eleventh grade level, and shows an interest in social and geographical subjects. He reads encyclopedias, and is knowledgeable in natural science. He is at home, and needs desperately to attend school.

The importance of education is being increasingly recognized by our citizens, educators, and employers.

Judge Wilkins of the Third Judicial District Court of Utah, in 1969, rendered a decision concerning the denial of admission to the regular school system to two trainable mentally retarded children:

> Today it is doubtful that any child may reasonably be expected to succeed in life if he is denied the right and opportunity of an education. In the instant case, the segregation of the plaintiff children from the public school system has a detrimental effect upon the children as well as their parents.

Recent decisions in various judicial jurisdictions have attempted to define and guarantee the rights of handicapped citizens. In the past, the reason for excluding these children from their right to an education has never been very clear. At times, handicapped children were seen as a physical threat or as uneducable. In one case a court ruled that a cerebral palsied child, who was not a physical threat and was academically competitive, should be excluded from public school, because his teacher claimed his physical appearance "produced a nauseating effect" on his classmates.

The U.S. District Court for the Eastern District of Pennsylvania has just handed down an order which provides a revolutionary landmark decision respecting the rights of the handicapped and those who support them. The case entitled Pennsylvania Association for Retarded Children against the Commonwealth of Pennsylvania, involved a court suit against the State for failure to educate all its retarded children. The parents of the children argued that the denial of such education was a violation of the equal protection clause of the 14th amendment of the United States. The court noted that if education was provided for some it must be provided for all.

Cases like this one are developing across the country. The movement into the courts reflects the parents' frustration with the situation that exists in our present school systems and State and Federal aid programs.

There is a vital message in the decision for those in America who wish to protect the civil rights of the handicapped. Not only is exclusion from educational services a discriminatory practice, but it is a violation of due process rights. While implementation of full due process will be burdensome to the schools, it will serve the best interests of the children, which they are entitled to as U.S. citizens.

In response to an inquiry from my office, the Secretary of Health, Education, and Welfare, Elliot Richardson, indicated:

> In our view, the Court's decision in this case [P.A.R.C. v. Penna.] has no direct bearing on legislation now in effect in states other than Pennsylvania, since the action taken by the Court was predicated on the consent of both parties to the suit. However, it is hoped that other states will follow Pennsylvania's lead in inaugurating the important reforms represented by the Court's two orders.

My proposed legislation will insure equal educational and employment opportunities for the handicapped by making discrimination illegal in federally assisted programs and activities.

ABUSE OF PRIVILEGES BY TAX-EXEMPT GROUP

HON. LOUIS FREY, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 9, 1971

Mr. FREY. Mr. Speaker, there occurred over the weekend a so-called Emergency Conference on New Voters that was run by the Association of Student Governments, a tax-exempt group, and the Americans for Democratic Action under allegedly nonpartisan auspices, as it must by law. That the conference was never meant to be nonpartisan and was deliberately designed as an assault on the President and the Republican Party was clear from its choice of speakers, participants and its open exclusion of Presidential supporters. Well-known office holders and supporters of the President and spokesmen for the mainstream of Republican thinking were denied repeated requests to be allowed to appear.

It must be said that many of the participants there were shocked by the cavalier in which the leadership of the conference attempted to manipulate the young people for their own political ends. Indeed those who cynically try to exploit the new young voters by covert use of the cover of a nonpartisan tax-exempt group in order to attract well-meaning young people are deserving of only the contempt and disgust of the young. The contrast between this way of reaching young people and that of our President who is proud of his record and quite prepared to defend it in the open political arena for all to see and judge is indeed a stark one.

STEF A CHAMPION AS A DELEGATE AND AS A MAN

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 9, 1971

Mr. WILLIAM D. FORD. Mr. Speaker, I would like to call the attention of my colleagues to a resident of my congressional district whose life story offers an unmatched example of courage and of success despite overwhelming odds.

The man is Stefan Florescu, and to hear of his achievements and accomplishments you would never dream that he has been a quadriplegic, confined to a wheelchair, for the past 20 years.

Florescu, or Stef, never dreamed the path his life was to follow when he was graduated in 1951 with a degree in sociology from St. Ambrose College, Davenport, Iowa. He was a four-letter man in track, and has been voted track athlete of the year.

Just 1 year later, after a diving accident, he was left paralyzed and his plans for a bright future appeared doomed. But his courage had not been affected. In the intervening two decades, Stef has won medals for athletic prowess; he has become a nationally known leader of the handicapped; he is a writer, editor, and publisher; and he is one of the most active Democratic precinct delegates in my district.

Some of Stef Florescu's accomplishments are outlined in an article which appeared in the November issue of the Michigan Democrat, and I would like to include the article in the RECORD at this point:

STEF, A CHAMPION AS A DELEGATE AND AS A MAN

Stefan Florescu is a Democratic delegate in the 4th precinct of the 15th District, Lincoln Park.

In 1951 he was graduated from St. Ambrose College, Davenport, Iowa, with a degree in sociology.

Stef was a four-letter man in track. A champion. The St. Ambrose Monogram Club voted him "Track Athlete of the Year." That, too, was in 1951.

A year later, a diving accident left Stef "medically classified as totally and permanently disabled."

A quadraplegic but still a champion—as an athlete and as a man.

In the 1964 Tokyo Wheelchair Olympics he won a Gold Medal in table tennis. Silver and Bronze medals in swimming.

If there were any medals around today for champion precinct delegate, Stef would have to be up for a Gold.

He works at the job of precinct delegate.

Example: A questionnaire. Eight hundred distributed in his precinct. More than 100 returned, filled out. The questionnaire stated, in part:

"I am trying to do a good job in my first year as your elected precinct representative. Won't you please help me by taking a few seconds to fill out this brief questionnaire. You don't have to answer these questions but at least give me your name and address so I can let you know what's going on."

Stef asked if the neighbor was registered, or "not certain." He asked for the names of "teens and pre-teens" in the family.

Comments and suggestions were sought:

"How do you feel about state taxes, Lincoln Park schools, urban renewal, crime, the war?"

Taxes, Stef found, were the top concern. His quiz sheet ended with a thanks and noted:

"Now at the next political meeting I know that I will be representing somebody other than just myself. I am convinced that some form of grass root participation in the government of our country is necessary to preserve our democtraic processes."

Stef followed up by inviting the 100 who replied to a meeting. It was a success. He reports:

"And now I have a nucleus group with whom to work and represent at 15th District meetings."

Invitation to the meeting was on a postage-prepaid return postal. His message said, in part:

"Thank you for the interest you have shown. The overall response was beyond my expectations and it may just be possible that our neighborhood will become a community-wide example of what grass root citizenship can do."

That meeting was at the Florescu home, 1466 Lafayette, on August 20. There have been meetings every month since. A "Fourth Precinct Caucus" of the 15th District has been organized and the District encouraged to:

"Appoint a standing education committee to provide information, instruction and help in guiding precinct delegates in effective and progressive participation" at the grass roots level.

In addition to being a precinct champion, Stef is a writer, editor, publisher, song leader, promoter of wheelchair athletic programs and competitions.

His wife, the former Caroline Tupper, is a graduate of St. Thomas Aquinas College and is an assistant Wayne County prosecutor. They met at a swimming party—he's the better swimmer.

Florescu is either founder, charter member, past president or active member of many local, state and national associations.

He is founder of the Annual Michigan Wheelchair Games; founder of the Michigan Paralyzed Veterans of America; founder of the Detroit area's Architectural Barriers Committee; past board member of the Michigan Rehabilitation Association; past member of the Executive Committee on the President's Committee on Employment of the Handicapped; a member of the National Wheelchair Athletic Association; a member of the V.F.W. Davenport American Legion, past National President of the National Association of the Physically Handicapped.

Stef is currently editor and publisher of the "Wheelchair Competitor," the first magazine devoted exclusively to reporting and promoting wheelchair sports.

Slogans for Stef's magazine is:

"Minimize the Handicap and Maximize the Achievement."

For Stef it's a personal creed.

BUDGET WOES PLAGUE IMMIGRATION AND NATURALIZATION SERVICE FIELD OPERATIONS

HON. JACK H. McDONALD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 9, 1971

Mr. McDONALD of Michigan. Mr. Speaker, there has been a sharp cutback in Immigration and Naturalization Service field operations against illegal aliens as a result of "strict budgetary limitations and shortage of available funds."

The quotation is from a teletype message sent August 27 by Leonard W. Gilman, INS southwest regional commissioner in San Pedro, Calif., to the Los Angeles district office.

Gilman's instructions were that only Mexicans here illegally who had money for their fares were to be loaded aboard buses for return to Mexico. "Voluntary departure" status would be granted aliens unable to pay. Previously, if an alien could not pay his way home, the Government bought his ticket.

The practical effect of this order was to cause the release of many Mexicans illegally in this country who claimed they could not buy a bus ticket.

Granted "voluntary departure," the Mexican is given a card bearing a green stamp that authorizes him to work until he leaves. This amounts to permitting him to stay in the country until he can acquire a wife or family or job skills that would entitled him to remain in the country under existing law and court rulings.

The same order also called for release of aliens held in jails for deportation because of the costs incurred.

In a subsequent August 30 letter to police officials, Donald T. Williams, acting district director in Los Angeles, said that:

> Because of the shortage of funds we will no longer be able to authorize the booking of deportable aliens at Orange County or Los Angeles County jails, nor in any other facility which would result in detention expenses to us, except when approved in writing by this service. This condition will exist until further notice.

Similar letters went to police authorities throughout the Nation.

In Boston, police subsequently released eight aliens being held for deportation, one of whom had been convicted of armed robbery. Another had been arrested during a narcotics raid.

An alien convicted of a felony such as armed robbery often receives only a suspended sentence because he can be deported. In this instance, and possibly in many others, a shortage of money with which to carry out the law seems to be having the effect of circumventing justice.

ED KING, HOST OF "PARTY LINE," DIES

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 9, 1971

Mr. GAYDOS. Mr. Speaker, in mid-November, thousands of radio listeners in Pennsylvania and throughout the United States lost a man they had come to know as a warm, personal friend—Mr. Ed King.

Ed, along with his gracious wife, Wendy, hosted an audience participation program on radio station KDKA in Pittsburgh for more than 20 years. "Party Line" premiered on January 1, 1951, and grew to be one of the station's most popular shows, solely because of the charm, intelligence, and personality of Ed and Wendy. The show was on six nights a week and in all that time Ed missed only two programs—until November 5, when he learned he had terminal, inoperable lung cancer.

Born in LaCrosse, Wis., Ed began his broadcasting career early. He was only 12 when he did a show for WKBH in his hometown. Later he worked for WSJW in Winston-Salem, N.C., and at WOWO in Fort Wayne, Ind. He left Fort Wayne to enter the service during World War II. Ironically, his place at the station was taken by the young lady he was destined to marry after the war. Ed returned from the service, met his wartime replacement and married Wendy in 1945. Six years later, at KDKA, Ed introduced "Party Line," which would have celebrated its 22d year next month.

Ed King's thirst for knowledge was unquenchable. He was a voracious reader and a veritable warehouse of facts and figures. KDKA listeners were amazed to learn Ed used no reference books on "Party Line," although the questions put to him and Wendy touched on any and all subjects.

Ed King made no secret of his pride and love for America. He was a student of history with a particular bent toward the Civil War. It was not surprising, therefore, that before his death he expressed the desire to be buried in a national military cemetery. He was—in Gettysburg National Cemetery, Gettysburg, Pa., where his grandfather and great-grandfather are also buried.

Mr. Speaker, Ed King died November 18, almost 108 years to the day after Gettysburg National Cemetery was dedicated by President Lincoln on November 19, 1863. He will be sorely missed by the thousands who knew him personally and the thousands more who knew him as the genial host of "Party Line."

ALASKA NATIVE LAND CLAIM SETTLEMENT LEGISLATION

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 9, 1971

Mr. DINGELL. Mr. Speaker, I ask to insert the text of a letter which I have received, together with the text of a speech mentioned therein, dealing with Alaska Native claims legislation at this point in the CONGRESSIONAL RECORD:

"THE OTHER 80%,"
Anchorage, Alaska.

Subject: Alaska native land claim settlement Legislation.

DEAR SIR: Please find a recent speech made to the public on television and to the Anchorage Press Club by an Alaskan Legislator, Mr. Earl Hillstrand to our Anchorage and Fairbanks audience during the first week of December.

We urge you, to please spend the short time it takes to read it, as it is felt, this represents the attitude of the great majority of Alaskans.

Possibly you will question, why Alaskans haven't spoken up before. It is because we did not know what kind of Bill was going to be passed by the House and Senate until two weeks ago. The average Alaskan is still unaware of the implications of this Bill. It is true, Alaskans spoke, saying "Settle the Native Land Claim". But we never meant at any price!

It is our fervent hope that this Bill will not pass at this time, so Alaska may re-assess the proper settlement of these claims on a less urgent and more rational basis.

Please, will you help us?

Very best regards,
RICHARD B. DAMEY,
Chairman, "The Other 80%.

EARL HILLSTRAND SPEECH

Good evening. Although I am an Anchorage Legislator, I speak to you about the native claims if you will let me, primarily as a father and a grandfather of Alaskans, wanting only one thing for them and the children of all races, living in Alaska, to live in a state under the accepted right of equal treatment for all people. Equal opportunity if you please, to work toward a satisfying, rewarding life where all are treated the same, none differently, In reviewing the buildup of the claims I remember that when I first came to Alaska no one really bothered, no one was concerned. The natives were using the land for whatever they wished in and out of the villages doing the things they chose to so. Then came oil. Oil was found in economic quantities in Cook Inlet followed shortly by the sale by the Tyoneks of this resource. The drums began to beat, people gathered to the cause of the native claims, little thought being given to whether or not they were truly native leaders, persons inside and outside of Alaska, native and non-native interested in securing the benefits of sudden wealth. The professionals joined the group and about that same time the politicians did likewise for the platform of both major political parties started having planks urging the early, equitable, just and generous settlement of the claim.

Now what was the Alaskan thinking about when this began? Just about like you do now, revelling in the good fortune anticipated by the natives. After all, who could find fault with equity and justice, much less the good fortune of your friends, your neighbors, and your brother?

Several years passed and Secretary Udall of the Interior comes to Alaska and offers to settle the claims by giving the natives approximately 170 million dollars out of revenues from Gulf of Alaska oil. The professionals, the politicians, the native leaders were joyous. But this did not last long for as you remember, the offerings and the demands led from four million acres to eight million acres to sixteen million acres and on up, money increasing all the time. And then we have Prudhoe Bay and the "lid" comes off the claims.

We are faced today, at this very moment, with measures being considered by the preconference committee in the House and the Senate that could very well affect the lives and the social and economic and political well-being of this state forever. We are told that these are good bills, good for Alaska and its people. But are they? Have our leaders really created a beneficent and just "Jolly Green Giant" or have they spawned a monster, destructive to the way of life as Alaskans know it, the desires of its people?

Let us review what the proponents say are the benefits of the measures and you judge for yourself. First of all it is claimed by the proponents that with this money and with this wealth of land the native will be brought victoriously and triumphantly into the 20th century, able to cope with the complexities and sophistications that exist. Now this is not true at all. For example, I will remind you that since the turn of the century the homestead laws have permitted natives and non-natives to secure right title and interest to 160 acres of land. Cabin and homesites have been available to all citizens together with the trade and manufacturing sites that have also been available to be secured by natives and non-natives. In addition to these we have "The Native Allotment Act" which permits the natives, a prerogative only shared by the natives, to secure up to 160 acres of land if they choose, any time, any place without doing all the things that the homestead laws require.

Then too, under the mineral leasing laws, every citizen of this state can go upon the land, discover an item of value, do his work and eventually prove up. The amount of land was unlimited. These are three basic avenues of acquisition of land that have not been taken advantage of except that in the last few years the native allotment plan has been activated coincidentally in the areas of the pipe line corridor. Now we are concerned with the second element that gives the lie to this being the answer. That is the one that the money will provide the means of transition. I will remind you, in case you've forgotten, that the American taxpayer, the Alaskan taxpayer, since the turn of the century has spent hundreds and hundreds and hundreds of millions and millions of dollars just for the natives, for his health and hospitalization, for his travel and transportation, for his welfare, for his education, yes even his housing and I am sorry to report, or at least confirm, that this has not been successful. It's availed the native not. And in the third part of this conjecture that shows the proponents are wrong in this point, is that the trouble with the white man, and the trouble with 20th century thinking, is that he believes he can equate all of the problems with money, and money most time is not the true answer. The truth of the matter is that to assist the natives to succeed in his lifetime you must do one thing, and one thing only, and that is to permit him to walk the pathways of his chosing, and at his own pace. Sure, assisting him and helping him wherever you can and wherever it is proper but as a citizen of the state, not as a Native, but as another human being.

Now, we are told that with the settlement of claims as proposed we will make redress for dislocation, mistreatment and exploitation.

Now all you have to do is ask yourself when, how, and where or by whom. Now it may be true in experience with the Russians and I understand through the Native history that it is true between native tribes, fighting and preying, one upon the other but as far as the American government is concerned and as far as the Alaskan government is concerned it is not true and has never been true.

Now we speak on the third point, or the proponents do, about extinguishing *aboriginal* claims. Yet just the other day, in his flap with Governor Egan, Don Wright, one of the leaders said concisely and clearly that the natives must be guaranteed the right to select first, those lands of *economic value*. Not lands of my father, not lands that I have reduced to use, not lands where I fish, not lands where I trap, not lands that I want to pass on to my sons, but lands of *economic value*. Everybody in Alaska today, knows that this economic value relates solely and simply to *oil*. It was on this admission that I said before the press club, the other day, that Don Wright speaks with a forked tongue.

In speaking with another leader, Mr. Harry Carter, the other day, I am told by him, that this measure confronting congress today, if passed, will forever ban discrimination. To this I say hog wash. Nothing could be further from the truth. Here in Alaska, the example of integration, where the color of a man's skin hasn't the meaning it has elsewhere. Congress proposes to establish what could be the most divisive of measures, laws under which Alaskans will have to live. For it proposes to take lands that yesterday thought belonging to all, and give them to a few. It proposes to take five hundred million dollars out of the pockets of all Alaskans and give it to just some. What Mr. Carter has on his mind, when he says that this will end discrimination, I don't. But I say to you that this discrimination of the first order, because it establishes the power of a monarchy in the hands and for the benefit of those who qualifications for such privilege comes to them through blood lines and when we talk about the 20th century it is pretty hard to conceive of such a happening. Now we are told too, by those advocates of these measures, that with the passage of these bills that a permit to build the pipe line will issue.

The pipe line will be built and Alaska's economy will be assured. Now this could be, but let's think about it for a minute. You know that the gullible will believe anything and you people in Fairbanks know, as the people in the business community down here know, that the over inventoried business man, men with tremendous amounts of equipment in their yards rusting, and the bankers knocking on his door wanting payment, has got to believe this. The third group are what I term the, "game players". Now let us concern ourselves with the gullible, and consider the besieged business man. Now believe me, for what it is worth, that every person in Alaska sympathizes with you, that there is an answer, there is a way but certainly you will agree with this that it be not at the expense of the Alaskan way of life, and it should not result in a divisive measure visited upon the people of Alaska. Now as far as those that play games let me recount a little history. First of all we have one of the outstanding petroleum attorneys in the world, Mr. Wm. Block Jr., who wrote an opinion that states categorically that there is not legal right to the claims, but let's settle them anyhow because that will permit the unlitigated acquisition of the pipe line corridor route. Following this we have an expression by the head of the Alyeska Pipe Line who says, "you've got to settle the claims before the pipe line can be built". Now these men that are listened to by Alaskans and apply tremendous pressures because these are the things we want and yet the former Secretary of Interior, Wally Hickel, stated categorically that the technological advancement of the Americans' capability is such that they can build a suitable and safe pipe line any time, any where. Let me tell you, that the pipe line will be built and only built the minute the oil companies want it, not one minute before. So much for the proponents, saying what they think the bill will do. Let's look at the bills themselves and see if there is all sweetness and light.

For example I want you to think about this. There is not sufficient lands in Alaska to accommodate both the demands of the natives and the balance of the lands that remain for state selection, if you consider lands in Alaska under 2000 feet being of value. Now consider the alpine level which is beneath 2000 feet and then you really get in trouble selecting lands for all of Alaska after the Natives have selected theirs. Another shortcoming of the measure is that both measures repeal the native allotment act and this removes from the natives prerogative one more opportunity for being free and independent. Reading the bills causes one to shudder when one realizes that there is no protection for the little people from the power of economic control and minipulation that is engendered from such tremendous wealth. Can you imagine a native or non-native getting along without the approval of his masters, the kings of the funds and the land trusts. There is no protection against this tremendous power, and there should be.

One of the elements that has met the greatest storm of protest is the one where all public lands are withdrawn from use and that includes mining. You people in Fairbanks, as well as you miners throughout the rest of Alaska, should be real concerned because what this does is remove the lands and then put them back after some vague time and if classified for mineral purposes, the one who finds it, has the opportunity to compete in bidding for it. Now can you imagine a little prospector roaming the west lands of Alaska searching for something of value and then finding it only to become a loser because there was someone else able to bid more money for it. This is ridiculous because those that think this is smart believe they are going to increase revenues. And what it will do will be just the opposite. One of the heads of one of the largest mining combines in the world said recently that when they examined all the holdings they found that 80 percent of them stemmed from the search and the finding of the little prospector and Alaska, and its way of life will lose, will suffer by this.

Now we talk about taxes for a little bit and the bills do not provide much for taxing except on third party income and just the other night one of the leaders said we, the natives, ought to be free of property taxes for 20 years. Now, really, if there is anything in it, I would love to agree that this would be something, provided it applied to all people. But it doesn't, and this is a poor way of saying to us, or to anyone, to "pass these bills and we will come into the twentieth century where people are to be treated equally", not so.

It is doubtful too, that the natives will get all there is coming to them under these measures the way the proposal is structured. For example, you divide the number of natives into the acreage involved and you find that each and every man, woman and child that is of native extraction, will receive 700 to 800 acres each. Divide the number of natives into the money involved and you find they will get $18,000 to $20,000 for each man, woman and child. And yet just the other day Mr. Willy Hensley said on TV "I do not know what all the flap is all about, it only means a couple hundred dollars to each of us". And this started me thinking, and looking into the bill we find where this may be true, because the structures that are established, spread throughout 7 to 12 corporations and 200 villages are so staffed and so programmed as to wear out the money by the time it would normally reach the truly proper recipient.

Another thing that is bad is that no time has really been provided within which to study these measures. Very few, you can count them on the fingers of one hand, have had a chance to study the senate bill. How in the world would you expect Alaskans to understand the effect of the measure? But yet we are told to shut up, don't say anything, don't rock the boat, you've had plenty of time and you should be informed, we are told that this is a good measure, good for Alaska. Even the right to contest it is removed from the province of the citizen, only an official can correct it.

My time is about up and if you believe that these bills could be destructive of Alaska's way of life and devisive amongst its people, I want you to do one thing, I beg you to do it. Write or wire Governar Bill Egan no later than tomorrow, a night letter will do better, it is a little bit cheaper, and if you will do this you will be doing two things by this one simple act and that is you will be reaffirming to Governor Egan your faith in Alaska and you will be impressing Congressman Wayne Aspinall of the fact that you are concerned enough to care.

Do this, not because I have asked you really, but do it because you love Alaska. Do it because you have hopes for children of all races in Alaska's tomorrow.

In closing, I want to thank the "Other 80 percent", a group of non-political, non-partisan people interested solely in the welfare of their state as they see it, who have distributed cards like this, that are to be signed and sent to Wayne Aspinall, so send in your cards, tell our leaders what you think. Thank you and good evening.

AN ALTERNATIVE TO ABORTION

HON. LAWRENCE J. HOGAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 9, 1971

Mr. HOGAN. Mr. Speaker, one of the terrible paradoxes of the current abortion-on-demand movement is that while abortion proponents have been arguing that women should not bring unwanted and unloved children into the world, thousands of couples, many of them childless, have been frustrated time and time again in their efforts to adopt a child, because no children are available.

Thus the abortion-on-demand movement is not only denying the unborn child his constitutional right to life but also is denying both the child and his potential adoptive parents the chance to participate in loving family life.

This is an unconscionable price to pay, simply because some women are unwilling to endure the inconvenience of carrying a child until his birth.

As Dr. L. Nelson Bell points out in an article which appeared in Christianity Today, the solution to the problem of unwanted pregnancies is not killing unsuspecting innocents in the womb, but rather persuading women to carry their children to term and then place them for adoption.

Dr. Bell, who has spent his entire working life trying to save lives, is deeply concerned about the abortion-on-demand trend, and I insert his article in the RECORD at this time:

AN ALTERNATIVE TO ABORTION

Coming out of a restaurant where I had had lunch I met a young couple I have known for a long time. They have been married six years, and I knew they were childless. But in his arms there was one of these "punkin' seats" and in it a precious baby, sleeping quietly with a cherubic smile on its face.

These young people told me about their search for a baby and how this one had come to them through an adoption agency when he was only twelve days old. He is now in a home where the warmth of love surrounds him, and he has brought to that home great joy.

As we talked they told of another couple, also known to me, living in one of our large Northern cities. They too have been searching for a child to adopt but have been frustrated again and again.

As I walked away there swept over me the feeling that here is the answer to the problem of unwanted babies, the alternative to the burgeoning abortion mills of our land! Tens of thousands of couples would gladly welcome these babies into their hearts and homes.

Not in years have I been as shaken as now, as I realize the widespread indifference to the implications of abortion on demand and the commercialization of this destruction of life.

Although I have retired from the practice of medicine, I am still on the active rolls of some medical societies, and as a result I receive solicitations from organizations that have sprung up like mushrooms in New York State, where abortion on demand is legal. So far I have received letters from six apparently unrelated groups that say they are prepared to handle the whole matter safely and conveniently for those who are referred to them.

That we have embarked on this new approach to the termination of pregnancies bodes ill for America as well as for those churches that have become active in this. It evidences a callous disregard for the realities of the unwarranted termination of life, which sears the souls of all concerned.

There are, obviously, two groups of women who ask for abortions, married and unmarried. The married woman may feel she already has as many children as she wants, or may cite poverty or any one of a number of other reasons, while the unmarried woman may ask for an abortion because she wishes to rid herself of her guilt.

In both cases, how much better to accept the consequences of pregnancy and then permit the babies to be welcomed into the hearts and homes of the childless! This may be "inconvenient," but I believe it is the "Christian" way out of a difficult situation.

I write from neither ignorance nor inexperience, for I have performed abortions in cases where, after full consultation, it was decided that termination of pregnancy was necessary. But I find the brazenness and coldness of approach among some ministers and politicians—and now the "abortion expediters"—unbelievable.

Some of the same people who are urging the abolition of capital punishment are taking the lead in advocating abortion on demand. Has the willful murderer more rights than the unwanted child?

The current movement toward abortion on demand can have disastrous results, for not infrequently abortion leads to a psychological trauma. The feeling of guilt can rise up again and again to plague those who have compounded one grave mistake with another.

Another effect of abortion on demand is to give added impetus to the growing trend toward sexual laxity. Young people—confused by the modern interpretations of "love," distracted by church and college leaders who have fallen for either the pagan philosophy of free love or situation ethics, hooked on the assurances of "the pill," and lacking biblically based moral and spiritual values—are highly susceptible to the abortionist's promise of temporary release from the problem of biological cause and effect. The fact that some official church departments have become agents of abortion on demand, and have assigned persons to carry out this program, adds greatly to the confusion.

What is the "Christian" solution to an unwanted pregnancy? I do not believe that it is abortion. Those who seek counsel should be pointed to a better way out. They should be told that the *life* of the unborn is at stake, that it too has "rights" that must be preserved. If the woman is unmarried, the second step should be to recommend a Christian home for unwed mothers, of which there are many, where she will find love, compassion, and sorely needed spiritual help. Finally, those involved in the decision should be led to face up to the rightness of releasing the child for adoption.

I admit that "trouble" and "waiting" are involved, but I insist that this course of action is infinitely better and, I believe, more in accordance with God's will than the wanton destruction of life, which is what abortion on demand really is.

As a physician I well know that there are times when an abortion is necessary, but the reasons then are basically medical, and it is physicians in consultation who alone are competent to determine this matter.

The Christian minister increasingly finds himself called upon for counsel by pregnant unmarried girls. It is a responsibility he cannot shirk. But it is disturbing to see that many ministers are meeting this situation by referring the girls to the various abortion services now available through church agencies.

As a physician and a Christian, one who can well understand the emotional agonies involved for parents and daughters, I urge all concerned not to accept what seems to be the easy way out but to face up to the fact that a human life is involved—a life that cannot defend itself and is in no way responsible for its plight.

Confronted with what is, sad to say, a growing problem in the life of America, where Christian convictions and moral standards are on the wane, Christian parents and ministers must look for the solution that most clearly conforms to God's will for us sinners.

The consequences of sin cannot be avoided, but they must not be compounded by a further step in the wrong direction. I urge that parents and ministers encourage the unmarried mother-to-be to let the pregnancy continue, while she spends the waiting period in one of the available homes for unwed mothers where an atmosphere of Christian love and care can bring healing to the spirit. Then do whatever possible to pave the way for the child's adoption into a loving home. That baby who is unwanted by some is yearned for by others.

This can be the "Christian" way out of a tragic predicament.

BILL KISER—COLUMNIST

HON. ROBERT N. GIAIMO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 9, 1971

Mr. GIAIMO. Mr. Speaker, during a recent meeting of the North Carolina Rehabilitation Association at Raleigh, N.C., I had the privilege of meeting a remarkable man named Bill Kiser.

Afflicted with cerebral palsy since birth 44 years ago, Bill Kiser has climbed a long and lonely road, but now, through his syndicated newspaper column, dispenses helpful information to some 40 million other handicapped Americans, and their families and friends.

Born in Greenville, S.C., Bill was unable to attend public schools. Taught at home by his parents, he received a State High School Certificate, and subsequently audited over 50 credit hours of college work at Greenville's Furman University.

Bill had limited use of his hands, a severe speech impediment and was confined to a wheelchair; surgical attempts were made to help him, but without success. Bill was fortunate, however, in having a former professor who also served on the board of directors of the Winston-Salem Goodwill Center, and Bill received a program of evaluation through the center. He has also been sponsored by the South Carolina Department of Vocational Rehabilitation and the North Carolina Department of Vocational Rehabilitation.

Two years ago, working with his mind to overcome his handicapped body and showing the kind of determination to be useful and to give of himself that is so often found in the handicapped, Bill began writing a weekly newspaper column called the "Handicapped Mailbag" in the Winston-Salem Journal and Sentinel. Bill's column was subsequently syndicated, and is now carried in the Asheville Citizen-Times, the Easley Progress, the Kannapolis Independent, the Anderson Independent-Daily Mail, the Columbia Record and the Charlotte Observer.

The idea of the column was to present information about the handicapped that would be helpful both to them and to people in a position to help them. Bill reasoned that a general audience would profit from such information since all of us come into contact with handicapped people through our business, professional and social lives, and, therefore, all of us should have accurate information about the abilities and the limitations of the handicapped.

Bill has also found time to serve as the news director for the Goodwill Center of Winston-Salem and as editor of the Tarheelia News, the newsletter of the United Cerebral Palsy organization of North Carolina. With some professional help, he organized the Bill Kiser News Service, Inc., to increase the circulation of his column and to provide brochures and related publication services on the handicapped for businessmen.

Bill Kiser has justifiably received numerous accolades for his work in helping other handicapped people to be better understood and helped. Harold Russell, for example, Chairman of the President's Commission on Employment of the Handicapped, said that:

> Bill Kiser's "Handicapped Mailbag" column fills a great need. Not only the handicapped, but their families, friends and co-workers can benefit from the solid, practical advice Bill dispenses.

I am privileged to have met Bill Kiser, Mr. Speaker, and to learn a little more about the spectacular results that individual fortitude and a generous spirit can bring in the handicapped. I am especially pleased to bring his weekly syndicated column to the attention of this House and the readers of this Record. His column certainly deserves the widest readership possible, and those interested in evaluating or using it can write to Bill Kiser at 2701 North Cherry Street, Winston-Salem, N.C. 27105.

ARCHBISHOP IAKAVOS: 1971'S MAN OF CONSCIENCE

HON. EDWARD P. BOLAND

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 9, 1971

Mr. BOLAND. Mr. Speaker, Archbishop Iakavos, primate of the vast Greek Orthodox Archdiocese of North and South America, was honored in New York last night by the Appeal of Conscience Foundation—an interfaith organization of leading Protestants, Catholics, and Jews.

The foundation, formed in 1965 to promote religious liberty, named Archbishop Iakavos its Man of Conscience for 1971. Long in the vanguard of what is now called the "ecumenical movement," ever since its first tentative gropings in the 1950's, Archbishop Iakavos helped bridge the doctrinal gaps among the world's major religions during two terms as president of the World Council of Churches.

Just a few weeks ago the Archbishop was honored in my home city of Springfield, Mass., at a dinner held by the St. George Greek Orthodox Church there.

I had the pleasure of taking part in this dinner and of speaking briefly about Archbishop Iakavos' role in ecumenism.

Among guests at the dinner were the Most Reverend Christopher J. Weldon, bishop of the Roman Catholic Diocese of Springfield; the Reverend Emerson Smith, executive secretary of the Council of Churches of Greater Springfield; Rabbi Herman E. Snyder of Sinai Temple, Springfield; the Reverend Eugene Rianovitch, pastor of St. Peter and St. Paul Russian Orthodox Church, Springfield; and three Greek Orthodox priests, the Reverend Harry Bulopas of Holyoke, the Reverend Athanasious Chameeras of Thompsonville, Conn., and the Reverend Peter Katopis of Chicopee.

With permission, Mr. Speaker, I put in the Record a Springfield, Mass. Union article about the Archbishop's talk at this dinner and a New York Times article about his award last night:

Greek Primate Sees R.C. Priests' Marrying

(By Arthur Gould)

The Roman Catholic Church will allow its priests to marry, the spiritual leader of nearly 2 million persons in the Greek Orthodox Church said last night.

"The Roman Catholic Church will come to a point when it must appreciate the reality of human nature and allow priests to marry," Archbishop Iakovos, primate of the Greek Orthodox Church in North and South America, said.

Archbishop Iakovos attended a banquet in his honor given by the congregation of St. George Greek Orthodox Church of Springfield at the Highpoint Motor Inn, Chicopee.

Women, however, should not be priests, he said.

"When women are ordained priests, it indicates lack of interest on the part of men to enter the priesthood. I cannot accept that situation," he said.

"I believe women should be given equal rights in society, but many oppressed people in the world have equal rights to declare wars of liberation," Archbishop Iakovos, who has served as copresident of the World Council of Churches for eight years, said.

The church must stand for freedom, the dignity of man and the responsibility of the individual in society, he said.

He would make no comment about the political situation in Greece.

The country has been ruled by army officers under Col. George Papadopoulos since a preelection coup d'etat April 21, 1967.

He said he is not happy with the moral condition of the world, but the church should not change its traditional beliefs because men change their ideas about life.

"Of course, man-made rules must always be changed to make institutions serve men in better ways," he said.

In the Greek Orthodox Church priests may marry before they are ordained, but married men in the church cannot ascend to the ranks of bishop and archbishop, he said.

"This is a rule that may be changed. A man who has served the church loyally for many years and is a good leader should not be denied ascendency to the rank of bishop only because he is married," he said.

"Marriage is not part of man's lower nature. It is a serious element in his whole nature," he said.

According to Iakovos, when the war in Vietnam is over, the U.S. may have a "happier day."

"The war is not the bankruptcy of America, but of a philosophy in foreign policy that made America the policeman of the world," he said.

He told 500 persons at the banquet a new society of men is coming to the world and it is the church's responsibility to bring up the new generation.

"There are a number of views about the new man. Some persons think he will be a socialistic man, others a rationalistic man.

"The young believe he will bring a new civilization.

"Christians believe the new man will be spiritually pure. I believe in the ecumenical man, someone with a general concern for all men," he said.

Guests at the banquet included the Most Rev. Christopher J. Weldon, bishop of Springfield Roman Catholic Diocese; the Rev. Emerson Smith, executive secretary of the Council of Churches of Greater Springfield; Rabbi Herman E. Snyder of Sinai Temple.

Other guests were the Rev. Eugene Rianovitch, pastor of St. Peter and St. Paul Russian Orthodox Church, Springfield; and Greek Orthodox priests, the Rev. Harry Bulopas of Holyoke; the Rev. Athanasious Chameeras of Thomasville, Conn., and the Rev. Peter Katopis of Chicopee.

Also at the banquet were U.S. Rep. Edward P. Boland and Springfield Mayor Frank H. Freedman.

Gregory Contos, St. George congregation president and Mrs. Katherine Krokidas, president of the Ladies Philoptopps Society of the Church, represented the congregation at the head table.

James P. Danalis, president of the St. George Church building fund committee, was toastmaster.

Interfaith Unit Honors Iakovos

(By George Dugan)

Archbishop Iakovos, Primate of the Greek Orthodox Archdiocese of North and South America and spiritual leader of 1.5 million churchgoers on two continents, was named Man of Conscience for 1971 last night by an organization of leading Protestants, Roman Catholics and Jews.

The honor was conferred on the Greek prelate by the Appeal of Conscience Foundation at its annual award dinner at the Pierre Hotel.

Rabbi Arthur Schneier, president of the interfaith organization, made the presentation to Archbishop Iakovos, who recently served two terms as president of the World Council of Churches and who is a high-ranking leader of Eastern Orthodoxy over the world.

The rabbi, who is also spiritual leader of the Park East Synagogue, called the Archbishop "one of the great ecumenical figures of our time—a man of charity and righteousness who has actively led and supported moral causes throughout the world."

BUSH IS SPEAKER

George Bush, United States Representative to the United Nations, was the principal speaker at the award dinner.

Mr. Bush told the dinner guests that for all its "short-comings," the United States was a "nation of conscience."

"I do not pretend that our policies have always been right or wise, or that we alone know the truth," he declared.

"But I do know that out of our national experience we have learned a decent respect for mankind and a willingness to compromise, not on principle but on methods for inching the world a bit closer toward peace and community."

Mr. Bush said the United States had no

desire to be the world's policeman, "but we recognize a responsibility to alert the world's conscience and carry our share of the burden of deterrence and peace-keeping."

The Appeal of Conscience Foundation, founded in 1965, is an organization committed to the search for religious freedom for all faiths throughout the world.

Following the presentation of the award to Archbishop Iakovos, Rabbi Schneier read messages from President Nixon and Governor Rockefeller praising the prelate as one of the world's most effective religious leaders.

The Rev. Dr. Harold A. Bosley minister of Christ Church, Methodist, and the Rev. Thurston N. Davis, former editor of the Jesuit weekly America, are vice presidents of the Appeal of Conscience Foundation.

LCI (L) FLOTILLA II REUNION ASSOCIATION HOLDS CEREMONY IN WASHINGTON, D.C.

HON. JACK BRINKLEY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 9, 1971

Mr. BRINKLEY. Mr. Speaker, the LCI (L) Flotilla II Reunion Association is an organization of proud and patriotic veterans of World War II. Mr. L. M. Moye, a constituent from Stewart County, Ga., is the vice president of the association. Recently he called to my attention a ceremony held in Washington, D.C., on October 21, 1971, in which a ship model was presented to the Department of the Navy. I found the account of the presentation ceremony very impressive and commend it to the attention of my colleagues.

The articles follow:

LCI (L) FLOTILLA II

U.S. Navy ships numbering from 30 to 34 commissioned vessels were commissioned in the Fall of 1942 and embarked for the European theatre early in 1943.

By way of Bermuda and Arzu, North Africa this Flotilla activity engaged the enemy across North Africa, Sicily, Italy, and later served the allied forces both British and American in the invasion of Normandy. In the spring of 1945 the American ships that survived were lend-leased to the British in Scotland and the crews were returned to the United States to prepare for the invasion of Japan.

After the war the men of Flotilla II have periodically convened for reunion and salutation to the men and cause which was such an important milestone in their lives. These conventions have been held in Baltimore, Pittsburgh, New York City, Chicago, Philadelphia, Cincinnati, Boston, Jekyll Island, Georgia, and Coronado Beach, California. The 1973 reunion is scheduled for London, England.

Reaffirmation of a Coronado presentation took place at the Washington Navy Yard October 21, 1971. The Vice President of LCI (L) II Association is a resident of Lumpkin, Georgia, a former reserve officer and a distinguished American. Mr. L. M. Moye participated in this presentation and we are privileged to report it to this record.

PRESENTATION SPEECH OF DEAN T. HELM, PRESIDENT, LCI (L) FLOTILLA II REUNION ASSOCIATION

Admiral L. S. Sabin (Ret.) presented Flotilla II background and record including special tribute to Capt. E. N. Wilson (deceased) successor Flotilla commander. He also introduced William L. Anderson the ship model craftsman. Subsequently Rear Admiral Hooper USN accepted the presentation for the Navy department.

Mr. Helm: Admiral Sabin, Mrs. Sabin, Admiral Delaney, Admiral Hooper, distinguished friends in the Navy, Flotilla II comrades and their families:

American history has volumes written of famous battles, of naval victories at sea but little of the success of the Navy men against great odds. The men and ships of LCI (L) Flotilla II waged war not only against a skillful and cunning enemy, but also against difficult physical elements with ship facility as a war strategy untried.

Flotilla II represented men of the Navy and their performance, the legends of Americans and their finest hour. The civilian amateurs showed that courage and determination teamed with professional leadership were proper ingredients to subdue a vicious enemy on foreign soil. Further this combination could effectively serve and live with the armies of all nations on land and sea. In practice the American dream of victory and peace with honor was a fact not a blueprint.

Today special tribute is directed to our absent Comrades, to our beloved Admiral Sabin (who forever in naval history represents the spirit and vision of the amphibious force), and to those who continue the tradition, where we had a part. No American effort has labored harder in war and in peace with firmer dedication than the men of Flotilla II.

This presentation is not only of the skill and genius of William L. Anderson who crafted this beautiful model of his own ship, but it is also the symbolic transfer of a spirit—it is a reaffirmation to the Navy Department of the hearts and hopes of our men and their families and it is our prayer that the resolve of Flotilla II will find a firm pocket in the American Navy.

Also we would salute Admiral Hooper for the Secretary of the Navy to Admiral Jack Shanahan for his adoption and inspiration when this moment was conceived. *Admiral Hooper* on behalf of these comrades, for the deeds they performed, for the meaning of their lives, for a world at peace and our Navy we give thanks and pass to you for posterity Flotilla II.

DIRECTOR OF NAVAL HISTORY AND
CURATOR FOR THE NAVY DEPARTMENT,
October 28, 1971.

DEAR MR. HELM: It was a distinct privilege last Thursday to accept from you, on behalf of the Secretary of the Navy, the scale model of Landing Craft Infantry (Large) No. 10 presented by the Flotilla II Reunion Association.

The model has been accessioned into the records of the Curator as historical property and has been assigned USN Accession Number 71–482–A.

I want to express again my heartfelt thanks to you and to all members of the Association for donating this fine model to the Department of the Navy. It is a highly significant addition to our collection and one which will be seen and appreciated by a great many people in the years ahead.

We shall send you pictures when they are ready.

Sincerely yours,
EDWIN B. HOOPER,
Vice Admiral, USN (Ret.)

HOUSE OF REPRESENTATIVES—*Friday, December 10, 1971*

The House met at 10 o'clock a.m.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

Seek ye the Lord while He may be found, call ye upon Him while He is near.—Isaiah 55: 6.

Almighty and Eternal God, whose blessings are for the good of men and whose benediction is the glory of life, grant that through the hours of this day we may feel Thy presence near and in the assurance of Thy spirit receive wisdom to make wise decisions and power to be true to the high principles of our American democracy.

Inspire us with a faith that never falters and a fortitude that never fails as we endeavor to be loyal to the royal within ourselves and to labor for the highest good of our beloved land.

Help us to walk along the way toward a growing national unity in which we shall be one people with liberty and justice for all.

In the spirit of Christ we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 10947) entitled "An act to provide a job development investment credit, to reduce individual income taxes, to reduce certain excise taxes, and for other purposes."

The message also announced that the Senate agrees to the amendments of the House to bills of the Senate of the following titles:

S. 2042. An act to provide for the apportionment of funds in payment of a judgment in favor of the Shoshone Tribe in consolidated dockets Nos. 326–D, 326–E, 326–F, 326–G, 326–H, 366, and 367 before the Indian Claims Commission, and for other purposes; and

S. 2887. An act authorizing additional appropriations for prosecution of projects in certain comprehensive river basin plans for flood control, navigation, and for other purposes.

The message also announced that the Senate disagrees to the amendment of the House to the bill (S. 602) entitled "An act to provide for the disposition of judgments, when appropriated, recovered by the Confederated Salish and Kootenai Tribes of the Flathead Reservation, Mont., in paragraphs 7 and 10, docket No. 50233, U.S. Court of Claims, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints

Mr. McGovern, Mr. Burdick, Mr. Metcalf, Mr. Fannin, and Mr. Hansen to be the conferees on the part of the Senate.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 10604) entitled "An act to amend title II of the Social Security Act to permit the payment of the lump-sum death payment to pay the burial and memorial services expenses and related expenses for an insured individual whose body is unavailable for burial," disagreed to by the House; agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. Long, Mr. Anderson, Mr. Talmadge, Mr. Curtis, and Mr. Miller to be the conferees on the part of the Senate.

ECONOMIC STABILIZATION ACT AMENDMENTS OF 1971

Mr. PATMAN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 11309 to extend and amend the Economic Stabilization Act of 1970, as amended, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Texas.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 11309, with Mr. Boggs (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore (Mr. Boggs). When the Committee rose on yesterday, the Clerk had read the first section of the committee amendment in the nature of a substitute, beginning on page 14, line 19. The Clerk will read section 2.

The Clerk proceeded to read:

Mr. PATMAN (during the reading). Mr. Chairman, I ask unanimous consent that the further reading of the bill be dispensed with and that it be printed in the Record at this point and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

Mr. GROSS. Mr. Chairman, reserving the right to object, did the gentleman say further reading of the bill?

Mr. PATMAN. Yes; of the substitute amendment, which under the rules of the House is being read as an original bill for the purpose of amendment. I ask unanimous consent that the further reading of it be dispensed with.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

Mr. JOHNSON of Pennsylvania. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present. The Clerk will call the roll.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 454]

Abourezk
Alexander
Anderson, Tenn.
Andrews, Ala.
Annunzio
Ashbrook
Baring
Belcher
Bell
Bevill
Bingham
Blackburn
Blanton
Blatnik
Boland
Bow
Bray
Broomfield
Broyhill, Va.
Carey, N.Y.
Casey, Tex.
Celler
Chisholm
Clark
Clay
Collins, Ill.
Colmer
Conyers
Corman
Culver
Dellums
Dent
Derwinski
Diggs
Dowdy
Eckhardt
Edmondson
Edwards, La.
Eilberg
Erlenborn
Esch
Evans, Colo.
Evins, Tenn.
Foley
Ford, William D.
Fuqua
Galifianakis
Gallagher
Goldwater
Gray
Green, Pa.
Griffiths
Gude
Hagan
Hammerschmidt
Harsha
Hébert
Helstoski
Hicks, Wash.
Jarman
Kluczynski
Lloyd
Lujan
McCormack
McKevitt
Macdonald, Mass.
Martin
Metcalfe
Mikva
Mills, Md.
Mink
Minshall
Mollohan
Moorhead
Morse
Nix
Powell
Pryor, Ark.
Purcell
Rangel
Reuss
Roncalio
Rooney, N.Y.
Rosenthal
Rostenkowski
Roush
Runnels
Scherle
Scott
Seiberling
Sisk
Spence
Springer
Stanton, James V.
Steed
Steiger, Ariz.
Stokes
Sullivan
Talcott
Teague, Tex.
Thompson, N.J.
Tiernan
Udall
Veysey
Whalley
Williams
Wilson, Bob
Wright
Wydler

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. Holifield, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill H.R. 11309, and finding itself without a quorum, he had directed the roll to be called, when 322 Members responded to their names, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

The CHAIRMAN. For what purpose does the gentleman from Texas (Mr. Patman) rise?

Mr. PATMAN. Mr. Chairman, I ask unanimous consent that the further reading of the committee substitute amendment be dispensed with and that it be printed in the Record at this point and be open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

The remainder of the committee amendment in the nature of a substitute is as follows:

ECONOMIC STABILIZATION ACT OF 1970

Sec. 2. Title II of the Act entitled "An Act to amend the Defense Production Act of 1950, and for other purposes" approved August 15, 1970 (Public Law 91-379), is amended to read as follows:

"TITLE II—COST OF LIVING STABILIZATION

"§ 201. Short title

"This title may be cited as the 'Economic Stabilization Act of 1970'.

"§ 202. Findings

"It is hereby determined that in order to stabilize the economy, reduce inflation, minimize unemployment, improve our competitive position in world trade, and protect the purchasing power of the dollar, it is necessary to stabilize Federal taxes and expenditures, prices, rents, wages, salaries, dividends, and interest. The adjustments necessary to carry out this program require prompt judgments and actions by the executive branch of the Federal Government. Further, it is the sense of the Congress, that consistent with the purposes of this title, the President should make every effort to reduce Federal expenditures and taxes by submitting a balanced budget in an effort to stabilize the economy and eliminate the need for the exercise of any controls under this title. The President is in a position to promptly and effectively implement the program authorized by this title.

"§ 203. Presidential authority

"(a) The President is authorized to issue such orders and regulations as he may deem appropriate, accompanied by a statement of reasons for such orders and regulations, to—

"(1) stabilize prices, rents, wages, and salaries at levels not less than those prevailing on May 25, 1970, or at such other levels as the President may deem appropriate to achieve orderly economic growth and otherwise carry out the purposes of this title;

"(2) stabilize Federal expenditures; and

"(3) stabilize interest rates and finance charges in connection with the extension of credit, and corporate dividends and similar transfers, at levels consonant with orderly economic growth.

Such orders and regulations may provide for the making of such adjustments as may be necessary to prevent gross inequities.

"(b) In carrying out the authority vested in him by subsection (a), the President shall issue standards to serve as a guide for determining levels of wages, salaries, prices, rents, interest rates and finance charges in connection with the extension of credit, corporate dividends, and similar transfers which are consistent with the purposes of this title and orderly economic growth. Such standards shall—

"(1) be generally fair and equitable;

"(2) provide for the making of such general exceptions and variations as are necessary to foster orderly economic growth and to prevent gross inequities, hardships, serious market disruptions, domestic shortages of raw materials, localized shortages of labor, and windfall profits;

"(3) take into account changes in productivity and the cost of living, as well as such other factors consistent wtih the purposes of this title as are appropriate;

"(4) provide for the requiring of appropriate reductions in prices and rents whenever warranted after consideration of lower costs, labor shortages, and other pertinent factors; and

"(5) call for generally comparable sacrifices by business and labor as well as other segments of the economy.

"(c)(1) The authority conferred on the President by this section shall not be exercised to limit the level of any wage or salary (including any insurance or other fringe benefits offered in connection with an employment contract) to a level below that which has been agreed to in a contract which (A) related to such wage or salary, (B) has been executed prior to August 15, 1971, and (C) is scheduled to take effect after November 13, 1971, unless the President determines that the increase provided in such contract is unreasonably inconsistent with the standards for wage and salary increases published under subsection (b).

"(2) The President shall promptly take such action as may be necessary to permit the payment of any wage or salary increase (including any insurance or other fringe benefit offered in connection with an employment contract) which (A) was agreed to in an employment contract executed prior to August 15, 1971, (B) was scheduled to take effect prior to November 14, 1971, and (C) was not paid as a result of orders issued under this title, unless the President determines that the increase provided in such contract is unreasonably inconsistent with the standards for wage and salary increases published under subsection (b).

"(d) Notwithstanding any other provision of this title, this title shall be implemented in such a manner that wage increases to any individual whose earnings are substandard or who is amongst the working poor shall not be limited in any manner, until such time as his earnings are no longer substandard or he is no longer a member of the working poor.

"(e) Whenever the authority of this title is implemented with respect to significant segments of the economy, the President shall require the issuance of regulations or orders providing for the stabilization of interest rates and finance charges, unless he issues a determination, accompanied by a statement of reasons, that such regulations or orders are not necessary to maintain such rates and charges at levels consonant with orderly economic growth.

"(f) The authority exercised under this title shall not be exercised with respect to a plan which meets the requirements of section 401(a) or 404(a)(2) of the Internal Revenue Code of 1954 or with respect to an annuity contract described in section 403 (b) of the Internal Revenue Code of 1954.

§ 204. Delegation

"The President may delegate the performance of any function under this title to such officers, departments, and agencies of the United States as he deems appropriate, or to boards, commissions, and similar entities composed in whole or in part by members appointed by the President to represent different sectors of the economy and the general public. The President, in carrying out his authority under this title, shall establish a board for the purpose of studying, evaluating, and reporting quarterly to the Congress on the relationship between excess profits, the stabilization of the economy, and the creation of new jobs. Where such boards, commissions, and similar entities are composed in part of members who serve on less than a full-time basis, legal authority shall be placed in their chairmen, who shall be employees of the United States and who shall act only in accordance with the majority vote of members. Nothing in section 203, 205, 207, 208, or 209 of title 18, United States Code, shall be deemed to apply to any member of such board, commission, or similar entity who serves on less than a full-time basis because of membership on such board, commission, or entity. Members who serve on less than a full-time basis shall be compensated from the date of their appointment at a rate equivalent to that of level IV of the Executive Schedule (5 U.S.C. 5315) when actually engaged in the business of the board, commission, or similar entity. Funds of departments and agencies of the United States shall be available for the performance of any function so delegated and, at the direction of the President, any other functions performed under authority of this title.

"§ 205. Confidentiality of information

"All information reported to or otherwise obtained by an agency exercising authority under this title which contains or relates to a trade secret or other matter referred to in section 1905 of title 18, United States Code, shall be considered confidential for the purpose of that section, except that such information may be disclosed to other officers, agencies, boards, commissions, or similar entities empowered to carry out this title solely for the purpose of carrying out this title or when relevant in any proceeding under this title; and except that disclosure may be made to Federal executive departments, agencies, and other establishments of the Federal Government under regulations promulgated by the President or his delegate for use in any matters officially before them.

"§ 206. Subpena power

"The head of the agency or his duly authorized agent shall have authority, for any purposes related to this title, to sign and issue subpenas for the attendance and testimony of witnesses and the production of relevant books, papers, and other documents, and to administer oaths. Witnesses summoned under the provisions of this section shall be paid the same fees and mileage as is paid to witnesses in the courts of the United States. In case of refusal to obey a subpena served upon any person, firm, association, or corporation under the provisions of this section, the head of the agency may request the Attorney General to seek the aid of the district court of the United States for any district in which such person, firm, association, or corporation is found to compel such person, firm, association, or corporation after notice to appear and give testimony, or to appear and produce documents before the agency.

"§ 207. Administrative procedure

"(a) The functions exercised under this title shall be excluded from the operation of the Administrative Procedure Act (sections 551 et seq., title 5, United States Code), except as to the requirements of section 552 of title 5, United Sates Code.

"(b)(1) Notwithstanding the provisions of subsection (a), with respect to any board, commission other entity carrying out functions under this title, general notice of proposed rulemaking shall be published in the Federal Register, unless persons subject thereto are named and either personally served or otherwise have actual notice thereof in accordance with law. The notice shall include—

"(A) a statement of the time, place, and nature of public rulemaking proceedings;

"(B) reference to the legal authority under which the rule is proposed; and

"(C) either the terms of substance of the proposed rule or a description of the subjects and issues involved.

This subsection does not apply—

"(i) to interpretative rules, general statements of policy, or rules of organization, procedure, or practice; or

"(ii) when for good cause it is found (and there is incorporated the finding and a brief statement of reasons therefor in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.

After notice required by this subsection, interested persons shall be given an opportunity to participate in the rulemaking through submission of written data, views, or arguments with or without opportunity for oral presentation. After consideration of the relevant matter presented, there shall be incorporated in the rules adopted a concise general statement of their basis and purpose. The required publication or service of a substantive rule shall be made not less than 30 days before its effective date, except—

"(a) a substantive rule which grants or recognizes an exemption or relieves a restriction;

"(b) interpretative rules and statements of policy; or

"(c) as otherwise provided for good cause found and published with the rule.

Interested persons shall be given the right to petition for the issuance, amendment, or repeal of a rule.

"(2) Notwithstanding the provisions of subsection (a), with respect to any board, commission, or other entity carrying out functions under this title, prompt notice shall be given of the denial in whole or in part of a written application, petition, or other request of an interested person made in connection with any proceeding under this title. Except in affirming a prior denial or when the denial is self-explanatory, the notice shall be accompanied by a brief statement of the grounds for denial.

"§ 208. Sanctions; criminal fine and civil penalty

"(a) Whoever willfully violates any order or regulation under this title shall be fined not more than $5,000 for each violation.

"(b) Whoever violates any order or regulation under this title shall be subject to a civil penalty of not more than $2,500 for each violation.

"§ 209. Injunctions and other relief

"Whenever it appears to any officer, department, agency, board, commission, or similar entity authorized by the President to exercise authority under this title, that any person has engaged, is engaged, or is about to engage in any acts or practices constituting a violation of any such order or regulation, it may request the Attorney General to bring an action, in the appropriate district court of the United States, to enjoin such acts or practices, and upon a proper showing a temporary restraining order or a preliminary or permanent injunction shall be granted without bond. Any such court may also issue mandatory injunctions commanding any person to comply with any order or regulation issued under this title. In addition to such injunctive relief, the court may also order restitution of moneys received in violation of any order or regulation issued under this title.

"§ 210. Suits for damages or other relief

"(a) Any person suffering legal wrong because of any act or practice arising out of this title, or any order or regulation issued pursuant thereto, may bring an action in a district court of the United States, without regard to the amount in controversy, for appropriate relief, including an action for a declaratory judgment, and/or damages.

"(b) In any action brought under subsection (a) against any person renting property or selling goods or services who is found to have overcharged the plaintiff, the court may, in its discretion, award the plaintiff reasonable attorney's fees and costs, plus whichever of the following sums is greater:

"(1) an amount not more than three times the amount of the transaction upon which the action is based, or

"(2) not less than $100 or more than $1,000; except that in any case where the defendant establishes that the overcharge was not intentional and resulted from a bond fide error notwithstanding the maintenance of procedures reasonably adapted to the avoidance of such error the liability of the defendant shall be limited to the amount of the overcharge: Provided, That where the overcharge is not willful no action for an overcharge may be brought by or on behalf of any person unless such person has first presented to the seller or renter a bona fide claim for refund of the overcharge and has not received repayment of such overcharge within ninety days from the date of the presentation of such claim.

"(c) For the purposes of this section, the term 'overcharge' means the amount by which the consideration for the rental of property or the sale of goods or services exceeds the applicable ceiling under regulations or orders issued under this title.

"§ 211. Judicial review

"(a) TEMPORARY EMERGENCY COURT OF APPEALS.—

"(1) CREATION.—There is hereby created a court of record of the United States to be known as the Temporary Emergency Court of Appeals.

"(2) MEMBERSHIP.—From among the judges of the United States district courts and United States courts of appeals, the Chief Justice of the United States shall designate not less than three such judges to serve as members of the Temporary Emergency Court of Appeals. The Chief Justice of the United States may from time to time (A) designate additional judges of the United States district courts and United States courts of appeals to serve as members of the Temporary Emergency Court of Appeals, and (B) revoke prior designations.

"(3) Chief judge.—From among the judges who are designated to serve as members of the Temporary Emergency Court of Appeals, the Chief Justice of the United States shall from time to time designate one such judge to serve as the chief judge of such Temporary Emergency Court of Appeals.

"(4) Divisions.—The chief judge of the Temporary Emergency Court of Appeals may, from time to time, divide the court into divisions of three or more members, and any such division may render judgment as the judgment of the court.

"(5) Seal; sessions; clerk.—The Temporary Emergency Court of Appeals shall have a seal, hold sessions at such places as it may specify, and shall appoint a clerk and such other employees as it deems necessary or proper.

"(6) Procedure.—The Temporary Emergency Court of Appeals shall exercise its powers and prescribe rules governing its procedure in such manner as to expedite the determination of cases.

"(7) Powers.—Except as otherwise limited in this section, the Temporary Emergency Court of Appeals shall have the powers of a United States court of appeals with respect to the jurisdiction conferred on it by this title.

"(b) Jurisdiction.—

"(1) United States district courts.—Except as otherwise provided in paragraph 2 (B), the United States district courts shall have exclusive original jurisdiction of cases and controversies arising under this title and under regulations and orders issued under this title.

"(2) Temporary emergency court of appeals.—

"(A) Appeals.—The Temporary Emergency Court of Appeals shall have exclusive jurisdiction of all appeals from United States district courts in cases and controversies arising under this title and under regulations or orders issued under this title, except as otherwise provided in this section. Such appeals shall be taken by the filing of a notice of appeal with the Temporary Emergency Court of Appeals within thirty days of the entry of judgment by the district court.

"(B) Certain constitutional questions.—The Temporary Emergency Court of Appeals shall have exclusive jurisdiction to determine the constitutional validity of any provision of this title and any regulation or order issued under this title.

"(3) Supreme Court review.—Within thirty days after entry of any judgment or order by the Temporary Emergency Court of Appeals, a petition for a writ of certiorari may be filed in the Supreme Court of the United States, and thereupon the judgment or order shall be subject to review by the Supreme Court in the same manner as a judgment of a United States court of appeals as provided in section 1254 of title 28 of the United States Code.

"(4) Other courts.—Except as provided in this section, no Federal, State, or local court shall have jurisdiction or power to (A) consider the constitutional validity of any provision of this title or any regulation or order issued under this title, (B) stay, restrain, enjoin, or set aside, in whole or in part, any provision of this title authorizing the issuance of any such regulation or order, or any provisions of any such regulation or order, or (C) restrain or enjoin the enforcement of any provision of this title or any regulation or order issued under this title.

"(c) Particular Proceedings.—

"(1) Substantial constitutional issue.—With respect to any civil action brought in connection with this title, or any regulation or order issued under this title, which is determined by the United States district court in which it is brought to involve a substantial constitutional issue, such district court shall certify such issue to the Temporary Emergency Court of Appeals. Upon such certification, the Temporary Emergency Court of Appeals shall determine the appropriate manner of disposition which may include (A) requiring that the entire record be sent up for determining of the entire matter in controversy, or (B) remanding the matter to the certifying court with binding instructions on the issues certified.

"(2) Declaratory Judgments.—The provisions of section 2201 of title 28 of the United States Code, relating to declaratory judgments, shall apply to actions arising under this title and under regulations and orders issued under this title, notwithstanding the amount in controversy.

"(d) Setting Aside Regulations and Orders.—

"(1) Regulations.—No regulation issued under this title shall be enjoined or set aside, in whole or in part, unless a final judgment determines that the issuance of such regulation is in excess of the issuing agency's authority or is arbitary or capricious.

"(2) Orders.—No order issued under this title shall be enjoined or set aside, in whole or in part, unless a final judgment determines that such order is in excess of the issuing agency's authority, or is based upon facts which are not supported by substantial evidence.

"(e) Interlocutory Decrees; Permanent Injunctions; Etc.—

"(1) Interlocutory decree.—The Temporary Emergency Court of Appeals shall not have the power to issue any interlocutory decree staying or restraining, in whole or in part, any provision of this title or the effectiveness of any regulation or order issued under this title.

"(2) Permanent injunctions.—A permanent injunction restraining the enforce, operation, or execution of this title or any regulation or order issued under this title shall not be granted by any United States district court or judge thereof. Such an injunction may be issued by the Temporary Emergency Court of Appeals upon appeal, or, after hearing, upon recommendation of a United States district court or judge thereof. Such an injunction may also be issued by the United States Supreme Court as provided for by this section.

"(3) Effectiveness of certain judgments of temporary emergency court of appeals.—The effectiveness of a final judgment of the Temporary Emergency Court of Appeals enjoining or setting aside, in whole or in part, any provision of this title or any regulation or order issued under this title shall be postponed until the expiration of thirty days from the entry thereof, except that if a petition for a writ of certiorari is filed with the Supreme Court under subsection (b) (3) within such thirty days, the effectiveness of such judgment shall be postponed until an order of the Supreme Court denying such petition becomes final, or until other final disposition of the action by the Supreme Court.

"(f) Application of Section.—The provisions of this section shall apply to any actions or suits pending in any Federal, State, or local court on the effective date of this section in which no final order or judgment has been rendered. Any affected party seeking relief shall be required to follow the procedures of this title.

"§ 212. Personnel

"(a) Any agency or officer of the United States Government carrying out functions under this title is authorized to employ such personnel as the President deems necessary to carry out the provisions and purposes of this title.

"(b) The President may appoint five officers to be responsible for carrying out functions of this title of whom three shall be compensated at level III of the Executive Schedule (5 U.S.C. 5314) and two at level V of the Executive Schedule (5 U.S.C. 5316). Appropriate titles and the order of succession among such officers may be designated by the President.

"(c) The President may require the detail of employees from any executive agency to carry out the purpose of this title.

"(d) The President is authorized to appoint, without regard to civil service laws, such advisory committees as he may deem appropriate for the purpose of consultation with and advice to the President in the performance of his functions under this title. Members of advisory committees, other than those regularly employed by the Federal Government, while attending meetings of such committees or while otherwise serving at the request of the President may be paid compensation at rates not exceeding those authorized for individuals under section 5332 of title 5, United States Code, and, while so serving away from their homes or regular places of business, may be allowed travel expenses, including per diem, as authorized by section 5703 of title 5 of the United States Code for persons in the Government service employed intermittently.

"(e) (1) Under such regulations as the President may prescribe, officers and employees of the United States Government who are appointed without a break in service of one work day or more to any position for carrying out the functions of this title may be entitled, upon separation from such position, to reemployment in the position occupied at the time of appointment or in a position of comparable grade and salary.

"(2) An officer or employee who, at the time of his appointment under paragraph (1) of this subsection, is covered by section 8336(c), title 5, United States Code, shall continue to be covered thereunder while carrying out the functions of this title.

"§ 213. Experts and consultants

"Experts and consultants may, as authorized by section 3109 of title 5 of the United States Code, be employed for the performance of functions under this title and individuals employed may be compensated at rates not to exceed the per diem equivalent of the rate for grade 18 of the General Schedule established by section 5332 of title 5 of the United States Code. Such contracts may be renewed from time to time without limitation. Service of an individual as an expert or consultant under this section shall not be considered as employment or holding of office or position bringing such individual within the provisions of section 3323(a) of title 5 of the United States Code, section 872 of the Foreign Service Act of 1946, as amended, or any other law limiting the reemployment of retired officers or employees.

"§ 214. Mass transportation systems

"No company, or other entity constituting a public benefit corporation, charged by law or contract with the responsibility to operate a mass transportation facility or facilities shall increase any fare without first obtaining approval under this section from the President or his delegate.

"§ 215. Local protest boards

"(a) The President shall establish local protest boards throughout the United States in connection with any procedure he provides for the granting to persons of exemptions from, and the making of changes in, regulations and orders issued under this title.

"(b) It shall be the function of such local protest boards to receive complaints and advise appropriate persons with respect to the need for exemptions from, or changes in, regulations and orders issued under this title. The President shall establish such local protest boards in such manner and organize them into such system so as to provide expeditious review of complaints and, when appropriate, speedy remedial action on the part of the President. No court hearing a matter brought in connection with this title or any regulation or order issued under this title shall require, as a prior condition to the bringing or carrying forward of a legal action, that a party proceed under a procedure established pursuant to this section.

"(c) In establishing such local protest boards, the President may draw upon the resources of the Internal Revenue Service or any other appropriate establishment in the executive branch of the Government, or any combination of such establishments, which can provide the necessary personnel and local facilities.

"§ 216. Pay contracts entered into prior to August 15, 1971

"Notwithstanding any other provision of this title, effective November 15, 1971—

"(1) the authority conferred on the President by this title shall not be exercised to limit the level of any wage or salary (including any insurance or other fringe benefit offered in connection with an employment contract) to a level below that which has been agreed to in a contract which (A) related to such wage or salary, and (B) has been executed prior to August 15, 1971; and

"(2) the President shall promptly take such action as may be necessary under this title to require the payment of any increases in wages and salaries (including any insurance or other fringe benefit offered in connection with an employment contract) which were agreed in employment contracts executed prior to August 15, 1971, but which were not paid between August 15, 1971, and November 15, 1971, as a result of his Executive Order 11615, issued August 15, 1971, relating to the freeze on prices, wages, and salaries.

This section shall not apply in the case of any wage or salary contract which the President determines has the effect of increasing wages or salaries in the industry or segment of the economy to which it applies at a rate which is unreasonably inconsistent to the rate at which wages or salaries have increased in the economy generally.

"§ 217. Funding

"(a) There is hereby authorized to be appropriated to the President, to remain available until expended, such amounts as may be necessary from time to time to carry out the purposes of this title.

"(b) The President may accept and use in furtherance of the purposes of this title money, funds, property, and services of any kind made available by gift, devise, bequest, grant, or otherwise for such purpose.

"§ 218. Expiration

"The authority to issue and enforce orders and regulations under this title expires at midnight April 30, 1973, but such expiration shall not affect any action or pending proceeding, civil or criminal, not finally determined nor any action or proceeding based upon an act or acts committed prior to May 1, 1973.

"§ 219. Ratification

"The authority granted to the President by the Economic Stabilization Act of 1970, as amended, and in effect on the date of enactment of this title, in respect to the assignment of personnel and expenditure of funds in exercising that authority are hereby approved, ratified, and confirmed.

"§ 220. Severability

"If any provision of this title or the application of such provision to any person or circumstances shall be held invalid, the remainder of the title, and the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby."

AMENDMENT OFFERED BY MR. STEPHENS

Mr. STEPHENS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. STEPHENS: On page 17, strike line 24 and all that follows through line 10 on page 18; on page 35 strike line 23 and all that follows through line 23 on page 36 and insert in lieu thereof on page 17 after line 23 the following:

"(2) Beginning on the date on which this subsection takes effect, the President shall promptly take such action as may be necessary to permit the payment of any wage or salary increases (including any insurance or other fringe benefits offered in connection with employment) which have been, or in the absence of this subsection would be, withheld under the authority of this title, if the President determines that—

"(A) such increases were provided for by law or contract prior to August 15, 1971; and

"(B) prices have been advanced, taxes have been raised, appropriations have been made, or funds have otherwise been raised or provided for in order to cover such increases."

Renumber the sections properly as necessary.

Mr. STEPHENS. Mr. Chairman, in explanation of the amendment I have offered today, I would like to start out by saying that my amendment is a compromise between two extreme positions on the freeze that has taken place on the question of whether or not retroactive wages will be paid. As I have said, it is a compromise between the language of the bill when it came into our committee and the amendment that is now in the bill. Those are the two extremes.

Prior to what the committee did on the amendment offered by the gentleman from New Jersey (Mr. MINISH) no right was provided in the bill for a retroactive pay agreement to be put into effect which would pick up the wage increases that had been promised but were cut off from the 15th of August to the 15th of November. The amendment which was offered in the committee and is now language in the bill provides that everyone who would receive a pay increase through an agreement would get that pay increase. The other extreme position was that they would not get it at all. The Minish amendment provides that everybody would get it.

My amendment would put some limitations which would bring the pendulum back to a more or less middle position. If we should adopt the language now in the bill, we might just as well never have had any freeze at all, because it will put into the economy all the funds that were withheld by the freeze. If you do that, you will hurt some small and some large businesses all over this country, because when you say to a company that they must pay a wage increase that was agreed to before the freeze, but as a result of the freeze the company cannot make any price adjustments of any kind to earn what would be necessary to pay the wage increases, then you are going to say to them also, "We are going to force you into bankruptcy or you are going to have to extend your credit. You will have to go into your capital to pay a lump sum in retroactive pay."

There are circumstances which my amendment takes care of in which by right the pay increase ought to be made, the pay adjustment ought to be made, and those are circumstances in which there was an agreement that a wage adjustment be made and where prices had been raised for the purpose of paying the wage increase that was cut off by the freeze. The company would have received the profits from a price increase but still cannot pay the wage increase. It is not right for the profits to be held, profits which consumers have paid for, and which were supposed to go to pay the wage increase. Such increases ought to be paid, and my amendment would allow them to be paid.

To go over into the field of public affairs, the second thing that my amendment would do is that where an increase was agreed to and the necessary statutory or budgetary appropriations, or whatever you might call them in the area of monetary affairs, have been set in motion, then that money should not be held in the Treasury or diverted to some other purpose when it is supposed to go to pay raises.

There are alternative features so far as the amendment is concerned that should be clear. If not, I shall entertain questions. The language of the bill has been very carefully worked out and studied by the gentleman from Florida (Mr. CHAPPELL). We were never able to give it complete consideration in our committee. I believe that the language of the amendment will keep inequities from happening which will happen if we do not change the bill as it now is.

Mr. BARRETT. Mr. Chairman, will the gentleman yield?

Mr. STEPHENS. I yield to the gentleman from Pennsylvania (Mr. BARRETT), a member of the committee.

Mr. BARRETT. I think every Member of the House knows that the gentleman from Georgia is one of the most capable members of the Committee on Banking and Currency and also a most capable member of my Housing Subcommittee.

Mr. STEPHENS. I am glad I yielded to the gentleman.

Mr. BARRETT. We have great respect for the gentleman but with all due respect to the gentleman from Georgia I want to ask him: Does this not actually water down the Minish amendment?

Mr. STEPHENS. No, not really. What it does is take the inequities out of it. It takes the unfair element out of it.

Mr. BARRETT. Does it not do unjustifiable harm to the teachers' contracts and prevent them from getting the proper raises on the basis of contracts made prior to August 15?

Mr. STEPHENS. In reply to that, I would say this. I do not believe there will be a change of any single teacher's situation under my amendment such as the gentleman is talking about.

The CHAIRMAN. The time of the gentleman from Georgia has expired.

(By unanimous consent, Mr. STEPHENS was allowed to proceed for 5 additional minutes.)

Mr. ASHLEY. Mr. Chairman, will the gentleman yield?

Mr. STEPHENS. I yield to the gentleman from Ohio.

Mr. ASHLEY. With respect to the question of the gentleman from Pennsylvania (Mr. BARRETT) concerning the application of the gentleman's amendment to the teachers, is it not true the gentleman from Georgia specifies in his amendment that retroactive and deferred wage increases shall be paid where there has been a tax, budgetary, or other adjustment to accommodate such pay increase?

Mr. STEPHENS. That is absolutely correct.

Mr. ASHLEY. It is my understanding that with respect to the teachers, both those under contract and those not under contract, about 98 percent would be covered by the first part of the gentleman's amendment. Therefore, I would say the amendment of the gentleman from Georgia, unlike the Minish approach contained in section 216, much more directly takes care of the situation involving the teachers and others in like circumstances.

Mr. STEPHENS. The language that the gentleman from Ohio (Mr. ASHLEY) is referring to is:

> (A) such increases were provided for by law or contract prior to August 15, 1971; and (B) prices have been advanced, taxes have been raised, appropriations have been made, or funds have otherwise been raised or provided for in order to cover such increases.

That takes care of every teacher, I believe.

Mr. BARRETT. Mr. Chairman, will the gentleman yield?

Mr. STEPHENS. I yield to the gentleman from Pennsylvania.

Mr. BARRETT. Mr. Chairman, I just want to refer to the statement of the gentleman from Ohio. Would this not take it out of the hands of the board and put it in the hands of the President, so he must make the final determination whether the teachers' contracts would be held valid?

Mr. STEPHENS. In answer to what the gentleman says, I point out that as a matter or right, in this amendment I offer they will have a right to demand it. It does not leave it up to the President. It is a matter of right

Mr. ASHLEY. Mr. Chairman, will the gentleman yield?

Mr. STEPHENS. I yield to the gentleman from Ohio.

Mr. ASHLEY. Mr. Chairman, let me point out that in the bill before us, where we say or where we find the "President" in most cases can be read as "pay board" because there is a section on delegation which makes it clear that the President is authorized to delegate this authority to the pay board, to the pay commission, or to other bodies which he may create. So if the gentleman is having a problem with respect to that simple matter of delegation, he should not have.

Would not the gentleman from Georgia agree with me that this is no point of concern? What is of concern is the fact that the Stephens' language much more directly takes care of the situations confronted by the teachers of this country than does the language of the gentleman from New Jersey (Mr. MINISH) in section 216.

Mr. STEPHENS. Mr. Chairman, let me say and repeat that so far as the teachers are concerned, I have no intention of harming the teachers, and I do not intend to harm the teachers. I think the amendment I offer gives them a better right to get what they are entitled to than does the Minish amendment. This gives them an absolute right to come in and ask for it and get it. It is better than we have in the other language.

Mr. HANNA. Mr. Chairman, will the gentleman yield?

Mr. STEPHENS. I yield to the gentleman from California.

Mr. HANNA. Mr. Chairman, I appreciate the gentleman yielding.

I also appreciate the fact that the gentleman has always tried to be a constructive member of the committee and generally is trying to work out things for the best. But let me ask the gentleman a few specific questions. Supposing I am a member of a union that has negotiated a contract for an increase in wages on the basis of my increase in productivity, so there is a situation in which the company for whom I work does not have to increase the price of its products, because it has realized already a profit on my increased productivity.

Mr. STEPHENS. I understand.

Mr. HANNA. In that type of situation am I correct in assuming that the gentleman's language would not cover me, if I had negotiated a contract?

Mr. STEPHENS. It would not cover that situation, but let me point out that the reason for having the freeze was to take care of that situation.

Mr. HANNA. I beg your pardon.

Mr. STEPHENS. The reason for giving the President standby authority to put a freeze into effect was to stop the inflationary spiral under those circumstances.

Mr. HANNA. But, to clarify what I am saying——

Mr. STEPHENS. What the gentleman says is correct.

Mr. HANNA. What I say is correct; this is not inflationary, this is an increase in wages based upon an increase in productivity. It was negotiated before the 15th. It does require, to be equitable, acceptance for retroactivity.

Mr. STEPHENS. Let me answer that. What the gentleman says is right, but what we also have to take into consideration is that there is language in this bill whereby the situation—if it is reasonable, if it is one that is inequitable to leave the freeze in effect—can be taken care of. The language is still in this bill that would allow that to be brought before the necessary authorities and to be carried out.

Mr. BROWN of Michigan. Mr. Chairman, will the gentleman yield?

Mr. STEPHENS. I yield to the gentleman from Michigan.

Mr. BROWN of Michigan. In answer to the question of the gentleman from California, I believe the language does cover it, because to the extent there has been an increase in productivity there has been an increase in income, an increase in profit to that employer. The gentleman's amendment says that these retroactive wages can be paid if funds have otherwise been raised or provided for and to the extent there has been an increase in productivity obviously indirectly some funds have become available.

Mr. STEPHENS. Regardless of the language in my amendment, that situation can be taken care of.

Mr. PATMAN. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the Stephens amendment is highly dangerous not only to longstanding legal approaches to wage matters in this Nation, but to the basic efforts of our current economic stabilization program.

The Stephens amendment is a direct contradiction of the announced goal of promoting productivity. The amendment singles out the productive worker for special penalties.

The Stephens language says that the pay increases can be paid only in those cases where it can be proven that the plant increased prices in anticipation of a wage increase. In the plants where the increased wages were to be absorbed—because of increased worker productivity—the worker would not be entitled to the pay increase. We are trying to increase productivity and here we have an amendment which encourages inflation—encourages the passing on of costs in the form of higher prices.

This amendment is a cruel joke on the teachers who have been depending on the Congress to put some equity into the wage-price program. The amendment does not require that anyone do anything about the wages that were contracted for prior to August 15. It just says that the President shall permit the employers—school district boards included—to pay the increases if they meet certain very narrow criteria. It is strictly permissive and requires nothing.

Even if the contract should meet the impossible standards of the Stephens amendment, it would still be up to the discretion of the employer to pay or not pay the increase. These contracts are now two-sided agreements between employer and employee. The Stephens amendment would tear up the contracts and convert them into one-sided arrangements—solely at the discretion of the employer—if they met the narrow standards proposed here.

Mr. Chairman, the Stephens amendment is not needed in the President's economic program. Administration spokesmen have been very candid about the minimal effect that the payment of these retroactive wages would have on the economy. I quote from a comment by Secretary of Labor James Hodgson in the New York Times of yesterday—Thursday:

> Mr. Hodgson said today that the retroactive payment of frozen wages would cause few problems for President Nixon's program, even if the liberal provision for retroactivity contained in the bill before the House of Representatives is adopted.

There have been some rumors floating around that the Stephens amendment is acceptable to teacher groups and other organizations representing working people. These rumors are false. The Stephens amendment is not supported by these organizations or by the individual teachers and working people.

Mr. Chairman, since these rumors have come about, I want to quote a telegram I received yesterday from the National Education Association which represents 1.1 million teachers across the Nation:

> On behalf of the 1.1 million members of the NEA, we thank you for your support of the provisions of section 216 of H.R. 11309, providing for retroactive payment of salaries in effect before imposition of the wage-price freeze. We solicit your continuing insistence

that this provision be included in the bill to be acted upon by the full House tomorrow. We fully support the bill—without amendment—as reported by your Committee, and hope that the House concurs.

STANLEY J. MCFARLAND,
Assistant Executive Secretary,
Government Relations and Citizenship.

Mr. Chairman, this morning, representatives of the NEA reaffirmed their stand in favor of the bill as reported from the committee in support of the Minish amendment. They are not supporting the Stephens amendment.

I also place in the RECORD a copy of a telegram from the American Federation of Teachers and from the AFL–CIO in support of the bill as reported:

AMERICAN FEDERATION OF LABOR
AND CONGRESS OF INDUSTRIAL
ORGANIZATIONS,
Washington, D.C., December 9, 1971.

Hon. WRIGHT PATMAN,
Chairman, Committee on Banking and Currency, Washington, D.C.

DEAR MR. CHAIRMAN: The AFL–CIO supports H.R. 11309, the Economic Stabilization Bill as it was reported from the House Banking and Currency Committee. The AFL–CIO would have preferred that Congress provide the authority only to May 1, 1972 so as to allow for a re-examination after six months of Phase Two's operations. Further, while this measure does not provide machinery to control profits as we had asked to insure equality of sacrifice, it does provide presidential authority to control dividends, interest rates, rent and prices along with wages and salaries. We urge that the measure be adopted.

Sincerely,
ANDREW J. BIEMILLER,
Director,
Department of Legislation.

DECEMBER 8, 1971.

DEAR CONGRESSMAN: The American Federation of Teachers, AFL–CIO, strongly urges that you support H.R. 11309, the bill to extend the Economic Stabilization Act, as reported by the House Committee on Banking and Currency.

This bill in its current form is a much needed measure that will correct many of the inequities of both the freeze and Phase II program. H.R. 11309 is of special importance to teachers.

Its enactment will in some measure compensate teachers for the gross injustice which the wage freeze inflicted upon them. We respectfully urge your support of H.R. 11309 as recommended by the Banking and Currency Committee.

Sincerely,
DAVID SELDEN,
President,
American Federation of Teachers.

Mr. WIDNALL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the Stevens amendment.

Mr. Chairman, we have had this bill under consideration for many weeks in our committee. We finally reported it out although there was considerable disagreement with respect to the Minish amendment. It was finally included by a one-vote margin in the committee, and that was after it had been voted down by a committee vote prior to that time.

Mr. Chairman, I think we have given very weighty thought to the problem at hand.

We recognize the opposition of the teachers up to this time. However, I do not believe that they have been fully and favorably considered in the Stephens amendment.

I am sure that if what the chairman says is so, that no one had seen the Stephens amendment and did not know what it contained up to this time—I think I am repeating what he says—yet he has a telegram in opposition to the amendment and supporting the Minish amendment.

I, certainly, as a Member of this House feel my responsibility very heavily in doing a fair, a sound and equitable job for all of the people in this country. I do not believe that any particular group should be favored above all others.

Mr. Chairman, this amendment has been carefully gone over and its wording has been looked at by many, many Members of the House who are confident that it provides that very equity about which I am talking.

I would like to say that we think this is an amendment that can be supported by all Members of the House, whether they consider themselves pro-labor, pro-management or anything else that they want to say.

It does provide a sound basis for carrying on phase II of the President's program.

Mr. PATMAN. Mr. Chairman, will the gentleman yield?

Mr. WIDNALL. Not at this time. I yield to the gentleman from New Jersey (Mr. HUNT).

Mr. HUNT. I thank my colleague for yielding.

Mr. Chairman, I want to associate myself with the remarks of the gentleman from New Jersey (Mr. WIDNALL). The gentleman has really put his finger on the actual problem. Not too many people know about the Stephens amendment in the educational field. I have been talking to some of them this morning and, really, the people who have been penalized are those who will be taken care of by the Stephens amendment. The educators I talked with are in agreement with the Stephens amendment.

The teachers in my district and all over the Nation are those persons who should have received their money.

There is no penalty insofar as money is concerned because the money for the teachers' salaries that they did not get by virtue of the freeze has already been included in all of the school budgets, especially in the State of New Jersey. So the school boards themselves are not in opposition to it and the teachers are not in opposition to it.

Mr. Chairman, I feel very strongly that the teachers should receive their money because all of the contracts were entered into prior to the freeze but they were penalized when the freeze came along.

Mr. Chairman, many of our people in the educational field in New Jersey have received the money, those who are in the service positions, those who are secretaries and those engaged in administrative activities have already received their raises. The only ones who have not received them are those who are engaged in the actual teaching, who started the new teaching year in September 1971. For that reason, Mr. Chairman, I am going to support the position of the gentleman from New Jersey. I believe we should give the educators their money to which they are entitled. Therefore, I am going to support the gentleman from New Jersey in support of the Stephens amendment and I compliment the gentlemen (Mr. WIDNALL) on his fine statement.

Mr. WIDNALL. I thank the gentleman for his contribution.

Mr. ANDERSON of Illinois. Mr. Chairman, will the gentleman yield?

Mr. WIDNALL. I yield to the gentleman from Illinois.

Mr. ANDERSON of Illinois. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, if I understand the situation correctly, in those cases where the local school board prior to August 15 had taken some action, revenuewise, some authorization, to increase taxes or otherwise, to pay for those increases, that the retroactive wage increases could be paid. Is that correct?

Mr. WIDNALL. That is correct.

The CHAIRMAN. The time of the gentleman from New Jersey has expired.

Mr. MINISH. Mr. Chairman, I rise in opposition to the amendment, and I move to strike the requisite number of words.

Mr. Chairman, the House of Representatives might as well face the issue of wage contracts and agreements squarely.

The Minish amendment—contained in the bill as reported by the committee—deals directly with the issue and makes it clear where everyone stands.

The Stephens amendment—which was drafted to gut the Minish amendment—sets up a series of vague requirements which leave the teachers and workers in a much worse position than if we enacted nothing.

Mr. Chairman, the Stephens amendment tears up the contracts entered into before August 15. The amendment says that the employer—the businessman and the school district—may permit the payment of these wages. It does not require the payment of the wages and it leaves this matter solely to the discretion of the employer even if the contract meets the highly restrictive standards contained in the Stephens language.

In actual practice, the Stephens amendment would place an impossible burden on teachers and workers to prove that they meet the standards. In truth, few would be able to qualify after all of these determinations have been made. And even after they qualify, it is still up to the employer to decide whether he wants to permit the increase.

The Stephens amendment also calls for a congressional endorsement of a policy which would penalize the more productive worker. The amendment says that the increases can be allowed where it is shown that prices have been raised in anticipation of the wage contract. In the plants where the wage increases are absorbed—because of increased worker productivity—the worker would not be able to qualify for his pay increase. So the efficient plant, with productive workers, would not qualify under the Stephens amendment.

This is counter to everything we are trying to accomplish in the economic stabilization program.

The Stephens amendment does nothing more than reaffirm—and ratify—the present policies of Judge Boldt's Pay Board. At the present time, the Pay Board has effectively blocked all retroactive pay increases.

The Stephens amendment picks up the basic thrust of the Bay Board and attempts to give it congressional sanction.

The teachers and working people will get nothing in the way of retroactive increases under the present Pay Board standards. The Stephens amendment changes nothing and if it is adopted we might as well be handling the teachers and the workers—who had valid contracts prior to August 15—a blank sheet of paper. The Stephens amendment is a mammoth joke on people who entered into wage agreements in good faith before anyone knew the President was planning to implement a wage-price program.

In contrast, my amendment provides two very specific guidelines on pay contracts:

First. It provides that legal contracts and agreements entered into prior to the President's August 15 announcement are valid.

Second. It provides a single exception to that guideline. It says the President—presumably delegated to the Pay Board—may stop the wage agreement if he is able to legitimately determine—on a factual basis—that the wage increase is "unreasonably inconsistent" with the rate of increase of wages in the economy generally.

In summary—the Minish amendment basically provides for validation of contracts and agreements entered into in good faith before the wage-earner had any knowledge of a freeze. At the same time, it leaves the Pay Board with the power to deal with extreme cases—where there can be a factual determination that the contracts were "unreasonably inconsistent."

The gentleman from New Jersey, the ranking minority member of the committee (Mr. WIDNALL) said yesterday—and I will quote from the RECORD:

> It would be folly for me to stand here and try to convince you those efforts have been wholly successful to date; but it would be equally foolish for any of us to think that the boards and commissions which the President has established can do any kind of a job if, and as long as, we sit up here second guessing every decision they make.

I might say further that Secretary of Labor James Hodgson said it would not have any affect; and I quote from the New York Times of Thursday, December 9:

> Mr. Hodgson said today that the retroactive payment of frozen wages would cause few problems for President Nixon's program, even if the liberal provision for retroactivity contained in the bill before the House of Representatives is adopted.

And Under Secretary of Treasury Charls Walker said it would amount to only one-half percent of the amount they have to play with in this whole program.

> If all the deferred increases were suddenly granted, we would still have used up only one-half percent of what we have to work with. Economically, we cannot say that there will be a catastrophe if the deferred increases were granted.

So I would think that the administration should support my amendment. It causes no problem for the stabilization program by the admission of the administration spokesmen themselves.

Mr. BROWN of Michigan. Mr. Chairman, I move to strike out the last word and rise in support of the amendment.

Mr. Chairman, I think it would be unconscionable for us to pass legislation which would permit an employer not to pay retroactive wages where funds for the payment of such increases or wages have been raised or provisions have been made for their payment.

I think it is just as unconscionable for us to pass legislation demanding that retroactive wages or increases in wages be paid where there has been no opportunity to provide the funds for the payment of such wages due to the freeze, or that the increases were not contemplated so that the adjustment that is necessary could be made.

The chairman of our committee has spoken about the situation with respect to teachers, and I am very concerned because teachers are not only at the mercy of their employers but they are at the mercy of the taxpayers.

But, with rare, if any, exception the school districts budgets have contemplated salary increases. The school year having begun in September, the contracts were negotiated by law, the salaries were provided for prior to August 15, 1971.

The Stephens amendment specifically requires the Pay Board to permit the payment in such circumstances.

Now then—what if the funds are not available in these rare instances, if any, where there is a school district that had not contemplated and had not budgeted and had not provided for the wages of teachers; or in any industry where the same thing would be applicable?

Obviously, the only answer is, if you have got to pay the increase and pay the retroactive wages and there are not the funds to do it, there would have to be a reduction in the work force and the workers and teachers would have to be laid off so that the adjustments could be made.

Are the opponents of the Stephens amendment saying that they would rather have some teachers and some employees laid off and receive no pay and no wages than to have them working, although admittedly without the pay increases or retroactive wage?

We have to keep in mind that although the Stephens amendment relates to action that the President shall take, in effect, all of the action under the economic stabilization program is being performed by boards and commissions to whom have been delegated the authority by the President.

So when you say that the President shall require—or the President shall take action to permit this, it means the Pay Board—it means the Pay Board cannot adopt an impediment to the payment of these wages or salaries, if the conditions set forth in the Stephens amendment are met.

The Stephens amendment says that if funds have been contemplated for payment of such wages or retroactive wages, then the Pay Board may not impose any impediment to the payment and may not impose any impediment to the employers' obligations to comply with such contract.

Mr. GONZALEZ. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Michigan. I yield to the gentleman from Texas.

Mr. GONZALEZ. The reason I have interrupted the gentleman, and I hate to do that, is I do want to clarify something about which there is some disagreement here.

What you said a minute ago contradicts what you said which was that the Stephens amendment "would or may be required"—you use the word "require"—the Pay Board to grant this.

Mr. BROWN of Michigan. I will repeat what I said.

Mr. GONZALEZ. Now you are saying they will "permit." There is a difference between a requirement and a permissive grant, which is what the Stephens amendment provides.

Mr. BROWN of Michigan. If the gentleman will once again listen, I will repeat what I said the first time. I said the Stephens amendment specifically requires the Pay Board to permit the payment in such circumstances. That is exactly what I said before. In effect this amendment takes away the possibility of the Pay Board imposing any impediment under the controls on a contract that was in existence on August 15, 1971, where the funds are available and the circumstances have been met.

Mr. GONZALEZ. Now, just a moment. How can you say that the Stephens amendment requires—requires—the Pay Board to permit? It is either a mandate or a permission. You cannot have it both ways.

Mr. BROWN of Michigan. It is just exactly that. The Stephens amendment requires the Pay Board to permit these retroactive wages to be paid under a contract which is in existence. In other words, the Pay Board may not impose itself on an impediment to the contractual obligation of the parties.

The CHAIRMAN. The time of the gentleman from Michigan has expired.

(On request of Mr. KAZEN, and by unanimous consent, Mr. BROWN of Michigan was allowed to proceed for 2 additional minutes.)

Mr. KAZEN. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Michigan. I yield to the gentleman from Texas.

Mr. KAZEN. We have a situation in my State where the fiscal year ends on August 31. The legislature of my State granted increases to State employees and to the schoolteachers for the term beginning September 1. Since the fiscal year ends on August 31, I am wondering whether under the Stephens amendment there was or was not a contract on August 15. What is your interpretation?

Mr. BROWN of Michigan. I do not know your State law——

Mr. KAZEN. It is very simple. The fiscal year begins on September 1. The legislature passed an act to become effective on September 1 granting an increase to my State employees and to my teachers. If you are going to say that that law was not in effect on August 15, then they are knocked out of any increase.

Mr. BROWN of Michigan. No. Let me clarify this. First of all, what we are talking about here is an affirmative obligation. It is an affirmative obligation. In effect it says the Pay Board may not impose an impediment to the payment of these wages. This does not mean that the Pay Board has to in other circumstances impose such an impediment. So you are not taking away the authority from the Pay Board to do exactly what you think should be done, and that is to have those increases become effective on September 1, and retroactive through September 1. The Pay Board still has that authority. What the Stephens amendment does is to impose a further obligation upon the Pay Board to permit those contracts to go into effect when the circumstances are met.

Mr. KAZEN. The "circumstances met" is that that contract be in effect on August 15.

Mr. BROWN of Michigan. No, no. The gentleman is not listening. The Stephens amendment imposes a further obligation, an affirmative obligation upon the Pay Board, and that is under these circumstances to permit the contract to go into effect.

The CHAIRMAN. The time of the gentleman from Michigan has again expired.

Mr. ST GERMAIN. Mr. Chairman, I move to strike the requisite number of words and rise in opposition to the amendment.

The CHAIRMAN. The gentleman from Rhode Island is recognized for 5 minutes.

Mr. ST GERMAIN. Mr. Chairman, in answer to the question of the gentleman from Texas, the Stephens amendment is very clear. It has two conditions. One is that such increases be provided for by law or contract prior to August 15, 1971.

Mr. KAZEN. In our situation the legislature provided for it prior to August 15, but the act does not take effect until September 1.

Mr. ST GERMAIN. Just a minute. I would like to speak a few minutes before I yield. Let us take a look at the Stephens amendment. The Stephens amendment says that the increases will be permitted if the President determines that—

> (A) Such increases were provided for by law or contract prior to August 15, 1971.

The section reads—

> (2) Beginning on the date on which this subsection takes effect, the President shall promptly take such action as may be necessary to—

And here is the rub. The original Stephens amendment read—

> . . . to require the payment of any wage or salary increases . . .

Now perhaps we could have lived with that. However, the word "require" has been stricken and has been replaced by the word "permit" which brings us back to the situation we are in right now without the adoption of legislation. It is permissive. The Pay Board has had this authority all along. This makes no change whatsoever in the existing situation. It merely reaffirms the existing situation.

And I might say this. Just yesterday, on December 9, Mr. Hodgson said:

> That the retroactive payment of frozen wages would cause few problems for President Nixon's program, even if the liberal provision for retroactivity contained in the bill before the House of Representatives is adopted.

Further, in addition to Secretary Hodgson's statement, there was an earlier statement by Under Secretary of the Treasury Charls Walker who supported the provisions of the Minish amendment as reported by the House Banking and Currency Committee.

> Secretary Walker has said that allowance of all deferred pay increases provided by contracts negotiated prior to the implementation of the Phase I program on August 15, 1971, would have little if any impact on the President's economic stabilization program.

Mr. Chairman, the Minish amendment is right in line with the statements of these administration leaders. The Minish amendment in H.R. 11309 would require the payment of wage and fringe benefit increases contained in labor contracts negotiated prior to August 15, 1971, unless the President finds such increases to be unreasonably inconsistent with wage increases that have been generally made in the economy at the time these agreements were being negotiated. Is this not almost exactly what Secretary Hodgson said the administration expected would have to be done regarding initial contracts approved under the phase II program? How can the President under these circumstances support his position of all but barring wage increases negotiated in contracts prior to phase I but not scheduled to be implemented until after the start of phase I on August 15?

If the Secretary of Labor declares that it is a simple matter of justice to depart from the phase II wage guidelines during the initial months of that program, then it is no less equally just and equitable that we adopt the Minish amendment as it was reported from the House Banking and Currency Committee in H.R. 11309.

That amendment reflects acknowledgment of the fact that wage contracts negotiated prior to the start of phase I reflect cost-of-living increases that had occurred prior to settlement and ratification. To bar these increases, and allow the cost rises that these contracts were designed to meet to remain unchanged, is to impose a harsh and utterly discriminatory penalty on millions of workers and schoolteachers throughout the Nation.

The President, by his decision to bar these increases, singled out wage contracts to the exclusion of all other agreements for sacrifice in the phase II program. He did not place any restrictions on mortgage contracts that were implemented at the time with near record high interest rates of 8 percent and more. He did not restrict provisions in installment loan contracts carrying interest rates of 18 percent, 24 percent, and 36 percent. He did not bar any of the provisions of small loan contracts which are notorious for their high interest charges.

Moreover, the workers who were to benefit from these wage increases have every right to receive them. The good faith negotiations which resulted in these pay raises were conducted without the slightest idea that the President was going to utilize the authority of the Economic Stabilization Act. Consequently, the beneficiaries of these contracts made important financial commitments based on the expectation that their pay increases would allow them to afford them. Commitments like the purchase of new homes and household items. Commitments like borrowing to receive medical treatment that could now be afforded due to the wage increases provided by these agreements. Commitments like borrowing to allow children to go to college and technical school.

To prevent these workers from receiving the benefits of these wage contracts would be the grossest injustice.

Mr. Chairman, I am greatly relieved that Secretary Hodgson agrees with this position. I am happy that Undersecretary Walker has said that allowing the increases provided by these contracts would make little difference to the phase II program. With that kind of support, we can do no less than adopt the Minish amendment as it is contained in the bill reported out of the Banking and Currency Committee.

Let me turn to another point. It has been said here that the teachers really do not know what this is all about, and therefore cannot be in opposition to the Stephens amendment. All we have to do is to walk out into the hallway and there the teachers will greet the Members and inform them of the fact that the teachers can read. They know the English language. It is their mission in life to teach and to understand words and the wording of this amendment is very clear. It says "permit" and it does not say "require." So the people who expected these increases and who had entered into contracts legitimately and legally and who subsequently bought homes and committed themselves to educating their children and probably went into hospitals or undertook other medical care which they had deferred prior to that, undertook these things on the expectation of the pay increases, but they have been denied these increases.

The Minish amendment and those who support it, as opposed to the Stephens amendment, take the view that these people are entitled to that which they have contracted for legitimately.

Mr. ROUSSELOT. Mr. Chairman, I move to strike the last word.

Mr. Chairman, if the gentleman from Rhode Island will be willing to continue the discussion on the Stephens amendment, I wish to call another point to the Members' attention. First of all I think the gentleman from Rhode Island was correct in pointing out that there were two provisions in the Stephens amendment, but he failed to read to the body the second part of those provision which states, that if the President determines:

> Prices have been advanced, taxes have been raised, appropriations have been made, . . . or funds have otherwise been raised or provided for in order to cover such increases.

Let us talk about the teachers in New Jersey, just mentioned. The gentleman has already stated that the New Jersey Legislature acted.

Mr. ST GERMAIN. It was Texas.

Mr. ROUSSELOT. I respectfully disagree. The gentleman from New Jersey was complaining about the problem of teachers in New Jersey. The New Jersey body has acted legislatively. They have appropriated the money for the teachers, and if that money has been appropriated, then the pay raise would be granted under the Stephens amendment language. So the gentleman has failed to point out one of the most important aspects of the Stephens amendment. That is part (2)(B) which outlines the various conditions I have stated.

Mr. ST GERMAIN. If the gentleman will yield, excuse me, the Stephens amendment says that the President can permit—it is permissive—he can permit these increases to take effect.

It does not say he must. The original Stephens amendment said the President is required, but there was halfway across the ballfield a change, and the wording is changed to "permit."

Mr. ASHLEY. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from Ohio.

Mr. ASHLEY. Let us clear up this almost deliberate misunderstanding. The gentleman from Rhode Island is a lawyer and he knows perfectly well under this language, beginning on the date on which this subsection takes effect, "The President"—and let us read that "The Pay Board"—shall promptly take such action, and let us say that "shall" means "require." Then we can say that beginning on the date on which the subsection takes effect, the President, that is, the Pay Board, is required to do this.

Mr. ST GERMAIN. Excuse me—it is "require."

Mr. ASHLEY. Let us follow the language.

It reads that the President shall promptly take such action. This is the Stephens language. The President can direct the Pay Board. We can add that the Pay Board shall promptly take such action. We can agree that "shall" means required, so we can arrive at this language:

Beginning on the date on which this subsection takes effect, the President—that is, the Pay Board—shall—that is, is required—promptly take such action as is necessary to permit the payment of any wage or salary increase.

The Pay Board is mandated to permit such increases as are covered by the Stephens amendment. This is the point. This is not permissive language. This is about as mandatory as can be.

Mr. ROUSSELOT. I believe the gentleman from Ohio has stated it very concisely. He has been intimately involved in the drafting of this legislation. I believe he has restated the point I was trying to make; that is, that those wage increases which have been granted under the appropriation process are very precisely covered and the Board must perform under this language. I believe the gentleman from Ohio has made this very clear.

Mr. STEPHENS. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from Georgia.

Mr. STEPHENS. In explanation of what this argument is about, let me point out that if we use the word "permit" it sounds as if we are making it permissive, but we have to take into consideration the language which precedes it, which says "he shall permit," this means if somebody comes in and puts these facts before him, then he gets the pay raise. If they cannot put the facts before him, of course, that is a different proposition. But it says he shall permit them to grant this as a matter of right.

Mr. McKINNEY. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from Connecticut.

Mr. McKINNEY. I should like to say to the Members of the House and the gentleman from Rhode Island in particular, though I am not a lawyer I believe it is pretty clear that a contract is law. That refers to a contract between a town and a teacher or between a city or a State and its employees.

Once this is agreed to and comes into law by any action of a legislative body, the only thing that could defer it was the action of the board.

This amendment very clearly states that that action will be taken away; that they shall permit this. Then the law which in this case is the contract, and the law that is the State law, automatically takes over. The minute a town says it is going to pay a teacher, even though that pay raise may not come into effect for 2 months, or even though the increase in taxes may not take place for 7 months, they have committed themselves to a counteraction which must take place by State law, and I do not believe there is a State in the 50 States in this Union which says that any town or State may willingly go into a deficit position. The simple fact is that every State or local employer in this country, who has been given a valid contract, has become a part of the law. The amendment states quite clearly that the President shall—meaning must or will—permit these laws to go into effect.

Mr. BRASCO. Mr. Chairman, I rise in opposition to the Stephens amendment.

The CHAIRMAN. The gentleman from New York is recognized for 5 minutes.

Mr. PATMAN. Mr. Chairman, will the gentleman yield?

Mr. BRASCO. I yield to the chairman of the committee.

Mr. PATMAN. I should like to know how we stand as to whether or not we have heard enough debate on this. We are trying to get through here today, and we will have to limit some of these amendments. I wonder how many Members who have not spoken on this before would like to speak? I see there are quite a few.

Mr. Chairman, I wonder if a 40 minute limitation would be satisfactory?

Mr. CHAPPELL. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. PATMAN. I suspect it is a little early. We will forgo it.

Mr. BRASCO. Mr. Chairman and members of the Committee, the very issue which is before the House today is whether or not we want to allow to be paid the fruits of labor contracts legally negotiated prior to August 15 of this year.

I might say that these were negotiated for one reason and one reason alone; because prices had gone up.

Mr. STEPHENS states that prices have not been given a chance to be raised, that is not so, because they were already raised and that is why the negotiations for increased wages took place.

Mr. STEPHENS is a very distinguished member of the committee and is very highly respected by myself and others. However, he says his amendment is a compromise. Those of us who are on the committee know that it is not a compromise. The only vehicle that gives the wages negotiated prior to August 15 to the employees is the Minish amendment. This amendment won, I must say, twice in committee. We had two separate and independent votes on the Minish amendment, and it won on two separate occasions.

Mr. STEPHENS says in his amendment teachers' raises are taken care of. To back that up Mr. ASHLEY stated not only are they taken care of but 95 percent of what is in the Minish amendment is taken care of by the Stephens amendment.

If that be so, I do not know what the debate is all about. I am sure it is not for 5 percent of what is left over, and I am sure it is not for pride of authorship in this amendment.

I will tell you what the debate is all about.

Mr. WIDNALL, another good friend of mine and a distinguished member of the committee, put it very succinctly when he said if you are for the Stephens amendment, you can be prolabor, you can be promanagement, and you can be proeverything. Yes, you can, because the Stephens amendment does nothing while it purports to grant the increases, it cuts everything.

Right now the Pay Board and this administration has the right to do everything that the Stephens amendment seeks to codify. If we adopt the Stephens amendment, what we are saying is that we are adopting nothing.

Let me give you the real reason why I am concerned about this.

It is because if we give authority to the Pay Board—and I think Mr. ASHLEY said if you are talking about the Pay Board, you are talking about the administration—to make the decision in this case, then I am afraid what is going to happen is what has happened with the Federal employees. Right now Federal employee wages have been held up. They have been held up unconscionably. Yet I am a member of the Committee on Post Office and Civil Service and, lo and behold, an arm of this administration, the Civil Service Commission, comes before the Committee on Post Office and Civil Service with the vice presidents of Blue Cross and Blue Shield and recommends a 34-percent increase in the health premiums for Federal employees, while on the other hand the administration is holding up the wage increases for Federal employees.

That is the kind of equity we are going to become involved in if we allow these negotiated legally binding contracts to be decided by the Pay Board and by the administration. It is a kind of philosophy that says if you put money in the pocket of the little man, it is inflationary, but you take the money out of his pocket and give it to a big guy, that is combating inflation. Well, that is not so.

The only way that the people we all say we are concerned about, the working Americans, are going to get their increases, increases upon which they are depending and upon which they made obligations, is to sustain in this bill the Minish amendment. If we do any less than that, then I will agree with Mr. Widnall and say that we have not stood for anything today.

Thank you.

AMENDMENT OFFERED BY MR. LATTA TO THE AMENDMENT OFFERED BY MR. STEPHENS

Mr. LATTA. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Latta to the amendment offered by Mr. Stephens: In paragraph (B), after "been advanced," insert "productivity increased".

Mr. LATTA. Mr. Chairman, let me say that I believe that everyone in this Chamber today wants equity for both the employers and the employees of this Nation. I support this amendment because I believe by its adoption it is the only way we can obtain equity for both.

Mr. Chairman, many cases come to my mind under the existing wage-price freeze where raw materials have not been frozen and have continued to rise in price since August 15. However, the prices of the products processed or manufactured from these same raw materials have been frozen and the affected companies have been restricted by law from increasing their prices. This regulation was certainly inequitable and unprofitable for these companies. To say to these same companies that you now have to pay wage increases retroactively for this same period would be giving them a second economic blow to which they are not entitled. I think that the Stephens amendment attacks this problem and brings equity to the situation.

The question has been raised by the chairman of the committee that this amendment as written would not reward increased productivity during this period. I am very much concerned about this and, certainly, if the Stephens amendment does not reward increased productivity, then I think that it should and we should spell it out in this bill in no uncertain terms as this is what this country needs. Whenever employees increase their productivity—and in turn the productivity of this Nation—we want to make certain that they are rewarded for it. The amendment which I am now proposing as an amendment to the Stephens amendment would so reward these employees.

Mr. Chairman, I have discussed this amendment with the gentleman from Georgia (Mr. Stephens) and I now yield to the gentleman for any comments he may wish to make.

Mr. STEPHENS. I thank the gentleman from Ohio for yielding. I believe what the gentleman is proposing would be acceptable, and I would like to say that it is acceptable to me and to the others on this side of the aisle that favor my amendment.

Mr. LATTA. I thank the gentleman.

Mr. WIDNALL. Mr. Chairman, will the gentleman yield?

Mr. LATTA. I yield to the gentleman from New Jersey.

Mr. WIDNALL. I favor the amendment as I have read it very carefully and I feel that this would be a healthy change in order to correct some of the conflicts which exist between some of the Members of this House. Therefore, I think we should accept this amendment.

Mr. LATTA. I thank the gentleman from New Jersey and urge the adoption of my amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. Latta) to the amendment offered by the gentleman from Georgia (Mr. Stephens).

The amendment to the amendment was agreed to.

Mr. HOWARD. Mr. Chairman, I move to strike the last word.

Mr. Chairman, the acceptance of the Latta amendment, as far as I can understand it, although I have not seen a copy of it, still leaves the word "permits" in this legislation and eliminates the word "requires" with reference to honoring contracts.

So, Mr. Chairman, I feel that we must sustain the committee in relation to contracts that were signed by workers and schoolteachers throughout America. It is incumbent upon the Congress to see that these contracts are honored and we must state quite clearly that when agreement is made—such as a signed contract—we expect both parties to that contract to keep their word.

It was mentioned in relation to my own State of New Jersey a few moments ago that the schoolteachers in New Jersey approve of the acceptance of the Stephens amendment.

Mr. Chairman, I would like to read into the record a statement which I received less than 5 minutes ago from the Public Relations Director of the New Jersey Education Association, a professional association that represents over 90 percent of the schoolteachers in New Jersey, from Mr. Lewis Applegate in which he stated as follows:

I am authorized to report that the New Jersey Education Association supports the Minish amendment and is 100-percent opposed to the Stephens amendment.

Mr. Chairman, concerning the problems of this country and the efforts of Congress to meet them, we are getting ourselves involved in agreements and contracts that have been made by employers and employees.

We have no right in the Congress, nor does the administration, to tell people that, "You do not have to keep your word; you do not have to meet your commitments."

And, Mr. Chairman, what is worse about this whole idea of breaking contracts is that we are breaking only half of a contract. Agreements were made and people said, "I think I will change my job next year because I will get a better deal than I am now getting in another industry." We say, "If you will work at your job, and do these duties for the coming year, you will receive this amount of pay."

An agreement was made that the worker will work at that job, and the employer will pay him a stated salary. Now, the Federal Government comes along and says, "We are going to break half of that. The obligation of the worker to show up for work, to do this job, to work these hours throughout the years stays in. He has to meet his half of the contract." But as far as the employer is concerned, they say, "You do not have to meet your commitment. You will get the labor force, you will get the hours you want, you will get the job done, but you do not have to pay the salary you agreed upon."

That is what is wrong about the whole thing, and that is what is needed in the committee action and in the Minish amendment that, no matter what the people say about the economic conditions and what Congress does about them, we may raise taxes too much, we may spend money in a way that they do not want us to do, but at least you have the people in America saying that the Congress is fair, it is fair to all people.

There are many other inequities in this phase II operation, but this is the most glaring one. So let us not leave here today and have the Congress say that we will break contracts for some of the people, and hold people to other contracts. The only way we can be completely fair is to sustain the committee's action on the Minish amendment.

Any amendment that would make it permissible for any board of education—and the Stephens amendment says the board of education may do what is right if he feels it is right, but if it does not feel it is right, it does not have to do so.

My point, however, is this: These contracts have already been signed. The board of education had earlier agreed that the amount of money to be paid a given teacher was fair and equitable. Therefore, there is an obligation to make good on that contract or promise. The same should apply to any labor contract.

Mr. BROWN of Michigan. Mr. Chairman, will the gentleman yield?

Mr. HOWARD. I yield to the gentleman from Michigan.

Mr. BROWN of Michigan. Mr. Chairman, would not the gentleman say that when a contract is negotiated between an employer and employees, that there is also contemplated in that contract an understanding between the employer, his employees, and the persons to whom the firm sells whatever the labor produces, that price increases will occur to fund such increases in pay? Do you say it is fairer for the Government to step in and prevent the employer from having the ability to pay increased wages, than it is to step in between the employer and the employees regarding payment of their wages?

Mr. HOWARD. I agree, and that is the reason I say that nothing should have been done—nothing should have been done until after August 15. It is the same thing with someone who made a bid for a contract with the Federal Government, and he considered, in making his bid, how much he would have to pay for materials from the manufacturer, as well as increasing salaries, and then August 15 comes along, and he finds out, gee, I am not going to have to pay that increase in salaries, and the additional prices, because of the freeze on the goods of the manufacturers for their products, but I can still get the same amount of money on my bid, so I have a tremendous windfall here. I am saving money from both the manufacturer and the businessman, and also on the salaries. But there was no change in the price of my bid, and therefore I have a tremendous windfall coming to me.

That is unfair.

Mr. BROWN of Michigan. But what the gentleman is describing is covered by the Stephens amendment. If it is adopted, there will be no windfalls derived in contemplation of payment, and then nonpayment of retroactive wages.

Mr. HOWARD. There can be no increases in teachers' pay or salaries from the budget paid by the people in the communities by the amount of extra tax money that was collected, and which is sitting in the treasury of the board of education now, that would not be affected at all, but as long as the word "permit" is in there then you have complete freedom to do the way you wish.

So I believe the Minish amendment should be supported.

Mr. CHAPPELL. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the Stephens amendment.

The CHAIRMAN. The Chair will state to the Members that the Chair is trying to recognize the members from the committee first when they rise, and the Chair is trying to alternate.

However, if the Members on one side do not rise promptly, and a member of the committee on the other side rises promptly, that Member will be recognized.

The Chair is trying to be fair.

Mr. CHAPPELL. Mr. Chairman, I think it is important for us to remember that the powers which we gave the President some time back to stabilize this economy were given to him by this Congress. It was broad authority. He has exercised that authority and has tried to stabilize the economy, in part by the freeze on wages and prices.

If this Congress now, after the President has already taken action under the powers it gave him, and snatches part of that authority retroactively from him, then a serious injustice will be done to a large segment of our people. It is not now fair to retroactively "unfreeze" wages without doing the same for prices unless prices had already been increased in anticipation of agreed wage increases.

It seems to me, if we are trying to get at the situation that some gentlemen are talking about here in support of the Minish proposition, then an amendment should be offered which would require the President to permit future increases in prices to offset increases in wages which were not permitted during the freeze period. Such action would be clearly inflationary.

Mr. Chairman, this amendment addresses itself solely to the 90-day freeze period. Solely that period between August 15 and November 15—and to no other. It addresses itself solely to the question of whether or not we are going to require now employers to go back and pay wage increases without allowing a comparable price increase to shoulder the increased business cost resulting from such a wage increase.

This amendment simply intends to do equity between labor and management. It provides that wage increases fully provided for prior to the freeze date of August 15, 1971, and due to be paid during the 90-day freeze would be allowed retroactively. In order to find such wage increases entitled to retroactivity the President would find that an affected employer had in fact increased his prices or his productivity in contemplation of the wage increase or in the instance of public employees, he would find that funds had been provided for in support of wage or salary increases previously arranged by contract or by law.

Much has been said of the use of the word "permit" that it requires the President to do nothing. I cannot agree. The amendment requires the President to promptly take such action as may be necessary to permit payment of such wage and salary increases contemplated by the amendment.

It is a mandatory proposition—it should be so. Certainly, however, we would not intend to require the Wage Board to go all over the United States filing suits for others to bring this about. The use of the word "permit" is proper. It is mandatory, that the President clear the way for payments entitled to retroactivity. I cannot see for the life of me why there is such a big play on the word "permit."

Mr. BRASCO. Mr. Chairman, will the gentleman yield?

Mr. CHAPPELL. I yield to the gentleman.

Mr. BRASCO. The gentleman in the well has on several occasions indicated that contracts should be paid only if management had an opportunity to increase the prices.

So far as I am concerned, with my own knowledge of labor law, management never grants an increase and then raises prices to take care of the increases that have been granted.

Before they even begin to negotiate increases in wages, they take care of their increases in prices and they take care of their stockpiles and the things that they need in terms of their own productivity.

Mr. CHAPPELL. Then you certainly should be in favor of this amendment. That is exactly what it would permit, if price increases were made in anticipation of wage increases, then retroactivity would be allowed. Fairness and justice would demand it.

Mr. BRASCO. They have to prove that they did it to the satisfaction of the Pay Board, which by virtue of their own guidelines indicated that they have made up their minds with respect to that. That is what we are concerned about.

Mr. HANNA. Mr. Chairman, will the gentleman yield?

Mr. CHAPPELL. I yield to the gentleman.

Mr. HANNA. I think it is rather important to have very clearly on the record what this amendment means because there is a possibility that we will adopt this amendment.

I think the gentleman will agree with me that if the President had not acted, the contracts would have been carried out under the contract law. Any dispute including failure to perform provisions for pay increase could be taken into court under the law and be required to pay in court; is that not correct?

Mr. CHAPPELL. That is absolutely correct.

The CHAIRMAN. The time of the gentleman has expired.

(Mr. CHAPPELL, at the request of Mr. Hanna, was granted permission to proceed for 2 additional minutes.)

Mr. HANNA. Then the next step—if the President had not said, "I will not permit these payments to be made"—they would have been made?

Mr. CHAPPELL. That is absolutely correct.

Mr. HANNA. So what you are trying to do is to say the President shall go back to the point before we enacted the law, that is, permission is now given whereas these contracts were interfered with because he would not permit them to go ahead and be carried out during the freeze period.

Mr. CHAPPELL. Absolutely. If compensating price increases had already taken effect before August 15, 1971, the increases should be allowed for the freeze period. Otherwise, they should not be allowed.

It is a matter of pure fairness. It would be unfair to require people whose prices were frozen to go back now and pick up increases retroactively unfrozen. In such instances this could result in severe damage to the businesses and economy of this Nation. There is no question in my mind about it.

Mr. HANNA. In the gentleman's opinion, the language of the amendment would put us back into the situation that existed before the President acted on the freeze.

Mr. CHAPPELL. That is absolutely correct.

Mr. HANNA. I thank the gentleman.

Mr. SIKES. Mr. Chairman, will the gentleman yield?

Mr. CHAPPELL. I yield to the gentleman from Florida (Mr. Sikes).

Mr. SIKES. Mr. Chairman, I do appreciate my good friend's courtesy in yielding. I find myself strongly in agreement with the comments of the distinguished gentleman from Florida. He has made a very able statement. I fully and strongly support the Stephens amendment. I feel it provides a reasonable and necessary approach to the solution of a difficult problem. It will help to assure economic stabilization.

Mr. CHAPPELL. I thank the gentleman for his comments. Let me say in closing that if we want to be fair and assure justice in this matter and help the President do that which we intended for him to do in the first place, we can do nothing less than to pass the Stephens amendment.

Mr. WYLIE. Mr. Chairman, I rise in support of the Stephens amendment.

Mr. Chairman, in my judgment the amendment we are discussing contains the guts of the bill and will determine whether we will have wage and price controls or not.

The impression was left by the distinguished Chairman of our committee, though I do not think he intended to leave such an impression, that he had a statement from the Secretary of Labor to the effect that the administration could live with the Minish amendment, thereby implying administration approval.

On November 22, at a press conference held with the Honorable John B. Connally, Secretary of the Treasury, one of the members of the press said——

> Mr. Secretary, the legislation that is taking shape in Congress to cover phase II has retroactive wages and the House bill has controls. Would you advise the President to veto such a bill?

The Secretary replied——

> With respect to the Minish amendment in the House: we strongly opposed that amendment. A similar amendment was offered in the Senate that is much more acceptable.

I mention that because the administration does not think that the Minish amendment will accomplish the purpose of wage-price controls.

The Minish amendment must be stricken from the bill, and that is one of the things the Stephens amendment would do. Let us look at it for a moment. The Minish amendment states——

> Notwithstanding any other provisions of this title, effective on November 15, 1971, the authority conferred on the President by the title shall not be exercised to limit the wage or level of any wage or salary . . .

And so forth. That language is ambiguous when you read section 203 of the bill. In my judgment, the two are in conflict. So we have an ambiguous situation developing which would be impossible to administer. In my judgment, the Stephens amendment clarifies the intent of the Minish amendment in that it provides that if wage increases have been granted, they will go into effect if the wage increases have been provided for by taxes, price increases, or other source of revenue. In other words, the Stephens amendment prohibits deficit financing, which has been the root cause of our inflation in the first instance, in my judgment. Voluntary compliance will depend, of course, on the cooperation of labor, and I think voluntary compliance is essential in the administration of wage-price control.

The Pay Board was established as a tripartite Board, as Mr. Meany requested, so that labor would be a part of the decisionmaking as far as pay increases are concerned. Generally I think that the 80 million working people across the Nation support the wage-price freeze—at least that is what my mail says—and if they knew what the Minish amendment does and knew that it would defeat the basic purpose of the wage-price freeze, they would be opposed to it.

There is no question, in my mind, that this would be the impact of the Minish amendment.

Mr. PATMAN. Mr. Chairman, will the gentleman yield?

Mr. WYLIE. I yield to the gentleman from Texas.

Mr. PATMAN. Mr. Chairman, the gentleman is on our committee, and I admire him very much, but I just wonder, since the gentleman is advocating this amendment, if this amendment were to be adopted, would the gentleman vote for the bill?

Mr. WYLIE. The Stephens amendment?

Mr. PATMAN. Yes; the Stephens amendment.

Mr. WYLIE. Yes; I will vote for the bill if the Stephens amendment is adopted.

Mr. J. WILLIAM STANTON. Mr. Chairman, will the gentleman yield?

Mr. WYLIE. I yield to the gentleman from Ohio (Mr. J. WILLIAM STANTON).

Mr. J. WILLIAM STANTON. Mr. Chairman, I appreciate the gentleman yielding.

Mr. Chairman, I submit to the members of the committee that the gentleman has made a very significant contribution. He is into an area which is very hard to understand, but I do think he has made a point which has been reiterated several times before, but for the benefit of those who do not seem to agree with it, all we can do is repeat it again and again.

First of all, the Stephens amendment is "shall" and is mandatory language?

Mr. WYLIE. That is my position, exactly.

Mr. J. WILLIAM STANTON. The proponents of the Stephens amendment have the understanding that the vast majority, if not all of the teachers in the contracts which have been entered into in this particular period will be honored by the Stephens amendment.

Mr. WYLIE. I think the gentleman is correct again. The Stephens amendment would more likely assure teachers of an increase in salary agreed to prior to August 15. I thank the gentleman for his contribution.

Mr. MINISH. Mr. Chairman, will the gentleman yield?

Mr. WYLIE. I yield to the gentleman from New Jersey.

Mr. MINISH. Mr. Chairman, I remember the gentleman in the well said the Treasurer of the United States, that is the Secretary of the Treasury, said he was opposed to the Minish amendment. I am reminded of a great Speaker in the House of Representatives who said, when he was asked about the possibility of a Senator from his State accepting nomination of Vice President, that he did not think he should. But the next morning he advised the Senator to accept it. When he was asked why he changed his mind, he said, "I am a much smarter man this morning than I was last night."

It reminds me of the statement that Secretary Connally made on November 22. Now I want to talk about a later statement, made in December.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. WYLIE) has expired.

(On request of Mr. MINISH, and by unanimous consent, Mr. WYLIE was allowed to proceed for 1 additional minute.)

Mr. WYLIE. That is the Secretary of Labor the gentleman is talking about now.

Mr. MINISH. That is right.

Mr. WYLIE. I was talking about the Secretary of the Treasury.

Mr. MINISH. I want to read a statement from the New York Times concerning Secretary of Labor Hodgson. Secretary Hodgson said today that—

> The retroactive payment of frozen wages would cause few problems for President Nixon's program, even if the liberal provision for retroactivity contained in the bill before the House of Representatives is adopted.

I assume he speaks for the administration.

Mr. WYLIE. That was the impression which was left by the distinguished chairman, and I wanted to allay that impression. I would say if any one person speaks for the administration on the wage-price question, it is the Secretary of Treasury.

Mr. PATMAN. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto close at 12:30.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

Mr. DENNIS. Mr. Chairman, I dislike to object, not being a member of the committee, but I agree with what has been said here, that the debate on the bill centers on this measure. I think it is a pretty important bill, and I think every Member should have the chance to talk if he wants to. So I object.

MOTION OFFERED BY MR. PATMAN

Mr. PATMAN. Mr. Chairman, I move that all debate on this amendment and all amendments thereto close at 12:30.

The CHAIRMAN. The question is on the motion offered by the gentleman from Texas.

The question was taken; and the Chairman being in doubt, the Committee divided, and there were—ayes 60, noes 24.

So the motion was agreed to.

The CHAIRMAN. Members standing at the time debate was limited will be recognized for 45 seconds each.

(By unanimous consent, Mr. GERALD R. FORD yielded his time to Mr. ANDERSON of Illinois.)

The CHAIRMAN. The Chair recognizes the gentleman from Texas (Mr. GONZALEZ).

(By unanimous consent, Mr. GONZALEZ yielded his time to Mr. MINISH.)

The CHAIRMAN. The Chair recognizes the gentleman from Texas (Mr. PICKLE).

Mr. PICKLE. Mr. Chairman, I should like to ask the chairman of the committee, with reference to State employees, particularly as it applies to my State of Texas, if under the committee bill the

State employees or teachers would be assured of their retroactive pay.

Mr. PATMAN. I am certain that they would. It is questionable whether they would under the Stephens amendment.

Mr. PICKLE. I should like to ask the gentleman from Georgia the same question. Under his amendment, for a State like mine, whose State employees were to get a raise on August 15, when the freeze caught them, would it be the intent of his amendment that they would be considered as having a legal contract and would be entitled to retroactive pay?

Mr. STEPHENS. It is my intent that that be done.

Mr. PICKLE. I thank both gentlemen.

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. Pike).

AMENDMENT OFFERED BY MR. PIKE TO THE AMENDMENT OFFERED BY MR. STEPHENS

Mr. PIKE. Mr. Chairman, I offer an amendment.

The CHAIRMAN. Is it an amendment to the pending amendment?

Mr. PIKE. It is an amendment to the amendment offered by the gentleman from Georgia (Mr. Stephens).

The CHAIRMAN. The Clerk will report the amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. Pike to the amendment offered by Mr. Stephens: Strike out "permit" and insert "require".

Mr. PIKE. Mr. Chairman, I offer this amendment simply to remove an issue from this amendment offered by the gentleman from Georgia which I really do not believe ought to be there. I believe the gentleman's amendment is mandatory, is intended to be mandatory, read in context is clearly mandatory; but this particular issue has been raised. It has been argued. People have talked about it. Because the word "permit" is in the amendment people say it is permissive. I just want to get rid of this false issue, and make it clear that under all of the circumstances set forth in the amendment of the gentleman from Georgia it would be mandatory to grant the raises previously negotiated.

The CHAIRMAN. Does any Member on the list wish to speak on this particular amendment?

Mr. DENNIS. Mr. Chairman, I move to strike the last word.

The CHAIRMAN. The gentleman previously has been recognized.

Mr. DENNIS. Not on this amendment, Mr. Chairman.

The CHAIRMAN. The time is limited, and the gentleman cannot be recognized again.

The question is on the amendment offered by the gentleman from New York (Mr. Pike) to the amendment offered by the gentleman from Georgia (Mr. Stephens).

The amendment to the amendment was agreed to.

The CHAIRMAN. The Chair recognizes the gentleman from Illinois (Mr. Collier).

Mr. COLLIER. Thank you, Mr. Chairman.

It is indeed a paradox of inconsistency that so many Members of this House who for so long had called for wage and price controls to combat inflation now seek to gut the very policy it espoused. It was in fact many of these same Members who gave the President the authority which he did not seek or request. However, if you now want to sabotage the administration's fight on inflation for political expediency vote for the Minish amendment. It is just that simple.

The CHAIRMAN. The Chair recognizes the gentleman from Illinois (Mr. Pucinski).

Mr. PUCINSKI. Mr. Chairman, I rise in opposition to any effort which would eliminate from the Wage Stabilization Act the provision that contracts calling for wage increases negotiated prior to August 15 must be honored notwithstanding any other provision of this act.

The Banking and Currency Committee has quite properly included in the legislation before us today a provision calling for retroactive payment of wage increases and fringe benefits if such increases were negotiated prior to August 15.

The committee's recommendation recognizes the sane principle that neither Congress nor the President of the United States can void contractual agreements worked out in good faith at the bargaining table.

The Stephens amendment would void the committee recommendation.

It seems to me incredible that the Congress of the United States should be asked to void by legislative act contracts and agreements entered into under the collective bargaining process between labor and management.

We are talking here about contracts that may have another year to two to run. We are not discussing contracts that will be negotiated in the future.

It occurs to me that Congress will be setting a very dangerous precedent if by a legislative act we can void and negate contracts entered into legally and in good faith. This is a precedent which could have all sorts of ramifications and for that reason I hope the Committee will reject the Stephens amendment and require the payment of retroactive pay as required in any collective bargaining agreement signed prior to August 15.

Mr. Chairman, I have serious misgivings about this entire proposal. The record of this administration in implementing the Stabilization Act of 1970 leaves much to be desired. It is my hope that the administration will administer this new act with a good deal more equity and without putting both labor and industry into a hopeless straitjacket of bureaucracy.

I believe I should call attention of the House to the fact that there are some very serious legal questions involved in this legislation. I am following with great interest a legal action working its way to the Supreme Court filed on behalf of the Amalgamated Meatcutters & Butcher Workmen of North America, AFL–CIO, by the law firm of Jacobs, Gore, Burns & Sugarman of Chicago.

Mr. Albert Gore, a member of this firm, was good enough to supply me with copies of two memorandums filed with the district court challenging the constitutionality of the wage-price freeze initiated by the President on August 15.

I believe Mr. Gore raises some very significant legal points and it is my hope that the courts will carefully study the constitutionality of the very broad and excessive power which Congress is giving the President to deal with inflation.

My concern is that mismanagement of this legislation by the executive branch of Government could plunge this nation into a very serious economic crisis and bring industry to a grinding halt.

I believe the administration of this law will require great skill because the backbone of America's capitalistic system lies in its freedom.

My fear is that when we impose severe limitations on the rights of labor to seek its just goals at the bargaining table and when we impose excessive restrictions on the right of industry to seek its best level of growth, we are indeed making a historic change in our economic thinking.

I shall watch with great interest and concern the administration of this legislation by the President and I shall not hesitate to point out its shortcomings whenever they occur.

As the appropriate time I shall ask permission of the House to include in my remarks today the two memorandums prepared by Mr. Gore.

Those memorandums follow.

[In the U.S. District Court for the District of Columbia]

Memorandum in Support of Plaintiff's Motion for Preliminary Injunction and Three-Judge Court

(Amalgamated Meat Cutters and Butcher Workmen of North America, AFL–CIO, plaintiff versus John B. Connally, et al., defendants, civil action, No. 1833–'71)

STATEMENT OF FACTS

Plaintiff, Amalgamated Meat Cutters and Butcher Workmen of North America, AFL–CIO, is a labor union with more than half a million members (Complaint, Count I, par. 2). The Union and its constituent locals have collective bargaining contracts with employers engaged in commerce in the meat packing industry, the retail foods industries, the fur and leather industry, the food processing, poultry and seafood industries, the canning industry, and miscellaneous non-food industries (Compl. Count I, par. 7). Those collective bargaining agreements provide for increases in salaries, wages, pension contributions and contributions to health and welfare funds that are scheduled to take effect between August 15 and November 13, 1971, affecting in excess of 150,000 employees. The wage increases range from 4¢ to 35¢ per hour, and the salary increases range from $10.00 to $27.00 per week. The scheduled increases in contributions to health, welfare and pension funds range from 1¾¢ per hour to 10¢ per hour, and, on a monthly basis, from $10.00 to $28.00 per month (*Ibid*). These increases in wages, salaries and fringe benefits were but a part of the entire contractual package negotiated by the Union and each employer, and represented a settlement by both sides in which various other demands were abandoned or modified in the process of reaching a meeting of the minds. All such collective bargaining agreements had become effective prior to August 15, 1971.

On August 15, 1971, President Nixon issued Executive Order 11615. In that Order, the President directed that all "prices, rents, wages, and salaries" in virtually all sectors of the economy be "stabilized for a period of 90 days from the date hereof at levels not greater than the highest of those pertaining to a substantial volume of actual transactions by each individual, business, firm or other entity of any kind during the thirty day period ending August 14, 1971, for like or similar commodities or services" (EO 11615, § 1(a)).

In his speech announcing the wage-price freeze, the President declared that he was imposing these restraints even though the national economy had been improving without them. Thus, he said that the nation's "unemployment rate today is below the average of the four peacetime years of the 1960's;" and that "from the high point of six per cent a year in 1969, the rise in consumer prices has been cut to four per cent in the first half of 1971" (Weekly Comp. of Pres. Doc., Vol. 7, No. 34, issue of Aug. 23, 1971).

The Executive Order was predicated on the authority given the President by Congress in the Economic Stabilization Act of 1970, as amended (P.L. 91–379, 84 Stat. 799; P.L. 91–558, 84 Stat. 1479; P.L. 92–8, 85 Stat. 13; P.L. 92–15, 85 Stat. 38), hereinafter referred to as "the Act." The Act authorized the President "to issue such orders and regulations as he may deem appropriate to stabilize prices, rents, wages, and salaries at levels not less than those prevailing on May 25, 1970," but also empowered him to "provide for the making of such adjustments as may be necessary to prevent gross inequities" (§ 202(a)).

The Executive Order also created the Cost of Living Council, and delegated to the Council "all of the powers conferred on the President by the Economic Stabilization Act of 1970" (EO 11615, §§ 2(a), 3(a)), The Council is empowered to "(i) prescribe definitions for any terms used herein, (ii) make exceptions or grant exceptions, (iii) issue regulations and orders, and (iv) take such other actions as it determines to be necessary and appropriate to carry out the purposes of this Order" (EO 11615, § 4(a)).

Executive Order 11615 was intended by the President, and has been so construed by the Council, to impose a freeze on all wages, salaries, and fringe benefits as they existed just prior to August 15, and to prohibit any increase for the next 90 days in wage and salary rates, or in fringe benefits and employer contributions to health, welfare and pension funds, even though such increases may have been contracted for prior to August 15 (Compl., Count I, ¶6).

Relying on Executive Order 11615 and Council rulings implementing the Order, a number of employers have advised the Union that they are prohibited from implementing the increases in wages, fringe benefits and contributions to health, welfare, and pension funds to which they had previously agreed (Compl., Count I, ¶ 8). Among the employers so refusing to abide by their contracts are the eight who are defendants in this suit, and who employ a combined total of 50,000 workers: Swift & Company; Armour & Company; Hygrade Food Products Corporation; Wilson Certified Foods; Wilson-Sinclair; Wilson Beef & Lamb Co.; John Morrell & Co.; and Cudahy Packing Company. Those employers have refused to implement a 25c per hour wage increase that was supposed to be accorded their employees effective September 6, 1971 (Compl., Count II, ¶¶ 15–18; Poole Affidavit, ¶¶ 2–4).

Under the terms of the Executive Order, as interpreted and applied by the Council, the increases in earnings and fringe benefits denied the employees during the freeze period will be forever lost to them, because the Union and the employers with whom it deals are precluded from agreeing to a retroactive payment of the scheduled increases after the freeze expires. Accordingly, the Union has brought this suit for declaratory judgment and injunctive relief.

ARGUMENT

I. The Economic Stabilization Act of 1970 is unconstitutional

A. The Act Improperly Delegates Legislative Power to the President

Article I, Section 1, of the Constitution provides:

"All legislative Powers herein granted shall be vested in a Congress of the United States . . ."

The Economic Stabilization Act of 1970, however, vests unbridled legislative power in the President. Without a declaration of the reasons for the legislation, the circumstances in which the power may be invoked, or the methods to be used, Congress simply authorized the President "to issue such orders and regulations as he may deem appropriate to stabilize prices, rents, wages, and salaries at levels not less than those prevailing on May 25, 1970." (Section 202(a).) [1]

This naked grant of authority empowers the President to determine whether prices, rents, wages or salaries will be controlled, and the scope, manner and timing of those controls. Under this Act, he has the power to freeze them, lower them or raise them directly, and he can regulate them indirectly by banning strikes, regulating production, and by innumerable other means.

The authority thus conferred by Congress on the President constitutes a clear violation of the separation of powers between the Executive and Legislative branches of the Government which the Constitution mandates. The Economic Stabilization Act of 1970 ignores the distinction between "the delegation of power to make the law, which necessarily involves a discretion as to what it shall be, and conferring authority or discretion as to its execution, to be exercised under and in pursuance of the law "(*Panama Refining Co. v. Ryan,* 293 U.S. 388, 426 (1935)). The latter is constitutional; the former is not.

The authority granted the President by the Act is no more legitimate than the grant of Presidential authority challenged in *Panama Refining, supra.* There, the Court held unconstitutional Section 9(c) of Title I of the National Industrial Recovery Act (48 Stat. 195, 200), which gave to the President the power to prohibit the interstate transportation of oil produced in excess of State-imposed production quotas. Describing Section 9(c), in terms equally applicable here, the Court said (293 U.S. at 415):

Section 9(c) does not state whether or in what circumstances the President is to prohibit the transportation of the amount of petroleum or petroleum products produced in excess of the state's permission. It establishes no criterion to govern the President's course. It does not require any finding by the President as a condition of his action. The Congress in section 9(c) thus declares no policy as to the transportation of the excess production. So far as this section is concerned, it gives to the President an unlimited authority to determine the policy and to lay down the prohibition, or not to lay it down, as he may see fit. And disobedience to his order is made a crime punishable by fine and imprisonment.

The Court recognized that Congress does have the power to enact legislation establishing primary standards and "devolving upon others the duty to carry out the declared legislative policy; as Chief Justice Marshall expressed it, 'to fill up the details' under the general provisions made by the Legislature" (293 U.S. at 426). Analyzing the precedents, however, the Court went on to say (*id.,* at 432):

"Thus, in every case in which the question has been raised, the Court has recognized that there are limits of delegation which there is no constitutional authority to transcend. We think that section 9(c) goes beyond those limits. As to the transportation of oil production in excess of state permission, the Congress has declared no policy, has established no standard, laid down no rule. There is no requirement, no definition of circumstances and conditions in which the transportation is to be allowed or prohibited.

"If section 9(c) were held valid, it would be idle to pretend that anything would be left of limitations upon the power of the Congress to delegate its lawmaking function. The reasoning of the many decisions we have reviewed would be made vacuous and their distinctions nugatory. Instead of performing its lawmaking function, the Congress could at will and as to such subjects as it chooses transfer that function to the President or other officer or to an administrative body. The question is not of the intrinsic importance of the particular statute before us, but of the constitutional processes of legislation which are an essential part of our system of government."

Panama Refining is now thirty-six years old, but the passage of years and growth of administrative agencies have not sapped the vitality of its teachings. In *Kent v. Dulles,* 357 U.S. 117 (1958), the Court held that the Secretary of State's promulgation of regulations denying passports to citizens who refused to sign a non-Communist affidavit was in excess of the powers conferred on him by Congress. In reaching this conclusion, the Court said (357 U.S. at 129):

". . . the right of exit is a personal right included within the word "liberty" as used in the Fifth Amendment. If that "liberty" is to be regulated, it must be pursuant to the law-making functions of the Congress. Youngstown Sheet & Tube Co. v. Sawyer [343 U.S. 579]. And if that power is delegated, the standards must be adequate to pass scrutiny by the accepted tests. See Panama Refining Co. v. Ryan, 293 U.S. 388, 420–430. ***Where activities or enjoyment, natural and often necessary to the well-being of any American citizen, such as travel, are involved, we will construe narrowly all delegated powers that curtail or dilute them. See Ex Parte Endo, 323 U.S. 283, 301–302. Cf. Hannegan v. Esquire, Inc., 327 U.S. 146, 156; United States v. Rumely, 345 U.S. 41, 46. We hesitate to find in this broad generalized power an authority to trench so heavily on the rights of the citizen.

The right to secure the benefits of valid employment contracts lawfully entered into is no less protected by the Fifth Amendment than is the "right of exit," and the principles found applicable in *Kent v. Dulles,* quoted above, are no less applicable to the case at bar. As stated by Justice Brennan, concurring in *United States v. Robel,* 389 U.S. 258, 274–277 (1967):

"Congress ordinarily may delegate power under broad standards. * * * No other general rule would be feasible or desirable. Delegation of power under general directives is an inevitable consequence of our complex society, with its myriad, ever changing, highly technical problems. "The Constitution has never been regarded as denying to the Congress the necessary resources of flexibility and practicality * * * to perform its function * * *. Panama Refining Co. v. Ryan, 293 U.S. 388, 421. It is generally enough that, in conferring power upon an appropriate authority, Congress indicates its general policy, and act in terms or within a context which limits the power conferred. * * *

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[1] There are only two limitations on this authority: one is that it expires at midnight, April 30, 1972 (Section 206); the other requires that the President first make a determination of special need based on enumerated factors before singling out "a particular industry or sector of the economy upon which to impose controls" (Section 202 (b)). The latter limitation was added by Congress in the Spring of 1971 because of its disapproval of the President's exercise of power to impose controls on union-negotiated wages in the building and construction industry. See Sen. Rep. No. 92–89, 92nd Cong., 1st Sess., reported in U.S. Code Cong. & Adm. News, pp. 662–663 (1971).

"The area of permissible indefiniteness narrows, however, when the regulation invokes criminal sanctions and potentially affects fundamental rights. . . . This is because the numerous deficiencies connected with vague legislative directives whether to a legislative committee, United States v. Rumely, 345 U.S. 41; to an executive officer, Panama Refining Co. v. Ryan, 293 U.S. 388; to a judge and jury, Cline v. Frink Dairy Co., 274 U.S. 445, 465; or to private persons, Bantam Books, Inc. v. Sullivan, 372 U.S. 58; see Schechter Poultry Corp. v. United States, 295 U.S. 495; are far more serious when liberty and the exercise of fundamental rights are at stake.

"* * * Formulation of policy is a legislature's primary responsibility, entrusted to it by the electorate, and to the extent Congress delegates authority under indefinite standards, this policy-making function is passed on to other agencies, often not answerable or responsible in the same degree to the people. * * *

"The need for legislative judgment is especially acute here, since it is imperative when liberty and the exercise of fundamental freedoms are involved that constitutional rights not be unduly infringed. Cantwell v. State of Connecticut, supra, 310 U.S., at 304. Before we can decide whether it is an undue infringement of protected rights to send a person to prison for holding employment at a certain type of facility, it ought at least to appear that Congress authorized the proscription as warranted and necessary. Such congressional determinations will not be assumed."

See also *Gutknecht v. United States,* 396 U.S. 295, 306–307 (1970).

The "separation of powers" issue goes to the very core of this nation's government. In *Youngstown Sheet & Tube Co. v. Sawyer,* 343 U.S. 579 (1952), the Court struck down the President's seizure of the nation's steel mills by executive order during the Korean War as an unconstitutional exercise of legislative power. Justice Jackson's eloquent concurring opinion therein aptly presents the matter. He said:

"The opinions of judges, no less than executives and publicists, often suffer the infirmity of confusing the issue of a power's validity with the cause it is invoked to promote, of confounding the permanent executive office with its temporary occupant. The tendency is strong to emphasize transient results upon policies—such as wages or stabilization—and lose sight of enduring consequences upon the balanced power structure of our Republic." (343 U.S. at 634.)

* * * * *

"I did not suppose, and I am not persuaded, that history leaves it open to question, at least in the courts, that the executive branch, like the Federal Government as a whole, possesses only delegated powers. The purpose of the Constitution was not only to grant power, but to keep it from getting out of hand. * * * The example of . . . unlimited executive power that must have most impressed the forefathers was the prerogative exercised by George III, and the description of its evils in the Declaration of Independence leads me to doubt that they were creating their new Executive in his image. * * * And if we seek instruction from our own times, we can match it only from the executive powers in those governments we disparagingly describe as totalitarian." (343 U.S. at 640–641.)

Thus, the genius of the framers of our Constitution placed in the hands of Congress the power to legislate to avoid the creation of another George The Third in the name of the Presidency. Hence it is for Congress to constitutionally empower the President to take action, but it must be sure that the power is administrative, not legislative. That legislative function was defined in *Yakus* v. *United States,* 321 U.S. 414 (1944), where, in rejecting thec laim that the Emergency Price Control Act of 1942 (56 Stat. 23) was an unconstitutional delegation of legislative power to the executive branch of the government, the Court said (321 U. S. at 424–425):

"The essentials of the legislative function are the determination of the legislative policy and its formulation and promulgation as a defined and binding rule of conduct—here the rule, with penal sanctions, that prices shall not be greater than those fixed by maximum price regulations which conform to standards and will tend to further the policy which Congress has established. These essentials are preserved when Congress has specified the basic conditions of fact upon whose existence or occurrence, ascertained from relevant data by a designated administrative agency, it directs that its statutory command shall be effective."

Or, as stated in *Bowles* v. *Willingham,* 321 U.S. 503, 515 (1944):

"Congress does not abdicate its functions when it describes what job must be done, who must do it, and what is the scope of his authority."

See also *Opp Cotton Mills* v. *Administrator,* 312 U.S. 126, 144–145 (1941). And Chief Justice Warren, speaking for the majority of the Court, in United States v. Robel, 389 U.S. 258 (1967) said that even the war power "cannot be invoked as a talismanic incantation to support any exercise of Congressional power which can be brought within its ambit," nor does it "remove Constitutional limitations safeguarding essential liberties * * *. It has become axiomatic that "[p]recision of regulation must be the touchstone in an area so closely touching our most precious freedom." (389 U.S. at 263–265.)

Measuring the Economic Stabilization Act of 1970 by the yardstick described in the cases cited above, one is compelled to conclude that Congress in 1970 unconstitutionally abdicated its functions to the President by conferring far-reaching authority upon him, but failing to describe the job to be done, the scope of his authority and the standards to which Congress shall conform. There is nothing in the Act remotely approaching the objects and standards set forth by Congress in the Emergency Price Control Act of 1942, quoted in *Yakus, supra,* 321 U.S. at 419–421, or in the Defense Production Act of 1950, 50 U.S.C.A. App. Secs. 2062, 2101–2102.

A comparison of the Economic Stabilization Act of 1970 with the relevant portions of the Defense Production Act of 1950 is instructive. The 1950 Act is replete with Congressional findings and declarations of policy and intent. In Section 2 of that Act (50 U.S.C.A. App. Sec. 2062), Congress declared:

"It is the policy of the United States to oppose acts of aggression and to promote peace by insuring respect for world law and the peaceful settlement of differences among nations. To that end this Government is pledged to support collective action through the United Nations and through regional arrangements for mutual defense in conformity with the Charter of the United Nations. The United States is determined to develop and maintain whatever military and economic strength is found to be necessary to carry out this purpose. Under present circumstances, this task requires diversion of certain materials and facilities from civilian use to military and related purposes. It requires expansion of productive facilities beyond the levels needed to meet the civilian demand. In order that this diversion and expansion may proceed at once, and that the national economy may be maintained with the maximum effectiveness and the least hardship, normal civilian production and purchases must be curtailed and redirected.

"It is the objective of this Act to provide the President with authority to accomplish these adjustments in the operation of the economy. It is the intention of the Congress that the President shall use the powers conferred by this Act to promote the national defense, by meeting, promptly and effectively, the requirements of military programs in support of our national security and foreign policy objectives, and by preventing undue strains and dislocations upon wages, prices, and production or distribution of materials for civilian use, within the framework, as far as practicable, of the American system of competitive enterprise."

And in establishing the President's authority to impose price and wage controls, Congress said (Section 401, 50 U.S.C.A. App. Sec. 2101):

"It is the intent of Congress to provide authority necessary to achieve the following purposes in order to promote the national defense: To prevent inflation and preserve the value of the national currency; to assure that defense appropriations are not dissipated by excessive costs and prices; to stabilize the cost of living for workers and other consumers and the costs of production for farmers and businessmen; to eliminate and prevent profiteering, hoarding, manipulation, speculation, and other disruptive practices resulting from abnormal market conditions or scarcities; to protect consumers, wage earners, investors, and persons with relatively fixed or limited incomes from undue impairment of their living standards; to prevent economic disturbances, labor disputes, interferences with the effective mobilization of national resources, and impairment of national unity and morale; to assist in maintaining a reasonable balance between purchasing power and the supply of consumer goods and services; to protect the national economy against future loss of needed purchasing power by the present dissipation of individual savings; and to prevent a future collapse of values. It is the intent of Congress that the authority conferred by this title shall be exercised in accordance with the policies set forth in section 2 of this Act, and in particular with full consideration and emphasis, so far as practicable, on the maintenance and furtherance of the American system of competitive enterprise, including independent small-business enterprises, the maintenance and furtherance of a sound agricultural industry, the maintenance and furtherance of sound working relations, including collective bargaining, and the maintenance and furtherance of the American way of life."

Moreover, along with the power to impose economic controls, Congress prescribed for the President the standards he should use and the factors he should consider in stabilizing prices and wages in all or any part of the economy (Section 402, 50 U.S.C.A App Sec. 2102).

The 1970 Act, on the other hand, merely contains the grant of authority to "stabilize" prices and wages (Sec. 202(a)); empowers him to delegate that authority to any government officer or agency he may choose (Sec. 203); provides for fines and injunctive relief against violators of "any order or regulation under this title" (Secs. 204–205); and states that the President's authority shall expire "at midnight April 30, 1972" (Sec. 206). Unlike the 1950 Act, there is no declaration of policy, no statement of Congressional intent, no standards to guide the President, and no limitations on his exercise of the powers conferred, except as noted in footnote 1, *supra.*

It is no accident that the Act is barren of any declaration of policy, guidelines or controls. For, the legislative history of the Act makes plain that Congress intended to confer upon the President the unbridled power to impose general economic controls of whatever kind and at whatever time he saw fit.[2] Indeed, a number of legislators opposed the Act precisely because of the breadth and scope of the delegation of power contained therein.[3]

In sum, in the Economic Stabilization Act of 1970, Congress sought to confer on the President total untramelled discretionary power to make the major policy determinations whether, when and how economic controls should be imposed upon this nation, without spelling out guidelines or standards. Manifestly, Congress in the instant Act failed to comply with the Constitutional principle that "more is required of legislatures than a vague delegation to be filled in later by mute acquiescence" [*Barenblatt v. U.S.*, 360 U.S. 109, 140 (1959)]. Thus, by its action, Congress abdicated its constitutional responsibilities. Clearly, therefore, the Act is null and void as being violative of Article I, Section 1, of the Constitution.

B. The Act Abridges Rights Under the Fifth Amendment

As interpreted by the President, the Act empowers him to freeze prices, rents, wages and salaries at levels not lower than those prevailing on May 25, 1970, regardless of existing contracts that may call for increases in those levels. It is settled law, however, that under the Due Process Clause of the Fifth Amendment, the federal government may not impair the obligation of existing contracts. *Thorpe v. Housing Authority*, 393 U.S. 268, 278, n. 31 (1969); *Home Building & Loan Ass'n. v. Blaisdell*, 290 U.S. 398, 440 (1934); *Block v. Hirsh*, 256 U.S. 135, 154–155 (1921). This is not to say that Congress may not pass laws affecting freedom of contract or rights under existing contracts when "the vital interests of its people" are at stake (*Blaisdell, supra*, 290 U.S. at 434). But the test of constitutionality is "whether the legislation is addressed to a legitimate end and the measures taken are reasonable and appropriate to that end" (*id.*, at 438).

Among the vital interests of a people is its economic well-being, and the state can modify or curtail rights under existing contracts to protect or promote that interest. *City of El Paso v. Simmons*, 379 U.S. 497, 508 (1965); *Blaisdell, supra*, 290 U.S. at 437. Such modification or curtailment, however, "must be consistent with the fair intent of the constitutional limitation" against "modify[ing] or affect[ing] the obligation of contract." *City of El Paso, supra*, 379 U.S. at 509. The state's power of modification and the Constitution's injunction against impairment "must be construed in harmony with each other," which "precludes a construction which would permit the state to adopt as its policy the repudiation of debts or the destruction of contracts or the denial of means to enforce them." *Ibid.; Blaisdell, supra*, at 439.

The reason for requiring the state to give reasons for restricting a constitutional right is quite obvious. If a restriction can only be imposed when a certain set of facts are found to exist, the actual existence of those facts must be open to judicial scrutiny to protect the rights of those affected thereby. As the Court said in *Blaisdell*, wherein it upheld the constitutionality of a state law imposing a moratorium on mortgage foreclosures during the Great Depression (290 U.S. at 442):

". . . while the declaration by the Legislature as to the existence of the emergency was entitled to great respect, it was not conclusive; and, further, . . . a law "depending upon the existence of an emergency or other certain state of facts to uphold it may cease to operate if the emergency or the facts change even though valid when passed." It is always open to judicial inquiry whether the exigency still exists upon which the continued operation of the law depends." Chastleton Corporation v. Sinclair, 264 U.S. 543, 547, 548.

In the case at bar, there is no way to harmonize the Constitution's injunction against impairing the obligations of contracts with Congress' grant of such power to the President. In the Economic Stabilization Act of 1970, Congress made no finding or determination that modification of existing contract rights is necessary, nor did it require the President to make such a finding before imposing economic controls. The Act is thus "in notable contrast with historic practice . . . by which declarations of policy are made by the Congress and delegations are within the framework of that policy and have relation to facts and conditions to be found and stated by the President in the appropriate exercise of the delegated authority" (*Panama Refining Co.* v. *Ryan, supra*, 293 U.S. at 431). In the absence of a legislative finding of need, therefore, the Act's restrictions on plaintiff's freedom of contract must be declared unconstitutional.

There is yet another respect in which the Act is deficient under the Fifth Amendment. In adopting the legislation, Congress made no provision for administrative or judicial review of the rules, regulations and determinations of the agencies administering the Act. Persons affected by orders and regulations issued under the authority of the Act are afforded no opportunity to be heard or present evidence before they are adversely affected by administrative action. Moreover, the courts are afforded no opportunity to pass upon the regulations and orders issued pursuant to the Act, and no basis for determining whether they are proper. This failure to provide a procedure for review of executive action taken pursuant to the provisions of the Act is a clear violation of the due process requirements of the Fifth Amendment. *United States* v. *Robel, supra*, 389 U.S. at 277–281 (concurring opinion); see *Yakus* v. *United States, supra*, 321 U.S. at 433, 437–438.

II. Executive Order 11615 Constitutes an Improper Exercise of Legislative Power and Violates the Fifth Amendment

Just as the Economic Stabilization Act of 1970 violates constitutional requirements by failing to provide a policy, standards and findings of fact to guide the President and the nation, so too does Executive Order 11615 violate the Constitution by failing to show that the drastic action ordered therein—even if properly authorized—is warranted.

"The executive order contains no finding, no statement of the grounds of the President's action in enacting the prohibition. * * * If it could be said that from the four corners of the statute any possible inference could be drawn of particular circumstances or conditions which were to govern the exercise of the authority conferred, the President could not act validly without having regard to those circumstances and conditions. And findings by him as to the existence of the required basis of his action would be necessary to sustain that action, for otherwise the case would still be one of an unfettered discretion as the qualification of authority would be ineffectual." (*Panama Refining Co.* v. *Ryan, supra*, 293 U.S. at 431.)

Indeed, not only did the President make no findings of fact in the executive order to support his sudden imposition of far-reaching economic controls, but in his speech announcing the issuance of the order, the President actually stated facts showing that such controls were not needed. Regarding unemployment and inflation, two major elements that were the alleged target of the wage-price freeze, the President said:

"First, on the subject of jobs. We all know why we have an unemployment problem. Two million workers have been released from the Armed Forces and defense plants because of our success in winding down the war in Vietnam. Putting those people back to work is one of the challenges of peace, and we have begun to make progress. Our unemployment rate today is below the average of the four peacetime years of the 1960s.

* * * * *

"The second indispensable element of the new prosperity is to stop the rise in the cost of living.

"One of the cruelest legacies of the artificial prosperity produced by war is inflation. Inflation robs every American. The 20 million who are retired and living on fixed incomes are particularly hard hit. Homemakers find it harder than ever to balance the family budget. And 80 million wage-earners have been on a treadmill. In the four war years between 1965 and 1969 your wage increases were completely eaten up by price increases. Your paychecks were higher, but you were no better off.

"We have made progress against the rise in the cost of living. From the high point of six percent a year in 1969, the rise in consumer prices has been cut to four percent in the first year of 1971. * * *"

Thus, the President explained that his existing economic policies were effective in eliminating unemployment and reducing the inflationary spiral, and because there was no emergency requiring the immediate imposition of restrictions on the people's liberties, he was announcing a "new economic policy" commencing with strict economic controls on wages and prices. On the basis of the facts relied on by the President in his speech, Executive Order 11615 is clearly unwarranted and unauthorized by Congress, and therefore unconstitutional. *Youngstown Sheet & Tube Co. v. Sawyer, supra.*

Even assuming the President could lawfully establish certain controls on the economy pursuant to the Act, and that he made the necessary findings to justify taking some action, the controls he imposed exceed that which the Act can reasonably be construed to permit. Nothing in the terms or legislative history of the Act supports the President's view that it conferred upon him the power to impair the obligations of existing contracts. Congress made no finding or determination that existing contract rights should be impaired when it empowered him to "stabilize" wages and prices, and this issue was not a subject of Congressional debate. Absent clear evidence that Congress intended to confer on the President the power to affect existing contracts, the Act should not be construed to grant that authority. For, such a precious right should not be deemed suspended or abridged unless the need to do so is clear and compelling. See *Kent v. Dulles, supra,* 357 U.S. at 127–129.

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[2] See . Rep. No. 91–1330, *Defense Production Act Extension and Economic Stabilization Act*, 91st Cong., 2d Sess., pp. 9, 11 (1970); remarks of Congressman Patman, 116 Cong. Rec. H7502 (daily ed., July 31, 1970); remarks of Congresswoman Sullivan, *id.*, at H7510; remarks of Congressman Leggett, *id.*, at 7527; remarks of Congressman Waggonner, *id.*, at H7537; remarks of Congressman Wright *id.*, at H7542; remarks of Congressman Williams, 117 Cong. Rec. H1382 (daily ed., March 10, 1971); remarks of Congresswoman Sullivan, *id.*, at H1383; remarks of Congressman Barrett, *id.*, at H1383–84.

[3] See, e.g., Additional views of Congressmen Brown, et al., H. Rep. 91–1330, *supra;* Additional views of Congressman Brown, *Extending Until March 31, 1973, Certain Provisions of Law Relating to Interest Rates and Cost-of-Living Stabilization*, H. Rep. 92–36, 92nd Cong., 1st Sess., p. 7; remarks of Congressman Brown, 116 Cong. Rec. H7520, H7544–45 (daily ed., July 31, 1970); remarks of Congressman Wylie, *id.*, at H7520; remarks of Congressman Williams, *id.*, at H7522; remarks of Congressman Crane, *id.*, at H7525–26; remarks of Congressman Gross, *id.*, at H7545 and H8259; remarks of Senator Packwood, 117 Cong. Rec. S. 6135–36, S. 6137 (daily ed., May 3, 1971); remarks of Congressman Frenzel, 117 Cong. Rec. H1384 (daily ed., March 10, 1971); remarks of Congressman Rousselot, 117 Cong. Rec. H1384–85 (daily ed., March 10, 1971).

In addition to freezing wages and salaries at the level they attained on August 14, 1971, Executive Order 11615, as construed by the Cost of Living Council, also froze fringe benefits such as paid break time, holidays, vacations and insurance benefits at the levels as they existed on that date. The Act, however, does not mention fringe benefits, but only "wages and salaries."

In the Defense Production Act of 1950, when Congress authorized the President to impose economic controls, it said he could issue "regulations and orders stabilizing wages, salaries, *and other compensation* . . ." (emphasis added). 50 U.S.C.A. App. Sec. 2102(b)(1). The phrase "and other compensation" clearly evidenced Congressional intent to cover *all* forms of remuneration for work performed, and under that provision, fringe benefits were regulated. That phrase does not appear in the Economic Stabilization Act of 1970. Accordingly, Congress must have intended that certain forms of compensation not constituting wages or salaries be excluded from regulation as not having a sufficient impact on the economy to warrant emergency control. The Council's attempt to regulate such benefits, therefore, is beyond the scope of its power under the Act and should be enjoined.

CONCLUSION

In enacting the Economic Stabilization Act of 1970, Congress sought to delegate to the President the unpleasant and difficult task of formulating a program of economic controls and restraints, without attempting to define, for his guidance, the objects to be accomplished, or the nature and timing of the program. By so doing, Congress improperly surrendered its constitutional responsibilities, and this Court should not permit the attempted delegation to stand. The Supreme Court said in *Aptheker* v. *Secretary of State,* 378 U.S. 500, 515 (1964):

"... this Court will not consider the abstract question of whether Congress might have enacted a valid statute but instead must ask whether the statute that Congress did enact will permissibly bear a construction rendering it free from constitutional defects."

In the case at bar, the statute Congress enacted will not permissibly bear a construction rendering it free from constitutional defects. The Economic Stabilization Act of 1970 should therefore be declared unconstitutional and its enforcement enjoined.

In any event, even assuming the Act is constitutional, Executive Order 11615 is itself illegal and void because it was issued at a time when the President himself announced there was no need for it. Moreover, the executive order goes far beyond the limits imposed by the Act in seeking to impair existing contract rights, and by freezing benefits that Congress never intended should be regulated.

For the foregoing reasons, we respectfully submit that a three-judge court should be convened, and that it issue a preliminary injunction restraining the Cost of Living Council from enforcing the Act and Executive Order 11615.

ALBERT GORE,
SOLOMON I. HIRSH,
JERRY D. ANKER,
Attorneys for Plaintiff.

SEPTEMBER 21, 1971.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Memorandum in Support of Plaintiff's Motion for Preliminary Injunction and Three-Judge Court was served on September 21, 1971, by first class mail, postage prepaid, on the parties below:

United States Attorney General, Department of Justice, Washington, D.C.

United States Attorney, United States Court House, 3rd & Marshall Place, N.W., Washington, D.C.

Charles A. Horsky, Esq., Covington & Burling, 888 16th Street, N.W., Washington, D.C., 20006.

Stanley R. Strauss, Esq., 1750 Pennsylvania Avenue, N.W., Washington, D.C.

SOLOMON I. HIRSH.

[In the U.S. District Court for the District of Columbia]

PLAINTIFF'S REPLY MEMORANDUM IN SUPPORT OF ITS MOTION FOR A PRELIMINARY INJUNCTION

(Amalgamated Meat Cutters and Butcher Workmen of North America, AFL–CIO, Plaintiff versus John B. Connally, et al., Defendants, civil action No. 1833–71)

1. In its memorandum in opposition to the Union's motion for a preliminary injunction, the Government asserts that the Union has an adequate remedy at law and has made no showing it will suffer irreparable harm if interlocutory relief is not granted. The facts, however, are to the contrary.

As shown in the complaint, the Union represents over 150,000 employees, covered by more than 150 collective bargaining contracts, who are being denied increases in wages, pensions and health and welfare benefits during the period of the President's freeze. The hardships these people must endure during the freeze can hardly be measured in dollars. As a result of the freeze, retirees are being denied pension increases which are needed now to pay for the increases in the cost of food, clothing, shelter and transportation that have eroded the value of their savings and pensions. As a result of the freeze, workers are being forced into desperate financial straits to pay medical bills that are due as a result of serious illness and injuries; the financial security of these people will not be returned to the *status quo ante* when, many months hence, the coverage of their medical insurance will be belatedly increased so as to protect them should serious illness or injury ever strike again. And, as a result of the freeze, ordinary working men and women whose wages only follow—not lead—the inflationary spiral, are being forced to make substantial sacrifices in their living standards and that of their families; they must borrow money at interest rates that are not frozen in order to pay for necessities or to help send children to school, cancel vacation plans, postpone purchases, and find second jobs in order to make ends meet.

These people will not be made whole simply because they will get a raise several months from now. Such harm is substantial and irreparable, and provides ample basis for the granting of injunctive relief as a preliminary matter. See *Burns v. Montgomery,* 299 F. Supp. 1002 (N.D. Cal. 1968), aff'd 394 U.S. 848, where a three-judge court granted a preliminary injunction restraining the enforcement of California's residency requirement for welfare applicants, upon a finding that the plaintiffs were being denied money for food, rent and medical care.

In addition to the harm being suffered by the Union and its members now as a direct result of the President's freeze order, other serious damage could befall the economy if the freeze is not immediately enjoined by a preliminary injunction. The affidavit of the Union's Executive Vice President, Harry Poole, which is attached to our motion for preliminary injunction, shows that the eight employer-defendants herein employ more than 50,000 workers covered by contracts with the Union, and that all of these people were entitled to a 25 cents per hour wage increase effective September 6, 1971. If none of this money were to be paid until a final order of this Court in favor of the Union—possibly many months hence—the financial burden on these meat packers would be staggering. The total back pay of 50,000 employees at 25 cents per hour from September 6, to November 13, assuming no overtime, is five million dollars. We have no doubt that the employer-defendants could secure that much money from their various sources, but the long-term consequences to them of having to raise such a substantial sum could be quite harmful. And as for other, smaller employers who employ some of the remaining 100,000 Union members due an increase in wages and benefits during the freeze (see Poole Affidavit, §§ 5–7), a sudden obligation to pay back pay of tens of thousands of dollars could drive them out of business.

In sum, the harm which the Union's members are suffering now is substantial and irreparable; and the harm which its members, employers, and other elements of the economy may suffer in the future will also be substantial and perhaps irreparable. Under these circumstances, a preliminary injunction is warranted, for none of the injuries described above can be adequately compensated by damages awarded in an ordinary civil action. Thus, in *Youngstown Sheet & Tube Co.* v. *Sawyer,* 343 U.S. 579 (1952), the Government opposed the District Court's grant of a preliminary injunction against the President's seizure of the nation's steel mills on the ground that the owners could recover full compensation from the Court of Claims should it ultimately be decided that the seizure was an unlawful taking of property. The Supreme Court rejected the Government's argument, finding that:

"... seizure and governmental operation of these going businesses were bound to result in many present and future damages of such nature as to be difficult, if not incapable, of measurement. Viewing the case this way, and in the light of the facts presented, the District Court saw no reason for delaying decision of the constitutional validity of the orders. We agree with the District Court and can see no reason why that question was not ripe for determination of the record presented."

Here, as in *Youngstown Sheet & Tube, supra,* the freeze is "bound to result in many present and future damages of such nature as to be difficult, if not incapable, of measurement." Under these circumstances, there is no reason to delay decision on the substantive issues of this case pending filing of the Government's formal answer to the complaint and a hearing on the permanent injunction.

2. The Government asserts (Memo. pp. 9–10), that "the Courts, including the Supreme Court, have always sanctioned the broadest possible delegation of authority in areas where, as here, the nature of the subject and the expertise of the Executive combine to call for timely and particularized action . . ." By careful selection and editing of quotes from various authorities, the Government seeks to give this Court the impression that there are virtually no limits on the power of Congress to delegate authority to the President, and that the delegation under challenge here is of a type long sanctioned. Analysis of the authorities cited by the Government, however, do not support its claims.

The Government places strong reliance on a law review article (Jaffe, *Delegation of Legislative Power:* II, 47 Colum. L. Rev. 561 (1947)) which, it claims, strongly implies that *Schechter Poultry Corp.* v. *United States,* 295 U.S. 495 (1935); and *Panama Refining Co.* v. *Ryan,* 293 U.S. 388 (1935)—cases upon which the Union relies—are no longer good law. The Government's claim is based on the first part of a sentence from the article (47

Colum. L. Rev. at 578), which says: "Since *Schechter* no delegation has been held invalid . . ." The rest of the sentence, however, not quoted by the Government, explains why no delegation was held invalid between 1935 and 1947, and points up the basic deficiency in the Economic Stabilization Act of 1970. The full sentence reads (*ibid.*):

"Since *Schechter* no delegation has been held invalid, but none of them has had quite the imposing generality of NRA and the Court has been careful to distinguish it."

The "imposing generality" which marked the National Recovery Act also marks the Economic Stabilization Act of 1970. As we showed in our original memorandum, the Act imposes no standards, guidelines or limitations on the President's power to impose wage and price controls on the economy as a whole, except that wage or price levels cannot be set below those existing on May 25, 1970. The Act does not even contain a generalized statement of purpose, which the NRA did contain. Thus, the considerations that led the Supreme Court to declare the NRA unconstitutional dictate a similar result in the case at bar.

The Government also quotes (Memo. p. 11) from Justice Brennan's concurring opinion in *United States v. Robel*, 389 U.S. 258 274–275 (1967), setting forth that part of the decision in *Panama Refining, supra,* which gives recognition to the right of Congress to delegate power under broad standards. Interestingly, however, the Government's memo fails to show that Justice Brennan was quoting from *Panama Refining,* and that he was concurrent in a decision holding a provision of the Subversive Activities Control Act unconstitutional, based on his view that Congress had improperly delegated legislative powers to the Secretary of Defense. More of Justice Brennan's opinion is quoted in our original memo, pp. 8–9, and we invite the Court's attention thereto for a full exposition of the principles of law which require that the Economic Stabilization Act be held unconstitutional.

Just as *Robel* is of no aid to the Government in this case, neither, we submit, is *Yakus v. United States*, 321 U.S. 414 (1944). The lengthy excerpts set forth in the Government's memo, pp. 12–13, only serve to emphasize the crucial deficiencies in the 1970 Act which render it unconstitutional. See pp. 11–12 of our original memo.

Allen v. Grand Central Aircraft Co., 347 U.S. 535 (1954), which the Government cites at p. 19 of its memo, is totally inapposite. In *Allen,* the Court sustained the validity of certain regulations issued under the Defense Production Act of 1950 as being within the power conferred upon the President by that act.[1]

In reaching this conclusion, the Court pointed out that the statutory provision relied on by the President in the 1950 Act was "derived from" the Stabilization Act of 1942 (347 U.S. at 541), and followed the earlier statute "almost word for word" (*id.,* at 546). For that reason, the Court held, "To read the Defense Production Act of 1950 without reference to this model is to read it out of the context in which Congress enacted it (*id.,* at 541). No similar claim can be made about the derivation of the Economic Stabilization Act of 1970. As we showed in our original memo, pp. 11–13, a comparison of the 1970 Act with the acts of 1950 and 1942 shows that the most recent economic stabilization legislation is as much like the earlier as a blunderbuss is like a sniper's rifle.[2] There is absolutely no similarity in form or substance between the 1970 legislation and the economic controls Congress authorized during World War II and the Korean conflict. For this reason, the Government's claim that the 1970 Act must be considered with reference to the earlier legislation can only hurt, not help, its case. For, the elements in the earlier legislation which the Supreme Court in *Yakus* relied on to sustain its constitutionality are totally lacking here.

3. In its memo, pp. 6–9, the Government argues that when Congress used the words "wages and salaries" in the Act, it intended to encompass all forms of compensation for services rendered, and that the President was therefore empowered to freeze fringe benefits and wage increases previously agreed to. The Government's argument based on the presumed meaning of "wages and salaries" is patently incorrect.

If, as the Government claims, the 1970 Act should be construed in the light of the Defense Production Act of 1950, then it is clear that Congress did not intend to regulate all forms of compensation. For, as pointed out in our original memo, p. 20, the 1950 Act authorized the President to impose economic controls over "wages, salaries, and other compensation" (50 U.S.C.A. App. Sec. 2102(b)). The phrase "and other compensation" was omitted by Congress from the 1970 Act, thus warranting the inference that not all forms of compensation were intended to be controlled. Indeed, the President has declined to freeze profits—one form of compensation—on the ground he is not empowered to do so.

The Government seeks to justify imposing controls on fringe benefits by arguing that increases there "are just as likely to increase the cost of doing business without corresponding increases in productivity" (Gov't. Memo, p. 9). By the same token, however, increases in profit margins would also increase the cost of doing business, but we do not see the Government moving to regulate those. In short, the mere fact that Congress could have or should have authorized controls on fringe benefits does not mean that it did so, and Congress' failure to include the phrase "other compensation" warrants the conclusion that fringe benefits were not intended to be controlled.

Similarly, if Congress intended the President to deny employees their right to pay raises under existing contracts, it should have made that fact unequivocally clear. The only argument the Government makes in support of construing the Act to cover such raises (aside from the one, discussed above, that Congress intended its grant of power to have the broadest possible scope) is that it would be inequitable to permit some employees to get wage increases during the freeze while others were denied them (Memo. pp. 6–7). Suffice it to say that such an "inequity" would be lost among the myriad inequities which the President's freeze itself has generated. Employees covered by contracts providing for periodic increases gave up other benefits at the time the contracts were signed in order to secure such future protection. See Plaintiff's Complaint, Count I, ¶9, and Count II, ¶15. Since employers usually anticipate higher wages by raising prices well in advance, the wage increases provided for in the Union's contracts would not have had an inflationary effect, but would have permitted the employees covered thereby to catch up with the increases in the cost of living during the preceding months. Accordingly, the policy argument offered by the Government for sustaining the freeze on wage increases previously agreed to should be rejected as lacking in merit.

Finally, the Government cites to Section 202 (b) of the Act as evidence of the care with which Congress delegated powers to the President (memo, p. 17). Under that provision, the President is required to make certain findings regarding specified factors before he can take action to "stabilize" prices or wages in "a particular industry or segment of the economy. . . ." By virtue of this provision, it is apparent that Executive Order 11615 is invalid on its face. The President excluded from its coverage profits, interest rates, dividends and raw agricultural products. Thus, since the Executive Order applies to less than the economy generally—i.e., to a "segment of the economy"—the President was precluded by Section 202(b) from exercising his powers under the Act unless he first took into account "the seasonal nature of employment, the rate of employment or under-employment, and other mitigating factors, that prices or wages in that . . . segment of the economy have increased at a rate which is grossly disproportionate to the rate at which prices or wages have increased in the economy generally." The Executive Order does not show that the enumerated factors were taken into consideration when the President imposed controls on a large segment of the economy, and so the Executive Order is void.

CONCLUSION

For the foregoing reasons, and for the reasons set forth in our main memorandum, we respectfully submit that a three-judge court should be convened and that the Court should preliminarily enjoin the enforcement of Executive Order 11615 and the Economic Stabilization Act of 1970.

Albert Gore,
Solomon I. Hirsh,
Jerry D. Anker,
Attorneys for Plaintiff.

September 28, 1971.

CERTIFICATION OF SERVICE

I hereby certify that a copy of the foregoing Plaintiff's Reply Memorandum in Support of its Motion for a Preliminary Injunction was served on September 28, 1971, by first class mail, postage prepaid, on the parties below:

L. Patrick Gray, III, Esq., Assistant Attorney General, Department of Justice, Washington, D.C., and Thomas A. Flannery, Esq., United States Attorney, United States Court House, 3rd & Marshall Place, N.W., Washington, D.C., attorneys for the Government Defendants.

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Robert J. Corber, Esq., Steptoe & Johnson, 1250 Connecticut Ave., N.W., Washington, D.C., 20036. Attorney for Armour & Co.

Charles A. Horskey, Esq., Covington & Burling, 888 Sixteenth St., N.W., Washington, D.C. 20006. Attorney for Swift & Co.

Solomon I. Hirsh.

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. Biaggi).

Mr. BIAGGI. Mr. Chairman, I rise in

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[1] The Court expressly refrained from passing on the constitutionality of the substantive provisions of the wage and price controls imposed by the 1950 Act, finding that the employer had failed to exhaust its administrative remedies. 347 U.S. at 553, n. 22.

[2] In footnote 4 of its memo, the Government notes as "relevant" the fact that the 1970 Act "was Title II of Public Law 91–379, the first title of which was an amendment to the very same Defense Production Act as was involved in the *Allen* case." The relevance of this fact is not readily apparent, since Title II, with which we are here concerned, was *not* an amendment to the Defense Production Act of 1950. The economic controls contained in the 1950 act expired on April 30, 1953, and have never been revived. See 50 U.S.C.A. App. Sec. 2101 (Supp. 1971).

opposition to the amendment offered by the gentleman from Georgia (Mr. STEPHENS) which would eliminate the retroactive feature covering pay increases obtained during the 90 day wage-price freeze.

I think it is quite clear to everyone here that the President's phase I and phase II programs are heavily weighted in favor of big business. This "trickle down" theory of pouring billions into the hands of the "fat cats" does not help the middle and lower income wage earner at all.

The committee modified the President's plan a little so that persons expecting wage increases under previously negotiated contracts would receive them. This is only fair.

The Federal Government does not have the right to nullify contracts properly entered into by labor and management. Yet this is what we would be doing if we permitted the President to eliminate all retroactive payments of wage increases.

Teachers particularly should be granted their retroactive pay increases. This group of workers more than any other has suffered greatly as a result of the wage-price freeze and the phase II controls. Teachers are generally paid on a 9-month-school-year basis. Thus, they were hit hardest by the freeze. Now to deny them normal increases—especially longevity increases—would be asking them to bear a far greater burden of the fight against inflation than almost anyone else.

I believe we have given big business enough in this bill to permit the retroactivity portion for the wage earner to stand. It provides a minimum degree of balance to the bill.

Moreover, any attempts to eliminate the exemption for the working poor and those with substandard wages should also be defeated. To deny those who are barely making a living a sizable increase in salary is virtually inhuman. Whether we have inflation or deflation we should continue every effort that will help raise the standard of living of our lowest paid workers. To do less would be unconscionable.

Mr. Chairman, I strongly urge that this amendment be defeated in the interests of every hardworking American and in the interests of the national economy as a whole.

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. BRASCO).

(By unanimous consent, Mr. PATMAN yielded his time to Mr. BRASCO.)

Mr. BRASCO. Mr. Chairman, again I urge this Committee to support the Minish amendment and to vote against the Stephens amendment.

Let me say this: the amendment of Mr. PIKE to the Stephens amendment, which changes the word "permit" to "require" does not really help the situation at all, because what is really the problem is subdivision 2. That is the criteria that has to be applied before the wage increases can be honored.

They are specifically, prices have been raised, taxes have been raised, and appropriations have been made or funds have been authorized, raised, or provided for in order to compensate for such increases. This places an impossible burden on labor. Indeed what this does is it codifies the already existing guidelines used by the Pay Board now.

And under those guidelines, the Pay Board has said that there shall be only a 5.5-percent increase and only some industries would receive it retroactively. They are being so selective that if we adopt this amendment, which in turn is the Pay Board procedure, none of these contracts entered into before August 15 will be honored.

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. HORTON).

Mr. HORTON. Mr. Chairman, I rise in opposition to the Stephens amendment to the Economic Stabilization Act Amendment of 1971. The language of this amendment speaks to the very controversial and important provisions of this bill relating to retroactive pay.

The committee bill provides that retroactive pay under wage agreements negotiated prior to the wage-price freeze shall be paid unless the President, through phase II machinery, should determine that an individual wage agreement is unreasonably inconsistent with increases in the same overall sector of the economy. I agree with Mr. STEPHENS that the language of the committee bill is too broad, in respect to retroactive increases. It is broader than in the Senate bill, for example, which permits retroactive increases that are not found to be unreasonably inconsistent with other increases, but the Senate bill goes on to apply certain phase II standards in determining what is unreasonably inconsistent and what is not. I am inclined to agree with the majority of the Senate which felt that Congress should set some guidelines or standards for the President to determine what Congress means by unreasonably inconsistent.

The Stephens amendment, on the other hand, does not go far enough. It applies the seemingly reasonable principle that retroactive pay increases should be granted only in cases where it can be demonstrated that the firm, school district, or other entities involved had already increased prices or taxes or other sources of revenue in anticipation of having to pay the negotiated increase. This approach, instead of eliminating inequities caused inadvertently by the timing of the August 15 phase I announcements, could in fact complicate and perpetuate such inequities. In the case of school districts, for example, where tremendous inequities have occurred as a result of the freeze, it would be difficult if not impossible to apply the Stephens amendment in an equitable way. One school board, having signed a wage agreement with its teachers in July, may have acted immediately to increase tax rates to pay for the increase.

In other cases, and also inadvertently, the school board meeting at which tax rates were to have been taken up may not have been scheduled until after August 15, and in those cases, tax rate adjustments to compensate for negotiated increases may have been postponed because of the freeze announcement. Thus, under this amendment, it would still be possible for teachers in the same building with the same seniority to receive different rates of pay for the same work, and for some teachers to receive lower rates of pay than newer, less experienced teachers who have received new pay rates as a result of regulations of the Cost of Living Council during the freeze period.

While many have raised the argument that retroactive increases, as provided by the Senate and the House committee bill, should not be granted because there are many industries and institutions which did not increase wages and taxes in anticipation of increased wages. Despite several attempts by members of the Banking and Currency Committee to determine from the Department of Labor and the Treasury Department just how extensive this problem would be, in terms of numbers of workers, and numbers of major contracts, no specific information could be obtained. It would seem to me that whether Congress finally enacts a retroactive pay provision similar to the Senate or House committee bill, or one somewhere in between, the Pay Board and Price Commission could work hand in hand to work out any special cases which would arise in this area.

The requirement of the Stephens amendment that retroactive pay be granted only where it can be shown that price or tax increases have already gone into effect in anticipation of wage raises, would create severe administrative and bureaucratic problems, bringing innumerable and conflicting cases before both the Pay Board and Price Commission. These panels would be forced to consider whether the combined effect of price or tax increases, productivity increases and profit rates would or would not justify retroactive pay in each case. Thus, not only would the Stephens approach not eliminate inequity, it would be extremely cumbersome to implement.

Mr. Chairman, I believe that it is extremely important that the President's economic program receive the broadest degree of public support and cooperation possible, from every economic sector. Phase II was specifically designed to end and correct some of the severe inequities caused by the 90-day wage-price freeze. One of the greatest inequities lies in the field of pay increases negotiated prior to the freeze, but deferred or canceled by the timing of the President's announcement. While there have already been problems winning the full cooperation of labor groups for phase II programs, the answer to these disagreements does not lie in making those workers who have suffered severe inequities the whipping boys of the fight against inflation and for productivity improvements.

A solution to the retroactive pay problem must be found which does not defeat the purpose of phase II controls, and which does eliminate the most glaring inequities caused during phase I. The Stephens amendment does not fill this requirement, and the committee language may go too far in the other direction. One alternative approach I have considered is to offer retroactive pay to November 14, the date phase II began. This would still exact severe sacrifices from some whose wage agreements were signed prior to the freeze, but it would not undo any of the progress we have made during the phase I freeze. This approach, or a reasonable compromise between the Senate bill and the present House committee language, would be far more acceptable from every standpoint than the overly restrictive provisions of the Stephens amendment.

The CHAIRMAN. The Chair recognizes the gentleman from Minnesota (Mr. FRENZEL).

Mr. FRENZEL. Mr. Chairman, I rise in strong support of the Stephens amendment as amended today.

Without the Stephens amendment, the President and the Pay Board are stripped of their power to stabilize the economy during the original 90-day freeze period.

Without the Stephens amendment, we will mandate by law another large, but not a majority, class of Americans as a special group with special privileges. We are still asking for equality of sacrifice. The Stephens amendment takes us closer to equality.

The Stephens amendment gives positive assurance to teachers that they will get their increases. I have stated since September that the Pay Board should adopt the principles of the Stephens amendment. I have publicly urged the Pay Board to do so because I wanted equity for the teachers of my State. I believe the Stephens amendment gives teachers a fairer shake than the Minish language now in the bill.

Mr. Chairman, if we don't pass the Stephens amendment, we will be delaying the stabilization of our economy, and perhaps denying equity to large groups of our wage earners. I urge its immediate passage.

(By unanimous consent, Mr. FRENZEL yielded his remaining time to Mr. McKINNEY.)

The CHAIRMAN. The Chair recognizes the gentleman from Florida (Mr. SIKES).

Mr. SIKES. Mr. Chairman, it should be very obvious to all of us that economic stability in our Nation is both our No. 1 objective and our No. 1 problem. The standby authority for wage-price control provided by Congress has served as an important vehicle in the hands of the President in the efforts to bring order out of seriously threatening economic chaos. However, this is only a beginning in the difficult problem of securing the continuing cooperation and support of all segments of the economy. This must be achieved or we shall lose all we have gained and more.

Mr. Chairman, I feel that it should be obvious the Stephens amendment is essential if we are to continue to have an orderly wage-price control program, with sufficient flexibility to permit sound application and a successful outcome and I strongly urge its adoption.

The CHAIRMAN. The Chair recognizes the gentleman from Florida (Mr. GIBBONS).

Mr. GIBBONS. Mr. Chairman, I am going to support the Stephens amendment because I think it is fair. I think it is mandatory and I think it is just.

Mr. Chairman, the President must provide for these wage increases, these retroactive wage increases, if he does two things. First, he has got to find that the wage increase was provided for by law or there was a contract for such increase, and the second thing is that the employer has got the money set aside with which to pay these retroactive increases. If the employee met the first test, then the President must decide if the test of subparagraph (B) has been met. If that simple test is met the pay increase is required.

The CHAIRMAN. The time of the gentleman from Florida has expired.

The Chair recognizes the gentleman from Michigan (Mr. BROWN).

(By unanimous consent, Mr. BROWN of Michigan yielded his time to Mr. ANDERSON of Illinois.)

The CHAIRMAN. The Chair recognizes the gentleman from Maryland (Mr. MITCHELL).

Mr. MITCHELL. Mr. Chairman, let us take a cold, hard look at the Stephens amendment and recognize it for what it is.

The Stephens amendment states:

> The President shall permit any wage increase negotiated in contracts prior to August 15, 1971, if prices have been increased, taxes have been raised or appropriations have been made to cover these wage increases.

Mr. Chairman, with all due respect for my esteemed colleague from Georgia, this amendment says absolutely nothing because it merely repeats the authority already granted to the President by the Economic Stabilization Act.

Ironically, the Stephens amendment runs counter to the expressed aims of the phase II program. The President and his advisers have repeatedly said that they want to check inflation through increased productivity and a reduction in costs. This is the way they see to revitalize the economy in terms of strengthening our ability to compete and to stabilize the economy. But instead of achieving these things, the Stephens amendment would provide pay increases only on the basis of increased prices or increased taxes. It would not reward workers for achieving greater productivity. In fact, it would penalize increased productivity because no benefits for the workers would come from it.

Mr. Chairman, let us not adopt an amendment that would bring complete confusion if not disaster to the phase II program. Let us adopt the Minish amendment in H.R. 11309 as it was reported by the House Banking and Currency Committee. That amendment simply states that the President must grant wage increases negotiated prior to August 15, 1971, unless he finds such increases are unreasonably inconsistent with wage increases that were generally being made in the economy at the time the contracts were being negotiated. It does not go to contracts that were negotiated after the start of the President's economic stabilization program. It does not in any way tamper with the President's authority to conduct economic stabilization efforts following the start of the economic stabilization program.

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. MOSS).

Mr. MOSS. Mr. Chairman, I am going to vote against the Stephens amendment. I do not know how the test spelled out about appropriations and taxes could be met, but I think it could be very easily evaded. It is my judgment that the language is very badly drafted. It is part and parcel of the inconsistencies which are clearly apparent in the application of the guidelines throughout phase II.

The CHAIRMAN. The Chair recognizes the gentleman from Florida (Mr. CHAPPELL).

(By unanimous consent Mr. CHAPPELL yielded his time to Mr. ASHLEY.)

The CHAIRMAN. The Chair recognizes the gentleman from Ohio (Mr. ASHLEY).

Mr. ASHLEY. Mr. Chairman, what the Stephens amendment does is to distinguish between two categories of retroactive and deferred pay increases that were put in abeyance by virtue of the freeze.

One category includes those pay increases which were accompanied by a price, tax or budgetary adjustment to accommodate pay increase. The Stephens amendment would direct the Pay Board to permit these increases to be paid and thus would directly take care of the situation facing teachers and others in like circumstances.

The second category of retroactive and deferred pay increases is comprised of those provided for by contract but where there was no price or other increase to accommodate or offset the pay raise.

For this category of retroactive and deferred increases, the Stephens amendment relies upon the directive language of section 203, paragraphs (b) and (c)(1) on pages 16 and 17, respectively, which together require their payment unless the increase is found to be unreasonably inconsistent with the standards adopted by the Pay Board.

It is worth noting that the standards set forth in paragraph (b) are the standards currently being used by the Pay Board in considering and acting affirmatively on certain retroactive pay increases.

I think it is important, from the standpoint of legislative history, to underscore the intent of Congress that the Stephens amendment, together with the language of section 203, provides separate tests for the two types or categories of retroactive pay increases. The general language in section 203(b) is intended to be used, inter alia, as the test to determine whether or the extent to which retroactive pay increases should be permitted with respect to contracts entered into before August 15, 1971, but suspended because of the freeze. The language in section 203(c)(1), of course, would apply to contracts executed prior to August 15, 1971, and scheduled to take effect after November 13, 1971.

The Stephens amendment to section 203(c)(2), as we know, would direct the payment of retroactive pay increases where pay and tax increases or appropriate budgetary action has already taken place to accommodate such increases.

With respect to that part of the

Stephens amendment which would strike title XVI, this is clearly necessary if the ambiguity is to be resolved between the language of section 203, starting on page 15, and section 216, starting on page 35.

These two sections are clearly contradictory.

Section 203 says that retroactive and deferred increases shall be paid if such increases are not unreasonably inconsistent with standards promulgated by the Pay Board.

Section 216, the Minish amendment, on the other hand, says that all retroactive and deferred increases must be paid unless they are found to be unreasonably inconsistent with the rate of pay and salary increases in the economy generally. This is a much broader test, quite clearly, and, in my view, is one which would jeopardize the entire effort to bring stability to our foundering economy.

I, therefore, urge adoption of the Stephens amendment.

The CHAIRMAN. The Chair recognizes the gentleman from Connecticut (Mr. McKINNEY).

(By unanimous consent, Mr. ROUSSELOT yielded his time to Mr. McKINNEY.)

(By unanimous consent, Mr. WIDNALL yielded his time to Mr. McKINNEY.)

The CHAIRMAN. The Chair recognizes the gentleman from Connecticut (Mr. McKINNEY).

Mr. McKINNEY. Mr. Chairman, in my entire time in politics as minority leader in the State of Connecticut, and in this House, I have pledged each and every single thing I have done to the teachers in my State, and I continue to pledge it to them.

I have never heard of people being more misled about what an amendment does. If the Minish amendment is passed, take a very simple look at what you are doing to this Nation. You are saying that the 18 to 20 million contracted laborers in this Nation will automatically get a wage increase regardless of what has happened. But what about the 60 million Americans who work and who do not have a contract? What about the 60 million workers who do not have this ability to put the muscle of organized labor behind them? Those are the people who will get stuck with the price increases that we are going to put in by the automatic assumption of the Minish amendment. Teachers and State employees, every single teacher in this Nation, regardless of what the fiscal year is in that State, regardless of when the contract was written, will get the money due them. Their contracts are law and will be honored.

I am amazed that we can get into confusion on the word "permit" when it follows the word "shall"—what will we permit? And we even changed that to require. We are simply saying that any law which was stopped by the freeze shall now be permitted. In fact, now we are saying it shall be required to be accepted. So that every teacher, every State employee, will get their increase.

Now, what are we doing? We are putting two exceptions down at the bottom. We know that under law all States of this Union, if a State employee or a teacher has been granted an increase, that State, that school board, that county district, or what have you, must balance its budget. It is in violation of the State constitution if it does not. So that by the very recognition of an increase, by the very granting of a contract, regardless of at what level it was granted, they said, "Yes, we will collect the money." We do not do that in this Congress because we print it here. But we still have said it when we authorize an increase for Federal employees. So that is the law.

But at the same time we are saying to the rest of America, "Look, if there has been no action to inflate the economy, the contract should live under the rules, if General Motors has raised their prices, if the meatpackers have raised their prices in anticipation of a wage increase, then the contract with the workers must be honored. They are certainly owed the money for more than management is deserving of the profit.

It has been said that this amendment has a little in it for everyone. It may be right. It is an attempt to go between two terrible extremes. It is an attempt to build a mechanism which will attempt to be fair.

The CHAIRMAN. The time of the gentleman has expired.

The CHAIRMAN. The Chair recognizes the gentleman from Rhode Island (Mr. ST GERMAIN).

(At the request of Mr. BARRETT, the time allotted to him was granted to Mr. ST GERMAIN.)

Mr. ST GERMAIN. Mr. Chairman, I think there should be a few other things pointed out.

Under the Stephens amendment, the burden of proof is on the employees. They have to prove that the conditions existed. This is why teachers are against it nationally. Something like 17,000 different school districts, which have to employ attorneys to make their case.

The point is here that this is not a big union amendment, the Minish amendment. It covers all contracts and, believe you me, the majority of the smaller contracts affected are nonunion contracts or they are the contracts entered into by little unions. These are the unions that cannot afford to employ high priced counsel to prove their case.

By adopting the Minish amendment we, in effect, give to all of those who are entitled to their increases under the contract, those increases.

The CHAIRMAN. The Chair recognizes the gentleman from Georgia (Mr. STEPHENS).

Mr. STEPHENS. Mr. Chairman, I appreciate the careful attention that has been given to my amendment.

Let me point out that arguments were raised as to the terminology by Members who are opposed to this amendment. We have corrected the terminology as they propose, and they are still opposed to the amendment.

So those arguments about what words ought to be put in the bill so far as words were concerned are out of this debate. This should make it possible for those gentlemen to vote for my amendment if they were serious.

There is no way in the world that I am trying to harm anybody by my amendment. All I want to do is to get the inequities out of the Minish amendment.

The CHAIRMAN. The Chair recognizes the gentleman from Illinois (Mr. ANDERSON).

Mr. ANDERSON of Illinois. Mr. Chairman, I rise in support of the Stephens amendment. It is essential, I believe, to avoid an inflationary ripple effect throughout the entire economy.

We are not simply looking at a small percentage of the national wage bill in isolation. No economic decision is taken in a vacuum.

The adoption of the Minish amendment is going to put irresistible pressure on the Price Commission to abandon its position of no price increases to cover retroactive costs.

Mr. Chairman, I support this amendment because I am in complete agreement with the words of my colleague on the Banking and Currency Committee, the gentleman from Michigan (Mr. BROWN), when he said during the general debate yesterday:

> The first responsibility of this body, it seems to me, is to act properly as a legislative body, and not as a pay board, price commission, an interest and dividend commission, or any other body which may be delegated by the President the implementation of our economic stabilization program.

Mr. Chairman, I think that statement is precisely on target because we simply do not have the expertise and detailed information available before this body to make accurate and equitable judgments as to how the stabilization standards and regulations should be applied in concrete situations. In particular, I would like to point out that yesterday the gentleman from New Jersey (Mr. MINISH) presented some evidence designed to support the thesis that in his words—

> Most of the people involved in deferred and retroactive pay are low and moderate income families . . . who are not among the affluent.

Well, I have obtained some information from the Bureau of Labor Statistics, as to major contracts involving more than 1,000 workers, in which deferred increases or new increases came due during the freeze. And after looking at that data I would ask whether you think construction workers are among the underpaid and low-income families that would be hurt if we deleted his amendment. Let me just give you a few examples of the deferred increases that were due in construction during the freeze period:

	Per hour
Associated General Contractors, southern California	$0.85
Philadelphia electrician workers	1.05
Plumbing and pipefitters, southern California	.85
Plumbing and pipefitters, Boston	1.30
Laporte, Ind., carpenters	.90
Baltimore carpenters	.70
Rochester electrical workers	1.00

These are just a few examples. Moreover, I would ask the gentleman: does he think that members of the Teamsters Union are underpaid, represent low income families? Yet there were scores of local teamsters contracts all across the country that called for a second year increase of 25 cents an hour during the freeze period. Is it all that unfair to ask these well-paid workers to share in the sacrifices that all Americans were asked to make during the freeze?

I would also ask the gentleman whether he think members of the packinghouse workers union, who are already earning over $4 and hour are part of this underpaid group of which he speaks. Yet members of this union were scheduled to receive increases ranging from 25 cents an hour to 50 cents an hour in plants all across the country. The same point can be made concerning rubber workers, transportation equipment workers, and a whole range of other groups that were scheduled for second and third year increases during the freeze.

Mr. Chairman, my point is this: The gentleman from New Jersey is just plain wrong if he would lead this body to believe that most of the workers involved in this retroactivity question are low paid workers, as he indicated in his remarks yesterday. The evidence simply does not support that assertion. So if this is the main argument on which the gentleman rests his case, then I do not think he has been very convincing. And this kind of loose tossing about of the "facts" should be ample demonstration of the truth of the statement made by my colleague from Michigan, which I quoted earlier: We cannot decide these questions here on the floor because we do not have the time or the information to consider them carefully and thoroughly. This question of retroactivity is largely one for the stabilization machinery established by the President to work out. Therefore we should adopt the amendment offered by the gentleman from Georgia (Mr. STEPHENS).

The CHAIRMAN. The Chair recognizes the gentleman from New Jersey (Mr. MINISH) to close debate.

Mr. MINISH. Mr. Chairman, it seems that some of the people who are opposed to the Minish amendment do not seem to have found the time to read all of the amendment because it says here, and this should clear up any concerns in the mind of the gentleman from Illinois (Mr. ANDERSON) as it relates to the so-called inflationary increases. The Minish amendment says:

> This section shall not apply in the case of any wage or salary contract which the President determines has the effect of increasing wages or salaries in the industry or segment of the economy to which it applies which is unreasonably inconsistent with the rate at which raises or salaries have increased in the economy generally.

Mr. ANDERSON of Illinois. Mr. Chairman, will the gentleman yield for a question?

Mr. MINISH. I do not know what the gentleman is concerned about. This provides full protection, I am sorry I do not have enough time to yield.

But I want to say this—the Stephens amendment is laying the ground rules after the game is over. You are saying that practices have to be advanced and taxes have to be raised and appropriations have to be made. A whole new set of guidelines which teachers and workers will be unable to meet. We should keep in mind that there are companies in the United States that do not have to raise prices to meet contractual pay increases. You are denying the people, in these plants from obtaining these pay increases. What you are saying to the teachers and others is, "You have to go back and renegotiate the contract that you negotiated prior to August 15."

The fair and honest thing to do here is to support the Minish amendment to require those people who signed contracts to live up to them. The legitimate contracts which were legally entered into prior to August 15.

The CHAIRMAN. All time has expired. The question is on the amendment offered by the gentleman from Georgia (Mr. STEPHENS) as amended.

TELLER VOTE WITH CLERKS

Mr. PATMAN. Mr. Chairman, I demand tellers.

Tellers were ordered.

Mr. PATMAN. Mr. Chairman, I demand tellers with Clerks.

Tellers with Clerks were ordered; and the Chairman appointed as tellers Messrs. STEPHENS, PATMAN, WIDNALL, and MINISH.

PARLIAMENTARY INQUIRY

Mr. MINISH. Mr. Chairman, will the Chair state the question we are voting on?

The CHAIRMAN. The Chair states that the Committee is voting on the Stephens amendment, as amended by the Pike amendment and the Latta amendment.

Mr. MINISH. Would the Chair state that in effect a vote for the Minish amendment would be a "no" vote on the recorded teller vote about to take place?

The CHAIRMAN. The Chair has put the question. It is for the Members to decide.

The Committee divided, and the tellers reported that there were—ayes 209, noes 151, not voting 72, as follows:

[Roll No. 455]

[Recorded Teller Vote]

AYES—209

Abbitt
Abernethy
Anderson, Ill.
Andrews, N. Dak.
Archer
Arends
Ashley
Aspinall
Baker
Baring
Bennett
Betts
Biester
Bray
Brinkley
Broomfield
Brotzman
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burke, Fla.
Burleson, Tex.
Byrnes, Wis.
Byron
Cabell
Caffery
Camp
Carter
Casey, Tex.
Cederberg
Chamberlain
Chappell
Clancy
Clausen, Don H.
Clawson, Del
Cleveland
Collier
Collins, Tex.
Colmer
Conable
Conte
Coughlin
Crane
Daniel, Va.
Davis, Ga.
Davis, S.C.
Davis, Wis.
Delaney
Dellenback
Dennis
Devine
Dickinson
Dorn
Downing
Duncan
du Pont
Edwards, Ala.
Erlenborn
Esch
Eshleman
Fascell
Findley
Fish
Fisher
Flowers
Flynt
Ford, Gerald R.
Forsythe
Fountain
Frelinghuysen
Frenzel
Frey
Garmatz
Gettys
Gibbons
Goodling
Griffin
Gross
Grover
Gubser
Hagan
Haley
Hall
Hamilton
Hammerschmidt
Hansen, Idaho
Harvey
Hastings
Henderson
Hillis
Hogan
Hosmer
Hull
Hunt
Hutchinson
Ichord
Jarman
Johnson, Pa.
Jonas
Jones, Ala.
Jones, N.C.
Jones, Tenn.
Keating
Keith
Kemp
King
Kuykendall
Kyl
Landgrebe
Landrum
Latta
Lennon
Lent
Long, La.
McClory
McClure
McCollister
McCulloch
McDonald, Mich.
McEwen
McKinney
McMillan
Mahon
Mailliard
Mann
Mathias, Calif.
Mathis, Ga.
Mayne
Mazzoli
Michel
Miller, Ohio
Mills, Md.
Mizell
Montgomery
Morse
Mosher
Myers
Nelsen
Nichols
O'Konski
Passman
Pelly
Pike
Pirnie
Poage
Poff
Preyer, N.C.
Price, Tex.
Purcell
Quie
Quillen
Rarick
Rhodes
Roberts
Robinson, Va.
Robison, N.Y.
Rogers
Rousselot
Ruppe
Ruth
Sandman
Satterfield
Saylor
Schmitz
Schneebeli
Schwengel
Scott
Sebelius
Shipley
Shoup
Shriver
Sikes
Skubitz
Slack
Smith, Calif.
Snyder
Stanton, J. William
Steele
Steiger, Wis.
Stephens
Stuckey
Taylor
Teague, Calif.
Teague, Tex.
Terry
Thompson, Ga.
Thomson, Wis.
Thone
Ullman
Vander Jagt
Waggonner
Wampler
Ware
Whitehurst
Whitten
Widnall
Wiggins
Williams
Wilson, Bob
Winn
Wyatt
Wydler
Wylie
Wyman
Young, Fla.
Zion
Zwach

NOES—151

Abzug
Adams
Addabbo
Albert
Anderson, Calif.
Anderson, Tenn.
Aspin
Badillo
Barrett
Begich
Bergland
Bevill
Biaggi
Bingham
Boggs
Boland
Bolling
Brademas
Brasco
Brooks
Burke, Mass.
Burlison, Mo.
Burton
Byrne, Pa.
Carey, N.Y.
Carney
Chisholm
Clark
Cotter
Culver
Curlin
Daniels, N.J.
Danielson
de la Garza
Dellums
Denholm
Dent
Dingell
Donohue
Dow
Drinan
Dulski
Dwyer
Edwards, Calif.
Flood
Ford, William D.
Fraser
Fulton, Tenn.
Gallagher
Gaydos
Gonzalez
Grasso
Green, Oreg.
Green, Pa.
Halpern
Hanley
Hanna
Hansen, Wash.
Harrington
Harsha
Hathaway
Hawkins
Hays
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Hicks, Mass.
Holifield
Horton
Howard
Hungate
Jacobs
Johnson, Calif.
Karth
Kastenmeier
Kazen
Kee
Koch
Kyros
Leggett
Link
Long, Md.
McCloskey
McCormack
McDade
McFall
McKay
Madden
Matsunaga
Meeds
Melcher
Miller, Calif.
Mills, Ark.
Minish
Mitchell
Mollohan
Monagan
Morgan
Moss
Murphy, Ill.
Natcher
Nedzi
Nix
Obey
O'Hara
O'Neill
Patman
Patten
Pepper
Perkins
Peyser
Pickle
Podell
Price, Ill.
Pucinski
Railsback
Randall
Rees
Reid, N.Y.
Riegle
Rodino
Roe
Rooney, N.Y.
Rooney, Pa.
Rosenthal
Roy
Roybal
Ryan
St Germain
Sarbanes
Scheuer
Seiberling
Sisk
Smith, Iowa
Staggers
Stratton
Stubblefield
Symington
Thompson, N.J.
Van Deerlin
Vanik
Vigorito
Waldie
Whalen
White
Wolff
Yates
Yatron
Young, Tex.
Zablocki

NOT VOTING—72

Abourezk
Alexander
Andrews, Ala.
Annunzio
Ashbrook
Belcher
Bell
Blackburn
Blanton
Blatnik
Bow
Celler
Clay
Collins, Ill.
Conyers
Corman
Derwinski
Diggs
Dowdy
Eckhardt
Edmondson
Edwards, La.
Eilberg
Evans, Colo.
Evins, Tenn.
Foley
Fuqua
Galifianakis
Giaimo
Goldwater
Gray
Griffiths
Gude
Hébert
Hicks, Wash.
Kluczynski

Lloyd
Lujan
McKevitt
Macdonald,
  Mass.
Martin
Metcalfe
Mikva
Mink
Minshall
Moorhead
Murphy, N.Y.
Pettis
Powell
Pryor, Ark.
Rangel
Reuss
Roncalio
Rostenkowski
Roush
Runnels
Scherle
Smith, N.Y.
Spence
Springer
Stanton,
  James V.
Steed
Steiger, Ariz.
Stokes
Sullivan
Talcott
Tiernan
Udall
Veysey
Whalley
Wilson,
  Charles H.
Wright

So the amendment, as amended, was agreed to.

AMENDMENT OFFERED BY MR. HANLEY

Mr. HANLEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HANLEY: On page 34, immediately following line 2, insert a new subsection to read as follows:

"(F)(1) In addition to the number of positions which may be placed in GS-16, 17, and 18, under section 5108 of title 5, United States Code, not to exceed forty positions may be placed in GS-16, 17, and 18, to carry out the functions under the Economic Stabilization Act of 1970, as amended (Public Law 91-379; Public Law 92-15).

"(2) The authority under this Act shall be subject to the procedures prescribed under section 5108 of title 5, United States Code, and shall continue only for the duration of the exercise of functions under the Economic Stabilization Act of 1970."

Mr. PATMAN. Mr. Chairman, will the gentleman yield to me briefly?

Mr. HANLEY. I yield to the gentleman from Texas.

Mr. PATMAN. Mr. Chairman, I ask unanimous consent that all debate on all amendments close at 2:30.

The CHAIRMAN. On this amendment?

Mr. PATMAN. On all amendments. That is nearly 2 hours.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

Mr. BADILLO. Mr. Chairman, I object.

MOTION OFFERED BY MR. PATMAN

Mr. PATMAN. Mr. Chairman, I move that all debate close at 2:30 on the bill and all amendments thereto.

The motion was agreed to.

Mr. HANLEY. Mr. Chairman, my amendment adds the provisions of H.R. 11902 relating to supergrades as a new subsection to section 212 of title 2 of H.R. 11309.

The provisions will authorize not to exceed 40 supergrade positions to carry out the functions under the Economic Stabilization Act of 1970. It will require that the additional positions be subject to the existing statutory procedures applicable to supergrade positions. One procedure under 5 U.S.C. 5108(a) requires that the Civil Service Commissioners actually approve the description of the duties which justify placing a position in GS-16, 17, or 18. Another procedure under 5 U.S.C. 3324 requires that the Civil Service Commission actually approve the qualifications of the individual to hold such a position.

The administration bill, as introduced, (H.R. 11309), authorized 40 additional supergrades to be filled without regard to the controls by the Civil Service Commission under either sections 3324 or 5108(a) referred to above.

Our Committee on Post Office and Civil Service recommended to the chairman of the Banking and Currency Committee that such provisions should be removed from the bill since legislative matters relating to supergrades were within the jurisdiction of our committee.

I appreciate the cooperation of the Banking and Currency Committee in adopting an amendment to remove the provisions.

In the meantime H.R. 11902 was introduced and referred to our committee. Testimony was received from the witnesses for the Civil Service Commission and the Cost of Living Council. The subcommittee felt that sufficient justification was not presented for the 40 positions but did recommend favorably on the granting of 20 supergrade positions. The subcommittee also felt very strongly that the most important feature of this whole matter is that the filling of any supergrade positions must be subject to the usual civil service procedures required by sections 3324 and 5108(a) of title 5 United States Code.

As I have indicated, the introduced bill (H.R. 11902) provides for 40 additional supergrade positions. The subcommittee's recommendation is for 20. Accordingly, a substitute amendment will be offered which I will support which will provide for only 20 additional supergrades, and will make the necessary technical changes in language to conform the amendment to the provisions that are contained in the amendment proposed by the Committee on Banking and Currency to H.R. 11309.

As I have indicated, when the substitute is offered, I will support the substitute.

Mr. JOHNSON of Pennsylvania. Mr. Chairman, will the gentleman yield?

Mr. HANLEY. I yield to the gentleman from Pennsylvania.

Mr. JOHNSON of Pennsylvania. Mr. Chairman, we accept the amendment.

Mr. PATMAN. Mr. Chairman, will the gentleman yield?

Mr. HANLEY. I yield to the chairman of the committee.

Mr. PATMAN. Mr. Chairman, we accept the amendment.

Mr. HANLEY. I appreciate that. I understand that a substitute amendment will be offered which will reduce the number of supergrades from 40 to 20, in which I concur.

SUBSTITUTE AMENDMENT OFFERED BY MR. HENDERSON FOR THE AMENDMENT OFFERED BY MR. HANLEY

Mr. HENDERSON. Mr. Chairman, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. HENDERSON in the nature of a substitute for the amendment offered by Mr. HANLEY: On page 34, immediately following line 2, insert the following:

"(f)(1) In addition to the number of positions which may be placed in GS-16, 17, and 18, under section 5108 of title 5, United States Code, not to exceed twenty positions may be placed in GS-16, 17, and 18, to carry out the functions under this title.

"(2) The authority under this subsection shall be subject to the procedures prescribed under section 5108 of title 5, United States Code, and shall continue only for the duration of the exercise of functions under this title."

Mr. HENDERSON (during the reading). Mr. Chairman, I ask unanimous consent that further reading of the amendment be dispensed with and that it be printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

Mr. HENDERSON. Mr. Chairman, my substitute provides for 20 additional supergrade positions rather than the 40 positions authorized by the introduced bill. This is the only substantive change made by my substitute.

In addition, technical changes are made so that the provisions will conform with the provisions of title II, as proposed to be added by the legislation.

My Subcommittee on Manpower and Civil Service was not convinced by the information furnished during the hearings on this proposal, that there is sufficient justification for the 40 positions. The Cost of Living Council has not had sufficient time for a full evaluation of its proposed organization, and has not had sufficient time to present the proposed supergrade positions to the Civil Service Commission for approval. If it should develop at a later time that additional supergrade positions are justified, my subcommittee will give immediate consideration to any request to increase the number beyond 20.

One of the most important features of this legislation is that my bill, and the substitute amendment, requires that the actual job description of these positions be evaluated by the Civil Service Commission, and a determination made as to whether the job description actually justifies a supergrade position. Also, the Civil Service Commission must approve the qualifications of the individual before he can be appointed to one of the positions. These are the usual procedures required for filling supergrade positions.

The Committees on Post Office and Civil Service of the House and Senate are charged with the responsibility of controlling top level jobs in the Federal Government. In this role, our chairman, Hon. THADDEUS J. DULSKI, contacted the Chairman of the Committee on Banking and Currency, Hon. WRIGHT PATMAN, regarding the provisions for 40 supergrades in H.R. 11309, as originally written. Chairman PATMAN and members on that committee, in response to Mr. DULSKI's request, amended subject bill by striking out the provisions for supergrade positions. This was done with the understanding that our committee would consider the needs for additional top level jobs.

The Post Office and Civil Service Committee's Subcommittee on Manpower and Civil Service, of which I have the honor of being chairman, held hearings December 6 on the requirements for additional supergrade positions to carry out the functions under the Economic Stabilization Act of 1970, as amended. We took testimony from officials of the Civil Service Commission and the Office of the Cost of Living Council. As the result of these hearings, I have been authorized by the Subcommittee on Manpower and Civil Service to make this amendment today, authorizing 20 additional supergrades for this temporary economic program.

My substitute amendment provides for 20 supergrades, namely positions paying between $28,129 and $36,000 per year, for the duration of the program outlined in H.R. 11309. The number of 20 is in direct contrast to the 40 provided by the Senate in S. 2891.

I also want to add that this substitute amendment does something else that is most important and that is in direct contrast to the Senate bill. My substitute amendment requires the Civil Service Commission to review all proposed supergrade positions and thereby determine if they actually warrant a GS–16, GS–17 or GS–18 level. The Commission must also certify as to the qualifications for nominees to all supergrade vacancies. S. 2891 circumvented the role of the Civil Service Commission in these two important manpower management controls.

Mr. Chairman, I feel that my substitute amendment is both realistic and quite necessary to make fully responsive the provisions in the bill before us today and I urge the support of all members for this substitute.

Mr. PATMAN. Mr. Chairman, will the gentleman yield?

Mr. HENDERSON. I am happy to yield to the gentleman from Texas.

Mr. PATMAN. Mr. Chairman, we accept the amendment.

Mr. JOHNSON of Pennsylvania. Mr. Chairman, will the gentleman yield?

Mr. HENDERSON. I yield to the gentleman from Pennsylvania.

Mr. JOHNSON of Pennsylvania. Mr. Chairman, we accept the amendment.

The CHAIRMAN. The question is on the substitute amendment offered by the gentleman from North Carolina (Mr. HENDERSON), for the amendment offered by the gentleman from New York (Mr. HANLEY).

The substitute amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. HANLEY), as amended by the substitute.

The amendment, as amended, was agreed to.

AMENDMENT OFFERED BY MR. REES

Mr. REES. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. REES:

Page 19, after line 6, insert the following: "(g) In the exercise of the authority conferred by this title, the President shall take no action which directly or indirectly impairs or detracts from the protections guaranteed by the First Amendment of the Constitution of the United States."

Mr. REES. Mr. Chairman and members of the committee, this is a rather technical procedural amendment. Its purpose when the conferees will be discussing the effect of the first amendment to the Constitution, on "media," is to get into the conference all "media" as covered by the first amendment to the Constitution. It really does nothing to the bill because it says that the President shall take no action which directly or indirectly impairs or detracts from the protections guaranteed by the first amendment of the Constitution of the United States.

The President will not do this anyway because he has taken an oath of office to support the Constitution. However, in the Senate version of this bill there is an amendment that exempts certain classifications of media from wage and price guideline controls, on the grounds that they are covered by the first amendment to the Constitution.

I, personally, believe that the Senate amendment is a loosely drawn amendment and goes way past the guarantees of the first amendment. But the problem is in defining what is under the first amendment because there are several entities that are covered by the first amendment that are not in the Senate amendment. So, in order to give the conferees the latitude to discuss all of those endeavors under the first amendment, I offer this amendment.

Without this amendment, our conferees would be restricted to discussing only those items that were enumerated in the Senate amendment.

Mr. PATMAN. Mr. Chairman, will the gentleman yield?

Mr. REES. I yield to the gentleman from Texas.

Mr. PATMAN. Mr. Chairman, I am acquainted with the gentleman's amendment, and I agree with what the gentleman says, that this is very necessary. We are willing to accept it on this side, and we hope it is adopted.

Mr. ROONEY of Pennsylvania. Mr. Chairman, will the gentleman yield?

Mr. REES. I yield to the gentleman from Pennsylvania.

Mr. ROONEY of Pennsylvania. Mr. Chairman, I rise in support of the amendment to protect the media from undue influence in the administration of the provisions of H.R. 11309.

I recognize fully that only the broadest possible application of wage and price restraints can achieve the economic recovery we all seek. But in our endeavors to control inflation and strengthen our economy we have no license to run roughshod over the Constitution.

The framers of our Constitution recognized that the free society they envisioned in the United States would be largely dependent upon a free press. Our system of government could not endure without the free flow of information and ideas to the public through the media.

The Constitution clearly states that Congress shall not enact any law to abridge the freedom of the press. Yet any measure which imposes economic restriction upon the press has the potential to abridge the freedom of the press. A free press could be totally destroyed through economic pressures. A free press might be intimidated through threat of economic pressures. In my view, we have a fundamental constitutional obligation to insure that neither will occur.

In the past, Congress has very carefully avoided economic restriction of the press for this very same reason. Communications media were specifically exempted from controls in both World War II and the Korean war and this House just recently refused to permit taxation of newspaper advertising in the District of Columbia.

Thus, by adopting this amendment we are not granting the media a special privilege. Instead, we are carefully safeguarding a constitutionally guaranteed freedom without which our representative government could not possibly survive.

Mr. PICKLE. Mr. Chairman, will the gentleman yield?

Mr. REES. I yield to the gentleman from Texas.

Mr. PICKLE. Mr. Chairman, I rise in support of the amendment offered by the gentleman from California (Mr. REES). I hope that it will be adopted. It gives the conferees a chance to work out a very technical and important problem.

Mr. REES. Mr. Chairman, I appreciate the comments of the gentleman from Texas.

Again I must reiterate that this makes no change in the bill. Its purpose is to conform to the rules of the House.

Mr. Chairman, I ask for a yea vote on the amendment.

Mr. J. WILLIAM STANTON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the amendment offered by the gentleman from California (Mr. REES)—and the gentleman was kind enough to furnish us with a copy of the amendment ahead of time—says that the President shall not violate the first amendment. That is exactly the words of the amendment.

Of course the President cannot violate the first amendment. That is No. 1.

Secondly, the gentleman from California and the author of the amendment (Mr. REES) stated that the motion picture association is the one who is interested in this particular amendment. It is the hope that if we pass this amendment, that the motion picture association should somehow or other in the conference be included under this legislation. I would say to the gentleman that on the face of it, just looking at the words, that I think first of all it is completely meaningless. Our chairman says that this is a very important amendment. I would have to disagree with the chairman on that statement.

Mr. REES. Mr. Chairman, will the gentleman yield?

Mr. J. WILLIAM STANTON. I yield to the gentleman from California.

Mr. REES. Mr. Chairman, in my explanation I said it was for procedural purposes only, so that when the conferees are in conference and discussing the Senate amendments, and discussing whether they are going to exempt anyone under the first amendment, they can look at all those entities covered by the first amendment. The film industry is not in the Senate amendment despite the fact that they are protected by the first amendment to the Constitution. So under the Senate amendment television films and motion pictures could not even be considered by the conferees when they are discussing the Senate amendment. This is merely a procedural vehicle so that our conferees will have the latitude that they need to consider the first amendment situation. That is all the amendment does.

Mr. J. WILLIAM STANTON. I appreciate very much what the gentleman from California has said, and I would simply like to repeat that this does allow the motion picture industry an opportunity in conference to come back at something that the other body defeated, and that was to be excluded from this legislation.

I admire the gentleman for his attempt, and I certainly would have done the same thing if I had been in his place.

Mr. REES. Mr. Chairman, if the gentleman will yield further, this amendment is the exact language of the amendment that was offered in the Senate by Senators PACKWOOD and WEICKER during the Senate debate, and was voted down by the Senate.

Mr. J. WILLIAM STANTON. Which was defeated.

Mr. STEIGER of Wisconsin. Mr. Chairman, will the gentleman yield?

Mr. J. WILLIAM STANTON. I yield to the gentleman from Wisconsin.

Mr. STEIGER of Wisconsin. Mr. Chairman, I am just a little bit confused as to why this amendment comes in the form that it does. Are we to not have an amendment that specifically mentions the motion picture media? We are just inferentially, to take this amendment, to include the media, is that the reason?

Mr. J. WILLIAM STANTON. Of course the amendment says that the President shall not violate the first amendment.

Mr. STEIGER of Wisconsin. That is like "did you beat your wife last night?"

Mr. J. WILLIAM STANTON. That is correct.

So what this amendment does is to permit the motion picture industry to come back into the conference, if we pass it.

Mr. STEIGER of Wisconsin. And the other body defeated an amendment including specifically the motion picture industry?

Mr. J. WILLIAM STANTON. As I understand it.

Mr. STEIGER of Wisconsin. I want to join the gentleman from Ohio in opposing the amendment.

Mr. FRENZEL. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I understand the reluctance of the gentleman from Ohio (Mr. J. WILLIAM STANTON) to support this amendment. Nevertheless, I think it may be more important than many of us realize.

The Senate, in its infinite wisdom, passed an amendment which I consider totally objectionable in exempting from stabilization controls a large number of the media, the news dissemination outlets.

In my judgment, this was a terrible error, and unwise because it creates another separate class, another loophole, another reduction in the equality of sacrifice that we are all seeking here.

It seems to me that the gentleman from California (Mr. REES) in giving us an alternative would arm our conferees with some ammunition which they could use to resist what I consider to be an objectional Senate amendment.

Mr. Chairman, for this reason I would urge this body to accept the Rees amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. REES).

The question was taken; and on a division demanded by Mr. PICKLE) there were—ayes 46, noes 36.

So the amendment was agreed to.

AMENDMENT OFFERED BY MR. GONZALEZ

Mr. GONZALEZ. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GONZALEZ: Page 19, line 8, after "Section 204. Delegation", strike out lines 8 and 9, and line 10 through "appropriate," and insert: "The President is authorized to create an Office of Economic Stabilization for performance of functions under this title,'".

Mr. GONZALEZ. Mr. Chairman, my amendment simply authorizes the President to set up an Office of Economic Stabilization for the purpose of carrying out the program.

Presently, the program is being administered primarily by the Internal Revenue Service which is neither equipped or suitable for the task at hand.

The primary duty of the Internal Revenue Service should be to administer our tax laws, which is an important enough function and duty. It will be difficult enough for the IRS to manage the tax changes that were just legislated yesterday without having the added duty of enforcing a far-reaching and very complex system, as you have already noticed, and a very difficult wage and price control system.

I have been saying this, even if I know it is like a coyote out in the brushwood—but I am appealing to the future to vindicate me even if it is not considered seriously here today. It is already evident that one of the biggest blunders committed in the attempt to carry out the control system has been to use the Internal Revenue Service as the enforcement branch.

As I said, aside from the fact that it is imprudent to burden the Internal Revenue Service with added duties, I believe it an error to make this agency responsible for carrying out economic policy. Citizens who feel that they have been burdened with inequity by one or another of the policies created under this program will be very hesitant to challenge those policies if the IRS is the administering agent, simply because they would fear, and rightly so, that their cause, no matter how justified, would only land them in tax trouble either immediately or at some time in the future. A man would hesitate to complain if he felt that his complaint would only lead to tax harassment.

Historically, this was revealed during a past administration in an altercation with the steel industry, in which an incumbent president sent an emissary to the steel management and said, "Now, if you do not behave, we are going to look into this tax situation of yours with the IRS." The steel industry complied, and there was no question that there was a cause and effect in this approach, and this was done when the president maybe had to resort to it, if you want a rationalization, because he had no authority at that time such as perhaps is the case now with the present President.

This sort of tactic might have been justified under the circumstances if we wanted to justify it, but it certainly clearly shows that a precedent has been established that we are charged with knowledge that it is not only likely to happen but it will inevitably happen even if it is not on the presidential level that it happens.

I believe that rather than running a spectre of tax harassment for citizens who complain or who somehow fail to meet the requirements of this program, we should create a new agency solely for the purpose of administering the program.

My amendment is not mandatory. It would merely authorize as did the enabling legislation. It certainly does express a concern on the part of Congress as to this facet of administrative performance, and I sincerely and most urgently request your serious consideration of this amendment.

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. GONZALEZ. I am delighted to yield to the gentleman from Iowa.

Mr. GROSS. The gentleman from Texas makes an excellent point with respect to the use of personnel of the Internal Revenue Service. However, I am afraid his amendment does not go nearly far enough. It would create an office, but there would then be nothing to prevent the continued use of the 3,000 Internal Revenue Service employees. It seems to me the Internal Revenue Service is oversupplied with personnel if at this time, especially in the months of heavy tax returns, it can continue to contribute 3,000 employees to administration of this Stabilization Act.

Mr. LONG of Maryland. Mr. Chairman, will the gentleman yield?

Mr. GONZALEZ. I yield to the gentleman from Maryland.

Mr. LONG of Maryland. On the question of whether the IRS has all the personnel it needs, let me cite an experience in Baltimore. One of my constituents tried to get in touch with the Baltimore office of the Internal Revenue Service to get some matter cleared up. After waiting for a busy signal for a long time, someone finally answered the phone and said "hold," and that was all the satisfaction my constituent could get.

I asked my staff to check through in the same way. They got the same response. The IRS cannot begin to cope with the problems that are arising. It does not have the staff. It was a great mistake to try to dump this mess on the Internal Revenue Service.

Mr. GONZALEZ. I thank the gentleman. Let me say by way of conclusion, and in reference specifically to the remarks of the very able gentleman from Iowa, we are caught here in a dilemma, and I, for one, am a respecter of the clear line of demarcation which should exist between our legislative functions and the administrative functions of the President. I do not want to tell the President to set up anything administratively.

I think it would be improper. I think it would be an improper encroachment on our part. I am very much concerned, and I think the future will bear this out, but I think if we cast our vote in the shape of an authorization, it merely indicates to the President that the Congress is concerned about the present role that has been designated for the IRS, and I think any President would be sensitive to the expression of congressional intent and would act accordingly. If in the future it is shown that our fears have been confirmed, perhaps then the Congress could act more specifically and positively.

Mr. Chairman, I urge adoption of this amendment, because it merely authorizes and does not compel anything.

Mr. ASHLEY. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I agree with what has been said by the gentleman from Texas, but I think his vehicle is mistaken and wrong. During committee consideration the committee turned down amendments that would have provided legislative language that would have fixed in the legislation provision for the Pay Board and Price Commission, and so forth. The reason we turned down these amendments was that we wanted to provide maximum flexibility to the administration that is charged with carrying out the stabilization program.

It seems to me that the amendment offered by the gentleman from Texas likewise would impair this Presidential flexibility. I think that it is only fair to recognize that what the legislation does that is before us today is to give broad authority to the President to act to stabilize our economy. We give him this broad authority and say that it is his responsibility to use it effectively. I think that it is a mistake, having given him this authority and having imposed upon him this responsibility, then to say, "But now you are going to have to create an Office of Economic Stabilization." Maybe this is not the way he wants to go about it.

Mr. GONZALEZ. Mr. Chairman, will the gentleman yield?

Mr. ASHLEY. I yield to the gentleman from Texas.

Mr. GONZALEZ. Mr. Chairman, the gentleman just made a statement that is not in keeping with the intent of our amendment. The gentleman said if we adopt this, we are telling the President he has to set it up. We do not do that at all. It is permissive. It says the President is authorized to set up the Office of Economic Stabilization. It has nothing mandatory about it.

Second, when the gentleman talks about considering this in the committee, we did not consider this in the committee.

Mr. ASHLEY. Mr. Chairman, I decline to yield further. The gentleman is saying I said something I did not say. What I said was that during committee consideration, we considered and turned down amendments that would have provided legislative language to fix in the legislation specific provision for the pay board, the price commission, and so forth. We most certainly did consider that. If the gentleman does not recall it, perhaps he was not present.

Mr. Chairman, I decline to yield further. The purpose of the gentleman's amendment is clear. He would strike lines 8 and 9 and line 10, and what these lines say is that the President may designate any function under this title to such officers of the United States as he deems appropriate. Do we mean to take that authority away from him? If we do, by all means let us support the gentleman's amendment.

I think it is a mistake to do so. We give the President responsibility for stabilizing the economy.

Let us not take away from him the flexibility necessary to accomplish this important task.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. GONZALEZ).

The amendment was rejected.

AMENDMENT OFFERED BY MR. HANNA

Mr. HANNA. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HANNA: Page 37, strike out line 7 and all that follows thereafter down through line 13.

And redesignate the succeeding sections accordingly.

The CHAIRMAN. The gentleman from California (Mr. HANNA) is recognized for 5 minutes in support of his amendment.

(By unanimous consent, Mr. HANNA was allowed to proceed for an additional 5 minutes.)

Mr. HANNA. Mr. Chairman, I have offered this amendment to H.R. 11309 because I want the House to carefully consider what it has been asked to do. There are many controversial subtopics in this bill—each in its own right is an important issue—but I fear that so much attention has been drawn to these subtopics that we may lose sight of the more fundamental issue at hand. And that is, Do we at this time extend the administration's wage and price authority for a year beyond its current course and, in so doing, endorse the administration's economic track record to date? Make no mistake about it—if this bill passes with section 218 intact, it will be viewed by the public and the administration as an endorsement of every action and of every month of inaction since the enactment of the current law.

Now, Mr. Chairman, I think we ought to look very carefully at what we are asked to endorse. In my judgment, we are being asked to endorse a state of confusion and mystery.

A few examples will suffice to make the point. In Monday's Wall Street Journal, Albert Hunt reports what is a classic case of how the current law is being implemented. He reports on the Pay Board's handling of the question of merit pay boosts. The Pay Board issued one policy statement and then reversed itself, saying the first statement was an error on the part of its staff. The article suggests that this is "symptomatic of the disarray and confusion that continues to plague the panel." Pay Board staffers label the situation a "nightmare." The article further states that, even after the second statement on merit pay, the Board members themselves could not agree as to the interpretation of their own guideline.

Mr. Chairman, I ask unanimous consent that this article be included in the RECORD at this point:

REVERSAL ON MERIT RAISES SAID TO MIRROR PAY BOARD'S STAFFING, COORDINATING WOES

(By Albert R. Hunt)

WASHINGTON.—The Pay Board's handling of merit pay boosts, insiders lament, is proving symptomatic of the disarray and confusion that continue to plague the panel.

In reversing its Nov. 24 explanation of how merit raises should be treated in Phase 2, the board said any such increases that aren't specifically covered by a labor contract will count against the general 5.5% guideline after all, regardless of previous pay practices.

Earlier, several board members and a special background paper put out by the board's staff indicated a directly counter policy, stating that any well-established merit pay plan could continue without counting against the guideline. But red-faced top staffers concede this was erroneous, and the board all along intended to adopt a more stringent policy on merit pay increases—though several board members were unaware of this themselves.

A REAL NIGHTMARE

Some board officials say that they unintentionally created the confusion and misinformation on this issue. "This has been a real nightmare," says Herbert L. Wurth, director of public affairs for the board. "I'm afraid we just put out totally wrong information on merit pay increases."

Even more important, other board members and staffers say, this is only indicative of the tremendous coordinating problems the board is experiencing. There has been a continuing turnover of top staff, and one of the few subjects that the labor, business and public members all agree on is that the internal work of the board has been inconsistent and generally unsatisfactory. "The staff work has been really awful," says one board member, "although it's threatening to get a little better."

In its latest clarification of the merit situation, the board said it wished to make "absolutely clear" that where a labor agreement doesn't exist, any aggregate increase in wages and salaries under any merit or salary administration plan must be part of the allowable 5.5% increase.

Of course, any individual's pay increase may exceed 5.5%, but the aggregate total for any economic unit must be kept within that standard.

If a labor contract specifically covers merit increases, however, that practice may be continued without regard to the 5.5%, officials said. Labor officials explained that under such contracts usually, if the overall pay range for a particular job classification is, for example, \$2 to \$2.25 an hour, then most new workers are likely to begin at the bottom end of that scale.

But, labor officials said, some contracts have provisions allowing workers in this category to receive merit boosts up to the maximum of the range, depending usually on their performance and length of service. These types of existing merit pay practices included in contracts may be continued without counting as part of the 5.5% guideline, the board has ruled.

DUAL SYSTEM

The board readily acknowledges this amounts to a "dual system" on merit increases that favors union contracts. But the official explanation is that "merit plan ranges under labor agreements are narrow, rigidly controlled and don't involve substantial increases in pay."

Merit pay boosts where a labor agreement doesn't exist, however, "are generally wide, flexible, discretionary and do involve substantial increases in pay," the board said. In some of these instances "the increases often constitute an individual employe's entire wage increase for a given year." Thus, officials reasoned, these increases should be covered by the 5.5% standard.

Before this latest board edict, however, both members of the panel and top staffers were misinterpreting the policy. Shortly after the first decision on allowable merit increases, the board's public affairs department put out a background paper that said: "Where no labor agreement exists, merit pay plans contained in existing pay practices may be continued into the future without counting against the 5.5% guideline.

Also, two business, one labor and one public member of the board gave similar misinterpretations in private interviews. Virgil Day, a General Electric Co. vice president and leading spokesman for the five business representatives on the board, told The Wall Street Journal earlier last week that "well-established merit pay plans," even where a labor agreement doesn't exist, could be continued.

Other board members, however, disagreed with this interpretation and after a Wednesday Wall Street Journal story, brought the matter before the panel again. Then the board settled on the latest general ruling, stating that all merit pay increases must be covered within the 5.5% guideline if a labor contract doesn't exist, although most of the business members remain unhappy with the situation.

But potential problems of interpretation still exist. Elliot Bredhoff, a top lawyer for the Steelworkers union and an alternate on the board, concedes there are still "unanswered questions."

POSSIBLE EXCEPTIONS

For instance, he says, if a contract only vaguely refers to the right of management to give merit boosts but doesn't specifically define the range of these increases, this still might qualify as falling under the contract and thus be exempt from the 5.5% guideline. "The real question here is whether this is an established secondary range and the range of management discretion is fairly well known," he says. "If it is a practice deemed to be part of the contract then it might fall under the labor contract provision for merit."

There also may be cases in the nonunion sector, he adds, where there are tightly controlled merit increase ranges, and these firms could come to the board for an exception. Mr. Bredhoff is considered one of the board's leading experts on this subject.

The leader in insisting on a dual system for treatment of merit pay boosts, members say, was Kermit Gordon, president of the Brookings Institution and one of the public representatives on the panel. A factor in this decision, sources say, was the concern among some public members that unless noncontract merit pay increases were included in the 5.5% standard, colleges and universities and some large companies, such as Eastman Kodak Co., could use the merit provision as a major loophole to grant hefty wage boosts.

Over the weekend, the Pay Board's legal staff tried to refine some of the difficulties in writing further regulations on merit pay boosts, and these may be taken to the full board tomorrow.

ON TURNOVER, "REJECTS"

But, several board members say, it was the lack of a stable and competent top staff that created many of the problems on merit pay all along. "Most of the staff never did understand the merit situation, so they were of minimal help to any of us," says one member.

A major reason for these staffing problems, insiders say, is that until the wage-price legislation clears Congress, the Phase 2 control agencies primarily must depend on specialists on loan from other federal agencies. Thus, there has been a constant turnover that severely has hampered internal operations. The Pay Board, for instance, is on its second executive staff director, who also will be leaving shortly, and has yet to appoint a permanent staff chief.

A further illustration of the chaos we are asked to endorse here today is provided by James Rowe of the Washington Post. In his article of December 7, he describes the bedlam of the current mechanism. The situation is best summed up in one paragraph, which reads:

> Meetings are often so confused that members are not always aware of what they are voting on. Some members have failed to be recorded on an issue because they were unaware a vote was being taken.

I ask the Members of this House to consider whether or not they are prepared, here and now, to endorse this chamber of horrors by granting it an extended lease on life.

Confusion also is characteristic of the Price Commission, as the following story out of the Wall Street Journal suggests:

A BRIEF, UNHAPPY HISTORY: PAY-PRICE INCREASE FORMS

Small firms can be doubly thankful they don't have to report pay or price changes.

The reporting form distributed to larger manufacturers by the Price Commission contains six sections of questions including such toughies (question 11, Part II) as "describe method used to translate cost increase to requested or reported price increase." It also wants precise percentage changes in "direct labor" and also "other labor" productivity.

Then, a few days ago the Commission issued "clarifying instructions." These are nearly as long as the original form and even contain spelling corrections, such are "includable" for "includible." (Both are permitted by Webster's, but the former is preferred.)

Pay Board forms aren't generating confusion because they're not yet out. They were to have been distributed but were so "hopelessly confusing," says one source, that they are being redone.

While the performance on the price side has been given less critical attention, its time will come. Both boards have been guilty of following guidelines unraveling with exemptions. We have all seen the headlines, such as "Price Commission Approves Seven Boosts, Three of Which Exceed the 2.5-Percent-Guideline."

Public confidence will not endure such a record, Mr. Chairman. Nor will it endure the price guideline violations that are bound to occur. As the Wall Street Journal article of December 7 points out, small businesses that are not required to report to the Price Commission are planning to revise prices 10 percent or more upward and keep their workers' pay at current levels. Mr. Chairman, I insert these articles at this point in the RECORD:

[From the Washington Post, Dec. 7, 1971]

FEUDING, NITPICKING REIGN—PAY BOARD CRITICIZED FOR LACK OF CONTROL

(By James L. Rowe, Jr.)

"It can't keep going on like this," one high-ranking observer said of the 15-man Pay Board—set up by the President to administer wage and salary increases during Phase II.

The meetings (swollen with the usual coterie of alternates and staff) sometimes become so unwieldly that members are not always aware of what they are voting on, according to one source close to the board.

The board sits again today—it now meets every Tuesday, Wednesday, and Thursday. If past sessions are any indication, much time will be taken up in procedural questions, nitpicking, and personal feuding, lessening the chance for substantive accomplishment.

"They're going to have to do something different," one official observed.

So far, the administration has not been critical of the Pay Board, though Treasury Secretary John B. Connally told newsmen that as a private citizen he disagreed with the tripartite board's approval of a 16.8 per cent first year increase for soft coal miners—well in excess of the board's own pay guideline of 5.5 per cent per year.

But its decision to approve the over-guidelines wage pay boost for coal miners has been denounced as inflationary by the Price Commission, which allowed only about 60 per cent of it to be translated into higher coal prices.

The Price Commission, presumably is concerned by reports—confirmed last week by management member Virgil Day—that the Pay Board will probably approve "catch-up" arrangements similar to coal for the railroad signalmen (46 per cent over 42 months), aerospace, and dockworkers.

Cost of Living Council executive director Donald Rumsfeld still holds publicly to the line that since the President chose a "participatory" Phase II—one administered by the citizenry rather than by government officials—certain inherent efficiency problems should be expected which retard quick promulgation of guidelines as well as totally tough enforcement.

The 15 Pay Board members include five from management, five from big labor, and five from the public. Unlike its counterpart Price Commission—with seven members from the public—the Pay Board has from the outset been beset by internal rancor.

Last week the rancor on the board got so intense, one source said, that chairman George A. Boldt told labor members he would not stand for any more "rudeness." Labor members often ridicule Boldt in the meetings, and, sources said, are particularly fond of calling public member Arnold R. Weber an administration "hatchet man." According to reports, Weber "goes through the ceiling" at the continued needling.

Meanwhile, the board has yet to devise some of the basic procedures under which it must operate. For example, although beginning Jan. 1, all wage settlements affecting more than 5,000 persons must receive board approval, the board has yet to devise a prenotification procedure.

It delegated to its staff the preparation of a form prenotification units must use. The staff in turn went to the Bureau of Labor Statistics—which came back with a detailed eight-page form. The Pay Board has directed the staff to redo, and simplify the form.

Meetings are often so confused that members are not always aware of what they are voting on. Some members have failed to be recorded on an issue because they were unaware a vote was being taken.

One source cited, as an example of confusion, the recent decision merit increases. Just before Thanksgiving the board issued a guideline on merit raises, which it had to immediately clarify the next day.

Last Thursday after worried businessmen flooded the Pay Board with queries, The Wall Street Journal—with the help of three Pay Board members—put together what purported to be an accurate summary of the Pay Board's policy on merit increases.

But Friday, the Board issued another clarification, which appeared to be in conflict with its ruling—and in points was. Sources said some Pay Board members were surprised that the Friday clarification was actually what they had voted.

In the initial Pay Board guidelines issued Nov. 7, provision was made for five or more members to challenge contracts they felt to be excessive in terms of the guidelines. But the board neglected to finalize procedures for such a challenge.

Last Wednesday, shortly after the Price Commission refused to allow coal companies to pass through the entire wage settlement, the Pay Board issued its first formal challenge to a contract.

The five business members said they had heard a settlement between the Carey Grain Corp. (which operates one grain elevator at the port of Chicago) and Local 418 of the International Longshoremen's Association was far in excess of the 5.5 per cent standard.

But they knew little more about it than that—and had to ask the Phase II compliance arm, the Internal Revenue Service, to investigate.

But challenge it they did, although the contract covered only nine workers, a spokesman for the union said. If the contract becomes a model for grain elevator operators in Chicago it would affect no more than 200 workers.

One board observer suggested the board's large size contributes highly to its problems. "It's just impossible for 15 men to agree on anything," he said. He suggested Chairman Boldt, in whom the law vests all legal powers of the board, might have to take things into his own hands.

Another said it might go to the "subcommittee approach"—three members "hassle out" the issue and come back with proposals which the board could vote on.

The board is now using this approach on the question of executive salaries and compensation.

A key to the board's future will be its treatment of John Dunlop, the chairman of the Construction Industry Stabilization Committee.

Last week, amid heavy labor objection, the board "temporarily" stripped the committee of its power to rule on wage increases in the construction industry until Dunlop met with the group for a "review." The CISC had approved about 450 contracts granting retroactive payment of wage increases held up by the freeze.

"It will be a sticky fight," one observer said. "Labor is heavily in favor of CISC's activities."

Another said the board would have to "survive this one if its to have any chance at all."

Observers conclude that the Pay Board, in fact, is confused by so many problems that the President may be forced to scrap it and start all over again—though no one in the administration will concede the President has even thought of such a move.

If history is a lesson, a complete breakdown of the Pay Board would not be a surprise. It happened twice during World War II and again during Korea.

[From the Wall Street Journal, Dec. 3, 1971]

Price Commission Approves Seven Boosts, Three of Which Exceed the 2.5-Percent Guideline

Washington.—The Price Commission approved seven more requests for price increases. These include a 3.4% boost for electric ranges and refrigerators sold by White Consolidated Industries Inc. that will add 0.076% to the company's annual revenue, the commission said.

In all cases the commission approved the full amounts sought by the companies, but only three exceeded the panel's 2.5% guideline.

Cummings Engine Co. was allowed a 3.2% price increase for diesel engines, which will result in a 1.1% increase in annual revenue, according to the commission.

Allegheny Ludlum Industries Inc. got approval of a 2.76% increase for lawn and turf equipment produced by its Jacobsen Manufacturing Co. subsidiary. This should add 0.12% to annual revenue, the commission stated.

Heublein Inc. was granted a 2.5% increase for the vodka sold by its Smirnoff beverage division and a 2.34% increase for wines of its United Vintners Inc. subsidiary. The price boosts should add 1.2% to company revenue, the commission said.

Pet Inc. got a 2.3% increase in the price of candies sold by its Whitman chocolates division, which will add 0.1% to annual revenue, the commission disclosed.

A. C. Nielsen Co. got a 1.14% increase in charges for marketing research, which will produce 0.7% more in annual revenue, the commission said.

The increases reflect higher labor and materials costs, adjusted to reflect increases in productivity, or output per man-hour, the commission explained.

The Price Commission also asked coal companies to resubmit any price increase applications with labor costs separated from pension fund maintenance costs.

The Pay Board recently approved the first year of a coal contract which provides for an increase in pay and benefits of more than 15%, but 4.1% of the increase is earmarked for the miner's pension fund.

Earlier this week the Price Commission said it may not allow companies to cover with higher prices any part of a wage agreement exceeding 5.5%. But the commission said it will allow the coal companies to pass on the higher pension payments.

The separation of pension costs from wage costs will help the Price Commission analyze coal company bids to lift prices in response to the wage settlement.

The commission also listed 84 more applications for price increases it had received. For the first time it specified in most cases what products or services would be covered by the proposed increases. So far 354 companies have asked for 423 price increases.

Separately, Monsanto Industrial Chemicals Co., an operating unit of Monsanto Co., said in St. Louis it has applied to raise the price of sodium tripolyphosphate, which is used in making detergents. The requested price increase is 35 cents per hundred-weight, across the board. Carload and truckload prices for technical and feed grades would be $7.95 per hundredweight for bulk quantities and $8.70 per hundredweight for bag shipments.

The latest applicants include the following. The first figure given indicates the amount of increase sought and the second represents the impact on the company's total revenue:

Standard Brands Inc., 2.34% for planted products, 0.3%; Ralston Purina Co., 25% for feed, 0.9%; Northwestern Steel & Wire Co., 10% for steel and wire, 2.4%; Hoover Ball & Bearing Co., (three applications), 6.11% for an unspecified product line, 0.06%, 3.48% for another unspecified product line, 0.1%, and 6.3% for trailer hitches made by its Draw-Tite unit, 0.2%;

General Signal Corp., 4.1%, 0.1%; Interstate Brands Corp.'s bread division, 1.8% for bread and related products, 1.2%; Interstate's cake division, 6.4% for cakes and other sweets, 1.2%; Interstate's Baker Canning Co. subsidiary, 1.0% for peas, beans and corn, 0.1%; M.T.D. Products Inc., 5.73% for garden and tools equipment, 0.3%; Bliss & Laughlin Industries Inc.'s coated metallic products division, 5.18%, 0.2%;

Great Northern Nekoosa Corp.'s Nekoosa Edwards Paper Co. subsidiary, 2.5% for paper products, 0.03%; Dow Chemical Co., 0.09% for chemicals and other products, 0.09%; Munford Inc.'s cold storage warehouse division, 1.96%, 0.1%; Anchor Hocking Corp.'s Phoenix Glass Co. unit 8.45% for glass products, 0.2%; Anchor Hocking's Zanesville Mould unit, 12.4% for glass products, 0.2%; Anchor Hocking's tableware division, 10% for tableware, 2.7%; Anchor Hocking's closure division, 8.4% for metal caps and closures, 0.7%;

Dow Jones & Co., 0.08% for advertising rates for Barron's national business and financial weekly, 0.06%, and 2.16% for advertising for Oneonta Star, Pocono Record, Plattsburgh Press, etc., 0.4%; Signal Cos.' Garett Corp. subsidiary, 3.4% for commercial spare parts price catalog, 0.06%; Dresser Industries Inc.'s Harbinson-Walker Refractories Co. unit, 8.2% for refractory products and other materials, 0.6%; Dresser's Dresser Manufacturing Division, 4.4% for bolted products, clamps, closures, valves, etc., 0.2%; and Dresser's hand tool division, 5.3% for hand tools, 0.2%;

J. P. Stevens Co., 6.03% for 33 different products, 0.1%; Ladish Co., 3.5% for industrial forgings, valves, blades, etc., 3.7%; Sybron Corp., 3.2% for paper, 0.2%; Chrysler Corp.'s Mopar-parts division, 4.4% for automotive parts, 0.2%. Chromalloy American Corp.'s Shunk Manufacturing Co. unit, 4.6% for chemical equipment manufactured blade parts, 1.8%, and Chromalloy's Pockman Manufacturing Co. unit, 7.1% for poultry cages, etc., 3.5%; BASF Wyandotte Corp., 7.58% for soda ash, 1.0%; Kansas Power & Light Co., 0.48% for natural gas, 0.02%, and Central Soya Co., 18% for frozen precooked chicken, 0.01%.

The commission said the following applicants submitted incomplete data. The percentage price increase being requested wasn't "readily apparent in form submitted, requiring further analysis," the commission said:

Allied Mills Inc. for dog food; Brown-Forman Distillers Corp., for bourbon whiskey; Heeger for aluminum products; Pennwall Corp.'s J. F. Jelenko unit for dental gold alloys and dental equipment; Southdown Inc. for Coca-Cola foliage and sale of refined sugar; the city of Bloomfield, Iowa, for natural gas; the Commonwealth of Virginia State Milk Commission for milk.

Also, Michigan Consolidated Gas Co. for natural gas; Tenneco Inc.'s Midwestern Gas Transmission Co. subsidiary for natural gas; Chicago Rock Island & Pacific Railroad Co. for railway fares; Commonwealth Edison Co. for electric billings; Consolidated Edison Co. of New York for gas, electric and steam fuel: National Gypsum Co.'s Gold Bond building products division; Southern Railway System; Cities Service Gas Co.; borough of Metuchen, N.J.; Cutler Hammer Inc., for electronic control package for single customer use; Chromalloy American Corp.; Baker Tools Inc.'s Baker division; Hygrade Food Products Corp. for manufacturing of fresh and processed meats; Earle M. Jorgeson Co. for steel and metal products; United Illuminating Co.; Tappan Co.'s Tappan division for household appliances; Hebrew National Kosher Foods Inc. for kosher food; E. R. Squibb & Sons Inc. for vitamin products, and General Mills Inc. for breakfast foods.

[From the Wall Street Journal, Dec. 7, 1971]

Price Unit Approves Boosts for 13 Firms, Reduces Requested Increases in Four Cases

Washington.—Thirteen more companies got approval for price increases ranging up to 5.7%.

In four of the 13 cases the Price Commission scaled down the requested increases to take into account anticipated improvements in productivity.

Fibreboard Corp., which had asked for a 5.4% increase in paperboard and packaging prices, was granted a 3.6% boost, for an overall impact on company revenue of 2.1%.

Kelsey-Hayes Co., which had sought a 5.02% increase in auto, truck and mobile home parts, got a 4.48% rise. The increase should add 3.6% to annual revenue, the Price Commission said.

Akzona Inc., which had requested a 5.1%

increase in rayon prices, got a 4.9% increase. The resulting gain in overall company revenue should be 3.3%, according to the commission.

Eaton Corp. was allowed increases on four specific product lines—reduced from the amounts requested in three cases—as well as the full 2½% average it had sought for an across-the-board increase.

Eaton got a 5% increase on industrial truck prices, instead of the 5.1% it requested, for an addition to total revenue of ¼%. It got a 4.23% increase in prices of gears, down from 4.55%, for a gain in overall revenue of 0.04%, and a 2% increase in shovel-clutch prices, down from 2.95%, for a revenue boost of 0.02%. The company was granted the full 3.54% increase it sought for drop-forging prices, which should add 0.01% to revenue, the commission said.

The commission said the 2½% companywide increase was approved on condition that the four specific product-line increases wouldn't bring the average above the 2½% level.

The following companies had their proposed increases approved in full:

Emerson Electric Co., 5.7% for stationary power tools and electric welders. The addition to revenue should be 0.5%.

Kinney Service Inc., 5.7% for janitorial services offered by five of its companies in Pennsylvania, New York, Illinois, Ohio and Massachusetts. The addition to revenue is expected to be 0.05%. Kinney got approval earlier for a 4.7% increase in janitorial services offered by three companies in New Jersey and Ohio. The revenue gain of those increases was 0.07%, the commission said.

J. P. Stevens & Co., 3.95% for cotton material, which should add 1.5% to revenue.

Koehring Co., an across-the-board 3.8% for construction equipment, with an equal gain in revenue.

National Gypsum Co., 3.8% for rock and 2.3% for crude gypsum. The commission didn't state the estimated revenue impact.

American Broadcasting Cos., 3% for selected commercial advertisements. The increase should add 0.59% to overall revenue.

Wyman-Gordon Co., 2.5% for aerospace forgings, which should add 0.8% to overall revenue.

Honeywell Inc., 2.2% for test instruments, which should add 0.04% to revenue.

Stanadyne Inc., 1.3% for cold-finished steel bars and wires, which should add 0.29% to revenue.

The Price Commission also said it received 63 new applications for increases from 47 companies.

Among new applications. First National Bank of Chicago said it asked for a 50% increase in the charges it makes for keeping records for various profit-sharing trusts. A bank spokesman said that recent regulatory changes require that the records be kept in a more extensive form and an outside accounting firm has been hired. He said the higher price won't increase the bank's profit at all. The commission said the proposed increase would boost the bank's revenue by 0.01%.

[From the Wall Street Journal, Dec. 7, 1971]

UNFAZED BY PHASE II: SMALL FIRMS PLAN RISES THEY NEEDN'T SHOW

(By Alfred L. Malabre Jr.)

Allied Iron Works Inc. plans a 10% price increase early next year, and it faces no requests from or reports to the Price Commission. The Fort Worth maker of decorative architectural products will simply go ahead and boost its prices. The only people who will be told will be the customers.

If a corporate giant tried to do what Allied plans, it would clearly violate Phase 2 regulations. These state that firms with annual sales of $100 million or more must get Price Commission approval for price boosts and those with sales of $50 million to $100 million must report boosts. Similarly, companies employing more than 5,000 persons must obtain Pay Board approval for pay hikes, and those employing 1,000 to 5,000 must report hikes.

Allied, however, is no General Motors. It employs 50 persons, and its annual sales are below $1 million. Accordingly, it's not obligated to request permission for, or even report, price or pay increases. Subject only to government spot checks. Allied is expected to adhere to the general guidelines of 2.5% for price increases and 5.5% for pay raises. But exceptions are allowed where, for instance, costs are exceptionally high. Allied feels its outsize price increase can be fully justified; its labor costs have climbed about 5% in the past year while its prices have fallen nearly 6%.

AN IMPORTANT SEGMENT

Precisely because they are small and don't have to keep government regulators abreast of their doings, firms like Allied tend to be overlooked in all the attention being focused on Phase 2. Yet such companies, taken together, make up an enormously important segment of the overall economic picture. They account for about half of total sales and employ more than 80% of the work force. Clearly, without their cooperation Phase 2 cannot work.

Will they cooperate?

Interviews with executives of several dozen small companies, ranging from steel fabricators to candy manufacturers, provide some clues. The sampling is admittedly unscientific, and perhaps it is too early for lasting conclusions to be drawn. But with those caveats in mind, here are the findings:

—About two-thirds of the companies polled intend to boost prices in the next six months or so; about half of these plan to increase prices by more than the 2.5% guideline. The remaining third mostly claim competition will keep price levels about flat in the months just ahead. A few say they may be forced to cut prices.

—On the other hand, not a single company anticipates giving pay rises above the 5.5% guideline in coming months. Several believe they will be able to continue paying at present levels, and most expect to negotiate only slight increases at most. The main explanation: The labor supply—mostly nonunion—is abundant.

—At least half of the executives seem confused about even the most basic Phase 2 regulations. Some mistakenly believe they are required to report price and pay changes. Those executives who do appear clear on the rules generally express delight that they aren't being closely supervised. No company reports it has been spot-checked, and most guess that visits from Uncle Sam will be few and far between, if at all.

LITTLE GIANT'S PLANS

Among companies planning substantial price rises is Little Giant Products Inc., a maker of lift-truck equipment. "We hope to raise our prices on special-handling devices, which account for about 70% of our business, by 8% to 10% next year," says H. G. Sharp, chairman of the Peoria, Ill., concern, which employs 100 and whose annual sales are "well below $50 million."

In the fiscal year ended last month, during which Little Giant's sales fell 10%, there was no change in these prices, the executive says. But in recent weeks business has been improving, so a price boost is likely to stick, he says. "Phase 2 will affect us less than a big company," Mr. Sharp says, adding that "we're only chicken-feed in the big economic picture."

In most cases where smaller price increases are being mapped, or where no boosts are planned, business hasn't yet shown the pickup that Little Giant is beginning to experience. This sluggishness, rather than any great concern about Phase 2, seems chiefly responsible for any price stability. Such is the case at Essex Brass Corp., a Detroit producer of lubricating devices for machine tools. Essex boosted prices 5%, on the average, last April, but no new increases are planned "because of the competition," says John Q. Nagel, president.

In some instances, price levels will depend on what will be charged by large competitors subject to direct control by the Price Commission. This is the situation at Electric Hose & Rubber Co. of Wilmington, Del. "What happens to our prices next year will depend entirely on what our big competitors like Goodrich and Goodyear are allowed to do with their prices," says M. R. Karrer, chairman.

Among firms staying well under the 5.5% guideline on pay is Sligh Furniture Co. The Holland, Mich., manufacturer employs about 250 nonunion workers. "We don't plan any pay increases in the near future," reports Charles R. Sligh Jr., chairman. "The economic facts of life, rather than the government's control program, are the determining factor." He says the firm is operating far below capacity and faces "tough competition."

More typical perhaps is the 3% pay-and-benefits increase that Salsbury Laboratories will give 300 nonunion employes on Jan. 1. Dr. J. G. Salsbury, chairman of the Charles City, Iowa, producer of animal vaccine, feels even this increase is most generous in view of the price competition his firm faces. He says, for instance, that the price of a particular chicken vaccine has dropped from eight cents per dose to three cents in the past year, and a further cut to two cents will probably have to be made next month.

Competition is occasionally keeping a tight lid on pay raises even where union employes are present. Essex Brass Corp.'s 50 employes are members of a United Auto Workers local. The company's labor contract expired Dec. 1, without any pay boost—or any strike. Instead the workers, whose last pay hike was in December 1970, are continuing at their jobs on a day-to-day basis, Mr. Nagel says. But he doesn't appear worried by the no-contract situation. He expects that a new agreement eventually will be signed, with provisions for a "moderate" increase. "Our people are glad to be employed," the executive declares.

If business improves next year, as many small firms believe it will, pay increases may get fatter. Government statistics show that over the years wage and salaries of nonunion people, though generally much lower than those of union personnel, respond more quickly to the ups and downs of the economy.

Among executives who appear confused by Phase 2 is Carl C. Wells, president of Modern Welding Co., an Owensboro, Ky., steel fabricator. Modern Welding's sales run about $20 million yearly, and it employs about 500 workers, yet the executive expresses some worry over having "to make periodic reports" to government controllers. Similarly, Dr. Salsbury of Salsbury Laboratories mistakenly declares that "we would have to get permission" from the Pay Board if any pay rises of more than 5.5% should be given.

Such small companies are subject only to spot checks, and William B. Riley, president of Brock Candy Co. in Chattanooga, Tenn., says: "We haven't heard of any small company like ours being spot-checked." And he adds, "Frankly we don't expect any."

A few firms find themselves in the odd position of qualifying for spot-check treatment in only one category. Woodward Governor Co. of Rockford, Ill., employs over 1,000 persons, thereby necessitating reports to the Pay Board. But its annual sales amount to some $40 million, so price boosts don't have to be reported. Bruce M. Livingston, a Woodward vice president, says that a "really big year" in 1972 could push sales over $50 million. "That would be sweet," he says, "but not quite as sweet as before Phase 2 came along."

It must be added at this point that the individual confusion and disarray of the two panels is only exceeded by the lack of coordination of the two. Any economist or layman, for that matter, knows how closely wages and prices are linked in any economy. To successfully stabilize wages and prices, decisions affecting them must be jointly considered. The separation of wage and price supervision, with each panel setting its own guidelines irrespective of the other, seriously reduces the program's chances for success—and yet we are asked to extend it at this time for 1 additional year.

Mr. Chairman, the question of extension should be answered in the negative today and the question raised again next March. We can pass H.R. 11309 today without this section and, in March, take a very simple bill—one page—to extend the program for an additional year. Congress will have made a valuable input into the operation of phase II and will again have the opportunity to review the results. Perhaps the system can be debugged in the next 2 months. If so, we can then offer our endorsement by way of an extension.

If the Congress extends the present law at this time, it will be surrendering one of its greatest responsibilities, that of congressional oversight of the administration.

This responsibility is the cornerstone of our system of checks and balances. We have an obligation to do all we can to insure the proper enforcement and administration of the law. We must hold the administration accountable for its actions. This is, of course, the very reason that the administration asked for this bill—they want to be free of the watchful eye and effective power of the Congress. I ask the Members: Does the administration's track record instill in you a feeling of confidence such that you desire to forfeit your opportunity to review and raise questions about the economic stabilization policy? I certainly have no such confidence at this point.

I wish to make one final point as to the overall economic posture of the administration. Most people seem to have taken comfort in the fact that the President has at least done something at long last. As time passes, however, I think people will reflect on how that something was done and will see that many of the pitfalls could have been avoided if the administration had as great a devotion to planning ahead as it has love for surprise. We all know that the 90-day freeze was entered into without the foggiest idea of what was to follow the freeze. The last half of that phase I was used to construct phase II and, obviously, that job is still not completed. I submit that at least the basics of phase II should have been decided upon before the freeze was imposed. Had this been the case, the freeze would not have had to last as long as it did and we could have moved more smoothly into phase II. Had that kind of forethought and planning characterized the "New Economic Policy," I would not feel so strongly about this issue of extension today. Of course, had that been the case, the President probably would have had the self confidence to wait until next February or March to ask for an extension if one were necessary.

In conclusion, I urge that the Members vote to strike this section. The Congress should neither extend this disarray nor endorse its stumbling. Let us serve notice that we want to see a more orderly ship before we commission her for an extended cruise.

Mr. ROUSSELOT. Will the gentleman yield?

Mr. HANNA. I yield to the gentleman.

Mr. ROUSSELOT. I want to compliment the gentleman on a careful and precise analysis and bringing to this body the results of what has happened since this wage-price control program began. I support the general concept of the gentleman's amendment.

Mr. HANNA. I thank the gentleman. I hope there will be others not present in this House and those who are here, also, who will recognize the wisdom of what I am suggesting.

Mr. WIDNALL. Will the gentleman yield?

Mr. HANNA. I yield to the gentleman from New Jersey.

Mr. WIDNALL. I would just like to call the attention of the gentleman to the fact that if this amendment is adopted, I think we will have the most utter confussion in the business community with regard to where we are going from here on. This will cut the cutoff date that was accepted by the committee of a year and a half. I think this is necessary in order to develop exactly any programs that may be necessary for the future. This will only preserve uncertainty by doing what you are trying to do. I understand your own approach to it, but at the same time I think it would be a great mistake.

Mr. HANNA. I appreciate the gentleman's comments, but I think if you want to see where confusion is, you just need to look at the reports of the boards and commissions now functioning.

I suggest to you that the Congress is saying what it wants to say in this bill. I am not saying that we defeat the bill.

Mr. WILLIAMS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, my distinguished colleague from California (Mr. HANNA) is quite right when he says that this House adopted the Economic Stabilization Act of 1970 almost 2 years ago and the President only chose to take action under this authority on August 15, 1971.

However, Mr. Chairman, what the gentleman fails to state is that the President was criticized for not taking action sooner and then he was criticized when he did take action.

He was forced into taking action because we permitted deficit spending to go on unchecked. This fueled the fires of inflation until we forced the President to take action.

Mr. Chairman, the question before us today right now on this amendment is this, Are we going to give the President the power to bring inflation under control and help our economy to recover, or are we going to accept this amendment and say that he has only the power to use these economic stabilization measures until April of next year? If we do this, no one is going to pay a lot of attention to it.

I am somewhat surprised to find the gentleman from California criticizing the Wage and Price Boards. They were set up well after we started the consideration of H.R. 11309.

Of course, there is confusion; of course, they have to have time to get their feet on the ground. They have only been operating for a matter of weeks; yes, since November. We were holding hearings to report this legislation out back in October.

So I think that the Wage and Price Boards may settle down and do a good job, just as I think the committee ultimately reported out a bill about 100-percent different than the originally submitted bill and 100-percent different from the bill which we had about 2½ weeks ago.

So, I say let us give the President a chance to get our economy back on the track. Let us extend his powers for 1 year. Then, if things get as bad as the gentleman from California (Mr. HANNA) thinks they may get, we can always pass an amendment next year to change "1973" to "1972."

So, Mr. Chairman, I urge the defeat of this amendment.

Mr. ASHLEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. ASHLEY. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, it is entirely true that if we decline to extend the authority contained in the legislation before us to April 1973, then obviously the authority will expire in April of next year. In my opinion this would be a big mistake, Mr. Chairman. It would suggest to the public an unwillingness on the part of the Congress to undertake long-range solutions, or solutions which may turn out to be long-term, to very deep-seated problems which beset our economy at this time.

Mr. Chairman, the argument has been made that this would somehow reinforce the oversight responsibility of Congress. I would submit, Mr. Chairman, that the Committee on Banking and Currency and, indeed, the other committees of the Congress, have the oversight responsibility at any time that they choose to exercise it, and we still have legislative responsibility in this area if we choose to exercise that. So I do not think that the Committee on Banking and Currency will act any more responsibly or responsively by curtailing the expiration of this act to April of next year.

I believe it would be a very serious mistake on the part of this committee to limit the application of this legislation for such a short period of time. Such action would be broadly misunderstood by the public. There would be false expectations that phase II would end at that time. I agree with those who say this would cause very considerable injustice, and I would urge the defeat of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. HANNA).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. HANNA. Mr. Chairman, I demand tellers.

Tellers were refused.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. ANDERSON OF ILLINOIS

Mr. ANDERSON of Illinois. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ANDERSON of Illinois: At the end of section 220 insert the following new section to read as follows:

"SEC. 221. (a) (1) It is the policy of the United States to promote efficient production, marketing, distribution, and use of goods and services in the private sector, and improve the morale of the American worker, all of which are essential to a prosperous and secure free world, and to achieve the objectives of national economic policy.

"(2) The Congress finds that the persistence of inflationary pressures, and of a high rate of unemployment, the underutilization and obsolescence of production facilities, and the inadequacy of productivity are damaging to the effort to stabilize the economy.

"(3) The Congress, therefore, finds a national need to increase economic productivity which depends on the effectiveness of management, the investment of capital for research, development, and advanced technology and on the training and motivation of the American worker.

"(4) The Congress further finds that at a time when economic stabilization programs require price-wage restraints, management and labor have a strong mutual interest in containing "cost-push" inflation and increasing output per man-hour so that real wages may increase without causing increased prices and that, without in any way infringing on the rights of management or labor, machinery should be provided for translating this mutuality of interest into voluntary action.

"(b) It shall be the objective of the President's National Commission on Productivity—

"(1) to enlist the cooperation of labor, management, and State and local governments, in a manner calculated to foster and promote increased productivity through free competitive enterprise toward the implementation of the national policy declared in the Employment Act of 1946 to create and maintain "conditions under which there will be afforded useful employment opportunities, including self-employment, for those able, willing, and seeking to work, and to promote maximum employment, production, and purchasing power";

"(2) to promote the maintenance and improvement of worker motivation and to enlist community interest in increasing productivity and reducing waste;

"(3) to promote the more effective use of labor and management personnel in the interest of increased productivity;

"(4) to promote sound wage and price policies in the public interest and to seek to accomplish that objective within a climate of cooperation and understanding between labor, management, and the public, and within a framework of peaceful labor-management relations and free and responsible collective bargaining;

"(5) to promote policies designed to insure that United States products are competitive in domestic and world markets;

"(6) to develop programs to deal with the social and economic problems of employees adversely affected by automation or other technological change or the relocation of industries.

"(c) (1) It shall be the duty and function of the Commission, in order to achieve the objectives set forth in subsection (b) of this section, to encourage and assist in the organization and the work of labor-management-public committees and similar groups on a plant, community, regional, and industry basis. Such assistance shall include aid:

"(A) in the development of apprenticeship, training, retraining, and other programs for employee and management education for development of greater upgraded and more diversified skills;

"(B) in the formulation of programs designed to reduce waste and absenteeism and to improve employee safety and health;

"(C) in the revision of building codes and other local ordinances and laws, in order to keep them continuously responsive to current economic conditions;

"(D) in planning for provision of adequate transportation for employees;

"(E) in the exploration of means to expand exports of the products of United States industry;

"(F) in the development, initiation, and expansion of employee incentive compensation, profit-sharing and stockownership systems and other production incentive programs;

"(G) in the dissemination of technical information and other material to publicize its work and objectives;

"(H) to encourage studies of techniques and programs similar to those in paragraphs (A) to (H) of this subsection, as they are applied in foreign countries; and

"(I) in the dissemination of information and analyses concerning the economic opportunities and outlook in various regions and communities, and of information on industrial techniques designed for the increase of productivity.

"(2) The Commission shall transmit to the President and to the Congress not later than March 1 of each year an annual report of its previous year's activities under this Act.

"(3) The Commission shall perform such other functions, consistent with the foregoing, as it determines to be appropriate and necessary to achieve the objectives set forth in subsection (b) of this section.

"(d) (1) In exercising its duties and functions under this Act—

"(A) the Commission may consult with such representatives of industry, labor, agriculture, consumers, State and local governments, and other groups, organizations, and individuals as it deems advisable to insure the participation of such interested parties;

"(B) the Commission shall, to the extent possible, use the services, facilities, and information (including statistical information) of other Government agencies as the President may direct as well as of private agencies and professional experts in order that duplication of efforts and expense may be avoided;

"(C) the Commission shall coordinate such services and facilities referred to in subsection (B) above in order to supply technical and administrative assistance to labor-management-public committees and similar groups referred to in subsection (c) (1);

"(D) the Commission shall establish the regional offices and such local offices as it deems necessary;

"(E) the Commission shall hold regional and industrywide conferences to formulate ideas and programs for the fulfillment of the objectives set forth in subsection (C);

"(F) the Commission may formulate model programs to ameliorate the effects of unemployment caused by technological progress;

"(G) the Commission may furnish assistance to parties in collective bargaining entering into collective bargaining agreements; and

"(H) the Commission may review collective bargaining agreements already in effect or those being negotiated to ascertain their effects on productivity; and it may have the power to make recommendations with respect to the agreements made or about to be made in specific industries.

"(2) The Commission may accept gifts or bequests, either for carrying out specific programs which it deems desirable or for its general activities.

"(e) (1) The Executive Director of the Commission shall be the principal executive officer of the Commission in carrying out the objectives, functions, duties and powers of the Commission described in Section 3(b) through 3(d) above.

"(2) The Executive Director of the Commission, with the approval of the Chairman of the Commission, is authorized to employ, and fix the compensation of, such specialists and other experts as may be necessary for carrying out its functions under this Act, with regard to the provision of Title 5, United States Code, governing appointments in the competitive service, and with regard to Chapter 51 and Subchapter III of Chapter 53 of such title relating to classification and General Schedule pay rates, and is authorized, subject to such provision, to employ such other officers and employees as may be necessary for carrying out its functions under this Act and fix their compensation in accordance with the provisions of such Chapter 51 and Subchapter II of Chapter 53.

"(f) There are hereby authorized to be appropriated the sum of $10,000,000 to carry out the purposes of this section during the period ending April 30, 1973."

Mr. ANDERSON of Illinois (during the reading). Mr. Chairman, I ask unanimous consent that further reading of the amendment be dispensed with, and that it be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

Mr. PATMAN. Mr. Chairman, reserving the right to object, I would ask the gentleman from Illinois if this is the amendment that is in the Senate bill?

Mr. ANDERSON of Illinois. Mr. Chairman, if the gentleman will yield, this is the identical amendment that I showed the chairman, the gentleman from Texas (Mr. PATMAN), earlier today. I have also circulated the amendment among the minority members of the committee. It is an amendment that was agreed to by a unanimous vote of 85 to nothing in the Senate. It would simply mandate the National Productivity Commission, which is now in existence, to set up local productivity councils to address themselves specifically to the problem of trying to increase productivity in the country.

Mr. PATMAN. Mr. Chairman, several of the Members have talked to me about the amendment, and I am inclined to agree with the gentleman, and accept the amendment.

Mr. WIDNALL. Mr. Chairman, will the gentleman yield?

Mr. PATMAN. I yield to the gentleman from New Jersey.

Mr. WIDNALL. Mr. Chairman, I want to join with the gentleman from Texas in the acceptance of this amendment. I think it is good, and would be very helpful.

Mr. ST GERMAIN. Mr. Chairman, will the gentleman yield?

Mr. PATMAN. I yield to the gentleman from Rhode Island (Mr. ST GERMAIN).

Mr. ST GERMAIN. Mr. Chairman, if I may have the attention of the gentleman from Illinois, in the future I think it would be nice to distribute some copies to the majority members.

Mr. PATMAN. The gentleman did.

Mr. ST GERMAIN. The gentleman showed it to the chairman, and some of the minority members.

Mr. ANDERSON of Illinois. Mr. Chairman, if the gentleman will yield, I would say in response to the inquiry of the gentleman from Rhode Island that I did put this amendment in the RECORD the day before yesterday, and I did show a copy to the chairman.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The CHAIRMAN. The gentleman from Illinois (Mr. ANDERSON) is recognized in support of his amendment.

Mr. ANDERSON of Illinois. Mr. Chairman, during its proceedings to extend the economic stabilization powers of the President, the Senate adopted an amendment offered by Senator JAVITS of New York, by a vote of 85 to 0, which was designed to expand and augment the authority and resources of the President's National Commission on Productivity. This is a simple, yet extremely important amendment, and since it is not included in the language of the bill reported by the Committee on Banking and Currency, I would urge that we add it to the bill we are considering this afternoon.

Mr. Chairman, this economic stabilization legislation is designed to meet extraordinary circumstances and provide unprecedented powers to the President to directly control millions of daily transactions in a trillion dollar economy. Much as I, and I am sure many of you, regret that we were forced to turn to measures so inimical to the free market system that has served this Nation so well in the past, we simply had no other choice. While I expect that the expedient of direct controls will decisively puncture the inflationary psychology that has wreaked havoc with the economy over the last 2 years, controls cannot do the entire job, and they cannot keep us on the path of noninflationary growth permanently, nor should we expect or want them to. Much of the job of defeating inflation—especially over the long run—will depend upon whether we can get the rate of productivity improvement back on its historic track—at a rate of about 3.2 percent annually. This amendment can contribute to the accomplishment of that urgent task by providing a focus for renewed national efforts to spur the efficiency and productivity of the U.S. economy.

Mr. Chairman, during the last 4 years, the productivity growth rate for the private economy grew at less than 1.7 percent annually—almost half its historic average. During that same period, output per man hour for almost all of our leading industrial competitors grew at many times that rate. Let me just briefly give you a few examples: During the period 1965–70, the annual productivity growth rate for Germany was 5.3 percent, for France 6.6 percent, for Sweden 7.9 percent, and for Japan 14.2 percent; even the "sick man" of Europe, Great Britain, had a productivity growth rate almost double our own. In light of these figures, then, is it any wonder that our trade balance has slipped from an annual surplus of nearly $6 billion in the first half of the decade, to $3.3 billion in the second half, to $1.3 billion during the period 1968–70, and now in 1971 to a deficit for the first time in this century?

Mr. Chairman, it would be foolish to pretend that an upgraded National Productivity Commission can turn around our productivity performance singlehandedly or overnight; but it can provide the kind of focused national effort and attention to this important factor of economic life that a similar mechanism accomplished during World War II and the Korean war. And if anyone should doubt that these efforts made a difference, I would like to quote the words of Dr. Arthur Burns, Chairman of the Federal Reserve Board and long-time student of the American economy.

> During World War II, labor-management committees were established in thousands of war plants as a means of getting maximum production out of resources that were fully utilized. The program worked, because management and labor shared a common interest in solving a problem of paramount importance to the country.

Mr. Chairman, my amendment is designed to help duplicate that kind of cooperative national effort. It would authorize the President's National Commission on Productivity to "encourage and assist in the organization and work of labor-management public committees and similar groups on a plant, community, regional, and industry basis." It would also be empowered to make recommendations and formulate proposals designed to improve our competitive position in international markets, upgrade and increase the output of our work force, develop ways to mitigate the impact of automation and other devices aimed at increased output per man-hour, and to encourage the adoption of employee compensation, profit sharing, stock-ownership systems and other production incentive programs.

Finally, it would increase the resources and funds available to carry on the work of the Commission. While the current Commission is comprised of 27 of the top industrial, labor, and public leaders of the Nation, these are all individuals with their own heavy load of responsibilities; individuals who cannot possibly bear the entire burden of organizing a renewed national productivity effort alone. To do the job, they will need staff, experts, and services of the Nation's most qualified individuals in the area of productivity, yet at present, the Commission has only one professional staff member and one secretary. I think improved productivity deserves a higher place on the national priorities agenda than that. This amendment will provide the able individuals on the Commission with the resources and staff backing needed to mount the major effort that the Nation desperately needs.

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the gentleman from Iowa.

Mr. GROSS. Does this amendment provide for the creation of a committee or of a commission?

Mr. ANDERSON of Illinois. No, this Commission, I would say, in reply to the question of the gentleman from Iowa, is already in existence. It is the President's National Commission on Productivity. It presently consists of 27 of top industrial, labor, and public leaders of the country. This would provide for further responsibilities and for augmenting the resources of that Commission.

Mr. GROSS. Am I right in assuming that there is no farm or agricultural representation on this Productivity Commission?

Mr. ANDERSON of Illinois. I am sorry I cannot answer the gentleman from Iowa, but I have been informed there are top industrial, labor and public leaders on the Commission. I do not know whether a member of the agricultural community is on the Commission or not, but I agree with the gentleman from Iowa that there certainly should be.

Mr. GROSS. I thank the gentleman.

Mr. McCLORY. Mr. Chairman, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the gentleman.

Mr. McCLORY. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, the success of our free enterprise system has resulted in large part from the great productivity which has been made possible through improved techniques, labor-saving equipment, and close coordination between the management, production, and distribution segments of American industry. Indeed, the opportunities for combating inflation, holding down over-all production costs, and benefiting consumers throughout the Nation, are made possible through better productivity practices. Mr. Chairman, this amendment offered by my colleague from Illinois (Mr. ANDERSON) authorizing creation of the President's National Commission on Productivity appears to me to be an essential part of an overall economic stabilization program. Mr. Chairman, I intend to support this bill (H.R. 11309) with the Stephens and the Anderson amendments.

Mr. Chairman, the President's economic program already has produced excellent results. The rate of inflation is way down, employment is up, the gross national product is at a record level, and other indices show that the steps which have been taken, so far, are most beneficial to the American economy.

Mr. Chairman, the cooperation of the laboring men and women of our Nation is vital to the ultimate success of our efforts to emerge from a wartime economy to a peacetime economy. They and all us can expect to benefit from an economic stabilization program in which all elements of our society participate equally, and in which all are treated fairly.

Mr. Chairman, I view the President's proposal as logical and necessary under the present circumstances, and I intend to support the bill, H.R. 11309, that we are now debating. I congratulate my colleague (Mr. ANDERSON) for proposing the amendment which will establish the President's National Commission on Productivity.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. ANDERSON).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. STEPHENS

Mr. STEPHENS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. STEPHENS: On page 25, line 20 after the word "willful", insert the following: "within the meaning of Section 208(a) of this Act,".

Mr. STEPHENS. Mr. Chairman, I made an amendment to the bill that would say before a person could make a claim for treble damages, they had to present a claim.

Before that, the way the legislation read, you did not have to present a claim before you asked for treble damages. All you had to do was to go to court.

What I am asking for is a clarification of the word "willful" so it will fit into the criminal liability of the statute which was intended. There might be someone who has willfully charged a price, but does not know that it violates the law. I think it is merely a technicality and makes it conform with the other parts of the statute. In further explanation, the amendment is for clarification and to avoid rendering the proviso to section 210(b) meaningless.

Section 210 provides for private actions to recover overcharges. A proviso to section 210(b) requires that a demand for refund be made before bringing litigation. A demand for refund should not be necessary where a seller imposes prices, knowing that they violate the law or otherwise acts in deliberate disregard of the law. For this reason, the proviso was made applicable only in those circumstances "where the overcharge is not willful."

The use of the term "willful" is appropriate since it is the same term that describes the type of violation which is the subject of criminal penalties under section 208(a) of the act. However, the term "willful" has occasionally been defined to mean only that a person intends to do an act. In this case, for example, that a seller intended to charge the price actually charged. With this kind of interpretation it makes no difference whether the person has knowledge that the price violates the law or that the price might have been set in a bona fide effort to comply with the law.

Accordingly, if the term "willful" is left unexplained, it is possible that the proviso would rarely if ever come into play except for the very limited circumstances of a clerical error. The problem is particularly serious in light of the nature of the Price Commission regulations: The Price Commission does not approve most prices in advance, the regulations are general, are subject to legitimate varying interpretations, and compliance frequently requires the exercise of reasonable judgment. The proviso should apply in any circumstance where there is a bona fide effort to comply with the law.

It will then discourage unnecessary and protracted litigation, and prevent the Federal courts from being inundated with claims which legitimate businessmen would in fact pay were they aware of an overcharge problem.

To carry out the intention of the proviso, the amendment would simply equate the term "willful" to the same term used in the sanction provisions under section 208(a).

Mr. WYLIE. Mr. Chairman, will the gentleman yield?

Mr. STEPHENS. I yield to the gentleman.

Mr. WYLIE. In view of the uncertainty accompanying certain of the rules and regulations being issued under this act, suppose a person interprets a regulation in good faith and prices his prices or rentals. Thereafter, an official judicial or regulatory interpretation is issued to a contrary effect. Is such an overcharge, under those circumstances, "willful" within the terms of the proviso contained in section 210(b) under your amendment?

Mr. STEPHENS. No. A charge made based upon a good faith interpretation of the law or regulation, cannot be considered a willful overcharge.

Mr. WYLIE. I thank the gentleman.

Mr. PATMAN. Does this reconcile the language in two places?

Mr. STEPHENS Yes, sir; that is correct.

Mr. PATMAN. I think that is all right.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Georgia (Mr. STEPHENS).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. BRASCO

Mr. BRASCO. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BRASCO: Page 19, after line 6, and the following new subsection:

"(g) No State or portion thereof shall be exempted from any application of this title with respect to rents by virtue of the fact that it regulates rents by State or local law, regulation or policy."

Mr. BRASCO. Mr. Chairman, what this amendment seeks to do, very simply put, is to prohibit any State or portion thereof which regulates rents by law to raise those rents without first coming under the guidelines as set forth in the Economic Stabilization Act, and in view of the fact that this act deals with both wages and prices, it would seem to me to be both fair and just that rents, an integral part of a family's life, be covered by the legislation.

Mr. J. WILLIAM STANTON. Mr. Chairman, will the gentleman yield?

Mr. BRASCO. I yield to the gentleman from Ohio.

Mr. J. WILLIAM STANTON. It is my understanding that this amendment applies only to New York and Cambridge?

Mr. BRASCO. As I understand it, there are two cities in the country that are under rent control. They are New York and Cambridge. I understand that from counsel. I do not know of any other area to which it would apply.

Mr. ASHLEY. Mr. Chairman, will the gentleman yield?

Mr. BRASCO. I yield to the gentleman from Ohio.

Mr. ASHLEY. I think the gentleman has presented a very sound amendment, and I am happy to support it.

Mrs. ABZUG. Mr. Chairman, will the gentleman yield?

Mr. BRASCO. I yield to the gentlewoman from New York, who is the architect of the amendment and has worked diligently for its passage.

Mrs. ABZUG. Mr. Chairman, I want to express my thanks to the gentleman from New York (Mr. BRASCO), who is a member of the Committee on Banking and Currency, for agreeing to offer my amendment. I also want to thank the chairman, Mr. PATMAN, and the ranking minority member, Mr. WIDNALL, for their gracious acceptance of it.

The Price Commission has decided to allow areas which have their own rent control or rent stabilization laws to, in effect, set their own rent guidelines by exempting them from the guidelines on that subject which the Price Commission will soon establish. Unfortunately, however, there has been no sign that the Pay Board will exempt from its 5.5 percent guideline the wages of tenants in those areas.

Under rent control and rent stabilization as they exist in New York City, the tenants of nearly 2 million dwelling units are about to be hit with rent increases of between 7½ and 13 percent, while their wages will not be permited to rise more than 5½ percent. To permit the ruling of the Price Commission to stand would unfairly penalize millions of people and, in addition, would create an almost unbearable situation for individuals—many of them elderly or handicapped—who live on fixed incomes.

What we are doing with this amendment is saying that the administration cannot limit wage increases and then turn its back on rent increases. Landlords in New York will have to comply with the Price Commission's rent guidelines in the same manner as landlords everywhere else in the country, and if one of them wants to seek some sort of exception to those guidelines, he will have to apply to the Commission in the same manner as a landlord anywhere else in the country.

This is not an attempt to abolish local rent control or preempt any locality from having rent control. It is not intended to prevent any locality from pegging its own rent increase guidelines at a lower level than those set by the Price Commission.

If we really want to stop inflation, and we expect all Americans to share equally the burden of doing this, we must not turn one isolated portion of the job over to a local authority which bears no responsibility for the other portions, lest we get what portends in New York if this amendment is not adopted—rent increases far in excess of wage increases. This amendment is intended to insure that rent increases will not outstrip wage increases, and I urge its adoption.

Mr. PATMAN. Mr. Chairman, will the gentleman yield?

Mr. BRASCO. I yield to the chairman of the committee.

Mr. PATMAN. Mr. Chairman, we have discussed the amendment. We have looked into it, and we are willing on our side to accept it.

Mr. BROWN of Michigan. Mr. Chairman, will the gentleman yield?

Mr. BRASCO. I yield to the gentleman from Michigan.

Mr. BROWN of Michigan. I thank the gentleman for yielding. What you are saying in your amendment is that any State or a portion of a State shall not be exempted from Price Board determinations merely by virtue of the fact that it also regulates rents.

Mr. BRASCO. Correct.

Mr. BROWN of Michigan. If there was any other basis for exempting States or portions of States——

Mr. BRASCO. That has nothing to do with it.

Mr. WIDNALL. Mr. Chairman, will the gentleman yield?

Mr. BRASCO. I yield to the distinguished ranking minority member of the committee.

Mr. WIDNALL. I thank the gentleman. As I understand, the amendment applies to two municipalities, Boston and New York. There may be a few others, but it seems to me that the situation there is unusual, and we will certainly accept the amendment.

Mr. LANDRUM. Mr. Chairman, will the gentleman yield?

Mr. BRASCO. I yield to the gentleman from Georgia.

Mr. LANDRUM. Mr. Chairman, I would direct this question to the chairman of the committee, the gentleman from Texas. In the Senate version of this economic bill there is a provision which states—

> (f) For the purposes of this section, the terms "wages" and "salaries" do not include contributions by any employer pursuant to a compensation adjustment affecting less than one thousand employees for—
>
> (1) any pension, profit sharing, or annuity and savings plan;
>
> (2) any insurance plan; or
>
> (3) any disability and health plan;
>
> unless the President determines that the contributions made by any such employer are unreasonably inconsistent with the standards for wage, salary, and price increases published under subsection (b).

Would the gentleman give me some idea of how he feels about that provision? It seems to me it is not inflationary and ought to be included in the final version of the bill.

Mr. PATMAN. Mr. Chairman, will the gentleman yield?

Mr. BRASCO. I yield to the gentleman from Texas.

Mr. PATMAN. I am very much impressed with that. It impresses me as being the type of legislation that is needed. If I am not convinced otherwise, I will be in favor of it.

Mr. J. WILLIAM STANTON. Mr. Chairman, will the gentleman yield?

Mr. BRASCO. I yield to the gentleman from Ohio.

Mr. J. WILLIAM STANTON. I rise only to tell the gentleman in the well that there is an amendment by the gentleman from Indiana on our side which applies specifically to the question which the gentleman from Georgia asked. I think it is the next amendment to be offered.

Mr. RYAN. Mr. Chairman, will the gentleman yield?

Mr. BRASCO. I yield to the gentleman from New York.

Mr. RYAN. Mr. Chairman, I rise to support the amendment to require rent guidelines established by the Price Commission to be applied in areas which have local rent control laws as well as in those which do not.

It has long been my position that, due to the very difficult financial squeeze in which tenants find themselves, the freeze on rents should continue. To that end, I introduced legislation (H.R. 10945 and H.R. 10946, with cosponsors) which would continue the freeze on rents through the period of economic stabilization, and I testified in support of it before the House Banking and Currency Committee on October 29. I think that it is especially important that the freeze on rents continue in areas where the market has been so tight that local rent controls have been enacted. These are areas which have recognized the importance of holding down the ever-increasing pressures of real estate interests to raise rents.

This amendment provides that States or localities are not exempt from Federal rent guidelines, because of the existence of State or local rent control laws. Of course, the amendment will not preempt local or State rent control laws which are more stringent than guidelines promulgated by the Price Commission.

This amendment is necessary because of the arbitrary action of the Price Commission on November 22. On that date the Price Commission announced that rent increases on rent-controlled units authorized by State and local rent control agencies would be allowed to go into effects.

This action of the Price Commission was outrageous for several reasons. First, in taking this action, the Price Commission violated its own previously announced procedures. On November 12 the Price Commission announced that guidelines for rents would be developed after consultations with the Rent Advisory Board, which had not yet been appointed. In the interim the freeze on rents was to continue. Then on November 22, after a series of meetings with New York City real estate interests, the Price Commission announced that rent increases on rent-controlled units authorized by State and local rent control agencies will be allowed to go into effect. But this decision was reached before the Rent Advisory Board had been appointed. The appointment of the members of the Rent Advisory Board was then announced the next day. This is a totally unacceptable way of carrying out public policy.

The Price Commission's action was outrageous also, because the Commission failed entirely to examine the basis for the rent increases authorized under local law and regulations, which the Price Commission's ruling sanctioned.

In the case of New York City, under amendments to the local law enacted before the period of economic stabilization began on August 15, on January 1 tenants in 1.3 million rent-controlled apartments face 7.5 percent rent increases. Clearly the Price Commission must look into the adequacy of local rent control to determine whether or not tenants will be protected from excessive rents during the period of national economic stabilization.

Such increases would be unbearable in any event, but are especially onerous at a time when wages and salaries are subject to control.

It is assumed that a tenant pays approximately 25 percent of his income for rent. To restrict wages and salaries and at the same time permit an unregulated increase in the largest segment of a tenant's cost of living budget makes a mockery of the President's program to control inflation.

The ruling by the Price Commission blows a hole in the entire economic stabilization program. By this action the Price Commission allows the rent on private rent-controlled apartments to rise as though wages and prices elsewhere in the economy were subject to no controls whatsoever. It is manifestly unconscionable and unreasonable to allow rents to rise without Federal controls, while the other segments of the economy are subject to Federal controls.

I, therefore, urge most strongly that this amendment be accepted.

I include at this point in the RECORD my letter of December 1 to the Price Commission in which I urge that—

First. The Price Commission's decision allowing locally authorized rent increases to go through be rescinded.

Second. The Rent Advisory Board be allowed to advise on all rent policy, not just some of it.

Third. The Rent Advisory Board hear representatives of tenants' organizations as well as concerned public officials before an overall rent policy is formulated.

Mr. Chairman, the letter is as follows:

WASHINGTON, D.C.
December 1, 1971.

DR. JACKSON GRAYSON,
Chairman, Price Commission,
Washington, D.C.

DEAR DR. GRAYSON: I was shocked by the Price Commission's decisions on November 22 to exempt from the freeze rents in New York City apartments which had been subject to the freeze but which now face rent increases of 7.5 percent as of January. This was particularly disturbing in view of the fact that the Price Commission violated its own previously announced procedures in rendering this decision. As you well know, on November 12 the Price Commission announced that guidelines for rents would be developed after consultations with the Rent Board, which had not yet been appointed. In the interim the freeze on rents was to continue.

Then, on November 22, after a series of meetings with New York City real estate interests, the Price Commission announced that private, rent-controlled apartments would no longer be subject to the federal freeze when there were local rent control laws. As you know, this decision was made before the Rent Advisory Board had been appointed. The appointment of the members of the Rent Advisory Board was then announced the next day. This is a most unfortunate method of carrying out rent policy.

Now today, according to the New York Times, you have asked landlords to postpone rent increases on residential properties which are not subject to local rent control laws. You ask for the continuance of this freeze on these non-controlled properties until the Rent Advisory Board has had time to develop rent guidelines.

Why was not similar forbearance asked in the case of residential property which is subject to local so-called rent controls?

What effort was made by the Price Commission to evaluate the effectiveness of local rent control laws—whether or not they actually place a ceiling on rents, are illusory, or have loopholes which negate their purpose. For instance, the 7.5 percent increases, which will be permitted under the local New York City law, was set forth before the initiation of the President's Economic Stabilization Program. It is inconsistent with the underlying policies of that program.

During this period of economic stabilization I have sought to avoid just such a chaotic and unfair situation from developing with respect to rents. On September 28, I introduced H.R. 10945, with cosponsors, which would freeze rentals and carrying charges by statute.

On October 28, I urge the Chairman of the Cost of Living Council to continue the freeze on rents by administrative action throughout phase II of Economic Stabilization.

On November 3, I wrote Secretary Connally urging that there be adequate tenant representation on the rent board, so that decisions rendered would be fair to tenants.

And on November 22, 1 telegraphed you, urging that no decision on rents be reached prior to appointment of the rent board, and urging further that no decision on rents be rendered without consultation with tenant groups and other concerned parties.

And yet the Price Commission in exempting residential rent-controlled apartments from the federal freeze has now acted in disregard of tenant interests and in violation of the Commission's own procedures. I urge that the decision be rescinded forthwith. I urge that the Rent Advisory Board be allowed to formulate all rent policy, not just some of it. And in formulating that policy I urge that the Rent Advisory Board hear representatives of tenants' organizations as well as concerned public officials before an overall rent policy is formulated.

Sincerely,

WILLIAM F. RYAN,
Member of Congress.

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. KOCH. Mr. Chairman, I move to strike the last word.

The CHAIRMAN. The gentleman from New York is recognized.

Mr. KOCH. I rise in support of the amendment, and would like to add this one addendum.

Members of the New York delegation wrote to the mayor of the city of New York on the question of keeping New York City under Federal rent guidelines and he specifically responded by saying that the city of New York had not requested an exemption. I am pleased, as are other Members of the New York delegation, that the city will now be included as a result of the adoption of the Brasco amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. BRASCO).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. BADILLO

Mr. BADILLO. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Chair might state the Chair is trying to get all the amendments taken care of before the deadline.

The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. BADILLO: At page 20, strike out all of lines 13 through 24 inclusive and at page 21 strike out all of lines 1 and 2, inclusive, and insert in lieu thereof the following:

"All information reported to or otherwise obtained by any person exercising authority under this title which contains a trade secret or process shall be considered confidential, except that such information may be disclosed to other officers, agencies, boards, commissions, or similar entities empowered to carry out this title solely for the purpose of carrying out this title or when relevant in any proceeding under this title. All other information received in justification of wage or price increases shall be made available to the public."

Mr. PATMAN. Mr. Chairman, will the gentleman yield?

Mr. BADILLO. I yield to the gentleman from Texas.

Mr. PATMAN. We have studied the gentleman's amendment and it may have some merit.

Mr. BADILLO. Mr. Chairman, I thank the gentleman from Texas.

Mr. Chairman, the heart of this amendment is the last sentence which says that all other information received in justification of wage or price increases shall be made available to the public, and the purpose of this amendment is to implement the statement that is made in the committee report at page 6, which says, "that public disclosure, to the fullest extent possible of the information on which policies, regulations and controls are predicated to carry out the purposes of this title is necessary to achieve and maintain the widest possible confidence, and by the same token, the largest possible degree of public cooperation."

Mr. Chairman, even though the committee says that there should be public disclosure in order to see to it that the public at large will respond positively to this program, the fact is that the section that is incorporated by reference under section 205, that is section 1905 of the Criminal Code, in fact, not only prevents the Price Commission from disclosing what is going on, but makes it a crime to disclose what is going on. The section referred to, section 1905 of the Criminal Code reads, in part, as follows:

§ 1905. Disclosure of confidential information generally.

Whoever, being an officer or employee of the United States or of any department or agency thereof, publishes, divulges, discloses, or makes known in any manner or to any extent not authorized by law any information coming to him in the course of his employment or official duties or by reason of any examination or investigation made by a return, report or record made to or filed with such department or agency or officer or employee thereof, which information concerns or relates to the trade secrets, processes, operations, style of work or apparatus, or to the identity, confidential statistical data, amount or source of any income, pending losses, or expenditures of any person, firm, partnership, corporation, or association; or permits any income return or copy thereof or any book containing any abstract or particulars thereof to be seen or examined by any person except as provided by law; shall be fined not more than $1,000, or imprisoned not more than one year, or both; and shall be removed from office or employment. (June 24, 1948, ch. 645, 62 Stat. 791.)

The function of the Commission is exactly to entertain questions that have to do with income and with profits. Unless this amendment is adopted, it means that the Price Commission would be prohibited under penalty of criminal indictment from letting the public know what is going on. It means that the proceedings of the Price Commission would take place by having the corporations applying to the Price Commission and having the decisions being made in a dialog between the Price Commission and the corporations only. That is precisely the kind of secrecy which would discredit the entire Commission, because there are many corporations which are closely held, some of the largest in this country, and they would be able to come to the Price Commission under secret proceedings, get an increase, and the Price Commission would be prohibited from making public the information on which its decision is based.

I think if we believe the Price Commission has an important job to do, and I think it does, we should make the proceedings, except for trade secrets which this amendment provides for, available to the public.

We should give parties who have an interest the right to appear, the right to look at the information being supplied by those who seek a price increase, and the right to challenge it. Under the provisions as they stand now this would not be the case.

Mr. Chairman, everyone who has talked about the phase II program of economic controls, from the President on down, has emphasized that the program cannot possibly work unless it has the confidence and acceptance of businessmen, labor, farmers, consumers, and the public at large.

And everyone, from the President on down, has made the point that phase II will get that kind of confidence and acceptance only if it is basically fair and equitable in the way it allocates benefits and hardships among different groups in the economy.

This amendment is intended to help the program win that acceptance and confidence by giving the American people access to the data submitted to the Price Commission in support of price increase requests by our giant corporations.

If section 205 is approved in the form reported, we will have the following situation:

Benefits obtained by labor in the form of wage increases approved by the Pay Board will be fully in the public domain. Anyone interested can find out exactly what the workers got before the wage increase and what they will get after it. The public will have what it needs to judge whether the Pay Board acted wisely or not.

The same will be true of benefits obtained by a single-line corporation in the form of a price increase granted by the Price Commission. If the single-line corporation is a public company—that is, one whose securities are registered with the Securities and Exchange Commission—it sends detailed quarterly reports to its stockholders and files even more detailed reports with the SEC. The information in these reports, which are in the public domain, can enable an interested party to estimate fairly accurately the effect on profits of a particular price increase.

We have a very different situation, however, where a giant, multiline company seeks Price Commission approval for a price increase on a single product. Here, it must submit full profit and loss data to the SEC only on a consolidated basis. As far as particular lines of business are concerned, the corporation must report only the respective contributions to sales and income—or loss—without any of the other ordinary financial statement data.

And if the giant company should be closely held and never registered an issue of securities with the SEC, there will probably be no information at all available to the public on which to evaluate the merits of a price increase.

Approval of this amendment would bring into the public domain all information offered in justification of wage and price increases by the category I—prenotification firms, and the category II, reporting firms, as defined in the phase II regulations.

Closely held corporations and multiline corporations would be disclosing more to the public than they do now, but not any more than their publicly held and single line competitors have been disclosing all along.

It should be clear that this amendment will in no way force disclosure of legitimate trade secrets. It even strengthens the committee bill in that regard by adding after the words "trade secret" the words "or process" to indicate that proprietary technical data, including manufacturing and other secret business processes, that come into the hands of the Price Commission or any of the other phae II agencies will be held strictly confidential.

Another point to remember is the extremely limited percentage of all American companies that will be affected by the full sweep of phase II, and this amendment. For all practical purposes, the Price Commission is going to be concerned only with price increases of some 2,500 corporations.

There are some 1,300 category I firms—those with over $100 million a year in business receipts. This represents less than one-tenth of 1 percent of the corporate population but about 45 percent of all business receipts.

Category II firms—those with annual receipts between $50 million and $100 million—number just over 1,000 and represent nearly 5 percent of all business receipts.

Category III firms—those whose annual receipts are under $50 million—represent 99.8 percent of the corporate population, but only half of all corporate receipts.

This amendment is intended to insure that regardless of category, there shall be the fullest public disclosure. I urge its adoption.

Mr. ASHLEY. Mr. Chairman, will the gentleman yield?

Mr. BADILLO. I yield to the gentleman from Ohio.

Mr. ASHLEY. Would this mean that if a corporation were seeking a price increase and presented itself to the Price Commission with its company books, those company books would be available to the public?

Mr. BADILLO. Not insofar as they contain information which has to do with patents or trade secrets. But insofar as they contain information which has to do with the income and profits or losses of that company, and the justification for the extent of the price increase, that information would be made available to the public, yes.

Mr. ASHLEY. I agree with the thrust of the gentleman's amendment. I am not sure that the limitation he places on the amendment would conform with general practice. In my view, the amendment would require public disclosure of a whole range of business matters as a condition for applying for a price increase. The amendment goes much too far, in my view, and would be counterproductive in its application. It should be defeated.

Mr. BADILLO. I am a certified public accountant, as the gentleman may know. From a practical point of view the nature of an application for an increase does not have anything to do with patents or copyrights or trade secrets.

The secret which is involved here is that the company is losing money. The application that would be made by the lawyers and accountants would have to do with the justification for the increase. This is the way in which it was operated under the OPA. The nature of the procedure is such that this is precisely the kind of information which should be made public.

Mr. JOHNSON of Pennsylvania. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I consider this a very dangerous amendment which will submit the business community in this Nation to unusual harassment, as well as customers of business.

For the past 100 years in this Nation we have had a protection to the American people against full disclosure of certain information.

The gentleman is right; under the Freedom of Information Act there is a protection against disclosure of trade secrets and confidential processes.

Likewise under the Crimes Act, in section 1905, there is a protection against disclosure of statistical information by a firm or a person.

The bill in front of us very carefully preserves the protection against disclosure of trade secrets and also preserves from disclosure the statistical information, and says that section 1905 of the Crimes Act shall apply.

The gentleman's amendment would preserve the protection of trade secrets, but would put the door wide open so far as disclosing information is concerned within the realm of commercial transactions.

This would mean that a company which came to the Price Board with its books would give to the public their precise costs, the costs of its labor and material, by product lines or by the entire line. It would mean they would have to make public their calculations of their productivity, their customary price markups, and past and estimated profits on the item. That is confidential information to the particular firm.

What would that mean to the firm, if the amendment carried? The firm would be inhibited from disclosing this type of information, and so the price board would be without the necessary information it needed.

I know if I were a businessman, and if I had to come before the Price Board, which I would have to do, I certainly would not want, if I were General Motors or any other firm, to give information to that Board which say the Ford Motor Co. could use against me on competitive lines.

The disclosure of this information, protected for the last 100 years, would bring about collusion among competitors and, as I see it, throw fear into anybody going in front of the Board.

They would not disclose what they should disclose in order to have a good ruling. Therefore, I say it would put an unreasonable burden on industry.

Likewise, if this information is made public, everybody would come to the Price Commission on a fishing expedition to read through records and find out what they could. It would put an unusual and unreasonable burden on the Price Board and would be a bonanza to competitors.

Therefore I think it is a dangerous amendment.

We should preserve the protection of the last 100 years written into this act in front of us today and we should vote down this amendment resoundingly.

Mr. ROUSSELOT. Will the gentleman yield?

Mr. JOHNSON of Pennsylvania. Yes. I yield to the gentleman.

Mr. ROUSSELOT. I think the gentleman has been very thoughtful to bring this particular point up regarding disclosure of confidential information under 1905 of the crimes and criminal procedure laws.

I would like to quote from the law, because I know the gentleman from New York certainly wants to live within the law that protects consumers as well as businessmen. "Confidential information" about any consumer's records could possibly be made public unnecessarily and without the consent of the consumer. Let me quote from the law:

> § 1905. Disclosure of confidential information generally.
>
> Whoever, being an officer or employee of the United States or of any department or agency thereof, publishes, divulges, discloses, or makes known in any manner or to any extent not authorized by law any information coming to him in the course of his employment or official duties or by reason of any examination or investigation made by, or return, report or record made to or filed with such department or agency or officer or employees thereof, which information concerns or relates to the trade secrets, processes, operations, style of work or apparatus, or to the identity, confidential statistical data, amount or source of any income, profits losses, or expenditures of any person, firm, partnership, corporation, or association; or permits any income return or copy thereof or any book containing any abstract or particulars thereof to be seen or examined by any person except as provided by law; shall be fined not more than $1,000, or imprisoned not more than one year, or both; and shall be removed from office or employment. (June 25, 1948, ch. 645, 62 Stat. 791.)

I think the gentleman has made an excellent point. This law has stood for years. To tamper with it now, to alter and change it and lay customers open to public disclosure that they may not want to have revealed I think would be high handed. I think the gentleman is to be complimented for raising this very important issue.

Mr. DENNIS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I think perhaps this amendment, with its thrust at the private books and private information of private business, confidential information of private business, is perhaps as convenient a time as any to make a few general and fundamental remarks on this whole subject. I personally would be sorry to see the debate close without somebody making remarks of this character.

Mr. Chairman, we are talking about amendments here. We are talking about an amendment now which is an important amendment. We have had other important amendments, such as the Stephens amendment, which I supported; but the real question before us now is whether we ought to have controls at all. These amendments have as their central issue merely the question of how do we carry out these controls.

I think we ought to think a little bit about the question, how did we get into the position where these controls seem to be necessary. Most of us seem to have arrived at the conclusion that when an inflationary spiral, such as the one we have, faces us we have very little choice but to embark on a system of controls. It is important to think about how we got here, because, as this amendment shows and as every amendment shows, controls are basically antithetical to a free economy and a free society, and they are going to do injustice in many individual cases, even if we conclude that as an emergency measure we have to have them.

Now, how did we get to the point where we are talking about this sort of thing? I submit the reason we have arrived at this point is, first, that we have followed a long-continued and utterly irresponsible course of governmental spending, both in war and in peace, which I think is probably one of the prime examples in history of trying to have guns and butter and bread and circuses in unlimited quantities, without restraint and over a protracted period of time. That causes inflation.

The other thing is that we have permitted, or at least one other thing is that we have permitted, the big labor unions to acquire a monopoly power in this society which no segment in our society ought to be allowed to acquire.

This has built in a steadily accelerating increase in the cost of production, which is growing all the time, is not subject to control, and is not amenable to the ordinary economic processes or to the ordinary methods of checking inflation.

Now, Mr. Chairman, the bill before us does nothing to meet any of these very serious problems. At the most we are putting a legislative poultice on the running sore, while we are not excising the malignancy.

Mr. Chairman, I must regretfully say that I see no indication that this Congress is about to face up, or is about to find the courage to face up, to any of these fundamental problems.

We keep on spending money here like water every day in the week, and we get a bigger deficit every day we are in session.

Mr. Chairman, just a few days ago here there was going to be a modest amendment offered by the gentleman from Illinois (Mr. CRANE) the effect of which, had it been voted on, was to attempt to control the political use of union dues and union funds; but we could not even get a vote on it, due to a smooth working bipartisan coalition which prevented it.

Yesterday we passed a very expensive farm bill of dubious value.

Mr. Chairman, why was the price of corn so shockingly low? Well one of the main reasons why corn is sitting on the ground in the Middle West and cannot be disposed of is because the dock strike has tied up all of the shipping and the corn cannot be moved. The Government of the United States has to stand helplessly by while that condition exists.

Mr. Chairman, I am not antilabor, I am not antiunion labor or anti to any segment of our American society, but I am antimonopolistic power in the hands of anyone, and I say to the committee that unless some Congress, if not this Congress, stands up, and stands up soon, and faces and finds some solutions to some of these problems, we will have more amendments like this one and we will have more controls such as we have in this bill. We will end up, Mr. Chairman, with the loss of our liberty to the point where this bill now pending before us may well look like a pale preview of things to come.

Mr. KOCH. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of the amendment.

I would like, with the permission of the Chair, to read a small section of the committee report, because what this amendment really proposes to do is in a sense, if adopted, executing that which the committee report recommends be done.

I quote from the report of the committee as follows:

> This section applies section 1905 of title 18 of the United States Code to all information obtained by any agency delegated by the President to carry out the purposes of this Act. Application of Section 1905, title 18, and the provisions of the Economic Stabilization Act as amended in this section, means that all information so acquired may be shared only by other officers, agencies, boards, commissions and similar entities authorized to carry out the purposes of this title and by Federal departments and agencies for use regarding official matters not necessarily related to the purposes of this Act.
>
> It is the intention of your Committee, through provisions of this section, to guard against disclosure of information which would tend to damage the competitive position of persons, organizations, businesses and industries providing such information. At the same time the Committee deems it necessary to point out that it should be recognized by the President and those to whom he has delegated authority, that much of the information obtained in carrying out the purposes of this title cannot be construed as a trade secret or be classified as otherwise sensitive to those disclosing it. Moreover, it is the view of your Committee that public disclosure, to the fullest extent possible of the information on which policies, regulations and controls are predicated to carry out the purposes of this title is necessary to achieve and maintain the widest possible confidence, and by the same token, the largest possible degree of public cooperation to assure the success of efforts to achieve economic stability. Attention is called to this point in relation to the Administration's often repeated statement that economic stability cannot be achieved without full public support and cooperation.

Mr. Chairman, I take some pride in the fact that this language was incorporated into the committee report at my suggestion when the committee was marking up the bill.

It is important to note that our colleague, the gentleman from New York (Mr. BADILLO) points out that the bill itself, by reference to section 1905, title XVIII, Crimes and Criminal Procedures, specifically would bar the release of any information which relates to income, profits, losses or expenditures. That kind of information surely, is not confidential information relating to trade secrets which is after all that which we wanted to protect from public disclosure.

I agree with the President, and I agree with the gentleman, Mr. DENNIS, who last spoke that if we make our society so restrictive we will end up with a police state. I am for this bill, because we need it, but I am not for extra restrictive measures that are not necessary. If we do not want to have an open society we will bar the public from every aspect of information. If, on the other hand, we want to protect legitimate matters requiring protection, like trade secrets, but make available all other information, we should incorporate the gentleman's amendment in the bill.

I urge the minority to accept that amendment, because I honestly believe it carries out the philosophy which all of us, no matter on which side of the aisle we are on, support, which is an open society.

The CHAIRMAN. The Chair will call to the attention of the Members that, if the remaining amendments are to be considered, the committee is racing against a 20-minute deadline.

Mr. WILLIAMS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the Federal Deposit Insurance Corporation would not even reveal to the Comptroller of the Currency the names of banks which are in some difficulty. This is because of the dire results that could be caused by a run on the bank by a lack of confidence in that bank.

If we are going to take the statistical information of a company that may be in some difficulty and has gone to the Price Board to ask for an increase in prices, and make its figures available to the public, that company is going to be in danger of going under. It is going to lose customers. It is going to lose the confidence of its stockholders.

That is why I say we should not tamper with the section of the U.S. Criminal Code that has been mentioned here before.

Mr. Chairman, I urge the defeat of this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. BADILLO).

The question was taken; and the Chairman announced that the noes appeared to have it.

TELLER VOTE WITH CLERKS

Mr. BADILLO. Mr. Chairman, I demand tellers.

Tellers were ordered.

Mr. BADILLO. Mr. Chairman, I demand tellers with clerks.

Tellers with clerks were ordered; and the Chairman appointed as tellers Messrs. BADILLO, JOHNSON of Pennsylvania, PATMAN, and ROUSSELOT.

The Committee divided, and the tellers reported that there were—ayes 73, noes 275, not voting 83, as follows:

[Roll No. 456]

[Recorded Teller Vote]

AYES—73

Abourezk
Abzug
Adams
Addabbo
Anderson, Calif.
Anderson, Tenn.
Aspin
Badillo
Barrett
Begich
Bingham
Brademas
Brasco
Brooks
Burke, Mass.
Burton
Byrne, Pa.
Carey, N.Y.
Carney
Chisholm
Daniels, N.J.
Danielson
Dellums
Denholm
Dow
Drinan
Edwards, Calif.
Fascell
Fraser
Gonzalez
Grasso
Green, Pa.
Halpern
Hanna
Harrington
Hathaway
Hawkins
Hechler, W. Va.
Helstoski
Hicks, Mass.
Howard
Koch
Leggett
Link
McCormack
McFall
Matsunaga
Melcher
Miller, Calif.
Minish
Mitchell
Morgan
Moss
Murphy, Ill.
Nedzi
Nix
O'Hara
Patman
Patten
Podell
Pucinski
Reid, N.Y.
Riegle
Rodino
Rosenthal
Roybal
Ryan
St Germain
Scheuer
Thone
Vigorito
Waldie
Yates

NOES—275

Abbitt
Abernethy
Alexander
Anderson, Ill.
Andrews, N. Dak.
Archer
Ashley
Aspinall
Baker
Baring
Bennett
Bergland
Betts
Bevill
Biaggi
Biester
Boggs
Boland
Bolling
Bray
Brinkley
Broomfield
Brotzman
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burke, Fla.
Burleson, Tex.
Burlison, Mo.
Byrnes, Wis.
Byron
Cabell
Caffery
Camp
Carter
Casey, Tex.
Cederberg
Chamberlain
Chappell
Clancy
Clark
Clausen, Don H.
Clawson, Del
Cleveland
Collier
Collins, Tex.
Colmer
Conable
Conte
Cotter
Coughlin
Crane
Culver
Curlin
Daniel, Va.
Davis, Ga.
Davis, S.C.
Davis, Wis.
de la Garza
Delaney
Dellenback
Dennis
Dent
Devine
Dingell
Dorn
Downing
Dulski
Duncan
du Pont
Dwyer
Edwards, Ala.
Erlenborn
Esch
Eshleman
Fish
Fisher
Flood
Flowers
Flynt
Ford, Gerald R.
Ford, William D.
Forsythe
Fountain
Frelinghuysen
Frenzel
Frey
Garmatz
Gaydos
Gettys
Giaimo
Goodling
Gray
Green, Oreg.
Griffin
Gross
Grover
Gubser
Hagan
Haley
Hall
Hamilton
Hammerschmidt
Hanley
Hansen, Idaho
Harsha
Harvey
Hastings
Hays
Heckler, Mass.
Heinz
Henderson
Hillis
Hogan
Holifield
Horton
Hosmer
Hull
Hungate
Hunt
Hutchinson
Ichord
Jacobs
Jarman
Johnson, Calif.
Johnson, Pa.
Jonas
Jones, Ala.
Jones, Tenn.
Karth
Kastenmeier
Kazen
Keating
Kee
Keith
Kemp
King
Kyl
Kyros
Landgrebe
Landrum
Latta
Lennon
Lent
Long, La.
Long, Md.
McClory
McCloskey
McClure
McCollister
McCulloch
McDade
McDonald, Mich.
McEwen
McKay
McKinney
McMillan
Macdonald, Mass.
Madden
Mahon
Mailliard
Mann
Mathias, Calif.
Mathis, Ga.
Mayne
Mazzoli
Meeds
Michel
Miller, Ohio
Mills, Md.
Mizell
Mollohan
Monagan
Montgomery
Moorhead
Myers
Natcher
Nelsen
Nichols
Obey
O'Konski
O'Neill
Passman
Pelly
Pepper
Perkins
Pettis
Peyser
Pickle
Pike
Pirnie
Poage
Poff
Preyer, N.C.
Price, Ill.
Price, Tex.
Purcell
Quie
Quillen
Railsback
Randall
Rarick
Rees
Rhodes
Roberts
Robinson, Va.
Robison, N.Y.
Roe
Rogers
Rooney, N.Y.
Rooney, Pa.
Rousselot
Roy
Ruppe
Ruth
Sarbanes
Satterfield
Saylor
Schmitz
Schneebeli
Schwengel
Scott
Sebelius
Seiberling
Shipley
Shoup
Shriver
Sikes
Skubitz
Slack
Smith, Iowa
Smith, N.Y.
Snyder
Staggers
Stanton, J. William
Steele
Steiger, Wis.
Stephens
Stratton
Stubblefield
Symington
Taylor
Teague, Calif.
Terry
Thompson, Ga.
Thompson, N.J.
Thomson, Wis.
Ullman
Vander Jagt
Vanik
Waggonner
Wampler
Ware
Whalen
White
Whitehurst
Whitten
Widnall
Wiggins
Williams
Wilson, Bob
Winn
Wolff
Wyatt
Wydler
Wylie
Wyman
Yatron
Young, Fla.
Young, Tex.
Zablocki
Zion
Zwach

NOT VOTING—83

Andrews, Ala.
Annunzio
Arends
Ashbrook
Belcher
Bell
Blackburn
Blanton
Blatnik
Bow
Celler
Clay
Collins, Ill.
Conyers
Corman
Derwinski
Dickinson
Diggs
Donohue
Dowdy
Eckhardt
Edmondson
Edwards, La.
Eilberg
Evans, Colo.
Evins, Tenn.
Findley
Foley
Fulton, Tenn.
Fuqua
Galifianakis
Gallagher
Gibbons
Goldwater
Griffiths
Gude
Hansen, Wash.
Hébert
Hicks, Wash.
Jones, N.C.
Kluczynski
Kuykendall
Lloyd
Lujan
McKevitt
Martin
Metcalfe
Mikva
Mills, Ark.
Mink
Minshall
Morse
Mosher
Murphy, N.Y.
Powell
Pryor, Ark.
Rangel
Reuss
Roncalio
Rostenkowski
Roush
Runnels
Sandman
Scherle
Sisk
Smith, Calif.
Spence
Springer
Stanton, James V.
Steed
Steiger, Ariz.
Stokes
Stuckey
Sullivan
Talcott
Teague, Tex.
Tiernan
Udall
Van Deerlin
Veysey
Whalley
Wilson, Charles H.
Wright

So the amendment was rejected.

AMENDMENT OFFERED BY MR. LANDGREBE

Mr. LANDGREBE. Mr. Chairman, I offer an amendment.

Mr. RYAN. Mr. Chairman, this legislation extending the Economic Stabilization Act of 1970 contemplates wage and price control machinery which will continue at least through April 30, 1973; and, of course, it can be extended beyond that date. If wage and price controls are to be incorporated into the economy, then it is important to anticipate their impact on various elements in the economy.

I have been very much concerned about the effect of the wage freeze upon substandard wage earners and the working poor who should not be locked into poverty. But that is exactly what happened to many workers during Phase I of the President's new economic policy. Contracts already negotiated and agreed upon, which provided wage increases for the working poor, were not allowed to go into effect.

Therefore, I introduced legislation—H.R. 11406 and House Concurrent Resolution 414 and companion resolutions with 24 cosponsors—which would exempt from the wage freeze any individual whose earnings are substandard or who is amongst the working poor or near-poor, until such time as his earnings are no longer substandard or he is no longer a member of the working poor or near-poor.

On October 29, I testified before the House Committee on Banking and Currency concerning economic stabilization. In that testimony I advocated that the wages of the working poor be allowed to rise freely to the point where they are no longer substandard.

I am pleased that the Banking and Currency Committee recognized the plight of substandard wage earners and the working poor and provided for a well-justified exemption.

Title II, section 203(d) of the economic stabilization legislation before us (H.R. 11309) provides that—

> (W)age increases to an individual whose earnings are substandard or who is amongst the working poor shall not be limited in any manner, until such time as his earnings are no longer substandard or he is no longer a member of the working poor.

The committee report on this bill states:

> It is the intention of the Committee that this exemption from control apply to all persons whose earnings are at or below levels established by the Bureau of Labor Statistics in determining an income necessary to afford adequate food, clothing and shelter and similar necessities. (Report No. 92-14, p. 5.)

This exemption for low-paid workers was the substance of my bill H.R. 11406, which the distinguished gentleman from Maryland (Mr. MITCHELL) offered as an amendment in the Banking and Currency Committee. I appreciate very much the support Mr. MITCHELL gave to this amendment and his successful efforts in obtaining its adoption. I also appreciate the support given to this amendment by the gentleman from Wisconsin (Mr. REUSS), the gentleman from New Jersey (Mr. MINISH), the chairman of the committee (Mr. PATMAN), as well as other concerned members of the Banking and Currency Committee.

There is certainly ample precedent for a low-paid worker exemption from wage restraints during a period of economic stabilization. Both the War Labor Board of World War II and the Wage Stabilization Board of the Korean war made provision for workers with substandard wages.

By an Executive order, the War Labor Board of World War II was instructed not to authorize further increases in wages unless it was clearly necessary to correct substandards of living. The Board specifically exempted from any control any wage increases for workers whose earnings were at or below 50 cents an hour. At that time the Federal minimum wage was 30 cents an hour. Thus there is plenty of precedent for regarding the minimum wage as substantially beneath what is considered to be substandard earnings for purposes of economic stabilization legislation. Now the minimum wage is $1.60 an hour, and the legal minimum in New York is $1.85 an hour. Using a similar approach today would exempt from controls any union or nonunion worker with hourly earnings of over $3 to $3.50 an hour.

Similarly, during the Korean war, defense production workers were granted an exemption from wage controls if they were paid less than $1 per hour. At that time the minimum wage was 75 cents an hour.

The plight of low-paid workers certainly warrants an exemption of their wages from restraints during economic stabilization. There are, indeed, millions of families and individuals in this country whose incomes, derived from decent, steady employment, fall below the most meager estimate of what is required for an acceptable standard of living. According to figures released in May of this year, there are some 16 million families in this country who have incomes of less than $7,000. In addition, some 11 million individuals have incomes of less than $6,000.

Perhaps several examples will serve to illustrate the difficult circumstances in which low-paid workers find themselves. Workers of District 65, Distributive Workers of America, earn salaries of from $91 to $110 a week. Before the freeze, they were scheduled by contract for automatic increases of from $7 to $10 a week. In addition, they were scheduled for a cost-of-living increase of $5 a week. Thus, overall they were slated for about a 12-percent salary increase, which is higher than the allowable 5.5 percent set forth by the Pay Board. Yet even with these increases these workers will still be only making about $5,800 a year, substantially below the Bureau of Labor Statistics estimate of a $6,960 minimum budget for an urban family of four.

As David Livingston, president of district 65, pointed out in a cogent letter which appeared in the October 6 issue of the New York Times:

> If the President fails to meet the responsibility to those who don't make a living, then the Congress should. If both fail, it would be tantamount to a Government edict to condemn poorly paid American workers to permanent poverty.

A second example of the need to exempt low-paid workers from Government wage restraints is presented by New York Hotel and Motel Trades Council, whose president is Jay Rubin. In view of the squeeze on their wages contemplated by phase II, the trades council, in early October, petitioned the President urging that the following four principles be made part of government policy:

> 1. Immediate exemption from the freeze of all who earn less than $125 a week or $6,500 a year.
>
> 2. Establishment of a National Wage Review Board to fairly adjust the wages of those earning more than $125 a week or $6,500 a year.
>
> 3. Immediate restoration of the right of all workers to bargain for improved health, welfare and pension plans, since such funds are non-inflationary.
>
> 4. That all wage adjustments negotiated before the freeze be paid as of the date they were due—and that the government not allow employers to pocket money which contractually belongs to the workers.

The Senate Banking and Currency Committee was also concerned about the plight of the working poor and included in the bill which passed the Senate the following provision—section 203(d) of S. 2891:

> No order of regulation issued under this section shall apply to the wages or salary of any individual receiving substandard earnings. The President shall prescribe regulations defining for the purposes of this subsection the term "substandard earning". In no case shall such term be defined to mean earnings less than those resulting from a wage or salary rate which yields, on an annual basis, an income below the poverty level for a family of four (or an appropriated equivalent in the case of workers employed in part-time or seasonal occupations) as prescribed annually by the Office of Management and Budget.

The Senate bill thus sets a floor on the possible definition of substandard earnings.

Senator STEVENSON, who offered the substandard wages amendment in the Senate Banking and Currency Committee, has made clear that he intends that the definition of substandard wages be higher than this floor, rather than being pegged near it. The OMB poverty level is $3,968 which, of course, would freeze workers at the poverty level and be totally unfair and unrealistic in view of the Bureau of Labor Statistics estimates of a minimum annual budget.

It may be instructive to review the conclusion of the Senate Committee on Labor and Public Welfare that the poverty index is arbitrary and that the real poverty population is considerably higher than estimated—see Senate Report No. 92–331, report on S. 2007, Economic Opportunity Amendments of 1971, July 30, 1971. In that report the committee points out how the Bureau of Labor Statistics arrived at a "lower" family budget for an urban family of four. This is consistent with the expressed intent of the Committee on Banking and Currency that the substandard wage exemption "apply to all persons whose earnings are at or below levels established by the Bureau of Labor Statistics in determining an income necessary to afford adequate food, clothing and shelter and similar necessities."

I include the following excerpt from pages 5 to 7 of Senate Report No. 92–331:

STUDY OF THE POVERTY INDEX

In measuring the extent of the poverty problem in America, the committee gave consideration to the manner in which the so-called poverty index was developed.

Obviously when embarking on an effort to reduce poverty and to evaluate the progress of this effort, it is necessary to set certain benchmarks. However, testimony before the committee has emphasized anew the arbitrary nature of the poverty index, which is presently set at $3,970 a year for a family of four. As alarming as it is to know that there are 25.7 mililon people living in poverty and another 22 million who are "near poor," it is entirely possible that the poverty population is much larger than we consider it to be simply because of the limitations of the poverty index, which the present measurement of poverty.

Miss Millie Orshansky of the Social Security Administration, who has been closely involved with the development of the poverty index, testified before the Subcommittee on March 23. She discussed the limitations of the index as a measurement of poverty.

The poverty index, originally published in 1965 and based on 1963 income, "was an attempt to specify in dollar terms the minimum level of income need for families of different types that would be in keeping with American consumption patterns. She testified that:

"The basis of the poverty index is an assumption, based on a 1960–61 survey conducted by the Labor Department and the Agriculture Department, which 'suggested that the food expenditures of average families of three or more represented about one-third of their money income after taxes.' "

Starting with this assumption, therefore, a cost was calculated for the Agriculture Department "economy food plan," which represented a level of expenditure at which an average housewife had about an even chance of providing a fair diet for her family. The cost of this economy food plan was then multiplied by 3 to determine the poverty level income. Miss Orshansky testified:

"We elected to make—in the absence of conventional standards—as few decisions of judgment in determining the poverty level as possible.

"We estimated the food needs and total income. All the other things were left unspecified. We really did not and do not know how families with that income or below it have to assign their funds—what they can buy and what they must do without."

Miss Orshansky also pointed out that the poverty index was "arrived at late in 1964 in the light of then readily available data, data already in the main 9 years old at that point; the income criteria have not been updated in a real sense, that is, to take account of the greater degree of consumption potential that prosperity has made possible for the majority of American families." (Page 73, Subcommittee hearings.)

The arbitrariness of the poverty index, and the extremely low level of the presently established poverty level income, indicates that the real poverty population may be considerably larger than estimated.

The Bureau of Labor Statistics has developed a report entitled "Three Standards of Living for Urban Families of Four Persons." The Bureau's definition of "urban" includes communities of 2,500 population and larger.

The three budgets are described as "lower, intermediate and higher." The lower income budget was set at $6,960 a year for a family of four for the spring of 1969 (even though the date was released in December 1970).

The Bureau of Labor Statistics "lower" family budget is made up of the following items:

Food	$1,905
Housing	1,429
Transportation	505
Clothing and personal care items	807
Medical care, hospital insurance	562
Other family consumption:	
Recreation, school expenses, tobacco, miscellaneous items	345
Contributions, gifts	165
Life insurance	120
Occupational expenses	58
Social security	345
Personal taxes	719
Total	6,960

An examination of this rather strict budget for a family of four illustrates the limitations of the poverty index. No comparable calculations as to the actual cost of living for a family of four are made in setting the poverty income level at $3,970.00. The poverty index is based almost entirely on the arbitrary assumption that food represents one-third of family living costs. Furthermore, the determination as to the cost of that food is made arbitrarily and then multiplied, compounding any error.

Representatives of the Bureau of Labor Statistics in testifying before the Subcommittee on March 23 pointed out that the poverty level income makes no allowances for taxes and estimates food costs to be much less than in the Bureau of Labor Statistics "lower" family budget.

At the time this issue was discussed at the Subcommittee hearing, the poverty income level was set at $3,800, based on the assumption that food costs for a family of four were $25 per week. In the Bureau of Labor Statistics "lower" family budget, food costs for a family of four are estimated at $37 per week.

Peter Henle, Chief Economist, Bureau of Labor Statistics, testified:

"According to USDA home economists, menus for food at home based on the low cost food plan (used in the Bureau of Labor Statistics budget) require a considerable amount of home preparation as well as skill in cooking to make varied and appetizing meals even though the cost level of this plan is 25 percent higher than the economy plan (used in the poverty level income calculation)."

If the cost of food is in fact 25 percent greater than allowed for in the present poverty income level, the entire poverty index becomes a very unreliable measurement of the number of persons actually living in poverty.

Since the language of the Senate bill could be subject to misinterpretation by an administrator who does not understand the problem, it is important that the language of the House bill with respect to substandard wages be adopted by the conference committee, and I urge the House conferees to insist upon the House position.

Not just from the point of view of equity but from the point of view of the overall economy, it makes good sense to allow the wages of the working poor to rise to the point where they are not substandard. These workers of necessity spend a very great percentage of their total income. Thus, this money is pumped into the economy, stimulating aggregate demand. This in turn helps the GNP to rise. For, in order to put this economy back on its feet, the GNP must rise substantially, in order to cut unemployment.

Therefore, it is both equitable and economically sound to allow the wages of the poor to rise out of substandard levels during this period of economic stabilization.

Mr. BRASCO. Mr. Chairman, I was on my feet seeking recognition as a member of the committee.

The CHAIRMAN. The gentleman from Indiana is recognized. He had been seeking recognition for an hour and the Chair has been trying to get to him.

The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. LANDGREBE: Page 19, on line 6 following "1954." insert a comma and the following: "unless the President determines that the contributions made by any such employer are unreasonably inconsistent with the standards for wage, salary, and price increases published under subsection (b)."

The CHAIRMAN. The gentleman from Indiana (Mr. LANDGREBE) is recognized for 5 minutes in support of his amendment.

Mr. PATMAN. Mr. Chairman, will the gentleman yield for one question?

Mr. LANDGREBE. I yield to the gentleman from Texas.

Mr. PATMAN. Mr. Chairman, I would like to tell the gentleman we discussed this fully in the committee, and there was a unanimous vote in favor of the Hanley amendment. I am not commenting otherwise, but there was a unanimous vote in favor of the Hanley amendment.

Mr. LANDGREBE. Mr. Chairman and members of the committee, I should like to point out that this does not replace the Hanley amendment but is an addition to it. The Hanley amendment exempts all pension and welfare plans that meet the requirements of sections 401, 404, and 403 of the Internal Revenue Code. My amendment simply adds the language "unless the President determines that the contributions made by any such employer are unreasonably inconsistent with the standards for wages, and price increases published under subsection (b)."

In other words, Mr. Chairman, this simply gives some control to the President in bringing about what we are trying to achieve, a slowdown of inflation in our country. I believe this is a very good amendment.

Mr. HILLIS. Mr. Chairman, will the gentleman yield?

Mr. LANDGREBE. I yield to my colleague from Indiana.

Mr. HILLIS. I thank the gentleman for yielding. I should like to associate myself with the gentleman's remarks, and urge approval of the amendment.

Mr. J. WILLIAM STANTON. Mr. Chairman, will the gentleman yield?

Mr. LANDGREBE. I yield to the gentleman from Ohio.

Mr. J. WILLIAM STANTON. I believe the gentleman should make clear that originally he had an amendment which would have replaced the Hanley amendment, but this is not the amendment we are speaking of at the present time.

Mr. LANDGREBE. This is an addition to the Hanley amendment, rather than a substitute for it.

Mr. BROWN of Michigan. Mr. Chairman, will the gentleman yield?

Mr. LANDGREBE. I yield to the gentleman from Michigan.

Mr. BROWN of Michigan. The gentleman's amendment is practically the same language as is in the Senate bill, is that not correct?

Mr. LANDGREBE. That is right. The language is taken from the Senate amendment.

Mr. BROWN of Michigan. All the gentleman's amendment does is to say that the only time the pay board may exercise some jurisdiction and authority over these benefits is when the President determines that payment of them would be unreasonably inconsistent with the whole theory of the economic stabilization program, is that correct?

Mr. LANDGREBE. That is exactly right.

Mr. BROWN of Michigan. I believe the gentleman's amendment should be adopted.

Mr. MYERS. Mr. Chairman, will the gentleman yield?

Mr. LANDGREBE. I yield to my colleague from Indiana.

Mr. MYERS. Does the amendment provide for any exemptions at all? The original language in the amendment offered by the gentleman from New York (Mr. HANLEY) is now in the bill and provides for some exemptions that the President may allow from control. Under the amendment the gentleman is offering to this language, are there any exemptions allowable at all?

Mr. LANDGREBE. Not complete exemptions. These programs that are registered with the IRS would not be under control, unless it was determined by the President that they were unreasonably inconsistent. At that time the Board could move in and take action.

Mr. BROWN of Michigan. Mr. Chairman, will the gentleman yield?

Mr. LANDGREBE. Perhaps the gentleman from Michigan can clarify this.

Mr. BROWN of Michigan. As the language presently reads in the bill, with the Hanley amendment, there is presently no opportunity for the President, delegating authority to the Pay Board, to even look at qualified pension plans under section 401 of the Internal Revenue Code. All the gentleman's amendment would do is to say that if the President determines that the impact of the benefits would have an inflationary effect unreasonably inconsistent, then they would be able to control them. It just gives some authority to the President if they are unreasonably inconsistent with the guidelines.

Mr. BAKER. Mr. Chairman, it is important, I feel, in this legislation to make sure small employers have the right to establish employee fringe benefits in order to attract and keep good employees. In this respect, the Senate bill is preferable to what appears in the House bill today on page 19, line 1 through line 6.

The present language of H.R. 11309, as I interpret it, with respect to employee fringe benefits, allows qualified pension and profit-sharing plans to be established, but does not allow other important employee fringe benefits such as group life insurance, hospitalization insurance, and major medical insurance.

To deny the small employer the right to establish these employee benefit plans gives the major employer a distinctly unfair advantage and since such employee benefits in the small businesses involve greater employee participation in the cost, the inflationary effect is virtually nil.

The social and economic loss to the hundreds of thousands of employees of such employers is incalculable.

The Federal Government has long recognized the social importance and the economic benefits of private pension plans, profit-sharing plans, sickness and accident insurance plans, et cetera, and, in fact, has encouraged their adoption by way of tax benefits. In short they have recognized these benefits as a legitimate cost of doing business.

Thousands of employers of fewer than 1,000 people do not have these employee benefit plans now because:

First, they are aware, for the first time, of the need for a systematic retirement plan; or second, they are just now financially able to institute such plans; or third, they have been in business a relatively short period of time.

One side effect of denying him the right to institute such plans now is his vulnerability to the loss of key personnel to the larger company that already has attractive fringe benefits. This means the small employers will be less able to compete and, thus, a major threat to private enterprise in our great country.

Mr. ROUSSELOT. Mr. Chairman. I rise in opposition to H.R. 11309, legislation extending the President's authority to issue regulations to control wages, prices, rents, and salaries for an additional year—that is, from April 30, 1972 to April 30, 1973. In my opinion, it is clear that wage and price controls are not the answer to our economic problems and that by imposing these controls, we are treating only the results of inflation rather than the causes.

On December 20, 1945, Ludwign Von Mises, a classical economist, clearly explained the causes and effects of inflation to a war weary nation, struggling to rid itself of wage and price controls, in an article which appeared in the Commercial and Financial Chronicle. Although I inserted this article in the November 10 Congressional Record, page 40550, I would like to again bring the following excerpts from this article to the attention of my colleagues as I feel Mr. Mises' comments are particularly relevant to our situation today:

> Inflation is the process of a great increase in the quantity of money in circulation. Its foremost vehicle in continental Europe is the issue of non-redeemable legal tender notes. In this country (the U.S.) inflation consists mainly in government borrowing from the commercial banks and also in an increase in the quantity of paper money of various types and of token coins. The government finances its deficit spending by inflation.
>
> * * * * *
>
> The problems the world must face today are those of runaway inflation. Such an inflation is always the outcome of a deliberate government policy. The government is on the one hand not prepared to restrict its expenditure. On the other hand it does not want to balance its budget by taxes levied or by loans from the public. It chooses inflation because it considers it as the minor evil. It goes on expanding credit and increasing the quantity of money in circulation because it does not see what the inevitable consequence of such a policy must be.
>
> * * * * *
>
> The superstitution that it is possible for the government to eschew the inexorable consequences of inflation by price control is the main peril. For this doctrine diverts the public's attention from the core of the problem. While the authorities are engaged in a useless fight against the attendant phenonena, only few people are attacking the source of the evil, the Treasury's methods of providing for the enormous expenditures.

We cannot expect to control the inflation in our economy until the Federal Government is prepared to reverse its policy of deficit spending. The December 2 daily statement of the U.S. Treasury lists the total public debt as $418,510,011,559.53, an increase of about $30 billion over this time last year. For 25 years, since the declaration of the national policy on employment—generally called the Employment Act of 1946—we have followed a course of deficit budgets and increased Federal intervention into every aspect of national activity obsessed with the misguided notion that this was the only route to full employment. It is this policy which has been the prime cause of inflation.

The committee adopted my amendment to H.R. 11309 which states in section 202 that it is the sense of Congress that the President should make every effort to reduce Federal expenditures and taxes by submitting a balanced budget in an effort to stabilize the economy and eliminate the need for the exercise of any controls under this title. Even though my amendment was included in the bill, I am still firmly opposed to the very nature of this legislation which extends the executive branch's wage and price control authority.

In addition, other provisions in the legislation as reported are confusing and do not adhere, in my opinion, to any rational sound fiscal policy. Section 203 (c)(2) and section 216 are apparently contradictory in their approach to granting retroactive pay increases. In any event, however, I am opposed to both provisions because they both discriminate against the worker who is not a member of organized labor and therefore not covered by an employment contract. In addition, the payment of these retroactive wages could virtually bankrupt some corporations and businesses under current price restrictions. If the Price Commission were to allow these companies to raise prices to compensate for retroactive wage increases, this means that the consumer ultimately would carry the burden. Another provision which demonstrates the inherent inequities that result from attempting to provide for a wage-price control program is section 203(a)(3). This provision authorizes the President to stabilize corporate dividends, a source of income to many retired persons, widows, and the disabled, as such a limitation would unjustly effect pensions, trusts, and other sources of investment income.

It is virtually impossible to administer a program of these controls that is fair to all sectors of the economy. This is vividly demonstrated by decisions of the Pay Board, the Price Commission, and particularly the Construction Industry Stabilization Committee. I have selected a sampling of article headlines and lead paragraphs which are clear examples of the inequities which have surfaced during phase II:

Enter Phase II—Many in United States Get Pay Raises Beyond 5.5 Percent Under New Guidelines—Loopholes Abound in Rules, and Confusion Still Reigns—Pay Panel Leadership Gap? A Price Policy Is Due Soon

The Phase 2 guidelines for wages and benefits could give thousands of workers raises far greater than the general limit of 5.5% a year. (The Wall Street Journal November 10, 1971.)

As Could Be Expected, Many Oilmen Oppose Phase II Controls on Prices But Not Wages

Phase 2 holds an unexpected promise—of blackouts and brownouts and a possible rationing of fuels. (The Wall Street Journal, November 17, 1971.)

Coal Miners' 15-Percent Increase Is Approved by Pay Board

Over the strong objection of public members, the Pay Board in a 10–3 vote yesterday said that the first year increase of the three-year soft coal contract signed last week—far in excess of the 5.5 per cent wage standard—should "take effect without modification." (*The Washington Post,* November 20, 1971.)

Pay Board Scolded for Coal Action

Pay Board Chairman George H. Boldt acknowledged yesterday that the government approved pay raises for the nation's coal miners could increase coal prices more than 8 per cent. (*The Washington Post,* November 21, 1971.)

Phantom Phase II? Number of Exceptions To Wage-Price Guides Spurs Doubts of Plan—Regulators Say Such Cases Only Put Things in Line; New Breach; 7 Percent Steel Rise—"Who's Ever Going To Know?"

The Phase 2 guideline on wage increases is 5.5%, but coal miners have been granted increases of 15%. The Phase 2 guideline on price increases is 2.5%, but two steelmakers yesterday were granted increases of over 7% on tinplate products.

Price Panel Clears Steel Boosts Triple Its Target; Chief Says This Isn't Precedent, Standards Intact—Bethlehem Tinplate To Climb 7.6 Percent, National Steel's 7.2 Percent—Crane Unit Details 8 Percent Rise

The Price Commission approved steel-price increases ranging to more than three times its stated target, but the panel's chairman insisted the move doesn't set a precedent.

A.T. & T.'s Western Electric Lift Quotes; Price Commission Lists More Applicants

Western Electric Co., the manufacturing and supply arm of American Telephone and Telegraph Co., boosted prices 3.9% on telecommunications equipment, an increase that is expected to add about $130 million a year to Bell System equipment costs.

The company acted in New York at just about the same time as the Price Commission announced in Washington it would allow the increase to go into effect.

GM Asks 3-Percent Boost in Auto Prices—Ford Lifts Its Rise Request to 4.4 Percent—Many in Industry Surprised, Relieved That No. 1 Maker Seeks Over 2 Percent From Panel

General Motors Corp. asked the Price Commission for approval to raise prices on its cars, trucks, and optional equipment about 3%, but the auto giant left the door open for a further increase at yearend to cover additional safety equipment required on all new cars starting January 1. (The Wall Street Journal, November 24, 1971.)

Pay Board Upset—Invites Committees Head to Hearings

The Pay Board, apparently upset with some contracts approved by the Construction Industry Stabilization Committee, yesterday invited CISC Chairman John Dunlop to appear before the board next week. (The Washington Post, December 3, 1971.)

Panel Allows Huge Pay Rise

The Construction Industry Stabilization Committee yesterday said it has approved contracts granting a 56.2 per cent increase over two years to Delaware plasterers and 39.6 per cent over 24 months to Philadelphia cement masons.

IRS CITES LIMITS ON RENT RISE—TENANTS GET POINTERS ON RENT-RISE LIMITS

> The Internal Revenue Service ruled yesterday that tenants may refuse to pay added rent unless landlords can prove the increase charges were being paid on 10% of their similar units prior to the August 15 wage-price freeze. (The Washington Post, December 4, 1971.)

It is evident from these examples that a controlled economy does not work and only the free market disciplines can fairly uphold the concept of consumer choice.

The Congress, however, does have the power to control the battle against inflation. Reducing Federal spending in order that revenues can be brought in balance with expenditures would bring a stop to the inflationary spiral, and is in my opinion, the only answer. For this reason, I am today introducing legislation which presents a fiscally sound alternative to wage-price controls.

Mr. HANLEY. Mr. Chairman, I rise in opposition to the amendment.

The intent of the amendment as expressed by the author was not considered in the House committee. My amendment prevailed overwhelmingly. In essence the expressed intent of the substitute would assign to the executive branch the prerogative of determining what type of pension program should be allowed to employees.

I do not believe that is the intent of the Congress with regard to the Equalization Stabilization Act.

I earnestly ask that this amendment be rejected.

I further add that the language has been contained in the Senate version, and this matter will be disposed of in the House-Senate conference.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana (Mr. LANDGREBE).

The question was taken; and the Chairman announced that the ayes appeared to have it.

TELLER VOTE WITH CLERKS

Mr. HANLEY. Mr. Chairman, I demand tellers.

Tellers were ordered.

Mr. HANLEY. Mr. Chairman, I demand tellers with clerks.

Tellers with clerks were ordered; and the Chairman appointed as tellers Messrs. LANDGREBE, PATMAN, BROWN of Michigan, and HANLEY.

The Committee divided, and the tellers reported that there were—ayes 170, noes 184, answered "present" 1, not voting 77, as follows:

[Roll No. 457]

[Recorded Teller Vote]

AYES—170

Abbitt
Abernethy
Anderson, Ill.
Andrews, N. Dak.
Archer
Arends
Baker
Baring
Betts
Bray
Brinkley
Broomfield
Brotzman
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burke, Fla.
Burleson, Tex.
Byrnes, Wis.
Byron
Camp
Carter
Cederberg
Chamberlain
Chappell
Clancy
Clausen, Don H.
Clawson, Del
Cleveland
Collier
Collins, Tex.
Colmer
Conable
Crane
Davis, Ga.
Davis, Wis.
Dellenback
Dennis
Devine
Dickinson
Downing
Duncan
du Pont
Dwyer
Edwards, Ala.
Erlenborn
Esch
Findley
Fish
Fisher
Flowers
Flynt
Ford, Gerald R.
Forsythe
Frelinghuysen
Frenzel
Frey
Goodling
Gross
Grover
Gubser
Haley
Hall
Hammerschmidt
Hansen, Idaho
Harsha
Harvey
Hastings
Heinz
Henderson
Hillis
Hogan
Hosmer
Hull
Hunt
Hutchinson
Jarman
Johnson, Pa.
Jonas
Jones, N.C.
Jones, Tenn.
Keating
Keith
Kemp
King
Kyl
Landgrebe
Landrum
Latta
Lent
McClory
McCloskey
McClure
McCollister
McCulloch
McDonald, Mich.
McEwen
McKinney
McMillan
Mahon
Mailliard
Mann
Mathias, Calif.
Mathis, Ga.
Mayne
Michel
Miller, Ohio
Mills, Md.
Mizell
Montgomery
Mosher
Myers
Nelsen
Nichols
O'Konski
Passman
Pelly
Pettis
Pirnie
Poage
Poff
Price, Tex.
Quie
Quillen
Railsback
Rarick
Rhodes
Robinson, Va.
Robison, N.Y.
Rousselot
Ruppe
Ruth
Sandman
Saylor
Schneebeli
Schwengel
Sebelius
Shoup
Shriver
Sikes
Smith, N.Y.
Snyder
Stanton, J. William
Steele
Steiger, Wis.
Stephens
Teague, Calif.
Terry
Thompson, Ga.
Thomson, Wis.
Thone
Vander Jagt
Waggonner
Wampler
Ware
White
Whitehurst
Widnall
Wiggins
Williams
Wilson, Bob
Winn
Wydler
Wylie
Wyman
Young, Fla.
Zion
Zwach
Smith, Iowa
Staggers
Stratton
Stubblefield
Stuckey
Symington
Taylor
Thompson, N.J.
Ullman
Vanik
Vigorito
Waldie
Whalen
Whitten
Wolff
Wyatt
Yates
Yatron
Young, Tex.
Zablocki

NOES—184

Abourezk
Abzug
Adams
Addabbo
Albert
Alexander
Anderson, Calif.
Anderson, Tenn.
Ashley
Aspin
Aspinall
Badillo
Barrett
Begich
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Boggs
Boland
Bolling
Brademas
Brasco
Brooks
Burke, Mass.
Burlison, Mo.
Burton
Byrne, Pa.
Cabell
Caffery
Carey, N.Y.
Carney
Casey, Tex.
Chisholm
Clark
Conte
Cotter
Coughlin
Culver
Curlin
Daniel, Va.
Daniels, N.J.
Danielson
Davis, S.C.
de la Garza
Delaney
Dellums
Denholm
Dent
Dingell
Donohue
Dorn
Dow
Drinan
Dulski
Edwards, Calif.
Eshleman
Fascell
Ford, William D.
Fountain
Fraser
Gallagher
Garmatz
Gaydos
Gettys
Giaimo
Gonzalez
Grasso
Gray
Green, Oreg.
Green, Pa.
Griffin
Hagan
Halpern
Hamilton
Hanna
Hansen, Wash.
Harrington
Hathaway
Hechler, W. Va.
Helstoski
Hicks, Mass.
Holifield
Horton
Howard
Hungate
Ichord
Jacobs
Johnson, Calif.
Jones, Ala.
Karth
Kastenmeier
Kazen
Kee
Koch
Kyros
Leggett
Lennon
Link
Long, La.
Long, Md.
McCormack
McDade
McFall
McKay
Macdonald, Mass.
Madden
Matsunaga
Mazzoli
Meeds
Melcher
Miller, Calif.
Minish
Mitchell
Monagan
Moorhead
Morgan
Morse
Moss
Murphy, Ill.
Natcher
Nedzi
Nix
Obey
O'Hara
O'Neill
Patman
Patten
Pepper
Perkins
Peyser
Pickle
Pike
Podell
Preyer, N.C.
Price, Ill.
Pucinski
Purcell
Randall
Rees
Reid, N.Y.
Riegle
Roberts
Rodino
Roe
Rogers
Rooney, N.Y.
Rooney, Pa.
Rosenthal
Roy
Roybal
Ryan
St Germain
Sarbanes
Satterfield
Scheuer
Scott
Seiberling
Shipley
Sisk
Skubitz
Slack

ANSWERED "PRESENT"—1

Schmitz

NOT VOTING—77

Andrews, Ala.
Annunzio
Ashbrook
Belcher
Bell
Blackburn
Blanton
Blatnik
Bow
Celler
Clay
Collins, Ill.
Conyers
Corman
Derwinski
Diggs
Dowdy
Eckhardt
Edmondson
Edwards, La.
Eilberg
Evans, Colo.
Evins, Tenn.
Flood
Foley
Fulton, Tenn.
Fuqua
Galifianakis
Gibbons
Goldwater
Griffiths
Gude
Hanley
Hawkins
Hays
Hébert
Heckler, Mass.
Hicks, Wash.
Kluczynski
Kuykendall
Lloyd
Lujan
McKevitt
Martin
Metcalfe
Mikva
Mills, Ark.
Mink
Minshall
Mollohan
Murphy, N.Y.
Powell
Pryor, Ark.
Rangel
Reuss
Roncalio
Rostenkowski
Roush
Runnels
Scherle
Smith, Calif.
Spence
Springer
Stanton, James V.
Steed
Steiger, Ariz.
Stokes
Sullivan
Talcott
Teague, Tex.
Tiernan
Udall
Van Deerlin
Veysey
Whalley
Wilson, Charles H.
Wright

So the amendment was rejected.

AMENDMENT OFFERED BY MR. DOW

Mr. DOW. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. Dow: Page 18, line 22, after the word "charges," insert "corporate dividends, and similar transfers," and on line 24, after the word "charges," insert "corporate dividends and similar transfers."

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. Dow).

The amendment was rejected.

Mr. BOLAND. Mr. Chairman, many amendments will be offered to this bill today. It is not hard to understand why: President Nixon's economic restraint program, despite its modest success so far, falls short of the millenarian goals envisioned by his architects. And, similarly, this bill extending the President's authority to restrict wages and prices is something less than perfection itself. Disgruntled by the program—even bedeviled by it—many in business and labor alike are reluctant to endow the President again with what they consider to be meddlesome powers, at best, and at worst, a kind of sweeping economic carte blanche. Phase II, it appears, is particularly disagreeable to the program's critics.

I am willing to concede, Mr. Chairman, that few people are enraptured by the President's program.

But I want to emphasize, just as strongly as I can, that such restraints are necessary for economic recovery.

Prices have been steadily moving upward over the past 6 years. The pace, until quite recently, has been all but dizzying. Ask any housewife. The cost of a loaf of bread, a pound of hamburger, a suit of clothes has reached levels that are much too high. Unemployment, too, has climbed far beyond reasonable economic expectations—as high as 20 percent in regions with the most threadbare economies. In my own congressional district fully 10 percent of the work force is now idle.

These problems have taken on all the dimensions of a crisis.

We in the Congress cannot turn our backs on them, hoping they will go away all by themselves.

They will not.

Under the President's program, however distressing it appears, the economy is beginning to shake itself out of its lethargy. Granted, the cost of living is still inching upward month by month—but at a rate significantly less alarming than the one a year ago. Granted further, unemployment still defies whatever steps the economists take. Unemployment levels, however, seem to be stabilizing, and a few heartening signs point to a drop in the levels soon.

The bill now before us, moreover, would put into the economic restraint program the kind of evenhanded justice it now lacks. First, the bill would permit all but the most inflationary retroactive pay increases—a provision that maintains the sanctity of the labor contract, and prevents any windfall business profits stemming from price increases made in anticipation of the wage-price freeze.

Second, the bill allows anyone wronged by the program to bring suit in U.S. district court—and, if rejected there, to appeal to a temporary emergency court of appeals sought in the legislation.

It is plain, Mr. Chairman, that effective controls are our only hope for reviving the economy.

Unlimited wage increases mean nothing, after all, if an American worker's household costs routinely outstrip those increases—or if he loses his job.

I urge passage of the Economic Stabilization Act. Failure to do so would surely and positively result in a spiraling increase in prices and wages. The public, the consumer, the wage earner, labor, and business would all be harmed badly if this proposal is not passed by this Congress.

Mr. DRINAN. Mr. Chairman, I rise in opposition to the amendment by Congressman Stephens to the Economic Stabilization Act of 1971. The Stephens amendment would, in effect, preclude equitable relief to teachers and other employees who have lost wages to which they were entitled pursuant to wage contracts entered into prior to August 15, 1971. This amendment would permit, but not require, the President to allow employers to make retroactive wage payments.

There has been an enormous national debate on the issue of retroactive pay. I am at a loss to understand the arguments made by those who oppose retroactivity. A contract is a solemn and binding agreement. When we suspend the operation of a duly executed contract we are trifling with the legitimate plans and expectations of parties to that contract.

Thousands and even millions of citizens based their economic plans on wages to which they were entitled pursuant to contracts executed before August 15. If we now abrogate those contracts by legislative fiat, we will be saying to those individuals that they have no right to rely on legally binding documents to which they are parties.

Under the Stephens amendment the only workers allowed retroactive payment would be those in plants or institutions where prices were raised in anticipation of the wage increase. In those plants or institutions which were able to absorb the wage increase without raising prices the increase would not be allowed. By passing this amendment we would be endorsing a plan directly contrary to a cornerstone of the current economic stabilization efforts.

It should be particularly noted that if this amendment is enacted it would completely bind the Pay Board. Even if the Pay Board later decided it made a mistake in its earlier denials of pay increases, its hands would be tied by the restrictions of this statute.

Only 2 days ago, Secretary of Labor Hodgson stated, and I quote from the New York Times of December 9:

> The retroactive payment of frozen wages would cause few problems for President Nixon's program, even if the liberal provision on retroactivity contained in the (unamended) bill before the House of Representatives is adopted.

In view of the foregoing statement, in view of other statements by the Pay Board and other administration sources, in view of the critical need to allow individuals to make expenditures and economic plans on a predictive basis, and in view of the manifest equities involved, I urge my colleagues to oppose this amendment and to support the committee bill and other proposals to permit retroactively the payment of wages lost as a result of a plan announced in Washington on August 15, 1971.

Mr. DANIELS of New Jersey. Mr. Chairman, I rise in opposition to the Stephens amendment. This amendment would severely undermine the intent and thrust of action taken in committee which guarantees that teachers would receive the raises for which they contracted and upon which State laws based their salary. This provision, an amendment in committee by Mr. Minish, sets right a major inequity initially perpetrated against teachers by the Cost of Living Council.

One of the major problems of wage and price controls is the inequity which comes about as a result of across-the-board, generalized regulations which fail to take into account unique differences in various wage structures. When the Cost of Living Council first promulgated its wage regulations it had no one on its staff familiar with the unique structure of teacher salaries. As a result teacher salaries were lumped together under other regulations in spite of the unique structure by which teachers are paid. The increases which teachers were denied by the Cost of Living Council regulations were in fact, not raises. They were the normal structural, automatic increments which formed the basis for teachers' salaries throughout their entire career. The additional increment was part of a single salary schedule, enforced by legislation, and contracted for as soon as the first contract with the school system was signed.

In some cases teachers received their increments, not because they had contracted for them prior to August 15, but because some teachers in the same school system had worked during the summer school session, the "golden sheep rule." In systems which had no summer sessions, no teachers were permitted their increments nor, for that matter, the increases of those increments for which they had also bargained. As a result many teachers were denied raises in spite of the fact that neighboring jurisdictions had granted them. In practically all cases, denial of the raises would result in unjust enrichment by school boards.

The sanctity of the contract in American law goes back many hundreds of years. The committee proposal would repair the error made by the Cost of Living Council and restore the sanctity of the teachers' contracts. As it stands now, the quid pro quo bargained for by teachers has been unilaterally abrogated by the Cost of Living Council, an uninvited third party to the contract which interjected itself after contracts had been signed and, in many cases, after performance of the contract had actually begun.

I strongly urge my colleagues to reject the Stephens amendment and let the Minish proposal in the committee bill stand upon this issue.

Mr. SCHEUER. Mr. Chairman, I rise in support of the amendment to require the forthcoming rent guidelines to be applied in areas which have local rent control as well as in those which do not.

The Price Commission has decided to exempt from its rent guidelines those areas, such as New York City, in which there are State or local rent control laws.

Mr. Chairman, if this decision is permitted to stand, most of the tenants in controlled apartments in New York City will face a 75 percent rent increase next month.

An increase of this magnitude is grossly unfair at a time when wages are controlled by the Pay Board and will be permitted to rise only 5.5 percent per year.

To permit the Rent Board's decision to stand would unfairly penalize hundreds of thousands of low- and middle-income people and make life exceptionally difficult for those, such as the handicapped and the elderly, who live on fixed incomes.

Mr. BADILLO. Mr. Chairman, I am voting against the Economic Stabilization Amendments of 1971 not because I am opposed to the type of controls this legislation contemplates, nor because I am opposed to everything in this bill. I am voting against the bill because it has two major flaws: a blank check 16-month extension of the most sweeping and unprecedented authority ever delegated to the President by Congress, and a provision which precludes the public and the press from having access to the data submitted by corporations in support of their requests for price increases. These flaws make the bill unworthy of support, in my judgment.

The bill does have several good features and I want the Record to show that I do appreciate the following provisions:

First, I support the bill's provision upholding wage contracts entered into prior to August 15, 1971, as long as they were not unreasonably inconsistent with the rate at which wages or salaries have increased in the economy generally. These contracts were entered into in good faith long before any one had knowledge of an impending wage-price freeze and particularly in the cases of teachers. Purchases and employment decisions were made on the basis of those agreements. I agree with the committee that Congress would be unwise to allow the destruction of private contracts by administrative fiat, except perhaps in the most dire of circumstances.

I also support the committee provision enabling consumers and small businessmen to seek civil damages if there have been willful price violations.

Two additional provisions, of particular concern to the people of New York City, also have my strong endorsement. These are the committee provisions requiring mass transportation systems—such as the New York City Transit System—to obtain approval of fare increases from the Price Commission before they may go into effect, and the Brasco amendment accepted in the Committee of the Whole, bringing apartments under rent control in New York under jurisdiction of the Price Commission.

In addition, I support the committee provision requiring the President to establish local protest boards as a means of giving full and fair hearing to all those who feel they are adversely affected by any of the decisions made under the phase II program. It remains my very strong feeling, however, that the bill is woefully inadequate in providing the kind of mechanisms and protections that would result in full public participation in and support for the phase II operation.

Perhaps the most glaring and fatal defect in this bill, Mr. Chairman, is the provision in section 205 which prevents the Price Commission from making public the data on which corporations seek to justify their price increases. In fact, this provision incorporates section 1905 of the Criminal Code and attaches criminal sanctions to any Federal official or agency which discloses this data.

In my judgment and as I made clear in offering my amendment to cure this flaw, public confidence and support for the phase II program just will not exist as long as price decisions are made in secret. My remarks on my amendment set forth my views on this issue fully.

Likewise, the blank check 16-month extension of the President's authority to impose sweeping economic controls is another fatal flaw in the bill. It is yet another deplorable abdication of congressional responsibility to set national policy and it is fraught with peril for this Nation. It may be politically wise, in the short term, to let the President shoulder the full burden of our economic problems, but it is most definitely not in the national interest for the Congress to so cavalierly ignore its own obligations.

I could support this legislation if these flaws were to be corrected in conference. I have no confidence, however, that this will happen and I am prepared to vote against the conference report as well.

Mr. KOCH. Mr. Chairman, H.R. 11309 requires that all mass transit systems receive approval of the Price Commission before implementing any fare increases. Section 214 states:

> No company, or other entity constituting a public benefit corporation, charged by law or contract with the responsibility to operate a mass transportation facility or facilities shall increase any fare without first obtaining approval under this section from the President or his delegate.

It is important that the Price Commission examine and act on proposed mass transit fare increases. Transit rates are a basic cost of employment to millions of Americans and ultimately these fares affect wages and the price of goods. Escalating transit fares have a definite cost-push on the economy. And so, if the wage and price stabilization program is to be successful, it is essential that the Price Commission have control over increases in this primary factor in individual and business costs.

Some transit systems like the Metropolitan Transportation Authority in New York City, are not regulated by an independent city, State or Federal body. Section 214 will be particularly important in the instance of these systems. Requiring prior approval by the Price Commission for fare increases would insure that the public interest in any fare increase receives careful consideration.

The most important aspect of section 214 is that it establishes in the law that any mass transit fare increases must receive the approval of the Price Commission. It assures the riding public that transit fares will never be placed in an unregulated category by the Cost of Living Council.

Presently, mass transit is treated as a public utility by the Price Commission. Under revised regulations that are expected to be published in the Federal Register in the next several days, all public utilities having gross receipts of $50 million or more must notify the Price Commission for proposed fare increases and receive a certification from its regulatory body that the rate increases are consistent with the Price Commission's stabilization criteria. An unregulated public utility must provide its own certification; that is, it must provide evidence that the proposed rate increase is consistent with Price Commission regulations. In the instance of all public utilities with gross receipts of $100 million, prenotification and certification are required and the Price Commission has 10 days to review the proposed increase before it can go into effect.

Section 214 of H.R. 11309 requires notification and approval by the Price Commission of fare increases proposed by all mass transit systems, no matter what their gross receipts are.

I am so pleased that in the committee's consideration of this legislation there were several versions of the bill and in each my amendment was included.

Mr. RANDALL. Mr. Chairman, I support H.R. 11309, not as some have put it, reluctantly, but admittedly without being completely satisfied with some of the content, and along with a measure of disappointment that there are some things which should have been done that were omitted.

By this measure, we have granted the President an awesome power. Such has been done only twice before during times of national emergency. It is for this reason that it became most necessary that such far ranging authority be accompanied by some basic guidelines to make certain the power is administered equitably.

When I observed that I was disappointed because of some things which were omitted, I had reference to interest rate controls. I mean by that that it is important for all elements of the economy be treated equally and no group be allowed special treatment. Today, we find wages frozen and yet interest charges go on to become a staggering proportion of the monthly budget. It is true there is provision for what is called the stabilization of interest rates and I suppose what the committee proposes is the best we could get approved by the House. I was hopeful there would be some way to control the rise in the rate of interest because it is a key factor in the cost of living of every single consumer and for that matter every businessman.

It is estimated the total annual interest cost is $150 billion. It is of some comfort to note there is a mandatory provision that the President must issue regulations or orders for stabilization for finance charges and interest rates unless he makes a determination of finding accompanied by concise and complete statements of reasons that interest rates on all type of loans are satisfactory and this would mean that all existing rates are thus to be approved by the administration.

The second concern which I am sure I share with many of our colleagues is what this Economic Stabilization Act Amendments of 1971 do to certain contracts entered into prior to August 15. It should go without saying that in a free society private contracts freely and fairly entered into should be inviolate and should not be impaired or destroyed by the fiat of any Government agency. Many contracts and agreements were entered into by thousands of nonunion employees as well as some union members at a time when no one knew about an impending wage-price freeze. Certainly, these contracts were entered into in good faith. These same wage earners proceeded to make purchases or other decisions and commitments based on these contracts. The most classic example is our teachers, most of whom signed contracts in March and April of this year. They certainly had a right to anticipate these higher earnings. Most of them then enrolled in summer school and incurred the additional expense of improving their teaching abilities this past summer. For others, it may have been a decision to buy a home or make a downpayment. All these decisions were made in the belief they had a legal and binding contract with their employer.

Mr. Chairman, that brings us down to the very troublesome difference between whether the Pay Board should approve salary increases contracted prior to August 15 and which would have been scheduled to be paid during phase I. I supported the proposition that such increases should be granted unless, according to the wording of H.R. 11309, they would be unreasonably inconsistent to rates of increase in wages in the economy generally. In other words, those contracts which had been approved prior to August 15 would be effective in phase I and phase II.

I opposed the Stephens amendment because it simply provided such increases provided by law of contracts entered into prior to August 15, 1971, would be effective at the discretion of the President. This criteria means the burden would be placed on such groups as our teachers and many others to have to prove once again their contracts were, in fact, entered into in good faith and, moreover, would have to prove the contract was legally and fairly entered into. For my part, I do not want to leave this cloud of administrative uncertainty hanging over the heads of teachers and others and particularly those who had definite wage and salary agreements entered into prior to August 15.

Mr. Chairman, our mail contained communications from the media for and against being included under wage and price controls. The exemption passed by the other body sponsored by the gentleman from California, of course, was a complete exemption. Some of our media wanted to exempt all news media from phase II of price and wage controls. Others said they supported President Nixon's phase I and support phase II and thought it would be unfair for others to be included and the press exempted. Of course, this exemption in the other body had to do with the first amendment or the freedom of the press. Our side of the Congress may not have hit this issue head-on, but by the adoption of the Rees amendment we did provide that in implementing H.R. 11309 the President should and must take in consideration the first amendment.

It is encouraging to note rents have been included and there were also provisions concerning dividends and profits. Mr. Chairman, I supported the Hanley amendment which exempts pension funds of retirement plans which are now under Internal Revenue and supervised by the Department of Labor. I concur in the belief that, as to these pension funds, once again we are involving ourselves in the area which might or could impair the sanctity of contracts. I do not believe these pension or retirement plans should be placed under any stabilization board.

As chairman of the House Subcommittee on the Aging, we plan to call a series of witnesses to testify concerning those pension plans which have not served the purpose of their beneficiaries. We all know the classic case of loss of all pension funds by the journeymen barbers all across America. We certainly should not interfere with the operation of any of these funds or plans to the detriment of the elderly beneficiaries. I was disappointed the enforcement was left to the IRS. Who can dare question the taxman, no matter how arbitrarily he may act. They have enough to do to collect taxes.

Mr. Chairman, there are several things about this bill which are unpalatable. But I for one, refuse to be cast in a role of in any way, contributing to any greater uncertainty than presently exists in the state of our economy. It has been argued the Congress should not act at this time, but wait until nearer the time of expiration of the present authority—April 30, 1972. I reject that argument outright as productive of a situation which would indicate the Congress had doubts whether the authority might be extended. This would leave planning and all measures of preparations for the future for both, as to individuals and business organizations hanging in the balance. It is important we act well in advance of this expiration, if we are to eliminate uncertainty on the part of individuals and nervousness on the part of business and industry.

So far as I can determine, we cheerfully granted to the President the previous authority for wage and price controls. He ordered phase I and is now involved in phase II. For my part, I think it is important that Congress give him a chance to make phase II successful. The condition of our economy is of such transcending importance, that we must cooperate with the President in this matter. For those who say the President will not use the authority we delegated either fairly, equitably, equally, or consistently, let me respond to these by saying if that does happen, there will be plenty of time for the Congress to act. For now, we must eliminate all uncertainty and show we are extending this stabilization program, adding only a minimum of guidelines in the interest of fairness and justice. We must get on with the key job of controlling inflation and stabilizing the economy.

Mr. RARICK. Mr. Chairman, as I regard H.R. 11309, it is an effort to make an unworkable economic blueprint workable with some wanting to close loopholes and others to create new nooses. The reason we are here today debating phase II is to figure out why phase I failed.

Since neither the people nor the free enterprise system created inflation and the morass in which the bureaucrats now find themselves—just everyday commonsense and simple logic should tell us that we are not going to cure the national ills without removing the cause.

The problem that we are here trying to solve by police state discipline over our people and a free economy was caused by too much interference and deficit spending. Yet the real troublemaker—Federal spending above our income without increased productivity—is neither brought under control nor given serious consideration.

A Socialist-type controlled economy has never worked in any country. How can anyone seriously believe that it will work in the United States, even assuming that many patriotic and well-meaning citizens will try to readjust their lives to comply with the new order?

This same body that earlier this week passed a $3 billion foreign giveaway of American tax dollars to supposedly free foreign citizens just does not make sense when we now want to place police state restrictions and computer-type automation over our own people and machines of production. One thing is for certain, the Stabilization Act does not apply to foreign aid, tax-free foundations, interest on the national debt, income tax increases, or additional deficit spending by this body.

The emotional appeals and the hysteria in behalf of individual freedom from repression and escaping the chains of bondage heard during debate in this body on many legislative measures are not heard when it comes to shackling economic freedoms. Do not the chains on economic freedom also manacle individual liberty?

A strong free people make a strong country. A strong political leadership only results in a strong political control over the people.

Socialism is a proven failure. Its rejection requires only that the people awaken to the realization of how much freedom they have lost by the use of their own tax dollars, fancy promises, and unworkable programs.

I regard this legislation as not in the best interests of a free people, a free country, and a free economy. It will not work unless our people succumb to a national Socialist state. I shall cast my people's vote "no."

Mr. GONZALEZ. Mr. Chairman, by our action today we have enacted what you might call an economic Gulf of Tonkin resolution. We have acceded to the demands of an administration that has made no sound, no convincing case for the draconian powers authorized in this bill—powers no President has asked for or received in peace or war.

We have no national emergency—no world war, no uncontrollable depression. We have only a vague specter, or the rumor of one, called inflation. And we are, in this economic policy, placing the whole burden of that inflation on the workingman. But the truth is, and the statistical evidence bears this out—is that the wages of industrial workers in this country are pretty much in line with their productivity. This new economic policy does not recognize this; and to compound the error it does little or nothing to touch the real sources of inflation, which are the service segments of our economy. The fastest rising price of all is for medical care, and we are not doing anything about that here. No, we are only telling a worker in New York, who might be making $500 or $600 a month—that he cannot get increases of more than 5 percent without disrupting the economy. Yet this same policy, which we are today endorsing, would allow rent increases to those same workers of 8 or 10 percent.

We are not only endorsing a policy that is manifestly unjust, but we are extending the hands of Congress and inviting the administration to place the manacles on them. It would have been wise for us, in the light of the dismal and utter failure of the last administration economic policy, to retain the right to effectively review progress next spring, and then revise our policies as needed. But no, we are extending this law until 1973, so there can be no effective review until that time.

Have we not learned from the last game plan, how wrong economic policy can be, and how stubbornly the administration can cling to it? No, not if we gage our learning index by the action we are taking today.

This policy may well be grounded on a complete misunderstanding of the nature of our economic system and its ills. It may in fact freeze into place the problems, the injustices, the inequities that we know exist today. Rather than bringing about prosperity, this policy may well simply create a kind of gray mediocrity. And it will guarantee that present rates of unemployment will be frozen for a year or more at about their present 6 percent. For minority groups, for teenagers, this number is more like 12 or 18, and in places it is higher still. Yet this policy would continue that situation deliberately. I do not want to be a party to such an action.

Since we are binding our own hands here today, I would ask the House, what will we do if this policy works out to be as bad as the last one was? Where will be our independence to act, our ability to forge a new policy? It will be gone.

Maybe the majority here today is correct. The chances of that being the case are something less than half, based on recent experience. What the administration has done to earn the vote of confidence represented by this bill, I do not know.

Mr. GROSS. Mr. Chairman, this is a sad day in the annals of a once proud and free nation.

This legislation points up eloquently and tragically the results of too many years of improvident, irresponsible acts of Congress and the equally improvident, irresponsible acts of a succession of administrations in the executive branch of Government.

No single period in the history of this Nation has witnessed more irresponsibility in the legislative and executive branches of Government than in the past decade.

Through these and other years, but especially in the past decade, this Government has spent untold billions of borrowed dollars. It has kited checks to the point that it now faces the crisis of insolvency.

And so we have before us today a bill that is euphemistically entitled the "Economic Stabilization Act." In the opinion of this Member of the House, it is fraudulent and for the reason that in conjunction with the controls that have been invoked and will be continued under this act, there is not the slightest indication that there will be meaningful reductions in expenditures.

President Nixon can ask for, and Congress can enact economic and monetary control measures from now until doomsday, but unless there are drastic reductions in expenditures, inflation and the slide to financial collapse will continue.

Last year the Federal deficit was more than $25 billion. It is freely predicted that at the end of the current fiscal year it will be $30 to $35 billion. No stabilization act can save the American people from this kind of folly and irresponsibility.

Mr. Chairman, never did I think I would live to see the day when this proud Nation would tolerate controls and regimentation in time of peace. It bespeaks moral decadence—a tragic loss of integrity and courage.

I cannot vote for this legislation for I am convinced that it is an expedient which will only further lull the people of America into a false sense of security.

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment, in the nature of a substitute as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. HOLIFIELD, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 11309) to extend and amend the Economic Stabilization Act of 1970, as amended, and for other purposes, pursuant to House Resolution 730, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the amendment adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. ROUSSELOT

Mr. ROUSSELOT. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. ROUSSELOT. I definitely am, Mr. Speaker.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

> Mr. ROUSSELOT moves to recommit the bill H.R. 11309 to the Committee on Banking and Currency.

Mr. PATMAN. Mr. Speaker, I move the previous question on the motion to recommit.

The previous question was ordered.

The SPEAKER. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER. The question is on the passage of the bill.

Mr. WIDNALL. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there ere—yeas 326, nays 33, not voting 72, as follows:

[Roll No. 458]

YEAS—326

Abbitt
Abernethy
Abourezk
Abzug
Adams
Addabbo
Alexander
Anderson, Calif.
Anderson, Ill.
Anderson, Tenn.
Andrews, N. Dak.
Arends
Ashley
Aspin
Aspinall
Baker
Baring
Barrett
Begich
Bennett
Bergland
Betts
Bevill
Biaggi
Biester
Bingham
Boggs
Boland
Bolling
Brademas
Brasco
Bray
Brinkley
Brooks
Broomfield
Brotzman
Brown, Mich.
Brown, Ohio
Broyhill, Va.
Buchanan
Burke, Fla.
Burke, Mass.
Burlison, Mo.
Byrne, Pa.
Byrnes, Wis.
Byron
Cabell
Caffery
Camp
Carey, N.Y.
Carney
Carter
Casey, Tex.
Cederberg
Chamberlain
Chappell
Clancy
Clark
Clausen, Don H.
Clawson, Del
Cleveland
Collier
Collins, Tex.
Colmer
Conable
Conte
Cotter
Coughlin
Culver
Curlin
Daniel, Va.
Daniels, N.J.
Danielson
Davis, Ga.
Davis, S.C.
Davis, Wis.
Delaney
Dellenback
Denholm
Dent
Devine
Dickinson
Donohue
Dorn
Downing
Drinan
Dulski
Duncan
du Pont
Dwyer
Edwards, Ala.
Edwards, Calif.
Erlenborn
Esch
Eshleman
Fascell
Findley
Fish
Fisher
Flood
Flowers
Flynt
Ford, Gerald R.
Forsythe
Fountain
Fraser
Frelinghuysen
Frenzel
Frey
Gallagher
Garmatz
Gaydos
Gettys
Giaimo
Gibbons
Goodling
Grasso
Gray
Green, Oreg.
Green, Pa.
Griffin
Grover
Gubser
Hagan
Haley
Halpern
Hamilton
Hammerschmidt
Hanley
Hansen, Idaho
Hansen, Wash.
Harrington
Harsha
Harvey
Hastings
Hathaway
Heckler, Mass.
Heinz
Helstoski
Henderson
Hicks, Mass.
Hillis
Hogan
Holifield
Horton
Hosmer
Howard
Hull
Hunt
Hutchinson
Ichord
Jacobs
Jarman
Johnson, Calif.
Johnson, Pa.
Jonas
Jones, Ala.
Jones, Tenn.
Karth
Kastenmeier
Kazen
Keating
Kee
Keith
Kemp
King
Koch
Kyl
Kyros
Landrum
Latta
Leggett
Lennon
Lent
Link
Long, La.
McClory
McCloskey
McClure
McCollister
McCormack
McCulloch
McDade
McDonald, Mich.
McEwen
McFall
McKay
McKinney
McMillan
Macdonald, Mass.
Madden
Mahon
Mailliard
Mann
Mathias, Calif.
Mathis, Ga.
Matsunaga
Mayne
Mazzoli
Meeds
Melcher
Miller, Calif.
Miller, Ohio
Mills, Md.
Minish
Mitchell
Mizell
Monagan
Montgomery
Moorhead
Morgan
Morse
Mosher
Murphy, Ill.
Murphy, N.Y.
Myers
Natcher
Nelsen
Nichols
Obey
O'Konski
O'Neill
Passman
Patman
Patten
Pelly
Pepper
Perkins
Pettis
Peyser
Pickle
Pike
Pirnie
Poage
Podell
Poff
Preyer, N.C.
Price, Ill.
Price, Tex.
Pucinski
Purcell
Quie
Quillen
Railsback
Randall
Rees
Reid, N.Y.
Rhodes
Riegle
Roberts
Robinson, Va.
Robison, N.Y.
Rodino
Roe
Rogers
Rooney, N.Y.
Rooney, Pa.
Rosenthal
Roy
Roybal
Ruppe
Ruth
Ryan
St Germain
Sandman
Sarbanes
Satterfield
Saylor
Scheuer
Schneebeli
Schwengel
Scott
Sebelius
Shipley
Shoup
Shriver
Sikes
Sisk
Skubitz
Slack
Smith, Iowa
Smith, N.Y.
Snyder
Staggers
Stanton, J. William
Steele
Stephens
Stratton
Stubblefield
Stuckey
Symington
Taylor
Teague, Calif.
Teague, Tex.
Terry
Thompson, Ga.
Thompson, N.J.
Thomson, Wis.
Thone
Ullman
Vander Jagt
Vanik
Vigorito
Waggonner
Wampler
Ware
Whalen
White
Whitehurst
Whitten
Widnall
Wiggins
Williams
Wilson, Bob
Winn
Wolff
Wyatt
Wylie
Wyman
Yates
Yatron
Young, Fla.
Young, Tex.
Zablocki
Zion
Zwach

NAYS—33

Archer
Badillo
Burleson, Tex.
Burton
Chisholm
Crane

Gonzalez
de la Garza
Dellums
Dennis
Dingell
Dow
Ford, William D.
Gross
Hall
Hanna
Hawkins
Hechler, W. Va.
Hungate
Landgrebe
Long, Md.
Michel
Moss
Nedzi
Nix
O'Hara
Rarick
Rousselot
Schmitz
Seiberling
Steiger, Wis.
Waldie
Wydler

NOT VOTING—72

Andrews, Ala.
Annunzio
Ashbrook
Belcher
Bell
Blackburn
Blanton
Blatnik
Bow
Broyhill, N.C.
Celler
Clay
Collins, Ill.
Conyers
Corman
Derwinski
Diggs
Dowdy
Eckhardt
Edmondson
Edwards, La.
Eilberg
Evans, Colo.
Evins, Tenn.
Foley
Fulton, Tenn.
Fuqua
Galifianakis
Goldwater
Griffiths
Gude
Hays
Hébert
Hicks, Wash.
Jones, N.C.
Kluczynski
Kuykendall
Lloyd
Lujan
McKevitt
Martin
Metcalfe
Mikva
Mills, Ark.
Mink
Minshall
Mollohan
Powell
Pryor, Ark.
Rangel
Reuss
Roncalio
Rostenkowski
Roush
Runnels
Scherle
Smith, Calif.
Spence
Springer
Stanton, James V.
Steed
Steiger, Ariz.
Stokes
Sullivan
Talcott
Tiernan
Udall
Van Deerlin
Veysey
Whalley
Wilson, Charles H.
Wright

So the bill was passed.

The Clerk anounced the following pairs:

On this vote:

Mr. Annunzio for, with Mr. Hicks of Washington against.

Mr. Reuss for, with Mr. Eckhardt against.

Mr. Roncalio for, with Mr. Conyers against.

Mr. James V. Stanton for, with Mr. Clay against.

Mr. Hébert for, with Mr. Dowdy against.

Mr. Kuykendall for, with Mr. Goldwater against.

Mr. Rostenkowski for, with Mr. Diggs against.

Until further notice:

Mr. Blanton with Mr. Minshall.

Mr. Hays with Mr. Bow.

Mr. Kluczynski with Mr. Martin.

Mr. Mikva with Mr. Metcalfe.

Mr. Celler with Mr. Gude.

Mr. Blatnik with Mr. Lloyd.

Mrs. Sullivan with Mr. Lujan.

Mr. Jones of North Carolina with Mr. Derwinski.

Mr. Charles H. Wilson with Mr. Bell.

Mr. Tiernan with Mr. McKevitt.

Mr. Mollohan with Mr. Broyhill of North Carolina.

Mr. Foley with Mr. Powell.

Mr. Fulton of Tennessee with Mr. Belcher.

Mr. Fuqua with Mr. Ashbrook.

Mr. Corman with Mr. Collins of Illinois.

Mr. Edmondson with Mr. Scherle.

Mrs. Griffiths with Mr. Smith of California.

Mr. Andrews of Alabama with Mr. Spence.

Mr. Evins of Tennessee with Mr. Springer.

Mrs. Mink with Mr. Talcott.

Mr. Evans of Colorado with Mr. Steiger of Arizona.

Mr. Galifianakis with Mr. Veysey.

Mr. Eilberg with Mr. Whalley.

Mr. Rangel with Mr. Udall.

Mr. Stokes with Mr. Van Deerlin.

Mr. Steed with Mr. Wright.

Mr. Pryor of Arkansas with Mr. Runnels.

Mr. Mills of Arkansas with Mr. Roush.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. PATMAN. Mr. Speaker, pursuant to the provisions of House Resolution 730, I call up for immediate consideration the Senate bill (S. 2891) to extend and amend the Economic Stabilization Act of 1970.

The Clerk read the title of the Senate bill.

MOTION OFFERED BY MR. PATMAN

Mr. PATMAN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. PATMAN moves to strike out all after the enacting clause of S. 2891 and insert in lieu thereof the provisions contained in H.R. 11309, as passed, as follows:

That this Act may be cited as the "Economic Stabilization Act Amendments of 1971".

ECONOMIC STABILIZATION ACT OF 1970

SEC. 2. Title II of the Act entitled "An Act to amend the Defense Production Act of 1950, and for other purposes", approved August 15, 1970 (Public Law 91–379), is amended to read as follows:

"TITLE II—COST OF LIVING STABILIZATON

"§ 201. Short title

"This title may be cited as the 'Economic Stabilization Act of 1970'.

"§ 202. Findings

"It is hereby determined that in order to stabilize the economy, reduce inflation, minimize unemployment, improve our competitive position in world trade, and protect the purchasing power of the dollar, it is necessary to stabilize Federal taxes and expenditures, prices, rents, wages, salaries, dividends, and interest. The adjustments necessary to carry out this program require prompt judgments and actions by the executive branch of the Federal Government. Further, it is the sense of the Congress, that consistent with the purposes of this title, the President should make every effort to reduce Federal expenditures and taxes by submitting a balanced budget in an effort to stabilize the economy and eliminate the need for the exercise of any controls under this title. The President is in a position to promptly and effectively implement the program authorized by this title.

§ 203. Presidential authority

"(a) The President is authorized to issue such orders and regulations as he may deem appropriate, accompanied by a statement of reasons for such orders and regulations, to—

"(1) stabilize prices, rents, wages, and salaries at levels not less than those prevailing on May 25, 1970, or at such other levels as the President may deem appropriate to achieve orderly economic growth and otherwise carry out the purposes of this title;

"(2) stabilize Federal expenditures; and

"(3) stabilize interest rates and finance charges in connection with the extension of credit, and corporate dividends and similar transfers, at levels consonant with orderly economic growth.

Such orders and regulations may provide for the making of such adjustments as may be necessary to prevent gross inequities.

"(b) In carrying out the authority vested in him by subsection (a), the President shall issue standards to serve as a guide for determining levels of wages, salaries, prices, rents, interest rates and finance charges in connection with the extension of credit, corporate dividends, and similar transfers which are consistent with the purposes of this title and orderly economic growth. Such standards shall—

"(1) be generally fair and equitable;

"(2) provide for the making of such general exceptions and variations as are necessary to foster orderly economic growth and to prevent gross inequities, hardships, serious market disruptions, domestic shortages of raw materials, localized shortages of labor, and windfall profits;

"(3) take into account changes in productivity and the cost of living, as well as such other factors consistent with the purposes of this title as are appropriate;

"(4) provide for the requiring of appropriate reductions in prices and rents whenever warranted after consideration of lower costs, labor shortages, and other pertinent factors; and

"(5) call for generally comparable sacrifices by business and labor as well as other segments of the economy.

"(c) (1) The authority conferred on the President by this section shall not be exercised to limit the level of any wage or salary (including any insurance or other fringe benefit offered in connection with an employment contract) to a level below that which has been agreed to in a contract which (A) related to such wage or salary, (B) has been executed prior to August 15, 1971, and (C) is scheduled to take effect after November 13, 1971, unless the President determines that the increase provided in such contract is unreasonably inconsistent with the standards for wage and salary increases published under subsection (b).

"(2) Beginning on the date on which this subsection takes effect, the President shall promptly take such action as may be necessary to require the payment of any wage or salary increases (including any insurance or other fringe benefits offered in connection with employment) which have been, or in the absence of this subsection would be, withheld under the authority of this title if the President determines that—

(A) such increases were provided for by law or contract prior to August 15, 1971; and

(B) prices have been advanced, productivity increased, taxes have been raised, appropriations have been made, or funds have otherwise been raised or provided for in order to cover such increases.

"(d) Notwithstanding any other provision of this title, this title shall be implemented in such a manner that wage increases to any individual whose earnings are substandard or who is amongst the working poor shall not be limited in any manner, until such time as his earnings are no longer substandard or he is no longer a member of the working poor.

"(c) Whenever the authority of this title is implemented with respect to significant segments of the economy, the President shall require the issuance of regulations or orders providing for the stabilization of interest rates and finance charges, unless he issues a determination, accompanied by a statement of reasons, that such regulations or orders are not necessary to maintain such rates and charges at levels consonant with orderly economic growth.

"(f) The authority exercised under this title shall not be exercised with respect to a plan which meets the requirements of section 401(a) or 401(a) (2) of the Internal Revenue Code of 1954 or with respect to an annuity contract described in section 403(b) of the Internal Revenue Code of 1954.

"(g) In the exercise of the authority conferred by this title, the President shall take no action which directly or indirectly impairs or detracts from the protections guaranteed by the First Amendment of the Constitution of the United States.

"(h) No State or portion thereof shall be exempted from any application of this title with respect to rents by virtue of the fact that it regulates rents by State or local law, regulation or policy.

"§ 204. Delegation

"The President may delegate the performance of any function under this title to such officers, departments, and agencies of the United States as he deems appropriate, or to boards, commissions, and similar entities composed in whole or in part of members appointed by the President to represent different sectors of the economy and the general public. The President, in carrying out his authority under this title, shall establish a board for the purpose of studying, evaluating, and reporting quarterly to the Congress on the relationship between excess profits, the stabilization of the economy, and the creation of new jobs. When such boards, commissions, and similar entities are composed in part of members who serve no less than a full-time basis, legal authority shall be placed in their chairmen, who shall be employees of the United States and who shall act only in accordance with the majority vote of members. Nothing in section 203, 205, 207, 208, or 209 of title 18, United States Code, shall be deemed to apply to any member of such board, commission, or similar entity who serves on less than a full-time basis because of membership on such board, commission, or entity. Members who serve on less than a full-time basis shall be compensated from the date of their appointment at a rate equivalent to that of level IV of the Executive Schedule (5 U.S.C. 5315) when actually engaged in the business of the board, commission, or similar entity. Funds of departments and agencies of the United States shall be available for the performance of any function so delegated and, at the direction of the President, any other functions performed under authority of this title.

"§ 205. Confidentiality of information

"All information reported to or otherwise obtained by an agency exercising authority under this title which contains or relates to a trade secret or other matter referred to in section 105 of title 18, United States Code, shall be considered confidential for the purpose of that section, except that such information may be disclosed to other officers, agencies, boards, commissions, or similar entities empowered to carry out this title solely for the purpose of carrying out this title or when relevant in any proceeding under this title; and except that disclosure may be made to Federal executive departments, agencies, and other establishments of the Federal Government under regulations promulgated by the President or his delegate for use in any matters officially before them.

"§ 206. Subpena power

"The head of the agency or his duly authorized agent shall have authority, for any purposes related to this title, to sign and issue subpenas for the attendance and testimony of witnesses and the production of relevant books, papers, and other documents, and to administer oaths. Witnesses summoned under the provisions of this section shall be paid the same fees and mileage as is paid to witnesses in the courts of the United States. In case of refusal to obey a subpena served upon any person, firm, association, or corporation under the provisions of this section, the head of the agency may request the Attorney General to seek the aid of the district court of the United States for any district in which such person, firm, association, or corporation is found to compel such person, firm, association, or corporation after notice to appear and give testimony or to appear and produce documents before the agency.

"§ 207. Administrative procedure

"(a) The functions exercised under this title shall be excluded from the operation of the Administrative Procedure Act (sections 551 et seq., title 5, United States Code), except as to the requirements of section 552 of title 5, United States Code.

"(b)(1) Notwithstanding the provisions of subsection (a), with respect to any board, commission, or other entity carrying out functions under this title, general notice of proposed rulemaking shall be published in the Federal Register, unless persons subject thereto are named and either personally served or otherwise have actual notice thereof in accordance with law. The notice shall include—

"(A) a statement of the time, place, and nature of public rulemaking proceedings;

"(B) reference to the legal authority under which the rule is proposed; and

"(C) either the terms of substance of the proposed rule or a description of the subjects and issues involved.

This subsection does not apply—

"(i) to interpretative rules, general statements of policy, or rules of organization, procedure, or practice; or

"(ii) when for good cause it is found (and there is incorporated the finding and a brief statement of reasons therefor in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.

After notice required by this subsection, interested persons shall be given an opportunity to participate in the rulemaking through submission of written data, views, or arguments with or without opportunity for oral presentation. After consideration of the relevant matter presented, there shall be incorporated in the rules adopted a concise general statement of their basis and purpose. The required publication or service of a substantive rule shall be made not less than 30 days before its effective date, except—

"(a) a substantive rule which grants or recognizes an exemption or relieves a restriction;

"(b) interpretative rules and statements of policy; or

"(c) as otherwise provided for good cause found and published with the rule.

Interested persons shall be given the right to petition for the issuance, amendment, or repeal of a rule.

"(2) Notwithstanding the provisions of subsection (a), with respect to any board, commission, or other entity carrying out functions under this title, prompt notice shall be given of the denial in whole or in part of a written application, petition, or other request of an interested person made in connection with any proceeding under this title. Except in affirming a prior denial or when the denial is self-explanatory, the notice shall be accompanied by a brief statement of the grounds for denial.

"§ 208. Sanctions; criminal fine and civil penalty

"(a) Whoever willfully violates any order or regulation under this title shall be fined not more than $5,000 for each violation.

"(b) Whoever violates any order or regulation under this title shall be subject to a civil penalty of not more than $2,500 for each violation.

"§ 209. Injunctions and other relief

"Whenever it appears to any officer, department, agency, board, commission, or similar entity authorized by the President to exercise authority under this title, that any person has engaged, is engaged, or is about to engage in any acts or practices constituting a violation of any such order or regulation, it may request the Attorney General to bring an action, in the appropriate district court of the United States, to enjoin such acts or practices, and upon a proper showing a temporary restraining order or a preliminary or permanent injunction shall be granted without bond. Any such court may also issue mandatory injunctions commanding any person to comply with any order or regulation issued under this title. In addition to such injunctive relief, the court may also order restitution of moneys received in violation of any order or regulation issued under this title.

"§ 210. Suits for damages or other relief

"(a) Any person suffering legal wrong because of any act or practice arising out of this title, or any order or regulation issued pursuant thereto, may bring an action in a district court of the United States, without regard to the amount in controversy, for appropriate relief, including an action for a declaratory judgment, and/or damages.

"(b) In any action brought under subsection (a) against any person renting property or selling goods or services who is found to have overcharged the plaintiff, the court may, in its discretion, award the plaintiff reasonable attorney's fees and costs, plus whichever of the following sums is greater:

"(1) an amount not more than three times the amount of the transaction upon which the action is based, or

"(2) not less than $100 or more than $1,000;

except that in any case where the defendant establishes that the overcharge was not intentional and resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adapted to the avoidance of such error the liability of the defendant shall be limited to the amount of the overcharge: *Provided*, That where the overcharge is not willfull within the meaning of Section 208(a) of this Act, no action for an overcharge may be brought by or on behalf of any person unless such person has first presented to the seller or renter a bona fide claim for refund of the overcharge and has not received repayment of such overcharge within ninety days from the date of the presentation of such claim.

"(c) For the purposes of this section, the term 'overcharge' means the amount by which the consideration for the rental of property or the sale of goods or services exceeds the applicable ceiling under regulations or orders issued under this title.

"§ 211. Judicial review

"(a) TEMPORARY EMERGENCY COURT OF APPEALS.—

"(1) CREATION.—There is hereby created a court of record of the United States to be known as the Temporary Emergency Court of Appeals.

"(2) MEMBERSHIP.—From among the judges of the United States district courts and United States courts of appeals, the Chief Justice of the United States shall designate not less than three such judges to serve as members of the Temporary Emergency Court of Appeals. The Chief Justice of the United States may from time to time (A) designate additional judges of the United States district courts and United States courts of appeals to serve as members of the Temporary Emergency Court of Appeals, and (B) revoke prior designations.

"(3) CHIEF JUDGE.—From among the judges who are designated to serve as members of the Temporary Emergency Court of Appeals, the Chief Justice of the United States shall from time to time designate one such judge to serve as the chief judge of such Temporary Emergency Court of Appeals.

"(4) DIVISIONS.—The chief judge of the Temporary Emergency Court of Appeals may, from time to time, divide the court into divisions of three or more members, and any such division may render judgment as the judgment of the court.

"(5) SEAL; SESSIONS; CLERK.—The Temporary Emergency Court of Appeals shall have a seal, hold sessions at such places as it may specify, and shall appoint a clerk and such other employees as it deems necessary or proper.

"(6) PROCEDURE.—The Temporary Emergency Court of Appeals shall exercise its powers and prescribe rules governing its procedure in such manner as to expedite the determination of cases.

"(7) POWERS.—Except as otherwise limited in this section, the Temporary Emergency Court of Appeals shall have the powers of a United States court of appeals with respect to the jurisdiction conferred on it by this title.

"(b) JURISDICTION.—

"(1) UNITED STATES DISTRICT COURTS.—Except as otherwise provided in paragraph 2 (B), the United States district courts shall have exclusive original jurisdiction of cases and controversies arising under this title and under regulations and orders issued under this title.

"(2) Temporary emergency court of appeals.—

"(A) Appeals.—The Temporary Emergency Court of Appeals shall have exclusive jurisdiction of all appeals from United States district courts in cases and controversies arising under this title and under regulations or orders issued under this title, except as otherwise provided in this section. Such appeals shall be taken by the filing of a notice of appeal with the Temporary Emergency Court of Appeals within thirty days of the entry of judgment by the district court.

"(B) Certain constitutional questions.—The Temporary Emergency Court of Appeals shall have exclusive jurisdiction to determine the constitutional validity of any provision of this title and any regulation or order issued under this title.

"(3) Supreme court review.—Within thirty days after entry of any judgment or order by the Temporary Emergency Court of Appeals, a petition for a writ of certiorari may be filed in the Supreme Court of the United States, and thereupon the judgment or order shall be subject to review by the Supreme Court in the same manner as a judgment of a United States court of appeals as provided in section 1254 of title 28 of the United States Code.

"(4) Other courts.—Except as provided in this section, no Federal, State, or local court shall have jurisdiction or power to (A) consider the constitutional validity of any provision of this title or any regulation or order issued under this title, (B) stay, restrain, enjoin, or set aside, in whole or in part, any provision of this title authorizing the issuance of any such regulation or order, or any provision of any such regulation or order, or (C) restrain or enjoin the enforcement of any provision of this title or any regulation or order issued under this title.

"(c) Particular Proceedings.—

"(1) Substantial constitutional issue.—With respect to any civil action brought in connection with this title, or any regulation or order issued under this title, which is determined by the United States district court in which it is brought to involve a substantial constitutional issue, such district court shall certify such issue to the Temporary Emergency Court of Appeals. Upon such certification, the Temporary Emergency Court of Appeals shall determine the appropriate manner of disposition which may include (A) requiring that the entire record be sent up for determining of the entire matter in controversy, or (B) remanding the matter to the certifying court with binding instructions on the issues certified.

"(2) Declaratory judgments.—The provisions of section 2201 and of title 28 of the United States Code, relating to declaratory judgments, shall apply to actions arising under this title and under regulations and orders issued under this title, notwithstanding the amount in controversy.

"(d) Setting Aside Regulations and Orders.—

"(1) Regulations.—No regulation issued under this title shall be enjoined or set aside, in whole or in part, unless a final judgment determines that the issuance of such regulation is in excess of the issuing agency's authority or is arbitrary or capricious.

"(2) Orders.—No order issued under this title shall be enjoined or set aside, in whole or in part, unless a final judgment determines that such order is in excess of the issuing agency's authority, or is based upon facts which are not supported by substantial evidence.

"(e) Interlocutory Degrees; Permanent Injunctions; Etc.—

"(1) Interlocutory decree.—The Temporary Emergency Court of Appeals shall not have the power to issue any interlocutory decree staying or restraining, in whole or in part, any provision of this title or the effectiveness of any regulation or order issued under this title.

"(2) Permanent injunctions.—A permanent injunction restraining the enforcement, operation, or execution of this title or any regulation or ,order issued under this title shall not be granted by any United States district court or judge thereof. Such an injunction may be issued by the Temporary Emergency Court of Appeals upon appeal, or, after hearing, upon recommendation of a United States district court or judge thereof. Such an injunction may also be issued by the United States Supreme Court as provided for by this section.

"(3) Effectiveness of certain judgments of temporary emergency court of appeals.—The effectiveness of a final judgment of the Temporary Emergency Court of Appeals enjoining or setting aside, in whole or in part, any provision of this title or any regulation or order issued under this title shall be postponed until the expiration of thirty days from the entry thereof, except that if a petition for a writ of certiorari is filed with the Supreme Court under subsection (b)(3) within such thirty days, the effectiveness of such judgment shall be postponed until an order of the Supreme Court denying such petition becomes final, or until other final disposition of the action by the Supreme Court.

"(f) Application of Section.—The provisions of this section shall apply to any actions or suits pending in any Federal, State, or local court on the effective date of this section in which no final order or judgment has been rendered. Any affected party seeking relief shall be required to follow the procedures of this title.

"§ 212. Personnel

"(a) Any agency or officer of the United States Government carrying out functions under this title is authorized to employ such personnel as the President deems necessary to carry out the provisions and purposes of this title.

"(b) The President may appoint five officers to be responsible for carrying out functions of this title of whom three shall be compensated at level III of the Executive Schedule (5 U.S.C. 5314) and two at level V of the Executive Schedule (5 U.S.C. 5316). Appropriate titles and the order of succession among such officers may be designated by the President.

"(c) The President may require the detail of employees from any executive agency to carry out the purpose of this title.

"(d) The President is authorized to appoint, without regard to civil service laws, such advisory committees as he may deem appropriate for the purpose of consultation with and advice to the President in the performance of his functions under this title. Members of advisory committees, other than those regularly employed by the Federal Government, while attending meetings of such committees or while otherwise serving at the request of the President may be paid compensation at rates not exceeding those authorized for individuals under section 5332 of title 5, United States Code, and, while so serving away from their homes or regular places of business, may be allowed travel expenses, including per diem, as authorized by section 5703 of title 5 of the United States Code for persons in the Government service employed intermittently.

"(e)(1) Under such regulations as the President may prescribe, officers and employees of the United States Government who are appointed without a break in service of one work day or more to any position for carrying out the functions of this title may be entitled, upon separation from such position, to reemployment in the position occupied at the time of appointment or in a position of comparable grade and salary.

"(2) An officer or employee who, at the time of his appointment under paragraph (1) of this subsection, is covered by section 8336 (c), title 5, United States Code, shall continue to be covered thereunder while carrying out the functions of this title.

"(f)(1) In addition to the number of positions which may be placed in GS–16, 17, and 18, under section 5108 of title 5, United States Code, not to exceed twenty positions may be placed in GS–16, 17, and 18, to carry out the functions under this title.

"(2) The authority under this subsection shall be subject to the procedures prescribed under section 5108 of title 5, United States Code, and shall continue only for the duration of the exercise of functions under this title.

"§ 213. Exports and consultants

"Experts and consultants may, as authorized by section 3109 of title 5 of the United States Code, be employed for the performance of functions under this title and individuals employed may be compensated at rates not to exceed the per diem equivalent of the rate for grade 18 of the General Schedule established by section 5332 of title 5 of the United States Code. Such contracts may be renewed from time to time without limitation. Service of an individual as an expert or consultant under this section shall not be considered as employment or holding of office or position bringing such individual within the provisions of section 3323(a) of title 5 of the United States Code, section 872 of the Foreign Service Act of 1946, as amended, or any other law limiting the reemployment of retired officers or employees.

"§ 214. Mass transportation systems

"No company, or other entity constituting a public benefit corporation, charged by law or contract with the responsibility to operate a mass transportation facility or facilities shall increase any fare without first obtaining approval under this section from the President or his delegate.

"§ 215. Local protest boards

"(a) The President shall establish local protest boards throughout the United States in connection with any procedure he provides for the granting to persons of exemptions from, and the making of changes in, regulations and orders issued under this title.

"(b) It shall be the function of such local protest boards to receive complaints and advise appropriate persons with respect to the need for exemptions from, or changes in, regulations and orders issued under this title. The President shall establish such local protest boards in such manner and organize them into such system so as to provide expeditious review of complaints and, when appropriate, speedy remedial action on the part of the President. No court hearing a matter brought in connection with this title or any regulation or order issued under this title shall require, as a prior condition to the bringing or carrying forward of a legal action, that a party proceed under a procedure established pursuant to this section.

"(c) In establishing such local protest boards, the President may draw upon the resources of the Internal Revenue Service or any other appropriate establishment in the executive branch of the Government, or any combination of such establishments, which can provide the necessary personnel and local facilities.

"§ 216. Funding

"(a) There is hereby authorized to be appropriated to the President, to remain available until expended, such amounts as may be necessary from time to time to carry out the purposes of this title.

"(b) The President may accept and use in furtherance of the purposes of this title money, funds, property, and services of any kind made available by gift, devise, bequest, grant, or otherwise for such purpose.

"§ 217. Expiration

"The authority to issue and enforce orders and regulations under this title expires at midnight April 30, 1973, but such expiration shall not affect any action or pending proceeding, civil or criminal, not finally determined nor any action or proceeding based upon an act or acts committed prior to May 1, 1973.

"§ 218. Ratification

"The authority granted to the President by the Economic Stabilization Act of 1970, as amended, and in effect on the date of enactment of this title, in respect to the assignment of personnel and expenditure of funds in exercising that authority are hereby approved, ratified, and confirmed.

"§ 219. Severability

"If any provision of this title or the application of such provision to any person or circumstances shall be held invalid, the remainder of the title, and the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

"Sec. 220. (a) (1) It is the policy of the United States to promote efficient production, marketing, distribution, and use of goods and services in the private sector, and improve the morale of the American worker, all of which are essential to a prosperous and secure free world, and to achieve the objectives of national economic policy.

"(2) The Congress finds that the persistence of inflationary pressures, and of a high rate of unemployment, the underutilization and obsolescence of production facilities, and the inadequacy of productivity are damaging to the effort to stabilize the economy.

"(3) The Congress, therefore, finds a national need to increase economic productivity which depends on the effectiveness of management, the investment of capital for research development, and advanced technology and on the training and motivation of the American worker.

"(4) The Congress further finds that at a time when economic stabilization programs require price-wage restraints, management and labor have a strong mutual interest in containing "cost-push" inflation and increasing output per man-hour so that real wages may increase without causing increased prices and that, without in any way infringing on the rights of management or labor, machinery should be provided for translating this mutuality of interest into voluntary action.

"(b) It shall be the objective of the President's National Commission on Productivity—

"(1) to enlist the cooperation of labor, management, and State and local governments, in a manner calculated to foster and promote increased productivity through free competitive enterprise toward the implementation of the national policy declared in the Employment Act of 1946 to create and maintain "conditions under which there will be afforded useful employment opportunities, including self-employment, for those able, willing, and seeking to work, and to promote maximum employment, production, and purchasing power";

"(2) to promote the maintenance and improvement of worker motivation and to enlist community interest in increasing productivity and reducing waste;

"(3) to promote the more effective use of labor and management personnel in the interest of increased productivity;

"(4) to promote sound wage and price policies in the public interests and to seek to accomplish that objective within a climate of cooperation and understanding between labor, management, and the public, and with within a framework of peaceful labor-management relations and free and responsible collective bargaining;

"(5) to promote policies designed to insure that United States products are competitive in domestic and world markets;

"(6) to develop programs to deal with the social and economic problems of employees adversely affected by automation or other technological change or the relocation of industries.

"(c) (1) It shall be the duty and function of the Commission, in order to achieve the objectives set forth in subsection (b) of this section, to encourage and assist in the organization and the work of labor-management-public committees and similar groups on a plant, community, regional, and industry basis. Such assistance shall include aid:

"(A) in the development of apprenticeship, training, retraining, and other programs for employee and management education for development of greater upgraded and more diversified skills;

"(B) in the formulation of programs designed to reduce waste and absenteeism and to improve employee safety and health;

"(C) in the revision of building codes and other local ordinances and laws, in order to keep them continuously responsive to current economic conditions;

"(D) in planning for provision of adequate transportation for employees;

"(E) in the exploration of means to expand exports of the products of United States industry;

"(F) in the development, initiation, and expansion of employee incentive compensation, profit-sharing and stockownership systems and other production incentive programs;

"(G) in the dissemination of technical information and other material to publicize its work and objectives;

"(H) to encourage studies of techniques and programs similar to those in paragraphs (A) to (H) of this subsection, as they are applied in foreign countries; and

"(I) in the dissemination of information and analyses concerning the economic opportunities and outlook in various regions and communities, and of information on industrial techniques designed for the increase of productivity.

"(2) The Commission shall transmit to the President and to the Congress not later than March 1 of each year an annual report of its previous year's activities under this Act.

"(3) The Commission shall perform such other functions, consistent with the foregoing, as it determines to be appropriate and necessary to achieve the objectives set forth in subsection (b) of this section.

"(d) (1) In exercising its duties and functions under this Act—

"(A) the Commission may consult with such representatives of industry, labor, agriculture, consumers, State and local governments, and other groups, organizations, and individuals as it deems advisable to insure the participation of such interested parties;

"(B) the Commission shall, to the extent possible, use the services, facilities, and information (including statistical information) of other Government agencies as the President may direct as well as of private agencies and professional experts in order that duplication of effort and expense may be avoided;

"(C) the Commission shall coordinate such services and facilities referred to in subsection (B) above in order to supply technical and administrative assistance to labor-management-public committees and similar groups referred to in subsection (c) (1);

"(D) the Commission shall establish the regional offices and such local offices as it deems necessary;

"(E) the Commission shall hold regional and industrywide conferences to formulate ideas and programs for the fulfillment of the objectives set forth in subsection (C);

"(F) the Commission may formulate model programs to ameliorate the effects of unemployment caused by technological progress;

"(G) the Commission may furnish assistance to parties in collective bargaining entering into collective bargaining agreements; and

"(H) the Commission may review collective bargaining agreements already in effect or those being negotiated to ascertain their effects on productivity; and it may have the power to make recommendations with respect to the agreements made or about to be made in specific industries.

"(2) The Commission may accept gifts or bequests, either for carrying out specific programs which it deems desirable or for its general activities.

"(e) (1) The Executive Director of the Commission shall be the principal executive officer of the Commission in carrying out the objectives, functions, duties and powers of the Commission described in sections 3(b) through 3(d) above.

"(2) The Executive Director of the Commission, with the approval of the Chairman of the Commission, is authorized to employ, and fix the compensation of, such specialists and other experts as may be necessary for carrying out its functions under this Act, with regard to the provision of title 5, United States Code, governing appointments in the competitive service, and with regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and general schedule pay rates, and is authorized, subject to such provision, to employ such other officers and employees as may be necessary for carrying out its functions under this Act and fix their compensation in accordance with the provisions of such chapter 51 and subchapter II of chapter 53.

"(f) There are hereby authorized to be appropriated the sum of $10,000,000 to carry out the purposes of this section during the period ending April 30, 1973."

Amend the title so as to read: "An Act to extend and amend the Economic Stabilization Act of 1970, as amended, and for other purposes."

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

TITLE AMENDMENT

Mr. PATMAN. Mr. Speaker, I offer an amendment to this title.

The Clerk read as follows:

Title amendment offered by Mr. Patman: Amend the title so as to read: "To extend and amend the Economic Stabilization Act of 1970, as amended, and for other purposes."

The title amendment was agreed to.

A motion to reconsider was laid on the table.

A similar House bill (H.R. 11309) was laid on the table.

APPOINTMENT OF CONFEREES

Mr. PATMAN. Mr. Speaker, I ask unanimous consent that the House insist on its amendments to S. 2891, and request a conference with the Senate thereon.

The SPEAKER. Is there objection to the request of the gentleman from Texas? The Chair hears none, and appoints the following conferees: Messrs. Patman, Barrett, Mrs. Sullivan, Messrs. Reuss, St Germain, Minish, Widnall, Johnson of Pennsylvania, J. William Stanton, and Brown of Michigan.

GENERAL LEAVE

Mr. PATMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include therein relevant material on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate agrees to the amendment of the House to a bill of the Senate of the following title:

S. 1866. An act for the relief of Clayton Bion Craig, Arthur P. Wuth, Mrs. Lenore D. Hanks, David E. Sleeper, and DeWitt John.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1828) entitled "An act to amend the Public Health Service Act so as to establish a Conquest of Cancer Agency in order to conquer cancer at the earliest possible date."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 11341) entitled "An act to provide additional revenue for the District of Columbia, and for other purposes."

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 36. An act to preserve and promote the resources of the Connecticut River Valley, and for other purposes;

S. 889. An act to restore the postal service seniority of Elmer Erickson;

S. 1031. An act to credit certain service rendered by District of Columbia substitute teachers for purposes of civil service retirement;

S. 2429. An act to amend the District of Columbia Unemployment Compensation Act in order to conform to Federal law, and for other purposes; and

S. 2677. An act to authorize programs in the District of Columbia to combat and control the disease known as sickle cell anemia.

LEGISLATIVE PROGRAM

(Mr. GERALD R. FORD asked and was given permission to address the House for 1 minute.)

Mr. GERALD R. FORD. Mr. Speaker, I have asked for this time for the purpose of asking the distinguished majority leader the program for the remainder of this week and for next week, if any.

Mr. BOGGS. Mr. Speaker, will the gentleman yield?

Mr. GERALD R. FORD. I yield to my friend the gentleman from Louisiana.

Mr. BOGGS. Mr. Speaker, responding to the question of the distinguished minority leader, we plan to conclude one conference report today, that is the conference report on the District of Columbia Revenue Act authorization. After that, we plan to go over to Monday next to conclude the business of this session.

On Monday and for the balance of the week, we have scheduled the five bills from the District of Columbia Committee:

H.R. 12115, interest and consumer amendment;

S. 1938, interest and usury amendment;

H.R. 11992, Election Act amendment;

H.R. 10237, Unemployment Compensation Act amendment; and

H.R. 11628, hospitals and medical facilities authorization.

In addition, we will call up a continuing resolution from the Committee on Appropriations on Monday which will cover appropriations for the foreign aid agency.

There are a number of other conference reports remaining and we hope to take all of those up on Monday. If not on Monday, certainly no later than Tuesday.

We hope to conclude the business of this session on Monday—and again, if not on Monday, no later than Tuesday.

Mr. GERALD R. FORD. I thank the distinguished majority leader.

ADJOURNMENT OVER TO MONDAY

Mr. BOGGS. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourns to meet on Monday next.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

RESIGNATION FROM COMMITTEE ON THE DISTRICT OF COLUMBIA

The SPEAKER laid before the House the following resignation from a committee:

WASHINGTON, D.C.,
December 10, 1971.

Hon. CARL ALBERT,
Speaker, House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: I respectfully submit my resignation from the District of Columbia Committee effective at once.

With respect and regards,
Yours sincerely,
WILLIAM L. HUNGATE.

The SPEAKER. Without objection, the resignation will be accepted.

There was no objection.

CURTIS A. CHRISTIANSON

(Mr. NELSEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NELSEN. Mr. Speaker, we have on our staff here in the Congress Curtis A. Christianson from Minnesota. He came to Washington in 1930 and worked with Congressman Jones at that time. In 1943 to 1945 he was in the U.S. military service, working wih the Norwegian Government, and was personally decorated by the King of Norway—now that is really an accomplishment.

He resumed his service on Capitol Hill as a tally clerk in 1946 and has served faithfully and conscientiously until the present time and will retire at the end of this session.

Curtis was born in 1906 on a large farm near Dawson, Minn. He was one of seven children and his brother, Theodore, served as the Governor of Minnesota from 1925 to 1931, and was later a Representative in Congress for 4 years. Curtis married Bertha Duncan from Montana. He first met his wife while they were both waiting in line on the first day they attended McAlester College in St. Paul, Minn. He graduated from George Washington University in Washington, D.C., and started his career in Washington at the Library of Congress in 1930.

Mr. McMILLAN. Mr. Speaker, will the gentleman yield?

Mr. NELSEN. I yield to the distinguished chairman of the Committee on the District of Columbia.

Mr. McMILLAN. Mr. Speaker, I would like to associate myself with the remarks made by the gentleman from Minnesota. I have been in this body almost the same length of time as has Mr. Christianson. I have never known a more loyal worker on Capitol Hill. I know he has been a great asset to the Congress since he has been serving in the position he holds today.

Mr. NELSEN. I thank the gentleman.

Mr. BOGGS. Mr. Speaker, will the gentleman yield?

Mr. NELSEN. I yield to the majority leader.

Mr. BOGGS. I would like to thank the gentleman for the statements he has made about a most loyal and dedicated employee of this body, Curtis Christianson. All of us know that without employees who work here day in and day out like Chris, this institution could not function. I join in wishing him our best.

Mr. BROYHILL of Virginia. Mr. Speaker, I join with the gentleman from Minnesota in expressing sincere appreciation to Curtis Christianson for many, many years of outstanding, loyal, and devoted service to the House of Representatives. He has served us for 42 years, a long time to serve any one employer. There is no question that his retirement will represent a great loss to the Congress of the United States.

While I offer him my wholehearted congratulations for a job well done, I do not join with my colleagues in bidding him farewell. He is a resident of Arlington County, Va., and a constituent of mine. I therefore say, "I'll be seeing you, Chris," because I know we will be working together in the future for the best interests of good government. I do join my colleagues in wishing him many years of good health and a pleasant retirement.

Mr. ZABLOCKI. Mr. Speaker, it is an honor to join my colleagues in paying tribute to Curtis Christianson on his retirement as assistant tally clerk to the House of Representatives. His long and untiring service has been a commendable contribution to the Congress. He will be missed by his many friends at the Capitol. I want to wish "Chris" the best of health, happiness, and every success in his future endeavors.

GENERAL LEAVE

Mr. NELSEN. Mr. Speaker, I ask unanimous consent that other Members may be permitted to insert their remarks relative to this very fine public servant within the next 5 days.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

PERSONAL EXPLANATION

Mr. JONES of North Carolina. Mr. Speaker, on rollcall No. 458 I was in my office attending to official business, in conference with the Honorable William Dwyer of the British Embassy. Therefore I was not present at the rollcall. If I had been present, I would have voted "yea."

CONFERENCE REPORT ON H.R. 11341, DISTRICT OF COLUMBIA REVENUE ACT OF 1971

Mr. CABELL. Mr. Speaker, I call up the conference report on the bill (H.R. 11341), to provide additional revenue for the District of Columbia, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. GROSS. Reserving the right to object, Mr. Speaker, is it proposed to take some time to explain to the House what appears in this conference report, and particularly with reference to the provisions for fiscal 1973? If it is, I have no objection; but if not, we will be around here for as long as I can prolong this session, because I want a real explanation of why the committee went beyond, it seems to me, all bounds in forward financing of the District of Columbia.

Mr. CABELL. If the gentleman will yield, as a manager on the part of the House, I shall be delighted to provide all the information it is possible to give the gentleman.

Mr. GROSS. Mr. Speaker, I withdraw my reservation.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of December 9, 1971.)

The SPEAKER. The gentleman from Texas is recognized for 30 minutes and the gentleman from Minnesota will be recognized for 30 minutes.

Mr. CABELL. Mr. Speaker, I yield myself such time as I shall consume.

The conferees went into the conference dedicated to the premise that we would retain as much of the wishes, the demands, and the mandate of the House as we could possibly retain. While we were not capable of batting 1,000 percent, we came out with a batting average of better than 0.750.

For example, the Senate receded on 23 of their amendments which were in controversy, while the House found it necessary to recede on only two minor amendments.

There was one point at which the House found itself unable to do other than to make some slight concessions.

The authorization as passed by the House called for a Federal base payment of $170 million for the fiscal year 1972. The Senate bill called for $181 million as a base contribution, plus, or in line with, a percentage factor of 43 percent of the revenues which they collect.

They further extended in their bill a second-year authorization, plus a factor of inflation allowance that would have made their contribution approximately $190 million, or could have been even greater by applying the 43 percent factor.

Under the agreement made by the conferees, we agreed to a base contribution of $173 million, and in addition, a contingency of $6 million, which would be one-half a year's cost provided the Congress approved a salary increase for the classified workers. We further agreed that we would accept a base rate of $178 million for the second year, and with the contingency of $12 million provided that the pay increases came up to that amount. The rationale behind that was—and the committee report very clearly stated it—that we will not conduct revenue hearings for fiscal year 1973, but that is it, do not come back screaming and moaning for any more.

I might say further than in the event the police, firemen and teachers were granted a raise by the Congress, it could only be made effective if they raised their own taxes within the district by whatever they requested for this increase for the police, firemen, and teachers.

Mr. NELSEN. Mr. Speaker, will the gentleman yield?

Mr. CABELL. I yield to the gentleman from Minnesota.

Mr. NELSEN. Mr. Speaker, it was my understanding, and I left early but I did sit in on another part of this committee's deliberations—that the $6 million in addition to the $173 million is contingent upon the action of the Congress. If we raise it, that amount will be added; if we do not raise it, that amount will not be added.

Mr. CABELL. The gentleman is correct.

Mr. NELSEN. In other words, if it is done by our action, then we are responsible—in other words, if we want to hold it down to $173 million, that is up to us to do it.

Mr. CABELL. That is entirely correct.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. CABELL. I yield to the gentleman from Iowa.

Mr. GROSS. Mr. Speaker, why the forward financing?

If the pay raise is granted, Congress could fund it whether in 1972 or 1973. It would be $6 million in the remainder of the fiscal year 1972 and $12 million, as I understand it, for all of fiscal year 1973; is that not correct?

Mr. CABELL. Mr. Speaker, if the gentleman will yield; that is correct.

May I remind the gentleman that this will not be funded. This is a contingency that will be funded only in the event that this Congress grants those pay increases and will only be funded up to this maximum amount.

Mr. GROSS. But why the authorization? I do not understand why, and I do not understand why you are authorizing funds for the District of Columbia for fiscal year 1973.

Mr. CABELL. The reasoning behind that, if the gentleman will yield, is as I tried to explain, that this will eliminate the cry that they do not know what they are going to get, and they cannot prepare their budget. Consequently, when we tell them flatfootedly that this is the maximum they are going to get, and they had better learn how to live with it, the rationale was possibly this will have a deterrent effect on their coming up and wanting to double practically the amount of the contribution they have been getting from year to year.

Mr. GROSS. Mr. Speaker, if the gentleman will yield further, so far as I know Congress has not authorized nor appropriated funds for other pay increases to Federal employees that might be approved as of January 1. But I have not seen funds for this purpose in any appropriation bill. If anyone else has seen funds for that purpose, tell me about it. Or are you doing this because the House District Committee seeks a more comfortable way of life?

Or is that to fend off people who come in wanting money for certain projects? Is it beyond the capability of the House District Committee to fend off the District of Columbia lobbyists who come here wanting more and more money all the time? I am beginning to believe that when these pampered city officials cannot get money they will be perfectly willing to take our blood.

Mr. CABELL. May I say that the District of Columbia Committee has long since abandoned the idea that we will ever enjoy a more gracious life.

Mr. GROSS. This conference report would increase the Federal kick-in to the District of Columbia—tell me if I am incorrect—up to $190 million in fiscal year 1973, if there is a pay increase?

Mr. CABELL. The gentleman is entirely correct, provided that the Congress authorizes such a pay increase.

Mr. GROSS. And that despite the fact that in the last fiscal year the Federal kick-in to the District of Columbia was $162 million; is that not correct?

Mr. CABELL. No, sir.

Mr. GROSS. I am not talking about the current fiscal year; I am talking about the previous fiscal year.

Mr. CABELL. In the previous fiscal year, I hasten to advise, it was $126 million.

Mr. GROSS. Is it $126 million?

Mr. CABELL. That is correct.

Mr. GROSS. For the District of Columbia to go from $126 million in fiscal year 1971 to $190 million projected for 1973 is an incredible gouging of the taxpayers of the Nation.

Mr. CABELL. I would be the last man in the world to quarrel with my distinguished friend from Iowa over his statement that these costs have gone up in orbit.

However, there are 435 Members of the House and there are 100 Members of the other body. The individual desires of a very astute and careful man such as the gentleman from Iowa do not always prevail.

Mr. GROSS. I doubt that I will prevail this time, either, but Members can be assured they will have an opportunity to vote on this, if I have my way and if someone does not beat me to it. They will have an opportunity to vote on this unconscionable increase in the handout to the District of Columbia. I just cannot believe it.

Mr. CABELL. If the gentleman will permit, I believe that this will save some trouble, furthermore, because either in the general Federal budget or this budget, had we not made this contingent provision, they would have been back in here with a supplemental which would have had to be granted if it had been provided. This will at least eliminate one more supplemental appropriation being laid before us.

Mr. GROSS. Mr. Speaker, will the gentleman yield further?

Mr. CABELL. I am happy to yield to the gentleman from Iowa.

Mr. GROSS. I thank the gentleman for yielding to me to the extent that he has.

Even though this is a comparatively small amount of the billions of dollars authorized by Congress, it is another example of the improvidence on the part of the Congress of the United States and the executive branch of the Government that brought us today to the sad and sorry spectacle of witnessing an extension of the Stabilization Act which is destructive of competition in this country, destructive of the once proud record of this country in behalf of private and free enterprise. The House approved the so-called Stabilization Act because of improvidence, and irresponsibility in the spending of public funds and this is symbolic of that improvidence of the past, I would say to the gentleman.

Mr. CABELL. The gentleman at the microphone will state he would not have the temerity to argue with the very erudite statements just placed in the RECORD by the gentleman from Iowa.

Mr. Speaker, at this time I yield to the distinguished chairman of the full committee (Mr. MCMILLAN).

Mr. MCMILLAN. Mr. Speaker, the House District Committee has worked diligently for long hours during the past few months in an effort to try to reduce some of the expenditures in the Nation's Capital. We realize everything, including salaries, has increased substantially during the past 3 years; however, we thought possibly there might be some programs that could be eliminated without drastically effecting the efficiency of the District government.

Congressman CABELL, of Texas, has spent between 3 and 4 months checking into numerous expenditures in the Nation's Capital; however, since the legislative committee is not in any position to reduce or cut off some of these programs, we can only point out to the taxpayers and the Appropriations Committee where we think expenditures could be reduced.

We know that the public welfare program in the District of Columbia has completely gotten out of hand. Every applicant should be properly checked to see if they are physically able to work and what conditions exist in their homes. I believe millions and millions of dollars could be saved for the taxpayers in the Nation's Capital and throughout the United States if a check of this nature could be made of the residents here in the District of Columbia. Each applicant for public welfare assistance in South Carolina is checked before he or she is granted public welfare benefits.

We spent 3 days in conference with the Senate conferees and I believe we came out with the best bill we could possibly have under the circumstances. I want to congratulate the members of the committee on the very difficult and hard work they have done in an effort to solve some of the problems confronting the District of Columbia during this session of Congress.

Mr. CABELL. Does the distinguished ranking member desire time?

Mr. NELSEN. Yes. I just want to make some comments relative to the way that the budget has grown.

In our deliberations in the committee, rather than take the figures that the District gave us, I asked that they give me the figures they had previously had and then give me the figures as to the things that were added by the Congress.

For example, policemen, as I recall, cost $19 million. We demanded more policemen. We got them, but it cost us $19 million.

In the court reorganization and the new judges, which has been for years a demand of the Congress, we never got it. Finally, after long and hard work, we proceeded and did pass the crime bill which set up a new court system with a new superior court. We have about 5,000 cases that are untried, of criminals roaming the streets, repeaters out on bail. They have never been tried. This has to be done, seemingly.

We could go on further to point out the Washington Technical School and the liberal arts college which are things that we did in the Congress.

I know of no way to change the picture as it stands, but I do know this: It is not a comfortable seat to be on the District of Columbia Committee. I am surprised that people would even spend their time there, because it is nothing but a hazard to be on it.

I must say to Mr. CABELL and to Mr. MCMILLAN that we did our best in the conference to try to hold it down to the $170 million which I felt they had to live within. The salary increases are there, and the contingency funds are totally dependent on what we do here. If we want to hold it down to $173 million, you will have a chance to do so when you vote.

I hope the report is adopted.

I want to say that I am not critical of my friend from Iowa (Mr. GROSS) for being an observing and diligent Member in his endeavors to hold the line, because it seems to me it is darn near time that we gave thought to it right here in the District of Columbia.

I may say that our group is working carefully in the hope that we can find ways to hold the line, and we have to improve things here so that a better picture may evolve because of better administration of the city government.

I thank the gentleman for yielding and thank my chairman for his diligent efforts, also.

Mr. CABELL. I yield to the gentleman from Mississippi (Mr. COLMER).

Mr. COLMER. I thank the gentleman for yielding.

I merely ask for this time in order to associate myself with the remarks of the gentleman from Iowa about this Federal contribution which is going out of all bounds.

Mr. CABELL. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore (Mr. BOGGS). **The question is on the conference report.**

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. GROSS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 242, nays 93, not voting 96, as follows:

[Roll No. 459]

YEAS—242

Abourezk
Abzug
Adams
Addabbo
Anderson, Calif.
Anderson, Ill.
Anderson, Tenn.
Arends
Ashley
Aspin
Aspinall
Badillo
Barrett
Begich
Bergland
Biaggi
Biester
Bingham
Boggs
Bolling
Brademas
Brasco
Brinkley
Brooks
Broomfield
Brotzman
Brown, Mich.
Brown, Ohio
Broyhill, Va.
Buchanan
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton
Byrne, Pa.
Byrnes, Wis.
Byron
Cabell
Caffery
Carey, N.Y.
Carney
Carter
Casey, Tex.
Cederberg
Clausen, Don H.
Cleveland
Collier
Conable
Conte
Coughlin
Culver
Curlin
Daniels, N.J.
Danielson
Davis, Ga.
de la Garza
Delaney
Dellenback
Dellums
Denholm
Dingell
Donohue
Dorn
Dow
Drinan
Dulski
du Pont
Dwyer
Edwards, Ala.
Edwards, Calif.
Erlenborn
Fascell
Fish
Flood
Flowers
Ford, Gerald R.
Ford, William D.
Forsythe
Fountain
Fraser
Frelinghuysen
Frenzel
Frey
Gallagher
Garmatz
Gaydos
Gettys
Giaimo
Gibbons
Gonzalez
Gray
Green, Oreg.
Green, Pa.
Halpern
Hamilton
Hanley
Hanna
Hansen, Idaho
Hansen, Wash.
Harrington
Harvey
Hathaway
Hawkins
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Henderson
Hicks, Mass.
Hillis
Hogan
Holifield
Horton
Howard
Hull
Jacobs
Jarman
Johnson, Calif.
Jones, Ala.

Karth
Kastenmeier
Kazen
Keating
Kee
Keith
Koch
Kyros
Landrum
Leggett
Lent
Link
McClory
McCloskey
McClure
McCormack
McCulloch
McDade
McDonald, Mich.
McFall
McKay
McMillan
Macdonald, Mass.
Madden
Mahon
Mailliard
Mathias, Calif.
Matsunaga
Mazzoli
Meeds
Melcher
Miller, Calif.
Minish
Mitchell
Monagan
Moorhead
Morgan
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Natcher
Nedzi
Nelsen
Nix
Obey
O'Hara
O'Neill
Perkins
Pickle
Pike
Pirnie
Poage
Podell
Preyer, N.C.
Price, Ill.
Pryor, Ark.
Pucinski
Quie
Railsback
Rees
Reid, N.Y.
Rhodes
Riegle
Roberts
Robison, N.Y.
Rodino
Roe
Rogers
Rooney, N.Y.
Rooney, Pa.
Rosenthal
Roy
Roybal
Ruppe
Ryan
St Germain
Sandman
Sarbanes
Scheuer
Schwengel
Scott
Seiberling
Shipley
Shriver
Sikes
Sisk
Smith, N.Y.
Staggers
Stanton, J. William
Stanton, James V.
Steele
Steiger, Wis.
Stratton
Stubblefield
Stuckey
Symington
Taylor
Teague, Tex.
Thompson, N.J.
Tiernan
Ullman
Vander Jagt
Vanik
Vigorito
Waldie
Wampler
Ware
Whalen
White
Whitehurst
Widnall
Williams
Wilson, Bob
Winn
Wolff
Wyatt
Wyman
Yates
Yatron
Young, Tex.
Zablocki
Zwach

NAYS—93

Abbitt
Abernethy
Andrews, N. Dak.
Archer
Baker
Baring
Bennett
Bevill
Bray
Burke, Fla.
Camp
Chappell
Clancy
Clawson, Del
Collins, Tex.
Colmer
Crane
Daniel, Va.
Davis, Wis.
Dennis
Devine
Dickinson
Downing
Duncan
Findley
Fisher
Flynt
Goodling
Griffin
Gross
Grover
Hagan
Haley
Hall
Hammerschmidt
Harsha
Hosmer
Hungate
Hunt
Hutchinson
Ichord
Johnson, Pa.
Jonas
Jones, N.C.
Jones, Tenn.
Kemp
King
Kyl
Landgrebe
Latta
Lennon
Long, La.
Long, Md.
McCollister
McEwen
Mathis, Ga.
Mayne
Michel
Miller, Ohio
Mills, Md.
Montgomery
Myers
Nichols
O'Konski
Passman
Poff
Price, Tex.
Purcell
Quillen
Randall
Rarick
Robinson, Va.
Rousselot
Ruth
Satterfield
Saylor
Schmitz
Sebelius
Shoup
Skubitz
Slack
Smith, Calif.
Smith, Iowa
Snyder
Teague, Calif.
Terry
Thompson, Ga.
Thomson, Wis.
Waggonner
Whitten
Wiggins
Young, Fla.
Zion

NOT VOTING—96

Alexander
Andrews, Ala.
Annunzio
Ashbrook
Belcher
Bell
Betts
Blackburn
Blanton
Blatnik
Boland
Bow
Broyhill, N.C.
Celler
Chamberlain
Chisholm
Clark
Clay
Collins, Ill.
Conyers
Corman
Cotter
Davis, S.C.
Dent
Derwinski
Diggs
Dowdy
Eckhardt
Edmondson
Edwards, La.
Eilberg
Esch
Eshleman
Evans, Colo.
Evins, Tenn.
Foley
Fulton, Tenn.
Fuqua
Galifianakis
Goldwater
Grasso
Griffiths
Gubser
Gude
Hastings
Hays
Hébert
Hicks, Wash.
Kluczynski
Kuykendall
Lloyd
Lujan
McKevitt
McKinney
Mann
Martin
Metcalfe
Mikva
Mills, Ark.
Mink
Minshall
Mizell
Mollohan
Morse
Patman
Patten
Pelly
Pepper
Pettis
Peyser
Powell
Rangel
Reuss
Roncalio
Rostenkowski
Roush
Runnels
Scherle
Schneebeli
Spence
Springer
Steed
Steiger, Ariz.
Stephens
Stokes
Sullivan
Talcott
Thone
Udall
Van Deerlin
Veysey
Whalley
Wilson, Charles H.
Wright
Wydler
Wylie

So the conference report was agreed to.

The Clerk announced the following pairs:

Mr. Annunzio with Mr. Gude.
Mr. Hébert with Mr. Gubser.
Mr. Hays with Mr. Bow.
Mr. Roncalio with Mr. Peyser.
Mr. Rostenkowski with Mr. Martin.
Mr. Blatnik with Mr. Goldwater.
Mr. Blanton with Mr. Hastings.
Mr. Andrews of Alabama with Mr. Ashbrook.
Mr. Hicks of Washington with Mr. Metcalfe.
Mr. Boland with Mr. McKevitt.
Mr. Celler with Mr. Collins of Illinois.
Mr. Kluczynski with Mr. Kuykendall.
Mr. Clark with Mr. Eshleman.
Mr. Mann with Mr. Belcher.
Mr. Charles H. Wilson with Mr. Conyers.
Mrs. Sullivan with Mr. Lujan.
Mr. Wright with Mr. Esch.
Mr. Mollohan with Mr. Bell.
Mr. Mikva with Mrs. Chisholm.
Mr. Pepper with Mr. Lloyd.
Mr. Reuss with Mr. Stokes.
Mr. Fulton with Mr. McKinney.
Mr. Fuqua with Mr. Betts.
Mr. Galifianakis with Mr. Broyhill of North Carolina.
Mr. Foley with Mr. Diggs.
Mr. Evins of Tennessee with Mr. Minshall.
Mr. Roush with Mr. Chamberlain.
Mr. Evans of Colorado with Mr. Pelly.
Mr. Eilberg with Mr. Scherle.
Mr. Edmondson with Mr. Mizell.
Mr. Mills of Arkansas with Mr. Morse.
Mr. Steed with Mr. Pettis.
Mr. Stephens with Mr. Blackburn.
Mr. Alexander with Mr. Derwinski.
Mr. Cotter with Mr. Powell.
Mrs. Grasso with Mr. Clay.
Mr. Dent with Mr. Rangel.
Mr. Davis of South Carolina with Mr. Spence.
Mr. Corman with Mr. Talcott.
Mr. Van Deerlin with Mr. Veysey.
Mr. Udall with Mr. Schneebeli.
Mr. Patten with Mr. Steiger of Arizona.
Mr. Dowdy with Mr. Thone.
Mr. Eckhardt with Mr. Springer.
Mrs. Mink with Mr. Whalley.
Mrs. Griffiths with Mr. Wydler.
Mr. Runnels with Mr. Wylie.

Mr. POAGE changed his vote from "nay" to "yea."

Messrs. LONG of Louisiana and GOODLING changed their votes from "yea" to "nay."

The result of the vote was announced as above recorded.

GENERAL LEAVE

Mr. CABELL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report on H.R. 11341.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

COMMENT MADE BY MEMBER OF OTHER BODY

(Mr. MICHEL asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. MICHEL. Mr. Speaker, the Peoria Journal Star on December 1 printed an interview with a Member of the other body, the Senator from South Dakota who is seeking to become a presidential nominee.

During the interview the nomination of Lewis F. Powell, Jr. to the Supreme Court was discussed. The Journal Star reported:

> Though giving the 64-year-old Virginian a "C" rating, he said, "We won't have to live with him very long."

This is a highly improper, cynical and callous statement, certainly one unworthy of a Member of the other body, and definite indication of his lack of fitness for consideration for the Presidency. Comment on a man's occupational abilities is one thing, but a personal attack such as this on a distinguished legal scholar, who was approved with only one dissenting vote, indicates a politically ruthless character. While the Senator is making his campaign pitch on his alleged humanitarian image and concern for the people, this statement is indicative of an entirely different personality.

All I can say about the Member of the other body who made this statement, is that way down deep, you know he is shallow.

THE RIGHT OF ATTORNEYS TO COMMENT ON THE JUDICIARY

(Mr. KOCH asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. KOCH. Mr. Speaker, the appellate division, first department, of the New York State judiciary has commenced disciplinary proceedings which I believe threaten the impartiality and efficiency of our judicial system, and which merit the attention of our colleagues.

The facts, briefly, are these: Martin Erdmann, an attorney with the Legal Aid Society in New York, in charge of the society's Supreme Court operations in the five boroughs, was the subject of a recent article in Life magazine. The article detailed Erdmann's activities as a lawyer and quoted his views on judges in New York, as follows:

> There are so few trial judges who just judge, who rule on questions of law, and leave guilt or innocence to the jury. And Appellate Division judges aren't any better. They're the whores who became madams.

Asked if he would like to be a judge, Erdmann replied:

> I would like to—just to see if I could be the kind of judge I think a judge should be. But the only way you can get it is to be in politics or buy it—and I don't even know the going price.

Because of Erdmann's criticisms, the appellate division lodged a complaint against him with the grievance committee of the Association of the Bar of the city of New York. The committee investigated the matter and decided to take no action.

The appellate division then began its own proceedings to punish and perhaps disbar Erdmann on the grounds that his remarks lessen public confidence in our legal system. The trial is to be conducted before the appellate division, third department in Albany, which now makes the appellate division, an object of Erdmann's criticism, his accuser, judge and jury.

In my estimation, public confidence in the judiciary is undermined far more by the appellate division's action in this case than by the remarks of Martin Erdmann.

The public has little knowledge of the day-to-day administration of justice, but it does know that our courts are desperately in need of reform and that judgeships are often obtained through political influence rather than ability.

Martin Erdmann then has only articulated, on the basis of 25 years' experience in our courts, what the public is more or less aware of, and his views surely reflect those of many other practicing lawyers. The disciplinary proceedings initiated by the appellate division seem clearly intended to intimidate and thereby suppress healthy criticism that is essential if we are to reform our courts. It is one thing to hold an attorney in contempt for statements made in open court and entirely another to punish him for exercising his first amendment right to speak out on a matter of urgent public interest on which he is particularly knowledgeable and qualified.

No one in our society should be immune from legitimate criticism. This attempt to silence Martin Erdmann is a serious error that will only serve to deter other experienced and public spirited attorneys from speaking out and, in the end, will harm the public and the judiciary.

I urge all members of the New York Bar to contact the New York Civil Liberties Union to register their support of Martin Erdmann and to learn how they can join with their fellow members of the bar in upholding the first amendment right of attorneys to comment on the judiciary.

CANNIKIN JUDICIAL DECISION

Mr. BOGGS. Under a previous order of the House the gentleman from California (Mr. HOSMER) is recognized for 10 minutes.

Mr. HOSMER. Mr. Speaker, I have recently seen a copy of a judicial decision rendered on November 2, 1971, by the Honorable Raymond E. Plummer, U.S. district judge for the district of Alaska, which dismissed a suit to prevent the Cannikin test on Amchitka Island in the case of the Aleut League versus the Atomic Energy Commission. His decision was not appealed.

My colleagues are already aware that the test was successfully conducted on November 6, 1971.

The Cannikin test was also the subject of other litigation in the U.S. District Court for the District of Columbia, appellate decisions by the U.S. Court of Appeals for the District of Columbia, and a denial by the U.S. Supreme Court of an application to enjoin the test. At the Supreme Court level a written opinion was prepared by only one of the dissenting Justices. There was no written opinion of the majority of the four Justices who, after hearing oral argument on November 6, 1971, denied the application for an injunction. The Supreme Court action on that date was preceded by an order of the U.S. district court on November 1 denying a request for a preliminary injunction and by a per curiam opinion of the U.S. Court of Appeals for the District of Columbia Circuit on November 3 which denied the plaintiffs' appeal from the lower court decision.

Although these appellate decisions arising out of the litigation in the U.S. District Court for the District of Columbia are available, in my view Judge Plummer's decision deals most comprehensively and lucidly with the Cannikin issues raised in the Alaskan suit. Accordingly, I include it in its entirety in the RECORD at this point:

[No. A-127-71 Civil]

IN THE U.S. DISTRICT COURT FOR THE DISTRICT OF ALASKA

(The Aleut League, on behalf of itself, its members and all those similarly situated, Plaintiffs, versus The Atomic Energy Commission; James R. Schlesinger, Chairman of the Atomic Energy Commission; James T. Ramey, Wilfred E. Johnson, Clarence E. Larson and William O. Doub, Commissioners of the Atomic Energy Commission, Defendants.)

JUDGMENT

This case came on for hearing before the court on September 27 and 28, 1971 on plaintiffs' motion for a preliminary injunction and defendants' motion for summary judgment or; alternatively, dismissal. On October 12, the parties filed a stipulation agreeing that the hearing held on September 27 and 28 would be considered by both sides to be a full hearing on the merits; and the court having considered the testimony of the witnesses called by the respective parties, all documents and exhibits offered and admitted into evidence, the briefs and arguments of counsel, and having filed its Findings of Fact, Conclusions of Law and Order for Judgment

NOW, THEREFORE, pursuant thereto, it is determined by the court that plaintiffs take nothing by this action and the same is hereby dismissed.

MEMORANDUM OF DECISION AND ORDER

On September 2, 1971, plaintiffs commended this action specifically to prevent the detonation of a nuclear device termed Cannikin on Amchitka Island. Plaintiffs' motion for a preliminary injunction was filed on September 13, 1971, and defendants' motion for summary judgment or alternatively, dismissal, was filed on September 21, 1971. Hearings were held on both motions on September 27 and 28.

On October 8, the court denied plaintiffs' motion for a preliminary injunction, reserved judgment on defendants' motion for summary judgment or dismissal, and ordered a full hearing on the merits to commence on October 13. A stipulation was filed October 12, wherein the parties agreed that the hearing held September 27 and 28 would be considered by both sides to be a full hearing on the merits and that the standing of plaintiffs to sue in this action and their position as proper parties would not be contested by defendants.

Therefore, a brief was filed by defendants on October 22 and by plaintiffs on October 25.

JURISDICTION

Federal courts have special and limited jurisdiction, so the threshhold inquiry in each case must be directed toward a determination of whether the court has power to entertain and decide the matter in controversy in the proceeding before it. United States District Courts have no jurisdiction except that conferred by the Constitution and laws of the United States and the presumption is, that the case is without their jurisdiction, unless the contrary affirmatively appears.

The party asserting jurisdiction has the burden of proof, and, if his allegations of jurisdictional fact are challenged in an appropriate manner, he must support them by competent proof.

Jurisdiction cannot be conferred by consent, waiver or conduct of the parties, and if the question is not otherwise suggested, the court must in every case on its own motion determine whether it has jurisdiction.

Paragraph 2 of plaintiff's complaint alleges that jurisdiction is conferred upon this court by: 5 U.S.C. §§ 701–706 (Administrative Procedure Act); 28 U.S.C. § 1331 (Federal Question); 28 U.S.C. § 1343 (Civil Rights); 28 U.S.C. §1353 (Indian Allotments); 28 U.S.C. §1361 (Mandomus); and 43 U.S.C. § 1332 (Federal Control over the Outer Continental Shelf).

The statutes alleged by plaintiff, with the exception of 43 U.S.C. § 1332 (Federal Control over the Outer Continental Shelf), are ones which would empower the court to act if plaintiff has proved facts bringing it within their purview. 43 U.S.C. § 1332 is a declaration of the policy, jurisdiction and construction of the United States with reference to the subsoil and seabed of the Outer Continental Shelf. It is not a statute conferring jurisdiction on the United States District Courts.

Paragraph 3 of plaintiffs' complaint alleges that this action arises under: The Fifth Amendment to the Constitution of the United States (Due Process, Equal Protection); 25 U.S.C. §§ 2, 9 and 43 U.S.C. § 1457(10) (Fiduciary obligations owed to Indians); 33 U.S.C. §§ 1151, 1162 (Control of Water Pollution by Hazardous Substances); 42 U.S.C. § 2011 et seq. (Atomic Energy); 42 U.S.C. §§ 4331–4332 (National Environmental Policy Act), 48 U.S.C. § 357, as amended (Alaska Native Allotments); and that the matter in controversy herein exceeds $10,000 exclusive of interest and costs.

The Fifth Amendment to the Constitution of the United States in pertinent part provides in substance that no person shall be deprived of life; liberty, or property, without due process of law; nor shall private property be taken for public use, without a just compensation.

Plaintiff asserts that defendants' preparation and planned execution of the CANNIKIN nuclear experiment amounts to a violation of its Fifth Amendment right to due process and guarantee against the taking of private property without just compensation. There is no evidence that plaintiff is the owner of any personal or real property. The major portion of the Aleutian Islands is a national wildlife refuge. There is some private ownership of real property by members of plaintiff's league in Unalaska and a few other places. There are references to ownership of fishing boats, air planes, fishing and hunting rights and claims of aboriginal title. Plaintiff has not proved that it or any of its members have any vested interest in hunting rights, fishing rights or aboriginal title to any land. *See* Tlingit and Haida Indians of Alaska v. United States, 389 F.2d 778 (Ct. Cl. 1968). The evidence does not establish that plaintiff or any of its members have been or will be deprived of life, liberty or property, without due process of law or that any private property has been or will be taken for public use, without just compensation.

The Fifth Amendment contains no equal protection clause and restrains only such discriminatory legislation by Congress as amounts to a denial of due process. Due process of law and the equivalent phrase "law of the land" have frequently been dafined to mean a general and public law operating equally on all persons in like circumstances, and not a partial or private law affecting the rights of particular individuals or class of individuals in a way in which the same rights of other persons are not affected. Plaintiffs assert that in view of the fact that the Aleutian Islands on which the proposed detonation will occur are populated principally by Aleut people, minority people, that the United States has not taken proper cognizance of the interests of these people and the action of the proposed detonation therein and of itself constitutes discrimination against them as opposed to other persons in the United States of America. Plaintiff also asserts that the location of this test on Amchitka Island in the Aleutians is discriminatory against the Aleut people and does constitute possible serious harm to their lives, property and culture, while the AEC has recognized the rights of other persons, specifically, those who live in other zones that might be affected by a nuclear detonation if it were detonated in some other part of this country or elsewhere.

Courts may take judicial notice of the federal census or of an official census taken under the state laws such as a school census, and of the results of such censuses and can resort for information to appropriate documents of reference. The 1970 Census of Population, PC(V1)-3, Alaska, Advance Report, December 1970, pages 6-9, reflects the following:

Location:	*Population*
Shemya	1, 131
Adak	2, 249
Atka	88
Nikolski	57
Unalaska	178
Akutan	101
False Pass	62
Pavlov Harbor	39
Cold Bay	256
King Cove	283
Belkofski	59
Sand Point	360
Squaw Harbor	65
Ivanov Bay	48
Perryville	94
Chignik	83
Chignik Lake	117
St. Paul	450
St. George	163
Nelson Lagoon	43

The above information also appears in 1970 Census of Population, Number of Inhabitants, Alaska, PC(1)-A3, Issued May 1971, pages 3-10.

The 1970 Census of Population and Housing Final Report, April 1971, PHC(2)-3 Alaska, pages 3-7, provides the following information:

Aleutian Islands:	
White	5, 564
Negro	237
All others	2, 256
Total	8, 057

Judicial notice may be taken of the relative distances from certain places to other parts of the same state. In this manner or by use of a map with a scale showing the number of miles per inch, the approximate distances between the villages lying easterly of Amchitka Island may be ascertained. The court has determined these distances to be approximately as follows:

From Amchitka to:	*Approximate miles*
Adak	200
Atka	300
Nikolski	550
Unalaska	650
Akutan	700
False Pass	900
Pavlov Harbor	
Cold Bay	930
King Cove	
Belkofski	960
Sand Point	1, 030
Squaw Harbor	
Ivanov Bay	
Perryville	1, 210
Chignik	1, 260

Plaintiff's Exhibit 32 reflects that the distance from Amchitka to Shemya, which is located westerly of Amchitka, is 250 miles. There are no Aleuts residing on Amchitka Island and there are no Aleut villages on the Aleution Chain westerly of Amchitka.

From the foregoing, it is readily apparent that there are 3,380 persons residing at Shemya and Adak that are nearer to Amchitka than the 88 persons who reside at Atka, the Aleut village located nearest to Amchitka, and that there are 5,795 non-Aleuts as compared to a possible 2,256 Aleuts that live on the Aleutian Islands. There is no evidence that the 2,256 Aleuts have been or will receive protection or treatment different in any degree or respect than that which has been or will be afforded the 5,795 non-Aleuts residing in the area. Plaintiff's assertion of discrimination and lack of equal protection as to the Aleut people has no factual basin.

25 U.S.C. § 2 provides that the Commissioner of Indian Affairs shall, under the direction of the Secretary of the Interior, and agreeably to such regulations as the President may prescribe, have the management of all Indian affairs and of all matters arising out of Indian relations.

25 U.S.C. § 9 provides that the President may prescribe such regulations as he may think fit for carrying into effect the various provisions of any Act relating to Indian affairs and for the settlement of the accounts of Indian affairs.

43 U.S.C. § 1457 provides that the Secretary of the Interior is charged with the supervision of public business relating to certain following subjects and agencies therein stated included in which is the subject of Indians.

These statutes are totally unrelated to any rights, duties or responsibilities between plaintiff and the defendants in this case.

33 U.S.C. § 1151 pertains to the Congressional declaration of policy in controlling water pollution and the right of States to waters.

33 U.S.C. § 1162 relates to the control of pollution by hazardous substances, and authorizes the President to promulgate rules and regulations designating hazardous substances and to recommend methods and means for the removal of such substances.

These statutes are unrelated to the defendants and the proof in this case.

48 U.S.C. § 537, as amended August 2, 1956, C. 891 § 1(a)-(d), 70 Stat. 954, 43 U.S.C. § 270-1, authorizes the making of homestead allotments to native Indians, Aleuts, or Eskimos.

28 U.S.C.A. § 1353, provides that the District Courts shall have original jurisdiction of any civil action involving the right of any person, in whole or in part of Indian blood or descent, to any allotment of land under any Act of Congress or treaty. The complaint demonstrates that it does not seek relief on behalf of plaintiff or its members as persons who have been excluded from an allotment or have been excluded from or are entitled to possession of a parcel of land. The statutes cited by plaintiff are obviously intended to provide relief to Aleuts entitled to possession of allotments and similar interests. The cases and statutory law have ascribed to the word "allotment" a well recognized meaning. The nature of the interest asserted by plaintiff does not resemble that described in the statutes. *See* Affiliated Ute Citizens of State of Utah v. United States, 431 F.2d 1349 (10th Cir. 1970).

28 U.S.C. § 1331 provides in part that District Courts shall have original jurisdiction of all civil actions wherein the matter in controversy exceeds the sum or value of $10,000 exclusive of interest and costs, and arises under the Constitution, laws, or treaties of the United States. A federal question is presented only where the correct decision in a case depends upon the construction or interpretation of the Constitution, treaties or laws of the United States, or on the validity of a statute or treaty. Otherwise stated, to bring a case within a statute, a right or immunity created by the Constitution, treaties or laws of the United States must be an element, and an essential one, of the plaintiff's cause of action. The right or immunity must be such that it will be supported if the Constitution, treaties or laws of the United States are given one construction or interpretation, and defeated if they receive another. It is doubtful on the pleadings in this case whether there is any dispute between the parties as to the meaning of any provision of the Constitution or the laws or treaties of the United States. This is essential to federal question jurisdiction.

Paragraph 1 of plaintiff's complaint alleges that this action was brought specifically to prevent the detonation of a nuclear device termed CANNIKIN on Amchitka Island, Alaska, in accordance with the rights, title and interest of the plaintiffs. All other Constitutional questions sought to be raised are incidental to this purpose. Under these circumstances the case cannot be said to "arise" under the Constitution, laws or treaties of the United States. The fact that it may be necessary in the course of litigation to construe or apply provisions of the Constitution, laws or treaties of the United States is not sufficient to give application to 28 U.S.C. § 1331. *See* Pierre v. Jordan, 333 F.2d 951 (9th Cir. 1964); Walker v. Bank of America, 268 F.2d 16 (9th Cir. 1959), Beistline v. City of San Diego, 256 F.2d 421 (9th Cir. 1958); Marshall v. Desert Properties Co., 103 F.2d 551 (9th Cir. 1939).

Plaintiff asserts jurisdiction under 28 U.S.C. § 1343 dealing with civil rights and elective franchise. However, no claim under the Civil Rights Act has been alleged or proved by plaintiff. *See* Hoffman v. Holden, 268 F.2d 280 (9th Cir. 1959).

This action was brought specifically to prevent the detonation of CANNIKIN on Amchitka Island: The Civil Rights Act contemplates that the prime objective of suits brought thereunder is to redress the deprivation of any right, privilege or immunity secured by the Constitution and laws of the United States. Where there is some other principal objective of the litigation, and the deprivation of Constitutional rights is asserted only as a means of achieving that objective, the subject matter is not cognizable under the Civil Rights Act, and District Court jurisdiction thereunder is lacking. *See* Pierre v. Jordan, *supra.*

28 U.S.C. § 1361 provides that the District Court shall have original jurisdiction of any action in the nature of mandamus to compel an officer or employee of the United States or any agency thereof to perform a duty owed to the plaintiff. Again, plaintiff fails to relate this assertion of jurisdiction to the facts and proof in the case.

Mandamus is an extraordinary remedial device that may issue only when the claim for relief is clear and certain, and the duty of the officer involved is ministerial, plainly defined, and preemptory. Plaintiff has not alleged or proved facts that would justify the granting of mandamus and the court is without jurisdiction under 28 U.S.C. § 1361.

In the memorandum of decision and order entered in this case on October 8, 1971, the court stated: "Accordingly, there is little information before the court as to the membership of the Aleut League, the class it purportedly represents, the location of the various members of the class from Amchitka Island, whether they have been notified and consented to this action and their being represented by plaintiff. The lack of this and other information makes it at least questionable as to who the proper parties are."

The court then and now has insufficient information to enable it to make a reasoned determination as to whether 1) a class exists, 2) the class is so numerous that joinder of all members is impracticable, 3) whether the claims or defense of the representative parties are typical of the claims or defenses of the class, 5) whether the representative parties will fairly and adequately protect the interests of the class, and 6) whether the party or parties opposing the class has acted or refused to act on grounds generally applicable to the class, thereby making appropriate final injunctive relief or corresponding declaratory relief with respect to the class as a whole.

In plaintiff's post-hearing brief, it asserts that the Administrative Procedure Act requires that, in making the determinations necessary under the Act the "whole record" be reviewed. However, 5 U.S.C. § 706 provides in part that in making the determinations enumerated therein, the court shall review the whole record *or those parts of it cited by a party*. (Underlining supplied).

Plaintiff further asserts that although it is AEC's responsibility to obtain and set forth the opposing scientific views, citing 42 U.S.C. 4332, and, otherwise to file the whole record or at least that portion of the Administrative record which directly pertains to the proposal to detonate CANNIKIN, all elements of the record which have been filed to date are conclusions supporting the AEC decision. 42 U.S.C. § 4332 requires only that "prior to making any detailed statement, the responsible federal official shall consult with and obtain the comments of any Federal agency which has jurisdiction by law or special expertise with respect to any environmental impact involved. Copies of such statement and the comments and views of the appropriate Federal, State and local agencies, which are authorized to develop and enforce environmental standards, shall be made available to the President, the Council on Environmental Quality, and to the public, as provided by Section 552 of Title 5, and shall accompany the proposal through the existing agency review processes," AEC has strictly complied with this requirement of the law.

Plaintiff further suggests that on the basis of press reports, the recent decision in *The Committee for Nuclear Responsibility, Inc.*, v. *Seaborg*, No. 71-1732 (D.C. Cir. October 5, 1971); and *Mink* v. *Environmental Protection Agency*, No. 71-1708 (D.C. Cir. October 15, 1971), the court should enter an immediate order requiring the defendants to file the remaining portions of the record before the AEC, including those documents in issue in the *Mink* suit, which can be inspected *in camera*, and any and all other studies or reports of other Federal agencies relating to CANNIKIN.

In case No. 71-1732, *supra*, plaintiff commenced discovery proceedings in an attempt to establish the deficiency of the Environmental Impact Statement's treatment of potential dangers of the test. They were precluded from accomplishing this by the entry of summary judgment in favor of the defendant.

In case No. 71-1708, *supra*, suit was brought by 33 members of Congress under the Freedom of Information Act (FOIA), 5 U.S.C. § 552, to obtain several documents pertaining to CANNIKIN. The district court declined to compel disclosure of the requested documents on the ground that they were exempted by the express provisions of FOIA. The circuit court directed that the documents be produced for *in camera* inspection by the district court and for such further proceedings as might then be indicated.

In the case before this court, the record does not reflect that plaintiff has initiated any discovery procedures. The record does not indicate that plaintiff has at any time requested and been refused documents available under the provisions of 5 U.S.C. § 552. Subsection (a)(3) of the Act provides:

"(3) Except with respect to the records made available under paragraphs (1) and (2) of this subsection, each agency, on request for identifiable records made in accordance with published rules stating the time, place, fees to the extent authorized by statute, and procedure to be followed, shall make the records promptly available to any person. On complaint, the district court of the United States in the district in which the complainant resides, or has his principal place of business, or in which the agency records are situated, has jurisdiction to enjoin the agency from withholding agency records and to order the production of any agency records improperly withheld from the complainant. In such a case the court shall determine the matter de novo and the burden is on the agency to sustain its action. In the event of noncompliance with the order of the court, the district court may punish for contempt the responsible employee, and in the case of a uniformed service, the responsible member. Except as to causes the court considers of greater importance, proceedings before the district court, as authorized by this paragraph, take precedence on the docket over all other causes and shall be assigned for hearing and trial at the earliest practicable date and expedited in every way."

Unless plaintiff takes steps to comply with the requirements of the foregoing Act, the court is without jurisdiction to consider the suggestions contained in its post-trial brief.

5 U.S.C. § 702 provides that a person suffering legal wrong because of agency action, or adversely affected or aggrieved by agency action within the meaning of a relevant statute, is entitled to judicial review thereof.

42 U.S.C. § 2231 provides in pertinent part that the provisions of the Administrative Procedure Act shall apply to all agency action taken under this chapter, and the terms "agency" and "agency action" shall have the meaning specified in the Administrative Procedure Act.

In *Elv.* v. *Velde*, 321 F. Supp. 1088 (D. Va. 1971), the court held that the National Environmental Policy Act, 42 U.S.C. § 4321, 4331 *et seq.*, were relevant statutes within the meaning of 5 U.S.C. § 702 and that the plaintiff's interest came within those sought to be protected by the Act.[1]

The court having considered the testimony of the witnesses called by the respective parties, all documents and exhibits admitted in evidence, the briefs and arguments of counsel, and being fully advised in the premises, now makes and enters the following:

FINDINGS OF FACT

1. The National Environmental Policy Act is a relevant statute within the meaning of the Administrative Procedure Act.

2. The agency action to be reviewed by the court under 5 U.S.C.A. § 706(2) and 42 U.S.C. § 2231, is the decision by the AEC to conduct the detonation of the underground nuclear explosion code-named CANNIKEN on Amchitka Island, Alaska.

3. Executive Order 1733, issued by President Taft in 1913, which designated that part of the Aleutian Chain which includes Amchitka as a wildlife preserve, specifically provided that "The establishment of this reservation shall not interfere with the use of the Islands for . . . military . . . purposes."

4. The Atomic Energy Commission, hereinafter referred to as AEC, is an agency of the United States Government, created by Act of Congress, 60 Stat. 756, 42 U.S.C. § 2031, and is authorized by laws of the United States to conduct tests of and research into nuclear weapons.

5. 42 U.S.C.A § 2121 entitled "Authority of Commission—Research and development; production of atomic weapons", provides:

"(a) The Commission is authorized to—

(1) conduct experiements and do research and development work in the military application of atomic energy; and

(2) engage in the production of atomic weapons, or atomic weapon parts, except that such activities shall be carried on only to the extent that the express consent and direction of the President of the United States has been obtained, which consent and direction shall be obtained at least once each year."

6. On August 5, 1963, representatives of the United States, United Kingdom, and Union of Soviet Socialist Republics, signed a treaty prohibiting nuclear explosive tests in the atmosphere, outer space and under water, but permitted certain underground nuclear explosions. The United States Senate gave its advice and consent to the ratification of the Limited Test Ban Treaty on September 24, 1963.

7. Since 1963, the AEC has maintained an active underground nuclear testing program in southern Nevada. The primary purpose of the program is to test and evaluate nuclear weapons concepts as needed to meet the requirements of national security.

8. In October of 1965, Long Shot, a Department of Defense-sponsored underground nuclear test was carried out at Amchitka. Bioenvironmental surveys were done.

9. In June 1966, the Department of Defense requested the AEC to develop a warhead for a proposed antiballistic missile system.

10. In 1966, it appeared that the Department of Defense would soon ask the AEC to design a nuclear explosive of yields larger than could be safely tested at the existing Nevada test site, the limitations there being the ground motion and its effect on high-rise buildings in Las Vegas. The AEC's Nevada operations office and its contractor in the weapons laboratory (Los Alamos Scientific Laboratory, Lawrence Radiation Laboratory, and Sandia Laboratories) began to look for supplemental test sites. The basic criteria were that the sites have geology proper for the proposed tests and for containment of resulting radioactivity and that the sites be sufficiently remote to give reasonable assurance of safety.

11. For this reason, the AEC caused an extensive search to be conducted for a suitable site for high yield tests. Sites at Red Desert, Wyoming; Desert Valley, Nevada; San Augustine Plains, New Mexico; Kaiparowits Plateau, Utah, Fortification Range, Ne-

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[1] The court notes the possibility that a different result might be reached on the record in the present case where, 1) the decision to use Amchitka Island as a site for high yield nuclear experiments and tests was requested by AEC and approved by the President in December of 1966 and preparations and planning for the CANNIKIN test were commenced in 1966, more than three years prior to January 1, 1970, the effective date of NEPA, and thereafter continued to the present date. and 2) the proof before the court establishes the CANNIKIN test will not significantly affect the quality of the human environment. *See* Pennsylvania Environmental Council, Inc. v. Bartlett, 315 F. Supp. 233 (D. Pa. 1970); Investment Syndicate, Inc. v. Richmond, 318 F. Supp. 1030 (D. Ore. 1970); Brooks *v.* Volpe, 319 F. Supp. 90 (D. Wash. 1970).

vada; Steens Mountain, Oregon; Hualapai Mountains, Arizona; Paradox Base, Utah-Colorado; White Sands, New Mexico; Davis Mountains, Texas; North Brooks Range, Alaska; Hawaiian Islands; Black Rosk Desert, Nevada; Yuma-Tule Area, Arizona; San Juan Basin, New Mexico; Hyco Range, Nevada; Pancake Range, Nevada; Panamint Valley, California; Oyhee County, Idaho, Jenez Mountains, New Mexico; Delaware Basin, New Mexico; Amchitka, Alaska; Christmas Island (British); and Western Australia, were seriously studied and considered by AEC.

12. The sites recommended and the problems related thereto were:

Amchitka, uncertain geology, ecology, weather, cost.

Central Nevada, ground water, ground shock (Yield limitation).

North Brooks Range, uncertain geology, caribou, lichen, time, costs.

Christmas Island, foreign.

Western Australia, foreign.

13. Of the locations considered, it was found that the island of Amchitka best satisfied the requirements for the tests involved. It is not a large island, and is remote, situated about 1400 miles southwesterly along the Aleutian Chain from Anchorage. While there are small populated areas closer to Amchitka, in no instance are they so close that the nuclear test being planned would endanger people or create a hazard to structures. Amchitka Island is also accessible by sea and air at all times of the year.

14. The geologic properties of Amchitka Island were proper for deep hole drilling and containment of the underground experiments, and finally, both the cost of conducting tests at Amchitka and the time required to prepare and execute those tests would be much less than would be required for operations in the more remote northern slopes of the Brooks Range in Alaska. While the Amchitka climate is generally unpleasant, it is not severe. On the other hand, the climate at an alternative site on the northern Brooks Range is so extreme that necessary operations would have been exceedingly difficult and slow.

15. Before seeking Presidential approval to use Amchitka Island for the conduct of high yield tests, the AEC consulted various interested federal departments and agencies, including the Department of the Interior. Presidential authorization to proceed with an initial survey of Amchitka Island as a possible supplemental test site was received in August 1966. Planning for operations at Amchitka was also coordinated with the State of Alaska, initially in 1966, and subsequently as plans were developed.

16. After the completion and review of the 1966 study and survey, and after consulting with the Secretary of the Interior, AEC requested permission to use Amchitka Island to conduct the tests necessary to develop the Department of Defense proposed warhead. This authority from the President was received in December 1966.

17. Although preparations for the CANNIKIN test began in 1966, more than three years prior to January 1, 1970, the effective date of the National Environmental Act of 1969, environmental matters and factors were of major importance during the consideration of all phases in the planning and preparations for the contemplated test.

18. By January of 1967, work had commenced and people and equipment began arriving in Amchitka. Actual drilling work started by March 1967, even though the camps, roads and facilities were not then fully completed.

19. As a part of its preparation for the CANNIKIN test, the AEC conducted a calibration test of about one megaton, code-named MILROW, on October 2, 1969, to collect data concerning the physical and biological effects of a high yield underground explosion upon the Amchitka environment, and to provide an experimental basis for prediction of CANNIKIN effects to supplement the theoretical predictions. The results of the MILROW test coincided closely with the predictions, and provided valuable information and evidence that the CANNIKIN test can be fired safely and without important impact on the environment.

20. CANNIKIN is the code-name used to designate a nuclear test of experiment planned to be conducted on Amchitka Island, Alaska in the fall of 1971. CANNIKIN entails the site preparation, detonation and monitoring of an explosive device approximately 6,000 feet beneath the surface of the island. CANNIKIN is the culmination of approximately four or five years of intensive preparation and planning by the AEC. The need for the CANNIKIN test is vital to the development of the United States weapons program.

21. The AEC is required under the Atomic Energy Act to take all necessary measures to protect the public health and safety in connection with all United States nuclear detonations. In meeting its responsibilities, it has conducted numerous studies and reviews to enable it reliably to predict the effects of nuclear detonations on the safety of persons and property. A detailed recitation of the deliberately repetitive review process developed by the AEC to insure safety in connection with nuclear operations is set forth in the publication entitled "Nuclear Discussions of Off-Site Safety Programs for Underground Nuclear Detonations" (NVO—40, REV. No. 2, May, 1969), which summarizes the extensive technical studies pertaining to effects of nuclear detonations on public health and safety.

22. Safety studies undertaken specifically in connection with AEC's operations associated with the development of the Spartan warhead were begun as early as 1966, and continued until the present day. These studies were conducted by the AEC with extensive participation from outside the AEC itself. Public hearings on the safety and environmental impact aspects of the CANNIKIN test were held in Juneau, Alaska on May 26, 1971, and in Anchorage, Alaska on May 28–29, 1971. The safety studies, as well as the predictions of the expected effects of the CANNIKIN test, are summarized in the CANNIKIN environmental statement, Defendants' Exhibit No. 2 and Defendants' Exhibit No. 3 through No. 16, all of which are available to the public.

23. The selection of Amchitka as the test site for underground nuclear testing in 1966 and all matters relating to the preparation and development of the site and testing program were widely publicized throughout Alaska, and those matters, as well as the fact that preparations were being made for a higher yield underground explosion on Amchitka Island, have been matters of common knowledge throughout Alaska, including the Aleutian Islands, for the past several years.

24. Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the AEC issued a draft environment statement on CANNIKIN on June 17, 1970. This statement was prepared and transmitted in accordance with the interim guidelines of the Council on Environmental Quality and implementing AEC regulations to appropriate federal agencies having jurisdiction by law or special expertise with respect to environmental impact, and to State and local agencies authorized to develop and enforce environmental standards. Notice of public availability of the statement was published in the *Federal Register* on June 20, 1970. Copies of the draft environment statement on the CANNIKIN test were in 1970 sent to the Governor of the State of Alaska, Senator Mike Gravel, and to the Honorable Carl Moses, president of the Aleut Indian League, and to over 300 individual requesters. All comments received by the AEC on the draft statement were taken into consideration during the preparation of the final environmental statement on the draft. Comments submitted to the AEC by federal, State and local agencies were included in the final statement.

25. The final "Environment Statement—CANNIKIN" was submitted to the Council on Environmental Quality on June 23, 1971. Copies of the statement were also sent to all groups and individuals listed in Exhibit 17, among others, including the Joint Committee on Atomic Energy and the Appropriations Committee of both the Senate and House of Representatives. Copies of the transcript of the public hearings referred to in paragraph 22 were also sent to the Joint Committee on Atomic Energy, the Undersecretary's Committee of the National Security Council, and the Council on Environmental Quality, among others.

26. The Environmental Statement CANNIKIN, June 1971, contains a detailed statement of R. E. Hollingsworth, General Manager and responsible official of the United States Atomic Energy Commission, setting forth—

1. the environmental impact of the proposed action.
2. the adverse environmental effects which cannot be avoided should the proposal be implemented,
3. alternatives to the proposed action,
4. the relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity,
5. any irreversible and irretrievable commitment of resources which would be involved in the proposed action should it be implemented.

27. AEC has used all practicable means, and to the fullest extent possible, consistent with other essential considerations of national policy has fully and in good faith complied with the requirements of NEPA and the guidelines issued by the Council on Environmental Quality.

28. The AEC has acted and is acting within the scope of its authority. The final agency action or decision by AEC, now being challenged, was based on a consideration of all relevant factors and in accordance with the necessary procedural requirements. There has been no error of judgment on the part of AEC and its final decision is not arbitrary, capricious, an abuse of discretion or otherwise not in accordance with law.

29. The court finds that the final Environmental Statement CANNIKIN prepared and submitted by the AEC in June 1971, which forms a part of the record in this case, is sufficient in detail, adequate in scope of coverage, and satisfies the requirements of NEPA and the guidelines supplementing that Act issued by the Council on Environmental Quality. That AEC in preparing and planning for the CANNIKIN test, has complied with the provisions of NEPA and all relevant laws and treaties related thereto, and has not acted or threatened to act beyond the scope of its authority or in abuse of its discretion or to engage in any unauthorized or illegal actions.

From the foregoing facts, the court makes and enters the following:

CONCLUSION OF LAW

1. Plaintiff has failed to prove by a preponderance of the evidence the claims alleged in Courts 1, 3 and 4 of the complaint and the same should be dismissed.

2. The court has jurisdiction under 5 U.S.C. § 706(2) and 42 U.S.C. § 2231, to re-

view the final agency action taken by the AEC to conduct the detenation of CANNIKIN on Amchitka Island, and to review the sufficiency of the final Environmental Statement—CANNIKIN, June 1971.

3. The AEC has at all times acted and is acting within the scope of its authority. The final agency action or decision by AEC, now being challenged, was based on a consideration of all relevant factors and in accordance with the necessary procedural requirements. There has been no error of judgment on the part of AEC and its final decision is not arbitrary, capricious, an abuse of discretion or otherwise not in accordance with the law.

4. The court finds thatthe final Environmental Statement—CANNIKIN, prepared and submitted by the AEC in June 1971, which forms a part of the record in this case, is sufficient in detail, adequate in scope of coverage, and satisfies the requirements of NEPA and the guidelines supplementing that Act issued by the Council on Environmental Quality. The AEC in preparing and planning for the CANNIKIN test, has complied with the provisions of NEPA and all relevant laws and treaties related thereto, and has not acted or threatened to act beyond the scope of its authority or in abuse of its discretion or to engage in any unauthorized or illegal actions.

5. Plaintiff has failed to prove by a preponderance of the evidence the allegations set forth in its second claim, and the same should be dismissed.

Let judgment be entered accordingly.

THE ECONOMIC FREEZE SHOULD APPLY TO GOVERNMENT, TOO

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. FINDLEY) is recognized for 5 minutes.

Mr. FINDLEY. Mr. Speaker, during this session of Congress, I have found it necessary to vote against several important pieces of legislation, including appropriations bills, which contained worthy, even badly needed programs. In each case, the decision was not made lightly. I had to consider the consequences of not voting for a program which a sizable number of people favored.

Politically, I suppose, some of my votes may not be too helpful to my career. But in each case, I felt that there was one overriding consideration—the $40 billion deficit which our Government will run this year. This huge deficit, more than any factor, will fuel the inflationary fires that today destroy the incomes of all Americans.

Wage and price controls are fine for their psychological effect. The controls can help to bring the economy back into line. But if the Government refuses to abide by the same guidelines it sets for labor and industry, the controls will have only a cosmetic effect and cannot halt inflation.

In my opinion, the economic freeze authorized by the Congress and announced by the President, should apply equally to the Federal Government—to Government salaries and especially to Government spending. With a $40 billion deficit, it can only be said that the Government has ignored the freeze. If inflation continues, as I fear it will, the Federal Government will have only itself to blame.

Inflation is the cruelest tax of all—far worse than any other imposed upon the people by their Government. Like all other taxes, it is imposed upon the people by their Government. And, as everyone knows, taxes have been going up.

Early in May, most Americans got in the mail a delightful notice from the county treasurer—telling them what they must pay in taxes because they are property owners. As Mr. Average American tore open the envelope, he probably had a slight sinking sensation. He knew before he read the notice what the answer would be—higher taxes.

If his taxes are like they are in Pike County, Ill., my home, he is paying about $1 a day in property taxes alone. Most people pay over $300 a year. Even those who do not own property still pay taxes indirectly through rent.

Mr. Average American is married and has two children. He is salaried, and makes a little more than $9,500 a year—before taxes. Like you and me, he is burdened by a mind-boggling array of taxes.

He pays the Federal Government $1,500 income and social security taxes.

In Illinois he pays $125 in State income taxes.

He pays his local government $300 in property taxes.

And this is only the beginning. He has a multitude of other taxes to pay: sales, excise, gasoline taxes, and taxes on manufacturers by the hundreds which are of course passed on to him in the prices of the things he buys. When he buys a new car, for instance, $1 in every $4 is for taxes.

Add them all up, and Mr. Average American pays an estimated $3,000 yearly in taxes of all kinds. Think of it. That is $11.50 each working day. Every morning when he rolls out of bed to go to work he faces the task of earning $11.50 for government taxes before earning anything for himself and his family. He works nearly 2 hours 25 minutes each day just to meet this tax bill. Not many years ago, Henry Ford shocked the industrial world by announcing a minimum wage of $5 a day. Now the tax bill alone gobbles over twice that amount.

His morning already off to a bad start, Mr. Average American picks up his morning paper and reads that the national debt is now $407 billion, and that the temporary debt ceiling was just hoisted again for the 16th time since 1961—this time a record $35 billion to $430 billion. On top of all this, he is shocked to find out that even with taxes as high as they are, the Federal Government had an estimated deficit this past fiscal year of $30 billion. This year, the deficit will be even higher—$40 billion.

A little pencil work and Mr. Average American figures that his family's share of the national debt is $7,400 and that not one penny of the $11.50 a day he pays for taxes goes to pay the debt principal—just interest. The cost of handling the Federal debt has risen so high that the average American's family's share of the interest load alone is $380 a year—more than $1 a day for interest costs for the Federal debt.

By now the breakfast coffee is cold, and Mr. Average American has probably lost a lot of his zip for the day's work ahead. He shakes his head sadly, pulls his ear and moans, "We've got to do something about taxes. How can we stand any more? Where's it going to end?" His wife provides no satisfactory answer so he shuffles off to work.

By the time he has paid his Federal income taxes, his State taxes, his property taxes and has had a heart-to-heart talk with the tax assessor, he probably feels like the fellow who got through paying his income tax and immediately saw his lawyer to change his will.

He told the lawyer to state plainly in his will that he did not want a conventional funeral. He wanted to be cremated, and he wanted the undertaker to put the ashes in a box and send them to the Director of Internal Revenue with a note saying, "Now you have everything."

The Federal Government indeed taxes us heavily, but what is disturbing is the fact that each year the burden grows worse. I recently came across an old speech I gave in 1961, and noticed that the average Federal income tax collected that year came to $535 per person. I called IRS to get the figure for 1971. I was shocked to learn that today—just 10 years later—the Federal tax alone has almost doubled. It is just over $1,000. Do you believe most Americans think they are getting double their money's worth in government services over what they got 10 years ago?

Worse still is the increase in all taxes combined over the last 10 years. In that 1961 speech I reported that the average family man paid $853 yearly for taxes—about one-third as much as today.

Mr. Average American is in a pretty tight spot, is he not, having to pay all these taxes?

Yet, the cruelest tax of all, the one tax that misses no one, the one that hits hardest the elderly, the poor, and those on fixed incomes—is inflation.

Inflation is an abstract term, hard to put your finger on and to understand. But everyone knows when prices go up for the things he buys. Put simply, at the present rate, inflation currently undermines the value of our dollar at an annual rate of about 4 percent a year—and this represents an improvement over the 6 percent rate of just a year ago. Today, the dollar is worth only 73 cents compared with 10 years ago. Compared with 30 years ago, the dollar today is worth a mere 34 cents. If, at the rate recently prevailing, inflation continues for the next 10 years, a dollar saved today will be worth only 57 cents in 1981.

What does all this mean?

It means eroding bank accounts.

It means an undermined life insurance policy that, when Mr. Average American needs it, it will have sharply declined in real worth.

It means that pension payments, so essential to his retirement will buy less and less.

On a world-wide level, it means foreign countries not buying American products as we price ourselves out of the market.

The trade deficit shows this is already happening.

Inflation has already had a tremendous effect on our lives. If you were making $3,000 in 1940, to have the same buying power today, you must now make about $10,000.

In 1940 a man read an ad in a newspaper. It showed a happy couple under the palm trees, and the caption read, "How you can retire in 15 years on $150 a month."

All he had to do was buy an insurance program, and the insurance company would guarantee him and his wife a lifetime income of $150 a month.

So he bought the insurance. Ten years later, leafing through a newspaper, he saw an almost identical ad by the same company, but this time it read, "How you can retire in 15 years on $200 a month."

Fifteen years after he bought the insurance program, the year he was supposed to be able to retire comfortably under the palm trees for the rest of his life, he read another ad by the same company. The happy couple and the palm trees were the same, but the caption now read, "How you can retire on $300 a month in 15 years."

Can Mr. Average American today confidently buy a retirement program assured that it will be adequate when he retires? All he can do is buy the best he can afford with today's dollars, and hope that the inflated annuity dollars that come later will still be big enough to keep him going.

With a dollar that is shrinking steadily every year, how can he set up an adequate estate for his family? How can he go about funding his child's education? How about pensioners? Old folks on fixed incomes? What happens to institutions with fixed endowment income?

A friend and businessman in Pittsfield, Ill., I have known and respected for 25 years wrote me this in May:

> I am concerned with increased debt, increased taxes, and the road we are traveling without taxpayers' consent. Let's start with the poor guy in the 19 percent income tax bracket. He needs a dollar for food. How much must he earn to buy that food?

He then gave me figures to show that the man must earn $1.42 just to buy a dollar's worth of food.

What has happened is that the man who plans for his family's future by saving during his productive years, often finds later that he is no better off than those who do not provide for their own future. The man who saves for his child's education may find the dollars he saved when the boy was growing up are just not enough to pay for the young man's college tuition. The money he has set aside for retirement may not be enough to allow him to quit work and retire when that day comes.

Inflation does more than undermine the value of the dollar. It also undermines the confidence of people in their society and their Government. It undermines their will to work and build for the future. When the man who saves for the future is no better off than the man who does not, inflation destroys the whole fabric of society and the very moral foundations of our country. That, truly, is the worst cost of inflation.

Wages and prices in their traditional battle to outdo each other, have skyrocketed. Recent wage settlements in steel, railroads and other major industries have provided increases of 10 percent a year over the next 3 years. Inflation is locked in. Inflation is not a joke, it is not a tiny increase each year, a healthy sign of national growth. Today it has such momentum that it threatens to wreck our entire economic structure. For when people begin to expect inflation, they build it into their long-term contracts, and thus help assure more of the very thing they wish to avoid.

And what about our Mr. Average American? Facing these depressing facts, he can find consolation in only one hope, and that is, maybe the worst is over, maybe prices will stabilize where they are.

But, look at these danger signals:

First. Despite the economic freeze and the establishment of the Wage and Price Review Boards, inflationary wage and price increases continue. Although the upper limit for raises is 5.5 percent, the first increase approved by the Wage Board was 15 percent for the coal industry—almost three times higher than the guideline. The record of the Price Commission has been similarly dismal. In the face of a 2.5 percent guideline for price increases, the Commission has approved increases as high as 4.93 percent—almost twice the permissible level. Wage and price controls so far seem to have been ignored more than they have been followed—even by the boards set up by the Government to administer them.

Second. The world monetary and trade crisis is still critical, despite all of the efforts of President Nixon and Treasury Secretary Connally. The quarter just reported has shown the worst balance-of-payments deficit in U.S. history. This year we will have a trade deficit for the first time since 1893. Trade barriers with Common Market nations have suddenly sprung up.

Nations with which we have a net balance of trade surplus complain that the 10-percent surcharge is unfair.

Worse still, our inflated dollar is becoming so overvalued in relation to other currencies that many of our friends are insisting that it be devalued.

Third. Worst of all, however, is the dangerous course the Federal Government has taken in recent years—spending far more money than it receives in taxes. More than any other factor, Government deficit spending has caused inflation.

This policy has caused the national debt to surge $120 billion in the last 10 years. The interest alone Uncle Sam must pay on this debt is $19 billion. That amounts to $1½ billion a month, or $40,000 every minute of every day. No wonder your share of it is so high. In fact, the interest on the national debt is the largest item in the Federal budget except for defense.

Is the situation hopeless? Is runaway inflation a certainty?

Of course not. We have the means to control it. We need only the will to employ them.

Price and wage disciplines are necessary. But the discipline most needed and most lacking is fiscal—Government spending policy. If we are to be successful, we must adopt a responsible Federal fiscal policy.

To control inflation we must live within our budget as a nation, and pay our bills out of current income. Keynesian economic theory—spending more than the government takes in in taxes—may make sense to theorists; but it certainly does not make political sense. Even Lord Keynes always maintained that each budget deficit must be offset with a budget surplus of equal amount in a subsequent year. But no President or Congress has been willing to produce the offsetting surpluses because of the political consequences of cutting Government spending.

We must have a stable economic foundation upon which to build a secure future. To achieve that stability will require some hard decisions. Some worthy projects will have to be delayed. It is this factor, and no other, which has caused me to vote against appropriating millions of extra dollars for some Federal programs.

But the signs all indicate it is unlikely that Government will do anything about inflation unless there is a relentless demand from the people for action. This demand must come from more than just the fringes. It must well up from the great American heartland, the middle class, the small cities and towns, from suburbia, from farmers and bankers, from small businessmen. It must ring loud and clear, and not let up until steps are taken to stop inflation.

Unfortunately, 90 percent of the letters I get ask for more Government spending, not less.

AN INCIDENT OF ENVIRONMENTAL REJECTION UNDER THE GUISE OF ENVIRONMENTAL PROTECTION

The SPEAKER pro tempore. Under a previous order of the House the gentleman from New Jersey (Mr. SANDMAN) is recognized for 15 minutes.

Mr. SANDMAN. Mr. Speaker, I consider it my duty to bring an extremely disturbing report into the Chamber today concerning an incident of environmental rejection under the guise of environmental protection.

It is an example of how the legitimate concern we all have for the quality of our environment can be exaggerated into an instrument of awesome power and backward public policy.

And I fear, Mr. Speaker, that this incident that occurred in my State of New Jersey on Wednesday is the first volley of what may become an all-out war on private property rights that could bring even the most orderly and environmentally sound developments around the Nation to a screeching halt.

Because I know these remarks will otherwise be misunderstood, I must point out for the record that I take a back seat to nobody in terms of my long personal and legislative record at both the State and Federal levels to restore and protect the quality of our environment.

At both levels of government, I have been recognized as a leader in the fight against pollution and for the orderly and ecologically sound development of our land. No Member of Congress has devoted more time in this fight than have I—even before it became fashionable. My efforts to end ocean dumping are widely known. All of the Green Acres referendums to preserve open spaces in New Jersey have had my support.

The Garden State's valuable wetlands must be protected and I have been among the leading advocates of that. In fact, one third of Cape May County, N.J., where the Anglesea project is located, is wetlands, generally referred to as the Great Meadows. The irony of it all is that the project's site occupies about five acres that would be marina area. On the opposite side of the highway is the Great Meadows comprising untold thousands of acres that is properly planned to remain in its virgin state. The city of North Wildwood, in which municipal bounds the project is located, has rigidly zoned this area for marine use. The city, because of its abnormally high cost of beach erosion protection, needs the additional $10 million of ratables involved in this project. The mayor, the council, and as far as I know, every resident in the city of North Wildwood favors this project.

We do not preserve anything when we allow a polluted stream to remain polluted. There is nothing beautiful or natural about it. To the contrary, good conservation practices include dredging in some cases to reopen up a free flow of water.

And, Mr. Speaker, we gain nothing by "leaving in its natural state" a rat-infested former city dump when private interests who own the property are willing to transform it into a beautiful marina.

New Jersey is one of those states that has gone off the deep end in some of its efforts to protect the environment. Some of the actions taken by the State have been positive and have my full support. But many other decisions and actions have not only been ill-advised, but they have been detrimental to the planned and healthy growth of a great State.

The chief executive of the State has declared a statewide moratorium against dredging. Many areas of that State should not be dredged—the great meadowlands should certainly be preserved in their natural state, cleaned up if necessary.

But how in heaven's name can it be wise in any practical sense to inflict upon an entire coastal State such a moratorium against the improvement of all lands by hydraulic dredging. It can not be.

And while such a moratorium on dredging along all 200 miles of New Jersey coastline is in effect, the Governor unveils his own scheme to convert the Hackensack meadows into the sports palace of the East.

That plan to develop the Hackensack meadows will require an exemption from the moratorium on dredging. Correspondingly, where dredging can make an improvement, other exemptions must be granted providing dredging to be done would not have any adverse effects on the surrounding environment.

In my district, Mr. Speaker, there is a terrible eyesore, commonly known as the North Wildwood city dump. It is adjacent to a lovely development where similar land was converted into beautiful houses, a shopping center, and a motel-restaurant complex, all carefully planned with all environmental considerations in mind and all overlooking the Hereford Inlet from the Atlantic Ocean. This development, known as Anglesea Beach Colony, is across the road from the world-famous Zaberers' Anglesea Inn.

The Anglesea Beach Colony Co. has already invested some $5 million into beautiful improvements on the adjacent land. This has not only beautified the area, but it has restored the land, provided homes, recreational entertainment, and convenient shopping facilities, thereby improving the economy of the entire area.

The Anglesea Beach Development Co., in May of 1971, applied for a permit from the New Jersey Natural Resources Council and produced evidence of a $10 million mortgage supporting a $10 million plan of additional construction. This would supply more than 200 winter jobs in Cape May County, where the unemployment rate reaches 16 percent seasonally, highest in the State of New Jersey.

After waiting for more than 3 months for action by the State, the company contacted me to try to help expedite a decision so that constituents who needed those 200 new jobs and hundreds of others involved in various supply and service businesses could go to work.

The plan would have transformed the ugliest part of the dump into a beautiful new marina. What was to be dredged to make the marina would not have been wetland, but merely debris from the landfill. And this substance was to be deposited on the other dry land to build it up as underfooting for the buildings to make them safe against flooding, as required by flood insurance regulations. The entire cut was to be bulkheaded and protected all of the way around. No possible sewerage problem existed because city sewerage is available. In fact, the treatment plant is close by.

In midsummer, the Federal agency involved, the Environmental Protection Agency, issued its prompt and favorable recommendation that a permit be issued for the project "with the stipulation that the dredged areas be extended to and made part of existing waters of the same or greater depths."

Continuing to flounder about on the matter through numerous monthly meetings and despite pleas from me and many others to act with dispatch, the council finally flatly rejected the entire project on Wednesday, December 8, as being detrimental to the environment.

Incredible as it is, Mr. Speaker, to this moment, not a single shred of proof or justification for the charge of any adverse environmental effects of this proposal has been presented. Not a shred.

In fact, for the third time, I traveled all the way to Trenton from the Capitol Wednesday in anticipation of some sort of decision. That final decision was voted upon Wednesday—the result was a 4-to-4 tie with only eight of the 12 council members present.

Mr. Speaker, not only is this a severe blow to the Anglesea Beach Colony, the city of North Wildwood, Cape May County, and to the thousands of tourists who would enjoy the new facilities at Anglesea every summer, it is a severe blow to the economy of my district.

Furthermore, and perhaps as important on the overall picture, yesterday's incident in New Jersey is a crushing setback to the credibility and rationality of those in whom we place trust to protect our envirnoment. This agency is entrusted with the highest authority, not only in the issuance of permits such as referred to in the Anglesea case, but it is also entrusted with the handling of riparian rights and riparian grants and other such interests as the State may have in the tidal lands throughout the State. Some of the members of this board are fully qualified for such authority. Unfortunately, others on this board are not. Consequently, in a State that has a population of 7½ million people, this board can arbitrarily stop, as it has done in the Anglesea case, billions of dollars worth of promotion and development. The New Jersey board meets only once a month. On more than half the occasions between May and December of this year, it failed to have a quorum to conduct business. It has a backlog of similar matters that, for the most part, have been untouched throughout the calendar year.

Mr. Speaker, it is time the Nation recognized that we can go overboard on any effort, just as New Jersey's council has unquestionably done on the Anglesea Beach Colony case.

To be critical of anything done in the name of the environment these days, whether right or wrong, is tantamount to heresy or even treason in the eyes of some. And it is supposed to be suicide for a politician.

But I am being critical of Wednesday's decision in Trenton. And though it may be too much to expect, I think responsible environmentalist groups and leaders should investigate this matter and join me in condemning the decision because it casts doubt on the credibility of the entire cause.

I have written a formal letter of protest in strongest possible terms to New Jersey Commissioner of Environmental Protection Richard J. Sullivan, the full text of which I ask be reproduced in full in the CONGRESSIONAL RECORD.

And finally, Mr. Speaker, I am urging all public officials at all levels of government to be alert against the possibility that for whatever reason they may have, a group of perhaps well intentioned persons might gain a foothold of such awesome power elsewhere and be legally able, in the name of protecting the environment, to bring progress of society to a standstill.

As demonstrated so cruelly in this Anglesea case in New Jersey, it is possible.

My formal letter of protest follows:

WASHINGTON, D.C.,
December 10, 1971.

Hon. RICHARD J. SULLIVAN,
Commissioner, Department of Environmental Protection, Trenton, N.J.

DEAR COMMISSIONER SULLIVAN: Enclosed herewith is a copy of an address I delivered on the Floor of the U.S. Congress today on a subject of an extremely serious nature—so serious in fact that I am alerting the entire Nation so that others might act now to prevent such an incident from ever happening in their States.

I take a back seat to nobody, anywhere in this Country, in terms of my long record of personal and legislative efforts to restore and forever protect the quality of our environment. I have fought this fight long before it was fashionable.

However, I must protest in strongest possible terms the four to four vote decision reached yesterday by New Jersey's "Natural Resource Council" in the case of the Anglesea Beach Colony in North Wildwood, N.J.

The Council's denial of Anglesea Beach Colony's development application is the most flagrant example of exaggerated harassment in the name of environmental protection that I have ever seen or heard of.

This unconscionable action vetoes the Colony's well-planned and environmentally careful $10 million transformation of an ugly, vermon-infested city dump into a beautiful place where people could live in harmony with nature.

Of course, I am extremely disappointed with the Council's unreasonable decision on the Anglesea Beach Colony case, but even more distressing is the prospect of similar decisions in the future by a Council that has assumed such awesome power.

As the person accountable for the actions of this Council, you are beseeched to take immediate and appropriate action not only to reverse the Anglesea Beach Colony decision but to prevent such unwarranted action from ever occurring again.

I want you to know that the facts of this matter are being sent to the Governors, Attorneys General, Legislative leaders and environmental officials and agencies of all 50 States plus Federal lawmakers and others to serve as an example of the danger of backward public policy.

I am reminded of the motto of one of the Nation's most constructive environmental organizations—the Sierra Club. You should paint it in foot-high letters on your Council's wall: "Not blindly against progress, but against blind progress."

Very truly yours,
CHARLES W. SANDMAN, Jr.,
Member of Congress.

LEGISLATION TO EXCLUDE PERSONNEL RECORDS OF DISTRICT OF COLUMBIA POLICE FROM PUBLIC RECORDS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland (Mr. HOGAN) is recognized for 10 minutes.

Mr. HOGAN. Mr. Speaker, I am today introducing legislation to exclude the personnel records of officers and members of the Metropolitan Police Department of the District of Columbia from public records.

In recent months the need for this legislation has become clear. I can recall at least four different occasions when the home address of a police officer has been reported in the press following an arrest or police slaying.

I would ask the question, what purpose does the publication of the police officer's home address really serve insofar as the news story is concerned?

Further, the numerous slayings of policemen around the country, as well as in the Nation's Capital, are enough of a problem with which to cope without subjecting the lives of the policeman's family to danger as well.

This information leak cannot be attributed to the Metropolitan Police Department as Police Chief Jerry Wilson has issued orders that no officer's address is to be released. Further, he has established an agreement with area newspapers by which an officer's address will not be printed.

Obviously, there are loopholes in this procedure otherwise we would not be reading the addresses of police officers and their families in news stories.

One such loophole is the existence of title 4, section 135, paragraph (3) of the District of Columbia Code which includes police personnel records in those records which are designated to be open to the public. This provides any interested party an open door for access to this information.

The bill which I am introducing today would strike police personnel records from this provision of the District of Columbia Code.

Two recent incidents spell out dramatically the problems which result from the publication of these home addresses.

Just this past weekend we read of the incident on South Capitol Street, leading into my congressional district, in which two off-duty District of Columbia policemen became involved with occupants of another automobile who opened fire on the two policemen. One of the officers was wounded by the gunmen and then dragged to his death by their automobile.

In reporting the incident, the news stories included the address of the dead policeman's nearest relatives in this area. I am told that during the course of the weekend the family was so harassed by the press that they would have moved from their home had they been able to.

The harassment is magnified one hundredfold when an arrested individual or his friends and relatives attempt to intimidate the officer's family.

Such might have been the case as the result of an incident which occurred last April 9. On that day, a Metropolitan Police officer answered a false policeman in trouble call and became the target of a premeditated ambush by two youths whom he and another officer had arrested the previous week. The police officer was able to escape the assassination attempt with minor wounds.

While he lay in the hospital under protective guard, the police officer's home address was printed in an account of the attack in one of the major Washington dailies. In this case, particularly, such a publication might have resulted in further tragedy. Is it not likely that those who set the original ambush for this officer might attempt to levy their wrath on the innocent family members of the attacked officer?

Disaster, however, was averted in that the address released was one from which the officer's family had very recently moved. Had it been correct, however, the ending might have been tragically different.

The two assailants in this case had coldly planned the officer's death, and certainly were not beyond attacking this family when their initial plan failed. The assailants remained at large for 4 days—days which were immeasurably fearladen for the members of that police officer's family.

I am hopeful, Mr. Speaker, that committee action on this bill can be taken with dispatch. It is an urgent, life-or-death, matter for the police officers and their families in the Washington metropolitan area.

Finally, Mr. Speaker, I am also preparing legislation to amend the Freedom of Information Act, Public Law 85–619, to afford the same kind of protection to Federal law enforcement officers.

I include my bill to remedy the District of Columbia situation in the RECORD at this point.

H.R. 12191

A bill to exclude the personnel records of officers and members of the Metropolitan Police Department of the District of Columbia from public records

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 389 of the Revised Statutes, relating to the District of Columbia (D.C. Code, sec. 4–135), is amended by striking out "(3),".

FOOTBALL AND TV BLACKOUTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. KEMP) is recognized for 15 minutes.

Mr. KEMP. Mr. Speaker, the growth of professional football in the last decade has led to unprecedented job opportunities, expanded fringe benefits, and a steady rise in salaries for the more than 1,400 players of the National Football League, with millions of fans enjoying the games at home and on television.

This did not come about by accident, and I have always felt that one of the great attractions of professional football is the tremendous identification that fans at the games have with football and which not only comes across in the stadiums but comes across to the millions of viewers who watch on television. I do not ever want professional football to become just a TV sport as has happened to other sports.

No phase of National Football League operations appears to be more misunderstood than the league's so-called blackout practice. Much of the current comment suggests that it is misunderstood both as a legal proposition and as a matter of business practice. The practice is nothing more than the practice of not televising locally the same games being played locally.

I would like to include in the RECORD at this point for the attention of my fellow Members of Congress the position of the National Football League with regard to this practice. As former president of the American Football League Players Association for 5 years and cofounder of the association, I always felt that there was great need for better communication between management and the players. Not only is that important but there is an even greater need for communication with Members of Congress and the public at large.

To that end, Mr. Speaker, I think this paper will be very helpful in laying to rest some of the myths about TV blackouts, this little-understood but extremely vital aspect of professional football's operation.

The article follows:

TV "BLACKOUTS" AND THE NATIONAL FOOTBALL LEAGUE

The Legalities. Although statements to the contrary are common, the blackout practice did not originate with the 1961 Congressional Act (Public Law 87-331). Nor did it acquire its legal justification under that Act. The practice has been followed by the member clubs of the League since the earliest days of television.

During the 1940's and 1950's, each NFL member club individually negotiated its own television arrangements with television interests. In 1950, one member club, acting under a guarantee of gate attendance by a TV sponsor, undertook to telecast its home games within its home territory. The decline in the club's stadium attendance (despite a championship season) was so marked that the sponsor bore a severe financial penalty. No NFL club has followed the practice of televising its home games into its home territory since.

No known principle of law requires them to do otherwise. The two clubs participating in a local football game have no more obligation to make their own entertainment event available on free home television in the area where the game is being played than do the producers of any other form of entertainment. The producers of motion pictures do not; those responsible for performances at the Kennedy Center, at the Washington Coliseum, and at the National Theater do not. The practice is wholly without antitrust implications, since it has nothing to do with competition among the member clubs of the League.

In 1951, the Department of Justice instigated a thorough court review of the NFL's television practices (see *U.S.* v. *N.F.L., et al.,* 116 F. Supp. 319 (1953)). Throughout this litigation, neither the Court nor the Department of Justice ever questioned the right of the member clubs of the NFL not to offer locally the same NFL games being played locally.[1] Indeed the Court's decree specifically provided that the clubs participating in any game could agree "that such game shall or shall not be broadcast or telecast" and on "the terms and conditions under which the rights to broadcast or telecast such games shall be sold."

In 1961, Congress enacted Public Law 87-331. This legislation was in no way directed at any phase of the National Football League's traditional "blackout" policy. The legislation had been requested by the League because it felt that team balance within the League required that each member club have equal access to television facilities and derive approximately equal revenue from television. Legislation was required for the simple reason that the earlier Court decree assumed that the NFL member clubs would continue to sell their television rights individually.[2] In enacting Public Law 87-331, Congress wanted to insure that the new joint sale authority granted to the NFL was not employed by the NFL member clubs to bring about a general reduction in their home TV programming or the transferral of their games from standard broadcast facilities to pay-TV facilities. Congress therefore added the present Section 2 of the 1961 Act. That section was intended to do nothing more than to restate the League's already established blackout rights and to confirm the member clubs' traditional practice.

Some five years after the enactment of this legislation, the NFL member clubs agreed voluntarily to waive their legally established rights with respect to *outside* game telecasts being brought into another member club's home territory when the home team was playing at home. The clubs recognized that this "modified lift" policy would have some impact on gate attendance among the weaker teams of the League. It was felt, however, that the popularity of NFL football had risen to a level where a partial relaxation of the NFL's former "blackout" policy was feasible and that home territory fans of professional football, including those who could not obtain access to tickets for the games of their home team, should be given the privilege of viewing other NFL games on Sunday. Accordingly, under the League's present practice, home territory fans today regularly have access to two other NFL telecasts when a home team is playing its game at home and to three NFL telecasts when the home team is playing away and bringing its own home game back on television into its home territory.

The "issue" therefore is not a "blackout" issue at all. The issue is simply *which* NFL game is to be televised in *which* area on what occasions. For Congress to intervene to tell the producer of a form of television entertainment when and how its programming is to be present would, to say the least, be unprecedented.

The Business Aspects of the Practice. The practice is neither arbitrary nor the product of greed. It derives from the conviction, shared by all member clubs, that television is a useful adjunct to stadium attendance but that it should not be permitted to become a substitute. The heart of professional football still rests with fans at the stadium. Professional football is determined not to follow the path of professional boxing—with contests being staged in small and half-empty arenas before vast television audiences.

Generalities about percentages of League-wide stadium capacity on any particular Sunday have no practical significance. Only a handful of NFL clubs are assured of stadium sellouts in advance of the season.[3] Most do so only rarely or do so only with respect to particular games. Many clubs achieve sellouts on an individual game basis only at the last minute through ticket sales occurring right up to the moment of kick-off. Others offer last-minute standing room where conditions permit and the demand is exceptional.

If any NFL club were to televise its home games locally, it would have to do so on the basis of a pre-determined and publicly announced policy. Good faith with its ticket-buying fans requires this. It would be the height of bad faith to solicit ticket sales and thereafter announce to the public that the game would be offered on free home TV.

If a team announced in advance a policy of televising its home games locally whenever a sellout had been achieved, the effect on ticket sales would be wholly unpredictable. Holdbacks on ticket purchases would be the order of the day, as fans attempted to predict sellout possibilities, team standing, and even weather conditions on a seasonal basis or on a game-by-game basis. Season tickets would be sharply reduced in value, as every fan would know in advance of the season that he would either be able to obtain tickets to each game on a last-minute basis or be able to view the game in the comfort of his own home.

Few clubs would want to experiment with the dramatic impact that guessing games of this character could have on gate attendance. Nor would knowledgeable stadium authorities, almost all of whom have their rental income based on a percentage of gate receipts.

The suggestion that local telecasts of home games would actually benefit the member clubs financially is a rather remarkable one. It proceeds on the assumption that the member clubs either do not understand their own business or that they are, for no rational reason, stubbornly resisting the opportunity to advance their own financial interests.

But the opposition of the member clubs to local telecasts of their home games is not limited to the potential effect on ticket sales. It is also based on the clubs' desire to preserve professional football principally as a stadium spectator sport. The clubs do not want adverse weather conditions or poor standing of the local team during the latter part of the season to result in home games being played in half-empty stadiums even where sellouts have been achieved. How many Redskins fans might have made last-minute decision not to attend the Redskins home opener with the Houston Oilers (played during and after twelve hours of steady rain) if the game had been available on local home television? Can any opponent of the League's present policy actually say? And what of the circumstances in other League cities offering a less dramatic return of the home club to its home city?

Lastly—a factor quite ignored by those pressing for mandatory home telecasts of home games—any enforced revision of the NFL's present practices would totally disrupt all phases of professional football's television planning and programming. Indeed it would be questionable whether the League could rationally conduct contract negotiations with any network on such a basis.

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[1] As might be expected, the Court and the Department were concerned solely with anticompetitive agreements among the member clubs. The Court and the Department directed their attention solely to agreements among the member clubs not to telecast *outside* games into another member club's home territory (a) when the home team was playing a game at home, and (b) when the home team was playing away but bringing its own game back on local television into its home territory. On these issues, the Court concluded that the first prohibition was entirely reasonable because of the potential impact that *outside* game telecasts might have on the home team's gate attendance but that the prohibition against outside games being brought into a member club's home territory when it was not playing a game at home was unreasonable, since the effect of such prohibition was simply to limit home territory television competition among the member clubs of the League.

[2] At that time, other sports leagues, including the then American Football League, the National Hockey League, and the National Collegiate Athletic Association, were already selling the television rights of their members jointly to networks.

[3] It is an error to assume that ticket sale conditions in Washington, D.C. are characteristic of the League at large. In most NFL cities, ticket sales increase or decrease from game to game and from season to season based on the anticipated performance of the home team, the drawing power of the visiting team, weather conditions, or other local factors. In 1970, for example, sellouts were not even achieved for all the divisional play-off games (played in home towns of one of the participating teams). One NFL Super Bowl game was not even sold out—largely because of speculation as to the possibility of a local telecast of the game.

With the expansion of the NFL to 26 teams, it no longer became feasible for the NFL clubs to limit their Sunday afternoon games to the broadcast facilities of one network. Moreover the use of a single network would have sharply curtailed the volume of professional football home telecasts previously offered to the public. Accordingly, the League now makes use of two networks on each Sunday during the NFL regular season with one network telecasting the games of the teams in the National Conference and the other network telecasting the games of the teams in the American Conference.

As an illustration, when the Redskins are playing at home, a local NBC affiliate regularly offers a directly competitive American Conference game on television and a second nationwide telecast of another NFL game usually follows (on either CBS or NBC depending on the West Coast home game schedules, time differences, and other factors). Each network also has the obligation to carry each road game of each of its own Conference teams back to the home city of the away team on a regional basis, regardless of time factors or other conflicts.

If both networks had the obligation to vary these patterns on the basis of last-minute ticket sale factors, total confusion would be produced among the networks, their local broadcasting affiliates, their network and station advertisers, and the corporation supplying the network cable facilities. Even the local TV listings would be unreliable guides. An additional game telecast would be injected into each home territory broadcast picture on the basis of factors wholly unrelated to television. This enforced third telecast would be carried on a different network and on a different broadcasting station in substitution for or in direct conflict with other game telecasts already scheduled. No television sponsor, no network, and no local broadcasting station would know in advance what cable facilities were required, what broadcast time could be offered for sale to sponsors, what the television competition for such broadcast would be, or what market coverage or audience ratings could be anticipated. Reproduction of these circumstances in twelve of the country's major metropolitan TV markets on each Sunday would transform the purchase and sale of NFL television time into an exercise in speculation.

These are among the many reasons why the NFL's present practice—which is not a "blackout" practice at all—is entirely reasonable. Even outsiders with knowledge of the facts have come to accept the full propriety of this NFL member club policy.

THE FUROR OVER PRESIDENT NIXON'S VETO OF THE EXTENSION OF THE ECONOMIC OPPORTUNITY ACT

The SPEAKER pro tempore. Under a previous order of the House the gentleman from Ohio (Mr. BROWN) is recognized for 5 minutes.

Mr. BROWN of Ohio. Mr. Speaker, the furor that has begun over President Nixon's veto of the extension of the Economic Opportunity Act gives us some indication of the priorities for the President's critics. It appears their priorities will not be good legislation based on principles well thought out in committee hearings and fully debated. Rather, the 1972 Democratic hopefuls seem to want headline-oriented bills written to win the support of powerful pressure groups—regardless of the ultimate effect on the average taxpayer.

As a supporter of both the concepts of legal services to the poor and child care, I applaud the President's courage in vetoing the poverty bill extension. I could not bring myself to support the bill that passed the House because I feel that it could not do successfully what it promised to do. And if our Nation has learned anything from recent Democratic administrations, it is that we should not promise what we cannot deliver—or would deliver so poorly that it sets the stage for wasteful scandal.

It might have been politically expedient for President Nixon to embrace this bill, laud the pressure groups that pushed it through, and herald a new day for America. After all, next year is an election year—and this program wouldn't really be rolling until after that election. But what about after that?

Instead, the President looked at this bill closely and found provisions that no responsible administration could countenance. The child care provisions should never have been included in a "poverty" program in the first place. Those provisions are aimed at plowing new ground in the education and medical care of all the Nation's youth and should have been subject to the most exhaustive study before implementation. Potentially, this vetoed bill would have set up 40,000 new offices around the nation to run a new kind of sophisticated day-care center—but the coordination would have been from Washington—not locally or at the State level. To thus ignore existing local structures in education, health, and so forth, in setting up a new $2 billion program is no way to treat 54 million younger citizens.

President Nixon has expressed his support for improving the health and education of our Nation's preschool youth. But he was clearly right to insist that it be done through decent legislation that would provide for sound administration. It now remains to be seen whether the Congress will rise to his challenge.

NATCHER—NATURALLY

The SPEAKER pro tempore. Under a previous order of the House the gentleman from Mississippi (Mr. GRIFFIN) is recognized for 5 minutes.

Mr. GRIFFIN. Mr. Speaker, the records of the Clerk of the House of Representatives disclose that Representative WILLIAM H. NATCHER has a perfect voting record.

Representative NATCHER was sworn in as a Member of Congress on January 6, 1954, and has never missed a rollcall vote since he has been a Member of the House of Representatives. During this 18-year period thousands of rollcalls have been held. A perfect voting record, Mr. Speaker, of course, is not the sole test of a good Representative, but clearly indicates that our friend, BILL NATCHER, believes that we should all stand up and be counted on each issue.

On July 16, 1963, Ralph R. Roberts, then the Clerk of the U.S. House of Representatives, directed the following letter to Representative NATCHER:

JULY 16, 1963.

Hon. WILLIAM H. NATCHER,
House of Representatives,
Washington, D.C.

DEAR MR. NATCHER: After a careful check of your voting record from the day that you were sworn in on January 6, 1954 to the present date. I hereby certify that you have never missed a Yea and Nay vote on legislation from the 83rd Congress 2nd Session through July 16, 1963 of the 88th Congress as follows:

83rd Congress 2nd session, 76 yea and nay votes.

84th Congress 1st session, 76 year and nay votes.

84th Congress 1st session, 76 yea and nay votes.

85th Congress 1st session, 100 yea and nay votes.

86th Congress 2nd session, 93 yea and nay votes.

86th Congress 1st session, 87 yea and nay votes.

86th Congress 2nd session, 93 year and nay votes.

87th Congress 1st session, 116 yea and nay votes.

87th Congress 2nd session, 124 yea and nay votes.

88th Congress to 7-16-63, 43 yea and nay votes.

Total, 891 yea and nay votes.

The above shows that you have a perfect Voting Record on Legislation. I know of no other Member who has a comparable record.

Sincerely yours,
RALPH R. ROBERTS,
Clerk, U.S. House of Representatives.

The letter directed to Representative NATCHER from the Clerk of the House, Ralph R. Roberts, includes that period from January 6, 1954, to July 16, 1963. Since that time the Clerk of the House has, at the close of each session of Congress, directed a letter to Representative NATCHER indicating that he has answered every rollcall vote. The last letter was received from W. Pat Jennings, Clerk of the U.S. House of Representatives, dated January 7, 1971, and is as follows:

JANUARY 7, 1971.

Hon. WILLIAM H. NATCHER,
U.S. House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN NATCHER: After a careful check of your voting record, I hereby certify that you were present and voting for all roll calls and were present for all quorum calls during the Second Session of the Ninety-first Congress.

With kind regards, I am
Sincerely,
W. PAT JENNINGS,
Clerk, U.S. House of Representatives.

During the first session of the 92d Congress, which is now coming to a close, BILL NATCHER has not missed a vote.

Mr. Speaker, as you know, Representative NATCHER is a member of the Committee on Appropriations, serving as chairman of the District of Columbia Budget Subcommittee; No. 2 on the subcommittee that appropriates the money for the Department of Labor and the Department of Health, Education, and Welfare, and No. 2 on the subcommittee that appropriates the money for the Department of Agriculture—Environmental and Consumer Protection.

Mr. Speaker, I commend my friend, BILL NATCHER, on this outstanding and excellent voting record.

MANKIND SERVED IN LIFE'S WORK OF DR. MARK HOLLIS

The SPEAKER pro tempore. Under a previous order of the House the gentleman from Florida (Mr. FUQUA) is recognized for 10 minutes.

Mr. FUQUA. Mr. Speaker, some men walk with giant strides.

Their lives leave an imprint for ages

to come. Such a man is Dr. Mark D. Hollis.

It seems only fitting and proper that a tribute to him should be delivered in these pages of the journal of the Congress, for Dr. Hollis is one of the great men of our time and his record of service to mankind in public health has never been excelled.

I wanted to make these remarks because of the regard I have for the Hollis family. They are distinguished and proud, and in making this tribute to Dr. Hollis here today, I want to express a note of gratitude to each of them for their contributions.

You see, Dr. Hollis was for 30 years a commissioned officer with the U.S. Public Health Service, for 15 of those years the Assistant Surgeon General of the United States.

He continues a proud tradition begun by his father, Dr. Mark D. Hollis, Sr., a medical doctor, who was a commissioned officer with the U.S. Public Health Service from 1909 until 1932, and carved out an enviable record of service in his own right. His mother's maiden name was Anne Tharpe, a music teacher.

Both parents were Georgians and there is a strong tie of love and loyalty in the family for this great State.

Four sons were born to this union.

Howell T. Hollis retired 2 years ago after a fine career of service with the athletic department of the University of Georgia.

William Mercer Hollis is a distinguished man and Mason, member of the supreme council of the Scottish Rite, a past grand master of Masons in Florida, and serves as the vice president for the Publix food chain. Might I add, a very warm personal friend.

Mark was the third of the sons, born in Buena Vista, Ga., on September 24, 1908.

Jeff F. Hollis decided on a military career, retiring as a colonel after a distinguished record which included the Battle of the Bulge in World War II.

The family moved around as the father was given new assignments. There were four high schools in four States, including a 2-year stay in China, 1910–12, when Mark was 2.

The family lost Mrs. Hollis in 1922 and the father carried on. He was a man whom his sons greatly admired and their lives are perhaps the greatest tribute that he would have wanted for remembrance.

Dr. Hollis attended the University of Georgia where he received a bachelor of science degree in civil engineering in 1931.

The University of Florida conferred a doctorate degree in 1956.

Most people, when they hear his name and know of the Public Health Service, think that he is a member of the medical profession. Rather, he is a distinguished engineer and is a member of a corp of dedicated men who serve the Nation and world in fighting disease far beyond what most people realize.

After his graduation from undergraduate school, he worked with the Rockefeller Foundation before joining the Public Health Service in 1933.

The U.S. Public Health Service at that time was the fifth of the Nation's uniformed services, a little known fact. Later the Air Force was added to that number of the Army, Navy, Marines, and Coast Guard.

The President dictates the use of the Public Health Service in wartime—President Wilson using the Service as a Corps in the Army and President Roosevelt splitting its service as the need dictated among the various services. That work was in tropical diseases, critical in the Pacific campaign, and some environmental programs.

Dr. Hollis has a basic belief that there are no failures in research. His first work with the Rockefeller Foundation was research on typhus fever in Alabama where there was a large epidemic at that time.

The cause, after much study and failure, was that this was a rat borne pestilence coming from parasites or tick feeding off of the rat. The job then became one of getting rid of the hosts.

When DDT came into being, it was found to be highly effective in controlling rats and literally ended typhus fever in military areas in the United States.

His career has been varied and exciting, working to eradicate disease and water pollution. One of his projects was the first study of what happens to sewage in waterways and the resulting pollution.

A stint in North Dakota developed the State's environmental structure from a health department of two people.

In 1938, he was assigned to Cincinnati where the Army Engineers were just beginning to build impoundments. Here the work was in developing multipurpose uses for the impounded waters, work which set the stage for such use over the Nation since that time.

Dr. Hollis left Cincinnati at the beginning of World War II to come to Washington to work in development of defense related activities.

This set the stage for a move to Atlanta to specialize in eradication of tropical diseases—vital to the war effort as tropical diseases were a major threat to our fighting forces in the Pacific.

Perhaps the man he has most admired in his professional career was the late Dr. Thomas Parran, Surgeon General of the United States. Dr. Hollis calls him one of the greatest men who ever lived and his career was greatly influenced and encouraged by Dr. Parran.

Dr. Hollis retired from the U.S. Public Health Service in 1961, with the rank of rear admiral.

For 15 years he was Assistant Surgeon General, Chief Engineer, with the rank of major general.

Since 1961, Dr. Hollis has served with the World Health Organization—first as Chief Engineer in Geneva, Switzerland, and now is retiring as Chief Engineer of the Pan American Health Organization, Washington, D.C.

In his 40 years as a public servant, Dr. Hollis has made outstanding contributions to the development of programs, both national and international, in the field of environmental engineering-science.

In essence, his philosophy has been to anticipate impending developments in technology so that the strategy of public-health practice would rely less on corrective measures applied after outbreaks of epidemics or other health-related disasters and more on the ability to predict and control the future security and well-being of a changing society.

Repeatedly, this policy found practical expression in his participation in reorienting the National Institutes of Health toward investigation of basic biological and environmental phenomena, his role in extending the center in Atlanta beyond malaria eradication to a broad program of preventing communicable diseases, and his influence in encouraging the center in Cincinnati to encompass all environmental stresses in its investigations.

His early concern with the unrestricted discharges of heavy metals, as basic biological threats, have been vindicated by recent history, and his present predictions of environmental changes, from the tropics to polar regions, now have the attentive ear of health authorities.

During the war years, Dr. Hollis directed war-related programs in tropical diseases, giving special attention to malaria, dengue, endemic typhus, and filariasis. He was a central figure in the planning and establishment of the U.S. Public Health Service's Communicable Disease Center in Atlanta, Ga., and served as its director.

In 1947, Dr. Hollis served on the three-man committee established by Surgeon General Parron to plan expanded research facilities for the National Institutes of Health. Dr. Hollis was essentially responsible for the establishment—1952—of the USPHS Robert A. Taft Engineering Center in Cincinnati, Ohio.

His major contributions have been as a developer and administrator of health-related programs, with emphasis on emerging social, political, and economic trends and on forecasting—and effecting corrective or remedial means to meet—the impacts of advancing technology.

Dr. Hollis was awarded the Distinguished Service Medal in 1961 for his work in the Public Health Service.

He is a fellow in the American Society of Civil Engineers, a founder of the American Academy of Environmental Engineers, and a member of numerous boards and commissions, both national and international.

Dr. Hollis is past president of the National Malaria Society, past president of the Water Pollution Control Federation, director of the National Sanitation Foundation, and a life member of the COA, APWA, and CSS.

In the spring of 1967, Dr. Hollis was honored by election to membership in the National Academy of Engineering and is presently serving on several NAE committees.

His numerous publications have gone beyond technical literature—including a cover article on air pollution in the U.S. News & World Report. This article, appearing in 1958, forecast the air-pollution situations we are now experiencing.

In the early 1950's, Dr. Hollis spoke out strongly about the growing significance of chemical pollutants in the environment. His views have also received coverage in other media, including the daily press, radio, and television.

Who's Who in Engineering, Who's Who in America, and Who's Who in the World are among the several publications containing biographical sketches of Dr. Hollis.

Having made so many decisions in life, Dr. Hollis is correct in his belief that the best decision he ever made was in being fortunate enough to meet a lady named Virginia Houchins, of Gaithersburg, Md., and to win her hand.

From this union came two beloved children, Mark, Jr., who teaches in the Montgomery County school system in Maryland, and a daughter, Mrs. Virginia Ann McKenzie, of Rockville, Md.

Dr. and Mrs. Hollis are the proud grandparents of Mark's daughter, Shelley, and Virginia Ann's son and daughter, Mark and Bebe.

His has been a great career. I take great pride in saluting a distinguished American and worthy representative of a truly fine family.

SHIPYARD FOLLIES

The SPEAKER pro tempore. Under a previous order of the House the gentleman from Massachusetts (Mr. BURKE) is recognized for 5 minutes.

Mr. BURKE of Massachusetts. Mr. Speaker, the following article appeared in that respected publication, the Wall Street Journal this morning. It documents many of the fears that many of the Members of this body and the other had when the decision was made to give the entire shipbuilding program of the Navy to one shipyard. As a Congressman representing the district which includes the world famous Fore River Shipyard in Quincy, Mass., I cannot help but call the attention of the American taxpayer to the gross waste and inefficiency which had resulted from this decision.

It also bothers me deeply that at the very time that the historic Fore River Shipyard is faced with the imminent possibility of closing because of a lack of orders after October of 1972, that there should be a backlog of $3 billion worth of Government contracts in one yard which is already over a year behind schedule.

Mr. Speaker, Massachusetts contributes more than its fair share of tax revenues to our Federal Government. In view of the tremendous importance of Government spending to the economy of whole areas around this country, it seems to me that some of the wealth could be spread around a little bit better, a little more equitably, and a little more efficiently than it has in this instance. The results would not only have made better economic sense, but better business sense and better sense for the security of our Nation. If the article is even remotely accurate in its reporting, then it seems to me there is every justification for Congress to look into the situation firsthand so as to avoid such extravagant mistakes again in the future.

The article follows:

[From the Wall Street Journal, Dec. 9, 1971]

SHIPBUILDING SETBACKS—DELAYS, PROBLEMS AT A NEW SHIPYARD RAISE FEARS THAT NAVY'S FLEET MODERNIZATION MAY BE DELAYED

(By Richard J. Levine)

PASCAGOULA, MISS.—The Austral Envoy is a hard-luck ship.

Still at the shipyard more than a year after it was to have been delivered, the 30,000-ton container vessel has been dogged by trouble since Litton Industries Inc. started work on it. Many of the 240 steel sections of which it is composed didn't fit quite right. After the ship was launched in June, its 520-ton deckhouse sagged nine-sixteenths of an inch; bulkheads below buckled. One of its cargo holds was too shallow. Its anchor didn't work right. The ship is three inches shorter than allowed in contractual specifications.

"I think I've seen everything *not* to do in shipbuilding done on that ship," says John MacInnes, the Federal Maritime Administration's construction representative at the Litton yard.

For months now Litton has been busily fixing those things that can be fixed. But the sorry saga of the Austral Envoy still has a lot of top Washington officials worried. For it is the first ship built at Litton's highly touted new automated "shipyard of the future" here on the Gulf Coast—a yard that has a backlog of nearly $3 billion in Navy work and a plethora of problems ranging from management turnover and manpower shortages to late deliveries and shoddy workmanship.

Unless solved quickly, these problems threaten serious financial and technical trouble for two of the biggest shipbuilding projects in Navy history. They are the building of five amphibious assault ships (known as LHAs) the size of older aircraft carriers and designed to carry combat-ready Marines, and the building of 30 fast 7,000-ton destroyers (known as DD–963s) that will replace World War II warships.

REASON TO WORRY

Setbacks on the LHA and the DD963 would surely hurt Litton, produce new congressional probes into "Pentagon mismanagement" and jeopardize the Navy's extensive plans for fleet modernization. Problems with the destroyer project would be especially embarrassing, since the Pentagon, over the strong objection of many lawmakers, insisted on building the ships at a single unproven yard in hopes of saving money.

Litton and Navy, officials maintain that the "startup problems" that plagued the Austral Envoy are rapidly being overcome and that the Navy programs are in good shape.

Rear Adm. Charles Payne, the Navy's shipbuilding supervisor in Pascagoula, says the slippage on the LHA, already a year late, "has mostly occurred" and that the DD963, slated to go into production in January 1973, is "on schedule." (In Washington, one gets a slightly different destroyer status report: Navy officials say the program is currently two months behind schedule but that this won't delay production.) And while Fred O'Green, Litton's energetic executive vice president, admits the new yard still has "a lot of problems," he insists: "We're doing just great."

Others—in Congress, the Maritime Administration, the shipbuilding industry and the Navy itself—aren't so sure. Despite recent signs of progress here, the general view among outsiders is that vastly improved management—as well as a bit of luck—will be required to get the yard "debugged" fast enough to avoid problems on the Navy work.

Sen. Margaret Chase Smith, the Maine Republican who sought the $2.1 billion destroyer contract for a home-state company, has charged that "as time goes on" the DD963 program has the earmarks of "another C5A scandal." Though there's obviously a bit of political hyperbole in that statement, a Navy insider, who believes Litton "bit off more than they can chew," is worried. "All the evidence seems to point to trouble," he reflects. "Maybe Margaret is right." Federal Maritime Administrator Andrew Gibson views the yard's start-up woes as "far more severe" than normal. "Layman or nonlayman, you have to have some concerns" about the future, he says.

CONCEPT STILL SEEMS SOUND

Significantly, the problems at the yard, known as Litton Ship Systems, haven't brought into question the basic soundness of its advanced assembly-line concept. Financed with a $130 million Mississippi state bond issue, the 18-month-old facility is radically different from conventional shipyards, where vessels are built in one piece from the bottom up.

Here, as in the most modern Swedish and Japanese yards, ships are constructed in relatively small assemblies and sub-assemblies. Already fitted with piping, electrical wiring, machinery, boilers and other equipment, these sections are then fastened together in giant "modules" that weigh thousands of tons. Finally, the modules are "mated" to form the complete ship. Litton believes the facility, designed for large-scale production, will be able to produce higher-quality ships at lower cost than conventional yards.

Thus far, however, Litton has found the new techniques easier to describe in slick, multicolor brochures than to execute. And Mr. O'Green concedes that Litton will lose a substantial amount of money on the $20 million Austral Envoy, built for Farrell Lines Inc. of New York; he won't say how much.

The main problem seems to have been people—at the top and at the bottom of the organization.

At the top, where Litton has been accused of having too many former aerospace executives, there has been considerable turnover. The president of the yard, Robert Roderick, was replaced last month by Mr. O'Green, and a general manager was named. Earlier this year two key executives in the shipbuilding program—Ellis Gardner, senior vice president, and Harry Gray, senior executive vice president—left the company.

CHANGE IN ATTITUDE

Mr. O'Green's decision to run the yard himself, at least temporarily, pleases federal officials. In the past "we tried to give them guidance but were completely ignored," says a Maritime Administration man. "Since O'-Green, the attitude of management has turned about 180 degrees."

Today Litton officials, reviewing the mistakes made on the Austral Envoy, believe they should have moved into the new modular construction techniques more gradually, building a greater portion of the ship by conventional methods. During and after a quick walkthrough inspection of the Austral Envoy Mr. O'Green and others discuss these troubles.

Many steel plates were cut too short, a major reason the sections failed to fit together smoothly. This means a lot of steel had to be scrapped and new pieces cut, adding to the cost of the ship.

Complicating the problem, some steel beams were welded in the wrong place, something one yard official blames on "inexperienced people." In some cases, others say, instructions on "work packages" weren't clearly written and proved difficult for employes to follow.

Asked about the most spectacular failure—the sagging superstructure—a vice president of the yard replies bluntly: "We just goofed." Somehow, six steel beams that help support the deckhouse were left out during construction, and the mistake wasn't discovered until too late. To correct the sag, the entire superstructure has had to be jacked up and the missing beams inserted.

"Bad engineering" and "bad castings" produced an anchor that now sits improperly in the "anchor bolster," a device designed to keep the hoisted anchor from damaging the hull when the ship is under way.

SECOND SHIP LOOKS BETTER

Most of these problems have been corrected, but there's nothing to be done about those missing three inches in length. Yet Litton officials assert it isn't much of a mistake anyway. Specifications allow shipbuilders some leeway—6.68 inches in the case of the 668-foot Austral Envoy—but the ship turned out to be nearly 10 inches short, or some three inches beyond the margin for error.

Missing inches and sagging superstructures are a thing of the past, Litton officials insist. They say quality control has been improved and the yard is benefiting from a "learning curve"—aerospace argot for experience. Indeed, independent observers confirm that a second ship (of four) being built here for Farrell is turning out a lot better.

In the long run, however, the toughest problem confronting Litton here is likely to be recruitment and retention of the large, skilled labor force required for the giant Navy projects. There now are 5,200 workers at the new yard, and plans call for expanding the work force to 12,000 by the spring of 1973, when the LHA will be well into production and the destroyers will just be starting.

It won't be easy. At the moment, the yard has 1,800 fewer employes than specified in an energetic recruitment drive. Litton attributes the shortage largely to the impact of a recent month-long strike, low pay scales under an old labor contract and inadequate housing in the Pascagoula area.

Yet officials remain optimistic, contending that a new labor pact signed early last month will prove an important asset. With the increased wages the new contract provides and the huge backlog of work, "what we're promising (prospective workers) is long-term security," says Ben Borne, vice president for industrial relations at the yard.

From management's perspective, perhaps the most important feature of the new contract is the clause allowing the company to assign work without regard to traditional craftlines. This flexibility, it's hoped, will enable Litton to make the most efficent use of the assembly-line, modular construction techniques.

As the company moves into full swing on its Navy contracts, it has another important asset—its Ingalls nuclear shipbuilding yard, just across the Pascagoula River from the new yard. Ingalls has been in business since before World War II, enjoys a good reputation for conventional shipbuilding and employs 8,500 workers.

Programs as well as workers have already shifted between the sister yards. With the Farrell Line ships way behind schedule, last May Litton moved construction of four ships for American President Lines to Ingalls. It's hoped this change will ease pressure on both Navy programs.

But there is also a drawback. The new yard will have less experience when it undertakes LHA and DD963 production, and this has not gone unnoticed within the Navy. "We're not guaranteed the mistakes (on the Farrell ships) won't recur," says Rear Adm. Nathan Sonenshein, head of the Naval Ship Systems Command in Washington. "But we're hopeful the bugs will be worked (of the yard)."

The LHA and DD963 delivery schedules are considered "damn tough"—though possible—by Litton officials.

The first LHA, whose keel was laid on Nov. 15, is due to be delivered in April 1974, 12 months late. Litton says numerous design changes and coordination problems with the Navy caused the delay. The Navy won't discuss the situation because, with a penalty clause in the contract for lateness, it will be a subject of intensive Navy-Litton negotiations next year.

Those talks will also involve the size of the government payment due Litton as a result of the Navy's decision to reduce the LHA program to five ships from nine. The cancellation cost could run as high as $109.7 million. The reason given last January for the LHA cutback was "overall Navy reductions," but the suspicion lingers that Litton's unforeseen start-up problems had something to do with the decision.

The first DD963 is scheduled for delivery in October 1974, and starting with the 10th ship Litton is obligated to deliver one destroyer a month. Navy officials are heartened by the fact that the engineering design work is, according to a key admiral, "essentially on track." Another good sign for the Navy is that Litton has let subcontracts totaling $573 million.

The current price tag for the 30 destroyers, including government-furnished equipment, is $2.71 billion, or $90.5 million apiece. The constantly rising cost of labor and material, covered by an escalation clause, will drive that up further—and late delivery would inflate the bill even more.

If this happens it won't be easy for the Navy to cut back the number of ships in the program. Under the cancellation clause, it could cost the government $335 mililon to back out of the deal for ships 10 through 30.

THE NEED FOR RECOMPUTATION

(Mr. SIKES asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SIKES. Mr. Speaker, the President of the United States has made it very clear that he wants an "all volunteer force" of active duty personnel to maintain our national security during peacetime, supplemented by a strong Reserve Force in the event that contingencies should break out which will exceed the capabilities of the Active Forces.

In other words he proposes to maintain adequate Active and Reserve Forces in the future in a zero draft environment.

Many of us have questioned the capability of the Defense Department to do this, but all of us concede that it is worth a try.

For it to succeed requires new incentives for both the Active and Reserve Forces. These incentives must be genuine and strong by motivating if they are to have an effect.

In the light of this premise, with which I believe we all must agree, I have read the President's Interagency Committee's Report to the President recommending a new retiring law with surprise bordering on shock.

Let me give you some highlights of this proposed plan.

First, I should report to you the objectives that the committee states are necessary. I quote—

> The non-disability retirement subsystem has two general objectives: management effectiveness and just treatment of members.

Under the caption of "Just Treatment" of its members the committee states—

> Provide, after many years of faithful service, some degree of financial security that is understood, guaranteed, and protected against the inroads of inflation.

Let me point out to the Members of this body that this is precisely what our forefathers in the Congress did over 100 years ago when they passed the first Military Retirement Act and included the principle of recomputation. When the Congress in concert with the Executive in 1958 and again in 1963 broke faith with the military and rescinded this law it shook military personnel and their families from stem to stern. How then can they be persuaded to assume that anything in this new plan can be accepted as "guaranteed"?

I say to the Members that the only way in which confidence can be restored in the minds and hearts of the members of the military services to the point where they can accept any kind of retirement plan as a "guarantee" is to return to the principle of recomputation.

The committee then goes on to say that there are three primary reasons for changing the retirement system. These three reasons are said to be: it is inefficient; it creates inequities among members; it has a high and increasing cost.

The charge of inefficiency is a sweeping generality not supported by facts and contradicts the University of Michigan study which was made several years ago for the Senate.

The charge that it creates inequities is true. Of course it does—but the source of the inequities created, is the elimination of recomputation from the law. A restoration of recomputation would erase these inequities at once.

As for cost, any retirement system which will be attractive will be costly. To reduce the emoluments will not only break faith again but will also reduce the attractiveness of a military career.

Now, let us look into the the DOD proposals.

The first is to increase the multiplier in computing the retired pay of older longer service retirees from 2½ percent to 3 percent for each year of service from 25 through 30 years and from 0 to 2 percent for each year of service from 31 through 35 years.

Mr. Speaker, in the course of the many years that I have spent on the Military Appropriations Subcommittee it has been my privilege to meet and to know literally hundreds of generals and admirals in the services. They are of the highest caliber and have my deep respect and admiration. Generally speaking, these men want to stay on active duty beyond their mandatory retirement dates. They want the opportunity to do so more than they want further incentive.

From the standpoint of retention needs or management effectiveness the administration proposal is invalid and serves only to place these high ranking officers on the retired list with even higher pay at the expense of the relatively junior officers and the enlisted men.

The second proposal is to reduce the retired pay of younger, shorter service retirees by an age and length of service formula which will reduce their retired pay by 2 percent per year for each year that the retiree is under the age of 60. The reduction will be lifted at age 60. The retired pay of those with less than 25 years of service will be reduced by 2 percent for each year the retiree will be under the age of 55. The reduction will be lifted at age 55.

This is a shocking proposal. The rationale for it is based upon a desire to retain military personnel past the 20-year point. This premise is false. The great majority of the officers who retire with 20 years of service are forced into retirement by the attritive provisions of the promotion laws to maintain the pyramidal structure of the officer grades in the several services.

Let us take the case of a young man who graduates from the Air Force Academy and enters into a professional career in the Air Force. At this point, he has two important incentives. The major one of course is a full career, culminating in his attaining general officer rank. The other, is the knowledge that there will be attrition and a certain percentage will be forced into retirement at the 20 and 26 year, but if this befalls him, he has a retirement income that will see him through at this critical time in his family life.

Our young man has turned in a good performance, but in the competition for selection to the grade of lieutenant colonel, he is not among the best qualified. Due to the inexorable provisions of attrition, he is forced into retirement upon completing 20 years of service.

The provisions of this new proposal will reduce his retired pay by 2 percent per year for 18 years or, by 36 percent, until he reaches the age of 60.

There are other provisions relating to the active forces which I will not take up on the floor other than to say that they are already provided for in law today.

With the all volunteer force concept a goal and the consequent reliance upon Reserves make it imperative that Reserves also be given strong incentives; yet most of the proposals for Reserves will result in lower retired pay for them due to a computation based upon pay scales in effect upon transfer to the Retired Reserve instead of when they are transferred to the retired list with pay.

The proposal also limits medical coverage of champus for Reserve retirees.

For both active and Reserve personnel pay scales for retirement purposes would be based upon the average of the highest 3 years of pay. The purpose is baldly to cut down on the amount of retired pay drawn. It could result in a lieutenant colonel retiring on the pay scale of a major.

There are some good provisions in the Reserve retirement proposals but in every respect the retired pay accruing to the reservists will be reduced.

Mr. Speaker, time prohibits me from going into all aspects of these proposals. There are those who feel in it may be termed a general's bill and an admiral's bill for they profit most by its works.

We should not attempt to reduce the retirement rights of our military to the level of either civil service or private retirement plans. They are based on entirely different requirements for service. The rigors of service life, the family separations, the overtime without pay that is constantly required, the rigid discipline, the different judicial code under which they live, the fact that they must face attrition at an early age and the overriding factor that they place their lives at the service of their country puts them in an entirely different status that demands better not equal or worse treatment.

Mr. Speaker, the security of our Nation is in the hands of its military personnel, Regular and Reserve. This money-saving crown of thorns must not be pressed down upon their brows. After the holidays I intend to offer legislation which will retain the splendid retirement system designed by our forefathers in this Congress, which has passed the tests of time for over 100 years, and return to these splendid men and women the principle of recomputation which is their right.

SOUTH AFRICA IN A CHANGING AFRICAN SCENE

(Mr. SIKES asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SIKES. Mr. Speaker, the South African Scope of November–December 1971, contained a comprehensive statement on the Republic of South Africa which tells much that is not known about the efforts of that fine country toward a better understanding with its neighbors. The article is written by Dr. C. P. Mulder, South African Minister of Information. We will do well in the United States to try to understand the objectives and efforts of this nation which has been a constant and dedicated friend of the United States. Dr. Mulder's article follows:

[From the South African Scope, November–December 1971]

SOUTH AFRICA IN A CHANGING AFRICAN SCENE

We live in a changing world and Africa is, especially since 1960, a fast-changing continent. Independence was given to many African countries. In some of these countries stability and gradual growth in different spheres, were the fruits of this step. In many other African countries the whole system collapsed, and after a period of chaos, riot and civil war, order is gradually returning. Leaders came and went—but in this whole process, Africa was adapting itself to the new changed situation.

The African continent woke up after its sleep of many centuries—the young giant was looking around in the world of the twentieth century asking himself what part he was to play. During this period of adaptation, many ideas, concepts and systems of the previous period were evaluated in the light of new circumstances. Some were totally rejected, others maintained or reformed to fit into the African concept according to the customs and demands of Africa. In many African countries this process is still continuing.

The fact of the matter is that the continent of Africa is finding its own feet and rightful place in the Third World. The nations of Africa are preparing themselves to play their part.

South Africa not only sincerely wishes them well, but also claims to be part and parcel of the awakening Africa, doing its share in its own way to assist African countries where ever possible and by guiding the nine African nations within our boundaries to full independence and sovereignty, and full participation in international affairs.

South Africa claims to be one of the first African countries to obtain full independence, after its long history of colonial government.

We in South Africa have chosen Africa as our one and only fatherland at a time when many European countries still regarded Africa as a dark and backward continent. Mr. Chairman, more than two centuries ago we accepted the names Afrikaners, and called one of our official languages, Afrikaans, in this way permanently binding ourselves in love and loyalty to the continent of Africa.

By doing this we became really and truly Africans, white Africans, more than two centuries ago. And this we still claim to be today. Africa has treated us well, and we will serve not only South Africa, but also Africa to the best of our ability.

Far from being left behind, or shunted aside, South Africa has been in the very forefront of the changing African scene. By virtue of her political stability, economic vitality and general capability, she has been able, and willing to provide the friendship, support and assistance of which many emerging African countries obviously stand in need. South Africa believes that she can make, and has already made, a valuable contribution to the development of other African states and to the peace and security of Africa.

South Africa has repeatedly stated that she is at all times prepared to help, as far as is practically possible, other African states to help themselves. She does not believe in give-aways or hand-outs or assistance with strings attached. The aid given must not impair the self-respect of the country concerned—this is the only way in which lasting, long-term development can take place in Africa.

Co-operation must be on a basis of equality; it must be based on the recognition of the sovereign independence of states. Nigeria for example, will surely and rightly not be prepared to allow South Africa to tell her how to deal with her domestic affairs. In the same way South Africa has the right to solve her problems in her own way. But still these two countries could co-operate in solving mutual problems of Africa. Only on this basis there can be constructive co-operation and true friendship between states despite possible differences in domestic policies.

Surely, the United States of America, does not agree with the domestic policies of Russia or Red China, but that does not prevent her from co-operating with Russia in the space program, or playing ping-pong in Peking. It is interesting that both President Pompidou and Mr. Heath emphasized that membership of the Common Market did not mean the disappearance of essential properties of sovereignty.

This is exactly the basis for South Africa's approach to multi-national development in South Africa itself as well as in respect of the economic inter-dependence of the states of Southern Africa. This should also form the basis for co-operation between all African countries. Israel, as you know, has made it clear that she is willing to co-operate with her neighbors, but only on condition that the Hebrew character and identity of Israel were not endangered.

The South African nation, for its part, is prepared to co-operate with its immediate and more distant, neighbors, but it is not prepared to sacrifice its political-cultural identity. We believe in self-determination of nations and equality of people. That is the reason why we are assisting the nine black nations in South Africa to achieve sovereignity and full independence. And we have gone a long way towards success. All of these nations have progressed considerably since 1959. Many black leaders have come forward to speak of the sincerity and integrity of the South African government's attempts, not only to assist them to obtain a better standard of living, but also to obtain political freedom. And may I remind you Sir, that this is all being done without any foreign aid or assistance.

We believe that these nine nations must become sovereign independent states in their own right, exactly as free as Ghana, Nigeria, or the United Kingdom, with full membership of the United Nations if they so desire. We also believe that they are entitled to maintain their own way according to their own wishes in their own geographical territories. To achieve all these ends we are not only offering them a helping hand, but are encouraging them as far as possible.

At the same time we also believe that the South African nation is similarly entitled to self-determination and the maintenance of its own identity in exactly the same way.

My Prime Minister has proved himself to be prepared to meet fair requests for greater realism in racial matters in South Africa as far as possible. We know him as a very practical man, who is prepared to face the realities of life. He has stated quite clearly that separate development is not a denial of human values, but that it flows from the acceptance of human values.

For this reason he has quite often spoken out and acted to ensure that the dignity of all people in South Africa remains intact.

He is also a courageous man who is prepared to bring about changes, if and where necessary, and even face criticism and a break away from his party, as happened in 1969, when he believes it to be in the interest of South Africa.

But, if we are asked to change certain laws and customs in South Africa—laws and customs which may be unpopular according to world opinion, but which are devised to prevent friction among the different nations and to maintain and protect the identity of the South African nation, then the world is asking too much. The reply must, and will always remain: "No, we are not prepared to sacrifice our identity as a nation in our own right, or our future, to satisfy the demands of world opinion."

It is true that for a period of time, feeling between South Africa and Black Africa was being whipped up by our enemies to an explosive pitch, and the impression created that racial tension in Africa was rising towards breaking point. And let us face facts: some of our more unscrupulous critics have quite obviously been relishing the prospect of a racial explosion. That, after all, was what they had consistently prophesied, and they were obviously not prepared to be disappointed in their expectations.

That Black Africa could display a measure of understanding of our particular situation and resultant policies instead of presenting an allout intractibility and hostility, was not apparently regarded as within the bounds of possibility. Time is proving that a racial confrontation in Southern Africa is not necessary. And the South African Government, of which I am a member, certainly does not believe it to be necessary. In fact, we have never believed that it was inevitable.

We believe that there is diversity in the unity of God's creation on earth. We believe that there are well founded differences between people, which do not make them superior or inferior to one another, but distinctly different from one another. These differences, if not guided carefully with tact and wisdom, will cause friction and may even flare up in war and bloodshed. These differences may be in religion as in India and Pakistan, or in Northern Ireland. These differences may be in language, as in Belgium, Switzerland or Canada. These differences may be in color and race as in the United States. These differences may be in culture and custom as it is found in countries like Nigeria, Somalia, Ethiopia, Kenya, and others.

These differences have nothing to do with superiority or inferiority, but they cannot be ignored. It is a plain matter of fact, to be accepted and handled with great care, diplomacy and wisdom in order to prevent friction and revolt.

In South Africa we have a combination of all the differences mentioned above, i.e., religion, language, color, race, culture and customs. It must therefore follow that South Africa has more potential for strife and friction than most countries of the world. And yet I make bold to say that very few countries can equal South Africa's record of peaceful co-existence, stability, economic growth and high standard of living for all its peoples comparatively speaking. May be that is the reason why we have to have check points on our borders, not to prevent people from breaking out, but to prevent people from illegally entering South Africa to find employment and a higher standard of living. And Sir, I have never heard of free people voluntarily trying to slip into a police state (as South Africa is often made out to be) to be suppressed and belittled. We firmly believe that in the fullness of time, common sense and rational thinking will prevail over misunderstanding, emotion and, in some cases, downright ill will.

What has encouraged us in this belief more than anything—have been the good and improving relations we have long had with the Black nations in South Africa as well as in our immediate proximity; with countries like Malawi, Swaziland, Lesotho and Botswana.

Dialogue with the Black people of South Africa takes place every day. Perhaps I must mention for example that since January of this year, full delegations of at least three Black developing nations in South Africa, went to Cape Town and had official discussions with my colleague responsible for Bantu Administration and Development, as well as with our Prime Minister. Round table conferences took place and matters of mutual interest were discussed at length. Press interviews were arranged after these meetings and Black leaders spoke out clearly on this dialogue between the South African Government and Black developing nations in our midst. Subsequently the leaders of the Vendas and the North Sothos had official discussions with the Prime Minister in June this year Mr. Wessel Mota, leader of the South Sothos at Witzieshoek, visited Pretoria to negotiate, while Chief Gatsha Buthelezi, the leader of the Zulus, who has just returned from a visit to the United States, had discussions with Mr. Vorster shortly afterwards.

According to my information Mr. Kaiser Matanzima, Chief Minister of the Transkei, Chief Lucas Mangope, leader of the Tswanas, and Chief Buthelezi of the Zulus will visit Europe later this year, and will be able to speak for themselves on the future relations between their countries and South Africa.

Political leaders from independent states such as Botswana, Swaziland, Lesotho, Republic of Malagasy, Mauritius and Malawi visited South Africa recently and fruitful discussions took place.

Our previous Prime Minister Dr. Verwoerd, started the dialogue with our neighboring Black states when he had discussions with Prime Minister Jonathan of Lesotho in September 1966. Mr. Vorster has continued and extended this practice and even paid a visit to Malawi last year. Mr. Banda will reciprocate later this year when he officially visits Pretoria as Head of State of Malawi.

These people after all know us best, and if they can see sincerity in our intentions, it is possibly just a matter of time, or of opportunity, before other states in Africa gain a more realistic insight into what we in South Africa are trying to do. Our friendship with these neighboring states has not remained purely a matter of exchanging courtesies and civilities; it has assumed in many cases a concrete form. Realising that they are developing states that have had to come to grips with various development problems, we are doing what we can to assist them.

Assistance has been given in the form of for example famine relief, supply of electricity, provision of health and welfare services, signing of trade agreements to ensure markets for agricultural produce, the planning designing and constructing of various projects, and the provision of low-interest loans, while the private sector in South Africa has been responsible for the opening of hotels, factories, plants and works, as well as the construction of railway lines and the building up of a physical infra-structure.

I can mention numerous further examples of definite assistance to these and many other African countries, but do not wish to ponder this aspect, as it may, perhaps cause embarrassment to some of these states.

The degree of economic and other co-operation between South Africa and her immediate neighboring states is far advanced. These states not only form a customs union with South Africa, but also a monetary union.

The Republic provides employment for a large percentage of their labor force, as also a ready market for their produce. Directly and indirectly they benefit from the South African infra-structure such as transport, harbors, power grid, communications, health services, industry and technology, and research institutions in virtually every field of activity.

From this secure basis of friendly relations with our immediate neighbors, we are now reaching out towards an extension of the friendly areas in Black Africa, and the past year in particular has brought significant developments.

There has been, first of all, a closer relationship with a number of these countries. Trade Missions have been exchanged and official visits were paid by leaders and ministers for the purpose of discussing the cooperation and assistance, technical and otherwise, that South Africa would be able to render.

In March this year, Dr. Muller, our Minister of Foreign Affairs, speaking on a motion in the South African Assembly approving the Government's policy of friendly relations and co-operation with other states in Africa, said that "hardly a week passed without South Africa having discussions with states in Africa."

A week or two later, our Prime Minister, Mr. John Vorster, in the course of his press conference made it clear that he would not only welcome a dialogue with Black African leaders but that such a dialogue could well include a discussion of the policy of separate development. He said:

"I will welcome the opportunity to discuss it with everybody concerned for the simple reason that more nonsense has been written and spoken about separate development than about any other subject that I know of. I will make use of the opportunity to explain what separate development is, that it is not what people think it is."

The Prime Minister has made it clear that South Africa is prepared to discuss any matter affecting peace and prosperity in Africa with other leaders in Africa on a basis of equality.

Late in April the President of the Ivory-Coast, M. Felix Hophouet-Boigny made a statement advocating direct talks with South Africa, and calling on other African leaders to follow him.

This forthright statement, taken in conjunction with views expressed by other African leaders such as Prime Minister Busia of Ghana, President Bongo of Gabon, President Banda of Malawi, President Tsiranana of Malagasy and Prime Minister Jonathan of Lesotho, signals a new attitude in Africa.

This is not to say that one should expect radical achievements in the short term. There are bound to be set-backs, disappointments, hindrances. A great deal of hard work and patience from all concerned lie ahead. Nevertheless there is good reason to believe that we are entering a new era.

I believe that the future of Africa has to be decided and determined in the first place by its own peoples; by Black and White African states.

The United Kingdom has played its part in Africa in the previous decade, and so have France, Belgium, Italy, Germany, Spain and other countries. In future most of these countries will be mainly interested observers with indirect interests while we will be direct participants.

We have a duty towards Africa, more so than towards any other continent on the globe.

To return to the general topic of South Africa playing its part in a changing Africa, which is the main theme of this address, South Africa is well equipped appreciably to assist its neighbors and other friendly states in their development. Whatever people may say about South Africa, they cannot deny its economic pre-eminence on a continent which has always battled to make its way, a continent where poverty, ignorance and disease have flourished far better than have high living standards. In South Africa, taking into consideration all the challenges and moods of an ever changing Africa, a modern technostructure has been created on, and out of, the African soil. This benefits not only the black and white nations in South Africa, but also many African nations further afield.

The facts of South Africa's economic position in Africa are well known to you. She accounts for 40 per cent of Africa's total industrial production and 45 per cent of the mineral output. She produces the bulk of the continent's steel, coal and electricity; she possesses half of all Africa's motor vehicles and telephones, and also carries half of all Africa's railway freight. Then, with a total foreign trade exceeding $2.8 billion per annum, South Africa ranks high among the world's leading trading nations.

South Africa's Foreign Trade figures for 1969 provide some very interesting reading. South Africa's imports from Africa amounted to R111,000,000 which puts Africa fifth after the United Kingdom, the United States, Western Germany and Japan, while the export figure of R255,000,000 puts Africa second only to the United Kingdom.

My country can, and will, if the goodwill and co-operation between ourselves and the rest of Africa are forthcoming, make a contribution to the continent's development and welfare.

We have, after all, already achieved for the developing nations in South Africa, excellent educational, medical, housing, transport and employment facilities and conditions.

I believe in the future of the African continent. It has the natural resources, it has gold, coal, diamonds, platinum, antimony, vanadium, chrome, asbestos, manganese, iron, copper, uranium, oil, it has vast open spaces which can be developed, it has the vegetation, the timber the water, the climate—but above all, it has the human resources, people, Black and White, who really love Africa and are prepared to play their part in developing this vast pioneering continent. Even if it took many years, Africa may well become the continent of the future.

I do think it is essential now that South Africa and Black African countries talk with one another, that we understand one another, and accept one another. Once we get to know more about one another, understanding and acceptance will follow. No doubt there are aspects on which we can criticise one another. We in South Africa do not regard ourselves as being above criticism; as a matter of fact, we have made mistakes in the past and we will make mistakes in the future, because we are human and therefore fallible.

Similarly, other nations, in Africa, and elsewhere, have policies which we feel quite able to criticise, should we feel so inclined. Negative criticism and condemnation will take us nowhere. But if we are prepared to accept one another's bona fides, we in Africa shall be well on our way towards peaceful and beneficial co-existence.

Then I think we in Africa will be able to come face to face with the real problems of our continent. Then the different ways in which different countries run thier own domestic affairs, can be regarded as relatively insignificant compared with other challenges facing Africa. Then we shall all realise that we are wasting time and energy critisizing one another, and that we should rather provide for the real needs of Africa which are better education, more health facilities, bigger economic development, improvement in the field of agriculture, further industrial expansion, better housing and improved living conditions for all.

Then we shall also realise that the real danger is communist infiltration—whether it be Russian or Red Chinese, and that we should forget our small squabbles and differences and create better understanding amongst African countries.

In the light of this, South Africa's formal offer of non-aggression pacts with African countries, proves our bona fides, and offers the possibility to form a common front to combat communist infiltration.

These are the real problems facing us in Africa, and in this gigantic project, South Africa shall try to play her humble but very essential part.

NATION LOSES AN ABLE REPORTER

(Mr. GIBBONS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. GIBBONS. Mr. Speaker, we are all saddened by the death of an able man no matter when it comes, but when a man in the middle of an active and useful life comes to an untimely end because of a cruel accident, we are deeply shocked. The loss of Frank C. Porter, The Washington Post economics and labor reporter, is deeply felt by many. I am among those, for I had the privilege of knowing Frank when he covered legislation emanating from the Ways and Means Committee. Frank had the knack of unraveling the most complicated economic issues and stating them in simple and understandable terms.

Because the Washington Post article of December 9 about Frank is not only an account of Frank's many abilities, but because it is an inspiring story of how a man makes the best use of his talents, I would like to have the article inserted in the RECORD for all Members to read.

The article follows:

NATION LOSES AN ABLE REPORTER

Frank C. Porter, 53, national labor and business reporter for The Washington Post, died yesterday at George Washington University Hospital after choking on food and falling unconscious Monday night at a downtown restaurant.

He was having a business dinner at Duke Zeibert's Restaurant when a piece of steak lodged in his throat. He was temporarily unable to breathe and never regained consciousness.

Mr. Porter was described by his colleagues and competitors and the labor, business and government officials he covered as a master of one of the most complex specialties in journalism.

"Frank Porter was a credit to his profession—a dedicated, honest, careful reporter," said AFL–CIO President George Meany. "He was a fine and decent gentleman. All of us in the trade union movement which he covered so long and so well truly mourn his death."

Secretary of Labor James D. Hodgson said, "The death of Frank Porter comes as a shock to all of us.

"He was a knowledgeable and perceptive reporter. His coverage of the labor and economic scene was characterized by objectivity and fairness. The high level of professionalism he brought to his work, combined with his gracious and considerate manner toward people he dealt with earned him the respect of all of us.

"Personally, he was sharp and incisive, without being biting or bitter. He lightened numerous press gatherings with a warm wit and humor which aptly capsulized a situation.

"Both personally and professionally, he will be missed."

Walter Heller, former president of the President's Council of Economic Advisers, said Mr. Porter's coverage of the national economic scene "was very high fidelity reporting of facts and events it was very hard to reach the essence of; he was superb."

"He came to the job without the necessary background, but he gradually enveloped the field," Heller said. "The rate of growth was tremendous. He became such a perceptive reporter and was so full of compassion and concern about the human elements of economics."

Benjamin C. Bradlee, executive editor of The Washington Post, said, "What can you say? It always sounds so trite and stupid. He was a marvelous man, a marvelous journalist, a fine reporter. You could read his stories and understands what the hell it was all about."

"He was one of the best reporters in town," said Lee M. Cohn, labor reporter for the Washington Evening Star. "I competed with him for many years, and he was always fair and friendly as well as a fine reporter.

"I think he liked the labor part of the beat more because it was a more personal sort of thing with more colorful personalities and events. But he could do anything and do it well. He earned the respect of all his colleagues and of his news sources. We're going to miss him."

Mr. Porter was born on Jan. 16, 1918, in Winchester, Mass. He was graduated from Winchester High School in 1935, attended Phillips Academy at Andover, Mass., the next year and was graduated from Amherst College in 1940.

At Amherst, he sang in the glee club, wrote for the school paper and played both defensive and offensive tackle for the football team.

After graduation, he applied for a copy boy's job at Times Magazine that then paid $15 a week. The slots were all filled, but he was able to sign in as a contributing editor at $35 a week, writing for the People, Milestone, Miscellany, Business & Finance and Books sections of the magazine until May, 1941.

His reason for leaving "Discharged because I was apparently too young and inexperienced for the job and because of imminence of military service."

In December, 1941, he enlisted in the Navy and was assigned to the first class of "90 day wonders" at Annapolis, an emergency program to produce officers for service in the war.

After two years in Washington, he was assigned to the destroyer USS Mugford. He served as communications officer and senior watch officer, surviving a kamikaze attack in the Pacific.

In 1946, he transferred to the reserves as a lieutenant commander. A civilian again, he joined the staff of the Daytona Beach, Fla., Journal and in two years covered "everything but society: editorials, movie reviews, features, substituting for telegraph and city editors."

His reason for leaving in June, 1948: "Low pay and dead-end job; wanderlust, wanted to try my hand at fiction."

He went to Peru. What became of The Novel is obscure, but while in Lima he attended the University of San Marcos for seven months and wrote the Peruvian Affairs section of La Semana, a Time-style weekly published in Arequipa. It folded after seven issues.

Mr. Porter returned to the States in 1949 and in November went to work for the Baltimore Evening Sun, where he worked as a copy-reader, general assignment reporter, feature writer, rewrite man, picture editor and dama critic.

He came to The Post on March 5, 1954. One of the reporters who worked for him while Mr. Porter was assistant city editor was Jean Belle Jones. They were married in 1957. Their children are John King Porter, 7; Laurie Wing Porter, 9; Robert Carpenter Porter, 12, and Stephen Jones Porter, 13.

Other members of the Porter household at 3702 Morrison St. NW have included a host of Latin American students, who have been tutored in English and in American customs and who tried without much success to improve Mr. Porter's Spanish.

Mr. Porter was fond of sailing with the family on their 32-foot, raked ketch, the "Long Gone."

He was a licensed pilot who managed to keep an old two-seater flying when he was making only $110 a week at the Sun.

His kidneys were donated to two recipients at Georgetown University Hospital yesterday, and his corneas to the Lions Club eye bank.

A memorial service will be held at 11 a.m. Saturday at All Saints Episcopal Church on Chevy Chase Circle. The family asks that any contributions be given to the Foreign Student Council of Washington or Amherst College, and requests no flowers.

STRIP MINING: A NATIONAL TRAGEDY

(Mr. HECHLER of West Virginia asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. HECHLER of West Virginia. Mr. Speaker, we must face up to the facts and realize that strip mining has become one of the major environmental problems of our time. Up until recently, most people have thought of strip mining as being a peculiarly Appalachian problem. Representing the largest coal-producing State in the Nation, I can sadly state that strip mining has ripped the guts out of our mountains, polluted our streams with acid and silt, uprooted our trees and forests, devastated the land, seriously disturbed or destroyed wildlife habitat, left miles of ugly high walls, ruined the water supply in many areas, and left a trail of utter despair for many honest and hard-working people. Now strip mining is a national problem, with the land being ripped up and strippable reserves available in 28 States.

It is for this reason that I insert in the Record the following article by Miss Louise Dunlap which appeared in the January 1972 issue of Not Man Apart:

Why Stripping Must Stop

(By Louise Dunlap)

Surface mining is a mineral or fuel recovery process which removes all topsoil, rock, and other strata that make up the "overburden" above the extractable deposit. Strip mining is one of five surface mining processes. The others involve open pit mining (quarry, open cast), auger mining, dredging, and hydraulic mining.

Strip mining employs two methods based on slope. Area stripping, involving a series of trenches or "box cuts", creates miles of giant washboards, and is limited to relatively flat terrain. Contour stripping is practiced on hilly and mountainous slopes, typically over 13 degrees. Contour stripping usually follows the bed along the hillside, creating massive shelves contributing to landslides. The inside of the cuts form "highwalls", often more than 100 feet high. Appalachia alone has more than 20,000 miles of these highwalls. Auger mining may follow contour mining, when the ratio of overburden to the seam becomes uneconomical. At that point, the auger bores horizontally into the seam, sometimes 200 feet into a hillside with the help of cutting heads seven feet in diameter.

STRIPPING BOOM—DEEP-MINE BUST

The coal industry, once a deep-mine industry, is fast on its way to becoming the most extensive and devastating strip mine industry in the nation. Coal first stripped around 1915 constituted 1.5 percent of total coal production in 1920. Between 1920 and 1970, total coal production rose by 6 percent, while strip mine production as a percent of the total rose by 2600 percent.

Since World War II, new technology (power shovels with capacities of up to 325 tons a bite, bulldozers with seven-foot-high blades) and unprecedented electric power generation have been key factors. Stripping is expected to have captured more than 50 percent of total coal production by the end of 1971. Electric power utilities, with a 435 percent rise in coal consumption (1946–1969), are the largest single consumer of coal.

Evidence already exists that deep mining is in competitive trouble. The National Coal Association reports that between 1969 and 1970, while stripping increased by 47,094,000 tons, a rise of 23.9 percent, deep-mine coal production slipped 2.4 percent, or 8,344,000 tons.

STRIPPING OF THE WEST

A recent Bureau of Mines open-file report indicates that strippable coal resources total about 128 billion tons, while strippable reserves approximate 45 billion tons. Total deep-mine coal reserves are estimated at 750 billion tons. Unlike most mining industries, coal has a viable choice to extract deep-mine reserves first. The real riches lie in the west, where 13 states west of the Mississippi contain 77 per cent of the total strippable reserves. Western coal, lying in thick seams, holds approximately 25.5 billion tons of the low-sulfur coal. Wyoming and Montana hold 21 billion tons of low-sulfur reserve.

ENVIRONMENTAL EFFECTS

Although the west, with its vast low-sulfur reserves, is anxiously encouraging an unprecedented coal rush, a variety of sensitive ecosystems are less likely to share in the profit.

Stripping scarred 3.2 million acres by 1965. No official cumulative count has been taken since 1965, but in 1969, the Bureau of Mines reports that 67,000 acres in 22 states were disturbed. If the federal government gives the green light to strippers, 71,000 square miles will ultimately be affected, an area the size of Pennsylvania and West Virginia combined.

Environmental damage is incurred as early as site preparation. Studies abound documenting the known damage wrought in the east. If the site was previously forested, clear-cutting is a prerequisite, other results include permanent damage to the water table by blasting, acid and mineral pollution, tension cracks, spill slippage, landslides, constant cutting-and-filling erosion cycles, siltation, loss of water retention capacities of watersheds, flash floods, reduced storm-carrying capacities of rivers, excessive silt pavements on riverbeds, loss of aquatic invertebrates, loss of oxygen, reduction in spawning, avalanches of rock and mud, houses washed down hillsides, soil sterility, exposed saline sub-soils, exposed and subsequently baked shales in lieu of topsoil, sparse vegetation—rarely consistent with surrounding ecosystem, loss of agricultural and grazing capacities of the soil, artificially induced and highly vulnerable sylvan monocultures. These are but a few of the documented effects of stripping.

SOCIAL COSTS

Social costs of strip mining, like the environmental costs, extend far beyond the aesthetic. In West Virginia, nine out of ten counties with the highest 1969–70 strip-mine production experienced population decreases of 6.25 to 29 percent; average decline, 17.6 percent. Similar population declines have been documented in Ohio and Kentucky with directly proportional relationships to increased strip mining. A study in Ohio, for example, indicates a decline of more than 50 percent in the assessed value of buildings per acre in Belmont County, as well as a decline in assessed value per acre. The Cleveland *Plain Dealer* documented that one coal company grossed $65,000 per acre, paid $17 in taxes and $300 per acre for reclamation. In many cases coal companies, when stripping is completed, either resell stripped lands at a slightly enhanced value if they have fulfilled the technical requirements of reclamation in the state, or donate the land to the locality or state, thus gaining a handsome tax advantage. The on-site and off-site environmental damage is clearly being externalized by the coal industry and passed on to the taxpayer as a social cost.

"RECLAMATION" OR CAMOUFLAGE?

Twenty-six states have enacted surface mining laws. The recently enacted Pennsylvania law is considered the most stringent, with Kentucky and West Virginia laws close behind. But, even in states with the toughest laws, stripping continues unabated, and it is exceedingly rare—certainly the exception—to find any piece of strip mined land devoted to productive use. Existing surface mining legislation has been without exception inadequate in its conception and subject to lax and ineffective enforcement. There is a lack of state land-use planning. No state engages in a systematic process by which certain lands are designated as unsuitable for strip mining and permanently set beyond the reach of strip-mining operations.

Reclamation requirements in state regulations are totally inadequate. The term "reclamation" itself is generally defined, if defined at all, as reconditioning, regrading, occasionally reseeding under an approved plan, with camouflage, not restoration, as a mark of "reclamation." State regulations focus on technical procedures rather than results.

Performance bonds in state regulations do not come near to reflecting the true costs of reclamation. Pennsylvania is the only state with a bond deposit greater than $1,000 per acre, and many states place bond requirements at $50 per acre. Officials in Pennsylvania claim that $250–$500 per acre is adequate for reclamation, but the Peabody Coal Company has testified that it is spending $8,000 to $10,000 per acre at a site in western Pennsylvania. The state of Ohio permits a stripper to substitute reclamation efforts on older stripped land to meet reclamation requirements in lieu of restoring freshly stripped lands.

Most states lack manpower and dollars to carry out even the weakest sections of the laws. Wyoming has a grand total of one inspector for all mining operations in the entire state. North Dakota has appropriated only $3,000 for two fiscal years.

Basic to any regulatory strip-mine legislation is the assumption that stripped lands can be "reclaimed." But studies and experience on a site by site basis indicate that "reclamation" typically means camouflage, or "alternate use" and that restoration to at least the original state and potential is almost non-existent. The political and economic influence of the coal industry make strict enforcement, even in states with weak legislation, improbable if not impossible.

SAFETY

A persistent argument used by opponents of a stripping ban is that miners would be deprived of the relatively greater safety of surface mines and condemned to work in more dangerous deep mines. In fact, the poor deep mine safety record is largely a product of industry negligence. The United Kingdom, with three times the deep miners of the U.S., has a fatality rate one-quarter that of the U.S. The specifically named Coal Mine Health and Safety Act of 1969, which begins "The first priority and concern of all in the coal mining industry must be the health and safety of its most precious resource—the miner," constitutes a congressional acknowledgement that deep mine operators have been remiss. Its feeble implementation—since 1971 $6.3 million in fines have been assessed by the Bureau of Mines, $5.2 million affirmed, but only $.8 million collected from violators—is continuing evidence of recalcitrance to apply existing technology that could make deep mines safe today. Why the recalcitrance? Deep mine operators are being hard-pressed by competition from cheaper strip mined coal, and cannot stay in business if they spend the money to make the mines safe. The "captive" mines owned by U.S. Steel which has a strong economic interest in avoiding interruption-causing mine fatalities, has a rate of .08 fatalities per million man hours, as compared to the national average of 1.02 per million man hours. Deep mine safety is a matter of economics. Increased strip mine competition will further impede enforcement of the 1969 Health and Safety Act.

BLACK LUNG CAN END

Dr. Lorin Kerr, Director, Department of Occupational Health, United Mine Workers of America, who has studied the relationship of black lung disease to underground coal mine dust levels, reports that 75 percent of underground coal mine dust levels are now below the limit set by law, 3 milligrams of dust per cubic meter. He estimates that 45 percent are already below the 2 milligram level, and that achievement of the 1 milligram limit would essentially wipe out black lung in one generation.

A report on Australian experiences in coal dust suppression by T. M. Clark, chief mining engineer of the Joint Coal Board of Sydney, says that by 1947 black lung compensation was threatening the economic viability of some sections of the industry. "Control measures subsequently introduced have been so successful that the medical branch of the Joint Coal Board now advises that for practical purposes no new cases of pneumoconiosis are being produced." Again, deep mine health technology exists and works. Continued strip mining cannot be justified by citing poor deep mine health records.

THE QUESTION OF JOBS

No one contends that a ban on strip mining would not create a problem of job resettlement. In 1969 approximately 22,000 men were employed in coal strip mines, and 99,000 in deep coal mines. Most strip mines employ skills that are suited to land engineering projects in general: highway construction, housing construction, public works projects—all would be sources of employment that could absorb former strip miners with little or no retraining. The increased demand for deep mine production that would result from a ban on strip mined coal would create many jobs. In 1969 the deep mine productivity average was 15.61 tons per man per day while in strip mines it was much higher, 35.71 tons per man per day. This difference in productivity means the job potential in deep mines is much greater than it is in strip mines. Most deep mines now operate on a two shift, five-day-a-week schedule. While new deep mines would be opening following a ban on stripping, during a 30-month adjustment period, a three-shift, six-day work schedule would provide an additional 150 million tons of coal annually—as well as thousands of new jobs. The Conservation Foundation estimates that 10,000 men could be absorbed by the deep mining industry following a contour strip mining ban. The long term employment potential of the mining industry will be in danger if low-employment strip mines continue to cause the closing of high-employment deep mines. Conversely, a ban on strip mining would create thousands of long term job opportunities for miners.

Another source of new employment could be projects to reclaim the abandoned strip mined lands that the Department of Interior estimates now total 922,500 acres in the Appalachian states alone. Since reclamation involves many of the same skills and equipment used in the original stripping activity, little retraining or capital investment would be required. The job question, then, is a matter of resettlement and training rather than unemployment.

WHAT CAN YOU DO

A tough legislative battle looms in Congress, with House and Senate Interior Committee action expected in early 1972. Support the Coalition Against Strip Mining in its legislative efforts by writing or visiting your Congressman and Senator.

ANOTHER EXPLOITATION OF APPALACHIA

(Mr. HECHLER of West Virginia asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. HECHLER of West Virginia. Mr. Speaker, exploration for oil and gas in eastern Kentucky has uncovered vast amounts of fuel reserves never before touched. Many of the coal companies associated with the devastating strip mine process have fallen into oil-gas ownership and will once again take advantage of the Appalachian people under the authority of the infamous broad-form deed.

With this unending race for energy sources, the same few people are getting rich and the same masses are getting nothing but devastation, trouble, and heartbreak.

For the benefit of the Members and the public in general, I insert the following article by Mr. Phil Primack which appeared in the November 22, 1971, issue of Nation:

OIL IN THE HILLS—SECOND RAPE OF APPALACHIA

(By Phil Primack)

(NOTE.—Mr. Primack works with the Mountain Eagle in Whitesburg, Ky. He also does free-lance photo-journalism in eastern Kentucky.)

Coal still reigns as monarch in eastern Kentucky, but some blood relatives are quietly moving in. Even while coal production (and injuries) continues at record levels, mostly from the cancerous spread of surface mining, exploration for oil and gas has uncovered a vast and mostly untapped fuel reservoir. In fact, a spokesman for the Kentucky Geological Survey was prompted to note, "Acre for acre, both the gas and oil deposits in eastern Kentucky are of the same order as those of the Louisiana-Texas Gulf coast."

That may be great news for a nation whose power supplies are allegedly dwindling, but for many eastern Kentucky mountaineers it means little more than a new innovation in the delivery of industrial grief. For them, the movement of gas and oil development into their hills and hollows is a near replay of history—somebody from the outside with a lot of money again wants something they're sitting on. Most mountain folks do not control their "material rights," that valuable asset so eagerly sought for "development." Those rights were signed away, usually with an "X," for pennies an acre at the turn of the century when coal company lawyers convinced mountaineers to sign the infamous "broad-form deed." Thrice upheld by the Kentucky Court of Appeals, it gave the purchaser rights to coal, oil, gas "and other minerals" and "access thereto" beneath the surface of the signer's property.

In practice, the broad-form deed cleared the way for massive destruction of the land and the people of eastern Kentucky. Over the years, small coal firms bought or leased mineral rights from the big corporations and began to machine their way through the protests and anger of landholders. "I'm sorry that that's your corn patch, buddy. But this here deed says I got access to the coal (gas, oil, brine, etc.) under it. Now kindly step aside and let my 'dozer through."

With few exceptions, those 'dozers have gone through. A few mountaineers have successfully stood them off with shotguns, but with the courts, law and, ultimately the firepower on industry's side, most people have been sufficiently intimidated to back off and let their homeland be torn apart, getting at best a token payment or pittance royalty in return.

Now, seventy or eighty years after the coal men first arrived, those same tainted documents are being used to suck out newly found oil and gas from beneath the coal. Today, a bulldozer clearing a gash up an eastern Kentucky mountain is not necessarily opening a strip mine; there's a good chance it is clearing the way for a gas transmission line—headed for somewhere like Pittsburgh with another piece of eastern Kentucky.

No one is quite certain just how much oil and gas there actually is. The only truly organized research has been made by the oil and gas firms, and they don't talk. Also, only recently have the larger, better financed firms arrived on the exploration scene.

Nevertheless, even without accurate figures, it is easy to see that a new fuel bonanza is indeed in the making. All you need to do is drive around. Elk Creek and Bull Creek, Millstone and Carcassone in Letcher County, are dotted with wells and pipelines. In Knott County, 6-inch lines run right along Ky. #80. Tanker trucks are parked in Floyd County. Throughout the mountains, occasional 100-foot columns of thick, acrid smoke mark where the excess oil in gas transmission lines is being burned off, to the rage of neighbors.

Truly extensive drilling got under way in Letcher County around 1968. In that year, according ot the annual report of the state's Department of Mines and Minerals, Letcher's oil production was 112,792 barrels. One year later, the figure had more than doubled, to 257,792 barrels. And critics of the state agency contend that, since it relies primarily on voluntary declarations by the industry, annual report figures are probably low.

The jump in oil production is the more significant because, by the industry's own accounts, most of the activity has been for natural gas, with oil an auxiliary consideration for the moment. (That has meant more than $800,000 in "secondary" income to oil and gas firms working in Letcher County alone.)

Oil and gas come up from the ground together. So a cylindrical device called a separator is attached to the well pump. It sends gas directly into the pipelines and moves the oil into large storage tanks on the drilling site. As many as six or seven of these tanks are clustered together on some hillsides; they are emptied daily.

Production figures for natural gas are harder to come by. Says the state's Gas and Oil Division. "These figures are not required to be reported to the Commonwealth of Kentucky (one reason being that the state has no severance tax whatsoever—a mild issue in this year's gubernatorial contest). It is thus necessary to turn to federal records for information. Unfortunately, these are broken down into fuel zones, in addition to states, with no further subdivision, such as counties. Nonetheless, the 1970 Minerals Yearbook of the U.S. Department of the Interior ranks Kentucky twelfth in gas production, with a gross of roughly $25 million. But how much of that derives from eastern Kentucky and how much from the more established western Kentucky field is not specified.

On this point, Kentucky West Virginia Gas Co., one of the most active firms in the mountains, supplies a clue. A company official has said that "as much as 70 to 80 per cent of gas produced in Kentucky comes from eastern Kentucky now." And, according to the Kentucky Geological Survey, total 1969 gas production in the state was 73.5 billion cubic feet.

Kentucky West Virginia has refused to designate the exact sources of its production. "We'll gladly provide area-wide statistics," an official told *The Mountain Eagle,* the Letcher County weekly which first called attention to the new fuel strike, "but not specific county figures." He explained, "We just don't want to give trade secrets away. We're not the only people in the field." There is one specific county figure: at latest report, the company paid less than $18,000 in taxes to Letcher County.

Kentucky West Virginia is not an independent firm. It is wholly owned by the Equitable Gas System, based in Pittsburgh. Equitable's president, J. T. Brown, has high hopes for his stockholders' eastern Kentucky investment. In his 1970 report, Brown mentioned an agreement between his and other firms "to explore the gas producing horizons of the company's acreage in Kentucky." An exploratory well will reach a depth of 12,500 feet, "at an estimated cost of between $550,000 and $650,000." Signal Oil and Gas, a large Los Angeles-based operation, "has the major participating interest."

The real significance of this well, as Brown noted, is that Equitable's "approximately 1 million acres in eastern Kentucky have never been drilled to this contemplated depth." He concluded with elegant understatement, "We are looking forward with interest to the results."

Further evidence of how eastern Kentucky lures the fuel conglomerates comes from the 1970 annual report of the Signal Companies. Among other things, Signal owns Mack Trucks, but despite the immense presence of those road-wrecking vehicles in the Kentucky mountains, it is another Signal subsidiary—Signal Oil and Gas—that is about to move in. Having shed some of its operations, that company, says the report, "is now able to concentrate almost exclusively on the exploration and production of crude oil and natural gas. . . ." It adds, the company in 1970 "continued to improve its acreage position in the southeastern United States—*one of the most promising areas of the country*" (my emphasis).

Within that most promising area, the Kentucky mountains figure high. "Seismic and gravity detail have been completed in Kentucky, where Signal is acquiring a 40 per cent interest in more than one million acres."

The consensus is that the real finds do lie deep, that what has been tapped thus far is the rich frosting. One Letcher County well reportedly made a 40-million-cubic-feet hit at about 7,500 feet. And up in Pike County, Signal Gas and Oil has already drilled that exploratory well to 12,500 feet. No findings have been publicly released.

Dr. Edward A. Wilson of the Geological Survey told the *Eagle* last fall: "Deep exploration in eastern Kentucky is in its infancy. But it's ready to take off." He added that he would "definitely recommend" that oil and gas firms move into the region. They're doing just that.

In many cases, though, the oil and gas operations are appearing in the form of coal companies, quietly completing the energy marketing circle. Congress and others have been alarmed of late by the trend of huge oil conglomerates to buy out coal companies and their reserves. The Senate Subcommittee on Antitrust and Monopoly, chaired by Sen. Philip Hart, conducted hearings more than a year ago to consider "Competitive Aspects of the Energy Industry." Testimony revealed the extent to which oil conglomerates have taken over coal, placing themselves in the position, admirable for them, of owning their competition. Of the nation's top ten coal companies, only two are owned independently. Nearly 20 per cent of all coal produced nationally is at present under the direct control of two oil giants, Continental and Occidental.

Even the laggard Federal Trade Commission which, after all, allowed most of the mergers in the first place, is expressing retroactive concerns. House hearings were begun in the middle of July by a Small Business Subcommittee chaired by Rep. Neal Smith (D., Iowa). Smith is continuing his investigation, probing the monopolistic impact of the conglomerates on small business.

Thus, many of the coal companies associated with eastern Kentucky's bleak history are falling into oil-gas ownership. It means that Appalachian Kentucky, abused for decades by these coal concerns, is being dragged into oil and gas exploitation without missing a scoop. It means that the same few folks are getting rich and the same many folks are losing out—once again.

Some people in the area argue that, as an industry, oil and gas is preferable to coal. Drilling is far less destructive than strip mining and it certainly presents less of an occupational hazard than does coal mining. But very few local people are employed at all by the gas-oil combines; even the scant return offered the region by pay checks for coal is absent.

Further, since the new fuel miners utilize the same infamous broad-form deeds, the private landholders still has virtually no legal or financial redress. The going rate for having a pipeline laid right through your valuable bottomland is $1 a rod—barely 6¢ a foot. If a well is actually drilled on your surface, and it hits a good strike, you may also receive a royalty payment. The catch there is how much and on what. Kentucky West Virginia claims it pays the landowner "one-eighth of the wholesale price of the gas or oil at the wellhead," but people affected report that they've been unable to get any kind of satisfactory settlement, let alone that much (wellhead quantities and values are conveniently determined by the company itself).

Joe and Susan Haynes live down on Bull Creek on the Letcher-Perry County border. Toward the end of 1968 they were approached by a lawyer for Kentucky West Virginia. "The man said they was going to drill a well on our land, and he said they had a right to do that. He promised they wouldn't bring any machinery on the place," Mrs. Haynes recalled. Since then, the Hayneses claim, their best land has been torn up by pipeline and a well, and their creek contaminated, killing some fifty hens who drank from it. "And we ain't yet received a penny," said Joe Haynes.

His wife continued: "Once, two lawyers come back and says they'd leave this paper, like it was a big deal to get our four heirs to sign it. One asked the other what the most they could pay us was, and he says '$60.' I said our boys wouldn't sign for that, for $15 apiece. I burnt the paper when they left."

After that, she said, "they didn't ask us any more," and moved onto the land. Finally, the family was offered "about $300." Joe Haynes, whose black lung prevents him from working, is incredulous that "they can stand there tellin' us that $300 is all we can get for all the damage they done here."

The gas company claims that "in 99 per cent" of their dealings they reach "satisfactory settlements," and that the Hayneses are "obstinate" exceptions. If the firm is right, the unsettled 1 per cent must be vocal far beyond their numbers, for tales of land and water damage done by oil and gas rigs abound throughout the countryside.

Of course, many people have settled and will continue to settle, just as they have with the strip miners. They need that money, and usually have no other place to get it. "My wife, she was real sick, needed that operation bad," explained one 66-year-old man who signed for $300 with the gas company. "Oh, that branch is pitiful now," he said, pointing to the water flowing in front of the house. "Been that way ever since they come in. Now it's just filled with washout from that well. Destruction, I call it. That's all it is."

As a result of gas and oil damage, as well as the continuing outrages of strip and auger mining, residents of the lower end of Letcher County have organized into the "Citizens' League to Protect the Surface Rights." Chairman Joe Begley claims "there's little difference beween those oil companies and the strippers. They both come in here tellin' us that they want somethin', and that they're gonna take it, and to hell with us."

Begley and others throughout the mountains hope that the course of the exploitation sweepstakes can be altered before the oil-gas combines get too firmly implanted, but they're not particularly optimistic. Without financial backing, and with the law and the government officials seemingly aligned against him, the average mountaineer—who more than anything else just wants to be left alone—appears to be in for it again.

PRESIDENT VETOES ECONOMIC OPPORTUNITY AMENDMENTS OF 1971

(Mr. EDWARDS of Alabama asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. EDWARDS of Alabama. Mr. Speaker, I want to commend President Nixon for his courageous decision yesterday in vetoeing the Economic Opportunity Amendments of 1971. It was a decision based on a logical and responsible concern for all Americans, not just a select few.

Of primary significance is the fact that his decision to veto this legislation was based, not on a desire to simply satisfy the needs of all Americans, but to satisfy those needs through the implementation of a sound fiscal as well as an administratively workable program—a program which would not sacrifice the spirit of family unity within our society.

Progress in these areas would be sharply curtailed were this legislation ever to be approved.

Under the language of the legislation, as it was drafted and sent to the President, there was a noticeable lack of allowances for administrative discretion, there were fiscal inconsistencies and there was a question as to public acceptance of its principles.

The President's nine specific objections, as outlined in his veto message, were consistently logical and conceived from a sincere concern for the total welfare of the Nation. They could not be considered otherwise.

The President deserves a special measure of praise for standing up against the onslaught of fiscal irresponsibility and administrative incohesiveness spelled out in the provision calling for the establishment of an adolescent dependency program.

I am completely in accord with the need for all American children to realize a healthful and stimulating upbringing. But, this can be accomplished without sacrificing our American tradition of pursuing a parent's right to supervise and care for children.

As the President stated in his veto message, "we cannot and will not ignore the challenge to do more for America's children in their all-important early years." But, we cannot do so at the risk of losing, for generations to come, the spirit of family unity which represents the cornerstone of our free society.

Mr. Speaker, if this provision should become law, I believe that the regimentation of our society which would follow would signal the downfall of a very cherished American virtue—the happiness and strength nurtured by the security of family love and unity. We must never allow such a dogmatic experience to permeate our lives or the lives of our children and our children's children.

Mr. Speaker, I applaud the President for vetoing this bill. I will vote to sustain the veto when the matter comes back to the House.

OPPOSE U.S. MILITARY INVOLVEMENT IN INDOCHINA

(Mr. FLYNT asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. FLYNT. Mr. Speaker, in the event anyone has the mistaken notion that there are no serious-minded, conservative Americans who oppose indefinite continuation of the U.S. military involvement in Indochina, I think it is well to take a look at an event which recently took place at the Georgia Institute of Technology, Atlanta, Ga.

Historically and traditionally the student body at Georgia Tech has been conservative in economic and political views. I remember the Georgia Tech participation in "Affirmation Vietnam" sponsored by a statewide student movement in Georgia in which I and, to the best of my recollection, every member of the Georgia delegation in Congress participated, and the Secretary of State of the United States was the principal speaker.

On only two occasions in recent years has the Georgia Tech student government organization turned its attention toward national political affairs.

First, in 1966, the student council voted to endorse "Affirmation Vietnam," an effort by students across Georgia to express support of the United States commitment in Vietnam at that time.

Second, on December 10, 1971, I received a letter from Mr. Chris Bagby, student body president, advising me that the student council at Georgia Tech has voted to a resolution expressing opposition to the war in Vietnam on an "out now" basis along with a request for immediate withdrawal of U.S. troops.

I am personally acquainted with many Georgia Tech students on an individual basis. I am also well acquainted with them on a student body basis, having worked rather closely with Georgia Tech's students and participated in a series of student sponsored programs.

Mr. Speaker, as a part of my remarks I include a letter from Chris Bagby, student body president, Georgia Tech, and the text of the resolution adopted by the Georgia Tech student council.

Georgia Tech Student Government,
Atlanta, Ga., December 6, 1972.

Hon. John J. Flynt Jr.,
Member of Congress, Rayburn House Office Building, Washington, D.C.

Dear Congressman Flynt: The Georgia Tech Student Government has turned its attention to national political affairs on only two occasions in recent years.

In 1966, the Student Council voted to endorse the "Affirmation; Vietnam" movement, an effort by students across Georgia to express support of the United States' commitment in Vietnam at that time.

At a meeting this quarter, however, the Student Council voted to adopt a resolution expressing opposition to the war in Vietnam and endorsing the November 6 peace demonstrations which occurred in Atlanta and sixteen other cities of the United States. As you know, the theme of the demonstration was "OUT NOW," a request for immediate withdrawal of the U.S. troops.

This action by such a traditionally conservative body as the Georgia Tech Student Council, in contrast to its previous policy of support for the Vietnam commitment, demonstrates to me that the time has come when most Americans feel that there is nothing more to be gained by continued military involvement in the Vietnam War, and that our men stationed there should be brought home immediately.

Enclosed is a copy of the resolution which was adopted. It is our hope that it will influence your voting and hasten the end of the Vietnam War.

Yours truly,

Chris Bagby,
Student Body President.

A Resolution Relative to Student Concern for the War in Southeast Asia

Whereas, the mission of Georgia Tech includes assisting the student in the cultivation of a critical awareness and perspective on the perennial evaluative issues that confront man, as an individual and as a member of a complex social order, and preparing him to participate in the resolution of the scientific and technological issues of our time; and

Whereas, the tragic war in Southeast Asia persists as a major concern of the United States and its citizens; and

Whereas, November 3 will be observed on many campuses across the nation as a day for expressing opposition to the war in Southeast Asia and calling for a halt to the bombing and the withdrawal of all United States troops; and

Whereas, a peaceful, legal, non-confrontational demonstration against the war will occur in Atlanta and in sixteen other cities of the United States on November 6; and

Whereas, it is the desire of the students of Georgia Tech to have peace both within the nation and throughout the world;

Now, therefore be it resolved by the Student Council of the Georgia Institute of Technology that November 3, 1971 be observed on the Georgia Tech campus as a day for expressing opposition to the war in Southeast Asia; and

Be it further resolved that members of the Georgia Tech faculty be requested to devote a portion of the classtime on that day for serious and critical discussion of the war issue by students and faculty, particularly as it relates to the programs of learning of Georgia Tech; and

Be it further resolved that the Student Council express its support for the peaceful demonstration against the war in Southeast Asia occurring in Atlanta on November 6, 1971, urging all students to participate in the demonstration.

Adopted by the Georgia Tech Student Council, November 2, 1971.

THE 1972 BIRMINGHAM FESTIVAL OF ARTS

(Mr. BUCHANAN asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. BUCHANAN. Mr. Speaker, when Birmingham was named an "All America City" by the National League of Municipalities and Look magazine in March of this year, the city's flourishing Festival of Arts program was cited as one of the principal reasons for this honor.

As Birmingham's representative in the Congress, I certainly share the great pride which its citizens have in the Festival of Arts and want to take this opportunity to share some of the excitment of this event with my colleagues.

The Festival of Arts program is America's oldest continuous arts festival, which for 21 years has been dedicated to the conviction that through the unity of the arts, nations and men can become united. A different country is saluted by the festival each year, with dignitaries, cultural displays and performing artists from that country giving the festival a delightful international flavor. The busy festival schedules are filled with concerts, dramas, operas, ballets, and special exhibits of painting, sculpture and crafts.

In previous years, the festival has honored: Japan, France, Latin America, The Netherlands, Mexico, Belgium, Sweden, Scandinavia, Greece, Italy and Great Britain. In this way, the festival's activites have stimulated a unity between Birmingham's native citizens and those of foreign descent.

The 22d Annual Festival of Arts, to be held from February 25 through March 12, 1972, will salute the United States in an attempt to find unity and reconciliation for Americans through the arts. Events planned for the 1972 festival include appearances by music, drama, and art groups from throughout the United States.

Some of the announced activities include: A "Montage of Black Culture," music-drama by the Alabama Center for Higher Education, a consortium of nine black Alabama colleges; presentations of "West Side Story" and "Oklahoma"; an exhibit of five American painters, 1872–1972; a black artists' show; Mary Costa with the Birmingham Symphony Orchestra, directed by Amerigo Marino; David Amram, American composer and conductor; a major sculpture exhibit; Richard Tucker; three American operas; a William Frye exhibit; and Edward Villella.

Focal point of the festival, as always, will be the International Fair, to be held for the first time in the Exhibition Hall of the city's new civic center. Throughout the city, store windows, building lobbies, sidewalks and parking areas will display examples of Americana throughout the festival.

Anyone who has ever participated in Birmingham's Festival of Arts can easily understand why it has come to be known around the world. For several years, the National Association of Travel Organizations has chosen the festival as one of the 20 top travel events in America for the month in which the event occurred.

The outstanding success of this event has also been amply attested to by the large number of people who come from near and far to participate in it. In 1971, more than a quarter of a million people enjoyed the Festival of Arts' Salute to Spain.

Into any successful event must, of course, go a great deal of time and effort. The hundreds of hours and thousands of dollars which the citizens of Birmingham give toward the Festival of Arts are also a source of pride for me and I could not discuss the festival without expressing my personal gratitude for these significant contributions. Leading the work which is already well underway for the 1972 festival are Mr. L. R. Jordan, president of next year's festival and Mrs. William B. Scott, chairman.

Mr. Speaker, I feel that my words cannot adequately convey the special excitement of the Festival of Arts. It is my hope, therefore, that many of my colleagues in the Congress and people throughout the United States can visit Birmingham during the 1972 festival and see for themselves. Without hesitation, I can promise that such a visit will be a most enjoyable and rewarding experience.

NATIONAL LEGAL SERVICES CORPORATION

(Mr. STEIGER of Wisconsin asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. STEIGER of Wisconsin. Mr. Speaker, in view of the President's veto message on the Economic Opportunity Amendments of 1971, S. 2007, Mr. Dellenback and I are today introducing a bill containing word-for-word the sections of S. 2007 relating to the establishment of an independent National Legal Services Corporation.

The legal services portion of the conference bill was a painstakingly constructed compromise that represents a full year of effort on the part of hundreds of people. That work must not be lost.

To salvage the National Legal Services Corporation legislation, the new bill just filed is in every respect identical to title IX and the related sections of title X of the conference bill, S. 2007.

It is the fervent hope of Mr. Dellenback and myself that this legislation will be supported by both Houses again, without change.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. Moss, for period from December 13 through December 19, 1971, on account of official business.

Mr. Bow (at the request of Mr. Gerald R. Ford), for today, on account of official business.

Mr. Rangel (at the request of Mr. O'Neill), for today, on account of official business.

Mr. Corman, for Friday, December 10, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. Kastenmeier, for 60 minutes, on Monday, and to revise and extend his remarks and include extraneous matter.

(The following Members (at the request of Mr. du Pont), to revise and extend their remarks, and to include extraneous matter:)

Mr. Hosmer, today, for 10 minutes.

Mr. Findley, today, for 5 minutes.

Mr. Sandman, today, for 15 minutes.

Mr. Hogan, today, for 10 minutes.

Mr. Kemp, today, for 15 minutes.

Mr. Brown of Ohio, today, for 5 minutes.

(The following Members (at the request of Mr. Curlin) to address the House and to revise and extend their remarks and include extraneous matter:)

Mr. Gonzalez, for 10 minutes, today.

Mr. Griffin, for 5 minutes, today.

Mr. Rarick, for 15 minutes, today.

Mr. Fuqua, for 10 minutes, today.

Mr. Burke of Massachusetts, for 5 minutes, today.

Mr. Alexander, for 45 minutes, on December 14.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Rousselot to extend his remarks following those of Mr. Landgrebe in the Committee of the Whole today.

Mr. Ryan and to include extraneous matter in remarks made in Committee of the Whole after the vote on the Badillo amendment and prior to the offering of the Landgrebe amendment.

Mr. Hanna and to include certain extraneous material he referred to during his remarks made in Committee of the Whole.

Mr. Sikes in five instances and to include extraneous material.

Mr. Gross to extend his remarks immediately preceding final vote on H.R. 11309, the so-called Economic Stabilization Act.

Mr. Miller of California in five instances and to include extraneous matter.

Mr. Pucinski to include extraneous matter during debate on Economic Stabilization Act.

(The following Members (at the request of Mr. du Pont) and to include extraneous matter:)

Mr. Reid of New York.

Mr. Wyman in two instances.

Mr. Hunt.

Mr. Forsythe in two instances.

Mr. Arends in two instances.

Mr. Kuykendall.

Mr. Bob Wilson.

Mr. Derwinski.

Mr. Chamberlain.

Mr. Robison of New York.

Mr. Fish.

Mr. Duncan.

Mr. Kemp in two instances.

Mr. Mosher.

Mr. Thompson of Georgia.

Mr. Andrews of North Dakota.

(The following Members (at the request of Mr. Curlin) and to include extraneous material:)

Mr. Brasco.

Mr. Gonzalez in two instances.

Mr. Hagan in three instances.

Mr. Rarick in three instances.

Mr. Dingell in two instances.

Mr. Kluczynski in two instances.

Mr. Fountain.

Mr. Vanik in two instances.

Mr. O'Hara.

Mr. Rogers.

Mr. Daniels of New Jersey in three instances.

Mr. Waldie in four instances.

Mr. Brooks.

Mr. Drinan.

Mr. Scheuer in three instances.

Mr. Begich in five instances.

Mr. Jacobs in two instances.

Mr. Bevill.

Mr. Griffin in three instances.

Mr. Boggs.

Mr. Kyros in four instances.

Mr. Cabell.

Mr. Roy.

Mr. Culver.

Mr. Moss in five instances.

Mr. Pucinski in six instances.

Mr. Zablocki in two instances.

Mr. Harrington in four instances.

Mr. Gaydos in three instances.

Mr. Smith of Iowa in three instances.

Mr. Hechler of West Virginia in three instances.

Mr. Wolff.

Mr. Diggs in two instances.

Mr. O'Neill.

Mr. Obey in five instances.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 36. An act to preserve and promote the resources of the Connecticut River Valley,

and for other purposes; to the Committee on Interior and Insular Affairs.

S. 889. An act to restore the postal service seniority of Elmer Erickson; to the Committee on Judiciary.

S. 1031. An act to credit certain service rendered by District of Columbia substitute teachers for purposes of civil service retirement; to the Committee on Post Office and Civil Service.

S. 2677. An act to authorize programs in the District of Columbia to combat and control the disease known as sickle cell anemia; to the Committee on the District of Columbia.

ENROLLED BILL SIGNED

Mr. HAYS, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 10947. An act to provide a job development investment credit, to reduce individual income taxes, to reduce certain excise taxes, and for other purposes.

ADJOURNMENT

Mr. CURLIN. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 4 o'clock and 22 minutes p.m.), under its previous order, the House adjourned until Monday, December 13, 1971, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1351. A letter from the Secretary of the Army, transmitting a draft of proposed legislation to amend section 203 of title 37, United States Code, to provide additional pay for permanent professors at the U.S. Military Academy and the U.S. Air Force Academy; to the Committee on Armed Services.

1352. A letter from the Secretary of the Treasury, transmitting a draft of proposed legislation to establish certain positions in the Department of the Treasury, to fix the compensation for those positions, and for other purposes; to the Committee on Ways and Means.

RECEIVED FROM THE COMPTROLLER GENERAL

1353. A letter from the Comptroller General of the United States, transmitting a report on the need for coordinated consideration of buy-national procurement program policies by the Office of Management and Budget; to the Committee on Government Operations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. PRICE of Illinois: Committee on Standards of Official Conduct. H.R. 11453. A bill to provide for disclosures designed to inform the Congress with respect to legislative measures, and for other purposes (Rept. No. 92-741). Referred to the Committee of the Whole House on the State of the Union.

Mr. TAYLOR: Committee on Interior and Insular Affairs. H.R. 6730. A bill to amend the Land and Water Conservation Fund Act of 1965, as amended, and for other purposes; with an amendment (Rept. No. 92-742). Referred to the Committee of the Whole House on the State of the Union.

Mr. TAYLOR: Committee on Interior and Insular Affairs. H.R. 10086. A bill to provide for increase in appropriation ceilings and boundary changes in certain units of the national park system, and for other purposes; with an amendment (Rept. No. 92-743). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mrs. ABZUG:

H.R. 12180. A bill to amend the Internal Revenue Code of 1954 to impose an excise tax on fuels containing sulfur and on certain emissions of sulfur oxides; to the Committee on Ways and Means.

By Mr. ALEXANDER:

H.R. 12181. A bill to eliminate television blackouts in the case of certain soldout games; to the Committee on Interstate and Foreign Commerce.

By Mr. BROYHILL of Virginia:

H.R. 12182. A bill to eliminate the ceilings on the amounts of group life insurance policies available in the District of Columbia; to the Committee on the District of Columbia.

H.R. 12183. A bill to amend section 62 of the Internal Revenue Code of 1954 to provide that amounts which the taxpayer pays as alimony or separate maintenance shall be deductible from his gross income in determining adjusted gross income; to the Committee on Ways and Means.

By Mr. CELLER:

H.R. 12184. A bill to eliminate racketeering in the sale and distribution of cigarettes and to assist State and local governments in the enforcement of cigarette taxes; to the Committee on Ways and Means.

By Mr. COLLIER:

H.R. 12185. A bill to amend the Occupational Safety and Health Act of 1970 to exempt any nonmanufacturing business, or any business having 20 or less employees, in States having laws regulating safety in such businesses, from the Federal standards created under such act; to the Committee on Education and Labor.

By Mr. DINGELL (for himself, Mr. PELLY, Mr. KARTH, Mr. MAILLIARD, Mr. WILLIAM D. FORD, Mr. DU PONT, Mr. MCCLOSKEY, Mr. NEDZI, Mrs. GRIFFITHS, Mr. MOSS, Mr. PICKLE, Mr. O'HARA, Mr. GARMATZ, Mr. KEITH, Mr. LENNON, Mr. RUPPE, Mr. DOWNING, Mr. GOODLING, Mr. ROGERS, Mr. LEGGETT, Mr. ANDERSON of California, Mr. FORSYTHE, Mr. KYROS, and Mr. TIERNAN):

H.R. 12186. A bill to strengthen the penalties imposed for violations of the Bald Eagle Protection Act, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. FORSYTHE:

H.R. 12187. A bill to amend title II of the Social Security Act so as to remove the limitation upon the amount of outside income which an individual may earn while receiving benefits thereunder; to the Committee on Ways and Means.

By Mr. FULTON of Tennessee:

H.R. 12188. A bill to amend the Railroad Unemployment Insurance Act to provide that active service in the Armed Forces or the National Guard, performed by an individual during his base year, will be counted in determining such individual's qualification for benefits thereunder; to the Committee on Interstate and Foreign Commerce.

By Mrs. GRASSO:

H.R. 12189. A bill to amend section 109 of title 48, United States Code, to provide benefits for members of the Armed Forces of nations allied with the United States in World War I or World War II; to the Committee on Veterans' Affairs.

By Mr. GUDE:

H.R. 12190. A bill to protect collectors of antique glassware against the manufacture in the United States or the importation of limitations of such glassware; to the Committee on Interstate and Foreign Commerce.

By Mr. HOGAN:

H.R. 12191. A bill to exclude the personnel records of officers and members of the Metropolitan Police Department of the District of Columbia from public records; to the Committee on the District of Columbia.

By Mr. KEMP (for himself, Mr. CONABLE, and Mr. DULSKI):

H.R. 12192. A bill to authorize a program for the improvement and restoration of the Buffalo River Basin; to the Committee on Public Works.

By Mr. PEYSER:

H.R. 12193. A bill to amend the Urban Mass Transportation Act of 1964 to make it clear that a mass transportation system must include provision for meeting the special needs of the elderly in order to qualify for financial assistance thereunder; to the Committee on Banking and Currency.

By Mr. RARICK:

H.R. 12194. A bill to establish the President's Award for Distinguished Law Enforcement Service; to the Committee on the Judiciary.

By Mr. ROUSSELOT:

H.R. 12195. A bill to provide for a balanced Federal budget, regular reports by a Taxpayers' Advocate to the Congress and American people on the status of the public debt, and the reduction of that debt on an annual basis; to the Committee on Ways and Means.

By Mr. SAYLOR (for himself, Mr. HOSMER, Mr. SKUBITZ, Mr. KYL, Mr. MCCLURE, Mr. DELLENBACK, and Mr. MCKEVITT):

H.R. 12196. A bill to authorize appropriations for additional costs of land acquisition for the national park system; to the Committee on Interior and Insular Affairs.

By Mr. SAYLOR (for himself and Mr. DENT):

H.R. 12197. A bill to provide that Federal expenditures shall not exceed Federal revenues, except in time of war or grave national emergency declared by the Congress, and to provide for systematic reduction of the public debt; to the Committee on Ways and Means.

By Mr. STEIGER of Wisconsin (for himself and Mr. DELLENBACK):

H.R. 12198. A bill to amend the Economic Opportunity Act of 1964 to authorize a legal services program by establishing a National Legal Services Corporation, and for other purposes; to the Committee on Education and Labor.

By Mr. STRATTON (for himself and Mr. TERRY):

H.R. 12199. A bill to authorize the Secretary of the Treasury to make grants to Eisenhower College, Seneca Falls, N.Y., out of the proceeds of the sale of minted proof dollar coins bearing the likeness of the late President of the United States, Dwight D. Eisenhower; to the Committee on Appropriations.

By Mr. STRATTON:

H.R. 12200. A bill to amend the Social Security Act to increase benefits and improve eligibility and computation methods under the OASDI program, to make improvements in the medicare, medicaid, and maternal and child health programs with emphasis on improvements in their operating effectiveness, and for other purposes; to the Committee on Ways and Means.

By Mr. ULLMAN (for himself and Mr. BETTS):

H.R. 12201. A bill to amend the Internal Revenue Code of 1954 with respect to the treatment of net operating losses of regulated transportation corporations; to the Committee on Ways and Means.

By Mr. WALDIE (for himself, Mr. Dulski, Mr. Daniels of New Jersey, Mr. Brasco, Mr. Scott, Mr. Hogan, and Mr. Hillis):

H.R. 12202. A bill to increase the contribution of the Federal Government to the costs of health benefits, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. WOLFF (for himself and Mr. Peyser):

H.R. 12203. A bill to authorize an investigation and study of coastal hazards from offshore drilling on the Outer Continental Shelf in the Atlantic Ocean; to the Committee on Interior and Insular Affairs.

By Mr. SAYLOR (for himself and Mr. Dent):

H.J. Res. 1004. Joint resolution proposing an amendment to the Constitution of the United States requiring the submission of balanced Federal funds budgets by the President and action by the Congress to provide revenues to offset Federal funds deficits; to the Committee on the Judiciary.

By Mr. HARRINGTON (for himself, Mr. Abourezk, Mrs. Abzug, Mr. Anderson of Tennessee, Mr. Aspin, Mr. Badillo, Mr. Bell, Mr. Begich, Mr. Biester, Mr. Brademas, Mr. Burke of Massachusetts, Mr. Chappell, Mrs. Chisholm, Mr. Clay, Mr. Collins of Illinois, Mr. Conte, Mr. Corman, Mr. Coughlin, Mr. Dellenback, Mr. Denholm, and Mr. Diggs):

H. Res. 736. Resolution providing for two additional student congressional interns for Members of the House of Representatives, the Resident Commissioner from Puerto Rico, and the Delegate from the District of Columbia; to the Committee on House Administration.

By Mr. HARRINGTON (for himself, Mr. Dow, Mr. Drinan, Mr. du Pont, Mr. Eckhardt, Mr. Edwards of California, Mr. Edwards of Louisiana, Mr. Eilberg, Mr. Esch, Mr. Forsythe, Mr. Frenzel, Mrs. Grasso, Mr. Gray, Mr. Halpern, Mr. Hamilton, Mr. Hathaway, Mr. Hawkins, Mr. Hechler of West Virginia, Mrs. Heckler of Massachusetts, Mr. Helstoski, and Mrs. Hicks of Massachusetts):

H. Res. 737. Resolution providing for two additional student congressional interns for Members of the House of Representatives, the Resident Commissioner from Puerto Rico, and the Delegate from the District of Columbia; to the Committee on House Administration.

By Mr. HARRINGTON (for himself, Mr. Horton, Mr. Hungate, Mr. Keating, Mr. Kemp, Mr. Leggett, Mr. McCloskey, Mr. McCollister, Mr. McCormack, Mr. McCulloch, Mr. McKinney, Mr. Macdonald of Massachusetts, Mr. Matsunaga, Mr. Mazzoli, Mr. Metcalfe, Mr. Mikva, Mrs. Mink, Mr. Mitchell, Mr. Morse, Mr. Mosher, and Mr. Moss):

H. Res. 738. Resolution providing for two additional student congressional interns for Members of the House of Representatives, the Resident Commissioner from Puerto Rico, and the Delegate from the District of Columbia; to the Committee on House Administration.

By Mr. HARRINGTON (for himself, Mr. Pepper, Mr. Peyser, Mr. Podell, Mr. Powell, Mr. Rangel, Mr. Rees, Mr. Reid of New York, Mr. Riegle, Mr. Rodino, Mr. Roe, Mr. Roncalio, Mr. Rosenthal, Mr. Roy, Mr. Runnels, Mr. Ryan, Mr. St Germain, Mr. Sandman, Mr. Scheuer, Mr. Schwengel, and Mr. Shoup):

H. Res. 739. Resolution providing for two additional student congressional interns for Members of the House of Representatives, the Resident Commissioner from Puerto Rico, and the Delegate from the District of Columbia; to the Committee on House Administration.

By Mr. HARRINGTON (for himself, Mr. Steele, Mr. Stokes, Mr. Teague of California, Mr. Thone, Mr. Tiernan, Mr. Udall, Mr. Ullman, Mr. Vander Jagt, Mr. Williams, and Mr. Wolff):

H. Res. 740. Resolution providing for two additional student congressional interns for Members of the House of Representatives, the Resident Commissioner from Puerto Rico, and the Delegate from the District of Columbia; to the Committee on House Administration.

By Mr. THOMPSON of New Jersey:

H. Res. 741. Resolution providing pay comparability adjustments for certain House employees whose pay rates are specifically fixed by House resolutions; to the Committee on House Administration.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. DANIELSON:

H.R. 12204. A bill for the relief of Jay Alexis Caligdong Siaotong; to the Committee on the Judiciary.

By Mr. ICHORD:

H.R. 12205. A bill for the relief of Earl P. Dick; to the Committee on the Judiciary.

By Mr. VANDER JAGT:

H.R. 12206. A bill for the relief of William Karsten; to the Committee on the Judiciary.

SENATE—*Friday, December 10, 1971*

The Senate met at 9 a.m. and was called to order by the President pro tempore (Mr. Ellender).

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

O Lord our God, in the mood of high expectation enable us to hear once again the call of the herald:

Repent . . . for the kingdom of heaven is at hand . . . Prepare ye the way of the Lord, make his paths straight . . . (Matthew 3: 2, 3)

Give us the wisdom and the will to respond by emptying our hearts of all that corrupts or mars the divine image, and all that separates us from Thee or from our fellow man. May the truth of these advent days penetrate our soils and saturate our society so that love replaces hate, generosity replaces selfishness, truth replaces falsehood, and peace replaces war. Come to us in all Thy renewing power that we may be born again to that higher life to which we have aspired but never yet attained. And to Thee shall be all Christmas glory and praise. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Thursday, December 9, 1971, be dispensed with.

The PRESIDENT pro tempore. Without objection, it is so ordered.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the Senate by Mr. Leonard, one of his secretaries.

ECONOMIC OPPORTUNITY AMENDMENTS OF 1971—VETO MESSAGE (S. DOC. NO. 92–48)

The PRESIDENT pro tempore laid before the Senate the following message from the President of the United States:

To the Senate of the United States:

I return herewith without my approval S. 2007, the Economic Opportunity Amendments of 1971.

This legislation undertakes three major Federal commitments in the field of social welfare: extension of the Economic Opportunity Act of 1964, creation of a National Legal Services Corporation, and establishment of a comprehensive child development program.

As currently drafted, all three proposals contain provisions that would ill serve the stated objectives of this legislation, provisions altogether unacceptable to this administration.

Upon taking office, this administration sought to redesign, to redirect—indeed, to rehabilitate—the Office of Economic Opportunity, which had lost much public acceptance in the five years since its inception. Our objective has been to provide this agency with a new purpose and a new role. Our goal has been to make the Office of Economic Opportunity the primary research and development arm of the Nation's and the Government's on-going effort to diminish and eventually eliminate poverty in the United States. Despite occasional setbacks, considerable progress has been made.

That progress is now jeopardized. Two ill-advised and restrictive amendments contained in this bill would vitiate our efforts and turn back the clock.

In the 1964 act the President was granted authority to delegate—by executive action—programs of OEO to other departments of the Government. That flexibility has enabled this administration to shift tried and proven programs out of OEO to other agencies—so that OEO can concentrate its resources and talents on generating and testing new ideas, new programs and new policies to assist the remaining poor in the United States. This flexibility, however, would be taken away under amendments added by the Congress—and the President would be prohibited from spinning off successful and continuing programs to the service agencies.

If this congressional action were allowed to stand, OEO would become an operational agency, diluting its special role as incubator and tester of ideas and pioneer for social programs.

Secondly, the Congress has written into the OEO legislation an itemized list of mandatory funding levels for 15 categorical programs. This specific earmarking of funds for specific programs at OEO is genuinely reactionary legislation; it locks OEO executives into supporting and continuing programs that may prove less productive; it inhibits the very experimentation and innovation which I believe should be the primary mission of OEO; it denies administrative discretion to the executives of OEO and, most important, it restricts and limits the amount of funds available for hopeful new initiatives.

Should these amendments become law, OEO's days as the principal pioneer of the Nation's effort to combat poverty would be numbered; OEO would rapidly degenerate into just another ossified bureaucracy. Even if OEO legislation were to come separately to my desk, containing these provisions, I would be compelled to veto it as inconsistent with the best interest of America's poor. I urge the Congress to remove these restrictions.

The provision creating the National Legal Services Corporation differs crucially from the proposal originally put forth by this administration. Our intention was to create a legal services corporation, to aid the poor, that was independent and free of politics, yet contained built-in safeguards to assure its operation in a responsible manner. In the Congress, however, the legislation has been substantially altered, so that the quintessential principle of accountability has been lost.

In re-writing our original proposal, the door has been left wide open to those abuses which have cost one anti-poverty program after another its public enthusiasm and public support.

The restrictions which the Congress has imposed upon the President in the selection of directors of the Corporation is also an affront to the principle of accountability to the American people as a whole. Under congressional revisions, the President has full discretion to appoint only six of the seventeen directors; the balance must be chosen from lists provided by various professional, client and special interest groups, some of which are actual or potential grantees of the Corporation.

The sole interest to which each board member must be beholden is the public interest. The sole constituency he must represent is the whole American people. The best way to insure this in this case is the constitutional way—to provide a free hand in the appointive process to the one official accountable to, and answerable to, the whole American people—the President of the United States, and to trust to the Senate of the United States to exercise its advise and consent function.

To compound the problem of accountability, Congress has further proposed that during the crucial 90 day period—when the corporation is set into motion—its governance is to rest exclusively in the hands of designees of five private interest groups. That proposal should be dropped.

It would be better to have no legal services corporation than one so irresponsibly structured. I urge the Congress to rewrite this bill, to create a new National Legal Services Corporation, truly independent of political influences, containing strict safeguards against the kind of abuses certain to erode public support—a legal services corporation which places the needs of low-income clients first, before the political concerns of either legal service attorneys or elected officials.

But the most deeply flawed provision of this legislation is Title V, "Child Development Programs."

Adopted as an amendment to the OEO legislation, this program points far beyond what this administration envisioned when it made a "national commitment to providing all American children an opportunity for a healthful and stimulating development during the first five years of life."

Though Title V's stated purpose, "to provide every child with a full and fair opportunity to reach his full potential" is certainly laudable, the intent of Title V is overshadowed by the fiscal irresponsibility, administrative unworkability, and family-weakening implications of the system it envisions. We owe our children something more than good intentions.

We cannot and will not ignore the challenge to do more for America's children in their all-important early years. But our response to this challenge must be a measured, evolutionary, painstakingly considered one, consciously designed to cement the family in its rightful position as the keystone of our civilization.

Further, in returning this legislation to the Congress, I do not for a moment overlook the fact that there are some needs to be served, and served now.

One of these needs is for day care, to enable mothers, particularly those at the lowest income levels, to take full-time jobs. Federal support for State and local day care services under Headstart and the Social Security Act already totals more than half a billion dollars a year—but this is not enough. That is why our H.R. 1 welfare reform proposals, which have been before the Congress for the past 26 months, include a request for $750 million annually in day care funds for welfare recipients and the working poor, including $50 million for construction of facilities. And that is why we support the increased tax deductions written into the Revenue Act of 1971, which will provide a significant Federal subsidy for day care in families where both parents are employed, potentially benefiting 97 percent of all such families in the country and offering parents free choice of the child care arrangements they deem best for their own families. This approach reflects my conviction that the Federal Government's role wherever possible should be one of assisting parents to purchase needed day care services in the private, open market, with Federal involvement in direct provision of such services kept to an absolute minimum.

A second imperative is the protection of children from actual suffering and deprivation. The administration is already moving on this front, under a policy of concentrating assistance where it will help the most—a policy certain to suffer if title V's scatteration of attention and resources were to become law. Action we are presently taking includes:

—Expansion of nutritional assistance to poor children by nearly tripling participation in the food stamp program (from 3.6 million people to 10.6 million people) and doubling support for child nutrition programs (from less than $600 million to more than $1.2 billion) since 1969.

—Improvement of medical care for poor children through the introduction of more vigorous screening and treatment procedures under Medicaid.

—More effective targeting of maternal and child health services on low income mothers who need them most.

Furthermore, Headstart continues to perform both valuable day care and early education services, and an important experimentation and demonstration function which identifies and paves the way for wider application of successful techniques. And the Office of Child Development which I established within the Department of Health, Education, and Welfare in 1969 provides overall leadership for these and many other activities focused on the first five years of life.

But, unlike these tried and tested programs for our children, the child development envisioned in this legislation would be truly a long leap into the dark for the United States Government and the American people. I must share the view of those of its supporters who proclaim this to be the most radical piece of legislation to emerge from the Ninety-second Congress.

I also hold the conviction that such far-reaching national legislation should not, must not, be enacted in the absence of a great national debate upon its merit, and broad public acceptance of its principles.

Few contend that such a national debate has taken place. No one, I believe, would contend that the American people, as a whole, have determined that this is the direction in which they desire their government and nation to go.

Specifically, these are my present objections to the proposed child development program:

First, neither the immediate *need* nor the desirability of a national child development program of this character has been demonstrated.

Second, day care centers to provide for the children of the poor so that their parents can leave the welfare rolls to go on the payrolls of the Nation, are already provided for in H.R. 1, my workfare legislation. To some degree, child development centers are a duplication of these efforts. Further, these child development programs would be redundant in that they duplicate many existing and growing Federal, State and local efforts to provide social, medical, nutritional and education services to the very young.

Third, given the limited resources of the Federal budget, and the growing demands upon the Federal taxpayer, the expenditure of two billions of dollars in a program whose effectiveness has yet to be demonstrated cannot be justified. And the prospect of costs which could eventually reach $20 billion annually is even more unreasonable.

Fourth, for more than two years this administration has been working for the enactment of welfare reform, one of the objectives of which is to bring the family together. This child development program appears to move in precisely the opposite direction. There is a respectable school of opinion that this legislation would lead toward altering the family relationship. Before even a tentative step is made in this direction by their government, the American people should be fully consulted.

Fifth, all other factors being equal, good public policy requires that we enhance rather than diminish both parental authority and parental involvement with children—particularly in those decisive early years when social attitudes and a conscience are formed, and religious and moral principles are first inculcated.

Sixth, there has yet to be an adequate answer provided to the crucial question of who the qualified people are, and where they would come from, to staff the child development centers.

Seventh, as currently written, the legislation would create, ex nihilo, a new army of bureaucrats. By making any community over 5,000 population eligible as a direct grantee for HEW child development funds, the proposal actively invites the participation of as many as 7,000 prime sponsors—each with its own plan, its own council, its own version of all the other machinery that has made Headstart, with fewer than 1,200 grantees, so difficult a management problem.

Eighth, the States would be relegated to an insignificant role. This new program would not only arrogate the initiative for preschool education to the Federal Government from the States—only 8 of which even require kindergarten at present. It would also retain an excessive measure of operational control for such education at the Federal level, in the form of the standards and program guidelines to be set down by the Secretary of HEW.

Ninth, for the Federal Government to plunge headlong financially into supporting child development would commit the vast moral authority of the National Government to the side of communal approaches to child rearing over against the family-centered approach.

This President, this Government, is unwilling to take that step. With this message, I urge the Congress to act now to pass the OEO extension and to create the legal services corporation along the lines proposed in our original legislation.

RICHARD NIXON.

THE WHITE HOUSE, *December 9, 1971.*

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the veto message of the President of the United States be held at the desk until later today.

The PRESIDENT pro tempore. Without objection, it is so ordered.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Berry, one of its reading clerks, announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 11955) making supplemental appropriations for the fiscal year ending June 30, 1972, and for other purposes; that the House receded from its disagreement to the amendments of the Senate numbered 6, 11, 12, 13, 15, 16, 24, 32, 33, 35 through 46, 48, 49, 51, 61, and 62 to the bill and concurred therein, and that the House receded from its disagreement to the amendments of the Senate numbered 20, 28, 29, 31, 34, 55, 57, 60, 68, and 75 to the bill and concurred therein, severally with an amendment, in which it requested the concurrence of the Senate.

The message also announced that the House had agreed to the following concurrent resolutions:

S. Con. Res. 30. Concurrent resolution authorizing the printing of the study entitled "Soviet Space Programs, 1966–70" as a Senate document;

S. Con. Res. 34. Concurrent resolution authorizing the printing of the prayers of the Chaplain of the Senate during the 91st Congress as a Senate document;

S. Con. Res. 44. Concurrent resolution authorizing the printing of the study entitled "International Cooperation in Outer Space: A Symposium" as a Senate document; and

S. Con. Res. 50. Concurrent resolution authorizing the printing of the handbook entitled "Guide to Federal Programs for Rural Development" as a Senate document.

The message further announced that the House had agreed to the concurrent resolution (S. Con. Res. 31) authorizing the printing of the compilation entitled "Federal and State Student Aid Programs, 1971" as a Senate document, with an amendment, in which it requested the concurrence of the Senate.

The message also announced that the House had agreed to the following concurrent resolutions, in which it requested the concurrence of the Senate:

H. Con. Res. 439. Concurrent resolution to provide for the printing of 50,000 additional copies of the subcommittee print of the Subcommittee on Domestic Finance, of the House Committee on Banking and Currency, entitled "A Primer on Money";

H. Con. Res. 441. Concurrent resolution authorizing the printing of "The Joint Committee on Congressional Operations: Purpose, Legislative History, Jurisdiction, and Rules" as a House document, and for other purposes; and

H. Con. Res. 469. Concurrent resolution to provide for the printing as a House document a compilation of the eulogies on the late Justice Hugo L. Black.

HOUSE CONCURRENT RESOLUTIONS REFERRED

The following concurrent resolutions were referred to the Committee on Rules and Administration:

H. Con. Res. 439. Concurrent resolution to provide for the printing of 50,000 additional copies of the subcommittee print of the Subcommittee on Domestic Finance, of the House Committee on Banking and Currency, entitled "A Primer on Money";

H. Con. Res. 441. Concurrent resolution authorizing the printing of "The Joint Committee on Congressional Operations: Purpose, Legislative History, Jurisdiction, and Rules" as a House document, and for other purposes; and

H. Con. Res. 469. Concurrent resolution to provide for the printing as a House document a compilation of the eulogies on the late Justice Hugo L. Black.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The PRESIDENT pro tempore. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider nominations on the Executive Calendar, under "New Reports."

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDENT pro tempore. The nominations on the Executive Calendar, under "New Reports" will be stated.

U.S. MARINE CORPS

The second assistant legislative clerk read the nomination of Lt. Gen. Robert E. Cushman, Jr., U.S. Marine Corps, to be Commandant of the Marine Corps, with the rank of general.

The PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

Mr. MANSFIELD. Mr. President, if the Chair will allow me, I should like to extend congratulations, as a former private, first class, in the Marine Corps, to new Commandant, General Cushman.

Mr. SCOTT. If the distinguished majority leader will yield, I too, should like to join in congratulations to General Cushman. He is a celebrated marine with an illustrious record. I wish that I, too, had been a private in the Marine Corps.

Mr. MANSFIELD. Well, may I say, there is an old saying, "Once a marine, always a marine," so it is not often that a former private, first class, gets a chance to call up the nomination of a Commandant for the Marine Corps.

Mr. SCOTT. Mr. President, my only claim to fame in that connection is that, as a young man in the Marine Corps, stationed at Quantico, Va., I was a civilian office boy for Colonel Snyder, then the commanding officer of the Officers' School at Quantico, Va. I am proud even of the tenuous association with the marines.

The second assistant legislative clerk read the nomination of Maj. Gen. Louis Metzger, U.S. Marine Corps, to be lieutenant general.

The PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

ACTION

The second assistant legislative clerk read the nomination of Nicholas W. Craw, of the District of Columbia, to be Associate Director of Action.

The PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

NOMINATIONS PLACED ON THE SECRETARY'S DESK—IN THE AIR FORCE, IN THE ARMY, AND IN THE MARINE CORPS

The second assistant legislative clerk proceeded to read sundry nominations in the Air Force, in the Army, and in the Marine Corps, which had been placed on the Secretary's desk.

The PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc; and, without objection, the President will be immediately notified of the confirmation of these nominations.

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I move that the Senate resume the consideration of legislative business.

The motion was agreed to, and the Senate resumed the consideration of legislative business.

THE CALENDAR

Mr. MANSFIELD. I ask unanimous consent that the Senate proceed to the consideration of the Calendar beginning with No. 545 and ending with No. 548.

The PRESIDENT pro tempore. Without objection, it is so ordered.

APPOINTMENT BY PRESIDENT OF CERTAIN ADDITIONAL PERSONS TO SERVICE ACADEMIES

The bill (S. 2945) to amend title 10 of the United States Code to permit the appointment by the President of certain additional persons to the service academies was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 2945

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title 10 of the United States Code is amended as follows:

(1) Section 4342(a)(1) is amended by striking out "40" and inserting in place thereof "65" and by striking out "service." at the end of the first sentence and by inserting in place thereof "service, and sons of members who are in a 'missing status' as defined in section 551(2) of title 37."

(2) Section 6954(a)(1) is amended by striking out "40" and inserting in place thereof "65" and by striking out "service." at the end of the first sentence and by inserting in place thereof "service, and sons of members who are in a 'missing status' as defined in section 551(2) of title 37."

(3) Section 9342(a)(1) is amended by striking out "40" and inserting in place thereof "65" and by striking out "service." at the end of the first sentence and by inserting in place thereof "service, and sons of members who are in a 'missing status' as defined in section 551(2) of title 37."

Mr. MANSFIELD. Mr. President, may I take this occasion to commend the distinguished Senator from New York (Mr. Buckley) for his initiative in introducing this proposal and for his interest in the relatives of the prisoners of war and the recoverable MIA's?

He has done a good job and he deserves the highest commendation.

Mr. SCOTT. Mr. President, I want to thank the distinguished majority leader for having arranged with the Senator from New York (Mr. Buckley) to have this matter called up and disposed of promptly today.

Mr. MANSFIELD. May I say that it could not have been called up without the approval of the distinguished minority leader.

Mr. BUCKLEY. Mr. President, I thank the distinguished majority leader (Mr. Mansfield) for his generous remarks. I also want to thank him and the distinguished minority leader (Mr. Scott) for arranging for this legislation to come to the floor on such very short notice. In addition, I want to thank the distinguished chairman of the Armed Services Committee (Mr. Stennis) for the speed with which his committee considered and reported out the bill in these hectic closing days of the current session. Finally, Mr. President, I wish to thank the 58 Senators who joined in sponsoring S. 2945.

I think it is particularly appropriate that this legislation should have been enacted by the Senate at this time. This is a time of year when families all over America will be coming together to celebrate the Christmas holidays. In 1,600 homes, however, there will be a son or a brother or a husband who will not be celebrating the season with his family; a son or a brother or a husband who is either known to be held as a prisoner of war under conditions which flaunt the minimum requirements of the Geneva Convention or who occupies that awful limbo which comes from a listing among the missing in action.

By enacting this bill today, a bill which will give the sons of our prisoners of war and missing in action a special priority in competing for appointments to our service academies, we will be telling these brave men and their equally brave families that they are not forgotten, that they have the continuing gratitude and affection of this Nation.

I know that all of us look forward to that happy day when all of these men will be returned to these shores. Let us pray that that day will soon be upon us.

A. LEON HIGGENBOTHAM, JR., CITIZEN REGENT, BOARD OF REGENTS, SMITHSONIAN INSTITUTION

The joint resolution (S.J. Res. 173) to provide for the appointment of A. Leon Higginbotham, Jr., as citizen regent of the Board of Regents of the Smithsonian Institution was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S.J. Res. 173

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That A. Leon Higginbotham, Junior, a resident of Philadelphia, Pennsylvania, be appointed a member of the Board of Regents of the Smithsonian Institution, of the class other than Members of Congress, for the statutory term of six years.

Mr. SCOTT. Mr. President, I should like to comment on the appointment of Judge A. Leon Higginbotham. He was named a Federal judge by the joint action of former Senator Clark of Pennsylvania and myself.

Judge Higginbotham is one of the ablest members on the bench. As a regent of the Smithsonian Institution, I have joined in his selection and in the selection of the other two citizen members. This will be a very good thing for the country and for the Smithsonian Institution.

JOHN PAUL AUSTIN, CITIZEN REGENT, BOARD OF REGENTS, SMITHSONIAN INSTITUTION

The joint resolution (S.J. Res. 174) to provide for the appointment of John Paul Austin as citizen regent of the Board of Regents of the Smithsonian Institution was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S.J. Res. 174

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That John Paul Austin, of Atlanta, Georgia, be appointed a member of the Board of Regents of the Smithsonian Institution, of the class other than Members of Congress, for the statutory term of six years.

ROBERT FRANCIS GOHEEN, CITIZEN REGENT, BOARD OF REGENTS, SMITHSONIAN INSTITUTION

The joint resolution (S.J. Res. 175) to provide for the appointment of Robert Francis Goheen as citizen regent of the Board of Regents of the Smithsonian Institution was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S.J. Res. 175

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Robert Francis Goheen, of Princeton, New Jersey, be appointed a member of the Board of Regents of the Smithsonian Institution, of the class other than Members of Congress, for the statutory term of six years.

ORDER OF BUSINESS

Mr. SCOTT. Mr. President, I yield back my time.

ORDER OF BUSINESS

The PRESIDENT pro tempore. Under the previous order, the distinguished Senator from New Jersey (Mr. Williams) is now recognized for a period not to exceed 15 minutes.

(The remarks of Mr. Williams when he submitted Senate Concurrent Resolution No. 53 are printed in the Record under "Submission of a Concurrent Resolution.")

ORDER OF BUSINESS

The PRESIDENT pro tempore. Under the previous order, the senior Senator from Washington is recognized for not to exceed 15 minutes.

SENATE RESOLUTION 212—SUBMISSION OF A RESOLUTION RELATING TO THE FEEDING OF HUNGRY PEOPLE IN SEATTLE AND OTHER AREAS OF ECONOMIC DISASTER

UNANIMOUS-CONSENT REQUEST FOR IMMEDIATE CONSIDERATION

Mr. MAGNUSON. Mr. President, I have served in the U.S. Senate for over 25 years, and in all of that time I have never felt so humiliated by my Government as I do now. Today I stand in almost total humiliation. The hungry people of Seattle, Wash., and the surrounding area, are being kept from hunger, in part by mercy shipments of food from Japan, while the U.S. Government, in violation of the law, refuses to open its food warehouses to these starving women, children, and unemployed men.

While my Government pleads for billions to send overseas to help emerging nations—and to buy loyalty with arms—thousands of people in the State of Washington, and hundreds of thousands more in other States, are going hungry. Because the U.S. Department of Agriculture steadfastly and callously denies the use of federally owned surplus food commodities to feed those who are hungry, claiming there is no hunger problem.

Mr. President, if you have followed the national press, you know I am not talking about some local issue, confined to my constituent's interest for hunger is widespread. But it is so serious in Seattle that the people of Japan are making volunteer shipments of food to the people of Seattle—a humanitarian gesture of unequaled compassion, from a nation who was a bitter adversary 30 years ago. Those who hold responsible positions of government in this country—with their oratorical proclamations of concern for the less fortunate—should be ashamed of themselves. The people of Japan, in a simple, honest gesture of humanitarianism, in sending rice and canned goods to hungry people in Seattle, have made the great institutions of the U.S. Government look callous and cruel. In one simple humanitarian gesture, Japan has made a mockery of our pious claims of being a nation dedicated to serving the cause of human dignity and concern for the well-being of our citizens.

Bureau of Customs officials in Seattle—after some uncomfortable analysis and uncertainty and an initial decision to confiscate the Japanese food shipments—allowed the food to be received so it could be distributed by Neighbors in Need, a church-sponsored organization; and other volunteer groups. The customs officials in Seattle finally recognized the dire need for food, even if the Department of Agriculture, ignoring its responsibility under the law, has turned its back.

The authority for surplus commodity distribution programs, in parallel with food stamp programs, has been provided by Congress. The Department has the authority in two different sections, and the Office of Economic Opportunity has similar authority under its emergency food and medical services program which we passed yesterday, allotting them sufficient money to do this job in the supplemental appropriation bill.

On top of that, Congress has appropriated the funds.

But what has happened? Nothing. The Department of Agriculture, in a complete disregard of human suffering, insists that there is no hunger problem in Seattle that food stamps will not handle. How, I ask you, can you accept that position when 8,000 persons receive donated food from Neighbors in Need every week—and 12,000 more are turned away? Why is it that Japan, thousands of miles away, can easily see the need to provide mercy shipments of food to Seattle, but officials in this administration cannot even see a hunger problem? The only explanation for the Department's position is one of cruelty and ignorance and that its only food concern is to provide huge surpluses to benefit other pocketbooks.

This administration can see great humanity in providing a $250 million loan for a hungry corporation, but cannot see spending another dime on hungry human beings.

I have asked OEO, with strong support from my colleagues here in the Senate, to undertake the feeding of the hungry under its emergency food and medical services authority. The Congress has even approved the apropriations for that section—including a total of $32 million in the supplemental appropriation bill. While the Director of OEO shows his enthusiasm and gives me his support, nothing has happened because the White House to date has backed up the callous rulings of USDA.

There is a great financial bottleneck in this country, when it comes to providing for help for the less fortunate. I will not mention specifics, except that the authorizations and appropriations flow down the Hill from here and seem to get caught in that bottleneck in administrative procedures—that is, unless it is for weapons of destruction or for providing economic improvements for big people.

Mr. President, it is even more disheartening to realize that the severe hunger crisis in most areas is the direct result of the economic policies of the day. We have the highest unemployment rate in the Nation, as of last week, and you do not have to sit on this side of the aisle to make that observation. In my own State, every public official I know of—from both major political persuasions—has not only recognized the problem, but used every known method, including outright pleading, to get the Department of Agriculture to feed the hungry people.

Just this week, a Federal District Court judge in Seattle ruled that the Department of Agriculture had acted illegally in withholding food commodities from the city.

I have appealed to the U.S. Attorney General to file no appeal on the matter, and to instruct the new Secretary of Agriculture to comply with the law.

And yet I read in the paper yesterday that they had not made up their mind whether or not they would appeal the decision of the U.S. District Court—an appeal taking place while people would be going hungry—which could take weeks or months.

I offer at this point, for printing in the RECORD, excerpts from a report by the Senate Select Committee on Nutrition and Human Needs requested by Senator MCGOVERN and Senator PERCY. The report was made after a thorough study of the Seattle situation, including an inspection trip, and is appropriately entitled "Seattle, the New Poor," and the opinion of District Court Judge Beeks' ruling against the Department of Agriculture.

I ask unanimous consent to have the excerpts from the report printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

THE ECONOMIC SITUATION

The Pacific Northwest region today contains 6.25 million Americans, almost 3 million more than lived there 30 years ago. Over half of this total live in Washington State, and half of those people live within 40 miles of downtown Seattle. The four counties surrounding Seattle have a population of 1.9 million. The population of that area exploded during the last decade, increasing by 421,000 persons—or 27 percent of the current number. Nearly 60 percent of this increase, or 259,000, occurred from 1965 to 1970. Most of these people were attracted to the area by about 50,000 new jobs in the growing aerospace industry of 1966–68. Employment rose by 43 percent during the decade, from 527,000 to 752,000 jobs.

In mid-1968, the aerospace industry in the greater Seattle area employed a peak of 106,000 workers. In 1969, the aerospace payroll was cut by 17,000 workers. Total employment in the area only dropped by 14,000, however, which meant that jobs were still being created in other sectors of the economy. In 1970, aerospace employment dropped another 34,000, twice the amount of the previous year. This time—instead of being partially offset by other economic activity—it resulted in total employment plunging 60,000. Most of this secondary loss occurred in areas of trade, services, utilities and construction.

The plunge has continued during 1971. During the first 5 months of the year, 18,000 jobs were lost; 8,000 at the Boeing Company alone and 10,000 elsewhere. Estimated job losses for the entire year are around 40,000—equally divided between aerospace and other activities.

The magnitude of the Seattle area's rise and fall are, perhaps, best summed up in the following way:

From 1965 through 1968, employment increased by 170,000, a record unequalled since the early days of World War II—that was the rise.

From January 1970 through August of this year, unemployment went from 43,900 to 106,400—that was the fall.

Putting it another way, now there are as many people unemployed as were employed by the Boeing Company at its peak.

The unemployment rate for the State during these years mirrors the actual job losses. From 1966–68, the unemployment rate averaged 4.3 percent or less each year. In 1959, when the slide began, the rate rose to 4.8 percent. By January of 1970, the rate rose to 6.5 percent. By the end of the 1970, unemployment was 10.1 percent. And, by the beginning of 1971, the rate was 11.8 percent and still climbing. During June—with the labor market swelled by summer job seekers—the unemployment rate stood at 12.4 percent, and the total number of unemployment was placed at 181,700 persons.

Sixty-eight percent of the June unemployment occurred in the State's three principal urban areas. The Seattle area was hardest hit—the rate reaching a high of 15.7 percent, a 156-percent increase from June 1970, and the most severe in the Nation for a metropolitan area.

The rate throughout the area this fall has hovered around 12.5 percent and is expected to rise to slightly over 12 percent by this winter. Slight improvement is expected during the remainder of next year—the rate is predicted to hover around 11 percent.

Despite this drain on the area's economy during the past 3 years, the area still has a net-job gain—96,000 at the end of last year—as compared to the pre-aerospace boom era. But most of this gain is in areas of secondary economic activity such as service stations, department stores, insurance companies, schools, hospitals, hotels, restaurants, and banks. One of the key questions facing the area now is: How long can these secondary jobs survive until the recession in primary jobs bottoms out and rights itself?

The stability of these secondary jobs is a tribute to the fundamental soundness of the economic base of Seattle and Washington State. This area is rich in natural resources, producing over $2 billion of forest products, and $800 million of farm products annually. Washington is one of the Nation's leading wheat producing and exporting States. The Washington Customs District is fast becoming a major trading center, doing $3 billion business last year, an increase of 21 percent, and 12 percent annually for the past decade. Tourism is a $400 million a year industry with a growth rate of 6 percent annually.

This fundamental soundness makes it difficult for the casual visitor to Seattle to see the depths of the area's economic decline. The freeways are still crowded with cars. The city's skyline is being enlarged by new high-rise office buildings and hotels. The view of Puget Sound and the Olympic Mountains from a room of a high-rise hotel, just completed, is still spectacular. Downtown stores seem busy and the figures indicate that, for the most part, retail sales are holding up. The best restaurants still do a respectable business at lunchtime.

The truth, of course, is that there are two Seattles. For the employed 85 percent of the work force and their families, life is still good and getting better. This is the Seattle that the casual visitor sees. For the 15-percent unemployed—the 100,000—life is hard and getting harder. This Seattle is hidden to the casual eye, but painfully visible beneath the city's surface. Or, as one of the city's surface. Or, as one of the city's leading business bulletins put it:

> For the employed, Seattle still offers the good life; but, for a steadily increasing part of the community, the present situation is murky and the future looks dark.

RESPONSE TO THE ECONOMIC CRISIS

Unemployment Insurance, Public Assistance, Food Stamp, School Lunch, and Food Bank programs have all responded to Seattle's economic crisis. But, there is now widespread concern over the fact that these programs are no longer adequate to deal with the situation—without additional resources and other kinds of assistance.

Unemployment insurance

Unemployment Insurance has been the mainstay of the 100,000 men and women who have been laid off during the area's recession. In June of this year, a total of 103,354 persons were receiving benefits under Federal, State regular and extended programs. This figure represented an increase of 37 percent over the previous year. But the program is now beginning to be unequal to the burden placed upon it.

During the year prior to May 1971, almost 48,000 workers had periods of unemployment of sufficient length to exhaust regular unemployment compensation benefits. This represented about half of all new beneficiaries filing during the same period. In recent months, the number of workers exhausting extended benefits has been heavy. It is estimated that, in the year prior to last August, 11,000 workers in the Seattle area exhausted eligibility for extended benefits. The estimate for the State is nearly 93,000 workers losing their regular benefits, with 21,000 more terminating their extended benefits.

As of October 2, the situation took a decided turn for the worse, with another 10,000 workers exhausting their extended benefits. It is now estimated that the monthly rate of workers exhausting benefits has increased from 4,000 to 9,000 a month; and, that by next March, an additional 27,000 workers will lose their benefits.

A working paper drafted by the staff of the Health, Education and Welfare Policy Advisory Committee of the Puget Sound Governmental Conference described the Unemployment Insurance crisis this way:

> . . . the gravity of the unemployment situation had been greatly ameliorated by unemployment compensation until recent months when the gap between total employment and benefit coverage began to widen dramatically. This trend will continue in the immediate future, as a consequence the number of unemployed not receiving benefits will exceed those covered. Thus even though the economic situation will in all likelihood improve and the number of unemployed decline steadily during the coming months, the problem as measured in human need will increase in gravity.

Saying it in somewhat simpler terms, the thread by which so many workers and their families have hung thus far is fast running out. And, as that thread breaks, the already heavy burden on the remaining support programs can only increase.

Public assistance

The growth of the Seattle and State welfare rolls is another indication of the area's economic need. By the end of last May, the number of persons receiving some form of assistance was 234,105—an increase of 45 percent from May of 1969. During the same period, the number of persons receiving Aid To Dependent Children benefits had risen from 77,959 to 145,051—a percentage increase of 86 percent. In Seattle and King County nearly 67,643 persons are receiving assistance. And, in Seattle's Model City Neighborhood, the number of welfare recipients had increased by about 250 percent in the past 2 years, to a point where nearly 20 percent of its residents are receiving some kind of assistance.

The State's total expenditure on public assistance will have increased from $123.3 million to $171.6 million during the period of Fiscal Year 1970–72. This increase and projected increases could not be borne by the State budget. This fact resulted in a 15 percent reduction in public assistance grants across the board last April. The effect of this cutback on recipients was immediate. Those who had been surviving suddenly found their income reduced while their basic costs of living remained the same or increased. The effect of the cutback was aggravated by the fact that the State's public assistance payments are pegged to the 1967 cost-of-living and, therefore, do not account for the inflation of the past 4 years.

While it is, as yet, difficult to estimate the increased burden facing the Public Assistance Program, because of the increasing loss of unemployment benefits to area workers, there is little doubt that the burden will grow.

The effect of the 15-percent cut on the ability of people to participate in the Food Stamp Program, however, is already clear and, unfortunately, quite adverse.

Food stamps

The Food Stamp Program in Seattle and Washington State is generally considered among the most efficiently operated in the country. There is no question that State and local officials have made significant efforts to put the program within reach of those who are potentially eligible. Those eligible were estimated to be nearly 164,000 households—or 442,000 individuals—in 1969, when the unemployment rate was about 5 percent, or less than half the current figure.

The Food Stamp Program has responded remarkably well to the crisis. In May 1969, 93,035 persons were utilizing the program. Two years later, the number was 263,259—an increase of 182 percent. In fact, the increase was so striking that Seattle began to be called the country's "food stamp capital."

The adverse effect of the public assistance cutback on food stamp participation, however, showed itself by July of this year. The official report of the State's Department of Social and Health Services says:

> The first month of fiscal 1972 showed a decrease in the number of participating food stamp households of 4,638 or 5.1 percent from the 91,143 households in June to 86,505 households in July. The July figure represents the lowest number of participating households since October 1970. The greatest decrease was in assistance households which dropped from 51,604 households in June to 49,025 households in July—a decline of 2,579 or 5.0 percent; and nonassistance households decreased from 39,539 households in June to 37,480 households in July—a decline of 2,059 or 5.2 percent.

The latest estimate of participation in the Food Stamp Program stands at 255,388 persons—as few as 52 percent of the minimum number potentially eligible. The two key problems in qualifying for food stamps are delays in getting certified—a minimum of 8 days—and the requirement to get a particular office and present complete documentation of all income, assets, and expenses including rent and utilities. The primary problem is that people can't afford food stamps because it requires cash and they *won't* or *can't* sell their house or car or other vital family assets.

Food banks

Late in 1970, the Church Council of Greater Seattle, the Ecumenical Metropolitan Ministry, the Fellowship of Christian Urban Service, and the Churches of Greater Seattle joined in establishing an emergency food program called "Neighbors in Need." In the first 4 months of 1971, the 34 emergency Food Banks set up by Neighbors in Need distributed cartons of food to 75,000 persons. This demand prompted the following telegram to President Nixon from the Presbyterian United Synod of Washington-Alaska:

> Dear Mr. President: Unemployment in Seattle now past 15 percent. In black Central District over 48 percent. State Welfare seriously reduced; church sponsored food banks serving emergency needs of 20,000 monthly. $750,000 in food has been given by churches. Religious community of Seattle unable to meet growing need unaided.

Since its inception, Neighbors in Need has filled 300,000 requests for food from its 34 Food Banks. As the year has gone by, the volume of requests has increased. During February and March of this year, requests went up 50 percent and, in April, an additional 33 percent. The increase in April coincided with the cut in public assistance payments. In March, 32.8 percent of those served by the Food Banks were receiving some form of public assistance. After the April cuts, that figure rose to 52 percent. It is currently estimated that the Food Banks are serving 12,000 persons a week, 48,000 monthly.

While there may be some nonindigent persons using the Food Banks, and while a significant number may be repeaters, this is still an important indicator of the nutritional needs of the Seattle area.

THE HUNGER GAP

The failure of the Food Stamp Program to fill Seattle's hunger gap by itself is perhaps best described in the report "Hunger in Washington" compiled by the office of the Secretary of State:

The best way to fully appreciate the dramatic effects of the drop in real personal income . . . has on a family is to construct an average family budget. This process shows why the present Food Stamp Program and lack of commodities are causing such hardship for so many families in Washington State.

For a family of four, the Washington Department of Labor and Industries cites the following monthly average costs in the Seattle metropolitan area. These costs are from the department's "lower budget" which utilizes minimum expenditures below which elements of a family's health, security, and nutrition would be jeopardized:

Transportation	$40.50
Personal care and clothing	69.70
Medical care	47.00
Other family consumption costs	27.00
Housing	137.50
Food	161.25
Taxes	56.90
Other	56.90
Total	599.35

To be eligible for food stamps the income of a family of four cannot exceed $355, which is only 60 percent of the above budget. In order to purchase food stamps the family must save $80 which leaves only $275 to pay for $438.10 of expenses (above total less food). As can be seen by the total below, even if the family paid no transportation costs, no "other family consumption costs," and no "other" expenses, the $275 would not cover housing, medical care, clothing, and taxes:

$137.50
69.70
47.00
56.90

311.10

Clearly something must give. The family will fall behind in payments. Their medical expenditures will drop dangerously low. Perhaps clothing and personal care expenses will be sacrificed. This lack of income leads to garnishment, mortgage foreclosures, utility shut-offs, evictions, poor health, and loss of jobs through lack of transportation or improper clothing. The $80 Food Stamp requirement obviously impairs many familys' (sic) ability to meet their budgets by paying their other bills, foregoing food stamps, and getting (additional income) from the food bank—or else they go hungry.

In a survey of people waiting in food lines, 38 percent said they couldn't afford food stamps and 50 percent said they had once been on food stamps but could no longer afford them. The budget also indicates that many of those who are purchasing food stamps (the number has increased by 189 percent in 2 years) are doing so at the expense of other needs such as medical and dental care, housing, utilities, and clothing.

The adverse situations of a number of actual families is further detailed in a law suit filed recently against the U.S. Department of Agriculture by the Center on Social Welfare Policy and Law in New York City, and the Seattle-King County Legal Aid Bureau, Inc. The purpose of the suit is to require the USDA to approve concurrent programs. The plaintiffs in the suit were described as having the following resources to draw upon for food stamps:

Plaintiff Florence Sloan, aged 66, has a total monthly income of $151.66. Her monthly expenses, for rent ($98), past debts ($22), utilities ($13), telephone ($8.33), and laundry ($5) total $146.33. These expenditures do not even include such necessities as clothing, food, medical costs, transportation, household supplies, and hygienic items. As a result, she is unable to pay the $14 purchase price for food stamps. She barely survives in irregular donations from the Churches' Food Bank; her total monthly food expenditures for September were only $6.

Plaintiff Selma Waldman, together with her child aged 15, barely subsist on $200 of monthly income. Out of this meager income, she must monthly, pay for rent ($110), oil heat ($35), electricity ($10), water and garbage ($5), telephone ($7), and transportation ($6), a total of $173. The $27 that remains must be utilized for such necessities as food, clothing, school supplies, medical costs, laundry, household supplies and hygienic items. Since plaintiff Waldman must pay $28 to obtain her monthly food stamp allotment, she has been unable to purchase a full month's worth of food stamps.

Plaintiff Josephine Evans, and her five children, receive a total monthly income of $272. Her total expenditures for rent, electricity, oil, telephone, school lunch fees, school transportation fees, and her transportation expenses total $192.25. This leaves her with $79.75 for such necessities as food, clothing, school supplies, medical costs, laundry, household supplies and hygienic items. She is unable to pay the $82 monthly purchase price required to buy food stamps for her family and has, therefore, failed to obtain food stamp relief for over a year.

Plaintiff Beatrice Smith's seven-person household has a total monthly income of $360. After paying her family's expenses of house payment, oil for heating, water, electricity, telephone, debts, household supplies, clothing, laundry, and medical expenses—such expenses totalling over $273—she has less than $87 left for food, house repairs, school expenses, transportation, and several other necessities. As a result, she cannot pay the $100 monthly purchase price to buy her way into the Food Stamp Program. Plaintiff Smith's household has, therefore, been unable to purchase the full monthly food stamp allotment for the past 4 months.

The office of King County Executive John Spellman has conducted a thorough study of the food availability and hunger problems in the area. The following findings are listed in that study:

1. There is an extensive group of county residents, which for reasons of geographical isolation and lack of adequate transportation facilities, is experiencing great difficulty in making use of the Food Stamp Program. Located in the unincorporated area of the county or on the fringes of incorporated jurisdictions, these people, often elderly, experience problems in reaching Food Stamp Certification Centers, Food Stamp Distribution Centers and food outlets . . .

2. A second problem area is indicated by the present situation in the housing market in King County. Homes reacquired and in inventory by FHA now exceed 2,700 units in this area. There are many thousand delinquencies and there is virtually no market for homes. The effect of this situation is to provide no alternative for persons whose income has been drastically reduced, other than to continue making substantial home payments, thereby reducing disposable income available for food purchase.

3. Associated is the problem of persons qualifying for the Food Stamp Program near the high end of the income standard. Fixed costs of living tend to reduce actual disposable income below the Food Stamp cost requirements thereby effectively eliminating such persons and families from the program. A variety of individual solutions to this problem have been attempted, but the problem has been compounded by other factors.

As an example: Many people, including many elderly persons, are seeking relocation in order to reduce rental costs and free additional dollars for food. During the first quarter of 1971, local requests were made for 2,200 additional rental units under the provisions of Section 23 of the Housing Act to provide rental assistance. At present, there are insufficient low cost or supplemental units of people threatened with dislocation as a means of remaining in the Food Stamp Program.

The final step in this tragic chain has been the increased cost of stamps under the new Food Stamp regulations. People who can't relocate to reduce their rent because of a lack of low cost units, whose welfare allotments have recently been cut, whose basic cost of living has increased since welfare standards were last updated, whose minimal resources are, in fact, not liquid under present economic conditions now must pay an increased cost for food stamps.

Clearly, there are many people who simply cannot avail themselves of the Food Stamp Program even though on paper they seem to qualify. Statistics from the Washington State Department of Social and Health Services show a continuing decline in the number of Food Stamp recipients in recent months even though unemployment continues to rise.

4. Current State Public Assistance Rules still preclude payments to single individuals between the ages of 18 and 50. Without the benefits of some assistance, many of these people just cannot afford to take part in the Food Stamp Program. The rule was required to obviate potential State fiscal problems; but, it has a singularly bad effect in an economy like King County where unemployment exceeds 15 percent.

5. Single people, attempting to pool resources in order to survive in the present economic climate, find they are not eligible for food stamps due to restriction on communal living arrangements—even though such arrangements could make possible utilization of the combined resources of the people involved. In King County we are not talking about groups of idle, voluntarily unemployed persons. Voluntary unemployment is an invalid and untenable consideration when there are no jobs or when your age precludes you from active employment.

6. As Case No. 1 from the visiting nurses points out, individuals who attempt to gain employment are, in fact, penalized by rules of the Food Stamp Program. Casual workers with variable monthly incomes are required to obtain monthly recertification. As income rises, so does the cost of food stamps. Yet, other bills don't change with increased income—housing, utilities and medical bills remain constant. Only under the Food Stamp Program rules do we create a basic living cost increase with expanded income.

7. Still another problem area relates to seasonal variations vis-a-vis living costs. It is obvious that utility costs are higher during the winter months as more heat and light are required in the home. (In fact, the cold spring and early summer in the State probably kept utility costs high past their normal downturn point.) No consideration is given such factors in determining costs standards. Along the same line, families with children in school can avail themselves, in some cases, of hot breakfast and, in most cases, hot lunch programs during the school year. In the summer months, however, these programs drop leaving families with effectively increased food costs and no built-in adjustment to compensate for this very real seasonal change. If such adjustments are not possible, these other special food programs should be extended on a year-round basis.

8. Finally, we find the general emergency kinds of cases. This area includes persons awaiting qualification for Food Stamp and other assistance programs, persons experiencing unexpected costs such as medical bills, and those whose food stamps or cash are lost or stolen. Considered as a single problem type, it appears that State and Federal programs fail, at present, to consider these short-term problems which result in hunger for many households. A capability for immediate action to feed people for the duration of emergencies would be a major improvement in the Food Stamp and other assistance programs.

As a result of this study, King County

Executive John Spellman requested the Department of Agriculture to authorize concurrent Food Stamp and Direct Distribution Programs, certification and distribution of food stamps through retail stores, revised standards of food stamp eligibility to recognize the difference between "real" and "apparent" assets; and, either a reduced cash contribution by an individual to his stamp purchase, or granting of the bonus stamps without requiring the cash contribution at all. The Agriculture Department responded by offering the following opportunities to the State and the county to improve the operation of the stamp program and otherwise alleviate the hunger problem. The Department offered to permit stamps to be distributed through post offices, to have permit certification for the program to take place at unemployment offices, to expand the special feeding program for infants and mothers from 750 to 1,500 slots and to permit nonprofit institutions to take advantage of Federal surplus commodities. Beginning on October 12, there were 33 post office branches dispersing food stamps in King County. This effort has been received with great enthusiasm and praise in the Seattle area and it may be propitious to now expand this experiment on a national basis.

The Department also conducted an on-site investigation of the Seattle Food Stamp Program to determine in what manner it might be better operated to serve potential recipients. The investigators determined, on the whole, that the program was among the best operated in the country but that hardship provisions—special deductions from gross income for unused expenses—would not be uniformly administered. State officials agree that better administration of hardship provisions might enable more persons to participate in the program. And the State was recently given permission by the Agriculture Department to calculate real utility expenses, rather than a previously fixed amount, in granting hardship allowances. This concession should be of some assistance to a number of the area's poor. But State officials, while pleased with this further flexibility on hardship allowances, fear that its impact will be necessarily limited by the ability of caseworkers to implement it. The granting of the allowances involves increased documentation and verification, further complicating an already burdensome application process for both the administrator and the applicant.

Even if this additional use of hardship provisions should prove helpful in a number of individual cases. State officials believe this help will be more than offset by the grossly adverse effects of the new Federal Food Stamp Regulations scheduled to be implemented in the State within the next month. The officials estimate that at least 26,000 families, and as many as 35,000 persons, may be rendered ineligible for food stamp benefits because of the new regulations.

The inherent limitations of the Food Stamp Program plus the inadequate and now increasingly unavailable benefits from Unemployment Insurance have made the volunteer Food Banks the last resort for many of Seattle's needy. A newspaper series by the Associated Press, published in the Seattle Times, described the New Poor who had come to depend on the Food Bank:

Society may be evolving ways to impoverish people faster than it is developing means to help them, a survey of the hungry in Washington indicates.

The chasm between new needs and old solutions widens so much daily that private efforts often reach back to the frontier spirit of neighbors helping neighbors.

Society is not prepared to think of a middle class suburban home owner with two cars in the garage as being in need of outside help to put food on his table.

But neither can that man bring himself to sell his property in order to fit the official definition of poor.

Advancing technology and shifting economic trends have combined to create a new class of poor.

They are too well-to-do to receive assistance meant for the poor but yet unable to provide for themselves.

In that same series, one of the Neighbors in Need organizers, the Reverend Alan Ward of the Metropolitan Ecumenical Ministry of Seattle, described the emotional state of many of the New Poor by the time they show up at one of the Food Banks:

The one thing that will drive proud people to seek charity when they wouldn't otherwise is the hunger of their kids.

We've had family after family which has gone without food for several days. Usually the father comes in and says "I wouldn't be here but I can't stand to have my kids hungry."

The Committee staff visited several Food Banks, one located in an old house in a neighborhood known as Capital Hill. Food was being handed out when the staff arrived. The process for giving out the food was courteous and quick. The people had all received numbers and were milling around in front of the house, or waiting in line at the door for their number to be called. Once a person's number was called, he would move into a front room of the house for an interview with one of the volunteers. The interview consisted mainly of questions regarding the person's participation in other programs such as Unemployment Insurance, Food Stamps or Public Assistance. Invariably the replies indicated that most people were either not in these programs, or that the programs still did not supply enough for adequate nutrition. After this interview, the person moved to a nearbly table where he was handed a carton of groceries. The cartons clearly contained no more than several days worth of food, certainly no more than a week's supply. As the line of recipients began to dwindle. so did the food available.

One of the volunteer staff said that the recipients actually had to arrive at the house early in the morning—sometimes as early as 6 a.m.—to receive their numbers. If, on a particular day, the crowd was especially heavy, there would be an attempt to refer an overflow to other Food Banks that were less crowded. Food began to be distributed around 9 a.m. and distribution was usually completed by noon or 1 p.m. Sometimes, when food was in short supply and the needy were out in force, the atmosphere of the Food Bank could turn frightened and angry. "The strain on the staff is terrible when that happens," said one of the volunteers. "They have to start keeping track of how much food is left and how many people they still have to go. A couple of times, we have had to close the Bank down because we were running out. Once we had a near riot."

The increasing likelihood of this difficulty was evident during a visit to the Neighbors in Need warehouses at the Sand Point Naval Station. The warehouses, stocked full months ago, were practically bare—except for cartons of canned salmon which had been processed and donated by the State. Not only was the warehouse practically bare, but there was no assurance of a supply of food to restock it again.

The latest effort to raise money for Neighbors in Need was called Operation Hunger. According to its director, Mike McManus, Operation Hunger succeeded in raising between $30–$40,000 over the summer—and another $10,000 more recently. But now the well of volunteer donations is about dry. "The community has simply run out of the ability to give," said McManus. "People have no idea where it is going to end. Twenty to 25 percent of the givers in the past have been unemployed themselves."

Mr. McManus and others knowledgeable regarding the Food Banks said they are now existing day-to-day and may have to close down soon. "If that happens," said one volunteer, "I don't know what people will do this winter. They just might get themselves together and march down to the Federal food warehouse at Sand Point and take the food they need."

FEASIBILITY OF A FEDERAL SURPLUS FOODS PROGRAM

The warehouse mentioned by the Food Bank volunteer is the USDA storehouse for surplus commodities—now primarily used for the State's School Lunch Program. When the State operated a Direct Distribution Program, the warehouse served that purpose as well.

The existence of the Sand Point warehouse and its stock of food—so close to the Neighbors in Need warehouses, that are now practically bare—is a source of great discontent in the Seattle community. An editorial in the Seattle Times summed up this feeling:

"Those involved in food-bank and hot-meal programs are becoming concerned that government agencies are deliberately ignoring their responsibilities and leaving things to the volunteer organizations.

"Ironically, this Nation sends aid to the hungry of other nations, yet is failing to provide minimal basic relief of hunger for people walking Seattle streets."

It is difficult for people to understand, for instance, why the food that is so desperately needed cannot simply be transferred from one warehouse to the other. The difficulty with such a transfer, as the Agriculture Department has explained, is that the Neighbors in Need Food Banks do not use any eligibility or screening requirements when they distribute food. This is because of a deep conviction on the part of Neighbors in Need staff that only desperately hungry individuals come to the Food Banks, and that it would be an intrusion on their already invaded privacy to ask detailed personal questions. The USDA, on the other hand, must account for Federal food which is distributed and prove that it only goes to truly needy individuals.

It is for all of these reasons—the dwindling unemployment benefits, the limitations of the Food Stamp Program and the crisis facing the volunteer food effort—that Washington State applied officially for permission to operate a Direct Distribution Program concurrent with the State's Food Stamp Program. The Direct Distribution is less satisfactory than the Food Stamp Program in almost every conceivable way except one. It does not provide most recipients with as much food or as good quality nutrition as food stamps. It is often more difficult for recipients to take advantage—because of the bulky nature of the food package. It offers less choice than food stamps used in the neighborhood market. It is less satisfactory in all of these ways, but it has one overwhelming advantage for those that do not have enough money to buy stamps. It is completely free. There is no purchase price requirement for surplus food as there is for stamps. A food stamp allotment of $28 to a person—when he needs $14 to buy the stamps and doesn't have that $14—is useless. That same person, however, would be entitled to $18 worth of surplus food for nothing.

There are clearly a significant number of persons in the Seattle area who are in exactly that kind of situation. It is for that reason that the State has applied for permission to operate a Direct Distribution Program.

The State's request for concurrent programs

The initial involvement of the State of Washington in requesting an expanded role for USDA feeding programs came in a joint letter from Senators Magnuson and Jackson, and Congressmen Foley, Adams, and Hansen on December 14, 1970. That letter requested that the pilot Food Certificate Program then in operation in Yakima, Washington, be extended to the whole State; or, that the Supplemental Food Program then in operation in Seattle be extended to the entire State. On December 15, 1970, Governor Evans wired

Secretary Hardin in support of the congressional delegation's letter.

The response from Assistant Secretary Lyng came on January 4, 1971, and indicated that the U.S. Department of Agriculture was "firmly committed to the Food Stamp concept for supplying the family with its basic food needs" and that, nonetheless, "budgetary limitations" would not permit significant expansion of either program. On January 5, 1971, Senator Magnuson wrote again to Secretary Hardin about the inconsistencies in Assistant Secretary Lyng's statements concerning budgetary requirements.

The next significant request from the State came on May 1 when Governor Evans wrote to Secretary Hardin asking that any future pilot projects include areas in Washington State. On May 28, the Secretary wrote to the Governor indicating that the Department of Agriculture was evaluating its programs to determine if expansion was warranted.

On July 15, Assistant Secretary Lyng met with the Washington State Congressional delegation in Senator Magnuson's office. At that meeting, Lyng said that he could not possibly foresee circumstances under which a dual program would be operated in Washington State or anywhere in the Nation. Later that day the Governor received a call from Lyng denying any such dual operation. Upon the Governor's arrival at the Western Governors Conference at Jackson Hole, Wyoming, on the same day, he told reporters that he was "disappointed and angry" with USDA's decision.

On July 21, the dual operation request was formally submitted through USDA channels. Mary Lou Everson, Assistant Secretary for Economic Services in the State Department of Social Health Services, wrote to Charles Ernst, Western Regional USDA administrator, making the request. Miss Everson's letter was based on the authority contained in Public Law 91–671 and Public Law 92–32. Her letter made it clear that the State of Washington was fully committed to paying for the modest administrative expenses involved in a Direct Distribution Program.

The following day Governor Evans received a letter from Assistant Secretary Lyng which, in effect, reduced his telephone conversation of July 15 to writing. Lyng said, in effect, that the Food Stamp Program was doing an effective job and was being well administered. Governor Evans traveled to Washington, D.C. on July 28 to present a whole economic package to the Office of Management and Budget which included the dual operation of both feeding programs.

Finally, on August 5, Mr. Ernst of USDA responded to Miss Everson's official letter of request. He said that "while Public Law 91–671 does permit the dual operation, the Department has decided it will not approve any dual operation . . . it cannot be justified."

Subsequently, during the course of hearings by the U.S. Senate Select Committee on Nutrition and Human Needs on the Commodity Distribution Program, Senator Percy questioned Assistant Secretary Lyng very closely on the Department's refusal to grant the State of Washington's request for dual program operation.

Lyng admitted that the Department would be "perfectly willing to permit simultaneous distribution of these commodities and food stamps where there seems to be . . . a practical, sensible reason for so doing. But we don't think that situation exists or a good cause has been made for it by Washington State." Furthermore, Lyng stressed that there is "no hard evidence" that the Food Stamp Program was not meeting the needs of the people of Washington.

On October 13, Governor Evans held another press conference in which he indicated that Assistant Secretary Lyng did not know the difficulties and problems that confronted the people of Washington. Then, later last month, Secretary Lyng came to Seattle to meet with the Governor and County Executive, and to visit the Food Banks run by Neighbors in Need. At this moment, the Agriculture Department maintains that there is simply no need for dual food program operation in Washington State.

Congressional intent: Concurrent programs

The Food Stamp Act before 1970 clearly prohibited concurrent programs, except in unusual circumstances. The language of the Act before 1970 read:

> In areas where a food stamp program is in effect, there shall be no distribution of federally owned foods to households under the authority of any other law except during emergency situations caused by a national or other disaster as determined by the Secretary (7 U.S.C. § 2013(b))

Under this language, the Agriculture Department only permitted direct distribution programs to operate in areas struck by a natural disaster—such as a hurricane or flood. The reasoning, in such a case, was that the normal channels of food distribution had been disrupted.

In the past several years, however, as the Food Stamp Program expanded dramatically—replacing Direct Distribution programs—the problem of people having enough money to purchase food stamps became more apparent. In many places, there were dramatic reductions in participation in Food Stamp Programs as opposed to previously operating Direct Distribution Programs. This problem was communicated to the Congress and played a significant part in the changes that were made in the Food Stamp Act in 1970. Specifically, Section 4(b) of the Act was changed to read:

> In areas where the food stamp program is in operation, there shall be no distribution of federally donated foods to households under the authority of any other law except that distribution thereunder may be made: (1) during temporary emergency situations when the Secretary determines that commercial channels of food distribution have been disrupted; (2) for such periods of time as the Secretary determines necessary, to effect an orderly transition in an area in which the distribution of federally donated foods to households is being replaced by a food stamp program; or (3) on request of the State agency: Provided, That the Secretary shall not approve any plan established under this Act which permits any household to simultaneously participate in both the food stamp program and the distribution of federally donated foods under this clause (3). (7 U.S.C. § 2013(b)) (emphasis added)

It should be noted that—while there was considerable controversy and disagreement over the differing Food Stamp amendments passed by the Senate and the House of Representatives in 1970—there was unanimity between the Senate and the House conferees on this provision. It was clearly the purpose of the conferees to encourage States and local jurisdictions—where they are willing to pay the administrative cost—to operate a Direct Distribution Program concurrent with the Food Stamp Program.

The House Report to the 1970 Food Stamp Act amendments states: "If the State agency requests simultaneous operation for a period of time beyond that deemed necessary for an orderly transition to a stamp program, or if the State agency wishes to institute the Commodity Distribution Program in an existing food stamp area, the full cost of handling and issuing the commodities in the food stamp area would be at the expense of the State agency or the local government unit." (House Rep. No. 91–1402, 91st Cong., 2d Sess. (1970)).

The conferees further had reason to believe that the provision was fully supported by the Administration speaking through the Secretary of Agriculture. Testifying before the House Agriculture Committee, former Agriculture Secretary Clifford Hardin said:

> At present, State and local governments may not operate both food stamp and commodity programs in the same area except during a brief period of transition from one program to the other. We have proposed that *both programs should be allowed to operate simultaneously wherever the local government is willing to assume the additional administrative expenses.* (Hearings on the Amendments to the Food Stamp Act before the House Agriculture Committee (1970), at 9) (emphasis added)

After Secretary Hardin's prepared statement was completed, he had the following exchange with Congresswoman Katherine May:

> Mrs. MAY. Now, to go to the direct distribution program question again, you have requested that we be able to continue direct distribution of commodities along with food stamp programs, which in the original presentation of this bill to Congress, was not to be allowed if savings dollar-wise and more efficient distribution of nutritional food were to be accomplished. But I understand you propose now being able to have both programs. *Now, under what circumstances in a county would this be necessary?*
>
> Secretary HARDIN. This would be, first, if the city or county was willing to carry the total cost of administering both programs.
>
> Mrs. MAY. The total cost of administration, not the cost of the program?
>
> Secretary HARDIN. No, administration. And of course any one family or individual would be on only one or the other of the programs, not both . . . (Hearings, *Ibid*, at 24–25) (emphasis added)

The Secretary was then pressed to explain the rationale for implementing both food relief programs, and under what circumstances such concurrent operations would be accomplished. The Secretary provided the following information to the committee:

> Since the Food Stamp Program has been in operation there have been requests to operate both the Food Stamp Program and the Commodity Distribution Program in the same area. In most instances, these requests were made by groups or governmental agencies which felt that the Food Stamp Program was not reaching all of the needy people because some could not afford to purchase the stamps or that the lowest-income families were not receiving enough stamps to meet their minimum nutritional needs.
>
> * * * * *
>
> *We . . . believe that when a State or local government feels it has a special problem, and if they are willing to bear the additional administrative cost, we believe that such simultaneous operations should be permitted.* (Hearing, *Ibid*, at 25) (emphasis added)

Congressman W. R. Poage, Chairman of the House Agriculture Committee, taking Secretary Hardin at his word, had the following to say on the floor of the House before the 1970 amendments were voted on:

> "The Department of Agriculture has endorsed the bill and calls attention to some of the provisions of the committee bill which are clearly intended to and do liberalize the existing law. Here are the provisions with which the Department is especially pleased: . . . Simultaneous distribution of food stamps and commodities in local areas requesting both programs." (Cong. Rec., 91st Cong., 2d Sess. (December 15, 1970), at H11818)

Further congressional intent on concurrent programs, particularly in areas of high unemployment such as Seattle, was indicated in the passage of the 1972 Appropriations Act for the Departments of Labor, and Health, Education, and Welfare, and Related Agencies. The Act included an amendment—sponsored by Senator Warren Magnuson, Chairman of the Appropriations Subcommittee on Labor-HEW—providing:

> That $20 million of this appropriation shall be used by the Office of Economic Opportunity to finance Emergency Food and Medical Services programs in eligible areas of

exceedingly high unemployment, as defined in Section 6 of the Emergency Employment Assistance Act of 1971, to be reimbursed to the Manpower Training Services Appropriation by the Office of Economic Opportunity immediately upon enactment of an Appropriation Act for the Office of Economic Opportunity in fiscal 1972.

Senator Magnuson's purpose in sponsoring this amendment to the Appropriations Act was to provide funds—for Seattle, and similar areas—to finance the operation of concurrent food programs.

Following the passage of the Appropriations Act, Senator Magnuson wrote the Director of the Office of Management and Budget, George Shultz, requesting immediate implementation of the emergency food provision. The OMB replied that it did not believe the emergency funds were required to meet the nutritional needs created by Seattle's economic difficulties, since the area had an operating Food Stamp Program. If the Food Stamp Program proved inadequate to the crisis, the OMB said, then the emergency money would be released.

CONCLUSIONS

1. Seattle and its surrounding areas have suffered a severe economic setback in the past several years. There are now almost as many people unemployed as were employed by the aerospace industry at its peak. There are no immediate prospects for a rapid improvement in the area's economy. The unemployment rate is expected to remain at an extremely high level—probably around 11 percent—during the next year. Despite the generally sound economic base of the State as a whole, it is not unfair to call Seattle an area of "economic disaster."

2. As a consequence of the depressed economic conditions, there is widespread evidence that many families are suffering nutritional deprivation. This deprivation is likely to become more severe as the available social welfare support programs become more inadequate to meet visible needs. Unemployment benefits are being exhausted at an increasing rate, now estimated at 9,000 a month. The Public Assistance Program—despite a dramatic growth in the past 2 years—is proving inadequate to fill all of the area's nutritional needs and has been cut back 15 percent by the State in order to balance its budget. It is probable that less than half of those eligible for the Food Stamp Program are participating in it. Clearly, many are not participating because they cannot afford to buy into the program to receive their bonus stamps.

3. The Seattle community has made a remarkable effort to fill the area's hunger gap by sponsoring a network of volunteer Food Banks. Since they began operating, it is estimated that the Food Banks have filled 300,000 requests for food. A large number of those persons going to the Food Banks report that they are unable to afford the cost of food stamps and that public assistance payments do not provide enough for them to eat adequately. This volunteer effort—a last resource for so many Seattle needy—is in danger of collapsing. As one official put it: "The community has simply run out of the ability to give." There is deep concern throughout the community about the possible adverse effects of an end to the Food Banks—particularly should it occur as winter approaches.

4. There is clearly a demonstrated need for further food assistance in the Seattle area. The Food Banks indicate the usefulness and feasibility of a Direct Food Distribution Program. The Federal Government's Direct Distribution Program could be of vital assistance in alleviating the area's nutritional needs. The Agriculture Department has ample foodstuffs available and has clear legislative authority to approve the State of Washington application to operate a Direct Distribution Program concurrent with the Food Stamp Program in the Seattle area. The Agriculture Department has taken the position that it does not intend to approve such an application for Seattle—or any other jurisdiction. This position is clearly contrary to the intent of Congress, as expressed in the Food Stamp Amendments of 1970. The U.S. Department of Agriculture should approve the application of Washington State for concurrent programs forthwith.

5. Many of the New Poor will still be ineligible for Federal food benefits because of other resources and assets. It is imperative that these families have some place to turn in moments of crisis, so that they will not go hungry. The volunteer Food Banks have served this purpose in the past and, with additional support, can continue to do so in the future. These Food Banks represent an ideal opportunity for the Federal Government to experiment with a Food Assistance Program to serve those who are clearly needy but do not fall wtihin the minimum eligibility requirements governing other programs. It would appear that funds made available in the 1972 HEW-Labor Appropriations Act for the Emergency Food and Medical Services Program of the Office of Economic Opportunity for emergency food programs in high unemployment areas are ideally suited for the crisis now facing the volunteer food assistance effort in Seattle. Efforts should be made immediately to provide those funds, on a flexible basis, to Neighbors in Need that they may continue operating their volunteer Food Banks.

Mr. MAGNUSON. Mr. President, I shall not rest until the last vestiges of hunger in Seattle are wiped out—and wiped out with the use of federally owned surplus food commodities as a major tool in the restoration of humanitarianism in the Government of this Nation.

To signal the start of a fresh campaign to reeducate the bureaucrats as to the real meaning of our democracy, I am offering a "sense of the Senate" resolution for consideration as one of the final acts of the first session of this Congress.

This resolution calls upon the Attorney General of this Nation to honor the judgment of the Federal court in Seattle, by not appealing its ruling in favor of feeding the poor and further calling upon the Department of Agriculture and other agencies to face the truth, that there is a severe hunger problem in this Nation, and to fulfill their responsibility under the law by making available, surplus food commodities to feed the hungry.

Mr. President, why must citizens of the richest Nation in the world have their survival dependent upon mercy shipments of rice and canned goods from another nation across the Pacific? There is no answer to that question that is consistent with the U.S. Constitution or the concepts of democracy, human dignity, and individual worth upon which this Nation was created.

Mr. President, I send my resolution to the desk and ask unanimous consent that it be placed upon the calendar and be immediately considered by the Senate and that its text be printed in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

S. RES. 212

Whereas the Seattle, Washington area is suffering the highest rate of unemployment in the United States and thousands of hungry people are unable to find sufficient food; and

Whereas the federal Food Stamp Program in the State of Washington is inadequate to meet the basic needs of the hungry citizens as is fully documented by the Report of the Senate Select Committee On Nutrition and Human Needs; and

Whereas Congress has provided extensive authority and funds for food distribution programs to be provided in addition to the existing food stamp program; and

Whereas the administration has refused to implement or abide by the laws enacted by Congress to feed hungry people; and

Whereas the failure of the Executive Branch to implement the laws and provide sufficient food distribution in the Seattle area has resulted in thousands of hungry citizens relying upon voluntary private food donations and on foreign aid from Japan, which is providing rice and canned goods and will continue until we take action on our own; and

Whereas the District Court for the Western District of Washington has ruled that the Secretary of Agriculture acted unlawfully, arbitrarily and capriciously in refusing to implement the law and to approve a commodity distribution program for King, Pierce, Snohomish and other counties in the State of Washington; and

Whereas the Department of Agriculture has indicated that they may appeal the court decision and not agree to comply with the law to feed hungry people: Now, therefore, be it

Resolved, That the Senate recommends and urges that the Attorney General of the United States forthwith advise the District Court for the Western District of the State of Washington that the decision of that Court holding that the Secretary of Agriculture has acted unlawfully in refusing to approve food distribution programs for Seattle and adjacent areas will not be appealed and, it is further

Resolved, That the Senate recommends and urges that appropriate officials of the Executive Branch take all necessary steps to fully implement existing laws for the feeding of hungry people in Seattle and adjacent areas and wherever economic conditions require similar action.

The PRESIDENT pro tempore. Is there objection to its immediate consideration?

Mr. MANSFIELD. Mr. President, reserving the right to object——

Mr. GRIFFIN. Mr. President, reserving the right to object, what is the request?

Mr. MAGNUSON. That we consider the resolution.

Mr. GRIFFIN. I am sorry, but I do not know what the resolution is.

Mr. MAGNUSON. I just submitted it to the desk.

Mr. GRIFFIN. For reference?

Mr. MAGNUSON. No; for immediate consideration.

Mr. President, I suggest the absence of a quorum until the distinguished acting minority leader can read it.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. BYRD of West Virginia. Mr. President, will the Senator withhold his request?

Mr. GRIFFIN. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JACKSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. GRIFFIN. Mr. President, for the time being I object.

The PRESIDENT pro tempore. Objection having been heard, the resolution will go over under the rule.

Under the previous order, the Senator from Washington (Mr. JACKSON) is recognized for 15 minutes.

Mr. JACKSON. Mr. President, on Tuesday, a Federal judge in Seattle found that former Agriculture Secretary Clifford Hardin acted unlawfully in refusing to release surplus food to feed the hungry in the Seattle metropolitan area.

The decision could be the climax to months of work by many of us in public office to persuade the Department of Agriculture to use the authority granted by Congress to operate a dual food program in Seattle—to make food available to the hungry by operating a direct distribution program concurrently with the food stamp program already in operation.

I join today with Senator Magnuson in a resolution urging the Attorney General to notify the district court that the Federal Government will not appeal the district court's ruling.

The hunger problem in the Seattle area has become increasingly serious. As U.S. District Judge William Beeks stated in his opinion:

> If dual operation cannot gain approval here, where the unemployment rate is the highest in the nation . . . and where thousands have exhausted their unemployment compensation, then the Act has been rendered a nullity.

While the food stamp program has helped, there are inherent limitations in the program, such as delays in getting certified and the requirement of presenting documentation of all income, assets and expenses. The major roadblock is that people cannot afford food stamps because it requires cash. In a depression many people cannot sell their house or car or other vital family assets. In fact, as few as 52 percent of those potentially eligible are actually participating in the program.

Faced with people who had no food, the community responded by setting up a volunteer effort to supplement the food stamp program. The volunteer program, called "Neighbors in Need" currently operates 34 food banks in the Seattle area. "Neighbors in Need" collects food, and money to buy food, and then distributes it through the food banks. In fact, when I was home in September, a woman came to our home, north of Seattle, collecting for Neighbors-in-Need. It reminded me too vividly of the great depression, nearly 40 years ago.

Recognizing the large number of people who could not utilize food stamps, and realizing that the volunteer effort could not go on forever, Senator MAGNUSON and I contacted the Department of Agriculture and asked for help to alleviate the problem. But we were told that there was no hunger problem in Seattle, and that food stamps could take care of the situation.

We have called repeatedly for a dual food program in Seattle. Our colleagues in the House of Representatives have joined in our efforts. The Governor, the King County executive, and the mayor of Seattle have also urged the Department to take such action. But the Department has not responded to this bipartisan appeal.

The Secretary of Agriculture has stated over and over again that there is no hard evidence that the food stamp program is failing to meet the needs of the hungry. Assistant Secretary Richard Lyng visited Seattle in October and restated the Department's position. He saw no need for the dual program.

I do not know where the Secretary looked—but I do know, and Senator MAGNUSON knows, that there are hungry people in Seattle; I have seen them, I have talked with them, I have read their letters—they are hungry and the food stamp program is not taking care of them.

Mr. President, winter is approaching; unemployment compensation is running out; and the food banks continue to be the last resort for many of Seattle's hungry. Tens of thousands of dollars have been raised by "Neighbors In Need," but the community's ability to give is drying up. If the food banks shut down, and the Agriculture Department does not act, we could witness a severe tragedy.

Mr. President, it is ironic that at the same time that the district court was acting, the residents of Kobe, Japan were shipping 1,000 pounds of canned food to the hungry in Seattle. It is hard to imagine that in this great country people who are hungry must turn to our foreign neighbors for help, when their own Government turns its back.

It will be tragic if the Attorney General appeals this case, ending the hope that the hungry might have the food that they need before Christmas.

A country as great and as rich as America cannot turn away from the poor and the hungry and say:

> We are too busy . . . we don't want to help.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. JACKSON. I am very happy to yield to the Senator from Rhode Island.

Mr. PASTORE. I am shocked by the Federal refusal of surplus food in the Seattle situation. I agree with everything the junior Senator from Washington has said. Where America slams the door, Japan opens its heart. I think this is one of the most humiliating experiences that has ever happened to us as a great Nation. Not that I condemn or criticize the Japanese; I think they are generous, and they are doing this out of the goodness of their hearts. But the mere fact that a nation that we have helped from a point of prostration—she was on her knees in 1945, a conquered nation—is today offering food for our hungry. That Seattle is dependent on Japanese charity—is a moment of shame for America.

It is a moment of shame for America that we do have the food and we do not have the will to feed our own people. It is disgraceful.

Mr. JACKSON. Mr. President, will the Senator yield?

Mr. PASTORE. I yield.

Mr. JACKSON. I would point out, Mr. President, that Kobe, Japan, has already shipped the food. I think this is a great tragedy and a great humiliation to our Government, to have it appear in a news dispatch that a foreign country is sending food to help the hungry——

Mr. PASTORE. In America.

Mr. JACKSON. And the needy in America, at a time when a Federal judge has ruled that the Secretary acted in an arbitrary and capricious manner in not exercising the discretion vested in him by the Congress of the United States to distribute the food, under the circumstances that are so clear in this case.

Mr. PASTORE. Will the Senator yield further?

Mr. JACKSON. I yield.

Mr. PASTORE. In the newspaper only the other day I saw a picture where our bins were all overflowing. There was not adequate storage space any more. Food stuffs were piled up in the streets and at the same time Americans go hungry. I am telling you, this is a sad day for America, to put it mildly. What a paradox—plenty and poverty—overflowing harvests and hungry people.

Mr. MAGNUSON. Mr. President, may I suggest, if the Senator will yield, that in the Pacific Northwest there are warehouses full of surplus food right now?

Mr. JACKSON. I yield.

Mr. PASTORE. That is right. But somehow it is not getting to the hungry.

Mr. MAGNUSON. That is right.

Mr. JACKSON. Mr. President, I might also point out that at the time the Department of Agriculture people refused to make food available to the needy in Seattle, we were shipping food out over the docks from Seattle to assist foreign countries in helping them with their food problem. We all agree that we want to help the hungry abroad, but it is rather ironic that in Seattle food is going out over the docks to nations abroad that need food to take care of their people; but we are not taking care of our own citizens.

Mr. President, I yield back the remainder of my time.

Mr. MAGNUSON. Mr. President, I also ask unanimous consent to have printed in the RECORD—I have sent to the desk the court ruling—an article published in the Seattle Times, entitled "New Food Stamp Rules May Bump Many Off Rolls," written by William W. Prochnau, a distinguished journalist of the Times, in which he points out, in a rather long article, that the new food stamp rules will bump many more off the rolls.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

NEW FOOD-STAMP RULES MAY BUMP MANY OFF ROLLS

(By William W. Prochnau)

WASHINGTON.—Seattle's new poor, as Senator George McGovern has called them, can be forgiven if they get the impression that government gives to them with one hand and takes away with the other.

This week a federal judge has ordered a reluctant Agriculture Department to make surplus food available to the hungry in Seattle. And the Senate has made a desperate 11th-hour effort to extend unemployment benefits in Washington and other hard-hit states.

But, at the same time, the government is preparing to implement regulations which could cut as many as 35,000 persons from the food-stamp program in Washington state.

The regulations, which will replace eligibility rules with a national standard, were announced last summer but are just now beginning to go into effect. Eight states already have complied, with Washington state expected to make the change over after the first of the year.

The Agriculture Department, which came up with the national regulations under congressional order but not under congressional direction, says that about 2 million new persons will become eligible under the change.

Department spokesmen also say the change will deny stamps to at least 75,000 persons now receiving them. But other sources, including Schlossberg, say that the number will be considerably higher.

Unquestionably, the new regulations will mean benefits for many poor, almost destitute, families—especially in the South and some poor areas of the Midwest. All of the benefits will go to states which have income ceilings lower than the new federal-eligibility standards.

But the problem will arise in states which had more liberal rules—Washington, California, New Jersey, New York, Massachusetts, Michigan, Minnesota, Rhode Island, Vermont, Wisconsin, South Dakota and Nebraska.

In Washington, the elderly probably will be the hardest hit. Washington has had relatively high-income ceilings for families of one or two persons—family sizes in which most elderly persons find themselves.

Under the old rules, a one-person family could have a monthly income of up to $195 and still receive some food-stamp benefits. Now the ceiling will drop to $160. For a two-person family, the ceiling will fall from $250 a month to $210.

Among larger families, the new regulations appear to be more liberal. A family of six, for example, will qualify for food stamps with an income of $493. The old rules in Washington state cut a family of six off at $435.

But Schlossberg contends that the higher ceilings are misleading.

Under the old rules a family of six, with the maximum permissible income, would have paid $112 for $144 worth of stamps. Under the new rules the family would pay $139 for $148 worth of stamps.

Schlossberg argues that few families will bother with the $9 bonus and instead will drop out of the program.

The hardest hit are expected to be the elderly who are on low, fixed incomes. They could be knocked out of the program entirely.

But the "new poor"—the aerospace engineers and highly skilled workers, many of whom now have been out of work for months or even years, also could be deeply affected and perhaps edged out of their benefits.

Under the regulations, a marginally poor family with the program's maximum allowable income probably will find food stamps barely worth the effort of obtaining them.

A family of four with a $360 monthly income—about what unemployment benefits provide in Washington state—will have to pay $99 to receive stamps worth $108. The family now would pay $82 for $106 worth of food stamps.

Kem Schlossberg, staff director of McGovern's select Committee on Nutrition and Human Needs, says that the "new poor" will find food stamps "practically a waste of time" after the new regulations are in effect.

Schlossberg charges that the regulations are "deliberately calculated" to push such families out of the program and thereby reduce federal costs. "It is a hell of a crazy program," the McGovern aide said.

Senator Warren G. Magnuson, who has been a sharp critic of the Agriculture Department's handling of aid for the hungry, agrees that the changes probably will mean "a smaller total federal expenditure" for the food stamp program.

Magnuson added that he thought it was odd that this should come at a time when there has been strong congressional pressure to increase aid to the hungry.

"This is a real setback for these people, certainly no gale at all," Magnuson said. "It is especially painful in Washington state, where the cost of food is the fourth highest in the nation."

Mr. MAGNUSON. Our unemployment is getting to the point where our rate is not only the highest in the Nation, but it is going up instead of down.

I realize the problem of the distinguished acting minority leader, that he may want to discuss the resolution with some of the people on his side of the aisle, and take a look, which I am sure he would want to, at the district court ruling, since we only quote the ruling of the district court.

Someone down at the Department has said that the Secretary may appeal. An appeal would take months. In the meantime, they are walking the streets, 8,000 now being fed by Neighbors-in-Need. That is all the donated food we have, except what we are getting from Japan, which may add to it. There are 10,000 being turned away every week. This is an emergency. This is not to chide anyone down at the Department of Agriculture, but they absolutely refuse to budge. We have had meeting after meeting with them, and they still insist that the food stamp program is sufficient, while everyone says it is not, including a Senate committee which made a report last week.

Seattle is a disaster area, and I say it is humiliating—the Senator from Michigan was not here earlier—it is humiliating to me to have the people of Japan sending us food when we have surpluses and they keep insisting that the food stamp program is sufficient. It is not.

It is not only Seattle that is involved. Some other problem areas have shown up in the State of Washington.

I hope we can get some action on this matter. I have no word that the Attorney General will definitely appeal this case. I think they have enough compassion down there that they would not appeal, and perhaps the new Secretary of Agriculture will do something. I do not know. In the meantime, it is pretty bad. It is very bad at this time of the year, during the winter months. I am going to try to go home next week. How can I face 18,000 people who are hungry?

Mr. GRIFFIN. Mr. President, will the Senator yield briefly for a comment?

Mr. MAGNUSON. I yield.

Mr. GRIFFIN. Mr. President, I want to make it clear that my temporary objection to immediate consideration and passage of the resolution this morning does not go to the merits of the resolution, necessarily. Indeed, I do so with some reluctance, because I can understand the deep feelings of the Senator from Washington.

Mr. MAGNUSON. My colleague and I have had many conferences with the Department.

Mr. GRIFFIN. I can understand the feelings of both Senators from Washington. At times I have been rather unhappy with some of the bureaucratic decisions made within the Department concerning programs to feed the hungry in my own State, particularly in Detroit.

Mr. MAGNUSON. Yes.

Mr. GRIFFIN. So I know something about the problem.

Mr. MAGNUSON. Of course, this applies to all States.

Mr. GRIFFIN. I would not be fulfilling my leadership responsibility if I were to let this resolution, which I have just seen for the first time, go sailing through by unanimous consent. The resolution would involve the Senate in a judicial proceeding that is underway. It is necessary that other interested Senators at least have noticed that the resolution is before the Senate. I am sure the Senator from Washington, who is chairman of one of the committees on which I serve, will understand my responsibility in this respect. I would not be representing the Senators on this side of the aisle if I did not at least do that. As I understand the rules, the objection will cause the bill to go on the calendar, and it can be taken up tomorrow.

Mr. MAGNUSON. I ask the Chair whether that is correct.

The PRESIDENT pro tempore. The Senator is correct.

Mr. MAGNUSON. I know that the Senator from Michigan is doing what he thinks he should do as acting minority leader. But I sat for a whole day hearing testimony on this, a month ago, and some of the people came from the Detroit area and talked about their problem. I do not know whether it is any better or any worse than mine, but there is a problem there. The Senator from Connecticut has many problems in his State, where unemployment has gone up. All we are trying to do is get the Senate to consider this matter and put on the record its position on the utter disregard of the Agriculture Department and the White House to the problem facing thousands in western Washington.

The PRESIDENT pro tempore. The time of the Senator from Washington has expired.

Mr. MAGNUSON. I ask unanimous consent to proceed for 2 additional minutes.

The PRESIDENT pro tempore. Under the previous order, the Senator from Illinois (Mr. Percy) is to be recognized.

Mr. BYRD of West Virginia. Mr. President, may I ask the distinguished assistant Republican leader whether or not the distinguished Senator from Illinois (Mr. Percy) will be here to claim his time under the order?

Mr. GRIFFIN. It is my understanding that he will not.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that I may be substituted for the distinguished Senator from Illinois (Mr. Percy) and be recognized for 15 minutes.

The PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered.

The Senator from West Virginia is recognized for 15 minutes.

Mr. BYRD of West Virginia. This will not alter the overall time schedule. I yield my time now to the distinguished Senator from Washington.

Mr. MAGNUSON. I do not want to belabor this matter, but this is an emergency. It is most amazing. We have been trying to get this done for months to change the callous position of the Department of Agriculture. The Senator from South Carolina, the Senator from

Georgia, the Senator from South Dakota, will agree with everything we are saying here, that something should be done immediately. The resolution is triggered by two things—first, an announcement that Japan is sending us food and the decision of a U.S. district court that USDA had acted "arbitrarily, capriciously, and unlawfully" in refusing to distribute commodities in western Washington.

I served in the Pacific during the war, and I am surprised about how we are reversing foreign relations. The city of Kobe and the other Japanese officials acted with some compassion. They believe that we needed help, and they took a look at our problem. They would not be sending us food if they did not think we needed it. This is humiliating for the United States. This resolution was also triggered by the fact that there was a suit in the district court and the judge ruled last week against USDA.

The Salvation Army and church groups in Seattle got together—they call themselves neighbors in need—and they are now serving 8,000 people each week, from contributions of food and money from myself or anybody else who sends them something. They are turning away some 10 to 12 thousand people each week.

The Senate Select Committee on Nutrition and Human Need sent their staff members to Seattle, along with my staff and Senator JACKSON's staff, in order to investigate the crisis in Seattle. This was done at the urging of Senator McGOVERN and Senator PERCY. Senator PERCY made a speech on the floor of the Senate about a week ago, stating that western Washington was a disaster area, and stated this report as evidence of that fact.

Many things have happened since we started this and each has been rebuffed by USDA. This is why I would like some emergency action by the Senate.

Mr. COOK. Mr. President, will the Senator yield?

Mr. MAGNUSON. I yield to the Senator from Kentucky.

Mr. COOK. I say to the Senator from Washington that I would hope that he would let it lay over until tomorrow.

Mr. MAGNUSON. Yes; I am willing.

Mr. COOK. I ask unanimous consent that this resolution be immediately printed and that a copy be on the desk of each Senator tomorrow morning.

This is an argument that we have gone through time and time again with the Agriculture Department. We pass bills—the House and the Senate. We say that they can work in compatability with each other, that they work as a matter of necessity with each other where you can have a distribution system and a stamp program in counties that can run parallel, where the necessity is, and the agriculture Department has refused to do it.

I might say that I would hope that between now and tomorrow, Senators would digest this resolution and that the Agriculture Department would digest this resolution. It seems rather harsh language on page 2, such as "unlawfully, arbitrarily, and capriciously," but this is what the lower court decision said.

Mr. MAGNUSON. That is right.

Mr. COOK. This is what the judge said the Agriculture Department had done in relation to the law.

So I think that the Members of this body should have an opportunity to read this resolution, and then let us discuss it again tomorrow. I would hope that between now and tomorrow, the Agriculture Department would realize the seriousness of the problem of the Senator from Washington and, frankly, realize the seriousness of this resolution.

Mr. MAGNUSON. If the Agriculture Department says today that they will supply emergency assistance, I will be glad to withdraw the resolution.

But, on top of that, I want to say to the Senator from Kentucky, I put in the Labor, HEW appropriations bill—this was in July, when this started—$20 million, as the Senator will recall, which was given to the Labor Department, which in turn was going to send it to OEO for their emergency food and medical services program. In the meantime, we had not authorized OEO. Now the OEO is authorized, and in that bill is another $32.5 million which the Appropriations Committees of both the House and the Senate agreed to unanimously, so they have funds. This can be used all over the United States. This is for Detroit, perhaps counties in Kentucky, and in Connecticut. For some reason, they just will not agree to spend any of this money. The Office of Management and Budget operating with direct orders from the White House has impounded the funds for the emergency food and medical services program.

As the Senator from Kentucky has pointed out, we use in the resolution the language that Judge Becks used in his decision. That is all we have done.

Mr. COOK. This is not the language of the Senator from Washington. This is the language of the Federal district court.

Mr. MAGNUSON. And they had a long hearing on this.

In the meantime, we are in serious trouble. Our rate of unemployment has not gone down at all. As a matter of fact, the House is hopefully going to recommend on Monday that we extend unemployment insurance, on that issue both sides of the aisle supported me unanimously.

It gets down to people on social security who get $140 a month. The first thing they are going to do is to pay their rent and pay for electricity and pay for heat, to keep warm this time of the year, in my part of the country. They simply cannot afford to buy food stamps.

I do not understand the position of USDA. The Senator from South Carolina is deeply disturbed about it. He went out there with me. The fact is, there is plenty of surplus food to use. Also the humiliation of having Japan send us food, we will have come to a sorry end if this great country cannot do something about its own problems. It is humiliating. I do not know if this has ever happened in the United States before. I cannot recall it. I support giving food to hungry people wherever they may be. But, charity begins at home. Let us first take care of our own. That is what this resolution is about. So I appreciate the feelings of the Senator from Michigan about this. I know that he wants to see something happen. I brought this matter up under unanimous consent, it was the only way to do it, after these things had happened to me. Yesterday, we okayed in conference the supplemental appropriation bill which has some money in it for OEO, and it contained both a law and a directive.

So I am very glad to have this resolution go over until tomorrow, but I hope that we will be able to have a vote on it because the resolution states only cold, hard facts. The Senator said it contains some pretty rough language, but that is what the U.S. district court said. They had a pretty lengthy proceeding out there.

I do not know whether the President is aware of this matter as much as he should be, but as of now his domestic advisers have been backing up the Department of Agriculture's original ruling. Maybe the new Secretary of Agriculture will do something about it. I do not know. But if he does, between now and tomorrow, I shall be the happiest person in Washington and will be very glad to consider withdrawing the resolution and to work with the new Secretary.

OEO has money and authority. It was just appropriated; they got their money yesterday. There is no problem of distribution. Neighbors in Need is made up of church volunteers, the Salvation Army, Good Will Industries, and all those other good people who will be glad to distribute surplus food, so that there will not be any problem about the cost of distribution.

Neighbors in Need went to Walla Walla, when the President was there about 4 weeks ago, and they tried to talk with him about this problem. I do not know what happened. They did not get to see him. I have a note here, which I did not read until this morning, that the OEO authorization has been vetoed but there is still the money and authority in the appropriation bill—plenty of money available for feeding hungry people.

So, Mr. President, before yielding the floor, let me say that I surely hope the Senator from Michigan and the Senator from Kentucky who have been so helpful in this matter, as well as the Senators from Illinois and South Dakota, and other Senators, will vote for this resolution tomorrow.

I yield the floor.

The PRESIDENT pro tempore. Objection has been heard to the resolution——

Mr. MAGNUSON. Mr. President, a parliamentary inquiry——

The PRESIDENT pro tempore. Since there has been objection to the immediate consideration of the resolution, it will go over under the rule.

UNANIMOUS-CONSENT REQUEST

Mr. BYRD of West Virginia. How much time does the Senator have remaining?

The PRESIDENT pro tempore. Four minutes.

Mr. BYRD of West Virginia. Will the Senator yield to me?

Mr. MAGNUSON. Yes, I yield.

Mr. BYRD of West Virginia. Mr. President, under the previous order, the 1 hour for debate on the cloture motion tomorrow will begin running at 10 a.m.

Under the rule, the Senator's resolution would come up on tomorrow as a part of the morning business prior to the 10 a.m. deadline. Therefore, I think that, to be sure the Senator will get a vote on his resolution tomorrow if he wants a vote, I ask unanimous consent that the distinguished Senator from Washington (Mr. MAGNUSON) be recognized at 9:30 a.m. for not to exceed 15 minutes, and that a vote occur on the resolution at 9:45 a.m.; and, in the meantime, he may wish to withdraw the resolution, as he has already indicated, but this would assure the vote at 9:45 a.m. The vote would be completed and at 10 a.m. the 1 hour under the rule XXII would begin, as previously ordered.

Mr. COOK. Mr. President, reserving the right to object——

The PRESIDENT pro tempore. Is the Senator making that request?

Mr. BYRD of West Virginia. I made that request and now the Senator from Kentucky (Mr. COOK) is reserving the right to object.

Mr. COOK. Mr. President, I will not object, but I wonder whether the Senator from West Virginia would extend the time from 15 to 30 minutes.

Mr. BYRD of West Virginia. No. May I suggest to the distinguished Senator from Kentucky that he get 15 minutes prior to——

Mr. COOK. That will be all right.

Mr. MAGNUSON. I will not use up all my time and will be glad to yield the remainder to anyone else.

The PRESIDENT pro tempore. Is objection to the request of the Senator from West Virginia?

Mr. GRIFFIN. Mr. President, reserving the right to object, and I do this to assure the Senator from Washington that I will be sure the people in the Department of Agriculture are made aware of the fact that this resolution is pending.

One part of the request that concerns me a little bit is that if there were to be amendments offered to the resolution, there would not be much opportunity for consideration of those amendments.

Maybe that could be worked out but, of course, if there were votes on amendments then the time could well run past the 10 o'clock deadline.

Mr. BYRD of West Virginia. Mr. President, may I revise my unanimous-consent request accordingly, in view of what the Senator from Michigan has just said.

I ask unanimous consent, following the recognition of the two leaders tomorrow, that the distinguished Senator from Washington (Mr. MAGNUSON) be recognized for not to exceed 15 minutes, and that following the remarks of the Senator from Washington, the Senator from Kentucky (Mr. COOK) be recognized for not to exceed 15 minutes; and that, at the conclusion of the remarks by the Senator from Kentucky (Mr. COOK), at 9:30 a.m., a vote occur on the resolution: *Provided, however,* That on any amendment, motion, appeal, or point of order with the exception of nondebatable motions, there be a time limit of 5 minutes, to be equally divided between the senior Senator from Washington and the minority leader or his designee.

Mr. COOK. Mr. President, reserving the right to object——

The PRESIDING OFFICER pro tempore. Is there objection to the request of the Senator from West Virginia?

Mr. COOK. Mr. President, reserving the right to object, I say to the Senator from West Virginia that I do not think I will need 15 minutes. We may probably get this problem resolved, and we have time for a vote, apparently, tomorrow morning, on the resolution, anyway—other than the fact that the Senator from Washington obviously can ask for unanimous consent at any time that the vote be withdrawn; but I want to make it clear that this Senator would not need more than 5 minutes——

Mr. MAGNUSON. I was thinking that I may wish to yield to my colleagues for 5 minutes, anyway, and if the Senator from Illinois (Mr. PERCY) is here, I know that he wants to speak on it, and I will be glad to yield my time to those who want to speak for it.

Mr. GRIFFIN. Mr. President, reserving the right to object, I think that, for the time being, until I do have a chance to check with the minority leader and others concerning this matter, I will at this time reluctantly object to the unanimous-consent request.

The PRESIDENT pro tempore. Objection is heard.

ORDER OF BUSINESS

The PRESIDENT pro tempore. Under the previous order, the distinguished Senator from West Virginia (Mr. BYRD) is now recognized for 5 minutes.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order recognizing me for not to exceed 5 minutes be vacated.

The PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF BUSINESS

The PRESIDENT pro tempore. Under a previous order, the Senate will now proceed to the consideration of S. 1866 with a time limitation thereon of 20 minutes, to be divided between the Senator from New York (Mr. JAVITS), 15 minutes, and the Senator from North Dakota (Mr. BURDICK), 5 minutes.

RELIEF OF CERTAIN PERSONS

Mr. BURDICK. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 1866.

The PRESIDING OFFICER (Mr. BENTSEN) laid before the Senate the amendment of the House of Representatives to the bill (S. 1866) for the relief of Clayton Bion Craig, Arthur P. Wuth, Mrs. Lenore D. Hanks, David E. Sleeper, and DeWitt John", which was, on page 1, line 10, strike out "heretofore or hereafter published," and insert "heretofore published, or hereafter published by or on behalf of said trustees, their successors or assigns,".

Mr. BURDICK. Mr. President, the bill, S. 1866, was returned to the Senate with a minor, technical amendment. The Senate is perfectly willing to accede to the House on this matter.

At this time I move that the Senate concur in the amendment of the House.

I believe that the Senator from New York (Mr. JAVITS) has a word to say on this matter.

Mr. GRIFFIN. Mr. President, if the Senator would yield, I think it would be well if we had a quorum call, the time to be charged to the time allocated to the Senator from New York pending his arrival.

Mr. BURDICK. That will be fine.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BURDICK. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JAVITS. What is the pending business?

The PRESIDING OFFICER. The amendment of the House to bill S. 1866.

Mr. JAVITS. Mr. President, what is the time allocation.

The PRESIDING OFFICER. The Senator from New York had 15 minutes. The quorum call has taken 4 minutes. He has remaining 11 minutes.

Mr. JAVITS. Mr. President, I yield myself 10 minutes.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. JAVITS. Mr. President, this bill which is before us purports to vest in the trustees of the estate of Mary Baker Eddy an exclusive copyright on her great work, "Science and Health," upon which a copyright still remains under various extensions of the copyright law for the one edition which was published in 1906. Numerous editions published between 1875 and 1906 are now in the public domain, and, of course, other revisions may take place hereafter.

At the specific request of the Association of the Bar of the city of New York I have previously asked that consideration of S. 1866 be delayed in order to give the association an opportunity to file a statement of its objections to the bill. The chief sponsor of the bill, Senator BURDICK, has graciously agreed to delay consideration of the bill for a few days in order to give the association time to transmit its statement.

I have now received the report of the civil rights committee of the association, which is authorized to speak for the entire association on matters within its jurisdiction. I ask that the committee's report, together with the earlier telegrams to me from the chairman of the Committee on Civil Rights and the Committee on Copyright Law be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COMMITTEE ON CIVIL RIGHTS,
November 30, 1971.

Hon. JACOB K. JAVITS,
U.S. Senate,
Old Senate Office Building,
Washington, D.C.

DEAR SENATOR JAVITS: Enclosed is a report of the Committee on Civil Rights of the Association of the Bar of the City of New York on the subject of S. 1866. This report is forwarded to you on behalf of the Association and with the approval of the President of the Association, the Honorable Bernard Botein.

On behalf of the Association, we again strongly urge that this bill not be enacted. As you will note, the report recommends the rejection of the bill or, as a possible alternative, its recommittal to the Committee on the Judiciary for hearings on the constitutional issues involved, so as to give its proponents an opportunity to respond to our views as to the bill's unconstitutionality.

I also want to tell you that we all deeply appreciate the strength of your position on the "front lines" of this issue during this past week, so that the Association would have an opportunity to make its views on the constitutional issues known to the Senate.

Warmest regards,
Sincerely yours,
Robert M. Kaufman.

ASSOCIATION OF THE BAR OF THE CITY OF NEW YORK, COMMITTEE ON CIVIL RIGHTS

S. 1866—COPYRIGHT PROTECTION FOR WORKS OF MARY BAKER EDDY

Recommendation: Rejection (Or, in the alternative, recommittal to the Committee on the Judiciary with instructions to hold hearings on the issue of constitutionality.)

There is now pending in the Senate a private bill, S. 1866, entitled "An Act for the relief of Clayton Bion Craig, Arthur P. Wuth, Mrs. Lenore D. Hanks, David E. Sleeper, and DeWitt John", which would grant copyrights to the trustees under the will of Mary Baker Eddy in various editions of the basic text of the Christian Science Church. The Association's Committee on Copyright Law, basing its stand on the constitutional provisions for copyright and the policy of copyright law, has announced its opposition to certain portions of the bill. We oppose the bill because it would violate the First Amendment prohibition of Congress making a "law respecting an establishment of religion, or prohibiting the free exercise thereof."

The bill, which was amended and passed by the House following earlier passage in slightly different form by the Senate, provides that all editions of works variously entitled "Science and Health with Key to the Scriptures", "Science and Health", and "Science and Health; with a Key to the Scriptures" (hereinafter simply "Science and Health") written by Mary Baker Eddy, the founder of Christian Science, heretofore published or hereafter published by or on behalf of the trustees, would be subject to copyright for 75 years from the effective date of the law or the date of first publication, whichever is later. The bill would affect numerous editions of the work published between 1875 and 1906, 16 of which had copyrights which have expired, and one edition, published in 1906, on which the copyright would have expired in 1962 but for the general legislation which has extended copyrights from year to year while Congress has been considering revision of the Copyright Act. In addition, the bill, by its terms, would be applicable to an unlimited number of editions which might at any time "hereafter" be published by the trustees. In order to give some protection to those who have made use of those portions of Mrs. Eddy's books which have been in the public domain, the bill provides that "no liability shall attach . . . for lawful uses made or acts done" prior to the effective date or, with respect to business undertakings or enterprises involving certain prior commitments, for one year thereafter.

Under the Copyright Act, as now in effect, registration may be obtained for an initial period of 28 years and a renewal term of 28 years. The pending revision of the Copyright Act would create a fixed period of 50 years following the death of the author or, in the case of anonymous and certain other works, 75 years following publication. As indicated above, in order to give existing copyrights the possible benefit of a general expansion of the registration period, Congress has extended from year to year (now through December 31, 1972) all existing copyrights, thereby including the 1906 edition of Science and Health. However, just as that edition's copyright registration would have expired without the general extension, so too would it expire with the adoption of the revision because Mrs. Eddy died more than 50 years ago. In sum, the effect of S. 1866 would be, whether eventually the Copyright Act remains unchanged or the pending revision is adopted, to single out Mrs. Eddy's works in the following respects: (a) remove all versions published prior to the 1906 edition from the public domain and impose thereon until 2046 or 2047, either a new copyright or, a copyright for the first time; (b) extend to the same date the copyright on the 1906 edition; and (c) allow future versions to be registered for a period of 75 years from date of publication.

Private bills in the realm of copyright appear to be rare and S. 1866, in dealing specially with the period of protection, appears to be unique. In support of the bill, Senate Report No. 92–280 of the Committee on the Judiciary (adopted in substance in House Report No. 92–604 of the Committee on the Judiciary) cites only nine private copyright bills which Congress has enacted (three of which apparently deal with different editions of the same work), all in the period 1828–1898. We are informed that all of those bills relate to technical defects or a failure of timely registration and the like, none going to the basic policy of the Copyright Act with respect to the length of time a work is to be protected.

The purpose of giving special protection to Science and Health is set forth in the committee reports cited above. Adherents of the Christian Science religion look to that book "as the fundamental statement of the religious teachings of Christian Science." Together with the Bible, it is considered "the basic textbook for all instruction in the Christian Science religion, and for the teaching and practice of the spiritual healing which is a central part of this religion." Likewise, the Bible and Science and Health are regarded "as the only Pastor of this Church", so that weekly sermons "are comprised of readings of scriptual texts and correlative passages from 'Science and Health'." The sermon for each week is uniformly read throughout the world in every Church of Christ, Scientist, the citations having been publicized in advance through the Christian Science Quarterly. Church members "are reliant upon the integrity and purity of the exact statement of Christian Science as set forth in 'Science and Health with Key to the Scriptures', and upon the uniform system of pagination and line numbering which it employes, in order effectively to study and practice Christian Science, and to participate in the religious services and exercises of the Church of Christ, Scientist. . . . Unless the book meets these [two] requirement [*i.e.*, authenticity in containing the exact words of Mary Baker Eddy and uniformity of pagination, etc.] it cannot serve its purpose as the denominational textbook of Christian Science."

On the floor of the Senate, Senator Burdick, one of the sponsors of S. 1866, expressed his concern that, if the book fell into the public domain, "Amended editions, annotated versions, modernized editions, and abridged editions could all be published and would cause great distress and confusion, not only among Christian Scientists, but among those of the general public wishing to obtain a correct and complete statement of the teachings of this religion." He also argued that the bill "would create no restraint upon free expression of religious ideas [but] would only limit those who would seek to express the ideas of Mary Baker Eddy in her words." Senator Burdick concluded his remarks, as follows:

"Mr. President, in view of the fact that the book Science and Health with Key to the Scriptures play such a unique role in the life of an American religion and since the book is bringing personal profits to no one, I urge its passage. At the same time I wish to point out most emphatically that the committee considers this bill an exception to its general policy of opposition to private patent and copyright bills, especially those providing for a longer term." (Cong. Rec. S. 11899–900, July 22, 1971.)

According to an article in the New York Times of November 25, 1971, quoting Dr. J. Buroughs Stokes, manager of the committee on publication for the church of Boston, absent copyright protection of the earlier editions of Science and Health, commercial interests might "revise it and change it to heighten what they might consider to be its appeal to the mass market and advertise it and sell it as 'Science and Health Revised and Modernized.' " The Times also mentioned that, according to church leaders, annual royalties on the book amount to about $200,000 and are used for church purposes.

Whatever the validity of the arguments advanced for passage of S. 1866—and it seems to us that the desired doctrinal purity and uniformity is obtainable, as it is for other religions, by use of an authorized edition without the aid of copyright registration—we believe that those very arguments point up the unconstitutionality of the bill. While mindful of the usual difficulties of applying the establishment and free exercise clauses of the First Amendment, we confess ourselves unable to perceive how S. 1866 can be other than unconstitutional. Its purpose and its ultimate effect are to single out a particular doctrine within a particular church, to grant to writings embodying that doctrine protection that has never been made available to any other religious or non-religious writings, and to supply civil and criminal sanctions against those who, religiously or non-religiously, whether calling themselves Christian Scientists or not, may choose to deviate from that doctrine. Indeed, our research, though necessarily abbreviated because of time limitations, has failed to disclose any constitutional decisions involving similar statutes—an indication, if unconstitutionality can be regarded as quantitative, of how "extremely unconstitutional" S. 1866 is. However, we may still be guided by the words of the Supreme Court in First Amendment religious cases, which follow:

Everson v. *Board of Education*, 330 U.S. 1, 15–16 (1946), upholding New Jersey's school bus law for church-related school: "The 'establishment of religion' clause of the First Amendment means at least this: . . . Neither a state nor the Federal Government can, openly or secretly, participate in the affairs of any religious organization or groups."

Burstyn v. *Wilson*, 343 U.S. 495, 505 (1952), invalidating New York's ban on "sacrilegious" films: "It is not the business of government in our nation to suppress real or imagined attacks upon a particular religious doctrine. . . ."

Fowler v. *Rhode Island*, 345 U.S. 67, 70 (1953), invalidating the application to a meeting of Jehovah's Witnesses of a municipal ordinance forbidding addresses to religious meetings in public parks: "Nor is it in the competence of courts, under our constitutional scheme to approve, disapprove, classify, regulate, or in any manner control sermons delivered at religious meetings. Sermons are as much a part of a religious service as prayers."

Epperson v. *Arkansas*, 393 U.S. 97, 103–4 (1968), invalidating Arkansas' anti-evolution statute: "Government in our democracy, state and national, must be neutral in matters of religious theory, doctrine and practice . . . it may not aid, foster, or promote one religion or religious theory against another or even against the militant opposite."

Walz v. *Tax Commission,* 397 U.S. 664, 673 (1970), upholding New York's real property tax exemption for churches: "[New York] has not singled out one particular church or religious group or even churches as such; rather it has granted exemption to all houses of religious worship within a broad class of property owned by nonprofit, quasi-public corporations . . ."

Lemon v. *Kurtzman,* — U.S. —, 29 L. Ed 745, 755 (1971), invalidating certain state aid to religious-related schools: "Three such tests [of constitutionality] may be gleaned from our cases. First, the statute must have a secular legislative purpose; second, its principal or primary effect must be one that neither advances nor inhibits religion . . . ; finally, the statute must not foster 'an excessive government entanglement with religion' . . ."

Some guidance may also be obtained from lower federal courts. In *Anti-Defamation League of B'nai B'rith* v. *F.C.C.,* 403 F. 2d 169, 171–2 (D.C. Cir. 1968), cert. denied, 394 U.S. 930 (1969), Circuit Judge (now Mr. Chief Justice) Burger, in upholding the renewal by the F.C.C. of a radio station license, quoted with approval the remarks of Commissioner Loevinger: "For the FCC to promulgate rules regarding permissible and impermissible speech relating to religion would be . . . an unconstitutional infraction of the free exercise clause and the establishment clause of the First Amendment. . . . [Religious] subjects will and must be discussed. But they can not be freely discussed if there is to be an official ban on the utterance of falsehood."

Swan v. *First Church of Christ, Scientist in Boston,* 225 F. 2d 745 (9th Cir. 1955), is particularly instructive. The plaintiff, who had written and copyrighted a book, "God on Main Street," popularizing the teachings of Mary Baker Eddy, sued the Christian Science Church, alleging a conspiracy to suppress and discredit his book. In upholding the granting of summary judgment to the defendants, the court stated: "According to the complaint, what the defendants were doing was to disapprove the manner or language in which the appellant endeavored to advocate adherence to the Christian Science religion. The absolute right of the defendant in this respect is comparable to the absolute right of any religious order to select its own ministers, advocates, authors and sacred writings." (p. 751).

Applying the judicials opinions quoted above to S. 1866, we note that its enactment would constitute open participation in the affairs of a religious organization (*Everson*), could bring government into the business of suppressing (through copyright infringement proceedings) attacks upon a particular religious doctrine (*Burstyn*), would cause Congress to control religious sermons (*Fowler*), would possibly promote one religious theory against another (*Epperson*), and would, unlike general copyright legislation, single out one particular religious group (Walz). Moreover, S. 1866 would fail at least the first two and possibly all three tests of *Lemon* v. *Kurtzman* (secular legislative purpose; primary effect neither advances nor inhibits religion; does not foster excessive government entanglement), any one such failure resulting in unconstitutionality. S. 1866 would also result in an official ban on "falsehood" (*Anti-Defamation League, etc.*), at least as defined by the presently constituted Christian Science church. Finally and ironically, S. 1866 would deprive Christian Science dissidents, of the right accorded the church against such a dissident in *Swan*, to select their own "sacred writings" if those writings happened to be those of Mary Baker Eddy.

We note that the reimposition, as well as the initial granting, of copyright privileges to works long in the public domain by an author long dead, and for extended periods (172 years in the case of the earliest publication), particularly in a specific instance rather than by general law applicable to all authors, may well exceed the constitutional grant of power to Congress by Article I, Section 8 to secure "for limited times to authors . . . the exclusive right to their . . . writings" and, additionally, may violate the freedom of press and speech guaranteed by the First Amendment. However, we are content, at this time, to limit our opposition to S. 1866 to its attempted establishment of religion and prevenion of the free exercise of religion by others.

ADDITIONAL CONSIDERATIONS

If it is the belief of the sponsors and proponents of this legislation that it could fall within the constitutional limitations of the First Amendment, we believe that they should have an opportunity to establish this position. A delay in action on the bill should in no way prejudice their interests, since the general copyright extension bill extends the copyright on the 1906 edition through December 31, 1972 and this is the only edition presently under copyright. The Committee on Copyright and Literary Property of this Association, which has joined with the Committee on Civil Rights in opposing the enactment of S. 1866, has invited the General Counsel of the First Church of Christ Scientist, Boston, Massachusetts, to meet with that Committee on December 15, 1971 to explain his views on the constitutional issues raised by the bill.

In view of all of the foregoing, it is respectfully submitted that this legislation should not be enacted.

COMMITTEE ON CIVIL RIGHTS,
ROBERT M. KAUFMAN, *Chairman.*
Charles R. Bergoffen, Michael Cardozo, Jack David, Stephen J. Friedman, Murray A. Gordon, Alan U. Schwartz, Paul L. Trachtenberg, Raymond S. Calamaro, Simeon Golar, William S. Greenwalt, Eric L. Hirschhorn, (Mrs.) Maris L. Marcus, Donald S. Shack, Hon. Donald J. Sullivan, Eastman Birkett, John R. Fernback, Alfred J. Law, John J. Kirby, Jr., Mrs. Susan F. Teich, Milton L. Williams.

Mr. JAVITS. Mr. President, the report of the civil rights committee of the New York City Bar Association does raise some fundamental questions concerning possible conflict between S. 1866 and the first amendment provisions concerning religion. In adidtion, the copyright committee of the association opposes the bill because, in their judgment, it violates the basic principle which they feel should govern the granting of copyrights. I note also that when this bill was before the Senate last July, the Senator from Michigan (Mr. HART) raised similar questions.

In my opinion the arguments raised against S. 1866 present some serious questions. Clearly, by granting a special 75-year copyright on all editions of "Science and Health" heretofore published by Mary Baker Eddy or the trustees of her estate, this bill does give special aid to a specific religion—Christian Science—which has never been given to any person or organization, religious or nonreligious, in this century. As a result of this bill the church will be able to continue to receive all proceeds—now about $200,000 per year—from the sale of Mrs. Eddy's book. Furthermore, the bill may, to some extent, inhibit the formation of dissident groups within the Christian Science Church or could limit the public's right to enjoy great books in the public domain, because it will deprive anyone but the trustees of Mrs. Eddy's estate from publishing a revised version of "Science and Health With Key to the Scriptures."

Yet, there is also much to be said for the arguments advanced by representatives of the church for this bill. Unquestionably "Science and Health With Key to the Scriptures" plays a truly unique role within the Christian Science Church. It is, in fact, the pastor of the church—there is no ordained clergy—and Christian Scientists all over the world study the same passages at the same time. The purity of the text, and its proper pagination and lineation, is therefore vital to enable practitioners of Christian Science to practice their religion.

The publication of "revised" editions of the book could thus conceivably have a disruptive effect on the religion itself, and could also mislead members of the public who are not familiar with the Christian Science religion.

A number of leading members of the church have personally expressed their concern to me about the possibility of such disruption, and I am completely convinced of their heartfelt sincerity in supporting this bill. In addition, during the past 10 days I have received several thousand telegrams and letters from Christian Scientists supporting S. 1866.

Mr. President, again I would like to sum up the arguments of the association of the bar—contained in the following statement relating to the copyright. They say:

> Its purpose and its ultimate effect are to single out a particular doctrine within a particular church and grant to writings embodying that doctrine a protection that has never been made available to any other religious or nonreligious writing, and to apply civil sanctions against those who, religiously or nonreligiously—whether calling themselves Christian Scientists or not—may choose to deviate from that doctrine.

Another pertinent statement is:

> Finally and ironically, S. 1866 would deprive Christian Science dissidents of the right accorded the church against such a dissident in Swan . . .

Which is one of the major cases on the subject. I continue to quote:

> To select their own sacred writings, if those writings happen to be those of Mary Baker Eddy.

Mr. President, I am persuaded by this opinion. I believe that there is at the very least a very strong case of constitutionality, and constitutionality is always a matter submitted to the Senate. So I felt we should hear the arguments and then decide by vote. I shall vote no, against the bill, and I want the RECORD to so reflect.

I have no interest whatever in impeding the great practice of this religion which so many wonderful people believe in so very deeply, except the constitutional issue which relates to taking out of the public domain, which this bill does, a great body of religious literature and putting it into a private document in a copyright.

I should imagine that the Catholic Church would be very happy to have a copyright on the New Testament; and I know the Jewish faith would like to have a copyright on the Old Testament.

Mr. President, I have one last observation. There is a question which a copyright raises of a monopoly and accessibility of this great religious book to everyone. On that, and I am persuaded by the church, I do not think there is much question about the fact that its constant unvariable practice has been for very broad accessibility to the book, and that it will so continue. In order to certify that that is the case, I have a letter from Mrs. Leonore D. Hanks, chairman of the trustees under the will of Mary Baker Eddy. The Senator from North Dakota will confirm that she constitutes the highest authority in the church. In the letter she states as follows:

> The usual attempts that a commercial publisher would make to stimulate sales on a grand scale through advertising in the trade press and promotional campaign are simply not made, and this is in accord with Mrs. Eddy's basic view of the nature of the book and its essentially religious purpose. Science and Health is available for purchase in bookstores and Christian Science Reading Rooms throughout the United States and many foreign countries in paperback editions selling as low as $1.95 per copy. There has been no attempt to restrict the sale in any area or to any person. It is widely placed in libraries, available free to those serving in the Armed Forces, distributed free at drug rehabilitation centers and on records and cassettes at libraries for the blind, etc. It is the intention of the Trustees that it be available for the widest possible public use and dissemination consistent with the protection of the purity of the text and the message. This basic policy will continue as long as our Church exists.
>
> The clear record of the history of the book indicates that it was conceived as a matter of service to humanity, and the Christian Science Church sees this book in these of the nature of the conveyance of rights by the author to the Church she founded.

Mr. President, I am persuaded that this is a complete commitment to the public domain with regard to accessibility.

In view of the apparent fact this has not struck any fire or aroused great interest elsewhere, except among those who practice the religion, and in view of the finding of unconstitutionality by the bar association, to which I have referred, and I respect it so highly I am going to vote "no." However, I felt there was no proper substantive reason for me to delay the matter further, after giving the bar association a full opportunity to look at the matter.

Asssuming the bill is passed and the President signs it, it still must run the gauntlet of legal challenges from anyone who wishes to challenge it.

Those are the circumstances in which I leave the matter. I ask unanimous consent to have printed in the RECORD the letter from Mrs. Lenore D. Hanks and other correspondence from the association of the bar of the city of New York.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CHRISTIAN SCIENCE CENTER,
Boston, Mass., December 6, 1971.

Hon. JACOB JAVITS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR JAVITS: As chairman of the Trustees under the Will of Mary Baker Eddy and speaking for all the Trustees, I am glad to assure you that for decades the policy of our Church toward *Science and Health with Key to the Scriptures* has been one of trusteeship and service rather than financial gain. This policy will remain unchanged and unaffected by the passage of S1866.

The usual attempts that a commercial publisher would make to stimulate sales on a grand scale through advertising in the trade press and promotional campaigns are simply not made, and this is in accord with Mrs. Eddy's basic view of the nature of the book and its essentially religious purpose. *Science and Health* is available for purchase in bookstores and Christian Science Reading Rooms throughout the United States and many foreign countries in paperback editions selling as low as $1.95 per copy. There has been no attempt to restrict the sale in any area or to any person. It is widely placed in libraries, available free to those serving in the Armed Forces, distributed free at drug rehabilitation centers and on records and cassettes at libraries for the blind, etc. It is the intention of the Trustees that it be available for the widest possible public use and dissemination consistent with the protection of the purity of the text and the message. This basic policy will continue as long as our Church exists.

The clear record of the history of the book indicates that it was conceived as a matter of service to humanity, and the Christian Science Church sees this books in these terms—indeed, must see the book in these terms—because of the nature of the conveyance of rights by the author to the Church she founded.

The purpose of our Church is service, and this remains the overriding concern of our entire organization.

Sincerely yours,
MRS. LENORE D. HANKS,
Chairman.

Hon. JACOB K. JAVITS,
U.S. Senator,
Washington, D.C.:

On behalf of the Committee on Civil Rights of the Association of the Bar of the City of New York, I strongly urge that no action be taken by the Senate on S. 1866 "for the relief of Clayton Bion Craig et al." Which raises serious constitutional problems relating to the constitutional provisions prohibiting the establishment of religion, as well as other constitutional provisions.

The Committee on Civil Rights, as well as the Committee on Copyright Law of this association, is studying this problem and plans to report thereon as soon as possible.

The postponement of action on this bill should not prejudice the parties concerned in view of the blanket copyright extension legislation recently passed.

ROBERT M. KAUFMAN,
Chairman, Committee on Civil Rights, the Association of the Bar of the City of New York.

NEW YORK, N.Y.

Senator JACOB JAVITS,
Old Senate Office Building,
Washington, D.C.:

The following telegram was sent yesterday to all members of the House Judiciary Committee: "At its meeting last night the Committee on Copyright and Literary Property of the Association of the Bar of the City of New York unanimously disapproved that portion of S. 1866 which purports to restore to copyright protection editions of science and health which have long been in the public domain. The bill would create for the first edition of that work a copyright term in excess of 170 years. We believe that such action exceeds the congressional power under article 1, section 8, of the Constitution and would represent unsound copyright policy. We urge you to object to the passage of private bill S. 1866".

CARLETON G. ELDRIDGE, JR.,
Chairman.

Mr. BURDICK. Mr. President, I wish to say to my friend from New York that this matter was gone into by the various committees. I believe it was gone into in great depth by the House committee. Now, it comes back with this very minor amendment.

Mr. President, I ask unanimous consent to have printed in the RECORD a summary on the constitutionality of the bill, together with the authorities therefor.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

PRIVATE BILL S. 1866: CONSTITUTIONAL BASIS

Article I, Section 8 of the Constitution provides:

"The Congress shall have Power To . . . promote the Progress of Science and Useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries;"

A. Private Copyright Acts. Congress has heretofore enacted a number of private Copyright Acts for specific works. A list of these Acts is attached. Although these private Acts do not appear to have been tested in the courts, statutes involving private Patent Acts arising under the same provision of the Constitution have been tested in the courts. A list of these cases is attached. The courts have uniformly sustained these enactments on the ground that they constitute a proper exercise of the power of Congress granted under Article I Section 8 of the Constitution. The most recent of these cases is *Radio Position Finding Corp.* v. *Bendix Corp.* which was decided by a three judge court in 1962, and was affirmed per Curiam by the Supreme Court of the United States in 1963.

The cases listed support the proposition that the power granted to the Congress under Article I Section 8, is not limited to the enactment of "general" patent or copyright statutes, but may be exercised in respect of specific inventions or to protect the invention of a specific inventor. By the same token, it would include the enactment of a statute to secure exclusive rights in a specific "writing" created by a specific author.

B. Establishment of Religion. Copyright protection for religious works does not constitute the establishment of religion. If it did, then the present copyrights laws of the United States would be unconstitutional. The extension and grant of copyright under S. 1866 creates no right of a kind which has not heretofore existed under the general copyright laws of the United States. Section 5(c) of the present law makes special provision for the protection of sermons. Section 104 of the present law and Sections 110(3) and (4) of the proposed general revision (S. 644) also make special reference to works of "a religious nature" and exempt performance of works "in the course of services at a place of worship or other religious assembly" or where the proceeds are used for "religious" purposes.

C. Free Exercise of Religious. Copyright protection for *Science and Health with Key to the Scriptures* is an important element in the free exercise of religion for adherents of Christian Science and those who wish to learn and study this religion. Such protection is vital for preventing the issuance of books containing changes, variations, deletions or additions to *Science and Health*, and for avoiding confusion to the public which in buying or borrowing the work from bookstores and libraries would not know whether the copies offered are the correct and complete text authorized by Mary Baker Eddy. If such variant texts were issued, either intentionally or as the result of carelessness, the correlation between *Science and Health* and the Lesson-Sermon in the *Christian Science Quarterly* would be destroyed. This correlation between the Lesson-Sermons and the authentic text is an important element to be protected by copyright, and it is this correlation which enables the textbook to function effectively as the Pastor of the Christian Science religion.

D. Freedom of Expression. There is no monopoly over expression and copyrights do not limit what may be said freely in public. A copyright simply prevents "copying or reproduction of a work" and does not prohibit the use of ideas or what may be said about a copyrighted work. Nor does it prevent textual or historical criticisms. Under the doctrine of fair use, not only may writers engage in comment and criticism, either favorably or adversely, but they are even permitted to quote portions of a work for this purpose.

E. Limitation of Duration. The term of copyright under S. 1866 is for a fixed period of time and is patterned on the 75-year provisions for institutional works under the proposed general copyright revision bill (See S. 644, 92d Congress, Section 302(c)). Thus, it complies with the Constitutional requirements of copyrights "for limited Times."

F. Rights of Trustees. Congress has the power to grant copyright protection to trustees of an estate and such protection has been extended for many years. Section 9 of the Copyright Act reads: "The author *or proprietor* of any work made a subject of copyright by this title *or his executors, administrators or assigns* shall have copyright for such work * * *" The trustees of an estate can be proprietors of a copyright and are the assigns of the author's executor.

G. Science and Useful Arts. Congress is granted power to create copyrights "to promote the Progress of Science and useful Arts," but this language does not limit the subject matter of works which may be copyrighted. If religion is not a useful art, then no religious works could enjoy copyright protection, since the copyrights would not promote the progress of the useful arts. Clearly, under our system of copyrights, protection is afforded to religious works as useful arts. Section 5(c) of the present 1909 law specifically provides for copyright registration of sermons even though not reproduced in copies for sale.

CASES ON CONSTITUTIONALITY OF PRIVATE EXTENSION BILLS

Radio Position Finding Corp. v. The Bendix Corp., 205 F. Supp. 850 (D. Md. 1962), aff'd per curiam 371 U.S. 577, 83 S. Ct. 548 (1963).

Evans v. Jordan, 9 Cr. 199 (1815).

Bloomer v. McQuewan 14 How. 539, 548 (1852).

Bloomer v. Millinger, 1 Wall 340, 350 (1864).

Eunson v. Dodge, 18 Wall. 414, 416 (1873).

Bloomer v. Stolley, 5 McLean 158, Fed. Cas. No. 1559 at p. 731 (1850).

Jordan v. Dobson, 2 Abb. U.S. 398, Fed. Cas. No. 7519 at p. 1095 (1870).

Blanchard's Gun-Stock Turning Factory v. Warner, 1 Blatchf. 258, Fed. Cas. No. 1521 at p. 656 (1846).

Blanchard v. Haynes, 6 West. Law J. 82, Fed. Cas. No. 1512 at p. 628 (1848).

Stephens v. Howells Sales Co., Inc., 16 F. 2d 805 (S.D.N.Y. 1926).

Marx v. United States, 96 F. 2d 204, 37 U.S.P.Q. 380 (9th Cir. 1938).

Edward B. Marks v. Jerry Vogel Music, 42 F. Supp. 859 (S.D.N.Y. 1942).

Mr. HART. Mr. President, "Science and Health With Key to the Scriptures" is a text regularly used in the teaching and practices of the Christian Science religion. It contains the fundamental statement of the teachings of the Christian Science Church. The Christian Science religion requires that the original text of the book by Mary Baker Eddy be reproduced in haec verba without any deviation whatever—including pagination and the placement of the words on each page.

Of course, all of us respect the requirements and the teachings of the Christian Science religion. But the Congress of the United States ought not aid directly a specific religious institution. In my view, enactment of S. 1866 violates the first amendment to the Constitution's guarantee of freedom of religion in this country.

This is precisely the view articulated by the Bar Association of the City of New York and by a number of distinguished jurists in that State.

Finally, enactment of S. 1866 violates the copyright clause of the Constitution. Article 1, section 8 of the Constitution precludes extension of copyright protection to the trustees of an estate. The limitation to authors is specific, and Mary Baker Eddy was afforded ample protection and monopoly power over her work since 1875, notwithstanding the normal copyright protection being 28 years with the right of renewal for an additional 28 years.

The constitutional collision course being steered by S. 1866 can and should be easily avoided—and with no adverse effect upon the Christian Science Church. An official and authorized version of the text could be established and recognized and denominated as such by the church to assure the page for page, line for line, word for word adherence to the original text, which the church deems essential to its members. This is a well-recognized practice in other religions with regard to their basic religious texts. I opposed the bill in committee and renew my opposition now.

Mr. BURDICK. Mr. President, at this time I am prepared to yield back my time if the Senator from New York is prepared to do so.

The PRESIDING OFFICER. All time has expired.

Mr. BURDICK. Mr. President, I move that the Senate concur in the amendment of the House.

The motion was agreed to.

Mr. JAVITS. Mr. President, I wish to be recognized.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. JAVITS. I wish to be recorded as voting "no."

The PRESIDING OFFICER. The Senator is so recorded.

TRANSACTION OF ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to routine morning business for a period not to extend beyond 10:30 a.m.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The PRESIDENT pro tempore laid before the Senate the following letters, which were referred as indicated:

ADDITIONAL PAY FOR PROFESSORS AT MILITARY AND AIR FORCE ACADEMIES

A letter from the Secretary of the Army transmitting proposed legislation to provide additional pay for permanent professors at the U.S. Military Academy and the U.S. Air Force Academy (with accompanying papers); to the Committee on Armed Services.

ADDITIONAL POSITIONS IN THE TREASURY

A letter from the Secretary of the Treasury submitting proposed legislation to establish certain positions in the Department of the Treasury and to fix the compensation for these positions, and for other purposes (with accompanying papers); to the Committee on Finance.

REPORTS OF THE COMPTROLLER GENERAL

Two letters from the Comptroller General of the United States submitting, pursuant to law, two reports, one entitled "Coordinated Consideration Needed of Buy-National Procurement Program Policies"; and the other entitled "Management of Selected Aspects of the Strategic and Critical Stockpile" (with accompanying reports); to the Committee on Government Operations.

REPORT OF THE NATIONAL SAFETY COUNCIL

A letter from the president of the National Safety Council, Chicago, Illinois, submitting, pursuant to law, its annual report (with accompanying report); to the Committee on Public Works.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. JORDAN of North Carolina, from the Committee on Rules and Administration, without amendment:

S. Res. 213. An original resolution to pay a gratuity to Frances J. Bangert;

S. Res. 201. A resolution supplementing the limitation with respect to experts and consultant expenses that may be incurred by the Committee on the Judiciary for a study relating to constitutional rights (Rept. No. 92–570);

S. Res. 200. A resolution to print as a Senate document a compilation entitled "Majority and Minority Leaders of the Senate" (Rept. No. 92–571);

S. Res. 195. A resolution to print as a Senate document, with illustrations, a report entitled "Financial Management in the Federal Government—Volume II" (Rept. No. 92–572); and

S. Con. Res. 41. A concurrent resolution authorizing the printing of the report of the proceedings of the forty-fifth biennial meeting of the Convention of American Instructors of the Deaf as a Senate document (Rept. No. 92–573).

By Mr. JORDAN of North Carolina, from the Committee on Rules and Administration, with an amendment:

S. Res. 210. A resolution authorizing the printing of the report of the 1971 White House Conference on Aging as a Senate document (Rept. No. 92–574).

By Mr. CHURCH, from the Committee on Interior and Insular Affairs, with amendments:

S. 216. A bill to permit suits to be brought against the United States to adjudicate disputed land titles (Rept. No. 92–575).

By Mr. STENNIS, from the Committee on Armed Services, with amendments:

H.R. 8856. An act to authorize an additional Deputy Secretary of Defense, and for other purposes (Rept. No. 92–576).

EXECUTIVE REPORTS OF COMMITTEES

As in executive session, the following favorable reports of nominations were submitted:

By Mr. GURNEY, from the Committee on the Judiciary:

William Terrell Hodges, of Florida, to be a U.S. district judge for the Middle District of Florida.

By Mr. BURDICK, from the Committee on the Judiciary:

Jon O. Newman, of Connecticut, to be a U.S. district judge for the district of Connecticut;

Arnold Bauman, of New York, to be a U.S. district judge for the southern district of New York;

Lee P. Gagliardi, of New York, to be a U.S. district judge for the southern district of New York; and

Bruce M. Van Sickle, of North Dakota, to be U.S. district judge for the District of North Dakota.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that today, December 10, 1971, he presented to the President of the United States the following enrolled bills:

S. 29. An act to establish the Capitol Reef National Park in the State of Utah; and

S. 1237. An act to provide Federal financial assistance for the reconstruction or repair of private nonprofit medical care facilities which are damaged or destroyed by a major disaster.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. BEALL:

S. 2983. A bill to provide for the establishment of a national cemetery in the State of Maryland. Referred to the Committee on Veterans' Affairs.

By Mr. EAGLETON:

S. 2984. A bill to amend title II of the Social Security Act so as to remove the present dollar limit on the amount of the lump-sum death payment. Referred to the Committee on Finance.

By Mr. HUMPHREY (for himself, Mr. HOLLINGS, Mr. HUGHES, Mr. TUNNEY, Mr. ANDERSON, Mr. JAVITS, Mr. MONDALE, Mr. MONTOYA, Mr. MOSS, Mr. RANDOLPH, and Mr. CRANSTON):

S. 2985. A bill to establish a program for the distribution of surplus American military equipment in Southeast Asia. Referred to the Committee on Armed Services.

By Mr. STAFFORD:

S. 2986. A bill to provide for disclosures designed to inform the Congress with respect to legislative measures, and for other purposes. Referred to the Committee on Government Operations.

By Mr. JAVITS (for himself, Mr. PASTORE, Mr. GOLDWATER, and Mr. FANNIN):

S. 2987. A bill to authorize the Secretary of the Treasury to make grants to Eisenhower College, Seneca Falls, New York, out of the proceeds of the sale of minted proof dollar coins bearing the likeness of the late President of the United States, Dwight D. Eisenhower. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. STEVENS:

S. 2988. A bill to authorize the appropriation of $250,000 to assist in financing the Arctic Winter Games to be held in the State of Alaska in 1974. Referred to the Committee on Commerce.

By Mr. HARTKE:

S. 2989. A bill to amend title 28, United States Code, to make the United States liable for acts of medical malpractice committed by its employees against members of the armed forces of the United States. Referred to the Committee on the Judiciary.

By Mr. GRAVEL:

S. 2990. A bill for the relief of John Panamarioff and others. Referred to the Committee on the Judiciary.

By Mr. BURDICK:

S. 2991. A bill to provide for the establishment of the War in the Pacific National Historical Park on the Island of Guam, and for other purposes; and

S. 2992. A bill to provide for the establishment of the Guam National Seashore, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. MOSS:

S. 2993. A bill to amend the Communications Act of 1934 with respect to the renewal of broadcasting licenses. Referred to the Committee on Commerce.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BEALL:

S. 2983. A bill to provide for the establishment of a national cemetery in the State of Maryland. Referred to the Committee on Veterans' Affairs.

Mr. BEALL. Mr. President, I introduce today a bill to establish a National Cemetery in the State of Maryland. The bill directs the Secretary of the Army either to purchase or to acquire by donation, a suitable site for such a cemetery in Maryland and also authorizes funds for its care and maintenance.

Last week I had the privilege of meeting with a number of Maryland veterans and discussed with them many areas of concern to them. One of their major concerns, was the fact that there is no longer any burial space in a national cemetery in Maryland.

Mr. President, from the Revolutionary War to the present conflict in Vietnam, Marylanders have distinguished themselves in the service of the Nation. They have not failed to answer their country's call. There are approximately 516,000 veterans in Maryland, and while I cannot speak for all of these men and women, views expressed last week during my meeting with some of them, indicates they feel the country has let the veterans down by denying veterans the honor, if they so desire, to be buried in a national cemetery. This is an appalling fact, and I introduced this measure today in response to the critical situation in Maryland.

Maryland's situation only reflects the larger national picture, and we probably need a new national policy on this matter. Whether it be in comprehensive national legislation, or in the bill I have just introduced, I intend to work to improve the present sorry situation.

By Mr. EAGLETON:

S. 2984. A bill to amend title II of the Social Security Act so as to remove the present dollar limit on the amount of the lump-sum death payment. Referred to the Committee on Finance.

Mr. EAGLETON. Mr. President, I am today introducing a bill to remove the present statutory dollar limit of $255 on the Social Security lump-sum death payment.

Under present law, the lump-sum death payment is three times the worker's primary insurance amount or $255, whichever is the smaller.

As a result of this dollar limitation, the amount of the lump-sum death payment no longer bears a reasonable relationship to the earnings record of the worker. In 1970 there were approximately 1.25 million claims for lump-sum death payments. About 75 percent of these claims were limited by the $255 maximum.

Another result of this dollar limitation is that the lump-sum death payment no longer bears a reasonable relationship to the expenses connected with death. For example, the cost of the average adult funeral in the United States rose from $578 in 1952 to $926 in 1969. Funeral expenses not covered by the lump-sum death payment must often be met by the survivors out of their monthly Social Security benefits.

As long ago as 1965, the Advisory Council on Social Security urged that:

> The lump-sum should not be subject to a dollar limit that is allowed to remain stationary when other provisions of the law are changed, but rather . . . the dollar limit should be adjusted with other provisions of the law as earnings levels rise.

Earlier this year, the 1971 Advisory Council on Social Security recommended that:

> The fixed-dollar limit of $255 be removed and that the lump-sum death payment be three times the worker's primary insurance amount up to a maximum payment equal to the highest family monthly benefit paid under the law.

My bill would carry out this recommendation of the Social Security Advisory Council and thereby restore the earnings-related character of the lump-sum death payment.

The Social Security Administration estimates that this change in the law would result in the payment of $195 million in additional benefits in fiscal 1973.

By Mr. HUMPHREY (for himself, Mr. HOLLINGS, Mr. HUGHES, Mr. TUNNEY, Mr. ANDERSON, Mr. JAVITS, Mr. MONDALE, Mr. MONTOYA, Mr. MOSS, Mr. RANDOLPH, and Mr. CRANSTON):

S. 2985. A bill to establish a program for the distribution of surplus American military equipment in Southeast Asia. Referred to the Committee on Armed Services.

WAR-TO-PEACE SURPLUS EQUIPMENT ACT

Mr. HUMPHREY. Mr. President, on November 23, I introduced an amendment to the Defense appropriation bill calling for a special program for the disposition of surplus military equipment in Vietnam. I reintroduce my amendment today in the form of a bill with some minor revisions and ask unanimous consent, Mr. President, that the War-to-Peace Surplus Equipment Act be printed in the RECORD following my remarks.

The purpose of this measure is to

maximize the efficient use of a vast storehouse of military equipment for our urgent needs at home. These needs do not have to be enumerated. They vividly confront us in urban and rural America.

Less than 10 blocks from the Senate we can see what those needs are. Our educational facilities are inadequate. Our housing is below standard and insufficient, and medical care and hospital facilities are not meeting the needs of all Americans for quality health care.

I would not be surprised to find that the Medivac program for Army personnel in Vietnam is more efficient than any of our programs here at home.

Urban planners and rural development experts have suggested that helicopters be used as ambulances to speed emergency cases to a downtown hospital or a county health center.

Medivac is a pace-setting program and should be maintained. Our Armed Forces should, therefore, retain the necessary helicopters to continue this facility.

The armed services in Vietnam possess the tools—the construction equipment and the vehicles—to build roads and bridges in Appalachia or the Ozarks. And I am sure that State and National park systems could benefit from the distribution of such heavy equipment to meet the growing need for more and better recreational facilities.

I am not suggesting that our Armed Forces in Vietnam should be deprived of any military and other logistical equipment. But as they withdraw—and the President has at least assured us that withdrawals will continue—the requirements of our Armed Forces change proportionately.

In its 1968 annual report the Department of Defense indicated that 9,129,000 measurement tons of Army cargo were shipped by sea into the area of Southeast Asia. Of that total, 7,679,500 came from the United States. This was support equipment for an army at roughly a 550,000 troop strength level. Now we expect to have force levels reduced to 139,000 by February 1 of this year, roughly one-fifth of what we had in 1968. Still, we have not reduced our appropriations for military equipment to Vietnam in the same ratio.

A GAO review of the phasedown of U.S. military activities in Vietnam indicated in August of this year that our Armed Forces could do much to reduce the flow of materiel to Vietnam. It suggested that new lower stockage levels must be calculated which would result in order deferrals or prevent replenishment actions. Second, the GAO report suggested that the practice of open requisitions by units being redeployed or deactivated be canceled. Together, these steps would reduce sharply unnecessary shipments to Vietnam. There would be more materiel in the United States, originally requisitioned for Vietnam, which could be made available for domestic purposes. Of the surplus materiel now in Vietnam, a greater percentage could be shipped home and put to immediate practical use. Some of that surplus will stay in Vietnam, but a greater share could be retrograded to the United States.

To be sure the Defense Department has a retrograde program, handled by the Installations and Logistics division. In fact, the Army should be congratulated for its SCRAM—Special Criteria for Retrograde of Army Materiel—program which has withdrawn equipment valued at over 4 billion dollars. At the same time, most of this equipment is shipped back with the Army unit leaving Vietnam or to an American installation in the Pacific. According to a newspaper report, the Army's figures show that only approximately 5 percent of its equipment being shipped out of Vietnam is put back to work immediately.

What I am proposing today is a means of putting that materiel to use immediately. The General Services Administration has had a "Home Run" and "Home Run Extended" program for domestic use of surplus military property in Southeast Asia. In the last year it has distributed at Federal, State, and local levels equipment and supplies valued at roughly $21.6 million. But this figure represents less than 5 percent of the surplus material. A substantially higher portion, 90 percent, is retained by the DOD. What the Installations and Logistics division determines as excess to the DOD's needs is that which is made available to the public. What now qualifies as excess is anywhere in the range of between 5 to 10 percent of surplus military equipment requisitioned for Vietnam. The Vietnam Surplus bill would cover all equipment "no longer necessary for use of armed forces of the United States in Southeast Asia." The DOD, as a result, would be hard put to argue that only 5 percent of equipment and supplies for Vietnam qualifies as surplus material.

Up to this point, I have only addressed myself to the question of surplus equipment which has had a great potential for nonmilitary purposes in America. But there is an equally important facet relating to surpluses available for strictly military purposes: the heavier hardware like planes, tanks, and artillery. Here, there has been a disturbing loophole in bureaucratic practices which has permitted a thriving international arms trade to flourish. Defense articles declared to be in excess are made available to foreign countries through direct purchasing, grants, and through third parties. This year the Defense Department requested a ceiling for defense articles valued at $220 million, compared to the fiscal year 1971 authorization of $100 million. The ceiling is even higher than the authorization figure, considering the fact that defense articles are presently valued at one-third acquisition costs. That means that the Army can purchase a $9 million plane, the next day register its value at $3 million, and give it to a foreign country at this price. For true accounting purposes· this year's ceiling is actually about $660 million.

Once this kind of authorization is passed, there is no congressional determination of where the defense articles wind up. Hence, we may discover that the United States is furnishing countries with military hardware when we should not be as in the case of Pakistan, or Cambodia.

Military assistance programs are designed to be tools of our diplomacy; they are not intended to dictate our diplomacy and that is what may happen if controls are not devised for these programs. Otherwise, we will continue to witness their self-perpetuation. This year, for example, in requesting a $220 million ceiling for excess defense articles, DOD argued that raising the ceiling would mean more effective use of surplus military hardware in Vietnam. In the narrowest terms, that may be true, but the fact that a large surplus is thereby made available for unidentifiable purposes hardly would seem to be effective in the broader context of trying to reduce the arms flow into Southeast Asia.

The bill I am introducing would provide a check on the use of our excess defense articles and would facilitate the disposition of a greater portion of our surplus equipment for domestic purposes. The Office of Southeast Asia War Surplus would have the responsibility for coordinating the entire program. Through the Secretary of Defense, the office would establish procedures for local, State, and Federal agency applications for surplus material and would be charged with the responsibility for a fair and equitable disposition of the property covered by this act.

In the case where the sale of surplus material abroad would be more economically efficient than direct distribution at home, the office would be required to set up a special trust account for sales proceeds. The funds in the special account would be subject to the same restrictions set out in the Foreign Military Sales Act. I can imagine cases when certain nonmilitary equipment might have minimal value here at home, but in high demand elsewhere. Foreign countries are willing to pay hard currency for these goods, and the ultimate benefit to our domestic programs would be greater because funds would be made available for the purchase of equipment commensurate with our specific development needs. At the same time the purchasing country would also be better off as a result of the transfer and sale of the surplus item.

I cannot imagine anyone's disputing the usefulness of this program. The facts speak for themselves. We should endorse the principle of expanding our surplus programs at home and we should provide the most suitable facility to coordinate the disposition and distribution of this materiel. Mr. President, I urge my colleagues to take this opportunity not just to consider our priorities, but to act as if we knew what they were. Withdrawing from Vietnam involves planning for the future of our Nation, and the legislation I am offering is one step in this direction.

I would like to announce that Senators HOLLINGS, HUGHES, TUNNEY, ANDERSON, JAVITS, MONDALE, MONTOYA, MOSS, RANDOLPH, and CRANSTON are joining with me as cosponsors of the War-to-Peace Surplus Equipment Act of 1971.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2985

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "War-to-Peace Surplus Equipment Act of 1971".

FINDING AND DECLARATION OF POLICY

SEC. 2. (a) The Congress hereby finds that (1) there is a demonstrated need on the part of Federal, State, and local governments for surplus equipment of the United States in Southeast Asia, (2) such need has also been shown to exist among certain private, nonprofit organizations engaged in urban and rural development programs in the United States or in assistance to low-income persons in the United States, (3) that surplus equipment can be returned to the United States from Southeast Asia at a cost that is only a small fraction of the original price paid for such equipment and, in most cases, at only a fraction of the fair market value thereof.

(b) It is hereby declared to be the policy of Congress to assure the prompt and equitable distribution of surplus equipment under the provisions of this Act.

DISPOSITION OF SURPLUS MILITARY EQUIPMENT IN SOUTHEAST ASIA

SEC. 3. (a) There is established in the Department of Defense and office known as the Office of Southeast Asia War Surplus (hereinafter referred to as the "Office") which shall be headed by a civilian appointed by the Secretary. The head of such office shall be directly responsible to the Secretary of Defense.

(b) Notwithstanding any other provisions of law, the Secretary of Defense shall, through the Office—

(1) determine the kinds and amount of equipment and materials owned by the Department of Defense in Southeast Asia which are no longer necessary for the use of the Armed Forces of the United States in Southeast Asia;

(2) assess and evaluate such equipment and material for the purpose of determining whether it can be used by Federal, State or local governments in the United States or by private enterprises or persons in the United States in either urban or rural areas;

(3) serve as a central office for the disposition of all such equipment and materials;

(4) make such equipment and materials available to other departments and agencies of the Federal Government and to State and local governments without charge;

(5) make such equipment and materials available without charge to private nonprofit organizations determined by the Secretary of Defense, after consultation with the Secretary of Health, Education, and Welfare, the Secretary of Agriculture, the Secretary of Housing and Urban Development, and the Director of the Office of Economic Opportunity, to be engaged in programs of urban or rural development or programs of assistance to low-income persons.

NOTIFICATION TO STATES, LOCAL OFFICIALS, AND INTERESTED PERSONS

SEC. 4. (a) The Secretary of Defense is hereby directed to notify in writing the Governors of the several States, mayors or managers of defined urban places and other interested persons (as determined by him) as to the exact nature of surplus equipment and material available under the provisions of this Act.

(b) The Secretary of Defense shall actively seek the participation of Governors, mayors, or managers of defined urban places in the benefits of the program authorized by this Act.

AUTHORITY OF OFFICE TO SELL SURPLUS EQUIPMENT AND MATERIALS ABROAD

SEC. 5. (a) The Office may authorize the sale abroad for dollars of any equipment or materials of the Department of Defense located in Southeast Asia determined by the Office to be no longer needed by the Armed Forces of the United States if the Office further determines that to sell such equipment or materials abroad and use the proceeds of the sale for the purposes stated in subsection (b) of this section would be economically sounder than to incur the expense of transporting such equipment or materials back to the United States for distribution under this Act. Notwithstanding the foregoing provisions of this section, no sale may be made abroad under this section if such sale would be inconsistent with the Foreign Military Sales Act.

(b) The proceeds of any sale made under subsection (a) of this section shall be credited to a separate account in the Treasury to be known as the Southeast Asia surplus equipment account. Funds deposited in such account shall be available only for carrying out programs for urban or rural development in the United States, programs provided for under the Economic Opportunity Act of 1964, and similar-type programs. Funds shall be appropriated from such account for such programs from time to time in appropriation Acts.

REGULATIONS

SEC. 6. The Secretary of Defense shall, through the Office, prescribe by regulation the procedures for making application for equipment and materials made available under this Act and for the fair and equitable disposition of such property to eligible applicants.

SEC. 7. The Secretary of Defense shall require any State or local government or any private, nonprofit organization receiving equipment or materials to the United States or to pay the United States the fair market value thereof (as determined by the Secretary) in the event that such State, local government, or organization fails to use such equipment or materials for the purpose for which they were made available under this Act.

REPORT TO CONGRESS

SEC. 8. The Secretary of Defense shall submit a written report to the Congress within ninety days after the date of enactment of this Act indicating what action has been taken to carry out the provisions of this Act. He shall include in such report such recommendations for legislation as he deems appropriate for the improvement of the program provided for herein.

By Mr. STAFFORD:

S. 2986. A bill to provide for disclosures designed to inform the Congress with respect to legislative measures, and for other purposes. Referred to the Committee on Government Operations.

Mr. STAFFORD. Mr. President, today I introduce a bill designed to guarantee the American public full access to information concerning the activities of the private forces that influence the shape of our government.

The Open Government Act would require virtually every aspect of congressional lobbying to be pulled out of the shadows of Capitol Hill and into the spotlight of public scrutiny.

I want to stress, however, that the purpose of this bill is not to halt or even to curtail legitimate lobbying activities, but, rather, to require full disclosure of such activities.

This measure very carefully preserves the constitutional rights of the public to freedom of expression and the rights of everyone to petition their government.

At the same time, it is a disclosure bill designed to inform the public—and the Congress—about the spending and other activities of persons, who for pay, support or oppose national legislation.

This bill is similar to a measure recently approved by the Committee on Standards of Official Conduct of the House of Representatives.

I was a member of that House Committee until my recent appointment to the Senate, and I participated in the hearings and deliberations of that committee in the other body of this Congress.

The House bill is a good one and is a big step in the right direction, but I think it contains some weak spots that are a natural result of the compromises that take place in the committee deliberation process.

My proposal is more demanding of disclosure. I think legislation in this field should be as tough as possible, because I have become increasingly concerned by what appears to be a growing skepticism among Americans about the credibility of their government.

My proposal is designed, quite simply, to bring congressional lobbying out into the open.

The Open Government Act would be administered by the Comptroller General and it contains both civil and criminal penalty clauses.

It would require, among other things, public disclosure of:

The names of lobbyists and of their clients.

Lobbying income and expenditures for purposes covered by the act.

Every communication between a lobbyist and a Member of Congress, and congressional staff members, and identification of the specific legislation discussed.

By Mr. JAVITS (for himself, Mr. PASTORE, Mr. GOLDWATER, and Mr. FANNIN):

S. 2987. A bill to authorize the Secretary of the Treasury to make grants to Eisenhower College, Seneca Falls, N.Y., out of the proceeds of the sale of minted proof dollar coins bearing the likeness of the late President of the United States, Dwight D. Eisenhower. Referred to the Committee on Banking, Housing and Urban Affairs.

Mr. JAVITS. Mr. President, I send to the desk on behalf of myself and the distinguished Senator from Rhode Island (Mr. PASTORE) a bill which will be simultaneously introduced in the other body by Representative JOHN H. TERRY of New York, in whose district Eisenhower College is located, Representative SAMUEL S. STRATTON, who is a member of the board of the college, and Representative OGDEN R. REID as cosponsors.

Mr. President, the bill will provide legislation authorizing the Secretary of the Treasury to make a grant to the Eisenhower College in Seneca Falls, N.Y., of $1 from the proceeds received from the sale of each "proof" Eisenhower silver dollar being sold for $10 to collectors.

In 1963 the late President Eisenhower agreed to the establishment of Eisenhower College as a living, permanent memorial to his years of service to the Nation in war and in peace. In subsequent years, the Eisenhower family—Mrs. Mamie Eisenhower, Dr. Milton Eisenhower, and John Eisenhower—have actively supported the establishment of the school, its development, and the funds necessary for its success. They have been joined by some 12,000 donors who have contributed more than $7 million to the college.

In 1968, Congress enacted Public Law

90-563 providing $5 million for the Eisenhower College on a matching basis. This amount has been matched by foundation, corporate, and individual gifts and pledges. The $20 million anticipated from the bill I am now introducing for the sale of "proof" Eisenhower silver dollar coins would supplement the $5 million appropriated in 1968. Some $46 million in Federal funds has been expended on construction, bonds, and land acquisition for the Kennedy Center.

The Bank Holding Company Act Amendments of 1970, Public Law 91-607, authorizes the minting of Eisenhower silver dollars. Twenty million "proof" coins are being sold to the public—coin collectors and collectors of Eisenhower memorabilia—at $10 each. One dollar of this $10 would go as the Secretary of the Treasury may direct, to the Eisenhower College up to a maximum amount of $20 million.

In addition to the "proof" Eisenhower silver dollar coins being sold for $10 each, the Treasury is also selling 130 million "uncirculated" Eisenhower silver dollar coins, each in a plastic case, for $3 apiece. The $390 million proceeds from this sale would not be affected by my bill, the entire amount going to the Treasury.

Eisenhower College is a living memorial to a great American who led the people of his Nation in war and in peace. A former college president himself, President Eisenhower saw Eisenhower College, an institution of higher learning, as a proper memorial. At the groundbreaking ceremony in September of 1965, he said:

> This is an honor that will be prized by me every day of my life, for I can think of no greater monument to any man than a college bearing his name; an institution which will be a vital, vigorous champion of freedom through proper education.

This bill would help translate the will into the deed, the dream into reality.

Mr. President, I ask unanimous consent to have printed in the RECORD a statement from Mrs. Dwight D. Eisenhower, and one from Dr. Milton Eisenhower.

There being no objection, the statements were ordered to be printed in the RECORD, as follows:

A STATEMENT FROM MRS. DWIGHT D. EISENHOWER

No one can, I think, fully understand what Eisenhower College means to me. It has already proven to be a college of character and distinction, qualities which my husband hoped for as he watched its start and early growth.

It made me happy that he felt so honored to have it carry his name. He admired everything about it, the courage of its founders, the generosity of thousands across the country who joined in financing its start.

Now, I am his and my own witness to the the truly wonderful progress of the College. I feel very much a part of it, indeed honored, too, in having the Academic Hall named for me. I want to do everything I can to help it serve those students who, in years to come, will follow the charming and able young people I have talked to on campus.

As I see it, and as his friends have said, this is not only a memorial, it is an institution of great importance to this country. The funds to complete it will constitute an investment which will produce each year graduates who will take a responsible position in society. I don't think we can ask for more.

With enthusiasm and very deep gratitude, I welcome any effort which will assure and hasten the completion of Eisenhower College.

MAMIE DOUD EISENHOWER.

DECEMBER 8, 1971.

STATEMENT OF DR. MILTON EISENHOWER

My brother first told me of a proposal that a College be named Eisenhower in 1962. When he discussed the matter with me, I told him that I admired the idea as much as he did. When he gave his approval, however, I could not help wondering how the College would be developed.

If I had reason for concern in those early days, I soon found good reasons to have confidence in the deliberate and meaningful ways in which the Trustees and Administrators approached their challenging mission.

As I hoped, there was appointed an able faculty of dedicated teachers; there was created a distinctive curriculum which one day will be evaluated as distinguished, and a spacious campus was designed on which more than half the buildings are completed. Most important, there has been attracted to Eisenhower College a body of students who are motivated toward service and achievement and who are proud of their association with the College.

In short, I am greatly impressed with what has been accomplished, as is Mrs. Dwight Eisenhower. I know President Eisenhower would be proud of the College and happy with his decision to have it named Eisenhower. Too, he would be grateful that large numbers of his friends have helped, through their gifts and service, in giving the institution vitality and its leaders hope and confidence. I believe all of them, as I do, would give warm approval to the legislation Senator Javits is now presenting to the Senate.

MILTON S. EISENHOWER.

DECEMBER 8, 1971.

Mr. GOLDWATER. Mr. President, will the Senator from New York yield?

Mr. JAVITS. I yield.

Mr. GOLDWATER. I would deem it a real honor if the Senator would add my name as a cosponsor of his bill.

Mr. JAVITS. I would be delighted to do that and, Mr. President, I ask unanimous consent that the name of the Senator from Arizona be added as a cosponsor of this bill.

Mr. FANNIN. Will the Senator from New York add my name also?

Mr. JAVITS. Also the distinguished Senator from Arizona (Mr. FANNIN) as well.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GOLDWATER. I am complimented that I have been invited to address the student body at Eisenhower College and I shall do so at the earliest opportunity.

Mr. JAVITS. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2987

A bill to authorize the Secretary of the Treasury to make grants to Eisenhower College, Seneca Falls, New York, out of the proceeds of the sale of minted proof dollar coins bearing the likeness of the late President of the United States, Dwight D. Eisenhower

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding any other provision of law, the Secretary of the Treasury is authorized to make grants to Eisenhower College, Seneca Falls, New York, in an aggregate amount equal to 10 per centum of the amounts received by the Secretary for the issuance of proof dollar coins bearing the likeness of the late President of the United States, Dwight D. Eisenhower, and minted under the authority of section 101 (d) of the Coinage Act of 1965, and section 203 of the Bank Holding Company Act Amendments of 1970; the amount received by the Secretary for each minted proof dollar coin being $10 per coin.

By Mr. STEVENS:

S. 2988. A bill to authorize the appropriation of $250,000 to assist in financing the Arctic Winter Games to be held in the State of Alaska in 1974. Referred to the Committee on Commerce.

Mr. STEVENS. Mr. President, today I am introducing legislation which would authorize the appropriation of $250,000 to the Secretary of Commerce to assist in financing the Arctic Winter Games to be held in Alaska in 1974.

Inaugurated in 1970, the games are international in scope, with the Northwest and Yukon Territories and the State of Alaska acting as joint sponsors. Contestants participate in such sports as badminton, basketball, boxing, curling, figure skating, hockey, shooting, cross-country skiing, table tennis, and volleyball. In the past, several hundred athletes from Alaska and Canada have been attracted to the games, which have been enjoyed by many thousands of American and Canadian spectators.

At present, approximately two-thirds of the funding for this event comes from the Canadian Federal Government. The balance is provided by the Northwest and Yukon Territories, the State of Alaska, the host city, and through the cash donations of various companies and individuals. Regrettably, the United States has never appropriated moneys for this worthy purpose.

I believe that our failure to do so is a great mistake. Not only do the games foster a spirit of healthy competition between the athletes involved, they also lead to increased fellowship among the participants and spectators, greater understanding between the United States and Canada, and increased economic activity in the area in which they take place. For these reasons, I believe that the games are worthy of Federal funding and request that this body give very careful consideration to the bill which I am introducing today.

I ask unanimous consent that the bill be printed at this point in the CONGRESSIONAL RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2988

A bill to authorize the appropriation of $250,000 to assist in financing the Arctic Winter Games to be held in the State of Alaska in 1974

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there is authorized to be appropriated to the Secretary of Commerce the sum of $250,000, for the purpose of assisting the financing of the

Arctic Winter Games to be held in Alaska in 1974. The Secretary shall provide for the disbursement of such funds (including the making of grants to appropriate persons or organizations) on such terms and under such conditions as he deems appropriate, including the submission to him of such reports from persons or organizations to which such funds are disbursed as the Secretary considers necessary to protect the interests of the United States and assure that such funds have been used for the purpose for which they were disbursed.

By Mr. HARTKE:

S. 2989. A bill to amend title 28, United States Code, to make the United States liable for acts of medical malpractice committed by its employees against members of the Armed Forces of the United States. Referred to the Committee on the Judiciary.

AMENDMENT TO FEDERAL TORT CLAIMS ACT

Mr. HARTKE. Mr. President, when a civilian employee of the United States is injured by the negligence of a fellow employee, he is given a remedy under the Federal Employees Compensation Act—5 U.S.C.A. 751, and the following. If a private citizen falls victim to the negligence of an employee of the United States, that citizen is entitled to recover the complete measure of his injury, including pain, suffering, and psychological harm from the United States under the Federal Tort Claims Act—28 U.S.C.A. If a soldier is injured by the negligence of a fellow soldier and that negligence results in a disability that affects the soldier's ability to perform as a soldier, the victim is entitled to a pension—33 U.S.C.A. 901 and the following. However, if that injury—no matter how painful and disfiguring—fails to result in a "disability," the victim is left to shoulder his loss alone.

In 1948, the U.S. Supreme Court was asked whether a serviceman could recover damages for personal injury resulting from an automobile accident. It replied in the affirmative, disagreeing with the argument that the serviceman did not have the right to sue simply because he was a serviceman. The Court held that the automobile accident had nothing to do with the serviceman's military career, but that if it had, that would be a "different case." *Brooks* v. *U.S.*, 337 U.S. 49, 52 (1948).

In 1950, the "different case" was put to the court when two servicemen who had been injured in an Army hospital because of negligence along with a serviceman who was injured when his barracks caught fire sued the Federal Government for damage. The Supreme Court said that the Government was not liable for injuries to servicemen when the injuries arise out of or in the course of activity incident to services. *Feres* v. *U.S.*, 340 U.S. 135, 146 (1950).

For the past 20 years, the Feres decision has been used to deny recovery to servicemen for injuries arising out of activity incident to their service. This rule has even been extended to servicemen injured in military hospitals due to the negligence of military medical staffs. These servicemen have been denied recovery simply because they were servicemen. See *Norris* v. *U.S.*, 137 F. Supp. 11 (1955), *Weiserbs* v. *U.S.*, 199 F. Supp. 329 (1961), *Gamage* v. *U.S.*, 217 F. Supp. 381 (1962), *Bauer* v. *U.S.*, 241 F. Supp. 3 (1957), *Dilworth* v. *U.S.*, 387 F. 2d 590 (1957), *Van Sickel* v. *U.S.*, 285 F. 2d 87 (1960). Usually these cases mention the statutory relief available to servicemen injured in service-connected activity as mitigating the harshness of denying recovery in a legal action. A good summary of this relief can be found in *Jefferson* v. *U.S.*, 77 F. Supp. 706, 711 n. 1 (1948). However, even where no redress other than a legal action is available, courts have denied recovery, basing their decision on the Feres case, and saying that the injured serviceman must go to Congress for relief. *Healy* v. *U.S.*, 192 F. Supp. 325 (1961), and *Knoch* v. *U.S.*, 316 F. 2d 532 (1963). In an attempt to persuade courts to carve out an exception to Feres where the injury involved malpractice, servicemen have argued that while in military hospitals they are not really in a "command function."

They have been met, however, with the argument that according to Army regulations, AR–2, section II, paragraphs 3 and 4a, they are in a "command function," and therefore recovery must be denied. *Bailey* v. *Vanbuskirk*, 345 F. 2d 298 (1965), *Bailey* v. *Dequevedo*, 241 F. Supp. 335 (1965), affirmed at 375 F. 2d 72 (1967), *Schwager* v. *U.S.*, 326 F. Supp. 1081 (1971), and *Shults* v. *U.S.*, 421 F. 2d. 170 (1969). Some servicemen have even sued the military doctor personally, only to be thrown out of court on the ground that the Federal Government's immunity extends to the doctor. See Vanbuskirk, and Dequevedo, supra. It should be noted that once servicemen are discharged and become veterans, they can sue the Federal Government for negligence in veterans hospitals so long as the negligence occurred after their discharge. *U.S.* v. *Brown*, 348 U.S. 110 (1954). Allowing veterans but not servicemen to sue has been called "unjustifiable discrimination." See dissent of Justices Black, Reed, and Minton, *U.S.* v. *Brown*, 348 U.S. 110 at 114 (1954).

The main reasons courts give for not allowing servicemen to recover usually are that military morale and discipline would be undermined, and the "floodgates of litigation" would be opened. See Jefferson, and Healy, supra. But courts never discuss precisely how military discipline would be undermined if a serviceman lying in a hospital bed or on an operating table is given the right to sue for negligent acts committed against him. Some would argue that such suits would be detrimental to health care in military hospitals, although they would concede that litigation would probably correct certain deficiencies in medical procedures, thereby improving to that extent the quality of medical care.

On the contrary, malpractice suits would improve military medical care by making medical personnel more careful and by impressing upon them their high responsibility for the care of their patients. Nor do I hear an inundation of the courts unless malpractice is rampant in military hospitals.

Mr. President, I introduce for appropriate reference a bill designed to close this loophole in Federal law, and ask unanimous consent that the text of my bill be printed at the conclusion of my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2989

A bill to amend title 28, United States Code, to make the United States liable for acts of medical malpractice committed by its employees against members of the armed forces of the United States

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first paragraph of section 2674 of title 28, United States Code, is amended by adding at the end thereof the following new sentence: "Such liability includes liability for personal injury, death, or other loss caused by any negligent or wrongful act or omission of an employee of the Government acting within the scope of his office or employment in furnishing medical care or treatment to a member of the military or naval forces of the United States."

SEC. 2. The amendment made by the first section of this Act shall apply to any claim arising on or after its enactment.

By Mr. BURDICK:

S. 2991. A bill to provide for the establishment of the War in the Pacific National Historical Park on the Island of Guam, and for other purposes; and

S. 2992. A bill to provide for the establishment of the Guam National Seashore, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

Mr. BURDICK. Mr. President, I send to the desk for appropriate reference two bills relating to the Territory of Guam. The first bill provides for the establishment of the War in the Pacific National Historical Park on the island of Guam. The second measure would provide for the establishment of the Guam National Seashore.

Mr. President, in May 1971, I had the privilege of attending the Conference of Pacific Legislators in Guam and to spend several days in the Territory meeting with government officials and leading businessmen in the community. I was very impressed by the economic growth and development of the territory which stems very largely from the Guam Rehabilitation Act passed by the Congress in 1963. It is well known that Guam was occupied by the Japanese in World War II and suffered extensive damage when the island was retaken by U.S. forces in July 1944.

By letter of June 9, 1971, I asked that the Secretary of the Interior have draft legislation prepared authorizing the establishment of the War in the Pacific National Historical Park and the Guam National Seashore. I think it proper that the Congress preserve and protect historic sites having value in commemorating the Pacific phase of World War II, with specific emphasis on the Battle of Guam. The proposed Guam National Seashore, contiguous to the war in the Pacific National Historical Park, would preserve an area along the southwest coast of Guam rich in natural scenic values, along with sites and antiquities associated with nearly 4 centuries of European global discovery, exploration and settlement.

As I indicated, these bills were prepared by experts in the Department of the Interior and represent their thinking in terms of land areas and acquisition procedures best suited to the establishment of the historical park and the national seashore. When hearings are held on these measures, the appropriate representatives of Guam will be afforded an opportunity to make recommendations and suggestions that they feel would be desirable to protect private property owners within the boundaries of the two projects.

Mr. President, I ask unanimous consent that the response to my request contained in the letter of October 27 from the Legislative Counsel of the Department of the Interior be inserted at this point in the RECORD, together with the text of the two bills I am introducing.

There being no objection, the letter and bills were ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF THE INTERIOR,
Washington, D.C., October 27, 1971.

Hon. QUENTIN N. BURDICK,
Chairman, Subcommittee on Territories and Insular Affairs, Committee on Interior and Insular Affairs, Washington, D.C.

DEAR SENATOR BURDICK: Pursuant to your request of June 9, 1971, we are enclosing herewith two draft bills. One draft is entitled "To provide for the establishment of the War in the Pacific National Historical Park on the island of Guam, and for other purposes," and the other is entitled "To provide for the establishment of the Guam National Seashore, and for other purposes."

In regard to the National Historical Park, section 1 of the draft bill authorizes the Secretary of the Interior to establish and administer the park for the purposes set forth in the section. Section 2 authorizes the Secretary to acquire not more than 2800 acres of lands and interests in lands by donation, purchase with donated or appropriated funds, or exchange, or by transfer from another Federal agency.

Section 3 provides specific authority to the Secretary in regard to landscaping, erection of markers, construction of museums and other appropriate buildings.

As provided in section 4, the War in the Pacific National Historical Park shall be established by publication of a notice to that effect in the *Federal Register* at such time as the Secreary determines sufficient lands have been acquired to constitute an administrable unit. The area is to be adminstered in accordance with the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2–4) as amended and supplemented, and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461 *et seq.*)

Section 5 authorizes the Secretary to cooperate with the appropriate interested officials in order to insure coordination of historical activities, and the last secton authorizes such appropriations as may be necessary to carry out the purposes of the Act.

Except for some variations in language, the draft bill is substantially the same as H.R. 1726, introduced by Representative White.

In regard to the Guam National Seashore bill, section 1 authorizes the Secretary to establish the seashore to comprise the area as generally depicted on the boundary map referred to in the section. Establishment would be by publication of a notice to that effect in the *Federal Register* at such time as he deems sufficient lands have been acquired to constitute an administrable unit. The Secretary is also authorized to revise the boundaries from time to time by publication of a map or other boundary description in the *Federay Register*, but the total area of the seashore may not exceed 19,000 acres. A copy of the map referred to is enclosed. Within the boundaries, the Secretary may acquire lands and interests in lands by donation, purchase with donated or appropriated funds, exchange, or by transfer from another Federal agency.

Section 2(b), 2(c), and 2(d) relate to the acquisition of improved residential property. Pursuant to these sections an owner of improved residential property, as defined in section 2(c), may, at the time of acquisition reserve a right of use and occupancy for noncommercial residential purposes for a term ending either not more than 25 years from the date of acquisition, or at the death of the owner or his spouse.

Section 2(e) contains special provisions relating to the villages of Umatac and Merizo. In essence, the section prohibits condemnation of lands within those villages for a period of one year after enactment, in order to permit the formulation of land use regulations providing for development and expansion, compatible with the seashore, of the villages and addtional, agricultural, area. Upon adoption of a land use regulation satisfactory to the Secretary, he may designate such areas as "private use zones" and, as long as property is utilized in accordance with a satisfactory land use regulation, the Secretary's condemnation authority would be suspended in the private use zones.

Section 3 of the draft seashore bill provides for the continuation of hunting and fishing in accordance with applicable laws of the Territory and the United States, except that the Secretary may designate times when, and zones where, no hunting or fishing may be permitted for reasons of public safety, administration, or fish and wildlife management.

The seashore shall be administered in accordance with the provisions of the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2–4) as amended and supplemented, except that any other statutory authority for the conservation of natural or historical resources may be utilized.

The final section authorizes the appropriation of such sums as may be necessary to carry out the purposes of the Act.

These bills have been prepared as a service to you. Since they have not been cleared by the Office of Management and Budget, you will appreciate, I am sure, that we can make no commitment at this time with respect to this Department's position on the bills.

Sincerely yours,

FRANK A. BRACKEN,
Legislative Counsel.

S. 2991

A bill to provide for the establishment of the War in the Pacific National Historical Park on the island of Guam, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized to establish and administer the War in the Pacific National Historical Park (hereinafter referred to as the "park") on the island of Guam, to stand as a reminder of the truths forged in armed combat which have proved the need, and heightened the desire, for world peace, to commemorate the bravery and sacrifice of those participating in the campaigns of the Pacific theater in World War II, including the Guam campaign, and to interpret this significant period in the history of our Nation.

SEC. 2. The Secretary is authorized to acquire not to exceed 2,800 acres of lands and interests in lands for the purpose of the park by donation, purchase with donated or appropriated funds, exchange, or transfer from another Federal agency. Property owned by the Territory of Guam may be acquired only with the consent of the owner. Notwithstanding any other provision of law any Federal property may, with the concurrence of the agency jurisdiction thereover, be transferred without consideration to the jurisdiction of the Secretary for the purposes of the park. Lands acquired for the park shall include, but not necessarily be limited to, that area of Guam comprising the initial major landing area of July 21, 1944, by the invading forces of the United States on Asian beachhead, the mountain and plateau areas adjacent to said landing area, and any other pertinent areas on the island selected after consultation with the Governor of Guam.

SEC. 3. To facilitate the commemoration and interpretation of the historic role of Guam and of the War in the Pacific, the Secretary is authorized to landscape, erect markers, construct a museum and other appropriate buildings, provide exhibits and interpretive material, and otherwise appropriately develop the Park.

SEC. 4. The Secretary shall establish the "War in the Pacific National Historical Park" by publication of a notice to that effect in the Federal Register at such time as he deems that sufficient lands have been acquired to constitute an administrable unit. Pending establishment and thereafter, lands and interests therein acquired for the Park shall be administered in accordance with the provisions of the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2–4), as amended and supplemented, and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461 et seq.).

SEC. 5. In order to assure coordinated historical development and preservation, the Secretary is authorized to cooperate and consult with the Governor of Guam, military and naval historians, the American Battle Monuments Commission and other affected United States agencies of the Government.

SEC. 6. There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

S. 2992

A bill to provide for the establishment of the Guam National Seashore, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in order to preserve for public use and enjoyment certain areas possessing outstanding natural, historic, and recreational values, the Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized to establish and administer the Guam National Seashore (hereinafter referred to as the "seashore"). The seashore shall consist of those lands and waters as generally depicted on the drawing entitled "Boundary Map, Proposed Guam National Seashore," numbered NS–GUA 7101–A, and dated June 1967, a copy of which shall be on file and available for inspection in the offices of the National Park Service, Department of the Interior. The Secretary shall establish the seashore by publication of a notice to that effect in the Federal Register at such time as he deems that sufficient lands have been acquired to constitute an administrable unit. The Secretary may revise the boundaries from time to time by publication of a map or other boundary description in the Federal Register, but the total acreage of the seashore may not exceed 19,000 acres.

SEC. 2(a). Within the boundaries of the seashore, the Secretary may acquire lands, waters and interests therein by donation, purchase with donated or appropriated funds, exchange, or transfer from any other Federal agency. Property owned by the Territory of Guam may be acquired only with the consent of the owner. Notwithstanding any other provision of law, any Federal property located within the boundaries of the seashore may, with the concurrence of the agency having jurisdiction thereover, be transferred without consideration to the jurisdiction of the Secretary for the purposes of the seashore.

(b) With respect to improved residential property acquired for the purposes of this Act, which is beneficially owned by a natural person and which the Secretary determines can be continued in that use for a limited period of time without undue interference with the administration, development, or public use of the seashore, the owner thereof may on the date of its acquisition by the Secretary retain a right of use and occupancy of the property for noncommercial residential purposes for a term, as the owner may elect, ending either (1) at the death of the owner or his spouse, whichever occurs later, or (2) not more than twenty-five years from the date of acquisition. Any right so retained may during its existence be transferred or assigned. The Secretary shall pay to the owner the fair market value of the property on the date of such acquisition, less the fair market value on such date of the right retained by the owner.

(c) The term "improved property", as used in this section shall mean a detached, noncommercial residential dwelling, the construction of which was begun before September 1, 1971, together with so much of the land on which the dwelling is situated, the said land being in the same ownership as the dwelling, as the Secretary shall designate to be reasonably necessary for the enjoyment of the dwelling for the sole purpose of noncommercial residential use, together with any structures accessory to the dwelling which are situated on the land so designated.

(d) The Secretary may terminate a right of use and occupancy retained pursuant to this section upon his determination that such use and occupancy is being exercised in a manner not consistent with the purposes of this Act, and upon tender to the holder of the right an amount equal to the fair market value of that portion of the right which remains unexpired on the date of termination.

(e)(1) The Secretary's authority to acquire property by condemnation shall be suspended with respect to all property located within the villages of Umatac and Merizo, for a period of one year from the date of enactment of this Act. Thereafter, the Secretary may designate by publication of a notice to that effect in the *Federal Register*, after consultation with the Governor of Guam and other appropriate officials, the said villages, together with lands adjacent thereto necessary for expansion, and such other areas as the Secretary may deem proper, as private use and development zones: *Provided*, That the Secretary shall not designate any such zone unless a satisfactory land use regulation, as hereinafter set forth, is applicable thereto.

(2) The Secretary's authority to acquire property by condemnation shall be suspended with respect to all property within private use and development zones at all times when there is in force and applicable to the lands within such zones valid land use regulations promulgated by the Territory of Guam, and approved by the Secretary. The Secretary's approval shall be evidenced by publication of approved land use regulations in the *Federal Register* by him.

(3) No land use regulation or amendment thereto shall be approved by the Secretary which (1) contains any provision which he may consider adverse to the preservation and development, in accordance with the purposes of this Act, of the area comprising the seashore, or (2) fails to have the effect of providing that the Secretary shall receive notice of any variance granted under and any exception made to the application of such land use regulation.

(4) If any property with respect to which the Secretary's authority to acquire by condemnation has been suspended by reason of the approval, in accordance with the foregoing provisions of this section, of a land use regulation applicable to such property,

(a) is made the subject of a variance under or an exception to such land use regulation, which variance or exception fails to conform or is in any manner opposed to or inconsistent with any approved land use regulations, or

(b) is property upon or with respect to which there occurs any use, commencing after the date of the publication by the Secretary of such land use regulations, which fails to conform or is in any manner opposed to or inconsistent with the land use regulation,

The Secretary may, at any time and in his discretion, terminate the suspension of his authority to acquire such improved property by condemnation: *Provided, however*, That the Secretary may agree with the owner or owners of such property to refrain from the exercise of the said authority during such time and upon such terms and conditions as the Secretary may deem to be in the best interests of the development and preservation of the seashore.

SEC. 3. The Secretary shall permit hunting, and fishing, on lands and waters under his jursdiction within the boundaries of the seashore in accordance with the applicable laws of Guam and the United States to the extent applicable, except that he may designate zones where, and establish periods when, no hunting or fishing shall be permitted for reasons of public safety, administration, fish or wildlife management, or public use and enjoyment.

SEC. 4. Pending establishment and thereafter, lands and interests in lands acquired for the seashore shall be administered in accordance with the provisions of the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2–4), as amended and supplemented, except that any other statutory authority available to the Secretary for the conservation and management of natural or historical resources may be utilized to the extent he finds such authority will further the purposes of the Act.

SEC. 5. There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 2349

At the request of Mr. TUNNEY, the Senator from Minnesota (Mr. HUMPHREY) was added as a cosponsor of S. 2349, the Voting Rights Amendments of 1971.

S. 2515

At the request of Mr. WILLIAMS, the Senator from Ohio (Mr. TAFT) and the Senator from Oregon (Mr. HATFIELD) were added as cosponsors of S. 2515, the Equal Employment Opportunities Enforcement Act of 1971.

S. 2709

At the request of Mr. HATFIELD, the Senator from California (Mr. CRANSTON) was added as a cosponsor of S. 2709, a bill to permit American citizens to hold gold in the event of the removal of the requirement that gold reserves be held against currency in circulation.

S. 2734

At the request of Mr. SCHWEIKER, the Senator from Kentucky (Mr. COOK), the Senator from Oklahoma (Mr. HARRIS), the Senator from Michigan (Mr. HART), the Senator from Oregon (Mr. HATFIELD), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Maryland (Mr. MATHIAS), and the Senator from Utah (Mr. MOSS) were added as cosponsors of S. 2734, a bill to amend the Fair Packaging and Labeling Act to provide for the establishment of national standards for nutritional labeling of food commodities.

S. 2738

At the request of Mr. HUGHES, the Senator from Delaware (Mr. BOGGS), the Senator from North Dakota (Mr. BURDICK), the Senator from Kentucky (Mr. COOPER), the Senator from Colorado (Mr. DOMINICK), the Senator from Michigan (Mr. HART), the Senator from Oregon (Mr. HATFIELD), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Minnesota (Mr. HUMPHREY), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. METCALF), the Senator from Alaska (Mr. STEVENS), and the Senator from California (Mr. TUNNEY) were added as cosponsors of S. 2738, a bill to amend titles 10 and 37, United States Code, to provide for equality of treatment for military personnel in the application of dependency criteria.

S. 2829

At the request of Mr. BAYH, the Senator from Maryland (Mr. BEALL), the Senator from Utah (Mr. BENNETT), the Senator from Florida (Mr. CHILES), the Senator from California (Mr. CRANSTON), the Senator from Oklahoma (Mr. HARRIS), the Senator from Michigan (Mr. HART), the Senator from Hawaii (Mr. INOUYE), the Senator from New York (Mr. JAVITS), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Maryland (Mr. MATHIAS), the Senator from Montana (Mr. METCALF), the Senator from Utah (Mr. MOSS), the Senator from Rhode Island (Mr. PASTORE), the Senator from Rhode Island (Mr. PELL), and the Senator from Ohio (Mr. TAFT) were added as cosponsors of S. 2829, a bill to strengthen interstate reporting and interstate services for parents of runaway children; to conduct research on the size of the runaway youth population; for the establishment, maintenance, and operation of temporary housing and counseling services for transient youth, and for other purposes.

S. 2890

At the request of Mr. MOSS, the Senator from Washington (Mr. MAGNUSON), the Senator from California (Mr. TUNNEY), the Senator from Montana (Mr. METCALF), the Senator from Rhode Island (Mr. PELL), and the Senator from Alaska (Mr. STEVENS) were added as cosponsors of S. 2890, a bill to authorize the Civil Service Commission to furnish assistance to provide for the emergency transitional employment by State or local governments of Federal employees who lose their positions as the result of reductions in force in areas of high unemployment.

S. 2892

Mr. BOGGS. Mr. President, I ask unanimous consent that the names of the Senator from Maryland (Mr. BEALL), the Senator from Massachusetts (Mr. BROOKE), the Senator from New York (Mr. BUCKLEY), the Senator from New Jersey (Mr. CASE), the Senator from Maine (Mr. MUSKIE), and the Senator from Rhode Island (Mr. PELL) be added as cosponsors at the next printing of S. 2892, a bill to amend the Outer Continental Shelf Lands Act, as amended, to require a study of the environmental impact of mineral exploration in the Atlantic Ocean.

The ACTING PRESIDENT pro tempore (Mr. Metcalf). Without objection, it is so ordered.

Mr. BUCKLEY. Mr. President, I want to say how delighted I am to be a cosponsor of the bill introduced by the distinguished senior Senator from Delaware (Mr. Boggs) and the distinguished Junior Senator from Delaware (Mr. Roth). It has been a source of great concern to me that the understandable emotion that has characterized so much of the recent public discussion of the issue of offshore drilling for oil in the Atlantic Ocean, that there has been a tendency to draw premature conclusions as to the extent on the environmental hazards which such drilling may pose. I hasten to say that this vigorous public reaction has had the very beneficial effect of focusing the attention of officials at all levels of Government on the potential damage which could result from oil spills along this country's densely populated East Coast. Now that public attention has been captured, what is now urgently required is a thorough, coordinated analysis of all those aspects—economic, environmental, technological—which must be examined with the greatest of care in order to have the best possible factual basis for an ultimate decision on whether or not we may safely proceed with such exploration; and if so, under what conditions.

The legislation at hand is specifically designed to collect and analyze the requisite information, and is to be undertaken by those Federal agencies which are most competent to make the study—the Environmental Protection Agency, the Department of the Interior, and the National Oceanographic and Atmospheric Administration of the Commerce Department. The report which they will produce, when complemented by those investigations currently underway within private citizen and conservation groups, will, I am confident, present a valuable, objective base of information for the decisionmakers.

Mr. President, one of the aspects which this tripartite group is specifically directed to examine is "the probability of any accident associated with such mineral exploitation that could cause an adverse impact on marine exosystems of the territorial seas or shorelines of the United States." We all understand that our current level of technology is not, at this time, sufficiently advanced to assure that exploitation of oil in any offshore province in the world can be conducted with zero risk of spillage.

In passing, it is worth noting that offshore drilling is not the only source of oil pollution. In fact, it probably passes a far smaller risk to the environment of the Atlantic coast than the super tankers which daily bring many huge cargoes to our East Coast refineries. For example, pollution from tankers is calculated to be more than 10 times greater than pollution from offshore drilling. This suggests that there is a great need to develop technologies for safer systems of delivery of all sources of oil, domestic and foreign. Progress is being made in this direction, as is suggested by an article in the May-June 1971 issue of Sea Frontiers, the magazine of the International Oceanographic Foundation, in which the author, Michael Gruber, describes a new industry which has been organized for the invention and production of devices for removing oil from water. Gruber accutely observes:

> It often requires a great disaster to thrust into the public consciousness ills that have long endured.

Mr. President, I ask unanimous consent that the article be printed in the Record at the conclusion of my remarks. If the author is correct in his observation that unlike other problems that plague our environment, oil pollution is one for which a purely technological solution seems feasible, then we are under a serious obligation to encourage the development of such a solution, and, once perfected, to insist upon its scrupulous use.

There being no objection, the article was ordered to be printed in the Record, as follows:

The Great Ocean Sweepstakes

(By Michael Gruber)

* * * Bantry Bay class tankers. Should one of these monsters founder on or near an inhabited coast, the public outcry would rattle governments and boardrooms. Catastrophe aside, every time a citizen steps on a piece of "tar" on the beach or sees a patch of iridescence on the water, he knows he is seeing something bad, something with an identifiable source and cause, something that could have been prevented, but was not. Oil pollution is unsubtle.

OIL GETS EATEN

It is therefore ironic that of all the major aquatic pollutants, oil in its natural state is perhaps the least harmful biologically. Petroleum has been seeping naturally from crevices for millions of years, and since it is an organic substance, a host of microorganisms have become adapted to feeding on it. Eventually, oil spilled in the ocean is converted by these organisms into carbon dioxide, water, and other simple substances. A few years after the wreck of the tanker *Tampico* on Mexico's undeveloped west coast (*See* "Tampico," *Sea Frontiers*, Vol. 13, No. 4, July-August, 1967) the small cove that had received the bulk of the spill was completely recovered. Compared to mercury compounds, or chlorinated hydrocarbons, or organophosphates, which invisibly tear apart a whole ecosystem, oil pollution seems positively benign.

But not quite. It is undeniable that oil spills take an inordinate toll of the most desirable and valuable animals: birds, marine mammals, fishes, and shellfishes. The mucky asphaltlike fractions of petroleum, which persist even after burning, can destroy oyster beds, wipe out whole rookeries of birds, or cause heavy kills of fishes and crabs. Then there is the esthetic loss; politically this is no small thing. A photograph of a blackened tourist beach, a strangling otter, can negate millions of dollars of public relations efforts on behalf of the responsible oil company. Public outrage is exacerbated by the not unreasonable notion that the immensely profitable oil industry should have spent more money and effort on preventing such pollution. When the *Torrey Canyon* cracked up, it soon became perfectly clear that no one in the oil industry or its transport associates had adequately prepared for such an event.

A NEW TECHNOLOGY

In the blackened wake of the *Torrey Canyon*, in the aftermath of the Tampa Bay stranding, the *Ocean Eagle* wreck, the blowouts in the Santa Barbara channel and off the Louisiana coast, a new industry has arisen, organized for the invention and production of devices for removing oil from water. Such devices fall into two broad classes, the physical and the chemical, and there are numerous hybrids. The industry is still chaotic and slightly zany, which is characteristic of a new technology dominated by invention, but it draws real strength from the acute need for its services and the ample rewards that await the proprietors of successful systems. Also, unlike the other problems that plague our environment, oil pollution is one for which a purely technological solution seems feasible.

Oil does not blend physically with water under normal conditions, and hence it can be separated by mechanical means. It is lighter than water, as well, and so it is no surprise that the majority of oil cleaning devices are either booms to contain the oil slick or skimmers to remove it from the surface, or combinations of the two.

FENCES IN THE WATER

Booms are simply fences in the water, designed to interdict the shallow layer of sea to which oil is confined. An anti-oil boom must be flexible enough to shape itself to the sea surface, so as not to allow oil to spill over or slip underneath it. It must be sturdy, resistant to corrosion and weather, and light enough to transport easily to the site of the slick. Since oil slicks may be very large, cost per unit length is an important factor.

A flexible boom designed by the Arrowhead Division of Federal-Mogul Corporation, Los Angeles, consists of 100-foot modules erected by an inflatable rubber helix. The modules are carried on a reel at the stern of a work boat and inflated as they roll off into the water. Quick-disconnect couplings join the modules and sections, which are held in place by a weighted chain used to tow and deploy the device. Flexibility is achieved in another way in the Kemper Sea Curtain, which is essentially a plastic sausage of foam with a plastic curtain hanging beneath it. A chain running through a loop at the bottom of the curtain provides both ballast and tension. The system was successfully used to contain part of the Santa Barbara Channel blowout.

PLYWOOD AND OLD CANS

Several boom designs have been constructed of rigid vertical panels connected by flexible joints. Alcoa's Sea Fence has panels made (naturally) of aluminum, connected by a cable and floated with plastic foam. Crudely simple was the boom of this type put up in the immediate aftermath of the *Ocean Eagle* wreck in San Juan harbor. It consisted of 4 x 8-foot marine plywood panels bolted to oil drums. The drums were strung on a wire rope and the gaps between the panels were filled with plasticized canvas, which was also used to make the skirt hanging beneath the panels. Although this boom saw little use at San Juan because of the successful removal of most of the oil from the stricken *Ocean Eagle*, one of the same type was the backbone of the containment effort during the Chevron Oil Company's blowout and spill at Main Pass Block 41, off the Louisiana coast.

In this operation plywood/can booms were used in both the primary barrier around Block 41 (where it replaced lighter booms that failed to stand up to weather and wave) and to corral drifting oil slicks. The weight and deep draft of this boom makes it easy to tow and well adapted for corralling. Also it is cheaply and easily constructed from materials available in any coastal town.

Rigid booms, however, have important drawbacks. Even a weak current moving at right angles to the boom will force oil under the skirt, and seas above 2 to 4 feet will throw oil over the top. Designers have tried to alleviate these faults by striving for the right combination of flexibility and strength.

GUMMING UP SLICKS

The ultimate in flexibility is the air barrier, of which a prototype has been built by Ocean Science and Engineering and Submersible Systems Inc. This method relies on a perforated conduit that sits on the sea bottom or is suspended at various depths. Air is pumped through at pressure and a screen of tiny bubbles rises to the surface, forming a dike against the passage of oil. Unfortunately, air barriers will not hold oil in currents stronger than about 0.7 feet per second, although they seem to be fairly effective in quiet waters, and they are very easy to set up.

The work of a boom would be made much easier if the oil itself were thickened or made less "oily." This can be accomplished with materials called sorbents, of which hay, straw, polyurethane and treated sand are common examples. The best oil sorbents in terms of oil absorbed per weight of material are the polyurethane and urea formaldehyde foams. If these are not available or are considered too expensive, baled hay or straw can be used. The sorbents are distributed over the slick as fine particles, by throwing the material into the boat's prop wash or by using a power mulcher to shred it and spit it out. Even matted with sorbent, oil will still slip under some booms when pushed by currents swifter than 1 foot per second, and so netting has been used to collect or hold back oil thus treated. This, however, is only practical with small slicks.

FAIR WEATHER FRIENDS

If an oil spill occurs far out at sea, it can safely be left to evaporate and decay. Inshore slicks that threaten harbors and beaches must be swept from the sea, and for this purpose a wide variety of skimming devices have been designed. Skimmers are almost always used with booms, and in some cases the skimmer is incorporated into the boom itself. An example of this design is a boom-skimmer invented for the Mobil Oil Corporation, which consists of an inflatable rubber tube with a trough built into it; the oil is supposed to collect in this trough, from which it can be drawn off by pumps. Obviously, such a system would work only on the calmest waters. Deepsea Ventures, Inc., has a boom that was specifically designed for a rough water use, and this has a skimmer attachment too. The boom is of the jointed, rigid skirt type. It is kept vertical in the face of currents by tension lines going to a secondary float line. The skimmer is connected to the boom skirt and consists of a lower oil pump and an upper air pump. The air pump creates suction that draws a flexible foam foot down on the oil slick. This makes a sealed pumping chamber that renders oil collection much more efficient.

True skimmer designs are legion, but almost all of them fall into three categories: weir or vortex skimmers, floating suction heads, and belt or absorbent surface skimmers. Weir skimmers maintain a suction head beneath the water-oil interface; this sucks the oil down and away. An unusual example of the type is the French Bertin vortex device. In this the suction head cylinder contains an impeller, which spins at high speed to create a vortex or whirlpool. The surface layer, consisting largely of oil, is pumped out to the storage vessel. Great care is needed to insure that the oil does not reach the impeller; this would emulsify the oil in water and create a secondary ascending vortex. The system works well in swells and currents and can be set up so that any winds accelerate the movement of hydrocarbons into the vortex established by the impeller.

Another French device is a variation on the floating suction head: instead of chasing through the slick with a suction head, the slick is corralled and brought to a pumping barge. In operation the suction barge is supplied with a retrievable corral boom and moored to a service ship. A second ship tows the free end of the boom around the slick and back to the pumping barge, where it is made fast. As the barge's floating suction head pumps the oil layer into floating storage tanks, the corral is continuously reeled in until all the oil has been removed. Suction head devices are generally ineffective in disturbed seas, but are well-suited for cleaning in harbors.

BELTING OUT THE OIL

The third and most complicated type of skimmer is the absorbent surface design. In these, an endless belt of some absorbent material is dipped into the oiled water and run back to some sort of extractor that wrings out the oil. The best belt material has been found to be polypropylene wool. This material floats but does not absorb water nor freeze. It does absorb oil, however, to a degree that varies with the grade and form of the polypropylene and the type of belt construction.

One such oil scrubber, developed at Shell Pipeline Corporation and Murphy Pacific Marine Salvage, demonstrates the basic features of this sort of system. A belt of polypropylene felt is run around a wringer out in a wide circle around an idler capstan supported by a boom. The wringer unit sits in a tub on the deck of the service vessel and the oil squeezed out of the belt is picked up by a sump pump at the bottom of the tub. The wringer also supplies the motive force for the belt. The rate of oil recovery using a 4-inch belt and a 3-horsepower motor can approach 500 gallons an hour, or more if a boom is used to collect the oil. The system is cheap, flexible, and can be adapted for use on a wide variety of water craft.

Rather more elaborate is the method used in Ocean Design Engineering Corporation's urethane chip harvester. (*See* "New Device Harvests Spilled Oil," *Sea Secrets,* Vol. 14, No. 4, July–August, 1970.) The method involves spraying urethane chips onto an oiled sea surface. The chips absorb oil and are then swept by harvesting booms onto conveyor belts. The belts take the chips to a compression unit which squeezes out the oil. The oil is pumped into storage tanks and the chips are cast once more onto the water. The method is relatively impervious to wave action since the chips, which are the actual recovery units, stay with the surface and are not submerged by the rise and fall of the vessel.

DEADLY MOUSSE

Chemical methods of oil dispersion, including burning, are more complicated than might first appear. The powerful industrial detergents used during the *Torrey Canyon* cleanup proved to be far more toxic to marine life than the oil itself. The beaches where such chemicals were used stank of solvent for weeks afterward. Also, where strong surf occurred, the water, detergent, and emulsified oil were whipped into a gray-brown sludge called "chocolate mousse," which proved nearly as obnoxious and difficult to remove as the original crude.

Early attempts to remove oil by burning it also proved frustrating. The flames consumed only the volatile fractions (which would have evaporated anyway) and left a tarry and nearly fireproof residue. In the last three years much effort has been directed at finding non-toxic detergents and methods of controlling burning.

The search for a harmless oil dispersant seems to have ended in success, at least as far as the British Board of Trade is concerned. The BBoT has ordered 50 sets of detergent spraying and mixing equipment to be mounted on sea-going tugs. The detergent they use is BP 1100, a solvent-surface agent mixture that is nontoxic in the concentrations used. The surface agent is an extract of a natural fat and is soluble in oil rather than water. The chemical is thus safe for use on beaches or in very shallow areas.

Although such a method may protect a coast against "ordinary" spills, some supplementary method would be required to cope with a major slick. Controlled burning might be such a method. Such burning requires bringing the sluggish petroleum into the region of combustion, rather like a wick does in a candle.

One means of doing this is with cellulated glass beads. Developed by Corning, these SeaBeads were used to burn the slick resulting from the wreck of the *Arrow* off Nova Scotia, with good results. After burning, only a negligible amount of oil and the nontoxic beads remained on the surface. In another instance, the Swedish Coast Guard burned a fuel oil spill with the aid of Cab-o-Sil ST-2-0. This chemical, developed by Cabot Corporation of Boston, is an extremely fine silica powder treated with a silane coating to render it water repellent. When spread onto a slick, the chemical forms a thin, foamlike coating on it. When combustion begins this coating acts as a wick, drawing warmed oil to the surface and insulating it from the cold oil and water below. Burning induced in this way will destroy 98 per cent of the oil, with the remainder forming a light and easily collectable crust.

For the removal of massive oil spills on the high seas, cost no object, the ultimate weapon seems now to be Shell Oil Company's huge oil sinking dredge. Shell is reported to have spent about $100,000 equipping a large dredge with two 60-foot booms and the apparatus required to spray tons of specially treated sand on the oil. The sand combines with the oil and sinks it to the bottom, where it is broken down by bacteria. Investment is heavy using this method because an equal weight of sand to oil is required. It is efficient, however, with 95 per cent removal, and most of all, fast: in tests off the coast of Holland 100 tons of oil were sunk in 15 minutes!

The most satisfying solution to a pollution problem is to find some way of augmenting natural controls. Research now going on is aimed at maintaining bacterial populations on surface oil slicks long enough for the bacteria to consume them. The major problem seems to be supplying adequate levels of some important nutrients, chiefly phosphate and nitrate, without which the bacteria cannot metabolize the hydrocarbons. Simply adding nutrients to the slick does not work; they would dilute far too quickly. Some scientists believe that nutrients can be uncapsulated in molecular packets that will stay with the oil and keep the bacteria going.

VIGILANCE AND OUTRAGE

A program is under way at Georgia State College, Atlanta, to investigate the uses of marine yeast in this regard. Yeasts are known to occur naturally in oil-polluted waters, and these populations seem to increase with the extent of pollution. If they do thrive on oil, they might prove even more useful than bacteria, since they are not as vulnerable to sunlight.

At this stage it would seem that the tools for controlling oil pollution are on hand. Whether they will be used correctly or in time to stop environmental damage is another story. It is sad history that the means for controlling other forms of pollution have existed, in many cases, for years. They were not effectively used, generally because such use conflicted with short-term economic goals. Probably it will require continued public vigilance and outrage to insure that oil spills are prevented where possible, and that when accidental spills occur they are removed by the most appropriate means.

S. 2894

At the request of Mr. Bayh, the Senator from Hawaii (Mr. Inouye), the Senator from Minnesota (Mr. Mondale), and the Senator from Rhode Island (Mr. Pell) were added as cosponsors of S. 2894, a bill to provide financial assistance for State and local small, community-based correctional facilities; for the creation of innovative programs of vocational training, job placement, and on-the-job counseling; to develop specialized curriculums; the training of educational personnel and the funding of research and demonstration projects; to provide financial assistance to encourage the States to adopt special probation services; to establish a Federal Corrections Institute; and for other purposes.

S. 2944

At the request of Mr. BUCKLEY, the Senator from New Jersey (Mr. WILLIAMS), was added as a cosponsor of S. 2944, a bill to amend section 112 of the Internal Revenue Code of 1954 to exclude from gross income the entire amount of the compensation of members of the Armed Forces of the United States and of civilian employees who are prisoners of war, missing in action, or in a detained status during the Vietnam conflict.

S. 2945

At the request of Mr. BUCKLEY, the Senator from New Jersey (Mr. WILLIAMS), was added as a cosponsor of S. 2945, a bill to amend title 10 of the United States Code to permit the appointment by the President of certain additional persons to the service academies.

SENATE RESOLUTION 213—REPORT OF AN ORIGINAL RESOLUTION TO PAY A GRATUITY TO FRANCES J. BANGERT

(Ordered placed on the calendar.)

Mr. JORDAN of North Carolina reported the following resolution:

Calendar No. 549

S. RES. 213

Resolution to pay a gratuity to Frances J. Bangert

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Frances J. Bangert, widow of Richard H. Bangert, an employee of the Senate at the time of his death, a sum equal to one year's compensation at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

SENATE CONCURRENT RESOLUTION 53—SUBMISSION OF A CONCURRENT RESOLUTION RELATING TO THE INTERNATIONAL ECONOMIC AND SOCIAL CONSEQUENCES OF ENVIRONMENTAL STANDARDS AND REGULATIONS

(Referred to the Committee on Foreign Relations.)

ENVIRONMENTAL PROTECTION AND INTERNATIONAL TRADE COMPETITION

Mr. WILLIAMS. Mr. President, today I submit a concurrent resolution to express the sense of the Congress that the 1972 United Nations Conference on the Human Environment consider the international economic and social consequences of environmental standards and regulations.

I submit the resolution on behalf of myself and the following Senators: Messrs. RANDOLPH, MUSKIE, CASE, BENTSEN, BURDICK, BYRD of West Virginia, CHURCH, COOPER, CRANSTON, HUGHES, HUMPHREY, JACKSON, JAVITS, KENNEDY, MAGNUSON, MANSFIELD, MCGOVERN, PELL, RIBICOFF, SPONG, and TUNNEY.

Mr. President, one of the most immense and most urgent tasks facing us today is the need to halt the continued degradation of our environment, and begin correcting the enormous damage which man has already done to it.

And, this is perhaps the most universal problem we have, so universal that it transcends age differences, political philosophies, economic rivalries, and national boundaries.

It threatens, in fact, the health and well-being of every human on this planet, and in doing so gives us common ground to stand upon for perhaps the first time in history, for if the pollution trend is not reversed soon, many scientists tell us that the very existence of man on this earth could be in jeopardy.

I want to say right now that I am not among those who believe the human race is on the verge of suffocating in its own wastes.

I do believe that such a disaster is well within the realm of possibility.

However, I also believe in our capacity to recognize this threat and do something about it.

Mr. President, throughout the world there is a rapidly growing awareness of the danger of pollution.

Along with it has come a ground swell of grassroots demand for effective solutions.

In this country, the environmental movement has become one of our most powerful political currents.

At every level of government there is now being felt a demand by the citizenry to take strong action to protect the environment.

At the local level, this demand is being answered by better land management, stricter enforcement of housing and zoning regulations, and better regulation of human and industrial wastes.

At the State level, new environmental protection laws are being enacted, and strong, new agencies are being created to administer them.

And at the national level, Congress has in recent years enacted stringent antipollution standards.

There has also been established a unified Environmental Protection Agency which, hopefully, will be given the funds and the freedom to effectively implement the programs mandated by Congress.

One indication of the rise of environmental concern lies in the amount of environmentally oriented legislation we have recently dealt with.

The Legislative Reference Service reports that in the last Congress, one-fifth of all bills introduced addressed themselves in one way or another to preserving the environment.

Furthermore, of the total of 695 bills signed into law during the last Congress, 121 were environmentally oriented.

The trend has been the same during the current session.

This concern about the environment is also being manifested, in varying degrees, in most other industrialized countries throughout the world.

From Scandinavia to the Far East, people are demanding an end to pollution—and governments are responding.

However, there is one serious roadblock to effective, worldwide pollution control.

That roadblock is the lack of any meaningful international coordination of environmental protection measures.

Strange though it may seem, the nations of the world have not yet joined together to integrate their attempts at controlling this universal problem.

It is for that reason, Mr. President, that I have today submitted a Senate concurrent resolution to express the sense of the Congress on this urgent matter.

This resolution addresses itself to a proposal for an agenda item at next year's United Nations Conference on the Human Environment.

As Senators know, this Conference is to be convened next June 5 in Stockholm, Sweden.

On that date the representatives of 130 countries, and several dozen international organizations, will gather for what one observer has described as, "one of the boldest and most comprehensive adventures in international cooperation ever attempted."

The goal of the resolution I have introduced today is to place before that assemblage the question of how we can insure that efforts at pollution control do not place individual nations at a disadvantage in international trade.

The resolution seeks to overcome that obstacle by establishing worldwide standards of environmental protection.

Further, there would be a multinational enforcement mechanism to insure that nations agreeing to the standards actually abide by them.

The resolution declares it is the sense of Congress that the United States delegates to the conference propose such a plan.

It directs our delegates to formulate, propose, and support, "Multilateral accords to achieve standards and regulations of environmental protection enforceable by the United Nations or multilateral economic sanctions."

It also specifies that such accords include mechanisms to assist the efforts of developing nations in meeting the antipollution standards.

Mr. President, it seems clear to me that the ultimate answer to our pollution problems must involve international standards of environmental protection.

Obviously, pollutants recognize no national boundaries.

Sewage in a river does not dissipate when the river flows over a frontier, and smog in the atmosphere does not evaporate when it drifts from one nation to another.

But if there is to be any hope for such worldwide efforts at pollution control, we must recognize that such action is necessarily entwined with economic realities.

Pollution control efforts can, and do, have a dramatic impact on international trade.

We have discovered that it is all too easy for the industry of a nation with aggressive environmental protection requirements to be undercut by industries in nations with less stringent standards.

The international nature of environmental degradation, and the importance of worldwide efforts to combat it, is, I think, self-evident.

A great American statesman, Adlai Stevenson, eloquently described the dilemma we face in these words:

> We all travel together, passengers on a little spaceship, dependent on its vulnerable reserves of air and soil; all committed for our safety to its security and peace; preserved from annihilation only by the care, the work, and the love we give our fragile craft.

Certainly, from an environmental point of view, there is a very strong case to be made for international pollution control efforts.

However, any move in that direction will certainly founder on the rocks of reality if individual nations believe their efforts to fight pollution will place them at a serious trade disadvantage.

I think it is grossly counterproductive to penalize the nations which are trying hard to control pollution by allowing their industry to suffer in international competition.

Yet, this is precisely the situation we face today because of the lack of international standards of environmental protection, and an effective mechanism to enforce them.

I am proud that the United States is moving to lead the way in many aspects of environmental protection.

Due largely to strong antipollution measures enacted by Congress in the past few years, we are committed as a nation to restoring and preserving our environment.

However, this massive job carries with it a massive price tag—one that I feel Americans are willing to pay.

Federal officials estimate that American companies will spend some $18 billion over the next 5 years to meet pollution control requirements.

These expenditures may in large part be passed along to the rest of our country in the form of higher prices.

However, not every other industrialized country has moved as quickly as we have to impose strict regulations, thus raising the specter of unfair competitive advantage.

As a result, advantages that foreign producers may now enjoy can in many cases be further enhanced thereby improving the position of their products in this country in relation to our own domestically manufactured products.

In one particular industry—steel—this situation has been painfully apparent.

Last year alone, American steel companies invested more than $166 million in pollution control facilities.

During the last 6 years, this investment has totaled nearly $465 million.

In addition, the cost of operating and maintaining this equipment comes to about 12 percent of its original cost.

However, one of the American steel industry's chief competitors—the Japanese steel industry—has not yet been required to make such a massive investment in pollution control.

As a result, the Japanese producers do not have that additional expense to compute in their cost-of-production figures.

Their prices in the international marketplace reflect these lower production costs, and have helped place American producers at a competitive disadvantage.

Mr. President, it is clear that we must commit ourselves in no uncertain terms to cleaning up our national environment.

But it is just as clear that a nation in which some 5 million workers cannot find jobs, simply cannot afford to ignore the international trade implications of environmental protection.

The answer, I believe, lies not in lowering our own standards, but rather in encouraging other nations to agree to equally high requirements, and insofar as possible, a unified approach.

This is the thrust of the resolution I have introduced today.

During the coming months, the United States will be formulating its official position for the Stockholm Conference.

And, the agenda for that Conference will be more firmly established during this time.

To this date, there is nothing in the Conference agenda, or in the initial U.S. position, that specifically deals with formulation of worldwide environmental protection standards designed at least in part to preclude international trade disadvantages.

In my judgment, such standards are essential if we are to effectively combat pollution on the international scale required.

They will help insure that one nation's waste does not become another's pollution problem; they will help win acceptance for pollution control measures from manufacturers who might otherwise fear being placed at a competitive disadvantage; and they will remove the possibility that those nations doing most to control pollution might be penalized for their efforts.

It is entirely appropriate for the Congress to direct our delegates to the United Nations Conference to propose a plan for such worldwide standards, and I thus commend this resolution to Senators' consideration.

Mr. President, I ask unanimous consent that the text of the concurrent resolution be printed in the RECORD at the conclusion of my remarks.

There being no objection, the concurrent resolution was ordered to be printed in the RECORD, as follows:

Whereas the General Assembly of the United Nations passed a resolution on December 3, 1968, to convene a Conference on the Human Environment in Stockholm, Sweden in June 1972, to emphasize the importance and urgency of environmental problems and to identify those aspects of these problems that can be solved through international cooperation and agreement;

Whereas the General Assembly of the United Nations has proclaimed the International Development Strategy for the Second United Nations Development Decade beginning on January 1, 1971, suggesting that Governments intensify national and international efforts to arrest the deterioration of the Human Environment and to take measures toward its improvement;

Whereas environmental improvement activities may have significant implications for the social and economic functions of individual nations;

Whereas strict environmental standards and regulations may not be agreed to by all nations thereby increasing the possibility of international trade disadvantages; and

Whereas the possibility of adverse impact on trade regulations may inhibit the international acceptance of such standards and regulations;

Resolved, (1) That those delegated to represent the United States of America at the 1972 United Nations Conference on the Human Environment advocate and support multilateral accords to achieve standards and regulations of environmental protection enforceable by the United Nations or multilateral economic sanctions;

(2) That such accords include mechanisms to assist the efforts of the developing nations in meeting such standards and regulations;

(3) That such accords be formulated and proposed to the 1972 United Nations Conference on the Human Environment by the delegates representing the United States of America.

Mr. CASE. Mr. President, as one of two Senate Members of the U.S. delegation to the United Nations Conference on Human Environment in Stockholm next year, I am happy to join in sponsoring this resolution which gives congressional support to the objectives I intend to seek at the conference.

The resolution expresses the sense of Congress that the Stockholm Conference should consider the international economic and social consequences of environmental standards and regulations.

It has long been my position that as we seek to protect the environment we must also consider the social and economic effects of these efforts. This is true of efforts made on a national basis and it is even more true of those made on an international basis, particularly in regard to the social and economic effects on underdeveloped nations.

Attempts to limit the use of DDT and other harmful pesticides, for example, are bound to fail in impoverished, hungry nations of the world unless we can provide adequate substitutes to control destruction of their food supplies or in some other way alleviate the hardships that might be caused.

Pollution is the special product of any society which places a high value on the production of goods and has the means to provide those goods in abundance.

This means the developed nations of the world are the largest contributors to the pollution of the earth's environment. As such, they have a special obligation to bring it under control and to assist the underdeveloped nations, as they increase their living standards, to guard against a corresponding increase in pollution.

I believe this resolution recognizes this responsibility and I believe it would lend support to those of us who will represent the United States at the Stockholm conference.

SENATE CONCURRENT RESOLUTION 54—SUBMISSION OF A CONCURRENT RESOLUTION RELATING TO THE PRINTING OF ADDITIONAL COPIES OF HEARINGS ENTITLED "WAR POWERS LEGISLATION"

(Referred to the Committee on Rules and Administration.)

Mr. FULBRIGHT submitted the following concurrent resolution:

S. CON. RES. 54

Resolved by the Senate (the House of Representatives concurring), That there be printed for the use of the Senate Committee on Foreign Relations five thousand additional copies of the hearings entitled "War Powers Legislation" held before the Senate Committee on Foreign Relations.

ADDITIONAL COSPONSORS OF A CONCURRENT RESOLUTION

SENATE CONCURRENT RESOLUTION 45

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Senator from Nevada (Mr. CANNON), the Senator from Wyoming (Mr. HANSEN), the Senator from Washington (Mr. JACKSON), the Senator from Iowa (Mr. MILLER), the Senator from Rhode Island (Mr. PASTORE), the Senator from Virginia (Mr. SPONG), and the Senator from Vermont (Mr. STAFFORD), be added as cosponsors of Senate Concurrent Resolution 45, providing for United Nations Charter review. This brings the total of cosponsors to 68—along with me making 69 Senators on this resolution.

The PRESIDING OFFICER. (Mr. BENTSEN). Without objection, it is so ordered.

ADDITIONAL COSPONSORS OF A RESOLUTION

SENATE RESOLUTION 203

At the request of Mr. HATFIELD, the Senator from Maryland (Mr. MATHIAS) was added as a cosponsor of Senate Resolution 203, to express the sense of the Senate that U.S. fishing industry representatives be included in the U.S. delegation to the 1973 United Nations Law of the Sea Conference.

TRANSPORTATION OF GOVERNMENT TRAFFIC BY CIVIL AIR CARRIERS—AMENDMENT

AMENDMENT NO. 787

(Ordered to be printed and to lie on the table.)

Mr. HARTKE. Mr. President, the aviation system of our country is growing rapidly. While the current economic recession has forced a cutback in the services of scheduled airlines, general aviation, charter services, and commuter operations are on the increase.

Despite the importance of aviation to our economy and to the well-being and livelihood of millions of Americans, we have not done enough to plan for a safe aviation system either now or 10 years from now. So that we might have more information at our disposal to make such plans, I am today introducing an amendment to S. 1821 which requires the Administrator of the Federal Aviation Agency to make an annual report to the Congress which includes all data pertinent to aviation safety.

Mr. President, I ask unanimous consent that the text of my amendment be printed at the conclusion of my remarks.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 787

On page 4, between lines 15 and 16, insert the following new section:

SEC. 601. (f) The Administrator shall convey to the Congress no later than March 1 of each year a full report of actions taken during the previous year to improve the safety of the aviation system. Such report shall include, but not be limited to, the following information:

(1) All revisions of the regulations which pertain to aviation safety;

(2) Proposed revisions of the regulations either currently pending or to be proposed which pertain to aviation safety;

(3) Steps taken to improve the safety of airports;

(4) Steps taken to improve the air traffic control systems;

(5) Those specific steps taken to improve the safety of general aviation;

(6) Those specific steps taken to improve the safety of charter aircraft operations;

(7) Those specific steps taken to improve the safety of commuter and air taxi operations;

(8) Steps taken to improve the safety instrumentation of all classes of aircraft;

(9) Steps taken to improve the training, certification, and recertification process for pilots of all classes of aircraft;

(10) Steps taken to improve the standards and effectiveness of approved and nonapproved flight schools;

(11) Steps taken to improve the working relationship between Federal and State aviation agencies;

(12) Steps taken to improve the surveillance of aircraft in production;

(13) Steps taken to improve the surveillance of aircraft and airmen; and

(14) Steps taken to prevent aviation accidents.

HOUSING REFORM AMENDMENTS ACT OF 1971—AMENDMENTS

AMENDMENTS NOS. 788 AND 789

(Ordered to be printed and referred to the Committee on Banking, Housing and Urban Affairs.)

Mr. BROOKE. Mr. President, earlier this fall, the distinguished Senator from Minnesota (Mr. MONDALE) and I announced our intention to introduce legislation designed to expand and simplify existing housing assistance programs. At that time I placed in the RECORD a summary of the intent of this proposed legislation so that it could be reviewed and discussed during the hearings then being conducted by the Housing Subcommittee of the Committee on Banking, Housing and Urban Affairs. Today, along with Senator MONDALE, I am introducing the actual legislation in the form of two measures to be known collectively as the Housing Reform Amendments Act of 1971. By so doing we hope to build on the much-needed consolidation and simplification efforts already undertaken by the administration in S. 2049. Our overriding interest as we seek to effectively merge the present array of housing assistance programs must continue to center around the alternatives that make these programs more responsive to the needs of families who cannot afford housing within the private market. Moreover and equally important, we must realistically come to grips with the problems facing developers and sponsors of such housing.

During the past 35 years, we have seen an emerging recognition of nationwide need for safe and decent housing designed to serve those who have been priced out of the private market. In response, Congress has adopted a number of important and far-reaching programs over these years in an effort to address this need. However, these programs were enacted on an ad hoc basis with the predictable development of a fragmented, complicated and too-often confused national housing assistance policy.

Many of these impediments can be traced to the formulation of special programs to meet specific needs and to the adoption of a variety of approaches, each with its own eligibility requirements, definitions, restrictions, and regulations. The resulting situation of near chaos remains chiefly characterized by a lack of uniformity of requirements and gaps in coverage while confusing and often conflicting guidelines continue to unnecessarily hamper developers and sponsors who are attempting to produce sufficient housing to adequately accommodate the needs of low- and moderate-income families.

More important, we cannot ignore the impact that this patchwork of programs has had on the families that have attempted to find adequate and safe housing. Who can explain to a family in need of shelter why, under the current law, they may be eligible to rent an apartment in one building built under one Federal program but ineligible to rent a nearly identical unit in another building constructed under a different Federal program. An even greater explanation is needed for those needy families who must be told that they will be denied the benefits of all federally assisted housing because they do not fall within the specific eligibility criteria of any program. We cannot continue to allow varying rent requirements, definitions of income, income limits, and family eligibility to frustrate our efforts to provide effective Federal housing assistance for all people of clearly demonstrated need.

Another set of problems, generated in part by this fragmentation of programs, centers around the isolation and segregation of families on the basis of their incomes. Public housing has become poor peoples' housing while other programs have excluded the lowest income families and served only a narrow range of moderate income families. An even more unfortunate ramification of this approach is found in those areas where one race or another makes up the lowest income group. In these areas, a federally assisted housing program can become an unwitting, albeit de jure, accomplice to the perpetuation of de facto racial segregation. Only recently has this issue been raised in our Federal courts. The judicial response to date has amplified the need for us to deal with the impact of federally sponsored income segregation on existing housing patterns.

Another undesirable ramification of income segregation lies in the endangered economic and social viability of the project. How much longer can we ignore the compilation of evidence coming from projects that continue to isolate the lowest income and problem families needing the heaviest support services. How many more Pruitt-Igoes will it take before we decide to strike at the heart of the problem? Even in moderate income projects, narrow ranges of eligibility, coupled with increasing construction costs, are bound to jeopardize their economic feasibility.

The administration's proposal, S. 2049, the Housing Consolidation and Simplification Act of 1971 is, in my estimate, a step in the right direction. It proposes to rewrite the National Housing Act and thereby reduce the number of programs administered by the Federal Housing Administration. However, its focus is on nonassisted programs. If passed as introduced, S. 2049 would maintain the differences now existing between public housing and FHA-assisted low- and moderate-income programs.

Mr. President, Senator MONDALE and I believe that the Housing Reform Amendments Act, building on the initiatives of S. 2049, will do much to alleviate the problems that I cited above. We believe that by establishing a unified housing policy, standardizing program requirements, eliminating segregation of projects by income and by offering incentives to encourage the production of assisted housing, we will effectively broaden the scope of existing programs to cover families and areas where real housing needs exist.

The key elements of this program are standardization of requirements and a flexible subsidy formula based on need. As to the first element, two separate programs, public agency housing and FHA insured assisted housing, would continue but would serve the same range of families. Both programs would have maximum development costs geared to a flexible formula using prototype construction cost figures. Thus they would be producing nearly identical products—safe, decent housing at a reasonable cost but containing amenities consistent with community standards and of a high architectural quality. The same income groups would be served by each program from those of lowest income to those of median income in the area, thus eliminating the gaps in coverage in existing programs.

At the same time, however, each project would be required to reserve at least 20 percent of its units for those of very low income requiring a subsidy of 60 percent of the market rent or more. With this approach, I believe we can enrich the economic mix of our housing assistance programs, increase their economic viability, yet insure that those families with the greatest need will not be harmed in the process.

There would be one standard national definition of income applicable to all families. Further, rent requirements—the same for each program—would be tied to income with a national requirement that no family be obligated to pay more than 25 percent of its income for rent. Locally, lower ratios could be established, with the Secretary's approval, to reflect differences in family size, income and local rent income patterns. However, each project or program would be required to maintain an average rent income ratio of at least 20 percent.

There would be no continuing occupancy income limits. As family income increased, the rent would also increase to the point where the family would be able to pay the full market rent for the unit.

Mr. President, the other major component in the program is the subsidy formula. In essence the single subsidy formula that we propose would cover the difference between total costs—debt service, management, maintenance, and operational costs, real estate taxes, tenant services—and total revenues—rents and other income.

This flexible formula is, in essence, the same as that which is now used in the public housing program as a result of amendments which the distinguished chairman of the Housing Subcommittee (Mr. SPARKMAN) and I introduced in 1968 and 1969. What is proposed in the housing reform amendments is an extension of the principle of the variable subsidy to the FHA programs. These programs now contain a minimum rent requirement that restricts FHA program sponsors from instituting adequate management and tenant services programs.

Mr. President, there are a number of other features of the housing reform amendments that I would like to summarize briefly. First, the existing FHA homeownership assistance program would be similarly standardized and expanded to permit assistance to cover total debt service; it is now limited to the difference between a market rate mortgage and a 1 percent mortgage on the same property. Also the homeownership counseling program—section 237—would be maintained.

Second, the act would create a new program to assist in the refinancing of existing properties in conjunction with local programs aimed at neighborhood preservation. One major cause of abandonment of many structurally sound buildings has been the unavailability of private mortgage money to refinance these properties. For too long we have ignored the economic and social desirability of neighborhood preservation. Abandoned housing is rapidly reaching epidemic proportions in many of our urban areas. These provisions would strive to reverse this eroding influence. Likewise the bill increases the authorization for the section 312 rehabilitation loan program to $150 million annually in an attempt to provide additional direct Federal assistance in rehabilitating existing structures.

Third, the act provides for special incentives to encourage communities to assist in providing low- and moderate-income housing. A program of public service grants would be established to help offset any increases in public services resulting from the addition of new federally-assisted housing. Thus grants could run for 10 years and not exceed $250 per unit annually except for units designed for large families where the grant could go up to $400 annually.

In a selected area the measure would provide that new public agency housing pay full local real estate taxes. Under existing law, public housing projects usually make a payment in lieu of taxes, not adequate to finance the range of public services required. This requirement has proven to be a handicap to the location of public housing in many communities.

Fourth, the act would put in motion a program to identify "housing emergency areas" and provide direct Federal provision of housing in these areas. These "housing emergency areas" would thereafter be defined as areas where a substantial number of low- and moderate-income families reside or work, who need housing, and where there is no sponsor willing to provide such housing.

Fifth, the housing reform amendments would revise and update the national housing goals. The Secretary of HUD would be authorized to encourage the establishment of State and local housing goals to provide a base for determining material housing requirements. Such State and local goals would also include actions necessary to maintain the existing housing stock. Specific annual needs for subsidized housing on a 5-year basis would be included.

This section would also provide for the periodic updating of the national housing goals and provide that these goals be based on national data, State, and local housing goals, and community development needs—relocation and replacement housing. Likewise, this section would require the Secretary to justify all authorization and appropriation requests for assisted housing programs in terms of the established assisted housing goals. Seventy-five million dollars would be authorized to fund the annual goals report and to assist in preparing local and State goals.

Sixth, the demonstration housing allowance program which was adopted as part of last year's Housing and Urban Development Act would be expanded to permit a greater variety of experiments. The authorization for the program would be increased to $25 million annually in contract authority.

While my initial suggestions of a housing allowance program met with considerable resistance, I have seen mounting evidence that the tide is changing. As we move closer to meaningful welfare reform, I am confident that we will see an increasing focus of attention on this concept. The time to prepare for this attention is now, in order that we may move forward with the best possible program at the appropriate time.

In summary, Mr. President, the housing reform amendments bill which I am introducing today addresses itself to strengthening Federal housing assistance at five key points where experience demonstrates it now requires improvement.

In the first instance, uniformity of occupancy requirements among all programs will go a long way toward stimulating housing production by eliminating administrative burden and confusion or consternation for the Federal Government, the housing developer, the public agency, the non-profit sponsor and the family to be assisted.

In the second instance, unfair discrimination against those families requiring housing assistance but ineligible under the present fragmentation of assistance programs by reason of different income requirements would be ended.

Third, the provision for a cross-section of income occupancy, tied to a flexible and dependable subsidy mechanism would insure that social and economic problems would be minimized, and that changing local conditions could be accommodated without disastrous defaults and financial crises.

Fourth, the establishment of the requirement for local and State housing goals would provide a needed input into the development of national housing goals and into the levels of Federal funding for housing assistance. At the same time, local goals would become the basis for housing allocations to local areas.

Finally, Mr. President, I believe that the Housing Reform Amendments Act will move us toward the position of encouraging areawide housing development. It is clear by now that meaningful housing development, with its interconnecting relationship to other areas of expanding community growth, must transcend the limits of local planning.

Mr. President, the measures that I am introducing will require a fundamental reexamination of past practices and procedures. But the problems that I have outlined are stark and unremitting as they continue to restrict the most effective and efficient use of our Federal resources. Commitment is no longer enough to see us through. We must move forward with confidence based on a realistic assessment of the past.

I ask unanimous consent that the full text of these amendments along with a summary thereof be printed in full at this point in the RECORD.

There being no objection, the amendments and summaries were ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 788

On page 5, beginning with line 16, strike out through line 22 on page 6, and insert in lieu thereof the following:

SEC. 3. (a) The Secretary shall not insure a mortgage under section 402 or 502 covering property in an area which exceeds, for that part of the property attributable to dwelling use, the sum of (A) 120 per centum of the prototype construction cost for the area and (B) the appraised value of land and the actual cost of site improvements, except that the Secretary may insure a mortgage for a greater amount on an individual case basis if he determines that the particular project or dwelling is subject to unavoidable or unforeseeable cost increases.

(b) The Secretary shall determine prototype construction costs for each type and size of dwelling unit and project in each area at least annually on the basis of (1) his estimate of the construction costs of comparable new dwelling units of various types and sizes, (2) the extra durability required for economical maintenance of such housing, (3) the provision of amenities designed to guarantee safe and healthy family life and neighborhood environment, (4) the application of good design as an essential component of such housing and maintenance of quality in architecture to reflect the standards of the neighborhood and community, (5) the effectiveness of existing mortgage limits in the area, and (6) the advice and recommendations of local housing producers. The prototype costs for any area shall become effective upon the date of publication in the Federal Register.

(c) As used in this section the term "construction costs" means those cost items which are normally reflected in the amount of a home mortgage or multifamily mortgage insured under section 402 or section 502, except the costs of land and site improvements.

On page 9, line 26, before the semicolon insert the following: "and home mortgages insured under section 401(g)".

On page 25, after line 25, insert the following:

(g) (1) In order to assist in preserving and improving the quality of existing neighborhoods and properties, and to prevent abandonment of properties in viable neighborhoods, the Secretary is authorized to insure any mortgage executed by the occupant of a single family dwelling to refinance an existing mortgage on that dwelling.

(2) To be eligible for insurance under this subsection, a mortgage shall—

(A) be secured by the property which is to be refinanced with the proceeds thereof;

(B) be in a principal amount not exceeding the sum of 90 per centum of the appraised value of the property at the time of its refinancing under the mortgage plus the estimated cost of any repairs; and

(C) provide for complete amortization by periodic payments within such term as the Secretary may prescribe.

(3) No mortgage shall be insured under paragraph (1) unless the Secretary determines that (A) the property to be refinanced is located in a neighborhood which is sufficiently stable and contains sufficient public facilities and amenities to support long-term values or in which the community is planning to carry out a program for neighborhood preservation, conservation, or rehabilitation, and (B) the property is basically sound or capable of repair without substantial rehabilitation.

On page 10, line 4, before the semicolon insert the following: "and project mortgages insured under section 501(j)".

On page 33, between lines 4 and 5, insert the following:

(j) (4) In order to assist in preserving and improving the quality of existing neighborhoods and properties, and to prevent abandonment of properties in viable neighborhoods, the Secretary is authorized to insure any mortgage covering a multifamily housing project to refinance an existing mortgage on that project.

(2) To be eligible for insurance under this subsection, a mortgage shall—

(A) be secured by the property which is to be refinanced with the proceeds thereof;

(B) be in a principal amount not exceeding the sum of 90 per centum (97 per centum in the case of a cooperative) of the appraised value of the property at the time of its refinancing under the mortgage plus the estimated cost of any repairs; and

(C) provide for complete amortization by periodic payments within such term as the Secretary may prescribe.

(3) No mortgage shall be insured under paragraph (1) unless the Secretary determines—

(A) that the property to be refinanced is located in a neighborhood which is sufficiently stable and contains sufficient public facilities and amenities to support long-term values or in which the community is planning to carry out a program for neighborhood preservation, conservation, or rehabilitation;

(B) that the property is basically sound or capable of repair without substantial rehabilitation; and

(C) in the case of a refinancing which involves an existing owner, that the management and maintenance services provided by that owner have been adequate.

(4) If the Secretary determines that an extension of the amortization term of any mortgage insured under this subsection would avoid or reduce the amount of any rent increase (or any increase in charges in the case of a cooperative project), he may extend such term.

(5) Nothing in this section shall be construed to preclude the insurance of mortgages which involve projects containing units to be made available to low or moderate income families, or which involve a change in the form of ownership or manner of operation of a project.

On page 26, beginning with line 1, strike out through line 3 on page 30 and insert in lieu thereof the following:

HOMEOWNERSHIP ASSISTANCE

Sec. 402. (a) For the purpose of assisting lower income families in acquiring homeownership or in acquiring ownership of a dwelling unit in a cooperative project, the Secretary is authorized to make, and to contract to make, periodic assistance payments on behalf of such homeowners and cooperative unit owners. The assistance shall be accomplished through payments to mortgagees holding mortgages meeting the special requirements specified in this section.

(b) To qualify for assistance payments, the homeowner or the cooperative unit owner shall be of lower income and satisfy eligibility requirements prescribed by the Secretary, and—

(1) the homeowner shall be a mortgager under a mortgage which meets the requirements of and is insured under this section; or

(2) The owner of a dwelling in a cooperative project shall be a mortgagor under a mortgage which meets the requirements of and is insured under this Section; such dwelling unit shall be in a cooperative housing project the construction, substantial rehabilitation or acquisition of which has been financed with a mortgage insured under section 501 of the Revised National Housing Act and which has been completed within two years prior to the filing of the application for assistance payments and the dwelling unit has had no previous occupant other than the mortgagor or which is an existing project insured under section 213, section 221(d)(3), or section 236 of the National Housing Act, or receiving the benefits of section 101(a) of the Housing and Urban Development Act of 1965, or which is a rental project financed under the United States Housing Act of 1937, and such units in the cooperative project are to be sold to purchasers eligible for mortgage insurance and assistance payments under this section: *Provided*, that the cooperative project involved has consumer-oriented sponsorship and will continue to provide community facilities for the owners of such units,

except that assistance payments may be made on behalf of otherwise eligible families with respect to a mortgage or part thereof on a home or a cooperative housing project which is financed under a State or local program providing assistance through loans, loan insurance, or tax abatements, and which prior to completion of construction or rehabilitation is approved for receiving the benefits of this section.

(c) The assistance payments to a mortgagee by the Secretary on behalf of a mortgagor shall be made during such time as the mortgagor shall continue to occupy the property which secures the mortgage. Such payments may also be made on behalf of a homeowner or owner of a dwelling unit in a cooperative project who assumes a mortgage insured under this section and who occupies the property secured by the mortgage with respect to which assistance payments have been made on behalf of the previous owner, if the new homeowner or owner of a cooperative unit is approved by the Secretary as eligible for receiving such assistance. The Secretary is also authorized to continue making assistance payments where the mortgage has been assigned to the Secretary.

(d) The assistance payments shall be in an amount not exceeding the lesser of—

(1) the balance of the monthly payment for principal, interest, taxes, insurance, and mortgage insurance premium due under the mortgage remaining unpaid after applying 20 per centum of the mortgagor's income; or

(2) the difference between the amount of the monthly payment for principal, interest, taxes, insurance, and mortgage insurance premium which the mortgagor is obligated to pay under the mortgage and the monthly payment for taxes, insurance, and mortgage insurance premiums,

except that the mortgagor shall be required to make payments in an amount which shall not be less than the sum of the monthly payments for taxes and insurance.

(e) The Secretary may include in the payment to the mortgagee such amount, in addition to the amount computed under subsection (d) or (j)(6), as he deems appropriate to reimburse the mortgagee for its expenses in handling the mortgage.

(f)(1) Procedures shall be adopted by the Secretary for recertifications of the mortgagor's income at intervals of two years (or at shorter intervals where the Secretary deems it desirable) for the purpose of adjusting the amount of such assistance payments within the limits of the formula described in subsection (c).

(2) No assistance payments shall be made under this section unless the Secretary is satisfied that the mortgagor's residual income is sufficient to pay normal utility and maintenance costs.

(g) The Secretary shall prescribe such regulations as he deems necessary (1) to assure that the sales price of, or other consideration paid in connection with, the purchase by a homeowner or cooperative unit owner of the property with respect to which assistance payments are to be made is not increased above the appraised value on which the maximum mortgage which the Secretary will insure is computed, and (2) to provide where necessary to prevent excessive profits for the repayment out of the net proceeds accruing to a homeowner or cooperative unit owner as a result of any sale or other disposition of property with respect to which assistance payments under this section were made, of an amount equal to the amount of principal attributable to such assistance payments, or such lesser amount as the Secretary determines to be equitable taking into account the circumstances surrounding such sale or disposition.

(h)(1) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section, including such sums as may be necessary to make the assistance payments under contracts entered into under this section. The aggregate amount of outstanding contracts to make such payments shall not exceed amounts approved in appropriation Acts, and payments pursuant to such contracts shall not exceed $75,000,000 per annum prior to July 1, 1969, which maximum dollar amount shall be increased by $125,000,000 on July 1, 1969, by $150,000,000 on July 1, 1970, by $200,000,000 on July 1, 1971, by $250,000,000 on July 1, 1972, by $300,000,000 on July 1, 1973, and by $350,000,000 on July 1, 1974.

(2) Notwithstanding the provisions of subsection (b) (2) or (1), not more than 30 per centum of the total amount of contracts for assistance payments authorized by appropriation Acts to be made after July 1, 1972, may be made with respect to existing dwelling or dwelling units in existing projects, except that such payments may be made with respect to dwelling units in existing projects occupied by displaced families as defined in section 221(f) of the National Housing Act or by families which include five or more minor persons without regard to the limitations of this paragraph.

(3) Not less than 10 per centum of the total amount of contracts for assistance payments authorized by appropriation Acts to be made after July 1, 1972, shall be available for use only with respect to dwellings or dwelling units in projects which are approved by the Secretary prior to substantial rehabilitation.

(1) The Secretary is authorized to insure a home mortgage (including open-end advances) meeting the requirements of section 401, except that such mortgage shall—

(1) involve a single-family dwelling or a one-family unit in a cooperative or condominium, and

(2) have a principal obligation not to exceed an amount equal to the sum of (A) the appraised value of the property on the date the mortgage is accepted for insurance (or, in the case of rehabilitation, the sum of the estimated cost of rehabilitation plus the estimated value of the property prior to rehabilitation as determined by the Secretary), and (B) an amount not to exceed the total of all closing costs and prepaid expenses less $200, to be determined by the Secretary, to cover such costs and expenses.

(j)(1) In addition to mortgages insured under the provisions of subsection (i), the Secretary is authorized, upon application by the mortgagee, to insure a mortgage (including advances under such mortgage during rehabilitation) which is executed by a nonprofit organization or public body or agency to finance the purchase of housing, and the rehabilitation of such housing if it is deteriorating or substandard, for subsequent resale to lower income home purchasers who meet the eligibility requirements for assistance payments prescribed by the Secretary under subsection (b). Commitments for the insurance of such mortgages may be issued by the Secretary prior to the date of their execution or disbursement thereon, upon such terms and conditions as the Secretary may prescribe.

(2) To be eligible for insurance under paragraph (1) of this subsection, a mortgage shall—

(A) be executed by a private nonprofit organization or public body or agency, approved by the Secretary, for the purpose of financing the purchase (with the intention of subsequent resale), and rehabilitation where the housing involved is deteriorating or substandard, of property comprising one or more tracts or parcels, whether or not contiguous, consisting of (i) four or more single-family dwellings of detached, semidetached, or row construction, or (ii) four or more one-family units in a structure or structures for which a plan of family unit ownership approved by the Secretary is established, except that in a case not involving the rehabilitation of deteriorating or substandard housing the property purchased may consist of one or more such dwellings or units;

(B) be in a principal amount not exceeding the appraised value of the property at the time of its purchase under the mortgage plus the estimated cost of any rehabilitation;

(C) bear interest (exclusive of premium charges for insurance and service charge, if any) at not to exceed such per centum per annum (not in excess of 6 per centum), on the amount of the principal obligation outstanding at any time, as the Secretary finds necessary to meet the mortgage market;

(D) provide for complete amortization (subject to paragraph (4)(E)) by periodic payments within such term as the Secretary may prescribe; and

(E) provide for the release of individual single-family dwellings from the lien of the mortgage upon their sale in accordance with paragraph (4).

(3) No mortgage shall be insured under paragraph (1) unless the mortgagor shall have demonstrated to the satisfaction of the Secretary that (A) the property involved is located in a neighborhood which is sufficiently stable and contains sufficient public facilities and amenities to support long-term values, or (B) the purchase or rehabilitation of such property plus the mortgagor's related activities and the activities of other owners of housing in the neighborhood, together with actions to be taken by public authorities, will be of such scope and quality as to give reasonable promise that a stable environment will be created in the neighborhood.

(4)(A) No mortgage shall be insured under paragraph (1) unless the mortgagor enters into an agreement, satisfactory to the Secretary, that it will offer to sell the dwellings involved, after purchase and upon completion of any rehabilitation, to lower income individuals or families meeting the eligibility requirements established by the Secretary under subsection (b).

(B) The Secretary is authorized to insure under this paragraph mortgages executed to finance the sale of individual dwellings to lower income purchasers as provided in subparagraph (A). Any such mortgage shall—

(i) be in a principal amount not in excess of that portion of the unpaid principal balance of the blanket mortgage covering the property which is allocable to the individual dwelling involved;

(ii) bear interest at the same rate as the blanket mortgage; and

(iii) provide for complete amortization by periodic payments within a term equal to the remaining term (determined without regard to subparagraph (E)) of such blanket mortgage.

(C) The price for which any individual dwelling is sold under this paragraph shall be in an amount equal to that portion of the unpaid principal balance of the blanket mortgage covering the property which is allocable to the dwelling plus such additional amount, not less than $200 (which may be applied in whole or in part toward closing costs and may be paid in cash or its equivalent), as the Secretary may determine to be reasonable.

(D) Upon the sale under this paragraph of any individual dwelling such dwelling shall be released from the lien of the blanket mortgage. Until all of the individual dwellings in the property covered by the blanket mortgage have been sold, the mortgagor shall hold and operate the dwellings remaining unsold at any given time, in such manner and under such terms as the Secretary may prescribe, as though they constituted rental units.

(E) Upon the sale under this paragraph of all the individual dwellings in the property covered by the blanket mortgage and the release of all individual dwellings from the lien of the blanket mortgage, the insurance of the blanket mortgage shall be terminated and no adjusted premium charge shall be charged by the Secretary upon such termination.

(5) Where the Secretary has approved a plan of family unit ownership the terms "single-family dwelling", "single-family dwellings", "individual dwelling", and individual dwellings" shall mean a famiy unit or family units, together with the undivided interest (or interests) in the common areas and facilities.

(6) In addition to the assistance payments authorized under subsection (b), the Secretary may make such payments to a mortgagee on behalf of a nonprofit organization or public body or agency which is a mortgagor under the provisions of paragraph (1) in an

amount not exceeding the difference between the monthly payment for principal, interest, taxes, insurance, and mortgage insurance premium which the mortgagor is obligated to pay under the mortgage and the monthly payment for interest, taxes, and mortgage insurance premium.

(k) The Secretary is authorized to provide, or contract with public or private organizations to provide, such budget, debt management, and related counseling services to mortgagers whose mortgages are insured under this section as he determines to be necessary to meet the objectives of this section. The Secretary may also provide such counseling to otherwise eligible families who lack sufficient funds to supply a down payment to help them to save an amount necessary for that purpose.

(l) For the purpose of this section "lower income families" means those families whose incomes do not exceed the median income for the area as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than the median for the area on the basis of his findings that such variances are necessary because of the prevailing levels of construction costs, unusually high or low median family incomes, or other factors.

(m) in determining the income of any family for the purpose of this section, the Secretary shall consider income from all sources of each member of the family residing in the household, except that there shall be excluded—

(1) the income of family members under 18, the income of full-time students (unless such members or students are heads of households), and any non-recurring income;

(2) an amount equal to $300 for each dependent and for each secondary wage earner;

(3) an amount equal to 5 per centum of gross income (or, in the case of an elderly family, 10 per centum of gross income); and

(4) such unusual or extraordinary medical or other expenses as the Secretary approves for exclusion.

(n) In addition to the assistance payments authorized under the other provisions of this section, the Secretary may make assistance payments, subject to subsection (d), to a mortgagee on behalf of a homeowner who meets the income requirements of this section if (1) the mortgage with respect to which such payments are to be made was executed for the purpose of rehabilitating or renovating the property involved, (2) that mortgage is insured under or meets the requirements of subsection (1) of this section, and (3) that homeowner continues to occupy such property.

On page 32, between lines 23 and 24, insert the following: "and, in the case of properties or projects intended for the use of elderly or handicapped persons, the units, spaces, and facilities may incorporate design features to serve the special needs of such persons,".

On page 33, beginning with line 5, strike out through line 8 on page 39, and insert in lieu thereof the following:

MULTIFAMILY HOUSING ASSISTANCE

SEC. 502. (a) For the purpose of reducing rentals for lower income families, the Secretary is authorized to make, and to contract to make, periodic assistance payments on behalf of the owner of a rental housing project, which shall be accomplished through payments to mortgagees holding mortgages meeting the special requirements specified in this section.

(b) Assistance payments with respect to a project shall only be made during such time as the project is operated as a multifamily housing project and (1) is subject to a mortgage which meets the requirements of and is insured under, subsection (j), or which has been assigned to the Secretary, or (2) is owned by a private nonprofit corporation or other private nonprofit entity, a limited dividend corporation or other limited dividend entity, or a public agency or a cooperative housing corporation, and is financed under a State or local program providing assistance through loans, loan insurance, or tax abatements, and which involves either new or existing construction which is approved for receiving the benefits of this section with respect to all or part of the project.

(c) The amount of any assistance payment by the Secretary on behalf of a project owner shall not exceed the difference between total costs attributable to the project (principal, interest, mortgage insurance premiums, taxes, utilities, maintenance, management, and operating costs (including appropriate tenant services approved by the Secretary)) and the total revenues accruing to the project (rents or cooperative charges, other fees and charges, rents or other income from nonresidential tenants, interest or any direct project investments and other revenues as determined by the Secretary). The Secretary may, from time to time amend any contract for such payments as may be necessary to reflect changes in project costs or revenues.

(d) The Secretary may include in the payment to the mortgagee such amount, in addition to the amount computed under subsection (c), as he deems appropriate to reimburse the mortgagee for its expenses in handling the mortgage.

(e) As a condition for receiving the benefits of assistance payments, the project owner shall operate the project in accordance with such requirements with respect to tenant eligibility and rents as the Secretary may prescribe. Procedures shall be adopted by the Secretary for review of tenant incomes at intervals of two years (or at shorter intervals where the Secretary deems it desirable).

(f) (1) For each dwelling unit there shall be established with the approval of the Secretary—

(A) an operating rental charge determined on the basis of operating, maintaining, and managing the project exclusive of debt service payments, and

(B) a fair market rental charge determined on the basis of operating the project with payments on principal, interest, mortgage insurance premium, which the mortgagor is obligated to pay under the mortgage covering the project.

(2) The rental for each unit shall be based on local rent-to-income ratios, determined by the locality, or by the sponsor in any case where local ratios are not available, and approved by the Secretary for the project. In determining such ratios, such factors as family income, size of family, and prevailing income patterns in the community shall be considered, except that (A) in no case shall a family pay a rental which exceeds 25 per centum of its net income, and (B) the average rent-to-income ratio in a project shall be not less than 20 per centum, except that beginning two years after the date of enactment of this Act, any family which is receiving a majority of its income under a federally-assisted public assistance program shall pay as rental not less than the operating rental charge established under paragraph (1) (A) of this subsection.

(g) The project owner shall, as required by the Secretary, accumulate, safeguard, and periodically pay to the Secretary all rental charges collected in excess of those charges specified for collection in the assistance contract with the mortgage. Such excess charges shall be deposited by the Secretary in a fund which may be used by him as a revolving fund for the purpose of making assistance payments with respect to any rental housing project receiving assistance under this section, subject to limits approved in appropriation Acts pursuant to subsection (i). Moneys in such funds not needed for current operations may be invested in bonds or other obligations of the United States or in bonds or other obligations guaranteed as to the principal and interest by the United States.

(h) (1) The Secretary shall require, in the case of any new project, that at least 20 per centum of the units initially be made available for very low income families. The Secretary shall also prescribe regulations to ensure that new units in any such project shall be made available to low income families on a pro rata basis. The requirements of this paragraph may be waived by the Secretary in any case in which he determines that the project cannot meet such requirements or that the project was not intended to carry out the purpose of such requirements.

(2) The Secretary shall prescribe regulations to insure that the availability of units in any new project shall be published, along with a range of rentals, in a daily newspaper of general circulation in the area in which the project is located, and, in the case of any project located in a standard metropolitan statistical area, in a newspaper which serves the central city in such area.

(3) For the purpose of this subsection, the term "very low income family" means any family with respect to which assistance payments in excess of 60 per centum of the rental charge established under subsection (f) (1) (B) would be paid.

(i) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section, including such sums as may be necessary to make assistance payments under contracts entered into under this section. The aggregate amount of contracts to make such payments shall not exceed amounts approved in appropriation acts, and payments pursuant to such contracts shall not exceed $75,000,000 per annum prior to July 1, 1969, which maximum dollar amount shall be increased by $125,000,000 on July 1, 1969, by $250,000,000 on July 1, 1970, by $280,000,000 on July 1, 1971, by $350,000,000 on July 1, 1972, by $400,000,000 on July 1, 1973, and by $450,000,000 on July 1, 1974.

(j) (1) The Secretary is authorized to insure a mortgage (including advances on such mortgage during construction) which meets the requirements of section 501, except as modified under this subsection, upon a multifamily housing project to be occupied primarily by lower income tenants.

(2) If the mortgage is executed by a mortgagor which is a cooperative, a private nonprofit corporation or association, a public agency, or a builder-seller, as defined by the Secretary, the principal obligation of the mortgage shall not exceed—

(A) in the case of new construction, the Secretary's estimate of the replacement cost of the property or project when the proposed improvements are completed;

(B) in the case of rehabilitation, the sum of the Secretary's estimate of the cost of rehabilitation plus the Secretary's estimate of the value of the property before rehabilitation; or

(C) in the case of the purchase or refinancing of existing property without rehabilitation, the appraised value of the property as of the date the mortgage is accepted for insurance.

(3) If the mortgage is executed by a limited distribution corporation or other limited dividend entity, as defined by the Secretary, or an investor-sponsor who agrees to sell the project to a cooperative, and who meets such requirements as the Secretary may prescribe to assure that the consumer interest is protected, the amount of the mortgage

shall not exceed 90 per centum of the amount otherwise authorized under this section.

(4) In the case of a project financed with a mortgage insured under this subsection which involves a mortgagor other than a cooperative, a public agency or a private nonprofit corporation or association and which is sold to a cooperative or a nonprofit corporation or association, the Secretary is further authorized to insure under this subsection a mortgage given by such purchaser in an amount not exceeding the appraised value of the property at the time of purchase, which value shall be based upon a mortgage amount on which the debt service can be met from the income of the property when operated on a nonprofit basis, after payments of all operating expenses, these are required reserves.

(5) With the approval of the Secretary, the mortgagor may sell the individual dwelling units to eligible lower income purchasers. The Secretary may consent to the release of the mortgagor from his liability under the mortgage and the credit instrument secured thereby, or consent to the release of parts of the mortgaged property from the lien of the mortgage, upon such terms and conditions as he may prescribe, and the mortgage may provide for such release.

(k) For the purpose of this section—

(1) the term "tenant" includes a member of a cooperative and the terms "rental" and "rental charge" mean, with respect to members of a cooperative, the charges under the occupancy agreements between such members and the cooperative;

(2) the term "low income tenants" means those tenants whose income do not exceed the median income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than the median for the area on the basis of his findings that such variations are necessary because of prevailing levels of construction costs, unusually high or low family incomes, or other factors;

(3) the term "tenant services" includes but is not limited to the following services and activities for families living in housing projects assisted under this section: counseling on household management, housekeeping, budgeting, money management, child care, and similar matters; advice as to resources for job training and placement, education, welfare, health, and other community services; services which are directly related to meeting tenant needs and providing a wholesome living environment; and referral to appropriate agencies when necessary for the provision of such services;

(4) in determining the income of any family, the Secretary shall consider income from all sources of each member of the family residing in the household, except that there shall be excluded—

(A) the income of family members under 18 and the income of full-time students (unless such members or students are heads of households), and any non-recurring income;

(B) an amount equal to $300 for each dependent and for each secondary wage earner;

(C) an amount equal to 5 per centum of gross income (or, in the case of an elderly family, 10 per centum of gross income); and

(D) such unusual or extraordinary medical or other expenses as the Secretary approves for exclusion; and

(5) the term "cooperative" means a nonprofit corporation or a nonprofit housing trust which has consumer-oriented sponsorship and which is organized for the purpose of construction, rehabilitation, or acquisition of housing and related facilities when the permanent occupancy of the dwellings will be restricted to members of such a cooperative.

(l) The Secretary is authorized to enter into agreements with any State or agency thereof under which such State or agency thereof contracts to make assistance payments, subject to the terms and conditions specified in this section and in rules, regulations, and procedures adopted by the Secretary under this section, with respect to a project which has been approved by the Secretary prior to the beginning of construction or rehabilitation. Any funds provided by a State or agency thereof for the purpose of making assistance payments shall be administered, disbursed and accounted for by the Secretary in accordance with the agreements entered into by the Secretary with the State or agency thereof and for such fees as shall be specified herein. Before entering into any agreement pursuant to this subsection the Secretary shall require assurances satisfactory to him that the State or agency thereof is able to provide sufficient funds for the making of assistance payments for the full period specified in the assistance payment contract, and the Secretary shall undertake no obligation to make such assistance payments as surety, guarantor, or in any other similar capacity.

On page 33, beginning with line 5, strike out through line 8 on page 39, and insert in lieu thereof the following:

MULTIFAMILY HOUSING ASSISTANCE

SEC. 502. (a) For the purpose of reducing rentals for lower income families, the Secretary is authorized to make, and to contract to make, periodic assistance payments on behalf of the owner of a rental housing project, which shall be accomplished through payments to mortgagees holding mortgages meeting the special requirements specified in this section.

(b) Assistance payments with respect to a project shall only be made during such time as the project is operated as a multifamily housing project and (1) is subject to a mortgage which meets the requirements of and is insured under, subsection (j), or which has been assigned to the Secretary, or (2) is owned by a private nonprofit corporation or other private nonprofit entity, a limited dividend corporation or other limited dividend entity, or a public agency or a cooperative housing corporation, and is financed under a State or local program providing assistance through loans, loan insurance, or tax abatements, and which involves either new or existing construction which is approved for receiving the benefits of this section with respect to all or part of the project.

(c) The amount of any assistance payment by the Secretary on behalf of a project owner shall not exceed the difference between total costs attributable to the project (principal, interest, mortgage insurance premiums, taxes, utilities, maintenance, management, and operating costs (including appropriate tenant services approved by the Secretary)) and the total revenues accruing to the project (rents or cooperative charges, other fees and charges, rents or other income from on-residential tenants, interest or any direct project investments and other revenues as determined by the Secretary). The Secretary may, from time to time amend any contract for such payments as may be necessary to reflect changes in project costs or revenues.

(d) The Secretary may include in the payment to the mortgagee such amount, in addition to the amount computed under subsection (c), as he deems appropriate to reimburse the mortgagee for its expenses in handling the mortgage.

(e) As a condition for receiving the benefits of assistance payments, the project owner shall operate the project in accordance with such requirements with respect to tenant eligibility and rents as the Secretary may prescribe. Procedures shall be adopted by the Secretary for review of tenant incomes at intervals of two years (or at shorter intervals where the Secretary deems it desirable).

(f) (1) For each dwelling unit there shall be established with the approval of the Secretary—

(A) an operating rental charge determined on the basis of operating, maintaining, and managing the project exclusive of debt service payments, and

(B) a fair market rental charge determined on the basis of operating the project with payments on principal, interest, mortgage insurance premium, which the mortgagor is obligated to pay under the mortgage covering the project.

(2) The rental for each unit shall be based on local rent-to-income ratios, determined by the locality, or by the sponsor in any case where local ratios are not available, and approved by the Secretary for the project. In determining such ratios, such factors as family income, size of family, and prevailing income patterns in the community shall be considered, except that (A) in no case shall a family pay a rental which exceeds 25 per centum of its net income, and (B) the average rent-to-income ratio in a project shall be not less than 20 per centum, except that beginning two years after the date of enactment of this Act, any family which is receiving a majority of its income under a federally-assisted public assistance program shall pay as rental not less than the operating rental charge established under paragraph (1) (A) of this subsection.

(g) The project owner shall, as required by the Secretary, accumulate, safeguard, and periodically pay to the Secretary all rental charges collected in excess of those charges specified for collection in the assistance contract with the mortgage. Such excess charges shall be deposited by the Secretary in a fund which may be used by him as a revolving fund for the purpose of making assistance payments with respect to any rental housing project receiving assistance under this section, subject to limits approved in appropriation Acts pursuant to subsection (i). Moneys in such fund not needed for current operations may be invested in bonds or other obligations of the United States or in bonds or other obligations guaranteed as to principal and interest by the United States.

(h) (1) The Secretary shall require, in the case of any new project, that at least 20 per centum of the units initially be made available for very low income families. The Secretary shall also prescribe regulations to insure that new units in any such project shall be made available to low-income families on a pro rata basis. The requirements of this paragraph may be waived by the Secretary in any case in which he determines that the project cannot meet such requirements or that the project was not intended to carry out the purpose of such requirements.

(2) The Secretary shall prescribe regulations to insure that the availability of units in any new project shall be published, along with a range of rentals, in a daily newspaper of general circulation in the area in which the project is located, and, in the case of any project located in a standard metropolitan statistical area, in a newspaper which serves the central city in such area.

(3) For the purpose of this subsection, the term "very low income family" means any family with respect to which assistance payments in excess of 60 per centum of the rental charge established under subsection (f) (1) (B) would be paid.

(i) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section, including such sums as may be necessary to make assistance payments under contracts entered into under this section. The aggregate amount of contracts to make such payments shall not exceed amounts approved in appropriation acts, and payments pursuant to such contracts shall not exceed $75,000,000 per annum prior to July 1, 1969, which maximum dollar amount shall be increased by $125,000,000 on July 1, 1969, by $250,000,000 on July 1, 1970, by $280,000,000 on July 1, 1971, by $350,000,000 on July 1, 1972, by $400,000,000 on July 1, 1973, and by $450,000,00 on July 1, 1974.

(j) (1) The Secretary is authorized to insure a mortgage (including advances on such mortgage during construction) which meets the requirements of section 501, except as modified under this subsection, upon a multifamily housing project to be occupied primarily by lower income tenants.

(2) If the mortgage is executed by a mortgagor which is a cooperative, a private nonprofit corporation or association, a public agency, or a builder-seller, as defined by the Secretary, the principal obligation of the mortgage shall not exceed—

(A) in the case of new construction, the Secretary's estimate of the replacement cost of the property or project when the proposed improvements are completed;

(B) in the case of rehabilitation, the sum of the Secretary's estimate of the cost of rehabilitation plus the Secretary's estimate of the value of the property before rehabilitation; or

(C) in the case of the purchase or refinancing of existing property without rehabilitation, the appraised value of the property as of the date the mortgage is accepted for insurance.

(3) If the mortgage is executed by a limited distribution corporation or other limited dividend entity, as defined by the Secretary, or an investor-sponsor who agrees to sell the project to a cooperative, and who meets such requirements as the Secretary may prescribe to assure that the consumer interest is protected, the amount of the mortgage shall not exceed 90 per centum of the amount otherwise authorized under this section.

(4) In the case of a project financed with a mortgage insured under this subsection which involves a mortgagor other than a cooperative, a public agency or a private nonprofit corporation or association and which is sold to a cooperative or a nonprofit corporation or association, the Secretary is further authorized to insure under this subsection a mortgage given by such purchaser in an amount not exceeding the appraised value of the property at the time of purchase, which value shall be based upon a mortgage amount on which the debt service can be met from the income of the property when operated on a nonprofit basis, after payment of all operating expenses, taxes, and required reserves.

(5) With the approval of the Secretary, the mortgagor may sell the individual dwelling units to eligible lower income purchasers. The Secretary may consent to the release of the mortgagor from his liability under the mortgage and the credit instrument secured thereby, or consent to the release of parts of the mortgaged property from the lien of the mortgage, upon such terms and conditions as he may prescribe, and the mortgage may provide for such release.

(k) For the purpose of this section—

(1) the term "tenant" includes a member of a cooperative and the terms "rental" and "rental charge" mean, with respect to members of a cooperative, the charges under the occupancy agreements between such members and the cooperative;

(2) the term "low income tenants" means those tenants whose incomes do not exceed the median income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than the median for the area on the basis of his findings that such variations are necessary because of prevailing levels of construction costs, unusually high or low family incomes, or other factors;

(3) the term "tenant services" includes but is not limited to the following services and activities for families living in housing projects assisted under this section: counseling on household management, housekeeping, budgeting, money management, child care, and similar matters; advice as to resources for job training and placement, education, welfare, health, and other community services; services which are directly related to meeting tenant needs and providing a wholesome living environment; and referral to appropriate agencies when necessary for the provision of such services;

(4) in determining the income of any family, the Secretary shall consider income from all sources of each member of the family residing in the household, except that there shall be excluded—

(A) the income of family members under 18 and the income of full-time students (unless such members or students are heads of households), and any non-recurring income;

(B) an amount equal to $300 for each dependent and for each secondary wage earner;

(C) an amount equal to 5 per centum of gross income (or, in the case of an elderly family, 10 per centum of gross income); and

(D) such unusual or extraordinary medical or other expenses as the Secretary approves for exclusion; and

(5) the term "cooperative" means a nonprofit corporation or a nonprofit housing trust which has consumer-oriented sponsorship and which is organized for the purpose of construction, rehabilitation, or acquisition of housing and related facilities when the permanent occupancy of the dwellings will be restricted to members of such a cooperative.

(l) The Secretary is authorized to enter into agreements with any State or agency thereof under which such State or agency thereof contracts to make assistance payments, subject to the terms and conditions specified in this section and in rules, regulations, and procedures adopted by the Secretary under this section, with respect to a project which has been approved by the Secretary prior to the beginning of construction or rehabilitation. Any funds provided by a State or agency thereof for the purpose of making assistance payments shall be administered, disbursed and accounted for by the Secretary in accordance with the agreements entered into by the Secretary with the State or agency thereof and for such fees as shall be specified herein. Before entering into any agreement pursuant to this subsection the Secretary shall require assurances satisfactory to him that the State or agency thereof is able to provide sufficient funds for the making of assistance payments for the full period specified in the assistance payment contract, and the Secretary shall undertake no obligation to make such assistance payments as surety, guarantor, or in any other similar capacity.

On page 76, line 9, before the period insert a comma and the following: "including responsibility for the establishment of rents and eligibility requirements (subject to the approval of the Secretary)".

On page 76, beginning with line 15 strike out all through line 10, on page 77, and insert the following:

" '(A) The term 'low-income housing' means well-designed but not luxurious housing in a local area, as determined by the Secretary, the construction cost of which does not exceed by more than 20 per centum the appropriate prototype construction costs for the area. Prototype construction costs (excluding the cost of land, demolition, and site improvements and nondwelling facilities) shall be determined at least annually by the Secretary on the basis of his estimate of the construction and equipment costs of new dwelling units of various sizes and types in the area. The Secretary in determining an area's prototype costs shall take into account the extra durability required for economical maintenance of assisted housing, and the provision of amenities designed to guarantee safe and healthy family life and neighborhood environment. Further, in the development of such prototypes, emphasis shall be given to encouraging good design as an essential component of such housing and to producing housing which will be of such quality as to reflect the architectural standards of the neighborhood and community. The prototype costs for any area shall become effective upon the date of publication in the Federal Register.

"(B) Occupancy shall be limited to families who at time of entry into a project are low-income families. Rents for low-income housing shall be determined by the public housing agency with the approval of the Secretary. The average rental for dwelling units administered by a public housing agency shall be not less than one-fifth of family income, and no rental for any single dwelling unit shall exceed one-fourth of family income. Income, for purposes of this Act, means income from all sources of each member of the family residing in the household who is at least eighteen years of age; except that (i) non-recurring income, as determined by the Secretary, and the income of dependent, full-time students shall be excluded; (ii) an amount equal to the sum of $300 for each dependent, $300 for each secondary wage earner, 5 per centum of the family's gross income (10 per centum in the case of elderly families), and those medical expenses of the family properly considered extraordinary shall be deducted; and (iii) the Secretary may allow further deductions in recognition of unusual circumstances."

On page 77, beginning with line 11, strike out all through line 10 on page 78 and insert the following:

"(2) (A) The term 'low-income families' means families the income of which do not exceed the median income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than the median income for the area on the basis of his finding that such variations are necessary because of prevailing levels of construction costs, unusually high or low median family incomes, or other relevant factors.

"(B) The term 'families' includes families consisting of a single person in the case of elderly families and displaced families, and includes the remaining member of a tenant family.

"(C) The term 'elderly families' means families whose heads (or their spouses), or whose sole members, are at least fifty years of age, or are under a disability as defined in section 223 of the Social Security Act, or are handicapped. A person shall be considered handicapped if such person is determined, pursuant to regulations issued by the Secretary, to have a physical impairment which (i) is expected to be of long-continued and indefinite duration, (ii) substantially impedes his ability to live independently and (iii) is of such a nature that such ability could be improved by more suitable housing conditions.

"(D) The term 'displaced families' means families displaced by governmental action, or families whose present or former dwellings are situated in areas determined by the Small Business Administration, subsequent to April 1, 1965, to have been affected by a natural disaster, and which have been extensively damaged or destroyed as the result of such disaster."

On page 79, beginning with line 24, strike out all through line 3, on page 80, and insert the following:

"(6) The term 'public housing agency' means any State, county, municipality, or other governmental entity or public body (or agency or instrumentality thereof), including a metropolitan or regional agency, or any multi-State agency, which is authorized to engage in or assist in the development or operation of low-income housing."

On page 82 beginning with line 16, strike out all through line 9, on page 87, and insert the following:

"ANNUAL CONTRIBUTIONS FOR LOW INCOME HOUSING PROJECTS

"SEC. 5. (a) The Secretary may make annual contributions to public housing agencies to assist in achieving and maintaining the low-income character of their projects. The Secretary shall embody the provisions for such annual contributions in a contract guaranteeing their payment. The contribution payable annually under this subsection shall in no case exceed a sum equal to the annual amount of principal and interest payable on obligations issued by the public housing agency to finance the development or acquisition cost of the low-income project involved. The amount of such annual contributions which would be established for a newly constructed project by a public housing agency designed to accommodate a number of families of a given size and kind may be established under this subsection for a project by such public housing agency which would provide housing for the comparable number, sizes, and kinds of families through the acquisition, acquisition and rehabilitation, or use under lease of structures which are suitable for low-income housing use and obtained in the local market. Annual contributions payable under this subsection shall be pledged, if the Secretary so requires, as security for obligations issued by a public housing agency to assist the development or acquisition of the project to which such annual contributions relate and shall be paid over a period not to exceed forty years.

"(b) Any contract for loans or annual contributions, or both, entered into by the Secretary with a public housing agency, may cover one or more than one low-income housing project owned by said public housing agency; in the event such contract covers two or more projects, such projects may, for any of the purposes of this Act and of such contract (including, but not limited to, the determination of the amount of the loan, annual contributions, or payments in lieu of taxes, specified in such contract), be treated collectively as one project.

"(c) In recognition that there should be local determination of the need for low-income housing—

"(1) the Secretary shall not make any contract with a public housing agency for preliminary loans (all of which shall be repaid out of any moneys which become available to such agency for the development of the projects involved) for surveys and planning in respect to any low-income housing projects (i) unless the governing body of the locality involved has by resolution approved the application of the public housing agency for such preliminary loan; and (ii) unless the public housing agency has demonstrated to the satisfaction of the Secretary that there is a need for such low-income housing under the conditions set forth in this Act; and

"(2) the Secretary shall not make any contract for loans (other than preliminary loans) or for annual contributions pursuant to this Act unless the governing body of the locality involved has entered into an agreement with the public housing agency providing for the local cooperation required by the Secretary pursuant to this Act.

"(d) (1) In addition to the annual contributions authorized under subsection (a), the Secretary may make contributions to public housing agencies to assist in the operation of their projects. Contributions under this subsection shall be payable annually and shall not exceed such amounts as the Secretary determines are required (A) to assure the low-income character of the projects involved, and (B) to achieve adequate operating services and reserve funds. The Secretary may embody the provisions for annual contributions in accordance with this subsection in a contract guaranteeing their payment.

"(2) At the initial stage of development of each new low-income housing project, or in the case of existing projects at the earliest practicable time after the date of enactment of this section, the public housing agency operating the project shall determine with the approval of the Secretary, appropriate and required operating services and reserve funds, including tenant services, based on the character and location of the project so the characteristics of the families to be housed. Services so determined shall constitute the base level of operating services of a public housing agency. If income from a project of a public housing agency will not be sufficient in any year to meet the agency's base level of operating services at projected costs for that year, the Secretary may make contributions to meet the residual cost. The commitment to maintain a base level of operating services shall be incorporated in an annual contributions contract. A public housing agency shall signify its base level of operating services requirements at the beginning of its operating year and at the time of the preparation of its annual budget. A public housing agency shall at the time of its reexamination of tenant income (at least every two years) reexamine its base level of operating services in order to determine the adequacy of the services provided for in the light of changing conditions and standards.

"(e) In addition to the annual contributions authorized under subsections (a) and (d), the Secretary may make contributions to public housing agencies to effect such improvement in existing projects administered by such agencies as the Secretary determines are necessary to bring such projects up to minimum standards prescribed by the Secretary for new projects. Contributions under this subsection shall be payable annually and provision therefor may be embodied in a contract guaranteeing their payment.

"(f) Income limits for occupancy, rents, and other requirements applicable to low-income housing projects shall be determined without regard to whether annual contributions with respect to such projects are being provided pursuant to subsections (d) and (e).

"(g) Any portion of an annual contributions payment made to a public housing agency pursuant to a contract under this section which is not used by the agency in the year for which it was made shall, under regulations prescribed by the Secretary, effect a pro tanto reduction in any subsequent annual contributions payment made to such agency.

"(h) Subject to the specific limitations or standards in this Act governing the terms of sales, rentals, leases, loans, contracts for annual contributions, or other agreements, the Secretary may, whenever he deems it necessary or desirable in the fulfillment of the purposes of this Act, consent to the modification, with respect to rate of interest, time of payment of any installment of principal or interest, security, amount of annual contribution, or any other term, of any contract or agreement of any kind to which the Secretary is a party. When the Secretary finds that it would promote economy or be in the financial interest of the Federal Government or is necessary to assure or maintain the low-income character of the project or projects involved, any contract heretofore or hereafter made for annual contributions, loans, or both, may be amended or superseded by a contract of the Secretary. Contracts may not be amended or superseded in a manner which would impair the rights of the holders of any outstanding obligations of the public housing agency involved for which annual contributions have been pledged. Any rule of law contrary to this provision shall be deemed inapplicable.

"(i) (1) The aggregate contracts for annual contributions entered into by the Secretary under subsection (a), and section 10 of this Act as it existed prior to the date of enactment of the Housing Consolidation and Simplification Act of 1971, shall not exceed $1,424,250,000 per annum, which limit shall be increased by $350,000,000 on July 1, 1972, by $400,000,000 on July 1, 1973, and by $450,000,000 on July 1, 1974: *Provided*, That at least 30 per centum of the total amount of such contracts entered into in any fiscal year pursuant to new authority granted to the Secretary by any Act of Congress enacted on or after December 31, 1970, shall be entered into with respect to units of low-income housing in private accommodations provided under section 8 (section 23 of this Act as it existed prior to the date of enactment of the Housing Consolidation and Simplification Act of 1971). The Secretary is also authorized to enter into contracts for annual contributions (A) under subsection (d) aggregating not more than $300,000,000 per annum, and (B) under subsection (e) aggregating not more than $100,000,000 per annum.

"(2) The Secretary shall enter into only such new contracts for preliminary loans as are consistent with the number of dwelling units for which contracts for annual contributions may be entered into under subsection (a). In administering the authority provided under this section, the Secretary shall assure that public housing agencies have complied with the requirements of section 8(a)(1) concerning the provision of low-income housing in private accommodations. The faith of the United States is solemnly pledged to the payment of all annual contributions contracted for pursuant to this section, and there is hereby authorized to be appropriated in each fiscal year, out of any money in the Treasury not otherwise appropriated, the amounts necessary to provide for such payments. All payments of annual contributions pursuant to this section shall be made out of any funds available for purposes of this Act when such payments are due, except that funds obtained through the issuance of obligations pursuant to section 4(b) (including repayments or other realizations of the principal of loans made out of such funds) shall not be available for the payment of such annual contributions."

On page 99, beginning with line 10, strike out all through line 22, on page 100, and renumber succeeding sections accordingly.

On page 87, beginning with line 25, strike out all through line 11, on page 88, and insert the following:

"(b) Every contract made pursuant to this Act for loans (other than preliminary loans) and annual contributions shall provide that the construction cost of the project (excluding the cost of land, demolition, site improvement, non-dwelling facilities, and the cost of relocation assistance) on which the computation of any annual contributions under this Act may be based shall not exceed by more than 20 per centum the appropriate prototype cost for the area, except where the Secretary determines (on a project-by-project basis) that this limitation should not be applied to the project because of special considerations."

On page 88, strike out lines 14–18.

On page 88, line 19, strike out "(2)" and insert "(1)".

On page 89, line 1, strike out "(3)" and insert "(2)".

On page 89, beginning with line 11, strike out all through line 22, on page 90, and insert the following:

"(d) Except as otherwise herein provided, every contract for annual contributions under section 5(a) shall provide that no annual contributions shall be made available for any project which is exempt from real and personal property taxes levied or imposed by the State, city, county, or other political subdivision in which the project is located. Notwithstanding the foregoing, such contributions may be made available for an existing project which is exempt from such taxes and with respect to which a public housing agency is required to make payments in lieu of taxes, if the amount of such payments is increased by not less than 10 per centum each year until such time (not later than 10 years after the first such increased payment) as the amount of such payments equals the full amount of such taxes which would be paid with respect to the project except for the exemption. The Secretary shall cause outstanding contracts for annual contributions to be amended in conformity with the provisions of this subsection. Estimates for the amounts by which such provisions require an increase in the annual contributions payable to any public housing agency shall be submitted to the Secretary by such agency not later than 6 months after the effective date of this section."

On page 90, line 23, strike out "(f)" and insert in lieu thereof "(e)".

On page 93, after line 4, insert the following:

"(f) Effective on January 1, 1975, every contract for annual contributions shall provide that, notwithstanding any other provision of this Act, the rent required of any tenant family receiving a major portion of its income in the form of public assistance payments under any Federal or State program shall be not less than an amount equal to (A) that part of the operating costs of the project which is attributable to the dwelling unit occupied by such family, and (B) the cost of the utility services furnished to such dwelling unit. For the purposes of this subsection, the operating costs of a project do not include principal and interest charges on obligations issued by the public housing agency to finance the development or acquisition cost of the project.

"(g) (1) Every contract for annual contributions shall provide that, if the Secretary and the public housing agency agree that a project with respect to which such contributions are made is obsolete as to physical condition or location, the Secretary may, in lieu of any other obligation under such contract with respect to such project, make a grant to such agency in an amount sufficient to retire the outstanding indebtedness on the project and, if the project is not to be sold, the cost of demolition. Any such grant shall be conditioned upon the public housing agency providing satisfactory replacement or relocation housing as determined by the Secretary.

"(2) There is authorized to be appropriated not to exceed $100,000,000 for grants under this subsection. Any amounts so appropriated shall remain available until expended."

On page 93, beginning with "Expenditures" in line 24, strike out all through line 3, on page 94, and insert the following: "Expenditures incurred by a public agency in the operation of a central dining facility in connection with congregate housing shall be considered as one of the costs of the project, except that not to exceed 25 per centum of the cost of providing food and service shall be included."

On page 100, beginning with line 23, strike out all through line 25, on page 103, and insert the following:

"HOMEOWNERSHIP FOR LOW-INCOME FAMILIES

"SEC. 10. (a) For the purpose of assisting families of low income in acquiring homeownership or in acquiring membership in a cooperative or other association operating a housing project, a public housing agency is authorized to develop, acquire, or lease low income housing for subsequent resale to low income housing tenants and families eligible for low income housing under the terms and conditions contained in this section. The provisions of this section also apply to the sale of rental housing owned by the public housing agency.

"(b) (1) To purchase low-income housing under this subsection, a mortgage or other obligations shall—

"(A) be given to the public housing agency by a family of low income eligible for low-income housing, a tenant family in low-income housing, or a qualified entity approved by the Secretary;

"(B) be secured by the property which is to be purchased;

"(C) be in a principal amount of not more than the sale price plus closing costs and prepaid expenses;

"(D) bear interest at a rate not to exceed the maximum rate applicable to mortgages insured under section 402 of the Revised National Housing Act, or the rate on the public housing agency's principal debt on the project, whichever is applicable;

"(E) provide for a maturity satisfactory to the Secretary, but not to exceed forty years;

"(F) provide that the purchaser's income contribution to monthly homeownership expense shall be an amount equal to one-fifth of the purchaser's income, but in no case shall the purchaser's income contribution be less than the amount of 'monthly homeownership expense' excluding payment for principal and interest;

"(G) provide that the income contribution to monthly homeownership expense for a purchaser which is a qualified entity shall be determined by using an aggregate amount based on the contribution that would be required under paragraph (6) of each family who occupies a dwelling unit in the purchased property;

"(H) provide that the purchaser shall make monthly payments for any services furnished by the public housing agency to the purchaser; and

"(I) include other terms and conditions which the Secretary determines are required to carry out the purposes of this section.

"(2) As used in this subsection, the term 'monthly homeownership expense' shall include monthly amounts for principal and interest under the amortization provisions of the mortgage or other obligation, amounts for insurance and taxes, and an amount attributable to the cost of utilities as determined by the Secretary on the basis of estimated costs for utilities in the area. Subject to subsection (e), the term 'sale price' means (A) in the case of housing newly developed, acquired, or leased for subsequent resale under this subsection, the portion of the unpaid balance on the public housing agency's principal debt on the project at the time of sale which is allocable to the dwelling unit or units involved, (B) in the case of low-income rental housing, the appraised value of the property at the time of sale, or (C) in cases where participants in mutual-help projects or homebuyers in homeownership opportunity projects voluntarily elect to purchase their low-income housing units under the terms of this subsection, the purchase price provided for under their lease with option to purchase type of contracts with the public housing agencies involved.

"(c) (1) In furtherance of the purposes of this section, and as an alternative procedure for assisting families of low income to acquire homeownership, any public housing agency may permit any adult member of a tenant family to enter into a contract (either individually or as a member of a group) for the acquisition of a dwelling unit in any project of the public housing agency, if the property to be acquired is sufficiently separable from other property retained by the public housing agency to make it suitable for sale and for occupancy by such purchaser or a member or members of his family, upon the following terms:

"(A) The purchaser shall pay at least (i) a pro rata share cost of any services furnished him by the public agency, including but not limited to, administration, maintenance, repairs, utilities, insurance, provision of reserves, and other expenses, (ii) local taxes on his dwelling unit, or a portion thereof, as determined by the Secretary, and (iii) monthly payments of interest and principal sufficient to amortize a sales price, equal to the greater of the unamortized debt or the appraised value (at the time such purchase contract is entered into) of the dwelling unit, in not more than forty years.

"(B) If at any time (i) a purchaser fails to carry out his contract with the public housing agency and if no adult member of his family who resides in the dwelling assumes such contract, or (ii) the purchaser or a member of his family who assumes the contract does not reside in the dwelling, the public housing agency shall have an option to acquire his interest under such contract upon payment to him or his estate of an amount equal to his aggregate principal payments plus the value to the public housing agency of any improvements made by him.

"(2) The public housing agency shall continue to make local tax payments upon the sale under this subsection of the project, or any dwelling unit in the project, if (A) the local governing body so requests, or (B) the Secretary determines that such payments should be continued, in whole or in part, to make it possible for any low-income family to purchase a home. Any payments so made shall (i) be in lieu of real or personal property taxes which might otherwise be levied or imposed on the project or dwelling unit, as the case may be, and (ii) be considered one of the costs of the project for purposes of annual contributions.

"(d) Notwithstanding any other provision of this Act, the sale of a project or dwelling unit in a project shall not affect the Secretary's commitment to pay annual contributions with respect to such project, but such contributions shall not exceed the maximum contributions authorized under this Act.

"(e) A public housing agency shall, before selling any project or dwelling unit in a project pursuant to this section, make such repairs or improvements to the project or dwelling unit as may be necessary to conform to standards prescribed by the Secretary. In addition to the contributions authorized under section 5, the Secretary may make annual contributions to any public housing agency in such amounts as the Secretary determines are required to pay the interest and principal charges on obligations issued by the public housing agency to finance repairs or improvements in accordance with the provisions of this subsection. The sales price of any project or dwelling unit with respect to which repairs or improvements are made under this subsection shall include that portion of the unpaid balance on the public housing agency's debt, at the time of sale, which was incurred to finance such repairs or improvements and is allocable to the dwelling unit or units involved.

"(f) The Secretary shall by regulation prescribe the conditions under which a low-income family which purchases a dwelling unit pursuant to this section may sell such unit. Among the conditions so prescribed shall be a requirement that upon the resale of any such unit the seller shall be obligated to pay to the United States an amount equal to (1) the Federal subsidy received by, or for the benefit of, the seller in reduction of the principal amount of any mortgage covering property during the period in which it was held by the seller, or (2) that part of the sales price which is in excess of the seller's equity (including the reasonable value of repairs and improvements made by the seller) in the property at the time of the sale, whichever is the lesser.

"(g) Subject to the approval of the Secretary, any conveyance, contract, or agreement heretofore executed by a public housing agency for the sale or lease of low-income housing to low-income families or public housing tenants may be amended to include any of the terms and conditions of this section."

On page 110, strike out lines 7–11, and insert the following:

"Sec. 208. Except as provided in sections 201–207, this title shall take effect on January 1, 1973; except that—

"(1) any adjustment required by the provisions of the United States Housing Act of 1937, as amended by section 201 of this title, in what is to be considered income, or in rents for dwelling units in low-income housing shall be made at the first regular reexamination of tenant income following such date; and

"(2) the provisions of section 5(d) of the United States Housing Act of 1937, as amended by section 201 of this title, relating to annual base level operating assistance contributions pursuant to contracts entered into by the Secretary, shall take effect upon the date of enactment of this Act."

Section-by-Section Summary of Amendment 788 to S. 2049, the Housing Simplification and Consolidation Act of 1971

This amendment proposes a series of changes to S. 2049 in the following areas:

TITLE I: MORTGAGE CREDIT ASSISTANCE

Title I of S. 2049 contains a complete rewrite of the National Housing Act and proposes a seven title "Revised National Housing Act." Amendment 788 would modify the following sections of this "Revised National Housing Act.":

Section 3. Flexible mortgage amounts.—The proposed section 3 of S. 2049 would be deleted and new section inserted in its place. Subsection (a) would prohibit the Secretary from insuring any mortgage under section 402 (Homeownership Assistance) or section 502 (Multifamily Housing Assistance) which exceeds, for that portion attributable to dwelling use, the sum of (1) 120% of the prototype construction cost for the type of dwelling in that area and (2) the appraised value of the land and actual cost of site improvements. However, the Secretary could insure a mortgage under section 402 and 502 which exceeded the above on an individual case basis if he determines that the particular project or dwelling is subject to unavoidable or unforeseeable cost increases.

Subsection (b) directs the Secretary to determine prototype construction costs for each type and size of dwelling units and project in each housing market area at least annually. These prototypes would be based on the following: (1) an estimate of the construction costs of comparable new dwelling units of various types and sizes; (2) the extra durability required for economical maintenance of such housing: (3) the provision of amenities to guarantee safe and healthy family life and neighborhood environment, (4) good design and quality in architecture to reflect neighborhood and community standards; (5) the effectiveness of existing FHA mortgage limits in the areas, and (6) the advice and recommendations of local housing producers. These prototype construction costs would become effective upon the date of publication in the *Federal Register*.

Subsection (c) would define "construction costs" as those cost items which are normally reflected in the amount of a home mortgage or multifamily mortgage insured under section 402 and 502, except for the cost of land and site improvements.

Section 201. Insurance funds.—Section 201 (b) of S. 2049, which describes the Special Risk Insurance Fund would be amended to include the mortgages of two new programs subsequently added to the "Revised National Housing Act." Section 201(b)(2) would be amended to include home mortgages insured under section 401(g) and section 201(b)(4) would be amended to include multifamily mortgages under 501(j) [refinanced mortgages].

Section 401. Home mortgage insurance.—Basic insurance program.—Section 401 of the "Revised National Housing Act" as proposed in S. 2049 would be amended by adding a new subsection (g). This subsection would authorize the Secretary to insure a mortgage executed by the occupant of a single family dwelling to refinance an existing mortgage on that dwelling so to assist in preserving and improving the quality of existing neighborhoods and properties and to prevent the abandonment of such properties. Mortgages eligible for insurance under this subsection shall: (1) be secured by the property which is to be refinanced; (2) be in a principal amount not exceeding the sum of 90 percent of the appraised value of the property plus the estimated cost of any repairs; and (3) provide for the complete amortization by periodic payments within such term as the Secretary prescribes.

No mortgage can be insured under this subsection unless it is (a) located in a stable neighborhood containing adequate public facilities or in an area in which the community is planning to carry out a program for neighborhood preservation, conservation or rehabilitation and (b) the property is basically sound or capable of repair without substantial rehabilitation.

Section 402. Homeownership assistance.—S. 2049 provides in section 402 a program to assist lower income families in acquiring homeownership. (This would replace the present section 235 program.) This entire section would be deleted and a new section 402, dealing with homeownership assistance, inserted in its place.

Subsection (a) authorizes the Secretary to make and to contract to make periodic assistance payments on behalf of eligible lower income families to assist them in acquiring homeownership or ownership of a unit in a cooperative (sales cooperatives). Such assistance will be in the form of payments to mortgagees holding mortgages meeting the special requirements in this section.

Subsection (b) sets forth the general requirements for assistance under section 402. The homeowner or owner of a cooperative unit must be of lower income and satisfy eligibility requirements prescribed by the Secretary. For homeownership (including ownership of a condominium unit) the owner must be a mortgagor under a mortgage meeting the requirements of and insured under section 402.

For ownership of a unit in a cooperative, the owner must be a mortgagor under a mortgage meeting the requirements of and insured under section 402. Such a unit must be (a) in a cooperative project, the construction, substantial rehabilitation or acquisition of which was financed through a mortgage insured under section 501 of the Revised National Housing Act, completed within two years prior to the filing of an application for assistance; and had no previous occupant: or (b) in an existing project, insured under Sections 213, 221(d)(3) or 236 of the National Housing Act, receiving rent supplements or financed under the low rent public housing program, and the units are to be sold to purchasers eligible for mortgage insurance and assistance payments under this section. The subsection also provides that to be eligible for assistance, the cooperative must have consumer-oriented sponsorship and will continue to provide community facilities for the owners of such units.

This subsection also provides an exception to the above and permits the Secretary to make assistance payments on behalf of otherwise eligible families involving homes or cooperative units which are being financed through a state or local program providing assistance through loans, loan insurance, or tax abatement and which prior to completion of construction or rehabilitation is approved for receiving the benefits of this section.

Subsection (c) provides that assistance payments may be made during such time as the mortgagor continues to occupy the property. Such payments may continue to be made if a new owner purchases the property and is approved by the Secretary as eligible to receive such assistance. The Secretary is also authorized to continue making assistance payments where the mortgage has been assigned to him.

Subsection (d) provides that assistance payments shall be an amount not to exceed the lesser of (1) the balance of the monthly payment for principal, interest, taxes, insurance, and mortgage insurances premiums due under the mortgage remaining unpaid after deducting 20% of the mortgagor's income; or (2) the difference between the monthly payment required for principal, interest, taxes, insurance and mortgage insurance premium and the monthly payment for taxes, insurance and mortgage insurance premium. In no case, however, shall monthly payments be less than the sum of monthly payments for taxes and insurance.

Subsection (e) permits the Secretary to include in that payment to the mortgagee an amount to reimburse the mortgagee for its expenses in handling the mortgage.

Subsection (f) provides that procedures shall be adopted to recertify mortgagor's income every two years for the purpose of adjusting the amount of assistance. This subsection also provides that no assistance payments shall be made unless the Secretary is satisfied that the mortgagor's residual income is sufficient to pay normal utility and maintenance costs.

Subsection (g) requires the Secretary to prescribe regulations to assure that the sales price of properties to be purchased under the program are not increased above the appraised value on which the maximum mortgage is computed. This subsection also requires the Secretary to prescribe regulations to present excessive profits upon sale or disposition of property assisted under this section, in which case the seller would be required to repay, out of net proceeds, an amount equal to that portion of the assistance payments which covered principal determined by the Secretary to be equitable taking into account the circumstances surrounding the sale or disposition.

Subsection (h) authorizes the appropriation of funds to carry out the provisions of this section including sums to make assistance payments under contracts entered into under this section. Such contract authority shall not exceed amounts approved in appropriation acts, and such contracts shall not exceed $75 million prior to the beginning of fiscal year 1970, and shall be increased by $125 million in fiscal year 1970, $150 million for fiscal year 1971, and $200 million for fiscal year 1972, $250 million in fiscal year 1973, $300 million in fiscal year 1974, and $350 million in fiscal year 1975.

This subsection also provides that not more than 30 percent of the contract authority approved in appropriations acts made after July 1, 1972 be made with respect to existing units except in the case of units for families displaced by public action or families with five or more minors where this limitation will not apply. Also, not less than 10 percent of this contract authority approved in appropriations acts shall be used for properties approved by the Secretary prior to substantial rehabilitation.

Subsection (i) authorizes the Secretary to insure a home mortgage (including open-end advances) under this section which meets the requirements of section 401 except that such a mortgage shall: (1) involve a single-family dwelling or a one-family unit in a condominium or cooperative, and (2) have a principal obligation not to exceed (a) the appraised value of property (or if a rehabilitated property, the sums of the estimated cost of rehabilitation plus the estimated value of the property prior to rehabilitation), and (b) an amount not to exceed all closing costs and prepaid expenses less $200.

Subsection (j) authorizes the Secretary to insure a mortgage executed by a nonprofit organization, public body or agency to finance the purchase (and rehabilitation if necessary) of housing for resale to families eligible for assistance under section 402. The housing must include five or more one-family dwellings or units in any case where rehabilitation is involved. The mortgage shall not exceed the appraised value of the property at time of purchase plus the estimated cost of rehabilitation and bear market rate interest. Properties eligible for insurance shall be located in stable neighborhoods with adequate public facilities or amenities or in areas where action is being taken (including the rehabilitation under this section) to give reasonable promise that a healthy environment will be created.

Under subsection (j)(4) the Secretary is authorized to insure the individual mortgages given to finance the resale of this housing to families eligible to receive assistance under this section after the purchase and/or rehabilitation of the property. The Secretary also is authorized to pay on behalf of the mortgagor the difference between the required monthly payment for principal, interest, taxes, insurance, and mortgage insurance premium obligated under the mortgage and the monthly payment for interest, taxes, and mortgage insurance premiums.

Subsection (k) incorporates Section 237 of the National Housing Act. The Secretary is authorized to provide, or contract with public or private organizations to provide, budget, debt management and related counseling services to families whose mortgage is insured under this section the Secretary may also provide counseling to eligible families who lack funds for a downpayment to help them save for this purpose.

Subsection (l) defines "lower income families" to mean those families whose income does not exceed the median income for the area. The Secretary may make adjustments for family size and can raise or lower these ceilings if construction costs, unusually high or low median family incomes, or other factors warrant such action.

Subsection (m) defines "income" to mean all income from each member of the family in the household, with the following exceptions: (1) the income of family members under 18, the income of full-time students (unless such members or students are heads of households), and nonrecurring income; (2) an amount equal to $300 for each dependent and each secondary wage earner; (3) an amount equal to 5 percent of gross income (10 percent in the case of an elderly family); and (4) medical or other expenses as the Secretary approves for exclusion.

Subsection (n) provides for assistance to owner occupants to rehabilitate their own property, if such owner-occupant is otherwise eligible for assistance. It authorizes the Secretary to make assistance payments, subject to subsection (d), to a mortgagee on behalf of a homeowner who meets the income requirements if (1) the mortgage was executed for the purpose of rehabilitating or renovating the property involved, (2) that mortgage is insured under or meets the requirements of subsection (i) of this section, and (3) that homeowner continues to occupy such property.

Section 501. Project mortgages—Multifamily housing—Section 501 of S. 2049 sets forth the general insurance requirements for multifamily housing. It would be amended as follows:

Section 501(i) of S. 2049 sets forth certain requirements for insuring project mortgages. This subsection would be amended to permit projects or properties, intended for the use of the elderly or handicapped, to incorporate design facilities to serve the special needs of these families.

Section 501 of S. 2049 would also be amended by adding a new subsection (j) to cover insurance of refinanced mortgages meeting specified requirements. Under this new subsection, the Secretary would be authorized to insure any mortgage covering a multifamily housing project to finance an existing mortgage on that project so as to assist in preserving and improving the quality of existing neighborhoods and properties and prevent the abandonment of such properties. Mortgages eligible for insurance under this subsection shall: (1) be secured by the property which is to be refinanced with the proceeds; (2) be in a principle amount not exceeding the sum of 90 percent of the appraised value of the property (97 percent in the case of cooperatives) plus the estimated cost of repairs; and (3) provide for complete amortization by periodic payments as prescribed by the Secretary.

No mortgage shall be insured under this section unless the Secretary determines (a) that the property to be refinanced is located in a neighborhood which is sufficiently stable and contains sufficient public facilities and amenities to support long-term values or in which the community is planning to carry out a program for neighborhood preservation, conservation, or rehabilitation; (b) that the property is basically sound or capable of repair without substantial rehabilitation; and (c) that, when refinancing involves an existing owner, maintenance services provided have been adequate.

The Secretary may extend the amortization term of any mortgage insured under this subsection if he determines that a rent increase would be reduced or avoided.

This section does not preclude the insurance of mortgages which involve projects containing units to be made available to low or moderate income families, or a change in the form of ownership, or manner of operation of the project.

Section 502. Multi-family housing assistance.—S. 2049 provides in Section 502 a program designed to reduce rentals for lower income families. This entire section would be deleted and a new Section 502 dealing with multi-family housing assistance inserted in its place.

Subsection (a) authorizes the Secretary to make, and to contract to make, periodic assistance payments on behalf of the owners of rental housing projects. This would be accomplished through payments to mortgages holding mortgages meeting the special requirements of this section.

Subsection (b) provides that assistance payments would be made only so long as the project is operated as a multi-family housing project and is subject to the mortgage which meets the requirements of and is insured under Subsection (j) or which has been assigned to the Secretary. Additionally, assistance payments would be made if the project is owned by a private non-profit corporation or other private non-profit entity, a limited dividend corporation or other limited dividend entity, or a public agency or a cooperative housing corporation and is financed under a State or local program which is providing assistance through loans, loan insurance, or tax abatement. Upon meeting the requirements above, assistance payments can be made for either new or existing construction and for all or part of a project.

Subsection (c) provides that the amount of any assistance payment shall not exceed the difference between total cost attributable to the project (principal, interest, mortgage insurance premiums, taxes, utilities, maintenance, management and operating costs as well as tenants services) and the total revenues accruing to the project (rents or cooperative charges, other fees and charges, grants or other income, non-residential tenants, interest or any direct project investments and other revenues as determined by the Secretary). Contracts can be amended by the Secretary to reflect the changes in project costs or revenues.

Subsection (d) provides additional assistance payments to reimburse the mortgagee for its expenses in handling the mortgage.

Subsection (e) provides that receiving the benefits of assistance payments is made conditional on the project owner operating the project in accordance with such requirements that the Secretary may prescribe with respect to tenant eligibility and rents. Also, the Secretary is required to adopt procedures for reviewing tenants income at intervals of not more than 2 years.

Subsection (f) requires that an "operating rental charge" and a "fair market rental charge" be established for each assisted unit. The operating rental charge would be based on the cost of operating, maintaining and managing the project, exclusive of debt service. The fair market rental would be based on the cost of operating the project with payments on principal, interest, and mortgage insurance premium. The actual per unit rental would be based on local rent to income ratios determined by the locality (or sponsor if no such local ratios exist) and approved by the Secretary. Such ratios would take into account family income, family size and local income and spending patterns; however, no family would pay in excess of 25 percent of income for rent and the average rent to income ratio in each project should be at least 20 percent. The only exception to these provisions would be families who receive a majority of their income through federally-assisted public assistance who, two years after enactment of this provision, would be required to pay as a minimum the operating rental charge. This two year period would provide the time necessary for any changes in state or local welfare laws and regulations to carry out the section.

Subsection (g) would require the project owner to accumulate and to pay periodically to the Secretary any rental charges received in excess above the amounts specified in the assistance contract. The Secretary would deposit these in a revolving fund to be used to make additional assistance payments. Moneys not needed for current obligations could be invested in government obligations or government guaranteed obligations.

Subsection (h) would require that, in the case of a new project, at least 20 percent of the units initially be made available for families of very low income, defined as those requiring an initial assistance payment in excess of 60 percent of the fair market rental charge. The requirement could be waived if, due to local or special circumstances, the project cannot meet this requirement. This subsection also requires the Secretary to prescribe regulation to insure that the availability of units in any new project shall be published, along with a rental range, in a daily newspaper of general circulation in the area where the project is located, and in a newspaper serving the center city if the project is located in a standard statistical metropolitan area.

Subsection (i) authorizes the appropriation of funds to carry out the provisions of this section including sums to make assistance payments under contracts entered into under this section. Such contract authority shall not exceed amounts approved in appropriation acts, and such contracts shall not exceed $75 million prior to the beginning of fiscal year 1970, and shall be increased by $125 million in fiscal year 1970, $250 million in fiscal year 1971, $280 million in fiscal year 1972, $350 million in fiscal year 1973, $400 million in fiscal year 1974 and $450 million in fiscal year 1975.

Subsection (j) authorizes the Secretary to insure a mortgage (including advances on such mortgages during construction) under this section to be occupied primarily by lower income tenants. Such a mortgage should meet the requirements of section 501 with the following exceptions. If the mortgage is executed by a cooperative, nonprofit corporation or association, a public agency, or a builder-seller, as (defined by the Secretary) the principal obligation shall not exceed: (a) if new construction, the estimated replacement cost of the project when completed; (b) if rehabilitation, the sum of the cost of the rehabilitation plus the estimated value of the property prior to rehabilitation; or (c) if refinancing, the appraised value of the property. If the mortgage is executed by a limited distribution corporation or other limited dividend entity or an investor-sponsor who agrees to sell the project to a cooperative, the principal amount shall not exceed 90 percent of the above.

If a project is financed with a mortgage executed by other than a cooperative, nonprofit, or public agency and later sold to a cooperative or nonprofit association or corporation the Secretary under subsection (j)(4) is authorized to insure such a mortgage not exceeding the appraised value of the property at time of purchase, based on a mortgage amount on which debt service can be met from the income of the property, when operated on a non-profit basis, after payment of all operating expenses, taxes and reserves. Subsection (j)(5) permits the sale of individual units to eligible lower income families under such regulations as the Secretary may provide.

Subsection (k)(1) defines the term "tenant" to also include a member of a cooperative. It also defines the terms "rental" and "rental charge" to include the charges under the occupancy agreements between cooperative members and the cooperative.

Subsection (k)(2) defines the term "low income tenants" to mean tenants whose incomes do not exceed the median income for the area. The Secretary may make adjustments for family size and can raise or lower these ceilings if construction costs, unusually high or low median family incomes, or other factors warrant such action.

Subsection (k)(3) defines the term "tenant services" to include: counseling on household management, housekeeping, budgeting, money management, child care and similar matters; advice as to resources for job training and placement, education, welfare, health, and other community sources, services which are directly related to meeting tenant needs and providing a wholesome living environment; and referral to appropriate agencies when necessary for the provision of such services for families living in housing projects assisted under this section.

Subsection (k)(4) defines "income to mean all income from each member of the family in the household, with the following exceptions: (1) the income of family members under 18, the income of full-time students (unless such members or students are heads of households), and nonrecurring income; (2) an amount equal to $300 for each dependent and each secondary wage earner; (3) an amount equal to 5 percent of gross income (10 percent in the case of an elderly family); and (4) medical or other expenses as the Secretary approves for exclusion.

Subsection (k)(5) defines "cooperatives" as a non-profit corporation or a non-profit housing trust which has consumer-oriented sponsorship and which is organized for the purpose of construction, rehabilitation, or acquisition of housing and related facilities. Occupancy of the cooperative is restricted to members.

Subsection (1) authorizes the Secretary to enter into agreements with a state or its agency where such a state or agency contracts to make assistance payments, subject to this section and such rules and regulations adopted by the Secretary, with respect to a project approved by the Secretary prior to the beginning of construction or rehabilitation. Any funds provided by the state or agency should be administered by the Secretary according to the agreement between the states or agency and the Secretary. Before entering into such agreements to administer such state programs, the Secretary should determine that the state or agency will provide sufficient funds for the full period specified in the assistance payment contract.

TITLE II: PUBLIC AGENCY HOUSING ASSISTANCE

Title II of S. 2049 contains a complete rewrite of the United States Housing Act of 1937 and proposes a 13- -section revised "United States Housing Act of 1937". A series of amendments are proposed to this revised "United States Housing Act of 1937", which would result in the following.

Section 201. This section would amend and supersede the U.S. Housing Act of 1937.

Short title

Section 1. The Act would be cited as "The United States Housing Act of 1937".

Declaration of policy

Section 2. The Declaration of Policy of The United States Housing Act of 1937 would be amended as proposed in S. 2049, except the phrase in the existing 1937 Act including "responsibility for the establishment of rents and eligibility requirements, subject to the approval of the Secretary of HUD", would be retained.

Definitions

Section 3. This section defines "development", "operation", "acquisition cost", "State", "low income housing project" or "project", "families", "elderly families", and "displaced families" as proposed in S. 2049. The terms "low-income housing", "low-income families" and "public agency housing" are defined as follows:

The term "low-income housing" means well-designed but not luxurious housing in a local area, as determined by the Secretary, the construction cost of which does not exceed by more than 20 per centum the appropriate prototype construction costs for the area. Prototype construction costs (excluding the cost of land, demolition, and site improvements and non-dwelling facilities) shall be determined at least annually by the Secretary on the basis of his estimate of the construction and equipment costs of new dwelling units of various sizes and types in the area. The Secretary in determining an area's prototype costs shall take into account the extra durability required for economical maintenance of assisted housing, and the provision of amenities designed to guarantee safe and healthy family life and neighborhood environment. Further, in the development of such prototypes, emphasis shall be given to encouraging good design as an essential component of such housing and to producing housing which will be of such quality as to reflect the architectural standards of the neighborhood and community. The prototype costs for any area shall become effective upon the date of publication in the Federal Register. Occupancy shall be limited to families who at time of entry into a project are low-income families. Rents for low-income housing shall be determined by the public housing agency with the approval of the Secretary. The average rental for dwelling units administered by a public housing agency shall be not less than one-fifth of family income, and no rental for any single dwelling unit shall exceed one-fourth of family income. Income, or purposes of this Act, means income from all sources of each member of the family residing in the household who is at least eighteen years of age; except that (i) non-recurring income, as determined by the Secretary, and the income of dependent, full-time students shall be excluded; (ii) and amount equal to the sum of $300 for each dependent, $300 for each secondary wage earner, 5 per centum of the family's gross income (10 per centum in the case of elderly families), and those medical expenses of the family properly considered extraordinary shall be deducted; and (iii) the Secretary may allow further deductions in recognition or unusual circumstances.

The term "low-income families" means families the incomes of which do not exceed the median income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than the median income for the area on the basis of his finding that such variations are necessary because of prevailing levels of construction costs, unusually high or low median family incomes, or other relevant factors.

The term "public housing agency" means any State, county, municipality, or other governmental entity or public body (or agency or instrumentality thereof), including a metropolitan or regional agency, or any multi-State agency, which is authorized to engage in or assist in the development or operation of low-income housing.

Loans

Section 4. This section is the same as Title II, Section 4 of S. 2049.

Annual contributions

Section 5. This section provides for annual contributions contract provisions in two parts: (1) capital debt requirements and (2) operating services and reserve funds.

(a) The Secretary would make annual contributions to public agencies to cover principal and interest payments payable on obligations issued by the public housing agency to finance the development or acquisition cost of the low income project. This subsection is the same as Title II, Section 5(a) of S. 2049.

(b) This subsection is the same as Title II, Section 5(d) of S. 2049; and provides for collective coverage of two or more projects under one contract.

(c) This subsection is the same as Title II, Section 5(e) of S. 2049 which requires the approval of the local governing body of all public housing agency applications and the demonstration of the need for low income housing, except that (ii) is amended to read as follows: "and (ii) unless the public housing agency has demonstrated to the satisfaction of the Secretary that there is a need for such low-income housing under the conditions set forth in this Act".

(d) (1) This subsection is almost identical to Title II, Section 9(a) of S. 2049, and provides for annual contributions for operating services. In addition to the annual contributions authorized under subsection (a), the Secretary may make contributions to public housing agencies to assist in the operation of their projects. Contributions under this subsection shall be payable annually and shall not exceed such amounts as the Secretary determines are required (A) to assure the low-income character of the projects involved and (B) to achieve adequate operating services and reserve funds. The Secretary may embody the provisions for annual contributions in accordance with this subsection in a contract guaranteeing their payment.

(2) This subsection is not included in S. 2049 and spells out the procedure for allocation of annual contributions for operating services. At the initial stage of development of each new low-income housing project, or in the case of existing projects at the earliest practicable time after the date of enactment of this section, the public housing agency operating the project shall determine, with the approval of the Secretary, appropriate and required operating services and reserve funds, including tenant services, based on the character and location of the project and the characteristics of the families to be housed. Services so determined shall constitute the base level of operating services of a public housing agency. If income from a project of a public housing agency will not be sufficient in any year to meet the agency's base level of operating services at projected costs for that year, the Secretary may make contributions to meet the residual cost. The commitment to maintain a base level of operating services shall be incorporated in an annual contributions contract. A public housing agency shall signify its base level of operating services requirements at the beginning of its operating year and at the time of the preparation of its annual budget. A public housing agency shall at the time of its reexamination of tenant income (at least every two years) reexamine its base level of operating services in order to determine the adequacy of the services provided for in the light of changing conditions and standards.

(e) This subsection authorizes the Secretary to use annual contributions to make improvements in existing projects by providing that in addition to the annual contributions authorized under subsection (a) and (d), the Secretary may make contributions to public housing agencies to effect such improvement in existing projects administered by such agencies as the Secretary determines are necessary to bring such projects up to minimum standards prescribed by the Secretary for new projects. Contributions under this subsection shall be payable annually and provision therefore may be embodied in a contract guaranteeing their payment.

(f) This subsection insures uniformity of treatment for tenants in low-income housing and provides that income limits for occupancy, rents, and other requirements applicable to low-income housing projects shall be determined without regard to whether annual contributions with respect to such projects are being provided pursuant to subsections (d) and (e).

(g) This subsection is the same as subsection 5(e) of S. 2049, and provides that any portion of an annual contributions payment made to a public housing agency pursuant to a contract under this section which is not used by the agency in the year for which it was made shall, under regulations prescribed by the Secretary, effect a pro tanto reduction in any subsequent annual contribution payment made to such agency.

(h) This subsection is the same as subsection 5(f) of S. 2049, granting the Secretary the authority to modify the rate of interest and other terms of contract to which he is a party, under certain conditions.

(i) (1) This subsection is in substitution of subsection 5 (c) of S. 2049, and provides for total contract authority, and for a portion of new authority to be utilized for Section 23 leased housing. The aggregate contracts for annual contributions entered into by the Secretary under subsection (a), and section 10 of this Act as it existed prior to the date of enactment of the Housing Consolidation and Simplification Act of 1971, shall not exceed $1,424,250,000 per annum, which limit shall be increased by $350,000,000 on July 1, 1972, by $400,000,000 on July 1, 1973, and by $450,000,0000 on July 1, 1974: *Provided*, That at least 30 per centum of the total amount of such contracts entered into in any fiscal year pursuant to new authority granted to the Secretary by any Act of Congress enacted on or after December 31, 1970, shall be entered into with respect to units of low-income housing in private accommodations provided under section 8 (section 23 of this Act as it existed prior to the date of enactment of the Housing Consolidation and Simplification Act of 1971). The Secretary is also authorized to enter into contracts for annual contributions (A) under subsection (d) aggregating not more than $300,000,000 per annum, and (B) under subsection (e) aggregating not more than $100,000,000 per annum.

(2) This subsection is the same as the second part of Subsection 5(c) of S. 2049, and provides that the Secretary shall enter into only such new contracts for preliminary loans as are consistent with the number of dwelling units for which contracts for annual contributions may be entered into under subsection (a). It also provides that public housing agencies must comply with the requirements of section 8 (a) (1) concerning the provision of low-income housing in private accommodations. The faith of the United States is solemnly pledged to the payment of all annual contributions contracted for pursuant to this section.

Contract provisions and requirements

Section 6. This Section would include the following subsections as proposed in S. 2049, with the changes noted.

(a) Same as Title II, subsection 6 (a) of S. 2049—covering (1) the right of the Secretary to include conditions in loans, annual contributions, contracts or other instruments or agreements, necessary to insure the low income character of the project (2) a contract condition requiring open space or playground, if deemed necessary by the Secretary, and (3) a contract condition that no highrise elevator projects, except for elderly, shall be developed for families with children, unless the Secretary determines there is no practical alternative.

(b) This subsection is in substitution for subsection 6(b) of S. 2049, and provides that every contract made pursuant to this Act for loans (other than preliminary loans) and annual contributions shall provide that the construction cost of the project (excluding the cost of land, demolition, site improvement, non-dwelling facilities, and the cost of relocation assistance) on which the computation of any annual contributions under this Act may be based shall not exceed by more than 20 per centum the appropriate prototype cost for the area, except where the Secretary determines (on a project-by-project basis) that this limitation should not be applied to the project because of special considerations.

(c) This subsection is the same as subsection 6(c) (2) and (3) of S. 2049, requiring (1) Certification and two-year review of regulations and (2) notification procedures for ineligible applicants.

(d) This subsection is a substitute for subsection 6(d) of S. 2049 providing that all new public agency assisted housing would pay full real and personal property taxes levied or imposed by a state, city, county, or other political subdivision. It would further provide that existing public housing developments not now paying such full taxes would proceed to make increased tax payments on a fixed level, annual basis until they are paying full taxes, at a rate of at least 10 percent increase a year, but reaching a full level tax payment within at least ten years. Estimates for increasing annual contribution contracts to cover full property taxes in existing projects would be submitted by the Secretary within six months after enactment of this Act.

(e) Subsection 6(e) of S. 2049 is deleted; conditions for reduction of subsequent annual contributions are covered under subsection 5(g). The new subsection 6(e) is the same as subsection 6(f) of S. 2049, covering conditions in the event of default.

(f) This would be a new subsection providing that after January 1, 1975, a family receiving the major portion of its income from public assistance shall pay rent at least equal to the operating costs attributable to its housing unit, including utilities. Operating costs shall mean all costs except for principal and interest payments on capital debt.

(g) This would be a new section providing that if the Secretary and the public housing agency jointly agree that an existing project is obsolete with respect to physical condition or location, that the Secretary can make a capital grant to pay off the indebtedness so that the project can be demolished or sold. The capital grant would cover the cost of demolition, if required. The local public agency would be required to provide replacement or relocation housing for existing tenants. A capital grant authorization of $100 million is provided for this purpose, to remain available until expended.

Congregate housing

Section 7. This section is the same as Title II, Section 7 of S. 2049, except for the final sentence, which is revised to read: "Expenditures incurred by a public agency in the operation of a central dining facility in connection with congregate housing shall be considered as one of the costs of the project, except that only up to 25 percent of the cost of providing food and service, shall be included."

Low-income housing in private accommodations

Section 8. This section is the same as Title II, Section 8 of S. 2049.

Section 9. This section of S. 2049 is deleted; operating service contributions are covered under Section 5.

Homeownership for low-income families

Section 9. This section is in substitution for Title II, Section 10 of S. 2049 and sets forth the terms and conditions for homeownership under the public agency low-income housing program. It is the same as Section 10 of S. 2049, except for the following major changes:

(a) The rate of interest for a mortgage is the same as that under the FHA Section 402 homeownership program, or the rate on the public housing agency's principal, whichever is "applicable" (S. 2049 provides for the "greater" interest rate);

The home purchaser concept of the existing Turnkey III housing program is extended by providing an alternate method for a low-income family to achieve homeownership;

under this alternative, the Secretary of HUD would have the discretion to assist the low-income home purchaser to meet all or part of total real property tax payments (c);

Upon sale of any unit, the family would be required to pay from the sales proceeds, if sufficient, any subsidy which has covered principal.

The conditions for disposition of a housing development, either for sale to low-income tenant purchasers, or to non-profit, or cooperative purchasers shall include a requirement that any necessary repairs or improvements be made prior to disposition of the property. The Secretary is authorized to provide supplemental annual contributions to cover the debt service on loans to make such repairs and improvements. The sale price shall cover: The outstanding bonded indebtedness, the costs of any supplemental loan to cover necessary repairs and improvements, the costs of conversion, closing costs and prepaid expenses. The legislation makes clear that annual contributions will continue to cover debt service both on the original capital cost and the loan, as well as prepaid expenses and closing costs.

General provisions

Section 10. This section is the same as Title II, Section 11 of S. 2049.

Financing low-income housing projects

Section 11. This section is the same as Title II, Section 12 of S. 2049.

Labor standards

Section 12. Section is the same as Title II, Section 13 of S. 2049.

Applicability of rental requirements

Section 202 of S. 2049 is deleted.

Exemption of mutual help projects from rental formula

Section 202 is the same as section 203 of S. 2049.

Repeal of specification requirements

Section 203 is the same as Section 204 of S. 2049.

Retroactive repeal of section 10(J)

Section 204. This section is the same as Title II, Section 205 of S. 2049.

Amendment to National Bank Act

Section 205. This section is the same as Title II, Section 206 or S. 2049.

Amendment to Lanham Act

Section 206. This section is the same as Title II, Section 207 of S. 2049.

Effective date of title II

Section 207. This section is in substitution for section 208 of S. 2049. Except as otherwise provided in Sections 201–202, the provisions of Title II shall be effective beginning on January 1, 1973, except that any adjustment in income eligibility or rent payment shall take place at the first regular reexamination of tenant income following January 1, 1973. Further, the Secretary is authorized to proceed immediately upon the effective date of this Act to execute "base level" operating assistance contract agreements with existing public housing agencies.

AMENDMENT NO. 789

At the end of the bill insert the following new sections:

HOUSING GOALS AND ANNUAL HOUSING REPORT

SEC. 309. (a) Section 1601 of the Housing and Urban Development Act of 1968 is amended

(1) by striking out the section heading and inserting in lieu thereof the following: "Reaffirmation of National Goal; Development of State and Local Goals";

(2) by inserting "(a)" after "SEC. 1601."; and

(3) by adding at the end thereof the following new subsections:

"(b) The Congress further finds that the achievement of the national housing goal will require a more efficient use of the Nation's existing housing stock through such measures as preservation, rehabilitation, and improvements in management and maintenance policies, in order that losses to the housing stock may be minimized and the current level of housing services improved.

(c) In order to facilitate the achievement of the national housing goal and provide a more precise basis for determining national housing requirements, the Secretary of Housing and Urban Development shall encourage (through the provision of planning assistance and otherwise) the formulation of State and local housing goals covering major housing market areas. Such State and local housing goals shall be developed and formulated so as to include both the housing production requirements of the areas involved and the actions needed to preserve the existing housing stock in such areas, including—

"(1) the numbers and types of subsidized housing units which are needed annually to serve various income groups and are necessary for relocation or replacement housing resulting from community development programs,

"(2) the Federal, State, and local programs which might or should be utilized to meet the goals established, and the adequacy of private financing resources in meeting these goals,

"(3) the identification of impediments to meeting these goals, such as unrealistic or obsolete building codes and zoning regulations, and any recommendations or proposals for eliminating such impediments, and

"(4) plans for the general location of low- and moderate-income housing so as to provide the residents thereof with greater access to employment opportunities."

(b) Section 1602 of such Act is amended—

(1) by inserting "(a)" after "SEC. 1602."; and

(2) by adding at the end thereof a new subsection as follows:

"(b) The President shall from time to time report to the Congress such changes in the plan submitted pursuant to subsection (a) as he determines to be necessary or appropriate for the realization of the goal referred to in section 1601. Revisions so reported shall take into account (1) State and local housing goals which have been developed and formulated as prescribed in section 1601 (c), and (2) community development needs pursuant to the Community Development Assistance Act of 1971. Requests to the Congress for appropriations or new authorizations to carry out Federally-assisted housing programs shall be in three-year increments and shall be accompanied by explanatory material indicating the manner in which the requests will further the realization of the goal referred to in section 1601."

(c) (1) Section 1603 of such Act is amended by redesignating paragraph (5) and (6) as paragraphs (8) and (9), respectively, and by inserting after paragraph (4) the following new paragraphs:

"(5) include a contingency plan for the provision of required mortgage credit, setting forth proposed governmental actions to be carried out in the event of adverse mortgage credit conditions;

"(6) provide an analysis of changes affecting housing costs borne by occupants, together with recommended actions to reduce the cost of any inflationary elements;

"(7) provide an analysis of annual changes in the number and conditions of units in the national housing inventory;".

(2) Such section is further amended by adding at the end thereof the following: "As an aid in the preparation of such periodic reports, the Bureau of the Census shall make such annual surveys as the President deems necessary to obtain current information on the national housing inventory. Expenses incurred in the making of such surveys or portions thereof shall be reimbursable from the appropriation authorized under section 1604."

(d) Title XVI of such Act is amended by redesignating section 1604 as section 1605, and by inserting after section 1603 a new section as follows:

"AUTHORIZATION FOR APPROPRIATIONS

"SEC. 1604. There is authorized to be appropriated not to exceed $75,000,000 to carry out the provisions of sections 1601–1603. Sums so appropriated shall be available for expenses incurred in the preparation of the reports referred to in such sections; to provide such additional planning assistance to the States and localities as may be necessary, as determined by the Secretary of Housing and Urban Development, to carry out the provisions and purposes of section 1601(c); and to reimburse the Bureau of the Census for expenses incurred in the making of surveys pursuant to section 1603."

(e) Section 701(a) of the Housing Act of 1954 is amended by striking the next to last sentence of this section and inserting in lieu thereof the following: "Planning carried out with assistance under this section shall also include a housing element as part of the preparation of comprehensive land use plans. The development and formulation of State and local goals pursuant to title XVI of the Housing and Urban Development Act of 1968 shall be required as part of such a housing element. Consideration of housing needs and land use requirements for housing in each comprehensive plan shall take into account all available evidence of the assumptions and statistical bases upon which the projection of zoning, community facilities, and population growth is based, so that the housing needs of both the region and the local communities studies in the planning will be adequately covered in terms of existing and prospective in-migrant population growth."

PUBLIC SERVICE GRANTS

SEC. 310. (a) The Secretary of Housing and Urban Development (hereinafter referred to as the "Secretary") is authorized to enter into contracts to make, and to make annual grants to municipalities and other political subdivisions of States to assist such localities in meeting the increased cost of providing needed governmental services in connection with new federally assisted housing located in such localities. In no case shall a contract provide for such grants with respect to any such housing for a period in excess of ten years.

(b) A grant under this section shall not be made unless the Secretary has obtained assurances that the locality involved will maintain during the period of the contract a level of expenditures for governmental services at not less than its normal expenditures for such services prior to the execution of the contract. The amount of any annual grant under this section with respect to any housing shall not exceed an amount equal to the sum of (1) $250 multiplied by the number of dwelling units in such housing having less than three bedrooms, and (2) $400 multiplied by the number of dwelling units in such housing having three or more bedrooms.

(c) The Secretary is authorized to make such rules and regulations, and to adopt such procedures as he deems necessary or desirable to carry out this section.

(d) As used in this section, the term "State" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

(e) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section, including the making of annual grants under contracts entered into under this section. The aggregate amount of contracts to make such grants shall not exceed amounts approved in appropriation Acts, and payments pursuant to such contracts shall not exceed $150,000,000 per annum prior to July 1, 1972, which maximum dollar amount shall be increased by $150,000,000 on July 1 of each of the years 1973 and 1974.

INCREASED AUTHORIZATION FOR REHABILITATION LOANS

SEC. 311. Section 312(d) of the Housing Act of 1964 is amended by striking out "$150,000,000" and inserting in lieu thereof "$200,000,000".

HOUSING EMERGENCY AREAS

SEC. 312. (a) The Congress finds and declares—

(1) that a serious impediment exists with respect to the realization of the national housing goal, established in the Housing Act of 1949, in those areas of the country where a substantial number of low- and moderate-income families are unable to obtain decent, safe, and sanitary housing because of a lack of public or private organizations willing or able to sponsor, with or without Federal assistance, the housing requisite to meet their needs; and

(2) that there is a need to formulate criteria for identifying such areas as "housing emergency areas", and to provide the necessary authority for the Secretary of Housing and Urban Development to act as sponsor "of last resort" of the requisite housing in such areas.

(b) The Secretary of Housing and Urban Development shall submit to the Congress, at the earliest practicable date (in no event later than one year after the date of enactment of this Act), his recommendations for legislative and administrative actions necessary for implementing, within two years after such date, the policy stated in this section.

EXPANSION OF EXPERIMENTAL HOUSING ALLOWANCE PROGRAM

SEC. 313. (a) Section 504(a) of the Housing and Urban Development Act of 1970 is amended to read as follows:

"(a) In carrying out activities under section 501, the Secretary shall undertake on an experimental basis a program to demonstrate the feasibility of providing families of low income with housing allowances to assist them in obtaining housing of their choice. For this purpose, the Secretary is authorized to make, subject to the limitations contained in section 501, monthly housing allowances to such families in localities determined by the Secretary as having an adequate supply of appropriate housing units."

(b) Section 504(b) of such Act is amended to read as follows:

"(b) The program undertaken pursuant to this section shall include the development and utilization of different types of housing allowances, and different techniques for providing such allowances to families of low income, in order that a wide variety of potentially effective types of and techniques for providing housing allowances may be tested and evaluated. Particular attention shall be given (1) to the impact of such allowances on rent levels for housing units of comparable size throughout the housing market and the extent to which any increased rent levels reflect improved housing services, and (2) to areas where no eligible housing sponsors (public or private) are providing housing assistance and in which there is a need for such housing assistance."

(c) Section 504(d) of such Act is amended by striking out "not to exceed $10,000,000 in each of the fiscal years 1972 and 1973" and inserting in lieu thereof "not to exceed $25,000,000 in each of the fiscal years 1972, 1973, and 1974".

(d) Section 504(e) of such Act is amended by striking out "1972 and 1973" and inserting in lieu thereof "1972, 1973, and 1974".

(e) Section 504(g) of such Act is amended by striking out "June 30, 1973" and inserting in lieu thereof "June 30, 1974".

A SECTION-BY-SECTION SUMMARY OF AMENDMENTS TO S. 2049, THE HOUSING SIMPLIFICATION AND CONSOLIDATION ACT OF 1971

Title III of S2049 provides for a series of amendments to existing law. This amendment, number 789, would add at the end of Title III the following new sections:

Section 309. Housing goals and annual housing report.—This section would amend Title X of the Housing and Urban Development Act of 1968 by creating a mechanism to update the housing goals and modifying the requirements of the annual housing goals report, especially relating to assisted housing.

It would authorize the Secretary of The Department of Housing and Urban Development to encourage the formulation of State and local housing goals (local goals usually based on Standard Statistical Metropolitan Area's) to provide a base for determining national housing requirements. This would be accomplished usually through the "701" Urban Planning Assistance Program. Such State and local goals would also include actions necessary to maintain the existing housing stock. Specific annual needs for subsidized housing on a five-year basis would be included.

This section would also provide for the periodic updating of the national housing goals and provide that these goals be based on national data, state and local housing goals, and community development needs (relocation and replacement housing). Likewise, this section would require the Secretary to justify all authorization and appropriation requests for assisted housing programs in terms of how these figures will approach the assisted housing goals.

The scope of the annual housing goals report would be expanded to include (a) an analysis of the effect of changes in housing costs and recommendations for reducing any inflationary increases; (b) an analysis of annual changes in the quantity and condition of the national housing inventory.

Seventy-five million dollars would be authorized: to fund the annual housing goals report; to assist in the formulation of state and local housing goals (either as a supplement to "701" assistance or as a separate grant); and to contract with the Bureau of Census to do an annual evaluation of the national housing inventory.

Section 310. Public Service Grants.—This section would authorize a new program of $150 million in new contract authority annually for three years for payments to localities to assist them offset increases in public services resulting from the provision of new federally-assisted housing within their communities. Contracts for such public service grants could not exceed ten years and could not exceed $250 per unit annually, except for units designed for large families (3 or more bedrooms) where such amount can be increased to $400 annually.

The section also requires the Secretary of the Department of Housing and Urban Development to obtain assurances from localities receiving such assistance that the locality will maintain a level of expenditures for governmental services at not less than its normal expenditures for such services prior to the execution of the contract.

Section 311. Increased authorization for rehabilitation loans.—This section would amend Section 312 of the Housing Act of 1964 to increase the annual amount of funds authorized for the Section 312 Rehabilitation Loan Program from 150 million dollars to 200 million dollars.

Section 312. Housing emergency areas.—Subsection (a) would state that it is the finding and declaration of Congress that a serious impediment exists in achieving the national housing goal in those areas of the country where a substantial number of low and moderate-income families are unable to obtain decent, safe and sanitary housing because of a lack of public or private organizations willing or able to sponsor, with or without federal assistance, such housing. The subsection further declares that there is a need to formulate criteria for identifying such housing areas as "housing emergency areas" and to provide the necessary authority for the Secretary of Housing and Urban Development to act as sponsor "of last resort" of the requisite housing in such areas.

Subsection (b) would require the Secretary of the Department of Housing and Urban Development to submit not later than a year after the enactment of this act his recommendations for legislative and administrative actions necessary for implementing, within two years after such date, the policy stated in this section.

Section 313. Expansion of experimental housing allowance program.—This section amends Section 504 of the Housing and Urban Development Act of 1970 to authorize a demonstration on housing allowances to test methods in addition to a single housing allowance formula (i.e. the difference between 25% of a family's income and the maximum full market rental established in the locality). It would permit the development and utilization of different types of housing allowances and different techniques for implementation.

This title further provides for evaluation of the impact of such allowance on rent levels throughout the housing market area and the extent to which any increased rental levels reflect improved housing services and its use in areas where no eligible housing sponsor (public or private) is providing housing assistance and in which there is a need for such housing assistance.

The housing allowance contract authority is increased to $25 million for each of the next three fiscal years.

Mr. MONDALE. Mr. President, I am pleased to join with my distinguished colleague from Massachusetts (Mr. BROOKE) in introducing the Housing Reform Amendments Act of 1971 and wish to associate myself with his previous remarks. This legislation, which we jointly developed, will provide a long overdue revamping of our housing assistance programs to make them more responsive to the needs of the 1970's. Of particular importance to me is that the passage of these amendments would give added flexibility to the public housing and FHA low- and moderate-income housing programs.

Presently, these two programs are directed at two different income groups and this unintentionally has fostered the isolation of the lowest income families within public housing, further "ghettoizing" many of our center cities. Because of these programmatic restraints, public housing has become a villain in the minds of many people—its tenants, its neighbors, and even some of its supporters. This is a tragic occurrence because the public housing program is now the only major program to assist our low-income elderly, handicapped, and poverty families obtain safe and decent shelter.

The Housing Reform Amendments Act of 1971 fully recognizes this problem and offers the mechanisms to achieve social and economic integration within all assisted projects whether sponsored by a public agency, a nonprofit corporation, a limited dividend, a cooperative, or a private developer. Under this bill, both FHA programs—now restricted to moderate-income families—and public housing—now limited to those of the lowest income—would be able to serve a larger range of families—from those of lowest income to those of median income in an area.

This flexibility in renting and selling units, plus the requirement that at least 20 percent of the units have to be reserved for families of very low income, will means totally new policy directions resulting in socially and economically viable housing. Such changes must be implemented as soon as possible, to reverse recent trends which have transformed, or will transform, some public housing projects into concentrations of large fatherless families, welfare families, and problem families.

Mr. President, much has been written and said on this topic by public housing officials, psychologists, sociologists, urban planners, and city officials. For example, the Honorable Wes Uhlman, mayor of Seattle, Wash., in a recent speech discussed the effects of overconcentration of low-income families.

To quote his discussion of the situation in Seattle—

> Over 1,300 low-income families are concentrated in one project. This has obvious adverse effects, both on the neighboring community and the residents of the project. In an effort to alleviate this condition, we are exploring the possibility of redeveloping this project using the new town, in-town concept—one that will mix income levels as well as housing types. Never again will we in Seattle, at least while I am mayor, accept projects which merely concentrate low-income families.

The Housing Reform Amendments Act of 1971 would provide the mechanism to accomplish such a proposal as Mayor Uhlman suggests.

Some efforts to bring about such integrated living arrangements already exist, but use State or local programs to supplement Federal subsidies or require the "piggy backing" of Federal subsidies such as allocating a percentage of units within an FHA moderate-income project to low-income families through the leased public housing program or rent supplements. This is a complicated process which involves added paperwork on the part of the sponsor and the HUD administrators. Also, its implementation requires sufficient funds in all the programs to be used. Finally, the question of basic reform to the public housing program is ignored in these approaches.

However, one of the most ambitious programs announced to date is that of the New York State Urban Development Corp., headed by Edward J. Logue, one of the most outstanding urban practitioners in our country. By using a State housing finance program, Federal subsidies and other State and Federal programs, Mr. Logue hopes to achieve an economic balance in every residential project this State corporation develops.

Mr. Logue described this program in an article which appeared in the May 15, 1971, issue of Saturday Review.

> I firmly believe that housing developments that cater exclusively to low income families are inherently undesirable since they are likely to produce large institutionalized apartheid pockets. UDC's housing policy has led in most cases to a 70–20–10 formula—70 percent of all housing units on a site for middle- and moderate-income families, 20 percent for low-income families and 10 percent for the elderly. This housing mix seeks to provide a cross section of age groups and income levels in a diversified community, where, incidentally, the elderly are not isolated from the young.

Again, I repeat that the Housing Reform Amendments Act of 1971 is trying to institute similar policy—projects where needy families regardless of income would be housed.

At the same time, Mr. President, this legislation also addresses itself to the broader question of how to provide housing for low- and moderate-income families in areas where little or no units are now being built. This is probably one of the most controversial issues of the day. Communities and neighborhoods across the country have become engulfed in dissention and acrimony as the result of an announcement that some form of assisted housing project is about to be built. Blackjack, Mo., Warren, Mich., San Jose, Calif., and Forest Hills, N.Y., are just a few examples of areas where housing has become a political issue.

It would be too simplistic to charge that the opposition to such housing was the result of bigotry and callousness. No, some of this opposition is based on real concerns of these communities and its citizens—will my taxes go up to care for these families, will there be sufficient public facilities to care for them, will my property go down in value because it is located near this project? Again, Mr. President, the housing reform amendments seek to reassure such citizens.

First of all, these projects would not be limited to the poorest of the poor and problem families but serve a wide range of incomes. Second, all assisted housing must be of high architectural quality and offer a formula for developing maximum development costs to guarantee that this commitment can be fulfilled. These two changes, coupled with the increasing development of low density assisted projects in most communities will mean that the physical impact of such housing in a locality or neighborhood will be minimal or could actually improve the quality of the neighborhood.

Third, the bill provides that all new public projects would pay full local real estate taxes. Under current law, most public housing pays only a portion of these taxes and the community suffers a loss of potential revenue every time it agrees to provide a site for such housing. This, of course, has led to many opposing the development of public housing on economic grounds.

Fourth, the bill also recognizes that assisted housing might mean an influx of some families who require additional public services—additional or special educational, health manpower, or welfare programs, the cost of which must be borne at least in part by the locality. Under the housing reform amendments, communities in which assisted housing is built will be eligible to receive public service grants to help offset any increases in public services attributable to these families. These two provisions go to the heart of the economic arguments used against locating housing in certain communities or neighborhoods.

Last, the program contains a provision which would permit the Federal development of housing in areas where housing emergencies existed. These "housing emergency areas" would be defined as areas where, 2 years after the enactment of this bill, a large number of low- and moderate-income families reside or work who are in need of safe and decent housing, and there is no sponsor, private or public willing to provide this housing.

Mr. President, as the distinguished Senator from Massachusetts (Mr. BROOKE) mentioned in his statement, this legislation is actually a series of amendments to S. 2049, the administration's Housing Simplification and Consolidation Act of 1971. These amendments would, however, make major changes in the administration bill.

First. The housing reform amendments program is more consolidated than the administration bill in that it would establish major common elements covering the FHA-assisted housing programs and the public agency housing program. Such consolidation would cut Federal redtape and help the housing developer. A single subsidy program has common prototypes, income limits, definition of income, rent payments applying to all assisted programs, whereas the administration bill has susbtantial differences in all of these items between programs, except for prototypes. Moreover, the single subsidy program has a common policy for disbursing the Federal contribution; that is, an assistance payment covering the difference between total costs of the project, and total revenue based on the ability of eligible families to pay a percentage of their income for rent.

Second. The housing reform amendments provide a basis for developing housing which will provide shelter for a range of income groups, whereas the administration's bill perpetuates the segmentation of housing by income; that is, lowest income in public housing; moderate to middle income families in FHA-assisted projects. The provision for developing housing with a range of income groups has important economic and social advantages: It provides for higher rent paying—families which can help offset the low rents paid by the lowest income families—cross-section of income occupancy—reducing the Federal subsidy required; and it provides for a sound social environment by not segregating all of the lowest income and problem families in separate housing.

Third. The housing reform amendments provide for payment of full local real estate taxes by all federally assisted housing. Full tax payments are essential to enable local governments to meet at least part of the municipal service costs related to assist housing.

Fourth. The reform amendments recognize the importance of tenant services, by making these services an integral part of the management operation of every assisted housing program, making them an eligible operating cost, against which the Federal contribution may be used if project income cannot cover essential tenant service costs. The administration bill retains "tenant services" as a grant program for all but public agency housing and as such is a "hit and miss" method of providing tenant services, based on special application for funds, separate from the regular management operation; and subject to separate appropriations funding by the Congress.

Fifth. The housing reform amendments retains the section 237 homeownership counseling program, while the administration bill eliminates it.

Sixth. The reform amendments would also expand the FHA homeownership program to low-income families by providing a total Federal contribution which could cover full debt service, if required.

Seventh. The reform amendments program provides for special "incentive grants" to general purpose governments to cover additional service costs related to assisted housing, such as school costs, thus encouraging localities to accept assisted housing. The administration bill does not include this provision.

Eighth. The reform program provides for realistic and flexible maximum development costs for assisted housing. These would be based on levels up to 120 percent of local construction cost prototypes and actual or appraised costs of land. Thus, special cost and other local conditions can be accommodated without sacrificing housing quality. The administration bill provides for housing development up to only 110 percent over prototype costs, leaving little room for accommodation to local needs and includes all costs of development—beyond construction—as part of the prototype computation.

Mr. President, this is the type of positive program we must develop to respond to the housing needs of this Nation. Yet it is not one which involves using new institutions or new mechanisms. It builds on those programs and devices which have worked and revamps, removes, or rewrites those which have not. It has the support of a wide range of groups and individuals including the U.S. Conference of Mayors, the National League of Cities, and the National Association of Housing and Redevelopment Officials.

Mr. President, I would also like to point out that the Housing Reform Amendments Act of 1971, which I am cosponsoring with the distinguished Senator from Massachusetts (Mr. BROOKE) is very similar to S. 2536, the Housing Opportunities Act of 1971 that I introduced on September 17, 1971. When I introduced S. 2536, I indicated that I was working with Senator BROOKE on the reform amendments and that I would be cosponsoring them. I think it is very important that each of these bills be submitted for full discussion and that is why I am cosponsoring the Housing Reform Amendments Act while at the same time, continuing to support the Housing Opportunities Act. I would hope that Congress will be able to give serious consideration to each of these bills and to act quickly on this needed legislation.

ANNOUNCEMENT OF HEARING ON NOMINATION

Mr. EAGLETON. Mr. President, the District of Columbia Committee will hold a hearing at 9 a.m. on Monday, December 13, 1971, on the nomination of Joseph M. F. Ryan, Jr., of Maryland, to be associate judge to the Supreme Court of the District of Columbia. This is a reappointment. Persons wishing to testify on this nomination should notify Robert O. Harris, at the committee office, room 6222, New Senate Office Building.

THE NATIONAL CANCER ACT OF 1971

Mr. KENNEDY. Mr. President, as chairman of the Subcommittee on Health, I am pleased the Senate is about to vote on the bill S. 1828, the National Cancer Act of 1971. This bill grows out of the actions taken in both the Senate and House with respect to the great need to make further progress against this dread disease. As we all know, more than one-half million Americans perish each year from the ravages of cancer. If its toll continues unabated; 50 million Americans now living will contract cancer and about 35 million of them will die of cancer.

The Committee on Labor and Public Welfare last year appointed a distinguished panel of 26 Americans to advise it with respect to a national program to combat cancer. Their findings or recommendations—a summary of which I will include at the end of my remarks—laid the groundwork for the introduction of legislation in the Senate in order to substantially upgrade the ongoing Federal effort in cancer research. The panel recognized that for such an enhanced effort to be successful, there would have to be more effective planning, greater resources, and better evaluative techniques with respect to cancer research. Each of those elements is contained in the bill as agreed to by the conferees. There is provision for program planning. There are authorized $1.6 billion over the next 3 years. And there is authority for the creation of a new National Cancer Advisory Board, which has broad powers to assist in the evaluation of the program, and authority for the creation of a Presidentially appointed Cancer Advisory Panel.

S. 1828 also assures that the cancer program will be able to take full advantage of the fruits of biomedical research. The bill, as agreed to by the conferees, assures that the Director of the cancer program will have a high degree of independence and feasibility, while at the same time be an integral team member of the leadership in the National Institutes of Health. The bill also insures that with respect to budget, the Director of the cancer program will have direct access to the President of the United States. I believe, Mr. President, that this combination as between the program's relationship to the National Institutes of Health with direct access to the President, is in the Nation's interest, and will result in a highly effective program and, accordingly, I strongly support the conference report.

Now, Mr. President, I want to lay to rest one myth regarding this legislation; namely, that the House and the Senate were radically different. This is simply not the case. Both bills provide for the submission of annual reports to the President, both bills relied upon the excellence of the National Cancer Institute of the National Institutes of Health. Both bills relied upon the essentiality of scientific peer review with respect to program decisions. Both bills find and declare that now is the time to begin a substantially larger national effort in respect to cancer. Both bills provide for the Director of the cancer program to submit his budget directly to the President. And both bills were overwhelmingly approved by their respective legislative bodies.

Mr. President, as you may know, nine members of the Senate conferees wrote to the President on December 3, and asked for his guidance with respect to the remaining issues of difference between the Senate and House bills. Three days later the President responded by indicating that—

> The most important point I can make about the cancer legislation concerns the need to pass it promptly. The differences which still exist are largely a matter of detail, and I urge the Conferees to resolve them during the current session of the Congress so that I can sign cancer legislation into law in the very near future.

Finally, Mr. President, I do want to direct my colleagues attention to one specific aspect of the conference report. The House bill, in a direct attempt to approach the Senate bill, included authority for the creation of a three-man cancer attack panel—this panel to be appointed by the President, and to advise him with respect to the effectiveness of the cancer program. Section 407(d) (1) of the House bill states:

> There is hereby established the President's Cancer Attack Panel which shall be composed of three persons appointed by the President, who by virtue of their training, experience, and background, are especially qualified to appraise the National Cancer Attack program. At least two of the members of the panel shall be distinguished scientists or physicians.

The language of the House bill is quite clear. The only requirement for members on the panel is with respect to the individuals' training, experience, and background. There is no legislative prohibition with respect to such persons' employment. That is to say, the President could appoint either or both the Director of the National Cancer Institute, or the National Institutes of Health to the advisory panel. As a matter of fact, in response to my letter of December 3, 1971, in respect to the composition of the advisory panel the President said:

> The Senate version would have the advantage of bringing those who are directly responsible for the Government's cancer effort into all discussions with the President concerning its progress.

The Senate version to which the President made reference was a compromise proposal offered by the Senate conferees which would have added the Director of the cancer program, the Director of the

NIH, and the Chairman of the National Cancer Advisory Board to the Attack Panel.

Mr. President, the conferees have put together a good bill. I urge my colleagues on both sides of the aisle to vote for the adoption of the conference report.

Mr. DOMINICK. Mr. President, I support without reservation the conference report on S. 1828, the National Cancer Act of 1971. While the bill agreed on by the conferees differs in several respects from S. 1828 as it was passed by the Senate, I believe it is consistent with the essential principles upon which the Senate bill was based.

The starting point for this legislation was a broad concensus that our national effort against cancer should be greatly strengthened. Both the administration, on whose behalf I introduced S. 1828, and the panel of consultants on the conquest of cancer felt that the man in charge of the new cancer program should be given considerable management and budget independence in order to quickly exploit new research opportunities, and to mobilize, in the President's words, "a total national commitment" against cancer. Under this bill, the Director of the National Cancer Institute will have that independence.

He will formulate and submit the annual cancer budget directly to the President without intervening review by anyone—although the Director of the National Institutes of Health and the Secretary of the Department of Health, Education, and Welfare will be permitted to comment on it. While the Director of the National Cancer Institute will not report directly to the President as he would have under the Senate bill, several administrative layers between him and the President will be eliminated by the provision enabling him to report directly to the Director of the National Institutes of Health. A very constructive provision taken from the House bill—a three-man "Cancer Attack Panel" appointed by the President, and reporting directly to him—will provide independent outside assessment of the cancer program as well as direct access to the President.

Since the new cancer program will be centered at the National Cancer Institute within the National Institutes of Health, this legislation should put to rest the fears expressed by the scientific community that the increased independence of the cancer program would threaten the integrity of the National Institutes of Health and its broad support for biomedical research. In this connection, I think it is important to keep in mind that this new legislation does not guarantee quick success against cancer. Much essential information is still lacking. Continued support for basic biomedical research, as well as cancer-targeted research, will be necessary to obtain that information. But I do think there is good reason for hope that this bill, by improving the organization of our cancer effort and substantially increasing the resources committed to it, will shorten the time necessary to achieve success.

Mr. President, in conclusion, I would like to add only that the cooperative spirit in which this legislation developed was remarkable. As a result, it is a mix of the best ideas put forth by the administration, the distinguished panel of consultants on the conquest of cancer, and the members of both the Senate and House committees which considered the bills. As chief sponsors of S. 1828, Senators KENNEDY, JAVITS, SCHWEIKER, and all the other members of the Health Subcommittee deserve special recognition for their contributions to this coordinated effort to find key solutions to the most dreaded disease, cancer.

Mr. TAFT. Mr. President, I wholeheartedly support the adoption of the conference report on the National Cancer Act 1971. We have before us what I hope will be an effective vehicle for the conquest of cancer.

Now is the time for decisive action against a disease which claims nearly 1,000 lives each day. In 1969, 323,000 Americans died of cancer. I believe that we can be proud of the final version of this bill which represents an effective compromise resulting from the inputs of concerned citizens, physicians, scientists, Government officials, Congressmen, my colleagues in the Senate, and President Nixon.

Testimony before our committee has indicated that in 1969 we spent $410 per citizen for national defense, $125 for the war in Vietnam, and $19.50 for space exploration but only 89 cents for cancer research. We must now give cancer research its proper place, higher on our national list of priorities. President Nixon recognized this when he requested an additional $100 million for cancer research this year. The Congress recognized this by honoring this immediate budget request and by working in the committees and on the floors of both Houses and in conference to come up with an effective bill such as this.

This measure will provide that cancer research continue within the National Institutes of Health, but with a separate budget to insure a top priority. I believe that the funds authorized in this bill will be adequate to insure that our attack on cancer is meaningful. A total of $1.5 billion is authorized over the next 3 years.

I urge that this conference report be unanimously adopted so that the efforts in the fight against cancer may get underway.

Mr. EAGLETON. Mr. President, I rise in support of the report of the House-Senate conference committee appointed to resolve differences in the separate versions of the Cancer Act of 1971 passed by both houses.

The scope of the national health problem caused by cancer has been amply documented. It is estimated that one-quarter of the 200 million Americans now alive will develop some form of cancer, and unless research into detection and treatment of cancer is stepped up, 34 million of them will die of the disease.

Cancer is a disease of all ages. It is killing more old people than it ever did—more than 56 percent of all cancer deaths are in people over 65 years of age—but it is not restricted to our senior citizens. It is a killer of the young also, being the largest cause of death—excluding accidents—among those between the ages of 1 and 35 years.

Staggering though these figures are, they cannot convey the human tragedy wrought by cancer. It is estimated that cancer will strike two out of every three American families. There are few who have not seen a friend or relative wasted by this disease.

Today cancer is being attacked by research conducted within nearly every branch of biomedical science. Major advances have been made. One cancer patient in three is now being saved as compared with one in four just a few years ago. As a result, about 208,000 Americans will be saved from cancer this year—a gain in lives saved of some 52,000 patients annually.

The progress to date is most encouraging, but much more needs to be done. Promising research leads must be explored. The knowledge gained from research has to be applied to the development of new treatment methods.

A national program for the conquest of cancer has become essential if we are to exploit fully the great opportunities that lie within our grasp. S. 1828, the Cancer Act of 1971 provides a base from which such a program can be launched. The President has responded to this congressional initiative by pledging the cooperation of the administration in the effort to develop an effectve research structure and adequate funds to cure cancer. With the President's support, an additional $100 million over the amount allotted last year has been appropriated for cancer research in this fiscal year.

In order to avoid undue fragmentation of Government-supported biomedical research, the conference committee—of which I was a member—has agreed to provide that the National Cancer Institute shall remain within the overall organizational structure of the National Institutes of Health. However, the status of the Cancer Institute has been raised by making the Director a direct appointee of the President. Further, the Cancer Institute Director is given direct access to the President for purposes of budget review. The Institute will be given the necessary priorities and funding to maintain a single coordinated national program—a vast new national effort.

I am confident that enactment of this legislation will produce a renewed commitment to ridding our Nation of the scourge of cancer.

Mr. RANDOLPH. Mr. President, I am gratified that agreement has been reached, both in the Congress and in the executive branch, on legislation to accelerate the fight against mankind's most feared disease, cancer.

I join with the loved ones of those who have been struck by this dreaded menace in the fervent hope that the enactment of this legislation marks the beginning of a new era of accomplishment in our battle with disease.

There is reason for optimism. Scientific researchers tell us they are on the verge of breakthroughs in the diagnosis, prevention and cure of several forms of cancer. Dr. Frank J. Rauscher, of the National Cancer Institute, says it now appears possible that the current death toll from cancer in the United States—now 330,000—can be cut by one-third by the year 1980, and by two-thirds by the turn of the next century. With the geometric acceleration of our accumulation of knowledge, these figures may even be conservative.

The National Cancer Act of 1971 places a new focus on the attack against cancer. Much of the bureaucratic entanglement that has obstructed the development of a coherent national program will be cut away. New cancer research centers will be established. More funds will be provided.

There may be delays, and there may be setbacks on the road to the conquest of cancer. But, as I said in the Senate on July 7 of this year:

> If lives can be saved, if pain and suffering can be eased, if progress can be made toward creating a better life for all mankind, how can such a program be rejected?

The Senate recognizes the dedication of their colleague who guided this important legislation through committee, through the Senate, and through the conference with the other body. The chairman of the Health Subcommittee, the Senator from Massachusetts (Mr. Kennedy), deserves our genuine thanks.

Mr. HUMPHREY. Mr. President, the President has called for prompt action on legislation to establish a national program for the conquest of cancer. The National Cancer Act, on which the Senate will take final action today, fulfills the commitment of Congress to enable the launching of an all-out attack against this dread disease without delay.

As a sponsor of the original legislation for the conquest of cancer, I welcome the President's sense of urgency. For the fundamental fact is that time is the real enemy in the war against this life-destroying disease. Nearly 1,000 people perish every day from cancer in America alone—a death toll that is multiplied severalfold throughout the world.

But it is also time that we must battle against in an intensive and sustained nationwide program of cancer research, requiring the instantaneous exchange and analysis of information on the latest discoveries. Recent landmark discoveries, for example, appear to link two viruses directly to cancer, and we must seize hold of these new insights and exploit them to the fullest in achieving long-sought cures for this disease. Important advances have been made in curing certain forms of cancer through surgery, radiation therapy, and chemotherapy. And it is essential that major advances in the fundamental knowledge of cancer be far more effectively interrelated—knowledge about the chemical, physical, environmental, and viral causes of cancer; about cell and tumor biology, immunology, and epidemiology; and about combinations of treatment modalities.

I find it incredible that with this great potential for discovering a cure for cancer, the Federal Government in 1969 could allocate $410 for defense and $19 on the space program for every 89 cents on cancer research. Not only has such a low priority been given to cancer research, but cutbacks in research programs were being called for by the administration. Yet the incidence of cancer across America has been increasing.

I am greatly encouraged that with the administration's strong public support for the Senate's initiative to design a comprehensive and adequately funded cancer research program, these past priorities can be substantially changed and decisive progress made toward destroying this disease that now will strike two of every three families over the years.

The National Cancer Act of 1971 retains the original intent of the Senate that Federal efforts toward the conquest of cancer be kept in full public view, without intervening layers of Federal bureaucracy. It provides that the Director of the National Cancer Institute shall now be appointed by the President and shall report directly to him on budget matters, but that to insure the cross-fertilization of basic research in all health fields the NCI shall remain in the National Institutes of Health.

But to assure that a comprehensive and effective national cancer program is now undertaken, the act calls for the establishment of a 23-member National Cancer Advisory Board, including officials of Federal agencies with direct program responsibilities as well as highly qualified scientists and physicians appointed by the President. And a three-member President's Cancer Panel is to be appointed to closely monitor the development and execution of the national cancer program, and to make periodic reports to the President.

And the urgent need to exploit scientific leads in discovering a cancer cure is recognized in the authorization of $75 million per year for the establishment of 15 new centers for clinical research, training, and demonstration of advanced diagnostic and treatment methods relating to cancer. An additional 3-year authorization of $90 million is to be applied by the Director of the National Cancer Institute for cooperation with such programs in State and other health agencies. Finally, to assure that a national program of cancer research will be backed up by essential finacial resources, $1.5 billion is authorized over a 3-year period. And to help insure that these funds are spent wisely and without unnecessary bureaucratic delays, the President is to carry out a review of all administrative processes of the national cancer program and shall submit a comprehensive report to Congress within 1 year of the date of enactment of this legislation.

Mr. President, I believe the National Cancer Act of 1971 will prove to be historic legislation. Not only will it enable America to launch a major offensive in the conquest of cancer, but in implementing a basic program which I have called for over several years to support research in the cancer field outside the United States, it can initiate an international war on mankind's common enemy. I urge the Senate to adopt the conference report on the National Cancer Act.

CHILDREN'S DENTAL ACT—CORRECTION OF REPORT

Mr. KENNEDY. Mr. President, in the report on the bill, S. 1874, on the children's dental health care, in the third paragraph, line 7 of the first page, "56" ought to be "26", and I ask unanimous consent that the permanent Record so reflect that change.

The PRESIDING OFFICER. Without objection, the Record will so reflect the change.

Mr. BOGGS. Mr. President, I wish to express my strong support for that portion of S. 1874 which creates a dental health program for children and also adds a new section to the Lead-Based Paint Poisoning Prevention Act.

Senators have discussed the merits of the dental health program. I will not take the Senate's time except to add my belief that this is an important and necessary provision.

I would like to concentrate my remarks on the provision adding a new section to the Lead-Based Paint Poisoning Prevention Act.

Due to what I consider to be a misinterpretation of the intent of that act, the people of Delaware and Rhode Island have been denied participating in this program. This denial has occurred because Delaware and Rhode Island both operate their public health services at the State level, and the Lead-Based Paint Poisoning Preventive Act, Public Law 91–695, has been interpreted so that grants can go only to local units of Government.

Quite obviously, it would be a needless and wasteful duplication for a local unit of government in Delaware to set up the administrative machinery necessary to administer such a health grant, when the grant can be handled more effectively by the State department of health and social services.

The language of the new section added by S. 1874 would enable to the State health agencies of Delaware and Rhode Island to qualify as recipients for grants to detect and treat incidents of poisoning associated with the hazards of lead-based paints.

To give Senators an understanding of what this amendment could mean to the people of Delaware, I ask unanimous consent that a letter written to me by Dr. Albert L. Ingram, Jr., secretary of the Delaware Department of Health and Social Services, be printed in the Record at the conclusion of my remarks.

Dr. Ingram's letter explains the vital need for such a program in order to deal effectively with the danger of lead poisoning to our children. Dr. Ingram points out that nearly half of 82 children tested in the Wilmington model cities area had more lead in their blood than is described as the "safe" level. This is deplorable, and it must be corrected.

I should point out that the Department's request calls for a grant of $80,000. That is a small cost compared with the benefits it will bring. But this grant apparently cannot be considered unless this new section is added to the Lead-Based Paint Poisoning Prevention Act.

Mr. President, this new section was included in the bill at the suggestion of the distinguished Senator from Rhode Island (Mr. Pell). I want to commend Senator Pell for his work on this program and for his successful effort in bringing this problem to the attention of the Committee on Labor and Public Welfare.

In closing, Mr. President, I wish to restate my support for this provision and I urge its approval by the Senate.

There being no objection, the letter

was ordered to be printed in the RECORD, as follows:

WILMINGTON, DEL.,
November 17, 1971.

Hon. J. CALEB BOGGS,
U.S. Senator from Delaware,
New Senate Office Building,
Washington, D.C.

MY DEAR SENATOR BOGGS: The State of Delaware is by law responsible through its Department of Health and Social Services for carrying out all health services in the State including local health services in all counties and the City of Wilmington. Delaware, therefore, does not qualify to receive a grant under Section 5, Title V, of the Lead Based Paint Poisoning Prevention Act (Public Law 91–695). In the City of Wilmington and its metropolitan area, there is known to be a special problem with lead poisoning.

Our Division of Physical Health in cooperation with the Department of Health, Education, and Welfare, Health Services and Mental Health Administration, conducted a lead poisoning survey in the Model Cities area of Wilmington which was completed in October, 1971. Out of 82 children ages 1 to 6 screened 38 or 47.5% had blood lead levels above 40 micrograms per 100 mls (the maximum allowable level). In addition physicians and hospitals have reported 26 cases of lead poisoning since January 1, 1971.

Our State already has the equipment to do the testing. Our need is grant funds to implement a program. We have submitted an application for a grant to Region III, Department of Health, Education, and Welfare, on September 14, 1971. To date no approval has been received.

It has been reported that the Lead Poisoning Project submitted by the State of Rhode Island has been disapproved. Rhode Island's services to local citizens is provided in the same way as Delaware. We would very much favor an amendment to P.L. 91–695 which would permit grants to states involved in rendering direct local services to its citizens. Unless this is done children in the State of Delaware who live in high lead-poisoning risk areas will be denied a highly essential service. States responsible for local health services need to be permitted to receive grants to carry out programs of lead poisoning detection and prevention. Otherwise irreparable and irreversible morbidity including severe brain damage will occur.

Your assistance is deeply appreciated.

Respectfully yours,
ALBERT L. INGRAM, Jr., M.D.,
Secretary.

Mr. MATHIAS. Mr. President, I am very pleased to have become a cosponsor of S. 1874, the Children's Dental Health Act, which will shortly be before us. The need for an increased Federal dental health effort has been strikingly obvious for many years. The facts are very disturbing: by the age of 2 years, half of America's children have been struck by tooth decay. By the time of entering school, the average child has three decayed teeth, and by his 15th year he has 11 decayed, missing, or filled teeth. And why is this? Over half of all the children in this country have never been to a dentist. And an even larger proportion of rural youngsters have never visited a dentist. But by far the greatest need is among children from low-income families, for almost 70 percent of them have gone totally without even a single visit to a dentist.

Just as is the case with medical care, the coming demand for dental care necessitates our placing much greater emphasis on preventive services and maximizing the productivity of our dentists. The necessity of doing this was noted by the "Carnegie Report on Higher Education and the Nation's Health" which stated:

> Despite the current progress in dental productivity, even more rapid progress could be achieved through more extensive use of dentist's assistants and dental hygienists and through greater emphasis on preventive programs. The view has been expressed that dentistry has an excellent chance of being the first health profession to become truly preventive.

A major thrust of the Children's Dental Health Act, therefore, is to begin in earnest the task of maximizing our dentists' productivity by increasing the number and utilization of dental auxiliaries. The practicality and wisdom of this approach has been widely noted. In his health message to the Congress early this year, President Nixon said:

> One of the most promising ways to expand the supply of medical care and to reduce its costs is through a greater use of allied health personnel, especially those who work as physicians' and dentists' assistants.

To provide for institutional training for dentists and dental students in the use of dental auxiliaries, as well as to provide for the training of much greater numbers of dental auxiliaries, this bill authorizes $113 million over a 3-year period. The hope, therefore, is to make the dentist the captain of a team, rather than an entire team in and of himself.

Another major provision of the bill authorizes the financing of a number of pilot projects to provide preventive, corrective, and followup care to children from low-income families and to other children who are unable to obtain proper dental care. These projects would be administered by public and nonprofit agencies. Priority would be given to projects serving preschool children and those in the first five grades so that minor defects can be remedied before they grow into more painful, serious, and costly defects. At the same time it is hoped that the Department of Health, Education, and Welfare and the dental profession will learn much from these projects as to how care for large numbers of children can be made the most efficient and effective.

Another important provision of the bill, of course, is the authorization of $9 million for a Federal matching program to assist communities which wish to fluoridate their water supply.

Taken together, the provisions of this bill should help substantially to reduce the incidence of dental problems, as well as pave the way for more preventive dental care. Passage and implementation of this bill would represent a sound investment in the health of our Nation. I urge my colleagues to support it.

Mr. BEALL. Mr. President, as a cosponsor of S. 1874, the Children's Dental Health Act of 1971, I strongly support this measure.

The bill basically authorizes a $142 million, 3-year dental care program. The need for this bill is obvious from the following national statistics:

It is shocking to hear that 70 percent of low-income youngsters have never been to a dentist.

More than half of the population over age 65 have lost all their natural teeth.

For every recruit entering the service, Uncle Sam on the average, must perform five fillings. On eight out of 10, it is necessary to extract a tooth.

The Federal Government spent $208 million in 1969 for dental treatment for welfare recipients.

Of the total $142 million authorized, $50 milion would be for a much needed and long awaited beginning of a program to provide preventive, corrective and followup care for disadvantaged children. While decay affects 98 percent of my State's population, 75 percent of the children under age 15 have never been to a dentist. This affects both the urban and rural disadvantaged and the primary reason is lack of financial resources. These pilot dental care projects would make available health care in combination with programs of prevention and health education.

I am convinced that we can avoid the serious consequences of the failure to get needed care in the early years. In so doing, we would be practicing preventive care in the dental area, and the value of preventive care in this area is unquestionable. Periodic checkups and proper dental hygiene can prevent minor oral problems from becoming major ones. This program will work and about 3 years ago the University of Maryland School of Dentistry and the Baltimore City Welfare Department conducted a successful program but had to discontinue it because of lack of funds.

The bill authorizes $113 million to train auxiliaries and to train dentists and dental students on how to best utilize such auxiliaries. As Dean John Salley of the Maryland University School of Dentistry, who is president of the American Association of Dental Schools, told me:

> Through no stretch of the imagination nor the dollar can we meet dental manpower needs in the foreseeable future in Maryland except through training more auxiliary personnel.

Mr. President, the training of dental auxiliaries is most important for my State. It will assist such institutions as Allegany Community College, the Community College of Baltimore, and the Community Colleges in Montgomery and Prince Georges Counties and the University of Maryland in preparing young men and women to enter the dental auxiliary field. The University of Maryland has already received support from the Public Health Service for a team project—a program to train dental students to manage a team of expanded function auxiliaries. Our university was one of nine dental schools in the Nation to receive such a grant and without the additional assistance that may be forthcoming under this act, undesirable limitations on the amount of time each student will work in the team project may result.

Third, the bill would authorize communities, if they wish, grants for the purchasing and installation of water treatment equipment.

Mr. President, a projection of Maryland health manpower needs through the 1980's developed by the Maryland Council for Higher Education in 1969, recommended the following:

> Immediate attention should be given to increasing the productivity of dental manpower

> in Maryland. This should be accomplished in two ways: (a) education of the dentist in more effective utilization of dental auxiliaries and (b) creation of educational opportunities in dental hygiene, dental assisting and dental laboratory technology.

In the western part of the State where I make my home, the need for increased dental services in Allegany-Garrett Counties has been identified as the area's No. 1 health need. I believe that this measure will go a long way in helping these counties, and other areas of my State to meet the unmet dental needs of low-income children as well as provide the support necessary to help assure the Nation of the needed dental manpower to meet the dental requirements of our population.

Mr. President, I believe this is an important and much needed bill and I urge its enactment.

Mr. HUMPHREY. Mr. President, no one who has traveled extensively through the towns and cities of our country can honestly dispute the urgent need for a dental health care plan for our Nation's children and young people.

The astute observer will readily recognize that in the United States dental care is still largely inaccessible. Teeth are missing. There are signs of decay—often heartbreaking decay of precious teeth that nature can never replace.

And you sadly see, too misshapen mouths that, if uncorrected, will sentence a child to a life of ugliness and perhaps accompanying psychological difficulties.

It has been reported—and accurately, I believe—that half of all children in our country under the age of 15 have never been to a dentist—and for nonwhite children that rate jumps to 75 percent. Yet 95 percent of all children have tooth decay.

When money is in short supply—as it is for so many families with young children—it is only the most pressing needs that are usually met.

And, because dental disease is rarely fatal, it is the type of health care need which parents are most inclined to postpone or to ignore entirely, except in an emergency.

In the meantime irreplacable teeth are lost to decay. We are confronted with the disturbing national statistic that 20 million of our citizens have lost all their teeth and another 25 million have lost half or more. Only 6 persons in every 1,000 possess a full complement of sound teeth.

In a country blessed with the potential to remedy this situation, this lack of dental health can only be regarded as a national disgrace.

The problem is not only providing funds for dental care, however. It is also a staffing problem—of training a sufficient number of dentists, hygienists, and other staff to provide the dental care which is needed.

In the rural and urban poverty areas of our Nation there is a great shortage of these specialists, along with other medical personnel.

Particularly in small towns, parents often must drive many miles to take children to the dentist. The travel and the dental care are costly and discourage treatment.

Today we have the opportunity in the Senate to vote for a measure which is an important beginning in finding answers to our dental crisis.

S. 1874, of which I am a sponsor, authorizes an appropriation of $142 million over the next 3 years for dental health care.

Specifically, the money would be allocated for the following purposes: $50 million for pilot dental care projects to help disadvantaged children; $9 million to help communities and schools wishing to fluoridate their water supplies; $57 million to train dental assistants and other auxiliary personnel; and $26 million to train dentists and dental students on how to utilize most effectively the auxiliary people.

As the committee report frankly states, this would not be a crash dental program. It is largely an experimental effort prior to the development of a national dental care program. The Senate Labor and Public Welfare Committee cited the view of the American Dental Association that—

> Experience with programs such as those proposed by S. 1874 is absolutely essential if the profession is to be able to develop a substantial national dental care program.

I have no doubt but that this measure has the resounding support of the parents and children of this country. I urge the Senate to adopt the Children's Dental Health Act of 1971.

Mr. BAKER. Mr. President, I am delighted that the Senate has today approved S. 1874, the Children's Dental Health Act of 1971, and I want to commend the distinguished Senator from Washington (Mr. MAGNUSON) and the members of the Committee on Labor and Public Welfare for their diligent work on this measure which has enabled the Senate to act on it before adjournment.

At this point in time, when we are in the process of thoroughly studying our health care system and devising legislation to provide for the training of health personnel, it is important that we not neglect dental health, which is such an important part of the total health of the individual.

S. 1874 provides authorizations which would permit the Federal Government to fund programs of dental care for preschool and school age children who are unable to obtain such services. These programs will be of invaluable assistance to the State of Tennessee in its continuing efforts to upgrade the dental health of children from low-income families.

I strongly support this measure and I am hopeful that it can be enacted into law at the earliest possible time.

Mr. KENNEDY. Mr. President, I am very pleased that the children's dental health bill, S. 1874, introduced by the distinguished chairman of the Labor-HEW Appropriations Subcommittee, is about to be brought to the floor for a vote.

Dental health is a major cause of systemic disease and disability among our population. Many dental health problems, particularly caries, affect children 15 years of age and under. It is particularly significant for that reason that this legislation has been brought forward by the Senator from Washington.

The bill will authorize $142 million over the next 3 years for use to combat dental disease. It authorizes $50 million for pilot dental care projects providing preventive, corrective, and followup care to disadvantaged children. Nine million dollars is authorized to assist communities and schools which wish to fluoridate their water supplies; $57 million is used to train dental auxiliary personnel, and $26 million will be used to train dentists and dental students to best utilize dental auxiliary personnel.

The bill would also provide for the appointment of a Dental Advisory Committee which would appraise the programs established under the bill and report to the Secretary of Health, Education, and Welfare. The bill further provides that the Secretary submit a report to Congress each year regarding progress of the program and a final report containing his recommendation concerning the need and feasibility of a national dental health program for children. Finally, the bill amends title XIX of the Social Security Act in order to allow dental services to be provided for persons under 18 without making available such services in the same amount, duration and scope to individuals of any other ages.

Leading experts in the field of dental health believe that the most effective way to obtain maximum value for dollars spent is to concentrate upon preventive care in children. This act emphasizes prevention. The $9 million authorization designed to provide up to 80 percent Federal matching funds for the purpose of fluoridating community water supplies is considered by most leading organizations concerned with dental health in the country to be the single most effective measure which could be taken in order to promote dental health. This bill would provide funds to enable communities to voluntarily fluoridate their water supplies. No compulsion is intended in the legislation.

Mr. President, the following represents a list of those organizations which have endorsed fluoridation as an efficacious method for decreasing the incidence of dental caries:

LIST OF ORGANIZATIONS

American Academy of Pediatrics.
American Association for the Advancement of Science.
American Association of Dental Schools.
American Association of Industrial Dentists.
American Association of Public Health Dentists.
American College of Dentists.
American Commission on Community Health Services.
American Dental Association.
American Dental Health Society.
American Dental Hygienists Association.
American Federation of Labor and Congress of Industrial Organizations.
American Heart Association.
American Hospital Association.
American Institute of Nutrition.
American Legion.
American Medical Association.
American Nurses Association.
American Osteopathic Association.
American Pharmaceutical Association.
American Public Health Association.
American Public Welfare Assocation.

American School Health Association.
American Society of Dentistry for Children.
American Veterinary Medical Association.
American Water Works Association.
Association of Public Health Veterinarians.
Association of State and Territorial Health Officers.
Canadian Dental Association.
Canadian Medical Association.
College of American Pathologists.
Federation of American Societies for Experimental Biology.
Federation Dentaire Internationale.
Great Britain Ministry of Health.
Health League of Canada.
Inter-Association Committee on Health.
National Congress of Parents and Teachers.
National Education Association.
National Institute of Municipal Law Officers.
National Research Council.
Office of Civil Defense.
Pan American Health Organization.
U.S. Department of Agriculture.
U.S. Department of Defense.
U.S. Department of Health, Education and Welfare.
World Health Organization.

Mr. President, I am confident this measure will not only pass the Senate, but will receive an overwhelming endorsement. I believe the people of this country and their representatives in Congress recognize the need for and potential of this legislation.

Mr. JAVITS. Mr. President, I strongly support the Children's Dental Health Act, S. 1874. This legislation—authored by the Senator from Washington (Mr. MAGNUSON) and of which I am a cosponsor—permits us to launch a substantially expanded Federal dental health effort in this area of critical need.

To begin to bring dental care to the more than half the children in the Nation who have never visited a dentist—and I might note that among low-income groups the number approaches 70 percent, which is to say that almost three-quarters of these children have never seen a dentist—a total of $50 million is authorized over 3 years for pilot dental care projects providing preventive, corrective, and followup care to children. These dental projects will not provide care to all children or even to all economically disadvantaged children. We have neither the funds nor the manpower to set out upon such an ambitious course. But, these pilot projects—while providing direct care to 1.5 million disadvantaged children—would provide an opportunity for determining how quality dental care can be provided to large numbers of people with maximum efficiency and minimum cost.

No child should be permitted to suffer ill health, because he lives in an isolated area or because his father is poor and this provision would move that principle from promise to performance. To make it possible for the American people to save a sizable proportion of the nearly $4 billion which they are spending every year on corrective dental care, the bill provides $9 million over 3 years for Federal matching grants to schools or communities wishing to fluoridate their water supplies. The effectiveness and safety of fluoridation in preventing tooth decay has been demonstrated again and again and in March 1969 the Surgeon General stated:

> The United States Public Health Service endorses water fluoridation as a safe and effective public health measure and urges all communities to make its benefits available at the earliest possible time.

I recognize that fluoridation has been the subject of intense controversy; however, dental, medical, and statistical data, judged by a committee of experts and special councils of national and international organizations concerned with public health, concluded that the adjustment of the fluoride content of water supplies to a concentration optimal for dental health is a safe and beneficial procedure with no detrimental affects of any kind. In addition, long-term health studies in cities having controlled fluoridation continue to attest to the effectiveness and safety of fluoridation. Also, this bill would not require any school or community to fluoridate its water. What the bill would do is assist those schools and communities which decide—on their own—that they wished to fluoridate their water.

We must not only improve our dental care delivery system, but also train much larger numbers of dental health personnel. While we must continue to increase our supply of dentists, we can no longer rely upon dentists alone to provide dental care. The bill authorizes $57 million over 3 years to train new dental auxiliaries and thus improve our capacity for meeting increased demands for dental services. In addition, $26 million is authorized to train dentists and dental students to work with auxiliary personnel. We will thus be provided with dentists and dental auxiliaries trained to work as efficient, productive teams capable of providing higher quality dental care to more Americans than ever before.

For both philosophical and practical reasons, dental auxiliaries assume today more importance than ever before in our history.

We know there are a number of dental care duties that auxiliaries can perform and that they can be educated in a much shorter period of time, and at much less expense than a dentist. We know that a dentist with just one well-trained auxiliary can stretch his productivity by more than 50 percent.

If our shortage of dentists is acute, the shortage of dental auxiliaries is even more critical. At the present time, there are some 18,000 full-time—or full-time equivalent—dental hygienists in practice. This gives a ratio of one hygienist to every five or six dentists. At a minimum, the desirable ratio should be one hygienist for every two dentists.

The numerical shortage of trained dental assistants is even worse. Presently, there are some 103,000 dental assistants in practice, giving a ratio of about 1 to 1 with respect to dentists. A minimally desirable ratio would be two assistants for every dentist.

The third auxiliary, the dental laboratory technician, does not engage in chairside care nor is he normally employed directly by the dentists. His work, however, is vital and the shortage here is also quite severe.

Based on the current graduation rate, the deficit by 1980 for these three auxiliaries with respect to the desirable ratios will be 25,000 hygenists, 137,000 assistants, and 23,500 technicians.

The bill would help move us toward achievement of the proper ratios in an accelerated way.

The next, logical step in the attempt to stretch dentists' productivity—and as provided for by his bill—is to institute, on a much broader scale than has heretofore existed, programing to instruct both the practicing dentist and the dental student on how to work most effectively with auxiliaries and thus create and use the most effective dental team possible.

Given what we know about the potential to be realized from effective use of auxiliaries, it would be logical to assume that no dental student is permitted to graduate today without intensive instruction in this subject area. In fact, this is not so. Current surveys indicate that almost no first- or second-year students receive it, and that few third-year students have such training. Moreover, senior students have far less of it than necessary.

This relative inattention lies in the fiscal crisis that has gripped the dental education system for some years now. The lack of such education during school years—coupled with the shortage of auxiliary personnel—goes far toward explaining why there are still some 15,000 dentists who practice without auxiliaries. This legislation would enable us to change this and increase the availability of dental care in a relatively short period of time.

Mr. MAGNUSON. Mr. President, as the author of the Children's Dental Health Act of 1971 (S. 1874) I am extremely gratified by the wide support which this measure has received from my Senate colleagues on both sides of the aisle, from the professional dental community and from the public. I especially wish to thank the very able chairman of the Health Subcommittee for his efforts in behalf of this legislation. As one of the outstanding leaders in our efforts to improve the Nation's health, Senator KENNEDY's support for my bill has been invaluable. Similarly essential has been the support of the distinguished chairman of the Labor and Public Welfare Committee (Mr. WILLIAMS) and of the distinguished senior Republican member of that committee (Mr. JAVITS).

Mr. President, the Children's Dental Health Act has four major components, each of which will play an essential part in the comprehensive attack on dental diseases which this bill, for the first time, will make possible. Section 1101 will authorize $50 million to establish and carry out projects to provide comprehensive preventive, corrective and followup care to economically disadvantaged children. Section 1102 will authorize $9 million to be used as matching grants to communities and public schools which voluntarily determine they wish to fluoridate their water supplies. Section 1103 will authorize $57 million to train dental auxiliaries. And section 1104 will authorize $26 million to provide for the training of dentists and dental students in the effective utilization of dental auxiliaries.

Mr. President, the urgent need for the dental care projects authorized in the first section of this legislation cannot be doubted. In its just published study entitled "Lengthening Shadows" the Council on Pediatric Practice of the American

Academy of Pediatrics reports that: "Dental disease is nearly universal in children." Likewise, in its report to the President the 1970 White House Conference on Children concluded that—

> Oral diseases are the most prevalent chronic diseases in the United States today, affecting everyone during his lifetime.

By age 2 half of America's children have decayed teeth. By the time he enters school the average child has three decayed teeth and by his 15th year he has 11 decayed, missing, or filled teeth. And—more often than not—those are 11 decayed or missing teeth, rather than filled teeth, for over half of all our children have never been to a dentist. This proportion is even higher among youngsters living in rural areas. But, by far, the greatest need is among children from low-income families—those who would be most directly benefited by section 1101 of S. 1874. Three-fourths of all youngsters in families with annual incomes under $2,000 and two-thirds of all those from families earning less than $4,000 per year have never visited a dentist. As a result of this gross neglect of poor children's dental health, they are five times more likely to have untreated decayed teeth than is the average youngster. Tragically, among these underprivileged children, 97 out of every 100 dental cavities go unchecked. That is a shocking statistic which every Senator will agree, I am sure, is completely unacceptable.

Mr. President, the second section of this bill would make it possible for the American people to save a sizable share of the $4 billion which they are spending every year on corrective dental care. This section will provide $9 million for Federal matching grants to public schools and communities which wish to fluoridate their water supplies. The effectiveness of fluoridation in reducing dental problems has been dramatically demonstrated again and again.

For example, a 12-year study of fluoridation in Milwaukee, Wis., published in 1969, showed decay reductions ranging from a high of 67 percent at age 7 to 53 percent at age 14. In all age groups the rate of decay reduction exceeded 50 percent. Another study made between 1954 and 1964 in Philadelphia showed an average two-thirds reduction in cavities among those schoolchildren who drank fluoridated water from birth. Because of conclusive evidence like this, fluoridation has been endorsed as an effective and safe method of preventive dental care by a great number of Government, professional, and scientific organizations including the American Dental Association, the American Medical Association, the American Hospital Association, the Department of Defense, and the Department of Health, Education, and Welfare. Mr. President, I submit at this time a more complete list of these organizations and ask unanimous consent that it be printed at the conclusion of my remarks.

Before I move on to a review of the other sections of S. 1874, I want to emphasize that this bill would not require any school or community to fluoridate its water supply. It would only make financial assistance available to those public schools and communities which decided that they wished to fluoridate their water supplies.

Mr. President, section 1103 and 1104 of the Children's Dental Health Act focus upon the critical dental manpower shortage which this Nation now faces and which promises to grow even more acute in coming years unless we act now.

Population growth, increased public awareness of the importance of dental health, and expanded accessability to dental care through private insurance plans all point toward a rising demand for dental care. Add to these factors the possibility that a national health insurance program, including coverage of dental care, will be implemented and predictions of future demand escalate sharply.

If we are to meet this future demand, then we must not only improve our dental care delivery system but we must also train much larger numbers of dental health personnel. And while we must continue to increase our supply of dentists, we can no longer rely upon dentists alone to provide dental care. This point was emphasized in testimony presented in 1970 to the House Health Subcommittee by the American Dental Association, the American Association of Dental Schools, the American Dental Hygienists Association and the American Dental Assistants Association. In a joint statement they said:

> As this Committee well knows, the drive to produce more dentists is complicated by the time lag, as much as 12 years in duration, between the planning stages of a new dental school and the year it graduates its first class. A time lag of such duration does not occur with supportive personnel in the dental field. In addition, there is increasing understanding within dentistry of the fact that the hygienist and the assistant can and should perform additional functions. Concentration on programs within these areas, then, is both professionally and pragmatically desirable.

But, despite the need for—and the desirability of—training greatly increased numbers of these dental auxiliaries, our present training efforts are falling short of filling the need. Currently, there is only one hygienist for every six practicing dentists, although professional groups advise that the minimum desirable ratio is one hygienist for every two dentists. If we are to provide for even that minimum ratio by 1980, we must graduate at least 48,000 new hygienists during this decade. However, at the current rate, we will train only 23,000. Thus, we will have a net deficit of 25,000 hygienists in 1980. Similar deficits in dental assistants and dental laboratory technicians will prevail unless our current training efforts are sharply accelerated. These 1980 deficits are predicted to be 137,000 for dental assistants and 23,500 for laboratory technicians.

The third section of the Children's Dental Health Act addresses this need by authorizing $57 million to train approximately 15,000 new dental auxiliaries during the next 3 years. While even this increase will not completely close the gap between auxiliaries needed and auxiliaries available, it will substantially improve our capacity for meeting the increased demand for dental services we know lies ahead.

The fourth—and final—major section of S. 1874 would authorize $26 million to be used during the next 3 years to train dentists and dental students to work effectively with auxiliary personnel. Taken together, sections 1103 and 1104 will provide us with dentists and dental auxiliaries trained to work as efficient, productive teams capable of providing higher quality dental care to more Americans than ever before.

Mr. President, the Children's Dental Health Act of 1971 would help to substantially reduce the incidence of dental problems and would greatly increase the dental profession's capacity to deal with those that do occur. Enactment and full implementation of this legislation would comprise a sound investment in the Nation's health.

I urge the Senate to pass this bill and to make that investment.

EXHIBIT 1

NATIONAL ORGANIZATIONS ENDORSING FLUORIDATION

American Academy of Pediatrics.
American Association for the Advancement of Science.
American Association of Dental Schools.
American Association of Industrial Dentists.
American Association of Public Health Dentists.
American College of Dentists.
American Commission on Community Health Services.
American Dental Association.
American Dental Health Society.
American Dental Hygienists' Association.
American Federation of Labor and Congress of Industrial Organizations.
American Heart Association.
American Hospital Association.
American Institute of Nutrition.
American Legion.
American Medical Association.
American Nurses Association.
American Osteopathic Association.
American Pharmaceutical Association.
American Public Health Association.
American Public Welfare Association.
American School Health Association.
American Society of Dentistry for Children
American Veterinary Medical Association.
American Water Works Association.
Association of Public Health Veterinarians.
Association of State and Territorial Health Officers.
Canadian Dental Association.
Canadian Medical Association.
College of American Pathologists.
Federation of American Societies for Experimental Biology.
Federation Dentaire Internationale.
Great Britain Ministry of Health.
Health League of Canada.
Inter-Association Committee on Health.
National Congress of Parents and Teachers.
National Education Association.
National Institute of Municipal Law Officers.
National Research Council.
Office of Civil Defense.
Pan American Health Organization.
U.S. Department of Agriculture.
U.S. Department of Defense.
U.S. Department of Health, Education, and Welfare.
World Health Organization.

CONQUEST OF CANCER—S. 1828—CONFERENCE REPORT

The PRESIDING OFFICER. It is now 10:30 a.m. and, under the previous order, the Senate will proceed to vote on the conference report on S. 1828. The yeas and nays have been previously ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from New Mexico (Mr. Anderson), the Senator from Alaska (Mr. Gravel), the Senator from Oklahoma (Mr. Harris), the Senator from Indiana (Mr. Hartke), the Senator from Arkansas (Mr. McClellan), the Senator from Minnesota (Mr. Mondale), the Senator from Maine (Mr. Muskie), the Senator from California (Mr. Tunney), and the Senator from Virginia (Mr Byrd) are necessarily absent.

I further announce that, if present and voting, the Senator from Alaska (Mr Gravel), the Senator from Indiana (Mr. Hartke), and the Senator from Virginia (Mr. Byrd) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Utah (Mr. Bennett) and the Senator from South Dakota (Mr. Mundt) are absent because of illness.

The Senator from Illinois (Mr. Percy), the Senator from Maine (Mrs. Smith), and the Senator from Vermont (Mr. Stafford), are necessarily absent.

The Senator from Arizona (Mr. Goldwater) is detained on official business.

If present and voting, the Senator from Illinois (Mr. Percy) and the Senator from Maine (Mrs. Smith) would each vote "yea."

The result was announced—yeas 85, nays 0, as follows:

[No. 444 Leg.]

YEAS—85

Aiken
Allen
Allott
Baker
Bayh
Beall
Bellmon
Bentsen
Bible
Boggs
Brock
Brooke
Buckley
Burdick
Byrd, W. Va.
Cannon
Case
Chiles
Church
Cook
Cooper
Cotton
Cranston
Curtis
Dole
Dominick
Eagleton
Eastland
Ellender
Ervin
Fannin
Fong
Fulbright
Gambrell
Griffin
Gurney
Hansen
Hart
Hatfield
Hollings
Hruska
Hughes
Humphrey
Inouye
Jackson
Javits
Jordan, N.C.
Jordan, Idaho
Kennedy
Long
Magnuson
Mansfield
Mathias
McGee
McGovern
McIntyre
Metcalf
Miller
Montoya
Moss
Nelson
Packwood
Pastore
Pearson
Pell
Proxmire
Randolph
Ribicoff
Roth
Saxbe
Schweiker
Scott
Sparkman
Spong
Stennis
Stevens
Stevenson
Symington
Taft
Talmadge
Thurmond
Tower
Weicker
Williams
Young

NAYS—0

NOT VOTING—15

Anderson
Bennett
Byrd, Va.
Goldwater
Gravel
Harris
Hartke
McClellan
Mondale
Mundt
Muskie
Percy
Smith
Stafford
Tunney

So the conference report was agreed to.

CHILDREN'S DENTAL HEALTH ACT

The PRESIDING OFFICER (Mr. Bentsen). In accordance with the previous order, the Senate will now proceed to vote on the bill (S. 1874) to provide for the establishment of projects for dental auxiliaries, to increase the availability of dental care through efficient use of dental personnel, and for other purposes. On this question, the yeas and nays have been ordered.

Mr. ALLEN. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

Amend S. 1874 by striking the following: On page 11—Starting with line 21 Grants for Water Treatment Programs through page 12, line 18.

The PRESIDING OFFICER. No time for debate being permitted, the question is on agreeing to the amendment of the Senator from Alabama.

Mr. ALLEN. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. KENNEDY. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. KENNEDY. As I understand, there is no time allotted on this amendment.

The PRESIDING OFFICER. The Senator is correct.

Mr. KENNEDY. As chairman of Health Subcommittee, I would be delighted to make the request myself, or the Senator from Alabama may do so if he wishes, for an allowance of time to the Senator from Alabama, if he wants it, to explain the amendment. I know there is no time, but if he wanted to request it, I certainly would not object. If he does not care to explain the amendment, then I suggest we proceed with the vote.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. KENNEDY. I yield.

Mr. PASTORE. We do not know what the amendment is all about. I think it ought to be explained to the Senate before we vote. Can we not have 2 minutes to have it explained?

Mr. KENNEDY. Mr. President, I ask unanimous consent that there be 5 minutes on the amendment, 2½ minutes to the Senator from Alabama, and I will take 2½ minutes on the amendment, if it is agreeable to the Senator from Alabama, who is the proponent of the amendment.

Mr. ALLEN. Yes.

Mr. PASTORE. And if it is agreeable to the majority leader.

The PRESIDING OFFICER. Is there objection?

Mr. MANSFIELD. Mr. President, in view of what has developed, I would suggest that the vote on passage of S. 1874 not occur until after the vote on cloture, because everyone is on notice that the vote on cloture will occur at 12 o'clock, and we need that hour in between for debate.

Mr. PASTORE. If this goes beyond 11 a.m. How about 2 minutes?

Mr. KENNEDY. Would the majority leader permit a minute on each side? It is not a difficult issue to understand; 1 minute on each side?

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, in view of the unanimous-consent request, I suggest most respectfully that the time allotted to the distinguished Senators from Alabama and Massachusetts be used up, that there then be a quorum call, so that a full hour can be taken to debate the cloture motion, and that after the rollcall vote on the cloture motion the vote occur on the Allen amendment, to be followed immediately by the vote on the bill (S. 1874) itself.

The PRESIDING OFFICER. Is there objection?

Mr. MANSFIELD. We do not have much choice.

The PRESIDING OFFICER. Without objection, it is so ordered.

Was the request of the Senator from Massachusetts for 5 minutes, to be equally divided?

Mr. KENNEDY. Yes; that is correct.

The PRESIDING OFFICER. Without objection, the request of the Senator from Massachusetts is agreed to.

Mr. ALLEN. Mr. President, this amendment merely would knock out one section of the bill, starting on page 11, line 21—Grants for Water Treatment Programs.

There is an authorization in this title for $9 million for a water treatment program which would be a fluoridation program, to which many people object. This section in this title is not at all necessary to the purposes of the bill. It leaves the entire remaining authorization, some $50 million to $60 million, for free dental care. It would knock out the section providing authorization for fluoridation programs. That is all it would do.

I believe that we do not need to get into the business of giving grants for programs to which so many people object. They should not be forced to participate in these programs. It will be said that it would be a voluntary program. Yes, it would be voluntary as regards participation by the State or the county or the school board. But it would not be voluntary as to the schoolchild, himself, who would have to drink the water provided for him.

The remaining authorization provides plenty of funds for carrying out the program envisioned by the distinguished Senator from Massachusetts, providing the necessary funds for dental care for poor children.

I reserve the remainder of my time.

Mr. KENNEDY. I yield myself 2 minutes.

Mr. President, there is a $9 million authorization in this bill. This is a matching program with the community. It will make available 80 percent Federal funds. There will also have to be participation on the part of the local community of 20 percent for any grants they receive.

This is a strictly voluntary program. It does not require any community of this Nation to go ahead with fluoridation. It says that if any community has voted for fluoridation and wants to have a fluoride program, some resources will be available at the national level to go ahead with fluoridation.

If the $9 million was actually appropriated, it would cover up to 45 million Americans; 100 million Americans are now covered by programs that have reservoirs with some fluoridation. Approximately 120 million are not. If we were able to place the $9 million in communities in the country, we could cover an additional 45 million Americans.

This program is endorsed by 45 different organizations including the American Medical Association, the American Dental Association, the American Association of Dental Schools, the American Association of Industrial Dentists, the Association of Public Health Dentists. The list is on page 7 of the committee report.

I would say that this is really one of the most effective and important kinds of programs that can be included in the proposed legislation. If any of the people who testified before our committee, with the exception of those who came specifically to oppose fluoridation, were asked the one action that could be taken by Congress to really help meet the problems of tooth decay, they would say it is in the area of fluoridation.

I think this program is extremely modest—only $9 million. We know, in terms of appropriations, that it will be less, but it can have an important voluntary impact on communities in this Nation. Approximately 95 percent of tooth decay occurs in children under 15 years of age. They do not have a voice in the local communities. When it comes down to the town fathers, who decide where the money is going to be spent, too often we have seen, in the course of our testimony, that the money, a few thousand dollars, has not been there for the development of a fluoridation program. We think this will provide additional impetus to meet the problems of tooth decay in our country.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. KENNEDY. I yield.

Mr. PASTORE. Will the Senator be against this amendment?

Mr. KENNEDY. I am against this amendment.

Mr. PASTORE. I did not hear that.

Mr. KENNEDY. I hope the amendment is rejected.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. MAGNUSON. Will the Senator yield me 20 seconds?

Mr. KENNEDY. I yield.

Mr. MAGNUSON. I appreciate the action of the Senator from Massachusetts and the other committee members on this very important bill. I now wish to add the Senator from Maryland (Mr. Mathias) as a cosponsor of the bill.

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Eagleton). Without objection, it is so ordered.

EXECUTIVE SESSION—NOMINATION OF WILLIAM H. REHNQUIST

The Senate continued with the consideration of the nomination of William H. Rehnquist to be Associate Justice of the Supreme Court of the United States.

CLOTURE MOTION

The PRESIDING OFFICER (Mr. Eagleton). The hour of 11 a.m. having arrived, under the unanimous consent agreement, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion which the clerk will state.

The legislative clerk read as follows:

Cloture Motion

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the confirmation of the nomination of William Rehnquist, to be an Associate Justice of the Supreme Court of the United States:

1. Hugh Scott
2. Paul Fannin
3. Clifford Hansen
4. Bill Brock
5. William Saxbe
6. Marlow Cook
7. Howard Baker
8. James Pearson
9. Roman Hruska
10. Glenn Beall
11. Robert Dole
12. Barry Goldwater
13. Henry Bellmon
14. Carl Curtis
15. Ted Stevens
16. Norris Cotton
17. Mark Hatfield
18. Robert Griffin
19. James Eastland
20. Gordon Allott
21. Ernest Hollings
22. John Tower
23. James Buckley
24. Edward J. Gurney
25. Len B. Jordan
26. Lowell Weicker
27. Robert Taft, Jr.

The PRESIDING OFFICER. The time between now and 12 noon will be equally divided and controlled between the distinguished Senator from Indiana (Mr. Bayh) and the distinguished minority leader (Mr. Scott) or the designees thereof.

Who yields time?

Mr. BAYH. Mr. President——

The PRESIDING OFFICER. The Senator from Indiana.

Mr. BAYH. Mr. President, so that we might get the hour's debate started prior to the cloture vote, I yield myself such time as may be necessary.

Mr. President, we are about to undertake a cloture vote, which is unique in Senate history—this effort to shut off debate. I have read the annals and had my staff read the annals, and this is the first time any of us have been able to find where a debate was labeled a filibuster before the first day had expired. There is no way in which the present discussion of the merits of the Supreme Court nominee can be described as a filibuster. I have listened with great interest to some of the strongest supporters of filibusters, who suggest now that the whole philosophy of the filibuster should change. It will be interesting to see whether, when other issues are presented, these colleagues are equally convinced that the filibuster has become outmoded.

The Senator from Indiana has not been a supporter of the filibuster, and on most occasions has voted to terminate debate. On all occasions when the debate has become unreasonable, I have urged that the will of the Senate be put.

Mr. President, here we are talking about a Supreme Court nominee, a Supreme Court nominee who is going to be on the Supreme Court for a quarter of a century, perhaps for three decades. To suggest before the first day of debate has transpired that a filibuster is in progress is, in my judgment, a rather weak argument to present to the Senate.

Mr. President, so that our colleagues may have something to base their judgment upon as to whether, indeed, we are talking about a filibuster or not, the Senator from Indiana would like to put into the Record at this time the length of debate on other Supreme Court nominees.

We heard the Senator from Massachusetts describe the other day that in one nomination there was about a 4-month debate, after which the Justice reached the Court.

The Senator from Indiana is not suggesting a 4-month debate, nor any debate of such duration, but, indeed, he does feel that we should have adequate time to answer the questions that have been raised.

The Fortas nomination followed a rather extended pattern. The nomination was made on the 26th of June; debate began not until the 24th of September. There were two cloture votes, and we found ourselves into early October, before the nomination was withdrawn. In fact, we were never allowed to discuss the nominee's merits. All the debate centered around the motion to take up the nomination. There was, of course, an equal delay on Judge Thornberry.

The Haynsworth nomination was made on the 18th of August. Debate began on the 13th. The vote was taken on the 21st of November—from the 13th of November to the 21st of November.

The Carswell nomination was made on the 19th of January; debate began on the 13th of March; and a final vote was not taken until April 8.

Today we find ourselves, on the 10th of December, in debate which began late in the afternoon of the 6th. I ask the Senate to look at the equity of this, regardless of how one feels on the merits. I admit very strongly that I feel, on the merits, that Mr. Rehnquist should not reach the Court, but I wonder whether one could adequately describe as a filibuster a debate which began late in the afternoon of the 6th, and a cloture motion was filed on the 8th, and on the morning of the 7th the distinguished minority whip was calling this a filibuster.

During the period of time that we have had to debate the nomination, I would like to call to the Senate's attention that we have considered several other important pieces of legislation.

Let me just read the list of matters which the Senate has considered during the time the nomination has been before us, to show that we have not even had full opportunity to debate the question before us: The Flood Insurance Act; supplemental appropriations; District of Columbia appropriations; District of Columbia Revenue Act; Federal election reform; Federal credit unions; Defense appropriations; the Revenue Act; foreign economic assistance; foreign military assistance; conquest of cancer; Alaska Native lands; Public Health Service.

Even this morning we find ourselves debating two important pieces of health legislation and taking time away from the Supreme Court nomination.

I am not going to take too much of the Senate's time on the merits of whether they feel this is a filibuster or not, because I think most of our colleagues are going to vote really not on whether they feel this is a filibuster or not, but rather on the merits of the issue. The distinguished Senator from Alabama, who is not here, who very dedicately yesterday said he was going to remain resolute in his feeling about free debate, but felt very strongly opposed to the Senator from Indiana on the merits. I salute him for sticking to this particular principle, if that is what he feels. I might disagree with him on that principle, but there is a man who stays with to what he believes, and I salute him for it.

This, Senators might be interested to know, is a rather unique nomination which is before us. I noticed just recently that for the first time in our history the NAACP urges that we vote against cloture because they feel so strongly about the Rehnquist nomination.

I feel that there have been significant questions raised in the past 12 hours. The distinguished minority leader read a telegram into the RECORD yesterday that arrived from somebody in London I had never heard of, who was a coclerk of Mr. Rehnquist. If we read—and I ask my colleagues not to take my word for it but to read the telegram of Mr. Donald Cronson, who was said to be a coclerk with Mr. Rehnquist—if we read the interpretation he put on that 1952 memorandum, and then read Mr. Rehnquist's interpretation of it as placed on the letter that we received the preceding day, if those do not raise questions that have not been raised before, which should be laid to rest, I have never seen any.

Mr. President, I say once again, just speaking for myself, I am not trying—and I do not think any of us who oppose Mr. Rehnquist are trying—to keep this matter from being voted upon, but to suggest in the early stages of debate that it might be a filibuster and that we want it to end so that we can go home just in order to meet our own personal conveniences, I think, is not in the finest traditions of the Senate.

Mr. FULBRIGHT. Mr. President, will the Senator yield?

Mr. BAYH. I yield.

Mr. FULBRIGHT. Mr. President, I associate myself with that comment. I remember how long the debate went on in the Carswell matter. I think that it was for several weeks. It does not matter exactly how long, but it was for a very long time. I am quite confident that the developments that occurred during the course of that time had much to do with the result.

Aside from the fact of whether one considers it to be a filibuster or considers it to be an extended discussion, I have had long experience with extended debate, if one wants to call it that. I have never voted for cloture, except on one occasion, on a foreign aid authorization measure. And on all other matters I have not voted for cloture.

I think the most significant function of the Senate is its capacity to precipitate thorough debate if it has sufficient time.

If we destroy the capacity of the Senate to discuss these important matters—and this is certainly an important matter—we will undermine the significance and influence of the Senate and it will have much less reason to exist.

As I said in my own comments about Mr. Rehnquist, my objection to him is primarily because of his lack of concern and lack of interest in the preservation of the constitutional system. I do not think that he feels the Senate has an important role to play.

On this matter of a filibuster, as the Senator mentioned, to treat the matter casually and to say this is a filibuster after only 2 or 3 days, I think, is an absurd interpretation of the concept of a Senator having the right to a full and thorough discussion and to focus attention on this matter and to have all Senators know what they are voting on, what kind of a man it is and what he believes.

I congratulate the Senator. I think he is entirely correct in his comments about there not being any justification to call this debate a filibuster.

Mr. BAYH. Mr. President, I appreciate the comments as well as the very perceptive statement the Senator from Arkansas made on yesterday relative to the merits of the nomination.

I have not seen a more eloquent presentation of the importance of balance of power and the importance of this body and, indeed, the importance the Court could well play on unlimited executive power.

The PRESIDING OFFICER. Who yields time?

Mr. FANNIN. Mr. President, I yield as much time as he desires to the Senator from Kentucky.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. COOK. Mr. President, let me say that I have listened with great interest to the remarks of the Senator from Indiana. I think the Senator will recall that I have asked him on several occasions over the last few days when he thought we could get to a vote. The Senator from Kentucky has gotten no more than a shrug of the shoulder, which means that there is no intention even to think about the necessity of a vote on this particular matter, that it will continue as long as it is possible for it to be continued.

I merely say that I think this is great. As a new Member of the Senate, I sit here and listen with great awe to the Senator from Indiana and the Senator from Arkansas talking about how long the debate should go on.

We had an amendment a week or so ago which was called the Pastore amendment. Under the unanimous-consent agreement, there was 6 hours provided for debate on that amendment. That amendment would have turned the political system of the United States entirely around and absolutely change the political system of the United States more than anything we had ever known of before in our history. And we had 6 hours to debate that measure.

Mr. FULBRIGHT. Mr. President, will the Senator yield?

Mr. COOK. I will yield in a minute.

I say that it was very interesting to note that during the course of the debate there were Senators who were here at all hours and on all occasions except during the course of the debate. And there were a lot of handcuffs that could have been purchased rather cheaply, because everyone had them off for awhile. This is a matter that was discussed for only 6 hours.

Mr. FULBRIGHT. Mr. President, will the Senator yield?

Mr. COOK. I now yield to the Senator from Arkansas.

Mr. FULBRIGHT. Mr. President, if the Senator from Kentucky thought that was so important that there should be great debate on the matter, it would have been very easy to prevent a limitation of 6 hours on debate.

Mr. COOK. Mr. President, I might say to the Senator from Arkansas that his remarks are well taken. However, one has to be on the floor at the time when the majority whip stands up and asks for unanimous consent that a measure be limited to 6 hours for debate. As a matter of fact, there was a time limitation on that amendment before it was even printed and before it was on the desks of the Senators.

Mr. FULBRIGHT. Mr. President, I beg to differ. If the Senator believes that was an important matter, he could have told his own representatives that he registered an objection. That desire would have been carried out.

A Senator does not have to be here. The Senator from Kentucky knows that if he really feels strongly about a matter he could object to a limitation of time if he thought it to be that important.

Mr. COOK. Mr. President, that would be very fine, except that that amendment was not available to the Members of the Senate at the time the agreement was made that there would be 6 hours of debate. No one had an opportunity to see it at that time.

So, what are we faced with? We are faced with the fact that we now get into this debate—and I wish the Senator from Indiana would listen to this—and I do not have any argument over the story that was published in the Washington Post this morning. I have no argument about who former Justice Jackson's secretary was. However, when the Senator from Indiana read the article in the New York Times that talks about Donald Cronson, I wonder why he would say that Mr. Cronson was a so-called clerk. I do not dispute the fact that it was Mr. Jackson's secretary.

Mr. BAYH. Mr. President, will the Senator yield?

Mr. COOK. I yield.

Mr. BAYH. Mr. President, I ask unanimous consent that my remarks be changed to read "clerk" instead of "so-called clerk."

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COOK. That is fine, because I think there is an inference to "so-called clerk" that has a connotation to it with respect to certain members of the press in the gallery. And they will use it to great advantage, when, in fact, he was a clerk and the record so shows.

I do not see why we should make such remarks.

Mr. BAYH. The Senator from Indiana has not seen such a record.

Mr. COOK. Well, the Senator from Kentucky has.

Mr. BAYH. I take the word of the Senator from Kentucky on the matter. This is the first time I have ever heard anyone say that he has seen a record.

Mr. COOK. Mr. President, we deal in innuendoes and we wake up in the morning and have a new issue because the facts have changed in the last 12 hours.

I have listened with great interest to the remarks of the Senator from California (Mr. CRANSTON). In the first part of his speech, he said very distinctly that the nominee did not answer certain questions. Then when the nominee answers those questions, he says that he does not really believe him, anyway, and it does not mean that much to him. The Senator from California was not satisfied with the answers he got anyway.

The Senator from Indiana knows that he has been talking to practically an empty house and, if the cloture motion fails today at noon, I suppose he will continue to do so.

When the rollcall vote has been taken, the Senators can analyze it, and it will be to their advantage or disadvantage, as the case may be.

If a large number of votes are cast in favor of cloture, even though it might not be successful, the Senator from Indiana can take a cursory glance at the rollcall vote and see who votes on his side of the matter. But if there are not very many, although a substantial majority, that favor cloture, he will continue his argument and no one will listen to him. This matter might be over and we could put it to rest, regardless of whether there is a recess pending.

I might say to the Senator that I am in no hurry to leave. I will stay until Christmas Eve if it is the desire of the Senator from Indiana, and I will be back the day after Christmas to accommodate him if necessary.

I think that now we have gotten to the point where we are running around in circles and arguing about what people said on yesterday and what people may say today.

I will only say that we are now getting very close to getting into a rather serious discussion of a gentleman who can no longer defend himself because he is in the grave, and I refer to the late Justice Jackson.

There is a great deal on Justice Jackson at the University of Chicago that can be discussed on this floor and which may have to be discussed on this floor, but I would say I think it is a little strange that we would be attempting to interpret for ourselves a Justice of the Supreme Court of the United States. I might suggest that maybe this debate will turn into what Justice Jackson's philosophy really was and not what the philosophy of the nominee really is. I would regret if that were to happen.

I read the memorandum of the Senator from Indiana this morning and I might say I think some of the statements in it might shock some Members of the Senate—they shocked me—particularly the blatant remarks such as, "An examination raises the gravest questions of basic honesty."

I think this cuts pretty close to the line.

Mr. BAYH. That is what the Senator from Indiana felt or he would not have said it.

Mr. COOK. I might say, in all fairness to the Senator from Indiana, I wondered whether he had said it. I say that in all fairness and honesty.

Mr. BAYH. I appreciate it.

Mr. COOK. I can only say to my colleagues in the Chamber that I think the issue has been well debated and discussed. During the course of the hearings, after the matter got to committee, we made an agreement as to when the report would go out, and on the time limitation. I might say I congratulate the Senator from Indiana on the minority views they got out in the time period that was set because I think they were aware of the fact that a time limitation had been posed and agreed to by the members of the Committee on the Judiciary.

If we continue the debate until Monday or Tuesday, fine, but I would suggest to the Senator from Indiana that I have other things to do, whether it takes all of next week or does not. I only say to him there are extremely important things that must be accomplished and I am not sure the Senator from Indiana is going to come up with any change in the minds of Members of the Senate the longer he goes on.

Mr. President, I ask unanimous consent to have printed in the RECORD an article entitled, "Ex-Colleague Says Rehnquist Opposed Segregation," published today in the New York Times.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Dec. 10, 1971]

EX-COLLEAGUE SAYS REHNQUIST OPPOSED SEGREGATION

(By Anthony Lewis)

LONDON, December 9.—A former colleague of William H. Rehnquist said tonight that in 1952 Mr. Rehnquist was personally opposed to the legal doctrine of racial segregation.

Donald Cronson, who in 1952 was a law clerk to Supreme Court Justice Robert H. Jackson, along with Mr. Rehnquist, spoke out in the controversy over Mr. Rehnquist's nomination to the Supreme Court.

The latest phase of that controversy has turned on a memorandum bearing Mr. Rehnquist's initials, directed to Justice Jackson, concluding that the doctrine of segregation laid down by the Supreme Court in 1896 should be reaffirmed.

"Both of us," Mr. Cronson said, "personally thought at the time that the 1896 decision, Plessy v. Ferguson, was wrong. We first wrote a memorandum to that effect.

"It is 20 years ago, but I think I still have a copy of that memorandum. Then, afterwards, I think Justice Jackson asked us to prepare a second making the other argument.

"I had a desk right next to Bill's. My guess is that I physically prepared the first memorandum and he the second, but we worked together on both. In what I have read about the second I can recognize some of my purple prose. It was just part of the job."

INTERVIEWED BY PHONE

Earlier today, Mr. Cronson, an oil company executive in Europe, sent a cable to Mr. Rehnquist from London about his recollections. He then left for his home in Gstaad, Switzerland, and he was interviewed there by telephtone.

"To this day," Mr. Cronson said, "I am not exactly sure what Justice Jackson's views were—and if I were, I would not say. I think this whole business is completely improper. Such memoranda from law clerks to a Supreme Court Justice should never be published."

The Supreme Court considered the school segregation issue in 1952 and 1953 before finally deciding unanimously on May 17, 1954, to overrule the Plessy case and declared racial segregation unconstitutional. Justice Jackson was part of that unanimous Court.

Mr. DOLE. Mr. President, will the Senator yield?

Mr. COOK. I yield.

Mr. DOLE. There is no doubt in the Senator's mind that Mr. Rehnquist will be confirmed, is there?

Mr. COOK. No doubt at all.

Mr. DOLE. I have not engaged in any conversation on the floor. I did not know there was a debate. I have come to the Chamber every day, and I did not see any debate. Perhaps there has been and I was not aware of it. I would have to check the record.

I think the Senator from Indiana has a perfect right to check the qualifications of the nominee at length, and that is a right that all of us have.

I do not know much about filibusters or extended debate. I learned a little last summer from the distinguished Senator from Arkansas about novices, filibusters, or extended debate, as some would use that term.

But it seems to me some of us would like to move ahead on this nomination and give it careful consideration and then perhaps adjourn this Congress. I think most people in America would be happy to see us adjourn, and I know of a few Members of Congress who would be happy to see Congress adjourn.

It appears to me that Mr. Rehnquist is qualified. As the Senator from Kentucky stated, we could speculate about what might appear in tomorrow morning's Post or Sunday's Post, or any other newspaper. I do not single out any one particular newspaper. But it appears to me there has been very little evidence that Mr. Rehnquist should be questioned further, and I hope the Senate can vote soon.

Mr. COOK. I thank the Senator from Kansas. The Senator knows I agree wholeheartedly with him.

Mr. President, I yield the floor.

Mr. FULBRIGHT. Mr. President, will the Senator yield?

Mr. BAYH. I yield to the Senator from Arkansas.

Mr. FULBRIGHT. Mr. President, the Senator from Kansas is very candid. He said he has not observed any real debate.

The supporters of the nomination have refrained from debate or discussion; they simply have boycotted debating this nomination. I have seen this before. They have declined to engage in discussion with the Senator from Indiana or anyone else about the nomination, standing on their belief they have the votes.

The Senator from Kansas said he does not know about extended debate. I accept that. I do know a lot about it. I have been here a long time. Of course, the Senator from Kansas was a Member of the House, where they did not allow debate of any consequence. They are under rules there which limit them to 5 minutes, and often that is all the time an individual Member has to discuss measures, even the important measures.

I am not criticizing the Senator from Kansas but he identifies his interest with the executive, with the President. He does not believe, as I judge his remarks, that the Senate is a significant body and that it should not debate these matters. I understand and sympathize with that; most people of the world today do identify with the executive power. There are practically no legislatures left in the world that function as legislatures should.

The influence of this body is gradually being eroded, and some of us have been trying to resurrect its traditional influence, especially in foreign policy, which has gotten us into so much trouble in recent years.

I can understand it is much more agreeable to be identified with the throne in any government, and I take that generally to mean the executive. It is always a pleasure to be associated with power, with great power, and the power to speak with a single voice, with what is in some countries such as the Soviet Union, called "cult of the personality" but we call it "cult of the Presidency," I suppose.

I have found during my experience in the Senate that I have been intimate with Presidents for brief periods, but I have found it difficult to maintain that close association because they have a different attitude about the Senate's role regarding major issues of policy in our Government, and I believe the Senate's independence is fundamental to our system.

I do not criticize the President for taking advantage of his power and using it. I do criticize the Senate when it does not exercise its power and responsibility given to it by the Constitution.

My objection to this nominee is not that he is not perfectly adequate to represent the executive branch; he speaks for it. But apparently we are now going to put a man on the judiciary who believes in supremacy of the executive. I think that would distort our fundamental system and undermine the role of the Senate in the governmental structure.

That is my one objection to this nomination.

Mr. BAYH. Mr. President, will the Senator yield?

Mr. FULBRIGHT. I yield.

Mr. BAYH. I was on the floor listening to the very eloquent speech of the Senator from Arkansas. Maybe the Senator from Kansas does not consider that to be worthy of debate, but I thought it was one of the most perceptive presentations I have heard since I have been here, and that has been a day or two. Has anyone in this Chamber raised a challenge to the Senator from Arkansas to try to destroy the logic of that presentation in debate?

Mr. FULBRIGHT. No. The Senator from Kentucky and the Senator from Kansas both remarked that the Senator from Indiana has been speaking to an empty Chamber. All those in support of the nomination have avoided any real, debate. They have refrained from asking questions—almost completely refrained from asking questions of me or the Senator from Indiana. They do not want to discuss the nomination. They want to accept it. They want to close debate and they want to vote it up or down with a minimum of discussion.

This has been true of most people who believe the executive is the source of all wisdom. That is an understandable attitude. Three-fourths of the people of the world today are ruled by dictators of one kind of another—executive government. There are practically no other governments, outside of Scandinavia, the British, and a few others, that have what I call a functioning legislature.

Mr. COOK. Mr. President, will the Senator yield?

Mr. FULBRIGHT. I yield for a question.

Mr. BAYH. Mr. President, if I may, I wish to impose an inquiry as to the time.

Mr. COOK. I ask the question on the time of the Senator from Arizona.

The question I would like to ask the Senator is: Did he look into the testimony and the background of Chief Justice Burger or Justice Blackmun and make a reasonable interpretation in his mind that these people were not in any way what one could call executive prone in background or any of their decisions, the decision he made on Mr. Rehnquist? Apparently he came to a contrary decision on Chief Justice Burger and Justice Blackmun.

Mr. FULBRIGHT. Yes, indeed, insofar as I knew about Mr. Burger. I have since become well acquainted with Chief Justice Burger. I have become much better acquainted with him since then. I served on a board with him. I have great respect for him. In fact, personally, I like him very much.

I objected at that time that we were being forced to vote ahead of time. There was almost no debate. Only a few days were devoted to it, similar to what is trying to be brought about here. I knew too little about him. I did not vote against Mr. Burger because I had no evidence comparable to what is on the record about this nominee in his attitude toward the Senate and our constitutional system.

I do not regard Mr. Rehnquist as a conservative as far as the Constitution is concerned. He is a loose constructionist; he is not a strict constructionist of the Constitution. He is quite willing to believe the proposition that the Constitution is obsolete insofar as the responsibility of the legislative branch is concerned. His statements were very similar to those of Mr. Katzenbach, who came before our committee and said the Constitution is obsolete insofar as the power to make war is concerned. He said, "That is old fashioned. Today we move quickly."

I object to that.

I do not remember Chief Justice Burger saying anything like that. I like Chief Justice Burger. I have never known—I did not know then or know now—of any evidence that he views our constitutional system the way Mr. Rehnquist views it.

Incidentally, since the Senator brings that up, I spoke about yesterday's column on the great intellectual capacity of Mr. Rehnquist. It said he is an intellectual man. People of this kind are often what I call intellectually arrogant in their views and opinions of the legislature. I remember the late Dean Acheson; God bless his soul. He used to come before us often. He had great contempt for the legislature. He thought we were fools and he had little tolerance of us and thought we had no right to ask questions of such people as he was. I thought his judgment was deeply lacking as far as our national interest was concerned. But he was an intellectual, just as Mr. Kraft has described Mr. Rehnquist.

I have no objection to men of great intellect. They do not split infinitives. I do not mind a man who does not split infinitives if he is in accord with our constitutional system and uses it to determine what is in our national interest. I think it is in the national interest that the influence of this body be preserved. I think the principle that we do not cut off debate is a sound one. The principal difference between the House and the Senate is our capacity for extended debate. That is what distinguishes us from the House. If we cannot have extended debate in the Senate, we ought to abolish it and save several million dollars. There is little value to it if we cannot have full debate on important issues.

That is the way I feel about it. The Senator from Kansas says he has not had much experience.

Mr. DOLE. I am learning.

Mr. FULBRIGHT. The Senator from Louisiana, I, and others who have been here a while used to have debates that went on all night because we felt strongly enough about some issues to warrant it. I do not wish to criticize. I sympathize with the Senator from Kentucky. A practice has grown up here of limiting debate on every issue, but, after all, it is done by unanimous consent. In matters in which I have an interest, I have appealed to the majority whip that I want to be notified on those matters and do not want to enter into an agreement. He has abided by that request, so it may work out all right—at least, that part of it—but I am wary of what could happen to the Senate.

Mr. DOLE. Mr. President, will the Senator yield?

Mr. FULBRIGHT. I yield.

Mr. DOLE. I want to thank the Senator for all his instructive efforts. They have been very helpful to me. I have learned a lot from the Senator from Arkansas, some things that I cannot use, but some that I may possibly use at a little later time.

Mr. FULBRIGHT. Well, there may come a time when the Senator will want to use it. He sees how opinions have changed about a lot of things.

Mr. DOLE. Things change. I am reminded of the fact that the distinguished Senator from Arkansas has changed from what he said in a speech in, I think, 1961, in which it was indicated that the executive ought to have more power insofar as war-making powers are concerned. I assume the Senator has changed.

Mr. FULBRIGHT. No, not war-making.

Mr. DOLE. What was it?

Mr. FULBRIGHT. If the Senator wishes—I do not know if we have time, but that article is often cited—

Mr. DOLE. I cite it frequently.

Mr. BAYH. Mr. President, a parliamentary inquiry.

Mr. FULBRIGHT. I do not mind discussing it at a proper time.

The PRESIDING OFFICER. Does the Senator from Indiana have a parliamentary inquiry?

Mr. BAYH. Yes, I do.

The PRESIDING OFFICER. The Senator will state it.

Mr. BAYH. I am glad to see that for the first time the opposition is here.

Mr. DOLE. We are just sort of passing through the Chamber. We do not intend to stay.

Mr. BAYH. The Senator from Indiana is glad to see the Senator from Kansas is here. He has been strangely missing from the debate. But a parliamentary inquiry, Mr. President: whose time is being expended in this debate.

The PRESIDING OFFICER. Immediately preceding the exchange between the Senator from Arkansas and the Senator from Kansas the time had been been charged to the Senator from Indiana. [Laughter.]

Remaining are 8 minutes to the Senator from Indiana and 17 minutes to the Senator from Arkansas.

Mr. FANNIN. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. FANNIN. Mr. President, when we are talking about the background and reputation of an individual, we usually go to the people who have been associated with him and who have worked with him. I am very proud to do so with William Rehnquist. Those who have been associated with him over the years certainly praise him highly, whether they be Democrats or Republicans.

There is a former colleague who has spoken about William Rehnquist when he found some of the papers in which he as well as Bill Rehnquist had been involved were under scrutiny. That is Donald Cronson, now in London, associated with a business enterprise there. I am quoting from a New York Times article in today's edition:

> A former colleague of William H. Rehnquist said tonight that in 1952 Mr. Rehnquist was personally opposed to the legal doctrine of racial segregation.
>
> Donald Cronson, who in 1952 was a law clerk to Supreme Court Justice Robert H. Jackson, along with Mr. Rehnquist, spoke out in the controversy over Mr. Rehnquist's nomination to the Suprem Court.
>
> "Both of us," Mr. Cronson said, "personally thought at the time, that the 1896 decision, Plessy v. Ferguson, was wrong. We first wrote a memorandum to that effect.
>
> "It is 20 years ago, but I think I still have a copy of that memorandum. Then, afterwards, I think Justice Jackson asked us to prepare a second making the other argument.
>
> "I had a desk right next to Bill's. My guess is that I physically prepared the first memorandum and he the second, but we worked together on both. In what I have read about the second I can recognize some of my purple prose. It was just part of the job."

I have read from the interview Mr. Cronson gave the reporter. I feel these are the actual experiences he had with Mr. Rehnquist.

I know that we had testimony, and the distinguished Senator from Indiana has great respect for the person I am going to speak about now——

Mr. BAYH. Mr. President, will the Senator yield for a quick question before he gets away from the Cronson matter?

Mr. FANNIN. Mr. President, how much time do I have remaining? I will yield on the Senator's time.

The PRESIDING OFFICER. The Senator from Arizona has 14 minutes, the Senator from Indiana has 8 minutes.

Mr. FANNIN. Will the Senator take this out of his time?

Mr. BAYH. Let us forget it. The other side can ask questions on our time, but we cannot even make a comment on their time. That has been the rule during the course of this debate.

Mr. FANNIN. I do not think that has been the rule.

I was referring to the testimony of Mr. Rehnquist and others when they were before the Judiciary Committee. Hon. Walter Early Craig, a judge in the Federal District Court of Arizona, appeared and said, "I have known Mr. Rehnquist"—incidentally, this judge is also the past president of the American Bar Association. He said:

> I have known Mr. Rehnquist since his admission to practice law in Arizona, both in a professional capacity and since I have been on the bench, which I ascended in 1964.
>
> Mr. Rehnquist's academic achievements are already a matter of record. They are remarkable. The only reason I mention those high achievements is because it relates to his qualifications as a lawyer. In my experience, Mr. Rehnquist's professional skills and ability are outstanding.

This is coming from a past president of the American Bar Association, and now U.S. District Judge in Arizona, Walter E. Craig:

> In his appearances before my court, Mr. Rehnquist conducted himself not only with outstanding professional skills but with dignity, intelligence, and integrity. I think he has conducted his life that way so long as I have known him.

When we talk about whether or not Mr. Rehnquist has compassion, I would like also to refer to what Judge Craig had to say about that. This was in answer to a question from the distinguished Senator from Indiana (Mr. BAYH). The Senator asked:

> Do you know anything about the nominee that would lead you to have cause for concern about his insensitivity in the area of human rights if he were sitting on the Supreme Court of the United States?

Judge Craig said:

> I want to say this in response to that inquiry: I believe this man has a humanity about him and a human warmth that would make him, if anything, more sensitive to the needs of people with respect to the necessity to improve their lives and their society. I don't think that he would be in any way insensitive to the philosophy of civil rights or the Bill of Rights, or any other rights.

He went on throughout that testimony praising William H. Rehnquist for his accomplishments both as an outstanding member of the bar and also in his private life. He is a fine family man and one of the outstanding men in the community.

There are many in Arizona, both on the Democratic side and on the Republican side, who have come forward with statements supporting Mr. Rehnquist. We have had a considerable response from the academic community. In fact, in one of our schools, Arizona State University, the dean of the Law School, tried to obtain Mr. Rehnquist's services. The dean offered him a very good position at the Arizona State University, but Mr. Rehnquist had an obligation with the Justice Department; he had made a commitment, and so he did not accept that assignment.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. FANNIN. I feel that the greatest praise we can give to this man is the fact that the people who have been associated with him are his very strong supporters. Even when they have opposed him, whether in legal cases or in political causes, they still speak very highly of him. When statements have been made about what Mr. Rehnquist is alleged to have done on different occasions, and they knew those statements were wrong, his former adversaries as well as his friends were quick to make efforts to correct the record. I have had many calls from Arizona after the stories we saw in the press, and there were many who wanted to come back and appear as witnesses, but time was limited, and we did not think it was necessary. This man has such a splendid, impeccable record, I did not see how he could possibly be challenged. Mr. President, I think it is now very clear that the attempts to raise questions about his outstanding reputation have failed, and I feel very confident that this man will be overwhelmingly approved by the Senate.

The PRESIDING OFFICER. Who yields time?

Mr. FANNIN. I yield 3 minutes to the distinguished Senator from Nebraska.

Mr. HRUSKA. Mr. President, no one believes in the principle of full and free debate more than this Senator. So much has been said on this subject that I feel no need to expound further on this feature. But I have also voted for cloture in the past when I have been convinced that a discussion on the Senate floor has become relatively meaningless with regard to the issue being considered. This is why I will vote in favor of cloture today.

We could go on and on talking about Mr. Rehnquist, of course. Most of this would be sheer repetition, however—a devise that the record will show has already been used to excess. We have heard over and over about the nominee's alleged lack of devotion to civil rights, his alleged lack of sensitivity to human liberties, and even his alleged lack of candor and honesty. We have heard of his alleged unwillingness to disclose his position on certain issues and then, when he makes a clear and unequivocal statement, he is allegedly not believed. If I have heard or seen the quotation which follows once, I have heard or seen it a dozen times:

> We are no more dedicated to an "integrated" society than we are to a "segregated" society.

Mr. President, repetition is not full and free debate. It is instead a very obvious attempt to follow the doctrine that if you repeat something often enough and loud enough people may begin to believe it. Not that I really blame the opponents of this nomination from attempting to use this technique, for they have little of substance to offer. I feel strongly, however, that the time has come to end this fruitless exposition and get on with the business of the Senate. This is why I signed the cloture petition, and why I will support it with my vote.

Those who want this nomination defeated act as if the supporters of Mr. Rehnquist were bulldozing this man through the Senate. But let us look at the facts. First, the following chronology of events will no doubt be of interest to all Senators:

Nomination made, October 21;

Hearings begun, November 3;

Hearings concluded, November 10;

Committee exchange session, November 11; November 18; November 23;

Minority views filed, November 30; and

Debate on floor begun, December 6.

It might further be pointed out that on November 11, at the first executive session of the Judiciary Committee, a majority was ready to report the nomination to the Senate. Four Senators, however, delayed a committee vote until November 23—and then asked for an additional week to file minority views. I am not complaining, Mr. President, as this is their right. However, when we talk about insufficient time to explore this nomination this sequence of events must be borne in mind.

Let us talk about another nomination for a moment. Mr. Butz, now Secretary of Agriculture, was nominated by the President on November 11. This was a situation not without some controversy. In fact, I would venture the guess that Mr. Rehnquist will be confirmed by a greater margin than that by which Secretary Butz was approved by the Senate. And yet, the Senate managed to explore this candidate and work its will by December 2. This nominee's name was sent up after Mr. Rehnquist, and he has already been confirmed.

Mr. President, here are a few more facts on the subject of exploration. Have Senators had a chance to express their views, for the record or otherwise? An examination of the CONGRESSIONAL RECORD will show that the opponents of Mr. Rehnquist have been able to fill some 202 columns of the RECORD with statements of concern about the candidate—all prior to the date the actual floor debate began. I would not begin to presume to set limits on anyone and the fullest expression of his views. However, 202 columns is not an insignificant amount when one considers the size of the print used in the RECORD.

Mr. Rehnquist's opponents have run up one trial balloon after another, only to see it shot down. While I admire their persistence and dedication to a cause in which they believe, I do not believe the Senate as a body should any longer indulge them in their fishing expedition. Frankly, I believe each time they raise an issue only to see it resolved by the true facts they lose more ground and more votes. Each day they have made their position less credible, not more. But there is no sense in prolonging this matter.

Let us waste no further time in sending him to the Court or, if the majority so decides, let us say now we do not want to send him there.

Mr. President, I have said in my individual views and on this floor that those who know Mr. Rehnquist best have given him the strongest support. This is of critical importance. We learn the makeup of a man when we can observe him on a daily basis, working and socializing with him over a period of time. In this connection, the Washington Post yesterday printed a letter from Richard Berg, a former attorney in the Office of Legal Counsel who is now executive secretary of the Administrative Conference of the United States. Having served under four Assistant Attorneys General who headed the office, Mr. Berg is in an excellent position to evaluate Mr. Rehnquist and compare him with his predecessors.

Mr. President, the letter is short, and the insight so valuable, that I ask unanimous consent that it be inserted at this point in my remarks.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

[From The Washington Post, Dec. 9, 1971]

REHNQUIST'S APPROACH

Since the public discussion of the nomination of William Rehnquist to the Supreme Court has turned to a considerable extent on his civil rights record, I believe that some comments of mine may be pertinent.

I served as an attorney in the Office of Legal Counsel of the Department of Justice for eight years (1961–65, 1967–71). In the latter period, which included two years under Mr. Rehnquist, I worked on most of the civil rights problems handled by the Office, including the question of the legality of the Philadelphia Plan.

Mr. Rehnquist's approach to these problems, like his approach to all other matters on which we worked together, was objective and lawyerlike in the highest degree. He never expressed or showed, to my knowledge, any reluctance or disinclination to interpret or enforce the laws against discrimination in accordance with a sympathetic reading of their terms. Indeed, the legal opinions and memoranda on civil rights matters issued by the Office during Mr. Rehnquist's tenure differed little, if at all, in general philosophy from those issued by his predecessors.

It was suggested, however, in Professor Arthur Miller's article of some weeks ago that Mr. Rehnquist's legal conclusions as head of the Office of Legal Counsel were shaped by a desire to please his superiors. No lawyer can be oblivious to the needs of his client, and the president's lawyer's lawyer is no exception. For any head of the Office of Legal Counsel there is an obvious tension between his role as adviser to and advocate for the Executive Branch and his role as the foremost interpreter and expounder of the law to the Executive Branch. I served in the office under four assistant attorneys general, all lawyers of uncommon ability and integrity. Of the four Mr. Rehnquist was, in my opinion, the most objective, and the most rigorous in excluding nonlegal considerations from the process of resolving a legal problem.

In his tenure as head of the Office of Legal Counsel Mr. Rehnquist has won the respect and high regard of his colleagues, including many, like myself, whose views on political and social issues differ considerably from his. I believe that Mr. Rehnquist is highly qualified for service on the Supreme Court and that the Senate should confirm his nomination.

RICHARD K. BERG.

ARLINGTON.

Mr. HRUSKA. He concluded that letter with the following statement:

> I served in the office under four assistant attorneys general, all lawyers of uncommon ability and integrity. Of the four Mr. Rehnquist was, in my opinion, the most objective, and the most rigorous in excluding nonlegal considerations from the process of resolving a legal problem.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. HRUSKA. One more minute, please?

Mr. FANNIN. I yield the Senator 1 additional minute.

Mr. HRUSKA. Mr. President, it has been said that this nominee is more in favor of executive power than of congressional power. Yet it is overlooked that he asserted that position when he was a representative and an advocate of the executive department.

What else would one expect of him?

Secondly, I want to mention a classic example of his always being bound by the limitations of the Constitution. Up until the time Mr. Rehnquist came to the legal counsel's office it had been the position of the Department of Justice that there was an inherent right on the part of the National Government to wiretap in cases of national security. Mr. Rehnquist pushed that aside, and asserted instead this doctrine: that it was reasonable, within the Bill of Rights, for the National Government to wiretap in cases of national security—a classic example of his being for the executive, but all within the bounds of the Bill of Rights.

The PRESIDING OFFICER. Who yields time?

Mr. SCOTT. Mr. President, will the Senator yield me 4 minutes?

Mr. FANNIN. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has only 3 minutes remaining.

Mr. FANNIN. I yield it to the Senator from Pennsylvania.

Mr. SCOTT. Mr. President, the opponents of this nominee have struck the rock of reason and evoked a waterfall of illogic.

They have abandoned totally, they have jettisoned, every one of the 100 or more arguments which they raised in hearings in the committee and elsewhere in order to rely on an undated, unsigned, otherwise unsubstantiated—by them—document which allegedly reflected the views 19 years ago of the nominee. How ridiculous can you get? How many people live who know what really happened on that occasion? One man. They evoke the opinions of Mr. Justice Jackson. They allege the nominee held different opinions or the same opinions, as the argument suits them.

What really happened? Only one other man living today, so far as we know, was there, and that is Mr. Cronson of London. A reporter from the Baltimore Sun called him, and Mr. Cronson said:

> We haven't even heard of this furor over here. We didn't know about this law clerk memorandum, but I have it. As a matter of fact, I wrote most of it.

As a matter of fact, as I have been arguing for over a week there were two memorandums. I had only a well-founded instinct as a lawyer that a Justice would want to know both sides. He did.

Then what does Mr. Cronson say? That Rehnquist has all these deplorable views attributed to him. Not at all. Mr. Cronson says that he and Mr. Rehnquist both personally thought at the time that Plessy against Fergusen was wrong and "We wrote the first memorandum to that effect."

That shoots the whole argument out of the water. Since they have elected to put everything that they had, all their eggs, into one fragile, melting basket, they find nothing to support their one remaining argument.

Mr. Rehnquist thought that law was bad, and he wrote some portion of these two memorandums, and the other man wrote some portion of the two memorandums.

There is no reason at all why the nomination should not be confirmed.

The PRESIDENT pro tempore. The time of the Senator has expired. Who yields time? The Senator from Indiana has 8 minutes.

Mr. BAYH. I yield myself 6 minutes.

Mr. President, I think it is important for the Senate to understand what is happening here. We are trying to invoke cloture. That is the issue; the merits of the nominee are not being debated.

Interestingly enough, it is my judgment that the charges that have been made by those in support of the nominee lend support to our contention that we have not had adequate debate. The distinguished minority leader just got through substantiating this. He talked about our coming up with an undated, unsigned memorandum. That memorandum, strangely enough, had the initials of the nominee at the bottom. Although he has written us three pages explaining his recollection of what was in that memorandum, he has not denied that he wrote it—has not denied it. I believe his recent letter actually acknowledges authorship.

Now this surrebuttal raises more questions. If this latest telegram is to be believed, why did not the nominee, in explaining the anti-Brown against Board of Education memorandum, mention that there had been a preceding memorandum? Why did he not mention that there was a man by the name of Cronson, who had been his coclerk? He said nothing about coauthorship. He did not say anything about somebody else expressing the views in the memorandum. Nothing.

I want to say, before going ahead, that I concur with the Senator from Pennsylvania; the Senator from Kentucky, no one will ever be able to answer these questions finally, I was not there. Nobody really knows what was in Justice Jackson's mind. But I will take issue whenever anybody who is going to be on the Supreme Court of the United States has the audacity to write the U.S. Senate a letter suggesting that the content of that memorandum was prepared to express the views of the late Justice Jackson. It just makes no sense at all.

I suggest that Justice Jackson believed exactly the opposite of the views that were expressed in that memorandum. That is what I take issue with, and I think these questions have not been laid to rest. They have not been laid to rest.

Why did not Mr. Rehnquist mention the presence of Mr. Cronson? Why did he suggest that he, indeed, did prepare these words in the memorandum for the Justice to use as his own statement of his own views at conference? I read in this morning's paper that the late Justice's secretary had expressed her disdain and concern that Mr. Rehnquist had said that this memorandum represented the late Justice Jackson's views. I think she summed it all up by saying that the man who opened and closed the Nuremberg Trial did not need a 28-year-old law clerk to tell him how to argue before his brethren or colleagues on the Supreme Court of the United States.

That is why I think the question of credibility has been raised. I could understand if a man could not remember what has happened, but when he does remember, when he does recollect what happened, and he tries to suggest that the content of that 1952 memorandum is consistent with the views of the late Justice Jackson, that just is not based on the fact.

I see my friend, the Senator from Hawaii, sitting here. I am sure he is very familiar and sensitive about the issue that was before the Court dealing with the way in which the Japanese-American citizens were treated during World War II. The man who wrote the stellar, the ringing defense in opposition to what the Supreme Court decided—that those American citizens could be put in detention camps—was Justice Jackson. He argued eloquently that one could not, indeed, treat individuals this way.

Yet, to suggest that some of the passages in this memorandum, which are directly contrary to the Jackson dissent in the Korematsu case are Jacksonian phrases, is totally wrong—totally wrong. And it is impossible to suggest that Justice Jackson was not a strong advocate of personal liberties or individual rights over property rights, when one recognizes that Jackson was the one who wrote the Barnette case—a very tough decision about the rights of Jehovah's Witnesses children not to pledge allegiance to the flag if that was going to be demeaning to them in their religion. This is just not the Justice Jackson of that memorandum.

I do not know whether Cronson is right or whether Rehnquist is right, but I think the Senate ought to look into it and not rush headlong into a Christmas recess in an effort to tend to our own convenience rather than to the qualifications of the man whose nomination is now before the Senate.

The PRESIDENT pro tempore. The time of the Senator has expired. There are 2 minutes remaining. Who yields time?

The Senator from Indiana has 2 minutes.

Mr. BAYH. Since I have 2 minutes, as I look around the floor here, I am sure we can change a lot of votes.

I have been in the Senate for 9 years, and I have not participated in any filibuster and do not intend to, but I would hope that the Senate would give us a chance to answer the questions that have been raised.

I would like to answer my friend, the Senator from Kentucky, whom I did not have the chance to answer earlier. I would be glad to talk to him, or the minority leader, or anybody else, about what date certain the Senator from Indiana will set, I do not know what facts are going to arise. I was thinking that we would have voted by now, had that 1952 memorandum not been uncovered last Sunday. Now it has been answered, and it has been reanswered. The telegram from London, and the Rehnquist reply are diametrically opposed to one another.

I ask anyone in the Senate to look at the Cronson explanation of that memorandum and to look at the Rehnquist explanation of that memorandum, and then to decide for himself whether those are similar replies or whether they are totally inconsistent and therefore inconclusive.

CALL OF THE ROLL

The PRESIDENT pro tempore. The hour of 12 o'clock noon having arrived, under rule XXII, the Chair directs the clerk to call the roll to ascertain the presence of a quorum.

The legislative clerk called the roll and the following Senators answered to their names:

[No. 445 Ex.]

Aiken
Allen
Allott
Baker
Bayh
Beall
Bellmon
Bentsen
Bible
Boggs
Brock
Brooke
Buckley
Burdick
Byrd, Va.
Byrd, W. Va.
Cannon
Case
Chiles
Church
Cook
Cooper
Cotton
Cranston
Curtis
Dole
Dominick
Eagleton
Eastland
Ellender
Ervin
Fannin
Fong
Fulbright
Gambrell
Goldwater
Gravel
Griffin
Gurney
Hansen
Harris
Hart
Hartke
Hatfield
Hollings
Hruska
Hughes
Humphrey
Inouye
Jackson
Javits
Jordan, N.C.
Jordan, Idaho
Kennedy
Long
Magnuson
Mansfield
Mathias
McGee
McGovern
McIntyre
Metcalf
Miller
Mondale
Montoya
Moss
Muskie
Nelson
Packwood
Pastore
Pearson
Pell
Proxmire
Randolph
Ribicoff
Roth
Saxbe
Schweiker
Scott
Sparkman
Spong
Stafford
Stennis
Stevens
Stevenson
Symington
Taft
Talmadge
Thurmond
Tower
Tunney
Weicker
Williams
Young

The PRESIDENT pro tempore. A quorum is present.

VOTE

The PRESIDENT pro tempore. Pursuant to rule XXII, a rollcall has been had, and a quorum is present.

The question before the Senate is: Is it the sense of the Senate that debate on the confirmation of the nomination of William Rehnquist to be an Associate Justice of the Supreme Court of the United States shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will now call the roll.

The assistant legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from New Mexico (Mr. ANDERSON), and the Senator from Arkansas (Mr. MCCLELLAN) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Utah (Mr. BENNETT) and the Senator from South Dakota (Mr. MUNDT) are absent because of illness.

The Senator from Illinois (Mr. PERCY) and the Senator from Maine (Mrs. SMITH) are necessarily absent.

If present and voting, the Senator from Illinois (Mr. PERCY) would vote "yea."

Also if present and voting the Senator from Maine (Mrs. SMITH) would vote "nay."

The yeas and nays resulted—yeas 52, nays 42, as follows:

[No. 446 Ex.]

YEAS—52

Aiken
Allott
Baker
Beall
Bellmon
Bentsen
Boggs
Brock
Buckley
Chiles
Cook
Cotton
Curtis
Dole
Dominick
Eastland
Ervin
Fannin
Fong
Gambrell
Goldwater
Griffin
Gurney
Hansen
Hatfield
Hollings
Hruska
Jordan, N.C.
Jordan, Idaho
Long
Magnuson
McIntyre
Miller
Montoya
Pearson
Pell
Randolph
Ribicoff
Roth
Saxbe
Schweiker
Scott
Sparkman
Stafford
Stennis
Stevens
Taft
Talmadge
Thurmond
Tower
Weicker
Young

NAYS—42

Allen
Bayh
Bible
Brooke
Burdick
Byrd, Va.
Byrd, W. Va.
Cannon
Case
Church
Cooper
Cranston
Eagleton
Ellender
Fulbright
Gravel
Harris
Hart
Hartke
Hughes
Humphrey
Inouye
Jackson
Javits
Kennedy
Mansfield
Mathias
McGee
McGovern
Metcalf
Mondale
Moss
Muskie
Nelson
Packwood
Pastore
Proxmire
Spong
Stevenson
Symington
Tunney
Williams

NOT VOTING—6

Anderson
Bennett
McClellan
Mundt
Percy
Smith

The PRESIDENT pro tempore. On this vote the yeas are 52 and the nays are 42. Two-thirds of the Senators present and voting not having voted in the affirmative, the cloture motion is rejected.

The Senator from Indiana addressed the Chair.

The PRESIDENT pro tempore. The Senator from Indiana is recognized.

Mr. PASTORE. Mr. President, may we have order now?

The PRESIDENT pro tempore. The Senate will be in order.

Mr. BAYH. Mr. President, a parliamentary inquiry.

The PRESIDENT pro tempore. The Senator will state it.

Mr. BAYH. The Senator from Indiana would like to have 5 minutes to explain to the Senate his thoughts on where we are on this nomination while we all are here. It is the understanding of the Senator from Indiana that we have a previous unanimous consent agreement.

What steps would the Senator from Indiana have to take to have the opportunity to proceed at this time for 5 minutes?

The PRESIDENT pro tempore. Without objection, the Senator may proceed.

Mr. BAYH. Mr. President, my colleagues, this is the first time during this debate where the number of Senate colleagues present is consistent with the importance of the issue. I say that not as a matter of controversy because I know full well the heavy demands that have been on the shoulders and in the minds of each and every Senator here. Each of us has legislative responsibilities, conference committees, the responsibility to tie up last minute details on legislative issues, and, thus, we have not had the opportunity to give careful attention to this Supreme Court nomination.

Some of us, and he Senator from Indiana happens to be one, and other Senators who are members of the Committee on the Judiciary—the Senator from Michigan (Mr. HART), the Senator from Massachusetts (Mr. KENNEDY), the Senator from California (Mr. TUNNEY), and the Senator from Indiana—have been personally charged with this responsibility and thus have studied it very carefully.

After great consideration we compiled a minority report, which some Senators may have had a chance to read. Since the compilation of that report other matters have come to the attention of the Senate which are not contained therein, although there are some Rehnquist supporters who feel strongly that all these questions have been dealt with. I suggest that anyone who feels that way should read the eloquent presentation made by the junior Senator from Massachusetts yesterday relative to the differences of opinion raised by the 1952 memorandum, the efforts on the part of the nominee to explain them, and now, efforts on the part of a coclerk, now in London, to explain them differently. I suggest that anyone who reads that presentation has to come to the conclusion that the Senate has not dealt with answering the questions. The Senator from Indiana really has not been able to resolve all the questions in his own mind.

I intend to send to the desk a resolution, and to ask the Senate to consider it, postponing further consideration of this nomination until the first day we return after the Christmas recess, and guaranteeing that we vote on it at that time, that no further debate, or limited debate be agreed upon. I think this is a good faith effort to try to show that the Senator from Indiana and those of us who are trying to explore the issues are not trying to use the floor of the Senate to prevent the question from being put.

I have talked to the majority leader and he is opposed to this, and he will express himself, because of commitments he made.

I feel that to put this matter over to the first of the year and then vote on it up or down is consistent with what we have done on other controversial matters, such as the education bill, the genocide bill, and equal rights for men and women amendment. We have put those measures off to next session.

It is also consistent with the amount of time which elapsed during which the Senate debated this nomination, compared with the amount of time that has been used to debate previous nominations on which there was controversy.

It would meet the convenience of the Senate. The Senate has not been inconvenienced. We would not be home before now if it were not for the Rehnquist nomination. But if we went on to pursue this matter it might cause inconvenience to the Senate.

My proposal would give us a chance to study the issues, absent international turmoil with which the world is faced, and absent legislative packages which have come to this body in the last week or two, before we put a man on the Supreme Court.

Before we put a man on the Supreme Court for the best part of a quarter century, let each of us in his own mind determine that the questions have been laid to rest finally.

I can note that right now there is a strong majority supporting the Rehnquist nomination. I doubt very much if between now and the first and second day upon returning that very many Senators' minds are going to be changed, but I think each of us would have a better opportunity to resolve in his own mind the accuracy of the determination we have made now.

I suggest that Senators not make this final determination in a precipitate effort to convenience the Senate. We all want to adjourn. But let us put our responsibility for the Court above our personal convenience.

Mr. President, I send to the desk the motion.

The PRESIDENT pro tempore. The motion will be stated.

The assistant legislative clerk read as follows:

> I move that the Senate postpone further consideration of the nomination of William H. Rehnquist to be an Associate Justice of the Supreme Court until January 15, 1972.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that I may be recognized for 4 minutes and that one-half of that time be given to the distinguished minority leader, the Senator from Pennsylvania.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BAYH. Mr. President, reserving the right to object, and I will not object, the Senator from Indiana is fully aware of the fact that the best way to dispose of this particular motion, I am told by the Parliamentarian, is to table it, and thus, to cut off further debate. I would be willing, if I may say to the distinquished minority leader and the distinguished majority leader, to agree to a definite time certain to vote on the measure.

I am not trying to be arbitrary but I would like some give and take so we have a full discussion of views here on the motion.

Mr. MANSFIELD. Mr. President, may I say that this disrupts the schedule somewhat. I hope it will not discommode anyone insofar as the votes already announced are concerned.

It is anticipated that on the basis of the move made by the Senator from Indiana, a move entirely within his rights as a Senator, that that vote might be delayed in view of the situation which has developed.

May I first, before making my position clear, ask the distinguished Senator from Indiana if he would agree to a vote on his motion at 1 o'clock.

Mr. BAYH. Mr. President, I have no objection.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that a vote on the pending motion occur at the hour of 1 o'clock.

The PRESIDENT pro tempore. Is there objection?

Mr. CANNON. Mr. President——

The PRESIDENT pro tempore. The Chair hears none, and it is so ordered.

Mr. SCOTT. Mr. President, I demand the yeas and nays.

Mr. CANNON. Mr. President, reserving the right to object——

Mr. SCOTT. Mr. President, a point of order. The Chair has ruled.

The PRESIDENT pro tempore. The Chair has announced the vote would be at 1 o'clock.

Mr. SCOTT. Mr. President, I demand the yeas and nays on the vote.

Mr. CANNON. Mr. President, I requested recognition, reserving the right to object.

Mr. MANSFIELD. Mr. President, I ask that the request granted be vacated, in view of the situation that has arisen.

The PRESIDENT pro tempore. Is there objection to the request of the majority leader to vitiate the agreement? The Chair hears none, and it is so ordered.

Mr. CANNON. Mr. President, I am simply trying to clarify one point. Did I understand the motion provides for the date January 15? January 15 happens to be a Saturday, I believe, and I am trying to clarify the date when we are going to come back in session——

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the date be changed to January 18.

Mr. BAYH. Mr. President, the Senator from Indiana does not intend to object.

Mr. ALLEN. Mr. President, a parliamentary inquiry.

The PRESIDENT pro tempore. The Senator will state it.

Mr. ALLEN. Would the motion of the Senator from Indiana be amendable?

The PRESIDENT pro tempore. Yes.

Mr. MANSFIELD. Mr. President, I renew my request.

The PRESIDENT pro tempore. That the Senate vote at 1 o'clock?

Mr. MANSFIELD. Yes.

The PRESIDENT pro tempore. And that the date in the motion be changed to January 18? Without objection the date in the motion will be changed to January 18.

Mr. MANSFIELD. Yes.

The PRESIDENT pro tempore. That the vote occur at 1 o'clock. Without objection——

Mr. MILLER. Mr. President, reserving the right to object—and I shall not object—may I ask the distinguished leader, in view of the question of the Senator from Alabama (Mr. ALLEN), is this 1 o'clock vote to be on the motion without regard to any amendments that may be offered to it, or will we have time to consider any amendments to be offered at that time?

Mr. MANSFIELD. No; under the rules amendments could be offered, but they would not be debatable.

Mr. SCOTT. After 1 o'clock. After the vote.

Mr. MILLER. Mr. President, if the Senator from Alabama is going to offer an amendment, it seems to me he ought to have time to explain it. I thought the Senator would yield him 5 minutes.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that I may proceed for several more minutes, and I would hope that we would not engage in a squabbling match.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MANSFIELD. A most serious issue is before us. The Senator from Indiana, in good faith, is trying to achieve what any Senator has a right to do—to set a date certain on which to vote on the pending nomination. The agreement had already been entered to vote at 1 o'clock. Then the distinguished Senator from Alabama raised a question as to whether or not amendments could be offered. The Chair answered in the affirmative. But if the time is used up between now and 1 o'clock and amendments are offered at that time, they are not debatable, but they can be voted on if the Senate so desires.

So again I renew my request that the vote occur at 1 o'clock.

The PRESIDENT pro tempore. Is there objection?

Mr. KENNEDY. Mr. President, reserving the right to object, just for the information of the Senate, we have an agreement to vote on S. 1874, so I do not want any illusion that if we agree to the majority leader's recommendation there will be that much time, because 15 minutes will be used for the rollcall vote. If the Senator would like to couple his request with the request that the vote on S. 1874 come after the motion, I will be glad to agree, but I think Senators should be informed that we are going to use 15 minutes of the next 25 minutes on a rollcall vote.

Mr. MANSFIELD. The Senator is not going to lose any time on the next bill——

Mr. KENNEDY. I understand, but I understood the Senator wanted 5 or 7 minutes for an opportunity to discuss the matter, and there would not be that much time if we proceed under the previous order——

I am glad to hear the request of the majority leader, but I just thought the vote on S. 1874 should be put off until after the vote at 1 o'clock.

Mr. MANSFIELD. That is correct, and the Senator will lose not one second.

I make that request, Mr. President.

The PRESIDENT pro tempore. Is there objection to the request to postpone the vote on the bill (S. 1874) until after the vote is had on the motion? Without objection, it is so ordered——

Mr. HUMPHREY. Mr. President, reserving the right to object——

Mr. MANSFIELD. Mr. President, if we keep having objections, the hour of 1 o'clock is going to be passed and we will not be able to get to it. We will not have time.

The PRESIDENT pro tempore. There has to be unanimous consent.

Mr. HUMPHREY. Mr. President, I am not going to object. I want to ask a parliamentary inquiry on the vote on S. 1874. Is that subject to further amendment?

The PRESIDENT pro tempore. Yes, it is, but there is no time for further debate.

Is there objection to the request that the Senate vote at 1 o'clock? Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the time between now and 1 o'clock be equally divided between the distinguished minority leader and the distinguished Senator from Indiana (Mr. BAYH).

The PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, will the minority leader yield me 2 minutes?

Mr. SCOTT. Yes.

Mr. MANSFIELD. I am torn by the move made by the distinguished Senator from Indiana because of the fact that at the time these nominations were first brought before us, in my capacity as the majority leader I stated to the Senate that we would stay with these two nominations until they were completed. I had anticipated that that would be the situation which would bring about a final vote on both the Powell and Rehnquist nominations this month.

However, I must reiterate, the Senator from Indiana is wholly and fully within his rights. I make this explanation only to indicate to the Senate that it was the intent of the joint leadership to stay with these nominations until finished. It may well turn out to be that way. Only the final count will tell. But at the same time I emphasize that while this will not be possible under certain circumstances, the Senator from Indiana is absolutely, wholly, and fully within his rights to make the motion which is now before the Senate for consideration.

Mr. SCOTT. Mr. President, I yield myself 3 minutes, first of all for a parliamentary inquiry.

It is now the order of the Senate that we vote at 1 o'clock today on the motion of the Senator from Indiana and any amendments thereto. Is that correct?

The PRESIDENT pro tempore. That is correct.

Mr. SCOTT. Would an amendment be in order in the nature of a substitute that the Senate proceed immediately to vote on the nomination of Mr. Rehnquist?

The PRESIDENT pro tempore. It would not be in order.

Mr. SCOTT. Would the Chair advise me why a substitute amendment in that form would not be in order?

The PRESIDENT pro tempore. Under rule XXII, when a question is before the Senate, the following motions are in order before the motion pending is disposed of: to adjourn; to adjourn to a day certain, or that when the Senate adjourn it shall be to a day certain; to take a recess; to proceed to the consideration of executive business; to lay on the table; to postpone indefinitely.

All those motions are in order before the question can be disposed of. Such a substitute would have the effect of shutting out these motions. Besides, it takes unanimous consent to set a specific time to vote on final passage of a bill or to fix a time for final action on a treaty or nomination.

Mr. SCOTT. Mr. President, I first demand the yeas and nays, then, on the vote.

The yeas and nays were ordered.

The PRESIDENT pro tempore. Who yields time?

Mr. SCOTT. I now yield myself 3 minutes.

Mr. President, I do not know how many Senators heard that motion, but I think if they did hear it, they would be appalled, because the motion is simply to postpone consideration to the date on which we reconvene, the 18th of January, at which time it is hoped that there will be matters of some importance before the Senate.

Mr. BAYH. Mr. President, will the Senator yield?

Mr. SCOTT. Could I read the motion first?

> I move that the Senate postpone further consideration of the nomination of William H. Rehnquist to be an Associate Justice of the Supreme Court until January 18, 1972.

I would rather finish first; I shall not be long.

Mr. BAYH. Mr. President, if the Senator will permit me to state this, the original proposition of the Senator from Indiana when we were discussing the matter and talking about the parliamentary rules was to establish not only the date of the 18th, but to guarantee a vote after 2 hours of debate, the time to be equally divided between the opposing factions.

I am advised by the Parliamentarian that that kind of motion would require a special order by a two-thirds vote. If the Senator from Pennsylvania will bear with me, I pledge that that is what I am trying to accomplish.

Mr. SCOTT. I appreciate the pledge of the Senator from Indiana, but it would not accomplish it, because on the 18th, any other Senator could raise the question that the matter is debatable, and we have no applicable rule; therefore we could be here from January 18 until July 4, or some such date, debating the Rehnquist nomination.

A far better reason, however, is the fact that the distinguished majority leader has given his word to the Senate that we will stay in session until we dispose of this matter. I have joined in that pledge, and have committed myself to a daily cloture motion until we dispose of it. I think we could dispose of it by the vote on the cloture motion tomorrow, is my judgment. So certainly the Senate is only falling over its own feet. If Senators should decide that all this debate is useless, then we will start afresh, with a whole lot of new ideas, on January 18.

Moreover, both the minority and majority leaders ought to have some trust on the part of their colleagues, and I believe we do. When we are trying to dispose of legislation and bring the Senate to an adjournment, we ought to have, and I hope we will have, the backing of our colleagues when we make commitments.

This commitment was made in good faith, and the majority leader ought not to be reversed by the Senate. While he has been very generous in saying that the Senator from Indiana has a right to do this—and I agree with that—and while I do not wish to belabor this point, I certainly hope that the Senator will not repudiate the majority and minority leaders.

The PRESIDENT pro tempore. Who yields time?

Mr. BAYH. Mr. President, I yield myself 30 seconds.

I ask unanimous consent that after the vote on the pending resolution, if it is accepted, the vote occur 2 hours after the reconvening of the Senate on January 18, the 2 hours to be equally divided between the Senator from Pennsylvania and the Senator from Indiana.

Mr. SCOTT. I object.

The PRESIDENT pro tempore. Objection is heard.

Who yields time?

Mr. BAYH. Mr. President, I yield myself such time as I may require.

Mr. President, the Senator from Indiana is operating in as good faith as he knows how, and I do not find anyone here to suggest that, although we may differ on issues, we have had a breakdown of faith between the Senator from Indiana and another individual Senator.

I think it is important for the Senate to answer one question, and that is: Has each Member of this body had a sufficient opportunity to look at all of the factors involved in this nomination?

The PRESIDENT pro tempore. The Senate will be in order.

Mr. BAYH. The Senator from Arkansas (Mr. Fulbright) this morning was on the floor of the Senate articulating once again in a most eloquent manner his opposition to the nominee on the basic question of division of powers.

Do we want a man put on the Supreme Court of the United States who, the Senator from Arkansas feels very strongly, does not have the proper respect for the legislative branch, and wantstoexpand the powers of the executive branch?

I do not know whether every Member or any Member of this body has had a chance to study the very pertinent remarks of the Senator from Arkansas. How many Members of this body have had a chance to read the Cronson telegram? How many have had a chance to read the Rehnquist response in explanation of the 1952 memorandum? How many have had a chance to read the memorandum?

These are questions which have to be asked and answered and laid to rest in my mind before I could vote on the nomination, and I would think every other Senator would feel likewise.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. BAYH. Let me just finish with one other sentence.

I made this motion with great reluctance, because I knew in advance—I had discussed the matter with the majority leader, and he knew what I was going to do—that because of his commitment to resolve the question—and I would not want to cause the majority leader to violate his commitment—he would vote against the motion of the Senator from Indiana.

But I respectfully suggest that any commitment that was made, was made on the basis of the facts which existed at the time. There have been a number of facts disclosed since the decision was made to resolve this issue before we go home that were not present and available to the majority leader or the minority leader at the time that commitment was made.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. BAYH. I yield.

The PRESIDENT pro tempore. How much time does the Senator yield?

Mr. PASTORE. Mr. President?

I think the Senator from Indiana is absolutely correct, in the sense that many of us have been busy in conferences and have not had the opportunity to be on the floor of the Senate as the merits of this particular nomination deserved, and I do not think anything should be tied up here with our desire to go home for Christmas. I think that, too, would be a mistake.

I think, in view of the fact that we had the Cronson rebuttal, and then the rebuttal by Mrs. Douglas, we ought to have the weekend over which to consider some of these communications.

Would the Senator from Indiana be willing, in view of the fact that there is another cloture motion that will be voted on tomorrow, to consider a unanimous consent agreement to vote at 5 o'clock, let us say, next Monday, giving us an opportunity to read the record over the weekend and to read these letters over the weekend?

I think much of the story has been told. I think some parts of it have not been completely told. But that would give us the opportunity, over the weekend, to study the record, as we would want to in our individual capacities and responsibilities, and then it could be debated the rest of the day today. Here it is, only a quarter to 1. It could be debated all day tomorrow, we could debate it with ourselves on Sunday, and we could debate it again in communication with one another on Monday, and at 5 o'clock have a vote.

I think at that time the complete story

would have been told, and we could get away from all of these cloture motions and we could get away from all of this misunderstanding.

I would hope the Senator would consider that. I repeat, I have not made up my mind. I may vote for him, and I may vote against him. But the fact remains that at some point, there must come a time of decision, and the question is: Has the full story been told?

Maybe it has not been fully told, as the Senator from Indiana has said. He would have 2½ days to tell the rest of it, and we would have 3½ days to consider it.

I would hope the Senator would consider that, and withdraw his motion, and that the cloture motion would be withdrawn.

We are going to come back here next Monday.

We are hung up on the foreign aid bill. We are hung up on the defense appropriation bill. We are hung up on the campaign and election reform bill. We are pretty well hung up, if you ask me. [Laughter.]

That being the case, I think that if we could get a unanimous-consent agreement to vote at 5 p.m. on Monday, we would eliminate all this confusion.

The PRESIDENT pro tempore. Is the Senator putting that in the form of a request?

Mr. PASTORE. No.

The PRESIDENT pro tempore. Who yields time?

Mr. BAYH. Mr. President, what is the time situation?

The PRESIDENT pro tempore. The Senator from Indiana has 7 minutes, and the Senator from Pennsylvania has 3 minutes.

Mr. BAYH. Mr. President, I think the request of the Senator from Rhode Island is very reasonable. Those of us who have carried on what I think is a most legitimate debate on the merits of the Rehnquist nomination have been very concerned about imposing our feelings and the continuance of this debate on the Senate. However, the Senator from Indiana has two reservations about it.

Although there are some here who have said that the Rehnquist nomination might necessitate the possibility of a delay, going on until Christmas—I have heard some of these proclamations—this has not been the case, and it is not my desire. I have heard from some that it is entirely possible that we will be out of here by Saturday night. Frankly, the Senator from Indiana does not want to cause his colleagues to come back on Monday.

I would, however, like to get a test of the Senate. If a sizable majority of the Senate feels that they have really answered all these questions in their own minds, in the face of 42 Members of the Senate who have said they have not, just now, then the Senator from Indiana would be willing to accept such a unanimous-consent request. But I suggest that I just heard that a number of reporters have talked to Mr. Cronson, who is now in Gstaad, Switzerland. I understand that he does not have access to the memorandum which he says he and Mr. Rehnquist wrote, the one that Mr. Rehnquist has tried to explain to us.

I do not see how any of us, between now and Monday, can answer the questions that have been raised in our minds. With a date certain, with a guarantee that we are going to vote as soon as we return, we can be free to consider the other business before us. We could go home, study this matter, come back, have a couple of hours of debate, and put it to rest.

The PRESIDENT pro tempore. Who yields time?

Mr. COOPER. Mr. President, will the Senator yield?

Mr. SCOTT. I yield 1 minute to the Senator.

Mr. COOPER. Mr. President, the Senator from Indiana has said that the vote on cloture indicated that many of us have not made up our minds. I voted against cloture, as I said yesterday I would, because I thought that over the weekend everyone would have the opportunity to study the record and the opponents to provide any additional information. I am for Mr. Rehnquist, I spoke in his support yesterday so I do not want it to be thought that my vote against cloture meant I am against him.

I think the proposal of the Senator from Rhode Island is very reasonable. I have read the record and the report in just a few hours and the speeches of those who have spoken against Mr. Rehnquist.

I think one can read the record of hearings, read it all, in a few hours. We should vote on the nomination in this session.

Mr. SCOTT. I yield myself 1 minute. Mr. President, I think the Senator from Indiana is justified in saying that he wants a record vote of the views of his colleagues. Our point is, of course, that the majority leader and I are committed, and we will stay committed, that we should vote on it now. I am opposed to the resolution. The majority leader said he is opposed to the resolution at the desk. I hope it will be rejected. I do not think we need too much time on it.

I would hope we could then move to a decision either to vote up and down on the nomination or to go on to cloture tomorrow. Anything that serves the convenience of the Senate serves the convenience of the majority leader and the minority leader.

If the Senator from Indiana wishes to yield back his time, I will be glad to do the same.

The PRESIDENT pro tempore. Who yields time?

Mr. BAYH. Mr. President, what is the time situation?

The PRESIDENT pro tempore. The Senator from Indiana has 3 minutes remaining.

Mr. BAYH. How much time does the Senator from Pennsylvania have to yield back?

The PRESIDENT pro tempore. Two minutes.

Mr. BAYH. I would rather use the 3 minutes at my disposal.

I think it is important for us to recognize that the Supreme Court is about to go into recess. I am advised that they are not going to return until the 10th of January. I am advised, also, by a recent story in one of the local newspapers that the Court has done an exceptional job and is far ahead of where it was this time last year and the year before, so far as its docket is concerned.

I say to Senators that I do not think we are imposing any great burden on the country or on the Court. What we are deciding is whether, after 3 days of debate on a Supreme Court nomination, we are going to say that we will invoke cloture, or whether we are going to put it off to a day certain, after the disposition of the other matters that have occupied our minds during the last 2 weeks, and then give this matter the kind of attention and deliberation a decision like this deserves.

Mr. FULBRIGHT. Mr. President, will the Senator yield?

Mr. BAYH. I yield.

Mr. FULBRIGHT. I recall that in the case of the nomination of Justice Fortas to be Chief Justice, a tremendous change came about by virtue of the time that elapsed and certain incidents which were brought to light. It seems to me that in view of the fact that the Court is going into recess, nothing is to be lost by having the vote on the 17th of January.

Nobody knows what will turn up in the meantime.

Mr. BAYH. That is right—nobody knows what will turn up in the meantime. But I think of greater significance is the fact that we will have a chance to thoroughly examine what has been brought up already.

I suggest that this is consistent with what this body has tried to do during the past month. In an effort to adjourn by Christmas, we have put off a half-dozen or so very important matters—which is understandable—so that we can approach them carefully and give them the type of consideration they deserve next year. We have postponed the post card registration matter, the EEOC, the genocide treaty, the equal rights amendment, the higher education bill. These matters were put off so that the Senate will have a chance to make a final determination in a responsible, dispassionate way. No date was set for those matters. I think we should set a date certain on the nomination. I do not want to filibuster this. I do not want to treat this nomination the way the Fortas nomination was treated.

I think we all owe an obligation to ourselves to consider this in the environment in which we can make a dispassionate, objective decision, and then let the nomination rise or fall on the merits.

The PRESIDENT pro tempore. The time of the Senator has expired.

Mr. SCOTT. I yield 2 minutes to the Senator from Virginia.

Mr. BYRD of Virginia. Mr. President, I voted against cloture. I did so because I wanted to give additional time to the opponents to debate on the floor of the Senate the Rehnquist nomination.

I favor the nomination of Mr. Rehnquist, but I wanted the opponents to have additional time. Under this proposal there will be no more debate on the floor, but the nomination will be carried over until January, another month.

I do not think that is fair to the nominee. I do not think it is fair to the President.

As a result of this, I must reexamine any future votes, if there are any future cloture votes, on this nomination.

I shall vote against the pending proposal by the Senator from Indiana (Mr. BAYH).

Mr. BAYH. Mr. President, a parliamentary inquiry.

The PRESIDENT pro tempore. All time has expired.

Mr. BAYH. Mr. President, is a parliamentary inquiry appropriate?

The PRESIDENT pro tempore. The Senator will state it.

Mr. BAYH. Is it possible for the Senator from Indiana to change his amendment to read that the pending order of business, the nomination, will be debated until the Senate adjourns sine die. At that time, the nomination will be put off until the January 18 date——

Mr. SCOTT. Mr. President, reserving the right to object——

The PRESIDENT pro tempore. It would take unanimous consent to do that.

Mr. DOLE. Mr. President, I object.

Mr. HANSEN. Mr. President, I object.

The PRESIDENT pro tempore. Objection is heard.

Mr. BYRD of West Virginia. Mr. President, I ask that the clerk restate the motion for the benefit of the Senate.

The PRESIDENT pro tempore. The clerk will state the motion.

The legislative clerk read the motion as follows:

> I move that the Senate postpone further consideration of the nomination of William H. Rehnquist to be an Associate Justice of the Supreme Court until January 18, 1972.

The PRESIDENT pro tempore. The question is on agreeing to the motion of the Senator from Indiana (Mr. BAYH).

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from Oklahoma (Mr. HARRIS), the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from Wyoming (Mr. MCGEE) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Utah (Mr. BENNETT) and the Senator from South Dakota (Mr. MUNDT) are absent because of illness.

The Senator from Illinois (Mr. PERCY) and the Senator from Maine (Mrs. SMITH) are necessarily absent.

If present and voting, the Senator from Illinois (Mr. PERCY) and the Senator from Maine (Mrs. SMITH) would each vote "nay."

The vote was announced—yeas 22, nays 70, as follows:

[No. 447 Ex.]

YEAS—22

Bayh
Brooke
Cannon
Church
Cranston
Fulbright
Gravel
Hart
Hartke
Humphrey
Kennedy
McGovern
Metcalf
Mondale
Moss
Muskie
Nelson
Pell
Proxmire
Stevenson
Tunney
Williams

NAYS—70

Aiken
Allen
Allott
Baker
Beall
Bellmon
Bentsen
Bible
Boggs
Brock
Buckley
Burdick
Byrd, Va.
Byrd, W. Va.
Case
Chiles
Cook
Cooper
Cotton
Curtis
Dole
Dominick
Eagleton
Eastland
Ellender
Ervin
Fannin
Fong
Gambrell
Goldwater
Griffin
Gurney
Hansen
Hatfield
Hollings
Hruska
Hughes
Inouye
Jackson
Javits
Jordan, N.C.
Jordan, Idaho
Long
Magnuson
Mansfield
Mathias
McIntyre
Miller
Montoya
Packwood
Pastore
Pearson
Randolph
Ribicoff
Roth
Saxbe
Schweiker
Scott
Sparkman
Spong
Stafford
Stennis
Stevens
Symington
Taft
Talmadge
Thurmond
Tower
Weicker
Young

NOT VOTING—8

Anderson
Bennett
Harris
McClellan
McGee
Mundt
Percy
Smith

So Mr. BAYH's motion was rejected.

Mr. SCOTT. Mr. President, I move to reconsider the vote by which the motion was rejected.

Mr. FANNIN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MESSAGE FROM THE PRESIDENT

Messages in writing from the President of the United States, submitting nominations, were communicated to the Senate by Mr. Leonard, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session,

The PRESIDING OFFICER (Mr. EAGLETON) laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of Senate proceedings.)

LEGISLATIVE SESSION

The PRESIDENT pro tempore. Under the previous order, the Senate will now return to the consideration of legislative business.

ORDER FOR RECOGNITION OF SENATOR McCLELLAN TOMORROW

Mr. MANSFIELD. Mr. President, again I ask the Senate to indulge me and ask unanimous consent that I may be recognized to make a series of proposals.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that after the joint leadership is recognized tomorrow morning, the distinguished Senator from Arkansas (Mr. MCCLELLAN) be recognized for not to exceed 15 minutes.

The PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR SUPPLEMENTAL APPROPRIATIONS BILL TO BE MADE THE PENDING BUSINESS UNDER A TIME LIMITATION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that, after the vote on the dental health bill, the supplemental appropriations bill become the pending business and that there be a time limitation of 1 hour, the time to be equally divided between the manager of the bill and the ranking minority Member or whomever he may designate.

The PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER TO VOTE ON CONFIRMATION OF NOMINATION OF WILLIAM H. REHNQUIST AT 5 P.M. TODAY

Mr. MANSFIELD. Mr. President, if I may have the attention of the distinguished Senator from Indiana, I ask unanimous consent that the vote on the confirmation of the Rehnquist nomination occur at 5 o'clock this afternoon.

The PRESIDENT pro tempore. Is there objection to the request of the Senator from Montana?

Mr. BAYH. Mr. President, reserving the right to object, and I will not object, the Senator from Indiana has tried his best, as have several of the other Senators, to convince the Senate that we have not had sufficient time to debate the pending question. This morning 42 Members of the Senate said "yea" to that question.

It is conceivable to the Senator from Indiana that a sufficient number of votes could be secured on tomorrow to again prevent cloture from being invoked.

In light of the vote which was just now taken, it seems that we have a clear indication of the number of Senators who feel that we need a prolonged length of time in which to discuss the matter.

The Senator from Indiana has not felt that those who opposed Mr. Rehnquist's confirmation should impose their views on the Senate and perhaps inconvenience the Senate thereby. I do not intend, as one Senator to do so.

Thus, with great reluctance, I am inclined not to object to the request of the majority leader.

Mr. NELSON. Mr. President, reserving the right to object, I wonder if the distinguished majority leader would respond to a question. I wish to make some remarks on this nomination. Am I assured that I will have about an hour and a half in which to speak prior to the time set for the vote?

Mr. MANSFIELD. I would think so, because we have an hour on the supplemental appropriations bill and 2 minutes on the District of Columbia revenue bill. We will have plenty of time. The time will be under the control of the Senator from Indiana and the distinguished minority leader or whomever he may designate. And I would hope that one of them would agree to that request.

Mr. NELSON. Mr. President, will the Senator from Indiana yield at least 30 minutes to me prior to the vote at 5 o'clock?

Mr. BAYH. I will be glad to yield to the

Senator from Wisconsin. It is ironic in that we have several Members present who feel that Senators are not interested in debating this matter. Here, we have the example of a good colleague who has not been heard from, and he can have all the time he requests, as far as I am concerned.

Mr. BYRD of Virginia. Mr. President, reserving the right to object, may I inquire of the majority leader with respect to this matter. The Senator from Indiana, in making the previous motion, which has just been rejected, requested a unanimous consent agreement that 2 hours of debate occur on January 18.

I want to be sure the majority leader's proposal now will permit the Senator from Indiana to have the same amount of time he would have had on January 18.

Mr. MANSFIELD. The Senator from Indiana is agreeable to the time, and I think that would suffice.

Mr. BYRD of Virginia. I thank the Senator.

The PRESIDENT pro tempore. Is there objection? The Chair hears no objection, and it is so ordered.

Mr. MANSFIELD. Mr. President, as I understand it, the next order of business will be the dental care bill.

The PRESIDENT pro tempore. The Senate will be in order so the majority leader may be heard. The Senate is not in order. The galleries will be in order, please. Will the Senate please be in order.

The Senator from Montana may proceed.

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that at this time the distinguished Senator from Missouri (Mr. EAGLETON) be recognized for not to exceed 1 minute to present the District of Columbia Revenue Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

DISTRICT OF COLUMBIA REVENUE ACT OF 1971—CONFERENCE REPORT

Mr. EAGLETON. Mr. President, I submit a report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 11341) to provide additional revenue for the District of Columbia, and for other purposes.

I ask unanimous consent for the present consideration of the report.

The PRESIDENT pro tempore. Is there objection to the present consideration of the report?

There being no objection, the Senate proceeded to consider the report, which reads as follows:

CONFERENCE REPORT

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 11341) to provide additional revenue for the District of Columbia, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 1, 2, 3, 4, 5, 6, 7, 9, 15, 16, 17, 19, 20, 21, 22, 28, 30, 31, 32, 33, 34, 35, and 37.

That the House recede from its disagreement to the amendments of the Senate numbered 8 and 10 and agree to the same.

Amendment numbered 11: That the House recede from its disagreement to the amendment of the Senate numbered 11, and agree to the same with an amendment, as follows:

On page 4, line 3, of the Senate engrossed amendments, strike out "502" and insert in lieu thereof the following: "402"; and the Senate agree to the same.

Amendment numbered 12: That the House recede from its disagreement to the amendment of the Senate numbered 12, and agree to the same with amendments, as follows:

On page 4, line 7, of the Senate engrossed amendments, strike out "503" and insert in lieu thereof the following: "403," and strike out the period immediately following "Act".

On page 4, line 8, of the Senate engrossed amendments, strike out "7–1571a" and insert in lieu thereof the following: "47–1571a"; and the Senate agree to the same.

Amendment numbered 13: That the House recede from its disagreement to the amendment of the Senate numbered 13, and agree to the same with an amendment, as follows:

On page 4, line 11, of the Senate engrossed amendments, strike out "504" and insert in lieu thereof the following: "404"; and the Senate agree to the same.

Amendment numbered 14: That the House recede from its disagreement to the amendment of the Senate numbered 14, and agree to the same with an amendment, as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

"SEC. 405. The amendments made by sections 401 and 402 of this title shall apply with respect to taxable years beginning after December 31, 1971, but before January 1, 1974. The amendments made by sections 403 and 404 of this title shall apply with respect to taxable years beginning on or after January 1, 1974."

And the Senate agree to the same.

Amendment numbered 18: That the House recede from its disagreement to the amendment of the Senate numbered 18, and agree to the same with amendments as follows:

"Restore the matter proposed to be stricken out by the Senate amendment and—"

On page 7, line 17, of the House engrossed bill insert "(a)" immediately after "601.".

On page 7 of the House engrossed bill, strike out lines 19 through 21 and insert in lieu thereof the following:

"is amended to read as follows:

"'SECTION 1. There are authorized to be appropriated, as the annual payment by the United States toward defraying the expenses of the government of the District of Columbia, not to exceed $173,000,000 for the fiscal year ending June 30, 1972, and not to exceed $178,000,000 for the fiscal year ending June 30, 1973, and for each fiscal year thereafter. Sums appropriated under this section shall be credited to the general fund of the District of Columbia.'

"(b)(1) In addition to the amount authorized to be appropriated under section 1 of Article VI of the District of Columbia Revenue Act of 1947 (D.C. Code, sec. 47–2501a) for the fiscal year ending June 30, 1972, there is authorized to be appropriated to the District of Columbia for such fiscal year not to exceed $6,000,000 which may only be used in such fiscal year to pay officers and employees of the District of Columbia increased compensation which is required by comparability adjustments made on or after January 1, 1972, in the rates of pay of statutory pay systems (as defined in section 5301(c) of title 5, United States Code), based on the 1971 Bureau of Labor Statistics survey.

"(2) In addition to the amount authorized to be appropriated under section 1 of Article VI of the District of Columbia Revenue Act of 1947 (D.C. Code, sec. 47–2501a) for the fiscal year ending June 30, 1973, and for each fiscal year thereafter, there is authorized to be appropriated to the District of Columbia not to exceed $12,000,000 for each such fiscal year which may only be used to pay officers and employees of the District of Columbia increased compensation which is required by comparability adjustments made on or after January 1, 1972, in the rates of pay of statutory pay systems (as defined in section 5301(c) of title 5, United States Code), based on the 1971 Bureau of Labor Statistics survey." And the Senate agree to the same.

Amendment Numbered 23: That the House recede from its disagreement to the amendment of the Senate numbered 23, and agree to the same with amendments as follows:

Restore the matter proposed to be stricken out by the Senate amendment, and—

On page 10, line 16, of the House engrossed bill, strike out "(including a sublessor)".

On page 10, line 18, of the House engrossed bill, strike out "shall" and insert in lieu thereof the following: ", after appropriate notice to all interested parties and an opportunity for a hearing, may".

On page 10, line 20, of the House engrossed bill, strike out "such notice" and insert in lieu thereof the following: "the notice to the Commissioner".

On page 11, line 22, of the House engrossed bill, strike out "shall" and insert in lieu thereof the following: ", after appropriate notice to all interested parties and an opportunity for a hearing, may".

On page 12 of the House engrossed bill, insert after the period at the end of line 11 the following: "If such recipient vacates the premises with respect to which such allegation was made, rents other premises in the District of Columbia, and the Commissioner determines on the basis of such allegation that such recipient was justified in vacating the premises with respect to which the allegation was made, the Commissioner may pay to the recipient an amount (not to exceed his monthly shelter allotment) to enable him to make the rental payment required (if any) for such other premises for the period preceding the period for which the recipient will first receive his monthly shelter allotment under the preceding sentence."

On page 12, of the House engrossed bill, strike out lines 12 through 14 and insert in lieu thereof the following:

"'(d) The failure of any lessor to receive all or part of a monthly shelter allotment withheld from any recipient pursuant to subsection (b), or the suspension of rental payments under subsection (c), of this section shall not be cause for eviction of any recipient."

On page 12, line 25, of the House engrossed bill, strike out the quotation marks and add after line 25 the following:

"'(f) For purposes of subsections (b) and (c), the term "lessor" includes a sublessor.

"'(g) The District of Columbia Council is authorized to issue such regulations as may be necessary to carry out the provisions of this section.'."

And the Senate agree to the same.

Amendment numbered 24: That the House recede from its disagreement to the amendment of the Senate numbered 24 and agree to the same with an amendment as follows:

On page 7, line 10, of the Senate engrossed amendments, strike out "804" and insert in lieu thereof the following: "705": and the Senate agree to the same.

Amendment numbered 25: That the House recede from its disagreement to the amendment of the Senate numbered 25 and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following: "706"; and the Senate agree to the same.

Amendment numbered 26: That the House recede from its disagreement to the amendment of the Senate numbered 26 and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following: "707"; and the Senate agree to the same.

Amendment numbered 27: That the House recede from its disagreement to the amendment of the Senate numbered 27, and agree to the same with an amendment as follows:

Strike out the matter proposed to be stricken out by the Senate amendment and on page 14 of the House engrossed bill insert the following after line 21:

"SEC. 708. (a) Section 4(b) of the District of Columbia Minimum Wage Act (D.C. Code, sec. 36–404(b)) is amended—

"(1) by inserting 'or' at the end of paragraph (4),

"(2) by striking out '; or' at the end of paragraph (5) and inserting in lieu thereof a period, and

"(3) by striking out paragraph (6).

"(b) The amendments made by subsection (a) of this section shall take effect January 1, 1972."; and the Senate agree to the same.

Amendment numbered 29: That the House recede from its disagreement to the amendment of the Senate numbered 29 and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following: "709"; and the Senate agree to the same.

Senate amendment numbered 36: That the House recede from its disagreement to the amendment of the Senate numbered 36 and agree to the same with an amendment as follows:

"On page 10, line 18, of the Senate engrossed amendments strike out "905" and insert in lieu thereof the following: "805".

THOMAS F. EAGLETON,
DANIEL K. INOUYE,
ADLAI E. STEVENSON III
CHARLES MC. MATHIAS, Jr.,
LOWELL P. WEICKER, Jr.,
Managers on the Part of the Senate.

JOHN L. MCMILLAN,
EARLE CABELL,
W. S. (BILL) STUCKEY, Jr.,
ANCHER NELSEN,
JOEL T. BROYHILL,
Managers on the Part of the House.

Mr. EAGLETON. Mr. President, I ask unanimous consent that the requirement that the conference report be printed as a Senate report be waived.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. EAGLETON. Mr. President, as chairman of the managers on the part of the Senate, it is my privilege to report to the Senate that agreement has been reached on the District of Columbia Revenue Act of 1971.

Basically, the bill as agreed to by the conferees provides for a Federal payment for the fiscal year ending June 30, 1972, of $173 million with an additional $6 million allocated for District of Columbia pay raise in the event the Federal pay raise of 5.5 percent which is presently in conference is approved, for a total of $179 million. The Federal payment for fiscal year 1973 was set at $178 million plus $12 million for the full year's pay increase or a total of $190 million.

The managers believe that the Federal payment which is being authorized for the District of Columbia is a sum which represents not only, as it has in the past, a sum representing the amount of real estate taxes which would be paid to the District if the real property owned or held by the Federal Government in the District were subject to taxation, but also an amount to compensate the District, because the Congress has decided that at this time it is unwise to levy an income tax on nonresidents of the District who are employed in the District. Were the Congress to decide to authorize a nonresident income tax, it is expected that there would be a reduction in the Federal payment.

The managers have also for the first time authorized a two-step increase in the Federal payment taking into account the anticipated revenue needs for the District government. This is to enable the District government to plan intelligently the allocation of its resources prior to the beginning of its fiscal year. By Congress setting the authorization in advance, the District government will know exactly what the authorized Federal payment will be and, barring completely unforeseen circumstances, the payment authorized will not be raised. In fact, barring such circumstances the appropriate committees of the Congress do not intend to be dealing with the Federal payment during the second session of this Congress.

It should be noted that $6 million of the amount authorized for the Federal payment for fiscal year 1972 and $12 million of the amount authorized for fiscal year 1973, and for each succeeding fiscal year, have been specifically allocated to pay increases in compensation of officers and employees of the District of Columbia if authorized by Congress. These pay increases do not include any increases for policemen, firemen, or teachers. If the District government intends to ask Congress to consider pay increases for these groups, it is expected that in the same legislation there will be a financing proposal which in some way raises local taxes. There will be no increase in the Federal payment to cover this type of pay increase.

There are two other provisions in the conference agreement which should be called to the attention of the Senate.

The first provision relates to the overtime exemption for certain categories of employees relating to the trucking industry specifically section 707. Section 707 of the conference substitute amends the District of Columbia Minimum Wage Act to remove from that act an exemption from overtime pay for certain drivers, drivers' helpers, loaders, and mechanics. These employees will now be entitled to overtime compensation as they were prior to the adoption of the exemption.

There is presently matters relating to this act which are in the courts and it was not the intention of the conference to legislate retroactively to determine the intention of Congress in 1966 when it passed these amendments.

The second provision relates to the suspension of rental allotments payable to welfare recipients. While I have deep reservations about the constitutionality of this provision on both equal protection and deprivation of right of due process, the Senate was unable to prevail on its position that this amendment should be eliminated. However, an attempt was made to insert such due process elements as a hearing before the deprivation of property and a finding of fact based upon that hearing in case such a procedure was implemented and not found unconstitutional.

Mr. President, I move that the conference report be agreed to.

The report was agreed to.

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, I yield 1 minute to the Senator from Pennsylvania.

The PRESIDENT pro tempore. The Senator from Pennsylvania is recognized.

DESIGNATION OF SENATOR FANNIN TO CONTROL HALF THE TIME ON REHNQUIST NOMINATION DEBATE

Mr. SCOTT. Mr. President, I take this time to designate the distinguished Senator from Arizona (Mr. FANNIN) in charge of the time on this side between now and the vote at 5 p.m. on the nomination.

ECONOMIC OPPORTUNITY AMENDMENTS OF 1971—UNANIMOUS-CONSENT AGREEMENT

Mr. MANSFIELD. Mr. President, again, with the indulgence of the distinguished Senator from Massachusetts, I ask unanimous consent that after the vote on the confirmation of Mr. Rehnquist, the Senate turn to the consideration of the Presidential veto on OEO, and that there be a time limitation of 2 hours on that matter, the time to be equally divided between the majority leader and the minority leader, or whomever they designate.

Mr. JAVITS. Mr. President, reserving the right to object, let us hear again what the unanimous-consent request is on the veto?

Mr. MANSFIELD. Two hours.

Mr. JAVITS. I just entered the Chamber and I am the ranking minority member of that committee.

Mr. MANSFIELD. I am taking time from the Senator from Massachusetts.

Mr. KENNEDY. I yield.

Mr. JAVITS. Mr. President, will the Senator give us a minute? This is the first I heard about this matter. I am perfectly willing to vote on the override. As to the time for debate, it will leave 1 hour for the opponents and 1 hour for the proponents. I do not think that the opponents are particularly interested in using all of their time. I shall vote to override and I am interested in the amount of time provided for the proponents of the measure.

The Senator from Minnesota (Mr. MONDALE) has a very great interest in it; the Senator from California (Mr. CRANSTON) has an interest in the legal services; and I have a great interest in OEO and all these titles. We want to be sure the time allocation is adequate.

Mr. NELSON. Mr. President, I wonder if the other side would make an agreement similar to the one we gave them. We had 3 hours and 15 minutes on the conference report. I agreed to give the other side 3 hours and we would take 15 minutes. I wonder if they would give us an hour and a half and they would reserve a half hour for themselves.

Mr. DOMINICK. I do not know who will be handling the matter on this side, but I am willing.

The PRESIDENT pro tempore. Is there objection?

Mr. JAVITS. Mr. President, reserving the right to objection, the way we worked it before was that I controlled the time for the opponents because I am the ranking minority member. I am happy to yield to the Senator from Colorado (Mr. Dominick). But I wish it to be understood by the majority leader that we are operating a little in the dark.

This arrangement is fine. I wish to indicate that I hear silence on the other side as to those who would seek to sustain the veto. As to our side, the Republican side, I suggest we consummate the arrangement with the understanding that if I receive further request for time I will come back to the majority leader.

Mr. MANSFIELD. The Senator has that assurance.

Mr. MONDALE. Mr. President, reserving the right to object, we will be in session tomorrow?

Mr. MANSFIELD. Yes.

Mr. MONDALE. Is there any chance this could be brought up tomorrow morning rather than this evening?

Mr. MANSFIELD. We have gone so far I think we should go ahead with it. I think we will have better attendance tonight, more interest, and make the best possible showing, one way or the other.

The PRESIDENT pro tempore. Is there objection? The Chair hears no objection, and it is so ordered.

Mr. KENNEDY. Mr. President, I ask for the regular order.

CHILDREN'S DENTAL HEALTH ACT

Under the previous order, the Senate resumed consideration of the bill (S. 1874) to provide for the establishment of projects for the dental auxiliaries, to increase the availability of dental care through efficient use of dental personnel, and for other purposes.

The PRESIDENT pro tempore. The question now is on agreeing to the Allen amendment to S. 1874.

On this question the yeas and nays have been ordered.

Mr. ALLEN. Mr. President, in order to save time, I ask unanimous consent that the order for the yeas and nays be rescinded on this matter.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The question is on agreeing to the amendment of the Senator from Alabama (Mr. Allen).

The amendment was rejected.

Mr. HUMPHREY. Mr. President, I send to the desk an amendment on behalf of myself and the Senator from Minnesota (Mr. Mondale).

Mr. BYRD of West Virginia. Mr. President, may we have less commotion and better order in the Senate?

The PRESIDENT pro tempore. The Chair has been trying to maintain order. The Senate will be in order.

The amendment will be stated.

The amendment was read as follows:

S. 1874

On page 20, line —, insert the following:

At the end of the bill add the following new section:

AMENDMENTS TO THE FOOD STAMP ACT OF 1964

(a) Sec. —. That section 5(b) of the Food Stamp Act of 1964 is amended by inserting after the first sentence thereof, the following: "Notwithstanding the foregoing, the standards of eligibility under any State plan of operation shall not make ineligible any household which would have been eligible under the standards of eligibility provided for by the State plan of operation in effect just prior to enactment of Public Law 91–671 which was approved January 11, 1971."

(b) The first sentence of section 7(b) of the Food Stamp Act of 1964 (which deals with the charge to be made for food stamps) is amended by inserting before the colon preceding the first proviso the following: "or more than would have been charged for a coupon allotment of similar face value prior to the enactment of Public Law 91–671 which was enacted on January 11, 1971."

Mr. BYRD of West Virginia. Mr. President, we cannot hear the clerk.

The PRESIDENT pro tempore. Senators will please be seated.

Mr. HUMPHREY. Mr. President, I received today a copy of a letter sent to the Minnesota commissioner of public welfare by Mr. R. J. McMullen, director of the Clay County Welfare Board in Minnesota. That letter is addressed to the problems which will be created in Minnesota if USDA's new food stamp regulations are allowed to go into effect.

Mr. President, I ask unanimous consent to insert this letter at this point in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

CLAY COUNTY WELFARE BOARD,
Moorhead, Minn., December 2, 1971.

Mr. Morris Hursh,
Commissioner, Department of Public Welfare, Centennial Building, St. Paul, Minn.

Attention: Mr. Curtiss Johnson, Food Stamp Supervisor.

Dear Mr. Hursh: This is in reference to your Request Bulletin #26, dated November 26, 1971, relative to the revised Food Stamp Program regulations.

In paragraph one the following is brought to our attention:

	Present bonus	New bonus
1-member family	$10	$6
2-member family	20	6
3-member family	22	9
4-member family	29	9

These figures are for the public assistance recipients who are participating in the Food Stamp Program. It is the opinion of this agency that the reduced amount in bonus stamps will emasculate the Program and render it unuseable by most public assistance clients.

In the next paragraph I note that each participant will be given the option, at the time of purchase, of buying the full amount of Food Stamps, at three-fourths, one-half, or one-fourth allocations. The afore mentioned can vary from month to month according to clients wishes. It would seem to be under this proposal that those clients who do participate may buy the full amount, three-fourths, one-half, or one-fourth of the amount and would destroy the effectiveness of the plan. I do not believe that a family of four with a monthly bonus of $9.00 available would buy one-fourth and receive $2.25 worth of bonus stamps. It would also increase the administration costs due to the multiplicity of certifications and purchases which will not only add paper work but will necessitate additional staff. It is also mentioned that each recipient will have the option of having his purchase requirement withheld from his grant and the remainder of the balance and his Food Stamps mailed to him. I doubt very much that there will be any sizeable participation on the part of people who request that the amount of the purchase requirement be withheld from their grants.

I am also deeply concerned about the possibility of losses of stamps or theft of stamps going through the mail. In the event of this who would be responsible?

Your next paragraph, number four, refers to households in which all members are included in Federally aided Public Assistance or General Assistance grants, and states that if the total income exceeds the allowable amount the bonus allotment will be substantially less, and the present bonus purchase requirement will be somewhat increased. There are many Aid to Families With Dependent Children mothers who are on jobs or in training courses who have a disregard of earnings to be considered when the grant is computed, and we have very few of these people participating. There is no question of the additional paper work required and the referral of people for work registration is useless if there are no jobs to be obtained. This also mentioned free Food Stamps will be provided for those with extremely low income, although it is not mentioned what constitutes low income for the various sized families. Also it mentioned that assets are defined as including certain items of personal property that do not produce income. An explanation of these items would be helpful.

We have 226 Old Age Assistance cases of which 36 participate in the Food Stamp Program. The greater participation is in the Aid to Families With Dependent Children Program in which 58 families out of a total of 201 participate. In the aid to the Disabled Program 20 persons out of 200 participate. In the Non-Public Assistance group we have 216 participating out of a total of 254.

In short, I believe that the proposed regulations are destructive of any benefits in the Food Stamp Program, and I doubt that we will have any extensive participation because of the reduced amount of bonus stamps under the proposals. It is cumbersome enough to have a Program that is under the jurisdiction of two departments such as the Department of Agriculture and the Department of Health, Education, and Welfare. It is the opinion of this agency that if such proposals are put into effect that the Food Stamp Program will die for lack of participation.

Yours very truly,
R. J. McMullen,
Director.

The PRESIDENT pro tempore. The question is on agreeing to the amendment of the Senator from Minnesota (Mr. Humphrey).

The amendment was agreed to.

The PRESIDENT pro tempore. The question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment, as amended, was agreed to.

The PRESIDENT pro tempore. The

question now is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, and was read the third time.

The PRESIDENT pro tempore. The bill having been read the third time, the question is, Shall it pass?

Mr. JAVITS. Mr. President, a parliamentary inquiry.

The PRESIDENT pro tempore. The Senator will state it.

Mr. JAVITS. Is there any time available for debate on the bill?

The PRESIDENT pro tempore. No.

Mr. JAVITS. Mr. President, I will propound a unanimous-consent request. I ask unanimous consent that the Senator from Minnesota (Mr. HUMPHREY) may have 3 minutes to explain his amendment to the Senate. Though it was adopted, I do not think any Members of the Senate knew what it was. At least the record ought to show what the proponent of the amendment intends so that it may be in the record when it goes to conference.

The PRESIDENT pro tempore. Is there objection to the request of the Senator from New York? Without objection, the Senator from Minnesota may proceed for 3 minutes.

Mr. HUMPHREY. Mr. President, I understand the amendment has been adopted, so I do not want to talk myself out of it.

This amendment merely clarifies a regulation relating to the Food Stamp Act which the Senate has acted on on one other occasion.

The Department of Agriculture, as part of its new food stamp program regulations this year, established national uniform income and resource eligibility standards for the program. While these new standards increased the allowable maximum income that individuals or couples can earn each month in most States, the new standard lowered the maximum income allowed in 12 States. One of those States happened to be Minnesota. The other States included California, New York, Massachusetts, Michigan, Rhode Island, New Jersey, Nebraska, South Dakota, Vermont, Washington, and Wisconsin.

Unless there was action such as the action we have taken here today, a substantial number of elderly who are participating in this program in those 12 States would have their allowances adversely affected.

The Department also took action under the new regulations to increase the minimum purchase requirements for individuals and couples and to reduce the amount or value of the bonus stamps individuals and couples can receive under the program.

Under last year's food stamp program, an elderly couple earning between $150 and $245 were required to spend $36 of their money in order to receive an additional $20 worth of food stamps as a bonus. Under the new regulations issued by the Department of Agriculture, couples earning between $210 and $222 will be required to spend $54 and will get only $6 in bonus stamps. It should be noted again here that the maximum monthly income allowed for participation in this case has dropped from $245 to $220.

The amendment makes sure that the people in the States mentioned where there are programs operative would not be adversely affected by the regulations which were instituted to raise the allowance in 38 States, and that it would automatically apply to the 12 States to have the allowances they now have.

The PRESIDENT pro tempore. The bill having been read the third time, the question is, Shall it pass? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from Indiana (Mr. BAYH), the Senator from Oklahoma (Mr. HARRIS), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Wyoming (Mr. MCGEE), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Utah (Mr. BENNETT) and the Senator from South Dakota (Mr. MUNDT) are absent because of illness.

The Senator from Illinois (Mr. PERCY) and the Senator from Maine (Mrs. SMITH) are necessarily absent.

The Senator from Arizona (Mr. GOLDWATER) is detained on official business.

If present and voting, the Senator from Illinois (Mr. PERCY) and the Senator from Maine (Mrs. SMITH) would each vote "yea."

The result was announced—yeas 88, nays 1, as follows:

[No. 448 Leg.]

YEAS—88

Aiken
Allen
Allott
Baker
Beall
Bellmon
Bentsen
Bible
Boggs
Brock
Brooke
Buckley
Burdick
Byrd, Va.
Byrd, W. Va.
Cannon
Case
Chiles
Church
Cook
Cooper
Cotton
Cranston
Curtis
Dole
Dominick
Eagleton
Eastland
Ellender
Ervin
Fannin
Fong
Fulbright
Gambrell
Gravel
Griffin
Gurney
Hansen
Hart
Hartke
Hatfield
Hollings
Hruska
Hughes
Humphrey
Inouye
Jackson
Javits
Jordan, N.C.
Jordan, Idaho
Kennedy
Long
Magnuson
Mansfield
Mathias
McGovern
McIntyre
Metcalf
Miller
Mondale
Montoya
Moss
Muskie
Nelson
Packwood
Pastore
Pearson
Pell
Proxmire
Randolph
Ribicoff
Roth
Saxbe
Schweiker
Scott
Sparkman
Spong
Stafford
Stevens
Stevenson
Symington
Talmadge
Thurmond
Tower
Tunney
Weicker
Williams
Young

NAYS—1

Taft

NOT VOTING—11

Anderson
Bayh
Bennett
Goldwater
Harris
McClellan
McGee
Mundt
Percy
Smith
Stennis

So the bill (S. 1874) was passed, as follows:

S. 1874

An act to provide for the establishment of projects for the dental health of children, to increase the number of dental auxiliaries, to increase the availability of dental care through efficient use of dental personnel, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Children's Dental Health Act of 1971".

SEC. 2. The Public Health Service Act is amended by adding at the end thereof the following new title:

"TITLE XI—DENTAL HEALTH PROJECTS

"GRANTS FOR PROJECTS FOR DENTAL CARE FOR CHILDREN

"SEC. 1101. (a) There are authorized to be appropriated $5,000,000 for the fiscal year ending June 30, 1972; $15,000,000 for the fiscal year ending June 30, 1973; and $30,000,000 for the fiscal year ending June 30, 1974; which shall be used by the Secretary to make grants to the health agency of any State (or political subdivision thereof) or to any other public or nonprofit private agency, organization, or institution to pay for part of the cost of the carrying out (on a planned and systematic basis) by such agency, organization, or institution, of one or more comprehensive projects for dental care and services for children of preschool and school age. Any such project shall include such comprehensive corrective, followup and preventive services (including dental health education), and treatment as may be required under regulations of the Secretary.

"(b) Grants under this section shall not be utilized to provide or pay for dental care and services for children unless such children are determined (in accordance with regulations of the Secretary) to be (A) from low-income families, or (B) unable, for other reasons beyond their control, to obtain such care and services.

"(c) Grants under this section may be utilized for the conduct of research, demonstrations, or experimentation carried on with a view of developing new methods for (A) the prevention, diagnosis, or treatment of dental problems, (B) the payment of dental care and services, or (C) the utilization of dental health care personnel with various levels of training; except that not more than 10 per centum of any grant under this section shall be so utilized.

"(d) In making grants under this section, the Secretary shall accord priority to projects designed to provide dental care and preventive services for children of preschool age and school age children who are in the first five grades of school.

"GRANTS FOR WATER TREATMENT PROGRAMS

"SEC. 1102. (a) There are hereby authorized to be appropriated $2,000,000 for the fiscal year ending June 30, 1972; $3,000,000 for the fiscal year ending June 30, 1973; and $4,000,000 for the fiscal year ending June 30, 1974; which shall be used by the Secretary to make grants to States, political subdivisions of States, and other public or nonprofit private agencies, organizations, and institutions to assist them in initiating, in communities or in public elementary or secondary schools, water treatment programs designed to reduce the incidence of oral disease or dental defects among residents of such communities or the students in such schools (as the case may be).

"(b) Grants under this section may be utilized for (but are not limited to) the purchase and installation of water treatment equipment.

"(c) Grants under this section shall not exceed—

"(1) 80 per centum of the cost of the treatment program with respect to which such grant under this section is made in the case of any grant under section 1101; and

"(2) 66⅔ per centum of the cost of the treatment program with respect to which such grant is made in the case of any other grant.

"GRANTS TO TRAIN AUXILIARY DENTAL PERSONNEL

"SEC. 1103. There are hereby authorized to be appropriated $12,000,000 for the fiscal year ending June 30, 1972; $20,000,000 for the fiscal year ending June 30, 1973; and $25,000,000 for the fiscal year ending June 30, 1974; which shall be used by the Secretary to make grants to public and nonprofit private institutions to assist them in establishing and carrying out programs to educate and train persons for careers as auxiliary dental personnel with special emphasis on the education and training of veterans of the Armed Forces who have received experience and training in dental auxiliary functions.

"PROJECTS TO PROMOTE EFFECTIVE USE OF AUXILIARY DENTAL PERSONNEL

"SEC. 1104. (a) There are hereby authorized to be appropriated $6,000,000 for the fiscal year ending June 30, 1972; $10,000,000 for the fiscal year ending June 30, 1973; and $10,000,000 for the fiscal year ending June 30, 1974; which shall be used by the Secretary to make grants and enter into contracts (without regard to section 3648 of the Revised Statutes, 31 U.S.C. 539) under subsection (c) and to make grants to dental schools, and to other public or nonprofit private agencies, organizations, and institutions, and to enter into contracts (without regard to section 3648 of the Revised Statutes, 31 U.S.C. 529) with individuals, agencies, organizations, and institutions, for projects described in subsection (b).

"(b) Grants and contracts under this section may be made or entered into for projects for—

"(1) planning, establishing, demonstrating, or supporting programs to teach dental students and dentists the efficient and effective utilization of dental auxiliaries and the management and supervision of total dental health teams (including, but not limited to, teams consisting of various types of auxiliary dental personnel who are trained in carrying out expanded functions or procedures which do not require the knowledge and skill of the dentist), with special emphasis on the employment and utilization of veterans of the armed forces who have received experience and training in dental auxiliary functions;

"(2) demonstration and experimentation of ways to organize dental health services to achieve maximum effectiveness in the use of auxiliary dental personnel, which projects take into account such factors as patient acceptance, quality of care, and cost of services; and

"(3) planning, establishing, demonstrating, or supporting field training programs for dental students and auxiliary dental personnel in which dental care and preventive services are provided by such persons under professional supervision in areas characterized by low family incomes or shortage of and need for dental services.

"(c) The Secretary is authorized to utilize sums appropriated pursuant to subsection (a) to make grants to dental schools and to other public or nonprofit private agencies, organizations, and institutions, and to enter into contracts with individuals, agencies, organizations, and institutions for special projects related to investigation and demonstration of ways of providing incentives for developing or establishing dental facilities or services in areas or communities in a State determned by the appropriate State health authority in such State to have a shortage of and need for dentists.

"DENTAL ADVISORY COMMITTEE

"SEC. 1105. (a) The President shall appoint a Dental Advisory Committee consisting of seven members, four of whom shall be selected from the dental profession and three from the general public. Members shall be appointed from among persons who, by virtue of their training, experience, and background, are exceptionally qualified to appraise the programs established by this title. The Secretary shall be an ex officio member of the Committee.

"(b)(1) Members shall be appointed for six-year terms, except that of the members first appointed three shall be appointed for two years, two shall be appointed for four years, and two shall be appointed for a term of six years as designated by the President at the time of appointment. The members shall select their own chairman.

"(2) Any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall serve only for the remainder of such term. Members shall be eligible for reappointment and may serve after the expiration of their terms until their successors have taken office.

"(3) The Dental Advisory Committee shall advise the Secretary in regard to the reports required under section 1006, in regard to programs established under this title, and in regard to activities carried on by the Department of Health, Education, and Welfare related to dental health, dental manpower, or dental training and services, and shall serve as a reviewing body for grants made pursuant to this title, where such review is deemed necessary by the Secretary.

"(4) Members of the Dental Advisory Committee who are not officers or employees of the United States shall receive compensation at rates not to exceed the daily rate prescribed for GS–18 under section 5332, title 5, United States Code, for each day they are engaged in the actual performance of their duties, including traveltime, and while so serving away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as the expenses authorized by section 5703, title 5, United States Code, for persons in Government service employed intermittently.

"(5) The Secretary shall make available to the Dental Advisory Committee such staff, information, and other assistance as it may require to carry out its activities.

"(6) The Secretary, after consultation with the Dental Advisory Committee, shall promulgate such rules and regulations as are necessary to carry out the purposes of this title.

"REPORT

"SEC. 1106. (a) The Secretary shall submit a report to the Congress not later than January 31 of each year on the progress of the implementation and administration of the programs established under this title.

"(b) The Secretary shall submit to the Congress a report containing his recommendations concerning the need and feasibility of a comprehensive national dental health program for children within ninety days before the end of the fiscal year ending June 30, 1974."

SEC. 3. Section 1902(a)(10) of title XIX of the Social Security Act is amended by adding at the end thereof the following: "and except that services described in paragraph (10) of section 1905(a) may be made available to individuals or groups of individuals under age eighteen without making available such services of the same amount, duration, and scope to individuals of any other ages;".

SEC. 4. (a) Section 1 of the Public Health Service Act is amended to read as follows:

"SECTION 1. Titles I to XI, inclusive, of this Act may be cited as the 'Public Health Service Act'."

(b) The Act of July 1, 1944 (58 Stat. 682), as amended, is further amended by renumbering title XI (as in effect prior to the enactment of this Act) as title XII, and by renumbering sections 1101 through 1114 (as in effect prior to the enactment of this Act), as sections 1201 through 1214, respectively.

SEC. 5. Section 602 of the Federal Food, Drug, and Cosmetic Act is amended by adding at the end thereof the following new subsection:

"(g)(1) If it is a dentifrice and (A) because of its nature, composition, or packaging it involves a potential risk to consumers including but not limited to its potential sensitizing, allergenic, or abrasive character or (B) because of any foreseeable handling, storage, or use by individuals it presents such a potential risk; then such dentifrice shall bear adequate cautionary labeling (such labeling shall be conspicuous and shall include first-aid information if appropriate). Whenever the Secretary finds any dentifrice or class of dentifrices to be subject to this subsection and in his judgment a declaration to that effect will reduce the potential risk to the consumer, he may by regulation declare such dentifrice or class thereof to be subject to such provision and may in such regulation specify the content of such cautionary information, the appropriate type size to be used for such warning, its placement on labels and may in pursuance of the objective of this subsection require the submission of the quantitative formula of such dentifrice or class thereof by the manufacturers of such dentifrice.

"(2) If it is a dentifrice and its labeling fails to bear cautionary information in the manner prescribed in clause (1) of this subsection.".

SEC. 6. Section 201 of the Federal Food, Drug, and Cosmetic Act is amended by adding at the end thereof the following new subsection:

"(y) The term 'dentifrice' means any cosmetic, drug, or other article recommended, suggested, or indicated for use by humans in the cure, mitigation, treatment, or prevention of diseases of the teeth or for cleansing or beautifying teeth.".

SEC. 7. Title V of the Lead-Based Paint Poisoning Prevention Act is amended by adding at the end thereof the following new section:

"AUTHORITY TO MAKE GRANTS TO STATE AGENCIES IN CERTAIN CASES

"SEC. 504. Notwithstanding any other provision of this Act, grants under sections 101 and 201 may be made to an agency of State government in any case where State government provides direct services to citizens in local communities or where units of general local government within the State are prevented by State law from implementing or receiving such grants or from expending such grants in accordance with their intended purpose; and in any such case the term 'local' when used in section 101 or 201 with respect to any program shall be deemed to read 'State'."

AMENDMENTS TO THE FOOD STAMP ACT OF 1964

SEC. 8. (a) Section 5(b) of the Food Stamp Act of 1964 is amended by inserting after the first sentence thereof, the following: "Notwithstanding the foregoing, the standards of eligibility under any State plan of operation shall not make ineligible any household which would have been eligible under the standards of eligibility provided for by the State plan of operation in effect just prior to enactment of Public Law 91–671 which was approved January 11, 1971."

(b) The first sentence of section 7(b) of the Food Stamp Act of 1964 (which deals with the charge to be made for food stamps) is amended by inserting before the colon preceding the first proviso the following: "or more than would have been charged for a coupon allotment of similar face value prior to the enactment of Public Law 91–671 which was enacted on January 11, 1971".

Mr. KENNEDY. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. MANSFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum, with the proviso that I retain the floor.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CHILES). Without objection, it is so ordered.

EXECUTIVE SESSION—NICE AGREEMENT, AS REVISED, CONCERNING THE INTERNATIONAL CLASSIFICATION OF GOODS AND SERVICES TO WHICH TRADEMARKS ARE APPLIED; RATIFICATION OF THE LOCARNO AGREEMENT ESTABLISHING AN INTERNATIONAL CLASSIFICATION FOR INDUSTRIAL DESIGNS; PROTOCOL TO AMEND INTERNATIONAL CIVIL AVIATION CONVENTION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider Executive M, 91st Congress, 2d Session, Nice Agreement, as revised, concerning the international classification of goods and services to which trademarks are applied; Executive I, 92d Congress, 1st Session, ratification of the Locarno Agreement establishing an international classification for industrial designs; and Executive K, 92d Congress, 1st Session, protocol to amend International Civil Aviation Convention; that they be considered as having passed through the various parliamentary stages, up to and including the presentation of the resolutions of ratification; that I be permitted to incorporate at appropriate points in the RECORD explanations and other data connected with these treaties, which were reported unanimously by the Committee on Foreign Relations.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider Executive M, 91st Congress, 2d Session; Executive I, 92d Congress, 1st Session; and Executive K, 92d Congress, 1st Session, which were read the second time as follows:

EXECUTIVE M

[Translation]

NICE AGREEMENT CONCERNING THE INTERNATIONAL CLASSIFICATION OF GOODS AND SERVICES TO WHICH TRADEMARKS ARE APPLIED

Of June 15, 1957

ARTICLE 1

(1) The countries to which this Agreement applies form a Special Union.

(2) They adopt, for the purpose of the registration of marks, a single classification of goods and services.

(3) This classification consists of:

(*a*) a list of classes;

(*b*) an alphabetical list of goods and services with an indication of the classes into which they fall.

(4) The list of classes and the alphabetical list of goods are those which were published in 1935 by the International Bureau for the Protection of Industrial Property.

(5) The list of classes and the alphabetical list of goods and services may be modified or supplemented by the Committee of Experts set up under Article 3 of this Agreement, in accordance with the procedure laid down in that Article.

(6) The classification shall be established in the French language and, at the request of any contracting country, an official translation into the language of that country may be published by the International Bureau in agreement with the national Administration concerned. Each translation of the list of goods and services shall mention against each of the goods or services, in addition to its number according to the alphabetical listing in the language concerned, the number which it bears in the list established in the French language.

ARTICLE 2

(1) Subject to the requirements prescribed by this Agreement, the effect of the international classification shall be that attributed to it by each contracting country. In particular, the international classification shall not bind the contracting countries in respect of either the evaluation of the extent of the protection afforded to any given mark, or the recognition of service marks.

(2) Each of the contracting countries reserves the right to apply the international classification of goods and services as a principal or as a subsidiary system.

(3) The Administrations of the contracting countries shall include in the official documents and publications concerning the registrations of marks the numbers of the classes of the international classification to which the goods or services for which the mark is registered belong.

(4) The fact that a term is included in the alphabetical list of goods and services in no way affects any rights which might exist in such a term.

ARTICLE 3

(1) A Committee of Experts charged with deciding all modifications and additions to be made in the international classification of goods and services shall be set up at the International Bureau. Each of the contracting countries shall be represented on the Committee of Experts, which shall be organized according to Regulations adopted by a majority of the countries represented. The International Bureau shall be represented on the Committee.

(2) Proposals for modification or addition shall be addressed by the Administrations of the contracting countries to the International Bureau, which shall transmit them to the members of the Committee of Experts not later than two months before that session of the Committee at which the said proposals are to be considered.

(3) Decisions of the Committee concerning modifications in the classification shall be made with the unanimous consent of the contracting countries. "Modification" means any transfer of goods from one class to another or the creation of any new class entailing such transfer.

(4) Decisions of the Committee concerning additions to the classification shall be made by a simple majority of the contracting countries.

(5) Each expert shall have the right to submit his opinion in writing or to delegate his powers to the expert of another country.

(6) If a country does not appoint an expert to represent it, or if the expert appointed does not submit his opinion within a period to be prescribed by the Regulations, the country concerned shall be considered to have accepted the decision of the Committee.

ARTICLE 4

(1) Every modification and addition decided by the Committee of Experts shall be notified to the Administration of the contracting countries by the International Bureau. The decisions shall come into force, in so far as additions are concerned, as soon as the notification is received, and, as far as modifications are concerned, within a period of six months to be reckoned from the date of dispatch of the notification.

(2) The International Bureau, as the depositary of the classification of goods and services, shall incorporate therein the modifications and additions which have entered into force. Announcements of these modifications and additions shall be published in the two periodicals *La Propriété industrielle* and *Les Marques internationales*.

ARTICLE 5

(1) The expenses which the International Bureau incurs in carrying out this Agreement shall be borne in common by the contracting countries in accordance with the provisions of Articles 13(8), (9), and (10), of the Paris Convention for the Protection of Industrial Property. Until a further decision is made, these expenses may not exceed the sum of 40,000 gold francs per annum.

(2) The expenses referred to in paragraph (1) of Article 5 shall not include expenses relating to the work of diplomatic conferences, or those due to special work or publications carried out in accordance with the decisions of a conference. These expenses, the annual total of which may not exceed 10,000 gold francs, shall be borne in common by the contracting countries as provided by the terms of paragraph (1) above.

(3) The totals of the expenses provided for in paragraphs (1) and (2) above may, if necessary, be increased by decision of the contracting countries or of one of the conferences referred to in Article 8; such decisions shall be deemed valid if they are supported by four-fifths of the contracting countries.

ARTICLE 6

(1) This Agreement shall be ratified and the instruments of ratification deposited at Paris not later than December 31, 1961. These ratifications, with their dates and any statements accompanying them, shall be notified by the Government of the French Republic to the Governments of the other contracting countries.

(2) Countries of the Union for the Protection of Industrial Property which have not signed this Agreement in accordance with Article 11(2) shall be allowed to accede to it, at their request, in accordance with the provisions of Article 16 of the Paris Convention for the Protection of Industrial Property.

(3) Countries which have not deposited an instrument of ratification within the period prescribed by paragraph (1) of this Article shall be allowed to accede to the Agreement in accordance with Article 16 of the Paris Convention for the Protection of Industrial Property.

ARTICLE 7

This Agreement shall come into force between those countries which have ratified or acceded to it one month from the date on which the instruments of ratification have been deposited or the accessions notified by not less than ten countries. The Agreement shall have the same force and duration as the Paris Convention for the Protection of Industrial Property.

ARTICLE 8

(1) This Agreement shall be submitted to periodical revisions with a view to the introduction of desired improvements.

(2) Every revision shall be considered at a conference which shall be held in one of

the contracting countries, between the delegates of the said countries.

(3) The Administration of the country in which the conference is to be held shall prepare the work of the conference, with the assistance of the International Bureau.

(4) The Director of the International Bureau shall attend the meetings of the conferences and take part in the discussions, but without the right to vote.

Article 9

(1) Each contracting country shall be entitled to denounce this Agreement by means of a written notification addressed to the Government of the Swiss Confederation.

(2) This denunciation, which shall be communicated by the Government of the Swiss Confederation to all other contracting countries, shall have effect only in respect of the denouncing country and only twelve months after receipt of the notification addressed to the Government of the Swiss Confederation, the Agreement remaining in force for the other contracting countries.

Article 10

The provisions of Article 16*bis* of the Paris Convention for the Protection of Industrial Property shall apply to this Agreement.

Article 11

(1) This Agreement shall be signed in a single copy, which shall be deposited in the archives of the Ministry of Foreign Affairs of the French Republic. A certified copy shall be transmitted through diplomatic channels to each of the Governments of the contracting countries.

(2) This Agreement shall remain open for signature by the member countries of the Union for the Protection of Industrial Property until December 31, 1958, or until it comes into force, whichever date is the earlier.

In witness whereof the undersigned Plenipotentiaries have signed this Agreement.

Done at Nice in a single copy of June 15, 1957.

For the Federal Republic of Germany:
Herbert Kuhnemann
For Australia:
For Austria:
Gottfried Thaler
For Belgium:
L. Hermans
For Brazil:
For the People's Republic of Bulgaria:
For Canada:
For Ceylon:
For Cuba:
For Denmark:
Julie Olsen
For the Dominican Republic:
For Egypt:
For Spain:
N. Juristo Valverde
J. L. Aparicio
For the United States of America:
For Finland:
For France:
Marcel Plaisant
For the United Kingdom of Great Britain and Northern Ireland:
R. G. Atkinson
For Greece:
For the Hungarian People's Republic:
Lajos Dege
For Indonesia:
For Ireland:
For Israel:
For Italy:
Talamo
For Japan:
For Lebanon:
Fayard
A. Soufi
For the Principality of Liechtenstein:
Hans Morf
For Luxembourg:
J. P. Hoffmann
For Morocco:
Taieb Sebti
For Mexico:
For Monaco:
C. Solamito
For Norway:
Roald Roed
For New Zealand:
For the Netherlands:
C. J. De Haan
For the Polish People's Republic:
Z. Muszynski
For Portugal, including the Azores and Madeira:
Jorge Van-Zeller Garin
For Romania:
M. Balanesco 31.12.1958
For Sweden:
Claes Uggla
For Switzerland:
Hans Morf
Léon Egger
For Syria:
For the Czechoslovak Republic:
Dr. Jan Cech
For Tunisia:
Salah Eddine El Goulli
For the Republic of Turkey:
Feridum C. Erkin 31.12.1958
For the Union of South Africa:
For Viet-Nam:
For Yugoslavia:
Milenko Jakovljevic

A certified true copy of the original on deposit in the Archives of the Ministry of Foreign Affairs, Paris, June 20, 1969.

(Signed) Laloy
J. Laloy,
Minister Plenipotentiary,
Director of Diplomatic Archives.

[Stamp of the Ministry of Foreign Affairs of the French Republic.]

[Translation]

NICE AGREEMENT CONCERNING THE INTERNATIONAL CLASSIFICATION OF GOODS AND SERVICES FOR THE PURPOSES OF THE REGISTRATION OF MARKS

of June 15, 1957, as Revised at Stockholm on July 14, 1967[1]

Article 1

[Establishment of a Special Union; Adoption of an International Classification; Definition of International Classification; Languages][2]

(1) The countries to which this Agreement applies constitute a Special Union.

(2) They adopt, for the purposes of the registration of marks, a single classification of goods and services.

(3) This classification consists of:

(*a*) a list of classes;

(*b*) an alphabetical list of goods and services with an indication of the classes into which they fall.

(4) The list of classes and the alphabetical list of goods are those which were published in 1935 by the International Bureau for the Protection of Industrial Property.

(5) The list of classes and the alphabetical list of goods and services may be amended or supplemented by the Committee of Experts set up under Article 3 of this Agreement, in accordance with the procedure laid down in that Article.

(6) The classification shall be established in the French language and, at the request of any contracting country, an official translation into the language of that country may be published by the International Bureau of Intellectual Property (hereinafter designated as "the International Bureau") referred to in the Convention establishing the World Intellectual Property Organization (hereinafter designated as "the Organization"), in agreement with the national Office concerned. Each translation of the list of goods and services shall mention against each of the goods or services, in addition to its number according to the alphabetical listing in the language concerned, the number which it bears in the list established in the French language.

Article 2

[Legal Scope and Use of the International Classification]

(1) Subject to the requirements prescribed by this Agreement, the effect of the international classification shall be that attributed to it by each contracting country. In particular, the international classification shall not bind the contracting countries in respect of either the evaluation of the extent of the protection afforded to any given mark or the recognition of service marks.

(2) Each of the contracting countries reserves the right to use the international classification of goods and services as a principal or as a subsidiary system.

(3) The Offices of the contracting countries shall include in the official documents and publications concerning the registrations of marks the numbers of the classes of the international classification to which the goods or services for which the mark is registered belong.

(4) The fact that a term is included in the alphabetical list of goods and services in no way affects any rights which might subsist in such a term.

Article 3

[Amendments and Additions to the International Classification; Committee of Experts]

(1) A Committee of Experts charged with deciding all amendments and additions to be made in the international classification of goods and services shall be set up at the International Bureau. Each of the contracting countries shall be represented on the Committee of Experts, which shall be organized according to Regulations adopted by a majority of the countries represented. The International Bureau shall be represented on the Committee.

(2) Proposals for amendments or additions shall be addressed by the Offices of the contracting countries to the International Bureau, which shall transmit them to the members of the Committee of Experts not later than two months before that session of the Committee at which the said proposals are to be considered.

(3) Decisions of the Committee concerning amendments to the classification shall require the unanimous consent of the contracting countries. "Amendment" shall mean any transfer of goods from one class to another or the creation of any new class entailing such transfer.

(4) Decisions of the Committee concerning additions to the classification shall require a simple majority of the votes of the contracting countries.

(5) Each expert shall have the right to submit his opinion in writing or to delegate his powers to the expert of another country.

(6) If a country does not appoint an expert to represent it, or if the expert appointed does not submit his opinion within a period to be prescribed by the Regulations, the country concerned shall be considered to have accepted the decision of the Committee.

Article 4

[Notification, Entry Into Force, and Publication, of Amendments and Additions]

(1) Every amendment and addition decided by the Committee of Experts shall be notified to the Offices of the contracting

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[1] This is a provisional English translation prepared by BIRPI.

[2] Articles have been given titles to facilitate their identification. There are no titles in the signed, French text.

countries by the International Bureau. The decisions shall come into force, in so far as additions are concerned, as soon as the notification is received, and, as far as amendments are concerned, within a period of six months from the date of dispatch of the notification.

(2) The International Bureau, as the depository of the classification of goods and services, shall incorporate therein the amendments and additions which have entered into force. Announcements of such amendments and additions shall be published in the two periodicals, *La Propriété industrielle* and *Les Marques internationales.*

ARTICLE 5

[Assembly of the Special Union]

(1) (*a*) The Special Union shall have an Assembly consisting of those countries which have ratified or acceded to this Act.

(*b*) The Government of each country shall be represented by one delegate, who may be assisted by alternate delegates, advisors, and experts.

(*c*) The expenses of each delegation shall be borne by the Government which has appointed it.

(2) (*a*) Subject to the provisions of Articles 3 and 4, the Assembly shall:

(i) deal with all matters concerning the maintenance and development of the Special Union and the implementation of this Agreement;

(ii) give directions to the International Bureau concerning the preparation for conferences of revision, due account being taken of any comments made by those countries of the Special Union which have not ratified or acceded to this Act;

(iii) review and approve the reports and activities of the Director General of the Organization (herinafter designated as "the Director General") concerning the Special Union, and give him all necessary instructions concerning matters within the competence of the Special Union;

(iv) determine the program and adopt the triennial budget of the Special Union, and approve its final accounts;

(v) adopt the financial regulations of the special Union;

(vi) establish, in addition to the Committee of Experts referred to in Article 3, such other committees of experts and working groups as it may deem necessary to achieve the objectives of the Special Union;

(vii) determine which countries not members of the Special Union and which intergovernmental and international nongovernmental organizations shall be admitted to its meetings as observers;

(viii) adopt amendments to Articles 5 to 8;

(ix) take any other appropriate action designed to further the objectives of the Special Union;

(x) perform such other functions as are appropriate under this Agreement.

(*b*) With respect to matters which are of interest also to other Unions administered by the Organization, the Assembly shall make its decision after having heard the advice of the Coordination Committee of the Organization.

(3) (*a*) Each country member of the Assembly shall have one vote.

(*b*) One-half of the countries members of the Assembly shall constitute a quorum.

(*c*) Notwithstanding the provisions of subparagraph (*b*), if, in any session, the number of countries represented is less than one-half but equal to or more than one-third of the countries members of the Assembly, the Assembly may make decisions but, with the exception of decisions concerning its own procedure, all such decisions shall take effect only if the conditions set forth hereinafter are fulfilled. The International Bureau shall communicate the said decisions to the countries members of the Assembly which were not represented and shall invite them to express in writing their vote or abstention within a period of three months from the date of the communication. If, at the expiration of this period, the number of countries having thus expressed their vote or abstention attains the number of countries which was lacking for attaining the quorum in the session itself, such decisions shall take effect provided that at the same time the required majority still obtains.

(*d*) Subject to the provisions of Article 8(2), the decisions of the Assembly shall require two-thirds of the votes cast.

(*e*) Abstentions shall not be considered as votes.

(*f*) A delegate may represent, and vote in the name of, one country only.

(*g*) Countries of the Special Union not members of the Assembly shall be admitted to the meetings of the latter as observers.

(4) (*a*) The Assembly shall meet once in every third calendar year in ordinary session upon convocation by the Director General and, in the absence of exceptional circumstances, during the same period and at the same place as the General Assembly of the Organization.

(*b*) The Assembly shall meet in extraordinary session upon convocation by the Director General, at the request of one-fourth of the countries members of the Assembly.

(c) The agenda of each session shall be prepared by the Director General.

(5) The Assembly shall adopt its own rules of procedure.

ARTICLE 6

[International Bureau]

(1) (*a*) Administrative tasks concerning the Special Union shall be performed by the International Bureau.

(*b*) In particular, the International Bureau shall prepare the meetings and provide the secretariat of the Assembly, the Committee of Experts, and such other committees of experts and working groups as may have been established by the Assembly or the Committee of Experts.

(*c*) The Director General shall be the chief executive of the Special Union and shall represent the Special Union.

(2) The Director General and any staff member designated by him shall participate, without the right to vote, in all meetings of the Assembly, the Committee of Experts, and such other committees of experts or working groups as may have been established by the Assembly or the Committee of Experts. The Director General, or a staff member designated by him, shall be ex officio secretary of those bodies.

(3) (*a*) The International Bureau shall, in accordance with the directions of the Assembly, make the preparations for the conferences of revision of the provisions of the Agreement other than Articles 5 to 8.

(*b*) The International Bureau may consult with inter-governmental and international non-governmental organizations concerning preparations for conferences of revision.

(*c*) The Director General and persons designated by him shall take part, without the right to vote, in the discussions at those conferences.

(4) The International Bureau shall carry out any other tasks assigned to it.

ARTICLE 7

[Finances]

(1) (*a*) The Special Union shall have a budget.

(*b*) The budget of the Special Union shall include the income and expenses proper to the Special Union, its contribution to the budget of expenses common to the Unions, and, where applicable, the sum made available to the budget of the Conference of the Organization.

(*c*) Expenses not attributable exclusively to the Special Union but also to one or more other Unions administered by the Organization shall be considered as expenses common to the Unions. The share of the Special Union in such common expenses shall be in proportion to the interest the Special Union has in them.

(2) The budget of the Special Union shall be established with due regard to the requirements of coordination with the budgets of the other Unions administered by the Organization.

(3) The budget of the Special Union shall be financed from the following sources:

(i) contributions of the countries of the Special Union;

(ii) fees and charges due for services rendered by the International Bureau in relation to the Special Union;

(iii) sale of, or royalties on, the publications of the International Bureau concerning the Special Union;

(iv) gifts, bequests, and subventions;

(v) rents, interests, and other miscellaneous income.

(4) (*a*) For the purpose of establishing its contribution referred to in paragraph (3) (i), each country of the Special Union shall belong to the same class as it belongs to in the Paris Union for the Protection of Industrial Property, and shall pay its annual contributions on the basis of the same number of units as is fixed for that class in that Union.

(*b*) The annual contribution of each country of the Special Union shall be an amount in the same proportion to the total sum to be contributed to the budget of the Special Union by all countries as the number of its units is to the total of the units of all contributing countries.

(*c*) Contributions shall become due on the first of January of each year.

(*d*) A country which is in arrears in the payment of its contributions may not exercise its right to vote in any organ of the Special Union if the amount of its arrears equals or exceeds the amount of the contributions due from it for the preceding two full years. However, any organ of the Special Union may allow such a country to continue to exercise its right to vote in that organ if, and as long as, it is satisfied that the delay in payment is due to exceptional and unavoidable circumstances.

(*e*) If the budget is not adopted before the beginning of a new financial period, it shall be at the same level as the budget of the previous year, as provided in the financial regulations.

(5) The amount of the fees and charges due for services rendered by the International Bureau in relation to the Special Union shall be established, and shall be reported to the Assembly, by the Director General.

(6) (*a*) The Special Union shall have a working capital fund which shall be constituted by a single payment made by each country of the Special Union. If the fund becomes insufficient, the Assembly shall decide to increase it.

(*b*) The amount of the initial payment of each country to the said fund or of its participation in the increase thereof shall be a proportion of the contribution of that country for the year in which the fund is established or the decision to increase it is made.

(*c*) The proportion and the terms of payment shall be fixed by the Assembly on the proposal of the Director General and after it has heard the advice of the Coordination Committee of the Organization.

(7) (*a*) In the headquarters agreement concluded with the country on the territory of which the Organization has its headquarters, it shall be provided that, whenever the working capital fund is insufficient, such country shall grant advances. The amount of those advances and the conditions on which they are granted shall be the subject

of separate agreements, in each case, between such country and the Organization.

(*b*) The country referred to in subparagraph (*a*) and the Organization shall each have the right to denounce the obligation to grant advances, by written notification. Denunciation shall take effect three years after the end of the year in which it has been notified.

(8) The auditing of the accounts shall be effected by one or more of the countries of the Special Union or by external auditors, as provided in the financial regulations. They shall be designated, with their agreement, by the Assembly.

ARTICLE 8

[Amendment of Articles 5 to 8]

(1) Proposals for the amendment of Articles 5, 6, 7, and the present Article, may be initiated by any country member of the Assembly, or by the Director General. Such proposals shall be communicated by the Director General to the member countries of the Assembly at least six months in advance of their consideration by the Assembly.

(2) Amendments to the Articles referred to in paragraph (1) shall be adopted by the Assembly. Adoption shall require three-fourths of the votes cast, provided that any amendment to Article 5, and to the present paragraph, shall require four-fifths of the votes cast.

(3) Any amendment to the Articles referred to in paragraph (1) shall enter into force one month after written notifications of acceptance, effected in accordance with their respective constitutional processes, have been received by the Director General from three-fourths of the countries members of the Assembly at the time it adopted the amendment. Any amendment to the said Articles thus accepted shall bind all the countries which are members of the Assembly at the time the amendment enters into force, or which become members thereof at a subsequent date, provided that any amendment increasing the financial obligations of countries of the Special Union shall bind only those countries which have notified their acceptance of such amendment.

ARTICLE 9

[Ratification and Accession; Entry Into Force; Effects; Accession to the Original Act of 1957]

(1) Any country of the Special Union which has signed this Act may ratify it, and, if it has not signed it, may accede to it.

(2) Any country outside the Special Union which is party to the Paris Convention for the Protection of Industrial Property may accede to this Act and thereby become a member of the Special Union.

(3) Instruments of ratification and accession shall be deposited with the Director General.

(4) (*a*) With respect to the first five countries which have deposited their instruments of ratification or accession, this Act shall enter into force three months after the deposit of the fifth such instrument.

(*b*) With respect to any other country, this Act shall enter into force three months after the date on which its ratification or accession has been notified by the Director General, unless a subsequent date has been indicated in the instrument of ratification or accession. In the latter case, this Act shall enter into force with respect to that country on the date thus indicated.

(5) Ratification or accession shall automatically entail acceptance of all the clauses and admission to all the advantages of this Act.

(6) After the entry into force of this Act, a country may accede to the original Act of June 15, 1957, of this Agreement only in conjunction with ratification of, or accession to, this Act.

ARTICLE 10

[Force and Duration]

This Agreement shall have the same force and duration as the Paris Convention for the Protection of Industrial Property.

ARTICLE 11

[Revision]

(1) This Agreement shall be submitted to revisions with a view to the introduction of desired improvements.

(2) Every revision shall be considered at a conference which shall be held between the delegates of the countries of the Special Union.

ARTICLE 12

[Application of the Various Acts]

(1) (*a*) This Act shall, as regards the relations between the countries of the Special Union by which it has been ratified or acceded to, replace the original Act of June 15, 1957.

(*b*) However, any country of the Special Union which has ratified or acceded to this Act shall be bound by the original Act of June 15, 1957, as regards its relations with countries of the Special Union which have not ratified or acceded to this Act.

(2) Countries outside the Special Union which become party to this Act shall apply it with respect to any country of the Special Union not party to this Act. Such countries shall recognize that the aforesaid country of the Special Union may apply, as regards its relations with them, the provisions of the original Act of June 15, 1957.

ARTICLE 13

[Denunciation]

(1) Any country may denounce this Act by notification addressed to the Director General. Such denunciation shall constitute also denunciation of the original Act of June 15, 1957, of this Agreement, and shall affect only the country making it, the Agreement remaining in full force and effect as regards the other countries of the Special Union.

(2) Denunciation shall take effect one year after the day on which the Director General has received the notification.

(3) The right of denunciation provided for by this Article shall not be exercised by any country before the expiration of five years from the date upon which it becomes a member of the Special Union.

ARTICLE 14

[Reference to Article 24 of the Paris Convention (Territories)]

The provisions of Article 24 of the Paris Convention for the Protection of Industrial Property shall apply to this Agreement.

ARTICLE 15

[Signature, Languages, Depositary Functions]

(1) (*a*) This Act shall be signed in a single copy in the French language and shall be deposited with the Government of Sweden.

(*b*) Official texts shall be established by the Director General, after consultation with the interested Governments, in such other languages as the Assembly may designate.

(2) This Act shall remain open for signature at Stockholm until January 13, 1968.

(3) The Director General shall transmit two copies, certified by the Government of Sweden, of the signed text of this Act to the Governments of all countries of the Special Union and, on request, to the Government of any other country.

(4) The Director General shall register this Act with the Secretariat of the United Nations.

(5) The Director General shall notify the Governments of all countries of the Special Union of signatures, deposits of instruments of ratification or accession, entry into force of any provisions of this Act, and notifications of denunciation.

ARTICLE 16

[Transitional Provisions]

(1) Until the first Director General assumes office, references in this Act to the International Bureau of the Organization or to the Director General shall be construed as references to the Bureau of the Union established by the Paris Convention for the Protection of Industrial Property or its Director, respectively.

(2) Countries of the Special Union not having ratified or acceded to this Act may, until five years after the entry into force of the Convention establishing the Organization, exercise, if they so desire, the rights provided for under Articles 5 to 8 of this Act as if they were bound by those Articles. Any country desiring to exercise such rights shall give written notification to that effect to the Director General; such notification shall be effective from the date of its receipt. Such countries shall be deemed to be members of the Assembly until the expiration of the said period.

In witness whereof, the undersigned, duly authorized for that purpose, have signed this Act.

Done at Stockholm, July 14, 1967.

For Australia:
For Belgium:
Bon F. Cogels
For Denmark:
Julie Olsen
For Spain:
J. F. Alcover
Electo J. García Tejedor
For France:
B. de Menthon
For Hungary:
Esztergályos
For Ireland:
Valentin Iremonger
For Israel:
Z. Sher
G. Gavrieli
For Italy:
Cippico
Giorgio Ranzi
For Lebanon:
For Liechtenstein:
For Morocco:
H'ssaine
For Monaco:
J. M. Notari
For Norway:
Jens Evensen
B. Stuevold Lassen
For the Netherlands:
Gerbrandy
W. G. Belinfante
For Poland:
M. Kajzer
For Portugal:
Adriano de Carvalho
José de Oliveira Ascensão
Ruy Alvaro Costa de Morais Serrão
For the Federal Republic of Germany:
Kurt Haertel
For the United Kingdom of Great Britain and Northern Ireland:
Gordon Grant
William Wallace
For Sweden:
Herman Kling
For Switzerland:
Hans Morf
Joseph Voyame
For Czechoslovakia:
For Tunisia:
For Yugoslavia:
A. Jelic

Note.—With respect to the *signatures*, it should be noted that there appear on the original:

Page 17, under the signature "Eztergályos," the following words: "12/1/1968 subject to ratification."

Page 17, under the signature "Valentin Iremonger," the following date: "12 January 1968."

Page 18, over the signature "Jens Evensen," the following words: "subject to ratification."

Page 19, under the signature "M. Kajzer," the following words: "subject to ratification."

I certify that the foregoing is a true copy of the Stockholm Revision of the Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks, adopted at the Stockholm Conference on Intellectual Property, 1967, which was opened for signature at Stockholm on July 14, 1967, and the original of which is deposited with the Government of Sweden.

[MINISTRY STAMP]

(Signed) Wilhelm Carlgren
WILHELM CARLGREN,
Director of Archives,
Royal Ministry of Foreign Affairs,
Stockholm, January 14, 1968.

EXECUTIVE I

LOCARNO AGREEMENT ESTABLISHING AN INTERNATIONAL CLASSIFICATION FOR INDUSTRIAL DESIGNS OF OCTOBER 8, 1968

ARTICLE 1

Establishment of a Special Union; Adoption of an International Classification

(1) The countries to which this Agreement applies constitute a Special Union.

(2) They adopt a single classification for industrial designs (hereinafter designated as "the international classification").

(3) The international classification shall comprise:

(i) a list of classes and subclasses;

(ii) an alphabetical list of goods in which industrial designs are incorporated, with an indication of the classes and subclasses into which they fall;

(iii) explanatory notes.

(4) The list of classes and subclasses is the list annexed to the present Agreement, subject to such amendments and additions as the Committee of Experts set up under Article 3 (hereinafter designated as "the Committee of Experts") may make to it.

(5) The alphabetical list of goods and the explanatory notes shall be adopted by the Committee of Experts in accordance with the procedure laid down in Article 3.

(6) The international classification may be amended or supplemented by the Committee of Experts, in accordance with the procedure laid down in Article 3

(7) (a) The international classification shall be established in the English and French languages.

(b) Official texts of the international classification, in such other languages as the Assembly referred to in Article 5 may designate, shall be established, after consultation with the interested Governments, by the International Bureau of Intellectual Property (hereinafter designated as "the International Bureau") referred to in the Convention establishing the World Intellectual Property Organization (hereinafter designated as "the Organisation").

ARTICLE 2

Use and Legal Scope of the International Classification

(1) Subject to the requirements prescribed by this Agreement, the international classification shall be solely of an administrative character. Nevertheless, each country may attribute to it the legal scope which it considers appropriate. In particular, the international classification shall not bind the countries of the Special Union as regards the nature and scope of the protection afforded to the design in those countries.

(2) Each country of the Special Union reserves the right to use the international classification as a principal or as a subsidiary system.

(3) The Offices of the countries of the Special Union shall include in the official documents for the deposit or registration of designs, and if they are officially published, in the publications in question, the numbers of the classes and subclasses, of the international classification into which the goods incorporating the designs belong.

(4) In selecting terms for inclusion in the alphabetical list of goods, the Committee of Experts shall exercise reasonable care to avoid using terms in which exclusive rights may exist. The inclusion of any word in the alphabetical index, however, is not an expression of opinion of the Committee of Experts on whether or not it is subject to exclusive rights.

ARTICLE 3

Committee of Experts

(1) A Committee of Experts shall be entrusted with the tasks referred to in Article 1(4), 1(5) and 1(6). Each country of the Special Union shall be represented on the Committee of Experts, which shall be organized according to rules of procedure adopted by a simple majority of the countries represented.

(2) The Committee of Experts shall adopt the alphabetical list and explanatory notes by a simple majority of the votes of the countries of the Special Union.

(3) Proposals for amendments or additions to the international classification may be made by the Office of any country of the Special Union or by the International Bureau. Any proposal emanating from an Office shall be communicated by that Office to the International Bureau. Proposals from Offices and from the International Bureau shall be transmitted by the latter to the members of the Committee of Experts not later than two months before the session of the Committee at which the said proposals are to be considered.

(4) The decisions of the Committee of Experts concerning the adoption of amendments and additions to be made in the international classification shall be by a simple majority of the countries of the Special Union. Nevertheless, if such decisions entail the setting up of a new class or any transfer of goods from one class to another, unanimity shall be required.

(5) Each expert shall have the right to vote by mail.

(6) If a country does not appoint a representative for a given session of the Committee of Experts, or if the expert appointed has not expressed his vote during the session or within a period to be prescribed by the rules of procedure of the Committee of Experts, the country concerned shall be considered to have accepted the decision of the Committee.

ARTICLE 4

Notification and Publication of the Classification and of Its Amendments and Additions Thereto

(1) The alphabetical list of goods and the explanatory notes adopted by the Committee of Experts, as well as any amendment or addition to the international classification decided by the Committee, shall be communicated to the Offices of the countries of the Special Union by the International Bureau. The decisions of the Committee of Experts shall enter into force as soon as the communication is received. Nevertheless, if such decisions entail the setting up of a new class or any transfer of goods from one class to another, they shall enter into force within a period of six months from the date of said communication.

(2) The International Bureau, as depositary of the international classification, shall incorporate therein the amendments and additions which have entered into force. Announcements of the amendments and additions shall be published in the periodicals to be designated by the Assembly.

ARTICLE 5

Assembly of the Special Union

(1) (a) The Special Union shall have an Assembly consisting of the countries of the Special Union.

(b) The Government of each country of the Special Union shall be represented by one delegate, who may be assisted by alternate delegates, advisers, and experts.

(c) The expenses of each delegation shall be borne by the Government which has appointed it.

(2) (a) Subject to the provisions of Article 3, the Assembly shall:

(i) deal with all matters concerning the maintenance and development of the Special Union and the implementation of this Agreement;

(ii) give directions to the International Bureau concerning the preparation for conferences of revision;

(iii) review and approve the reports and activities of the Director General of the Organization (hereinafter designated as "the Director General") concerning the Special Union, and give him all necessary instructions concerning matters within the competence of the Special Union;

(iv) determine the program and adopt the triennial budget of the Special Union, and approve its final accounts;

(v) adopt the financial regulations of the Special Union;

(vi) decide on the establishment of official texts of the international classification in languages other than English and French;

(vii) establish, in addition to the Committee of Experts set up under Article 3, such other committees of experts and working groups as it deems appropriate to achieve the objectives of the Special Union;

(viii) determine which countries not members of the Special Union and which intergovernmental and international non-governmental organizations shall be admitted to its meetings as observers;

(ix) adopt amendments to Articles 5 to 8;

(x) take any other appropriate action designed to further the objectives of the Special Union.

(xi) perform such other functions as are appropriate under this Agreement.

(b) With respect to matters which are of interest also to other Unions administered by the Organization, the Assembly shall make its decisions after having heard the advice of the Coordination Committee of the Organization.

(3) (a) Each country member of the Assembly shall have one vote.

(b) One-half of the countries members of the Assembly shall constitute a quorum.

(c) Notwithstanding the provisions of subparagraph (b), if, in any session, the number of countries represented is less than one-half but equal to or more than one-third of the countries members of the Assembly, the Assembly may make decisions but, with the exception of decisions concerning its own procedure, all such decisions shall take effect only if the conditions set forth hereinafter are fulfilled. The International Bureau shall communicate the said decisions to the countries members of the Assembly which were not represented and shall invite them to express in writing their vote or abstention within a period of three months from the date of the communication. If, at the expiration of this period, the number of countries having thus expressed their vote or abstention attains the number of countries which was lacking for attaining the quorum in the session itself, such decisions shall take effect provided that at the same time the required majority still obtains.

(d) Subject to the provisions of Article

8(2), the decisions of the Assembly shall require two-thirds of the votes cast.

(e) Abstentions shall not be considered as votes.

(f) A delegate may represent, and vote in the name of, one country only.

(4) (a) The Assembly shall meet once in every third calendar year in ordinary session upon convocation by the Director General and, in the absence of exceptional circumstances, during the same period and at the same place as the General Assembly of the Organization.

(b) The Assembly shall meet in extraordinary session upon convocation by the Director General, at the request of one-fourth of the countries members of the Assembly.

(c) The agenda of each session shall be prepared by the Director General.

(5) The Assembly shall adopt its own rules of procedure.

ARTICLE 6

International Bureau

(1) (a) Administrative tasks concerning the Special Union shall be performed by the International Bureau.

(b) In particular, the International Bureau shall prepare the meetings and provide the secretariat of the Assembly, the Committee of Experts, and such other committees of experts and working groups as may have been established by the Assembly or the Committee of Experts.

(c) The Director General shall be the chief executive of the Special Union and shall represent the Special Union.

(2) The Director General and any staff member designated by him shall participate, without the right to vote, in all meetings of the Assembly, the Committee of Experts, and such other committees of experts or working groups as may have been established by the Assembly or the Committee of Experts. The Director General, or a staff member designated by him, shall be ex officio secretary of those bodies.

(3) (a) The International Bureau shall, in accordance with the directions of the Assembly, make the preparations for the conferences of revision of the provisions of the Agreement other than Articles 5 to 8.

(b) The International Bureau may consult with intergovernmental and international non-governmental organizations concerning preparations for conferences of revision.

(c) The Director General and persons designated by him shall take part, without the right to vote, in the discussions at those conferences.

(4) The International Bureau shall carry out any other tasks assigned to it.

ARTICLE 7

Finances

(1) (a) The Special Union shall have a budget.

(b) The budget of the Special Union shall include the income and expenses proper to the Special Union, its contribution to the budget of expenses common to the Unions, and, where applicable, the sum made available to the budget of the Conference of the Organization.

(c) Expenses not attributable exclusively to the Special Union but also to one or more other Unions administered by the Organization shall be considered as expenses common to the Unions. The share of the Special Union in such common expenses shall be in proportion to the interest the Special Union has in them.

(2) The budget of the Special Union shall be established with due regard to the requirements of coordination with the budgets of the other Unions administered by the Organization.

(3) The budget of the Special Union shall be financed from the following sources:

(i) contributions of the countries of the Special Union;

(ii) fees and charges due for services rendered by the International Bureau in relation to the Special Union;

(iii) sale of, or royalties on, the publications of the International Bureau concerning the Special Union;

(iv) gifts, bequests, and subventions;

(v) rents, interests, and other miscellaneous income.

(4) (a) For the purpose of establishing its contribution referred to in paragraph (3) (i), each country of the Special Union shall belong to the same class as it belongs to in the Paris Union for the Protection of Industrial Property, and shall pay its annual contributions on the basis of the same number of units as is fixed for that class in that Union.

(b) The annual contribution of each country of the Special Union shall be an amount in the same proportion to the total sum to be contributed to the budget of the Special Union by all countries as the number of its units is to the total of the units of all contributing countries.

(c) Contributions shall become due on the first of January of each year.

(d) A country which is in arrears in the payment of its contributions may not exercise its right to vote in any organ of the Special Union if the amount of its arrears equals or exceeds the amount of the contributions due from it for the preceding two full years. However, any organ of the Special Union may allow such a country to continue to exercise its right to vote in that organ if, and as long as, it is satisfied that the delay in payment is due to exceptional and unavoidable circumstances.

(e) If the budget is not adopted before the beginning of a new financial period, it shall be at the same level as the budget of the previous year, as provided in the financial regulations.

(5) The amount of the fees and charges due for services rendered by the International Bureau in relation to the Special Union shall be established, and shall be reported to the Assembly, by the Director General.

(6) (a) The Special Union shall have a working capital fund which shall be constituted by a single payment made by each country of the Special Union. If the fund becomes insufficient, the Assembly shall decide to increase it.

(b) The amount of the initial payment of each country to the said fund or of its participation in the increase thereof shall be a proportion of the contribution of that country for the year in which the fund is established or the decision to increase it is made.

(c) The proportion and the terms of payment shall be fixed by the Assembly on the proposal of the Director General and after it has heard the advice of the Coordination Committee of the Organization.

(7) (a) In the headquarters agreement concluded with the country on the territory of which the Organization has its headquarters, it shall be provided that, whenever the working capital fund is insufficient, such country shall grant advances. The amount of those advances and the conditions on which they are granted shall be the subject of separate agreements, in each case, between such country and the Organization.

(b) The country referred to in subparagraph (a) and the Organization shall each have the right to denounce the obligation to grant advances, by written notification. Denunciation shall take effect three years after the end of the year in which it has been notified.

(8) The auditing of the accounts shall be effected by one or more of the countries of the Special Union or by external auditors, as provided in the financial regulations. They shall be designated, with their agreement, by the Assembly.

ARTICLE 8

Amendment of Articles 5 to 8

(1) Proposals for the amendment of Articles 5, 6, 7 and the present Article, may be initiated by any country of the Special Union or by the Director General. Such proposals shall be communicated by the Director General to the countries of the Special Union at least six months in advance of their consideration by the Assembly.

(2) Amendments to the Articles referred to in paragraph (1) shall be adopted by the Assembly. Adoption shall require three-fourths of the votes cast, provided that any amendment to Article 5, and to the present paragraph, shall require four-fifths of the votes cast.

(3) Any amendment to the Articles referred to in paragraph (1) shall enter into force one month after written notifications of acceptance, effected in accordance with their respective constitutional processes, have been received by the Director General from three-fourths of the countries members of the Special Union at the time the amendment was adopted. Any amendment to the said Articles thus accepted shall bind all the countries which are members of the Special Union at the time the amendment enters into force, or which become members thereof at a subsequent date, provided that any amendment increasing the financial obligations of countries of the Special Union shall bind only those countries which have notified their acceptance of such amendment.

ARTICLE 9

Ratification and Accession; Entry Into Force

(1) Any country party to the Paris Convention for the Protection of Industrial Property which has signed this Agreement may ratify it, and, if it has not signed it, may accede to it.

(2) Instruments of ratification and accession shall be deposited with the Director General.

(3) (a) With respect to the first five countries which have deposited their instruments of ratification or accession, this Agreement shall enter into force three months after the deposit of the fifth such instrument.

(b) With respect to any other country, this Agreement shall enter into force three months after the date on which its ratification or accession has been notified by the Director General, unless a subsequent date has been indicated in the instrument of ratification or accession. In the latter case, this Agreement shall enter into force with respect to that country on the date thus indicated.

(4) Ratification or accession shall automatically entail acceptance of all the clauses and admission to all the advantages of this Agreement.

ARTICLE 10

Force and Duration of the Agreement

This Agreement shall have the same force and duration as the Paris Convention for the Protection of Intellectual Property.

ARTICLE 11

Revision of Articles 1 to 4 and 9 to 15

(1) Articles 1 to 4 and 9 to 15 of this Agreement may be submitted to revision with a view to the introduction of desired improvements.

(2) Every revision shall be considered at a conference which shall be held among the delegates of the countries of the Special Union.

ARTICLE 12

Denunciation

(1) Any country may denounce this Agreement by notification addressed to the Director General. Such denunciation shall affect only the country making it, the Agreement

remaining in full force and effect as regards the other countries of the Special Union.

(2) Denunciation shall take effect one year after the day on which the Director General has received the notification.

(3) The right of denunciation provided by this Article shall not be exercised by any country before the expiration of five years from the date upon which it becomes a member of the Special Union.

Article 13

Territories

The provisions of Article 24 of the Paris Convention for the Protection of Industrial Property shall apply to this Agreement.

Article 14

Signature, Languages, Notifications

(1) (a) This Agreement shall be signed in a single copy in the English and French languages, both texts being equally authentic, and shall be deposited with the Government of Switzerland.

(b) This Agreement shall remain open for signature at Berne until June 30, 1969.

(2) Official texts shall be established by the Director General, after consultation with the interested Governments, in such other languages as the Assembly may designate.

(3) The Director General shall transmit two copies, certified by the Government of Switzerland of the signed text of this Agreement to the Governments of the countries that have signed it and, on request, to the Government of any other country.

(4) The Director General shall register this Agreement with the Secretariat of the United Nations.

(5) The Director General shall notify the Governments of all countries of the Special Union of the date of entry into force of the Agreement, signatures, deposits of instruments of ratification or accession, acceptances of amendments to this Agreement and dates on which such amendments enter into force, and notifications of denunciation.

Article 15

Transitional Provision

Until the first Director General assumes office, references in this Agreement to the International Bureau of the Organization or to the Director General shall be deemed to be references to the United International Bureaux for the Protection of Intellectual Property (BIRPI) or its Director, respectively.

IN WITNESS WHEREOF, the undersigned, being duly authorized thereto, have signed this Agreement.

DONE at Locarno, on October 8, 1968.

For South Africa:
——— ———

For Algeria:
K. Laala
For Argentina:
——— ———

For Australia:
——— ———

For Austria:
Thaler
Dr. Lorenz
For Belgium:
A. Schurmans
For Brazil:
——— ———

For Bulgaria:
——— ———

For Cameroon:
——— ———

For Canada:
——— ———

For Ceylon:
——— ———

For Cyprus:
——— ———

For the Congo (Brazzaville):
——— ———

For the Ivory Coast:
——— ———

For Cuba:
——— ———

For Dahomey:
——— ———

For Denmark:
Erik Tuxen
For Spain:
J. L. Xifra
A. F.-Mazarambroz
J. Escudero
For the United States of America:
Gerald D. O'Brien
Harvey J. Winter
For Finland:
Erkki Tuuli
For France:
G. Bonneau
For Gabon:
——— ———

For Greece:
——— ———

For Haiti:
——— ———

For the Upper Volta:
——— ———

For Hungary:
Emil Tasnádi
For Indonesia:
——— ———

For Iran:
M. Naraghi
For Ireland:
——— ———

For Iceland:
——— ———

For Israel:
——— ———

For Italy:
Giorgio Ranzi
For Japan:
——— ———

For Kenya:
D. J. Coward
For Laos:
——— ———

For Lebanon:
——— ———

For Liechtenstein:
Dr. Marianne Marxer
For Luxembourg:
J. P. Hoffman
For Madagascar:
——— ———

For Malawi:
——— ———

For Malta:
——— ———

For Morocco:
——— ———

For Mauritania:
——— ———

For Mexico:
——— ———

For Monaco:
J. M. Notari
For Niger:
——— ———

For Nigeria:
——— ———

For Norway:
Roald Röed
For New Zealand:
——— ———

For Uganda:
——— ———

For the Netherlands:
Phaf
E. van Weel
For the Philippines:
——— ———

For Poland:
——— ———

For Portugal:
Adriano de Carvalho
Jorge Van-Zeller Garin
José Mota Maia

For the Syrian Arab Republic:
——— ———

For the United Arab Republic:
——— ———

For the Central African Republic:
——— ———

For the Dominican Republic:
——— ———

For the Federal Republic of Germany:
von Keller
Gerhard Schneider
For the Republic of Viet-Nam:
——— ———

For Romania:
——— ———

For the United Kingdom of Great Britain and Northern Ireland:
——— ———

For San Marino:
——— ———

For the Holy See:
P. Henri de Riedmatten
For Senegal:
——— ———

For Sweden:
Bengt Holmquist
For Switzerland:
Joseph Voyame
W. Stamm
For Tanzania:
——— ———

For Chad:
——— ———

For Czechoslovakia:
Prof. Frantisek Kristek
For Togo:
——— ———

For Trinidad and Tobago:
——— ———

For Tunisia:
——— ———

For Turkey:
——— ———

For the Union of Soviet Socialist Republics:
Z. Mironova
For Uruguay:
——— ———

For Yugoslavia:
Zoltan Biro
For Zambia:
——— ———

Copie certifiée conforme à l'original déposé auprès du Conseil Fédéral Suisse pour le Departement Politique Fédéral.

[SEAL] ——— ———

BERNE, *le 15 juillet 1969.*

ANNEX

LIST OF CLASSES AND SUBCLASSES OF THE INTERNATIONAL CLASSIFICATION

Class 1—Foodstuffs, Including Dietetic Foods
01) Bakers' products, biscuits, pastry, macaroni, etc.
02) Chocolates, confectionery, ices
03) Cheese, butter and other dairy produce and substitutes
04) Butchers' meat (including pork products)
05) Animal foodstuffs
99) Miscellaneous

Class 2—Articles of Clothing, Including Footwear
01) Garments
02) Undergarments, lingerie, corsets, brassiéres
03) Headwear
04) Footwear (including boots, shoes and slippers)
05) Socks and stockings
06) Neckties, scarves and neckerchiefs
07) Gloves
08) Haberdashery
99) Miscellaneous

Class 3—Travel Goods and Personal Belongings, Not Elsewhere Specified
01) Trunks, suitcases and briefcases

02) Handbags, wallets, pocketbooks, purses, boxes
03) Umbrellas, walking sticks
04) Fans
99) Miscellaneous
Class 4—Brushware
01) Brushes for cleaning and brooms
02) Toilet and clothes brushes
03) Brushes for industry
04) Paint-brushes
99) Miscellaneous
Class 5—Textile Piece-goods Articles, and Other Sheet Material
01) Spun articles
02) Textile fabrics (woven, knitted, etc.)
03) Sheet material
04) Felt
05) Covering sheets (wallpaper, linoleum, etc.)
06) Lace
07) Embroideries
08) Ribbons, braids and other trimmings
09) Leather and substitutes
99) Miscellaneous
Class 6—Furnishing
01) Furniture
02) Mattresses and cushions
03) Curtains (ready-made)
04) Carpets
05) Mats and floor rugs
06) Mirrors and frames
07) Garment hangers
08) Bedspreads
09) Household linen and napery
99) Miscellaneous
Class 7—Household Goods, Not Elsewhere Specified
01) China, glassware, dishes and other articles of similar nature
02) Cooking utensils and containers
03) Knives, forks and spoons
04) Cooking stoves, toasters, etc.
05) Chopping, mincing, grinding and mixing machines
06) Flat-irons and laundering, cleaning and drying equipment
99) Miscellaneous
Class 8—Tools and Hardware
01) Tools and implements for agriculture, forestry and horticulture
02) Other tools and implements
03) Locks and other hardware fittings
04) Nails, screws, nuts, bolts, etc.
99) Miscellaneous
Class 9—Packages and Containers
01) Bottles, flasks, carboys, demijohns and pots
02) Closing means
03) Drums and casks
04) Boxes and cases
05) Hampers, crates and baskets
06) Bags, wrappers and tubes and capsules
07) Cans
08) Ropes and hooping materials
99) Miscellaneous
Class 10—Clocks and Watches, and Measuring Instruments
01) House clocks
02) Watches and wrist-watches
03) Alarms
04) Other clocks
05) All other chronometrical instruments
06) Dials, hands and all other parts of watches, clocks, and of other chronometrical instruments
07) Geodetic, nautical, acoustic and meteorological articles
08) Instruments for measuring physical sizes, like length, pressure, etc.
09) Instruments for measuring temperature
10) Instruments for measuring electric sizes (voltmeters, etc.)
11) Testing instruments
99) Miscellaneous
Class 11—Articles of Adornment
01) Jewelry
02) Trinkets, table mantle, and wall ornaments, including flower vases
03) Medals and badges
04) Artificial flowers, fruits and plants
05) Festive decorations
99) Miscellaneous
Class 12—Vehicles
01) Vehicles drawn by animals
02) Trolleys, trucks and barrows, hand-drawn
03) Locomotives and rolling-stock for railways and all other rail vehicles
04) Telepher carriers and chair lifts
05) Elevators and hoists
06) Ships and boats
07) Aircraft and space vehicles
08) Motor-cars and buses
09) Lorries and tractors
10) Trailers, including camping or house trailers
11) Motorcycles, scooters, bicycles and tricycles
12) Perambulators and invalid chairs
13) Special vehicles
14) Pneumatic tyres, inner tubes and all other equipment or accessories, not elsewhere specified
99) Miscellaneous
Class 13—Equipment for Production, Distribution and Transformation of Electricity
01) Generators and motors
02) Power transformers, rectifiers, batteries and accumulators
03) Equipment for distributon and control of electric power (conductors, switchgear, etc.)
99) Miscellaneous
Class 14—Electrical and Electronic Equipment
01) Equipment for the recording and reproduction of sounds or pictures
02) Equipment for the recording, reproduction and retrieval of information
03) Communications equipment (telegraph, telephone, teletype, television and radio)
04) Amplifiers
99) Miscellaneous
Class 15—Industrial and Household Machines
01) Engines (not electrical)
02) Pumps and compressors
03) Agricultural machinery
04) Construction machinery
05) Industrial machines, not elsewhere specified
06) Industrial laundry and cleaning machines
07) Household laundry and cleaning machines
08) Industrial textile sewing, knitting and embroidering machines
09) Household textile sewing, knitting and embroidering machines
10) Industrial refrigeration apparatus
11) Household refrigeration apparatus
12) Food preparation machines
99) Miscellaneous
Class 16—Photographic, Cinematographic and Optical Apparatus
01) Photographic cameras
02) Film cameras
03) Projectors (for slides)
04) Projectors (for films)
05) Photocopying apparatus and enlargers
06) Developing apparatus
07) Accessories
08) Optical articles, such as spectacles, microscopes, etc.
99) Miscellaneous
Class 17—Musical Instruments
01) Keyboard instruments (including electronic and other organs)
02) Wind instruments (including piano accordions)
03) Stringed instruments
04) Percussion instruments
05) Mechanical instruments
99) Miscellaneous
Class 18—Printing and Office Machinery
01) Typewriters and calculating machines, with the exception of electronic machines
02) Typographical machinery
03) Machinery for printing by processes other than typography (excluding photocopying machinery)
04) Characters and type faces
05) Massicots
99) Miscellaneous
Class 19—Stationers' Goods, Desk Equipment, Artists' and Teaching Materials
01) Writing paper and envelopes
02) Desk equipment
03) Calendars
04) Bindings
05) Illustrated cards and other printed matter
06) Materials and instruments for writing by hand
07) Materials and instruments for painting (excluding brushes), for sculpture, for engraving and for other artistic techniques
08) Teaching materials
99) Miscellaneous
Class 20—Sales and Advertising Equipment
01) Automatic vending machines
02) Display and sales equipment
03) Signboards and advertising materials
99) Miscellaneous
Class 21—Games, Toys and Sports Goods
01) Games
02) Toys
03) Gymnastics and sports apparatus and equipment
04) Amusement and entertainment articles
05) Tents
99) Miscellaneous
Class 22—Arms and Tackle for Hunting, Fishing and Vermin Trapping
01) Side arms
02) Projectile weapons
03) Ammunition, fuses and projectiles
04) Hunting equipment (excluding weapons)
05) Fishing rods
06) Reels for fishing rods
07) Baits
08) Other pieces of fishing tackle
09) Traps and articles for vermin destruction
99) Miscellaneous
Class 23—Sanitary, Heating, Ventilation and Air-Conditioning Equipment
01) Fluid and gas-distribution equipment (including pipes and pipe fittings)
02) Sanitary fittings and equipment (baths, showers, washbasins, lavatories, sanitary units, etc.)
03) Heating equipment
04) Ventilation and air-conditioning
05) Solid fuel
99) Miscellaneous
Class 24—Medical and Laboratory Equipment
01) Equipment for transport and accommodation for patients
02) Hospital and laboratory equipment (for diagnostic, tests, operations, treatment, eye-testing)
03) Medical, surgical, dental instruments
04) Prosthetic articles
05) Material for dressing and nursing
99) Miscellaneous
Class 25—Building Units and Construction Elements
01) Building material and elements, such as bricks, beams, tiles, slates, panels, etc.
02) Windows, doors, blinds, etc.
03) Sections, angles and channels
04) Houses, garages, and all other buildings
05) Civil engineering elements
99) Miscellaneous
Class 26—Lighting Apparatus
01) Luminous sources, electrical or not, such as incandescent bulbs, luminous tubes and plates

02) Lamps, standard lamps, chandeliers, wall and ceiling fixtures

03) Public lighting fixtures (outside lamps, stagelighting, floodlights)

04) Torches and hand lamps and lanterns

05) Candles, candlesticks

06) Lamp-shades

99) Miscellaneous

Class 27—Tobacco and Smokes' Supplies

01) Tobacco, cigars and cigarettes

02) Pipes, cigar and cigarette holders

03) Ash-trays

04) Matches

05) Lighters

06) Cigar cases, cigarette cases, tobacco jars and pouches

99) Miscellaneous

Class 28—Pharmaceutical and Cosmetic Articles and Products, Toilet Articles and Apparatus

01) Pharmaceutical articles and products

02) Cosmetic articles and products

03) Toilet articles and beauty parlor equipment

99) Miscellaneous

Class 29—Safety and Protective Devices and Equipment for Human Beings

01) Devices and equipment against fire hazards

02) Devices and equipment for water rescue

03) Devices and equipment for mountain rescue

99) Devices and equipment against other hazards (roads, mines, industries, etc.)

Class 30—Care and Handling of Animals

01) Shelters and pens

02) Feeders and waterers

03) Saddlery

04) Safety and protective devices and equipment for animals

99) Other articles

Class 31—Miscellaneous

All the products not included in the preceding Classes.

RESOLUTION

ADOPTED BY THE CONFERENCE OF LOCARNO ON OCTOBER 7, 1968

(1) A provisional Committee of Experts is hereby set up at the International Bureau. This Committee shall include a representative of each country signatory to the Locarno Agreement Establishing an International Classification for Industrial Designs.

(2) The provisional Committee shall submit to the International Bureau a draft of the alphabetical list of goods and of the explanatory notes mentioned in Article 1(5) of the Agreement. It shall also re-examine the list of classes and subclasses annexed to the Agreement and shall submit to the International Bureau, if necessary, draft amendments and additions to be made to the said list.

(3) The International Bureau shall prepare the work of the provisional Committee and shall convene it as early as possible.

(4) As soon as the Agreement enters into force, the Committee of Experts set up under Article 3 of the Agreement shall make a decision concerning the drafts referred to in paragraph (2) above.

(5) The travel and subsistence expenses of the members of the provisional Committee shall be borne by the countries which they represent.

EXECUTIVE K

PROTOCOL RELATING TO AN AMENDMENT TO THE CONVENTION ON INTERNATIONAL CIVIL AVIATION

(Signed at New York, on March 12, 1971)

THE ASSEMBLY OF THE INTERNATIONAL CIVIL AVIATION ORGANIZATION

Having met in Extraordinary Session, at New York, on the eleventh day of March 1971,

Having noted that it is the general desire of contracting States to enlarge the membership of the Council,

Having considered it proper to provide for three seats in the Council additional to the six seats which were provided for by the amendment adopted on the twenty-first day of June 1961 to the Convention on International Civil Aviation (Chicago, 1944) and, accordingly, to increase the membership of the Council to thirty,

And having considered it necessary to amend for the purpose aforesaid the Convention on International Civil Aviation done at Chicago on the seventh day of December 1944,

Approved, on the twelfth day of March 1971, in accordance with the provisions of paragraph a) of Article 94 of the Convention aforesaid, the following proposed amendment to the said Convention:

In paragraph a) of Article 50 of the Convention, the second sentence shall be deleted and replaced by: "It shall be composed of thirty contracting States elected by the Assembly."

Specified, pursuant to the provisions of paragraph a) of Article 94 of the said Convention, eighty as the number of contracting States upon whose ratification the proposed amendment aforesaid shall come into force, and

Resolved that the Secretary General of the International Civil Aviation Organization draw up a Protocol in the English, French and Spanish languages, each of which shall be of equal authenticity, embodying the proposed amendment above mentioned and the matters hereinafter appearing.

Consequently, pursuant to the aforesaid action of the Assembly,

This Protocol has been drawn up by the Secretary General of the Organization;

This Protocol shall be open to ratification by any State which has ratified or adhered to the said Convention on International Civil Aviation;

The instruments of ratification shall be deposited with the International Civil Aviation Organization;

This Protocol shall come into force, in respect of the States which have ratified it, on the date on which the eightieth instrument of ratification is so deposited;

The Secretary General shall immediately notify all contracting States of the date of deposit of each ratification of this Protocol;

The Secretary General shall immediately notify all States parties to the said Convention of the date on which this Protocol comes into force;

With respect to any contracting State ratifying this Protocol after the date aforesaid, the Protocol shall come into force upon deposit of its instrument of ratification with the International Civil Aviation Organization.

In witness whereof, the President and the Secretary General of the aforesaid Extraordinary Session of the Assembly of the International Civil Aviation Organization, being authorized thereto by the Assembly, sign this Protocol.

Done at New York on the twelfth day of March of the year one thousand nine hundred and seventy-one, in a single document in the English, French and Spanish languages, each of which shall be of equal authenticity. This Protocol shall remain deposited in the archives of the International Civil Aviation Organization, and certified copies thereof shall be transmitted by the Secretary General of the Organization to all States parties to the Convention on International Civil Aviation done at Chicago on the seventh day of December 1944.

WALTER BINAGHI,
President of the Assembly.
ASSAD KOTAITE,
Secretary General of the Assembly.

Certified to be a true and complete copy.
[SEAL]

GERALD F. FITZGERALD,
Legal Bureau, ICAO.

Without objection, the excerpts from the reports were ordered to be printed in the RECORD, as follows:

THE NICE AND LOCARNO AGREEMENTS

I. THE NICE AGREEMENT, AS REVISED, CONCERNING THE INTERNATIONAL CLASSIFICATION OF GOODS AND SERVICES TO WHICH TRADEMARKS ARE APPLIED

PURPOSE

The express purpose of this Agreement is to set up an organization which will establish an international classification of goods and services to which trademarks are applied. The Department of State feels that it is important from the standpoint of effective government administration of its trademark functions that the United States accede to the Agreements so that it may participate as a member in this organization.

BACKGROUND

U.S. exporters generally regard foreign trademark protection as essential to the development of foreign markets. A trademark provides important identification for a firm's products and services and serves as the focal point around which that firm can develop its advertising and sales promotion campaigns. The mark symbolizes to the public the goodwill, quality standards and reputation inherent in its product and services.

The United States adheres to several treaties under which exporters and other businessmen are entitled to receive (in approximately 100 countries) the same treatment under trademark laws as those countries extend to their own nationals. They must, however, proceed under the laws of each such country in order to obtain these rights. The United States is not a party to any agreement whereby a U.S. trademark registration is automatically recognized and protected in a foreign country.

Consequently, an international trademark classification system is useful to American trademark owners, because it facilitates the determination of proper classification for multicountry filing programs. Such a system, also, makes it easier to monitor publications of foreign trademark offices in which possible trademark infringements may be detected.

The most widely-used international trademark classification system is that currently established under the Nice Agreement, as Revised, Concerning the International Classification of Goods and Services to Which Trademarks Are Applied, which was signed June 15, 1957. It consists of 34 product and 8 service classes. Over sixty nations use this classification either as a primary or a subsidiary system.

The United States does not use the Nice classification as its primary system. The U.S. system contains 52 product and 8 service classes and one "collective membership" class. The United States did, however, officially sign the Nice Agreement. The Stockholm revision of that agreement was assigned on July 14, 1967. On July 1, 1969, under the authority of the Federal Trademark Law (15 U.S.C. 1112), the U.S. Patent Commissioner adopted the Nice system as a subsidiary system. Senate advice and consent is now necessary for the U.S. to avail itself of the full benefits of the agreement, including membership on the Committee of Experts and participation on the Assembly. The agreement was submitted to the Senate on September 24, 1970.

PROVISIONS OF THE AGREEMENT

The revised version of this treaty contains 16 articles. A summary of its major provisions is set forth below.

Article 1 states that all countries party to the 1957 agreement, as well as those party to the 1967 revision, are constituted as a Special Union under the Paris Union established by the Paris Convention for the Protection of Industrial Property. This provision establishes, for the purposes of the registration of trademarks, a single classification of goods and services.

Article 2, a key provision, provides that "the classification shall not bind the contracting parties in respect of their evaluation of the extent of the protection afforded to a mark or their recognition of service marks." Each contracting country reserves the right to apply the international classification of goods and services as a principal or subsidiary system.

Article 3 establishes a Committee of Experts which has the responsibility of modifying the international classification. Each contracting party is represented on the Committee and decisions of the Committee concerning amendments to the classification shall require the unanimous consent of the contracting countries. Decisions concerning additions to the classification shall require only a simple majority. For the purposes of this agreement, "amendment" is defined as "any transfer of goods from one class to another or the creation of any new class entailing such transfer."

Article 4 sets forth the requirements regarding the notification, entry into force, and publication of all amendments and additions to the international classification. This article designates the International Bureau as the depository of the classification.

Article 5 establishes an Assembly of the Special Union which will consist of all contracting parties and will meet in ordinary session every three years. The Assembly shall take any appropriate action designed to further the objectives of the Special Union. Decisions of the Assembly shall require two-thirds of the votes cast. Those actions amending Articles 5 through 8 of this agreement shall require four-fifths of the votes cast (Article 8).

Article 6 states that the administration tasks of the Special Union shall be performed by the International Bureau. This Bureau also serves as the secretariat for the Paris and Berne Unions and all other Special Unions under the Paris Union.

Article 7 provides that, for the purposes of determining contributions, each country will be in the same class as the Paris Union. This will involve a financial obligation of approximately $2,000 a year for the United States.

Other articles of the agreement deal largely with administration matters.

DATE OF ENTRY INTO FORCE

Pursuant to the provisions of Article 9, any country of the Special Union which has signed this agreement may ratify it, and, if it has not signed it, may accede to it. Any country outside the Special Union which is party to the Paris Convention for the Protection of Industrial Property may accede to this Act and thereby become a member of the Special Union. The agreement will enter into force three months after a country's ratification or accession has been notified by the Director General of the Special Union. Any country may denounce the agreements by giving one year's notice to the Director General (Article 12).

II. THE LOCARNO AGREEMENT ESTABLISHING AN INTERNATIONAL CLASSIFICATION FOR INDUSTRIAL DESIGNS

PURPOSE

The express purpose of this agreement is to establish an international classification for industrial designs. Such a system will facilitate the research into the existence of exclusive rights respecting a specified design or any variants thereof, and will be of material assistance in the implementation of United States design patent protection.

BACKGROUND

On April 11, 1963, the Director of the United International Bureau for the Protection of Intellectual Property (BIRPI) consulted the members of the Paris Union on their interest in adopting a more complete uniform classification of goods in which industrial designs are incorporated. The overwhelming number of positive responses gave rise to a series of preparatory working sessions which were held in Geneva from October 12 to 16, 1964 and from May 2 to 5, 1966. These preparations culminated at an international conference which was held in Locarno, Switzerland from October 2 to 8, 1968. The conference was attended by representatives from 41 countries. At the conclusion of the conference on October 8, the Locarno Agreement Establishing an International Classification for Industrial Designs was signed by 22 nations. It was submitted to the Senate on August 3, 1971.

PROVISIONS OF THE AGREEMENT

The final version of this agreement consists of 16 articles followed by an annex containing 31 main classes and approximately 200-odd subclasses of industrial goods. A summary of its major provisions is set forth below.

Article 1 establishes an international classification for industrial designs. Although "industrial design" is not specifically defined, it is understood to mean any new, original and/or ornamental design for an article of manufacture. In the United States, such designs are usually protected by "design patents." This article also provides that the contracting parties shall be constituted as a Special Union under the Paris Union established by the Paris Convention for the Protection of Industrial Property.

Under Article 2, each contracting party reserves the right to use the international classification as a principal or as a subsidiary system. The international classification shall not bind the countries as regards the nature and scope of the protection afforded to the design in those countries. In the United States the Patent Office has been applying, as a subsidiary system, the International Design Classification to its issued design patents since January 1969.

Article 3 creates a Committee of Experts on which each contracting party will be represented. This Committee will adopt the alphabetical list of goods in which industrial designs are incorporated and their explanatory notes. It will, also, be responsible for amending and making additions to the list of classes and subclasses annexed to the Agreement.

Article 4 sets forth the requirements regarding the notification, entry into force, and publication of all amendments and additions to the international classification. This article designates the International Bureau as the depository of the classification.

Article 5 establishes an Assembly consisting of all the countries of the Special Union. The Assembly shall take any appropriate action designed to further the objectives of the Special Union. Decisions of the Assembly shall require two-thirds of the votes cast. However, amendments of Articles 5 through 8 of this Agreement shall require four-fifths of the votes cast (Article 8).

Under Article 6, the secretariat for the Special Union, as for the Paris Union, is the International Bureau, which serves as secretariat for all other Special Unions under the Paris Union and for the Berne Union established by the Berne Copyright Convention.

Other articles of the Agreement deal largely with Administrative matters.

DATE OF ENTRY INTO FORCE

Pursuant to the provisions of Article 9, any country party to the Paris Convention for the Protection of Industrial Property which has signed this Agreement may ratify it, and, if it has not signed it, may accede to it. The Agreement will enter into force three months after a country's ratification has been notified by the Director General of the Special Union. Any country may denounce the Agreement by giving one year's notice to the Director General (Article 12).

III. COMMITTEE ACTION

The Committee on Foreign Relations held a public hearing on the Nice and Locarno Agreements on the morning of November 19, 1971, at which time testimony was received from Mr. Bruce C. Ladd, Jr., Deputy Assistant Secretary of State, Bureau of Economic Affairs. Mr. Ladd's prepared statement is reprinted below.

In the afternoon of November 19, the Committee met in executive session and ordered the Nice Agreement and the Locarno Agreement reported favorably to the Senate for advice and consent to ratification.

STATEMENT BY BRUCE C. LADD, JR., DEPUTY ASSISTANT SECRETARY OF STATE FOR COMMERCIAL AFFAIRS AND BUSINESS ACTIVITIES, CONCERNING THE LOCARNO AGREEMENT ESTABLISHING AN INTERNATIONAL CLASSIFICATION FOR INDIVIDUAL DESIGNS AND THE NICE AGREEMENT CONCERNING THE INTERNATIONAL CLASSIFICATION OF GOODS AND SERVICES TO WHICH TRADEMARKS ARE APPLIED

Mr. Chairman, I am pleased to appear before your Committee to express the Administration's support for United States ratification of the Locarno Agreement Establishing an International Classification for Industrial Designs, and accession to the 1957 Nice Agreement concerning the International Classification of Goods and Services to which Trademarks are Applied and the 1967 Stockholm revision of that Agreement.

The Locarno Agreement was negotiated at a diplomatic conference in October 1968 in which the United States participated. It was signed by 22 countries, including the United States, on October 8, 1968. This Agreement entered into force in April of this year, three months after the deposit of the fifth instrument of ratification or accession.

As indicated by its title, the Agreement has as its purpose the establishment of an international classification for industrial designs. The establishment of the classification will encourage the harmonization of classifications of industrial designs in the various industrial property offices operating in that field. "Industrial design" generally means any new, original and ornamental design for an article of manufacture, as for example, the styling or design—other than utilitarian features—of furniture, office machinery, containers, or automobiles. Such designs are capable of protection by the securing of "design patents" in the United States.

Essentially the Agreement provides for an international classification comprising a list of classes and subclasses, and an alphabetical list of articles of manufacture in which industrial designs are incorporated. The Agreement provides that each Contracting State reserves the right to use the international classification as a principal or subsidiary system and that the international classification shall be solely administrative in character.

Provision is made under the Agreement for a Committee of Experts, on which all Contracting States will be represented, to adopt the alphabetical list of articles and the list of classes and subclasses in which industrial designs are incorporated and to be responsible for amending and adding to the list of classes and subclasses of the international classification where necessary due to new developments in the field. The U.S. Patent Office has considerable expertise in this field as the U.S. is one of the countries in which design patents are subject to a search and examination. The list of classes and subclasses and the alphabetical list of goods were adopted on September 17, 1971 by the Committee of Experts.

An Assembly of all the contracting parties will meet every three years to deal with various administrative and financial matters concerning the Agreement.

The member States of the Locarno Agreement are constituted as a Special Union under the Paris Union established by the Convention of Paris for the Protection of Industrial Property, last revised at Stockholm in 1967. We have been a party to the Paris Convention since 1885 and the Senate approved the Stockholm revision of that Convention in 1970. The secretariat for the Special Union of the Locarno Agreement, as well as for the Paris Union, is the International Bureau of Intellectual Property, which also serves as the secretariat for other Unions under the Paris Union.

The U.S. Patent Office has been applying the international classification to its issued design patents since January 1969 as a subsidiary classification, which is the principal obligation required of a Patent Office under the Locarno Agreement. The Agreement will facilitate searches to determine whether a particular design is new or novel, or whether it is already registered as an existing design here or abroad. It will also be of material assistance to the design patent operation of the U.S. Patent Office. No legislation will be required in order to implement the Agreement.

In December 1969 the Commissioner of Patents requested the views of the patent bar on the Locarno Agreement. No adverse comments were received.

Both the 1957 Nice Agreement Concerning the International Classification of Goods and Services to which Trademarks are Applied, which entered into force in April 1961, and the 1967 Stockholm revision of the Nice Agreement, which entered into force in March 1970, establish an international classification of goods and services to which trademarks are applied. Twenty-five countries are party either to the 1957 or 1967 texts of the Agreement.

The Agreement provides for a classification of goods and services for the purpose of registering trademarks and service marks. The classification is used in international registration of trademarks under the multilateral Madrid Trademark Agreement and in the natonal registration of marks by the national offices of more than 60 countries.

The classification consists of a list of 42 classes of goods and services, and an alphabetical list of products keyed to the classes. More than 20,000 items are covered in the alphabetical list. According to the Agreement, the list of goods and services may be amended and supplemented by a Committee of Experts on which all contracting States are represented.

The Agreement provides that the classification does not bind the contracting parties as to the extent of the protection afforded to a particular trademark or their recognition of services marks. Further, each contracting country reserves the right to apply the international classification of goods and services as a principal or subsidiary system.

The Patent Commissioner has authority under existing law to adopt a classification system and he has adopted the international classification as a subsidiary classification since July 1, 1969. It is highly desirable that the United States become a party to the Agreements so that, as a member in the Committee of Experts and in the administrative Assembly, it may influence the decisions of those bodies. It is particularly important that the United States have a voice in influencing the development of the international classification in view of the importance of classification to American trademark owners. The classification is useful to our trademark owners because it facilitates determination of proper classification for trademark filing in many countries and makes it easier to monitor publications of foreign trademark offices in which possible trademark infringements in foreign markets may be detected.

From an administrative standpoint, adoption of the international classification of Goods and Services to which Trademark are Applied fulfills three basic needs:

1. The need for a Trademark Classification Manual which can be used by Trademark Examiners as well as Trademark Attorneys.

2. The need for the modernization and reclassification of our present domestic system which is now 50 years old and has not been modernized since 1949 at which time only a few classes were reclassified.

3. At the international level, the need for uniformity of classification to facilitate the filing and examination of U.S. applications abroad.

These three needs are fulfilled by the adoption of the international classification of goods and services to which trademarks are applied.

States parties to the 1957 Agreement, as well as the 1967 revision, comprise a Special Union, known as the Nice Union, which is also under the Paris Union of the Paris Industrial Property Convention. The secretariat for the Nice Union is also the International Bureau of Intellectual Property.

United States adherence to both the 1957 and 1967 texts of the Agreements is favored by the Patent, Trademark and Copyright Law Section of the American Bar Association, the United States Trademark Association, the American Patent Law Association and other associations of trademark owners and attorneys.

Thank you very much, Mr. Chairman, for giving me the opportunity to give you the Administration's views on these important agreements in the industrial property field on which we seek the advice and consent of the Senate.

TEXTS OF RESOLUTIONS OF RATIFICATION

Resolved (*two-thirds of the Senators present concurring therein*), That the Senate advise and consent to the accession to the Nice Agreement Concerning the Internaional Classification of Goods and Services to Which Trademarks Are Applied, signed June 15, 1957, together with an English translation thereof, and a certified copy of that Agreement as revised at Stockholm July 14, 1967, together with an English translation thereof (Ex. M, 91–2).

Resolved (*two-thirds of the Senators present concurring therein*), That the Senate advise and consent to the ratification of the Locarno Agreement Establishing an International Classification for Industrial Designs, signed October 8, 1968 (Ex. I, 92–1).

PROTOCOL TO AMEND INTERNATIONAL CIVIL AVIATION CONVENTION

PURPOSE

The purpose of this Protocol is to increase the membership on the Council of the International Civil Aviation Organization from 27 to 30 representatives.

BACKGROUND

The Convention establishing the International Civil Aviation Organization (ICAO) entered into force in 1947. The main objective of the organization is to develop principles and techniques of international air navigation and to foster planning and development of international transport in order to insure the safe and orderly growth of international civil aviation throughout the world. The organization carries on its activities through an assembly on which every nation a party to the convention is entitled to be represented. The Assembly meets annually, except in cases when it is deemed necessary to convene extraordinary sessions, and it is responsible for electing representatives to the Council of the organization. The composition and election of the Council which functions largely in an executive capacity, are governed by Article 50 of the Convention on International Civil Aviation. As amended by this Protocol, it reads as follows:

(a) The Council shall be a permanent body responsible to the Assembly. It shall be composed of *thirty* contracting States elected by the Assembly. An election shall be held at the first meeting of the Assembly and thereafter every three years, and the members of the Council so elected shall hold office until the next following election.

(b) In electing the members of the Council, the Assembly shall give adequate representation to (1) the States of chief importance in air transport; (2) the States not otherwise included which make the largest contribution to the provision of facilities for international civil air navigation; and (3) the States not otherwise included whose designation will insure that all the major geographic areas of the world are represented on the Council. Any vacancy on the Council shall be filled by the Assembly as soon as possible; any contracting State so elected to the Council shall hold office for the unexpired portion of its predecessor's term of office.

(c) No representative of a contracting State on the Council shall be actively associated with the operation of an international air service or financially interested in such a service.

Among other things, the Council submits annual reports to the Assembly, administers the finances of the organization, and requests, collects, examines and publishes information relating to the advancement of air navigation and the operation of international air services.

REASON FOR INCREASE IN COUNCIL MEMBERSHIP

When the International Civil Aviation Organization came into existence in 1947, there were 57 member countries in the Assembly and 21 representatives on the Council. The membership expanded to 86 countries by 1961, at which time the size of the Council was increased to 27 members. During 1970 the number of member countries increased to 120 (including the Soviet Union) and instruments of adherence have been deposited by two other countries this year. In view of this increase in membership, an extraordinary session of the Assembly was convened at New York late in 1970 for the purpose of considering a proposal to enlarge the number of representatives serving on the Council from 27 to 30. Although the U.S. Government took the position that there was no need to increase the size of the Council, because of the general support in the Assembly for the proposal, the United States joined in the unanimous adoption of an amendment to Article 50(a) to accomplish this purpose.

DATE OF ENTRY INTO FORCE

The proposed amendment will enter into force in respect of states which have ratified it on the date on which the 80th instrument of ratification is deposited.

COMMITTEE ACTION

The Comimttee on Foreign Relations held a public hearing on the pending protocol on November 19, 1971, at which time testimony in favor of the protocol was received from Mr. John S. Meadows, Director, Office of Aviation, Department of State. His prepared statement is reprinted below. Later the same day, the Committee met in executive session and ordered the protocol reported favorably to the Senate.

The Committee is not aware of any opposition to the protocol and it recommends that the Senate give its advice and consent to ratification thereof.

The PRESIDING OFFICER. Without objection, the protocols will be considered as having passed through the various parliamentary stages, up to and including the presentation of the resolutions of ratification, which will be read for the information of the Senate.

The assistant legislative clerk read as follows:

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the accession to the Nice Agreement Concerning the International Classification of Goods and Services to Which Trademarks Are Applied, signed June 15, 1957, together with an English translation thereof, and a certified copy of that Agreement as revised at Stockholm July 14, 1967, together with an English translation thereof (Ex. M, 91–2).

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Locarno Agreement Establishing an International Classification for Industrial Designs, signed October 8, 1968 (Ex. I, 92–1).

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of a Protocol dated at New York, March 12, 1971, relating to an Amendment to the Convention on International Civil Aviation (Ex. K, 92–1).

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the votes on these three treaties occur tomorrow, beginning at 10:30 a.m.; and I ask unanimous consent that it be in order to ask for the yeas and nays at this time.

The PRESIDING OFFICER. A vote on all three treaties at the same time?

Mr. MANSFIELD. On all three treaties, consecutively—three separate votes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. I ask for the yeas and nays.

The yeas and nays were ordered.

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I move that the Senate resume the consideration of legislative business.

The motion was agreed to, and the Senate resumed the consideration of legislative business.

SENATOR JACKSON SPEAKS OUT

Mr. MAGNUSON. Mr. President, over the years, our colleague, Senator HENRY JACKSON, has shown that a statesman of international stature can also be a man of plain talk. He speaks out frankly and clearly on the tough problems of the day. Those who hear him have no doubt about where he stands.

When Senator JACKSON says that a just America and a strong America are vital to each other and that a prudent defense policy belongs on any list of priorities, people know what he means. He has made clear that—

> We can succeed in the tasks of government only by marshaling the efforts of our people in behalf of justice at home and responsible participation abroad. These tasks are inseparable.

Senator JACKSON has been sharing this perspective with people all across America and his commonsense approach has touched a responsive chord. With his special brand of forthrightness, he is making an important contribution to public discussion of major issues in our society.

Mr. President, in the belief that Senator JACKSON's views deserve a wider audience, I ask unanimous consent that brief excerpts from some of his statements on the challenge to America at home and abroad be printed in the RECORD.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

NATIONAL SECURITY AND FOREIGN POLICY

NATIONAL SECURITY

In the world of the 70's what is it that America is working for?

The world we want is one in which each people will be free to develop its national life in its own way, subject only to the requirement of full respect for the rights of others to live their lives in their own ways. This is the kind of world in which we want to live—one in which our free institutions can survive and flourish, can gain strength and become even more responsive to the needs and interests of the American people. But we do not ask more for ourselves than we gladly and freely accord to others.

This is the kind of world described in the opening articles of the Charter of the United Nations. It is a noble cause. But a cause must have its champions, and we may take pride in being counted among them.—From speech to Commonwealth Club of California, March 5, 1971

In the current discussion of our national priorities there is a tendency to draw a sharp distinction between defense, on the one hand, and domestic needs on the other. I reject this view. The term "domestic" when applied to our priorities is misleading, for nothing could be more "domestic" than the survival of our people or the freedom of this nation to choose its way of life free from outside interference.

The issue of our priorities is not an either/or proposition. We must not only maintain peace by deterring nuclear war, but we must promote a just and healthy society as well. Success in one of these goals will not help us survive failure in the other.—From speech to Los Angeles World Affairs Council, May 21, 1971

Our deterrent force is only as persuasive as its ability to survive a first strike in sufficient numbers, and to respond effectively. But the capacity of our strategic force to survive is now coming into question. The relentless Soviet strategic and naval build-up poses a serious threat not to just one but to all three of the elements of our strategic deterrent.

If present trends continue the Soviets will achieve a preponderance of strategic power that will leave our security impaired by doubt and uncertainty and our friends and allies exposed and vulnerable.

Looking ahead, it is difficult to escape the conclusion that our interests and those of our friends and allies would suffer in a strategic environment in which the American power position was widely questioned, even though the Soviet Union may not have achieved a clear preponderance. We could expect Soviet intransigence in negotiations, and efforts at blackmail and intimidation across a broad range of foreign policy issues, with a consequent rise in the incidence of dangerous situations.

The hard fact is that if we are not to be pushed into a whole new build-up of strategic offensive weapons then we must give our most urgent attention to two priorities:

(1) The protection of our deterrent forces, and

(2) The achievement of an arms control agreement on offensive and defensive nuclear systems that will stabilize the strategic balance and not upset it further in Moscow's favor.—From speech to the American Society of Newspaper Editors, Washington, D.C., April 15, 1971

We must not lose sight of the fact that all over the world there are men and women whose lives and freedoms depend, in the last analysis, on the capacity of the United States to lead the common defense effort of the free world. Our leadership—our ability to bring together those independent states who value their independence and freedom—is the best guarantee of security for the American people.—From Senate floor speech, May 18, 1971

When it comes to the security of our country, I am not some kind of hybrid of shifting plumage. I am not a "hawk" or a "dove" or an ostrich. And I don't want my country to be a pigeon.—From Columbus Day Dinner speech, Weirton, West Virginia, October 8, 1971

My people came from Norway. It is a beautiful country. It enjoyed a thousand years of freedom. It was one of the first nations in Europe to achieve national health care and unemployment compensation and national pension plans. Along with a high measure of social justice, Norway has clean air and water and land—a splendid environment. But what good did all of that do when the Nazi boot stomped across that lovely country in 1940 and a thousand years of freedom came to an end?

There is a lesson in that, and I will never forget it. The lesson is that freedom and justice survive together or perish together.—From remarks on acceptance of the Four Freedoms Award from the United-Italian American Labor Council, December 4, 1971

ARMS CONTROL

I believe that discussions among nations for a sound and safe system for the control and limitation of armaments should be continuous. The statesmen of the free world must never give up in their search for a security system which rests on more than the threat of mutual destruction.—From Senate floor speech, May 27, 1957

In relations with the Soviet Union the free world must pursue two consonant courses of action: to work with them where interests converge, and at the same time to maintain the strength and the resolve to discourage peace-upsetting moves by them.

We should have learned by now that the way to encourage a reasonable response from Moscow is not through weakness but through strength. The way to negotiate successfully with Soviet leaders is to maintain the strength to make negotiated agreements more attractive to them than continued disagreements—as in the case of the Austrian Peace Treaty and the limited nuclear test-ban treaty.

It is with this point of view that I have favored efforts to limit the spread of nuclear weapons—and at the same time have opposed major concessions in the treaty negotiations without any compensating changes of policy on the Soviet side.—From speech to Hoover Institution, Stanford University, October 11, 1967

To those who say we must take risks for peace by smashing up the Western deterrent, I say: you are not proposing risks *for* peace, you are proposing a policy that would heighten the risk of confrontation or war. You are risking loss of security or freedom for Americans and our friends throughout the world.—From Senate floor speech, May 13, 1971

The pace of events may overtake our efforts to conclude a SALT agreement covering the whole range of systems under consideration.

I have come to the conclusion that we ought to consider a partial, interim agreement with the U.S.S.R. that would at once have the effect of slowing the strategic arms competition and adding to the immediate security of the strategic balance. Such an interim measure would be both simple and immediate: simple so as to obviate complex negotiation and immediate so as to arrest the decline in the security of our deterrent. Such an agreement would focus on the principal source of the mounting instability in the strategic balance: the increasing offensive potential of the Soviet forces.

Specifically, I propose a mutual U.S.-Soviet agreement for an initial period of one year providing the following:

(1) The United States would immediately halt the deployment of Minuteman III missiles with their MIRV warheads.

(2) The Soviet Union would immediately halt the deployment of new ICBM launchers and missiles including those now under construction.

(3) Both countries would retain the freedom to assure the survivability of their strategic land-based forces so long as they did not add to their offensive potential.

(4) Neither side would deploy a population defending ABM.

I would hope that the United States would act immediately to propose the interim freeze that I have outlined. The stability of the strategic balance and the prospects for a comprehensive SALT agreement would be greatly improved by such a move.—From Senate floor speech, March 29, 1971.

It is essential that we spare no effort to obtain agreement with the Soviets to limit both offensive and defensive strategic weapons. I am persuaded that our persistence in endeavoring to limit Soviet offenses while discussing limitations on defensive systems is crucial to a sound national security policy.

It is my conviction that an agreement limiting only our defenses while leaving the Soviets free to expand their offenses would be both unnecessary and unwise. I am confident that the American people will continue to support American insistence on an overall agreement.—Comment to press, Washington, D.C., May 20, 1971.

EUROPE

The hopes of the world for peace with freedom continue to depend chiefly on a strong and confident Atlantic community. The North Atlantic area is still the decisive area and the requirements of the NATO deterrent deserve a very high priority.

The important unfinished business of the Atlantic Alliance is to reach a genuine, stable European settlement with the Soviet Union—to create conditions in which people can speak meaningfully of Europe instead of Western Europe or Eastern Europe, and to build a Europe which will strengthen the prospects for world peace and contribute to peaceful progress in Asia, Africa, and Latin America.

We and our allies should not cut our combat forces in Europe without corresponding concessions from the Soviet Union, without a *quid pro quo*—especially so when the concessions we ask are but contributions to a peaceful future for all of Europe, East and West. We could look safely forward to the reduction and redeployment of U.S. and allied NATO combat forces if the Soviets and the other Warsaw Pact countries make effective military and political arrangements for an equivalent reduction and redeployment of their forces.—From Senate floor speech, September 1, 1966

Since 1966 resolutions have been introduced which in effect call for a substantial reduction of U.S. forces stationed in Europe. Some proponents talked confidently of Senate passage of such a resolution in 1968—at the very moment when Soviet forces invaded Czechoslovakia. There was some sudden back-peddling, and a change in tune, and talk that "the time is obviously not propitious for a substantial reduction of U.S forces in Europe."

The time is no more propitious today.

The United States is deeply engaged in crucial East-West negotiations on arms control at SALT. The situation in the Middle East is highly explosive, as the Soviets exploit the tragic conflict between Arabs and Jews in pursuit of their priority interest—to multiply their influence in the Mediterranean-African area on the southern flank of NATO.

A major and as yet unachieved purpose of the Atlantic Alliance is to reach a genuine, stable European settlement with the Soviet Union. Among other things, such a settlement will involve the return of Soviet forces to the Soviet Union. How can the Soviet Government be encouraged to move in this direction? Clearly, we should sustain our bargaining position and actively pursue acceptance of *gradual and balanced reductions* in forces on both sides of the Iron Curtain.—From Senate floor speech, May 13, 1971

Without consultation, without collaboration—and in a capricious and disruptive way—Mr. Nixon imposed a foreign economic policy designed to cover up the long and dismal failure of his now-abandoned "game plan." This is no way to restore stability and mutual prosperity to the economy of the free world. Nor is it the way to restore international confidence in America's economic leadership.

It is the responsibility of the United States to convene an Atlantic Trade Conference with the free nations of Europe in order to expand trade and foster economic relations on a fair and equitable basis. I strongly believe that American workers and farmers should be represented at such a meeting. Decisions on international economic policy have already been made which have affected the security of our working people and our farm communities. It's time to make the voices of labor and agriculture heard in the councils of international economics.—From remarks, New York City, December 4, 1971.

MIDDLE EAST

The hand of the Soviet Union is stirring a witch's brew for the Free World in the Middle East.

If it isn't clear outside the USSR, it certainly is obvious inside the Soviet Union that Egyptian dictator Nasser has the full backing of the men in the Kremlin. He must be stopped, because dictators thrive on concessions and indecisions—such as those which have characterized our handling of the Suez crisis.—From article by Senator Jackson, *Seattle Post-Intelligencer*, September 27, 1956.

This country and Israel, whose security is threatened by the current crisis in that region, are bound together by shared values, cultural affinities, and a common ethical and religious heritage. Unlike some countries of the Middle East, Israel is a stable democracy, and a profoundly egalitarian and spirited one. These qualities, too, inspire the respect of many Americans, who feel something like a sense of personal involvement in the destiny of Israel. Today, Israel is serving as the front line of Western defense in the Middle East.

The peace and stability of the Middle East is now threatened by the aggressive ambition of the Soviet Union, which transcends the tragic conflict between Arabs and Israelis. The policy of Russia to manipulate the conflict in the region for its own advantage is the key reality upon which American Middle East policy must be based.

These are my [main] recommendations:

We should assume that, for the foreseeable future, the search for peace and stability in the Middle East will be resisted rather than supported by Soviet policy.

We should recognize that the best prospect for peace in the Middle East lies in discouraging radical Arab hopes for the eventual military defeat of Israel.

We should recognize, and make clear our determination to resist, the Soviet threat to our friends and allies in the Middle East. To that end we should actively encourage our NATO allies to join with us in a strengthening of our common defensive capabilities in the region; and we should take immediate steps to explore measures to increase the strength and effectiveness of the U.S. 6th Fleet.—From Senator Henry M. Jackson's report to the Senate Armed Services Committee on "The Middle East and American Security Policy", December 1970.

I do not need to speak at length of the cruel mistreatment of the Soviet Union's Jewish minority. It is all too well known. We have seen the trials. We have reports of the arrests. And, perhaps most convincing of all, we have the testimony of those courageous men and women who have spoken out in letters to the West and signed petitions and even participated in open demonstrations. We cannot stand by without using such weight as we in America possess on behalf of those innocent Soviet Jews—victims of persecution—whose chief desire is for spiritual and cultural expression. We who freely possess these rights have an obligation to speak for those who do not.—From Senate speech introducing resolution regarding persecution of Jews and other minorities in USSR, July 12, 1971.

I am convinced that at this moment the single most important step this country can take to help bring a measure of stability to the troubled Middle East is to make plain our determination that we will not prejudice Israel's ability to deter by further denying her the aircraft she needs to prevent an invasion across the Suez Canal or a renewal of the war of attrition against her defensive positions in the Sinai.

Our most urgent immediate task in the Middle East is to acknowledge that the unrestrained flow of sophisticated weapons to Egypt from the Soviet Union has jeopardized the balance of power in a most dangerous way. We can preserve the peace in the Middle East but only if we recognize that it is today threatened by the narrow margin of Israel's air defense capability.

I am proposing that we extend the credits necessary to permit a brave ally to purchase the means with which to defend itself while we look to a better day in a more peaceful world where weapons and credits are no longer needed.—From Senate speech introducing his amendment appropriating $500 million credit aid for Israel, November 23, 1971.

CHINA

I believe it would contribute to peace and stability in the Western Pacific if Communist China, comprising over seven hundred million people, could begin to re-enter the international community and place its international relations on a more normal, stable plane.

As far as United States policy toward Mainland China is concerned I believe we should get it on a less-rigid, more-sensible footing. We should renew the invitation to the Peking regime to join in the 25-nation arms control meetings in Geneva. We should press Peking for the reopening of the bilateral U.S.-China Ambassadorial talks and be prepared to make constructive suggestions for discussion and negotiation. These suggestions should include: the start of mutual U.S.-Chinese exchanges of reporters, scholars, scientists and cultural performers; the improvement of trade relations between U.S. and Mainland China, including the mutual reduction of barriers to trade; the subject of Mainland Chinese participation in the United Nations and other international bodies on terms that would not exclude the Republic of China on Formosa.

It is time that both the Americans and the Mainland Chinese recognized that they have a mutual interest in, and a mutual responsibility for, peace and stability in the Western Pacific area.—From speech to Seattle Rotary Club, November 5, 1969.

It is generally agreed that by one formula or another the way will be opened to Peking to be admitted to the United Nations, if not this fall, then in the fall of 1972. Rather than concentrate U.S. efforts on how we can best delay such entry we should be thinking more as to how we may utilize the presence of the Mainland Chinese in the UN and of a delegation in New York to improve our relationships with Peking.

It is obvious that sometime, somehow, the Mainland Chinese regime will have to join in the negotiations on arms control. No strategic arms control agreement with a loophole as large as China could survive Chinese acquisition of a substantial nuclear force.

Our treaty obligations for the defense and security of Taiwan will continue whatever the formula whereby Mainland China enters the UN. We have a long record of alliance and friendship with Taiwan. We will continue this close association, and I do not believe it need constitute a block to the movement toward more normal relations between the U.S. and Mainland China.—From speech to Commonwealth Club of California, March 5, 1971.

A year and a half ago I proposed that this country should get its policy toward Mainland China on a less-rigid, more sensible footing. We should press ahead and accomplish what we can to improve mutual relations with Peking. The resumption of the bilateral talks in Warsaw, the implementation of a variety of exchange programs, and a renewal of trade could be steps in the direction of normalizing our bilateral relations. The pursuit of such reciprocal activities might well form a basis for a restoration of diplomatic relations between the United States and the People's Republic of China.—From speech to Boston World Affairs Council, April 22, 1971.

VIETNAM

Contrary to the notion of some critics our basic problem in Vietnam has not been an arrogance of power. Rather, our basic problem has been to achieve a reasonable compromise with an adversary who has not wished to compromise.

High on the agenda of any talks should be a mutual cease-fire—a stop to the fighting on both sides, to end the killing and the bloodshed and the destruction.—From remarks at Naval Air Station, Seattle, April 6, 1968.

The question at issue in the debate over Vietnam is not whether to end the Vietnam war. Everyone I know wants to do that. The question is how to do it?

As I see it, American disengagement from Vietnam must be phased and orderly, or our foreign policy problems will become more difficult and more unmanageable than ever.—From speech to Seattle Rotary Club, November 5, 1969.

We believe the United States should take a new political initiative by offering at Paris a comprehensive proposal for an internationally supervised standstill cease-fire throughout Vietnam.

It seems apparent that a cease-fire is necessary before a political solution can be achieved. Indeed, negotiating a cease-fire may be a more achievable goal, since it is a more limited one than negotiating a total political solution prior to cessation of fighting. At the same time, working out the on-the-ground arrangements for a cease-fire could lead to compromises on some of the more difficult political problems.

While we are undertaking to turn the burden of the war over to the South Vietnamese, at the same time we should make this effort to achieve a cease-fire and an end to all the killing in South Vietnam, and not simply an end to American involvement in it.—From letter to President Nixon initiated by Senators Jackson and Scott, and co-signed by 28 other Senators, September 1, 1970.

The Christmas-New Year and Tet truces already announced by the other side give us a unique opportunity to follow through, on the ground and with intensified diplomatic efforts, on the President's October 7 proposal for a standstill cease-fire in Indochina (a proposal which thirty Senators, as you know, joined in making in early September).

The period of an extended cease-fire should be used for an intense diplomatic effort through every appropriate channel and in key capitals to develop support for the permanent standstill cease-fire urged by the President on October 7, and for a political solution based on free elections which both sides have in principle favored.

We should also seek the earliest opportunity to begin to institute in eventual concert with the North Vietnamese and NLF, the necessary machinery for international monitoring necessary to a permanent standstill cease-fire.—From letter to Secretary of State Rogers, December 10, 1970

A non-election [in South Vietnam] plays into the hands of those who wish to see the future of Vietnam settled by an armed struggle. The renewed talk of coups, the polarization and the frustration harden attitudes and encourage violence, rather than a political solution.

The administration should stop pretending to be helpless, saying there is nothing more to be done. The United States still has sufficient influence in Vietnam to see that a pointless referendum is transformed into a meaningful political contest.

The commitment of the United States has been to the people of South Vietnam—to "give the South Vietnamese people a chance to determine their own future" as four Presidents from Eisenhower to Nixon have pledged—and not to President Thieu or to any other particular politician.—From Senate floor speech, September 10, 1971.

I want to get all of our troops out of South Vietnam. I said earlier in the year that all of our ground combat troops could be out by the end of this year. I believe that that was an achievable goal. It's now, however, set for February 1. I want to get all of the remaining forces out, but I would leave to the President, at this point in time, to see how well he does in negotiations and discussions that are coming up both in Peking, by the way which is not to be discounted, and in Moscow so that his hands will not be tied. I wouldn't want to deny to the President all options. I want him to have that remaining option in his endeavor to get our prisoners of war out, and if that does not prove feasible, we will cross the next bridge when we get to it.—From press conference, Washington, D.C., November 19, 1971.

I disagreed with Johnson when he got involved in the idea of a war of attrition. I took the position that we either ought to bring this war to an early conclusion or get out, and about four of us blocked an attempt, right after Tet, to get a quarter of a million more troops out there. I opposed it, because I said we must start to wind this thing down, and the result was, as you know, they've completely reversed their policy. That's a bit of history that has never been discussed at any great length. They were not committee meetings. We had discussions on it, and we opposed it—Sen. Russell, Sen. Stennis, Clark Clifford. And I think if there's a lesson of Vietnam, it's that a great power like the United States simply can't get involved in a situation, no matter what the circumstances might be, that's going to involve a long, drawn out, protracted war of attrition.—From luncheon discussion with group of editors and reporters of the *Washington Post*, published November 21, 1971.

MUTUAL ASSISTANCE

Foreign aid *can be* a powerful tool for accomplishing our national purposes. The Marshall Plan, for example, was worth what it cost, for it enabled Western Europe to recover its strength. Without the Marshall Plan some countries might have fallen into communist hands—with the result that the task of defending the United States would today be far more costly than it is, and that the cause of freedom might have been set back for generations.

But looking ahead, with the limited funds that will be available, we shall have to be increasingly skillful in devising economic aid policies that:

First: Concentrate our assistance in the most promising countries and in ways that contribute to our national purposes as well as the interests of the recipient; and

Second: Explicitly use assistance to stimulate "self-help"—connecting assistance to policy reforms by the recipient countries, and to maximum use of their own resources for development.—Remarks to American Association of University Women, Seattle, Washington, October 1968

The long-held grievances against the foreign aid program are not unreasonable. On all too many occasions, foreign assistance has proved wasteful, inefficient, and self-defeating. Perhaps the strongest indictment against it is that it has fostered a mood of dependency among some of our allies—to the point where we have undertaken burdens they are capable of carrying by themselves.

At the same time, I cannot agree with the

Chairman of the Senate Foreign Relations Committee when *he* dismisses the foreign assistance program as "imperialistic" and an improper attempt on our part to " dominate" others. Nor can I agree with those who see all foreign aid as nothing but a "great give-away" from which we have never derived any benefits. Prudent foreign assistance programs have served—and can continue to serve—the best interests of the United States.—Statement, Washington, D.C., November 2, 1971

LATIN AMERICA

In the past few years multilateral institutions such as the World Bank, Inter-American Development Bank and the European Development Fund have become the major international aid institutions to developing nations. As other advanced nations join the United States in making capital available to developing countries, there is an obvious need for the creditors to coordinate their assistance programs. Indeed, it may be desirable in an increasing number of cases for the creditors to work through or with an international agency like the World Bank, for it may be easier for an agency of this kind to impose reasonable economic requirements on the borrower than for a creditor government, which may be tempted to give undue weight to political considerations.—Remarks to American Association of University Women, Seattle, Washington, October 1968.

Most Latin American countries recognize that private investment can play an important role in the economic development of the hemisphere, and have been attempting to improve the investment climate. The few Latin American leaders who have given into the temptation to use the issue of a private American economic presence in a demagogic manner have done their peoples a disservice; the Cuban experience demonstrates that wholesale expropriation cannot solve a nation's economic problems.

When questions of compensation for nationalized properties arise, questions of face are also often involved. Therefore, I would like to see the Organization of American States establish a new compensation review board to work out a continent-wide policy and see it is implemented. This would place the responsibility for equitable treatment in the hands of the hemispheric governments as a whole, and help remove the tensions that arise when nationalization remains a solely bilateral problem.—Comments, Washington, D.C., December 6, 1971.

CURRENT NATIONAL ISSUES

THE ECONOMY

If the economic system that proved itself in the 1960's—with the most vigorous and sustained growth in our history—cannot move forward to meet the needs of the American people in the 1970's, our faith in the dynamics of the free enterprise system will be seriously impaired.

Today we are falling far short of meeting the legitimate expectations of many Americans. Too many Americans cannot find decent housing. Too many Americans are exposed to second-rate educations. Too many Americans are denied access to good health care.

Our cities and states verge on bankruptcy. Their capacity to provide basic public services is grossly inadequate. The quality of life in those urban areas where most Americans live is steadily declining.

Only the resources generated by vigorous economic growth can give us the ability to deal with problems of this scope. But even the Administration's own growth projections do not promise a sufficient increase in Federal revenues to enable us to do what needs to be done. Indeed, with the rates of growth currently projected, the poor, the undernourished, the underprivileged and the unemployed will have little to look forward to but more of the same—or worse.

We can and we must do better.—From speech to Economic Club of New York, May 4, 1971.

The truth is that the current rate of economic growth is less than half what it should be to keep pace with the normal growth of the labor force. In the next nine months we have more than half a million men being discharged from our armed forces. Next June we will have two and a half million high school and college graduates entering the job market. And don't forget that we still have almost six million Americans unemployed as I speak here today.

Given these facts, it seems clear that we must provide greater stimulus to economic growth through a careful combination of Federal spending and tax cuts. Restoration of the tax investment credit is long overdue. And temporary personal income tax cuts will spur essential consumer spending if we can restore people's confidence in national economic policies.

Beyond this, we must take direct action to create jobs through aid to depressed areas, public works programs and public service employment. Earlier this year I introduced, and the Senate has already passed, the Economic Disaster Relief Act to provide emergency Federal aid to areas suffering from high unemployment. This would authorize special grants for housing, relocation, unemployment assistance and job retraining. At a time when we have so many depressed areas, this kind of program is essential.

I am also convinced that as long as substantial unemployment persists, we must create a minimum of 500,000 job opportunities in the public sector. To supplement the program already authorized, I have introduced a bill to provide jobs for workers in the nation's parks, forests, recreation areas and public lands.—From speech to National Alliance of Businessmen, October 11, 1971.

THE ENVIRONMENT

As sponsor of the National Environmental Policy Act, I have watched with interest the growing use of its provisions in suits involving environmental issues. The simple assertion, for the first time in our history, of a national policy toward the environment, has provided lawyers with a potent weapon . . .

I intend to press for inclusion of a provision recognizing that every American has a fundamental and inalienable right to a healthful environment . . . such a statement was included in the original bill I introduced. Because of opposition to this language, the final version simply recognizes that everyone "should enjoy a healthful environment." In my view, there is a big difference between the statutory recognition of a basic right and the expression of a pious hope. I believe that we do have the legal right to a healthful environment and that statutory recognition of this right is both necessary and desirable at this point in our history.—From speech at Smithsonian Institution, January 28, 1971.

A National Land Use Policy is, in my view, a next logical step in our effort to maintain a quality environment.

Land use planning is an essential tool of environmental management for the future. Most existing problems of population density, pollution, and congestion are directly or indirectly attributable to past shortcomings of land use management—to poor selections among alternative uses of land . . .

The pressures upon our finite land resource cannot be accommodated without better planning and more effective control. Our land resources must be inventoried and classified. The Nation's needs must be catalogued, and the alternatives must be evaluated in a systematic manner.

These and other concerns can only be met if governmental institutions have the power, the resources and the will to enter into effective land use planning, if plans at all levels of government are coordinated, and if public decisions on land use are backed up with effective controls in the form of zoning and taxing policies.

I have therefore introduced legislation in the Senate to establish a "National Land Use Policy."—From speech to Princeton University Conference, March 9 1970.

THE URBAN CRISIS

There is no simple answer to the current financial plight of state and local governments. Clearly, the first priority is to restore a vigorous rate of economic growth—the kind of growth that creates new jobs and provides ample revenues for vital public services . . .

Pending more basic reforms, I would favor an interim, emergency aid program for high cost local services. I am thinking here of education, sanitation, public safety and recreation. Such aid could be distributed not simply on a per capita basis but on a combined population-poverty basis to give greater help to cities with the highest concentration of poor people and public need . . .

Emergency aid and public service employment are important in today's economic climate but they will not substitute for some more fundamental reforms. Let me mention some of the reforms I have in mind:

Why shouldn't the federal government assume full responsibility for welfare, thus relieving the states and cities of this heavy burden?

Why shouldn't the federal government make a significantly larger contribution to the nation's total bill for elementary and secondary education, perhaps 25 percent instead of the 8 percent paid now?

Why shouldn't states be required, after a suitable interval and as a condition of federal aid, to have progressive income tax systems?

Why shouldn't states and local governments be strongly encouraged to put their own houses in order, through governmental reorganization and consolidation of overlapping inefficient units, giving local officials the powers they need to do their jobs?

I believe we must accept this kind of change if we are to improve the quality of life in our cities. Band-aids, retreads of old programs or rhetoric from Washington, D.C. will not suffice to deal with the condition of our own urban areas.—From Remarks to League of Oregon Cities, November 15, 1971.

All across America we have created a confusing and expensive maze of boards, agencies, townships and districts to trap our cities in a hopeless bureaucratic web. We are sending mayors into the front lines without the weapons to do the job: they do not have jurisdiction, they do not have authority, they do not have resources.

The truth is that with few exceptions, we have no effective government at all for most metropolitan areas. That is why the urban crisis is not just a fiscal crisis—it is a crisis in our ability to make government work.

I am convinced that if we do not come to grips with this crazy-quilt of impotent, overlapping, undernourished and costly local governments, the urban crisis will remain with us for the next generation. I am convinced that if we cannot modernize and simplify our urban governments, no amount of Federal funds will make them work. It is high time we faced up to the fact that money alone is no panacea for the ills that afflict American cities.

If the resurrection of our metropolitan areas requires the abolition of inefficient, limited purpose governments, let us get rid of them. If it involves creating a new class of urban executives empowered to make cities work, let us do it. If it demands the creation of new regional governments with jurisdiction to deal with problems as a whole, let us do it.—From remarks to the Greater Detroit Chamber of Commerce, June 3, 1971

AGRICULTURE

American farmers are growing more and earning less. They feel threatened by low farm prices, the growth of corporate giants in agriculture and a national Administration which has failed to develop a constructive farm policy.

There is nothing in the background or philosophy of Earl Butz to reassure the thousands of farmers who look to the Secretary of Agriculture to represent their interests. They have already experienced him in action at the Department of Agriculture—and it wasn't a pleasant experience. And they know that Mr. Butz has shown little concern for the independent farmers working outside the realms of the corporate food producers with whom he has been so closely associated.

In any event, the fact that farmers lack real confidence in Mr. Butz foredooms any chance for reforming this Administration's farm programs. Without broad support in the farm belt, Mr. Butz cannot hope to build a consensus for progressive farm policies. Under these circumstances, and particularly in light of Monday's vote in the Senate Agriculture Committee, the President should withdraw this nomination.—From statement released November 24, 1971

But even as fewer and fewer farmers were producing more and more on less acreage, the return on their time and labor and investment remains far less than what it should be. The fact is that farmers are still not getting a fair share of the consumer's dollar. Prices received by farmers in 1970 were only 3 percent above those received during the 1947–1949 base period. The farmer's share of the retail food dollar was 47 cents in 1950 and 39 cents last year!

As you well know, the heart of the farmer's problems lies in the marketing area. Congress recognized this when it passed the Agricultural Fair Practices Act five years ago . . .

The Fair Practices Act was an important first step but experience has shown that we still have not achieved a proper balance between the economic power of the buyers and the sellers of farm products. It is particularly important that this balance be achieved as more and more farm products are sold under production and marketing contracts . . .

The advantage of contracting are obvious. The buyer has an assured supply at a known cost. The farmer has an assured market at a definite price. Our goal must be to see that it is also a *fair* price.

In my view, finding sensible ways to strengthen the farmer's position at the bargaining table is a priority item on the Congressional agenda—From remarks to Florida Farm Bureau Federation, October 29, 1971.

EDUCATION

The modest increases made by Congress mean the difference between mediocrity and excellence in many school districts throughout the country. For some students, these extra funds mean the difference between a first-rate college education or none at all . . .

The Administration argues that the larger appropriations voted by Congress are inflationary. My response is that the children in our schools and the students in our colleges should not be the victims of the Administration's failure to come to grips with inflation.

The fact is that our schools need more, not less, help from Washington. They have suffered from rising costs and declining tax revenues. The impact of high interest rates—the highest since the Civil War—has severely restricted school construction and modernization. The cost of educating each child jumps about 10 percent a year—and average spending per public school pupil is estimated to have risen to $717 in 1970 from $454 only five years ago. But more than half of public school revenues are still being provided by local taxpayers. No wonder that local school taxes have risen more than 140 percent in the last decade!

There is a limit to the burden that can be imposed at the local level. Considering the demands on the local tax dollar and the broader reach of the Federal taxing power, the Federal contribution to local school costs falls far short. The Federal government, receiving two-thirds of all tax revenues, must foot a larger share of the education bill.—From remarks on Aid to Education, September 11, 1970.

I oppose massive busing of children solely for the purpose of satisfying some arbitrary mix of students on the basis of race or religion or heritage.

That's not the issue. The issue is how to assure a quality education for every child in America, regardless of the circumstances into which he or she is born.

Unquestionably, some students must be bused to school if they are to reach school at all. In our preoccupation with busing we are forgetting that a bus ride to a poor school is a bus ride to nowhere. It's high time we moved beyond the busing controversy to the challenge of educational quality.

The problem facing the country is that poor neighborhoods generally have poor schools. It is not fair to a six-year old child—black, white or brown—to condemn that child to an inferior education simply because his or her parents are poor. And it is also not fair to force a child to be bused from a good school to an inferior school.

I would rather go in the direction of the California State Supreme Court decision which says, in effect, that the wealth of a school district should not be permitted to determine the quality of education. If that decision were implemented at the state and federal levels, then no child could be bused to an inferior school or be forced to attend an inferior school.

What we desperately need is not massive busing, but a massive commitment of talent and resources to achieve equality of education opportunity.—From statement issued November, 1971.

PUBLIC HEALTH

What this Administration has done in the health field speaks far louder than what it has said. And what it has done is little or nothing to improve the quality, cost or accessibility of health care for those Americans who need it most . . .

An essential first step towards that end is a drastic reorganization of the way we manage Federal health programs in Washington, D.C. At a minimum, we should divide H.E.W. into two cabinet departments, separating out the education functions and retaining in one department the closely related health-welfare programs.

Along with reorganization must go a mandate for action which expands the scope of public health far beyond the narrow limits of its traditional concerns. This new mandate must cope with the high cost of health care, the rising tide of drug abuse and alcoholism, and the waste of resources in the health field . . .

Let me be frank to say that the time for laissez-faire in our health care system has long since passed. We cannot afford it. And health care institutions should be on notice to put their house in order or risk forms of regulation they may not like . . .

The shortage and maldistribution of our medical manpower is a serious national problem which clearly requires national solutions. It deserves as much priority attention as proposals for national health insurance.

The only sure way to free every American from the burden of staggering medical bills is some form of national health insurance. I believe we must start now building a system of comprehensive health insurance, beginning with two great unmet needs: coverage for the poor who do not have and cannot afford insurance and, second, coverage for all against catastrophic illness . . .

The Federal Government must encourage innovative approaches to provide more health professionals. We must be prepared to put Federal prestige and dollars behind programs to increase the output of doctors and nurses and make better use of their skills. We must not be tied to tradition or bound by the old ways of doing things . . .

We have work to do. As long as the right to good health and decent medical care is denied for any reason to any American, our job is unfinished. Good medical care is no longer the privilege of the rich—or the white—or the lucky. Decent health care is a basic right for all Americans.—From speech to Public Health Association, October 12, 1971.

OLDER AMERICANS

I do not subscribe to the 'out of sight, out of mind' philosophy. One of this country's foremost responsibilities is to see that our aging are free from hunger and poverty.

It is a sad commentary that nearly one-third of those over 65 are living in poverty. In fact, this is the only group in which poverty is increasing. We must improve our social security and tax laws to assist those on fixed incomes to cope with rising costs.

While Medicare has provided some needed assistance, the hard fact is that less than half of the health costs of the aging are covered by Medicare. We must expand this coverage . . .

We need more than pre-arranged conferences by an unresponsive administration. What we need is a new philosophy and a new strategy. We need a philosophy which does not forget the older American; a new philosophy which does not perceive the aging as passive and happy to merely exist on social security.

And we need a new strategy. A strategy which identifies the aging as an important force; a strategy which embraces reforms in income maintenance, and health care and employment. Such a new strategy would utilize the great potential which you have and the great contribution you can make; a contribution which doesn't end at some arbitrary age level of 62 or 65 or 70.—From remarks to Conference of National Retired Teachers Association-National Association of Retired Persons, November 11, 1971

We need to act now. We must help the countless older people holed up in rooming houses and apartments worrying about health bills that Medicare won't cover, watching their savings being eaten away by inflation and despairing about a government that says "go away."

A nation of wealth and compassion cannot tolerate old people, with untapped abilities, living in poverty, sickness, believing they have been forgotten. This is what we must work to correct.—From remarks to Brevard County Florida Senior Citizens, November 27, 1971

LAW AND JUSTICE

If we are serious about the security of people in America, if we really believe that every citizen—old or young, rich or poor, black or white—has the right to be secure in his person and property, then we ought to analyze our national crime problem as it is, not as the mythmakers would have us think.

At the heart of the crime problem is the breakdown in our system of criminal justice. Our courts are clogged with untried criminal cases. Months, often years, lapse between the day of arrest and the time of trial. Defendants are either put back on the streets or sent to jail because they cannot make bail . . .

The fact is we are paying a high price for overloading our criminal courts. And I think it's high time we had a new national commitment to revive our system of criminal justice—starting with the goal of making our courts work.

By insisting on prompt trial of criminal cases, we can force an overhaul of our courts and criminal justice procedures. The requirement of a speedy trial can be an action-forcing device that will make states and cities take a fresh look at what's wrong with the system. It may be a question of more grand juries or better court administration. It may be a need for public defenders. It may be the need for new approaches to handle some of the routine cases—like prostitution and drunkenness—that burden the courts.

I believe that the states should be required to submit detailed programs for achieving trial of criminal cases within sixty to ninety days of arrest. And Federal funds must be made available to make these programs work. If a state is not making honest efforts towards the prompt trial objective, it should not qualify for continued Federal support.—from Remarks to Queens Chamber of Commerce, December 8, 1971

Today in America the stability of our democratic system is threatened by the tyranny of a small minority that is systematically disrupting our society while too many Americans sit complacently on the sidelines . . .

As far as these militants are concerned, the rights of the majority do not exist. The right of people to travel a highway, of a storekeeper to be free from terroristic attacks, of a speaker to be heard or a student to attend class, these kinds of rights have no place in the world of these revolutionaries . . .

The American people have a sense of fair play and they will tolerate a good deal in the name of dissent. But they are no longer willing to tolerate the violence and civil disorder or the intolerance of this new brand of American extremists . . .

. . . beyond the problem of punishing the lawbreakers, is the challenge to all men of moderation to reject, visibly and vocally, the forces of extremism. For the stable, sensible majority, the spectator's role is no longer enough. It is time that we stood up for the democratic process and asserted our faith in the capacity of our system to grow and change without resort to violence.—From statement issued June, 1970

At the very root of the rule of law which we honor today lies the concept of the oneness of the law—one law, one standard, one justice for all. Yet we are increasingly aware that this fundamental concept is honored more in the breach than in the observance, that the principle is—all too often—lost in the practice.

We are tolerating not only one law for the poor and one law for the rich. We are, as well, accepting submissively one law for the young and one for their elders; one law for the dissident and one law for the conformist; one law for the man in uniform and one law for the civilian; one law for the uneducated and one law for the college graduate; one law for the small tax-payer and one law for the large tax-avoider; one law for the ordinary voter and one law for the big contributor; one law for the buyer and one law for the seller; one law for the borrower and one law for the lender.

This is wrong. We know it is wrong. Yet among those who have chosen, by their profession, to serve as custodians of the law, there remains all too often a curious passivity toward these wrongs. It is not enough for affluent practitioners, able professors or active public servants to sit in the sanctuaries of the law factories, or in the quiet of academic halls, or in the spotlight of daily affairs talking about equal rights and legal remedies.

We must not only talk the law, we must live it.

The alternative seems clear: a steady decline in respect for the law, a steady decline in the effectiveness of law as a balancing force in our society.—From speech to Wayne State University Law School, April 17, 1971.

QUORUM CALL

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ELLENDER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. TAFT). Without objection, it is so ordered.

SUPPLEMENTAL APPROPRIATIONS BILL, 1972—CONFERENCE REPORT

Mr. ELLENDER. Mr. President, under the previous order, I submit a report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 11955) making supplemental appropriations for the fiscal year ending June 30, 1972, and for other purposes.

The Senate proceeded to consider the report.

(The conference report is printed in the House proceedings of the CONGRESSIONAL RECORD of December 9, 1971, at pages 45877–45880.)

Mr. ELLENDER. Mr. President, the supplemental appropriations bill, 1972, passed the House of Representatives on December 2. It passed the Senate on December 3, with 75 amendments. The conferees were in session all day on December 7 and met again, and completed action on the amendments in conference, on December 9. The conference report is available to all Members.

The bill as it passed the Senate approved appropriations in the amount of $3,998,045,371. The increase in the bill over the House of Representatives amounted to $3,211,762,717. There is a good reason for the large increase which was made by the Senate in this bill. It related to the Office of Economic Opportunity appropriations which were not considered by the House because the authorizing bill had not progressed sufficiently by the time the House considered the supplemental appropriations bill.

Some of the large increases over the House bill effected by the Senate were: $817,597,000 for "Manpower training services"; $707,157,000 for "Health manpower"; $265 million for "School assistance in federally affected areas"; $376,817,000 for Project Headstart; and $780,400,000 for the Office of Economic Opportunity.

The amount of the bill as finally agreed to in conference is $3,406,385,371. This is an increase of $2,620,102,717 over the House bill and it is a decrease under the Senate-passed bill of $591,660,000.

As I mentioned previously, there were 75 amendments in disagreement and it was necessary to compromise all of our differences.

One of the largest single increases the Senate had effected was $817,597,000 recommended for "Manpower training services." In conference, the conferees agreed to recommend an appropriation of $776,717,000. The authorizing legislation for this program is contained in the proposed amendments to the Office of Economic Opportunity Act; and in view of the fact that at the time of the conference, there was some discussion that this bill, which had been sent to the President, might be vetoed, the proviso making the appropriation contingent upon enactment into law of the authorizing legislation was deleted by the conferees. The OEO authorizing bill was later vetoed.

The Senate bill contained $265,000,000 for "School assistance in federally affected areas." This particular amendment consumed a great deal of time during the discussions, and it was not possible for us to prevail and to secure any part of this appropriation.

Another large increase approved by the Senate was for "Health manpower." Under Senate amendment numbered 28, an appropriation of $707,157,000 was made for this purpose. This is another item which consumed a great deal of time in the conference. As a matter of fact, it had to be passed over and placed at the end of the discussions because it was so highly controversial with the House conferees. However, we were finally able to agree to an appropriation for this item of $492,980,000.

For the Office of Economic Opportunity, the Senate bill contained $780,400,000. In conference, the figure of $741,380,000 was agreed upon. As the bill passed the Senate, the language for this program contained a proviso making the appropriation contingent upon enactment of the authorizing legislation. In view of the discussions concerning a possible veto of the OEO authorization bill, the conferees have deleted the proviso.

The House, of course, agreed to all of the Senate amendments relating to the Senate. Again this year, the House was adamant, and the Senate receded, on the proposal to restore the Old Senate Chamber and the Old Supreme Court Chamber in the Capitol.

The Senate bill contained the sum of $102,400,000 for "Construction, Corps of Engineers," and the House agreed to this entire amount.

The Senate bill also contained authority to utilize not to exceed $20,153,000 of previously appropriated funds for the "Economic stabilization activities" inaugurated recently by the President, and the House conferees agreed to go along with the Senate amendment.

I will be glad to answer any questions any Members may have with respect to the bill. In addition, the chairmen of the various subcommittees are available to participate in the discussions.

Mr. President, I yield to the Senator from North Dakota.

Mr. LONG. Mr. President, I associate myself with the views expressed by the distinguished chairman of the committee. There was a wide range of subjects dealt with in this bill. Most of them have to do with health, education, and welfare.

I think a very reasonable compromise was reached with the House. And, of course, a few items were deleted that the House very strongly objected to.

I believe that as a whole it is a bill that the Senate will approve.

The PRESIDING OFFICER. Who yields time?

Mr. YOUNG. Mr. President, I yield 5 minutes to the Senator from New York.

The PRESIDING OFFICER. The Senator from New York is recognized for 5 minutes.

Mr. JAVITS. Mr. President, the action which was taken with respect to these supplemental appropriations really is in only one respect a cause for any satisfaction. In many other respects it is well nigh disastrous, and, as we will be going at these things again in other supplementals and other appropriations, I will not engage my colleagues in extended debate on the acceptance or rejection of the fiscal year 1972 supplemental appropriations conference report. I think it is critically important to make the record clear as to manpower training, health manpower programs, Neighborhood Youth Corps, and so forth.

The conferees agreed, in regard to manpower administration, on about one-half, in round figures, of the some $80-odd million which was added by amendment in the Senate. Having met with the House in conference on these matters myself before, I think that result is by no means anything to cheer about. It is certainly far more of an accomplishment than many other items in this bill. I know, as I have been with the Senator from Louisiana (Mr. ELLENDER), the Senator from North Dakota (Mr. YOUNG), the Senator from New Hampshire (Mr. COTTON), and the Senator from Washington (Mr. MAGNUSON), at these conferences that they do try to sustain the Senate's position. I realize this and thank them for the utilization of their prestige and the weight of their position, in order to gain what they did gain on this item. I am very grateful to them, and hundreds of thousands of youngsters will be as well. So, let us emphasize the affirmative before we get into any other part of this bill. I wish to express that unequivocally, and standing all by itself.

Where we would suffer, in my judgment, disastrously, is in respect of a number of items which relate, as was stated by the Senator from North Dakota (Mr. YOUNG), to Health, Education, and Welfare, which are critically important to our people. First, we took a terrible beating with respect to health manpower in the fact of a really dire emergency.

Mr. President, in that regard I would like to point out that what was done was just about what the administration sought in its budget request, notwithstanding the very grave danger of the closing of medical and dental schools, and the fantastic shortages of doctors, dentists, nurses, and other health personnel.

I strongly supported the Senate allowance for health manpower and believed it would make great strides forward toward implementing the comprehensive authorizing legislation for health manpower which we passed on July 14, 1971, and was enacted into law as Public Law 92–157 and Public Law 92–158.

One week ago today I urged a separate rollcall vote on the health manpower amendment of the supplemental appropriations in order to strengthen the hand of the Senate conferees. I did this because I was deeply concerned about the fate of this measure when it is in conference with the House. The House Appropriations Committee held no hearings on the manpower and nursing supplemental requests and their bill had no dollar recommendations in this area. I was concerned that without a basis for independent judgment they would insist on accepting the administration's proposed budget, which I regret did not adequately respond to health manpower needs; the basic underpinning for any reform of our health care system, with which we also are deeply concerned.

Mr. President, to show how sharply these cuts took place, I would refer to the following:

I. Capitation grants for institutional support:

A. $200,000,000 authorized for medical, dental and osteopathy schools.

$120,000,000 requested by Administration.

$160,000,000 provided by Senate Appropriations Committee.

$130,000,000 provided by Conference, a $30,000,000 reduction.

B. $34,000,000 authorized for veterinary, optometry, podiatry and pharmacy schools.

$20,400,000 requested by Administration.

$30,000,000 provided by Senate Appropriations Committee.

$25,200,000 provided by Conference, a $4,800,000 reduction.

C. $78,000,000 authorized for nursing schools.

Nothing—requested by Administration.

$63,000,000 provided by Senate Appropriations Committee.

$31,500,000 provided by Conference, a $31,500,000 reduction.

II. Student Assistance, loans and scholarships:

A. $75,000,000 authorized for loans, for students at all schools ($51,000,000 previously appropriated).

Nothing—supplemental Administration request.

$14,000,000 supplemental allowance provided by Senate Appropriations Committee.

Nothing—supplemental allowance provided by Conference, a $14,000,000 reduction.

B. $111,700,000 authorized scholarships for students at all schools ($35,000,000 previously appropriated).

Nothing—supplemental Administration request.

$35,000,000 supplemental provided by Senate Appropriations Committee.

Nothing—supplemental provided by Conference, a $35,000,000 reduction.

III. Construction Grants:

A. $335,000,000 authorized for medical, dental, and other health profession schools, exclusive of nursing schools.

$82,000,000 Administration supplemental request.

$182,616,000 provided as supplemental appropriation by Senate Appropriations Committee.

$142,385,000 provided as supplemental appropriation by Conference, a $40,231,000 reduction.

B. $35,000,000 authorized for nursing schools.

$9,500,000 Administration supplemental request.

$25,000,000 provided by Senate Appropriations Committee.

$19,500,000 provided by Conference, a $5,500,000 reduction.

Thus, in capitation grant institutional support for medical, dental, and osteopathy schools we have improved over the administration request from 60 to 65 percent, but are substantially down from the Senate amendment 80-percent level of support. My deepest regret and I know shared by all is nursing school capitation grant institutional support now at 40 percent—where the administration had zero—but down from the Senate amendment 83-percent support level.

In addition, the conference report eliminates other vital education funds; namely, $65 million under Public Law 874, the impacted aid program, for initial funding of the low-income housing provision, category "c" children, so-called, who were added to the program by Public Law 91–230 last year. These payments, some 22 percent of the entitlement, would have covered 1.2 million schoolchildren in local districts throughout the Nation. It is indeed unfortunate that funds were not furnished for this effort which, I might add, I had authored in cosponsorship with the distinguished Senator from Missouri (Mr. EAGLETON).

Finally, in the education area, there was omitted $200 million under Public Law 815 to provide some 5,000 classrooms for about 125,000 children in impacted areas—no funds have been provided for so-called section 5 construction since 1967 and moneys are badly needed, especially for American Indian children.

Mr. President, rather than crying about spilled milk, by point in rising here today is to call attention to what I consider to be the flouting of a very important provision of law. We provided, Mr. President, in the Health Training Improvement Act of 1970, Public Law 91–519, for a report by the Secretary of the Department of Health, Education, and Welfare on the need for emergency financial assistance to our medical and dental schools. Congress called for that report on or before June 30, 1971, with a determination as to what was really needed.

I understand, Mr. President, that report is "done" but not "officially" available. We have demanded its release. Indeed, I ask unanimous consent to have printed in the RECORD my letter to the Secretary of Health, Education, and Welfare, Elliot Richardson, signed by me, ranking Republican member of the Labor and Public Welfare Committee, by the Senator from Pennsylvania (Mr. SCHWEIKER), the ranking minority member of our Health Subcommittee, by the Senator from New Jersey (Mr. WILLIAMS), the chairman of the Labor and Public Welfare Committee, and the Senator from Massachusetts (Mr. KENNEDY), chairman of our Health Subcommittee, dated December 1, demanding this report, which request has not been complied with, although I understand that the report is completed.

There being no objection, the letter

was ordered to be printed in the Record, as follows:

December 1, 1971.

Hon. Elliot Richardson,
Secretary of Health, Education, and Welfare, Washington, D.C.

Dear Mr. Secretary: As you know, the Health Training Improvement Act of 1970 (P.L. 91–519) contains a provision authored by Senator Javits which sets forth the Congressional finding that the Nation's economy, welfare, and security are adversely affected by the acute financial crisis which threatens the survival of medical and dental schools. The provision requests the Secretary to "determine the need for emergency financial assistance to such medical and dental schools" and "report to the Congress on or before June 30, 1971" regarding "his determinations of such need and his recommendations for such administrative and legislative action as he determines is necessary to meet such needs."

Unfortunately, although requested, the report was not available to the members of the Senate Health Subcommitte in their deliberations on the development of comprehensive health manpower legislation. Nor was it available to the Conferees during their extensive efforts to resolve vital funding differences between the House and Senate manpower bills.

Although it is now more than four months after the report was due pursuant to P.L. 91–519, our staffs have advised us that they have been regularly informed by the Department of Health, Education, and Welfare, on behalf of our interest in the matter, that the report was "done" but not "officially" available.

As the Senate prepared to consider health manpower supplemental appropriations within the next week, we believe it is essential that the long overdue report on the medical and dental schools' need for financial assistance be made available to the Congress. Copies of this report will be most important to the Senate as it considers establishing appropriations for health manpower and we are, therefore, hopeful that it will be promptly made available.

Jacob K. Javits,
Richard S. Schweiker,
Harrison A. Williams,
Edward M. Kennedy.

Mr. JAVITS. Mr. President, I most strongly protest that particular denial of information which is absolutely essential. I attribute the denial of that information in great part to the massive cuts that are so harmful to the whole matter of health delivery which have been made in this supplemental appropriation.

I will do my utmost to find a way in which Congress can make it clear that it will not simply be frustrated by the sheer unwillingness—and I use all of these words advisedly—of the executive department to cooperate in giving the information, basic information, to which Congress is legitimately entitled.

I shall do my best to use every means available to me, including the possibility that we may be unable to act on measures they eventually want by virtue of this denial, which I consider to be unjustified and uncalled for.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. ELLENDER. I yield 1 minute to the Senator from New York.

Mr. JAVITS. Mr. President, my purpose in rising was to emphasize that point. I cannot understand why we have been denied this information.

Finally, I wish also to invite the attention of the Senate to denial of anything in impacted area funds for the public housing aspect of this situation. This has been neglected a long time. We must continue the fight in the hope of getting some resources.

I realize all the problems of the Committee on Appropriations but I believe these points essentially needed to be made in this matter.

I thank my colleagues for yielding and for their cooperation to the extent I have specifically spelled it out.

Mr. YOUNG. Mr. President, I yield 2 minutes to the Senator from New Hampshire.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mr. COTTON. Mr. President, I wish to comment for just 2 minutes on the matters that have been brought up by the distinguished Senator from New York.

In my own opinion the health manpower appropriation was by far the most important item in the entire supplemental appropriations bill. If it were left to me alone I would have economized elsewhere in order to furnish more money for the training of doctors, nurses, and technicians in all the fields of medicine. However, on this bill the jurisdiction of the HEW Subcommittee was limited to our own items and it was not possible for me to secure the priorities that I feel must eventually be recognized.

In this area of the health, education, and welfare section of the bill the Senate appropriation ran some $356 million over the budget estimate and consequently by the same amount over the House appropriation, as the House was not able to consider these items at the time they marked up the bill. The House conferees, and the Senator from New York is familiar with the situation, were absolutely adamant in their demands, so the most difficult part of the entire conference was on these matters that are so vital to the training of the manpower to meet the national need for better health services.

The best the House would offer would be to leave in $75 million out of the $356 million by which the Senate increased the House figure. That we would not take and we refused to take.

The matter went overnight into the next day and we were unable to get even a 50–50 split, and we had to accept 40 percent of the amount that the Senate appropriation exceeded the House appropriation. This meant we lost some $214 million but saved $142 million of the increase. I wanted the Record to show that.

I thank the Senator from New York for giving us credit for doing our best.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. COTTON. I yield.

Mr. JAVITS. I thank the Senator.

Having sat with him in conference, I know how indefatigable he is in trying to fight for the Senate position.

Mr. COTTON. I thank the Senator.

Mr. GRIFFIN. Mr. President, I am unable to indicate approval of this conference report without at least registering in the Record my deep disappointment, and I know I speak for the senior Senator from Michigan as well as myself, because the two of us worked very closely in an effort to try to get funding for a Federal building in the downtown area of Detroit which already has been named after former Senator Patrick V. McNamara.

This building was authorized in 1963. There is only one other building that has been authorized as long as this building without being funded. The plans have been ready for several years. There is a 2.5-acre tract in the center of the city, which is grown up in weeds and it is now off the tax rolls. The Federal Government is spending $2.5 billion a year renting space to accommodate various agencies and offices because this building has not been built.

One of the agencies that needs space the most is the FBI.

Crime is very bad in the city of Detroit and it is very demoralizing that in the inner city of Detroit the Federal Government delays and delays, which indicates that, like others moving out of the city of Detroit, perhaps the Federal Government is not going to build this building. Psychologically it hurts.

But in addition, the estimated cost of the building has gone up from $27 million originally to an estimated $48 million because we delayed for 9 years on this building to be named after a former colleague in the Senate.

In the debate earlier on the regular appropriation, the Senator from New Mexico (Mr. Montoya) promised he would consider this in connection with the supplemental, and the senior Senator from Michigan (Mr. Hart) and I appeared before the subcomimttee, and he agreed to put in $11 million for the substructure to get the building going.

I guess we made a mistake. We should have pressed for the whole amount. We thought we were being very reasonable, but as Senators have indicated, this was not agreed to in conference by the House.

I want to indicate the circumstances. I know the Senate conferees did fight for this measure. I am aware of that and I appreciate what was done.

I wonder if either the chairman or the ranking minority member might give us some enlightenment as to what the situation might be next year with respect to this building.

Mr. ELLENDER. I wish to say that, as the Senator stated, the Senate conferees did their best to maintain the amount for the substructure in the bill but Representative Tom Steed, who is chairman of the House Appropriations Subcommittee, objected strenuously. His chief argument was that by constructing this building piecemeal—that is, putting the foundation or substructure in first and later the superstructure in a subsequent appropriation bill—it would cost a good deal more.

He promised us that come the next fiscal year he would put the entire amount in so that one contractor could get a bid on the construction of the whole building and in that way the Government would save money. That is the argument he made to us and he would not agree to put in the substructure under any conditions.

I believe that by having a single contractor to construct the whole building a better contract would be obtained by the Government.

Mr. GRIFFIN. I thank the chairman for his comments.

Mr. YOUNG. Mr. President, the distinguished chairman of the committee has clearly stated the House opposition on this matter.

The Senator from Michigan had asked for the full amount. If the Senator from Michigan had not been so economy-minded and asked for the full cost he might have gotten his building approved, but I believe putting in the substructure as he proposed would not have added to the cost. In fact it could well have saved money.

Representative STEED thought we should not do this piecemeal but he did agree to put in the full amount for the building next year.

Mr. GRIFFIN. I thank the chairman and the ranking Republican Member for their statements. I hope the senior Senator from Michigan (Mr. HART) and I will be able to see the building next year and I hope the increased cost caused by the delay will not be more than the savings Representative STEED has in mind.

Mr. HART. Mr. President, I would be remiss if I did not bring up the subject of the Patrick McNamara Federal Office Building during the discussion of this supplemental appropriations bill.

For several years, members of Michigan's congressional delegation have been seeking funds to construct this building, which has been authorized since 1963.

The federally owned site for the building in downtown Detroit has been vacant for a number of years.

This year some progress was made toward securing funds for the project.

The Senate Appropriations Committee and the Senate added $11.2 million to this supplemental appropriations bill which would have financed construction of the building's substructure.

At this point I want to thank Senator MONTOYA, chairman of the Senate Appropriations Subcommittee on Treasury, Post Office, and General Government, for the leadership he gave in guiding this amendment through the Senate.

Unfortunately, the House conferees refused to yield, and the amendment was dropped in conference.

It is my understanding that Representative STEED, the able chairman of the House Appropriations Subcommittee on Treasury, Post Office, and General Government, opposed not the project but the partial funding approach.

Let me say at this point that, when Senator GRIFFIN and I testified before Mr. STEED's subcommittee, we found him most responsive.

His responsiveness is indicated, I believe, by the statement he made on the House floor yesterday concerning the McNamara building.

Mr. STEED said:

> So far as I know, I know of no other project in the country that is more badly needed than the Detroit one, and I intend to do everything I can to see that it is in the next budget.

Mr. STEED was speaking, of course, of projects funded by the General Services Administration.

Certainly, the many persons in Detroit and Michigan interested in this project welcome Mr. STEED's support. And needless to say, we will do all we can to see that the entire $48 million needed to cover the estimated construction cost is included in next year's budget.

Our chances for success would be greatly improved if the administration requests the funds when it sends its budget to Congress next year.

Absent such a request, we will again seek to have the money added by Congress. Again I thank Senator MONTOYA for his strong support in this matter.

The PRESIDING OFFICER. Who yields time?

Mr. ELLENDER. Mr. President, I yield 5 minutes to the Senator from California.

The PRESIDING OFFICER. The Senator from California is recognized.

Mr. CRANSTON. Mr. President, it is with a considerable sense of disappointment that I rise to speak on the conference report on H.R. 11955, the supplemental appropriations bill for fiscal year 1972. The greatest source of my disappointment is the level of overall funding of health manpower institutional support, construction programs, and student scholarships and loans.

I know that my sense of disappointment is shared by the Senate conferees on this measure, who had brought forth from the Appropriations Committee a bill which was responsive to the initiatives which the Congress so recently set forth in the Comprehensive Health Manpower Training Act of 1971 (Public Law 92–157) and the Nurse Training Act of 1971 (Public Law 92–158).

I know that the leaders of the Appropriations Committee on both sides of the aisle, and particularly the distinguished Senator from Louisiana (Mr. ELLENDER), chairman of the full Appropriations Committee, and the Senator from Washington (Mr. MAGNUSON), chairman of the Labor-HEW Appropriations Subcommittee, did all they could to convince the House conferees of the need for the level of appropriations in the Senate-passed bill.

But the fact is, Mr. President, that they were not fully successful in this task and that 60 percent of the amount by which the Senate bill increased the President's meager budget request has been deleted in the conference report.

Particularly regrettable are: The reduction from 80 percent of the authorized level of capitation for the medicine, osteopathy and dentistry schools, as included in the original bill, to the conference report level of 65 percent; the reduction of nursing school capitation from 83 percent in the Senate-passed bill to just 40 percent in the conference report—a cut of more than 50 percent; the slash in construction grant funding from $190 million to $142 million for health professions schools and from $25 million to $19.5 million for nursing schools; and the total elimination of all funding above the limited amount previously appropriated for fiscal year 1972 for nursing and health professions student assistance.

Mr. President, these lower levels of support are basically inconsistent with commitments made in the two new public laws I referred to earlier for an increased Federal responsibility in the training and education of health professionals and nurses to meet the health needs of the American people. In my State of California, with such a great number of medical schools and other schools of health professions and of nursing, these cuts will work a great hardship. And I know that the distinguished Senator from Washington is well aware of this fact by reason of his generous response on the floor on December 3 to the amendment which I cosponsored with my distinguished colleague from California (Mr. TUNNEY) to add $20 million to the health professions construction grant appropriations item. As I pointed out on the floor on that occasion, in the testimony to Senator MAGNUSON's subcommittee which I inserted in the RECORD, my State of California has three vitally necessary health professions construction grant applications already approved and ready to go to contract, totaling $14.2 million; and, in addition, California has some $85 million in approved construction grants which will be ready to go to contract in the very near future for health professions schools.

Now, Mr. President, as I stated at the outset, I am well aware of the great pressures and difficulties under which the Senate conferees labored in this conference, and I know that they did all that was humanly possible to vindicate the Senate position. And I do not propose at this point to suggest that the Senate should move to reject the conference report in view of the brief time remaining in this first session of the 92d Congress and in view of the fact that this supplemental appropriations bill is the life blood for the poverty program.

I would, however, like to address a few questions to the distinguished Senator from Washington to clarify several points with respect to the conference report on health manpower funding.

First, I ask the Senator from Washington to direct his attention to page 27 of the appropriations committee report (No. 92–549) on the supplemental appropriations bill in which the committee states, after noting the inequitable nature of the administration's recommendation of total funding for schools and colleges of optometry when compared against the recommendations for the other six health professions:

> Therefore, the committee directs that the total amounts granted schools and colleges of optometry under special project and financial distress grants shall not be less than those grants funded under the special projects and financial distress programs in fiscal year 1971.

My question for the Senator from Washington is: Does this direction of the Appropriations Committee continue to operate under the funding provisions for schools and colleges of optometry in the conference report?

Mr. MAGNUSON. The answer to the

question of the Senator from California is yes, because there was an increase in the appropriations agreed to in conference, and the Senate report language, of course, is the only prevailing language, and I assume the Department will follow very closely what we have suggested. That is on page 27 of the Senate committee report, the second paragraph.

Mr. CRANSTON. I thank the Senator very much for his very important and very helpful response.

The PRESIDING OFFICER. The 5 minutes of the Senator have expired.

Mr. CRANSTON. May I have 2 minutes?

Mr. MAGNUSON. Mr. President, I yield 2 minutes to the Senator.

Mr. CRANSTON. In my State of California there are two fine schools of optometry with 15 percent of all the optometry students in the Nation, and, therefore, the administration's desire to decrease total funding to schools and colleges of optometry is of particular concern to me.

I ask unanimous consent to have printed in the RECORD at this point several letters I have received from schools of optometry in California.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

UNIVERSITY OF CALIFORNIA, BERKELEY,
Berkeley, Calif., December 2, 1971.
Hon. ALAN CRANSTON,
New Senate Office Building,
Washington, D.C.

DEAR SENATOR CRANSTON: I would appreciate it very much if you would contact your colleagues on the Senate Appropriations Subcommittee on Labor/HEW requesting them to give full funding to the VOPP professions capitation grants provided in the Comprehensive Health Manpower Training Act of 1971.

Since Federal assistance has been granted to the U.C. School of Optometry here at Berkeley we have expanded our enrollment and teaching program to meet the nations health manpower needs in optometry. In 1965–66 when we first received Federal aid we had a total enrollment of 116 professional degree students and a faculty equivalent to 14.7 full-time teachers. This fall, largely because of Federal aid, we have expanded our enrollment to 211 students and a faculty equivalent to 27.6 full-time teachers. While the program has expanded the quality of the educational program has also advanced, thanks to Federal funding. ($113,000 Institutional Grant and $295,000 Special Project Grants in 1971–72.)

Our present enrollment is within one or two students of absolute capacity. Since our building grant application cannot be funded this coming year because of lack of California matching money, we will have to request an exemption from a further increase in enrollment. Thus we cannot look forward to bonus capitation grants for some time.

We have made a commitment to presently enrolled students. If there is a cutback in our Federal funding we will be forced to cut back enrollment in 1973. In the meantime however we will need to continue with our presently enrolled students with fewer faculty and reduced supplies and expenses. Undoubtedly this will result in a lowering of academic quality.

In my opinion unless the capitation grants are funded to at least 75% we will be in serious difficulty in 1972–73. To make any advances at all, we will need full funding.

Any help you can give us will be deeply appreciated. It should be understood that the opinions expressed above are my own and not necessarily those of the University.

Sincerely,
MEREDITH W. MORGAN,
Dean.

LOS ANGELES COLLEGE OF OPTOMETRY,
Los Angeles, Calif., December 2, 1917.
Hon. ALAN CRANSTON,
U.S. Senate,
Senate Office Building,
Washington, D.C.

DEAR SENATOR CRANSTON: As an administrator in one of the health professions schools in California, I am greatly concerned about the Administration's statement of distribution of funds under the Health Professions Education Act.

A review of this distribution indicates that all health professions with the exception of optometry, received substantial increases in support for education.

California has two fine schools of optometry, the only state in which this situation exists. Each of these schools has incurred considerable expense in recent years in an attempt to meet the health manpower needs of this nation. Each of these schools has increased its output of graduates considerably. Without a fair share of federal funding, the hardships imposed on these two schools and all other schools of optometry in the United States will be immeasurable.

I ask your support in rectifying this situation and assuring that vision care and optometry and its educational programs, specifically, receive more equitable treatment in the disbursement of these funds.

Respectfully yours,
CHARLES A. ABEL, O.D.,
Dean.

Mr. CRANSTON. Mr. President, the other point of clarification I would like to pursue with the Senator from Washington is of a more far-reaching nature. I have already expressed my sense of disappointment with the general funding level in the conference report which I know the Senator shares fully, given his great record of achievement in appropriating funds to meet our Nation's health care needs. I would hope, I say to the Senator from Washington, that when it comes time for the second supplemental appropriation bill, hopefully reasonably early in the next session, the Senator would give very serious consideration to recommendations for increased appropriations for more institutional, construction and student assistance support in the health professions and in the nursing profession, providing we can at that time—as I am sure we will be able—provide strong indications of the great unmet needs which will continue after the funds contained in this appropriations act at the conference report level are allocated around the country to health manpower institutions. Would the Senator from Washington give serious consideration to such recommendations for the second supplemental?

Mr. MAGNUSON. I agree with the Senator from California.

The PRESIDING OFFICER. The 2 minutes of the Senator have expired.

Mr. MAGNUSON. Mr. President, I yield myself such time as I may need.

The amount we finally arrived at in conference was 40 percent or $143 million of the Senate increase. It is not sufficient, in my opinion, but there is some point to another supplemental coming along. Of course, we will give serious consideration to all the matters mentioned in the Senator's question. All of us were hopeful we would do much better, although we did fairly well when we consider that the budget was zero on some of these items, and that we had to operate between zero and the Senate figures.

I think we came out with a larger amount than we had hoped for when we consider that the House had not held hearings or looked into the matter. It was not the fault of the House, because the budget request was transmitted too late.

I am hopeful that, in the regular appropriation bill as well as the next supplemental bill, we can move toward some of the objectives mentioned by the Senator from California, because, after all, we passed the Comprehensive Health Manpower and Nurse Training Acts to provide, not a crash program particularly, but to have a forward thrust and put more emphasis on health manpower.

The Senator from California and I thoroughly agree that if there is a crisis in health in this country, it is not in the research field, because we have the finest research anywhere, bar none. It is in the failure of the delivery of health care, and that means manpower. In order to provide it, we have to provide for construction of facilities to train people. Otherwise, we will continue on a treadmill and we are not going to be able to do what we must do to meet the health needs of this country.

I think we can make some progress with the amounts that we arrived at in conference.

The new legislative authorities were just signed by the President 3 weeks ago, of course. We were meeting and working hurriedly, although the Senator from New Hampshire and I held some lengthy hearings on the matter, and the House did not have hearings.

So I can answer the Senator from California that we will do the best we can to increase these amounts as we move along. We need to do it or we are never going to get adequate delivery of health care in this country.

Mr. CRANSTON. I thank the Senator. I look forward to working with him and his very effective leadership in the direction that the Senator and I know we must move.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. ELLENDER. I yield.

Mr. MANSFIELD. Are all the items in the supplemental appropriation bill now before the Senate fully authorized?

Mr. ELLENDER. No. However, what we have done has the effect of both authorizing and appropriating funds for the items in the bill relating to the Economic Opportunity Act of 1964 as amended which the President vetoed. We had in the bill that passed the Senate language making the availability of the funds contingent upon an authorization bill being enacted into law, but this language was stricken out in conference. The language that was stricken out reads as follows: *Provided further,* That this appropriation shall be available only upon the enactment of S. 2007 or other authorizing legislation by the 92d Congress."

That language appeared in four places in the appropriation bill with regard to OEO activities. That was stricken from the bill in each instance. The effect, then, is an authorization and an appropriation for the items stipulated in the supplemental appropriation bill.

Mr. MANSFIELD. What item is that?

Mr. ELLENDER. We have four items: Under the Labor Department, the Manpower Administration, $26,207,000 for salaries and expenses; and manpower training services, $776,717,000; under HEW, for child development or the Headstart program, $376,317,000; and the Office of Economic Opportunity, $741,380,000.

Mr. MANSFIELD. None authorized?

Mr. ELLENDER. None authorized.

Mr. MANSFIELD. In other words, over a billion dollars in the bill is not authorized?

Mr. ELLENDER. About $1.8 billion.

Mr. MANSFIELD. Could the distinguished chairman of the committee give an explanation to the Senate as to how the Appropriations Committee can operate in this manner, appropriating funds for agencies for which authorizations have not been received?

Mr. ELLENDER. When the conferees struck out the contingency language, that action has the effect of appropriating funds for these items under the authorization that was last in force. It will tie to legislation that had been continued to be funded by the continuing resolution and will not be based upon the new proposed legislation vetoed by the President. These funds are available for these programs as stipulated in the bill under the old law.

Mr. MAGNUSON. May I say to the Senator from Montana that we did, in the bill, a little authorizing ourselves, to the extent that the OEO funds will be under the Act of 1964, and that includes substantially many of the matters we are talking about, except those with reference to child care, which was the reason for the veto.

Mr. MANSFIELD. I would express the hope that no more appropriation bills will come before the Senate unless all items in them are fully authorized, because I think it violates the institutional integrity of the Senate to operate in that fashion. In effect such action renders meaningless the function and alleged authority of 16 out of 17 of the Senate's standing committees.

Mr. ELLENDER. The Senator knows how I feel about that.

Mr. MANSFIELD. I hope this will be the last bill which will come in with items that have not been fully authorized. I shall watch the bills with that in mind. I know the distinguished chairman will cooperate in that endeavor.

Mr. MAGNUSON. We did not expect the veto, but, of course, we are appropriating for these programs spelled out in the bill under the Economic Opportunity Act of 1964, as amended, the old legislation. These are programs now being carried on, and that is under the old law.

The PRESIDING OFFICER. Who yields time?

Mr. YOUNG. I yield 5 minutes on the bill to the Senator from Maryland (Mr. BEALL).

Mr. BEALL. Mr. President, I thank the Senator from North Dakota.

Mr. President, I think it is appropriate, prior to casting a vote on this supplemental appropriation, that I register my strong dissatisfaction with that section of the bill dealing with health manpower generally, and specifically with that section dealing with the funding of the "physician shortage scholarship program."

One of the most serious health problems we have in the United States today is in the health care delivery system, and in that system we have a serious maldistribution of doctors. A big challenge facing Congress and the country is how to encourage young men and women to go into physician shortage areas. Many suburban areas have an adequate supply of doctors, but in many rural and inner city areas, there is a dire need for physicians. For example in Baltimore a 1970 study identified 16 census tracts with 174,000 citizens totally lacking a primary care physician. A 1970 American Medical Association study found 134 counties in the Nation without a single physician.

Earlier in the year, I introduced a bill, S. 790, called the physician shortage area scholarship program, in response to this problem. This bill provides scholarships to young men or women who agreed to practice 1 year for each year of the scholarship in these physician shortage areas. The measure was cosponsored by 25 additional Members of this body.

I was extremely pleased when the legislation was adopted as an amendment to the Health Manpower Act by the Health Subcommittee of the Committee on Labor and Public Welfare, and when the measure was later passed by the Senate. Subsequently, the House-Senate conferees agreed the program was needed, and it was included in the final bill. I was delighted when the Senate appropriations included $1 million for this program in the supplemental appropriation bill.

These funds would have provided at least 200 scholarships to young men and women interested in serving in physician-shortage areas in the coming year. I am naturally disappointed that our House colleagues did not agree to that appropriation. I believe such action was a serious mistake. I also regret that those who are supposedly listening downtown did not have their antennas out and get the message from Capitol Hill and the people of America, that there is concern about this problem. I hope they will put their antennas out now and provide, in the budget about to be sent up for the next fiscal year, substantial funds for these physician-shortage-area scholarships. This program provides the opportunity to tap the idealism of our young men and women for service in their home areas, a unique priority system, based on the premise that individuals from a shortage area are not only more likely to return, but remain there, is established. Priority is also given to low-income individuals.

I would further point out, if those young people who take advantage of the scholarships do not serve in the shortage areas as agreed, the scholarship reverts to a loan, so that it would not cost us any additional money. In other words, if the program works, communities in dire need of doctors will be aided; if it does not work, the Government will not lose a cent. It is difficult for me to understand why this program was not fully funded, let alone the failure to fund the program at all.

So, although I am disappointed that the appropriation was not approved by the House conferees this year, I hope that when the next appropriation comes up, we will have a significant appropriation to help provide health care in the areas where it is so desperately needed.

Mr. MAGNUSON. Mr. President, I will say to the Senator from Maryland that he wrote us a letter about this matter, and we put it in the Senate bill, but the House conferees insisted on our giving it up to make up some of the differences where they yielded in other places.

What we are running into with the House of Representatives, every time we have a conference, both on the education appropriation bill and on the health appropriation bill, is that they have a complete blockade over there about scholarships. I do not know why, but the members of that committee seem to have their feet in concrete about scholarships. They want to shift the matter, as far as possible, into what they call loans. We have had this argument over and over with them, and in this case, in order to get the bill, we had to do this.

But scholarships are the key to some of these problems, because we want to pick up people who really cannot afford the education, who have talent, down in the lower income brackets, and who would not have the opportunity, if they went to a bank, to get a loan.

Many of the banks—and I have said this over and over again—want the parents to sign a note. In some cases they require an account in the bank. Some of these people do not have that; they cannot sign a note, and we are losing a lot of talent. The scholarship program was only one facet of this effort. There are a lot of people who want to enter into the medical and health professions who just cannot get a loan, or, in many cases, as far as that is concerned, do not even know how to go about it.

With scholarships, you pick up some talented personnel from the lower income groups. But the Senator from North Dakota will agree with me that we have an awful time when we mention scholarships to the House conferees. Their theory seems to be that scholarships should phase out and we should turn to loans.

Mr. BEALL. Mr. President, I appreciate the remarks of the distinguished Senator from Washington.

Mr. YOUNG. Mr. President, will the Senator yield?

Mr. BEALL. I yield.

Mr. YOUNG. No one could better understand nor be more sympathetic with the position of my friend from Maryland than the Senator from North Dakota. In my home county in my State, we have two hospitals but not a single doctor in the entire county. Years ago they had 15 or 20.

Many of the doctors we get in North Dakota now are Canadian doctors, or doctors from other countries. There is something wrong when we have such a shortage of doctors that we have the problems that we have mentioned.

Mr. BEALL. I appreciate the remarks of the Senator from North Dakota, and the support given by my colleagues in the Senate to this proposal. I hope we can make our counterparts in the House of Representatives understand the merits of this program. As I said, if the student receiving such a scholarship carries out his pledge to serve in a physician-shortage area, the program is well worth the cost. If the student fails to carry out his commitment, the scholarship is in effect converted to a loan, which must be repaid. I would hope the House and the administration would carefully study this unique approach, which I believe has the greatest potential of helping to solve the physician maldistribution problem.

Mr. COOK. Mr. President, will the Senator yield?

Mr. YOUNG. I yield.

Mr. COOK. I might say to the Senator from North Dakota, and also the Senator from Maryland and the Senator from Washington, that maybe we in the Senate should send over to our colleagues in the House of Representatives all of the requests we so frequently get from hospitals throughout our States, seeking to keep doctors there who have come from other countries, and whose retention is being requested by the boards of health and the hospitals because they are absolutely necessary, and they do not have others to replace them. Maybe we had better send those requests over to the House committee members, so they will be aware of the problem in many States, when they get these young doctors in from foreign countries, and find out, when their time is up, that they have got to go back, and then they plead with us to see if we cannot intercede with the State Department to keep them here because of the necessity for their services.

Mr. BEALL. Mr. President, will the Senator from North Dakota yield to me so that I may make a unanimous-consent request?

The PRESIDING OFFICER. The Senator has 3 minutes remaining.

Mr. YOUNG. I yield.

Mr. BEALL. Mr. President, I ask unanimous consent to have printed in the RECORD my floor statement of July 14 on when I discussed the physician shortage program and its rationale, the provisions of the program as the language contained in Public Law 92–157, and excerpts from the report of the Committee on Labor and Public Welfare discussing my program. Again, I repeat the deletion of funds was a tragic mistake and I hope to work with both the Appropriations Committee and the administration in correcting this error early next year.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Excerpts From Senator Beall's Remarks of July 14 on Health Professions Education Assistance Amendments Dealing With His Physician Shortage Scholarship Program

S. 790 was introduced by me on February 17 of this year and was cosponsored by Senator DOMINICK and approximately one-quarter of the Senate membership. As incorporated into S. 934, the physician shortage area scholarship program is substantially the same as the original bill with the major exception being the deletion of the fellowship program. I ask unanimous consent that at the conclusion of my remarks the text of the physician shortage area scholarship program be printed in full in the RECORD.

Under this program, 3,500 scholarships, up to $5,000 each, are authorized over a 5-year period to young men and women who agree to serve in physician shortage areas. Five hundred such scholarships will be available in the first year, increasing to 900 by the fifth year. This area may be in rural Appalachia, in an urban poverty area, or among migrant farmworkers. For each year of the scholarship, 1 year of service in a shortage area is required. A student, participating in the scholarship program, who subsequently does all of his postgraduate work in a medical scarcity area, is relieved of 1 year of his service obligation.

If a scholarship recipient fails to honor his commitment, the scholarship is in effect converted to a loan and the individual is required to repay to the Government the value of the scholarship plus interest at the commercial market rate. If the program works, we will have taken important action in helping to solve the maldistribution problem; if it does not, the Government will not lose a cent.

The physician maldistribution problem is one of the most serious problems confronting the country and it is one of the most difficult to solve. That is why I believe that this program, which is specifically designed to respond to this problem, is so important. For the many doctor-shortage areas of the Nation, I believe it is imperative that this program be retained in the final bill. As I mentioned earlier, we need 50,000 doctors in the United States today. This gross national statistic does not adequately convey the gravity of the situation in many rural and urban areas of this country. A 1970 AMA study of the distribution of physicians indicated that there were 134 countries in this country lacking a single physician. While no Maryland county was on that list, there are many Maryland counties which are in dire need of additional physicians.

Obviously there are many more communities than counties in the country without a a single physician or without an adequate number of doctors. Although there is not a great deal of information available on individual communities lacking doctors, research that is available indicates that a great need exists. For example, a 1960 survey of over 1,600 towns and cities in Minnesota, North Dakota, South Dakota and Montana identified 1,000 towns as not having a single physician, and an additional 224 towns with only one physician.

One physician counties or communities are likely to become no-physician towns or counties unless action is taken. This is true because the age of physicians in these rural communities tends to be higher. For example, in rural Appalachia 65 percent of the physicians are over 50 years of age. In West Virginia over the last 10 years approximately 60 communities of a population of less than 10,000 have been left without a doctor as rural practitioners retire and younger doctors are not found to replace them. Thus, there is a need for providing incentives for young physicians to go into these communities.

Just as this program is direly needed by rural America, it is also needed by the inner-city area. A 1970 study of the metropolitan area of Baltimore identified 16 census tracks in the inner city which were totally lacking in primary care physicians. These census areas served approximately 174,000 people, most of whom were economically disadvantaged. I believe that the bill, which is incorporated into S. 934, will effectively respond to the maldistribution problem in both the rural and urban shortage areas. The program establishes a unique priority system for selecting students for the scholarship program.

PRIORITIES FOR SCHOLARSHIPS

The first priority is granted to individuals from lower income families who live in a physician-shortage area and who agree to return and practice in such area.

The second priority is given to individuals who reside in a physician-shortage area who agree to return and practice in such area.

The third priority is allocated to individuals from lower income families who, although residing in an area where there is not a physician shortage agree to practice in any physician-shortage area.

The final priority would go to individuals, not lower income, who do not come from an area of physician shortages, but who agree to practice in any physician-shortage area.

Mr. President, there are two primary purposes for the system of priorities for selecting eligible students for scholarships under the bill.

First, the evidence supports, what commonsense tell us, the hypothesis that persons from physican-shortage areas are more likely to return to and remain in such areas and practice medicine.

The results of an American Medical Association's survey published in 1970, questioning physicians on the factors that influence their decision to practice in a certain area gives support to the bill's priorities. This survey found that over 45 percent of physicians indicated that they were practicing in or around the town in which they were raised. The survey also revealed that 49 percent of the physicians raised in small towns were practicing in communities of 2,500 or less. An equal percentage of doctors raised in nonmetropolitan communities of 25,000 or more were practicing in cities of that size. The AMA survey confirmed previous studies which had indicated that:

"Physicians who practice in small towns are more likely to have a rural than urban background."

The AMA study concluded that:

"Physicians recruitment for rural areas would be enhanced if more young men with rural backgrounds were encouraged to enter the medical profession."

Continuing, the report had this to say about the influence of a doctor's origins or his place of practice:

"Physicians who practice in small towns are more likely to have rural rather than urban backgrounds . . . rural physicians have predominantly rural backgrounds and metropolitan physicians generally had urban locations during their youth."

If we can persuade young men and women to practice in physician-shortage areas, the evidence indicates that most are likely to remain. The AMA study on this point states that:

"Once a physician establishes a practice he is not likely to move."

This survey found:

At least 63% of the physicians had not moved from their original practice location. This percentage was consistent regardless of the community size. A more detailed breakdown of the area showed that about one-fourth of the physicians in non-metropolitan areas had practiced twenty years or more in the same place."

This measure is then drafted to give priorities to lower income and other individuals from physician-shortage areas because it is felt that these individuals are more likely to return and remain in the areas in which they were reared.

The second advantage of the priorities established by the bill would be that it would have the effect of attracting and making it possible for more minority and lower income individuals to go to medical school. Across the country there has been a concern over the poor representation of the minority groups in our medical schools. Only recently the University of Maryland took steps to enlarge their minority representation among its medical students.

Another important feature of the legislation is that it would encourage students to practice primary care, including family medicine. In 1931, three out of four of the Nation's doctors were engaged in family practice. In 1967 only one out of five were in general practice. In Baltimore City, only 9 percent of the practicing physicians are in family practice. Indications are that this trend toward specialization and away from general practice is continuing. The Millis report found only 15 percent of the medical students graduates planning to enter general practice.

Steps taken in recent years show some promise of reversing this trend away from general practice. For example, the American Board of Family Practice has been created. In addition, there is included in this bill provisions to encourage family medicine. I believe that these actions will be a further incentive for medical students to specialize in the practice of family medicine and should encourage medical schools to focus anew on the family physician.

Mr. President, much has been written regarding the idealism of today's young men and women. The medical student is no exception. We are told that the new breed of medical students want the opportunity to serve their fellow citizen. My program would provide them with this opportunity. In addition, the priority scheme will not only give them an opportunity to serve but it will provide them the chance to serve and minister to the health needs of citizens, often their friends and neighbors, in the physician shortage area wherein they grew up.

I know the Appalachia area of my State well. It is my home area. I know the young men and women who live there and, I believe, they, as well as similarly motivated students from other areas of my State and the Nation, will confirm my faith in them by making this program work.

I am convinced that this proposal is the most important provision in the legislation to deal with the Nation's maldistribution problem. By granting priorities to individuals from the shortage areas to accept the scholarship conditioned on their making a commitment to serve in such areas, I am convinced that the probability of its success is good.

Mr. President, to solve the health care crisis we must expand our medical manpower and encourage doctors to locate in shortage areas. For if we fail to solve this problem, our goal of quality health care to all Americans, wherever they live, and at a price they can afford, will elude us. As Dr. Egeberg has warned.

"I don't care what Congress does with medical care, Medicaid, and all the other programs, nothing is going to improve the country's medical system until we get more doctors."

In summary, I believe my proposal will significantly respond to some of our medical manpower problems. It will encourage primary care, including family medicine. It responds to the maldistribution problem. It will make it possible for more lower income minority individuals to enter our medical schools.

Physician Shortage Scholarship Provisions of Public Law 92–157

TITLE I—AMENDMENTS TO TITLE VII OF THE PUBLIC HEALTH SERVICE ACT

"Subpart III—Physician Shortage Area Scholarship Program

"SCHOLARSHIP GRANTS

"SEC. 784. (a) In order to promote the more adequate provision of medical care for persons who—

"(1) reside in a physician shortage area;

"(2) are migratory agricultural workers or members of the families of such workers;

the Secretary may, in accordance with the provisions of this subpart, make scholarship grants to individuals who are medical students and who agree to engage in the practice of primary care after completion of their professional training (A) in a physician shortage area, or (B) at such place or places, such facility or facilities, and in such manner, as may be necessary to assure that, of the patients receiving medical care in such practice, a substantial portion will consist of persons referred to in clause (2). For purposes of this subpart, (1) the term 'physician shortage area' means an area determined by the Secretary under section 741(f)(1)(C) to have a shortage of and a need for physicians, and (2) the term 'primary care' has the meaning prescribed for it by the Secretary under section 768(c)(3)(B).

"(b)(1) Scholarship grants under this subpart shall be made with respect to academic years.

"(2) The amount of any scholarship grant under this subpart to any individual for any full academic year shall not exceed $5,000.

"(3) The Secretary shall, in awarding scholarship grants under this subpart, accord priority to applicants as follows—

"(A) first, to any applicant who (i) is from a low-income background (as determined under regulations of the Secretary), (ii) resides in a physician shortage area, and (iii) agrees that, upon completion of his professional training, he will return to such area and will engage in such area in the practice of primary care;

"(B) second, to any applicant who meets all the criteria set forth in subparagraph (A) except that prescribed in clause (i);

"(C) third, to any applicant who meets the criterion set forth in clause (i); and

"(D) fourth, to any other applicant.

"(c)(1) Any scholarship grant awarded to any individual under this subpart shall be awarded upon the condition that such individual will, upon completion of his professional training, engage in the practice of primary care—

"(A) in the case of any individual who, in applying for a scholarship grant under this subpart, met the criteria set forth in subparagraph (A) or (B) of subsection (b)(3), in the physician shortage area in which he agreed (pursuant to such subparagraph) to engage in such practice; and

"(B) in the case of any individual who did not agree (pursuant to such subparagraph (A) or (B)) to engage in such practice in any particular physician shortage area (or who is not, under a waiver under paragraph (4) of this subsection, required to engage in such practice in any particular physician shortage area)—

"(i) in any physician shortage area, or

"(ii) at such place or places, in such facility or facilities, and in such manner, as may be necessary to assure that, of the patients receiving medical care provided by such individual, a substantial portion will consist of persons who are migratory agricultural workers or are members of the families of such workers;

for a twelve-month period for each full academic year with respect to which he receives such a scholarship grant. For purposes of the preceding sentence, any individual, who has received a scholarship grant under this subpart for four full academic years, shall be deemed to have received such a grant for only three full academic years if such individual serves all of his internship or residency in a public or private hospital, which is located in a physician shortage area, or a substantial portion of the patients of which consists of persons who are migratory agricultural workers (or are members of the families of such workers) and, if, while so serving, such individual receives training or professional experience designed to prepare him to engage in the practice of primary care.

"(2) The conditions imposed by paragraph (1) shall be complied with by an individual to whom it applies within such reasonable period of time, after the completion of such individual's professional training, as the Secretary shall by regulations prescribe.

"(3) If any individual to whom the conditions referred to in paragraph (1) is applicable fails, within the period prescribe pursuant to regulations under paragraph (2), to comply with such conditions for the full number of months with respect to which such condition is applicable, the United States shall be entitled to recover from such individual an amount equal to the amount produced by multiplying—

"(A) the aggregate of (i) the amounts of the scholarship grant or grants (as the case may be) made to such individual under this subpart, or (ii) the sums of the interest which would be payable on each such scholarship grant if, at the time such grant was made, such grant were a loan bearing interest at a rate fixed by the Secretary of the Treasury, after taking into consideration private consumer rates of interest prevailing at the time such grant was made, and if the interest on each such grant had been compounded annually, by

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Excerpts From Senate Report 92–251 Discussing Family Physicians Shortage Scholarship Program

PHYSICIAN SHORTAGE AREA SCHOLARSHIP PROGRAM

The bill includes a new demonstration scholarship program designed to offer stronger incentives to physicians to practice in shortage areas, to encourage more doctors to enter general practice, to assist in remedying the problem of maldistribution of physicians, and to increase the number of lower income and minority young people entering medical school.

The Secretary of HEW would be authorized to make scholarship grants to medical students who agree in advance to engage in the practice of primary care in (1) a physician-shortage area or (2) any practice, a substantial portion of which serves migratory agricultural workers or their families. A "physician shortage area" is defined by the bill to mean a medically underserved area as designated for purposes of the health professions student loan cancellation provisions.

Scholarships could be as much as $5,000 annually. One year of service would be required for each year of scholarship aid. (A medical student who receives scholarship aid for four academic years would be deemed to have completed one year of the requirement for service if he served all of his internship or residency in a hospital in a physician shortage area or a hospital serving substantial numbers of migrant workers and their families and if, while so serving, he receives training or experience designed to prepare him to engage in the practice of primary care.)

If a scholarship recipient fails to comply with the agreement, the Federal Government would be entitled to recover proportionate amounts, with interests, as though the student aid had been a loan, payable within five years.

The bill establishes priorities for selection of students for the scholarship program. First priority is given to individuals from low-income families who live in physician shortage areas and who agree to return and practice in such areas. Second priority is given to individuals who reside in a physician shortage area and who agree to return to practice there. Third priority is given to individuals from low-income families who, although not residing in areas where there are physician shortages, agree to practice in any physician shortage area. Fourth, to any other applicant.

Mr. COOK. Mr. President, will the Senator from Washington yield for a question?

Mr. MAGNUSON. I yield.

Mr. COOK. So that we can get it into the RECORD, there is no mistake or misunderstanding that title I funds will be funded at the 1971 level; that we will not find, for example, the situation in my State, where we will be denied some $3 million plus that was available to us in the 1971 year, and that they will be available to us under the supplemental appropriation.

Mr. MAGNUSON. That is the amendment dealing with title I funds of the Elementary and Secondary Education Act in the amount of $32.5 million. The conferees accepted our amendment on that, so that no State will receive less than the fiscal year 1971 level.

Mr. COOK. I thank the Senator.

Mr. MAGNUSON. I think that involves quite a few States.

Mr. COOK. It does.

Mr. MAGNUSON. We put a list of the States into the RECORD. The House conferees accepted that amendment. It was a little difficult at first, but they finally did accept it.

Mr. HARTKE. Mr. President, the conference report to H.R. 11955 for supplemental appropriations for fiscal year 1972 contains many excellent provisions. I am most disturbed, however, that the conference deleted most of the additional funds for veterans which the Senate Appropriations Committee had recommended and this body has passed. This deletion is due, I believe, to heavy lobbying pressure by representatives of the administration. That the modest $25 million in funds that the Senate voted for veteran unemployment has been slashed to $6 million, is further evidence that the administration prizes form above content. Eloquent statements and plans for the veteran are heard, but seldom is there money to implement them. I am further concerned that information which administration operatives supplied to some of the conferees was, I believe, deliberately misleading. This information noted that the unemployment rate for veterans aged 20 to 29 was at 7 percent for October, down from the 8-percent range where it has remained for most of the year. This, of course, created the impression that the situation was getting better and that additional funds were not needed. What these operatives conveniently chose to ignore was that the November unemployment rate for veterans was back up to 8.2 percent. These figures were released by the Bureau of Labor Statistics several days before the conferees ever met and is a full 1.2 percent greater than for nonveterans of the same age group. Indeed, throughout the entire year of 1971 the veteran unemployment rate has been persistently higher than that for comparable nonveterans.

The President last June announced his firm intention to do something to aid veteran unemployment. Included in his six-point plan was a mandatory listing with the employment service system of all job openings by Government contractors. Qualified veterans were to be accorded priority in referral to these jobs by the employment service. I welcomed that move by the President which would increase the estimated number of job listings this year from 6.5 million to over 11 million. But it was obvious that if these job listings were to be processed, additional funds for personnel were needed. It was obvious, also, that if more veterans were to be referred, additional funds for personnel would be required. And, I believe it was obvious that if the veteran placement rate by the local employment service offices was to be improved, additional funds, personnel, and supervision were needed. Last year less than 13 percent of all veteran applicants were placed in a job for 3 days or more duration.

Indeed, all this was obvious to the Department of Labor who submitted a request of $30 million to the Office of Management and Budget to aid the veteran. But the Office of Management and Budget authorized a submission of only $4.5 million. Based on hearings on veteran unemployment held by the Committee on Veterans' Affairs, which I am privileged to chair, I believed that additional funds were necessary. Accordingly, I took my case to the Appropriations Subcommittee of Labor-HEW and other related agencies.

I ask unanimous consent that my testimony before the subcommittee be inserted in the RECORD at the conclusion of my remarks. The response of the subcommittee was most gratifying, particularly from its distinguished chairman (Mr. MAGNUSON) and the ranking Republican (Mr. COTTON). Equally receptive was the distinguished chairman of the full committee (Mr. ELLENDER) and the ranking Republican (Mr. YOUNG). The full committee recommended to this body that it appropriate $25 million of the $30 million I recommended.

The $25 million that the Senate passed to aid veteran unemployment has now, thanks to pressure from the administration, been cut back to $6 million. Early in this administration, we were told that it should be judged, not by what it said, but by what it did. After witnessing the misinformation and pressure exerted to delete these funds, I believe that I have the basis to judge them. But, more important, the veteran who is unemployed and looking for a job, will have a chance to make his judgment as well.

I ask unanimous consent to have printed in the RECORD the testimony I gave before the subcommittee and a copy of my letter to Chairman MAGNUSON.

There being no objection, the testimony and letter were ordered to be printed in the RECORD, as follows:

TESTIMONY BEFORE THE SUBCOMMITTEE ON LABOR, AND HEALTH, AND WELFARE, AND RELATED AGENCIES

I want to thank the Committee for the opportunity of being able to bring additional information concerning veterans unemployment to your attention. I understand the pressure of time which bears upon this Committee, and I shall not monopolize it by repeating information contained in my letter of October 28 to Subcommittee Chairman Magnuson. Nor will I spend any large amount of time going over a detailed budgetary breakdown of how the additional $30 million supplemental appropriation would be allocated. This information has been previously supplied to your committee staff and copies of the material are attached to my testimony as exhibits.

I believe a few brief points are in order, however, for your consideration. First, while the unemployment rate seems to be improving somewhat for veterans, the situation still calls for corrective action. In spite of a drop in the veteran unemployment rate in October to 7 percent, this continues to be higher than for comparable nonveterans. For most of this year the veterans has experienced an unemployment rate of 8.5 percent. For those recently discharged from the service who are in the age group 20 to 24, the most current figures indicate the unemployment rate is 11.2 percent. Before too much reliance is placed upon the October unemployment figures, it should be recognized that monthly veteran employment figures are *not* seasonally adjusted. October, as most of you know, is traditionally one of the higher employment months. The Bureau of Labor Statistics has cautioned against viewing the October figures as establishing any sort of trend. Furthermore, it would seem to me if the employment service was only able to place less than 13 percent of its veteran applicants last year that there is enormous room for improvement. While ESARS data may indicate there has been some additional placement of Vietnam-era veterans, it also indicates that the placement percentages are running behind last year's total. For the first quarter of Fiscal Year '72—July through October—there were approximately 1.1 million veteran applicants. Of that number, less than 84,000 were placed in a regular job, which is defined as one of three or more days duration. This would indicate a placement percentage of 7.3 percent. First quarter ESARS data also indicates that although veterans made up 21.2 percent of employment service applicants, they comprise only 18.4 percent of those counseled, 13 percent of those tested, and 12.3 percent of those enrolled in training.

The President himself has noted the importance of the employment service to assure that veterans secure jobs upon return to the United States through his six point plan. Of those 6 points, 3 bear directly upon the U.S. Training and Employment Service and 2 others indirectly draw upon their resources. Of these 6 points, perhaps the most important is the mandatory listing of jobs by all government contractors required by Executive Order 11958.

The Department of Labor has estimated that as a result of this Executive order, there will be generated an additional 5 million job openings above the original projection of 6.5 million for a total of 11.5 million job listings with the employment service. Clearly, this almost doubling of job listings will require additional staff. The Department of Labor itself has recognized that if the job is to be done, additional funding will be necessary. I wish to emphasize that this $30 million request is in line with the same request that the Department of Labor itself submitted to the Office of Management and

Budget. OMB, in the name of economy, approved a congressional submission of only $4.5 million. And as late as September 28, Assistant Secretary Lovell of the Department of Labor admitted to me in hearings that he did not believe the $4.5 million was sufficient and that it would take the full $30 million to do the job. Since that time, the Department of Labor's official position has been that it could get along with the $4.5 million. But I think you are aware, Mr. Chairman, that these statements are not dictated by the convictions of the officials of the Department of Labor but are statements from a script written by the Office of Mangement and Budget. As I have said before, I do not believe we can economize at the expense of our veterans.

Even if the Department of Labor through large efforts is able to supply the necessary services to veterans, it is my conviction that it can only be done at the expense of other programs. As Chairman of the Committee on Veterans' Affairs, I am vitally concerned that our returning veterans get an even break. I do not believe, however, and I do not think that any member of this Committee believes, that adequate services to veterans should be purchased at the expense of programs for the disadvantaged and minorities, yet clearly, this is what will happen if we do not provide adequate funding.

Finally, included in my request is a modest proposal for increasing the Veterans' Employment Service by 79 positions. These positions will be used to monitor the effectiveness of the local employment service programs, for veterans. I believe last year's statistics and the continuing statistics of this year justify a larger degree of control and oversight by those who are assigned exclusively to monitoring veterans' functions. While I do not doubt the sincerity of the Department of Labor, there has been a tendency in the past not to closely monitor state employees assigned to veterans' functions. The Veterans' Employment Service will see that the federal money is well spent if they are given adequate personnel.

U.S. SENATE, COMMITTEE ON
VETERANS' AFFAIRS,
Washington, D.C., October 28, 1971.

HON. WARREN G. MAGNUSON,
Chairman, Subcommittee on Labor, and Health, and Welfare, and Related Agencies Committee on Appropriations, New Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: Recently the President submitted a request for supplemental appropriations for FY '72 (House Document No. 92–164). Your committee, which has been holding hearings on this matter, received testimony on October 20 from Malcolm R. Lovell, Jr., Assistant Secretary for Manpower, concerning the Administration's request for $4,500,000 to aid in placement service for veterans in response to Executive Order 11598.

I have examined the request submitted as well as the accompanying testimony of Mr. Lovell, and it is my conviction that there has been substantially less than a full and candid disclosure to your committee of the employment problems facing the returning veteran and the action that must be taken. The Committee on Veterans' Affairs, which I am privileged to chair, has been conducting a thorough inquiry into the employment problems confronting the returning veteran and what services the government is and is not providing him. The committee has held hearings on this subject on April 26, 28; May 10; September 28, 29; and October 8.

The composite picture that emerges is one of neglect by the United States Training and Employment Service. The Veterans Employment Service within the Department of Labor, which has veteran employment as its prime responsibility, is chronically understaffed and has been unable to effectively monitor the state employment services.

One immediate indication of the problem is, of course, the continuing higher unemployment rate among Vietnam-era veterans. The unemployment rate among the 20-to-29-year-old age group has increased in the past year from 6.2 percent to a current 8.3 percent. By comparison, nonveterans of the same age group are currently experiencing an unemployment rate of only 6.6 percent. It is interesting to note that since June 11, when the President called for an "effective mobilization of federal resources" to aid the veteran, the gap between veteran and nonveteran unemployment rates has widened from .3 percent to 1.7 percent. When one examines the unemployment rate for unemployed veterans in the 20-to-24-year-old age group, the figures increase even more dramatically; and if the veteran happens to be black, he can experience an unemployment rate as high as 20 percent.

Even more pertinent is the ESARS data (Employment Service Automatic Reporting System) obtained by the committee staff for the last fiscal year. Despite a congressional mandate to give priority to veterans and the legal requirement that each of the some 2400 local employment offices have a veterans' employment representative, the record indicates that far from getting priority, the returning veteran is getting less service than the nonveteran. During the past year, veterans constituted 21.5 percent of all state employment service applicants. Yet ESARS data shows that they comprised only 17.9 percent of those counseled; 13.2 percent of those tested; and 14.7 percent of those enrolled in manpower training programs. Proportionally fewer veterans were referred to health, rehabilitative, welfare, or remedial services. Only 11.3 percent of those enrolled in orientation were veterans. Of the nearly 2.7 million veteran applications at the employment service offices last year, less than 13 percent resulted in placement in any sort of job. Again, this was a lesser placement percentage than for nonveterans. It is important to note in this connection that the employment service defines a regular job as one which is of three days duration. How many of these placements were for temporary employment of short duration or "dead-end" type jobs is not revealed by the figures, and the Department of Labor has informed me they are unable to supply any information in this regard. Regulations defining eligibility for manpower programs unfairly and I believe unintentionally have tended to exclude the young veteran. That is to say, veterans who would otherwise be classified as "disadvantaged" and eligible for certain manpower training programs have been excluded by simple virtue of their compulsory service in the Armed Forces. Even more shocking to me is the fact that as to those veterans who were placed in the category of "disadvantaged," proportionately fewer of them were enrolled in manpower training programs than their disadvantaged nonveteran counterparts.

The foregoing suggests quite graphically, I believe, the failure of the state agencies to perform as required by law and the necessity of close effective supervision and assistance by the Federal Veterans Employment Service. Unfortunately, this division has too often been treated as a poor stepchild of the Department of Labor. Its line-item authority for FY '72 is under $2.5 million. It has a total staff of only 144 employees which includes 77 professionals in the field and 9 professionals in the central office. Of this number, only one is a Vietnam-era veteran. By comparison, over 700 men were assigned to this division following World War II. Operating under a heavy work load, the Veterans Employment Service was able to conduct evaluations of only 732 of the 2400 local employment service offices last year. Clearly I believe that adequate staffing is necessary if we are to insure that the veteran receives a fair shake.

As you know, the Department of Labor submitted a request for $30 million to the Office of Management and Budget in order to implement Executive Order 11598 designed to reduce the higher unemployment rate for Vietnam veterans. OMB gave approval for a submission of only $4.5 million. While I am cognizant of necessary constraints imposed by budgetary requirements, I do not believe that we can economize at the expense of the young veteran.

Because I know that you share the same degree of concern about the employment problems facing the veteran today, I am respectfully requesting that your subcommittee allow me to present this and additional testimony to members of the committee together with recommendations for budgetary increases prior to any final action on the supplemental request.

Thanking you in advance for your courtesy, I remain

Sincerely,

VANCE HARTKE,
Chairman.

Mr. CASE. Mr. President, as a member of the conference committee, I have taken exception to one portion of the conference report on the supplemental appropriations bill that perpetuates an inequity in the distribution of Federal aid to school districts that carry a special burden as a result of Federal activities.

Twice this year the Senate has approved funds to assist local districts educating children whose parents live in low-income public housing. On both occasions, in the education appropriations bill and again in this supplemental appropriations bill, the funds approved by the Senate for this purpose were eliminated in the conference committee meeting with House Members.

Since 1950, the Congress has provided funds to assist school districts that provide an education for children whose parents live or work on Federal installations throughout the country. This assistance recognizes that a Federal activity can impose a special burden on a school district, particularly when Federal property is removed from the local tax rolls.

In my view, there can be no justification for providing Federal aid to school districts impacted by Federal installations if we do not provide the same type of assistance to school districts required to educate children whose parents live in housing projects that are exempt from local taxes because they are Federal property.

The failure to provide funds for the authorized program of aid to districts impacted by public housing is not only inequitable, it is shortsighted on the part of those who support aid to districts impacted by other Federal installations.

We in Congress have already stated our support for spreading low-income public housing beyond the urban areas where most of it now exists. Indeed reports from the 1970 census indicate that suburban public housing will continue to expand during this decade. Over 3,000 communities in all 50 States now have public housing and this is a program that will touch more and more as the years go by.

In my view, Federal aid for school districts impacted by public housing is one of the most meritorious aspects of the whole impacted aid program and it most certainly is the one related most directly to identifiable public economic need.

ELDERLY—SUPPLEMENTAL APPROPRIATIONS

Mr. KENNEDY. Mr. President, I want to commend the conferees for keeping in the supplemental appropriations bill the full level of funding for older Americans programs provided by my amendment last Friday.

The amendment increased the title III community programs for the aging and the foster grandparents and retired senior volunteer program by $45.75 million. It also increased the training and research programs by $9.5 million. This raises the overall level of funding this year to $100 million.

As the chairman of the aging subcommittee which originally passed the Older American Act Amendments of 1969 which established the authorization of $62 million for fiscal year 1970, $85 million for fiscal year 1971, and $105 million for 1972. Now for the first time, we have brought the level of funding close to the level of need that we found 3 years ago.

Thus, the administration originally requested only 47 percent of the authorized level in fiscal year 1970, $1 million less than the Johnson administration had requested; 36 percent of the authorization in fiscal year 1971, and an utterly inadequate 28 percent of the authorized level in fiscal year 1972.

Congressional action each year increased that level and again last week the 80 to 0 approval of my amendment demonstrates the deep concern for the need of the elderly in this Nation which is beginning to receive expression in all branches of our Government.

Thus, last week, in a turnaround of some importance, the administration agreed to support my amendment to increase funding to $100 million after the President acknowledged to the White House Conference on Aging that such a funding level was required.

Rather than wait until the next fiscal year, I felt that the additional moneys should be available immediately. For that reason, I submitted the amendment and I am pleased to see that now both the Senate and the House of Representatives have approved that provision.

I hope that passage of this amendment marks a major shift in the attitude of the Nation's political leaders toward the needs of the elderly. I hope it represents a new understanding of the economic deprivation, frustration, and alienation that too often robs our elderly citizens of the dignity that they deserve in the final chapter of their lives. And I hope it represents a commitment to adequate income, decent housing, quality health care, and the opportunity to participate fully in the life of our Nation.

Mr. HANSEN. Mr. President, the conference on H.R. 11955 includes $2,215,000 for an extension and widening of the runway at Jackson Hole Airport, Grand Teton National Park, Wyo.

In addition, the funds will permit the construction of a parallel taxiway, extension of existing parking aprons, and the installation of electronic equipment.

I am grateful to my colleagues in the Congress for their recognition of the urgent situation which exists at the Jackson Hole Airport. This facility is the major air access to Grand Teton and Yellowstone National Parks. It is located entirely on National Park Service land and is within a county in which 97 percent of the land area is owned by the Federal Government.

As more and more Americans visit this majestic area, traffic has greatly increased at the Jackson Hole Airport, airlines are using more sophisticated aircraft and safety standards have been raised. In spite of these new conditions, there was not even a taxistrip at the airport and airplanes were forced to taxi down the runway before takeoff.

The appropriation of $2,215,000 for Jackson Hole Airport will enable the Jackson Hole Airport Authority and the National Park Service to improve the airport facilities and provide for the safety of the citizens using this airport. It would have indeed been tragic if the Congress had failed to act until disaster struck. All too often there is delay until loss of human life prompts action.

I am proud and pleased that Congress has not delayed and has acted to make improvements before an accident occurred at Jackson Hole Airport.

I am grateful to the members of the Committee on Appropriations for their understanding and recommendation that these funds be included in the supplemental appropriations bill. The concurrence of the House in this action underscores the wisdom of this decision.

I sincerely hope that the Senate will pass the conference report.

The **PRESIDING OFFICER.** Who yields time?

Mr. ALLEN. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The **PRESIDING OFFICER.** Who yields time?

Mr. ELLENDER. Mr. President, unless any other Senator wishes to speak, I yield back the remainder of my time.

Mr. YOUNG. I yield back the remainder of my time.

The **PRESIDING OFFICER.** All time has been yielded back.

The question is on agreeing to the conference report. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from New Mexico (Mr. Anderson), the Senator from Oklahoma (Mr. Harris), and the Senator from Wyoming (Mr. McGee) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Utah (Mr. Bennett) and the Senator from South Dakota (Mr. Mundt) are absent because of illness.

The Senator from Illinois (Mr. Percy) and the Senator from Maine (Mrs. Smith) are necessarily absent.

If present and voting, the Senator from Illinois (Mr. Percy) and the Senator from Maine (Mrs. Smith) would each vote "yea."

The result was announced—yeas 84, nays 9, as follows:

[No. 449 Leg.]

YEAS—84

Aiken
Allott
Baker
Bayh
Beall
Bellmon
Bentsen
Bible
Boggs
Brock
Brooke
Burdick
Byrd, W. Va.
Cannon
Case
Chiles
Church
Cook
Cooper
Cotton
Cranston
Curtis
Dole
Dominick
Eagleton
Eastland
Ellender
Ervin
Fong
Fulbright
Gambrell
Gravel
Griffin
Gurney
Hansen
Hart
Hartke
Hatfield
Hollings
Hruska
Hughes
Humphrey
Inouye
Jackson
Javits
Jordan, N.C.
Jordan, Idaho
Kennedy
Long
Magnuson
Mathias
McClellan
McGovern
McIntyre
Miller
Mondale
Montoya
Moss
Muskie
Nelson
Packwood
Pastore
Pearson
Pell
Proxmire
Randolph
Ribicoff
Saxbe
Schweiker
Scott
Sparkman
Spong
Stafford
Stennis
Stevens
Stevenson
Symington
Taft
Talmadge
Tower
Tunney
Weicker
Williams
Young

NAYS—9

Allen
Buckley
Byrd, Va.
Fannin
Goldwater
Mansfield
Metcalf
Roth
Thurmond

NOT VOTING—7

Anderson
Bennett
Harris
McGee
Mundt
Percy
Smith

So the conference report was agreed to.

The **PRESIDING OFFICER.** The clerk will report the amendments in disagreement.

The legislative clerk read as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 20 to the aforesaid bill, and concur therein with an amendment, as follows:

In lieu of the matter proposed in said amendment, insert:

"Salaries and Expenses

"For an additional amount for the Manpower Administration, $26,207,000."

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 21 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum named in said amendment, insert: "$776,717,000", and delete the last proviso.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 28, and concur therein with an amendment, as follows:

In lieu of the matter inserted by said amendment, insert:

"National Institutes of Health
"Health Manpower

"For an additional amount for 'Health Manpower', $492,980,000 of which $162,885,000 shall remain available until expended to carry out part B of title VII and part A of title VIII of the Public Health Service Act: *Provided,* That $93,000,000 to carry out sections 772, 773, and 774 shall remain available for obligation through September 30, 1972: *Provided further,* That $100,000 shall be used to carry out programs in the family practice of medicine, as authorized by the Family Practice of Medicine Act of 1970 (S. 3418, Ninety-first Congress).

"Loans, grants, and payments for the next succeeding fiscal year: For making, after December 31 of the current fiscal year, loans, grants, and payments under section 306, parts C, F, and G of title VII, and parts B and D of title VIII of the Public Health Service Act for the first quarter of the next succeeding fiscal year, such sums as may be necessary, and obligations incurred and expenditures made hereunder shall be charged to the appropriation for that purpose for such fiscal year: *Provided*, That such loans, grants, and payments, pursuant to this paragraph may not exceed 50 per centum of the amounts authorized in section 306, parts C and G of title VII, and in part B of title VIII for these purposes for the next succeeding fiscal year."

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 29 to the aforesaid bill, and concur therein with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert:

"Social and Rehabilitation Service
"Special Programs for the Aging

"For an additional amount to carry out, except as otherwise provided, the Older Americans Act of 1965, $45,750,000, to remain available for obligation through December 31, 1972.

"Research and Training

"For an additional amount to carry out, except as otherwise provided, titles IV and V of the Older Americans Act of 1965, $9,500,000, to remain available for obligation through December 31, 1972."

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 31, and concur therein with an amendment, as follows:

In lieu of the sum named in said amendment, insert: "$376,317,000," and delete the proviso.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 34 to the aforesaid bill, and concur therein with an amendment, as follows:

In lieu of the sum named in said amendment, insert: $741,380,000", and delete the last proviso.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 55 to the aforesaid bill, and concur therein with an amendment, as follows:

In lieu of the sum named in said amendment, insert: "$4,000,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 57 to the aforesaid bill, and concur therein with an amendment, as follows:

In lieu of $36,000,000 named in said amendment, insert the following: $32,000,000", and in lieu of $36,225,009 named in said amendment insert the following: "$32,225,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 60 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter stricken and inserted, insert the following: "$2,200,000, of which $200,000 shall be derived from the appropriation 'Office of the Secretary, salaries and expenses' ".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 68 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

"FUNDS APPROPRIATED TO THE PRESIDENT

"ECONOMIC STABILIZATION ACTIVITIES

"SALARIES AND EXPENSES

"For expenses necessary to carry out the Economic Stabilization Act of 1970, as amended, including activities under Executive Orders No. 11615 of August 15, 1971, and No. 11627 of October 15, 1971, both as amended; activities under Proclamation 4074 of August 15, 1971; and hire of passenger motor vehicles, and services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem equivalent of the rate for GS–18, such amounts as may be determined from time to time by the Director of the Office of Management and Budget but not to exceed $20,153,000, to be derived by transfer from balances reserved for savings in such appropriations to the departments and agencies of the Executive Branch for the current fiscal year as the Director may determine: Provided, That advances or repayments from the above amounts may be made to any department or agency for expenses of carrying out such activities."

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 75 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the section number named in said amendment, insert the following: "902"

Mr. ELLENDER. Mr. President, I move that the Senate concur in the amendments of the House to the amendments of the Senate numbered 20, 21, 28, 29, 31, 34, 55, 57, 60, 68, and 75.

The **PRESIDING OFFICER.** The question is on agreeing to the motion of the Senator from Louisiana.

The motion was agreed to.

WAIVER OF RULE REQUIRING CONFERENCE REPORT TO BE PRINTED AS A SENATE REPORT

Mr. ELLENDER. Mr. President, I ask unanimous consent that the requirement that the conference report be printed as a Senate report be waived, inasmuch as under the rules of the House of Representatives it has been printed as a report of the House. The reports are identical.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

Mr. ELLENDER. Mr. President, I have a tabulation which reflects the budget estimates, the amounts in the House and Senate versions of the bill for each item, and the final amount agreed to in conference. I ask unanimous consent to have this tabulation printed in the RECORD.

There being no objection, the tabulation was ordered to be printed in the RECORD, as follows:

THE SUPPLEMENTAL 1972 (H.R. 11955)

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL

SUMMARY

Chapter No.	Department or activity	Budget estimate*	Version of bill		Conference agreement
			House	Senate	
I	HUD-Space-Science-Veterans	$1,587,000		$1,587,000	$1,587,000
II	Interior and Related Agencies:				
	New budget (obligational) authority	26,076,000	$8,170,000	29,485,000	21,302,000
	Appropriation to liquidate contract authority	(10,000,000)	(10,000,000)	(10,096,000)	(10,096,000)
	Transfers	(4,172,000)	(3,746,100)	(3,746,100)	(3,746,100)
III	Labor and Health, Education, and Welfare:				
	New budget (obligational) authority	2,684,655,000	334,439,000	3,401,567,000	2,838,790,000
	Transfers	(2,560,000)	(1,900,000)	(2,560,000)	(2,560,000)
IV	Legislative:				
	New budget (obligational) authority	27,719,515	23,549,920	26,443,515	24,922,515
	Fiscal year 1971 (by transfer)			(250,000)	(250,000)
V	Public Works—AEC:				
	New budget (obligational) authority	119,010,000	46,500,000	119,010,000	119,010,000
VI	State, Justice, Commerce, and Judiciary:				
	New budget (obligational) authority	6,471,000	72,094,000	115,273,000	110,354,000
VII	Transportation:				
	New budget (obligational) authority	60,244,000	55,544,000	60,994,000	58,294,000
	Appropriation to liquidate contract authority	(10,000,000)	(10,000,000)	(10,000,000)	(10,000,000)
	Transfer		(200,000)		(200,000)
VIII	Treasury, Postal Service, and General Government:				
	New budget (obligational) authority	227,592,000	226,956,000	222,006,000	210,556,000
	Transfers	[1] Unlimited transfer language.		(20,153,000)	(20,153,000)

Footnotes at end of table.

Chapter No.	Department or activity	Budget estimate*	Version of bill		Conference agreement
			House	Senate	
IX	Claims and judgments	$21,569,856	$19,029,734	$21,569,856	$21,569,9856
	Grand total:				
	New budget (obligational) authority	3,254,924,371	786,282,654	3,998,045,371	3,406,385,371
	Appropriation to liquidate contract authority	(20,000,000)	(20,000,000)	(20,096,000)	(20,096,000)
	Transfers	(6,732,000)	(5,846,100)	(26,459,100)	(26,659,100)
	Fiscal year 1971 (by transfer)			(250,000)	(250,000)

THE SUPPLEMENTAL, 1972 (H.R. 11955)

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL

Doc. No.	Department or activity	Budget estimate*	Version of bill		Conference agreement
			House	Senate	
	CHAPTER I				
	HUD-Space-Science, Veterans' Administration and other Independent Agencies				
	Securities and Exchange Commission				
91-43	Salaries and expenses	$1,587,000		$1,587,000	$1,587,000
	CHAPTER II				
	DEPARTMENT OF THE INTERIOR				
	Bureau of Land Management				
91-119	Management of lands and resources	160,000	$160,000	85,000	85,000
	Bureau of Indian Affairs				
	Resources management			230,000	230,000
	Construction			550,000	550,000
	Total, Bureau of Indian Affairs			780,000	780,000
	Geological Survey				
92-119	Surveys, investigations, and research	3,700,000		1,190,000	650,000
	Bureau of Mines				
	Conservation and development of mineral resources			300,000	300,000
92-164	Health and safety	5,250,000	5,250,000	7,225,000	6,250,000
	Total, Bureau of Mines	5,250,000	5,250,000	7,525,000	6,550,000
	Office of Coal Research				
92-119	Salaries and expenses	10,280,000		10,280,000	5,120,000
	Bureau of Sport Fisheries and Wildlife				
	Construction		100,000	100,000	100,000
	National Park Service				
	Construction		110,000	2,325,000	2,325,000
	(By transfer)	[1] (−250,000)			
	Parkway and road construction (appropriation to liquidate contract authority)			(96,000)	(96,000)
	Total, National Park Service		110,000	2,325,000	2,325,000
	Office of the Secretary				
92-119	Salaries and expenses	1,286,000	500,000	518,000	500,000
	(By transfer)	[2,4] (−3,922,000)	(−3,746,100)	(−3,746,100)	(−3,746,100)
92-119	Departmental Operations (by transfer)	[3,4] (3,922,000)	(3,746,100)	(3,746,100)	(3,746,100)
	Total, Office of the Secretary	1,286,000	500,000	518,000	500,000
	Total, Department of the Interior	20,676,000	6,120,000	22,803,000	16,110,000
	Appropriation to liquidate contract authority			(96,000)	(96,000)
	By transfer	(−250,000)			
	RELATED AGENCIES				
	DEPARTMENT OF AGRICULTURE				
	Forest Service				
92-164	Forest roads and trails (appropriation to liquidate contract authority)	(10,000,000)	(10,000,000)	(10,000,000)	(10,000,000)
92-43	Youth Conservation Corps	3,500,000		3,500,000	3,500,000
	Total, Forest Service	3,500,000		3,500,000	3,500,000
	DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE				
	Health Services and Mental Health Administration				
	Indian health facilities			42,000	42,000
	National Parks Centennial Commission				
	Salaries and expenses		250,000	250,000	250,000
92-164	(By transfer)	[5] (250,000)			
	American Revolution Bicentennial Commission				
92-119	Salaries and expenses	1,900,000	1,800,000	1,400,000	1,400,000
	Total, related agencies	5,400,000	2,050,000	6,692,000	5,192,000
	Appropriation to liquidate contract authority	(10,000,000)	(10,000,000)	(10,000,000)	(10,000,000)
	By transfer	(250,000)			
	Total, chapter II, new budget (obligational) authority	26,076,000	8,170,000	29,495,000	21,302,000
	Appropriation to liquidate contract authority	(10,000,000)	(10,000,000)	(10,096,000)	(10,096,000)

Footnotes at end of table.

THE SUPPLEMENTAL, 1972 (H.R. 11955)—Continued

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL—Continued

SUMMARY—Continued

Doc. No.	Department or activity	Budget estimate*	Version of bill		Conference agreement
			House	Senate	
	Smithsonian Institution				
	The John F. Kennedy Center for the Performing Arts			$1,500,000	
	CHAPTER III				
	DEPARTMENT OF LABOR				
	Manpower Administration				
92-15, 93	Salaries and expenses	$26,207,000		26,607,000	$26,207,000
92-15	Manpower training services	17,597,000		17,597,000	776,717,000
92-164	Limitation on grants to States for unemployment insurance and employment services (trust fund)	(4,500,000)	($4,500,000)	(24,640,000)	(6,000,000)
	Bureau of Labor Statistics				
92-164	Salaries and expenses	1,800,000	1,800,000	1,800,000	1,800,000
	Office of the Secretary				
92-164	Salaries and expenses	500,000		400,000	
	Total, Department of Labor, Federal funds (new budget (obligational) authority)	46,104,000	1,800,000	846,404,000	804,724,000
	Total, trust funds	(4,500,000)	(4,500,000)	(24,640,000)	(6,000,000)
	DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE				
	Departmental Management				
92-164	Nursing home improvement:				
	Federal funds	7,672,000	7,672,000	7,672,000	7,672,000
	Trust fund transfer	(1,900,000)	(1,900,000)	(1,900,000)	(1,900,000)
	Office of Education				
	Elementary and secondary education			32,500,000	32,500,000
	School assistance in federally affected areas			265,000,000	
	Environmental education			2,500,000	
	Higher education			3,000,000	3,000,000
92-164	Civil rights education	19,672,000	19,672,000	19,672,000	19,672,000
	Social Security Administration				
92-164	Special benefits to disabled coal miners	289,696,000	289,696,000	289,696,000	289,696,000
	Total, Department of Health, Education, and Welfare	1,057,261,000	331,749,000	1,773,973,000	1,291,796,000
	By transfer	(1,900,000)	(1,900,000)	(1,900,000)	(1,900,000)
	Health Services and Mental Health Administration				
	Medical facilities construction		1,500,000	1,500,000	1,500,000
	National Institutes o Health				
92-44	Health manpower	350,195,000		707,157,000	492,980,000
	Social and Rehabilitation Service				
	Special programs for the aging			45,750,000	45,750,000
	Research and training			9,500,000	9,500,000
	Office of Child Development				
92-15	Child Development	376,817,000		376,817,000	376,317,000
	Special Institutions				
92-164	Howard University	13,209,000	13,209,000	13,209,000	13,209,000
	RELATED AGENCIES				
	Cabinet Committee on Opportunities for Spanish-Speaking People				
92-15, 92-93	Salaries and expenses	890,000	890,000	890,000	890,000
	Occupational Safety and Health Review Commission				
92-43	Salaries and expenses (by transfer)	(660,000)		(660,000)	(660,000)
	Office of Economic Opportunity				
92-5, 92-93	Programs, salaries and expenses	780,400,400		780,400,000	741,380,000
	Total, Related Agencies	781,290,000	890,000	781,290,000	742,270,000
	Total, chapter III:				
	Federal funds (new budget (obligational) authority)	2,684,655,000	334,439,000	3,401,667,000	2,838,790,000
	By transfer	(2,560,000)		(2,560,000)	(2,560,000)
	CHAPTER IV				
	LEGISLATIVE BRANCH				
	Senate				
	Payment to widow of deceased Senator			42,500	42,500
	Salaries, officers and employees				
S. Doc. 92-46	Committee employees	21,770		21,770	21,770
S. Doc. 92-46	Administrative and clerical assistants to Senators	597,535		597,535	597,535
S. Doc. 92-46	Office of Sergeant at Arms and Doorkeeper	68,390		68,390	68,390
	Contingent expenses of the Senate				
S. Doc. 92-46	Folding documents	14,000		14,000	14,000
S. Doc. 92-46	Miscellaneous items	275,000		275,000	275,000
	Fiscal year 1971 (by transfer)			(250,000)	(250,000)
S. Doc. 92-46	Stationery (Revolving fund)	17,400		17,400	17,400
	Total, Senate	994,095		1,036,595	1,036,595
	Fiscal year 1971 (by transfer)			(250,000)	(250,000)

Footnotes at end of tables.

Doc. No.	Department or activity	Budget estimate*	Version of bill		Conference agreement
			House	Senate	
	House of Representatives				
	Gratuities to heirs of deceased Members		$85, 000	$85, 000	$85, 000
	Salaries, officers and employees				
92-164	Office of the Sergeant at Arms	$2, 070, 000	1, 550, 000	1, 550, 000	1, 550, 000
	Members' clerk hire				
92-164	Clerk hire	1, 500, 000	1, 000, 000	1, 000, 000	1, 000, 000
	Contingent expenses of the House				
92-164	Miscellaneous items	1, 338, 000	1, 000, 000	1, 000, 000	1, 000, 000
92-164	Government contributions	60, 000			
92-164	Postage stamp allowance	96, 420	96, 420	96, 420	96, 420
	Total, House of Representatives	5, 064, 420	3, 731, 420	3, 731, 420	3, 731, 420
	Joint Items				
	Capitol police				
92-164	General expenses	129, 000	129, 000	129, 000	129, 000
	Official mail costs				
92-164	Official mail costs	18, 400, 000	18, 400, 000	18, 400, 000	18, 400, 000
	Total, Joint Items	18, 529, 000	18, 529, 000	18, 529, 000	18, 529, 000
	Architect of the Capitol				
	Capitol buildings and grounds				
92-164	Capitol buildings	10, 000	24, 500	24, 500	24, 500
S. Doc. 92-46	Restoration of the Old Senate Chamber and the Old Supreme Court Chamber in the Capitol	1, 521, 000		1, 521, 000	
S. Doc. 92-46	Senate Office Buildings	66, 000		66, 000	66, 000
S. Doc. 92-46	Extension of additional Senate Office Building site	270, 000		270, 000	270, 000
92-164	House office buildings	25, 000	25, 000	25, 000	25, 000
S. Doc. 92-46	Modifications and enlargement, Capitol Power Plant	1, 200, 000	1, 200, 000	1, 200, 000	1, 200, 000
	Total, Architect of the Capitol	3, 092, 000	1, 249, 500	3, 106, 500	1, 585, 500
	Library of Congress				
92-164	Salaries and expenses	7, 000	7, 000	7, 000	7, 000
92-164	Copyright Office, salaries and expenses	4, 000	4, 000	4, 000	4, 000
92-164	Distribution of catalog cards, salaries and expenses	22, 000	22, 000	22, 000	22, 000
92-164	Books for the general collections	2, 000	2, 000	2, 000	2, 000
92-164	Books for the blind and physically handicapped, salaries and expenses	5, 000	5, 000	5, 000	5, 000
	Total, Library of Congress	40, 000	40, 000	40, 000	40. 000
	Total, chapter IV, new budget (obligational) authority	27, 719, 515	23, 549, 920	26, 443, 515	25, 922, 515
	Fiscal year 1971 (by transfer)			(250, 000)	(250, 000)
	CHAPTER V				
	PUBLIC WORKS				
	Department of Defense—Civil, Department of the Army, Corps of Engineers—Civil				
S. Doc. 92-43	Construction, general	102, 400, 000	[6]34, 100, 000	102, 400, 000	102, 400, 000
	Department of the Interior, Bureau of Reclamation				
S. Doc. 92-43	Construction and rehabilitation	9, 210, 000	[7]7, 000, 000	9, 210, 000	9, 210, 000
S. Doc. 92-43	Upper Colorado River storage project	6, 800, 000	[8]4, 800, 000	6, 800, 000	6, 800, 000
H. Doc. 92-164	Loan program	600, 000	600, 000	600, 000	600, 000
	Total, Bureau of Reclamation	16, 610, 000	12, 400, 000	16, 610, 000	16, 610, 000
	Total, chapter V, new budget (obligational) authority	119, 010, 000	46, 500, 000	119, 010, 000	119, 010, 000
	CHAPTER VI				
	DEPARTMENT OF COMMERCE				
	Economic Development Assistance				
	Development facilities		30, 000, 000	30, 000, 000	30, 000, 000
	Minority Business Enterprise				
H. Doc. 92-164	Minority business development	40, 000, 000	40, 000, 000	40, 000, 000	40, 000, 000
	National Oceanic and Atmospheric Administration				
H. Doc. 92-164	Salaries and expenses	532, 000			
S. Doc. 92-43	Satellite operations	4, 919, 000		4, 919, 000	4, 000, 000
	Patent Office				
S. Doc. 92-43	Salaries and expenses	2, 035, 000		2, 035, 000	2, 035, 000
	National Bureau of Standards				
H. Doc. 92-164	Plant and facilities	2, 100, 000	1, 750, 000	1, 750, 000	1, 750, 000
	Total, Department of Commerce	49, 586, 000	71, 750, 000	78, 704, 000	77, 785, 000
	RELATED AGENCIES				
	Commission on Civil Rights				
H. Doc. 92-164	Salaries and expenses	460, 000	344, 000	344, 000	344, 000
	International Radio Broadcasting Activities				
S. 92-45	Radio Broadcasting	36, 225, 000		36, 225, 000	32, 225, 000
	Small Business Administration				
H. Doc. 92-164	Salaries and expenses	200, 000			
	Total, related agencies	36, 885, 000	344, 000	36, 569, 000	32, 569, 000
	Total, chapter VI, new budget (obligational) authority	86, 471, 000	72, 094, 000	115, 273, 000	110, 354, 000

Footnotes at end of table.

THE SUPPLEMENTAL, 1972 (H.R. 11955)—Continued

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL—Continued

Doc. No.	Department or activity	Budget estimate*	Version of bill		Conference agreement
			House	Senate	
	CHAPTER VII				
	DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES				
	Office of the Secretary				
92-164	Transportation planning, research and development	$5,000,000	$2,500,000	$5,000,000	$2,500,000
	Federal Aviation Administration				
92-164	Research and development	[9] 15,033,000	15,033,000	15,033,000	15,033,000
S. 92-43	United States International Aeronautical Exposition	2,200,000	[10] (200,000)	[11] 2,200,000	[12] 2,000,000
	Federal Highway Administration				
92-164	Forest highways (liquidation of contract authorization)	(10,000,000)	(10,000,000)	(10,000,000)	(10,000,000)
	Total, Department of Transportation	22,233,000	17,533,000	22,233,000	19,533,000
	RELATED AGENCIES				
	Aviation Advisory Commission				
	Salaries and expenses (Airport and Airway Trust Fund)			750,000	750,000
	Washington Metropolitan Area Transit Authority				
92-164	Federal contribution	38,011,000	38,011,000	38,011,000	38,011,000
	Total, chapter VII	60,244,000	55,544,000	60,994,000	58,294,000
	Appropriation to liquidate contract authorization	(10,000,000)	(10,000,000)	(10,000,000)	(10,000,000)
	Transfer		(200,000)		(200,000)
	CHAPTER VIII				
	TREASURY DEPARTMENT				
92-164	Bureau of Accounts, salaries and expenses	10,556,000	10,556,000	10,556,000	10,556,000
	POSTAL SERVICE				
92-164	Payment to the Postal Service Fund	216,400,000	216,400,000	200,000,000	200,000.000
	INDEPENDENT AGENCIES				
	General Services Administration				
	Construction, public buildings projects			11,200,000	
	Sites and expenses, public buildings projects			250,000	
92-151	National Archives and Records Service, operating expenses	636,000			
	Civil Service Commission				
92-164	Federal Labor Relations Council, salaries and expenses (limitation increase)	(12,000)	(12,000)	(12,000)	(12,000)
	Funds appropriated to the President				
S. 92-43	Economic Stabilization Activities, salaries and expenses	([13])		[14] (20,153,000)	[14] (20,153,000)
	Total, chapter VIII—new budget (obligational authority)	227,592,000	226,956,000	222,006,000	210,556,000
	Transfer	([1])		(20,153,000)	(20,153,000)
	CHAPTER IX				
92-164 and S. 92-45.	Claims and judgments	21,569,856	19,029,734	21,569,856	21,569,856
	Grand total:				
	New budget (obligational) authority	3,254,924,371	786,282,654	3,998,045,371	3,406,385,371
	Appropriation to liquidate contract authority	(20,000,000)	(20,000,000)	(20,096,000)	(20,096,000)
	Transfers	(6,732,000)	(5,846,100)	(26,459,100)	(26,659,100)
	Fiscal year 1971 (by transfer)			(250,000)	(250,000)

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* Estimates considered include $36,225,000 for international radio broadcasting activities and $2,540,122 for claims and judgments (S. Doc. 92-45); exclude $85,300,000 for other items transmitted in S. Doc. 92-45 of Dec. 2, 1971.

[1] For transfer to National Parks Centennial Commission.
[2] For transfer to departmental operations.
[3] By transfer from salaries and expenses.
[4] Changed to $3,746,100 after enactment of Public Law 92-76.
[5] By transfer from National Park Service, construction.
[6] Does not include additional $68,300,000 considered by Senate.
[7] Does not include additional $2,210,000 considered by Senate.
[8] House received no budget estimate.
[9] Requested under the heading "Civil supersonic aircraft development termination."
[10] By transfer from "Salaries and expenses, Office of the Secretary."
[11] $2,000,000 contingent upon enactment of authorizing legislation by the 92d Congress.
[12] And $200,000 by transfer.
[13] Unlimited transfer language.
[14] To be derived by transfer.

MESSAGE FROM THE HOUSE—ENROLLED BILL SIGNED

A message from the House of Representatives, by Mr. Berry, one of its reading clerks, announced that the Speaker had affixed his signature to the enrolled bill (H.R. 10947) to provide a job development investment credit, to reduce individual income taxes, to reduce certain excise taxes, and for other purposes.

The President pro tempore subsequently signed the enrolled bill.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider the nomination of Mr. Rehnquist to be an Associate Justice of the Supreme Court of the United States.

The PRESIDING OFFICER. Without objection, it is so ordered.

NOMINATION OF WILLIAM H. REHNQUIST

The Senate resumed the consideration of the nomination of William H. Rehnquist to be Associate Justice of the Supreme Court of the United States.

The **PRESIDING OFFICER.** Who yields time?

Mr. **NELSON.** Mr. President, would the Senator from Indiana yield me 30 minutes?

Mr. **BAYH.** Mr. President, I would be glad to yield 30 minutes to the Senator from Wisconsin.

Mr. President, I ask for the yeas and nays on the nomination.

The yeas and nays were ordered.

Mr. **NELSON.** Mr. President, almost a half century ago during the debate over the nomination of Judge John J. Parker for the Supreme Court, Senator George Norris of Nebraska observed:

> When we are passing on a judge, we not only ought to know whether he is a good lawyer, not only whether he is honest—and I admit that this nominee possesses both of these qualifications—but we ought to know how he approaches the great question of human liberty.

During the same debate, Senator William E. Borah of Idaho described the unique role of a Supreme Court Justice in our constitutional system:

> Upon some judicial tribunals it is enough perhaps, that there be men of integrity and of great learning in the law, but upon this tribunal something more is called for, here the widest, broadest, deepest questions of government and governmental policies are involved.

There is no doubt in my mind that Mr. Rehnquist is an able lawyer, a man both of deeply held convictions and personal integrity. If these were the sole qualifications for a Justice of the Supreme Court, then he should be confirmed unanimously. But there are other broader, deeper, more sweeping philosophical and constitutional matters at stake here which involve, as Senator Norris said, "the great question of human liberty."

We are concerned here with much more than technical legal ability and personal integrity. We are concerned about the makeup of that institution which must deal with the most important business of the human enterprise—freedom.

It will be the measure of this society as to how we honor a commitment to equality for all men and a mark of our form of government as to how we preserve the individual liberties of our citizens.

An examination of Mr. Rehnquist's record and views leads me to conclude that he is inadequately sensitive to human rights, and misunderstands the fundamental nature of the liberties guaranteed to our citizens in the first 10 amendments to the Constitution. If a fair share of the responsibility for the preservation of freedom, equality, and human liberty under the Constitution is to be entrusted to the Supreme Court, as it is, then each Senator must make a personal judgment on how adequately the nominee will perform that responsibility.

Such judgments are difficult to make because there are no simple, clear objective standards by which we can measure justice, freedom, and human rights or balance individual rights against the power of the state. So one must concede that such judgments are a mix of subjective and objective considerations. Thus conscientious citizens concerned about the same great issues may very well reach different conclusions about the same man.

I claim no special insights or superior qualities of judgment about the important matter before us. My conclusion is based upon a careful evaluation of what Mr. Rehnquist has said on a number of issues which, it seems to me, go to the very heart of what this Nation is all about. Reading the same document, we come to different conclusions about what it means. These differences are of such significance that I cannot support his nomination just as in other circumstances he would not be able to support mine.

As I read Mr. Rehnquist's record, and as I interpret his position, he is prepared to grant much greater authority and far broader powers to the state at the expense of the individual citizen than is consistent with a free and democratic society.

As Assistant Attorney General, Mr. Rehnquist has consistently subordinated the first 10 amendments to the Government's requirements for expediency. He has actively supported the Federal Government's power to wiretap on its own initiative and without the supervision of the Court, to preventively detain persons in jail without trial, to enter private premises without announcement, to suspend normal criminal procedures and make mass arrests, to use illegally obtained evidence against the accused, and to gather information about the public activities of persons who are in no way connected with illegal activities.

At the same time that this nominee has defended the right of the Government to disregard individual rights for the interests of the State without the overview and protection of judicial supervision, he has also defended the right of the Executive to expand his war powers on his own initiative and invade Cambodia without so much as a nod toward Congress or the Constitution.

These public positions go far beyond what I believe the Founding Fathers intended when they carefully described the powers and limitations of Government in the Constitution and the Bill of Rights.

With regard to Mr. Rehnquist's commitment to racial equality, his record indicates that even as late as 1964 he was opposing a public accommodations law in his city that was far weaker than the statute which has been the law of the State of Wisconsin since 1895.

Thirteen years after the Supreme Court declared that segregated schools were inherently unequal, the nominee wrote a letter to the editor in 1967, opposing a modest program to implement this law of the land in the Phoenix schools. This is not a record which indicates to me a sensitivity to human rights or an appreciation of this Nation's quest for social justice during the last 25 years.

It is argued by some that "what the Senate should be looking for are integrity, intellectual strength and legal qualifications" alone and that a nominee's views on civil rights and individual liberties are not the prime criterion.

I am more in accord with the view which George Norris expressed in the 1930 debate:

> I believe we ought to put more humanity into the courts . . . We ought to know that everyone who ascends to that holy bench should have in his heart and in his mind the intention of looking after the liberties of his fellow citizens . . . of discarding, if necessary, the old precedents of barbarous days and construing the Constitution and the laws in the light of a modern day, a present civilization . . . Human liberty is the issue. The preservation of our government is the issue.

It would also appear that on the issue of the scope of Senate examination of a Supreme Court nominee's qualifications, Mr. Rehnquist and I would agree. In an article entitled "The Making of a Supreme Court Justice" which appeared in the Harvard Law Record of October 8, 1959, Mr. Rehnquist advocated that the Senate begin—

> Thoroughly informing itself on the judicial philosophy of a Supreme Court nominee before voting to confirm him . . .

The concept of "judicial philosophy" to which Mr. Rehnquist referred was meant to encompass more than a strictly legal definition of whether written laws and decisions should be widely or narrowly interpreted. Rather he makes it quite clear that he considers a full investigation of a nominee's social and political views on substantive issues of the day a proper and necessary subject for Senate inquiry.

It is clear from any historical view of the constitutional responsibilities assigned to the Senate through the "Advice and Consent" power, that a broader review than a nominee's intellect, integrity, and legal talent is required. This should be readily apparent from an examination of the documents describing the birth and adoption of the Constitution and from the actual practice of the Senate in confirmation of Supreme Court Justices since 1789.

The Constitution of the United States expressly gives the Senate an important role and responsibility in the selection process for Supreme Court judges. Reflecting the deliberations and decisions during the Constitutional Convention in 1787, the "Advise and Consent" role given to the Senate in article II, section 2 of the Constitution is much more than a perfunctory perusal of Presidential preferences for Supreme Court positions. Rather, the duty and the responsibility delegated to the Senate by this provision is to give complete and careful consideration to the qualifications for office of Supreme Court nominees before making an independent decision as to whether the high standards for this position have been met by a Presidential nominee.

Historically, the strong role given to the Senate in the nomination process for Supreme Court Justices can be traced back beyond James Madison's notes of the Constitutional Convention to an earlier period of America. Under British rule, the American colonies had been subjected to the capricious administration of justice. One of the express grievances of the Declaration of Independence was that King George had—

> Made Judges dependent on his will alone, for the tenure of their offices and the amount and payment of their salaries.

As a result of this colonial experience, the Founding Fathers of this Nation were determined to establish an independent judiciary free from the excesses of either executive or legislative pressures.

Decisions on nominations for the Court which are made today, can actively influence the quality of our society for many years in the future. It is certainly a responsible exercise of constitutional duty, therefore, to require that the Senate closely examine a nominee's record and insist upon high standards of personal integrity, a strength of intellect, and a sensitivity to the rights and aspirations of all.

Three distinguished law professors recently expressed the view that it is not only proper for the Senate to examine a nominee's judicial and political philosophy, but it is—

> The Senate's affirmative responsibility to examine a nominee's political and constitutional philosophy, and to confirm his nomination only if he has demonstrated a clear commitment to the fundamental values of our Constitution, the rule of law, the liberty of the individual, and the equality of all persons.

Mr. Rehnquist, himself, has quoted with approval the remarks of Senator William E. Borah, of Idaho, during the debate on the Supreme Court nomination of John J. Parker in 1930. In commenting on the proper scope of the Senate inquiry into a Supreme Court nominee's views, Senator Borah said:

> They (the Supreme Court) pass upon what we do. Therefore, it is exceedingly important that we pass upon them before they decide upon these matters. I say this in great sincerity. We declare a national policy. They reject it. I feel I am well justified in inquiring of men on their way to the Supreme Court something of their views on these questions.

Forty-one years after Senator Borah's comments, it is particularly appropriate to call for "something more" in addition to the requisite qualities of integrity and of great learning in Supreme Court nominees. We are not just participating in a singular selection process that is the isolated replacement of a Supreme Court vacancy. We are instead asked to consider one in a series of nominations in a unique historical context which may give this President the opportunity to make an unusual number of appointments to the Court during his term in office. It is, therefore, quite possible that the entire temper and character of an independent equal branch of Government could be altered within a very short period of time. The consequences of this alteration, however, would not be short-lived, but would affect this Nation directly for years to come.

In an article in this November's New York Law Journal entitled "The Roles of the Executive and Legislative Branches in Judicial Appointments," former Attorney General and Assistant Secretary of State Nicholas de B. Katzenbach concluded:

> When a President by chance is able to make several appointments . . . the possibility of changing the institution for many years beyond the President's term is raised. In such circumstances the Senate's obligation to advice and consent is no mere formality, but a judgment of crucial importance to the judicial branch of government.

My particular concern with any and all nominations to the Supreme Court at this point in our Nation's history was succinctly expressed in the October 8, 1971, issue of Commonweal magazine written before the current two nominations were presented to the Senate for its consideration. The editorial entitled "The Senate and the Court" opened:

> At a time when Constitutional processes face some of their most crucial challenges in America, when in fact the fundamental law of the land is brought into assessment as a result of challenges to the courts and the legal system, indeed to the Bill of Rights itself, the sudden appearance of two vacancies on the Supreme Court places a responsibility of historical significance in the hands of the President and the United States Senate.

We must be particularly concerned that the Supreme Court, in its role as final interpreter of the Constitution, continue to champion that document's guarantees of equal justice for all people and the free exercise of individual liberties. As the late Justice Hugo L. Black said:

> I believe that our Constitution with its absolute guarantee of individual rights, is the best hope for the aspirations of freedom which men share everywhere.

The Bill of Rights was made a part of our Constitution as an express guarantee of individual freedom against the oppressive uses of power by the State. This view has prevailed not because of divine intervention, but because Justices have come to understand, accept, and expound this view. Yet, just as these guarantees have become a shining star in our system of laws because of judicial actions, so they can be eroded and lost. The choice will be made by the men who sit on this and future Supreme Courts.

Bit by bit, many of the provisions of the Bill of Rights have been strengthened and applied to State governmental actions as well as Federal: The sixth amendment and the right of the indigent to free counsel; the fifth and sixth amendments and the right to counsel and silence during police interrogation; the fifth amendment and the right of protection against self-incrimination; the sixth amendment and the right to confront witnesses; the fourth amendment and protection against illegal searches and seizures; and the eighth amendment and the prohibition against cruel and unusual punishment.

These are still controversial issues in some parts of the political spectrum, however, and the questions of the level of guarantee provided by the Bill of Rights and its application to the States through the 14th amendment are not moot issues. At a time when the composition of the Supreme Court is in a state of flux, those who have supported civil liberties cannot be unconcerned about maintaining these advances in jurisprudence and constitutional justice.

At the same time, new civil liberties issues are rapidly developing and coming before our courts for adjudication as to their constitutionality. Increasing technical sophistication and electronic gadgetry have tremendously advanced the art of obtaining and storing vast amounts of information. With the proliferation of large private and governmental organizations the opportunity to impinge upon the actions and expressions of individual citizens is greatly expanded.

The never ending struggle to define the relationship between the individual and the State will require continuing evaluation of issues such as wiretapping, electronic surveillance, "no knock" entry, preventive detention, the rights of the accused, freedom of speech, and the extent of the use of Executive privilege to withhold information from Congress and the public, among other issues.

We must exercise vigilance before the power of government is expanded and new authorities are delegated which infringe upon and undermine the freedom of individuals. The preservation of constitutional form will never make up for the loss of constitutional substance. And once the expansion of governmental power at the expense of individual liberty has been extended, the task of securing the lost remnant of liberty is made all the more difficult.

In seeking to insure that the Bill of Rights will be diligently protected by this and future Supreme Courts, it should be clearly stated that this is not an issue that pits the "rights of society against the rights of criminal defendants, of pornographers and of demonstrators," as stated in Mr. Rehnquist's letter to the Washington Post. A more accurate presentation of the issue was expressed editorially by the New York Times on October 24, 1971:

> The balance that must be maintained is not, as Mr. Nixon would have it, primarily between the rights of society and those of accused criminals, although the protection of the latters' rights was indeed an accomplishment of the Warren Court that must not be undone under the guise of "law and order." The more important balance, however, is between individual liberties and the powers of the Government. It is a delicate balance precisely because the Government's power is naturally so great that, without protection by sympathetic courts, the individual soon becomes powerless and ultimately oppressed.

In my study and reading of the public statements and printed hearing record of the nomination I have tried to assess where the nominee would place the weight of his opinion and reason in questions involving conflicts between individual liberties and the powers of Government. In making this assessment, it is necessary to ask more than whether a nominee can merely "see both sides of the difficult questions in this area" as the majority report of the Judiciary Committee requires. Recognizing both sides of a problem is a task of defining issues which any first-year law student should quickly master.

In addition to recognition of issues involving individual liberties and equal justice, it is necessary to probe further and inquire whether there is an understanding and proper sensitivity to the importance which constitutionally guaranteed and court protected civil rights and liberties play in our democratic society and form of government. Finally, it is necessary to inquire whether recognition, understanding, and sensitivity for individual freedom will be aggressively promoted and given privileged consideration when placed in conflict with exercises of governmental power.

The attention which the late Justice Black focused upon the Constitution was not only intellectual, but was very literal—an affection of the heart as well as the head. It is well known that Justice Black liked to have a copy of the Constitution at his hand at all times, and his devotion to the words and the spirit of this document is perhaps best illustrated by a story reported in the New York Times when he died this September. A visitor found the Justice in his office without a copy of the Constitution a few years ago. As the story is related Justice Black admonished the visitor for not keeping a copy with him at all times and buzzed for his secretary to ask the whereabouts of his Constitution:

> "I like to read what it says, I like to read the words of the Constitution," Justice Black said in a slight Southern drawl, after dispatching the secretary to fetch one. "I'm a literalist, I admit it. It's a bad word these days, I know, but that's what I am."
>
> Shortly, the Constitution was delivered. Hugo Lafayette Black, then 81 years old and completing his 30th year on the United States Supreme Court, laid it tenderly on his lap and opened it to the Bill of Rights.
>
> "Now," he said with a warm smile, "now let's see what it says."

It is certainly not too much to require that we look beyond the intellectual capacity of a Supreme Court nominee and ask whether in addition to proper pronunciation of the words there is any affection for the spirit in his reading of the Constitution and the first 10 amendments.

My review of the civil liberties record and statements on this subject by Mr. Rehnquist leads me to conclude that whenever there is a clash between the rights of individual citizens and the exercise of governmental powers, the nominee comes down on the side of State power.

Mr. Rehnquist's record with regard to civil liberties issues has been primarily established as an Assistant Attorney General in this administration. As such, his statements and speeches have most often been as the defender of the administration position, rather than as a private citizen. There is no indication in the public record, however, that Mr. Rehnquist has disassociated himself with any of the administration's positions, has disagreed with these positions or has given a contrary personal view. Therefore, they stand as his record and his views.

I believe that a focus upon several of the specific positions that Mr. Rehnquist has advocated will be sufficient to show a strong preference for the expansion of governmental powers at the expense of individual liberties.

In testifying before Senator ERVIN's Subcommittee on Constitutional Rights on the subject of limitations on Government surveillance of private citizens, Mr. Rehnquist said:

> I think it quite likely that self-restraint on the part of the Executive Branch will provide an answer to virtually all of the legitimate complaints against excesses of information gathering.

Obviously, reliance upon executive self-restraint is no guarantee of liberty at all.

He later attempted to explain this remark by indicating that executive "self-restraint" should be assumed in a context of constitutional and legislative limitations. A further look at the written record, however, would indicate that while Mr. Rehnquist feels that it is not proper for the "Department of Justice or of any other governmental agencies to surveil or otherwise observe people who are simply exercising their first amendment rights," if the Justice Department should go ahead and snoop on public meetings anyway, "I do not believe it violates the particular constitutional rights of the individuals who are surveilled."

Furthermore, in a later speech, he indicated his opposition to any judicial limitations or controls on the gathering of information on private citizens by the executive branch:

> I do not believe, therefore, that there should be any judicially enforceable limitations on the gathering of this kind of public information by the Executive Branch of the government. Must we then leave the government to police itself? My answer would be that first, such a result is not as bad as it may sound, and, second, that forms of oversight other than those afforded by judicial supervision are available.

The other form of oversight, however, turns out to be a congressional hearing after the occurrence of any particular excess of informational gathering zeal by the executive branch. Oversight, by its very definition, can only take effect after the injury has occurred.

This viewpoint indicates to me overemphasis on governmental investigatory powers and a complete misunderstanding of the effect which the unrestrained power of Government snooping can have on the vital exercise of first amendment activity by the general public. By advocating only retrospective investigations of governmental intelligence gathering activities and relying upon executive self-restraint to prevent excesses from occurring in the first place, Mr. Rehnquist ignores the chilling effect which such actions have on the free and open public discussion of the important issues of the day by all elements of our society. It is not enough to say that first amendment questions may be raised if it can actually be proven that someone was in fact deterred from speaking out. The only way we can adequately protect this fundamental and necessary right to speak out is to take the steps to insure to the greatest practicable degree that infringements will not occur in the first place.

It is not enough to say that surveillance and information gathering can be proper exercises of law enforcement in some instances, such as where criminal laws have actually been violated or where there is a reasonable cause to believe that a criminal violation is going to occur. We must inquire as to the exact nature and boundaries of these investigatory activities and formulate specific controls to limit the powers of surveillance to their authorized scope and halt excessive or unwarranted snooping before it happens. This will not be accomplished through reliance upon self-restraint by the agency doing the snooping or by calling for an investigation after a bout of dossier stuffing by an arm of the Government.

The PRESIDING OFFICER (Mr. TAFT). The Senator's time has expired.

Who yields time?

Mr. NELSON. Mr. President, I ask unanimous consent to proceed for an additional 5 minutes of Mr. BAYH's time, since he is not here to yield or to object.

Mr. FANNIN. Mr. President, I yield the Senator from Wisconsin such additional time as he desires.

Mr. NELSON. Mr. President, I ask unanimous consent that the full text of my remarks be printed in the RECORD as though read.

Mr. FANNIN. Mr. President, if the Senator will yield, we do have plenty of time, and I would be very pleased to yield. We have affirmatively made our case, and we are ready to vote, so the Senator can certainly have all the time he wishes.

Mr. NELSON. I thank the Senator.

The PRESIDING OFFICER. The Senator from Wisconsin may proceed.

Mr. NELSON. It is apparent that Mr. Rehnquist does not feel that constitutional infringements upon individual liberties occur until data that is improperly or illegally gathered is actually used against someone, even though the original gathering of this information was not a legitimate function of Government. In answer to a question from Senator ERVIN asking whether an interference with the constitutional rights of participants at a rally had occurred where Army intelligence agents pretending to be photographers had taken pictures of participants, and then built up informational dossiers, Mr. Rehnquist replied:

> I do not, Senator. I think, from my reading of the cases, that the time at which the courts would say there has been an interference with an individual's constitutional rights in that area is where the government seeks by some sort of legal sanction either to force divulgence of information or to put the information it has gathered without forcing it to some use such as criminal prosecution or a civil action against the individual. I don't think the gathering by itself, so long as it is a public activity, is of constitutional stature.

It is in my judgment precisely this kind of wholesale intelligence gathering at public meetings, and the compilation of dossiers on individual citizens who are in no way connected with known or suspected illegal activities, which has that chilling effect upon the full and complete public discussion of ideas, and which should be firmly and clearly resisted. Preventive action to preserve the public's right to full and open discourse without the specter of governmental retaliation cannot be held in abeyance until the collected data is actually used to still one dissident voice. It is the threat of such use, as much as the possible retaliatory action itself, which causes the greater harm, for it makes no distinction between those it touches with its muzzling effect.

The difficulty with not only making individual liberties conditional upon the expedient needs of Government, but also making the executive the arbitrator of this balancing act, is perhaps best exemplified in the area of Government surveillance by wiretapping or electronic devices.

There is no doubt that the use of sophisticated electronic equipment which is now available makes the gathering of information an easier task for law enforcement officials. The ability to surreptitiously monitor purely private and personal conversations through these electronic means, however, also makes this practice a greater threat to individual freedom and rights of privacy. The measure of acceptable use, therefore, is particularly dependent upon the extent of the authorized applications, and the methods of control that are applied to insure that wiretapping or other electronic bugging use is kept well within its restricted boundaries.

The practice of wiretapping or electronic surveillance are serious invasions of privacy. They must be carefully prescribed and restricted to the most serious of law enforcement issues—national security and organized crime. Even with these exceptions, we must be sure to exactly define the boundaries and limits of the practice, for what is national security to one person may be protected political expression to another.

On first reading, it would appear that Mr. Rehnquist was in general agreement with this limitation of scope and prior review with regard to wiretapping by Government authorities. His supporters quote this statement during the hearings in support of Mr. Rehnquist's recognition of the first line to be drawn between the Government's desire to tap and the individual's interest in privacy:

> I think a good example of a line that has been drawn by Congress is the Act of 1968 which outlawed all private wiretapping and which required, except in a national security situation, prior authorization from a court before wires could be tapped.

Again, in a speech before the American Bar Association Convention in London this summer, Mr. Rehnquist specifically used the example of organized crime to justify governmental wiretaps:

> When we deal with the activities of organized crime, we deal with the most sordid sort of trafficking in drugs, prostitution, and gambling, as well as in illegitimate aberrations of legitimate business. Persistent efforts, not always unsuccessful, to corrupt local law enforcement officials; murder, committed by anonymous hired guns, are its trademarks. Normal detection techniques of Sherlock Holmes, Hercule Poirot, and the long succession of Scotland Yard inspectors who have been immortalized in print, are of far less use here . . . Is the invasion of privacy entailed by wiretapping too high a price to pay for a successful method of attacking this (organized crime) and similar types of crime? I think not, given the safeguards which attend its use in the United States.

Taken alone, the statements would seem to indicate a desire for a so-called "strict construction" of the limits of wiretapping. When Mr. Rehnquist's other statements and his support as an advocate for the Justice Department are taken into consideration, however, a quite different view of Mr. Rehnquist's sympathies and convictions emerges.

The fact of the matter is that this administration and the Justice Department have actively moved to expand the use of wiretaps far beyond the stated limitation of organized crime. In the District of Columbia crime bill which they presented to Congress last year, the authority for electronic surveillance given in S. 2601 went far beyond the exception and limitations mentioned by Mr. Rehnquist for organized crime. The offenses for which the Justice Department advocated wiretapping included: Arson, blackmail, bribery, burglary, destruction of property of value in excess of $200, gambling, grand larceny, kidnaping, murder, obstruction of justice, receiving stolen property of value in excess of $100, robbery, extortion, and offenses involving dealing in narcotic drugs, marihuana, and other dangerous drugs. Now, as deplorable as these criminal activities are, there is no doubt that this is not a list of activities designed to restrict the use of wiretaps to the fight against organized crime.

Furthermore, Mr. Rehnquist has not only supported the Justice Department's efforts to expand the scope of court authorized wiretaps beyond the activities of organized crime, he has been an active force in the Justice Department's advocacy of expanding the right of the executive to wiretap without securing any fourth amendment type of warrant from the courts whatsoever in certain situations.

As previously noted, there is a limited exception to the general rule that the fourth amendment requires court supervised wiretaps that has been granted to cases involving "national security." This exception is based upon a 1940 Presidential order authorizing the use of wiretaps against "persons suspected of subversive activities." Mr. Rehnquist, however, has advanced the claim that this order gives the executive, through the Attorney General, the inherent power to authorize the use of electronic surveillance wherever and whenever the Attorney General determines on his own initiative that "the use of such surveillance is reasonably required in the interests of national security," and that this power extends not only to foreign agents but covers U.S. citizens and domestic activities which are not otherwise illegal as well.

In answers to supplemental questions to the confirmation hearings, Mr. Rehnquist indicated that he had advised the Attorney General to no longer advocate the Department's previous position that it had the "inherent power" to tap, but only because of tactical reasons. He still supported the position that unsupervised wiretapping by the executive is reasonable under the fourth amendment where the Attorney General decides on his own that the security of the Nation is threatened by domestic elements.

There is no justification for extensive Government snooping into domestic political activities based upon President Roosevelt's 1940 order. In the first paragraph of his order, President Roosevelt recognized the danger of widespread Government spying when he agreed with the Supreme Court that it was—

> Also right in its opinion that under ordinary and normal circumstances wire-tapping by government agents should not be carried on for the excellent reason that it is almost bound to lead to abuse of civil rights.

President Roosevelt went on to limit wiretapping in the national security interest to "grave matters involving the defense of the Nation," to "persons suspected of subversive activities against the Government of the United States, including suspected spies," and specifically requested his Attorney General to "limit these investigations so conducted to a minimum and to limit them insofar as possible to aliens." The exigencies of subversion, treason, espionage, and sabotage during World War II conducted by agents of foreign powers are a far cry from the political protests and expressions of political freedom and dissent during the late 1960's and 1970's by U.S. citizens who hold views contrary to those of established power in Washington.

The initial fallacy of the position enunciated by Mr. Rehnquist in expanding the use of unsupervised wiretaps from foreign agents to domestic elements upon the Attorney General's own finding of subversion is the failure to note the important distinctions between the Government's rights of action in domestic and foreign affairs. As the courts have repeatedly explained, the Government is limited in the actions it can take in the area of domestic politics. Unlike the area of foreign affairs, the Government can act only to prevent or punish unlawful acts in the domestic arena, not unpopular acts or iconoclastic thoughts. Yet, in a speech at Brown University reported in the Providence Journal of March 11, 1971, it is just such domestic political activities, which cannot support a court-ordered tap for the control of organized criminal activity, that Mr. Rehnquist wants to get at through a tap based upon the "national security" exception.

To permit Government surveillance of lawful activity would have a disastrous effect upon the willingness of individual citizens and organizations to exercise their constitutional freedoms of speech, expression, and association and their right to petition their Government for the redress of grievances.

As U.S. District Judge Warren J. Ferguson pointed out in a recent case involving Government wiretapping of Black Panthers in Los Angeles without court supervision:

> The Government seems to approach these dissident domestic organizations in the same fashion as it deals with unfriendly foreign powers. The government cannot act in this manner when only domestic political organizations are involved, even if those organizations espouse views which are inconsistent with our present form of government. To do so is to ride roughshod over numerous polit-

> ical freedoms which have long received constitutional protection. (United States v. Smith 321 F. Supp. 424 (1971))

As Judge Ferguson concluded in United States against Smith:

> To guarantee political freedom, our forefathers agreed to take certain risks which are inherent in a free democracy. It is unthinkable that we should now be required to sacrifice those freedoms in order to defend them.

To allow the Attorney General to decide upon his own initiative who is a domestic threat to the national security, and then to proceed to tap without court supervision, may be consistent with Mr. Rehnquist's theories of how to balance civil liberties with executive power. In my view, this philosophy is a radical departure from our founding principles and does violence to the Constitution and free political expression in this country.

Also included in the District of Columbia crime bill was a provision authorizing police officers under some circumstances to enter a dwelling without previously knocking or identifying themselves. Mr. Rehnquist asserted in a December 2, 1970, speech that—

> This provision of law is actually nothing more than a codification of constitutional law, and of practices which were held not to violate the Constitution in a case decided a few years ago by the Supreme Court of the United States.

The no-knock provision of the District of Columbia crime bill was in actuality a vast expansion of this authority and is not merely codification of existing common law as the nominee states. While it is true that the common law does recognize certain exceptions to the fourth amendment's requirement that Government officers must announce their presence before entering a man's home, the District of Columbia crime bill which Mr. Rehnquist supported expands these exceptions greatly and therefore is not mere codification.

No-knock authority raises very serious questions of diminishing the fourth amendment guarantee of the right of the people "to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures." History serves to remind us that eternal vigilance is the price of liberty and as Santayana asserted:

> Those who cannot remember the past are condemned to repeat it.

In the case of *Miller* v. *United States*, 357 U.S. 301 (1958) Justice Brennan discussed the legal history of the common law prohibition of "no-knock" or unannounced entries in private homes.

The requirement was pronounced in 1603 in Semayne's Case, 5 Coke 91, 11 ERC 629, 77 Eng. Reprint 194:

> In all cases where the King is party, the sheriff (if the doors be not open) may break the party's house, either to arrest him, or to do other execution of the K(ing)'s process, if otherwise he cannot enter. *But before he breaks it, he ought to signify the cause of his coming, and to make request to open doors* . . . (Emphasis supplied)

In the same case, Justice Brennan stated the importance of maintaining this restriction upon the exercise of governmental power and guarding against making expendiency the prime factor in law enforcement:

> We are duly mindful of the reliance that society must place for achieving law and order upon the enforcing agencies of the criminal law. But insistence on observance by law officers . . . of traditional fair procedural requirements is, from the long point of view, best calculated to contribute to that end. However much in a particular case insistence upon such rules may appear as a technicality that inures to the benefit of a guilty person, the history of the criminal law proves that tolerance of short-cut methods in law enforcement impairs its enduring effectiveness. The requirement of prior notice of authority and purpose before forcing entry into a home is deeply rooted in our heritage and should not be given grudging application. Congress, codifying a tradition embedded in Anglo-American law, has declared in Sec. 3109 the reverence of the law for the individual's right of privacy in his house. Every householder . . . the good and the bad, the guilty and the innocent, is entitled to the protection designed to secure the common interest against unlawful invasion of the house.

The ease with which arguments are raised to give a higher priority to the need to enforce governmental edicts than to the need to protect individual liberties reminds me of an earlier period in Anglo-American history. At one time the British Parliament had taxed cider and the authorities were having a difficult time collecting the excise tax. To ease their difficulties it was proposed that the collectors be given the authority to enforce their cider tax by entering a man's house without knocking. When this proposal was debated in the House of Lords some 205 years ago, William Pitt closed his speech in opposition to extending this power of no-knock to the tax collectors with these eloquent words:

> The poorest man may, in his cottage, bid defiance to all the forces of the Crown. It may be frail. Its roof may shake. The wind may blow through it. The storm may enter. The rain may enter. But the King of England cannot enter. All his force dares not cross the threshold of that ruined tenement.

It would appear that as years pass and Kings give way to Presidents, and Parliament to Congress, it is necessary to reaffirm the validity of Pitt's statement, and to reassert opposition to any possible executive, legislative, or judicial actions to narrow that protection.

In the light of a modern day and present society in this country, it would also appear to be time that equal rights under the law would no longer be an issue in a Supreme Court nomination. Unfortunately, the record of Mr. Rehnquist in this regard does not dispel my disquiet that the legal basis for civil rights may still be in dispute.

As noted previously, Mr. Rehnquist has impressively demonstrated his polemic and legal talents in his aggressive arguments for the expansive interpretation of traditional constitutional doctrines dealing with the limits of governmental powers. In his public briefs on the issue of the Government and the Bill of Rights, he has been consistent in his advocacy for the broadest reading of constitutional provisions and judicial decisions favoring Executive powers over individual liberties whenever there is a conflict. On the other hand, whenever the issue has been equal protection under the law for all citizens, the nominee has promoted the narrowest view.

Thirteen years after a unanimous Court, including Justice Jackson, had decided Brown against Board of Education in 1954 and declared the constitutional principle that segregation in the school systems was "inherently unequal," Mr. Rehnquist wrote to the editor of the Arizona Republic on September 9, 1967, to criticize the Phoenix school superintendent's very modest "integration program" for the Phoenix high schools. While Mr. Rehnquist recognized that in this society each man should be equal before the law, this equality, despite the Supreme Court's express holding to the contrary, did not involve a commitment to integrating the schools. In his letter he said:

> But I think many would take issue with his statement on the merits, and would feel that we are no more dedicated to an "integrated" society than we are to a "segregated" society . . .

This is not only a perversion of constitutional holding, but contrary to the dominant thought in the country at that time.

The State of Wisconsin enacted a tough public accommodations law in 1895 guaranteeing to all persons of every race and color the right of full enjoyment of "inns, restaurants, saloons, barber shops, eating houses, public conveyances on land and water, theaters, and all other places of public accommodation and amusement." Sixty-nine years after Wisconsin declared her opposition to discrimination in public facilities, Mr. Rehnquist appeared before the Phoenix City Council in 1964 to oppose a modest municipal public accommodations law. When the ordinance passed, the nominee wrote a letter to the editor of the Arizona Republic calling the passage a "mistake" and elevated economic rights above human rights.

When President Nixon announced his two nominations for the vacancies which existed upon the Supreme Court on October 21, 1971, he prefaced his remarks on the nominees by saying:

> During a four-year term, the President of the United States, sitting at his desk, in this historic room, makes over 3,000 major appointments to various Government positions. By far the most important appointments he makes are those to the Supreme Court of the United States. Presidents come and go but the Supreme Court through its decisions goes on forever. Because they will make decisions which will affect your lives and the lives of your children for generations to come.

It is worth while to note that the President, himself, has consistently said he would nominate men to the Supreme Court who reflected his philosophy. He reminded us in his speech on the two nominations that—

> I pledged to nominate to the Supreme Court individuals who shared my judicial philosophy, which is basically a conservative philosophy.

When he went on to give specific examples of what he meant by a "conservative judicial philosophy," however, it became readily apparent that the President was not talking about what is the accepted legal concept of that term—that is, a decider of individual cases who honors precedent and avoids breaking constitutional ground when there is a narrower ground on which to hold. Instead, the President made it clear that he was seeking men who would share his social, political, and personal views and who would advocate them on the Court.

In 1959 Mr. Rehnquist stated in the Harvard Law Record article "The Making of a Supreme Court Justice":

> Nor is the law of the Constitution just "there" waiting to be applied in the same sense that an inferior court may match precedents. There are those who bemoan the absence of stare decisis in constitutional law, but of its absence there can be no doubt. And it is no accident that the provisions of the Constitution which have been the most productive of judicial lawmaking—the "due process of law" and "equal protection of the laws" clauses—are about the vaguest and most general of any in the instrument.

Mr. Rehnquist ended his article with the advice:

> It is high time that those critical of the present Court recognize with the late Charles Evans Hughes that for one hundred seventy-five years the Constitution has been what the judges say it is. If greater judicial self-restraint is desired, or a different interpretation of the phrases "due process of law" or "equal protection of the laws", then men sympathetic to such desires must sit upon the high court.

It is, therefore, apparent that it is not a "conservative judicial philosophy" in the tradition of Black and Harlan that President Nixon seeks in nominating William Rehnquist to the Supreme Court. Rather he is seeking a judicial activist who is willing to advocate his own interpretation of the Constitution and previous judicial decisions in accordance with his own conservative political philosophy.

In concluding an article in the Yale Law Journal on the scope of senatorial review in Supreme Court nominations, the legal scholar, Charles L. Black, Jr., concluded:

> To me, there is just no reason at all for a Senator's not voting, in regard to confirmation of a Supreme Court nominee, on the basis of a full unrestricted review, not embarrassed by any presumption, of the nominee's fitness for the office. In a world that knows that a man's social philosophy shapes his judicial behavior, that philosophy is a factor in his fitness. If it is a philosophy the Senator thinks will make a judge whose service on the Bench will hurt the country, then the Senator can do right only by treating this judgment of his, unencumbered by deference to the President's, as a satisfactory basis in itself for a negative vote. I have as yet seen nothing textual, nothing structural, nothing prudential, nothing historical, that tells against this view.

On the question of the guarantee of individual rights in the first 10 amendments to the Constitution, I am a strict constructionist. The Bill of Rights was specifically adopted to protect individual liberties against oppression and the excesses of governmental power. Mr. Rehnquist's interpretations of these guarantees are at such variance with my own that I am unable to support his nomination.

PUBLIC OPPOSITION TO WILLIAM REHNQUIST

Mr. BAYH. Mr. President, I ask unanimous consent that a sample of the outpouring of public opinion in opposition to the nomination of William Rehnquist be printed in today's RECORD. I am including editorials from the New York Times, the Washington Post, the Boston Globe, the Chicago Sun Times, the St. Petersburg, Fla., Times, the St. Louis Post-Dispatch and the Christian Science Monitor. I also wish to have printed in the RECORD for the information of my colleagues, a number of statements by national organizations opposed to Mr. Rehnquist. The organizations include the American Federation of Labor and Congress of Industrial Organizations, the American Civil Liberties Union—for, I might add, the first time in its history taking a position on a nominee—the Leadership Conference on Civil Rights, the Ripon Society, the National Legal Aid and Defender Association, the Washington Council of Lawyers, the Chicago Council of Lawyers, and the National Catholic Conference for Interracial Justice.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, Nov. 15, 1971]

THE COURT APPOINTMENTS

In recent years, the Senate has been loath to argue about the judicial philosophy of Supreme Court nominees. It has generally assumed in the absence of damaging evidence to the contrary that any nominee who is intellectually qualified, honest and experienced in some branch of the legal profession will cultivate the detachment and perspective which the task of judging requires. But inasmuch as President Nixon has to a far greater degree than normal politicized the process of selection and has so insistently proclaimed his determination to remake the Court in his own image, the Senate needs to recall that its traditional deference to Presidential nominations is an institutional courtesy rather than a constitutional command.

Assistant Attorney General William H. Rehnquist's published belief that the Senate has an obligation to inquire into the basic philosophy of a Supreme Court nominee is applicable to his own position today. The question is whether the nominee should be evaluated by the Senate in terms of his specific, political, social and economic views—quite apart from the obvious requirements of integrity, ability, temperament and training. Does not the President have the privilege of nominating to the Supreme Court a man or woman of any political orientation that pleases him, without interference by the Senate; or does the Constitution, through its "advise and consent" clause give the Senate the right to reject a candidate because it disagrees with his politics or his philosophy?

* * * * *

The Supreme Court should be above politics; yet it is obvious that the Supreme Court deals with the stuff of politics. We have repeatedly argued that while the President owes it to the Court and the American people to keep partisan politics out of his judicial appointments, he ought to have the broadest latitude in his selections so long as they are made within the context of the American democratic system. What this means is that the candidate, whether liberal or conservative, of the right or of the left, must not be hostile to the broadly accepted principles of American constitutional democracy. This test the Senate has the right and duty to make.

The choice of Lewis F. Powell presents in this context relatively little difficulty. A leading lawyer of Richmond, a highly regarded member of the profession, a thorough-going conservative in political philosophy, Mr. Powell has demonstrated during a long record of service to the community as well as to the bar that he has the requisite personal, intellectual and basic philosophic qualities.

The same cannot be said for Mr. Rehnquist. Though he is undoubtedly a capable lawyer of impressive academic and intellectual attainments, his entire record casts serious doubt on his philosophic approach to that pillar of the American constitutional system, the Bill of Rights. On every civil liberties issue—wiretapping, electronic surveillance, "no knock" entry, preventive detention, rights of witnesses before Congressional committees and state legislatures, the rights of the accused—Mr. Rehnquist's record is appalling. He seems to have scant respect for the individual citizen's right to privacy, relying on "self-discipline on the part of the executive branch" to provide the protection needed. But if "self-discipline" by Government officials were sufficient in such circumstances, why would this nation need the carefully defined safeguards of the Bill of Rights?

* * * * *

What alarms us about Mr. Rehnquist is not the conservatism of his views—Mr. Powell certainly shares that characteristic—but our conviction on the basis of his record that he neither reveres nor understands the Bill of Rights. If this is so, then he certainly does not meet the basic requirement that a justice of the Supreme Court be philosophically attuned to the irrevocable premise on which the American political structure rests: the protection of individual liberty under law, particularly against the repressive powers of government.

The Constitution leaves room for a wide diversity of political and social interpretation and even of judicial philosophy; but through the issues of human freedom as set forth in the first ten amendments there runs a basic imperative that cannot be dismissed and must not be trifled with. A deep-seated respect for these liberties, a belief that they cannot be arbitrarily abridged or diminished by any power, even that of the President, is indispensable for service on the Supreme Court.

Mr. Rehnquist's elevation to the Supreme Court could have a critically regressive effect on constitutional protection of individual liberties for a long time to come. On Mr. Nixon's own premises, the Senate would be within its rights in insisting that while it may be content to accept a distinguished conservative like Mr. Powell, it is not obliged to accept a radical rightist like Mr. Rehnquist.

[From the Washington Post, Nov. 28, 1971]

THE SENATE, THE COURT AND THE NOMINEES—II

A fe wdays ago, we noted that although the nomination of Lewis F. Powell Jr. to be an Associate Justice of the Supreme Court gave us no problem, the nomination of William . Rehnquist did. It still does. Mr. Rehnquist's written response to questions submitted to him by some members of the Senate Judiciary Committee does not dispose of all the doubts that have arisen about his views on the concepts embodied in the Bill of Rights.

Those doubts are what have led us to make a distinction between Mr. Powell and Mr. Rehnquist. We believe both men to be suited intellectually and professionally for the positions to which they have been nominated, perhaps better suited in those respects than any of the four men previously selected by Mr. Nixon for the court. We are aware of no incident in the record of either man that raises the kind of questions that plagued the nominations of Judges Haynsworth and Carswell. That leaves open only (1) the matter of the views they hold of the Constitution, or to be more precise about what is troubling us, the sensitivity they have shown toward the Bill of Rights and (2) the commitment they have demonstrated to undo some of the court's recent interpretations of those amendments. It is here that the records of the two men differ.

These aspects of their constitutional philosophy are particularly relevant now because the court is narrowly divided on some issues that arise under the First, Fourth, Fifth and Sixth Amendments. Its general course in recent years has been to stress the protections for individuals provided in those amendments, a course that President Nixon has pointedly said he hopes to reverse. In judging these two men, then, the Senate has to decide how far their confirmation would move the court toward President Nixon's goal—and whether it wants to let him move the court that far.

There are, or so it seems to us, three striking themes which run through most of the writings and speeches of Mr. Rehnquist over the last 15 years. These are : (1) his lack of understanding of the problem of racial discrimination as late as 1964; (2) a somewhat cavalier attitude toward interpretations of the Bill of Rights that differ from his own; and (3) the underlying philosophy about the role of government that runs through so much of what he has had to say on these subjects.

Of the three, Mr. Rehnquist's attitude toward civil rights is the least troubling. He did oppose a public accommodations law in 1964 and he now explains his opposition on the ground that he did not understand "the strong concern that minorities have for the recognition" of their rights. We can't help wondering where he was during the years preceding 1964 when the depth of feeling about such matters was driven home so eloquently by Dr. King and others. But we accept his current statement that his horizons have broadened since then. Perhaps they will broaden more. Beyond this, however, the area of civil rights is not one in which his presence on the court is likely to make much difference one way or the other. It's course in that area seems well nigh irreversible.

The second aspect of Mr. Rehnquist's views that has been questioned is the degree of sensitivity he has shown toward the concepts underlying the Bill of Rights. It is possible to review his record and come away with the feeling that he thinks those on the other side of the constitutional argument are, almost by definition, Communists, criminals and pornographers. But it is also possible to come away with the feeling that he has merely expressed his position strongly and perhaps was carried away in his rhetoric by the zest of the struggle. On this matter we are inclined to give him the benefit of the doubt, based principally on the testimony of some of those who have known him well, that he is thoughtful and careful in his approach to constitutional questions.

The philosophy that ties his speeches and writings together is one in which property rights outrank human rights and in which the power of government to trample on the civil liberties—free speech, privacy, peaceful protest, and the rest—of its citizens outranks the restrictions placed on his power by the Bill of Rights. In his view, a store owner's desire to select his customers outweigh a customers' desire to be served there; the government's interest in collecting information is more important than an individual's interest in being free from surveillance; the majority's interest in suppressing pornography or in convicting criminals far outweighs the individual's right to read or to be safe from self-incrimination, and so on. This is a view of the Constitution we do not share. But it is a view Mr. Nixon shares and the view he has said he will try to make dominant on the Supreme Court.

So far as Mr. Powell is concerned, we do not find in his record the first two of these three themes. He has been fully aware of the issues of our times and sympathetic toward, if not always in agreement with, interpretations of the Bill of Rights that are not his. On the third point, there may well be little difference between his views of the Constitution and those expressed by Mr. Rehnquist. But there may be a decided difference in the commitments of the two men to do something about this trend of the court. We have the distinct impression that Mr. Rehnquist is intellectually committed to the overturning of several of the court's major decisions of the last 15 years involving the Bill of Rights. Mr. Powell may or may not have such deeply held views and it is conceivable that on some key votes he will surprise the President. We doubt that Mr. Rehnquist has such flexibility. And given the balance on the court now, this is a factor the Senate must weigh. Thus, the choice before the Senate is especially difficult.

Those senators who share our perspective on the paramountcy of civil liberties questions in this matter and on the essential correctness of the course staked out on these questions by the court in recent years could in fact argue the case for voting to confirm Mr. Rehnquist on several pragmatic grounds. One is that the prediction of how a justice will vote is a chancy and accident-prone business. Justices have often turned out to be quite different (once on the court) from what their previous records might have led one to expect. President Kennedy's appointee, Justice White, and President Eisenhower's appointee, Chief Justice Warren, are recent examples. Another argument might be that the addition to the court, at this time, of a particularly strong anti-civil libertarian voice could easily have the effect of impelling some of its present members in the other direction. Finally, there would be the argument that the rejection of Mr. Rehnquist would likely only bring forth from the President another nominee of similar view and lesser professional competence—thus setting off what would be, at best, another prolonged and corrosive struggle. For all its plausibility and practical attractiveness, however, this last point deserves special comment, since it amounts to an indirect abdication of the individual senator's constitutional right and duty to exercise his judgment on the President's Supreme Court nominees: neither the likelihood of Mr. Rehnquist's confirmation (which seems real) nor the course the President might take if his nominee is rejected seems to us an adequate basis on which to determine the way a senator votes on this nomination. This would be especially true of a senator who shares the reservations and apprehensions we have spoken of in connection with Mr. Rehnquist.

For against all the pragmatic hopes and speculations set forth above that might argue for his confirmation, one must consider another set of possibilities, no more certain but much more dire. Which is to say, a vote to confirm Mr. Rehnquist is a vote to take a considerable risk with the future of civil liberties in this country. It is not as if Mr. Rehnquist would become the first or the second or the third justice holding his point of view. The breaks of history have given President Nixon a chance to achieve his goal of changing the court's direction with four nominations within the first three years of his term, an opportunity provided only two other Presidents—Taft and Harding—since the Civil War. Nor is there compelling evidence that Mr. Rehnquist is a flexible and moderate man who might or might not help the President reach his goal. On the contrary, on the basis of his record of articulate commitment, it would seem that his might well become the vote and the voice that tipped the balance. Those senators who believe, as we do, that the preservation of vital, court-defined civil liberties is the principal issue at stake here, have in our opinion good and sufficient reason to vote against the confirmation of Mr. Rehnquist.

[From the Boston Globe, Nov. 13, 1971]

THE HIGH COURT NOMINEES—2

For the United States Senate to concur at this time in President Nixon's nomination of Asst. Atty. Gen. William H. Rehnquist to the Supreme Court would be, on the basis of all available information, a dereliction of the Senate's duty to the Constitution, to the high court, and to the people of the United States.

This is not said lightly. Mr. Rehnquist is a man of superior intellectual and technical qualifications. But the record to date is virtually bare of evidence that he is anything but hostile to the principle that the Supreme Court's central role in our Constitutional system is to stand as the ultimate guardian of human rights and liberties.

Invoking the doctrine of lawyer-client confidentiality, Atty. Gen. Mitchell has declined to permit Mr. Rehnquist to complete the record by giving the Senate Judiciary Committee his precise personal views on such hard-line Administration policies as preventive detention, "no-knock" laws, wiretapping and electronic surveillance of US citizens, and indiscriminate mass arrest of demonstrators.

Mr. Mitchell asserts that for Mr. Rehnquist to discuss these matters in full detail with the Judiciary Committee would jeopardize the attorney general's future access to "the free exchange of ideas and thoughts so essential to the proper and judicious discharge of my duties."

This is preposterous. The Senate has an unlimited right to be informed of the personal views of a prospective member of the Supreme Court. Mr. Rehnquist himself said as much when he urged in the Harvard Law Record in 1959 that the Senate should vigorously exercise its former practice "of thoroughly informing itself on the judicial philosophy of a Supreme Court nominee before voting to confirm him."

The lawyer-client privilege makes great good sense where the client is a private citizen and any breach of confidentiality by his lawyer would jeopardize the legal rights of the client in pending proceeding.

But to invoke the privilege where the client is the attorney general of the United States and the lawyer is an assistant attorney general, where both have been engaged in the formulation of public policies crucially affecting individual rights, and where the lawyer is a nominee for a seat on the Supreme Court, is just untenable.

AN ADDED IRONY

It is an added irony that an attorney general so callous about the privacy and personal security of ordinary citizens should plead that his own official privacy transcends the Senate's—and the public's—right to learn all about Mr. Rehnquist's views before his nomination is acted upon.

Mr. Rehnquist is on record as saying, in effect, that when it comes to Supreme Court nominees, the Senate should adamantly refuse to buy a pig in a poke. But Mr. Mitchell is now asking that the Senate do just that.

The Administration should not be permitted to have it both ways in this vital matter.

In his testimony before the Judiciary Committee last week, Mr. Rehnquist did in fact engage in some slight breaches of confidentially—where it suited his purposes to do so.

For example, he told Sen. Edward M. Kennedy that he had felt there was "a misguided and unwarranted use of force" by National Guardsmen in the Kent State shootings, but that he never communicated his private feeling to the attorney general because "he never asked me" and other agencies were at work on the case.

Again, he testified that he had argued successfully within the Justice Department for abandoning the novel claim that the government had "inherent power" to wiretap domestic subversives without prior court permission.

It is true that in his testimony Mr. Rehnquist did back off a little from earlier public positions against free access of blacks to places of public accommodation and integration of public schools. But these remarks were scarcely reassuring in light of his long and theretofore unmitigated public opposition to civil rights.

Mr. Rehnquist has denied in an affidavit that he was ever a member of the John Birch Society in his home town, Phoenix, Ariz., as charged by New York newsman Sidney Zion. This denial must be taken at face value. Mr. Rehnquist has a reputation for veracity. Indeed, even if he had been a member of this organization, that fact, standing alone, would not be grounds for condemning him. The right of free association is everyone's right. People join organizations for myriad reasons, and similarly leave them. The critical issue is not what people join but what they do.

In this connection, the record on Mr. Rehnquist probably does not indicate the full extent to which he may have actively worked for political causes in the 16 years during which he engaged in the private practice of law in Phoenix. And this is information which the Senate Judiciary Committee ought to have, and should demand. And man's political actions and beliefs are necessarily related to the question of what sort of "judicial philosophy" he may bring with him to the bench, especially the bench of the Supreme Court, which is the ultimate arbiter of controversies over constitutional interpretation.

Mr. Rehnquist has himself declared: "It is high time that those critical of the (Supreme) Court recognize with the late Charles Evans Hughes that for 175 years the Constitution has been what the judges say it is. If greater judicial self-restraint is desired, or a different interpretation of the phrases 'due process of law' or 'equal protection of the laws,' then men sympathetic to such desires must sit upon the high court."

Consider this appraisal of Mr. Rehnquist's political stance by John P. Frank, a noted constitutional and Supreme Court expert who knew Mr. Rehnquist in Phoenix for many years:

THE GOLDWATER VIEW

"He will represent the Goldwater view on the Supreme Court. Bill has been an intellectual force for reaction. I do not believe he will put the manacles back on the slaves, but I'm sure from his point of view that it will be more than a pause . . . there will be backward movement. In terms of race relations, I would expect him to be retrograde. He honestly doesn't believe in civil rights and will oppose them. On criminal matters, he will be a supporter of police methods in the extreme. On free speech, Bill will be restrictive. On loyalty programs, McCarthyism, he'll be 100 percent in favor."

iWth a good lawyer's ingrained respect for professional excellence, Mr. Frank states that despite this appraisal of Mr. Rehnquist his nomination should be confirmed by the Senate.

As the record now stands we cannot agree, and the fact that Mr. Rehnquist is a conservative Republican has nothing to do with it. What does matter greatly is the judicial philosophy of Mr. Rehnquist, on which more must be heard.

For if what Mr. Frank says is true, and goes uncontradicted, and Mr. Rehnquist's nomination is confirmed, then a society already grievously polarized will become more so. It is vital that our highest court of justice be able to carry out indefinitely its constitutional mission of protecting the liberties of the people against any excesses of the Federal and local governments. That is why the judicial philosophy of a nominee to that court is so important, and why it should be explored further.

[From the Boston Globe, Dec. 6, 1971]

Mr. Brooke on Mr. Rehnquist

Sen. Edward W. Brooke's opposition to Asst. Atty. Gen. William H. Rehnquist could be a determining factor in the soon-to-be-recorded Senate vote to confirm or reject Mr. Rehnquist as an associate justice of the United States Supreme Court.

Mr. Brooke was right in all of the reasons for his opposition to Mr. Rehnquist. But there are other reasons, too. Mr. Brooke does not oppose Mr. Rehnquist because he is a conservative, a Southerner or a strict constructionist. Nor do we. His opposition is based on his determination, after long study, that Mr. Rehnquist is lacking in commitment to an integrated society. It is unfortunate that some of the senator's colleagues are inclined to excuse this as unimportant.

Mr. Brooke has noted the nominee's opposition to a public accommodation ordinance in Phoenix, Ariz., in 1964, his opposition to a Phoenix school desegregation plan in 1967, and his comment at that time that "we are no more committed to an integrated society than we are to a segregated society," Mr. Brooke finds this view "unsupportable." Such a view is not only unsupportable, it is a denial of the meaning of the Constitution which the nominee would be pledged to support, and it is hazardous at this time in particular when the lack of commitment to the brotherhood of all men threatens to tear the nation apart.

Mr. Brooke, himself a lawyer and himself Supreme Court material, is more kind to Mr. Rehnquist than he perhaps has any right to be. If Mr. Rehnquist were to be confirmed, Mr. Brooke hopes that he might serve in the great tradition of the late Justice Hugo Black, at one time a member of the Ku Klux Klan, and that he might demonstrate on the Court, as Mr. Black did, "a capacity to grow and change."

This might be. But to confirm a nominee in the hope that he might change would be not only a fool-hardy gamble. It also would amount to the ludicrously untenable assumption that, in this nation, replete with great legal talent, Mr. Rehnquist is the only available candidate—confirm him, for there is no other.

Mr. Brooke did not suggest, as we wish he had, that Mr. Rehnquist's vulnerability is manifest in the Administration's insistence that his and the almost unassailable Lewis F. Powell Jr's nomination be considered as a kind of package deal, as though they were one of baseball's double play combinations—Tinker and Evers, say. Or was it Chance? There scarcely could be a franker acknowledgment that Mr. Rehnquist cannot stand scrutiny on his own. Nor is it enough that he is generally acknowledged to be "a fine gentleman," as one of his Senate supporters has put it.

Mr. Brooke, weighing his own heavy responsibilities as a senator, has asked pertinent questions and reluctantly found that the right answers are still wanting. Mr. Rehnquist may be every bit as brilliant as he is said to be. But how can his supporters rationalize their support for him so long as they quite literally have no way of fully knowing his views on matters on which he steadfastly has refused to be questioned and on which the Administration will not permit him to be questioned? Mr. Rehnquist, hiding behind a dubious lawyer-client relationship, has, in effect, "taken the Fifth"—unprecedented and intolerable in confirmation proceedings.

Sen. Brooke was one of the leaders in the Haynsworth and Carswell rejections. It is to be hoped that his Senate colleagues will listen to him now as they listened to him then.

[From the Chicago Sun-Times, Dec. 5, 1971]

Powell, Yes—Rehnquist, No

The Senate will vote Monday on President Nixon's latest nominations to the Supreme Court. The choice of Lewis F. Powell, Jr., a distinguished Southern lawyer highly regarded in his own profession, would seem to present few difficulties. Powell is a thoroughgoing political conservative who has demonstrated in his writings and actions a commitment to the basic philosophic premises of American democracy. He has understood the constitutional mandates that all citizens be treated equally, that personal liberties be rigorously safeguarded and government powers limited. Indeed, his healthy skepticism of state authority and his regard for individual rights are true to one of the oldest strains of conservative thinking. We urge his confirmation by the Senate.

Mr. Nixon's other choice, Assistant Atty. Gen. William H. Rehnquist, presents a far more troubling dilemma. Like Powell, Rehnquist has impressive legal and intellectual credentials and a reputation for hard work and personal integrity. But his record, both in and out of government, casts grave doubt on whether he understands and reveres the Bill of Rights, which is the pillar of the American constitutional system.

Rehnquist's writings, actions and recent testimony characterize him as a zealous proponent of unharnessed state power. He has shown a corresponding insensitivity to the need for protecting individual liberty and equality from the potential repression of government.

His attitudes toward government surveillance, criminal procedure protections, equal access to public accommodations, the free speech interests of federal employes and witnesses before congressional and state legislative bodies demonstrate persistent hostility to constitutional protections of privacy, unfettered expression and equal justice. Where he modified his positions in recent Senate testimony, he did so in a manner that left unchanged the basic views and reasoning which led to his earlier stands.

In short, Rehnquist is no conservative but rather a radical rightist. * * * No ideological radical—from either the left or right—belongs on the Supreme Court, for none can possess the open-mindedness so essential to the fair rendering of justice. Rehnquist demonstrates that despite his intellectual and legal gifts, he has a closed mind and therefore is an apologist for an extreme ideology and not a legal reasoner. Extensive research of his record shows that he argues back from desired conclusions to their justifications.

Such a philosophic predisposition transcends specific political and social views. That is a key point, because we don't think it reasonable to vote a nominee up or down solely on the basis of differing views on current affairs. It is essential to foster vigorous stands in public life and it is worth remembering that judges change their opinions sometimes drastically. But most importantly, there is no one correct way of approaching the great issues of our society. Therefore we would not expect to agree with all the views of any nominee to the Supreme Court and currently do not in the case of nominee Powell.

It is necessary, however, to be philosophically attuned to the basic concepts of American life built into the Bill of Rights. On that score we find Rehnquist grievously wanting and recommend that the Senate vote no on his nomination to the Supreme Court.

The Senate has ample precedent for rejecting nominees on philosophic grounds, stretching all the way back to the denial of President Washington's selection for chief justice, John Rutledge. In this century, the recommendation of Judge John J. Parker was similarly turned back. During the Senate debate then, that great Nebraška senator, George Norris, focused the issue and what he said is as relevant today as in his time.

"When we are passing on a judge, we not only ought to know whether he is a good lawyer, not only whether he is honest—and I admit that this nominee possesses both of these qualifications—but we ought to know how he approaches the great questions of human liberties."

[From the St. Petersburg Times, Nov. 7, 1971]

Powell, Yes; Rehnquist, No

After careful review of President Nixon's choices to fill Supreme Court vacancies left by John Harlan and the late Hugo Black, we can easily support Lewis Powell, but must oppose confirmation of William Rehnquist.

Powell, 64, a Richmond, Va., lawyer and former president of the American Bar Association, is the third Southern conservative nominated by Mr. Nixon. A racial moderate, Powell would bring to the court unquestionable standards of professional achievement, judicial temperament and personal integrity.

Rehnquist, 47, a Phoenix, Ariz., lawyer, has unfortunately exhibited during his last two years as assistant attorney general a marked insensitivity to basic constitutional concepts.

In 1964, Rehnquist opposed a Phoenix City ordinance prohibiting racial discrimination in public accommodations, despite federal law to the contrary. (He changed his mind last Wednesday.)

In 1967, he defended the separate but equal educational concept struck down 13 years earlier by the Supreme Court.

More recently:

In September 1970, he said citizens lose at least part of their right to free speech when they take government jobs, and for good measure added that public employees who differed publicly with President Nixon could lose their jobs.

In December 1970, he told Congress that preventive detention (jailing of unconvicted defendant on the ground he might commit a crime if freed before trial) was valid and proper.

In March 1971, he defended government data banks kept on law-abiding citizens whose only crime was opposition to government war policies and other lawful activity. He changed a bit Thursday, saying government surveillance of peaceful activities was unconstitutional, but only if it had a "chilling effect" on exercise of the right to free assembly.

In July 1971, he supported expanded federal wiretap powers without recourse to court permission. Last week he said he advised the Administration against taking an official position that it had the inherent power to tap telephones without court orders in domestic security cases.

In addition, Rehnquist has endorsed the use of illegally obtained evidence, backed the President's abortive effort to manipulate the Subversive Control Board controlled by Congress, supported the massive denial of defendant rights surrounding May Day arrests in Washington, and maintained that presidents have the right to fill Supreme Court vacancies without congressional interference, in utter disregard for constitutional requirements for Senate confirmation.

Although Rehnquist has partially recanted some of his earlier views, his record is one of past support for narrowed personal rights and advocacy of enlarged government power. It forms a pattern of political extremism outside the fundamental support for the Constitution which every Supreme Court justice must possess. This pattern is sufficient, we think, for any senator to vote to deny Rehnquist confirmation.

The responsibility for nominating another unsuitable candidate clearly falls upon President Nixon, whose overall record in this respect is abominable.

But now the burden has been transferred to the U.S. Senate. It has the constitutional duty and the resources to investigate every nominee fully. These duties cannot be delegated—either by the president or the Senate.

[From the St. Louis Post-Dispatch, Nov. 22–28, 1971]

Not William Rehnquist

The Senate Judiciary Committee has voted unanimously to approve the nomination of Lewis F. Powell for the Supreme Court and accepted the nomination of William H. Rehnquist by 12 to 4. If the two nominees had not been paired, Mr. Rehnquist might have faced more trouble. On the Senate floor, his nomination should face defeat.

Long before his nomination Mr. Powell had proved himself both a highly respected attorney and a thorough conservative. Mr. Rehnquist is an intelligent man and an able lawyer, but as a conservative is something else again.

We do not refer here to the questions arising about his alleged membership in an extremist right-wing group in his native Arizona, which Mr. Rehnquist flatly denies. That is secondary. If Mr. Rehnquist's supporters were willing to make comparison with a great champion of liberties, they could note that the late Justice Hugo Black once belonged to the Ku Klux Klan. But Justice Black had a fine record in the Senate by which he could be judged before he was placed on the court. Mr. Rehnquist's record, which runs the other way, does not indicate such capacity for intellectual growth.

By Mr. Rehnquist's record we refer, in short, to his views. He has opposed civil rights measures such as a public accommodations ordinance and school bussing. As an assistant attorney general he has championed, not the people's liberties, but Attorney General Mitchell's repressive ideas: arbitrary wiretapping in some cases, preventive detention which means jail without trial, the "no-knock" police raid and so on. Indeed, he once charged that Communists "scored significant victories" from decisions of the court to which he now aspires.

That much of the record suggests misapprehension and, indeed, mistrust of the court and some of its major decisions, along with constitutional guarantees. But there is more.

Mr. Rehnquist also defended President Nixon's decision to invade neutral Cambodia as "precisely the sort of tactical decision traditionally confided to the Commander in Chief." No president, however, has asserted so sweeping a doctrine. Though Mr. Nixon has said no court nominee should "twist or bend" the Constitution to promote political views, that is what his nominee did here.

There are, of course, lawyers and laymen who will argue that a court candidate's views should be of little moment; that what counts in the confirmation process is ability and honesty or, to put it crassly, if a nominee is a member of the bar in good standing and is not a crook, that is enough. Mr. Rehnquist himself is not of this opinion; he has argued that a nominee's views are pertinent.

In our opinion the degree of the president's latitude in making appointments to the court, and the degree of the Senate's role in providing advice and consent, are illustrated well enough in the cases of Mr. Powell and Mr. Rehnquist. Mr. Rehnquist's consistently-held views about the court, the Constitution and presidential powers are more than enough to draw the line against him.

That is because Mr. Rehnquist's confirmation would place on the high court a dedicated advocate of unilateral executive power and privilege, of authoritarian policies the Constitution was written precisely to prevent. So more is at stake here than the Nixonizing of the court. The issue involves the long tradition of divided and balanced powers of government.

Congress has already seen its war-making authority eroded by the executive—a process justified by Mr. Rehnquist. A self-respecting Senate is only beginning to challenge that extension of presidential power. It should not acquiesce in executive subjugation of the Supreme Court.

[From the Christian Science Monitor, Nov. 20, 1971]

The Rehnquist Question

There is no serious doubt about the right of the President of the United States to name persons of his preference to the Supreme Court—provided their professional qualifications are suitable. Precedent has by now made it clear that the individual must be competent in the law, judicious of temperament, and of personal probity. Otherwise they don't get by the Senate. Beyond that—a liberal president is entitled to name a conservative candidate.

The Senate hearings have established that both of Mr. Nixon's latest nominations for the court are men of personal probity, judicious temperament, and competence in the law. In those three categories both men are entirely qualified. And so far as Lewis Powell is concerned that is an end of the matter. He will have the approval the Senate.

There is one difference in the Rehnquist case.

His record on civil-rights issues indicates that he is, or has been, sufficiently conservative in civil liberty matters to fit what is popularity known as the "Southern strategy."

His nomination to the court expresses Mr. Nixon's own attitude toward racial matters which is one of going only as fast as the law and the courts require. He is not out in front leading the parade.

Mr. Nixon wants a man of conservative views on such matters on the court. He wants to prove to Southern conservatives his own sincerity on this point. Putting a person with views similar to his own on the court is one way of providing his sincerity.

It is perfectly proper for a president to consider a matter of this kind in his appointment. It is a political point of view. Presidents Roosevelt, Johnson, and Kennedy all looked around for persons with political points of view similar to their own when they wanted candidates for the Supreme Court.

But it is equally proper for senators of a liberal bent to oppose a president when the issue is political in this manner. It is just as proper for Senator Bayh to resist a civil-rights conservative as it is for President Nixon to promote one.

In other words the issue in respect to Mr. Rehnquist is neither personal nor professional. It is purely political. The outcome therefore is bound to be political. It will measure the extent of sentiment in the Senate on civil rights and how many votes the White House can muster in favor of a candidate who would be a welcome addition in the eyes of Southerners who favor going as slow as is legally permissible down the road to equal opportunities for Negroes.

It will also record the number of senators who wish to push ahead as fast as possible toward equal legal, political, and social rights for Negroes—and other minority groups in the United States.

AFL–CIO Convention, November 19, 1971—Rehnquist Resolution

Political extremism of the right and of the left has no place on the Supreme Court of the United States. It is for that reason that this Convention views the nomination of William H. Rehnquist as an Associate Justice of the Supreme Court as a dangerous departure from the philosophy of a broadly representative, constitutionally sound Court.

We do not believe a President's desire to name Justices with a similar political philosophy to his should extend to a nomination that is a direct rebuff to the rights and liberties of individuals guaranteed by the Constitution and its first 10 amendments.

The President has said that Mr. Rehnquist is a "strict constructionist" of the Constitution. However, his record, his writings, his self-expressed philosophy clearly show he is a strict constructionist of the Constitution prior to the adoption of the Bill of Rights.

Mr. Rehnquist purposely avoided the efforts of members of the Judiciary Committee of the Senate to question his views on such constitutional questions as wiretapping. executive power and civil liberties. These questions must be answered in open session or risk a lack of confidence on the part of the American people in the Court as an equal and independent institution of American society.

The American people are already deeply concerned by the circus atmosphere surrounding the latest Court nominations made by President Nixon. The "leaks" and "counter-leaks," the "lists" and "non-lists" followed by the nomination of one of the Administration's chief apologists hardly reflects the "respect for the Court" of which the President spoke when he announced the nominations.

The Supreme Court is too important, too respected and too necessary to American society for the Senate to now confirm Mr. Rehnquist while the American people ask questions: Is he more loyal to a President than to the Constitution? Will he respect individual liberties more than Executive power?

These are proper questions. These are questions Mr. Rehnquist has not answered.

President Nixon has attempted to pack the Supreme Court with ideological and demagogic reactionaries. The Senate properly rejected his nominations of Clement Haynsworth and G. Harrold Carswell.

It must do so again—this time with the nomination of William Rehnquist. The future of today's citizens, their children, and their grandchildren is too important to permit a man of Mr. Rehnquist's philosophy to exert his influence over the constitutional direction of American society for the remainder of this Century.

Therefore, be it resolved that the Ninth Convention of the AFL–CIO urges the Senate to reject the nomination of William Rehnquist. Men of his philosophy, just as men of the philosophy of the far left, have no place on the Court.

Statement of Edward J. Ennis, Chairman ACLU

"The National Board of Directors of the American Civil Liberties Union has decided to depart from the organization's 51 year policy of never endorsing or opposing candidates for public office in order to oppose the nomination for the Supreme Court of William Rehnquist.

"The ACLU prizes its tradition of political non-partnership. We have taken an extraordinary step because of extraordinary circumstances. The President has nominated for the Supreme Court William Rehnquist, a man we know as a dedicated opponent of individual liberties. Under our system of government, the Supreme Court is the nation's ultimate interpreter of the Constitution and protector of individual liberties. We believe that it would be a betrayal of the principles of our Constitution to entrust their interpretation to a person who has devoted himself to undermining those principles.

"We know William Rehnquist as an advocate of dragnet arrests, as an opponent of racial integration, as a champion of executive authority to engage in electronic eavesdropping and political surveillance, as a campaigner for pre-trial incarceration and as an engineer of the Justice Department's programs to abrogate the rights of persons accused of crime. In short, we know Mr. Rehnquist as a person committed to the notion that in every clash between civil liberty and state power, it is civil liberty that should be sacrificed. We believe that his commitment to state power at the expense of individual liberty makes William Rehnquist unfit to sit on the U.S. Supreme Court."

Leadership Conference
On Civil Rights,
Washington, D.C., December 7, 1971.

Dear Senator: As I'm sure you know, the Leadership Conference on Civil Rights opposes the nomination of William H. Rehnquist to the U.S. Supreme Court.

There is no better spokesman for our point of view than Mr. Rehnquist himself. His statements on issues of civil rights and civil liberties, as set forth in the enclosed pamphlet, persuade us that he cannot meet President Nixon's own high standard for a Supreme Court Justice—one whose "sole obligation is to the Constitution and the American people."

We hope you will read the pamphlet. We hope you will agree with us that no one can support Mr. Rehnquist who believes, as we do, that the Supreme Court must remain a strong force for social change and social progress within our democratic system. And when the time comes to vote, we urge you to vote against his confirmation.

Sincerely yours,
Roy Wilkins, *Chairman.*

A Ripon Policy Analysis, the Weak Constitution of a "Legal Giant"

The Senate faces severe limitations in resisting a President determined to remake the Supreme Court. The President has the initiative, and as in nuclear strategy, the advantage is with the offense. The President can merely keep submitting names; the Senate must mobilize its somewhat cumbersome machinery and political resources to investigate, disqualify and reject each one. Now, moreover, in the age of MIRV, when the President may launch as many as six bombs at once—or fill the air with chaff and decoys—the role of the defense is further complicated. It is somewhat difficult to muster a struggle against a man like William Rehnquist when lined up behind him are men like Robert Byrd and women like Sylvia Bacon and when the President maintains his nominations have something to do with "respect for the law" or reducing crime.

Still we believe it is just as well that we know what we are doing. Approval of William Rehnquist's nomination will for the first time give credence to what has until recently seemed an alarmist fear: that we are moving into an era of repression, in which the U.S. democracy gives up its most noble enterprise—the maintenance of a free and open society.

A scenario may be envisaged. The Communist party and other political action organizations that can be alleged to advocate revolution would be black-listed and outlawed. Wiretapping and other even more sophisticated modes of individual surveillance would be extended without judicial review. All but the most flagrant acts of discrimination and collusion against blacks would be permitted. The courts would return to the unedifying business of poring over pornography, and arbitrarily incarcerating improvident writers, photographers, and bookstore proprietors. The "third-degree"—extorted confessions and the like—would be effectively authorized. Ever larger numbers of dissenters and other nonconformists who affront the police or marginally violate the law would be imprisoned for long periods. Police brutality and lawlessness, on the other hand, would be condoned. At a time when the government provides an ever larger proportion of available jobs, the firing of dissenters from federal employment would be legitimized. And finally the Executive, in illicit tandem with the judiciary, would reduce the legislative branch to inconsequence on vital matters of war and peace and to irrelevance in the always elastic realm of "national security." And, of course, the real problems of crime and instability in our society would persist.

Such developments are not, of course, inevitable. They will occur only if the Supreme Court abandons its role as ultimate guarantor of the Constitution and the legislative branch refuses to recognize the new responsibilities such a judicial abdication would impose on the Congress.

But the entire scenario of repression consists of measures that Rehnquist, on the record, has strongly and explicitly invited; and most of them are not strongly opposed by the other three Nixon appointees. So even if, in view of the President's determination to transform the Court, it proves tactically necessary for the Senate to accept Rehnquist, we want to register our opinion that he is Nixon's most dangerous nominee yet. Younger and smarter than the others, he will have a longer and more deleterious impact on our political and social order.

There has been much nonsense written in recent weeks on Rehnquist's good character and legal expertise, as if these qualities alone justify confirmation. In fulfilling its Constitutional responsibility for advice and consent, however, the Senate does not stand like the Bar Association's Committee on the Judiciary, as a mere judge of ethical and professional credentials. The Senate must also consider the impact of such potential appointments on the balance between the executive and legislative branches and on the direction of America over the next decades.

POWELL ENDORSED

Applying such standards to the current Supreme Court nominees, the Ripon Society supports, with some reservations, the confirmation of Richmond attorney Lewis Powell, a former President of the ABA. Although his writings do not display a staunch concern with preserving individual liberties, his persistent advocacy of legal services for the poor, his mediating role in Virginia school integration controversies, and his continuing reputation for fairness allay many of our fears. We are further reassured by his recent rejection of Rehnquist's view that the Executive has an inherent right to wiretap without judicial review in cases involving the national security. While Powell might strike the balance between individual liberties and governmental powers at a somewhat different point than we would prefer, he nevertheless recognizes the crucial limits on governmental authority. He is essentially a man of the law rather than a man of the Right.

William Rehnquist, on the other hand, has remorselessly allowed his political prejudices to supersede legal precedent. Unlike Lewis Powell's career of moderate judicial conservatism, Rehnquist's record does not show a consistent and scrupulous application of legal principles; rather it shows a consistent and unabashed manipulation of legal rhetoric in the service of right wing social and political objectives. His voluminous public statements and his private comments of which we are aware, show him to be a thoroughgoing authoritarian, a nearly absolute believer in executive supremacy over the legislature, and a slack reconstructionist of the constitution.

Rehnquist's authoritarian bent is not tempered by judicial conservatism. Unlike such believers in judicial restraint as the late Justice Felix Frankfurter and former Justice John Marshall Harlan, Rehnquist is a militant judicial activist, who explicitly rejects the doctrine of *stare decisis*. Writing in the Harvard Law Record in 1959 Rehnquist stated: "It is high time that those critical of the present Court recognize with the late Charles Hughes that for 175 years the Constitution has been what the judges say it is. If greater judicial self-restraint is desired, or a different interpretation of the phrases 'due process of law' or 'equal protection of the laws,' then men sympathetic to such desires must sit upon the high court."

In a letter that he wrote in 1959 Rehnquist, then in private practice in Phoenix, made clear the "different interpretation" of the Constitution he had in mind: "a judicial philosophy which consistently applied would reach a conservative result."

The kind of "conservative" result which Rehnquist would seek is diametrically opposed to the American conservative tradition of vigorously opposing the extension of governmental powers.

To justify the Justice Department's policy of encouraging indiscriminate mass arrests of Mayday demonstrators and bystanders (with the charges against them filled in randomly by police who had often never seen the accused or the crime), and of having thousands of patently spurious cases litigated with virtually no convictions, Rehnquist invented after the fact the doctrine of "qualified martial law."

Now even if one believes the Capitol was in direct jeopardy on Mayday, the Rehnquist rationale is legally slovenly. Rehnquist would have us believe that government can commit countless violations and then sanction them by some flip post-facto improvisation.

Rehnquist was also a major strategist in the preparation of the controversial "no knock" and "preventive detention" provisions of the D.C. Crime Bill. He has strongly asserted a governmental right to fire employees, even if covered by civil service, when they question Administration War policies. Furthermore he has maintained that the executive has the right to engage in wiretapping and other electronic surveillance without court supervision as long as it claims a "national security" justification. If we contend that such unaccountable government powers might become a threat to individual liberty and privacy, Rehnquist tells us to rely on the "self restraint" of the Executive—which might be conceivable if we could forget that in recent years the Attorney General's arbiter on such matters was one William Rehnquist.

A REMARKABLE FACT

In only one area in all his career has Rehnquist shown any opposition to the extension of governmental powers. While an attorney in Phoenix he was a vocal and insistent opponent of legislation to outlaw racial discrimination in public accommodations. It is a truly remarkable fact, worthy of contemplation by the Senate, that nowhere in his extensive writings has he displayed a keen concern for any individual liberty except what he quaintly calls the "traditional freedom" to discriminate against blacks.

Rehnquist now says he has reconsidered his attitude toward the public accommodations ordinance of 1964; that is understandable since even Barry Goldwater endorsed it seven years ago and it has worked smoothly, contrary to Rehnquist's lugubrious expectations. Before we rejoice too readily, however, we should note that he has only endorsed the local ordinance, not the Civil Rights Bill of 1964, and that in 1965 and 1967, virtually alone among prominent Arizonans he opposed other civil rights legislation.

It would be easy to compile an equally disturbing record of Rehnquist's views on the role of the Senate in foreign policy. An exponent of what Senator Mathias calls the theory of the Optional Congress, he has seemed eager to eliminate what few powers Congress has managed to retain in this era of executive supremacy in the international realm. Suffice it to say that he has consistently and erroneously maintained that the President has the power under the Constitution to commit U.S. troops to war across national boundaries without seeking Congressional approval, and that possessing this power, the President scarcely needs any others.

In nearly all of his public statements and in a number of private comments, Rehnquist has revealed himself as a brilliant authoritarian ideologue who sees the law or the Constitution as mere instruments for imposing his beliefs on the body politic. It may in fact be questioned whether a man who, like Rehnquist, defines a conservative judicial philosophy as an approach "that consistently applied reaches a conservative [political] result" can be correctly said to have a judicial philosophy at all.

For this reason, the Ripon Society believes that his elevation to the nation's highest court would be a dangerous mistake. If one is to have excessive judicial activism it is far safer to have it at the expense of the executive rather than in concert with an already exorbitant Presidency. This concern is greater than ever today, when the expanding technology of personal surveillance evokes with renewed menace the Orwellian vision of 1984 (when Rehnquist will be 59).

The Senate is especially bound to consider the philosophies of Supreme Court appointees when a President publicly enunciates a policy of choosing nominees largely because of their political leanings. Unlike most other Presidents of the twentieth century, President Nixon has made it clear that the principal qualification for his nominees is concurrence with his Administration's policies, especially in civil liberties. The Senate should exercise close scrutiny over nominees of such a politicized Presidential selection process. And if we really must have extremists on the court, may they be "in the defense of liberty."

DOES WILLIAM REHNQUIST MEET THE HIGH STANDARDS EXPECTED OF THE SUPREME COURT?

Asked what he thought of William A. Rehnquist as a prospective justice for the U.S. Supreme Court, this was the reply of John P. Frank, a noted expert on the Constitution and the Court and a friend of Mr. Rehnquist's for many years in Phoenix, Arizona:

"He will represent the Goldwater view on the Supreme Court. Bill has been an intellectual force for reaction. I do not believe he will put manacles back on the slaves, but I'm sure from his point of view it will be more than a pause . . . there will be backward movement.

"In terms of race relations I would expect him to be retrograde. He honestly doesn't believe in civil rights and will oppose them.

"On criminal matters he will be a supporter of police methods in the extreme. On free speech, Bill will be restrictive. On loyalty programs, McCarthyism, he'll be 100 per cent in favor."

In spite of this grim estimate and his feeling that "it is a deplorable appointment," Mr. Frank still thought Mr. Rehnquist should be confirmed for the Supreme Court.

He subscribes, apparently, to the current notion that a man's ability as a lawyer and his legal views are two separate things, that it is somehow unfair to inquire into a nominee's personal views on the law when considering him for the Court.

Yet President Nixon and Mr. Rehnquist have both said a nominee's views—his judicial philoshophy—should be part of an inquiry into his fitness for the highest judicial appointment in the land.

When President Nixon announced the Rehnquist nomination on October 21, he said judicial philosophy was one of the major considerations governing his choice. And Mr. Rehnquist, in a Harvard Law Review article he wrote in 1959, urged that the Senate restore "its practice of thoroughly informing itself on the judicial philosophy of a Supreme Court nominee before voting to confirm him . . ."

We agree with Mr. Nixon and Mr. Rehnquist. For us, the crucial question is this: To what extent would Mr. Rehnquist's philosophy of the law hinder him in trying to meet President Nixon's high criterion—that a Supreme Court Justice's "sole obligation is to the Constitution and to the American people"?

I—THE REHNQUIST RECORD ON CIVIL RIGHTS

Mr. Nixon's statement admits no exceptions. So it is fair to ask if Mr. Rehnquist is prepared to assume an obligation to all of the American people and not just to some of them.

What gives that question particular point are the first substantial public expressions of his views on civil rights when he was a lawyer in Phoenix during the 1960s.

PEOPLE AND PRIVATE PROPERTY

In 1964, Phoenix was about to pass a public accommodations law, a local ordinance requiring stores, restaurants and other places of public accommodation to serve all members of the public without regard to race, color, religion or national origin.

It was June 15, about five months after the U.S. House of Representatives had passed, by overwhelming vote, a civil rights law with a public accommodations section similar to the one Phoenix was considering; it was five days after two-thirds of the members of the U.S. Senate had broken a filibuster and signified their readiness to adopt the same provision. Yet William Rehnquist went before the city council to argue against the local ordinance.

He spoke, he said, only for himself; and indeed he was virtually alone in his opposition. Even Senator Barry Goldwater was in favor of the local law.

But Mr. Rehnquist called it "an assault on the institution [of private property]." The council went on to pass the ordinance unanimously. Still dissatisfied, Mr. Rehnquist wrote to the local paper. The ordinance, he said, in a letter to the Arizona Republic, "summarily does away with the historic right of the owner of a drug store, lunch counter or theater to choose his own customers.

"By a wave of the legislative wand, hitherto private businesses are made public facilities, which are open to all persons regardless of the owner's wishes."

He questioned "whether the freedom of the property owner ought to be sacrificed in order to give these minorities a chance to have access to integrated eating places . . ." In his view, it placed "a separate indignity" on the proprietor in order to correct the "indignity" society had placed upon "the Negro."

He wrote, "it is, I believe, impossible to justify the sacrifice of even a portion of our historic individual freedom for a purpose such as this."

Asked at the Senate Judiciary Committee hearing on his nomination on November 3, if he still felt that way, Mr. Rehnquist replied, "I think probably not. The ordinance really worked well in Phoenix.

"It was readily accepted and I think I have come to realize since, more than I did at the time, the strong concern that minorities have for the recognition of these rights." Since that "time" was in the wake of the Montgomery bus boycott, the Freedom Rides, the protests and mass jailings in Birmingham, the March on Washington and the demonstrated readiness of thousands of Negroes to die for equality, one wonders what more was needed to make Mr. Rehnquist aware of a "strong concern."

PEOPLE AND SCHOOLS

In 1967, when Phoenix School Superintendent Seymour sought to desegregate the city's schools, saying "we are and must be concerned with achieving an integrated society," Mr. Rehnquist wrote again to the local paper taking issue with that statement. "We are no more dedicated to an 'integrated' society than we are to a 'segregated' society," he said.

Those seeking to end segregated schools, he thought, "assert a claim for special privileges for this minority, the members of which, in many cases, may not even want the privileges which the social theorists urge be extended to them."

It is hard not to hear an echo here of the old Dixiecrat argument that Negroes in the South would have been content with their lot were it not for "outside agitators." Thirteen years after the U.S. Supreme Court had declared racially segregated schools to be unconstitutional Mr. Rehnquist was still arguing for the right to keep school children separate by race.

PEOPLE AND THE POLLS

Mr. Rehnquist's views on voting rights were left in murky obscurity by the Senate Judiciary Committee. The Southwest Area Conference of the NAACP asserts he took part in a local campaign of "harassment and intimidation" to keep monorities from the polls.

Four citizens of Arizona have presented affidavits swearing that Rehnquest was a Republican challenger at the polls in 1964 and was "harassing unnecessarily several people at the polls . . . attempting to make them recite portions of the Constitution and refused to let them vote until they were able to comply with his request." They further assert that when one of them, a cripple, remonstrated with him, Mr. Rehnquist engaged in a physical struggle.

Although Mr. Rehnquist made a general denial in writing of being at the polls in 1964, his Senate supporters refused to allow him to be recalled and questioned about the details of the charges. Further, a fifth citizen of Arizona presented an affidavit that Mr. Rehnquist "planned and executed the strategy designed to reduce the number of poor black and poor Mexican American voters" and "trained young white lawyers and others to invade each black or predominantly black precinct in Phoenix on election day."

While Mr. Rehnquist again made a general denial in writing of this allegation, he admitted his chairmanship of the responsible committee which actually carried out these unconstitutional practices. Again, there was a refusal to recall Mr. Rehnquist and clarify the facts.

THE CARSWELL NOMINATION

When the Washington Post in 1970 opposed the nomination of G. Harrold Carswell to the Supreme Court, citing among its reasons an anti-civil rights record that included a speech in favor of white supremacy, serving as an incorporator of a Florida golf-course to keep it racially segregated, and harsh treatment of civil rights lawyers and plaintiffs who came into his court, as well as decision after decision against civil rights, Mr. Rehnquist came to Carswell's defense.

"Your editorial clearly implies," he wrote, "that to the extent the judge falls short of your civil rights standards he does so because of an anti-Negro, anti-civil rights animus, rather than because of a judicial philosophy which consistently applied would reach a conservative result . . ."

Judge Carswell's decisions in civil rights cases, he insisted, "are traceable to an overall constitutional conservatism, rather than to any animus directed only at civil rights cases or civil rights litigants." This identification with Carswell's anti-civil rights decisions is, perhaps, a portent of things to come from Mr. Rehnquist.

The nominee's expressed views on public accommodations laws and school desegregation, his relationship to incidents of voter harassment in Arizona, his identification with Judge Carswell make credible Arizona State Senator Cloves Campbell's assertion that in 1964 Mr. Rehnquist told him he "was opposed to all civil rights laws."

Certainly Mr. Rehnquist's denial should be tested before the Senate Judiciary Committee with Senator Campbell present.

II—THE REHNQUIST RECORD ON CIVIL LIBERTIES

If it is difficult to see any deep sense of obligation to all the American people in his record on civil rights, it is just as hard to discern any obligation to a strict construction of the Constitution and the Bill of Rights in his record on civil liberties.

Mr. Rehnquist observed the Supreme Court at first hand as a law clerk to Justice Robert Jackson in 1952 and 1953. He came away from that experience with an abiding hostility to the Warren Court and its interpretation of constitutional issues.

In an article written in 1957 for the U.S. News and World Report, he condemned the liberal point of view of the Court, which he said was characterized by "extreme solicitude for the claims of Communists and other criminal defendants."

He expounded that theme in greater detail in an article he wrote a year later for the Bar Association Journal observing in his opening sentence, "Communists, former Communists, and others of like political philosophy scored significant victories during the October, 1956 Term of the Supreme Court of the United States, culminating in the historic decisions of June 17, 1957."

Commenting on that sentence in an article in the New York Times (Nov. 22, 1971), William V. Shannon had this to say about the rulings Mr. Rehnquist saw as "significant victories" for Communists, "Those were landmark civil liberties decisions involving a loyalty-security firing in the State Department, the rights of witnesses before Congressional and state legislative committees and a free-speech case.

"Two of them were written by Justice Harlan, a distinguished conservative. Was Mr. Harlan 'soft on Communism'?" (It is ironic to note that Mr. Rehnquist is being nominated to fill Mr. Harlan's seat.)

Here is a further sampling of Mr. Rehnquist's views on major civil liberties issues:

ON GOVERNMENT SURVEILLANCE

Asked by Senator Sam Ervin (D., N.C.), "Does a serious constitutional question arise when a government agency places people under surveillance for exercising their First Amendment rights to speak and assemble?" Mr. Rehnquist said, "No."

ON FREEDOM OF SPEECH

Mr. Rehnquist does not see it as a right of federal workers. "The government as an employer has a legitimate and constitutionally recognized interest in limiting public criticism on the part of its employees even though that same government as sovereign, has no similar constitutionally valid claim to limit dissent on the part of its citizens."

ON DEMONSTRATORS

In a letter to the Washington Post (Feb. 14, 1970), Mr. Rehnquist railed against "further expansion of the constitutional rights of criminal defendants, or pornographers and of demonstrators," lumping all three together without discrimination.

And in a speech to the Newark Kiwanis Club he stated, "in the area of public law . . . disobedience cannot be tolerated, whether it be violent or nonviolent disobedience. If force is required to enforce the law, we must not shirk from its employment."

ON MAY DAY ARRESTS

In a speech to a state university in North Carolina, two days after the May Day demonstrations, Mr. Rehnquist defended the mass arrests of thousands of innocent persons as the exercise of "qualified martial law"—a most dangerous and repressive doctrine in the hands of the police.

Mr. Rehnquist denied using the phrase in connection with the May Day incidents. But, if he were not applying the term as he says, why did he use it in a speech about May Day and why did he let the press uniformly interpret it that way until after he was nominated to the Supreme Court?

ON RIGHTS OF ACCUSED

When Mr. Rehnquist reads the Constitution it is invariably to the disadvantage of the accused. He favors pre-trial detention, saying in defense of the D.C. Crime Law, that there is a "social need to detain those persons who pose a serious threat to the public safety. . . ."

He would like to modify the "exclusionary rule" which "now prevents the use against a criminal defendant of evidence which is found to have been obtained in violation of his constitutional rights."

He favors restricting the application of habeas corpus after trial and, referring to a decision by Justice Harlan earlier this year, sees arresting a man without proper warrant and without probable cause as no more than a technical violation of the Fourth Amendment.

All of this suggests a readiness on Mr. Rehnquist's part to tailor the Constitution to his views that hardly fits the usual notion of a strict constructionist.

III. GOVERNMENT VERSUS THE RIGHTS OF THE PEOPLE

In Mr. Rehnquist's view, big government knows best. On several occasions he has defended extreme use of governmental powers against citizens.

1. WIRETAPPING

He has defended governmental wiretapping under court order in criminal cases and without court order in national security cases. "Is the invasion of privacy entailed by wiretapping too high a price to pay for a successful method of attacking this and similar types of crime? I think not, given the safeguards which attend its use in the United States." But the only safeguard he mentions is the discretion of the government.

2. INVASION OF CAMBODIA

Mr. Rehnquist has defended Mr. Nixon's invasion of Cambodia last summer as a proper use of the President's authority as Commander-in-Chief. He maintained that under the Constitution the President can order the invasion of another country—even a neutral one—if he feels the invasion is necessary to protect American troops.

This plea for unlimited Presidential power is as dangerous as it is unprecedented. When he wrote the opinion overruling President Truman's seizure of the steel mills during the Korean War, Mr. Justice Jackson, whom Mr. Rehnquist once served as a law clerk, rejected the contention that under the commander-in-chief clause of the Constitution, the President has power to do "anything, anywhere that can be done with an army or navy." Yet Mr. Rehnquist, ironically, has in effect advanced that notion in his statements supporting the Cambodian invasion.

3. SUBVERSIVE ACTIVITIES CONTROL BOARD

The Board was almost defunct until Mr. Rehnquist took the lead in enlarging its powers, on the assumption that the government can give additional duties to any agency created by Congress without the express consent of Congress. Now the SACB can designate as subversive any offending organization of citizens.

IV—A LACK OF CANDOR

On several occasions during the Senate committee session in which he testified on his nomination, Mr. Rehnquist was less than candid in his responses.

1. Pressed to explain his views on certain civil liberties issues, he declined to do so, saying it would violate the attorney-client relationship with Attorney General John Mitchell and the President. Nineteen members of the Catholic University Law Faculty attacked this position in a letter to Senator James Eastland (D., Miss.), Chairman of the Senate Judiciary Committee.

They say, "no nominee may justify withholding from the Committee which must initially pass upon his qualifications and disposition for handling this political power 'in legal form' a frank expression of his political and legal philosophy. The attorney-client privilege is not the attorney's.

"It is for the protection of, and belongs to, the client. It is peculiarly inappropriate for a government attorney to invoke the privilege with respect to advice he has given to government servants (whether President, Attorney General or Deputy Marshal). His client is the people, and not the President. There is no such privilege, which any nominee was so bold as to claim before, against the Senate's right to know in fulfilling its responsibility to the same people."

2. Asked during the nomination hearings to say what he had done for civil rights, Mr. Rehnquist could think of only two things—he had represented some indigents during the time he practiced law in Phoenix and he had served on the Legal Aid Board there.

But attorneys know that when they are designated by the court to represent indigents they must accept the assignment; there is no voluntary choice involved. As for the Legal Aid Board, Mr. Rehnquist served on it by virtue of his being an ex officio member of the Legal Aid Society where he represented the Bar Association.

3. Mr. Rehnquist has failed to clarify his connections with Arizonians for America. Written interrogatories to Mr. Rehnquist invited a response to the *St. Louis Post Dispatch* article of November 17, 1971, detailing Mr. Rehnquist's connections with this right wing group.

No response was forthcoming beyond the denial of membership and a failure to recollect one meeting; but a denial of membership is not a denial of connections with or participation in an organization and the record demands clarification.

4. Asked about his role in the Administration's attempt to stop publication of the Pentagon Papers, Mr. Rehnquist claimed he played a restricted role. After his hearing, in response to written interrogatories from some members of the Senate Judiciary Committee, he revealed that he had called *The Washington Post* and asked them not to print the excerpts.

5. Asked about his role in opposing the desegregation of the Phoenix public schools in 1967, Mr. Rehnquist responded before the Senate Judiciary Committee with an attack on busing. But that was an evasion for the issue in Phoenix in 1967 was not busing, as a means to desegregate the schools, but rather desegregation as a desirable end.

It was on this specific issue that Mr. Rehnquist wrote "we are no more dedicated to an 'integrated' society than we are to a 'segregated' society." It was the goal of desegregation he opposed, not just one means (busing) to that end.

WHAT SORT OF JUSTICE WOULD MR. REHNQUIST MAKE?

On the basis of his views on civil rights and civil liberties, in the light of his championing of the broadest possible powers for the federal government it is difficult to believe that, as a member of the Court, his "sole obligation would be to the Constitution and to the American people."

William Shannon, in his New York Times article, offered this view of what might be expected:

"The Rehnquist record is not that of a true conservative. It is the record of an aggressive ideologue with combative impulses and strong commitment to a harsh, narrow doctrine concerning government and individual. It would be an ironic turn of events if this Goldwaterite doctrine so overwhelmingly rejected by the voters [in 1964] should be legitimized on the Supreme Court."

WASHINGTON, D.C.,
November 10, 1971.

Hon. BIRCH BAYH,
Committee on the Judiciary,
Washington, D.C.:

The National Legal Aid and Defender Association, by a vote of its 49th annual delegate assembly, held in Denver, Colorado, on November 6, 1971, opposed the nomination of William Rehnquist to the United States Supreme Court. The assembly passed the following resolution:

"Whereas, William Rehnquist has not exhibited an understanding of and dedication to the Bill of Rights of the United States Constitution, and the implications that flow therefrom,

Be it resolved that—

1. The National Legal Aid and Defender Association officially opposes the appointment of William Rehnquist as an associate justice of the United States Supreme Court, and

2. That the staff of the association be directed to send telegrams as quickly as possible to all members of the Senate Judiciary Committee notifying that committee of the NLADA position."

NLADA urges the Senate judiciary committee to oppose Mr. Rehnquist's nomination because of positions taken by the nominee on numerous issues of vital concern to all of our citizens, poor and non-poor alike. Our clients are black, white, yellow, red and brown and they are the poor of this nation. As their advocates, we must insist upon respect for their dignity, whether the issue in which they are involved be civil or criminal.

The nominees statements and views on pretrial detention, due process for defendants in criminal matters, habeas corpus, public accommodations, equal education opportunities, voting rights, first amendment freedoms and his political philosophy are indicative of a fundamental antagonism toward individual freedoms, civil rights and civil liberties.

NLADA, as the spokesman for thousands of legal assistance lawyers throughout the country, public defenders and poverty lawyers alike, calls upon each Senator to vote no on William Rehnquist's nomination.

FRANK JONES,
Executive Director,
National Legal Aid and Defender Assn.

WASHINGTON COUNCIL OF LAWYERS,
Washington, D.C., November 9, 1971.

Hon. JAMES EASTLAND,
U.S. Senate,
Washington, D.C.

DEAR SENATOR EASTLAND: Enclosed for your consideration is a letter expressing the views of the Washington Council of Lawyers with respect to the Senate's consideration of the nomination of William H. Rehnquist as an Associate Justice of the Supreme Court of the United States.

Respectfully yours,
RUSSELL B. STEVENSON,
Interim Chairman.

WASHINGTON COUNCIL OF LAWYERS,
Washington, D.C., November 9, 1971.

DEAR MR. CHAIRMAN: This letter is submitted on behalf of the Washington Council of Lawyers and concerns President Nixon's nomination of William H. Rehnquist to the Supreme Court of the United States.

The Washington Council of Lawyers is a growing organization which consists of approximately three hundred and fifty government and private attorneys in the Nation's Capital who are actively involved in and concerned with the practice of law in Washington and throughout the Nation.

Because the Supreme Court exercises a commanding influence in shaping the substance and procedure of law and law practice, the Council is committed to the view that those who sit on that Court reflect the highest qualities of professional competence, dignity and sensitivity to the ways in which the law is implemented. Accordingly, the Council wishes to share its views on William H. Rehnquist with the Senate Judiciary Committee. It is our belief that these views reflect the opinions of a significant and growing segment within the legal profession and will thereby assist the Committee and the entire Senate in the performance of their constitutional duty to advise and, if appropriate, to consent to the President's nominations for the Supreme Court. It is, therefore, respectfully requested that this letter be included within and made a permanent part of the Committee's records of its hearings on the nomination of Mr. Rehnquist.

After a careful review of Mr. Rehnquist's record, both as a practicing lawyer for almost twenty years and as a government official for almost three years, the Council has concluded that it must oppose the confirmation of Mr. Rehnquist as an Associate Justice of the Supreme Court of the United States.

The Council does not base its opposition to Mr. Rehnquist on professional incompetence or on any ethical questions raised by his public behavior.

Instead, the Council opposes Mr. Rehnquist because of his apparently deep-seated and consistent insensitivity to the individual citizen's constitutional rights, particularly those rights embodied in the Bill of Rights and the Fourteenth Amendment. As will be detailed below, at almost every opportunity Mr. Rehnquist has supported limitations, many of them severe, on individual rights secured by the Constitution to the people of the United States. His arguments reflect an apparent desire to attenuate the individual's constitutional safeguards against governmental action. It is our view that Mr. Rehnquist's position would undermine the individual's constitutional rights in most practical applications. The Council believes, in fact, that Mr. Rehnquist's views might, in time, threaten the very purposes which inspired the adoption of the Bill of Rights and the Fourteenth Amendment.

A careful examination of Mr. Rehnquist's record casts grave doubts on the opinion expressed by the President (and popularized by the news media) that Mr. Rehnquist's legal philosophy represents a "strict-constructionist" approach in interpreting constitutional commands.[1] In the Council's opinion, his legal views approach a radical hostility to the preservation of fragile individual liberties. Far from adhering "strictly" to constitutional limitations on government action, as those limitations were understood when the Bill of Rights and the Fourteenth Amendment were adopted, Mr. Rehnquist has consistently stood for dilution of their impact. The Council therefore believes that Mr. Rehnquist's views are hostile to the preservation of these limitations they were initially conceived and that such hostility from the Supreme Bench would be particularly harmful at a time when the government penetrates and regulates a significant part of the individual citizen's daily life, when the potential for abuse of governmental powers is so high because of technological advances, and when the individual can look only to the Judicial Branch for vindication of rights whose exercise may frequently offend a majority of his countrymen.

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[1] In fact, in a statement before the Arizona Judicial Conference, Mr. Rehnquist expressed a directly contrary view:

The Council agrees with the views recently expressed by Senator Javits[2] and believes that Mr. Rehnquist's hostility to basic constitutional guaranties to the individual is a proper area of inquiry for the Senate and a proper basis for rejecting his nomination to the Supreme Court. This is more than a question of Mr. Rehnquist's having adopted a legal philosophy which conflicts with that of the Council. It is, rather, a question of whether the Court will continue effectively to fulfill its historic role in American life. The Court is charged with ultimate responsibility to protect and serve the subtle but indispensable values of justice, liberty and equality before the law. Mr. Rehnquist's public record suggests that his appointment will impede the Court's ability to perform that function. The Council therefore respectfully requests that the Senate Judiciary Committee recommend that the Senate not consent to the nomination of Mr. Rehnquist to the Supreme Court of the United States.

The Council respectfully directs the Committee's attention to the attached outline of statements by Mr. Rehnquist which, in substantial part, compel the Council to oppose his confirmation. All the information considered by the Council is contained in public records which are available for inspection should the Senate wish to pursue further any point of inquiry raised herein.

Respectfully submitted,
WASHINGTON COUNCIL OF LAWYERS.

APPENDIX

In support of its views, the Council cites the following positions taken by Mr. Rehnquist:

CIVIL RIGHTS

1. In 1964, Mr. Rehnquist opposed the adoption by the Phoenix City Council of a public accommodations ordinance, saying:

"It is as barren of accomplishment in what it gives to the Negro as in what it takes from the proprietor." Letter to the Editor, The Arizona *Republic*, at 6 (June 21, 1964).

2. In 1967, Mr. Rehnquist opposed an integration plan for Phoenix high schools, saying:

". . . we are no more dedicated to an 'integrated' society, than we are to a 'segregated' society." Arizona *Republic*, at 7, col. 1 (Sept. 9, 1967).

GOVERNMENT SURVEILLANCE OF PRIVATE CITIZENS

In 1971, Mr. Rehnquist recommended deemphasis of Constitutional safeguards against governmental electronic snooping, saying:

"I think it quite likely that self-discipline on the part of the Executive Branch will provide an answer to virtually all of the legitimate complaints against excesses of information gathering." Statement of Mr. Rehnquist before the Subcommittee on Constitutional Rights, Committee on the Judiciary, United States Senate, 92d Cong., 1st Sess. (March 9, 1971).

CRIMINAL LAW

1. In 1971, Mr. Rehnquist expressed the following views before the Subcommittee on Constitutional Rights, Senate Judiciary Committee, 92d Cong., 2d Sess.

(a) He supported abandonment of the exclusionary rule for unconstitutionally-gathered evidence. *Id.* at 7.

(b) He supported abandonment of the rule requiring uniformity of jury verdicts in the Federal courts. *Id.* at 7–8.

(c) He supported restrictions on the availability of *habeas corpus* in cases where a criminal conviction had been obtained on an allegedly unconstitutional basis. *Id.* at 12.

(d) He deplored appellate reversals of criminal convictions "merely" on the basis that a warrant was obtained in violation of the Bill of Rights. *Id.* at 19, 23.

2. In 1971, during the course of his remarks at the American Bar Association Convention in London, Mr. Rehnquist opposed strict construction of the "probable cause" requirement for commencement of governmental investigations, saying

"Quite the contrary, probable cause—for an arrest or specific search—is hopefully to be found at the *conclusion* of an investigation and ought not to be required as a justification for its *commencement.*" *Id.* at 12.

He went on to express the view that protection from governmental abuses should be found in the electoral process rather than in the Bill of Rights. *Id.* at 14.

PRESIDENTIAL WAR-MAKING POWERS

In 1970, before the Subcommittee on National Security Policy and Scientific Development of the House Committee on Foreign Affairs, 91st Cong., 2d Sess. (July 1, 1971), Mr. Rehnquist took the following positions:

(a) He opposed "hard and fast" rules to limit Presidential war-making powers. *Id.* at 5.

(b) He relied upon past exertions of independent Presidential war-making power to justify expansion of that power beyond that intended by the Constitution. *Id.* at 7–8.

(c) With respect to this issue, he regarded the Constitution as "flexible" enough to allow Presidential initiative even in the face of contrary Constitutional indications. *Id.* at 13.

CHICAGO COUNCIL OF LAWYERS,
Chicago, Ill., November 24, 1971.

Hon. BIRCH BAYH,
Senate Office Building,
Washington, D.C.

DEAR SENATOR BAYH: Herewith enclosed is a copy of a telegram which the Chicago Council of Lawyers sent today to Senators Percy and Stevenson expressing the Council's opposition to the nomination of William Rehnquist to the United States Supreme Court.

Very truly yours,
ROBERT W. BENNETT.

OPPOSITION TO NOMINATION OF WILLIAM REHNQUIST

The Chicago Council of Lawyers opposes the nomination of William Rehnquist as Associate Justice of the United States Supreme Court.

His record to date does not reflect that dedication to constitutional liberties, to minority rights, and to progressive social change this nation has the right to expect from members of its highest court.

It is with reluctance that we oppose a Supreme Court nominee in part because of his expressed political and social views. As a matter of policy the Council believes that Supreme Court nominees should not be selected or rejected on such grounds provided that the nominee has shown a decent respect for the law and the constitution. We abandon that usual stance here because the President in making his appointments has forsaken it. It is President Nixon who has consistently and openly announced that his nominees were to be selected because of a certain political and social philosophy.

Aided by a quirk of fate which has given him four nominations in less than three years, President Nixon has ignored the precedent of his predecessors of both parties who have nominated men of obvious qualifications and divergent philosophies. Rather he has relentlessly pursued a particular point of view, ignoring qualifications except when forced by the senate or the weight of public indignation. With the nomination of Mr. Rehnquist, we believe the time has come when the senate must cry halt.

In Mr. Rehnquist, the President has found a man who can be counted on as a "hard-liner" on crime, a proponent of over-enhanced governmental and particularly executive power over the individual, and an opponent of any use of the courts as an instrument of responsible social change.

When a particular nominee's public statements demonstrate his embrace of views that pose such grave challenges to traditional American values embodied in the Bill of Rights, the Council feels obligated to state its opposition. Mr. Rehnquist has said the judicial philosophy he prefers is one "which consistently applied would reach a conservative result" (1959 and 1970), N.Y. Times 11/3/71, p. 27; that restoration of the Warren Court's liberal majority would "have the result of . . . further expansion of the constitutional rights of criminal defendants, or pornographers and of demonstrators" (letter to the *Washington Post*, 1970); that a proposed Phoenix, Arizona, open accommodations ordinance, by depriving businessmen of the right to discriminate, would result in giving up "a measure of our traditional freedom," *Washington Post,* 1970 (retracted, at least in part, before the Judiciary Committee, N.Y. Times 11/4/71, p. 66); that courts should have no role in protecting the individual from government surveillance, N.Y. Times 11/3/71, p. 27; and that "qualified martial law" existed at the time of the Mayday mass arrests in Washington this year, N.Y. Times 11/3/71, p. 27.

Whatever sort of justice Mr. Rehnquist might be, he is unlikely to be the "judicial conservative" Mr. Nixon claims to want—at least as that term has been used to describe men such as Justices Frankfurter and Harlan.

Before the Judiciary Committee, he has been reported as saying that *stare decisis* has less weight where decisions are of recent origin, decided by close votes and not approved in subsequent rulings. N.Y. Times 11/4/71, p. 66. Justice Harlan is probably shuddering at such views.

The Council recognizes that Mr. Rehnquist's career at the bar is not without intellectual competence. Should his nomination be approved, as expected, it is to be hoped his judgments would be free of the unfortunate prejudices he has evidenced thus far.

The fact that such a hope need be articulated is reason enough to oppose the nomination.

ROBERT W. BENNETT,
President,
Chicago Council of Lawyers.

STATEMENT OF NATIONAL CATHOLIC CONFERENCE FOR INTERRACIAL JUSTICE

The board of directors of the National Catholic Conference for Interracial Justice has condemned the Supreme Court nomination of William Rehnquist.

Walter Hubbard, Seattle, Chairman of the Board said, "we believe that a man who open-

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"The constitutional language is sufficiently broad to permit a latitude of judicial interpretation to meet the circumstances and needs of our society at any given time." Arizona Judicial Conference, Tempe, Arizona, at 7 (Dec. 4, 1970).

[2] 117 Cong. Rec. S16601, S16602 (daily ed., Oct. 20, 1971).

ly states that he did not realize that minority Americans feel strongly about having equal access to public accommodations, is not qualified to represent these Americans on our highest Court."

Walter Hubbard stated that in the judgement of his board, "William Rehnquist fails to meet one of the most essential qualifications for a Supreme Court justice. "This qualification," said Hubbard is that "a Supreme Court justice should hold in highest priority, the human rights of all Americans, since any or all of them may be affected for decades by the decisions handed down from the Supreme Court of the American people."

"William Rehnquist," said Hubbard "utterly fails to meet this most essential qualification."

The National Catholic Conference for Interracial Justice is a lay body formed a decade ago to work nationally for racial and social justice through local Catholic Interracial Councils and diocesan Human Relations organizations as well as through national programs operated out of the Chicago headquarters.

STATEMENT ON THE NOMINATION OF WILLIAM H. REHNQUIST TO THE SUPREME COURT OF THE UNITED STATES

(Prepared by Walter T. Hubbard, Sr., Chairman for the Board of Directors of the National Catholic Conference for Interracial Justice.)

The Board of Directors of the National Catholic Conference for Interracial Justice hereby expresses its grave concern over possible confirmation of William H. Rehnquist to the Supreme Court of the United States of America. The Board believes that three qualifications are essential for a nominee to represent the people of the United States at the summit of justice and judicial power in our nation. These qualifications are as follows:

1. the nominee should not be only technically competent both as to legal background and judicial temperment, but also should have demonstrated an excellence and a brilliance which would qualify her or him to serve on the nation's highest court.
2. the nominee should have a balanced judicial philosophy which would not innately bias him or her in favor of any particular ideology, group or segment in American society.
3. the nominee should hold in highest priority the human rights of all Americans, since any or all of them may be affected for decades by the decisions handed down from the Supreme Court to the American people.

The Board of Directors of the National Catholic Conference for Interracial Justice will not now speak to the first qualifications listed above. However, we do seriously question his ability to meet the third qualification.

We believe strongly that a man who openly states that he did not realize that minority Americans feel strongly about having equal access to public accommodations, is not qualified to represent these Americans on our nation's highest court.

To insure the legal rights of minority Americans requires a Supreme Court Justice to recognize and protect the rights of all Americans; their hopes, their wants, their needs, their capacity to suffer and their desire for equal justice under the law. It is our conviction that Mr. Rehnquist has not demonstrated a capacity of dealing with these human issues.

In accordance with the recent statements of the American Catholic bishops and the recommendations of the just concluded World Synod of Roman Catholic bishops on World Justice and Peace, the Board of Directors of the National Catholic Conference for Interracial Justice calls on all Americans, particularly Roman Catholics, to oppose vigorously the nomination of William H. Rehnquist to the Supreme Court.

Mr. FANNIN. Mr. President, on behalf of the distinguished senior Senator from Utah (Mr. BENNETT), who is absent because of illness, I ask unanimous consent to have printed in the RECORD a statement by him on the qualifications of William Rehnquist to be an Associate Justice of the Supreme Court of the United States.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR BENNETT

In considering the nomination of William Rehnquist to the Supreme Court the Senate is confronted by a very basic question. The question appears to be one of whether or not the Senate is called upon to judge the philosophy of a nominee before he can be confirmed. There is no question about the legal qualifications of William Rehnquist. His academic record at Stanford Law School provided an excellent preview of the high degree of skill and expertise he would later demonstrate in his practice of law. His being number one in his class also indicates that his ability was recognized by his instructors. Associate Justice of the Supreme Court Jackson also recognized the abilities of William Rehnquist and selected him to serve as a clerk in his Supreme Court office. This experience served as excellent training and background for the work Rehnquist was later to engage in at the Department of Justice. When President Nixon called William Rehnquist "The President's Lawyer," he was clearly expressing to the American people his recognition of the talented legal work done by Mr. Rehnquist.

Obviously, the legal record compiled by the nominee reflects the high level of legal competence which should be expected of men who sit on the Supreme Court. So there can be no question about Mr. Rehnquist's legal qualifications.

What then appears to be the major source of controversy concerning this nomination? We are all well aware of the answer to that question. William Rehnquist has been attacked since his nomination not for his legal qualifications, because they are impeccable, but rather because his philosophy differs from that of some members of this body. Civil Rights leaders paraded before the Senate Judiciary Committee attempting to discredit William Rehnquist because he had not followed their particular philosophy. While I would never question the right of these organizations to oppose any nomination, I think it is significant to note that not once were they able to produce any evidence which would provide any justification for not confirming William Rehnquist. As far as I have been able to determine William Rehnquist has never knowingly done anything that would violate the Constitutional rights granted to individuals.

Mr. President, I believe it has been shown on numerous occasions that William Rehnquist is legally qualified to serve on the Supreme Court. I do not believe it is the role of the Senate to pass on the judicial philosophy of nominees as long as they meet the high standards of the Supreme Court. For this reason I believe that President Nixon has selected an outstanding man for the Supreme Court, and I urge that William Rehnquist's nomination be confirmed by the Senate without further delay.

Mr. HRUSKA. Mr. President, a desperate and unfair game is being played in this Chamber by some of my colleagues with regard to the nomination of William Rehnquist. One of our morning newspapers headlines this morning "Controversy Deepens Over Rehnquist Memo." This Senator respectfully submits that the "controversy" exists only in the minds of those who have no solid evidence to oppose confirmation of this nomination. A close examination of the facts—an endeavor too little present during this debate—will put this matter into perspective.

First, Mr. President, a national magazine published a story in its edition this week stating that Mr. Rehnquist in 1952 wrote a memo to Mr. Justice Jackson arguing that in the school desegregation cases the 1896 doctrine of "separate but equal" stated in Plessy against Ferguson should be upheld. No attempt was made by anyone to contact Mr. Rehnquist to verify these facts before the publication was made.

Second, as soon as the news magazine was distributed and continuing throughout Monday, Tuesday, and Wednesday morning numerous Members of this body and the press corps repeatedly asked Mr. Rehnquist to make a statement concerning the memo. On this floor the Senator from Indiana said the memorandum was "shocking" and that the nominee in the memo "stated his personal opinion that Plessy against Ferguson was rightly decided and should be reaffirmed." He also added that "I would think that the Senate would be up in arms" over the memo.

Third, in response to these untrue and unfounded statements and in response to the repeated requests from the press, Mr. Rehnquist on Wednesday sent a letter to the chairman of the Committee on the Judiciary explaining the circumstances surrounding the writing of the memo. This letter and subsequent communications from his fellow law clerk, Donald Cronson, clearly prove that the memo was not a statement of Mr. Rehnquist's views on the school desegregation cases, but rather a working paper prepared for the Justice at his special direction. Let me quote from Rehnquist's letter, "He" and here Rehnquist is referring to Justice Jackson, "expressed concern that the conference should have the benefit of all of the arguments in support of the "separate but equal" doctrine, as well as those against its constitutionality." Cronson has indicated that he and Rehnquist had previously prepared a memorandum to the Justice indicating the legal arguments in favor of overruling Plessy against Ferguson. I ask in this connection that an article in today's New York Times be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Dec. 10, 1971]

EX-COLLEAGUE SAYS REHNQUIST OPPOSED SEGREGATION

(By Anthony Lewis)

LONDON.—A former colleague of William H. Rehnquist said tonight that in 1952 Mr. Rehnquist was personally opposed to the legal doctrine of racial segregation.

Donald Cronson, who in 1952 was a law clerk to Supreme Court Justice Robert H. Jackson, along with Mr. Rehnquist, spoke out in the controversy over Mr. Rehnquist's nomination to the Supreme Court.

The latest phase of that controversy has turned on a memorandum bearing Mr. Rehnquist's initials, directed to Justice Jackson, concluding that the doctrine of segregation laid down by the Supreme Court in 1896 should be reaffirmed.

"Both of us," Mr. Cronson said, "personally thought at the time that the 1896 decision, Plessy v. Ferguson, was wrong. We first wrote a memorandum to that effect.

"It is 20 years ago, but I think I still have a copy of that memorandum. Then, afterwards, I think Justice Jackson asked us to prepare a second making the other argument.

"I had a desk right next to Bill's. My guess is that I physically prepared the first memorandum and he the second, but we worked together on both. In what I have read about the second I can recognize some of my purple prose. It was just part of the job."

INTERVIEWED BY PHONE

Earlier today, Mr. Cronson, an oil company executive in Europe, sent a cable to Mr. Rehnquist from London about his recollections. He then left for his home in Gstaad, Switzerland, and he was interviewed there by telephone.

"To this day," Mr. Cronson said, "I am not exactly sure what Justice Jackson's views were—and if I were, I would not say. I think this whole business is completely improper. Such memoranda from law clerks to a Supreme Court Justice should never be published."

The Supreme Court considered the school segregation issue in 1952 and 1953 before finally deciding unanimously on May 17, 1954, to overrule the Plessy case and declared racial segregation unconstitutional. Justice Jackson was part of that unanimous Court.

Mr. HRUSKA. Mr. President, I feel I would be derelict in my responsibilities as a Senator if I did not attempt to obtain the arguments on both sides of issues that come before us. Unless one does know both sides to the questions under consideration by the Senate, I feel he cannot vote in an intelligent manner. In all memorandums from my staff I ask that both sides of the issues be presented. I would hope that the same standard would prevail in the offices of my colleagues.

So should the same hold true on the Supreme Court. The President appoints and the Senate confirms only men whom we believe will be fair—and by that term we mean individuals who will listen to both sides of the argument presented to them. It was in pursuit of this goal that Justice Jackson asked to have these memos written. If fairness were the standard being used by the opponents of this nomination all of the memos written to the Justice on this issue would have been published rather than a selected one. Or better yet, none at all. There is no pretense that either memo represented Justice Jackson's views. But he requested both. He spoke for himself in the opinion proper.

This entire incident affirms my feeling that no internal memorandums should be published for they can present only a partial and often very misleading picture of the facts. This is the view Don Cronson holds. It should be noted it was also the view of the late Justice Black, who directed that his memorandums be burned upon his decease. And Mr. Donald Cronson, Mr. Rehnquist's companion law clerk to Justice Jackson, stated:

> I think this whole business is improper. Such memoranda from law clerks to a Supreme Court should never be published.

See New York Times article by Anthony Lewis, today's edition.

Fourth, Mr. President, now that Mr. Rehnquist has been forced to reply to the untrue statements made in this body, he is criticized for doing so.

In response to a question from the Senator from Rhode Island (Mr. PASTORE), the Senator from Indiana indicated that he did not believe the statements made in the letter. He further stated:

> I think it is fair to ask: Why do we go through Monday, Tuesday, and almost through Wednesday before we received an explanation, an explanation which I think, if anyone would read it carefully, raises questions in my mind. I am dubious about its veracity.

Would the Senator have believed the letter had he received it on Monday? I doubt it since the effect of the letter has been to knock down another of the strawmen raised by the opponents of this nomination. And why, if the nominee was not earnestly trying to reconstruct events of 19 years ago, would he had waited 3 days to reply?

Finally, Mr. Rehnquist has been criticized for discussing his relationship with Mr. Justice Jackson in this letter. Parenthetically, let me say that Mr. Rehnquist is very sensitive to the privacy of his relationship with the Justice as he indicated in his article in U.S. News & World Report in 1957. It must have been very painful for him to have to pierce that veil, even to a very limited extent, to defend himself against the untruths hurled at him from this body. This rightness of his decision and his recollection of the facts has now been testified to by his fellow law clerk, Donald Cronson.

Mr. Justice Jackson needs no defending in this forum. His record as a great Justice and a great defender of civil rights and civil liberties is well known. Mr. Rehnquist's letter only reveals again how careful he was to arm himself with the facts on both sides of an argument before going into conference with his fellow Justices. Mr. Justice Jackson's view as to the rightness of Plessy against Ferguson is clear for all to know. He joined his fellow Justices in unanimously striking down that precedent in 1954 when he cast his vote in Brown against Board of Education. That is the final outcome of all of this tempest; that is the law of the land which this nominee has indicated he supports for its "rightness from the standpoint of fundamental fairness."

Those, Mr. President, are the facts. They point without any detour to a case of gross misinterpretation of the record, the attitudes, the philosophy, and the motives of this nominee. Those who would oppose him, as they have a legitimate right to do, are clutching at the most flimsy pieces of nonevidence and hearsay to build a case. They have failed.

Mr. BELLMON. Mr. President, since the consideration of the Rehnquist appointment began, I have listened with interest to the statements made and read much of the testimony which has been offered. I can understand the misgivings certain members of the Senate have expressed regarding Mr. Rehnquist's political philosophy, but I am mystified to understand the basis for these feelings.

The junior Senator from Oklahoma is not a lawyer. I make no pretense of competing with my more learned colleagues in debating this appointment from the legal viewpoint. However, for the past several months I have had a close working, as well as social, relationship with Mr. Rehnquist. I wish to reassure the other Members, who may not have known him earlier. If I were selecting a lawyer to handle my own affairs, Mr. Rehnquist is one who I would be pleased to entrust with any matter of great concern to me. He seems to possess those desirable traits of intelligence, humility, objectivity, and fairness, that, in sum, amount to judicial temperament.

In reading the objections of the Rehnquist appointment, I have found many charges which simply do not square with the man, as I know him. In our dealings together, I have found Bill Rehnquist to be not only intelligent and well informed, but also, a sensitive, concerned, and compassionate individual. I am thoroughly convinced that, as a member of the highest court in the land, he will continue to display those desirable human qualities which a Justice of our highest court should have.

I have no doubt that Bill Rehnquist can and will view matters which come before him objectively. I feel he will ascertain the facts fully and make decisions based upon a mature and scholarly understanding of the Constitution. I believe his presence on the Supreme Court will add prestige and dignity to that body and that his decisions will advance the cause of justice, under law, in this country. I am proud to call him my friend and to cast my vote for his confirmation.

Mr. STEVENS. Mr. President, I rise in support of the nomination of Mr. William H. Rehnquist to the U.S. Supreme Court. It is my strong belief that Mr. Rehnquist has the intelligence, integrity, legal experience, understanding of the Constitution, and qualities of fairness and impartially which are so important in a nominee to the High Court. My respect for the Court and its vital role in our system of checks and balances would not permit me to vote for a person who does not possess these qualities.

Mr. Rehnquist's legal scholarship and experience are unassailable. After graduating first in his class from Stanford University Law School, where he was elected to the Order of the Coif and was a member of the board of editors of the Law Review, Mr. Rehnquist served as law clerk to Associate Justice Robert H. Jackson of the U.S. Supreme Court. Those who are familiar with our system of legal education and training know that an appointment to a Supreme Court clerkship is one of the most sought after positions available to a graduating law student. Moreover, Justice Jackson, for whom Mr. Rehnquist served from February 1952 until June 1953, is one of the most respected Justices in the history of the Court. I knew Bill Rehnquist personally during this period as I was a young lawyer here in Washington.

From the completion of his clerkship and until his appointment as Assistant Attorney General, Mr. Rehnquist engaged in private practice in Phoenix, Ariz. His outstanding legal ability and achievements are reflected in positions which he held during this period. Thus, he served as president and a member of the board of directors of the Maricopa County Bar Association in Phoenix, as chairman of the Arizona State Bar Continuing Legal Education Committee, as a member of the National Conference of Commissioners of Uniform State Laws, and on the Council of the Administrative Law Section of the American Bar Association.

During the Senate Judiciary Committee's consideration of the Rehnquist nomination, many strong endorsements of his legal scholarship were received. These expressions of support are well documented in the hearing record and committee report, and I will not dwell upon them now, except to mention two which I believe to be of special significance. First, the Honorable Lawrence E. Walsh, chairman of the American Bar Association's Standing Committee on Federal Judiciary, stated in a letter to the Judiciary Committee that:

> The Committee is unanimous in its view that he is qualified for appointment to the Supreme Court. A majority of nine is of the opinion that he is one of the best qualified available and thus meets high standards of professional competence, judicial temperament, and integrity.

Commenting on Mr. Rehnquist's legal abilities, Dean Phil C. Neal of the University of Chicago Law School wrote:

> Rehnquist was a student of mine at Stanford Law School. He was not only the top student in his class, but one of the best students in the school over a number of years.

I have abstracted certain information which is especially revalatory of Mr. Rehnquist's openmindedness and approach to constitutional issues. With respect to the first matter, I would like to quote again from a letter written to the committee by Dean Neal:

> I am confident he is a fair minded and objective man. Any suggestions of racism or prejudice are completely inconsistent with my recollection of him . . . I believe he would be an independent judge and that he would bring to the Court an unusual capacity for understanding and responding to all dimensions of the difficult problems the Supreme Court must confront. In my judgment, his appointment would add great strength to the Court.

In the same vein, U.S. District Judge Walter Craig, former president of the American Bar Association, testified before the committee as follows:

> I believe this man has a humanity about him and a human warmth that would make him, if anything, more sensitive to the needs of people (and the necessity) of improving their life and their society.

Mr. Rehnquist's regard for individual freedom and the Bill of Rights is best summarized in his own words:

> I think specifically the Bill of Rights was designed to prevent . . . a majority, perhaps an ephemeral majority, from restricting or unduly impinging on the rights of unpopular minorities.

Regarding the procedural protections in the Bill of Rights, he observed last August:

> These procedural guarantees of individual liberty would be regarded by most people as every bit as important to our kind of society as representative institutions are thought to be.

Not only does Mr. Rehnquist recognize the importance of individual rights, he has a keen understanding of the relationship of these rights to society as a whole. In view of the deep concern felt by many Americans that the Supreme Court has lost sight of the proper relationship between individual rights and a free society, I believe that his observations in this area are especially important. Thus, Mr. Rehnquist has stated:

> We all assume that under our philosophy of government, the individual is guaranteed the freedom of sanctity of his person—in short, the "right to be let alone." One aspect of freedom is, of course, freedom from unwarranted official detention or other intrusions on one's physical being. But another aspect of this notion is surely the right to be free from robberies, rapes and other assaults on the person by those not occupying an official position. A government which does not restrain itself from unwarranted official restraints on the persons of its citizens would be a menace to freedom; but a government which does not or cannot take reasonable steps to prevent felonious assaults on the persons of its citizens would be derelict in fulfilling one of the fundamental purposes of which governments are instituted among men. A society as a whole has a right, indeed a duty, to protect all individuals from criminal invasions of the person.

In my opinion, this statement and many others which Mr. Rehnquist has made evidence a responsible approach to the Bill of Rights, which was designed by the Founding Fathers to insure the protection of individual rights within the context of a larger and ever changing society, and is worthy of a nominee to the Supreme Court.

Moreover, I am convinced that Mr. Rehnquist has an understanding and awareness of the needs and aspirations of minority groups. Thus, he stated during the hearings that he has come to realize "the strong concern that minorities have for the recognition of these (civil) rights." In answer to a specific question posed by the Judiciary Committee, he said that he had come "to appreciate the importance of the legal recognition of rights such as this without regard to whether or not that recognition results in a substantial change in customs or practice."

Mr. President, I have known Mr. Rehnquist for many years. During this time, I have been impressed with his character, human warmth, and legal scholarship. As a lawyer, I am fully cognizant of the importance of the Supreme Court in our democratic form of Government and believe that Mr. Rehnquist is eminently qualified to fill the position of Associate Justice and to make an important contribution to the tradition of judicial excellence which has characterized the efforts of many Justices who have served before him.

The PRESIDING OFFICER. Who yields time?

Mr. BAYH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

ORDER OF BUSINESS

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. TAFT). Without objection, it is so ordered.

Mr. JAVITS. Mr. President, with the permission of the distinguished minority leader, I ask unanimous consent, as in legislative session, that I may proceed for 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. JAVITS when he introduced S. 2987 are printed in the morning business section of the RECORD under Statements on Introduced Bills and Joint Resolutions.)

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Berry, one of its reading clerks, announced that the House had agreed to the amendments of the Senate to the bill (H.R. 3749) for the relief of Richard C. Walker.

The message also announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 11341) to provide additional revenue for the District of Columbia, and for other purposes.

NOMINATION OF WILLIAM H. REHNQUIST

The Senate continued with the consideration of the nomination of William H. Rehnquist to be Associate Justice of the Supreme Court of the United States.

Mr. GOLDWATER. Mr. President, in agreeing unanimously to reach a vote this afternoon at 5 on the nomination of William Rehnquist, the Senate has taken a step of fairness toward the nominee which I, for one, believe has been lacking in much of the debate by the opponents of Mr. Rehnquist up to now. In these closing moments of the debate, I think it is important for each of us to reflect on how the character and nature of the discussion we conduct might affect the personal feelings of the individual who is the subject of our examination. We should pause to consider whether the words and charges which we use on the Senate floor and with the press can unfairly damage the reputation of another honorable human being and cause cruel effects on the lives of the individual and his family and friends.

Mr. President, I have stated on the Senate floor on one occasion already during the current debate my opinion that a part of the discussion had exceeded the bounds of reasonable debate. We have witnessed the critics of Mr. Rehnquist nitpicking at his every utterance at the recent hearing by the Judiciary Committee, and distorting and taking out of context some past statements he has made on issues involving human rights. He has been even attacked for holding a view of callous disregard for minority rights because of a memorandum he prepared at the direction of the Justice for whom he was a law clerk. But anyone who knows anything at all about the law knows that a lawyer, and particularly a Justice of the Supreme Court, has to brief himself on both sides of whatever legal question it is he is then considering. I am told one of the first things that any law student is taught upon entering law school is to always prepare himself on all sides of the legal issue he is confronting so that he will not be surprised or unprepared in any case he may later be handling. Of course, this is exactly what Justice Jackson appears to have been trying to do; but, nevertheless, we find the opponents of Mr. Rehnquist automatically jumping to the conclusion that any paper he might have written for Justice Jackson as a law clerk represents his own personal views:

Then, too, we have seen the judgment made by a few Senators who tell us that everything Mr. Rehnquist stated or wrote as an employee of the executive branch necessarily represents his own individual position on each and every one of these matters. His critics seek to break through the usual and honorable attorney-client relationship and demand that he give his personal opinion of every argument he has made while testifying before Congress relative to the position of the executive branch on legislative proposals before us or while he was preparing legal briefs offered in court on certain issues involving the Justice Department or the executive branch.

Even though Mr. Rehnquist has never said one way or the other whether any of his declarations as an employee of the Department of Justice represent his personal views, and indeed has stated it would be improper for him to do so, his testimony and writings as a Government official are deemed by his opponents to be his own beliefs in every instance. One Senator, for example, who takes this position accuses the nominee of holding a very expansive view of the powers of the President in the field of foreign relations and the making of war. And yet this same Senator, at a time when a President of his party was in office, complained that the U.S. Constitution had become outmoded and was imposing unnecessary restrictions on the Nation's Chief Executive. I can understand why this Senator today might be sensitive to interpretations of the relative powers of the President and Congress in view of the apparent change of views on his own part, but I cannot understand how one can fairly decide to vote against a nominee because that nominee has, as an advocate for his employer, taken the same position that one himself has taken in the recent past.

Nor can I understand the refusal of Senators to accept or even to read the words of the nominee in the hearings record which rebut and completely answer the false accusations being thrown up about him. One Senator stated that "a very critically important point" affecting his judgment on this nomination is the nominee's alleged role in the arrest and prosecution of May Day demonstrators this year and his defense of the Government's actions on the grounds of qualified martial law. Again, Mr. President, I am not surprised that some Senators might be disturbed at the newspaper reports discussing what the nominee is supposed to have said about the May Day incident. However, all these reports of Mr. Rehnquist's position have now been exposed as being utterly and completely untrue.

During the recent testimony of the nominee at the hearings before the Judiciary Committee, he unequivocally denied that he had ever announced a position that it was proper to use the doctrine of qualified martial law on May Day. Mr. Rehnquist told the committee that, in the only speech he had given on this subject, he had made it quite clear that this doctrine had not been invoked in Washington and that it would not have been justified had it been imposed. The actual text of Mr. Rehnquist's public address on the May Day situation verifies this. Thus, it is open on the public record that what Mr. Rehnquist actually said was that neither "martial law" nor "qualified martial law" was used on May Day and it would have been wrong to use it. Even so, one Senator has stood on the floor to say that his vote against the nominee will be based in significant part on Mr. Rehnquist's defense of the Government's action on the doctrine of martial law.

Furthermore, Mr. Rehnquist has made it absolutely clear that he had no role at all in the arrest procedures. In fact, at the hearing it was admitted and recognized by both the nominee and by one of the Senators questioning him, the Senator from Massachusetts (Mr. KENNEDY), that the decision to abandon field arrest forms was a decision taken in the field by the Metropolitan Police and was one with which the Justice Department did not have any involvement at all.

Also, Mr. President, I have previously deplored the unfair challenges the opponents of Mr. Rehnquist have made against early views he is alleged to have expressed in the field of public accommodations and school integration. I have explained in detail how Mr. Rehnquist's views have been grossly distorted and how he has currently announced his strong attachment and personal commitment to the protection of individual liberties and equal rights. In addition, on Monday of this week I offered proof on the Senate floor showing that to my personal knowledge the allegations about Mr. Rehnquist having intimidated minority group voters were wrong. And I am very happy to acknowledge at this time that this was not used against the nominee.

Mr. President, I ask that, whenever the Senate undertakes to examine and discuss the qualifications of a nominee for appointment to any official position, we do so always on the highest level possible of decency and respect for human sensitivities. We must always keep in front of us the knowledge that by unjustly condemning persons whose names and reputations we are exploring we might not only permanently injure the personal lives of those individuals without reason, but we might well discourage many honorable and intelligent and conscientious citizens from ever desiring to allow their names to be placed in consideration for Government service.

Mr. President, the manner of our conduct in this body relative to those persons whom we are considering can have a very large impact on the kind of men and women who this Nation will be able to obtain for positions of responsibility today and in the future, and also that we and the whole country should constantly keep this broad and important consideration in front of us, and act accordingly.

Mr. President, in closing, I merely want to say that it will be an extreme pleasure for me to vote for this man, not because he is a fellow Arizonan whom I have known all the years he has practiced in my State, but also because I feel that, in the years lying ahead of this relatively young man, he will become one of the greatest jurists of all time. I have extreme confidence in him. I know him to be dedicated to the place where he lives, to be a churchman, a member of my church, who has served the church well both at home and here in Washington. I know that I speak for myself and for my senior colleague, Senator FANNIN, when I speak because Senator FANNIN and I were about the first ones to recommend this gentleman for the job.

Mr. BAYH. Mr. President, will the Senator yield?

Mr. GOLDWATER. I do not have any time.

Mr. BAYH. Mr. President, I yield myself time, if necessary.

Mr. President, I perhaps may be sensitive to the use of words, but this is not the first time the Senator from Indiana has heard the Senator from Arizona describe certain incidents, or lack thereof, relative to what happened at certain precincts in his home State.

I note here first, that the other evening he said specifically that what was said on the floor of the Senate with reference to certain allegations were untrue.

I note here in a letter to the editor of the Washington Post the other morning that he said:

> The time is long past due that the lie be put to the repeated observations of people who should know better relative to the supposed action of Mr. Rehnquist in preventing a person from voting.
>
> Contrary to what Mr. Mitchell, Senator Bayh, Mr. Rauh and others might contend, this supposed event did not take place as they describe. Mr. Rehnquist has so stated many times and furthermore, Mr. Editor, I was there so I can speak with considerably more authority than any of the supposed experts can. Let's develop the history of this whole situation.

Could the Senator from Arizona point to one instance in which the Senator from Indiana has accused the nominee of voting harassment?

Mr. GOLDWATER. I think I have just complimented the Senator from Indiana when I said that it was gracious on his part that he did not bring it up, and he told me he would not. It appeared in his mimeographed paper when we first opened up. I think it was in paragraph (d).

Mr. BAYH. I want the Senator to read paragraph (d).

Mr. GOLDWATER. I was there.

Mr. BAYH. I want the Senator from Arizona to read paragraph (d). He said he was in Arizona and that there was no voting harassment. The Senator from Indiana looked at the FBI report. I read from a letter written to the Senator from Arizona from a Judge Hardy of Arizona. The Senator from Arizona said he may have voted for Judge Hardy, and the judge said that there was voting harassment.

The question is whether Mr. Rehnquist participated in it. The Senator from Indiana does not know about that. If the Senator from Arizona has any evidence that the Senator from Indiana has said that Mr. Rehnquist personally harassed voters, tell us, or stop saying that we were lying about it.

Mr. GOLDWATER. As I said, the Senator from Indiana told me last Monday, or whenever it was, that he would not bring this up. I am happy that he did not.

Also, I might mention that the minority views, starting on page 41 of the committee report have about three pages of memorandum related to this supposed incident. That is the thing I complain about and the thing I complained about in the letter I wrote to the Washington Post. It was not true. Mr. Rehnquist was not involved in any disorders or actions that took place there. I do not think anybody in Phoenix, at least the police, or anybody else, will say that he was. I tried to explain——

Mr. BAYH. I want to say——

Mr. GOLDWATER. We appoint poll watchers in Arizona and I am sure that Indiana has them. The purpose of poll watchers is to prevent any wrong taking place at the polls. Mr. Rehnquist was not involved in that.

Mr. BAYH. I appreciate the answer. Perhaps I am a little sensitive. I have never like being accused of telling a lie.

Yet in the Washington Post I see a letter in which the Senator from Arizona suggests the Senator from Indiana and other gentlemen have made such charges. But he has been unable to point to one example in which I did this. The minority of the Committee on the Judiciary felt it was our responsibility to disclose all the evidence, and the evidence includes eight affidavits, one from Mr. Rehnquist, in which he said he did not participate personally in voting harassment, and seven from constituents of the Senator from Arizona who said he did.

Despite the affidavits, and the Senator from Arizona to the contrary, I invite his attention to the minority views where, after pointing out the evidence, we conclude:

> Instead, it appears that the committee lacks either the motivation or machinery to conduct the type of fact finding which is needed to uncover which side of this dispute is mistaken. Therefore, each Senator will have to decide for himself what weight—if any—to give either the charges or the blanket denial.

That does not sound not like the allegation which the Senator from Arizona, with all respect, made on three occasions, now. I am sensitive about his stretching what is stated in the record and attributing it to the Senator from Indiana.

Mr. GOLDWATER. We have a saying, "cuidado." It means look out.

That is why I wrote the letter, and the letter was published. I wanted to give warning that if an effort was being made to include this in the debate, I would have to take personal exception to it, as I outlined in the letter, and I have not changed my mind a bit.

Mr. BAYH. In other words, the Senator still feels that the Senator from Indiana lied about it.

Mr. GOLDWATER. I do not think I said the Senator lied about it. For a better description, the Senator was totally uninformed and did not take the trouble to ask those of us who were there to see what was going on.

Mr. BAYH. I know the Senator from Arizona is a man of many talents. I wonder if he has the capacity to be present at every precinct about which allegations were made.

Indeed one of the judges in Arizona, the judge who the Senator from Arizona was quite filled with praise for the other day, Judge Hardy, who is a judge in Maricopa County, said specifically:

> In the black and brown areas, handbills were distributed warning persons that if they were not properly qualified to vote they would be prosecuted. There were squads of people taking photographs of voters standing in line waiting to vote and asking for their names. There is no doubt in my mind that these tactics of harassment, intimidation and indiscriminate challenging were highly improper and violative of the spirit of free elections.

Mr. GOLDWATER. I think the Senator will find Mr. Rehnquist was not involved in these alleged actions at all. Having lived in Arizona all my life, and having been a member of the minority party all my life, I can tell the Senator that I would be the last to say that everything we do in our State would meet with the approval of a Sunday school teacher. We try to see that things are done properly. Democrats do that, too. I do not like to see people vote who are not entitled to vote.

Mr. BAYH. Let me ask the Senator this question. I fear we are not talking about the same thing.

Mr. GOLDWATER. I think we are.

Mr. BAYH. I think the Senator from Arizona is talking about the normal protection that is to be accorded voting procedures. The Senator has already said in the RECORD yesterday that he gives great credence to Judge Hardy and believes that he is an honest man. Judge Hardy said this was going on:

> In some precincts every black or Mexican person was being challenged on this latter ground and it was quite clear that this type of challenging was a deliberate effort to slow down the voting so as to cause people waiting their turn to vote to grow tired of waiting and leave without voting.

Is that what the Senator from Arizona feels is necessary to have a safe and honest election? Does the Senator feel that it is important to do what Judge Hardy said was being done, where pictures were being taken and there was an effort to harass and intimidate?

Mr. GOLDWATER. If the Senator will read further he will find that Judge Hardy talked to Bill Rehnquist, and he stated to the judge that he was disheartened—that might not be the word, but he did not like what was reported to be going on, and Judge Hardy believed Mr. Rehnquist was sincere. That is how my attention was called to this. When this took place I was called to headquarters and told about it by the lawyers committee that assisted in giving advice in every election. If I recall correctly, I asked if they could corroborate that there had been any violence. To my recollection, the answer was there had not been. The police were there, and the police generally are roaming around polling places in those particular areas.

Mr. BAYH. I would say to my colleague that he has been very patient to permit me to question him. It seems no matter how I ask the question the answer is the same. He feels I have not been telling the truth. He says on the one hand I have not been telling the truth and then he says I did not make the allegations about Mr. Rehnquist's personal involvement, but in the newspaper he clearly said I did.

Certainly, the Senator from Arizona is entitled to think what he wants about me but it is inconsistent for him to say there was no harassment and that he and Rehnquist were all concerned that harassment did exist, as described in Judge Hardy's letter.

Mr. GOLDWATER. I am talking about Bill Rehnquist.

Mr. BAYH. I am glad to yield such time to the Senator as he wants.

Mr. GOLDWATER. I just close by indicating to my friend that, if that be the case, we were talking about Mr. Rehnquist, and not the Republican Party or the Democratic Party or anything else.

Mr. BAYH. The record will show that my friend said categorically the other evening that there was no harassment anywhere in Arizona, and if he thinks that, he has to differ with Judge Hardy.

Mr. JACKSON. Mr. President, the Senate has already heard much about Mr. Rehnquist's record in both public and private life. There are many aspects of that record which merit discussion. But I am convinced that Mr. Rehnquist's record on civil liberties, in and of itself, disqualifies him from service as an Associate Justice of the Supreme Court.

At a time when the encroaching powers of Government threaten civil liberties as never before, Mr. Rehnquist seems not to appreciate what the Bill of Rights means in America. Whatever his views may be in other areas, he is an unequivocal advocate of "big brother government" when it comes to balancing the interests of Government against individual rights. His views on such subjects as wiretapping and Government surveillance leave little doubt of his willingness to guard the security of Government at the expense of the security and civil liberties of the individual.

Mr. Rehnquist's nomination must be judged not only in light of the Supreme Court's role as a protector and interpreter of the Constitution, but also in light of its role as a balancing force against an excessive exercise of power by the other branches of Government. I cannot vote to confirm a man who, however qualified in other respects, seems not to understand the fundamental necessity of protecting human rights and individual liberties in America.

Mr. HOLLINGS. Mr. President, I would like to explain why I disagree with those of Mr. Rehnquist's opponents who have claimed that he believes in untrammeled executive power gained at the expense of both Congress and the courts. These claims that the nominee favors unchecked executive power can be supported only by distortions and extensions of positions he advocated for the administration and the Department of Justice in the course of his duties as Assistant Attorney General. Even if one does not consider that when making these statements Mr. Rehnquist was an advocate for the administration, and as such was bound to make all rational and responsible arguments available to his clients, the statements relied on by his critics do not support any such conclusion. Because his statements in the area of wiretapping and surveillance have been chiefly relied on to support these charges, I would like to discuss positions advocated by Mr. Rehnquist in those areas. I conclude from his statements that far from believing in unconstitutional extensions of executive power in this area, he firmly believes in the full complement of powers given the Congress and the courts by our Constitution.

It has been charged that Mr. Rehnquist advocated the position that the only restraints upon executive branch wiretapping should be self-restraint. This is absolutely untrue. He has always recognized that the first amendment, the fourth amendment, and the 1968 Crime Act place restraints on wiretapping by the executive branch.

The question to which he was addressing himself at the hearings before Senator ERVIN's subcommittee was whether additional statutory restrictions, beyond those imposed by the 1968 act, should be imposed by Congress. And even on that he noted that the Department of Justice might well support carefully drawn legislation to correct specific abuses. At the hearings on his confirmation, Mr. Rehnquist made the following remarks:

> I doubt that you can find any statement, Senator, in which I have suggested that the Government should be given carte blanche authority to bug or wiretap. I recently made a statement at a forum in the New York School for Social Research in New York, attended by Mr. Neir of the Civil Liberties Union and Mr. Katzenbach, that I thought the Government had every reason to be satisfied with the limitations in the Omnibus Crime Act of 1968.

Far from arguing that Congress could not curtail executive power in this area, Mr. Rehnquist stated at the hearings:

> Congress has it within its power anytime it chooses to regulate the use of investigatory personnel on the part of the Executive Branch. It has the power as it did in the Omnibus Crime Act of 1968 of saying that Federal personnel shall wiretap only under certain rather strictly defined standards.

The only area in which Mr. Rehnquist advocated use of wiretaps without prior warrant from a magistrate is in the area of national security wiretaps, and that position is fully in accord with the provisions of the 1968 Crime Act which specifically exempted national security wiretaps from its warrant provision. It should also be noted that all administrations since Franklin Roosevelt's have taken this position.

Also in the wiretapping area, it is important to remember that Mr. Rehnquist advised that the so-called inherent executive power argument should be abandoned by the Government in the national security wiretap case. One implication of this theory was that the executive and not the courts would determine the propriety of such taps. The Government now takes the position that the courts should determine the propriety of such taps under the reasonableness requirements on the fourth amendment.

In the surveillance area, too, it has been suggested that Mr. Rehnquist supports unchecked use of executive branch personnel for public surveillance and information gathering. At the hearings Mr. Rehnquist made clear that Congress can restrict the use of such personnel by the executive branch at any time it chooses. Moreover, if there is any element of harassment of chililng effect on free expression, a question of fact may be presented for court determination under the Bill of Rights:

He also stated before Senator ERVIN's subcommittee:

> I do not conceive it to be any part of the function of the Department of Justice or of any other governmental agencies to surveil or other wise observe people who are simply exercising their First Amendment rights.
>
> . . . the only legitimate use of surveillance [is] was either in the effort to apprehend or solve a crime or prevent the commission of a crime . . . surveillance has no proper role whatsoever in the area where it is simply dissent rather than an effort to apprehend a criminal.

It has also been suggested that in the area of the rights of the accused Mr. Rehnquist believes that fewer restraints should exist on executive branch law enforcement personnel, that the protections of the Bill of Rights should be removed. The following quote, from a speech he gave in my neighborhood State of North Carolina last spring, shows he fully believes in the role of the courts in providing protection to individuals accused of crime:

> Finally, I hope you can see from some of this discussion that no reasoned opinion can invariably insist that courts resolve all of these [Fourth Amendment] issues in favor of the prosecution or all of them in favor of the criminal defendant. The issues are so complex and so important to all of us that it is wrong to think that either side invariably has the white hats. Ultimately, decision is made by the balancing of the need of society for protection against crime against the need of the accused defendant for a fair trial and just result. Both of these values stand so high in the scale of most of us that none would want to say that one should automatically prevail at the expense of the other.

I hope I have shown by those remarks that the charges that Mr. Rehnquist is something akin to a "totalitarian" are plain, unvarnished nonsense. No one who knows him could believe the charges and these statements which he made both before and during the hearings on his confirmation document that personal judgment. He believes the Congress has extensive supervisory powers over the use of executive branch investigatory personnel, both exercisable and already exercised in the 1968 Crime Act. Moreover, he believes that under our constitutional scheme the courts should and will review the use of investigatory personnel under the fourth amendment and other provisions of the Bill of Rights.

Mr. EAGLETON. Mr. President, we have before us the nomination of William Rehnquist as an Associate Justice of the Supreme Court.

Once again the Senate is called upon to give its advice and consent to a Supreme Court nominee—a process made more difficult by reason of the fact that Senators disagree as to precisely what criteria should be used in evaluating a Supreme Court nominee.

It appears there are two general schools of thought on the appropriate exercise of the Senate's power to advise and consent, or to withhold consent.

One school, perhaps the majority school, would require a Senator to learn the full range and evolution of a nominee's thought and philosophy and to accept the nominee only if the nominee's thought and philosophy comported substantially and in significant overall measure with the individual Senator's thought and philosophy.[1]

The other approach defines the role of a Senator more narrowly. After a Senator inquires into the "three I's" of the nominee—industry, intelligence, and integrity—he then determines whether the nominee's philosophy is within the fair and debatable range of legitimate judicial thought and, if it is, votes to affirm. Under this theory, a Senator need not necessarily be in substantial agreement with the nominee's philosophy.[2]

I adhere to the latter approach. In connection with the Haynsworth nomination, I stated it as follows:

> The Senate has the right and the duty to consider the views of Supreme Court nominees on vital national issues. However, we should not seek a uniformity of opinion on the Court, and I believe a nominee should be rejected on this ground only if his views are so extreme as to place him outside the mainstream of American political and legal discourse. (Congressional Record, vol. 115, pt. 21, p. 28211.)[3]

I am the more assured in this belief because relatively few judicial careers on the Supreme Court have been delineated in advance with any high degree of accuracy, either by a nominee's supporters or by his opponents.

Applying this guideline to Mr. Rehnquist, I find his "three I's"—industry, intelligence, and integrity—to be unquestioned.[4]

His philosophy has been questioned, indeed challenged, by some—the most strenuous challenges coming in the areas of civil rights and civil liberties.

As to civil rights, it is said of Mr. Rehnquist that he is insensitive or indifferent or hostile to the cause of equal justice. Reading Mr. Rehnquist's views as reflected in his various utterances and writings, I am frank to conclude that his views and my views are at variance.

Footnotes at end of article.

Once again, our quest is not an identity or conformity of philosophy between nominee and Senator. Rather, we ask, are his views so patently irregular as to be outside the rationally debatable judicial mainstream?

There are two of Mr. Rehnquist's civil rights statements which are most frequently cited as being so irregular as to be disqualifying.

At page 25 of the Bayh-Hart-Kennedy-Tunney minority report, and again at page 39 of their minority memorandum, reference is made to Mr. Rehnquist's statement "we are no more dedicated to an integrated society than we are to a segregated society."

This statement was taken in part from a letter to the editor written by Mr. Rehnquist in 1967 which letter dealt with certain actions taken by the Phoenix superintendent of schools, a Mr. Seymour. The full paragraph from which the few words were extracted reads as follows:

> Mr. Seymour declares that we "are and must be concerned with achieving an integrated society." Once more, it would seem more appropriate for any such broad declarations to come from policy-making bodies who are directly responsible to the electorate, rather than from an appointed administrator. But I think many would take issue with his statement on the merits, and would feel that *we are no more dedicated to an "integrated" society than we are to a "segregated" society; that we are instead dedicated to a free society, in which each man is equal before the law, but in which each man is accorded a maximum amount of freedom of choice in his individual activities.* (Emphasis supplied.)

One should first note that a semicolon, not a period, comes after the word "society" and that the words following the semicolon cast a somewhat different light on Mr. Rehnquist's views.

Reading the totality of the paragraph in the total context of the letter, it appears that Mr. Rehnquist was espousing recognized constitutional doctrine, namely, that the Constitution prohibits governmentally imposed segregation, but does not require governmentally imposed integration. Or, to put it in yet another way, the Constitution prohibits de jure segregation by governmental act, but it does not prohibit de facto segregation resulting from nongovernmentally induced living habits and patterns.

It is interesting to note that at the time of the historic Civil Rights Act of 1964, Senator HUMPHREY and Senator Dirksen recognized this principle of law and incorporated a provision in that act prohibiting the use of Federal power to bus students "in order to achieve such racial balance."[5] No one can seriously challenge Senator HUMPHREY's fealty to equality of opportunity, yet Mr. Rehnquist's articulation of similar views is labeled "extreme."[6]

The second Rehnquist civil rights statement which has been strenuously challenged was contained in a 1952 memorandum written by Mr. Rehnquist to Justice Robert Jackson at a time when Rehnquist was serving as Jackson's law clerk.

Two sentences from the statement read as follows:

> I realize that it is an unpopular and unhumanitarian position, for which I have been excoriated by "liberal" colleagues, but I think *Plessy v. Ferguson* was right and should be re-affirmed. If the Fourteenth Amendment did not enact Spencer's *Social Statics*, it just as surely did not enact Myrdahl's *American Dilemna.*

Mr. Rehnquist has explained the origin of the memorandum in that it was prepared by Rehnquist at the request of Justice Jackson and was intended to be a rough draft of Justice Jackson's views.[7]

Turning now to the field of civil liberties, Mr. Rehnquist has been strenuously challenged for his role as an advocate of broader governmental intrusion into the private lives of citizens. For example, Mr. Rehnquist supports the broadened use of wiretapping and eavesdropping, even in the face of some loss of individual privacy, as not too high a price to pay to stop crime.

The late Justice Hugo Black, recognized as one of the greatest champions of the Bill of Rights, shared views similar to those of Mr. Rehnquist on the question of wiretrapping and eavesdropping.[8]

Personally, I disagree with Mr. Rehnquist's and Justice Black's views on this subject, but I do not find the espousal of their views to be so clearly inconsistent with constitutional democracy as to be disqualifying.

In conclusion, let me reiterate that my philosophical and jurisprudential views are at variance with those expressed by Mr. Rehnquist, just as my views have on occasion been at variance with other Supreme Court Justices, past and present.

However, it is my opinion that Mr. Rehnquist's views, although different from mine, are not so extreme as to place him outside the fair and debatable mainstream of American political and legal discourse.

The ideological differences in America today, I am happy to believe, are not so profound as to be unbridgeable by men of intelligence and integrity. But they are large enough so that they can be exacerbated by doctrinaire rigidity and dogmatic disputes in an attempt to prescribe an ideological mold for the Supreme Court. From that can come only harm to the Court and thus to the country.

Therefore, I will vote to confirm Mr. Rehnquist's nomination.

FOOTNOTES

[1] Senator Sam Ervin expressed this viewpoint in the debate on the nomination of Justice Thurgood Marshall:

". . . It is not only important for a Senator to determine whether the nominee has sufficient knowledge of the law or sufficient legal experience, but also to determine whether he is able and willing to exercise that judicial self-restraint which is implicit in the judicial process when that process is properly understood and applied. By this, I mean whether or not he will base his decisions upon what the Constitution says rather than upon what he thinks the Constitution ought to have said. And so I think that the question of the philosophy and the power of self-restraint of a nominee constitutes the most important consideration." (Judiciary Committee hearings on the nomination of Justice Thurgood Marshall, July 1967, 90th Congress, 1st Session, p. 180)

Interestingly, Mr. Rehnquist himself vigorously adheres to this "school" calling for a sweeping analysis of the whole range of a nominee's philosophy. See November 11, 1971 New York Times, page C47, wherein is reprinted a 1959 Harvard Law Record article by Mr. Rehnquist:

". . . Specifically, until the Senate restores its practice of thoroughly informing itself on the judicial philosophy of a Supreme Court nominee before voting to confirm him, it will have a hard time convincing doubters that it could make effective use of any additional part in the selection process.

". . . It is high time that those critical of the present Court recognize with the late Charles Evans Hughes that for one hundred seventy-five years the Constitution has been what the judges say it is. If greater judicial self-restraint is desired, or a different interpretation of the phrases 'due process of law' or 'equal protection of the laws,' then men sympathetic to such desires must sit upon the high court. The only way for the Senate to learn of these sympathies is to 'inquire of men on their way to the Supreme Court something of their views on these questions'."

[2] Senator Edward Kennedy touched on this position during the Thurgood Marshall debate:

"I believe it is recognized by most Senators that we are not charged with the responsibility of approving a man to be Associate Justice of the Supreme Court only if his views always coincide with our own. We are not seeking a nominee for the Supreme Court who will express the majority view of the Senate on every given issue; or on a given issue of fundamental importance. We are really interested in knowing whether the nominee has the background, experience, qualifications, temperament, and integrity to handle this most sensitive, important, and responsible job." (Congressional Record, vol. 113, pt. 18, p. 24647.)

[3] *Congressional Record,* vol. 115, pt. 21, p. 28211. See article by Tom Wicker in the November 11, 1971 New York Times, page C47, wherein he wrote:

"On the other hand, to make that judgment solely on the basis of his political views (which, after all, may change) is dangerous business. It presumes some kind of rightful political orthodoxy; it would tend to politicize the courts according to the temporary political coloration of Congress; it could punish some individuals for their ideas and frighten others out of having any.

"Moreover, it is bound to lead to retaliation, as it did when Republicans and conservatives defeated President Johnson's nomination of Justice Fortas to be Chief Justice, at least partialy on political grounds. Paying off that score had a good deal to do with Judge Haynsworth's subsequent rejection.

"It may be argued that Mr. Nixon should not have handed Senators this dilemma by appointing an activist political figure to a nonpolitical court; but the precedents are ample, and the Senate is likely to compound the damage if it denies Mr. Rehnquist his Court seat solely because of his political views."

Wicker reiterated his position in the December 5, 1971 New York Times, page E11, where he wrote:

"On balance, with full awareness that Mr. Rehnquist's views on the Bill of Rights seem antilibertarian, and despite weighty arguments from many who disagree, it still is 'dangerous business' to reject him for his political views. Is it seriously to be asserted that conservative—even arch-conservative—views disqualify a man for service on the Supreme Court? If so, then what prevents some other Senate from disqualifying a man for strongly liberal views or for being a 'new leftist' or a 'neo-isolationist' or some other stereotype?"

Another interesting piece written on the Rehnquist nomination is one by Anthony Lewis in the November 15, 1971 New York Times, page C41, wherein he wrote:

"From this it follows that a President should be allowed ample ideological scope in choosing a Supreme Court justice. There are limits—a racist would be disqualified—but they are broad. And so, many Senators who entirely disagree with Mr. Rehnquist's right-wing ideas will nevertheless properly vote for his confirmation."

Finally, on this point, I have received a letter, dated 11/29/71, from Professor Walter Gellhorn of Columbia University School of Law which eloquently sets forth this point of view. Professor Gellhorn, a widely recognized constitutional scholar, writes as follows:

"Discussion concerning the qualifications of Mr. Rehnquist to be a Supreme Court Justice has, I think, strayed beyond suitable limits in an important respect. Some of those who have urged the Senate not to consent to his appointment have done so because they assert he has strong views, contrary to their own, concerning constitutional issues which may come before the Court in future years. This is, in my judgment, an inappropriate basis for objecting to the Rehnquist nomination. If a nominee's acceptability were indeed largely determined by this measurement, the only unchallengeable nominees in times to come would be persons whose past careers had been colorless or, at any rate, had provided small opportunity to consider the Constitution and its application to contemporary problems.

"The proper question to be raised, in my belief, is not whether a nominee will assuredly strive in future instances to reach a result desired by the questioner. It is whether the nominee has the capability and the will to arrive at conclusions in a suitably judicious way, applying intellect and training to the resolution of concrete issues. If a nominee were demonstrably inclined to disregard the Constitution whenever it ran counter to his personnel views, of course he would be ill suited to be a member of the Supreme Court. But if his honest appraisal of constitutional doctrines in the context of particular cases proves to be different from another's, this should not be regarded as determinative of his fitness to be a Justice. The Supreme Court has nine members. If a single wise response could resolve all constitutional controversies, only one judge would suffice. The Court is not weakened by a multiple and diverse membership when all its members are able and willing to consider cases in the light of pertinent law rather than personal predilection.

"What I myself know along with what I have heard elsewhere about Mr. Rehnquist, convinces me that he would not approach judicial tasks as an advocate or as a dogmatist. He would, on the contrary, bring an able mind and a scrupulous judgment to bear on the matters submitted for decision. Policy positions espoused at other times and in non-judicial contexts should not be regarded as foreclosing objectivity in constitutional adjudication. The Senate, when it acts on the pending nomination, should not mistakenly attempt to evaluate a hypothetical future voting record in hypothetical future cases. If Mr. Rehnquist is confirmed, I am confident that he will serve as a dispassionate and conscientious Justice, whether or not I happen to agree with his judgments in every instance.

WALTER GELLHORN".

[4] Even those who oppose Mr. Rehnquist's nomination pay great tribute to his keen intellect and considerable legal skills. In fact, in some strange sort of way his intellect seems to frighten some of his critics. See article by Joseph Kraft in the December 9, 1971 Washington Post, page A23.

[5] In support of the provision of the 1964 Civil Rights Act which prohibited the federal government and federal courts from busing children "in order to achieve such racial balance," Senator Humphrey said the following:

"Mr. President, the Constitution declares segregation by law to be unconstitutional, but it does not require integration in all situations. I believe this point has been made very well in the courts, and I understand that other Senators will cite the particular cases.

"I shall quote from the case of Bell against School City of Gary, Ind., in which the Federal court of appeals cited the following language from a special three judge district court in Kansas:

'Desegregation does not mean that there must be intermingling of the races in all school districts. It means only that they may not be prevented from intermingling or going to school together because of race or color.' Brown v. Board of Education, D.C. 139 F. Supps. 468, 470.

'In Briggs v. Elliott (EDSC), 132 F. Supp. 776, 777, the Court said: "The Constitution, in other words, does not require integration. It merely forbids discrimination." '

"In other words, an overt act by law which demands segregation is unconstitutional. That was the ruling of the historic Brown case of 1954.

"If school district boundaries are determined without any consideration of race or color, there is no affirmative duty under the Constitution to alter these boundaries so that a particular racial balance in the schools will result. Senators should distinguish between segregation which results from an overt or affirmative act by the State or the local school board and de facto segregation which results from neighborhood residence patterns. This is a matter better left to the courts and to the localities to resolve as each community deems wisest. It is not a consideration of the present bill." (Congressional Record, vol. 110, pt. 10, pp. 13820–13821.)

[6] As to Mr. Rehnquist's "extreme" positions, see article by Robert Bartley in December 6, 1971 Wall Street Journal, page 12, entitled "Rehnquist and Critics: Who's Extreme?"

[7] The Rehnquist 1952-to-Jackson memorandum, analyzed in its totality, makes interesting reading. It sets forth the rationale for the doctrine of judicial abstention and does so in a manner remarkably similar to the position of Judge Learned Hand in his esteemed Oliver Wendell Holmes Lectures at Harvard University in 1958. (See "The Bill of Rights"—The Oliver Wendell Holmes Lectures—by Learned Hand, Harvard University Press—1962.)

In fact, one could label Rehnquist's 1952 memo as a precis of the Hand lectures written six years in advance. Judge Hand and Supreme Court Justices like Holmes, Brandeis, and Frankfurter were exponents of the concept of judicial abstention or restraint. Former Chief Justice Warren and Justice Douglas espouse the concept of judicial activism or intervention. Needless to say, either concept is well within the debatable jurisprudential mainstream.

Plessy vs. Ferguson aside, I take it that Mr. Rehnquist would generally subscribe to the Learned Hand precept that the power of the Supreme Court to annul a duly enacted statute is a very limited one to be "confined to occasions when the statute or order was outside the grant power to the grantee, and should not include a review of how the power has been exercised." (See aforementioned Holmes Lectures at page 66.)

[8] See *Berger v. New York*, 388 U.S. 41, 73 (1966) wherein Justice Black wrote as follows:

"Since eavesdrop evidence obtained by individuals is admissible and helpful I can perceive no permissible reason for courts to reject it, even when obtained surreptitiously by machines, electronics or otherwise. Certainly evidence picked up and recorded on a machine is not less trustworthy. In both perception and retention a machine is more accurate than a human listener. The machine does not have to depend on a defective memory to repeat what was said in its presence for it repeats the very words uttered."

Mr. President, in the various footnotes to my speech, I have cited some newspaper articles as well as the 1952 Rehnquist-to-Jackson memorandum. I ask unanimous consent that the following items be printed at this point and in this sequence in the RECORD.

In elaboration of footnote (2), the November 11, 1971, Wickler article from the New York Times; the December 5, 1971, Wicker article from the New York Times; the November 15, 1971, Lewis article from the New York Times.

In elaboration of footnote (4), the December 9, 1971 Kraft article in the Washington Post.

In elaboration of footnote (6), the December 6, 1971 Bartley article in the Wall Street Journal.

In elaboration of footnote (7), the full text of the 1952 Rehnquist-to-Jackson memorandum.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the New York Times, Nov. 11, 1971]

THE REHNQUIST DILEMMA

(By Tom Wicker)

The spectacle of Senator Edward Kennedy defending the reputation of William Rehnquist against allegations by Joseph Rauh of the A.D.A. suggests the painful dilemma in which liberals and civil libertarians have been placed by Mr. Rehnquist's nomination to the Supreme Court.

This nomination is not like that of Clement Haynsworth, whom President Nixon earlier tried to put on the Court. Judge Haynsworth was not confirmed by the Senate on the ostensible ground that his record on the bench showed a lack of perception of possible conflict-of-interest situations.

Nor is the Rehnquist case similar to that of Mr. Nixon's other rejected nominee, G. Harrold Carswell. Judge Carswell was found to have made misstatements to a Senate committee, and his confirmation hearings disclosed a glaring lack of qualification for the Supreme Court.

The Rehnquist matter is not even like that of Lewis Powell, whom Mr. Nixon has also named to the Court.

Mr. Powell is a pillar of the Southern establishment, a good credential in the Senate; he is 64 years old and his tenure on the Court will be limited by that; he is not expected by most observers to become a powerful leader within the Court.

Mr. Rehnquist is a horse of a very different color. At 47, he can look forward to a long and active tenure on the bench. Moreover, his record is that of a hard-working and vigorous champion of conservative political causes, both in Arizona and within the Nixon Administration. Persons in and out of the Administration who know his work credit him with superior intellect and skill in the law.

Thus Mr. Rehnquist on the Court is altogether likely to become a driving force for the principles he espouses. There are those who believe that as the years go along he will be a more formidable leader than Chief Justice Burger in the conservative wing of the Court—a wing that may already be in the majority on some issues and will almost surely become dominant if Mr. Nixon wins another term in the White House.

It is no wonder, then, that liberals and libertarians are desperately casting about for means of defeating the Rehnquist nomination in the Senate. Mr. Rehnquist's record of opposition to civil rights measures, his strong advocacy of state powers that would threaten Bill of Rights guarantees—at least what many people passionately believe to be guarantees—his youth and his obvious leadership qualities might alter the course of the Supreme Court for decades to come.

But the hard fact is that no one has as yet produced any evidence of the kind of ethical tangles that ruined Judge Haynsworth's chances—and before that led to the resignation of Abe Fortas from the Court; nor has anyone been able to identify misstatements like those that sank Judge Carswell, let alone a lack of legal or intellectual qualifications.

It was, in fact, on the matter of Mr. Rehnquist's integrity that Senator Kennedy rebuked Mr. Rauh. The latter had suggested that the nominee had been less than candid in denying ever having been a member of the John Birch Society. The Senator could hardly be sympathetic to a man of Mr. Rehnquist's views, but he insisted that the nominee's basic integrity was unchallenged.

So the real question before the Senate is whether it can, or should, reject Mr. Rehnquist solely because of his political views. On the one hand, the writers of the Constitution, in giving the Senate the power to confirm or reject Presidential nominees to the judiciary, clearly meant the legislative branch to play a substantive role with the executive branch in this process. The Senate has the right, therefore, to judge for itself the qualifications of a man to sit on the Supreme Court.

On the other hand, to make that judgment solely on the basis of his political views (which, after all, may change) is dangerous business. It presumes some kind of rightful political orthodoxy; it would tend to politicize the courts according to the temporary political coloration of Congress; it could punish some individuals for their ideas and frighten others out of having any.

Moreover, it is bound to lead to retaliation, as it did when Republicans and conservative Democrats defeated President Johnson's nomination of Justice Fortas to be Chief Justice, at least partially on political grounds. Paying off that score had a good deal to do with Judge Haynsworth's subsequent rejection.

It may be argued that Mr. Nixon should not have handed Senators this dilemma by appointing an activist political figure to a nonpolitical court; but the precedents are ample, and the Senate is likely to compound the damage if it denies Mr. Rehnquist his Court seat solely because of his political views.

[From the New York Times, Dec. 5, 1971]

IN RE REHNQUIST

(By Tom Wicker)

WASHINGTON.—The Senate apparently will confirm Lewis Powell next week as an Associate Justice of the Supreme Court. After that, it will either face up to or delay the far more controversial and difficult matter of William Rehnquist, President Nixon's other nominee to the Court.

As it now appears, Mr. Rehnquist will be confirmed, too, unless those who oppose him are determined enough and able to put together something like the filibuster that, in 1968, prevented confirmation of Abe Fortas as Chief Justice.

This is at least a long-shot possibility because of Mr. Rehnquist's comparative youth (47) and his reputation as a skilled, active and intent champion of strongly conservative causes. Liberals fear he may become for many years the vigorous leader of a reactionary Court, but their dilemma is that no ethical or professional charges sufficient to warrant Mr. Rehnquist's rejection have so far been proved.

That means that the battle has to be fought, if at all, on the tricky ground of Mr. Rehnquist's political views—whether it is called his "judicial philosophy" or his "constitutional approach." The view was put forward in this space on Nov. 11 that this kind of opposition was "dangerous business"—that it suggested the existence of a kind of political orthodoxy, would tend to politicize the Court, would punish some people for their ideas while frightening others out of having any and would lead inevitably to political retaliation.

On balance, with full awareness that Mr. Rehnquist's views on the Bill of Rights seem antilibertarian, and despite weighty arguments from many who disagree, it still is "dangerous business" to reject him for his political views. Is it seriously to be asserted that conservative—even arch-conservative—views disqualify a man for service on the Supreme Court? If so, then what prevents some other Senate from disqualifying a man for strongly liberal views or for being a "new leftist" or a "neo-isolationist" or some other stereotype?

This is not to deny that the Senate has a duty to consider the qualifications of a nominee to sit upon the Court. Or that among the qualifications it ought to consider is his general political, constitutional and judicial view of things. Judge Carswell, for instance, was judged to be lacking in intellectual and legal competence, a judgment that could be solidly documented.

But can it be shown that Mr. Rehnquist lacks fidelity to the Constitution? No, only that in his view it allows more power to the state and less to the individual than many other Americans believe to be the case.

Can it be shown that Mr. Rehnquist's views are factually in error or substantively wrong? No, it is a matter of interpretation, and it is late in the day for liberals to start asserting that the Constitution is an absolute document not subject to interpretation or differing ideas. It is, in fact, the prime duty of the Supreme Court to decide what the Constitution means, on given subjects at given times in history.

Nor is the political aspect of the Rehnquist nomination an open-and-shut affair. No doubt Mr. Rehnquist will be a formidable conservative force on the Court (although that remains a supposition that only time can justify). Even so, the damage he might do to liberal causes could well be less than the political consequences of a third rejected Nixon nominee, a third defeated conservative, in a Senate dominated by liberal Democrats. Just as the Court itself must sometimes practice "judicial restraint," so it may be that the Senate ought to practice some political restraint. This, of course, is a value judgment that each Senator must make for himself.

That also is true of the really crucial question about Mr. Rehnquist, which can best be explained by reference to Mr. Powell. Those who know the Virginia lawyer, a former American Bar Association president, concede that his views in many ways are as conservative as those of Mr. Rehnquist—and that fact was documented in an article by Mr. Powell recently reprinted on this page.

But Mr. Powell, it is said, is an experienced and fair-minded man of judicial temperament who, in deciding legal and constitutional questions, will put aside any personal or political preferences and prejudices that can't be squared with the law and the facts of a case. He might, for instance, generally approve wiretapping as a law enforcement tool—yet be willing to rule against it when, in some particular case, the facts showed that the law and the Constitution had been violated.

It is to be hoped that that is true—of Mr. Powell and of any nominee, liberal or conservative. Whether or not it is true of William Rehnquist is the vital question about his nomination, and one that each Senator must judge for himself. If Mr. Rehnquist can put his personal views aside when they can't be fairly justified by the law and the facts, then those views should not be the deciding factor; but if any Senator feels that Mr. Rehnquist, or any other nominee, could not so discipline himself intellectually, voting to reject him would surely be a duty.

[From the New York Times, Nov. 15, 1971]

AFTER REHNQUIST

(By Anthony Lewis)

LONDON.—The problem now troubling American liberals in the nomination of William H. Rehnquist to the Supreme Court was foreseen years ago by Judge Learned Hand. In his Holmes Lectures at Harvard he said:

"In so far as it is made part of the duties of judges to take sides in political controversies, their known or expected convictions or predilections will, and indeed should, be at least one determinant in their appointment."

Judge Hand was not using the word "political" in its narrow partisan sense. If our judges are to decide controversial national issues in the guise of lawsuits, he was saying, then they will be chosen in part for their ideology.

It is difficult for liberals to deny the premise. They know that for years they cheered the Supreme Court on as it advanced values of which they approved. Now a conservative President wants judges with different values. Is it logical to deny him that power, or even democratic? After all, the Presidential appointing power is the only means of seeing that the Court even distantly reflects the changing outlook of the country—as it must.

From this it follows that a President should be allowed ample ideological scope in choosing a Supreme Court justice. There are limits—a racist would be disqualified—but they are broad. And so, many Senators who entirely disagree with Mr. Rehnquist's right-wing ideas will nevertheless properly vote for his confirmation.

But a more basic issue will remain—the one that really interested Judge Hand. That is the issue of the appropriate limits on the judicial function. Should judges be dealing with heated social and economic controversies? Or should they limit themselves to tamer matters of more traditional law?

In recent years it has gone out of fashion to ask such questions. Mr. Justice Frankfurter's plea for judicial self-restraint seems long ago and far away. Few seem to remember the terrible lesson of the 1920's and 1930's, when self-willed judges almost destroyed the Supreme Court.

Instead we have what could be called the neo-realist view. It was put with candor in 1958, the same year as Judge Hand's lectures, by Prof. Charles L. Black of Yale:

"We are told that we must be very careful not to favor judicial vigor in supporting civil liberties, because if we do we'll be setting a bad precedent. Later on, we may get a bench of [conservative] judges . . . [but] suppose the present Court were to shrink from vigorous judicial action to protect civil liberties. Would that prevent a Court composed of latter-day McReynoldses and Butlers from following their own views?

Professor Black's rhetorical question expects a negative answer, but it is not so clear that restraint on the part of a liberal Court would have no effect when the pendulum swings. Certainly Brandeis, the greatest intellect who ever sat on the Supreme Court, thought otherwise. Again and again he held back from results that he personally desired because he thought he would encourage other judges to push their views in other cases.

Of course there is no convenient formula to set the limits on the judicial function. Every judge will have his own deep instincts about the values essential to the American system. Brandeis deferred to most legislative judgments, however foolish they appeared, but not when it came to freedom of speech or privacy: He thought they were too fundamental to the whole constitutional scheme.

The justices of the Warren Court did not decide the great cases as they did out of sheer perversity, as some of the sillier critics seem to think; they were carrying out what they perceived to be their duty. If they had changed their minds because they anticipated adverse reaction, they might have been said to lack courage.

The Warren Court is to be criticized not for its motives but, occasionally, for its judgment. It overreached from time to time. For me the outstanding example was the *Miranda* case: A narrow majority, without convincing basis in history or expert consensus, read a particular code of police procedure into the general language of the Constitution.

Judicial intervention on fundamental issues is most clearly justified when there is no other remedy for a situation that threatens the national fabric—when the path of political change is blocked. That was the case with racial segregation and legislative districting; it was not the case with *Miranda*.

Judge Hand would have excluded all such matters from the courts, but that remedy would be too drastic. We have long since come to rely on the Supreme Court as an essential medium of change in our rigid constitutional structure. What we can ask of the judges is modesty, a quality required not only by man's imperfection but by the fragile nature of the judicial institution.

[From the Washington Post, Dec. 9, 1971]

REHNQUIST: TOP MIND

(By Joseph Kraft)

Justice Holmes, on being asked what he thought of the intellectual abilities of another judge, once replied: "I never thought of him in that connection." And there lies the nub of the powerful, positive case that can be made for Senate confirmation of President Nixon's latest nominee for the Supreme Court, William Rehnquist.

For years now hardly anybody has thought of the Supreme Court as performing an intellectual function. Mr. Rehnquist, far more than any other recent nominee, has the calibre to restore intellectual distinction to the Court.

To understand why, it is necessary to say a word about the role of the Court in the country. The country is dominated by the million and one daily actions of an energetic population largely unconstrained in its capacity to buy and sell, move and dream, educate and obscure, build and tear down.

Given the nearly universal disposition toward almost constant action, it is ludicrous to think of tyranny being imposed on this country from above by some establishment eager to freeze the status quo or turn back the clock.

The central political problem of a populist country is to preserve some modicum of elite values—respect for achievement; toleration for difference of outlook; regularity of procedure. Partly by original design, but even more by the chance accretions of history, the Supreme Court has come to be the defender of those values—the elitist institution in a populist country.

Unfortunately for the Court, certain political decisions were thrust upon it by the deadlock that developed between Executive and Legislature during the post-war period. In the fields of civil rights and legislative reapportionment, the Court felt obliged—understandably considering that all other avenues seemed closed—to make rulings that might much more appropriately been the work of the President and the Congress.

In the heady atmosphere engendered by those decisions, the Court headed by Chief Justice Earl Warren became result-oriented. In case after case, it was increasingly hard to discover the inner logic of decision-making. Blacks seemed to be favored because they were blacks, baseball because it was a good clean American sport, anti-trust plaintiffs because they were against economic monsters.

President Nixon's efforts to correct the imbalance have been fumbling to the point of casting doubt on the sincerity of his claim to want "strict constructionists." His preferred candidates have been right-wingers, so little distinguished that the Senate and the American Bar Association have constrained him to throw them back in the pond.

Mr. Rehnquist is something else. He has not shown sensitivity to the needs of people in trouble, and he has said some hardline—and to me silly-sounding—things about the influence of Supreme Court clerks and the softness of judges towards communism. Some of these comments may be what ambitious juniors are required to say in order to get ahead in the Republican Party of Barry Goldwater and the Justice Department of John Mitchell. Still, I suppose they represent a genuine right-wing conviction.

But Mr. Rehnquist also has a mind of the highest candle-power. His comments in the Judiciary Committee hearings have been unfailingly lucid and discriminating. He has been "hesitant"—a favorite word—when unsure of the fine details of a problem.

Even one of his staunchest opponents, Sen. Edward Kennedy, described him as "a man with a quick, sharp intellect, who quotes Byron, Burke, and Tennyson, who never splits an infinitive, who uses the subjunctive at least once in every speech, who cringes when he sees an English work created from a Greek prefix and a Latin suffix."

Only it happens that the qualities that Senator Kennedy is pleased to dismiss so crudely express a critical aspect of the Court's present work. The Court does not now need more liberals, more conservatives, or more middle-of-the-roaders. There are enough of those to assure that nothing drastic is going to happen in civil rights or criminal law.

What the Court needs is more brains. Mr. Rehnquist has them—more abundantly perhaps than any present member. And by uplifting the quality of the Court in general, he will do far more than any particular decision in any particular case can do to advance the values thoughtful men hold dear.

[From the Wall Street Journal,
Dec. 6, 1971]

REHNQUIST AND CRITICS: WHO'S EXTREME?

(By Robert L. Bartley)

WASHINGTON.—The most powerful impression to emerge from the microscopic public analysis of the life and works of Supreme Court nominee William H. Rehnquist is that his critics are pretty desperate. At one point the arguments and innuendos offered by critical witnesses proved too much even for the most critical Senators, and Sen. Edward Kennedy upbraided the witnesses for creating "an atmosphere which I think is rather poisonous."

Now the critical members on the Senate Judiciary Committee—Sens. Bayh, Hart, Kennedy and Tunney—have filed their minority report setting out the responsible case against the nomination. As Sen. Kennedy's remark suggests, it judiciously avoids the less substantial allegations that have appeared in the press in recent weeks. There is, for example, no suggestion that Mr. Rehnquist is guilty until proven innocent of membership in extremist organizations because his name appears on a list compiled by a little old lady and willed to someone else.

'OUTSIDE THE MAINSTREAM'

The minority report, rather, focuses mostly on Mr. Rehnquist's views on certain issues, and as such is an intriguing document. It volunteers that there is no question about Mr. Rehnquist's qualifications in terms of legal standing or personal integrity. On the widely debated question of whether the Senate should consider a nominee's judicial philosophy, it makes the case that indeed the Senate should.

The minority, of course, argues that on this third test Mr. Rehnquist flunks. It says he "has failed to show a demonstrated commitment to the fundamental human rights of the Bill of Rights, and to the guarantees of equality under the law." While not every detail of a nominee's philosophy ought to bear on his Senate confirmation, it suggests, so extreme a deviation should. At one point the text puts it simply: The nominee "is outside the mainstream of American thought and should not be confirmed."

A fascinating proposition, this. How can someone with legal standing and personal integrity fit to grace the Supreme Court be that far out of the mainstream? What would be the opinions of a man who is such a pillar of the bar and still fails to understand the Bill of Rights?

So it is with no little anticipation that one turns to the issues discussed in the minority report to find just which of Mr. Rehnquist's opinions bar him from the Court service. One expects not merely that he will have debatable opinions on debatable topics. Certainly the four Senators disagree on many things with Lewis F. Powell Jr., the other Supreme Court nominee before the Senate, but they voted to approve him. So in Mr. Rehnquist's case one expects more extreme opinions, those further out of the mainstream on the right, say, than Justice William O. Douglas is on the left.

As sort of a benchmark, recall Justice Douglas' popular book arguing, "We must realize that today's establishment is the new George III. Whether it will continue to adhere to his tactics, we do not know. If it does, the redress, honored in tradition, is also revolution." What right-wing outrages has Mr. Rehnquist uttered, one wonders, that are further from the mainstream than *that*?

As the confirmation hearings started, the best bet for that sort of outrage seemed to lie in the Justice Department position on wiretapping. As the department's chief legal adviser, Mr. Rehnquist must bear no small responsibility for that position, and the department has argued that the Executive Branch has an "inherent right" to wiretap without court order in national security cases. This is tantamount to an assertion that neither Congress nor the courts can control executive wiretapping, and certainly does suggest an insensitivity to the spirit of the Bill of Rights.

Alas for Mr. Rehnquist's critics, though, it turns out that on his advice the Justice Department has dropped the "inherent right" argument in current briefs before the Supreme Court. It now merely argues that in the particular instances of the case, the tap in question was not an "unreasonable" search barred by the Fourth Amendment. He says that the effect of the change is "to recognize that the courts would decide whether or not this practice amounted to an unreasonable search."

Mr. Rehnquist declined to give his personal views, as opposed to the Justice Department position, but he did defend the department's current arguments on the grounds that there are substantial legal questions unresolved, and the Executive is obligated to make its side of the case. "Five preceding administrations have all taken the position that the national security type of surveillance is permissible . . . one Justice of the Supreme Court has expressed the view that the power does exist, two have expressed the view that it does not exist . . . one has expressed the view that it is an open question . . . the government is entirely justified in presenting the matter to the court for its determination."

WIRETAPPING OF RADICALS

This did not satisfy the four critical Senators. They noted that the current issues are somewhat different from those of preceding administrations, not least because the current argument is about wiretapping not of foreign agents but of domestic radicals. The change in the department's position is "more cosmetic than real," they argued, because it is still defending wiretapping rules that would not "provide an adequate restraining effect on the Executive Branch, an adequate deterrent to protect the right of privacy."

For those who may find this particular dispute a matter not of extremist opinions but of reasonable men differing, the minority also delves into Mr. Rehnquist's widely quoted opinion on government surveillance of individuals, that is, not wiretapping but the recording of their activities in public places. In warning against overly restricting such surveillance, he once said, "I think it quite likely that self-restraint on the part of the Executive Branch will provide an answer to virtually all of the legitimate complaints against excesses of information gathering."

During the hearings, Mr. Rehnquist noted that in his remark he was addressing the question of whether new legislation is needed in addition to the Bill or Rights and laws already on the books, and that the remark must be understood in that context. In colloquy at the time, he conceded that widespread surveillance should be "condemned," and that an individual might already have legal recourse against a government tail. But in considering the argument that surveillance is unconstitutional because it has a "chilling effect" on freedom of expression, he said any such effect is a question not of constitutional law but of fact. And, "those activities didn't prevent, you know, two hundred, two hundred fifty thousand people from coming to Washington on at least one or two occasions to, you know, exercise their First Amendment rights, to protest the war policies of the President . . ."

The minority report argues that even if 250,000 appeared, others may have been deterred by surveillance. It agrees that the committee's majority report correctly describes Mr. Rehnquist's attitude: "Information-gathering activity may raise first amendment questions if it is proven that citizens are * * * minority argues that this is precisely the problem, "the difficulty of providing a specific chilling effect is obvious, and the notion that a First Amendment question isn't even *raised* until it is 'proven that citizens are *actually* deterred from speaking out' (emphasis in original) is alarming."

But if Mr. Rehnquist's opinions here are outrageously extreme, it would seem, so are the opinions of the majority of the Senate Judiciary Committee. Similarly if his defense of the constitutionality of such laws as "no-knock" raids and "preventive detention" in the District of Columbia are out of the mainstream, the mainstream does not include the majority of both houses of Congress. So what mostly remains is the question of Mr. Rehnquist's attitudes on the racial issue.

The minority report does not make too much of allegations that Mr. Rehnquist harassed black voters when he was involved in Republican voter challenging teams in Phoenix, but it also does not dismiss them as the majority did. Some of his black opponents have come up with affidavits charging he was personally involved in harassment, and his supporters have come up with a defense of his challenging activities and attitude by a sometime counterpart on the Phoenix Democratic challenging team. The minority report says, "Each Senator will have to decide for himself what weight—if any—to give etiher the charges or the blanket denial."

On the nominee's general racial attitudes, the majority record also came up with a letter from the principal of the elementary school Mr. Rehnquist's children attended in Phoenix. "Mr. Rehnquist became known to me when I was a teacher here at Kenilworth School. He had moved his family into Phoenix Elementary School District from one of the outlying suburban, and predominantly middle socio-economic, school districts. He wanted his children to have experience and associations with children from minority groups, as well as with the different socio-economic groups."

The minority report argues that "Mr. Rehnquist's record fails to demonstrate any strong affirmative commitment to civil rights, to equal justice for all citizens, let alone a level of commitment which would rebut the strong evidence of insensitivity to such rights." The evidence the report discusses at greatest length is a letter Mr. Rehnquist wrote to The Arizona Republic in 1967, responding to remarks on school integration by Phoenix School Superintendent Howard Seymour.

The minority report says, "The truly alarming aspect of the 1967 letter, however, is Mr. Rehnquist's statement, 13 years after Brown v. Board of Education that 'We are no more dedicated to an "integrated" society than we are to a "segregated" society' . . . Yet at least since the Supreme Court declared that 'separate is inherently unequal,' this nation has not been neutral as between integration and segregation; it stands squarely in favor of the former. And if Mr. Rehnquist does not agree, he is outside the mainstream of American thought and should not be confirmed."

A FREE SOCIETY

The statement in the original letter that must be located with respect to the mainstream runs, "Mr. Seymour declares that we 'are and must be concerned with achieving an integrated society.' . . . But I think many would take issue with his statement on the merits, and would feel that we are no more dedicated to an "integrated" society than we are to a 'segregated' society; that we are instead dedicated to a free society, in which each man is equal before the law, but in which each man is accorded a maximum amount of freedom of choice in his individual activities."

Mr. Rehnquist's extremist position on civil rights, then, turns out to be nothing more than the familiar proposition that the Constitution is color-blind. On surveillance he believes that at this moment the scales are not tipped in such a way that dissent is "chilled." On wiretapping he believes the government side of the national security question deserves its day in court. These opinions, the minority report suggests, are so outrageous the nominee should be defeated.

As the Senate debates the nomination, it seems, it will have to decide more than whether it's proper to weigh a nominee's philosophy. It also needs to weigh whether words like "extreme" and "out of the mainstream" better describe Mr. Rehnquist's philosophy, or the position his critics have been forced to take to oppose him.

A RANDOM THOUGHT ON THE SEGREGATION CASES

One-hundred fifty years ago this court held that it was the ultimate judge of the restrictions which the Constitution imposed on the various branches of the national and state government. Marbury vs Madison. This was presumably on the basis that there are standards to be applied other than the personal predilections of the justices.

As applied to questions of interstate or state-federal relations, as well as to interdepartmental disputes within the federal government, this doctrine of judicial review has worked well. Where theoretically coordinate bodies of government are disputing, the Court is well suited to its role as arbiter. This is because these problems involve much less emotionally charged subject matter than do those discussed below. In effect, they determine the skeletal relations of the governments to each other without influencing the substantive business of those governments.

As applied to relations between the individual and the state, the system has worked much less well. The Constitution, of course, deals with individual rights, particularly in the first 10 and the 14th Amendments. But as I read the history of this Court, it has seldom been out of hot water when attempting to interpret these individual rights. Fletcher vs Peck, in 1810, represented an attempt by Chief Justice Marshall to extend the protection of the contract clause to infant business. Scott vs Sanford was the result of Taney's effort to protect slaveholders from legislative interference.

After the Civil War, business interest came to dominate the court, and they in turn ventured into the deep water of protecting certain types of individuals against legislative interference. Championed first by Field, then by Peckham and Brewer, the high-water mark of the trend in protecting corporations against legislative influence was probably Lochner vs N.Y. To the majority opinion in that case, Holmes replied that the 14th Amendment did not enact Herbert Spencer's social statics. Other cases coming later in a similar vein were Adkins vs Children's Hospital, Hammer vs Dagenhart, Tyson vs Banton, Ribnik vs McBride. But eventually the court called a halt to this reading of its own economic views into the Constitution. Apparently it recognized that where a legislature was dealing with its own citizens, it was not part of the judicial function to thwart public opinion except in extreme cases.

To the argument made by Thurgood (Marshall), not John Marshall, that a majority may not deprive a minority of its constitutional right, the answer must be made that while this is sound in theory, in the long run it is the majority who will determine what the constitutional rights of any kind—whether those of business, slaveholders, or Jehovah's Witnesses—have all met the same fate. One by one the cases establishing such rights have been sloughed off, and crept silently to rest. If the present court is unable to profit by this example, it must be prepared to see its word fade in time, too, as embodying only the sentiments of a transient majority of nine men.

In these cases now before the court, the court is, as Davis suggested, being asked to read its own sociological views into the Constitution. Urging a view palpably at variance with precedent and probably with legislative history, appellants seek to convince the court of the moral wrongness of the treatment they are receiving. I would suggest that this is a question the court need never reach; for regardless of the justice's individual views on the merits of segregation, it quite clearly is not one of those extreme cases which commands intervention from one of any conviction. If this Court, because its members individually are "liberal" and dislike segregation, now chooses to strike it down, it differs from the McReynolds court only in the kinds of litigants it favors and the kinds of special claims it protects. To those who would argue that "personal" rights are more sacrosanct than "property" rights, the short answer is that the Constitution makes no such distinction.

I realize that it is an unpopular and unhumanitarian position, for which I have been excoriated by "liberal" colleagues, but I think *Plessy vs. Ferguson* was right and should be re-affirmed. If the 14th Amendment did not enact Spencer's *Social Statics*, it just as surely did not enact Myrdahl's *American Dilemma*.

Mr. WILLIAMS. Mr. President, I would like at this time to announce to the Senate that I shall cast my vote against the nomination of William Rehnquist to be an Associate Justice of the Supreme Court.

I have absolutely no quarrel with the credentials of William Rehnquist as an attorney. He has shown himself to be an excellent lawyer and has had a notable career in the legal profession. There appears to be no question about his personal and financial dealings. What concerns me deeply, however, is Mr. Rehnquist's marked and persisitent insensitivity to the individual and human rights of the American people.

I have taken a good deal of time in the past several weeks to personally review all of the evidence presented regarding the appointment of Mr. Rehnquist to the High Court. I have carefully examined the transcript of the hearings on his nomination. I have studied a large number of the available papers which have been written by the nominee. And as a result of this review, I feel confident of my position that William Rehnquist lacks the necessary commitment to the fundamental values of our constitutional democracy—values which I feel are an absolute requisite for the elevation of any man to be a Supreme Court Justice.

There is no more important principle underlying our system of government than the concept that every individual should be able to live in our society with the assurance that he will be protected from unwarranted intrusions by the Government, and that every individual should be equal under the law. This was the rationale behind the adoption of the first 10 amendments to the U.S. Constitution. It was the purpose for the enactment of the 13th, 14th, and 15th amendments.

I find it disappointing that Mr. Rehnquist seems to be unable to demonstrate an unequivocal commitment to these constitutional safeguards. And I think that it would be a tragedy for us to approve a man for the Court who would work against the very principles which it was created to preserve.

Mr. Rehnquist has a record which shows that he would rather discount civil liberties when they come into conflict with governmental authority. This is demonstrated by the opinions which he wrote—and would not disassociate himself from—in regard to surveillance, wiretapping, inherent Executive power, preventive detention, no-knock search and seizure procedures, and more.

Mr. Rehnquist has a record which shows a strong disregard for the individual rights of the minorities of this country. Only 7 years ago, as the Congress of the United States reaffirmed its commitments to the right of any individual to make use of public accommodations on an equal basis, the nominee offered his personal opposition to a Phoenix, Ariz., public accommodations ordinance. Only 5 years ago, Mr. Rehnquist worked to delete key provisions of a model state antidiscrimination act which would have permitted employers to adopt voluntary hiring plans for minorities who had been the victims of past discrimination and which would have forbidden blockbusting techniques in the sale of housing to minorities. Only 4 years ago, Mr. Rehnquist took it upon himself to resist efforts by the city of Phoenix to promote integration of its school system. He stated in a letter to the editor of the Phoenix, Ariz., Sun that—

> We are no more dedicated to an "integrated" society than to a "segregated" society.

Mr. President, William Rehnquist has not convincingly demonstrated that he has changed any of his previously held views in these matters. In response to intensive questioning by members of the Judiciary Committee he consistently stated that while the question of "judicial philosophy" was a proper and vital area of inquiry of any nominee to the Supreme Court, he was unable to provide those Senators with many clues as to his personal viewpoints on the grounds that he might be abusing his "lawyer-client relationship" with the Attorney General and the President. I for one do not understand where this claimed protection arises under the law. And even if it does exist, Mr. Rehnquist has indicated in his testimony that the views which he advocated as Assistant Attorney General were not so repugnant to him that he would feel compelled to resign his position, because of this advocacy. These were views which, for example, condoned the abandonment of due process arrest procedures during May Day demonstrations in Washington, which justified the extention of the Executive power to conduct wiretaps without judicial review whenever the Government believes there is a domestic threat to the national security, and which supported the Government's right to undertake unrestrained surveillance activities with regard to individual citizens. Thus, to the extent that we can determine his personal philosophy about these vital matters, I find an extreme lack of compassion and good judgment which, in my view, must be an integral part of a nominee's attitude toward fundamental liberties inherent in the structure of American Government.

Any man who can state, with regard to the question of surveillance of private citizens, that "I do not believe, therefore, that there should be any judicially enforceable limitations on the gathering of this kind of public information by the executive branch of the Government" should not be confirmed by the Senate of the United States to hold a position on the Supreme Court.

It is for these reasons that I shall cast my vote against William Rehnquist.

Mr. TOWER. Mr. President, I am pleased to rise in support of the nomination of Mr. William H. Rehnquist to be an Associate Justice of the U.S. Supreme Court. Mr. Rehnquist will bring with him to the Court an outstanding academic record as well as great experience both in the practice and implementation of the law. Bill Rehnquist was born in Milwaukee, Wis. in 1924, and grew up in the nearby community of Shorewood. After graduation from high school, he enlisted in the U.S. Army where he reached the rank of sergeant while serving in the Air Corps. After receiving an honorable discharge, he attended Stanford University and was graduated in 1948 "with great distinction." In 1950, he was awarded a master of arts degree in history from Harvard University and in the same year entered Stanford Law School, from which he graduated in 1952 with the rank of No. 1 in his class. These qualifications show that Bill Rehnquist is a capable and dedicated student. This ability and desire to work hard and to study the situation in depth should acquit him well as a member of the high court.

Mr. Rehnquist has been just as successful since he completed his formal education. After graduation, he became the law clerk of then Justice Robert H. Jackson, a position he held until June 1953. He then went to Phoenix, Ariz., where he practiced law quite successfully until 1969, when he assumed his present duties as assistant attorney general.

While practicing law in Phoenix, Mr. Rehnquist was much honored by his colleagues. He served as president and a member of the board of directors of the Maricopa County Bar Association in Phoenix. He also served as chairman of the Arizona State Bar Continuing Legal Education Committee, and from 1963 until 1969 was a member of the National Conference of Commissioners of Uniform State Laws. In short, both academically and professionally Mr. Rehnquist's career and contributions to the practice of law were at all times of the highest order and in the finest legal traditions of this Nation.

Mr. President, we have all been aware of the attempt by some to discredit Mr. Rehnquist through a campaign of whisper and innuendo. There have been intimations that he was not sensitive enough on one issue or another, that he was somehow against our American liberties. No substantiation of these charges has been provided, no completely unrebutted statements stand for us to examine. Yet, some would have us believe that this man is somehow against those things which we all hold dear. I think that in dismissing these charges we need only refer to the statement of Mr. Martin F. Richman who was at one time a law clerk to former Chief Justice Earl Warren and formerly Deputy Assistant Attorney General in the previous administration, when he said:

> The key question here, in my opinion, is whether as a Justice, Mr. Rehnquist will bring to the decision of the cases not only his own views, however long held and well thought out, but an open mind. Will he approach each case on the basis of the facts in the records, the briefings by counsel, the arguments of his Brethren in conference, and his best judgment of all the available legal materials. In short, will he act like a Judge?
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> Based on my experience with him my own answer is in the affirmative. . . . I am confident that his votes will be based on the merits of the cases, that his opinions will illuminate the issues, and he will make a constructive contribution to the on-going work of the Court in the development of our law.

Also, we have Mr. Rehnquist's own view, stated long ago, that what is truly important in these United States is that we have a "free society."

Mr. President, I believe that President Nixon has made a very fine choice in selecting Bill Rehnquist to be an Associate Justice of the U.S. Supreme Court. It is my hope and belief that he will serve with distinction for many years on the Court and that he will help shape law in America. I trust that he will help restore a balance to the Court as it is considering the rights of society when also considering the rights of the accused. I intend to vote for confirmation, and I urge my colleagues to do likewise.

Mr. MILLER. Mr. President, I shall vote for confirmation of William H. Rehnquist to be an Associate Justice of the Supreme Court of the United States. The majority report of the Senate Judiciary Committee well meets the points raised in opposition to his appointment. I understand the concern which opponents to the nomination have expressed, but I believe they have carried their search for evidence to substantiate their arguments to such extremes that practically no nominee could measure up to their satisfaction unless he either had never participated in public life or fit precisely with their own mold of philosophy. This cannot be the test for confirmation by the Senate.

Mr. STEVENSON. Mr. President, the Constitution gives the President the power to "nominate and by and with the advice and consent of the Senate—appoint" the members of the Supreme Court. That language reflects a compromise between those framers of the Constitution who held that the President should have the power to appoint members of the Court and those who believed that power should be left to the Senate. It clearly indicates an active role by the Senate, a role acted out in our history and supported by the most eminent authorities on the Constitution. I find little dispute over the proposition that the Senate should exercise its active role by inquiring into the judicial and political philosophies of nominees to the Court. After all, the Court acts not only as the arbiter of private disputes and individual rights under the Constitution and the laws of the Congress, but also as the arbiter of conflicting claims to power by the Congress and the executive branch of the Federal Government. Mr. Nixon has manifested his right to make the philosophy of nominees an issue. The Senate has that right, too.

However plain the right may be, its exercise is not easy for either the Executive or the Senate.

Mr. Rehnquist is not my choice for the Supreme Court. His political philosophy is not mine. And if I believed the charges of indifference to human rights and abuses of executive power were supported by the evidence I would not consent to his nomination.

The charges against Mr. Rehnquist affect not his character, his intellect or professional standing, but his philosophy. The Senate has a right and a duty to consider them seriously. I have considered them at length and wish there had been more time for Senate debate. I have studied the record before the Senate Judiciary Committee. I have read Mr. Rehnquist's testimony and speeches. I have consulted the opinions of many who know and have worked with Mr. Rehnquist, and I have talked with him myself.

It would not be easy under any circumstances to assay Mr. Rehnquist's commitment to the human rights guaranteed by the Constitution. It would not be easy to assess his attitudes toward the responsibilities of the High Court for guaranteeing not only the rights of individuals, but also the rights of the Congress against the ever more pervasive powers of the Executive. What would have been difficult in the best of circumstances has become more so. The polarities of race and politics in the Nation have been reflected in the debate over the political philosophy of Mr. Rehnquist. Charges that he interfered with blacks exercising their franchise in 1964 are disproved, but have nonetheless inflamed the issue.

Mr. Rehnquist's statements as an advocate in public and private life have been confused with his own beliefs—and those beliefs have been difficult to divine, because of the client-lawyer privilege which he has invoked before the Judiciary Committee. His indisposition to prejudge issues likely to arise before the Supreme Court has, however understandably, made the inquiry still more difficult.

His views in some cases have been modified with the passage of time and in others offset by stated views which the debate tends to ignore.

His statements have been taken out of context in a few cases. None was more disturbing to me than his statement in 1967 that—

> We are no more dedicated to an integrated society than we are to a segregated society.

But even that harsh statement was followed by the not altogether consistent statement that—

> We are instead dedicated to a free society in which each man is equal before the law, but in which each man is accorded a maximum amount of freedom of choice in his individual liberties.

Such statements are capable of more interpretations than his opponents concede.

Mr. Rehnquist has at times in the past been blind to the rights and interests of minorities, admittedly so in 1964 when he opposed a public accommodations ordinance for Phoenix. But he, like many others, has changed his views since then. Twenty years ago he wrote the now famous memorandum to Justice Jackson supporting Plessy against Ferguson. But I believe him when he says it did not reflect his views. If the evidence makes anything clear, it is that Mr. Rehnquist is a man of integrity.

The "new barbarians" referred to in a 1969 speech were carefully defined as a small minority which cared nothing for our system of government. He carefully excepted the civil disobedience of a Thoreau in a self-governing society and the civil disobedience of a Gandhi in an autocratic society from his general condemnations of lawlessness. I am more concerned that he could perceive "new barbarians" as a threat to the security of our Government, so serious as to justify surveillance of activities protected by the first amendment. At what precise point he recognizes a judicially protected right I cannot say, except that he would as a Justice go further than his statements as an Assistant Attorney General would indicate—or his opponents concede. As in most cases, he adheres to a firm notion of judicial restraint and invites legislative protection, while deploring Executive threats to free speech.

It is charged that he perceives few constitutional limits to the Executive's power to conduct war. Here his views are most difficult to ascertain because they are stated as an advocate for the Executive. Even so, there is little evidence to sustain the charges. I cannot quarrel with his statement that it would invade the powers of the Commander in Chief for Congress to forbid an assault on Hamburger Hill.

Mr. Rehnquist never defended blockbusting; he did in 1966 before the Uniform State Law Commissioners wrongly support a first amendment right of property purchasers to make honest statements of fact about property values in socially changing neighborhoods. He is an advocate of preventive detention, but argues that society is now protected from dangerous individuals before trial by excessive bail requirements. He argues that preventive detention will protect society at the same time it affords the accused more protection than the constitutional prohibition against excessive bail does now.

The temper of the times and the incompleteness of the evidence make it hard to judge the man—far harder for the public at this point than for a Senator. We in the Senate have heard the debate and the evidence. Senator BAYH wisely sought more debate, but failed against the opposition of the Rehnquist supporters. The public hears the accusations and, too seldom, the defenses. Public attention focuses upon the debate at about the time Mr. Rehnquist is effectively deprived of a chance to defend himself.

The history of attempts in the Senate and by the President to judge men of undoubted character and intellect by philosophical tests casts further doubt upon their efficacy. Justice Warren surprised his sponsor. The Senate was wrong to reject Judge Parker in 1930. None guessed that Felix Frankfurter, the political liberal, would become the judicial conservative on the Court.

Mr. Rehnquist may be an "extreme conservative," but he is not an extremist. I find nothing in the record to indicate that he would bring to the Court his past role as an advocate or political activist. The evidence points the other way. He believes in judicial restraint. And I cannot fault him for that any more than I could Justice Frankfurter or Justice Jackson—both of whom he professes to admire.

I claim no divine insights to the character of the man, nor any clear perception of all the issues to reach him on the Court. My belief is simply that once a nominee's philosophical views are found within the mainstream of American tradition, the character and the intellect of the man are about all we as Senators can confidently judge. I believe that Mr. Rehnquist would bring an inquiring and reflective mind to the Court and that before him logic, the facts and the Constitution would prevail. I believe that he reveres the law and the Court. Aware that such judgments are difficult at best, I believe that he will bring method, and in his work, excellence to an institution which, as much as any other, will exalt or demean the law of the land.

We cannot be certain. I have tried to weigh my faith in human nature and, in this instance, a human abundantly endowed with character and intellect, against the risk that his judicial opinions will reflect a narrow view of the Court's role as a guarantor of individual rights. He probably will leave to the Congress the primary responsibility for advancing the frontiers of human dignity. I expect him to follow in the tradition of Frankfurter and Harlan, more sensitive now than before his ordeal, to the expectations and the rights of minorities.

Our role in the Senate is limited. To "advise and consent," we have now only the power to reject. Judges Haynsworth and Carswell were rejected; so were others whose nominations were apparently contemplated but never transmitted to the Senate; namely, Mrs. Lillie and Mr. Friday. Our choice is not between Mr. Rehnquist and a better man. It is to reject, or not to reject.

Mr. Nixon's commitment to judicial and political conservatism has been made painfully evident by his word and deed. His future nominees like those in the past will be judicial and political conservatives. Their philosophies may be more cautiously expressed, but they neither have been, nor will be, markedly different from Mr. Rehnquist's. What may be different, markedly, is character and intellect—excellence in the law. It is a compliment to Mr. Powell and to Mr. Rehnquist that they were not Mr. Nixon's first choices. But that is not to say that the President has exhausted the Nation's supply of mediocrities.

Each case must be judged on its own merits, but the risk of not consenting is greater than the risk of consenting. I fear the trials of other nominees in the future, liberals as well as conservatives, for their beliefs.

I do not want to see Mr. Rehnquist rejected for freely and brilliantly expressing opinions withheld by other more cautious, and therefore successful, nominees. Those opinions upon close examination are not outside the mainstream of judicial thought. They reflect a narrow view of the judicial function and a broad view of the legislative function. Mr. Rehnquist does not oppose integration. He moved his family from an outlying area to the center of Phoenix so his children could attend an integrated school. He has reaffirmed his support for Brown against Board of Education. He condemned the excessive use of force at Kent State. With very few exceptions his teachers and the individuals who have worked with him and know him best believe in his fitness for the Court. He has manifested his concern for the legal rights of the poor through his service in a county legal aid program.

Essentially he holds to the view that the active promotion of interests, be they of corporate special interests or of the poor and downtrodden, is a function for the Congress and not the Court. I can wish that he supported a more positive judicial approach for the latter than the former. But I cannot say that his view is unfit to be represented on the Court.

We have looked in recent years to the Court for the expansion of human rights. We may be creatures of that recent experience. The future could be different. The Congress could be stirred by an awakened social conscience in the land and a newly enfranchised generation, by the young and by women, blacks and the poor, to expand upon those guarantees. I do not want to see the Congress restrained by the Court. Mr. Rehnquist's judicial conservatism dictates judicial nonintervention. He has been as critical of the McReynolds Court as of the Warren Court.

This is the most difficult decision I have had to make as a Senator. I have received more pressure and advice on this question than upon any other, almost all of it opposed to Mr. Rehnquist. But I must decide in favor of Mr. Rehnquist, because of his demonstrated excellence in the law, his unquestioned integrity and an intellect which I am convinced would not permit a mechanistic or political approach to the issues before the Court. We are not prophets. I must take the risk of being wrong. And I will be bitterly disappointed if my faith in Justice Rehnquist is proved unfounded.

Mr. McGOVERN. Mr. President, in the exercise of our responsibility to deny or confirm nominations to the High Court, we have six times been called to scrutinize the choices of President Nixon. At least twice we have been spared this task by the timely intervention of the American Bar Association. During the controversy that led to the resignation of Justice Fortas, Mr. Nixon said that if he were President of the United States, he would appoint men of the caliber of Oliver Wendell Holmes or Louis Brandeis. The President, we know, is under pressure from the right wing of his party. Plans are apparently underway to oppose the President's renomination with an ultra-conservative candidate.

It is plausible to believe that the President has chosen to deploy the Supreme Court against discontent in his own party? The President has inherited a historic opportunity to shape the Supreme Court for a generation. Now, it may be that the President would genuinely like to construct the Court in such a way as to impede change for another generation. Or it may be that his motives are more related to his own current political problems. In any event, the next 20 years will be vital ones in the history of this country. We are going to have to meet and try to overcome problems of the economy, of pollution, of war, of race, of poverty, of crushing taxation of the middle class, of decayed cities, of crime, of penal reform, of fundamental freedoms. The Justice whom we are to confirm, together with other Justices now on the Court, will have a tremendous power to aid or to hinder attempts to solve these problems. To know the roadblocks to progress that can be thrown up by recalcitrant judges, one need only remember that Warren G. Harding appointed three judges who tried to stop social welfare legislation and two of them were instrumental in almost wrecking Franklin Roosevelt's New Deal.

What kind of man or woman, then, should be appointed at this critical juncture in our history? Mr. Nixon has made no secret of his intention to shape the Supreme Court to his heart's desire for the next 20 years. His desire, of course, is so-called strict construction of the Constitution. In its accepted historical legal sense, strict construction means that the powers of Government should not be construed so broadly as to enable Government to infringe the fundamental freedoms of the people. But, Mr. Nixon and Mr. Mitchell use strict construction in exactly the opposite sense. They use it to mean that the people's freedoms should be narrowly construed so that the Government will have the power to infringe on what have been thought to be fundamental liberties of individuals. Thus, Mr. Nixon and Mr. Mitchell want Justices who will approve electronic bugging of citizens without court orders, who will stop the press from revealing governmental duplicity, who will let Government break into people's houses, who will let the Executive send men to war without congressional authorization, who will let the Executive impound and refuse to spend funds which Congress has appropriated to help ameliorate the ills suffered by millions of citizens, and who will let the Executive refuse to give Congress information on what is being done with the taxpayers' money in regard to military affairs and foreign affairs. In William Rehnquist they have apparently found just such a Justice.

Mr. Nixon already has a Supreme Court which largely agrees with his inverted view of strict construction. Two of the Justices from the Eisenhower and Kennedy era are basically counted in the so-called conservative camp although they occasionally vote the other way. The two Nixon appointees presently serving, and presumably the third appointee confirmed last week, have already shown themselves to be firmly in Mr. Nixon's camp on most issues. There is thus a possibility that six Justices will be on Mr. Nixon's side of strict construction. And if the health of two other of the presently sitting Justices does not hold out, Mr. Nixon may be able to count eight Justices for his view of the Constitution.

It seems to me, therefore, that the time has come once again to speak of balance on the High Court. When Mr. Nixon was running for President in 1968, he spoke of balance on the Court. He said he thought the Court was tilted too much in one direction and that there should be a more even distribution of Justices. But now the President is sending up trial balloons which clearly indicate that, rather than trying to achieve balance on the Court, he may try to pack the Court for the next generation with men of one persuasion. He may try to tie the hands of a whole generation until 1990 or 1995 by nominating men who hold to the ideas he holds in 1971.

It is a serious business to tie the hands of a generation. Legislation to meet the needs of the country does not come easily. It is the product of enormous sweat and toil in Congress and the White House. But despite the great legislative efforts which will be made to solve the problems of the Nation, Mr. Nixon's appointees will have it in their hands to knock down the efforts to better society, just as the four horsemen of the 1930's Court knocked down efforts to get this country out of the depression and give the common man a fair break.

So I come back to the question of what kind of man or woman should be nominated to the Court. Obviously the nominees should be men or women of the highest intellectual and legal abilities. They should be persons who in their life have shown compassion for the unfortunate, for those who work bitterly hard but make little money, who have shown that they sympathize with those of minority races and with the problems of hard-working middle class citizens. And it is highly important that the nominees not be persons who have already shown that their minds are closed on critical issues facing the Nation and that their minds are closed to the problems of the poor or the downtrodden or those of a different race. Mr. Nixon should nominate people who will bring balance to the Court rather than packing it with those of a single persuasion.

We now know enough about Mr. Rehnquist to conclude that he would not meet these criteria. I am not certain even that Mr. Rehnquist meets all of the criteria laid down by the President presenting his nomination. Senators will recall that the President spoke of "judicial philosophy" as a major consideration in putting forward Mr. Powell and Mr. Rehnquist. The President said:

> By "judicial philosophy" I do not mean agreeing with the President on every issue. It would be a total repudiation of our constitutional system if judges on the Supreme Court, or any other Federal Court, for that matter, were like puppets on a string pulled by the President who appointed them." And later: "As far as judicial philosophy is concerned, it is my belief that it is the duty of a judge to interpret the Constitution and not to place himself above the Constitution or outside the Constitution.

The President proceeded to announce a sound principle when he said a Supreme Court Justice should not "twist or bend the Constitution in order to perpetuate his personal political or social views."

Then he promptly sank his own doctrine.

Mr. Rehnquist has made a career with this administration of torturing the Constitution to suit the political strategies and ideological quirks of his bosses in the Justice Department and the White House.

He is the principle architect of the premise that the President, as Commander in Chief of the Armed Forces, has virtually limitless powers to involve this country in war. Needing only to perceive a threat to American troops somewhere—as in Cambodia last year—the President can launch an invasion without so much as a glance toward Capitol Hill. Under the same doctrine Mr. Nixon could invade China tomorrow, and the Soviet Union the day after.

Mr. Nixon may see such thinking as an "exceptional" qualification for the Supreme Court. I do not.

Mr. Rehnquist has been equally forthcoming on the right of the American people to be secure in their private thoughts and actions. They have no such right, he says. On the contrary it is the Government which has rights—to snoop and spy on its own citizens unhampered by inconvenient constitutional limits. We can rely on the self-restraint of the executive to avoid abuse. One wonders why we need a Bill of Rights at all.

Mr. Nixon may regard such thinking as the mark of one of "the very best lawyers in the Nation." I do not.

On the rights of the accused, Mr. Rehnquist sees a need for adjustment in the landmark Miranda decision. As I understand it that precedent created no new substantive rights at all. It does no more than assure that the poor, uninformed accused must know as much about the Constitution's explicit protections as the well-to-do fellow who has an attorney on retainer to tell him. Clearly there is scarce room for doubt of Mr. Rehnquist's meaning when he tells us that "law and order must be preserved, at whatever cost to individual liberties and rights."

Mr. Nixon may see such thinking as a means of restoring "that delicate balance between the rights of society and the rights of defendants accused of crimes against society." I do not.

As the President's lawyer's lawyer, Mr. Rehnquist played a dominant role in developing the mass arrest strategy employed during the May Day disturbances in Washington. Under his "limited martial law" doctrine some 13,000 people were arrested, most without specific charges, most without any possibility that they could even be identified by the arresting officer, many whose only apparent crime was that they happened to be on the streets of the Nation's Capital.

One standard of measuring Supreme Court nominees with judicial experience has been to assess the number of times they have been reversed on appeal. Considering failures to prosecute, dismissals and appeals, the latest estimate I have is that Mr. Rehnquist has been reversed at least 12,000 times on cases growing out of the May Day affair alone.

Mr. Nixon may see such a record as inspiring respect for the "institution of the Supreme Court," by adding "distinction and excellent to the highest degree." I do not.

I reject the view that the Senate's only responsibility on Supreme Court nominations is to evaluate academic credentials and success in the practice of law. We have a higher obligation to both the Constitution and to the American public.

I further reject the notion that Mr. Rehnquist deserves speedy confirmation because he does not have the same weaknesses as Mr. Nixon's prior rejected nominees or of his most recent trial balloons. Certainly right-wing extremism is no less dangerous when it is brightly put.

Perhaps no one has so clearly forecast the danger posed by Mr. Rehnquist to our Constitution as has I. F. Stone in the most recent issue of his biweekly. Incidentally, I have found his bi-weekly to be one of the most scrupulously researched and informative of the publications which seek to monitor the activities of our Government. Mr. Stone's courage, intelligence and hunger for the truth are matchless. I am sure that I join many in Government and outside, who lament the fact that Mr. Stone has seen fit to discontinue this particular facet of his work. But it does make his contribution to our present debate all the more appropriate. I ask unanimous consent that I. F. Stone's Bi-Weekly, November 29, 1971, entitled, "What Rehnquist Saw as a Black Day in the Court," be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From I. F. Stone's Bi-Weekly, Nov. 29, 1971]

WHAT REHNQUIST SAW AS A BLACK DAY IN THE COURT

By the standards of civil libertarians, June 17, 1957, was one of the greatest days in the history of the U.S. Supreme Court. By the standards of William H. Rehnquist it was the worst. An examination of the decisions the Court handed down that day indicates the kind of "conservatism" he would bring to the Court. One of his attacks on the Warren Court was an article he wrote for the *American Bar Association Journal* (44ABAJ229) in 1958. It began "Communists, former Communists and others of like political philosophy scored significant victories during the October 1956 term of the Supreme Court, culminating in the historic decisions of June 17, 1957." Joseph L. Rauh, Jr. calling attention in his testimony on Rehnquist before the Senate Judiciary Committee to the four historic decisions handed down by the Court that day in the field of civil liberties. Mr. Justice Harlan, the great conservative whom Rehnquist has been named to succeed, wrote two of those decisions and concurred in the other two. He must certainly be surprised, on his hospital sick bed, to hear them described as victories for Communists rather than for strict construction of the Bill of Rights.

It is a pity that a clash between Rauh and Senator Kennedy over Rehnquist's affidavit of non-membership in the Birch Society distracted attention from Rauh's exposition of those four cases. To compare these decisions with Rehnquist's description is to see how far to the right are his political preconceptions. Only one of them dealt with Communists at all. That was the Yates decision (354 U.S. 298) where Mr. Justice Harlan reversed the conviction of the California Communist leaders and held that advocacy of revolutionary doctrine was protected by the First amendment unless accompanied by advocacy of action. This decision was, to all intents and purposes, the deathblow to the Smith Act, our first peacetime sedition statute since the Alien and Sedition laws of John Adams. The other decision by Harlan was a landmark case in the field of loyalty and security. It ended (354 U.S. 123) the long and shameful harassment of John Stewart Service inspired by the China lobby, and it ordered his restoration to the State Department.

Two other decisions that day were also setbacks to the witch hunt of the 50s. *Watkins v. U.S.* (354 US 295), which Rauh argued for the defense, was the first major setback to the Un-American Activities Committee. The Court reversed the contempt conviction of an Auto Workers' official. Warren (with Harlan and Frankfurter) held that Congress had no power of "exposure for exposure's sake." The fourth case, *Sweezy v. New Hampshire* (354 US 239) was a victory for academic freedom against a State witch hunt. Warren and the majority ruled as they did in Watkins but Harlan and Frankfurter took a stronger position, voting for reversal on First Amendment grounds. Paul Sweezy, an editor of *Monthly Review*, is an independent Marxist of international reputation. These are the decisions Rehnquist found so deplorable.

THE BROWN DECISION: HIS NO. 1 TARGET

Rehnquist's twin passions in his attacks of the late 50s on the Court were the witch hunt and school segregation. Much attention has been focussed on the article he wrote for the *Harvard Law Record* of October 8, 1959 urging the Senate to restore "its practice of thoroughly informing itself on the judicial philosophy of a Supreme Court nominee before voting to confirm him." Less attention has been given the animus he displayed in that article against the historic Brown decision for school integration. Rehnquist protested that in confirming Mr. Justice Whittaker, the Senate had failed to inquire what he 'thought about the Supreme Court and segregation or about the Supreme Court and Communism."

As recently as Feb. 14, 1970 Rehnquist defended Carswell's anti-integration record and sneered in a letter to the *Washington Post* that it was attempting to set up "a rather detailed catechism of civil rights decisions" as "the equivalent of subscription to the Nicene creed for the early Christians." But he wanted a catechism-in-reverse to make sure that nominees were hostile to school integration.

It is ironic that Rehnquist, who argued little more than a decade ago for the fullest inquiry into the political opinions of Court nominees, should have resisted inquiry into his own in the hearings on his nomination. He declined to give his opinion on the constitutionality of the Mansfield amendment, on the power of Congress to cut off funds for war, on the circumstances under which newspapers may be subjected to prior restraint, i.e. censorship, on whether he thought individual freedoms more important than property rights, on what constitutes reasonable search and seizure, on what bail is excessive, on what school boards should do instead of busing when taxes cannot be increased to provide quality education.

At times, as on wire-tapping, preventive detention, no-knock police entry, FBI surveillance of demonstrations, bugging, and the equal rights amendment, Rehnquist came up with a new doctrine for evasion. He claimed the right to silence because of a client-attorney relationship with the government on these issues. This evoked a letter from 19 of the 26 members of the Catholic University Law School to the Judiciary Committee in which they asserted, "The attorney-client privilege is not the attorney's. It is for the protection of, and belongs to, the client." They argued furthermore that Rehnquist's client as a Justice Department official was "the people and not the President." They said no nominee before had ever made such a claim "against the Senate's right to know." Certainly Rehnquist never advocated any such doctrine when he wanted to block or reverse the liberal rulings of the Warren court by stricter Senate inquiry into the beliefs of Court nominees. His nomination and Powell's are two major steps toward the conversion of the Court into a citadel of reactionary jurisprudence.

Mr. McGOVERN. Mr. President, with Mr. Stone's article as background, let me turn to a fuller analysis of some of the episodes in the Rehnquist record which make his nomination to the highest court in the land so ill advised.

I. CIVIL LIBERTIES

No man can be worthy of appointment to the Supreme Court who has demonstrated such misunderstanding of the Bill of Rights as William Rehnquist. His is a record of contempt toward the very heart of this free society, the notion that individual freedom and expression is the foundation of America. Whereas the Bill of Rights is based on protection of individual freedom against the encroachments of Government, Mr. Rehnquist has consistently sought to narrow that freedom and increase those encroachments to the point where this Government would have a free hand to suppress its people. And the dismal Rehnquist record dates not from the start of his involvement in this administration, but from the beginning of his legal career.

In 1957 Mr. Rehnquist denounced the Chief Justice appointed by Mr. Nixon's mentor, the late President Eisenhower, one Earl Warren, on the ground that he and his Court showed "extreme solicitude" for the claims of Communists and other criminal defendants. He also objected to the Court's rulings in support of Government regulations of business. This accusation was made in an article, Who Writes Decisions of the Supreme Court? which appeared in U.S. News & World Report, December 13, 1957. Interestingly, Mr. Rehnquist apparently has no trouble with government regulation of human freedom. That undoubtedly squares with his notion, expressed before the historic decision in Brown against Board of Education that the Constitution, and the American people, value property more than they do people. His views in that instance were reversed by a unanimous Supreme Court.

Later Mr. Rehnquist attacked the Court because it saw fit to permit applicants for the bar to take examinations despite the political beliefs they held. What is more instructive than the denunciation is the manner in which this nominee saw fit to make it. He had to attack Mr. Justice Black for having warmhearted aberrations which became constitutional transgressions when embodied in the decision. He further accused Mr. Justice Black of having ideological sympathies with the defendants, one an admitted Communist. It is surely a sorry event to elevate to the highest Court one who shows contempt for that Court and its members.

Mr. Rehnquist's defense of wiretapping without court order against suspected domestic subversives, even though the Congress and the courts have not approved such behavior, is but another example of this nominee's readiness to resort to impermissible techniques to control groups or people he deems subversive. In view of his position on Mr. Justice Black, can any one doubt that almost no American would be free from wiretapping should Mr. Rehnquist's view prevail on the Supreme Court.

As the nominee's colloquy with Senator ERVIN demonstrates—hearings before the Senate Subcommittee on Constitutional Rights, "Constitutional and Statutory Sources of Investigative Authority in the Executive Branch of Government," 92d Congress, first session, March 9, 1971 (unprinted)—he is equally of the view that the Government has the right to maintain surveillance on its citizens almost without limitation.

Of course, Mr. Rehnquist's narrow regard for the rights of our citizens extends with equal force to his willingness to deny even the most fundamental freedoms to our public employees. Thus, on the theory that the balance between the right of a public employee to speak and the effective operation of government must be weighed in favor of the latter, he seems to miss the point that, in a free society, the truth will out only when all citizens are free to speak the truth, consistent only with those laws the Congress has seen fit to enact and not consistent with Mr. Rehnquist's view of effective government. His fear of insubordination may be a result of the present administration's ability to keep the confidence of some of its own employees, let alone the American people, but that fear hardly justifies destroying the rights of our public employees.

No incident in recent memory was so fraught with potential destruction of our Constitution then the Department of Justice's response to the May Day demonstrations. That the Department of Justice, and the President's lawyer's lawyer could be the architects of a policy deliberately designed to violate the rights of innocent citizens on a mass basis, is clear warning of what we can expect from Mr. Rehnquist if he is appointed to the Court. That the administration and Mr. Rehnquist were fully prepared not only to incarcerate innocent people under what we all know to have been intolerable conditions is perhaps another signpost on the wall that Mr. Rehnquist views order and property as far more important in life than individual dignity. And let nobody doubt that hundreds of innocent citizens were arrested in dragnet fashion on May Day. For the government of the District of Columbia has dismissed hundreds of cases because they could prove no wrong doing.

The picture which emerges from the record is not that of a man simply holding a different philosophy than some of us hold, but of a man careless and hostile toward the very document it would be his duty to follow, willing to sacrifice at every turn the rights of our people for order, property, and other values which are meaningless if we have lost our faith in the vast majority of our law-abiding citizens, whatever be their political beliefs. And the mass arrests on May Day for which Mr. Rehnquist deserves so much of the blame, are dramatic examples of what we can expect on that day in history when this Nation sacrifices individual freedom to the distorted, twisted view of our country which Mr. Rehnquist has.

II. CIVIL RIGHTS

No one reading Mr. Rehnquist's vigorous opposition to the Supreme Court involving itself in the issue of school segregation and following his record through his hostility to passing public accommodations laws just a few years ago, combined with an understanding of his views on civil liberties can doubt for a moment that Mr. Rehnquist's lack of regard for essential first freedoms is compounded if an individual's skin happens to be some other color than white.

While this nominee stands ever ready to invest the power and resources of Government in the fight to keep people and groups with unpopular views under surveillance, he would have the courts and the Congress stay out of the fight to insure a better life for those less fortunate in this society. That his overriding love of property poisons his ability to be a fair man is no more dramatically shown than in his denunciation in June 1964, of the Phoenix public accommodation suggestion. He opposed that ordinance on the ground that it told you who could come on your property—not, mind you, ones private home, but rather a movie theater, a public stadium, a restaurant, a hotel. That he could hold such views so recently is not surprising because it confirms his devotion to property first enunciated over the school desegregation cases. And no one ought to be fooled that he is essentially less hostile today to the rights of our black citizens. For each of us ought to remember that the view he holds of civil liberties and the rights of individuals was at least partly embodied in the District of Columbia no-knock laws directed against a community with a population of 70 percent black. Moreover, the fight for freedom by our black citizens was in full force in the early part of the 1960's. Many of us were actively seeking new laws—including public accommodations—at the same time that Mr. Rehnquist chose to stand opposed. He cannot claim naivete, he cannot claim lack of knowledge, and I do not think we would try to do so. And in 1966, he showed hostility toward national antidiscrimination laws, including in the area of employment, as a representative to the national Conference of Commissioners on Uniform State Laws. If these efforts were not sufficient to convince people where Mr. Rehnquist stood on civil rights, in 1967 the nominee had the audacity to assert that, 13 years after Brown against Board of Education and 4 years after this Congress passed the most far-reaching civil rights bill in our history, that "we are no more dedicated to an integrated society than we are to a segregated society." Such a statement so obviously places Mr. Rehnquist outside the mainstream of our thought, so outside the expressed law of the land, that he cannot be entrusted with the hallowed duty of enforcing that very law. His defense of Mr. Nixon's nomination of Judge Carswell on the ground that Carswell's hostility to civil rights was borne not of antiblack or anticivil rights animus, but of constitutional conservatism, is a portent of what we can expect from Mr. Rehnquist. Everything in his record, every major public issue in which he has been involved, in and out of government, has been on the side of those who would ignore the law, who would obfuscate, hinder, delay and who would seek to overturn and destroy the hard earned judicial successes of our minorities. That is not the record of a man who can be trusted on the highest court of the land.

I ask unanimous consent to have printed in the RECORD a letter published in the Washington Post of December 4, written by Joseph L. Rauh, Jr., and Clarence Mitchell, legislative chairman, Leadership Conference on Civil Rights.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Dec. 4, 1971]

FOR AN EXAMINATION OF MR. REHNQUIST'S CIVIL LIBERTIES RECORD

Your editorial "The Senate, the Court and the Nominee—II," which appeared on Sunday, Nov. 28, should be read by every member of the United States Senate. It is hard to believe that any true supporter of civil liberties could vote for the Rehnquist nomination to the court, after considering the points that you discussed.

Senator Fannin's "rebuttal" (Letter, Dec. 2) only reinforces the Post editorial. By quoting banal generalities, Senator Fannin concedes that the specifics of Mr. Rehnquist's anti-Bill of Rights views cannot stand the light of day. For example, Senator Fannin quotes a Rehnquist statement favoring a free press, but doesn't mention his efforts to pressure The Washington Post not to print the Pentagon Papers. Senator Fannin quotes Mr. Rehnquist in favor of the Fourth Amendment, but does not mention his position that wiretapping for "domestic subversion" without even a court order is a reasonable and legal search and seizure. He quotes Mr. Rehnquist in favor of a fair trial, but fails to mention his support for preventive detention, his opposition to the exclusionary rule and his belief in restricting the use of habeas corpus.

Weak as is Mr. Fannin's defense of Mr. Rehnquist in the area of civil liberties, he makes no defense whatever of the Rehnquist civil rights record. Nor could he. This record is such that no thoughtful black person could expect a fair trial in any court where Mr. Rehnquist would be the judge. The extent of his participation in schemes to deny Negroes the right to vote is incredible.

Over the years, there has been only one area of civil rights legislation where conservatives, liberals and even some of the Deep South members of the Senate and House could reach agreement. That is the right to vote. Thus, because of his personal and organizational involvement in denying Negroes the right to vote in Arizona, Mr. Rehnquist is out of step even with many segregationists who welcome voting by colored Americans.

Mr. Rehnquist's participation in attempts to bar voters from casting their ballots took two forms. First, he personally was present in some precincts when unconscionable attempts were made to prevent elderly and timid black citizens from voting. He says he was there to halt abuses by others. In contradiction there are witnesses who have signed sworn affidavits alleging that it was Mr. Rehnquist, himself, who was interfering with the voters. Neither the White House nor the United States Department of Justice has dared to let Mr. Rehnquist return to the Senate Judiciary Committee to answer these charges in person. Also, Sen. James Eastland (D.-Miss). has asserted that FBI reports do not mention that Mr. Rehnquist was personally trying to prevent anyone from voting. If these reports by the FBI are so exculpatory, why do Senator Eastland and the Department of Justice ask us to take their word for what is in these documents? Surely, the investigation of complaints of voting discrimination can stand public scrutiny. As long as these reports are not made public, there is a strong suspicion that a full revelation of what these reports contain would show that Mr. Rehnquist was more than a foot soldier in the Arizona army that was mobilized in the 1960's to reduce the number of Negro and Mexican-American voters.

The second aspect of the Rehnquist operation on voting is very troublesome. It will be remembered that in 1964 the Congress passed a law prohibiting the giving of oral literacy tests, unless the Attorney General gave a special exemption. Even the Rehnquist supporters admit that there were extensive efforts in Arizona to give so-called tests to Negro voters by asking them to read or recite parts of the United States Constitution. This campaign was so well organized, so widespread and so obstructive that one observer of what was going on said, "It is a wonder someone didn't get killed." Mr. Rehnquist's role in this campaign has been given various descriptions. Sometimes he is pictured as the benign lawyer who was opposed to what was happening. Sometimes he is cast in the part of a relief man who dropped in to the polling places to give others a rest period. One report credited him with being in charge of "ballot security." Whatever may have been his rank or serial number, one thing is clear. He was deeply involved in a scheme which, on its face, seems to have been a violation of federal law.

The public has a right to know just what Mr. Rehnquist was doing. Did he get the program started? Did he advise the troops that trying to make would-be voters pass oral literacy tests was illegal? Did he sanction the sending of letters warning people that they might get arrested for voting? These and many other questions have not been answered in an open hearing. As long as Mr. Rehnquist, or the Justice Department or the White House take the position there will be no more appearances by Mr. Rehnquist one can only conclude that there is something ugly and possibly shocking that is being concealed; something, so enormously embarrassing, that it would show Mr. Rehnquist should not have been nominated in the first place.

The Post editorial expresses the opinion that Mr. Rehnquist's horizons on civil rights may have broadened and may broaden even more. It is difficult for a black man to be optimistic on that point. It must be remembered that Judge Haynsworth also was said to have undergone constructive changes in his civil rights viewpoint. Yet, he wrote the opinion in *Tillman* v. *Wheaton-Haven Recreation Association,* decided on Oct. 27, 1971, which held that neither the Civil Rights Act of 1866 nor the Civil Rights Act of 1964 gave relief to Negroes who were denied use of a swimming pool. It is noteworthy that Judge Butzner in his dissent said that the Haynsworth decision was a "marked departure from authoritative precedent." Judge Carswell was also pictured as one who had changed his racial views for the better. Few can forget that, after his nomination was defeated in the Senate, the real Judge Carswell emerged as an anti-civil rights candidate in the 1970 Florida Senate race. It is unlikely that Mr. Rehnquist is any different from the other two nominees who were rejected. Sooner or later, the same old Rehnquist, who opposed public accommodations law, will rise and attempt to block progress in civil rights.

Unfortunately, there are some members of the Senate who find it hard to vote against a nominee solely because of his negative views on civil rights. For there, the issue of civil liberties may seem more respectable as ground for opposition to the nominee. However, let no one be deceived about the importance of civil rights in this matter. The Rehnquist position on civil rights, even standing alone, is sufficient to make him unworthy of being on the court.

Mr. McGOVERN. Mr. President, perhaps no one speaks better against confirming Mr. Rehnquist's confirmation than Mr. Rehnquist himself. I am speaking, of course, of Mr. Rehnquist's vigorously argued and appalling memorandum to Mr. Justice Jackson written in 1952 on the impending school desegregation cases: All of us have at one time or another held positions which we have come to see as wrong or untenable, but the important point is that nothing in Mr. Rehnquist's subsequent record or actions suggests that he has, in fact, come to admit the errors which led to his advice to the Justice. I think we should all ask, as we listen to Mr. Rehnquist's own words, whether this is the type of opinion we would inflict on a generation of Court decisions: I ask unanimous consent that Mr. Rehnquist's memorandum, "A Random Thought on the School Segregation Cases," be printed at this point in the Record.

There being no objection, the memorandum was ordered to be printed in the Record, as follows:

A Random Thought on the Segregation Cases

One-hundred fifty years ago this Court held that it was the ultimate judge of the restrictions which the Constitution imposed on the various branches of the national and state government. *Marbury v. Madison*. This was presumably on the basis that there are standards to be applied other than the personal predilections of the Justices.

As applied to questions of inter-state or state-federal relations, as well as to inter-departmental disputes within the federal government, this doctrine of judicial review has worked well. Where theoretically co-ordinate bodies of government are disputing, the Court is well suited to its role as arbiter. This is because these problems involve much less emotionally charged subject matter than do those discussed below. In effect, they determine the skeletal relations of the governments to each other without influencing the substantive business of those governments.

As applied to relations between the individual and the state, the system has worked much less well. The Constitution, of course, deals with individual rights, particularly in the First Ten and the Fourteenth Amendments. But as I read the history of this Court, it has seldom been out of hot water when attempting to interpret these individual rights. *Fletcher* v. *Peck*, in 1810, represented an attempt by Chief Justice Marshall to extend the protection of the contract clause to infant business. *Scott* v. *Sanford* was the result of Taney's effort to protect slaveholders from legislative interference.

After the Civil War, business interests came to dominate the Court, and they in turn ventured into the deep water of protecting certain types of individuals against legislative interference. Championed first by Field, then by Peckham and Brewer, the high water mark of the trend in protecting corporations against legislative influence was probably *Lochner* v. *NY*. To the majority opinion in that case, Holmes replied that the Fourteenth Amendment did not enact Herbert Spencer's Social Statics. Other cases coming later in a similar vein were *Adkins* v. *Children's Hospital, Hammer* v. *Dagenhart, Tyson* v. *Banton, Ribnik* v. *McBride*. But eventually the Court called a halt to this reading of its own economic views into the Constitution. Apparently it recognized that where a legislature was dealing with its own citizens, it was not part of the judicial function to thwart public opinion except in extreme cases.

In these cases now before the Court, the Court is, as Davis suggested, being asked to read its own sociological views into the Constitution. Urging a view palpably at variance with precedent and probably with legislative history, appellants seek to convince the Court of the moral wrongness of the treatment they are receiving. I would suggest that this is a question the Court need never reach; for regardless of the Justice's individual views on the merits of segregation, it quite clearly is not one of those extreme cases which commands intervention from one of any conviction. If this Court, because its members individually are "liberal" and dislike segregation, now chooses to strike it down, it differs from the McReynolds court only in the kinds of litigants it favors and the kinds of special claims it protects. To those who would argue that "personal" rights are more sacrosanct than "property" rights, the short answer is that the Constitution makes no such distinction. To the argument made by Thurgood, not John Marshall that a majority may not deprive a minority of its constitutional right, the answer must be made that while this is sound in theory, in the long run it is the majority who will determine what the constitutional rights of the minority are. One hundred and fifty years of attempt on the part of this Court to protect minority rights of any kind—whether those of business, slaveholders, or Jehovah's Witnesses—have all met the same fate. One by one the cases establishing such rights have been sloughed off, and crept silently to rest. If the present Court is unable to profit by this example, it must be prepared to see its work fade in time, too, as embodying only the sentiments of a transient majority of nine men.

I realize that it is an unpopular and unhumanitarian position, for which I have been excoriated by "liberal" colleagues, but I think *Plessy* v. *Ferguson* was right and should be re-affirmed. If the Fourteenth Amendment did not enact Spencer's *Social Statics*, it just as surely did not enact Myrdahl's *American Dilemma*.

Mr. McGOVERN. Mr. President, in his own review of Mr. Rehnquist's sorry record, William V. Shannon wrote an article for the New York Times entitled "No to Rehnquist." I ask unanimous consent that it be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

"No" to Rehnquist

(By William V. Shannon)

In 1964, Senator Barry Goldwater won the Republican Presidential nomination. Governor George Wallace abandoned his putative candidacy. The stage was thus cleared for a united bid for power by the most regressive factions in national politics—the Southern racists and the right wing of the Republican party.

The issues were clearly drawn. Senator Goldwater had voted against the 1964 Civil Rights Act and opposed the whole thrust of the Negro drive for equality. Ten years earlier he had voted against censure for Joe McCarthy and fully endorsed the McCarthyite assault on the civil liberties of Government employes and private persons. Senator Goldwater stood squarely for a "war on crime" and against procedural safeguards that hobbled the police.

"I would remind you that extremism in the defense of liberty is no vice. And let me remind you that moderation in the pursuit of justice is no virtue," said Mr. Goldwater, accepting his nomination.

The nation overwhelmingly rejected this reactionary fanaticism. People in 44 of the fifty states voted "no" to Mr. Goldwater. He was, in Nelson Rockefeller's famous phrase, outside "the mainstream" of modern America.

Four years later, as a consequence of the Nixon victory, the Justice Department was delivered into the hands of the two Goldwaterites. Two of his Arizona protéges—Richard Kleindienst and William Rehnquist—became Deputy Attorney General and Assistant Attorney General, respectively.

As a further consequence, Mr. Rehnquist has now been proposed for one of the two vacancies on the Supreme Court. His bleak record on racial equality, civil liberties and the overweening power of government to coerce private individuals in the name of order and security is wholly consistent with that of his political sponsor.

Mr. Rehnquist publicly opposed the passage of the Phoenix municipal ordinance and the Arizona state law requiring nondiscriminatory racial policies on the part of bus stations, restaurants and other places of public accommodation. That was in 1964–65, extraordinarily late for anyone to refuse to recognize the legitimate claims of Negroes to equal treatment.

Wherever the convenience of the police and the rights of the citizen conflict, Mr. Rehnquist wants to enlarge the power of the police and circumscribe the citizen. He would alter the "exclusionary rule" that prevents prosecutors from making use of illegally obtained evidence. He has argued for the Government's right to tap the phones and electronically "bug" the homes of individuals whom it suspects of "national security" offenses and to do so without a court order. Rather than restrict such dangerous power to cases involving spies for foreign countries, he would apply it to any American citizen without restraint.

Warning against his confirmation as "a dangerous mistake," the Ripon Society, made up of progressive young Republicans, declared in the latest issue of its magazine: "Approval of William Rehnquist's nomination will for the first time give credence to what has until recently seemed an alarmist fear: that we are moving into an era of repression. The entire scenario of repression consists of measures that Rehnquist, on the record, has strongly and explicitly invited."

A man's opinion can change but a mature man's habits of mind rarely change. Ominously, Mr. Rehnquist has a zealot style that borders upon intellectual McCarthyism. After serving as a law clerk to the late Justice Robert Jackson, he gave an unusual interview in which he attacked other Supreme Court law clerks as "left wing" and said that "unconscious slanting of material" influenced the cases on which the Court granted *certiorari*.

Mr. Rehnquist's first political speech in Arizona in 1957 was a scathing attack on the Supreme Court, which included derogatory personal remarks about Chief Justic Earl Warren's professional competence.

The following year he began a bar association journal article with this sentence: "Communists, former Communists, and others of like political philosophy scored significant victories during the October, 1956, term of the Supreme Court, culminating in the historic decisions of June 17, 1957."

Those were landmark civil liberties decisions involving a loyalty-security firing in the State Department, the rights of witnesses before Congressional and state legislative committees and a free-speech case. Two of them were written by Justice Harlan, a distinguished conservative. Was Mr. Harlan "soft on Communism?"

The Rehnquist record is not that of a true conservative. It is the record of an aggressive ideologue with combative impulses and strong commitment to a harsh, narrow doctrine concerning government and individual. It would be an ironic turn of events if this Goldwaterite doctrine so overwhelmingly rejected by the voters should be legitimized on the Supreme Court.

Mr. McGOVERN. Mr. President, I ask unanimous consent that the editorials appearing in the New York Times of December 8, 1971, and the Des Moines Register be printed in the Record.

There being no objection, the items were ordered to be printed in the Record, as follows:

[From the New York Times, Dec. 8, 1971]

THE REHNQUIST NOMINATION

With only one dissenting vote, the Senate has confirmed the nomination of Lewis Powell to the Supreme Court. In this decisive manner, the Senate has shown how false was the imputation that it would not approve a Southerner or a conservative. When a nominee is a man of professional stature, wide experience, and a fundamental belief in the basic guarantees of the Constitution, no regional bias or philosophical disagreement bars his way.

It is a source of profound regret that President Nixon's other nominee for the Court is not of the same quality. Instead, by submitting the name of William Rehnquist, the President has once again provoked the turmoil of a confirmation struggle.

The grounds for rejecting Mr. Rehnquist are quite different from those on which the Senate refused to confirm two earlier Nixon nominees. His record does not show either insensitivity to potential conflicts of interest or deficient professional qualifications. Rather, his are the defects of basic insensitivity to racial equality and seriously deficient understanding of the Bill of Rights.

He has repeatedly shown himself opposed to judicial or legislative efforts to eliminate racial discrimination. There was a time decades ago when a nominee with Mr. Rehnquist's opinions would have been confirmed for the Court with hardly a ripple of controversy. But twenty-five years of Supreme Court rulings, Congressional legislation and social upheaval have made him an anachronism. Commitment to equality of treatment and opportunity for all races has become one of the indisputable standards of modern constitutional democracy. Since Mr. Rehnquist is lacking in such a commitment, the Senate if it confirmed him would be voting to turn back the clock.

Mr. Rehnquist's evident lack of sympathy for indivdual liberties also disqualifies him. The Constitution is a libertarian document. The first ten amendments and many other provisions are prohibitions against the exercise of certain kinds of power by the Federal Government and against the arbitrary, excessive, or unreviewed exercise of other powers.

As a political activist and as an Assistant Attorney General, Mr. Rehnquist has relentlessly argued in favor of abridging and diminishing the liberties of the citizen and enhancing the powers of Government—to tap the citizen's phone and "bug" his home and office, to enter his premises without knocking, to use tainted evidence against him, to arrest him in dragnet sweeps, to compel him to testify against himself, to deprive him of his right to practice his profession if he is a radical lawyer.

It is easy and comfortable for the ordinary, law-abiding citizen to assume that these intrusions of governmental authority will never touch his life, but the whole history of human liberty shows that the unpopular dissenter is the first—but rarely the only—victim of arbitrary power.

In voting for the first time in fifty years to oppose a nominee for public office, the national board of directors of the American Civil Liberties Union stated: "We know Mr. Rehnquist as a person committed to the notion that in every clash between civil liberty and state power, it is civil liberty that should be sacrificed."

Free societies are judged by how they treat their racial minorities and by the extent of the liberty they allow the individual citizen. On both counts, Mr. Rehnquist fails to qualify as one of the guardians of a Constitution of free men.

ALIENATING INDIA

President Nixon's declaration of "absolute neutrality" in the Indian-Pakistani conflict fails to conceal Administration policies, which have, in fact, been obviously biased in favor of the Government of President Yahya Khan in Islamabad.

During the eight months of repression in East Pakistan which led to the present international conflict on the subcontinent, Washington's "neutrality" consisted of maintaining silence while Yahya's troops suppressed a freely elected autonomy movement in East Pakistan, were responsible for the death of thousands of Bengalis and forced millions more, mostly Hindus, to flee to India where their presence has posed a growing threat to Indian political, economic and social stability. For many months the Administration actually gave material support to this unconscionable repression by continuing to ship small amounts of military supplies to Islamabad.

Administration officials argued that their public silence and the continuance of aid were designed to strengthen quiet efforts to promote a political settlement in East Pakistan that would bring peace and the return of the refugees. But there is no evidence that President Yahya has tried to reach any accommodation with the imprisoned Sheik Mujibur Rahman and the other elected representatives who command the confidence of the overwhelming majority of Pakistan Bengalis.

Having failed to condemn the repression in East Pakistan or to press for a genuine political solution, the United States has now flatly charged India with "major responsibility" for the resulting international conflict; having waited months to suspend arms aid to Pakistan, the Administration has promptly suspended military and economic aid to India. This is hardly "absolute neutrality"—even though it must be fully recognized that India is by no means guiltless in the actual outbreak or armed conflict, and, despite all the hypocritical and self-serving statements issued from New Delhi almost daily, has been aggressively maneuvering against her northern neighbor. There is plenty of blame to go all the way around.

United States efforts at the United Nations, first in the Security Council and now in the General Assembly, have been aimed at bringing about a simple cease-fire and withdrawal of forces. Urgent and desirable as such action surely is, it cannot be practically effective unless the United Nations and its leading members—especially the United States—are prepared at the same time to recognize and attempt to deal with the root cause of the problem in Pakistan.

MENDING TIES WITH CANADA

Prime Minister Trudeau, a man not usually given to inflated rhetoric, says President Nixon in their White House talks offered him "a fantastically new statement" of United States respect for the political and economic identity of Canada. Mr. Nixon said things to him "unequalled by any other President in speaking about Canada," Mr. Trudeau told a news conference.

If this is true—if Mr. Nixon acts henceforth in the spirit described—Mr. Trudeau's visit has produced the best news to come out of Washington on the foreign policy front in months. A rebuilding of something like the old trust that once existed between Ottawa and Washington could soon arrest the deterioration in relations that has been so evident since the imposition of the American import surcharge last August.

To say this is not to suggest that relations can or should resettle into a familiar pattern that may or may not have existed in a former time. The United States has been slow to recognize that Canada has come of age, ranking tenth among industrial countries and sixth or seventh in per capita trade.

Canada was never simply the tail to the United States kite in world affairs that many Canadians believe; but in the future it probably will try even more foreign policy initiatives such as the recognition of China and the visit of Soviet Premier Kosygin. Canada is likely in the near future to set up some machinery for screening investment from abroad that American capital may find irksome. It is certain to be ever more zealous in conserving Canadian natural resources for home use.

According to Mr. Trudeau, President Nixon is sensitive to these desires, compares them with the determination of Americans at an earlier period to lessen their dependence on foreign investment, and will do his utmost to avoid giving Canadians the feeling that they are regarded as a "colony" by Washington.

We hope subsequent Washington actions will bear out Mr. Trudeau's optimistic interpretations. It is obvious, in any event, that this visit has cleared much bad air and restored sorely needed cordiality to American-Canadian relations at the top level.

[From the Des Moines Register, Nov. 30, 1971]

POWELL AND REHNQUIST

Lewis F. Powell and William H. Rehnquist, President Nixon's nominees to the Supreme Court, easily passed muster in the Senate Judiciary Committee, though doubts were expressed about Rehnquist. Both men are superior to the mediocre nominees submitted to the American Bar Association by the White House and disapproved by the ABA committee. Powell was approved unanimously by the Senate committee, and Rehnquist was accepted by a 12 to 4 vote.

The four negative votes on the latter nomination reflected a growing persuasion among the senators that Rehnquist's views about civil rights questions, especially concerning racial equality, are unjudicial and expedient.

We share the doubts about Rehnquist. He is able, intelligent, honest, but the Senate has the duty to judge him not on these characteristics alone but on his ideas—as Rehnquist himself has argued.

The evidence that he believes in detouring or watering down the guarantees of the Bill of Rights, in order to catch and punish criminals or Communists, seems quite strong. He has spoken in favor of arbitrary wiretapping by police, "preventive detention" or jailing suspects for long periods without trial. Attorney General John Mitchell's "no knock" raids and similar repressive actions.

Rehnquist has argued that the government has the right to conduct surveillance of any citizen. He thinks that "self-discipline on the part of the executive branch will provide an answer to virtually all the legitimate complaints against excesses of information gathering."

Rehnquist seems to favor a diminution of the powers of the judicial branch in favor of the executive, the willingness to put ends over means.

Moreover, Rehnquist has expressed himself about Supreme Court decisions in ways that indicate he mistrusts the court. He said, for example, that Communists had scored significant victories from decisions of the court. Is there a suggestion that Communists do not have rights? Rehnquist's views on measures to assure equality for Negroes leave similar doubts concerning his dedication to the principle of equality under the law.

We take no stock in the smears concerning Rehnquist's alleged membership in an extremist right wing organization in Arizona, which he denies. Nor are we concerned about the vague and unproved stories about his supposed harassing of blacks at the polls in Phoenix. We are concerned about his views—not that they are conservative on political issues, but that they fall short of "strict constructionism" of the Constitution on individual rights.

We fervently believe that the Bill of Rights of the Constitution is the foundation of American liberty and of a free society. Devotion to these liberties rises above political conservatism or liberalism, and we would not select a Supreme Court justice who was willing to compromise in this area.

Lewis Powell, on the other hand, we endorse without qualms. He is a staunch conservative—but a conservative in the Southern pattern of Senator Sam Ervin (Dem., N.C.), dedicated to the doctrines of individual freedom and the rights of man. Powell is a highly respected man of the law in the fullest meaning of that term in the American tradition.

DOES WILLIAM REHNQUIST MEET THE HIGH STANDARDS EXPECTED OF THE SUPREME COURT?

Asked what he thought of William H. Rehnquist as a prospective justice for the U.S. Supreme Court, this was the reply of John P. Frank, a noted expert on the Constitution and the Court and a friend of Mr. Rehnquist's for many years in Phoenix, Arizona:

"He will represent the Goldwater view on the Supreme Court. Bill has been an intellectual force for reaction. I do not believe he will put manacles back on the slaves, but I'm sure from his point of view it will be more than a pause . . . there will be backward movement.

"In terms of race relations I would expect him to be retrograde. He honestly doesn't believe in civil rights and will oppose them.

"On criminal matters he will be a supporter of police methods in the extreme. On free speech, Bill will be restrictive. On loyalty programs, McCarthyism, he'll be 100 per cent in favor."

In spite of this grim estimate and his feeling that "it is a deplorable appointment," Mr. Frank still thought Mr. Rehnquist should be confirmed for the Supreme Court.

He subscribes, apparently, to the current notion that a man's ability as a lawyer and his legal views are two separate things, that it is somehow unfair to inquire into a nominee's personal views on the law when considering him for the Court.

Yet President Nixon and Mr. Rehnquist have both said a nominee's views—his judicial philosophy—should be part of an inquiry into his fitness for the highest judicial appointment in the land.

When President Nixon announced the Rehnquist nomination on October 21, he said judicial philosophy was one of the major considerations governing his choice. And Mr. Rehnquist, in a Harvard Law Review article he wrote in 1959, urged that the Senate restore "its practice of thoroughly informing itself on the judicial philosophy of a Supreme Court nominee before voting to confirm him . . ."

We agree with Mr. Nixon and Mr. Rehnquist. For us, the crucial question is this: To what extent would Mr. Rehnquist's philosophy of the law hinder him in trying to meet President Nixon's high criterion—that a Supreme Court Justice's "sole obligation is to the Constitution and to the American people"?

I—THE REHNQUIST RECORD ON CIVIL RIGHTS

Mr. Nixon's statement admits no exceptions. So it is fair to ask if Mr. Rehnquist is prepared to assume an obligation to all of the American people and not just to some of them.

What gives that question particular point are the first substantial public expressions of his views on civil rights when he was a lawyer in private practice in Phoenix during the 1960s.

PEOPLE AND PRIVATE PROPERTY

In 1964, Phoenix was about to pass a public accommodations law, a local ordinance requiring stores, restaurants and other places of public accommodation to serve all members of the public without regard to race, color, religion or national origin.

It was June 15, about five months after the U.S. House of Representatives had passed, by overwhelming vote, a civil rights law with a public accommodations section similar to the one Phoenix was considering; it was five days after two-thirds of the members of the U.S. Senate had broken a filibuster and signified their readiness to adopt the same provision. Yet William Rehnquist went before the city council to argue against the local ordinance.

He spoke, he said, only for himself; and indeed he was virtually alone in his opposition. Even Senator Barry Goldwater was in favor of the local law.

But Mr. Rehnquist called it "an assault on the institution [of private property]." The council went on to pass the ordinance unanimously. Still dissatisfied, Mr. Rehnquist wrote to the local paper. The ordinance, he said, in a letter to the Arizona Republic, "summarily does away with the historic right of the owner of a drug store, lunch counter or theater to choose his own customers.

"By a wave of the legislative wand, hitherto private businesses are made public facilities, which are open to all persons, regardless of the owner's wishes."

He questioned "whether the freedom of the property owner ought to be sacrificed in order to give these minorities a chance to have access to integrated eating places . . ." In his view, it placed "a separate indignity" on the proprietor in order to correct the "indignity" society had placed upon "the Negro."

He wrote, "it is, I believe, impossible to justify the sacrifice of even a portion of our historic individual freedom for a purpose such as this."

Asked at the Senate Judiciary Committee hearing on his nomination on November 3, if he still felt that way, Mr. Rehnquist replied, "I think probably not. The ordinance really worked well in Phoenix.

"It was readily accepted and I think I have come to realize since, more than I did at the time, the strong concern that minorities have for the recognition of these rights." Since that "time" was in the wake of the Montgomery bus boycott, the Freedom Rides, the protests and mass jailings in Birmingham, the March on Washington and the demonstrated readiness of thousands of Negroes to die for full equality, one wonders what more was needed to make Mr. Rehnquist aware of a "strong concern."

People and the schools

In 1967, when Phoenix School Superintendent Seymour sought to desegregate the ctiy's schools, saying "we are and must be concerned with achieving an integrated society," Mr. Rehnquist wrote again to the local paper taking issue with that statement. "We are no more dedicated to an 'integrated' society than we are to a 'segregated' society," he said.

Those seeking to end segregated schools, he thought, "assert a claim for special privileges for this minority, the members of which, in many cases, may not even want the privileges which the social theorists urge be extended to them."

It is hard not to hear on echo here of the old Dixiecrat argument that Negroes in the South would have been content with their lot were it not for "outside agitators." Thirteen years after the U.S. Supreme Court had declared racially segregated schools to be unconsitutional Mr. Rehnquist was still arguing for the right to keep school children separate by race.

People and the polls

Mr. Rehnquist's views on voting rights were left in murky obscurity by the Senate Judiciary Committee. The Southwest Area Conference of the NAACP asserts he took part in a local campaign of "harassment and intimidation" to keep minorities from the polls.

Four citizens of Arizona have presented affidavits swearing that Rehnquist was a Republican challenger at the polls in 1964 and was "harassing unnecessarily several people at the polls . . . attempting to make them recite portions of the Constitution and refused to let them vote until they were able to comply with his request." They further assert that when one of them, a cripple, remonstrated with him, Mr. Rehnquist engaged in a physical struggle.

Although Mr. Rehnquist made a general denial in writing of being at the polls in 1964, his Senate supporters refused to allow him to be recalled and questioned about the details of the charges. Further, a fifth citizen of Arizona presented an affidavit that Mr. Rehnquist "planned and executed the strategy designed to reduce the number of poor black and poor Mexican American voters" and "trained young white lawyers and others to invade each black or predominantly black precinct in Phoenix on election day."

While Mr. Rehnquist again made a general denial in writing of this allegation, he admitted his chairmanship of the responsible committee which actually carried out these unconstitutional practices. Again, there was a refusal to recall Mr. Rehnquist and clarify the facts.

The Carswell nomination

When the Washington Post in 1970 opposed the nomination of G. Harrold Carswell to the Supreme Court, citing among its reasons an anti-civil rights record that included a speech in favor of white supremacy, serving as an incorporator of a Florida golf-course to keep it racially segregated, and harsh treatment of civil rights lawyers and plaintiffs who came into his court, as well as decision after decision against civil rights, Mr. Rehnquist came to Carswell's defense.

"Your editorial clearly implies," he wrote, "that to the extent the judge falls short of your civil rights standards he does so because of an anti-Negro, anti-civil rights animus, rather than because of a judicial philosophy which consistently applied would reach a conservative result . . ."

Judge Carswell's decisions in civil rights cases, he insisted, "are traceable to an overall constitutional conservatism, rather than to any animus directed only at civil rights cases or civil rights litigants." This identification with Carswell's anti-civil rights decisions is, perhaps, a portent of things to come from Mr. Rehnquist.

The nominee's expressed views on public accommodations laws and school desegregation, his relationship to incidents of voter harassment in Arizona, his identification with Judge Carswell make credible Arizona State Senator Cloves Campbell's assertion that in 1964 Mr. Rehnquist told him he "was opposed to all civil rights laws."

Certainly Mr. Rehnquist's denial should be tested before the Senate Judiciary Committee with Senator Campbell present.

II—THE REHNQUIST RECORD ON CIVIL LIBERTIES

If it is difficult to see any deep sense of obligation to all the American people in his record on civil rights, it is just as hard to discern any obligation to a strict construction of the Constitution and the Bill of Rights in his record on civil liberties.

Mr. Rehnquist observed the Supreme Court at first hand as a law clerk to Justice Robert Jackson in 1952 and 1953. He came away from that experience with an abiding hostility to the Warren Court and its interpretation of constitutional issues.

In an article written in 1957 for the U.S. News and World Report, he condemned the liberal point of view of the Court, which he said was characterized by "extreme solicitude for the claims of Communists and other criminal defendants."

He expounded that theme in greater detail in an article he wrote a year later for the Bar Association Journal observing in his opening sentence, "Communists, former Communists, and others of like political philosophy scored significant victories during the October, 1956 Term of the Supreme Court of the United States, culminating in the historic decisions of June 17, 1957."

Commenting on that sentence in an article in the New York Times (Nov. 22, 1971), William V. Shannon had this to say about the rulings Mr. Rehnquist saw as "significant victories" for Communists, "Those were landmark civil liberties decisions involving a loyalty-security firing in the State Department, the rights of witnesses before Congressional and state legislative committees and a free-speech case.

"Two of them were written by Justice Harlan, a distinguished conservative. Was Mr. Harlan 'soft on Communism'?" (It is ironic to note that Mr. Rehnquist is being nominated to fill Mr. Harlan's seat.)

Here is a further sampling of Mr. Rehnquist's views on major civil liberties issues:

On Government surveillance

Asked by Senator Sam Ervin (D., N.C.), "Does a serious constitutional question arise when a government agency places people under surveillance for exercising their First Amendment rights to speak and assemble?" Mr. Rehnquist said, "No."

On freedom of speech

Mr. Rehnquist does not see it as a right of federal workers. "The government as an employer has a legitimate and constitutionally recognized interest in limiting public criticism on the part of its employees even though that same government as sovereign, has no similar constitutionally valid claim to limit dissent on the part of its citizens."

On demonstrators

In a letter to the Washington Post (Feb. 14, 1970), Mr. Rehnquist railed against "further expansion of the constitutional rights of criminal defendants, or pornographers and of demonstrators," lumping all three together without discrimination.

And in a speech to the Newark Kiwanis Club he stated, "in the area of public law . . . disobedience cannot be tolerated, whether it be violent or nonviolent disobedience. If force is required to enforce the law, we must not shirk from its employment."

On May Day arrests

In a speech to a state university in North Carolina, two days after the May Day demonstrations, Mr. Rehnquist defended the mass arrests of thousands of innocent persons as the exercise of "qualified martial law"—a most dangerous and repressive doctrine in the hands of the police.

Mr. Rehnquist denied using the phrase in connection with the May Day incidents. But if he were not applying the term as he says, why did he use it in a speech about May Day and why did he let the press uniformly interpret it that way until after he was nominated to the Supreme Court?

On rights of accused

When Mr. Rehnquist reads the Constitution it is invariably to the disadvantage of the accused. He favors pre-trial detention, saying in defense of the D.C. Crime Law, that there is a "social need to detain those persons who pose a serious threat to the public safety . . ."

He would like to modify the "exclusionary rule" which "now prevents the use against a criminal defendant of evidence which is found to have been obtained in violation of his constitutional rights."

He favors restricting the application of habeas corpus after trial and, referring to a decision by Justice Harlan earlier this year, sees arresting a man without proper warrant and with probable cause as no more than a technical violation of the Fourth Amendment.

All of this suggests a readiness on Mr. Rehnquist's part to tailor the Constitution to his views that hardly fits the usual notion of a strict constructionist.

III—GOVERNMENT VERSUS THE RIGHTS OF PEOPLE

In Mr. Rehnquist's view, big government knows best. On several occasions he has defended extreme use of governmental powers against citizens.

Wiretapping

He has defended governmental wiretapping under court order in criminal cases and without court order in national security cases. "Is the invasion of privacy entailed by wiretapping too high a price to pay for a successful method of attacking this and similar types of crime? I think not, given the safeguards which attend its use in the United States." But the only safeguard he mentions is the discretion of the government.

Invasion of Cambodia

Mr. Rehnquist has defended Mr. Nixon's invasion of Cambodia last summer as a proper use of the President's authority as Commander-in-Chief. He maintained that under the Constitution the President can order the invasion of another country—even a neutral one—if he feels the invasion is necessary to protect American troops.

This plea for unlimited Presidential power is as dangerous as it is unprecedented. When he wrote the opinion overruling President Truman's seizure of the steel mills during the Korean War, Mr. Justice Jackson, whom Mr. Rehnquist once served as a law clerk, rejected the contention that under the commander-in-chief clause of the Constitution, the President has power to do "anything, anywhere that can be done with an army or navy." Yet Mr. Rehnquist, ironically, has in effect advanced that notion in his statements supporting the Cambodian invasion.

Subversive activities control board

The Board was almost defunct until Mr. Rehnquist took the lead in enlarging its powers, on the assumption that the government can give additional duties to any agency created by Congress without the express consent of Congress. Now the SACB can designate as subversive any offending organization of citizens.

IV—A LACK OF CANDOR

On several occasions during the Senate committee session in which he testified on his nomination, Mr. Rehnquist was less than candid in his responses.

1. Pressed to explain his views on certain civil liberties issues, he declined to do so, saying it would violate the attorney-client relationship with Attorney General John Mitchell and the President. Nineteen members of the Catholic University Law Faculty attacked this position in a letter to Senator James Eastland (D., Miss.), Chairman of the Senate Judiciary Committee.

They say, "no nominee may justify withholding from the Committee which must initially pass upon his qualifications and disposition for handling this political power 'in legal form' a frank expression of his political and legal philosophy. The attorney-client privilege is not the attorney's.

"It is for the protection of, and belongs to, the client. It is peculiarly inappropriate for a government attorney to invoke the privilege with respect to advice he has given to government servants (whether President, Attorney General or Deputy Marshal). His client is the people, and not the President. There is no such privilege, which any nominee was so bold as to claim before, against the Senate's right to know in fulfilling its responsibility to the same people."

2. Asked during the nomination hearings to say what he had done for civil rights Mr. Rehnquist could think of only two things—he had represented some indigents during the time he practiced law in Phoenix and he had served on the Legal Aid Board there.

But attorneys know that when they are designated by the court to represent indigents they must accept the assignment; there is no voluntary choice involved. As for the Legal Aid Board, Mr. Rehnquist served on it by virtue of his being an ex officio member of the Legal Aid Society where he represented the Bar Association.

3. Mr. Rehnquist has failed to clarify his connections with Arizonians for America. Written interrogatories to Mr. Rehnquist invited a response to the *St. Louis Post Dispatch* article of November 17, 1971, detailing Mr. Rehnquist's connections with this right wing group.

No response was forthcoming beyond the denial of membership and a failure to recollect one meeting; but a denial of membership is not a denial of connections with or participation in an organization and the record demands clarification.

4. Asked about his role in the Administration's attempt to stop publication of the Pentagon Papers, Mr. Rehnquist claimed he played a restricted role. After his hearing, in response to written interrogatories from some members of the Senate Judiciary Committee, he revealed that he had called *The Washington Post* and asked them not to print the excerpts.

5. Asked about his role in opposing the desegregation of the Phoenix public schools in 1967, Mr. Rehnquist responded before the Senate Judiciary Committee with an attack on busing. But that was an evasion for the issue in Phoenix in 1967 was not busing, as a means to desegregate the schools, but rather desegregation as a desirable end.

It was on this specific issue that Mr. Rehnquist wrote "we are no more dedicated to an 'integrated' society than we are to a 'segregated' society." It was the goal of desegregation he opposed, not just one means (busing) to that end.

WHAT SORT OF JUSTICE WOULD MR. RENQUIST MAKE?

On the basis of his views on civil rights and civil liberties, in the light of his championing of the broadest possible powers for the federal government it is difficult to believe that, as a member of the Court, his "sole obligation would be to the Constitution and to the American people."

William Shannon, in his New York Times article, offered this view of what might be expected:

"The Rehnquist record is not that of a true conservative. It is the record of an aggressive ideologue with combative impulses and strong commitment to a harsh, narrow doctrine concerning government and individual. It would be an ironic turn of events if this Goldwaterite doctrine so overwhelmingly rejected by the voters [in 1964] should be legitimized on the Supreme Court."

Mr. MOSS. Mr. President, I would like to be heard on the nomination now before the Senate. I regret I have not taken part in the debate up to now. Like so many other Senators, I have been engaged in so many other matters, but have tried to follow this debate as best I could from reading the reports in the newspapers and listening to my colleagues on occasion. However, I expected there would be much more time to delve into the matter than is now the case, when we are right up against the voting time on the nomination before us.

I do compliment the Senator from Indiana and his colleagues on the Judiciary Committee who filed minority views for delving into this matter, and other Senators like the Senator from Massachusetts (Mr. BROOKE) and the Senator from Wisconsin (Mr. NELSON), who have given much attention to this matter.

A nomination to the Supreme Court and the confirmation by the Senate is the most important appointment within a presidential and senatorial prerogative. Because a Supreme Court Justice is in a virtually unparalleled position in our society to interpret laws to have an impact on the most pressing legal, social, ethical, and political questions facing Americans, it becomes of utmost importance for each Senator to determine whether a nominee meets certain minimum standards of qualification for this high judicial office. Each Senator must take into consideration, therefore, the personal character, the legal ability, the political views, and the judicial philosophy of the nominee.

In the time I have had and with the research I have had an opportunity to do, I do not believe the nominee measures up to the qualifications that this body should require of a person to serve on the Supreme Court of the United States. Because I was concerned from the beginning about this problem, I have sought advice from those in my State who are practicing law or teaching in the law school or otherwise deeply involved with the functions of our courts, and particularly the Supreme Court.

I have received a number of letters from those who are concerned about this question who expressed their views on the qualifications of Mr. William Rehnquist to become an Associate Justice of the Supreme Court of the United States. Many of them express grave concern over Mr. Rehnquist's attitude on the pressing problem of racial discrimination and what is felt to be callous insensitivity on his part with regard to human rights. Of particular significance to me is the number of letters I have received from distinguished professors at the University of Utah College of Law, urging my vigorous opposition to Mr. Rehnquist's nomination.

I would like to quote very briefly from two or three or four of those letters. One is from Prof. Arvo Van Alstyne. The quotation I take from his letter is as follows:

> And, as Hamilton indicated in No. 78 of the same volume, the judicial role is most important is safeguarding human liberty in cases where majoritarian tyrany is incapable of being moderated by political power—i.e., in cases involving the interest of minority groups and their members. The record of Mr. Rehnquist in this connection appears to be highly questionable: as late as 1964 he appears to have been quite insensitive to the legitimate needs of minorities in this country.
>
> 2. Mr. Rehnquist's views on vital matters relating to the problem of crime in our society appear to be anachronistic, emphasizing the need to short-circuit constitutional rights (e.g., 4th Amendment rights) in order to make law enforcement more effective. Since the President explicitly lauded Mr. Rehnquist as a strict "law-and-order" advocate, when he announced his nomination, it seems clear that confirmation would be taken as a signal of Senate approval of a more repressive stance toward the crime problem. Yet as you have frequently pointed out, the problem of crime is a far more complicated one than the "law-and-order" forces appear to be willing to admit. Mr. Rehnquist's simplistic views in this connection suggest that he lacks the range of vision and balanced judgment necessary to effective adjudication of constitutional issues in this vital area of the law. His confirmation would be one more step away from a realistic attempt to deal with the roots of crime, rather than with mere symptoms—a step which may be politically profitable to the President but is potentially disastrous to the nation.
>
> 3. Mr. Rehnquist appears to be wanting in balanced judicial temperament. His willingness to take extreme positions, bordering on fanaticism, in respect to such matters as nondiscrimination in public facilities in Phoenix or the desirability of permitting wiretapping and searches of other kinds without search warrants in certain cases, do not provide assurance that he would be able to exercise balanced judgment as a member of the Court. What the Court needs at the present time is a man with the wisdom, objectivity, and articulateness of Mr. Justice John Harlan (retired). On the basis of the Senate's hearings and his known record, I am convinced that Mr. Rehnquist is far indeed from being that kind of man (although Louis Powell may well prove to be a worthy successor to Justice Harlan).
>
> 4. It seems quite clear, from what I have been able to learn about Mr. Rehnquist, that he is not a "strict constructionist" in any meaningful sense of that term. On the contrary, he appears to be quite willing to disregard constitutional language to serve what he regards as desirable political ends; in this sense, it seems quite probable that he would be an "activist" justice of ultra-conservative persuasion if confirmed. I regard extremism of the right to be just as improper, in a Supreme Court justice, as extremism of the left.

Mr. Owen Olpin, professor of law at the University of Utah writes:

> I feel strongly that the Senate should not confirm Mr. William Rehnquist's nomination. It is clear that he is not another Carswell; he is undoubtedly bright and intellectually capable. He has, however, indicated an insensitivity to human values and civil rights which would be highly dangerous in these times.

John J. Flynn, professor of law at the University of Utah writes:

> You must weight Mr. Rehnquist's qualifications in regard to what is best for all of the citizens of this country. In my view, Mr. Rehnquist does not measure up to either standard. It is my firm hope that you will agree and vote no on his nomination to the United States Supreme Court.

The PRESIDING OFFICER. The Chair asks the Senator from Utah to suspend so that the Chair may inform the Senator from Indiana, in accordance with his request, that he has 2 minutes remaining.

Mr. MOSS. Does the Senator wish to reserve that time?

Mr. BAYH. No.

Mr. FANNIN. Mr. President, how much time does the Senator from Utah desire?

Mr. MOSS. I would like to have about 3 minutes more.

Mr. FANNIN. Mr. President, I am happy to yield 3 minutes to the Senator from Utah.

The PRESIDING OFFICER. The Senator from Utah is recognized for 3 minutes.

Mr. FANNIN. Mr. President, may I ask first how much time I have remaining?

The PRESIDING OFFICER. The Sentor from Arizona has 22 minutes remaining.

Mr. MOSS. I thank the Senator from Arizona for his generosity.

Mr. E. Wayne Thode, professor of law, University of Utah, wrote as follows:

> I think each Senator has an obligation to determine for himself whether the judicial philosophy of a nominee for the Supreme Court will result in serving the nation ill or well. If my information is correct, then I think Mr. Rehnquist would ill serve the nation. We should not walk backward along the path that has been slowly but steadily developed by the Supreme Court and the Congress during the last twenty years.

Mr. President, I find myself in agreement with the thinking of these dedicated legal scholars from my home State of Utah. I, too, find the record of Mr. Rehnquist almost totally lacking in evidence of a balanced, dispassionate approach to legal and judicial policy. His record is not that of a true conservative. Rather, it is replete with manifestations of an aggressive theorist with combatative impulses and a strong commitment to a harsh, narrow doctrine concerning government and the individual. He has consistently accorded the most narrow interpretation to Supreme Court decisions and constitutional concepts that protect individual rights and liberties. At the same time, he accords the broadest interpretation to opinions and concepts that sanction government restrictions on individual rights and liberties. As the New York Times has said:

> He neither reveres nor understands the Bill of Rights.

Mr. President, on the basis of Mr. William Rehnquist's frequently expressed and obviously deep-seated insensitivity to human rights, I will vote "no" with regard to his confirmation to the Supreme Court of the United States.

I thank my colleague from Arizona for according me some of his time, which I have used in opposition. I think it indicates fairminded generosity on his part, and I thank the Senator from Indiana for yielding to me.

Mr. FANNIN. Mr. President, I yield to the Senator from Kentucky such time as he may require.

Mr. COOK. I thank the Senator from Arizona.

Mr. President, I might say that I am delighted we are bringing this to a conclusion, because I, for one, will receive a great deal of personal satisfaction in voting for William Rehnquist whom I, in my short period of time in Washington, am proud to consider a friend.

I think, unfortunately, there are many men in the U.S. Senate who have not come to know the Rehnquist that I have come to know. I think one of the things that was brought out in a personal conversation with one of the Members of the Senate the other day shows the kind of Bill Rehnquist that I know, and the kind of Bill Rehnquist that I have had association with. We were discussing our families not too long ago when another Member of the Senate said to him:

> I noticed in our local PTA that you were listed as one of the individuals to take calls from parents in the PTA on a poll.

I looked at him and said:

> For crying out loud, Bill. Don't you get enough telephone calls day and night without submitting yourself to telephone calls from all the parents of the PTA to take a poll in their school?

He said:

> Well, we have been involved in PTA for many, many years, and somebody has to do it.

I consider him this kind of fellow.

I would say, in all fairness, that I think the Supreme Court is getting an outstanding student of the law, an outstanding student who has compassion for the law.

I noticed, in her column in the Star this afternoon, that Mary McGrory quoted the distinguished Senator from New York (Mr. JAVITS) as saying that he had trouble with what he called "Rehnquistian concepts as qualified martial law." I think it is unforunate for that kind of remark to be made, because martial law is a part of the law in the United States. As a matter of fact, it is not a Rehnquistian remark. In fact, in its context it might be well if it were, but it is not. It is found in the Practical Manual of Martial Law published in 1940, and its author was Frederick B. Weiner, who was the special assistant to the Attorney General of the United States under President Roosevelt.

I would say I think we have twisted all of these things sufficiently in regard to one's philosophical approach.

I can only say I think William Rehnquist is a welcome choice for the Supreme Court of the United States—a man who is as humble as any individual I know of. As I said in my long remarks yesterday, in my last paragraph, I hope that the Senate will indulge me to digress for a moment and say that it comes as a matter of great pride on my part to say that it is the first time that I have ever had the occasion to be on the floor of the Senate and participate in the vote on a candidate for the Supreme Court of the United States whom I consider a personal friend.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. FANNIN. Mr. President, I yield the distinguished Senator from Michigan such time as he may require.

Mr. GRIFFIN. Mr. President:

> As we move toward this historic vote, let the message go forth that the Senate once again takes seriously its advice and consent powers conferred by the Constitution.

Mr. President, I first made that statement October 1, 1968, as the Senate prepared to decide the future of Abe Fortas. I said then, as we neared the vote on that nomination:

> Scholars will look back on this day not only as a significant day, but as a proud day in the history of the Senate.
>
> For our action will mark a turning point—a point of beginning again—in building and maintaining the kind of relationship—the kind of checks and balances—between and among the several branches of government that was envisioned by our Founding Fathers.

Mr. President, although I disagree with the position of the distinguished Senator from Indiana with respect to this nomination, I want to say, as the debate closes, that I commend him and those who were associated with him in examining very closely and carefully the qualifications of this nominee. In doing so, I think they did the Senate a service, and I think that the considerable period of time spent debating and considering every possible argument has been in the interest of the Senate and has been in the interest of the Supreme Court.

Events subsequent to October 1, 1968, have clearly established that that date was a turning point.

Since then, six men have been nominated for the Supreme Court. Two were rejected. Three have been confirmed. We are about to confirm a fourth.

But the important point is that in each case the Senate acted only after careful and searching examination of the nominee's qualifications, his background and experience, and even his judicial and political philosophy.

Mr. President, during the debates preceding the adoption of our Constitution, Alexander Hamilton argued that the Senate's power of "advice and consent" would not be an important factor in the selection of Supreme Court Justices.

Mr. Hamilton was wrong.

During the first 105 years after the adoption of the Constitution, the Senate rejected 20 of 81 nominations to the Supreme Court—a rejection rate of nearly 25 percent.

Between 1894 and 1968, however, the Senate confirmed 43 of 44 nominations. Some might say that Presidents during that period selected only nominees of the highest caliber. But I believe it would be more accurate to say that during that long period the Senate all but surrendered and abandoned its constitutional responsibility of advice and consent.

In 1968, when it rejected the nomination of Mr. Fortas for Chief Justice, the Senate suddenly reasserted itself, and reawakened to its responsibility. Since then the Senate has rejected two nominations, and I believe that it is safe to say that the Senate's stand has influenced the selection of other nominations.

Even though some individuals—including some Presidents—may have suffered because of the Senate's insistence on the exercise of its constitutional powers, I believe that this process has produced justices of the highest caliber.

I believe that the men since selected—Chief Justice Burger, Justices Blackmun and Powell, and today Mr. Rehnquist—have brought and will continue to bring to the Court intellectual strength, the highest standards of character and propriety, and, yes, a sorely needed philosophical balance.

I believe that William H. Rehnquist understands and respects "the majesty of the law" and that his performance on the Court will serve to justify the confidence of the President and the Senate.

I shall be proud to cast my vote for him.

I thank my colleague for yielding.

Mr. FANNIN. I thank the Senator from Michigan.

Mr. President, I yield myself 5 minutes.

Mr. President, the investigations have been made, the questions have been raised and answered, the debate has been lengthy if somewhat repetitious. We now are nearing the hour when we will vote on the confirmation of William H. Rehnquist to be an Associate Justice of the Supreme Court of the United States.

Now that all the evidence is in, it is obvious that Mr. Rehnquist should be confirmed overwhelmingly.

Mr. Rehnquist certainly has the intellectual credentials. As an undergraduate student and as a law school student, Mr. Rehnquist was outstanding. He was graduated from Stanford "with great distinction" and was a member of Phi Beta Kappa. He received masters degrees in political science from Stanford and in government from Harvard before earning his law degree at Stanford.

President Nixon has stated that Mr. Rehnquist has "one of the finest legal minds in the whole Nation." In the past few weeks since his nomination this conclusion has been overwhelmingly seconded by his former professors, his colleagues in private practice and in public service, and significantly, from those who have been his legal and political adversaries through the years.

Throughout his career this relatively young man has demonstrated again and again that he has exceptional intellectual and professional competence.

One of his former professors has called William Rehnquist "the outstanding student of his law school generation."

All of us know that scholastic achievement is not always translated into practical application. In the case of Mr. Rehnquist, however, his achievements after law school were equal to or superior to his most excellent performance in the classroom.

As an attorney in Phoenix, Ariz., for 16 years Mr. Rehnquist built himself a most admirable record and reputation as not only a brilliant lawyer but as a man of the highest personal integrity.

The president of the Arizona State Bar Association summarized it well in a statement to the Senate Judiciary Committee. Howard Karman said:

> I have known Bill Rehnquist professionally for a number of years. After his nomination by President Nixon, I talked to a great many people in Arizona, Republicans and Democrats, liberals and conservatives. To a man they had nothing but praise for Bill Rehnquist. I was surprised that no lawyer I spoke with had an unfavorable comment to make, even those who find themselves at the opposite end of the political spectrum.

He concluded his statement as follows:

> I believe that Mr. Rehnquist is admirably qualified by virtue of intellect, temperament, education, training, and experience to be confirmed.

The collective views of Arizona attorneys on this nomination are also reflected in the unanimous endorsement given Mr. Rehnquist by the board of governors of the State bar of Arizona. They praised him for having "continually demonstrated the very highest degree of professional competence, integrity, and devotion to the ends of justice."

Mr. President, the question boils down to this: Will you believe the testimony of men who have known Mr. Rehnquist intimately both as a friend and an adversary, or do you choose to believe the innuendos of persons who set out with preconceived ideas to make a case against Mr. Rehnquist regardless of the facts?

Will you believe John P. Frank, the Phoenix attorney who is considered to be an expert on the subject of judicial nomination? Speaking of Mr. Rehnquist, Mr. Frank told reporters:

> He's splendid. He's going to make a good Supreme Court Justice.

My only disagreement with Mr. Frank is a matter of degree. I think Mr. Rehnquist will make more than a good Supreme Court Justice. He will make a great Supreme Court Justice.

Mr. President, let us look at what some other Arizonans have said about the Rehnquist nomination.

Arizona Gov. Jack Williams described Mr. Rehnquist as a "real scholar—an outstanding attorney." Vice Chief Justice Jack D. H. Hays of the Arizona Supreme Court noted that Mr. Rehnquist is "a very outstanding young man—a tremendous legal scholar." Former Arizona Supreme Court Judge Charles Bernstein stated:

> I couldn't think of a better choice . . . he has an extremely well-balanced philosophy . . . a sense of feeling for human beings, especially for the little man.

Gary Nelson, attorney general of Arizona, noted:

> I was ecstatic at the announcement of his nomination . . . I think he's outstanding.

State Senator Sandra D. O'Connor, a law school classmate, stated:

> When Bill has expressed concern about any law or ordinance in the area of civil rights, it has been to express a concern for the preservation of individual liberties of which he is a staunch defender in the tradition of the late Justice Black.

As the hearings and the letters to the Judiciary Committee on this nomination make clear, the tributes to Mr. Rehnquist from his fellow Arizonans go on and on. It is also clear that the tributes have flowed equally from those who have worked with him in his capacity as Assistant Attorney General in the Office of Legal Counsel. The principal area of expertise of this Office is in matters of constitutional law. As Senators know, the Office—often called the President's law firm—assists the Attorney General in serving as legal adviser to the President and his staff. It also drafts the formal opinions of the Attorney General and gives informal opinions and advice to agencies within the executive branch of the Government. In short, Mr. Rehnquist is, as President Nixon described him, the President's lawyer's lawyer.

As I indicated earlier, the endorsement by the people who have worked with the nominee in this position is as strong as that given by those who knew him in Phoenix. Mr. Rehnquist's first assistant in the Office of Legal Counsel, Martin Richman, a former clerk to Chief Justice Earl Warren, and who was in the Office during Ramsey Clark's tenure as Attorney General, but who stayed on during the first 4 months when Mr. Rehnquist came to the Office, had this to say:

> In terms of character, he is strong, honorable, straightforward in his actions and positions. I thought he showed exceptional sensitivity and decency in his decisions on administrative and personnel matters within the Office. While these traits do not necessarily bear on legal ability, they speak deeply of the character of a man.

Mr. Richman's successor as first assistant, Thomas E. Kauper, who is now a professor of law at the University of Michigan Law School, also notified the committee that he believed Mr. Rehnquist to be "exceptionally well qualified" for the Court. Professor Kauper added:

> William H. Rehnquist is as fine a lawyer as I have encountered. He has a scholarly, intellectual approach to legal problems which is not found in many practicing lawyers. While he and I did not always agree on the resolution of legal issues, I always received a fair hearing and found him eager to learn all that he could before making a decision. In addition to a powerful legal mind, and perhaps equally as important, Mr. Rehnquist has abiding interest in and concern for the development of the law and legal institutions. He has all the qualities to become a truly great judge, and to assume a substantial degree of intellectual leadership on the Court for a number of years to come.

These conclusions are echoed by members of the career legal staff in the Office of Legal Counsel.

The qualities that earned these plaudits for Mr. Rehnquist from practitioners were also known to the academic community in Arizona. Dean Willard H. Pedrick of the Arizona State University College of Law felt that these qualities would make him an excellent professor of law and approached him on the subject about a year ago. Because of his commitment to the Department of Justice, Mr. Rehnquist declined to consider such a post. Dean Pedrick wrote to notify the Judiciary Commitee of the intelligence and integrity of the nominee and warmly endorsed his nomination to the Court. He stated:

> The qualities that would, in my judgment, have made him an excellent law professor should make him an excellent Justice of the United States Supreme Court. On that Court, charged with responsibility to serve the interests of all of the people in interpreting the Constitution of the United States and the laws of Congress, I am confident he will serve his country with great distinction.

In addition to the support of colleagues who have worked closely with him in the daily practice of law, Mr. President, I want to point out that clergymen, doctors, and other professional people are among those sending in praises of William Rehnquist, as a legal scholar, a humanitarian, a civic worker, a good Christian, and a fellow who is loved by his friends and associates. William Rehnquist has a wonderful family who have been a very important part of his life, and he is an ideal father. He will be an outstanding Associate Justice of the Supreme Court.

Mr. President, William Rehnquist has the education, the legal experience and expertise, the intellectual ability to serve as a Supreme Court justice. More important, he has the character and the human qualities that will make him a great Justice. I urge his confirmation and I urge that we give him a substantial vote of confidence as he undertakes this awesome responsibility.

I reserve the remainder of my time.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 4 minutes remaining.

Mr. BAYH. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Indiana has 2 minutes remaining.

Mr. SCOTT. Mr. President, will the Senator yield to permit me to withdraw the agreement as to the time for the cloture vote tomorrow?

Mr. FANNIN. I yield.

Mr. SCOTT. Mr. President, I ask unanimous consent that the time heretofore agreed to for the beginning of the running of the debate on the cloture motion and the vote on the cloture motion be now withdrawn and dispensed with.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. BAYH. Mr. President, although I have seen some proud moments in the Senate, I must say, with all due respect to my colleagues, that I do not feel that this is such a moment. I do not say this just because the position of the Senator from Indiana is about to be repudiated and the nominee he opposed is about to be accepted. I am concerned that this nomination is being voted on after a relatively short period of consideration compared to that with respect to the nominees who were opposed by the Senator from Michigan and twice turned down by the Senate.

We have not had time to answer all the questions; and thus, in the spirit of free debate, this is indeed not one of the Senate's finest hours.

But I am more concerned about the fact that there are millions of Americans who quite properly look to the Senate and to the Court as bodies dedicated to protect human rights and individual rights. I wonder, in the depth of my heart, just what they will think this afternoon when they read the final outcome of the vote, when they see placed on the Court a man who testified against letting black people in drugstores and in schools and was unwilling to outlaw blockbusting, a man who repeatedly has urged an expansion of the power of the executive branch at the expense of the rights of individuals.

These millions of people may be alarmed at the outcome, Mr. President. That is a needless tragedy. But I hope they will take heart from the fact that there are still some in this body who are willing to stand up and fight for the rights we believe are important. Those of us in the Senate were not the only ones who opposed Mr. Rehnquist's confirmation. Among them were the AFL-CIO, the UAW, the ADA, the NAACP, and the Leadership Conference on Civil Rights.

Lawyers and law professors across the country were also active. Just in the past few days more than 270 law school professors at 28 law schools wrote and called to tell us of their opposition to Mr. Rehnquist, and the ACLU voted to oppose this nominee, the first such decision in its history. I believe we can all take heart from this outpouring of public opinion. Some people still do care about preserving the freedoms of the Bill of Rights.

Mr. GRIFFIN. Mr. President, will the Senator yield to me?

Mr. BAYH. I have no time remaining. I would be glad to yield.

Mr. FANNIN. I yield 1 minute to the Senator.

Mr. GRIFFIN. The Senator from Indiana made reference to the Senator from Michigan and the time that was used in debating the nominations. I take it that he was referring to me and that he was referring to the Fortas nomination.

Mr. BAYH. Yes. I was referring to the Fortas and Thornberry nominations. If one compares the amount of time, from the time the nominations were sent to the Senate, there is no comparison between the two situations.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. FANNIN. I yield time to the Senator.

Mr. GRIFFIN. To keep the record straight, let me remind the Senator from Indiana that the cloture vote with respect to the Fortas nomination came after only 4½ days of debate. If the Senator will check, I believe he will find that there has been about the same amount of time devoted to debate on this nomination. Of course, except for the unanimous-consent agreement, to which the Senator from Indiana did not object, we could have had another date of debate of this nomination.

Mr. BAYH. As the Senator from Michigan is all too well aware, he has suggested that we had a filibuster here from the first day. He stood right where he is now and accused the Senator from Indiana, and those of us who are concerned about Mr. Rehnquist, of filibustering, before the debate was 12 hours old. The first cloture petition was filed after 1½ days of debate—a debate which Mr. Rehnquist's supporters refused to attend, and a second cloture petition was filed the very next day. The Library of Congress advises me that such a tactic is totally without precedent in Senate history.

Mr. HART. In the Fortas nomination, it was a filibuster against the motion to take it up. We were not even allowed to take it up.

Mr. HRUSKA. Mr. President, will the Senator yield?

Mr. FANNIN. I yield.

Mr. HRUSKA. On the score of the time that has been involved in this debate, the RECORD shows that debate started on this matter and there was ample time for all Senators to participate. Some 12 or 14 Senators, starting on November 2 and ending on December 1 devoted approximately 65 columns of comment on the thoughts they had favoring Mr. Rehnquist. On the other side there were more than 200 columns in the CONGRESSIONAL RECORD devoted to that subject, but in opposition to Mr. Rehnquist from November 5 to December 3, and that is separate and apart from the time during debate which started on December 4. So there has been a good deal of time devoted to it, which would not appear to be an unduly short time allowed for the purpose of debate.

The VICE PRESIDENT. All time has now expired.

The Chair reminds members of the galleries that the rules of the Senate prohibit expressions of approval or disapproval upon announcement of the vote.

Mr. SCOTT. Mr. President, I ask unanimous consent that I may have 1 minute now, notwithstanding the expiration of the time, for the purpose of making an announcement regarding the photograph.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. SCOTT. Mr. President, pursuant to Senate Resolution 197, 92d Congress, the official photograph will be taken of the Senate in session immediately after the vote on confirmation of the nomination of Mr. Rehnquist.

Senators are requested to remain in their seats after the announcement of the vote for a series of pictures which will be taken and which will consume approximately 6 minutes.

The VICE PRESIDENT. The hour of 5 p.m. having arrived, under the unanimous-consent agreement, the Senate will now proceed to vote on the question, Will the Senate advise and consent to the nomination of William H. Rehnquist to be an Associate Justice of the Supreme Court of the United States?

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. MANSFIELD (after having voted in the negative). On this vote I have a pair with the distinguished Senator from Illinois (Mr. PERCY). If he were present and voting, he would vote "yea"; if I were at liberty to vote, I would vote "nay." I withdraw my vote.

Mr. BYRD of West Virginia. I announce that the Senator from New Mexico (Mr. ANDERSON) is necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Utah (Mr. BENNETT) and the Senator from South Dakota (Mr. MUNDT) are absent because of illness.

The Senator from Illinois (Mr. PERCY) and the Senator from Maine (Mrs. SMITH) are necessarily absent.

If present and voting, the Senator from Maine (Mrs. SMITH) would vote "yea."

The pair of the Senator from Illinois (Mr. PERCY) has been previously announced.

The vote was announced—yeas 68, nays 26, as follows:

[No. 450 Ex.]

YEAS—68

Aiken
Allen
Allott
Baker
Beall
Bellmon
Bentsen
Bible
Boggs
Brock
Buckley
Burdick
Byrd, Va.
Byrd, W. Va.
Cannon
Chiles
Cook
Cooper
Cotton
Curtis
Dole
Dominick
Eagleton
Eastland
Ellender
Ervin
Fannin
Fong
Gambrell
Goldwater
Griffin
Gurney
Hansen
Hatfield
Hollings
Hruska
Jordan, N.C.
Jordan, Idaho
Long
Mathias
McClellan
McGee
McIntyre
Miller
Montoya
Packwood
Pastore
Pearson
Pell
Proxmire
Randolph
Roth
Saxbe
Schweiker
Scott
Sparkman
Spong
Stafford
Stennis
Stevens
Stevenson
Symington
Taft
Talmadge
Thurmond
Tower
Weicker
Young

NAYS—26

Bayh
Brooke
Case
Church
Cranston
Fulbright
Gravel
Harris
Hart
Hartke
Hughes
Humphrey
Inouye
Jackson
Javits
Kennedy
Magnuson
McGovern
Metcalf
Mondale
Moss
Muskie
Nelson
Ribicoff
Tunney
Williams

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Mansfield, against.

NOT VOTING—5

Anderson
Bennett
Mundt
Percy
Smith

So the nomination was confirmed.

Mr. SCOTT. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of this nomination.

The VICE PRESIDENT. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. SCOTT. Mr. President, I move that the Senate resume the consideration of legislative business.

The motion was agreed to, and the Senate resumed the consideration of legislative business.

MESSAGE FROM THE PRESIDENT

Messages in writing from the President of the United States were communicated to the Senate by Mr. Leonard, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore (Mr. METCALF) laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the Committee on Labor and Public Welfare.

(The nominations received today are printed at the end of the Senate proceedings.)

The Chair wishes to remind Senators, as the minority leader has just announced, that photographs will be taken now and Senators should, therefore, please remain in their seats during that period.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House had passed the bill (S. 2891) entitled "An act to extend and amend the Economic Stabilization Act of 1970," with an amendment in the nature of a substitute.

The message also announced that the House insists upon its amendment, requests a conference with the Senate on the disagreeing votes of the two Houses thereon, and that Mr. PATMAN, Mr. BARRETT, Mrs. SULLIVAN, Mr. REUSS, Mr. ST GERMAIN, Mr. MINISH, Mr. WIDNALL, Mr. JOHNSON of Pennsylvania, Mr. J. WILLIAM STANTON, and Mr. BROWN of Michigan were appointed managers of the conference on the part of the House.

ECONOMIC OPPORTUNITY AMENDMENTS OF 1971—VETO

The VICE PRESIDENT. Under the previous unanimous consent agreement, the Chair lays before the Senate the President's veto message on S. 2007, the Economic Opportunity Amendments of 1971. Under the agreement, debate is limited to 2 hours, to be equally divided and controlled by the majority and minority leaders or their designees.

(For President's veto message see page 46057 of the CONGRESSIONAL RECORD of today.)

The Senate proceeded to reconsider the bill.

ORDER OF BUSINESS

The VICE PRESIDENT. The Senate will be in order.

Mr. MANSFIELD. Mr. President, may we have order in the Senate?

The VICE PRESIDENT. The Senate will be in order. Who yields time?

Mr. BYRD of West Virginia. May we have order in the Senate?

The ACTING PRESIDENT pro tempore. The Chair will try to get order. Senators will please be in order. It is impossible to hear the speaker. The Senate will please be in order.

Mr. NELSON. Mr. President——

The ACTING PRESIDENT pro tempore. The Senator will please suspend while the Chair attempts to obtain some sort of order. I would like to hear the speaker.

Mr. NELSON. Mr. President, I assume the time taken to restore order will not be charged to our time.

I ask unanimous consent that the time begin running now and I ask unanimous consent that I may yield to the Senator from Missisippi for the consideration of a proposal on which he says there is no controversy, without it being deducted from my time.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. MILLER. Mr. President, reserving the right to object, I am sorry. I did not hear the request.

Mr. NELSON. I ask unanimous consent that I may yield to the Senator from Mississippi for 3 minutes without the time being deducted from either side.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

AUTHORIZATION FOR AN ADDITIONAL DEPUTY SECRETARY OF DEFENSE

Mr. STENNIS. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 8856, which was reported earlier today. This matter has been cleared by both leaders, and I ask for the immediate consideration of the bill.

The ACTING PRESIDENT pro tempore. The bill will be stated by title.

The legislative clerk read the bill by title, as follows:

A bill to authorize an additional Deputy Secretary of Defense, and for other purposes.

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Armed Services with an amendment to strike out all after the enacting clause and insert in lieu thereof the following:

That section 136 (a) of title 10, United States Code, is amended by striking out "eight" and inserting in lieu thereof "nine".

SEC. 2. Section 5315 (13) of title 5, United States Code, is amended to read as follows: "(13) Assistant Secretaries of Defense (9).".

Mr. STENNIS. Mr. President, the sole purpose of this bill is to provide for one additional Assistant Secretary of Defense. All else has been stricken from the bill. It passed the House. It passed out of the Senate committee by unanimous vote. It has been cleared in all quarters. It is needed.

I move passage of the bill.

The ACTING PRESIDENT pro tempore. The bill is open to further amendment.

If there be no further amendment to be proposed, the question is on agreeing to the committee amendment.

The amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The bill was passed.

The title was amended so as to read: "An Act to authorize an additional Assistant Secretary of Defense."

ECONOMIC OPPORTUNITY AMENDMENTS OF 1971

The Senate continued with the reconsideration of the bill (S. 2007) to provide for the continuation of programs authorized under the Economic Opportunity Act of 1954, and for other purposes.

Mr. NELSON. Mr. President, I yield myself 10 minutes.

Mr. President, the Senate has before it this afternoon an ill-advised veto that flatly rejects carefully considered and desparately needed social legislation. Last year at this time it was the veto of the Employment and Manpower Act, part of which was designed to provide public service employment for the jobless.

PRIVILEGE OF THE FLOOR

Mr. President, I ask unanimous consent that William Spring, Richard Johnson, John Steinberg, and John Scales have the privilege of the floor during this debate.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BIBLE. Mr. President, may we have order? It is impossible to hear the Senator.

The ACTING PRESIDENT pro tempore. The Senator is correct. The Senate is not in order.

Will Senators take their seats and those who desire to converse retire to the cloakrooms? Will we please have order in the Senate?

The Senator will suspend until the Senate is in order.

The Senate is not yet in order.

The Senator from Wisconsin.

Mr. NELSON. Mr. President, to repeat, last year at this time it was the veto of the Employment and Manpower Act, designed to provide public service employment for the jobless. This year it is the extension of the Economic Opportunity Act, including a major child development program and an innovative Legal Services Corporation.

Last year the President's message made it perfectly clear that the President had not read and did not understand the legislation he was rejecting. In fact, it was only 6 months later that he signed an Emergency Employment Act which provided public service employment almost identical to that in the bill he had vetoed a few months earlier on the ground that it provided dead end jobs.

I might say parenthetically that I do not blame the President particularly for this. I blame his advisers. Obviously, the President did not know then what was in the bill, nor does he know now. The people who wrote the messages have misled the President in the drafting of the vetoes.

I believe the President has again been gravely misled by those who advised him to veto the poverty bill this year, for I cannot imagine that any person who reads this legislation with care could comment on it in such wholly negative and mistaken terms as this veto message does.

There runs through the language of this veto message attacking the proposed child development program the insinuation that the program would weaken the American family. The President says that there are "family weakening implications" in the program; that it is "the most radical piece of legislation to emerge from the 92d Congress;" that it would put the "National Government—on the side of communal approaches to child rearing over against the family centered approach;" and that there is "a respectable school of opinion that this legislation would lead toward altering the family relationship."

I hasten to add that he did not cite what that "respectable school of opinion" was and he in no way delineates which provisions of this bill had "family weakening implications."

It would seem to me, after Congress and both Houses had spent months and months and months on the proposal, he would at the very least specifically delineate what is wrong with it, which he failed to do.

I might point out that the White House Conference on Children and Youth specifically recommended a child development program as the highest priority.

Mr. President, there is nothing—I repeat nothing—in this bill that would weaken the family relationship. There is nothing—I repeat nothing—in this bill that would lead to communal ways of child rearing. There was no testimony before the committee that this bill held any such danger whatsoever.

Is it conceivable that the National Council of Churches, the U.S. Catholic Conference, the National Council of Negro Women, and the League of Women Voters, would—for one second—support legislation which included such dangers? Obviously not. Needless to say, if any such legislation were proposed, I myself, and the other sponsors of this legislation would be the first to oppose it.

But the legislation has been attacked. It has been attacked in a series of hysterical rightwing charges, and these are the charges that the President's speechwriters put into his misleading, unfortunate veto message.

One rightwing weekly headlined a story about the bill, stating, "Big Brother Wants Your Children." A story in another publication said, "The Measure Threatens to Destroy Parental Authority." A columnist, who should know better, implied that the bill would have to be considered in the context of a "Sovietized society."

Mr. President, these charges are worse than irresponsible. Is it to these hysterical charges that the veto message refers when it says, "There is a respectable school of opinion that this legislation would lead toward altering the family relationship?"

I wish the President, or any one of his Secretaries or advisers, would name one responsible authority to whose opinion the President makes reference.

Mr. President, it is unfortunate that there are members of this society who are so opposed to legislation that deals with the Nation's desperate human needs that they resort to irresponsible scare charges. However, it is worse than irresponsible for the administration to dignify this hysteria in an official message to the Congress and to imply that the 63 Senators who voted for the conference report on child development and OEO legislation just a few days ago, on December 2, would have any part of proposals that could in any way weaken the American family.

I think the President's advisers know it, and I think the President does, too.

The veto message also implies that there is no documented need for the child development program. They ought to take note of the fact that the President's White House Conference on Children and Youth said that a child development program is the highest priority of the conference. How could anybody put in the President's speech the statement that there is no need, when their own White House conference came to the totally opposite conclusion?

Mr. President, in the course of hearings on the OEO bill, which stretched over 19 days from March 23 to June 16, the committee spent 7 full days on child development under the leadership of the distinguished Senator from Minnesota (Mr. MONDALE), gathering ample documentation on both the need for and the soundness of the legislative approaches in this bill. Interestingly enough, perhaps the most persuasive witness of all was Dr. Edward Ziegler, Director of the administration's Office of Child Development.

Well, you can bet your hat that the President and his advisers did not discuss this measure with Dr. Ziegler, who appeared in favor of the proposals. Dr. Ziegler testified that there are right now 5 million pre-school children of working mothers, page 849, volume III, committee hearings. He further testified that there are only 650,000 slots in child care centers of all kinds available for these children.

Mr. President, we are not talking about taking children out of the home and into child care centers; we are talking about the children of working mothers for whom some provision—often terribly inadequate—now must be made to enable them to work and support their families.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. NELSON. Mr. President, I yield myself 5 more minutes.

If adequate provision according to HEW's own statistics on day care were provided for all 5 million preschool children of mothers who now work the cost would be $8 billion. The legislation which the administration has vetoed set a goal of eventually providing adequate child development services for all children, but it authorized only $2 billion as a start to meet the need to provide adequate child development programs to the children of poor and near poor parents. Mr. President, I cannot believe that if the President himself were fully aware of the needs, of the extensive hearings, of the long months of negotiation between the two Houses of Congress and the conferees and the administration he could possibly have characterized this legislation as "radical" and "irresponsible" as the veto message does.

The veto message charges that the administrative arrangements of the child development legislation are unworkable. The fact is, the "delivery system" is based on the judgment that programs for our children ought to be designed and run with the participation and approval of their parents at the local level. This is the same principle that underlies the local school system. Who can quarrel with that? They simply extend the system under which the Headstart program has functioned so successfully.

Just the Headstart guidelines require that committees of parents serve as boards of directors for child development centers, so the child development legislation provides for local policy committees, half of whose members must be parents, to oversee each program. Just as Headstart provides for prime sponsors at the community level, the legislation would have established Child Development Councils at the city level responsible for judging applications and evaluating the operations of the various centers.

Most Americans agree that the actual education of their children should not be controlled at the Federal level, or even at the State level. The State capital is usually hundreds of miles away and often ill-equipped to plan or supervise day-to-day activities in local communities. No, Americans do not trust their children's early education to either the States or the Federal Government. They run their schools at the local level. And that is just where our child development legislation put responsibility, with the parents and at the local level.

Over a period of weeks the conferees negotiated with the administration and worked out a sensible compromise on the difficult point in conference: the fee schedule. The Senate bill provided free services for families earning at the Bureau of Labor Statistics lowest adequate budget level, $6,960 a year. The House version left the level of free services to the discretion of the Secretary of Health, Education, and Welfare with the understanding that it would be the same as the level for receiving assistance under the welfare reform legislation—that is, $4,320 for a family of four.

Under the conference agreement, free child development services would be available to families having two children with an annual income of $4,320. Between $4,320 and $6,960, such a family could be charged modest fees.

The veto message characterizes the earmarking of funds in the legislation as "genuinely reactionary legislation" because "it locks OEO executives into supporting and continuing programs;" "it denies administrative discretion to the executives of OEO." This is a most amazing argument for the administration to send to the Congress. Are the elected representatives of the Congress not entitled to have something to say about how appropriated funds are to be spent?

I have been in this argument, as others in Congress have, for a long time, with the previous administration and with this administration, on the earmarking of funds. What all administrations—Democratic and Republican—really want is for Congress to appropriate a great big bushel basket of money and send downtown and say, "Spend it as you please." I would think that all Members of this body would agree that Congress has the responsibility to say how money is to be spent. However, in this bill we give them more flexibility as to how the money is to be spent in this program than in any other program that I am aware of.

Are OEO executives to have complete discretion in the expenditure of Federal funds without receiving the approval of Congress before they shift funds from programs which they consider less productive in order to devote those funds to what they consider to be "hopeful new initiatives?"

Let me remind the Senate how accommodating the Congress was to enhance the discretionary powers of OEO executives. We gave the Director of OEO 25-percent flexibility in transferring funds from one program to another. The legislation which the Congress passed and the President has now vetoed provides that as much as 25 percent of any earmarked amount can be taken away from any such program and used as the Director of OEO wishes.

Can you think of any other program that Congress does that with? And, in fact, the 25-percent transferability is exactly the amount of flexibility that the administration was begging us to give them 2 years, ago. This year, we gave them the full 25-percent transfer authority they asked for. Now the President is vetoing the bill on the grounds that it is not flexible enough.

What kind of nonsense is that?

I can understand that the OEO executives would like 100-percent flexibility. They are surely confident that they could spend the funds more intelligently than the Congress. They would like no limitations. They would prefer to be free of congressional direction.

Although 25-percent flexibility apparently is not sufficient to satisfy the OEO executives, I have not heard of any other Federal department which has any flexibility at all in shifting funds from one program to another. The Office of Education has no flexibility to transfer funds from one program to another. Funds for health programs cannot be shifted from one category to another. Yet in the OEO legislation we gave 25-percent flexibility. And even though that is 25-percent more flexibility than we give any other department, they are not satisfied.

It is ironic that while the legislation in one part of the message is characterized as "radical," in another part it is characterized as "genuinely reactionary." The message is referring here to the fact that the congressionally approved legislation provides for earmarking of funds for certain programs. In fact, Congress in this legislation earmarks precisely the figures the administration requested for nearly all of these programs.

It is just exactly what they wanted, with some minor exceptions, which they do not like because they do not believe that Congress ought to have any authority. And that is the trouble with this administration in domestic policy as well as in foreign policy. They would like to run everything in the same way that they run foreign policy. They would like to run wars and domestic programs without consulting Congress. They would like to spend the whole Treasury without consulting Congress if we would let them.

One of the things they did not like was that we earmarked money to feed the hungry. They wanted to cut off the program. So the President and his advisers are vetoing a bill because we are trying to feed some hungry children; that is what it is all about.

Listen to this:

> The only exceptions are programs which the administration wished to cut back sharply. One of these was the emergency food and medical services program. We earmarked $62.5 million for EFMS in the previous economic opportunity bill. Last year OEO actually spent $45 million for EFMS. But this year the OEO budget proposed to phase out the program.

That is what this administration stands for. Oh, they can give $3.6 billion to the biggest corporations in America on the 7-percent tax credit; they can give it to them in the accelerated depreciation allowances. Oh, they shed tears for the rich, the wealthy, and the powerful, and give them $9 billion a year in tax reductions. But to give $62 million to the hungry, that is another matter. This is their concept of the free enterprise system; let those hungry little kids earn a living like they ought to earn it, like the General Motors people earn a living. If they cannot make it, too bad.

That is what this is all about. We earmarked $62.5 million for emergency food and medical services in the previous economic opportunity bill. Last year OEO actually spent $45 million for emergency food and medical services. But this year the OEO budget proposed to phase out the program. Witness after witness testified before our committee without refutation from anybody in this administration, anybody in this Congress, or anybody else in America, that the program was needed. They testified that this program made the difference between starving children and children with food in hundreds of counties all across the Nation.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. NELSON. I yield myself 5 additional minutes.

The administration wished to cut that program out. Congress said "No" four times. How many times do we have to tell those people in the executive branch that we want to help the hungry and the poor, and not just the wealthy in this country, as they seem to want to do?

Food for the hungry is too important to be eliminated for mere budgetary convenience. Is this the kind of program that the drafters of the veto message had in mind when they spoke of "programs that may prove less productive?" The bill which passed the Senate and was sent to the President earmarked funds for emergency food at last year's level. OEO's budget request also proposed eliminating the alcoholism program. The Congress did not agree to go along with that but instead we earmarked at last year's level.

Is this administration telling us that if Congress says there is going to be an emergency food and medical services program, and appropriates the money, and that there is going to be an alcoholism program and appropriates the money, that we have no right to do so? Have we passed a bad bill because they do not want to do that?

Well, if this Congress is going to defend any of its constitutional powers, I think we must assert the authority to authorize programs and appropriate the money. I think this country ought to understand what the standard of decency is in this administration, and who their heart bleeds for, and who they will help, and who they do not care about. They cry for the rich but they do not shed a tear for the poor.

Neither did Congress go along with OEO's budget request that the rural loan program be eliminated and the special impact program be reduced. So the bill we passed earmarked funds for a consolidated rural loan and community economic development title at exactly last year's level. In the case of local initiative community action funds, the Congress did not go along with reducing the previous year's funding level by $14 million, and so we earmarked funds at last year's level.

Everybody knows that this administration wants to kill the community action programs because, for the first time, the poor in this country have control of some programs to try to do something about their plight, and they do not like the poor to have control of anything in this country.

In fact, the problem that the Agnecy faces is that the administration's commitment to fighting poverty has been scaled back. That is what the problem is. While the OEO spent $890 million for projects in fiscal year 1971, the administration had asked fully $100 million less, $790 million, for fiscal year 1972. It is ironic that during a year when the number of poor people in this country increased sharply from 24 to 26 million that the administration thought it wise to cut back on the modest funds for the poor in the OEO. The same year in which the number of poor persons increases by 2 million, they cut back the budget for the poor by $100 million, and then give a $7 billion cut to all the biggest corporations in America—the biggest tax cut for corporations in the history of the Republic. This tells us more than anything else what this administration stands for.

The veto message criticizes the provisions of this legislation which provide that the administration must receive congressional approval before transferring Office of Economic Opportunity programs to other agencies. The veto message states that the flexibility to shift tried and proven programs out of OEO to other agencies would be taken away. In fact, the bill simply requires Congress to approve such changes.

> As the Senators know, a substantial number of Office of Economic Opportunity programs have already been "spun-off" to other agencies. Manpower programs, authorized in this legislation, have been delegated to the Labor Department. The Headstart program is run by Office of Child Development in the Department of Health, Education, and Welfare. The vetoed legislation itself would provide for an independent corporation to take over the legal services program. Congress has been willing to go along with proposed transfers of programs to other agencies when these proposals can be justified.
>
> We on the committee strongly believe that Congress ought to judge the value of any further cutting back on the operational responsibilities of the agencies. We are particularly concerned with the future of local community action agencies. It is essential for their continued effectiveness in developing innovative programs at the local level that they have the support, financial, technical, and

moral, of an independent poverty agency here in Washington. Local community action agency personnel and board members around the country are very concerned about any proposed shift in control of poverty programs. A coalition of some 90 national organizations, led by the National League of Women Voters and the Urban Coalition and including most major union, church, and civil rights organizations testified before our committee in strong opposition to the idea of turning community action agencies entirely over to local authorities. In response to these objections and the fears at the local level, Mr. Philip V. Sanchez, the new director of the OEO, assured the Labor and Public Welfare Committee by letter dated October 5, 1971, that:

> The administration will effectuate these changes—spin-offs—only in the event of approval by Congress of the specific legislative proposals outlined and not by the transfer of program authority, executive reorganization, administrative delegation, or any other means.

Thus, all the Congress did in S. 2007 in regard to spin-offs, was to write this declaration into the legislation so that every local program can have confidence as to where they stand with the Federal Government.

So they have the President reciting as one of the reasons for vetoing the bill the fact that we do not permit any transfer of OEO functions without consent of Congress. He considers that outrageous; whereas, his representative, Mr. Sanchez, came before the committee, saying that they would not transfer any, had no intention to transfer any, functions. So what is their complaint?

I would at least suggest that the people who have the responsibility for writing the veto message be the people who have the responsibility for administering the program, so that the veto message would not say so many foolish things that cannot be defended on the record in any way.

Let me point out that no other agency of the Government can delegate programs to other agencies without congressional approval. While I am not opposed in principle to the delegation authority which the Office of Economic Opportunity has had, it can hardly be argued that this legislation is taking away the prerogatives of the administration when no other agency or department of the Government can spin off its programs without congressional approval. Perhaps 1½ years from now, when the economic opportunity legislation is again up for renewal, we might not have to renew this provision.

Numerous witnesses before the Labor and Public Welfare Committee testified that there is now great uncertainty as to whether such programs will continue as a part of OEO. People carrying out programs at the local level do not know whether a few months from now their relationships with the officials with whom they must work to secure grants are going to be completely changed and whether they will be working with new officials of some other department or agency of the Federal Government.

If OEO programs are to be transferred, Congress should certainly have the opportunity to hold public hearings, where those affected can give their views.

I think it is an entirely reasonable proposition to expect the administration to secure congressional approval before spinning off programs which are now administered by the Office of Economic Opportunity.

Nowhere in this ill-advised veto message was more offensive to the Congress than in its handling of the Legal Services Corporation. There is a balance of power in the American governmental system. It is the responsibility of the administration to propose legislation. It is the responsibility of the Congress to consider it and modify it, and then the responsibility of the executive branch to carry out the wishes of the Congress. This administration seems to feel that Congress has no right to modify its proposals. Take the legal services issue, for example. After several years of political controversy, it was agreed by most concerned persons that it would be better to remove the legal services program from the Office of Economic Opportunity and to establish it in an independent corporation. The administration proposed that the board of directors of that corporation be appointed entirely by the President. Others believed the board of directors should be more broadly representative—in particular, that representatives of the poor and representatives of the major American bar associations, who have from the beginning been the chief supporters of the program, ought also to be represented on that board. In the classic manner of disagreement between the executive branch and Houses of the Congress, a compromise was reached. The President would name all members of the board, but he would be required to name to that board a certain number of individuals chosen from lists submitted to him by the American Bar Association, National Bar Association, American Association of Law Schools, American Trial Lawyers Association, and National Legal Aid and Defender Association.

A substantial majority—and a bipartisan majority—of the Senators believe that if the Legal Services Corporation is to carry on a vigorous program in defense of the rights of the poor it is essential that a significant number of board members be representatives of the major legal organizations whose support is the cornerstone of the legal services program. Frankly, the Members of Congress fear that a board appointed entirely by the President would not enjoy the same confidence among legal services clients, attorneys and the general public as a board that includes both Presidential appointees and representatives of the bar groups. In conference, the Senate position on this issue was substantially compromised to give the President the right to appoint every single member of the board, and to make it perfectly clear that he is compelled to appoint no specific individual. It was thought wise, however, to provide that a portion of his nominations for the board be made from lists submitted by the bar groups. We believe that such a solution is reasonable and workable.

Mr. President, I ask the Members of the Senate to join with me in voting to override this irresponsible veto and in doing so to repudiate the implications of this disastrous veto message.

Mr. President, I yield to the Senator from Minnesota whatever time he may desire.

Mr. MONDALE. Mr. President, I would like about 15 minutes.

Mr. NELSON. I yield to the Senator.

Mr. JAVITS. Mr. President, will the Senator yield to me?

Mr. MONDALE. I yield.

Mr. JAVITS. I might say to the manager of the bill that the understanding with respect to the unanimous-consent agreement originally was that there would be an hour and a half and a half hour. As announced by the Chair, it was 2 hours, to be equally divided. Senator DOMINICK, at my request, did not object, because I believe we can work out the time equitably.

I say that now only so that the Senator from Wisconsin may have that in mind if we have greater demand than for 1 hour.

Mr. NELSON. I spoke to the distinguished Senator from Colorado, and he indicated to me that he did not think they would want more than a half hour. We may not use all our time, but I asked for an hour and a half because a number of Senators did say that they wished to make some remarks.

Mr. MONDALE. Mr. President, first of all, let me express my profound appreciation to the distinguished chairman of the subcommittee, the Senator from Wisconsin (Mr. NELSON), for his inspired and creative leadership in the development of the measure which was vetoed by the President, and on behalf of the cause of justice in America. I should also like to commend the ranking Republican member of the committee, the Senator from New York (Mr. JAVITS), for his gifted and inspired contribution to the proposal which regrettably was vetoed by the President last night.

Mr. President, last night, President Nixon vetoed the Economic Opportunity Act extension. That bill, which received bipartisan support in both Houses of Congress, would extend the life of the Office of Economic Opportunity for 2 years, establish a National Legal Services Corp., to insulate the legal services program from political pressures, and establish a new developmental child-care program based upon our 6-year experience with Project Headstart.

In my view, this was a totally indefensible action, and the President's veto message is among the most irresponsible statements which I have encountered in 15 years of public life.

I do not believe the American people will accept the hysterical charge that this is radical legislation or that the bill would replace the family with communal child rearing.

I do not believe that the American Bar Association, National League of Cities, Academy of American Pediatrics, Common Cause, National Education Association, or the League of Women Voters, which supported this legislation from its introduction, are radical groups.

Nor do I believe that the 63 Senators from both sides of the aisle, including the Republican national chairman, the distinguished Senator from Kansas, as well as the distinguished minority leader of the Senate and the distinguished assistant minority leader, are men of radical persuasion.

I believe that they voted to support a carefully drawn and well constructed program to meet an urgent need for adequate day care. The simple truth is that this bill would provide developmental day care opportunities on a voluntary basis to the children of both poor and working parents.

Mr. President, Erik Erikson, the great child psychologist, once said that the most deadly of all possible sins is the mutilation of a child's spirit." I believe that that sin is being committed in many different ways, millions of times every day to American children throughout this land.

In the nearly 8 years I have served in the Senate, I believe I have worked as much on the problems of poverty and disadvantage as any of my colleagues. I have seen the faces of cheated children—destroyed almost before they had a chance—in the migrant camps of Florida, Texas, and California. I have seen them on Indian reservations in the West, the East, and in Alaska. I have seen them in ghettos in New York by the hundreds, in Minneapolis, and just two blocks from here, in the Nation's Capital. I have seen those tragic faces on children—destroyed before they ever had a chance—in the pockets of rural white poverty and rural areas around this country.

The President charges that this program represents fiscal irresponsibility. Yet we now invest only 10 percent of the Federal budget in children and youth although they represent almost 40 percent of our population and 100 percent of our future. If we can afford a $9 billion tax break for business and industry this year—as the administration proposed—we can afford to invest $2 billion in our children.

Among the most serious and misleading charges is that the need for a child development program of this character has not been demonstrated. That was not the conclusion of the President's own 1970 White House Conference on Children, who voted as their No. 1 priority the provision of comprehensive, family-oriented child development programs including health services, day care and early childhood education.

That is not the conclusion of an impressive group of professional organizations experienced in serving the needs of children—including the National Association for the Education of Young Children, the Black Child Development Institute, the Child Welfare League of America, the National Education Association and the Day Care and Child Development Corporation of America. And that is not the conclusion of this administration's own top officials in the field of children's needs. When I asked Dr. Edward Zigler, Director of the Office of Child Development at HEW, about the need for day care during Senate hearings on this legislation, he said with respect to preschool children:

> If you take the figure of working mothers who clearly need day care for their children, you are talking about 5 million children . . . There are slots presently available for some 650,000 of them so you are talking about a need there for from 4 million to 4½ million roughly.

Dr. Zigler has made the point, and I agree, that not all of these 4 to 4½ million children are without adequate child care. Although they are not in licensed day care facilities, some of them are benefiting from high quality child care in their own homes or in the homes of neighbors. But it is quite clear that many of these children are receiving purely custodial and mind-numbing care, and that some are even left alone to look after themselves.

Programs are clearly needed to provide new or improved day care opportunities for these children. To pretend that this need does not exist—as the President suggests—is to ignore reality.

The President contends that this program would diminish parental involvement with children. Yet it is specifically designed to have maximum parental involvement. It vests the major responsibility for the operation and control of child development efforts in the parents of the children these programs serve.

The bill deliberately requires that parents of children served by child development programs will compose at least one-half of the membership of both the governing boards created to administer these programs. These parent-governed boards—the child development councils and the project policy committees—will decide which programs to fund, and approve the content, curriculum and policy of each individual project:

And it expressly states that:

> Nothing in this title shall be construed or applied in such a manner as to infringe upon or usurp the moral and legal rights and responsibilities of parents or guardians with respect to the moral, mental, emotional or physical development of their children.

The President argues that there is a question of availability of qualified people to staff child development centers. That is precisely the reason this legislation contains greatly expanded training authority for professionals and paraprofessionals and uniquely begins with a 6-month leadtime for training and planning before the actual programs would begin.

The President further contends that the bill contains an insignificant role for the States.

The bill unquestionably puts a priority on local administration—wherever a locality is, in the determination of the Secretary of Health, Education, and Welfare, capable of providing high quality, comprehensive services. We place this priority on local administration precisely in order to assure that these programs will be accessible and responsible to the concerns of parents, and will avoid the danger of remote governmental control.

Yet within this framework the measure provides a significant role for the States:

Every local application must be submitted to the Governor for review and comment;

Five percent of the funds are reserved for States for technical assistance, coordination and review of these local applications; and

States as well as other public and private nonprofit agencies, may serve as prime sponsors where localities do not apply, or where the Health, Education, and Welfare Secretary finds that a locality is incapable of providing comprehensive services.

Moreover, States can administer programs for migrant children, programs in areas where a city or county is not adequately meeting the needs of preschool children, or programs under the Secretary's additional 5-percent reservation for model programs.

These roles, and the Secretary's responsibility to determine whether localities are capable of administering programs, are spelled out in the bill, and clarified by a colloquy between Senator Nelson and Senator Javits during debate on the conference report. (See Congressional Record of December 2, 1971, pp. 44117–44118.)

As Wilbur J. Cohen, dean of the University of Michigan School of Education and former Secretary of Health, Education, and Welfare said in a recent telegram to us supporting the child development program in the conference report:

> In my opinion, and from my past experience, I believe that the various provisions of sections 512(2)(0), 513(9), 517(3)(4), 534, 535, 572 would enable the Secretary of HEW and the Governors of the various States to establish appropriate State coordinating arrangements to assure effective statewide planning and review of local projects.

Finally the President suggests that this legislation somehow was passed "in the absence of a great national debate on its merits." The facts just do not support that conclusion. Both the House and the Senate passed this bill and passed the conference report on it. This action—by elected representatives of the public—came after over 30 days of congressional hearings at which over 200 witnesses testified.

Moreover, this issue has been the subject of numerous public discussions, conventions, conferences, and studies. The 1970 White House Conference on Children considered this issue, and the delegates to that Conference voted development day care as their top national priority. The Joint Commission of the Mental Health of Children recommended a proposal of the nature as one of its top priorities for children.

And Project Headstart, which has now been in operation for over 5 years, and on which this measure seeks to build, has given the Congress, the executive branch, and the public ample opportunity to review and assess child development efforts.

Mr. President, I cannot fully express the sense of despair and frustration that I feel over this veto. This was not a radical bill. The radical thing to do is to continue to permit these children, by the millions, to be destroyed the way they are in America today. That is the radical thing to do, because it destroys the promise of America. It makes a mockery of the American creed. It does an enormous, incalculable, and sinful injustice to these children.

That is what this bill was all about. It sought, through parentally controlled, locally controlled organizations, to deal comprehensively with the needs of these children in the first 5 years of life.

Almost without exception, parents, experts and child specialists said that for many of these children, unless they are helped in the critical first 5 years of life, the chances of getting them full life chances in America thereafter are remote, indeed.

Time and time again Congress and the President have been advised to do so. The recently concluded White House Conference on Children, by an almost unanimous vote, voted as its No. 1 priority a comprehensive, family centered and family controlled child development program for preschool children. The recently concluded work of the Joint Commission on Mental Health of Children recommended a similar program.

Representatives of labor, of religious and civil rights groups, of child care associations, the League of Women Voters, one of the most impressive cross sections of civic organizations ever to join in a major piece of social legislation, all said that this country must have a comprehensive child development act.

Not only that, but this bill enjoyed the strong bipartisan support from the Senate. Many Republicans as well as Democrats stood together for the first time to try to deliver a mechanism and a strategy to bring hope and justice to the children of this country. This bill passed overwhelmingly here, despite mammoth administration opposition, and with a strong majority in the House of Representatives.

I am saddened that the President decided to kill it.

This is the Christmas season and, apparently, children will learn that there are still Scrooges around, even in 1971.

The President's objection does not run to child care alone. Even without the child care program he would veto this bill because of its provisions for a Legal Service Corporation—and why? The bill passed by the Congress permits the President to name all 17 members of the Corporation's board—but he must name 11 of them from lists submitted by bar and client organizations. The President wants wholly unrestricted power to name all the members of the board. These are very slender grounds for rejecting a thoroughly bipartisan compromise on composition of the board—a compromise which embodies all the major elements of the President's original request.

The bill simply tries to establish an independent legal services corporation. That proposal was based on the findings and recommendations of the Ash Commission, which sought to reorganize the executive branch of the Government.

It was supported by the American Bar Association. It was supported by the American Association of Law Schools. It was supported by a broad cross section of attorneys, Democratic and Republican, conservative and liberal, across the land. Its objective was to bring justice to the poor, to make it possible for the poor, without political interference, to have the same right and access to the courts to assert their legal responsibilities as do the rich, the business, and corporate enterprises, and the Government today in America.

The legal services program has been one of the most successful of all the OEO programs. It is one of the least expensive. But it is a serious trouble for just that reason, because whenever the legal services program has brought a lawsuit asserting the fundamental legal right of the poor, enormous and powerful political and commercial forces have sought to cut off funds, to jeopardize and corrupt the program, and thus to make a mockery out of our system of law and justice.

That is why we proposed the establishment of an independent Legal Services Corporation. As with the child development program, the legal services proposal was developed on a bipartisan basis. Although there were differences on other issues, I believe the House-Senate conference was almost unanimously in favor of the compromise on the Legal Services Corporation which was contained in the bill which the President vetoed last night.

And the President says that even if the child care program were excluded from this bill, and even if the Legal Services Corporation were further modified to meet his objections, he would still veto it. He would veto the extension of OEO itself because he objects to provisions barring further removal of OEO programs to other agencies without congressional approval. But the administration representatives swore to the Congress that the administration does not wish to remove any programs from OEO during the year-and-a-half life of this bill. Again this seems to me very poor grounds to reject major legislation, adopted on a bipartisan basis by two Houses of Congress.

The President's veto message, in my opinion, is one of the most irresponsible statements that I have seen in my many years of public life. It is a hysterical statement. It claims that this is a piece of "radical" legislation. It makes the right-wing charge that this legislation was designed to establish "communal child rearing" and to weaken family ties.

Just the opposite is the case. First of all, the child care program is entirely voluntary. There is not a single bit of compulsion anywhere in the bill. Second, child care centers would be run by the parents whose children are in the program. This administration wants child care run by remote bureaucrats in State welfare departments. Based on everything we have seen, that will only help to destroy the effectiveness of the program.

I was pleased that during the course of debate on passage of this bill and on the conference report—and if we look at the record it will reflect what I am about to say—that although the Senator from Colorado opposed this proposal on the record, he rejected the argument that it was designed to undermine the family or to encourage communal child rearing.

That is an irresponsible, hysterical, cruel, and false charge. I am sickened to see something so outrageous incorporated in an official message signed by the President of the United States.

Most disappointing of all, the tone of the President's veto message plays on the irrational fears of this country's farthest right wing. Perhaps it may be politically expedient for the President to appease that tiny segment of our society. But I do not believe the American people will condone this highly political veto—and the President is responsible to all of the people.

In view of the President's attack, it is more than ironic that his own family assistance plan would in many cases require impoverished families to place their children in low-cost warehouses—operated by a Washington-based bureaucracy—while the parents work.

The President's message manages to express support for shoddy day care for the children of welfare recipients who are forced to work, while roundly condemning the provisions of voluntary, quality day care for both the poor and working families.

This bill is designed to build on the family, to strengthen the family, and to make the family the sole determinant of what happens to its children. We rejected what has happened in the Soviet Union. I think remote State control of child rearing is terribly wrong. Mr. President, what comes close to what is going on in the Soviet Union, day care centers run by State welfare bureaucrats or the administration, or comprehensive child development run by the parents whose children are in the program? I would say it is the Nixon program which raises fears about what will happen to those children.

I do not like the idea of remote-controlled, cold, custodial warehouses for our children. I think they will do more damage than good. I think, when we deal with children in the first 5 years of their lives, that we have to be very careful and very sensitive. And, above all, we must let parents decide what they want done with their own children. That is what we sought to do in this bill.

I do not know whether we can override the veto, but I am convinced that even if we lose here tonight, this issue will not go away. Legislation like this is needed if the children of this country are to have a chance. Legislation like this is needed if we are ever going to be able to say that every child is treated justly in America.

Legislation like this is needed if we are ever going to stop committing the most deadly of all possible sins—mutilating the spirits of children throughout this land.

I hope we will override the veto.

The **PRESIDING OFFICER.** Who yields time?

Mr. DOMINICK. Mr. President, I yield myself 5 minutes on the time of the Senator from New York.

The PRESIDING OFFICER. The Senator from Colorado is recognized for 5 minutes.

Mr. DOMINICK. Mr. President, I sat here during the speech of the Senator from Minnesota, of whom I am very fond, and the Senator from Wisconsin (Mr. NELSON). I must say that I have not heard finer oratory anywhere. Although I must confess that I think it was not relevant to the veto message, I think it is necessary to try to set some of the record straight.

The Senator from Wisconsin was, in effect, saying that the President of the United States is not interested in improving the health care for the people or feeding the hungry or generally providing for the welfare of the impoverished. One of the things the President's veto message points out, among others, is that under his administration participation in the food stamp program has nearly tripled and the dollar support for child nutrition programs has doubled.

Both of the Senators, who serve on the same committee I do, know very well the recent increases brought about in the budget on almost every health program that has been proposed.

We just finished passing a cancer bill today which was initiated originally by the President's budget message. In that message the President said that he would put more money in a cancer program which would establish a plan designed to find a solution to that dread disease that threatens so many families in the United States.

Mr. President, the oratory is impassioned but it cannot cloud the true facts.

From the very beginning, I have been saying to my colleagues on this committee—and I put it in the supplemental report—that we had substantial problems with the bill which they were unwilling to recognize, and that if they had recognized such problems, we could have salvaged legislation extending the OEO.

We could not get a compromise. As a result, on the Republican side only two of the conferees signed the conference report, the Senator from New York (Mr. JAVITS) and the Senator from Pennsylvania (Mr. SCHWEIKER). The rest of the minority conferees did not. On the House side, only one Republican conferee signed it, Representative REID. The rest of the House minority conferees refused to sign the conference report.

Consequently, the problems in the bill remained unresolved. And that is what the President is saying. It is fraudulent to characterize President Nixon's position as anti OEO, child care, food for the hungry, or anything of that kind because he votoes a bill full of promises but accomplishing little.

There is no reason in the world why we cannot work out a perfectly good bill on this subject next year. And there is no reason either, in the year that the bill has been before us, that we could not have coordinated the Child Development Act with the child care provisions in H.R. 1 which has been pending before the Finance Committee for a considerable period of time.

The administrative ineffectiveness that S. 2007 promises is best exemplified by the testimony of Jules Sugarman, a former Director of Project Headstart, who in spite of favoring the bill said you cannot have effective prime sponsorship with anything less than 100,000 people. In the conference we reduced it to 5,000. President Nixon estimates that there may be as many as 7,000 prime sponsors that the administration would have to monitor and provide technical assistance for. And in the process of dealing with them, it has to deal with the Child Development Council which has responsibility over the prime sponsors.

Mr. Sugarman pointed out that the Office of Child Development within HEW could not possibly find or train personnel adequate to handle a program of this magnitude.

Additionally, Secretary Richardson, both before and after the bill passed Congress reiterated his concern about the potential manageability of the child care components.

I have no doubt in my mind that when we increase the child care centers, that if we do it gradually we can find and train the proper type personnel to effectively care for our children. The end result will be a system beneficial to the children involved, and to the families of children, both poor and lower middle income.

The PRESIDING OFFICER. The time of the Senator is expired.

Mr. DOMINICK. Mr. President, I yield myself an additional 2 minutes.

The PRESIDING OFFICER. The Senator is recognized for an additional 2 minutes.

Mr. DOMINICK. I might say to my friends that reasonable fee schedules can be arranged whereby those who can pay a little for the support of child care can participate. I am not saying that we should just restrict it to the very poor. But S. 2007 creates a totally unworkable fee schedule which is so extensive that middle income families can participate to the ultimate detriment of many poor families.

Mr. President, I have just one more comment and I will then stop. I pointed out once before that I thought it was wrong to try to turn the OEO into an operating agency and, by earmarking funds and attaching a nontransferability clause like section 10 we have reduced the ability of OEO to initiate or develop any programs in an innovative way.

I said it in the committee, I said it in my supplemental views, and I said it again in opposition to the conference report. This is another reason that the President gave for the veto. I would urge the Senators to sustain the veto and give us an opportunity to consider the matter after full and complete consideration and report a bill that will be a better and far more workable bill next year.

I ask unanimous consent that the entirety of my statement be inserted in the RECORD at this point.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR DOMINICK

I urge my colleagues to vote to sustain President Nixon's veto of the Economic Opportunity Amendments of 1971 for reasons I will soon enumerate—reasons which have impaired the legislation from its inception—reasons which went unremedied throughout the legislative process despite warnings which I, among others, made as a cosignor of Supplemental views to the Committee Report, warnings which I later reiterated in urging defeat of the Conference Report signed by only two Senate minority conferees and one House minority conferee.

The proponents of this legislation failed to heed or completely ignored protestations and reservations of responsible members of both houses of Congress from the very inception of this legislation. The steadfast refusal to compromise or remedy the defects of this legislation jeopardized and ultimately killed a most necessary two year extension of the administration's poverty program. President Nixon's dissatisfaction with this legislation merely culminated objections which had been made continuously throughout this bill's legislative life. As such the veto comes as a surprise to no one.

First, and foremost, the $2.1 billion Child Development Act attached to S. 2007 creates an unmanageable administrative rat hole—a rat hole of empty promises—empty promises which will neither fill the participating children's needs nor reach their parents' expectations. President Nixon must oppose the Child Development Act because in his words its laudable purpose is "overshadowed by the fiscal irresponsibility, administrative unworkability and family-weakening implications of the system it envisions." It creates an unmanageable prime sponsorship mechanism emphasizing small, divergent, neighborhood units rather than utilizing the general administrative strengths of state governments; state governments which because of their size and organization can effectively coordinate child care programs with other necessary programs including, among others, maternal and child health programs, institutional care and foster care programs, state child care programs, and Medicaid programs. Conversely, S. 2007 encourages a neighborhood-based system which would compete for, rather than coordinate with the above service systems. It encourages the creation of not hundreds or thousands of prime sponsors but of tens of thousands of prime sponsors.

Program quality must necessarily suffer because it will be impossible for the Department of Health, Education and Welfare to effectively monitor or provide technical assistance for this many prime sponsors.

It is indeed unfortunate that Congress, in its headlong rush to create law, threatens the concept of child care when it presently has before it H.R. 1, legislation promising a comprehensive, coordinated child care program—legislation which has been before Congress for 26 months—legislation which includes a request for $750 million annually in day care funds for the poor and $50 million for construction purposes. Rather than considering the merits and ramifications of the above legislation, Congress determined that a $2.1 billion program should be tacked on to a standard O.E.O. extension bill regardless of the fact that O.E.O. will not administer the Child Development Act if enacted.

A further disquieting indication that child care has not been comprehensively considered is found in the fee schedule philosophy of the Child Development Act. Whereas S. 2007 establishes a fee schedule providing free or nominal fees for child care for the poor (four member family with a family income below $6960 per year).

Congress just approved the Conference Report on the Revenue Act of 1971, which contained provisions encouraging the poor to pay for child care services and then deduct as much as $400 per month from earned income as a business expense. The amendment created the new category of allowable business expense expressly for the poor as they wouldn't benefit from allowable itemized child care expenses because they normally use the standard deduction method of determining taxable income. The Senate must resolve their dilemma of both encouraging the poor to spend money for private child care services and encouraging them to utilize free government sponsored child care. At the very least the Senate must consider the total impact on the Treasury of the lost revenue through the Revenue Act amendments and the $2.1 billion additional expense of the child care portion of S. 2007.

Perhaps more importantly, the above discussion indicates once again that on matters as critical and sensitive as the care and development of our children more extensive and coordinated legislative consideration is required.

President Nixon's veto statement contains his view of an O.E.O. program seeking to: "make the Office of Economic Opportunity the primary research and development arm of the Nation's and the Government's ongoing effort to diminish and eventually eliminate poverty in the United States. Despite occasional setbacks, considerable progress has been made.

S. 2007 contains setbacks which may well prove fatal to this concept. Section 10 of S. 2007 prohibits the delegation or transfer of programs administered by the Director of O.E.O. to the head of any agency through FY 1973 unless a conforming provision of law is subsequently enacted. In the past, when an O.E.O. program matured to a point when it ceased to be developmental and commenced to be operational the program was "spun off" to other agencies in the Executive Branch through the exercise of the delegation authority contained in Section 602 (d) of the Economic Opportunity Act.

Section 10 frustrates the whole research and development concept of O.E.O. and effectively relegates it to the status of any other Executive operating agency. For the first time, a President and a Director of O.E.O. will be prohibited from delegating matured individual projects without Congressional control.

The language of S. 2007 further restricts the true developmental concept of our O.E.O. poverty concept by locking specific programs into earmarked expenditure levels. In the process of earmarking the $950 million in authorizations S. 2007 set appropriation levels for local initiative, alcoholism, emergency food and medical and community economic development so high that appropriations for two essential programs—comprehensive health and research and development will have to be reduced if the estimated budget is adhered to.

As with Section 10, this earmarking serves not to further the poverty programs but rather to relegate them to ordinary operating agencies.

President Nixon additionally cited the restricted accountability of the Legal Service Corporation Board under S. 2007 as being inconsistent with the interests of America's poor. I concur and urge the re-writing of the Board selection process to guarantee an independent and politically free legal service corporation.

This administration's commitment to the poor is not suspect, President Nixon's veto message reflects his sincere desire to create a meaningful and effective program to honestly assist the nation's poor. I urge my colleagues to give him that opportunity by sustaining the veto and then working together for a truly effective poverty bill.

The PRESIDING OFFICER. Who yields time?

Mr. CRANSTON. Mr. President, how much time remains on my side?

The PRESIDING OFFICER. The Senator has 20 minutes.

Mr. CRANSTON. Mr. President, I yield 10 minutes to the Senator from South Carolina.

The PRESIDING OFFICER. The Senator from South Carolina has 10 minutes.

Mr. HOLLINGS. Mr. President, I will be brief in my remarks. The Senator from Colorado talks about oratory. Well, H.R. 1 is a discombobulation of this question if I have ever seen it. Specifically, it is a matter of numbers.

H.R. 1 would double the welfare rolls to about 27.2 million people. There already are some 25 million people receiving Federal checks for social security and 2.6 million receiving unemployment compensation. Combining these groups, and eliminating the duplications that would occur in the senior citizens category, there would be at least 52.6 million Americans receiving Government checks. Then add the 83 million Americans below the age of 21, and we are left with about 69 million Americans in the working force.

We would have one-third of the population working to support the other two-thirds.

I have never believed in the concept of H.R. 1 which is to just throw money at the problem.

People say, "All right, what is the alternative? Here it is. It is exactly what the President vetoed. He seems invariably to try to take every sensible and tried and true program—such as the food stamp program—and throw it out.

When he recommended his welfare reform program, he tried to do away with food stamps. He tried to do away with the prescription feeding for expectant mothers and young minors under the age of 6. He tried to do away with the school lunch program.

Every time he turns around, he tries to undermine on the one hand and propose on the other.

He finally learned about cancer. But he is just learning about health distribution. We just completed the conference on the supplemental appropriation, in which we tried to retain $63 million for the nurses in capitation grants. The administration had been opposed to it and requested nothing for nurses capitation. While we were meeting, the former Secretary of HEW, Mr. Finch, was over at the White House talking to the senior citizens and saying, "Next year, we will have a healthful America. Health is going to be the No. 1 issue, and what we really need is to get a good health service delivery system by increasing the number of doctors and nurses."

This kind of contradiction and double-talk is what is wrong with the veto. This bill is not a commune. This is not a molding of young minds, and it is not being molded.

The greatest fallacy is in counting the families. We say "there are nine head here, eight head here, and 10 head there." When we come to health, we must remember it is a children's problem. Not one and two; it is children. Mr. President, when you come to hunger, we have had a medical survey in America and there are 15 million hard-core hungry, not the 26 or 27 million in poverty, but I mean 15 million suffering from malnutrition. And the children are being hurt the most.

I would say to the Senator from California that Dr. George Brakes found they are losing $30 billion to the economy as a result of malnutrition in America, and since California has 10 percent of the population, it is losing $3 billion to that economy.

It is a children problem any time there is talk about poverty.

And the problem is like a multiple injury in an automobile accident—a person with a broken arm, broken leg, broken neck and fractured skull. Many injuries causing suffering to one person, many factors that will lead to recovery and one hospital to furnish care.

You have health, you have housing, you have training, and rehabilitation. You have hunger. And the best place to take care of it, says this bill, is with the child development centers. Everybody knows that. We hear charges that their minds will be molded. Well, how are they being molded now? They are being molded by the despair, the lack of instruction, the lack of food, and the lack of health care.

The idea that they are in some family and getting some training is completely fallacious. They would be brought into society for the first time by this program. Leave them alone and they will not know how to turn the page of a book. I have heard all those cute jokes about the TV, the little baby and the color TV.

Nonsense; these children come to the first grade and they do not know how to turn the pages. They stay in the first grade, finally are promoted and then repeat the second grade. Finally, they get too big for the class, and they are back in the ghetto; and soon they are getting into trouble and ending up in jail.

We are paying for it now. When the President talks about a $2 billion extravaganza program, it is a Mickey Mouse message. He gives his reasons. He said, first, there is no need. By the way, he adds later on there is a need—I have been working on it with H.R. 1.

Mr. President, if you want to know how long he has been working on it, he said, "I have been working on it for 2 years."

He finds, No. 1, there is no need. He goes one way and then another and tries to evade the program and the issue.

This is a well-studied program to get down to the problems we have perpetuated and compounded over the many, many years. The centers are run by parents, like a great American institution—the public school system with the PTA. Who said that is communal living? Who called that communal living? That is the kind of program we have from 6 years on up. What is the matter from 1 up to 6?

Mr. MONDALE. Mr. President, will the Senator yield?

Mr. HOLLINGS. I yield.

Mr. MONDALE. The difference is that we wanted to keep the control locally just as in the local school system, and in the hands of the parents in those communities, and the administration wants day care centers run by the State welfare department.

Mr. HOLLINGS. Exactly, giving the power back to the people, control at the local level.

I say to the Senator from Minnesota we found out in hunger that there is a lacking in agencies. We have not yet gotten the food stamp program to all the people in America who are eligible. Only about one-half of those eligible are receiving them.

We have the school lunch program. Agriculture says it now feeds 7.1 million—it is really about 6.3 million. Carl Perkins said it was 8.9 million. So we are still missing about 2.5 million young kids for the school lunch program.

In that hunger conference he said by next Thanksgiving they would all receive it, and he keeps vetoing, vetoing, vetoing. There is a famous little couplet by Plato about the politician making his own little laws and sitting attentatively making applause.

He is the one creating the welfare mess. Look at the programs on welfare, on food stamps, on prescription feeding, on commodity feeding on school lunch, on the health care—and the comprehensive child care centers. They are being vetoed and turned out. Now is the time to act. Now in the ghetto get at the root of the problem; we can save the children; we can save the American taxpayers money. But the President vetoes and refuses to act.

You cannot save that mother. We have worked on her. She has the greatest load in society. But we can save her children and we need to start now. You find a mother has nine children, and expects to have the 10th, and cannot find the father, and they say, "We are not going to give her money, we are going to cut off all aid to the children; we are going to punish her and the child." And that child is going to come, and we are going to pay for it in mentally retarded children. I do not know what it costs in Minnesota. It costs $124,000 in South Carolina.

We are paying in spades in America and that is why it goes up and up.

Congress finally comes through with a comprehensive approach that has been tried and found true, and then the President comes along and gives us double-talk in his message, saying, "There is no need for it, but too, I am doing it and have been for 2 years."

This Government and this President is not doing what needs to be done. Let us hope we get some government and some President who will.

Mr. President, I wish I had more time, but I know the Senator from California is pressed for time.

I hope we override the veto.

Mr. CRANSTON. Mr. President, I yield 2 minutes to the Senator from Iowa.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. HUGHES. Mr. President, I intend to restrict my comments to a section on the bill on which there has been no controversy in this body, at least since I came to this body and since we have been debating the issue.

But in this bill is included a segment for reaching the alcoholics in the lower classes of America, for reaching the narcotic addicts in the lower classes of America, two areas in which there has been unanimous agreement by a vote in the Senate on the size of the matter and the necessity of reaching the goal we are seeking.

It is important to point out that these are line item requests in this bill, the reason for it being that the programs would not be initiated or experimented with or started unless they were drawn in that fashion and they were forced to make commitments in that way.

I was privileged to hear last night the Attorney General of the United States make what I thought was a little known speech in relation to alcoholism in New York City, in which he said the hour had finally arrived in America when we should stop treating alcoholism as a crime and treat alcoholics as sick, which they are, and that they should not be handled in the jails and prisons of this country, but in health care centers and hospitals of this country.

Yet alcoholism is one of the greatest creators of poverty in this Nation, putting people in prisons and mental hospitals.

Their children are emotionally disturbed and so are those down the line.

We are in a transition period in the field of alcoholism. It is my hope this will be the last year there will have to be matched funding in OEO because of the new institutes to deal with this problem. But it is essential that new starts be started in this country in this field.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. HUGHES. Mr. President, will the Senator yield to me for 1 additional minute?

Mr. CRANSTON. I yield 1 additional minute to the Senator from Iowa.

Mr. HUGHES. Mr. President, it is essential to understand the American Indian alcohol problems incorporated in this bill where up to 85 percent of the young Indians on the reservations are in trouble with the law because of alcohol-related problems, where the suicide rate is the highest in the Nation because of the alcohol relationship with the problem.

If I had the time I would go into the problem of narcotics. All one would have to do is to walk the streets of the city of the Senator from New York, to walk the western and south side of Chicago, Los Angeles, and every major city in this country, and have men and women begging for the opportunity to get on a program any place where they can be helped.

And yet our answer has been a punitive answer where there is no solution in a prison, and we have offered no way out. It is no way to begin by vetoing a bill which has the hope of the beginning for the poor in facing these problems in America.

Mr. CRANSTON. Mr. President, I yield 2 minutes to the Senator from Utah (Mr. Moss).

Mr. MOSS. Mr. President, I have become convinced that consistency is no jewel in President Nixon's eyes.

He about-faces so often—makes 180 degree turns so frequently—that he keeps not only himself in a whirl, but the rest of us, too. It is hard to know just what he does think, and where he does stand, on any issue on any given day.

Few of his actions have been more capricious and illogical, however, than his veto of S. 2007, the Economic Opportunity Act Amendments of 1971, because he objects that the bill contains the comprehensive child care program.

In 1969, the President told Congress:

> So critical is the matter of early growth that we must make a national commitment to providing all American children an opportunity for a healthful and stimulating development during the first five years of life.

This is exactly what Congress was attempting to do when it added title V child development program, to S. 2007. This title concentrates on the well being of small children and the comprehensive care they need for full development. It sets up a program of all-day care for preschoolers of working mothers. It zeros in on the damaging early handicaps borne by children of poor families. It provides nutrition, medical, dental, and services for these children, and psychological services for parents in child care and development.

What was President Nixon talking about in 1969 if he wasn't talking about these things?

Nor would the program established under title V forget the child once he reached school age. It also provides after school and vacation programs for older children, on the basis that the day does not end when the school's out bell rings at 3 o'clock. Those who would go home to locked houses because parents were at work would have somewhere else to go until the family come home.

Such services would be available free to those with incomes of less than $4,300 a year—for a family of four—and a fees schedule would be established related to incomes with families with more resources.

It seems to me it is hard to quarrel with these objectives, nor to feel convinced that such a program is needed in this country.

But the President quarrels with himself when he vetoes this bill. The focus of H.R. 1, the Nixon-Mills bill on welfare reform, concentrates on reducing the welfare rolls. A mother on welfare would be required to take work, unless she had a child under two, provided day care services were available. How can we achieve the very desirable objective of reducing our welfare rolls by putting able bodied people into jobs which they can handle and giving them the dignity of work, unless we provide day care for young children who would otherwise be left at home alone? The President contradicts himself, by his own request to Congress.

He takes a position which is completely untenable when he vetoes a bill to establish just such services.

To the President's contention that child care programs such as those envisioned under this bill would "alter family relationships" and lead to "communal approaches to child rearing against family-centered approaches," I say, of course, the family approach is preferable, I would like to think that every child in the United States had a family circle and a family background which provides him with the wisest and most comprehensive care and development which anyone could desire. But the fact is that many children are not getting that sort of care now, and particularly the child in the very poor family. This is one way to provide the deprived child a more equal start with the child who is growing up in more favorable surroundings. We have to accept things as they are—and work out from there.

Mr. President, the program envisioned in title V was hammered out by the Congress after long hearings and extensive committee consideration and work. It has wide support among groups who have devoted themselves for years to child care and development. Certainly it provides more than just custodial care for a child in a day-care center—but why not?

The **PRESIDING OFFICER**. The Senator's 2 minutes have expired.

Mr. **MOSS**. May I have 1 additional minute?

Mr. **CRANSTON**. I yield 1 minute to the Senator.

Mr. **MOSS**. To the criticism that the program will be costly, there is no answer but "Yes, it will." The bill authorizes the spending of $2 billion a year for 2 years. The programs will be far from universally used, for the very reason that many, many families are quite able to give to their children all of the care and attention and guidance they need in their young lives. The mothers at home all day to do this will not want to use it. But for those children who are not getting this care—such a program will be a godsend.

Mr. President, I shall vote to override the President's veto of S. 2007.

The **PRESIDING OFFICER**. Who yields time?

Mr. **JAVITS**. Mr. President, I yield 10 minutes to the Senator from Ohio (Mr. TAFT).

The **PRESIDING OFFICER**. The Senator from Ohio is recognized for 10 minutes.

Mr. **TAFT**. I thank the Senator from New York for yielding.

Mr. President, at the outset let me say I have listened with great interest to the debate thus far, and I am disappointed in it in that I think it is an attempt to make an emotional appeal, an appeal to sentiments that I think are demagogic. I do not believe that there are any men in this body who do not feel for the poor and for the children, deprived children, in our society today. It does not help particularly in coming out with a good result, an effective result, to rely upon this type of appeal.

Promises are great, and so is oratory, but I do not think the children will be fed by either. I do not think the poor will be helped by either. The problem is to try to come out with an effective program to do something about these problems in our country.

In all seriousness, let me say that I was sitting here, listening to much of this talk, and just speculating how, after 8 years of the Kennedy and Johnson administrations, we could have all of the poor and all of the children who are deprived in this country still in this shape and why, when the White House was in the control of the opposition party, we did not have this kind of program promoted, and why we have not moved today on the proposals made by President Nixon from the very outset of this administration to do something about these problems and do something about them in an effective way.

I voted for this bill as it came out of the committee. I warned at that time, however, that I felt the child development portions of the bill were ill-founded. I succeeded in getting taken out of the bill the children's advisory service proposal, on which no hearings whatsoever had been had in the committee. While many of the other proposals in the bill had been debated at great length in the committee and while there had been many negotiations and discussions about them in the conference committee, many are still highly experimental and unproved types of programs.

I joined in moving to send the bill to the House, hoping that many of these matters could be cleared up so we could have legislation that would improve the poverty program. It had the legal services provision in it, which was an improvement.

Unfortunately, the bill has not been improved at all. Insofar as the poverty program is concerned, we find we still have two stumbling blocks which are referred to in the President's message. I refer to the provision with respect to transferability of the program out of the agency which is supposed to be in the forefront of building this program, and going somewhere else.

So this one agency has been taken out from under the provisions of the Reorganization Act, and out from under the findings of the Hoover Commission so that it may make transfers under certain circumstances, with another agency coming out and completely defeating the basic purpose of the poverty program.

Then there was the categorical earmarking of certain funds for some programs. Certain favored programs got earmarking. This earmarking deprives the agency of flexibility in moving to other programs. It would deprive existing programs of funds which they might otherwise use if continued at the present level of funding.

Specifically, I would like to talk for a minute about the child development program, because I urged its separation. It is a challenging concept. I think it is one to which we ought to give careful attention. I think we should be moving toward such a program. I believe it should be done, but it should be done correctly. But the only way we are going to do it correctly is to do it a small amount at a time, and not hold out vast, enormous promises of a $20 billion program that is going to solve all the problems of children in this country overnight. It just is not going to happen that way.

The frustrations and disappointments of the poverty program we are familiar with. Will all know of its failures. However, some of the community action programs were of tremendous benefits. The Headstart program has been a program of benefit in many ways. The legal services is a good portion of the bill. Experience has shown we are in a position to spin off that program into one of legal services throughout the Nation.

There are many technical problems in the bill that I could go ahead and explain.

Let us go very quickly through the veto message, because the veto message has not been read. Let me point out some of the objections the President raised against the bill:

> First, neither the immediate need nor the desirability of a national child development program of this character has been demonstrated.
>
> Secondly, day-care centers to provide for the children of the poor so that their parents can leave the welfare rolls to go on the payrolls of the Nation are already provided for in H.R. 1, my workfare legislation.

Where is H.R. 1? Why has that not moved? It has been locked up in the committees of this body and the other body. It provides for 400,000 day-care programs. While it is faulty, nevertheless, progress has been made, and the bill provides for a realistic number.

There has been much talk about children and the poor.

Certainly we want to take care of them. We should take care of them first. This bill does not take care of them first.

This bill does not extend a priority for them in this program. The concept of this bill—though the author of the child development section, the Senator from Minnesota (Mr. MONDALE), from the very beginning of the entire discussion of the legislation, has never once been willing to admit that he so conceives of this program—is that of a universal program, a program without any fee, just a program providing an equal amount to all children of this Nation whose parents wish to provide it to them.

He does not deny that, to his credit, because that is the basic concept on which he has worked. There was a little discussion awhile ago about the PTA's in this country, and how it would be throwing the matter back to the PTA's if we passed this legislation.

Quite the contrary is true. One of the biggest objections to the bill came from those who are concerned, like the Representative from Minnesota, Mr. QUIE, about trying to see that the schools are integrated and also kept to this program. That has been one of the principal objections to it.

It has been said that this program would somehow take it down to the local community and local direction. I know about the various provisions of the bill for bringing in the parents and others at the local level. But the fact of the matter is that this program is going to be directed from Washington, the way it is now constituted. The reason is that the money is going to come from Washington. If we want to do something for the children of this country on the local level, we ought to go to some revenue-sharing with the States and local governments, so they could take on this responsibility.

Nothing is being done about that, and the Senator knows why as well as I.

This program is going to be run by bureaucrats in the Department of Health, Education, and Welfare, who will set up the standards, and what is even more, they are not going to be able to make any choice of the regional, State, or area organizations, even if they wished to, because there is a priority written into the bill, so that the smaller the unit involved—and I might add, that means the more the Federal control—the more priority the Secretary has to give to it.

I think if we look realistically at this measure, we will realize there is a serious job to do, but it is going to have to be done an awful lot better than it has been done in this legislation, and I, for one, will not go along with holding out tremendous false promises to the American people by passing this bill and starting on a program blindly, with billions of dollars involved in it, not knowing where we are going or where we are going to end up.

The PRESIDING OFFICER. Who yields time?

Mr. JAVITS. Mr. President, I yield 10 minutes to the junior Senator from New York (Mr. BUCKLEY).

Mr. BUCKLEY. I thank the Senator.

Mr. President, before proceeding with some remarks I have prepared, I should like to comment on a statement by the Senator from Minnesota (Mr. MONDALE), in which he stated that the President had said in his veto message that this legislation was designed to undermine the family, and designed to promote the communal rearing of children.

I believe that this charge is unfair. The President's complaint, as he expressed it, and certainly my own when I first learned of the legislation, was not that it was designed to do that—this legislation reflects the finest of motives—but rather that it was bound to have that result; and such a fear is not unreasonable, as I can readily demonstrate, if I may do so, merely by quoting Dr. Edward Zigler of the Office of Child Development, who has expressed the same fear. I inserted in the RECORD on September 9 an article from the San Francisco Examiner which contained this interesting quotation from Dr. Zigler:

> This is a concept quite alien to the American ethos.

He then goes on to say:

> I am very apprehensive that this Nation may set up a network of warehouses for children.

The reporter then quotes Dr. Zigler as expressing the fear that day care centers, instead of supplementing the family, might eventually supplant it, or at the very least revolutionize American child-rearing customs.

I submit, Mr. President, that those who share the fears expressed by Dr. Zigler should not be characterized as having slandered responsible legislation.

Frankly, I am deeply gratified by the President's veto. And I know that many others are equally grateful.

It is unfortunate that certain worthwhile features of the OEO program had to suffer because they were joined in the same bill with poorly drafted and hastily considered child development legislation, but I share fully the President's determination that the potential for harm in the bill far outweighs the potential for good.

The veto message is a remarkable statement—at once forthright, candid, principled, humane, and persuasive. It is neither petty in its criticism nor partisan in its motivation. Rather, it goes to the very heart of the matter by piercing the rhetorical veil which has for too long obscured from Congress and the American people the full gravity of the child development proposal.

I congratulate the President for his candor, for his forthrightness, and for his penetrating insight into the central character of this legislation. Had the President been concerned merely with the administrative and financial aspects of the bill, it might have been possible for him to seek further compromise to make the bill administratively workable and economically feasible. Fortunately, the President's concern ran deeper, and as a result we have before us a thoughtful statement of principle that can act as a guide for all subsequent legislation in this field. This was not by any means an easy bill to veto; indeed, political considerations might have dictated precisely the opposite result. The President's action, I believe, bears the mark of courage and statesmanship. He deserves the thanks of the people and the support of the Senate.

The attempt will no doubt be made to characterize the veto as heartless and cruel, as a savage blow to the hopes of the Nation's children. The record, however, will not bear out this indictment. The child development title of this bill was fatally flawed from the outset. It was not only administratively unworkable and prohibitively expensive, but went forward on the basis of a novel, untried, and, I believe, fundamentally misdirected psychological theory. The measure that finally emerged from conference bore all the marks of good intentions marred by the exigencies of haste. But, as the President said:

> We owe our children more than good intentions.

That statement, I think, says all. It calls to mind the remark that Senator Heyburn of Idaho made on the floor of the Senate in 1911:

> If you introduced a measure here "*Resolved,* That the Congress of the United States is in favor of the eternal salvation of mankind," it would doubtless be passed because people would not dare to vote against it. Introduce a bill here for the protection of the children of the country and the title is such as to warn Senators against declaring themselves as not being in favor of that kind of legislation.

President Nixon, fortunately, has gone beyond the title of the child development proposal, and from here on out it will no longer be possible for the proponents to imply that they and they alone care for the Nation's children. Those of us who oppose this measure yield to no one in our concern for the welfare of the Nation's children; with the President, however, we remain steadfastly wedded to the principle that the welfare of the Nation's children is inextricably intertwined with the maintenance of a strong family life, and that any measure which threatens to undermine the authority and strength of the family cannot possibly in the long run redound to the benefit of children.

Mr. MONDALE. Mr. President, will the Senator yield?

Mr. BUCKLEY. I cannot yield on my time.

Mr. MONDALE. I was wondering if the Senator can tell me what in this bill threatens family life.

Mr. BUCKLEY. I will yield at the end of my remarks.

That principle lies at the very center of the President's statement; and it ought to lie at the very center of our deliberations here.

As the measure goes back to the legislative drawing board, I trust that the proponents will seek to remove from it those features which so many found so objectionable, and that a bill will emerge that can enjoy the support of all. At the very least, I would hope that new hearings will be held which will better reflect the nature and extent of the debate and controversy which characterizes professional opinion in the field of day care, and that the psychological and other risks of institutionalized child care will be discussed no less comprehensively than its putative benefits. Virtually all will agree that day care is necessary for the children of irresponsible or derelict parents, or for working mothers who are otherwise unable to make adequate arrangements for their children. But much of the best available professional opinion is highly skeptical about, and in many cases ardently opposed to, the idea of extending day care universally—especially for the very young. Accordingly, I would hope that in the months ahead, special attention will be paid to providing assistance to those children who need help, but in a manner that supports rather than undermines the role of the parents and the institution of the family.

Mr. MONDALE. Mr. President, will the Senator yield?

Mr. BUCKLEY. I will not yield at this point.

I support the President's decision and trust that it will be taken as an occasion for constructive action rather than as an occasion for partisan or ideological backbiting.

I urge my colleagues to consider most carefully the President's statement. I believe that they will find in it a more than adequate demonstration of why this measure was vetoed and why the Senate ought to sustain the President's action.

Mr. MONDALE. Will the Senator yield?

Mr. BUCKLEY. I now yield to the Senator from Minnesota.

Mr. MONDALE. On two occasions, the Senator has said this measure threatens to undermine the family. Will he refer to the provision he had in mind?

Mr. BUCKLEY. First of all, I did refer to the fears expressed by Dr. Ziegler, who I believe was a star witness of the Senator's.

Mr. MONDALE. And who supported expanded, comprehensive day care services.

Mr. BUCKLEY. And who expressed the fears that, nevertheless, it might be converted, that the forces put into motion might end up undermining the institution of the family.

Mr. MONDALE. What is the reference for that?

Mr. BUCKLEY. I gave the reference in the RECORD of September 9.

I also refer to section 501(a) of the bill which establishes the premise of parental inadequacy, which states that most of the Nation's children are, in effect, inadequately brought up, and, what is more, commits Congress to a policy based on such a supposition.

Mr. MONDALE Would the Senator read the language to me that says families are inadequate?

Mr. BUCKLEY. It implies that in many places families alone are somehow unable to handle their tasks. Further, we know that enormous social pressures will be brought to bear in the wake of such implications. In the words of the President:

> For the Federal Government to plunge headlong financially into supporting child development would commit the vast moral authority of the National Government to the side of communal approaches to child rearing over against the family centered approach.

Mr. MONDALE. Is that the best on which the Senator can base his charge that this threatens the family?

Mr. BUCKLEY. I certainly do—that and the whole thrust of this legislation, and the pressures that we know will be brought to bear to encourage women to put their families into—I will use the words—institutions of communal living.

Mr. MONDALE. Communal living? What section is that?

Mr. BUCKLEY. I think we should be sophisticated enough in this body to understand what is set in motion once we develop certain types of legislation—what pressures can be brought to bear and what bizarre results can be unleashed.

I refer the Senator from Minnesota to some remarks I delivered on the floor of the Senate on December 2, when I quoted extensively from Dr. Dale Meers, who certainly has qualifications in this field. My remarks reflect the understanding of many eminent child specialists that the kind of overreaching, all-inclusive care starting at the prenatal stage, that is envisaged by this legislation, is going inevitably to encourage the kind of group child rearing and development which has raised serious questions in the minds of very eminent psychologists and psychiatrists.

The PRESIDING OFFICER. The time of the Senator from New York has expired.

Mr. JAVITS. Mr. President, I wish we could yield more time, but we cannot; and I now yield 5 minutes to the Senator from Maryland.

Mr. BEALL. Mr. President, at the time the conference report on this measure was before this body, I expressed certain reservations about the measure now under discussion. I stated at that time that I supported an extension of the Office of Economic Opportunity because I thought this agency had done—and had the potential to do—some great good in fighting the poverty that was prevalent in sections of our country today.

I regretted at that time that the Senate, in its wisdom, had found it necessary to combine a bill to provide for child development with the extension of the Office of Economic Opportunity. I thought that these matters were of such significance and importance that they should have been considered separately, because I think they deserve separate consideration. I stated that some of my objections and misgivings about this bill such as the earmarking provision of OEO. I did not think we should earmark to the extent we did for such earmarking does not permit the degree of flexibility necessary to make these programs effective.

I regretted, also, that the bill contained a prohibition against the transfer or delegation of OEO programs. I believe OEO, if it is going to be successful, must continue to innovate. OEO, from its beginning, has had the role of giving birth to new programs, and after such programs have proven successful they have been transferred or delegated to a department or agency. This practice has been followed in both the Johnson and Nixon administrations, and the present director should not be denied this right.

I think that one of the great disservices we have done to government at the local and State levels arises from the duplication and inadequate coordination of programs. I think, as a result, in many cases programs fall far short of their objectives. So I felt that this was a fault of the legislation.

I felt, also, that we were promising more than we could deliver. This perhaps is one of the reasons we have so much social unrest in our country. We promise much, but deliver little. The President has tried not to raise false hopes and I believe this has been helpful.

I felt that there were difficulties with the child development program, primarily with the way it would be administered.

The intimation has been made here this evening that this veto may be political in nature. I should like to refute that, if I might, by reading into the RECORD a telegram which I also had placed in the RECORD when the conference report was before the Senate. This telegram was sent to Chairman PERKINS by the Governor of Maryland, who happens to be a member of the other political party. The Governor of Maryland wired Representative PERKINS as follows:

> Hon. CARL D. PERKINS,
> *Chairman, House Education and Labor Committee, House of Representatives, Washington, D.C.*
>
> DEAR CONGRESSMAN PERKINS: I have received your telegram concerning S. 2007 and, although I share your desire to continue Headstart, JOBS, the Job Corps, and the other worthwhile programs it includes, I cannot ask the Maryland delegation to support the bill. You contend that S. 2007 leaves the States with a meaningful role in early childhood development, I do not agree. We in Maryland have put together a workable and coordinated State program of day care and early childhood development, this statewide approach would be effectively sabotaged by the conference bill.
>
> I would like to see the OEO programs continued, but I cannot support S. 2007 while it contains this feature so destructive of our comprehensive statewide program.
>
> MARVIN MANDEL,
> *Governor of Maryland.*

Since that time, I have had conversations with the Governor of Maryland, and he has reiterated his strong feeling and objections to this bill.

I think that child development is a very important subject. I am aware of the growing body of research on the importance of the early learning years. But, child development programs, in order to be successful, are going to require the cooperation of government at every level—at the Federal level, at the State level, and at the local level. So long as we have devised a program that excludes one level of government—in this case, the State level—I do not think the program can work effectively. Although I voted for S. 2007 when it initially passed the Senate, and the conference report, I will vote to sustain the veto.

I yield back the remainder of my time.

Mr. BAKER. Mr. President, I intend to vote to sustain the President's veto of the bill.

The issue is not, as I see it, whether one is for or against enlightened and proper care for the Nation's children, whether from poor families or otherwise. The issues are, rather, what does, in fact, constitute enlightened and proper care and what the role of Government should be.

In the Nation's history, the nurturing of children has traditionally been a primary function of the family unit, with subsidiary roles delegated to religious and secular educational institutions.

Prior to undertaking a major program of this kind, the full implications of such a program should be given the most careful evaluation. Whatever we ultimately do in this area should act to reinforce the family unit and not substitute the judgment of Government for the judgment of the family as to what is proper and necessary child care.

Mr. PEARSON. Mr. President, it was with mixed emotions that I learned of the President's decision to return without his approval the provisions outlined in the Economic Opportunity Amendments of 1971 recently passed by Congress.

As my colleagues are aware, this legislation embodied three basically separate proposals. The first of these authorized a continuation of the Office of Economic Opportunity, as originally designed, for an additional 2 years. The second proposal created a National League Services Corporation to aid the poor in assuring their legal rights, and the third created a new title under the Economic Opportunity Act of 1964 entitled, "Child Development Programs."

Of the three, I least favored the child

development provision. In my judgment, the President has acted forthrightly in choosing not to accept this concept. Certainly, no one can deny the need to provide all American children the opportunity to develop healthy emotional and mental attitudes in their early years. Yet I seriously questioned the extent to which the proposal went to assure this goal. And I further questioned the necessity of creating yet another Federal bureaucracy to administer this program. Finally, since I favor the approach proposed by the President in his work-fare proposal, providing day care services to children of working mothers who would otherwise be forced to remain at home and accept welfare payments, it was my belief that deliberation on child care should have been postponed until full consideration of the President's proposal in the Senate Finance Committee had been completed.

With these views in mind, Mr. President, I voted for amendments to limit the authority of the local child development councils and to insure that those children living in poverty be given priority under this program. Unfortunately, however, these amendments were defeated, and Congress subsequently approved the bill with the child development provisions included.

An additional reason why I felt the timing on this proposal was regrettable was that it jeopardized the chances for approval of the National Legal Services Corporation, a concept which I have long favored as a means toward providing competent legal assistance to the indigent free of political or bureaucratic control.

Mr. President, we all are aware that this Nation is governed by laws, and not by men. Congressional authorization of an autonomous structure to house the highly effective legal services program currently administered by OEO was a reaffirmation of this principle, and I was privileged to have been a cosponsor of legislation implementing this idea.

It was unfortunate that debate over the composition and appointment of the Board of Directors developed during consideration of this proposal. Nevertheless, I continue to believe that in considering the makeup of the Board, we should insure that each member be as independent of political control as possible. It was in keeping with this principle that I supported the provision of a 17-member board composed of members appointed by the President as well as groups representing the Nation's legal establishment.

Mr. President, primarily because of my concern for the child development provisions of this bill, I have decided to sustain the President's veto. However, I do so in the sincere hope that Congress and the President can resolve their differences at an early date and enact legislation in keeping with the needs to which I have referred. Further delays will only bring disillusionment and despair to the millions of people who have benefited from the programs sponsored by the Office of Economic Opportunity. These programs deserve our continued support, and it is important that we consider new legislation as soon as possible.

Mr. HANSEN. Mr. President, I voted against the conference report on S. 2007, the Economic Opportunity Amendments of 1971, and I believe the President has exhibited considerable wisdom in exercising his veto of the legislation. I will vote to sustain that veto.

I appreciate the importance of extending certain valuable programs of the Office of Economic Opportunity for an additional 2 years. And I believe there is need for a comprehensive child care program in the United States, but I believe that it is a matter too important to be satisfied with what appears to me to be hastily-drawn legislation, or to be enacted as a rider to the Economic Opportunity Amendments.

The so-called Child Development Act should be considered on its merits as a separate and important matter.

The children of the United States, I believe, are entitled to such thorough consideration.

It appears to me that, as presently written, the comprehensive child development program portion of this legislation would create a new army of bureaucrats. As I understand it, it would make eligible for a direct aid program—bypassing any coordination at the State level—any community of more than 5,000 people.

Consequently, it would invite the participation of about 7,000 individual prime sponsors, contracting with the Government, to operate child care centers—with each operating under his own concept or theory of what child development should be.

The net result of this would appear to be a management nightmare for the Government, and a bureaucratic nightmare for the taxpayer.

Because of these and other factors, Mr. President, I am pleased to salute the President for his courage in this matter and for his standing on principle.

Mr. BAYH. Mr. President, once again we are faced with a callous, heartless veto of important legislation which could have helped toward the long overdue redirection of our national priorities. The President, in vetoing the Office of Economic Opportunity authorization and its historical attempt to provide adequate day care for every American child, has struck a shortsighted and unnecessary blow at the children of this country.

I hope sincerely that the Congress will override this veto and in doing so demonstrate our awareness of the need to establish the fundamental right of every child in this land to constructive, planned day care to provide equal opportunity for success in later life. The President's remarkable statement that there was "no demonstrated need" for this legislation shows a total lack of understanding of the inequity of forcing some children and their parents to do without suitable day care.

As the author of the Universal Child Care and Child Development Act of 1971, the main provisions of which were incorporated into the vetoed legislation, I am particularly upset at the President's action. The President challenged the legislation on the grounds of "fiscal irresponsibility, administrative unworkability and family-weakening implications of the system it envisions." He is wrong and a careful review of the facts shows this.

Some people may resent mothers working, but it is no longer a question of whether they should or not—the American woman is working. More than 42 percent of all American mothers with children under 18 work outside the home—9 out of 10 to satisfy an otherwise unmet economic need, such as basic support, medical bills, their children's future education, and so forth. This means that 14 million American children have working mothers, including more than 5 million below the age of 5.

The tragedy in this is that eight out of 10 of these children are cared for through makeshift arrangements—because we as a society have failed to recognize that our children should be provided with the best opportunities for growth and development that we can provide. It is all well and good to say that we have no responsibility for children other than our own. But the fact of the matter is that we as a Nation do have a stake in how these millions of children with working mothers mature. If we are concerned about producing better citizens for the future in our increasingly complex society—citizens who will not be committing crimes, citizens who are not dependent on drugs, citizens who will not find it necessary to exist on welfare—then we have a responsibility to provide opportunities for our children to develop their potential to the fullest. Certainly it is in the national interest, as well as their own, that our children grow into whole, humane citizens who can function in a democracy.

We can afford this program because of savings we will realize by not having to provide the children served with future rehabilitative services. In addition, parents encouraged and enabled to work by the provision of child care services for their families will become taxpayers instead of "tax eaters."

A program that decreases the number of future members of society who fail to become self-supporting and have to turn to welfare, and that helps remove people from current welfare rolls is an investment which will pay handsome human and economic dividends. Simply consider the fact that the cost of welfare and accompanying rehabilitative programs in this country amounts to over $20 billion a year. Or that crime—including Government expenditures to deal with the problem, actual losses of property, estimated losses of earning power resulting from crimes of violence, insurance costs, and other factors—costs us over $50 billion a year.

Surely it would be better to spend $2 billion a year on constructive programs to raise whole, functioning members of our society than to spend far greater amounts of money feeding the results of our neglect—crime and welfare—after the time for constructive action has passed.

Mr. PACKWOOD. Mr. President, as a longtime supporter of child development programs both in Orgeon and around the country, it is with a great deal of reluctance that I am today casting my vote to uphold the veto of S. 2007, the Economic Opportunity Amendments of 1971.

As a member of the Labor and Public Welfare Committee, which handled S. 2007, I followed the development of this landmark legislation with intense interest. Although I did not and do not concur with each and every provision in the version of the legislation finally approved, the nature of the legislative process is such that small differences are laid aside in the furtherance of the larger overall goals and objectives being pursued. My reservations aside, I supported S. 2007 at every step along the tortuous legislative route, in Committee and twice on the floor—first with the original Senate version and next with the Conference version.

We in Congress have the responsibility to exercise our best judgment in setting forth ways in which this Nation will pursue agreed upon objectives. Likewise, the President has the responsibility to exercise his best judgment. A Presidential veto is never a decision taken lightly.

Difficult as the choice is, it is therefore my firm belief that we in Congress owe it to the President of the United States to give a fresh look at this legislation in light of his strenuous objections.

Let my vote not be interpreted as opposition to either the Economic Opportunity program, which I have consistently supported, to the new Legal Services Corporation, which I have consistently supported, to the objectives of the child development program, which I have consistently supported, or to any other provisions of this bill. My record is clear in this respect. Let my position be understood simply that Congress owes the Presidency a fresh look at this very complex and far-reaching legislation.

Mr. BELLMON. Mr. President, as the record will show, I voted to support the Economic Opportunity Amendments of 1971 when it initially cleared the Senate. I have long supported the social initiatives which the Economic Opportunity Act has made possible.

During the time I served as Governor, Oklahoma carried on a highly effective and progressive program under the able direction of Mr. Robert L. Haught, who now serves as a member of my staff. I feel that OEO has been an invaluable segment of our governmental structure and I wish to do everything I can to see that it is preserved and strengthened.

However, since the passage of the bill and the subsequent veto action of President Nixon, I have taken another look and I find that the objections the President raises are valid. The bill does convert OEO from an experimental to an operating agency. By so doing, the bill destroys much of the flexibility and the innovative character of OEO and thereby weakens the social experimental arm of our Government.

Mr. President, also I strongly support the concept of child development. There is a great need for additional Federal effort in this field. While the cost of the program is high I believe the benefits it would produce in our society are higher.

If the program can be separated from OEO and be redirected, with proper administrative safeguards, through one of the operational agencies, I would strongly support its reenactment.

But with the bill in its present form, I must vote to sustain the President's veto.

Mr. WILLIAMS. Mr. President, earlier this week, the chief administration spokesman in charge of the health, education and welfare of the American people spoke to an audience at the Rockefeller Public Service Awards luncheon and attacked "the propensity of politicians who promise more than they can obviously deliver."

Yesterday, the President of the United States vetoed the Economic Opportunity Amendments of 1971 and made it clear to the American people that he is unwilling to bring to fruition the initiatives which are vital to the future of our Nation.

I am frankly amazed at the President's action. By a stroke of the pen he has severely jeopardized the extension of the programs of the Office of Economic Opportunity which represent a unique means of closing the gap that still remains in our society between those who have too little and those who have enough. These efforts involve manpower training programs for our young people, emergency food and medical services, and local initiative activities conducted by the poor themselves.

With the same act of penmanship the President has further delayed the creation of a nonprofit corporation for providing legal services to the poor. This was, at the outset, an administration supported program representing a bipartisan consensus that giving legal assistance to the poor is one of the most effective antipoverty efforts. And it is this new corporation which would have insured that legal services would be independent from political influence as well as preserving the right of the legal services attorney to do what he considers to be in the best interests of his client.

And, finally, the President's veto has dashed the hopes and dreams of millions of American families that the Government will at last provide them with the assistance they need in establishing comprehensive child care programs. These programs have been designed so that parent and child alike would have the opportunity to be rescued from poverty and so that the children could have a chance to broaden and expand their lives. The establishment of such programs, with the emphasis on local decisionmaking, parental involvement, and developmental rather than custodian services, has been identified as the top priority for the next decade by the White House Conference on Children, a conference held under the auspices of the Nixon administration. The legislation was designed to provide free services to those with incomes below $4,300 per year with a sliding fee to be charged those with incomes in excess of that amount. So this is a program fashioned not only for the poor but designed so that all families can ultimately benefit from these high quality services.

Mr. President, there is no more important priority in the United States than to assure that we can bring every citizen out of poverty and into the great mainstream of American life. Our children provide us the greatest hope for reaching this goal. The President has let us down. The President has said that he does not care. I am at a loss to understand why. It is becoming increasingly obvious that President Nixon has decided to avoid the danger of promising more than he can deliver by choosing to deliver little if anything in response to the needs of this country.

Mr. JACKSON. Mr. President, I believe President Nixon's veto of the OEO-child development bill was a cruel mistake. This action derails the most important piece of social legislation this session. The bill contained funds for jobs, education, legal defense, family services, and, above all, day-care centers for children. It is a key bill. It would have provided a decent, healthful, and educational place for children of millions of poor and working families. I think Mr. Nixon will regret his veto.

For the fact is that now is not the time we should be trimming our sails, or reducing basic Government programs to help families in need. When the number of poor people in America has increased for the first time in 10 years, when we have 5½ million people out of work, when we have hunger in depressed areas of the country, we need more than ever before an effective antipoverty system of social services.

I believe President Nixon has broken faith with the American people and their children by his veto. He has shot down the very programs he advocated earlier this year. He said he wanted a basic child care bill, he said he wanted to give OEO a new future under a new Director, and he said he wanted an independent legal services corporation. The Congress took him at his word. We passed a good bill.

I support this legislation. I have supported OEO—and its various experimental programs—since its beginning in 1964. I am convinced that a basic child care and development effort is badly needed. It will help the child. It will help working mothers. It will help families, not hurt them as the President claimed.

I shall cast my vote to override the President's veto.

Mr. MILLER. Mr. President, I shall vote to sustain the President's veto of S. 2007.

It should be emphasized that, if the veto is sustained, the present activities of OEO will continue. The supplemental appropriations bill, which has just been passed and sent to the White House, will continue the funding of OEO until the end of this fiscal year—June 30, 1972. There will be ample time for the Congress to enact a new bill in the meantime.

Although I supported the bill, as it passed the Senate, and also the conference committee's compromise bill, I must state that I have been concerned over the newly added child development program contained in the bill. It was for this reason that I also supported a motion to refer the bill back to committee with instructions to delete this from the bill. However, that motion was defeated.

The reason for my concern has been well pointed up by the President's veto message. This part of the bill simply represents premature action—and excessive action, as well—without being made a coordinate part of welfare reform legislation which is now pending in the Senate Finance Committee.

Headstart continues to perform valuable day care and early education services, and an important experimentation and demonstration function which identifies new techniques for aiding child development. Under the Social Security Act assistance is being provided for construction of child-care centers which can be used for training child-care technicians and developing child-care programs in cooperation with the States. However, the most immediate need is for child-care services to enable welfare mothers to take a job and break away from the welfare cycle. That is why an expensive but integral part of welfare reform legislation must include a program for child-care services to meet the needs of welfare mothers and parents who may be classified as the "working poor." Our committee will be holding hearings on this subject early next year, and I would guess that this part of the welfare reform bill will be relatively noncontroversial.

Welfare reform legislation is going to be costly at best, and in the present state of a serious budget deficit, we simply must put first things first. There has been a great amount of talk about "priorities" around the Capitol. Child-care services to meet the needs I have referred to must come first. Beyond that, we should have pilot testing programs in the area of child development before undertaking nationwide programs if we are to avoid waste, duplication of effort, and, perhaps, an undesirable impact on the family structure which is the backbone of our society.

Mr. DOLE. Mr. President, I plan to vote to sustain the President's veto of S. 2007, the Economic Opportunity Amendments of 1971.

No one questions the objectives of this legislation. We all realize the importance of the needs of the young and the underprivileged. But, the structure of this legislation we have before us is unresponsive to its goals and the cost is prohibitive.

President Nixon originally proposed a National Legal Services Corporation to aid the poor that was independent and free of politics and included built-in safeguards to assure its operation in a responsible manner. The legislation before us clearly does not contain such safeguards.

The manner of appointing members to the board does in no way assure their responsiveness to the needs or the desires of the general public. A minority of the members would be appointed by the President while the majority would be selected from various professional, client, and special interest groups who have no mandate to place the needs of the low-income populace before their own.

President Nixon today signed into law the Internal Revenue Act of 1971 which will reduce taxes. It would be irresponsible, at this time, to enact legislation that has the prospect of eventually costing the American taxpayer $20 billion annually.

We all support the goals of this legislation. But, until the structure of this legislation can be made responsive to its goals and the cost acceptable, it should not be passed.

Mr. GURNEY. Yesterday, over the cries of self-righteous critics, who tried to label him insensitive to the needs of disadvantaged Americans, President Nixon acted boldly in vetoing the Economic Opportunity Amendments of 1971.

As I see it, the President had no choice. He acted in the best interests of the American people by refusing to accept a measure which would have spelled defeat for the stated aims of the Office of Economic Opportunity, for the goals of the Independent Legal Services Corporation concept, and most importantly, which may have foreshadowed a drastic change in the very nature of American family life.

The questions of poverty, of individual rights and of child welfare are crucial ones to the American people. The Nation deserves the concentrated, serious efforts of its legislators to establish and maintain Federal programs which will actually work; which will substantially relieve the inequities that now exist in our judicial system in our Federal, State, and local welfare programs.

I am particularly concerned about the child development proposal. It remains unfathomable to me that such far-reaching and costly legislation dealing with such sensitive areas as the child-parent relationship could be viewed favorably by so many Senators with so little discussion of the possible consequences. The proposal for an all-encompassing program for child development strikes me as a very irresponsible, incomprehensible approach to several critical child welfare problems.

To provide all American children with the best medical care, proper nourishment, and quality education is a goal shared by the President, the Congress, and hopefully by the entire Nation. To pay $2 billion to give a possible 7,000 individual sponsors in communities across the country with a possible 7,000 differing ideas the capability to devise separate plans for the care and development of children, with little provision for the administration of the plan and with little consideration of priorities that have already been established by locally elected representatives, is certainly not a rational way to make this goal a reality.

As one of 17 Senators who oppose this radical departure from the traditions and ideals of American life, when the Senate voted on the Economic Opportunity Amendments Conference report last week, I am commending the President for assuming his rightful position of leadership by not allowing this measure to become law. I shall be further encouraged if the Congress reevaluates the economic opportunity legislation and ultimately offers realistic solutions to these critical problems—solutions that have some chance of really working.

THE SENATE SHOULD VOTE TO OVERRIDE VETO OF S. 2007

Mr. RANDOLPH. Mr. President, yesterday President Nixon committed what I consider to be an error of judgment. He erased not only months of painstaking effort by Members of Congress, their staffs and many concerned labor and private organizations, but also the hopes and dreams of millions of low- and middle-income families who are striving to make ends meet in this time of rising prices.

I am speaking of the veto of S. 2007, a bill which passed the Senate by a vote of 63 to 17, and which also received a substantial plurality of support in the other body. In vetoing this measure, the President eliminated the authorization for the Office of Economic Opportunity and the establishment of a new Legal Services Corporation. As I understand the President's motives, however, the primary reason for the veto was the comprehensive child development portion of S. 2007.

In his veto message the President attacked this legislation as "fiscal irresponsibility," "administrative unworkability," and "family-weakening implications."

Is it "fiscally irresponsible" to provide widows and poor families who are barely surviving with a chance to get off the welfare rolls and to have their babies properly cared for?

Is a program "administratively unworkable" when cities, Headstart programs, community action agencies, child development experts, and labor organizations give their total and enthusiastic support to a national program they assure us will be quite workable?

What are the "family-weakening implications" of poverty and ignorance, of mothers who have little or no means of support, of children whose education usually consists in learning to live with street gangs, and with dope pushers?

Quite apart from the poor in Appalachia and in the city ghettos, what about the family of the average, middle-class American, the forgotten American, in President Nixon's words, the blue-collar worker who is squeezed by high inflation, high taxes, high unemployment, and a paycheck which does not go far enough to make ends meet? It is this "forgotten American," especially, that we should not forget. The vetoed legislation would help him as much as it would the very poor.

Mr. President, families which are comfortably situated need no child care. Their family structures may be stable and sound. But the low- and middle-income families need this bill. Because of the pride and dignity it will provide to those who can climb out of the welfare rut to become taxpayers rather than taxtakers, and because of intellectual stimulation, the nutrition and the medical care it will provide to children, who are the hope of the future, America needs this bill.

I urge my colleagues to override the veto of S. 2007.

Mr. TUNNEY. Mr. President, the President's veto of the OEO bill can only be described as an irresponsible act and a tragic example of the need to reorder our priorities.

In 1970 the Office of Economic Opportunity expended $759,865,454 in California. This money was used for VISTA, community development, assistance for migrant and seasonal farmworkers, community action programs, Headstart, legal services, and neighborhood health centers.

The Senate on September 8, 1971, enacted a very comprehensive bill extending the life of the Office of Economic Opportunity for 2 more years. In addition, the Senate bill included the addition of several very important, new and innovative programs.

First, the Senate recognized the critical importance of early childhood care and included within OEO a comprehensive child development program. Under this proposal the needs of preschool children would be recognized for the first time and health care, proper nutrition, and education would be provided.

How can the President say that there are not sufficient funds for young children?

Second, we as a nation must insure that everyone has access to legal services. This is one of the most fundamental elements of a democratic state. It is inconceivable to me that the President would not want to enact legislation insuring that legal services are made available to the poor without political interference. The President's veto of the OEO bill, coupled with his lack of leadership in the fight to save the California rural legal assistance program, demonstrates an appalling lack of concern over constitutional rights under the sixth amendment.

Third, the Congress established a new community economic development program. Under this program a major effort would be made to link private finances with poor communities in order to give these communities the resources for self-determination and solid economic and social progress. The President's veto of this program is a serious blow to poor communities endeavoring to break the cycle of poverty.

In his veto of the OEO bill the President has apparently brought out into the open his long-rumored desire to abolish OEO as an effective antipoverty agency, I feel that we must override the President's veto and we must fight hard to save OEO and establish decisively that we will not abandon our efforts to eliminate poverty.

ECONOMIC OPPORTUNITY AMENDMENTS OF 1971—VETO MESSAGE ORDERED TO BE PRINTED AS A SENATE DOCUMENT (H. DOC. 92-48)

Mr. CRANSTON. Mr. President, I ask unanimous consent that the bill (S. 2007), together with the message from the President of the United States expressing his disapproval thereof, be printed as a Senate document.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. CRANSTON. Mr. President, I ask unanimous consent that I may yield to the Senator from Alabama (Mr. Sparkman) in connection with a conference matter, and that the time not be taken from either side.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

ECONOMIC STABILIZATION ACT AMENDMENTS OF 1971

Mr. SPARKMAN. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 2891.

The PRESIDING OFFICER (Mr. Spong) laid before the Senate the amendments of the House of Representatives to S. 2891 entitled "an Act to extend and amend the Economic Stabilization Act of 1970."

Mr. SPARKMAN. Mr. President, I move that the Senate disagree to the amendment of the House on S. 2891; agree to the request of the House for a conference on the disagreeing votes of the two Houses thereon; and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. Sparkman, Mr. Proxmire, Mr. Williams, Mr. Cranston, Mr. Tower, Mr. Packwood, and Mr. Roth conferees on the part of the Senate.

ECONOMIC OPPORTUNITY AMENDMENTS OF 1971

The Senate continued with the reconsideration of the bill (S. 2007) to provide for the continuation of programs authorized under the Economic Opportunity Act of 1954, and for other purposes.

Mr. CRANSTON. Mr. President, I yield 1 minute to the distinguished Senator from Minnesota.

Mr. MONDALE. Mr. President, I want to make this point: This bill has been subjected, in the extreme rightwing journals of this country, to a totally vicious, dishonest, and irresponsible series of charges.

This bill does nothing except to build upon the family; it does nothing to encourage communal living. It is designed to strengthen the family and to give the children a chance in ways defined by the parents of those children and no one else. Any other charge to the contrary, such as those contained in the President's veto message, are absolutely and undeniably false. This measure is a difficult and complicated one but it should not have to bear the burden of totally groundless, outrageous and fearsome charges such as those.

Mr. JAVITS. Mr. President, with the consent of those who seek to sustain the President's message, I yield 5 minutes to the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I rise to express not only my strong conviction that the veto of the Office of Economic Opportunity extension should be overturned but also my distress at the tone and substance of the veto message itself.

It is a cruel Christmas present for the Nation's poor and the Nation's children.

The message clearly reflects this administration's total lack of regard and commitment to the disadvantaged. It reflects once again a willingness to dismantle the remaining elements of the Office of Economic Opportunity, an intention that is present in its reorganization plans, in its incredibly inadequate budget requests, in its veto of this measure and in its threat to veto all other OEO bills which do not give the President a free hand to destroy the Agency.

Mr. President, earlier we heard some suggestions made by the Senator from Ohio indicating that everyone is in favor of helping the poor, and that we should not question the motives of the administration as it addresses itself to this problem.

I think we can question the motivation where we have seen a slush fund of $2 billion offered for Lockheed and other corporations, and we come forward in this legislation with $2 billion looking out for the children of this country. The administration, on the one hand, is prepared to go to bat for $2 billion for the big corporations of this Nation, but turns thumbs down on a $2 million child development program.

First, let me comment on the President's decision that the National Legal Services Corporation provision is unacceptable.

In reviewing the President's veto, on page 2, he states that one of the reasons he vetoed the program was that he believed the provisions did not provide adequate accountability and benefited special interests.

The legislation currently gives him the option of appointing all of the 17 Board members, but requires that he select from recommendations offered by the agencies most concerned with legal matters in the land. Yet the President refers to the Judicial Conference of the United States, the American Bar Association, the Association of American Law Schools, the National Bar Association, the Project Attorneys Advisory Council, and the Clients Advisory Council as "special interests" who are not accountable to the public.

He has never appeared in the past to have any qualms in acting on behalf of special interests, for oil companies, for Lockheed, for the AMA, for the health insurance industry, for the corporate interests of this Nation. Yet when it comes to a provision that would merely have him select members from groups with the most direct concern for legal services for the poor; suddenly the President objects.

When he uses the word "accountable" he is not talking about an independent services corporation that is accountable to the poor or to the people they serve. He is talking about a legal services agency that is accountable to the political whims of the White House. He wants to be able to prevent the independence of legal services the "independence" that he has paid lipservice to throughout this debate, and that is the only excuse for his opposition to this provision.

We found out what happens when an individual within the administration really looks out after the interests of the poor. Think about what happened to Terry Lenzner. They fired him.

The President talks about accountability. What we are interested in is a legal services program that will be accountable to the poor and not to the White House. I think it is ironic that these words should be used in a Presidential veto.

Legal services has been the most dynamic and successful OEO program since its inception in 1965 and it has withstood threats to its existence from the Governor of California and from this administration. To assure its independence, the Congress has passed this measure, and I believe it is the best guarantee that the poor will have access to legal services and to appropriate institutions for the orderly resolution of grievances and as a means of securing orderly change, responsiveness, and reform.

There is absolutely no justification for a veto on this basis except the desire of the President to have absolute control over legal services to insure the corporation will respond to his political commands.

So we come then to the basic reason given by the President for his veto and that is the child day care section of S. 2007. And here it is perhaps even more depressing to realize the priorities that this President has in relation to providing services to the Nation's citizens.

Essentially, the child care provisions of S. 2007 tried to do for low- and middle-income families of this Nation what sufficient income has always permitted the more wealthy to do. And that is to provide adequate and decent day care and child development programs for their children.

And the President's assertion he already has increased nutritional assistance and health services for children does not resolve the need for day care services. It also is curious that he has made this argument since his requests for food stamps have always fallen short of the need and the August food stamp regulations would have severely restricted eligibility, including eliminating 1.6 million children. Only congressional outcry stopped that from occurring.

Also, with regard to improved health services under medicaid, the truth of the matter is that he delayed 2½ years issuing medicaid regulations to require health screening of children. And he still has not requested any additional funding to improve those services.

But more important, the assertion that H.R. 1 will meet the day care needs of the children of this Nation is absolutely false. Day care and custodial care will be available under the President's welfare bill only to welfare recipients.

The family of four which earns more than $4,300 in most cases would be totally ruled out.

The President has evidently decided that only the very rich and the very poor shall be eligible for day care services.

I worked for passage of this bill because it offered a tremendous opportunity to help the children in the 5.5 million households headed by women who must work. And it held out hope to every family that has been denied adequate child care facilities, because only 700,000 licensed child care positions exist to meet the needs of the 6 million children of preschool age in this country.

Finally, let me say, in terms of earmarking, we find time and again that the President is prepared to drop the programs that I find are essential to meet the human needs of the people of this Nation.

The total number of poor in this country has risen from 24 to 26 million, in the last year alone. Yet the administration requested $100 million less to meet poverty needs. This should not surprise anyone. The administration saw that the elderly poor had risen by 100,000 and their response was to request $2½ million less for the Older-Americans Act.

Without earmarking this administration would abolish the emergency food and medical program. That was their intention at the start of the session. Only through earmarking have we prevented that.

Mr. President, I think that when we are talking about a program that addresses itself to the unmet needs of the poor, to serve the people, and to provide for the needs of the people, I cannot accept a Presidential veto that is based on political rhetoric.

Mr. President, I hope the Senate will exercise its good judgment and override that veto.

Mr. DOMINICK. Mr. President, will the Senator from New York yield?

Mr. JAVITS. I yield 10 minutes to the Senator from Colorado.

Mr. DOMINICK. I shall need only 5 minutes but will reserve the other 5 minutes for later.

The PRESIDING OFFICER (Mr. SPARKMAN). The Senator from Colorado is recognized for 5 minutes.

Mr. DOMINICK. Mr. President, this debate obviously is not going to go down in the annals of the Senate as one of its finest hours.

I have listened to the comments of the Senator from Massachusetts. My understanding is that he, along with me, voted against the Lockheed loan, but it was $250 million. It was the guarantee of a loan. It was not a $2 billion giveaway.

Mr. KENNEDY. Does not the Senator agree with me that the administration itself asked for $2 billion——

Mr. DOMINICK. I do not yield to the Senator from Massachusetts. We will have regular order here, or he will sit down.

The PRESIDING OFFICER. The Senator from Colorado declines to yield to the Senator from Massachusetts.

Mr. KENNEDY. The Senator does not want to answer the question.

Mr. DOMINICK. I have the floor. The Senator can answer on his own time.

Mr. KENNEDY. If the Senator will yield me some time——

Mr. DOMINICK. Mr. President, this portion of the debate is obviously not right. The second portion we should look at is, what does the actual veto message say? It hits all three aspects of the bill concentrating on child development and in the process says that there is nothing wrong with our objective. That is part of the objective the administration has been seeking. It is legitimate for people to have the same objective but to have different methods of arriving at it. This has been the history of this country ever since I can remember. It seems totally wrong to me to go and say that, because we do not like the method by which something is done, we impute all kinds of motives to the person who is saying, "I want it done another way."

The next thing I think is important is to recognize that in the veto message it says the President has specifically set out some of the programs that he has been speaking to, to try to get through programs in order to try and provide for the needs of the poor. But, as the Senator from Ohio so specifically pointed out, there is no criterion to treat the poor first in the bill—not in the child development bill. Anyone can come in, poor, or otherwise, at all levels. It does not say it has to be the poor first.

Second, so far as the primary sponsor is concerned, the local areas are the ones that are required to be the prime sponsors, while the State may be a prime sponsor.

We argued about this in committee. We argued about it in conference and we argued about it in the conference report on the floor. We still have that same setup which is specifically referred to in Governor Mandel's telegram which the Senator from Maryland has just put in the RECORD.

Mr. President, all I am saying is: let us treat this logically. Let us not try to put all kinds of motives on it. Let us not have those few Senators who have not announced for President acting like they are running for it in this part of the bill.

Mr. President, I urge my colleagues to vote to sustain President Nixon's veto of the Economic Opportunity Amendments of 1971 for reasons I will soon enumerate—reasons which have impaired the legislation from its inception—reasons which went unremedied throughout the legislative process despite warnings which I, among others, made as a cosigner of supplemental views to the committee report, warnings which I later reiterated in urging defeat of the conference report signed by only two Senate minority conferees and one House minority conferee.

The proponents of this legislation failed to heed or completely ignored protestations and reservations of responsible Members of both Houses of Congress from the very inception of this legislation. The steadfast refusal to compromise or remedy the defects of this legislation jeopardized and ultimately killed a most necessary 2-year extension of the administration's poverty program. President Nixon's dissatisfaction with this legislation merely culminated objections which had been made continuously throughout this bill's legislative life. As such the veto comes as a surprise to no one.

First, and foremost, the $2.1 billion Child Development Act attached to S. 2007 creates an unmanageable administrative rathole—a rathole of empty promises—empty promises which will neither fill the participating children's needs nor reach their parents' expectations. President Nixon opposed the Child Development Act because, in his words its laudable purpose is "overshadowed by the fiscal irresponsibility, administrative unworkability and family-weakening implications of the system it envisions." It creates an unmanageable prime sponsorship mechanism emphasizing small, divergent, neighborhood units rather than utilizing the general administrative strengths of State governments; State governments which because of their size and organization can effectively coordinate child care programs with other necessary programs including, among others, maternal and child health programs, institutional care and foster care programs, State child care programs, and medicaid programs. Conversely, S. 2007 encourages a neighborhood-based system which would compete for, rather than coordinate with the above service systems. It encourages the creation of not hundreds or thousands of prime sponsors, but of tens of thousands of prime sponsors.

Program quality must necessarily suffer, because it will be impossible for the Department of Health, Education, and Welfare to effectively monitor or provide technical assistance for this many prime sponsors.

It is indeed unfortunate that Congress, in its headlong rush to create law, threatens the concept of child care when it presently has before it H.R. 1, legislation promising a comprehensive, coordinated child care program—legislation which has been before Congress for 26 months. H.R. 1 includes a request for $750 million annually in day care funds for the poor and $50 million for day care construction purposes. Rather than considering the merits and ramifications of the above legislation, Congress determined that a $2.1 billion program should be tacked on to a standard OEO extension bill regardless of the fact that OEO will not administer the Child Development Act if enacted.

A further disquieting indication that child care has not been comprehensively considered is found in the fee schedule philosophy of the Child Development Act. Whereas S. 2007 establishes a fee schedule providing free or nominal fees for child care for the poor—four-member family with a family income below $6,960 per year—Congress just approved the conference report on the Revenue Act of 1971, which contained provisions encouraging the poor to pay for child care services and then deduct as much as $400 per month from earned income as a business expense. The amendment created the new category of allowable business expense expressly for the poor as they would not benefit from allowable itemized child care expenses, because they normally use the standard deduction method of determining taxable income. The Senate must resolve their dilemma of both encouraging the poor to spend money for private child care services and encouraging them to utilize free Government-sponsored child care. At the very least the Senate must consider the total impact on the Treasury of the lost revenue through the Revenue Act amendments and the $2.1 billion additional expense of the child care portion of S. 2007.

Perhaps more importantly, the above discussion indicates once again that on matters as critical and sensitive as the care and development of our children more extensive and coordinated legislative consideration is required.

President Nixon's veto statement contains his view of an OEO program seeking to—

> Make the Office of Economic Opportunity the primary research and development arm of the Nation's and the Government's ongoing effort to diminish and eventually eliminate poverty in the United States. Despite occasional setbacks, considerable progress has been made.

S. 2007 contains setbacks which may well prove fatal to this concept. Section 10 of S. 2007 prohibits the delegation or transfer of programs administered by the Director of OEO to the head of any agency through fiscal year 1973 unless a conforming provision of law is subsequently enacted. In the past, when an OEO program matured to a point when it ceased to be developmental and commenced to be operational the program was "spun off" to other agencies in the executive branch through the exercise of the delegation authority contained in section 602(d) of the Economic Opportunity Act.

Section 10 frustrates the whole research and development concept of OEO and effectively relegates it to the status of any other executive operating agency. For the first time, a President and a Director of OEO will be prohibited from delegating matured individual projects without congressional control.

The language of S. 2007 further restricts the true developmental aspects of our OEO poverty program by locking specific programs into earmarked expenditure levels. In the process of earmarking the $950 million in authorizations, S. 2007 set appropriation levels for local initiative, alcoholism, emergency food, and medical and community economic development so high that appropriations for two essential programs—comprehensive health and research and development will have to be reduced if the estimated budget is adhered to.

As with section 10, this earmarking serves not to further the poverty programs, but rather to relegate them to ordinary operating agencies.

President Nixon additionally cited the restricted accountability of the Legal Service Corporation Board under S. 2007 as being inconsistent with the interests of America's poor. I concur and urge the rewriting of the Board selection process to guarantee an independent and politically free legal service corporation.

Mr. President, this administration's commitment to the poor is not suspect. President Nixon's veto message reflects his sincere desire to create a meaningful and effective program to honestly assist the Nation's poor. I urge my colleagues to give him that opportunity by sustaining the veto and then working together for a truly effective poverty bill.

Mr. President, I reserve the remainder of my time.

Mr. JAVITS. Mr. President, we are prepared to yield 15 minutes to the other side. I have already yielded 5 minutes. If the Senator from California will tell me to whom to yield, I will yield time to that Senator.

Mr. CRANSTON. Mr. President, will the Senator yield me 10 minutes?

Mr. JAVITS. Mr. President, I yield 10 minutes to the Senator from California.

The PRESIDING OFFICER. The Senator from California is recognized for 10 minutes.

HEARTLESS REBUKE OF AMERICA'S POOR AND AMERICA'S CHILDREN

Mr. CRANSTON. Mr. President, I rise to urge my colleagues to vote to override the brutal veto of the President on S. 2007, the Economic Opportunity Amendments of 1971, which passed the Senate by such an overwhelming margin Thursday of last week.

The fact of the President's veto of this vital legislation is bad enough, but even worse is his veto message which is an exercise in disingenuous rhetoric and political expediency.

With this negative act, the President has fulfilled the prophesy of so many in the poverty community that his overriding purpose is and has been to kill OEO or at least reduce it to a totally ineffectual agency.

It is true that OEO no longer operates most of the original war on poverty programs itself, and there is absolutely nothing in this bill which would alter those delegations and transfers of Economic Opportunity Act programs which have already been made to other agencies. Thus, the President's statement that under this legislation OEO would become an operational agency is totally erroneous. Rather, the provisions of the vetoed bill would have required only that OEO hold on to what few operational programs still remain in order to give it some force and vibrancy as an agency with at least a minimum of functional responsibility.

This is but the first example of the fallacious statements included in this irresponsible veto message.

Next, the President attacks congressional action in specifying the amounts of funds to be spent on various Economic Opportunity Act programs. This is an old saw for this administration, but the facts are that this bill permitted the Director of OEO to transfer up to 25 percent of the specified funding for any particular program, 10 percent higher than present law. What the President really seems to object to is any significant congressional role in the legislative and appropriations process.

As I understand it, under the Constitution the Congress has at least coequal legislative responsibility, and I have always thought that it was the principal legislative branch of the Government. Apparently, the President disagrees. He not only wishes to exercise totally unfettered executive branch power—as is evidenced by his rejection of any significant congressional role in the field of foreign and military affairs—but also wishes now to write the laws without congressional participation.

His attitude in the veto message reminds me of that of the petulant child who threatens to and finally does pick up his marbles and go home when he does not get his way on every aspect of the marble game.

Congress has the constitutional responsibility of deciding on appropriations of funds for particular programs, and I believe we should continue to exercise that responsibility to ensure that those programs which our constituents tell us have proven effective are maintained, and that poor people continue to benefit from them. The administration plan risks squandering moneys on experimental and research programs whose principal beneficiary is often not the poor but the consulting firm. I strongly support the need for Federal stimulation of small business, but, unlike the present administration, I do not believe that every program should be converted to a private enterprise bonanza.

If the Congress had not seen fit, in its wisdom, to include earmarking in the economic opportunity act the last several years, I believe there would be today no community action program, no emergency food and medical program, no poverty, drug and alcohol programs, and perhaps no legal services program or VISTA program.

Next, the President objects to the Legal Services Corporation provisions in S. 2007 which he says do not provide for sufficient "accountability to the American people as a whole." What he means by this—and there can be no doubt about this—is political accountability to him as the President. His call for unrestricted Presidential appointment of all members of the Corporation's Board of Directors is a position supported by none of the extensive testimony presented at congressional hearings except for that presented by the administration, itself.

Mr. President, the kind of Legal Services Corporation "independent and free of politics," to quote the President's rhetoric, that this administration seeks is one which can be manipulated for narrow, partisan purposes through political appointees who owe their jobs entirely to the President.

It was exactly to avoid this kind of political pressure and harassment—characterized most clearly in the story of the California rural legal assistance program debacle, which began just 1 year ago, that we introduced the National Legal Services Corporation Act (S. 1305). As far as I am concerned, and I have spoken to the principal sponsors of this legislation, both the Senator from Wisconsin (Mr. NELSON) and the Senator from Minnesota (Mr. MONDALE), the kind of politicized corporation the President wishes would provide greater opportunity for abuse than the present legal services structure within the OEO. For, under the President's puppet corporation, there would be an appearance, although no reality, of impartiality behind which the administration could hide while engaging in political hatchet work on legal services programs.

Mr. President, I am also astonished that the President should see fit to challenge the integrity of the organized bar and the legal profession in objecting to their continuing to play a major role in the overall direction of legal services efforts.

It is a clear and undisputed fact that without the initial support and nurturing of the organized bar and the legal profession there would never have been a legal services program; and that without their continued support and assistance an effective legal services program could not survive in this country.

Thus, I think it particularly appalling that the President has seen fit to cast aspersions on the American Bar Association, the National Bar Association, the American Trial Lawyers Association, the National Legal Aid and Defenders Association and the Association of American Law Schools by calling them "private interest groups" and decrying their involvement in appointment of the board and in the incorporating trusteeship for the new corporation.

The President concludes his verbal gymnastics regarding the Legal Services Corporation by calling for a corporation "which places the needs of low-income clients before the political concerns of either legal service attorneys or elected officials." This is said in the face of the incredible episode regarding CRLA perpetrated by the President for what has been proven beyond a doubt to be a political motive to mollify Governor Reagan.

Mr. President, I ask unanimous consent that there be printed in the RECORD at the conclusion of my remarks a December 10 letter to the editor of the Washington Post from Michael Kantor, executive director of Action for Legal Rights, Inc., who has performed an invaluable public service in assisting the Congress with regard to the legal services title in the bill. I also ask unanimous consent that the names and titles of the Advisory Board of Action for Legal Rights, Inc., be printed at the outset of this letter.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. CRANSTON. But the President saves the worst for last and reaches new heights in his shameful and shameless castigation of the child development program in the bill.

His implication that the child development legislation would "lead toward altering the family relationship," would employ "communal approaches to child rearing over against [sic] the family-centered approach" and would generally "diminish both parental authority and parental involvement with children" is absolutely untrue. This red herring which the President has fished up from the reactionary gutter represents a scandalous sellout to right-wing radicals.

Mr. Nixon has sacrificed the welfare of hundreds of thousands of children and their mothers who would like to work, to the political expediency he finds in mollifying the right-wing harping in his party. It is a shame that he has once more listened to the bad counsel which his domestic advisers foist upon him and has again not bothered to take the time to acquaint himself with the specifics of the legislation.

In fact, there is absolutely no provision in the bill or legislative history and surely no intention on the part of the 63 Senators and 210 Congressmen who voted for the conference report to break up or weaken families or parental control over the development of their children. I suspect the President must really know this.

In fact, the bill does exactly the opposite. The child development program would preserve parental control and strengthen the family unit in a number of ways: First, by permitting women with children, or other single heads of households with children, to leave the children in an educationally, nutritionally and physically healthy environment while they seek to earn money to provide more adequately for their families. The approach of keeping children in the chains of poverty by not providing them with the comprehensive services they need to break free while their parents try to earn their own way, is sure prescription to degrade and diminish the strength of the family unit. Yet, given the veto of this bill, this seems to be the administration's design for the family.

Second, and I speak from firsthand knowledge because the bill contains my amendments, on this score. Parents in child development programs would be given effective control of basic policy-making, funding, and personnel decisions at all levels of child development programing and would be urged to involve themselves directly in implementation of individual projects and programs.

Also, of course, participation by any child in these child development programs would be entirely voluntary; entirely up to his or her parents.

The complete inconsistency in the President's intemperate attack on the child development program is pointed up by the relatively positive statements he makes about the Headstart program which formed the very basis for the fundamental philosophy underlying the child development legislation.

Mr. President, what does the President say he is for? He clearly seems to be for "day care." What he wants is a system of warehousing little children for 9 hours during the "day" while their mothers work. That is his focus—on the mother working for the "day", not on the "child" whose fragile sensibilities are being developed.

Principally, he wants these juvenile warehouses to contain the preschool children of the welfare mothers he would require to register to work under H.R. 1. If a mother prefers to raise her preschool child, rather than to take a meaningless, demeaning job—and unlike the President, I think there are such jobs—how does it serve to strengthen the relationship between the child and the mother for that child to be stored in a custodial program for most of its waking hours away from parental love, interest, concern, and compassion? I wish the President could answer this question for me.

I believe that if the parent of a preschool child wishes or needs to work that that child should be cared for in a comprehensive, compassionate, healthful program of the type we would establish in the child development program the President condemns.

Perhaps the only really candid statement in the entire veto message, Mr. President, is the President's frank admission that the child development program in the bill "points far beyond what this administration envisioned when it made a 'national commitment to providing all American children an opportunity for a healthful and stimulating development during the first five years of life'" Judging by the administration's performance in carrying out the verbal commitment which the President first mentioned in 1969, the President's program is generally to talk about services to young children rather than to do anything about actually providing them. The record of default on such rhetorical committments is clear; time and again the administration fails to deliver its major spoken commitments, such as to a national literacy program.

This kind of talk-and-no-action posture seems contradictory to this administration's stated concern about not promising more than it can deliver. I suppose the administration distinguishes between speaking of so-called national commitments and developing and implementing any programs to carry out these commitments. thereby making certain not to raise anyone's expectations.

This is a policy of Madison Avenue manipulation which, I believe, displays a basic contempt for the intelligence of the American people.

What else does the President say he is for? He says he is for a number of initiatives which he credits to his administration to alleviate child suffering and deprivation.

He cites three examples, two of which were imposed on him by Congress accompanied by violent administration kicking and squealing. The first of these so-called administration "actions" is the expansion of nutritional assistance to poor children by the tripling of food stamp participants since 1969, and the doubling of child nutritional programs—such as school lunch and breakfasts—since then.

I am astonished that the President seeks to take credit for expansion of food stamp and nutritional programs which his administration has staunchly opposed and which resulted entirely from congressional initiative, led by my good friend from North Dakota (Mr. McGovern), who I suspect will have something to say on this score.

The President's capacity for posturing in the face of clear facts to the contrary seems boundless in view of the clear fact, of which I think everyone is aware, that the administration recently sought to cut back by 1 million—more than 100,000 in California—the children fed in the school lunch program only to be stymied in this heartless effort by a congressional outcry culminating in a resolution introduced and floor managed to passage by my good friend from Georgia (Mr. Talmadge).

The second magnanimous administration initiative to which the President points is improved medical care for poor children through screening and treatment under medicaid. The facts are that the Department of Health, Education, and Welfare just last month issued regulations implementing provisions enacted into the Social Security Act in 1967 requiring individual State programs to be effective July 1, 1969—more than 2 years ago. Moreover, the administration regulations seem to dilute the congressional mandate by permitting States to eliminate from such screening and treatment programs children between the ages of 6 and 21 until July 1, 1973, fully 4 years after such screening, diagnosis and treatment was to become effective under the Social Security Act.

It is indeed a monumental piece of effrontery for the President to claim credit in these two areas in which his administration has been so restrictive and recalcitrant.

As to the third area, he cites effective targeting of maternal and child health services on low-income mothers who need them most. No one at HEW whom we have talked to has been able to explain what that means. As far as we can determine, there is absolutely no new direction in this program under the present administration.

Mr. President, there is a great deal more I could say about the fundamental unfairness and the basic injustice to the poor and disadvantaged in our land which the President's veto perpetrates.

I close by asking that each Senator who voted for the conference report now read this veto message and then decide whether or not the scandalous charges which the President has made are warranted. I believe that there is no question of the answer if each Senator will search his and her own conscience on this issue.

Exhibit 1

Offices

Michael Kantor, *Executive Director*.

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The Honorable Cyrus R. Vance, New York, New York.

Action for Legal Rights, Inc.,
Washington, D.C., December 10, 1971.

To the Editor:

The President's veto of the Poverty Program, the new and crucial Child Development effort, and the National Legal Services Corporation marks a complete retreat by the Executive Branch of Government from the solutions to the crucial domestic issues of our time. Not content with a mere veto, the President insured, through bitter, misleading and illfounded comments in the veto message, that this country will continue to polarize at an ever increasing rate.

The implementation of the National Legal Services Corporation is an exciting attempt to strengthen and expand the OEO Legal Services Program. By making Legal Services lawyers independent from undue political incursions, this Bill would have brought the poor a few steps closer to true equality under law. But our President-lawyer abandoned this long term need for short term political gain. The same President that called for an independent Legal Services Corporation has short circuited this effort and turned his back on his profession, the leaders in his own party, and the poor.

The President indicated in his message that he had three problems with the National Legal Services Corporation. One, the Corporation was somehow not accountable to the American people; two, that the legislation passed by the House and Senate "differs crucially" from his original proposal; and three, persons, with a possible conflict of interest, might serve on the Board of Directors of the Corporation.

The President stated that he only had full discretion over six of the seventeen members of the Board. In fact, the President appoints all members of the Board in the Bill passed by the Congress. Whereas the President's Bill did not insure the professional bar or clients would have had any voice whatsoever in the operation of the Corporation—the National Legal Service Corporation Act of 1971 insures that the Corporation is accountable to these groups.

The President's discretion and power to appoint are fully protected in the Bill. The selection process utilized is fully consistent with other private corporations authorized or funded by the Congress.

The President or his designees of the five major bar associations serve as trustees for the first ninety days after enactment. The President asserted this would somehow make the Corporation less accountable. Even a cursory reading of the legislation reveals that the trustee's power is strictly limited to the filing of the incorporation papers and the establishment of the Advisory Councils to the Corporation. Substantive policy issues must be left to the Board of Directors, who are, of course, appointed by the President.

Curiously, the National Legal Services Corporation legislation vetoed by the President was substantially more accountable to the American people than the Bill introduced by the Administration. In both the Bill adopted by the Congress and the legislation advanced by the Administration, all members of the Board of Directors must be appointed by the President and be confirmed by the Senate. However, the President's Bill called for three year appropriations which would have effectively insulated the Program from Congressional scrutiny on an annual basis. The National Legal Services Corporation Act passed by the Congress calls for yearly appropriations. The President's original proposal established permanent legislation whereas the NLSC Act of 1971 is only authorized for two years.

Again, the Congress exhibited much more sensitivity for the problems of accountability than did the White House. The Bill passed by the Congress gave the Government Accounting Office sweeping powers to audit and review the activities of the Corporation and its grantees. By contrast, the President's original bill limited the powers of the GAO in this respect. Finally, the NLSC Act of 1971 insures in three separate sections that legal services lawyers are professionally accountable. The President's bill barely addresses this question.

There are differences in the Bill passed by the Congress and the President's original proposal. However, the Congressional package was a compromise between the White House view and the Bill (introduced nearly two months prior to the Administration version) supported by a broad coalition of Republicans and Democrats in both the Senate and House. The National Legal Services Corporation Act of 1971 addresses various problems which concerned the White House including political activity of employees of the Corporation or its grantees, the outside practice of law by legal services attorneys the possible duplication of effort through the appeal process, representation of persons in criminal proceedings, and legislative activities of attorneys employed by grantees of the Corporation. Therefore, the Bill passed by the Congress substantially adheres to the concerns of the Administration.

In fact, the congressional compromise was worked out with the valuable aid and assistance of many leaders in the President's own party. The NLSC Act of 1971 was supported on the House and Senate floor at various times by the House Minority Leader, House Minority Whip, the Chairman of the Republican Conference in the House, the Senior Republican on the House Education and Labor Committee, the Senate Minority Leader, the Senate Minority Whip and the Chairman of the Republican National Committee. The Corporation vetoed by the President was similarly supported by every major national Bar Association in the country as well as a large number of state and local Bar Associations, labor unions, civic groups, and poor people's organizations.

The President was concerned that persons on the Board might represent or be involved with organizations which may be the recipients of grants from the Corporation. The Congress anticipated this program by mandating in Section 904(f) "That no member of the Board may participate in any decision, action, or recommendation with respect to any matter which directly benefits that member or any firm or organization with which that member is then currently associated."

The President, in the final analysis, has used Legal Services for the Poor as cannon fodder to justify the unjustifiable. He has rejected a rational, responsible, accountable and effective proposal for political reasons. The need for the Corporation was born of the continuing subjugation of the Program to a political litmus test. Access to justice should not depend on the color of your skin, the size of your bank account, or your political affiliation.

The Bill creating the National Legal Services Corporation truly represents an attempt to afford the poor more effective access to justice. I am confident the Congress will quickly re-enact this statute as previously passed.

Sincerely,

MICHAEL KANTOR.

Mr. CRANSTON. Mr. President, I yield back whatever time I have remaining from my personal time.

Mr. JAVITS. Mr. President, how does the time stand?

The PRESIDING OFFICER (Mr. HOLLINGS). The Senator from California has 3 minutes, and the Senator from New York has 9 minutes.

Mr. CRANSTON. Mr. President, I yield my 3 minutes to the Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota is recognized for 3 minutes.

Mr. HUMPHREY. Mr. President, it is incredible that the President would veto a measure designed to provide good care and education and health services for children.

This veto is a cruel, heartless blow to hundreds of thousands of American families.

No amount of bureaucratic explanations of this veto can deny the clear fact that this program is critically needed and that is was promised by the President. In February 1969 he called for a "national commitment to providing all American children an opportunity for healthful and stimulating development during the first 5 years of life."

The President has now violated that pledge.

This veto must be overridden.

There is no political, economic, or moral justification for the President's action.

The child development program—included in the comprehensive legislation to strengthen Federal antipoverty programs, that has been rejected by the President—represents a solid investment in America's future. But the President has called it fiscally irresponsible, even though the final bill, as reported out of conference, limited free services to the children of families with an income of up to $4,230—the level requested and later accepted by the administration.

Bowing to the scare tactics of right-wing political groups, the President has criticized what he terms "communal approaches" to child care. But he is totally in error. In fact, the entire emphasis in the program is on direct parental involvement from the local to the national level. Parent-governed boards—the child development councils and the project policy committees—will decide which projects to fund, and will approve the content, curriculum, and policy of each individual project. And there is an absolute requirement that participation be voluntary and that rights and privileges be scrupulously observed.

The President commits a profound disservice to the intelligence of the American people in claiming there are "family weakening" tendencies in this program, when the real problem to be met is the crippling of little children in low-income families. The Headstart program, on which the child development program would build and whose vital accomplishments have been applauded across America, was launched to help these children overcome the educational, cultural, and health disabilities inflicted by poverty and social isolation.

I am amazed that the President could pronounce the child development program to be "plagued by administrative unworkability." The sponsors of this legislation, including myself, felt it was essential to have local administration of carefully planned and developed child care projects. That is the only way you can assure maximum parental involvement and responsibility for these programs. That is the only way that small communities in rural areas can meet the real needs of their children. That is the only way you can avoid the dangers and redtape of remote governmental control. And that is why the entire authorization of $100 million for the first fiscal year of this program is directed solely to planning, training, and technical assistance to help insure the effective operation of projects.

Past statements from the White House suggest that the President's real concern is with the administrative role of the States in the child development program. But let it be made clear right now that under the legislation which he has vetoed, the States would have an important role. The Governor of a State is to review and comment on every child care project application. Five percent of the funds for this program are reserved for the States for technical assistance and program coordination. And a State can be a prime sponsor of a child care program for which a community does not apply or is unable to assume responsibility.

The President's veto is a shameful act. He has turned his back on hundreds of thousands of children. In the face of an increase in the number of people living in poverty, to over 25 million, after a decade of steady and significant decline in these figures, the President has undermined a major legislative action by Congress to launch a second offensive against poverty in America. This veto must be overridden. It is a matter of conscience for this Congress.

Mr. JAVITS. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. JAVITS. Mr. President, I urge that the Senate vote to override the President's veto on the conference bill on the Economic Opportunity Amendments of 1971.

The President's action is extremely disappointing in terms of the Office of Economic Opportunity, community action agencies, the poor themselves, and the many working mothers and families who could have benefited from the comprehensive child development programs; it is particularly disappointing to those of us who undertook painstakingly to try to meet the administration's concerns with respect to each major issue.

Mr. President, I consider it important to review the essential element of the bill, with particular reference to the President's veto message, so Members will understand the basis upon which I urge that the veto be overriden.

First, the conference bill would extend the various authorities for the poverty program and OEO for two additional years, through June 30, 1973. This meets the request of the administration itself—which I introduced with broad bipartisan support early this year. I am pleased that the President has indicated that he still shares that objective.

But there are differences in opinion as to what the role of OEO should be:

The President emphasizes the Office of Economic Opportunity as an "incubator" for new ideas; that is, as the research and development arm of the Nation's effort to eliminate poverty.

This is an important role for OEO, but at least equally important is the role of community action agencies—which certainly continue as the heart of the program, as far as the poor are concerned and which the President's message completely overlooks.

It is precisely this difference that caused the Congress to write into the law the two restrictions to which the President objected—the prohibition against delegation or transfer without legislative authority and of the earmarking of funds for programs which community action agencies conduct on the local level.

Second, the conference bill would add a new title under the Economic Opportunity Act, establishing a nonprofit corporation for legal services. This, too, was an initiative first advanced by the administration.

The President states that he is dissatisfied with the provisions for the appointment of the board of directors of the corporation which, in a number of cases from lists submitted by "various professional, client, and special interest groups."

The President describes these "restrictions" as an "affront to the principle of accountability to the American people as a whole" and adds:

> The sole interest to which each board member must be beholden is the public interest. The sole constituency he must represent is the whole American people. The best way to insure this in this case is the constitutional way—to provide a free hand in the appointive process to the one official accountable to, and answerable to the whole American people—the President of the United States, and to trust to the Senate of the United States to exercise its advise and consent function.

In his message of May 5, 1971, to the Congress, proposing such a corporation, the President said:

> Even though surrounded by controversy, this program can provide a most effective mechanism for settling differences and securing justice within the system and not on the streets. For many of our citizens, legal services has reaffirmed faith in our government of laws. However, if we are to preserve the strength of the program, we must make it immune to political pressures and make it a permanent part of our system of justice.

Mr. President, the conference bill strikes a balance between these objectives and that of the executive prerogative.

The conference accepted the 17-member presidentially appointed board contained in the House bill with the modification that in a number of cases the President's appointments are to be made from lists submitted by such respected organizations such as the American Bar Association, the Judicial Conference of the United States, and certain clients and project attorney's advisory groups. Each list is to contain from three to 10 names.

But, even in these cases the President has the clear right to turn down an entire list and request another one. This is made clear in section 904(2) of the conference committee bill.

With respect to six positions on the board, the President may appoint public members completely free of the list procedure, subject only to the consent of the Senate.

Third, the conference bill established a comprehensive child development program as a new title V under the Economic Opportunity Act.

The President's message indicates that this is the "most deeply flawed provision" of the Economic Opportunity Amendments, stating that—

> The interest of Title V is overshadowed by fiscal irresponsibility, administrative workability and family-weakening implications.

Mr. President, let us examine his specific objections:

That "neither the immediate need nor the desirability of a national child development program of this character has been demonstrated."

To the contrary, the establishment of such programs—with emphasis on local decisionmaking, parental involvement and developmental, as opposed to custodial services—was identified as the top priority for the next decade by the White House Conference on Children, held almost exactly a year ago.

That day-care centers are already provided for in H.R. 1—the family assistance plan—and that centers under S. 2007 would be "duplicative" and "redundant."

But H.R. 1 has not passed the Senate, and the President himself has called for a 1-year delay in its implementation, as a part of his economic recovery strategy.

Moreover, the President was assured, prior to the veto, by me and a number of other Senators of continued support for welfare reform and for a separate child care quotient therein; in fact a number of us who cosponsored S. 2007 seek also to raise the amount authorized for child care under H.R. 1.

Moreover, at the administration's request, we wrote into this Conference bill provisions to insure that the Secretary of Health, Education, and Welfare, as a complement to the family assistance provision channel the greater portion of resources to the most needy and utilize a fee schedule designed to be consistent with that anticipated by the administration under the Family Assistance Act.

What we are seeking is a compehensive system which may be the basis for a coordinated approach, linking S. 2007 efforts—which cover a broader socio-economic range—to those proposed under the family assistance plan.

Both are clearly needed; in the category of low-income families alone, there are more than 3 million children under the age of 5, and another 4 million below the age of 14.

That "given the limited resources of the Federal budget . . . the expenditure of $2 billion—cannot be justified." Yet the United States currently devotes less than 2 percent of its gross national product to Federal expenditures for all children and youth under 21 even though they make up nearly 40 percent of the population. As I have outlined, the need is substantial and it is time that we gave priority to children.

That the family assistance plan would bring the family together while S. 2007 "appears to move in precisely the opposite direction" and that "good public policy requires that we enhance rather than diminish both parental authority and parental involvement with children."

The administration's family assistance plan would bring families together in the sense that incentives for living apart would be substantially reduced.

But as passed by the House, H.R. 1 requires that mothers of children as young as 4 years of age work, with no exculpatory clause if child care is not available.

While the conference report on S. 2007 is replete with provisions designed to insure that responsibility for children continues to rest with parents and that parents contribute to and are involved in the formulation and conduct of programs. To cite a few:

Section 501(a)(2) states the finding that programs should be available only to children "whose parents or legal guardians shall request them."

Section 580 requires the Secretary to establish procedures to insure that no child be the subject of any demonstrated effort unless the parent or guardian of such child is given an opportunity "as of right" to except such child therefrom;

Section 581 provides that nothing in the title shall "infringe upon or usurp the moral and legal rights and responsibilities of parents or guardians with respect to the moral, mental, emotional, or physical development of their children;"

Section 515(a)(24) requires that comprehensive plans insure that services shall be provided "only for children whose parents or legal guardians have requested them."

Section 514 provides that prime sponsors must establish child development councils; half the members of which must be parents of children in the program. The councils have basic policy responsibilities with respect to program formulation and supervision;

Section 515(a)(11) requires that comprehensive programs provide for "direct parent participation in the conduct, overall direction, and evaluation of programs";

Section 516 requires project policy committees, again with 50 percent parental membership;

Section 534 requires similar representation on a special committee to be established for recommending standards to the Secretary.

That there is no "adequate answer provided to the crucial question of who the qualified people are and where they would come from, to staff the child development centers."

The conference bill provides an authorization in each fiscal year for training of such personnel. Moreover, also in keeping with the family approach, section 516(a)(10) requires that—

> Programs will, to the extent appropriate, employ, paraprofessional aides and volunteers, especially parents, older children . . . in child development programs.

That the "legislation would create a new army of bureaucrats" by encouraging applications of communities with a population of over 5,000, as eligible applicants and that "the States would be relegated to an insignificant role."

Mr. President, the conference bill, a colloquy which Senator Nelson and I engaged in when the conference report was considered on the floor and an identical colloquy in the House, make it clear that the Secretary of Health, Education, and Welfare will have ample authority to turn down an application of a local unit of government and insure a significant role for the States in order to guarantee the high quality of programs.

I ask unanimous consent that the colloquy, taken from the Congressional Record of December 2, 1971, be printed at this point in the Record.

There being no objection, the colloquy was ordered to be printed in the Record, as follows:

Mr. Javits. I yield myself 5 minutes.

Mr. President, I wish to propound a number of questions to the manager of the conference report, the Senator from Wisconsin (Mr. Nelson), the chairman of our subcommittee which handled this bill. I think the questions and answers will be of great importance both to the Members who must decide how they will vote on the conference report and to the administration.

My questions concern the selection of prime sponsors for child development programs.

It is my understanding of the conference bill that a State, a locality, a combination of localities, Indian tribal organizations or public or private nonprofit agencies or organizations may be designated by the Secretary as a prime sponsor for the purpose of entering into arrangements to carry out child development programs upon meeting the requirements spelled out in the bill.

Mr. Nelson. The Senator is correct. Section 513 so provides. In the case of localities and combinations of localities there is a requirement that the units of general local government cover an area having a population of 5,000 or more persons.

Mr. Javits. Am I also correct that in considering applications for prime sponsorship—which is called the "prime sponsorship plan"—the Secretary is required to act upon plans submitted by localities and combinations of localities, in that order; but he may designate a State as prime sponsor as to areas where localities or combinations thereof fail to meet the requirements contained in the bill?

Mr. Nelson. Yes. And that order of consideration applies also to prime sponsorship plans submitted by Indian tribal organizations, so that he must act first on its application, and can designate the State for the area if the Indian tribal organization fails to meet the requirements in the bill.

Mr. Javits. Would the Senator from Wisconsin (Mr. Nelson) please spell out the prime sponsorship requirements that any applicant must meet.

Mr. Nelson. Yes. In reviewing plans submitted by localities, combinations of localities, and Indian tribal organizations, or States, the Secretary must make the judgment in each case that:

The plan sets forth "satisfactory provisions" for establishing and maintaining a Child Development Council meeting the requirements of section 514, section 513(a)(2);

The plan provides that the Child Development Council shall be responsible for developing and preparing a comprehensive child development plan, section 513(a)(3);

The plan sets forth arrangements under which the Child Development Council will be responsible for planning, coordinating, monitoring, and evaluating child development programs, section 513(a)(4);

In the case of applicants which are units of government, the plan provides for the operation of programs through contracts with public or private agencies, section 513(a)(5);

The plan contains assurances that the Council has the administrative capacity to provide—itself or by contact or other arrangement—effective and comprehensive child related family, social and rehabilitative services, coordination with educational services, and health and other services, section 513(a)(6);

The plan also includes "adequate provisions for carrying out comprehensive child development programs in the area to be served."—section 513(b), (c), (d).

Mr. Javits. With respect to the last requirements, in determining whether the plan includes "adequate provisions for carrying out comprehensive child development programs," it is anticipated by the conferees that, in addition to other appropriate factors, the Secretary may make a judgment as to the capability of the particular applicant to carry out effectively comprehensive child development programs?

Mr. Nelson. The Senator is correct.

Mr. Javits. And by the term "comprehensive child development programs" do not the conferees expressly contemplate programs of high quality providing the educational, nutritional, social, medical, psychological, and physical services needed for children to attain their full potential?

Mr. Nelson. The Senator is correct. Sections 501(a)(2), section 571(3) and other provisions of the title make the meaning of that phrase clear.

Mr. Javits. So there is a responsibility with the Secretary to satisfy himself that any applicant, whether a locality, a combination, or an Indian tribe or a State, has the administrative capability to marshal resources and to provide effectively or assure access to the educational, social, and other services needed to insure the comprehensiveness and high qualities and standards for programs conducted under the title.

Mr. Nelson. Yes, subject to the qualification that whatever standards he may apply under these provisions are objective and applied to each case with an even hand; it is not intended as a license to develop standards such as population criteria which would have the practical effect of excluding a particular class of eligible applicants.

The Secretary's determination of the particular facts on which he bases his decision is conclusive if supported by substantial evidence. The conference agreement is explicit on this point, in section 513(h)(2).

Mr. Javits. Therefore, if an applicant which is a locality, or a combination of localities, or an Indian tribe lacks the capability to carry out comprehensive programs or if the plan fails to meet the other requirements under the sections which the Senator has outlined, then the Secretary clearly has the authority to reject that application and to designate a State or other public or private nonprofit agency as prime sponsor, if it meets the requirements.

Mr. Nelson. Yes, and the requirements that would apply would be the same.

The Presiding Officer. The time of the Senator has expired.

Mr. Javits. I yield myself 5 additional minutes.

In summary, then, while the conference bill reflects the judgment that the Secretary should look first to locally run programs—in the interest of parental participation and other elements—the Secretary is not powerless to choose a State over a locality and he is granted ample flexibility and freedom to make reasonable judgments to insure the comprehensiveness and high quality of care for children as long as he is prepared to support them with findings of fact.

Mr. Nelson. The Senator is correct.

Mr. Javits. And is it also true that if none of the units of governments, whether they be localities or combinations of localities, Indian tribal organizations, or the State itself qualify as prime sponsors, or in certain other specified conditions that he still has authority under the so-called bypass provisions to fund programs directly, and a State, as well as any other public or private agency, could qualify as a grantee under that provision?

Mr. Nelson. Yes. Section 513 (j) and (k) so provide.

Mr. Javits. And am I correct that even in respect to areas where a locality or a combination of localities or an Indian tribe may be designated as prime sponsor, that the State is to have a significant role?

Mr. Nelson. Yes. The conference bill authorizes the Secretary to utilize up to 5 percent of the funds allocated for use in each State for activities by States, in the nature of technical assistance to localities, combinations thereof and Indian tribes including assisting in the establishment of child development councils, encouraging the cooperation and participation of State agencies and the full utilization of resources, and developing information useful in reviewing prime sponsorship plans and comprehensive child development plans submitted by localities, combinations thereof, and Indian tribes. Section 513(a) and section 515(b)(3) require that the Governor have the right to review prime sponsorship plans and comprehensive plans, respectively, with the right in each case, to submit comments to the Secretary.

Mr. Javits. Although the Secretary would not be bound by those comments, would they be among the factors he could consider in making the determinations relating to prime sponsorship which we discussed earlier?

Mr. Nelson. Yes.

Mr. Javits. So one may reasonably conclude that under the conference bill the Secretary has the authority to significantly involve the States, in order to assure high quality care.

Mr. Nelson. The Senator is correct. That is the intent.

Mr. Javits. I thank my colleague very much. If he will bear with me for one further point, the conference report authorizes $2 billion in appropriations for child development care for the first year in which it is fully spelled out—to wit, fiscal 1973; $100 million is provided for fiscal 1972 for startup activities. It has been my understanding that the $2 billion authorization is intended by the conferees as a goal which we have established, without knowing what the total picture may be at the time of appropriation; for example, we do not know what may be available from other sources such as the family assistance plan, H.R. 1, if that should become law.

Mr. Nelson. The Senator is correct. The authorization is, of course, subject to the appropriation process and to the influence of various factors, as the Senator suggests.

Mr. Javits. I thank my colleague very much. I think that this colloquy—which I am sure will be repeated in the other body when this matter is acted on there—makes it absolutely crystal clear that the Secretary has very powerful discretion, including the discretion to use the States in order to put it into effect the best possible performance in respect to child development. It seems to me that is the essential substance we seek.

It is for those reasons I urge the Senate to approve it.

Mr. JAVITS. Finally the President states:

> For the Federal Government to plunge headlong financially into supporting child development would commit the vast moral authority of the National Government to the side of communal approaches to child rearing over against the family-centered approach.

Mr. President, as I have documented, we have provided for a family approach; and this is enhanced by the communal approach reflected in the vetoed bill not in the communistic sense, but in the sense of community, which the President himself alluded to earlier this year.

In his state of the Union address on January 22, 1971, the President quite properly sensed that a large amount of the current frustration of the American people arises from a feeling that the forces shaping their lives have grown more distant and more impersonal. In response, the President stated:

> We hear you and will give you a chance. We are going to give a new chance to have more to say about the decisions that affect your future—to participate in government—because we are going to provide more centers of power where what you do can make a difference that you can see and feel in your own life and the life of your own community.

I submit that no matter is more deserving of handling at the community level than the matter of child development, for there can the family-centered approach be carried out, if the Secretary of Health, Education, and Welfare determines that the unit of government has the capability as an administrative matter.

Mr. President, therefore, I shall vote to override the President's veto, because I believe—unhappily—that the forest has been missed for the trees. I believe that the programs which we have legislated—and the President's veto message bears it out—are the very programs which the administration sought, to wit, a 2-year extension of the war on poverty, the establishment of a quasi-autonomous legal services corporation, and the establishment of some kind of broadened Headstart program. Indeed, Mr. President, if the words "child development" are objectionable, it is very significant that the President named his own office on that subject the Office of Child Development.

This very afternoon we made an important appropriation to it.

The objections taken, Mr. President, are simply objections which perhaps would lie in the mouth of the President—and I do not say that personally—if he were not administering this law. But I fought—and I was one of the principal workers—in fashioning a conference report to work this out so that the administration could deal with all the things which the President would regard as harmful or distasteful. For example, on the question of local sponsorship, it was made very clear here and in the House that the Secretary in his discretion—the President's own Cabinet official—could place that responsibility in the hands of a State if he did not find the localities had the full capability to carry out the programs according to high criteria.

In my judgment, that would have resulted materially in an effective administration. Remember, it is the President's own mind also in respect to legal services to let the whole thing drop, because the President had to look at the nominees sent up to him by some organizations, which he could reject, and reject. Remember, he is the President, and nobody is going to insult him very long.

It seems to me a very superficial objection as compared with a presidential appointment and confirmation by the Senate.

His other point—the only other big point—was earmarking. And, there for the most part we were simply going to do what he is going to spend now, and his own plans for OEO for the next year.

I think, Mr. President, a great opportunity to reorganize and make more effective a tremendous program of vital interest to the American people and particularly to the poor is being missed. If we do not overide, I would submit some compromise measure, picking up parts of it, trying to meet as many of the views as I can of the President, but consistent with the basic objectives and elements of S. 2007.

If the bill itself had been signed because of the record we have made here as to what it means and how it should be administered, with the President himself administering it, it would be a glorious monument to the redemption of the President's own promises.

I do not feel frustrated; I do not feel disappointed, Mr. President, but I feel sad that the President has been advised to miss what was a tremendous opportunity for him to realize every good thing he has been saying.

Mr. President, for these reasons I urge that the veto on the conference report be overriden.

I ask unanimous consent that there be printed in the Record at this point a letter to the President dated December 7, 1971, from myself and a number of other Republican Members of the Congress, indicating why we felt that signing this bill into law was in the administration's as well as in the general public interest.

There being no objection, the letter was ordered to be printed in the Record, as follows:

December 7, 1971.

Hon. Richard M. Nixon,
The President,
The White House,
Washington, D.C.

Dear Mr. President: We are writing to urge that you sign into law S. 2007, the Economic Opportunity Amendments of 1971.

We believe that the Conference bill, to which a number of us contributed as conferees, is designed to meet the Administration's objectives in a number of material respects:

First, the bill would continue the programs under the Economic Opportunity Act for an additional two years, through July 1, 1973, as you requested on March 19, 1971. We believe that continuation will provide a stable framework in which the long term changes proposed by the Administration may receive full and objective consideration.

Second, it would establish a new title authorizing programs of comprehensive child development.

For three years, a bipartisan group in the Congress, with the assistance of interest groups spanning a wide range of concerns, has worked to implement the "national commitment" you made on February 19, 1969 "to providing all American children an opportunity for healthful and stimulating development during the first five years of life. . . ." On April 9 of the same year, you reiterated that commitment in another message to the Congress. We believe that your pledge to early childhood education is one of the hallmarks of your Administration and a major advance for education.

We submit that the differences between the Administration and various members of the Congress as to the key technical aspects of the child development title have now been resolved with significant deference to the position of the Administration in each case.

As stated by Secretary of Health, Education and Welfare Elliot Richardson in a letter to Congressman Ford on September 30, 1971:

"Our goal has been to provide free child care to the poorest of our citizens while at the same time providing for a socio-economic mix in child care facilities, with children from families above the $4,320 income level (the anticipated maximum income at which a family of four would be eligible for assistance under Welfare Reform), receiving care under a graduated fee schedule."

The Conference bill authorizes the Secretary of Health, Education and Welfare to establish a graduated fee schedule for families above the $4,320 level subject only to minor limitations and to reserve the major portion of funds for the very poorest families; the Conference rejected the provisions of the Senate bill which would have provided free services up to the income level of $6,960 for a family of four.

At this point, the chief obstacle in the way of final approval of this bill is the mechanism for the delivery of services, characterized by the traditional fight over the balance between states, cities and local communities. We have tried to reach the fairest possible accommodation of all viewpoints on this subject. The conferees believe that the Secretary of Health, Education and Welfare is granted ample flexibility and freedom to make reasonable judgments (such as choosing a state over a locality to run a program if such a decision can be supported with findings of fact) to ensure the comprehensiveness and high quality of care for children.

We wish also to emphasize most emphatically the voluntary nature of the program. The Conference bill is absolutely clear on this point: Each material provision of the bill contains the legally enforceable conditions that child development programs shall be provided only for children "whose parents or legal guardians have requested them."

Third, it would establish a non-profit corporation for Legal Services as you first proposed on May 5, 1971.

Again, there have been substantial differences between the Administration and the Congress, but these too have been resolved in favor of the Administration's position in each major respect.

The Conference bill adopts basically the provisions of the House bill which provides for a 17-member Presidentially-appointed board, rather than the Senate bill which significantly limited Executive prerogative.

Also, the bill contains a complete prohibition against representation in criminal cases, as you requested.

Fourth, the bill contains a number of other authorizations for existing programs that are essential to encourage self-help efforts, reducing welfare dependency and poverty. These include provisions for drug rehabilitation, manpower training programs, the aged, and minority enterprise.

We therefore consider it desirable in terms of the Administration's interests and objectives that the bill be favorably considered and signed into law.

Sincerely,

Jacob K. Javits, Clifford P. Case, Edward W. Brooke, Robert T. Stafford, Charles McC. Mathias, Jr., Ogden R. Reid, Edward G. Biester, Gilbert Gude, Marvin Esch, Frank Horton.

The PRESIDING OFFICER. Who yields time?

Mr. NELSON. I yield the rest of my time.

The PRESIDING OFFICER. Mr. MONDALE.

Mr. MONDALE. Mr. President, we all know there are hundreds, thousands, and millions of children who never have a chance, who are mangled and destroyed the first 5 years of life. This bill is the best that the House and the Senate could think of to undo the monstrous and immoral wrong that we now visit upon the lives of those tragic children.

Second, it is a fact that nearly one-third of the mothers in this country today with preschool children work for a living. There are nearly 6 million preschool children left somewhere at home, or elsewhere, while their mothers work. Yet there are only 700,000 licensed day care slots in the country. This proposal was designed to provide decent, supportive, stimulating day care centers for the millions of children who are left somewhere when the mother works.

The President pledged a program of this sort. The President's own White House Conference on Children listed this as its No. 1 priority, and I think now is the time to do our job. I hope we will override the veto.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. DOMINICK. Mr. President, will the Senator yield to me?

Mr. JAVITS. I yield to the Senator from Colorado.

The PRESIDING OFFICER. The Senator has 2 minutes remaining.

Mr. DOMINICK. Mr. President, I am going to be brief and final. I think most of us already have our minds made up. The one point I want to make for the record is that from listening to those who are advocating the override of the President's veto one might think civilization was going to crumble if this bill did not pass in the exact way it is now worded. I think everyone here knows full well we are going to pass an OEO extension. The crux of the matter is not the life or death of OEO but rather a reasonable and fair poverty program—a program which can not be accomplished without some compromise. The people on the other side who are now asking us to override the President's veto have been unwilling to compromise such points of enormous significance, enormous significance to the children in this country, to the administration of our Government, and to the credibility and the ability of the American people as a whole. Without such compromise the empty promises of S. 2007 will serve only to widen the legislative credibility gap and increase constituent cynicism.

I hope we will sustain the veto so that we can work this bill out in a proper way.

The PRESIDING OFFICER. All time on the question has expired.

Under the previous order, the Senate will proceed to the question: Shall the bill pass, the objections of the President of the United States to the contrary notwithstanding?

Under article I, section 5 of the Constitution, the yeas and nays are required, and the clerk will call the roll.

Mr. JAVITS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state the parliamentary inquiry.

Mr. JAVITS. Is a "yea" vote a vote to override the President?

The PRESIDING OFFICER. That is correct.

Mr. JAVITS. And a "nay" vote is to sustain the President?

The PRESIDING OFFICER. That is correct.

The Clerk will call the roll.

The legislative clerk called the roll.

Mr. BYRD of West Virginia. Mr. President, on this vote I have live pairs with the Senator from Maine (Mr. MUSKIE) and the Senator from Oklahoma (Mr. HARRIS). If Senators MUSKIE and HARRIS were present, they would vote "yea." If I were permitted to vote, I would vote "nay." I therefore withhold my vote.

Mr. BYRD of West Virginia. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from Georgia (Mr. GAMBRELL), the Senator from Alaska (Mr. GRAVEL), the Senator from Oklahoma (Mr. HARRIS), the Senator from Louisiana (Mr. LONG), and the Senator from Maine (Mr. MUSKIE) are necessarily absent.

I further announce that, if present and voting, the Senator from Georgia (Mr. GAMBRELL) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Utah (Mr. BENNETT) and the Senator from South Dakota (Mr. MUNDT) are absent because of illness.

The Senator from Arizona (Mr. GOLDWATER), the Senator from Illinois (Mr. PERCY), the Senator from Maine (Mrs. SMITH), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

If present and voting, the Senator from Maine (Mrs. SMITH) would vote "nay."

The yeas and nays resulted—yeas 51, nays 36, as follows:

[No. 451 Leg.]

YEAS—51

Bayh
Bentsen
Bible
Boggs
Brooke
Burdick
Cannon
Case
Chiles
Church
Cranston
Eagleton
Fong
Fulbright
Hart
Hartke
Hatfield
Hollings
Hughes
Humphrey
Inouye
Jackson
Javits
Jordan, N.C.
Kennedy
Magnuson
Mansfield
Mathias
McClelan
McGee
McGovern
McIntyre
Metcalf
Mondale
Montoya
Moss
Nelson
Pastore
Pell
Proxmire
Randolph
Ribicoff
Schweiker
Sparkman
Spong
Stafford
Stevens
Stevenson
Symington
Tunney
Williams

NAYS—36

Aiken
Allen
Allott
Baker
Beall
Bellmon
Brock
Buckley
Byrd, Va.
Cook
Cooper
Cotton
Curtis
Dole
Dominick
Eastland
Ellender
Ervin
Fannin
Griffin
Gurney
Hansen
Hruska
Jordan, Idaho
Miller
Packwood
Pearson
Roth
Saxbe
Scott
Stennis
Taft
Talmadge
Thurmond
Tower
Young

PRESENT AND GIVING LIVE PAIRS, AS PREVIOUSLY RECORDED—1

Byrd of West Virginia, against.

NOT VOTING—12

Anderson
Bennett
Gambrell
Goldwater
Gravel
Harris
Long
Mundt
Muskie
Percy
Smith
Weicker

The PRESIDING OFFICER. On this vote the yeas are 51, and the nays are 36. Two-thirds of the Senators present and voting not having voted in the affirmative, on reconsideration the bill fails of passage.

ADDITIONAL STATEMENTS

THE INDIA-PAKISTAN WAR

THE ISSUES

Mr. SCOTT. Mr. President, the policy of this administration toward South Asia must be understood. It is neither anti-Indian nor pro-Pakistani.

Americans through all administrations in the postwar period have felt a commitment to the progress and development of India.

India is the most populous free country in the world. It is the world's largest working democracy.

The American people in the postwar period have contributed some $10 billion to the progress and development of India.

Last year in this administration, India received from all sources $1.2 billion for development assistance. Seven hundred million dollars of that came from the United States in various forms.

In short, the United States has always recognized that the success of India's democratic experiment would be of profound significance to many countries in the underdeveloped world.

The issue today is not opposition to India but opposition to the use of armed forces across borders to change the political structure of a neighboring state.

There is no question that the events in East Pakistan since March 25 require a political solution. The position of the United States has been that any solution must be worked out between the people of East and West Pakistan. The United States has not supported the particular solution that was attempted in March. The United States has also recognized that events there—principally the influx of refugees into India—imposed a substantial burden on India. We have recognized that it imposed a strain on the already scarce economic resources of that developing country and created the danger of communal strife there.

U.S. STRATEGY

What has been the administration's strategy? The United States has attempted two efforts simultaneously:

On the one hand, the administration has made a major humanitarian effort, first, to ease the suffering of those refugees who had already fled their homes; and second, to avert the possibility of famine in East Pakistan which could have created more refugees.

On the other hand, we have attempted to bring about a political resolution of the conflict which caused the refugees to leave their homes in the first place.

The United States recognized that the time required to bring about a political evolution would be longer than the time required to alleviate the immediate suffering of human beings and also might be longer than the Indian capacity to withstand the pressures generated by the refugees.

HUMANITARIAN

Nevertheless, the President directed an all-out effort to cope with the humanitarian problem: first, because of the simple human need to alleviate suffering; and second, the necessity to lessen the political pressures generated by the refugees in order to buy time for the necessary political evolution.

We committed $90 million for the support of the refugees in India and $155 million to avert famine in East Pakistan.

[NOTE.—The problem in India was to care for upward of 5 million refugees during this period. The problem in Pakistan was to avert famine for a province of 60 to 70 million people.]

The President requested the Congress to appropriate under the Foreign Assistance Act an additional $250 million to continue this work. He made clear that this would be supplemented by food shipment as necessary.

In short, the United States has committed or has in prospect some $500 million for the relief of refugees already in India and to prevent more refugees from coming into India, and to create a framework within which normal political and administrative life could return to East Pakistan.

This humanitarian effort by October had assured that there would be no provincewide famine in East Pakistan. There would be no new flood of refugees from hunger.

DEVELOPMENT ASSISTANCE AND MILITARY AID

At the same time, the administration did not support what was done in East Pakistan.

No new development assistance has been committed to Pakistan since March. All of the economic assistance committed has been for the purpose of relief in East Pakistan.

The administration also began the prospect of restricting military supplies immediately after the outbreak of fighting in March. The United States immediately suspended the issuance of any new licenses for munitions list exports and stopped the shipment of military supplies out of American depots that were under American governmental control. It stopped renewing old licenses. This immediately ended the prospect of some $35 million worth of arms in early April. In the months that followed old licenses progressively expired until the pipeline was dried up at the end of October. During these intervening months only some $5 million worth of spare parts were shipped to Pakistan on old licenses in commercial channels. There was no lethal equipment involved.

POLITICAL

As has been said, the administration recognized that the problem was essentially one of political evolution. There were limits on what an outsider could achieve in this field because the problem was essentially an internal problem of Pakistan. The United States did not make any public declarations of its views on the kind of political settlement required, because the United States wanted to retain influence both in New Delhi and in Islamabad to bring about a political settlement that would enable the refugees to return.

RALPH J. BUNCHE

Mr. JACKSON. Mr. President, I know I share the feelings of peace-loving people the world over when I express my sorrow at the death of Ralph Bunche. Dr. Bunche's service to the United Nations proved how a true commitment to peace goes beyond a mere penchant for talking about peace. Indeed, his persistent and painstaking efforts outside the glare of publicity have become the standard for the great servants of the international community.

Diligence was the enduring theme of Ralph Bunche's life. In his youth, he overcame the death of his parents and his own meager circumstances to pursue a distinguished academic career. As a professor at Howard University and then as a collaborator with Gunnar Myrdal in the classic study of black America, he made outstanding contributions even before becoming a diplomat.

During the Second World War he served as a political analyst in the War Department and then as head of the State Department's office dealing with colonial affairs. He was directly involved in the initial planning for the United Nations.

Thus when he joined the United Nations Secretariat, he already had deep knowledge of countries soon to gain independence, and of the new world organization itself. His understanding and sympathy gained him the confidence of a new generation of leaders. This, I believe, was one of the major attributes which allowed him to play the major role in ending the fighting in postwar Palestine. The Nobel Peace Prize he received for that effort was truly well earned.

In the years that followed, he continued to take on the most difficult of international problems. Because he never despaired, incalculable violence was averted. Even when his health began to fail, he still persisted in his vital work.

I would add but one final note. Though his work brought him international respect, Dr. Bunche and his family all too often had to endure the slights of some of his fellow Americans. He understood this phenomenon for what it was, never allowing it to prevent him from going about his business.

He had the rare ability to see things the way they really were. He was consistently shrewd but not cynical, and he retained his faith in the basic goodness of man.

THE WORTH AND DIGNITY OF THE HUMAN BEING

Mr. FANNIN. Mr. President, too often in this fast-paced world where even the most common and seemingly simple tasks and operations of everyday life are blurred and confused, computerized and bureaucratized, the worth and dignity of the individual human being seems harshly and unfairly pushed into the background.

Too often we overlook or take for granted the distinguishing qualities which set one individual apart from another: the simple acts of compassion, the always available helping hand, the personal creed which calls for emulation.

Last week in Phoenix, Ariz., Mr. Thurman L. Johns, Jr., died prematurely of a heart attack at the age of 45, and, in his passing, Arizona and America lost a citizen who was a great respecter and defender of human rights and the dignity of the individual.

Mr. Johns, known as Johnny, was a reporter for the Phoenix Gazette, and was widely known and respected by all whose lives were enriched by his friendship.

Johnny Johns was an American who did not take freedom lightly, nor was he a sunshine patriot. He was a combat marine veteran of both the Pacific campaign in World War II and the Korean conflict. He was a newspaperman's newspaperman, and he was a devoted husband to Kathryn, and a kind and understanding father to Randy, Ricki, and Robin.

Mr. President, I ask unanimous permission to have printed in the Record two newspaper columns which are fitting tributes to an individual who was a great man in his small way. One of the columns was written by Mr. Orien Fifer, of the Phoenix Gazette; the author of the other is Mr. Paul Dean, of the Arizona Republic.

There being no objection, the items were ordered to be printed in the Record, as follows:

The Man Knew His Poker, Too

He loved to play poker—and he was pretty good at it.

The games in which he participated were of the friendly variety—nickel, dime and two-bit stuff—mostly with friends.

It was his one means of recreation after long days of toil amid the sordid or exciting, or both.

I'll always remember the one time he really bluffed me on one of my infrequent participations. I hadn't played with the bunch more than a couple of times, so I didn't know how they bet.

He was dealing, and when I peeked at my hand in draw poker I had two big pairs. I opened, and two or three other guys called.

Then he stood pat—didn't want any cards at all. We all drew, but didn't help.

You couldn't tell by his expression whether he really had a full house, a straight or a flush.

Naturally I wasn't about to bet into a pat hand, so I checked. So did the others.

Then he tossed in a couple of quarters with all the confidence of a riverboat gambler.

I didn't call.

He scooped in the pot, grinned and showed his hand. He had two little pairs, much smaller than the two I had held.

I shrunk down in my chair, and everybody laughed.

It hadn't been too costly a lesson, but it was one that typified his skill.

He was a hard worker, a chap who knows the ropes of his job almost as well as the professionals with whom he had daily contact.

Ask him a favor, and he'd go at it immediately.

I had occasion to ask him for one last week, and there wasn't a moment's hesitation. Then we started talking poker.

He said he had been in Las Vegas and had sat in on one of those steeper games where the house does all the dealing.

Those in the game were strangers.

"One of them," he said, "was an old woman who was using her pension check money. She was sharp. If she bet you knew she really had 'em.

"Another guy was half drunk, and he was losing money right and left, swaying around in his chair.

"Two others were professionals. I could tell that. Of course it took me about 25 minutes to find out how each of them played, and at the end of that time I was down about $30."

He sat and sat and sat, and at the end of a marathon session lasting several hours he came out ahead $3.

I forgot to ask him if he had pulled one of those monumental bluffs like he had worked on me.

He was quick, fast talking, and nobody ever wondered how he stood on any issue. He was outspoken in his own salty way.

I sat on some boards with him, friendly gatherings with nothing earth shaking accomplished.

Every once in a while he would come into the office with a sack full of produce obtained from his father's fields. He'd give it away.

His desk was only 10 feet from mine, and he was my friend.

Perhaps this is not the best way to pay tribute to him, but in my book a good poker player is a man's man.

Finally, though, Johnny Johns ran into something he couldn't bluff.

It was death.

Johnny Johns Made His Mark in Best Way

Man lives but never knows the admirable scratches his life is creating.

Neither money earned, nor money spent, is a measure of life. Social position is the shakiest indicator of human achievement. Power doesn't mean stature, respect is often the erstaz byproduct of fear.

Only when a life is done and a man has gone does his stature become apparent. Maybe this is for the good.

Johnny Johns, an ordinary guy, a journeyman police reporter for The Phoenix Gazette, was bright enough to know all these things.

He had a little man's hustle. He believed ability was demonstrated by performance, not scholastic accreditations on pieces of framed parchment. And he was modest enough to talk himself down.

Eight years ago I was a new hand in a new town. Johnny's byline was a Phoenix fixture.

"But I just do my job, pick up my check and go home," he told me. "I'm not a world beater, never will be, but I keep plodding along. If you take your time from me, it's your funeral."

Johnny plodded along until last week. He died of a heart attack, prematurely, at the age of 45. He was buried on blustery Wednesday. It was his funeral.

And this town, from municipal suites to Damon Runyon back alleys, paused in its afternoon to say goodby to Johnny Johns.

Hundreds came to A. L. Moore & Sons Mortuary near the West Adams heart of Johnny's news territory. Memory Chapel was crammed, and even early arrivals found only wooden chairs at the rear. A second chapel was opened with closed circuit television relaying the service. Its back corridor was filled.

Federal judges and a justice from Arizona's Supreme Court came to mourn this man. Also the owner of a downtown pawn shop. Bob Macon, former boss, now press secretary to Gov. Williams, was there. So was a tattered old guy breathing fumes he picks up daily at Tom's Tavern a block away. What forgotten favor was he repaying?

Police Lt. Ed Langevin, the officer Johnny called "Glancy" read an obituary he had written for his friend.

Paul Blubaum and Larry Wetzel, Phoenix police chiefs past and present, looked at Johnny's closed casket but remembered his true image from the smiling photograph his widow, Kathryn, had asked be placed on the casket.

They prayed in silent line with senior officers from the Arizona Highway Patrol, the Maricopa County Sheriff's Office and the Department of Public Safety. Johnny's pallbearers were uniformed Phoenix police officers and a DPS captain. His graveside escort was from the Marine Corps he had served on Iwo Jima and in Korea.

The newsmen Johnny had worked with, and many crime reporters he had competed against, were there. Attorneys. Television cameramen. Sports writers. Retired police officers. Public relations men. City editors, assistant managing editors, picture editors, columnists. Close family friends. Old poker playing buddies. One man who said: "I didn't know him but used to read his stories all the time."

This crowd filled more than 60 cars for the rainy, headlighted procession to Greenwood Memorial Park.

Maybe a few were there because Johnny had been cheated at his peak, harshly, unexpectedly. It could happen—to us.

But nobody was there because their names, scribbled on mortuary sympathy cards, might be some comfort to a family.

They attended because Johnny had achieved. Johnny died respected. Johnny had made his life's mark the best possible way. As an honest, concerned professional.

And few had really seen it before.

THE BLACK AMERICAN TODAY

Mr. HUMPHREY. Mr. President, statistics are now at hand to indicate the significant areas of progress achieved by the black people of America over the past decade. Fundamentally, these important advances are the result of their own determination and ability—they are both the product and the foundation of black pride across our Nation. They also reflect the impact of laws enacted and implemented under previous national administrations during the 1960's, designed to firmly establish equal rights and opportunities for all Americans. And I shall always count it an honor to have been privileged to be directly involved in these legislative and administrative actions.

But what these figures also make abundantly clear is that we have a long way to go in translating the hopes, the promises, and the laws of equal opportunity into full reality. I firmly believe that the Federal Government must make an absolute and sustained commitment to accomplishing this goal within the present decade. This will require firm national leadership—not the present uncertain approach of compromise and delay, and of promises that are not borne out by performance.

The need for decisive leadership is emphasized by the fact that for every statistical gain in the black community over the past decade, there has been a remaining or widening black-white gap, or an offsetting rise in related problems. Significant improvements in median income and employment among black families must be balanced against an increased gap between black and white families in actual dollar earnings, and an unemployment rate among blacks that is substantially higher than among whites.

A major increase in young adult blacks completing high school and enrolling in college still leaves the proportion of black teenagers falling behind their grade level at three times higher than among whites, and black students accounting for only 7 percent of total college enrollment in 1970.

And while nonwhite employment in professional and technical occupations more than doubled over the last decade, blacks in the major high-wage industries still have only 1 percent of the top paying positions.

Despite significant gains in homeownership among blacks, and in the quality of that housing, black families are still occupying a disproportionate share of the substandard housing across America.

Infant and maternal mortality rates have dropped sharply among nonwhites over recent decades. But while the proportion of blacks seeking a physician's services is similar to that among whites, black families far more frequently must depend upon obtaining these services in a hospital clinic. And the life expectancy rate for nonwhites has declined slightly over the past decade, and they have a higher rate of disabling illnesses.

Perhaps the most disturbing indicator is the sharp rise in family instability among blacks. The birth rate has continued to decline, but too often children are not living with both parents, and the mother must bear the full responsibilities of the head of household.

A second critical problem area is evident in the statistic that there are only 322,000 minority enterprises—less than 4 percent of America's business firms, and accounting for less than 1 percent of total business receipts.

But there has been decided progress in the involvement of blacks in the electoral process, particularly in the South. Three out of five adult blacks are registered to vote today. And there are some 1,900 black elected officials serving in all levels of government.

These are some of the highlights of the statistics currently available on the black American today. My office has prepared a summary analysis of these statistics, based primarily on the report entitled "The Social and Economic Status of Negroes in the United States, 1970," prepared jointly by the Bureau of the Census, U.S. Department of Commerce, and the Bureau of Labor Statistics, U.S. Department of Labor, and issued in July, 1971—BLS Report No. 394; Current Population Reports, Series P–23, No. 38. Another important reference is the analysis by Michael J. Flax, entitled "Blacks and Whites—An Experiment in Racial Indicators," and published by the Urban Institute. Indicators on trends in minority enterprise were drawn from various magazine articles.

Recognizing that statistical truth rests largely in the eye of the beholder, the effort has been made in this analysis to present only the more relevant indicators, at the risk of incompleteness, and to present a balanced assessment of progress and serious problems within the black community.

Mr. President, I ask unanimous consent that the summary analysis be printed in the Record.

There being no objection, the summary was ordered to be printed in the Record, as follows:

The Black American Today: Changes Over the Past Decade

1. POPULATION

a. Over half of America's black population (53%—down 7%) still lives in the South, but there has been a continued net annual out-migration of 147,400 (similar to 1950–60). About 39% of the Negro population is located in the North (up 5%, and 8% in the West (up 2%).

b. The black population has grown at a faster rate (20%) than the white (12%), and now stands at 11% of total population But by 1970, three of every five blacks lived in the central city of a major metropolitan area—and blacks constituted more than half the population of Washington, D.C.; Newark, N.J.; Gary, Ind.; and Atlanta, Ga. The urban compaction of blacks has far outweighed their movement to the suburbs, while the white migration to the suburbs has continued to accelerate.

2. INCOME

a. Median black family income has jumped 50% to $6,279. This rise brought the median income of black families up to 61% that of whites—closing the gap, in terms of rate of increase, by 7% in only six years. (Previously, the level had been static at about 54%.) However, with the percentage increase in white family income being based on a higher income-level at the outset than that of the non-whites, the actual dollar gap, adjusted for inflation, between median non-white and median white family income increased from $3,251 in 1960 to $3,603 in 1970.

b. The proportion of non-White families whose income purchasing power (in 1969 dollars) exceeded $10,000, rose sharply from 9% in 1960 to 24% by 1970—a 267% jump. The proportion of white families earning more than $10,000 rose from 27% in 1960 to 49% in 1969—up 181%.

c. Over half of all blacks lived in poverty in 1960. By last year that proportion had declined to about one-third. The proportion of whites below the low-income level dropped from 18% to 10% over the same period. But in absolute numbers, this rate means that 5 times as many whites as blacks climbed out of poverty over the past decade, with the result that 31% of America's poor today, are black, compared with 26% in 1960.

3. EDUCATION

a. In 1970, 56% of all young adult blacks 25 to 29 years old had completed high school, compared with 38% 10 years ago. By 1970, about 17% had at least one year of college. Young black enrollment in college almost doubled over the last five years, but it accounted for only 7% of total college enrollments in 1970. The proportion of blacks enrolled in college (one in six) is about half that of whites.

b. Functional illiteracy (less than 4 years schooling) among blacks over age 45 stands at 9%, but it is less than 1% among blacks aged 14 to 24. But in 1970, about 1 of every 7 black teenagers (aged 14 to 19) dropped out of school. And in 1970, the proportion of black high school age students who were two or more years below their modal grade (15.3% of males and 10.2% of females) was about three times that of white students.

4. WELFARE: FACT VERSUS MYTH

a. In 1969, the majority of people below the low-income level did not receive public assistance or welfare payments. In that year, about 45% of the low-income Negro families and about 21% of low-income white families received public assistance.

b. Six out of every ten Negro men, and five out of every ten white men, who were heads of low-income families, were employed.

c. 4.3 million non-whites (17%), and 6.5 million whites (4%), received public assistance.

5. EMPLOYMENT

a. Over the last decade, total employment of Negro and other races increased 22 percent (or 1.6 million). But white employment increased 19 percent, or 11.3 million.

b. Non-white employment in professional and technical occupations more than doubled (131%). There were substantial gains in non-white employment in sales (77%), managerial (67%), clerical (121%), and craft (67%) occupations.

c. The number of non-whites in private household, labor, and farm work declined, but at the end of the decade about two-fifths of men of Negro and other races remained in these occupations, a much greater proportion than for white men in these jobs.

d. "Reports to the Equal Employment Opportunity Commission from the largest companies in the nine industries in which worker earnings are relatively the highest, indicate that the proportion of Negroes in the highest paid jobs as professional, technical, and managerial workers is far below their proportion in the total labor force.[1] Even in industries where Negroes are a large part of the labor force, they tend to hold only a small share of the highest paid jobs in large companies.[2] The Negro share of craft jobs is also fairly small, but in other middle pay level occupations their share is generally higher."

e. Blacks were 15% of all Federal Government employees in 1970, compared with 13% in 1965. However, they held only 3% of the higher grade jobs under the Federal Classification Act, 4% of the higher grade Postal Field Service jobs, and less than 10% of the Wage Systems (blue-collar type) jobs paying $8,000 and over in 1970.

f. The unemployment rate for non-whites as well as whites declined continually in the 1960's (although non-white unemployment remained double that of white). The sharp increase in unemployment in 1970 resulted in a non-white rate of 8.2% (versus 4.5% for whites.) Non-white teenage unemployment reached 29.1% (versus 13.5% among white youth—a rate almost identical to that of 1960). In 1970, the unemployment rate for Vietnam veterans of Negro and other races under 25 years old was 15%, and 7.5% for 25 to 29 year olds. Black teenage unemployment in the depressed areas of America's largest cities was estimated to have reached 41.2% in the spring of 1971.

6. HOUSING

a. The rate of black homeownership increased over the past decade. In 1970, two of every five housing units occupied by Negroes were owned by the occupant, compared with about 2 in every 3 occupied by whites. Non-white homeownership rates in 1970 were higher outside the central cities. (Total housing units occupied: Black—6.2 million; white—57.2.)

The more marked increases in Negro homeownership occurred in the North Central and South Regions.

b. There was a significant improvement in the condition of housing occupied by black families. Two of the 5 units occupied by non-whites in 1960 lacked some or all plumbing facilities; but this declined to 1 in 6 units occupied by blacks in 1970. However, Negro occupied housing units lacking basic plumbing continued to comprise a disproportionate share of all such occupied housing—almost 3 out of 10 of these substandard units, although blacks lived in only about 10% of the total occupied housing in the Nation in

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[1] 1% of higher paid jobs; 17% of lower paid jobs—in these nine industries where Negroes represent 8% of total employment. (1969.)

[2] 7% of higher paid jobs; 28 percent of lower paid jobs.

1970. This disparity was greatest in the nonmetropolitan areas, and in the South.

c. Black households owning two or more automobiles rose 3.1% between 1967 and 1970 (to 13.4%)—compared with a 2.2% rise in white households (to 31.0%). Negro householders owning color TVs rose from 6.5% to 17.4%—compared with an increase from 18.7% to 40.1% in white households.

7. HEALTH

a. Infant and maternal mortality rates for both Negro and other races and whites have dropped sharply in the past decade. Non-white infant deaths dropped from 26.9 (1960) to 23.0 (1968) per 1,000 live births; and maternal deaths declined from 1.0 to 0.6 (per 1,000 live births). The mortality decline was even sharper in comparison with 1940: 7.6 non-white maternal deaths and 39.7 non-white infant deaths, per 1,000 live births.

b. In 1969, the proportion of non-whites who made one or more visits to a physician was similar to that of whites. The percentage was 59.5 among families with an income range of $3,000 to $5,000 (vs. 68.8% of whites); but increased to 66.6% among non-white families whose income was in the $7,000 to $10,000 range (vs. 69.8% of whites). However, non-whites were more likely than whites to obtain a physician's care in a hospital clinic: Among lower-income families—21.5% (vs. 12.0% among whites); and among middle-income families—15.2% (vs. 8.1% of whites).

c. Non-white life expectancy for all age groups in the prime working years has declined slightly in the period 1960–68, and the gap has widened slightly in comparison to the life expectancy of comparable white age-groups. In 1960, a black aged 25 had a life expectancy of 43.1 more years—5.2 years less than his white counterpart. In 1968, this life expectancy had declined to 42.6 years, and the non-white—white age gap had increased to 6 years.

d. In 1969, persons of Negro and other races had a higher incidence of disabling illnesses than whites. Non-white restricted activity days averaged 15.7 (vs. 14.6 for whites); 7.2 bed disability days (vs. 5.9 among whites); and 7.1 work-loss days (vs. 4.9 for whites).

8. FAMILY

a. Fertility rates for all races have declined sharply since 1961, although the non-white fertility rate continues to surpass that among whites. In 1968, there were 115 non-white live births per 1,000 women (aged 15 to 44)—the same rate as for whites in 1958; while the white birth rate was 82.

b. The birth rate among women of all races has been inversely proportional to their level of education and to their working status.

c. In the late 1960's the expected size of a completed Negro family (wife aged 30 or beyond) was 4 children, compared with 3 for a completed white family. However, both white and Negro women now in their twenties expect to have fewer children than women now in their thirties.

d. The number of non-white families headed by women has increased sharply between 1960 and 1971—rising from 0.9 million to 1.6 million non-white families (compared to an increase from 3.3 million to 4.4 million white families). In 1971, almost 3 out of every 10 non-white families are headed by a woman—compared with less 1 out of every 10 white families. Approximately half of all Negro women who are family heads are separated or divorced from their husbands.

e. While at family income levels of $10,000 to $15,000, nearly all children live with both parents in black as well as white families, the proportion drops sharply for families with incomes under $3,000—only about 24% of Negro and 44% of white children in families in this income group lived with their parents in 1969. Almost two-thirds of children in families headed by Negro women were in low-income families in 1969.

f. While the number of illegitimate births of Negro and other races per 1,000 unmarried women is much larger than the number for whites at every age level, it is significant that the overall non-white rate (except for the 15 to 19 year old group) declined substantially between 1960 and 1968 (for example, from 171.8 to 104.4 illegitimate births per 1,000 unmarried non-white women aged 25 to 29 years), whereas the white rate rose for each age group during the same period (for example, from 18.2 to 22.1 in the same 25–29 age group).

9. ARMED FORCES

a. On March 31, 1970, blacks made up 10% of the Armed Forces and 10% of those serving in Southeast Asia, but 13% of those who died in Vietnam combat (January, 1965 through December, 1970).

b. In 1970, 2% of all officers in the Armed Forces were black, but 11% of the enlisted men were black.

c. 14% of all blacks drafted into the Armed Forces who were eligible reenlisted in 1970 after their first tour of duty, compared with 9% of eligible white draftees. The reenlistment rate for young servicemen, who had initially enlisted into the Armed Services, was also much higher for blacks than for whites.

10. VOTING AND PUBLIC OFFICE

a. About 7 million Negroes, or 61% of all Negroes of voting age, reported that they had registered to vote in 1970—a 10% increase over 1966, but a rise of only 1% in relation to the total increase in non-white voting age population during this period. Basically, the black registration increase in the South was offset by a proportional decline in the North and West in relation to total non-white voting age population. But over the same period, the percentage of whites registered to vote dropped from 72% to 69%.

b. Voter participation in Congressional elections by blacks rose slightly between 1966 and 1970—from 42% to 44%. The increase in the proportion of blacks going to the polls in the South was somewhat more significant—rising from 33% in 1966 to 37% in 1970. White voter participation remained higher than for blacks in all areas of the country—the overall rate remaining virtually stable at 56%.

c. There has been a significant increase in the proportion of blacks elected to public office within the past decade. In 1962, there were only 4 black Congressmen. Today there are 13 black Congressmen and one Senator. And the number of blacks elected to State legislatures has increased from 52 to 198. There are now 81 black mayors and 1,567 blacks elected to other State or local offices—about half of them in the South. (The South, which had 53% of the black population in 1970, had 35% of the black State legislators, 58% of all black mayors, and 49% of other black elected officials.)

d. Most of the 1,900 black elected officials in the United States hold offices at the city level or hold law enforcement and educational type positions. The States with the largest number of black officials are Michigan, New York, Alabama, Illinois, and Ohio (all having at least 100 black elected officials).

11. MINORITY ENTERPRISE

a. Blacks today own only about 163,000 of the nearly 5 million small businesses in the United States. These are primarily in the service and retail trades and are very small. Primary problems confronted are undercapitalization and a need for management and technical assistance.

b. Minority groups now own about 322,000 business firms, about 4 percent of the total number of American enterprises. They account for only seven-tenths of one percent of the total business receipts in this country.

c. There are still only a handful of black-owned radio stations, no black-owned TV stations, and only a few black-owned newspapers of any size.

d. No additional black-owned insurance companies have been created in recent years; and there are still only a few minority investment banking institutions.

e. In 1969, dollar receipts for minority construction contractors totalled $947 million (half of which was accounted for by black contractors)—which was only one percent of the total receipts for all firms at $92.3 billion.

f. One black owned investment firm (Daniels and Bell) has been admitted to membership on the New York Stock Exchange.

g. 40 black-owned banks are expected to be in operation by the end of 1971, compared with only 7 at the end of World War II.

ERROR BY NEW REPUBLIC MAGAZINE IN REPORT ON ARMS SALES TO GREECE

Mr. DOMINICK. Mr. President, in reviewing the RECORD for November 22, 1971, I came across an article inserted by the distinguished Senator from Oregon (Mr. HATFIELD) on page 42723. The article, reprinted from the New Republic of November 13, 1971, was entitled "Scrub It Up, Don't Wipe It Out" and dealt with the Senate's consideration of H.R. 9910, the Foreign Assistance Act of 1971.

The author, in discussing the Senate's action on the Allen amendment to strike the ban on arms sales to Greece, indicates the amendment was rejected 49 to 31, when, in fact, it was accepted 49 to 31. I point out this discrepancy, Mr. President, because in this vote the Senate reaffirmed its support for Greece and recognized that such restrictions placed on military aid the United States provides its NATO allies are unacceptable.

THE FEDERAL RECLAMATION ACT OF 1902

Mr. HARRIS. Mr. President, I invite to the attention of Senators a recent Federal court ruling of historic significance to this Nation. The ruling, made last week by Judge Murray in the United States District Court for the Southern District of California, upheld a residency requirement of the Federal Reclamation Act of 1902 which has never been enforced. The requirement states that absentee landowners are not entitled to receive federally irrigated water. The purpose of the Reclamation Act of 1902—which also includes a provision limiting federally irrigated landholdings to 160 acres, or 320 acres in the case of man and wife—was to assure that the benefits of Federal irrigation projects, paid for by the taxpayer, would accrue to economically viable homesteaders rather than land speculators or monopolists.

Unfortunately, because of corporate evasion and Government nonenforcement of this law, millions of acres of the richest agricultural land in this country are now held illegally by large landowners in the West. The effect of Judge Murray's decision, if upheld, would be to break up the holdings of the large corporations which now control almost two-thirds of the irrigated farmland in California's Imperial Valley. The Imperial Valley, with half a million acres of crops worth $250 million a year, is now the home of such corporate giants—with holdings of up to 12,000 acres—as United Fruit, Dow Chemical, Purex, Tenneco, and the Irvine Land Co.

Mr. President, it is long past the time to end the billion dollar water subsidies these giant corporations are receiving in violation of the law and at the expense of the independent farmer who is getting squeezed off the land. Judge Murray's decision is a welcome one for those of us who stand against the monopoly of our land and water by a few giant corporations and who stand for the rights of America's independent family farmers.

Mr. President, Judge Murray's decision probably will be appealed. We must therefore ask, Will this administration stand on the side of the large corporate interests or for the small homesteader? The administration's past record on this subject leaves me with little reason to believe the small farmer will receive adequate support. Already the Nixon administration and the Justice Department have decided not to appeal an earlier court decision involving the Federal Reclamation Act which favored the large landowners. In that decision, Judge Howard Turrentine, a Nixon appointee, ruled that the 160-acre provisions of the 1902 law do not apply to the Imperial Valley area in California.

Mr. President, the Justice Department never explained publicly why it failed to appeal Judge Turrentine's decision. Mr. Peter Barnes, the west coast editor of the New Republic magazine, wrote an extremely interesting article on this subject in which he mentions the Justice Department's inaction. A concerned reader of the New Republic, Mrs. Stephen Stover, wrote Solicitor General Griswold to find out why there has been no appeal. The Solicitor General's response to Mrs. Stover is very revealing.

His letter states, for the first time to my knowledge, the reasons for the Government's inaction, which meant, in effect, a decision that the Government, and small farmers, "should not win" the case. Mr. President, I ask unanimous consent to have inserted in the Record at the conclusion of my remarks a copy of Mr. Barnes' article in the New Republic, entitled "Water, Water for the Wealthy," a copy of the Justice Department's press release concerning its decision not to appeal the decision, and a copy of the Solicitor General's explanation to Mrs. Stover of the Department's decision. I also have, to be printed in the Record, a copy of a letter to the Solicitor General from Prof. Joseph L. Sax of the University of Michigan Law School in which he challenges the Solicitor General's explanation of the Justice Department's decision. Professor Sax is perhaps the Nation's leading expert on water law.

Mr. President, it is inconceivable to me that this "law and order" administration would fail to enforce the 1902 reclamation law, and then fail to appeal a Federal court decision on the law when that decision favored large corporate landowners. Yet that is what has happened, Mr. President. And now we are faced with the distinct possibility that, unless the Congress speaks out clearly in support of America's family farmers, this administration will appeal a related case which rules against the large landowners. It is no wonder that small farmers are dissatisfied with the Nixon administration; it is apparent that their sympathies lie with the corporate giants that are driving small farmers off the land.

Mr. President, I introduced, with Senators Bayh, Cranston, and Hart, a bill which would enforce the congressional intent respecting the Federal Reclamation Act of 1902. Now more than ever I think a bill such as this is needed. I ask unanimous consent to have it printed in the Record again with a copy of my remarks when I introduced it. I urge Senators to give it their careful consideration, and I invite their cosponsorship.

I also ask unanimous consent to have printed in the Record a copy of Judge Murray's decision upholding the residency requirement of the 1902 law.

There being no objection, the items were ordered to be printed in the Record, as follows:

[From the New Republic magazine, May 8, 1971]

Water, Water for the Wealthy

Not far to the east of the summer White House at San Clemente lies one of the most miraculous deserts in America, California's Imperial Valley. It's large (about 1¼ times the size of Rhode Island), hot (temperaures of 120° are not uncommon in midsummer), dry (total annual rainfall is barely three inches) and flat. It is also one of the richest agricultural areas in the world, producing $250 million annually of cotton, sugar beets, lettuce, alfalfa and other crops. What makes the Imperial Valley rich is water from the Colorado river, water brought through a network of dams and canals built by the federal government in the 1930s and '40s. Thanks to the imported water, what was once barren is now a grower's paradise, producing two or three crops a year.

This spectacular reclamation of desert wastelands would be an unblemished tribute to American enterprise were it not for an important fact: the beneficiaries are a small group of wealthy growers who hold most of their land illegally. Back in 1902, when Congress passed the Reclamation Act, it sought to assure that the benefits of federal irrigation projects would accrue to small homesteaders, not to land speculators or the holders of vast estates. The law stated unequivocally that landholders could receive federal water only for farms of 160 acres or less, and that in order to receive this water they had to live on, or very near, their land. In 1926 Congress strengthened the 1902 Act by providing that landholders owning more than 160 acres had to sell their excess land, at pre-irrigation prices, before they could receive federal water.

The railroads, land speculators and big ranchers have always opposed the Reclamation Act's anti-monopoly provisions, have never been able to persuade Congress to repeal them, and they've successfully got around them. Techniques of evasion have varied from region to region. Imperial Valley growers did it by persuading Herbert Hoover's Secretary of the Interior, Ray Lyman Wilbur, to sign a letter in 1933—days before the Roosevelt administration took over—expressing his opinion that the Imperial Valley was exempt from the 160-acre limitation. Wilbur's last-minute ruling was elicited by one of his aides through a typical special-interest ploy: the aide, who shortly thereafter became a paid consultant to Imperial Valley growers, convinced Wilbur to sign the letter without consulting the Interior Department's chief legal officer, who believed in enforcing the 160-acre limitation.

Wilbur's letter was merely an informal opinion, but it achieved the desired effect. Using the letter as its rationale, the Imperial Irrigation District (which distributes water and electric power in the Valley) for three decades bestowed its bounty upon landowners of all sizes and shapes, never forcing any one to sell his excess holdings. Today more than half the irrigated acreage in the Imperial Valley is held by owners of more than 160 acres, and two-thirds of it by absentees. Some of the holdings are as large as 10,000 acres; several belong to such agribusiness giants as Purex, United Fruit and the Irvine Land Company.

This concentration of rich, federally irrigated lands in the hands of a relatively few large landowners not only flies in the face of congressional enactments; it opens these landowners' bank accounts to vast unearned windfalls, all courtesy of the federal government and the taxpayer. The multiplicity of subsidies that accrue to the Valley's landowners is dazzling. First is the water subsidy. Hoover Dam, completed in 1935, cost $175 million; the All-American Canal, which carries water from the Colorado to the Valley, cost $30 million. Part of this mammoth investment comes out of the general treasury; the remainder is almost entirely repaid by electric power consumers in Los Angeles and other southern California cities.

Second is the labor subsidy. Between 1952 and 1964, million of *braceros* toiled in the Imperial Valley at wages lower than any others paid in America. Today thousands of Mexicans stream across the border each morning with blue or pink permit cards, compliments of the U.S. Labor Department. Their presence impedes the efforts to unionize farmworkers and keeps field wages below two dollars an hour.

Then there's the agricultural subsidy. The same federal government that spends millions to make the Imperial Valley fertile also pays millions to landowners not to grow crops. Thus: 500 large growers receive $11 million annually in farm subsidies, while 10,000 landless residents of the Valley must eke out an existence on welfare payments totaling less than $8 million.

By far the largest windfall is in the form of land appreciation. Irrigated land in the Imperial Valley is worth, conservatively, $700 an acre more than the same land would be worth without water. A landowner with 2000 acres thus gets a $1.4-million bonanza from the federal government, merely because his land is in the right place. The total land appreciation in the Imperial Valley attributable to the taxpayers' munificence exceeds a quarter of a billion dollars.

In short, it's quite a bubble: landowners in a once-desolate dust bowl reaping millions at the public's expense on acreage they never should have been allowed to hold in the first place. But it has been a precarious bubble, resting on the thin edge of nonenforcement of the Reclamation Act, and for a few brief years it appeared that the bubble might burst. In 1964 Interior Secretary Stewart Udall declared that Wilbur's letter was a mistake, and that the Interior Department would enforce the 160-acre limitation in the Imperial Valley. The large landowners were stunned. Political pressures were brought, but to no avail at the time. So the Imperial Irrigation District stalled; it refused to require growers to sell their excess land. The Interior Department could have cut off the district's spigot; it chose instead to seek a court order compelling the district to apply the law. The case dragged on for years. Last January a Nixon-appointed federal district judge in San Diego ruled in favor of the large landowners; he upheld Wilbur's letter and rejected Udall's reversal. At that point the dispute became political: would the Nixon administration appeal the district judge's decision—a decision involving a vital principle of agrarian democracy, millions of the taxpayers' dollars, and the important question of whether executive department heads can blithely evade congressional policy? Or would the Administration, as the large landowners urged, allow the lower court decision to stand unchallenged?

Politically the landowners now had some powerfully placed friends: Governor Ronald Reagan, who strongly opposes acreage limit enforcement; Democratic Senator John V. Tunney, who supported the landowners' interests when he was a congressman from the Imperial Valley and continues to do so as a senator; Rep. Victor Veysey, the Republican who succeeded Tunney in the House; and not least of all, Richard M. Nixon, who assured Imperial Valley growers in 1949 when he ran for the Senate against Helen Gahagan Douglas that he would fight against acreage limitation.

Arrayed against this constellation of power, the small farmers and landless residents of the Imperial Valley—not to mention the hardpressed federal taxpayers—didn't have much of a chance. The California AFL–CIO, the National Farmers Union and a few other organizations urged appeal of the district court decision, but these are not the voices Nixon listens to. When it became apparent that the Administration would permit the lower court judgment to stand, 123 landless persons in the Valley, mostly Mexican-American farmworkers, sought to carry on the appeal themselves. The same judge who originally ruled in favor of the landowners turned them down on the grounds that because they were too poor to own land, they had no interest in the case. Finally, the 60-day period for filing an appeal expired.

Who in the Administration made the decision to preserve the Imperial Valley bubble, and why? Interior Department Solicitor Mitchell Melich says his department—with the approval of Secretary Rogers Morton—recommended that no appeal be taken because "we agree with the Wilbur letter." Anyway, the Wilbur letter had been sanctified by 30 years of administrative practice; it was unfair for Udall to change the ground rules so late in the game, even if the ground rules were illegal (which Melich insisted they were not). Over in the Justice Department, which apparently made the final decision not to appeal, officials have been more evasive. Solicitor General Erwin Griswold took responsibility for the decision, but refused to talk to the press about it. Other Justice Department lawyers involved in the case also refused to talk; they referred all inquiries to a public information spokesman, who of course had nothing to say.

The Administration's action—or rather conscious inaction—means that subsidized water, subsidized labor and subsidized crops in the Imperial Valley will continue to be monopolized by a few wealthy landowners. Moreover, the market value of their land will rise now that the threat of acreage limitation has been lifted, and small farmers, who have a hard enough time keeping up with the leviathans, will be squeezed even more. Had the growers been required to sell their land in excess of 160 acres at pre-water prices, the appreciation brought about by federal expenditures might have accrued to some of the less affluent residents of the Valley, and to the public itself.

Nixon's inaction will also cause million-dollar ripples outside the Imperial Valley. The San Diego decision against the 160-acre limitation now stands as a legal precedent; growers and speculators in other reclamation areas will use it to protect what they're already accumulated and to get their hands on larger holdings of both land and water. The Irvine Land Company, for example, which holds 10,000 acres in the Imperial Valley, owns 130 square miles in Orange County, an area that also relies on imported Colorado river water. Enforcement of the 160-acre limitation or the residency requirement would instantly wipe out the speculative gains of the Irvine Company, the Southern Pacific Railroad, Standard Oil of California, Tenneco and dozens of other giant landholders in the West. The Justice Department says that its decision not to pursue the Imperial Valley appeal has no bearing on these other vast holdings. Clearly, though, it does. It means that none of these enormous land profiteers need worry as long as Richard Nixon is in the White House.

PETER BARNES.

DEPARTMENT OF JUSTICE

Solicitor General Erwin N. Griswold announced today that the Department of Justice will not appeal a U.S. District Court decision holding that land limitation provisions of reclamation law do not apply to privately owned lands in the Imperial Valley irrigation district of southern California.

Judge Howard B. Turrentine of San Diego issued the ruling on January 5, 1971, in the Justice Department's 1967 suit against the Imperial Irrigation District.

The deadline for appealing the decision to the U.S. Court of Appeals for the Ninth Circuit was tomorrow. The Department of the Interior has recommended against an appeal.

In making his determination, Solicitor General Griswold stressed that his decision related only to the situation in the Imperial Valley.

"The decision does not in any way affect the Government's position with respect to reclamation projects in other areas where different facts are involved," he said.

At the request of the Interior Department, the Justice Department had filed the civil suit seeking a declaratory judgment that the 160-acre limitation applied to private land holdings in the Imperial Irrigation District.

OFFICE OF THE SOLICITOR GENERAL,
Washington, D.C., June 1, 1971.

Mrs. STEPHEN L. STOVER,
Manhattan, Kansas.

DEAR MRS. STOVER: Your letter of May 28 has reached me this morning. Until it came, I had not seen the article in the New Republic. You are the first one who has brought it to my attention. I have now located a copy of the issue of the New Republic for May 8, 1971, and have read the article with interest.

As so often happens in these matters, it is a one sided presentation of a rather complicated situation. You would not know from the article, for example, that the project for the irrigation of the Imperial Valley was started about 1900 and was virtually completed by 1920, without any participation by the federal government. It was an expensive project, and it was natural that there were large land holdings there.

When the Imperial Valley was developed, the water from the Colorado River was brought in by a canal which ran for a number of miles through Mexico. This led to a number of problems. About 1930, in connection with the development of Boulder Dam, a new All-American Canal was built. This was entirely in the United States, and was undoubtedly an advantage for the Valley. However, the All-American Canal did not result in the reclamation of a single acre of desert land. After the All-American Canal was completed, there was no more land in cultivation in the Imperial Valley than there had been for many years before.

It is true that there is a provision in the reclamation laws which provides that when land is reclaimed through a federal project, land holdings cannot exceed 160 acres. However, as I have indicated, no land was reclaimed by the construction of the All-American Canal. It is, thus, a real question as to whether the acreage limitation in the reclamation laws is applicable to the Imperial Valley.

This question was considered and determined by the Secretary of the Interior, Ray Lyman Wilbur (previously President of Stanford University) in 1933, now more than 38 years ago. That determination was acted on, and relied on, for many years, and no question was seriously raised about it until about 30 years after Secretary Wilbur's decision.

Recently, the issue was submitted to a court, and the court decided that the acreage limitation does not apply to Imperial Valley. It then became my responsibility to decide whether an appeal should be taken from that decision. I considered the matter carefully and thoroughly, and over a considerable period of time. As a result of my consideration, I became convinced that (a) we would not win the case in the court of appeals, and (b) we should not win it. In this situation, I came to the conclusion that it was my duty as a responsible officer of the government not to authorize an appeal.

In making that decision, I issued a statement saying that my determination was applicable to the Imperial Valley only, since that was the only place that had this sort of a history. The statement by Peter Barnes in his article to the contrary is entirely without foundation. As I have indicated, my determination with respect to the Imperial Valley (and Secretary Wilbur's determination 38 years ago) was based on the fact that the Imperial Valley was fully developed long before any federal money was spent to build the All-American Canal. The federal project did not reclaim any land in the Imperial Valley. Thus, the determination with respect to the Imperial Valley has no application to other projects where there was actual reclamation of land as a result of the project.

Very truly yours,

ERWIN N. GRISWOLD,
Solicitor General.

SEPTEMBER 1, 1971.

Hon. ERWIN N. GRISWOLD,
Solicitor General of the United States, U.S. Department of Justice, Washington, D.C.

DEAR GENERAL GRISWOLD: Someone sent me a copy of a letter that went out under your signature, dated June 1, 1971, to Mrs. Stephen L. Stover of Manhattan, Kansas. The letter inquired about the position of the Justice Department in the excess land case involving the Imperial Valley in California.

As one who has written about the Reclamation Law, I was surprised to see in your letter the following:

". . . there is a provision in the reclamation laws which provide that when land is reclaimed through a federal project, land holdings cannot exceed 160 acres . . . . no land was reclaimed by the construction of the All-American Canal."

Occasionally one recalls the warnings he received in law school, among them the danger in paraphrasing statutory language. My recollection is that the excess land provision of the Reclamation Law, 43 U.S.C. Section 431, says:

> No right to the use of water for land in private ownership shall be sold for a tract exceeding 160 acres to any one land owner.

I recall no general provision in the law that limits the excess land law to land "reclaimed through a federal project," and if you examine the legislative history of the statute, you will recall that Representative Newlands, the sponsor of the Act, took no such view. 36 Cong. Rec. 6734 (1902). Of course a great many reclamation projects involve the supply of supplementary water to land already in cultivation. To the best of my knowledge it has never been thought that this fact exempted the project from the provision of the excess land law.

I recognize that the Imperial Valley case was a complex one; but I think Mrs. Stover was entitled to a more accurate explanation.

Very truly yours,

JOSEPH L. SAX,
Professor of Law.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HARRIS (for himself, Mr. BAYH, Mr. CRANSTON, and Mr. HART):

S. 2863. A bill to provide for the creation of an Authority to be known as the Reclamation Lands Authority to carry out the congressional intent respecting the excess land provisions of the Federal Reclamation Act of June 17, 1902. Referred to the Committee on Interior and Insular Affairs.

THE RECLAMATION LANDS AUTHORITY ACT

Mr. HARRIS. Mr. President, I send to the desk for appropriate reference, for myself and Mr. BAYH, Mr. CRANSTON, and Mr. HART, a bill designed to carry out the congressional intent respecting the excess land provisions of the Federal Reclamation Act of June 17, 1902.

Our predecessors in Congress, recognizing that irrigation is essential to American agriculture, wisely chose to make a public investment in irrigation when they passed this historic 1902 act. Just as wisely, they sought to assure that the benefits of Federal irrigation projects—which would literally transform desert wastelands in the West into the richest agricultural areas in the world—would accrue to small homesteaders rather than land speculators or monopolists. The Reclamation Act stated that landholders could receive federally subsidized water for farms of 160 acres or less, or 320 acres in the case of a man and wife, provided that they live on, or very near, their land. In 1926, Congress strengthened the 1902 act by providing that any federally irrigated holdings in excess of the 160-acre limitation had to be sold within 10 years at preirrigation prices.

Critics of the acreage limitation provision, both in 1902 and today, insist that huge farms are necessary for their efficiency. That is a myth. The giant agribusinesses are efficient only in stifling farm competition and in tapping the Federal Treasury for subsidies. One hundred and sixty acres of prime irrigated farmland, or 320 acres in the case of man and wife, are more than enough to support a prosperous family farm.

Mr. President, the men who championed the Federal Reclamation Act of 1902 were visionary Americans. They understood that land and water, America's greatest resources, were not boundless, and that they must be protected from the few who would monopolize their use.

Delegates to the irrigation Congress in the 1890's, which sought to enlist the Federal Government in irrigation projects, repeated a warning given to Americans by the English historian T. B. Macaulay:

> Your national safeguard lies in your boundless public domain. . . But the time will come when this heritage will have been consumed, this safeguard will have vanished. You will have your crowded Birminghams and Manchesters, and then will come the test of your institutions.

Congressman Oscar W. Underwood of Alabama, who was instrumental in the passage of the Reclamation Act sounded this same theme when he pointed to the decline of free land and the beginnings of urbanization. In a statement supporting the Reclamation Act, which has a peculiarly modern ring, he said to the applause of the House of Representatives:

> The farm boys in the East want farms of their own. It (the Reclamation Act) gives them a place where they can go and build homes without being driven into the already overcrowded cities to seek employment.
>
> It will provide a place for the mechanic and wage-earner to go when the battle for their daily wages becomes too strenuous in the overcrowded portions of the East. . . . If this policy is not undertaken now, this great Western desert will ultimately be acquired by individuals and great corporations. . . .
>
> I believe the passage of this bill is in the interest of the man who earns his bread by his daily toil. It gives him a place where he can go and be free and independent; it gives him an opportunity to be an owner of the soil and to build a home. These are the class of men we must rely on for the safety of the nation. In times of peace they pay the taxes and maintain the Government; in times of peril and strife they are the bulwark of the nation, and it is justice to them that this legislation be enacted into law.

And President Theodore Roosevelt, who signed the Reclamation Act into law and insisted upon its 160-acre provision, said:

> We have a right to dispose of the land with a proviso as to the use of the water running over it, designed to secure that use for the people as a whole and to prevent it from ever being absorbed by a small monopoly.

Mr. President, those men were fighting to carry out the Jeffersonian vision of agrarian democracy. They wanted to see an America peopled by prosperous and independent men, free of the control of the baronial landed classes.

Today, nearly two centuries after Jefferson and 70 years after the passage of the Federal Reclamation Act, agrarian democracy exists only as a myth. America's land, once publicly owned, and the federally financed water used to irrigate much of it, are illegally in the control of large land interests.

Not surprisingly, Mr. President, the large land interests in this country have always opposed the Reclamation Act's antimonopoly provisions. The railroads, land speculators, and giant agribusinesses have employed various strategies to get around the 160-acre limitation. What is surprising is the Federal Government's acquiescence in what amounts to a giant land steal and a raid on the public treasury.

Federal reclamation has delivered water to 8 million acres with an annual crop value of $1.7 billion. Congress has appropriated or authorized spending $10 billion on reclamation projects. The amount of the subsidy to Western landowners for irrigation has been estimated to range from $600 to $2,000 per acre.

This money, supplied by the average taxpayer, is buying water for hundreds of thousands of acres of land owned by giant corporations while independent family farmers have not been able to get access to irrigated land. California—the home of the giant agribusinesses—provides a typical example of where the taxpayer's money is being spent. California's Imperial Valley produces about $250 million annually of cotton, sugar beets, lettuce, alfalfa, and other crops. What makes the Imperial Valley so fertile and productive is water brought from the Colorado River by a network of dams and canals built by the Federal Government at a cost of over $200 million.

Because of the Government's outrageous record of nonenforcement of the Reclamation Act, more than half of the irrigated acreage in the Imperial Valley is held by owners of more than 160 acres, and two-thirds of it by absentees. Agribusiness giants such as Purex, United Fruit, and the Irvine Land Co., which owns 10,000 acres in the valley, are reaping huge profits because of the water subsidy. Federally subsidized water is also being delivered to lands in California owned by Tenneco Getty Oil, Standard Oil of California, and the Southern Pacific Railroad.

The record elsewhere is no better. In the Pacific Northwest, federally dammed water from the Columbia River will soon flow to the vast lands held by Boeing Aircraft, Burlington Northern, Utah and Idaho Sugar, and Amfac of Hawaii.

Increasingly, the giant agribusinesses are taking control of American agriculture, and they leave no room on the land for the independent, family farmers who have been disappearing from rural America at the rate of 800,000 a year.

I do not think the Congress of the United States ever intended to subsidize Boeing Aircraft or Standard Oil in their farming ventures. I certainly hope not.

Mr. President, it is time to put an end to this outrage. At a time when 70 percent of our people are packed onto less than 2 percent of the land, when our cities are on the verge of collapse because of overcrowding, unemployment and welfare, it is essential that we give people a chance to make a living in rural America. But America has no national rural policy for people. Instead, we have allowed vested economic interests, guided by nothing nobler than profits, to determine the future shape of this Nation.

The bill I am introducing today, the Reclamation Lands Authority Act, could be the beginning of a national rural policy. The emphasis of that policy is to serve people and the public interest, not a few large corporations.

The bill, which has been introduced in the House of Representatives by several California Congressmen, requires the Federal Government to buy "excess" land at a preproject market price and to lease or sell it at a postproject market price. This mechanism is greatly preferable to a simple enforcement of the 1902 law. For in that case those purchasing the land at the preirrigation prices called for in the law could receive the enormous windfall now in the hands of the giant corporations.

The American taxpayer has built and paid for the irrigation system that has made our land in the West so valuable. Therefore, he should reap at least part of the gains.

The profits from the sale, lease or use of these lands are to be placed in an education, conservation, and economic opportunity fund. Seventy percent of the revenues from the fund are to be earmarked as grants for public education, following our historic heritage of financing education with land grants. Ten percent of the funds will go into the already existing land and water conservation fund. The remaining 20 percent of the fund shall be made available upon specific appropriation by Congress for the development of public facilities servicing project areas, for promoting economic opportunities of veterans and persons living in substandard conditions and for such environmental and ecological benefits as Congress may authorize.

To administer this program, the bill creates a Reclamation Lands Authority as an independent agency under a board of three members, appointed by and responsible to the President.

The Authority is empowered to determine the uses for which purchased excess lands may be sold, leased or made available for public purposes, and is charged with attaching such conditions to any use of the land "as will preserve open spaces and agricultural greenbelts and into her respects preserve an environment of beauty, health and attractive quality for now and for the future."

The Authority is also charged with encouraging "effective regional, State and local planning of land usage and environmental adjustment in the areas where excess lands are located."

Mr. President, the Reclamation Lands Act provides the chance for us to rekindle the spirit that made America the land of opportunity. This bill would give the independent family farmer, the veteran, and the economically disadvantaged from both our cities and rural areas a chance to start all over again. It would enable us to finance public education—the strength of any free society—with funds created by public water and land development. And it would mark the day when Americans realize that our limited land and water resources cannot be left in the hands of big business.

I would hope that each of my colleagues will give this proposal the serious consideration it merits, and I welcome their cosponsorship of it. Furthermore, I would hope that the Interior Committee will be able to hold hearings on this proposal in the near future.

Mr. President, I ask unanimous consent that at this point the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2863

A bill to provide for the creation of an Authority to be known as the Reclamation Lands Authority to carry out the congressional intent respecting the excess lands provisions of the Federal Reclamation Act of June 17, 1902

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as "The Reclamation Lands Authority Act".

STATEMENT OF PURPOSE

SEC. 2(a) The Congress declares that it shall be the purpose of this Act to reaffirm the historic purpose of the Federal Reclamation Act, especially as it applies to the development and use of excess lands, and to make that intent and purpose operative in the national interest and the direct benefit of its citizens.

(b) The Congress further declares that it shall be the purpose of this Act to make such disposal and uses of these excess lands as will improve the environment of the Nation through the use of these natural resources to provide resident ownership and operation of family-sized farms, to open new opportunities for veterans and to create open spaces, protect the natural beauty and quality of the habitat of all living things within Federal reclamation project areas, and to provide by the application of the net revenues from the sale or lease of said excess irrigated or irrigable lands to the demonstrated needs of public education and community development, and for other purposes consistent with the historic purpose of the Federal reclamation law.

SEC. 3. To effect these expressed purposes and others which may become imperative as the Nation faces its responsibilities and opportunities to create a healthful environment consistent with the ecological needs of the land entrusted to our care, there is hereby created by a body corporate to administer the excess lands resulting from the enforcement of the provisions of the Federal Reclamation Act of June 17, 1902 (32 Stat. 388) as amended and supplemented, to be designated as the Reclamation Lands Authority (hereinafter referred to as the "Authority").

SEC. 4. To administer the purposes expressed in this Act and enforce the laws pertaining to excess land as prescribed in the Federal Reclamation Act of June 17, 1902 (32 Stat. 338), as amended and supplemented, the Authority shall be an independent agency responsible to the President, and subject to all laws pertaining to accountability and report. It shall be directed and its activities managed by a Board of three members, appointed by the President by and with the consent of the United States Senate. Their terms shall be staggered, in such a manner as to provide an eight-year term for the designated Chairman, a five-year term for one member, and a three-year term for the other member. They may be reappointed. Their salaries shall be fixed by the President in keeping with the accepted schedule of remuneration for heads of important Government agencies. The Board shall organize itself and its operations, shall select its officials, agents, and employees in keeping with Civil Service standards and practices and said employees shall be included in the Federal roster to share in all legal benefits of Federal Government employment and to be subject to such requirements as to ability and conduct as are thereby prescribed.

SEC. 5. The principal place of business of the Authority shall be located at a place of accessibility within the region of excess lands which it administers.

SEC. 6. Immediately upon the passage of this Act into law, the Authority shall be provided by the Department of the Interior a listing of all irrigated and irrigable lands administered under reclamation laws, denoting specific compliances and failure to comply, declaring noncompliance as excess lands to which all titles, claims, access, entry, and control shall transfer to the Authority forthwith, to be sold, leased, or managed according to the determination and within the purpose of the Act. Such a listing and transfer of lands subject to reclamation law shall be provided the Authority at six-month intervals.

SEC. 7. The Board of Directors of the Authority shall have power and it is hereby conferred upon it, to adopt and enforce all the necessary bylaws, orders, rules and regulations required to effectuate the will of Congress as expressed in this Act.

SEC. 8. The Authority shall have such powers as are conferred on Government corporations generally, and specifically shall have the power of eminent domain. Except as otherwise specifically provided in this Act, the Authority—

(a) shall have succession to its corporate name;

(b) may sue and be sued in its corporate name;

(c) may adopt and use a corporate seal, which shall be judicially noticed;

(d) may make contracts and enter into agreements as herein authorized;

(e) may adopt, amend, and repeal bylaws or provisions thereof; and

(f) may purchase, lease, or accept, hold and use such real and personal property as it deems necessary or convenient in the transaction of its duly authorized business, and may dispose of any property, real or personal, to which it has title according to its authority under this Act.

SEC. 9. In the development of its purpose and the exercise of its duties, the Board of Directors shall select a treasurer and as many assistant treasurers as it deems proper. Board members and treasurers shall be bonded, giving such bonds for the safekeeping of the securities and moneys entrusted as are required by law, and in the case of subordinate officials as the Board shall determine.

SEC. 10. Any member of the Board may be removed from office at any time by the passage of a concurrent resolution of the Senate and House of Representatives, said concurrent resolution stating in specific terms the reason for such action.

SEC. 11. The powers of eminent domain residing in the Board by this Act shall extend to the purchase of any real estate or acquisition of real estate by condemnation proceedings, the title to such real estate being taken in the name of the United States of America, and thereon all such real estate shall be entrusted to the Authority as the agent of the United States to accomplish the purposes of this Act.

SEC. 12. There is hereby conferred upon the Authority all of the powers now residing in the Secretary of the Interior to enforce all the provisions of section 5 of the Federal Reclamation Act of June 17. 1902, section 46 of the Act of May 25, 1926, and all Acts amendatory and supplementary thereto as these apply to the limitation of size of farms to be served by and under provisions of Federal reclamation projects.

SEC. 13. The Authority is hereby authorized and directed to acquire by purchase, eminent domain proceedings, or otherwise, all excess lands in projects governed by Federal reclamation laws at preproject prices as defined in section 46 of the Act of May 25, 1926, and to deposit the proceeds from the sale or lease or use of such lands in the Treasury of the United States in a specially designed "Education, Conservation and Economic Opportunity Fund" which is hereby created to be used exclusively for the purposes of this Act.

SEC. 14. The Authority shall purchase all excess lands at preproject prices which do not reflect the benefits of the Federal financing or construction. The proceeds from the sale, lease, or use of such lands shall be paid into the "Education, Conservation, and Economic Opportunity Fund," and are to be used for the purposes of this Act and administered for said purpose by the Board.

SEC. 15. The Education, Conservation, and Opportunity Fund shall be operated as a revolving fund for the purposes of this Act. Moneys in the fund equal to the cost of lands purchased by the Authority at pre-water-project prices, together with such moneys as Congress may appropriate for deposit in the fund for the purchase and management of excess lands, shall be available to the Authority for further purchase of excess lands. Ten percent of the balance in the fund remaining thereafter shall be transferred to the Land and Water Conservation Fund already established by the Congress to be used for purposes consonant with those of this Act, and an annual accounting shall be made to the Authority by said fund and made a part of its annual report. Seventy percent of the balance in the fund available for use by designated agencies and purposes under this Act shall be made available for the benefit of public education and for such expenditures or allocations as the Congress may authorize. Such funds shall be transferred by the Authority to agencies specified by the Congress. The remaining allocable amount in the fund made available for public purposes under the Act shall be made available upon specific appropriation by the Congress for the development of public facilities serving project areas, for advancing economic opportunities of veterans and persons living in substandard conditions, for development of healthful environments and communities needing open spaces, and for such other environmental and ecological benefits as Congress may authorize to be made from the fund.

SEC. 16. The Authority shall determine the uses for which purchased excess land may be sold, leased, or made available for public purposes, and shall attach such conditions at time of sale, lease, or public use as will preserve open spaces and agricultural greenbelts and in other respects preserve an environment of beauty, health, and attractive quality for now and for the future. In determining as between sale, lease, or public use of excess lands purchased, the Authority shall give due weight to benefits to the revolving fund and the advancement of economic opportunity for persons who have served the Nation in the Armed Forces and disadvantaged citizens seeking such opportunity as ownership, lease, or use of irrigated or irrigable lands afford. In the pursuit of these purposes, the Authority shall encourage effective regional, State, and local planning of land usage and environmental adjustment in the areas where excess lands are located.

SEC. 17. In the exercise of its charter under this Act, the Authority is herewith authorized to obtain lands excess to the direct needs of other Federal agencies of the Government which may be declared available where such lands may become a unit of lands administered by this Authority. Such acquired lands shall be treated in the same manner as other excess lands of the Authority.

SEC. 18. The Authority may establish an Advisory Committee to which it shall appoint citizens who neither have nor represent vested interest in excess lands purchased or in the water brought to such lands. The Authority may service such an Advisory Committee and provide for the expenses thereof. Committee members shall serve without remuneration.

SEC. 19. There is hereby authorized for appropriation an amount as may be necessary from the general fund of the Treasury for deposit in the revolving fund designated as the "Education, Conservation and Economic Opportunity Fund" of this Authority, for the purposes of this Act, to be accounted for in the usual manner and to be subject to the same accounting practices as other Government agencies.

SEC. 20. There are hereby authorized to be appropriated for the purchase, lease, and use of excess lands such amounts out of the Education, Conservation and Economic Opportunity Fund as are available and needed by the Authority to carry out the intent and purposes of this Act.

[In the U.S. District Court for the Southern District of California]

BEN YELLEN, ET AL. VS. WALTER J. HICKEL

(Partial summary judgment No. 69-124-Murray)

Before the court is a motion for partial summary judgment. The suit was filed under 28 U.S.C.A. 1361 to compel the Secretary of the Interior and lower level officials of the Department of the Interior to enforce the residency requirement of Section 5 of the Reclamation Act of June 17, 1902, 32 Stat. 389, 43 U.S.C.A., Section 431,[1] against lands located within the Imperial Irrigation District in California which receives water from the Boulder Canyon Project through the All American Canal. It is the government's contention that Section 5 has been superseded by Section 46 of the Omnibus Adjustment Act of May 25, 1926, 44 Stat. 649, 43 U.S.C.A., Section 423e,[2] and therefore the residency requirement does not apply. For the following reasons this court finds that Section 5 is in force and the residency requirement is a prerequisite to receiving water from the Boulder Canyon Project.

The ruling on this motion is a determination made as a matter of law and does not depend upon any factual showing by the moving party beyond the allegations in the pleadings. There was a previous motion for summary judgment and that motion was denied without prejudice and therefore there is no bar to the present motion. Further the government raises the issue of standing in defense of this motion. A motion to dismiss for lack of standing to maintain a suit was denied at the same time as the previous motion for summary judgment, thus there is no need to rule on that question at this time.

The Boulder Canyon Project is authorized and governed by the Boulder Canyon Project Act of 1928, 45 Stat. 1057, et seq., 43 U.S.C.A., 617 et seq. Under Sections 12 and 14 of that Act (45 Stat. 1069 and 45 Stat. 1063) the project is governed by the June 17, 1902 Act and "Act amendatory thereof and supplemental thereto." 43 U.S.C.A., Sections 617k, 617m. The question which concerns the court is whether Section 46 of the Omnibus Adjustment Act has so changed the original 1902 Act as to eliminate the residency requirement contained therein.

The government argues that under Section 46 of the 1926 Act the Secretary no longer is authorized to sell water directly to landowners on projects built thereafter. Instead, Section 46 requires the Secretary to contract with irrigation districts for delivery of water and repayment of the project and these contracts are required to impose certain conditions to which landowners must conform.[3] Since none of these conditions include a residency requirement it is argued that the effect of Section 46 is to eliminate any residency requirement from all reclamation projects governed thereby. This argument proves to be incorrect when viewed in the light of sound statutory construction and the background and purpose behind both Section 5 and Section 46.

The government points to no specific provision of the Omnibus Adjustment Act which repeals Section 5 of the 1902 Act. Nor do they contend that the 1926 Act entirely repealed the 1902 Act. It is a general rule of statutory construction that where there are two acts on the same subject, effect should be given to both if possible. *United States* v. *Borden Co.*, 308 U.S. 188, 198. Further, repeals by implication are not favored and the intention of the legislature to repeal must be clear and manifest. Even when there is a positive repugnancy between the provisions of the new law and the old law, then the old law is repealed only *pro tanto* to the extent of the repugnancy. *U.S.* v. *Borden*, supra.

Statutory construction of Section 5 and Section 46 reveals no repugnancy whatever. Section 5 requires that there is no right to use water on tracts of any one owner of over 160 acres and no water shall be sold to anyone not occupying the land or residing in the neighborhood. Section 46 establishes a system whereby the Secretary no longer sells to individuals, but to irrigation districts instead, and provides for a situation not contemplated in the original Act where water would be supplied through the irrigation district to private landowners of more than 160 acres in addition to settlers on public lands opened up for entry under the original reclamation law. There is no inconsistency in applying the requirements of Section 5 at the same time with those of Section 46. The latter merely provides for sale of excess lands over 160 acres if the private owner wants reclamation project water. Section 5 requires that he be a resident to get water at all. A literal reading of both statutes then reveals no implied intent on the part of Congress that the earlier statute would be repealed by Section 46. Since both can stand by reasonable construction, that construction must be adopted. *Wilmot* v. *Mudge*, 103 U.S. 217, 221 (1881).

The plain language of the Omnibus Adjustment Act of 1926 does not repeal Section 5 of the 1902 Act, nor is any legislative intent to do so exhibited in the Act's background. The basic purpose of the 1926 Act is expressed in 43 U.S.C.A., Section 423f, 44 Stat. 65 (May 25, 1926) as follows:

"The purpose of sections 423-423g of this title is the rehabilitation of the several reclamation projects and the insuring of their future success by placing them upon a sound operative and business basis, and the Secretary of the Interior is directed to administer said sections to those ends."

The report on the House version of the bill H.R. 10429 prepared by the Committee on Irrigation and Reclamation refers to the reclamation policy of the government which was adopted as a result of the Act of June 7, 1902. The report points out that while the law had provided that the cost of projects be returned to the reclamation fund, settlers had been unable to do so in full and therefore it would be necessary to authorize the Secretary to credit the projects with losses sustained. Then the report continued:

"It is confidently believed that with the adjustment authorized herein the various projects will be put on a basis which will restore the morale and enthusiasm of the settlers and enable them to meet their payments promptly in the future. The settlers on these projects have endured great hardships and have struggled against the most adverse conditions in their effort to cooperate with the government in reclaiming these desert wastes, and are entitled to the proposed relief which has been urged upon the committee by the Representatives from the arid land States and the Secretary of the Interior for many years." See Adjustment of Water Charges, House Report No. 617 to accompany H.R. 10429, 68th Cong. 1st Session.

It is clear from the report that the purpose of the 1926 Act was to provide relief to settlers then residing on the land. There is no indication that the Act was intended to change the policy of the reclamation law.

The government has cited Section 1 of the Act of August 9, 1912, 37 Stat. 265, 43 U.S.C.A. 541 as additional support to the contention that residence is no longer intended as a requirement for water rights under reclamation law.[4] That law requires that homestead entrymen submit proof of residency, reclamation and cultivation in order to obtain a patent while purchasers of water-right certificates need only prove cultivation and reclamation of the land for a final certificate.

This it is argued is evidence that residency has been eliminated as a requirement to receiving water. It is evident that Congress intended the Act to apply to purchasers of water rights for private lands as well as to entries of public lands. See House Committee on Irrigation of Arid Lands, Patent to Entrymen for Homesteads Upon Reclamation Projects, House Report No. 867 to accompany S. 5545, 62d Congress, 2d Session, and I Department of Interior, Federal Reclamation Laws Annotated 15 (1958). However, there is no indication that the residency requirements of Section 5 was intentionally eliminated.

In the West water and land are separate and ownership of land does not automatically give right to water use. This is reflected in the homestead laws where water rights are reserved from patents. See 43 U.S.C.A. 661 as derived from 14 Stat. 253 and 16 Stat. 218. This explains why the patent and the water certificate were treated separately in Section 1 of the 1912 Act. The patent is a right to land—ownership in land. The certificate is evidence of a right to water subject to divestment for failure of application to beneficial use. See U.S.C.A. 372, 32 Stat. 390. However, the nature of the water right is not expressly delineated in reclamation law. The water right certificate describes the land upon which the water is to be used, the amount of water use allowed and aids in establishing priorities under state laws. Neither the reference to water rights in the 1902 Act, nor that in the 1912 Act make clear just what the user has, either before or after receiving the final water rights certificate. It is important to note, however, that reclamation laws are "designed to promote federal policies of permanent importance and not merely to secure an investment interest." II Sax, Waters and Water Rights, 118 (R. Clark ed. 1967).

That land and water are separate also helps explain why each is treated differently in Section 1 of the Act of 1912. The purpose of the Act of 1912 was to enable the settler to mortgage his property prior to final payment for the amount due for the water right. See Title for Homesteaders on Reclamation Projects. Senate Report No. 608 to accompany S. 5545, 62d Congress, 2d Session. The water certificate was property right of sorts even though a defeasible one. It represented an incremental value of the price of the private

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Footnotes at end of article.

land and as such was an asset which added to the mortgageable value of the land. See Sax, *Selling Reclamation Water Rights: A Case Study in Federal Subsidy Policy,* 64 Mich. L. Rev. 13, 1965, for a discussion of incremental values. The cultivation and reclamation requirements of Section 1 insure good faith on the part of the owner that the arid land would be cultivated and reclaimed. This purpose of the Act in no way changes the overriding original anti-monopolistic and anti-speculative purposes of the original reclamation law. (Discussion of this purpose to follow.) Therefore, while cultivation and reclamation are required for a final water rights certificate, residency remained a requirement to receive water initially. See sample forms for water right applications in Department of Interior, Fourteenth Annual Report of the Reclamation Service 1914–1915, 268–276, which require affidavit of residence.

It should also be pointed out that on August 10, 1917, Congress saw fit to suspend the residence requirements during World War I. See 40 Stat. 273.[5] It would be strange indeed if Congress intended to eliminate the residence requirement for receiving water by the Act of 1912, that it deemed it necessary to suspend residency in 1917. It is much more plausible that there was and is a continuing intent on the part of Congress to keep alive the anti-speculative and anti-monopolistic purposes of the Act as expressed in the residency requirement.

The government's rationale in relying on Section 1 of the 1912 Act is somewhat obscure. Their primary argument rests on Section 46 of the 1926 Act. It is difficult to understand how the 1912 Act can shed light on a policy which they argue was not expressed until the 1926 Act of Congress.

It is further argued that the elimination of the water right application by the Act of May 15, 1922, 42 Stat. 541, is an expression of intent to eliminate the residency requirement.[6] Where a legally formed irrigation district agreed to pay moneys owing the United States for construction and maintenance of the project, this statute dispensed with the requirement that individual water user file an application for water right. It is clear from the Department of Interior's Report, on S. 2118, dated May 23, 1921, to the Senate Committee on Irrigation and Reclamation of Arid Lands that the Senate bill, which later became the 1922 Act, dispensed with the water right application in order to eliminate unnecessary amounts of work and possible complications. Since one function of the application was to establish a lien for the payment of water charges on each users land in favor of the United States, the elimination of the lien by the statute removed a basic reason for the application. Further, inasmuch as the new irrigation district is responsible to pay the United States for construction and maintenance, it would be collecting the payments from its members and controlling the distribution of water. A new applicant for water would be required to go through the district and to require an additional application to the Bureau of Reclamation could have made the process unnecessarily complex while only duplicating work which could be done by the district.

The application was used by the Bureau of Reclamation to enforce other provisions of the reclamation laws such as the residency requirement, (See Department of Interior, Land Ownership Survey of Federal Reclamation Projects 34, 35, 1946) but the 1922 Act fails to refer to residency. This failure does not lend support to any interpretation of the Act as an expression of intent to eliminate the residency requirement nor to change the national policy of the reclamation laws. There is no positive repugnancy between the 1922 Act and the residency requirement. The Secretary of Interior is given authority to dispense with the application at his discretion, but remains charged with enforcing the policy of reclamation law which is still in force. Compliance with residency, which is an expression of national policy, should have been secured by other means.[7]

On April 19, 1916, the Department of Interior issued an opinion which undercut the policy of the reclamation law:

"The residency requirement of this section (Section 5, 1902 Act) in reference to private lands is fully complied with if, at the time water-right application is made, the applicant is a bona fide resident upon the land or within the neighborhood. After approval of the application further residence is not required of such applicant, and further proof may therefore be made under the Act of August 9, 1912 (37 Stat. 265), without the necessity of proving residency at the time proof is offered." (See I Federal Reclamation Laws Annotated, page 55–56).

The government cites this opinion along with subsequent Federal Regulations and expressions of policy by the Bureau of Reclamation as evidence of elimination of the residency requirement.[8] This evidence recognizes there is a residency requirement problem, but denies that residency is a continuing requirement as an expression of national policy. The Department cannot repeal an Act of Congress.

It could be argued that re-enactment of the statute, such as was the case in Section 14 of the Boulder Canyon Project which re-enacted the reclamation law, constitutes legislative acceptance of the earlier administrative interpretation. It has been held that an administrative interpretation of a statute was binding on the court where it has been impliedly upheld by re-enactment of the statute. See *Kieferdorf v. C.I.R.*, 142 F.2d 723. However, Congressional re-enactment of a statute, without expressed consideration or reference cannot give controlling weight to an originally erroneous administrative interpretation of the statute. *United States v. Missouri Pacific Railroad Company*, 278 U. S. 269, 280. The re-enactment of a specific clause or statute after administrative or judicial construction is merely one factor in the total effort to give fair meaning to the language thereof, and such circumstances must give way to plain language or basic purpose. *Fleming v. Moberly Milk Products Co.*, 160 F.2d 259.

The Reclamation Act of 1902 was enacted after a long history of monopoly of and speculation in the arid lands in the west. This background resulted in a national policy of anti-monopoly and anti-speculation which found expression in reclamation law. It is this policy which provides possibly the strongest rationale for holding the residency requirement in force. From its very inception reclamation policy has been to make benefits therefrom available to the largest number of people. The 1902 Act contained a 160 acre limitation, required that users be bona fide residents, required that the reclamation water right be appurtenant to the land, and provided that rights to the water be limited by beneficial use. 32 Stat. 389, 390 (1902), 43 U.S.C.A., Sections 372, 383, 431 (1964). These devices were incorporated into the bill in order to prevent land monopolization and profiteering by large corporations to the detriment of the intended beneficiaries of the Act. See Taylor *The Excess Land Law-Execution of a Public Policy*, 64 Yale L.J. 476, 484–86 (1955). The idea was to create a class of self-reliant family farmers. See Land Ownership Survey, supra, 61–73, 91.

National policy, as expressed in the reclamation laws, is to provide homes for people.[9] Homes are possible only where speculation and monopolization are not possible. The 160 acre limitation and the national policy which it reflects have been upheld by the Supreme Court in *Ivanhoe Irrigation District v. McCracken*, 357 U.S. 275. The residency requirement in Section 5 is a second expression of that national policy. Its repeal by implication would be contrary to the purpose for which Section 5 was enacted. Early in reclamation history events showed that "under the private projects where residence is not required, the developments have been very largely along the line of the creation of tenant farms." See Department of Interior, 11th Annual Report of the Reclamation Service 11 (1911–1912). Failure to enforce residency subverts the excess land limitation which *Ivanhoe,* supra, specifically upheld. Through the use of corporations, trusts and cotenancies flagrant violations of the purpose of this limitation are possible. Each of these farms may be used to by-pass the acreage limitation. The policy behind reclamation law to aid and encourage owner operated farms requires enforcement of the residency requirement to prevent these violations. See Sax, *The Federal Reclamation Law* in II *Waters to Water Rights,* supra, 217–224.

The fact that residency has not been required by the Department of Interior for over 55 years cannot influence the outcome of this decision.[10] Failing to apply the residency requirement is contrary to any reasonable interpretation of the reclamation law as a whole, and it is destructive of the clear purpose and intent of national reclamation policy. It is well settled that administrative practice cannot thwart the plain purpose of a valid law. *United States* v. *City and County of San Francisco*, 310 U.S. 16, 31–32 (1940). Rather than indicate the validity of the administrative ruling, the lapse of time serves to dramatize the unavailability of relief in the past and points toward the need for increased access to the court in the future.

The Boulder Canyon Project Act, 45 Stat. 1065, 43 U.S.C.A. Section 617m, provides that the Act shall be deemed a supplement to reclamation law which shall govern the constructive operation and management of the works authorized. Inasmuch as Section 5 of the 1902 Act has been found in full force and effect, it must be applied to the Imperial Irrigation District as well as to all reclamation projects constructed pursuant to the Boulder Canyon Project Act. No right to use the water for land in private ownership shall be sold to any landowner "unless he be an actual bona fide resident on such land, or occupant thereof residing in the neighborhood of said land. . . . 43 U.S.C.A., Section 431.

That portion of the motion for summary judgment determining the applicability of Section 5 of the Act of 1902 is therefore granted, which in effect is merely an interlocutory adjudication of the applicable law.

The posture of the case at this time is not such as the court can determine the other portions of the motion, and therefore reserves ruling thereon.

Done and dated this 22nd day of November, 1971.

FOOTNOTES

[1] Section 5 of the Reclamation Act of June 17, 1902, 32 Stat. 389, 43 U.S.C.A. 431, provides:

"That the entryman upon lands to be irrigated by such works shall, in addition to compliance with the homestead laws, reclaim at least one-half of the total irrigable area of his entry for agricultural purposes, and before receiving patent for the lands covered by his entry shall pay to the Government the charges apportioned against such tract, as provided in section 4. No right to the use of water for land in private ownership shall be sold for a tract exceeding 160 acres to any one landowner, and no such sale shall be made to any landowner unless he be an actual bona fide resident on such land, or occupant thereof residing in the neighborhood of said land, and no such rights shall permanently attach until all payments therefor are made. The annual installments shall be paid to the receiver of the local land office of the district in which the land is situated, and a failure to make any two payments when due shall render the entry subject to cancellation, with the forfeiture of all rights under this act, as well as of any moneys already paid thereon. All moneys received from the above sources shall be paid into the reclamation fund. Registers and receivers shall be allowed the usual commissions on all moneys paid for lands entered under this act."

[2] Section 46 of the Omnibus Adjustment Act of 1926, 44 Stat. 649, 43 U.S.C.A. Section 723(e), provides:

"No water shall be delivered upon the completion of any new project or new division of a project until a contract or contracts in form approved by the Secretary of the Interior shall have been made with the irrigation district or irrigation districts organized under State law providing for payment by the district or districts of the cost of constructing, operating, and maintaining the works during the time they are in control of the United States, such cost of constructing to be repaid within such terms of years as the Secretary may find to be necessary, in any event not more than forty years from the date of public notice hereinafter referred to, and the execution of said contract or contracts shall have been confirmed by a court of competent jurisdiction. Prior to or in connection with the settlement and development of each of these projects, the Secretary of the Interior is authorized in his discretion to enter into an agreement with the proper authorities of the State or States wherein said projects or divisions are located whereby such State or States shall cooperate with the United States in promoting the settlement of the projects or divisions after completion and in the securing and selecting of settlers. Such contract or contracts with irrigation districts hereinafter referred to shall further provide that all irrigable land held in private ownership by any one owner in excess of one hundred and sixty irrigable acres shall be appraised in a manner to be prescribed by the Secretary of the Interior and the sale prices thereof fixed by the Secretary on the basis of its actual bona fide value at the date of appraisal without reference to the proposed construction of the irrigation works; and that no such excess lands so held shall receive water from any project or division if the owners thereof shall refuse to execute valid recordable contracts for the sale of such lands under terms and conditions satisfactory to the Secretary of the Interior and at prices not to exceed those fixed by the Secretary of the Interior; and that until one-half the construction charges against said lands shall have been fully paid no sale of any such lands shall carry the right to receive water unless and until the purchase price involved in such sales is approved by the Secretary of the Interior and that upon proof of fraudulent representation as to the true consideration involved in such sales the Secretary of the Interior is authorized to cancel the water right attaching to the land involved in such fraudulent sales: *Provided further,* That the operation and maintenance charges on account of lands in said projects and divisions shall be paid annually in advance not later than March 1. It shall be the duty of the Secretary of the Interior to give public notice when water is actually available, and the operation and maintenance charges payable to the United States for the first year after such public notice shall be transferred to and paid as a part of the construction payment."

[3] Section 46 provides that the following conditions which effect individual users be included in contracts with irrigation districts: (a) excess land over 160 acres shall be appraised and the sale price fixed by the Secretary; (b) no excess land shall receive water unless owners contract to sell the land at or below the contract price; (c) until one half the construction charges have been paid no water right passes with the sale until the sale is approved by the Secretary.

[4] Section 1 of 37 Stat. 265, 43 U.S.C.A. 541, provides:

"Any homestead entryman under the Act of June 17, 1902, known as the reclamation Act, including entrymen on ceded Indian lands, may, at any time after having complied with the provisions of law applicable to such lands as to residence, reclamation and cultivation, submit proof of such residence, reclamation and cultivation, which proof, if found regular and satisfactory, shall entitle the entryman to a patent, and all purchasers of water-right certificates on reclamation projects shall be entitled to a final water-right certificate upon proof of the cultivation and reclamation of the land to which the certificate applies, to the extent required by the reclamation Act for homestead entrymen: *Provided*, That no such patent or final water-right certificate shall issue until after the payment of all sums due the United States on account of such land or water right at the time of the submission of proof entitling the homestead or desert-land entryman to such patent or the purchaser to such final water-right certificate."

[5] The Act of August 10, 1917, 40 Stat. 273, provides in part:

"Sec. 11 (Suspension of residence requirements.)—That the Secretary of the Interior is hereby authorized, in his discretion, to suspend during the continuance of this act that provision of the act known as "reclamation act" requiring residence upon lands in private ownership or within the neighborhood for securing water for the irrigation of the same, and he is authorized to permit the use of available water thereon upon such terms and conditions as he may deem proper. (40 Stat. 276.)

"Sec. 12 (Duration of suspension.)—That the provisions of this act shall cease to be in effect when the national emergency resulting from the existing state of war shall have passed, the date of which shall be ascertained and proclaimed by the President; but the date when this act shall cease to be in effect shall not be later than the beginning of the next fiscal year after the termination, as ascertained by the President, of the present war between the United States and Germany (40 Stat. 276.)"

[6] The Act of May 15, 1922, 42 Stat. 541, provides in part:

"That in carrying out the purposes of the Act of June 15, 1902 . . . and Acts amendatory thereof and supplementary thereto, and known as and called the reclamation law, the Secretary of the Interior may enter into contract with any legally organized irrigation district whereby such irrigation district shall agree to pay the moneys required to be paid to the United States, and in such event water-right applications on the part of landowners and entrymen, in the discretion of the Secretary of the Interior, may be dispensed with. . . ."

"Section 2. That patents and water-right certificates which shall hereafter be issued under the terms of the Act entitled "An Act providing for patents on reclamation entries, and for other purposes," . . . for lands lying within any irrigation district with which the United States shall have contracted, by which the irrigation district agrees to make the payment of all charges for the building of irrigation works and for operation and maintenance, shall not reserve to the United States a lien for the payment of such charges; . . ."

[7] Section 46 of the Omnibus Adjustment Act provided that:

"Prior to or in connection with the settlement and development of each of these projects, the Secretary of the Interior is authorized in his discretion to enter into agreement with the proper authorities of the State or States wherein said projects or divisions are located whereby such State or States shall cooperate with the United States in promoting the settlement of the projects or divisions after completion and in the securing and selecting of settlers." Again this provision was not intended to alter the effect of the reclamation law and the Secretary cannot exercise his discretion so as to subvert the purposes of the Act."

[8] See Department of Interior Manual of the Bureau of Reclamation (1938 Edition) 373; Title 43, Code of Federal Regulations, Section 230.65.

[9] See Kinney, *A Treatise of the Law of Irrigation and Water Rights and the Arid Region Doctrine of Appropriation of Waters* 1912, pp. 2238–2239, Kinney cites a portion of President Roosevelt's first message to Congress, delivered December 3, 1901, as a classic statement upon the subject. Roosevelt's idea was that as a result of reclamation and settlement of arid lands "our people as a whole will profit, for successful home-making is but another name for the upbuilding of the nation."

BROAD SUPPORT FOR THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, the International Convention on the Prevention and Punishment of the Crime of Genocide was written in 1948. Since then it has been ratified by 75 nations of the world, including our NATO and SEATO allies.

Support within the United States for our ratification of the Genocide Convention has been broadly based. Among those groups that have come out in support of the convention are the National Council of Women of the U.S., which claims to represent 5 million women in this country; the Leadership Conference on Civil Rights which is composed of 125 groups active in the area of civil rights; six sections of the American Bar Association; and the Ad Hoc Committee on the Human Rights and Genocide Treaties. This latter group was formed in 1964 and presently contains 53 ethnic, religious, labor, and women's groups.

All of these organizations recognize the need for the Genocide Convention. They recognize the need for the United States to be a party to it. The support of the United States, the most democratic country in the world, will do much to help make this treaty a success and prevent a recurrence of the horrors of Nazi Germany.

Mr. President, I ask unanimous consent that there be printed in the RECORD a list of the organizations comprising the Ad Hoc Committee on the Human Rights and Genocide Treaties, and a list of the six ABA sections which support the Genocide Convention.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

AD HOC COMMITTEE ON THE HUMAN RIGHTS AND GENOCIDE TREATIES

MEMBER ORGANIZATIONS

American Baptist Convention.
American Civil Liberties Union.
American Ethical Union.
American Federation of State, County and Municipal Employees, AFL–CIO.
American Federation of Teachers, AFL–CIO.
American Friends Service Committee.

American Humanist Association.
American Jewish Committee.
American Jewish Congress.
American Romanians National Committee.
American Veterans Committee.
Americans for Democratic Action.
B'nai B'rith.
Brotherhood of Sleeping Car Porters, AFL–CIO.
Episcopal Church.
Farband, Labor Zionist Order.
Friends Committee on National Legislation.
Hadassah, the Women's Zionist Organization of America.
Industrial Union Department, AFL–CIO.
International Ladies' Garment Workers' Union, AFL–CIO.
International Rescue Committee.
International Union of Electrical Workers, AFL–CIO.
Jewish Labor Committee.
Jewish War Veterans.
League for Industrial Democracy.
Methodist Church, General Board of Christian Social Concerns.
National Association of Negro Business & Professional Women's Clubs.
National Association for the Advancement of Colored People.
National Board, YWCA.
National Catholic Conference for Interracial Justice.
National Jewish Community Relations Advisory Council.
National Conference of Christians and Jews.
National Council of Jewish Women.
National Spiritual Assembly of the Baha'is of the U.S.
Poale Zion, United Labor Zionist Organization of America.
Quaker, UN Office.
Retail, Wholesale & Department Store Union, AFL–CIO.
Textile Workers Union of America, AFL–CIO.
Ukrainian Congress Committee of America.
Ukrainian National Association.
Union of American Hebrew Congregations.
Unitarian-Universalist Association.
United Automobile Workers of America.
United Church of Christ.
Women United for the United Nations.
Women's International League for Peace and Freedom.
Workers Defense League.
Workmen's Circle.
World Federalists, U.S.A.
World Jewish Congress, American Section.

ADVISORY MEMBERS

Conference of UN Representatives of the Council of Organizations, UNA–USA National Council of the Churches of Christ in the U.S.A.

In addition the following ABA Sections approve the Genocide Convention:

Individual Rights and Responsibilities.
World Order Under Law Committee.
Criminal Law.
International and Comparative Law.
Family Law.
Judicial Administration.

TELEVISION BLACKOUTS OF FOOTBALL GAMES

Mr. SAXBE. Mr. President, in a nation of sports lovers like ours, I cannot understand why we still have television blackouts of certain football games even though the stadium might be sold out well in advance.

Such is the case in the city of Cleveland in my State of Ohio, where Municipal Stadium will be the scene of the American Football Conference professional playoff later this month. It is my understanding that this game will be a sell-out, as are so many of the Cleveland Browns home games. Yet, under authority that we granted professional football some years ago, the televising of the game will be blacked out within a certain distance of Cleveland.

This seems silly and highly illogical. I can understand blackouts if ticket sales to a certain game are lagging. I also can understand blackouts if the televising of the game might compete with a similar event in the same area, say a local college game. But neither is the case in Cleveland.

I have today wired Pete Rozelle, commissioner of the National Football League, requesting that the commissioner voluntarily lift the TV blackout of the Cleveland game. It is my understanding that the commissioner has this authority under the same legislation permitting TV blackouts in certain conditions. Lifting the blackout would be in the public interest, and a deserving tribute to the thousands of sports fans who otherwise would be unable to view this game.

I ask unanimous consent that my telegram be printed in the RECORD.

There being no objection, the message was ordered to be printed in the RECORD, as follows:

PETE ROZELLE,
Commissioner, National Football League,
New York City, N.Y.:

In a day when private enterprise chafes under increasing governmental control, you have a unique opportunity to demonstrate your responsibility to the American public by agreeing to voluntarily lift the television blackout in the Cleveland area of the American football conference play-off game later this month. As you know, this game will be a sell-out, as are most games in Cleveland. It is my understanding that the Commissioner is permitted to voluntarily lift a blackout under the same anti-trust exemption permitting blackouts in the first place. This would be a public service of high order. Ohio sports fans are among the very best in the nation and should not be denied the opportunity to view the game on television if they can't see it in person.

WILLIAM B. SAXBE, *U.S. Senator.*

ART MODELL,
President, The Cleveland Browns,
Municipal Stadium, Cleveland, Ohio:

I have today wired Commissioner Rozelle requesting that he exercise his authority to voluntarily lift the television blackout in the Cleveland area of the American Football Conference play-off game in Cleveland Stadium later this month. It is my understanding that a voluntary lifting of a TV blackout is permitted under the same legislation that allows blackouts. Ohio sports fans are among the very best in the nation, as you well know, and shouldn't be denied the opportunity of viewing this game on television. I request that you use your considerable influence in helping to make the viewing of this game available to all. Best regards.

WILLIAM B. SAXBE, *U.S. Senator.*

H.R. 10947, THE REVENUE ACT OF 1971

Mr. NELSON. Mr. President, the Revenue Act of 1971—as approved by the Senate-House Conference Committee—is almost identical to the bill sent over by the House and approved by the Committee on Finance.

I opposed the bill in committee and on the floor of the Senate for two reasons:

First, because it represents the wrong remedy for our economic troubles. With a quarter of our plant and equipment lying idle and 5 million of our workers without jobs, the need is for increased purchasing power. Yet this bill does little to spur consumption, and its investment incentives will not increase investment substantially in the near future.

Second, because it results in an enormous permanent loss of revenues to the Federal Treasury. Over the next 10 years, the revenue loss is about $110 billion. This is totally unjustifiable since what the economy needs is a temporary stimulus. And of course the funds being handed over to the corporations will be unavailable to finance high priority domestic programs such as welfare reform and aid to education.

Yesterday the President vetoed the OEO bill because of the child care section. One of the reasons he gave was the cost of this new program.

The choice of priorities should be clear. We can afford to spend over $11 billion in 1972 so that automobiles can be a little cheaper and so that the corporations can be given the largest tax cut in American history; but we are unwilling to spend a small fraction of that to provide comprehensive child care.

But aside from this question of priorities, there is a somber warning in the budget figures.

Treasury sources now put the deficit in the unified budget for fiscal 1972 at $30 to $35 billion. Even if the economy were at full employment, the deficit would be in the neighborhood of $10 billion. The tentative estimate for fiscal 1973 is for another full employment deficit of $8 billion.

Mr. President, the economy will be running large deficits even after it returns to full employment. As a result we will have to find some new source of Federal revenues. There is already considerable speculation in the press that to meet this need, the administration is preparing to propose a "value-added tax"—which is nothing more than a regressive sales tax.

Substitution of a value-added tax for a major part of the corporate income tax would represent a big step backward in tax fairness. Yet this may well be what we are headed for. In that event, we can look back on the Revenue Act of 1971 as the legislation that made a value-added tax inevitable.

It should be emphasized that our fiscal crisis is not due to new programs. We will have a large deficit at full employment simply by continuing with our present programs.

Yet the administration has ambitious plans for new initiatives. The effort to reform the welfare program will cost at least $5.5 billion more; revenue sharing will be at least another $5 billion. And now President Nixon says he is prepared to spend "large sums of money" to make schools less dependent on local property taxes.

Many of these proposals are highly desirable. Welfare reform should be of the highest priority when the Senate reconvenes after Christmas. But it is hard to see how we will be able to afford these new programs after losing the revenue that we will give away in this tax bill.

CONFIDENTIALITY OF TAX RETURNS

Mr. MATHIAS. Mr. President, I am very much pleased that the conferees on the revenue bill agreed to retain a modified version of my amendment to prohibit improper use or disclosure of the information furnished by taxpayers to tax preparation firms. This is an important step forward in securing the confidentiality of this very personal information and protecting American taxpayers from embarrassment, harassment or other unforeseen consequences of the often necessary act of seeking assistance in filling out tax forms.

The conference language on this matter is in some respects even more comprehensive and tighter than the original language approved by the Senate. My original amendment prohibited any use or disclosure of information from tax returns without the taxpayer's consent. The conference version prohibits such use or disclosure under any circumstances, with the sole and logical exception that information provided for a Federal return may be used for the preparation of State and local returns.

The conference version does authorize the Secretary of the Treasury or his delegate to make exceptions to this prohibition by regulation. Given the sweeping language of the provision, I believe this clause is appropriate—so long as it is used very sparingly.

For example, it was certainly not my intent, nor, I believe, the intent of the conferees, to prohibit a firm in the business of preparing tax returns from contacting its previous customers or clients as part of an ongoing business relationship. It would be quite proper, in my view, for such a firm to communicate with its customers to offer them on a continuing basis the same types of tax preparation services which the firm had provided in past years. The regulations to be published by the Secretary should specify that this type of communication is not prohibited, and I intend to urge the Secretary to issue temporary regulations to this effect without delay.

On the other hand, I will also remind the Secretary that one of the considerations prompting me to offer this proposal was the possibility that tax preparation firms with access to computer time might be tempted to use taxpayers' financial histories for other purposes, such as the marketing of other types of financial services. Another danger which I foresaw was that the names and addresses of taxpayers in various income brackets could become the basis for potentially lucrative mailing lists if the selling of this information were not banned. The language of the conference report precludes such invasions of individual privacy, and is a long step toward insuring that the relationship between a taxpayer and tax preparation firms will really remain a confidential one.

CHRISTMAS CHEER FROM NEW HAMPSHIRE'S WHITE MOUNTAIN REGION

Mr. McINTYRE. Mr. President, no one who has driven the Kancamagus Highway through New Hampshire's unspoiled White Mountains National Forest will soon forget the experience. It is a region of breathtaking beauty, each turn in the road revealing a new vista of snowcapped peaks and verdant valleys.

It was Daniel Webster, Mr. President, who wrote so many years ago:

> Men hang out their signs indicative of their respective trades; shoemakers hang out a gigantic shoe; jewelers, a monster watch; and the dentist hangs out a gold tooth; but up in the mountains of New Hampshire, God Almighty has hung out a sign to show that there He makes men.

Mr. President, New Hampshire is justifiably proud of its White Mountain region and proud, too, that its peaks and streams and ponds are accessible to all through hiking trails, camping and picnic spots and roads like the Kancamagus Highway which open up its majesty for all to see.

This year New Hampshire is proud that a bit of itself—in the form of a 45-foot black spruce—has come to Washington to brighten this holiday season as our Capitol Christmas tree.

The tree was cut in North Conway, N.H., on December 1—a ceremony well attended in that north country community. The tree even received a musical sendoff for its journey to Washington when the Kennett High School Band, of Conway, turned out in skiing attire to lead the community in Christmas carols.

The same high school band will be on hand here in Washington when the tree is officially lighted next week. Led by Mr. Michael R. Hathaway, a graduate of the Boston Conservatory of Music, the band will play both at the ceremony and earlier in the day in the Rotunda of the Old Senate Office Building.

That ceremony on December 15 at 5 p.m., will also be attended by Miss Judy Hunter, of Concord, N.H.—a member of my staff who has been chosen by the New Hampshire State Society to represent our State in the Cherry Blossom Festival next spring.

The ceremony will also give us the opportunity to welcome to Washington Mr. Robert R. Tyrrel, Forest Supervisor, U.S. Department of Agriculture Forestry Service, who will be on hand to represent the White Mountains National Forest.

Mr. President, the tree has safely arrived in Washington under the supervision of Mr. Martin April, national accounts executive of the Hemingway Transport Co., and it is now being prepared for its debut next week. Making certain it received tender, loving care on its trek from New Hampshire were Robert B. MacHeffie of Gilford, N.H., and Everett A. Houston, of Laconia, both representing the Forest Service.

I urge Senators to get into the Christmas spirit on Wednesday next, when our Capitol tree will be officially lighted. New Hampshire may not be known for its warm weather at this time of year, but it is proud to send warm and cheery holiday greetings to the Nation's Capital.

ONE CHILD A VICTIM EACH DAY

Mr. PEARSON. Mr. President, as the distinguished Senator from New Mexico (Mr. MONTOYA) said yesterday, it has been almost a year ago to the day since Congress passed the Poison Prevention Packaging Act of 1970. The law, if enforced, would have put an end to most of the suffering of children and the families due to accidental poisoning.

Safety closures have been tested in a governmental hospital in Tacoma, Wash., and significant numbers of them have been patented and are available—if only we would use them.

Mr. President, if a 2- or 3-year-old child accidentally swallows furniture polish, pesticide, dishwasher detergent, aspirin, or the like he may suffer caustic and permanent internal injuries. In fact, over 500,000 youngsters under age 5 have been poisoned and at least one child each day has died from swallowing these hazardous household substances since Congress acted.

HEW took 4½ months just to pick a technical advisory committee to determine which products were dangerous enough to require safety closures. And during the past year, as Senator MONTOYA noted, this committee has met only twice.

Mr. President, many Members of Congress, in addition to concerned individuals in the press, consumer groups, and even industry have urged HEW to take affirmative action. But there is not a single safety closure on the market anywhere in the Nation today.

Because I helped write the bill and was a member of the House-Senate conference on it, I have a personal knowledge of the need for the legislation and its enforcement.

Mr. President, I can be patient no longer. I urge the Secretary of Health, Education, and Welfare to put a stop to this inexcusable, bureaucratic footdragging and enforce this law.

THE NATIONAL COALITION FOR LAND REFORM

Mr. HARRIS. Mr. President, I invite the attention of Senators to the formation of a new National Coalition for Land Reform. The chief goal of this organization, as expressed in its statement of aims, is to achieve a "more equitable distribution of land in rural America." I support that goal, Mr. President, and I know of no issue of greater importance in rural America today than the maldistribution of our land.

All too often when we talk about economics in this country we concentrate on, as Ralph Nader calls it, the "paper economy," symbolized by checks, credit cards, and stock certificates. We forget about the "real wealth" of America—which lies in the land. Mr. President, it is not too late to prevent the monopolists and speculators from taking control of

America's greatest national treasure, the land itself. But we have got to act now.

We have got to develop a national land policy that considers people, not corporate profits, as its highest priority. To begin, Mr. President, we must make small-scale farming economically viable so that we can stop the tragic outmigration from rural America to our already overcrowded cities. In fact, Mr. President, we have got to reverse that trend and give the economicaly disadvantaged the access to productive land ownership. This does not involve any handouts. It simply means that we have got to stop subsidizing the unnatural bigness in agriculture which so many now deem inevitable. Bigness is only inevitable. If we continue subsidizing it. We subsidize the corporation of American agriculture by Federal tax laws that encourage tax loss and hobby farms and land speculators. We subsidize bigness in agriculture through our labor and immigration laws which provide giant corporations with a constant source of cheap labor. We subsidize bigness in agriculture through a multibillion dollar farm payment program, almost half of which goes to giant agribusinesses. We subsidize bigness in agriculture through a public research lab—the land-grant college system—which too often primarily serves agribusiness. And we subsidize bigness in agriculture through a billion dollar water subsidy which many corporations receive through irrigation water while violating the law limiting such land ownership to 160 acres.

Mr. President, if these giant corporations are so efficient why is it that the taxpayer has to continue subsidizing them? The fact is that they are not efficient—except in tapping the Federal Treasury.

The principles behind our national land policy ought to be that land should belong to those who work and live on it, and that landholdings should be of reasonable size. These are not radical proposals, Mr. President. They have been recognized since the days of Thomas Jefferson and the Congress has seen fit to base legislation in the form of the Homestead and Reclamation Acts on these principles.

The case for land reform is a strong one. We have got to put an end to the cycle of overcrowding, unemployment, welfare, and crime in the cities. We have got to revitalize a dying rural America. And we have got to protect resources that are not infinite. In the process we can create a new generation of free Americans by making economic democcracy a reality in this country. Too many people, whether they work for Government or corporate bureaucracies, feel they have no power over their own lives. We have got to give them the opportunity to change that, Mr. President, and access to productive land ownership is one way to do that.

Land is unique among other sources of wealth in this country. It is a national resource, and it is not unlimited. We have got to protect it and make sure that its use is for the benefit of all Americans, not just a powerful few.

I endorse the goals of the National Coalition for Land Reform. In particular, these goals are:

Enforcement of acreage limitations.

Application of antitrust laws to agriculture.

Re-structuring of tax laws and subsidies to favor working farmers rather than large land owners and spectulators.

New laws enabling rural Americans to acquire a proprietary interest in their local economies.

Mr. President, I ask unanimous consent that the coalition's full statement of aims be printed in the RECORD, along with the announcement of the coalition's formation and a coalition statement entitled "Land, Jobs, and Ecological Survival." I also ask unanimous consent to have printed in the RECORD an article on land reform, written by Mr. Peter Barnes for the December issue of the New Democrat.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

NEW NATIONAL ORGANIZATION TO WORK FOR LAND REDISTRIBUTION

The National Coalition for Land Reform will hold a press conference at 9:30 am Thursday, December 2, 1971, in the California Room (mezzanine) of the San Franciscan Hotel, 8th and Market Streets, San Francisco. Speaking for the NCLR will be Robert Browne, director, Black Economic Research Center, New York; Berge Bulbulian, small farmer, Sanger, California; David Talamonte, director of the Tri-County Economic Development Foundation; Sheldon Greene, general counsel for the California Rural Legal Assistance Foundation; and Dr. Gerald Meral, West Coast director of the Environmental Defense Fund. Mr. Browne will speak about the needs of black sharecroppers in the South. Mr. Bulbulian will discuss the plight of small farmers being squeezed by giant corporations. Mr. Talamonte will discuss the efforts of Mexican-American farm workers to acquire land. Dr. Meral will speak about the environmentalists' concern for prudent rural land use.

SAN FRANCISCO.—A small farmer, a black economist, an organizer of a Mexican-American cooperative and an environmentalist today announced the formation of a new National Coalition for Land Reform.

The chief aim of the new organization is to bring about a more equitable distribution of land, wealth and power in rural areas. To this end the Coalition will oppose present policies which favor large land-owners and corporations, and seek new policies making land available to those who work and live on it.

Berge Bulbulian, a small grape grower from Sanger, California, said the new coalition represents the first time in American history that blacks, chicanos and whites have joined in a common effort to promote a democratic distribution of rural land.

Present government policies, Bulbulian said, are well symbolized by President Nixon's nomination of Earl L. Butz, a director of several agribusiness corporations, to be Secretary of Agriculture. These policies aid large agribusiness corporations at the expense of working farmers, force millions of rural Americans into overcrowded cities, add to unemployment and welfare costs, and lead to a kind of feudal society in rural areas.

The increasing concentration of land in the hands of giant corporations is particularly noticeable in California, Bulbulian said. Here, according to a report last year by the University of California Agricultural Extension Service, more than 3½ million acres of farmland are controlled by only 45 corporations. Some of these corporations, such as Tenneco, Standard Oil and the Southern Pacific Railroad, hold hundreds of thousands of acres, often in violation of the law. They have large outside sources of income and receive enormous subsidies and tax breaks against which the small farmer cannot compete.

These corporate landholdings, Bulbulian said, should be broken up and redistributed to working farmers. In particular, the 160-acre limitation of the 1902 Reclamation Act should be enforced.

Robert Browne, director of the Black Economic Research Center in New York City, noted that the acreage operated by blacks in the South declined by 40 percent during 1950–1964. Most of these dispossessed tenant farmers and sharecroppers migrated to northern ghettos, where few opportunities awaited them. And the migration is still going on.

"It is of utmost importance that these descendants of slaves, these families which have never owned anything of substance since their arrival in North America hundreds of years ago, be afforded a means to acquire land and to enjoy a modest degree of security," Browne said. "A legacy of dependence, whether on plantation masters or federal doles, is not a sound basis for self-respect."

Browne advocated a revival of the concept of the Homestead Act and the transference of land to blacks through a rural land bank. "This would be a far more economical way to deal with rural poverty than is welfare. It is certainly cheaper than continued migration with its incalculable costs in human and urban deterioration."

David Talamonte, director of the Tri-County Economic Development Foundation, which is organizing a farm workers' cooperative near Modesto, California, said farmworkers through cooperatives should be enabled to own the land on which they work.

"Farm workers know as well as anybody how to farm the land. They have been doing it for years. There is no reason that the profits from farming should go to large landowners and corporations, while those who actually do the labor receive wages of $2 an hour or less, and must go on welfare for many months of the year." He cited the growth of the *Cooperativa Campesina* in Watsonville, composed of former farmworkers and sharecroppers who are now joint owners of a highly successful strawberry-growing enterprise.

Sheldon Greene, general counsel of California Rural Legal Assistance and legal adviser to the new coalition, pointed out that land monopoly has long been considered a grave impediment to democracy and social justice in America. A century ago, he noted, the San Francisco *Chronicle* loudly condemned the "atrocious villainy" through which land monopolists in California accumulated vast empires, while thousands of industrious settlers were denied homesteads. Thanks to numerous government subsidies and the failure to enforce anti-monopoly laws, landholding patterns in California today are almost as bad as they were a hundred years ago, Greene said. Variable acreage limitations should be established for different crops, he contended, and an excess land tax imposed.

Dr. Gerald Meral, a zoologist who heads the West Coast office of the Environmental Defense Fund, noted that large-scale agribusiness and big corporate land developers are prime contributors to the environmental crisis. "Environmentalists must join hands with working farmers and the rural poor to put an end to corporate exploitation of land," Meral said. "We have a common interest in controlling suburban sprawl, preserving open spaces, and making prudent use of land, water and other diminishing natural resources."

The new coalition presently has offices on the East and West coasts and hopes to open others in the South and Midwest. It will work closely with public officials, labor unions, minorities, environmentalists, small farmer organizations, students, consumers and public interest groups in building a nationwide lobby for land reform and prudent rural land use.

STATEMENT OF AIMS

The National Coalition for Land Reform brings together citizens and organizations from all sections of the country who recognize the need for a more equitable distribution of land in rural America.

Coalition members believe that ownership of land by those who work and live on it is the key to alleviating rural poverty, easing urban overcrowding, reducing welfare costs and unemployment, protecting the rural environment, and building a stronger democracy.

Through educational, legal and political action, the NCLR seeks to—

Assure existing small farmers a fair return, and increase the number of self-employed farmers.

Encourage agricultural cooperatives.

Combat corporate feudalism.

Make government and financial institutions more responsive to working farmers and the rural poor.

Promote small-town businesses and rural economic development under local control.

Preserve open spaces and diminish use of toxic chemicals.

In particular, the NCLR seeks—

Enforcement of acreage limitations.

Application of antitrust laws to agriculture.

Re-structuring of tax laws and subsidies to favor working farmers rather than large land owners and speculators.

New laws enabling rural Americans to acquire a proprietary interest in their local economies.

LAND, JOBS, AND ECOLOGICAL SURVIVAL

(Some selected quotes)

Thomas Jefferson: "The small land holders are the most precious part of a state."

Homestead Act, 1862: "No individual shall be permitted to acquire title to more than one quarter section [160 acres]."

F. H. Newell, first director of the U.S. Reclamation Service: "The purpose of the Reclamation Act is not to irrigate the land which now belongs to large corporations, or even to small ones, it is not to make these men wealthy, but it is to bring about a condition whereby that land shall be put into the hands of the small owner, whereby the man with a family can get enough good land to support that family, to become a good citizen, and to have all the comforts and necessities which rightfully belong to an American citizen."

Oren Lee Staley, president, National Farmers Organization: "The farmhouse lights are going out all over America. And every time a light goes out, this country is losing something. It is losing the precious skills of a family farm system that has given this country unbounded wealth. And it is losing free men."

Nick Kotz, Washington Post, Oct. 5, 1971: "The domination of what is left of rural America by agribusiness corporations is not only accelerating the migration patterns of recent decades, but raises the spectre of a kind of 20th century agricultural feudalism in the culture that remains."

Geoffrey Faux, director, Center for Community Economic Development: "Unequal distribution of land and resources under a largely absentee ownership . . . renders helpless not just the poor, but all parts of rural society. Even where skillful men of good intent lead a local government, they cannot make the changes needed because rural communities themselves are in bondage to corporate powers. And it is not in the nature of things for International Paper to tax itself for better housing in Maine, or for Georgia Pacific to concern itself with schools in Harlan County, Kentucky, or for St. Regis to worry about poor black sharecroppers in Jefferson County, Missisippi."

Report of the President's Commission on Rural Poverty, 1967: "The problems of rural America and central city America are closely linked through migration. . . . The senseless piling up of refugees from rural America in our central cities provides no solution to the problems of rural areas or of the cities."

Woodrow L. Ginsberg, Center for Community Change: "When tens of thousands of scientists and skilled engineers [at Lockheed] were threatened with loss of jobs, a host of industrialists, bankers and others besieged Congress for large-scale loans and special legislation. But when even larger numbers of workers are threatened with loss of jobs in agriculture, scarcely a voice is raised."

Barry Commoner, director, Center for the Biology of Natural Systems: "Agribusiness is founded on several technological developments, chiefly farm machinery, genetically controlled plant varieties, feedlots, inorganic fertilizers (especially nitrogen), and synthetic pesticides. But much of the new technology has been an ecological disaster; agribusiness is a main contributor to the environmental crisis."

Victor K. Ray, National Farmers Union: "In Colorado, cattle feeding has been taken away from family farmers. It is now a corporate operation, controlled by packers. In the Denver area they skillfully maneuvered the market price downward from 29 to 21 cents a pound, thereby putting independent feeders out of business. Did the consumer get the benefit of these lower prices? Not at all. The price of beef in the supermarkets never went down. Indeed, on some days when the price of cattle fell the most, the price of beef at the counter actually went up."

Ralph Nader: "What is happening to California is happening elsewhere in Florida, the Southwest, the Northwest, and other developing areas of our country. [It is] the utter disregard for the integrity of the land and its relationship to man by powerful corporate executives. . . . The uses of land resources throughout America must be brought under a working philosophy of trust, buttressed by fair, democratically enforced laws and far-sighted planning."

Peter Barnes, The New Republic, June 19, 1971: "Many citizens and public officials are coming to realize that rural America ought to be revived, cities salvaged, welfare rolls reduced, and they see that present policies aimed at achieving these objectives are not working. Environmentalists who for years have pointed to the dangers of intensive agriculture and the need for prudent rural land use, are finally getting an audience. The list of organizations that have recently urged vigorous enforcement of the 160-acre limitation [of the 1902 Reclamation Act] includes the AFL–CIO, the Sierra Club, Common Cause, the National Education Association, the Grange and the National Farmers Union. That's not enough to sweep Congress off its feet, but it's a good start."

[From the New Democrat, December 1971]

A NEW LANDOWNER

(By Peter Barnes)

Not long ago the Bureau of the Census published some disconcerting statistics. The number of poor Americans in 1970, it reported, was 25.5 million—more than the number in 1960. The incidence of poverty was particularly high in rural America, where 19 percent of farm families and 10 percent of non-farm families were earning less than $3,100 a year.

These statistics come as no surprise to anyone who has travelled through the small towns and backwaters of northern New England, Appalachia, central California or the South. Yet they should cause all of us—particularly Democrats—to sit up and take note.

We applauded the ringing promises of Lyndon Johnson to build a Great Society, and the pledge of Sargent Shriver to wipe out poverty by 1976. But something obviously went wrong—something more fundamental than the election of Richard Nixon. Despite billions spent by the federal government on social programs, despite the longest uninterrupted period of economic growth in America's history, very little new wealth trickled down to poor people, least of all to the rural poor.

What went wrong, or rather was wrong from the very beginning, was the basic assumption that poverty in affluent America is primarily a cultural, racial and geographic problem. This assumption underlay the various anti-poverty and regional development programs of the 1960s.

The failure of these programs makes unmistakable what should have been recognized long ago: that poverty in America is above all an economic problem, a result of flaws in the distributive system that prevent the nation's vast productive wealth from being equitably shared.

These flaws can perhaps be boiled down to a few short sentences: wealth in America flows to those who own capital and land, and to those who have economic power. Most poor Americans do not own anything that produces income, and are not employed in industries where labor unions have demanded a healthy slice of the economic pie. Hence they remain poor.

This analysis leads to an inescapable conclusion: if poverty in America is ever to be eliminated, there must be a fundamental restructuring of the economy so that ownership of land and capital, and power in the economic marketplace, are much more widely distributed.

Let's look again at rural America. Not only did poverty fail to disappear in the 1960s; the economic conditions necessary to make poverty disappear actually worsened. Thus, the number of independent farm owners decreased dramatically, while the accumulation of land by giant corporations markedly increased. By the end of the decade nearly 10 million persons had been economically driven from rural areas to the slums and barrios of our cities. Despite the rhetoric of the war on poverty, in other words, the total impact of federal policies in rural America was actually to create more poor citizens.

RURAL AMERICA

Tax laws, crop subsidies, water subsidies and labor policies also encouraged the emergence in some parts of the country of a form of social and economic organization that can only be described as corporate feudalism. This form of social organization, if allowed to persist and expand, will not only perpetuate a kind of serf-like status for millions of poor Americans. It will also hasten the demise of small town businesses and the rural middle class, remove control of rural communities from the communities themselves to far-off corporate board rooms, and generally preclude the revitalization of rural America along democratic lines.

What should the Democratic Party do? It should propose and seek enactment of a comprehensive program for land reform. The guiding principles behind this program should be these: land should belong to those who work and live on it; holdings should be of reasonable, not feudal proportions; and small-scale farming should be made economically viable.

These are not revolutionary concepts, nor are they alien to the Democratic Party. They are squarely in the tradition of Jefferson, Jackson, Bryan and Roosevelt. They were recognized in the Homestead and Reclamation Acts, and have been urged by the United States upon Japan, South Vietnam, and dozens of other nations in Asia and Latin America.

A comprehensive land reform program should include at least the following principal elements:

Enforcement of the 160-acre limitation in reclamation areas by federal purchase and resale of excess landholdings. Legislation to this effect has been introduced by Senator Fred Harris, Representatives Robert Kastenmeier, Jerome Waldie and others, and been endorsed by the AFL–CIO, the National Farmers Union, the Sierra Club, the National Education Association and Common Cause.

Establishment of appropriate acreage limitations for landholdings outside reclamation areas. The size of the acreage limitation would vary with the type of crop grown. All land owned or controlled by a single individual or corporation in excess of the appropriate acreage limitation would be subject to a federal excess land tax. Revenues from the excess land tax would be used to help poor persons acquire land.

Vigorous application of existing antitrust laws to agriculture and enactment of new laws barring vertically integrated conglomerates from engaging in farming.

Restructuring of tax laws and subsidies to favor small-scale rather than corporate farming.

Greatly increased credit and technical assistance for agricultural cooperatives.

New laws assuring small farmers and cooperatives a fair return for their labor and greater power in the economic marketplace.

The long-term benefits of land reform would be so enormous as to defy simple categorization. Racial tensions would be eased; urban overcrowding would be reduced; jobs would be preserved and created; welfare rolls would shrink; alienation of workers from their work would diminish; more citizens would enjoy economic independence; the environment would be protected and democracy strengthened.

Politically the issue of land reform can be a powerful asset to the Democratic Party. It can appeal to working farmers, urban labor, blacks, browns, young people and ecology-minded suburbanites. That is exactly the kind of coalition the party must put together if it is to be a progressive force in the 1970s.

JETS TO ISRAEL

Mr. GURNEY. Mr. President, I read with great interest the newspaper reports in the December 7, 1971, issue of the Washington Post indicating that the U.S. Government has agreed to deliver some 12 to 18 A–4 Skyhawk attack bombers by late 1972. This is encouraging news but it represents only a small step in the right direction. Israel needs jets now—not a year or two from now. And they need our supersonic F–4 Phantom jets—as well as more of the smaller, subsonic A–4 Skyhawks—if they are to hold their own against the increasingly belligerent posture of the Arab Nations, particularly Egypt.

Failure to provide Israel with military hardware adequate to meet the increasing threat will not reduce the possibility of war. Rather, if Egyptian President Anwar Sadat translates his recent statements into action, it can only make war more likely. It is becoming increasingly apparent that all the Arabs are waiting for is a sufficient military superiority—and they will decide what is sufficient—to crush Israel. We cannot permit such a brave and loyal friend—one who has had to constantly fight for its very survival—to suffer such a fate. Defeat would bring death and misery to the brave Israeli nation, and in the process, shame the United States for not living up to our stated intentions.

If we look briefly at the relative military capabilities of the Israelis and the Arabs, it becomes evident that the military balance of power is shifting toward the Arabs. Egypt, in particular, has received large shipments of Russian equipment including the new Mig–23 Foxbat, generally considered to be the best fighter aircraft in the world. According to a recent report published by the Institute of strategic studies in London, one which does not include the Communists most recent missile and aircraft deliveries, Egypt now has approximately 666 supersonic aircraft. Of these 200 are Mig–17 fighters, 110 are SU–7 fighter bombers, 200 are Mig–21C fighters, and 156 are Soviet-operated Mig–21J and Mig–23 attack planes. Against this, according to the report, Israel has but 147 first-line attack bombers—75 F–4 Phantoms and 72 subsonic A–4 Skyhawks—and 60 fighters—the French-built Mirage III's. Even if you add in the 75 overage French-built jet fighters, the 85 subsonic light attack planes and six reconnaissance jets, the unfavorable balance is far from redressed. One must consider that there are an estimated 416 Soviet-built jets in Syria, the Sudan, Iraq, and Algeria plus the Mirage jets presently being delivered to Libya. Looking at the overall air picture, we see that Israel has approximately 374 planes compared to 1,496 for all the Arab nations, an adverse ratio of precisely 4 to 1.

On the ground, the statistics are not much more encouraging from the Israeli standpoint. While the armed services of Egypt and Israel are roughly the same size, Israel has to deploy them on five borders while Egypt can mass her armies along the Suez Canal. Similarly, the Egyptians have more surface-to-air missiles, more tanks, and more artillery than Israel, and we cannot forget the estimated 20,000 Russian advisors in Egypt, including some 200 pilots, who stand ready to assist. In short, the only way the Israelis can compensate for their numerical deficiences in men and equipment is through air superiority and greater overall military efficiency. Israeli air superiority, once demonstrably evident, can no longer be taken for granted thanks to the Soviet Union. If the balance of power in the Midwest is to be maintained, it behooves us to make the Phantom jets that Israel needs available to her—and to do so quickly.

We often hear the argument that intangible factors—high morale, better training, stronger motivation—will enable Israel to overcome the disadvantages I have just outlined. If the situation were to remain static, perhaps such a thesis might have some validity, but the situation is anything but static. Every time Egypt receives more Russian equipment while the Israelis get nothing, it grows worse. One has to wonder just how far a nation can go on superior training, discipline, determination, and morale. Still, the "intangibles" argument is not entirely without merit, for the Israelis are determined to survive as a nation. They have the will to fight for their freedom; what they need is the military hardware necessary to do so effectively. By giving them the Phantom jets they desperately need, the United States not only honors its commitment to Israel but reaffirms its belief that a nation has a right to be free—a right to determine its own destiny independent of foreign intervention.

It is a clear case of doing what the President has previously suggested—helping nations who will help themselves. We are not being asked to send American troops into battle and we are not committing ourselves to fight another nation's war. That is not what the Israelis want from us. Furthermore, experience should have taught us something about the problems involved in trying to be the policeman of the world. By giving Israel the necessary hardware—without American troops—we can most effectively help restore the balance of power which is so essential to preserving the peace in the Middle East and laying the foundation for meaningful negotiations.

There are other powerful arguments for getting the Phantom Jets to Israel. First, if the Israelis come to feel reasonably secure, through restoration of the balance of power, then they will be able to be more, rather than less, flexible in any subsequent negotiations. It seems only logical to me that a nation will have a longer list of nonnegotiable positions when its very existence is being threatened. Second, the Arabs may come to realize that they will not be able to achieve the superiority they want, and will, therefore, be deterred from attacking and be more inclined to negotiate, and third, the Soviet Union might just recognize that shipping arms to the Mideast will not achieve the strategic gains they envision. We have seen previously that the Soviets are quite willing to replace lost equipment if it is in their interest; why should we doubt that they would be reluctant to sacrifice more equipment if, in the process, they believed they might dramatically increase their power and influence in the Mideast. They might think twice, though, about sinking more men, equipment, and advisers into the area if prospects for Arab success against a strong Israel looked bleak.

Let me suggest, in closing that the old bromide about "an ounce of prevention" is most appropriate to this situation. Our commitment to Israel is clear as is Israel's need for our Phantom jets. The Senate has previously recognized the urgency of the need and depth of our commitment. On May 26, 1970, 76 Senators wrote the Secretary of State about sending jets to Israel to maintain the balance of power. On July 30, 1970, 73 Senators wrote the President in a similar vein. Last October 15, 78 Senators introduced a resolution—No. 177—to the same effect, and on November 23 we passed, by an 82 to 14 vote, an amendment to the defense appropriations bill which provided for $500 million "to enable the President to finance sales, credit sales, and guaranteees of defense articles and defense services to Israel." Of this, $250 million was specifically earmarked for Phantom aircraft. Now we hear that a small shipment of jets will be sent to Israel late next year. This is a hopeful sign, but it is not enough and we must make clear that it is not enough. The freedom of Israel and the cause of peace in the Mideast and, indeed, in the world are at stake. We must act now—by allowing Israel to get the airplanes she needs—in order to fulfill our commitments to a free Israel and to world peace.

Israel has no desire to fight a war. But should war come, Israel is not asking for us to fight in it. Israel is merely asking for equipment which will allow them to remain free and help keep the peace. We must not only tell them yes, but we must tell them now.

WELFARE REFORM FACTS: WILL PRESIDENT NIXON ANSWER THIS LETTER?

Mr. HUMPHREY. Mr. President, I have recently received a copy of a thoughtful letter sent by Darryl Meyer, director of the Murray County Family Service Center in Slayton, Minn., to the President of the United States.

The letter points to one of the problems in the welfare reform debate that has concerned me—the lack of sound planning data. The fact is, Mr. President, that we do not completely know what the effects of various public assistance programs are on recipients. And we seldom have empirical data on which to base difficult policy decisions.

It is for this reason I am extremely pleased that the Joint Economic Committee's Fiscal Policy Subcommittee, of which I am a member, has begun an indepth 2-year study of the interrelationship of public assistance programs. I eagerly look forward to guidance of this committee study. This is the kind of study that can provide answers to many of the questions raised by Mr. Meyer.

In the meantime, I do hope that the President will personally review Director Meyer's letter. Mr. Meyer's statement that "our country's haphazard approach to a problem that is killing the welfare system as certainly as if it were being deliberately planned" is so true.

I ask unanimous consent that the two letters be printed in the Record.

There being no objection, the letters were ordered to be printed in the Record, as follows:

Murray County Family
Service Center,
Slayton, Minn., November 24, 1971.

Senator Hubert H. Humphrey,
Senate Office Building,
Washington, D.C.

Dear Senator Humphrey: Attached is a copy of a letter which I felt compelled to write to the President. It does seem to me that it is time that this system quit its approach of trying to operate in something of a vacuum and rather become a part of the general community in which it exists.

Very truly yours,
Darryl Meyer, *Director.*

Murray County Family
Service Center,
Slayton, Minn., November 24, 1971.

Richard M. Nixon,
President, U.S.A.,
White House,
Washington, D.C.

Dear Mr. Nixon: I am writing this letter out of frustration at continually seeing various political leaders, taxpayer organizations, and portions of the overall community continually berate the recipient of public assistance—usually the AFDC recipient. I become especially disturbed at seeing public officials degrade the assistance beneficiary, with the inference that "welfare problems" are people problems.

It would seem apparent that it is time to develop meaningful data correlating the effect of other systems' problems and other organization input upon the scope of the public welfare system.

I can find no data on the effect of various union strikes on their states' welfare cost. What will be the effect of the recent Supreme Court decision upholding the Oregon Court that a woman cannot be required to pursue necessary legal action to obtain support from a deserting father as an eligibility criteria for AFDC? What percentage of increases in public assistance expenditures are attributable to OEO outreach workers whose job is to instruct and direct persons in their right to assistance benefits? What forces are behind the perpetuation of the multitude of inequities in our myriad of public assistance programs?

Not only does the welfare system not have very good answers to these questions, but there is no attempt made to explain these things to the general public. From the individual county up through the federal system, I can see no effort at developing a pertinent public relations program or a method of obtaining community input which can be directed to some meaningful changes.

Perhaps because there are no nationwide responsibility standards for the public welfare agencies, there is also no explanation to the general community as to the responsibilities of the local welfare departments. There is little publicity as to the public agencies' responsibilities in the area of inebriacy, mental retardation, unwed parents, mental illness, child and adult protection, family and child-rearing problems, helping persons or families remain in their own homes through a variety of programs, or meaningful data on the persons in our society who are unable to compete in a work structure.

Veterans' organizations can freely broadcast and publicize that veterans' assistance is readily available to any veteran or his family in time of need. Our welfare system seems to have resigned itself to the position that when a veteran's disability extends beyond a few months, and the family applies for AFDC, they may then join the ranks of the "welfare chiselers" and our system allows this idea to perpetuate itself throughout the community. Also, it is not necesarry to perpetuate the reporting of much of the statistical trivia which is now being collected.

Public assistance beneficiaries may be financially "as well off" as has ever been the case; however, it is coming at ever increasing personal-value sacrifice. Our country's haphazard approach to a national problem, or problems, is killing the welfare system as certainly as if it were being deliberately planned.

As there is a rather sizable task force, in Washington, planning a federalized system, it appears that one of their major priorities should be the development of a meaningful data collections system and a correlated public relations and public information system. If this is not a part of any revised approach, the "poor" of this country will be in little better position than they are now.

Very truly yours,
Daryl Meyer, *Director.*

ISRAEL'S DEFENSE CAPABILITIES

Mr. HUMPHREY. Mr. President, since the official announcement that the United States has decided to deliver 12 to 18 Skyhawk jets to Israel, all the public pressure for delivery of Phantom jets has dissipated. While I find this latest announcement encouraging, it in no way affects the original request of 78 Senators that the United States resume deliveries of Phantom jets to Israel. It in no way is an affirmative response to the amendment which specifically appropriated funds earmarked for Phantom jets, an amendment which 82 Senators supported.

I have become accustomed to Nixonian silence in the past and have been reassured by its proponents that really what we are seeing is a careful strategy of building world peace. Well, Mr. President, I maintain that under the veil of silence is confusion, ambiguity, and contradiction.

The President has offered no reasonable explanation for the delay in deliveries. I am not even sure the President has read his own "doctrine" in foreign policy, for if he had he would certainly realize that Israel's request is based on her desire to become self-reliant. With the additional Phantom jets Israel will secure her defense capabilities in case of an attack. By filling that request, the United States will be securing a military balance in the Middle East and providing Israel with the necessary force she needs to defend herself. The delivery of military supplies and especially the Phantom jets should not and need not be a matter of periodic controversy and news spectaculars. Our policy requires continuity and steadfastness. To act in any other manner, is to increase the anxiety and promote instability and uncertainty.

If the dogma of self-help has any relevance, I would think that its high priest would endorse it. I call up the President to announce the resumption of Phantom jet deliveries to Israel. Mr. President, I ask unanimous consent that an interesting article from the Baltimore Sun on Israel's defense requirements and military status be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Guns "Made in Israel" Now Cover the Suez

(By Stanley A. Blumberg)

Jerusalem.—The Dove of Peace hovers uncertainly over this Holy city. Part of what sustains it is that Israel has learned to produce its own arms and weapons of war.

Prior to the Six Day War, the Israeli defense forces depended on imported arms. Why not? Certainly their staunch ally, France, would fulfil its contractual obligations to deliver the Mystere and Mirage planes. And truly England would continue to sell Israel its Centaur tank, and the United States would supply cannon and electronic equipment, in some cases via West Germany. Why worry?

A series of crises preceding the Six Day War demonstrated how wrong Israel could be. Charles de Gaulle, miffed when Israel ignored his order not to move unless invaded, decreed an embargo on planes purchased and paid for. Then the United Kingdom fudged on its promise to sell the Centaur, and Washington turned reluctant to contribute to the arms race. On the other side, the Russians demonstrated the courage of their clients' aggressive intent. Weapons in seemingly unlimited quantities were delivered to Egypt, so the Israeli problem turned urgent.

As a result of the Six Day War, to be sure, the military position was temporarily improved. Prior to the war Israel had only minimal military transport. But, when action began, her soldiers were transported to the battle areas by civilian trucks. Many a grocer and butcher surrendered his lorry to the army for the duration of the campaign. Then hundreds of captured Russian and Czech trucks came to hand. Abandoned Russian armor of high quality was modified and adopted for Israeli needs, then it became part of the country's arsenal.

Still, this hard-won advantage in military hardware was makeshift and of short duration. Before the last cannon had cooled, before the last Egyptian body in the Sinai had been buried, before the rust could oxidize the armor destroyed in the desert, the Soviets re-equipped the Egyptian army and air force. Considering the new chill by Israel's own military suppliers, national security itself seemed threatened.

The cabinet quickly responded with two basic decisions. One, this small, still developing country of two and one half million would design and produce all weapons from missiles to planes necessary for its defense. They would build from scratch a military-industrial complex. During the perilous transition period, too, they would attempt to purchase weapons necessary to correct the military imbalance. The French embargo was firm, the English refused to sell Israel its Centaur tank. So the United States became Israel's prime and sole source of planes and sophisticated electronic equipment. There have been few occasions when a whole people was so dedicated to insuring its own defense. The building of weapons became a blueprint for survival.

To what extent have the Israelis succeeded, and how does this activity affect the chances of peace?

It can be deduced from current knowledge that Israel is approaching but has not reached a state of military self-sufficiency. It is estimated that over 25 per cent of her production is now devoted to defense or defense-related equipment. Her growing exports of metal products and high quality electronic equipment demonstrate an increasing capability in these fields. After Israel liberated her French-built fleet from French shipyards, the boats were outfitted in Haifa, meaning they were equipped with missiles and electronic gear, designed and built in Israel.

Beyond that the New York *Times* reported that Israel is developing a two-stage solid fuel missile with a range of 300 to 500 miles capable of carrying a nuclear warhead. It is known as the Jericho. The Israeli aircraft industry has designed and built a fighter plane, modeled after the French Mystere, but larger. How close the craft is to the production line is classified information.

Israel's increasingly independent military capability enables her, to a degree, to stand firm against pressures exerted by a well-meaning American Secretary of State, but her independence is not complete. She still needs the Phantom Jets for military defense and also as a political symbol of America's support.

Moshe Dayan warned that the American policy of denying Israel the planes it needs is encouraging the Arabs to war. This policy, he adds, "is giving the Arabs the impression that we are getting weaker." However, he went on, in case of renewed fighting the Arabs would suffer a "defeat worse than those they have suffered in the past—despite Soviet intervention on their behalf."

It is believed here that the chances for renewed hostility in the near future are slight, despite the martial noises from Egypt. The possibility of peace would improve still further if Sadat were convinced that the Nixon administration could no longer be persuaded into applying pressures on Israel.

INDIAN HOUSING IN OKLAHOMA

Mr. BELLMON. Mr. President, among the many critical problems facing American Indians is the lack of adequate housing. In my home State of Oklahoma, progress is being made to improve housing conditions for a large number of Indian families through the implementation of various public housing programs.

One of the most impressive of these programs is the turnkey mutual-help housing program in which the family supplies the land and labor and the Federal Government provides financial assistance.

An article in the August-September issue of the Journal of Housing reports on the successes being made by the Five Civilized Tribes of Oklahoma. I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

OKLAHOMA'S "FIVE TRIBES" INDIANS ARE IMPROVING THEIR LIVING CONDITIONS THROUGH PUBLIC HOUSING

(By G. Ronald Peake, Chief, Division of Housing Assistance, Bureau of Indian Affairs, Department of Interior, Washington, D.C.)

One of the most advanced public housing undertakings for American Indians—yet typical, with variations, of what is going on in other tribal communities—is the program being carried on by what are known as the "five civilized tribes" of Oklahoma. The tribal designation is historically derived, going back nearly 150 years, and refers to the Choctaw, Cherokee, Creek, Chickasaw, and Seminole nations. A century and a half ago these peoples occupied the eastern and southeastern parts of the country and had developed their own systems of tribal government and a cohesive culture and society—hence, the term "civilized."

But the white man moved into their homelands and pushed them out. Their pleas for protection were heeded by President Andrew Jackson and legislation was enacted for their relocation westward on territorial land in what is now Oklahoma. In the 1830's and 1840's, although some pockets of the tribes remained in the east, most of the members moved in a mass migration, along what is remembered now as the "trail of tears."

Fifty years later, with the opening of the Oklahoma territory to settlement, the white man, again, caught up with them, and, again, began to take over the land. Under an allotment law, title of certain lands was awarded to the five tribes, most of it in individual family holdings rather than as a tribal domain. Unlike most Indian tribes who live in defined reservation or treaty areas, the members of the five tribes are to a large extent intermixed among the general non-Indian population of the state. While the larger number is in rural or small town areas, frequently in ethnic colonies or communities, many live and work in the cities as a part of the general urban population.

Nonetheless, the tribes and their members retain their historic identity and hold a special status. The tribal laws governing the members are incorporated in the laws of the State of Oklahoma and the chief of each tribe, formerly appointed by the President, is now elected. The tribal members, like other Indians, are beneficiaries of the educational, health, training, and other services and assistance extended through the Bureau of Indian Affairs. Although many are dispersed, the members foregather for tribal meetings and ceremonial and cultural affairs and carry on common functions through the tribal structure.

Many of the individual members have been able to achieve positions of success and prominence. As a result of oncoming generations and changes in land tenure, many now are landless and a majority have suffered severe disadvantage in the white man's society. One of the manifestations of this situation has been the substandard and often wretched housing conditions under which they live.

It was to correct this basic condition that the leaders of the "five tribes" turned to the newly developing public housing program for Indians. Since each of the five tribes is a separate governing and social entity, each acted through its own authorities, but along parallel lines.

MAKING PUBLIC HOUSING WORK

The public housing approach began on June 18, 1965, with the passage of the Oklahoma Housing Authorities Act. This act provided for the creation of housing authorities for each Indian tribe, band, or nation, under the sponsorship of the tribal governing councils.

Immediately after passage of the act, each of the tribes, with the assistance of the BIA, began to take steps toward creating housing authorities. The Choctaw, Cherokee, and Creek nations completed organization of their housing authorities in 1965 and the Chickasaw and Seminole nations in 1966.

Under the housing authorities act, five persons are appointed as commissioners of an authority by the chief or other governing head of an Indian tribe, band, or nation, with the regular term of office for each commissioner set at three years. A chairman and vice-chairman are elected from among the commissioners of the authority.

As part of the organization work, the housing needs for the tribal nations were estimated by using United States census data and surveys that had been made by various government agencies during the past few years. It was appalling to find that 10,222 Indian families from a total of 15,893 residing in the "five civilized tribes" area were in need of a safe, decent, and sanitary home that might eventually come from one of the various housing programs offered by the Department of Housing and Urban Development. In addition to the large number of new homes needed, it was determined that another 2028 families were in dire need of loans or grants to make necessary home repairs and renovations.

Upon completion of the organization period, community meetings were scheduled in large numbers throughout the "five civilized tribes" area. The meetings proved to be of great value in initiating the program and ascertaining the types of projects that would be most needed by qualified and interested families.

The major HUD programs in which the tribes are participating are financed under the United States Housing Act of 1937, as amended.

The conventional low-rent housing program makes it possible for the tribal authorities to borrow money and construct rental housing on sites approved by HUD, the United States Public Health Service, and BIA. Under the conventional program, the five tribes have a total of 30 projects (1104) units) under various stages of development. Of this total, 11 projects (245 units) have been completed and are now under occupancy.

Two of the low-rent projects being sponsored by the Chickasaw tribe are designed for the elderly and will be built as high-rise projects within the cities of Ardmore and Pauls Valley. Most other tribes are considering projects for the elderly in the near future.

Another HUD program the tribal housing authorities are participating in is the Section 23 leased housing program. The Chickasaw and Seminole housing authorities have developed programs within their nations involving a total of 500 individual homes and other types of rental units located on scattered sites in the various towns and communities. The units are leased from local owners on a long-term contract basis and, generally speaking, the units have been renovated or repaired to meet requirements and standards of the housing authorities.

MUTUAL HELP PROGRAM

The most popular program being utilized by the tribes is the turnkey mutual-help housing program, which is administered under a joint agreement with the housing authorities, HUD, the Indian division of PHS, and BIA. Under this program, the participant family furnishes the land on which to construct a house and about 500 hours of labor in the construction. HUD, through the Indian housing authority, provides the financial assistance for a turnkey contract, furnishing all materials and labor beyond the abilities of the participant family. As part of the contract, which is between the housing authority and the developer, the family is obligated to furnish the required labor directly to the developer. On completion of the homes, the participant receives a certification of his labor contribution, which, together with the value of the site, provides for an equity totalling $1500 for the family at the time of occupancy.

The participant pays a rent based on the family income, with certain deductions authorized, with the annual contribution from HUD making up the difference between rent and economic cost. This rental payment continues until the end of the federal indebtedness, whereupon the occupant acquires homeownership. Regular monthly payments cover the costs of insurance, administration expenses, and equity payments. Additional equity payments may be made voluntarily at any time by the participant.

Following is a table showing the status of the mutual-help housing program in the "five civilized tribes" area of Oklahoma:

Tribe	Fiscal year 1972 allocation	Under or nearing construction	Completed and occupied	Total
Cherokee	306	675	255	1,236
Choctaw	300	308	330	938
Creek	100	190	97	387
Chickasaw	100	414	106	620
Seminole	0	171	79	250
Total	806	1,758	867	3,431

INDIAN HOUSING—A LONG-IGNORED NEED

Probably the most neglected of the serious housing needs in the country over the years has been that of the American Indians. Although as a special group, the Indians have had federal services extended through the Bureau of Indian Affairs, they have not, as have other minority and ethnic groups, been beneficiaries of government low-income housing programs until the past decade. At the same time, the shockingly low housing standards under which many Indians live have crippled educational, occupational, medical, and other programs extended for their improvement.

Today a growing public housing program is being carried out by 106 Indian housing authorities and is making major changes in the housing conditions of Indians throughout the country. By the end of the calendar year 1970, 16,300 public housing units had been approved for Indian communities, with 6,250 of them completed and occupied.

The program originated in 1961 when the Oglala-Sioux tribe at Pine Ridge, South Dakota, reminded the new President, John F. Kennedy, of his campaign promise to do something about the "shameful" housing conditions among the Indians (see 1964 Journal, No. 3, pages 124–131). The result was a three-way conference between the Public Housing Administration (now part of HUD), the Bureau of Indian Affairs, and the United States Public Health Service to develop a joint program to provide the housing, the services, and the community facilities that the Indians needed.

The public housing program that was devised, under the then Public Housing Commissioner Marie C. McGuire was based on a determination that the Indian tribes, under which most of the Indians are governed, were in fact public corporate bodies with the powers necessary to establish a public housing authority and carry out a program, in the same manner as a municipality. Such authorities are now carrying on public housing programs for both reservation and non-reservation Indian tribes in 26 states, stretching from Maine and Florida to California and Alaska.

MUTUAL HELP

But even with the public housing subsidy, the poverty of many of the Indians in terms of money was such that they could not afford even the minimal payment of public housing. To serve the most needy, a new method of public housing was developed—the mutual help program—and this method has been used for more than half of the Indian public housing thus far. The mutual help program was based on the fact that, though the Indians lacked money, they had labor to offer and in many cases land. The program, therefore, combined the labor of the Indians in building the house, the land and sometimes the materials made available by the tribe, the technical assistance from the Bureau of Indian Affairs, and the sewer and water facilities furnished to the point where the public housing subsidy would be sufficient with only a minimal tenant payment to amortize the cost in 25 years. As a further incentive to the Indian family to make its maximum contribution in labor, upkeep, and care of the house, the family was made eligible to acquire ownership of the house when the debt was paid off.

For those who had the means, conventional public housing, and more recently the Turnkey III procedure, have been used. For a small proportion of such families, financing under the Veterans Administration, the Federal Housing Administration, and the Farmers Home Administration programs has also provided the answer for the large number of Indians with extremely low incomes. An account of how this has worked among the Pueblo tribes in New Mexico was carried in the No. 1 Journal, pages 30–33, and a report on another well advanced program in Oklahoma is given in this issue in the accompanying account by G. Ronald Peake.

When the new Indian public housing program was finally worked out in 1961, the Oglala-Sioux tribe that started it all was the first to use it in a pilot of 50 units. They have since tripled their program. Within five years the number of units approved for Indian housing authorities reached 3800; in another five years, by the end of 1970, the number had increased fourfold to 16,300.

WHAT'S NEEDED

But what has been done meets only a fraction of what is needed. Currently pending with HUD are applications from Indian authorities for an additional 12,600 units; a BIA 1970 survey reported that 50,000 new units will be needed to provide standard housing for the 95,000 Indian families in the country.

THE HEALTH OF OUR GOVERNMENT AND OUR SOCIETY

Mr. ALLOTT. Mr. President, the December issue of Fortune contains two wise and timely articles which should be required reading for all Americans who are concerned about the health of our Government and our society—and who can distinguish between the two.

One article is by Max Ways, a member of the Fortune board of editors, and is entitled "It Isn't A Sick Society." The other article is by Prof. Robert H. Bork of the Yale Law School. Professor Bork's article is entitled "We Suddenly Feel that Law is Vulnerable."

Mr. Ways argues that American society is more healthy than our numerous critics realize. Professor Bork argues that one part of our public life—the law—is more vulnerable and weak than most people realize.

These articles are not contradictory. In fact, they complement each other very well indeed, and both—but especially Professor Bork's article—help explain why it is imperative that men of Mr. William H. Rehnquist's caliber and persuasion should serve on the Supreme Court.

Mr. Ways believes that the cacophony of strident criticism of American society indicates that we are suffering from "a subjective disease, social hypochondria." We have achieved so much that our expectations have become fevered; the more we accomplish the more we are supposed to accomplish, and the more our shortcomings are viewed as grave moral failures.

As Professor Ways says:

> The idea of revolution, especially as developed in the French habit of thought, looks toward a postrevolutionary tidying up, a consolidation, a new and stable order. On the other hand, the process exemplified by the U.S. in recent decades does not allow for that "logical" sequence. We have plunged into changes that, in turn, urgently require other changes—in laws, in political forms, in life styles, in education. And these "consolidations" immediately generate the need for still more changes. We have to do our tidying up, our consolidation, as we go along. We can look forward to no point of rest, where we can say that the period of stress and change is over and we can settle down amid new and better fixed institutions.
>
> Faced with the need for the concurrent, rather than the consecutive, handling of change and consolidation, the U.S. frequently fails to keep its action in phase. Friction and frustration result. Perhaps a high incidence of these will turn out to be the normal, healthy condition of a society moving in the direction of greater freedom, diversity, and individuality. A man who is running hard has a higher pulse and respiration rate than one who is walking. But in the circumstances the higher rates do not necessarily indicate abnormality or "sickness."

In addition, Mr. Ways argues persuasively that many of our failings result not from moral callousness, lassitude, but rather from our carelessness about institutional niceties. That is, we use the Government for purposes that it is not well suited to serve, and we use parts of the Government—such as regulatory agencies and courts—to do things which, even if they should be done at all by

Government, should not be done by those institutions of the Government.

And this is where Professor Bork's article is especially relevant. Professor Bork's theme is this:

> Law has entered upon troubled times. Along with the other major institutions of Western culture, it is beset by malaise and self-doubt. Seeming strength and sensed weakness combine in an uneasy blend. It is a time when the law lays claim to broad new domains of human life, yet the prestigious Association of the Bar of the City of New York feels impelled to stage a major symposium on the question, "Is Law Dead?" It is a time when young men and women are turning to legal careers in greater numbers than ever before, and when law students are less sure than ever before that their studies have meaning. It is a time when thoughtful men are concerned as rarely before with the need to uphold law against violence, and when scholars can maintain in public that it is wrong to try men for political murder. We look apprehensively toward a future in which the nature of law and its role in our affairs will have altered in ways now almost impossible to discern. We suddenly feel that law is vulnerable.

Mr. President, I am particularly impressed by the connection Professor Bork establishes between the problems of the law and the policy of the Supreme Court during the tenure of Chief Justice Earl Warren. Professor Bork says:

> One aspect of our unease may derive from our tendency to use law too much, to view it as an infinitely expansible carrier of social policy and norms. Law is not an implement that can be turned to any purpose. It has enormous capabilities, but when we ignore its limitations we damage law and place in peril the benefits it can confer. Law is now in serious danger of overreaching its capabilities, and may in fact already have done so. This is an aminous development, both as a symptom of social decay and as a likely cause of further deterioration in the social fabric.
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> We have also damaged law, and created disrespect for it, through our failure to observe the distinction, essential to a democracy, between judges and legislators. The era of the Warren Court was, in my opinion, deeply harmful to the prestige of law. There are many who insist that, as a direct result of the Warren Court's reformist drive, the prestige of law has never been higher. They point to the greatly increased numbers of young people entering law as evidence. The admirers of the Warren Court, however, are less in love with law than with power, power to produce results they like. Implicit in the idea of judge-made constitutional law are the ideals of adherence to general rules, of consistency, and of intellectual rigor. These were qualities in short supply in the Warren Court's record. If that Court did indeed inspire the young, it taught them to confuse the desirability of ends with the legitimacy of means, perhaps to confuse the idea of law and the fact of power.

Mr. President, those who favor the trends Professor Bork deplores are now deploring Mr. Rehnquist. They are aligning themselves with a doctrine of judicial activism—not to say judicial franticness—which has never had a substantial theoretical justification, and which has been thoroughly discredited by the results of its application.

I would urge all Senators to pay special attention to these of Professor Bork's words:

> We need more thought and greater sophistication about the kinds of issues and decisions that can profitably be referred to formal legal processes and the kinds that ought to be left to other processes. We are beginning to see that there are areas in which a government of men rather than of laws is to be preferred. Sometimes, as in the case of employment discrimination, we may be willing to pay the costs that the use of law entails, but then we should be skillful enough to frame the criteria in ways that law can handle. We must remember that law is a blunt instrument, and that we cannot use it effectively if we assign it tasks requiring a scalpel.
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> A NEED FOR LAISSEZ FAIRE
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> Law in our society is overextended in yet another sense. We have pushed too many policies that are too complex into the courts. In judicial institutions as in economic units, there are problems of economies of scale, problems of optimal size and work load. The principle that some specialization is essential to effective work cannot be overlooked. No other nation thrusts as many policy issues upon its courts as do we. In such varied aspects of life as antitrust, labor relations, rules governing elections, entitlement to government benefits, and criminal-law procedures courts are confronted with major substantive issues left unresolved by other branches of government. As a result, American courts are overloaded with broad and profound questions of economics, sociology, political philosophy, criminology, and so on and on. They do not, it must be said in all candor, handle these questions very well. Very often they do not handle them even passably. That is not surprising. No man or group of men can deal effectively with such a range of subjects. The result is that over the decades there has been a marked decline in judicial performance, and complex social policies are being deformed or rendered simplistic in the very process of their application. The two fields that I know best, antitrust law and constitutional law, are in states of intellectual chaos. My colleagues tell me that their fields of interest are in no better condition.
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> The lesson may be that a society cannot afford too many complex social policies, that some large admixture of laissez faire is required simply because regulation that might ideally be preferable will in fact, because of our inability to apply it without deforming it, turn out to be worse. Or perhaps the moral is that we must require legislatures to spell out their policies with considerably greater precision and specification than we now expect. In a society where customary modes of doing things are trusted, legislators can leave the detailed working out of policies to administrators, but that is no longer our case. And if we insist upon judicial participation in the application of policies, we must protect the judiciary by also insisting that legislators provide more guidance.

As Professor Bork makes clear, Mr. Rehnquist will find kindred spirits in the current Court:

> The present Chief Justice, Warren Burger, appears to be fully aware of the dangers of the misuse of courts. He has publicly worried that efforts to use law to bring about social change have been "creating expectations that are beyond fulfillment." He has warned: "Young people who decide to go into the law primarily on the theory that they can change the world by litigation in the courts I think may be in for some disappointments. . . . That is not the route by which basic changes in a country like ours should be made. That is a legislative and policy process, part of the political process. And there is a very limited role for courts in this respect."
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> A PARTICULAR KIND MAY DIE
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> The Supreme Court, however, may not find it easy to draw back from the activist, legislative pattern of the Warren years. The habit of bringing to the Court claims that belong in the political arena is not the less powerful because it is deeply illegitimate. Various kinds of claims are working their way through the judicial system, and the Supreme Court may ultimately have to face them—suits seeking judicial determination of abortion statutes, the death penalty, environmental issues, the rights of women, the Vietnam war. The Court should refer many of these issues to the political process, even though that will anger groups who have been taught to hope for easier, more authoritarian solutions.

Mr. President, so that all Senators can profit from these wise articles, and so that they can have something instructive to read while the Senate waits for the opportunity to confirm Mr. Rehnquist, I ask unanimous consent that these articles be printed in the Record.

Mr. President, there is a third important article that should be considered by those of us who are awaiting a chance to get on with the confirmation of Mr. Rehnquist. This article is by Prof. Joseph Bishop who, like Professor Bork, is a member of the faculty of the Yale Law School.

The title of Professor Bishop's article is "Politics & ACLU" and it appears in the December issue of Commentary. The article concerns the relatively recent evolution of the American Civil Liberties Union in the direction of a political pressure group.

The ACLU is currently celebrating its 50th anniversary. Its history is, in my judgment, largely one of positive contributions to our society. But as Professor Bishop demonstrates, there is ample and alarming evidence that the ACLU is becoming an organization congenial only to those who share a fairly strict, and extremely leftwing, orthodoxy.

These are the concluding words of Professor Bishop's article:

> The Union's chronic hostility to government is mirrored by its general indifference to assaults on freedom of speech and association by various New Left groups, which on campuses, at least, are a much more serious threat to First Amendment freedoms than are the cops. The Union's official *policy* is impeccable: "The ACLU considers it important to emphasize that it does not approve of demonstrators who deprive others of the opportunity to speak or be heard, or physically obstruct movement. . . ." But actions to implement these commendable principles have been few and feeble—an occasional letter to the newspapers expressing disapproval of some unusually outrageous disruption, such as the shouting down of pro-war speakers at Harvard last March. (Many similar episodes seem to have altogether escaped the notice of the Union and its spokesmen.) There have been no interventions, no briefs *amici curiae*, no press releases supporting authorities who tried to prevent or punish such violence.
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> On the contrary: when the University of Connecticut obtained an injunction against the making on campus of obscene and disruptive statements in connection with demonstrations against recruiters representing corporations with defense contracts, the Union sought to have the injunction overturned in the Supreme Court, and Mr. Wulf lectured the Court severely for its refusal to review the case. The NYCLU promptly and loudly denounced the police for using excessive force in the 1968 Columbia disorders, but had no unkind word for the violent demonstrators—an assessment of guilt which is not supported by the Cox Commission's Report.
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> Neither, apparently, does the Union support legislation intended to curb such interfer-

ences with free discussion, like a bill which would authorize the Attorney General to seek injunctions against "disruptive noise" at public gatherings. But it is very sensitive—properly so—to private interferences with the New Left's right to express itself: when printers, for example, refused to set type for an issue of *Scanlan's Magazine*, which consisted largely of what the printers regarded as a sort of Field Manual for urban guerrilla warfare, including a how-to-do-it piece on the construction of cheap, simple, and efficient bombs, the Union's Executive Director announced his intention to sue the printing company. The Union's policy on disruptive students attempted to salve their sensibilities by acknowledging that they were "moved by conscience to use extraordinary means (a euphemism for violence) in the belief that ordinary means have failed in creating a more just and equal social order." Although the printing shop foreman said that it was "a matter of conscience" for him, and presumably thought that the social order would be none the better for an infusion of pipe bombs and Molotov cocktails, he got no similar encomium from the ACLU.

Perhaps it is too much to expect any special-interest pressure group to be fair or objective in its attitude to what it regards as the enemy. Moreover, the Union suffers from problems created by its very success: to find new battles and victories its staff seems to think that it must push farther and farther toward, and beyond, the outer limits of freedom (not only of speech, but of action) and must, indeed, become a political pressure group. But the Union's attitude toward a constitutional and democratic government need not and should not be always, or even usually, that of Ralph Nader to General Motors. The Union has done far more good than harm. I *think* it still does, but the question seems to me much closer than it used to be. The policies of its present management risk a considerable, and I think undesirable, change in its base of support—from a large number of people, having very different political views, but sharing a common belief in the virtues of the Bill of Rights, to a rather smaller and politically homogeneous group whose belief in civil liberties for everybody, including old thinkers, is in some cases very dubious.

Mr. President, I hope that all Senators will read Professor Bishop's article before becoming alarmed by the fact that the ACLU has come out in opposition to Mr. Rehnquist. When the ACLU board took this decision it made much of the fact that this was a departure from its tradition of not taking such political stands. But as readers of Professor Bishop's article will see, that tradition to day is well on the way to becoming a dead letter, and the ACLU is sadly on the way to becoming just another lobby for the latest fashions in radical chic.

Mr. President, I ask unanimous consent that Professor Bishop's article be printed in the Record as the third and final item.

There being no objection, the items were ordered to be printed in the Record, as follows:

[From Fortune magazine, December 1971]

IT ISN'T A SICK SOCIETY

(By Max Way)

Beginning in the middle years of the Sixties, the statement that U.S. society is "sick" has appeared more and more often in public comment and private conversation. By now this opinion has become an almost universal cliché, and among some groups, including intellectuals and the young, the judgment is widespread that the sickness centers upon the business system. Moreover, in many contexts the word "sick" is used as a synonym for "evil"; the society's basic patterns and institutions are suspected of predisposing the U.S. to paths that are morally wrong. Books developing these themes are something of a minor industry these days; two of them, *The Sick Society* and *America Inc.*, will be considered below.

Whether or not the sickness can be clinically demonstrated, it is certain that a high proportion of Americans today feel some extraordinary degree of anxiety, ranging from queasiness to panic, about the health of their society. This generalized sense that something is fundamentally amiss colors the way Americans now see any public event, condition, or trend. It causes them to ignore or subordinate good news, while magnifying any information that can be read as a symptom of the sickness. This mood, a self-sustaining state of mind, can have drastic consequences in the world of action.

No President of the United States, for instance, can ignore the public's mood. Objectively, the condition of the domestic economy in August was far from desperate. But the White House, aware that public confidence can be a determining factor in economic and political life, had to take into account the deep public anxiety about the basic health of the U.S.—an anxiety that went far beyond economics. Nixon's August announcement of his emergency program was directed at mechanics of economic life—and it was so received. Many commentators, brushing aside the strictly economic aspects of his new policies, emphasized the hope that his announcement was dramatic enough to stir Americans out of their anxiety. These observers saw his program, not so much as an economic program, but as a sort of shock treatment for emotional depression.

In less public but perhaps equally important ways the darkling mood influences American behavior. Cooperation among people depends partly upon their degree of trust in the social framework that surrounds them. Individual effort and career morale, too, rest partly upon confidence in the milieu wherein each man plays his role. If the society really is basically sick, who or what within it can be well?

Although current U.S. political, economic, and personal life is profoundly affected by the idea that the society is sick, the idea itself is not subjected to much scrutiny. Few commentators address themselves to proving that the U.S. is ailing or even to defining with precision what they mean by a "sick society." Usually the speaker or writer simply assumes that everybody knows the U.S. is sick, and goes on to present his own diagnosis of the assumed illness. Somebody else may answer that this diagnosis is wrong, that the patient really has a different disease. But seldom is heard a voice questioning the broad judgment that the U.S. is ill.

THE NATIONAL JITTERS

This article, a dissent to the woeful assumption that the U.S. is a sick society, argues that the nation suffers from a subjective disease, social hypochondria. This dissenting opinion should not be regarded as optimistic or cheerful. In an individual, hypochondria can be a serious emotional disorder, stubbornly resistant to therapy. A standard medical reference notes, moreover, that hypochondria can lead its victim to "a total neglect of his health and well-being." In other words, a man can become so obsessed with his imagined illness that he will not deal effectively with those threats and hazards that beset any normal life. Perhaps a nation, too, could jitter itself into an early grave.

To say that the U.S. is gripped by hypochondria is not to imply that, objectively, the social health of the U.S. is perfect. It faces, in fact, serious challenges that require the rapid improvement of many functions, and probably a thoroughgoing overhaul of some institutions. But these challenges arise not because social organs have deteriorated or sickened, but because the U.S. in the last twenty years has pushed rapidly forward along economic, political, social, and moral lines (see "Finding the American Direction," Fortune, October 1970). This advance thrusts us into a period, which may turn out to be protracted, of genuine stress. But a situation of objective difficulty is not a sickness. It is especially important to distinguish between them because people who mistakenly believe themselves sick will not react as successfully as they otherwise might to challenges in the real world.

In attempting to distinguish social hypochondria from organic sickness, this article will examine some treatments of that obsessively attractive topic, what's wrong with the U.S., with particular attention to the diagnosis that business is the cause or, at least, the main locus of the disease.

The present indictment is very different from that of the Thirties, when business seemed to have failed in its primary functions of offering jobs and producing goods and services. Since 1950, despite predictions that technology would shrink the need for human work, the number of people employed has increased much faster than the adult population. Even more remarkable has been the upgrading in the quality of jobs. Backbreaking toil and repetitive, mind-numbing tasks have declined, while the people most in demand are those possessing very high skills, including the humanistic skills of communication and coordination. According to government figures, from 1950 to 1970 the number of professional and technical workers increased 148 percent, the number of "managers, officials, and proprietors" increased 29 percent, clerical workers 80 percent, sales workers 27 percent, craftsmen and foremen 32 percent, whereas "operatives," mainly semiskilled, increased only 15 percent and "nonfarm laborers" only 6 percent.

Meanwhile, of course, the flow of goods and services from the business system, even in the bad year of 1970, reached a level that was, in real terms, more than double that of 1950.

The fruits of the economy, whether in the dignity of the work itself or in the products of the work, are much more widely and less inequitably distributed than they used to be. Millions of jobs are still dull, and millions of people, especially if they are young, black, or unskilled, have great difficulty getting and keeping even the dull jobs. Concern over the continuance of these conditions should not obscure some central developments. The office has displaced the assembly line as the typical form of U.S. work. Nearly 60 percent of American families (in 1970) were in the huge middle-income band between $5,000 and $15,000 a year, a band that represents neither opulence nor indigence. Popular participation in the ownership of industry, both directly and through pension funds, has vastly increased. The economic and personal insecurity formerly caused by sharp swings in the business cycle has diminished.

Yet these amazing qualitative and quantitative improvements prompt little public respect and less enthusiasm For a while in the mid-Sixties social discontent was concentrated mainly against government. Business, its vigor conceded, was relatively sheltered from attack. But in the last few years complaint has been shifting its target. Business is now denounced for those very achievements that its critics of four decades ago deemed forever beyond its reach.

The loaded word "affluence," which suggests more than enough, has crept into almost everybody's vocabulary to describe the first large society in which most of the people are not at or under the line of poverty. The shame felt because of prosperity is as if a man, emaciated from birth, who was at last approaching normal weight, said, "Doctor, this disgusting obesity is killing me."

The gravaman of the antibusiness indictment swings from economics toward morals. Business, for a century accused of prolonging poverty by deliberately holding down production, is now accused of corrupting the society's soul by pampering its body. Clothes are the marijuana of the people. Food is the opium of the people. Cars are the heroin of the people. Trips to Europe are the LSD of the people. Business is the pusher.

MAMMON ON THE CAMPUS

If jobs are less toilsome, calling for more initiative and judgment from the workers and for less blind obedience to authority, a less hierarchial style of management appears. This provokes some older members of "middle America" to complain that the iron of disciplined obedience has been removed from the nation's moral diet. If business recruiters search universities for creative talents once scorned by industry, then cries rise from the campus that Mammon is trying to corrupt the pure white bodies of intellect and art.

As people's expectations rise faster than their buying power, business is blamed for the gap of discontent. It is true that purchases often fail to give the degree of pleasure expected; sometimes the trouble is, indeed, that the product is faulty or that it was advertised mendaciously. In other, and more numerous cases, the purchaser did not carefully evaluate the product or his own priorities. Even where products live up to expectations, guilt drowns the enjoyment of customers whose ancestors from time immemorial lived in patterns of enforced frugality. In all these situations, blame tends to turn back upon business, the seducer.

The man who hates his work blames business. The man who loves his work frequently dissembles his feelings out of deference to convention. A kind of reverse hypocrisy appears in which almost everyone says he works only for money. It would be shameful to admit he enjoyed the work itself or the cooperation with his colleagues, shocking to say he likes serving his fellow men by what he does in industry. According to the current cant, "public service" can only refer to what one does after business hours.

People who tell themselves that they are working only for material rewards and who then also profess to despise the material rewards as morally corrupting are bound to feel somewhat unclean and unhappy. This unhappiness is projected upon the business system as the site of social "sickness."

Beyond all this, there is in contemporary society a real, formidable, and novel problem of understanding the nature of power in our time and of fixing responsibility for its use. Failure to understand the new structure of power is probably the main source of the social hypochondria that centers its complaints upon business.

The plainest—yet still the most neglected—truth about power today is that there's much more of it around in our society than there used to be. The second truth is that the society's total power is still (and will always be) limited: i.e., unable to do many desirable things. The third truth is that power is more and more widely distributed. So many more people and organizations can do so many more things that we collide with one another and with the physical environment. From all the new freedom of action arise new problems of social order. But few people see it that way.

Habit ingrained through centuries leads us to think that a few readily identifiable people hold all the significant power in society. Past conditioned, the contemporary mind keeps groping for an Establishment, the haughty seat of concentrated power and responsibility. If anything is wrong (and, of course, plenty is wrong) with the society, then we tend to assume (1) that the defect persists because of some flaw—probably moral—in the Establishment, and (2) that the Establishment centers upon the business system. The "sickness," we think, must be at the top where the stupid or wicked king used to be.

The first assumption leads to the reduction of very complex, many-sided problems—such as highway safety—to simple moral accusations against the wicked king, in this case the automobile industry. The subject of highway safety, which covers a vast terrain, includes wide and important areas that are almost incomprehensible to nontechnologists; it includes other areas that are boring; still other areas, such as the drinking driver, that millions of drinking drivers would rather not think about. These arid or uncomfortable questions can be thrust aside while the public thrills at the classic tableau of "the brave little man" pointing a righteous finger of blame at the throne and crying, "There is the seat of the corruption."

The second assumption exaggerates the power of business, its relative importance in the total structure. Business does, indeed, constitute the channel through which many of the new kinds of action flow into society, transforming it. Most of the fundamental social changes of recent decades—urbanization, mass prosperity, mass higher education, mass aspirations toward the good life—are intimately connected with the business system. These changes bring new problems and make old ones painfully visible. It is not surprising or, in itself, unhealthy that society says to business, "Since you can do so much, do better."

It is a sign of social hypochondria when critics, underestimating the intrinsic difficulty of many current problems, blame the morals or the motives or the structure of business for the fact that the problems are not yet solved. At this point, a lot of people start believing that the society is sick because it is "business dominated."

VICE PRESIDENT EICHMANN

Two recent books are worth examining in this context because they set forth in some detail the charge that business is the seat of the society's assumed illness.

The Sick Society by Michael Tanzer begins by identifying four "clusters of problems." They are, as defined by the author: "1) Vietnam, as part of the more general issue of U.S. involvement in the underdeveloped world; 2) the gold and dollar crises that hinge on our relations with the developed world; 3) racial discrimination and black poverty; 4) a spreading sense of malaise or alienation, particularly among youth and intellectuals."

These disparate problems, says Tanzer, all have common "underlying economic roots and causes." The disease that produces these symptoms is "the organization and control of economic life by large profit-seeking corporations run for the benefit of the tiny upper-income elite that owns them." Tanzer emphatically denies that he is proposing a "conspiracy theory" to the effect that a group of "evil corporations" have set out to control American life. He thinks the four clusters of problems follow accidentally but not unpredictably from "the uncoordinated activities of separate firms, each having one narrow aim: profit maximization."

In a sense, Tanzer's thesis is a standard attack on capitalist society, familiar during the last hundred years and not crying for a new examination. But if *The Sick Society* is taken as a symptom of the trouble that it purports to diagnose, then the book is worth a second look. In Tanzer's analysis, people who work in corporations might want to use corporate power to resolve the problems represented by the four clusters, but they cannot do so because the sole permissible corporate goal is the maximization of the firms' profits.

The following passage indicates how Tanzer thinks "the corporate economy" hurts those who work for corporations: "People cannot work in institutions whose activities differ from their personal desires without it affecting their own personalities." An employee develops a mechanism for bridging "the gaps between his values and the actions of his corporation." These gaps between the corporation's and the employee's goals are, says Tanzer, reflected in the "widespread psychological alienation found *within* the corporation." To illustrate his point, Tanzer refers to Eichmann, the Nazi war criminal, whose excuse that he was only obeying orders is compared to that of a corporate employee who says, "Well, I only work there."

A tendency in modern thought, conspicuous since Karl Marx, seeks to disguise a moral accusation as a scientific conclusion. Tanzer, an economist, has no sooner disclaimed any intention of calling corporations "evil" than he is blaming much of the nation's and the world's suffering on the self-seeking of a tiny, powerful elite—and then he draws an analogy with the Nazi party. By "the sick society" he—and most others who use that weasel term—really means "the evil society."

Is it true, as Tanzer implies, that men are necessarily corrupted when they work in organizations whose activities "differ" from their own personal desires? This is a fundamental psychological and ethical question that lies close to the root of social hypochrondria.

Whenever two or three or twelve men get together for any purpose—whether it be maximizing profits or minimizing leprosy—differences will develop among the participators; the group will move in a way that some members disapprove. If the group is a modern corporation, the member can—and frequently does—resign when he objects strongly to what the corporation does. But in most instances he will work out some adjustment between his own values and desires and those of his fellows. This is true not merely in corporate life; it is true in playgrounds, on football teams, in government bureaus, in marriages, in research projects, and in monasteries. Adjustment to the desires of others *can* be damaging, but it is not necessarily a psychologically hurtful or alienating experience. On the contrary, it can be a path to maturity and personal growth.

If compromise for the sake of cooperation is not unhealthy elsewhere, why should it be so in a corporation? Though profit maximization isn't, in fact, the only corporate goal, it is an important one. Concededly, maximizing a material gain is not the most morally uplifting of all human aims; but it isn't the most debasing aim, either. A century that has seen much evil done for reasons other than profit will recognize a modicum of truth in Samuel Johnson's remark: "There are few ways in which a man can be more innocently employed than in getting money."

Nonmaterial drives such as egotism, phychological imperialism, and ideological aggression can also cause damage in human relations. To avoid all material and immaterial possibilities of injury or corruption, the resolutely pure man would have to live alone in a cave.

A HEALTHY SOCIALISM, HE SAYS

Tanzer has a different solution. Indeed, when he gets around to discussing prognosis and therapy, the tone of his book suddenly moderates as if he had lost the intense emotional concern that carried him through his dire diagnosis. Sick though he says it is, the U.S. is not necessarily about to die. Remedy lies in the adoption of a "healthy socialist society." Tanzer tells his readers hardly anything about what such a system might be, except that it would be different from any existing socialist society anywhere in the world. It would have to be different from any such system if it were expected to perfect relations among nations, to end ethnic discrimination, and to cure alienation, "particularly among youth and intellectuals."

But the interesting question, which Tanzer does not seriously face, is how or in what way a "healthy socialism" will cure troubles that arise from causes far broader than the profit maximization of "the corporate economy." A basic challenge in advanced modern societies arises from the specialized nature of human skills and the organization of effort toward specific goals. This habit of sharply focusing attention and action is the key to all our new powers and also the source of many of our new troubles. Socialist economies also have—and must have—organizations designed around specialized goals and methods. Socialist societies also have—and must have—people whose desires differ from one another.

The market, as we know it, is doubtless a highly imperfect way of coordinating the "fragmentation" so deeply implicit in modern life. It is an illusion, however, to suppose that socialism really solves the problem of coordination. Either it is a tyrannical socialism, in which case hierarchical authority coordinates by simply suppressing the drives of particular groups of producers and consumers; or else it is a "democratic socialism," in which case it transfers to the political process the difficult and delicate task of coordination. No political process yet invented could do that job as well as a market.

One suspects that for Tanzer a "healthy socialism" is no more than an escape hatch from reality, the name for a condition that has never existed, and that cannot be envisioned, except by saying that it must be very different from the system that produced existing defects.

This vagueness concerning the future fits the hypothesis that such books as Tanzer's contribute to the disease, not to the remedy. As we know, the hypochondriac doesn't really want to get well. Why should he be interested in a concrete description of a future social system that he doesn't expect he will ever see?

Perhaps it is because the cultural atmosphere of our time is pervaded by books, articles, speeches, plays, novels, and songs proclaiming society's corruption, that many of the young and the intellectuals are alienated, that many employees of corporations feel morally unclean and psychologically frustrated, and that the public generally is so uneasy that it has a difficult time concentrating on specific public decisions that require its attention.

THE VIEW FROM THE PATHOLOGY LAB

A more ambitious recent book blaming business for what's wrong with the U.S. is *America, Inc.*, which was on best-seller lists for weeks. In case anybody doesn't get the implication of the title, a subtitle is added, *Who Owns and Operates the United States.*

While "the sick society" is not an explicit theme of *America, Inc.*, anyone who believed the book would be highly likely to conclude that the U.S. suffered from a terrible malady. Much—perhaps all—of the factual material in this huge volume is in some sense true. One of the authors, Morton Mintz, is an investigative reporter for the Washington *Post*. The other, Jerry S. Cohen, was chief counsel for the Senate Antitrust and Monopoly Subcommittee. Both are competent and honest observers. Ralph Nader, who has become a sort of toastmaster of accusatory potions, contributes to *America, Inc.* one of his numerous introductions.

The effect of *America, Inc.* is as if two earnest researchers emerged from the pathology laboratory of a hospital waving slides of diseased tissue and proclaiming, "Here is what life in this community is like." Each slide may represent some slice of reality, but not every slide would be interpreted by all competent observers in the way Mintz and Cohen see it. More important, all the slides taken together do not begin to add up, as *America, Inc.* implies they do, to a balanced picture of the relation between business and the rest of society.

The basic proposition of the book is stated on its first page: "Big Business *is* government." The authors mean that large corporations monopolize the significant power in the society, including control of functions traditionally reserved for government. In a breathtaking leap, the authors equate business prices with the governmental power to levy taxes.

Even more logically reckless is the next analogy. "When it sends men to war or to a penal death chamber the constitutional government takes life. The giant corporation also takes life." It turns out that this second sentence means that the automobile industry has made cars that were less safe than some people think they should have been and that some pharmaceuticals were dangerously overpromoted. But in this sense, anybody might "take life." Long before a giant corporation existed, men died because of some action or inaction by other men. Sometimes the action or inaction was culpable and sometimes it wasn't. One duty of government was to fix blame and to restrain the actions of those who wrongfully hurt others. Governments have often been accused of negligence or unfairness in oarrying out this duty. But did it ever occur to anybody before that if A hurt B, then A must be a government?

A third analogy relates to "the quality of life and the environment," which government can affect. So can a giant corporation. Therefore, reasons America, Inc., Big Business is government. In the premodern era, goatherds with their relatively limited technology (i.e., goats) seriously damaged the environment of many Mediterranean lands. That did not make goatherds the government. In our time, most people—and not merely giant corporations and governments—can do much more damage than goatherds.

All present-day societies, whether or not they contain giant corporations, are struggling—none of them very successfully—with the implications of multiplied power. It scarely helps in the understanding of this struggle to argue that every new kind of power possessed by a giant corporation means that this power has been taken away from the people or from government—both of which have, in fact, increased the scope of their own activities quite as much as giant corporations have increased theirs.

RX: TWO ASPIRINS

Much of the material in America, Inc. is concerned with problems arising from the governmental effort (or lack of effort) to regulate business activities. Hardly anybody in the U.S., knowing the record of such regulation, would judge it admirable. Up until a decade ago, the main argument was an emotional debate on whether there should be more regulation or less. Then public attention began a belated and healthy shift toward the quality of regulation. For example, the long record of the Interstate Commerce Commission is now deemed a failure not because it regulated too much or too little, but because it was ill conceived from the beginning. Not incidentally, the ICC was ill conceived because it was created in response to the same kind of hysterical moralizing and indiscriminate denunciation that now inflames the land.

Each area of regulation prominently mentioned in America, Inc. environmental protection, automobile safety, and the testing of pharmaceuticals is a field of great intrinsic difficulty where experts differ. In such complex cases, government's job of protecting the public would not be easy if there were no giant corporations or, indeed, if there were no private business at all.

Effective and fair law enforcement is hard to achieve today in fields far simpler than business regulation. There are, of course, people who sit on country-club porches and proclaim that crime in the streets could be easily ended if police and courts would simply "crack down" on all youths or all blacks or all "undesirables." The authors of *America, Inc.*, who would not take any such simplistic approach to ordinary crime, do not hesitate to blame big business in general for the transgressions of particular corporations and individuals. Law effecting business—in the environmental and many other fields—needs to develop from a base that recognizes the genuine objective difficulties of the subject. A book such as *America, Inc.* tends to turn the discussion of business regulation back to the muckraking level of three generations ago. It is dramatically exciting—but not useful—to pretend that the U.S. is in a simple moral struggle between us good guys and those bad guys, the giant corporations.

A reader who believed the analysis of *America, Inc.* might easily conclude that only total revolution would offer any hope of national recovery. But the authors of *America, Inc.* are far from revolutionists. As is the case with Tanzer's *The Sick Society*, the concluding chapter of *America, Inc.* drops off to a whispered anticlimax. Mintz and Cohen recommend a rather well-worn set of reform proposals, stressing much tougher interpretation of antitrust laws, along with federal (as distinguished from state) chartering of corporations. It's hard to see how these remedies would make much difference if big-business dominance were so overwhelming as Mintz and Cohen say it is. Having diagnosed cancer, they prescribe two aspirins. The hypochondriac's lack of interest in recovery was never more plainly indicated.

A HIGH PULSE RATE

A kind of antidote for hypochondriacal reading is provided by a third recent book, *Without Marx or Jesus*, by Jean-Francois Revel, a French philosopher-journalist, who differs sharply from the dominant opinion of the U.S. presented by the French press.

In France—and, indeed, throughout the world—a wide consensus of intellectuals regards the U.S. as "sick." This judgment essentially echoes and magnifies the dominant opinion among American intellectuals. The overseas picture of the U.S. is exaggerated in some cases by Marxist prejudice that predisposes observers to see the leading capitalist country as riddled with "contradictions." Examples of turmoil in the U.S. are emphasized even more abroad than they are in American media. American efforts to deal with civil disorder are despised as fascist when they succeed, sneered at when they fail. Ideas of U.S. business life are even more outdated abroad than they are among American intellectuals. The surface of the news, meaning the bad news, is taken uncritically abroad as representing the whole reality of U.S. life.

Revel, on the contrary, interprets all the stress and protest in the U.S. scene as part of the tremendous vigor and thrust of a society that is actually moving more rapidly than other countries in directions, such as democracy and diversity, that the world's intellectuals profess to value most highly.

Revel believes that the U.S. direction exemplifies the only possible hope for a better world, a path that he thinks European nations and the less-developed countries both could follow. His analysis contains one major—and very French—flaw. The word "revolution" occurs again and again in his pages as an event that is about to happen, first in the U.S. and then elsewhere in the world. Perhaps because of a certain dramatic event in their country's own past. French intellectuals seem unable to think of major social change except in terms of "revolution" thrusting up from below. In some passages, Revel seems well aware of the tremendous changes that have already occurred in the U.S. Much of what he might cover by the word "revolution" was happening here in the quiet Fifties and the unquiet, but not revolutionary, Sixties.

It was happening, moreover, through the action of such "establishmentarian" institutions as the business system, the Supreme Court, the presidency, and Congress, which have been more instrumental than "dissent" and "protest" in bringing about actual change in the U.S. Whether the seventies are quiet or not, this rapid process of U.S. change will continue.

The idea of revolution, especially as developed in the French habit of thought, looks toward a postrevolutionary tidying up, a consolidation, a new and stable order. On the other hand, the process exemplified by the U.S. in recent decades does not allow for that "logical" sequence. We have plunged into changes that, in turn, urgently require other changes—in laws, in political forms, in life styles, in education. And these "consolidations" immediately generate the need for still more changes. We have to do our tidying up, our consolidation, as we go along. We can look forward to no point of rest, where we can say that the period of stress and change is over and we can settle down amid new and better fixed institutions.

Faced with the need for the concurrent, rather than the consecutive, handling of change and consolidation, the U.S. frequently fails to keep its action in phase. Friction and frustration result. Perhaps a high incidence of these will turn out to be the normal, healthy condition of a society moving in the direction of greater freedom, diversity, and individuality. A man who is running hard has a higher pulse and respiration rate than one who is walking. But in the circumstances the higher rates do not necessarily indicate abnormality or "sickness."

WHEN THEORY LAGS BEHIND PRACTICE

Hypochondria occurs because our out-of-date social theory, based on the experience of change in past centuries, is not adequate to describe the process that is actually occurring in today's U.S. We know the condition of society is different and we assume that it must, therefore, be sick.

In the present state of social science, there is no sure test that will disclose whether a given society is sick or well. One can assert, though without firm proof,that according to fundamental American ideals, which are widely shared among mankind, the objective condition of the U.S. today is, on balance, better than it has been at any time in the past, and as good as that of any other society today.

According to those same ideals, however, American society is far from good enough. Without being either objectively sick or subjectively hypochondriacal, our society ought to be conscious of its very serious defects. Or to put it another way, we will not face our real problems if we keep telling ourselves we are too weak or too evil to do what needs to be done.

In a recent New York *Times* Magazine article called "Is America Falling Apart?" the British novelist Anthony Burgess says, "There is no worse neurosis than that which derives from a consciousness of guilt and an inability to reform." True. And in fact a misplaced and overgeneralized consciousness of guilt can undermine the ability to make particular reforms. A man who says, "I am bad," may be locking himself into guilt. But a man who retains his self-respect while saying, "That particular pattern of action is bad and I will correct it," may be on the threshold of moral improvement.

To deal with the specific problems generated—basically—by increased power at all levels of society we need above all to see with today's eyes, not yesterday's. Obsessive accusers who dredge up stale morality plays about the wicked and corruptive king are distracting the society from its present moral duty: to make more headway in the formidable task of coordinating our fragmented functions, and to do this without reimposing centralized authority.

A sick society could never succeed in that task. Neither could a hypochondriacal society.

WE SUDDENLY FEEL THAT LAW IS VULNERABLE

(By Robert H. Bork)

Law has entered upon troubled times. Along with the other major institutions of Western culture, it is beset by malaise and self-doubt. Seeming strength and sensed weakness combine in an uneasy blend. It is a time when the law lays claim to broad new domains of human life, yet the prestigious Association of the Bar of the City of New York feels impelled to stage a major symposium on the question, "Is Law Dead?" It is a time when young men and women are turning to legal careers in greater numbers than ever before, and when law students are less sure than ever before that their studies have meaning. It is a time when thoughtful men are concerned as rarely before with the need to uphold law against violence, and when scholars can maintain in public that it is wrong to try men for political murder. We look apprehensively toward a future in which the nature of law and its role in our affairs will have altered in ways now almost impossible to discern. We suddenly feel that law is vulnerable.

Law, it is true, has never been as solid and certain an institution as we pretended. The more thoughtful members of the legal profession have always realized that they were not sure what law is or why it has a paramount claim upon the citizen's allegiance. To others, however, and certainly to the laity, law was obviously a system of logical and interlocking rules by which life was governed. There were answers to important questions in law libraries. Few troubled to disabuse us. I remember still the shock I felt on being told on the first day in law school that the law is a mystery, that it is, in its deepest essence, unknowable. My classmates and I supposed that the great man (later to become dean of the school and then president of the university) said such things merely to snap us out of our civilian torpor in much the same way as the drill instructor in boot camp speaks some shocking phrases to loosen one's attitudes for the remolding that is to come. It simply could not be the case that the law was unknowable. If that were true, how could Holmes have said that it was possible to live greatly in the law? Why did old lawyers quote approvingly the aphorism that law is a jealous mistress who will brook no other? There must be something that made it worth the devotion of a lifetime.

The attitude was no doubt callow and romantic, as befits young men, but it lured many into the law, and the profession still finds it useful in recruiting new members. My own case was not, I think, untypical. A college instructor, a poet who had taken a law degree himself, confirmed my leaning to the law. He said that law was the most noble of all human studies, for it brought philosophy into the marketplace. That was what my classmates and I knew must be true; it was certainly what we wanted to hear. The law was to be a profession of never ending intellectual endeavor, a study concerned with the ordering of complex human affairs through the application of reason. The law itself seemed almost a tangible thing, accrediting like a coral reef over the years through many thousands of arguments and decisions by a procession of lawyers and judges, and yet achieving the form of an unimaginably magnificent cathedral. We could almost discern its structure, vast, adorned with endlessly rich and fascinating detail, containing an infinity of passages and rooms, but with each part in integral relation to the rest and in harmony with the main supports and the foundation. Yet it was a structure, too, that was continuously growing and changing as men labored to see its design and improve small details in the brief light and time given them. A life in the law, we thought, promised battle, demanded devotion, and rewarded learning. And who would not choose to be soldier, priest, and scholar?

THE UNCERTAIN ESTABLISHMENT

Some years have passed now, and there are days when that vision seems merely amusing, or perhaps poignant. The magnificent edifice of the law has not become clearer but instead has receded, perhaps finally, into the mists. In middle age we suspect that it was nothing but a product of our imaginations to begin with.

These reflections are not merely personal. There is abroad a feeling of disappointment with and about law, a suspicion that it may be weak and unsure. This feeling is particularly frightening because we turn increasingly to law as other supports seem to fail us. The legal establishment itself is uncertain. The signs are everywhere.

Signs are apparent in our attitudes toward the courts, where we have come to accept major philosophic shifts as inevitable with changes in personnel. Signs are also apparent in the law schools, where the traditional intellectual thrust and self-confidence of the faculties have been damaged. One perceives now, despite rising enrollments, signs of lowered morale and uncertainty about the purposes, content, and even worth of legal education. The major law firms are worriedly attempting to adjust to the altered demands and interests of the new graduates, trying to understand their lessened drive and vague career aspirations, asking the faculties why the top-rated students do not appear to be interviewed. The bar, so sure of itself and its functions just a half dozen years ago, is wondering aloud whether this is a passing phase or the end of the established order and the birth of a new, bewildering, and as yet undefined legal culture.

THE CORE IS MISSING

With the legal establishment itself betraying uncertainty and even timidity, it is not surprising that the public senses trouble in the law. And, since law represents stability and safety, is it surprising that sensed weakness should stir disquiet and even anger?

The trouble springs in large part from our inadequate understanding of law and its uses. The striking, and peculiar, fact about a field of study so old is that it possesses very little theory about itself. There is no body of systematic learning about the law's inherent capabilities and limitations. I have heard an eminent economist who became closely acquainted with a major center of legal scholarship remark with astonishment: "You lawyers have nothing of your own. You borrow from the social sciences, but you have no discipline, no core, of your own." And, a few scattered insights aside, he was right.

Good lawyers, a combative, hard-edged breed, are intellectually imperialistic, priding themselves on their ability to ransack other men's specialties quickly and beat them in argument on their own grounds. But it should cause imperialists some embarrassment to reflect that though they regularly invade and reap the harvests of other men's territories, the home country remains unsubdued. There is a price to be paid for that neglect, and the price appears to be the diminished effectiveness of law and decreasing respect for law. It would be well to begin to talk about the problem. Perhaps parts of it must remain insoluble, but we can do better than we have done, and at the very least we may be able to avoid misidentifying the cause of our troubles, and perhaps head off panicky responses that make matters worse.

One aspect of our unease may derive from our tendency to use law too much, to view it as an infinitely expansible carrier of social policy and norms. Law is not an implement that can be turned to any purpose. It has enormous capabilities, but when we ignore its limitations we damage law and place in peril the benefits it can confer. Law is now in serious danger of overreaching its capabilities, and may in fact already have done so. This is an ominous development, both as a symptom of social decay and as a likely cause of further deterioration in the social fabric.

We have also damaged law, and created disrespect for it, through our failure to observe the distinction, essential to a democracy, between judges and legislators. The era of the Warren Court was, in my opinion, deeply harmful to the prestige of law. There are many who insist that, as a direct result of the Warren Court's reformist drive, the prestige of law has never been higher. They point to the greatly increased numbers of young people entering law as evidence. The admirers of the Warren Court, however, are less in love with law than with power, power to produce results they like. Implicit in the idea of judge-made constitutional law are the ideals of adherence to general rules, of consistency, and of intellectual rigor. These were qualities in short supply in the Warren Court's record. If that Court did indeed inspire the young, it taught them to confuse the desirability of ends with the legitimacy of means, perhaps to confuse the idea of law and the fact of power.

Our culture has long stressed the importance of law, and Americans are probably as concerned with law as any people on earth. But there exists a strong counterstrain, a tendency to idealize men or groups who set themselves against law and seek their ends through direct action. The ambivalence toward law that this counterstrain creates appears to be strongest in persons with more education, leisure, and affluence than the average. It is closely related to the tradition—now especially strong in literary and academic circles—according to which the enlightened man must continually be in opposition to society, particularly to bourgeois society. Violence from the political right is abhorred, but not violence from the left. The rhetoric of the left is more appealing to prevailing modes of thought—and after all, the argument runs, society has been slow to undertake necessary reforms. Hence the support and sympathy shown in journalistic and academic quarters for such representative figures of our times as the Berrigans, prison rioters, student militants, Black Panthers, Yippies, *et al.*

The tradition of support for civil disobedience and even violence is deeply disturbing, particularly disturbing because it is so firmly established in the institutions that mold opinion. There is a limit to how much defiance of law a legal system can tolerate. No one knows precisely where the tipping point is, but it is undeniable that our system is beginning to feel the strain. Disrespect for law is contagious. As Hannah Arendt warns, "The practice of violence, like all action, changes the world, but the most probable change is a more violent world." Since violence and defiance of law are often successful in our society, they are not, in the short run, irrational means. But in the slightly longer run, if they become the common mode of political struggle they will be disastrous for everyone.

Those who use or advocate coercion and disruption for political or ideological ends have a ready model in the legally sanctioned struggle between labor unions and management. Our labor law, and the ideology that supports and suffuses it, encourages the organization of employees into fighting groups, and lets the wage bargain depend upon the outcome of the fight. The rhetoric of union organization and struggle is the rhetoric of war. The method of struggle, by both sides, is coercive, each attempting to put intolerable pressures on the other in order to achieve a favorable if temporary treaty of peace.

It becomes increasingly difficult to maintain a consensus that the legal right of private employee unions to strike and disrupt (and of employers to lock out) is somehow different from the desire of other groups to do the same. One element in the inability of some faculties to resist educationally inappropriate student demands, backed by threats of mass disruption, was the frequently advanced analogy of the students' position to that of workers. Sensing the drama and power it created, students eagerly cast themselves in the role of proletarians, and many faculty members accepted the metaphor. Picket lines, strikes, disruptions are now becoming the common coin of political dispute, used by groups ranging from welfare recipients to women's lib. Not law but willingness to inflict inconvenience and discomfort, or sometimes worse, becomes the decisive factor in disputes.

When law is invoked, as in certain strikes by public employees, it is often only partially effective. Frequently it is brought into play with the understanding that sanctions will be modified or lifted entirely if the objectionable behavior ceases. In the course of student disorders the authorities may bring law to bear, but the demand for amnesty is frequently made and frequently granted as part of the bargaining process. Law is then perceived by the immediate participants to the struggle, and by the general public, as merely one weapon usable in combat. Law becomes thought of not as the ultimate command of our society, but as simply one element of power in a complex struggle. This view of law denies it any claim to unique respect. It is on a part with any other kind of force.

A CLAIM OF OMNICOMPETENCE

In this way, domestic law begins to descend to the status of international law, which means that we begin to recognize the independence, the semi-sovereignty, of various warring groups within the society. When we view groups somewhat as nations, we admit that law has only a limited role to play in governing. Law is successful when there is a consensus that certain behavior cannot be tolerated, when groups with legitimate interests to advance are nevertheless perceived by the society as lacking any legitimate right to disrupt, to wage limited wars. The question, and it is by no means an easy one, is whether we will be able to sustain our denial to nonlabor groups of the tactics we concede to labor organizations.

There may be room for pessimism. William J. McGill, the president of Columbia, argues that the university, in finding forms to cope with the various groups that make demands upon the administration, is providing a model for "pluralism" in society at large. "One of the greatest achievements of American law," he says, "has been construction of the rules of orderly conflict between management and labor, embodied in our now classical concepts of labor law. We need a closely related legal framework for working with social change and with the conflicts engendered by the variety of liberation movements now developing on campus." This is a disturbing view. It should be clear that the management-labor model is a warfare model, and that its acceptance as the general mode of effecting change would be disastrous for law and social peace. The results, indeed, might be so intolerable that law would return in a far more repressive form than any we now know.

Even as we increasingly accept the absence or only partial effectiveness of law in many social controversies, we are simultaneously introducing law into others where it had never before had a role. One of the most striking developments of recent years is the ubiquity that law is attaining. This appears to be an unreflective trend rather than a self-conscious process that anybody has thought out. Law spreads and seeps into ever more aspects of life, claiming an omnicompetence it cannot sustain.

Law is growing from many sources. Floods of regulations are churned out by Congress, state legislatures, municipal governing bodies, courts, executive officers, and administrative agencies. Since the New Deal, we have become accustomed to massive intervention of law in the economic life of the nation, and now we are seeing a similar proliferation in social and cultural spheres. With the substance of much of this law I have no quarrel, but there are costs to the use of law, and in some areas of life the costs may exceed any conceivable benefits.

No society can be healthy and effective if all disputes are drawn into legal processes. The spread of law throughout human relations signals not only a decline in individual freedom but also a withering of community, traditional modes of accommodation, and informal authority. A healthy society requires that there be considerable play in human relations, a degree of trust in the good faith of others, confidence that things can be worked out tolerably, a willingness not to insist on every 'right" one may think one should ideally possess, and a large amount of individual self-reliance. The attempt to define all the rights of individuals and to enforce them by legal processes signifies the diminution or disappearance of these virtues.

An excessive and oppressive legalism is taking hold even where law in a formal sense has not entered. A prime example is afforded by the universities, where there has been an unprecedented demand (and an astonishingly ready acquiescence to it) that everyone's rights be spelled out in written codes and that special tribunals be created to enforce them. In universities throughout the nation we have seen the adoption of codes, often quite complex, concerning student behavior, faculty and administration powers, the process of decision making within the university, and even such matters as discrimination in hiring by employers who visit the campus. Presidents and deans are stripped of wide areas of discretion, rights and duties are spelled out, special tribunals for indictment, trial, and appeal are created. The analogy to formal legal systems is so powerful that these procedures begin to pick up elements of due process, right to counsel, proof beyond a reasonable doubt, exclusion of hearsay, peer group representation on tribunals, and so forth.

These developments are further along in universities than elsewhere, but various groups are beginning to make similar demands on other institutions. Demands that corporate boards include representatives of consumers, environmentalists, labor, racial and ethnic groups, and the like, represent a shift toward political decision making as the mode of governance of these organizations. And we keep hearing demands that the internal processes of corporations be judicialized—the theory being that large corporations have as much "power" as state governments.

REFLECTIONS OF PARANOID FEELINGS

The increasing legalization of our culture is a sign of the deterioration of the culture, and particularly the breakdown of community. Groups feel themselves set apart and requiring the protection of law from what is perceived as the hostility of strangers—people who not long ago would have been accepted as members of the same community. Such paranoid feelings are reflected, for example, in those student demands for codified rights. It makes little difference that the distrust is usually without objective justification.

Nor is it likely that law will significantly repair the broken sense of community. In an earlier article in this series ("The Angry Young Lawyers," September) my dean, Abraham S. Goldstein, was quoted as saying: "As home, church, and ideology began to lose their cohesive force, law was increasingly seen as a way not only of expressing preexisting norms but also of creating them." And of course law, though its capacities in that respect are probably quite limited, *can* help generate norms. But a reliance upon law to replace home, church, ideology, and the sense of community seems likely to make matters worse rather than better. The intrusion of law and its coercions is a continuing reminder that trust, community, ease of relationship, have diminished. When even relatively minor disputes are referred to the legal process, they become freighted with emotional and symbolic importance. The divisiveness inherent in adversary procedures begins to operate. Disputes are made more visible and the drama of conflict tends to polarize the participants.

Thus law does not always repair broken community; it may, on the contrary, put an additional strain at precisely the wrong time on the waning strength of home, church, and ideology.

The trend toward legalization does more than impair the ease and civility of life. It requires the diversion of time and energy from other tasks to those of manning the legal machinery. More than that, the uncritical extension of law to new fields—whether formal law made by legislatures and courts or the informal variety growing within universities and other institutions—brings into adjudicative settings decisions that do not belong there. Adjudication requires standards that are real and susceptible of proof. Law is full of instances in which lack of adequate criteria made the hearing process an empty ritual. Some time ago, as a result of statutory misreading, the Supreme Court demanded that the field prices of natural gas be regulated by the Federal Power Commission. Since the unregulated field price was competitive, regulation, if it was to accomplish anything, had to hold prices below competitive levels. For a variety of reasons, a cost basis made no sense, so the commission and the reviewing courts were left to decide cases without real criteria. At last report they were still floundering in their attempts to find law for the problem.

THE VALUE OF UNWRITTEN STANDARDS

Certain forms of discrimination present the problem of criteria that are real but cannot easily be established by evidence. It is easy enough to establish whether a person has been turned away from a restaurant because of race or sex—the variables are few. But employment discrimination presents a different problem. The decision concerning who is to be hired or not hired, who is to be promoted or passed over, does not always, or perhaps even usually, turn upon objective and quantifiable data. Such decisions also rest upon elements of judgment and intuition. On a case-by-case basis, therefore, the employer's decision will usually turn out to be unreviewable. Unless he admits bias, it is almost impossible to prove that he discriminated. This, it appears, is the reason federal programs in this field including the President's "Philadelphia Plan" for the building trades, have had to impose quotas in order to be effective.

In other cases, law intrudes in decisional processes that are better left to managerial discretion, and so renders institutions less effective and often less humane. Universities, for example, have long had standards of conduct that were customary and unwritten or, if written, so vaguely worded as to be in effect customary. People understood with tolerable certainty where the lines were. Administrators handled most infractions informally and were able to take account of such factors as the character of the student, the likelihood of repetition, and the morale of the student body. These are matters that a formal hearing process cannot deal with. Other difficulties aside, the mere adoption of an adjudicative setting makes such nice judgments about persons seem improper. The trappings of law raise expectations of impersonality and "objectivity." As control over the institution of formal proceedings is itself increasingly formalized, cases are made of situations better left to informal discussion or admonition.

We need more thought and greater sophistication about the kinds of issues and decisions that can profitably be referred to formal legal processes and the kinds that ought to be left to other processes. We are beginning to see that there are areas in which a government of men rather than of laws is to be preferred. Sometimes, as in the case of employment discrimination, we may be willing to pay the costs that the use of law entails, but then we should be skillful enough to frame the criteria in ways that law can handle. We must remember that law is a blunt instrument, and that we cannot use it effectively if we assign it tasks requiring a scalpel.

A NEED FOR LAISSEZ FAIRE

Law in our society is overextended in yet another sense. We have pushed too many policies that are too complex into the courts. In judicial institutions as in economic units, there are problems of economies of scale, problems of optimal size and work load. The principle that some specialization is essential to effective work cannot be overlooked. No other nation thrusts as many policy issues upon its courts as do we. In such varied aspects of life as antitrust, labor relations, rules governing elections, entitlement to government benefits, and criminal-law procedures, courts are confronted with major substantive issues left unresolved by other branches of government.

As a result, American courts are overloaded with broad and profound questions of economics, sociology, political philosophy, criminology, and so on and on. They do not, it must be said in all candor, handle these questions very well. Very often they do not handle them even passably. That is not surprising. No man or group of men can deal effectively with such a range of subjects. The result is that over the decades there has been a marked decline in judicial performance, and complex social policies are being deformed or rendered simplistic in the very process of their application. The two fields that I know best, antitrust law and constitutional law, are in states of intellectual chaos. My colleagues tell me that their fields of interest are in no better condition.

The lesson may be that a society cannot afford too many complex social policies, that some large admixture of laissez faire is required simply because regulation that might ideally be preferable will in fact, because of our inability to apply it without deforming it, turn out to be worse. Or perhaps the moral is that we must require legislatures to spell out their policies with considerably greater precision and specification than we now expect. In a society where customary modes of doing things are trusted, legislators can leave the detailed working out of policies to administrators, but that is no longer our case. And if we insist upon judicial participation in the application of policies, we must protect the judiciary by also insisting that legislators provide more guidance.

It is sometimes argued that we could devise new institutions to relieve the courts of some of their unmanageable tasks, but that is not a particularly happy thought. Beginning with the establishment of the ICC in 1887, we have spawned any number of administrative tribunals and agencies to frame regulations and decide cases, subject to judicial review. The results, most observers now admit, have been dreadful.

Yet somehow we must make the work of the courts more manageable. The alternative is to lose the benefits that courts can give us: scholarship, a generalist view, wisdom, mature and dispassionate reflection, and—especially important—careful and reasoned explanation of their decisions.

Related to these issues is a development that threatens considerable trouble in the future: the increasing use of litigation as a shortcut to the achievement of desired political and social ends. I do not want to be misunderstood here. Some political and social changes inhere in accepted legal principles, and litigation quite properly both discloses and forwards these changes. All the implications of a principle are not evident upon the first enunciation of it. Thus the principle of racial equality before the law, contained in the Fourteenth Amendment, quite properly resulted at length in the Supreme Court's decisions—in *Brown v. Board of Education* and the cases that came after—denying government the power to segregate or discriminate on racial grounds. Those litigations wrought an enormous change in our social and political structures and practices, but the result was a correct one for the law to reach.

The problem arises when litigation is used to accomplish results not inherent in any legal principle that the courts may properly rely upon. It is much cheaper and easier to ask a court to order the change you want than to go through the time-consuming, expensive, and messy process of persuading voters or legislators. And there is always the possibility that the voters or legislators will see things differently from you. Naturally, many groups and individuals accepted the invitation to substitute litigation for politics. And the Warren Court too often responded by ordering change based upon no discernible principle other than the majority's personal views.

A CONFUSION OF ROLES

It should hardly be necessary to say that this practice is inconsistent with the most fundamental theory of representative democracy. Our Constitution and our political ethos do not call for general government by judges. Many of the results the Warren Court reached were, in my view, politically or socially desirable. I would have voted for them as a legislator or as a citizen in a general referendum. But that does not begin to justify their imposition by a court acting on no existing legal principle.

The confusion of roles encouraged by the Warren Court undermines not only representative government but also the ability of law to govern at all. Though the Warren Court majority pleaded that it was merely applying the Constitution, that pretense fooled fewer and fewer people. Performance of this kind on the part of courts raises several dangers. Many people may decide that the claim of law itself to honesty, integrity, and neutrality is false. If law comes to be seen as something of a trick, political power will be seen as the only reality. In this perception lies the possibility of the destruction of the Supreme Court's constitutional authority. Worse still, those who decide that law is a trick will not easily distinguish between law made by judges and law made by legislators. Cynicism is not so easily confined, and disrespect for the Supreme Court may easily become disdain for what the Court symbolizes, the ideal of government by law rather than by whim, prejudice, or raw power. If the Supreme Court's power comes to be thought illegitimate, where will legitimate authority be seen to lie?

The perception that a Court is willing to be the political ally of certain causes, regardless of law, damages the moral authority of law, and law cannot be effective unless it carries moral weight as well as the threat of sanctions. Should any sizable and cohesive segment of the population come to feel that the only reason to obey law is the possibility of unpleasantness with the police, the costs of maintaining social order with present degrees of freedom will be prohibitive. We live in times when we cannot afford to dissipate any of the law's moral authority.

The present Chief Justice, Warren Burger, appears to be fully aware of the dangers of the misuse of courts. He has publicly worried that efforts to use law to bring about social change have been "creating expectations that are beyond fulfillment." He has warned: "Young people who decide to go into the law primarily on the theory that they can change the world by litigation in the courts I think may be in for some disappointments. . . . That is not the route by which basic changes in a country like ours should be made. That is a legislative and policy process, part of the political process. And there is a very limited role for courts in this respect."

A PARTICULAR KIND MAY DIE

The Supreme Court, however, may not find it easy to draw back from the activist, legislative pattern of the Warren years. The habit of bringing to the Court claims that belong in the political arena is not the less powerful because it is deeply illegitimate. Various kinds of claims are working their way through the judicial system, and the Supreme Court may ultimately have to face them—suits seeking judicial determination of abortion statutes, the death penalty, environmental issues, the rights of women, the Vietnam war. The Court should refer many of these issues to the political process, even though that will anger groups who have been taught to hope for easier, more authoritarian solutions.

The problem of social order is coming to the forefront in most advanced nations. Law must become more self-conscious if it is to meet the challenges that are being put to it. While it is not, of course, the only institution that creates social order, law is one of society's bulwarks, and it provides an impelling analogy or metaphor for social processes. Law is valuable for itself and because it teaches moral lessons to society. It is important that the lessons be the right ones. The right lessons will be taught only if we learn to use law correctly, to respect it as the ultimate arbiter of disputes where it is applied, to conserve its strengths by employing it only where it has clear benefits to give, and by insisting that the roles of legislators and courts be kept distinct. These tasks are not for lawyers alone, but until they begin to create the body of theory that their profession so desperately requires, there will continue to be unnecessary trouble in the law.

The stakes are far more important than the efficient functioning of law. The answer to the question "Is law dead?" is that law will never die. But a particular kind of law may die. Society will not long tolerate severe social disorder. Should law in its present form fail us, it will ultimately be replaced by other forms of law that will impose order. What is at stake, then, is not law but rather democratically made law allowing wide scope for individual freedom. That is worth preserving.

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POLITICS AND ACLU

(By Joseph W. Bishop, Jr.)

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Within the community of liberals the American Civil Liberties Union—now celebrating its fiftieth anniversary—has long occupied a place comparable to that of Dwight D. Eisenhower among Republicans. For half a century it has done more than any other organization to enforce the First, Fourth, Fifth, Sixth, and Eighth Amendments to the Constitution of the United States. It has also labored diligently on the Fourteenth, which (as construed by the Supreme Court, with some prodding from the Union's lawyers) now extends most of the Bill of Rights to state governments. ACLU, spreading the protection of the Constitution to more and more people, has also spread itself like a green bay tree, and flourishes mightily. Its contributing members number 150,000, or one hundred times as many as in 1921, when it was quite feasible to list each and every contributor in the annual report of its founder and longtime head, Roger Baldwin.

Its annual cash income, in 1921 an exiguous $20,000 (which nevertheless sufficed for some considerable achievements), has registered an increase still more spectacular—it is now in excess of $2 million. The Union's resources are in reality much greater, for more than a thousand lawyers, some of them very talented, annually supply, without fee, services which would probably cost private litigants several million dollars. It has state affiliates, or so-called national chapters, in every state save Delaware and Idaho, plus several hundred local chapters.

These are impressive figures for a do-good organization. But the Union has impact and influence far out of proportion to its size and its tangible resources. It is a tireless and often effective lobbyist on Capitol Hill; it issues pamphlets and press-releases by scores and hundreds. Most of them land on target: in a period of approximately two years, no fewer than 311 stories in the New York *Times* alone reported the Union's doings and sayings.[1] It would be hard to name another private organization which comes close to matching this record. Nor does the Union rely wholly on propaganda and persuasion; its lawyers actively litigate about a hundred major cases a year. And all of these activities are duplicated in the provinces by the affiliates and chapters.

As the Union's Legal Director, Melvin L. Wulf, sees it, all this activity is no more than a desperate stand at Armageddon, with the forces of Evil, under the gonfalons of Richard M. Nixon, John N. Mitchell, and J. Edgar Hoover, threatening at any moment to overwhelm the frail defenses of the Constitution. The best that Mr. Wulf could find to say in 1969 was that "we are not yet a fascist state in general." There is no evidence that his mood is any more sanguine today; indeed, the suggestion by seven (or perhaps eight) of the Justices of the Supreme Court in the New York *Times* case that there might be circumstances in which the government could restrain the publication of classified documents, caused him to compose a piece ("Tragedy of 'The Times' ") in which he virtually despaired of the Republic.

But this dyspeptic view is not general, inside or outside ACLU. A more dispassionate appraisal would be that the Bill of Rights, though its enforcement is far from perfect and its defense requires eternal vigilance, is at least in better shape than ever before in our history. The press, as recently demonstrated, has never been more free. (The segment of the radical press which likes to play at being "underground" is in fact not merely above-ground and visible but downright blatant. Its editors and publishers rarely risk anything worse than harassment by their creditors; its occasional difficulties with the law are caused by its penchant for pornography and scatology rather than its politics.) People accused of crime have more safeguards than they ever had before and probably more than in any other country in the world.

The basic democratic principle of one-man-one-vote is approaching reality. Political dissent has reached new heights of loudness and looniness. A stroll around Times Square shows how far we have come since the days when the cops raided Mae West and people who wanted to read *Ulysses* had to buy a copy in Paris and smuggle it through the customs. As Professor Alan M. Dershowitz of Harvard Law School, until very recently a member of the ACLU's national board of directors, put it a few months ago, "The long-term trend is clearly in favor of decreased repressiveness and increased democracy." If this is so—and I think it is—the American Civil Liberties Union deserves a very large part of the credit.

Despite its impressive record of accomplishment, all is not bliss and harmony, gas and gaiters, within the family of civil libertarians. ACLU in 1971 is probably a more controversial organization than at any time in its long and generally stormy career, which is saying a lot. The Union has, of course, routinely been accused of advocating Communism, pornography, polygamy, and atheism, whenever it defended the right of people who *did* favor these things to try to persuade others to their way of thinking.

But the charge today is that the Union has itself embarked on a series of political crusades which may be moral, or even right, but which have no readily discernible connection with the cardinal political virtue which it is chartered to defend; in effect, that it is being metamorphosed by its present active and activist management into an organism as totally different from the one which Roger Baldwin founded as the Chase Manhattan Bank is from the Manhattan Company, which the State of New York chartered as a water company in 1799. This time, moreover, the accusations come from within the Union, from people who can by no stretch of the imagination be described as enemies of freedom or opponents of social change, as well as from its traditional detractors.

A paradigm of the internecine strife among civil libertarians is the bitter and continuing row within the New York Civil Liberties Union over "community control" of public schools, particularly in the former Ocean Hill-Brownsville demonstration district. The NYCLU, controlled by an "activist" majority and headed by Aryeh Neier (who has since become the Executive Director of the national parent body), plunged into the fray on the side of what it supposed to be the community, thus necessarily involving itself in an envenomed conflict with the United Federation of Teachers, several of whose members the new school board was attempting to expel from the district.

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[1] I am indebted to George A. Bermann, a recent graduate of Yale Law School, who spent many hours digging in the *Times* Index and the microfilms of the Sterling Library.

The war whoop of the dominant faction was "social and distributive justice," a phrase having about the same precision of meaning as most slogans, but which was said to be the *sine qua non* of true freedom. A dissident faction protested that community control, whatever its merits or demerits, was a pure political issue, having nothing to do with the Bill of Rights. It seemed, indeed, to these Mensheviki that the proper issue for the NYCLU was the right of the teachers not to be sacked without the process due them under the law—and that on that issue the NYCLU had not only taken the wrong side, but had accompanied its action with gratuitous, inflammatory, and infuriating rhetoric. The immediate *casus belli* is no longer an acute problem—"community control" turned out to be something less than a burning issue to the actual inhabitants of the communities, who had not been much consulted by their self-elected champions—but the hostility between "activists" and "traditionalists" is still intense and is reflected in the parent organization, where both factions have partisans.

ACLU itself, as distinguished from its New York affiliate, was not directly involved in the decentralization brawl; its stated policy on community control of schools is pragmatic and carefully hedged and, indeed, insists on the teacher's access to school employment "regardless of race or ethnic origin." Although its constitution provides that the affiliates "shall act in accordance with the policies of the Union, with the understanding that the purpose of this requirement is to obtain general unity rather than absolute uniformity," it is a considerable understatement to say that the rule is not strictly enforced. When, for example, ACLU a couple of years ago issued a very cautiously worded, not to say apologetic, condemnation of campus violence, the staff lawyers of the New York affiliate immediately and indignantly accused it of "joining the repressive forces of society."[2]

But the directors and members of ACLU itself are similarly divided between "activists" and "traditionalists." (The staff seems almost solidly in the activist, or hyperactivist, camp.) The former believe the Union's mission is to crusade for such political causes as find favor in their eyes. The latter have an aggravating habit of pointing out that the Union's own constitution provides that its objects "shall be to maintain and advance civil liberties, including the freedoms of association, press, religion, and speech, and the rights to the franchise, to due process of law, and to equal protection of the laws . . . wholly without political partisanship."

Those of the activists who bother to debate the question reply that the Constitution of the United States, read with the eyes of faith, hope, and sometimes charity, mandates Good and prohibits Evil. The draft violates the Constitution; so does the war in Vietnam. On the other hand, the Fourteenth Amendment requires community control of schools (unless, of course, that control is exercised by the wrong people); the Fifth confers on the citizenry the right to live in an unpolluted, if somewhat buggy, environment, although not the right to use automobiles, air-conditioners, or insecticides. As phrased by the articulate Mr. Wulf, modestly speaking for "some of us who have some responsibility for the expanding role of the Union," "the true scope of civil liberties . . . can be as broad as the possibilities of the Bill of Rights."

This approach to constitutional law in its essentials differs very little from that which the National Association of Manufacturers used to advance against the National Labor Relations Act, the Securities Acts, and the rest of the seditious innovations of the New Deal. The less lawyer-like activists take the simple and forthright position that "Hyde Park speeches or Tom Paine leaflets" (the quote is from a Vice Chairman of the NYCLU) are very much less important than the struggle for "social justice" (not further defined) and the abolition of poverty, not merely in the United States, but also on the rest of the planet. I am myself in favor of social justice and against poverty, but I suspect that ACLU has a better chance of preserving individual freedom in the United States than it has of curing all the ills of the entire human race.

Despite the evangelistic sermons, most of what ACLU *does* still bears a reasonable relation to the old-fashioned goals set forth in its constitution. It opposes, for instance, all the ingenious devices for bailing out Catholic schools with the taxpayers' money; likewise it criticizes tax exemptions for religious property. It challenges the constitutionality of locking up people accused of crime when this is done not because they are likely to flee the jurisdiction (which is the only valid reason for denying liberty to those who have not yet been convicted), but because a judge is persuaded that they are likely to commit more crimes while awaiting trial. It fights unwarranted restrictions of the franchise, such as long residence requirements. Its opposition to censorship, whether of obscene movies or obscene politics, is firm and consistent. Such campaigns occasion no adverse comment by even the most conventional and unimaginative civil libertarians, like me. The new civil libertarians at least tolerate these traditional activities, although they plainly find them about as exciting as Civic Virtue. But they do not regard them as a sufficient excuse for the Union's existence.

The charge is also made that the Union's ardor in the defense of dissenters is greater when the dissenter is of leftish persuasion than when his deviation is to the Right. And in fact one is struck immediately by the general homogeneity of the politics of the people ACLU supports—draft resisters, black militants, campus radicals, bellicose peace demonstrators, and the like. Each of these groups has, of course, its own particular cause, but each is in general sympathy with the others; the *Weltanschauung* of almost all of them is that of the *Village Voice* and the *New York Review of Books*.

The major difference of opinion among the various sects of the faithful probably concerns the degree of force which is necessary and proper to usher in the millennium. The moderates and trimmers are willing to give the electorate a reasonable grace period within which to do God's will, before being forced to the conclusion that democracy is merely a device of the Establishment for the frustration of Social Justice; some of them are even willing to accept the decision of the majority, although not happily.

The ultra-progressives believe that radical reform necessarily and preferably entails a salutary preliminary cleansing with fire and gelignite. These, in the words of Samuel Butler, describing their 17th-century prototypes, "call fire, and sword, and desolation, a godly-thorough Reformation." The Union, of course, does not advocate any sort of violence; but a good many of its members and staffers undoubtedly view the terrorists as the ordinary law-abiding Catholic Irishman views the murderous fanatics of the IRA. They would not themselves burn banks, shoot policemen, or smuggle guns to imprisoned militants, but they have serious reservations about the propriety of repressing persons whose consciences dictate such forms of protest. Again I quote Mr. Wulf:

> . . . The crimes which the government is committing in the name of law and order are far more grave than the so-called crimes committed by private citizens, for the latter "crimes" consist of a disorganized conspiracy to force the government out of a brutal, aggressive war in Vietnam. . . .

Another of the conspiracy's objectives is the improvement at home of the condition of the poor and non-white. That objective necessarily requires the reallocation of public and private resources, and it is in defense of the present inequitable *status quo* that the government commits *its* crimes.

The Union has in the past on rare occasions gone to court to defend the constitutional rights of dissenters whose political goals were, as it was at some pains to explain, abhorrent to decent people. As recently as four years ago, its lawyers persuaded the Supreme Court to overturn a Maryland court's injunction against the racist rabble-rousing of the National States Rights party. The only part of that party's platform (which can fairly be described as a mirro-image of the agitprop of the Black Panthers) which would have been likely, if only in the light of hindsight, to draw cheers at an ACLU meeting was its fervid denunciation of the then governor of Maryland, Spiro T. Agnew.

But in none of the ninety-odd court cases listed in the most recent report of the Legal Director can it be said that ACLU is representing a right-wing client or cause. (It is involved in a peripheral aspect of the case of Sirhan Sirhan, but his politics, though they took the form of assassinating Robebrt Kennedy, are of the Palestinian Arab variety and do not really correspond to any color in the American political spectrum.)

In fact, the Union has in recent years had little occasion to concern itself with the liberties of the far Right. The John Birchers and so forth are at the moment conspicuously inconspicuous; the Klu Kluxers, though still responsible for some terrorism, would probably refuse to let the Union's lawyers represent them, even if such help were needed and offered. Less radical right-wingers, like the Young Americans for Freedom, are unlikely to do anything more seditious than denounce Mr. Nixon as a turncoat; their closest approach to violence is to sport "Nuke the Chinks" buttons—a policy which, however ill-considered, it is clearly lawful to advocate.

The rightists' infrequent requests for help, like the Union's infrequent offers of help, are intended principally to embarrass the other party—as when, for instance, Governor Williams of Massachusetts asked the Union to join him in suits to enjoin *de facto* segregation in Northern cities, or when Charles Morgan, the Director of the Southern Regional Office, offered to defend Lester Maddox's right to picket the offices of a couple of Atlanta newspapers. (Since Morgan did not propose to join Maddox's picket line, and nobody was threatening to arrest Maddox for picketing, it may be suspected that the offer, which was refused, was not intended very seriously.

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[2] This is as appropriate a spot as any to emphasize the point that it is very unfair, but unfortunately very easy, to judge ACLU by the harebrained harangues sometimes emitted by local affiliates and local staffers over whom the national board has no control and not much influence. The problem is compounded by the frequent failure of the press to distinguish between the national organization and the affiliates; to most reporters they are all ACLU. Some of ACLU's own propaganda contributes to the confusion. A recent circular, signed by ACLU's Executive Director, states that "in thousands of courts across the country, in the state legislatures" and Congress, ACLU is resisting what Mr. Neier calls "a concerted attack on American liberties." This reference must be intended to include many of the activities of the affiliates and chapters.

A more substantial problem was presented by William F. Buckley's contention that his First Amendment rights are violated by the insistence of the American Federation of Radio and Television Artists that he must pay dues to the Federation in order to conduct his TV program. If Mr. Buckley's purpose in asking ACLU's help in his suit was to embarrass it, he plainly succeeded, for the national board took nearly a year to make up its mind to turn down his request.

The political uniformity of ACLU's clientele is thus not entirely a result of its own political predilections, except to the extent that potential right-wing clients may suspect that their reception in its offices would be somewhat reserved, or even chilly. But a study of its press releases and the comments of its spokesmen on current events does suggest that its views on freedom depend very much on who is interfering with whose freedom of speech and action.

Thus, when the Chairman of the House Committee on Internal Security (the contemporary, and on the whole much subdued, avatar of the House Committee on Un-American Activities) proposed to publish a list of Old and New Left revivalists on various campuses, ACLU denounced it as an exercise of Congressional "power to smear individuals and organizations" and brought suit (successful in the District Court) to enjoin the publication. But I am not aware of any such nobly outraged reaction to Wright Patman pillorying of the Penn Central Railroad and its officers and directors—some of whose alleged transgressions are, or are likely to be, the subject of litigation.

Nor were there cries of "smear" when Representatives Abzug, Dellums, and likeminded statesmen and stateswomen proposed "hearings" to demonstrate that Mr. Nixon and his co-conspirators favor war crimes. I am not at the moment debating the propriety or legality of these Congressional publicity plays; I do suggest that it is hard to see why one is a "smear" and the others are not. Similarly, the New York Civil Liberties Union called on its members to boycott California grapes; but the Wisconsin affiliate denounced an advertisers' boycott of an "underground" paper. Both ACLU and the affiliates are properly critical of the use by the police of excessive violence on demonstrators; but criticisms of violent demonstrators have been few and gentle, usually being prefaced by tributes to their noble ideals.

The same selectivity is displayed in the Union's view of foreign governments. When Prime Minister Trudeau dealt (effectively) with the terrorist activities of the Front de Liberation du Quebec, by issuing emergency regulations under Canada's War Measures Act, which for a limited period authorized search without judicial warrant, detention and questioning without the filing of criminal charges, and suspension of the right to bail, the Union reacted promptly and forcefully: "The Board expresses its sympathy with the efforts of the Canadian Civil Liberties Association to resist summary measures of repression, and urges efforts through the International League for the Rights of Man, as well as private efforts in this country, to raise from other sources the funds needed to meet the Canadian emergency"—the word "emergency," of course, having exclusive reference to Mr. Trudeau's counter-measures rather than to the FLQ's campaign of kidnapping and murder. But I am not aware of any similar preachments on the Castro regime, whose far more summary measures of far more severe repression ought to be far more offensive to American civil libertarians.

As a rule, however, the charge that the Union is a zealous defender of the right to disagree with ideas with which its management also disagrees is based less on its official statements of policy, as expressed in its Policy Guide, than on the statements of its staffers, who are not always careful to distinguish their personal opinions from those of ACLU. Policy Number 234, for example, which deals with military justice, advocates various reforms in the court-martial process (the most important of which has in fact been enacted since the policy was formulated in 1966) but certainly does not suggest that military courts are intrinsically unfair or demand their abolition.

But Charles Morgan of the Southern Regional Office has been quoted as saying that "There's just no point in having any sort of trials conducted within the military. The military is incapable of understanding the Constitution."

The Legal Director, Melvin Wulf, some of whose remarks have already been quoted, is another staffer with an unfortunate talent, amounting almost to genius, for overstatement. He really seems to see no difference between the President and Vice President of the United States and Hitler and Goebbels. Mr. Nixon favors "The use of violence and brutality against individuals who are portrayed by the minister of propaganda [Mr. Agnew] as depersonalized instruments of revolution and anarchy, who are guilty of 'philosophical violence.' "

Mr. Agnew believes that "crimes of ideology . . . may justifiably be suppressed. He therefore encourages the primitive use of government power—including imprisonment and censorship—against those who would prefer a different order of social priorities from his own." Mr. Wulf's style, although not distinguished by clarity or originality, is filled with a verjuiced rancor against people who do not see the light as it is given to him to see it.

This makes his pronouncements better copy than the comparatively carefully phrased resolutions of the national board. He is, for example, bitterly critical of the lawyers for the New York *Times* in the Pentagon Papers case, who seemed to be more interested in winning their client's case on comparatively narrow (but adequate) grounds, than in insisting on a sweeping construction of the First Amendment which could not have been sold to more than one or two of the Justices. His cast of mind is understandable enough; if you really believe that America stands where Germany stood in 1932, that Dachau and Belsen are ready to reopen for business here in the United States, it is hard to maintain a sense of proportion. By the same token, as the sense of proportion atrophies, it becomes easy to entertain such apocalyptic and apoplectic visions.

The disease of utter humorlessness, it should be noted, is endemic among ACLU activists—a sad change from the days of Roger Baldwin and Ernest Angell—and sometimes produces episodes which have much the same quality of farce-tragedy that made great art of disasters which used to overwhelm Buster Keaton. Eason Monroe, the Executive Director of the Southern California affiliate, wrote a scholarly essay on the evils of censorship as an introduction, prominently advertised on the cover, to *The Illustrated Report of the President's Commission on Obscenity and Pornography*, published by Greenleaf Classics.

The publishers had, however, failed to inform Mr. Monroe that the illustrations were far from scholarly, being largely taken from one of the Danish pornography fairs. (ACLU chastely described them as "sexually explicit.") When last heard from, Mr. Monroe, whose apparent function was to give the publication what the Supreme Court calls "redeeming social value," had retained counsel to sue Greenleaf Classics; the question of freedom to publish is viewed from a new angle when an eminent civil libertarian is himself placed in a scandalously false light.

A similar note is struck by the cryptic comment of the ACLU of the State of Washington, which had undertaken the defense of a group of alleged terrorists, on the disruption of the trial, including the macing of the Union's lawyer, the arrest of a number of spectators, and the citation of the accused for contempt of court: "In the wake of the collapse of the trial, a good deal of thinking is being done by people in the Washington affiliate about the ACLU role in major politcal [*sic*] prosecutions of radicals." (In general, ACLU's thinking about courtroom disruption seems to lead to the conclusion that the prosecutors and judges are to blame; the record is bare of criticism of unruly defendants and their lawyers. Indeed, the Union spent its money to reprint and circulate an article glorifying William Kunstler.)

Like the Legal Director, other staffers and many of the directors and members of the Union tend to see political persecution in every case in which the defendant is a radical—that is, of course, the right kind of radical. (The Union is unlikely to set up much of a howl about the political persecution of the Ku Klux Klansmen recently collared by the FBI on charges of blowing up school buses.) The Union's official policy is unexceptionable: the motivation—political, commercial, or personal—of a crime is irrelevant; the question is whether the particular conduct can constitutionally be made criminal. "For us," says the Policy Guide, "the single question is whether the act involved is the violation of a valid law or one we believe is invalid. In the latter case, we will defend the violation of law; otherwise we will not."

But the Union's intervention in some "political" cases is hard to square with its stated policy. Last spring the national board voted 49 to 5 "to provide direct representation to any or all of the six defendants in the Berrigan case who might want ACLU representation." The first reaction of most liberals is to applaud this decision. Second thoughts, however, leave me wondering what reason, other than warm sympathy for the Berrigans' doctrinal views, ACLU has for spending its time and cash—of which latter it has none to spare—in defending them and their catechumens.

The statutes which they are accused of violating seem clearly constitutional: neither blowing up government property, nor even kidnaping Henry Kissinger, has yet been held to be a protected form of symbolic expression. The Berrigans and their acolytes are certainly not so friendless and unpopular that the Union's intervention is necessary to secure them due process and competent counsel. They have, in fact, been represented by squads of eager lawyers, some of them competent. Their press notices have ranged from friendly to adulatory; the average *Times* reporter can scarcely mention their names without genuflecting.

There might indeed be a civil-liberties issue if the indictment were so patently unfounded and incredible as to justify the inference that its purpose was not to obtain a valid conviction but simply to harass and persecute. History is, however, full of evidence that there is nothing preposterous, or even improbable, in the proposition that religious zealots, convinced of the righteousness of their particular orthodoxy, may undertake criminal acts *ad majorem Dei gloriam.* The Brothers Berrigan are entitled to a fair trial, but so are thousands of defendants in whom the ACLU has expressed no particular interest.

The case of Captain Howard Levy, court-martialed for making statements designed to promote "disloyalty and disaffection" among enlisted men and for refusing to obey a lawful order, does present some genuine and important constitutional questions. But the case was not, on its facts, a good one for testing the First Amendment rights of servicemen—the charge of disobeying orders did not, in my opinion, raise any clear and substantial constitutional issue—and it certainly did not justify the extraordinary amount of time and money which the Union's lawyers devoted to litigating peripheral issues (such as the propriety of Levy's confinement while his conviction was under review in the military appellate courts) whose connection with the constitutional issue was at best tenuous.

Perhaps the finest example of the triumph of zeal over realism was the filing of a petition for certiorari (denied by the Supreme Court) running to 53 pages, including appendices, and signed by no fewer than eight lawyers, *after* the issue (whether the lower federal courts had erred in refusing to enjoin the Army from even prosecuting Levy) had been made moot by the completion of the trial. The constitutionality of Levy's conviction could still, of course, be litigated all the way up to the Supreme Court and doubtless will be. It is not easy to perceive a reason for this hopeless and expensive effort—the petition may be described as a reckless hurling of mobs of frenzied but undisciplined adjectives upon the *chevaux-de-frise* of the Solicitor General—other than infatuation with Captain Levy's political philosophy.

ACLU's actual involvement in the various criminal prosecutions of Black Panthers has been limited to issues of due process, which so far have not proved very serious. More Panthers have been acquitted than convicted, some on evidence which might well have supported a finding of guilt. (The doubts of Yale's President that a black revolutionary could get a fair trial in the United States may have proved justified, but not in the way he meant. The fact is that the Panthers are likely to benefit from their right to trial by jury in precisely the way Ku Kluxers have traditionally benefited from Mississippi juries.) But some of ACLU's spokesmen swallowed whole the theory that the Panthers were being persecuted for their political views, not merely by being tried on trumped-up charges of murder and the like, but by being themselves murdered by the cops.

The Executive Director of the Illinois affiliate, accepting unquestioningly and even eagerly the story that "some twenty-eight Panthers died in police shootings" in 1968 and 1969, concluded that there was a "nationwide pattern of police action against the Panthers." He added ominously that the crimes of the police against the Panthers were generating a "police-state atmosphere." His charges were promptly echoed by the then Executive Director of ACLU, John de J. Pemberton, who accused police across the country of "provocative and punitive harassment" of the Panthers. Mr. Wulf weighed in with a declaration that the state (meaning, apparently, the government of the United States) was "fascist" from the Panthers' point of view: "The evidence," he pronounced, "is clear now that there is a government plan to destroy the Black Panthers as an organized political movement." Whether or not," he went on darkly, "there is a memorandum in Washington which sets out the details of the program, or a written or spoken agreement among law enforcement officers to include murder as one of the means of banishing the Party, there is encouragement and support from Washington for murder as an instrument of policy."

This lie (which, I should in fairness add, Mr. Wulf did not invent, but merely believed, repeated, and embellished in his own peculiar style) was demolished as thoroughly as such a lie can ever be demolished by Edward Jay Epstein's remarkable report in the *New Yorker* of February 13, 1971; Epstein concluded, after a thorough and objective investigation of the alleged twenty-eight deaths, that in only two was there substantial—although by no means conclusive—evidence of police aggression. But the conspiracy-to-murder-the-Panthers lie will probably have as many lives as the *Protocols of the Elders of Zion,* for it is the sort of lie that fills a large public demand. So far as my research in newspapers and other publications goes, Mr. Wulf still believes it, and I suspect also that in this respect he is not alone among the Union's activists.

In matters like these much depends, of course, on one's view of people whose crimes of violence are motivated, or said to be motivated, by ideology. I confess that I like the "political" criminal—and by that phrase I do *not* mean a man whose "crime" is the nonviolent expression of political ideas, however obnoxious, for that, under our Constitution, cannot be a crime—rather less than garden-variety felons.

Muggers, porch-climbers, and securities swindlers do not, as a rule, give themselves airs of virtue. But the "political" arsonist or rapist, if the cops catch up with him, is anything but repentant: he glows, in fact, with self-approval. His crimes, he informs the victims (placing both nouns in quotation marks), were inspired by a superior wisdom and a morality too elevated to be comprehended by the dull wits of the electorate. Such an attitude is, of course, contagious; even criminals of lesser intellectual and moral pretensions are very ready to be persuaded that their homicides and robberies were in reality gestures of protest against the repressive System, and that they are, in fact, political prisoners.

In the same manner ACLU rationalizes in terms of civil liberties and the Constitution crusades whose purpose seems to me clearly political. Thus, the national board recently voted to give "top priority" to an end-the-draft campaign, resolving that the Selective Service Act is unconstitutional. But only by a process of self-hypnosis can a lawyer take seriously the idea that the draft will be held unconstitutional.

The argument has been made in hundreds of cases since conscription was introduced in 1863; and not since that year (when a state court, which reversed itself a few months later, held that the federal draft was inconsistent with the militia clauses) has any court accepted it. Chief Justice Warren, speaking for the Supreme Court in 1968, said that "the [peacetime] power of Congress to classify and conscript manpower for military service is beyond question," and the Court is about as likely to hold otherwise in the foreseeable future as Cardinal Cook is to elope with Bella Abzug. As a *political* matter, it can, of course, be argued that the United States should rely on a volunteer army or even have no armed forces at all; but that should not be the business of the American Civil Liberties Union. Litigation to establish the *unconstitutionality* of the draft is simply a waste of money and time which its lawyers might better spend on real issues of civil liberty.

It is nearly as unlikely that the Court will agree with the Union's contention that "the present military involvement of the United States in Southeast Asia is unconstitutional." As a political matter, that involvement may be very unwise, but unless and until Congress exercises its power to withhold men and money, it is sanctioned by the Constitution.

There are, of course, substantial and serious questions, with which ACLU is properly concerned, about the First Amendment rights of servicemen—whether, for example, a member of the armed forces can constitutionally be forbidden to speak contemptuously of the President and Congress, or to participate in a political demonstration in a foreign country.

But in their number, variety, and, in some cases, implausibility and even pettiness, the Union's lawsuits against the military lead me to suspect that the underlying motivation is not so much to protect the civil liberties of servicemen and civilians from military encroachment as to gratify a political dislike of the armed forces, at least when they are controlled by the wrong civilian politicians. It is one thing to defend the right of servicemen to patronize offpost coffeehouses established to serve up hot coffee and hotter propaganda or to disseminate "underground" newspapers on the post; it is quite another to litigate the constitutionality of the Army's haircut regulations.

There is probably no connection between short hair and military virtue: the Cavaliers, with their "long essenced hair," were beaten by the Roundheads; but the longhaired Spartan hoplites ("The Spartans on the sea-wet rock sat down and combed their hair") were the best disciplined and bravest warriors in Hellas. Yet however weak the military justification for the Army's regulation, the right to wear one's tresses in a pageboy bob is hardly of the same magnitude as the right to speak one's mind, and in it is the last degree unlikely that the courts will interfere with this aspect of military discipline. Likewise, nerve gas is nasty stuff, and, if I live in Oregon, I would prefer to have the Army dispose of it somewhere else; but when it is reported that ACLU has filed suit to enjoin its shipment from Okinawa to Oregon I am quite unable to see the connection with civil liberty.

And how can suits to enjoin underground nuclear blasts be reconciled with the Union's Policy Number 235, which says that "The ACLU does not believe that any question of civil liberties is involved in the issue of nuclear weapons testing?" Similarly, an effort to enjoin the Army Corps of Engineers from granting permits to drill in the Santa Barbara channel is not convincingly explained by the argument that the drilling would violate the Fifth Amendment by depriving the people of Santa Barbara of property without due process of law. (It may be noted in passing that neither I nor my diligent research found any other instance of concern for property rights.) Such crusades seem to suggest that the Union's management, dissatisfied with its limited role as the watchdog of the Bill of Rights, has decided to diversify by putting it in the business of protecting the environment—a field which is already somewhat crowded.

All of the crusades which seem to me to be motiviated by political ideas other than the protection and promotion of civil freedom are marked by a strong hostility to the government. The degree of hostility varies, of course, with the degree of conservatism of the government in power, but I suspect that even Senator McGovern would not enjoy a long honeymoon.

As Mr. Wulf put it, "Governments, perhaps by their very nature, perceive every threat to the *status quo* and to their own power as an assault which justifies the use of physical force." This extraordinary statement recognizes no distinction between the governments of the Third Reich or Soviet Russia and that of the United States. It ought to be too obvious to require saying that in my lifetime, and Mr. Wulf's, the United States has undergone enormous changes, some of which Mr. Wulf would probably regard as good. Some of these changes were resisted by the governments in power when they were first proposed, but very rarely by jailing or shooting the proposers. I expect that the United States will change as much in the next fifty years as it has in the past fifty, and I expect that it will do so more or less peacefully.

The government of the United State is, in fact, one of that small minority among the earth's governments which *does* provide for change by democratic and constitutional means and in which there is no justification for resort to violence to coerce changes in policy. All historical experience tends to show that personal freedom can exist only in a fairly stable and prosperous society. Civil liberty is, in the last analysis, a luxury, although a very great one.

The truth—maybe sad but nonetheless true—is that the ordinary specimen of *homo sapiens* would rather live under an absolutist government, which assures him two or three meals a day and protection against oppression by anyone except itself, than under a permissive and democratic government which does neither; an ordinary citizen of Calcutta would probably, if he could chose, trade his right to a free press (which is largely theoretical, because he hasn't the price of a newspaper and couldn't read one if he had), plus his right to damn the Congress party, for the relatively full rice bowl of an ordinary citizen of Canton. A man whose government does not protect him from thieves and marauders is likely to lose concern for criminal due process and to support the first strong man who promises short shrift for criminals.

The stability of the government of the United States and the survival of the liberties provided by its Constitution depend on its continued ability to enforce its constitutional laws by constitutional methods—including laws which are unwise, but not unconstitutional.

It ought therefore to be a truism that in this country the public interest and the interest of the government are not always, or even very often, antithetical. But the "activists" within ACLU, who are so strongly represented in its professional staff—i.e., its active management—barely recognize that the public has any interest at all in the government's preservation of stability and order or in the protection of the United States from internal and external violence.

In the New York *Times* case, the most that ACLU's brief in the Supreme Court conceded, and that grudgingly, was that the government "could conceivably" prevent publication of secret codes, designs of new military equipment, and plans for military operations—but not if their publication would be "of value in permitting citizens to render an informed judgment on public issues."

This criterion has a fine ring, but it would have permitted publication of the Allies' plans for the invasion of June 6, 1944 or Israel's plans for the air strike of June 5, 1967. Knowledge of either of these important government decisions would doubtless have contributed to informed public discussion of many issues, but I suspect that not even Justice Black, faced with such circumstances, would really have held that publication could not be restrained.

A few years ago, in *United States* v. *Robel*, the Supreme Court struck down a statute which made it unlawful for a member of the Communist party to work in a defense plant, regardless of whether there was any evidence that he was himself likely to engage in espionage or sabotage. Chief Justice Warren said that "nothing we hold today should be read to deny Congress the power under narrowly drawn legislation to keep from sensitive positions in defense facilities those who would use their positions to disrupt the nation's production facilities."

But the ACLU's positions, when Congress was attempting to draft legislation sufficiently precise and narrow to satisfy the First Amendment, was that "we would of course oppose this section even if it met every standard set down in *Robel*." In the eternal process of balancing the public's interest in security and stability against its interest in personal freedom, it is difficult to think of any recent instance in which the Union has been willing to give any weight at all to the former. The gravestone of the Weimar Republic ought to be a reminder of the fact that there is, after all, some public interest in allowing a democratic and constitutional government to protect itself.

The Union's chronic hostility to government is mirrored by its general indifference to assaults on freedom of speech and association by various New Left groups, which on campuses, at least, are a much more serious threat to First Amendment freedoms than are the cops.

The Union's official policy is impeccable: "The ACLU considers it important to emphasize that it does not approve of demonstrators who deprive others of the opportunity to speak or be heard, or physically, obstruct movement. . . ." But actions to implement these commendable principles have been few and feeble—an occasional letter to the newspapers expressing disapproval of some unusually outrageous disruption, such as the shouting down of pro-war speakers at Harvard last March. (Many similar episodes seem to have altogether escaped the notice of the Union and its spokesmen.) There have been no interventions, no briefs *amici curiae*, no press releases supporting authorities who tried to prevent or punish such violence.

On the contrary: when the University of Connecticut obtained an injunction against the making on campus of obscene and disruptive statements in connection with demonstrations against recruiters representing corporations with defense contracts, the Union sought to have the injunction overturned in the Supreme Court, and Mr. Wulf lectured the Court severely for its refusal to review the case. The NYCLU promptly and loudly denounced the police for using excessive force in the 1968 Columbia disorders, but had no unkind word for the violent demonstrators—an assessment of guilt which is not supported by the Cox Commission's Report.

Neither, apparently, does the Union support legislation intended to curb such interferences with free discussion, like a bill which would authorize the Attorney General to seek injunctions against "disruptive noise" at public gatherings.

But it is very sensitive—properly so—to private interferences with the New Left's right to express itself: when printers, for example, refused to set type for an issue of *Scanlan's Magazine*, which consisted largely of what the printers regarded as a sort of Field Manual for urban guerrilla warfare, including a how-to-do-it piece on the construction of cheap, simple, and efficient bombs, the Union's Executive Director announced his intention to sue the printing company.

The Union's policy on disruptive students attempted to salve their sensibilities by acknowledging that they were "moved by conscience to use extraordinary means [a euphemism for violence] in the belief that ordinary means have failed in creating a more just and equal social order." Although the printing-shop foreman said that it was "a matter of conscience" for him, and presumably thought that the social order would be none the better for an infusion of pipe bombs and Molotov cocktails, he got no similar encomium from the ACLU.

Perhaps it is too much to expect any special-interest pressure group to be fair or objective in its attitude to what it regards as the enemy. Moreover, the Union suffers from a problem created by its very success: to find new battles and victories its staff seems to think that it must push farther and farther toward, and beyond, the outer limits of freedom (not only of speech, but of action) and must, indeed, become a political pressure group.

But the Union's attitude toward a constitutional and democratic government need not and should not be always, or even usually, that of Ralph Nader to General Motors. The Union has done far more good than harm. I *think* it still does, but the question seems to me much closer than it used to be. The policies of its present management risk a considerable, and I think undesirable, change in its base of support—from a large number of people, having very different political views, but sharing a common belief in the virtues of the Bill of Rights, to a rather smaller and politically homogeneous group whose belief in civil liberties for everybody, including oldthinkers, is in some cases very dubious.

SESQUICENTENNIAL CELEBRATION OF THE BIRTH OF CHARLES REED BISHOP

Mr. FONG. Mr. President, on January 25, 1972, the sesquicentennial celebration of the birth of Charles Reed Bishop, a great adopted son of Hawaii, will be held in Honolulu.

Charles Reed Bishop became a resident of Hawaii almost by accident in 1846. He was on his way to Oregon by way of Hawaii but when he saw the verdant hills and beautiful tropical panorama that is Hawaii, he decided to make it his home.

At the time of his setting in Hawaii, it was still a monarchy under the rule of Kamehamela II.

During his 46 years in Hawaii he contributed much to the growth of the island kingdom and he is fondly remembered in the many cultural, charitable, religious, educational and commercial interests to which he gave unstintingly during his lifetime.

I ask unanimous consent that a brief biography of Charles Reed Bishop's life in Hawaii be printed in the RECORD.

There being no objection, the biography was ordered to be printed in the RECORD, as follows:

CHARLES REED BISHOP

A tollhouse in the middle of the bridge over the Hudson River at Glen Falls, New York, was the place where Charles Reed Bishop was born, January 25, 1822. Glens Falls along with Honolulu and San Francisco were the great cities of the areas where he spent all his life. His birthday is being celebrated throughout these places in January 25, 1972, his one hundred fiftieth or sesquicentennial birthday.

After a thorough elementary education through the eighth grade in which English in all phases, received greatest stress, young Bishop worked at farming on his grandfather Jesse Bishop's farm. He left this to enter employment in two stores, the first one in Warrensburgh and the other in Sandy Hill. Between the farm and stores he gained another education. Today, we would call this on-the-job training. Glens Falls was the center of factories, farms, marble quarries, lime kilns, brick and lumber yards—to mention only some of the industries. He became, through farming, store clerking and bookkeeping, very knowledgeable in principles of commerce and industry.

But he was attracted away from this area of his youth by newspaper accounts of settlers in Oregon. He and a friend, William L.

Lee packed up and sailed away from Newburyport, Mass., thinking they were headed for the green lush country of Oregon. But when their storm and wave battered ship, the brig *Henry*, anchored in Honolulu harbor in October 1846, after eight months of rough going, the two men decided to remain in Honolulu.

Bishop was 24 years old. He was in immediate demand to apply his accounting skill in untangling the affairs of a local firm. The United States Consul employed him as clerk. He became a citizen of the Hawaiian Kingdom and was appointed Collector General of Customs. On June 4, 1850, he married beautiful 18 year old princess Bernice Pauahi Paki. He was on his way to becoming one of the greatest benefactors the Hawaiian Kingdom has even known.

With another local man, Willaim A. Aldrich, he opened a store and closed it out in 1858 in favor of a bank, Bishop & Company. This bank grew under his leadership and has today become one of the outstanding banks of the United States—the First Hawaiian Bank.

He took a deep and abiding interest in schools. On the list of benefactions to schools we note the names of Mills Institute and Kawaiahao Seminary later merged as Mid-Pacific Institute, Kohala Girls School, Hilo Boys Boarding School, East Maui Seminary, Sacred Heart's Convent and St. Andrews Priory. He was closely involved with both Punahou School and the Kamehameha Schools. At the former he was trustee, vice-president and finance committee chairman for thirty years. He contributed both money and real property along with sage advice to the founding and growth of the Kamehameha Schools. He was president of the trustees of the B. P. Bishop Estate, foundation of the Schools from 1884 to 1898. On the public school side he was made a member and then president of the Board of Education under King Lunalilo, continued as such by King Kalakaua and Queen Liliuokalani and the heads of the succeeding governments, Provisional Government and Republic of Hawaii—twenty-one years of public school service.

In the field of religion he gave support to the old Fort Street Church and its successor Central Union Church, Kaumakapili and Kawaiahao Churches. The North Pacific Missionary Institute, headed by his close friend the Rev. Dr. Charles M. Hyde, was solidly assisted as was the Hawaiian Board of Missions. He paid for and erected the Bishop Memorial Chapel on the Kamehameha Schools Campus in his wife's honor.

Hospitals ever had an appeal for him. He was from its founding date a chief officer and director of the Queen's Hospital. He gave modest assistance to the Children's Hospital, Kapiolani Hospital and Leahi Hospital and funded and constructed the Bishop Home for Girls and Young Women in Kalaupapa, Molokai, the site of the leper settlemore.

Other broad community interests of Mr. Bishop included the YMCA, the public library—he was a founder of the Hawaiian Historical Society—the Sailor's Home Society, American Relief Society and many more.

In government he was Collector General of Customs, member of the legislative Privy Council, member of the House of Lords, Board of Immigration, Chamber of Commerce, and under King Lunalilo he acted as a member of the Cabinet. He was Foreign Minister.

He received the honorary Orders of Kamehameha I and Kalakaua. The Emperor of Japan made him a member of the Order of the Rising Sun, First Class. There were many others from around the world.

Such were Mr. Bishop's community activities. He supported them with gifts of substantial size and in some instances worked as a board member or as president or treasurer. He was conscientious in his devotion to all these causes.

Mrs. Bishop died in 1884 and it was as if a great light had gone from his life. He had begun visiting California many years prior to her passing and had made modest investments in lands and stocks and bonds. He stepped up the pace of investments and finally moved to California in 1894 never to return. His operations in the San Francisco bay area were centered in a specially created new position of vice-president of the Bank of California.

He had given away his Hawaii fortune to relatives and community and charitable agencies. In San Francisco he made another fortune and similarly gave that away to the same objects. He died in Berkeley June 7, 1915, age 93.

In his loyalty to his adopted native land of Hawaii he asked that his ashes be placed alongside those of his wife in the Royal Mausoleum in Nuuanu Valley of Honolulu.

Perhaps the best comment that can be made of Charles Reed Bishop may be found on his grave marker in the Royal Mausoleum: *Builder of the State-Friend of Youth-Benefactor of Hawaii His Ashes Rest in the Tomb of the Kamehamehas.*

The agencies and organizations among the cultural, charitable, religious, educational and commercial interests of Hawaii with which Charles Reed Bishop had some association almost made up a roll call of all such groups. Here is the list!

Alexander & Baldwin, Inc.
Amfac, Inc.
Bank of California.
B. P. Bishop Estate.
Bernice Pauahi Bishop Museum.
Bishop Home for Girls and Young Women.
Bishop Trust Co., Ltd.
C. Brewer & Co., Ltd.
Castle & Cooke.
Central Union Church.
Chamber of Commerce.
City and County of Honolulu.
City of Glens Falls, New York.
Board of Education.
Dillingham Corporation.
First Hawaiian Bank.
Hawaii Conference United Church of Christ.
Hawaii State.
Hawaii State Schools.
Hilo Boys Boarding School.
The Kamehameha Schools Alumni Association.
The Kamehameha Schools.
Kapiolani Maternity and Gynecological Hospital.
Kauikeolani Children's Hospital.
Kaumakapili Church.
Kawaiahao Church.
Kindergarten and Children's Aid Society.
Kohala Girls School.
Leahi Hospital.
Mauna Olu College.
Mid-Pacific Institute.
North Pacific Missionary Institute *
Punahou School.
Queen's Medical Center.
Sacred Hearts Convent.
Sailor's Home of Honolulu.
St. Andrew's Priory.
Salvation Army.
Social Science Association.
Theo. H. Davies & Co., Ltd.
Waialua Seminary *.
Young Men's Christian Association.

ANTITRUST AND PHASE II

Mr. HARRIS. Mr. President, most of our newspapers and of the Senate itself missed an item of major significance last week. On December 2, the President quietly nominated and the Senate confirmed the administration's former antitrust chief for a Federal judgeship in Chicago. It was only this week that the story broke in an article in the December 7, Wall Street Journal.

For Mr. McLaren himself, Senators can only offer their congratulations. As the distinguished Senator from Michigan (Mr. HART) pointed out at the time, those who have come in contact with Mr. McLaren have come to respect and admire him. I am confident that he will prove an able and fair judge.

But while I am pleased to see Mr. McLaren elevated to the court, I must state my dismay that it was done at this time. In recent weeks, alone in the administration, Mr. McLaren has distinguished himself by vigorous statements pointing to the dangers inherent in the phase II program for our economic system. In an address made in Boston on November 5, Mr. McLaren stated in this regard:

> It almost goes without saying . . . that collaboration among competitors should be discouraged to insure that they continue to compete—not conspire—on prices. Otherwise, in the absence of effective price competition, the ceiling standard set by the Price Commission might also become the "floor." Certainly we can all agree that it would be most unfortunate if Phase II became the vehicle by which our free competitive economy was further impaired, instead of strengthened, and we can certainly agree also that we want to move away from—not toward—greater regulation.

Earlier in his address Mr. McLaren noted that in both World War I and World War II cartel-like groups operating under price controls grew in power and contained their price influencing activities long after wartime conditions had disappeared. The result was a heavy burden for the economy over many years.

Already there are some signs that this may happen under phase II. On November 11, foodstore chains in New York, New Jersey, and Connecticut banded together to announce in a joint full page New York Times ad that their prices would always be at or below ceiling prices. In the November 17, 1971, Wall Street Journal 29 machine tool builders and General Electric took out a somewhat similar full page ad.

I am not in a position to state that these firms will now move on to price collusion activities but I point out to my colleagues that the same kind of joint action required to place these ads could also be used to fix prices, particularly when Government boards come along and announce what the top price is to be. Mr. McLaren was certainly disturbed by this possibility. That is why, according to the Wall Street Journal, in recent weeks he has been giving "saber-rattling" speeches warning firms that phase II controls should not be used as an excuse for corporate price fixing.

Now he is gone—the Wall Street Journal suggests perhaps even fired, because of his active role—and as a result during this crucial period the Justice Department's Antitrust Division will be without inspired leadership. Moreover, even if the administration acts quickly to replace Mr. McLaren with an official pursuing the same aims as Mr. McLaren, we will have a new official of little experience in a vital position at precisely the time when experience should be at a premium.

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* *Closed.*

I read with interest Attorney General Mitchell's statement December 8 that administration interest in antitrust would not diminish with this change in personnel. My own belief, strongly held, is that the administration should instead move far beyond the policy favored by Mr. McLaren. We need not only to prevent the development of new cartels, but also to dismantle existing cartels which are inflicting such an enormous price in inflation and unemployment on the American people.

But as a minimum we should follow the conservative course set by Mr. McLaren. I believe the Senate will be remiss in its duties if it does not question his successor closely about the steps he will take to insure that phase II does not increase the already totally excessive price-fixing capability of our larger firms. I also urge the administration to pick a successor just as soon as possible.

Mr. President, I ask unanimous consent that two Wall Street Journal articles, the two full page ads, and Mr. McLaren's speech in Boston be printed in the Record.

There being no objection, the items were ordered to be printed in the Record, as follows:

Easier U.S. Antitrust Stance Seems Sure As McLaren Suddenly Leaves Agency Post

(By Louis M. Kohlmeier)

Washington.—A more relaxed government attitude toward corporate mergers and other antitrust issues may well be the principal effect of the sudden departure of Richard W. McLaren for a federal judgeship in Chicago.

Mr. McLaren has been a tough-liner as the Nixon administration's antitrust chief since the President took office in January 1969. But he traded his antitrust prosecutor's role for a federal district court seat in what, as it's currently being reconstructed, appears to have been an unprecedented kind of whirlwind affair.

Mr. McLaren last Wednesday filed what probably was the biggest antitrust case of his career. The suit, challenging the right of the Chicago Board of Trade to fix commission rates, has potentially wide ramifications concerning the New York Stock Exchange. On Thursday President Nixon quietly nominated and the Senate confirmed him to the federal court post. And on Friday he flew off to Europe for a prescheduled two weeks of antitrust conferences with other member nations of the Organization of Economic Cooperation and Development.

With Mr. McLaren unreachable for comment in Europe, various rumors circulated in Washington concerning the abruptness of his agreement to leave the Justice Department's Antitrust Division.

But, whatever the circumstances of the departure, his nomination and confirmation unquestionably were unusually swift. One Justice Department aid commented, "I've never seen anybody get confirmed so quickly."

Judge Julius J. Hoffman in Chicago, whom Mr. McLaren will succeed, commented in a telephone interview that the speed of Mr. McLaren's nomination and confirmation was "without precedent."

The events leading up to the whirlwind apparently began several weeks ago. Judge Hoffman said he notified President Nixon "three or four weeks ago" of his intention to retire from full service on the federal district court in Chicago and assume the role of senior judge. But according to Justice Department aides, the President didn't acknowledge Judge Hoffman's letter until last Wednesday.

It isn't known when on Thursday the White House sent to the Senate Mr. McLaren's nomination to succeed Judge Hoffman. Mr. McLaren's name was routinely posted in the White House press room along with the names of several other federal court nominees at some time between 4 p.m. and 5:15 p.m. Thursday, after most of the White House press corps had left for Florida in advance of a Nixon trip.

But the McLaren name was almost overlooked, in the White House press room and the Senate also. Because the administration obviously had alerted key Senators, the Senate confirmed the nomination without debate and it passed so quickly on Thursday afternoon that Sen. Hart (D. Mich.) chairman of the antitrust subcommittee, immediately rose to inform the Senators that "we have just confirmed the nomination of Richard McLaren (who) has served as Assistant Attorney General in charge of antitrust."

Mr. McLaren then telephoned Judge Hoffman and took off for Europe.

Judge Hoffman will continue to sit until the President signs Mr. McLaren's commission and he's sworn in. The swearing-in is expected to take place shortly after Mr. McLaren returns to this country on Dec. 21.

His closest associates inside the Antitrust Division didn't know their boss was leaving his job until late Thursday. A number of them yesterday expressed "disappointment" as well as surprise, not only over his departure but also because he accepted a federal district court judgeship. Some other prior heads of the Antitrust Division have held out for appointments to federal appeals courts.

Mr. McLaren was in private law practice in Chicago before he came to Washington in 1969, thus the court appointment means an opportunity to return home.

But he has taken many positions that have angered businessmen and some other administration officials. Some of his policies, such as his opposition to the recently enacted Newspaper Preservation Act, which granted the newspaper industry certain antitrust exemptions, weren't accepted within the administration. On that and similar occasions, rumors circulated that he was about to resign. But he consistently denied such rumors.

In recent months, however, Mr. McLaren's tough line seems to have aroused even more opposition. For instance, the Antitrust Division has insisted that there should be more competition in the securities industry. The division pursued that line for months in hearings before the Securities and Exchange Commission, but its policy became potentially much more threatening to the Big Board when the suit against commission rate fixing was filed against the Chicago Board of Trade.

In addition, Mr. McLaren in recent weeks has been delivering what his staff calls "saber-rattling" speeches warning businessmen that the administration's Phase 2 price controls shouldn't be used as an excuse for corporate price-fixing.

Rumors that Mr. McLaren thus was forced out of his job as the administration's chief antitruster couldn't be confirmed or refuted.

But his departure, for whatever reasons, seems certain to result in a softer brand of antitrust enforcement. This assessment, according to close observers of the Antitrust Division, stems from the relationship Mr. McLaren enjoyed with Attorney General John Mitchell and the fact that Mr. Mitchell also will leave soon to be Mr. Nixon's campaign manager for the 1972 presidential election.

Mr. McLaren brought to his job in 1969 years of experience as an antitrust lawyer in private practice and a firm commitment to antitrust principles. He also had been a leader inside the American Bar Association on antitrust law matters.

Anyone who heads the Antitrust Division and presses for vigorous enforcement eventually generates substantial opposition, not only in the business community but also inside government agencies such as the SEC and the Commerce Department. Even though such opposition is often registered with the Attorney General or the President, Mr. McLaren survived because he enjoyed Mr. Mitchell's confidence and protection, and because the Attorney General is very close to President Nixon.

Neither the White House nor Mr. Mitchell's office has made any comment on the McLaren matter.

Mitchell Denies Losing Antitrust Chief Means Weaker Enforcement—McLaren's Successor Is Expected To Continue His Vigorous Role; Some Experts Remain Doubtful

Washington.—Attorney General Mitchell denied that the departure of Richard W. McLaren as the Nixon administration's antitrust chief will mean less-vigorous enforcement of the antitrust laws.

But the denial didn't allay fears of some antitrust experts that softer enforcement will result, particularly when Mr. Mitchell himself resigns soon.

The Attorney General, apparently responding to a news story in yesterday's Wall Street Journal, issued a statement saying it is "absolutely untrue that Mr. McLaren's appointment to a federal district judgeship in Chicago will means softer antitrust enforcement. Mr. Mitchell said, "Mr. McLaren's successor, as Assistant Attorney General in charge of the Antitrust Division, will be called upon to continue the same vigorous enforcement we have seen under this administration." He didn't say who Mr. McLaren's successor will be.

The statement noted that Mr. McLaren has headed the Justice Department's Antitrust Division for three years, longer than "all but two of his predecessors in the last 30 years." Mr. Mitchell added that many lawyers aspire to appointment to the federal judiciary and said Mr. McLaren "indicated some time ago that he would be interested in serving on the federal bench."

One alumnus of the Antitrust Division nevertheless said of Mr. McLaren's departure: "I am fearful of the consequences for antitrust enforcement." Another, who's in the securities business in New York, said: "I think it's a loss unless the new guy is tough, but I don't know that."

Still another commented that any "likely successor isn't apt to enjoy Mitchell's confidence," as Mr. McLaren did. "Chances are against that nice blend of a guy who is competent enough and who has the support of the Attorney General on politically hard cases." This McLaren predecessor added that the post of antitrust chief "is a cruel job. You never make brownie points; you only make enemies. Three years is about all anybody has in that job."

Such assessments reflect the fact that Mr. McLaren has taken a tough line on antitrust enforcement, for instance by suing to block large conglomerate mergers and by urging the Securities and Exchange Commission to require more competition in the securities industry. His policies have been cheered by some businessmen but decried by others.

Despite his detractors, Mr. McLaren has enjoyed the support of his boss, Attorney General Mitchell. Mr. Mitchell, however, is widely expected to resign soon to become President Nixon's 1972 campaign manager the same position he held in the 1968 presidential race.

Twenty-nine Tool Machine Builders and General Electric Say: "You Can Boost Your Productivity—Now, We'll Help"

Twenty-nine leading machine tool builders and the General Electric Company[1] have joined forces to help you do something about lagging productivity.

We are investing millions in an inventory of numerically controlled machine tools, so we can respond quickly to the demand that is sure to hit as the economy gets rolling again. Shouldn't you be ready too?

Now is the time to order your new NC machine tools. Here is why:

1. In an economic upturn, NC machine tool orders have traditionally surged and delivery has stretched to 18, even 24 months. You can get delivery now in as little as three months.

2. Proposed guidelines promise a 3–4% annual increase in the gap between gains in wages and prices. Improved productivity can close the gap, but to wait means only more lost profits.

3. Delivery of an NC machine tool in early 1972 can mean substantial tax savings—through depreciation write-off and investment tax credit.

4. Thanks to automation, foreign productivity is growing up to four times as fast as our own. Time is running out. Even if you now have excess capacity, you can't compete with an inefficient plant. As the economy moves up, will you be ready to move with it?

We say "Buy now or pay later." Which will you do? Let's get together to ensure your competitive strength in the tough years ahead. Call any of us.

A Report to New York/New Jersey/Connecticut Food Shoppers—What You Should Know About the Food Price Freeze

The price freeze that began on August 15 was designed to halt the inflationary spiral that has been crippling all segments of our society. This is an absolutely necessary national goal and the requirements of the freeze demand compliance by businessmen and understanding by consumers if they are to work.

Those of us who operate food chain stores in the New York and New Jersey and Connecticut area pledge to you our total compliance with the rules and regulations under which the price freeze is being administered.

At the same time, you as a food shopper should know what those requirements actually are, and that is the purpose of this report to you.

Most—but not all—of the products you buy in a food store may not be priced during the freeze period higher than the highest price charged for the item during the 30-day period between July 15 and August 14, 1971, or the price charged for the item on May 25, 1970.

This sounds simple, but it is not, for under normal competitive conditions prices for hundreds of products are moved up and down each week. But we have established the actual ceiling price for all of our food items and you have our assurance that no price authorized in any of our food stores on price-frozen items has been higher than that allowed by the freeze regulations.

You can still expect to see prices vary from week to week, mostly because we each want to attract you to our own stores with special sale items. But it is important to remember that if the price for an item in one of our stores this week is higher than it was last week the price increase is not in violation of the freeze.

Furthermore, not all prices are frozen. The regulations here are somewhat complicated, but the key thing to keep in mind is that prices of unprocessed foods such as fresh fruits are not controlled and may move up and down as market conditions dictate.

The place in which you will see this happening most frequently is that produce departments of our stores. Prices of fresh fruits and vegetables are not controlled as is the case with a selected number of other items—such as eggs and fish—since the prices that we as retailers pay for them are not controlled, either.

The regulations as they have come to us from Washington are quite complex and we have simplified them for you here. What they add up to is this:

1. Prices of controlled items may move up and down as long as the highest price does not exceed the ceiling.

2. Prices of some items—mostly fresh fruits and vegetables—are not controlled at all.

3. No price authorized by any of the companies signing this ad is higher than allowed by government regulations.

How can you check up on this?

The regulations provide a number of ways in which shoppers can check prices to assure themselves that they are no higher than the established ceilings. Some of these are quite time-consuming from the shopper's point of view.

One last word, after November 14, Phase II of the President's New Economic Program will go into effect and many of the regulations may be changed from those that we have reported to you here. Since the regulations are still being written, we have no idea at this time what they will require us to do.

You have our assurance, though, of two things:

First; As soon as the regulations are issued, we'll explain them to you as we have in this ad.

Second; Whatever the regulations are, we will comply with them.

Those of us who have signed this ad happen to believe that you should have ready access to this information so that you can check things out for yourself.

In order to do this, we have provided every manager of every one of our food stores in the New York, New Jersey and Connecticut area with a book listing the ceiling price of every controlled food item in our stores. This was not required of us by law, but we believe you have the right to check for yourself, particularly since we know how important food prices are to your budget.

So if you have a question about a price in any of our stores, ask the manager for a look at the ceiling price book. We want you to.

Bohack's, D'Agostino's, Daitch-Shopwell, Finast, Food Fair, Grand Union, Gristede, Hill's King Kullen, Kings, Mayfair/Foodtown, Packard's, Pantry Pride, Pathmark, Shop-Rite, Stop & Shop, United/Foodtown, and Waldbaums.

New Antitrust Problems for the General Counsel—Phase II

(An address by Richard W. McLaren, Assistant Attorney General, Antitrust Division, before the Fifth New England Antitrust Conference, Boston Bar Association)

I am delighted you have asked me to participate in the fifth annual program of the New England Antitrust Conference. These programs, I believe, are of great importance to members of the bar in providing antitrust counsel for their clients. Such programs are also most important to those of us in the antitrust enforcement agencies.

The functioning of the antitrust laws in securing competitive benefits depends in large part on the extent and quality of private antitrust counseling. Your program today provides further assurance of corporate compliance tomorrow.

I

In another, related area of compliance with law, I would like to point to the remarkable demonstration we have seen under Phase I. On August 15, Americans were called upon by the President to freeze prices and wages in our economy. The response of the companies and their employees has been overwhelming. At the outset of Phase I many questioned whether the freeze would work. It was said that a huge government bureaucracy would be required to insure that Americans obey the law. Some contended that the public would refuse to support the program and that the enforcement agencies and the courts would be swamped with violations. I think it is a tribute to the American people that these predictions have proved false. There have been virtually no persistent violations and recent polls show that close to 80 percent of the people fully support the President's program. It would appear that the dangerous trend of inflation has been restrained and that the once prevailing psychology of "inflation forever" has been substantially rejected by the American people.

I believe that the achievements started with Phase I will continue to build during Phase II and that the economy will once more regain its solid footing. The President's program contemplates only a temporary interruption of our free system of pricing. It does not represent a perpetual system of controls.

Although, under the circumstances, the freeze and post-freeze came as good news, they also reflect the plain fact that we had to freeze prices and wages because our free enterprise system fell down in the fight against inflation.

In Phase II we are now required to have representatives of the public at the collective bargaining table on wages, and in the board rooms where price decisions are made. There appear to be a number of reasons which contributed to the need for these measures, some involving factors which are not the fault of the system. Thus for years the Japanese yen and the German mark were pegged at an advantageous level in relation to the dollar in order to help those countries in their post-war building programs. With the floating of the dollar, American companies have been relieved of this handicap. Also, as you know, negotiations are also under way for the removal of other tariff and non-tariff trade barriers. As a consequence, we should see some definite improvement in our foreign trade.

But, in my view, this is not enough. We must reexamine our whole economic system to identify and to deal with all sectors in which competition has failed, or been prevented, from performing its function. Historically, free enterprise has been the most effective economic system in the world. As Justice Black pointed out in the *Northern Pacific Rr.* case, it is designed to

". . . yield the best allocation of our economic resources, the lowest prices, the highest quality and the greatest material progress while at the same time providing an environment conducive to the preservation of our democratic political and social institutions." To many, it is already becoming clear that we must place increasing reliance upon competition for better allocation of our national resources and for improved efficiency in our industrial economy. We must determine where and how competition has been impeded—whether by industrial concentration, by collusion among firms; by inadequate labor-management relations machinery, by ill-advised government regulations and procurement procedures. or by other forces.

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[1] Supplier of numerical controls to companies shown.

In this connection, it seems to me that we must introduce a renewed spirit of competition in regulated as well as unregulated sectors of the economy. It is expected that legislation which would increase competition in the nation's surface transport system will soon be submitted to Congress. This is a much needed reform and deserves your wholehearted support. I suspect that more of the same is needed.

As a further measure against inflation, we must demonstrate renewed vigor in the enforcement of laws which promote rather than retard competition. We must also determine whether the existing laws dealing with competition are adequate to deal with problems of abuse of economic power in today's economy.

II

Turning to the near term, I think I can safely say that Phase II will pose some very demanding questions for antitrust lawyers.

As you know, the Administration is relying heavily on voluntary compliance rather than a big regulatory apparatus to make Phase II work. Much will depend upon individual decision-making under standards to be laid down by the price and wage groups. Under this kind of system, as you might suspect, the antitrust laws will continue in full force and effect. As Secretary Connally noted in his recent press conference, the Antitrust Division "will not diminish their efforts." Indeed, we in the Department believe that continued emphasis on, and vigorous enforcement of, the antitrust laws during Phase II will provide a strong tool in achieving both the long and the short range anti-inflationary obectives of the program. In other words, even if the law did not compel continued enforcement, we would not be inclined to make Phase II an antitrust holiday. I would predict also that state as well as federal enforcement agencies will continue to be active during this period. And you can be sure that private plaintiffs and shareholders will have their eyes wide open for antitrust violations as well.

Continued vigorous enforcement is important in the long range because we believe it will tend to maintain a climate favorable to early de-control of prices and wages, consistent with our fundamental interests in a free competitive economy and our ability to compete abroad. As President Nixon stated in his address announcing the new post-freeze program, this "can be a year in which the American competitive spirit is reborn, as we open up new markets for our goods abroad and new careers for our working men at home."

Along these lines, I certainly believe it is in the interests of firms under existing price controls to exhibit greater, not less, price, product and service competition. Members of the Cost of Living Council have recently indicated that controls will first be removed on a selective industry-by-industry basis. It follows that those industries which are most competitive will be the first to have controls lifted.

III

What are the mechanics of Phase II and what do we as antitrust counsel have to guard against in this period? As you probably know, Phase II will be administered principally by the Price Commission—which will promulgate price standards and hear specific requests for price increases—and the Pay Board—which will deal with wages. These boards will take a three-tiered approach to the economy. Both the Board and the Commission will identify certain firms and collective bargaining units that are most critical in the control of inflation. These economic units will be required to obtain approval of the Board or Commission before initiating rate or price increases. A second, larger class of companies or labor units will be identified by the boards as having less impact on the control of inflation or for which advance notice is not practical. This category will be required to provide prompt notification, after the fact, of all price and wage increases. Such increases may be rolled back by the boards. A third, and by far the largest, class of firms and collective bargaining units—as well as unorganized workers—will be monitored by the Internal Revenue Service through spot checks and the investigation of complaints. Detailed procedures have yet to be announced, but the expectation is that the Price and Wage groups will provide explicit standards to which all concerned will tailor their economic behavior during this critical period.

I think it is helpful in determining appropriate business conduct in this period to refer to the history of this nation involving earlier government price control efforts. Four times before in this century, national emergencies have required that the federal government intervene in the marketplace to control prices and wages. In three wartime situations—World Wars I and II and Korea—price control was established to meet military needs. The demand for essential war materiel dislocated all markets. This required wage and price controls as well as the rationing of scarce consumer goods. The free functioning of market forces was set aside during this period to assure the nation's survival. The fourth instance of government price control occurred during the great depression. The N.R.A. experiment arose from the desire to serve basic human needs: food, work and shelter to millions of our citizens. It then seemed desirable to attempt to raise prices and wages by delegating to industry the power to establish minimum prices and codes of "fair competition."

Today price controls have been evoked to aid in halting inflation. Although the economic factors which give rise to the many controls of Phases I and II are in many ways different from those experienced when the nation was at war or suffering under a depression, the teachings of the earlier control periods are, I think, most valuable.

In World War I price control was effectuated through negotiations and agreements with trade associations. In setting prices for iron and steel, for example, the Price-fixing Commission of the War Industry Board delegated the task of determining price differentials to the industry's Iron & Steel Institute. The trade association of steel manufacturers thus attained the power to fix prices for hundreds of products.

Although the use of private trade associations may have been thought a necessary tool during the War, these cartel-like groups grew in power and continued their price influencing activities long after wartime conditions had dissipated. And the participating companies—as well as the economy—eventually paid a heavy price for these activities. Businessmen were exposed to many costly government and private treble damage proceedings in the 1920s.[1]

A similar wave of antitrust prosecutions and treble damage suits followed the demise of the National Recovery Administration in the 1930s. The Antitrust Division mounted an intensive attack against industry price schemes which survived N.R.A.,[2] and Congress itself initiated a sweeping investigation of business.

Price controls established in World War II also spawned antitrust violations. There are indications that the heavy electrical equipment conspiracies were fostered by industry meetings held in conjunction with World War II OPA Advisory Committee activities. The conspiracy continued after the demise of OPA.[3]

In the most recent experience of this country with price controls—Korea—the government attempted to institute safeguards against the reoccurrence of cartels. In my view, however, these safeguards did not provide adequate protection to the public or to companies subject to criminal charges or treble damage suits as the result of joint activities during this period.

The Defense Production Act of 1950[4] included a provision for consultation with industry committees but made it clear that the companies were to function only in an advisory capacity. The Department of Justice provided guidelines for the committee program and emphasized that the Department retained complete freedom to institute civil or criminal proceedings.[5]

Nevertheless, during the period that the Office of Price Stabilization existed, the Justice Department expressed concern over the agency's failure to provide transcripts of the meetings of advisory committees, and over the adoption of anticompetitive pricing methods such as basing points, zone prices and identical delivery prices. The Celler Committee likewise was critical of OPS for failing to establish procedures to assure competition.

I assure you that the Administration has these earlier experiences in mind. It recognizes that it is of the utmost importance that procedures and regulations of the Price Commission and other boards and committees appointed to serve during Phase II contain antitrust safeguards—to protect business as well as the public.

I feel sure for example, that the Price Commission, the Cost of Living Counsel and the other administrative authorities will weigh very carefully the need for joint industry presentations and other cooperative activities, on the one hand, against the risks such procedures entail, on the other hand. Perhaps in some instances adequate protection may be found in the way trade association statistics are now sometimes handled—by outside accounting firms.

On the other hand, I am sure it would come as no surprise to the bar if the Price Commission should structure its information-gathering activities on a confidential company-by-company basis. In this way the Commission can test asserted need for increased prices by the comparison of one company's submission against another.

Of course, it almost goes without saying in this group that collaboration among competitors should be discouraged to insure that they continue to compete—not conspire—on prices. Otherwise, in the absence of effective price competition, the ceiling standard set by the Price Commission might also become the "floor." Certainly we can all agree that it would be most unfortunate if Phase II became the vehicle by which our free competitive economy was further impaired, instead of strengthened, and we can certainly agree also that we want to move away from—not toward—greater regulation.

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[1] For example: U.S. v. Corrugated Paper Manufacturers Association; U.S. v. Southern Pine Association; U.S. v. Cement Manufacturers Protective Association; U.S. v. Gypsum Industries Association; U.S. v. National Association of Window Glass Manufacturers; U.S. v. Maple Flooring Manufacturers Association; and U.S. v. Western Pine Association; see "Final Report of the Executive Secretary" to the TNEC, 77th Cong. 1st Sess., 1941, p. 26.

[2] In the short period between the end of N.R.A. and World War II, a number of Sherman Act cases were brought against leading American companies. U.S. v. Socony-Vacuum Oil Co., Inc.; U.S. v. Standard Oil Co. (Indiana); U.S. v. Aluminum Co. of America; U.S. v. Paramount Pictures Inc.; U.S. v. Hartford Empire Co.; U.S. v. Masonite Corp.; U.S. v. American Optical Co.; U.S. v. U.S. Gypsum Co.; U.S. v. American Tobacco Co.; U.S. v. Corning Glass Works; U.S. v. General Electric Co.; U.S. v. Dow Chemical Co.

[3] "The Incredible Electrical Conspiracy. Part I", Fortune, April 1961, p. 136.

[4] 64 Stat. 803 (1950).

[5] Letter dated Nov. 7, 1950, Peyton Ford, Dep. Att'y Gen'l, to Alan Valentine, Econ. Stabilization Adm., Administrator.

IV

To say the least, these are exciting times for antitrust counsel. As the search for procedures during Phase II progresses, as broader questions are raised concerning the value of competition in our domestic and foreign commerce, and as we study the alternatives to improve and protect that competition, those of us attending this conference today will be busy indeed.

In many respects today I think we stand at a crossroad. One path leads to greater and continuing governmental controls upon the economy; another leads to renewed vigor in our system of competition and free enterprise. The signposts for the road we take are difficult to read. Yet, as President Eisenhower once said:

> "Free men do not lose their patience, their courage, their faith, because the obstacles are mountainous, the path uncharted. Given understanding, they invariably rise to the challenge."[6]

All of us concerned with antitrust, whether in government, in industry, or in private practice, have an obligation to meet the challenge and to insure that the right path is chosen.

THE TAFT LABOR PLAN

Mr. PACKWOOD. Mr. President, too little attention has been focused by this body on the critical problem of emergency strikes in the transportation industry. For too long, Congress has been satisfied to move from one ad hoc emergency solution to the next. And in between emergencies, Congress has been content to ignore the underlying problem—inadequate and ineffective legal procedures for dealing with emergency strikes which seriously endanger the public interest.

The distinguished Senator from Ohio (Mr. TAFT) has been a leader in bringing badly needed reform of our emergency strike laws into the forefront of congressional debate. He is to be highly commended for this, and I am proud to have been working side by side with him in this vital effort.

The Cleveland Press of December 4, 1971, took note of Senator TAFT's initiatives in promoting reform in this area, in an editorial entitled "Taft's Labor Plan." It is an appropriate testimony to this dedicated and energetic Senator's work in this important area, and I commend it to my colleagues for their reading. I ask unanimous consent that this excellent editorial be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Cleveland Press, Dec. 4, 1971]

TAFT'S LABOR PLAN

Sen. Robert Taft Jr. has followed up on his late father's concern with labor legislation by offering some amendments to the Taft-Hartley Act.

Taft's aim is to prevent nation-wide strikes which heap widespread troubles on other people.

The senator cited railroad strikes which result in loss of agricultural products ready for market; or the dock strikes which resulted, he said, in the loss of $40 million in fresh fruit and vegetables, or a coal strike which shuts off power and imperils hospitals and schools.

The Taft proposal would give the secretary of labor several new options in a prolonged strike. He could order an extra 30 day cooling-off period after the present processes had been exhausted, or he could require a partial operation of the industry if all else failed he could ask both sides for a "final" offer and appoint an impartial panel to choose one offer or the other.

Much of this is similar to President Nixon's labor plan for the transportation industries—submitted to Congress last year but never given the time of day.

In addition, the senator would permit employers to do away with "unproductive" work rules not related to health or safety, providing no employees were fired and employee pay were raised if cost reductions resulted from the change of rules.

All in all, the Taft plan appears to be equitable to both sides in a labor dispute while at the same time setting up the machinery which could avert the work stoppages so costly to thousands and even millions of people who have no part in the dispute.

Except for occasional one-shot actions in railroad disputes, Congress for many years has shown a total disinclination for this type of legislation. But prolonged strikes in key public services have become so ruinous that sooner or later Congress will be compelled to act. The Taft and Nixon plans are good starters.

IN DEFENSE OF FOREIGN AID

Mr. HUMPHREY. Mr. President, the recent Senate debate on foreign aid has raised as many questions as it answers. One thing is clear—the discussion has just begun and will gain in momentum as we consider alternative policies for the years ahead.

I think a serious reassessment of our foreign aid programs is long overdue, and look forward to participating in the planning of a new approach for the next decade. In welcoming change I do not see, however, the necessity of rejecting all that which came before. During this year's debate, I singled out some of the several programs which deserve praise for the development work they have done. In the same way I defended the necessity of continuing our aid programs this year while we reevaluate past assumptions, goals, and programs.

This premise is the one which the Foreign Relations Committee, itself, has accepted. In its report the committee noted that our assistance this year should be considered an interim program to carry us over until we find a suitable alternative. I agree with that conclusion, particularly with respect to our economic and humanitarian assistance programs, because I think we have a responsibility which is not so much a matter of power politics as human obligation to follow through on these programs. Whatever the defects, developing countries welcome this assistance as a means of raising their standard of living and improving the social welfare of their citizens.

No one knows this fact more than the numerous voluntary agencies engaged in the real work of development assistance. Because these agencies are not big governments, and because their efforts often appear less glamorous than the work of governments and international organizations, their tremendous impact in the developing world often goes unnoticed. This spring the Congress passed a resolution which I initiated, paying tribute to the work of these organizations.

When we discuss plans for the future of our aid programs we must take into account the important role of these voluntary agencies. They are a dynamic part of any assistance package. In recognition of this fact, and in respect for the ideas these organizations have had in development assistance, I ask unanimous consent that a statement on aid by the voluntary agencies associated with the American Council of Voluntary Agencies for Foreign Service be printed in the RECORD. This statement, entitled "Restructuring Foreign Assistance Programs of the United States," is most relevant to the current discussion on aid.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

RESTRUCTURING FOREIGN ASSISTANCE PROGRAMS OF THE UNITED STATES

INTRODUCTION

The year 1970 marked a turning point in the programs of international development aid carried on by the United States, as well as by the United Nations. A succession of Reports on international aid analyzed programs and made recommendations intended to improve these programs and make them more relevant to the needs and priorities of the developing countries and the realities in the developed countries.* These reports all emphasized that experience has shown that economic progress alone, without social and human development, is not enough.

With this in mind the voluntary agencies engaged in relief, economic development, refugee and migration services, nutrition, education, community development and integral human development, have prepared this statement to recommend how the voluntary agency-government relationship can be responsive to the broad nature of the voluntary agencies' overseas involvement. We place special importance on this statement as we fully recognize that any governmental or voluntary aid programs which do not integrate the strength and resources of both government and voluntarism will fall short of the desired objective to go beyond economic development alone.

AMERICAN DEVELOPMENT AND VOLUNTARY EFFORT

President Nixon has said, "The greatness of this country does not lie in what government has done for the people, but in what people have done for themselves." The United

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[6] Address in New York, N.Y., April 22, 1954.

* The Peterson Presidential task force, the Pearson commission, the Jackson working group, President Nixon's Foreign Aid Message of September 15, 1970.

States of America has been an example to the world for the rapidity and depth of its development, which in large measure is due to a wide range of private initiatives—citizens working together for the betterment of themselves, their communities, and ultimately, the nation.

Voluntary agencies encompass community groups of all types: cooperatives, trade unions, service clubs, church related development activities, farm workers' organizations, farm owners' organizations and educational associations. In all cases, however, the essential ingredient is the *responsibility of the citizen as the agent of his own development*—the subject and not the object of activity on his behalf.

THE CONTRIBUTION OF VOLUNTARY AGENCIES OVERSEAS

More than eighty voluntary agencies are registered with the Advisory Committee on Voluntary Foreign Aid. They range from the small ethnic oriented category to large agencies representing a cross section of the majority of the population of the United States. They have thousands of personnel in more than 100 foreign countries. Their staffs, both American and overseas nationals, include experienced technicians in agriculture, community development, rural education, nutrition, medical care, family planning, engineering, social services, education, vocational training, migration and refugee services.

Voluntary agencies, therefore, are more than just relief agencies with staff and skills useful in time of disaster, or refugee organizations with specialized programs of resettlement and migration services, or health and welfare organizations with a network of volunteers. They are all of these things, but they are also highly professionalized in the whole area of human development. The fact that they are humanitarian, people-to-people, or church related gives them a valuable dimension in addition to their other capabilities.

FOOD FOR PEACE PROGRAMS

The large scale Food for Peace programs of the voluntary agencies, carried on in more than 100 countries around the world for the past twenty years were made possible largely because of already existing cooperating working relationships with networks of grassroots centers around the world. Food donated by the U.S. Government as well as by other governments is used for self-help, community development, nutrition education, nutrition supplement, and a wide variety of activities that promote self development.

DISASTER AID

Voluntary agencies have stand-by organizations that move into action within hours of a disaster. They divert ships carrying food, fly charter planes of medicines, vitamins, inoculations, antibiotics, clothing, etc. from their own stocks and from purchases as well as contributions. They cooperate closely with the United States government, international agencies and local governmental organizations overseas both at the time of a disaster and during the period of rehabilitation and reconstruction.

ASSISTANCE TO REFUGEES AND MIGRANTS

The U.S. government recognized over two decades ago that the cooperation of voluntary agencies was essential for carrying out its refugee and immigration policy and programs. The U.S. government has helped the voluntary agencies resettle over one million refugees to find productive growth within the United States and many other countries. Because of their community-based leadership and competence in counselling, resettlement, training and social service, voluntary agencies accomplished this task at far less direct expense than could have been accomplished by a network of governmental agencies.

VOLUNTARY AGENCY OVERSEAS DEVELOPMENT PROGRAMS

Voluntary agencies working in developing countries are a strong force in development. They bring experience, knowledge of conditions and human resources at the community level. They are a symbol of hope at the "people level" in most areas of the world.

Voluntary agencies are in an enviable position as regards human development activities since they live with the people, they have simple structures, they serve the deep-felt needs of the people, and they act on what *the people themselves consider their priorities*. Development assistance is an integral part of the programs of voluntary agencies because concern with root causes of poverty is equally humanitarian as short term relief. Many agencies invest a great part of their resources, both finanical and material, in one form or another of social and economic development. They are an essential element in human development.

THE NEED FOR CONTINUITY AND FLEXIBILITY IN VOLUNTARY AGENCY OVERSEAS PROGRAMS

It is important to underscore the flexibility that grows out of a feeling of confidence between government and voluntary agencies. In Canada, Germany and Holland, for example, governments provide funds to voluntary agencies for development and allow the agencies relative independence to carry out programs in their own specialized way. While cooperating fully, the agencies nevertheless retain their identity and independence as an expression of the basic nature of their organizations. This type of relationship is a sine qua non to voluntary agencies in their relationship to government.

The ability of the voluntary agency to provide continuity is of primary importance in human development programs. President Nixon emphasized this in his Message of September 15, 1970 when he said that "sudden and drastic disruptions in the flow of aid are harmful both to our long-term development goals and to the effective administration of our programs". Continuity in funding and the provision of supplies, e.g. PL 480 foods, is important to the voluntary agencies. But continuity, as well, in goals and in the understanding of their programs on the part of government is vitally important.

VOLUNTARY AGENCY WORKING RELATIONSHIPS WITH GOVERNMENT

For the past twenty-nine years the United States Government has maintained an important and valuable continuity of relationship with the voluntary agencies through the Advisory Committee on Voluntary Foreign Aid. We recommend that this office be upgraded to reflect America's deep interest in people-to-people programs and thereby recognize concretely the essential role of voluntary agencies in social and human development.

We are convinced as a result of experience that the Advisory Committee on Voluntary Foreign Aid can function more effectively as a Presidential Advisory Committee.

THE SPECIAL ASSISTANT TO THE SECRETARY OF STATE FOR REFUGEE AND MIGRATION AFFAIRS

U.S. Government concern for refugees and migration affairs is presently centered in the office of the Special Assistant to the Secretary of State for Refugee and Migration Affairs. In order to fulfill its role in formulating policies and implementing programs in coordination with overall policy goals, this office should have statutory authority to deal with the wide range of activities inherent in such responsibilities. Its mandate should not only be reaffirmed, but also enhanced so that the scope of the office of Special Assistant include refugee and migration activities now carried on by various other departments, bureaus and agencies in Government.

GOVERNMENT FUNDING OF VOLUNTARY AGENCY PROGRAMS

Adequate funding for PL 480, the ocean freight subsidy, refugee and migration problems, disaster aid, special contract and grant arrangements should continue. In addition, funding should also be provided for voluntary agency social and economic development programs overseas.

A TRULY INTERNATIONAL EFFORT

The voluntary agencies endorse the proposal for a partnership among the nations in pursuit of a truly international development effort by channeling an increasing share of development assistance to multilateral institutions. The voluntary agencies themselves have already developed broad international associations and relationships, both with sister organizations international and other national, and with intergovernmental organizations, including the United Nations specialized agencies.

We are convinced that multilateral as well as bilateral government-to-government action in substantial size will be of great significance in the foreign assistance field for some years to come.

RECOMMENDATIONS FOR LEGISLATION AND ADMINISTRATION OF AMERICAN FOREIGN ASSISTANCE PROGRAMS

1. Recognize the essential role of voluntary agencies in development and make available an appropriated source of funding for development programs of voluntary agencies, both American and local overseas agencies.

2. Continue adequate funding for ocean freight reimbursement, PL 480, special projects, disaster aid, and refugee migration services.

3. Embody greater continuity and flexibility in agreements with voluntary agencies.

4. Assure that American voluntary agencies are granted the flexibility that is accorded to foreign and international agencies in the administration of programs funded and supported by the United States Government.

5. The Impact Fund of the American Ambassadors in developing countries should be increased so as to provide flexibility in supporting self-development projects sponsored by voluntary agencies and local groups.

6. Establish the Advisory Committee on Voluntary Foreign Aid as a Presidential Advisory Committee.

7. The mandate of the Special Assistant to the Secretary of State for Refugee and Migration Affairs should be sufficiently broad so as to make it the focal point of government-wide refugee and migration concerns.

8. The traditional policy of the United States with regard to world-wide asylum for refugees and escapees should be reaffirmed and appropriately implemented.

9. Provision should be made for flexible authority in the basic immigration statutes for admission of refugees in reasonable numbers and for authority to meet emergency situations arising from the rapidly changing world scene.

10. We support the recommendation of the Peterson task force that the level of American foreign assistance be raised commensurate with America's position as the wealthiest nation, and its responsibilities to the world community.

11. The proposal to separate military support from other foreign assistance is warmly endorsed.

ADDRESS BY PRESIDENT NIXON TO NATIONAL 4-H CONFERENCE IN CHICAGO

Mr. BROCK. Mr. President, in his speech to the National 4-H Conference in Chicago last week, the President urged young people to participate in the political process, to make a contribution to the goals of the American future. Grounding his plea for participation in a basic optimism for the future, President Nixon listed the possibilities for action to which young persons could address themselves.

The President's willingness to challenge young Americans represents his overriding faith in their ability to accept responsibility and to realistically view the disparity between what our generation has achieved and what is yet to be accomplished. I share this faith and hope that young people will accept this challenge.

Mr. President, I ask unanimous consent that the text of President Nixon's speech be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

TEXT OF AN ADDRESS BY THE PRESIDENT TO THE NATIONAL 4-H CONGRESS

To stand before this great assembly of young leaders and young achievers, to feel your idealism and your commitment to excellence, is to stand on the threshold of the brightest future the world has ever known.

You are coming to maturity at a time which history will remember as a great period of emancipation for young Americans. Your generation has the opportunity to participate more fully in the American adventure than young people have ever been able to do since Revolutionary times.

Think back to those stirring days. More than half the population of America was under 20. The cause of liberty was the cause of youth and age alike. Citizens belonged not to this or that generation, but to America. Hamilton in his late teens emerged as a leading voice for independence in New York. Jefferson at 33 authored the Declaration of Independence. Sixteen other patriots in their thirties, 3 in their twenties, and Franklin at 70, joined Jefferson as signers.

In the course of two centuries things changed. By the 1950s, when you were born, generational stereotyping and pigeonholing by age groups were all too common. Most young people in those years went intensely but quietly about the ordinary tasks of growing up. Some of the young, on the other hand, went under ground into a Bohemian subculture. It is obvious now that older people should have been asking why—but few bothered. It was so much easier just to tag one group "the silent generation," and the other "the beat generation," and leave it at that.

Then suddenly in the '60s everything seemed to go to the other extreme. A new breed of young men and women shook the Nation, writing a record dominated by remarkable good but shadowed with ominous wrong—civil rights laws and urban riots, campus reform and academic anarchy, a war against aggression in Asia and a war against that war in our own streets, a surge of participation in politics and a wave of terrorist bombings, a rich new diversity in life-styles and a grim new plague of drug abuse.

All in all, it was a time when youth reached vigorously for a new role as full partners in American society. The result was monumental; yet the cost in disruption and alienation seemed almost prohibitively high. Why was the record of the youth movement only mixed, when it should have been magnificent?

It was only mixed because it took the form of an outside force, rather than of integrated individual participation in the larger society. It was forced into that form by the rigid generational walls erected in American attitudes and institutions over the years. Its frustrations and excesses arose in large part from the painful experience of battering against those walls—an experience that dramatized the need to sweep them away once and for all.

Thus at the end of the Sixties Americans woke to several important realizations. They saw that to regard a person's date of birth as more important than his own unique individuality, is to indulge in the insidious bigotry called "age-ism." They saw that it is wasteful, stupid, and unjust to restrict the generations in a narrow structure in which those in the middle of life would monopolize the centers of power, while the young would plod along in apprenticeship or chafe in alienation, and the aging would draw social security, preferably well out of sight. They saw that it was time to pull down the generational stereotypes—involved, hip, silent, beat or lost—and to raise a new standard of brotherhood, tolerance and mutual respect.

As these new attitudes have taken hold, young America has passed from its stormy night of recent years into a bright new morning. College turmoil has subsided sharply—not in resignation but in wisdom. High schools and young working people, the next declared target of the radicals, have not caught fire. Opinion surveys have detected a rising disgust with political radicalism even in strongholds of the counterculture.

Most of you are not only witnesses to these developments, but leaders in them. You could not be leaders in a more important cause. For the more convincingly the young majority demonstrates its resilience and level-headedness, the faster you will find the so-called Establishment responding to your hopes and opening to your aspirations.

The young are no longer going to be treated as a mass or a bloc in this country—neither as a generation apart nor as a generation idolized. You deserve better than that. And you shall have better, for America is moving rapidly to take you into full partnership as individuals. Your country knows how much it needs you—and we are proving that, not just with talk but with action.

We need your voice in the political process, as soon as you are prepared for that trust—which should not take 21 years. That is why I was able last July to certify passage in record time of the 26th Amendment lowering the voting age to 18.

We need your abilities and your insights in the making of public policy. That is why I have directed departments and agencies throughout the executive branch of the government to recruit young talent and hear young ideas; and that is why I have brought an unprecedented number of men and women in their twenties into positions of trust on the White House staff.

We need your energies in the urgent work of helping the less fortunate across America and around the world. That is why we have moved to expand and improve the Peace Corps and VISTA programs by merging them to form a new volunteer service agency, ACTION. That is why we have initiated the University Year for ACTION to draw thousands of college students into this effort. And that is why we have also worked outside government, to make voluntarism a vital force in the independent sector—so that every single American who wants to serve his fellowman can have an avenue for doing so. Young people today especially are more generously committed to human betterment through voluntary service than any generation before you. Your own work in 4-H has shown what mountains that commitment can move; I urge you to redouble it, to share it, and to maintain it throughout your lives.

We need to be sure you are free to shape your own career along the lines that will provide maximum fulfillment for you in adult life. That is why we have reformed the draft to reduce the uncertainty and duration of its pressures on young men, and why we are moving rapidly toward the goal of a zero draft and an all-volunteer armed force. That is why we have pressed for a new college loan system to insure that no qualified student who wants to go to college will be barred by lack of money. That is why we are developing new career education and youth employment programs, in recognition that something over half the college-age young do not go to college but do need salable skills and good jobs.

We need your ideas in the national debate on issues, goals, and directions. That is why we turn the 1971 White House Conference on Youth into the most wide-open forum "of, by, and for young Americans" ever held. Once a decade since 1909, older people had been meeting at the President's invitation to talk about youth; but we felt that kind of generational condescension was out of step with the Seventies, so we turned the conference over to the young themselves. I am the first to tell you that not everything they did and not everything they said lined up with my own point of view. But I totally recognize and defend their right to say it. Certainly the time when the young are to be seen and not heard is gone in America—gone for good.

More than 300 of the Conference's recommendations have just undergone six months of intensive review by the affected Federal departments. When the results of that review are announced, the extent of agreement between Conference hopes and government action will further weaken the myth of an unbridgeable generation gap, and will further strengthen what the conferees called their sense of "kinship with persons of good will of all generations."

This sense of kinship, forged into a firm new alliance of the generations, will be essential if we are to seize the breath-taking opportunities opening up for America and the world in the coming decades.

The greatest of these opportunities is peace—peace not just for a few years, but for a whole generation. Such a peace is coming, and the United States is leading the way.

We are finally concluding our involvement in the Vietnam war, and are doing so in a way that is responsible, honorable, and constructive for the long-range stability of Asia and the Pacific region. We have done and will continue to do all in our power to help defuse the explosive situations in the Middle East and the Indian Subcontinent. We have acted to end the isolation of nearly one-quarter of the world's population in China. We have moved from confrontation to negotiation with the Soviet Union, with limitation of nuclear arms, relaxation of tensions in Europe, and increased trade among the possible results.

The world that is taking shape as a result will be far less dangerous than the one you have grown up in—but even more challenging. Political, economic, and military power will be concentrated in many centers instead of just a few. Competition in the works of peace will be intense.

But it will be an open world, and quite literally a new world—one in which more than 60 new nations and 60 percent of the people living today have been born since

World War II. It will be a world where America's fabulous economic and technological advances, which have gone into war in the generation past, can be turned more fully to the service of mankind in the generation ahead.

And then—when the manacles of war at last are struck off the hands of the American giant—our potentialities will know few bounds. Together, we can work toward conquering hunger, poverty, disease and ignorance—at home and around the globe. We can achieve a new birth of vitality in our democracy, our economy, our arts and culture. We can strike a new balance between quantity and quality in national growth, and between dynamic cities and a healthy countryside in this wide land. We can rescue a threatened environment and form a higher partnership with nature. We can truly build a new America in a new world.

This is why I say that the most exciting time and place to be young and alive, in all the record of mankind, is here in America, now in the Seventies. From the very first, we have been a people who set high goals, dreamed large dreams, and shared from the heart with our brother men. But what sets these times apart from any earlier period in our history is that we now have not only the will to work miracles but the actual means to achieve them.

The heavy responsibilities of world leadership, and the restless perfectionism that nags at our national life, can seem burdensome at times. We can feel tempted to complain about them. And yet how provincial and craven such complaining is. The power not merely of wishing good but of doing good is granted only sparingly to men and nations—but that power in full measure is destiny's great gift to the United States today. Generations before could yearn for peace; we can build peace—and we are. They could feel compassion for the oppressed, the destitute, the refugees of the earth; we can provide help for them surpassing all other nations—and we are. They could speculate about political, economic, and social systems that would set the human spirit free; we can fashion such systems—and we are.

We can do these things—but so much depends on you who are young. How committed will you be? Listen to Thoreau: "Cast your whole vote, not a strip of paper merely, but your whole influence." You have the freedom, almost literally, to reach the stars—and with it comes the responsibility to stretch for them with all your might. Don't let your hearts grow earthbound, for the universe is out there waiting for you.

In the spring of 1963, when the first sweet taste of freedom came to Communist Czechoslovakia, a group of students marched to party headquarters at midnight and shouted for the reform leader, Alexander Dubcek, to confront them. They were impetuous and impatient—full of that young fire which our Youth Conference delegates called "the rage of love for . . . unimplemented principles . . . and . . . unfulfilled potential." Dubcek came down in the street to talk to the students, and one of them asked him, "What are the guarantees that old days will not be back?" "You yourselves are the guarantee," replied Dubcek. "You, the young."

You know the rest of the story. The hopes of the Czechs for freedom met reversals, but the words of their leader are not less true for that. Here in America "the rage of love" has not burned out in young hearts, but the flame is purer now, fed with new reason and realism. Man's destiny of freedom is in your keeping and under your guarantee. With a lifetime of adventure and promise before you, I have every confidence that that splendid destiny is in good keeping—and that you will make good its guarantee.

GAO POULTRY REPORT

Mr. RIBICOFF. Mr. President, on November 16, 1971, I released a report of the General Accounting Office on sanitation standards at 68 poultry plants, which had been prepared at my request. Since that time, additional information has come to my attention concerning one of these plants. In the interest of a complete and accurate record on this subject, I ask unanimous consent that certain recent correspondence concerning one of the plants be printed in the RECORD.

There being no objection, the correspondence was ordered to be printed in the RECORD, as follows:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., November 30, 1971.

Hon. ABRAHAM RIBICOFF,
Senate Office Building,
Washington, D.C.

DEAR ABE: Week before last, you engaged in some colloquy on the Floor of the Senate related to a report by the Comptroller General on the effectiveness of the poultry inspection service of the Department of Agriculture.

That report contains on page 16 the following sentence: "The inspectors reported some deficiencies in sanitary conditions in each of the 68 plants."

Understandably, you infer from that that the GAO found that every plant had some deficiency when inspected, an inference that I would have also drawn and one that was drawn by more than one representative of the news media in Little Rock, Arkansas.

One of the plants visited by GAO representatives is located in Little Rock, C. Finkbeiner, Inc. C. Finkbeiner called me to complain that the GAO report was misleading because, on the day in question, inspectors found only one minor deficiency.

My own personal review of the facts has resulted in a letter being written by Comptroller General Staats to Finkbeiner advising the Finkbeiners that this is the case and when the Comptroller General made a copy of that letter available to me, it occurred to me that you might be interested in reading it.

I do not do this critically but only in the interest of clearing the record, an interest that I am sure you share.

With kindest personal regards and best wishes, I am

Sincerely yours,
WILBUR D. MILLS.

[Enclosure.]

COMPTROLLER GENERAL OF
THE UNITED STATES,
Washington, D.C., November 30, 1971.

Mr. FRANK FINKBEINER,
President, C. A. Finkbeiner, Inc.,
Little Rock, Ark.

DEAR MR. FINKBEINER: The staff of Congressman Wilbur Mills has advised us of the adverse publicity your firm received following the release of our report to the Congress on the continued weak enforcement of Federal sanitation standards at poultry plants by the Consumer and Marketing Service, Department of Agriculture (B–163450, November 16, 1971).

Our report was designed to focus attention on the manner in which the Consumer and Marketing Service was carrying out its poultry inspection responsibilities, not on individual poultry plants. For this reason, the report did not contain the names of poultry plants visited by us during our review. The names were subsequently released through congressional sources.

Your plant was one of 68 visited by us in the company of supervisory inspectors of the Consumer and Marketing Service who evaluated the compliance of each plant with Federal sanitation standards. We recognize that your plant is primarily involved in the slaughtering and processing of red meat and red meat products; however, it does process some poultry products. Consequently, at your plant the only section evaluated by the inspector was the one involved in the processing of poultry products.

Conditions in the 68 plants varied significantly. In the section of your plant which was evaluated, only one minor variance from acceptable standards was noted—a door in need of rust removal.

We hope this letter clarifies our report as it relates to that section of your plant involved in the processing of poultry products.

Sincerely yours,
ELMER B. STAATS,
Comptroller General of the United States.

THE 25TH ANNIVERSARY OF UNESCO

Mr. HUMPHREY. Mr. President, this month marks the 25th anniversary of the founding of UNESCO—the United Nations Educational, Scientific, and Cultural Organization. In this period UNESCO has done some monumental work, particularly in the field of education. While its projects have made few headlines, the work of UNESCO has had a tremendous impact worldwide.

Because a large share of the American public is largely unaware of these accomplishments, I want to take this opportunity, Mr. President, to bring some of them to all our attention. I want to pay tribute to what UNESCO has done and continues to do because I think this great organization represents the hope for the future. Many people assume that the United Nations is a divided, helpless organization, contributing little to the cause of peace. I know otherwise. I maintain that the relentless plodding and the imaginative planning of an organization like UNESCO is what builds the infrastructure and the hybrid character of our "global village." It brings interdependency, close acquaintance, and human welfare.

For all the possibilities it offers and the progress it has brought, the United States has paid a relatively small portion of the cost. Our share of the annual budget is $12 million, or roughly 5 cents per American taxpayer. Just what are we buying with our contribution? UNESCO runs extremely effective world literacy and more advanced educational programs; it has offered a broad spectrum of cultural activities. Its scientific programs have been a great catalyst in reaching technological breakthroughs of international consequence. Together, all these programs have brought about the necessary meeting of minds and ideas on a broad catalog of problems and projects so essential to the welfare of the community of nations.

UNESCO was born in the closing days of World War II on the basic principle that "wars begin in the minds of men." Its founders, many of the leading American educators, artists, and intellectuals, put forth the corollary that—

It is in the minds of men that the defenses of peace must be constructed.

UNESCO is headquartered in Paris. It is operated by a total staff of 2,200 specialists and professionals from about 100 countries, including 1,600 who work in the field, and is headed by a director-general, Rene Maheu of France. It is linked to the United Nations through the Economic Social Council of the U.N.—ECOSOC—but it determines its own programs and budget through the wishes of its 135-member states who meet every 2 years to consider and vote upon the many facets of UNESCO operations proposed for each biennium.

The emphasis on intellectual cooperation which characterized the early days of UNESCO has been sharply modified by the passage of time and the pressures of the world events upon the organization. Where some of UNESCO's founders may have viewed the organization as a potential meeting place for men of similar intellectual interests, a place where cultural concepts of one nation might be made available to the cultural connoisseurs of other nations, UNESCO today is vastly more than a forum for an intellectual exchange. Now it is concerned with many vital educational, scientific, cultural and communication needs of a vastly expanded membership, predominantly from the developing world.

The organization is very involved with the growing problems of educational development.

UNESCO, 25 years after its founding, finds itself deep in such pressing worldwide concerns as the environmental crisis. A few years ago it hosted an international scientific conference on the biosphere. As a result it moved to devote more of its energies and facilities to the world environmental problem under its "Man and the Biosphere" program, and in so doing UNESCO provided the stepping stone to the United Nations world environmental conference which will be held in Stockholm next summer. This will be the first world conference on the environment, believed by environmental specialists to be an essential step toward solving an international problem which threatens to engulf us.

UNESCO finds specialists to help developing countries start universities, build efficient rural schools, establish libraries, set up special training programs in schools and universities. At the same time, it provides an international framework—and often the actual physical facilities of housing and housekeeping expenses—for such things as brain research, oceanography, or satellite communication. Under UNESCO's auspices nations meet and carry on a variety of successful international projects such as International Geophysical Year, a joint scientific exploration of the Antarctic which would have been impossible without a UNESCO patronage and sponsorship.

UNESCO has started a concerted search using every available means, to collect data for rational water management. This is the purpose of the International Hydrological Decade which was launched in January 1965. Problems to be solved are as simple as measuring the rain or as complex as determining the effect of glaciers on water supply. It will be UNESCO's task during the International Hydrological Decade to coordinate these and other related activities and to develop a national awareness of the need for the conservation and management of water resources and the training of hydrologists.

In the field of human rights, UNESCO has taken an active bid. For example, it has organized this year as year to combat racism.

Despite this wealth of activity, UNESCO has little of an impact on the United States. True, there has been some tangible return on our investment. Some of the money we spend upon UNESCO comes back to us in salaries and grants for American specialists employed by UNESCO on various worldwide projects, and in the past 25 years American publishers and manufacturers of educational materials have realized a return of some $33 million from sales to UNESCO. But in general, UNESCO remains outside the mainstream of American life.

I cannot help but question if this is really to our advantage. I view the crisis in American education, for instance, and ask if there is not something we might gain from the UNESCO family if we sought its aid and guidance in solving our educational problems. I question, also, if we might not better deal with the great powers emerging in the Far East if we used, for example, UNESCO's bank of cultural information on Asia or on other cultures.

These are times of great soul searching and the United States at the end of a trying chapter in internationalism, is asking itself profound questions which must be asked, the answers to which will profoundly affect the security of both our own Nation and the world at large. Our questions impinge upon the United Nations and its specialized agencies. The United Nations, as much a creation of the United States as of any other nation, surely, has been forced by the times and the temper of its members into equally critical soul searching.

As part of this international analysis, UNESCO at the dawn of its second 25 years of existence must ask itself some questions, and it is doing so. There are valid criticisms to be made of UNESCO, but they relate to methods, not goals.

When I consider the "future shock" of a technical tomorrow which is almost upon us today, I can only urge UNESCO to enlarge its efforts to computerize and digest for all of us the raging flood of technical and sientific data. And this is what UNESCO proposes to do with UNISIST—the world science information system. Its advanced and adult education programs will have to be expanded to fit the requirements of what the U.N. has called the second development decade.

This anniversary review has only touched the surface. UNESCO has done a great deal more. It is my firm belief that it will gain momentum in the years ahead, with one provision. We in the United States must lend UNESCO all the financial and psychological support we can, if we want it to carry on and if we want the international community to grow with it.

Mr. President, I want to bring to my colleague's attention some articles which describe in some detail individual UNESCO programs. One of the more interesting is the UNESCO report on the idea of a United Nations University. Mr. President, I ask unanimous consent that the articles be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

UNESCO'S QUARTER CENTURY

The United Nations is coming into increasing disrepute in this country, some of it deservedly so, much of it unavoidably so. The pretense of parliamentary equality between the Soviet Union and Bhutan, for instance, or between the United States and Chad, gives a certain comic boredom to too large a percentage of the debates and votes in the Assembly, while the realities of power frequently reduce the Security Council to a system of mutually locking brakes against any action at all.

The organization which was supposed to usher in a new age of peace on earth has in fact witnessed continual warfare, often involving the superpowers and often enough the smaller powers on the free-lance basis that was once thought to be the one sort of war the United Nations could stop.

It is all a sad commentary not only on the international peace-keeping machinery and its non-existence, but more deeply on the condition of men and nations in the 20th Century. That being so, the survival and flourishing of its auxiliary, the United Nations Educational, Scientific and Cultural Organization, UNESCO, is remarkable in itself and a reasonable cause for fundamental optimism about the whole endeavor.

UNESCO last week celebrated its 25th anniversary and did so at a time when its own achievements and work in progress far outshadowed those of the U.N. proper.

In 25 years, UNESCO has brought the blessings—and the dilemmas—of literacy and learning to millions. It has brought the hope of life extended and life expanded to masses whose history and culture prepared them for a chancy life and an early death. Within the limits of its financing, which have always been stringent, UNESCO has at least begun to attack the immense and basic problem of feeding the world's people.

There are now, as there always have been, American voices raised against American participation. It is even remotely possible that such voices may prevail, that the U.N. will go the way of its predecessor, the League of Nations, into the dustbin of history, the attic of humanity's hopes.

But regardless of the fate of the parent organization, UNESCO continues to represent those hopes in action and in significant achievement. If the U.N., by no means through its own fault, has been unable to bring peace on earth, UNESCO, in its quarter century, has given full scope to good will toward men.

PROPOSAL FOR A U.N. UNIVERSITY MAY COME TO VOTE IN ASSEMBLY

(By Andrew H. Malcolm)

UNITED NATIONS, N.Y., October 30.—The idea of a United Nations University with a string of post-graduate research centers scattered around the globe has made substantial progress here in recent months and may come to a vote during the current General Assembly session.

An official, though unpublished, feasibility study—a copy of which has been obtained by The New York Times—recommends establishing a world network of such research centers coordinated by a reactor at a central headquarters in an as yet undetermined country.

Japan, Austria and Switzerland have been mentioned as possible sites for the headquarters.

With the 129-page study in hand, a number of diplomats and educators, including Dr. Andrew W. Cordier of Columbia University, are now predicting passage of some form of international-university plan by the year's end.

The concept of such an international university, where scholars from many lands would meet to research common problems, is not new. Alexandria's library in ancient Egypt, for example, attracted more than local scholars.

However, the idea never gained much strength in modern times until two years ago, when it was proposed by the United Nations' Secretary General, himself a former teacher, and sponsor of such undertakings to promote international understanding.

DUBBED "THANT U"

In fact, U Thant has been such a strong advocate of the idea that in some circles here the proposed institution has been dubbed "Thant U."

But support for such an institution, especially among the developing nations that now form a majority in the United Nations, has broadened it formally in the introduction to his annual report in 1969.

That year the General Assembly ordered the feasibility study by UNESCO, the United Nations Educational, Scientific and Cultural Organization. Mr. Thant also requested a parallel study from a panel of 15 international educators, headed by Dr. Cordier, the Dean of Columbia's School of International Affairs.

While the UNESCO study is complete, the educators' final report is not. However, a series of interviews with those involved has revealed that that both groups have reached essentially the same favorable conclusions.

As presently envisioned, the university would not offer any undergraduate studies. No degrees or dipolmas would be issued.

The graduate research staffs would be drawn to the school's scattered units for periods of a few weeks or years. To avoid aggravating the "brain drain" from developing countries, no appointments would be permanent.

Some of the centers might be established as research institutes, either independent or within the United Nations family of specialized agencies. They would affiliate with the university in certain areas of common concern. The International Center for Theoretical Physics in Trieste has been mentioned as such a possible affiliate.

JAPANESE SITES OFFERED FOR "PROBLEMS OF MANKIND"

UNESCO has said that research and training should be oriented around "problems affecting mankind as a whole," rather than around traditional academic discipline.

These problems might involve population and economic growth, the economic and political variables of social tensions and international relations, and the influence of technology on the environment.

The examination of these problems in an international institution "free from national and regional bias could produce results displaying exceptional objectivity and carrying great moral weight," UNESCO said.

The research units would be supervised by the rector from the university's headquarters. Neither report recommends a particular site, although UNESCO said the location should be readily accessible to other institutions of higher learning and in a politically stable area free of high social or regional tensions.

UNESCO: RECORD OF SUCCESS

This month marks the first quarter century of UNESCO, that portion of the United Nations' iceberg which lies largely unseen beneath newsier peaks. Filled with achievement, employing 3,500 people from 125 member states, and in many ways the most successful venture of the United Nations, UNESCO functions under a constitution that starts this way: "Since wars begin in the minds of men, it is in the minds of men that the defenses of peace must be constructed."

UNESCO's real name is, of course, the United Nations Educational, Scientific, and Cultural Organization, and in the past twenty-five years it has been in the field of education that UNESCO has achieved perhaps its most outstanding accomplishments. As of the beginning of this year, UNESCO had trained in forty developing countries more than 60,000 teachers and educational planners to serve in primary, secondary, and technical schools. Many of these young women and men have functioned as not only teachers but examples to their contemporaries and to traditionally trained local colleagues. Precisely ten years ago UNESCO trained the first African secondary schoolteachers south of the Sahara Desert. Now there is a stream of 2,000 graduate teachers a year in central and southern Africa.

As recently as fifteen years ago fewer than twenty-five million students were enrolled throughout Latin America. In the intervening decade and a half, largely through a UNESCO program, primary enrollment has increased by upwards of sixteen million children. In the sorry field of adult literacy, a UNESCO survey in 1957 revealed for the first time that 44 per cent of the world's population could neither read nor write. Vast expansion in education, partly through U.N. programs and money, has dropped the world illiteracy rate to 34 per cent, though, sadly, the total number of illiterates may be larger than it was fifteen years ago because of the population explosion.

Architects employed by UNESCO have designed prototypes of the hardiest and least expensive school buildings for developing countries. Other money and effort have gone into the creation of fifty engineering colleges and technical institutes, which now enroll more than 50,000 students and have graduated upwards of 16,000 men and women whose engineering-technical skills are absolutely essential to the development of the Third World.

In the field of science, second section in the organization's title, UNESCO's quarter-century achievements include seed money to launch the International Geophysical Year, which in 1957 and 1958 produced spectacular scientific results, including verification of the inner and outer Van Allen belts. Ocean research has resulted in rich new fishing grounds as well as extensive discoveries about the sea floor, not to mention worldwide weather and navigation aids. Extensive research in climatology, hydrology, the energy of sun and wind and their ecological relationships may one day restore the deserts of northern Africa to the status of the granaries of the world since these and other desolate tracts of parched earth account for one-third of the globe's land surface. Earthquake-measuring stations that chart the history and behavior of these natural catastrophes have, through UNESCO research, helped every country that lies over a fault line.

On a planet where nearly half the children cannot go to school, one-third of the adults are illiterate, and half the world goes to bed hungry every night, UNESCO's pragmatic achievements may outweigh the cultural. Just the same, the organization's highly successful symposiums of anthropologists, geneticists, ethnologists, and lawmakers on ways and means to refute the myths of racial superiority or inferiority may in the long run be the most important achievement in its twenty-five years. Other accomplishments in the general area of human science and culture include a universal copyright convention guaranteeing international protection of all literary, scientific, and artistic works; to date, this agreement has been ratified by sixty-one countries.

Considering the scope of its mandate, the UNESCO budget is modest indeed; although this income has risen from $7-million in 1947, when it had thirty-four members, to $45-million this year, when it has 125, there is pitifully little to work with in any given field of human benefit. As of this spring the United Nations Development Programme had entrusted UNESCO with 157 world projects involving an outlay of more than $650-million, not counting bankers' loans and credits of $365-million in thirty-eight developing countries. The figures are impressive testimony to the growth of this far-reaching U.N. arm now optimistically entering its second quarter century, since it has proved the past.

UNESCO—A GOOD DEED IN A NAUGHTY WORLD

(By Anthony Merill)

Nineteen Seventy-one marks the 25th anniversary of UNESCO, an organization aptly described by a commentator as "a good deed in a naughty world". UNESCO—the United Nations Educational, Scientific and Cultural Organization—is one of several international organizations in the UN family known as "specialized agencies."

What is UNESCO, what does it do, and where does it do it?

WHAT IT IS

UNESCO is an affiliation of 125 Member States with headquarters in Paris. An autonomous agency, with its own budget and governing body, UNESCO carries out the educational, scientific and cultural interests of the United Nations.

It is a many-faceted organization. To some it is a great publishing house, turning out books, studies, reports, periodicals in many languages. To others it is a vast filing cabinet in which there is systematically catalogued and available to researchers information on education, science and sociology centralized nowhere else in the world. To developing countries UNESCO is a source of expertise in education and science and planning for efficient development in these two fields so essential to national survival in the space age. To others, UNESCO is an instrument for saving historical treasures like the flood-damaged paintings of Florence, and for the protection of integrity in the creative arts, through international copyright laws.

Clearly, UNESCO's range of operations and interests is broad and sweeping.

LITERACY PROGRAMS

UNESCO tackles the problem of international understanding in a variety of ways. For example, at least 850 million adults in the world cannot read or write—a shocking figure which is growing by 20 million a year. UNESCO is pioneering a "functional literacy" training program, experimental in nature, seeking the best ways to teach these skills in their everyday work.

UNESCO's pilot literacy programs are underway in 12 countries, with 40 more countries asking to participate in the program. With 150,000 persons enrolled in UNESCO-sponsored literacy classes, UNESCO has sent literacy experts to many other countries to advise their governments.

And while this practical grass-roots program goes on, UNESCO is constantly translating into the major languages of the Western world great writings from the cultural heritage of nations like Japan, the Scandinavian countries and India—literary masterpieces hitherto unknown to Western nations like our own.

TRAINING TEACHERS, BUILDING SCHOOLS

Vital as the UNESCO literacy programs are to UNESCO goals, they are but facets in the multitude of UNESCO operations. The Education "E" in UNESCO embraces not only teaching the illiterate to read, but training teachers to teach, showing new nations how to develop libraries and museums, helping those who seek UNESCO's advice to develop educational techniques for youth and adults and for farmers and factory workers.

When a group of Latin American countries sought advice from UNESCO on the design and construction of rural schools, UNESCO didn't reach into a file drawer and pull out a prepared instruction manual. Instead, it located from around the world the top experts in the field, paid their way to a meeting place in Latin America, provided for their expenses while they were there, and made them and their accumulated expertise in school needs for low income developing nations available on the scene for Latin American ministries of education.

OCEAN EXPLORATION

UNESCO can sponsor international undertakings. Through UNESCO, great competitive powers like the United States and the Soviet Union work peacefully side by side in tremendously important scientific research projects, a notable one—among many—being the so-called International Decade of Ocean Exploration.

The oceans of the world cover 70 percent of the earth's surface. They belong to everyone and are therefore an ideal area for UNESCO cooperation.

The International Indian Ocean Expedition is the famous example of such cooperation. It lasted for six years, involved 25 nations and 40 ships including six from the United States. In an area about which man previously knew almost nothing, they found answers to such questions as why monsoons sweep one-half the year in one direction and turn around and blow the other way, and why food-fish in the Indian Ocean sometimes die by the millions. And as a by-product, expedition research vessels discovered a rich mineral bed in the Red Sea which is estimated to be worth nearly two and one-half billion dollars—this by an expedition whose total costs were $40 million.

PRESERVING CULTURAL TREASURES

The United States shares in UNESCO's work in the preservation of the world's cultural treasures. One of the most spectacular projects in this field was the international campaign which saved the ancient Egyptian monuments threatened by the rising waters of the Aswan Dam project. Mounted by UNESCO, the Nubian Monuments Campaign raised $17 million, involved the participation of 27 countries and rescued 22 temples, the most important being Abu Simbel, built by Rameses II in the 13th Century before Christ. The moving of this mighty temple from the banks of the Nile to a point 100 feet above its original site is one of the most brilliant engineering feats of this Century.

Today UNESCO is the focal point in efforts to save that jewel among cities, Venice, which is slowly sinking into the sea. The Italian Government is being assisted by UNESCO in drawing up a plan to rescue this historic port from sea erosion.

UNESCO art exhibits have travelled the United States for the past 20 years. Through the cooperation of the Smithsonian Institution, they have been seen in hundreds of colleges and universities. Currently there are three UNESCO exhibits in the United States.

UNESCO has also helped bring American cultural achievements to world attention by publishing art books for worldwide distribution. Two recent publications are a book on Calder, and a volume on "Modern American Painting, 1970."

MASS COMMUNICATION

With an expected world population of six billion by the year 2000, UNESCO is justifiably concerned with the role of the satellite in mass communications for educational purposes. Solving this problem will require international cooperation and coordination among the intergovernmental bodies that have a natural role to play, entities like the International Telecommunications Union, the World Bank, and the United Nations itself.

Sponsoring research and assisting in international cooperation is right up UNESCO's alley, so it is in the forefront of world activities in the field. Alaska, for example, has communications needs ideally suited for satellite application, and last year welcomed a UNESCO-sponsored survey team which was working in Alaska in conjunction with the U.S. National Education Association.

The U.S. National Commission for UNESCO (Washington, D.C. 20520) can fill limited requests for basic information leaflets on UNESCO, what it is, what it does and how it works. Lists of UNESCO publications and UNESCO sales items—including the UNESCO art slides series, are available in the United States only through UNIPUB, (The UNESCO publications center) Post Office Box 433, New York City 10016. UNESCO films are handled by Contemporary Films, the Textbook Division of McGraw-Hill Book Company. Contemporary Films has three U.S. Addresses: 330 West 42nd Street, NYC 10026; 828 Custer Ave., Evanston, Ill. 60602; and 1714 Stockton Street, San Francisco 94109.

SENATE ARMED SERVICES COMMITTEE HEARINGS ON SIMPLER AND LESS EXPENSIVE WEAPONS SYSTEM IS WELCOME MOVE

Mr. PROXMIRE. Mr. President, for years, the critics of defense spending have been arguing that the weapons the Pentagon has built are both too costly and too complex. Instead of proposing simple weapons for single missions, the Pentagon has advocated complex weapons for numerous and even conflicting missions. The result is weapons which cost too much, which are late in delivery, and which fail to meet their specifications when completed.

Now the Senate Committee on Armed Services has begun hearings on this most important issue. Witnesses have testified how the British and Russians and others have built effective weapons for half the cost of our weapons. In the case of the F–14 fighter plane, for example, it is even worse. The cost of the Russian fighter of equivalent ability is one-fifth the cost of the F–14.

Witneses have testified that we must test weapons before rushing into production, that the concurrent development and production of weapons had led to costly technical failures and huge cost overruns, and that a firm policy of "Fly Before You Buy" must be carried out rather than merely mouthed without implementation.

These are the same issues which the critics of defense procurement have been raising for years. There are those, especially those with narrow economic or special interests in perpetuating the present system, who have charged us with "neoisolationism" or with being against defense when our entire thrust is to make this country strong and free by improving our procurement practices and the actual funtioning of our weapons. Now the Senate Armed Services Committee itself is holding hearings on these important issues to our national security and to our national survival. No one can claim that they are "neoisolationist" or oppose a strong and free America. This is a most welcome set of hearings and may be of more significance to the ultimate reform of our present disastrous system of weapons procurement than any other event in recent years.

Mr. President, I ask unanimous consent that an article about these hearings written by William McGaffin of the Chicago Daily News, who has reported and written on this subject for years, and whose knowledge of the problems of defense procurement is not exceeded by any national reporter, be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Senate Committee Seeks Better and Cheaper Arms

(By William McGaffin)

Washington.—A minor miracle may have gotten under way on Capitol Hill this week.

A reform movement may have been born in the Senate Armed Services Committee that will produce not only cheaper weapons but weapons that work.

The committee, previously a defender of the Pentagon, has grown so alarmed about the fantastic cost of new weapons that often turn out to be lemons that it has started its own investigation of how weapons are produced.

The independent witnesses the committee called in a hearing that wound up yesterday, at least for the time being, told them how other countries—France, Sweden, Britain and Russia—are running rings around us.

They also provide some recommendations, unpalatable to the Pentagon, on what needs to be changed in the US weapons productions system if the problem is to be solved.

The testimony impressed such influential figures as * * * Miss.), the committee chairman and Sen. Barry Goldwater (R-Ariz.), a committee member who is a flier himself and former Air Force officer.

If the committee eventually decides to act on the tips it has been provided, it has authority to compel the Pentagon to change its ways.

The principal need, according to a series of witnesses, is to go to a simpler design of weapons, to follow a firm policy of "fly before you buy" and to keep the teams of weapons-producing experts small.

In addition, as the witnesses stressed, it is important that pre-production testing of weapons be done by an independent agency. The Russians do this. The Pentagon has been urged to do it by a blue ribbon panel that looked into the Pentagon, but up to now it has successfully managed to avoid the matter.

VIETNAMIZATION OF THE FOREIGN SERVICE

Mr. FULBRIGHT. Mr. President, the December issue of Foreign Service Journal contains a most interesting article entitled, "Vietnamization of the Foreign Service." It is written by a former career Foreign Service officer who served in Vietnam and throws a great deal of light on the operation of the career Foreign Service. I ask unanimous consent to have it printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

VIETNAMIZATION OF THE FOREIGN SERVICE

(By John Claymore)

Nearly three million Americans have now served in Vietnam. Of these, about 600 have been Foreign Service officers.

Thus, roughly 20 percent of the Foreign Service has been exposed to many of the stimuli which have turned "nice" kids from Middle America into peace freaks, hawks, junkies, and even assassins.

For the FSOs, however, the experience generally has not had the radicalizing effect that it has had on many of the military men. The FSOs tended to be older and less malleable than the American soldiers in Vietnam, and their personal thought processes were more subtle and less striking than those of the GIs. Some FSOs were essentially untouched by the whole experience, reacting no differently than if they had been in Paris or Rome. But for most, and especially the young, Vietnam meant change. It meant a violent breaking away from the traditional diplomatic life and an exposure to the realities of war.

About 350 FSOs have been assigned to the Pacification program (CORDS). They functioned as advisors to the Vietnamese civilian and military administration in an effort to make the Government of Vietnam a viable force in the countryside. Few, if any, had any background for this assignment; yet most have acquitted themselves well, within the context of the programs they were working in.

Nevertheless, FSOs have been affected by the same pressures that have been widely reported in relation to the military.

Many served in photo-combat roles with command responsibility. While not participants, they received reports of war crimes and what often seemed like the unnecessary loss of human life. Some were faced with the moral dilemma of how far they should go in exposing incidents which they knew to be wrong.

One FSO currently serving in Washington possesses a file of documented atrocities including photographs. He has written extensive reports on these apparent war crimes he investigated in Vietnam. As far as he knows, no action has ever been taken to punish the guilty. Because he is a supporter of the President's Vietnam policy, and because he fears the effect on that policy of additional war crime controversy, he has chosen not to make his information public. He also is undoubtedly aware of the negative result disclosure would have on his career prospects.

His example is extreme, but it points up the fundamental proposition that serving in Vietnam is not like serving elsewhere.

With respect to no other country could it be said that perhaps 20 percent of the FSOs had experimented with soft drugs, but that is the case in Vietnam. And in no other country do FSOs have their own personal automatic weapons and receive training in how to fire a grenade launcher before they go.

Vietnam is different.

Vietnam has undoubtedly sharpened the generation gap between young and old FSOs. In some of the junior grades, a disproportionately large number have been to Vietnam. Almost all return with a healthy skepticism often bordering on contempt, for the Foreign Service. One recent returnee says, "Vietnam is where you learn that your elders aren't what you thought they were."

Another describes Vietnam as his "final disillusionment with the Foreign Service as an institution." He says he "can no longer take the Service at its word," and he goes on to mention the lack of integrity in the reporting process he saw in Vietnam. Yet this same officer feels that his own and his colleagues' disillusionment with the Foreign Service bodes well for the future of the American diplomatic establishment. He believes Vietnam has created a new, skeptical type of diplomat able to work more effectively within the foreign affairs bureaucracy than the old striped-pants set. Shed of the mythology of protocol and cocktail parties, these new skeptics see themselves as "operators" who know how to infight.

In the process, these officers have developed a strong dislike for the traditional diplomats who direct the Embassy in Saigon and, especially, that Embassy's political section. Almost all FSOs who served in the pacification programs and most junior members of the Embassy staff itself give examples of how their reporting was distorted and suppressed in Saigon, in order that the Embassy might be consistent with the prevailing "line" in dispatches to Washington.

More experienced and worldly FSOs may well view this disillusionment with a cynical resignation, having been exposed to similar pressures during long careers. Perhaps the difference is that most young FSOs entered the Foreign Service with a healthy dose of idealism and just were not prepared for such a violent shock. Largely separated from the amenities and prerogatives of a diplomat's life, they were thrust into an environment in Vietnam completely different from anything they expected on joining the Foreign Service.

FSOs in Vietnam are not isolated from the processes of the US Government, as are most FSOs from Paris to Ouagadougou. The statistics they knew to be nearly worthless were constantly being quoted by the President of the United States as an indication that progress was being made in Vietnam. One heard FSOs laughingly ask at report time, "No one really believes these figures, do they?" Of course, they learned that there were those who claimed to believe those figures, and the degree of belief seemed to increase at each higher bureaucratic level.

Similarly, numerous FSOs in the countryside wrote reports on the excesses and failures of American troops. At least one civilian official found himself relieved as chief American advisor in a province for his sharp assessments. The lesson was not lost on others. The three-star American general commanding the area around Saigon issued an order in 1967 that there would be no criticism of American troops in official reports written by pacification workers. This order was later rescinded, but again the lesson was not lost.

The 350 or so FSOs who served in the pacification program found themselves in a situation where they were dependent for promotion on individuals whose fundamental view of the problem in Vietnam often was quite different from their own.

Since the spring of 1967, the Pacification program (CORDS) has been part of the military command structure, although the top leadership is supplied by civilians. The military in CORDS outnumber the civilians by about eight to one. Organizationally, the program is run like the military staff section which it officially is. There are SOPs (Standard Operating Procedures), TO&Es (Tables of Organization and Equipment), and directives to explain everything.

The FSOs in CORDS who expected to maintain a civilian identity found this at times to be nearly impossible. Invariably, either their direct superior or his superior was in uniform, and they were of course dependent for promotion on fitness reports written or reviewed by a military man. Then too, a junior FSO often found himself denied a particular job because his protocol rank was that of first or second lieutenant, and accordingly, he was not allowed to serve above a captain who could conceivably be five years younger and much less experienced.

While there was no clear State Department policy on the subject, most FSOs in the field were expected to bear arms. For some, this meant little more than participating in the defense of living quarters. Many who served in the districts, however, assumed a para-military to full military stance. The civilian district adviser often participated in combat operations, if for no other reason than to establish rapport with his Vietnamese counterpart who was usually as army officer. On occasion, these FSOs found themselves calling in airstrikes or firing on enemy positions.

A meeting with the State Department's Director of Personnel established that the fact an FSO has a conscientious objection to killing is not considered in deciding whether he shall be assigned to CORDS. Some FSOs who are conscientious objectors are presently assigned to CORDS field positions.

At least one FSO refused to stand guard duty in Vietnam. On returning to Washington, he complained that his aversion to using arms put an unfair burden on co-workers who were forced to fill the gap. He feels that conscientious objectors should not be sent to Vietnam in any capacity.

It is the question of who should be sent to Vietnam that has generated the most controversy within the Foreign Service.* The majority of FSOs do not want to serve in Vietnam. Their reasons tend to be personal and usually do not stem from opposition to the war: most do not want to leave their families for 18 months to two years; many do not feel a Vietnam assignment would be good for their careers; some are afraid of the physical danger; and others do not want to become part of a military organization. Volunteers make up less than one-fifth of those assigned to CORDS.

Yet the State Department long maintained it had a continuing commitment to provide up to 150 FSOs to the CORDS program in addition to staffing the large Saigon Embassy. Although the figure for CORDS has never been reached, as of mid-April 1971, 91 FSOs were serving in CORDS, and another 38 were slated for CORDS positions. For several years, only bachelors were involuntarily assigned, but present policy makes all FSOs eligible. Moral or any other kind of opposition to the war is not considered grounds for being placed elsewhere.

(In at least one instance, however, opposition to the war was thought sufficient reason to change an assignment. In mid-1970, a Vietnam returnee expressed strong opinions against the war when reporting for his new position on the staff of the Vietnam Training Center in Washington. He was swiftly given other duties.)

The personnel officer responsible for Vietnam recently described the Vietnam assignment process thusly: "Service discipline applies." FSOs are supposed to be available for assignment anywhere in the world according to the needs of the Foreign Service. This is described as a basic condition of employment, although no black FSO has ever been sent to South Africa, and Jewish officers are not assigned to most Arab countries.

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*In mid-August, 1971, the State Department stopped assigning all but a few FSOs to CORDS. This article was written earlier and should be read in that context.

Many FSOs feel that assignments to Vietnam are made on a rather arbitrary basis and that those officers with good connections usually can avoid being sent. No person interviewed for this article could recall any staff assistant to a high State Department official or any personnel officer ever having to go.

How far the Department will go to enforce a Vietnam assignment is unclear. The Director-General has said that it was "not my intention to make people go to the point of resignation." Yet in March 1971 an FSO was informed in writing by his personnel officer that "reasons for breaking an assignment *might* (his emphasis) be found under the following conditions, either singly or in combination: severe compassionate reasons involving an officer, or in certain cases members of his family, or a need elsewhere for an officer's particular skills. Where none of these conditions exist (sic), I can see no alternative than an officer's resignation if he refuses to accept the assignment."

The particular FSO who received this statement had earlier decided he did not want to maneuver within the bureaucracy to find an escape from Vietnam. He confronted the personnel system with the possibility of either his resigning or his assignment being changed.

It is generally felt, however, that if an FSO knows how to pull bureaucratic levers and has a creditable record, he has a good chance of staying out of Vietnam. Of course, he is more likely to be successful if he is in Washington fighting the assignment, rather than in an overseas post.

Most FSOs would agree that certain "starred" officers tend to get the good jobs within the Foreign Service. To the rest fall the leftovers. Vietnam is unquestionably among the leftovers.

FSOs going to Vietnam are generally told that their sacrifice will not be forgotten by a grateful Foreign Service and that they will be rewarded with promotions and choice of ongoing assignments. For several years, promotion panels have been instructed to give particular credit to those who have served in Vietnam. A special unit has been established within the personnel system to look after the Vietnam veterans. The FSO in charge of this unit (himself a Vietnam veteran) reports that the returnees are given "special consideration" in terms of training and next post. He says that most receive their choice.

Yet, when asked by an employee group to substantiate this "special consideration," State Department personnel officers stated they were unable to verify if FSOs with Vietnam service had done better or worse than their peers.

The FSOs serving in CORDS are administratively considered to be on "reimbursable detail" to the Agency for International Development (AID). Their salaries and all other expenses are paid by AID. In fact, the original influx of FSOs into CORDS and its predecessor agencies came about because AID was unable to recruit sufficient numbers of qualified people for service in Vietnam. During the middle '60s, AID conducted extensive recruiting campaigns throughout the United States in a search for sufficient volunteers. These campaigns invariably fell short of their goals, and after 1966 increasing numbers of FSOs were assigned to AID to fill the gap.

This need for pacification personnel was coupled with a feeling by some high State Department officials that the Foreign Service should be doing more to help the American effort in Vietnam and that FSOs were the most effective civilians who could be found for pacification work. Perhaps more important were the 1967–1969 cutbacks ordered by succeeding Presidents in the Foreign Service overseas. Faced with a 20–25 percent reduction, some State Department personnel officers saw the assignment of large numbers of FSOs to CORDS as a way around reductions in the FSO corps, since those FSOs in CORDS were charged to AID's personnel ceiling and not the State Department's. A spring 1971 meeting between an employee group and State's Director of Personnel established that the number of FSOs assigned to CORDS could not presently be cut back unless reductions were made elsewhere. State simply would not have the funds available to pay them.

Reductions in the Foreign Service necessitated a near stoppage in the recruitment of new FSOs in 1967 and 1968—a situation which was widely felt to be unhealthy for the future of the Service. Thus, during 1968 and 1969 many young FSOs came into the Foreign Service with the understanding that their first post would be CORDS in Vietnam. While this policy discouraged some applicants who desired more traditional diplomatic careers, the waiting list of those seeking entry was sufficiently large to provide enough new officers. Yet in this period of mounting opposition throughout the country to the Vietnam war, dissatisfaction rose among the new recruits.

In Foreign Service terms, dissension hit its peak with the class of new FSOs who joined in the summer of 1969. Prior to their entry, most had received letters from the State Department which strongly implied that for the foreseeable future the only way into the Foreign Service would be for the new officers to spend their first tour with CORDS in Vietnam. Some had accepted this condition and others had refused. Then after a slight break in the recruiting logjam, those who had refused entry received new letters saying that they could enter with no apparent preconditions. No mention was made of Vietnam.

Once the new FSOs reported for duty in Washington, they quickly learned of the different standards which had been used in their recruitment. Those who had accepted Vietnam service felt they had been duped into it as the presence of those who had originally refused indicated. To make matters worse, when first assignments were given to the new FSOs, many in the group who had earlier refused entry for Vietnam were assigned to Vietnam anyway. Tempers flared among all, some talked of resignation and several acted. (One young FSO, in extremely undiplomatic fashion, told a high personnel officer that "his hands were covered with blood.")

At this point Department policy was changed so that henceforth no first tour FSOs would be sent to CORDS unless they volunteered. The rationale for the new policy was that service in the pacification program was a poor introduction into a diplomatic career and that more experienced officers would be more effective in the Vietnam program. Implicit in the change was a desire to eliminate the dissension that Vietnam assignments were causing among the new officers and ease the problems of attracting good candidates willing to go immediately to Vietnam.

Despite all the difficulties in recruiting FSOs for Vietnam, the majority enjoy the experience once they go.

Vietnam is an exhilarating place for American civilians. Most become quickly immersed in their jobs, and the problems to be solved are immense. Almost without exception, they find the country and especially the women fascinating. For those assigned to Saigon and a few other large cities, life is pleasant in a way familiar to former colonialists. One returnee talks of being "mesmerized by pleasant Asian living."

Even FSOs assigned to the pacification program in province capitals usually live comfortably. Years ago the American Embassy decreed that an air-conditioner is the inalienable right of all American civilians in Vietnam.

Each of the 44 province capitals has three American compounds: one for the military advisory team which tends to be functionally austere; one for the CIA which is usually the fanciest and is always guarded by impressive looking Chinese hill tribesmen with submachine guns; and one for the CORDS workers including the FSOs. The CORDS compound typically consists of trailers and prefabricated, motel-like houses imported from Singapore; Vietnamese servants, drivers, and armed guards abound.

Life is usually more difficult for the roughly 25 FSOs assigned to district capitals. There they are often forced to share a small house with five or six American military advisers, although some now have their own trailers.

A few FSOs in Vietnam have resigned for policy reasons, but they are definitely the exceptions. In each known case, they have been very junior officers.

A larger resignation problem comes from what a State Department personnel officer describes as "heightened expectations." The majority of FSOs in Vietnam have interesting jobs with considerable responsibility (although this has been less so in recent years as the bureaucracy has grown). Thus when they are assigned elsewhere, the return to a more traditional foreign service assignment is often a letdown.

The State Department refused to make available for this article resignation rates of those who have served in Vietnam. This information was withheld on the grounds that it would be too difficult to check the records. However, one can probably say that resignation rates are probably a little higher among FSOs who have been to Vietnam than in the Foreign Service as a whole.

Two FSOs who had brilliant careers in Vietnam resigned after they found their next assignments unrewarding. Another returnee, son of a career minister, refused the choicest assignments the Foreign Service had to offer and has spent the last year living in the splendid isolation of an unheated cabin in the Virginia countryside. At least four former FSO Vietnam hands now work actively against the war on Capitol Hill. There are certainly other cases of this sort.

No clear picture has yet emerged of what effect Vietnam service will have on the future of American diplomacy.

An "old boy network" of Vietnam veterans will probably come into existence and be helpful to its members in terms of assignments and promotions. FSOs who have been to Vietnam tend to search out others who have shared the same experience. Already the informal intelligence system which existed among information-starved FSOs in Vietnam has been partially transferred to Washington.

Most FSOs who have served in Vietnam are acutely aware of the mistakes America has made in that country and are determined that the experience shall not be repeated elsewhere. More than anything, they understand the limitations of military power. They undoubtedly will be much less likely than their predecessors to accept military, or even principally "American," solutions to problems in foreign countries.

Coupled with the Vietnam veterans' mistrust of Americans in uniform will be their own activism. In Vietnam they left the traditional diplomatic world of reporting and démarches. The emphasis in Vietnam was on *doing* things whether inside or outside the system. If Vietnamese officials would not feed hungry refugees, the FSO usually found a way to get the job done himself.

Of course, this new activism could conceivably have an unfortunate effect if carried too far. Some Vietnam veterans are probably more likely to advocate American involvement in the internal affairs of another country than would other diplomats. Most support the use of American influence or leverage to compel a foreign government to take certain desired actions; for they attribute much of the American failure in Vietnam to the inability to use American aid as a means of bringing about needed reforms.

What the attitudes of the Vietnam returnees portend for the future of the Foreign Service is not yet clear. If the slight trend toward resignation increases, then the Department may well lose many of those who have been most markedly affected by the Vietnam experience.

Morale has unquestionably been hurt by the large number of Vietnam assignments, but morale has been hurt countless times in the past.

FSOs who have been to Vietnam may well be viewed as a cadre for future counterinsurgency assignments elsewhere. But fewer and fewer people believe that anything approaching American involvement in Vietnam should or will be repeated elsewhere.

In any case, the Vietnam war may someday come to an end. But many Foreign Service officers, and perhaps the Service as a whole, will never be the same again.

DOMINATION OF THE ECONOMIC GIANTS

Mr. HARRIS. Mr. President, it seems that it is increasingly difficult for an American citizen to deal with the economic giants which dominate his life. American lawmakers on every level have long recognized that the individual needs some protection from the awesome powers of our great corporations. Yet, in a disturbingly high percentage of cases, the agencies established to protect the consumer actually perform the reverse function. Dominated by officials who work hand-in-glove with whatever industry they are supposed to regulate, and overwhelmed by the efficient legal staffs available to large corporations, they have tended to become a kind of institutionalized protection agency for big business.

Two citizens of my State, Mr. and Mrs. Charles Baker, are fighting an uphill battle to have a high-pressure gas pipeline which runs next to their house examined for flaws which could lead to the pipe's explosion. Mr. Baker, himself a welder, has produced numerous photographs and expert witnesses of the highest qualifications to support his claim that the line should be examined. Throughout the long struggle, the Bakers have received next to no help from the officials paid to protect their interests—whether on the local, state, or national level. The reaction of Transok, the pipeline company, has been a series of moves designed to discredit the Bakers, and to wear down the family's limited resources.

Mr. President, the Bakers have, to date, spent over $21,000 of their own money to try to make their case. They are not rich, but they believe that they have a right to some cooperation from their public officials. Mr. President, I am distressed by the lengths to which Transok has gone in its effort to silence the Bakers' opposition. Yet I am much more distressed by this example of public officials favoring the "big boys" who run the industries over the individual citizens seeking to obtain a redress of their grievances.

Mr. President, in testimony prepared for delivery before the Commerce Committee, the Bakers describe the struggle of one American family with one powerful American corporation. I ask unanimous consent that this testimony be inserted into the RECORD at the conclusion of these remarks. I also ask unanimous consent that newspaper articles from the Washington Missourian, Southwest Times and Record, and Tulsa World, on this case be printed in the RECORD following my remarks.

Mr. President, it is time that we recognize that the rights and personal safety of individual citizens like the Bakers should be foremost in the minds of those regulatory agencies once set up as watchdogs for the people.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

TESTIMONY

My name is Charles C. Baker and this is Dorothy, my wife. We are from Oologah, Okla. We have three children. We used to live on our farm at Oologah, but since December of 1970, we have been living in a small apartment in Collinsville, Oklahoma. I am a welder, and have been for 17 years. I have welded pressure vessels, heat exchangers for the Oil and Gas Industry, missile launching towers, radar antennas, aircraft welding, and pipe welding. I've been certified by the U.S. Government, the U.S. Navy, and have held many cards of qualifications under the American Society of Mechanical Engineers.

In 1970, a 20″ high pressure natural gas line went through our farm, 230 feet from our home. We were very concerned about the location of the line, prior to the installation. This pipeline was doglegged around our home because we would not sign an easement for less money than we paid originally for our land. Also, we refused to sign, because they would not give a description of where the line was to be located. We were shocked and outraged by these tactics, but the biggest shock was yet to come. . . . the actual construction of the line. The fence crew had warned us of Code violation on this pipeline, and also of three failures that occurred on the hydrostatic test. We contacted Maurice Meyers, head of the Office of Pipeline Safety under the Oklahoma Corporation Commission, and told him what the men had told us. Mr. Meyers ignored and refused to discuss more than one failure on the hydrostatic test. We requested a map of the route the line was to take. He said the one and only inspector for the state, Tommy Chastain, had the map in his possession, he would not provide us with a copy. We also asked for a copy of the B31.8 Code, which he would not provide. This B31.8 Code is the backbone of the federal Pipeline Safety Laws. We subsequently ordered one from New York. On Saturday, November 28th, 1970, the pipeline crew came through our farm, they welded, x rayed, wrapped, and buried the pipe in approximately 2 hours. The only thing not completed was the river crossing, cattle crossing, and road crossing, which is completed by a different crew, called the tie-in crew. I was there and saw the work being done. The following evening, a Sunday, we received the telephone number of the Chairman of the Oklahoma Corporation Commission, he is the head of the Oklahoma Pipeline Safety Board. He was not there when we called, but he did return our call that same evening. At that time, we told him that we had taken photos of the pipeline showing inadequate wrapping, and that we wanted an inspector out to check this line. I also told him that there were other violations, which could not be photographed. He asked me to write an informal letter and we would receive an informal hearing. I told him there was still sections of the pipe exposed that would verify our charges, and that there wasn't time to write and mail a letter as the line was about to be buried. The Chairman told me it was no more than fair, to list the charges and give the Co. a chance to prepare a defense. I wasn't interested in corresponding with the Chairman. I wanted an inspector sent to look at the pipeline, and see the shoddy construction. The Chairman said, "Let me tell you, if you're trying to create a big fuss, you're barking up the wrong tree." Then he said, "Let me ask you a question. If they move the line 1000 feet away from your home, would you be satisfied?" This surprised me, as Chairman Nesbitt had told me earlier that he had no power in the routing of this line. I told him, I thought you had no power to move this line. He said, "Just answer my question," I said what good would it do? Then he said, "If they moved it half a mile, would you be satisfied?" I then asked him if he was talking for the Pipeline Co. He hesitated and said "no." That ended the conversation. I took off work and was available to meet with an inspector. I felt sure the Chairman understood my position and would send an inspector out. To be assured, I placed a long distance call to our State Senator, Clem McSpadden, and asked him if he would call the State Pipeline Safety Office and request an inspector to come to our farm, and check out this complaint. He promised he would get an inspector to come. If for some reason, he could not, he would call back. He did not return the call. We had also talked to the Governor's legal aide and he said he would do, what he could to get an inspector out. The Governor's office called back and told us their hands were tied, and they had no power over the Okla. Corporation Commission. Since we had not heard from Senator McSpadden we assumed an inspector would be there the next day. But none showed up. WE had given up hope of an inspection when the Senator's Office called, and told us they were . . .

Promised by the Oklahoma Commission an inspector would be sent to see us. No inspector ever contacted us. On December 2, 1970, a crew installed the Caney River crossing, behind our farm. On December 3rd, an article appeared in the Tulsa paper that said Chairman Nesbitt would proceed with a "quick hearing" on our complaint. If we would write Chairman Nesbitt a letter, the Chairman stated that he would make it convenient, and inexpensive for us to have a hearing. We wrote and mailed the letter requesting the hearing on the same day we read the article, December 3rd. We received a letter within two days stating that our request for a hearing was too informal. Chairman Nesbitt stated in the letter that we should list the law violations, so Public Service Co. of Oklahoma, who own the pipeline company could have ample opportunity and time to prepare it's defense. We had not yet received a copy of the B31.8 code, (and we knew the Code was adopted by the State of Oklahoma. Therefore, as soon as we got the B31.8 Code, we were going to refile our complaint citing code violations. This was the beginning of the Oklahoma Corporation Commission's shifting the burden of proof upon me and my family. On Dec. 7, we placed a long distance call to Washington, D.C., to Joseph Caldwell, acting director of the Office of Pipeline Safety, under DOT. He was not available, and he returned the call to Dorothy. She told him of the problems we encountered in getting an inspector. Mr. Caldwell said that he would see that something was done. Dorothy told him of Chairman Nesbitt's letter. Joseph Caldwell told her not to worry about answering the letter, that he would handle it. Mr. Caldwell said that he was sending a special investigator to make a thorough investigation of this problem. He said to be sure and tell the Investigator everything including the first contact we had with the land buyer. Marshall Taylor, the Federal Special Investigator, was to arrive on December 10th. He came the next day, we found out he went to the State Corporation Commission first. He was driven to our farm from Oklahoma City by Maurice Meyers, and Tommy Chastain, who are the two representatives of the Oklahoma Safety Office. And these were the men who wouldn't come when the line was uncovered. The three men went to Williams Bros., who has been charged, with inspecting and testing this line, to examine their records. Finally they came to our farm.

The investigator stayed about 6 hours taking notes. We asked Marshall Taylor what disciplinary action might be taken against Public Service Co. and Oklahoma, and Marshall Taylor said Oklahoma could lose their certificate over this. Later Marshall Taylor called and asked for one of the photos showing faulty wrapping, and he said to make sure it was marked as to date, time, and location. We reminded him that we had already done this before he had seen the photos. We sent the photo. Marshall Taylor said a report would be made available to us in 14 days. Fourteen days later, Dorothy called Joseph Caldwell and asked for the report. Joseph Caldwell told Dorothy we didn't deserve a report, and that the only thing we would receive is a statement that an investigation was made. In this phone conversation, Dorothy noticed an extremely different attitude. We wanted more than ever to see that report, we felt, they were hiding something. At this point, we began contacting as many State and Federal Representatives as we could, to get as much help as we possibly could, to get a copy of this report. There wasn't a politician that could get the report for us. It was finally released in February of 1971, after we contacted Reuben Robertson at the Center for Study of Responsive Law. Reuben Robertson called us and said that Joseph Caldwell said there was no investigative report made, just a summary of conversations made with various parties, and it was the Baker's word against the Oklahoma Corporation Commission and we assumed the Oklahoma Commission was telling the truth. Joseph Caldwell told a reporter for the Tulsa World, and Dorothy that we had turned down a hearing before the Oklahoma Corporation Commission. This was a big lie! Dorothy told him we had not turned down a hearing. Joseph Caldwell said you should have answered Chairman Nesbitt's letter of Dec. 5, 1970. Dorothy reminded Mr. Caldwell that he had told her quite clearly, on December the 8th of 1970, that we didn't have to write a letter, that he would handle it himself with Chairman Nesbitt, and there would be a thorough investigation made, there would be no need for a State investigation or Hearing. Dorothy and I knew at this time, we were getting the grand run-around, and we resented it, particularly when Mr. Caldwell told Dorothy on Jan. 22, 1971 that it was now, too late for us to have a hearing, before the Oklahoma Corporation Commission, since we had not filed our complaint.

We received a copy of Mr. Caldwell's report, and we found it grossly in error. It was not accurate as to the dates, all the facts were missing, and none of the charges are presented. (In the 6 hour interview, Taylor took down all dates, correct facts, and basic charges in the complaint.) As to the photo we sent, Mr. Caldwell acknowledged that the wrapping appeared to be faulty but said "there was no way to tell where that section of pipe was." The marking on the photo reads "No. 3 11-30-70 2:30 p.m. facing northwest toward river, approximately 1,000 feet east of Caney River. Pipe was put in crossing." We can prove that Mr. Caldwell was lying when he said our photo was unmarked. Mr. Caldwell has given us the super run-around. Dorothy and I felt we wasted, two months trying to obtain the results of an investigation that never took place. At this point, we felt that the Federal Safety Board was working for the interests of the pipeline companies, rather than for their designated responsibility of protecting the Public. Several days later, we got a letter from Mr. Caldwell stating that we should take any additional complaints to the Oklahoma Commission. It was apparent that the tactic being used was to discourage and confuse us. But we were more determined. Marshall Taylor did not physically or visually inspect this pipeline, as they had already buried their mistakes. When we were informed there was no investigation, we demanded a hearing before the Oklahoma Corporation Commission, with the assistance of our attorney, Jerry Kamins. There were three weeks of testimony spread out over a period of 4 months. It started in April of 1971 and ended in July. We had no hearing sessions in June as Chairman Nesbitt and the other two Commissioners closed the Safety Hearings to take a month's vacation, even though a trial examiner conducted the Hearings. We were offered the services of a Commission attorney. We declined as we were told by this same attorney, that he would not only represent us during the hearing but also the State Corporation Commission. He would also defend the Commissioners decision, regardless of who they ruled for. Dorothy and I wanted an attorney that would represent us personally rather than having a conflict of interest. In a letter to Reuben Robertson at the Center, Mr. Caldwell states that "We have no information that indicates that the State is placing the entire burden of proof on the citizens. The burden of proof that a pipeline is safe is for the companies to demonstrate." We have news for Mr. Caldwell. The Oklahoma Corporation Commission has placed the entire burden of proof on us. This unbelievable burden was placed on us when they refused to inspect the line when we requested. This burden has cost us over $21,000 to date, and the cost is still mounting. We have taped all of the Hearings, and when we receive a transcript we proof it with the tapes. We have found many errors in the transcripts. The court reporters also used a tape recorder. They have checked back, and changed all the errors we found. But, now, we have been advised by letter to our attorney that in order to get a correction on a transcript we must apply for a special hearing before the Commission. This will be an additional expense and burden to us, and it certainly is uncalled for when the court reporters, have their tapes to verify any changes requested. The $21,000 does not represent any part of the additional expenses we are out for maintaining another home. We were forced from our home due to the hazard of this faulty pipeline. We have not had the use of our home since December of 1970. Dorothy and I sold our cattle at a loss. We had to mortgage our farm, and have sold other assets at a loss to get funds to continue fighting this injustice. We have made five requests during the hearing to shut the line down or substantially reduce the amount of pressure until a final decision is received. Our four requests were turned down, and the last one which was made in July has not been answered yet. We asked the Oklahoma Commission to uncover the line, so we could prove our charges, but Public Service Co. of Okla. wanted us to post a $250,000 bond, plus pay all of the expenses for uncovering the line. This we could not afford. At the hearing, we presented witnesses and evidence to faulty wrapping, failure to properly cushion rock in ditches, so as not to damage the coating or the pipe, failure to bury the pipe at required depths, misplacement of longitudinal seams when field bends were made, and the most damaging of all . . . the x rays. We hired an expert to examine the x rays and he found approximately 2000 welds that are not within the minimum Federal and State Safety Code. The Commission brought from out of State, a completely impartial expert, to examine a sampling of the film our expert rejected as not being within the Code.

The Oklahoma Commission's independent expert found more extensive defects in his examination, whereas, our expert tended to be more conservative. When Mr. Caldwell was informed by us, of the tremendous amount of weld defect, he told Dorothy the Code only required the Co. to x ray 15%, and if it had 15% good welds, they were still within the code. This is ridiculous and outrageous. No place in this Code does it state that a Co. can have 85% of its welds defective, as long as they can produce 15% acceptable welds. When Mr. Chastain, the State Inspector for the Safety Board testified, he said he was contacted by Senator McSpadden, and he told them that he would check out our complaint. But he was told by his superior, Maurice Meyers, not to go any further than the west bank of the Caney River. We live on the east side of the Caney River, also, the section of pipe that was to go into the river crossing was on the East side. We have just this week written the Commission demanding that the Commission conduct a hearing to investigate fraudulent statements Public Service Co.'s witnesses have made. In the meantime, we are deprived of our home, while the Co. is not deprived of it's use of the Gas line.

Gentlemen, this pipeline is like a bomb with an unknown timing device. It can explode at anytime I ask you, would you ask your family to live next to such a hazard, and put up with the mental strain of wondering if this is the day it will explode. On our property alone there are 29 defective welds as shown on the x rays, and the most important 7 x rays we are concerned about are missing, for some unexplained reason. Our concern is because they are in sequence, to some of the most glaring defects observed by our expert. The Co. and Joseph Caldwell's defense is, that the hydrostatic test is a cure all, even for defective welding. If this is so, why were there 1,019 explosions on Natural Gas lines alone, that caused death, injury, or property damage in 1970? I have worked hard for many years to provide my family with the security of a home. In a matter of months, I have lost most of my assets, and will be in debt for many years to come, through no fault of my own. But this has come about because of the lack of responsibility the Industry and the Federal and State Safety Boards have shown. Perhaps you can not help me and my family at this time, but I ask you please do everything you can, so this will never happen to another American citizen.

[From the editorial page, Washington Missourian, May 6, 1971]

"David" Without a Sling Shot

One man and his firey wife in Oklahoma have taken on the pipeline industry, and have made themselves felt in places where it counts. But will they be able to make themselves felt enough to bring about a needed change? That's the question.

It's like "David fighting Goliath without a slingshot," says the man's wife.

The couple, Mr. and Mrs. Charles Baker of Collinsville, Okla., have good reason to fight. They have gained a great deal of support around the country, especially from people living near pipelines, but it takes more than goodwill and support to fight a giant industry with unlimited funds and a battery of lawyers, who have a way of recruiting and influencing witnesses to testify in their behalf!

The Bakers have a 131-acre farm near Collinsville. He is a welder. A 20-inch high pressure line runs through their vegetable garden, and is only 234 feet from their farm home.

Mr. Baker has charged that the pipeline companies are burying "time bombs" all over the country, and says somebody "has got to shake up this industry."

He also charges that the line through his place is full of defects. The walls are too thin, the welds are shoddy, and the wrappings are unsafe. Mr. Baker says he has pictures to prove it. He says the line could explode at any time. He considers it so dangerous that he moved his family away from the farm home!

The U.S. Office of Pipeline Safety sent a special investigator to Collinsville to check into the charges. He reported he found "no violations," and called "the case closed."

But, reported the Wall Street Journal in its issue of April 29, the case isn't closed. It's just getting off the ground. Politicians in high places are beginning to wonder and ask questions. Besides the Ralph Nader group has stepped into it.

There are a good many people in Franklin county who will be happy to learn that the fight against pipelines is not only going on but is gaining momentum. Already hearings have been held, and others are proposed. The matter may be aired in a senate hearing before much longer.

The people in the Beaufort neighborhood will be particularly interested to learn that the Bakers have challenged the pipeline companies on the question of "eminent domain."

It would be difficult to imagine that a powder company would have the right of "eminent domain" to plant a bomb on private property, yet that's what the pipeline companies are doing. The blast early last December in the Port Hudson area equaled the force of an entire bagful of ordinary bombs!

Reuben Robertson of the Nader group was quoted in the Wall Street Journal as saying the Bakers have raised some deep and fundamental questions that reach far beyond their own case.

Mr. Robertson, as quoted in the Journal, wondered "why the government seems to make all presumptions in favor of the pipeline companies instead of the individual citizens."

He also wondered "why should individual citizens such as the Bakers have to bear the burden and expense of proving that a line is unsafe, rather than the other way around, when there are agencies" to do this, paid for by the taxpayers!

The people in the Beaufort and Port Hudson areas also would like to get the answer to these basic questions. Why should they have to carry on the fight, and pay the cost of the fight to save their homes from a potential "time bomb?"

Both Sen. Stuart Symington and Congressman Bill Hungate have taken a deep interest in this matter. They want to know where the government stands on this problem, and what it proposes to do about it.

Some day we may get laws with teeth to regulate pipeline companies, but possibly not before a few more homes are blown into Kingdom Come!

[From the Southwest Times-Record, Fort Smith, Ark., May 1, 1971]

Wisconsin Engineer Testifies

Oklahoma City.—A Wisconsin metallurgical engineer testified here Friday that a natural gas pipeline laid across a northeast Oklahoma couple's farm was "not safe and could easily have a failure."

Dr. Frank John Worzala, Madison, Wis., University of Wisconsin metallurgical engineering professor, gave the opinion at a hearing before an Oklahoma Corporation Commission referee.

The 20-inch pipeline was laid by Transok Pipeline Co. for the Public Service Co. of Oklahoma. It extends from Enid, Okla., to a power plant at Oologah, Okla. a distance of 144 miles.

Mr. and Mrs. Charles Baker of Collinsville, Okla., have asked the Oklahoma Corporation Commission to force removal of the pipeline from their property or see that it meets federal safety standards.

Worzala said he based his assessment of the line on X-ray photographs of welded joints, which he said showed defects which "could intensify the stress to two or three times the yield strength." He added that he does not believe the federal pipeline safety code is stringent enough.

The hearing on the Bakers' complaint opened Thursday and will resume for one day Monday. The couple's attorney, Gerald Kamins, said he expects to complete his case by noon Monday.

Transok attorney Robert L. Lawrence, said presentation of his rebuttal will take ten days to two weeks.

Because of other hearings scheduled during the next two weeks, Corporation Commission Referee Darwin Frayer said additional time for the Baker vs. Transok case will be set for late May.

Baker, a welder, said in his complaint that the pipeline was designed to carry 1,300 pounds of pressure per square inch and would carry 1,000 pounds.

Lawrence said the pipepline actually will carry only 800 pounds of pressure and is designed to withstand 52,000 pounds.

Snyder questioning, Baker said the information was obtained by his attorney from an erroneous source. He also admitted that he had watched only one welding operation on the pipeline and that he is not qualified under the American Petroleum Institute pipeline code.

The Baker-Transok case recently has come under investigation by the offices of Sen. Lee Metcalf of Montana, who heads a U.S. Senate subcommittee looking into federal regulatory agencies, and Sen. Vance Hartke of Indiana, who is chairman of the Senate committee which has held several hearings on pipeline safety.

Commission Due To Give Pipeline Probe Ruling Today

(By Jim Henderson)

Oklahoma City.—The state Corporation Commission will rule Tuesday on whether to order operations of a Public Service Co. pipeline from Ames to Oologah suspended temporarily and portions of the line uncovered for inspection.

If an order to uncover the line is issued, however, it will not be at the expense of the Collinsville couple that is protesting the line as a safety hazard.

Earlier, attorneys for Public Service Co. had agreed to having parts of the line uncovered if Mr. and Mrs. Charles Baker would pay for the labor and post a $250,000 bond.

During a hearing on five motions by their attorney—Gerald Kamins of Tulsa, Corporation Commission Chairman Charles Nesbitt asked if the Bakers would pay the costs involved if the motions were granted.

"Absolutely not," Kamins said. "They have spent all their assets just getting to this point in the hearings."

Earlier this month, 3 days of hearings were held with the Bakers presenting their case. Attorney fees, payment for expert witnesses, travel, telephone calls and other expenses they said, have cost them nearly $8,000.

"We feel that we have made a prima facie case," Kamins said, "and shifted the burden of proof to Transok (the PSC subsidiary company which built the line)."

Kamins said uncovering the line would "show without any question" that the Bakers' allegations of defective construction are true. During the earlier portion of the hearings, several expert witnesses called by the Bakers testified that the line does not meet federal safety requirements. However, the president of Transok testified that the pipeline was safe.

Transok and Public Service Co. will present its case when the hearings resume next Monday.

In the meantime, Kamins had filed five motions with the commission. Besides shutting down the line and uncovering parts of it, he asked that all weld x-rays be impounded and turned over to an "independent" expert appointed by the commission; that he be allowed to subpoena PSC's chief counsel, Robert Lawrence, as a witness; and that an order by hearing referee Darwin Frayer turning certain evidence over to PSC's attorneys be rescinded.

After hearing 2 hours of arguments on those motions, the commissioners held a conference and reached a decision. However, their order will not be made public until Tuesday morning.

Lawrence, who is also an officer of Transok, argued that none of the motions should be granted until Transok has presented its case next week.

"We have 21 witnesses to testify," he said. "It seems to me that this is premature for the reason that you just have half the show."

However, the commission is expected to permit Kamins to subpoena Lawrence and the records that are in his possession.

"You can't be in the position of telling them (The Bakers) that 'the burden of proof is on you but the evidence to meet that burden is in our hands and you can't have it,'" Nesbitt said.

Nesbitt also asked why Public Service Co. is demanding a $250,000 bond and be posted before the line is uncovered.

"What risks call for a $250,000 bond," he asked. "I find it hard to be impressed with the danger of the pipe bursting."

Lawrence, said there would be danger from shovels striking the pipe and added "When you get them in the ground you ought to leave them there."

Kamins said he had contacted several contractors about uncovering the line and "we can't get anyone to work on it unless it's purged of gas" because of previous testimony about the quality of materials and construction.

At one point in the arguments, Lawrence began to read from the federal pipeline safety code to substantiate his argument that the line was built according to those regulations.

Nesbitt interrupted him: "As I understand it, the applicants are also challenging the sufficiency of the code. It is no answer then to merely quote the code. The burden will rest on you not just to show that code was met, but that the line is safe."

"I am prepared to accept that burden," Lawrence said.

Pipe Safety Testimony Challenged; Hearing Set

Charges that two consulting engineers gave incorrect testimony in a state Corporation Commission hearing on safety of a Transok Pipeline Co. Enid-to-Oologah natural gas line will be heard by the commission Dec. 10.

The charges are the latest action in a year-long protest by Mr. and Mrs. Charles Baker, Collinsville couple who claim construction of the pipeline drove them from their Oologah farm.

Outcries from the Bakers contesting safety of the 144-mile, 20-inch line prompted the three-month Corporation Commission hearing that ended July 24. The matter also was taken before a congressional subcommittee on surface transportation earlier this month.

The new hearing request, filed by the Bakers' attorney, Gerald E. Kamins, challenges testimony of July 20 by engineers W. E. Huddleston and James R. Cowles before the state commission.

The request claims statements by those men that pipeline near the Baker ranch was under complete cathodic protection from corrosion were incorrect. The request added:

"Testimony will be presented by the applicants that no cathodic protection was placed on their ranch or adjoining ranches until October, 1971, and not in May, June or July as stated by W. E. Huddleston and inferred and not corrected by the person who had the contract for cathodic protection and was caught adjacent the Baker property in October trying (to) sneak the installation of cathodic protection after the fact."

Huddleston, Bartlesville consulting engineer, testified he examined the pipeline running across Baker property and found it free of corrosion. In testimony July 20, cited in the new hearing request, Huddleston stated:

"That section of the pipeline is now under 100 per cent cathodic protection."

The request calls the testimony perjury and claims Cowles, Tulsa consulting engineer and former head of corrosion work for Oklahoma Natural Gas Co., failed to correct Huddleston's statements in his own testimony later.

Commission Chairman Charles Nesbitt granted the hearing, scheduling it at 1:30 p.m. Dec. 10 in the commission courtroom, Oklahoma City.

Testimony given by two engineers on the safety of a natural gas line will be challenged at a state Corporation Commission hearing Dec. 10.

W. E. Huddleston and James R. Cowles, consulting engineers, testified July 20 before the commission about a Transok Pipeline Co. Enid-to-Oologah line.

Gerald E. Kamins, attorney for Mr. and Mrs. Charles Baker, Collinsville, who claim construction of the pipeline drove them from their Oologah farm, contends the engineers' testimony was false.

Kamins' challenge to the engineers' testimony contends that their statements concerning the pipeline near the Baker ranch were incorrect concerning its complete cathodic protection from corrosion.

Huddleston, Bartlesville consulting engineer, testified he examined the pipeline running across the Baker property and found it free of corrosion.

Cowles, Tulsa consulting engineer and former head of corrosion work for Oklahoma Natural Gas Co., failed to correct Huddleston's statements in his testimony later, it is claimed.

These charges are the latest action in the year-long protest against the company. The Corporation Commission hearing into the matter ended July 24.

Commission Chairman Charles Nesbitt granted the hearing, which is scheduled at 1:30 p.m. Dec. 10 in the commission's courtroom at Oklahoma City.

TRIBUTE TO RALPH BUNCHE

Mr. HUMPHREY. Mr. President, I was grieved to hear the news yesterday of the death of one of America's greatest internationalists and statesmen, Dr. Ralph J. Bunche. He has been a personal friend for a number of years and a man for whom I have held the greatest of admiration. Today, as I pay tribute to this man of singular quality, I feel a tremendous personal loss and recognize the difficulty our country will have in finding his match for some time to come. He was, after all, a monumental human being.

As U.N. Under Secretary General for Special Political Affairs, Dr. Ralph Bunche made substantial and significant contributions to the cause of world peace. He is, of course, well known and admired for his role as mediator of the 1949 armistice agreements between Israel and the Arab States, which led to his receipt of the Nobel Peace Prize in 1950. Dr. Bunche also was intimately involved with United Nations peacekeeping operations in the Congo in the early 1960's which resulted in the emergence of a unified Congo.

After the June 1967 war in the Middle East, he toiled endlessly and with little regard to his personal well-being to help Secretary General Thant and Special Representative Gunnar Jarring reach a settlement agreeable to all parties in the dispute. Truly Ralph Bunche is a soldier of peace—brave, determined and effective.

Respect and admiration for this great man, this international peacemaker and crusader for justice and equality, is universal. The best way to honor his death is for all of us to redouble our efforts to secure a lasting peace and true brotherhood among men.

I ask unanimous consent that an article published in the New York Times of December 9 be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

DR. BUNCHE OF U.N., NOBEL WINNER, DIES

(By Robert D. McFadden)

Dr. Ralph J. Bunche, former United Nations Under Secretary General for Special Political Affairs and winner of the 1950 Nobel Peace Prize, died early yesterday in New York Hospital. He was 67 years old.

Dr. Bunche, who suffered from a kidney malfunction, diabetes, heart disease and near blindness, was frequently hospitalized in recent months. He entered the hospital for the final time last Tuesday and died at 12:40 A.M. yesterday.

Dr. Bunche, who had been with the United Nations since its founding, lived in a world of diplomacy that was racked with belligerence yet capable of great harmony. Its ultimate poles were war and peace, and between these he sought the balance of justice.

Like his world, Dr. Bunche was a man of many faces and talents, full of paradox and struggle. By training and temperament, he was an ideal international civil servant, a black man of learning and experience open to men and ideas of all shades.

At the United Nations, he had been a key diplomat for more than two decades since his triumphal success in negotiating the difficult 1949 armistice betwen the new state of Israel and the Arab states.

As the architect of the Palestine accord, he won the Nobel Peace Prize of 1950. And many of his associates at the Secretariat and in government around the world could cite his accomplishments and accolades, mentioning their contacts with him proudly.

But in spite of his stature and reputation, Dr. Bunche was essentially a private man, eschewing personal publicity and disclaiming political ambition.

Few people, save those closest to him, knew the details of his middle-class adolescence in Detroit, his youth as an orphan in the care of a grandmother, his adventures as a young stowaway and seaman, his toil in menial jobs in working his way through college and his real ambition as a young man—to be a teacher.

Nor could many recount his confrontations with racism, including his close escape from a lynch mob in Alabama, where he and Gunnar Myrdal, the Swedish sociologist, were gathering material in 1938 for "An American Dilemma," the book that forecast many developments in race relations in this country.

It was indeed difficult to say how the color barriers he encountered at hotels and restaurants—even as a high official in the nation's capital—laced themselves into the fabric of his personality and skills as a mediator.

At a negotiating conference table, he usually gave the outward appearance of being calm, soft-spoken, unflappable. But there were signs, for those who would note them, of the deeper turmoil in the man: the chain-smoked cigarettes, the darkening circles under his grave eyes, the hoarseness in his baritone voice.

ENERGY AND TIMING

He could haggle, bicker, hairsplit and browbeat, if necessary, and occasionally it was. But the art of his compromise lay in his seemingly boundless energy and the order and timing of his moves.

His diplomatic skills—a masterwork in the practical application of psychology—became legendary at the United Nations, for which he directed peace-keeping efforts in the Suez area in 1956, the Congo in 1960 and Cyprus in 1964.

At his unannounced retirement last June, he was Under-Secretary General for Special Political Affairs—Secretary General U Thant's most influential political adviser.

As such, he was the highest American figure in the world organization and, incidentally, the most prominent black man of his era whose stature did not derive chiefly from racial militance or endeavors specifically in behalf of his race.

He was deeply sensitive to racial problems, and often spoke bluntly about them. But his perspective was above the day-to-day trials of discrimination; indeed, he recognized that emphasizing his light-skinned blackness could have damaged his roles as a mediator and neutral peace-keeper—roles in which he found more often than not an advantage in his blackness.

THRUST INTO ROLE

The apex of his diplomatic career—and, perhaps, the best example of his negotiating psychology—came during the Palestinian talks on the island of Rhodes in 1948 and 1949. He had been thrust into the role of chief mediator after the assassination of the original appointee, Count Folke Bernadotte of Sweden, who was cut down by a terrorist fusillade in Jerusalem.

The negotiating problems were vastly complex, centuries old, rift with racial and religious prejudices and overlaid with combustible economic and political frictions.

A truce demanded by the Security Council had broken down. Large-scale fighting was under way. Thousands of lives in the Middle East lay in the balance, and so did the very life of the fledgling United Nations, whose peace-keeping capacities were on the line.

The Israeli and Arab delegations from the start were cautious, aloof and occasionally hostile. Dr. Bunche met with both sides separately to determine what kind of agenda to draw up, then called the delegations together to approve the agenda. These preliminary moves seemed simple and straightforward, but there was more to them than met the eye.

"There was a double purpose," Dr. Bunche later explained. "Primarily, it was to get both sides to meet—but also, I wanted them both to get accustomed to taking formal action, and to signing something." It didn't matter what—just anything that looked official, he explained.

"Whenever they got together," Dr. Bunche recalled, "you'd always find that there was a gap between them. It was always a matter of timing, always a matter of finding out when it would be appropriate to reduce a discussion to a formal, written draft of one point. We never would throw a whole draft at them at the beginning—that would have scared them to death."

At one exasperating point in the 81-day negotiating marathon, an impatient Israeli delegate hurled a pencil on the table, and it bounced up and hit an Arab delegate. The talks almost blew up. But Dr. Bunche privately reprimanded the Israeli and got him to apologize.

It was always touch-and-go. On another occasion, an Arab delegate refused to shake hands with an Israeli leader. This nearly wrecked the negotiations too. But Dr. Bunche, after much talk that smacked of foreign intrigue, arrange what amounted to a secret rendezvous between the two men who, it turned out, were grateful for the opportunity.

"This time they acted like long-lost brothers," Dr. Bunche recalled. "Pretty soon they started to speak Arabic—and then they apologized to me because they knew I didn't speak the language. I said, 'Hell, speak your Arabic—don't bother about me.' "

Eventually, the force of Dr. Bunche's personality melted the frigid atmosphere of the talks. There were thousands of pages of documents, drafts and counterdrafts, hundreds of compromises and ultimatums. But ultimately, an armistice was signed.

"He drove himself and his staff night and day," an aide said afterward. "He plunged into every problem as though his life depended on getting it solved. He had an uncanny ability for grasping a situation and sizing it up completely."

When it was all over, Col. Mohammed Ibrahim Seif elDine, of Egypt, called Dr. Bunche "one of the greatest men in the world." Dr. Walter Eytan, of Israel, said the mediator's effort had been "superhuman."

PEACEKEEPING SATISFYING

Dr. Bunche gave full credit to the two delegations and to his staff. The Nobel Prize Committee thought otherwise in making its first peace award to a black man.

In a 1969 interview, Dr. Bunche said: "The Peace Prize attracted all the attention, but I've had more satisfaction in the work I've done since. I have been in charge of the U.N. peace-keeping operations in various parts of the world—the Congo, the Middle East, Kashmir." The Suez operation he called "the single most satisfying work I've ever done," primarily because "for the first time we have found a way to use military men for peace instead of war."

BIAS AGAINST BIGOTRY

Dr. Bunche made friends easily and was a good conversationalist of an evening, mixing stories with a few whiskies. But his most serious words were not reserved for friends. In a speech at the Waldorf-Astoria, he once said a great deal about himself and his convictions:

"I have a number of very strong biases. I have a deep-seated bias against hate and intolerance. I have a bias against racial and religious bigotry.

"I have a bias against war, a bias for peace. I have a bias which leads me to believe in the essential goodness of my fellow man, which leads me to believe that no problem of human relations is ever insoluble. And I have a strong bias in favor of the United Nations and its ability to maintain a peaceful world."

For the author of these convictions, the road to greatness had been steep and rutted with obstacles. Ralph Johnson Bunche was born in Detroit on Aug. 7, 1904, the son of Fred Bunche, a barber, and Olive Agnes Johnson Bunche, a musically inclined woman who contributed much to what her son called a household "bubbling over with ideas and opinions."

In 1915, after the birth of Ralph's sister, Grace, his mother developed rheumatic fever and the family moved to Albuquerque, N.M., for the hot, dry air and sunshine. But Mrs. Bunche died in a short time, and three months later her husband died. At the age of 13, Ralph was an orphan.

He and his sister were left in the care of their maternal grandmother, Mrs. Lucy Taylor Johnson, a tiny woman with a towering will and what Ralph considered the wisdom of a sage. She took the children to Los Angeles, where they lived in a bungalow in a mostly white neighborhood, and enrolled them in local public schools.

At the 30th Street intermediary school, the principal advised that Ralph be enrolled in a commercial training course. But Mrs. Johnson wouldn't have it. "My grandson is going to college," she told the principal.

The youth was a brilliant student. He was valedictorian of the class of '22 at Jefferson High School, whose academic honor society denied him admission at the time and tried to correct the matter, to Dr. Bunche's amusement, 30 years later.

COLLEGE ON SCHOLARSHIPS

After high school, he continued working as a janitor and carpet-layer, jobs he had obtained to help support the family. But at the insistence of his grandmother, he accepted an academic scholarship and enrolled at the University of California at Los Angeles.

As in high school, he was a star in football and basketball at U.C.L.A., but sustained a knee injury that bothered him for the rest of his life. Nevertheless, he always carried three little gold basketballs, reminders of three championship years on the varsity, and a United Nations associate said he thought they were Dr. Bunche's proudest possessions.

His passion for baseball and football also remained with him. Some United Nations officials never guessed that a few of the scribbled messages handed to him by security guards during meetings contained the scores of ball games.

To support himself in college, the young man spent his summers working on ships. The job began in 1923 when he stowed away on a ship to save the cost of railroad fare to a Reserve Officers Training Corps summer camp.

He was caught and put to work to earn his passage, but he liked the job so much that he worked ships for the next three summers.

He received his Bachelor of Arts degree with Phi Beta Kappa honors in 1927, and went on to Harvard to take a Master of Arts in 1928 and his doctorate in government and international relations in 1934. He later did advanced work in anthropology at Northwestern University, the London School of Economics and the University of Capetown.

MARRIED HIS STUDENT

Dr. Bunche joined the faculty of Howard University in Washington in 1928, and there, a year later, he met Ruth Harris of Montgomery, Ala., one of his students, who also was teaching in an elementary school. They were married on June 23, 1930, and moved to Harvard, where he was beginning his doctoral studies.

From 1938 to 1940, Dr. Bunche collaborated with Gunnar Myrdal in his researches on "An American Dilemma." Their questions about interracial sex relations aroused a mob of angry whites who chased them across Alabama one night.

When the United States entered World War II, Dr. Bunche was rejected for miltary service because of his damaged knee and hearing impaired by a mastoid operation. But he joined the War Department as an analyst of African and Far Eastern affairs and quickly rose through the ranks of Strategic Services. In 1944, he moved to the State Department and became head of the Division of Dependent Area Affairs, dealing with colonial problems. By the war's end, he was in the mainstream of planning for the organization that was to become the United Nations.

In 1944, he was at Dumbarton Oaks, laying the groundwork. In 1945, he was at San Francisco, drawing up the trusteeship sections of the United Nations Charter. In 1946, he was in the United Nations delegation to the first General Assembly in London.

AT LIE'S REQUEST

Later that year, he went on loan to the United Nations at the request of Secretary General Trygve Lie, and in 1947 he quit the State Department to join the permanent Secretariat of the new world body.

In the Secretariat, he directed the operations of the trusteeship Division and set * * * but the guiding principles under which numerous territories achieved statehood. His expertise on African affairs and the problems of the emerging African nations was broad and acquired first-hand.

The year after his stunning success in the negotiations at Rhodes, he was offered—but rejected—the post of Assistant Secretary of State. "Frankly," he said at the time, "there's too much Jim Crow in Washington for me—I wouldn't take my kids back there."

By 1955, Dr. Bunche held the title of Under Secretary and two years later Under Secretary for Special Political Affairs. During those years, he was the principal trouble-shooter for Dag Hammarskjold.

Among his tasks were the United Nations program on the peaceful uses of atomic energy and research on the effects of radiation.

When the United Nations managed to halt the British-French-Israeli invasion of the Suez area in November, 1956, Dr. Bunche organized and directed the deployment of a 6,000-man neutral force that acted as a buffer between the belligerents. This force was his special responsibility until 1967, when President Gamal Abdel Nasser of the United Arab Republic demanded its withdrawal.

In 1960, he directed another peace-keeping force in the Congo, preventing the new republic's total collapse after the secession of Katanga province.

When the United Nations force in Cyprus was set up in March, 1964, Secretary General Thant put Dr. Bunche in charge of the 6,000 troops that stood between Cypriotes of Greek and of Turkish origin.

In all these efforts, Dr. Bunche viewed the use of troops as part of the larger work of bringing warring peoples to the conference table and hatreds under control.

For his work, there were awards—scores of them, a torrent of medals, prizes and more than 50 honorary doctorates. He became a trustee of Oberlin College in 1950, a member of the Harvard board of overseers from 1959 to 1965, president of the American Political Science Association in 1953–54 and a trustee of the Rockefeller Foundation in 1955. In 1963, President John F. Kennedy gave him the Medal of Freedom, the nation's highest civilian award.

The Bunches have lived since 1953 in a Tudor-style home in Kew Gardens, Queens. Until his eyesight began failing, Dr. Bunche drove his own car to work daily.

He loved the theater and the opera, and on occasion the stars he admired visited his 38th-floor office in the Secretariat building.

TENNIS CLUB REBUFF

In 1959, he was involved in a much-publicized incident in which he and his son, Ralph Jr., were refused membership in the West Side Tennis Club at Forest Hills. Dr. Bunche took up the cudgels and received an apology, and the club official responsible for the rebuff resigned. Dr. Bunche then declined an offer of membership.

He was angered because the change appeared to be based on his personal prestige, and not on any principle of racial equality. "No Negro American can be free from the disabilities of race in this country until the lowliest Negro in Mississippi is no longer disadvantaged because of his race," he said.

There were other occasions on which he was moved to protest racial discrimination. He first walked a picket line for the National Association for the Advancement of Colored People in Washington in 1937. In 1965, though not in the best of health, he participated in marches on Selma and Montgomery, Ala. He served as an active member of the N.A.A.C.P. board of directors for 22 years until his death.

In the last year Dr. Bunche became seriously ill. In June, a month after being hospitalized, he retired from his United Nations post. The retirement was not announced until later because Mr. Thant had hoped Dr. Bunche would recover and be able to return to his duties. But this was not to be.

Dr. Bunche is survived by his widow; son, Ralph Jr.; daughter, Joan, and three grandchildren. Another daughter, Mrs. Burton Pierce, died in 1966.

Dr. Bunche's body may be viewed by the public at Frank E. Campbells, Madison Avenue, and 81st Street starting at 7 tonight. The Rev. Ernest T. Campbell will conduct the funeral services at the Riverside Church at noon Saturday. Private burial services will follow at the Woodlawn Cemetery.

SENATOR ERVIN IS CHAMPION OF CONSTITUTIONAL RIGHTS

Mr. JORDAN of North Carolina. Mr. President, the Hendersonville, N.C., Times recently carried an article by William H. Hackett entitled "Senator Ervin is Champion of Constitutional Rights."

I ask unanimous consent that the article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Hendersonville (N.C.) Time-News, April 13, 1971]

Senator Ervin Is Champion of Constitutional Rights

(By William H. Hackett)

"Senator Ervin has certainly become one of the nation's outstanding defenders of constitutional rights in the last five years," commented a veteran Congressional aide who, during his years on Capitol Hill, has witnessed the rise of many federal legislators and the decline of an even greater number.

U.S. Sen. Sam J. Ervin Jr., who was born and raised in Morganton, is an acknowledged constitutional authority in the U.S. Senate and his activities in this arena in the last few years have emphasized his ability and zeal in this field.

Right now his fists are doubled up under the nose of bureaucrats who are pouring carloads of citizens names into computer banks in what the senator feels could become a practice threatening privacy and other rights.

Sen. Ervin is one of the busiest men in the U.S. Senate. If you doubt it, try and catch up with him for an interview. He is the second ranking Democrat on the Senate Judiciary Committee and chairman of its sub-committees on Constitutional Rights, Revision and Codification of the Laws and Separation of Powers. He is also No. 2 man for the majority on the Senate Government Operations Committee and a member of the Permanent Committee on Investigations. In addition he is a very active member of the Senate Armed Services Committee and is chairman of its subcommittee on Status of Forces Treaty.

He was hurrying down the spacious hallway of the old Senate Office Building, deeply engrossed in a report he had prepared, when we contacted him. Expressing regret in his amiable way that he couldn't spare time for an interview he paused and then reversed himself and led us back to his office which we entered through his private door. Walls of his high ceiling office were lined with book shelves filled with books of law, history and classics. His desk top was cluttered with reports, reference notes, mail to be signed and some incoming mail.

Mail to Senators on the Calley decision was approaching its peak on the day of our interview and patronage mail carriers were traveling in and out of Senate offices at intervals with armloads of mail.

"I have entertained the hope that the military jury would acquit Lt. Calley," Sen. Ervin said. "While the military jury heard all of the testimony in the case and had an opportunity to see the witnesses while testifying and I did not, I had gathered from the news media that Lt. Calley was either under great tension, which disabled him to kill with premeditation or was acting in obedience to orders of a superior which he determined to be valid."

The Senator then outlined the lengthy route ahead for the Calley case. He added, "Either the Secretary of the Army or the President can exercise clemency even if it should be established that the law and the facts justified the findings and sentence of the court martial."

In his fight with the bureaucrats on the right of privacy of private citizens, Sen. Ervin has accomplished what very few of his colleagues have been able to do. In his legislative drive designed to block witch hunts into the activities of federal employes, he has lined up over 50 of the 100 Senators as cosponsors of his bill. In doing that he has performed the miracle of bringing under the same roof colleagues whose philosophies are as different as day and night. Such ultra liberals as Sen. Bayh (D-Ind.) and Sen. Humphrey (D-Minn.) are arm-in-arm with such ultra conservatives as Sen. Goldwater (R-Ariz.) and Sen Tower (R-Tex.)

The purpose of the Ervin bill is to prohibit indiscriminate requirements that government employes and applicants for government jobs disclose their race, religion, personal relationships or sexual attitudes through interviews, psychological tests or polygraphs. It also prohibits requirements that employes attend government-sponsored meetings and lectures or participate in outside activities unrelated to their employment or report on their outside activities or undertakings unrelated to their work.

Observing the enthusiasm with which he appoaches a subject, the vigor he applies to the task before him and the keen wit with which he spices his conversation it is difficult to realize he is almost five years beyond man's allotted three score and ten. He is well preserved and thrives on his multitudinous activities.

B–1 BOMBER—A STRATEGIC AND FISCAL MISTAKE

Mr. PROXMIRE. Mr. President, last May 5, the Military Spending Committee of Members of Congress for Peace Through Law, of which I have the honor to be cochairman, issued a report on the B–1 bomber. The report was done by Senator George McGovern and Representative John Seiberling, and it was, without doubt, one of the most intelligent, useful, comprehensive, and thoughtful reports by anyone on any weapons system which I have seen. In fact, the arguments and issues raised by Senator McGovern and Representative Seiberling in opposition to the B–1 bomber were vastly superior to any argument or document which the Pentagon has presented in favor of the B–1.

There may be some good arguments for the B–1 bomber, but as usual the Pentagon and the Air Force have done little more than put out public relations documents or irrelevant propaganda in support of their proposal. In fact, most of those who oppose the B–1 bomber would welcome an Air Force document which put the arguments in favor of the B–1 with anything like the same quality and force as the McGovern-Seiberling report puts the case against the B–1.

The McGovern-Seiberling report made an overwhelming case against the B–1 which has not been answered by the Air Force.

Based on that report, the Saturday Review of December 11, 1971, has carried a comprehensive article on the B–1 bomber written by Mr. Berkeley Rice. It is entitled "The Very Model of a Modern Major Misconception," in paraphrase of Gilbert and Sullivan's famous song.

The fact is that among intelligent defense experts, the B–1 bomber is a joke. It is a public works project for the aerospace industry rather than a needed weapon for the defense of the United States. The irony of it is that if we really do need to spend additional funds for public works projects, the expenditure of the same amount of money in dozens of different ways would both produce far more jobs for the money spent and also bring much greater benefit to the country. If the same funds were spent for antipollution, to aid the central cities, to build mass transit, to help higher education, or to provide needed medical care to the indigent, the jobs produced and the benefits produced would vastly exceed those for this sterile project.

I ask unanimous consent that the article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

The B–1 Bomber—The Very Model of a Modern Major Misconception

(By Berkeley Rice)

With relatively little attention from the press and even less from the public, Congress has approved a fiscal year 1972 Defense Department budget to roughly $75-billion, give or take a few billion. Included in this total is about $21-billion for research, development, and procurement of a variety of military hardware. Buried in all these figures is the comparatively trifling sum of $370-million to start development engineering on the B–1, the Air Force's new manned strategic bomber. Trifling or not, this early funding represents only the tip of an iceberg. The entire B–1 program may end up costing anywhere from $10- to $50-billion, depending on who's doing the estimating.

Being practical men, Congressional opponents of proposed weapon systems generally argue in terms of cost-effectiveness and strategic capability, both grounds on which one can mount an impressive case against the B–1. In Congress, unfortunately, these are the only arguments with which one can realistically hope to gather significant opposition to any expenditures for military hardware.

The most important argument against the B–1, however, and one rarely cited by its opponents on Capitol Hill (because it would alienate the votes of fiscal but patriotic conservatives) is that building nuclear bombers of any kind is an enterprise of insanity. Insane because it represents an outrageously expensive escalation of the arms race, and insane because it brings us no closer to the illusory goal of military supremacy.

Arguments over the B–1's cost, effectiveness, and strategic value are like arguments over "clean" versus "dirty" bombs—logical, relevant, and interesting, but nevertheless mad. Mad or not, these contitute the grounds on which Congress debated the B–1, and therefore are arguments that the general public should at least consider.

Unlike the opposition to the ABM in 1969, or the SST last spring, citizen groups have not rallied to lobby on Capitol Hill against the B–1. Unlike Lockheed's disastrously expensive C–5A cargo plane, the B–1 has not yet achieved a cost overrun large enough to create a public scandal (although it does show considerable promise of doing so). All the letters received by every Congressman this year—for and against the B–1—would easily fit in a single mail sack. Obviously, the public neither knows nor cares much about the B–1.

On the basis of the Congressional debate on the B–1, few Congressmen do either. Representing a group of senators and representatives known as Members of Congress for Peace Through Law, Senator George McGovern (D-N.D.) and Representative John Seiberling (D-O.) prepared a detailed report opposing the B–1 on several grounds that should at least have resulted in some intelligent debate. Much of what debate did occur, however, ran along the lines of the argument by Representative Robert Price (R-Tex.): "Inasmuch as we are still facing the threat of nuclear holocaust, and since we still face an implacable enemy in communism, the B–1 program must continue at full speed."

On June 16, the House devoted less than an hour to its debate on the B–1. An amendment by Representative Otis Pike (D-N.Y.) that would have cut off funds for the bomber was crushed 307 to 97. On September 22, with only half a dozen members on the floor, the Senate quickly rejected a similar amendment by voice vote. Commenting on these votes, Representative Pike later observed, "People are just not yet aware of the B–1. The trouble is, by the time they are, it may be too late to do much about it. They're still afraid of tampering with anything labeled 'national defense.'"

Along with defense strategy, patriotism, and ignorance, there is another reason why the B–1's flight through Congress drew so little flak. The politically powerful aerospace industry has been taking a beating in recent years, with the defeat of the SST, the financial troubles of Lockheed, and the general slump of the airlines. The B–1's prime contractor, North American Rockwell, had dropped from a peak work force of 97,000 men down to 50,000 at the time it received the prototype contract in June 1970. Over the next few years, it expects to hire about 15,000 additional employees many of them aerospace engineers who have been out of work for months. If the B–1 program were terminated, many of these men would find themselves floundering again on the already depressed job market. Since North American, like Lockheed, is based in President Nixon's own Southern California, cancellation of the B–1 program could damage his chances in next year's election.

Despite the B–1's economic and political importance to Southern California, its economic and strategic impact on the rest of the country deserves far more critical examination than it has yet received in Congress or the press. Knowledgeable critics have questioned the wisdom of the B–1 program on several grounds:

The B–1 promises to become the most expensive weapon system in military history, as well as one of the most worthless.

The Air Force may not need the B–1 at all. Critics claim it offers only marginal advantages over the existing fleet of strategic bombers.

By the time the B–1 becomes operational, around 1980, it may well be obsolete.

By going ahead with a new strategic nuclear bomber, the United States will be giving costly and dangerous impetus to the arms race with the Soviet Union at the very time the two countries are supposedly trying to agree on a limitation of nuclear weapons.

For those unaccustomed to the ethereal realms of military finance, discussion of the cost of the B–1 program can be difficult. How does one talk meaningfully about billions of dollars to the average citizen, whose largest personal financial concern is the mortgage on his house? Even on Capitol Hill, where millions tend to get tossed around with careless imprecision (at Congressional committee hearings one hears such phrases as "in the neighborhood of $100-million"), the B–1 program represents a considerable amount of money. For those who care about our national priorities, the $370-million just voted by Congress for engineering development alone on the B–1 is far more than the federal government will spend this year for all urban transit programs. The $500-million in B–1 funding planned for next year's Pentagon budget will exceed the entire budget of the State Department. Even if one accepts the Pentagon's current estimate for the B–1 program—and almost no one in the aerospace industry does—each of the 240 bombers will cost four times as much as the annual budget of the U.S. Arms Control and Disarmament Agency. For those who believe money talks, such a comparison says a great deal about this country's commitment to limiting the arms race.

To those Congressmen who worried about the excessive cost of the B–1 program, the Pentagon and its supporters on Capitol Hill argued that the current contract covers only the construction and testing of a few prototypes, at a cost of a mere $2.6-billion. The Pentagon insists it will carefully examine the results of this test program, in 1974, before deciding to go into production in 1975. The trouble with this argument is that the investment of $2.6-billion in public funds (compared to "only" a few hundred million dollars spent on the SST before its termination) will constitute a persuasive reason to go ahead with production. If the program is canceled at that point, there will be nothing to show for all that money.

Staggering as they are, the Defense Department figures on the B–1 program strike those familiar with military procurement as exceedingly optimistic and even intentionally misleading. Although the plane is still only in the research and development stage, the Defense Department's cost estimates on the total program have already risen from $8.8-billion in 1969 to more than $11-billion today. (This initial cost "growth" has occurred despite several supposedly cost-cutting moves by the Pentagon, such as scrapping the plane's high-altitude supersonic speed capability and reducing the number of prototypes to be built for testing.) While Pentagon officials are quick to blame most of this cost increase on inflation, their current estimates fail to allow for any equally predictable inflation during the procurement stage of the program, which will run from about 1975 into the 1980s.

In addition to inflation, the Pentagon's cost estimates on the B–1 ignore a number of other items that must be considered part of the total program. Along with its normal nuclear bomb load, each B–1 will be armed with from ten to twenty nuclear-tipped Short Range Attack Missiles (SRAMs). Because of numerous difficulties, modifications, and schedule delays on the SRAM program, Pentagon cost estimates for each missile have grown from $338,000 in 1965 to a current figure of nearly $900,000. Even this amount does not include the cost of the SRAMs' nuclear warheads (because they are produced by the Atomic Energy Commission), which will boost the unit cost for each missile over $1-million. Depending on the number of SRAMs carried, they will thus add $10- to $20-million to the actual operating cost of each B–1.

Along with its nuclear missiles, the B–1 will also carry a number of "subsonic cruise armed decoys" (SCADs) and all sorts of other electronic exotica designed to help the plane confuse and penetrate enemy defenses. The B–1's avionics, which includes all the gadgetry for the navigation, communication, and weapons delivery systems, and which will account for much of the plane's cost, have not even been designed yet. Depending on the nature of the avionics package, it could easily cause a substantial increase in the cost of each plane. Then there are the costs for operation, maintenance, ground support, and spare parts, which never seem to be included when the Pentagon quotes a price for a proposed new plane. Included or not, the public will have to pay them.

When all the bombs, SRAMs, SCADs, avionics, and "extras" are added up, the Pentagon's current $40-million per plane estimate for the B–1 looks ridiculous. A study by the administration's own Office of Management and Budget indicates the cost of each B–1 may easily reach $80-million. The OMB's estimate caused such concern during the administration's deliberations on this year's Defense budget that the White House told the Pentagon to prepare an analysis of alternatives to the B–1 program. In response, the Air Force merely summarized its previous arguments for the B–1. When OMB Director George Shultz criticized the Pentagon's failure to provide a meaningful analysis of the alternatives, Deputy Secretary of Defense David Packard reportedly threatened to quit if the White House did not go along with the B–1 program.

Critics of the B–1 consider the figure of $80-million a conservative estimate for the eventual cost of each bomber. As evidence, they bring up the tanker issue. A fleet of B–1s may need a new fleet of tankers because their unrefueled range of about 6,000 miles will be only half that of the late-model B–52 bombers they are scheduled to replace. Without adequate assurance of mid-air refueling, the B–1's strategic usefulness would be sharply limited. Defense Department spokesmen insist the B–1s can be refueled by the present fleet of KC–135 tankers now used to refuel the B–52s. However, Gen. Bruce

Holloway, commander of the Strategic Air Command, which will fly the B–1s, recently said: "We need a new tanker no matter what kind of bombers we have." (General Holloway would also like the Air Force to buy 450 B–1s, instead of only the planned 240.)

Despite its claims to the contrary, the Pentagon has already funded a $500,000 feasibility study on a new tanker to replace the KC–135. The most likely replacement would be Lockheed's C–5A, which the Air Force maintains would cost a mere $27-million each in a tanker version. (How the Air Force would manage to buy C–5As at that price is an interesting matter, since it is now paying more than double that figure for the cargo version of the same plane.) Even at that optimistic price, a fleet of 250 C–5A tankers—the usual number mentioned—would cost nearly $7-billion. Added to the cost of the rest of the B–1 program, this would run the procurement and operating cost of each B–1 to well over $100-million, which would be some sort of world record.

Counting the tankers, the bombs, the missiles, the extras, and inflation, responsible critics of the B–1 estimate the total program cost between $30- and $50-billion. In view of such estimates, Congressional and scientific critics wonder whether the plane is worth such a princely sum. They feel it offers only marginal strategic advantages over the current SAC fleet of B–52s and FB–111s.

The Pentagon likes to portray the B–52 as a "gallant old lady" of the air that has served its time and is now aging rapidly into technical obsolescence. They point to the fact that the latest-model B–52Gs and Hs are nearly ten years old. However, previous claims about the B–52's imminent obsolescence have proved premature. In 1960, for example, the Senate Preparedness Investigating Subcommittee concluded that the B–52 would "enter its period of obsolescence in the mid-1960s." By the mid-1960s, however, Air Force Secretary Harold Brown was telling Congress the late-model B–52Gs and Hs "could be maintained in a satisfactory operational status at least through fiscal year 1975." The following year a Defense Department official testified before the House Armed Services Committee: "There appears to be no reason why the B–52Gs and Hs cannot be maintained through 1980, if that should prove necessary." In 1969, in a letter to Senator McGovern, Defense Secretary Melvin Laird increased the B–52's life span to "the early 1980s with appropriate modifications."

Somehow the old lady seems to have remarkable recuperative powers. Early models of the B–52 are currently being employed to create impressive if imprecise craters in the Vietnamese countryside. As for the 255 late-model B–52Gs and Hs, the life span of their strategic effectiveness could easily be extended through the 1980s, according to Professor Marvin Goldberger, chairman of the physics department at Princeton. Dr. Goldberger's views on strategic bombers warrant some attention: He was chairman of the Defense Department's Strategic Weapons Committee in the early 1960s and chairman of the Strategic Weapons Committee of the President's Scientific Advisory Committee in the late 1960s. He is currently chairman of the Federation of American Scientists and of its strategic weapons committee. In recent testimony on the B–1 before the Senate subcommittees on arms control and defense appropriations, Dr. Goldberger claimed that for a cost of only $1 billion the entire fleet of B–52Gs and Hs could be refitted with the latest high-thrust turbo-fan jet engines. These engines would shorten the necessary takeoff distance, increase cruising range by 25 per cent, and thereby reduce refueling needs. According to Dr. Goldberger, the modified B–52s, equipped with such engines and armed with the same bomb and missile mix as the B–1, would be nearly as effective as the B–1. In view of the enormous cost of the B–1 program compared to that (about $1.5 billion) of modifying the already existing fleet of B–52s, it is hard to justify the B–1's remaining strategic advantages in terms of cost-effectiveness.

Whether or not a replacement is needed for the B–52, critics of the B–1 claim it will be ineffective and obsolete by the time it becomes fully operational in 1980. First of all, the B–1 was supposed to become operational in 1976, according to the Pentagon's 1969 planning estimates. Since then, "schedule slippages" have forced the target date for initial operation up to 1979. Inasmuch as the B–1's complex avionics have yet to be designed, there may very well be further schedule slippages.

During the past few years, the B–1's planned capabilities have been seriously reduced because of technical and cost problems. Originally, the plane was to have flown at supersonic speeds at both high and low altitudes; however, as the Russians improved their surface-to-air missiles (SAMs), it became clear that even at supersonic speeds a high-flying B–1 would still be a sitting duck for the latest Russian SAM–2 or SAM–3. So, the Air Force has dropped the B–1's high-altitude supersonic capability but has retained it at low altitudes, which would supposedly enable the plane to sweep in fast and low near ground level, thereby evading enemy radar. Students of modern anti-aircraft defense systems, however, are convinced that by the time the B–1 becomes operational around 1980, the Russians will certainly have perfected a "look-down" radar-missile system capable of spotting and destroying low-level bombers.

Because of the likelihood that the Russians will develop a sufficiently sophisticated defense to counter the threat of any U.S. strategic bomber, the Federation of American Scientists, as well as the Members of Congress for Peace Through Law, thinks the B–1 should be scrapped, or at least delayed, before we spend any further money on it. In its place, the FAS suggests an airborne "stand-off missile platform." Such an aircraft would not attempt to penetrate enemy radar defenses, but would loiter outside them, ready to launch a variety of short- or long-range nuclear missiles.

As an alternative to the B–1, a stand-off missile-launching aircraft offers several distinct advantages:

Already existing and much cheaper aircraft could be used—either the B–52, or converted versions of Lockheed's C–5A or Boeing's 747.

A supersonic speed capability would not be required, nor would the complex avionics and electronic "penetration aids" that will be responsible for much of the cost of the B–1.

Without the need to penetrate deep into enemy territory, such an aircraft could loiter in the air for much longer periods without refueling, thereby reducing the need for a new fleet of tankers.

When pressed by critics of the B–1's future strategic value, the Air Force often tries to justify the plane by falling back on its versatility, pointing out its potential usefulness as a nonstrategic bomber in such "conventional" wars as the one in Vietnam. The trouble with this position is that we already have a new bomber designed for such conventional wars: the FB–111. Now replacing the early-model B–52's, the FB–111 can carry the same (although fewer) bombs and missiles as the B–1, with greater speed and maneuverability. (The FB–111 could also serve as a strategic bomber, although its limited range would restrict it to "only" 40 per cent of the strategic targets in the Soviet Union, compared to the 60 per cent reachable by the B–1. In a nuclear war, however, such distinctions may well become indistinct. Even without any strategic bombers at all, Soviet and American land- and sea-based ICBMs should wreak quite enough destruction to satisfy the most maniacal generals.) Mainly in order to conserve funds for the B–1 program, the Air Force has cut back its planned fleet of FB–111s from more than 200 to 76. Considering the fact that we can buy at least ten FB–111s (at $10-million each for the cost of each B–1), this could prove to be a terribly expensive way of conserving funds.

To fully understand the Air Force's fervor for the B–1, one must realize that for many USAF generals it represents much more than something to be measured in terms of strategic performance or cost-effectiveness. When they describe its marvelous but as yet undemonstrated capabilities, one is reminded of the saying: People don't really grow up, they just play with bigger toys. Referring to this phenomenon in his Congressional testimony on the B–1, Jeremy Stone, director of the Federation of American Scientists, a former staff member of the Hudson Institute, and the author of two books on arms control, stated:

"Air Force supporters are, almost of necessity, technological enthusiasts. They want to 'get the best,' 'incorporate new technology,' and fly faster—and either higher or lower—than before. These are not, in themselves, national security interests, and they do not provide a sensible argument for building a new bomber, now or later."

Despite the fact that defense technology persistently outpaces them, manned bombers have long been the favorite toy of Air Force generals. Most of today's top USAF officers began their careers in the manned bomber days of World War II and look back upon that era of relative technological simplicity with nostalgia. Since then, the path up to the top has generally led them through the Strategic Air Command, which flies the bombers. The last three USAF Chiefs of Staff—Generals Curtis LeMay, John McConnell, and John Ryan, the current chief—were all SAC men. Under their command, the Air Force launched the B–58, as a proposed follow-on bomber to the B–52. Soon after it became operational, however, the Defense Department realized the B–58 was technically obsolete and mothballed the eighty planes already purchased. Then came the infamous B–70, a supersonic bomber of incomparable quality—on paper. In reality, the B–70 program never got beyond the construction of two prototypes, at a cost of $1.5-billion. One of them crashed after colliding with an Air Force plane taking pictures of it. The other now sits securely in the Air Force Museum in Dayton, Ohio. The main reason the Air Force scrapped both the B–58 and the B–70 is that by the time they got off the drawing boards, anti-aircraft technology had made them too vulnerable to fly over enemy territory. They simply could not accomplish their mission.

Despite considerable evidence that the B–1 is headed for similar technical oblivion, the Air Force plans to go ahead. As Representative Pike told the House, upon introducing his amendment to cut the funds for the B–1: "Here we go again, starting out a new manned bomber in an age when manned strategic bombers are obsolete."

In his testimony before Congress, FAS Director Stone tried to explain why the manned bomber has become a technological anachronism: "No really essential task of destruction can be reliably assigned either the B–1 or B–52, because the survivability and penetrability of neither can be ensured." Besides, he noted, "While the B–1 is taking four hours to fly six thousand miles . . . eight successive missile salvos—four on each side, and each 'answering' the other—could take place. The war may well be over before the bombers arrive."

FAS Chairman Marvin Goldberger argues that "there are very few targets that cannot be taken out more easily and more rapidly by missiles than by bombers." As evidence, he points out that while the Soviet Union has been increasing its land- and sea-based missiles, it has made no attempt to increase its fleet of 145 long-range strategic bombers for many years. In an attempt to play the "they've-got-one-so-we-need-one" game, supporters of the B–1 have been sounding an alarm over a new Soviet nuclear bomber dubbed Backfire, which has already made test flights. According to Western intelligence sources, however, the Russians have not yet decided to go into production with the Backfire, perhaps waiting to see what happens to the B–1.

Dr. Goldberger has conceded that some B–1s could conceivably penetrate Soviet air defenses and destroy cities and other strategic targets. But he also predicts that these cities might well have been long since destroyed by missiles.

Despite such arguments, proponents of the B–1 think the United States should continue to rely upon a "triad" concept of nuclear deterrents: land-based ICBMs, submarine-based Poseidon missiles, and manned strategic bombers. Whether or not the manned bomber still represents a realistic threat, they feel it does serve as a form of insurance for the other two. In the Strangelove logic of nuclear war-game theory, it also has the virtue of increasing the number of threats the enemy must consider before launching a first strike. As Missouri's Representative Richard Ichord pointed out, during the House debate on the B–1, it "forces the enemy to expend large sums and scientific talent for multiple defense systems." Mr. Ichord neglected to mention that in order to achieve this effect, the United States itself will have to expend far greater amounts on the B–1.

Spending huge sums of money on weapons of dubious necessity and efficacy in order to force the enemy to do likewise obviously seems like a sensible policy to many Congressmen and Pentagon officials. To others, however, it typifies the insanity of the arms race between the United States and the Soviet Union. In a similarly insane argument, manned bomber advocates insist that we must go ahead with the B–1 in order to give the U.S. negotiators a better bargaining position at the current round of Strategic Arms Limitation Talks in Vienna. By going ahead with development of the B–1, they argue, we will have a valuable "blue chip" to play with at the negotiation table. This notion of arms control may provide interesting material for think-tank game-theorists, but such multibillion-dollar games are both dangerous and terribly expensive in a country with insufficient funds to meet its domestic needs.

As Professor Goldberger told the Senate Subcommittee on Arms Control: "I find it unbelievably depressing that we should continue to discuss new bombers and other weapon systems as though this insane arms race must continue forever. Now is the time to bring this ghastly game of charades we have been playing with the Soviet Union for the past quarter century to an end—not the time to propose new weapon systems."

FARM SUBSIDY PAYMENTS

Mr. HARRIS. Mr. President, I wish to bring to the attention of my colleagues an article written by Nick Kotz that appeared on page A1 of the December 8 Washington Post. The article, entitled "Subsidy Chief's Farm Probed," discloses the fact that Kenneth E. Frick, administrator of USDA's Agricultural Stabilization and Conservation Service—and more than one-third of his farm neighbors in California's rich Kern County—have been reported in violation of crop subsidy regulations. Mr. Frick is the USDA official in charge of the crop subsidy program.

Mr. President, the crop subsidy program in this country is a national scandal. I have no objection to the original purpose behind this program, which was to help independent farmers. But today the program has become just one more mechanism for redistributing income from the working class to the wealthy. That is redistribution of income in the wrong direction, Mr. President, and it is about time we reverse that kind of practice in this country. Yet today we hear that the USDA official in charge of crop subsidy payments will receive $95,000 this year from that very same program.

Mr. President, Congress just last year passed a $55,000 limit on the maximum amount any one farmer can receive from crop subsidy payments. It ought to be $20,000. But apparently even that law is not being enforced. Now I know, Mr. President, that there are "legal" loopholes that can be used to avoid the $55,000 ceiling, and it is probably through these loopholes that Mr. Frick will receive his $95,000 this year. But the spirit of the law is clear, and it is equally clear that the spirit of the law is not being followed.

Mr. President, last week I stood on the floor of the Senate and urged the rejection of the nomination of Dr. Earl L. Butz as Secretary of Agriculture because I felt that we need the independent farmer's interest and the public interest represented in the U.S. Department of Agriculture, and not Dr. Butz' personal corporate interests. Today, Mr. President, I find that the official in charge of administering our crop subsidy program has profited from that program. What is worse is that this same official is now under investigation by his own office for violations of the program he heads. Under these circumstances, I see no alternative but to call for his resignation. It is time to end the kind of government in which the administrator of a Federal farm program receives hundreds of thousands of dollars from that program. People do not trust that kind of government, Mr. President, and they ought not to. Defenders of Mr. Frick will point out that his farm interests are held in trust by the Bank of America. Putting his farm in a trust does not remove his financial stake in it, nor does it eliminate the fact that his brother manages the farm.

Mr. President, we need all the facts about this very disturbing situation. Mr. Kotz' article reports that besides Mr. Frick's farm, 467 others in Kern County have been cited for crop subsidy program violations. Kern County is the second richest county in the Nation in farm receipts and also ranks second in Federal subsidies. In 1970, 311 farms in Kern County received more than $20,000 in Federal subsidies, 105 received more than $55,000, and 37 received more than $100,000. Kern County is one of the leading homes of agribusiness, Mr. President, including such familiar farmers as Tenneco and Standard Oil. The Federal taxpayer ought to know whether it is these agribusiness giants that are pulling in these huge subsidies, and in many cases, violating the law while doing so.

Mr. President, it is my understanding that two reports on Kern County have been made by USDA investigating teams. The first, done by a spot-check team, found numerous irregularities in the subsidy program. This prompted a second investigation and report on each of Kern County's 1,190 farms. The public has a right to see these reports, Mr. President, and I have written Secretary Butz today demanding copies of them.

Mr. President, I ask unanimous consent that Mr. Kotz' article and letters I have sent to Mr. Frick and Secretary Butz be printed in the RECORD.

There being no objection, the article and letter was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Dec. 8, 1971]

SUBSIDY CHIEF'S FARM PROBED

(By Nick Kotz)

Agriculture Department official Kenneth E. Frick, along with more than one-third of his farmer neighbors in Kern County, Calif., have been reported in violation of crop subsidy regulations. Frick runs the federal program.

Frick, administrator of USDA's Agricultural Stabilization and Conservation Service, confirmed reports to The Washington Post that his own farm, now operated by a trust, and 467 others have been cited for violating program regulations. Kern County is the nation's second richest in farm receipts and ranks second in federal subsidies. The county's 1,190 farmers will receive $27 million in federal payments this year, primarily from the cotton program.

Farmers are paid federal crop subsidies in return for taking part of their land out of production in an effort to balance supply and demand. The alleged Kern County violations include failure to take enough land out of production, counting non-farm land as retired land, and illegally evading the $55,000 per crop limitation on farm payments.

Frick stressed that official findings have not been made in any of the cases, and that farmers still may prove that they were complying with program regulations. Frick's office is in charge of enforcing regulations for the several million farmers in the subsidy program.

In addition to an investigation by Frick's farm program office, the Kern County situation now is being investigated by the General Accounting Office and USDA's Office of Inspector General.

Frick said the alleged violations in Kern County would be the most extensive in any county in the country. He said many violations probably resulted from the unfamiliarity of farmers with a new cotton program. Nevertheless, the federal official running the program in Kern county has been suspended.

Frick and his deputy administrator, Charles Cox, said the alleged violations on Frick's farm involved use of improper land as retirement land.

Cotton farmers such as Frick are required to "set aside" from production acreage equal to 20 per cent of their cotton allotment acreage. The retired acreage must be as productive as the land in production.

Cox said the Frick farm had been cited for using several acres of non-farm land (previously used as a windbreak) as his retirement land, and for using other land of questionable value for "set aside" purposes. The Frick farm and numerous others were cited by inspectors as retiring alkali land (high in salt content) rather than land comparable to that in production.

Frick said his farm interests are held in trust by the Bank of America and his farm land is managed by his brother Howard. He said the 3,000-acre farm received $190,000 in cotton payments in 1970 and about $95,000 this year. Both Frick and his brother would be entitled to a maximum $55,000 payment.

Questioned whether he is not, in effect, investigating a violation on his own farm, Frick said: "I have confidence in our inspection system. The system triggered this examination of farms. As to my farm, my brother is in charge of it and will have to answer for it."

Frick's assistant Cox then added: "Our instructions (from Frick) are to treat his farm like any other farm."

Frick said discrepancies were first turned up in Kern County in a routine "spot check," in which department inspectors visited states in which they do not normally work. Because of numerous discrepancies, Frick said, his deputies then ordered a check made of each of the county's 1,190 farms. Again, the check was made by inspectors from out of state.

He said the determination of violations is now in the hands of the Kern county ASCS committee, under supervision of the California state committee. However, he said one member of the three-man county committee is not participating in decisions because his own farm is being questioned.

Frick stressed that the county and state committeemen are elected by fellow farmers and thus are free to criticize any farm, including his own.

Cox said the inspection team turned up 547 violations on 468 farms. He said the team considered violations as "serious" on about 200 farms.

Cox said farmers could lose part of their federal farm payment for minor infractions and the entire payment for major violations. Severe violations, including fraudulent evasion of the $55,000 payment limitation, could lead to criminal prosecution.

Frick emphasized that he had initiated the "spot checks" that turned up the Kern County situation, because "we wanted to make sure that farmers understood the new cotton program and that it was working adequately."

"What we found in Kern County, I would have to describe as 'bad'," said Cox, in a joint interview with Frick. "It was not typical."

U.S. SENATE, COMMITTEE ON GOVERNMENT OPERATIONS,
Washington, D.C., December 8, 1971.
KENNETH E. FRICK,
Administrator, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Washington, D.C.

DEAR MR. FRICK: An article by Mr. Nick Kotz appearing on page A1 of his morning's *Washington Post* raises very serious conflict of interest questions concerning your financial interests and your position as administrator of USDA's Agricultural Stabilization and Conservation Service. The fact that you received $190,000 in cotton payments in 1970 and will receive about $95,000 this year should disqualify you from administering the office in charge of these programs. Your position is further compromised by the fact that your farm is now under investigation for reported violations of the crop subsidy program that you administer.

If these facts are correct, I see no alternative but that you resign from your position as administrator of USDA's Agricultural Stabilization and Conservation Service. That you have placed your farm in a trust does not remove your financial stake in the program you administer. At a time when there has been a serious erosion of public faith in government, the integrity of such programs as those administered by the Agricultural Stabilization and Conservation Service must be maintained.

Sincerely yours,
FRED R. HARRIS,
U.S. Senate.

U.S. SENATE COMMITTEE ON GOVERNMENT OPERATIONS,
Washington, D.C., December 8,1971.
Hon. EARL L. BUTZ,
Secretary of Agriculture,
Department of Agriculture,
Washington, D.C.

DEAR MR. SECRETARY: I read with considerable alarm an article by Mr. Nick Kotz that appeared on page A1 of this morning's *Washington Post* that discloses large-scale violations of crop subsidy regulations in Kern County, California.

Kern County, as you know, is the second richest county in the nation in farm receipts and also ranks second in federal subsidies. In 1970, 311 farms in Kern County received more than $20,000 in federal subsidies, 105 received more than $55,000, and 37 received more than $100,000. Kern County is also the home of many leading agribusiness giants such as Tenneco and Standard Oil. The federal taxpayer ought to know whether it's these agribusiness giants that are pulling in these huge subsidies and, in many cases, violating the law while doing so.

It is my understanding that two reports on Kern County have been made by USDA investigating teams. The first, done by a spot-check team, found numerous irregularities in the subsidies program. This prompted a second investigation and report on each of Kern County's 1190 farms. Please send me immediately copies of each of the abovementioned reports.

I am enclosing for your information a copy of a letter I sent today to Mr. Kenneth E. Frick concerning his financial involvement with the crop subsidy program he administers.

Sincerely yours,
FRED R. HARRIS,
U.S. Senate.

REVENUE ACT OF 1971

Mr. NELSON. Mr. President, the Senator from Oklahoma (Mr. HARRIS) had intended to be here today to speak against this conference report. Unfortunately, an illness in the family has prevented him from being here. I ask unanimous consent that his statement be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR FRED B. HARRIS IN OPPOSITION TO THE CONFERENCE REPORT ON THE REVENUE ACT OF 1971

Mr. HARRIS. Mr. President, I oppose the acceptance of the Conference Report on the Revenue Act of 1971. The tax aspects of this bill are completely unacceptable. I did not like this bill before, and I do not like it now. The improving amendments added to the bill by the full Senate have been stripped from the bill in Conference. Additionally, the tax check-off for campaign contributions for presidential candidates has been so badly mutated that it is now almost worse than no provision at all. The campaign contribution check-off was one of the few good parts of the bill when it passed this chamber two weeks ago. Without that provision, and without the few improving amendments that the Senate added to the tax provisions in the bill, I cannot support the bill.

The campaign spending amendments to this bill as rewritten by the conference committee are almost worthless. I say almost because the tax credit and deductions for small contributions to political campaigns are a long overdue reform, even if they will be effective only after 1973.

However, the guts of the campaign spending amendment—automatic public financing of presidential campaigns beginning in 1972 as well as tax credits for all campaigns next year—were ripped out by the conference committee. The conference report removes the automatic appropriation for presidential campaigns and substitutes an annual appropriation. Thus, the Congress and the President will have to fight over this issue every four years.

Under the terms of the conference report, every four years the incumbent President can, if he desires, veto the campaign financing appropriation, just as the current incumbent threatened to do with this bill. Likewise, a Senate minority, unhappy with the presidential nominee of their party, can kill the campaign appropriation by filibuster.

Such a system is not campaign spending reform. The average person in this country is becoming more and more convinced that politicians are beholden to a small number of rich people and vested interests. I think we have a responsibility to help restore the people's faith in the openness of the political process. The campaign spending provisions of the conference report by no means meet that responsibility.

Mr. President, the major defects present in the tax provisions of this bill as it came to us from the Administration are still intact. The bill is a blatant giveaway to big corporations at the expense of the individual taxpayer. The bill will give more than $75 billion to big business by 1980, and will only give a small fraction of that amount to individuals. It is estimated that after 1973, the tax cuts to big business will be at least $8 billion a year, while individuals will get only $2.5 billion.

Very little of the money for individuals is actually new money and in fact the individual stimulus merely comes from not taking more money from the consumer by adjustments in the existing tax structure, while corporations are being given a whole new tax loophole. Most of the stimulus to the individual comes in the form of a speed-up in already authorized increases in personal exemptions, standard deduction, and low-income allowance. The only new money for the little man is an increase in the low-income allowance to $1,300 in 1972. That is a pitifully small piece of the action when compared to the massive tax break given permanently to big business.

Two years ago we debated and passed another tax bill, the Tax Reform Act of 1969. At that time we made much of the fact that the Congress was making an effort to bring more fairness to our federal tax system. We cut down some of the more outrageous loopholes. We adopted a minimum income tax to try to stop multimillionaires from being able to dodge their tax responsibilities entirely. And we told the people of this country that as a result the big corporations and the wealthy were going to have to pay more nearly their fair share of taxes.

I certainly do not mean to suggest that the Tax Reform Act of 1969 was the last word
in the fight to give the average person a fair
In 1969, we were, however, moving in the
shake from out tax system. It was not.
right direction. The tax bill before us today reverses that direction. H.R. 10947 will make our federal tax structure significantly more unfair to the average taxpayer than it is today. While Administration spokesmen claim the bill balances tax cuts to big business with cuts for ordinary people, the facts show just the opposite.

The Investment Tax Credit giveaway will be a windfall of $45 billion to business between now and 1980. Proponents of the Investment Tax Credit claim that stimulating new equipment expenditures will increase jobs. No one seems to be able to tell us, however, how this will come about and the number of jobs that will come from the "trickle-down" approach of a tax credit to big business. There is much evidence to make us believe that the tax credit may actually have a negative effect on employment. Surely, with plant capacity being utilized at only 73 or 74 percent, there can be little incentive to invest in expansion. What industry lacks is not machinery but customers—and the investment tax credit could, by parallel decreases in federal spending, actually lead to the decrease in available jobs. The cutback in federal employment and the postponing of needed social programs hits the low and middle income Americans and deprives them not only of the social results of those programs, but of the jobs that will result from new programs.

In addition, the Investment Tax Credit will encourage the increased concentration of power in our society. The credit will bestow most of its benefits on capital-intensive firms, and these firms frequently are found in oligopolistic and monopolistic industries. Small, new and less capital-intensive firms are discriminated against by the structure of the tax credit, while large firms reap high tax benefits. The tax giveaway can lead to profits of over 15 percent at minimum to large corporations. Yet, today corporate profits are at a healthy level, and increasing, and cashflows have increased substantially during the present recession.

The Asset Depreciation Range provision included in this bill is a windfall on top of another windfall. There doesn't seem to be any credible authority who will tell us that the ADR will help stimulate the economy. What we do hear, however, are many economists telling us that the ADR plan will only result in a gross resource misallocation; will have very little stimulative effect on investment in the short run; will reward firms who have deliberately avoided meeting the existing Reserve Ratio Test; and will remove pressure on inefficient producers to modernize. Since it applies to both old and new equipment, it is a windfall to a considerable extent, and the cost to the Treasury will be over $27 billion by 1980.

There are numerous programs needed in this country in these next years to increase the quality of life, reduce the tax burden on individuals, assure every able-bodied man a job, and improve our environment. Those programs could well use the $27 billion being given to big business by the ADR giveaway. Additionally, those necessary programs will be a direct stimulus to the economy and will directly affect the people who most need a stimulus—the lower and middle income persons who make up the bulk of our population.

The main argument given by the Treasury for the ADR is that it will stimulate investment, and thus jobs. I can find absolutely no foundation for this claim. American industry is now using about 73 percent of its plant and equipment. Under such circumstances, business will have little reason to increase their purchases of equipment. The uselessness of the ADR as a stimulus is even admitted by those who will be taking full advantage of its benefits.

James Roche, Chairman of the Board of General Motors, said recently: "It should be understood that most companies of any size determine their purchases of equipment by the needs of the business and not by any short-term tax advantages." In other words, until business picks up and consumers start buying again, investment is unlikely to make major gains—even with both the investment credit and ADR.

In DISC we find much of what is wrong with the American tax code. Like existing loopholes, it is a proposal that over time will instill an even greater sense of unfairness and ill will among taxpayers. Over time it will represent another step towards wider scale efforts at tax evasion.

On virtually every count it fails the test of good taxation. Its economic effects are uncertain even to officials who must defend it. Its revenue effects are unfair to the majority of taxpayers who will not benefit from it. Its technical provisions are unclear to those who must administer it.

An extraordinarily complex measure, the DISC has no counterpart elsewhere in the world. But to the degree that it was effective, we can be certain that it would be copied. In that event whatever benefit the U.S. economy derived would be offset. Experience in the Fifties and Sixties has demonstrated that trade gimmicks are quickly copied.

A major departure in U.S. tax practice, the DISC has not received adequate study. The Treasury has not come up with a single study of DISC. The only available study, performed by the Congressional Joint Committee on Internal Revenue Taxation, raises serious questions concerning its desirability. The President's Commission on International Trade and Investment Policy refused to recommend DISC in its recent report.

The DISC is unfair. It benefits a handful of companies which already are assured enormous gains because of future changes in the exchange rate.

I am fully persuaded that the American people would demand that the Congress decisively reject the DISC if more of us understood the basic economic fact that any devaluation of the dollar is equivalent to a large and open subsidy to exporters.

If a nation cannot pay its way abroad, it has no choice but to devalue. But before we pass out additional subsidies, we should clearly understand which part of the economy benefits from the original action of devaluation.

In the U.S. economy it is a very small sector. A handful of giant companies, around 100, account for approximately 50 percent of U.S. exports. It is these companies which will receive the export subsidy, worth billions of dollars, caused by the U.S. devaluation.

I contend that when we are already giving these few companies so much, it makes no sense to provide them with even more by creating the DISC.

As approved by the Senate Finance Committee, the DISC when fully operative will benefit U.S. exporters by about $400 million each year. This revenue loss to the U.S. government will occur even if the DISC does not stimulate one additional dollar in exports. The reason is that, although the Administration does not like to emphasize this, DISC advantages apply to existing exports as well as any increase. I cannot imagine a tax measure more poorly conceived.

Just looking at the figures for 1972 in the bill as the Finance Committee reported it makes clear the big business bias of the bill. Altogether, the money given to big business provides something like a 15 percent tax cut for big corporations.

As George Meany, president of the AFL–CIO, pointed out in testimony before the Finance Committee on September 13, the corporate share of the tax burden in this country had fallen over the past ten years. In 1960, the corporations carried about 33 percent of the federal income tax load. The Treasury Department estimates that in the current fiscal year the corporate share will hit 28 percent.

Mr. President, this is hardly the time to cut corporate taxes. If there were any action the Senate should take on corporate taxes, in my view it would be to raise them—to make big business pay the fair share of the burden which it has never paid.

H.R. 10947, of course, does precisely the opposite. It is, again in the words of Mr. Meany, "the biggest tax bonanza in corporate history." In the name of stimulating the economy and providing the jobs, this bill deals a permanent blow to the fairness of our tax system. The Asset Depreciation Range System (ADR), the Investment Tax Credit, and the Domestic International Sales Corporation (DISC) together are a massive tax break to big business being pushed on the highly doubtful premise that they can create jobs, stimulate the economy, and encourage exports.

There are many ordinary people in this country who wonder why the tax structure is so unfair to them and how the corporations and the wealthy get tax loopholes for themselves. If they were here today they could see that process for themselves.

The fact is, Mr. President, as I said at the beginning H.R. 10947 is a tax bill. The only thing we know for sure about it is that it will substantially and permanently cut taxes for the big corporations and make our tax structure even more unfair than it is already.

I believe the time has come in the Congress to draw the line on corporate tax giveaways. If we are really listening to the millions of people who are telling us in every way they can that they are sick of paying more than their fair share of taxes so a lot of big corporations and rich people do not, we would not accept this Conference Report.

ACTIVITIES AND ACCOMPLISHMENTS OF THE JOINT COMMITTEE ON ATOMIC ENERGY IN THE 92D CONGRESS, FIRST SESSION

Mr. PASTORE. Mr. President, as chairman of the Joint Committee on Atomic Energy, I should like to present for the information of my colleagues the annual report on the activities and accomplishments of the Joint Committee. This report covers the activities of this first session of the 92d Congress. I ask unanimous consent that the report be printed in the Record.

There being no objection, the report was ordered to be printed in the Record, as follows:

ACTIVITIES AND ACCOMPLISHMENTS OF THE JOINT COMMITTEE ON ATOMIC ENERGY IN THE 92D CONGRESS, FIRST SESSION (1971)

FOREWORD

It has been the practice of the Joint Committee on Atomic Energy, at the close of each session of the Congress, to submit for the information of the Congress, the Executive Branch, and the public a report of its activities. (The report for the second session of the 91st Congress was printed in the Congressional Record, vol. 116, pt. 33, p. 44321.)

The Joint Committee on Atomic Energy was organized on August 2, 1946. It consists of nine Members from the Senate and nine Members from the House of Representatives. No more than five from each body can be members of the same political party. The chairmanship alternates between the Senate and the House of Representatives with each Congress.

Present membership is: John O. Pastore, Rhode Island, *Chairman*, Melvin Price, Illinois, *Vice Chairman*.

Clinton P. Anderson, New Mexico, Henry M. Jackson, Washington, Stuart Symington, Missouri, Alan Bible, Nevada, George D. Aiken, Vermont, Wallace F. Bennett, Utah, Peter H. Dominick, Colorado, Howard H. Baker, Jr., Tennessee.

Chet Holifield, California, Wayne N. Aspinall, Colorado, John Young, Texas, Ed Edmondson, Oklahoma, Craig Hosmer, California, John B. Anderson, Illinois, William M. McCulloch, Ohio, Orval Hansen, Idaho.

The Joint Committee is one of the few committees established by statute rather than by rule of each House and is unique in several respects. For example, it is the only joint committee of the Congress with legislative functions, including the receipt and reporting of legislative proposals. The committee is also charged by law with legislative responsibility as "watchdog" of the U. S. atomic energy program. As part of its responsibilities, the committee follows closely the classified activities of the executive agencies, including the Atomic Energy Commission and the Departments of Defense and State, concerning the peaceful and military applications of atomic energy. The unclassified activities are closely reviewed as well.

In all of these activities, the Joint Committee on Atomic Energy, representing the Congress and the public, seeks to assure the implementation of the following national policy expressed in the Atomic Energy Act of 1954:

> * * * the development, use, and control of atomic energy shall be directed so as to make the maximum contribution to the general welfare, subject at all times to the paramount objective of making the maximum contribution to the common defense and security. * * *

During the 92d Congress, first session, the full Joint Committee met on a total of 33 different occasions, 17 of which were public and 16 of which were executive meetings. In addition, there were 20 subcommittee sessions of which 17 were public and 3 were executive.

A total of 7 publications consisting of hearings, reports, and committee prints were published by the Joint Committee in the first session of the 92d Congress. These publications include testimony taken in executive session with classified material deleted before printing.

A list of the publications follows: 1971 (92d Con., 1st Sess.)

AEC Authorizing Legislation, Fiscal Year 1972:

Part 1, Hearings Feb. 3, 4, and Mar 2.
Part 2, Hearings Mar. 4.
Part 3, Hearings Mar. 9, 16, and 17.
Part 4, Hearings Mar. 18, 23, and May 13.
Report (H. Rept. 92–325; S. Rept. 92–249), June 30 and July 8.

Naval Nuclear Propulsion Program—1971, Hearings Mar. 10.

Atomic Energy Legislation Through the 92d Cong., 1st Sess., Committee print, December.

Current Membership of the Joint Committee on Atomic Energy, Committee print, March.

AEC Licensing Procedure and Related Legislation (4 Parts)—Hearings June 22, 23, and July 13, 14.

Status of Current Technology to Identify Seismic Events as Natural or Man-made, Hearings October 27, 28.

Use of Uranium Mill Tailings for Construction Purposes, Hearings October 28, 29.

The Controlled Thermonuclear Research Program in the United States, Hearings November 10, 11.

Nuclear Power and Related Energy Problems—1968 through 1970, Committee print, December.

Selected Materials on the Calvert Cliffs Decision, Its Origin and Aftermath, Committee print, December.

I. Legislative activities

A. Atomic Energy Commission Fiscal Year 1972 Authorization Act (Public Law 92–84)

The Atomic Energy Commission's request for authorization of appropriations for fiscal year 1972 was submitted to the Congress along with the total Federal budget on January 29, 1971. Amendments to the AEC budget were received from the Commission on May 6 and June 11. The Joint Committee on Atomic Energy convened its hearings on February 3 to consider the proposed authorization legislation (S. 958 and H.R. 5522). During the succeeding 20 weeks, the committee held 15 additional sessions, five of which were executive due to consideration of classified information. The record of the public hearings was published in four volumes entitled "AEC Authorizing Legislation, Fiscal Year 1972." A declassified record of the hearing on naval nuclear propulsion program was published under the title "Naval Nuclear Propulsion Program—1971." In addition, the Senate Committee on Aeronautical and Space Sciences published the hearings held jointly with the JCAE on February 23 and 24 under the title "Nuclear Rocket Engine Development Program."

Following its deliberations on the proposed legislation, the Joint Committee voted to adopt certain amendments by way of reporting "clean bills." Vice Chairman Price, together with Congressmen Holifield and Hosmer, introduced H.R. 9388 on June 23, 1971, and Chairman Pastore introduced S. 2150 on June 24, 1971. These identical measures were favorably reported on June 30 (H. Rept. 92–325) and July 8 (S. Rept. 92–249) respectively.

The reported authorization bill recommended an increase of $37.2 million over the amount contained in the Administration's request but only approximately $5 million more than was authorized for the preceding year. The bill, H. R. 9388, was passed by the House with an amendment, on July 15, 1971. The amendment, offered by Congressman Hosmer, removed the $20 million ceiling on AEC furnished services, facilities or equipment available to or planned by the Commission under its civilian base program for assistance to the liquid metal fast breeder reactor demonstration program. Under the amendment, the new ceiling was placed at 50 percent of the estimated capital cost of the first demonstration plant. The Senate approved the amended bill with four additional amendments on July 20, 1971. Three of the amendments increased the level of funding authorized by $4 million as follows: Nuclear safety research $2.3 million; terrestrial electric power (cardiac pacemaker) $0.5 million; and controlled thermonuclear research $1.2 million. The fourth amendment added certain restraints to the acquisition of land for a nuclear waste repository proposed for Lyons, Kansas. It limited the authority of the AEC to acquisition of interests in the land not in excess of 3 years in duration until an advisory council appointed by the President reports to the Congress that the project can be constructed and operated and waste material transported so as to assure public health and safety and environmental protection. The Senate amendments were considered by the House on July 27 at which time the House concurred in the first 3 amendments and adopted a substitute amendment relating to the Lyons, Kansas, project. That amendment, by way of clarification, provided greater specification of the limitations imposed on the authorization of funding for land acquisition. On July 31, 1971, the Senate concurred in the substitute amendment adopted by the House. The President signed the Act into law (Public Law 92–84) on August 11, 1971. The law authorizes appropriations to the Atomic Energy Commission for fiscal year 1972 in the amount of $2,325,187,000, as follows:

Operating expenses	$2,029,571,000
Plant and capital equipment	295,616,000
Total authorization	2,325,187,000

Among the highlights of the Joint Committee report, which accompanied the authorization bill, were the following:

Assurance of adequate *uranium enrichment capacity* to meet the ever increasing demand, both domestic and foreign, continued to be a matter of highest priority before the Joint Committee. As in the past few years, the timely implementation of the Cascade Improvement Program was the point of primary concern. The monies authorized and appropriated for that program for fiscal year 1971 had not been made available until the end of the fiscal year, but the release of those funds was viewed as a positive sign. The committee remained convinced of the necessity to move forward vigorously with the program and accordingly recommended the addition of $35 million to the budget. The Congress agreed to the necessity to move forward and appropriated $25 million.

The committee continued its strong support for the liquid metal fast breeder reactor (LMFBR) program, the priority project under *reactor development and technology*. By way of a budget amendment, the Administration increased its original request by $17 million to a total of $120 million for the base technology program which request was approved. Also approved was the request for an additional $50 million to be employed as Federal financial assistance for the first demonstration project authorized in fiscal year 1971.

The committee also evidenced its support of other aspects of reactor development. Authorization of funds for the high-temperature gas-cooled reactor and the nuclear desalting programs was increased. Continued support was provided for the light water breeder reactor (LWBR), the molten salt breeder reactor (MSR), and the gas-cooled fast breeder reactor (GCFR).

The largest reduction in the budget recommended by the committee was relative to authorization for construction funds for a *National Radioactive Waste Repository* proposed for Lyons, Kansas. The committee reduced the request by $21.5 million, recommending the $3.5 million for land acquisition and design. The committee supported the Administration's amended request for $1,850,000 in operating funds for additional research and development associated with this project.

The President's budget request for the fiscal year 1972 *space nuclear propulsion* (ROVER) program was only $15 million, a 65 percent reduction from the 1971 level of effort. The Joint Committee recognized that such funding could lead to little if any real accomplishment during fiscal year 1972 and recommended that the amount be increased by $37 million to $52 million. This action was taken in part to assure AEC funding commensurate with that recommended for NASA by the House Committee on Science and Astronautics, since this program is a joint agency effort.

The Joint Committee noted, as it had for the past several years, that there could be grim days ahead for AEC *high energy physics* laboratories if the downward trend in funding continued. The committee pointed out that the National Accelerator Laboratory is expected to be fully functional by July 1972 and that the operating budget alone for this installation will be about $50–$60 million per year. The committee asked the AEC to provide a report by December 31, 1971, indicating a priority listing of accelerators to provide a basis for allocating available resources in such a manner that viability and productivity will be assured.

B. Legislation Regarding AEC Licensing Procedures

The Joint Committees' Subcommittee on Legislation held extensive public hearings on June 22, 23 and July 13 and 14, 1971, on legislation proposed by the AEC to amend certain of the existing provisions of the Atomic Energy Act of 1954, as amended, which concern the licensing of nuclear facilities (S. 2152 and H.R. 9286 and S. 2151 and H.R. 9285). An opportunity was also afforded sponsors of related bills referred to the committee to testify. The related bills concern Federal-State regulation of radioactive effluents from nuclear facilities (H.R. 997, H.R. 1743, H.R. 3683, H.R. 6933, H.R. 7539, and S. 2050); and the transfer of certain AEC regulatory authority to other agencies (H.R. 1197, H.R. 1742, H.R. 6310, and H.R. 9542). The four-volume record of these hearings has been printed ("AEC Licensing Procedure and Related Legislation").

The testimony presented at the hearings emphasized the need for procedural changes to improve the licensing process for nuclear power reactors. Although the objective of the AEC's proposed early site legislation of providing for early resolution of environmental issues was generally viewed favorably by the witnesses, numerous valid questions were raised regarding its practicability. Such matters as the relationship between the early site and construction permit proceedings, the relationship of the early site authorization proceeding to other requirements such as the review required to comply with the National Environmental Policy Act (NEPA), requirements under water quality legislation, and the permits under the Refuse Act of 1899, the opportunity for hearing at the operating license stage, and the compatibility and harmony of the siting provisions in H.R. 9286 with general power plant siting legislation currently pending before other committees were not thoroughly developed in the testimony. Furthermore, considerable doubt was expressed as to whether sufficient information could reasonably be made available at the early site authorization stage to settle with finality all significant site-related environmental matters.

There was general agreement that the Commission, under its existing legislative authority, could take many procedural steps to improve the licensing process.

In view of such questions and in the absence of any clear showing by the AEC that the proposed legislation would resolve any short-term problem even if enacted this Session, the Subcommittee on Legislation announced on October 19 (JCAE Press Release No. 665) that it would appear more prudent for legislative action to await further developments on overall power plant siting legislation currently pending before other committees. An objective of overall power plant siting legislation should be to recognize the AEC's responsibility for all radiological considerations associated with nuclear plants, and to place in State and regional authorities the general responsibility for deciding other environmental matters. The press release stated that it is hoped that such legislation, which is vitally needed to provide our Nation with a coherent and rational power plant siting policy, will soon be enacted; and in the meantime, the Commission was urged to work with States, such as Maryland, which have recently enacted power plant siting legislation to assure that appropriate State officials are aware of applicable requirements for the approval of sites for nuclear plants and that everything is done to coordinate the required approvals.

A Joint Committee on Atomic Energy staff analysis of the testimony presented at the regulatory hearings was published in the Congressional Record of November 1, 1971 (E 11577).

Subsequent to the completion of these hearings, a major influence upon the licensing process was the Calvert Cliffs decision rendered by the U.S. Court of Appeals for the District of Columbia Circuit on July 23, 1971. Practically all of the basic problems raised by that decision stem from interpretation of NEPA and the Water Quality Improvement Act of 1970. Corrective legislation, if needed, would be under the cognizance of the committees responsible for NEPA and water quality legislation and could address the problems involved which are not concerned solely and directly with the licensing of nuclear power plants—they affect all Federal activity within the scope of those basic Acts. In this regard, the Senate Interior and Insular Affairs Committee held hearings on November 3 on the impact of the Calvert Cliffs decision. If it is demonstrated that corrective legislation is needed and that it is not forthcoming from others, the Subcommittee stated that it will carefully consider proposals relating to the implementation of NEPA in the limited sphere of licensing of nuclear power plants. It is noted that the Commission has published regulations, which it believes will be adequate, to meet the dual challenge of environmental protection without undue delay which would threaten the vitality of regional power supplies. That view was expressed by Commission witnesses at the November 3 hearing and at a hearing held on November 15 by the Subcommittee on Public Works of the House Appropriations Committee.

During the hearings held in June and July, it was announced that additional hearings might be held at a later date to receive testimony from interested members of the public on matters associated with nuclear power plant licensing other than in connection with H.R. 9285 and H.R. 9286. These additional hearings also await the corrective action taken under existing authority, and a reasonable opportunity will be afforded the Commission to act in that regard. It is noted that, during the closing months of this Session, the Commission appeared to be acting positively to help alleviate some of the problems identified in the June–July hearing record and in subsequent committee correspondence with the Commission.

In that regard, Congressman Price, in his letter of October 19, 1971, to Dr. Schlesinger, forwarding the press release (No. 665) of the same date on the AEC's bills referred to above, said:

"The press release also reiterates several earlier suggestions by the Committee that the Commission act under the existing authority bestowed on it to make procedural changes in the licensing hearing process which are long overdue. . . .

"Although these matters have been discussed and considered for some time, the remedial action has been slow. It would be very much appreciated if the Commission would advise me of the specific procedural changes which are being considered, and the target dates for their implementation. I would also like to know the extent to which the services of the Chairman of the Administrative Conference of the United States and other interested persons will be used in this effort. I would like to be informed of any obstacles which are foreseen to implementing the procedural changes which may be needed to provide for more effective public participation in the licensing process and to restore vitality to the administrative licensing process.

"I close in noting that the press release also stated that if it develops that needed procedural changes will require additional legislative authority, the Committee stands ready upon request to consider carefully any proposal which the Commission forwards to the Congress."

II. Civilian agreements for cooperation

Under the provisions of the Atomic Energy Act of 1954, as amended, proposed agreements for cooperation in the peaceful uses of nuclear energy between the United States and other nations, and amendments thereof, must be submitted to the Joint Committee and a period of 30 days must elapse while Congress is in session before such agreements become effective. In accordance with such procedures, one civil agreement was submitted to the committee by the Department of State and the Atomic Energy Commission with the approval of the President.

The submitted agreement involved only research activities with Turkey and it was amended to extend its term for an additional 10 years. In addition, the amendments also contained provisions reflecting the transfer of safeguards responsibilities for materials and facilities received by Turkey to the International Atomic Energy Agency pursuant to a trilateral agreement executed in 1968.

III. Informational hearings

A. Controlled Thermonuclear Research (CTR) Program in the United States

The Subcommittee on Research, Development, and Radiation held hearings on November 10 and 11, 1971, to ascertain the status of the controlled thermonuclear research program (the fusion research program) in the United States. Witnesses from the Atomic Energy Commission, including the four major CTR laboratories, and from the industrial and academic sectors testified. Additionally, witnesses from government, industry, and the AEC's CTR standing committee, who are not involved in the direct functioning of the program, were heard. Testimony was presented on the magnetic mirror program, the low beta toroidal program, the high beta pinch program, the status of fusion reactor studies, plasma physics research in universities and industry, and lasser pellet and very high energy density systems. The consensus of opinion was that scientific feasibility could be achieved by the end of this decade or slightly earlier depending upon the funds committed to CTR research. "Scientific feasibility" is defined as generating a plasma at about 100 million degrees centigrade which is essentially self-sustaining, i.e., as many new ions are fed into the system as are lost. The technical feasibility of a fusion system which has a net output of useful energy may be demonstrated by 1985. Commercial feasibility most probably can be available by the year 2000. Each of the aforementioned dates, except perhaps that of scientific feasibility, could be shortened somewhat by a greater investment of resources. Scientific feasibility must still await a new generation of larger CTR machines. A large infusion of funds at this time would not significantly advance the date for scientific feasibility.

B. Seismic detection and identification

On October 27 and 28, the Subcommittee on Research, Development, and Radiation held hearings to determine the seismological advances in identifying seismic events as natural or man-made since the last Joint Committee hearings held in March 1963. In the intervening 8 years significant advances have been made in improved seismological instrumentation and seismic signal processing through the use of data processing. The subcommittee heard witnesses from the Department of Defense, the Atomic Energy Commission laboratories, and from university members. It was learned that there still exist identification thresholds in parts of the world below which it is extremely difficult to tell if the seismic events are natural or manmade. On the question of what yield test a determined evader might conduct with a fair chance of not being identified, it was indicated that, depending upon the evasion technique used—decoupling, detonating in loose, dry soil, hiding in an earthquake, or using multiple detonations—a detectable but unidentifiable test as large as 50 or 100 kilotons might be accomplished.

The status of unmanner seismological observatories was discussed. No new work has proceeded in this field since approximately 1967. It was pointed out that new instrumentation is being developed particularly for the long-period Rayleigh surface waves. It is expected that sometime in the near future the most useful discrimination technique will be the comparison of $M_s:m_b$ which is a measurement of the energy ratio of the long-period Rayleigh surface waves to the short-period body waves which pass through the center of the earth from a seismic event. It was suggested that to be able to detect, identify, and locate seismic events essentially any place in the Northern Hemisphere would cost about $130 million and take 5 years to construct the necessary stations. This would also require a significant number of international agreements since many stations would have to be on foreign soil. Representative Price, Chairman of the subcommittee, indicated that the committee would study the data and might call additional hearings to determine what kind of weapons development program could be carried out by a determined evader under the detection thresholds indicated above.

C. Use of uranium mill trailings for construction fill purposes

On October 28 and 29, 1971, the Subcommittee on Raw Materials held public hearings on the use of uranium mill tailings for construction fill purposes. Mill tailings are a sand-like byproduct of the uranium milling process which remain after removal of uranium concentrate from uranium ore. Tailings have been used as construction fill material, and, in some cases, as an ingredient in mortar and concrete, in the area of Grand Junction, Colorado. The mill tailings contain naturally occurring radium. The radioactive emissions from radium include gamma radiation and alpha-emitting isotopes referred to as radon daughter products. Depending upon the level of radiation, there could be a public health risk associated with exposure to this radioactivity.

The Atomic Energy Commission, the Environmental Protection Agency, the Department of Health, Education, and Welfare have been assisting the Colorado State Department of Health in assessing the levels of activity in public buildings and private residences in the Grand Junction area. The Surgeon General of the U.S. Public Health Service, in July of 1970, provided to the State of Colorado recommendations concerning the levels of gamma and radon daughter product activity for which remedial action would be suggested. The situation under study has legal, financial, and public health implications upon which the committee desired to obtain information, not only for its own use, but also for the use of the public. The Federal agencies stated that time is needed—at least 4–6 months—to take additional readings in the structures in an attempt to determine a correlation between gamma radiation level and radon daughter product concentration. If successful, the correlation would aid in the conduct of house-to-house surveys and provide a more rapid means of determining whether remedial action is recommended in a given case. The agency spokesmen agreed that there would be no endangerment of the health of the inhabitants as a result of exposure during this period.

It is recognized that there is wide public interest in this matter. The committee is interested in assuring that all of the necessary information be obtained before a decision is made concerning possible large-scale removal of tailings. Additional hearings may be held.

D. Enrichment cooperation

On March 18 and July 12, 1971, the Joint Committee met in executive session to receive testimony from the AEC concerning the possible sale of highly classified United States gaseous diffusion technology to foreign entities. Subsequent to this meeting, the AEC announced on July 28 that the Department of State and the AEC were prepared to undertake exploratory multilateral discussions on this matter.

Discussions on the sale abroad of United States enriched technology were held on November 1 and 2, 1971, with Australia, Canada, and Japan. On November 16 and 17 similar meetings were held with the members of the European Community (except Luxembourg). Also present were representatives from Australia, Brazil, Canada, Japan, New Zealand, Spain, and Sweden.

Following these meetings, the AEC advised the committee that the commencement of negotiations would be undertaken only after a group of other countries has formulated a proposal for a specific project for the construction of a gaseous diffusion plant using U.S. technology as a multinational enterprise, and following reviews of such proposal within the Government. The Joint Committee plans to watch these negotiations closely.

The Joint Committee is also following closely developments in the proposed sharing of diffusion and centrifuge technology with domestic corporations. This matter was reviewed during the hearings on the fiscal year 1972 budget.

E. Naval nuclear propulsion program

The Joint Committee held two separate hearings in executive session on the naval nuclear propulsion program during which a number of subjects vital to our national defense were discussed. On March 10, 1971, Admiral Rickover testified before the full committee and on May 5, 1971, Admiral Moorer, Chairman, Joint Chiefs of Staff, Admiral Zumwalt, Chief of Naval Operations, and Admiral Rickover testified before the Subcommittee on Military Applications. The record clearly documents the success of this program that has now produced nearly 100 nuclear powered warships. The program has accumulated over 780 reactor years of safe operation, more than all our other reactor programs combined, and continues to make significant technological advances benefiting both our military and civilian reactor programs.

Of concern to the committee was the confirmation of the continued major efforts on the part of the Soviet Union to achieve the most powerful naval and maritime force in the world. The Soviet navy has undergone continuing modernization, building over twice as many combatant ships as the U.S. in the last 5 years. In the critical area of submarines they now lead the United States in nuclear submarines, they have established a nuclear submarine construction rate three times as large as ours; and they have maintained an overall numerical advantage in submarines of all types of nearly three to one. Although the Soviets lead in all types including ballistic missile launching submarines, they do not at present lead in nuclear powered ballistic submarines. Although based on their present high rate of construction, it is estimated they will exceed our Polaris fleet of 41 by 1974 or sooner.

The committee was pleased to note that the high-speed, SSN 688 Class, nuclear attack submarine construction program is finally proceeding. Accordingly, the committee supported full fiscal year 1972 funding of 5 ships of this class and advanced funding for at least 5 more. The committee also strongly supported the rapid development of a new high performance nuclear powered attack submarine capable of firing tactical cruise missiles.

A matter which the committee explored in depth during the hearings was the apparent action by the Department of Defense to stop building nuclear powered surface warships. The Joint Committee has long maintained that everything possible should be done to minimize the logistic support required to sustain our warships and that the proven effective way to do this is to give our major combatants the advantage of nuclear power. The decision to delay building nuclear powered carriers and frigates has serious implications for our future defense posture.

IV. Classified activities

A. Intelligence briefings

Representatives of the Central Intelligence Agency, the Department of Defense, and the Atomic Energy Commission have presented briefings to the Joint Committee on intelligence matters with particular reference to Communist China and the U.S.S.R.

B. Strategic Arms Limitation Talks (SALT)

In April and August 1971, members of the Joint Committee visited the SALT negotiation meetings in Vienna, Austria, and Helsinki, Finland. The committee has also received briefings in executive session from the Arms Control and Disarmament Agency on these important negotiations. The committee continues to follow this matter closely.

V. Other matters

A. New particle accelerators

The Los Alamos Meson Physics Facility (LAMPF) obtained a 100 Mev beam on June 21 about one month ahead of schedule. By July 1972, the facility should be ready to operate and conduct experiments at the planned energy of 800 Mev protons. This facility will be extremely useful in the years ahead for research in such varied fields as cancer research, nuclear weapons test simulation, and the production of currently scarce and expensive radioisotopes.

B. Nuclear electric power in space

There are now 3 Apollo-lunar surface experiments packages operating successfully on the moon. The first package was emplaced by the crew of Apollo 12 in November 1969; the second, by the Apollo 14 crew in January 1971; and the third, by the Apollo 15 crew in July 1971. All 3 experiments packages are working successfully; the SNAP-27 generator of the Apollo 12 is still operating near maximum rated power—about 70 watts—even after more than 2 years.

C. International Atomic Energy Agency (IAEA)

The Joint Committee follows very closely activities involving the IAEA in Vienna, Austria. Both members and staff of the Joint Committee attended the 15th session of the General Conference of the IAEA in Vienna.

The Joint Committee believes that the safeguarding of nuclear material is one of the most important tasks of the IAEA. The committee notes with approval the actions of the AEC in making arrangements for the availability of facilities in the United States to assist in the training of IAEA inspectors consistent with their responsibilities under Article III of the NPT.

D. North Atlantic Treaty Organization (NATO)

Since its inception, the Joint Committee has watched carefully developments in NATO. This year members and staff of the Joint Committee visited NATO installations and received briefings from the Supreme Allied Commander, Europe, and other military commanders on their duties and responsibilities particularly as they relate to nuclear weapons.

E. Confirmation Hearings

The Senate section of the Joint Committee met in public session on May 6 to consider the nomination of Dwight Porter to be Deputy United States Representative to the International Atomic Energy Agency (IAEA). The Senate confirmed the nomination on May 10.

On August 3, 1971, the Senate section of the Joint Committee met in public session to consider the nominations of James R. Schlesinger and William O. Doub to be commissioners of the Atomic Energy Commission. Mr. Schlesinger was nominated for the remainder of the term expiring June 30, 1975, previously held by Glenn T. Seaborg. Mr. Doub was nominated for the term previously held by Theos J. Thompson which expires on June 30, 1976. Mr. Schlesinger and Mr. Doub were confirmed by the Senate on August 6, 1971, and sworn in by the President on August 17, 1971.

THE VETO OF THE OFFICE OF ECONOMIC OPPORTUNITY BILL

Mr. McGOVERN. Mr. President, the President's veto of the renewal of the

Office of Economic Opportunity is this administration's cruelest blow to America's poor. It marks a new highpoint of insensitivity to the needs of our most vulnerable citizens: Our children and poor.

Mr. Nixon's objections were basically two: He felt that child care for all those Americans who may need it for their youngsters had not been proved necessary or desirable. And he thought that an independent legal services corporation would not be accountable to an acceptable degree. Objections like these point out the blatant hypocrisy of this administration. We only need go back 2 years to be reminded that the same President who vetoed the child development legislation yesterday, committed his administration to the "First 5 Years of Life," to providing "for every child a full and fair opportunity to reach his potential."

The President who could claim to want to help the poor leave welfare rolls for payrolls, could veto the bill that would have enabled many of the poor to do so by providing adequate day care. His veto was justified on the basis of a proposal of his own which has not yet passed the Congress and which would provide only 450,000 day care slots. The vetoed legislation held the promise of providing better than 3 million day care places of the 5 million that are needed.

The same President who expressed his fears that Legal Services would not be sufficiently "accountable" is the President who wrung compromises from the Congress to the point where all 17 members of the Legal Services Board would have been Presidential appointees.

This veto comes at a time when we have finally learned conclusively that the essential of good health care and adequate nutrition are most crucial during the first years of life. And yet, the President feels that to assure these essentials to our most unfortunate children is as yet unnecessary and undesirable.

The hypocrisy of this act will be seen by the working poor as well. The gap between promises and performance in helping the working poor marks this administration more than it did any other in recent history. This veto makes impossible our hopes to enable the working poor to provide more adequately for their children. It comes directly on the heels of a tax bill in which the Congress hoped to benefit the business interests of the country at the expense of the working poor. This can only conclusively demonstrate that in Mr. Nixon's mind what is good for the big guy must suffice for the little guy, but to help out the little guy would be "fiscally irresponsible."

Giving power back to the people is something Mr. Nixon ascribes to freely enough in his rhetoric. And yet, the same Mr. Nixon vetoes the Legal Services Corporation, a suit designed by Congress to give the poor some bargaining power within our legal system. Even a Legal Services Corporation would not have taken that long overdue step toward equal justice, an essential prerequisite to true power for all of the people.

Yesterday's veto is Mr. Nixon's Christmas greeting to America's poor.

HEW SCHOOL ENROLLMENT SURVEY

Mr. STENNIS. Mr. President, on November 23 I placed in the Record a copy of a letter I had sent on November 9 to the Honorable Elliot L. Richardson, Secretary of Health, Education, and Welfare. The letter concerned the HEW survey of racial enrollment in public school districts. I made the point that the results of the survey are needed by the Congress in the consideration of pending legislation. I also stressed the fact that the information should be compiled in a form that would permit comparison with the survey of racial enrollment that was made during the 1970–71 school year.

I have received a reply from Secretary Richardson dated November 23. I ask unanimous consent that it be printed in the Record at the conclusion of my remarks.

Careful consideration of the Secretary's letter leads me to the conclusion that his reply falls short of being responsive to the needs of Congress. The education bill is to be considered in January, according to present plans. Numerous school desegregation issues are to be debated. What is required is the best information that HEW has on racial enrollment in schools, made available in a timely way, and in a useful form. If it is preliminary information, subject to future refinement, then I am prepared to accept that, if necessary. I do not think it is necessary or proper to accept information that is in a form incompatible with previous surveys, or that is given the Congress too late to serve a useful purpose in legislative considerations.

Secretary Richardson's letter offered me the opportunity to request specific data from Mr. J. Stanley Pottinger, Director of the Office for Civil Rights. I have sent a letter to Mr. Pottinger, dated December 7, and I ask that a copy be included in the Record at the conclusion of my remarks.

My letter to Mr. Pottinger requests a very limited amount of information, in a form that will permit the Congress to make some comparisons between racial enrollment last year and this year. Within the limits of the information which HEW says they have, I am asking for three percentage figures pertaining to the 100 largest school districts, and the same three with respect to total enrollment in two regions of our country.

Mr. President, a month or more still remains for HEW to assemble the figures requested. In these days of data processing by computer, I would expect that this should be sufficient time. I earnestly hope that the Department of Health, Education, and Welfare will cooperate by providing the data requested by the beginning of the next session of Congress. Certainly the legislative department of our Government is not only entitled to the cooperation of the executive department but is also entitled to their utmost and extraordinary effort to supply the basic facts requested. I feel that they will comply.

There being no objection, the items were ordered to be printed in the Record, as follows:

The Secretary of Health,
Education, and Welfare,
Washington, D.C., November 23, 1971.

Hon. John C. Stennis,
U.S. Senate,
Washington, D.C.

Dear Senator Stennis: Thank you for your letter of November 9 concerning the school enrollment survey which is being conducted by the Department's Office for Civil Rights.

The fall 1971 survey is still in progress. Although the Office of Civil Rights encourages school districts to complete the survey forms by the October 15 deadline, many districts need additional time. Because of this delay and the need to edit and process all returns, we do not expect to be able to issue final survey results until May 1972.

The current survey is not similar to the surveys conducted during the 1968–69 and 1970–71 school years. These surveys were representative of all school districts with 300 or more pupils and covered more than 8,000 districts. In contrast, this year's survey is limited to the 2,800 districts which: (1) are in litigation or under court order to eliminate the dual structure; (2) are operating under a voluntary plan negotiated with HEW pursuant to the provisions of Title VI of the Civil Rights Act of 1964; (3) operate one or more schools containing 50 percent or more minority enrollment; or (4) enroll minority students representing at least ten percent of total enrollment.

As in past years the Office for Civil Rights intends to issue a preliminary release in January 1972 based on unedited and incomplete survey returns. This release will not be comparable in many respects to the release of last June 18, 1971, which reported final and complete statistics based on the 1970–71 nationwide survey. As I have indicated in previous correspondence, it is not possible to prepare and issue final results of these fall surveys the following January.

If you have any requests for specific data at this time, I would suggest that you notify J. Stanley Pottinger, Director of the Office for Civil Rights, as soon as possible. I am sure he will do his best to comply with any request you may have.

With kindest regards.

Sincerely,

Elliot L. Richardson,
Secretary.

U.S. Senate,
Committee on Armed Services,
Washington, D.C., December 7, 1971.

Mr. J. Stanley Pottinger,
Director, Office for Civil Rights, Department of Health, Education, and Welfare, Washington, D.C.

Dear Mr. Pottinger: Reference is made to my letter of November 9th to Secretary Richardson and his reply dated November 23rd. Copies of those letters are enclosed for your ready reference.

As suggested by Secretary Richardson in his letter, I am writing to you for certain specific data concerning the 1971 school enrollment survey. This information will be needed at the beginning of the Second Session of the 92nd Congress, for it is expected that the pending education bills will be debated early in that Session.

It is recognized that data is available only for 2,800 school districts that fall in the four categories mentioned in the third paragraph of Secretary Richardson's letter. Within that limitation, specific information is desired concerning each of the one hundred largest school districts listed in HEW Press Release A-66, dated June 18, 1971, as follows:

a. Percent of Negro students attending majority-white schools.

b. Percent of Negro students attending 80–100 percent Negro schools.

c. Percent of Negro students attending 95–100 percent Negro schools.

Also using the format of HEW Press Release A–66, the information in *a*, *b*, and *c* above is desired for the 11 Southern States and the 32 Northern and Western States. These figures are totals, of course, and not by individual school districts.

I accept the premise that the data available to you are preliminary in nature and subject to revision. I simply ask that the best information available be supplied in the limited number of categories listed above, and that this be done in a timely way, so that it can be utilized by the Congress in the consideration of pending legislation.

I sincerely hope that in the month between now and early January these figures can be provided me and I will appreciate your prompt attention to my request.

Sincerely yours,

JOHN C. STENNIS,
U.S. Senator.

"TO LEAD AGAIN"—ADDRESS BY SENATOR MUSKIE

Mr. EAGLETON. Mr. President, in San Francisco on November 8, the Senator from Maine (Mr. MUSKIE) gave a speech at a dinner which was billed as a Democratic unity dinner. Senator MUSKIE addressed himself to the problem of unity within the Democratic Party but, more important, to the problem of unity within the Nation; he spoke of the hopes and dreams of all Americans, both Republican and Democratic, and of the problems which our Nation must face in the future.

Senator MUSKIE talked about the politics of exclusion and division, and he called upon the Democratic Party to respond to all Americans, not just to any faction or special interest. Because of the partisan temptations which confront both parties as we approach 1972, I think all Members of the Senate could benefit from reading Senator MUSKIE's remarks, and therefore ask unanimous consent that his speech be printed in its entirety in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

TO LEAD AGAIN

(Remarks by Senator EDMUND S. MUSKIE)

This event is billed as a Democratic unity dinner.

But everyone in this room realizes that there is more to our meeting than that.

Most of you are here to size up three of us as possible presidential contenders. And each of us hopes to impress you . . . to stir your enthusiasm and secure your support.

In the last few years, I've been through this competition again and again—and I always enjoy it. I suspect Hubert and Fred do, too.

The rules are very simple: we are supposed to talk—you are supposed to respond—and the reporters are supposed to decide who won.

But I think we should focus here and now on a different kind of victory—not a victory tonight for a specific candidate—but victory next year for our principles and our party.

I believe the Democratic Party may be headed for serious trouble in 1972. And I believe the fault is not in others, but in ourselves.

For too long, we have seemed ready to stand or fall on a single issue. We have talked about a vast range of concerns, but mostly in passing. And we have concentrated on the nation's economic crisis . . . as if that were the only thing wrong in America. There was even a time when some of us were betting on the willingness of Richard Nixon to become another Herbert Hoover.

But now the President has acted—and because we are Americans and not just partisans, we hope for his success and the country's recovery. The Administration was late. The Nixon effort will fall short. And none of us are satisfied with the goal the President has set—an unemployment rate 40% higher than when he took office.

We can say that and the words may lead to applause, especially at partisan dinners. But the blunt truth is that the economic appeals which still draw cheers may not win enough votes next November.

In 1972, millions of Americans may hear but refuse to heed a debate about numbers—the claim that Democrats can create even more growth—that we can guarantee even lower unemployment, even higher G.N.P., and even stricter controls on inflation. It is important to fight for a chance to do better—because there are people behind the numbers and they are suffering. But there is other suffering and the economy is not the only issue.

Yet the invitations I receive from party audiences across the country still relentlessly suggest a hard attack on economics and a soft pedal on other problems. That is an easy and tempting course—after all, it worked in 1970. But if the President falters again as he has so often in the past, no stump speeches will be needed to fix the blame. As citizens, we cannot hope for his failure. As politicians, we cannot depend upon it. And as Democrats and Americans, we would wrong our party and our country by overemphasizing economic appeals in the months ahead.

The economy should be an issue next year—and Democrats should question whether we can trust this Administration with our jobs and our dollars for another four years. And we must now start to ask other questions—not just because we need something more than economics to run on—but because our country cannot survive on more excuses and more neglect.

Most of the issues which held our attention a few years ago have disappeared from the center of political debate. It is as though the earth had opened and swallowed up every ghetto where injustice still breeds bitterness and despair . . . every sick patient who goes untreated because he cannot afford a doctor . . . every home where money instead of talent decides whether a son or daughter will have a chance for college. These are real and painful realities—but, in recent years, America's people and America's politicians have been reluctant to face them.

Deep down, I suspect that many of us have been afraid to take another chance on change. We saw hope die near an underpass in Dallas, on a motel balcony in Memphis, and on a kitchen floor in Los Angeles. We saw an obscure civil conflict explode into a disastrous American war half a world away. And we saw our nation divided by doubt and sometimes even despair.

Finally, there came a moment when we simply refused to summon the strength to make another start. In November of 1968, our people voted for the safety of standing still—for what a national news magazine called "the cooling of America." We reached back to Richard Nixon—to the image of what happened even before we tried to move our country forward. And since then, we have spent so much of our energy in recriminations about the past. Only a week ago, the Senate voted down a foreign aid bill—not because most Senators thought it was wrong to help human beings in need—but in reaction to accumulated anger and mounting frustration about the events of the last decade.

Some commentators think that this is what Americans want—a careful consolidation of the present and a prolonged post mortem of the past. I wish those commentators had traveled with me in recent months. For I have seen the mood of this country changing. I have sensed the stirrings of a renewed faith that the work of our own hands can shape a more decent future.

I have found Americans everywhere ready to reach out and touch the promise of things to come.

They are demanding not only a prosperous economy, but a just prosperity.

They are demanding not only an end to what is wrong, but so much more that is right . . . medical care open to everyone, higher education closed to no one, and the use of our wealth and our power to help the many who are in need instead of the few who are already well-off.

Most of all, Americans want the kind of leadership which will make America as great and as good as it can be. They want to learn from the past, but not to live in the past. And they want to be as proud now as they were in 1945 or 1961.

So this is the Democratic challenge and the Democratic opportunity—to lead again as we have led before—to convert the stirrings of hope into a new start toward a better country.

That is the historic mission of the Democratic Party. That is the call our party has heard and answered almost from the day this nation was born. And we cannot respond now by skimming across the suface of an economic issue which only begins to touch America's deepest concerns.

As Democrats, we must speak to those concerns—and we must speak and work together. For the other great danger we face is that the politics of exclusion will fragment our party and destroy our ability to lead.

The politics of exclusion claims that a fourth party would strengthen the Democratic party—or that only a new party could mount a campaign worthy of winning. But a fourth party would be a stunning defeat—for those who join it, for the Democrats who have invited them to leave, and for the beliefs all of us share. What we need is not a fourth or a fifth party—but the will and the strength to carry the first political party ever founded in this country to victory in 1972.

And on the vital issues which will determine the future and the fate of America, we have so much in common—with each other—and with Americans everywhere. So our task—yours and mine—is to build a coalition for change. Our task is to lead the nation—hardhats and students . . . blacks and whites . . . housewives and clerks . . . and all of those who believe this society can be truly great again.

We can lead them in the struggle for fundamental tax reform. It is not fair to tell primarily workers and the poor to ask what they can do for their country. And most of our citizens would join together and say "no" to a tax system which lets some millionaires pay less than their secretaries—lets great fortunes pass through loopholes, virtually intact—and lets giant corporations lobby for tax preferences and save billions for them.

We can also lead in the struggle for social justice. Most Americans have a stake in the outcome. Most of them would support national health insurance—so the nation that is first in the world in wealth can become first in the world in health. Most of them would support guaranteed jobs—so 300,000 veterans home from Vietnam and millions of breadwinners with families can move off of welfare rolls and onto payrolls. And most Americans would support equal rights for all Americans—in life as well as in law—for the minority who are not white and the majority who are women.

And the Democratic Party can lead in the struggle for a foreign policy which puts the lives of people ahead of cold war myths—for a domestic policy which stands against the concentration of private power—and for a law enforcement policy which really can make our streets safer and our homes more secure. And here again the tie of common interest can encourage a common effort. Law and order, for example, is not a black versus white issue. Black women are five times more likely than white women to become the victims of a violent crime. And blacks are at least as likely as whites to join in a campaign to make law and order a reality for people instead of a code word for prejudice.

So we can lead without excluding. As Democrats, the things that unite us are so much stronger than the things that divide us. Surely, then, we can make our party safe for diversity. Surely, from our heritage and our ideals, we can draw the strength to stay together—and then together, we can change America.

Our nation and our party have endured some difficult and painful years. But in 1971, our people are anxious to turn once more to the work of the common enterprise we call America. And in 1972, the Democratic Party must listen and respond.

We cannot win on the economy alone. But we have the issues to win the election. And more importantly, we have the chance to lead again.

So let us match our party's vision to our people's hopes.

Let us join again with Martin Luther King in the affirmation that we have a dream.

Let us say again with John Kennedy that we can move America forward.

And let us believe again with Robert Kennedy that we can seek a newer world.

The right issues are all around us.

Now let us build the right real majority.

THE 20TH ANNIVERSARY OF FEDERAL GOVERNMENT ACCOUNTANTS ASSOCIATION

Mr. MOSS. Mr. President, on behalf of the distinguished Senator from Wyoming (Mr. McGEE) I ask unanimous consent to have printed in the RECORD a statement and an insertion by him relating to the 20th anniversary of the Federal Government Accountants Association.

There being no objection, the statement and code were ordered to be printed in the RECORD, as follows:

Mr. McGEE. Mr. President, the year 1971 marks twenty years of the Federal Government Accountants Association's growth and dedication to improving financial management in the Federal Government. The objectives of FGAA are to:

Unite professional financial managers in Government service to do a better job for their own satisfaction and benefit of the Government;

Encourage and provide a means for free interchange of ideas;

Aid in improving financial management techniques and concepts; and

Improve financial management education in the Government.

From a humble beginning in 1950, with fifty-nine members in the Washington Chapter, the Association now boasts of sixty-four chapters and seven thousand men and women in the Government service engaged in accounting, auditing, budgeting, and related financial management activities. The membership represents 125 agencies and major divisions of Government service.

Mr. President, just recently, the FGAA adopted a code of ethics which I feel deserves the attention of everyone employed by our Government, as well as those individuals employed in private enterprise. Consequently, I ask unanimous consent that "the ethics" be printed in the RECORD.

FEDERAL GOVERNMENT ACCOUNTANTS ASSOCIATION CODE OF ETHICS WITH OFFICIAL INTERPRETATION

INTRODUCTION

The Federal Government Accountants Association is a national professional organization most of whose members are primarily engaged in Government accounting, auditing, budgeting, and related financial management activities.

The membership represents most Government agencies as well as industrial, educational, and private personal service organizations having an interest in Government programs.

The Federal Government Accountants Association's major program objectives are to:

Unite professional financial managers in Government service to perform more efficiently for their own development and for the benefit of the Government.

Encourage and provide an effective means for interchange of work-related and professional ideas.

And in improving financial management techniques and concepts.

Improve financial management education in the Government and universities.

PURPOSE OF THE CODE

In order to foster the highest professional standards and behavior and exemplary service to the Government, this Code of Ethics has been developed as guidance for the members of the Federal Government Accountants Association and for the information of their employers.

DEFINITIONS

In instances where reference is made to a member, it is intended to include all classes of membership. Where reference is made to employer, it is intended to apply to a Government agency as an entity and to a non-Government organization where the principle is considered applicable.

EXPLANATIONS

To better understand each ethical principle, a justification or explanation is provided to indicate where and how motivation or prescription of action is intended.

ETHICAL PRINCIPLES

Personal behavior

1. A member shall adhere to the Standards of Conduct promulgated by his employer.

This principle endorses the commitment of Federal employees to recognize the Standards of Conduct prescribed by their Government agencies pursuant to Executive Order 11222 of May 8, 1965, (30 F.R. 6469), and the Code for Ethics for Government service adopted by the Congress on July 11, 1958.

2. A member shall not engage in acts or be associated with activities which are contrary to the public interest or discreditable to the Federal Government Accountants Association.

This principle cautions members to avoid actions which adversely affect the public interest and the professional image of the Association.

3. A member shall not engage in private employment or hold himself out as an independent practitioner for remuneration except with the consent of his employer, if required.

This principle identifies a restriction against private earnings which result from the use of a member's professional qualifications without the express approval of his employer if required.

4. A member shall not purposefully transmit or use confidential information obtained in his professional work for personal gain or other advantage.

This principle prohibits the improper use of official position or office for strictly personal purposes, monetary or otherwise.

Professional competence and performance

5. A member shall strive to perform the duties of his position and supervise the work of his subordinates with the highest degree of professional care.

This principle emphasizes the requirement for a member to give special attention to the professional aspects of his work and not to condone sub-standard performance at any level within his responsibility.

6. A member shall continually seek to increase his professional knowledge and skills and thus to improve his service to employers, associates, and fellow members.

This principle stresses the importance of professional development and the use of professional skills in helping his colleagues and employers.

7. A member shall render opinions, observations, or conclusions for official purposes only after appropriate professional consideration of the pertinent facts.

This principle stresses the importance of avoiding unsupported opinions involving professional judgements which could cause inappropriate official actions.

8. A member shall exercise diligence, objectivity, and honesty in his professional activities and be aware of his responsibility to identify improprieties that come to his attention.

This principle places the responsibility upon a member to exercise moral and independent judgement and to disclose illegal, improper or unethical practices noted in the course of his work.

9. A member shall be aware of the strive to apply requirements and standards prescribed by authorized Government agencies which may be applicable to his work.

This principle recognizes that special professional criteria are promulgated by authorized Government agencies [e.g., U.S. General Accounting Office, the Office of Management and Budget, the Treasury Department, and others] which require attention in certain assignments.

Responsibilities to Others

10. In the performance of any assignment, a member shall consider the public interest to be paramount.

This principle stresses a member's foremost concern for the public interest in any specific work situation involving competing interests.

11. A member shall not engage in any activity or relationship which creates or gives the appearance of a conflict with his responsibilities to his employer.

This principle cautions against becoming involved in situations where a member's official or personal activities are inconsistent with his responsibilities to his employer.

12. In speaking engagements or writings for publication, a member shall identify personal opinions which may differ from official positions of his employer.

This principle stresses the need to avoid inappropriate interpretations by the public from speeches or articles by members which reflect personal rather than official viewpoints of their employers.

NOTES

Guidelines of the Federal Financial Management Standards Board present conclusions of at least two-thirds of the members of the Board. The Board is the senior technical body of the Association charged with the responsibility to study, develop, and promulgate standards and principles in financial management areas relating to ethics, education, accounting, auditing, budgeting and other fields pertinent to the Association's interest.

Arthur L. Litke, Chairman; John P. Abbadessa; William J. Armstrong; Donald Bacon; Andrew Barr; John R. Croxall; Nathan Cutler; Boyd A. Evans; William Petty; Frederic H. Smith; Eugene J. Schuchart, Secretary; FEDERAL FINANCIAL MANAGEMENT STANDARDS BOARD, 1971.

THE MEASLES EPIDEMIC

Mr. HARTKE. Mr. President, a measles epidemic is spreading across this Nation. More than 70,000 cases have been reported to date in 1971—almost twice the number for 1970.

The facts about this epidemic are not widely known because the children who are most affected are not of the urban middle class. They are the children of the urban and rural poor. In vaccination programs which seek to reach only 70 to 80 percent of all young children, it is the children of the poor who are neglected.

With the introduction of measles vaccine in 1963, it was expected that this disease could be virtually eliminated in the United States within a few years. Progress in the eradication of measles was significant through 1968.

In 1963, before the vaccine was introduced, there were more than 400,000 cases of measles reported to the Center for Disease Control—CDC. By 1966 the number reported had dropped to 204,136 and by 1968 to 22,231. In 1969, however, the number of cases rose to 25,826, and in 1970, increased to 47,363. So far in 1971, 72,782 cases have been reported. It should be noted that not all cases of measles are reported to the CDC. In 1963, for instance, approximately 400,000 cases of measles were reported to CDC, but the total number of cases in the country was estimated to be 4 million.

Mr. President, we can trace the increase in measles to the fact that not enough children are being vaccinated; and we can trace the paucity of vaccinations to the failure of the Federal Government to supply an adequate amount of free vaccine to those in need. The Communicable Disease Control Amendments of 1970, designed to provide grants to State and local governments to carry on a variety of vaccination and other communicable disease control programs, authorized $20 million in fiscal year 1970, $75 million in fiscal year 1971, and $90 million in fiscal year 1972. However, appropriations totaled only $2 million in 1971 and $20 million in 1972. Of this $20 million, $16 million has been earmarked for the fight to eradicate venereal disease. Allocation of the remaining $4 million has not yet been determined. At the same time, HEW has released $4.8 million for measles which was not used in its german measles program in fiscal year 1971. Some of this vaccine is still available.

The greatly increased number of reported measles cases so far this year makes it clear that we need a more aggressive program to control this sometimes very serious childhood disease. I, therefore, call upon the Secretary of Health, Education, and Welfare to release all available funds for measles vaccine immediately, before the epidemic spreads further.

Mr. President, I ask unanimous consent that recent articles on this subject be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

DOCTOR SCORES MEASLES POLICY

A pediatrician yesterday blamed the big outbreak of measles in five years on the Nixon administration's policy of switching funds from fighting specific diseases to block grants to the states.

"Kids in the ghettos are just not getting vaccine," said Dr. Stanley L. Harrison, secretary of the American Academy of Pediatrics and a practicing child doctor in St. Louis for 30 years. "Immunization programs in the inner city have deteriorated."

In response to the outbreak, the government said yesterday it is buying a measles vaccine for the first time since early 1969. It said it would distribute $4.8 million worth to states and communities to immunize about 8 million children, especially those in the inner city.

Cases of specified notifiable diseases

Measles:	
1971	72, 782
1970	43, 287
Median, 1966–70	43, 287

[From Medical World News, Mar. 19, 1971]

EPIDEMICS AHEAD?

MEASLES IS OUT OF CONTROL AND IMMUNIZATION LEVELS LOW IN POLIO AND DIPHTHERIA, EXPERT WARNS

Seven-plus years after the Vaccination Assistance Act started the U.S. on a national program to eradicate polio, diphtheria, rubella and other communicable diseases, the immunization goal may be slipping beyond grasp. Experts who a few years ago were talking confidently of eradication are now pinning their hopes on better control methods—and crossing their fingers at that.

Large segments of the population remain unimmunized, jeopardizing the herd immunity goal. Either epidemics of eradicable disease have occurred—diphtheria is a case in point (MWN, June 26, '70)—or else there have been threats of an epidemic, as with polio.

Worst of all is measles, says Dr. John J. Witte, chief of the immunization branch of the Center for Disease Control in Atlanta. Speaking at the Eighth Annual Immunization Conference in Kansas City, Dr. Witte said: "Today, measles is out of control."

Measles incidence fell dramatically after mass immunization campaigns were launched in 1966. Cases numbered 62,000 in the 1966–1967 epidemiologic year (roughly October to October) and kept falling. Yet in the winter of 1969, 16,000 were hit by the disease as compared with 7,500 the previous winter. And for the 1970–1971 year, the total may reach 70,000 cases, far above 1969–1970's total of 44,701. In some areas, the rise has been manifold (see pages following page 54 in most MWN editions). Between last October and this January, 11,929 cases turned up—46% over the same period last year and 176% over 1968–1969 figures. Says Dr. Witte: "We're back where we started five years ago. I'm ashamed of the way we've neglected measles."

Since measles encephalitis occurs in about one case per thousand measles cases, and permanent disability occurs in about one out of three encephalitis cases, this epidemic year could see 2,500 children condemned to handicaps ranging from mental retardation—requiring permanent institutional care—to learning disabilities. The failure is not in the vaccine but in delivering it to the needy, says Dr. Witte. Asked Dr. William Schaffner II, assistant professor of medicine at Vanderbilt University, "How good is the vaccine?" Answering his own question, he said, "It's no damn good in the vial."

Turning to diphtheria, Dr. Witte noted that last year's 500 cases are double the 241 reported in 1969 and the highest incidence in the past eight years. There were outbreaks in six states. And, warned Dr. Witte, "unless we improve our preschool vaccination efforts, we can expect epidemics of polio again." He added: "The time for complacency has run out. We must face up to some difficult professional challenges. We need to find the funds to purchase vaccines, the personnel to plan and administer programs, the methods to get at hard-to-reach groups."

The expert noted that DPT vaccine costs 3¢ a dose and every health department should be able to afford the cost. And another warning: "Prior to the diphtheria epidemic in San Antonio, Tex., immunization levels of schoolchildren and preschoolers there didn't differ significantly from national averages from urban areas. What happened in San Antonio could have occurred in a score of other cities."

And polio immunization levels are declining, too. In 1966, 79% of children aged one to four were adequately immunized. Last year, the figure was less than 66%. Dr. Witte is particularly worried about poverty areas of cities. "Some are ripe for a polio epidemic," he declared.

"This 66% figure may represent the national average, but let's not forget that there are pockets of susceptible individuals around the country where levels are much lower."

[From JAMA, May 10, 1971]

MEASLES, A RENEWED CHALLENGE

When Rhazes (860–932 AD), a physician living in the Eastern Caliphate in Persia, distinguished measles from smallpox, he provided the first accurate description of an ancient and widespread infectious disease. A relatively mild disease primarily affecting children in developed countries, it can be serious and devastating in less-well-developed lands and can be the cause of serious epidemics among nonimmune adults in isolated populations. Despite its relative mildness in recent years in countries such as the United States, measles is known to have a number of serious complications such as pneumonia, severe bronchitis, and bronchiolitis; otitis media; and encephalitis, mental retardation, behavior changes, and motor disturbances.[1] Rarer complications include purpura, corneal ulceration, pneumomediastinum, and even appendicitis.

Before the licensure of an attenuated live virus vaccine in 1963, more than 4 million cases of measles are estimated to have occurred annually in the United States of which 400,000 were reported. At the same time, approximately 4,000 estimated cases of measles encephalitis and 400 recorded measles deaths occurred each year.[2] Since the institution of measles vaccination programs, the number of reported cases dropped to 204,136 in 1966 and to 22,231 in 1968. The immunization effort from 1963 through 1968 is estimated to have averted 9.7 million cases of measles and 3,244 cases of mental retardation, and to have saved 973 lives, 555,000 hospital days, 32 million school days, and $423 million.[2] This accomplishment leveled off in 1969 with 25,826 reported cases.[3] However, hopes for the complete eradication of measles were dimmed in 1970 when 47,363 cases were recorded, and the prospect became even worse when the case reports for early 1971 led to estimates of over 65,000 reported cases for the current year.[4] According to the Center for Disease Control in Atlanta, the vaccine cannot be faulted since its efficacy ratio generally exceeds 90 percent. The problem appears principally to consist of the failure of the measles vaccination programs to reach preschool children in poverty areas in the cities and school-age children in many rural areas.[5]

It is interesting to note that a successful measles vaccination program has been accomplished in Gambia, a small West African country of 360,000 persons that is almost completely surrounded by Senegal. Gambia reported only nine cases of measles in 1969 and seven cases in 1970 in contrast to 4,228 in 1967 when mass vaccination activities were begun.[6] The United States, with its

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Footnotes at end of article.

formidable array of public health agencies, should be able to do at least as well proportionately. The combined efforts of these public health organizations and local and state medical societies should reach every part of this country with effective and continuing measles vaccination programs that will control, if not eradicate, morbidity and mortality from this ancient disease.

Asher J. Finkel, M.D.,
AMA Department of Environmental Public, and Occupational Health, Chicago.

FOOTNOTES

[1] Miller DL: Frequency of complications of measles, 1963. *Brit Med J* 2:75–78, 1964.

[2] Axnick NW, et al: Benefits due to immunization against measles. *Public Health Rep* 84:673–680, 1969.

[3] Reported incidence of notifiable diseases in the United States, 1969. *Morbid Mortal Weekly Rep* 18, annual suppl, Sept 1970.

[4] Surveillance summary: Measles—United States 1969–70. *Morbid Mortal Weekly Rep* 20:33–34, 1971.

[5] Conrad JL: Measles surveillance report, United States, 1970. Read before the Eighth Annual Immunization Conference, Kansas City, Mo, March 2, 1971.

[6] Foege WH: Measles control programs in Africa. Read before the Eighth Annual Immunization Conference, Kansas City, Mo, March 2, 1971.

[From the Wall Street Journal, Feb. 20, 1971]

Measles Resurgence Sparks New Campaign To Immunize Children—Health Officials Had Thought Disease Was Licked, But It Strikes in Poor Neighborhoods

(By Jonathan Spivak)

Washington.—"Measles Is a Thing of the Past, Help Keep It That Way," proclaims a poster in the dingy office of Dr. Michael W. Rosen, a Federal expert in communicable diseases stationed here at the city's Northwest Health Clinic.

But pasted right alongside that proud assertion is a newer poster. In big red letters, it warns: "Regular Measles Is Back. This Could Happen to Your Child—Death, Brain Damage, Blindness, Deafness."

This stark contrast sums up the measles situation throughout much of the country. After several years of dramatic decline, the disease is on the increase, particularly in the big city ghettos and among the rural poor.

To deal with the problem here, the first mass measles immunization effort in two years will be staged tomorrow in seven city clinics. It's hoped that several thousand children will be vaccinated and that the local outbreak, which has afflicted 300 children, will be contained. Until lately not a single measles case had been reported in Washington for more than a year. "It gave us a false sense of security," says Dr. Rosen.

For tomorrow's battle, 20,000 doses of measles vaccine are being shipped from the Government's Communicable Discease Center in Atlanta, which keeps an "epidemic stockpile" on hand for just such emergencies. Georgia's state health department is providing another 10,000 doses. The outbreak here has spilled over the Maryland border; in adjoining Prince George's County, mass immunization will also be conducted tomorrow.

A STUBBORN RESURGENCE

Measles, once a nearly universal childhood disease, causes high fever and an annoying red rash, and the complications can be severe, even fatal. (It is not to be confused with German measles, or rubella, a far milder affliction—except to expectant mothers, whose children may be born defective.)

Measles was thought to be on its way out after the introduction of a vaccine in 1963. Reported cases fell from 400,000 in 1962 to a mere 22,000 in 1968, and public health officials boldly predicted imminent eradication.

Now, however, the disease is staging a stubborn resurgence. The incidence is running at twice last year's level, and most major cities, including New York, Cleveland, Chicago and Baltimore, have been hit by epidemics. (With the sharp reduction in its incidence, any large concentration of cases now qualifies as an epidemic.) To a lesser degree, rural areas in Louisiana, Virginia and Idaho have also been affected.

But mainly the measles virus is concentrating on a special target—poor children in the central city, often Negroes and Latin Americans, who have been missed in past community-wide vaccination campaigns.

Last summer Cleveland had its first measles outbreak in five years, confined to a handful of Latin-American children; now the disease has afflicted large parts of the city's west side ghetto. A measles outbreak started last fall in Chicago with 163 youngsters, and now nearly 1,000 cases, including nine deaths, have been reported, most of them preschoolers.

MONEY IS LACKING

Public Health Service experts estimate that measles immunization has reached well over 80% of American middle- and upper-class children, but under 50% of the poor. Among their explanations: Less awareness in the ghetto of measles' dangerous complications, and immense difficulties in delivering medical care to the poor. Several years ago a similar upsurge of polio occurred in central city poverty areas, after that crippling disease had been almost eradicated.

"The problem is basically we have not learned how to reach the preschool child in the ghetto," worries Dr. Alexander D. Langmuir, director of the epidemiology program at CDC in Atlanta.

The difficulty is heightened because Federal funds to help communities purchase measles vaccine have been exhausted. The money was furnished under the Vaccination Assistance Act of 1962, which expired last year. CDC's epidemic stockpile is far too small to do the job alone, and the center is running low on funds to replenish it. "There's no money for measles at the present time; it's not considered important," Dr. Langmuir complains. "I can't interest anyone."

From 1963 through 1968, 32.5 million doses of measles vaccine were distributed, enough to protect many of the youngsters who had not already acquired natural immunity. But health experts say there is a continuing need to immunize each year's 3.5 million newborn children, as well as to wipe out the remaining reservoirs of ghetto susceptibles.

The Senate, spurred by Texas Democrat Ralph Yarborough, has passed an extension of the vaccination assistance program, partly to deal with the measles problem. But the Nixon Administration is firmly opposed, arguing that its broader "partnership-for-health" program is capable of covering the cost of measles vaccination. Partnership funds, however, are being focused by local communities on immunization against German measles, which has attracted more intense public concern because of its potential for causing miscarriages and birth defects. CDC officials insist that vaccination against regular measles remains a higher public health priority.

Measles vaccine is a weakened form of the measles virus, producing a mild infection and stimulating the body's natural defenses. It's judged more than 90% effective and is thought to counter lifetime immunity. The product is marketed by Merck & Co., Eli Lily & Co., Dow Chemical Co., Philips Roxane Laboratories and Parke, Davis & Co. Industry sources say the vaccine sells for $1 a dose or less in quantities for mass vaccination and for about $2.25 a single dose to the private physician.

The measles outbreak here in the capital is particularly distressing to health officials because this city claims to have mounted the nation's most thorough immunizing campaign. In recent years, shots were given to 150,000 youngsters in city health clinics, and uncounted more doses were delivered by private physicians and voluntary agencies. It's estimated that more than 90% of school children here are protected.

The first of Washington's current measles cases occurred last August at Junior Village, a city children's home, after the undermanned staff had suspended immunizations for the summer. Apparently, a 17-month-old toddler caught the disease while at a local hospital, and it promptly spread to 23 other children. City health officials moved in rapidly and vaccinated 100 other susceptible children and by September congratulated themselves that the outbreak had been nipped in the bud.

But within two months the disease had spread widely throughout all ghetto areas of the city. Experts say the actual number of cases to date may be two to three times the 300 reported. Significantly, none has been reported in the predominately white middle- and upper-income area west of Rock Creek Park. In Maryland, another 70 cases have been reported, including one death from respiratory complications.

Dr. Rosen and his associates will be happy if 4,000 to 5,000 children turn out tomorrow; the health officials figure that number will be enough to control the epidemic. Indeed, the number of new cases has already begun to drop from a post-Christmas peak of 65 a week.

But controlling the current measles outbreak won't prevent new ones. In the prevaccine era, measles epidemics occurred nationwide every two years, and that pattern may be persisting in the city ghettos while the suburbs remain free of the disease.

One preventive step contemplated here is to rearrange the schedule of routine immunizations at the city's free clinics, giving the measles shot priority over the smallpox vaccination.

Another step would be to modernize the District of Columbia's 64-year-old compulsory immunization law by requiring a measles shot before admission to public school; now only smallpox protection is needed. The change could be time-consuming, however, because in this city it will require an act of Congress. Only 15 states now have compulsory measles immunization laws.

Finally, a more thorough follow-up by the health department might assure that all newborn children had received protection. At present a computer system cranks out a notice three months after birth urging the mother to bring the child in for free shots. It's mailed in an envelope like the ones containing Government checks and is accompanied by a plastic-plate reproduction of the child's birth certificate. A stricter followup would include a routine recheck of all births at age 14 months to insure that the children are protected against communicable disease, including measles.

Mr. HARTKE. Mr. President, this crisis raises questions which many of us would like answered. It does little good for Congress to appropriate funds for an important program such as this if the President and his deputies fail to spend it. Perhaps the President wishes us to be a subordinate branch of government—to react to his initiatives and to sit back with apathetic indifference when he ignores our decisions. This is one Senator who will not let our country be ruled by Executive order.

There has been too much delay in the fight against measles. While we wait, the children of the poor suffer. We can take comfort in the fact that most of them will recover, but some will not be so fortunate. They will be doomed to a life of retardation. When we look at these children, will we remember that the vaccine was available to spare them this agony but that someone in a position of high public responsibility decided that it would not be released?

OPPOSITION TO FURTHER U.S. MILITARY INVOLVEMENT IN SOUTHEAST ASIA

Mr. FULBRIGHT. Mr. President, yesterday the Senate received a petition signed by members of the U.S. armed services on duty in Southeast Asia reading as follows:

> We, the undersigned American Servicemen on duty in Vietnam, wish to express our opposition to further United States military involvement by air, sea or land forces in Vietnam, Laos, Cambodia or other countries in South East Asia. We petition the United States Congress to take whatever action necessary to assure an immediate cessation of all hostilities in South East Asia; to set a near date for final and complete military withdrawal; to insure a rapid and peaceful return of American Prisoners of War; and to assume and assert its responsibility for determination of future American Foreign policy.

More than 900 American military men on active duty in that area of the world have signed this petition. Without regard to the effect of such action on their careers, they have made known to the Congress their opposition to the war.

Their action has the effect of supporting the Mansfield amendment and I commend their initiative and courage to Members of the Senate. The petitions are on file with the Committee on Foreign Relations for Members who may wish to see them.

BIRTHDAY GREETINGS TO SENATOR WILLIAMS

Mr. HUGHES. Mr. President, since December 10 is the birthday of one of our most esteemed colleagues, the senior Senator from New Jersey, I would like to add a few words of personal tribute to the happy birthday messages he is receiving.

I know that PETE, whose friends and admirers are legion, is receiving many congratulatory messages today. But it occurs to me that if all the people in the United States who have benefited greatly from Senator WILLIAMS' constructive work in the Senate were aware that this is his birthday and were to send him a card, the mail would fill the Capitol Rotunda.

City people and suburbanites would want to wish him happy birthday because of his leadership in mass transit, housing, and other legislation to benefit urban America.

Elderly people would wish him well on his birthday because of his fight to increase social security benefits, his work to improve medicare and his other good works for senior Americans.

Working men and women would wish him many happy returns of the day for his continuing battle to provide safe working conditions for American labor and for his leadership in other causes on their behalf.

Minority citizens, consumers, environmentalists, educators, veterans, migrant workers and other groups of rank-and-file Americans have reason to wish Senator WILLIAMS many happy returns on this December 10.

As a member of the Committee on Labor and Public Welfare of which he is chairman, I have particular reason to be appreciative of his strong and sensitive leadership in efforts to meet the Nation's critical health needs, including the struggle to develop enlightened national programs to alleviate the suffering of drug abuse, narcotic addiction and alcoholism.

In my own association with Senator WILLIAMS, I have found him to be an able, doggedly determined public servant in fighting for human interest causes that are often uphill. More than that, he is a warm and compassionate human being.

I know all Senators join with me in wishing PETE a happy birthday. He has earned it.

FAILURE OF U.S. POLICY IN SOUTH ASIA

Mr. KENNEDY. Mr. President, a tragic and senseless war—a war as unnecessary and as senseless as all wars—continues to spread today across South Asia. There has been during the last few days a great deal of handwringing and rationalizing over why and how this war came, who is responsible for it, and what can be done about it.

Over just the last 3 days there has been an unusual flurry of briefings by nameless high-level spokesmen within both the Department of State and the White House attempting to clarify this administration's policy toward the crisis in South Asia—a policy which still, to many Americans, defies understanding.

For despite these briefings, and counterbriefings, and off-the-record statements, our Nation's policy toward the 8-month-old crisis in East Bengal remains as unclear and as contradictory as it has from the beginning.

During these 8 long months of bloodshed and tragedy in East Bengal our Government has placed our foreign policy toward Pakistan on an altar of leverage, insisting that silence could bring influence—that by avoiding the condemnation of genocidal acts by the West Pakistan Army against the people of East Bengal, it would somehow stop that genocide—that by continuing the shipment of American military equipment to the Pakistan army, the army would somehow stop using it to suppress East Bengal. But surely there is no more specious an argument than this, which says that to have leverage we must contribute to, and support, the very problem we seek to address.

As outlined this week by anonymous White House spokesmen, the United States over the last several weeks has engaged, in what they call "A Hectic Race Against Time" to achieve a solution that would avoid war. But, Mr. President, it is fair of us to ask when, if ever, this "race against time" began.

Did it begin, for instance, in mid-July? Certainly the situation then in South Asia was not basically different than it is now or has been from the beginning. And between July 7 to the 14th our Government had a peculiar opportunity to influence events on the subcontinent.

To refresh our memories, the situation at that time in East Bengal was that the Pakistan Army was touring the countryside killing members of the banned Awami League Party, and slaughtering in the process thousands of innocent men, women, and children. Over 7 million refugees found it necessary to flee to India in order to escape the bloody terror of repression—some 45,000 were fleeing each day. The freely elected leader of East Bengal, Sheikh Mujibur Rahman, was still in jail. In West Pakistan, President Yahya Khan was vowing to condemn Sheikh Mujib for treason and sought to normalize the situation in East Bengal by forming a puppet government of politicians sympathetic to the military regime. Martial law was tightening its grip on the cities, and the threat of famine stalked the land.

In India, relief workers were struggling to deal with the largest human tide of refugees in modern history: Attempting—but not succeeding—in providing minimal shelter, food and medicine to a hopeless people dying by the thousands under the monsoon rains. As India strained under the refugee burden—a cost which has totalled more than all the funds it has received in foreign aid for economic development this year—Indian leaders complained that they could not withstand the pressure much longer, that the refugee flow must be stopped, that it would be cheaper to go to war than suffer this intolerable drain on its society.

Such, then, was the desperate situation in South Asia last July, when Mr. Henry Kissinger traveled to India and Pakistan while on a world tour. He was, we were told, the President's personal representative to speak to the leaders of India and Pakistan about the conflict in East Bengal, and its repercussions on the stability of the region. Many Americans were gratified that the intensifying conflict in South Asia was finally receiving the attention and the priority it deserved by the highest officials of our Government. Until then, many of us in Congress had worried over the silence and inaction that had characterized our Government's policy toward the crisis—a silence and a lethargy made clear to me during hearings on June 28 of the Subcommittee on Refugees, for which I serve as chairman.

When Mr. Kissinger disappeared for several days from public view while visiting President Yahya Khan in Islamabad, many speculated—and all of us hoped—that he was secretly trying to get at the root of the problem in South Asia by visiting Sheikh Mujib, jailed in secret, near Islamabad.

But, as we now know, Mr. Kissinger was neither negotiating nor primarily concerned about the root cause of the conflict in South Asia, but rather about America's policy toward China.

Mr. President, if we have been in such

a "race against time" for peace in South Asia, as White House spokesmen now tell us, then where was the President's representative racing off to last July? Certainly not toward a peaceful resolution of the conflict raging in East Bengal—a conflict that was then already 4 months old. Rather he had headed toward Peking and more substantive negotiations unrelated to the refugee tragedy which he refused to see first hand in South Asia.

Mr. President, as I said in this Chamber just 3 days ago, this administration has rightly taken pride in its efforts to reestablish contact with one-fifth of mankind's population in China. But are we at the same time—by neglect, by wrong-headed, short-sighted policies—going to allow one-sixth of mankind, located in India, the world's largest democracy, to become permanently alienated from the United States? In our rush to place a new priority on China, are we going to simultaneously relegate India—a nation with which we have had 25 years of productive relations—to a new low in our priority?

The fact is that throughout the past 8 months of crisis, our Government has consistently sought to minimize the seriousness of the situation in South Asia. At the very beginning of the crisis—during the days immediately following the bloody night of March 25, and after our Government knew of the situation from secret cables sent from Dacca by our Consul General—the Department of State refused to be candid, publicly or otherwise, even in announcing the emergency evacuation of American personnel and dependents. Instead of calling it an evacuation—which would have implicitly confirmed the reports of violence and repression, which the Pakistan Government was explicitly denying at the time—the State Department reached into its bag of euphemisms and called the exodus of U.S. personnel a simple thinning out of Americans.

My concern over these early signs of disaster in East Bengal, and over our Government's inaction, were first stated on the Senate floor last April 1. I reiterated these views on April 6 in a letter to Secretary of State Rogers. My letter said in part:

> Reports from East Pakistan continue to tell of human tragedy as a result of the current civil war. Indications last week of indiscriminate killing and the threat of famine prompted me to express my deep concern over this situation on the Senate floor. The latest evidence from the field serves to confirm my worst fears.
>
> Frankly, it distresses me that our Government should be so silent—both privately and publicly—on the disaster overtaking Pakistan.

I fully appreciate the immense difficulties involved in the East Pakistan issue. However, I believe our Government should protest actions that involve the widespread and indiscriminate shootings of civilians, particularly when American arms are being used. More importantly, we should do what we can to encourage an end to the violence, directly or through others. We should actively support and contribute to a relief program to help meet the humanitarian needs produced by the conflict. It would be reassuring to me and to many Americans, if we could be informed of our Government's active concern in these matters.

Subsequently, our Government downplayed the threat of food shortages and famine in East Bengal, and understated the role of American arms in our relations with the Yahya regime. These facts, Mr. President, are well documented in the hearings of the Subcommittee on Refugees and are outlined in my November 1 report to the subcommittee. I ask unanimous consent that these excerpts from my report be printed in the RECORD at the conclusion of my remarks.

Mr. President, we find that after 8 months of calculated indifference to the escalating tragedy in East Bengal—after months of silence in the face of massive human tragedy—the highest officials of this administration now tell us that they were in a "race against time" to preserve peace. But it is apparent that this "race" began only a few weeks ago—and far too late to be effective or even relevant.

American officials over the weekend condemned India because—to use the words of one unnamed State Department source—"India wanted to move too rapidly for the process of political evolution in East Pakistan which the United States was promoting." What is too rapid in a crisis that has festered 8 long months—where in refugee camps children are dying at the rate of 4,300 each day, and countless thousands more go without food or shelter. Perhaps if Americans were faced with starving and wounded refugees pouring over our borders at the rate of 45,000 each day, we, too, might then move rapidly.

Although the resort to armed force to settle international disputes can never, of course, be condoned, we cannot but be dismayed that the situation in South Asia has been neglected to the point where both Pakistan's and India's armed forces are now involved in the fighting launched by President Yahya Khan's attack on the night of March 25. But to now assign "blame," in the way that this administration has, is not only counterproductive, but dishonest.

The rationalizations stated this week by White House spokesmen leave several erroneous impressions, Mr. President, as well as deliberately misrepresent certain facts. For example, the assertion that the Government of Pakistan agreed "in principle" to negotiations with Bangla Desh representatives, and, that the United States offered a "plan" to India to avoid war and provide negotiations.

Well, the facts are now coming out, and they document that the scenario of events was far more complicated than these spokesmen would have us believe and the so-called plan for negotiations was something less than concrete. In fact, official reports from the field indicate that at no time did President Yahya Khan ever agree, without many qualifications, to a pledge to undertake negotiations with high-level Bangla Desh representatives. More importantly, at no time has President Yahya Khan agreed to release or even to directly negotiate with Sheikh Mujib—the man who remains at the heart of the East Bengal crisis.

More distressing still, Mr. President, is the evidence of Pakistani intransigency reported this week by the distinguished senior Senator from Ohio, who recently returned from a visit to both India and Pakistan. In reporting on his visit, Senator SAXBE states, and I quote:

> I suggested to President Yahya that he proceed with granting at least a degree of autonomy to East Pakistan. He told me he was willing to do this and he seemed very sincere. But 10 hours later, Pakistani planes bombed six military airfields inside India and this, in turn, triggered a land invasion by India.
>
> Yahya Khan lied to me. He had planned that bombing mission at the time he talked to me. I believe the shooting war could have been averted and India could have been kept from launching an invasion if Pakistan had granted autonomy to East Pakistan.

Equally as disturbing, Mr. President, are reports yesterday from officials in the field that indicate that as long ago as the middle of October, the U.S. Ambassador to India was instructed to call upon the Indian Foreign Minister in New Delhi to warn India that American sources predicted that Pakistan planned to escalate tensions along the western borders of India if the Bengali guerrillas, the Mukti Bahini, intensified their activities along the eastern borders in East Bengal. Indian leaders were officially warned that such an escalation, even if undertaken by Pakistan, would have "serious effects on Indo-American relations." There was little suggestion that such a development would effect United States Pakistani relations. No plan for peace or direct negotiations involving Sheikh Mujib was reportedly offered—just a warning that if India did not curtail its support of the Bengali guerrillas then war would be inevitable—or so predicted American officials in October—2 months ago—without any meaningful alternative offered to India by U.S. officials.

Mr. President, as our national leadership has been incredibly silent during the past 8 months, the specter of human deprivation and violence has engulfed South Asia. It is now a late stage in the crisis, but the opportunity still exists, I believe, for our Government and the international community to make a positive contribution toward the peace and relief of the area.

By ourselves we cannot solve the crisis, and by no means should we become directly involved in it. But to a degree we are already "involved"—our guns and equipment are involved, our economic aid, and our diplomacy—so it is not a question whether we should become involved, but how we should use our present involvement.

As Prime Minister Indira Gandhi wrote in a letter to our Government just a few weeks ago:

> I hope that the vast prestige of the United States and its wisdom . . . will be used to find a political solution acceptable to the elected representatives of East Bengal and their leader Sheikh Mujibur Rahman. On my part I shall make every effort to urge patience on our people. However, I would be less than honest if I were not to repeat that the situation in which we find ourselves has long been an unbearable one.

Mr. President, for the international community to help resolve this crisis we must press for a standstill cease-fire that will provide the "cooling off" period necessary to begin immediate and simultaneous negotiations between India and Pakistan—and between Islamabad and its Bengali opposition under the leadership of Sheikh Mujib. The purpose of the Indo-Pakistan talks would be to restore the 1965 cease-fire along the western borders, while the Islamabad-Bengali negotiations would determine the future status of East Bengal.

Anything short of this will mean the continuation of the war and even greater tragedy. And so I urge again that our Government must turn its policy around—to begin to consider the source of the violence, not just the manifestations of it—and move on a political settlement in East Bengal.

Mr. President, I ask unanimous consent that excerpts from my report to the Subcommittee on Refugees, as well as other recent articles, be printed in the Record.

There being no objection, the items were ordered to be printed in the Record, as follows:

U.S. Policy Toward the Crisis

Throughout the past several months our government has consistently sought to minimize the seriousness of the situation in East Bengal and South Asia. Our government down-played the threat of food shortages and famine in East Bengal, and understated the role of American arms in our relations with the Yahya regime. On the question of famine, our government as early as June 21 had official reports from the field—not to mention earlier information from international agencies—predicting serious food shortages in some areas of East Bengal. Cables from the American Consul in Dacca, one of the few official sources of information about human conditions inside East Bengal, were warning the State Department in Washington that the threat of outright famine was great. One such confidential cable on July 6 reads as follows:

"Specter of famine hangs over East Pakistan and prospects for averting widespread hunger, suffering, and perhaps starvation not, repeat, not good. Government of East Pakistan officials largely enervated by fear of military. United Nations moving far too slowly. . . .

"In official circles in Pakistan famine is a forbidden word. The line being taken by the Government of Pakistan and the Government of East Pakistan is that stocks are adequate and no major food problems are in sight. Nonetheless, it is our view that famine conditions . . . will probably prevail in much of East Pakistan over the coming year. Moreover, because of line the Government of Pakistan and the Government of East Pakistan are taking, prospects for averting famine conditions not, repeat, not good."

When Press queries about famine were made in mid-July, State Department spokesmen seemingly went out of their way to protect the sensibilities of the Pakistani government by consciously understating the potential for famine in East Bengal. This neglect of field reports prompted the American Embassy in Islamabad to file this cable of protest on July 15:

"We are concerned . . . that Department stating publicly that there is no evidence in field reports which would bear out predictions of coming famine in East Pakistan. Perhaps spokesman not apprised of most recent field reports which indicate famine real possibility.

"In our view, public statements inconsistent with this line likely impair effectiveness of our representations here. . . . Further public statements . . . should reflect recent field reporting."

It was not until July 22, in response to questions from members of the Subcommittee, that Department of State officials publicly recognized the situation. We can only speculate why our government refused, for so long, to speak candidly of the potential for famine in East Bengal; for the net effect of minimizing the seriousness of the problem was to reduce the urgency of our response and to defer needlessly those substantive international efforts that were needed to save human life.

Although in the early days of the East Bengal crisis it looked as though our government's policy suffered simply from a lack of candor and a lethargy towards the urgent humanitarian needs involved, it did seem as though we were ending our military participation with the government of Pakistan. On April 20, the State Department announced an end to the shipment of further American arms to Pakistan. In a letter to the Chairman on that date, the Department stated explicitly:

". . . we have a modest program of cash and credit sales to Pakistan of non-lethal military end-items as well as some spare parts and ammunition. We have been informed by the Department of Defense that none of these items has been provided to the Pakistan Government or its agents since the outbreak of fighting in East Pakistan March 25–26, and nothing is presently scheduled for such delivery."

Yet on May 8, the Pakistani ship Sunderbans left New York harbor for Karachi, Pakistan, laden with American military supplies. Neither the press nor the Congress knew of its departure. Its sailing said a great deal about the course and purpose of the Administration's policy towards South Asia. And contrary to every impression, U.S. military supplies were continuing to flow to Pakistan.

Some have tried to explain the apparent discrepancies between our officially stated policy and the continued shipment of arms by noting that the phrase "scheduled for delivery" has a more intricate meaning than commonly assumed. "Delivery" in the Department of Defense means, they say, the transfer of title, which occurs long before actual shipment. Once military goods have been "delivered", the shipper must obtain a license from the Department of State's Office of Munitions Control before actual shipment. All this can take up to a year.

But such ornate descriptions of the military aid process, or apologetic claims of "bureaucratic bungling," cannot explain away the continued shipment of military equipment to Pakistan. This was made clear in June 28 testimony before the Subcommittee. After a reported White House-level review of the arms policy toward Pakistan, Deputy Assistant Secretary of State Christopher Van Hollen admitted "that there may be certain items moving in the future based upon items turned over by the Department of Defense prior to April, or on commercial licenses that are still out-standing." In other words, the Administration determined not to embargo the $27.4 million worth of arms still in the pipeline as of March 25. Such an embargo could have been effected with just a few phone calls.

Under current policy, therefore, military supplies have been flowing to Pakistan—not in the quantities that might have been shipped if new licenses were granted, but in sufficient quantities to help the Pakistani army in its suppression and to carry enormous symbolic weight.

The State Department, as outlined in Mr. Van Hollen's testimony, has given three reasons for this policy. First it is said that an embargo would "be seen as an unwarranted intrusion into an essentially internal problem, which can only be resolved by the Pakistanis." The implication is, of course, that our government can somehow maintain a hands-off posture towards Pakistan while still sending military supplies to its military government. But surely this is a contorted argument. For the cold fact is that our government is already involved—with guns and money, with more than a decade of economic and military assistance. American aircraft and tanks have been reported in action, even by U.S. officials. So the question is how America should be involved; whether our government should continue supplying more arms, or supporting instead efforts toward political settlement in East Bengal and humanitarian programs for the millions in need.

A second argument advanced by the State Department to justify not cutting off military supplies is that it "would cause Pakistan to rely exclusively on other sources of supply". In other words, if we don't supply the equipment, somebody else will. This is, and always has been, a weak and very defensive argument, capable of justifying any policy as long as there is a single party in the world who will fill the void if we abstain. It relies not on the positive merits of a program, but on the fact that other nations might be willing to do what we should not be willing to do. The fact is that in Pakistan arms are already being imported in great volume from China and elsewhere, and our supplies are only a small portion of current Pakistani military imports. So why not cut our symbolic ties?

The State Department replied rather obliquely that the third reason for continued military sales is that it would be seen as a symbolic sanction if we imposed an embargo. As Mr. Van Hollen testified, "Such sanctions . . . would undermine our efforts to maintain a productive political relationship with the Government of Pakistan, to encourage the Government of Pakistan along constructive lines in the areas of mutual interest, namely in the areas of relief, of refugee return, and of political accommodation." This argument has become the heart of the Administration's position, even though the Government of Pakistan has shown only token "mutual interest" in such matters as humanitarian relief and political accommodation or settlement.

As the Administration has put the rationale subsequently, military aid is required to maintain our "leverage" over the Pakistani government in order to push for a cessation of the killing and political repression. But surely there is no more specious an argument than this, which says the establishment of "leverage" requires regular contributions to the very problem being addressed. It would be better to cut off military aid, as well as general economic aid, and then make its restoration contingent upon some demonstration of humanity on the part of Pakistan, than to mindlessly continue the arms flow in the hope of some day achieving that leverage. As it is we are bargaining against ourselves.

Although it was clear from testimony before the Subcommittee that our government's continued military aid to Pakistan flows directly from Administration policy, many observers still believe it is a product of bureaucratic inertia. It would seem so from a General Accounting Office (GAO) investigation, which recently uncovered some $10,000,000 worth of "offer and acceptance" contracts, in which the U.S. took the initiative in offering Pakistan military equipment, such as parts for fighter aircraft, like the F–104. Needless to say, Pakistan accepted the offers, and at least one contract was "validated and approved for implementation" in July, long after authorizations for new arms shipments had been declared forbidden. As indicated in

Mr. Van Hollen's testimony before the Subcommittee on October 4, the State Department, while surprised at the existence of the contracts, has taken the position that the goods could not be shipped without licenses, which would not be granted under existing policy. Accordingly, the contracts were called mere contingency items in case policy changes in the future. Whatever the facts are—which the GAO is seeking to clarify during its current investigation—there is considerable evidence that the State Department's control over what sails for Pakistan is woefully deficient and sadly confusing.

Nothing has come to symbolize more the intransigency of American policy of supporting Islamabad, than the shipments of military supplies. And nothing has come to symbolize more the bankruptcy of this policy—carried out in the name of "leverage"—than the simple fact that the repression of East Bengal and the flow of refugees into India continues.

F. RESPONSE OF THE UNITED NATIONS

At least three separate, but inter-related, United Nations efforts have been implemented or proposed to deal with the crisis of people in South Asia. The first, on the Indian side of the border, is the operation of the United Nations High Commissioner for Refugees (UNHCR). As noted earlier, since very early in the crisis, and at the invitation of the Indian Government, the High Commissioner has served as the "focal point" for the international relief effort in behalf of East Bengali refugees in India.

The second U.N. effort is on the Pakistan side of the border in East Bengal, where a U.N. Relief Mission, headed by a special representative of the Secretary-General, is attempting to implement a relief program. The Mission's principal aim is the movement and distribution of food supplies, mainly in rural areas, in order to avoid food shortages and famine.

To facilitate the movement of food upcountry from the ports of Chittagong and Chalna, the U.N. Relief Mission is obtaining, with U.S. assistance, some 26 vessels. In testimony before the Subcommittee on October 4, Maurice J. Williams, Deputy Administrator of A.I.D. and U.S. Coordinator for Relief Assistance to East Pakistan, said these vessels, if effectively used, can move over 100,000 tons of food per month. To insure that the boats and other materiel are not confiscated or attacked, Mr. Williams testified that " 'U.N. Relief' is being boldly marked on the boats, trucks and warehouses which carry or store food or other relief. There can be no mixed cargos, lest someone think that humanitarian grain is mixed with something else. Return trips of boats and trucks do not carry jute, since it could be construed by the guerrillas as being foreign exchange support to the government." He said: "The U.N. Relief Mission in East Bengal insist on these rules. We insist on them. Only by clear-cut separation can food and other relief be kept above the battle." In response to the Chairman's questions, Mr. Williams testified further that a measure of assurance had come from those involved in the battle—the Pakistan army and the Mukti Bahini—that they would respect the purpose and integrity of the U.N. program.

An effective U.N. relief effort in East Bengal, however, remains more a hope and an aspiration than anything else. From the outset, the U.N. program has been extremely deliberate and slow. Perhaps, under the circumstances, that is all it could be. But the fact remains that, despite personnel in Dacca and good intentions toward the people in need and optimistic rhetoric in many quarters, no truly effective operational program exists. A mid-October field report to the Subcommittee makes these comments:

The main [relief] effort will have to be through the U.N. and the [Pakistan] government's food distribution. The contribution of the U.N. is that they are seeing to the distribution of food to the major inland ports. From the big ports of Chittagong and Chalna, the U.S. aid program has chartered vessels to bring rice and wheat up to the big river ports—and from there it gets to be distributed by the normal government distribution channels. The Army will not have anything to do with the food distribution—that is part of the agreement with the U.N. . . . The U.N. is only acting in a supervisory and advisory capacity. For example, they have a transportation expert here who is to give advice on the movement of food grains in large quantities. They are bringing in 1,000 trucks to aid in the distribution by road—but they will not actually be doing the distribution. All the distribution of relief supplies is to be done only by the government channels. The normal food distribution system is through fixed price shops or 'ration shops'. The people have to get a ration card and then they are able to buy the food at a fixed price . . . this is difficult for people in villages, because the ration shops are only found in the larger towns—people may live as much as 20 or more miles from a ration shop, and not be able to get their food from that source. Moreover, they need money to buy the food. In addition to this, there is supposed to be some emergency distribution of food grains by the government and the government itself will determine where there is an emergency area. So really, the food distribution will be done only with the efficiency that the government puts into it . . . and [they] are ill-equipped for carrying it out. In addition, there is the obstacle of the activities of the Freedom Fighters (and many villages are under the complete control of these Freedom Fighters), who have expressed an animosity toward the U.N. operation, since the U.N. did nothing for East Pakistan at a time when the Army was committing great atrocities. For about 4 months the U.N. did nothing and then, at the invitation of the Pakistan government, they came in. So the Freedom Fighters are, in general, opposed to the U.N. activities here. They say that they will allow the food distribution to take place, provided that the Army has nothing to do with it.

Quite clearly, the U.N. effort is having many problems in getting off the ground. These problems not only involve the sheer intricacies of organizing a relief effort on paper—but, more importantly, these problems involve the chaotic conditions, especially in transportation and government services, produced by the Pakistan army's repression, and the exploitive pressures from all sides in the resulting conflict between the army and its Bengali opposition. Judged by the Pakistan army's performance since the U.N. Relief Mission came into East Bengal, it seems clear that the Yahya regime is more interested in maximizing the political advantage the U.N. presence affords, than in taking care of the millions in need. As of November 1, at least, the army and its civilian front had sharply curtailed the dispersal and use of U.N. personnel in the limited relief effort and food distribution that was taking place. They were also withholding needed food stocks from relief posts being actively manned by voluntary agency personnel. They were moreover—according to some sources—confiscating relief supplies and logistic support for themselves, or for use in certain areas to gain the complicity and cooperation of hungry and hopeless people. Pressures against the U.N. Relief Mission were also increasing from the deteriorating security conditions resulting from the growing conflict between the Army and the Mukti Bahini. Most observers agree, however, that, with one or two exceptions, freedom fighters have not been making a special target of U.N. food shipments and distribution centers. In fact, as of November 1, some observers believed that the Mukti Bahini leadership had made a conscious policy decision not to interfere with the U.N. effort—to the extent this effort was being carried out. Further complicating the situation is the simple fact that substantial portions of East Bengal are no longer under army control. Any U.N. relief program in these areas will presumably be subject to new arrangements between the U.N. Relief Mission and Bangladesh leaders.

However, the situation is described, one thing is clear: with the absence of an early political settlement between Islamabad and its Bengali opposition—or a decisive military victory by either side—there seems to be little cause for optimism about the plight of the people remaining in East Bengal and the effective functioning of the United Nations Relief Mission.

[From the Washington Post, Dec. 8, 1971]

Real Help for Pakistan

Within the confines of its open and full political support for Pakistan, what constructive steps might the Nixon administration take to actually help Pakistan and ease the crisis in South Asia? We say "actually" help because so far Mr. Nixon's support has merely made it easier for the government in Islamabad to get into terrible trouble: in the East its sway is shrinking and in the West it is under siege from what seems superior Indian force. Whether Yahya Khan would have gotten Pakistan into this fix without American support is a fair question.

But what can the U.S. do now? Any answer must start here with the assumption that the Nixon administration, by its faithfulness to Islamabad especially in the latest stage of its travail, should have earned much influence. If in earlier stages American influence was not wisely applied or heeded, whichever obtains, it is not too late to try to recoup. In public statements and United Nations resolutions, Mr. Nixon may wish to stay in a tough anti-India posture, but it should be possible at the same time to help Pakistan. On his part, President Yahya can hardly remain impervious much longer to a friend's good advice: he has all but lost half his country and the other half is far from completely secure.

Though doubtless directed first of all at Americans, Mr. Nixon's pledge not to get "physically involved in any way" in the war surely was an important contribution to President Yahya's political education. Mr. Nixon should now go on to say that Pakistan's cause in the East is lost, that the beleaguered Pakistani garrison there cannot possibly endure, that Islamabad should use the Indian invasion as a facesaver to avoid the humiliation of defeat at the hands of Bengali insurgents, and that Pakistani soldiers should surrender to the Indians while they can rather than face slaughter by vengeful Bengalis.

Mr. Nixon could also tell President Yahya that, just conceivably, if he produced the Bengali leader Sheikh Mujibur Rahman, he could win back much world favor. More important, the political authority to be set up in former East Pakistan would be friendlier to Islamabad than if other Bengalis take over. This is so because probably only Sheikh Mujib has the stature to be more than an Indian puppet.

If Pakistan heeded this advice, then Mr. Nixon would be in a better position at the Security Council to work for a cease-fire resolution that would at once prevent the further spilling of Pakistani blood and ensure that Pakistan would not suffer territorial losses in the West. For it is plain enough that Moscow would not veto a resolution which acknowledged a Bengali political authority as well as called for a ceasefire. The divisions which have reduced the United Nations to impotence in the past week would be removed. This approach would not give Pakistan the grim emotional satisfaction it received from the American resolution that failed, but it would be a real political boon all the same. Incidentally, it would allow President Nixon to appear before the world as an effective peacemaker.

We continue to have serious reservations about Mr. Nixon's pro-Pakistan policy. But if he is determined to pursue it, let him do so in a way that is more likely to help Pakistan and the cause of Asian peace.

[From the New York Times, Dec. 9, 1971]

MR. NIXON AND SOUTH ASIA

(By John P. Lewis)

PRINCETON, N.J.—The Nixon Administration's South Asia policy, which had been edging toward disaster for the last eight months, finally, in a cloud of pious inanities, plunged over the brink this last weekend. Presumably for the time being the policy is beyond redemption. What now selfishly concerns me as an American is that India's leaders may exaggerate the degree to which the Administration's present aberrations represent thoughtful and enduring American opinion.

All the evidence suggests that within the Administration the aberrations trace directly and primarily to Mr. Nixon himself. For eight months he has remained officially blind to the most massive calculated savagery that has been visited on a civil population in recent times. He has been faithful to his good friend, the chairman of the savagery, Yahya Khan. Neither his hand-holding of nor any hidden leverage on the Pakistan regime has had evident effect in advancing a political solution in East Bengal.

To an Indian Government that, in the face of moral and human outrage next door and of an outlandish refugee burden, was showing remarkable restraint until recently, Mr. Nixon offered mainly counsels of restraint. He supplied no moral support. Instead for months he continued to trickle arms to Pakistan like so much gasoline onto smouldering Indian passions. The President has been fully aware both of the explosive domestic political risks the refugees posed in Indian Bengal and of the way they have totally derailed the cause of Indian development at its very moment of greatest opportunity. Yet he has not begun to exercise the leadership, either before the Congress or in the international community, needed to accomplish a quick and adequate sharing of refugee costs.

Such is the footing from which Mr. Nixon, first via his nameless State Department mouthpiece last Saturday, now from the White House itself, has branded India an aggressor. It is on this record that he has turned off, not just fresh economic assistance (which he had, in any event, been blocking since early in the fiscal year) but the unobligated portions of loans already committee. This last is extraordinarily tough action in terms of past aid practice, and one—lacking any prospect of cramping India's military capability—that can have only punitive intent.

Historians are bound to boggle at the cumulative ineptitude of this performance. In one series of strokes we have managed to align ourselves with the wrong side of about as big and simple a moral issue as the world has seen lately; we have sided with a minor military dictatorship against the world's second largest nation which happens also to be the stanchest of all developing countries in its adherence to our own deepest political values; we have joined the sure-fire loser in a subcontinental confrontation; and we have depleted a once abundant, durable fund of Indo-American goodwill at a sickening rate.

It certainly would be wrong to claim to our Indian friends that, in all this, the President is swimming against a tide of public opinion. There is little American tide of opinion of any kind about the subcontinent, and its surface flow is considerably influenced by what any President does and says. Moreover, many of our best editorial writers and columnists have such an absolute abhorrence of war—especially when escalated by others—whatever the provocation and whatever the closure of other options, that they cannot, just now, see much beyond the proximate causes of the Bengal border crossings.

I would like to emphasize one point that tends to be skirted, because no one wants to be caught these days suggesting that any good—even relative good, weighed against the alternative—can come of a war. The point, and it is pivotal, is that the only possible basis for a stable, peaceful East Bengal to which a large portion of the ten million refugees can return and help rebuild their nation is an independent East Bengal. Such is the effect of the program of terror since March 25; the scenario cannot be wound backwards. Hence (1) the premise of undivided Pakistan's sovereign integrity upon which American policy has rested, for at least five months, has been a nonstarter, and (2) India's support of the insurgency by the previously elected Bangla Desh regime has not been merely human and understandable; lacking alternatives, it has been the only constructive policy available.

I myself wish the Indians had escalated less, accepted a longer time frame, and kept their support less overt. But if there is any group which, have contributed most to the frustration of restraint, has least cause to fault her ensuing impatience, it is the Nixon Administration. It remains now for India to demonstrate that herd objectives are those, and only those, she held out; namely, establishment of a genuinely independent East Bengal to which the refugees can return. There is a heavy obligation on Indian leaders to make sure that war fervor does not spill over into more self-serving ventures, either to the east or to the west. Meanwhile, as this demonstration is being rendered, there is an obligation on Washington to keep quiet.

[From the New York Times, Dec. 9, 1971]

THE EMERGENCE OF BANGLA DESH

Defying a United Nations plea for a ceasefire, Indian forces appear on the verge of achieving New Delhi's major objectives in East Pakistan. These are the defeat of West Pakistani military repression in the disaffected Bengali province and the creation of conditions that will facilitate the speedy repatriation of nearly ten million refugees—Moslem and Hindu—to an independent, friendly and secular "Bangla Desh."

These would represent large short-term gains for the Indians, whose fragile internal stability has been gravely threatened by recent events in East Pakistan. The dismemberment of Pakistan would all but eliminate the menace of a militant Moslem neighbor, which would be reduced to less than half of its original size.

But India will have paid a heavy price for these achievements, even if the wider war with Pakistan is speedily ended without further serious loss of Indian territory in the West.

New Delhi's resort to force without first exhaustiing all possibilities for a peaceful resolution of the conflict—especially the cold rejection of U.N. Secretary General Thant's reasonable mediation offer—has shocked many of India's staunchest friends and alienated important segments of world opinion. India's violation of the United Nations Charter and defiance of the General Assembly has sharply diminished India's once proud moral standing.

India's support for full Bengali independence may have been made inescapable by the incredibly short-sighted and brutal policies of the Pakistani Government. But no one—especially the Indians—can ignore the new dangers and problems that will be posed by the emergence of Bangla Desh.

The success of secession in East Bengal could touch off a chain reaction of separatist demands throughout the subcontinent, in India as well as Pakistan. Desperately poor and heavily overpopulated—the present population of 75 million is expected to double in twenty years—Bangla Desh is likely to become a breeding ground for domestic unrest and a lightning rod for foreign meddling. It could become a magnet for the Bengalis of India and a destructive influence on the delicate structure of Indian unity.

To avert further impoverishment, fragmentation and conflict throughout the subcontinent it is essential that leaders in Delhi, Dacca and Islamabad thrust aside present divisions and acrimony and join in a search for new ties and institutions that will enable them to attack overriding common problems in dignity and peace. As the emerging dominant power, India has a special responsibility to assert the moral leadership for reconciliation that has been so sadly lacking in the present conflict.

[From the Newport Times, Oct. 9, 1971]

JUDGING INDIA

TO THE EDITOR: The Administration has announced a policy of strict neutrality in the India-Pakistan conflict and there must be many others who will join me in wishing that it would observe it—and in speech as well as in deed. I am sufficiently on record in my opposition to appeal to military force, whether by India or anyone else (I even opposed its use against Portugal in Goa).

But the history of this conflict did not begin when the Indian Army moved against East Bengal or (for that matter) when Pakistan bombed the Indian airfields last Saturday. It began last spring when the Awami League and the movement for autonomy it represented (and which had the overwhelming support of the people of East Bengal) were brutally crushed by the Pakistan military forces and when in consequence ten million people left their homes to find safety and temporary shelter in India.

To single out the Indians for special blame in a conflict that so began and so continued is outrageous. There has been much talk of late about avoiding the role of world policeman. Let the Administration also avoid the role of judge and juror, especially if its judgments are to be as here. [Editorial Dec. 8.]

JOHN KENNETH GALBRAITH,
Cambridge, Mass.

CLEAR-CUTTING IN THE NATIONAL FORESTS

Mr. McGEE. Mr. President, this month's Reader's Digest contains an article entitled "The Crisis of Our National Forests," written by James N. Miller.

Mr. Miller has done an excellent job of pointing up the vital necessity of developing new and much more farsighted policies in the management of one of our greatest national resources—the timber stands on our public lands.

Mr. Miller tells us of the devastating consequences of clear-cutting in numerous national forests due to poor management practices. He points out how this devastation was carried out with little or no consideration given to the possible consequences of poor management practices.

And, finally, Mr. Miller builds an excellent case for the setting up of an independent, interdisciplinary commission to study timber harvest methods on our public lands—something I have called for in vain for the past 4 years.

Mr. President, I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE CRISIS OF OUR NATIONAL FORESTS

(By James Nathan Miller)

The bitter fight between the lumber industry and the conservationists is a matter of concern to all Americans. If we are to save the finest piece of public land the nation owns, we urgently need to formulate new and farsighted policies.

As we drove over the heavily forested ridge and caught sight of the landscape ahead, my first impression was that somebody had been strip mining in the forest. All around us, covering a square mile of mountainside, was nothing but bare brown earth. Where a few months before had been a virgin forest, not a tree was now standing.

"Look over there," said Guy Brandborg, my guide. He pointed to other slopes a mile, three miles, five miles away. All bore the same huge scars. The area looked like a battlefield.

It *is* a battlefield. The Bitterroot National Forest in western Montana is the focus of perhaps the most significant struggle of today's conservation movement. For what I saw here was done by logging companies working under the supervision of the U.S. Forest Service (USFS), the guardian of our 183 million acres of national forest. As a result, the USFS—Smokey the Bear's people, the outfit that practically coined the word "conservation"—is being shaken to its roots by the charge that it is just another bureaucracy that has become the captive of the industry it is supposed to oversee, and in the process is presiding over the despoliation of our woodlands.

Is it? To see what is involved, start with the man who got the whole fight going, the old-time forest ranger who for 20 years was supervisor of the Bitterroot National Forest: my guide in the mountains, Guy Brandborg.

FORESTRY GONE MAD

In 1955, when Brandborg reached 62, he retired from the Service and settled down with his wife, Ruth, in the lovely Bitterroot valley. There, in the early 1960s, he began to see things in his old forest that made him uneasy. Two USFS practices in particular bothered him. "They set their allowable cut too high," he says. "And the way they were clear-cutting was pure murder."

Allowable cut? Clear-cutting? To understand these vital terms, take a quick look at the main law that governs the Service, the Multiple Use-Sustained Yield Act of 1960. "Multiple use" specifies two economic goods and three services that the USFS, in its management of our forests, must make available to the nation: timber from the trees, forage from the grazing lands, recreation, wildlife management, and the protection of our rivers' pure and constant flow through the sucking-in and leaking-out action of the forests' great sponge of roots and foliage. "Sustained yield" means, very simply, forever: the Service has to manage the forests so that we will never run out of the five benefits.

Brandborg's charge against the Bitterroot managers was the gravest possible one: They were violating both major provisions of the law that governed them. First, they had set their "allowable cut" so high that it let the valley's lumber mills cut more timber than the forest could re-grow. Second, the *way* they were allowing the loggers to cut favored timber production at the expense of the other uses. "It's forestry gone mad," said Brandborg. "A clear-cut[1] should be maybe 30 or 40 acres at most. Some of the cuts on the Bitterroot approach a thousand acres. They're wiping out animal habitats. They're scraping logging roads out of steep slopes where the gashes in the soil pour mud in the streams. They're destroying some of the forest's most beautiful trails and campsites. They're no longer a multiple-use agency, they're sawlog foresters."

BOMBSHELL

For a long time, Brandborg's complaints were ignored. But as the clear-cutting continued, other people started to get uneasy. Hunters and campers going back into the woods discovered that favorite glens and trails had been leveled in their absence. Ranchers noticed that the rivers coming out of the mountains were running exceptionally high in the spring, before the water was needed for irrigation. And everyone could see what the spreading cancerous scars on the hillsides were doing to the valley's beauty.

And so, in early 1969, the pot suddenly came to a boil. A local group wrote to the Forest Service demanding an investigation. A slashing series of articles on Bitterroot logging appeared in the daily *Missoulian*. In Washington, Montana's Sen. Lee Metcalf suddenly found himself swamped by hundreds of protesting letters. The result was *two* investigations: one an "in-house" inquiry by the Forest Service itself; the other, undertaken at Senator Metcalf's request, by a seven-man University of Montana faculty group that became known as the Bolle Committee, after its chairman, Prof. Arnold Bolle, dean of the university's school of forestry.

Last year, when the two committees' reports were published, they hit the U.S. forestry profession like a bombshell. Both confirmed Brandborg's first charge. The Bolle Committee: "Multiple-use management, in fact, does not exist as the governing principle on the Bitterroot. The overriding concern is for sawtimber production." The Forest Service: "There is an implicit attitude among many people on the staff of the Bitterroot National Forest that production goals come first and that land-management considerations take second place." The Bolle report also backed Brandborg's second charge: "We doubt that the Bitterroot can continue to produce timber at the present harvest level."

The forestry world was stunned. "Almost unbelievable," said an editorial in *American Forests*, the magazine of the prestigious American Forestry Association. "The ramifications are nationwide and will shake forestry to its foundations." Since then, logging interests have tried to get Professor Bolle fired, and the president of the Society of American Foresters has bitterly attacked his report as politically inspired. Clear-cutting has recently been the subject of a Congressional investigation, a bill has been introduced to put a two-year moratorium on the practice, and some conservationists have called for the firing of the entire USFS top management.

LIKE SAP THROUGH A TREE

All of which raises a basic question: Does the Service deserve all the abuse it's taking? The Bitterroot is only one of 154 national forests. Is it a fair sample?

"No," says Chief Forester Edward Cliff. "Any organization trying to manage as much land as we manage is bound to make some honest mistakes. Generally, however, the job the Service is doing is good and sound."

Perhaps. Nevertheless, there is strong evidence that the sawlog fixation that was exposed on the Bitterroot runs through the Service like sap through a tree:

"The emphasis on production is not unique to the Bitterroot," said the Service's own in-house report. "It is the result of subtle pressures and attitudes from above." "When our report came out," one of its authors told me, "forest supervisors all over the West said it described exactly what was happening in their forests."

The same reaction greeted the Bolle report. Of the more than 500 letters the committee received from Service personnel, rangers and forestry professors throughout the United States, four out of five confirmed its findings.

Since the Bitterroot uproar, there have been two other official investigations: an in-house investigation of four forests in Wyoming; a survey by a West Virginia legislative commission of clear-cutting in the Monongahela National Forest. Both found the same practices that existed on the Bitterroot.

In one respect, the evidence indicates that the Bitterroot may actually be *better* managed than other forests. Logging roads have caused some erosion there, but the USFS investigation found that it was not yet serious. Elsewhere it is calamitous. In Idaho's Payette and Boise national forests, rocks and mud pouring down from the logged-over areas—over 100,000 tons of the stuff annually, five times the natural erosion rate—have virtually wiped out the great salmon and steelhead spawning grounds of the South Fork of the Salmon River. In Wyoming, the Service's own report on its management of four forests is illustrated with pictures of logging roads that caused whole hillsides to fall into stream beds. In the Northwest, according to a 1970 report by the Federal Water Pollution Control Administration, "improper, low-cost logging operations" are as serious a cause of river pollution as pulp mills and municipal sewage plants. All this despite the fact that the USFS is specifically charged with *protecting* our watersheds.

PRODUCE OR ELSE

What, then, has come over the Forest Service? The answer is simple. Like many other regulatory and resource-management bureaucracies, over the years it has come to adopt the basic goals and philosophy of the industry it was supposed to police. The process went like this:

For almost half a century after the Forest Service was founded, in 1905, very little lumber production was required of it; over 95 percent of the U.S. supply came from privately owned forests. The Service regarded itself as the protector, not the exploiter, of the land. Then, suddenly, two things happened. In the 1940s, the lumber industry, having logged its way from New England to the Pacific Ocean, began to run short of its own trees. At almost the same time, along came World War II, with a huge demand for lumber—followed by a building boom unprecedented in our history.

"Almost overnight the price of Douglas fir on the stump went from $5 to $25," says Dave Burwell, forester for the Rosboro Lumber Company in Oregon. "And almost as quickly the Forest Service changed from a custodial agency to a production agency." Indeed, the message the Service got from Washington could not have been clearer: "More logging roads; more logging areas; produce or else." In 1940 there were 87,000 miles of roads in the national forests; by 1960 there were 160,000 miles. And as the roads snaked out, annual timber sales by the USFS soared: from 1.5 billion board feet in 1941 to 4.4 billion in 1951, to 8.3 billion in 1961—to 11.5 billion last year, 30 percent of total U.S. production.

In all of this it is essential to appreciate one fact: The agreement that developed between the Service and the industry was not, as many conservationists insist, a conspiracy.

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[1] The cutting down of every tree of every age in a given section of forest, as opposed to the selection-cut method in which only a few of the mature trees are cut down.

It was founded on a sincere belief that what they were doing was genuinely in the national interest. America needed lumber. It wasn't until the late 1960s, when we all suddenly discovered the glories of ecological virginity, that we started yelling rape.

What, then, to do about the situation? Of the many suggestions that have been flying through the air since the Bitterroot exploded, three in particular show promise of real reform:

Revive the land ethic. The Multiple Use Act gives the Service full authority to return to its old idea that the requirements of the land and the people as a whole—not the pressure of individual users—should be paramount. And in fact there are important signs that the Service has begun to do just this. Its two "in-house" investigations have shown it capable of real selfcriticism. Early this year, Chief Forester Cliff in effect admitted a long list of malpractices—bad road building, clear-cutting where there was no assurance of re-growth, erosion-causing logging techniques, etc.—by promising to stop them. Conservationists, however, fear that the present uproar will die down before there is real reform; in other words, public pressure must not let up.

Put the money where the need is. On only one point do all sides to the controversy agree. Through a grossly unbalanced funding system, Congress has allowed the forests to fall far behind their long-term timber-production potential. From 1963 to 1970, while it gave the Service 95 percent of the funds it requested for *selling* logs, Congress provided only 40 percent of what the Service said it needed for *growing them back*.

As a result, Cliff says, a huge 18 million acres of productive land—in terms of sawtimber, the equivalent of about 30 national forests—are either bare of trees or are producing timber at half their potential rate. Cliff estimates that he could increase production by about 60 percent if he were given adequate funds.

Plan ahead sensibly. Today our forests are at a watershed in their history. The Nixon Administration and the lumber industry say that, to provide lumber to end the U.S. housing shortage, we must soon start cutting a huge 60 percent more trees than we're now cutting. This means building logging roads into what conservationists call the "de facto wilderness"—acres of virgin timber that, under the 1964 Wilderness Act, are eligible for wilderness classification (no roads or logging allowed) but have not yet been so classified.

Conservationists reply that, if we manage our public and private forests properly, we'll have plenty of lumber without cutting the virgin stands. The threatened shortage is hokum—a "scare tactic," says the Bolle Committee, to provide an excuse for grabbing virgin areas before they can be set aside. Conservationists add that if the industry's heart is really breaking over the housing plight of the poor it should stop exporting lumber to Japan at premium prices. (In 1970, the state of Washington alone exported 1.7 billion board feet of timber.)

The argument goes on *ad infinitum*. Before making irrevocable commitments, it would be wise to look hard at two basic questions: How urgent actually *is* the need for more timber from the national forests? How much more can we get with proper harvesting methods? Last September, President Nixon appointed a five-man panel to explore these questions. It is fervently to be hoped that its report, due next July, will belie the charge made by some conservationists that the panel has a pro-industry bias. For the forests that are being fought over are the finest piece of public land we own—286,000 square miles of them, some 13 times the size of the national parks, seven percent bigger than Texas.

With the literally never-ending supply of products and enjoyment our forests can give us if properly managed, they represent, probably more than any other national resource, our economic and spiritual future. The battle of the Bitterroot shows that we have not been managing them in the best way. It's high time we started.

WYOMING COUNCIL ON THE ARTS

Mr. HANSEN. Mr. President, most Senators know that Wyoming has little more than three people to the square mile, on the average.

I can assure them that there is no complaint about this in Wyoming, because it allows the people fortunate enough to live in the State to enjoy a pollution-free environment second to none, and this certainly is an enticement to the millions of other Americans who visit Wyoming annually.

But it may come as a surprise to many to know that despite the sparseness of the population in Wyoming, there are continuing significant contributions to promotion and preservation of the arts in the State.

The coordinating organization for much of this outstanding activity in our State is the Wyoming Council on the Arts. A narrative report briefly outlining some of the accomplishments in this field during fiscal year 1971, and expressing gratitude for the help received from the National Endowment for the Arts, has been provided by Mrs. Robert Forrister, the executive director of the Wyoming Council.

Mr. President, I ask unanimous consent that the excellent report by Mrs. Forrister be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

NARRATIVE REPORT: WYOMING COUNCIL ON THE ARTS, FISCAL YEAR 1971

With the $75,377.00 matching fund grant to the Wyoming Council on the Arts from the National Endowment for the Arts for fiscal year 1971, a total of 43 projects were undertaken; 41 through sub-grantees and two by the Council itself. The matching funds for these projects came entirely from local sources, for state legislative funding was not available until the beginning of fiscal '72 for any operation of the Council.

Dollar amounts of the matching funds totaled $161,332.97, or nearly $2.50 for each federal dollar. This figure, however, could be deceptive, for it includes in-kind as well as cash matching. The in-kind matching includes services, supplies, materials, travel costs, and other similar items of very real dollar value, given with dedication and devotion of a sort which has in itself value far beyond monetary spheres.

An additional sum of $6,852.00 was allocated from the matching fund grant for operating expenses of the Council for an office. This sum marked a great step forward for service available to arts in the state, for it provided for a newsletter which provided for communication among those interested in same and different arts areas, e.g., dance, theatre, symphony, sculpture, crafts, museums, etc. It provided also for the kind of start toward a central office to coordinate the grants and the fiscal and aesthetic reports on arts needs, organizations and activities, both funded through grants and otherwise.

Prior to fiscal '71, fiscal reports for this Council and all its effort to administer funds and provide supervision to assure sound use of monies had been done without benefit of even an adding machine, with no regular secretarial help, save that hired on sporadic basis to meet long overdue report demands or similar crises. Members of the Council had paid from their own funds for all travel costs to attend meetings of the Council within the state, and to attend meetings out of the state, except for those specifically funded by the National Endowment for the Arts.

This $6,852.00 in federal funds was matched by $22,819.31 in private funds, largely in the form of donated office space and services. The Council's Chairman for 1971 devoted full-time, i.e., the 40-hour week routine, to serving also as an executive for the Council; the Council's Budget Officer donated what approached half-time to setting up and maintaining sound financial practices for the funds, and a number of interested friends of the Council donated many hours of secretarial time.

Perhaps the largest other boost, besides the administrative funding done in donated office space by Pacific Western Life Insurance Company, which continues to provide this very real service to us, and therefore to the arts in Wyoming. This donation constitutes sizeable dollar amounts, and it bears noting that the amount is no longer tax deductible, we understand, so the contribution includes such costs as utilities, janitorial service, and prestige of first-class officing.

The Wyoming Council's funding request for fiscal '71 was drawn in terms of three sorts of programs, special projects, technical assistance, and touring. On these terms, break-down of funding and matching figures for the year would be as follows:

	NEA funds Federal	Local matching	Total cost
Special projects	$27,177.00	$76,283,25	$103,460,25
Technical assistance	21,648.00	50,202.88	71,850.88
Touring	19,700.00	34,846.84	54,546.84
Total projects	68,525.00	161,332.97	229,857.97
Administrative	6,852.00	22,819.31	29,671.31
Total Fiscal Year 1971	75,377.00	184,152.28	259,529.28

In some instances determination of whether a program falls into a touring or special projects category is merely an arbitrary choice, as for instance when support is to a local dance patrons group who are importing touring companies, or to a gallery which brings to the state touring exhibitions, and it would be also possible to designate such programs as technical assistance. In almost every case, Wyoming's vast space and sparcity of populations means that some "touring" is a part of any project, and since so many of the programs assume innovative roles, almost all are "special projects."

In addition to the financial statistics generated in the final report, the population figures tell quite a story. Wyoming's 1970 census total population figures stand at 332,416. The total number of people reached by the arts programs in this report, even on conservative compilation are at 1,689,732! This figure does include an arts fair held in the town of Jackson, at the south gateway to Yellowstone Park and in the heart of Grand Teton Park, which accounts for the million figure, but with even that fact taken into account, it's obvious that the arts programs are reaching people—either all Wyoming residents are participating in at least two arts programs, or a great many tourists are enjoying arts in Wyoming in addition to the scenic wonders of nature.

At the opposite end of the scale of the million figure for the Jackson Hole Arts Association, there is the figure of 65 attending a music teachers clinic—a most deceptive figure, since each of the 65 music teachers attending this session which gives them fresh ideas on teaching methods, approaches, and techniques as well as general inspiration in their field, has probably at least 65 students who also benefit from their teachers' improved approaches, making the figure stand at 4,225 instead of a mere 65. Incidentally, the total cost of this program which can have real impact on the music appreciation of many youngsters is $200.00 in federal funds, plus $452.67 in funds which the teachers provide, and again dedication beyond price is a factor in the program.

During the interim phase of the Wyoming Council on the Arts, the committee which became the bulwark of the Council after its legislative establishment in 1967, selected the dandelion seed pod as an emblem for the Council. There have followed many queries as to "what is it" and "what's it mean."

In fiscal 1971 the meaning began, finally, to appear as the seeds blew on the winds, began to take root, and blossoms popped into view in many areas. It might be said that the dandelion is a weed, but it is as persistent as man himself, its persistence produces blazes of beauty and it is a hardy flower, as are the arts. One of those who attended the conference which closed fiscal 1971 for the Wyoming Council commented after the sessions "you can't count the many new plants this seeding dandelion might produce." At the close of this fiscal year, looking to the added help of legislative support which began for the arts for fiscal '72, and the growing support among the more than a million and a half people who participated in arts projects in '71, it would appear that the seeds are taking root and there may be a harvest of rich crops of better life quality for Wyoming in 1972.

For this, this Council and Wyoming's people are indebted to the National Endowment for the Arts, for providing the initial funding to make programs possible, and for providing, too, the flexibility to permit Wyoming and each state to develop arts as best suits individual state needs and environments.

FRANCES FORRISTER,
Executive Director.

THE CHIEF JUSTICE ADDRESSES THE NATIONAL CONFERENCE ON CORRECTIONS

Mr. DOLE. Mr. President, the cause of penal reform and improved functioning of our Nation's correctional systems has taken on new and widely-publicized urgency in recent months. However, for many years, criminologists, penologists, jurists, lawyers, and many concerned citizens have recognized that the present state of incarceration and criminal rehabilitation programs is a blight on American society.

In recognition of the many serious problems which exist in this area of our criminal justice system President Nixon in June 1971 called for the convocation of a National Conference on Corrections to undertake a similar function as that of the highly successful National Conference on the Judiciary which met earlier this year. The conference on corrections was held this week in Williamsburg, Va., where on December 7, it was addressed by the Chief Justice of the United States, Hon. Warren E. Burger.

The Chief Justice, speaking from many years experience as an attorney, law professor, assistant U.S. Attorney General and Federal judge, presented a comprehensive and well-considered series of recommendations for steps to find solutions in the most pressing problem areas. As he said, large amounts of money will be required to effect solutions. But still more important is a sense of public recognition of the need for solutions and a commitment, both in terms of public opinion and legislative resolve, to achieve them.

I believe that the remarks of the Chief Justice merit careful scrutiny by the Senate and by all Americans who, now that death and violence have shocked us into awareness, most realize that words and concern alone will not bring the degree of change and reform that are of the utmost importance to every level of our society. I ask unanimous consent that his remarks be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

REMARKS OF CHIEF JUSTICE WARREN E. BURGER, NATIONAL CONFERENCE ON CORRECTIONS

I am sure that everyone concerned about problems of corrections and prisons was heartened by the action of the President in convening this Conference. It is time for a massive coordinated effort by the state and federal governments.

It is also highly appropriate that these sessions are held in this historic place for it was a distinguished Virginian, George Keith Taylor, brother-in-law of Chief Justice Marshall, who, as a member of Virginia's House of Delegates, spoke here almost exactly 175 years ago—on December 1, 1796, to be precise—on behalf of legislation to improve the penal system of the Commonwealth.

Taylor is remembered as one of the first leaders on this continent to advocate the enlightened views of the great Italian reformer and legal philosopher, Beccaria. Thus, Virginia is a familiar forum for the problems this Conference is considering.

For as long as I have been a judge, I have tried to see the administration of criminal justice in terms of three major entities, or parts, all constituting interrelated parts of a single problem.

The first, obviously, is the police and enforcement function; the second is the judicial function; and the third is the correctional and confinement aspect, and, closely related, the vital release programs of probation, parole, and work parole.

This Conference is concerned with that third and final, and very crucial, aspect of justice. On other occasions I have said. and I strongly believe, that this third phase is perhaps the most neglected of all three of the aspects of justice, although each of the other two has strong claims, unfortunately, for first place in that respect.

The problem of what should be done with criminal offenders after they have been found guilty has baffled societies for thousands of years. Therefore, none of us would be so brash as to assume that this Conference can even discuss, let alone solve, all the enormous problems that have been with us for several thousands of years. Because of this terrifying magnitude of the problem, I hope the Conference will find a way to identify just a few of the most urgent but soluble problems and address ourselves to them at once. If we try to solve all the problems, we will solve none. We must be content with modest progress and small victories.

Ideals, hopes and long-range planning must have a place, but much can be accomplished without further research or studies in the essentially "nuts and bolts" side of corrections.

I hesitate to suggest, even in a tentative way, my own views of those solutions to an audience that includes so many genuine experts and authorities in this field. Since the recent events at Attica, New York and in California, the country has been recalling the warnings that many of you have uttered on the need to reexamine both the basic attitudes and the tools and techniques of correctional systems and prisons. (I need hardly add, to this audience, that there is a vast difference even though for shorthand we use the two terms interchangeably.)

Even to reach some solutions on the urgent, the acute, the immediate problems, will take large outlays of money, and this cannot be produced except with a high order of public leadership to develop a public commitment and, in turn, a legisaltive commitment at state and national levels.

As I see it, the urgent needs include these:

1. Institutions that provide decent living conditions, in terms of an environment in which hope can be kept alive.
2. Personnel at every level who are carefully selected, properly trained, with an attitude of understanding and motivation such as we seek in teachers; and with compensation related to the high responsibility.
3. Improved classification procedures to insure separation of incorrigibles from others.
4. A balanced program of productive work, intensive basic education, vocational education, and recreation.
5. Communication with inmates.
6. A system of justice in which judges, prosecutors and defense counsel recognize that prompt disposition of cases is imperative to any hope of success in the improvement of those convicted.

INSTITUTIONS AND FACILITIES

I will not dwell on the subject of institutional housing since most of you are better informed on the facts and more knowledgeable as to the needs than I am. I fear that if we took a realistic national inventory and determined how many states meet minimum standards that most of us would agree on, the result would be a melancholy commentary on a 20th century society. The rise in crime has crowded most prisons beyond any reasonable bounds and new structures are needed. We know, however, that many of our problems flow from having institutions that are too large, that are poorly located and inaccessible to the family of the inmates, too far away from facilities for work release programs, and located in areas that do not provide adequate housing for personnel of the institution.

As you well know, bricks and mortar do not make a sound correctional institution any more than bricks and mortar make a university, a newspaper, or a hospital. People and programs are crucial. The recent events in two of the largest and most affluent states are evidence that more than good "plant and equipment" are needed. With all that has been said and written about the problems in New York and California, there has been almost nothing communicated to the public about the fact that the particular institutions in question are among the more modern penal institutions in a physical sense. Attica and San Quentin serve to remind us that even the best of buildings have not provided solutions.

So even when we finally eliminate the 19th century dungeons and terrible overcrowding that prevails in so many places, we will still have enormous problems left to solve. It will take millions of dollars to accomplish the changes needed, but it must be done and we must have new thinking about what constitutes a correctional institution in a purely physical sense, where it should be located and how large it should be.

PERSONNEL

You are well aware, but the public is not, that well-trained personnel is far more important than the bricks and mortar. "Just anybody" cannot make a sound correctional institution any more than "just anybody" can make a good parent or a good teacher. We have yet to understand that the people who operate prisons, from the lowest guard to the highest administrator, are as important in the whole scheme of an organized society as the people who teach in the schools, colleges and universities. I suspect some experts would say that is an understatement in the sense that the reasonably normal people who go to schools can overcome the handicap of poor teaching. We know that most prison inmates are not mentally and emotionally healthy and therefore need something more than normal people require. Guards and guns are not enough.

As we are now slowly awakening to the need for more intensive training for policemen on the beat and in the patrol cars, we must sense that the guards, the attendants, the teachers, and the management of prisons must be specifically selected for their temperament and attitudes and then specifically trained for their crucial part in the task of helping prisoners to help themselves.

I am sure that every person here must be elated over the Attorney General's proposal to establish a National Corrections Academy patterned after the great training program of the FBI Police Academy. The management and operation of penal institutions has desperately needed such a nationally coordinated program to train every level of prison personnel from guards to wardens, as the Department of Justice has done with police administrators.

The decision on the part of the President and the Attorney General could be one of the milestones in correctional history.

IMPROVED CLASSIFICATION PROCEDURES

In many institutions we know that overcrowding and understaffing have led to a breakdown of classification procedures and practices. In some institutions there are no such procedures. One of the high prices we pay for that lack is a mingling of youthful offenders and first offenders with recidivists, incorrigibles, drug addicts and others who are seriously mentally disturbed. A very high priority must be given to separating inmates, and this is particularly important today with respect to the riot-prone inmates. Those who would disrupt and destroy a penal institution must be separated to protect those who are trying to learn and to prepare themselves for the future. Every inmate has a right to be insulated from those who are bent on lawless acts.

A BALANCED PROGRAM

We need look only at the median age of inmates to see at once the need for athletic and other recreational facilities so that these young men can burn off the surplus energies of youth as many of them would be doing if they were free. The corrosive impact of enforced idleness at any age is bad enough, but on young men it is devastating. Playing cards, watching television or an occasional movie, with nothing more, is building up to an expensive accounting when these men are released—if not before. Such crude recreation may keep men quiet for the time, but it is a quiet that is ominous for the society they will try to reenter.

RECREATION

Some states have recognized these needs and provided for them, but many have not. If anyone is tempted to regard this as "coddling of criminals" let him visit a prison and talk with inmates and staffs. I have visited some of the best and some of the worst prisons and I have never seen any signs of "coddling" but I have seen the terrible effects of the boredom and frustration of empty hours and a pointless existence.

EDUCATION

Recreation and education programs really go hand in hand in prisons as they do in schools and in life.

When society places a person in confinement, it deprives him of most normal opportunities and much of the motivation for self-improvement. When society does this, it has a moral obligation to try to change that person—to make a reasonably successful human being out of him. Common sense and the self-interest of society dictate this even if we lay aside all considerations of human decency and our religious beliefs as to redemption.

Here perhaps our failure is the greatest. The percentage of inmates in all institutions who cannot read or write is staggering. Another, and largely overlapping category, is made up of those who have no marketable skills on which to base even a minimally successful life.

The figures on literacy alone are enough to make one wish that every sentence imposed could include a provision that would grant release when the prisoner had learned to read and write, to do simple arithmetic, and then to develop some basic skill that is salable in the marketplace of the outside world to which he must some day return and in which he must compete. Since the best of human beings need motivation and hope, why have we thought prisoners can do without both? We should develop sentencing techniques to impose a sentence so that an inmate can literally "learn his way" out of prison as we now try to let him earn his way out with "good behavior."

We know that today the programs of education range from nonexistent to inadequate, with all too few exceptions. However we do it, the illiterate and the unskilled who are sentenced for substantial terms must be given the opportunity, the means and the motivation to learn his way to freedom.

Meanwhile, we should make certain that every inmate works and works hard. With countless thousands of law-abiding citizens "moonlighting" on second jobs to make both ends meet, there is no reason why every healthy prison inmate should not be required to work to earn at least a part of his "keep." Moreover, every consideration of rehabilitation demands that inmates be kept busy with productive work, with learning and self-improvement. With this must come an expansion of psychological and religious counseling to instill motivation and maintain hope.

COMMUNICATION

We know that one of the deepest hungers of the human being is communication with others on his hopes, his fears, his problems. Inside the walls of a prison this basic need of Man does not vanish and indeed we know it is greater than ever. A means of regular communication should be established between inmates and those who run the institution. We cannot turn the management of a prison over to the inmates, but society, as represented by the "keepers," can listen to what the inmates have to say.

To the extent it is feasible and consistent with orderly administration, therefore, the inmates need to have a chance to regulate some limited part of their lives, however small, by the processes of deliberation and choice. If we tie a person in a chair for a long time, we can hardly be surprised if he can't walk when we let him loose. Within limiting regulations necessary for basic order, inmates should be allowed to think and walk and talk as we will demand that they do when they are released. What can be wrong with allowing prisoners to practice, on a small scale, the very things we will insist they do when they are again free?

SPEED IN ADMINISTRATION—JUSTICE

Finally, a few words need be said about the functioning of the courts in relation to the correctional system. Time does not permit discussion of standards for sentencing and related matters that you are dealing with in "work shops" and seminars, but I am confident we would all agree the judicial system has a responsibility to see to it that every criminal charge is tried as promptly as possible and that the appeal is swiftly heard and decided. In some places the time lag between arrest and trial is hardly less than a public disgrace. Some of this is due to the maneuvering of lawyers who misconceive their function and seek to postpone the trial data as long as possible; some is due to overworked defender legal aid staffs, overworked prosecution staffs, and overloaded courts—and some to poor management of the courts.

Whatever the cause, the impact of the delay in disposing of criminal cases covers a range of consequences:

(a) For any person, guilty or innocent, a long pretrial confinement is a corrosive experience; it is an enforced idleness in an environment often worse than the poorest correctional institution.

(b) Prolonged confinement after sentence and before commitment to a conventional corrections institution is likely to erode whatever may be the prospects of making a useful and law-abiding citizen out of the convicted person.

(c) We have all seen examples of defendants who have exploited procedural devices to postpone the final verdict of guilt for years with the result that their warfare with society has embedded and intensified their hostilities and rendered prospects for future improvement virtually zero.

(d) Delay in final disposition also exposes the public to added dangers when the accused is in fact an incorrigible criminal whose release on bail is exploited to commit new crimes. Sometimes this rests on a belief, widely shared by sophisticated criminals, that when finally brought to justice he will receive concurrent sentences for multiple crimes. The measure of these risks can be found in the increasing percentage of recidivists on the criminal dockets of every court in the country.

We in the legal profession and the judiciary have an obligation to put our own house in order, and to this end the Judicial Conference of the United States in October approved programs to expedite trials and appeals in federal courts and to establish means of identifying the cases in which there is a likelihood that delays will occur. Other programs have been instituted and yet others are to come, all directed to insure the speedy justice to which every accused is entitled and which the society has a right to demand for the protection of all its members.

The statistics of the federal courts are only a small fraction of the total picture and they show nearly 42,000 new criminal cases annually, an increase of 45% in 10 years.

PRISON VISITATIONS

Two and one-half years ago, in discussing corrections problems at the ABA meeting in Dallas, Texas, I urged that lawyers and judges—and indeed citizens generally—visit prisons and form their own judgments. The Young Lawyers' Section of the ABA took on the burden of promoting a Prison visitation Program. I am not currently informed on all the details but I do know that in some states a very large number of such visits have been organized and that more and more judges and lawyers are finding out about prisons. Few things would help more than having the public fully informed on the problems of prisons and the burdens of those who administer them. Most administrators know a great deal of what ought to be done and none of my cursory observations at this Conference present anything new to you. What is desperately needed is that you have the resources and the authority that only public support and legislative action can provide. The people of this country can bring that about if they will see firsthand how their institutions are being run and what support they receive. We know that not all offenders can be salvaged, as we know that not all lives can be saved from disease, but like the physician, we must try.

It is most fortunate that one of the great organizations in the country saw, two years ago, that a national effort was called for to improve our correctional processes. The ABA created not one of the usual committees of lawyers, but a Commission that includes leaders of Labor, Industry, Judges, lawyers, penologists, and other specialists, including some of the most distinguished correctional administrators in the country, and a professional staff to carry on their work. All of the members of that Commission are invited members of this Conference and I know that Governor Richard J. Hughes, its Chairman, will cooperate in every way with you.

What I have been trying to express is my deep conviction that when society places a person behind walls we assume a collective moral responsibility to try to change and help that person. The law will define legal duties but I confess I have more faith in what a moral commitment of the American people can accomplish than I have in what can be done by the compulsion of judicial decrees.

The great tradition of America comes to us from the people who came here and by work, faith and moral fortitude turned a wilderness into a nation. Most of them were the poor and the oppressed of Europe. All of them wanted something better than the life they had abandoned.

Part of the American tradition has been to give of our bountiful treasure to others to restore them from the ravages of wars and natural disasters. We have not always shared our resources wisely but we have shared them generously.

Now we must try to give leadership and guidance to see that this generous spirit and this American tradition are applied to one of the large unsolved problems of Mankind and surely one of the unsolved problems of our society.

You accept this as your obligation by being here and I accept it as part of mine. Together we must let the people and the lawmakers know what needs to be done.

SOLAR HOMES

Mr. GRAVEL. Mr. President, is it possible to heat a home with almost no fuel except sunpower during winter in Washington, D.C.?

The answer is "Yes." There is a solar-heated home in Washington, D.C., which does it. Known as the Thomason House, it is warm when it is zero degrees outside, warm on days with 6 inches of snow on the ground, warm even on cloudy days. Warm means 72° inside.

The extraordinary story of this house, and of its intrepid designer, was told in the Potomac magazine section of the Washington Post on September 26, 1971.

Mr. President, I ask unanimous consent to have the article entitled "Solar Homes," by Omer Henry, printed at the end of my remarks.

A BIG TEST 2 YEARS FROM NOW

There are about two dozen houses in the United States which use sunpower for a major part of their heat requirements. Some designs are more successful than others. All the houses are custom-built.

Custom-crafted homes are one thing. Developing plans for modular mass-produced solar houses, which would incorporate solar heating units with high-quality insulation to prevent heating-cooling losses, is the goal of Dr. Maria Telkes, a thermal storage expert and solar energy pioneer at the University of Pennsylvania. She aims to have complete plans ready for modular homes by the spring of 1973 for testing the following winter.

According to the article about solar energy written by Wilson Clark, and published in the November Smithsonian magazine. Mr. Clark quotes Dr. Telkes as follows:

> These solar houses must be factory-built so that the initial costs of installation will be no more than comparable houses without the solar heating systems.

The goal is to develop houses that can be located anywhere in the southern two-thirds of the United States and will use solar energy for at least 90 percent of the residential heating needs, reports Mr. Clark.

Solar air-conditioning units are to follow.

PROVEN CAPABILITIES

The heating of household water by solar energy is a demonstrated capability, also. There are a million solar water heaters in Japan today. They are also used extensively in Australia and Israel. They were used widely in Florida and California, until natural gas heaters displaced them.

Proven solar heating-and-cooling capabilities are never mentioned, of course, when the electric utilities say that the public must either submit to additional powerplants without limit, or go without the comforts of life.

REDUCING THE NEED FOR UNLIMITED POWER PLANTS

The potential of solar heating systems to reduce pollution and the "need" for unlimited powerplants is clear from the fact that about one-sixth of the country's energy consumption is devoted to heating buildings. It is estimated that better building insulation could reduce that share by about 30 percent.

The utility industry, which expects to treble electric sales by 1985, says that increased use of electric heating and cooling will account for a substantial part of the sales increase.

Though the fact is not related to solar energy, I would like to point out that it might well be possible to attain the same amount of electrical heating and cooling with perhaps 20 percent less electrical consumption, if the equipment were designed differently. Certain changes would raise the initial cost of the equipment, but reduce its operating costs and the many costs of electrical pollution.

ELECTRIC HOMES

Heating with electricity is the most polluting method of all to heat a building. Since electric powerplants are only 30 to 40 percent efficient, about three units of fuel are required to deliver one unit of heat to people who "live electrically," as the advertisements say. Electric powerplants throw away about two-thirds of all the heat in the fuel they consume. Consequently, they waste two-thirds of the coal or oil or gas or uranium they consume. That is why electricity, so clean where it is used, is so polluting where it is made.

By contrast, a well-designed home furnace can capture up to 75 percent of the energy in the fuel, and make it available for space-heating, according to the article entitled "The Conversion of Energy," by Claude M. Summers, in the September Scientific American. The same article notes that when wood or coal is burned in an open fireplace, less than 20 percent of the energy is radiated into the room; the rest escapes up the chimney.

A THOUGHT FOR NUCLEAR APOLOGISTS

It is obvious that available measures, including a much greater use of direct sun-power for space heating and cooling, could substantially reduce the use of electricity without reducing our standard of living.

In fact, if we reduce waste by just 5 percent in space heating alone, which consumes about 17 percent of the energy now used in this country, we could easily turn off all the nuclear powerplants now in operation. Altogether, they produced only 0.3 percent of the total energy consumed in this country in 1970.

There being no objection, the article was ordered to be printed in the RECORD as follows:

[From Potomac magazine, the Washington Post, Sept. 26, 1971]

SOLAR HOMES

(By Omer Henry)

THE MAN REACHED FOR THE SUN AND BROUGHT IT RIGHT INTO HIS HOUSE, AND IT WAS WARM AND AWFULLY CHEAP

Some years ago Harry E. Thomason, local government employee, dreamed the impossible dream. With his eyes wide open—in broad daylight. Only to him, the dream seemed to be possible.

Since Thomason is a man of action, he did just what one might expect him to do. He set out to make the dream come true. He undertook to heat his home with solar energy.

Thomason reasoned that if he could heat his home with sunlight, he could eliminate heating bills for the rest of his life. That would amount to thousands of dollars which he could use in educating his children. More, if he could heat his home with sunlight, perhaps others could do the same. The idea was packed with far-reaching potentials.

One thing was certain: Solar energy was available. Nor was it liable to diminish in the foreseeable future. But Thomason did not know that Massachusetts Institute of Technology was building a solar heating unit at a cost of $6,500 that would supply only half of the heat needed for a comparable house.

"Had I known that," Thomason admits, "I probably would have discarded my idea. But, not knowing, I went forward with my plans."

Was Thomason technically qualified for such a mind-stretching experiment?

As compared to the MIT experts, he was not. He had an AB in physics from Catawba College, Salisbury, N.C. During World War II, he had been in the Merchant Marine as a Refrigeration Engineer. Since then he had served as Patent Examiner for the Patent Office and as civilian Patent Attorney for the U.S. Army Signal Corps.

Married and with a family, he had no money to waste. Rather, he found it necessary to spend his funds wisely. And since he had a full-time job, he could work on his project only on weekends, holidays, and evenings.

Notwithstanding his handicaps, Thomason went straight to the core of his problem. If he were to heat his home with solar energy, he must trap the heat. How could he do that?

TRAPPING HEAT

It occurred to him that he might trap the sun's heat in running water, store the warm water in an insulated tank, and transfer that heat to the various rooms in his house as needed. In doing this, he would require a heat trap—a device by which he could capture solar heat. He visualized that as a corrugated metal solar-heated surface over which many small streams of water would run, thereby picking up heat. To be efficient, this heat collector would have to be well-insulated and covered with a transparent material.

Thomason built a heat trap. He used a wood base. On top of that he placed a thickness of fiber glass as insulating material. Above that he fastened corrugated aluminum, the top side painted black that it might absorb more heat. And, for the final layer, he used ordinary window glass to intensify the heat.

Now Thomason set up his heat trap—corrugations vertical—facing the sun so it would receive the direct rays of the sun. He devised a system by which he could pump water to to the top of the heat trap and let gravity pull it down slowly in the valleys of the corrugations. The water could be circulated again and again as a means of increasing its temperature.

"When we tried out the system," Thomason says, "we discovered that we could bring the water temperature to 120 degrees Fahrenheit—or even higher."

But trapping heat was not enough. Thomason must store it for nights and extended periods of time when clouds obscured the sun. This might be for days at a time.

Thomason's solution to this problem was a heat bin. The heart of the heat bin would be a 1,600-gallon tank filled with solar-heated water and located in an insulated compartment in the basement.

FIVE-ROOM HOUSE

Now Thomason was sure enough of his plans that he began building a house which he intended to heat with solar energy. This structure would be 28 by 37 feet, contain five rooms on one floor, a bath, basement, recreation room, and even a bomb shelter.

The heat bin would be 7 feet by 10 feet by 25 feet. It would be most carefully constructed. On the bin floor, Thomason placed several concrete building blocks with the openings in a horizontal rather than vertical position. This would serve as a part of the distributing system.

Next came the 1,600-gallon steel tank, the core of the heat bin. Thomason lined the bin with 3 inches of fiber glass, made the bin airtight, and built an inner wall of rough lumber to protect the insulating material.

Around the tank Thomason placed 50 tons of fist-sized stones. His logic was that the solar energy would heat the water for the tank and that the water would heat the stones—which would store additional heat. With this apparatus, Thomason reasoned that he could store vast quantities of solar heat to last for four or five consecutive cloudy days.

Since the top of the heat bin would be near the floor of the living quarters, and since hot air rises, Thomason used 6 inches of fiber glass insulation between floor joists to minimize heat leakage from the heat bin into the house.

Next, Thomason faced the problem of releasing and distributing the heat as needed. To this end, he set up a fan system which would circulate a current of air through the openings in the concrete blocks, on through their irregular spaces about the stones and around the hot water tank.

"To control the release of heat," Thomason explains, "we installed a thermostat which could be set at 72°F, for example. This turned on the fan to blow air through the heat bin and register to warm the home."

PLAYING SAFE

All of this looked good so long as there was plenty of sunshine. But what about the possibility that the solar heating system might become incapacitated temporarily due to the burning out of a pump motor or a control which could not be replaced for a week or so?

"Also," Thomason says, "it was possible for our coldest weather to come on the heels of 10 cloudy days when the solar heat reserve had been substantially depleted."

To insure that he could always have heat when needed, Thomason installed a conventional oil furnace. "And," he says, "since the time might well come when we would have no heat at all from the sun, we chose a full-capacity furnace."

As a means of making his solar heating system practical, Thomason added several features, i.e.:

Air conditioning. If he could heat his house with solar energy, it seemed logical that he could cool it by reversing the process. His method was simple: Instead of running hot water into the 1,600-gallon tank, he would run cool water into it. He hoped to obtain the cool water by circulating it over the north roof of his house at night. Radiation and evaporation would help in the cooling process.

By running cool water into the tank, Thomason would also cool the stones in the bin. Then, with the fan system, he could circulate cool air throughout the house.

Domestic hot water. For this, Thomason installed a 275-gallon drum which contained a 42-gallon hot water tank. He planned to bathe the small tank in solar-heated water, thereby heating the water in the small tank. This he could utilize on a year-round basis.

Swimming pool. If, Thomason reasoned, he could heat the house with solar energy, he should also be able to use the same plant to heat water in his swimming pool. The necessary mechanical arrangements were relatively simple.

NERVOUSNESS

Since Thomason's heat collector was a new idea, he applied for a patent. And, as rapidly as he could, he put the whole system together. "We moved into the house," he says, "early in the fall. As you may guess, we eagerly watched the heating plant."

During the mild days of early fall, the house was amply heated. Then, one morning Thomason awoke to find 6 inches of snow on the ground and the temperature outside at near zero. Clearly this was the first real test of the system. Would it deliver the necessary heat?

Before going to the office, Thomason checked every item. So far as he could see, the system was in good condition. "Still," he says, "I was anxious. In my mind lurked a big, ugly question: Would this system deliver the heat necessary to keep the house warm? If not, my system was worthless."

At last he prepared to go to the office. "Let me know," he said to his wife, "how the temperature runs." More uncertain than he had ever been, he drove away.

Near 11 o'clock that morning Thomason's office phone rang. He answered and his wife reported that the House was warm. Everything seemed to be working fine. "Then," Thomason admits, "I breathed an easy breath. I even dared to ask about the temperature of the water going from the heat collector into the bin."

"One hundred and eighteen," Mrs. Thomason said.

"Better check that," Thomason said. "That seems to be too high."

When Mrs. Thomason called back, she confirmed the reading. Still Thomason found that figure hard to accept. "You see," he explains, "the temperature hadn't been that high on the previous day when there had been no snow."

Thomason asked for a third report and when Mrs. Thomason, a bit impatiently, confirmed her former finding, Thomason had no choice but to accept the fact that the water flowing into the heat bin was actually 118°F. His heating system had passed its first big test.

But how did the snow make the water hotter? This question bothered Thomason. But as he studied the situation, the answer became apparent. "I have concluded," he says, "that the sun's reflection on the snow sends added solar energy to the heat collector. This intensifies the heat on the heat trap and brings the water to a higher temperature than is the case when there is no snow."

FACING THE CLOUD TEST

Now Thomason began to be impatient about his patent. As a means of insuring that his patent was granted, he invited a number of officials—including the Chief of a Patent Office Division—to inspect his solar heating system.

On the appointed day for the visit, sadly enough, clouds overcast the sky. Certainly this was no day to demonstrate a solar heat trap. Yet Thomason dared not cancel the visit. To do that would be deadly to his hopes for a patent.

In due time, the distinguished visitors arrived. Thomason showed his plant, explained it in detail. And eventually the crisis came. Thomason had no choice but to apply the final test—prove that the sun supplied heat.

His first move was to apply a thermometer to the water running into the heat collector. When he withdrew the thermometer, it read 68° F. Now, if the heat trap actually worked, the temperature of the water coming from the heat trap should be higher.

Thomason shook down the mercury in the thermometer. He placed the instrument in the water leaving the heat trap for the heat bin. A long minute passed and still another. Thomason must give his system a chance to prove itself right. When he withdrew the thermometer, he glanced at it.

It read 78 degrees!

"Frankly," Thomason says, "I was amazed!"

"This can't be right," said Chris Sondberg, Chief Buildings Inspector. "Take another reading."

"Right," said the Patent Examiner. "Try again!"

Cooperatively, Thomason tried again. And again the thermometer registered 78 degrees!

"Well, I'll be damned!" the Inspector said.

"Me, too!" said the Patent Examiner.

"And as for me," Thomason says, "I drew a sigh of relief a mile long! I'd made my point and the patent, I knew, would be granted."

With that dramatic incident, Thomason learned that a solar trap can collect some heat even if the sun is not shining. This is what happened on that day which Thomason will never, never, never forget.

ECONOMIC PERFORMANCE

In actual practice, how well did Thomason's system work?

Here are the facts: *Thomason kept the day-time temperature in his home at 72° F, night temperature at 68. And by Christmas of the first year the plant was in operation, Thomason had used only 30 cents worth of fuel oil. His heat bill for the entire year was exactly $4.65!*

What did the plant cost? Is the system practical?

The entire system cost about $2,500. "There are some problems," Thomason says, "but they can be overcome. Even now, from an economic point of view, this plant will more than pay for itself."

As one might expect, Thomason's achievements have brought him certain recognition. Dr. Charles Abbott, sometimes referred to as the "Dean of Solar Energy," has praised Thomason's system. Solar scientists from many countries—even as far away as Australia and Turkey—have visited his plant. Dr. Valentine Baum, the leading Soviet solar scientist, spent a couple of days with Thomason inspecting the plant and discussing solar energy.

In 1961, at the request of the National Science Foundation, Thomason traveled to Rome to present to the United Nations Conference a paper on solar heating.

A year later, Senator Hubert H. Humphrey introduced a bill designed to establish an Office of Solar Energy. Although the bill did not pass, Humphrey remained intensely interested in the subject and, while Vice President, asked Thomason to prepare a number of solar energy reports.

Since he completed that first solar house, Thomason has built two more. All three are in Washington.

And as for Thomason's impossible dream—it has grown into a fabulous reality. Its potential is truly mind-stretching.

TRIBUTES PAID TO SENATOR SAM J. ERVIN, JR., BY THE FEDERAL TRIAL EXAMINERS CONFERENCE AND THE CAPITOL HILL CHAPTER OF THE FEDERAL BAR ASSOCIATION

Mr. ALLEN. Mr. President, our colleague, Senator Sam J. Ervin, Jr., of North Carolina, has recently been honored by two groups of lawyers.

On May 13, 1971, the Federal Trial Examiners Conference presented its award of merit to Senator Ervin "in recognition of his outstanding contributions to constitutional liberties and due process of law."

On November 10, 1971, the Capitol Hill Chapter of the Federal Bar Association of Washington, D.C., presented its distinguished service certificate to Senator Ervin for the reasons set forth in the citation, which I ask unanimous consent to have printed in the Record.

There being no objection, the citation was ordered to be printed in the Record, as follows:

Citation for Distinguished Service Awarded to U.S. Senator Sam J. Ervin, Jr., by the Capitol Hill Chapter, Federal Bar Association

The Honorable Sam J. Ervin, Jr., as a United States Senator, has sponsored and actively advocated important legislation for the Nation's benefit and particularly those measures of special interest to Federal lawyers, members of the Bar, Government officials and employees, as well as legislation to uphold Constitutional Government and to advance the science of jurisprudence. Particular reference is made to his "Federal Employees Bill of Rights"—S. 1438.

In recognition thereof, The Capitol Hill Chapter, Federal Bar Association, awards its Certificate for *Distinguished Service* to the *Honorable Sam J. Ervin, Jr.* this 10th day of November 1971, in Washington, D.C.

John J. Kominski,
President.
Justinus Gould,
Chairman, Awards Committee and Past President.

IMPROVEMENT OF CRIMINAL JUSTICE

Mr. HART. Mr. President, a short time ago the distinguished junior Senator from California (Mr. Tunney) wrote an article for the Journal of the Beverly Hills Bar Association about the need for and possibility of improving criminal justice in our country.

I have had the opportunity to work extensively with Senator Tunney as a member of the Committee on the Judiciary, and I believe his comments on this subject are most valuable.

I ask unanimous consent that the text of his article entitled "Improving Our System of Criminal Justice," be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Improving Our System of Criminal Justice

(By Senator John V. Tunney)

Criminal justice in this country is creaking under the burden of all that is wrong in our society compounded by the accelerated, and often uncomfortable, social changes which society is facing daily. In the last five years, the strength of our legal and judicial system has been tested by riots in our cities, crime in our streets, bloodshed on our campuses, bombings in our Capitol, and a war that has led some young people to choose exile and others to be tried for murder. Never before in our history have we demanded so much of our system of laws. And never before has the task of lawyers been more obvious and important. If our legal system is to develop and retain the strength to bear these burdens, then it must have both the assistance and the good will of the bar.

If our criminal justice system is to prove adequate to the challenges which lie ahead, then each of its component parts—police, courts, and correctional institutions must be provided the resources to do the job.

During the past few months, as a member of the Senate Judiciary Committee, I have had the opportunity to view first hand the status of Executive and Congressional efforts toward improving and strengthening the criminal justice system and to make assessments of success and failure. In some ways the record is an encouraging one. In others it is dismal.

It is important at the outset to indicate one's biases. Lawyers share a common purpose, and a common devotion—the pursuit of justice. But today many of the fundamental concepts of our system of justice are being challenged by lawyers themselves. Some of them do it from within the courtroom by disrupting the judicial process. Others challenge it from public office by manipulating and tampering with the very rights which guarantee justice. It is my own belief that both of these extremes must be resisted if our legal system is to survive. Democracy is a fragile institution. It is all the more fragile however, when the basic rights upon which it is founded are subjected to the destructive polemics of partisan debate. The discussion that follows will reflect that belief.

I. LAW ENFORCEMENT AND THE LEAA

In February, 1967, the President's Commission on Law Enforcement and Administration of Justice issued a ten volume report which began with these words:

"There is much crime in America, more than ever is reported, far more than is ever solved, far too much for the health of the nation. Every American knows that. Every American is, in a sense, a victim of crime." That report and its recommendations formed the basis from which Congress mounted what was to be a massive attack on crime—the Omnibus Crime Control and Safe Streets Act of 1968—and established the agency to coordinate the effort—the Law Enforcement Assistance Administration (LEAA).

Substantial time and money has passed since that report was published. The Federal Government is now 4½ years, two elections, and $1½ billion into that attack.

This year LEAA will spend almost $700 million for law enforcement and related criminal justice programs. The vital question is how that money will be spent. How much of that money will go toward the development of tough, intelligent strategies against crime?

The past record is not too promising. In fact, a recent study by the General Accounting Office revealed, among other things, that LEAA money may to some extent merely be financing old programs from other agencies such as OEO and HEW under new labels. In addition, there is increasing evidence of a failure to develop even the most rudimentary kinds of evaluation and information systems to provide local police the most elementary knowledge about programs and projects that have already been tried.

For this reason it is essential that maximum attention be focused on the most effective use of the massive amounts of money that will continue to be appropriated under this program. Congress must finally begin to insist that LEAA concentrate on establishing priorities for the use of federal funds and then focus its efforts on developing the strategies to accomplish those goals. This is the thrust of legislation which I will shortly introduce in the Senate together with other members of the Judiciary Committee of both parties.

Such strategies are familiar to all. For example, the experiments of one or two municipal bus lines have led to the establishment of exact fare policies. These in turn have eliminated almost entirely robberies of bus drivers. Countless other strategies could be developed in much the same way if LEAA made such an effort a matter of high priority.

Similarly, LEAA must begin a crash program to develop evaluation and information systems to inform state and local jurisdictions about programs currently being funded, and about the effectiveness of these programs. It makes no sense to spend hundreds of millions of dollars on programs to curb crime and then keep police in the dark about what is working and what is not.

Until the commitment to both of these problems is forthcoming, federal assistance to law enforcement efforts will continue to be needlessly scattered and ineffective.

II. THE STATE COURT ASSISTANCE ACT

As virtually every lawyer in every major city in this country can testify, the dockets of State and local Courts across the nation are in a sorry condition. In fiscal 1970, for example, the backlog of civil cases in Los Angeles County Superior Court was 62,000 cases. The average time from filing a civil complaint to actual trial was two years. In Philadelphia and Boston it is almost four years and in Chicago it is five. On the criminal side the delays are only slightly less dramatic. The average time from arraignment to sentencing in most major cities in 1970 ranged from a low of four months to a more typical average of one year.

The social costs of this delay have led to a crisis for society. Ordered freedom in a democratic society depends in large part on the willingness of citizens to take their complaints into court rather than onto the streets, and yet the weight and frustration of the swelling backlog of cases could crush faith in our judicial system, and leave the streets as a dangerously attractive alternative. Thousands of our citizens can testify personally to the truth of the adage that justice delayed is justice denied. The robbery victim who waits ten months to testify against his assailant, the ghetto mother who loses her furniture to a fraudulent default judgment, the motorist who spends two days in court waiting to protest an unjust traffic ticket—these are the true measure of the crisis in our courts and in our society.

Delays and congestion are only a part of the current crisis. First there is the manifold crisis of unequal access to our courts. We have entered an era in which the high promise of free legal services is threatened by application of political litmus tests by State governors who fear challenges to their policies by the poor. The result is a dangerous perversion of "law and order" into "law for the rich, order for the poor."

Second, the quality of legal representation can become destructively unbalanced in numbers and stamina. We are living in a time when corporate polluters can hire hundred-man law firms while indigent defendants rely on public defenders who must spread their efforts among scores of defendants.

All these concerns have contributed to a general crisis of confidence in the fairness of our judicial system.

These problems trouble me greatly. As a first step to encourage effective state and local reform, I have joined Senator Quentin Burdick, chairman of the Subcommittee on Judicial Machinery and Senate Minority Leader Hugh Scott in introducing the State Court Assistance Act.

This bill responds directly to the summons issued by the President and the Chief Justice in February at Williamsburg, Virginia, for a national center for state courts. It creates an Institute for Judicial Studies and Assistance, operated and controlled by state court judges. The Institute would serve as a national center for information and assistance to state judicial systems, and would make grants to state and local courts to study and evaluate judicial systems and to develop and implement proposals for reform.

This legislation benefits from a gradual process of refinement designed to answer understandable concern about the possibility of Federal interference in the administration of state judicial systems. This bill originally contemplated an office within the Department of Justice. The bill now provides for a governing board of the institute composed of two State appellate judges, two State trial judges, two State court administrators, and one attorney in private practice. Additionally, it requires the approval of the highest court or judicial body in a state for any project to be funded in that state and expressly prohibits the Institute from exerting any control or influence over State or local courts.

It is always tempting—and often helpful—to propose further studies when faced with difficult social problems. However, it has become clear to me that many state judges are convinced such studies are already available, and that the need now is for money to implement them.

The recommendations of some of those studies indeed show great promise. California has long been noted as a leader in court reform and innovation. Some of the reforms which have already been implemented include innovations such as jury selection without the presence of a judge, short-form procedures for personal injury cases, broader court conciliation services and settlement conference panels. Through the Institute to be created by this bill, California's experience with these procedures could be examined and evaluated by other states.

At the same time further recommendations can likewise be launched through the Institute. Thus, for example, the Special Judicial Reform Committee of the Los Angeles Superior Court has recommended an entire series of imaginative substantive reforms designed to remove from the courts cases which can more properly be handled outside them. The Commitee has recommended a series of quasi judicial panels to handle technical and complex controversies such as those between insurance companies litigating the interpretation of policies. Grants by the Institute could allow some of those recommendations to be tested.

In this way, the diversity of our state judicial systems can continue to be a source of strength for our whole nation, and we can heed the words of Holmes and Brandeis—expressed in another context—that each of our states can and ought to be a laboratory of experiment for the country at large.

III. YOUNG PEOPLE AND THE JURY SYSTEM

Improvement and reform of the judicial system would be incomplete if it did not include bringing young people fully into our system. Last year Congress began the process of enfranchising young people by granting to them the right to vote in Federal elections. Earlier this year Congress adopted and the States ratified the twenty-sixth amendment to the Constitution extending that right to vote to include all elections at every level.

It is therefore particularly important that our young people also be brought fully into the judicial process by joining in the right and the duty of service on juries. In fact, the arguments in favor of this proposition are the very ones which led to the lowering of the voting age to eighteen years.

For this reason, I have introduced legislation to lower the minimum age for service on federal juries from twenty-one to eighteen years.

Twenty other Senators joined me in offering this legislation, and the Justice Department has also supported it in hearings recently completed by the Senate Judicial Machinery Subcommittee.

Enactment of this legislation is particularly important because of the very purposes of the jury system. First, by making a cross section of the community the final trier of fact and judge of guilt, the American legal system provides the accused with the ancient common law protection—twelve laymen whose innate sense of justice protects him from the legalism, dogmatism and oppression of the State to which he might otherwise fall victim. Second, by making a random segment of the community an important part of the administration of justice, the courts enhance the community's acceptance of their decisions. In sum, opening Federal juries to those between 18 and 21 years of age will make available those abilities which make the jury a viable institution and will encourage acceptance of judicial decisions by a significant segment of our population—a segment which is already regarded under Federal law as fully adult for purposes of criminal prosecution.

We can and we must demand that all our citizens, and particularly our young people, accept responsibility for their own actions. An essential part of that responsibility is the right and the burden to render judgment on their peers.

IV. CORRECTIONS REFORM

"A Prison is the Grave of the Living, where they are shut up from the World and their Friends, and the Worms that gnaw upon them are their own Thoughts and the Jayler. 'Tis a House of meagre Looks, and ill smells: for Lice, Drink, and Tobacco, are the Compound: Or, if you will, 'tis the Suburbs of Hell; and the Persons much the same as there." John Dunton, 1686.

"Prisons should be so constructed that even their aspect might be terrific and appear like what they should be—dark and comfortless abodes of guilt and wretchedness . . .

There his vices and crimes shall become personified, and appeal to his frightened imagination as cotenants of his dark and dismal cell. They will surround him as so many hideous spectres and overwhelm him with horror and remorse" . . .

First Warden of the Main State Prison on its opening in 1824.

Our legal and judicial system has progressed in many ways since the time that those words were written, but our prison system is still woefully inadequate to the tasks we delegate to it. Those major tasks can be stated simply in principle: to segregate the offender from society and thereby protect it from him, to restore that individual society as a productive member, and to serve as a deterrent to future offenses by him and others.

In reality, the resources of our correctional system have been entirely inadequate to those tasks. In 1967 the President's Commission on Law Enforcement and Administration of Justice summarized the problem this way:

"For a great many offenders, then, corrections does not correct. Indeed, experts are increasingly coming to feel that the conditions under which many offenders are handled, particularly in institutions, are often a positive detriment to rehabilitation."

The director of the Federal Bureau of Prisons recently put it another way: "Anyone not a criminal will be one when he gets out of jail."

In fact, a study recently concluded by the FBI revealed that 65 percent of all federal prisoners released in 1963 were rearrested within a succeeding six-year period. Of those released under 20 years of age, 74 percent were rearrested; of those between 20 and 24 years of age, 72 percent; and of those 25 to 29 years of age, 69 percent. This is a human tragedy. It is also economic and social nonsense which we should not tolerate.

The need then is obvious. Yet in the face of that need, federal, state and local efforts have all been sadly inadequate. Advocates of prison reform have never had the political clout necessary to focus the attention of legislators or administrators at any level to the extent adequate to the task.

Congressional response thus far has in many ways mirrored the public inattention but a gradual shift is beginning. Last year the Senate authorized for the first time a full time staff for its Penitentiaries Subcommittee. Funding for corrections is beginning to increase. This year's budget for the federal prison system was $50 million over last year. But the major stumbling block to effective reform still remains money. And even the use of LEAA funds for corrections has been inadequate. In California last year only six percent of LEAA funds distributed to the state went for improvement of the correctional system.

But ultimately the real challenge rests with all of us. Many concepts and ideas which we have known for years will be difficult to implement, as long as we prefer to sweep the tough questions of rehabilitation under the rug. Until the rehabilitation of criminals commands greater public support, the terrible price of neglect will continue to be imposed on everyone. Chief Justice Warren Burger recently stated quite eloquently:

"When a sheriff or a marshal takes a man from a courthouse in a prison van and transports him to confinement for two or three or ten years, this is our act. We have tolled the bell for him. And whether we like it or not, we have made him our collective responsibility. We are free to do something about him: he is not."

The process of building a coalition for reform is beginning. The creation of the ABA Commission on Correctional Facilities and Services is a hopeful sign because its mandate is the development of a program of action. It is a task for which lawyers are particularly well suited and one which should be given the highest priority. The legislative process will move only as fast as its constituency, and I suggest that lawyers become vocal constituents.

CORPORATE FARMING IS NOT IN THE NATIONAL INTEREST

Mr. MONDALE. Mr. President, yesterday's New York Times featured a front-page article, by B. Drummond Ayres, Jr., which gives the nonfarm reader an in-depth briefing on the corporate invasion of agriculture.

The article outlines how several conglomerate corporations are pursuing their goal of integration from seedling to supermarket. History has shown that successful integration of this sort by corporations seldom benefits the rural area, the farmer, or even the consumer.

One example used is a detailed account of how supermarket chains in one area forced cattle prices from 29 cents down to 21 cents per pound. Although the cost of meat to grocers in the chain was reduced proportionately, retail prices paid by consumers stayed the same.

Mr. President, nothing I have seen or heard concerning the corporate invastion of agriculture has shown much different. There is much evidence that these conglomerates will have an ill effect on our independent family farmers. Also, without the family farmers to provide the business which supports them, our rural communities cannot be expected to survive. On top of this, large corporations do not show promise of doing any better job than our family farmers are now doing.

The American family farmer has proven again and again that he is the most efficient food producer in the world. His productivity has offered the American people the widest variety of top quality foods available to any people in history.

Mr. President, I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Dec. 5, 1971]

RISE OF CORPORATE FARMING A WORRY TO RURAL AMERICA

(By B. Drummond Ayres Jr.)

KANSAS CITY, MO., December 3.—Few things are growing faster down on the farm these days than corporate influence.

All across the United States, from the wide-open prairie surrounding this cattle and grain center to Maine's fertile potato fields and California's irrigated grapefruit groves, big business is diversifying and moving in on what once was strictly a family enterprise, a way of life.

International Telephone and Telegraph now produces not only transistors but also Smithfield hams.

Greyhound now runs not only buses but also turkey processing plants.

John Hancock now sells not only insurance but also soy beans.

Corporate farming or conglomerate farming or agribusiness—by any name it strikes deep fear in rural hearts, such deep fear that the new Secretary of Agriculture, Dr. Earl Butz, was almost rejected by the Senate after he had espoused the advantages of agricultural giantism and had disclosed membership on the boards of such super farm firms as Ralston Purina and Stokely-Van Camp.

Senator Gaylord Nelson called Dr. Butz's views "brazen" and has begun to investigate corporate influence in agriculture Legislation. The Wisconsin Democrat says: "Corporate farming threatens an ultimate shift in power in rural America, a shift in control of the production of food and fiber away from the independent farmers, a shift of control of small town economies away from their

The Agribusiness Accountability Project a non-profit study group with headquarters in Washington, has been looking into corporate farming for more than a year and reports:

"Corporations generally have become the dominant force in rural America. Their concentration of agricultural markets and their power over rural people is increasing every day. Control of American agriculture has moved from the fields to the board rooms of New York, Kansas City, Los Angeles and other centers of big business."

Farmers themselves speak even more directly the problem. Summing up the position of one of the largest farmer associations, the National Farmers Organization, Rogers Blobaum of Creston, Ia., said:

"A corporate takeover of the food industry would be a national disaster."

Corporations everywhere deny any takeover is threatened.

"We're not trying to run anybody out of business," says George Kyd, a spokesman for Ralston Purina.

A MISLEADING PICTURE

At first glance, corporations do not seem to loom large on the agricultural scene. Of the 2.7 million farms left in the United States, only about 1 per cent are carried on the Agricultural Department's books as incorporations. And most of the incorporators still insist they are "family farmers."

But that picture is misleading.

Corporate farms are big farms. Many consist of thousands of acres of the best land obtainable. Their owners often have backlogs of development capital and, if diversified, obtain numerous tax advantages.

On the other hand, the average American farm, the unincorporated farm, consists of only about 400 acres, some of them nonproductive. The man who owns this relatively small plot probably has no big capital backlog, often is deep in debt, and seldom receives any special tax breaks.

Eventually, he may have to sell out, flee to the already jammed city, surrender to those who have the capital to compete in a business where $6,000 deals have replaced $60 mules.

This surrender, in one form or another, takes place 2,000 times a week all across America. That is the average number of farm sales weekly, according to the Agriculture Department. Often, a well-heeled corporation moves in to fill the void, or maybe a wealthy city doctor looking for a tax deal or maybe a neighboring farmer who has somehow found the means to expand and is on the brink of incorporation.

Actually, not all farming corporations owns land. Some only lease and thus do not show up in farm statistics.

Other farming corporations neither own nor lease land. They simply contract for crops, an operating method that now accounts for about a fifth of the country's total agricultural output.

METHODS COMBINED

A few corporations use a combination of operating methods.

For instance, the Tenneco Oil Corporation owns and farms about 35,000 acres of Southern California's best crop land. It leases 100,000 acres more. And it contracts for the crops of dozens of other farms in the area.

The overall effect is to make Tenneco one of the dominant agricultural forces in one of the biggest farming areas of a state that provides more than a third of all vegetables eaten in the United States.

Tenneco has no monopoly on the vegetable market. But in some other agriculture sectors, corporations have achieved dominance or near dominance.

Three companies—Purex, United Brands and Bud Antle—produce a large share of the lettuce eaten in America, a situation that has led to a rare agricultural antitrust investigation by the Federal Trade Commission. Many Government officials contend that a corporation cannot grow lettuce any cheaper than a family farmer, a point farm economists have frequently made, not only about lettuce but also about most other crops.

Another sector of agriculture dominated by corporate America is the broiler industry. There, 20 or so corporations are in control, producing everything from chicks to feed to packaged drumsticks. Among these companies are Pillsbury, Perdue and Ralston Purina, with which Secretary Butz was associated.

CHANGE AFTER WORLD WAR II

Until shortly after World War II, many broilers were raised in the barnyards of family farms. Small flocks of chickens, though always underfoot, supplied added income, cash for birthday presents or a winter weekend in the city.

Today, there is virtually no market for barnyard chickens. Instead, the family farmer is usually growing broilers under contract for one of the big agrigiants.

In a shed built with a loan from a corporation, he feeds mash produced by the corporation to chicks hatched in the corporation's incubators. When the birds are mature, the corporation takes them away, slaughters them in its own processing plant, packages them prettily, then ships them off to a supermarket—perhaps its own.

The farmer is paid $50 or so for every 1,000 chickens raised. But in any year, if times are hard or management particularly tough, the corporation may cut the growing fee in half.

Should the farmer refuse to sign a new contract, fine—so long as he pays off his loan on the corporation-financed chicken house.

Only last week, chicken farmers on the Delmarva Peninsula—comprising parts of Delaware, Maryland and Virginia—threatened court action when some broiler corporations proposed cutting growing fees in half.

And two years ago, in northern Alabama, growers became so incensed about reduced growing payments that they refused to sign new contracts and began to picket the offices of broiler companies. The companies refused to negotiate, however, and eventually the strikers gave in and returned to work.

Commenting on the strike's failure, one grower, Crawford Smith of Cullman, said:

"Us folks in the chicken business are the only slaves left in this country."

George Kyd of Ralston Purina counters:

"Chicken is cheaper to eat today than it was after World War II, and besides, a lot of farmers have been given work."

THE LESSON IS THERE

To which Harrison Wellford, one of Ralph Nader's agriculture "raiders," replies:

"Poultry peonage. One economist cranked in every applicable factor and concluded that most chicken farmers make minus 36 cents an hour. The broiler industry is the most corporatized in American agriculture and the lesson is there."

Foes of corporate farming refer to the broiler industry as being "vertically integrated"—that is, the corporations control almost everything from field to table. Few other segments of agriculture are so thoroughly integrated. But the trend is in that direction.

Tenneco recently told stockholders:

"Tenneco's goal in agriculture is integration from seedling to supermarket."

In fact, the corporation has almost achieved its goal. Not only does it own land, but it also make tractors, tractor fuel and pesticides. Furthermore, it packages farm products and sells them in little groceries attached to its service stations.

In the potato industry, some companies have achieved full integration. This became evident several years ago when Idaho farmers tried to get more money for their potatoes by withholding them from processors for several months.

The processors refused to give in. Instead, they dipped into storage houses filled with spuds they had quietly grown themselves or had quietly obtained through growing contracts.

Eventually, the growers surrendered. Their potatoes were beginning to rot.

In the hog and cattle industries, vertical integration remains limited. But corporate influence is being felt.

For instance, some concerns like Ralston Purina now rent gilts and boars to farmers sell the farmers grain to feed the resulting pigs, then offer to market the pigs once they reach maturity.

In the cattle business, a few petroleum corporations have set up huge feed lots in the Southwest, some with 50,000 head or more. As a result, oil companies are steadily becoming an influential force in cattle feeding, encroaching on the family farmer, the man trying to pick up a little extra income by raising a dozen steers out in the barnyard where the chickens used to scratch.

Big food chains often buy directly from feed lots or set up their own feeding operations. Thus, they reduce the need for stockyards, the one place where the family farmer can always be sure of getting the best price for his cattle because the bidding there is always competitive.

Victor Ray, an official of the National Farmers Union, a large farmers association, contends that several years ago Denver supermarkets whipsawed steer prices down from 29 cents a pound to 21 cents a pound simply by repeatedly shifting purchases from feed lot to stockyards and back to feed lots. Mr. Ray says:

"When the chains weren't buying at the yards, prices naturally would drop. Of course, the chains denied any connection. But interestingly enough, all the while that wholesale meat prices were going down, retail meat prices stayed the same. I figure the people of Denver paid at least $4-million more for food during that period than they should have."

Here in Kansas City, there is a company that specializes in investing the excess capital of wealthy corporations or individuals into cattle and other agriculture operations. Called Oppenheimer Industries, it takes on no client with a net worth of less than $500,000 or an income tax bracket of less than 50 per cent.

Its specialty is "cowboy arithmetic," tax savings for the rich through depreciation, favorable capital gains levies and other legal loopholes. One of its clients is Gov. Ronald Reagan of California, who paid no state taxes in 1970.

The president of Oppenheimer Industries, H. L. Oppenheimer, argues that the money he steers away from the United States Treasury and into farming actually helps keep the family farmer in business and does not contribute significantly to the corporate invasion of rural America.

Federal tax records indicate that at least three out of every four people with annual incomes of $100,000 or more are involved in farming in some way, most of them reporting agricultural losses that can be written off against taxes on nonfarm income.

If Federal tax laws seem to help the city corporation that farms on the side more than the family farmer who farms full-time, they are not the only ways in which Federal programs tend to work against the little man.

The biggest farms—the ones with the wealthiest owners—receive the biggest agriculture subsidies. The biggest farms also get the biggest dollops of Government-supplied irrigation water.

Recently, Congress placed some limits on subsidies. And the courts are beginning to crack down on the big water users, particularly those who do not live on the land they farm.

But still the gap widens between the rich and the poor.

"We lost the battle against Earl Butz but the struggle sure swung attention toward the farm issue. I've never seen Washingon so upset over an agricultural thing. Maybe Earl Butz will turn out to the the best thing that ever happened to us."

WHITE HOUSE CONFERENCE RECOGNIZES NEED FOR CONTINUING EDUCATION

Mr. MONDALE. Mr. President, today education is increasingly regarded as a lifelong process.

Most Americans now recognize the importance of education and training to prepare our young people for occupations needed in a dynamic economy. But for older Americans, education has a low priority.

Efforts to provide preretirement counseling for older workers, for example, have been woefully inadequate. As a consequence, millions are now ill prepared to make the major transition from work to retirement. And many persons in their fifties or sixties are uneasy about the "shock of retirement" or the "threat of leisure." Unless far-reaching changes are instituted, retirement and the preparation for retirement will continue to be one of the most difficult adjustments.

With the length of retirement projected to increase during the years ahead, the need for a comprehensive preretirement assistance and continuing education program becomes all the more compelling. Equally important, our traditional work-lifetime patterns are now undergoing major changes. Today we are moving toward a new "mixture" with regard to work and nonwork activities.

In terms of sheer numbers, continuing education and preretirement counseling should also be of major concern to our Nation. There are now about 42 million Americans in the 45 to 64 age category. Each year 1.4 million individuals celebrate their 65th birthday. And approximately 45 million middle-aged persons will become senior citizens during the next quarter of a century.

A few days ago a White House Conference on Aging was held in Washington. One of the key issues considered by the 3,400 delegates was the need to make education a basic right for all Americans—the old as well as the young. Moreover, the conference provided further persuasive arguments for my Federal Employees Preretirement Assistance Act, S. 1392.

Briefly, this measure would establish a comprehensive preretirement counseling and assistance program for all Federal employees who are eligible for or approaching retirement. Additionally, this bill would direct the Civil Service Commission to provide training for agency retirement advisers and to publish guidelines about related work-life programs, such as phased retirement, trial retirement, new types of part-time work, and sabbaticals.

Mr. President, I commend the education recommendations of the White House Conference on Aging to the Senate and ask unanimous consent that they be printed in the Record.

There being no objection, the recommendation were ordered to be printed in the Record, as follows:

EDUCATION

PREAMBLE

Education is a basic right for all persons of all age groups. It is continuous and henceforth one of the ways of enabling older people to have a full and meaningful life, and as a means of helping them develop their potential as a resource for the betterment of society.

BILINGUAL AND ETHNIC CONCERN

All issues and recommendations which will affect or serve linguistically/culturally different populations must enlist the necessary linguistically/culturally different qualified expertise in the development processes of such proposals so as to insure that all programs designed for the elderly will result in maximum utilization and participation of the constituents in question.

Particularly urgent are Federal, State and local funds for bilingual/bicultural education to the non-English speaking elderly pertaining to instructions relating to the requirements of Federal, State and local government agencies, i.e. gaining citizenship, applying for social security, housing applications, etc.

EXPANSION OF EDUCATIONAL PROGRAMS

Education for older persons should be conducted either apart from or integrated with other groups according to their specific needs and choices. Where feasible and desirable the aged must be granted the opportunity to take advantage of existing programs with both old and young learning from each other. However, alternatives must be provided which emphasize the felt needs of the aged at their particular stage in the life cycle.

The expansion of adult educational programs having a demonstrated record of success should receive higher priority with due consideration being given to experimental and innovative programs.

Educational opportunities must be afforded all older persons, with special effort made to reach those who, because of low income, poor health, social circumstances or ethnic status are less likely to respond voluntarily. Outreach programs should use all appropriate channels and delivery systems.

For older persons to participate in educational programs; agencies, organizations; and government must provide incentives. These incentives should be aimed at eliminating specific barriers to the availability and accessibility of educational services for older persons including transportation, free attendance, subsistance, auditing privileges, relaxed admission requirements, flexible hours, convenient locations and subsidies to sponsors and removal of legal barriers.

Public libraries serve to support the cultural, informational and recreational aspirations of all residents at many community levels. Since older adults are increasingly advocating and participating in lifetime education, we recommend that the public library, because of its nearby neighborhood character be strengthened and used as a primary community learning resource. Adequate and specific funding for this purpose must be forthcoming from all levels of government and most importantly from private philanthropy.

We recommend further that the Library Services and Construction Act be amended to include an additional title to provide library services for the older persons.

Emphasis should be given at every level of education to implement and expand the expressed educational objective of "worthy use of leisure." Education must be directed toward an acceptance of the dignity and worth of non-work pursuits as well as toward development of leisure skills and appreciations.

FUNDING PROGRAMS

Money and manpower for educational opportunities must have high priority throughout all services offered to older persons by any approved public or private agency or organization in order to assure continued, meaningful living.

Educational opportunities must include basic, continuing, vocational education, and training about needs for better use of services, cultural enrichment, and more successful adjustment to aging.

MAJORITY OR PLURALITY POLICY PROPOSAL

Public expenditures for education for older persons must be increased and directly related to the proportion of older persons within the population. These expenditures should relate to the needs articulated by all segments of the population of older persons including rural and urban and ethnic minorities or by the organizations that represent older persons.

Available facilities, manpower and funds must be used for educational programs designed and offered on the basis of the assessed needs and interests of older persons. The initiative may be taken by many sources, but the design and curriculum must include active participation by older persons.

The Federal Government must consider the concerns of educational programs of older persons in a greater equity of allotment and on a higher priority basis when allocating funds for educational programs.

Where matching funds are required for Federal education programs aimed to assist older persons, it is recommended that the life long contributions toward building this country by the now elderly be considered as suitable compensation in lieu of "matching funds."

INCREASING INFLUENCE OF OLDER PERSONS

Education should place emphasis on instruction to help the older persons understand issues, procedures and action in regard to political processes to enable them to meet more effectively and quickly their special needs as individuals or as a group.

MATERIALS, METHODS AND CURRICULUM

Appropriate materials and methods about all aspect of aging, must be developed and introduced in the curricula at all levels of education from pre-school through higher education.

MASS MEDIA

A national awareness campaign must be initiated through mass media and through educational systems to promote better understanding by society of the nature of the aging process, the needs and interests of older people, and the positive contributions and potentially untapped resources of older persons.

All educational resources must be pressed into service for the needed leadership in the preparation and implementation of (a) leadership training, (b) teacher training, (c) curricula and (d) teaching materials for focusing on the critical educational needs of the older persons in America.

PRE-RETIREMENT

Pre-retirement education programs must be established to help those approaching retirement age to achieve greater satisfaction and fulfillment in later years. Pre-retirement education must be the primary responsibility of the public education sector in cooperation with relevant community organizations in the areas of industry, labor, all levels of government, voluntary service and private associations.

PROFESSIONAL PREPARATION

We urge that institutions of higher learning provide opportunities for special professional preparation of those who will and are working with older persons (law, medicine, social work, recreation, education.) More attention must also be given to workshops, institutes, and in-service for those who now work with older adults.

STATUS OF ADMINISTRATION ON AGING

To implement the educational policies growing out of the 1971 White House Conference Aging, the Administration on Aging must be accorded status and financing appropriate to the task and must be made an independent agency within the Department of HEW as provided for in the Older Americans Act of 1965.

Primary responsibility for the initiation, support and conduct of education programs for older persons must be vested in the existing educational system, Federal, State and local with active participation and cooperation of specialized agencies. A Division of Education for Aging should be established in the Office of Education immediately, to initiate supportive educational services for the aging. Similarly, all State departments of education should designate full-time responsibility to key staff for the development and implementation of programs in education for aging.

A NEW GAME: LOVE THE NEW PROSPERITY

Mr. HARTKE. Mr. President, for the past few months, an organization called the Citizens for a New Prosperity, has been soliciting funds from the country's major corporations. It is the intention of this group of private citizens, to launch a "Love the New Prosperity" campaign upon the American people. With the contributions that range from $2,000 to $25,000, the organization has bought bumper stickers, decals, posters, even yardsticks, emblazoned with "Follow the Yardstick to a New Prosperity," to fulfill their purpose.

The campaign aims to support President Nixon's recent economic actions. Backed by J. Willard Marriot, Hobart Lewis—the president of Readers' Digest and chairman of the group—has contacted more than 13,000 chambers of commerce and 90 major retailers. To date, 70 of those chambers have responded affirmatively.

Making its debut September 27 with a full page advertisement in the Washington Post, the organization asked for a "nationwide and nonpartisan" coalition of citizens. Deputy director of the group, Col. Lee Choate—USAF, retired—said the citizens for a new prosperity seek a "well-balanced membership." Despite that Choate concedes that most of the 125 members are active Republicans.

With stopping inflation as its major goal, the organization calls their action a "positive effort." However, the stakes are high—too high. Using slick-sell methods to sell citizenship and confidence is a dangerous game. National pride, built on Madison Avenue tricks is is a false pride; a pride and confidence that will falter if Mr. Nixon's economic measures do succeed. The Citizens for a New Prosperity are playing this game, and, in the end, the American people will lose.

OIL DRILLING OFF THE EAST COAST

Mr. HANSEN. Mr. President, there may come a day in the not too distant future when the persistent critics of the petroleum industry, the oil import program, and the minerals depletion allowance will welcome the sight of drilling platforms off the east coast.

Since joining this distinguished body in 1967, I have noted a remarkable change in attitudes of some of those who represent the northeastern areas, the Middle Atlantic and New England States.

When I first arrived, there was a great outcry for approval of a giant refinery to be built in the State of Maine to operate on foreign crude brought in from Libya. Such a refinery, its advocates said, would solve all of that area's fuel and gasoline problems including lower prices.

Following last year's troubles in the Middle East and North Africa when petroleum supplies from those areas became scarce and prices skyrocketed, the clamor for a refinery subsided. In fact, the offer of another company to build a refinery to operate mostly on domestic crude oil was declined because of opposition from environmentalists.

However, the clamor for more imports of heating oil and the continuing criticism of the domestic petroleum industry has not subsided but rather has gained new advocacy from the recent announcement by the Department of the Interior of the possibility of oil and gas production off the Atlantic coast including New England.

Mr. President, no other area of the Nation is so completely dependent on oil and gas for its existence as the east coast megalopolis. A substantial percentage of the fuel needs of this great population mass is now imported from foreign sources and more and more will be needed in the future.

Gas is already in short supply and almost certainly will become not only scarcer but more expensive in the years ahead.

Almost all of the plans to supplement east coast supplies of natural gas are for importation of liquified natural gas from Algeria or other foreign sources including Russia or for synthetic gas made from imported crude oil or naphtha.

When the able senior Senator from Texas (Mr. TOWER) offered an amendment recently to the Revenue Act which I and several others cosponsored, the house fell in on us in an outpouring of criticism of the petroleum industry because of its so-called tax privileges and alleged favored treatment under the oil import quota program.

In remarks here a few days ago, the able Senator from Texas (Mr. TOWER) answered some questions the distinguished Senator from Massachusetts (Mr. KENNEDY) had raised about the value of the oil import quota system.

The Senator from Massachusetts (Mr. KENNEDY) has also introduced an amendment to the coastal zone management bill, S. 582, to provide for an independent investigation of the environmental risks and alternatives to Atlantic coast offshore drilling. He and others have introduced another bill to prohibit oil and gas leasing off the Atlantic coast for 2 years.

It seems ironical to me that a study such as this to be conducted by the National Academy of Sciences at a cost of $500,000 should be necessary when thousands of wells, drilling, and production platforms, undersea pipelines, and all of the attendant installations and facilities now exist in the Gulf of Mexico off the coasts of Louisiana and Texas.

Citizens of Louisiana and Texas seem happy enough with their offshore oil and gas operations and this includes commercial and sports fishermen as well as the shrimp and oystermen. And most certainly those who pay the taxes for State education, welfare, highway, and other public expenditures are highly appreciative of the tax and royalty income from the oil and gas produced from these offshore operations.

There have already been studies made of the environmental effects of oil production on marine communities and a paper by Dr. J. G. Mackin, professor emeritus in the Texas A. & M. biology department was presented this week at the annual meeting of the Interstate Oil Compact Commission.

Mackin told the session that—

> Marine life is in no sense the delicate assemblage such as they are often portrayed as being, they possess a remarkable capacity to substitute for missing links in the food web.

Mackin found that a "flood of papers, books, commentaries, and other contributions on oil spills in recent years have been anything but objective."

And, he observed, "surprisingly few of the papers present basic data which can be used in estimating effect on marine communities."

Mr. President, Mr. Mackin's remarks and those of a prominent geologist who has studied the environmental effects of the offshore oil industry in the gulf were carried in a recent article in the Oil Daily. I ask unanimous consent that the article be printed in the RECORD following my remarks.

Also, Mr. President, I ask unanimous consent that a letter to the editor published by the Washington Star on the same subject be printed in the RECORD and that another article from the Oil Daily, "Cheap Foreign Oil, Gas Myth Laid to Rest" also be printed in the RECORD.

Mr. President, there is a way to solve this Nation's immediate and short-term energy crisis and that is through realistic pricing of domestic natural gas, crude oil, and oil products plus realistic Federal taxing and regulatory policies including mounting obstacles and hurdles thrown at the energy industries under the guise of environmental protection.

Development of the still abundant supplies of oil and gas that exist both onshore and offshore will undoubtedly be expensive but relatively could be much cheaper than imported LNG and crude oil, heating oil and other oil products once we become substantially dependent on foreign sources. And we are near the peril point of such dependence now if we have not already past it.

Those who refuse to recognize the seriousness of the energy situation for what it is and who join the environmental extremist crusaders in creating the unreasonable, excessive, and impossible conditions for the development of vitally needed energy resources may see the day and soon when they would welcome the sight of oil and gas producing platforms off their shores. And while to many the environment has become a national issue and a national cause, that environment will be in sad shape without the energy to keep the economy moving upward.

Too many of the environmentalists have not considered the vast amounts of energy necessary to carry out their objectives of cleaning up the air and the water, the recycling and reclamation of wastes, synthesis of coal for natural gas, oil shale development—even electrification of transportation facilities—mass transit.

It is wonderful, Mr. President, to visualize a clean environment, pure air, clear water, and a landscape or seascape unblemished by oil or gas drilling rigs. But it seems to me, Mr. President, that it is also important that we in Congress recognize the realities of the energy problems of this Nation which cannot be pushed aside any longer. The problem is here and now, especially in the Northeast and it will not be solved but only postponed by continuing reliance on imports which even now, if seriously disrupted, could not be made up from domestic sources.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

[From the Oil Daily]

OIL HUNTER AIDS SEALIFE, IOCC TOLD

(By Billy G. Thompson)

BILOXI.—Mankind is reaping greater harvests of seafood and other marine resources because of the oil hunter's ingenuity and tenacity that has taken him to the oceans in quest of petroleum supplies, the Interstate Oil Compact Commission was told here Monday.

"There is a tremendous blanket of fish and marine life that is held out in Louisiana waters over and above the natural environment . . . only because of the interconnected network of manmade artificial reefs created by (oil and gas) production platforms," a driver-naturalist reported at a joint session of technical committees at IOCC's annual meeting.

Moreover, observed Burr Tettleton, senior Gulf Coast geologist for Sohio Petroleum Co., "the wonderful migration of fish toward those waters will continue until drilling is stopped."

"There lies the truth," maintained the Sohio geologist in sounding this appeal:

"Before it's too late, I think the oil industry should only have to point the general public to Louisiana, not defensively, but proudly as the prime example of compatibility (of the offshore oil industry in the marine environment)."

Tettleton also made these points about offshore oil operations and marine life in the Gulf of Mexico:

(1) Commercial fishing—"the most lucrative" in the U.S. today—amounts to $150 million each year in Louisiana. Sport fishermen bring in $2 million worth of pompano, alone.

(2) Some 10,500 wells have been drilled in the Gulf of Mexico but only 26 have been temporarily out of control and most of them gas with no pollution. More than 11,500 wells offshore have been drilled in the U.S. with "only one Santa Barbara drilling accident . . . one accident of the magnitude of Chevron, a production mishap off Louisiana, and only one incident like Shell's, a workover accident, also off of Louisiana."

"But that's a pretty fair record and doesn't rate all the fear that hysterical reporting has created, that every well from now on will be a blowout," he appraised.

(3) In its brief 24-year life-span, the offshore oil industry has grown to supply more than 17 percent—7,000,000 b/d—of total world production, and more than 20 percent of world oil reserves. And, Tettleton noted that within the next 20 years a minimum of 50 percent of the production must come from under the sea.

(4) Investment in offshore oil operations and facilities in the next decade should average $2.9 billion per year for a total of $29 billion.

Dr. J. G. Mackin, professor emeritus in Texas A&M's biology department, told the joint session that marine life is "in no sense the delicate assemblage such as they are often portrayed as being."

Mackin presented a paper on environmental effects of oil production on marine communities. He stressed that "they possess a remarkable capacity to substitute for missing links in the food web."

Mackin found that a "flood of papers, books, commentaries and other contributions" on oil spills in recent years "has been anything but objective."

And, he observed, "surprisingly few of the papers present basic data which can be used in estimating effect on marine communities."

Mackin said his and other studies have shown all oil spills have caused some damage when oil was washed into inter-tidal zones in large amounts, but he added, "in most cases the damage was small and fairly quickly repaired."

In the Torrey Canyon spill, Mackin noted that most of the damage apparently resulted from injudicious use of toxic dispersants in clean-up operations. He warned against permitting oil spills to move into inter-tidal zones where "most damage" is the nuisance to humans.

[From the Washington Evening Star]

LETTERS TO THE EDITOR

"EAST COAST OIL"

SIR: Your editorial, "East Coast Oil," was both encouraging and discouraging.

It was encouraging in that it asserted that it isn't too early for citizens of your region to begin informing themselves on the subject of offshore oil production. Amen!

It was discouraging in that its writer, while waxing poetic, manifested what seemed to me to be a complete lack of information on the subject. He referred to visions of Ocean City, Maryland, as "the Galveston of the East, with derricks offshore, tankers plying alongside the coast and refineries standing tall against the sunset."

Unless they have been erected overnight, there is no forest of oil or gas derricks within many miles of Galveston Island. Texas had eight rigs running in offshore waters on November 15, most of them in the Corpus Christi area beyond the 10-mile limit.

Louisiana's prolific offshore oil fields are principally well beyond the three-mile limit, with most derricks far out of sight of land. Some are more than 110 miles offshore. We have had no experiences to compare with that of Santa Barbara, when oil was spilled in a relatively narrow channel between the mainland and coastal islands. As a matter of record, our seafood production has increased rather than decreased since the first well was brought in off Louisiana in 1946.

Rather than torment themselves by agonizing over the spectre of polluted beaches, the people of Maryland, Virginia and Delaware might give more thought to trying to have the federal government share with coastal states the bonanza which it is receiving from minerals production off Louisiana and which it probably will receive from production off other coastal states.

Providing services for the crews who work the offshore rigs and their families has been expensive for Louisiana. We have received nothing to compensate us for this added expense and are not permitted to collect severance tax on the offshore production or sales taxes on pipe, food, drilling mud and other materials moved from Louisiana to the offshore operations.

Having Congress treat offshore federal lands precisely as inshore federal lands are treated would be an equitable solution of this problem. Wyoming and other states receive .375 percent of revenues from minerals, timber and other production from federal lands within those states. Coastal states are entitled to the same consideration.

GEORGE W. HEALY Jr.

NEW ORLEANS, LA.

[From the Oil Daily]

CHEAP FOREIGN OIL, GAS "MYTH" LAID TO REST

(By Bill Mullins)

CHICAGO.—Four foreign officials appeared here and dealt another blow to the myth that the United States can enjoy an era of cheap foreign petroleum products if it will stop restricting imports.

They spoke at the 30th annual meeting of the Institute of Gas Technology, during a symposium entitled, "How Natural Gas Exporters View the U.S. Gas Market," and their basic message was this: the natural gas will be available but it won't be cheap.

That message comes at a time when the Organization of Petroleum Exporting Countries (OPEC) is steadily pushing up the price of the crude oil its members export to Europe, Japan and North America.

The 11-member OPEC, which controls 85 percent of total world oil exports, includes Algeria, Indonesia, Libya, Nigeria, Venezuela and these Persian Gulf members: Abu Dhabi, Iran, Iraq, Kuwait, Qatar and Saudi Arabia.

Algeria, Nigeria and Venezuela were represented at the Chicago symposium and the attitudes they expressed are typical of OPEC members. A Canadian who took part in the symposium expressed even tougher views.

Americans who have been listening only to the U.S. politicians who claim an easing of import restrictions would result in plentiful suppiles of cheap foreign oil might have found the symposium distressing.

But that symposium gave a far truer view of what lies ahead for those who choose (or who must) rely on foreign petroleum supplies than the politicians have provided.

F.R.A. Marinho, deputy director of the Department of Petroleum Resources, Federal Ministry of Mines and Power, Nigeria, describes his country's attitude.

"Our willingness and enthusiasm as an exporter of LNG to the U.S.A. is, however, going to be dependent on changes in the United States' attitude toward the all-important question of providing the right economic climate for this commodity," Marinho said.

Estimates show the cost of Nigerian LNG at the U.S. terminal would exceed $1 per million BTUs and it has been suggested that figure is not acceptable in the United States, he continued.

The continued pursuance of a repressive pricing policy will effectively deny valuable reserves to the U.S. market, he said. And he emphasized this includes Nigerian LNG.

"We consider that if the United States market is to absorb gas from Nigeria, it would have to be willing as time goes on to pay some premium for the commodity itself and for the stability and security innate in supplies from Nigeria," Marinho said.

And Nigeria also sees a need for the United States to provide incentives and make available facilities to organizers of projects for supplying LNG to U.S. markets, he said.

"We do not contemplate here the handing out of A.I.D. or similar 'largess' but the facilitating of processes of raising capital, particularly by developing countries whose peculiarities or economic aspirations may not necessarily be compatible with the enthronement of American entrepreneurial interests, and making other fiscal concessions as may be necessary to ensure a worthwhile project to all concerned," he added.

A. Chanderli, president directeur general of Compagnie Algérienne du Méthane Liguide (CAMEL), explained Algeria's attitude on the LNG question.

Instead of mentioning price, Chanderli noted that Algeria owns facilities which have been producing and delivering LNG to England, France and other markets since 1964.

Algeria is putting special emphasis on the development of its natural resources in order to assist in the nation's economic development, he added.

This development has required large investments by Algeria and it wants to realize a return on its investment, Chanderli said.

"The El Paso-Sonatrach contract, for example, will require on the part of Sonatrach an investment in excess of $5000 million," he explained.

"It is evident that Algeria will have to provide conditions which insure that the investment made by Sonatrach, its national oil company, achieves the highest rate of return," he said.

Although Chanderli didn't mention specific prices, the phrase "highest rate of return" indicates his country's attitude.

And the contract between El Paso Natural Gas and Sonatrach that he mentioned will result in deliveries to Savannah, Ga., at 68.6 cents per million BTUs and to Cove Point, Md., at 64.6 cents per million BTUs.

Maurice Valery N., general director, Corporación Venezolana del Petroleo, noted that foreign natural gas may play an increasingly important role in the United States'

"We know, in connection with gas imports to the United States, that during 1970 they represented four percent of total supplies and that they may increase to 28 percent in 1985, assuming there is availability of supply from abroad," he explained.

This may result in Venezuela playing an important role in supplying the United States with natural gas, he said.

"Venezuela has been traditionally a country that exports energy to the United States and it hopes to continue in such a position for a long time, in satisfactory conditions for both countries, aiming of course, that this exchange is carried out reasonably and at prices that represent a fair energy resource," he added.

David B. Furlong, managing director and chief executive officer of the Canadian Petroleum Association, said flatly the United States would pay higher prices for Canadian gas or it wouldn't get the gas.

"Historically, both in Canada and in the United States but more so in our country, natural gas has been sold at bargain basement prices," Furlong said.

"Our present export price at the border averaged 27 cents per thousand cubic feet (a thousand cubic feet is roughly equivalent to a million btus) in 1971," he continued.

"Even this is still bargain basement," he said. "As a wellhead return to the producer, it is the equivalent of oil at only 70 cents per barrel when converted to BTU equivalent.

"I'd say that we in the producing industry are planning to get fair value for our discoveries in the future," he said.

"I would suggest that, realistically, in the contracts of the next 20 years this price must increase, probably to double what it is now or even higher, because, as I see it, there are only two alternatives open to you," Furlong commented.

"The first is to pay these other gentlemen on the panel substantially higher prices for their LNG than you would pay us for pipeline gas," he said.

"The second is to pay similar or higher prices than the Canadian price to develop oil shales or coal for gasification," he added.

Unless the price increases mentioned do occur, it is not likely that future additions to Canadian gas reserves will be made available to the United States, Furlong said.

It should be noted that the desire of foreign nations for higher prices is not the only factor that is pushing up the price for natural gas, crude oil and petroleum products.

Furlong summed up the factors in his own nation with this sentence:

"The frontier areas from which they (gas supplies) must come are very high cost in exploration, production and transportation and these programs will not continue and be successful at present price levels."

In the case of LNG, the nations and companies involved have to invest in plants for liquefying the natural gas, special ships for transporting it and terminals for unloading it. Only then can it be put into natural gas pipelines in the United States.

But the desire of foreign nations for higher prices will continue. And in a marketplace where an organization like OPEC both controls most of the surplus petroleum supplies and sets policy on prices, prices will continue to rise.

NATIONAL SICKLE CELL ANEMIA PREVENTION ACT

Mr. HUMPHREY. Mr. President, the recent unanimous passage by the Senate of the National Sickle Cell Anemia Prevention Act, S. 2676, marks a decisive first step toward launching a major national effort to bring this painful and life-crippling blood disease under control. It was my privilege to be an original sponsor of this comprehensive measure, designed to establish counseling and testing programs across America to prevent the further spread of sickle cell anemia, and to support intensive research to find a cure for this disease that almost exclusively afflicts black people.

I strongly support the action by the Senate Labor and Public Welfare Committee, in reporting this bill, to authorize appropriations over a 3-year period of $100 million for sickle cell anemia screening, counseling, and referral programs, and of $30 million for research and training grants. Such a two-pronged attack is essential in the conquest of this disease.

Important progress is being made both in developing effective and simplified disease-detection techniques and in laboratory research on reversing the sickling process—as, for example, through the use of urea and more recently a component of the urea solution, sodium cyanate. And recently, in New York City, some 1,200 doctors and allied professionals attended the first major conference in the United States devoted to this long-neglected genetic disease.

Nearly 10 percent of black Americans are believed to be sickle carriers, having one mutant gene. And at least one of every 500 black babies born this year will suffer from this painful and life-shortening disease, as a result of the mutant gene, or sickle trait, in both parents having gone undetected.

Moreover, during an 18-month screening of over 5,000 recruits at Fort Knox, Ky., the director of the Blood Transfusion Division of the Army Research Institute found that 200 soldiers had the sickle cell trait. And since World War II, over 518 deaths due to this disease have been reported to the registry of the Armed Forces Institute of Pathology.

These profoundly disturbing statistics ought to shock this Nation into a major effort to control and overcome this dread disease. To a black child, sickle cell anemia represents periods of extreme pain, chronic fatigue, and consistent absences from school. To a black adult, these problems are compounded by the knowledge that he or she may well be denied a normal life span.

But as the medical research effort progresses, improved methods of treatment and care are also being applied on behalf of those who presently bear this disease. And further efforts are being made to bring screening and counseling services directly to the neighborhoods of black Americans.

These promising programs must be greatly expanded. And we must assure that adequate financial support is directed to research efforts where there is a total and immediate identification with the critical health problems confronted by minority groups in America. Such programs at Meharry Medical College in Nashville, Tenn., and at Howard University in Washington, D.C., where Dr. Roland B. Scott has been conducting research since 1948, fully merit Federal as well as private assistance.

And I am greatly encouraged that provision is made in the National Sickle Cell Anemia Prevention Act for a 3-year authorization of $12 million for a required program of research and research training in sickle cell anemia by the Veterans' Administration. In addition, the Administrator of Veterans' Affairs is authorized to provide screening examinations for sickle cell trait or anemia to any veteran who is receiving care or medical services under VA benefits. And a veteran found to have the trait or disease can request counseling and the treatment of related disabilities.

Recently, it was my privilege to join in helping launch a fundraising drive by the Black Athletes Foundation for Sickle Cell Anemia Research to establish an International Research Institute in New Jersey. At that time, I noted that there is a disproportionate amount of pain, suffering, and disease among minority groups, and I called for an international effort to concentrate on these problems.

The National Sickle Cell Anemia Prevention Act can be a major first step in this direction. It is essential that Congress enact legislation without delay.

SCHOOL FINANCES A NEW APPROACH

Mr. HUMPHREY. Mr. President, historic changes are in the making in the financing of schools in this country. My State of Minnesota recently enacted some groundbreaking legislation in the field of State-local fiscal relationships. This legislation followed a decision in Van Dusartz et al. against Hatfield, a judicial finding that raised constitutional doubts regarding the traditional reliance upon the local property tax in financing elementary and secondary education.

Close on the heels of a similar ruling in California by its Supreme Court in the case of Serrano against Priest, Miles M. Lord, U.S. district judge for Minnesota, stated that—

> Plainly put * * * the level of spending for a child's education may not be a function of wealth other than the wealth of the state as a whole.

He went on to agree with Serrano that the equal protection clause of the 14th amendment gives pupils a right to have money expended on their education "unaffected by variations in the taxable wealth of their school districts or their parents." For several years many of us have been increasingly concerned about the wide variations in educational opportunity from school district to school district within our respective States and across the Nation as a whole. Equality of educational opportunity has been a constant theme of my legislation in the field of education.

It is, therefore, most encouraging to me that the Minnesota State Legislature has responded to this judicial challenge and enacted legislation that goes a long way toward easing the earlier inequities in educational finance in the State. For quite some time our distinguished Governor, the Honorable Wendell Anderson, has been urging that the State assume the predominant share of school financing. The combination of gubernatorial leadership, judicial prodding, and legislative response has produced a product in which we can all take comfort.

Progress is also being made in other States. Governor Milliken of Michigan for the past 2 years has been urging the State to begin financing substantially all of the non-Federal share of elementary and secondary education. Last year Gov. Marvin Mandel, of Maryland, proposed and obtained legislation for the State to assume all school construction costs as a first step to eventual full State funding.

However, as encouraging as all of these developments are, there is much more to be done. The Federal Government needs to move promptly and decisively to assist the States and localities in doing what should have been done all along—providing all children an educational opportunity that is both adequate and equal. I intend to seek legislation that will provide Federal assistance in the transition to full State funding of the non-Federal share of educational costs while also helping assure significant property tax relief.

The legal challenges to the traditional method of financing schools place a tremendous responsibility upon the legislatures of the States. The importance and the urgency of the task confronting the legislatures is well summarized in an editorial appearing in the November issue of the National Civic Review. The editorial was written by William G. Colman, one of the original architects of the growing nationwide movement for full State funding of educational costs. He served in the 1960's as Executive Director of the Advisory Commission on Intergovernmental Relations and is currently a member both of President Nixon's Commission of School Finance and the Montgomery County, Md., Board of Education.

The response of the Minnesota Legislature to the school finance challenge is well described in the current issue of the Citizens League News published by the Citizens League of the Twin Cities metropolitan area. The article is entitled "State Adopts Historic Changes in Policy on Local Government."

I ask unanimous consent to have printed in the Record the Civic Review editorial by Mr. Colman entitled "School Finance: A Challenge and a Change," followed by the Citizens League article.

There being no objection, the item was ordered to be printed in the Record, as follows:

SCHOOL FINANCE: A CHALLENGE AND A CHANGE

A challenge of historic proportions, paralleling the reapportionment crisis of the sixties, now confronts practically all state legislatures. Unless state policy making is again to be abdicated to the courts, the legislatures must move promptly to restructure the financing of elementary and secondary education to provide equality of opportunity, at least in terms of the fiscal resources placed back of each child.

The California Supreme Court decision in *Serrano* v. *Priest*, with its mandate of one student, one dollar, has spawned a host of cases. At least half the states have constitutional requirements governing the provision of free public education, with equal accessibility to all, that promise the wholesale overturn of the local property tax as a primary source of school finance, regardless of whether or not the finding in *Serrano* that it violates the fourteenth amendment is sustained. If legislatures fail to act, we will again see judges drawing maps, but this time delineating school districts. The results could be chaotic because school districts are so much more difficult than legislative districts.

Many agree with the *Fortune* magazine editorial statement that, "We applaud the decision in *Serrano* v. *Priest*, and we hope it betokens a general move away from the property tax as a major means of financing public schools." (Actually a statewide property tax, for schools or any other public purpose for that matter, meets the constitutional requirements of *Serrano*. Dependence on the local property tax with wide disparities among districts was the target and victim of the decision.)

Many welcome the dawning of a day when equality of educational opportunity is no longer an empty phrase, when land-use decisions by county and municipal governments are not dominated and skewed by concerns of whether residential development is going to pay its way in local school taxes, and when the accident of geography will not determine the quality of public education. But for practitioners and students of government this upheaval in school finance brings grave concerns about the viability of our local and state governments and indeed of the concept of federalism. The states must move to fill the vacuum that suddenly has been created unless they want schools federalized and nationalized.

Already there is talk of a "national tax" for schools to replace the property tax. Already there is talk by big-city superintendents of the need to "federalize" all of the inner-city schools. These officials are understandably desperate: Their schools have become jungles of terror; they must operate in decrepit and unsafe buildings; they are faced with declining tax bases and a taxpayers' revolt; and, through recent years, quite a few of these cities have seen themselves miserably short-changed by state aid formulas. Make no mistake about it—if our deteriorating city public schools go under, an economic debacle involving the write-off of billions of dollars of inner-city investment will surely follow, and "saving the cities" will have become an academic concept instead of a viable objective of public policy.

If the states do not move promptly to meet the issues of equity and legality that now permeate the field of school finance, we face critical issues of the survival of responsive and responsible government. For there exists the distinct possibility that the courts will be assuming legislative powers by default, thereby impairing for all time at the state level the concept of checks and balances and shared powers among the executive, legislative and judicial branches of government. Judicial redistricting of state legislatures, while offensive to the separation of powers concept, is a fairly straightforward, mathematical proposition, if seasoned by a reasonable amount of political sagacity and conducted in a spirit of fair play. To redraw school district lines or to revise state financial formulas is to delve into the very heart of legislative policy making.

So it is up to governors and state legislatures to take the actions necessary to provide equality of fiscal resources for education. The challenge is more crucial for the legislatures than for the governors. The latter can propose but the legislatures must dispose, and must act affirmatively, if the alternatives of judicial legislating or nationalization of school finance are to be avoided. (It should be noted that equality of dollars is only a first step, albeit a mighty one, in assuring such equality for it is well known that the cost of educating disadvantaged children is considerably more than for children from adequate environments.)

The legislatures will need to consider a range of actions including at least three major options: (1) full state funding of non-federal educational costs with a limited supplement from local tax sources, with operational and policy responsibility left with the local districts; (2) complete equalization of both state and local school costs with the state playing the role of Robin Hood between rich and poor districts; and (3) redrawing school district boundaries to provide substantially equal fiscal resources (as measured by equalized assessed valuation or by personal income, or a combination of the two). It is worth noting that, prior to *Serrano,* four or five states were at or nearly at the point of substantially full state funding, and it was under serious consideration in Michigan, Minnesota, Maryland and several others.

As legislatures move to cope with these and other educational issues they need to equip themselves for the policy-making role so often neglected. Education committees need to be staffed professionally on a year-round basis, and empowered to hold hearings and conduct other business between sessions. Too often these committees have been active only during brief legislative sessions and have had to rely for staff assistance on the state education agency or the state teachers' association. Also the legislatures must deal with a public and political climate in which many citizens have become convinced that the education profession and its establishment has been over-spending and under-achieving. This means greater public resistance to the drastic reshaping of school finance.

So the legislatures, over the next year or so, face a critical and exacting test. All citizens concerned with the preservation of strong and responsive state government in a balanced federal system will be wishing them well.

State Adopts Historic Changes in Policy on Local Government—Legislature Assumes Major Responsibility for Revenue "Mix"

Historic changes in state policy toward local government were written by the 1971 Minnesota Legislature which just ended.

The Legislature dramatically altered its formulas for distributing state tax revenues to local governments and committed the state to return more revenues than ever before to them.

At the same time the Legislature took over a more direct responsibility for levying taxes of all kinds from the state's cities, villages, townships, counties and school districts.

No longer are there two separate fiscal systems, if ever there really were. The Legislature has formally tied the state and local elements of the system together in unprecedented fashion.

Undoubtedly the new policy will have far-reaching effects, with new roles emerging for the Legislature and for local governments. The job of setting the aggregate level of taxation, and the relative mix of different taxes, will rest chiefly with the State Legislature, not, as in the past, by an uncoordinated combination of the Legislature and local governments.

Local governments in future years will devote less time and energy on how to raise revenue. Rather their focus will shift increasingly to how best to use the revenue which is made available to them. Local governments will probably be stimulated to look more closely at whether various programs are worth maintaining at present or higher levels in light of proposed new programs which may merit higher priority.

Campaigns for city council, county board or school board probably will involve more discussion of setting priorities on the use of dollars and less on pledges to "hold the line" on taxes which now becomes mainly the Legislature's job.

Following are some of the major actions taken by the 1971 Legislature in changing its policy toward local government (some of these changes are discussed in greater detail in other articles in this issue):

A comprehensive revision of the school aid formula, designed to assure equality of opportunity for students throughout the state, regardless of their socio-economic background or the wealth of the school districts where they live.

A comprehensive revision of the formulas for distribution of state aid to cities, villages, townships and counties, with emphasis on eliminating an out-dated method of reimbursement for certain tax-exempt business personal property and on providing funds for those units of government most in need of additional financing.

A large infusion of state non-property revenues to local government, accompanied by mandatory reductions in local property tax levies and by strict limits on local property taxes to guarantee property tax relief.

A prohibition against further sales or income taxes being levied by any local government. Only the Legislature will have power to levy such taxes.

A new public employees bargaining law designed to assure orderly and equitable settlement of compensation negotiations between state and local governments and their employees.

A limited pledge of the state's full faith and credit behind general obligation bonds of local units of government, designed to improve the credit rating and reduce interest costs for certain localities with small property tax base.

A sharing of 40% of the future growth in commercial-industrial property tax base among all units of government in the seven-county Twin Cities area.

A partial shift in financing county highways from the property tax to a wheelage tax, accompanied by an authority for the Metropolitan Transit Commission to levy a limited property tax.

An upgraded local government fiscal information system under the Commissioner of Taxation, working with a new Intergovernmental Information Services Advisory Council, designed to assure a complete, computerized, up-to-date record of local government receipts and expenditures.

A joint executive-legislative Tax Study Commission assigned, in part, to review causes and effects of intercommunity disparities, alternative sources of tax revenue for local government, and levy limits.

A State Board of Assessors charged with establishing qualifications and certifying assessors throughout the state.

A partial reform of the state's system of property tax classification, which will include (a) determining assessed value on the basis of full market value of property, rather than one-third of market value as in the past, (b) exempting all business inventories and equipment and (c) gradually eliminating the low-rate property tax classifications which oil refineries and certain parking ramps have had in the past.

A new 17-member Quality Education Council with a $750,000 appropriation to fund local school district experimentation in "new approaches to the learning process, better utilization of professional staff and community resources, different requirements as to course offerings, course content, grading, graduation and school attendance."

THE ENERGY CRISIS

Mr. BAKER. Mr. President, earlier this year President Nixon became the first Chief Executive to send to the Congress a major message on the subject of energy production. He correctly recognized at that time that the Nation is on the brink of a serious energy crisis, and that the production of abundant, clean, low-cost energy is essential to the future growth of our economy.

On December 7, Gen. George A. Lincoln, Director of the Office of Emergency Preparedness, shared some of his own thinking about the energy situation with a meeting of the National Coal Association. I ask unanimous consent that the text of General Lincoln's remarks be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

Remarks by Hon. G. A. Lincoln

This is a postponed meeting. On the previously scheduled date, I was the fellow charged by the President with managing the freeze of our economy—and presumably was going to talk about that subject. Now we are in another phase of our economic stabilization program and the management is no longer mine. As I count them, eight agencies now divide the job my small office had a month ago. My stabilization job is now limited to membership in the Cost of Living Council.

I still want to talk in part about economic stabilization because it is a central part of the single most important program before our country today—the President's new economic program. But I am also going to speak about what may well be the most important National program, in the long term—our energy program. Our way of life, and our very national strength, are shaped by, and dependent on, our energy program. The two programs, economic stabilization and energy, come together, rather naturally in my mind, because of the job of my part of the President's Executive Office, which is emergency preparedness.

Almost inevitably, where a preparedness mission exists, that mission shapes the actual organization for execution if an emergency occurs. My agency had the field offices, the communications, the experience with coordinating the Federal Government in emergency situations, the experience in quick response—the President gave us the initial stabilization management job.

We were lucky in one way. We didn't have the mental pain of worrying about how we were going to do the job. I learned of the assignment August 15, the same day the President made his speech to our country announcing the 90-day freeze.

That evening—after the speech—I told my regional offices, which were located remote from the more likely nuclear targets, to open up the next day in the nearest large city Federal centers.

They had as guidance the President's Executive order and the organization chart in our manual on economic stabilization for nuclear war. A week later my national office had doubled, the eight regional offices had expanded to ten offices and personnel had increased sixfold. We had borrowed the services of over 3,000 Internal Revenue Service and Agricultural Stabilization and Conservation offices for our information and compliance net.

And, equally important, we were channeling through this organizational network the policy guidance set by the Cost of Living Council.

I found myself owner of a communications and operations center, which was handling incoming questions and outgoing policy answers in a way reminiscent of my experience with the World War II Operations Division of the Army General Staff. So, being short on time for innovation, we followed generally the operational principle of that staff. We had, as capital to draw on our mobilization preparedness relations throughout government and our agency experience in coordinating Federal efforts for natural disasters, fuel shortages, work stoppages and other emergencies.

The first 90 days of Phase I, has been judged a success. Why? There are at least four good reasons.

1. The Cost of Living Council did involve itself centrally and did provide policy quickly.

2. The teamwork of Federal administration was good and my organization profited and survived by that teamwork. After all, you can't manage a freeze with our permanent staff of 308 people. The great Federal agencies loaned *OEP* their best professionals—personnel from 41 agencies worked for us—and those agencies gave priority to the staff work on policy questions.

3. The people and the economy, except for a comparatively few dissenters, supported the freeze. Economic controls must rely on a wide acceptance and voluntary compliance.

4. Our President provided an understanding leadership which all thinking people sought and appreciated. It had become increasingly apparent that our economic affairs needed some pattern of drastic action—distasteful as that type of action may be to some of us educated and raised in the classical tradition of free trade and free enterprise. This action was a necessary choice in the category of "least worst." As you know, the action was a coordinated program to stem our cannibalistic inflations, to reverse our declining international economic situation, and to accelerate our business expansion. These were requisite for our country's continued power, for our people's continued progress.

During the 90 days of hard freeze, we had a coal work stoppage, an energy stoppage, which might have been continual front page news. Though the stoppage was rarely mentioned in the press, it was another high priority worry for my agency, in addition to the worries of administering the freeze. As Chairman of the President's Joint Board on Fuel Supply and Fuel Transport, I had a simply stated directive to administer: there will be no blackouts and no fuel shortages.

Our country sustained a 44-day coal strike without significant shortage of electricity or fuel. We did this, in considerable part, because of a team effort of government and industry which has been little noticed and hence will be little heralded. But I mention that effort here because some who have contributed are here.

The Joint Board assumed, over a year ago, as one of its principal jobs the improvement of the coal inventory situation.

Back at the low point in 1970, eleven percent of our electric power had less than 15 days of coal inventory. The average utility inventory of coal was only 65 days.

When we came to the coal stoppage on October 1, no utilities had less than 15 days coal supply, and in fact none surveyed had less than 39 days. The average inventory was 105 days. Due to the cooperative effort of railroads and the Interstate Commerce Commission, the serious shortage of hopper cars early last year was reduced to an insignificant number. We rode out the work stoppage without a major power or fuel crisis. Due principally, on the Federal side, to the efforts of the Department of the Interior, and the Federal Power Commission, the Joint Board did help 36 utilities and 17 other industries to get coal to keep operating during that 44 day stoppage.

We were prepared for the coal stoppage just surmounted. Our success in handling that stoppage was due to teamwork of industry and government—a teamwork which needs to continue because there will be other short-term energy crises.

As for the coming heating season, our overall estimates indicate that fuel will be adequate. And those estimates for the winter of 72–73 will probably be the same. There will, however, be increasing problems with gas supply which will have to be dealt with by use of alternative fuels.

If fuel and power are not adequate, the blame will be shared by government and industry, probably with the emphasis on industry. Our U.S. public assumes that energy will be provided for their expanding demands. Further, the public tends to assume that the provision can be made without increased cost, even as more stringent stipulations are added as to how that energy is provided.

One of the principal categories for new public stipulations is in the environmental area. Certainly we seek a long-term assurance of a clean environment. But we pay a price in several kinds of coin, one representing actual cost, another in both quantity and timeliness of production, still another in flexibility in utilizing our available energy fuels. Part of the price of energy is now paid for a higher quality environment.

Part of the quality of life has to do with warmth and light and productivity, matters which are centrally dependent on energy.

Our country has traditionally assumed the availability of an abundance of energy fuels, and also an abundance of intermediate energy—electricity. Those assumptions will soon be invalid or at least gravely questioned. This conclusion was impressed on me again by experiences during the 90-day freeze. The intermediate energy industries—the utilities—were not overly upset by a 90-day freeze. Their questions had to do with what came afterwards. They cited the rising cost of fuel and the doubling of construction cost per kilowatt hour due to environmental and other factors. What did I think about longer-range policy on rates? I thought, of course, that the matter was a problem for the Price Commission. I passed the buck. But, stabilization requirements may be inconsistent, in the short run, with our acute energy developmental need.

The utilities financing problem, and the financing requirements for other energy developments are not the only clash helping to generate the energy crunch we may see in somewhere between three and eight years. There are other problems, some of them paradoxical.

Our country has now passed the point where we have the petroleum production capacity in the U.S. to supply our needs. Yet, we are reluctant to develop some of the major prospects we have.

We delay on a pipeline to unlock Alaskan energy with its potential for generating development beyond Prudhoe Bay, when we have been unconcerned about pipelines crisscrossing the lower 48 States.

We worry about tankers from Alaska when there are already over 525,000 oil tankers and barges entering our coastal ports each year, and when we are already bringing over 200,000 barrels a day of crude oil from Alaska by tanker.

We worry about offshore drilling where the oil is, and most of all about the fuel situation. Yet, the alternative is foreign tanker traffic in the same offshore ocean areas and also in our bays and harbors.

We are rapidly running out of a gas supply adequate to meet an expanding demand, yet, we have a well-head price something like a quarter or fifth of the price which enterprising companies are proposing to pay for imported gas. The low domestic gas price, of course, increases demand for gas with a consequent decrease in demand for substitute fuels, such as coal, which are more plentiful.

We have counted heavily on nuclear power to pick up a significant portion of the intermediate energy requirement and, in doing so, check somewhat the rising demand for fossil fuels. But, additional standards and problems of location bring unanticipated costs and delays when time may be an important aspect. Our country has to keep appointments with requirements realities for both fuel and electricity next year and the next, and each year thereafter. Delays could be critical.

We have practically inexhaustible reserves of only one fuel—coal. Yet, we have placed environmental restrictions on its use and are still some years from the applied technology necessary for the needed clean exploitation of this one abundant fuel resource.

Principally because the coal reserves exist and are known, you of the coal industry deal with the brightest aspect of a very sobering energy situation within the mid-term future.

Your industry is doubly bright because you make, and will continue to make, a significant contribution to our exports.

Our foreign trade situation is one of our economic problems generating the team of emergency measures, including the 90-day freeze, which our President presented to the Nation last August 15. I mention it here because one of the usual ways to dismiss the problems of our energy future is to propose to import more oil, and also more gas. Certainly, we will be importing more oil, and also liquid natural gas, but with a consequent negative impact on our balance of payments and not necessarily at a cost significantly less than domestic production.

The estimated prices for imported liquid natural gas makes $20 a ton for coal, if you can meet the environmental standards, seem attractive. Soon, for every ton of coal you do not mine and deliver, we will have to import 20–25 million BTU of gas or oil—and soon may be paying on the order of a dollar a million BTU's for the imported gas.

We are going over a divide into another energy era. Energy matters will be tough to understand and tougher to manage in that era. Other than some people in industry and some in government there is little comprehension of the problems ahead.

But, why should we expect public comprehension and concern about problems three to ten years down the road, for which preparedness now is necessary, when our press paid practically no attention to the recent stoppage in coal. If it had lasted another six weeks that stoppage could have turned out a lot of lights and stalled a substantial part of the U.S. economy.

Without being alarmist, there is a need to give more stress to information on the coming energy crunch. I do not, by the way, mean the year 2000 or even 1985, which some of my scientific friends prefer to talk about. Emphasis on those dates means emphasis on research money and on not being around to be charged with responsibility when the distant date arrives. I refer to the period from now until 1980 during which many of you here will continue responsibility.

Those fellows planning for the year 2000 or even for 1985, are dependent on those of us responsible for the short term from now until 1975 and 1980 to validate their planning assumptions.

Our total energy problem is a major area of public policy about which our country is only now beginning to be concerned. While not yet past midnight, we may be at the eleventh hour. Only with this Administration did we initiate an overall approach to the problem. Our Administration recognized the need by the President's Energy Committee of the Domestic Council established early last year and his Energy Message last spring.

The Administration has already, to my mind, implicitly recognized that we are traversing a divide into a new energy era by proposing to get the pertinent Federal functions into one Department of Natural Resources. We can no longer afford a dispersed Federal management. And this Administration has moved forward on other measures such as oil and gas leasing and help with coal gasification. But time is running out. The potentially scarce and costly energy future moves rapidly toward us.

I mentioned earlier some of the conflicts among the wants of our body politic. The energy confrontations are severe. We want energy security. We are reluctant to adjust other wants to that criterion. As an example, the more we substitute oil for coal to meet new standards, the less is our energy security in the long run.

I should not close these remarks without a comment on the Mandatory Oil Import Program. The President gave me the job of managing that program about 22 months ago. It has been quite an adventure and has caused me to think often of the actuarial statistics on infantrymen in World War I. Of 100 infantrymen entering combat on a given day, six would still be there on the hundredth battle day. After 22 months of oil battle days, my probabilities are about played out.

But, early in this experience, I came to the conclusion that a surplus of talent and energy was being devoted to attacking, and defending, and—yes—managing the oil import program which is now only a bit over four percent of our energy. The energy problem and program are now an indivisible whole.

The different energy fuels, while not completely substitutable, are very much so and can be made more so with time and technology. More should be done systematically about substitution and preparations for substitutions. None of you here or anywhere else need worry about a market of BTU's. We should think in terms of the great individual energy factors as requiring a single integrated body of policy and program. Those factors, to my mind, are more than the great fuels—coal, oil, gas and nuclear fuel. Both conservation of energy and our environmental programs are also critical to energy adequacy and energy security—and part of the indivisible whole of an energy program.

These remarks have been intended to share with you some of the matters on my mind, matters which are the product of some rather intensive exposure to our country's energy policies and problems. I offer here no solutions but do solicit your thought, your support, and your action in the difficult energy era ahead.

As to that energy era, I have faith that we will work through it successfully, undoubtedly with considerable controversy and some scars. As of now, coal is a bright spot in the cloudy energy future.

RETIREMENT OF HERBERT F. FREEMAN FROM CALIFORNIA BOARD OF EQUALIZATION

Mr. CRANSTON. Mr. President, the executive secretary of the California State Board of Equalization since 1963, Herbert F. Freeman, is retiring from his active duties December 30, 1971. Herb Freeman's leadership of the professional staff of the State revenue agency has gained national and international recognition for achievements in equitable and efficient State tax administration. His excellence as an administrator is further enhanced by the reputation he gained through 27 years with the California Department of Employment where his expertise in management and control of millions of budgeted funds was widely recognized for efficiency and further benefit derived by California's employers and workers.

More recently, Herb's leadership has extended to nationwide proportion through his untiring efforts in the solution of problems in the taxation of interstate businesses. Congress has urged greater uniformity among the several States in tax administration involving interstate business transactions. Herb has contributed substantially to the achievement of greater uniformity in interstate taxation by proposing solutions acceptable to the States and the business community as well. His sound advice and counsel as executive secretary of the California State Board of Equalization and as the president of the National Association of Tax Administrators is greatly acknowledged by tax administrators and business leaders throughout the country.

The California Legislature on September 30, 1971, adopted a resolution commending Herb Freeman, noting that all the people of the State have benefited by his skills, judgment, and dedication. I am certain that all Senators join with me in commending Herb for his great accomplishments and in extending our very best wishes on the occasion of his retirement.

GEOTHERMAL POWER: THE MAGMAMAX POTENTIAL

Mr. GRAVEL. Mr. President, I wish to congratulate Walter A. Zitlau, president of San Diego Gas & Electric Co., and B. C. McCabe, president of Magma Energy Corp. in Los Angeles, for a pioneering decision which may herald an energy breakthrough for the whole country.

Last week, their companies announced that they have signed an agreement to explore in California's Imperial Valley for geothermal hot-water sources suitable for making electricity with the new Magmamax process.

The importance of our geothermal hot water as a source of clean, safe energy could be immense.

A POSSIBILITY FOR HALF THE COUNTRY

The potential electrical power of the steam and hot water under the Imperial Valley alone may be as large as 30 to 90 percent of the entire country's 1970 electrical production, which was 1,540 billion kilowatt hours. I shall return in a few moments to the subject of varying estimates of the potential.

An additional 1,500 megawatts of geothermal steam is available at the Geysers, 75 miles north of San Francisco. That is three times the power of the Hoover Dam.

The potential of geothermal energy in Oregon is estimated by a member of the State geological staff at an additional 20,000 megawatts.

At least 1,000 hot springs have already been located in the Western States, including Washington, Oregon, California, Idaho, Montana, Wyoming, Utah, Colorado, Arizona, and New Mexico. Hawaii and possibly Alaska also have promising geothermal areas.

Large reservoirs of hot water exist along the gulf coast, too.

Famous hot springs in Arkansas, Virginia, and New York may hint at geothermal hot water resources in the East, also.

With advances in deep-drilling techniques, man might be able to tap geothermal energy anywhere on earth, according to engineering professor Robert L. Whitelaw at the Virginia Polytechnic Institute in Blacksburg.

A PROVEN CAPABILITY

The production of electricity from geothermal steam and hot water is a proven capability. It is being done today in California, Russia, Japan, New Zealand, Mexico, Italy, and Iceland.

Good articles on geothermal energy have appeared in Fortune magazine, June 1969, and in the Saturday Review, December 5, 1970.

To facilitate the leasing of geothermal areas, the Congress passed S. 368, a bill introduced by Senator BIBLE of Nevada, authorizing the Secretary of the Interior to make disposition of geothermal steam and associated geothermal resources. The Senate report on that bill is No. 1160, dated September 4, 1970. In December 1970 the act was signed by the President into law—Public Law 91–581.

Experience to date indicates that far more hot water than steam will be found in geothermal exploration. Perhaps the ratio will be 20 to 1.

CHEAPEST POWER IN THE SYSTEM

A discovery of superheated dry steam is the ideal, thermodynamically and economically. Dry geothermal steam is what the Pacific Gas & Electric Co., has at the geysers.

Last year, that steam made the cheapest electricity in the utility's whole system. According to P.G. & E.'s form No. 1, on public file with the Federal Power

Commission, the 1970 operating cost for the Geyser geothermal plants was 3.05 mils per kilowatt-hour. The closest competitor in that system was a 750-megawatt coal plant at 3.35 mils per kilowatt-hour. Nuclear electricity out of the Humboldt plant cost 5.63 mils, and a steam plant at Humboldt cost 8.56 mils.

The likelihood of finding superheated dry steam elsewhere is low. So far, it has been found only at the Geysers and at Larderello, Italy.

WET STEAM VERSUS HOT WATER

Therefore, what is usually meant by geothermal electricity is electricity made by flashing hot water into wet steam, which drives a turbine. This is done successfully. However, it can have certain disadvantages, one of which is corrosion of valves and turbines if there is substantial salt or minerals in the steam. The well itself may become plugged with deposits.

A new geothermal design, called Magmamax is likely to eliminate those disadvantages. Instead of flashing the geothermal hot water into steam, the design uses a vapor-turbine driven by isobutane, which is heated by the geothermal hot water via heat exchangers.

DEALING WITH FOULUPS

If mineral deposits can foul up valves and turbines, why will they not foul up the tubes of the heat exchanger?

The big difference is that the water never flashes to steam in the Magmamax process. Therefore the dissolved gases in the water, which help keep the minerals in solution, do not escape. In the Magmamax process, the geothermal hot water stays water, and is pumped under pressure through the heat exchanger.

Although silica and perhaps some other minerals will tend to solidify out as the temperature of the water goes down in the heat exchanger, there seems to be no insurmountable problem.

A test run on a geothermal well at Brady, Nev., has been extremely successful. The well was pumped at a pressure in excess of the pressure corresponding to the flash point temperature, and the water circulated through a small heat exchanger. Upon discharge, it was then cooled and circulated back through the tubes of the heat exchanger before discharging at a pressure approximately equal to the inlet pressude. There was virtually no corrosion or other trouble.

THE QUESTION OF SALT

J. Hilbert Anderson, who is the principal designer, points out that the geothermal water is not the same in Nevada and California. The California water is saltier, more like seawater at 3 percent salt. Mr. Anderson says that additional measures can deal with the difference, however.

North of the Imperial Valley, in the Salton Sea region, the salinity of the geothermal water is nearer 30 percent.

Mr. Anderson said:

> We don't pretend to be able to use that water economically. But we don't need to. There is so much good water under the Imperial Valley, that we wouldn't bother with 30% salt. Even if the estimates for the Imperial Valley supply were only 10% correct, that's a huge amount of power.

REASONS FOR DIFFERENT ESTIMATES

One reason for the wide range in those estimates is the uncertainty about the distribution of salinity in the wells.

Another reason is that different power estimates postulate different methods of recovering the energy. For instance, Dr. Robert Rex at the University of California in Riverside, bases his estimate of electrical power potential on use of the flashing wet-steam method, which is a less efficient use of the water's heat than the Magmamax method; Dr. Rex also postulates the use of geothermal water, desalted, for agricultural and other uses, whereas the water can be recycled underground in the Magmamax process.

PAPERS PLACED IN THE RECORD

The Magmamax process itself must produce reductions in various costs, in order to justify the cost of the heat exchangers and additional pumps which it requires. Mr. Anderson explains why he is satisfied that these costs are well justified, in two papers which I would like to place in the Record.

The most recent one is entitled "Geothermal Heat, Our Next Major Source of Power," by J. Hilbert Anderson, consulting engineer. He will present the paper in January 1972 at the American Institute of Chemical Engineers, meeting in Dallas.

The second one is entitled "A Vapor Turbine Geothermal Powerplant," also by Mr. Anderson. It was presented in September 1970 to the United Nations Symposium on the Development and Utilization of Geothermal Resources, held in Pisa, Italy.

A third article, reflecting some of the questions which were being asked in the industry a year ago, is from the Oil Digest, January 1971, and is entitled "Geothermal Energy Looms as Economic Factor."

Mr. President, I ask unanimous consent to have these three items printed in the Record at the end of my remarks.

Unfortunately, the figures and diagrams from Mr. Anderson's papers cannot be reproduced here, but they can be requested directly from J. Hilbert Anderson, 1615 Hillock Lane, York, Pa. 17403.

A MOST UNUSUAL TEST

Mr. Anderson is very well known in the turbomachinery world. Prior to becoming an independent consultant in 1963, he was chief engineer at the York Corp., a division of Borg-Warner, where he designed the company's entire line of centrifugal compressors. He has probably designed more compressors and turbomachinery handling halo-carbons and hydrocarbons than any other man in the world today.

He says that when he first presented his geothermal powerplant designs to Magma Energy in 1969, the company had them widely circulated, and offered a $10,000 reward to any engineer who could demonstrate that the work was unsound. No one collected.

In fact, the concept has already been proven to work. The Russians have made electricity from geothermal hot water in a small, experimental plant designed along similar lines.

ON THE BRINK

Will the cost of geothermal hot-water power be reasonable?

No Magmamax plant has been completed yet. The first 9-megawatt prototype plant, which is planned for Brady Hot Springs, Nev., will cost about $3 million, depending on the cooling system selected. Estimated capital costs for subsequent units are less than for conventional plants of equal size.

The turbine for the Nevada plant is almost ready. Last week's announcement indicates that San Diego Gas & Electric and Magma Energy have confidence. In matters like this, I can understand the excitement of being an engineer. If it all works out, this country may be only months away from developing a major untapped source of clean, safe energy.

There being no objection, the items were ordered to be printed in the Record, as follows:

[To be presented at the American Institute of Chemical Engineers, January 1972, in Dallas]

GEOTHERMAL HEAT, OUR NEXT MAJOR SOURCE OF POWER

(By J. Hilbert Anderson, Consulting Engineer)

Geothermal power, power from the Earth's own heat, has been with us for a long time. In Italy the first power was produced in 1904, and in the United States the first power was generated in 1926 at the Geysers, in northern California. Fig. 1* shows the first steam engine driven generator installed at the Geysers.

It was not until 1960 that any appreciable amount of power was generated in this country, when B. C. McCabe and his associates built the first commercial 12 MW power plant at the Geysers. Getting this first plant under way took a tremendous amount of effort and persistence on the part of a few dedicated people.

Despite the success at the Geysers and similar developments in Italy and New Zealand, geothermal power has been practically ignored as a possible major source of energy. As late as September, 1971, the *Scientific American* (1) stated that geothermal power could potentially furnish a total of about 60,000 megawatts for only 50 years over the entire world. Fortunately, there are two easy ways to recognize this as a very poor estimate of the potential.

A POWERHOUSE BENEATH OUR FEET

First, the rate of heat continually flowing from the interior of the earth to the surface is estimated to be 32 x 10^6 megawatts, (1) or 957 x 10^{15} Btu/year. If we could convert 13% of this heat to power we would produce 4,160,000 megawatts continually. This is approximately ten times the world's present average power output.

Second, if we produced power at a mean rate of 420,000 megawatts (1970 mean world usage rate), neglecting radioactive heat input, and assuming 13% efficiency of conversion from heat to power, then the earth would cool down by only one degree F in 41 million years.

From these simple calculations we can see that there is plenty of heat available in the earth to produce all the power we need. The only real questions are: how accessible is it, and do we have the ability to use it?

While very little exploration has been done, the evidence shows that there is almost certainly a far greater reserve of accessible geothermal energy than of any other conventional fuel source.

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*Illustrations not printed in the Record.

THE WESTERN STATES

Let us look at the potential in a few specific locations, where available energy has been surveyed. At the Geysers in California, the latest estimate of proven steam reserves shows that 1500 megawatts capacity could be supplied. At 8000 hours per year operation, this one small area could produce 12 billion kilowatt-hours yearly, which would be nearly one percent of the 1970 U.S. production.

The only other area in the U.S. that has been surveyed with any reasonable degree of accuracy is the Imperial Valley in California. There Dr. Rex (2) and his associates have estimated that 1.6 to 4.8 billion acre feet of hot water are stored. If we use one percent of this water per year for power production, and return it to the ground for reheating, we could produce 487 to 1462 billion kilowatt-hours per year. The U.S. utilities' total production was 1540 billion kilowatt-hours in 1970 (3). Another way to look at this is to note that the heat energy stored in about 500 square miles of the Imperial Valley equals 27% to 65% of the heating capacity of the entire world's oil reserves.

In the western United States at least 1000 hot springs have been located and mapped (5). Bowen and Groh (6) also report large reservoirs of hot water on our Gulf Coast, covering hundreds of square miles. There seems to be no doubt that vast quantities of hot water are available to us, with a total energy content many times that of our total fossil fuel reserves.

The real challenge to us is not finding hot water, but learning how to use it effectively. It is doubtful if we will find many steam domes such as the Geyser area, but there is more than enough hot water to supply all our needs.

ROOM FOR IMPROVEMENT

In New Zealand and in Mexico, geothermal hot water is brought to the surface and flashed to steam, which is then expanded through condensing turbines to produce power. At first glance this appears to be the most logical and simplest way to produce power from hot water. However, when we take a closer look we find that it has numerous disadvantages:

1. It is thermodynamically inefficient because much of the energy must be utilized in lifting the water from the well by the flashing energy of the steam.
2. Low pressure steam turbines are very costly per kilowatt because the specific volume of steam is so high.
3. Thermal efficiency is low because high condensing temperatures must be used. Turbines become too costly at low condensing temperatures.
4. Steam is wet at turbine inlet, and wetter as it passes through the turbine. This causes blade maintenance problems.
5. When steam flashes dissolved gases cone out of water. These gases must be pumped out and disposed of in a manner that will not pollute the atmosphere.
6. When dissolved gases come out of the water they change the chemical composition. Usually this results in precipitation of salts as scale on the walls of the well. This can completely plug up a well in as little as one month's time.
7. Hot well waters can be corrosive as well as fouling. This can require high turbine maintenance, and high condenser cost and maintenance.
8. Pipes between well and power plant must be larger to carry steam than to carry and equivalent amount of energy in hot water.
9. Because of low thermal efficiency more wells must be drilled per megawatt capacity than would be the case for a more efficient plant.

DESIGN OF A NEW SYSTEM

While hot water flashing plants are being used successfully, the many disadvantages promoted our efforts to find a better way to generate power from hot water. We now have a better way. It is called "Magmamax", patents applied for, and opens the door to really large-scale development of hot water power.

The basic principles of the "Magmamax" process are simple.

Hot water heats and boils a separate fluid. The vapor at high pressure expands through a turbine to produce power. The turbine exhaust vapor is condensed to liquid in an air- or water-cooled condenser. The liquid is pumped back to the heater and boiler to repeat the cycle. The cycle is shown in simple form on Fig. 2.

Instead of lifting water to the surface by steam flashing, it is lifted by a deep well pump, and pressure is kept above saturation pressure throughout the heat exchangers.

The fluid used in the first "Magmamax" plant is isobutane. This was chosen for low cost, high thermodynamic cycle efficiency, small turbine size, high condensing pressure and noncorrosive qualities.

Fig. 3 shows the theoretical cycle efficiency for isobutane for 50 psia condensing pressure at various turbine inlet pressures and temperatures. The first plant will operate at 500 psia turbine inlet pressure and 300 F inlet temperature where theoretical cycle efficiency is 19.3%. Actual expected net plant efficiency is approximately 13%.

Fig. 4 shows typical easily obtainable power outputs for a single stage 20 inch diameter radial flow isobutane turbine. Output is many times that for the same size steam turbine, and illustrates why the isobutane turbine can be smaller than a steam turbine for the same power output.

Fig. 5 shows typical water and isobutane heat-exchanger temperatures. At 325 F water supply temperature, the water must be rejected at a fairly high temperature because there is not enough heat available above the boiling point of isobutane. As a result, much of the heat in the water at the lower temperature must be wasted. In order to utilize as much of the heat as possible, large heat exchanges must be used to keep the temperature difference small at the boiling point.

With 450 F water, the heat exchanger temperature difference is much better and the water can be rejected at a lower temperature, thereby getting more power per pound of water.

Fig. 6 shows typical, easily attainable water rates for isobutane plants. (4) Considerable variation from these values is possible by changing heat transfer surface per kilowatt. Note the large effect of condensing temperature. At 80 F condensing temperature, water consumption is only about 60% of that at 140 F condensing. This illustrates why it is important to use the most efficient cooling system possible in a geothermal plant. The first "Magmamax" plant is designed for 325 F water at a rate of approximately 180 lbs/net kw hr. The breaks in the curves occur approximately where the closest temperature approach changes from the boiling point to the condensing temperature, as illustrated on Fig. 5.

ECONOMICS AND ADVANTAGES

The economic success of the "Magmamax" process depended on solutions to many new problems which cannot be discussed briefly. However, there are three easily observable differences:

1. Hot water deepwell pumps are required.
2. A boiler feed pump is required.
3. High temperature heat exchangers are needed to transfer heat from water to isobutane.

The cost of these three items must be paid for by reduction in other costs, in order to justify the "Magmamax" plant. Needless to say, I would not be writing this paper, if we were not satisfied that these costs are justified.

The "Magmamax" process opens up new horizons for geothermal power by having many advantages over flashing steam plants. Some of them are:

1. Keeping water under pressure prevents escape of gases and this eliminates problem of well plugging.
2. Keeping water under pressure keeps gases in solution, so that they are returned to ground with the water discharged from the system.
3. Water reaches heat exchangers at full well temperature. This reduces required amount of heat transfer surface.
4. Water pipes from wells to plant are smaller than steam pipes would be in a flashing plant.
5. No gas removal system is required.
6. Turbine is smaller, simpler and lower in cost than a steam turbine.
7. Isobutane expands completely in the superheat region. There is no liquid released in the turbine.
8. Isobutane is above atmospheric pressure throughout system. Therefore air will not enter system, and air removal equipment is not required.
9. No oxygen can enter system. This eliminates one of the greatest potential causes for corrosion.
10. Turbine has lower wheel speeds than steam turbines.
11. High density of isobutane makes economic use of lower condensing temperatures possible. This improves cycle efficiency and reduces water usage.
12. Isobutane is compatible with oil. This means that internal turbine bearings can be used, and shaft sealing system is much smaller and less complex than that of a steam turbine.

THE MAIN PARTS

It is a three stage turbine with two casings in parallel. Wheels are simple, rugged, radial inflow type, brazed into one piece. We anticipate nearly zero maintenance with this turbine. Speed is approximately 7000 RPM.

Generator runs at 1200 RPM and will be housed in a pressurized building to keep any gas leaks from generator. Entire isobutane system will be outdoors.

A new cooling system greatly improves economics of the plant. This reduces evaporation loss, and effectively reduces condensing temperature to a minimum value so as to achieve good thermal efficiency. It also permits coldest condensing water to be used when power demand is highest.

Much study and many new innovations have made the "Magmamax" process possible. We believe it will rapidly replace fuel-fired plants as our major source of electric power.

Best of all, it completely eliminates air and water pollution.

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[Presented at the United Nations Symposium on the Development and Utilization of Geothermal Resources, September 1970, in Pisa, Italy]

A Vapor Turbine Geothermal Power Plant

(By J. Hilbert Anderson,
Consulting Engineer)

The worldwide need for more power, cheaper power, and non-polluting power has stimulated our efforts to develop power from geothermal heat sources. This meeting is real evidence of the great interest in this subject.

In the United States, geothermal power development, started by the Magma Power Company in 1958 at the Geysers in California, has grown into a major power source. With new plants being built and planned, this power field will soon be producing 600,000 kilowatts, and the potential appears to extend well beyond this.

HOT WATER VERSUS STEAM

The success of geothermal steam plants has stimulated the search for other steam fields. Much exploration has shown that there are almost limitless sources of hot underground water available, but very few sources of superheated steam such as the Geysers area. Generating power from hot water is a much different problem than generating power from steam. Many theoretical studies have been made on the problem with different proposed cycles. In Kamchatka, a small plant is in operation, using R–12 as a cycle fluid in a boiling and condensing cycle. (Ref. 1)

After considerable investigation we decided that a boiling, condensing cycle, using isobutane as a cycle fluid, would be the most economic one to use on a new plant to be built by Magma Energy, Inc. The general principles and cycle were outlined by Alf Hansen in Ref. 2.

It is possible to flash steam from hot water at various temperature levels and expand the steam through a steam turbine. This cycle is simple, and is already in successful use, but has numerous disadvantages.

1. Wet steam from geothermal water is likely to be corrosive.
2. Cycle efficiency is low and water consumption is high.
3. A low temperature steam turbine is large per unit of power, and therefore costly.
4. Because of the high specific volume of steam, it is not economic to use the low condensing temperatures required to attain reasonably good cycle efficiency.

A VAPOR TURBINE CYCLE

The vapor turbine cycle we will use on the Magma Energy plant is shown in simplified form on Fig. 1.* Hot water is pumped from the wells at approximately 325 F. The hot water boils and superheats isobutane to 300 F at 500 psia. The superheated vapor expands through a three stage radial flow turbine, and condenses at approximately 85 F. Condenser cooling water is furnished from a cooling pond supplied by makeup water from shallow wells. The condensate is pumped into the heating and boiling heat-exchangers by a turbine-driven centrifugal pump. Waste hot water is returned to the ground.

Expected average net plant output will be approximately 8000 kw. Since there are numerous unknowns, such as exact water temperatures, etc., it is impossible to predict exact performance at this time.

SOME ADVANTAGES

The vapor turbine cycle has many advantages over the flashing steam cycle:

1. Using a high density vapor instead of steam permits the use of a much smaller turbine than a steam turbine. Fig. 2 shows the comparative diameters of steam and isobutane turbines for similar operating conditions. The value Q/ND^3 is the dimensionless flow coefficient at the turbine exhaust. 1.62 is a common value for the exhaust end of high flow steam turbines. 0.300 is a reasonable value for radial inflow turbines. For the same flow conditions a steam turbine is approximately four times the diameter of the same capacity isobutane turbine. Ref. 3 explains more fully the effect of gas properties on turbine size.
2. An isobutane turbine operates entirely above atmospheric pressure. A steam turbine usually operates with exhaust under vaccum. Vaccum operation invariably promotes leakage of air and oxygen into the system, which in turn is a major cause of corrosion and maintenance problems.
3. Isobutane is almost non-corrosive. Turbine materials can be low-cost alloys.
4. High molecular weight vapors generally have much less work output per lb. of fluid in the turbine. This makes it easier to design a high efficiency turbine, and these turbines can usually operate at much higher efficiency than steam turbines.
5. High molecular weight vapors in general have a lower expansion ratio from first to last stage than steam. This also makes it easier to design a high efficiency turbine. Cycle efficiency is directly proportional to turbine efficiency.
6. Being smaller, heavy vapor turbine rotors have much less inertia than steam turbine rotors. This reduces maximum coupling torque caused by generator overloads.
7. Turbine tip speeds are generally lower for high molecular weight vapors than for steam turbines. This reduces stress and vibration problems.
8. High vapor pressure and density of isobutane compared to steam permits economical design of turbines for low condensing temperatures, thereby improving practical cycle efficiency over that of steam.
9. Most high molecular weight vapors have lower latent heats than water. This tends to reduce cavitation damage in boiler feed pumps.
10. Many high molecular weight vapors expand through the turbine in the superheat region. This completely eliminates the water erosion problem so common in steam turbines.

SOME DISADVANTAGES

The heavy vapor turbine cycle has its own disadvantages and problems:

1. Available fluids are invariably more costly than water.
2. Heat exchangers are a necessity at both hot and cold end of the cycle. Heat exchangers are expensive.
3. Since fluid is expensive, it is imperative that the system must be perfectly sealed both during operation and shut down.

CHOICE OF FLUID

Many fluids are possible choices for a hot water power plant. There is no one best fluid. In the Magma Energy plan, we chose isobutane for a number of reasons:

1. It has reasonably high density at operating conditions.
2. Vapor pressure is above atmospheric at all operating conditions.
3. Critical temperature is high enough to fit well with water temperature of 325 F.
4. The thermal characteristics match the cycle very well.
5. It has good thermal conductivity.
6. Turbine size is small.
7. It is non-corrosive.
8. It is non-toxic.
9. It is low in cost.

The major disadvantage is flammability. Since hydrocarbon handling technology is well known, and this plant will be outdoors, we believe this problem is actually less of a hazard than handling fuel in a gas-fired power plant of any conventional type.

CONSUMPTION OF FUEL

The water consumption of a water-heated geothermal plant is analogous to the fuel consumption of a combustion power plant. This is primarily a function of water temperature, condensing temperature, heat exchanger design, fluid, turbine efficiency, pump efficiency and cycle design. Obviously these are too many variables to permit easy and complete presentation of plant performance.

However, Fig. 3 shows fairly typical water consumption for an isobutane plant as affected by well water temperature and condensing temperature. Minimum temperature difference between hot water and isobutane was arbitrarily fixed at 16 F. Isobutane boiling pressure was fixed at 500 psia.

These are not necessarily the best operating conditions for all water temperatures. They are fairly close to the conditions chosen for the new Magmamax plant being built.

As would be expected, hotter well water reduces consumption. Note that condensing temperature has a very large effect on consumption. The lower condensing temperatures are typical under conditions where low temperature cooling water is available. The higher condensing temperatures would be typical where cooling towers must be used.

The breaks in the curves occur approximately where minimum temperature difference in the heat exchangers occurs at both boiling and condensing temperature. The effect of this is shown on Fig. 4. This is a temperature enthalpy chart for isobutane, with hot water temperatures superimposed on the chart. If we use a counterflow heat exchanger to heat the isobutane, then this chart shows the temperature difference through the heat exchangers.

Two cases are shown. In our case the water comes in at 325 F and leaves at 179 F. Each lb. of water gives up 148 Btu to heat isobutane. It requires 208 Btu to heat each lb. of isobutane. Therefore 1.4 lbs. of water are required per lb. of isobutane. Going to Fig. 3, water consumption is 165 lbs. per kwh at 80 F condensing temperature. The rate of water usage per lb. of isobutane determines the slope of the water temperature curve. In this case the minimum temperature difference occurs at the boiling point of isobutane.

The other case shown is for 450 F water supply. In this case the water comes in at 450 F and goes out at 96 F, giving up 284 Btu per lb. of water. To heat one lb. of isobutane through the cycle requires only 0.73 lb. of water. Therefore the slope of the water temperature curve is much steeper. Only 64 lbs. of water are required per kwh. Notice that the minimum temperature difference of 16 F now occurs at the isobutane condensing temperature.

It is possible, by variations in cycle design, to reduce the water consumption below that shown on Fig. 3. However, this set of curves is convenient to show what can easily be done with one simple cycle.

ECONOMIC AND ECOLOGICAL SUCCESS

While the theory of the vapor turbine cycle is simple, many new ideas had needed to be added to the basic cycle in order to make it practical and economically sound.

We now feel that all of the major problems are solved, and believe that the new Magmamax power plant will not only be a technical success, but also an economic success.

This can open the door for us to tap the limitless quantities of heat under the earth's surface, and produce the great quantities of power that we need so desperately. Best of all, this can be done without any pollution of our atmosphere, or our waters.

This paper would not be complete without paying tribute to the man who stands out above all others in making practical geothermal power a reality in the United States. Mr. B. C. McCabe was the founder of the Magma Power Co. and Magma Energy Inc. Those of us who know him realize that without his vision, imagination, salesmanship, persistence and encouragement, this paper and what it represents would not be possible.

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*Illustrations not printed in the Record.

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[From Oil Digest, January 1971]

GEOTHERMAL ENERGY LOOMS AS ECONOMIC FACTOR

Geothermal energy, perhaps accompanied by the commercially profitable extraction of minerals from geothermal brine, may—in the not too distant future—become a significant factor in the economy of California and other western states where geothermal reserves appear to abound.

Already, in The Geysers area some 85 miles north of San Francisco, steam wells are generating some 82,000 kilowatts of electricity which is being purchased under contract by Pacific Gas and Electric Co.

By 1975, electricity generated from these geothermal reserves is scheduled to be increased to over 600,000 kilowatts, and it is planned to add 100,000 kilowatts annually thereafter for an indefinite period, as new wells are drilled and additional turbine generators installed.

Power for the electricity already contracted for by PG&E is being supplied from wells taken down by what is now a joint venture operation formed by Magma Power Co., Los Angeles; Thermal Power Co., San Francisco; and Union Oil Co., of California's geothermal division headed by Dr. Carel Ott. Union Oil is operator.

Other acreage in the area has been leased by a number of oil and geothermal companies.

The Geysers area, because its wells produce dry steam and the geothermal waters are low in salinity, appears to be ideal for electrical generation, which is the reason so much attention has been centered there.

Now, however, Dr. Robert Rex, professor of geology of the University of California at Riverside, who, with a team of UC-Riverside colleagues, has been conducting a survey of the geothermal potential of the lower section of California's Imperial Valley, contends that he has located seven geothermal fields with a 1,800 square mile area "bordered on the south by Mexico and on the north by a line parallel to the Mexican border three miles north of Westmoreland, and on the east and west by basement outcrops."

The UC–R professor has repeatedly asserted these steam fields were discovered by geological and geophysical surveys and the drilling of 100 shallow (100–500 feet) temperature-measuring holes as well as from data turned up in dry hole oil wells taken down earlier in the general area. He says these fields have the potential to produce 20,000 to 30,000 megawatts of electrical energy and 5 million to 7 million acre feet annually of distilled water.

Late in October, he told a State Geothermal Resources Board meeting in Sacramento that, while a special type of hypersaline brine containing approximately 25 percent dissolved solids occurs at the north end of the Imperial Valley in the old salt sink area now occupied by the Salton Sea, "there is no evidence that this highly corrosive salt saturated brine exists outside the confines of the old salt sink."

The normal low salinity, low corrosivity brine found in Mexico's Baja California is also found over almost the entire U.S. section of the Imperial Valley, he stated.

However, some leading California professional geologists, several of whom have conducted operations in the Imperial Valley north of the Mexican border, are inclined to view these pronouncements with considerable skepticism.

Discussing Dr. Rex's report on the study made by his team, they note that much of the data was taken from old geological and magnetometer work and tests (about which the UC–R professor has been somewhat vague) to detect water gravity and salinity.

Geothermal operations in the California portion of the Imperial Valley date back to the 1920s, when a few steam wells were drilled and abandoned. Modern exploration and development efforts (which are estimated to have cost between $7.5 million and $10 million thus far) were launched there more than a decade ago.

To date, however, these have been centered in the area around Niland, near the Salton Sea, where some 11 wells have been taken down. They found wet steam, highly saturated with mineral brine containing large quantities of sodium chloride and small quantities of potash and other compounds.

The geology of the Imperial Valley contains numerous anomalies which are a source of heat sufficient to generate geothermal steam, but all exploration conducted in the Salton Sea area has indicated that the extremely high mineral content renders the steam produced unsuitable for generation of electric power under any methods perfected to date.

Dr. Rex, as conceded by professional geologists contacted by the Oil Daily, may be correct in assuming that the salinity of the geothermal water in the area his team has surveyed is far lower than that around the Salton Sea.

They caution, however, that this is a fact as yet unproved. "The only real test of the commercial potential of geothermal reserves is the drilling of test wells," commented a prominent California geologist whose judgements are widely respected.

"No real determination can be made until wells have been drilled and the brine content of the produced steam has been carefully analyzed," he said.

What is known is that below the Mexican border, in the Cerro Prieto geothermal field 25 miles south of Mexicali, the steam produced from 17 wells completely lacks the degree of mineral contaminants which have thus far precluded development of geothermal power in the California portion of the valley.

Dr. Rex expects, in fiscal 1971, to drill a well on one of the geothermal fields he says he has located on the California side of the border. Which field will be drill-tested, he has not revealed, but of the seven fields identified, the UC–R professor has indicated that five are the most probable areas for geothermal development. These five are located near North Brawley, Buttes, Heber, Glamis and Dunes.

West Coast oil companies, energy companies, public utility firms and agriculturists will be eagerly awaiting the results, but only after each field has been tested by completed wells will Dr. Rex's contentions be verified or disproved.

USDA ECONOMISTS HELP UNDERMINE RETAIL SALES IN SMALL TOWNS

Mr. McGOVERN. Mr. President, the Agriculture Act of 1970 commits the United States to a policy of balanced growth. Many of us have not been satisfied with the efforts of the administration in making this policy work. In view of the fact that 2,000 farms a week are being closed down because of low prices, I have maintained that the first thing that should be done to stem rural to urban migration is to raise farm prices to a level which meets the farmer's cost of production and a reasonable return for his labor and investment. An increase in farm prices is particularly imperative in light of the fact that for every six or seven farms forced out of business one main-street business closes down.

The House of Representatives passed a measure December 8 which would provide some much needed relief for our Nation's farmers. It is my hope that the Senate acts on this measure before the conclusion of this session so that farmers will receive the help they so badly need this year. The measure would provide real relief for farmers instead of the token assistance announced by Secretary Butz last week. Corn prices may go up a bit, but the real beneficiaries will be the grain dealers who bought corn for $1 or 90 cents at harvest time.

The Department of Agriculture apparently is not concerned with the genuine needs of our Nation's farmers or of rural America. Researchers in the United States Department of Agriculture recently released a study showing the greater efficiency of a 5,000-acre corn farm over a corn operation of 500 acres or even 1,000 acres. The increased efficiency detailed in this study comes not from tilling a larger acreage, but through the discounts an operator of 5,000 acres can receive by bypassing merchants in his local community and buying direct from manufacturers or central warehouses. The study furnishes no clue about what should be done for the displaced farmers and bankrupt businessmen who will be the victims of what the United States Department of Agriculture parades as "efficiency." The NFO County Progress Reporter of November 1971, pointed out the fallacy of this so-called efficiency and what it portends for both the farmer and rural businessman. I commend the National Farmers Organization for its vigilance and ask unanimous consent that the article be inserted in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

USDA ECONOMISTS HELP UNDERMINE RETAIL SALES IN SMALL TOWNS

"Some small Iowa towns should simply be given a decent burial."

That is what Prof. Scott Greer, a Northwestern University sociologist, told the Iowa Housing and Redevelopment Association recently in Davenport, Iowa.

He restricted his recommendations to Iowa only because that was the locale in which he was speaking. Some sociologists and farm economists are going much further than just recommending a "decent burial" for small towns in rural America.

They are trying to bring it about, sometimes using public funds.

PROMOTES HUGE FARMS

The Department of Agriculture has just issued a new research report trumpeting its documented discovery that 5,000-acre corn farms in Iowa are the most economical; much more so than 500-acre corn farms, or even 1,000-acre corn farms.

Why? Because they are able to go around the small town merchants and distributors and buy fertilizer, chemicals, machinery, oil, gasoline, and other supplies direct from the manufacturers or central distributors. The study says that they can buy at savings up to 20% over small farms with less volume.

Pages and pages of tables, which are assembled by Ph. D. economists on the public payroll at a cost of thousands and thousands of dollars, come to that conclusion. And now more thousands of dollars in public money is being spent to distribute the "study" and tell the world that small farms are less economic than giant farms.

PEOPLE DON'T COUNT

People don't count in this assessment of the costs of big operations. There are no statistics on how many farm families will be displaced.

Nor are there any statistics on how many small town business establishments will be made surplus and put out of business by such a shift in farm size.

The study gives pointers on management practices for the big operations. It gives no solutions to the problem of finding a place in our society for the people put out of business, including the farming business.

SMALL-TOWN BUSINESS

The whole thrust of the new USDA study is aimed directly at the "inefficiency" of the rural community marketing structure. That means the implement dealers, hardware stores, gasoline tank truckers, local banks—all the people who are supported by the patronage of the family farm.

A Senate subcommittee was told this month that an average of 2,000 farms a week are closed out. For every six farm families that leave a rural community, a recent study shows, a small town businessman has to call it quits. The push by USDA economists for more bigness and elimination of still more farmers can only add to this tragic and senseless destruction of rural America.

HOUSE-PASSED STRATEGIC GRAIN RESERVE BILL, H.R. 1163

Mr. HUMPHREY. Mr. President, last Wednesday night the House passed H.R. 1163, the Strategic Storable Commodities Act of 1971. And that bill has now been referred to the Senate for action. The importance of the House's action can best be appreciated in reviewing what has been happening to grain prices in principal markets like Chicago and Minneapolis. Prices for wheat and feed grains have jumped over 5 cents per bushel in these markets since passage of the House bill. It is obvious that grain buyers know the difference between a "press release" issued by USDA saying they are planning to buy corn, and a piece of legislation that would require the Department to purchase 500 million bushels of corn.

Yesterday, 15 Senators joined me in a letter to the distinguished chairman of the Senate Committee on Agriculture and Forestry requesting that he seek immediate committee acceptance of the House passed bill so that prices and income for our Nation's food and feed grain producers could be increased immediately.

In addition to creating reserve inventories of wheat and feed grains, H.R. 1163 also directs a mandatory 25-percent increase in the loan values for wheat and feed grains for both the 1971 and 1972 crops. Farmers need this help now. Senate Joint Resolution 172, which I and other Senators introduced in early November also called for such an increase in the loan values for these crops.

In addition, that resolution calls for certain adjustments to be made in the 1972 wheat and feed grain programs already announced by the Department of Agriculture. It would require that we return to a base acreage program for feed grains and initiation of an additional acreage diversion payment program for wheat in 1972. Enactment of both the strategic storable commodities reserve bill and these provisions of Senate Joint Resolution 172 would result in no additional costs to the Government and increase the value of the 1971 and 1972 bill by $3 billion totally.

Mr. President, given the shortness of time, I recognize the difficulty that the distinguished Senator from Georgia faces in trying to get committee action of H.R. 1163 before Senate adjournment.

Mr. President, in the event that it is not possible for the Committee on Agriculture and Forestry to act on these measures before adjournment, I believe we can be assured that the committee will consider this legislation shortly following the return of Congress in January. In fact, Mr. President, Chairman TALMADGE has given me such an assurance. We are extremely fortunate to have the very able and dedicated gentleman from Georgia as our committee chairman. He has provided true leadership for the committee this year and he has let no matter within the committee's jurisdiction go unattended.

Many of us had hoped that time would permit us to act on this important grain reserve bill before adjournment. That does not now appear possible, as unfortunate as that development is. We, of course, will continue to seek enactment of this or similar legislation at the first possible opportunity. Mr. President, several Members have similar bills pending before the Senate Committee on Agriculture and Forestry.

THE NEED FOR A TREATY WITH PORTUGAL ON U.S. BASES IN THE AZORES

Mr. CASE. Mr. President, yesterday the New York Times, in an article by Tad Szulc, reported that the United States and Portugal had negotiated a new agreement regarding future American use of military bases in the Azores, and that the United States would furnish Portugal with unspecified amounts of economic aid in return for the use of these bases.

The Executive unquestionably has the right to negotiate agreements of this sort. My special concern, however, is that our constitutional processes be followed. I therefore wrote a letter yesterday afternoon to the Secretary of State asking for his assurances that any new agreement with Portugal would be submitted as a treaty to the Senate for advice and consent, and that no new economic aid program would be undertaken without affirmative action by both Houses of Congress.

I pointed out to Secretary Rogers that the agreement with Portugal was complicated by the fact that Portugal is currently involved in colonial wars in Africa and that this further complication provides added reason, if any were needed, for the submission of the matter to the Senate.

Mr. President, I ask unanimous consent that my letter to the Secretary of State and Mr. Szulc's New York Times article of December 9, 1971, be included in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

DECEMBER 9, 1971.

Hon. WILLIAM P. ROGERS,
Secretary of State, Department of State, Washington, D.C.

DEAR MR. SECRETARY: In this morning's *New York Times*, it was reported that the United States and Portugal had negotiated an agreement regarding the future use by the United States of air and naval bases in the Portuguese Azores. It was further reported that the United States would furnish Portugal with economic aid in return for the use of the bases.

While not questioning the right of the Executive to negotiate agreements of this sort, I would like to receive your assurances that any final agreement will be submitted as a treaty for the Senate's advice and consent, and that no economic assistance will be furnished to Portugal without affirmative action of both Houses of Congress.

There is no question in my mind that in and of itself, the stationing of American troops overseas is an issue of sufficient importance to necessitate the use of the treaty process. It is unfortunate that American forces have been in the Azores since World War II only on the basis of executive agreements, but this past oversight in no way justifies the enactment of a new agreement without comforming to our Constitutional processes.

Similarly, the Executive has the right to discuss with any foreign government the furnishing of foreign assistance, but the Constitution clearly establishes that the Congress must appropriate (and hence authorize) the funds to institute such a program. Congress has provided the President with certain discretionary authority to make changes in the allocation of foreign aid funds, but the clear intent of Congress has been for this discretionary authority to be used in emergency situations. The new agreement with Portugal is not a matter on which the Executive must act immediately and thus would not have time to come to Congress for authorization.

Finally, I would point out that the furnishing of economic aid to Portugal is complicated by the fact that Portugal is involved in colonial wars in Africa. You stated on March 26, 1970: "As for the Portuguese territories, we shall continue to believe that their peoples have the right of self-determination. . . . Believing that resort to violence is in no one's interest, we imposed an embargo in 1961 against the shipment of arms for use in the Portuguese territories."

Yet there would seem to be a clear tie between the furnishing of economic aid to Portugal and the wars in the Portuguese colonies. *The New York Times* said this morning: "The loans could reduce pressure on Portugal's foreign currency reserves, which are under considerable strain because of the need to import foodstuffs in part because of the war against the guerrillas in Angola, Mozambique and Portuguese Guinea."

This additional complication is an added reason for the Executive Branch to seek the advice and consent of the Senate before final action is taken on the reported agreement with Portugal. I am confident you will agree and I await your affirmative response.

Sincerely,

CLIFFORD P. CASE,
U.S. Senator.

[From the New York Times, Dec. 9, 1971]

UNITED STATES AND PORTUGAL TO SIGN AN AZORES PACT

(By Tad Szulc)

WASHINGTON, December 8.—Senior Administration officials disclosed today that the United States and Portugal had negotiated a five-year extension of the wartime agreement granting the United States the use of air and naval bases on a strategic island in the Azores.

The pact is to be signed this week, before President Nixon flies to the islands 1,000 miles west of Portgual in the Atlantic on Sunday to meet President Pompidou of France and Portgual's Premier Marcello Caetano. The pact provides for economic aid to the Portuguese for the first time in this quarter-century-old relationship with the United States.

The pact replaces one that lapsed nine years ago and could not be formally renegotiated until now because of profound differences between the two countries, especially over African politics.

PACT EXPIRED IN 1962

Although the last in a series of Azores agreements expired in December, 1962, the United States was permitted to continue using the facilities on Terceira Island under what has been officially described as "the courtesy of the Portuguese Government."

Officials said that the present plans were for Secretary of State William P. Rogers and Portugal's Foreign Minister, Rui Patrício, to sign the new defense agreement in Brussels tomorrow.

Both are attending this week's ministerial session of the North Atlantic Treaty Organization Council and, according to informants here, the final touches on the agreement were being worked out there today.

The headquarters of Iberlant, the Western Command of NATO, have been in Lisbon since 1966.

The original Azores agreement, signed in February, 1948, provides that "there shall not be due for the utilization of the aerodrome and of the various installations the payment of any tax or rental."

BAN ON USE IN AFRICA

State Department historians said records showed Portugal as the only country receiving no economic aid from the United States in connection with a military-base agreement.

However, Portugal has received military aid, although by agreement American arms are not used by the Portuguese against guerrilla rebels in African territories.

This year, officials said, Portugal indicated she wanted a formal agreement on the Azores arrangements which dated back to transit rights for United States aircraft during World War II.

But this time, they said, Portugal requested economic assistance and the United States agreed to supply it in the form of long-term loans for farm commodities and financial grants for educational projects.

In addition, according to officials, Portugal will receive an oceanographic vessel for fishery research.

RESENTMENT IN LISBON

The food could reduce pressure on Portugal's foreign currency reserves, which are under considerable strain because the need to import in part because of the war against rebel guerrillas in Angola, Mozambique and Portuguese Guinea.

The two countries did not renew the Azores agreement for nine years chiefly because of the Portuguese resentment of the United States anticolonialist policies in Africa.

Portugal's new leadership under Premier Caetano, who replaced the late António de Oliveira Salazar, appears to be more pragmatic on this point and it is said to believe that the Nixon Administration is less outspoken in favor of African nationalism than its predecessors.

The United States facilities on the islands are an airbase at Lajes, under joint control with the Portuguese, and port facilities at Praia da Vitoria.

The military opinion in Washington is that the facilities are important but not vital to United States and North Atlantic defenses.

USEFUL REFUELING STOP

The Lajes air base remains a useful refueling point in the Atlantic. It served as a support point for wartime trans-Atlantic flights and, later, as a transit area for troops being airlifted to Western Europe, Berlin, Lebanon and the Congo.

There are about 1,500 American servicemen and 2,000 dependents on the Azores. About $12-million is put into the economy by the American military expenditures.

When Portugal agreed to the Nixon-Pompidou meeting on the Azores, Premier Caetano offered to serve as host to the two men. He will entertain them at a dinner on Monday and hold a separate conference with Mr. Nixon.

The Azores conference will be the second set of consultations for Mr. Nixon with allied leaders before his visits to Peking and Moscow next year.

He conferred with the Canadian Prime Minister, Pierre Elliott Trudeau, on Monday and is to hold meetings with British, West German, and Japanese heads of government.

UNEMPLOYMENT AND HUNGER IN SEATTLE

Mr. McGOVERN. Mr. President, recently the Select Committee on Nutrition and Human Needs, of which I have the privilege to be chairman, issued a report on unemployment and hunger in Seattle. The report detailed the severe economic conditions afflicting the Seattle area and the attempts by local people on a volunteer basis to meet their hunger need. The report also detailed efforts by local officials to get approval for emergency food aid from the Department of Agriculture and the Department's refusal to grant that emergency aid.

In Wednesday's Wall Street Journal, there appeared a story with the headline, "Japanese Foreign Aid Sent to 'Hurt Hungry'—In Troubled Seattle." This story describes the generous gift of Seattle's Japanese sister city, Kobe, in shipping a thousand pounds of food and rice needles to the poor in Seattle. I applaud this act of humanitarianism by the citizens of Kobe and can only wonder why our own Government cannot provide assistance to our own people.

This week, a Federal court judge in Seattle found that the Secretary of Agriculture was in violation of the 1971 Food Stamp Act in refusing to grant the emergency assistance sought by Seattle. On Tuesday, I wrote the new Secretary of Agriculture, Dr. Butz, asking that he comply speedily with the court ruling. I fervently hope that Dr. Butz will see fit to do so. I would like to submit for the record the news article from the Wall Street Journal of today and the press release issued Tuesday on my letter to Dr. Butz.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

McGOVERN URGES BUTZ DEMONSTRATE HUNGER COMMITMENT BY COMPLYING WITH FEDERAL COURT ORDER ON EMERGENCY FOOD HELP FOR SEATTLE

Senator George McGovern (D-SD), chairman of the Senate Select Committee on Nutrition and Human Needs, today urged Agriculture Secretary Earl Butz to provide emergency food assistance to Seattle, Washington, as ordered by a federal court decision yesterday.

McGovern said that during his recent fight to achieve Senate confirmation, Secretary Butz affirmed his commitment to hunger programs. The Secretary personally wrote McGovern that:

"I know of the efforts that this Administration and the Senate Select Committee on Nutrition and Human Needs have made in combating hunger and malnutrition and I fully support President Nixon's pledge to eliminate poverty related hunger and malnutrition in this Nation.

"Since the President's historic "Hunger Message" on May 6, 1969, the accomplishments comprise the largest and most successful nutritional undertaking in all history.

"I will give high priority, as Secretary of Agriculture, to continued USDA efforts to reach the President's goal. I will energetically work toward improvements in the programs to feed needy families and to improve the nutritional health of this Nation's children."

McGovern, in a letter sent to Butz today, said: "There could be no finer way of demonstrating your concern and commitment to ending hunger in America than by reversing the Department's previous position denying emergency food aid to Seattle."

McGovern cited a recent staff report by the Select Committee, "Seattle: Unemployment, the New Poor and Hunger," which fully supported Washington State's request for the emergency assistance:

"There is clearly a demonstrated need for further food assistance in the Seattle area. The Food Banks indicate the usefulness and feasibility of a Direct Food Distribution Program. The Federal Government's Direct Distribution Program could be of vital assistance in alleviating the area's nutritional needs. The Agriculture Department has ample foodstuffs available and has clear legislative authority to approve the State of Washington application to operate a Direct Distribution Program concurrent with the Food Stamp Program in the Seattle area. The Agriculture Department has taken the position that it does not intend to approve such an application for Seattle—or any other jurisdiction. This position is clearly contrary to the intent of Congress, as expressed in the Food Stamp Amendments of 1970. The U.S. Department of Agriculture should approve the application of Washington State for concurrent programs forthwith."

The new Food Stamp Act passed during last Congress specifically authorized the concurrent operation in one area of the food stamp and surplus foods program, providing families did not participate in both programs simultaneously and the state or county paid the additional administrative cost.

Earlier this year, Washington State officially applied to the Agriculture Department for a surplus foods program for Seattle and two other counties that already have food stamp programs. The state cited the severely depressed economic conditions as necessitating the additional emergency food aid.

The Agriculture Department took the position that it was not required to implement the provision of the new Food Stamp Act permitting the operation of both programs, and furthermore, that Seattle didn't qualify anyway.

United States District Judge William

Beeks, in his decision issued in Seattle yesterday, said:

Dual operation of the two programs was authorized in 1971 for situations other than floods, hurricanes and the like.

Congress clearly intended that in areas experiencing severe economic hardship, dual operation should be permitted. . . .

Large numbers of the poor are finding it impossible to obtain adequate nutrition under the food stamp program because their net incomes are too low to afford food stamps. . . .

If dual operation cannot gain approval here with the unemployment rate the highest in the nation for a metropolitan area and where thousands have exhausted their unemployment compensation, then the act has been rendered nullity.

Judge Beeks ordered Agriculture Department action with the following statement:

Where, as here, the facts clearly indicate that the request concerns an area that qualifies for dual operation by virtue of its severely depressed economy, the Secretary has the duty to approve that request.

If, after such a request has been approved, the state presents a plan for distribution of commodities which otherwise satisfies the guidelines established by the regulations, the Secretary must approve the plan.

The courts may enjoin federal administrative action or inaction when it is violative of legislative enactment.

Clearly relief is warranted in the exceptional circumstances in this case.

Finally, McGovern, in his letter to Butz, said that he believed this decision represented an historic breakthrough in the fight to end hunger and malnutrition.

"This decision means that the Federal Government must use every weapon in its arsenal to eliminate hunger in the country," McGovern said. "In recent years, the problem of hunger, once only associated with the object poor, has begun to hit the millions of newly unemployed working people."

"These are people who aren't just holding their hands out, but who do need an extra helping hand. The Agriculture Department should now move swiftly to extend that helping hand."

[From the Wall Street Journal, Dec. 18, 1971]

Japanese Foreign Aid Sent to "Hurt, Hungry"—in Troubled Seattle

Seattle.—Stunned by the federal government's refusal to start a free-food program to ease Seattle's growing hunger problem, the city has found help elsewhere: foreign aid from Japan.

Last week, Seattle's Japanese "sister city" or Kobe shipped a planeload of 1,000 pounds of canned food and rice noodles to Seattle. Collected by Kobe's Christian community, the food was sent through the Kobe YMCA as a gesture of friendship to the thousands of Seattle residents who face hunger as their unemployment benefits run out.

Seattle unemployment has been running at about 13%, the highest in the nation, largely as a result of Boeing Co. layoffs.

The food is being distributed by Neighbors in Need, a church-sponsored, privately operated food bank program that has been relying on community donations to help feed the unemployed who can't qualify, or who can no longer afford the federal food stamp program.

The Rev. Bryce Little, a spokesman for the Seattle group, called the Japanese aid a "very meaningful contribution" and a "symbolic expression of concern by the Japanese people for the people here who are hurting and hungry." He said Neighbors in Need is operating 36 free food banks in the Seattle area alone, where it currently dispenses about $10,000 a week in food to some 15,000 needy individuals.

Japanese Send Food to Jobless in Seattle

(By Nick Kotz)

Unemployed residents of Seattle, Wash., began receiving foreign aid donations from Japan this week. At the same time, a federal judge said the U.S. Agriculture Department has illegally withheld food aid from the city.

The foreign aid is coming from Seattle's "sister city" of Kobe, which shipped 1,000 pounds of canned food and rice noodles to the jobless poor.

Kobe offered the food to Seattle as a gesture of friendship after learning of the city's massive unemployment problem and of the unwillingness of the U.S. government to distribute surplus food under the commodity distribution program. The Japanese food is being distributed by Neighbors in Need, a church-sponsored privately operated food bank program.

On Tuesday, U.S. District Judge William Beeks of Seattle, in a sharply worded ruling, declared that former Agriculture Secretary Clifford Hardin had unlawfully denied the city a food commodity program and thereby had "abused his discretion" and acted in an "arbitrary and capricious manner."

Sen. George McGovern (D-S.D.), chairman of the Senate Select Committee on Human Need, yesterday asked the new Agriculture Secretary, Earl Butz, to heed the court order. He reminded Butz that he had pledged support of food aid during the Senate fight over his confirmation. Earlier, Butz had been sharply critical of food aid programs.

An Agriculture Department spokesman said yesterday, however, that the department has not yet decided whether it will accept the court ruling and implement a commodity program or whether it will appeal the decision to the ninth Circuit Court of Appeals.

The legal dispute concerns the unwillingness of USDA to utilize a provision of the 1971 Food Stamp Act, which permits a county, in emergency situations, to operate both the food stamp program and the commodity distribution program.

USDA has contended that both programs were not needed in Seattle, and said it would not permit any county to have both food programs.

The Nixon administration therefore turned down a bipartisan request that came from state, county, and city officials and the state's congressional delegation. The officials also unsuccessfully presented their case to John Ehrlichman, a former Seattle attorney and now the President's assistant for domestic affairs.

They pointed out that 106,000 persons are now unemployed in Seattle, which has been hard hit by cutbacks in the aerospace industry, and that many unemployed cannot qualify for food stamps or afford them. The city's unemployment rate, well over 15 per cent, is the nation's highest.

The Senate Select Committee on Nutrition, in a report entitled "Seattle: Unemployment, the New Poor, and Hunger," said that thousands of engineers, technicians and other normally well paid employees had too much in assets to qualify for food stamps. Others couldn't afford to pay for stamps after making payments on their homes, autos and insurance policies.

The lawsuit in behalf of Seattle's "new poor" was filed against USDA by Ronald Pollack, an attorney for the Center on Social Welfare Policy and Law, which is based in New York.

Judge Beeks ruled that the Agriculture Secretary had acted unlawfully by establishing national policy against permiting any county to operate both food programs. In the Seattle case, the judge said the Secretary's action was "arbitrary and capricious and an abuse of discretion.

"Congress clearly intended that in areas experiencing severe economic hardship, dual operation (of food programs) should be permitted," Judge Beeks said. "Large numbers of the poor are finding it impossible to obtain adequate nutrition under the food stamp programs because their net incomes are too low to afford food stamps.

"If dual operation cannot gain approval here with the unemployment rate the highest in the nation for a metropolitan area and where thousands have exhausted their unemployment compensation, then the (Food Stamp Reform) act has been rendered a nullity."

Mike McManus, director of Operation Hunger, a Seattle program soliciting voluntary food aid for the unemployed, told the Senate committee that "the community simply has run out of the ability to give."

ADDRESS BY SENATOR CHURCH AT WHITE HOUSE CONFERENCE ON AGING

Mr. WILLIAMS. Mr. President, one of the most well-received speeches at the White House Conference on Aging last week was delivered by Senator Frank Church, chairman of the Senate Special Committee on Aging.

As immediate past chairman of that committee, I took special interest in the address and in the facts and challenges presented by Senator Church to many of the 3,400 delegates gathered for that Conference.

The senior Senator from Idaho asked bluntly whether the Nation is advancing or falling behind in the effort to assure genuine security and fulfillment in retirement.

Reluctantly, he had to conclude that needs are multiplying while response falls short of very pressing demands. He gave evidence: an increase in the number of elderly living in poverty during the last 2 years; committee findings that at least 6 million older Americans live in unsatisfactory quarters; widespread unemployment of older workers; and much more.

But the Senator did more than comment on present inadequacies. He called upon Republicans and Democrats alike to use the momentum of an election year to make certain that Conference recommendations are implemented in the early part of the 1970's.

Mr. President, Senator Church's address should be shared by those who could not hear from him directly. I ask unanimous consent to have the prepared text reprinted in the Congressional Record.

There being no objection, the address was ordered to be printed in the Record, as follows:

Address of Senator Frank Church, Before the White House Conference on Aging

Some of you here today may remember what John F. Fogarty said just before the 1961 White House Conference.

Even though it was his legislation that called for the Conference, Congressman Fogarty was worried.

What good would the Conference be, he asked, if it resulted in little more than an increase in the output of words?

Well, you already are inundated with words. I understand many of you have just come from 16 different special-concerns sessions where—for four hours—you tackled problems as varied as long-term care, the elderly blind, minority group needs, and consumer interests.

I have more words for you, but only 15 minutes worth. The planners of this particular part of the Conference must have sensed that this would be a good time for a short talk.

And this is good because it encourages me to line up my thoughts and to choose those key facts that may fit in here just before you write your recommendations.

What, then, is my major message today?

I think it can be summed up very readily.

To put it bluntly, I think we are falling behind—not advancing at all—in our national effort to assure genuine security and fulfillment in retirement.

That may be a shocking statement, but it is based upon hard facts of today and foreseeable facts of the future.

My first hard fact is the Congress has had to fight all year to prevent a retreat in key areas related to aging. When the Administration submitted a budget request for the Older Americans Act that was actually lower than for the previous year, members of the Committee on Aging—Republicans and Democrats alike—took up the fight, restored the proposed cuts, and actually increased the appropriation to almost 45 million dollars.* That sum is less than half as much as we'll contribute this year to the Greek Army. It is a great deal less than just the flight deck of that billion dollar aircraft carrier the Pentagon is talking about.

Once the budget for the AoA had been settled, my Committee and Tom Eagleton's Subcommittee on Aging conducted hearings on the conduct of this White House Conference. I'm happy to report that hearings do have an effect: just a few days before the first one, Arthur Flemming was appointed full-time chairman of this Conference, and later Secretary Richardson reversed his policy on abandonment of more than 20 nutrition programs. But the biggest dividend of those hearings was good, honest analysis of the impossible position of the AoA as it now stands. I appointed an Advisory Council to make proposals for improving the AoA or replacing it, when the present law expires.

Congress and the Administration have had other disagreements on aging in the last year or so.

On Capitol Hill, for example, many of us agree on the need for a cost-of-living adjustment mechanism for Social Security, but we can't see why the Administration has been willing to settle for such a low base on which to build the escalator.

My own personal goal is to end poverty among older Americans. And I have sponsored a proposal calling for the use of the Social Security system as the elevator for lifting nearly 5 million elderly persons out of poverty. No old-age retirement system is worthy of the name, which leaves fully a fourth of the elderly on incomes below the government's own poverty line!

I've described just a few conflicts between Congress and the Executive Branch—not in the name of partisanship—but to help explain why I think our present national effort is lagging. I believe that the recent Democratic Administrations—despite Medicare and the Older Americans Act—failed to go far enough and must share their part of the responsibility for today's inadequacies. The time is ripe for coalition action by members of both parties during the 70's. On that point, I might refer you to the minority views expressed in our latest Pre-White House Conference report and in our most recent annual report. On all key points, as Senator Fong may tell you later, there is fundamental agreement on goals. When it comes to aging, there is really no room for a "game plan" based upon short-range political tactics seeking narrow partisan advantage.

It's already much too late to play games or to stall or to explain why this or that hasn't been done—or can't be done—for older Americans today and tomorrow.

I mentioned hard facts before. Let me give you more now.

Our nation, in the Older Americans Act of 1965, said that one of its goals was an adequate income for the elderly. And yet in the past two years, 100,000 *more* elderly persons throughout this land slipped below the poverty level. One out of four persons past age 65 is poor.

Our nation, in the Housing Act of 1968 made proud statements about good shelter for all Americans within a very few years. And yet, as far as the elderly are concerned, there is ample reason to fear that we are falling behind. The Committee estimates that 6 million older Americans live in unsatisfactory quarters. Only about 350,000 Federally-supported units have been built in the last 10 years. How do we catch up? And what do we do about property tax increases that are driving many elderly homeowners to despair?

Our nation, in the Employment Act of 1946, declared that it would no longer tolerate widespread joblessness. And yet today, at this very moment, among the millions of Americans now without work are 1 million persons past age 45; the so-called "older workers." Their unemployment will be far longer than for younger persons. Their pension benefits and Social Security of the future will be far less than might have been. The Committee says that a new generation of elderly poor may be in the making. What do we do about them?

Our nation, in passing Medicare, pledged itself to adequate medical treatment for the elderly. And yet, within the past two years, Medicare is costing more and providing less. Cost control is one thing, but widespread abandonment of responsibility is another. Here again, we are losing ground.

As for transportation, in rural and urban America alike, it is becoming harder, instead of easier, to get from one place to another.

Consider the trend. It is backward, not forward. And if our overall national effort is being swamped by the needs of today, consider what is in store for us in the years ahead.

Between now and the turn of the century—just 29 years away—between 45 and 50 million of today's middle-aged persons will enter the 65 years-and-up age bracket. Think of that: tens of millions of persons entering a retirement way of life which is already strained for most and bitter for many.

Will today's failures be deepened, or will the pressures of sheer numbers and sheer need finally force adequate response?

I think you know my answer to that question. Despair never solved anything. Game plans, if they merely stall action, add only deception to despair. But when it comes to aging, I think we have passed beyond either deception or despair.

I mentioned before that I believe that coalitions for action are essential during the 1970's.

What I mean is that Republicans and Democrats alike should use the momentum of an election year to make certain that the recommendations of this Conference are implemented in the *early* part of the 1970's.

What I mean, too, is that we should be unafraid to question even our most self-satisfied assumptions, ranging far beyond the field of the aging, far beyond even such questions as new directions for Social Security, new ways of providing and paying for health care, and other such vital policy matters.

What I mean, fundamentally, is that this nation is ready to question and discard many sacred cows that have already lived too long.

We have questioned a foolish, futile war, and though its termination is slow, it is now inevitable.

A few weeks ago, the Senate questioned whether foreign aid is really serving our nation and others in the ways that it should and we have gone back to the drawing boards in search of needed change.

We are questioning our attitudes toward racial minorities and we are finding much to question in our use of our land, our water, and our air.

Now we must ask questions about the very health of our nation and the well-being of each and every citizen of our land.

Our treatment of the elderly certainly tells us whether we are sound or sick as a nation. If we are indifferent toward the last years of life, we diminish the dreams of all our people.

So let us respond to the dynamics of this Conference and to the needs, hopes, and just demands of those who built this country, her senior citizens.

THE SITUATION IN INDIA AND PAKISTAN

Mr. McGOVERN. Mr. President, I have been watching the situation developing in East Pakistan since the end of March of this year when I first discussed the matter in the Senate. Virtually all of the developments on the Asian subcontinent since that time have deepened my concern about the chances for peace and stability in the area.

The reaction we have seen in the past few days to the invasion of East Pakistan by Indian forces and to the invasion of India by the forces of West Pakistan loses sight of the broader development of events in those areas.

In elections held in Pakistan, the Awami League swept the vote in East Pakistan and thus obtained a majority in the Pakistani Parliament. The government in West Pakistan was not willing to accept this result, even though it was the democratic expression of the Pakistani people. On March 25, the Pakistani Government moved to suppress the opposition to the status quo and to nullify the electoral victory of the Awami League.

The initial reports we received from East Pakistan indicated that the United States had placed itself in the position of providing military support to the West Pakistan Government, which inevitably helped that government in its policy of suppression in the East. As early as April, it was clear that we should not provide any military assistance to Pakistan. Furthermore, we should, at that time, have informed the Pakistani Government that all economic aid would be cut off unless we could be completely assured that such assistance was entering both parts of the country.

Mr. President, I urged such a policy on our Government. The reaction was not only a continuation of one-sided economic assistance but the resumption of arms deliveries to the Government of West Pakistan.

The logical inference, which I brought to the attention of the Secretary of State, was that in return for the assistance provided by the Pakistani Government to Mr. Kissinger in establishing contact with Peking, the United States had taken a benevolent attitude toward the Pakistani policy in East Bengal. This, of course, the State Department denied.

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*1971 FY Funding: $32 million; Administration request for FY 1972, $29.5 million; final FY 1972 appropriation $44.75 million, or $15.25 million more than the budget request.

So, one of the great unexplained gaps in our policy is why the United States refused to exercise any legitimate moderating influence on the Government of Pakistan. No amount of explanation of actions after the fact by the administration seems to be able to answer that question. No official statements issued now can explain the administration's silence while the people of East Bengal were slaughtered, or terrorized.

From the moment that Bengali refugees began to stream into India, the Pakistani situation became an international situation. At that time, the matter should have been brought before the United Nations. Because of the failure to take that step or any other action to cool off the situation, we saw another inexorable march toward war.

In many respects the war now taking place between India and Pakistan is merely the extension of the conflict which gave rise to the creation of a Hindu state and a Moslem state on the Asian subcontinent in 1947. Because we should have known that the potential for renewed war between India and Pakistan was so great, we should have been impelled to even greater efforts to divert the course of events.

It is never a good moment for mankind when the forces of one nation invade another. Yet this has happened now with both India and Pakistan constrained to fight a war on two fronts. The old wounds in Kashmir have been brutally torn open.

We can regret the Indian invasion. But simply to regard the invasion as an isolated event is ridiculous. Yet that administration stands ready to take immediate action against India despite the fact that it allowed, even encouraged, Pakistan to escalate the situation to the point of war.

Now we are called upon to play an active role for peace. Instead we see an administration which prefers to sit on the sidelines, apparently because it recognizes that direct American military intervention is impossible.

We should, both unilaterally and through the United Nations, seek an immediate cessation of hostilities. Let those in the United Nations who wish to assume the responsibility for opposing such action be clearly identified. We should not throw up our hands because we know in advance that there may be a veto against a constructive proposal. And instead of a policy of petulance and partiality, we should use our considerable influence to bring all parties to a ceasefire and then to the negotiating table. That means the Indians and the Pakistanis, the Pakistan Government and the Awami League.

And we must recognize that the outcome of these talks will allow for the recognition of either the autonomy or the independence of Bangla Desh. There is no turning back the clock to elections which would have allowed for democracy in Pakistan. We cannot reasonably expect the people of East Bengal to place their trust in the government in West Pakistan.

Finally, we should take urgent action, direct if necessary, to insure that the flow of relief supplies gets through to those in greatest need—refugees and victims of the cyclone. And we need to push for the immediate release of foreign nationals who are now trapped in the war zone. The United States can do more on these matters than sit back and wring its hands.

Most importantly, we should seek to understand the failings in our own policy which have helped bring about the present war. I hope we have learned the lesson of Vietnam. But, even if we have, that is not enough. We have still to learn how to use our strength and influence to promote peace. The senseless and wasteful killing now going on in the Asian subcontinent shows that the time for wisdom instead of grandstanding is long overdue.

DRUG ABUSE LEGISLATION

Mr. TUNNEY. Mr. President, on November 3, 1971, I introduced S. 2809, the Drug Abuse Research and Education Act of 1971. That bill was the product of extensive research and consultation with drug abuse experts throughout the country.

Two weeks ago I reintroduced that legislation as a floor amendment to S. 2097, the comprehensive drug bill which was being voted on by the Senate. During those days a large number of academic and professional persons working in the field of drug abuse wrote to me expressing their strong support for S. 2809 and offering many helpful comments about its potential as an aid in the fight against drug abuse.

During the debate upon my amendment on the floor, a number of my colleagues urged that I refrain from bringing it to a vote at that time because of the many difficulties they had encountered in arriving at a bipartisan compromise on S. 2097. The Senator from Iowa (Mr. Hughes), chairman of the Alcoholism and Narcotics Subcommittee, was particularly gracious and helpful in offering to move forward with early hearings on S. 2809 in the coming year.

In view of that consideration, and in order to allow a prompt vote on S. 2097, I agreed to withdraw the amendment and to work with Senator Hughes to develop productive hearings on S. 2809 early next year.

Mr. President, since that time a large number of drug abuse experts have continued to communicate their very strong support for my bill and I believe their comments will be most useful in analyzing the merits of this legislation. I therefore ask unanimous consent that the text of some of their letters be printed in the Record.

There being no objection, the letters were ordered to be printed in the Record as follows:

Washington University
School of Medicine,
December 3, 1971.

Senator John Tunney,
U.S. Senate,
Washington, D.C.

Sir: I would like to let you know that I vigorously support your bill S. 2809. The need for research funds, for the multidisciplinary character and for extended support of investigators in the drug abuse field is much to the good.

Sincerely,
Eli Robins, M.D.,
Wallace Renard,
Professor and Head of the Department.

University of California,
San Francisco, Calif., December 6, 1971.

Hon. John Tunney,
Senator from California,
U.S. Senate Building,
Washington, D.C.

Dear Senator Tunney: I was delighted to receive your letter and have read with great interest the speech which you gave on November 3, 1971 recommending the Drug Abuse Research and Education Act of 1971.

I am fundamentally in agreement with the points made in your speech, and especially agree with the importance of developing long-term programs for research, training, and treatment in psychopharmacology. Your suggestions that these be regional centers strike me as very sound, and I have no objection to their being organized under the auspices of the National Institutes of Mental Health.

What concerns me, of course, and I'm sure it does you too, is that there might be in any new effort, whether crisis oriented or long-term a danger of further diluting the medical influence in terms of coping with drug problems. That problems of drug addiction especially have become so deeply entangled in legal issues and law enforcement is most regrettable, and it seems to me very essential that continuing efforts be made to understand the psychiatric and socio-cultural aspects of drug taking and to get away from the punitive approach. On the other hand, it is naturally of great importance to control and regulate the use of drugs, and particularly the mind-affecting drugs, since their wide-spread and indiscriminate use for other than specifically therapeutic purposes could have most serious consequences.

In short, I congratulate you on your courageous efforts and will do what I can to lend support to your proposals.

Sincerely yours,
Peter F. Ostwald, M.D.,
Professor of Psychiatry.

University of California,
San Francisco, Calif., December 6, 1971.

Senator John V. Tunney,
U.S. Senate,
Washington, D.C.

Dear Senator Tunney: This is in reply to your letter of November 18, 1971. I am sorry I have not been able to respond to this sooner due to my being away from my office. It may be too late to comment on your proposal but, nevertheless, my comments are as follows.

Needless to say, the problem of drug abuse is certainly a current and popular one and affects a great number of people, especially in our urban centers. The reports from large cities as far as addiction and death associated with narcotics are frightening. Therefore, your efforts in this area are timely and long overdue. Your humanistic concern in these and associated problems has been known and respected.

I have studied your proposal S. 2809 and have discussed it with colleagues at the institute. We all agree that funds to support personnel will stimulate scientists in this area. It will also stimulate the development of new people to become interested in this area. It will provide good research as expected from good people that may offer increased knowledge concerning basic mechanisms. It will also provide clinicians to develop services for people suffering from this affliction. This provision would secure whole hearted support.

There is some question I would like to pose for your consideration concerning the development of six national centers devoted particularly to drug problems. I have serious questions about providing centers for categorical services. For example, children are poorly served in this country, and yet we have comprehensive mental health centers, mental retardation centers, and crippled children's funds, etc., each providing a service for a particular disorder or disease confronting the child and his family. We do not treat the child, but someone who may or may not be eligible because he has or does not have a particular disease entity. To secure services for a mentally retarded, he needs to have an I.Q. below a certain figure and if he unfortunately falls above it he is not eligible. To categorize services on the basis of addiction or abuse of drugs, I think, falls into the same category of fragmentation in training, service and research.

There are a number of centers throughout the country who have secured research funds or have utilized their own budgets to develop research and service in this area. In our Langley Porter Institute there is a group actively engaged in this area. I know that this is true of many other centers throughout the country. It would seem to me to be more efficacious to develop, through financial support, centers already established and work already in progress. In this way we would reduced some of the difficulties posed by the development of fragmented services and research, and at the same time further enhance what is already in progress.

I hope this information may be useful to you. If I can be of any further service, please let me know. It was very good to meet with you last May to discuss mental health training problems. You certainly were very helpful to us.

Sincerely yours,
Irving Philips, M.D.,
Clinical Professor of Psychiatry.

University of California,
San Francisco, Calif., December 3, 1971.
John V. Tunney,
U.S. Senator,
Washington, D.C.

Dear Senator Tunney: We were delighted to review your bill S. 2809 authorizing the establishment of regional centers of excellence in drug abuse research and education.

Not only do we agree that earlier, one-shot, crisis-oriented drug abuse education and prevention efforts must be superseded by more mature, long-term, multi-disciplinary efforts, but you will perhaps be pleased to hear that independently, we have developed a collaboration between departments and campuses of the University of California to form what might be called, in your wording, "a center of excellence" here in California.

October of this year, we submitted for consideration by the National Institute of Mental Health (N.I.M.H.), a grant proposal titled, "UCSD–UCSF Drug Abuse Training Program." Support is requested in the amount of $2,536,325 for a period of 3 years. This is a coordinated 2 campus training effort involving the San Francisco and San Diego campuses to establish a comprehensive Drug Abuse Training and Education Center—primarily for Health Science personnel.

One of the phases of your bill describes almost perfectly what we are attempting in this inter-campus collaboration. We have described in our grant proposal a "multidisciplinary program in drug abuse and drug dependence," including research, education of drug abuse personnel at all levels, model treatment projects, experimental therapeutics, continuing education for professionals in the health sciences, and public education.

This center in drug abuse is being established to utilize the unusual collection of resource persons present on the San Francisco and San Diego campuses of the University of California. Multidisciplinary efforts will be well embedded within a matrix of model, ongoing drug abuse treatment programs. The clinical settings to be used for training will include the Narcotics Treatment Program at UCSD, a multimodality program with over 400 patients in treatment currently including 60 patients now at the new 350 acre Deer Park Residential Treatment Center; the Haight-Ashbury Clinic, the original free clinic developed for assisting abusers of both hard and "soft" drugs which, through NIMH support, has developed a variety of medical and psychiatric services.

The idea for a Community Drug Abuse Service was first proposed at a series of meetings which were held in 1971 involving the nine campuses of the University of California. At that time, the University leaders agreed that San Francisco was the ideal location for a University-affiliated agency which would attempt to combat the growing drug abuse problem in California and the United States by providing comprehensive, multidisciplinary services to the community. National experts are available as consultants on our campuses in the following fields: Basic and clinical pharmacology; toxicology; neurosciences including neuromolecular biology; biochemistry, cultural anthropology, sociology, community organization and health delivery systems, epidemiology, clinical program development and evaluation; clinical psychiatry; psychology, psychopharmacology; drugs abuse treatment modalities, paraprofessional training and other academic subspecialities. To-date the University has developed a variety of research and education programs in drug abuse through its School of Dentistry, Medicine, Nursing and Pharmacy. It has advanced student-initiated community education projects, participated in the National Training Center in teacher drug abuse education, provided treatment through its Langley Porter Neuropsychiatric Institute, maintained legislative liaison through its Drug Abuse Information Project, and offered community and professional education through its Department of Continuing Education in Health Sciences.

Thus the University has made a decisive, long-term, long-range commitment to correct drug abuse problems which should enjoy increasingly greater federal and state support.

Therefore, we not only support your bill but would like to discuss our joint efforts in more detail. Drs. David Smith and David Bentel, Co-Directors of the University-Wide Drug Abuse Information Project, would be the best persons from our campus to meet with you or your staff in Washington or San Francisco. I shall, of course, be pleased to be of further assistance in any way possible.

Sincerely,
R. M. Featherstone, Ph. D.,
Chairman.
D. E. Smith, M.D.
D. J. Bentel,
D. Crim.

Center for Advanced Study
in the Behavioral Sciences,
Stanford, Calif., December 1, 1971.
Hon. John V. Tunney,
Senate Office Building,
Washington, D.C.

Dear Senator Tunney: Thank you very much for your letter of November 18th regarding your proposed S. 2809. It is a far-sighted and excellent bill, and I will urge its support by the relevant Senators, including Senators Scott and Schweiker, from my home state.

Sincerely,
Albert J. Stunkard, M.D.,
Professor and Chairman, Department of Psychiatry, University of Pennsylvania.

Boston University
School of Medicine,
Boston, Mass., December 2, 1971.
Hon. John V. Tunney,
Senate Office Building,
Washington, D.C.

Dear Senator Tunney: Thank you for your letter of November 18, 1971. I'm sorry that it has taken so long to answer it but I've been away from my desk for a number of days.

I have read S. 2809 with much interest and I'm impressed by its thrust and its aims. While I'm totally in agreement with what you are trying to accomplish by introducing this legislation, I'm not certain that I am in accord with all of its provisions.

First, however, let me point out what I am heartily in accord with. The idea of establishing centers of research and training in the field of drug abuse is one which I have supported for a number of years both as an old hand in the field and as a member of, and then chairman of, the Scientific Review Committee (Study Section) of the Center for Studies of Narcotic and Drug Abuse in NIMH. At one time, I along with several other interested scientists at Boston University, were negotiating with NIMH looking to the establishment of such a center at the Boston University School of Medicine—it fell through for a number of reasons having nothing to do with NIMH but I still think that it was a good idea. I am also pleased with the plan to develop a career scientist program in the field of drugs with dependence liability—I think that this is a necessary and eminently reasonable step toward guaranteeing that a significant number of excellent people will devote a meaningful portion of their scientific career to the field of drug abuse.

There are, however, a number of features of S. 2809 to which I take some exception. I feel that by giving some attention to these a stronger bill will be produced, and the goals which you have outlined in your introductory statement will be reached more readily.

In the first place, I am opposed to the concept that centers such as those outlined in your proposal should be considered on a regional basis. There are too few scientists in the existing centers of research in this field to contemplate further fractionation of talent and resources. It would seem much more parsimonious to beef up the existing places where interest in drug addiction research has been high, make them truly interdisciplinary and let them develop into much more effective centers of research and education. It would be far better to have three or four centers tied up to existing university departments that are known to be good at the present time and that can be improved significantly. In this way Peter would not be robbed to pay Paul and our present meager resources of brainpower and activity in drug abuse would not be stretched to the breaking point. Besides, I do not think that the funds that are contemplated in S. 2097 are sufficient to realistically fund more than three or at most four centers. It would be a pity to dilute the funds in order to establish six centers simply to satisfy regional demands. I am certain that the nation and science would get much more out of expending three or four existing facilities such as those at the University of Kentucky (and the ARC in Lexington), the University of Michigan, Stanford, U C San Francisco, Chicago, U C San Diego or even here at Boston University, to name just a few, than by starting regional centers *de novo* and competing for knowledgeable scientists, for trainees and for monies.

In addition, although I am certainly in favor of the idea of supporting established and reputable scientists with career awards, there should be a mechanism for the training of post-doctoral fellows and of graduate students in the field. Since NIH has so drastically cut graduate and post-graduate training support, there are few sources for funds to carry out this function which is so essential for the continuation of research and education. I would suggest fewer career awards and much more money for training of young professionals who would later, after proving themselves, be eligible for the career awards. Without graduate and post-doctoral students there will be no career award candidates worth considering.

Finally, I would like to urge very strongly that the idea of a separate institute dealing with drug abuse be approached with a great deal of caution. The fractionation of effort, the duplication of programs and the administrative overlap can only hinder rather than help. I join with the entire scientific community in urging, as we did recently with reference to Cancer research, that further splintering of NIH and NIMH be avoided and that NIMH be given the task of funding, directing, overseeing and evaluating the work in this field.

I hope that the above remarks will not be taken as an expression of opposition to S. 2809. On the contrary, I am heartily in favor of the thinking that led to its drafting and of the idea that support for research in the fundamental mechanisms of action of dependence-producing drugs must be forthcoming on a permanent and meaningful basis because it is essential to the solution of the problems of drug abuse. I am also heartily in favor of a multidisciplinary and interdisciplinary approach and of support of centers that foster such an approach. The questions of how, where and in what way this can be best done, can, I am sure, be worked out.

Sincerely yours,
JOSEPH COCHIN, M.D., Ph.D.,
Professor of Pharmacology and Psychiatry.

HARVARD SCHOOL OF PUBLIC HEALTH,
Boston, Mass., December 3, 1971.
Hon. JOHN V. TUNNEY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR TUNNEY: I very much appreciated your letter of November 18th regarding your plan to introduce a bill (S 2809) to authorize the setting up of a series of regional centers for research and education in drug abuse. This idea appeals to me very much, and I consider it a sound one, indeed one which must be implemented.

There is one complication to my expressing more than general approval, namely, that my work as Vice-Chairman of the National Commission on Marihuana and Drug Abuse makes it necessary that I not express myself too specifically about issues that may need a good deal of study in balancing the various pressures from well-meaning but competing groups. With the Special Action White House group under Dr. Jerome Jaffee, the NIMH and other units in H.E. and W., the American Medical Association, and its state and local societies (in which I am also active), and the forthcoming program being developed by a combination of private foundations there will be much balancing and weighing of alternatives to be done. At the same time this process should not be so prolonged as to delay seriously plans to solve the problem.

At this time, therefore, I will only express keen interest and general support for the concept of S. 2809 and will try to inform myself more adequately in the next three weeks.

My only present reservation concerns whether or not the size and scope of the program you envisage is sufficient. But, there has to be a beginning somewhere.

I am most gratified at your interest in this major problem of our time and look forward to being more helpful.

With best wishes,
Sincerely yours,
DANA L. FARNSWORTH, M.D.,
Consultant on Psychiatry.

NEW YORK MEDICAL COLLEGE,
New York, N.Y., December 1, 1971.
Hon. JOHN V. TUNNEY
U. S. Senate, Washington, D.C.

DEAR SENATOR TUNNEY: Thank you very much for your letter of November 18, 1971, and the attached reprint from the Congressional Record, Vol. 117, November 3rd, which contains the text of S. 2809, and your remarks explaining its provisions.

Let me say that I am in whole-hearted agreement with the proposed bill and your very pertinent and informed remarks on the urgent need for multidisciplinary regional centers of research and education in drug abuse and career awards in drug abuse research and education. I believe that your proposal represents an absolute *minimum* of what is needed if we are not to be submerged in a morass of crime and the disintegration of our cities.

In thirty years of teaching and research as a full-time member of this medical school, and seventeen consecutive years as Chairman of the Research Committee of this Medical Center, which encompasses Flower-Fifth Avenue Hospitals, Metropolitan Hospital and the Bird S. Coler Home and Hospital of the City of New York, I have been exposed, at closest range, to the ravages and growing menace of drug abuse and its tragic sequelae of crime, disruption of family life, and destruction of valuable human beings. Our Institution has, for many years, been in the forefront of those trying to combat the scourge of drug abuse with both research programs and clinical services in the area of alcoholism, during addiction, and drug abuse in general. Unfortunately, such valiant efforts are woefully inadequate to stem the strongly rising tide of this terrible problem. Needless to add that I enthusiastically support your amendment to S. 2097, and that I wish you the best of luck and success in your vital efforts.

If I can be of any further assistance, please do not hesitate to call upon me.

Sincerely yours,
DAVID LEHR, M.D.

UNIVERSITY OF CALIFORNIA,
San Francisco, Calif., December 2, 1971.
Hon. JOHN V. TUNNEY,
U.S. Senate,
Senate Office Building,
Washington, D.C.

DEAR SENATOR TUNNEY: I have today sent the appended letters to Senators Hughes and Javits. I hope your bill enjoys the wide support it deserves.

With best wishes for the holiday season,
Sincerely,
JERE E. GOYAN,
Dean.

DECEMBER 2, 1971.
Hon. HAROLD E. HUGHES,
U.S. Senate, Senate Office Building,
Washington, D.C.

DEAR SENATOR HUGHES: Senator Tunney forwarded to me a copy of the Congressional Record of November 3, 1971, describing Senate Bill 2809, The Drug Abuse Research and Education Act. As chairman of the Alcoholism and Narcotics Subcommittee, I know you have a great interest in this bill, which I share. Both faculty and students in our school have been active in the San Francisco Bay Area community working with adult groups, youth groups and schools in drug abuse education since the germination of the "Flower Children" in the spring of 1967. Though the response by the community has been enthusiastic, there has been an obvious need to establish a long-range national commitment in drug programs. Through the Act's proposed "Regional Centers," young health professionals and paraprofessionals will have the opportunity to receive training. This will result in a much-needed increase in individuals committed to solving the many problems intertwined with drug abuse.

The strong positive statement concerning the "multidisciplinary character" of the programs has my enthusiastic support. The many conferences and symposia held on this campus and the many treatment modalities being developed in drug treatment programs in this community and throughout the country all point to the necessity and value of participation and commitment of individuals in many disciplines. At the present time, the University of California, San Francisco, Schools of Medicine, Nursing and Pharmacy have been working with the University of California, San Diego, Medical School on a grant proposal which places into effect virtually all of the concepts included in this Act. Should this grant proposal be funded, the depth of talent focused on the drug abuse problem would be enormous. The output from this group is potentially outstanding, including the production of health professionals dedicated to the solution of drug abuse problems (Such individuals would be natural candidates for the career awards, which are part of S. 2809.) In addition, the School of Pharmacy is presently being considered as a site for the testing of interdisciplinary student drug abuse programs through a grant administered by the Student American Pharmaceutical Association. (We also have a joint program with Hastings Law School, which brings students of the law together with pharmacy, medical and nursing students in an interdisciplinary study of drugs and their societal impact.)

This Act, if passed, potentially can tie all similar programs and concepts together, resulting in more useful services in the long run for the population as a whole and more specifically for our youth and the individuals returning from the military throughout the world who may have related problems.

With your keen interest in this field, I am sure you will be supporting the Act. I have written this letter more with the intent of apprising you of the present level of thinking in our program, that it parallels the Senate's diligent work in this area, and that should this Act receive full support, it will be received and developed by those in the field with enthusiasm.

With best wishes for the holiday season,
Sincerely,
JERE E. GOYAN,
Dean.

DECEMBER 2, 1971.
Hon. JACOB K. JAVITS,
U.S. Senate, Senate Office Building,
Washington, D.C.

DEAR SENATOR JAVITS: Senator Tunney forwarded to me a copy of the Congressional Record of November 3, 1971, describing Senate Bill 2809, The Drug Abuse Research and Education Act. As the ranking Republican on the Alcoholism and Narcotics Subcommittee, I know you have a great interest in this bill, which I share. Both faculty and students in our school have been active in the San Francisco Bay Area community working with adult groups, youth groups and schools in drug abuse education since the germination of the "Flower Children" in the spring of 1967. Though the response by the community has been enthusiastic, there has been an obvious need to establish a long-range national commitment in drug programs. Through the Act's proposed "Regional

Centers," young health professionals and paraprofessionals will have the opportunity to receive training. This will result in a much-needed increase in individuals committed to solving the many problems intertwined with drug abuse.

The strong positive statement concerning the "multidisciplinary character" of the programs has my enthusiastic support. The many conferences and symposia held on this campus and the many treatment modalities being developed in drug treatment programs in this community and throughout the country all point to the necessity and value of participation and commitment of individuals in many disciplines. At the present time, the University of California, San Francisco, Schools of Medicine, Nursing and Pharmacy have been working with the University of California, San Diego, Medical School on a grant proposal which places into effect virtually all of the concepts included in this Act. Should this grant proposal be funded, the depth of talent focused on the drug abuse problem would be enormous. The output from this group is potentially outstanding, including the production of health professionals dedicated to the solution of drug abuse problems. (Such individuals would be natural candidates for the career awards, which are part of S. 2890.) In addition, the School of Pharmacy is presently being considered as a site for the testing of interdisciplinary student drug abuse programs through a grant administered by the Student American Pharmaceutical Association. (We also have a joint program with Hastings Law School, which brings students of the law together with pharmacy, medical and nursing students in an interdisciplinary study of drugs and their societal impact.)

This Act, if passed, potentially can tie all similar programs and concepts together, resulting in more useful services in the long run for the population as a whole and more specifically for our youth and the individuals returning from the military throughout the world who may have related problems.

With your keen interest in this field, I am sure you will be supporting the Act. I have written this letter more with the intent of apprising you of the present level of thinking in our program, that it parallels the Senate's diligent work in this area, and that should this Act receive full support, it will be received and developed by those in the field with enthusiasm.

With best wishes for the holiday season,

Sincerely,

Jere E. Goyan,
Dean.

Massachusetts
Institute of Technology,
Cambridge, Mass., December 3, 1971.

Senator John V. Tunney,
Senate Office Building,
Washington, D.C.

Dear Senator Tunney: Thank you for sending me a copy of your bill S. 2809. I am in full agreement with its purpose and would like to see both provisions, for research centers and for research career awards, incorporated into the final legislation. I would recomend, however, that the "centers of excellence" be located where they can function best in terms of resources rather than by regional considerations.

Let me add, however, that I am seriously worried by the provisions of S. 2097, which would put into the hands of the Special Office Director some powers that could be misused (not by Dr. Jerome Jaffe but possibly by some successor). The National Institute of Mental Health should be the basic authority. I distrust a Director's Office backed by a Strategy Council (Sec. 301 a 3) including the Attorney General, the Secretary of State, the Secretary of Defense, etc. The problem with drug abuse in this country is repressive legislation and I am afraid S. 2097 will ultimately be used to prevent changes in that legislation.

Respectfully yours,

S. E. Luria.

The Rockefeller University,
New York, N.Y., December 6, 1971.

Hon. John V. Tunney,
U.S. Senate,
Washington, D.C.

Dear Senator Tunney: Thank you for letting me see the text of S. 2809 and your discussion of its provisions. I fully agree with the intent of this bill, which is to support vigorous research in the field of drug addiction.

However, I do have a reservation with respect to the concept of establishing regional centers for drug research. I may be wrong about this, but it seems to me that the emphasis on the locality of research is misplaced. It could lead to geographical rivalries and bargaining for these awards, rather than a direction of funds to institutions and centers that can use them most effectively for research. If we were discussing the administration of well-defined treatment programs, we would of course have to provide for decentralized administration in order to adapt the programs to local conditions. However, in the field of basic science the question is not where a discovery is made but who is capable of making it.

I am also concerned that the concept of research centers specializing in problems of drug dependence may tend to isolate this research. A creative, multidisciplinary effort is unlikely to follow if scientists are too much isolated from the general academic environment that is a necessary stimulus to their interactions. At this stage of the subject, I believe that drug addiction is best studied in the context of established university departments and that money would be best expended by making available generous, long-term grant support for research by individuals of demonstrated ability, with research support for younger investigators.

I appreciate the effort that you are making to bring support to this urgently needed research.

Sincerely yours,

Vincent P. Dole, M.D.,
Professor and Senior Physician
to the Hospital.

The University of Iowa,
Iowa City, Iowa, December 2, 1971.

Hon. John V. Tunney,
U.S. Senate,
Washington, D.C.

Dear Senator Tunney: Your letter of November 18, 1971, address to Dr. Russell Noyes, Professor of Psychiatry, University of Iowa College of Medicine, has been forwarded to me for reply.

I have personally been involved in research and education, as well as treatment of individuals who are drug dependent and drug addicted, since 1964. Because of my experience and interest Dr. Noyes asked that I evaluate the Drug Abuse Research Education Act of 1971 which you sent him.

I have read carefully the proposal and am in almost entire agreement with the proposal that you have made. I feel that it is imperative, as stated in your bill, that individuals who are talented and dedicated in this particular area receive adequate support of an ongoing nature. One of the problems of dealing with the drug abuse phenomenon has been the fragmentation of monetary support through countless agencies with the results that the bureaucracy is consuming a significant percentage of the money before it actually reaches productive results.

I wish you success in your undertaking. If I can be of assistance at a later time, please do not hesitate to contact me.

Respectfully yours,

Robert M. Bittle, M.D.,
Assistant Professor of Psychiatry.

The University of Wisconsin
Medical Center,
Madison, Wisc., November 30, 1971.

John V. Tunney,
U.S. Senate, Committee on the Judiciary,
Washington, D.C.

Dear Senator Tunney: I appreciate your having kept me informed about The Drug Abuse Research and Education Act, October of 1971. The concept of regional multidisciplinary centers of excellence is appealing since it points toward long-range goals and hopefully to finding ways of prevention. Although your definition of drug abuse is not broad enough for my outlooks (mind-altering drugs other than controlled substances can be involved) I am pleased to lend support to your effort and I am writing to Senator Hughes and to Senator Javits concerning it.

Sincerely yours,

Joseph M. Benforado, M.D.,
Assistant Clinical Professor of Pharmacology and Medicine.

University of California,
San Francisco, November 29, 1971.

Hon. John V. Tunney,
U.S. Senate,
Washington, D.C.

Dear Senator Tunney: Thank you very much for your note of November 1, and the copy of S 2809.

I write to indicate my enthusiastic support of the development of centers of excellence in the fields of drug abuse and alcoholism. While not demeaning the sincerity and devotion of the efforts now underway in the treatment of these disabilities, it is perfectly clear that the present state of our knowledge dooms our efforts to relatively puny success.

In the absence of significant advances in our understanding of the cause of these important diseases, we will be trapped in an ever increasing spiral of costs for a relatively low yield. It is not a farfetched analogy to equate our present capability of dealing with these disorders with the iron lung and supportive therapy of our treatment of poliomyelitis.

Sincerely,

Julius R. Krevans, M.D.,
Dean.

Vanderbilt University,
Nashville, Tenn., December 2, 1971.

Hon. John Tunney,
U.S. Senate, Washington, D.C.

Senator Tunney: I think the bill you are introducing, S. 2809, makes a very important addition to efforts toward getting the basic information we need to solve the alcoholism and drug abuse problems. If properly administered, centers of excellence can be a very effective way to support research and training. Research awards to individual investigators also are a useful mechanism to support the careers of individual investigators in given areas. I have written Senators Hughes, Baker, Brock, and Javits to this effect.

I think it is of critical importance that these things be done.

Sincerely,

John M. Davis, M.D.,
Professor of Psychiatry, Associate Professor of Pharmacology, Director, Clinical Division, Tennessee Neuropsychiatric Institute.

The University of New Mexico,
School of Medicine,
Albuquerque, N. Mex., November 30, 1971.

Hon. John V. Tunney,
U.S. Senate,
Washington, D.C.

Dear Senator Tunney: I have recently become aware of S. 2809, a bill designed to encourage the development of regional drug abuse and education centers throughout the country, and to provide career awards in drug abuse research and education.

After reviewing it carefully, I am very impressed with its long-range approach to the drug problem of this country and support it wholeheartedly.

Sincerely,

WALTER W. WINSLOW, M.D.,
Acting Chairman,
Department of Psychiatry.

VALLEY MEDICAL CENTER OF FRESNO,
Fresno, Calif., December 2, 1971.

Senator JOHN V. TUNNEY,
U.S. Senate,
Washington, D.C.
Re: S. 2809

DEAR SENATOR TUNNEY: Thank you for your letter and the copy of the Drug Abuse Research and Education Act Amendment. Permit me to express wholehearted support for such legislation as will promote the establishment and development of knowledge and ability to be directed toward managing this nation's tragic and massive problem of drug abuse and addiction. The provisions of your amendment certainly appear designed to promote the development of new sources to counteract this pressing problem.

There is one aspect of the legislation, however, that needs further emphasis and development. Any resources and new knowledge developed in the field of the management of drug abuse will necessarily be limited unless they can be carried to the places where they would be applied and actually put into practice to help both the unfortunate sufferers who are mired in the miasma of illicit drugs, and the communities and the peoples that they directly affect. I would strongly favor further legislative measures that would facilitate putting into actual applied service the new concepts and new tools that are developed through the regional centers of excellence in Drug Abuse and Education.

Respectfully,

GLENN D. GARBUTT, M.D.,
Assistant Chief of Medicine, Director Methadone Clinic.

UNIVERSITY OF CALIFORNIA,
Los Angeles, Calif., November 30, 1971.

SENATOR JOHN V. TUNNEY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR TUNNEY: I appreciate the opportunity to see the portion of the Congressional Record which contains your remarks about regional centers for drug abuse research and education, and the text of S. 2809. I have also solicited the views of Dr. James Teague of our faculty, who is more directly knowledgeable about such problems than I am.

We were most enthusiastic about your proposal for expanded and stable programs in support of further education and research in the field of drug abuse. Particularly, we were heartened by your emphasis on the need for ongoing support of such programs. The need for ongoing support is equally valid with respect to service-providing programs in the drug abuse field.

The only question we had about the bill as outlined was whether it would not be necessary to increase the amount of support after a while, since six million dollars a year for drug abuse research and education centers nationwide does not seem very great. At this point in time, that is no very great objection.

Thank you again for the opportunity to see this material. We would certainly endorse and support your proposals, and would want to express our appreciation for your interest in this very important area.

Sincerely yours,

DONALD A. SCHWARTZ, M.D.,
Chief, Division of Adult Psychiatry.

UNIVERSITY OF MINNESOTA,
DEPARTMENT OF PSYCHIATRY,
Minneapolis, Minn., December 1, 1971.

Senator JOHN V. TUNNEY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR TUNNEY: In response to your letter of November 18, regarding the submission of S. 2809 as an amendment to S. 2097, I am pleased to support efforts intended to facilitate the attack on drug abuse in this country.

Although I am fully in favor of the concept that you introduce in this amendment, I would like to raise a few questions of concern. It appears to me that one of the major issues in dealing with drug abuse is the training of sophisticated workers in the areas of research, education and treatment. Until such personnel are available in sufficient numbers I believe that the premature development of research and education centers could raise serious new issues. In planning the attack upon this important problem it should be recognized that the development of competence in this field requires time and great flexibility in the creation of new programs. It has been evident to me in the past that premature funding of well-intended programs without the prior development of sophisticated workers have served to impair their potential. Certainly the problems of drug abuse are so serious for a significant part of our population that they must be taken out of the area of politics and viewed as a significant national challenge for many years in the future. As I read your bill it appears to recognize the need for flexibility and program stability over time, which I support.

I appreciate the opportunity to review this bill and to present my views at this time.

Sincerely yours,

WILLIAM HAUSMAN, M.D.,
Professor and Head.

MOUNT ZION HOSPITAL AND MEDICAL CENTER,
San Francisco, Calif., November 26, 1971.

Senator JOHN V. TUNNEY,
Washington, D.C.

DEAR SENATOR TUNNEY: I am happy to support your proposal (S. 2809) for the creation of regional drug abuse research and education centers and for ongoing support to qualified scientists working in the field of drug abuse. I am particularly pleased with the multi-disciplinary emphasis of your proposal and with its concern for both basic research and community application.

The need for such a long-range plan is especially critical at this time as problems of drug abuse prove to be less of a passing fad and more likely to persist at all levels of our society. Much of the work done to combat drug abuse through education, treatment and law enforcement in the past few years has suffered from a lack of coordinated effort. In our haste to understand and deal with drug abuse as it has rapidly spread throughout the country, particularly to younger children and to many groups not previously prone to such problems, we have had to innovate many preventive and therapeutic strategies without benefit of an adequate research foundation. Your proposal for the encouragement of a long-range strategy for drug abuse research and development of educational and therapeutic programs should be enthusiastically supported by any serious workers in this field.

I am pleased that you have requested my support for this proposal and will be glad to provide you with any further comments or assistance you might desire. The resources of our NIMH supported Haight-Ashbury Research Project, which has been involved in basic research and its community application, are also at your disposal.

Sincerely yours,

ROBERT S. WALLERSTEIN, M.D.,
Chief, Department of Psychiatry.

THE UNIVERSITY OF TEXAS
MEDICAL BRANCH,
November 29, 1971.

Senator JOHN V. TUNNEY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR TUNNEY: Daniel Creson, M.D., has asked me to write a letter on behalf of the Division of Community and Social Psychiatry here at the University of Texas Medical Branch in Galveston, regarding your proposed bill S. 2809. Our Division is relatively new, composed of a multiprofessional team, working in the area of developing both preventative mental health programs and community services in Galveston County for diverse problems including alcoholism and drug abuse.

Frankly, bill S. 2809 is a refreshing proposal which openly acknowledges that sound research on a multidimensional problem such as drug abuse cannot be adequately carried out within a year or on a year-to-year basis. Furthermore, such large scale research would be a big step in providing the necessary information for developing sound mental health prevention programs. Presently, most of the work in alcoholism and drug abuse represent local "fire-fighting" programs which are unable to adequately explore underlying psychosocial factors.

Thus far, our own efforts in alcoholism and drug abuse have been directed toward treatment and community education. From a practical point of view, our need for updated research results and additional education would be satisfied best by regional workshops and the regional development of manpower tools of experts in drug abuse. However, it would make little sense for the programs to function independently of the National Institute of Mental Health.

Since bill S. 2809 is directed towards working within existing institutions of higher education, and also evidences a commitment to long-term research efforts in drug abuse, we can support and recommend S. 2809.

Sincerely,

DAVID A. LACERDA, Ph. D.,
Assistant Professor, Division of Community and Social Psychiatry.

HILLSIDE HOSPITAL,
Glen Oaks, N.Y., November 23, 1971.

Senator JOHN V. TUNNEY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR TUNNEY: Thank you for sending me the Congressional Record containing the material on S. 2809 "A bill to authorize the establishment of regional centers of excellence in drug abuse research and education, and for other purposes."

Briefly, your plan to establish regional centers of excellence, and career awards in drug abuse research and education, makes eminent sense.

As a graduate of the Career Development Program of NIMH in Psychiatric Research, I can affirm that such programs are an extremely powerful resource for bringing young scientists into crucial areas. As I see it, the simple fact is that there are not enough well qualified teachers or researchers in the area of drug abuse. Therefore, we will have to grow our own and only such a career development program gives promise of accomplishing this.

Actually, I see the Career Development part of your bill as being almost primary to the regional center program.

Sincerely yours,

DONALD F. KLEIN, M.D.,
Medical Director.

COUNTY OF LOS ANGELES,
HEALTH DEPARTMENT,
Los Angeles, Calif., November 23, 1971.
Hon. JOHN V. TUNNEY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR TUNNEY: We have reviewed your proposed legislation, S. 2809, and feel that its intent is excellent and its scope quite adequate.

Sound research and training are sorely needed in the field of drug abuse by all persons working in the area. Local resources are overwhelmed by the need to provide direct and crisis-oriented services to thousands of drug dependent people.

Our program was the first systematic medical attempt to deal with drug abuse in this county on a large scale. After one year's experience we still have many more questions than answers with scant time to research or improve our methods. Furthermore, the approaches to the problem in this county, as elsewhere, are fragmented and the subject of much heated debate over the "best" treatment methods with very little opportunity to conduct the necessary and sophisticated research vitally needed to answer our questions.

Efforts such as your legislation proposes are badly needed for the benefit of all concerned.

Very truly yours,
G. A. HEIDBREDER, M.D., M.P.H.,
Health Officer.

HERRICK-BERKELEY COMMUNITY
MENTAL HEALTH CENTER,
Berkeley, Calif., November 23, 1971.
Senators TUNNEY, HUGHES and JAVITS,
U.S. Senate,
Washington, D.C.

DEAR SENATORS TUNNEY, HUGHES AND JAVITS: We wish to express our support of Senate bill S. 2809 providing for the creation of regional centers of excellence in drug abuse, research and education. This is a very thoughtfully and intelligently conceptualized proposal. Such centers would serve as a crucial backup to the urgently needed treatment resources throughout the country.

GERALDINE FINK, M.D.,
Associate Director.
JUSTIN SIMON, M.D.,
Director.

UNIVERSITY OF COLORADO
MEDICAL CENTER,
Denver, Colo., November 24, 1971.
Hon. JOHN V. TUNNEY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR TUNNEY: Thank you for your letter with regard to S. 2809, the amendment to S. 2097, the Administration's comprehensive drug bill.

I support your amendment wholeheartedly and would urge its passage. As you seem to be unusually well aware, a crash program for the problems involved in drug abuse seems to me to be short-sighted and doomed to partial success, at best. The understanding and treatment of drug problems is enormously complex and involves many areas of medical knowledge, very few which are today at the point where one can offer definitive treatment for drug problems. Any legislation which promises definitive action at this point is limited badly by our current relative ignorance and by treatment methods which promise more than I think they can deliver. For this reason I would strongly urge the passage of your amendment which provides for study of the problems while atempting to deal with them at the same time.

I must add that I was particularly impressed by the long-range planning included in your amendment. You are very much to be congratulated and supported for building this in. I would hope that the amendment is included in the bill.

Sincerely yours,
JANICE NORTON, M.D.,
Associate Professor,
Department of Psychiatry.

ROCKLAND STATE HOSPITAL,
Orangeburg, N.Y., November 26, 1971.
Hon. JOHN V. TUNNEY,
U.S. Senator of California,
Washington, D.C.

DEAR MR. TUNNEY: I greatly appreciate the fact that you have sent me a copy of S. 2809 since a dialogue between researchers, clinicians and legislators is bound to result on one hand in better understanding on our part and better legislation on yours.

My initial reaction to the bill is favorable but I would like to give it the benefit of more intense study and discussion with some of my colleagues. This is particularly true since I not infrequently am called upon as an expert by Congressional Committees. I would like to give it the same consideration I would of a bill about which I was to testify.

Very sincerely,
NATHAN S. KLINE, M.D.,
Director, Research Center.

MCLEAN HOSPITAL,
Belmont, Mass., November 29, 1971.
Hon. JOHN V. TUNNEY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR TUNNEY: Thank you for your letter of November 18, 1971, enclosing a reprint from the Congressional Record, containing your remarks and amendments to the Drug Abuse Research and Education Act of 1971. There is no doubt that much more needs to be done concerning drug abuse, and I believe that your suggestions would be an important step in improving our knowledge about the drug problem and its possible solutions.

The multidisciplinary approach is particularly relevant in a field in which biological, medical, psychological, social and legal factors all play a part.

You also put your finger on a very important issue when you recommend that the financing of such centers be done on a guaranteed basis for the next five years.

If these centers were established, I would hope that they would be established as a part of or in affiliation with existing institutions, rather than building completely independent centers. I favor this because during the 19th century the need for large state mental hospitals was perceived and they were built. Now people don't quite know what to do with them, as our concepts of psychiatric care have changed and the states are saddled with large pieces of real estate which limit the flexibility with which they can approach the treatment of individuals in the community.

It is quite possible that as a result of new discoveries and methods of treatment, as well as some of the social changes which we may hope for over the next decade, the importance of the drug problem will recede, and it is therefore very important to make sure that the new drug centers will not become white elephants. In other words, while establishing them as part of or in affiliation with existing institutions, one can insure that if the need for such centers changes, they can be put to use for some new needs which existing institutions may be faced with.

I am also writing to Senator Hughes and to Senator Javits, strongly endorsing your proposal. Many thanks for letting me know. If I can be of any further help, please let me know.

Yours sincerely,
FRANCIS DE MARNEFFE, M.D.

ALBERT EINSTEIN COLLEGE OF MEDICINE OF YESHIVA UNIVERSITY,
Bronx, N.Y., November 27, 1971.
Hon. JOHN V. TUNNEY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR TUNNEY: Thank you for writing to me and asking for comments on your amendment (S. 2809) to the Comprehensive Drug Bill (S. 2097). I have read it quite carefully and I support it most enthusiastically. Because it makes provision for the support of scientists of high caliber to work on the problem of drug abuse I feel that in the long run it may be more important than the provisions of the drug bill which are aimed at dealing with the clinical and social aspects of the drug problem now facing us.

If the regional centers of excellence are properly set up they will attract first rate people and if they have long-range funding the chances of finding solutions to the vexing problems of drug abuse are greatly enhanced. It may be that the feedback from the factual and scientific requirements of these organizations to our municipal, state, and legislative bodies may become so overwhelming that a rational basis for drug legislation may emerge. For example, a greater consistency would be highly desirable in dealing with the dangers of alcohol, nicotine, barbiturates, marihuana, and opiates. Only through scientific research will we really learn how much harm these drugs can do to the body (or to society). It would also be important to determine what virtues these drugs might have in relieving pain, anxiety, depression and aggression. I think that the functions listed under Sec. 203 address themselves to these questions.

Aldous Huxley in his "Brave New World" fantasied that the fictional drug Soma could be used to produce pleasure at times when it might be badly needed. Man has always sought and always will seek a chemical release from sorrow and pain. Though society may eliminate poverty as a source of pain, science has a long way to go in conquering the major disabling diseases, and the advent of death will always be with us. If people turn to drugs there must be a reason for it and it is up to scientists to find an alternative which is socially palatable. S. 2809 will help us find this alternative.

Sincerely yours,
MURRAY E. JARVIK, M.D.,
Professor of Psychiatry and Pharmacology.

MASSACHUSETTS GENERAL HOSPITAL,
Boston, Mass., November 23, 1971.
Senator JOHN V. TUNNEY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR TUNNEY: Thank you for your interesting letter concerning S–2809 to be offered soon as an amendment to S–2097. I am very enthusiastic about the idea of offering career research stipends to worthy workers in the field of drug abuse research. Since I am currently supported by a similar NIMH Career Development Award, I could hardly think otherwise. The idea of using existing NIMH structures to administer such a program seems particularly efficient and simple.

I am much less enthusiastic about the other portion of your proposal: to create six regional centers for research and treatment in drug abuse. Although the proposal appears to be designed in a way to avoid many problems due to the waxing and waning of popular and political support for action against drug abuse, the current near-hysterical reaction to the long-time problem of drug abuse is bound to fade in the future. Would it not be simpler to use a comparable amount of federal money to support and encourage similar activity in existing departments of pharmacology, psychiatry and medicine in existing medical centers? Another existing set of structures presently dealing with some aspects of the drug problem are the community mental health centers, many of which are associated with large medical centers and medical schools.

In general I would most enthusiastically encourage programs designed to support talented individuals and improvements of the best existing research and treatment resources rather than to create new administrative entities and new buildings. Admittedly, the present medical research and care system is falling far short of its potential in dealing with drug abuse problems. Support for expansion and development of currently existing potentialities would seem to be a comparatively efficient means of correcting these deficiencies. Furthermore, such support could greatly help to infuse new life into programs and research activities in medical centers which have fallen on hard financial times in recent years.

Thank you again for inviting my response to your proposals.

Very sincerely yours,
ROSS J. BALDESSARINI, M.D.,
Assistant Professor of Psychiatry,
Chief, Neuropsychopharmacology Labs.

NEW YORK UNIVERSITY MEDICAL CENTER,
New York, N.Y., November 24, 1971.
Hon. JOHN V. TUNNEY,
U.S. Senator,
Senate Office Building,
Washington, D.C.

DEAR SENATOR TUNNEY: Thank you for your letter of November 18 and the copy of your amendment S. 2809. In my opinion, your proposal attempts to rectify a serious deficiency in our efforts to control and treat addiction. In the absence of new knowledge on the mechanisms of addiction, we will be obliged to continue to use the inadequate modes of treatment that are now available.

At the present time, there is a disproportion in the funds that have been allocated for research and training, considering the large amount of funding that will be made available for service programs. This disproportion is most obvious in the area of training. Those of us who have come up through the Federal Career Scientist Program appreciate the impetus that this kind of training program can give to the development of an area. A great part of the development of scientific research in Psychiatry can be traced to the Career Development and Award Program of the National Institute of Mental Health. The Career Awards Program proposed in your amendment would be a step toward establishing a cadre of competent scientists working in the drug abuse field.

The development of the Regional Centers would serve many purposes. For one, there is presently a serious danger potential in the uncontrolled propagation of methadone maintenance treatment programs. While I feel that these programs are necessary in the present crisis, the distribution of methadone, which is an addictive drug, should be under the control of well qualified physicians. The Regional Centers that you propose could serve as a consultative nucleus for the various maintenance programs in the region and perhaps serve to raise the standards of practice in the various drug treatment programs.

Some extremely interesting findings into the possible mechanisms of craving, tolerance, and withdrawal have been made recently. There is little question but that your proposal would expedite the more rapid development of these promising leads.

I am pleased to support your proposal in any way that I can. I have written to Senators Javits and Hughes expressing my support and have asked my interested colleagues to do the same.

Sincerely,
ARNOLD J. FRIEDHOFF, M.D.,
Professor, Director of
Millhauser Laboratories.

UNIVERSITY OF CALIFORNIA,
SAN DIEGO,
La Jolla, Calif., November 24, 1971.
Senator JOHN V. TUNNEY,
U.S. Senate, Washington, D.C.

DEAR SENATOR TUNNEY: This is in response to your letter of November 18, 1971, forwarding to me a statement from the November 3, 1971 Congressional Record containing a copy of, and discussing S. 2809, "The Drug Abuse Research and Education Act of 1971".

I strongly support the concept outlined in the bill. The proposed regional centers would respond to the need for preparing manpower to cope with drug abuse and to conduct and coordinate research in drug abuse and related areas.

Sincerely yours,
CLIFFORD GROBSTEIN,
Vice Chancellor for Health Sciences
and Dean of the School of Medicine.

UNIVERSITY OF CALIFORNIA,
SAN DIEGO,
La Jolla, Calif., November 24, 1971.
Hon. JOHN V. TUNNEY,
Senator from California, U.S. Senate, Washington, D.C.

DEAR SENATOR TUNNEY: This is in reply to comments on, and seeking support of, S. 2809, the "Drug Abuse Research and Education Act of 1971," which you recently introduced. Your letter was addressed to Dr. James Bain; but since he is no longer president of the American Society for Pharmacology and Experimental Therapeutics, your letter was referred to me as current president of that Society.

I am not qualified to evaluate critically the various provisions of the bill, since I am not an expert in the field of drug abuse, nor have I seen S. 2097, to which S. 2809 is offered as an amendment. In view of this, I am sending your letter and the exerpt from the Congressional Record containing your bill, to Harry L. Williams, M.D., Chairman of our Society's Committee on the Non-medical Use of Drugs. I am asking Dr. Williams, who is Professor of Pharmacology at Emory University Medical School, Atlanta, to send you comments on S. 2809 in behalf of his commitee.

I can state on behalf of my Society that we strongly feel that the Federal government should encourage and support an expansion of activities directed at solving this major national problem of drug abuse. Additional resources, manpower and effort are needed in the areas of education, research and treatment. We hope that legislation to meet these needs will soon be enacted. Although I am not prepared to comment on the many details of S. 2809, I certainly agree with its major objectives. I would also agree with you that for a program of the type proposed, the National Institute of Mental Health would be the appropriate administering agency.

Sincerely,
ROBERT F. FURCHGOTT, Ph. D
President.

DEPARTMENT OF MENTAL HEALTH,
Boston, Mass., November 23, 1971.
Hon. JOHN V. TUNNEY,
U.S. Senate,
Washington, D.C.

DEAR SIR: Thank you very much for sending me the information concerning your bill S. 2809. Your plan for regional research and education centers, well funded on a continuing basis and for career awards to individuals in the field of drug abuse, fit very nicely into my own ideas as to what the best thing to do as this time in this important area should be.

I am happy to support your proposal. I only hope it can get funded and implemented rapidly.

Very sincerely yours,
JONATHAN O. COLE, M.D.,
Superintendent.

JOHNS HOPKINS UNIVERSITY
SCHOOL OF MEDICINE,
Baltimore, Md., November 26, 1971.
Hon. JOHN V. TUNNEY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR TUNNEY: I have read your proposed bill with considerable interest. I certainly feel that a concerted research effort is needed in both the areas of drug abuse and alcoholism. I favor the terms of the drafting which leaves the question open as to whether "pure" or "applied" research be done: it is most expedient to allow knowledgeable scientists to decide how effort should be expended. Although the public wants results, it is too often the case that we cannot achieve them with the knowledge and techniques at hand, and investigators should be permitted to utilize their efforts in the way they feel will be most practical in the long run. There is little risk, I feel, of basic research being favored to the exclusion of applied research. When fundamental investigations produce practical implications for clinical treatment, there is generally no dearth of practical applicators (The greater risk, I feel, is in instituting treatment programs without a firm theoretical foundation). The sum set aside for evaluation research is particularly wise, since therapeutic enthusiasm frequently obscures limited efficacy.

I have two suggestions. I am uncertain as to whether the funds would be applied to research into alcoholism as well as "drug abuse." Certainly alcoholism constitutes a social problem of tremendous magnitude (and one of which we are unaware only through long exposure and consequent indifference). It should be included, I feel not only because of its social consequences, but also because there are scientific suggestions that similar mechanisms may perhaps be involved in abuse of alcohol and other "drugs." My second comment regards the establishment of career awards programs. I would see this as a useful technique for enlisting competent research scientists. In order to insure their participation, it would be useful to free-up some funds for research projects as well as salaries. In these days of diminishing funds for medical research, many scientists must devote a considerable amount of effort in writing grants to obtain such funds to insure that their work will not be conducted on a start and stop basis. The anxieties—as well as the efforts—seriously detract from their ability to perform their research effectively.

If you have not contacted Dr. Seymour S. Kety (Professor of Psychiatry, Harvard Medical School, Massachusetts General Hospital, Boston, Massachusetts), I would suggest you do so. He is an eminent research psychiatrist who has considerable interest in the problem of stimulating biomedical research without constraining it.

Thank you. I appreciate your solicitation of my comments.

Sincerely,
PAUL H. WENDER, M.D.,
Assistant Professor of
Psychiatry and Pediatrics.

YALE UNIVERSITY,
New Haven, Conn., November 23, 1971.
Senator JOHN V. TUNNEY,
U.S. Senate, Washington, D.C.

DEAR SENATOR TUNNEY: Thank you for sending me a copy of your proposed bill S. 2809 to establish regional drug abuse research and education centers.

I believe the general principles behind your proposal to be sound and worthy of support. My concern would be in the detailed execution of such a plan. For example, research into basic mechanisms of drug action would be better handled by individual grants (I like the idea of the 5 year commitment) to appropriate individuals in already established laboratories, since the financing of such laboratories would greatly expand the costs of such a program as you envisage. There is no reason why these individuals cannot be affiliated with the main regional centers which will carry out the rest of the more applied parts of the program. It would depend greatly on the amount of money which could be appropriated.

Secondly, I would be very concerned that the regional centers be geographically located in areas of maximum need and that consideration be given to small satellite field stations situated in communities. This is where the problem is, and even regional centers at major universities may not reach into the problem sufficiently.

Thirdly, I believe the emphasis should be on studying the individual social factors, particularly to study of social alternatives to drug abuse and social blocking factors. The experiences with methadone are showing that even good drug substitutes do not substitute for poor social values and inadequate life opportunities.

Sincerely yours,
MICHAEL H. SHEARD, M.D.,
Associate Professor of Psychiatry,
Yale University School of Medicine.

UNIVERSITY OF MINNESOTA,
Minneapolis, Minn., November 24, 1971.
Hon. JOHN V. TUNNEY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR TUNNEY: I thank you for your letter of November 18 and the copy of "The Drug Abuse and Education Act of 1971". Here are some comments.

The main features of the act are all strong ones. I see no better way to make a start toward meeting our urgent national needs. The regional centers concept is excellent, and at this time our main attention should indeed be directed toward basic research, education and experimental therapeutics.

I also strongly endorse Title III. Skilled personnel in the drug abuse area are far too rare to meet national needs. Career awards are a logical and necessary provision.

I thank you for the opportunity to comment on S. 2809.

Yours sincerely,
LEONARD L. HESTON, M.D.,
Associate Professor.

STANFORD UNIVERSITY MEDICAL CENTER,
Stanford, Calif., November 30, 1971.
Hon. JOHN V. TUNNEY,
U.S. Senator,
U.S. Senate, Washington, D.C.

DEAR SENATOR TUNNEY: Thank you for bringing Bill S. 2809, concerning an approach to the problems of drug abuse, to my attention.

Much work in both basic research and clinical issues needs to be accomplished in this area. This bill, in my opinion, offers a much needed approach. I wholeheartedly support it.

I would appreciate remaining on your mailing list for all items involved with the mental health field. Thank you.

Sincerely,
ALAN J. ROSENTHAL, M.D.,
Assistant Professor of Psychiatry; Director, Child Psychiatry Clinic.

HARVARD MEDICAL SCHOOL,
Boston, Mass., November 29, 1971.
Hon. JOHN V. TUNNEY,
U.S. Senator,
U.S. Senate.
Washington, D.C.

DEAR SENATOR TUNNEY: Thank you for your letter of November 18, 1971. I have read with interest the Congressional Record, Vol. 117, No. 165, outlining the details of S. 2809, The Drug Abuse Research and Education Act of 1971. I would like to congratulate you for drafting a superb piece of legislation which, if enacted, will provide a landmark in drug abuse research in education programs in the United States. I was very much impressed by your cogent arguments favoring enactment of this legislation and even more impressed by the scope and quality of the act itself. In my opinion, you have demonstrated an astute and sophisticated awareness of the needs for drug abuse education and research which currently exist in our nation.

The enactment of S. 2809 would provide a basic structure for providing a pool of talented manpower and enhanced fund of information which is necessary for the creation of programs for effacacious treatment and rehabilitation of individuals with drug abuse problems. In essence, you are proposing an enlightened approach toward research and education which will have very significant and positive effects for many years to come.

There are two issues in the act which may evoke some criticism which I would like to briefly comment upon. First, the act recommends establishment of six regional centers for drug abuse research and education. It might be argued that there are currently insufficient personel with the expertise to initiate six centers in the United States and that three or four might be more appropriate. In my opinion, it will be feasible at this time to establish at least six centers of excellence at leading universities or biomedical institutions in designated geographical regions of the United States.

Secondly, the act calls for appropriation of funds for construction grants and some critics might argue that such an appropriation would, in fact, emasculate other provisions of the act. This argument, which has been advanced by some of my colleagues is based upon difficulties which have been encountered in the Community Mental Health Centers Programs. The concern is that a center of excellence may be established with the contingency that funds for construction would be available. If construction funds were withheld at the pleasure of the administration, for example, by a directive from the OMB; the center, in effect would not be established.

I hope you and your colleagues in the senate will consider this possibility, for many of the good features of the act could be forfeited if this situation arose. Again, let me congratulate you for submitting an excellent piece of legislation. If I and my colleagues can be of any assistance in providing further information or data in support of this act, please do not hesitate to contact me.

Sincerely yours,
JACK H. MENDELSON, M.D.

HOSPITAL OF THE
UNIVERSITY OF PENNSYLVANIA,
Philadelphia, Pa., November 29, 1971.
Hon. JOHN V. TUNNEY,
U.S. Senator, U.S. Senate, Washington, D.C.

DEAR SENATOR TUNNEY: Thank you very much for your letter of November 18 and the copy of bill S. 2809 which you have introduced regarding the establishment of regional centers in drug abuse research and education.

I thoroughly endorse this pending legislation, fully support your bill as an amendment to S. 2097, and wish to take this opportunity to commend you for your very worthwhile efforts aimed at dealing effectively with the menacing problem of drug abuse in the United States.

Sincerely yours,
JOHN PAUL BRADY, M.D.,
Professor of Psychiatry.

UNIVERSITY OF TEXAS,
Dallas, Tex., November 29, 1971.
Hon. JOHN V. TUNNEY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR TUNNEY: I was very interested in your recent letter and reading the text of your bill S. 2809. There is no question but that your bill would be a great step forward in searching for a rational and scientific approach to the drug abuse problem.

I was especially pleased and want to congratulate you for the degree of sophistication in the tone of the bill which recognizes (all too rare today) the need for basic research in the field of drug abuse, the rather subtle but very real problems in stable funding of research programs, and the desirability of placing such a program within the National Institute of Mental Health.

I can assure you of my support, for what it is worth, and I plan to alert some of my scientific colleagues to this forward-looking proposal.

Sincerely yours,
PARKHURST A. SHORE, Ph. D.,
Professor of Pharmacology.

UNIVERSITY OF CALIFORNIA,
San Francisco, Calif., December 6, 1971.
Hon. JOHN V. TUNNEY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR TUNNEY: I appreciate receiving your request for my comments on S. 2809 and I was very pleased to have an opportunity to review it. This appears to be an excellent bill, particularly in its recommendation for regional centers for drug abuse research and education. As you may know, this in many ways parallels a recent proposal submitted to the National Institute of Mental Health jointly by the San Francisco and San Diego campuses of the University of California. I think this is a much needed approach to the nation's drug abuse problem and I certainly hope you are successful in amending S. 2097 to incorporate these provisions.

Sincerely yours,
PHILIP R. LEE, M.D.,
Chancellor.

BOARD OF SUPERVISORS,
COUNTY OF LOS ANGELES,
Los Angeles, Calif., November 26, 1971.
Hon. JOHN V. TUNNEY,
Senate Office Building,
Washington, D.C.

DEAR SENATOR TUNNEY: I reply to your letter of November 18, 1971 to Supervisor Kenneth Hahn, the Board adopted the attached resolution supporting your drug abuse legislation, S.B. 2809, and urging certain legislators and committee members to do likewise. A copy of our communication to them is attached for your information.

Very truly yours,
RICHARD A. SCHOENI,
Assistant Executive Officer.

MINUTES OF THE BOARD OF SUPERVISORS COUNTY OF LOS ANGELES, STATE OF CALIFORNIA

On motion of Supervisor Hahn, unanimously carried, the following resolution was adopted:

Whereas, the elimination of drug abuse is a major national goal and the many efforts being made to accomplish it still fall far short due to the lack of specific knowledge and understanding about how to deal with the drug user; and

Whereas, a bill providing for the establishment of six regional Centers in drug abuse research and education has been introduced into the U.S. Senate by Senator John V. Tunney and which, if adopted, would provide a nationwide program in research, education, model treatment projects, experimental treatment and continuing education for professionals in drug abuse treatment; and

Whereas, these Centers would provide a new national resource for the treatment of users of narcotics and dangerous drugs, particularly for the youth, and every effort should be made to marshal the capabilities of our country in eliminating drug abuse.

Now, therefore, be it resolved that the Board of Supervisors of the County of Los Angeles, support Senate Bill 2809 as proposed by Senator Tunney and that the Executive Officer of the Board be directed to send copies of this resolution to the Los Angeles County Narcotics and Dangerous Drugs Commission, to Senator Tunney and Senator Alan Cranston and to the Chairman and committee members of the U.S. Senate Committee on Labor and Public Welfare.

BOARD OF SUPERVISORS,
COUNTY OF LOS ANGELES,
November 26, 1971.

Hon. HARRISON A. WILLIAMS, JR.,
Senate Office Building,
Washington, D.C.

DEAR SENATOR WILLIAMS: Because of the constantly spreading use of dangerous drugs and narcotics, and the desperate need for Federal legislation to fight this problem on a nation-wide basis, on Tuesday, November 23, 1971, the Board adopted the attached resolution by Senator John V. Tunney's drug treatment and education legislation, S.B. 2809.

In requesting that this resolution be sent to you, the Board respectfully urges your support in obtaining swift passage of Senator Tunney's bill.

Very truly yours,
RICHARD A. SCHOENI,
Assistant Executive Officer.

THE PRESIDENT'S ECONOMIC PROGRAM

Mr. TUNNEY. Mr. President, the Cost of Living Council recently made available to me and to other Senators a package of information intended to help in answering the many questions which our constituents are raising with respect to the President's economic program.

Whatever our views on this program, it seems to me essential that all possible information be available to clarify the confusion which has surrounded some parts of this new policy. For this reason, and because this package of information is in the nature of an official statement by the Council, I believe it would be useful to make generally available the policy information in this package.

I ask unanimous consent that the text of this package of information be printed in the RECORD.

There being no objection, the information was ordered to be printed in the RECORD, as follows:

A GUIDE FOR MEMBERS OF CONGRESS IN ANSWERING QUESTIONS ABOUT THE POST-FREEZE PART OF THE ECONOMIC STABILIZATION PROGRAM

This brief guide has been prepared to assist you in answering questions for constituents about the Economic Stabilization Program, particularly as it relates to the post-freeze phase. General policy for Phase II and the ways in which these policies will be implemented to come within the purview of the Cost of Living Council, the Pay Board and the Price Commsision. The primary agency for explaining end enforcing the regulations for Phase II as they affect the general public will be the Internal Revenue Service. The following is a brief summary of these organizations, and key telephone numbers for Members of Congress and their staffs to contact as needed for additional information:

INTERNAL REVENUE SERVICE

In addition to continuing the functions which it performed during Phase I, the IRS during Phase II will take over all of the functions which had been performed by the Office of Emergency Preparedness (OEP).

It will establish a national mechanism to support the post-freeze program.

Local and regional IRS centers will provide information for the public; investigate complaints; conduct independent monitoring activities; review requests for exceptions; and respond to inquiries relating to the application of regulations issued by the Council, the Pay Board, and the Price Commission. The IRS will also establish an administrative appeals procedure and will assist the Justice Department in enforcement proceedings.

A great many citizen inquiries can and should be directed to local IRS offices for appropriate handling. In addition, some 2,800 Agricultural Stabilization and Conservation Service offices will be equipped to handle citizen inquiries and to provide information.

Further information about the IRS role in Phase II will be found in Tab VII of this Book.

Address of the IRS Office of Public Affairs is: 1111 Constitution Avenue, N.W., Washington, D.C.

Key telephone number of the IRS Office Public Affairs is: 964–4021.

COST OF LIVING COUNCIL

The Council will continue to function during the post-freeze period, concentrating on the establishment of policies and goals. It will continue to develop anti-inflation goals, advice the President of the progress being made toward achievement of goals, make recommendations for any modifications necessary to increase the effectiveness of the program, and help inform the public.

Although the Council will review the standards promulgated by the Pay Board and Price Commission, it will not hear appeals on specific cases.

The Council will continue to have a small professional staff, headed by Director Donald Rumsfeld.

Address of the Council is: 17th and Pennsylvania N.W. (New Federal Office Building), Washington, D.C. 20507.

Key telephone numbers for Congressional Relations are: 254–3203, 3205.

PAY BOARD

The Pay Board will deal with all elements of compensation including wages, salaries, and fringe benefits. It will develop overall standards for wage and salary increases and selectively review major labor settlements which have a major impact on natural wage developments. A special body will be created within the Pay Board to deal with the matter of executive compensation in a manner consistent with the treatment of other employee compensation and with the goals of the post-freeze program. The Construction Industry Stabilization Committee, established previously, will continue to operate within the standards issued by the Pay Board. The Pay Board will have a staff to analyze information relative to decision-making and in considering requests for exemptions from the general wage guidelines.

Address of the Pay Board is: 2000 M Street, N.W., Washington, D.C. 20508.

Key telephone number for Congressional Relations is: 254–8500.

PRICE COMMISSION

The Commission will administer the price and rent aspects of the post-freeze program. In addition to issuing standards governing price and rent adjustments, the Price Commission will hear appeals and consider requests for exceptions. It will identify windfall profits and bring about price reductions where the operation of the stabilization program results in such windfall profits. A Rent Board—within the Price Commission—representing landlords, tenants and other interested parties will provide advice on standards and procedures for rents and will assist in mobilizing voluntary compliance with the standards.

Address of the Price Commission is: 2000 M Street, N.W., Washington, D.C. 20508.

Key telephone number for Congressional Relations: 254–8540.

THE WAGE-PRICE FREEZE—90 DAYS LATER

The new economic policy that this nation embarked upon three months ago was called for by three key developments. The serious inflation that characterized the American economy for the past half-dozen years was subsiding, but not fast enough. The unemployment rate was declining, but again much too slowly. And in its international economic dealings, as the foreign trade and balance of payments statistics clearly showed, the United States was spending much more abroad than it was earning.

The economic program that was adopted on August 15 was a combination of policies—each one reinforcing the other—to meet these three problems. On the international side, the primary actions were the suspension of gold convertibility and the 10 percent surcharge on imports. To improve the employment picture, the key proposals were the reduction in personal income taxes and the job development tax credit. On the inflation front, quick action was required to meet the continuing problem of spiraling costs and prices, and the President declared the 90-day freeze on wages, prices and rents, under the authority of the Economic Stabilization Act of 1972.

GOALS OF THE FREEZE

The wage-price freeze was designed to accomplish three major goals. The first is to stop the inflationary express train dead in its tracks by putting a lid on wages and prices for 90 days. Second, the freeze was intended to change the expectations of the American people about inflation—to alter the thinking of both labor and business that rapid increases in prices and costs would be a permanent characteristic of the American economy. And third, the freeze was designed to provide the necessary time to develop a plan—what now has come to be called Phase II—for a stabilization program that will permit necessary price and cost adjustments while preventing a reoccurrence of serious inflation.

The permanent goal is a durable prosperity without war and without inflation. In the long run, nothing would be more detrimental to prosperity than to put our economy into

a permanent strait jacket of government controls. Thus, this program of price and wage stabilization must only be a way station on the road to free markets and free collective bargaining.

ORGANIZATIONAL FRAMEWORK OF THE FREEZE

To develop the policies necessary to meet the goals of the freeze, the President created the Cost of Living Council, under the Chairmanship of the Secretary of Treasury, John B. Connally. Other members of the Council are the Chairman of the Council of Economic Advisers, the Director of the Office of Management and Budget, the Secretaries of Commerce, Labor, Agriculture, and Housing and Urban Development, the Special Assistant to the President for Consumer Affairs, and the Director of the Office of Emergency Preparedness. This group has met almost daily since the beginning of the freeze to develop the policies and regulations of the freeze and to provide for its general administration.

The Associate Director of the Office of Management and Budget Arnold R. Weber was named Executive Director of the Council and he assembled a staff of some 50 persons drawn from many different agencies of the Government. This staff had the responsibility for researching the policy issues of the freeze, for providing the necessary information to the public on a timely basis, and for coordinating the compliance and enforcement procedures. In addition, a special task force, under the leadership of Herb Stein of the Council of Economic Advisers, was set up to work with the Cost of Living Council staff in developing the plans for Phase II.

Primary operational responsibilities for the wage-price freeze were assigned to the Office of Emergency Preparedness. To carry out these responsibilities, General George A. Lincoln, Director of the Office of Emergency Preparedness, mobilized his permanent staff of some 300 employees, which he augmented with 600 or more men and women borrowed from other agencies of the Federal Government. Primary responsibility for the field operations across the United States was borne by the 10 regional offices of the Office of Emergency Preparedness—which were expanded sixfold in size within three days—and by the Internal Revenue Service, with its 360 regional and district offices throughout the country. In addition, the 2,800 offices of the Agricultural Stabilization and Conservation Service of the Department of Agriculture were utilized as information centers to provide complete coverage of rural America.

SUPPORT FOR THE PROGRAM

From the beginning, the American people gave their overwhelming endorsement to the President's new economic program. The program was bold, simple and effective, and the public opinion polls clearly showed wholehearted backing for it. This support moreover, continued at a very high level throughout the freeze.

Business and financial leaders also gave their full cooperation to the program. Although dividends and interest rates were not included in the Economic Stabilization Act of 1970, the President called for restraint in both areas. Interest rates have declined on a broad front since the beginning of the freeze. Similarly, corporations have cooperated fully with the President's requests to hold the line on dividends. Secretary of Commerce Stans sent telegrams to 1,250 leading corporations in the country, and every one of them responded with a pledge not to increase dividends during the freeze.

ADMINISTRATION OF THE FREEZE

Because the freeze applied to all but a few of the enormous number of economic transactions that take place in the United States every day, the administration of the freeze produced some impressive statistics. Since August 15, the Office of Emergency Preparedness and the Internal Revenue Service have answered close to a million inquiries. Most of these came from individuals, and they were split fairly evenly among prices, wages and rents. In addition, 60,000 letters were received and answered by the National and Regional offices of the Office of Emergency Preparedness.

Over 5,000 exemption requests have been received, analyzed and acted upon by the Office of Emergency Preparedness. During the freeze, only five exemption requests were granted: three that involved employees whose insurance coverage would have lapsed had their new benefits not been able to go into effect, and two where an increase in the price for community water service was needed to provide for the building of a new water system. In addition, a significant number of exemption requests involved situations that could be resolved under existing rules of the freeze.

SUCCESS OF THE FREEZE

The success of the freeze can be measured in a variety of ways. One of the most significant is the decline in interest rates, which very clearly indicates the reduction in the inflationary expectations of both borrowers and lenders.

A measure of the widespread compliance with the rules and regulations of the freeze is seen in the statistics on complaints of alleged violations and on the results of the routine monitoring of the freeze that was carried out by the Internal Revenue Service on a continuing basis. More than 45,000 complaints of alleged violations have been received over the past three months. Three-fourths of these related to prices, close to 20 percent to rents, and about 5 percent were on wages.

More than four-fifths of these complaints have already been resolved, with the great majority proving to be situations where in fact no violation occurred. All but a handful of the remainder were resolved by immediate rollback of the price, rent or wage involved. Among the most dramatic of these rollbacks were the prices of automobiles, where, in the first few days of the freeze, announced increases for the 1972 models were reduced back to 1971 levels, and the rollback of prices of liquid propane gas, which was estimated to provide a saving to American consumers of over $100 million (on an annual basis).

The monitoring activities of the Internal Revenue Service also show overwhelming compliance with the freeze. More than 60,000 spot-checks have been made since this monitoring program got underway in September. Apparent violations were found in about 6 percent of these cases, but most of those were immediately rectified when the situation was brought to light. The Internal Revenue Service is continuing investigation of the others.

The most impressive evidence of the success and effectiveness of the wage-price freeze is to be found in the broad measures of prices and wages that are collected as a part of the regular economic reporting system of the Federal Government. These statistics show that the upward spiral of wages, prices and rents has been brought to a halt. The reports on employee earnings—after adjustment for normal seasonal fluctuations that reflect the usual increase in overtime pay—show that average hourly earnings remained stable in both September and October.

The Consumer Price Index for September showed an increase of only 0.2 percent—about half the rate of increase that has been taking place in recent months—and most of this rise is traceable to price changes that were in fact made in earlier months, but not recorded in the index until September, and in price increases that can be accounted for within the context of the freeze rules themselves.

It is clear that, had the freeze not been in effect, the Consumer Price Index would have advanced in September considerably more than it did. This conclusion is supported most dramatically by the special tabulation of nearly 4,000 individual prices for non-food commodities that showed 93 percent either unchanged or down from August to September. Furthermore, a second special analysis showed that only 1 percent of some 5,000 rental housing units had increases in rent after the announcement of the freeze.

The most meaningful—and most reassuring—reports on inflation come from the September and October figures on wholesale prices. Over the first 8 months of 1971, wholesale prices increased by an average of four-tenths of a percent per month. In September and October, however, wholesale prices *declined* by an average of two-tenths of a percent per month. Moreover, industrial prices after seasonal adjustment declined in both September and October—the first time in almost a decade that these prices were down in two consecutive months.

Thus, the wholesale price index—which is one of our best indicators of inflationary pressures, and is probably the most unambiguous measure that we have of the impact of the wage-price freeze—provides persuasive evidence of broad compliance with the freeze. It is reasonable to conclude that over the past three months, all but a very small percentage of the economic transactions in this country were carried out within the guidelines. While there is still a long road to travel in putting an end to inflation the President's stabilization program has provided a very promising beginning.

SUMMARY

The wage-price freeze, by itself, was not intended to be the complete solution to the problem of inflation. To end inflation does not mean that every single wage and price remains frozen forever where it was on August 14, 1971. In our dynamic economy where people grow and take new jobs, where their tastes change, where new business processes and new products are developed, and where productivity advances—in such a world, prices must be free to adjust to new economic conditions and to ration the use of scarce resources. To freeze all prices and wages for a long time would not only be unfair, but would also do serious damage to the American standard of living.

The freeze was intended to do three things, and it has done them. It has shown the determination of the Federal Government to attack the inflation problem effectively. It has awakened the American people to the need for cooperation in radical measures to meet a grave national problem. It has given time to formulate a plan that will provide for necessary price and cost adjustments while preventing a resurgence of inflation. With these accomplishments in hand, the stage is set for Phase II.

EXEMPTION OF CERTAIN SEGMENTS OF THE ECONOMY FROM THE CONTROLS OF THE POST-FREEZE PROGRAM

The Cost of Living Council has determined that certain economic sectors shall be exempt from control during Phase II of the economic stabilization program, effective November 14. The immediate exemption of these sectors is consistent with the President's objective of removing price and wage controls as quickly as conditions warrant. The principal reasons for these decisions are as follows:

1. Certain economic sectors are characterized by a large number of sellers and frequent price fluctuations with a minimum of inflationary pressure.

Example: raw agricultural products

2. In certain other sectors there is no clear basis for establishing a fair and equitable ceiling price because of the nature of the product and the selling process.

Examples: handicraft objects, antiques, and art objects

3. Certain transactions are not being controlled because they are not U.S. transactions.

Examples: exports, imports, and international shipping rates

4. Certain prices are self-assessed or characterized by a strong element of mutuality.

Examples: dues of non-profit organizations

In addition, it should be noted that certain economic transactions cannot be characterized as wages, salaries, prices or rents and are therefore not included in the program. Examples are: taxes, workmen's compensation, welfare payments, child support and alimony.

PRICE COVERAGE

The following were exempt from controls during the freeze and will continue to be exempt during the post-freeze period:

1. Raw unprocessed agricultural products.

2. Raw seafood (a more liberalized definition of "raw seafood" will be adopted during the post-freeze period which will permit shelling, shucking, skinning, scaling, eviscerating, removing heads and icing).

3. Financial securities.

4. Exports and first import transaction.

The following were not exempt during the freeze, but will be exempt during the post-freeze period:

1. All used products (includes all second hand goods that have provided some prior service to the previous owner).

2. Disposal Sales:

a. Sales of abandoned or confiscated property by the U.S. Government or other government agencies pursuant to court decree.

b. Sales of real and personal property by the U.S. Government.

c. Sales and deliveries of damaged commodities by insurance companies, transportation companies, or agents of the U.S. Government, or by any other person engaged in reconditioning and selling damaged commodities received in direct connection with the adjustment of losses from insurance companies, transportation companies, or agents of the U.S. Government.

3. Custom services and products made to individual order as follows:

a. Leather goods.
b. Wigs and toupees.
c. Clothing.
d. Fur apparel.
e. Dressmaking service on material owned by individual customers.
f. Taxidermy services.
g. Framing pictures and mirrors.
h. Jewelry.

4. Miscellaneous, as follows:

a. Antiques.
b. Art objects: paintings, etchings, and sculpture.
c. Collectors coins and stamps.
d. Precious stones and mountings into which precious stones are set.
e. Rock and stone specimens.
f. Handicraft objects.

5. Royalties and copyrights for materials furnished for publication.

6. International shipping rates.

7. Dues to non-profit organizations.

8. Real estate as follows:

a. Unimproved real estate and improved real estate with improvements that are not newly constructed.

b. Real estate with newly constructed improvements in those cases (i) in which the sales price is determined after completion of the construction, or (ii) in which wage rate costs are known and pertinent wage rates are not subsequently altered by actions of the Pay Board after the sales price is set.

9. Rents, as follows:

a. Commercial, industrial, and farm property.

b. Newly constructed or substantially rehabilitated dwellings offered for rent for the first time after August 15, 1971. "Substantially rehabilitated" means a rehabilitation cost of at least one-third or more of the total value (including costs of rehabilitation) of the rehabilitated property.

10. Raw sugar.

PRICE AND PAY CLASSIFICATION

The Cost of Living Council has established a three level classification system for the application of prenotification, reporting and other procedures to be implemented by the Price Commission and Pay Board to monitor and restrain price and wage increases during the post-freeze stabilizaton period.

PRICE CLASSIFICATION

The general criteria for identifying economic units subject to monitoring procedures relative to price adjustments are based on the amount of a firm's sales in its most recent fiscal year.

Category 1

Firms with annual sales of $100 million or more must prenotify the Price Commission on proposed price adjustments and obtain approval by the Commission before such price adjustments become effective. They must also report quarterly to the Price Commission information concerning prices, costs and profits.

Category 2

Firms with annual sales of between $50 and $100 million must report quarterly to the Price Commission information concerning prices, costs and profits.

Category 3

All other firms are subject to the standards and criteria that the Price Commission may develop. However, these firms will not be required to prenotify or report at regular intervals to the Price Commission. Any price changes by these firms will be subject to general monitoring and spot checks. Most of these firms will be required to maintain adequate records of price, cost, and profit changes. This requirement for supporting records will be less stringent for small firms such as eating establishments and product sellers with gross sales of less than $100,000.

PAY CLASSIFICATION

The general criteria for identifying economic units subject to monitoring procedures relative to pay adjustments are based on the number of employees affected.

Category 1

Proposed pay adjustments affecting 5,000 or more employees will be subject to prenotification to and approval by the Pay Board before they become effective.

Category 2

Pay adjustments affecting between 1,000 and 5,000 employees will be reported to the Pay Board at the time the pay adjustment becomes effective with information concerning the amount of the new adjustment and the number of employees affected.

Category 3

In general, pay adjustments affecting fewer than 1,000 employees will be subject to monitoring and spot checks, but prenotification and reporting at regular intervals will not be required.

A pay adjustment is a decision involving a general increase in salaries, wages, and fringe benefits either through a collective bargaining process or through actions by an employer or group of employers.

RELATION BETWEEN PROCEDURES FOR PAY AND PRICES

To ensure balanced treatment of pay and prices, consideration will be given to consistency between procedures as they apply to *pay adjustments* and to the pricing policies of the firms in which affected workers are employed. To avoid instances in which pay adjustments might be subject to more rigorous procedures than price adjustments, the following guidelines will apply:

a. If prenotification of reporting is required for pay adjustments, the Director of the Cost of Living Council has the authority to require a similar procedure for price adjustments for those firms covered by such pay determinations, whether or not those firms would otherwise be subject to those procedures. This authority may only apply to the segment or segments of the firm's activities affected by the pay adjustment decision.

b. If a firm is required to prenotify or to report at regular intervals with respect to *price adjustments*, the same procedures for pay adjustments will not necessarily be required.

PROVISION FOR CHANGING CLASSIFICATIONS

The Cost of Living Council has granted the Director authority to increase the number of pay adjustments subject to prenotification and reporting procedures upon the advice and recommendations of the Pay Board. This authority will permit prompt response on behalf of the Cost of Living Council to recommendations of the Pay Board to consider pay adjustments of a size smaller than those specified in the general criteria. The Pay Board might wish to subject certain pay adjustments to prenotification or reporting that would not otherwise be required if the adjustment was regarded as critical in terms of its pattern-setting effects or its effects on relative pay relationships.

The Cost of Living Council has also granted the Director authority to increase the number of firms subject to prenotification and reporting procedures upon the advice and recommendation of the Price Commission.

RESPONSIBILITY FOR PRENOTIFICATION AND REPORTING PAY ADJUSTMENTS

The responsibility for prenotification and reporting of information concerning pay adjustments may be assigned by the Pay Board to the employer, the bargaining agent for the employer or group of employers represented, or to the bargaining agent for the employees, or to any or all of them. The Pay Board will develop the appropriate administrative procedures to assure that responsibility for prenotification or reporting is clearly assigned.

PAY BOARD, EXECUTIVE OFFICE OF THE PRESIDENT, WASHINGTON, D.C.

POLICIES GOVERNING PAY ADJUSTMENTS ADOPTED BY THE PAY BOARD, NOVEMBER 8, 1971

1. Millions of workers in the Nation are looking to the Pay Board for guidance with respect to permissible changes in wages, salaries, various benefits and all other forms of employee total compensation. It is imperative to have a simple standard with as broad a coverage as possible at as early a date as possible. There is probably a need for exceptions and for individual consideration of special situations as soon as practical, and guidance to the millions whose pay relations are relatively simple is an early essential.

2. This general pay standard is intended, in conjunction with other needed measures, to meet the objectives which led to the establishment of this Board.

3. The general pay standard should be applicable to:

(1) changes that need approval before becoming effective;

(2) changes that must be reported when they become effective, and

(3) all other changes requiring compliance but not requiring specific approval or reporting.

4. (a) Effective November 14, 1971, the general pay standard shall be applicable to new labor agreements and, where no labor agreement is in effect, to existing pay prac-

tices. The general pay standard would provide:

On and after November 14, 1971, permissible annual aggregate increases would be those normally considered supportable by productivity imrovement and cost of living trends. Initially, the general pay standard is established as 5.5%. The appropriateness of this figure will be reviewed periodically by the Board, taking into account such factors as the long-term productivity trend of 3%, cost of living trends, and the objective of reducing inflation.

In reviewing new contracts and pay practices, the Pay Board shall consider ongoing collective bargaining and pay practices and the equitable position of the employees involved, including the impact of recent changes in the cost of living upon the employees' compensation.

(b) Existing contracts and pay practices previously set forth will be allowed to operate according to their terms except that specific contracts or pay practices are subject to review, when challenged by a party at interest or by five or more members of the Board, to determine whether any increase is unreasonably inconsistent with the criteria established by this Board.

In reviewing existing contracts and pay practices, the Pay Board shall consider ongoing collective bargaining and pay practices and the equitable position of the employees involved, including the impact of recent changes in the cost of living upon the employees' compensation.

(c) Scheduled increases in payment for services rendered during the "freeze" of August 16 through November 13, 1971, may be made only if approved by the Board in specific cases. The Board may approve such payments in cases which are shown to meet any of the following criteria:

(i) Prices were raised in anticipation of wage increases scheduled to occur during the "freeze."

(ii) A wage agreement made after August 15, 1971 succeeded an agreement that had expired prior to August 16, 1971, and retroactivity was an established practice or had been agreed to by the parties.

(iii) Such other criteria as the Board may hereafter establish to remedy severe inequities.

5. Following approval of special procedures by the Pay Board with respect to hearing "prior approval" cases and other special situations, application may be made for an exception to the general pay standard and for a hearing on such matters as inequities and substandard conditions.

6. No retroactive downward adjustment of rates now being paid will be required by operation of the general pay standard unless the rates were raised in violation of the freeze or of the general pay standard.

7. Provisions may be considered for vacation plans, in-plant adjustments of wages and salaries, in-grade and length of service increases, payments under compensation plans, transfers and the like.

THE PAY BOARD, WASHINGTON, D.C.

(Remarks of Judge Boldt at Press Conference, November 8, 1971)

It is a pleasure to announce that the Pay Board has reached major policy decisions regarding the post-freeze period of the Economic Stabilization Program.

It is fair to state that each and every member of the Board has worked on our problems with great dedication and diligence. For the past two weeks we have been working many hours every day to achieve a result as fair to all Americans, whatever their economic situation, as the complexities of the problems involved will permit. Issues are involved which allow for wide ranges of judgment and opinion, and some of them arouse strong feelings. I would be less than candid not to admit that viewpoints have been exchanged with considerable emphasis from time to time.

However, I am confident that every member of the Board has done his utmost to reach satisfactory solutions to the initial issues resolved by the policies adopted tonight.

Briefly stated, the substance of the policies adopted are:

1. When these policies become effective, new pay decisions will be subject to a general standard authorizing up to 5½% increase per year. This standard will be subject to periodic review.

2. Pay increases scheduled for some future date, under a contract already in effect, will be permitted, excepting those which are found to be unreasonably inconsistent with the Board's criteria.

3. Retroactive increases for pay raises denied during the freeze will only be approved in a limited number of carefully defined circumstances.

This is a brief summary of our policy decisions adopted today.

I believe these first policy decisions can and will provide a starting point for a program which will achieve the ultimate goal of ending inflation.

With the understanding, cooperation and support of the vast majority of Americans, the program will succeed. On behalf of my colleagues and myself, we ask the American people to give us that cooperation.

We will now pass out a copy of the actual plan as adopted by the Board as well as a copy of these remarks.

The public members of the Board are here with me and we will be able to take just a few of your questions.

STATEMENT BY THE PRICE COMMISSION

The policies of the Price Commission announced herein are designed to achieve a goal of holding average price increases across the economy to a rate of no more than 2½% per year. This is in line with the President's goal to stabilize the economy, reduce inflation and minimize unemployment, and with the Cost of Living Council's objective of reducing the rate of inflation to not more than 2 to 3% by the end of 1972.

These policies rely heavily on voluntary compliance, but they impose close supervision on those segments of the economy which substantially affect price levels. Specific regulations implementing these policies will be issued in the next few days.

Prices may not exceed their freeze period levels except as changed by published regulations or on orders of the Commission.

The basic policy is that price increases will not be allowed except those that are justified on the basis of cost increases in effect on or after November 14, 1971, taking into account productivity gains. While price increases, in the aggregate, must not exceed 2½% per year, many adjustments will be below 2½%, and some will be above 2½% as justified on the basis of cost increases and other factors. Price increases will not be granted to any individual or firm to provide retroactive relief for the impact of the August 16–November 13, 1971, freeze.

Reporting procedures for price increases vary depending on the amount of annual sales or revenues reported by a firm in its most recent fiscal year.

(a) Firms with sales of $100 million or more must prenotify the Price Commission on proposed price increases. Unless the Commission advises otherwise within 30 days after the notification is received, the notified price changes may take effect.

(b) Those firms with sales of between $50 million and $100 million must make quarterly reports to the Price Commission on changes in prices, costs and profits.

(c) All other firms are not required to prenotify or report on a regular basis, but will be subject to the standards and criteria that the Price Commission will establish.

Different economic sectors will be subject to different rules and regulations. These sectors are:

(a) Manufacturers;

(b) Wholesalers, retailers, and similar commercial enterprises;

(c) Service industries and the professions; and

(d) Others.

MANUFACTURERS

Prices charged by manufacturing companies may not be increased over freeze period levels, except as the following provisions may apply:

(1) Allowable cost increases in effect on or after November 14, 1971, reduced to reflect productivity gains will serve as a basis for price adjustments; and

(2) Price adjustments shall not result in an increase in a firm's pretax profit margin (as a percentage of sales) as established during its base period.

RETAILERS/WHOLESALERS

Retail and wholesale prices are to be controlled on the basis of customary initial percentage markups which are applied to the cost of the merchandise or service. These customary initial percentage markups cannot be higher than those in the base period. Moreover, a firm may not increase its prices beyond that amount which would bring its net profit rate before taxes (as a percentage of sales) to a level greater than that in the base period.

Retailers are to post prominently their freeze period prices for all covered food items and for many other selected items other than food as will be specified in the regulations. Until all such selected prices are posted, retailers are not permitted to increase any prices. In any event, such freeze prices must be posted no later than January 1, 1972.

SERVICE INDUSTRIES AND THE PROFESSIONS

Prices charged for services may not be increased over freeze period levels, except:

(1) As a result of allowable cost increases in effect on or after November 13, 1971, reduced to reflect productivity gains, and

(2) In any event, price increases shall not result in any increase in a firm's pretax profit margin (as a percentage of sales) as established during its base period.

The Commission recognizes there is a multitude of different service industries, characterized by widely varying types of costs and market conditions, possibly warranting more specific forms or regulation. The Commission is considering more specific regulations.

Until the Commission publishes specific regulations for nonprofit organizations and Government units, the prices of services supplied by such organizations may be adjusted for allowable cost increases in effect on or after November 14, 1971.

BASE PERIOD

For purposes of these regulations, base period shall mean the average of any two of the past three fiscal years of the firm ending prior to August 15, 1971.

RENTS

Guidelines for rents will be developed after consultations with the Rent Board. In the interim, the freeze will continue with some rule changes amending freeze-period definitions which resulted in hardships. Landlords are required to record and make available upon request both the unit-by-unit freeze period rent and the basis for any adjustments. The Rent Board will develop basic rent guidelines for consideration by the Commission.

REGULATED INDUSTRIES

For prenotifying firms the relevant regulatory agencies shall submit all existing and new requests for rate increases to the Price

Commission. These regulatory bodies will also notify the Price Commission upon approval of rate adjustments which will be reviewed by the Price Commission. For reporting firms, the regulatory bodies will report approved rate adjustments for review by the Price Commission. The Price Commission will retain the right to implement more stringent standards.

Some regulated firms proposed rate increases have been approved by regulatory authorities, but were not allowed to become effective because of the freeze. Such increases may go into effect; however, the appropriate regulatory authority shall review such increases for consistency with the goals of the Economic Stabilization Program.

CORRECTION OF INEQUITIES

Inequities arising as a result of certain definitions and rules promulgated under the freeze or for other exceptional reasons will be handled as follows:

(1) Changes will be made to amend certain definitions and to correct inequities created by the operation of rules promulgated under the freeze, but none of these changes will permit retroactive price increases. On or after November 14, freeze-period prices may be adjusted pursuant to such changes. Specific price adjustments are subject to review by the Commission. In such cases, the Commission will determine whether the increase is significantly inconsistent with the goal of reducing the rate of inflation.

(2) Prenotification firms must file with the Commission any proposed price increases based on the modification of freeze-period rules.

(3) Firms which can demonstrate a continuing gross inequity not ameliorated by the rules of the Price Commission may request an exception through local IRS Offices.

(4) Firms must retain records supporting price increases that are made pursuant to the modified rules, and reporting firms must file reports of these changes with the Commission.

WINDFALL PROFITS

Windfall profits refer to those profits which would not have existed except for unique conditions created by the operation of the Economic Stabilization Program. The Price Commission is determined to take those measures necessary to achieve the goal of reducing the rate of inflation to 2–3% by the end of 1972. Therefore, in the administration of the stabilization program the Commission will at certain times issue such regulations as necessary to cause windfall profits to be converted into price reductions.

OTHER CONSIDERATIONS

Notwithstanding the foregoing, in making determinations based on the standards set forth in this statement, the Price Commission will take into account whatever factors it considers relevant to an equitable resolution of that case and considers necessary to achieve the overall goal of holding average price increases across the economy to a rate of no more than 2½% per year.

OFFICES PROVIDING ECONOMIC STABILIZATION INFORMATION

ALABAMA

Birmingham IRS District Office, P.O. Box 2541, Birmingham, Ala. 35203, Ph: (205) 325–3461.

Suboffices within district

Dothan, 206½ S. Oates Street, Dothan, Ala. 36301, Ph: (205) 792–2129.

Florence, P.O. Box 934, Florence, Ala. 35631, Ph: (205) 764–8855.

Huntsville, P.O. Box 208, 2109 W. Clinton Avenue, Huntsville, Ala. 35804, Ph: (205) 539–0651.

Mobile, P.O. Drawer "G", Mobile, Ala. 36601, Ph: (205) 433–3581.

Montgomery, Aronov Building, 474 S. Court Street, Montgomery, Ala. 36104, Ph: (205) 263–7521.

Tuscaloosa, P.O. Drawer 2116, Tuscaloosa, Alabama 35401, Ph: (205) 752–5591.

ALASKA

Anchorage IRS District Office, P.O. Box 1500, Anchorage, Alaska 99510, Ph: (907) 272–4511 or 4512.

ARIZONA

Phoenix IRS District Office, Federal Building, U.S. Courthouse, 230 N. First Avenue, Phoenix, Arizona 85025, Ph: (602) 258–8751.

Suboffices within district

Flagstaff, 125 E. Birch St., Suite 403, Flagstaff, Arizona 86001, Ph: (602) 774–5261.

Mesa, Lines Building, 42 S. Center St., Mesa, Arizona 85202, Ph: (602) 258–8751.

Tucson, 4633 E. Broadway, Tucson, Arizona 85711, Ph: (602) 792–6211.

ARKANSAS

Little Rock IRS District Office, 700 W. Capitol Avenue, Little Rock, Arkansas 72203, Ph: (800) 482–9350 or (501) 376–4401 (For calls originating in Little Rock).

CALIFORNIA

San Francisco IRS District Office, First Floor, 450 Golden Gate Avenue, San Francisco, California 94102, Ph: (415) 556–1040.

Suboffices within district

Chico, 241 West Fifth Street, Chico, California 95928, Ph: (916) 343–0288.

Eureka, 219 Fifth Street, Eureka, California 95501, Ph: (707) 443–6724.

Fresno, 1130 "O" Street, Fresno, California 93721, Ph: (209) 487–5076.

Hayward, 24150 Hesperian Boulevard, Hayward, California 94545, Ph: (415) 785–2864.

Modesto, Post Office Building, 1125 Eye Street, Modesto, California 95354, Ph: (209) 529–5460.

Oakland, 3505 Broadway, Oakland, California 96411, Ph: (415) 653–5750.

Redding, 1555 East Street, Redding, California 96001, Ph: (916) 241–7196.

Richmond, Post Office Building, 11th & Nevin Streets, Richmond, California 94812, Ph: (415) 235–0271.

Sacramento, Federal Building, 9th & I Streets, Sacramento, California 95804, Ph: (916) 447–6961.

Salinas, Federal Building, 100 West Alisal Street, Salinas, California 93901, Ph: (408) 424–2886.

San Jose, Second Floor, 123 East Gish Road, San Jose, California 95114, Ph: (415) 287–2500.

Downey, 8524 East Firestone Boulevard, Downey, California 90241, Ph: (213) 923–9251.

El Centro, 1561 W. Main Street, El Centro, California 92243, Ph: (714) 352–6411.

Glendale, 1530 West Glenoaks Blvd., Glendale, California 91201, Ph: (213) 688–4320.

Hollywood, 1625 North Hudson St., Hollywood, California 90028, Ph: (213) 688–4320.

Long Beach, 3530 Atlantic Avenue, Long Beach, California 90807, Ph: (213) 595–1872.

Montebello, 420 Washington Blvd., Montebello, California 90640, Ph: (213) 688–4320.

Orange County, City Financial Center, Two City Blvd. East, Orange, California 92668, Ph: (714) 836–2381.

Palm Desert, 74–273 Highway III, Unit No. 1, Palm Desert, California 92260, Ph: (714) 346–2689.

Pasadena, 44 South Chester Avenue, Pasadena, California 91101, Ph: (213) 688–4320.

Pomona, 461 East Holt, Pomona, California 91766, Ph: (714) 623–2645.

Riverside, 3610 Central Avenue, Riverside, California 92506, Ph: (714) 686–9440.

San Bernardino, 555 North Sierra Way, San Bernardino, California 92401, Ph: (714) 884–3191.

San Diego, 3977 Ohio Street, San Diego, California 92104, Ph: (714) 293–5151.

San Luis Obispo, 443 Marsh Street, San Luis Obispo, Calif. 93401, Ph: (805) 543–3865.

Santa Barbara, 2829 Vernon Road, Santa Barbara, California 93105, Ph: (805) 687–7753.

Santa Maria, 117 West Tunnel Street, Santa Maria, California 93454, Ph: (805) 922–3591.

Torrance, 20355 South Hawthorne Blvd., Torrance, California 90503, Ph: (213) 688–4320.

Van Nuys, 7101 Sepulveda Blvd., Van Nuys, California 91405, Ph: (213) 989–2700.

Ventura, 4262 Telegraph Road, Ventura, California 93003, Ph: (805) 642–4121.

San Mateo, 2233 Palm Avenue, San Mateo, California 94403, Ph: (415) 341–6575.

San Rafael, Federal Building, Third & D Street, San Rafael, California 94902, Ph: (415) 453–1114.

Santa Rosa, 2403 Professional Drive, Santa Rosa, California 95401, Ph: (707) 544–1330, ext. 218.

Stockton, Room 130, Federal Building, 401 N. San Joaquin Street, Stockton, California 95202, Ph: (209) 466–2671.

Visalia, 1500 S. Mooney Boulevard, Visalia, California 93277, Ph: (209) 732–2995.

Walnut Creek, 1700 N. Broadway, Walnut Creek California 94596, Ph: (415) 937–4304.

Yuba City, Post Office Building, 761 Plumas Street, Yuba City, California 95991, Ph: (916) 673–5921.

District office and suboffices within district

Los Angeles IRS District Office, 300 North Los Angeles Street, Los Angeles, California 90012, Ph: (213) 688–4320.

Bakersfield, Federal Building 800 Truxton Avenue, Bakersfield, California 93301, Ph: (805) 323–7553.

Crenshaw, 3900 West Santa Barbara Ave., Los Angeles, California 90008, Ph: (213) 688–4320.

West Covina, 421 South Glendora Ave., West Covina, California 91790, Ph: (213) 688–4320.

West Los Angeles, 11390 West Olympic Blvd., Los Angeles, California 90064, Ph: (213) 688–4320.

COLORADO

Denver IRS District Office, 1961 Stout Street, Denver, Colorado 80202, Ph: (303) 825–7041.

Suboffices within district

Colorado Springs, 728 S. Tejon Street, Colorado Springs, Colorado 80902, Ph: (303) 636–5171.

Greeley, 724 Eighth Street, Greeley, Colorado 80631, Ph: (303) 352–2197.

Pueblo, 245 W. Abriendo Street, Pueblo, Colorado 81005, Ph: (303) 544–5406.

CONNECTICUT

Hartford IRS District Office, 450 Main Street, Hartford, Connecticut 06115, Ph: (203) 244–3245.

Suboffices within district

Bridgeport, 915 Lafayette Boulevard, Bridgeport, Connecticut 06003, Ph: (203) 336–3329.

New Haven, 1227 Chapel Street, New Haven, Connecticut 06511, Ph: (203) 772–6346.

Stamford, 300 Broad Street, Stamford, Connecticut 06901, Ph: (203) 327–3243.

Water, 14 Cottage Place, Waterbury, Connecticut 06702, Ph: (203) 755–3322.

DELAWARE

Wilmington, P.O. Box 2468, Wilmington, Delaware 19899, Ph: (302) 652–3411.

Suboffice within district

Dover, P.O. Box 2468, Wilmington, Delaware 19899, Ph: (302) 674–1040.

Georgetown, P.O. Box 2468, Wilmington, Delaware 19899, Ph: (302) 856–6316.

FLORIDA

400 West Bay, Jacksonville, Fla. 32202, Ph: (904) 791–3181.

Suboffices within district

Daytona, 326 S. Grandview Ave., Daytona, Fla. 32018, Ph: (902) 252–4319.

Ft. Lauderdale, 2309 N. Federal Highway, Ft. Lauderdale, Fla. 33305, Ph: (305) 565–1681.

Lakeland, Room 105, 124 S. Tennessee Ave., Lakeland, Fla. 33801, Ph: (813) 682–0195.

Melbourne, 1513 Harbor City Blvd., Melbourne, Fla. 32935, Ph: (305) 254–7200.

Miami, 51 S.W. 1st Ave., Miami, Fla. 33130, Ph: (305) 350–4222.

Orlando, 2520 N. Orange Ve., Orlando, Fla. 32804, Ph: (305) 425–7594. As of 11/29, address will be: 3191 Maguire Blvd., Orlando, Fla. 32803.

Pensacola, 40 E. Chase St., Pensacola, Fla. 32502, Ph: (904) 432–8315.

St. Petersburg, Room 153, Federal Office Building, 144 1st Ave. South, St. Petersburg, Fla. 33701, Ph: (813) 893–3381.

Sarasota, Room 112, Federal Building, 111 S. Orange Ave., Sarasota, Fla. 33577, Ph: (813) 955–7101.

Tallahassee, 591 N. Dural St., Tallahassee, Fla. 32301, Ph: (904) 224–9022.

Tampa, Federal Building, 500 Zack, Tampa, Fla. 33602, Ph: (813) 228–7711.

W. Palm Beach, 421 Iris St., W. Palm Beach, Fla. 33401, Ph: (305) 833–9776.

GEORGIA

P.O. Box 1067, Atlanta, Ga. 30301, Ph: (404) 688–4050.

Suboffices within district

Albany, P.O. Box 1908, Albany, Ga. 31702, Ph: (912) 436–0173.

Athens, P.O. Box 1589, Athens, Ga. 30601, Ph: (40) 546–2223.

Augusta, Room 406, Mid-South Bldg., 360 Base Street, Augusta, Ga. 30901, Ph: (404) 722–1213.

Columbus, P.O. Box 1306, Columbus, Ga. 31902, Ph: (404) 324–3619.

Macon, P.O. Box 4601, Macon, Ga. 31208, Ph: (912) 743–0381.

Rome, P.O. Box 193, Rome, Ga. 30161, Ph: (404) 234–0519.

Savannah, P.O. Box 10026, Savannah, Ga. 31402, Ph: (912) 232–4321.

HAWAII

Honolulu IRS District Office, U.S.P.O., Courthouse & Customhouse, 335 South King Street, Honolulu, Hawaii 96813, Ph: (808) 537–5111.

Suboffice within district

Hilo Federal Building, P.O. Box 607, Hilo, Hawaii 96720, Ph: (808) 935–8210.

IDAHO

Boise IRS District Office, 550 West Fort Street, Boise, Idaho 83707, Ph: (208) 342–2344.

Suboffices within district

Coeur d'Alene, The Federal Building, 4th and Lakeside, Coeur d'Alene, Idaho 83814, Ph: (208) 664–8132.

Idaho Falls, 560 Third Street, Idaho Falls, Idaho 83401, Ph: (208) 522–6464.

Lewiston, 1618 Idaho Street, Lewiston, Idaho 83501, Ph: (208) 743–2565.

Pocatello, 850 East Lander Street, Pocatello, Idaho 83201, Ph: (208) 232–5164.

Twin Falls, 548 Blue Lakes Blvd. North, Twin Falls, Idaho 83301, Ph: (208) 733–0118.

ILLINOIS

Chicago IRS District Office, State-Madison Bldg., 17 No. Dearborn St., Chicago, Illinois 60602, Ph: (312) 591–1229.

Suboffices within district

Aurora, 316 N. Lake Street, Aurora, Illinois 60506, Ph: (312) 591–1229.

Chicago—North Area, 3611 No. Kedzie Avenue, Chicago, Illinois 60618, Ph: (312) 591–1229.

Chicago—South Area, 724 W. 64th Street, Chicago, Illinois 60621, Ph: (312) 591–1229.

Chicago—West Area, 5817 W. Madison St., Chicago, Illinois 60644, Ph: (312) 591–1229.

Des Plaines, 770 Lee St., Des Plaines, Illinois 60016, Ph: (312) 591–1229.

Elgin, 691 Dundee Avenue, Elgin, Illinois 60120, Ph: (312) 591–1229.

Evanston, Main-Chicago Bldg., 534 Main Street, Evanston, Illinois 60202, Ph: (312) 591–1229.

Harvey, 15325 So. Page Avenue, Harvey, Illinois 60426, Ph: (312) 591–1229.

Joliet, Relyea Bldg., 20 E. Cass St., Joliet, Illinois 60431, Ph: (312) 591–1229.

Rockford, Home Savings Loan Bldg., 1111 E. State St., Rockford, Illinois 61108, Ph: (815) 968–0661.

Rock Island, Post Office & Court House, 211 19th Street, Rock Island, Illinois 61201, Ph: (309) 794–9666.

Waukegan, Rodbrow Commercial Bldg., 2720 West Grand Ave., Waukegan, Illinois 60085, Ph: (312) 591–1229.

Wheaton, Professional Bldg., 211 East Illinois St., Wheaton, Illinois 60187, Ph: (312) 591–1229.

District office and suboffices within district

Springfield IRS District Office, Land of Lincoln Bldg., 325 West Adams St., Springfield, Illinois 62704, Ph: (217) 525–4380.

Alton, Germania Savings Bldg., 543 E. Broadway, Alton, Illinois 62002, Ph: (618) 462–0031.

Carbondale, 606 East Main St., Carbondale, Illinois 62901, Ph: (618) 549–6231.

Champaign, Federal Bldg., 301 N. Randolph St., Champaign, Illinois 61820, Ph: (217) 352–5177.

Danville, 201 N. Vermillion St., Danville, Illinois 61832, Ph: (217) 442–1514.

Decatur, P.O. Bldg., 214 N. Franklin St., Decatur, Illinois 62523, Ph: (217) 429–2333.

East St. Louis, Federal Bldg., 650 E. Missouri Ave., East St. Louis, Illinois 62201, Ph: (618) 274–2200.

Mt. Vernon, 811 Casey Avenue, Mt. Vernon, Illinois 62864, Ph: (618) 242–6533.

Peoria, Savings Center Tower, 411 Hamilton Blvd., Peoria, Illinois 61602, Ph: (309) 673–9061.

Quincy, Post Office Bldg., 200 N. 8th Street, Quincy, Illinois 62301, Ph: (217) 224–0901.

INDIANA

Indianapolis IRS district office

Indianapolis P.O. & Ct. Ho., Room 434, U.S. Post Office, Court House Bldg., Meridian at Ohio Sts., Indianapolis, Indiana 46244, Ph: (317) 633–8611.

Suboffices within district

Bloomington, F.O.B., 119 W. 7th St., Bloomington, Indiana 47401, Ph: (812) 339–2292.

Elkhart, Marion Office Bldg., 513 S. Third St., Elkhart, Indiana 46514, Ph: (219) 293–0555.

Evansville, F.O.B. & Ct. Ho., 101 N.W. Seventh St., Evansville, Indiana 47708, Ph: (812) 423–6871, Ext. 244 or 245.

Fort Wayne, Post Office, 1302 S. Harrison Ave., Fort Wayne, Indiana 46802, Ph: (219) 422–6131, Ext. 217.

Gary, New Federal Bldg., 610 Connecticut St., Gary, Indiana 46402, Ph: (219) 886–2411, Ext. 225 or 246.

Hammond, F.B. & Ct. Ho., 507 State St., Hammond, Indiana 46320, Ph: (219) 932–5500, Ext. 202.

Lafayette, Mar Jean Village Shopping Center, 22 North Earl St., Lafayette, Indiana 47904, Ph: (317) 447–6855.

Muncie, 421 S. Walnut, Muncie, Indiana 47305, Ph: (317) 289–2411, Ext. 61.

New Albany, F.B., 121 W. Spring St., New Albany, Indiana 47150, Ph: (812) 283–1111.

Richmond, 117 S. Seventh St., Richmond, Indiana 47374, Ph: (317) 966–0924.

South Bend, 1317 Mishawaka Ave., South Bend, Indiana 46615, Ph: (219) 234–8111, Ext. 284.

Terre Haute, P.O. & Court House Bldg., Seventh & Cherry Sts., Terre Haute, Indiana 47807, Ph: (812) 232–5331, Ext. 385.

IOWA

Des Moines IRS District Office, Economic Stabilization Division, P.O. Box 797, Des Moines, Iowa 50303, Ph: (515) 284–4367.

Suboffices within district

Cedar Rapids, 218 Federal Bldg., 1st Avenue & 1st St. SE., Cedar Rapids, Iowa 52401, Ph: (319) 366–2483.

Council Bluffs, Federal Building, 6th and Broadway, Room 254, P.O. Box 1018, Council Bluffs, Iowa 51501, Ph: (712) 328–1543.

Davenport, 116 Federal Building, 131 East 4th Street, Davenport, Iowa 52801, Ph: (319) 324–1961.

Sioux City, 211 Post Office Building, Sixth & Douglas, P.O. Box 1648, Sioux City, Iowa 51101, Ph: (712) 252–4161.

Waterloo, Post Office Building, 3d Floor, Commercial Street and N. Park Ave., P.O. Drawer A, Waterloo, Iowa 50704, Ph: (319) 234–4483.

KANSAS

Wichita IRS District Office, 416 S. Main Street, Wichita, Kansas 67202, Ph: (316) 267–5301.

Suboffices within district

Kansas City, 812 N. Seventh Street, Kansas City, Kansas 66101, Ph: (816) 374–4361.

Topeka, 217 East Fourth Street, Topeka, Kansas 66603, Ph: (913) 234–8661 Ext. 285.

KENTUCKY

P.O. Box 1701, Louisville, Ky. 40201, Ph: (502) 582–5321.

Suboffices within district

Bowling Green, P.O. Box 508, Bowling Green, Ky. 42101, Ph: (502) 842–0359.

Covington, P.O. Box 931, Seventh & Scott, Covington, Ky. 41012, Ph: (513) 684–3423.

Lexington, 1500 Leestown Rd., Lexington, Ky. 40505, Ph: (606) 252–2312.

Owensboro, P.O. Box 530, Federica & Fifth Sts., Owensboro, Ky. 42301, Ph: (502) 684–8826.

Paducah, P.O. Box 610, Paducah, Ky. 42001, Ph: (502) 443–6211.

LOUISIANA

New Orleans IRS District Office, 600 South Street, New Orleans, Louisiana 70190, Ph: (504) 527–2881.

Suboffices within district

Alexandria, Wilshire Building, 3800 Parliament Drive, Alexandria, Louisiana 71301, Ph: (318) 445–6511.

Baton Rouge, Federal Building, Room 309, 750 Florida Street, Baton Rouge, Louisiana 70801, Ph: (504) 348–0181.

Lafayette, 219 Federal Office Building, Jefferson & E. Main Streets, Lafayette, Louisiana 70504, Ph: (318) 234–1407.

Lake Charles, 2030 Federal Building, Moss, Pujo & Kirby Streets, Lake Charles, Louisiana 70601, Ph: (318) 433–4642.

Monroe, 21 KTVE–TV Building, 206 Catalpa Street, Monroe, Louisiana 71201, Ph: (318) 325–1712.

Shreveport, 207 Petroleum Building, 619 Market Street, Shreveport, Louisiana 71101, Ph: (318) 425–1241.

MAINE

68 South Sewall Street, Augusta, Maine 04330, Ph: (207) 622–3761.

Suboffices within district

Bangor, Post Office & Federal Bldg., Harlow Street, Bangor, Maine 04401, Ph: (207) 942–8370.

Biddeford, 18 South Street, Biddeford, Maine 04005, Ph: (207) 282–1646.

Lewiston, 95 Park Street, Lewiston, Maine 04240, Ph: (207) 784–6410.

Portland, Post Office & Fed. Bldg., 125 Forest Avenue, Portland, Maine 04101, Ph: (207) 775–0501.

Presque Isle, 373 Main Street, Presque Isle, Maine 04769, Ph: (207) 764–4451.

Waterville, 28 College Avenue, Waterville, Maine 04901, Ph: (207) 872–6379.

MARYLAND (INCLUDING DISTRICT OF COLUMBIA)

Baltimore IRS District Office, 31 Hopkins Plaza, Baltimore, Maryland 21201, Ph: (301) 962-2590.

Suboffices within district

Annapolis, 253 West Street, Annapolis, Maryland 21401, Ph: (301) 263-2331.

Cumberland, 203 Post Office Building, Pershing Street, Cumberland, Maryland 21502, Ph: (301) 722-2300.

Easton, Post Office Building Annex, 116 East Dover Street, Easton, Maryland 21601, Ph: (301) 822-2404.

Frederick, 914 East Street, Monocacy Village Shopping Center, Frederick, Maryland 21701, Ph: (301) 663-9241.

Hagerstown, Professional Arts Building, 5 Public Square, Hagerstown, Maryland 21740, Ph: (301) 731-1251.

Salisbury, Federal Building, 1st Floor, 129 East Main Street, Salisbury, Maryland 21801, Ph: (301) 742-1701.

Washington, 1201 E Street, N.W., Washington, D.C. 20226, Ph: (202) 337-0450.

Wheaton Plaza South, Wheaton Plaza Shopping Center, Wheaton, Maryland 20902 Ph: (202) 337-0450.

MASSACHUSETTS

Mascachusetts IRS District Office, Boston, JFK Federal Office Buidling, Government Center, Boston, Massachusetts 02203. Ph: (617) 223-4750.

Suboffices within district

Springfield, 436 Dwight Street, Springfield, Massachusetts 01103, Ph: (413) 781-2380.

Worcester, Federal Building and Courthouse, Worcester, Massachusetts 01601, Ph: (617) 791-2314.

MICHIGAN

Detroit IRS District Office, Park Avenue Building, 2011 Park Ave., Detroit, Mich. 48226, Ph: (313) 226-7650.

Suboffices within district

Ann Arbor, Dick Building, 3430 Washtenaw, Ann Arbor, Mich. 48104, Ph: (313) 769-7100.

Battle Creek Bldg. No. 2–Fed. Center, 74 N. Washington Street, Battle Creek, Mich. 49017, Ph: (616) 962-6511.

Benton Harbor, Woolworth Bldg., 145 W. Main Street, Benton Harbor, Mich. 49022, Ph: (616) 927-3507.

Dearborn, 22720 Michigan Ave., Dearborn, Mich. 48124, Ph: (313) 226-7602.

Flint, F.O.B. Church & W. Sec. St., Flint, Michigan 48502, Ph: (313) 234-5621 Ext. 200.

Grand Rapids, Northbrook Office Bldg. #2, 2920 Fuller Ave., N.E., Grand Rapids, Mich. 49505, Ph: (616) 364-9581.

Highland Park, 16480 Woodward Ave., Highland Park, Mich. 48203, Ph: (313) 869-4510 Ext. 49 or 50.

Jackson, 524 N. Jackson St., Jackson, Mich. 49201, Ph: (517) 783-2653.

Kalamazoo, 410 W. Michigan Ave., Kalamazoo, Mich. 49006, Ph: (616) 343-2593.

Lansing, 232 Fed. Bldg., 315 W. Allegan St., Lansing, Mich. 48933, Ph: (517) 372-1910, Ext. 646.

Marquette, 328 PO, Washington & Third St., Marquette, Mich. 49855, Ph: (906) 285-1363.

Mt. Clemens, Lawyers Bldg., 23 Cass Ave., Mt. Clemens, Mich. 48043, Ph: (313) 293-3440.

Muskegon, Room 203, Post Office Bldg., First & Market Sts., Muskegon, Mich. 49440, Ph: (616) 722-6096.

Pontiac, Fed. Bldg. & Post Office, Huron & Perry Sts., Pontiac, Mich. 48058, Ph: (313) 338-7101.

Saginaw, Koski Bldg., 2137 Warwick St., Saginaw, Mich. 48602, Ph: (517) 793-2340 Ext. 277.

MINNESOTA

St. Paul IRS District Office, Federal Building & U.S. Courthouse, 316 North Robert Street, St. Paul, Minnesota 55101, Ph: (612) 725-7351.

Suboffices within district

Duluth, Federal Building, Courthouse & Customhouse, 515 West First Street, Duluth, Minnesota 55802, Ph: (218) 727-6692.

Mankato, 250 Martin Building, Mankato, Minnesota 56001, Ph: (507) 385-9371.

Minneapolis, Federal Office Building, 210 Third Avenue South, Minneapolis, Minnesota 55401, Ph: (612) 725-7351.

Rochester, Federal Building, 301 First Street SW., Rochester, Minnesota 55901, Ph: (507) 288-3126,

St. Cloud, Federal Building, 720 Saint Germain Street, St. Cloud, Minnesota 56302, Ph: (612) 251-4404.

MISSISSIPPI

Mississippi IRS District Office, Jackson, 301 Building, 301 N. Lamar Street, Jackson, Mississippi 39202, Ph: (601) 948-7821.

Suboffices within district

Greenville, P.O. Box 937, Greenville, Mississippi 38701, Ph: (601) 335-3566.

Gulfport, Mississippi City Station, P.O. Box 7115, Gulfport, Mississippi 39501, Ph: (601) 896-6900.

Hattiesburg, P.O. Box 1669, Hattiesburg, Mississippi 39402, Ph: (601) 583-4371.

Meridian, P.O. Box 1659, Meridian, Mississippi 39301, Ph: (601) 693-1788.

Tupelo, Room 310, Federal Office Building, Tupelo, Mississippi 38802, Ph: (601) 842-1366.

MISSOURI

St. Louis IRS District Office, P.O. Drawer 1087, Central Station, St. Louis, Missouri 63188, Ph: (314) 622-4185.

Suboffices within district

Clayton, Missouri Savings Assn. Bldg., 7635 Forsyth Blvd., Clayton, Missouri 63105, Ph: (314) 725-8310.

Columbia, P.O. Box 795, Columbia, Missouri 63105, Ph: (314) 442-2271.

Joplin, Federal Bldg. 302 Joplin Street, Joplin, Missouri 64801, Ph: (417) 624-5858.

Kansas City, P.O. Box 15278, Kansas City, Missouri 64106, Ph: (816) 374-5858.

St. Joseph, P.O. Box 1029, St. Joseph, Missouri 64501, Ph: (816) 233-0211.

Springfield, P.O. Box 900, Springfield, Missouri 65802, Ph: (417) 865-8361.

MONTANA

Helena IRS District Office, Federal Office Building, West Sixth Street & Park Avenue, Helena, Montana 59601, Ph: (406) 442-9040 Ext. 3331.

NEBRASKA

Omaha IRS District Office, Federal Office Building, P.O. Box 662, Omaha, Nebraska 68101, Ph: (402) 221-3495.

Suboffices within district

Grand Island, P.O. Box 940, Grand Island, Nebraska 68801, Ph: (308) 382-8640.

Lincoln, P.O. Box 83109, Lincoln, Nebraska 68501, Ph: (402) 475-3541.

NEVADA

Reno IRS District Office, 300 Booth Street, Reno, Nevada 89502, Ph: (702) 784-5521.

Suboffice within district

Las Vegas, 300 Las Vegas Boulevard, Las Vegas, Nevada 89101, Ph: (702) 385-6294.

NEW HAMPSHIRE

Portsmouth IRS District Office, 80 Daniel Street, Portsmouth, New Hampshire 03801, Ph: (603) 436-7011.

Suboffice within district

Manchester, 1232 Elm Street, Manchester, New Hampshire 03101, Ph: (603) 431-7861.

NEW JERSEY

Newark IRS District Office, 970 Broad Street, Newark, New Jersey 07102, Ph: (201) 645-5950.

Suboffices within district

Asbury Park, 611 Heck Street, Asbury Park, New Jersey 07712, Ph: (201) 775-1800.

Atlantic City, 2924 Atlantic Avenue, Atlantic City, New Jersey 08401, Ph: (609) 348-3184.

Camden, Reutter Building, 9th & Cooper Streets, Camden, New Jersey 08101, Ph: (609) 963-2342, 966-7333.

Hackensack, 334 Union Street, Hackensack, New Jersey 07601, Ph: (201) 487-8981.

Jersey City, 591 Summit Avenue, Jersey City, New Jersey 07306, Ph: (201) 659-9038.

Morristown, 3 Schuyler Place, Morristown, New Jersey 07960, Ph: (201) 538-3960.

New Brunswick, 167 New Street, New Brunswick, New Jersey 08901, Ph: (201) 246-1423.

Paterson, 150 Ellison Street, Paterson, New Jersey 07505, Ph: (201) 279-2626.

Perth Amboy, 313 State Street, Perth Amboy, New Jersey 08861, Ph: (201) 442-3800.

Toms River, 910 Route 166, Toms River, New Jersey 08753, Ph: (201) 244-6500.

Trenton, 428 East State Street, Trenton, New Jersey 08608, Ph: (609) 394-7113.

Vineland, 512 Landis Avenue, Vineland, New Jersey 08306, Ph: (609) 692-1200.

NEW MEXICO

Albuquerque IRS District Office, P.O. Box 1967, Albuquerque, New Mexico 87103, Ph: (505) 843-2567.

Suboffice within district

Roswell, P.O. Box 1637, Roswell, New Mexico 88201, Ph: (505) 622-1670.

NEW YORK

Albany IRS District Office, 161 Washington Avenue, Albany, New York 12201, Ph: (578) 472-6140.

Suboffice within district

Poughkeepsie, 337 Mill Street, Poughkeepsie, New York 12601, Ph: (914) 452-3400 Ext. 457, 458.

District office and suboffices within district

Brooklyn IRS District Office, 35 Tillary Street, Brooklyn, New York 11201, Ph: (212) 855-4994.

Flushing, 135-59 37th Avenue, Flushing, New York 11354, Ph: (212) 539-9010.

Jamaica, 150-14 Jamaica Avenue, Jamaica, New York 11432, Ph: (212) 291-8000.

Jackson Heights, 74-09 37th Avenue, Jackson Heights, N.Y. 11372, Ph: (212) 291-8000.

Mineola, 114 Old Country Road, Mineola, New York 11501, Ph: (516) 248-7100.

Riverhead, 240 W. Main Street, Riverhead, New York 11901, Ph: (516) 727-2436.

Smithtown, 444 Route No. 111, Smithtown, New York 11787, Ph: (516) 724-8824.

District office and suboffices within district

Buffalo IRS District Office, 111 W. Huron Street, Federal Building, Buffalo, New York 14202, Ph: (716) 842-3660, 3662.

Binghamton, U.S. Courthouse, 11 Henry Street, Binghamton, New York 13902, Ph: (607) 772-5457.

Elmira, U.S. Post Office Bldg., State & N. Church Sts., Elmira, New York 14901, Ph: (607) 734-6241.

Jamestown, New Federal Bldg., E. 3rd St. & Pendergast Ave., Jamestown, New York 14701, Ph: (716) 484-1131.

Niagara Falls, U.S. Post Office Bldg., 615 Main St., Niagara Falls, New York 14302, Ph: (716) 694-5470.

Rochester, 41 State Street, Rochester, New York 14614, Ph: (716) 546-4900.

Syracuse, Hunter Plaza, 115-123 South Salina St., Syracuse, New York 13202, Ph: (315) 473-3570.

Utica, Brock Building, 276 Genesee Street, Utica, New York 13502, Ph: (315) 797-1151.

Watertown, U.S. Post Office, Watertown, New York 13601, Ph: (315) 782-4590.

District office and suboffices within district

Manhattan IRS District Office, 120 Church Street, New York, New York 10007, Ph: (212) 466-1600.

Bronx, 2467-81 Jerome Avenue, Bronx, New York 10468, Ph: (212) 933-7800.

Mt. Vernon, 120 E. Prospect Avenue, Mt. Vernon, New York 10550, Ph: (914) 644–7550.

New Rochelle, 271 North Avenue, New Rochelle, New York 10801, Ph: (914) 632–2120.

Spring Valley, 39 South Main Street, Spring Valley, New York 10977, Ph: (914) 352–3060.

Staten Island, 45 Bay Street, Staten Island, New York 10301, Ph: (212) 447–0711.

White Plains, 95 Church Street, White Plains, New York 10601, Ph: (914) 761–4250.

Yonkers, 45 South Broadway, Yonkers, New York 10701. Ph: (914) 423–0201.

NORTH CAROLINA

Greensboro IRS District Office, 320 Federal Place, Greensboro, North Carolina 27401, Ph: (919) 275–0565.

Suboffices within district

Asheville, Plateau Building, 50 S. French Broad Avenue, Asheville, North Carolina 28802, Ph: 1919–800–822–8800.

Charlotte, 316 E. Morehead Street, Charlotte, North Carolina 28202, Ph: (704) 372–0711, 1919–800–822–8800.

Durham, Federal Building 302 Morris Street Durham North Carolina 27701, Ph: 1800–822–8800.

Fayetteville, Federal Building, 301 Green Street, Fayetteville, North Carolina 28302, Ph: 1800–822–8800.

Gastonia, Post Office Building, 301 E. Main Ave., Gastonia, North Carolina 28052, Ph: 1919–800–822–8800.

Greenville, Rivers Building, 211 Evans Street, Greenville, North Carolina 27834, Ph: 121–800–822–8800.

Hickory, Main Avenue Place, S.W., Hickory, North Carolina 28601, Ph: (704) 328–5639, 1919–800–822–8800.

High Point, 1605 N. Main Street, High Point, North Carolina 27262, Ph: 1800–822–8800.

Raleigh, U.S. Post Office, Courthouse and Fed. Building, 310 New Bern Avenue, Raleigh, North Carolina 27601, Ph: 1–800–822–8800.

Sanford, Federal Building, 228 Carthage Street, Sanford, North Carolina 27330, Ph: 112–800–822–8800.

Wilmington, 16 S. 16th Street, Wilmington, North Carolina 28401, Ph: Operator ask 800–822–8800.

Winston-Salem, Main Post Office Building, 5th Trade and Liberty, Winston-Salem, North Carolina 27602, Ph: 1800–822–8800.

NORTH DAKOTA

Fargo IRS District Office, Federal Building and Post Office, 653 Second Avenue, North, Fargo, North Dakota 58102, Ph: (800) 342–4710.

OHIO

Cincinnati IRS District Office, P.O. Box 1637, Cincinnati, Ohio 45201, Ph: (513) 684–3795.

Suboffices within district

Columbus, P.O. Box 1260, Columbus, Ohio 43216, Ph: (614) 467–7422.

Dayton, Grant-Deneau Tower, 40 W. Fourth Street, Dayton, Ohio 45402, Ph: (513) 461–5528.

Cleveland IRS District Office, P.O. Box 5608, Cleveland, Ohio 44101, Ph: (216) 522–3440.

Akron, 411 Wolf Ledges Parkway, Akron, Ohio 44311, Ph: (216) 376–2177.

Canton, Federal Building, 201 Cleveland Ave., S.W., Canton, Ohio 44701, Ph: (216) 454–9477.

Cleveland—East, 121 Shaker Bldg., 12025 Shaker Blvd., Cleveland, Ohio 44120, Ph: (216) 795–4014.

Lima, 205 W. Market St., Lima, Ohio 45801, Ph: (419) 225–6015.

Lorain, 400 Reid Ave., Lorain, Ohio 44052, Ph: (216) 244–3220.

Mansfield, Columbia Gas Bldg., 115½ Park Ave., W., Mansfield, Ohio 44902, Ph: (419) 522–2402.

Steubenville, 630 Market Street, Steubenville, Ohio 43952, Ph: (614) 283–3374.

Toledo, Federal Office Building, 234 Summit Street, Toledo, Ohio 43604, Ph: (419) 259–6228.

Warren, 135 Pine St., S.E., Warren, Ohio 44481, Ph: (216) 399–3624.

Youngstown, 112 W. Commerce St., Youngstown, Ohio 44503, Ph: (216) 746–2976.

OKLAHOMA

Oklahoma City IRS District Office, P.O. Box 66, Oklahoma City, Oklahoma 73101, Ph: (405) 231–4911.

Suboffices within district

Enid, P.O. Box 1512, Enid, Oklahoma 73701, Ph: (405) 237–4325.

Lawton, P.O. 1129, Lawton, Oklahoma 73501, Ph: (405) 355–7373.

Muskogee, P.O. Box 1666, Muskogee, Oklahoma 74401, Ph: (918) 683–3111, Ext. 473.

Tulsa, Room 1000, 15 W. Sixth Street, Tulsa, Oklahoma 74119, Ph: (918) 583–5721.

OREGON

Portland IRS District Office, 319 S. W. Pine Street, Portland, Oregon 97204, Ph: (503) 226–7781.

Suboffices within district

Eugene, 1471 Pearl Street, Eugene, Oregon 97401, Ph: (503) 342–5141 Ext. 320, 327.

Medford, 333 W. 8th Street, Medford, Oregon 97501, Ph: (503) 779–2266 Ext. 266.

Salem, 674 Church St., N.E., Salem, Oregon 97308, Ph: (503) 585–1241 Ext. 241.

PENNSYLVANIA

Philadelphia IRS District Office, 401 North Broad Street, Philadelphia, Pennsylvania 19108, Ph: (215) 597–7910.

Suboffices within district

Allentown, 118 North Ninth Street, Allentown, Pennsylvania 18102, Ph: (215) 434–0181 Ext. 241, 242 or 243.

Bethlehem, 65 East Elizabeth Avenue, Bethlehem, Pennsylvania 18018, Ph: (215) 867–4146.

Chester, Fidelity Chester Bldg., 5th & Market Streets, Chester, Pennsylvania 19013, Ph: (215) 874–5381.

Harrisburg, Federal Building, 228 Walnut Street, Harrisburg, Pennsylvania 17101, Ph: (717) 782–4513.

Lancaster, 46 South Duke Street, Lancaster, Pennsylvania 17602, Ph: (717) 394–0516.

Norristown, 1711–A Markley Street, Norristown, Pennsylvania 19401, Ph: (215) 279–3850, 51, 52.

Pottsville, 420 North Centre Street, Pottsville, Pennsylvania 17901, Ph: (717) 622–9737, 9738.

Reading, 525 Franklin Street, Reading, Pennsylvania 19602, Ph: (215) 372–8461.

Scranton, 125 North Washington Avenue, Scranton, Pennsylvania 18503, Ph: (717) 344–7341.

Wilkes-Barre, Federal Building, Main & South Streets, Wilkes-Barre, Pennsylvania 18703, Ph: (717) 825–6307.

Williamsport, 322–24 Locust Street, Williamsport, Pennsylvania 17701, Ph: (717) 323–3343.

York, 2801 Eastern Boulevard, York, Pennsylvania 17402, Ph: (717) 757–2670.

Pittsburgh IRS District Office, P. O. Box 2689, Pittsburgh, Pennsylvania 15230, Ph: (412) 644–6740.

Altoona, Block & Yon Building, 1109 12th Street, Altoona, Pennsylvania, 16601, Ph: (814) 944–1585.

Beaver Falls, Massa Building, 1501 Eighth Avenue, Beaver Falls, Pennsylvania 15010, Ph: (412) 843–4050.

Erie, Room 320 Rothrock Building, 121 West 10th Street, Erie, Pennsylvania 16501, Ph: (814) 453–4226.

Greensburg, Eastgate Shopping Center, 1135 E. Pittsburg Street, Greensburg, Pennsylvania 15601, Ph: (412) 837–4640.

Johnstown, Room 237, Post Office Building, Locust Street Entrance, Johnstown, Pennsylvania 15901, Ph: (814) 535–2755.

McKeesport, 337 Shaw Avenue, McKeesport, Pennsylvania 15132, Ph: (412) 678–8653.

Washington, 70 East Beau Street, Washington, Pennsylvania 15301, Ph: (412) 225–0261.

RHODE ISLAND

Providence IRS District Office, 130 Broadway, Providence, Rhode Island 02903, Ph: (401) 528–5206, 5210.

SOUTH CAROLINA

Columbia IRS District Office, 901 Sumter Street, Columbia, South Carolina 29201, Ph: (803) 253–8371.

Suboffices within district

Charleston, 334 Meeting Street, Charleston, South Carolina 29403, Ph: (803) 577–4171, Ext. 216.

Florence, 183 S. Coit Street, Florence, South Carolina 29501, Ph: (803) 663–2412.

Greenville, 300 E. Washington Street, Greenville, South Carolina 29603, Ph: (803) 242–5434.

Spartanburg, 201 Magnolia Street, Spartanburg, South Carolina 29301, Ph: (803) 583–8494.

SOUTH DAKOTA

Aberdeen IRS District Office, 640 Ninth Avenue SW, Aberdeen, South Dakota 57401, Ph: (605) 225–0250.

Suboffices within district

Rapid City, Mellgren Building, Room 307, 520 Kansas City Street, Rapid City, South Dakota 57701, Ph: (605) 348–1121.

Effective December 6, phone changes to (800) 592–1870.

Sioux Falls, Federal Building & Courthouse, 400 South Phillips Avenue, Sioux Falls, South Dakota 57102, Ph: (605) 336–2980.

Effective December 27, phone changes to (800) 592–1870.

TENNESSEE

Nashville IRS District Office, U.S. Court House, Room 159, 801 Broad Street, Nashville, Tennessee 37203, Ph: (615) 749–5101.

Suboffices within district

Chattanooga, U.S. Court House Building, 10th St. & Georgia Ave., Chattanooga, Tenn. 37401, Ph: (615) 266–3200.

Jackson, 410 Peoples Protective Towers, 646 Old Hickory Blvd., Jackson, Tenn. 38301, Ph: (901) 424–0680.

Johnson City, P.O. Box 3727, Johnson City, Tenn. 37601, Ph: (615) 926–9133.

Knoxville, U.S. Post Office & Ct. Ho., Main Ave. & Walnut St., Knoxville, Tenn. 37902, Ph: (615) 524–4011.

Memphis, Clifford David Bldg., 167 N. Main Street, Memphis, Tenn. 38103, Ph: (901) 534–3521.

TEXAS

Austin IRS District Office, 300 E. Eighth Street, Austin, Texas 78701, Ph: (512) 475–5233.

Suboffices within district

Beaumont, U.S. Courthouse & Post Office Bldg., Broadway and Willow Streets, Beaumont, Texas 77701, Ph: (713) 833–8938.

Corpus Christi, Smith Building, 425 Schatzel Street, Corpus Christi, Texas 78401, Ph: (512) 884–1901.

El Paso, El Paso International Building, 119 N. Stanton Street, El Paso, Texas, 79901, Ph: (915) 533–3676.

Harlingen, 320 Texas Reserve Building, 306–308 E. Jackson Street, Harlingen, Texas 78550, Ph: (512) 423–6550.

Houston, Federal Building & U.S. Courthouse, 515 Rusk Avenue, Room 3301, Houston, Texas 77002, Ph: (713) 226–5101.

McAllen, Federal Office Building, Main Street and E. Chicago Avenue, McAllen, Texas 78501, Ph: (512) 686–5489.

San Antonio, Kallison Building, Room 324, 434 S. Main Avenue, San Antonio, Texas 78285, Ph: (512) 225–6881.

Waco, 711 Washington Avenue, Waco, Texas 76701, Ph: (817) 756–3721.

District office and suboffices within district

Dallas IRS District Office, 1100 Commerce Street, Tenth Floor, Dallas, Texas 75202, Ph: (214) 744–3611.

Abilene, Post Office Building 2nd Floor, 3rd & Pine Streets, Abilene, Texas 79601, Ph: (915) 677–9146.

Amarillo, 317 E. Third Street, 10th Floor Herring Plaza, Amarillo, Texas 79101, Ph: (806) 376–2111.

Fort Worth, Federal Building, Room 11A01, 819 Taylor Street, Ft. Worth, Texas 76102, Ph: (817) 334–2721.

Lubbock, Federal Office Building, Room 315, 1205 Texas Avenue, Lubbock, Texas 79401, Ph: (806) 747–3711, Ext. 456.

Odessa, 1st National Bank Building, Room 610, 700 N. Grant Street, Odessa, Texas 79760, Ph: (915) 332–9481.

Tyler, 110 E. Houston Street, Tyler, Texas 75701, Ph: (214) 597–6687.

Wichita Falls, 500 1st National Building, 8th & Indiana Streets, Wichita Falls, Texas 76301, Ph: (817) 723–0741.

UTAH

Salt Lake City IRS District Office, U.S. P.O. and Courthouse, 350 South Main St., Salt Lake City, Utah 84110, Ph: (801) 524–4060.

Suboffice within district

Ogden, New Federal Building, Room 1301, 324 25th St., Ogden, Utah 84401, Ph: (801) 399–6551.

VERMONT

Burlington IRS District Office, 11 Elmwood Avenue, Burlington, Vermont 05401, Ph: (802) 862–6501 Ext. 6321.

Suboffices within district

Montpelier, 87 State Street, Montpelier, Vermont 05602, Ph: (803) 223–6348.

Rutland, Post Office & Ct. Ho. Bldg., 151 West Street, Rutland, Vermont 05702, Ph: (802) 773–9696.

VIRGINIA

Richmond IRS District Office, 400 North Eighth Street, Richmond, Virginia 23219, Ph: (703) 782–2341.

Suboffices within district

Baileys Crossroads, 5707 Seminary Road, Baileys Crossroads Branch, Falls Church, Va. 22041, Ph: (703) 557–0680.

Newport News, 708 New Market Square South, Newport News, Virginia 23605, Ph: (703) 247–0107.

Norfolk, Virginia National Bank Building, 1 Commercial Place, Norfolk, Virginia 23510, Ph: (703) 441–6234.

Roanoke, First Federal Building, No. 36 West Church Avenue, Roanoke, Virginia 24003, Ph: (703) 345–7337.

WASHINGTON

Seattle, IRS District Office, 2033 6th Avenue, Seattle, Washington 98121, Ph: (206) 442–7500.

Suboffices within district

Aberdeen, 421 W. State St. Aberdeen, Washington 98520, Ph: (206) 533–1760.

Bellingham, Federal Building, Magnolia & Cornwall Sts. Bellingham, Washington 98225, Ph: (206) 733–0110.

Everett, 2730 Hoyt Ave., Everett, Washington 98206, Ph: (206) 259–0861.

Pasco, 403 W. Lewis St., Pasco, Washington 99301, Ph: (509) 547–1711.

Spokane, 920 W. Riverside Avenue, Spokane, Washington 99201, Ph: (509) 456–2120.

Tacoma, 1305 Tacoma Avenue, Tacoma, Washington 98402, Ph: (206) 383–2021.

Vancouver, 500 W. 12th St., Vancouver, Washington 98660, Ph: (206) 695–9252.

Wenatchee, Exchange Building, 6 First Street, Wenatchee, Washington 98801, Ph: (509) 663–2645.

Yakima, 6 South 2nd Street, Yakima, Washington 98901, Ph: (509) 248–6891.

WEST VIRGINIA

Parkersburg IRS District Office, Federal Office Building, Juliana & 5th Streets, Parkersburg, W. Virginia 26101, Ph: (304) 422–8551.

Suboffices within district

Charleston, Federal Office Building & Ct. Ho., 500 Quarrier St., Charleston, W. Virginia 25301, Ph: (304) 343–6181.

Huntington, P.O. and Ct. Ho., Ninth St. & Fifth Ave., Huntington, W. Virginia 25701, Ph: (304) 529–2311.

Wheeling, Hawley Bldg., 1025 Main St., Wheeling, W. Virginia 26003, Ph: (304) 232–0151.

WISCONSIN

Milwaukee IRS District Office, Federal Building & Courthouse, 517 East Wisconsin Avenue, Milwaukee, Wisconsin 53202, Ph: (800) 452–9100, Calls from Milwaukee (414) 271–3780.

Suboffices within district

Eau Claire, Federal Building & Courthouse, 510 S. Barstow Street, Eau Claire, Wisconsin 54701, Ph: (800) 452–9100.

Green Bay, Federal Building, 325 East Walnut Street, Green Bay, Wisconsin 54301, Ph: (800) 452–9100.

Madison, Coca Cola Building, 3536 University Avenue, Madison, Wisconsin 53701, Ph: (800) 452–9100.

Racine, Monument Square Building, 524 Main Street, Racine, Wisconsin 53403, Ph: (800) 452–9100.

WYOMING

Cheyenne IRS District Office, Federal Office Building, 21st and Carey Ave., Cheyenne, Wyoming 82001, Ph: (307) 778–2363.

THE INTERNAL REVENUE SERVICE ROLE IN THE ECONOMIC STABILIZATION PROGRAM

The Internal Revenue Service now becomes the major focal point for citizen contact with the President's Economic Stabilization Program. In addition to the duties it performed during the freeze, IRS will be exercising some important new functions.

During the freeze, the IRS provided information to the public on wages and prices through its nationwide network of taxpayer service offices, received and analyzed complaints concerning alleged violations, and conducted investigations of suspected violators. These activities are being expanded because success of the Economic Stabilization Program depends on public knowledge of its equity and fairness, on the effective communication of its provisions so that people know what they should do to comply and on the voluntary support and cooperation of every American citizen.

The IRS takes over all of the functions performed by the Office of Emergency Preparedness during the freeze. Operating in accordance with general policy guidance, regulations and other decisions of the Council, the Board, and the Commission, the IRS will establish a national mechanism to support the post-freeze program. Local and regional centers will provide information to the public, investigate complaints, conduct independent monitoring activities, review requests for exceptions, and respond to inquiries relating to the application of regulations issued by the Council, the Pay Board, and the Price Commission. The IRS will also establish an administrative appeals procedure and will assist the Justice Department in preparing for litigation.

Why was the IRS chosen for this job?

Many of the functions under the Economic Stabilization Program are similar to the tax mission of the Internal Revenue Service. IRS has trained, experienced personnel throughout the country using well-established procedures involving fact-finding in the field, auditing, investigations, interpretative rulings, appeal mechanisms, issuance of guidelines and regulations for a complex program, compliance and enforcement activities, and importantly, day-to-day working contacts with all sectors of the American economy and the general public. This capability is substantially in being and makes unnecessary the establishment of a cumbersome bureaucracy which the President seeks to avoid. Finally, the concept of voluntary compliance, vital to the success of the Economic Stabilization Program, is also the underlying theory of the Federal tax system.

Can the IRS perform economic stabilization activities without impairing its tax-collecting function?

Many of the specific duties to be performed by the IRS in post-freeze period dovetail with regular tax work. For example, when a Revenue Agent visits a business firm for a tax audit, he can make wage-price checks as well. Such double-duty audits are expected to save time and effort. Similarly, IRS delinquent tax collection activities can include on-site checks for rent guideline violations. In addition, IRS taxpayer assistors, who normally provide tax help to individuals, will provide both taxpayer assistance and answer wage-price inquiries during the post-freeze.

As a part of the government-wide reduction in employment, IRS had realigned its work force to provide tax program service this year with 3,000 fewer employees than last year. Now this reduction in manpower will not be carried out, and the 3,000 man-years will be used to assure adequate staffing for stabilization activities without impairing the tax program.

In addition, IRS will be assisted in the post-freeze program by the Agricultural Stabilization and Conservation Service of the Department of Agriculture which will continue to provide wage-price information through its 2,800 local offices as they did during the freeze.

ORGANIZATION OF THE IRS

The IRS role in the Stabilization Program is directed by a newly-established office of the Assistant Commissioner for Stabilization. In each of the seven IRS regional offices there is an Assistant Regional Commissioner for Stabilization, who will supervise the wage-price activities of the offices within his jurisdiction. Below this level, there are 58 district offices, each with an assistant to the director for stabilization; and within these districts more than 300 local IRS offices participating in the stabilization program. Most of the people working on the Stabilization Program will be located in these district and local offices. Each district will have the necessary experts, including pay specialists, on the job to carry out necessary stabilization activities. This is where the average citizen is most likely to seek an answer to a wage-price question or report a complaint.

POST-FREEZE CONTROLS—QUESTIONS AND ANSWERS NO. 1

The attached questions and answers are provided as a further explanation of the Phase II regulations issued by the Cost of Living Council on Friday, November 12.

Q. Do policy rulings issued by the Cost of Living Council or interpretations issued by the Office of Emergency Preparedness continue to be applicable after November 13, 1971?

A. Yes, unless such rulings or interpretations are specifically altered by regulations or published rulings issued by the Cost of Living Council, Pay Board, Price Commission or IRS.

Q. How does a private citizen or corporation obtain information or a ruling with respect to Economic Stabilization Regulations issued during the post freeze period?

A. IRS will answer inquiries and issue rulings regarding the stabilization program. All these inquiries should be directed to the appropriate IRS District or subdistrict office. All requests for rulings should be in writing and directed to appropriate IRS District offices.

Q. How do prenotifiers and reporters obtain prenotification and reporting forms?

A. These forms are available at the local offices of the Internal Revenue Service.

Q. Do different substantive rules apply to price adjustments or pay adjustments depending upon what price category or pay category applies?

A. No. The same substantive rules apply to price adjustments and pay adjustments regardless of what procedural category governs a price adjustment or pay adjustment.

Q. What is an exemption?

A. An exemption is a general waiver of the controls for certain classes of property, services, or economic transactions.

Q. What is an exception?

A. An exception is a waiver in a particular case of the application of the requirements of any order or regulations issued by the Council, Pay Board or Price Commission.

Q. Who may grant exceptions to regulations concerning the stabilization program?

A. IRS will receive and process applications for exceptions. These applications will be forwarded to the Cost of Living Council, the Pay Board or Price Commission, as appropriate, for decision.

Q. What firms are subject to prenotification and reporting?

A. Firms with annual sales or revenues of $100 million or more are subject to prenotification and reporting. In general, these firms must prenotify the Price Commission and obtain approval of proposed price increases. In addition, they must file quarterly reports with the Price Commission. These are called price category I firms. Firms with annual sales or revenues between $50 million and $100 million must file quarterly reports with the Price Commission, but they do not need to obtain advance approval of price increases. These are called category II firms.

Q. A firm with less than $50 million in sales in its most recent fiscal year is not required to submit quarterly reports or notification of price increases to the Price Commission. How is such a firm controlled?

A. The firm is subject to the rules, regulations and guidelines promulgated with respect to pricing. It must keep adequate pricing records, and those records are subject to monitoring, inspection and audit by the Internal Revenue Service.

Q. Are a firm's export sales considered in determining its reporting classification?

A. Yes, although exports are exempt from the price freeze, export sales are to be included in total annual sales or revenues for purposes of determining the category into which a firm falls.

Q. A corporation or other firm had total sales of less than $50 million in its most recent fiscal year. However, the parent organization or firm and its subsidiaries had combined total sales during that year between $50 million and $100 million. Must the firm and it subsidiaries submit a combined quarterly report of any pricing increases?

A. Yes. For purposes of determining whether a firm is a reporting firm, the total sales of the parent corporation or firm and firms which it controls directly or indirectly are to be combined as if they were a single firm.

Q. What wage and salary adjustments must be prenotified and approved?

A. Wage and salary adjustments which affect 5,000 or more employees, and all wage and salary adjustments for employees in construction must be prenotified and approved by the Pay Board before they are made effective. These are called category I pay adjustments.

Q. What wage and salary adjustments need only be reported?

A. Wage and salary adjustments which affect from 1,000 to 5,000 employees must be reported to the Pay Board. These are called category II pay adjustments.

Q. What controls are applicable to wage and salary adjustments which need not be prenotified or reported?

A. Wage and salary adjustments which affect less than 1,000 employees need not be prenotified or reported. However, they are subject to the general wage standards and compliance will be monitored. These are called category III pay adjustments.

The attached Questions and Answers are provided as a further explanation of the Phase II Regulations issued by the Price Commission on November 12, and printed in the Federal Register November 13, 1971.

Q. Are professional fees subject to post freeze stabilization program controls?

A. Yes. Such fees are prices which are governed by the regulations of the Price Commission dealing with services. They may be increased to reflect costs in effect on November 14, 1971, and cost increase incurred after November 14, 1971. However, the increase may not raise the person's profit margin as a percentage of sales before taxes above the profit margin which prevailed in the base period.

Q. How can a tenant determine what a landlord may charge?

A. A landlord must keep records and make them available at the request of any tenant, prospective tenant, or representative of the Price Commission (including the Internal Revenue Service).

These records must reflect:

(1) The base price for the unit (generally—the rental he charged for at least 10% of the units like yours during the freeze base period);

(2) The reason for any difference between the base price and the maximum price he was allowed to charge you during the freeze.

Q. In determining which price category applies to a firm, the regulations look to annual sales or revenues. What are annual sales or revenues?

A. "Annual sales or revenues" means the total income of a firm during its most recent fiscal year ending prior to August 15, 1971, from whatever source derived.

Q. May a retailer or wholesaler who does not have the required display of base prices in his store raise his price?

A. No, the Price Commission regulations specifically require the retailer or wholesaler to prominently display the base price of either those 40 items in each department which have the highest sales volume or those items which amount to 50% of total dollar sales for the department, whichever is less. These displays must be posted on or before January 1, 1972 and no price increases are allowed until they are posted. The base prices of all food products (except those which are exempt) must be posted.

Q. May landlords raise rents after November 13, 1971?

A. It depends on the circumstances. The rent rules now provide that the base price for a rental unit is the rent charged for the same unit or substantially similar units during the freeze base period. This means that if at least 10% of similar apartments were being rented for a higher price during the period from July 16–August 14, the landlord may raise the rent to that level if the lease permits the increase.

Price increases in leases in which the rental price is determined by a formula may take effect. However, any increases in the rent based upon the passage of time or increases in the consumer price index shall not be allowed.

Increases in rent above the permitted base price are prohibited. Further rent guidelines will be recommended by the Rent Committee for consideration by the Price Commission.

Q. May prices be raised under existing contracts?

A. Any increase in prices must be agreed to by the parties to the contract. Additionally, any increase in prices must be in accordance with Price Commission regulations.

Q. May prices go up more than 2.5 percent?

A. Yes. Prices are to be set in accordance with Price Commission guidelines. The 2.5 percent figure represents a goal for average price increases across the entire economy. Individual price changes may be above or below that figure, depending on allowable cost increases and net profit margins.

Q. What is the base period for profit margin determination?

A. The base period for profit margin determination for manufacturers, wholesalers, retailers and service organizations is the average of any two of the individual's or firm's last 3 fiscal years ended prior to August 15, 1971. The selection of the two fiscal years is to be made by the individual or firm.

THE PAY BOARD

The following questions and answers are designed to provide guidance on initial decisions reached by the Pay Board. The answers to these questions have been developed by the staff of the Pay Board.

I—Q. What pay adjustments are affected by the new 5.5% general wage and salary standard?

A. The initial 5.5% general wage and salary standard applies to labor agreements entered into, on and after November 14, 1971. It also applies to other pay adjustment decisions made after that date whether or not reflected in a formal agreement.

II—Q. What about wage increases under existing contracts and pay practices?

A. Pay adjustments under contracts and pay practices existing prior to November 14, 1971 are allowed to go into effect. If they affect more than 1,000 employees, they must be reported to the Pay Board in accordance with regulations to be issued by the Pay Board. However, they are subject to review by the Pay Board, if challenged, to determine whether any increase is unreasonably inconsistent with criteria established by the Board. The employer may continue to pay the increased wage or salary until such time as a determination of the challenge is made by the Pay Board.

Pay adjustments in the building and construction trades, regardless of the number of employees affected and regardless of when agreed upon, must be prenotified to and approved by the Construction Industry Stabilization Committee under criteria established by the Board.

III—Q. Can retroactive wage increases be paid?

A. Pay Board approval is required for any retroactive increases covering services performed during the freeze period. This approval is not automatic.

IV.—Q. What is the definition of wages and salaries?

A. Wages and salaries is broadly defined to include cash payments, fringe benefits and all forms of direct and indirect remuneration. The definition does not include items which are not reasonably subject to valuation nor payments made under public plans such as Social Security.

V.—Q. Are any employees excluded?

A. Federal employees whose pay is governed by federal law and employees paid at less than the federal minimum wage standard, currently $1.60 per hour, are excluded from the application of the wage and salary standards.

VI.—Q. Does the 5.5% standard apply to each individual?

A. No. It will apply to the average *increase* granted in an appropriate employee unit.

VII.—Q. What is meant by appropriate employee unit?

A. The appropriate employee unit for the measurement of changes in wage and salary levels is a group composed of employees in a bargaining unit or recognized employee categories in a plant or other establishment, or in a department thereof, or in a company, or in an industry, as best adapted to preserve contractual or historical relationships.

VIII.—Q. Are longevity increases counted as part of the 5.5% standard?

A. Longevity increases and automatic progression within a rate range are allowed to go into effect after November 13, 1971 according to the terms of plans, agreements, or established practices in existence prior to November 14, 1971, without regard to the 5.5% general wage standard.

IX.—Q. Are smaller employers required to get Pay Board approval before putting wage and salary increases into effect?

A. Pay adjustments involving less than 1,000 employees do not require prenotification or reporting of a wage or salary increase. However, the employer must adhere to the 5.5% general wage and salary standard in granting increases.

Pay adjustments in the buliding and construction trades, regardless of the number of employees affected, must be prenotified to and approved by the Construction Industry Stabilization Committee.

ECONOMIC STABILIZATION—QUESTIONS AND ANSWERS No. 2

The attached questions and answers are issued by the Economic Stabilization Program of the Internal Revenue Service as a further explanation of decisions and regulations issued by the Cost of Living Council and the Price Commission.

QUESTIONS AND ANSWERS

Q. May a firm with a loss in its base period raise its prices to create a projected profit?

A. The general rules of the Price Commission make no provision for a firm in a loss position during the base period, but the Price Commission will consider any such situation and determine whether it justifies special relief. In addition, more specific guidelines will soon be issued.

Q. Do the economic controls apply to college tuition charges?

A. Yes, tuition, as well as room and board are covered.

Q. Must a company which is a prenotifying firm also submit quarterly reports to the Price Commission?

A. Yes.

Q. May individual health insurance premiums be raised if based on a formula in a contract in effect prior to the imposition of economic controls where the formula reflects only changed conditions of risk (e.g. number of claims)?

A. Yes, premium increases based on a formula in a preexisting contract which reflects only changed condtions of risk may be applied normally.

Q. If a corporate parent and its subsidiaries are located in different IRS districts, where should requests for rulings or information be filed?

A. All inquiries, ruling requests, etc. should go to the IRS District Director in the district where the parent corporation is located.

Q. Service charges such as utility, parking meter and bridge tolls were subject to Phase I while licenses and fines such as vehicle licenses and parking tickets were exempt. Does the same situation apply to Phase II?

A. Yes. Unless specifically altered by regulation or published rulings, policy rulings issued by the Cost of Living Council and interpretations isued by the Office of Emergency Preparedness continue to be applicable after November 13, 1971.

ALCOHOLISM—TO HEAL AND NOT TO PUNISH

Mr. JAVITS. Mr. President, I want to express by admiration of the Attorney General of the United States for his forward-looking leadership respecting alcoholism. It is a subject that has concerned me since I introduced, with Senator Moss of Utah, more than 10 years ago the first "Alcoholism Care and Control Act."

Last night at a testimonial dinner honoring Mr. R. Brinkley Smithers for his outstanding leadership and dedication to the conquest of alcoholism and his significant contributions to the development of the Comprehensive Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970, Public Law 91–616, which the Senator from Iowa (Mr. HUGHES) and I introduced with the cosponsorship of more than half the Senate, the distinguished Attorney General of the United States was the guest speaker. Attorney General Mitchell's views on alcoholism, as America's chief law enforcement official, mark him as a pioneer in our Nation's efforts to combat alcoholism. I ask unanimous consent that the complete text of an address by John N. Mitchell, Attorney General of the United States, entitled "To Heal, and Not To Punish" at a testimonial dinner honoring R. Brinkley Smithers, be inserted in the RECORD at the conclusion of my remarks.

The Attorney General said about the problem—which has aroused all this justified concern, for the dimensions of alcohol abuse are enormous—in New York alone there are an estimated 800,000 alcoholics—"that alcoholism as such is not a legal problem—it is a health problem."

The Attorney General described his concern with the present court system of handling alcoholism as "a revolving door" and that the system is, and I quote, "absolutely ineffective as a lesson or deterrent." I commend the remarks of the Attorney General John N. Mitchell to the Senate and ask unanimous consent that it be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

TO HEAL, AND NOT TO PUNISH

It is a privilege to be asked to participate in this banquet honoring Brinkley Smithers. I have known and admired him for many years, and I am delighted to be able to say so to this audience tonight. I'm also pleased to bring him the good wishes of the President of the United States, who is thoroughly aware and appreciative of his leadership in the movement to control alcoholism.

I believe it is fair to say that no person in the history of this movement has approached Brinkley Smithers in the generosity of his support. Through the Christopher D. Smithers Foundation, which he founded in honor of his father in 1952, he has made repeated gifts to this cause over the past two decades.

Last July he made a personal grant of $10,000,000 to Roosevelt Hospital in New York City for treatment and rehabilitation of alcoholics. This is the largest single gift ever made in this field, and I do not except even the various grants made in recent years by the Federal Government. I must confess that when I first read about this magnificent grant I thought some typesetter might have inadvertently added a cipher or two. It is a most extraordinary example of dedication to a cause, even by the generous standards of Brinkley Smithers.

Nor have the contributions of our honored guest been confined to financial values. He has given just as unstintingly of his own time and energies. If you read a list of the national and New York organizations to combat alcoholism, you will almost be reading a list of the organizations that he has founded or headed.

So I must say tonight, without fear of contradiction in this assembly of experts on the subject, that among the many world leaders in the crusade against alcoholism, no one casts a longer shadow than Brinkley Smithers.

The other reason I am happy to be here is that it gives me the chance to talk about an aspect of alcoholism that I feel needs to be addressed by a law enforcement official.

I refer to the fact, acknowledged now by all professionals in the field, that alcoholism as such is not a legal problem—it is a health problem. More especially, simple drunkenness *per se* should not be handled as an offense subject to the processes of justice. It should be handled as an illness, subject to medical treatment.

Now, this may seem fairly obvious to most of you here in this room, who are thoroughly informed on this subject. But it is not generally recognized throughout the country.

In all but a few of the states in the Union, public drunkenness is an offense punishable by a fine or jail sentence or both.

In other words, our knowledge in the field far surpasses our action. The result is that in most of the cases which come to public attention, a major disease is not being treated by doctors, therapists or medical technicians. The disease is being treated by policemen, judges, and jailers.

This is no reproach to the latter group of professionals, many of whom know from distressing experience that this system is wrong. It is a serious misuse of their time, abilities and resources. It is likewise a failure to use the skills of the medical practitioners who are the ones qualified for this work. And it is a desperate injustice to the victims of the disease.

I feel strongly about this situation partly because of its unnecessary drain on the resources of the criminal justice system. At least one-third of all arrests in the United States are for public drunkenness. In some cities the proportion runs as high as three-fourths. The commitment of police on the street and for processing at the station house, the commitment of jail space and facilities, the commitment of time by judges, court administrators and courtrooms—all this constitutes an enormous drain on a justice system that is already overtaxed by felony cases. This misuse of tax-supported resources is bad enough, and constitutes a problem crying out for solution.

But still more important is the fact that this system is absolutely ineffective as a lesson or deterrent. Those who have witnessed the arraignment of drunk arrests in the lower courts of any large city can testify that it is, indeed, a revolving door. A study in Los Angeles showed that in a given year about one-fifth of the people arrested for drunkenness accounted for two-thirds of the total drunk arrests. In one typical case in another city, a homeless alcoholic was arrested every other day that he appeared on the street over a four-month period.

The so-called "drying out" accomplished during such overnight jail terms has not, to anyone's knowledge, ever reformed an alcoholic. It has often, however, contributed further to any health infirmity he might have been suffering from, and has demeaned him still further with overcrowded conditions devoid of the barest human facilities.

In the process it has also demeaned the courts and the administration of American justice. Drunk arrests in big cities are often, if not usually, brought before the judge *en masse*—10 to 20 at a time. The typical defendant is almost never represented by counsel, which means that the procedures are often perfunctory, without any real consideration of guilt or innocence.

It is not surprising that many if not most of the policemen and judges involved know full well that this system is a distortion of legal processes. But in most localities they also know that it is all we have for dealing with public alcoholism. They therefore tend to develop a benevolent paternalism toward their charges—taking care of them the best they can within the limits of their authority and resources. It would be the same if the police and the judges were forced by law to take care of accident victims; as compassionate human beings they would do their best, but they could not help knowing that the system was senseless.

So we cannot blame the police or the courts for the system, and in many cases we must commend them for making the best of a bad situation. The blame must be faced by the public at large, which after all is the master of its own government. And if the public is unaware of this gross injustice, then it is the public that needs to be educated.

Fortunately, as many of you know, progress has been made in recent years. In 1966 the District of Columbia Circuit of the United States Court of Appeals ruled in the *Easter* case that the public drunkenness of a homeless alcoholic was involuntary. Therefore, he could not be held accountable before the law. In the same year another Appellate Court made a somewhat similar ruling in the *Driver* case.

In 1967 the United States Supreme Court heard a similar case— *Powell* v. *Texas*. While it ruled that the defendant was accountable for being drunk in public because he did have a home to go to, a majority of the justices also expressed an opinion that coincided with that of the two appellate decisions—that a homeless alcoholic is not accountable for his act.

The important point is that the courts have decided what the experts had been saying for years—that alcoholism in itself is involuntary and therefore is not a legal offense in the ordinary sense.

Unfortunately, these cases have not been heeded as they should be, and the constitutionality of the related laws in most states has not been challenged.

However, the court rulings were taken into account by two commissions investigating the criminal justice system—the District of Columbia Crime Commission and the United States Crime Commission. They both reported in 1967 that public intoxication should be treated by public health services rather than as a criminal offense.

In turn, these recommendations influenced Congressional thinking, and new laws were forthcoming to establish this change of policy in the District of Columbia and encourage it in the states. Thoroughly associated with much of this legislation is the name of Senator Harold E. Hughes of Iowa, who of course is with us tonight. Among other things, the latest Federal legislation established an Institute on Alcohol Abuse and Alcoholism, within the Department of Health, Education, and Welfare. President Nixon has shown his deep interest in this organization by asking for and receiving from Congress an additional seven million dollars of health initiative funds for its work.

At the same time, the court cases and the Crime Commission recommendations have been noticed by the legislatures of a few states. They have changed their laws to provide for health treatment of one kind or another, and some of them have repealed the legal sanctions against alcoholism. But the rest of the states and most of the localities have not yet responded, although some legislatures are considering the matter. Throughout most of the country the situation remains as archaic as ever.

In fact, even in some states where the approach has been changed, new questions have arisen.

What is the role of a policeman?

If he can no longer make a drunk arrest, can he forcibly remove a subject to a health care center?

If the subject cannot be incarcerated, can he be committed to any kind of treatment against his will?

Fortunately, answers to some of these questions have recently been offered by several commissions that have carefully drawn up proposed model state laws on the subject. The latest and most important is the work of the National Conference of Commissioners on Uniform State Laws, which adopted a Uniform Alcoholism and Intoxication and Treatment Act last August. Among many other provisions are the following:

First, a person appearing to be incapacitated by alcohol must be taken into protective custody—not an arrest—by the police or a special emergency service patrol. He is to be taken to a public health facility for emergency treatment.

Second, if the subject has inflicted physical harm on another or may do so, he may be committed for emergency treatment for up to five days on the certificate of an independent physician.

Third, for a longer period up to 30 days, and with extensions for a maximum of seven months, his commitment must be made by a court.

So as a result of developments in the past five years we have made several important strides.

We have won an opinion from the courts that alcoholism in itself is involuntary, and should not be subject to legal sanction.

We have secured legislation by Congress and by a few states supporting this principle and establishing civil medical treatment as an alternative.

We have a carefully drawn uniform law on the subject that can serve as a model for the states. And I would note the fact that the Commission drawing up this Act is composed of a representative from each state, and he is obligated to see that the act is introduced in his legislature.

Finally, we have gained enough experience from the operation of forward-looking laws in the District of Columbia and some of the states to uncover some sound operating principles.

For instance, we know that it does little good to remove alcoholism from the purview of the law if you do not substitute a full-dress medical treatment—not only a detoxification process, but a thoroughgoing program aimed at recovery from the illness of alcoholism.

Again, the program must include the closest cooperation and communication starting at the top level between the public health officials and law enforcement officials. The police must have an understanding that their role continues—not in an arresting capacity, but in one of helping subjects to the designated health center, voluntarily if possible, involuntarily if necessary.

Finally, the program must make a strong appeal to voluntary enrollment. We know that the street alcoholic who in the past has been the subject of most drunk arrests actually represents only from 3 to 5 percent of the alcoholics in this country—what we might call the tip of the iceberg. We know that some of the others who may still be living in a home environment do account for many of the arrests—perhaps one-third, as the Los Angeles survey seems to indicate. It is not only to these, but to the many more who are not arrested, that the civil treatment program must appeal if we are to reach the rest of the iceberg.

With these kinds of guidelines, and with the opportunities we now see ahead, we can perhaps venture some real hope in a field that for too long has been marked by frustration. Through the processes now at work, the public itself may come to realize that our task is not to punish, but to heal. And in such a climate of belief, the work of people like Brinkley Smithers will be assisted, not by a relative few, but by all.

THE ENVIRONMENTAL CRISIS

Mr. HATFIELD. Mr. President, as legislators, we have had to look at many different aspects of our environmental crisis, and we have heard many theories which attemp to explain the cause of this crisis.

At a recent hearing on ocean dumping of the Senate Commerce Committee of which I am a member, Dr. Barry Commoner, director of the Center for the Biology of Natural Systems at Washington University, gave one of the most impressive analyses of the environmental crisis that I have heard.

Dr. Commoner states that, since World War II, our growth pattern has become "counter ecological." This does not mean that technological growth is bad, but that the environmental impacts which have occurred in the United States since 1946 result from the introduction of new productive technologies which generate more severe environmental impacts than the technologies which they replace. In other words, we have made poor choices, and these choices are made because of the higher profits available from the new products. Environmental costs, however, are not included in the prices of these goods. For example, aluminum offers a much higher profit than lumber. But aluminum has a "pollution price tag" which is approximately 10 times higher than the pollution price tag for wood.

Besides writing "The Closing Circle," which was recently published, Dr. Commoner gave the keynote address before the Council of Europe's Second Symposium of Members of Parliament Specialists in Public Health. Dr. Commoner further expounds his theory on the origins of the environmental crisis in his speech, and I ask unanimous consent that it be printed in the RECORD. This is extremely interesting reading, and I commend it to the attention of the Senate.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

THE ORIGINS OF THE ENVIRONMENTAL CRISIS

(By Barry Commoner)

It is now widely appreciated that the world is face to face with an environmental crisis. We now know that environmental pollution is not only an affront to the senses and a threat to human health. More seriously, environmental degradation is a sign that the global ecosystem—which supports all life and all human activities—is under stresses which, if not relieved, will eventually destroy it. We now know the full, grim truth: what is at risk in the environmental crisis is human survival.

Clearly every inhabitant of the earth ought to have an equal interest in the integrity of the environment. However, in reality there are sharp differences in national attitudes toward the issue. Especially in relation to the forthcoming 1972 United Nations Conference on the Human Environment, a striking conflict between the attitudes of industrialized and developing nations toward the environmental crisis has developed. This divergence is understandable. Three main factors are involved in environmental pollution: growth of population; increased affluence, or production per capita; the introduction of new technology. The conflict has arisen because each of these factors has a sharply different import for industrialized and developing nations.

A commonly voiced—and, as I shall try to show, largely erroneous—idea is that environmental pollution is chiefly due to the pressure of growing population and affluence on the limited resources available from the ecosystem. On these grounds it is often asserted that control of population growth and reduction in per capita consumption are essential if environmental collapse is to be avoided. This is a foreboding outlook for the developing nations, which are struggling to sustain rapidly rising populations, and to increase the exceedingly low levels of consumption of their peoples.

At the same time, it is pointed out that environmental deterioration is also the consequence of modern production technologies, which, as presently designed, release massive amounts of pollutants into the environment. On these grounds developing nations are sometimes advised to be wary of modern industrialization. This advice conflicts with their intense desire to bring to their peoples the material advantages which have already accrued to industrialized nations from technology.

Given such a view of the origins of the environmental crisis, the interests of industrialized and developing nations toward environmental problems do appear to be in sharp conflict. If unresolved, this conflict may have tragic effects on the urgent and difficult task, which is essential to the welfare of both industrialized and developing nations, of closing the growing gap between the quality of life enjoyed by the rich and the poor, wherever they live.

However, I believe that this conflict reflects a faulty analysis of the environmental crisis. In the analysis which follows I shall try to show why the effects of population growth and increased affluence on environmental deterioration have been seriously misconstrued and that these factors need not hinder the legitimate desire of developing countries to improve the lot of their people. Moreover, I shall propose that a fundamental solution of the environmental crisis will require that the present technological dependence of developing nations on industrialized ones be reversed in certain significant respects. Like the ecosystem itself, the environmental crisis is a global problem which demands global solutions.

In order to analyze the origins of environmental degradation it is essential to begin with an understanding of the properties of the environment. These may be summarized as follows:

THE ECOSPHERE

(1) The environment is defined as a system comprising the earth's living things and the thin global skin of air, water and soil which is their habitat.

(2) In nature, this system, the ecosphere, is the product of the joint, interdigitated evolution of living things and of the physical and chemical constituents of the earth's surface. On the time scale of human life the evolutionary development of the ecosphere has been very slow and irreversible. Hence, the ecosphere is irreplaceable; if it should be destroyed, it could never be reconstituted or replaced either by natural processes or by human effort.

(3) The basic functional element of the ecosphere is the ecological cycle, in which each separate element influences the behavior of the rest of the cycle, and is in turn itself influenced by it. For example, in surface waters fish excrete organic waste, which is converted by bacteria to inorganic products; in turn, the latter are nutrients for algal growth; the algae are eaten by the fish, and the cycle is complete. Such a cyclical process accomplishes the self-purification of the ecosystem, in that wastes produced in one step in the cycle become the necessary raw materials for the next step. Such cycles are cybernetically self-governed, dynamically maintaining a steady state condition of indefinite duration. However if sufficiently stressed by an external agency, the ecosystem may exceed the limits of self-adjustment and eventually collapse. Thus, if the aquatic cycle is overloaded with organic animal waste, the amount of oxygen needed to support waste decomposition by the bacteria of decay may be greater than the oxygen available in the water. The oxygen level is then reduced to zero; lacking oxygen, the bacteria die and this phase of the cycle stops, halting the cycle as a whole.

(4) Human beings are dependent on the ecosphere not only for their biological requirements (oxygen, water, food) but also for resources which are essential to all productive activities. These resources, together with underground minerals, are the irreplaceable and essential foundation of all human societies.

(5) If we regard economic processes as the means which govern the disposition and use of resources available to human society, then it is evident from the above that the continued availability of those resources which are derived from the ecosphere (i.e., non-mineral resources), and therefore the stability of the ecosystem, is an essential prerequisite for the success of any economic system. More bluntly, any economic system which hopes to survive must be compatible with the continued operation of the ecosystem.

(6) Because the turnover rate of an ecosystem is inherently limited, there is a corresponding limit to the rate of production of any of its constituents. Different segments of the global ecosystem (e.g., soil, fresh water, marine ecosystems) operate at different intrinsic turnover rates and therefore differ in the limits of their productivity. On purely theoretical grounds it is self-evident that any economic system which is impelled to grow by constantly increasing the rate at which it extracts wealth from the ecosystem must eventually drive the ecosystem to a state of collapse. Computation of the rate limits of the global ecosystem or of any major part of it are, as yet, in a rather primitive state. Apart from the foregoing theoretical and as yet unspecified limit of economic growth, such a limit may arise much more rapidly if the growth in the output of goods by the economic system is dependent on productive technologies which are especially destructive of the stability of the ecosystem. As will be shown below this is precisely the situation in a modern, industrialized country such as the United States.

(7) Unlike all other forms of life, human beings are capable of exerting environmental effects which extend, both quantitatively and qualitatively, far beyond their influence as biological organisms. Human activities have also introduced into the environment not only intense stresses due to natural agents (such as ecologically-misplaced bodily wastes), but also wholly new substances not encountered in natural environmental processes: artificial radioisotopes, detergents, pesticides, plastics, a variety of toxic metals and gases, and a host of man-made, synthetic substances. These human intrusions on the natural environment have thrown major segments of the ecosystem out of balance.

(8) Environmental pollution is the symptom of the resultant breakdown of the environmental cycles. The fouling of surface waters is largely the result of overloading the natural, limited cycle of the aquatic ecosystem either by direct dumping of organic matter, in the form of sewage and industrial wastes, or indirectly by the release of algal nutrients produced by waste treatment, or leached from over-fertilized soil. Water pollution is a signal that the natural, self-purifying aquatic ecological cycle has broken down. Similarly, air pollution is a sign that human activities have overloaded the self-cleansing capacity of the weather system to the point at which the natural winds, rain, and snow are no longer capable of cleaning the air. The deterioration of the soil shows that the soil system is being overdriven, that organic matter, in the form of food is being extracted from the cycle at a rate which exceeds the rate of rebuilding of the soil's humus. The technical expedient of attempting to evade this problem by loading the soil with inorganic fertilizer is capable of restoring the crop yield—but at the expense of increasing pollution of the water and the air.

Pollution by man-made synthetics, such as pesticides, detergents and plastics, and by the dissemination of materials not naturally part of the environmental system, such as lead and mercury, is a sign that these materials cannot be accommodated by the self-purifying capabilities of the natural system. As a result they accumulate in places harmful to the ecosystem and to man.

THE POLLUTION PROBLEM

The environmental crisis tells us that there is something seriously wrong with the way in which human beings have occupied their habitat, the Earth. It confronts us with the need to specify what has gone wrong and why. Clearly, the fault must be due to *human* activities: the growth of population, the nature of science and technology, the means of producing, accumulating, distributing and using the wealth extracted from the earth's natural system. For no one has argued, to my knowledge, that the recent intensification of pollution on the earth is the result of some change in the natural sector, independent of man. Indeed the few remaining areas of the world that are relatively untouched by the powerful hand of man are, to that degree, free of smog, foul water and deteriorating soil. We must seek, then, to account for environmental deterioration by finding its functional relationship to human activities on the earth.

One explanation that is sometimes advanced is that man is a "dirty" animal—that unlike other animals man is likely to "foul his own nest." Somehow, according to this view, man lacks other animals' tidy nature, so that environmental pollution increases with the growth of the human population.

This explanation is basically faulty, for the "neatness" of animals in nature is not the result of their own sanitary activities. On the contrary, no animal, or any other living thing, for that matter, acts on its own wastes. What removes these wastes is the activity of other living things, which use them as nutrients. The reason why wastes do not accumulate in a natural non-human situation is that there are no "wastes" in the sense that everything produced by one type of animal, plant or micro-organism is used by some other living thing. As long as these cyclical relations remain unbroken, no substance, no waste can accumulate. Human beings pollute the environment only because their activities have broken out of the closed, cyclical network in which all other living things are held.

Indeed, at least on the relatively short time-scale that is involved in our present pollution problems, no living thing that is itself part of an ecosystem can possibly degrade it for the system's circularity enables it to adjust, automatically, to changes that arise from within. It is stressed, or polluted, usually by an outside agency.

Thus, so long as human beings held their place in the terrestrial ecosystem—consuming food produced by the soil, oxygen released by plants, returning organic wastes to the soil and carbon dioxide to the plants—they could do relatively little ecological harm. However, once removed from this cycle, for example to a city, so that bodily wastes are not returned to the soil but to surface water, the population is separated from the ecosystem of which it was originally a part. Now the wastes become an *external* stress on the aquatic system into which they intrude, overwhelm the system's self-adjustment, and pollute it. Environmental pollution is therefore generated not so much by human *biological* activities, as by human *social* activities; agriculture, industry, transportation and urbanization—which greatly distort the impact of man's biological effects on a multiplicity of natural cycles, and introduce, as well, a number of unnatural effects.

Certain human activities, for example, agriculture, forestry and fishing, represent direct exploitation of the productivity of a particular ecosystem. In these cases, a constituent of the ecosystem which has economic value—for example, an agricultural crop, timber or fish—is withdrawn from the ecosystem. This represents an external drain on the system which must be carefully adjusted to natural and man-made inputs to the ecosystem if collapse is to be avoided. Examples include the destructive erosion of agricultural or forest lands following overly-intense exploitation, or the incipient destruction of the whaling industry due to the extinction of whales.

Environmental stress may also arise if the amount of a particular ecosystem component is deliberately augmented from without, either to dispose of human waste or in an effort to accelerate the system's rate of turnover and thereby increase the yield of an extractable good. An example of the first sort is the dumping of sewage into surface waters. An example of the second sort is the use of fertilizer nitrogen in agriculture.

Finally, environmental degradation may be due to the intrusion into an ecosystem of a substance wholly foreign to it. Perhaps the simplest example is a synthetic plastic, which unlike natural polymers is incapable of being degraded by decay micro-organisms, and therefore persists as rubbish or is burned—in both cases causing pollution. In the same way, if a toxic substance such as mercury or lead, which plays no role in the chemistry of life and interferes with the actions of substances which do, intrudes at a sufficient concentration on an ecosystem it is bound to cause damage. Hence, any productive activity which introduces substances that are foreign to the natural environment runs a significant risk of polluting it.

THE ORIGINS OF ENVIRONMENTAL IMPACTS

Our task, then, is to discover what activities of human society generate *environmental impacts*—that is, pollutants foreign to the eco-system which tend to degrade its capacity for self-adjustment.

In what follows, I wish to report the results of an initial effort in this direction, which is based on an analysis of the environmental situation in one of the most intensely polluted areas of the globe—the United States.[1] In the United States most pollution problems are of relatively recent origin. The post-war period, 1945–46, is a convenient benchmark, for a number of pollutants—man-made radioisotopes, detergents, plastics, synthetic pesticides and herbicides—are due to the emergence, after the war, of new productive technologies. The statistical data available for this period in the United States provide a useful opportunity to compare the changes in the levels of various pollutants with the concurrent activities of the United States productive system that might be related to their environmental effects.

Although, unfortunately, we lack sufficient comprehensive data on the actual environmental levels of most pollutants in the United States, some estimates of historical changes can be made from intermittent observations, and from computed data on emissions of pollutants from their sources. Some of the available data are summarized in Table I, which indicates that since 1946, emissions of pollutants have increased by 200–2000%. In the case of phosphate, which is a pollutant of surface waters, and enters mainly from municipal sewage, data on the long term trends are available; these are shown in Figure 1.[2] In the 30-year period between 1910 and 1940 phosphorus output from municipal sewage increased gradually from about 17 million lbs./year to about 40 million lbs./year. Thereafter the rate of output rose rapidly; so that in the 30-year period 1940–1970 phosphorus output increased to about 302 million lbs./year.

It should be noted that these are data regarding the computed *emission* of pollutants, which are not necessarily descriptive of their actual concentrations in the environment or of their ultimate effects on the eco-systems or on human health. Numerous, complex and interrelated processes intervene between the entry of a pollutant into the eco-system and the expression of its biological effect. Moreover, two or more pollutants may interact synergistically to intensify the separate effects. Most of these processes are still too poorly understood to enable us to convert the amount of a pollutant entering an eco-system to a quantitative estimate of its degradative effects. Nevertheless it is self-evident that these effects (such as the incidence of respiratory disease due to air pollutants or of algal overgrowths due to phosphate and nitrate) have increased sharply, along with the rapid rise of pollutant levels, since 1946. Since pollutant emission is a direct measure of the activity of the source, it is a useful way to estimate the contributions of different sources to the overall degradation of the environment.

If we define the amount of a given pollutant introduced annually into the environment as the *environmental impact* (I), it then becomes possible to relate this value to the effects of three major factors that might influence the value of I by means of the following identity:

$$I = \text{Population} \cdot \frac{\text{Economic Good}}{\text{Population}} \cdot \frac{\text{Pollutant}}{\text{Economic Good}}$$

Here *Population* refers to the size of the United States population in a given year, *Economic Good* refers to the amount of a designated good produced (or where appropriate, consumed) during the given year, and *Pollutant* refers to the amount of a specific pollutant (defined as above) released into the environment as a result of the production (or consumption) of the designated good, during the given year. This relationship enables the estimation of the contribution of three factors to the total environmental impact: (a) the size of the population; (b) production (or consumption) per capita, i.e., "affluence;" (c) the environmental impact (i.e., amount of pollutant) generated per unit of production (or consumption), which reflects the nature of the productive technology.

Since we are concerned with identifying the sources of the sharp increases in the environmental impacts experienced in the United States in the period 1946-present, it becomes of interest to examine the concurrent changes in the nation's productive activities. The most general data relevant to these changes are presented in Figure 2. In the period 1946–68 United States population has increased, at an approximately constant rate by about 42%; GNP (adjusted to 1958 dollars) has increased exponentially by about 126% in that period; GNP per capita has also increased approximately exponentially by about 59%.

We can see at once that, as a first approximation, the contribution of population growth to the overall values of the environmental impacts generated since 1946 is of the order of 40%. In most cases, this represents a relatively small contribution to the total environmental impact, since as indicated in Table I, these values increased by 200–2000%, in that period of time.

In order to evaluate the effects of the remaining factors it is useful to examine the growth rates of different sectors of the productive economy. For this purpose a series of productive activities which are likely to contribute significantly to environmental impact and are representative of the overall pattern of the economy have been selected. From the annual production (or where appropriate, consumption) data for the United States as a whole, which are available from government statistical reports, the annual percentage rates of increase or decrease are calculated, by computer. The results of these computations are presented in Figure 3, from which it is possible to derive certain useful generalizations about the pattern of economic growth, which are relevant to environmental impacts, in the United States.

(a) Production and consumption of certain goods have increased at an annual rate about equal to the annual rate of increase of the population, so that *per capita* production remains essentially unchanged. This group includes food, fabric and clothing, major household appliances and certain basic metals and building materials, including steel and copper, and brick. In effect, with respect to these basic items average "affluence," i.e., per capita production (or consumption) has remained essentially unchanged in 1946–68.

(b) The annual production of certain goods has decreased since 1946, or has increased at an annual rate below that of the population. Horsepower produced by work animals is the extreme case; it declined at an annual rate of about 10%. Other items in this category are: saponifiable fat, cotton fiber, wool fiber, lumber, milk, railroad horsepower, and railroad freight. These are goods which have been significantly displaced in the pattern of production during the course of the overall growth of the economy. Cultivated farm acreage also declined in this period.

(c) Among the productive activities which have increased at an annual rate in excess of that exhibited by the population, the following classes can be discerned:

(i) Certain of the rapidly increasing productive activities are substitutes for activities that have declined in rate, relative to population. These generally represent technological displacement of an older process by a newer one, with the sum of goods produced remaining essentially constant, per capita, or increasing somewhat. These displacement processes include the following: (a) natural fibers (cotton and wool) by synthetic fibers; (b) lumber by plastice; (c) soap by detergents; (d) steel by aluminum and cement; (e) railroad freight by truck freight; (f) harvested acreage by fertilizer; (g) returnable by non-returnable bottles.

(ii) Certain of the rapidly growing productive activities evident in Fig. 3 are secondary consequences of displacement processes. Thus the displacement of natural products by synthetic ones involves the use of much increased amounts of synthetic organic chemicals, so that, this category has increased sharply. Moreover, since many organic syntheses require chlorine as a reagent, the rate of chlorine production has also increased rapidly. Finally, because chlorine is efficiently produced in a mercury electrolytic cell, the use of mercury for this purpose has also increased at a very considerable rate. Similarly, the rapidly rising rate of power utilization is, in part, a secondary consequence of certain displacement processes, for a number of the new technologies are more power-consumptive than the technologies which they replace.

(iii) Finally, among the rapidly growing

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productive activities evident in Fig. 3 are some which represent neither displacements of older technologies, nor sequelae to such displacements, but true increments in per capita availability of goods. An example of this category is consumer electronics (radios, television sets, sound equipment, etc.). Such items represent true increases in "affluence."

In sum, the pattern of growth in the United States economy in 1946–68 may be generalized as follows. Basic life necessities, representing perhaps ⅓ of the total GNP, have grown in annual production at about the pace of population growth, so that no significant overall change in *per capita* production has taken place in this period. However, within these general categories of goods—food, fiber and clothing, freight haulage, household necessities—there has been a pronounced displacement of natural products by synthetic ones, of power-conservative products by relatively power-consumptive ones, of reusable containers by "disposable" ones.

Given the foregoing data we can now determine the relative costs, in intensity of environmental impact, of the several distinctive features of the growth of the United States economy from 1946 to the present. An examination of this question reveals that most of the sharp increases in environmental impact which have occurred in the United States since 1946 result from the introduction of new productive technologies which generate more severe environmental impacts than the technologies which they replace. The relevant data are presented in what follows:

(1) AGRICULTURAL PRODUCTION

As shown in Fig. 3, agricultural production in the United States, as measured by the U.S. Department of Agriculture Crop Index, has increased at about the same rate as the population since 1946. However, the technological methods for achieving agricultural production have changed significantly in that period. One important change is illustrated by Fig. 4, which shows that although agricultural production per capita has increased only slightly, harvested acreage has decreased, and the use of inorganic nitrogen fertilizer has risen sharply. This displacement process—i.e. of fertilizer for land—leads to a considerably increased environmental impact.

Briefly stated the relevant ecological situation is the following.[3] Nitrogen, an essential constituent of all living things, is available to plants in nature from organic nitrogen, stored in the soil in the form of humus. Humus is broken down by bacteria to release inorganic forms of nitrogen, eventually as nitrate. The latter is taken up by the plant roots and reconverted to organic matter, such as the plant's protein. Finally the plant may be eaten by a grazing animal, which returns the nitrogen not retained in the growth of its own body to the soil as bodily wastes.

Agriculture imposes a negative drain on this cycle; nitrogen is removed from the system in the form of the plant crop or of the livestock produced from it. In ecologically sound husbandry all of the organic nitrogen produced by the soil system, other than the food itself—plant residues, manure, garbage—is returned to the soil, where it is converted by complex microbial processes to humus and thus helps to restore the soil's organic nitrogen content. The deficit, if it is not too large, can be made up by the process of nitrogen fixation—in which bacteria, usually in close association with the roots of certain plants, take up nitrogen gas from the air and convert it into organic form. If the nitrogen cycle is not in balance, agriculture "mines" the soil nitrogen, progressively depleting it. This process does more than reduce the store of organic nitrogen available to support plant growth, for humus is not only a nutrient store. Due to its polymeric structure humus is also responsible for the porosity of the soil to air. And air is essential to the soil, not only as a source of nitrogen for fixation, but also because its oxygen is essential to the root's metabolic activity, which in turn is the driving force for the absorption of nutrients by the roots. In the United States, for example in Corn Belt soils, about ½ of the original soil organic nitrogen has been lost since 1880. Naturally, other things being equal, such soil is relatively infertile and produces relatively poor crop yields.

However, beginning after World War II a technological solution was intensively applied to this problem: sharply increasing amounts of inorganic nitrogen were applied to the soil in the form of fertilizer. Annual nitrogen fertilizer usage in the United States increased about 14-fold between 1946 and 1968.

In effect, then, nitrogen fertilizer can be regarded as a substitute for land. With the intensive use of fertilizer it becomes possible to accelerate the turnover rate of the soil ecosystem, so that each acre of soil annually produces more food than before. The economic benefits of this new agricultural technology are appreciable, and self-evident. However, this economic advantage may be counterbalanced by the increased impact on the environment. This arises because, given the reduced humus content of the soil, the plant's roots do not efficiently absorb the added fertilizer. As a result an appreciable part leaches from the soil as nitrate and enters surface waters where it becomes a serious pollutant. Nitrate may encourage algal overgrowths, which on their inevitable death and decay tend to break down the self-purifying aquatic cycle.

Excess nitrate from fertilizer drainage leads to another environmental impact, which may affect human health. While nitrate in food and drinking water appears to be relatively innocuous, *nitrate* is not, for it combines with hemoglobin in the blood, converting it to methemoglobin—which cannot carry oxygen. Unfortunately nitrate can be converted to nitrate by the action of bacteria in the intestinal tract, especially in infants, causing asphyxiation and even death. On these grounds, the United States Public Health Service has established 10 ppm of nitrate nitrogen as the acceptable limit of nitrate in drinking water. In a number of agricultural areas in the United States nitrate levels in water supplies obtained from wells, and in some instances from surface waters have exceeded this limit. Our own studies in the area of Decatur, Illinois show quite directly that in the spring of 1970 when the city's water supply, which is derived from an impoundment of the Sangamon River, recorded 9 ppm of nitrate nitrogen, a minimum of 60% of the nitrate was derived from inorganic fertilizer applied to the surrounding farmland.[4]

The effect of this change in agricultural technology is evident from Table II, which compares the influence of the several relevant factors on the total environmental impact due to fertilizer nitrogen in 1949 and 1968. During that period the total annual use of fertilizer nitrogen, i.e. the total environmental impact, increased 648 percent. The influence of population size increased by 34%; the influence of crop production per capita ("affluence") increased by 11%; the influence of the change in fertilizer technology increased by 405%. Clearly the last factor dominates the large increase in the total environmental impact of fertilizer nitrogen. Specifically, it should be noted that in 1949 about 11,000 tons of fertilizer nitrogen were used *per unit crop production*, while in 1968 about 57,000 tons of nitrogen were employed for the *same* crop yield. This means that the efficiency with which fertilizer nitrogen contributes to crop yield has *declined* 5-fold. Obviously an appreciable part of the added nitrogen does not enter the crop and must appear elsewhere in the ecosystem.

The biological basis for this effect is shown in Figure 5, which compares the corn yield in the State of Illinois, with the concurrent amounts of nitrogen fertilizer added to the soil.[5] This shows that as fertilizer levels increased the yield per acre rose, but eventually leveled off due to the natural limits of plant growth. Thus, between 1962 and 1968, fertilizer usage doubled, but crop yield rose only about 10–15%. Clearly at the higher levels of fertilizer usage an increasingly small proportion of the fertilizer contributes to the crop. As indicated earlier, the remainder leaches into surface waters where it causes serious pollution problems. Thus, this innovation in agricultural technology sharply increases the environmental stress due to agricultural production.

A similar situation exists in the case of pesticides. This is shown by the changes in the environmental impact index of pesticides between 1950 and 1967 (Table III). In that time there was a 168% increase in the amount of pesticides used *per unit crop production*, as a national average. By killing off natural insect predators and parasites of the target pest, while the latter often becomes resistant to insecticides, the use of modern synthetic insecticides tends to exacerbate the pest problems that they were designed to control. As a result *increasing* amounts of insecticides must be used to maintain agricultural productivity. For example, in Arizona insecticide use on cotton tripled between 1965 and 1967, with no significant change in yield. Insecticide usage is, so to speak, self-accelerating—resulting in both a decreased efficiency and an increased environmental impact.

Another technological displacement in agriculture is the increased use of feedlots for the production of livestock in preference to range feeding. Range-fed cattle are integrated into the soil ecosystem; they graze the soil's grass crop and restore nutrient to the soil as manure. When the cattle are maintained instead in huge pens, where they are fed on corn and deposit their wastes intensively in the feedlot itself, the wastes do not return to the soil.

Instead the waste drains into surface waters where it adds to the stresses due to fertilizer nitrogen and detergent phosphate. The magnitude of the effect is considerable. At the present time the organic waste produced in feedlots is more than the organic waste produced by all the cities of the United States. Again, the newer technology has a serious environmental impact, and in this case has displaced a technology with an essentially zero environmental impact.

(2) *Textiles:* Figure 6 describes changes in textile production since 1946. While total fiber production per capita has remained constant, natural fibers (cotton and wool) have been significantly displaced by synthetic ones. This technological change considerably increases the environmental impact due to fiber production and use.

One reason is that the energy required for the synthesis of the final product, a linear polymer (cellulose in the case of cotton, keratin in the case of wool and polyamides in the case of nylon) is greater for the synthetic material. Although quantitative data are not yet available, this is evident from the comparison of two productive processes provided by Table IV. Nylon production involves as many as 10 steps of chemical synthesis, each requiring considerable energy in the form of heat and electric power to overcome the entropy associated with chemical mixtures and to operate the reaction apparatus. In contrast, energy required for the synthesis of cotton is derived, free, from a renewable source—sunlight—and is transferred without combustion and resultant air pollution. Moreover, the

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raw material for cellulose synthesis is carbon dioxide and water, both freely available renewable resources, while the raw material for nylon synthesis is petroleum or a similar hydrocarbon—non-renewable resources. As a result it would appear that the environmental stress due to the *production* of such an artificial fiber is probably well in excess of that due to the production of an equal weight of cotton. This is only an approximation, for we need far more detailed, quantitative estimates, in the form of the appropriate environmental impact indices, that would also take into account the fuel and other materials used in the production of cotton.

Because a synthetic fiber such as nylon is unnatural, it also has a greater impact on the environment as a waste material, than do cotton or wool. The natural polymers in cotton and wool, cellulose and keratin, are important constituents of the soil ecosystem. Through the action of molds and decay bacteria they contribute to the formation of humus—a substance which is essential to the natural fertility of the soil. In this process cellulose is readily broken down in the soil ecosystem. Thus, in nature, cellulose and keratin are simply *not* "wastes", because they provide essential nutrients for soil microorganisms. Hence they cannot accumulate.

This results from the crucial fact that for every polymer which is produced in nature by living things, there exist in some living things enzymes which have the specific capability of degrading that polymer. In the absence of such an enzyme the natural polymers are quite resistant to degradation, as evident from the durability of fabrics which are protected from biological attack.

The contrast with synthetic fibers is striking. The structure of nylon and similar synthetic polymers is a human invention and does not occur in natural living things. Hence, unlike natural polymers, synthetic ones find no counterpart in the armamentarium of degradative enzymes in nature. Ecologically, synthetic polymers are literally indestructible. Hence, every bit of synthetic fiber or polymer that has been produced on the earth is either destroyed by burning—and thereby pollutes the air—or accumulates as rubbish. One result, according to a recent report, is that microscopic fragments of plastic fibers often red, blue or orange, have now become common in certain marine waters.[6] For technological displacement has been at work in this area too; in recent years natural fibers such as hemp and jute have been nearly totally replaced by synthetic fibers in fishing operations. A chief reason for this use of synthetic fibers is that they resist degradation by molds, which, as already indicated readily attack cellulosic net materials such as hemp or jute. Thus, the property which enhances the economic value of the synthetic fiber over the natural one—its resistance to biological degradation—is precisely the property which increases the environmental impact of the synthetic material.

(3) DETERGENTS

Figure 7 shows that synthetic detergents have largely replaced soap in the United States as domestic and industrial cleaners, with the total production of cleaners per capita remaining essentially unchanged. Soap is based on a natural organic substance, fat, which is reacted with alkali to produce the end product. Being a natural product, fat is extracted from an ecosystem (for example that represented by a coconut palm plantation), and when released into an aquatic ecosystem after use, soap is readily degraded by the bacteria of decay. Since most municipal wastes in the United States are subjected to treatment which degrades organic waste to its inorganic products, in actual practice the fatty residue of soap wastes is degraded by bacterial action within the confines of a sewage treatment plant. What is then emitted to surface waters is only carbon dioxide and water. Hence, there is little or no impact on the aquatic ecosystem due to biological oxygen demand (which accompanies bacterial degradation of organic wastes) arising from soap wastes. Nor is the product of soap degradation, carbon dioxide, usually an important ecological intrusion since it is in plentiful supply from other environmental sources, and in any case is an essential nutrient for photosynthetic algae. Hence, as compared with soap the production of synthetic detergents is a more serious source of pollution.

Once used and released into the environment in waste, detergents generate a more intense environmental impact than a comparable amount of soap. Soap is wholly degradable to carbon dioxide, which is usually rather innocuous in the environment. In contrast even the newer detergents which are regarded as degradable because the paraffin chain of the molecule (being unbranched, in contrast with the earlier non-degradable detergents) is broken down by bacterial action, nevertheless leave a residue of phenol which may not be degraded and may accumulate in surface waters. Phenol is a rather toxic substance, being foreign to the aquatic ecosystem.

Unlike soap, detergents are compounded with considerable amounts of phosphate in order to enhance their cleansing action and as a water softener. Phosphate may readily induce water pollution by stimulating heavy overgrowths of algae, which on dying release organic matter into the water and thus overburden the aqueous ecosystem. Figure 8 shows that nearly all of the increase in sewage phosphorus in the United States can be accounted for by the phosphorus content of detergents. Since soap, which has been displaced by detergents, is quite free of phosphate the environmental impact due to phosphate is clearly a consequence of the technological change in cleaner production.

The change in the environmental impact index of phosphate in cleaners between 1946 and 1968 is shown in Table V. In this period the overall environmental impact index increased 1845%. The increase in the effect of population size was 42%; the effect of per capita use of cleaners does not change; the technological factor, i.e., that due to the displacement of phosphate-free soap by detergents containing an average of about 4% phosphorus, increased about 1270%. The relative importance of this change in cleaner technology in intensifying environmental impact is quite evident.

(4) SECONDARY ENVIRONMENTAL EFFECTS OF TECHNOLOGICAL DISPLACEMENTS

Increased production of synthetic organic chemicals leads to intensified environmental impacts in several different ways. This segment of industry has heavy power requirements; in contributing to increased power production the industry adds as well to the rising levels of air pollutants that are emitted by power plants. In addition organic synthesis releases into the environment a wide variety of reagents and intermediates, which are foreign to natural ecosystems and often toxic, thus generating important, often poorly understood, environmental impacts. A common example are massive fish kills and plant damage resulting from release of organic wastes, insecticides and herbicides to surface waters or the air.

Perhaps the most serious environmental impact attributable to the increased production of synthetic organic chemicals is due to the intrusion of mercury into surface waters. This effect is mediated by chlorine production. This substance is a vital reagent in many organic synthesis; about 80% of present chlorine production finds its end use in the synthetic organic chemical industry. Moreover, a considerable proportion of chlorine production is carried out in electrolytic mercury cells; until recent control measures were imposed on the industry, about .2–.5 lbs. of mercury were released to the environment per ton of chlorine manufactured in mercury electrolytic cells. This means, for example, that the substitution of nylon for cotton has generated an intensified environmental impact due to mercury, for nylon production (unlike cotton production) involves the use of chlorinated intermediates, therefore of chlorine, and hence the release of mercury into the environment.

Similarly the displacement of steel and lumber by aluminum adds to the burden of air pollutants, for aluminum production is extremely power consumptive. Per pound of aluminum produced, about 29,860 BTU's of power are required to generate the necessary electricity whereas about 4,615 BTU's are used per pound of steel produced. Cement, which tends to displace steel in construction is also extremely power consumptive. The production of chemicals, aluminum and cement account for about 56% of the total industrial use of electricity in the United States.

(5) PACKAGING

The displacement of older forms of packaging by "disposable" containers, such as non-returnable bottles is another example of the intensification of environmental impact due to the postwar pattern of U.S. economic growth. This is illustrated in Fig. 10 and Table VI. Here it is evident that there has been a very striking increase in environmental impact due to beer bottles, which are not assimilated by ecological systems and are, in their manufacture, quite power consumptive. It is also evident that the major factor in this intensified environmental impact is the new technology—the use of non-returnable bottles to contain beer—rather than "affluence" with respect to per capita consumption of beer, or increased population.

(6) AUTOMOTIVE VEHICLES

Finally there is the problem of assessing the environmental impact of changes in patterns of passenger travel and freight traffic since 1946. Particularly important has been the increased use of automobiles, buses and trucks.

The environmental impact of the internal combustion engine is due to the emission of nitrogen oxides, carbon monoxide, waste fuel and lead. The intensities of these impacts, as measured by the levels of these pollutants in the environment is a function, not only of the vehicle-miles travelled, but also of the nature of the engine itself—i.e., technological factors are relevant as well.

The technological changes in automotive engines since World War II have worsened environmental impact. These are illustrated in Fig. 11. Thus, for passenger automobiles, overall mileage per gallon of fuel declined from 14.97 in 1949 to 14.08 in 1967, largely because average horsepower increased from 100 to 240. Another important technological change was in average compression ratio, which increased from about 5.9 to 9.5 in 1946–68. This engineering change has had two important effects on the environmental impact of the gasoline engine. First increasing amounts of tetraethyl lead are needed as a gasoline additive in order to suppress the engine knock that occurs at high compression rations. As shown in Fig. 12, annual use of tetraethyl lead has increased significantly in 1946–68. Essentially all of this lead is emitted from the engine exhaust and is disseminated into the environment. Since lead is not a functional element in any biological organism, and is in fact toxic, it represents an external intrusion on the ecosystem and generates an appreciable environmental effect.

A second consequence of the increase in engine compression ratio has been a rise in the concentration of nitrogen oxides emitted in engine exhaust. This has occurred because the engine temperature increases with compression ratio. The combination of nitrogen and oxygen, present in the air taken into the

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Footnotes at end of article.

engine cylinder, to form nitrogen oxides is enhanced at elevated temperatures. Nitrogen oxide is the key ingredient in the formation of photochemical smog. Through series of light-activated reactions, involving waste fuel, nitrogen oxides induce the formation of peroxyacetyl nitrate, the noxious ingredient of photochemical smog. Smog of this type was first detected in Los Angeles in 1942–3; it was unknown in most other United States cities until the late 1950's and 1960's, but is now a nearly universal urban pollutant. Peroxyacetyl nitrate is a toxic agent, to man, agricultural crops and trees. Introduction of this agent has probably increased by about an order of magnitude in 1946–68.

The Environmental Impact Indices for nitrogen oxides and lead are shown in Tables VII and VIII respectively. The total environmental impact for nitrogen oxides increased by about 630% between 1946 and 1967. The technological factor (the amount of nitrogen oxides emitted per vehicle-mile) increased by 158%, vehicle-miles travelled per capita increased by about 100%, and the population factor by about 41%. In the case of tetraethyl lead, the largest increase in impact is in vehicle-miles travelled per capita (100%), followed by the technological factor (83%) and the population factor (41%). It is evident that the major influences on automotive air pollution are increased per capita mileage (in part because of changes in work-residence distribution due to the expansion of suburbs) and the increased environmental impact per mile travelled due to technological changes in the gasoline engine.

A similar situation obtains with respect to overland shipments of inter-city freight. Here truck freight has tended to displace railroad freight. And again the displacing technology has a more severe environmental impact than does the displaced technology. This is evident from the energy required to transport freight by rail and truck: 624 BTU/ton-mile by rail and 3462 BTU/ton-mile by truck. It should be noted as well that the steel and cement required to produce equal lengths of railroad and expressway (suitable for heavy truck traffic) differ in the amount of power required in the ratio 1 to 3.6. This is due to the rather power consumptive nature of cement production and to the fact that four highway lanes are required to accommodate heavy truck traffic. In addition, the divided roadway requires a 400 foot right-of-way while a train roadbed needs only 100 feet. In all these ways the displacement of railroads by atuomotive vehicles, not only for freight, but also for passenger travel, has intensified the resultant environmental impact.

SOME CONCLUSIONS

The data presented above reveal a functional connection between economic growth—at least in the United States since 1946—and environmental impact. It is significant that the range of increase in the computed environmental impacts agrees fairly well with the independent measure of the actual levels of pollutants occurring in the environment. Thus, the increase in environmental impact index for tetraethyl lead computed from gasoline consumption data for 1946–67 is about 400%; a similar increase in environmental lead levels has been recorded from analyses of layered ice in glaciers.[7] Similarly, the 648% increase in the 19-year period 1949–68 in the environmental impact index computed for nitrogen fertilizer is in keeping with the few available large-scale field measurements. Thus, field data show that nitrate entering the Missouri River as it traversed Nebraska in the 6-year period 1956–62 increased a little over 200%.[8] The environmental impact indices computed for several aspects of automotive vehicle use are also in keeping with general field observations. It is widely recognized that the most striking increase among the several aspects of environmental deterioration due to automotive vehicles, has occurred with respect to photochemical smog. This pollutant was detected for the first time in Los Angeles in 1942–43.

Since then it has increased, nationally, by probably an order of magnitude, appearing in nearly every major city and even in smaller ones in the last 5 years. However, in the period 1946–68 total use of automotive vehicles, as measured by gasoline consumption, increased by only about 200%—an increment too small to account for the concurrent rise in the incidence of photochemical smog. It is significant, then, that this disparity between the observed increase in smog levels and the increase in vehicle use is accounted for by the environmental impact index computed for nitrogen oxides, the agent which initiates the smog reaction, for that index increased by 630% in 1946–67.

These agreements with actual field data support the conclusion that the computations represented by the environmental impact index provide a useful approximation of the changes in environmental impact associated with the relevant features of the growth of the United States economy since 1946. In particular, we can therefore place some reliance on the subdivision of the total impact index into the several factors: population size, per capita production or consumption and the technology of production and use.

It is of interest to make a direct comparison of the relative contributions of increases in population size and in "affluence," and of changes in the technology of production, to the increases in total environmental impact which have occurred since 1946. The ratio of the most recent total index value to the value of the 1946 index (or to the value for the earliest year for which the necessary data are available) is indicative of the change in the total impact over this period of time. The relative contributions of the several factors to these total changes is then given by the ratios of their respective partial indices. Figure 13 reports such comparisons for the 6 productive activities evaluated. The population factor contributes only between 12 and 20% of the total changes in impact index. For all but the automotive pollutants, the "affluence" factor makes a rather small contribution—no more than 5%—to the total changes in impact index. For nitrogen oxides and tetraethyl lead (from automotive sources), this factor accounts for about 40% of the total effect, reflecting a considerable increase in the number of vehicle-miles travelled per capita since 1946. The technological changes in the processes which generate the various economic goods, contribute from 40–90% of the total increases in impact.

In evaluating these results it should be noted that automotive travel is itself strongly affected by a kind of technological transformation: the rapid increase of suburban residences in the United States and the concomitant failure to provide adequate railroad and other mass transportation to accommodate to this change. That the overall increase in vehicle-miles travelled per capita since 1946 (about 100%) is related to increased residence-work travel incident upon this change is suggested by the results of a 1963 survey. It was found that 90% of all automobile trips, representing 30% of total mileage travelled, are 10 miles or less in length. The mean residence-work travel distance was about 5.5 miles. Thus, it is probably appropriate to regard the increase in per capita vehicle-miles travelled by automobile as not totally attributable to increased "affluence," but rather as a response to new work-residence relationships which are costly in transportation.

During the period from 1946 to the present, pollution levels in the United States have increased sharply—generally by an order of magnitude or so. It seems evident from the data presented above that most of this increase is due to one of the three factors that influence environmental impact—the technology of production—and that both population growth and increase in "affluence" exert a much smaller influence. Thus the chief reason for the sharp increase in environmental stress in the United States is the sweeping transformation in production technology in the post-war period. Productive activities with intense environmental impacts have displaced activities with less serious environmental impacts; the growth pattern has been counter-ecological.

The foregoing conclusion is easily misconstrued to mean that technology is therefore, per se, ecologically harmful. That this interpretation is unwarranted can be seen from the following examples.

Consider the following simple transformation of the present, ecologically-faulty, relationship among soil, agricultural crops, the human population and sewage. Suppose that the sewage, instead of being introduced into surface waters as it is now, whether directly or following treatment, is instead transported from urban collection systems by pipeline to agricultural areas, where—after appropriate sterilization procedures—it is incorporated into the soil. Such a pipeline would literally reincorporate the urban population into the soil's ecological cycle, restoring the integrity of that cycle, and incidentally removing the need for inorganic nitrogen fertilizer—which also stresses the aquatic cycle. Hence the urban population is then no longer external to the soil cycle and is therefore incapable either of generating a negative biological stress upon it or of exerting a positive ecological stress on the aquatic ecosystem. But note that this state of zero environmental impact is not achieved by a return to "primitive" conditions, but by an actual technological advance, the construction of a sewage pipeline system.

Or consider the example provided by the technological treatment of gold and other precious metals. Gold is, after all, subject to numerous technological manipulations, which generate a series of considerable economic values. Yet we manage to accomplish all of this without intruding more than a rather small fraction of all the gold ever acquired by human beings into the ecosphere. Because we value it so highly very little gold is "lost" to the environment. In contrast, most of the mercury which has entered commerce in the last generation has been disseminated into the environment, with very unfortunate effects on the environment. Clearly, given adequate technology—and motivation—we could be as thrifty in our handling of mercury as we are of gold, thereby preventing the entry of this toxic material into the environment. Again what is required is not necessarily the abandonment of mercury-based technology, but rather the improvement of that technology to the point of satisfactory compatability with the ecosystem.

Generally speaking then, it would appear possible to reduce the environmental impact of human activities by developing alternatives to ecologically-faulty activities. This can be accomplished, not by abandoning technology and the economic goods which it can yield, but by developing *new* technologies which incorporate not only the knowledge of the physical sciences (as most do moderately well; the new machines do, after all, usually produce their intended goods), but ecological wisdom as well.

The foregoing considerations show that the deterioration of the environment, whatever its cost in money, social distress and personal suffering, is chiefly the result of the ecologically-faulty technology which has been employed to remake productive enterprises. The resulting environmental impacts stress the basic ecosystems which

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Footnotes at end of article.

support the life of human beings, destroy the "biological capital" which is essential to the operation of industry and agriculture, and may, if unchecked, lead to the catastrophic collapse of these systems. The environmental impacts already generated are sufficient to threaten the continued development of the economic system—witness the current difficulties in the United States in siting new power plants at a time of severe power shortage, the recent curtailment of industrial innovation in the fields of detergents, chemical manufacturing, insecticides, herbicides, chlorine production, oil drilling, oil transport, supersonic aviation, nuclear power generation, industrial uses of nuclear explosives, all resulting from public rejection of the concomitant environmental deterioration.

It seems probable, if we are to survive economically as well as biologically, that much of the technological transformation of the industrialized economy since 1946 will need to be, so to speak, redone in order to bring productive technology much more closely into harmony with the inescapable demands of the ecosystem. This will require the development of massive new technologies including: systems to return sewage and garbage directly to the soil; the replacement of synthetic materials by natural ones; the reversal of the present trend to retire soil from agriculture and to elevate the yield per acre; the development of land transport that operates with maximal fuel efficiency at low combustion temperatures and with minimal land-use; the sharp curtailment of the use of biologically active synthetic organic agents. In effect what is required is a new period of technological transformation of the economy, which reverses the counter-ecological trends developed since 1946. We might estimate the cost of the new transformation, from the cost of the former one, which in the United States must represent a capital investment in the range of hundreds of billions of dollars. To this must be added, of course, the cost of repairing the ecological damage which has already been incurred, such as the eutrophication of Lake Erie, again a cost to be reckoned in the hundreds of billions of dollars.

What might all this cost? Some very rough but useful approximations can be made. For example, it is generally reckoned that the total stock of capital equipment in the United States is about three times the annual GNP, or about two thousand four hundred billion dollars at the present time. (This and all following numbers are expressed as 1958 dollars to compensate for inflation.) A very rough estimate of the existing capital equipment that would need to be replaced in order to remedy major ecological faults might be about one-fourth, or about six hundred billion dollars worth. In comparison, the expenditures for structures and producers' durable equipment by private investors during the period 1946 to 1968 when, as we have seen, most of the ecologically faulty enterprises were built, amounts to roughly one thousand billion dollars. Accordingly, on the basis of the first estimates, something like one half of the postwar productive enterprises would need to be replaced by ecologically sounder ones.

Rough as they are, these figures give us some sense of the magnitude of the task of ecological reconstruction of the national productive system. To this estimate must be added the costs of efforts to restore damaged sectors of the ecosystem, which would range in the area of hundreds of billion dollars. This cost need not, and of course cannot, be met at once. If we accept as the period of grace—the time available before serious large-scale ecological catastrophes overtake us—let us say twenty-five years, then the cost of survival becomes about forty billion dollars annually over that period of time (again in 1958 dollars). Perhaps the simplest way to summarize all this is that most of the nation's resources for capital investment would need to be engaged in the task of ecological reconstruction for at least a generation. This means that new investments in agricultural and industrial production and in transportation would need to be governed chiefly by ecological considerations, so that the over-all pattern of investment would have to come under the guidance of ecological rather than conventional economic imperatives.

FOOTNOTES

[1] Commoner, Barry, The Environmental Cost of Economic Growth, Paper prepared for presentation at Resources for the Future Forum on "Energy, Economic Growth, and the Environment" Washington, D.C., April 20, 1971. In press.

[2] Weinberger, L. W., Stephan, D. G. and Middleton, F. M., *Annals New York Academy of Sciences 136*, p. 131–154 (1966).

[3] Commoner, Barry, Threats to the Integrity of the Nitrogen Cycle; Nitrogen Compounds in Soil, Water Atmosphere and Precipitation, *Global Effects of Environmental Pollution* Symposium organized by American Association for the Advancement of Science, Dallas, Texas, December 1968, edited by S. Fred Singer, Reidel, Dordrecht-Holland (1970).

[4] Kohl, D. H., Shearer, G. B. and Commoner, Barry, Isotopic Analysis of the Movement of Fertilizer Nitrogen into Surface Water. In press 1971.

[5] Dawes, J. H., Larson, T. E. and Harmeson, R. H., Proceedings 24th Annual Meeting, Soil Conservation Society of America, Ft. Collins, Colo. (1968) p. 94–102.

[6] See note in *Marine Pollution Bulletin 2*, p. 23, February 1971.

[7] Patterson, C. C., *Environment 10*, p. 72 (1967).

[8] Commoner, Barry, Threats to the Integrity of the Nitrogen Cycle: Nitrogen Compounds in Soil, Water, Atmosphere and Precipitation. ibid.

TABLE I.—POSTWAR INCREASES IN POLLUTANT EMISSIONS

Pollutant	Annual production				Percent increase over indicated period
	Year	Amount	Year	Amount	
Inorganic fertilizer nitrogen.	1949	0.91×10^6 tons	1968	6.8×10^6 tons	648
Synthetic organic pesticides.	1950	286×10^6 lbs	1967	$1{,}050\times10^6$ lbs	267
Detergent phosphorus	1946	11×10^6 lbs	1968	214×10^6 lbs	1,845
Tetraethyl lead [1]	1946	0.048×10^6 tons	1967	0.25×10^6 tons	415
Nitrogen oxides [1]	1946	10.6 [2]	1947	77.5 [2]	630
Beer bottles	1950	6.5×10^6 gross	1967	45.5×10^6 gross	595

[1] Automotive emissions.

[2] Dimension = NO_x (p.p.m.) times gasoline consumption (gals. $\times10^{-6}$); estimated from product of passenger vehicle gasoline consumption and p.p.m. of NO_x emitted by engines of average compression ratio 5.9 (1946) and 9.5 (1967) under running conditions, at 15-in. manifold pressure NO_x emitted: 500 p.p.m. in 1946; 1,200 p.p.m. in 1967 (ref.).

TABLE II.—FERTILIZER NITROGEN (ENVIRONMENTAL IMPACT INDEX)

	Index factors			
	(a)	(b)	(c)	
	Population (1,000's)	Crop production, population (production units/capacity)	Fertilizer nitrogen, crop production (tons/production unit)	Total index, fertilizer nitrogen (1,000's of tons)
1949	149,304	5.43×10^{-7}	[1] 11,284	914
1968	199,846	6.00×10^{-7}	57,008	6,841
1968:1949	1.34	1.11	5.05	7.48
Percent increase	34	11	405	648

[1] The crop output index is an indicator of agricultural productivity with the 1957–59 average equals 100.

TABLE III.—SYNTHETIC ORGANIC PESTICIDES

	Index factors			
	(a)	(b)	(c)	
	Population (1,000's)	Crop production population (crop production units/capacity)	Pesticide consumption crop production (1,000 lbs./production unit)	Total index (a, x, b, x, c), synthetic organic pesticides (million lbs.)
1950	151,868	5.66×10^{-7}	3,326	286
1967	197,859	5.96×10^{-7}	8,898	1,050
1967: 1950	1.30	1.05	2.68	3.67
Percent increase 1967: 1950	30	5	168	267

TABLE IV.—COTTON AND NYLON (ENVIRONMENTAL CHARACTERISTICS)

	Cotton	Nylon	Comparative environmental impact
Raw materials	CO_2, H_2O	Petroleum	Cotton, renewable, nylon, nonrenewable.
Process	CO_2+H_2O light→ Glucose→cellulose (about 70–90°F.).	Petroleum (distill→ Benzene (550°F.)→	Fuel combustion and resultant air pollution: probably
	Cultivation, ginning, spinning, require power.	Cyclohexane (300°F.)→	Nylon > cotton.
		Cyclohexanol (200–400°F.)→ Adipic acid (600–700° F.)→ Adiponitrile (200–250° F.)→ Hexamethylene diamine→ Nylon 610 Distillation and other purification at most of above steps; power required to operate process.	
Product	Cellulose	Polyamide	Cellulose wholly biodegradable, polyamide not degradable.

TABLE V.—DETERGENT PHOSPHORUS (ENVIRONMENTAL IMPACT INDEX)

	Index factors			Total impact (a, x, b, x, c), phosphorus from detergents[2] (10^6 lbs.)
	(a) Population (1,000's)	(b) Cleaners,[1] population (lbs./cap.)	(c) Phosphorus, cleaners (lbs./ton of cleaner)	
1946	140,686	22.66	6.90	11
1968	194,846	15.99	137.34	214
1968: 1946	1.42	.69 [3](1.00)	19.90 (13.70)	19.45
Percent increase 1946–68	42	(0)	(1,270)	1,845

[1] Assuming that 35 percent of detergent weight is active agent.

[2] Assuming average phosphorus content of detergents equals 4 percent.

[3] Because of uncertainties regarding the content of active agent in detergents, especially soon fter their introduction, the apparent reduction in per capita use of cleaners is not regarded as significant; the numbers contained in parentheses are based on the assumption that this value does not change significantly.

TABLE VI.—BEER BOTTLES (ENVIRONMENTAL IMPACT INDEX)

	Index Factors			Total index (a, x, b, x, c), beer bottles (1,000 gross)
	(a) Population (1,000's)	(b) Beer consumption, population (gal./cap.)	(c) Beer bottles, beer consumption (bottles/gal.)	
1950	151,868	24.99	0.25	6,540
1967	197,859	26.27	1.26	45,476
1967:1950	1.30	1.05	5.08	6.95
Percent increase 1950–67	30	5	408	595

TABLE VII.—NITROGEN OXIDES (PASSENGER VEHICLES) ENVIRONMENTAL IMPACT INDEX

	Index factors			Total index, nitrogen oxides[1]
	(a) Population (1,000's)	(b) Vehicle-miles, population	(c) Nitrogen oxides,[1] vehicle-miles	
1946	140,686	1,982	33.5	10.6
1967	197,849	3,962	86.4	77.5
1967: 1946	1.41	2.00	2.58	7.3
Percent increase	41	100	158	630

[1] Dimension equals NO_x (p.p.m.) times gasoline consumption (gals. × 10^{-6}). Estimated from product of passenger vehicle gasoline consumption and p.p.m. of NO_x emitted by engines of average compression ratio 5.9 (1946) and 9.5 (1967) under running conditions, at 15-in. manifold pressure: 1946, 500 p.p.m. NO_x; 1967, 1,200 p.p.m. (data from ref.).

TABLE VIII.—TETRAETHYL LEAD (ENVIRONMENTAL IMPACT INDEX)

	Index factors			Total index, tetraethyl lead[2] (1,000's of tons)
	(a) Population (1,000's)	(b) Vehicle-miles,[1] population (vehicle-mile/cap.)	(c) Tetraethyl lead[2] vehicle-miles[1] (lbs./million vehicle-mile)	
1946	140,686	[3]1,984	[3]300	[3]48
1967	197,859	3,962	630	247
1967:1946	1.41	2.00	1.83	5.15
Percent increase	41	100	83	415

[1] Passenger vehicles only.

[2] Weight refers to lead content.

[3] See note for table IX.

FIGURE 1 (not printed in RECORD). Phosphorus emitted by United States municipal sewage. Data are from Weinberger, L. W., *et al.* in Hearings before the Subcommittee on Science, Research and Development of the House Committee on Science and Astronautics, *The Adequacy of Technology for Pollution Abatement*, Vol. II, U.S. Government Printing Office, Washington, D.C. p. 756.

FIGURE 2 (not printed in RECORD). Changes in population, Gross National Product (reduced to 1958 dollars) and GNP per capita for the United States since 1946. Data are from Department of Commerce, *Statistical Abstract of the United States*, U.S. Government Printing Office, Washington, D.C., 1970, p. 5 and Department of Commerce, *The National Income and Product Accounts of the United States 1929–1965*, U.S. Government Printing Office, Washington, D.C., 1966, pp. 4–5.

FIGURE 3 (not printed in RECORD). Annual growth rates of production (or consumption) in the United States. Annual data are from Statistical Abstract of the United States, op. cit., 1948–1970; see text for method of computation.

FIGURE 4 (not printed in RECORD). Changes in total crop output (as determined by U.S.D.A. Crop Index), in crop output per capita, in harvested acreage and in annual use of inorganic nitrogen fertilizer in the United States since 1946. Data are from *Agricultural Statistics*, U.S. Government Printing Office, Washington, D.C., 1967, pp. 531, 544, 583; 1970, pp. 444, 454, 481.

FIGURE 5 (not printed in RECORD). Corn yield and nitrogen usage for the State of Illinois. Data are from Dawes, J. H., *et al.* Proc. 24th Ann. Meeting Soil Conservation Society of America, Fort Collins, Colo., 1968.

FIGURE 6 (not printed in RECORD). Natural and synthetic fiber production in the United States since 1946. Data are from *Statistical Abstract of the United States*, op. cit., 1962. p. 198; 1966, p. 789; 1970, p. 713.

FIGURE 7 (not printed in RECORD). Total soap and detergent production and per capita consumption of total cleaners (soap plus detergent) in the United States since 1946. Data are from *Agricultural Statistics*, U.S. Government Printing Office, Washington, D.C., 1970, p. 149. Detergent data represent actual content of surface-active agent, which is estimated at about 37.5% of the total weight of the marketed detergent.

FIGURE 8 (not printed in RECORD). Concurrent values of phosphorus output from municipal sewage in the United States and phosphorus content of detergents produced. Former values are from Weinberger, L. W., *et al.* (see Legend, Figure 1). Detergent data are based on detergent production (see Legend, Figure 7) assuming an average of 4% P in marketed detergents.

FIGURE 9 (not printed in RECORD). Changes in annual production of synthetic organic compounds and of chlorine gas, and consumption of mercury for chlorine gas production in the United States since 1946. Data are from Bureau of the Census, *Current Industrial Reports, Series M28A Inorganic Chemicals and Gases* and from *Statistical Abstract of the United States*, op cit.

FIGURE 10 (not printed in RECORD). Per capita consumption of beer and production of beer bottles in the United States. Data are from *Statistical Abstract of the United States*, op cit., 1951, p. 792; 1955, p. 833; 1970, p. 12.

FIGURE 11 (not printed in RECORD). Average characteristics of passenger car engines produced in the United States since 1946. Brake horsepower and compression ratio data are from the 1951 and 1970 volumes of "Brief Passenger Car Data," Ethyl Corporation. Gasoline consumption data are from *Statistical Abstract of the United States*, op cit.

FIGURE 12 (not printed in RECORD). Lead emissions, from tetraethyl lead in gasoline, in the United States since 1946. Data are from *Minerals Yearbook 1947–1968* and *Statistical Abstract of the United States*, op cit., (see Legend, Figure 10).

FIGURE 13 (not printed in RECORD). Relative contributions of several factors to changes in environmental impact indices. The contributions of population size, "affluence" (production per capita), and technological characteristics (amount of pollutant released per unit production) to the total environmental impact indices were computed as shown in the text. Each bar is subdivided to show the *relative* contributions, on a scale of 1.0, of the several factors to the ratio of the total impact index value for the later year to the value for the earlier year.

MAKING OIL AND GAS, PART 1

Mr. GRAVEL. Mr. President, there are many reasons why it is impossible to take our so-called "energy crisis" seriously. Untapped sunpower, windpower, seathermal power, and geothermal power are very big reasons.

Another big one is our proven capability to make clean oil and gas from organic matter, including animal waste and urban refuse.

Every year, the domestic animals in this country produce enough waste to make about 2 billion barrels of oil, or nearly 40 percent of our present oil consumption, which is over 5 billion barrels.

In addition, our cities generate 400 million tons of presently troublesome organic waste per year. That amount of garbage could be converted into about 400 million barrels of oil. This source alone could permit nearly an 8-percent reduction in the amount of oil we would otherwise drain out of the earth for domestic consumption.

FERTILIZER VERSUS OIL

Organic waste should be returned to the land to replenish the soil from which it all originates. I was pleased to see in the December 6 issue of Time magazine that a plant in Brooklyn is producing and selling fertilizer made out of 150 tons of New York garbage per day. Undoubtedly, that is the kind of thing we need to do on a grand scale, if we want healthy soil and food.

Instead, we are spending billions to incinerate and dump our urban waste, and animal waste on feedlots is regarded as "a pollution problem."

Meanwhile, the Bureau of Mines in the Department of the Interior has already succeeded in making low-sulfur oil out of both urban wastes and animal wastes.

One of the ecological advantages of using manmade oil is that it does not add to the worrisome carbon dioxide buildup in the planet's atmosphere. Burning manmade oil, in contrast to fossil fuel, only recirculates carbon dioxide which is already in the biosphere.

HIGH BUSINESS INTEREST

The ecological and international implications of clean, manmade oil are enormous. At a later date, I expect to return to this subject.

What are we spending on this extremely promising energy technology? Which industries have expressed support?

In response to my questions, Elburt F. Osborn, Director of the Bureau of Mines, replied as follows:

> We are spending $255,000 this fiscal year on an accelerated program of bench-scale research on converting organic solid wastes that will give us enough information to make a preliminary engineering design and cost estimate of the process. If this appraisal shows the concept and process continues to have promise, we will request funds for a Development Plan that would take several years and cost $15 to $20 million.
>
> Substantial interest in our proposed process has been expressed by oil companies, the chicken industry, cattle feed lot operators, and public officials. Prompt construction of a full-scale plant has even been suggested. We believe, however, that attempts at commercial application would be premature until the steps optimal to the process have been determined and definitive cost estimates have been prepared.

LOW-SULFUR OIL

A report entitled "Conversion of Urban Refuse to Oil," by Drs. Herbert R. Appell, Irving Wender, and Ronald D. Miller, was issued in May 1970, by the Bureau of Mines. The summary states four points as follows:

> 1. Cellulosic wastes, including materials such as urban refuse, wood industry wastes, and sewage sludge, have been converted to a heavy oil by heating in the presence of carbon monoxide and steam under pressure.
> 2. A high-temperature version, conducted at 380° C, and a low-temperature version, conducted at 250° C, have been developed on a laboratory scale.
> 3. The oil from cellulosic wastes, exclusive of sewage sludge, is characterized by a high oxygen content and a low sulfur content.
> 4. Additional studies in the laboratory and on a pilot plant scale are underway for cost estimates and a thorough evaluation of the process.

MATERIAL INTO THE RECORD

This summer, a brief story entitled "Process Converts Animal Wastes to Oil" appeared in the August 16, 1971, issue of Chemical and Engineering News.

Mr. President, I ask unanimous consent to have that article printed as Exhibit 1 at the end of my remarks today.

In addition, I ask unanimous consent to have the 1971 report entitled "Converting Organic Wastes to Oil, A Replenishable Energy Source," by Drs. Appell, Fu, Friedman, Yavorsky, and Wender, printed as Exhibit 2 at the end of my remarks.

SIGNIFICANT POTENTIAL

The conclusion of that report is as follows:

> A significant part of the energy demand of the Nation can be obtained on a renewable basis by converting nearly every kind of organic solid waste to a low-sulfur oil by treatment under pressure with carbon monoxide and water.
>
> Methods for lowering carbon monoxide consumption and for operating at lower pressures have been found; these offer the potential of low processing-costs for converting cellulosic wastes to oil.
>
> While the effects of temperature, pressure, and water on this process have been explored, more work is required to find optimum conditions for the conversion.
>
> A continuous unit has operated successfully, and preliminary results have been obtained on the conversion of sucrose to oil.

The work of this research team is being performed in Pennsylvania at the Pittsburgh Energy Research Center, U.S. Bureau of Mines.

HIGH-BTU GAS

At the University of Wyoming College of Engineering in Laramie, Prof. Ed J. Hoffman and his research team have been performing similar feats by making high-B.t.u. gas out of waste paper, polyethylene plastic bottles, shredded tire rubber, manure, and sewer sludge.

Their speciality is the gasification of coal in cooperation with the Office of Coal Research; the conversion of organic waste to gas was performed more or less for the sake of knowing.

Referring to organic waste, Professor Hoffman says:

> Whenever feasible, organic wastes are best returned to the soil. In instances, however, in which this may not be possible, production of a desirable product would be a reasonable alternative.

LOOKING TO THE SUN

Pointing out that organic materials are just stored sunpower, Professor Hoffman concludes that solar energy is the ultimate source of future fuel:

> All other energy sources can be exhausted, are being exhausted. That leaves only solar energy, which is the source of all our carbonaceous materials.

There being no objection, the material ordered to be printed in the Record, as follows:

Exhibit 1

[From Chemical and Engineering News, Aug. 16, 1971]

Process Converts Animal Wastes to Oil

[Conversion of all domestic animal waste to oil would provide equivalent of half of U.S. oil supply.]

When one observer, admiring the efficiency of turn-of-the-century meat packers, wrote that they use everything from the pig "but the squeal," he overlooked one important by-product—manure. Today, it is nearly impossible to overlook animal wastes, for they total nearly 2 billion tons annually, dwarfing the 250 million tons of household, commercial, and municipal solid wastes generated yearly and creating a disposal problem of great magnitude.

Now, scientists at the U.S. Bureau of Mines' Pittsburgh Energy Research Center have developed a scheme that not only would dispose of these wastes, but also would provide an important new source of energy and contribute to the abatement of air pollution. Their scheme: Convert the wastes to oil.

The center began its work in an attempt to convert coal into oil, Dr. G. Alex Mills, chief of BuMines' division of coal, explains. Along the way, Dr. Herbert R. Appell and Dr. Irving Wender discovered that one of the processes they were investigating could be used to dispose of urban wastes—garbage—by converting it to oil (C&EN, Nov. 17, 1969, page 43).

DELUGE

After the center publicized its findings, Dr. Mills tells C&EN, it was deluged with a variety of other materials for testing. But, "We came to realize that the [quantity of] so-called agricultural waste was about 10 times larger than [urban] waste, and this brings a new dimension—not so much getting rid of an unwanted thing as the possibility of providing a fuel oil in significant dimensions."

The process is simple. Manure (or any cellulosic waste) is placed in a reaction vessel with carbon monoxide at an initial pressure of 1200 p.s.i. and heated at 380° C. for 20 minutes. Based on dry manure, the yield of oil is 47% (3 barrels per ton). But, Dr. Mills notes, "if you consider sugar or cellulose and calculate how it should break down, you get a 50% yield of water and a 50% yield of hydrocarbon, so that this 47% in these terms represents maybe a 96% theoretical yield." This was the highest yield from any of the materials examined.

The center has begun to study the mechanism of the reaction and current thinking is that the reaction proceeds through a formate ion, "But we really don't know yet," says the division of coal's staff research coordinator, Dr. John S. Tosh. They do know, however, that the combination of carbon monoxide and steam is far more effective in the processing than is direct hydrogenation.

CONSTANT

Whatever the mechanism, the reaction produces a remarkably constant product from a wide variety of cellulosic materials. That product is a heavy oil with an energy content of 14,000 to 16,000 B.t.u. per pound. For comparison, normal oil has a B.t.u. value of about 20,000, and coal's is between 7,000 and 12,000, depending on the type; the energy content of manure ranges from 5,000 to 7,000 B.t.u. per pound.

The oil is largely paraffinic, with virtually no aromatics present. It has a nitrogen content of about 2% and an oxygen content of about 9%, which makes it difficult to refine the material into gasoline, Dr. Tosh says. But the oil also has a sulfur content of less than 0.35%. And that, Dr. Mills contends, is one of its most important properties in light of the growing need for low-sulfur oils to prevent urban air pollution.

Dr. Mills is very enthusiastic about the future of the process. The BuMines process is, in effect, a way to harness the sun's energy, he says, and to do so in a manner that is economically viable. The cost of disposing of the urban and agricultural wastes, he adds, provides a strong economic driving force. And the low temperature required in the process means that only a small amount of energy is necessary for the conversion—energy that can be provided by burning either manure or a small amount of the product. (Burning manure directly for heat is impractical and expensive, Dr. Mills notes, because of its low energy content and the problems of handling it.)

And then there is the large supply of raw material: "It's been pointed out," Dr. Mills notes, for example, "that there are more chickens in the U.S. than there are people in the world." If all of the so-called agricultural wastes were collected and converted, "You'd make about half this country's oil supply—in other words, about 2.45 billion barrels of oil per year. You're not going to collect it all," he concludes, "but at least this shows it's of a significant dimension."

EXHIBIT 2

[Bureau of Mines Report of Investigations, 1971]

CONVERTING ORGANIC WASTES TO OIL—A REPLENISHABLE ENERGY SOURCE

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(NOTE.—Figures referred to are not printed in the RECORD.)

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ABSTRACT

The Bureau of Mines is experimentally converting cellulose, the chief constituent of organic solid waste, to a low-sulfur oil. All types of cellulosic wastes, including urban refuse, agricultural wastes, sewage sludge, wood, lignin, and bovine manure, have been converted to oil by reaction with carbon monoxide and water at temperatures of 350° to 400° C and pressures near 4,000 psig, and in the presence of various catalysts and solvents. Cellulose conversions of 90 percent and better (corresponding to oil yields of 40 to 50 percent) have been obtained.

A continuous reactor for use at maximum conditions up to 500° C and 5,000 psig has been operated successfully. Using sucrose as a feedstock, operation in this system has permitted a simplified and preliminary chemical study of the conversion process. Oil yields of over 30 percent have been obtained with this unit.

INTRODUCTION

There are essentially two kinds of solid wastes—inorganic and organic. The inorganic components include glass containers, tin and aluminum cans, junk automobiles, slags and wastes from mine ores, etc. Most people regard organic wastes (chiefly compounds of carbon, hydrogen, and oxygen) as simply the remainder after cans and bottles are removed from urban wastes. Although such urban wastes are indeed a huge source of organic material, other replenishable and continually increasing sources of organic solid wastes are now adding each year to the glut spreading over our land. Not only can essentially all of them be recycled, but they can furnish much of our energy in the form of low-sulfur liquid fuels.

The total of various solid organic wastes generated yearly in the United States is about 3 billion tons.[4] Agricultural wastes generated total 2.5 billion tons, of which about 2 billion tons are manure.[5] Total urban wastes generated, including domestic, municipal, industrial and commercial, is 400 million tons per year. The population is rising and so is the amount of solid wastes rejected per person. Discards collected by private and municipal agencies have almost tripled in the last 40 years, from 2.2 pounds to 6.0 pounds per day per person. Predictions call for doubling even this latter rate long before the end of the twentieth century.[6]

The Bureau of Mines has developed a process for converting solid organic wastes to a low-sulfur oil potentially suitable for use by powerplants or for conversion to gasoline and diesel fuels. Two billion tons of waste per year, containing about 50 percent organic matter, could yield some 2 billion barrels of oil annually; this is about 50 percent of the 1970 U.S. demand for oil. In a fundamental sense, this process is a means of utilizing solar energy which is, of course, the basis of cellulose production.

An earlier report [7] described a method of converting organic urban refuse, waste paper, and sewage sludge to oil by treating these materials with carbon monoxide and water. A heavy oil was obtained when this reaction was carried out at high temperatures and high pressures; at low temperatures and moderate pressures, the product was a soft, bitumenlike solid.

This paper describes the results of experimental work conducted since the first report. Of special interest is that the process has been found applicable to wood wastes and to the conversion of bovine manure (animal wastes constitute over a billion and a half tons per year). This report also describes a continuous bench-scale unit that was recently constructed and operated. Initial trials were successful in converting sucrose, a typical carbohydrate, to oil.

BACKGROUND

The work on the conversion of solid wastes to oil is an outgrowth of the Bureau's efforts to help solve the problem of energy shortage in the United States in keeping with the demands of good environment. Almost all previous work on conversion of coal to low-sulfur liquid fuels involved use of hydrogen at high pressures and temperatures in the presence of a catalyst. In searching for a novel system that did not use hydrogen, the Bureau discovered that treating low-rank coals with carbon monoxide and water converted them to a low-sulfur, benzene-soluble oil in good yields.[8] Indeed, at 350° to 400° C the reaction of coal with carbon monoxide and water is more rapid than the reaction of coal with hydrogen.

In an effort to understand why the reaction of coal with carbon monoxide and water went so well, a comparison was made of the reactions of several model compounds with hydrogen and with carbon monoxide plus water. Olefins, aromatics, etc., added more hydrogen in the presence of hydrogen gas; but for two model substances tested (cellulose and lignin, the chief constituents of growing plants), the reaction with carbon monoxide and water was more rapid and complete. Urban refuse, waste paper, and even sewage sludge were converted to oil in this way.[9]

REACTANTS

Substrates

Cellulosic materials, all other carbohydrates, wood wastes (largely cellulose and lignin), urban wastes (mostly cellulose plus other carbohydrates, proteins, fats, and small amounts of other organic materials), sewage sludge, agricultural wastes, and bovine manure can be converted to oil with carbon monoxide and water. Some plastics depolymerize and dissolve in the product oil; some remain as part of the unconverted residue. But since the plastic content of urban refuse is relatively small, the presence of these materials is expected to have only a minor influence on oil composition and yield.

Carbon monoxide

Carbon monoxide and water react to form hydrogen and carbon dioxide in the following water-gas shift reaction:

$$CO + H_2O \rightleftarrows CO_2 + H_2.$$

Because some hydrogen adds to cellulose during its conversion to oil, it seemed at first reasonable to suppose that the hydrogen gas formed in the water-gas shift was responsible for converting cellulose. But when hydrogen was added to the reactor, it had little effect; an equivalent molar amount of carbon monoxide was much more effective.

Since the water-gas shift reaction cannot be entirely avoided, it must be minimized. Carbon monoxide is somewhat costly, and as little of it as possible should be used. Earlier work [10] showed that carbon monoxide consumption at lower temperatures (250° C) was low; this finding offered a promising lead to less carbon monoxide use. Since both carbon monoxide and hydrogen are usually made from synthesis gas (mixtures of CO and H_2), it would be best to use the cheaper synthesis gas directly. This is entirely possible, and although its use will raise the total pressure somewhat, synthesis gas may ultimately be the gas used.

When cellulose is heated to 250° to 400° C, it eliminates water, some carbon dioxide, and carbon monoxide, and then forms a solid black material, called char, which many people have termed "artificial coal." It does resemble coal in many ways. A similar char forms when cellulose is heated to the same temperatures in the presence of hydrogen. The addition of water along with hydrogen has little effect. But heating cellulose with carbon monoxide and water converts it to an oil. This oil yield increases if a catalyst such as sodium carbonate is present.

The exact function of the carbon monoxide is not yet known. It may take part in the water-gas shift reaction. It could react with water and alkaline salts to form some intermediate compound, possibly an alkali formate, which transfers hydrogen, probably as hydride ion, to the substrate, thus leading to oil formation. Or it could function to remove oxygen from cellulose by formation of carbon dioxide. It probably has other, additional roles. Dehydration of cellulose leads to unsaturated substances that polymerize easily to char. It is known that carbon monoxide often inhibits or prevents such polymerizations. In the presence of carbon monoxide, the extent of decarboxylation (loss of CO_2) is greater and dehydration is less than compared with reaction in the presence of hydrogen.

Water

The original experiments with carbon monoxide on low-rank coal (lignite) were successful without added water, because this coal has a large amount of moisture. However, addition of water was beneficial. It serves as the source of hydrogen which is added to the substrate and as the vehicle (solvent) for the reaction. Cellulose forms water on being heated; and adding water plus carbon monoxide improves the oil yield.

Footnotes at end of article.

However, added water also shifts the water-gas reaction in the direction of more carbon dioxide and hydrogen (more carbon monoxide is consumed); this side reaction may not be desirable.

The critical temperature of water is 375° C; above this temperature all the water is in the gaseous state. There are indications that the presence of liquid water is desirable;[11] this may be accomplished by adding enough water so that some liquid is always present. The temperature must of course be below 375° C. If insufficient water is added, all of it will be in the gas phase, even below 375° C.

In summary, water is the source of hydrogen added to the substrate and serves as a vehicle (solvent) for the reaction.

Catalyst

No catalyst was added in the initial experiment with cellulose, in which ordinary tan paper towels were used; nor was catalyst added in converting low-rank coals to oil with carbon monoxide and water. But it was soon found that both the coals and the paper towels contained alkali salts which functioned as catalysts. The conversion of pure cellulose with carbon monoxide and water is poor (a conversion rate of 63 percent and an oil yield of 15 percent). The conversion rate rises nicely when sodium carbonate is added (conversion rate and oil yield of 90 percent and 40 to 43 percent, respectively).

Vehicle—solvent

A liquid phase is helpful as a vehicle for feeding substrates and for keeping reactive, unsaturated organic intermediates apart so that they do not condense to a char. Water may be the best vehicle, since it dissolves the catalyst and some organic intermediates; it is the least expensive; and in any case, it must be present to some extent. Urban refuse, sewage sludge, and other substrates may contain sufficient water so that no more need be added. However, as detailed later, the use of anthracene oil and other high-boiling organic solvents permits operation at lower pressures.

NATURE OF CONVERSION REACTIONS

Cellulose $(C_6H_{10}O_5)_n$ is found in the cell walls of plants and trees. It consists of long chains of glucose units. Second to cellulose in importance is starch, a widely distributed polysaccharide that is stored in the seeds, roots, and fibers of plants as a food reserve; it too consists of glucose units, but these are linked differently than in cellulose.

Cellulose, starch, and other carbohydrates can undergo a large number of reactions on treatment at elevated temperatures and pressures with carbon monoxide, water, and sodium carbonate or other alkaline salts. Since almost every carbon atom in a carbohydrate is bonded to an hydroxyl group (—OH), some dehydration will take place. Hydrolysis of the polysaccharides to glucose will also occur; glucose and the smaller units formed from it are soluble in water. Hydrolysis of the fats in the refuse to long-chain palmitic and stearic acids will also occur.

Probably the most important overall reaction in converting cellulose to oil is the splitting out of oxygen to form molecules with high hydrogen-to-carbon ratios. Cellulose and other carbohydrates lose water and carbon dioxide just on being heated. Oxygen can also be lost by reaction with the added carbon monoxide to form carbon dioxide, by hydrogenation, by various disproportionation reactions, and by combinations of these reactions. The vast number of reactions should result in an oil made up a complex mixture of different molecules. This is what has been found.

EXPERIMENTAL PROCEDURES

Batch studies were conducted in 0.5-liter and 1-liter stainless steel autoclaves at temperatures of 250° to 400° C.[12] White pine wood chips and newsprint were used as a source of crude cellulose. Dextrose, filter paper, and cellulose were used as a source of pure carbohydrates. Bovine manure was obtained from a local dairy barn.

The feedstock, water, and catalyst were charged to the cold autoclave; carbon monoxide was added to the desired initial pressure; and the autoclave was then heated to the desired temperature. The reaction time reported in the table does not include the heating and cooling periods, only the time at reaction temperature. The heating and cooling periods in the autoclave runs, where significant amounts of reaction may have occurred, are about 1 hour for runs at 250° C, and about 2 hours for runs at 350° C and above.

The reaction product was flushed from the autoclave with solvent, and the oil was exhaustively extracted in a Soxhlet. Benzene was used to extract the product, except for runs made at 250° C, where acetone was used. The oil or bitumen was recovered by stripping off the solvent and then drying at room temperature. In some runs (tables 1 and 4), the product was dried overnight in an oven at 100° C. This treatment resulted in the loss of some volatile product, and the oil yields in these cases are low. The percent conversion is determined by subtracting the percent of insoluble residue remaining after solvent extraction from 100. All calculations are on a moisture- and ash-free basis. The gaseous products were analyzed by mass spectrometry.

Complete conversion of all the carbon in cellulose would give an oil yield of about 57 percent if the average carbon content of the oil is assumed to be 78 percent. Since some carbon would be converted to gaseous products, mostly carbon dioxide, the actual oil yield would be smaller. A conversion of 100 percent means that about half the cellulose is converted to oil; the remaining liquid product is mostly water.

A continuous bench-scale unit for converting waste to oil by carbon monoxide-water treatment has been constructed and recently placed in operation. Figure 1 presents a simplified schematic diagram of the unit, and figure 2 shows the control section on the protective barricade enclosing the unit. The system was designed to operate at maximum conditions of 5,000 psig and 500° C, with feed rates of 100 to 500 g/hr of waste slurry and 10 standard cubic ft per hr (scfh) of carbon monoxide. The combined stream of carbon monoxide and liquid feed was preheated under pressure and injected into the bottom of the heated reactor. The liquid and gas exited from the top of the reactor and separated in the high-pressure recovery system. The liquid collected was intermittently discharged into secondary receivers at atmospheric pressure, while gas was continuously released through a back-pressure regulator.

RESULTS AND DISCUSSION

Effect of temperature

The conversion of carbohydrates to oil has been investigated over the range 250° to 400° C. At 350° to 400° C, cellulosic wastes are readily converted to an oil by combined action of carbon monoxide, water, and catalyst. Within this range, temperature has little effect on conversion and oil yield, probably because the tendency of the product to carbonize at higher temperatures balances out the small amount of additional conversion of organic matter to oil. Temperatures near 400° C may be preferred if synthetic polymers, such as polystyrene and polyolefins, are also present in cellulosic waste in more than trace amounts. These polymers, especially the polyolefins, do not depolymerize significantly below 400° C.

The reaction temperature does have a significant influence on the viscosity and oxygen content of the product. The product obtained from urban refuse at 250° C is a soft, bitumenlike solid at room temperature, but becomes readily pourable as its temperature is raised to near 100° C. On the other hand, the oil formed at 380° C is a free-flowing liquid with a viscosity of 650 cs (centistokes) at 50° C and 102 cs at 88° C.

The transition of the physical state of water at its critical temperature (375° C) may complicate interpretation of results from work in the 350° to 400° C range. A moderate decrease in temperature may sometimes result in more of the reaction mixture existing as a liquid phase, and thus improve product quality. But when much of the reactants are already in the liquid phase, a decrease in temperature can be expected to result in a product of higher viscosity and oxygen content.

A major advantage of low temperature (250° C) in batch tests is that the pressure developed by the steam and gases is usually about 1,500 psig compared with almost 5,000 psig at 400° C. Another is that very little carbon monoxide is consumed by the water-gas shift reaction at 250° C. As the temperature is raised, the liquefaction reaction proceeds well but the water-gas shift reaction begins to consume carbon monoxide, and a major advantage of low-temperature operation starts to disappear.

Table 1 shows some data on the effect of reaction temperature on cellulose conversion. The water-to-cellulose ratio is high, causing water to be present in both liquid and vapor states. The observed pressure varies with temperature, increasing with progress of the reactions.

The analysis of cellulose and its products in table 2 reveals that treatment of cellulose with carbon monoxide and water results more in oxygen removal than in hydrogen addition. The oxygen contents of the oil products and the residues are lower at higher temperatures, indicating that oxygen removal is more effective at higher temperature. The hydrogenation effect will not be apparent from the product analysis, because the starting cellulose contains many hydroxyl groups which contribute to the hydrogen content.

Interestingly, the extent of the water-gas shift reaction at 250° C was reduced to less than 10 percent, and most of the accompanying hydrogen was quite effectively taken up by the cellulose conversion processes.

TABLE 1.—EFFECT OF TEMPERATURE ON CELLULOSE CONVERSION

	Temperature, ° C.		
	250	300	350
Initial pressure of CO [1]...p.s.i..	610	620	595
Operating pressure...p.s.i..	2,000	2,850	4,140
Time at temperature...minutes..	120	120	120
Input, g:			
Cellulose...	40	40	40
Water...	120	120	120
Sodium carbonate...	2	2	2
Carbon monoxide...	37.2	37.8	36.1
Output, g:			
Benzene-extractable...	[2]11.7	8.1	6.4
Residue...	5.2	5.0	4.6
Water [3]...	120	120	120
Gas...	41.2	45.7	45.9
Gas products, mole:			
Carbon dioxide...	.17	.49	.85
Hydrogen...	Trace	.29	.70
Recovery...percent..	89.5	89.5	89.3
Cellulose conversion...do....	87.0	87.5	88.5
Oil yield...do....	30	21	16
Carbon monoxide consumed..mole..	.13	.51	1.03
Shift reaction...percent..	9.8	37.8	79.8

[1] Values are corrected to 25° C.
[2] Acetone used as solvent instead of benzene.
[3] The water contained some oxygenated organic materials derived from the cellulose.

Footnotes at end of article.

TABLE 2.—ANALYSIS OF CELLULOSE AND PRODUCTS[1]

[In percent]

Element	Untreated cellulose	250° C.		300° C.		350° C.	
		Oil	Residue	Oil	Residue	Oil	Residue
Carbon	45.6	72.4	73.9	78.5	76.6	81.2	83.1
Hydrogen	6.9	7.0	5.3	8.0	5.9	8.4	5.3
Nitrogen	0.	.004	.3	.03	.2	.1	.2
Sulfur	.04	.2	.2	.04	.04	.003	.1
Oxygen (by difference)	47.5	20.4	20.3	13.4	17.3	10.3	11.3
H/C atomic ratio	1.81	1.16	.86	1.22	.92	1.24	.76

[1] See table 1 for operating conditions.

Effect of pressure

Batch experiments on converting organic solid wastes to oil usually consist of placing the waste material in an autoclave, adding water and catalyst (if not already present in the waste material), and then adding carbon monoxide to the desired pressure. The initial pressure is thus due essentially to carbon monoxide. In addition to the normal pressure increase of carbon monoxide upon heating, contributions are also made by water vapor and the evolved carbon dioxide and hydrogen. Carbon dioxide forms in two ways: by the water-gas shift reaction and by decomposition of cellulose or other waste material. Most of the hydrogen forms via the water-gas shift reaction.

If the temperature is above 375° C, all the water is in the vapor phase, and the pressure becomes as high as dictated by the quantity of water put into the autoclave. Below 375° C, if liquid water is present at reaction temperature, the vapor pressure of water is regulated by the solution concentration, thus making this pressure somewhat less than the known steam pressure of pure water. If a relatively small amount of water is added initially to the autoclave, all water will be in the vapor phase, and the steam pressure at a given temperature will depend on the volume of the autoclave.

The effects of carbon monoxide pressure and steam pressure were delineated by several experiments. The effect of very low carbon monoxide pressure on cellulose conversion was observed visually as well as by determining oil yield. If insufficient carbon monoxide is present, some oil is made, but much of the cellulose chars and retains the shape and volume of the original material. If adequate carbon monoxide is present, as well as water and catalyst, the cellulose structure collapses and yields more oil. The data in table 3 were obtained with high concentrations of water at 250° C. Under these conditions, liquid water is always present, but very little water-gas shift occurs because of the low temperature. Here the difference in operating pressure at temperature is almost entirely due to carbon monoxide, because the steam pressure is constant. Note in table 3 that oil yield is strongly influenced by the applied carbon monoxide pressure.

TABLE 3.—EFFECT OF CO PRESSURE ON CELLULOSE CONVERSION

[50 g. newsprint, 200 ml. water, 10 g. $NaHCO_3$, 1 hr. at 250° C.]

Initial CO (p.s.i.g.)	Operating pressure (p.s.i.g.)	Oil yield (percent)	Conversion (percent)
0	960	24	78
100	1,150	24	76
200	1,380	32	83
300	1,480	32	82
400	1,500	34	84
500	1,640	35	87
600	1,840	40	90

But a gradual decrease in oil yield and conversion is observed as the initial pressure is decreased below 600 psig. Below 200 psig initial pressure, the yields and conversions drop more sharply. At 100 psig or less, the product contains so much solid that it resembles a friable char coated with oil. At higher pressures, the product resembles a heavy tar or a soft solid.

Effect of water

Some information on the effect of water and resultant steam pressure on cellulose conversion is given in table 4. Here the reaction was run at 350° C, a temperature at which the water-gas shift can be very large (table 1).

TABLE 4.—EFFECT OF WATER TO CELLULOSE RATIO ON CELLULOSE CONVERSION

	Experiment			
	1	2	3	4
Initial pressure of CO[1] (p.s.i.)	585	600	600	585
Operating pressure (p.s.i.)	2,340	2,810	3,360	3,560
Temperature (°C.)	350	350	350	350
Time at temperature	120	120	120	120
Input, g:				
Cellulose	20	20	20	20
Water	20	40	60	80
Sodium carbonate	1	1	1	1
Carbon monoxide	40.6	40.6	39.8	38.0
Output, g:				
Benzene-extractable	2.9	2.6	3.2	4.6
Residue	3.9	3.2	3.7	2.7
Water	18	39	52	75
Gas	49.8	47.0	50.8	47.6
Percent:				
Recovery	91.4	90.4	96.8	93.5
Cellulose conversion	80.5	84.0	81.5	86.5
Shift reaction	18.6	18.6	19.0	39.0
Oil yield	14.5	13.0	16.0	23.0

[1] Values are corrected to 25° C.

The water-to-cellulose ratio was varied from 20:20 to 80:20. The amount of water collected was usually more than 90 percent of the water added. It should be noticed that only in experiment 4 with a water-to-cellulose ratio of 80:20 did water exist both in the liquid and vapor phases in the reactor at 350° C. The calculated amount of water required to give the saturated vapor pressure of 2,390 psi at 350° C in the reactor is 53 grams. Considering the amount of water recovered and that some water would be expended in forming hydrogen and carbon dioxide, it is apparent that only enough water was present to supply the vapor phase during other runs with lower water-to-cellulose ratios. Under these conditions, the pressure of the system reached a plateau as soon as the desired temperature was attained. On the other hand, in experiment 4 the pressure steadily increased during the reaction time owing to the water-gas shift reaction.

Examination of the data in table 4 reveals that variation of the water-to-cellulose ratio had little effect on the results as long as water was present only in the vapor phase. Under these conditions, the conversion of cellulose was 80 to 84 percent, and the products were heavy oil, water, and gases, in yields as shown. The offgas contained carbon monoxide, carbon dioxide, hydrogen, and very small amounts of low-molecular-weight hydrocarbon gases. The extent of the water-gas shift reaction is about 19 percent, when it is assumed to be equivalent to carbon monoxide consumption.

For the run with the high water-to-cellulose ratio (80:20) and with water present in both the liquid and vapor states, cellulose conversion and oil yield seemed to improve slightly. The extent of the water-gas shift reaction also increased to 39 percent, indicating that formation of carbon dioxide and hydrogen also increased.

Generally, formation of carbon dioxide was approximately equimolar to carbon monoxide consumption, but formation of hydrogen, as analyzed in the final gaseous products, was about 32 percent lower than that of the carbon dioxide, which suggests that some hydrogen was taken up in hydrogenating cellulose at 350° C.

In an experiment with a water-to-cellulose ratio of 40:160 under essentially the same conditions, the cellulose conversion was 90 percent and the water-gas shift reaction was as high as 78.1 percent. Here the operating pressure reached 3,900 psi because of increased formation of hydrogen and carbon monoxide. Under these conditions too much carbon monoxide is consumed.

A basic problem is to find reaction conditions that minimize the shift reaction but give high conversions of cellulose to oil. Figure 3 shows the progress of conversion of cellulose with time for a relatively low water-to-cellulose ratio. A feed ratio of water:cellulose:catalyst of 80:40:2 with an initial carbon monoxide pressure of 600 psi was used. The reaction temperature was 350° C, but about 80 minutes was needed to reach this temperature in the autoclave. Nearly 60 percent of the conversion occurred before the system reached 350° C, and the conversion approached a limit of about 78 percent after the reaction was in progress at 350° C for 45 minutes.

The extent of water-gas shift concurrent with the conversion reaction is also shown in figure 3. A steep rise in the extent of the water-gas shift reaction accompanied with increased formation of hydrogen and carbon dioxide was observed in the period between 15 to 45 minutes after the reactor reached 350° C. The inference is that the conversion reaction is faster than the shift reaction. Thus, the preferred operating technique would be to use short reaction residence times with a small sacrifice in cellulose conversion, while gaining a greater reduction in wasteful shift of carbon monoxide to carbon dioxide. Future continuous unit operations should not suffer from long reactant heat-up times, and consequently will permit a better definition of preferred conditions.

Effect of vehicle and solvent

Although equal weights of cellulose and water may be converted to oil in good yields, the presence of additional liquid(s) may improve the process considerably. The major liquid that probably will be used commercially is water. The effect of water on the conversion was discussed above; here, let us examine its other roles in converting organic wastes to oil, as well as the role of various additive liquids.

Water is involved in many ways in this

reaction. First, most substrates contain large amounts of moisture. Second, since most organic wastes are highly oxygenated, water is formed merely by heating them to reaction temperature; so it is a reaction product. Third, water, as formed in the substrate during the reaction, or simply added to the reaction mixture, is a mechanical vehicle for facilitating mixing of reactants and preventing condensations to chars by diluting the reaction intermediates.

Water is also a solvent of sorts. It is true that most substrates are not soluble in water under normal conditions, but solvation can occur between the hydroxyl groups of the substrate and water. It is an excellent medium for intermediate hydrolysis of cellulose and other high-molecular-weight carbohydrates to water-soluble sugars. The primary reactions in the conversion to oil likely involve formation of low-molecular-weight, water-soluble compounds such as glucose or pyruvic acid. In addition, alkaline catalysts are water soluble, thus facilitating their dispersion throughout the reaction vessel in readily available form.

Finally, but importantly, water is a reactant. The hydrogen added to the substrate comes from water, which consumes carbon monoxide by reacting with it to form carbon dioxide and hydrogen.

Nevertheless, there are reasons for trying to replace part of the water with other vehicles or solvents. An excess of water accentuates removal of carbon monoxide. Also the vapor pressure of water is high as operating conditions approach the critical temperature of 375° C. Steam pressures become excessive at higher temperatures, depending on the quantity of water present.

At temperatures above 350° C, only a few solvents meet the requirements of stability, low vapor pressure, solvent action, and low-to-moderate cost. One of these solvents is anthracene oil, a byproduct of coal-tar refining. Other excellent solvents are high-boiling heterocyclic bases such as isoquinoline and alkylpyridines. These latter compounds are not only excellent solvents of high stability, but also powerful catalysts for reactions leading to cellulose liquefaction. High conversions can be obtained by using smaller amounts of isoquinoline than of anthracene oil. Because of their cost, however, it will be necessary to recover the heterocyclic bases for recycling.

The effectiveness of anthracene oil and isoquinoline in liquefying white pine wood chips at 380° C is shown in table 5. When either anthracene oil or isoquinoline replaced part of the water, the operating pressure was considerably lowered.

TABLE 5.—EFFECT OF SOLVENT ON OPERATING PRESSURE AND CELLULOSE CONVERSION

[40 g. soft pine, 1,200 p.s.i.g. initial CO pressure, 380° C.]

Solvent (ml.)						
Water (ml.)	Anthracene oil	Isoquinoline	Time (min.)	Operating pressure (p.s i.g.)	Conversion (percent)	Oil yield (percent)
40			15	5,850	73.0	22
20	40		15	4,300	95.0	51
20	40		120	4,300	96.5	53
20		5	15	4,200	98.0	57

Catalysts

Water-soluble alkaline compounds, such as sodium carbonate, are effective catalysts (table 6); conversion of over 90 percent and oil yields of 45 to 50 percent are attainable with these catalysts. Generally, hydroxides, carbonates, bicarbonates, and formates of the alkali metal and alkaline earth groups are effective catalysts. At process conditions, these materials probably exist as a mixture of carbonates, bicarbonates, and formates as they undergo conversion from one form to the other.

The data in table 6 show that the alkali carbonates are more effective catalysts than stannous chloride or ferrous sulfate, which are acidic catalysts often used to hydrogenate coal. The ammonium cation (NH_4^+) is similar chemically to the alkali metal cations, and it is no surprise that ammonium hydroxide also gave high conversions of cellulose; but the oil formed in the presence of NH_4OH had a high nitrogen content, and this is a disadvantage.

TABLE 6.—EFFECT OF VARIOUS CATALYSTS ON CELLULOSE CONVERSION

[20 g. filter paper, 40 ml. water, 1,500 p.s.i.g. initial CO pressure,* 350° C.]

Catalyst	Weight (gram)	Time (minutes)	Conversion (percent)
		120	63
$FeSO_4$	1.0	120	69
K_2CO_3	.2	120	80
Na_2CO_3	.2	15	78
Na_2CO_3	.2	120	81
Na_2CO_3	1.0	120	96
†NH_4OH	1.0	120	73
†NH_4OH	10.0	120	96
$SnCl_2$	1.0	120	77

*Operating pressure about 4,800 p.s.i.g.
†A 30-percent aqueous solution of NH_3.

The alkaline salts may serve several purposes:

1. In the presence of carbon monoxide, they are converted to formates which are reducing agents and transfer hydrogen to the oxygenated or unsaturated compounds, and then are regenerated in situ. In other words they serve as homogenous catalysts for converting solid wastes to oil.

2. Alkali carbonates are catalysts for the water-gas shift reaction.

3. Alkaline materials are catalysts for many known organic rearrangements and disproportionations that yield materials containing less oxygen than the original carbohydrates.

4. Alkaline salts may neutralize organic acids formed in the system. Without neutralization, these acids could promote charring.

Much more work is required before the mechanism of catalytic action by alkali salts is clear. But the postulation that formates are intermediates is consistent with these facts.

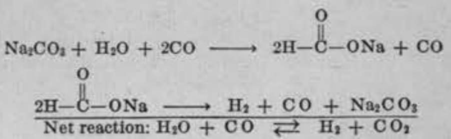
1. Formates have been identified in the aqueous solution obtained from cellulose treatment.

2. Formates are intermediates in water-gas shift reactions catalyzed by a number of salts.

3. Formates may be synthesized in good yield by treating alkali carbonates with carbon monoxide and water under conditions of the waste conversion reaction.

4. Cellulose can be converted to oil in the absence of carbon monoxide, by heating with large amounts of sodium formate and water.

The hydrogen atom in the alkali formate (HCOONa) is probably transferred to the substrate during the conversion to oil. The water-gas shift reaction in the presence of alkali carbonates probably proceeds via formation and decomposition of the alkali formates:



$$Na_2CO_3 + H_2O + 2CO \longrightarrow 2H-\overset{\overset{\displaystyle O}{\|}}{C}-ONa + CO$$

$$\underline{2H-\overset{\overset{\displaystyle O}{\|}}{C}-ONa \longrightarrow H_2 + CO + Na_2CO_3}$$

$$\text{Net reaction: } H_2O + CO \rightleftarrows H_2 + CO_2$$

Catalysts for converting cellulose to oil are more effective at low temperatures (250° C) than at higher temperatures.[13] Aqueous solutions of 2 to 5 percent sodium carbonate or bicarbonate brought about good conversions of cellulose to bitumen at 250° C. Because of the large quantities of catalyst solution used in operating at this temperature, the solution would be recycled.

Table 7 shows the results of eight successive autoclave runs on newsprint with recycling of the aqueous phase containing the catalyst. The oil yield on the first run is usually low because part of the cellulose hydrolysis products remains in the aqueous solution. Thereafter, an equilibrium concentration of soluble carbohydrates and carbohydrate derivatives is reached so that, in effect, all the hydrolyzed cellulose appears converted to bitumen, water, and carbon dioxide. After a few cycles, there was a decrease in conversion. However, the conversion could be returned to the 90-percent level by increasing the reaction time. Reduction of the carbon monoxide pressure, however, caused a considerable drop in conversion.

TABLE 7.—EFFECT OF RECYCLE CATALYST SOLUTION ON CELLULOSE CONVERSION

[250° C., 50 g. newsprint, 10 g. $NaHCO_3$, 200 ml. of recycle solution]

Run	Initial CO pressure (p.s.i.g.)	Time (minutes)	Oil yield (percent)	Conversion (percent)
*1	800	15	40	91
†2	700	15	54	92
3	700	15	43	82
4	700	15	44	88
5	700	15	46	84
6	700	60	53	91
7	400	60	41	78
8	400	60	40	78

*200 ml. water added.
†50 g. newsprint added in this and each succeeding run.

Although originally alkaline, the pH of the recycle aqueous phase drops to about 5 during use, probably because small amounts of soluble organic acids form. The gradual decrease in conversion rate with reuse of catalyst solution suggests that acidic compounds are accumulating and that eventually regeneration of the solution may be necessary. Regeneration should be possible by heating the solution to the temperature at which the acidic compounds are destroyed.

The most effective catalysts, however, for converting cellulosic materials to oil at 350° C are high-boiling heterocyclic nitrogen bases, such as isoquinoline, discussed in the section on vehicles. These dual-role catalyst-vehicles or solvents are particularly effective in promoting the efficiency of hydrogen utilization at high temperatures (table 8). Hydrogen utilization correlates well with conversion of carbohydrates to oil, and is a measure of catalyst effectiveness. Hydrogen utilization is defined arbitrarily as the hydrogen added to the cellulose divided by the hydrogen released. The hydrogen released is obtained from equivalency to the carbon dioxide content of the final gas. This figure is only an estimate because some carbon dioxide is liberated by the cellulose and some carbon dioxide is dissolved in the water in the system.

Footnotes at end of article.

TABLE 8.—EFFICIENCY OF HYDROGEN UTILIZATION

[40 g. soft pine, 1,200 p.s.i.g. initial CO pressure, 380° C. for 15 min.]

Catalyst	Water (milliliter)	Conversion (percent)	Final gas composition (volume, percent)			Hydrogen utilization (percent)
			H_2	CO	CO_2	
None	40	73	18.0	47	33	45
Isoquinoline, 5 g	20	98	6.8	49	41	83

The soft pine used in the experiments of tables 5 and 8 contained some naturally occurring catalysts; addition of a few percent of sodium carbonate or potassium carbonate would increase conversion to about 90 percent, but would not increase hydrogen utilization. Isoquinoline usually effects carbohydrate conversions greater than 95 percent, and hydrogen utilization normally greater than 80 percent (table 8).

It is interesting to speculate on the reasons for the high effectiveness of nitrogen bases as catalysts. Like ammonia, they can form salts, such as isoquinoline formate, which may give up its formate hydrogen to the substrate more easily than the alkali formates. On the other hand, the alkali metal formates, having limited solubility in the organic phase, may decompose before they can denote all their hydrogen to cellulose fragments.

There is another intriguing possibility. Nitrogen bases have low reduction potentials and are excellent hydrogen transfer agents. Perhaps hydrogen adds to isoquinoline and the resulting hydroaromatic compound then donates this added hydrogen to the cellulose. The effectiveness of anthracene oil as a solvent may be due to its content of many heterocyclic nitrogen compounds.

Effect of substrate

Water-soluble carbohydrates and carbohydrates that readily hydrolyze to water-soluble compounds (at mildly alkaline conditions) can be converted to a bitumen at 250° C.[14] Materials which have been converted to bitumen at 250°C. include glucose, lactose, sucrose, corn stalks, newsprint, pine needles and twigs, and sewage sludge. Cellulose in some freshly cut trees and cellulose materials with large amounts of lignin resist attack at 250° C., but they do react at higher temperatures.

Animal waste, once an essential fertilizer for successful farming, now creates a formidable disposal problem. The underlying reasons are two: expanded use of chemical fertilizers, estimated at more than 30 billion pounds in 1970; and the concentration of animal population (cattle, swine, and poultry) which produces annually some 2 billion tons of wastes.[15] Soils near concentrated animal populations receive heavy doses of manure, which through drainage contribute pollutants to surface waters. Transporting animal wastes long distances to where they could be used is not economical.

Bovine manure (a major animal waste) appears to be mostly cellulosic, yet the material is somewhat more resistant to conversion than cellulose itself; resistant lignins may be present. Bovine manure is not readily converted to oil at 250° C., but treatment with carbon monoxide and steam at 380° C. and high pressure results in high conversions of bovine manure to oil. Because of the calcium, sodium, and potassium content of the manure, the addition of catalysts is not necessary. Compositions of bovine manure and product oil are shown in table 9.

TABLE 9.—COMPOSITION OF BOVINE WASTES AND PRODUCT OIL

100 g manure, 40 g water, 1,200 psig initial CO pressure, 6,000 psig operating pressure, 20 min at 380° C]

Constituent	Composition of manure, percent		Composition of oil[1] percent
	As used	Dry, ash-free basis	
Carbon	20.5	52.2	78.6
Hydrogen	2.5	6.4	9.5
Nitrogen	1.3	3.3	4.2
Sulfur	.5	1.2	.37
Oxygen	14.5	36.9	7.3
Ash	15.1		
Water	45.5		

[1] Conversion 99 percent, oil yield 47 percent.

CONTINUOUS UNIT INVESTIGATIONS

To date, preliminary continuous experiments have been conducted with solutions of sucrose, a typical carbohydrate, to avoid initially the mechanical problems encountered in pumping solids or slurries at high pressure. The experimental approach will be extended to study conversion of starch and micronized cellulose (paper) to oil to provide background data on these typical materials found in waste. Concurrently a special slurry feed pump is being tested for high-pressure operations; when proven dependable, it will be added to the continuous unit to feed slurried refuse after the preliminary study of typical ingredients is completed.

Experiments in the continuous bench-scale unit have been made at 350° and 380° C, and significant oil yields were obtained. Operability and oil production have been demonstrated at total pressures (carbon monoxide and steam) of 4,000, 3,000, and 2,000 psig. Sucrose feed concentrations were 33 and 50 percent. Sodium carbonate, added as catalyst, ranged from about 1.5 to 5 percent of the solution.

Table 10 lists the conditions and results for a preliminary continuous run. The oil yield is fairly good, considering that 50 percent is the theoretical maximum for sucrose. Products from other runs are now being processed and analyzed. Reactor modifications to improve both carbon monoxide retention in the reactor and the gas-liquid contact area will be tested to accelerate the reaction of carbon monoxide with organic materials. This would improve oil yield per reactor volume, an important plant design consideration.

TABLE 10.—CONTINUOUS UNIT OPERATING CONDITIONS

Test conditions:		
Feed composition:		
H_2O	percent	64
Sucrose	do	31.5
Na_2CO_3	do	4.5
Feed density	g/ml	1.15
Temperature	°C	350
Pressure (H_2O+CO)	psig	4,000
Liquid feed rate	ml/hr	90
Gas feed rate	scf/hr	2.0
Residence time	hr	1.0
Duration	hr	7
Gross run results:		
Oil collected	g	75
Oil yield from sucrose	percent	33

The product from the continuous runs is generally a brownish-black oil at room temperature. Even though its density is only slightly less than that of the water layer, the oil is separated by centrifugation at room temperature. The oil produced at 350° C had an elemental composition of 75.2 percent C, 9.1 percent H, and 15.7 percent O (by difference); its heating value is 15,200 Btu per pound. The oil produced at 380° C contained 77.7 percent C, 9.4 percent H, and 12.9 percent O.

Mass, infrared, and ultraviolet spectrometric examination of the oil produced at 350° C and 4,000 psig indicated that the oil is almost entirely aliphatic with either linkages and carbonyl and hydoxyl groups present. Much of the material appeared to exist in cyclic structures. Nuclear magnetic resonance examination showed that most of the hydrogens in the product were in methylene or methyl groups; a large proportion of these groups were alpha or beta to a carbonyl group or to an unsaturated carbon atom. About 4 percent of the hydrogen was "unsaturated" hydrogen—probably on olefinic (rather than aromatic) carbon atoms; another 3 percent of the hydrogen occurred in the form of $-OH$ groups. There was no indication of aldehydic hydrogen ($-\overset{H}{C}=O$).

The results of a simulated distillation by gas-liquid chromatography are as follows:

Percent distilled—distillate weight/original weight	*Temperature ° C*
0.5	[1] 42
5.0	85
10.0	133
20.0	188
30.0	236
40.0	281
50.0	327
60.0	384
70.0	488

[1] Initial bp.

CONCLUSIONS

A significant part of the energy demand of the Nation can be obtained on a renewable basis by converting nearly every kind of organic solid waste to a low-sulfur oil by treatment under pressure with carbon monoxide and water. Methods for lowering carbon monoxide consumption and for operating at lower pressures have been found; these offer the potential of low processing-costs for converting cellulosic wastes to oil. While the effects of temperature, pressure, and water on this process have been explored, more work is required to find optimum conditions for the conversion. A continuous unit has operated successfully, and preliminary results have been obtained on the conversion of sucrose to oil.

FOOTNOTES

[1] Research chemist.

[2] Supervisory chemical research engineer.

[3] Project coordinator.

[4] Knapp, E. C. Agricultural Poses Wastes Problems. Environ. Sci. and Technol., v. 4, December 1970, pp. 1098–1100.

[5] Vaughn, R. D. Solid Waste Management—Everybody's Problem. Environ. Sci. and Technol., v. 5, April 1971, p. 293.

[6] Work cited in footnote 5.

[7] Appell, H. R., I. Wender, and R. D. Miller. Conversion of Urban Refuse to Oil. BuMines Tech. Prog. Rept. 25, 1970, 5 pp.

[8] Appell, H. R., I. Wender, and R. D. Miller. Solubilization of Low Rank Coal With Carbon Monoxide and Water. Chem. and Ind. (London), Nov. 22, 1969, p. 1703.

[9] Work cited in footnote 7.

[10] Work cited in footnote 7.

[11] Work cited in footnote 7.

[12] Work cited in footnote 7.

[13] Work cited in footnote 7.

[14] Work cited in footnote 7.

[15] Work cited in footnote 4.

ORDER FOR RECOGNITION OF SENATORS BYRD OF VIRGINIA, MAGNUSON, AND BYRD OF WEST VIRGINIA, AND ORDER PROVIDING FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that following the remarks by the Senator from Arkansas (Mr. McCLELLAN) tomorrow, the distinguished senior Senator from Virginia (Mr. BYRD) be recognized for not to exceed 15 minutes, that he be followed by the distinguished senior Senator from Washington (Mr. MAGNUSON) for not to exceed 15 minutes, and that he be followed by the junior Senator from West Virginia (Mr. BYRD), for not to exceed 15 minutes, following which there be a period for the transaction of routine morning business, with statements therein limited to 3 minutes, the period for routine morning business not to extend beyond 10:30 a.m.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

RELIEF OF WILLIAM D. PENDER

Mr. BYRD of West Virginia. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 248.

The PRESIDING OFFICER (Mr. HOLLINGS) laid before the Senate the amendment of the House of Representatives to the bill (S. 248) for the relief of William D. Pender which was to strike out all after the enacting clause, and insert:

> That the Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to William D. Pender, an employee of the Department of the Army, the sum of $3,602.69, in full satisfaction of all claims of the said William D. Pender against the United States for compensation for the loss of household goods and personal effects which he had to abandon in Fairbanks, Alaska, after he was incorrectly informed by the Department of the Army personnel that such goods and effects could not be stored or shipped at Government expense incident to his transfer from Fort Greely, Alaska, to Fort Belvoir, Virginia, and which could not otherwise be disposed of by said William D. Pender because of prohibitively high commercial storage rates and the shortage of time between the issuance of transfer orders and the reporting date at his new duty station: *Provided,* That no part of the amount appropriated in the Act shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000.

Mr. BYRD of West Virginia. Mr. President, I move that the Senate concur in the amendment of the House of Representatives.

The motion was agreed to.

RELIEF OF CERTAIN INDIVIDUALS

Mr. BYRD of West Virginia. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 113.

The PRESIDING OFFICER (Mr. HOLLINGS) laid before the Senate the amendment of the House of Representatives to the bill (S. 113) for the relief of certain individuals and organizations which were, on page 2, line 3, after "Dakota," inserts "and Mildred C. Payne".

On page 2, line 4, strike out "$256.89," and insert "$267.97,".

On page 2, line 7, strike out "June 27, 1969" and insert "July 29, 1969".

Mr. BYRD of West Virginia. Mr. President, I move that the Senate concur in the amendment of the House of Representatives.

The motion was agreed to.

PERSONAL STATEMENT

Mr. BYRD of Virginia, Mr. President, will the Senator yield?

Mr. BYRD of West Virginia. I yield.

Mr. BYRD of Virginia. Mr. President, at 10:30 this morning, the Senate voted on a conference report. The Senator from Virginia was out of the city, arriving back a few minutes late, and as a result was not able to cast his vote on that conference report.

I ask unanimous consent that the record show that had the Senator from Virginia been present, he would have voted "aye."

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

THE OUTLOOK FOR SINE DIE ADJOURNMENT

Mr. BYRD of West Virginia. Mr. President, when will sine die adjournment occur? The answer to that question depends on final action on the following:

Conference report on defense appropriations. The House acts first.

Conference report on D.C. appropriations. The House acts first.

Foreign aid?

Continuing resolution on foreign aid? In any event, the House acts first.

The conference report on phase II economic proposal. The conference has not yet been held, but Senate conferees are ready to meet when House conferees are ready.

The foregoing items constitute the key to sine die adjournment, and the Senate stands ready and awaits the actions of the other body.

Further conference reports which may or may not be acted upon before adjournment—and which can, if necessary, be carried over to the first part of next year—are as follows: Federal credit unions, ocean dumping, election reform, social security amendments, interest rates on insured mortgages, lump sum death payment.

PROGRAM

Mr. BYRD of West Virginia. Mr. President, there will be no more votes tonight. The Senate will convene tomorrow at 9 o'clock. After recognition of the two leaders, and the expiration of the various 15-minute orders which have been entered, there will be a period for the transaction of routine morning business with the usual 3-minute limitation on speeches. At 10:30 a.m., there will be three separate but consecutive rollcall votes on the following:

Executive M, the agreement concerning international classification of goods and services;

Executive I, Locarno agreement establishing classification of industrial designs; and

Executive K, protocol relating to international civil aviation.

Following those three back-to-back rollcall votes, the first of which will occur at 10:30 a.m., there could be additional rollcall votes on conference reports, and so forth, though I know of none at the moment.

ADJOURNMENT TO 9 A.M. TOMORROW

Mr. BYRD of West Virginia. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 9 a.m. tomorrow.

The motion was agreed to; and (at 7 o'clock and 51 minutes p.m.) the Senate adjourned until tomorrow, Saturday, December 11, 1971, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate December 10, 1971:

U.S. DISTRICT COURTS

Bruce M. Van Sickle, of North Dakota, to be U.S. district judge for the district of North Dakota, vice George S. Register, retiring.

IN THE ARMY

The following-named officers for promotion in the Regular Army of the United States, under the provisions of title 10, United States Code, sections 3284 and 3305:

MEDICAL CORPS

To be colonel

Hanson, Chester A., xxx-xx-xxxx.

The following-named officers for promotion in the Regular Army of the United States, under the provisions of title 10, United States Code, sections 3284 and 3299:

Army Promotion List

To be lieutenant colonel

Anderson, William A., xxx-xx-xxxx.

Army Promotion List

To be major

Bland, Andrew R., Jr., xxx-xx-xxxx.
Brylla, Charles W., xxx-xx-xxxx.
Burr, Jacky A., xxx-xx-xxxx.
Crowle, James L., xxx-xx-xxxx.
Dahl, Hans E., xxx-xx-xxxx.
Davis, Marion L., xxx-xx-xxxx.
Edes, Richard H., xxx-xx-xxxx.
Gray, Thomas A., xxx-xx-xxxx.
Knippa, Leroy E., xxx-xx-xxxx.
McCarthy, Robert A., xxx-xx-xxxx.
Neilson, Russell W., xxx-xx-xxxx.
Paladino, Vito W., xxx-xx-xxxx.
Sammt, Carl J., xxx-xx-xxxx.
Vice, John R., xxx-xx-xxxx.
Webster, Howard E., Jr., xxx-xx-xxxx.

Army Promotion List

To be captain

Adams, Nolan J., xxx-xx-xxxx.
Baker, Robert J., xxx-xx-xxxx.
Beaton, Edward A., xxx-xx-xxxx.
Behler, Gene R., xxx-xx-xxxx.
Boegler, Kenneth G., xxx-xx-xxxx.
Briggs, James B., xxx-xx-xxxx.
Brown, Robert C., xxx-xx-xxxx.

Campbell, Donald J., [redacted].
Carr, Byron H., [redacted].
Coats, Landis R., [redacted].
Cook, Billie R., [redacted].
Coonradt, Leo J., [redacted].
Crown, Francis J., Jr. [redacted].
Culbert, Harry J. [redacted].
Dimsdale, Roger, [redacted].
Gettig, Charles E., [redacted].
Greer, Harold E., Jr., [redacted].
Hamilton, Jack L., [redacted].
Hartfield, Robert S., [redacted].
Hartsell, Carroll F., [redacted].
Hergen, James G., [redacted].
Herring, Charles D., [redacted].
Herrington, James W. [redacted].
Kelsey, Arthur W., [redacted].
Kirchner, John E. [redacted].
Knight, David B., [redacted].
Loeffler, Frank E., [redacted].
Metzer, Robert M., [redacted].
Morgan, Emmett K., II, [redacted].
O'Brien, Dennis E., [redacted].
Pflaster, Darrell J., [redacted].
Pozniak, Edward J., [redacted].
Richardson, Troy E., [redacted].
Rawlinson, Jerry D., [redacted].
Riddell, John M., [redacted].
Riley, Harry G., [redacted].
Rittenhouse, David [redacted].
Robinson, Glen E., [redacted].
Roix, Robert J., [redacted].
Rosenberg, Raymond, [redacted].
Ross, Thomas P., [redacted].
Salter, Avery T., Jr., [redacted].
Shiver, Eustice M., [redacted].
Slover, Harold L., [redacted].
Smith, Wendell I., [redacted].
Smoot, Charles V., [redacted].
Stetson, Mark R., [redacted].
Thomas, Robert E., Jr. [redacted].
Wade, Thomas G., [redacted].
Webb, Thomas J., [redacted].

MEDICAL CORPS

To be captain

Howell, Frederick L., [redacted].
Limmer, Bobby L., [redacted].

VETERINARY CORPS

To be captain

Cirone, Salvatore M., [redacted].

MEDICAL SERVICE CORPS

To be captain

Platte, Ronald J. [redacted].
Porter, Steven J. [redacted].
Sullivan, John E., Jr. [redacted].

ARMY NURSE CORPS

To be captain

Kanusky, Joseph T., [redacted].
Miles, Ann L., [redacted].

The following-named officers for promotion in the Regular Army of the United States, under the provisions of title 10, United States Code, sections 3284 and 3298:

ARMY PROMOTION LIST

To be first lieutenant

Acock, John H., Jr., [redacted].
Adams, Samuel B., [redacted].
Aldridge, Marion J., [redacted].
Allen, Clay W., III, [redacted].
Anders, Howard G., [redacted].
Arias, Louis A., [redacted].
Armour, Wayne T., [redacted].
Armstrong, Eugene G., [redacted].
Autz, Remy E., [redacted].
Baldenweck, Thomas, [redacted].
Ball, Larry E., [redacted].
Bancroft, Ronald K., [redacted].
Banzhoff, Ernest L., [redacted].
Barcellos, Terrance D., [redacted].
Barefield, Robert L., [redacted].
Barth, James M., [redacted].
Baskin, Jerry S., [redacted].
Baur, Richard, [redacted].
Becker, Lawrence J., [redacted].
Becker, Richard H., [redacted].
Bennett, Harry S., [redacted].
Berry, Phillip C., [redacted].
Biliter, Patrick E., [redacted].
Bischoff, John M., [redacted].
Boatwright, Leroy, [redacted].
Bongiorni, Dominic, [redacted].
Booton, Paul M., Jr., [redacted].
Bourne, Garrett D., [redacted].
Bradley, David R., [redacted].
Brethorst, William, [redacted].
Bria, Carmen J., [redacted].
Brock, Robert W., [redacted].
Brooks, Charles R., [redacted].
Brooks, Donald P., [redacted].
Brooks, Mack M., [redacted].
Browder, Dewey A., [redacted].
Brown, Henry E., Jr., [redacted].
Brown, Richard M., [redacted].
Brown, Roger F., [redacted].
Bryant, Scott A., [redacted].
Bulloch, Bobby J., [redacted].
Bullock, William F., [redacted].
Caggiano, Arthur W., [redacted].
Callen, Paul J., [redacted].
Calocci, Thomas F., [redacted].
Campbell, Francis J., [redacted].
Campiglia, Michael, [redacted].
Carbone, Joseph D., [redacted].
Carey, Stephen W., [redacted].
Carfagna, Don R., [redacted].
Carpenter, William, [redacted].
Casey, James T., [redacted].
Cecere, Robert A., [redacted].
Chambers, William W., [redacted].
Chapin, Steven W., [redacted].
Charlton, Donald G., [redacted].
Chase, Michael S., [redacted].
Childers, William M., [redacted].
Chubb, James M., [redacted].
Ciccolella, Charles, [redacted].
Ciccolella, Richard, [redacted].
Clark, Jerry S., [redacted].
Coleman, John R., [redacted].
Collins, William P., [redacted].
Collinsworth, Tim A., [redacted].
Connor, Michael D., [redacted].
Cooch, Robert L., Jr., [redacted].
Cook, Craig A., [redacted].
Cording, Lewis C., [redacted].
Corrigan, Michael L., [redacted].
Cosumano, Joseph M., [redacted].
Cottrell, Walter T., [redacted].
Craft, Troy L., Jr., [redacted].
Craig, David B., [redacted].
Crenshaw, Robert S., [redacted].
Crites, Harold F., [redacted].
Crosby, Lamar C., [redacted].
Cross, James B., [redacted].
Cruikshank, Kenneth A. [redacted].
Culhane, Kevin V., [redacted].
Daniels, Richard S., [redacted].
Dasher, Steven A., [redacted].
Dauphinee, Donald D., [redacted].
Davis, Mark W., [redacted].
Davis, Ralph J., [redacted].
Deacon, Carrell V., [redacted].
Deck, William R., [redacted].
Deming, Dennis C., [redacted].
Denler, Douglas P., [redacted].
Dickens, Ralph K., Jr., [redacted].
Dietz, Thomas A., [redacted].
Dirlam, Richard R., [redacted].
Dorazio, Gene S., [redacted].
Doremus, Darrell D., [redacted].
Duane, Daniel J., [redacted].
Dunn, Michael W., [redacted].
Duval, William G., [redacted].
Duvall, Julius D., [redacted].
Early, Michael J., [redacted].
Ebert, Roger L., [redacted].
Eggers, John L., [redacted].
Elston, Kenneth D. [redacted].
Erickson, Kenneth L. [redacted].
Erickson, Marlin D., [redacted].
Erion, John H., [redacted].
Evenson, Michael K., [redacted].
Evirs, Robert G., [redacted].
Ezell, James J., [redacted].
Fagan, James D., Jr., [redacted].
Fellinger, Paul W., [redacted].
Ferguson, William G., [redacted].
Fisher, J. B., Jr., [redacted].
Flagg, Albert C., Jr., [redacted].
Foote, Robert D., [redacted].
Foreman, James E., [redacted].
Fritz, Paul H., [redacted].
Galloway, James E., [redacted].
Gandara, Guillermo, [redacted].
Garlock, Warren D., [redacted].
Garoutte, Michael D., [redacted].
Geis, Craig E., [redacted].
Gibbs, Allen D., [redacted].
Gibbs, Charles, [redacted].
Gidej, Jaroslaw, [redacted].
Giger, John R., [redacted].
Glendon, John W., [redacted].
Gober, Donald F., [redacted].
Goff, Forrest W., [redacted].
Gogola, Gordon S., [redacted].
Goldberg, Lewis J., [redacted].
Goldsmith, Robert M., [redacted].
Gramlich, Andrew F., [redacted].
Gray, Louis G., [redacted].
Green, Bernard W., [redacted].
Greer, Dan B., Jr., [redacted].
Grevert, Donald C., [redacted].
Griffin, Derek L., [redacted].
Griffin, Steven R., [redacted].
Gustafson, Karl J. [redacted].
Gustin, Jerry J. [redacted].
Gustine, James E. [redacted].
Hanretta, Kevia T. [redacted].
Hardegree, Jimmy V., [redacted].
Hardin, Steven L., [redacted].
Harker, William L., [redacted].
Harnagel, Harold W., [redacted].
Harness, George W., [redacted].
Harold, Philip A., [redacted].
Harris, Danny E., [redacted].
Harris, James W., [redacted].
Harrison, David G., [redacted].
Hawk, Michael E., [redacted].
Hawley, Richard F., [redacted].
Hayden, Nolen M., [redacted].
Hayes, Michael W., [redacted].
Hesson, Philip A., [redacted].
Hesters, Allan E., [redacted].
Hier, James A., [redacted].
Hildebrand, William, [redacted].
Hill, William T., [redacted].
Hilton, Corandrum I. [redacted].
Hinkle, Lawrence G., [redacted].
Hinson, Robert L., Jr., [redacted].
Hirschman, Norman J. [redacted].
Hitchcock, Barry W., [redacted].
Hixon, Harry W., Jr., [redacted].
Hoffmeister, Robert, [redacted].
Hogan, Lawrence G., [redacted].
Holloway, Perry B., [redacted].
Hopkins, Johnny L., [redacted].
Hopson, Lloyd D., [redacted].
Horner, Charles T., [redacted].
Huff, Robert L., [redacted].
Huffman, Walter B., [redacted].
Huie, Clifford R., [redacted].
Humphries, John M. [redacted].
Hunter, Cardell S., [redacted].
Huseman, Dana F., [redacted].
Hutchings, Charles, [redacted].
Hyatt, Scott W., [redacted].
Iaconis, Christopher [redacted].
Jackson, Dennis K., [redacted].
Jacobs, Kendall E., [redacted].
Jacobs, Randall, III [redacted].
Jacqmein, William M., [redacted].
Jallo, Michael E., [redacted].
Jarvis, James A., Jr., [redacted].
Jessup, Eric P., [redacted].
Johnston, Allan G., Jr. [redacted].
Jones, Lewis S., [redacted].
Jones, Rudolph M., Jr. [redacted].
Jones, Ulysses S., [redacted].
Jones, William W., [redacted].
Kagler, Allen T., [redacted].
Keating, Wililam J., [redacted].
Keller, William P., [redacted].
Kelly, Lester A., [redacted].
Kennedy, Harvey M., [redacted].
Kernan, William F., [redacted].
Kevorkian, Harold H., [redacted].
Kietzman, Howard W., [redacted].
Killian, Michael J., [redacted].
King, Marc A., [redacted].
Kirby, Robert F., [redacted].
Kirkpatrick, William M., [redacted].

Knauer, Richard J., [redacted]
Koleszar, Thomas R., [redacted]
Koren, Philip F., [redacted]
Kovalchick, Richard, [redacted]
Kraft, Kenneth M., Jr. [redacted]
Krause, Gerald A., [redacted]
Kresge, Louis A., [redacted]
Kuhn, David L., [redacted]
Kyser, Perry L., [redacted]
LaComb, Augustus J., [redacted]
Lawrence, James W., [redacted]
Lenze, Paul E., [redacted]
Levaas, Larry N., [redacted]
Liddell, Robert J., [redacted]
Lifteau, James N., [redacted]
Lindley, Richard B., [redacted]
Lingle, William R., [redacted]
Link, James M., [redacted]
Linn, Charles M., [redacted]
Lopresti, Thomas T., [redacted]
Love, Geoffrey T., [redacted]
Luczynski, Thomas P., [redacted]
Luker, Thomas M., [redacted]
Lunghofer, Terence, [redacted]
Lynch, Francis J., [redacted]
Lynd, Patrick A., [redacted]
MacCary, Robert F., [redacted]
MacCuish, Donald A., [redacted]
Mackey, John G., [redacted]
Mackler, Leonard, [redacted]
Maggiacomo, Peter J., [redacted]
Mahoney, Larry G., [redacted]
Maldonado, Leonard, [redacted]
Maloney, Peter R., [redacted]
Maloney, William J., [redacted]
Maris, Harold B., [redacted]
Marlar, Gary J., [redacted]
Martin, John A., [redacted]
Matsuno, Richard T., [redacted]
Mayo, Francis L., Jr., [redacted]
McAninch, William, [redacted]
McAuliffe, John F., [redacted]
McCabe, Laurence W., [redacted]
McCann, Robert C., [redacted]
McClanahan, Carl E., [redacted]
McClelland, Robert, [redacted]
McCormack, Thomas, [redacted]
McDade, John H., Jr., [redacted]
McFarlin, Michael, [redacted]
McGraw, Dennis F., [redacted]
McKelvey, William, [redacted]
McKenna, Milton F., [redacted]
McNeill, Dan K., [redacted]
Medina, Refugio O., [redacted]
Meeker, John R., [redacted]
Meeks, William M., II, [redacted]
Meinerth, Barry R., [redacted]
Melsek, Rodney D., [redacted]
Meriweather, Thomas, [redacted]
Merkel, John, Jr., [redacted]
Meyers, William F., [redacted]
Miles, Bernard L., II, [redacted]
Millar, William K., [redacted]
Miller, Cassius O., [redacted]
Miller, George Z., [redacted]
Minney, Elton D., [redacted]
Miskimon, Gary E., [redacted]
Moberg, Harley, [redacted]
Monk, John T., [redacted]
Morton, Kenneth B., [redacted]
Moscatelli, Edward J., [redacted]
Mullendorf, James M., [redacted]
Mumby, Roger L., [redacted]
Mumma, John H., [redacted]
Musick, Karl D., [redacted]
Myers, Robert G., [redacted]
Naaktgeboren, Martin, [redacted]
Nickel, William C., [redacted]
Norman, John F., [redacted]
Nuttall, Leonard W., [redacted]
Oenning, Lester C., [redacted]
O'Harra, Michael B., [redacted]
Osmundsen, John R., [redacted]
Pacotti, James E., Jr., [redacted]
Palmer, Richard L., [redacted]
Palmer, Robert L., [redacted]
Palumbo, Lewis A., [redacted]
Parker, James O., III [redacted]
Parrish, Maurice B., [redacted]
Parrott, George E., [redacted]
Parrott, Leon F., [redacted]
Patton, Robert S., [redacted]
Payant, Richard P., [redacted]
Petrucci, Michael J., [redacted]
Phelps, Dennis A., [redacted]
Phillips, David K., [redacted]
Picot, John W., [redacted]
Pierce, Kenneth R., [redacted]
Pinkett, Larry C., [redacted]
Pinson, Jerry W., [redacted]
Pitman, James M., [redacted]
Pitt, John M., [redacted]
Plum, Larry R., [redacted]
Polley, James D. IV, [redacted]
Pope, Arthur L., [redacted]
Poulton, Charles, [redacted]
Powanda, John R., [redacted]
Powell, Frank L. III, [redacted]
Powers, Arthur G., [redacted]
Pozas, Edward G., [redacted]
Prasuhn, David R., [redacted]
Pratt, James T. III [redacted]
Pratt, John B. II [redacted]
Price, Robert E. III [redacted]
Price, Steven M., [redacted]
Puzey, Paul B., [redacted]
Ramos, Benjamin J., [redacted]
Rangel, Hector M., [redacted]
Ratcliffe, Lamar C., [redacted]
Ray, Frederick L., [redacted]
Reed, John L., [redacted]
Reese, Thomas H., Jr., [redacted]
Rhodes, Danny L., [redacted]
Richmond, Charles D., [redacted]
Riddle, Terry L., [redacted]
Rivers, Clarence, [redacted]
Robertson, Darrell, [redacted]
Rock, Richard W., Jr., [redacted]
Rodriguez, Rogue, [redacted]
Rogers, Richard S. I., [redacted]
Rowe, Frederick M., [redacted]
Rudewick, William K., [redacted]
Rudulph, John B., Jr., [redacted]
Ryan, Sylvester A., [redacted]
Salazar, Timothy C., [redacted]
Scheeren, William O., [redacted]
Scherer, William F., [redacted]
Schmid, Harold W., Jr., [redacted]
Schuepbach, John W., [redacted]
Schultz, Douglas P., [redacted]
Schultze, Richard W., [redacted]
Scotto, David W., [redacted]
Scruggs, Rhett W., [redacted]
Shepherd, John D., [redacted]
Shields, Michael R., [redacted]
Shrigley, Ralph E., [redacted]
Siekman, Dwayne K., [redacted]
Stevers, Ronald H., [redacted]
Simms, James B., [redacted]
Skelly, Lawrence E., [redacted]
Smith, Joe L., Jr., [redacted]
Smith, Paul C., [redacted]
Smith, Roger E., [redacted]
Sneed, Joel W., [redacted]
Snyder, Neil N. III, [redacted]
Snyder, Robert L., [redacted]
Spining, William P., [redacted]
Spotz, Jeffrey L., [redacted]
Stafford, Fenley D., [redacted]
Stauffacher, Thomas, [redacted]
Steck, Earl N., [redacted]
Stempel, Conrad F., [redacted]
Stempson, Douglas W., [redacted]
Stewart, Charles P., [redacted]
Stewart, Peter H., [redacted]
Stinnett, George H., [redacted]
Stodart, William J., [redacted]
Soroble, Charles R., [redacted]
Strouth, Cecil L., [redacted]
Stubbs, Richard W., [redacted]
Stuhrke, Frederick, [redacted]
Stull, Lynn B., [redacted]
Sutherland, James W., [redacted]
Swfarengin, Don A., [redacted]
Taylor, James T., [redacted]
Terry, Ronald W., [redacted]
Tewalt, Ronald J., [redacted]
Theobald, Arthur E., [redacted]
Thompson, Roland, [redacted]
Tobin, Gary M., [redacted]
Tolliver, Edmund R., [redacted]
Tomes, Jonathan P., [redacted]
Torre, Joseph F., [redacted]
Tweed, Frederick D., [redacted]
Tyler, Kenneth J., [redacted]
Vacca, William J., [redacted]
Valentine, James T., [redacted]
Vaughan, James T., [redacted]
Veitch, Douglas S., [redacted]
Vibbert, Dallas M., [redacted]
Villavaso, Alfred G., [redacted]
Voyles, Wilford C., [redacted]
Wakeman, Robert I., [redacted]
Waldron, Paul L., [redacted]
Wallace, Don W., [redacted]
Wallace, John A., [redacted]
Ward, Talmadge O., [redacted]
Watkins, Deems C., [redacted]
Watson, Raymond T., [redacted]
Weaver, Dwight D., [redacted]
Wegleitner, Thomas, [redacted]
Weimer, Robert M., [redacted]
Wells, Elgia, [redacted]
Wemlinger, John V., [redacted]
Werts, Douglas D., [redacted]
Wheeler, Gregory A., [redacted]
Williams, Rodney L., [redacted]
Wilson, James M., [redacted]
Wilson, Stephen E. R., [redacted]
Wiltshire, Robert B., [redacted]
Wimberly, Donald C., [redacted]
Windebank, Donald, [redacted]
Witt, Robert E., Jr., [redacted]
Wohlfert, Kenneth F., [redacted]
Wright, David O., [redacted]
Yost, James D., [redacted]
Zito, Alvin H., [redacted]

WOMEN'S ARMY CORPS

To be first lieutenant

Davis, Constance M., [redacted]
Hickerson, Patricia, [redacted]
Hicks, Gail S., [redacted]
Kugel, Elizabeth E., [redacted]
Stubbs, Peggy A., [redacted]

MEDICAL SERVICE CORPS

To be first lieutenant

Apland, James P., [redacted]
Ayala, Isaac, [redacted]
Beson, James L., [redacted]
Bost, William G., [redacted]
Cox, James M., [redacted]
Cox, Marcus A., [redacted]
Davenport, Charles, [redacted]
Dionne, Raoul B., [redacted]
Donato, Jorge, [redacted]
Everette, Kirby L., [redacted]
George, Gary B., [redacted]
Hicks, Donald E., [redacted]
Higgins, Walter E., [redacted]
Hill, Mack C., [redacted]
Hiner, William O. Jr., [redacted]
Karl, Robert D., Jr., [redacted]
Lankford, John M., [redacted]
Ledford, Kenneth, Jr., [redacted]
Legler, Theodore R., [redacted]
Malewski, Edward, [redacted]
Mann, David A., [redacted]
McIlrath, John C., [redacted]
Moro, Kenneth S., [redacted]
Mott, Loran C., [redacted]
Natkin, Ian L., [redacted]
Nygaard, Nathan A., [redacted]
Paniak, Walter T., [redacted]
Perry, Ray, [redacted]
Quigg, Loren T., [redacted]
Read, John A. III, [redacted]
Read, John T. II, [redacted]
Ristroph, Joseph D., [redacted]
Ritchie, James L. IV, [redacted]
Roden, Jack R., Jr., [redacted]
Schumeyer, Gerard, [redacted]
Slader, Bruce L., [redacted]
Smith, William R., Jr., [redacted]
Sodetz, Frank J., Jr., [redacted]
Solook, John T., [redacted]
Stanfield, Bernard, [redacted]
Steinberg, Arthur F., [redacted]
Stuebe, Richard R., [redacted]
Taylor, Roy G., [redacted]
Tragis, John C., [redacted]
Tuell, Henry O. III, [redacted]

Tupper, Joseph L., Jr. [redacted].
Walker, Robert A. [redacted]
Wehunt, William D. [redacted].

ARMY MEDICAL SPECIALIST CORPS

To be first lieutenant

Bruns, Robert D. [redacted].
Sinnott, Richard R. [redacted].

ARMY NURSE CORPS

To be first lieutenant

Lawyer, Robert H., [redacted].
Ludlam, Thomas M., [redacted].
Todd, Tony W., [redacted].

ACTION

Charles W. Ervin, of California, to be an Associate Director of Action. (New position.)

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

Harold C. Crotty, of Michigan, to be a member of the National Commission on Libraries and Information Science for the remainder of the term expiring July 19, 1972, vice Charles A. Perlik, Jr., resigned.

CONFIRMATIONS

Executive nominations confirmed by the Senate December 10, 1971:

ACTION

Nicholas W. Craw, of the District of Columbia, to be an Associate Director of Action.

IN THE MARINE CORPS

Lt. Gen. Robert E. Cushman, Jr., U.S. Marine Corps, to be Commandant of the Marine Corps with rank of general for a period of 4 years from the 1st day of January 1972 in accordance with the provisions of title 10, United States Code, section 5201.

Maj. Gen. Louis Metzger, U.S. Marine Corps, having been designated, in accordance with the provisions of title 10, United States Code, section 5232, for commands and other duties determined by the President to be within the contemplation of said section, for appointment to the grade of lieutenant general while so serving.

IN THE AIR FORCE

The nominations beginning Aaron H. Wilson, Jr., to be captain, and ending Blair C. Wrye, to be major, which nominations were received by the Senate and appeared in the Congressioinal Record on Nov. 12, 1971.

IN THE ARMY

The nominations beginning Kenneth W. Copeland, to be colonel, and ending Michael G. Rogers, to be 2d lieutenant, which nominations were received by the Senate and appeared in the Congressional Record on Nov. 12, 1971;

The nominations beginning Patricia Accountius, to be colonel, and ending Lawrence Zimmerman, to be colonel, which nominations were received by the Senate and appeared in the Congressional Record on Dec. 1, 1971; and

The nominations beginning James L. Anderson, to be professor of physical education, U.S. Military Academy, and ending Kevin M. Scott, to be 2d lieutenant, which nominations were received by the Senate and appeared in the Congressional Record on Dec. 1, 1971.

IN THE MARINE CORPS

The nominations beginning Carolyn J. Auldridge, to be lieutenant colonel, and ending Ralph P. Zullo, to be captain, which nominations were received by the Senate and appeared in the Congressional Record on Nov. 12, 1971; and

The nominations beginning Russell R. Allen, Jr., to be chief warrant officer (W–4), and ending Arthur Yow, Jr., to be chief warrant officer (W–2), which nominations were received by the Senate and appeared in the Congressional Record on Dec. 1, 1971.

SUPREME COURT OF THE UNITED STATES

William H. Rehnquist, of Arizona, to be an Associate Justice of the Supreme Court of the United States.

EXTENSIONS OF REMARKS

JACK EIGEN—AMERICA'S MOST IMITATED INTERVIEWER

HON. ROMAN C. PUCINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 9, 1971

Mr. PUCINSKI. Mr. Speaker, on Saturday, December 11, Jack Eigen concludes more than 24 continuous years in the broadcast industry.

We, in Chicago—and the people who are privileged to hear him in 38 States—know him as America's most imitated interviewer. He pioneered the late night talk show and his exceptional methods have set a very high standard for those broadcast journalists who have followed him in this highly difficult field.

Over the course of the last 24 years, interviewing approximately five guests a night for six nights a week, Jack Eigen has introduced more that 25,000 guests to his television audience. With a breadth of knowledge and a range of interests that have never been surpassed by his imitators, Jack Eigen has helped to shape some of the most informative news stories of our times.

His guests over the years have included people from show business, politics, sports, the arts—the entire spectrum of human endeavor that calls on the best, most unique talents of human beings. Jack's skill as an interviewer has consistently drawn the best from these often complicated men and women, making them and their work fascinating to the listening audience.

His career originated in New York out of the famed Copacabana shortly after World War II. Later he moved to Chicago and has become over the years an institution to all those millions of people who respected and enjoyed the zest and intelligence he brought to his job.

Jack Eigen has lived through and helped to shape some of the major historical facets of our modern American era. It may be a cliche to say that an era is coming to an end when he leaves his position on Saturday night, but there is no question that broadcast journalism and the late night interview show are stamped forever with the force of his personality, the depth of his character, and the scope of his great integrity. Chicago and a major portion of the Nation will sadly bid his talk show farewell this month. For us, as for his colleagues within the radio and television industry, he is both a legend and a model.

But, Mr. Speaker, I have a feeling Jack Eigen will be back. Once before the NBC format was changed in Chicago and Jack was off the air for a spell. But the demand for his fine brand of broadcasting was so great he was recalled.

I can appreciate the management's desire to try something different. This is in keeping with the best tradition at NBC—always striving to bring its listeners a format acceptable to the largest needs of the community but I am certain no format will replace Jack Eigen.

It has been my privilege to appear in Mr. Eigen's program many times and I never cease to be amazed at what a fantastically large audience he has.

As I traveled through Midwest America, people from all walks of life would come up when they heard my name and tell me they heard me on the Jack Eigen Show.

Jack has provided an enormous public service to the thousands of people in the Midwest and WMAQ is to be commended for bringing this type of programing to Midwest America.

Mr. Speaker, Jack Eigen and his lovely wife have become a tradition in Chicago. We shall all miss his kind and inspiring broadcast. But we shall rejoice at the thought that he and his wife are enjoying themselves in Florida and we wish them many, many more years of happiness.

Chicago shall miss Jack Eigen. The old city just will not be the same. We can only hope his vacation will be short and he will be back at WMAQ as quickly as possible.

WHAT ABOUT THE MONEY?

HON. JAMES W. SYMINGTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 9, 1971

Mr. SYMINGTON. Mr. Speaker, I would like to call the attention of the House to an editorial dealing with the Health Manpower Act and the Nurse Training Act. The article, entitled "What About the Money?" appeared in the St. Louis Post-Dispatch, December 2, 1971.

One of the most serious problems facing this country is the lack of adequately trained and adequately paid health care personnel. The doctor, nurse, and medical technician shortage is critical. As a member of the Public Health Subcommittee of the Interstate and Foreign Commerce Committee, I have visited hospitals and have seen, firsthand, the real need for more doctors, more nurses, and more Federal dollars if we are to solve the health crisis.

If our physicians, dentists, and nurses are to be both accessible and adequately trained, the President must support appropriations that match the congressional authorizations he has acclaimed and approved. At this point, I insert in the RECORD the Post-Dispatch editorial that calls for this kind of Presidential support:

WHAT ABOUT THE MONEY?

A significant step toward increasing the number of physicians, dentists, nurses and other health care personnel—the sine qua non of national health insurance—was taken recently when the President signed two measures, the Health Manpower Act and the Nurse Training Act.

The former measure contains a three-year authorization of 2.9 billion dollars and the latter an authorization of $855,500,000. For the current fiscal year, the Health Manpower Act provides $225,000,000 in construction grants to medical schools and other training institutions and $245,000,000 in grants based on per capita enrollment. The new law authorizes subsidies for the interest on loans obtained by medical schools, special grants to schools to train doctors in family medicine, incentives to students to locate their practices in areas of medical manpower shortages, and grants to help schools enroll students from minority and low income groups. The Nurse Training Act also provides for construction grants, per capita student grants and interest subsidies.

In signing the bill, President Nixon embarked on one of his customary excursions into the superlative, calling the measures "the most comprehensive health manpower legislation in the nation's history." Whether this is so is less important than that his remarks indicate a 180-degree turnabout—last year he pocket-vetoed similar but less ambitious health manpower legislation. The test of his extravagantly-worded commitment to increased health manpower will come at budget time. If the President requests appropriations that match the amounts authorized by Congress, there can be no doubting his determination.

A UNIQUE CHRISTMAS MESSAGE

HON. TIM LEE CARTER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 9, 1971

Mr. CARTER. Mr. Speaker, it is my belief that the Christmas card is in large measure essentially American in character. Thus, in our Nation, there is at Christmastime the exchange of a great mass of messages, in every category and depiction, between and among our people. These range from the sublime to those of fun-loving sentiment.

For many years, a former Member of this body, a Kentuckian, Maurice H. Thatcher, has composed appropriate verses for the dissemination among friends—chiefly those who send him Christmas greetings. His message for the approaching Yuletide is of very high character in subject matter and expression. It is in the form of a 14-line verse, thoughts and suggestions included and dealing with impressions which the occasion inspires.

Mr. Thatcher reached his 101st milestone on August 5, 1971, and retains his youthful spirit, continuing his many activities of beneficial and gratuitous interests. He is now, in age, the dean of all surviving Members of the Congress.

I do not believe that I ever read anything from the pen of one who is as advanced in age as he is; and I doubt whether I have ever known of any Christmas message of more impressive thought and sentiment, and better expressed, than his current Christmas letter. I would like to share with the membership of the Congress this recent contribution, the product of his facile and gracious pen.

I include as a part of my remarks the indicated message.

The message follows:

SEASON'S GREETINGS, CHRISTMAS 1971

(By Maurice Thatcher)

Year after year this hallowed day returns,
And life is touched with kindness and good will.
Once more the Star of Hope more brightly burns,
And comes again the choice 'twixt good and ill.
Efforts for peace in a world of care and woe
Are now most timely, and may be fully pressed;
But peace must be with honor's strength and glow,
And by the attribute of wisdom blest.
How long ere Man shall reach his destined goal?
Is not his mission needful and divine?
In earthy orbs, alone, is born the soul?
Can naught but heat the precious gold refine?
From human lives are not the angels made?
Man's road is rough—he must be unafraid!

PLANNING CANCER CENTERS

HON. THADDEUS J. DULSKI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 9, 1971

Mr. DULSKI. Mr. Speaker, the House-Senate committee of conference on S. 1828, the bill to strengthen the national effort to control cancer, has reached agreement and the House has approved the report.

I support this bill fully and accept the modifications made first by the House Committee on Interstate and Foreign Commerce and then by the conference.

The jockeying is over. We have a progressive program aimed at launching a national effort to control cancer. With full cooperation from all interests, I see no reason why we should encounter any problems in moving forward aggressively.

Even as the House was preparing to act today, cancer experts from around the country were gathered here in Washington to prepare for the new era in the cancer control drive, in particular to plan for new cancer centers.

The conference was sponsored by the National Cancer Institute and the American Cancer Society, in cooperation with the Association of American Medical Colleges.

Among the presentations was one by Dr. Gerald P. Murphy, director of Roswell Park Memorial Institute in Buffalo, N.Y., the oldest and one of the largest cancer institutes anywhere. It is now a unit of the New York State Department of Health.

Dr. Murphy's remarks capsuled the past, present, and the future, including a series of recommendations and suggestions with regard to the new cancer centers.

Mr. Speaker, I include Dr. Murphy's comprehensive text with my remarks:

SPEECH BY DR. GERALD P. MURPHY AT CONFERENCE ON PLANNING FOR CANCER CENTERS, WASHINGTON, D.C.

Today, we are gathered in an attempt to anticipate the future. Forthcoming federal legislation and projected presidential affirmation have placed before us the prospect of a long-needed comprehensive war on the cancer problem to the depths and degree that other national concerns and effects have previously attained.

A concise and informative appraisal of our past and present efforts in various areas of the attack on cancer is much in order. Although such appraisals have been performed in the past, better approaches must be established today to make headway on the cancer problem in the future.

In planning the concept of service for a projected cancer center of the future considerable speculation must ensue. To base such projections on solid fact and clinical performance we must review in an adequate manner the past and present efforts of cancer centers in the service area. Such assessments will aid considerably in our attempts to project to the future.

Indeed, service as a definable concept of a functional cancer center requires some clarification. In simplest terms, I must confess I regard service as the necessary support to get the job done, be it clinical or scientific, in an attempt to conquer the cancer problem. Based on such an assessment, let us review the situation.

THE PAST

A comprehensive assault on the cancer problem, be it clinical or scientific, has long been acoming in the United States. The early contributions of our predecessors in this battle can thus be re-examined with particular benefit at this time at the Roswell Park Memorial Institute in its 73 years of existence.

Surprising and important contributions to fight cancer were infused from the fountainhead of the American Medical School, The Johns Hopkins Hospital. Indeed our founder, Dr. Roswell Park, was a cousin of Dr. William H. Welch, the first Dean of the Hopkins, and the man credited by many as having transformed American medical schools from the worst to the best in one generation.

In our 73-year history the importance of the comprehensive cancer center as a service function was best defined, in my opinion, by the letter of Sir William Osler to Dr. Roswell Park on March 18, 1903.

MARCH 18, 1903.

"DEAR PARK:

"The Question of Cancer Research in America:

"Considering the enormous and increasing importance of the subject, it is surprising how little systematic work on cancer has been undertaken in this country. So far as I know, the only laboratory devoted to it is that organized by you and supported by the New York State government. I was most delightfully impressed on my recent visit with the character of the researches going on in the laboratory. Of course, it takes years to clear the ground, but there can be no question that we are on the right track at present. To successfully deal with the question requires a large and expensive equipment and a staff of thoroughly trained men who should devote years to the work. Only by the help of large endowments can the proper organization be maintained, and while the present equipment of Buffalo is first class, much more money is needed, and I am fully convinced that there is no problem in the preventive and rational medicine more deserving of generous endowment by men of means than that which holds our hope of discovering the origin, and, through it, the successful treatment of cancer.

With best wishes for your work, believe me,

Sincerely yours,

SIR WILLIAM OSLER."

The details of the subsequent development of Roswell Park Memorial Institute as a comprehensive cancer center have had great impact on cancer research in the United States. Indeed, as illustrated by our second of seven directors, the Institute's initial impact was felt in all areas of cancer research, treatment, and education.

Dr. Harvey Gaylord was founder of the American Association for Cancer Research and the International Union Against Cancer. Such illustrious history begets the question—i.e. what was service at the Comprehensive Cancer Center of the past?

For the most part, even in today's appraisal at Roswell Park Memorial Institute the accent was always on the future and on Cancer Research—even by retrospective terms. For example, Dr. Clowes was the first in this country to establish a chemotherapy program for cancer. Moreover, in 1914 one of the major appropriations of over $225,000 was for radium.

Madame Curie came from the University of Paris to Roswell in 1921 to assist in the clinical treatment of cancer patients with her then famed radium techniques. With equal emphasis, in 1919 Dr. Peyton Rous sent the Institute staff a fowl bearing a virus induced tumor for study.

Research has continued into many service areas at Roswell Park Memorial Institute. Even in its early years, however, despite generous New York State support, the Institute received essential donations equal to 30–40% of its operation budget. Such awards in those times were for cancer research, but by today's standards would be judged as service.

The relativity of such pronouncements should be of particular benefit to us today. In 1961 at the dedication of a seven story research building, our 5th Institute Director, Dr. George Moore, declared:

"The building we are dedicating today we could have used yesterday . . . Human feeling, careful thinking, informed intuition, and dedicated work will make this building a powerful instrument for the alleviation of human misery caused by cancer."

It would seem in the aforementioned terms that the research of yesterday is the treatment and service of today. A retrospective review of a comprehensive cancer research and treatment center, such as the Roswell Park Memorial Institute, enforces such viewpoints.

THE PRESENT

Cancer care, research, and cancer education are the chief functions at the Roswell Park Memorial Institute in Buffalo, a facility of the New York State Department of Health. Patients are admitted for examination or treatment by referral only.

Any physician or dentist may request an appointment for any patient who has proved cancer or after adequate history and physical examination, is believed to have cancer. Occasionally, when a malignant disease is suspected, a patient is accepted for diagnostic procedures not available to the referring physician.

The advents of special developments in medicine are not neglected at Roswell Park, as shown by the establishment of a regional kidney center, a germ-free unit, a chemotherapy center, linear accelerator, and a maxillofacial prostheses center.

Patient care and treatment at present, even at a cancer research and treatment center, remain a vital day-to-day concern. Service for the physician and cancer patient in New York State remains an ongoing problem.

In the Institute's early years, most referrals were made by mail. Today only about 20 per cent are received this way; the telephone has largely replaced slower, time-consuming correspondence.

To encourage and facilitate telephone communication, a wide-area telephone service (WATS) system was established in 1968. It allows the patient's doctor to call the Institute any time, toll-free, to communicate directly with a staff physician or the Admitting Department.

This relatively inexpensive service has provided a considerable saving in physician's time and in secretarial salaries. It has also helped reduce delay between diagnosis and initiation of treatment.

When a new patient is accepted, a clinic appointment is made. The referring doctor is requested to provide, either before or at the time of the appointment, pertinent medical records along with tissue or cytology slides, x-ray films and any other useful information. Radiation data and operative reports are requested if the patient has had previous treatment.

When hospitalization is required, a bed is reserved. If time permits, the patient is sent a small brochure describing the Institute and is asked to complete a questionnaire before arrival. The completed questionnaire significantly shortens the admission procedure.

The referring physician is asked if the patient has been told of the nature of his disease. If not, the physician is requested to do so before the patient arrives at Roswell Park. If the doctor prefers to use a word less formidable than "cancer" he is asked to let the staff physician know what term has been used. This facilitates communication with the patient and prevents the predictably adverse reactions when facts are withheld until arrival at a cancer hospital.

There is a waiting period for both clinic appointments and hospital beds. Although many patients are chronically ill and most have extensive disease, the average length of hospital stay during the past years was less than 17 days.

A few patients require prolonged continual hospitalization following extensive surgical therapy to allow staged constructive procedures for rehabilitation. This period seldom exceeds one year. The clinical service does not accept new patients for terminal care, but for active therapy.

Through the combined efforts of patients' families, assigned social workers, and the American Cancer Society, patients who need only nursing care are returned to the family setting or to an institution near home to prevent prolonged family hardship and expense.

However, when a patient treated at Roswell Park Memorial Institute needs additional care, readmission is arranged. A partial list of the organizations providing assistance to patients and families is shown in Table 1. To these and to others too numerous to mention, the staff of the Institute is grateful.

Meanwhile the WATS system, conceived to enhance the program of mutual cooperation and assistance to New York State physicians in management of patients with cancer, has greatly improved communications with referring physicians.

During the first year of experience, over 2,200 calls were received: 71.8 per cent patient referral, 24.4 per cent consultation, 3.2 per cent for Roswell Park Memorial Institute information, and 0.6 per cent miscellaneous. These figures have altered since then.

At the time of discharge, each patient is given a clinic appointment for a follow-up visit. The interval between visits depends on the need for care or close observation. Other considerations are travel distance, age, and condition of the patient. Help is requested from the referring physician if frequent revisits are considered too traumatic to the patient or burdensome to the family.

Although "statistically" cured after a period of years, most patients continue to make scheduled periodic visits to the Institute. This loyal and appreciative group of patients provides valuable information for clinical follow-up research.

If regular revisits are not scheduled or if a patient misses two consecutive appointments, follow-up is accomplished through a central agency which follows over 6,000 patients by letter.

Other patients are followed in our Central Institute Tumor Registry, and in association with the Regional Registry of the Western New York Regional Medical Program.

Fewer than one per cent of these are lost to follow-up. On the active files in the specialty clinics are more than 17,000 patients who return for examination at least once a year.

COST ASSESSMENTS

Patient care and cancer research, however, cannot totally be defined at the bedside. To do so would, in my opinion, define cancer at the wrong end of the spectrum. We all seek greater numbers of patient care and cure, but as such and at present, as in the past, these can only be achieved by intensive research at all levels.

Service as defined by the context of the conference today is only the assurance of the provision of such means. Inspection of the clinical versus total research efforts at Roswell Park Memorial Institute in past years affirms this viewpoint. Since that time and to date in 1971 basic research expenditures have increased to 52.5%, whereas clinical research has increased to 14.1% of our current budget to reach a total of 66.6% expenditures of all operating budgets (state, federal, private) for the center.

Thus research, whatever its location, and service, whatever its definition, have remained inseparable at our Institute. One has not been possible without the other. Moreover, one cannot logically exist in a Comprehensive Cancer Institute setting without the other. These percentage distributions are quite similar at other major cancer research and treatment centers including the M.D. Anderson in Houston, Texas.

In the day-to-day present cost-conscious era of medical care, the cost of a comprehensive cancer research and treatment center remains of paramount fiscal concern. To provide service in both of these fields requires careful cost assessment and avoidance of burdensome administrative costs. Our Institute Hospital budgetary costs for administration have remained low despite rising national inflationary costs.

If service in the areas of research and patient care is to be effective, administrative costs must be maintained at a low level.

COORDINATION OF ACTION

The service functions of the cancer patient will understandably differ in the comprehensive cancer hospital as opposed to the general or university hospital setting.

Advances in medicine have long outpaced the ability of the single physician to provide his patients with all forms of definitive cancer care. Today, optimal care of cancer patients requires a team of interdependent medical specialists and allied health personnel. The effectiveness of both service and research is critically dependent upon the strength of interdisciplinary relationships.

Efficient organization does not require the establishment of a department or division of oncology in every institution. The great need is not for an additional autonomous unit, but for a coordinated, integrated approach to cancer care at all levels.

The optimal care of the cancer patient demands the application of our total knowledge to his disease in the right institution, at the right time in the course of his disease, and at a cost he and the community can afford.

Today, this requires the involvement of nearly every medical discipline, the centralization of much expensive equipment, and the skilled technical personnel to maintain and operate it. It implies the proper utilization of our health care facilities: physicians' office, inpatient and outpatient facilities, extended care institutions, and the patient's own home.

The foremost requirement is the provision of a continuum of care including early diagnosis, definitive treatment, and follow-up of the cancer patient throughout life, preferably in the patient's own community.

Every region of the country now has at least one general hospital which is already providing optimal care for the cancer patient or which with minimal change, can be qualified to provide such care.

Some community hospitals may need to institute educational programs; some may require additional staffing with specialized personnel; some may require additional equipment; still others may prefer affiliation with neighboring institutions to make up their deficiencies. They must all be affiliated in some degree to a Comprehensive Cancer Center.

These present assessments, in my opinion, do not call for the abolition, neglect, or major revision of present existing health facilities. Rather, in accord with established guidelines our present hopes call for the delivery of patient research and treatment into the existing systems.

Service to cancer patients on the other hand, may impose a degree of follow-up care and rehabilitation which hospitals or affiliated institutions do not presently possess. If this is to be so, for service to be meaningful on a national basis chronic care facilities must be planned and provided on an expanded basis.

Service in a Comprehensive Cancer Research Center cannot be totally overstated to the clinical setting. Service under the present contexts, in my opinion, includes the provision of scientific support i.e. be it an electron microscope or tissue culture facilities. Much diverse equipment and supplies are needed.

In a Comprehensive Cancer Center these essential supply items are never covered totally nor adequately by outside grant support. This provision and inclusion in an operational and fiscal sense is as essential as clinical items.

In fact, the service research support of a Comprehensive Cancer Center may well require facility construction and maintenance away from the primary center site as is the case at Roswell Park.

THE FUTURE

Legislative concern for an expansion of the cancer effort has understandably evoked diverse responses in some sectors. Progress, however, towards an effective compromise, in my opinion, has been sought in both Senate and House. By the time of publication of this presentation, I predict an effective law will be signed in effect reflecting credit to the yeoman efforts of all legislators in both the Senate and the House.

Research in cancer is the key, and service under such settings in the future must fit this prospective.

The approaches to research in cancer have been greatly expended in the past several years because of the expanding basic knowledge acquired through multidisciplinary investigation, and increasingly sophisticated research techniques.

Therefore, there is a growing need for institutions which will radiate influence to upgrade and administer the major innovation in the treatment and control of cancer. It is necessary that present first-rate institutions be expanded, that others be upgraded and that new ones be created.

The historical development of cancer research and patient treatment centers have resulted in the growth of well-organized cancer research laboratories and specialized cancer hospitals which exist outside of the traditional university medical school environment.

This development has tended to diminish the extent of cancer research and teaching carried out in the traditional medical school departments and has led to a communication gap between the two foci of activity.

Because of the relative scarcity of specialized cancer treatment centers, many cancer patients being seen for the first time pass through general treatment clinics or through the offices of their private physicians.

The professional persons observing the patient may have had little opportunity to become familiar with modern cancer diagnostic and treatment techniques. With the increased number of long term remissions and the consequent extended useful lives for some cancer patients, it is vitally important that our most advanced diagnostic and therapeutic techniques be extended rapidly to all cancer sufferers.

The complexities of the various neoplastic diseases and the need for an increased understanding of the fundamental processes involved require a coordinated effort on the part of the scientists ranging from those undertaking basic research in cancer biology to research clinicians, and finally to clinicians responsible for the care and treatment of cancer patients.

In order to do this, the medical school, specialized cancer facilities, practicing physicians and community medical services must participate in an integrated program of cancer research and training.

To provide service for the cancer center of the future this requires additional projection and estimation.

GENERAL RECOMMENDATION

The staff of the Roswell Park Memorial Institute has reviewed the current situation and made general recommendations. Some of these can be summarized as follows:

1. In respect to patient service, more emphasis is needed in the planning of additional or expanded ambulatory centers to decrease the use of beds for patients that can be self sufficient (under chemotherapy or radiation therapy).

2. We need to improve the quality of life for children with neoplastic disease in remission that receive either ambulatory care or could remain in the hospital for a short stay without separation from parents.

3. We need a better flow of communication between the community physician and the cancer program, particularly in regard with continuity of treatment. Practicing physicians should be free to come into the center or we should provide better information as to what has been done or what can be done for the patient.

4. In relation with cancer centers, research and service and cancer education should always go together. Every center should provide the whole spectrum of activities available to mount an effective program against cancer. When planning new cancer centers, special facilities should also be considered, like expanded care units for patients receiving chemotherapy or radiation therapy very often occupying surgical beds.

The danger of super-specialization should be borne in mind when considering the possibility of distribution of different types of neoplastic disease in different centers. Research and services for all types of cancerous disease in the same center affords a unique opportunity for cross fertilization and interchange of ideas. In order to have a high input of cases, it is necessary to have a high quality and up to date clinical service.

These diverse suggestions can best be projected for the future benefit of the service function of a cancer center as follows:

SUGGESTIONS FOR A CANCER CENTER

1. To train physicians in disciplines of cancer care.

2. To develop special clinical services for referral of types of malignancy e.g. leukemia and solid tumors requiring care not always available in the usual medical center.

3. To sponsor graduate courses for physicians and other health personnel in clinical aspects of cancer.

4. To establish panels of 2–5 physicians to visit larger regional hospitals within a 200 mile radius once monthly for consultation to tumor boards and help with decisions in problem patients.

5. To establish regional reference laboratory services for cancer pathology, cytology and radiological interpretation as well as in the rapidly developing field of "specific" cancer antigens.

6. Establish rehabilitation centers for patients after radical resection therapy, including physiotherapy, plastic surgery, prostheses speech therapy and ileocolostomy instructional services.

It is obvious from this presentation that a discussion of the projected comprehensive cancer center in terms of service cannot be complete without relating the important codeterminants of education, research, and administration.

SUMMARY AND CONCLUSION

Service as a function of a Comprehensive Cancer Center cannot be defined in the total terms of present or past performance of the few existing major cancer centers. Their changing structure should give ample projection to the future of present and proposed cancer centers. The research of the past in many instances is the service of the present. So it will be in the future. To assure appropriate and rapid progress, all aspects, especialy science and research, must be combined.

COOPERATING AGENCIES

For the record, following is a list of agencies assisting Roswell Park Memorial Institute in service to patients and families:

County Units of American Cancer Societies, County Departments of Social Welfare, Public Health Departments, Visiting Nurses, Home Health Aides, Homemaker Agencies, Salvation Army, Maria Love Convalescent Fund, Red Cross, Cancer Care, Shut-in Society, Local Volunteer Ambulance Services, Local Religious Institutions and Agencies, Local Mothers' Clubs, Veterans' Service Organizations, Traveler's Aid, and Air and Bus Lines Passenger Services.

SAVE OUR STREAMS

HON. GILBERT GUDE

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 9, 1971

Mr. GUDE. Mr. Speaker, in the December 1971, edition of Outdoor America, a publication of the Izaak Walton League of America, appears an article on a noteworthy project initiated by the Montgomery County, Md., chapters of the league. The program is entitled "SOS—Save Our Streams—Adopt One."

Tired of deterioration of several local streams, these public spirited citizens have taken on themselves the task of cleaning and preserving them. I believe that the Montgomery County chapters are to be heartily congratulated. It is only through this type of dedication to our environment that this Nation will be able to permanently come to grips with its environmental problems.

I submit for my colleagues consideration the story of "SOS":

Watershed Program

Montgomery County, Md., chapters of the Izaak Walton League have started a unique program known as "SOS," Save Our Streams—Adopt One.

The program, according to Rockville, Md., chapter member Malcolm King, is a cooperative watershed management program. Its purpose is to protect and restore waterways throughout Montgomery County through approved watershed management practices. This includes providing streambank cover to prevent soil erosion and the removal of trash and other alien obstacles from the river beds.

The program is being carried out in conjunction with the area's farmers, other conservation clubs, scouts and 4-H groups.

TARIFF COMMISSION RECOMMENDATIONS ON DAIRY IMPORTS REQUIRE PROMPT PRESIDENTIAL ACTION

HON. ROBERT W. KASTENMEIER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 9, 1971

Mr. KASTENMEIER. Mr. Speaker, on March 12 the President asked the U.S. Tariff Commission to hold hearings to determine if Swiss or emmenthaler cheese, gruyere-process cheese, and certain other cheese, all having a purchase price of 47 cents per pound or more, are being imported into the United States under such conditions and in such quantities as to render or tend to render ineffective the price-support programs of the U.S. Department of Agriculture for milk.

On July 28, the Tariff Commission made known to the President the findings and recommendations of their investigations. The Commissioners recommended that the 47-cent price-break feature be abolished and that a quota be established for the various types of cheese involved, regardless of price.

Both the President and the U.S. Tariff Commission should be commended for actions taken thus far with regard to this continuing dairy import problem—the President for ordering the hearings held; and the Commission for its thorough review which led to the recommendations.

Now, however, it is imperative that the President act on the Commission recommendations so that such cheese imports can be held at reasonable levels in the year ahead, and discouraged from further increases. From January 1, 1971, to September 30, 1971, Swiss emmenthaler has entered the United States at a level equal to 113 percent of the level for the same period in 1970, gruyere-process at a level of 110 percent, and other cheese at 115 percent.

When the Tariff Commission held hearings on these dairy imports earlier this year, I said that both the producer and the U.S. taxpayer had a right to expect corrective action. For years, dairy farmers have been advised that if they would seek a better balance between supply and demand, the result would be improved prices. From 1964 to 1970, dairymen reduced the number of milking cows on U.S. farms by nearly 3.2 million head—a decrease of about 22 percent. During the same period, total milk production dropped 9.5 billion pounds—a decrease of about 7.5 percent. It should be noted that milk production is up this year, but even with this increase, total production in 1971 will likely be down about 6.5 percent from the 1964 level. While dairymen have reduced milk production during the 1964–70 period as economists recommended, total dairy imports more than doubled, going from 830 million pounds of milk equivalent to 1,866 million pounds. Certainly our dairymen have a right to expect that the 47-cent price-break loophole be closed.

Taxpayers also have a right to expect this action, for they are the losers if subsidized imports continue to make inroads into the U.S. dairy market. It is their tax dollars that are used to buy as surplus every pound of U.S. dairy production that is displaced by imports.

With the new year rapidly approaching, I respectfully urge, along with many of my colleagues, that the President promptly issue the official order which would bring such imports under control, and that the official order follow the recommendations of the U.S. Tariff Commission.

PRESIDENT CHIANG'S MESSAGE TO THE CHINESE PEOPLE

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 9, 1971

Mr. RARICK. Mr. Speaker, President Chiang Kai-shek recently addressed the Chinese people on the Republic of China's withdrawal from the United Nations Organization.

Because I feel his speech is of historical significance in the worldwide struggle we face, I insert the full text of his speech at this point:

[From Issues and Studies, December 1971]

President Chiang's Message on the Republic of China's Withdrawal From the U.N., October 26, 1971

My Fellow Countrymen at home and abroad:

The twenty-sixth session of the United Nations General Assembly has elected to violate the provisions of the Charter of the United Nations and adopted a resolution proposed by Albania and other nations which are currying favor with the Chinese Communists. As a result, the Mao Tse-tung bandit regime has usurped the Republic of China's rightful position in the United Nations and the Security Council. Before this infamous resolution could be put to a vote, this country announced its withdrawal from the United Nations, an organization which it took part in establishing. We declared that neither the Government of the Republic of China nor the Chinese people will ever recognize the validity of an illegal resolution adopted by the current United Nations session in flagrant violation of the provisions of its own Charter.

The Mao Tse-tung bandit regime is a group rebelling against the Republic of China. Internally, it has committed enormous crimes against the people of China. It is the common enemy of all the Chinese people and especially of our seven hundred million compatriots on the mainland. Externally, the Mao regime stops at nothing in promoting subversion and committing aggression and still stands officially condemned by the United Nations as an aggressor. The Chinese Communists may occupy the mainland for the present. But the Government of the Republic of China, with its base in Taiwan, Penghu, Kinmen and Matsu, is the true representative of the seven hundred million Chinese on the mainland, expressing their common will, heeding their anguished outcries and inculcating within them a maximum of courage and hope with which to struggle against the violence of the Mao regime and win back their human rights and freedom. It is clear, therefore, that the Chinese Communists should never be permitted illegally to occupy the General Assembly and Security Council seats held by the Republic of China, whether this be judged by the principles of the United Nations Charter or on a basis of humanitarianism, the law of nature or, in particular, the common will of all the Chinese people.

In 1944, China took part in the Dumbarton Oaks Conference and subsequently signed the United Nations Declaration. This country then took part in the organizational conference of the United Nations in San Francisco and helped write the Charter. These efforts were dedicated to saving "succeeding generations from the scourge of war, which twice in our lifetime has brought untold sorrow to mankind." To achieve this goal, the purposes and principles of the United Nations were set forth for the faithful adherence of all the participants. But the current session of the United Nations General Assembly has decided to destroy these very purposes and principles of the Charter, thereby ignoring and completely disregarding law and justice, shamelessly bowing to the forces of evil and timorously yielding to violence. Thus the United Nations, which this country helped to establish after so many trials, has finally degraded itself and become a den of iniquity. History will surely show that our announcement of withdrawal from the United Nations actually presaged the demise of the United Nations itself.

The Chinese cultural tradition is to uphold justice and love peace. Although we have withdrawn from the United Nations, which we helped establish, we shall continue to be guided by the purposes and principles of the United Nations Charter in the international community and shall continue to fight courageously for international truth and justice and for world peace and security.

I hereby solemnly declare:

That the restoration of human rights and freedom to our 700 million compatriots on the mainland is the common will of the whole Chinese race and is our unalterable national purpose and the holy task which we must accomplish.

That the Republic of China, an independent sovereign state, will tolerate no external interference.

That regardless of the changing international situation, we shall unhesitatingly make whatever sacrifices may be required and persevere in our struggle. We shall never waver. We shall never compromise.

For the people of the world, I have this warning: In the brief span of half a century, our world has been visited by two horrendous World Wars. After the First War a ravaged world sought to prevent repetition with the organization of the League of Nations, in which were vested man's hopes for world justice and peace. Unfortunately, some nations bowed before the threats of aggressors. These nations mistakenly thought that submission to evil and knuckling under in the face of violence could be traded for a peace of humilitation. As a result, the League of Nations was paralyzed and then collapsed. It could no longer serve the functions of curbing aggression and upholding justice. The Second World War followed not long afterward. Today, some democratic countries have chosen to enter the camp of those supporting the Chinese Communists and have helped the Mao Tse-tung regime illegally to occupy our rightful place in the United Nations General Assembly and Security Council. Their thinking and their actions are almost identical with the thought and deeds of some countries on the eve of the Second World War. The consequences promise to be extremely grave. The facts of history tell us that our moral courage in the safeguarding of justice constitutes the solid cornerstone of security and peace. Machiavellian machinations of power politics on the other hand, lead inevitably to war.

My Fellow Countrymen: The destiny of our nation is not in the hands of the United Nations. It is squarely in our own hands. As Dr. Sun Yat-sen, our National Father, puts it, "The fundamentals of existence invariably are found in the proud and independent spirit of a nation and its people. This means that if a nation is not tempted by bribers and does not surrender to physical force, it will earn its place in the world."

Today, here on this revolutionary base, we command a sizable population and considerable resources, as expressed in our military strength and economic prowess. These are supported by our spiritual force. We also command the hearts of our 700 million compatriots on the mainland as well as the patriotism of our 18 million anti-Communist compatriots living overseas. The Republic of China is not a weakling of Asia or the world which can arbitrarily be sold out by anyone. We will continue to wield a strong influnece in the changing balance of international power and in the determination of human destiny. Everyone should be aware not only that the actions of others may affect us, but also should understand that our actions may bring about far-reaching world change.

The international situation now confronting us is marked by danger and pitfalls. Nevertheless, as long as we ourselves are strong, no force in all the world can shake us. As long as we ourselves are courageous and of undaunted spirit, no force in all the world can humiliate us. As long as we ourselves persevere in the struggle, the final success will be ours. As all of you know so well, the fruits of revolutionary victory are always born of great adversity.

All of us must recognize that the changes in today's world revolve around the China problem and that the manner in which the China problem is to be solved will decide the fate of the human race. We therefore find ourselves occupying the most significant key position in this situation of great change. Our success or failure, advance or setback, in the current struggle will decide whether the world is to have security or danger and whether mankind is to know happiness or misfortune. We should not sit calmly and wait for changes in the world situation. We must take the initiative in order to control the changing situation, fight positively and keep ourselves always one step ahead of the enemy.

In the last 20 years not a day has passed without further struggle for power among the Chinese Communists. The tempo of struggle has recently increased. This suffices to prove that Mao Tse-tung thought and the Communist system are completely bankrupt. The people of the mainland, including the majority of Communist cadres, at first despaired but now have started to resist. The Chinese Communists have been aware of the erupting anti-Communist volcano under their feet and of their inability to control it.

They have been compelled to change their external strategy. They are seeking a respite through trickery and deceit. But the Chinese Communists can never change their announced goals of "anti-Soviet revisionism," "anti-American imperialism" and "anti all reactionaries." Actually, this change in external strategy has brought their lines of thought and policy to an impasse and has given rise to ever more serious confusion, chaos and worsening power struggle. Opportunity has thus been provided for the forces of anti-Communism and the anti-oppression struggle to accelerate and expand their mainland activities. Faced with this situation, we should further reinforce our faith, consolidate our strength and intensify our military preparedness so that we shall lose no time in grasping the moment of opportunity. We must accelerate the mainland prairie fires of anti-Mao and anti-Communist revoluntionary struggle.

Fellow countrymen: The course of our anti-Communist struggle is like that of a boat sailing rough seas in unpredictable weather. However, when all of us have a common understanding of our basic situation of anti-Communism and are no longer confused by momentary change; when all of us are moving in the right direction—sincerely, with unity, with a single purpose and sharing fortune and misfortune; when all of us decline to relax or become complacent or let down our guard on fair weather, and are not fearful or disappointed and do not cheat ourselves when the storm comes; when all of us augment our strength and spirit as the going worsens; then shall we cross over to the other shore, liberate our compatriots and recover our lost mainland."

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HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 9, 1971

Mr. McCLORY. Mr. Speaker, the recent Supreme Court decision in the case of Reed against Reed did what no Supreme Court decision has ever done before in our Nation's history. It struck down a State statutory provision which invidiously discriminated against women in the area of appointment as administrators of decedents' estates.

While the decision rendered by Chief Justice Burger rang clear in denouncing such forms of discrimination, it did not reach the total issue of full equality for women in all aspects of American life.

Mr. Speaker, when the equal rights amendment was debated on the floor of the House on October 6, I alluded to the possibility that the Supreme Court might extend the equal protection clause of the 14th amendment to women thus making the addition of an equal rights amendment to the U.S. Constitution less urgent. My position all along has been that the Supreme Court necessarily confines itself to the narrow issues involved in the cases and controversies which it must decide and that it was quite unrealistic to expect the Court to make a sweeping declaration which would accomplish the same objective as that sought by the equality of rights amendment which we passed in the House.

The decision in Reed against Reed bears out my earlier impression, and I am all the more convinced that the course of action which we took in October was consistent with our constitutional responsibility of providing full equality under the law for all American citizens—male or female. Therefore, I sincerely hope that the other body will act promptly and in a like manner in order that this country may remain true to itself by insuring that women will no longer have their legal rights subordinated by virtue of an artificial and outmoded conception of their status in society.

Mr. Speaker, I was extremely pleased to read the November 29 editorial in the Washington Post, entitled "Sex and the Single Administratrix," and I am therefore inserting it in the CONGRESSIONAL RECORD at this point:

SEX AND THE SINGLE ADMINISTRATRIX

The Supreme Court spoke with one voice on Monday in finding constitutionally invalid an Idaho law that gave preference to men over women for appointment as administrator of a decedent's estate. The one voice was the Chief Justice's and what it said was expressed with admirable precision, clarity and restraint. The nub of the decision is that while "the Fourteenth Amendment does not deny to states the power to treat different classes of persons in different ways," it does "deny to states the power to legislate that different treatment be accorded to persons placed by a statute into different classes on the basis of criteria wholly unrelated to the objective of that statute. A classification 'must be reasonable, not arbitrary, and must rest upon some ground of difference having a fair and substantial relation to the object of the legislation, so that all persons similarly circumstanced shall be treated alike.' "

A statute favoring men over women in the administration of estates rests pretty plainly on nothing more substantial than an antique prejudice that women are intellectually inferior to men. That prejudice is a relic of the period when men were able to look upon women as one of their more valuable indoor possessions. But it became untenable about the time that women demanded, and demonstrated an abundant capacity for, economic independence.

Chief Justice Burger's opinion dealt, quite properly, only with the case before the court and dealt with it on the narrowest possible grounds. It does not in any way diminish the need for the constitutional amendment passed by the House of Representatives assuring full equality to women in all aspects of American life. That equality can best be established through the amendment procedure, rather than through a series of Supreme Court decisions striking down outmoded and irrational inequalities.

Senator Sam Ervin, a gentleman of a very old school, managed to win approval by the Senate Constitutional Amendments Subcommittee for a formulation of his own effectively scuttling the amendment approved by the House. Mr. Ervin's proposal would forbid "any legal distinction between the rights and responsibilities of male and female persons unless such distinction is based on physiological or functional differences" between the sexes. This is so naked a piece of nullification that it ought not to bemuse anybody old enough to be a senator. It amounts to saying that women should be treated as the equals of men except when it suits whim or pleasure of some legislature to treat them as subordinates. One ought not to play games with the Constitution, or with the women of America, in that fashion.

Women are undoubtedly different from men. But that difference does not afford any rational basis for denying women the equal protection of the laws. Men may look upon women as they choose, individually—as sex objects, as interior decorations, as wives, mothers, co-workers, fellow-citizens. But in the United States, if the country is to remain true to itself, women must be accorded the same opportunity as men to pursue their own interests and to realize their own potentialities.

ERA AT UNITED AIRCRAFT IS COMING TO A CLOSE

HON. ROBERT N. GIAIMO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 9, 1971

Mr. GIAIMO. Mr. Speaker, United Aircraft is a giant on the world aerospace scene, and its leadership is recognized for innovation and performance. Last year, this industrial giant had sales over $2.3 billion. Despite dramatic and tragic setbacks in employment, United remains Connecticut's largest employer.

The health of United Aircraft is critical for the fiscal and employment picture in Connecticut, and changes in United's leadership are, therefore, of interest to business and labor leaders within and outside of Connecticut.

Mr. William P. Gwinn, chairman of United Aircraft, announced recently that he would retire next fall. Simultaneously, it was announced that Harry J. Gray, senior executive vice president at Litton Industries, Los Angeles, would become president and chief administrative officer at United and that Arthur E. Smith, now United's president, would become chairman of the executive committee.

Mr. Speaker, Bill Gwinn has been the kind of leader in aviation that has made this Nation preeminent in aircraft production in the world. In 1927, he started a career with United as a stock clerk. As the Hartford Courant said in a recent editorial—

> With the scheduled retirement next fall of Mr. Gwinn, a remarkable era is coming to a close.

As the Courant also pointed out, however—

> If an era is passing, there is no reason to be overly apprehensive of the future.

After 17 years of being involved in the phenomenal growth of Litton Industries from a one-product electronics firm to the prototype conglomerate, Harry Gray comes well equipped to handle the administrative responsibilities of this aviation giant. As a recent Courant profile shows, Harry Gray has also made his industrial mark, and he has done so through individual hard work and determination.

Connecticut is looking for stability in aerospace industries, Mr. Speaker, and along with other key areas—Seattle, southern California, and some others—has borne the brunt of this Nation's diminishing initiatives in flight and space technology. This year alone United has had to lay off more than 10,000 workers.

Connecticut has confidence in the managers and leaders of its aerospace industries, however. Bill Gwinn has been an outstanding leader, and when he retires next fall Harry Gray and Arthur Smith will move to take up the reins of United's empire. I hope that they find this Government more willing to invest in the future of aerospace ventures and in the well-being of the millions of people directly or indirectly dependent on a healthy aerospace industry.

I include an editorial and an article from the Courant in the RECORD at this point:

[From the Hartford (Conn.) Courant, Oct. 1, 1971]

ERA AT UNITED AIRCRAFT IS COMING TO A CLOSE

When the late Frederick B. Rentschler founded Pratt & Whitney Aircraft 46 years ago, he swiftly had at his side two young men who later were to lead what is now one of the giants of American industry. Of course they weren't much noticed at first. For H. Mansfield Horner, who retired three years ago as chairman of United Aircraft, joined the firm in 1926 as a stock chaser and messenger. And, in 1927, along came the man who was to be Mr. Horner's successor, William P. Gwinn. He, too, started as a stock clerk.

The origins of the East Hartford company are being recalled because of the changes in command that have just been announced there. And with the scheduled retirement next fall of Mr. Gwinn, a remarkable era is coming to a close. For almost from the start, Jack Horner and Bill Gwinn were at the side of Frederick R. Rentschler when his first famous Wasp engine launched an aerospace empire whose sales topped a whopping $2.3 billion last year.

If an era is passing, there is no reason to be overly apprehensive of the future. To be sure, United's employment has dipped to 59,000 recently after reaching a peak in excess of 70,000 persons. And some further attrition can be expected in the months ahead, the company has announced, because of the dwindling aerospace market this year. Beyond that, however, the prospects are improving. According to Mr. Gwinn, the employment level should be relatively stable in 1972 and 1973. And he noted the other day that the aerospace industry has "just about hit bottom" and there are "good signs of a turnaround now."

The task of building a new future has been assigned to Harry J. Gray, 51, who was senior executive vice president at Litton Industries in Los Angeles until being named United's president and chief administrative officer. In explaining the appointment, Mr. Gwinn commented: "We thought it very important to bring someone in to carry on for a long period, rather than have short-term successions in management." He also cited the benefits of an executive "blood transfusion" at a time when the company is broadening its market outlook.

There will still be plenty of seasoned local leadership in East Hartford to help guide the company, notably Arthur E. Smith who has advanced from president to chairman of the executive committee. Thus, as a new era begins, we wish both Mr. Gray and United Aircraft the very best of luck in the years ahead.

[From the Hartford (Conn.) Courant, Nov. 14, 1971]

NEW UAC PRESIDENT: "TRUE GRIT"

(By Robert F. Murphy)

On Dec. 27, 1963, Harry Jack Gray was wheeling a motorcycle along a California mountain road when the power wheel of the big bike hit a patch of ice.

Gray nearly died in the next 10 minutes.

When the motorcycle hit the ice it went into a skid that left it and its rider pinned under a roadside guardrail.

Gray's position was uncomfortable, to say the least, but what made it treacherous was that the motorcycle's engine kept running, causing the bike to see-saw—pressing Gray's leg against the guardrail.

He was eventually able to muster enough strength to turn off the ignition before his leg was severed. But in reaching for the key, he added to his troubles by twisting his body so that he fractured his hip.

Gray was telling about the accident the other day in his office at United Aircraft Corp., East Hartford, where he is the new president and chief administrative officer.

As if to prove he is whole again, Gray propped the damaged leg up on his desk top. The only after-effect of the injury is that he has to wear a calf-high elastic stocking.

TROUBLE SHOOTER

Gray has a reputation for getting into and out of tough spots. In World War II he fought from the Normandy beachhead to Czechoslovakia with the Army's 5th Division.

He earned a Silver Star and a Bronze Star with a V for gallantry in combat.

But some people think Gray took on his toughest assignment last Sept. 27 when he took a job at United Aircraft.

The aerospace industry is grounded and so is United Aircraft.

Gray, 51, has no such qualms. He took the job because it was what he calls "a career opportunity."

Gray does not conceal that he was frustrated in his ambition to be president of Litton Industries.

He was almost a charter member of the corporation Charles "Tex" Thornton and Roy L. Ash put together in June 1954, in California. Gray arrived on the scene in November.

Litton was a one-product electronics firm then and there were problems with what Gray says were "some ideas of about 60-over-enthusiastic engineers."

Gray, who is not an engineer, made an evaluation, came up with an acceptable solution and began his climb up the corporate ladder of Litton Industries.

Seventeen years later, and two rungs from the top, he packed it in and accepted the United Aircraft offer.

"There were reports that Mr. Thornton was going to retire," Gray says.

Thornton is 58 and if he retired, Roy A. Ash, who is 51, would have advanced to the chairmanship, leaving the presidency open for Gray, who was senior executive vice president.

Gray says that when the United Aircraft offer was made, he went to Thornton and asked him if he was retiring.

Thornton's answer was, "No."

The United Aircraft offer then became a career opportunity I had to accept," is the the way Gray puts it.

NOT SAYING

Harry Gray won't say what he is going to do at UAC and there are two reasons for his reticence.

The obvious one is that he is new on the job and the other is protocol.

Just as he was at Litton, Gray is Number 3 man on the executive totem pole at United Aircraft. William P. Gwinn is chairman and chief executive officer. Arthur E. Smith is second in command as chairman of the executive committee.

Gwinn will retire next year at age 65.

Smith, who is 60, is expected to succed Gwinn as chairman.

So for now, Gray talks about UAC in such generalities as, "the aerospace situation is still too uncertain to forecast a stabilizing of the employment picture at United Aircraft."

The corporation, Connecticut's largest private employer, has laid off nearly 10,000 workers this year. As of Sept. 30 there were 58,800 employes in several divisions and subsidiaries. Pratt & Whitney Aircraft is the largest.

But there is a way to circumvent Gray's "no comment" strategy on questions relating to United Aircraft.

The Chinese have it with a thing that says, "Study a man's words and you walk in his footprints."

If you had attended the May 17, 1966 meeting of the Denver Society of Security Analysts you would have heard Gray describe his kind of executive:

"He directs and manages with executive, not judicial, technique. He conceives his function as being not merely to resolve the conflicts of ideas and objectives among his subordinates, but also to have ideas and position of his own, and to convince others of their merit."

The security analysts had invited Gray, who was then senior vice president of finance and administration for Litton Industries, to speak to them and listened as he went on.

"The sort of person I am describing doesn't just sit and wait—as the proverb goes, 'prepared for opportunity'—he creates opportunity: For himself, for his ideas, and for those who join him. He is intellectually and emotionally oriented to the future, not the past."

Gray, reading those words today, five years after he delivered them, says the sentiments expressed are still valid.

ORIGINS IN GEORGIA

Gray's footprints literally go back to a small farm at a crossroads 20 miles outside Augusta, Ga.

But there is nothing of the Georgia farm boy in Gray today. His dress is executive suite: meticulous and conservative. And his southern drawl was obliterated in speech classes at the University of Illinois.

After receiving a bachelor's degree in journalism, with a major in marketing, in 1941, Gray went to war.

After the war, Gray returned to the University of Illinois for a master's degree, was an instructor there for a while, and finally landed his first job as an advertising manager for an auto dealer in Chicago.

Gray claims credit for originating the advertising gimmick of having an auto dealer do his own commercials on radio. It's a common practice today in broadcast advertising.

The job with the Dodge dealer was a pattern-setter. Gray got his first problem.

There were problems in the service department. He became service manager.

There were problems in sales. He became sales manager.

He didn't like car sales so he switched to truck sales and built up the larget sales volume Dodge truck dealership in the U.S. This happened from 1947 to 1950.

With that success, Gray thought it was time he should be sharing in some of the profits he was creating. But the dealer balked and Gray went to work selling buses for another outfit.

That job was great until the Korean Conflict caused steel allocations to be cut—resulting in reduced production of buses and a halved paycheck for Gray. He quit.

Because of his success in selling buses, Gray had a good reputation at Greyhound Corp. One of their divisions, Greyhound Movers, was having trouble in marketing and warehousing and Gray was tapped to work out the problems.

He was good enough to become an executive vice president and general manager, but when he suggested a stock option plan for executives and diversification, Greyhound's board of directors said no.

So once more, Gray packed his brief case and moved on.

He went to California and there began his 17-year association with Litton Industries.

There must be one more reference to Gray's motorcycle accident. It will show the man's grit.

It took him eight months to recuperate from the accident and he hardly missed a day of work.

At the time he was a corporate vice president in charge of Litton's Components Group, so he had the company rent the room next to his in the hospital, install telephone trunk lines and a secretary, and he conducted his business that way for four months.

After he was discharged from the hospital, he went home and worked out of his living room for four months.

Gray does not smoke and is a social drinker. He attended a Presbyterian church in California.

His wife is the former Barbara Helen Sander. They met at the University of Illinois.

The Grays have two daughters, Pamela, 24, who is Mrs. James Rivette, who lives in California with her husband and 9-month-old son; and Vicky Lynn, 17, a senior in a private school in Scottsdale, Ariz.

The Grays are renting a home in West Hartford while they look for a house to buy.

ENVIRONMENTALISTS ENCOURAGE GAS SHORTAGE AND PRICE HIKE

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 9, 1971

Mr. RARICK. Mr. Speaker, with our Nation facing an acute natural gas shortage which may be felt in many cold homes in the North this winter, I think that it should be of interest to our colleagues that several ecology groups have filed suit in the U.S. court in Washington to stop offshore oil leasing in the Louisiana-Texas area.

Many of us from the South are pleased that the environmentalists are watchful in minimizing pollution in our area. We hope their many friends in the North and Midwest will understand when the cold hits this winter as well as the consumer groups understanding any gasoline price increases.

A related newsclipping follows:

[From the Washington Post, Dec. 5, 1971]

THREE GROUPS SUE TO BLOCK SALE OF GAS AND OIL LEASES OFF LOUISIANA

Three environment groups have filed suit to block the Interior Department's Dec. 21 sale of oil and gas leases on the outer continental shelf off Louisiana.

The Natural Resources Defense Council, Friends of the Earth, and the Sierra Club filed suit Wednesday in U.S. District Court here, contending the Interior Department's environmental impact statement on the planned sale was inadequate.

The groups said the statement does not discuss adequately the possible alternatives to further offshore leasing, such as increased oil imports or an end to the prorationing system by which Texas and Louisiana limit their oil production.

Secretary of the Interior Rogers C. B. Morton expressed surprise at the suit.

A spokesman quoted Morton on Friday as saying: "We gave very serious and intensive study to alternatives and we believe we fully complied with the letter and the spirit of the National Environmental Policy Act, which requires the preparation of environmental statements.

"Further, for good environmental reasons, we deleted eight tracts from the sale and attached special stipulations to 16 of the remaining tracts that are being offered for lease.

"We anticipate the sale will alleviate the critical and increasing energy shortage in keeping with the President's energy message to the Congress on June 4."

The department spokesman said Interior's environmental impact statement said discussion of oil import policy or other energy sources was beyond its scope. It did not mention the Louisiana and Texas prorationing systems.

The department was planning to hold bidding on 78 offshore tracts on Dec. 21 in New Orleans. Eight tracts originally proposed for leasing were withdrawn because of their proximity to waterfowl sanctuaries.

The environment groups requested, in their suit, a declaratory judgment that Interior failed to comply with the legal prescription for environmental statements.

They also asked for a preliminary injunction to prevent the lease sale until the department is judged to have complied with the law.

THE DISASTER LOBBY

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 9, 1971

Mr. CRANE. Mr. Speaker, there are many in America who see in all of our difficulties major "crises," and who see Government intervention and the expenditure of huge sums of money as the only "answers" to such problems.

Speaking of such critics, Prof. Robert Nisbet of the University of California stated that:

> As brilliance, rather than profundity of knowledge is the style of the intellectual, so a high sensitivity to the existence of "crisis" is the hallmark of this thought. Among modern intellectuals, further, there is a frequently observed fondness for the uses of power, especially centralized, bureaucratized power in service to large-scale objectives.

Those who see all difficulties in terms of "crisis" and "disaster" rarely solve even the minor difficulties which do, in fact, exist. They seek, too often, to tear down the house rather than repair the roof, and they transform a minor problem into a major crisis which never existed until their own efforts came into play.

In a recent article Thomas R. Shepard, Jr., publisher of Look magazine, discussed the misconceptions held by those to whom he refers as "the Disaster Lobby."

With regard to oxygen, for example, those he calls disaster lobbyists argue that the burning of fuels by industry is using up the earth's oxygen and that, eventually, there will not be enough left to sustain human life. To this Mr. Shepard replies:

> The National Science Foundation recently collected air samples at 78 sites around the world and compared them with samples taken 61 years ago. Result? There is precisely the same amount of oxygen in the air as there was in 1910—2.95 per cent.

To the argument that our society is becoming overpopulated and that, as a result, some form of compulsory birth control instituted by Government in order to avert a diaster, is needed, Mr. Shepard responds:

> The birth rate in the United States has been dropping continuously since 1955 and is now at the lowest point of history. If the trend continues, it is remotely possible that by the year 4000 there won't be anyone left in the country.

He noted, however, that:

> I wouldn't fret about underpopulation either. Populations have a way of adjusting to conditions, and I have no doubt that our birth rate will pick up in due course.

In his important article, Mr. Shepard alludes to the other so-called disaster areas facing our society, the question of air and water pollution, of the conservation of animal life, and of drug addiction. He has important things to say with regard to each of these questions.

The real disaster our society faces, he argues, is none of these things, but may be the loss of freedom which is brought upon us by those attempting to solve disaster areas which are primarily of their own making.

Mr. Shepard points to the ironical fact that those who demand freedom in other areas of their lives, care little about economic freedom, a freedom which, he notes, "has made available to the average American luxuries that a short time ago were beyond the reach of the wealthiest plutocrat."

Speaking of this false double standard, he writes that:

> I am always amazed that members of the Disaster Lobby—Libertarians who champion the cause of freedom from every podium, who insist on everyone's right to dissent, to demonstrate, to curse policemen and smoke pot and burn draft cards and fly the flags of our enemies while trampling our own—these jealous guardians of every citizen's prerogative to act and speak without government restraint are also the most outspoken advocates of eliminating freedom in one area. When it comes to commerce, to the making and marketing of goods, our liberty-loving Disaster Lobby is in favor of replacing freedom with rigid controls.

I wish to share Mr. Shepard's perceptive words with my colleagues, and insert them into the RECORD at this time:

THE DISASTER LOBBY

(By Thomas R. Shepard, Jr.)

One morning last fall I left my office here in New York and hailed a cab for Kennedy Airport. The driver had the radio tuned to one of those daytime talk shows where the participants take turns complaining about how terrible everything is.

Air pollution. Water pollution. Noise pollution. Racial unrest. Campus unrest. Overpopulation. Underemployment. You name it, they agonized over it. This went on all the way to Kennedy and as we pulled up at the terminal the driver turned to me and said—and I quote—"If things are all that bad, how come I feel so good?"

Ladies and gentlemen, I wonder how many Americans, pelted day after day by the voices of doom, ever ask themselves that question: "If things are all that bad, how come I feel so good?"

Well, I think I have the answer. We feel good because things *aren't* that bad. Today I would like to tell you how wrong the pessimists are, and to focus an overdue spotlight on the pessimists themselves. These are the people who, in the name of ecology or consumerism or some other "ology" or "ism," are laying siege to our state and federal governments, demanding laws to regulate industry on the premise that the United States is on the brink of catastrophe and only a brand-new socio-economic system can save us. I call these people The Disaster Lobby, and I regard them as the most dangerous men and women in America today.

Dangerous not only to the institutions they seek to destroy but to the consumers they are supposed to protect.

Let's begin with a close-in look at that drumbeat of despair I heard in the taxicab and that all of us hear almost every day. Just how much truth is there to the Disaster Lobby's complaints?

ENVIRONMENT MISCONCEPTIONS

Take the one about the oxygen we breathe. The Disaster folks tell us that the burning of fuels by industry is using up the earth's oxygen and that, eventually, there won't be any left and we'll suffocate. False. The National Science Foundation recently collected air samples at 78 sites around the world and compared them with samples taken 61 years ago. Result? There is today precisely the same amount of oxygen in the air as there was in 1910—20.95 per cent.

But what about air pollution? You can't deny that our air is getting more fouled up all the time, says the Disaster Lobby. Wrong. I *can* deny it. Our air is getting less fouled up all the time, in city after city.

In New York City, for example, New York's Department of Air Resources reports a year-by year *decrease* in air pollutants since 1965. What's more, the New York City air is immeasurably cleaner today than it was a hundred years ago, when people burned soft coal and you could cut the smog with a knife.

Which brings us to water pollution. The Disaster Lobby recalls that, back in the days before America was industrialized, our rivers and lakes were crystal clear. True. And those crystal-clear rivers and lakes were the source of the worst cholera, yellow fever and typhoid epidemics the world has ever known. Just one of these epidemics—in 1793—killed one of every five residents of Philadelphia.

Our waterways may not be as pretty as they used to be, but they aren't as deadly, either. In fact, the water we drink is the safest in the world. What's more, we're making progress cosmetically. Many of our streams will soon *look* as wholesome as they *are*.

Perhaps it's the fear of overpopulation that's getting you down. Well, cheer up. The birth rate in the United States has been dropping continuously since 1955 and is now at the lowest point in history. If the trend continues, it is remotely possible that by the year 4000 there won't be anyone left in the country. But I wouldn't fret about *under*population, either. Populations have a way of adjusting to conditions, and I have no doubt that our birth rate will pick up in due course.

I now come to the case of the mercury in tuna fish. How did it get there? The Disaster Lobby says it came from American factories. The truth, as scientists will tell you, is that the mercury came from deposits in nature.

To attribute pollution of entire oceans to the 900 tons of mercury released into the environment each year by industry—that's less than 40 carloads—is like blaming a boy with a water pistol for the Johnstown Flood. Further proof? Fish caught 44 years ago and just analyzed contain twice as much mercury as any fish processed this year.

Speaking of fish, what about the charge that our greed and carelessness are killing off species of animals? Well, it's true that about 50 species of wildlife will become extinct this century. But it's also true that 50 species became extinct *last* century. And the century before that. And the century before *that*.

In fact, says Dr. T. H. Jukes of the University of California, some 100 million species of animal life have become extinct since the world began. Animals come and animals go, as Mr. Darwin noted, and to blame ourselves for evolution would be the height of foolishness.

OTHER FALLACIES

Then there is the drug situation. Isn't it a fact that we are becoming a nation of addicts? No, it is not. Historically, we are becoming a nation of *non*-addicts. Seventy years ago, one of every 400 Americans was hooked on hard drugs. Today, it's one in 3,000. So, despite recent experimentation with drugs by teenagers, the long-range trend is downward, not upward.

Another crisis constructed of pure poppycock is the so-called "youth rebellion," to which the Disaster Lobby points with mingled alarm and glee. But once you examine the scene in depth—once you probe behind a very small gaggle of young troublemakers who are sorely in need of an education, a spanking and a bath, not necessarily in that order—you can't find any rebellion worth talking about.

A while back *Look* commissioned Gallup to do a study on the mood of America. Gallup found that, on virtually every issue, the views of teenagers coincided with those of adults. And on those issues where the kids did *not* see eye-to-eye with their elders, the youngsters often tended to be more conservative.

The same assessment can be made of the putative black rebellion. There isn't any. Oh, there are the rantings of a lunatic fringe—a few paranoid militants who in any other country would be behind bars and whose continued freedom here is testimony to the fact that we are the most liberated and least racist nation on earth. But the vast majority of black Americans, as that same Gallup study revealed, are staunch believers in this nation.

How about unemployment? The Disaster people regard it as a grave problem. Well, I suppose even one unemployed person is a grave problem, but the record book tells us that the current out-of-work level of 6 per cent is about par. We've had less, but we've also had more—much more.

During the Kennedy Administration unemployment topped 7 per cent. And back in the recovery period of Franklin Roosevelt's second term, unemployed reached 25 percent. So let's not panic over this.

That word "panic" brings me to the H-bomb. Some people have let the gloom-mongers scare them beyond rational response with talk about atomic annihilation. I can't guarantee immunity from the bomb, but I offer the following as food for thought. Since World War II, over one billion human beings who worried about A-bombs and H-bombs died of other causes. They worried for nothing. It's something to think about.

One final comment on the subject. Members of the Disaster Lobby look back with fond nostalgia to the "good old days" when there weren't any nasty factories to pollute the air and kill the animals and drive people to distraction with misleading advertisements. But what was life *really* like in America 150 years ago?

THE GOOD OLD DAYS

For one thing, it was very brief. Life expectancy was 38 years for males. And it was a grueling 38 years. The work week was 72 hours. The average pay was $300. Per *year*, that is.

The women had it worse. Housewives worked 98 hours a week, and there wasn't a dishwasher or vacuum cleaner to be had. The food was monotonous and scarce. The clothes were rags. In the winter you froze and in summer you sweltered and when an epidemic came—and they came almost every year—it would probably carry off someone in your family. Chances are that in your entire lifetime you would never hear the sound of an orchestra or own a book or travel more than 20 miles from the place you were born.

Ladies and gentlemen, whatever American businessmen have done to bring us out of that paradise of 150 years ago, I say let's give them a grateful pat on the back—not a knife *in* it.

Now I'm not a Pollyanna. I am aware of the problems we face and of the need to find solutions and put them into effect. And I have nothing but praise for the many dedicated Americans who are devoting their lives to making this a better nation in a better world.

CONDITIONS IMPROVING

The point I am trying to make is that we are solving most of our problems, that conditions are getting better not worse, that

American industry is spending over $3 billion a year to clean up the enivronment and additional billions to develop products that will keep it clean, and that the real danger today is not from the free enterprise establishment that has made ours the most prosperous, most powerful and most charitable nation on earth.

No, the danger today resides in the Disaster Lobby—those crepe-hangers who, for personal gain or out of sheer ignorance, are undermining the American system and threatening the lives and fortunes of the American people.

When I speak of a threat to lives, I mean it literally. A classic example of the dire things that can happen when the Disaster Lobby gets busy is the DDT story.

DDT ALTERNATIVES

It begins during World War II when a safe, cheap and potent new insecticide made its debut. Known as DDT, it proved its value almost overnight. Grain fields once ravaged by insects began producing bumper crops. Marshland became habitable. And the death rate in many countries fell sharply.

According to the World Health Organization, malaria fatalities dropped from four million a year in the 1930s to less than a million by 1968. Other insect-borne diseases also loosened their grip. Encephalitis. Yellow fever. Typhus.

Wherever DDT was used, the ailment abated. It has been estimated that a hundred million human beings who would have died of one of these afflictions are alive today because of DDT.

But that's not the whole story. In many countries famine was once a periodic visitor. Then, largely because of food surpluses made possibly by DDT, famines became relatively rare. So you can credit this insecticide with saving additional hundreds of millions of lives.

Then in 1962 a lady named Rachel Carson wrote a book called *Silent Spring* in which she charged that DDT had killed some fish and some birds. That's all the Disaster Lobby needed.

It pounced on the book, embraced its claims—many of them still unsubstantiated—and ran off to Washington to demand a ban on DDT. And Washington meekly gave them their ban, in the form of a gradual DDT phase-out. Other countries followed the U.S. lead.

The effects were not long in coming. Malaria, virtually conquered throughout the world, is having a resurgence. Food production is down in many areas. And such pests as the gypsy moth, in hiding since the 1940s, are now munching away at American forests.

In some countries—among them Ceylon, Venezuela and Sweden—the renaissance of insects has been so devastating that laws against DDT have been repealed or amended. But in our country the use of DDT, down to 10 per cent of its former level, may soon be prohibited entirely.

The tragedy is that DDT, while it probably did kill a few birds and fish, never harmed a single human being except by accidental misuse. When the ultimate report is written, it may show that the opponents of DDT—despite the best of intentions—contributed to the deaths of more human beings than did all of the natural disasters in history.

In addition to endangering human life, the Disaster Lobbyists are making things as difficult as possible for us survivors. By preventing electric companies from building new power plants, they have caused most of those blackouts we've been experiencing.

CONSUMERISM

By winning the fight for compulsory seat belts in automobiles, they have forced the 67 per cent of all Americans who do not use seat belts to waste $250 million a year buying them anyway.

By demanding fewer sizes in package goods on the ground that this will make shopping easier for the handful of dumbbells in our society, they are preventing the intelligent majority of housewives from buying merchandise in the quantities most convenient and most efficient for their needs.

And I don't have to tell anyone in this room what the Disaster crowd has done and is doing to make washday a nightmare in millions of American homes. By having the sale of detergents banned in some areas and by stirring up needless fears throughout the country, they have missed the point entirely.

As Vice President Charles Bueltman of the Soap and Detergent Association recently pointed out, detergents with phosphates are perfectly safe, eminently effective and admirably cheap. And if they foam up the water supply in some communities, the obvious remedy is an improved sewer system. To ban detergents is the kind of overkill that might be compared with burning down your house to get rid of termites.

THREAT TO FREE ENTERPRISE

But of all activities of the Disaster Lobbyists, the most insidious are their attempts to destroy our free enterprise system. And they are succeeding only too well.

According to Prof. Yale Brozen of the University of Chicago, free enterprise in the United States is only half alive. He cited as evidence our government's control of the mail, water supplies, schools, airlines, railroads, highways, banks, farms, utilities and insurance companies, along with its regulatory involvement in other industries.

And his statement was made prior to introduction in Congress last year of 150 bills designed to broaden government influence over private business.

Fortunately, most of the bills were defeated or died in committee. But they will be back in the hopper this year, along with some new bills. And they will have support from the darlings of the Disaster Lobby—senators like Moss, Proxmire and Hart and Representatives like Rosenthal of New York.

If so many important people are against free enterprise, is it worth saving? I think it is. With all its faults, it is by far the best system yet devised for the production, distribution and widespread enjoyment of goods and services.

It is more than coincidence that virtually all of mankind's scientific progress came in the two centuries when free enterprise was operative in the Western world, and that most of the progress was achieved in the nation regarded as the leading exponent of free enterprise: the United States of America.

For in the past 200 years—an eyeblink in history—an America geared to private industry has conquered communicable diseases, abolished starvation, brought literacy to the masses, transported men to another planet and expanded the horizons of its citizens to an almost incredible degree by giving them wheels and wings and electronic extensions of their eyes, their ears, their hands, even their brains. It has made available to the average American luxuries that a short time ago were beyond the reach of the wealthiest plutocrat.

And by developing quick-cook meals and labor-saving appliances, it has cut kitchen chores in most homes from five hours a day to an hour and a half—and as a result has done more to liberate women than all of the bra-burning Betty Friedans, Gloria Steinems and Kate Milletts combined.

THREAT TO FREEDOM

But the practical benefits of free enterprise are *not* my principal reason for wanting to preserve the system. To me, the chief advantage of free enterprise is in the word "free." "Free" as opposed to controlled. "Free" as opposed to repressed. "Free" as in "freedom."

I am always amazed that members of the Disaster Lobby—liberatarians who champion the cause of freedom from every podium, who insist on everyone's right to dissent, to demonstrate, to curse policemen and smoke pot and burn draft cards and fly the flags of our enemies while trampling our own—these jealous guardians of every citizen's prerogative to act and speak without government restraint are also the most outspoken advocates of eliminating freedom in one area. When it comes to commerce, to the making and marketing of goods, our liberty-loving Disaster Lobby is in favor of replacing freedom with rigid controls.

And let us not minimize the value of this freedom of commerce to every man, woman and child in our country.

This is the freedom that makes it possible for the consumer to buy one quart of milk at a time—even though a government economist may think gallon containers are more efficient and quarts should be abolished.

This is the freedom that enables the consumer to buy rye bread if he prefers the taste—although someone in Washington may feel that whole-wheat is more nutritious and rye should be outlawed.

This is the freedom that allows the consumer to buy a refrigerator in avocado green despite some bureaucrat's desire to have all refrigerators made in white because it would be more economical that way.

For in a free economy, the consumer—through his pocketbook—determines what is made and what is sold. The consumer dictates the sizes, the shapes, the quality, the color, even the price.

And anyone who doubts the importance of this element of freedom ought to visit one of those grim, drab countries where the government decides what should and what should not be marketed.

But this is the direction in which the Disaster Lobby is pushing *our* country. What surprises me is how few of us seem to recognize the enormity of the threat. Instead of fighting back, we keep giving in to each insane demand of the consumerists—in the hope, I suppose, that if we are accommodating enough the danger will go away.

Well, ladies and gentlemen, it *won't* go away. If I accomplish nothing else today, I hope I can make that fact transparently plain.

NADER'S INTERESTS

Take the Nader group, for example. I have heard many businessmen dismiss Ralph Nader and his associates as well-meaning fellows who sincerely want to help the consumer by improving business methods.

Forget it. Mr. Nader isn't interested in seeing American industry clean house. What he wants is the *house*—from cellar to attic. His goal is a top-to-bottom takeover of industry by the government, with Mr. Nader, himself, I would guess, in charge of the appropriate commission.

Find it hard to believe? Then listen to this Associated Press report of a speech he made last September:

"Consumer advocate Ralph Nader has proposed that corporations that abuse the public interest should be transferred to public trusteeship and their officers sent to jail."

Well, we all know which corporations abuse the public interest in the eyes of Mr. Nader, don't we. *All* of them. The automobile companies. The tire companies. The appliance companies. The drug companies. The food companies. And yes, indeed, the soap and detergent companies.

What Mr. Nader really desires, ladies and gentlemen, is for the government to take over *your* companies and to toss all of you into the calaboose, presumably without a trial. At least he never said anything about a trial.

Does anyone still think Mr. Nader and the rest of the Disaster Lobby are just some harmless do-gooders? Those who know them best don't think so. Federal Trade Commissioner Paul Rand Dixon, for example. Not long ago, he said of Mr. Nader—and I quote—"He's preaching revolution, and I'm scared."

So let's start fighting back! It's not an impossible task because the Disaster Lobby is, by and large, not too bright and far too preposterous. All we have to do to win over the American people is acquaint them with the facts.

We must show them that the consumerists are for the most part devout snobs who believe that the average man is too stupid to make his own selections in a free marketplace.

MIXED-UP EXTREMISTS

Our Disaster group opponents also have the most cockeyed set of priorities I have ever encountered. To save a few trees, they would prevent construction of a power plant that could provide essential electricity to scores of hospitals and schools. To protect some birds, they would deprive mankind of food. To keep fish healthy, they would allow human beings to become sick.

One curious feature of the Disaster Lobby is an almost total lack of ethics. I say "curious" because these are the people who demand the maximum in ethics from private industry.

Not long ago, an organization favoring clean air ran an ad soliciting funds from New Yorkers. It was full of half-truths and non-truths, including this sentence: "The longer you live with New York's polluted air and the worse it gets, the better your chances of dying from it." But we know that New York's air is *not* getting worse. Just let some private company run that ad and see how fast the consumerism boys would have a complaint on file with the FTC.

Immaturity is also a characteristic of the Disaster man. His favorite question is, Why can't we have everything? Why can't we have simon-pure air *and* plentiful electricity *and* low utility rates, all at the same time? Why can't we have ample food *and* a ban on pesticides? I recommend the same answer you would give a not-too-intelligent five-year-old who asks, "Why can't I eat that cookie and still have it?" You explain that you just *can't* under our present technology.

Just recently the Coca-Cola Co. felt it necessary to reply to environmentalists who demand immediate replacement of glass and metal soft drink containers with something that will self-destruct. "A degradable soft drink container sounds like a fine idea," said Coca-Cola, "but it doesn't exist. And the chances are that one can't be made."

And Edward Cole, president of General Motors, responding to a government mandate for drastic reductions in exhaust emissions within the next four years, stated: "The technology does not exist at this time—inside or outside the automobile industry—to meet these stringent emission levels in the specified time."

This inability of the Disaster people to accept reality is reflected in their frequent complaint that mankind interferes with nature. Such a thing is patently impossible. Man is *part* of nature. We didn't come here from some other planet. Anything we do, we do as card-carrying instruments of nature.

You don't accuse a beaver of interfering with nature when it chops down a tree to build a dam. Then why condemn human beings for chopping down a lot of trees to build a lot of dams—or to do anything else that will make their lives safer or longer or more enjoyable?

When it comes to a choice between saving human lives and saving some fish, I will sacrifice the fish without a whimper. It's not that I'm anti-fish; it's just that I am pro-people.

The Disaster Lobbyist's immaturity shows up again and again in his unwillingness to compromise, to understand that man must settle for less than perfection, for less than zero risk, if he is to flourish. Failing to understand, they demand what they call "adequate testing" before any new product is released to the public. But what they mean by adequate testing would, if carried out, destroy all progress.

If penicillin had been tested the way the Disaster Lobby wants all products tested—not only on the current generation but on future generations, to determine hereditary effects—this wonder drug would not be in use today. And millions of people whose lives have been saved by penicillin would be dead.

We simply cannot test every aspect of human endeavor, generation after generation, to make *absolutely* certain that *everything* we do is *totally* guaranteed not to harm *anybody* to *any* degree whatsoever. We must take an occasional risk to do the greater good for the greater number. But that is a rational, mature evaluation—something of which the Disaster Lobby seems utterly incapable.

So this is the face of the enemy. Not a very impressive face. Not even a pleasant face. We have nothing to lose, therefore, by exposing it to the American people for what it is.

ACTION NEEDED

The time for surrender and accommodation is past. We must let the American public know that, once free enterprise succumbs to the attacks of the consumerists and the ecologists and the rest of the Disaster Lobby, the freedom of the consumer goes with it. His freedom to live the way he wants and to buy the things he wants without some Big Brother in Washington telling him he can't.

Truth and justice and common sense are on our side. And Americans have a history of responding to these arguments. All we have to do is get the story out—as often as possible, in as many forms as possible. And let's not vitiate our efforts by talking to each other—one businessman to a fellow businessman.

The people we must reach are the *consumers* of America, and they're out there right now listening to propaganda from the other side and, as often as not, agreeing with it. But why shouldn't they? They have yet to hear the truth.

It's a bit late to make a New Year's resolution, but I suggest this one for anyone willing to chip in with a tardy entry. Let us resolve that 1971 will be the year we help convince the people of America that our nation is a great one, that our future is a bright one and that the Disaster Lobby is precisely what the name implies. A disaster.

SOME BRICKBATS FOR THE PRESS

HON. RICHARD BOLLING

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 9, 1971

Mr. BOLLING. Mr. Speaker, the following article by John P. Roche, which appeared in the Washington Post of December 8, makes interesting reading:

[From the Washington Post, Dec. 8, 1971]

SOME BRICKBATS FOR THE PRESS

(By John P. Roche)

At the risk of annoying editors and boring readers, I want to return to my unanswered question about South Vietnam. Well over a year ago listening to the orchestration of abuse against President Thieu and his government—I asked all the pontiffs a simple question: If Thieu is a "facist" running a "vicious police state," how come he is arming the peasants? It is obvious that no dictator in his right mind is going to hand out rifles to the hostile masses, but by now the Republic of Vietnam has armed some 2,000,000 of its citizens.

For some reason or other, nobody has even tried to answer that question. What makes his loud silence even more interesting is that the people who have been handed guns were allegedly the backbone of revolutionary discontent, the "landless tenants" victimized by great landowners. Why have these victims of exploitation refused to turn their guns against their province chiefs, the local gauleiters of the hated Saigon regime?

There may not be a valid domino theory in international relations, but there certainly is one that operates in the American press. In 1968, as best one can date it, the conventional wisdom in journalistic circles wrote off Saigon as a loser. From that point on, this proposition was taken as a given in the equation. Those of us who persisted in arguing that Tet was a tremendous victory for our side, or that the Thieu government had at least a fighting chance of surviving, were written off as slightly obsessed crackpots. After all, hadn't John Kenneth Galbraith gone to the top of the mountain in March, 1968, to announce that the South Vietnamese government would totally collapse in six weeks?

Oddly enough, in retrospect, the Tet offensive may well have marked the watershed in the military balance: Hanoi has never recovered from the fearful beating its forces took. And in the wake of Tet, the Saigon government—far from collapsing—suddenly achieved new vitality and self-confidence. Moreover, the decline in Hanoi's striking capacity gave Thieu some breathing space, an opportunity to start on needed policies of domestic reform that would undermine the appeal of the Vietcong.

First and foremost was land reform. In a sadly neglected article in the Wall Street Journal (2-5-71), Professor Roy Posterman, a long-time advocate of vigorous land reform in Vietnam, pointed out that in late 1968 President Thieu gave this program top priority, in 1969 he fought off the landlord interests and got the National Assembly to pass the "Land to the Tiller" bill, and in 1970 the action started. In effect, Thieu sponsored an agrarian revolution of his own: 800,000 tenant farmer families (about 5,000,000 people) in 1968, more than 450,000 families have now become landowners! Posterman, who was a chief legal adviser, told me that "at the present rate of progress, virtually all tenant farming in South Vietnam will have been ended by this time next year."

While the New York Times hailed the passage of the "Land to the Tiller" act as "possibly the most imaginative and progressive non-Communist land reform of the 20th century" (4-9-70), it has not since reverted to the subject in any significant fashion. Yet, land reform is the key to the dilemma of the strange counter-revolutionary behavior of the armed peasantry. Throughout the 1960s, the Vietcong recruited like fish in the sea, telling the tenants, "We have given you land, now give us your son." Now the son is working the farm and the spectre that worries him is not the landlord, but collectivization on the North Vietnamese model. The rifle behind the door is his insurance policy.

Which leads to a final odd thought: In a war characterized by paradoxes, the Thieu government may find its major future problem not the pacification of the countryside, but the suppression of urban terrorism.

PROBE OF FHA ABUSES IN DETROIT

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 9, 1971

Mr. CONYERS. Mr. Speaker, last week the Subcommittee on Legal and

Monetary Affairs of the House Committee on Government Operations was in Detroit, Mich., conducting an investigation into the increasing rate of default on FHA-insured mortgages. I was pleased to accept the invitation of Subcommittee Chairman JOHN S. MONAGAN to accompany the subcommittee on its inspection of homes and to participate in the subcommittee's hearings on Friday and Saturday.

The problem which the Monagan subcommittee is investigating is one which deserves congressional attention. Over the years Congress has enacted numerous housing acts which seek to provide housing for low- and moderate-income people in our cities. But legislation which appears to address the problems of the poor, has, it seems, been perverted to serve the purposes of unscrupulous real estate speculators, as the attached articles indicate.

The housing acts creating the subsidized housing programs are filled with opportunities for the profiteer to take advantage of both the public and the Government. Only a high degree of circumspection and integrity on the part of the Department of Housing and Urban Development can prevent the misuse of the housing programs, and I think that this point is illustrated by the testimony the subcommittee received last week.

I am not calling for the curtailment of the programs which seek to provide housing for low- and moderate-income people. Far from it; I feel that, if anything, more effort is needed in this area. The amount of time, money, and effort which must be spent to solve this country's urban problems will require a multiplication of our present commitments.

I want to commend Chairman MONAGAN and his committee for exercising their oversight responsibilities respecting DHUD. That committee is engaged in a fact-finding investigation, long overdue in the field of urban housing. Without these facts it is impossible to evaluate the effect of existing programs and their predecessors. I urge the Monagan subcommittee to continue its penetrating probe throughout the Nation, for, in my judgment, the problems of Detroit, which indeed are serious, are reflected in many cities.

I am submitting for insertion in the RECORD a series of newspaper articles which summarize the evidence which the Monagan subcommittee received. I commend these articles to the consideration of my colleagues.

OPENING STATEMENT BY HON. JOHN S. MONAGAN, CHAIRMAN, LEGAL AND MONETARY AFFAIRS SUBCOMMITTEE

The Members of the Legal and Monetary Affairs Subcommittee of the House Government Operations Committee have come to Detroit to evaluate the reasons for the alarming increase in the rate of default in FHA-insured mortgages of real estate in this City.

Our Committee has a Congressional mandate to examine the operations of Government agencies to determine whether or not they operate with efficiency and economy. Under this general charge, our Subcommittee has jurisdiction over the Department of Housing and Urban Development and the various organizations including FHA within that Department.

We arrived this morning and have conducted a tour of selected foreclosed units, both single and multi-family, and neighborhoods primarily in the east side of Detroit. The cooperation extended to the Subcommittee by Mr. William Whitbeck, Area Director, DHUD, and Mayor Gribbs and city officials is very much appreciated.

The Subcommittee, as has been widely reported, yesterday conducted hearings in Washington at which time representatives of the General Accounting Office presented the results of their survey efforts here in the Metropolitan Detroit area. It is clearly recognized by the Subcommittee that the reasons for the present situation are most complex and it is certainly this Subcommittee's desire to avoid reaching premature judgments in Detroit and elsewhere throughout the nation until such time as the views of those having an expertise in this complex area of housing have had an opportunity to testify.

I think we have all realized for some time that the type situation which exists in Detroit has many ramifications extending beyond the suffering of individual tenants and/or purchasers and the potential risk to the FHA insurance fund. The problems of a deteriorating neighborhood and the ultimate costs that will be involved to return these type neighborhoods to a viable condition are significant. The plight of many individuals, desperately trying to hold on to their homes in neighborhoods such as we have seen this morning, cannot be overemphasized.

The HUD inventory of acquired FHA insured properties in Detroit increased from 810 on August 1, 1969 to 5297 on October 1, 1971. This constitutes an increase in the foreseeable future. Of the 2034 properties disposed of by the FHA in the two-year period, the average cost to the Government has been $9,974. This means that the FHA General Insurance and Special Risk Funds have been compelled to pay $20 million in these cases and that there is a potential liability of over $50 million in the inventory of homes on hand at the present time.

The FHA reserve funds, financed by mortgage insurance premiums, have since the beginning of FHA been deemed actuarially sound. It would be infinitely more serious if the situation in Detroit is found to exist in other major cities.

We do not seek to point the finger at anyone. We do not question the motives of anyone involved, however, we do desire to examine the situation closely to determine the operation of the governmental programs which have been involved and to discover what the basic facts are and what the causes are.

We are grateful for the welcome which has been extended to us by Mayor Gribbs. It is certainly the mark of a constructive administrator to welcome examination of a problem with strong Federal connotations which lies within the City he administers. On behalf of a Committee which has a deep interest in urban problems, we have been pleased to learn of the part which Mayor Gribbs played in bringing to fruition the recent $500 million Ford Development Plan for the revitalization of downtown Detroit.

I should also like to express the appreciation of the Committee to the Department of Housing and Urban Development and in particular to Mr. William Whitbeck. At this point I would like to express, on behalf of Senators Hart and Griffin, and Congressman Diggs, their regrets at being unable to be present today and assert at this point in the record communications received from them.

[From the Detroit News, Nov. 29, 1971]

DETROIT HEARINGS TO AIR ABUSES OF FHA

(By Don Ball)

A congressional committee will hold public hearings in Detroit Friday and Saturday on past abuses of FHA mortgage insurance programs for low-income families.

The subcommittee on legal and monetary affairs of the House Operations Committee has been investigating FHA programs in Detroit for the past several months.

The committee hearings, headed by U.S. Rep. John S. Monagan, Connecticut Democrat, will start with a report by the General Accounting Office (GAO) on the multimillion-dollar losses suffered by the FHA insurance fund as a result of the soaring number of foreclosures in Detroit.

GAO will report to the subcommittee in Washington Thursday. Committee and staff members will come to Detroit Friday morning for a tour of the city before the hearings Friday afternoon and Saturday morning.

Detroit was picked as the first city to be visited by the committee because the foreclosure problem here is the worst in the nation—as revealed in articles in The Detroit News over the past 10 months. The articles also bared widespread abuses in the FHA programs, but there has yet to be an indictment by federal authorities growing out of those abuses.

Meanwhile, The News learned that the Wayne County prosecutor's office has renewed its investigation of possible fraud in sales of homes under the FHA programs for low-income families.

Prosecutor William L. Cahalan has assigned Jay Nolan, head of the fraud division, to direct the investigation and prosecute cases involving violations of state laws.

Information on violations of federal laws will be turned over to the U.S. attorney's office in Detroit.

Nolan admits, however, that most abuses of the FHA programs brought to his attention in the past were outside of his jurisdiction.

The abuses have resulted in misery and heartbreak for hundreds of low-income Detroit families bilked in purchases of homes which proved to be uninhabitable.

Partly as a result of the abuses, the foreclosure rate on FHA-insured mortgages in Detroit has soared to a record high. The U.S. Department of Housing and Urban Development (HUD) now owns nearly 5,000 homes in the city as a result of the foreclosures.

Eighty percent of the homes have been acquired by HUD over the last 20 months and some 750 of the repossessed homes were in such poor condition that HUD has ordered them torn down.

To date there has been only one real estate firm charged with irregularities in connection with sales of homes under the FHA program for low-income families.

The company allegedly sold the house before acquiring title to the property and is being prosecuted by Nolan's division.

Nolan has been concerned for more than 2 years about the sales of substandard homes to low-income families under the FHA program, but was unable to get action by Washington officials.

"The abuses of the FHA programs first came to our attention in 1969 when people came to us with complaints about being sold substandard homes which had been 'approved' by the FHA."

"The local FHA officials were concerned but said they could do nothing.

"I wrote a letter in December, 1969, to George Romney, secretary of HUD, outlining the problem and requesting him to help correct the serious situation.

"I didn't even receive an answer."

Nolan's probe actually will be the second investigation by the prosecutor's office into the sale of homes under FHA mortgage programs for low-income families.

The first investigation, conducted by the civil division, started last spring and a report on the findings was made public two weeks ago.

The report concluded that there had been no wrongdoing by real estate or mortgage firms and that the blame for the abuses of the mortgage programs rested with the FHA because of its failure to enforce physical standards on homes sold under the programs.

The report was based on a study of the sales of 50 east side Detroit homes.

Not only was the sample for the study small, compared to some 30,000 home sales under the FHA programs in Detroit over the last three years, but it was off target.

Many of the transactions in the sample involved homes sold in the 1965–67 period, although the FHA programs for low-income families were not adopted until 1968.

Apparently the files on the 1965–67 sales were provided by HUD to the prosecutor's office as a result of a misunderstanding as to what the study was to cover.

Further, a report on the investigation was not turned over to the U.S. attorney's office as had been promised.

Ralph B. Guy Jr., U.S. attorney for eastern Michigan, had promised to follow up on any cases involving violation of federal laws which were turned up by the investigation.

Not only has Guy not received any information from the prosecutor's office, he said HUD has referred only 10 cases of possible violations of federal laws to his office so far this year.

"They come in raw and must be investigated by the FBI since I have no investigators," Guy said.

"The FBI decides its priorities and assigns investigators on that basis.

"I have not been contacted by Detroit area HUD officials with any request for special attention to FHA cases."

Guy said his office is concerned about the abuses of FHA mortgage programs reported in the press and promised prosecution of those involving violations of federal laws.

Some of the cases apparently involve only HUD regulations and not federal laws, he said.

"In those instances, HUD can take administrative action against the guilty individual or firms," Guy said.

However, there appears to be a question of just how high a priority is placed on FHA cases by the Justice Department.

A real estate broker who allegedly submitted false employment letters for the purpose of obtaining FHA insurance on home mortgages was reported to HUD in September, 1970.

The case was investigated by the FBI and the findings referred to the U.S. attorney's office. Now, however, the case has been sent back to the FBI for further investigation.

More recently, the FBI investigated a real estate salesman last spring for allegedly obtaining illegally high down payments on homes sold under an FHA mortgage subsidy program.

The case still has not been presented to a federal grand jury.

William C. Whitbeck, director of the Detroit area HUD office, said that since last January his office has referred 24 cases for investigation but some have not yet reached the U.S. attorney's office.

"Under our rules, we must send the cases first to the office of investigation at the HUD regional office in Chicago," he said.

"That office sends cases which merit further investigation to the U.S. attorney's office here in Detroit.

"Several of the 24 cases referred so far involve more than one person or firm."

He said he has talked to Guy about the procedures of his office and has cooperated fully with the prosecutor's office.

"We also have taken administrative action against several individuals and firms for violating HUD regulations," he said.

"We have stopped processing applications of several individuals and firms for FHA mortgage insurance since last January because of their past activities."

HUD also can blackmail individuals and firms by placing their names on its "undesirable risk determination" (UDR) list.

The UDR list is circulated nationwide and individuals and firms named on it are prohibited from doing business with the FHA.

In addition, HUD can permanently bar individuals and firms from doing business with the FHA under provisions of Section 512 of the federal housing law.

Whitbeck said neither of the disciplinary measures has been invoked against any Detroit firm this year except in the case of one company involved in fraudulent activities two years ago.

Whitbeck added that his agency can use its "good offices" to call a problem to the attention of the responsible real estate or mortgage company and ask for cooperation in correcting the situation.

"We have done this in a number of cases over the past months with considerable success," he said.

[From the Detroit News, Nov. 30, 1971]

FHA Probers Due in Detroit

(By Don Ball)

Detroit has been labeled a "horrible example" of what happened to the nation's big cities as a result of past mismanagement of the FHA's mortgage insurance programs for low-income families.

The U.S. General Accounting Office estimates that the FHA insurance fund faces a $50 million loss because of the record number of foreclosures of FHA-insured mortgages on Detroit homes. A congressional committee plans to visit the city this week to find out first-hand what went wrong

Because of the critical problem in Detroit, it was chosen to be the first of a number of cities to be visited by the legal and monetary affairs subcommittee of the House Government Operations Committee.

Headed by Rep. John S. Monagan, Connecticut Democrat and subcommittee chairman, the subcommittee will tour Detroit Friday morning and hold public hearings in the afternoon and Saturday morning in Federal Judge Thomas P. Thornton's courtroom in the Federal Building.

The committee's specific areas of concern are the same as those raised in articles which have appeared regularly in The Detroit News since January.

The News called attention to the misery and hardship of low-income families as a result of buying substandard homes under the FHA programs, the problem in the city of the growing number of homes left vacant as a result of foreclosures on FHA mortgages and the mounting costs to the FHA insurance fund.

Rep. Chet Holifield, California Democrat, chairman of the parent committee, and Monagan said in a joint statement yesterday in Washington:

"The alarming increase in foreclosures of FHA-insured mortgages in Detroit will be the immediate concern of the subcommittee.

"The HUD (U.S. Department of Housing and Urban Development) inventory of repossessed homes in Detroit has increased from around 900 in January, 1970, to nearly 4,600 as of last Oct. 1.

"There is every reason to believe the rate of foreclosures will continue to increase in the foreseeable future, costing the government an average of $9,974 for every house ultimately disposed of by the FHA."

According to the latest figures of the Detroit-area HUD office, the number of repossessed homes in Detroit had increased to around 5,000 by the first of this month.

Based on the congressional estimate of the cost per home, the loss faced by the FHA because of foreclosures in Detroit has reached the $50 million level.

The News revealed in an article on Feb. 18 that Wayne County had the highest foreclosure rate on FHA-insured mortgages of any area in the nation during the first nine months of 1970.

Because of the redemption period allowed mortgage holders, those foreclosures began resulting in repossessed homes this year.

A spokesman for the Michigan Mortgage Bankers Association played down the seriousness of the foreclosure rate at the time of The News' article in February.

Hugh Ross, president of the Advance Mortgage Corp. and later president of the bankers association, said he saw nothing to be concerned about in the number of foreclosures and repossessions.

After The News called attention to areas in the city virtually turned into "ghost towns" by the large number of vacant homes owned by HUD as the result of mortgage foreclosures, Mayor Gribbs visited several of the hard-hit streets.

As a result, Gribbs wrote George Romney, secretary of HUD, about the problem and his concern about its effect on the city.

In his reply, Romney wrote:

"I, too, am concerned over the blight and deterioration which is affecting Detroit and many other urban centers.

"I am concerned over the mounting rate of property acquisitions pursuant to defaults on insured mortgages which HUD is experiencing in Detroit and elsewhere.

"Further, I am concerned that you have apparently reached the conclusion that the former condition is caused 'in large part' by the latter (the foreclosures) or by other, unnamed policies of HUD.

"I consider such a conclusion to be ill-founded and more than a little misleading to the general public."

Monagan said yesterday, however:

"Because of the seriousness of the situation in Detroit, the General Accounting Office (GAO) has for an extended period of time been in the process of reviewing HUD repossessions in that city.

"The GAO findings will be presented to the committee in Washington on Thursday so that it will be briefed for its visit to Detroit.

"At the public hearings in Detroit, the committee will be able to examine causes of the current foreclosure situation and steps being taken to bring it under control.

"The anticipated testimony of HUD officials from Washington also will give the committee an opportunity to consider the potential threat to the security of the FHA general insurance and special risk funds if the Detroit situation is mirrored in other cities."

[From the Detroit Free Press, Nov. 30, 1971]

Hearings Set on FHA in Detroit

(By Marco Trbovich)

A congressional subcommittee announced Monday that it will hold hearings in Detroit this week on "the alarming increase in the rate of foreclosure of Federal Housing Authority (FHA) insured properties in Detroit."

The House government operations subcommittee on legal and monetary affairs will begin public hearings at 2 p.m. Friday in room 867 of the Federal Building, 231 W. Lafayette, downtown.

The announcement followed an earlier disclosure by the Wayne County prosecutor's office that an investigation is being renewed into possible fraud in sales of homes under FHA mortgage programs for low-income families.

House Government Operations Committee Chairman Chet Holifield D-Cal., said a Department of Housing and Urban Development (HUD) inventory of properties acquired in Detroit increased from 810 on Aug. 1, 1969, to 5,297 as of Sept. 30, 1971. The increase was primarily a result of foreclosures by FHA.

"There is every reason to believe that the rate of foreclosure will continue to increase in the foreseeable future, costing the government an average of $9,974 for every house ultimately disposed of by FHA," Holifield said.

Subcommittee Chairman John S. Monagan, D-Conn., said the Government Accounting

Office (GAO) has been reviewing HUD acquisitions in Detroit, "because of the seriousness of the situation."

Before traveling to Detroit, the subcommittee will hear testimony in Washington Thursday from Baltas Birkle, assistant director of the GAO's Civil Division. Birkle will present the results of the GAO investigation.

Friday morning the subcommittee will move to Detroit to inspect foreclosed homes and neighborhoods affected by the increased rate of foreclosures.

Monagan is expected to preside over the hearings. Subcommittee members will be joined on the tour Friday by representatives of Mayor Gribbs' office and local and regional housing offices.

Monagan's subcommittee also expects to hear from William C. Whitbeck, Detroit area director for HUD. Mayor Gribbs has also been asked to testify.

[From the Detroit News, Dec. 1, 1971]

JURY PROBE OF FHA ABUSES SOUGHT

(By Don Ball)

Leveling "whitewash" charges at the prosecutor's office, a group of Wayne County commissioners today called for a special grand jury investigation into alleged irregularities in sales of Detroit homes under FHA mortgage programs for low-income families.

A Board of Commissioners subcommittee headed by Paul Silver petitioned State Atty. Gen. Frank J. Kelley for a grand jury probe into alleged inflated appraisals and other purported irregularities under the program.

The subcommittee charged that an earlier investigation by the county prosecutor's office had resulted in a "whitewash."

Countered Prosecutor William L. Cahalan:

"It would serve no useful purpose to respond to the emotional outbursts of Commissioner Silver. But if Mr. Kelley wants to investigate, we will certainly cooperate with him."

Commenting on the alleged irregularities, cahalan said, "What has happened was reprehensible, but not criminal."

Cahalan's report in September found no wrongdoing by appraisers, real estate brokers, investment companies or mortgage firms. It cited only a failure by the FHA to enforce its regulations.

"It was definitely a whitewash and was intended to be a whitewash before they opened the first file," Silver declared.

Alleged widespread abuses under the FHA programs have been reported for the last 10 months in The Detroit News. Hundreds of low-income Detroit families reportedly have been bilked in purchases of homes which were uninhabitable.

The subcommittee also questioned the good faith of the prosecutor's office in announcing this week that the investigation would be renewed.

"We received a letter just last week from Cahalan saying that the subject of our concern is a federal matter," Silver said.

The letter signed by Cahalan read:

"An FHA appraisal is essentially a report by an agent or employe of a federal agency to that federal agency. Any criminal misconduct by an appraiser in connection with the submission of a fraudulently inflated report would necessarily have to be deemed a federal offense."

Silver said:

"Only the county commission and The News seem concerned with the apparently widespread fraud involved in past sales of homes with FHA-insured mortgages.

"It's amazing that a reporter for The News could dig up such a wealth of information on the abuses and irregularities, which no one in an official position has ever denied, and then have the prosecutor's office be unable to find grounds for prosecution."

Silver said the petition to Kelley was based on facts developed by his subcommittee and on information published in The News.

Cahalan said Kelley could recommend to the Wayne Circuit Court that a special grand jury investigation be ordered, or he could use the Wayne County citizens grand jury now sitting.

"Kelley then could conduct the presentation before the grand jury himself, ask me to do it or we could do it together," said Cahalan.

The commissioner's subcommittee said, however, the prosecutor's office had ignored an earlier recommendation for a citizens grand jury investigation.

In addition to Silver, the petition was signed by Commissioners William Suzore, Charmie Currie, Edward Jones and Rosemary Robinson, all members of the FHA subcommittee.

In their petition, the commissioners declared:

"Commencing in 1968, thousands of homes in Detroit and Wayne County were sold to persons of low income with the sales financed through FHA-insured mortgages.

"Your petitioners firmly believe based upon the widespread evidence available that extensive criminal acts of fraud, misrepresentation, conspiracy and collusion have occurred in determining the value of real estate for purposes of obtaining FHA-insured mortgages.

"In many instances FHA-insured mortgages were obtained based upon false certificates from mortgage firms that required repairs had in fact been made which certificates were relied upon by the purchasers and the FHA.

"A cursory investigation of complaints by many home purchasers indicates that actual misrepresentations of fact were made by the brokers or investment companies involved, as well as nondisclosure of defects and false promises of repairs prior to the consummation of real estate sales.

"An investigation of records in the Wayne County Tract Index indicate that questionable appraisals of FHA home purchases have been made whereby homes obtained by investment companies and other real estate speculators have been resold within a few months for profits at times exceeding 500 percent.

"We believe the individual purchaser and governmental agencies have been victimized and defrauded of millions of dollars."

To support their allegations of past irregularities, the commissioners cited the record number of foreclosures on FHA-insured mortgages in Detroit over the last 23 months.

As a result of the foreclosures, the U.S. Department of Housing and Urban Development (HUD) now owns 5,000 repossessed homes in Detroit.

A congressional committee will visit Detroit Friday and Saturday for a first-hand review of the foreclosure problem.

The committee will tour Detroit Friday morning and hold public hearings that afternoon and Saturday morning.

Silver said his committee has requested a chance to appear before the congressional committee.

"When HUD says it will tear down more than 700 of the repossessed homes as being unfit for rehabilitation and when families have moved out of additional hundreds of homes because they are uninhabitable, you have to question how FHA appraisers could place price tags of $10,000 and up on these buildings," Silver said.

Said Cahalan: "The basic problem is that HUD has made available to inexperienced home buyers a method whereby they can purchase homes. Sharp dealers have taken advantage of this.

"We have had this problem under investigation and we still have it under investigation. But at this point we can't see that we have anything to go to a grand jury with."

Cahalan added that at no time has Silver "given us any evidence which even indicates he has any knowledge of the violation of any criminal law in this area."

The subcommittee included in its petition a number of case histories on homes purchased for a few thousand dollars each by investors and resold for $10,000 or more although the buildings were in need of substantial repairs.

Criticism of the handling of the earlier investigation by the prosecutor's office also was included in the petition.

The subcommittee said that it first brought the matter to the prosecutor's attention last March.

"The Chief of the criminal fraud division of the prosecuting attorney's office after a cursory examination indicated to the committee that in his opinion there was no evidence of criminality or criminal fraud," the commissioners told Kelley.

"He said at best the allegations reported in the press and to the committee constituted one real estate appraiser and one real estate agent scratching the back of another.

"The prosecuting attorney assigned the investigation to the civil division and thereafter failed to provide staff to conduct the investigation.

"Ultimately in September, he advised the committee via a report that there was no evidence of wrongdoing.

"Based upon the lack of concern exhibited by the prosecuting attorney, your petitioners submit that no investigation at the local level can be maintained save one by the office of attorney general of the state."

Included with the petition was the recent report by the prosecutor's office.

Summarizing the investigation, the prosecutor's office stated:

"It appears that the appraisers used proper and acceptable guidelines commonly used by appraisers in arriving at the market value of the property involved in this case.

"The mortgage companies used by the brokers or investment companies were the same as used before in other sales with no pattern or scheme of an underhanded method being used by either of them."

The prosecutor's report, however, was based on a sample of 50 home sales in the 1965–70 period.

The FHA programs for low income families did not start until 1968 and since then more than 30,000 Detroit homes have been sold under their provisions.

In announcing this week that it was renewing its investigation, the prosecutor's office said the fraud division would conduct the probe which would concentrate on individual sales in the last three years.

[From the Detroit News, Dec. 2, 1971]

U.S. REPORT RAPS FHA ABUSE IN CITY

(By Don Ball)

WASHINGTON.—The General Accounting Office (GAO) charged today that the alarming rate of foreclosures on FHA-insured mortgages in Detroit threatens the success of mortgage insurance programs for low and moderate income families in the city.

At a hearing of the House subcommittee on legal and monetary affairs, the GAO reported:

"The home mortgage insurance programs of the U.S. Department of Housing and Urban Development (HUD) for low and moderate income families in Detroit have been described recently in the Detroit newspapers as a failure.

"This lack of success may be borne out by the increasing number of houses acquired through loan foreclosure by HUD's Detroit-area office.

"HUD's acquisition of homes because of foreclosed FHA-insured mortgages increased from an average of 96 homes a month in 1966 to an average of 381 homes a month in 1971."

The contents of the GAO report paralleled the findings of an investigation by The Detroit News, the results of which have been published in a series of articles over the past 10 months.

The soaring foreclosure rate was revealed in The News last February.

A spokesman for the Michigan Mortgage Bankers Association said at that time, however, that there had been no unusual increase in foreclosures.

U.S. Rep. John S. Monagan, Connecticut Democrat, chairman of the legal and monetary affairs subcommittee, said of the GAO report:

"The alarming increase in the rate of foreclosures of FHA-insured properties in Detroit is viewed with concern by the subcommittee.

"To assist in our evaluation of the GAO's testimony, we will inspect repossessed Detroit homes during a tour tomorrow and conduct public hearings in the afternoon and on Saturday morning."

Baltas E. Birkle, assistant director of the GAO's civil division, presented the report to Monagan's subcommittee. Highlights of the report were:

HUD's Detroit-area office is expected to have an inventory of 6,200 repossessed homes by Dec. 31, with 84 percent of the properties located in Detroit.

"Only 810 repossessed homes were held by the HUD office on June 30, 1969, of which 20 percent were in the city of Detroit.

"Inner and middle city areas have been particularly hard hit by the soaring rate of foreclosures.

"The number of Detroit homes sold under FHA's sections 221d2 and 223e for low and moderate income families has increased sharply while the number sold under the FHA's conventional section 203d has declined 50 percent.

"The dramatic increase in repossessions followed enactment in 1968 of section 223e which permits mortgages on high risk properties.

"In one east side Detroit area, the FHA faces a potential $12.9 million loss on 1,290 repossessed homes it owns there. The repossessed homes in the area make up nearly one-fourth of HUD's inventory for the entire city."

The GAO report singled out FHA appraisers for particular criticism, charging they had failed to classify as "high risk properties" many of the Detroit homes which later were repossessed.

"The failure on the part of the appraisers had served to hide from Congress the true cost of the high risk mortgage program," the GAO report said.

Birkle told the subcommittee that "to justify insuring a mortgage under section 223e, the location must so adversely affect the property as to preclude a finding of economic soundness.

"The responsibility to recommend insuring a mortgage under section 223e was placed on the FHA appraiser who was to determine that the specific property was ineligible under other HUD insurance programs due to unfavorable location.

"We found that although an estimated 16 percent of the homes insured in Detroit in 1968–69 were insured under Section 223e."

Many other HUD-insured homes located on the same blocks or streets were not classified as high risk properties.

It seems reasonable that if a number of houses located on a block or street were considered proper for insurance under Section 223e, then all houses on said block or street should have been insured under the same high risk section.

"By not properly identifying houses for the special risk insurance fund, HUD is not disclosing to Congress the true cost of the Section 223e high risk mortgage program."

Meanwhile, a decision is expected next week on whether a grand jury investigation will be conducted into irregularities in sales of Detroit homes under FHA mortgage programs for low-income families, a spokesman for Atty. Gen. Frank J. Kelley said today.

A Wayne County Board of Commissioners subcommittee headed by Paul Silver has petitioned Kelley for the probe.

"We just received the request in our office yesterday," said Leon Cohan, deputy attorney general. "We want to review the matter first."

Cohan said he also wanted to talk to Silver and to Wayne County Prosecutor William L. Cahalan about the grant jury request.

Silver's subcommittee has charged that an earlier investigation into the FHA program by Cahalan was a "whitewash."

[From the Detroit Free Press, Dec. 2, 1971]

AS WE SEE IT—FHA POLICIES LEAVE CITY PREY TO FAST-BUCK ARTISTS

Selection of Detroit as the first city to be examined in the investigation of Federal Housing Authority financing of home purchases is more than coincidence. Detroit has one of the most reeking histories of FHA abuses of any major city in the United States.

A congressional subcommittee will investigate why the FHA insurance fund has been victimized for $50 million because of a record number of foreclosures, and entire sections of the city have been ruined.

The subcommittee will not have much trouble finding out what went wrong. Thousands of Detroiters were lured by small down payments into committing themselves for housing they could not afford to keep up. With no equity in the properties, they abandoned them when the plumbing plugged and the furnaces died.

The generous FHA financing created a rich playground for quick-buck real estate operations. They purchased houses cheaply, obtained large FHA commitments and collected their guarantees from the FHA, meaning the taxpayers, when the deals went sour.

As of Sept. 30, a total of 5,297 properties went back to the government, mostly as a result of FHA foreclosures. The cost to the taxpayers is about $10,000 per home, a big bill for a program that had the potential of upgrading home ownership in Detroit.

Efforts to correct the situation at the local level foundered when Wayne County Prosecutor William Cahalan ruled that the only fault was FHA failure to enforce its regulations.

The Wayne County Board of Commissioners is now attempting to get the Michigan attorney general's office into an investigation of many documented cases of collusion between mortgage companies and real estate agencies, and the hiring by the FHA appraisers who are employed by private real estate firms. The situation begs for more examination.

FHA was criticized for years for its preoccupation with providing housing in suburban developments. In truth, it was created during the Depression to facilitate housing starts when nobody could finance them by conventional means.

When the FHA finally did enter the business of insuring mortgages in the inner and middle city, however, it slopped over in the direction of excessive leniency. Many of the mortgage guarantees have been outrageously out of line with the real market value of the properties involved.

The damage to Detroit will be a long time in the correcting. House after house has been abandoned, vandalized and rendered uninhabitable. By the time the process has been completed, the homes are not worth the money needed to restore them.

Many Detroiters are managing to keep their over-priced properties. But the question remains whether the bad has not outweighed the good.

The FHA program still might be made to work in Detroit, but not as long as it permits the victimization of credulous and unprepared homeseekers. The visiting congressmen are in a position to prevent this kind of unprincipled preying on the cities.

[From the Detroit News, Dec. 3, 1971]

HOUSE PANEL TOLD OF SOARING FORECLOSURE RATE—$200 MILLION CITY FHA LOSS FEARED

(By Don Ball)

The FHA faces a potential loss of $200 million as a result of the increasing rate of foreclosures on FHA-insured mortgages in Detroit, according to the General Accounting Office (GAO).

Baltas A. Birkle, assistant director of the GAO's civil division, revealed the feared loss to the FHA in testimony yesterday in Washington before the subcommittee on legal and monetary affairs of the House Committee on Government Operations.

The subcommittee, headed by U.S. Rep. John S. Monagan, Connecticut Democrats, came to Detroit today to take a first-hand look at the problem and hold hearings on causes and proposed solutions.

Birkle told the subcommittee at yesterday's hearing:

"FHA-insured mortgages on 18,000 to 23,000 Detroit homes are now in default.

"It is expected that 75 percent of these mortgages will be foreclosed and the homes repossessed by the Department of Housing and Urban Development (HUD).

"Added to the cost of foreclosures in the city to date, which have resulted in an inventory of some 5,000 repossessed homes, the loss to the FHA could reach $200 million."

Monagan, mayor of Waterbury, Conn., for six years beginning in 1943 and a U.S. representative since 1958, emphasized his subcommittee's concern for problems to cities and individual homeowners as well as the losses to the FHA because of the growing rate of foreclosures.

The GAO report indicated that the vast majority of the foreclosures are on mortgages insured under FHA programs for low and moderate income families.

Despite the foreclosure rate, however, 75–80 percent of the families buying homes in Detroit under the programs are meeting mortgage obligations, according to the GAO report.

"We're interested in the impact of the foreclosures in Detroit on these families," Monagan said.

"If the owners of houses are unable to meet their mortgage payments and must move, it is certainly detrimental to them and their families.

"Because their houses may then stand vacant for many months creating a breeding place for crime and fires, the residents of the neighborhood and the city as a whole suffer.

"Finally, the cost to the FHA insurance fund cannot be overlooked.

"Reports indicate that acquired properties in Detroit have been disposed of at a substantial loss to the FHA insurance fund and there are implications of losses in other cities.

"The volume of such losses which can be borne by the insurance fund remains to be determined."

GAO spokesmen said there is about $1.7 billion in total FHA insurance fund reserves. But they said, the special risk fund, set up to pay off on foreclosures of high-risk mortgages, is running about $27 million in the red.

The highest percentage of foreclosures in Detroit has been on high-risk mortgages.

[From the Detroit Free Press, Dec. 3, 1971]

U.S. Home Seizures Soar Here—House Panel Visiting Today

(By Saul Friedman)

Washington.—A House subcommittee headed for an on-the-spot investigation in Detroit Friday after hearing testimony Thursday that the number of foreclosures in government-subsidized housing for the poor may climb as high as 23,000 in Detroit next year.

If foreclosures run that high, General Accounting Office (GAO) officials told the government operations subcommittee on legal and monetary affairs, the loss to the government could amount to as much as $200 million.

Foreclosures in the government homeownership programs, GAO Assistant Director Baltas E. Birkle said, are already higher in Detroit than in any other city in the country.

After an investigation of the various programs to provide mortgages on single-family homes for low-income persons, Birkle said that there were about 6,500 foreclosures between July 1, 1969, and Sept. 30, 1971.

This figure, he said, does not include mortgages which are in default for lack of payment and on the verge of foreclosure.

Using figures supplied by the Department of Housing and Urban Development (HUD), which administers the programs, Birkle estimated that the Detroit foreclosures could climb to 23,000 by the end of next year.

That would mean foreclosing on some 16,500 mortgages by the end of next December—three times as many as had been foreclosed in the two-year survey period.

The GAO survey in Detroit estimated that the government, which insures the mortgages, loses about $9,974 on each house which is repossessed, Birkle said.

As as result of the GAO investigations, subcommittee chairman John S. Monagan, D-Conn., has scheduled visits Friday morning to some of the areas, including Detroit's east side, where foreclosures have been frequent.

After these visits, the subcommittee is to convene a hearing Friday afternoon in Detroit's Federal Building.

The scheduled witnesses include William C. Whitbeck, director of the HUD office in Detroit; William K. Cameron, director of property disposition for HUD, and Paul Kaup of HUD's Chicago regional office.

The subcommittee has also scheduled a Saturday session to take testimony from Mayor Gribbs; Michael Bixby, an attorney with Wayne County neighborhood Legal Services; William Rosenberg, director of the Michigan Housing Development Authority, and John E. Mogk, a Wayne State University law professor.

Monagan and his subcommittee want to find out why the foreclosure rate has been so high in Detroit, higher even than the high rates in other cities.

Birkle said the foreclosure rate in Detroit during the two-year survey period was as high as 16.7 percent in inner city areas.

"The acquisition of foreclosed . . . mortgage loans by HUD increased from an average of 96 a month in 1968 to an average of 381 a month in 1971," Birkle said.

Areas with the highest rates and numbers of defaults, Birkle said, included Detroit's lower east side; the west side area bounded by Woodward, W. Grand Blvd., Wyoming and W. Eight Mile, and the lower west side along Michigan Ave.

Subcommittee member Garry Brown, a Republican from the Kalamazoo area, suggested that increased unemployment and a gloomy economic picture might account for the climbing foreclosure rate.

[From the Detroit News, Dec. 4, 1971]

Fifty Million Dollar FHA Loss Feared—HUD Homes Appall Probers

(By Don Ball)

A congressional committee visiting Detroit says it is appalled at the number of neighborhoods in the city threatened with destruction because of vacant and vandalized homes owned by the U.S. Department of Housing and Urban Development (HUD).

HUD acquired the houses after foreclosures on FHA-insured mortgages under programs for low income families.

Committee members expressed fear similar destruction will occur in other big cities where foreclosure rates are rising.

The committee chose Detroit for its first look at the problem because HUD now owns some 5,000 homes in the city which could result in a $50 million loss to the FHA insurance fund. HUD has been unable to resell the houses.

Of greater concern to the committee, however, is the possibility that some neighborhoods will become "ghost towns" because of the concentration of vacant HUD homes.

U.S. Rep. John S. Monagan, Connecticut Democrat and chairman of the subcommittee, and Rep. John Conyers Jr., Detroit Democrat and member of the parent House Committee on Government Operations, toured Detroit yesterday.

They were joined in the afternoon by U.S. Rep. Lucien N. Nedzi, Detroit Democrat, for a hearing on foreclosure problems in the city. The hearing continued today.

Much of the problem in Detroit has grown out of inflated appraisals by FHA appraisers before last January and sales of defective homes by real estate speculators to unsuspecting low-income families.

Yesterday's tour concentrated on east side streets which included dozens of vacant HUD homes.

Four of the vacant homes were selected for individual attention.

The first home, at 6162 Holcomb, has been repossessed by HUD twice for an ultimate loss of more than $20,000.

Although HUD has a rule against selling repossessed homes in Detroit to speculators, the home on Holcomb after the first repossession was sold by HUD on Feb. 20, 1969, to a David Wein for a nominal sum.

Wein sold it for $11,450 seven months later to a family which reported an income of $1,085 a month on its mortgage application.

The family made three payments and defaulted on the mortgage. HUD repossessed the home on Feb. 19, 1971, and issued an order for its demolition last Aug. 9. A wrecking permit was taken out on the home Oct. 12 and the dwelling is now being torn down.

A home at 4455 St. Jean was bought by an investment company for $6,750 on Aug. 21, 1968, and sold a month later for $10,000. The family which bought it defaulted on the FHA-insured mortgage 13 months later.

HUD repossessed the home last Feb. 15 and scheduled the home for demolition last April. No wrecking permit has yet been obtained on the house.

Reps. Monagan and Conyers were particularly impressed by the problem the vacant home poses because of the plight of the next door resident, Mrs. Mary Hicks, 57, of 4461 St. Jean.

Mrs. Hicks has lived for four years in her home, which she is buying with an FHA-insured mortgage. It is freshly painted and the yard is neatly kept.

"I'm scared to death by that vacant place next door," she told the congressmen.

"It doesn't do much good to keep up my property if the rats keep coming over here from that empty house.

"It's been a hangout for hoodlums and a fire there could destroy my house too."

A home at 2230 Hillger provided the congressman with another example of speculator transactions.

An investment firm bought it for $4,000 on Sept. 10, 1968, and then sold it for $4,500 on April 24, 1969, to another investment firm.

The second investment firm sold it to a welfare mother three months later for $12,600.

The buyer made three monthly payments and then defaulted. HUD repossessed the property last February and scheduled it for demolition. A wrecking contract has yet to be issued by HUD.

The homes were typical of those which were revealed in The Detroit News last January. A series of articles has been published since then about abuses in FHA mortgage programs and the problems they pose for the city.

Rep. Monagan said later:

"It's one thing to read statistics about foreclosures and repossessions and something else to see the houses and the neighborhoods.

"There are so many good homes threatened by the vacant houses, homes that are obviously well-maintained by families with pride in being homeowners, such as Mrs. Hicks.

"We hope to get information here about the causes and, more important, possible solutions."

Conyers said:

"I hope there is no thought of deciding that FHA mortgage programs for low and moderate families are economically not feasible because of what has happened in Detroit.

"If anything, we want the programs strengthened.

"The neighborhoods we toured today were predominantly black, and it was significant that a large number of well-kept homes were interspersed with the vacant, vandalized homes owned by HUD.

"I am interested in what can be done to remove the threat of those empty buildings to the surrounding neighborhoods."

Nedzi agreed and said:

"It appears that we need some new approaches to solving this terrible problem in the city, perhaps even to the extent of selling the homes rehabilitated by HUD for half their original cost.

"Losing 50 percent on the house is better than a 100 percent loss."

[From the New York Times, Dec. 4, 1971]

United States May Lose $200 Million In Detroit Mortgage Scandal

(By Jerry M. Flint)

Detroit.—A major scandal involving Federal mortgage programs in Detroit has left the Government the owner of thousands of decrepit homes and may cost up to $200 million in Federal funds.

The Federal programs inadvertently contributed to the decay of troubled neighborhoods, the victimization of the poor who expected homes and the enrichment of real estate speculators.

The details of the scandal have been emerging for months in newspaper articles, in local investigations and, this week, in an investigation of the Legal and Monetary Affairs Subcommittee of the House Government Operations Committee, which held hearings here today.

Similar troubles exist in other cities, but Detroit is believed to be the worst example of the perversion of a program aimed to help the poor. The program, to allow the Federal Housing Administration to help poor people, including welfare mothers, to buy homes, began in 1968.

Some cases have been turned over to the United States Attorney here, but there have been no prosecutions. Mr. Whitbeck noted that no collusion had been proved between F.H.A. appraisers who valued a home at two or three times what a speculator had paid for it only months before.

"Which doesn't mean it's not going on," said Representative John Conyers, Democrat of Michigan.

At its worst, the program in Detroit worked this way:

A real estate speculator would buy a shabby house in a rundown neighborhood for $3,000 or $4,000, spend perhaps $1,500 in minor repairs—"cosmetic" repairs were called—then seek out buyer for the house, advertising for mothers under the Aid for Dependent Children program or seeking tenants who were being evicted for nonpayment of rent.

The F.H.A. appraisers—20 of them, who worked for fees, have since been dismissed—would appraise the house at $12,000 or so and the F.H.A. would insure the mortgage for that figure. The speculator might even put up the $200 needed for the new owner's down payment. Thus, in a few months he had doubled his investment.

But the new owner would then have a house that might have a ruined furnace or leaking roof or dangerous wiring, which called for costly repairs. The F.H.A. apparently paid little attention to the complaints at first. The owner would stop making payments since he didn't have enough money for them and the repairs, too, and eventually the house would be taken over by the F.H.A.

For a year or two it might stand vacant, be vandalized, burned, or used as a haven for narcotics users, which helped ruin the neighborhood. The house would be a wreck, but it would take years to get it torn down.

Such cases have been documented and today William C. Whitbeck, director of the Detroit area office for the Department of Housing and Urban Development, used such an example in testifying to the House subcommittee.

Mr. Whitbeck said, "Forty per cent of this city has been labeled (by H.U.D.) as speculator dominated."

On Nov. 22, the F.H.A. owned 5,852 homes in this area through foreclosure and repossession, with a potential loss of nearly $60-million. Eighty per cent of these homes were within Detroit. On July 1, 1969, the agency owned only 810 of which 80 per cent were outside the city.

And on Oct. 31, a total of 21,022 properties "were in default and-or foreclosure," Mr. Whitbeck told the House Committee.

The Government's General Accounting Office, which also investigated, noted that the Government, which insures the mortgages, loses an average of $9,974 on each repossessed house and said the F.H.A. insurance fund could lose $200 million.

It also could mean that the F.H.A. would own 7 per cent or more of Detroit's single and duplex homes. In some decaying neighborhoods of this city H.U.D. already owns 5 to 10 per cent of the houses.

Representative John S. Monagan, Democrat of Connecticut, chairman of the investigating subcommittee, led the committee on a tour through some of the empty and foreclosed houses and called the default rate in Detroit "alarming."

Mr. Whitbeck said heavy unemployment might have accounted for some of the default problem. But he also linked the effort to help the poor to the defaults.

In two years 7,500 homes in which the buyer was a welfare recipient were insured by the F.H.A. and defaults ran 25 per cent.

"As a recipient of public assistance is on a strictly limited income," Mr. Whitbeck said, "unexpected expenses caused by illnesses, major maintenance items, or family interruptions lead, almost inevitably, to default."

Mr. Whitbeck took over the department office here in August, 1970. He acknowledged that substandard homes had been insured and contributed to the heavy default rate.

"Not only are such homes the cause of major expenses, which the low-income purchaser is scarcely able to meet," he said, "they also are simply not adequate living quarters which, of course, leads directly to default by the disappointed and frustrated purchaser."

Other problems have resulted in F.H.A. foreclosure on large apartment houses undergoing rehabilitation under Federal programs, Mr. Whitbeck said. Inner city rehabilitation is reported to be at least 10 times as difficult as building new housing in the suburbs.

[From the Detroit (Mich.) Free Press, Dec. 4, 1971]

UNITED STATES EYES BLIGHT REDEVELOPMENT

(By Julie Morris)

Some of the more than 5,000 boarded-up government-owned homes that now spot Detroit streets will be sold in blocks to developers rather than torn down as planned, a Detroit federal housing official said Friday.

In testimony before a Congressional subcommittee meeting in Detroit, William C. Whitbeck, said the government hopes to slow the rate of defaults on FHA home mortgages in Detroit and solve the problems of already abandoned homes partly by:

Tightening up control of appraisals of the homes and procedures in issuing approval of FHA mortgages.

Hanging onto some of the homes the federal government already owns until enough are grouped in one area to sell them all to a developer who will upgrade the entire neighborhood.

"That's the approach we're trying. I don't know if that's the answer to the problem," Whitbeck said. "I try to avoid, saying that one approach will solve everything because it won't."

Whitbeck, Michigan director of the U.S. Office of Housing and Urban Development (HUD), spent two hours and 20 minutes Friday before the House subcommittee on legal and monetary affairs, which is investigating possible mismanagement and abuses in FHA mortgage insurance practices.

Rep. John S. Monagan, D-Conn., subcommittee chairman, and Michigan Congressmen John Conyers, Democrat of Detroit and Garry Brown, a Kalamazoo Republican, opened the two-day hearing at the Federal Building.

Monagan and Conyers earlier spent three hours touring parts of Detroit with Whitbeck to see some of the HUD-owned homes first hand.

The rate of FHA foreclosures in Detroit is higher than in any other city. One government source estimates 23,000 Detroit homes may be government-owned by the end of next year—a loss of $200 million to taxpayers.

The subcommittee made the trip to Detroit because of that high rate.

HUD holds title to the homes, dozens of which are on the same blocks, because homeowners bought them with FHA-insured mortgages, then didn't pay or stopped paying the mortgages, which were later foreclosed by the lenders who collected their lost funds from FHA.

The federal government loses an average of $9,974 on every FHA home that is foreclosed on.

Whitbeck told the Congressman the reasons behind the soaring rate of foreclosures in Detroit include:

Abnormally high unemployment in Detroit compared to other cities.

Liberal approvals of FHA mortgage insurance applications.

A high number of FHA insured mortgages—7,500 in the last two years—issued to welfare recipients.

[From the New York Times, Dec. 5, 1971]

ARSON IS CHARGED IN DETROIT FRAUD

DETROIT, December 4.—Real estate speculators, cashing in on Federal programs aimed at providing homes for the poor, burned houses in Detroit to collect the insurance, the city's chief arson inspector charged today.

The Federal programs in Detroit have resulted in the abandonment of thousands of homes and could result in the Government's owning 5 to 10 per cent of the houses in this city. The cost to Federal agencies is put at $200-million.

William Whitbeck, director of the Federal Department operation in Detroit, agreed that "in some instances" the agency's own programs did indeed lead to the deterioration of neighborhoods, as Marshall Robinson, arson chief of the Detroit Fire Department, had charged.

In a Congressional hearing today, Mr. Robinson said:

"One example, though extreme, typifies the activities of the real estate investor. Most recently, one dwelling in a state of neglect was purchased by the investor for $1,500. Fractional improvements were made, a face-lifting, painting, etc. The property was subsequently appraised by the F.H.A. [Federal Housing Administration] for $10,500. The property was then insured for the appraised valuation and burned. The cause of the fire was arson."

FRAUDULENT DEALS SUSPECTED

He said: "Fires of this nature reached a climax in August of this year. Totals are not complete for 1971; however, 10 investment companies are suspected of dealing fraudulently. One in particular had 11 such fires. Operations of this nature are extremely profitable to the investor but costly to the city in their deleterious effect on the neighborhood, and costly dollar-wise to the taxpayer in increased costs for insurance."

In charging that policies of the F.H.A. and Federal mortgage contractors help neighborhood deterioration he said, "As homes are repossessed from low-income families who could ill-afford them at inflated prices, the vandal and the pyromaniac move in."

The programs to aid the poor, including welfare mothers, to buy homes began after the riots of the late nineteen-sixties.

In Detroit, investigations have shown, real estate speculators bought homes for a few thousand dollars each in deteriorating neighborhoods and got the F.H.A. to appraise these houses at two and three times the purchase price. Then the speculators sought out the poor and sold them the houses at the inflated F.H.A. appraisal price.

Often these houses had defects such as bad furnaces or poor wiring or leaky roofs. But even the ordinary maintenance costs of the old houses might have been more than the poor could afford, so they abandoned the houses.

The Department of Housing and Urban Development owns 5,800 houses in the Detroit area and another 20,000 are in some process of default. The cost for a repossessed house has been running at about $10,000—the amount needed to pay off the mortgage holder. There are also costs if the Government tries to repair the homes for resale or tears them down.

CHICKENS HOME TO ROOST

"The chickens have come home to roost," said Mr. Whitbeck, who took over the Detroit H.U.D. office after many of the abuses had occurred. He says the scandal was the result of efforts to turn the old F.H.A. house program, aimed at the middle class with safeguards built into the program, into a house-the-poor program without safeguards.

The Legal and Monetary Affairs Subcommittee of the House Government Operations Committee has been in Detroit yesterday and today holding hearings on the scandal. One committee staff member said that it was possible that the investigation would show that losses throughout the country could rise to $1-billion.

As the scandal began to develop here H.U.D. redlined some Detroit neighborhoods, meaning that they were barred from federally insured mortgage support. At today's hearings Mayor Roman Gribbs called this an overreaction and "one of the most potentially dangerous administrative orders ever to come out" of H.U.D., since it meant that H.U.D., "mandated to assist the cities in efforts to conserve and rebuild," was writing off "blocks, neighborhoods and even the core of the city." The order was later modified after the city's protests.

[From the Detroit (Mich.) News, Dec. 5, 1971]

DETROIT'S HUD LOSSES STIR FEAR IN OTHER CITIES

(By Don Ball)

Does the soaring rate of foreclosures on FHA-insured mortgages in Detroit point to similar problems in other large cities? Can the foreclosures eventually cost the FHA insurance fund losses of nearly a half-billion dollars?

More important, are other large cities also facing Detroit's problem of an accelerating deterioration of poorer neighborhoods as a result of the large number of homes left vacant by the foreclosures?

Concern over both questions was evident Saturday among members of the subcommittee on legal and monetary affairs of the Committee on Government Operations of the U.S. House of Representatives.

Members of the subcommittee had just ended a two-day study of the foreclosures in Detroit and the skyrocketing number of repossessed homes owned as a result by the U.S. Department of Housing and Urban Development (HUD).

Most of Detroit's repossessed homes are in the middle and inner city areas.

They are the tragic debris of efforts by low- and moderate-income families to become homeowners under special FHA mortgage insurance programs.

The efforts failed because the homes were unlivable, the financial burden was too great or the family's financial management inadequate.

While heartbreaking for the individual families who defaulted on the mortgages, the impact of the foreclosures on the FHA insurance fund and on the city are devastating.

Before coming to Detroit, the subcommittee received a report from the General Accounting Office (GAO) that HUD owned some 5,000 repossessed homes in Detroit which could result in a $50 million loss by the FHA insurance fund.

The GAO reported that HUD could acquire another 16,000 to 18,000 Detroit homes in the next year, boosting the potential loss to $200 million.

HUD officials concede that other large cities are experiencing a climbing rate of foreclosures. Problems are cropping up in Philadelphia, St. Louis, Chicago and a number of other cities.

The subcommittee on legal and monetary affairs is waiting now for reports from the GAO on other cities.

U.S. Rep. John S. Monagan, Connecticut Democrat and chairman of the subcommittee, said:

"We have realized for some time that the situation in Detroit has many ramifications.

"The problems of deterioration of neighborhoods caused by a glut of vacant HUD homes, the ultimate cost of returning these neighborhoods to viable condition and the plight of homeowners desperately trying to hold onto their homes in these neighborhoods cannot be overemphasized.

"We chose Detroit for our first visit because of the scope of the problem here and its implications for other cities."

A subcommittee staff member said bluntly:

"If what we found in Detroit is true even to a lesser degree elsewhere, the residential areas of a number of large cities are in serious trouble and the FHA insurance fund faces tremendous losses.

"The subcommittee must see the other cities firsthand to determine whether Detroit's problems are duplicated there, and we intend to make more visits.

Some members of the subcommittee and especially U.S. Reps. John Conyers Jr. and Lucien N. Nedzi, Detroit Democrats, appeared disturbed because HUD apparently has kept quiet about the critical proportions of the problem in Detroit and has not asked for congressional help.

The subcommittee and Detroit congressmen obtained much of their first information about the situation from a series of articles in The Detroit News over the last 10 months about abuses of FHA mortgage programs and the problems resulting for the city.

GRIBBS URGES EXPANSION OF FHA MORTGAGES FOR POOR

(By Don Ball)

Detroit was the nation's first big city to protect homebuyers from real estate speculators selling houses under the FHA mortgage programs for low income families, Mayor Gribbs told a congressional committee on Saturday.

Gribbs said that now, with policing of the FHA programs in Detroit, they should be improved and broadened to expand home ownership opportunities for low and moderate income families.

The mayor testified before a subcommittee of the House Committee on Government Operations, which ended a two-day visit to Detroit on Saturday.

The subcommittee, headed by Rep. John S. Monagan, Connecticut Democrat, made a four-hour tour of Detroit neighborhoods and listened to nine hours of testimony from federal and local officials and community representatives.

The subcommittee is concerned about the soaring rates of foreclosures on FHA-insured mortgages, and the resulting thousands of vacant repossessed homes in Detroit owned by the U.S. Department of Housing and Urban Development (HUD).

Gribbs told the subcommittee a number of new approaches had to be taken to solve the problem and ensure that it would not occur again.

"Home ownership is so important to the stability and health of the older urban neighborhoods within the city, I believe the mortgage insurance programs for low and moderate income families must be maintained and broadened," he said.

"They should become the essential ingredients in what must be the major thrust of the next decade, the creation of a national program to strengthen older urban neighborhoods throughout the nation.

"In order to make these programs truly effective, I see the need for retaining and adding several key elements in conjunction with the regular mortgage insurance and interest subsidies.

"First, based on our experience in Detroit, independent housing inspections by the city at the time of sale must be continued to assure liveability and durability of homes and to keep the lid on speculator activity.

"Second, housing counseling services are essential, particularly for buyers without previous home ownership experience.

"Third, the effectiveness of HUD's special home ownership programs could be improved greatly by extending the concept of a 'reserve maintenance account' paid by the home buyer as part of his monthly mortgage payment."

This simple expedient would automatically provide the lower income home buyer with a reserve in case of home repair or maintenance emergencies.

"Consideration also should be given to creating a form of mortgage insurance which benefits the homeowner. This insurance would protect him in time of economic crisis and help him preserve his stake in home ownership.

"The city and HUD must join together to create a broader, more flexible and more adequately funded portfolio of development tools which can be used effectively to reverse the trend in problem neighborhoods.

"These tools should include the traditional programs for loans, grants and capital improvements.

"It would ensure that the resources necessary to capitalize on the strengths of a neighborhood will be used effectively."

Earlier, Rep. John Conyers, Detroit Democrat, had emphasized his concern over any thought on the part of HUD officials to cut back on FHA mortgage programs for low and moderate income families, as being unwise because of the problems in Detroit.

"There should be no attempt to discourage the insuring of mortgages on houses inside large cities," Conyers said.

"That is about the only place where homes can be bought by black families and poor white families and the problem is to help them buy sound homes in good neighborhoods."

William C. Whitbeck, director of the Detroit-area HUD offices, assured Conyers there was no consideration being given to cutbacks in the FHA programs.

Rep. Lucie Nedzi, Detroit Democrat, told Whitbeck:

"In order for us to help solve this terrible problem of repossessed homes in the city, you should give us a candid view based on your experience and opinion of what is needed."

Whitbeck replied HUD officials in Washington are responsible for telling Congress what is needed.

He had earlier outlined programs planned by HUD, including rehabilitation of entire areas where there are large numbers of HUD-owned homes.

Conyers and Nedzi were dissatisfied with Whitbeck's response to their questions when the session ended.

"I don't understand their great reluctance to ask Congress for help when a serious problem such as this threatens the city," Nedzi said.

SPREAD OF HOUSING SCANDAL TO OTHER BIG CITIES IS FEARED

(By Don Ball)

A national scandal over abuses and mismanagement of FHA mortgage programs for low- and moderate-income families may blossom out of a congressional committee's findings in Detroit.

The subcommittee on legal and monetary affairs of the House Committee on Government Operations spent two days in Detroit last week and now plans to hold further hearings in Washington and other cities.

"Unless Detroit was an isolated case of unbelievable neglect and mismanagement of the FHA programs, the same situation apparently exists in other large cities," a committee spokesman said.

"If the latter case is true, it would mean that many thousands of families have been victimized by real estate speculators on one hand and indifferent FHA employes on the other.

"It also could mean a loss of $500 million or more to the FHA insurance fund and appalling devastation of inner- and middle-city neighborhoods in other cities because of thousands of homes left vacant after foreclosures on FHA-insured mortgages."

The past abuses and mismanagement of FHA programs were revealed first in a series of articles in The Detroit News over the last 11 months.

Among the findings of the congressional committee during its Detroit hearings Friday and Saturday were these:

Thousands of families purchased substandard low- and middle-income homes in the city under the impression they had been "FHA inspected and approved."

Some real estate speculators promoted such impressions with impunity and enriched themselves by preying on unsuspecting buyers. The committee found that none of the speculators have been prosecuted.

FHA employees answered complaints by saying it was the buyer, not the FHA, who should have made sure housing was up to par.

Foreclosures to date have saddled the U.S. Department of Housing and Urban Development (HUD) with 5,000 repossessed and still-vacant housing units.

Block after block of such vacant homes spawn dope and sex parties and are fire hazards to adjacent housing.

Because few people want the faulty homes on which the FHA foreclosed in Detroit the federal government is threatened with a $200 million loss in its FHA insurance fund, the committee learned.

The committee was told that mismanagement of the FHA program in Detroit threatens to bring about foreclosures on another 16,000 to 18,000 shoddy homes.

At worse, this would mean that one out of every 12 Detroit homes would be vacant and owned by HUD, the governmental department which operates the FHA.

The series or articles in The News revealed all of these problems and contributed to the subcommittee's decision to come to Detroit for a first-hand look.

Unfortunately, the subcommittee by itself can take no steps to correct the problems.

Even its influential efforts in that direction will require considerable time and, ultimately, the recognition by Congress of the problem.

The subcommittee on legal and monetary affairs, headed by Rep. John S. Monagan, Connecticut Democrat, is charged with reviewing how various federal agencies are carrying out programs authorized and funded by Congress.

Its findings are available to all members and committees of Congress but can be most decisive in the House Appropriations Committee, which recommends financing for federal agencies, including HUD.

At the same time, at least one other subcommittee is concerned with the problem of housing and FHA mortgage programs.

The subcommittee on housing of the Committee on Banking and Currency late last year set up three panels to study the effectiveness of HUD programs.

One concern of the panels was the preservation of existing housing in cities under the HUD programs, one of the major goals of the FHA mortgage programs for low and moderate-income families.

Last June, one panel reported:

"The national housing goal should be expanded to express the need for more adequate preservation of the existing housing stock, including improved management and maintenance policies.

"The physical preservation of the housing stock and the fiscal soundness of the vast financial investment that it represents depend upon a number of interrelated activities.

"All of these elements must be the concerns of HUD."

Although Detroit apparently has been hardest hit by past abuses and mismanagement of the FHA mortgage programs dealing with purchases of existing homes, it also has been the first city where city and federal agencies have taken steps to preserve the existing housing stock.

Most important was the agreement by HUD and Mayor Gribbs early this year that all homes sold with FHA-insured mortgages had to be inspected and approved by city building inspectors.

Not only does this program give a limited guarantee to buyers that the homes are sound and standard, but it helps to upgrade the overall housing stock of the city.

Detroit is the only major city to undertake such a program, which could mean that substandard homes are still being sold in other cities under FHA mortgage programs.

The inspection program is most critical in Detroit simply because of the number of single homes here.

There are some 267,000 single houses and 20,000 duplexes and bungalows in Detroit, more than in any other major city in terms of the percentage of total housing units.

Detroit also leads other large cities in the percentage of home ownership with an estimated 80 percent of the single and duplex homes owned by the families living in them.

This makes the situation even more critical.

Very simply, more individual homeowners will be hurt in Detroit than in any other large city unless those problems are cleaned up.

HUD and city officials have moved aggressively, as outlined in their presentations last week to the congressional committee.

There has yet to be a recognition on the part of several private groups in the real estate industry as to their responsibility for mistakes of the past and obligation now to help correct the resulting problems.

STATES MUST BE INCLUDED IN AIRPORT DEVELOPMENT

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 9, 1971

Mr. PICKLE. Mr. Speaker, when Congress debated the Airport/Airways Act on 1970, both the House and Senate decided against allowing any planning money or grant money to be allocated directly to the State aviation bodies. I thought this was a mistake and offered amendments to give the States planning money, as did Senator GURNEY. Unfortunately, our amendments were defeated.

The State agencies, if they had been allowed funds, could have helped with the planning of small- and medium-size city airports and general aviation airports. With the present system of fund allocation, it appears that a majority of the trust fund money will go to the big city airports and the larger general aviation airports. With the present system of fund allocation, it appears that a majority of the trust fund money will go to the big city airports because they have sufficient financial resources to make the kind of initial planning that it takes to get a grant.

If the States received direct grants, they could use this money to help the small cities with the expense of initiating plans that would enable them to compete with the big cities for construction money.

In Texas last year there was $22,870,615 grants-in-aid for airport construction. Of this money, $16,500,000 went to one airport. The rest of the money was spread over 10 other airports in Texas. Only four of these 11 areas receiving Federal moneys could be classified as small city or rural area airports. I certainly see nothing wrong with building airports for the large cities because that is where the largest flow of traffic is, but there is certainly also a need for commuter and general aviation airports in our smaller cities and rural areas. General aviation is paying a large share of the money that goes into the trust fund. They ought to get a fair return on their investment. Many of the States are willing to take an active roll in building airports.

As an example, the Texas Legislature approved $500,000 for 1971 to assist towns with less than 50,000 population to improve and develop 30 airports. In the past 5 years, of the 172 Texas airport projects, Federal funds were involved in only 42. I think it is great that the State government in Texas is willing to assume the responsibility for building airports, but all States are not doing this and besides the program could be more effective if there was hand-in-hand cooperation between the Federal Government and State government in building these airports.

Of the $6,371,978 that was spent on facilities and equipment in Texas out of the trust fund all but $1 million went for three airports. To me this policy looks like the rich are getting richer.

The National Association of State Aviation Officials is still hopeful that the Airport/Airway Act might be amended so that the States could work as partners with the Federal Government in airport planning and construction.

I am submitting for the RECORD a resolution recently passed by the National State Aviation Officials asking that they be given a more viable roll in our aviation system. I think we should give serious consideration to their request.

The resolution follows:

NATIONAL ASSOCIATION OF STATE AVIATION OFFICIALS 1971 ANNUAL MEETING

RESOLUTION NO. 2

Whereas, air transportation is at a crucial stage of development;

Whereas, if air transportation is to survive and achieve its potential as the major transportation mode of the future, it must be developed at regional, state and local levels as well as at the national level;

Whereas, the need for adequate and equitable financing of air transportation development is critical;

Whereas, the Airport and Airway Development Act of 1970 failed to create such a source of financing, and has preempted potential sources of state and local revenue for aviation development programs;

Whereas, the laudable purposes of Congress in enacting the Airport and Airway Development Act are being thwarted by the inability of state and local governments to provide matching funds;

Whereas, an increase in the federal matching share, though deserving of careful consideration, would not be a complete solution because the nation's air transportation needs cannot be met by a single national program;

Whereas, the unique character of aviation may require novel and imaginative forms of cooperative action by the states and between the state and federal governments;

Now, therefore, be it resolved, that Congress be requested to amend the Airport and Airway Development Act of 1970, either to allow the states to collect a portion of the taxes levied by that Act, or to return to the states a portion of the revenue collected thereunder by the federal government.

SENATE—*Saturday, December 11, 1971*

The Senate met at 9 a.m. and was called to order by the President pro tempore (Mr. ELLENDER).

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Almighty God, who rulest in the kingdom of men, and who by the voice of the people has created this body for the service of the Nation, grant to us here a sense of Thy presence in every word and action.

Draw together, we pray Thee, in true fellowship the men of diverse races, cultures, and customs into firm alliance, that bearing one another's burdens, and working together in brotherly concord they may fulfill the purpose of Thy providence and set forward Thy everlasting kingdom. Pardon our sins and shortcomings; keep far from us selfishness and pride, and give us grace to employ Thy good gifts of order and freedom to Thy glory and the welfare of mankind.

We pray in the name of Him whose birth we soon commemorate. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Friday, December 10, 1971, be dispensed with.

The PRESIDENT pro tempore. Without objection, it is so ordered.

THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the calendar, beginning with No. 549 and ending with No. 554.

The PRESIDENT pro tempore. Without objection, it is so ordered.

GRATUITY TO FRANCES J. BANGERT

The resolution (S. Res. 213) to pay a gratuity to Frances J. Bangert, was considered and agreed to, as follows:

S. RES. 213

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Frances J. Bangert, widow of Richard H. Bangert, an employee of the Senate at the time of his death, a sum equal to one year's compensation at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

PRINTING AS A SENATE DOCUMENT A REPORT ENTITLED "FINANCIAL MANAGEMENT IN THE FEDERAL GOVERNMENT—VOLUME II"

The resolution (S. Res. 195) to print as a Senate document, with illustrations, a report entitled "Financial Management in the Federal Government—Volume II," was considered and agreed to, as follows:

S. RES. 195

Resolved, That there be printed, with illustrations, as a Senate document a report compiled by the General Accounting Office at the request of the Committee on Government Operations entitled "Financial Management in the Federal Government—Volume II"; and that there be printed one thousand five hundred additional copies of such document for the use of that committee.

PRINTING A COMPILATION ENTITLED "MAJORITY AND MINORITY LEADERS OF THE SENATE" AS A SENATE DOCUMENT

The resolution (S. Res. 200) to print a compilation entitled "Majority and Minority Leaders of the Senate" as a Senate document, was considered and agreed to, as follows:

S. RES. 200

Resolved, That a compilation entitled "Majority and Minority Leaders of the Senate", prepared under the direction of the Secretary of the Senate, Francis R. Valeo, by the Senate Parliamentarian, Floyd M. Riddick, shall be reprinted with revisions and certain tables as a Senate document, and that an additional two thousand copies be printed for distribution by the Secretary of the Senate.

STUDY RELATING TO CONSTITUTIONAL RIGHTS

The resolution (S. Res. 201) supplementing the limitating with respect to experts and consultant expenses that may be incurred by the Committee on the Judiciary for a study relating to constitutional rights, was considered and agreed to, as follows:

S. RES. 201

Resolved, That section 6 of Senate Resolution 32, Ninety-second Congress, agreed to March 1, 1971, is amended by striking out "$3,000" and inserting in lieu thereof "$10,000".

PRINTING AS A SENATE DOCUMENT THE REPORT OF THE PROCEEDINGS OF THE 45TH BIENNIAL MEETING OF THE CONVENTION OF AMERICAN INSTRUCTORS OF THE DEAF

The concurrent resolution (S. Con. Res. 41) authorizing the printing of the report of the proceedings of the 45th biennial meeting of the Convention of American Instructors of the Deaf as a Senate document, was considered and agreed to, as follows:

S. CON. RES. 41

Resolved by the Senate (the House of Representatives concurring), That the report of the proceedings of the forty-fifth biennial meeting of the Convention of American Instructors of the Deaf, held in Little Rock, Arkansas, from June 25, 1971, through July 2, 1971, be printed with illustrations as a Senate document. Five thousand five hundred additional copies of such document shall be printed and bound for the use of the Joint Committee on Printing.

PRINTING AS A SENATE DOCUMENT THE REPORT OF THE 1971 WHITE HOUSE CONFERENCE ON AGING

The Senate proceeded to consider the resolution (S. Res. 210) authorizing the printing of the report of the 1971 White House Conference on Aging as a Senate document, which had been reported from the Committee on Rules and Administration with an amendment, in line 7, after the word "such", strike out "document for the use of the Special Committee on Aging" and insert "document, of which two thousand sixty copies shall be for the use of the Senate and one thousand seven hundred forty copies shall be for the use of the Special Committee on Aging"; so as to make the resolution read:

Resolved, That the report of the 1971 White House Conference on Aging (A Report to the Delegates from the Conference Sections and Special Concerns Session), held in Washington, District of Columbia, November 28 to December 2, 1971, be printed as a Senate document, and that there be printed three thousand eight hundred additional copies of such document, of which two thousand sixty copies shall be for the use of the Senate and one thousand seven hundred forty copies shall be for the use of the Special Committee on Aging.

The amendment was agreed to.

The resolution, as amended, was agreed to.

Mr. MANSFIELD. Mr. President, that concludes the call of the calendar.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The PRESIDENT pro tempore. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider nominations on the Executive Calendar, under New Reports.

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDENT pro tempore. The nominations on the Executive Calendar, under New Reports, will be stated.

U.S. DISTRICT COURTS

The second assistant legislative clerk read the nominations in the U.S. district courts as follows:

Jon O. Newman, of Connecticut, to be a U.S. district judge for the district of Connecticut.

Arnold Bauman, of New York, to be a U.S.

district judge for the southern district of New York.

Lee P. Gagliardi, of New York, to be a U.S. district judge for the southern district of New York.

William Terrell Hodges, of Florida, to be a U.S. district judge for the middle district of Florida.

Bruce M. Van Sickle, of North Dakota, to be a U.S. district judge for the district of North Dakota.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc;

Mr. YOUNG. Mr. President, I am most pleased that Mr. Bruce Van Sickle, a long-time friend of of mine, has been confirmed today as U.S. district judge for North Dakota.

Mr. Van Sickle is a native of Minot, N. Dak., and has been a member of the North Dakota Bar since 1941. He is a World War II Marine veteran and a former member of our State legislature.

Mr. Van Sickle has long been rated as one of North Dakota's best attorneys and one with considerable experience in trial work. He is a member of one of our most outstanding law firms—McGee, Van Sickle, Hankla, Backes & Wheeler of Minot, N. Dak.

He has the talent, temperament, reasonable attitude and everything else necessary to make a good Federal judge. His appointment by President Nixon and his confirmation by the Senate, I am sure, will meet with widespread approval, both among lawyers and the public generally. I feel sure, Mr. President, that Mr. Van Sickle will establish a distinguished record as U.S. district judge.

The PRESIDENT pro tempore. Without objection, the President will be immediately notified of the confirmation of these nominations.

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I move that the Senate resume the consideration of legislative business.

The motion was agreed to, and the Senate resumed the consideration of legislative business.

THOUGHTS OF HOLIDAYS AND FOOTBALL

Mr. SCOTT. Mr. President, on Monday next, Congress will be in session. All our lights will be on in celebration of Chanukah. At 9 p.m., the Los Angeles Rams engage in a not altogether friendly confrontation with the Washington Redskins. Television will be available for Members to watch this controversy, which will not take as long as it takes us to confirm a member of the Supreme Court by any means, but the outcome will be just as decisive, I am sure, one way or the other.

I know, though, that we want Senators to enjoy themselves, so that I take this occasion to wish them all a happy Chanukah and a pleasant time as they observe the football game.

Then on Tuesday, I hope there will be no schedule whatsoever. Springing as we do from the people, perhaps on Tuesday we can spring back at them, with unpredictable results.

Mr. MANSFIELD. Who is playing?

Mr. SCOTT. The Los Angeles Rams versus the Washington Redskins, so the Senator from Montana can afford to be neutral, if he wishes to be. I wish that Penn State were still around.

ORDER FOR ADJOURNMENT TO NOON ON MONDAY NEXT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate completes its business today, which I am certain will be fairly early, the Senate adjourn until 12 o'clock noon on Monday next.

The PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF BUSINESS

The PRESIDENT pro tempore. Under the previous order, the distinguished Senator from Arkansas (Mr. McCLELLAN) is now recognized for not to exceed 15 minutes.

(The remarks of Mr. McCLELLAN when he introduced S. 2994 are printed in the RECORD under Statements on Introduced Bills and Joint Resolutions.)

ORDER OF BUSINESS

The PRESIDENT pro tempore. Under the previous order, the distinguished Senator from Virginia (Mr. BYRD) is recognized for not to exceed 15 minutes.

HEW'S NEW WELFARE PROGRAM

Mr. BYRD of Virginia. Mr. President, as the Senate and House of Representatives prepare to adjourn, I would like to again invite the attention of the Senate to the new welfare program being advocated by the Department of Health, Education, and Welfare.

It is very important, Mr. President, that the Senate and the Nation understand the facts regarding this new program. Secretary Richardson in his official statement to the Senate Finance Committee put the new program in capsule form when he termed it "revolutionary and expensive."

Before discussing the new program, let me say that I think the present outdated welfare system should be changed; and most certainly the administration of the program must be tightened.

But in changing the present system it is important that we be sure we are getting something better and not just an expanded and more expensive program.

After considering the matter for 18 months, I have concluded that I cannot support the administration's revolutionary and expensive new welfare program.

For 2 consecutive years—1970 and again in 1971—the Committee on Finance refused to approve this program. Of course, it will come up again in 1972.

I cannot support the revolutionary and expensive program for the following reasons:

One. It lacks adequate work incentives.

Two. I doubt the wisdom of writing into law the principle of a guaranteed annual income.

Three. The annual cost of the new program would be at least $5 billion greater than the present program.

Four. The number of welfare recipients would be increased from 12 million persons in 1970 to 26 million persons.

Five. Richard P. Nathan, Deputy Under Secretary for Welfare, says the Government would need to hire an unprecedented 80,000 new Federal employees to administer the program.

With 101,000 employees, the Department of HEW already is so huge that it is almost impossible to effectively administer. One can well imagine the added confusion and chaos if 80,000 more workers are added to that Department.

I feel that the Government has an obligation to our fellow citizens who are physically or mentally unable to earn a living. But the "revolutionary and expensive" proposal of Secretary Richardson goes far beyond that. It does not have adequate work incentives, nor does it have adequate provisions to keep off the welfare rolls able-bodied citizens who should be seeking jobs instead of handouts.

The new "revolutionary and expensive" welfare plan is not in keeping with—and, indeed, runs directly counter to—the President's anti-inflation efforts.

It is not welfare reform. It is welfare expansion.

I submit we are not going to be able to lick inflation until the Government puts its own financial house in order.

The Government had a Federal funds deficit last year of $30 billion; it will have a Federal funds deficit this year of $35 billion.

The "revolutionary and expensive" program of Mr. Richardson will add an additional $5 billion to the deficit—and to the national debt, which is now $412 billion.

But an even more important objection, in my view, is that Secretary Richardson's "revolutionary and expensive" welfare plan would double the number of welfare recipients. Yes, Mr. President, it would double the number of welfare recipients.

With the huge deficits the Government has been running, it is neither logical nor sound to attempt to double the number of people drawing public assistance.

If the Government cannot now effectively administer the present welfare program, how can it effectively administer a program with twice as many persons drawing Government checks?

One evidence of the difficulty of administration is this: In New York City at the present time 1,000 welfare families are being housed in New York City hotels.

I wrote the Department of HEW to ascertain the average monthly rental being paid by the taxpayers for those families.

I was informed in a letter from HEW

that the average monthly rental per family is $763.

I have devoted hours and hours of time in an effort to obtain accurate cost figures—and accurate figures as to the number of full-time permanent employees of HEW.

Mr. President, I have prepared a table showing the cost of public welfare in billions of dollars for the fiscal years 1962 through 1972. I ask unanimous consent that the table may be printed in the Record.

There being no objection, the table was ordered to be printed in the Record, as follows:

Federal costs for public welfare

[In billions of dollars]

1962	$2.7
1963	3.0
1964	3.2
1965	3.5
1966	3.8
1967	4.5
1968	5.6
1969	6.8
1970	8.6
1971	11.6
1972	14.2

(Source: U.S. Department of Health, Education, and Welfare.)

(Note.—According to testimony of Secretary Richardson of HEW, the total welfare cost for FY 1973, under H.R. 1, would be $19.7 billion.)

Mr. BYRD of Virginia. Mr. President, if the proposal advocated by Secretary Richardson, namely, H.R. 1, is approved by the Senate, the total cost for fiscal year 1973 of welfare, of public assistance, would be $19.7 billion, or a 40-percent increase over the cost for fiscal year 1972.

Mr. President, the above figures I have submitted, the tabulation and the figures in regard to H.R. 1, all include the cost of medical aid to the indigent. I want to submit a full and complete picture of the total cost to the Federal Government of the Federal welfare program, or public assistance as some prefer to call it.

As to the number of full-time permament employees of HEW, when the Department was established in 1953 the employees numbered 35,000 persons. By the end of 1970 the figure had increased to 101,000, according to figures submitted to me by Secretary Richardson.

Mr. President, I think that the figures and arguments I have cited today show that the proposal advanced by the administration would in fact move this Nation closer to the condition of a welfare state.

When President Nixon was a candidate for President in 1968, he stated again and again that he wanted to reverse the trend to the welfare state.

I applauded those statements by then-candidate Nixon at that time. But the administration's proposal for revising the welfare laws would double the number of welfare recipients thus going directly counter to the statements of candidate Nixon.

The question I have been asking for the last 18 months—and I ask it again in the Senate today—is this: How does one reverse the trend to the welfare state by doubling the number of people on welfare?

There are 99 Members of the Senate besides the Senator from Virginia, so it would seem that if that question can be successfully answered, one Member of the Senate would be able to say how to reverse the trend of the welfare state by doubling the number of people on welfare.

I have asked this question in the Senate many times but none has answered it.

I say that this new program, termed "revolutionary and expensive" by Secretary Richardson, is a gigantic program. It doubles the number of public welfare recipients.

It is one that the Senate and the Nation need to consider very, very carefully before going into this huge program, termed by its sponsor as revolutionary and expensive. I think it should be fully debated, with adequate time taken by the Senate, if and when the proposal reaches the floor of the Senate.

So far as the Senator from Virginia is concerned, as a member of the Committee on Finance I would just as soon that it does not reach the floor of the Senate; but if and when it does, I hope the leadership on both sides of the aisle will give adequate time for discussion. The people of this country should understand the ramifications of this gigantic program submitted by Secretary Richardson, which he himself terms "revolutionary and expensive."

I ask unanimous consent that excerpts from the hearing of August 3, 1971, before the Committee on Finance on H.R. 1 be printed in the Record.

There being no objection, the excerpts were ordered to be printed in the Record, as follows:

Excerpts of Hearings Before the Committee on Finance on Welfare, August 3, 1971

Senator Byrd. Assuming your program is enacted into law by the present Congress, what will be the total costs of the welfare program; this is, the Federal share of the welfare program for fiscal year 1973.

Secretary Richardson. The total cost, including some expenditure for services, would be $14.9 billion.

* * * * *

Senator Byrd. I want to be sure we are clear about this, that is your judgment as to what the total costs will be for fiscal 1973.

Secretary Richardson. Yes, this does not include medicaid.

Senator Byrd. It does not include medicaid. Let's get the medicaid figure, if you will.

Secretary Richardson. That is $4.5 billion. . . .

Senator Byrd. Let's see if we understand this now, the costs of the welfare program (H.R. 1) will be $14.9 billion, and in addition to that, there will be $4.5 billion for medicaid, namely medical aid for welfare recipients.

Secretary Richardson. Yes.

Senator Byrd. I am correct in that statement.

Secretary Richardson. Yes, let me be sure we have it. Yes; that is correct, Senator.

* * * * *

INCREASE IN ESTIMATE COSTS OF WELFARE PROPOSAL

Senator Byrd. Now, you responded last year that the estimated cost for fiscal 1972, assuming this program had been in effect would be $11.8 billion. So the arithmetic would indicate that then in a 1-year period, between fiscal 1972 and fiscal 1973 the costs of this program will have increased 25 percent in that 1-year period.

Secretary Richardson. I am sure that $11.1 billion figure did not include medicaid.

Senator Byrd. No, it did not include that.

Secretary Richardson. So the comparable figures would be $11.1 and $14.9 billion.

Senator Byrd. Excuse me 11.8.

Secretary Richardson. 11.8 and 14.9.

Senator Byrd. You will find that figure comes to roughly 25 percent.

Secretary Richardson. Well, there are differences which explain this that are not differences simply resulting from the markup of our estimates. In the first place there is the Federal assumption of basic benefits, of administration, and of the adult categories; there are increases projected in H.R. 1 for public service jobs, in child care, training, supportive services.

Senator Byrd. So you are expanding the program beyond last year's proposal.

Secretary Richardson. The work related provisions have been expanded.

Senator Byrd. You are expanding—the program as a whole is being expanded beyond last year's program.

Secretary Richardson. Yes, in the sense that we are more determined than ever to convince this committee that the provisions of the program are capable of getting people off the welfare rolls and into jobs.

Senator Byrd. I don't think this committee has demanded that the program be expanded.

Secretary Richardson. Some members of the committee have felt we did not provide enough public service jobs in last year's program, and some other members of the committee have thought that we didn't provide adequately for the development of day care services, and these are among the increases.

* * * * *

Senator Byrd. Did you, in fact, reduce the number of employees or just not fill the vacancy?

Mr. Cardwell. The latter.

Senator Byrd. In other words, you don't go to the full authorized strength.

Mr. Cardwell. That is right, sir.

Senator Byrd. But actually you did not reduce the number of employees.

Mr. Cardwell. Essentially that is correct, sir. There may be a few isolated instances where this policy forced reduction but as a general proposition, you are right.

INCREASE IN NUMBER OF DEPARTMENT EMPLOYEES NEEDED TO ADMINISTER H.R. 1

Senator Talmadge. Will the Senator from Virginia yield at that point. Do I understand the answer to be that if H.R. 1 is passed you will reduce your Federal employees handling this act.

Mr. Cardwell. No, sir; definitely not.

Senator Talmadge. There would be a substantial increase.

Mr. Cardwell. Yes, sir.

* * * * *

Senator Byrd. Well, now, with a $77 billion budget that would mean that your department would have the largest budget of any department of Government, including Defense, would it not?

Secretary Richardson. Yes.

* * * * *

Senator Byrd. Let me ask you this, what is the national debt now?

Secretary Richardson. I have lost track. It is over $300 billion. (Laughter.) (Debt is $409 billion.)

Senator Byrd. As the Administrator of the largest department dollar wise in the Government. I am just interested in your philosophy, interested in your deep concern about the cost of Government. Let me ask you this question what was the fiscal year just ended, what was the Federal funds deficit?

Secretary Richardson. $23.3 billion.

Mr. Veneman. It is between $21 and $23 billion, there are diverse opinions.

Senator Byrd. Is that your guess?

Secretary Richardson. I would say it is plus or minus $23 million but we will get the exact figure.

Senator Byrd. It was $30 billion, and I will insert the figures in the record. What you are speaking of is the unified budget which takes the surplus from the trust funds in order to make the deficit appear less large.

Let me ask you this. What is the projected Federal funds deficit for the current fiscal year?

Secretary Richardson. I don't know, Senator.

Senator Byrd. I will give you that figure. It is $30 billion. So under the administration's own figures, and I think you can say the projection is conservative, there will be a back-to-back Federal funds deficit of $60 billion. That has never occurred since the end of World War II.

Two records have been established. In fiscal 1971 the largest Federal funds deficit occurred. In fiscal 1972 a similar deficit will occur, which will establish two records.

ORDER OF BUSINESS

The PRESIDENT pro tempore. Under the previous order, the Senator from Washington (Mr. Magnuson) is recognized for a period not to exceed 15 minutes.

FOOD FOR HUNGRY—SENATE RESOLUTION 212

Mr. MAGNUSON. Mr. President, first I ask unanimous consent to withdraw from the desk the resolution I presented to the Senate on yesterday, which would be automatically the pending business this morning.

The PRESIDENT pro tempore. Does the Senator request that it be indefinitely postponed?

Mr. MAGNUSON. Yes; that it be indefinitely postponed.

The PRESIDENT pro tempore. Without objection, the resolution is indefinitely postponed.

Mr. MAGNUSON. Mr. President, I take this opportunity to express my appreciation to the administration and to the Department of Agriculture for taking the action they did yesterday relating to the feeding of the hungry not only in my area of Puget Sound surrounding Seattle, but also in other areas of the United States. They adopted a policy which will allow an alternative to the food stamp program where the emergency is sufficient to allow this.

Out in my area, probably more people will take advantage of the new ruling for commodity products, surplus products, than they will of a liberalized food stamp program, for the simple reason that many of the unemployed in the Seattle area, and some other areas of the United States, too, are people who are not necessarily sitting on the curb, poor.

They are people who are out of work who may have small homes. They do not want to give up the payments on their mortgage, because they may lose their homes. There are people who may be on small social security allotments who must pay their rent to keep their little homes, and by the time they are through paying for their utilities and all of the things that are necessary to sustain them—medical bills, or whatever it may be—they have not the money, the $80, or the $69, or whatever is needed, to go down and buy food under the food stamp program. So now they have an alternative. This is what should have been done previously. The only time an area will be so designated is when an emergency exists, and where the facts and the proof exist. Surely that is so in my State, with 109,000 unemployed in three counties alone. The neighbors in need, the fine church people, the Salvation Army, and the Goodwill—all of these organizations—got together for the distribution of food voluntarily. I hope that this may suggest to the Japanese that we take care of our own, rather than have them send us some help, although they meant well, and they meant what they said.

I take this opportunity, while I am here, to express my deep sense of gratitude to all of the Senators who supported me on this bill, in particular those in the political field. Sometimes there is a key man who breaks logjams. The distinguished Senator from Michigan is here. I pay my compliments to him.

Mr. GRIFFIN. I thank the distinguished Senator from Washington, but I do not deserve and I do not want to take that credit. I think the distinguished Senator from Washington deserves the credit. He has really focused attention on the problem. I am glad that it has worked out well.

Mr. MAGNUSON. I thank the Senator from Michigan.

Mr. BYRD of West Virginia. Will the Senator yield?

Mr. MAGNUSON. I yield.

Mr. BYRD of West Virginia. Sometimes circumstances arise when it takes two men to break a logjam, so I would suggest that the distinguished Senator from Washington and the distinguished Senator from Michigan are both deserving of credit.

Mr. MAGNUSON. I will close by saying that that is a happy combination, nonpartisan in nature. I think a lot of people in my area, and some in Detroit and many other places, will have a better Christmas.

Did the Chair respond to the unanimous-consent request that the resolution be postponed indefinitely?

The PRESIDENT pro tempore. Yes.

Mr. MAGNUSON. I thank the Chair.

ORDER OF BUSINESS

The PRESIDENT pro tempore. Under the previous order, the Senator from West Virginia (Mr. Byrd) is recognized for not to exceed 15 minutes.

Mr. BYRD of West Virginia. Mr. President, I yield such time as he may require to the distinguished Senator from Nevada (Mr. Bible).

Mr. BIBLE. I thank the distinguished Senator from West Virginia. I have two items that I wish to comment on very briefly.

COMMENDATION OF MAJORITY LEADERSHIP AND SENATOR ELLENDER

Mr. BIBLE. Mr. President, first, I take this opportunity, and it may be the best and last opportunity I have this session, to compliment the majority leader (Mr. Mansfield) and the assistant majority leader, the Senator from West Virginia (Mr. Byrd).

I have always had the highest respect and affection for Mike Mansfield, who undoubtedly holds the toughest job in the Senate day in and day out. His diplomacy—and his tenacity where needed—combine with a wealth of human understanding, tolerance, and patience to provide the qualities of dedicated leadership that are essential to the successful handling of legislation in the Senate. Thanks to his efforts, we can point with pride to a fine record of achievement—a record written against the troubled backdrop of an unpopular conflict in Southeast Asia and a myriad of economic problems at home. We are fortunate to have a man of his caliber at the helm.

And no one will dispute me, I think, when I call Robert Byrd the hardest working whip to come along in many years. He threw himself into the task wholeheartedly, and our duties were made easier as a result. The "Byrd letters" were an invaluable aid to Senators. These whip notices helped to organize and expedite the Senate's work, and we are all in his debt.

It is always a highlight of the day to receive from the whip letters signed "Your old optimistic plebian friend." The only word I would disagree with is "old." He is young in his action and activities, as is the ever-youthful Presiding Officer, the President pro tempore.

I would be remiss if I did not add to this statement a special commendation for our President pro tempore and Appropriations Committee chairman, Allen Ellender. Never in my own memory have I seen appropriation bills move with such efficiency and dispatch through the Senate. He worked day and night, pushing along the many hearings, attending almost every subcommittee markup and presiding at every full committee session. As a result, the usual jamup of appropriation measures never really happened this session. Without his inspired leadership I am certain we would not be able to adjourn even at this late date. It has been a personal privilege to work with him as with the majority leadership.

CAPITOL HILL AND THE DISTRICT OF COLUMBIA ANTICRIME STREET-LIGHTING PROGRAM

Mr. BIBLE. Mr. President, now that the winter season has again lengthened the hours of darkness to include the final hours of the normal work day, I wish to call to the attention of my colleagues in the Congress and to the citizenry and business community of the Nation's Capital the excellent high-intensity street-lighting program being carried out here in Washington and to suggest a comparable one for the Capitol Hill complex of buildings and parklands.

Two years ago at hearings before the

Senate Small Business Committee on the impact of crime against small business across this country, effective street lighting was credited with being "one of the best deterrents to robbery and burglary" in a report by the Small Business Administration.

Since that time, we have been working with Mayor Walter Washington and other District of Columbia government officials to bring about the development of a program to upgrade street lighting here by the installation of high-intensity fixtures as a means of combating the high crime rate. Since my last report to Members of Congress on this effort 1 year ago, Metropolitan Police Chief Jerry Wilson has advised me that in areas of the District where the new lighting has been in use, there has been a remarkable reduction of 32 percent in most types of nighttime crime. I can assure you that Chief Wilson has become an ardent advocate of better street lighting as an effective crime deterrent.

I am advised by Mr. John Hartley, Assistant Director of the District of Columbia Department of Highways and Traffic, that 5,000 of the new sodium vapor units are at present in use throughout the city. An additional 12,000 are scheduled for installation during the next fiscal year, bringing the city's total to 17,000 out of the 60,000 street lights operated by the District government. It is rewarding to me to see progress in crime prevention brought about by such a low-cost program as improved street lighting.

Mr. President, with the outstanding anticrime results obtained by this improved street lighting in parts of the city of Washington, I would hope that the Congress and the Architect of the Capitol would consider a comparable program for Capitol Hill and its complex of buildings and parklands.

Assault-type crimes, robberies, burglaries, and rapes are not new to Capitol Hill, but they are becoming more frequent. Constituents visiting their elected and other officials on Capitol Hill and sightseers visiting its shrines deserve more protection, as do our office staffs and other personnel. It was a shock for me to get a report from Capitol Police Chief James Powell, advising that so far this year within the Capitol Hill complex there have been 43 robbery holdups, 35 robberies by force, 37 autos stolen, 127 larcenies from autos, 19 pocketbook snatchings, one homicide, nine assaults, three rapes, and 64 other types of criminal acts. That this number of criminal acts can occur within an 11-month period at the complex of buildings and streets surrounding the Capitol of the United States is completely intolerable.

In view of the fact that crime has decreased by 32 percent in those commercial and residential areas of the District of Columbia where street lighting has been improved, it would stand to reason that with a similar program of improving lighting in and around the Capitol Hill complex, we might experience a comparable decrease in the appalling rate of crime now being thrust upon us.

In fact, it was reported to me recently that after an evening assault on a Supreme Court secretary on the front entrance, columned portico of the Supreme Court Building, the Chief Justice last December requested that improved temporary lighting be carried out in the Court area by the Capitol Architect immediately. More permanent installation of high-intensity lighting is now in progress.

Therefore, I have written to the Honorable George White, Architect of the Capitol, urging his most earnest consideration of instituting an appropriate, yet improved, street lighting program for the Capitol Hill complex of buildings, to include the Capitol itself, the House and Senate Office Buildings, the Supreme Court, the Library of Congress, and adjacent public streets for about 2 blocks to the east, about 3 to the south, about 2 or 3 to the north, and out to the reflecting pool on the west.

Mr. President, I urge that other Senators join with me in seeking the development of a lighting program that will help to combat the increase in assaults, robberies, and criminal activity on the U.S. Capitol grounds and adjacent areas and yet preserve the beauty and decor which these national shrines require.

Mr. President, I ask unanimous consent that there be printed at the conclusion of my remarks a letter from District of Columbia Assistant Director of Highways and Traffic John Hartley, describing the city's street lighting program, and my letter to the Architect of the Capitol.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., December 9, 1971.

Hon. GEORGE M. WHITE,
Architect of the Capitol,
Washington, D.C.

DEAR MR. WHITE: A matter has come to my attention in which I believe you can be of great assistance concerning what I propose as an improved street lighting program for the Capitol Hill complex of buildings and adjacent streets and parklands to serve as an anti-crime weapon against the increasing incidence of assault-type crimes, robberies, rapes and larcenies.

Two years ago when I conducted hearings of my Senate Small Business Committee on the impact of crime against small business across this country, effective street lighting was credited with being "one of the best deterrents to robbery and burglary." Since that time we have been working with Mayor Walter Washington and other District of Columbia government officials to bring about development of a program to upgrade street lighting by the installation of high intensity fixtures as a means of combating the high crime rate in this city. Metropolitan Police Chief Jerry Wilson advises that in areas here where the new lighting has been in use, there has been a remarkable reduction of 32 percent in most types of nighttime crime. He is an ardent advocate of better street lighting as an effective crime deterrent.

Because of these outstanding anti-crime results, I would hope that a comparable program could be considered for Capitol Hill and its complex of buildings and parklands considering the increase in assault-type crimes in the immediate Capitol area. Capitol Police Chief James Powell advises me that so far this year in the Capitol Hill area under your jurisdiction as Architect of the Capitol, there have been 43 robbery holdups, 35 robberies by force, 37 autos stolen, 127 larcenies from autos, 19 pocketbook snatchings, 1 homicide, 9 assaults, 3 rapes, and 64 other types of criminal acts. That this number of crimes can occur within an eleven-month period at the complex surrounding the Capitol of the United States is completely intolerable, in my judgment.

After consultation by my Committee staff with a number of street lighting authorities, including Assistant Directors John Hartley of the D.C. Department of Highways and Traffic, I have reached a conclusion that it is imperative that the Capitol Hill complex begin a program of relighting the adjacent streets, parking lots, parklands, and grounds of the Capitol Hill buildings in an effort to curb these criminal assaults. As you know, preliminary discussions have already been held among members of your staff, the D.C. Department of Highways and Traffic, and my Committee staff.

Therefore, I would hope that you would give your earnest consideration to this proposal. Obviously, it is important that the beauty and proper decor associated with these national shrines be preserved. Accordingly, the type of fixtures and aesthetics should be within your capable discretion. I am hopeful we can upgrade street lighting in the Capitol complex and adjacent grounds as soon as possible to provide proper nighttime protection for the Members of Congress, the Justices of the Supreme Court, staff personnel of all these offices and the Library of Congress and the thousands of visitors coming to Capitol Hill. Please let me know about conclusions.

For your background, I enclose copies of statements I made before the Senate on the D.C. street lighting program in October, 1970, and in January, 1971, together with a copy of a statement I intend to make before the Senate within several days plus attachments.

Please accept my best wishes for a Happy Holiday Season!

Cordially,

ALAN BIBLE,
Chairman.

GOVERNMENT OF THE
DISTRICT OF COLUMBIA,
Washington, D.C., December 6, 1971.

Hon. ALAN BIBLE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR BIBLE: This is in response to a request by the Chief Investigator of the Select Committee on Small Business, Mr. Ernest Evans, that we provide you with an updating of the Street Lighting Program begun approximately 18 months ago in Washington, D.C.

As you will recall from earlier correspondence forwarded to you, most cities in the Nation light their streets based on nighttime vehicular and pedestrian traffic volumes rather than on the effect that improved street lighting can have as a crime deterrent. However, Mayor Walter E. Washington and members of the City Council were confident that improved lighting could indeed reduce crime. Based on this, and after consultation with you, we established four experimental areas with a high incidence of nighttime crime and installed approximately 2800 sodium vapor street lights. The areas comprise approximately 120 city blocks and have a population of about 29,000 persons.

The reduction in nighttime crime that has occurred in these experimental areas following the installation of high intensity lighting has been, we believe, significant. In fact, during the first 9 months of 1971 following the installation of sodium vapor units in the four areas, the total reduction in nighttime crime incidence in the categories of robbery, auto theft, burglary, vandalism and homicide has reduced 32 percent compared to the same 9 month period of 1970—the period before before the installation of high intensity lighting.

Approximately 5,000 sodium vapor units are now in operation throughout the city and the result is certainly discernible as one travels around the city at night. Larger number of pedestrains can be seen on our streets in the downtown area. In the residential neighborhoods groups of persons can be noted having conversations. The overall result appears to be one of returning the streets to the people and it might be said that urbanization has returned in those parts of the city where our citizens are receiving the benefits of the lighting program. I have frequently heard remarks from residents that they are happier and feel safer because of the new lighting.

The response of proprietors of businesses, both large and small, has also been outstanding. Merchants in the downtown area have indicated greater nighttime activity in their stores. Similarly the small, outlying businessman is equally pleased in that his patrons are safer in patronizing neighborhood establishments.

Based on correspondence we have received from other cities, it appears that Washington is indeed leading the way in crime deterrent street lighting. Representatives of communities such as Miami, Boston, Dallas, Birmingham, Nashville and 11 other cities have contacted us in regard to our program. These contacts can be attributed in a large measure to the various trade journals and other magazines which have given the program here in the District wide-spread publicity—some referring to it as a new, exciting departure from traditional street lighting practices.

Publicity directed toward our program will be stepped up even further early next year when a film describing it, produced by Newsweek Magazine, will be distributed to various television stations across the Nation. Newsweek estimates that its exposure index will be at least 10 million people. In it, community leaders, merchants, city officials as well as residents of lighted areas, combine to tell the story of how the program has succeeded here in Washington. We believe this film will contribute even further to highlighting what has been accomplished here in the city and what can be done in other cities across the Nation to create an improved community atmosphere at night.

An additional 12,000 sodium vapor lights are scheduled for installation during our next fiscal year program, bringing the city's total to 17,000 out of the 60,000 presently installed. In fact, at the present time the demand for these lights has been so great that we are approximately 3,000 units behind in fulfilling citizen response. However, we believe we can improve upon this situation in the very near future.

An example of the demand for high intensity lighting is contained in a recent communication from Chief of Police Jerry V. Wilson wherein he referred to a "particularly troublesome area" in the eastern part of the city. He called attention to car thieves who, in addition to stealing automobiles, also stripped them and further mentioned that police vehicles responding to the area are sometimes damaged when left unattended. His officers have requested the installation of sodium vapor lights in approximately 10 square blocks and have stressed the need for an immediate installation. Incidentally, Chief Wilson has been one of the strongest supporters of our high intensity street lighting program.

I trust this information will satisfactorily provide you with an updating on the status of our program. Needless to say, we are extremely pleased with the results we have achieved and are hopeful that we can continue to demonstrate improvements as the program expands.

We are deeply grateful for your continued support and strong leadership in the area of improved street lighting.

Sincerely yours,

JOHN E. HARTLEY,
Assistant Director.

Mr. BIBLE. Mr. President, I yield the floor.

Mr. BYRD of West Virginia. Mr. President, how much time have I remaining?

The PRESIDENT pro tempore. The Senator has 8 minutes remaining.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the remainder of my time be vacated.

The PRESIDENT pro tempore. Without objection, it is so ordered.

TRANSACTION OF ROUTINE MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business, with statements by each Senator limited to 3 minutes.

NORTHERN CHEYENNE TRIBAL COUNCIL LAUDS GREEN BERETS

Mr. MANSFIELD. Mr. President, 27 members of the U.S. Special Forces, otherwise known as the Green Berets, worked in Montana and other western States during this past summer. From June 22 to August 29, these Green Berets spent their time and put forth their efforts on the Northern Cheyenne Indian reservation in southeastern Montana.

The Northern Cheyennes happen to be the tribe which was forced out of Montana down into Oklahoma, and then, in the dead of winter, despite pursuit, massacre, and humiliation, out of defeat and exile they came back to Montana and won for themselves a homeland in the southeastern part of my State.

The Northern Cheyenne Tribe is made up of an extraordinarily fine group of people. It is the smallest in number in the State of Montana. It has the least in resources, but it has the most in the way of gumption. They refer to themselves as the Morning Star people, and their heroes, the ones who led them on the trek from Oklahoma back to Montana, were Little Wolf and Morning Star.

The Northern Cheyennes are also a very appreciative people, and I am in receipt of a letter from Allen Rowland, president of the Northern Cheyenne Tribal Council, in which he compliments, commends, and expresses the appreciation of the Northern Cheyennes for the excellent work done by the U.S. Special Forces on their reservation.

I wish to join with my brothers, the Northern Cheyennes, in expressing my appreciation also for what they did to help during their stay on the Northern Cheyenne Indian Reservation. All too seldom, Mr. President, do we receive letters of commendation of this nature; therefore, I ask unanimous consent that the letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NORTHERN CHEYENNE TRIBE, INC.,
Lame Deer, Mont., December 6, 1971.

Senator MICHAEL MANSFIELD,
Majority Leader, U.S. Senate,
Washington, D.C.

DEAR SENATOR MANSFIELD: We, of the Northern Cheyenne Indian Tribe, would like to take this opportunity to express our appreciation for the excellent work done by the United States Special Forces on our reservation, Twenty-seven Special Forces members worked here from July 22, to August 29, 1971. They advised and helped on number of projects necessary to our economic and social development.

There were several projects developed by the Northern Cheyenne Tribal Council, and advised by the Green Berets. Sanitation fills were constructed at four communities on the reservation. This will improve the health and appearance of these areas. A timber trestle bridge was built across Rosebud Creek which affords excess to Northern Cheyenne range lands and can be used as a route to fires which occur in that area. Several fences were put up on tribal land. The most enthusiastic of which was fencing for a Buffalo pasture at Crazy Head Springs. A youth camp was established and run by the Green Berets. For the one hundred twenty-six children, this was the most beneficial program of all.

The Special Forces medics have been one of the most valuable aids. They have worked in our local dispensary and also among the people giving classes, instruction, and training on modern medical procedures. Our people have received them well and they are now expected to be available at all times.

We would like to have the Green Berets return to give us more assistance on other projects. The determination of the Northern Cheyenne Tribe to enter into tourism development is an attempt to create jobs and income for our people, as another tool to increase the economic base of the reservation. Projects relating to tourism development will be continued. These include development of a recreation area and Buffalo pasture at Crazy Head Springs. Improvement of access roads at various historical areas is another project. Tourist rest areas are needed along the main routes on the reservation. An airstrip, if constructed, would benefit not only outsiders but our own people who are fire fighters, many of whom travel long distances to fires.

The Green Berets came here with little or no outside support. With limited equipment, material and funding they accomplished a great deal. The Tribal Council desires, that if the Green Berets return, they be given more support. This would be in the form of heavy earth moving and funding for support of this equipment. The major handicap the Special Forces were working under would then be removed and much more could be accomplished. More time will also be beneficial, the five weeks the Green Berets were here was hardly more than enough to get an orientation of the area and begin work on projects. This was especially true of the medics.

Again, the aid given by the Green Berets is most appreciated by our people.

Sincerely yours,

ALLEN ROWLAND,
Northern Cheyenne Tribal Council.

LEGISLATIVE PROGRAM

Mr. MANSFIELD. Mr. President, for the information of the Senate, had I known that the House would not be in session today, it would not have been the intention of the joint leadership to have a session today, because, after we get through with the agreements and the protocols on which we shall vote beginning at 10:30, there will be no further business today, unless a conference report is ready, which I do not know of, or there are Senators who wish to speak.

But, as the whips on both sides have indicated to their colleagues, the answer to a sine die adjournment depends on final action on the following—and I am quoting from the whip notice of the distinguished assistant majority leader:

1. Conference report on Defense Appropriations (*House acts first*).

2. Conference report on D.C. Appropriations (*House acts first*).

I believe I understood yesterday that the conferees were getting together this morning.

3. Foreign Aid (continuing resolution?) (*House acts first*).

4. Conference Report on Phase II economic proposal. (The conference has not yet been held, but *Senate Conferees are ready to meet* when House Conferees are ready.)

Those are certainties.

As to possibilities—again quoting from the distinguished assistant majority leader's notice:

Other conference reports which *may or may not be acted upon before adjournment* are as follows: Federal Credit Unions; Ocean Dumping; Election Reform; Social Security Amendments; Interest rates on insured mortgages; Lump sum death payment.

That seems to be about it, as far as can be foreseen at the present time. When we will reach sine die adjournment I cannot say.

The PRESIDENT pro tempore. Is there further morning business?

THE VETO OF S. 2007

Mr. **HRUSKA**. Mr. President, it had been my intention to comment on and participate in the discussion or debate on sustaining or overriding the veto of S. 2007 last evening. Because of the press of other official business, it was not possible to do so. The remarks I now make are not by way of afterthought, because I was one of the 17 Senators who voted in the negative on the adoption of the conference report on this bill. Likewise, I was one of the 35 or 36 Senators who voted to sustain the veto.

Mr. President, it was gratifying to note the vote of the Senate last evening sustaining the veto of S. 2007—a bill amending the Economic Opportunity Act, and creating a comprehensive child development program. In the opinion of this Senator, President Nixon was right when he vetoed this measure. The fiscal irresponsibility of its amendments for a Federal child care program and its administratively unworkable provisions render it a confusing and even dangerous piece of legislation.

It should be noted that it is most unfortunate that some proponents of that bill, in their eagerness to enact the legislation, are implying that failure of the President to approve it is tantamount to abandoning one of his major commitments to the Nation. Such a conclusion is unfair and unwarranted. There is no responsible person who questions the need for a constructive and proper program, and that includes the Senators who voted to sustain the veto. But all bills on this subject are not necessarily good, sound, acceptable, and wise bills. S. 2007 certainly is not such a bill.

President Nixon yields to no man in this Chamber in his desire to help all children who need help. This objective is universally supported.

But despite the glowing rhetoric of its sponsors, the interests of the Nation's children would not be properly served by S. 2007. This hasty and ill-conceived legislation will actually deter and impede much of the effective child care work now in progress. It will actually set us back in this program, rather than to move us forward.

President Nixon has called for a "national commitment to providing all American children an opportunity for a new healthful and stimulating first 5 years of life." He has called for constructive national debate upon the merits of such far-reaching national legislation, debate which will lead to a broad public consensus as to its principles.

There has been no such national debate. There has not even been thorough consideration by either body of the Congress. The Nation has not determined which way it wants to go with this problem. I submit that we in this body have had insufficient opportunity to evaluate the problem and the proposed solutions and to determine which way we want to go.

It should be noted at this point, Mr. President, that it is most unfortunate that some proponents of S. 2007, in their eagerness to enact the legislation, are implying that failure of the President to approve it is tantamount to abandoning one of his major commitments to the Nation.

Such a conclusion is most unfair and unwarranted, in my opinion. There is no responsible person who questions the need for a constructive and proper program. But this does not mean such a need is fulfilled by drawing together a hasty hodgepodge which may look good in the headlines but which would create chaos administratively, which would raise formidable questions about the rights and responsibilities of parents for the rearing of their children, and which would add $2.1 billion to an already seriously overburdened Federal budget. In short, all bills on this subject are not necessarily good, sound, and wise. S. 2007 certainly is not such a bill.

Some of the President's objections, with which this Senator concurs, are the following:

First. Neither the need nor the desirability of a national child development program has been adequately demonstrated at this point.

Second. Day care centers allowing welfare parents to go to work daily are already provided under H.R. 1, the President's workfare legislation which has yet to be considered by this body. Provisions in this bill are to a great extent a duplication of provisions in that measure.

Third. The American taxpayer would suffer to the extent of $2.1 billion more at a time when his suffering is already acute. Future prospects for the program are even more alarming as it is estimated that costs eventually could reach $20 billion annually.

Fourth. We have for the past 2 years been working for and talking about welfare reform which would bring the family closer together. Now we are confronted with a program which appears to be separating the family further yet. This is a most serious step, in my opinion. The family as an institution of American life must not be endangered or impaired. I do not believe the American people would approve of any measure which would tend to lead to a communal approach in child development. That is where this measure leads us.

Fifth. Our solutions to the child care problem should enhance rather than diminish parental authority and parental involvement, particularly in the early and critically formative years.

Sixth. Where will the qualified staff come from?

Seventh. The management problems would be tremendous. When one considers the problems we have had with the Headstart program, which has 1,200 grantees, one wonders what would be the result of a program which could have as many as 7,000 sponsors, each with its own unique system of operation.

Eighth. The role of the States would be reduced to an insignificant factor. The Federal Government rather than the States would become responsible for preschool education.

Furthermore, as a member of the Judiciary Committee I believe that the "child advocates" could easily frustrate the work of administrative agencies and the courts.

I submit, Mr. President, that the question of child development is much too important to be attached in hasty and ill-considered fashion to other legislation. We have had far too many efforts of this nature in recent years.

We should stop and look at our record of successes in such hasty action. In my opinion, that record clearly demonstrates the wisdom of a careful and constructive approach. We have not had the benefit of that approach in this bill which is before us.

Government is under siege in many areas of our national life today because it has failed miserably to deliver what some of our people have thought it promised to deliver. It is time for us to enact legislation which will accomplish the objectives it was intended for rather than adding to wheel-spinning and bureaucratic confusion.

This bill, S. 2007, does not make such a constructive contribution. This Senator for these and other reasons voted to uphold the President's veto.

COMMENDATION OF THE OFFICIAL REPORTERS OF DEBATES AND THE GOVERNMENT PRINTING OFFICE

Mr. **BYRD** of Virginia. Mr. President, as the Senate prepares to adjourn, I should like to pay tribute to two groups of individuals.

One group is the Official Reporters of Debates. I think they do a remarkable job under very difficult conditions. Sometimes the Senate is not in the best of order, shall we say, and sometimes some of us do not speak very clearly or distinctly. Some of us speak rather rapidly. Yet, the Official Reporters are able to report the proceedings of the Senate with great accuracy—not perfectly, of course, but with considerable accuracy. I commend them.

I also should like to pay tribute to the employees of the Government Printing Office. Having been in the newspaper business, I have been familiar with the printing process most of my life. I know the difficulties involved in handling hundreds of thousands of words.

In an average year—in this year—approximately 45,000 pages of the CONGRESSIONAL RECORD have been published—45,000 pages, comprising 99 million words. Ninety-nine million words will go into the CONGRESSIONAL RECORD for this calendar year, 1971.

I read the RECORD every day. I cannot say that there are no errors in it.

But as one who has been involved in the printing business all his life, it seems to me that the employees of the Government Printing Office—the linotype operators, the proofreaders, and the others who are involved in this operation—do an outstanding job.

As I say, when you are handling 99 million words, there will be typographical errors, but these are held to a minimum; and as this session draws to a close, I just want to say these few words of commendation for the employees of the Government Printing Office.

QUORUM CALL

The PRESIDENT pro tempore. Is there further morning business?

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

THE PLIGHT OF THE JEWS IN ARAB LANDS

Mr. PACKWOOD. Mr. President, recently a publication issued by the Anti-Defamation League was brought to my attention, illustrating the plight of the remaining Jews in the countries of Egypt, Iraq, and Syria. In each of those countries, the resident Jewish populations are harassed, in many cases unjustifiably imprisoned, forced to identify themselves, not unlike they were during the Nazi German era.

I ask unanimous consent to have printed in the RECORD a background paper published by the Anti-Defamation League showing the situation of the Jews in these three countries.

There being no objection, the paper was ordered to be printed in the RECORD, as follows:

JEWS IN ARAB LANDS

Jewish presence in Arab lands, both in the Middle East and North Africa, goes back two thousand years. In some of these lands Jews developed large and prosperous communities which played an important role in the economic, social, and cultural life of the Arab society.

There were periods during which Jews were tolerated by the Arab authorities, but more often they were treated as second-class citizens and were subjected to discrimination, humiliation, and eruptions of hatred. The emergence of Hitlerism and the cooperation of some Arab leaders with the Nazis provided new inspiration for an intensified anti-Jewish attitude in the Arab world.

Immigration-Aliya to Israel, a phenomenon in the life of these Jewish communities for centuries, gained momentum in the late 19th and early 20th century with the Aliya of the better-known pioneers from eastern Europe. To the Jews of the Arab lands, Aliya was less motivated by political Zionism as by the fundamental feeling that a real Jewish life can only be lived in the Holy Land, specifically in eternal Jerusalem.

In 1948 there were 850,000 Jews in Arab lands, the larger representations being: 285,000 in Morocco, 130,000 in Algeria, 125,000 in Iraq, 110,000 in Tunisia, 70,000 in Egypt, 45,000 in Yemen, and 40,000 in Libya. Almost 800,000 Jews have since left the Arab countries, of which about 550,000 emigrated to Israel.

There were three waves of Jewish escape from Arab countries. The main exodus came before and immediately after the establishment of the State of Israel, and the later ones after the Sinai Campaign in 1956 and after the Six Day War in 1967. These refugees succeeded in emigration only after renouncing their citizenship and all claims to their properties.

In fact, the Middle East witnessed an exchange of populations, Jewish refugees from Arab lands equaling the number of Arab refugees who left Israel during the War of Liberation. The only difference has been in the treatment of the two refugees populations upon their arrival; the Jews have been welcomed by Israel and integrated into the society, while the Arabs have been kept in misery in special camps in Arab countries and used as political pawns by their brothers.

THE SCOPE OF THE PROBLEM AT PRESENT

Some 60,000 Jews still live in Arab Lands, most of them in Morocco (40,000), Tunisia (9,000) and Lebanon (2,000). In these countries there is, on the whole, no immediate danger to the life of these communities, no organized persecution by the authorities. And these Jews usually may depart freely if they so desire. But while they receive fair official treatment, these Jewish communities face hostile attitudes and actions by parts of the population, and they may face further dangers in the event of internal political developments. Such hostilities and dangers are seen in (to cite only two examples) the kidnapping by Arab terrorists of Albert Elias, Secretary of the Jewish Council in Lebanon, in September, 1971, and the murder of Rabbi Mazuz by a fanatic Moslem in Tunis in January, 1971.

The greatest present concern is for the few thousand Jews who are still trapped in Syria, Iraq and Egypt, the captives of Arab governments under which they are subject to persecution and humiliation. These Jews are the victims of official discrimination and close supervision, and sometimes of arbitrary arrest, interrogation, and torture. Most live in great poverty, due to the sequestration of their property and to official bans on the employment of Jews or on having commercial links with them. Religious and educational activities of Jews is greatly restricted. Above all, their right of free movement out of these countries is denied. In some places they are even restricted to their neighborhoods.

SYRIA

There are about 4,000 Jews in Syria—mainly in Damascus, Aleppo, and Kamishli. The country's Jews have long been subjected to brutal conditions, and after the War of June, 1967 the rigours which they had to suffer were viciously intensified.

Syria has a special committee for Jewish affairs, composed of representatives of Internal Security, General Intelligence, the Ministry of Justice, Ministry of Finance, and the council of Palestinian Refugees. This committee is responsible for the arbitrary legislation which circumscribes the commerce and culture of Jews and often endangers their lives. Of such blatantly anti-Jewish measures, the following may be singled out:

Jews have not been permitted to leave Syria—in fact have been forbidden to travel more than 4 km from their homes—and many have been imprisoned on charges of attempting to leave the country. All Jews' identity cards are marked "Musawi" (belonging to the Mosaic faith), while no religious identification is made on the cards of Moslems or Christians. Jews may not be employed in the government service or in banks, and most of those who previously worked for Arab merchants have been dismissed. Most of the country's Jewish schools have been closed and the buildings given to Palestinian refugees. (In those few schools remaining open, Moslem headmasters have been moved in.)

Syrian military personnel may not shop in stores owned by Jews. The Jews are not permitted to sell property, nor may they bequeath it to their heirs; when a Jew dies his property is transferred to the State. No driving licenses are issued to Jews, and no new telephones may be installed in Jewish homes or businesses.

The Jewish cemetery in Damascus has been destroyed and a road constructed through it leading to the airport.

Two Jews who have escaped from Syria, testifying before a Judicial Committee of the International Committee for the Deliverance of Jews of the Middle East, told of arbitrary jailing and torture, of innocent persons who disappear for months only to return crippled and ill, and of the daily suffering at the hands of incited Palestinians brought in by the authorities to dwell in the Jewish quarter.

IRAQ

There are about 2,000 Jews in Iraq, the remnant of a once-flourishing community. Even before the Six-Day War, synagogues and schools were sequestered, a 200 year-old cemetery was destroyed and its tombs desecrated, yellow identity cards were issued to the Jews, and the sale of their property was forbidden.

After the Six-Day War, harsher measures still were instituted: All Jews were dismissed from their jobs in public institutions; Jewish property was expropriated and Jewish bank accounts frozen; businesses of Jews were shut down and trading permits cancelled; telephones in Jewish homes were disconnected; Jews were placed under house arrest for long periods, or restricted in movement to their places of domicile; departure was totally prohibited and applications for passports were summarily rejected.

All this was openly and plainly expressed in official statutes and regulations.

This official persecution was at its worst late in 1968 and early in 1969. Scores of Jews were jailed on the strength of the alleged discovery of a local spy ring. Nineteen of them were sentenced to death in staged trials and then barbarously hanged in the public squares of Baghdad; others died in prison under torture.

The shock that was felt and recorded by

the world—criticisms leveled by governments, international organizations, and eminent individuals—forced the Iraqis into declarations that the situation had improved. In March 1970, the authorities officially announced the return of Jews to public employment, approval of the reopening of certain Jewish-owned businesses, the replacement of telephones, etc. These promises have not been fulfilled.

Again in April 1971, the Iraqi authorities jailed 40 Jews and made plans to bring them to trial. International outcry brought the release of most of them.

EGYPT

The Jews presently in Egypt number about 600 and live chiefly in Cairo and Alexandria. On the eve of the War of 1948, some 35,000 Jews fled, abandoning all their property. Persecution and incitement after the Sinai Campaign in 1956 produced a second mass exit. On the eve of the Six Day War only about 2,000 Jews remained.

On the very morning of the start of that war, the Egyptian police, in a pre-planned operation, arrested all Jewish males over 17 years of age. Foreign Jews were later expelled on short notice and were unable to take out property or liquidate businesses. Many who were Egyptian nationals were held in prisons for years, the last of them liberated only in 1970 as a result of continuous international pressures. The few hundred Jews still in Egypt live in an atmosphere of uncertainty and fear for the future.

THE SEARCH FOR A SOLUTION

Today, the only hope for the future of the Jews of Syria, Iraq, and Egypt is that they be permitted to emigrate to countries where they can be recognized as free and equal citizens. This hope has been echoed by the United Nations Secretary-General U Thant (Annual Report of the Secretary-General, September, 1969) when he wrote:

"Although I have no direct means of knowing exactly the conditions of life of the small Jewish minorities in certain Arab states, it is clear that, in some at least, these minorities would be better off elsewhere and that the countries in which they now live would also be better off, given the prevailing circumstances, if the departure of those who would wish to leave could be sanctioned and arranged, since their continued presence is a source of both internal and international tension. I hope very much, therefore, that it may soon be possible to find sensible ways of solving this largely humanitarian problem."

The only practical solution to the problem is the mobilization of public opinion and the stimulation of pressures from humanitarian organizations, individuals, and governments the world over for the deliverance of these virtual captives.

A NEGOTIATED SETTLEMENT IN THE MIDDLE EAST

Mr. PACKWOOD. Mr. President, in his column of December 5, in the Washington Star, Mr. Crosby S. Noyes set forth what has been my contention in relation to our position with regard to Israel—that is, that we are not likely to strengthen the cause of a negotiated settlement in the Middle East by withholding arms from Israel. We are going to have a negotiated settlement in the Middle East only when the parties themselves in the Middle East, in head-to-head negotiations, decide what kind of treaty they want to live with.

All the United States should be trying to do in that situation is to make sure that Israel is able to bargain from a position of military parity, so that in reaching some kind of settlement in the Middle East, Israel will be able to reach a peaceful settlement based upon equality of bargaining, and not have to reach a settlement based upon weakness because the United States refused to supply arms.

I ask unanimous consent to have Mr. Noyes' column printed in the Record.

There being no objection, the column was ordered to be printed in the Record, as follows:

[From the Washington Star, Dec. 5, 1971]

Mrs. Meir's Strong Case for More U.S. Support

(By Crosby S. Noyes)

Israel's Prime Minister Golda Meir has not come to town with any expectation of getting her big sack filled up with F-4 Phantom fighter-bombers or other items of military hardware. Though the subject of military supplies certainly has been discussed in her meetings with administration leaders here this week, the visit is not primarily a shopping expedition.

Nor is it an effort to counter the effect of Arab and Soviet attacks on Israel at the United Nations. So far as the Israelis are concerned, the result of the debate in the General Assembly always has been a foregone conclusion which they are grimly prepared to ignore.

The major question which Mrs. Meir has been exploring in her talks with President Nixon and Secretary of State Rogers over the last few days is simply: Where do we go from here? And in the present state of affairs in the Middle East, it is a question of considerable pertinence.

Where do we go, for instance, on the question of American-Israeli relations?

Over the last two years, these relations have been shaped—and greatly compromised—by the determination of the Nixon administration to play an active role in trying to bring about a settlement of the Arab-Israeli conflict.

Starting with the Rogers Plan, calling for the near-complete withdrawal of Israel from conquered Arab territory, the consistent effort of the administration has been to demonstrate to the Arabs—and most particularly to the Egyptians—its sincerity as an "honest broker" in trying to reach a settlement. The withholding of military supplies from Israel—including the much-needed Phantom jets—is only the most recent manifestation of the administration's concern for preserving its credibility in Cairo as an impartial mediator.

This American effort at mediation has gotten nowhere. Today, the prospect of an overall settlement remains as remote as ever. Even the attempt to reach a modest interim agreement, involving a separation of Israeli and Egyptian forces and the reopening of the Suez Canal, now appears to be hopelessly deadlocked.

At this point, Egypt's President Anwar Sadat is making it emphatically clear that he has no further interest in talking with American mediators. On the contrary, he is telling his front-line troops that "there is no longer any hope at all in peaceful solutions" in the Middle East and that "there is nothing left for us but the battle." At the U.N., Arab spokesmen are calling for a resolution demanding a pledge of total withdrawal by Israel. If such a resolution is passed by the heavily pro-Arab General Assembly and rejected by Israel, this could be taken by Egypt as justification for a renewal of the war.

The emphasis, then, has shifted from how to reach an interim settlement through American good offices to how to avoid another round of active fighting. And in this perspective, the present state of American-Israeli relations does, indeed, require urgent re-examination.

For it is at least questionable whether the United States, in trying to act as a mediator to the conflict, has not in fact made a solution more difficult.

Lacking the firm support of the United States, including badly needed military hardware, Israel has not been in position to make real concessions. Any withdrawal from Arab territory under these circumstances, the Israelis believe, would invite still another full-scale war under highly adverse circumstances. From the beginning, Israel has been unwilling to trade territory for anything less than what it considers real security.

The Arabs, for their part, have been encouraged to press their most extreme demands, including threats to renew the war, in the assurance that Israel is in a weak and isolated diplomatic position. The denial of American aid amounts to almost the same thing as a full-scale international arms embargo against Israel.

Certainly as long as the Arabs believe that the United States will continue to withhold support and arms from Israel as a means of applying pressure, there is very little reason for them to make concessions. And unless concessions are made on both sides, no settlement, interim or otherwise, will be possible.

On the contrary, withholding support from Israel could well encourage a renewal of the fighting. Today the Egyptians are using the threat of military action to increase the diplomatic pressure on Israel. But when, as it will, this pressure fails to bring about an Israeli retreat, the danger that Sadat will have to make good on his threats will greatly increase.

These, then, are some of the things that Golda Meir may have wished to discuss with administration leaders during her visit here. American policy until now has failed to produce any break in the Middle East deadlock. And the case for greater diplomatic and military support is a strong one.

QUORUM CALL

Mr. PACKWOOD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. Byrd of Virginia). The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore (Mr. Metcalf). Without objection, it is so ordered.

QUORUM CALL

Mr. GRIFFIN. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. CHURCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

AMERICAN NEUTRALITY: NO MORE ARMS TO PAKISTAN

Mr. CHURCH. Mr. President, the professed role of the United States in the current conflict between Pakistan and India is that of strict neutrality.

Even though this is our announced position, the Nixon administration keeps making statements prejudicial to India and favorable to Pakistan. The President's partiality to Pakistan is one of the best-known secrets in Washington.

Now come disturbing reports that our hands-off posture toward the two combatants may be in jeopardy. Usually reliable sources inform me that the Pakistan Government has asked the White House for substantial quantities of military equipment and supplies. The President is said to be giving this request "serious consideration."

I find it hard to believe that President Nixon would permit personal preference to undermine a policy of prudent neutrality. The American people should not be called upon—either through grants or subsidized sales—to replenish the arsenals of either Pakistan or India. Our proffering of arms in the past has helped to promote war on the Indian subcontinent, much to the discredit of the United States. It has earned us only enmity.

How many wars must be fought between India and Pakistan before we stop serving up the implements?

At long last, after finally having imposed an arms embargo against both countries, let us have the good sense to hold to that position.

I hope the Nixon administration will quickly repudiate any intention to rearm Pakistan at American expense.

QUORUM CALL

Mr. GRIFFIN. Mr. President, I suggest the absence of a quorum.

The **ACTING PRESIDENT** pro tempore. The clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. GRIFFIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **ACTING PRESIDENT** pro tempore. Without objection, it is so ordered.

PERMISSION FOR SUITS TO BE BROUGHT AGAINST THE UNITED STATES TO ADJUDICATE LAND TITLES

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate turn to the consideration of Calendar No. 555, S. 216.

The **ACTING PRESIDENT** pro tempore. The bill will be stated by title.

The bill was read by title, as follows:

A bill (S. 216) to permit suits to be brought against the United States to adjudicate disputed land titles.

The **PRESIDENT** pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Interior and Insular Affairs with amendments on page 1, after line 7, strike out:

Sec. 2. Section 1402 of title 28, United States Code, is amended by adding at the end thereof the following new subsection:

"(d) Any civil action under section 2408a to quiet title to lands claimed by the United States shall be brought in the district court of the district where the land is located or, if located in different districts in the same State, in any of such districts."

Sec. 3. (a) Chapter 161 of title 28, United States Code, is amended by inserting after section 2408 of such title the following new section:

"§ 2408a. Actions to quiet title

"The United States may be named a party in any civil action brought by any person to quiet title to lands claimed by the United States."

(b) The chapter analysis at the beginning of chapter 161 of title 28, United States Code, is amended by inserting after the item relating to section 2408 the following new item:

"2408a. Actions to quiet title."

And, in lieu thereof, insert:

That (a) chapter 58 of title 28, United States Code, is amended by adding after section 1347 of such title the following new section:

"§ 1347a. Real property quiet title actions

"The district courts shall have exclusive original jurisdiction of civil actions under section 2409a to quiet title to an estate or interest in real property in which an interest is claimed by the United States."

(b) The chapter analysis at the beginning of chapter 85 of title 28, United States Code, is amended by inserting after the item relating to section 1347 the following new item:

"1347a. Real property quiet title actions."

Sec. 2. Section 1402 of title 28, United States Code, is amended by adding at the end thereof the following new subsection:

"(d) Any civil action under section 2409 to quiet title to an estate or interest in real property in which an interest is claimed by the United States shall be brought in the district court of the district where the property is located or, if located in different districts in the same State, in any of such districts."

Sec. 3. (a) Chapter 161 of title 28, United States Code, is amended by adding after section 2409 of such title the following new section:

"§ 2409a. Real property quiet title actions

"(a) The United States may be named as a party defendant in a civil action under this section to quiet title to an estate or interest in real property, other than security interests and water rights, in which an interest adverse to plaintiff is claimed by the United States. This section does not apply to trust or restricted Indian lands, to any lands claimed by Indian or Native people based upon aboriginal right, title, use or occupancy, nor does it apply to or affect actions which may be or could have been brought under sections 1346, 1347, 1491, or 2410 of this title, sections 7424, 7425, or 7426 of the Internal Revenue Code of 1954, as amended (26 U.S.C. 7424, 7425, and 7426), or section 208 of the Act of July 10, 1952 (43 U.S.C. 666).

"(b) The United States shall not be disturbed in possession or control of any real property involved in any action under this section, which possession or control existed at least ninety days prior to the commencement thereof, pending a final judgment or decree, the conclusion of any appeal therefrom, and sixty days; and if the final determination shall be adverse to the United States, upon due application to the court and showing that the United States desires to condemn said real property or any interest therein, or portion thereof, the court shall enter an order continuing said possession or control pending filing of such condemnation action within ninety days thereafter.

"(c) The complaint shall set forth with particularity the nature of the right, title, or interest which the plaintiff claims in the real property, the circumstances under which it was acquired, and the right, title, or interest claimed by the United States.

"(d) If the United States disclaims all interest in the real property or interest therein adverse to plaintiff at any time prior to the actual commencement of the trial, which disclaimer is confirmed by decree of the court, the jurisdiction of the district court shall cease unless it has jurisdiction of the civil action or suit on ground other than and independent of the authority conferred by section 1347a of this title. If such jurisdiction ceases, and there are other defendants in said action, the court shall remand the case to the appropriate State court of general jurisdiction where the real property is located as though remand were under section 1447 of this title.

"(e) A civil action against the United States under this section shall be tried by the court without a jury.

"(f) Any civil action under this section shall be barred unless the action is begun within six years after the claim for relief first accrues or within two years after the effective date of this Act, whichever is later. The claim for relief shall be deemed to have accrued upon actual knowledge of the claim of the United States.

"(g) Nothing in this section shall be construed to permit suits against the United States based upon adverse possession."

(b) The chapter analysis at the beginning of chapter 161 of title 28, United States Code, is amended by inserting after the item relating to section 2409 the following new item:

"2409. Real property quiet title actions."

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1346 of title 28, United States Code, is amended by adding at the end thereof the following new subsection:

"(f) The district courts shall have original jurisdiction of any civil action under section 2408a to quiet title to lands claimed by the United States."

That (a) chapter 58 of title 28, United States Code, is amended by adding after section 1347 of such title the following new section:

"§ 1347a. Real property quiet title actions

"The district courts shall have exclusive original jurisdiction of civil actions under section 2409a to quiet title to an estate or interest in real property in which an interest is claimed by the United States."

(b) The chapter analysis at the beginning of chapter 85 of title 28, United States Code, is amended by inserting after the item relating to section 1347 the following new item:

"1347a. Real property quiet title actions."

Sec. 2. Section 1402 of title 28, United States Code, is amended by adding at the end thereof the following new subsection:

"(d) Any civil action under section 2409 to quiet title to an estate or interest in real property in which an interest is claimed by the United States shall be brought in the district court of the district where the property is located or, if located in different districts in the same State, in any of such districts."

Sec. 3. (a) Chapter 161 of title 28, United States Code, is amended by adding after section 2409 of such title the following new section:

"§ 2409a. Real property quiet title actions

"(a) The United States may be named as a party defendant in a civil action under this section to quiet title to an estate or interest in real property, other than security interests and water rights, in which an interest adverse to plaintiff is claimed by the United States. This section does not apply to trust or restricted Indian lands, to any lands claimed by Indian or Native people based upon aboriginal right, title, use or occupancy, nor does it apply to or affect actions which may be or could have been brought under sections 1346, 1347, 1491, or 2410 of this title, sections 7424, 7425, or 7426 of the Internal Revenue Code of 1954, as amended (26 U.S.C. 7424, 7425, and 7426), or section 208 of the Act of July 10, 1952 (43 U.S.C. 666).

"(b) The United States shall not be disturbed in possession or control of any real property involved in any action under this section, which possession or control existed at least ninety days prior to the commencement thereof, pending a final judgment or decree, the conclusion of any appeal therefrom, and sixty days; and if the final determination shall be adverse to the United States, upon due application to the court and showing that the United States desires to condemn said real property or any interest therein, or portion thereof, the court shall enter an order continuing said possession or control pending filing of such condemnation action within ninety days thereafter.

"(c) The complaint shall set forth with particularity the nature of the right, title, or interest which the plaintiff claims in the real property, the circumstances under which it was acquired, and the right, title, or interest claimed by the United States.

"(d) If the United States disclaims all interest in the real property or interest therein adverse to plaintiff at any time prior to the actual commencement of the trial, which disclaimer is confirmed by decree of the court, the jurisdiction of the district court shall cease unless it has jurisdiction of the civil action or suit on ground other than and independent of the authority conferred by section 1347a of this title. If such jurisdiction ceases, and there are other defendants in said action, the court shall remand the case to the appropriate State court of general jurisdiction where the real property is located as though remand were under section 1447 of this title.

"(e) A civil action against the United States under this section shall be tried by the court without a jury.

"(f) Any civil action under this section shall be barred unless the action is begun within six years after the claim for relief first accrues or within two years after the effective date of this Act, whichever is later. The claim for relief shall be deemed to have accrued upon actual knowledge of the claim of the United States.

"(g) Nothing in this section shall be construed to permit suits against the United States based upon adverse possession."

(b) The chapter analysis at the beginning of chapter 161 of title 28, United States Code, is amended by inserting after the item relating to section 2409 the following new item:

"2409a. Real property quiet title actions."

Mr. ALLOTT. Mr. President, I wish to make perfectly clear that the Senator from Idaho (Mr. CHURCH), who reported the bill cleared the matter with me last evening. It is perfectly satisfactory with me to dispose of it at this time.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the committee amendments be considered en bloc.

The ACTING PRESIDENT pro tempore. Without objection, the amendments are considered and agreed to en bloc.

The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and the third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

The title was amended, so as to read: "A bill to permit suits to adjudicate certain real property quiet title actions."

Mr. BYRD of West Virginia subsequently said: Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make any technical corrections in the engrossment of S. 216, which was passed by the Senate today.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL AMERICAN INDIAN AND ALASKA NATIVES POLICY

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 538, Senate Concurrent Resolution 26.

The ACTING PRESIDENT pro tempore. The concurrent resolution will be stated by title.

The concurrent resolution was read by title as follows:

A concurrent resolution (S. Con. Res. 26) on National American Indian and Alaska Natives Policy.

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution, which had been reported from the Committee on Interior and Insular Affairs with amendments on page 2, line 8, after the word "Indians", strike out "and Alaska Natives"; in line 14, after the word "Congress", strike out "(August 1, 1953" and insert "(August 1, 1953);"; in line 15, after the amendment just stated, strike out "which is hereby expressly repealed;"; on page 3, line 6, after "(4)", strike out "the executive branch of Government shall be charged with the responsibility of developing program efforts and procedures to assure that Indian and Alaska Native peoples, residing in areas considered to be beyond the scope of the direct Federal Indian service programs of the Bureau of Indian Affairs and the Indian Health Service, receive services and attention that are commensurate with their diverse social and economic needs;" and insert "there should be a recognition of Federal responsibility to see that those Indians residing beyond the areas served by special Indian programs and services are given equal consideration with other citizens in the provision of services by other Federal, State, and local agencies."; in line 19, after "(5)", strike out "American"; in line 23, after the word "Indians", strike out "and Alaska Natives"; in line 24, after the word "citizens", strike out "and"; on page 4, line 1, after the word "Budget", strike out "shall" and insert "should"; in line 4, after the word "of", insert "the Federal"; in the same line, after the word "the", insert "social and economic"; in line 5, after the word "of", strike out "Indians and Alaska Natives." and insert "Indians; and"; after line 6, insert:

(7) as used in this resolution the term "American Indian" or "Indian" shall include "Alaska Natives".

So as to make the concurrent resolution read:

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that—

(1) our national Indian policy shall give full recognition to and be predicated upon the unique relationship that exists between this group of citizens and the Federal Government and that a governmentwide commitment shall derive from this relationship that will be designed to give Indians the freedom and encouragement to develop their individual, family, and community potential and to determine their own future to the maximum extent possible:

(2) this statement of national Indian policy replaces the policy set forth in House Concurrent Resolution 108, Eighty-third Congress (August 1, 1953);

(3) improving the quality and quantity of social and economic development efforts for Indian people and maximizing opportunities for Indian control and self-determination shall be a major goal of our national Indian policy;

(4) there should be a recognition of Federal responsibility to see that those Indians residing beyond the areas served by special Indian programs and services are given equal consideration with other citizens in the provision of services by other Federal, State, and local agencies.

(5) Indian property will be protected; Indian culture and identity will be respected; and Congress will commit and dedicate itself to support a policy of developing the necessary programs and services to bring Indians to a social and economic level of full participating citizens;

(6) the Office of Management and Budget should submit an annual report to the Congress showing combined expenditures made by all departments and agencies of the Federal Government for the social and economic betterment of Indians; and

(7) as used in this resolution the term "American Indian" or "Indian" shall include "Alaska Natives".

Mr. ALLOTT. Mr. President, I voted for reporting this resolution and I support its passage.

As Senators know, concurrent resolutions: "are not used for the purpose of enacting legislation and are not binding or of legal effect" as stated in Mr. Riddick's "Senate Procedure"—page 167.

For this reason, the committee was careful in phrasing the language of the reported resolution to exclude any language which might appear to be a legislative direction to the executive branch, or anyone else.

In looking over the committee report, however, I have noted instances where, contrary to the resolution, mandatory language appears.

In order to assure that there is no ambiguity in connection with this important resolution, I want to make the committee's intent abundantly clear.

The report should not be read to, in anyway, conflict with the language of the resolution. Nor should it, of course, be construed to add or detract from the resolution in any respect.

Without limiting the scope of what I

have said, some of the specific instances in the report which made it necessary for me to make this statement are:

First, the use of the words "shall" on page 2, line 18 and on page 4, line 18.

Second, the apparent instructions to the executive branch in both the first and second full paragraphs on page 4.

Third, the reference to the special relationship of Indians being based upon a "still growing body of treaties, court decisions and laws" on page 2 under the heading "Background"—in the second paragraph thereof.

Fourth, an inexact description of section (5) of the resolution on page 2 of the report.

Mr. JACKSON. Mr. President, as the original sponsor of Senate Concurrent Resolution 26 on National American Indian policy, I urge the Senate to give its full approval to this measure.

The primary purpose of my resolution is to replace the national Indian policy set forth in House Concurrent Resolution 108, 83d Congress—August 1, 1953. The 1953 resolution proposed an official termination of the Federal relations of American Indian tribes. It was resisted from its inception by Indian people because it carried with it an implied threat of removal of the special Federal protection of Indian lands and natural resources as well as an end to the provision of basic community services such as health, education and manpower development available to Indian people on the basis of their identity as Indians.

In my introductory remarks before the Senate on May 14, 1971, at the time I introduced Senate Concurrent Resolution 26, I stated:

> At the time Congress approved House Concurrent Resolution 108 in 1953 as our Government's national Indian policy, we believed it to be in the best interests of the Indian people, but time and experience have demonstrated otherwise.
>
> Mr. President, I propose to replace this policy, which has proven to be totally and absolutely unacceptable to the Indian people, with a resolution that is compatible with their unique relationship with the Federal Government and is within the framework of the democratic principles upon which our Nation was founded.

Senate Concurrent Resolution 26 declares it to be the sense of Congress that—

First. A governmentwide commitment shall be made to enable Indians to determine their own future to the maximum extent possible;

Second. This statement of policy replaces that set forth in House Concurrent Resolution 108 approved by the 83d Congress on August 1, 1953;

Third. Indian self-determination and development shall be a major goal of our national Indian policy;

Fourth. There should be a recognition of Federal responsibility to assure that Indians residing beyond the areas served by special Indian programs receive equal consideration with other citizens for services through other Federal, State, and local agencies;

Fifth. Indian property and identity will be protected and Indians shall be brought to a social and economic level of full participating citizens;

Sixth. The Office of Management and Budget should submit an annual report to Congress showing Government expenditures on behalf of Indians; and

Seventh. "American Indian" or "Indian" is defined to include "Alaska Natives."

The provisions of the resolution extend to Alaska Natives because of their inclusion as "American Indian" or "Indian" in the definitional section of the resolution.

Senate Concurrent Resolution 26 has been endorsed by the National Congress of American Indians, the National Tribal Chairmen's Association, urban Indians, and many individual tribal leaders. Representatives from these groups testified at a hearing before the full Senate Interior and Insular Affairs Committee on July 21, 1971, on Senate Concurrent Resolution 26 and recommended congressional approval of the resolution.

In addition, the National Congress of American Indians, at its recent convention in Reno, Nev., November 15–19, unanimously endorsed a resolution on legislative priorities. This resolution placed Senate Concurrent Resolution 26 as the No. 1 legislative priority that the organization would support for approval during the current Congress.

Mr. President, Senate approval of Senate Concurrent Resolution 26 will demonstrate to Indian people everywhere the willingness of the Federal Government to fulfill its legal and moral commitments to the first citizens of this Nation.

Mr. CRANSTON. Will the Senator yield?

Mr. JACKSON. I yield to the Senator from California.

Mr. CRANSTON. The committee report discusses the Federal services of the Bureau of Indian Affairs and the Indian Health Service as being available to those Indians who live on or near Federal reservations. Am I correct in interpreting Senate Constitutional Resolution 26 as saying that the Bureau of Indian Affairs and the Indian Health Service should serve all Indians who live on or near reservations?

Mr. JACKSON. Yes, your interpretation is correct.

Mr. CRANSTON. The committee report also discusses the number of California Indians who live on or near reservations, suggesting that the Federal status of some 21,000 rural California Indians is unclear at this time. I have here a copy of a sworn affidavit filed in a lawsuit by a BIA official stating that all California Indians live on or near reservations.

Mr. President, I ask unanimous consent that this affidavit be placed in the RECORD at this point.

There being no objection, the affidavit was ordered to be printed in the RECORD, as follows:

SUPPLEMENTARY AFFIDAVIT OF WESLEY L. BARKER SUPPORTING MOTION TO DISMISS

Defendants file herewith a supplement to that affidavit dated Decemger 31, 1969, and filed on January 5, 1970. Said Supplementary Affidavit is in response to Plaintiff's Third Memorandum of Points and Authorities dated January 8, 1970, as well as Plaintiffs' Supplementary Memorandum of Points and Authorities filed January 5, 1970. (State of California, County of Sacramento.

Before the undersigned authority personally appeared Wesley B. Barker, who acts in the official capacity as stated in his affidavit of December 31, 1969; and who under oath deposes and says to the best of his information, knowledge and belief:

1. There has been no instance where a California Indian, otherwise eligible, was denied available federal boarding school or scholarship assistance by the Sacramento Area Office for failure to meet the "on or near" criteria in the regulations. The Sacramento Area Office has jurisdiction throughout the State of California with the exception of the Colorado River Indian tribes.

APPENDIX D

2. It is the policy of the Sacramento Area Office to consider that every California Indian lives "near" a reservation (unless he actually lives on a reservation) for the purposes of administering the aforesaid programs.

Signed this 12th day of January 1970.

Mr. CRANSTON. Am I correct in assuming that Senate Concurrent Resolution 26 does not contradict this affidavit?

Mr. JACKSON. Since the Bureau of Indian Affairs is willing to announce, officially, that all California Indians meet the criteria of living on or near reservations—as they have stated in their affadavit—then you can correctly assume that none of the language of Senate Concurrent Resolution 26 contradicts the affadavit.

I want to thank the senior Senator from California for calling to our attention the unwarranted importance that has been attached to geography as a major criteria in determining Indians' entitlement to the special Federal Indian service programs of the Bureau of Indian Affairs and the Indian Health Service. I believe the record should show that because of the events of history, California Indians are dispersed throughout rural areas of the State rather than being concentrated on several clearly defined reservations. Those historical circumstances also limited the number of acres of trust land available to the Indian people. Thus, only a small percentage actually live on trust land, and approximately 21,000 Indians whose socioeconomic problems are no less severe, do not relate to a trust land base. I can appreciate your concern in wanting to be certain that the latter group receives its rightful benefits. In addition, I am hopeful that the executive branch will undertake a more aggressive effort to assure that Indian citizens on and off reservations receive benefits to which they are entitled from other Federal, State, and local agencies of government.

I want to emphasize further that the primary purpose of Senate Concurrent Resolution 26 is to replace House Concurrent Resolution 108, which I believe most will agree has had a disastrous impact on the administration of Indian affairs. My question, which is supported by several national Indian organizations, outlines a more positive approach to national American Indian policy.

Mr. CRANSTON. I thank the Senator for clarifying this matter.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the committee amendments be considered en bloc.

The amendments were considered and agreed to en bloc.

The concurrent resolution, as amended, was agreed to.

The preamble, as amended, was agreed to.

The concurrent resolution with its preamble reads as follows:

S. Con. Res. 26

Whereas it is recognized by the Congress that the American Indian stands in a unique legal, social, and economic relationship to the Federal Government which is based upon the Constitution, treaties, statutes, and Executive orders; and orders, agreements, judicial decisions, and history; and

Whereas it is further recognized that this unique relationship is the basis for the Federal responsibility to protect lands, resources, and rights of the American Indians as well as to provide basic community services to American Indians residing on reservations and in other areas considered to be within the scope of the trust relationship; and

Whereas it is understood that as citizens of the United States and the communities in which they reside, American Indians are entitled to share and participate on the same basis as all other citizens in the full range of social and economic development programs authorized by Federal, State, and local units of government; and

Whereas the Federal Government is responsible for assuring that the aforementioned rights of American Indians are fulfilled and that the eradication of adverse economic, education, health, and social conditions which prevent any American from achieving a life of decency and self-sufficiency is a priority national goal: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that—

(1) our national Indian policy shall give full recognition to and be predicated upon the unique relationship that exists between this group of citizens and the Federal Government and that a governmentwide commitment shall derive from this relationship that will be designed to give Indians the freedom and encouragement to develop their individual, family, and community potential and to determine their own future to the maximum extent possible;

(2) this statement of national Indian policy replaces the policy set forth in House Concurrent Resolution 108, Eighty-third Congress (August 1, 1953);

(3) improving the quality and quantity of social and economic development efforts for Indian people and maximizing opportunities for Indian control and self-determination shall be a major goal of our national Indian policy;

(4) there should be a recognition of Federal responsibility to see that those Indians residing beyond the areas served by special Indian programs and services are given equal consideration with other citizens in the provision of services by other Federal, State, and local agencies.

(5) Indian property will be protected; Indian culture and identity will be respected; and Congress will commit and dedicate itself to support a policy of developing the necessary programs and services to bring Indians to a social and economic level of full participating citizens;

(6) the Office of Management and Budget should submit an annual report to the Congress showing combined expenditures made by all departments and agencies of the Federal Government for the social and economic betterment of Indians; and

(7) as used in this resolution the term "American Indian" or "Indian" shall include "Alaska Natives".

Amend the title so as to read: "Concurrent resolution on national American Indian policy."

QUORUM CALL

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

REPORT OF A COMMITTEE

The following report of a committee was submitted:

By Mr. McCLELLAN, from the Committee on the Judiciary, with amendments (together with individual views):

S. 907. A bill to consent to the Interstate Environment Compact (Rept. No. 92–577).

Mr. McCLELLAN. Mr. President, from the Committee on the Judiciary, I report favorably with amendments S. 907, to consent to the Interstate Environment Compact.

I submit a report thereon and I ask unanimous consent that the report be printed, together with the individual views of Messrs. Hart, Kennedy, Bayh, and Tunney.

The PRESIDING OFFICER (Mr. Hughes). Without objection, it is so ordered; and, under the previous order of the Senate, the bill will be referred to the Committee on Public Works.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. McCLELLAN (for himself, Mr. Boggs, Mr. Burdick, Mr. Cook, Mr. Eastland, Mr. Hansen, Mr. Hollings, Mr. Hruska, Mr. Humphrey, Mr. Mansfield, Mr. Metcalf, Mr. Moss, Mr. Roth, Mr. Scott, Mr. Thurmond, Mr. Bible, and Mr. Griffin):

S. 2994. A bill to provide for the compensation of innocent victims of violent crime in need; to make grants to States for the payment of such compensation; to authorize an insurance program and death and disability benefits for public safety officers; to provide civil remedies for victims for racketeering activity; and for other purposes. Referred to the Committee on the Judiciary.

By Mr. KENNEDY (for himself, Mr. Hart, Mr. Humphrey, Mr. Moss, and Mr. Metcalf):

S. 2995. A bill to provide for the compensation of innocent victims of violent crimes in need; to make grants to States for the payment of such compensation; to authorize an insurance program and death and disability benefits for public safety officers; to provide civil remedies for victims of racketeering activity; and for other purposes. Referred to the Committee on the Judiciary.

By Mr. SCOTT:

S. 2996. A bill to require that computer equipment and data processing facilities to be obtained for the use of the Library of Congress be procured only after advertised bidding. Referred to the Committee on Rules and Administration.

By Mr. JACKSON (for himself and Mr. Magnuson):

S. 2997. A bill to establish the Cougar Lakes National Recreation Area, to provide for a study of the potential of Mt. Aix and surrounding lands with the Snoqualmie and Gifford Pinchot National Forests in the State of Washington for inclusion in the National Wilderness Preservation System, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. GRIFFIN (for himself and Mr. Hart):

S. 2998. A bill to provide for a national cemetery at Fort Custer, Mich. Referred to the Committee on Veterans' Affairs.

By Mr. HUGHES:

S. 2999. A bill to authorize a treatment and rehabilitation program for members of the Armed Forces who are or may become drug abusers or drug dependent persons. Referred to the Committee on Armed Services.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. McCLELLAN (for himself, Mr. Boggs, Mr. Burdick, Mr. Cook, Mr. Eastland, Mr. Hansen, Mr. Hollings, Mr. Hruska, Mr. Humphrey, Mr. Mansfield, Mr. Metcalf, Mr. Moss, Mr. Roth, Mr. Scott, Mr. Thurmond, Mr. Bible, and Mr. Griffin):

S. 2994. A bill to provide for the compensation of innocent victims of violent crime in need; to make grants to States for the payment of such compensation; to authorize an insurance program and death and disability benefits for public safety officers; to provide civil remedies for victims of racketeering activity; and for other purposes. Referred to the Committee on the Judiciary.

VICTIMS OF CRIME ACT OF 1972

Mr. McCLELLAN. Mr. President, more than 3,000 years ago, an Egyptian King surveyed his kingdom and recorded with great satisfaction the improvements and progress achieved under his regime. One passage in his survey disclosed basic fundamentals by which the soundness of any system of justice might be tested. He observed:

> I made the land safe so that even a lone woman could go on her way freely and none would molest her.
>
> I rescued the humble from their oppressors.
>
> I made every man safe in his home.
>
> I preserved the lives of those who sought my court of justice.
>
> The people were well content under my rule.
>
> (Quoted in *Illinois Crime Survey*, p. 5)

To conduct a similar survey, the President of the United States in 1965 called together his prestigious Commission on Law Enforcement and Administration of Justice. In sharp and unfavorable contrast, the Commission began its monumental report with these tragic words:

> There is much crime in America, more than ever is reported, far more than ever is solved, far too much for the health of the Nation. Every American knows that. Every American is, in a sense, a victim of crime. Violence and theft have not only injured, often irreparably, hundreds of thousands of citizens, but have directly affected everyone. Some people have been impelled to uproot themselves and find new homes. Some have been afraid to use public streets and parks. Some have come to doubt the worth of a society in which so many people behave so badly. Some have become distrustful of the Government's ability, or even desire, to protect them. Some have lapsed into the attitude that criminal behavior is normal human behavior and consequently have become indifferent to it, or have adopted it as a good way to get ahead in life. Some have become suspicious of those they conceive to be responsible for crime: adolescents or Negroes or drug addicts or college students or demonstrators; policemen who fail to solve crimes, judges who pass lenient sentences or write decisions restricting the activities of the police; parole boards that release prisoners who resume their criminal activities.
>
> (*The Challenge of Crime in a Free Society*, p. 1)

Mr. President, the results of this survey—still valid today—are a reproach to our Nation and to our civilization. As those charged with legislative responsibility, we must do all that is in our power to strengthen the peace forces within our society—the police, courts, and corrections. But in our efforts to meet the needs of the criminal justice system, we must not forget that institutions of government exist for people. In our efforts to strengthen the means by which we identify, apprehend and convict the criminal, we must not forget his innocent victim. For it is in his behalf ultimately that the criminal justice system must be operated.

Mr. President, it is for this reason that I am today introducing for myself and the distinguished Senator from Delaware (Mr. BOGGS), the distinguished Senator from North Dakota (Mr. BURDICK), the distinguished Senator from Kentucky (Mr. COOK), the distinguished Senator from Mississippi (Mr. EASTLAND), the distinguished Senator from Wyoming (Mr. HANSEN), the distinguished Senator from South Carolina (Mr. HOLLINGS), the distinguished Senator from Nebraska (Mr. HRUSKA), the distinguished Senator from Minnesota (Mr. HUMPHREY), the distinguished Senator from Montana (Mr. MANSFIELD), the distinguished Senator from Montana (Mr. METCALF), the distinguished Senator from Utah (Mr. MOSS), the distinguished Senator from Delaware (Mr. ROTH), the distinguished Senator from Pennsylvania (Mr. SCOTT), and the distinguished Senator from South Carolina (Mr. THURMOND), the "Victims of Crime Act of 1972." This proposed legislation consolidates and integrates the essential features of a number of separate measures now pending before the Subcommittee on Criminal Laws and Procedures. These bills have been the subject of a series of hearings before the subcommittee.

TITLE I: COMPENSATION FOR VICTIMS OF VIOLENT CRIME

Title I of the proposed legislation, derived from S. 750, introduced by our distinguished majority leader, the Senator from Montana (Mr. MANSFIELD), would establish a Federal program to meet the financial needs of the innocent victims of violent crime.

Mr. President, the notion that society has an obligation to help meet the financial needs of crime victims has roots that run deep in our legal traditions.

In the Code of Hammurabi (circa 2038 B.C.), it was provided:

> If a man practice brigandage and be captured, that man shall be put to death. If the brigand be not captured, the man who has been robbed, shall, in the presence of God, make an itemized statement of his loss, and the city and the governor, in whose province and jurisdiction the robbery was committed, shall compensate him for whatever was lost. If it be a life [that was lost], the city and the governor shall pay one mina of silver to his heirs. [Harper, *The Code of Hammurabi*, p. 19]

These provisions, we are told, were made to facilitate commerce.

Tacitus, the Roman historian, tells us that the Germanic murderer of the first century after Christ, when convicted, paid a fine—

> In a stated number of oxen or cattle. Half of the fine was paid to the King, half to the person for whom justice was being obtained or to his relatives. [Tacitus, *Germania* 23 (Stout ed.)]

These provisions, we are told, were made to compose and avoid blood feuds.

Modern law, in contrast, has sharply distinguished criminal and civil proceedings. The criminal is thought to owe a debt to society, which must be paid in the context of a criminal prosecution, whose purpose is to secure the safety of the people by the punishment of offenders. In these public proceedings, the victim himself is supposed to be a disinterested witness, whose personal remedy is to be found in private action in tort.

Dissatisfaction with results of this modern dichotomy in recent years begins with the writings of the English penal reformer, Margery Fry. In 1955, she began to speak up for the innocent victims of violent crime, calling for the establishment of a more effective remedy for the victim than the traditional action in tort.

Her call for reform was first heard in New Zealand in 1963. In that year, the New Zealand Parliament, under conservative leadership, established the first crime compensation tribunal, with discretionary power to award public compensation to the victim or his dependents where he had been injured or killed through the commission of certain specified offenses. Compensation was authorized for out of pocket expenses, loss of earnings, and other financial losses. The tribunal was also empowered to order the offender to reimburse the indemnity fund from which the award was made.

In the following year, the Tory Government in England announced a similar, but nonstatutory program. It was proposed by the Home Secretary and put into operation with the consent of Parliament. Under the plan, a criminal injuries compensation board was established, with discretionary power to award compensation for personal injuries caused by violent crimes.

The first American jurisdiction to adopt the compensation principle was California. Its program was enacted in 1965 and put in operation 2 years later. Since that time, similar or related programs have been established in New York, 1966; Hawaii, 1967; Massachusetts, 1967; Maryland, 1968; Nevada, 1969; and, most recently, New Jersey, 1971.

Legislation has also been introduced and considered in Illinois, Ohio, Michigan, and other States as well as several of the Canadian provinces. In my own State of Arkansas, Dr. Calvin R. Ledbetter, Jr., the chairman of the political science department at the University of Arkansas at Little Rock, introduced H.B. 175 in the 1971 regular session of the general assembly. The bill would have established a system of compensation for persons who sustain personal injury or death as a result of crime.

Mr. President, the handwriting on the wall ought to be plain for all to see. Any principle that could command the adherence, among others, of an ancient Middle Eastern tyrant, a primative, but free, Germanic tribe, two modern conservative governments and the legislatures of seven American States and several Canadian parliaments merits more than just close attention. Compensation for the innocent victims of violent crimes is an idea whose time has come. Our distinguished majority leader, the Senator from Montana (Mr. MANSFIELD) put it well when he introduced S. 750:

> [In] directing our full attention to how we can best combat the alarming crime rise we have ignored, unfortunately, certain aspects of the problem. The point has been reached . . . where we must give consideration to the victim of crime—to the one who suffers because of crime. For him, a society has failed miserably. * * * To those who suffer, society has an obligation. [117 Cong. Rec. 2633 (Feb. 11, 1971).]

Mr. President, to meet society's moral obligation in this area, title I of this proposed legislation would establish two separate programs. The first part, following the successful New Zealand and English experience, would create in the Department of Justice a Federal Compensation Board, authorized to make direct awards to or on behalf of the innocent victim of violent crime in financial need.

Jurisdiction of the Federal Board would, of course, be limited to the area of primary Federal police power, chiefly the special maritime and territorial jurisdiction of the United States, including the District of Columbia.

The Board would be a quasi-judicial administrative authority composed of three appointed members serving 8-year terms. The Board could compel the attendance of witnesses, but the strict rules of evidence would not be followed, and the hearings, where necessary at all, would not be adversary in character.

In determining the amount of an award, the Board would be authorized to examine all aspects of the case, including the victim's financial need, other private and public resources, and the victim's cooperation with law enforcement authorities. Overall recovery would be limited to not more than $50,000. Payment could be either lump sum or periodic, depending upon the facts of the case.

Payment of attorneys' fees would also be authorized on terms and conditions paralleling those authorized for the defense of the indigent accused.

A criminal conviction would not be a prerequisite for recovery, but where an award was made, the Board would become subrogated to the rights of the victim against the offender. In addition, where the offender was prosecuted, the court would be authorized to direct that part of any fine paid go to an indemnity fund to be administered by the Board.

The second part of title I would amend the Omnibus Crime Control Act of 1968 and provide for a new grant program to be administered by the present Law Enforcement Assistance Administration. States having programs meeting certain minimum standards, upon filing appropriate plans, could receive matching grants amounting to 75 percent of the costs of a similar State program for the compensation of victims of crime.

Adequate fiscal controls and periodic reports on the operation of the State program would be required.

Grants could also be withheld on a failure to comply with the act.

Mr. President, experience to date, both in England and among the States, as our hearings show, indicates that these programs—which meet society's moral obligation to the victim—may be operated both prudently and economically. So that all Members of this body and readers of the RECORD may see for themselves, I shall have printed in the RECORD at the conclusion of my remarks the most recent report of the English and the New York boards. In New York, for instance, the average lump-sum payment for injuries is $1,500, the average periodic death benefit of $2,500 a year up to the maximum of $15,000, and the average periodic disability payment of $4,000 up to the maximum of $15,000. Since March of 1967, in fact, New York has awarded approximately $3,500,000. In the context of the total cost of the criminal justice system, this is little enough to spend to give needed aid to the innocent victim of violent crime.

Mr. President, I believe that these two programs, respectful of the proper relation between the States and the Federal Government and sensitive to the needs of the innocent victims of crime, warrant the support of all Members of the Senate.

TITLE II: GROUP LIFE INSURANCE FOR PUBLIC SAFETY OFFICERS

Title II of the proposed legislation, derived from S. 33, introduced by the distinguished Senator from Massachusetts (Mr. KENNEDY), and S. 1946, introduced by the distinguished Senator from Minnesota (Mr. HUMPHREY) would establish a Federal-State group life and disability insurance program for State and local public safety officers, including policemen, firefighters, and correctional guards.

Mr. President, title I of the proposed legislation is premised upon the recognition that society has a moral obligation to each of its citizens in need who are the innocent victims of violent crime. If this principle is sound, how much more so does society have a special obligation to meet the needs of public safety officers—policemen, firemen, correctional officers, and others who daily put their lives on the line for each of us. These brave men and women deserve not only up-to-date training and equipment, but also up-to-date benefits.

Unfortunately, a very crucial benefit—adequate life insurance—is now often denied public safety officers. Mr. Quin Tamm, executive director of the International Association of Chiefs of Police, in a prepared statement submitted to the subcommittee, for example, noted:

> Death and disability benefits are presently inadequate . . . In 37 major cities surveyed by the Kansas City, Missouri, police Department in 1970, 14 had no provision whatsoever for natural death except those covered by pension. In 9 cities, there was no coverage for line of duty death except pension benefits. Many of these relied on donations and contributions to cover funeral expenses.

Mr. President, society has a special moral obligation to meet the particular needs of those who take special risks in its behalf. We cannot shirk that responsibility.

Title II of the proposed legislation, modeled on the Federal crime insurance program of Public Law 91–609, would authorize the Law Enforcement Assistance Administration to establish a direct Federal life insurance program in those States where it determines that commercially available insurance or State or local plans do not provide insurance for public safety officers at costs competitive with other similar occupations, discounting the high risk factor of the officers' calling

The group life insurance program would be patterned after the present, successful servicemen's group life insurance program, available to members of the Armed Forces.

The program would be administered by the Federal Government but the insurance itself would be carried and the benefits paid by private life insurance companies.

Each officer would be entitled to coverage in the amount of his annual salary plus $2,000, with a minimum coverage of $10,000. Costs could be federally shared up to 25 percent.

Coverage would include on or off the job and double indemnity would be paid for accidental death. Loss of limb or eyesight would also be covered.

Title II would also explicitly authorize, independent of present statutory salary limitations, the use of present law enforcement grants under the Omnibus Crime Control and Safe Streets Act of 1968 to be used to establish statewide group life, accidental death, and dismemberment insurance programs for public safety officers.

Mr. President, we must be careful when we establish law enforcement assistance programs that we do not unnecessarily create direct financial relationship with police agencies on the State and local levels. We must never forget the folk wisdom so often quoted by the senior Senator from North Carolina (Mr. ERVIN): "Whose soup I sup, his song I sing." No one in this body would directly do anything to bring about a national police force. We must be careful, too, not to establish such direct ties with State and local agencies that those who come after us might, in a moment of weakness, find it all too easy to bring such an agency into being.

Mr. President, this two-level, Federal and State, insurance program, premised as it is on a clear and present showing of need, can be and is more than justified. We might legitimately expect, too, that in the long run most States would take advantage of the funds available under the Crime Control Act and establish for themselves adequate State programs, making it unnecessary for a direct Federal program to operate in more than a few places.

Mr. President, I believe that this program, like title I, respectful of the proper relation between the State and the Federal Government and sensitive to the special needs of public safety officers, warrants the support of all Members of the Senate.

TITLE III: DEATH AND DISABILITY BENEFITS FOR PUBLIC SAFETY OFFICERS

Title III of the proposed legislation, derived from S. 2087, introduced by myself and the distinguished Senator from Nebraska (Mr. HRUSKA), and S. 2748, introduced by the distinguished Senator from Delaware (Mr. BOGGS), the distinguished Senator from Kansas (Mr. DOLE), the distinguished Senator from South Carolina (Mr. HOLLINGS), the distinguished Senator from Montana (Mr. METCALF), the distinguished Senator from Utah (Mr. MOSS), the distinguished Senator from Delaware (Mr. ROTH), the distinguished Senator from Maine (Mr. MUSKIE), and the distinguished Senator from Wyoming (Mr. HANSEN), would establish a Federal minimum death or disability benefit for public safety officers, their families or their dependents for death or disability in the line of duty as a result of a criminal offense.

Mr. President, much of what I observed above in reference to titles I and II need not be repeated here. Indeed, our society does owe a special obligation to those public safety officers who are killed in the line of duty by robbers, snipers, or convicts "protesting" their own all too just incarceration.

The statistics of violence are truly disturbing. During 1970, 100 law enforcement officers were killed by felonious criminal action. This is a 16 percent increase over 1969, when 86 law enforcement officers were slain. Indeed, since 1961, 633 officers have given their lives seeking to protect persons and property in our society.

Most disturbingly, moreover, since 1966, 29 officers have been slain from ambush, 19 of whom lost their lives in 1970.

I recognize that 96 percent of these police slayings are now solved within 30 days by the efforts of local officials, assisted by the special Federal investigative aid recently authorized by the President. But this is of little moment to the officers family or dependents. It is important that the murderer be brought to brook. But it is also important that concern be paid to the consequences of his conduct, especially when it was often society, in a real sense, that was the target of his attack.

Mr. President, our hearings have shown that it is not only the policemen who must brave the risk of a felonious death. Civil disorders and social strife have, in recent years, produced new hazards for firefighters.

Two firefighters were killed in the Detroit riots, one in Watts, another in Newark.

From 1967 to 1969, over 600 firefighters were injured during civil disorders, and an additional 113 sustained injuries due to acts of individual violence.

Finally, I know I need not do anything but make reference to a small upstate town in New York—Attica—to bring to mind the terrible risk that corrections guards must now face in this age of so-called protest and riot.

It is in this sad and tragic context that title III would establish—independent of the compensation program in title I or the insurance program in title II—a direct, minimum level Federal death or disability benefit for public safety officers killed or injured in the line of duty by a criminal act.

The program would be administered by the Law Enforcement Assistance Administration.

No contribution would be required.

A death benefit of $50,000 would be paid to the spouse and the dependents of any public safety officer killed in the line of duty.

Payment would also be made for loss of limb or sight.

Payment would be made upon certification by the Governor of the State.

Interim payments could be immediately made in cases of apparent eligibility to meet the funeral costs, mortgage payments, and other necessities before formal certification.

Mr. President, this program is the least we can do to express our moral support for the public safety officers who daily risk their lives for each of us.

I believe that this program will quickly and effectively meet society's special moral obligation to its public safety officers, their families and their dependents. It merits the support of all Members of the Senate.

TITLE IV: CIVIL REMEDIES FOR VICTIMS OF RACKETEERING ACTIVITY

Title IV of the proposed legislation, derived from S. 16, introduced by myself and the distinguished Senator from Nebraska (Mr. HRUSKA), would strengthen the procedural implementation of the civil remedies available to victims of racketeering activity under the Organized Crime Control Act of 1970.

Mr. President, on October 15, 1970, the President signed into law S. 30, the Organized Crime Control Act of 1970. Attorney General Mitchell has termed this act "one of the most imaginative and comprehensive proposals to combat organized crime ever introduced in the Congress." Title IX of that act adapted certain of the time-tested remedies of antitrust law to the typical techniques employed by racketeers to invade legitimate businesses. In discussing the rationale for the creation of the remedies, the report of the Senate Committee on the Judiciary noted:

> There is no doubt that the common law criminal trial, hedged in as it is by necessary restrictions on arbitrary governmental power to protect individual rights, is a relatively ineffectual tool to implement economic policy. It must be frankly recognized, moreover, that the infiltration of legitimate organizations by organized crime presents more than a problem in the administration of criminal justice. What is ultimately at stake is not only the security of individuals and their property, but also the viability of our free enterprise system itself. The committee feels, therefore, that much can be accomplished here by adapting the civil remedies developed in the antitrust field to the problem of organized crime. [S. Rept. No. 91-617, 91st Cong., 1st Sess. 80-81 (1969)]

As S. 30 passed the Senate, title IX was fashioned as a tool to be employed by the Government against the racketeers. Detailed consideration was not then given to carrying the antitrust parallel out by according the private victims of racketeering activity similar civil antitrust type remedies.

During the processing of S. 30 in the House of Representatives, however, an amendment was added authorizing private treble damage suits and the recovery of attorney fees. This action was taken at the suggestion of Mr. Edward L. Wright of Little Rock, Ark., then President of the American Bar Association, who testified in behalf of the association that—

> It strongly endorsed the principle of incorporating antitrust and other appropriate civil weaponry into anti-crime arsenal, particularly against organized crime. [Testimony of Edward L. Wright, House Hearings on S. 30, 91st Cong., 2d Sess. 544 (1970)]

Mr. President, title IV of the proposed legislation would round out the implementation of the suggestion of President Wright begun by the House of Representatives. In addition to authorizing private recovery of treble damages and attorney fees, it would permit the United States itself to sue for actual damages, when it is injured in its business activity, and to intervene in private suits under the act of general public importance, authorize private injunctive relief from racketeering activity, regulate the application of the doctrine of estoppel between criminal and civil proceedings, provide for a statute of limitations for civil actions and its appropriate suspension during pendency of criminal actions, and make applicable to suits under the amended act nationwide venue and service of process provisions.

Mr. President, the salutory provisions of titles I, II, and III—for compensation to victims, insurance and other benefits—are made necessary in part because the perpetrators of most criminal offenses are themselves financially irresponsible. On the whole, traditional tort and other civil remedies hold out only illusionary avenues of possible recovery to the injured victim. In many instances however, racketeering activity in businesses will be an exception to this general rule. These amendments to S. 30 will help the victim of crime himself to become whole once again, where there are persons or assets that may be reached through the civil courts. This title too, merits the support of all Members of the Senate.

TITLE V: GENERAL PROVISIONS

Title V of the proposed legislation includes provisions for effective dates and authorization for appropriations for the other titles of the bill.

Title I—compensation—is made effective 6 months after the effective date of the act.

Title II—insurance—is made effective immediately.

Title III—death benefits—is made retroactive for the past 5 years.

Title IV—civil remedies—is made retroactive to the date of the enactment of the Organized Crime Control Act of 1970.

Mr. President, compensation for victims of crime is an idea whose time has come. What reservation that exists remains only on the details of implementation or cost.

Contrary to the fears expressed before the establishment of similar programs elsewhere, as noted above, it appears that a program of this type may be established on a sound and prudent financial basis. The experience of England and the several States should lay to rest these honest but unnecessary fears.

In my judgment, an authorization of $165 million through the fiscal year ending June 30, 1973, should be more than ample to carry this legislation into effect.

The Omnibus Crime Control Act of 1970 carried with it an authorization for the Law Enforcement Assistance Administration of $1,150 million for the fiscal year ending June 30, 1972, and a similar authorization of $1,750 million for the fiscal year ending June 30, 1973.

One hundred and sixty-five thousand dollars for the victims of crime seems little enough.

Mr. President, the proposed Victims of Crime Act of 1972 represents the natural continuation of the work of the Subcommittee on Criminal Laws and Procedures which I have been privileged to chair since it was established in October of 1965. We have considered more than 180 bills in 35 days of hearings in four separate Congresses. Major legislation that has been processed by the subcommittee includes:

The Narcotic Addict Rehabilitation Act of 1966.

The Omnibus Crime Control and Safe Streets Act of 1968.

The Omnibus Crime Control Act of 1970.

The Organized Crime Control Act of 1970.

Each of these acts attempted to deal with a special problem—narcotics or organized crime—or attempted to strengthen the police, courts, and correctional systems of the Federal, State, and local governments. It is only appropriate now, therefore, that we turn to the innocent victims of crime.

Mr. President, this legislation is integrated, but it is not necessarily interdependent. It would be possible to process it without one or several of its titles. I am satisfied, however, that its broad outlines merit full support. Nevertheless, I know that this proposal is not perfect. I am sure that with further processing suggestions will be forthcoming that can strengthen it. I know that the subcommittee will welcome the suggestions of our colleagues here in the Senate. As chairman of the subcommittee, I also intend to give this bill circulation throughout the country over the coming recess with the hope that we can obtain the assistance of those knowledgeable persons outside Congress. We will welcome their suggestions, too.

Mr. President, during the course of our hearings before the subcommittee, the administration expressed approval of the basic ideas in title III—death benefits—and title IV—civil remedies for racketeering activity—even though it did express reservations with the extension of the coverage of title III to firefighters. It also indicated that it preferred the approach of title III—death benefits—to the approach of title II—insurance—and noted that the principle of title I—compensation—was still under study in the Department of Justice. I am hopeful, however, that the administration will find this integration of the essential features of the several items of individual legislation satisfactory and in a form that it can support. It is my hope to process this legislation through the full Committee on the Judiciary as soon as practical after we return from the recess, and, if possible, to the Senate floor early in the second session of this Congress.

Mr. President, this legislation is good legislation. It meets a pressing and humane moral obligation of society in a prudent and financially responsible manner. It should be a matter on which there is no disagreement. Legislation whose sole objective is directed to the victims of crime is long overdue. We ought to move to enact it now.

Mr. President, I ask unanimous consent that the following appear in the Record at this point:

First. The text of the bill.

Second. The English Criminal Injuries Compensation Board Report for 1970.

Third. The New York Crime Victims Compensation Board Report for 1970.

Fourth. A comparative analysis between the first part of title I of the proposed bill and State law.

Fifth. A letter and news article received from Mr. Donald E. Clark of Multnomah County, Oreg., in reference to a recent police homicide.

There being no objection, the bill and material were ordered to be printed in the Record, as follows:

S. 2994

A bill to provide for the compensation of innocent victims of violent crime in need; to make grants to States for the payment of such compensation; to authorize an insurance program and death and disability benefits for public safety officers; to provide civil remedies for victims of racketeering activity; and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Victims of Crime Act of 1972".

STATEMENT OF FINDINGS AND PURPOSE

The Congress finds that (1) there is an increase of crimes of violence not only in urban, but also in suburban and rural areas; (2) the increase in crimes of violence is disproportionate to the increase in population; (3) the increase in crimes of violence increases the chances of a person becoming a victim of such a crime; (4) on an increasing basis crimes of violence are being directed at public safety officers, including policemen, firemen, and correctional guards; (5) law enforcement identification, apprehension and conviction of perpetrators of crimes of violence is decreasing; (6) the perpetrators of crimes of violence, when identified, apprehended, and convicted, are aften not financially responsible; and (7) the victims of crimes of violence, their families and dependents, are often themselves unable to bear the consequent pecuniary losses without undue hardship.

It is, therefore, the purpose of this Act to commit the United States to meet its moral obligation to assist the innocent victims of violent crime, their families and dependents in financial need, by direct aid to those within the area primarily of Federal responsibility, by assistance to the States to aid those within the area primarily of State responsibility, by the establishment of insurance and benefit programs for public safety officers and their families and dependents, and by the strengthening of the civil remedies available to victims of racketeering activity.

TITLE I—COMPENSATION FOR VICTIMS OF VIOLENT CRIME

DECLARATION OF PURPOSE

Sec. 101. It is the declared purpose of Congress in this title to promote the public welfare by establishing a means of meeting the financial needs of the innocent victims of violent crime, their families and dependents, and others acting to prevent the commission of crime or to assist in the apprehension of suspected criminals.

Part A—Federal Compensation Program

Sec. 102. The Omnibus Crime Control and Safe Streets Act of 1968, as amended, is amended by—

(1) redesignating sections 451 through 455 respectively as sections 421 through 425;

(2) redesignating sections 501 through 521 respectively as sections 550 through 570;

(3) redesignating parts F, G, H, and I of title I respectively as parts I, J, K, and L of title I; and

(4) adding at the end of Part E of Title I, as amended by this Act, the following new parts:

"Part F—Federal Compensation for Victims of Violent Crime

"definitions

"Sec. 450. As used in this part—

"(1) 'Board' means the Violent Crimes Compensation Board established by this part;

"(2) 'Chairman' means the Chairman of the Violent Crimes Compensation Board established by this part;

"(3) 'child' means an unmarried person who is under eighteen years of age and includes a stepchild or an adopted child, and illegitimate child, and student over 18 years of age, and a child conceived prior to but born after the personal injury or death of the victim;

"(4) 'dependent' means a relative or other person who was wholly or partially dependent upon the income of the victim at the time of the personal injury or death of the victim;

"(5) 'Executive Secretary' means the Executive Secretary of the Violent Crimes Compensation Board established by this Part;

"(6) 'General Counsel' means the General Counsel of the Violent Crimes Compensation Commission established by this Part;

"(7) 'guardian' means a person who is entitled by common law or legal appointment to care for and manage the person or property or both of a child or incompetent;

"(8) 'incompetent' means a person who is incapable of managing his own affairs, whether adjudicated or not;

"(9) 'personal injury' means actual bodily harm and includes pregnancy, mental distress and nervous shock;

"(10) 'pecuniary loss' includes:

"(A) for personal injury—

"(1) medical expenses (including psychiatric care);

"(2) hospital expenses;

"(3) loss of past earnings; and

"(4) loss of future earnings because of a disability resulting from the personal injury; and

"(B) for death—

"(1) funeral and burial expenses; and

"(2) loss of support to the dependents of the victim.

Pecuniary loss includes any other expenses actually and necessarily incurred as a result of the personal injury or death, but it does not include property damage.

"(11) 'relative' includes a spouse, parent, grandparent, stepfather, stepmother, child, grandchild, siblings of the whole or half blood, a spouse's parents, a niece or nephew;

"(12) 'student' means a person who is a 'student' as defined in paragraph (17) of section 8101 of title 5 of the United States Code; and

"(13) 'victim' includes any person who is killed or injured as proximate cause of a criminal act committed or attempted against him enumerated in section 458 of this part or killed or injured while assisting a law enforcement officer to apprehend a person who has committed a crime or to prevent the commission of a crime.

"compensation board

"Sec. 451. (a) There is hereby established a Board within the Department of Justice to be known as the Violent Crimes Compensation Board (hereinafter referred to as the 'Board'). The Board shall be composed of three members to be appointed by the President, by and with the advice and consent of the Senate. The President shall designate one of the members of the Board as Chairman, who shall have been a member of the bar of a Federal court or of the highest court of a State for at least eight years.

"(b) There shall be appointed by the President, by and with the advice and consent of the Senate, an Executive Secretary and a General Counsel to perform such duties as the Board shall prescribe in accordance with the objectives of this part.

"(c) No member of the Board shall engage in any other business, vocation, or employment.

"(d) Except as provided in paragraph (1) of subsection a of section 456 of this part, the Chairman and one other member of the Board shall constitute a quorum. Where opinion is divided and only one other member is present, the opinion of the Chairman shall prevail.

"(e) The Board shall have an official seal.

"FUNCTIONS OF THE BOARD

"Sec. 452. In order to carry out the purposes of this Part, the Board shall—

"(1) receive and process applications under the provisions of this Part for compensation for personal injury or death resulting from criminal acts enumerated in section 458 of this Part;

"(2) hold such hearings, sit and act at such times and places, and take such testimony as the Board or any member thereof may deem advisable;

"(3) order the payment of compensation to victims and other beneficiaries in accordance with the provisions of this Part; and

"(4) take such other action as it deems necessary and appropriate to carry out the purpose of this Part.

"ADMINISTRATIVE PROVISIONS

"Sec. 453. (a) The Board is authorized in carrying out its functions under this Part to—

"(1) appoint and fix the compensation of such personnel as the Board deems necessary in accordance with the provisions of Title 5 of the United States Code;

"(2) procure temporary and intermittent services to the same extent as is authorized by section 3109 of Title 5 of the United States Code, but at rates not to exceed $100 a day for individuals;

"(3) promulgate such rules and regulations as may be required to carry out the provisions of this Part;

"(4) appoint such advisory committees as the Board may determine to be desirable to carry out the provisions of this Part;

"(5) designate representatives to serve or assist on such advisory committees as the Board may determine to be necessary to maintain effective liasion with Federal agencies and with State and local agencies developing or carrying out policies or programs related to the provisions of this Part;

"(6) use the services, personnel, facilities, and information (including suggestions, estimates, and statistics of Federal agencies and those of State and local public agencies and private institutions, with or without reimbursement therefor;

"(7) without regard to section 529 of Title 31 of the United States Code to enter into and perform such contracts, leases, cooperative agreements, or other transactions as may be necessary in the conduct of its functions, with any public agency, or with any person, firm, association, corporation, or educational institution, and make grants to any public agency or private nonprofit organization;

"(8) request such information, data, and reports from any Federal agency as the Board may from time to time require and as may be produced consistent with other law; and

"(9) arrange with the heads of other Federal agencies for the performance of any of its functions under this Part with or without reimbursement and, with the approval of the President, delegate and authorize the redelegation of any of his powers under this Part.

"(b) Upon request made by the Board, each Federal agency is authorized and directed to make its services, equipment, personnel, facilities, and information (including suggestions, estimates and statistics) available to the greatest practicable extent to the Board in the performance of its functions.

"(c) Each member of a committee appointed pursuant to paragraph (4) of subsection (a) of this section shall receive $100 a day, including traveltime, for each day he is engaged in the actual performance of his duties as a member of a committee. Each such member shall also be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of his duties.

"TERMS OF BOARD MEMBERS

"Sec. 454. (a) The term of office of each member of the Board taking office after January 1, 1972, shall be eight years, except that (1) the terms of office of the members first taking office after January 1, 1972, shall expire as designated by the President at the time of appointment, one at the end of four years, one at the end of six years, and one at the end of eight years, after January 1, 1972; and (2) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term.

"(b) Each member of the Board shall be eligible for reappointment.

"(c) Any member of the Board may be removed by the President for inefficiency, neglect of duty, or malfeasance in office.

"(d) All expenses of the Board, including all necessary travel and subsistence expenses of the Board outside the District of Columbia incurred by the members or employees of the Board under its orders, shall be allowed and paid on the presentation of itemized vouchers therefor approved by the Executive Secretary, or his designee.

"PRINCIPAL OFFICE

"Sec. 455. (a) The principal office of the Board shall be in or near the District of Columbia, but the Board or any duly authorized representative may exercise any or all of its powers in any place.

"(b) The Board shall maintain an office for the service of process and papers within the District of Columbia.

"PROCEDURES OF BOARD

Sec. 456. (a) The Board—

"(1) may subpena and require production of documents in the manner of the Securities and Exchange Commission as provided in subsection (c) of section (18) of the Act of August 26, 1935, except that such subpena shall only be issued under the signature of the Chairman, and application to any court for aid in enforcing such subpena shall be made only by the Chairman, but a subpena may be served by any person designated by the Chairman;

"(2) may administer oaths, or affirmations to witnesses appearing before the Board, receive in evidence any statement, document, information, or matter that may, in the opinion of the Board, contribute to its functions under this Part, whether or not such statement, document, information, or matter would be admissible in a court of law;

"(3) shall conduct hearings open to the public unless in a particular case the Board determines that the hearing, or a portion thereof, should be held in private, having regard to the fact that the criminal has not been convicted or to the interest of the victim of an alleged crime; and

"(4) may appoint an impartial licensed physician to examine any person making application under this Part and order the payment of reasonable fees for such examination.

"(b) The Board shall permit every person appearing under section 460 of this Part to have the right to produce evidence and to cross-examine such witnesses as may appear.

"(c) Where a person has been convicted of a crime giving rise to an application under this Part, proof of the conviction shall be conclusive evidence that the crime was committed, unless an appeal of the conviction or a petition for a rehearing or certiorari is pending or a new trial or rehearing has been ordered.

"(d) The Board shall be 'an agency of the United States' under subsection (1) of section 6001 of Title 18 of the United States Code for the purpose of granting immunity to witnesses.

"Sec. 457. (a) In any case in which a person is injured or killed by any criminal act, or omission of any other person, enumerated in section 458 of this Part, the Board may, in its discretion, upon an application, order the payment of, and pay, compensation in accordance with the provisions of this Part, if such act or omission occurs—

"(1) within the 'special maritime and territorial jurisdiction of the United States' as defined in section 7 of title 18 of the United States Code; or

"(2) within the District of Columbia.

"(b) The Board may order the payment of compensation—

"(1) to or on behalf of the victim; or

"(2) in the case of the personal injury of the victim, where the compensation is for pecuniary loss suffered as a result of that personal injury by any person, to that person; or

"(3) in the case of the death of the victim, to or for the benefit of the dependent of the deceased victim, or any one or more of such dependents, or to any person who has suffered pecuniary loss as a result of that death.

"(c) In determining whether to order a payment under this section, the Board may consider any circumstances it determines to be relevant and the Board shall consider the behavior of the victim, and whether, because of provocation or otherwise, the victim bears any share of responsibility for the crime that caused his injury or death and the Board shall reduce the amount of compensation in accordance with its assessment of the degree of such responsibility attributable to the victim.

"(d) No order may be made under this section unless the Board, with or without hearings, supported by substantial evidence, finds that—

"(1) such an act or omission did occur; and

"(2) the injury or death was proximately caused by such act or omission.

"(e) An order may be made under this section whether or not any person is prosecuted or convicted of any crime arising out of such act or omission or if such act or omission is the subject of any legal action. The Board may suspend proceedings in the interest of justice if a civil action arising from such act or omission is pending or imminent.

"CRIMES TO WHICH THIS PART APPLIES

"Sec. 458. (a) The Board may order the payment of, and pay, compensation for pecuniary loss in accordance with the provisions of this Part for personal injury or death which resulted from crimes in the following categories—

"(1) aggravated assault;
"(2) arson;
"(3) assault;
"(4) burglary;
"(5) forcible sodomy;
"(6) kidaping;
"(7) manslaughter;
"(8) mayhem;
"(9) murder;
"(10) negligent homicide;
"(11) rape;
"(12) robbery;
"(13) riot;
"(14) unlawful sale or exchange of drugs;
"(15) unlawful use of explosives:
"(16) unlawful use of firearms;

"(17) any other crime involving the use of force, including poisoning, to the person; or

"(18) attempts to commit any of the aforegoing."

"(b) For the purposes of this Part, the operation of a motor vehicle, boat or aircraft that results in an injury or death shall not constitute a crime unless the injuries were intentionally inflicted through the use of such vehicle, boat or aircraft.

"(c) For the purposes of this Part, a person shall be deemed to have committed a criminal act or omission notwithstanding that by reason of age, insanity, drunkenness, or otherwise he was legally incapable of committing a crime.

"WHO MAY RECOVER LOSS

"SEC. 459. A person is entitled to make application for an order of compensation under this Part if he is a victim, he was a person who was dependent on a victim at the time of the personal injury or death of the victim, or he suffered pecuniary loss as a result of the personal injury or death of the victim.

"APPLICATION FOR PAYMENT OF COMPENSATION

"SEC. 460. (a) In any case in which the person entitled to make an application is a child, or incompetent, the application may be made on his behalf by any person acting as his relative, guardian, or attorney.

"(b) Where any application is made to the Board under this Part, the applicant, or his attorney, and any attorney of the Board, shall be entitled to appear and be heard.

"(c) Any other person may appear and be heard who satisfies the Board that he has a substantial interest in the proceedings.

"ATTORNEY'S FEES

"SEC. 461. (a) The Board shall publish regulations providing that an attorney may, at the conclusion of proceedings under this Part, file with the Board an appropriate statement for a fee in connection with services rendered in such proceedings.

"(b) After the fee statement is filed by an attorney under subsection (a) of this section, the Board shall award a fee to such attorney on the same terms and conditions as is provided for the payment of representation under Section 3006A of Title 18 of the United States Code.

"(c) Any attorney who charges or collects for services rendered in connection with any proceedings under this Part any fee in any amount in excess of that allowed under this section shall be fined not more than $1,000 or imprisoned not more than one year, or both.

"CHARACTER OF COMPENSATION

"SEC. 462. The Board may order the payment of compensation under this Part for any pecuniary loss actually and necessarily incurred as a result of the personal injury or death of the victim.

"FINALITY OF DECISION

"SEC. 463. The orders and decisions of the Board shall be reviewable in the appropriate court of appeals, except that no trial de novo of the facts determined by the Board shall be allowed.

"LIMITATIONS UPON PAYMENT OF COMPENSATION

"SEC. 464. (a) No order for the payment of compensation shall be made under this part unless the Board finds that the applicant will suffer undue financial hardship from pecuniary loss incurred as a result of the injury or death of the victim if the order for the payment of compensation is not made. In determining undue financial hardship for the purposes of this subsection, the Board shall consider all of the financial resources of the applicant. The Board shall establish standards by rule for determining such undue financial hardship.

"(b) No order for the payment of compensation shall be made under this part unless the application has been made within one year after the date of the personal injury or death.

"(c) No order for the payment of compensation shall be made under this part unless the applicant has incurred a minimum pecuniary loss of $100 or has lost two continuous weeks earnings or support.

"(d) The criminal or an accomplice of a criminal, a member of the family of the criminal, a person living in the household of the criminal, or a person maintaining sexual relations with the criminal shall not be eligible to receive compensation with respect to a crime committed by the criminal.

"(e) No order for the payment of compensation under this part shall be made unless the act resulting in the personal injury or death for which the compensation is to be paid was reported to the law enforcement officials within seventy-two hours after its occurrence, unless the Board finds that the failure to report was justified by good cause.

"(f) The aggregate of orders for the payment of compensation under this part as the result of any one criminal act, omission, or occurrence shall not be in excess of $50,000.

"(g) The Board, upon finding that any applicant or beneficiary of any payment of compensation has not fully cooperated with all law enforcement agencies, may deny or withdraw any order of payment of compensation.

"TERMS AND PAYMENT OF THE ORDER OF COMPENSATION

"SEC. 465. (a) Except as otherwise provided in this section, any order for the payment of compensation under this part may be made on such terms and conditions as the Board deems necessary and appropriate to carry out the purposes of this part.

"(b) The Board shall deduct from any payments ordered under section 457 of this part any payments received by applicant—

"(1) from the criminal or from any person on behalf of the criminal;

"(2) under insurance programs mandated by law;

"(3) from the United States, a State or any of its subdivisions, for a personal injury or death otherwise compensable under this part; and

"(4) under contract of insurance wherein the applicant is the insured or beneficiary—

but only to the extent that the sum of such payments plus any payment ordered under this part would be in excess of the total compensable injuries suffered by the applicant as determined by the Board.

"(c) The Board shall pay to the person named in the order of payment of compensation the amount named therein in accordance with the provisions of such order.

"(d) No order for the payment of compensation made under this part shall be subject to execution or attachment other than for expenses resulting from the injury or death which is the basis for the application.

"(e) In the case of a payment for the benefit of a child or incompetent, the Board shall order the payee to file an accounting with the Board no later than January 31 of each year for the previous calendar year and to take such other action as the Board shall determine to be necessary and appropriate for the benefit of the child or incompetent.

"EMERGENCY AWARDS

"SEC. 466. (a) Whenever the Board determines, prior to taking action upon an application that—

"(1) such application is one with respect to which an order of payment will probably be made, and

"(2) undue hardship may result to the applicant if immediate payment is not made, the Board may order emergency payments to the applicant pending a final decision on the application.

"(b) The amount of any emergency payment ordered under subsection (a) of this section shall be deducted from the amount of any final order for the payment of compensation made to the applicant.

"(c) Where the amount of any emergency payment ordered under subsection (a) of this section exceeds the amount of the final order for the payment of compensation, or if there is no order for the payment of compensation made, the recipient of any such emergency payment shall be liable for the repayment of such amount in accordance with rules and regulations prescribed by the Board. The Board may waive all or part of such repayment where in its judgment such repayment would involve severe financial hardship.

"RECOVERY FROM THE CRIMINAL

"SEC. 467. (a) Whenever any person is convicted of a crime and an order for the payment of compensation is or has been made under this Part for a personal injury or death resulting from the act or omission constituting such crime, the Attorney General may, within one year from the date on which the judgment of conviction became final, institute an action against such person for the recovery of the whole or any specified part of such compensation in the district court of the United States for any judicial district in which such person resides or is found. Such court shall have jurisdiction to hear, determine, and render judgment in any such action. Any amounts recovered under this subsection shall be deposited in the Criminal Victim Indemnity Fund. If an amount greater than that paid pursuant to the order for payment of compensation is recovered and collected in any such action, the Board shall pay the balance to the applicant.

"(b) Process of the district court for any judicial district in any action under this section may be served in any judicial district of the United States by the United States marshal thereof. Whenever it appears to the court in which any action under this section is pending that other parties should be brought before the court in such action, the court may cause such other parties to be summoned from any judicial district of the United States.

"(c) The Board shall provide to the Attorney General such information, data, and reports as the Attorney General may require to institute actions in accordance with this section.

"EFFECT ON CIVIL ACTIONS

"SEC. 468. An order for the payment of compensation under this part shall not affect the right of any person to recover damages from any other person by a civil action for the injury or death.

"INDEMNITY FUND

"SEC. 469. There is hereby created on the books of the Treasury of the United States a fund known as the 'Criminal Victim Indemnity Fund' (hereinafter referred to as the 'Fund'). The Fund shall consist of such amounts as may be deposited in, or appropriated to such Fund, as provided by law, or as may be contributed to such Fund by public or private agencies or organizations or individuals.

"DUTY TO INFORM VICTIMS

"SEC. 470. (a) Each Federal law enforcement agency investigating a crime to which this Part applies shall inform victims of their eligibility to make an application for an order of compensation under this Part. Such agency shall provide forms (as prescribed by the Board) to each person who is eligible to file a claim pursuant to this Part.

"(b) If a victim of a crime does not cooperate with a law enforcement agency in the identification, apprehension and conviction of the perpetrator of the crime, any Federal law enforcement agency involved shall immediately notify the Board of such lack of cooperation.

"REPORTS TO CONGRESS

"SEC. 471. The Board shall transmit to the Congress an annual report of its activities under this Part, including the name of each applicant, a brief description of the facts in each case and the amount, if any, of compensation awarded."

COMPENSATION OF BOARD MEMBERS AND PERSONNEL

SEC. 103. (a) Section 5314 of title 5 of the United States Code is amended by adding at at the end thereof the following new paragraph:

"(58) Chairman, Violent Crimes Compensation Board."

(b) Section 5315 of title 5 of the United States Code is amended by adding at the end thereof the following new paragraph:

"(95) Members, Violent Crimes Compensation Board."

(c) Section 5316 of title 5 of the United States Code is amended by adding at the end thereof the following new paragraphs:

"(131) Executive Secretary, Violent Crimes Compensation Board.

"(132) General Counsel, Violent Crimes Compensation Board."

SEC. 104. (a) Chapter 227 of title 18 of the United States Code is amended by adding at the end thereof the following new section:

"§ 3579. Fine imposed for Criminal Victim Indemnity Fund.

"In any court of the United States, the District of Columbia, the Commonwealth of Puerto Rico, a territory or possession of the United States, upon conviction of a person of a crime resulting in the personal injury or death of another person, the court shall take into consideration the financial conditions of such person, and may, in addition to any other penalty, order such person to pay a fine commensurate in amount with the personal injury or death of such other person and such fine shall be deposited into the Criminal Victim Indemnity Fund of the United States."

(b) The analysis of chapter 227 of title 18 of the United States Code is amended by adding at the end thereof the following new item:

"§ 3579. Fine Imposed for Criminal Indemnity Fund."

PART B—FEDERAL GRANT PROGRAM

SEC. 105. Subsection (b) of section 301 of part C of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, is amended by adding at the end thereof the following new paragraph:

"(10) The Federal share of the costs of State programs to compensate victims of violent crime."

SEC. 106. Section 303 of such Act is amended by inserting "(a)" immediately after "303" and by adding at the end thereof the following new subsections:

"(b) In the case of a State applying for the Federal share of costs of State programs to compensate victims of violent crime, the Administration shall make grants to a State only if, after consultation with the Violent Crimes Compensation Board, it determines, pursuant to criteria established under this Title, that such State has enacted legislation of general applicability within such State—

"(1) establishing a State agency having the capacity to hear or determine applications based on financial need brought by or on behalf of the innocent victims of violent crime and others suffering pecuniary loss therefrom and order the payment of such claims;

"(2) providing for the payment of compensation for pecuniary loss actually and necessarily incurred for personal injuries or death resulting from crimes in categories established pursuant to section 308 of this Title.

"(3) containing adequate provisions for the recovery of compensation substantially similar to those contained in Part F of this Title.

"(c) Any State desiring to receive a grant under paragraph 10 of subsection (b) of section 301 of this Title shall submit to the Administration a State plan. Each such plan shall—

"(1) provide that the program for which assistance under this Title is sought will be administered by or under the supervision of a State agency;

"(2) set forth a program for the compensation of victims of violent crime which is consistent with the requirements set forth in subsection (b) of this section;

"(3) provide assurances that the State will pay from non-Federal sources the remaining cost of such program;

"(4) provide that such fiscal control and fund accounting procedures will be adopted as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the State under this Title; and

"(5) provide that the State will submit to the Administration—

"(A) periodic reports evaluating the effectiveness of payments received under this Title in carrying out the objectives of the compensation program, and

"(B) such other reports as may be reasonably necessary to enable the Administration to perform its functions, including such reports as it may require to determine the amounts which local public agencies of that State are eligible to receive for any fiscal year, and assurances that such State will keep such records and afford such access thereto as the Administration may find necessary to assure the correctness and verification of such reports.

"(6) contain other data and assurances as the Administration deems necessary and appropriate.

"(d) The Administration shall approve a plan which meets the requirements specified in subsection (c) of this section and it shall not finally disapprove a plan except after reasonable notice and opportunity for a hearing to such State."

BASIC CRITERIA

SEC. 107. Part C of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, is amended by adding at the end thereof the following new sections:

"SEC. 308. The Administration shall establish by regulation criteria to be applied under paragraph (10) of subsection (b) of section 301 of this Title. In addition to other matters such criteria shall include standards for—

"(1) the persons who shall be eligible for compensation,

"(2) the categories of crimes for which compensation may be ordered,

"(3) the losses for which compensation may be ordered, and

"(4) such other terms and conditions for the payment of such compensation as the Administration deems necessary and appropriate.

"SEC. 309. (a) The Administration shall pay in any fiscal year to each State which has a plan approved pursuant to this Title for that fiscal year the Federal share of the cost of such plan as determined by it.

"(b) The Federal share of programs authorized by paragraph (10) of section 301 of this Title shall be 75 per centum for any fiscal year.

TITLE II—GROUP INSURANCE FOR PUBLIC SAFETY OFFICERS

DECLARATION OF PURPOSE

SEC. 201. It is the declared purpose of Congress in this title to promote the public welfare by establishing a means of meeting the financial needs of public safety officers, including policemen, firemen, and correctional guards, their families and dependents, through insurance where commercial plans and those available from State and local governments are not adequate and to assist State and local governments to provide such insurance.

INSURANCE PROGRAM AUTHORIZED

SEC. 202. Title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by this Act, is further amended by adding at the end thereof the following new part:

"PART G—GROUP INSURANCE FOR PUBLIC SAFETY OFFICERS

"DEFINITIONS

"SEC. 500. As used in this part—

"(1) 'child' means an unmarried person who is under 18 years of age and includes a stepchild or an adopted child, an illegitimate child, a student over 18 years of age, and a child conceived prior to but born after the personal injury or death of the public safety officer;

"(2) 'dependent' means a relative or other person who were wholly or partially dependent upon the income of the public safety officer at the time of the personal injury or death of the public safety officer;

"(3) 'full time' means such period or type of employment or duty as may be prescribed by regulation promulgated by the Administration;

"(4) 'month' means 30 consecutive days;

"(5) 'public safety officer' means, pursuant to regulations issued by the Administration, a person who is employed by a State or unit of general local government in any activity pertaining to—

"(A) the enforcement of the criminal laws, crime prevention, control, or reduction, including highway patrol,

"(B) a correctional program, facility or institution,

"(C) a court having crime jurisdiction, where the activity is determined by the Administration to be potentially dangerous because of contact with criminal suspects, defendants, prisoners or parolees, or

"(D) firefighting, done voluntarily or otherwise, with or without compensation;

"(6) 'relative' includes the spouse, parent, grandparent, stepfather, stepmother, child, grandchild, siblings of the whole or half blood, spouse's parents, niece or nephew; and

"(7) 'student' means a person who is a 'student' as defined in subsection (17) of section 8101 of title 5 of the United States Code.

"ELIGIBLE INSURANCE COMPANIES

"SEC. 501. (a)(1) The Administration is authorized, without regard to section 3709 of the Revised Statutes, as amended, to purchase in those States where it determines that commercial insurance or State plans or those offered by a unit of general local government do not provide insurance at competitive costs with comparable coverage for life, accidental death, and dismemberment insurance issued to large employers of occupations other than public safety officers from one or more life insurance companies a policy or policies of group life insurance to provide the benefits provided under this part. Each such life insurance company must (A) be licensed to issue life, accidental death, and dismemberment insurance in each of the fifty States of the United States and in the District of Columbia, and (B) as of the most recent December 31 for which information is available to the Administration have in effect at least 1 per centum of the total amount of group life insurance which all life insurance companies have in effect in the United States.

"(2) Any life insurance company issuing such a policy shall establish an administrative office at a place and under a name designated by the Administration.

"(3) The Administration shall arrange with each life insurance company issuing any policy under this part to reinsure, under conditions approved by it, portions of the total amount of insurance under such policy with such other life insurance companies (which meet qualifying criteria set forth by the Administration) as may elect to participate in such reinsurance.

"(4) The Administration may at any time discontinue any policy which it has purchased from any insurance company under this Part.

"PERSONS INSURED; AMOUNT

"SEC. 501. (a) Any policy of insurance purchased by the Administration under this Part shall automatically insure any public safety officer employed on a full-time basis by a State or unit of local government which has (1) applied to the Administration for participation in the insurance program provided under this part, and (2) agreed to deduct from such officer's pay the amount of the premium and forward such amount to the Department of Justice or such other agency or office as is designated by the Administration as the collection agency or office for such premiums. The insurance provided under this Part shall take effect from the first day agreed upon by the Administration and the responsible official of the State or unit of general local government making application for participation in the program as to public safety officers then on the payroll, and as to public safety officers thereafter entering on full-time duty from the first day of such duty. The insurance provided by this part shall so insure all such public safety officers unless any such officer elects in writing not to be insured under this part. If any such officer elects not to be insured under this Part he may thereafter, if eligible, be insured under this Part upon written application, proof of good health, and compliance with such other terms and conditions as may be prescribed by the Administration.

"(b) A public safety officer eligible for insurance under this part is entitled to be insured for an amount of group life insurance, plus an equal amount of group accidental death and dismemberment insurance, in accordance with the following schedule:

If annual payment is—		The amount of group insurance is—	
Greater than—	But not greater than—	Life	Accidental death and dismemberment
$0	$8,000	$10,000	$10,000
$8,000	9,000	11,000	11,000
$9,000	10,000	12,000	12,000
$10,000	11,000	13,000	13,000
$11,000	12,000	14,000	14,000
$12,000	13,000	15,000	15,000
$13,000	14,000	16,000	16,000
$14,000	15,000	17,000	17,000
$15,000	16,000	18,000	18,000
$16,000	17,000	19,000	19,000
$17,000	18,000	20,000	20,000
$18,000	19,000	21,000	21,000
$19,000	20,000	22,000	22,000
$20,000	21,000	23,000	23,000
$21,000	22,000	24,000	24,000
$22,000	23,000	25,000	25,000
$23,000	24,000	26,000	26,000
$24,000	25,000	27,000	27,000
$25,000	26,000	28,000	28,000
$26,000	27,000	29,000	29,000
$27,000	28,000	30,000	30,000
$28,000	29,000	31,000	31,000
$29,000		32,000	32,000

The amount of such insurance shall automatically increase at any time the amount of increases in the annual basic rate of pay places any such officer in a new pay bracket of the schedule.

"(c) Subject to the conditions and limitations approved by the Administration and which shall be included in the policy purchased by it, the group, accidental death, and dismemberment insurance shall provide for the following payments:

LOSS AND AMOUNT PAYABLE

For loss of life—Full amount shown in the schedule in subsection (b) of this section.

Loss of one hand or of one foot or loss of sight of one eye—One-half of the amount shown in the schedule in subsection (b) of this section.

Loss of two or more members or loss of sight in both eyes—Full amount shown in the schedule in subsection (b) of this section.

The aggregate amount of group accidental death and dismemberment insurance that may be paid in the case of any insured as the result of any one incident may not exceed the amount shown in the schedule in subsection (b) of this section.

"(d) The Administration shall prescribe regulations providing for the conversion of other than annual rates of pay to annual rates of pay and shall specify the types of pay included in annual pay.

"TERMINATION OF COVERAGE

"SEC. 503. Each policy purchased under this Part shall contain a provision, in terms approved by the Administration, to the effect that any insurance thereunder on any public safety officer shall cease thirty-one days after (1) his separation or release from full-time duty as such an officer or (2) discontinuance of his pay as such an officer, whichever is earlier.

"CONVERSION

"SEC. 504. Each policy purchased under this Part shall contain a provision for the conversion of such insurance effective the day following the date such insurance would cease as provided in section 503 of this Part. During the period such insurance is in force the insured, upon request to the administrative office established under section 501 of this Part, shall be furnished a list of life insurance companies participating in the program established under this Part and upon written application (within such period) to the participating company selected by the insured and payment of the required premiums be granted insurance without a medical examination on a permanent plan then currently written by such company which does not provide for the payment of an additional amount of premiums if the insured engages in public safety activities. In addition to the life insurance companies participating in the program established under this Part, such list shall include additional life insurance companies (not so participating) which meet qualifying criteria, terms, and conditions established by the Administration and agree to sell insurance to any eligible insured in accordance with the provisions of this section.

"WITHHOLDING OF PREMIUMS FROM PAY

"SEC. 505. During any period in which a public safety officer is insured under a policy of insurance purchased by the Administration under this Part his employer shall withhold each month from his basic or other pay until separation or release from full-time duty as a public safety officer an amount determined by the Administration to be such officer's share of the cost of his group life insurance and accidental death and dismemberment insurance. Any such amount not withheld from the basic or other pay of such officer insured under this Part while on full-time duty as a public safety officer, if not otherwise paid, shall be deducted from the proceeds of any insurance thereafter payable. The initial monthly amount determined by the Administration to be charged any public safety officer for each unit of insurance under this Part may be continued from year to year, except that the Administration may redetermine such monthly amount from time to time in accordance with experience.

"SHARING OF COST OF INSURANCE

"SEC. 506. For each month any public safety officer is insured under this part the Administration shall bear not to exceed one-fourth of the cost of such insurance or such lesser amount as may from time to time be determined by the Administration to be a practicable and equitable obligation of the United States in assisting the States and units of local government in recruiting and retaining personnel for their public safety forces.

"INVESTMENT EXPENSES

"SEC. 507. (a) The amounts withheld from the basic or other pay of public safety officers as premiums for insurance under section 505 of this part and any sums contributed by the Administration under section 506 of this part, together with the income derived from any dividends or premium rate readjustment from insurers shall be deposited to the credit of a revolving fund established in the Treasury of the United States. All premium payments on any insurance policy or policise purchased under this part and the administrative cost of the insurance program established by this part of the department or agency vested with the responsibility for its supervision shall be paid from the revolving fund.

"(b) The Administration is authorized to set aside out of the revolving fund such amounts as may be required to meet the administrative cost of the program to the department, agency or office designated by it, and all current premium payments on any policy purchased under this part. The Secretary of the Treasury is authorized to invest in and to sell and retire special interest-bearing obligations of the United States for the account of the revolving fund. Such obligations issued for the purpose of this part shall have maturities fixed with due regard for the needs of the fund and shall bear interest at a rate equal to the average market yield (computed by the Secretary of the Treasury on the basis of market quotations as of the end of the calendar month next preceding the date of issue) on all marketable interest-bearing obligations of the United States then forming a part of the public debt which are not due or callable until after the expiration of four years from the end of such calendar month; except that where such average market yield is not a multiple of one-eighth of 1 per centum, the rate of interest of such obligation shall be the multiple of one-eighth of 1 per centum nearest market yield. The interest on and the proceeds from the sale of these obligations, and the income derived from dividend or premium rate adjustments from insurers, shall become a part of the revolving fund.

"BENEFICIARIES: PAYMENT OF INSURANCE

"SEC. 508. (a) Any amount of insurance in force under this part on any public safety officer or former public safety officer on the date of his death shall be paid, upon establishment of a valid claim therefor, to the person or persons surviving at the date of his death, in the following order or precedence:

"(1) to the beneficiary or beneficiaries as the public safety officer or former public safety officer may have designated by a writing received in his employer's office prior to his death;

"(2) if there is no such beneficiary or no dependent, to the spouse of such officer or former officer;

"(3) if there is no such beneficiary or no such spouse, to the dependents, in equal shares;

"(4) if there are both a spouse and one or more dependents, one half to the spouse and one-half to the dependents, in equal shares;

"(5) if none of the above, to the parents of such officer or former officer or to the survivor of them;

"(6) if none of the above, to the duly appointed executor or administrator of the estate of such officer or former officer; or

"(7) if none of the above, to other next of kin of such officer or former officer entitled under the laws of domicile of such officer or former officer at the time of his death.

"(b) If any person otherwise entitled to payment under this section does not make claim therefor within one year after the death of the public safety officer or former public safety officer, or if payment to such person within that period is prohibited by Federal statute or regulation, payment may be made in the order of precedence as if such person had predeceased such officer or former officer, and any such payment shall be a bar to recovery by any other person.

"(c) If, within two years after the death of a public safety officer or former public safety officer, no claim for payment has been filed by any person entitled under the order of precedence set forth in this section, and neither the Administration nor the administrative office established by any insurance company pursuant to this title, has received any notice that any such claim will be made, payment may be made to a claimant as may in the judgment of the Administration be equitably entitled thereto, and such payment shall be a bar to recovery by any other person. If, within four years after the death of the public safety officer or former public safety officer, payment has not been made pursuant to this Part and no claim for payment by any person entitled under this Part is pending, the amount payable shall escheat to the credit of the revolving fund referred to in section 507 of this Part.

"(d) The public safety officer may elect settlement of insurance under this Part either in a lump sum or in thirty-six equal monthly installments. If no such election is made by such officer, the beneficiary may elect settlement either in a lump sum or in thirty-six equal monthly installments. If any such officer has elected settlement in a lump sum, the beneficiary may elect settlement in thirty-six equal monthly installments.

"BASIC TABLES OF PREMIUMS: READJUSTMENT OF RATES

"SEC. 509. (a) Each policy or policies purchased under this Part shall include for the first policy year a schedule of basic premium rates by age which the Administration shall have determined on a basis consistent with the lowest schedule of basic premium rates generally charged for new group life insurance policies issued to large employers, this schedule of basic premium rates by age to be applied, except as otherwise provided in this section, to the distribution by age of the amount of group life insurance and group accidental death and dismemberment insurance under the policy at its date of issue to determine an average basic premium per $1,000 of insurance. Each policy so purchased shall also include provisions whereby the basic rates of premium determined for the first policy year shall be continued for subsequent policy years, except that they may be readjusted for any subsequent year, based on the experience under the policy, such readjustment to be made by the insurance company issuing the policy on a basis determined by the Administration in advance of such year to be consistent with the general practice of life insurance companies under policies of group life insurance and group accidental death and dismemberment insurance issued to large employers.

"(b) Each policy so purchased shall include a provision that, in the event the Administration determines that ascertaining the actual age distribution of the amounts of group life insurance in force at the date of issue of the policy or at the end of the first or any subsequent year of insurance thereunder would not be possible except at a disproportionately high expense, the Administration may approve the determination of a tentative average group life premium, for the first or any subsequent policy year, in lieu of using the actual age distribution. Such tentative average premium rate shall be redetermined by the Administration during any policy year upon request by the insurance company issuing the policy, if experience indicates that the assumptions made in determining the tentative average premium rate for that policy year were incorrect.

"(c) Each policy so purchased shall contain a provision stipulating the maximum expense and risk charges for the first policy year, which charges shall have been determined by the Administration on a basis consistent with the general level of such charges made by life insurance companies under policies of group life insurance and group accidental death and dismemberment insurance issued to large employers. Such maximum charges shall be continued from year to year, except that the Administration may redetermine such maximum charges for any year either by agreement, with the insurance company or companies issuing the policy or upon written notice given by the Administration to such companies at least one year in advance of the beginning of the year for which such redetermined maximum charges will be effective.

"(d) Each such policy shall provide for an accounting to the Administration not later than ninety days after the end of each policy year, which shall set forth, in a form approved by the Administration. Such accounting shall include: (1) the amounts of premiums actually accrued under the policy from its date of issue to the end of such policy year, (2) the total of all mortality, dismemberment, and other claim charges incurred for that period, and (3) the amounts of the insurers' expense and risk charge for that period. Any excess of the total of items (1) over the sum of items (2) and (3) shall be held by the insurance company issuing the policy as a special contingency reserve to be used by such insurance company for charges under such policy only, such reserve to bear interest at a rate to be determined in advance of each policy year by the insurance company issuing the policy, which rate shall be approved by the Administration as being consistent with the rates generally used by such company or companies for similar funds held under other group life insurance policies. If and when the Administration determines that such special contingency reserve has attained an amount estimated by the Administration to make satisfactory provision for adverse fluctuations in future charges under the policy, any further excess shall be deposited to the credit of the revolving fund established under this part. If and when such policy is discontinued, and if, after all charges have been made, there is any positive balance remaining in such special contingency reserve, such balance shall be deposited to the credit of the revolving fund, subject to the right of the insurance company issuing the policy to make such deposit in equal monthly installments over a period of not more than two years.

"BENEFIT CERTIFICATES

"SEC. 510. The Administration shall arrange to have each public safety officer insured under a policy purchased under this part receive a certificate setting forth the benefits to which the member is entitled thereunder, to whom such benefit shall be payable, to whom claims should be submitted, and summarizing the provisions of the policy principally affecting the member. Such certificate shall be in lieu of the certificate which the insurance company would otherwise be required to issue.

"AUTHORIZATION FOR USE OF APPROPRIATIONS

"SEC.511. Until specific appropriations are made for carrying out the purposes of this part, any appropriation made to the Department of Justice or the Law Enforcement Assistance Administration for grants, activities or contracts shall, in the discretion of the Attorney General, be available for payments of obligations arising under this part.

"ADVISORY COUNCIL ON PUBLIC SAFETY OFFICERS' GROUP LIFE INSURANCE

"SEC. 512. There is hereby established an Advisory Council on Public Safety Officers' Group Life Insurance consisting of the Attorney General as Chairman, the Secretary of the Treasury, the Secretary of Health, Education, and Welfare, and the Director of the Office of Management and Budget, each of whom shall serve without additional compensation. The Council shall meet not less than once a year, or at the call of the Attorney General, and shall review the administration of this title and advise the Attorney General on matters of policy relating to his activities thereunder. In addition, the Attorney General may solicit advice and recommendations from any State or unit of local government participating in the public safety officers' group life insurance program.

"PREMIUM PAYMENT ON BEHALF OF PUBLIC SAFETY OFFICERS

"SEC. 513. Nothing in this part shall be construed to preclude any State or unit of local government from making payments on behalf of public safety officers of the premiums required to be paid by them for any group life insurance program authorized by this part or any such program carried out by a State or unit of local government."

AMENDMENT TO LAW ENFORCEMENT ASSISTANCE PROGRAM

SEC. 203. (a) Subsection (b) section 301 of part C of title I of the Omnibus Crime Control and Safe Streets Act of 1968 as amended by this Act is further amended by adding at the end thereof the following new paragraph:

"(11) The establishment of one or more separate or combined statewide group life, accidental death and dismemberment insurance programs for public safety officers as defined in paragraph (5) of section 500 of Part G of this title.

(b) Subsection (d) of such section is amended by striking out the first word and inserting in lieu thereof the following: "Except for grants made pursuant to paragraph (11) of subsection (b) of this section not".

TITLE III—DEATH AND DISABILITY BENEFITS FOR PUBLIC SAFETY OFFICERS

DECLARATION OF PURPOSE

SEC. 301. It is the purpose of this title to promote the public welfare by establishing a Federal minimum death and dismemberment benefit to public safety officers, their families and dependents.

SEC. 302. Title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by this Act, is further amended by adding at the end thereof the following new part:

"PART H—DEATH AND DISABILITY BENEFITS FOR PUBLIC SAFETY OFFICER

"DEFINITIONS

"SEC. 525. As used in this Part—

"(1) 'child' means an unmarried person who is under eighteen years of age and includes a stepchild or an adopted child, and illegitimate child, and student over 18 years of age, and a child conceived prior to but born after the personal injury or death of the victim;

"(2) 'dependent' means a relative or other person who was wholly or partially dependent upon the income of the victim at the time of the personal injury or death of the victim;

"(3) 'public safety officer' means, pursuant to regulations issued by the Administration, a person who is employed by a State or unit of general local government in any activity pertaining to—

"(A) the enforcement of the criminal laws, crime prevention, control or reduction, including highway patrol,

"(B) a correctional program, facility or institution,

"(C) a court having crime jurisdiction, where the activity is determined by the Administration to be potentially dangerous because of contact with criminal suspects, defendants, prisoners or parolees, or

"(D) firefighting, done voluntarily or otherwise, with or without compensation;

"(4) 'relative' includes a spouse, parent, grandparent, stepfather, stepmother, child, grandchild, siblings of the whole or half blood, a spouse's parents, a niece or nephew; and

"(5) 'student' means a person who is a 'student' as defined in subsection (17) of section 8101 of title 5 of the United States Code.

"DEATH AND DISABILITY BENEFITS FOR PUBLIC SAFETY OFFICERS

"SEC. 526. (a) Under regulations issued by the Administration under part I of this title, upon certification to the Administration by the Governor of any State that a public safety officer employed on a full or part time basis has been killed or disabled as the result of a criminal act in the line of duty, the Administration shall pay a benefit as provided in subsection (a) of this section 527 of this part in the following order of precedence:

"(1) If the public safety officer was disabled, to the public safety officer.

"(2) If the public safety officer was killed and there is no spouse, to the dependent or dependents in equal shares.

"(3) If the public safety officer was killed and there are both a spouse and one or more dependents, one-half to the spouse and one-half to the dependents in equal shares.

"(b) The benefit payable to any person under this part is in addition to any benefits to which he may be entitled under any other law other than compensation for pecuniary loss made pursuant to part F of this title or a State program established under paragraph (10) of section 301 of part C of this title.

"(c) The benefit payable to any person under this part may be made in lump sum, in such equal monthly installments, or in such other fashion as the Administration determines will be appropriate.

"(d) No award made pursuant to this part shall be subject to execution or attachment other than for pecuniary loss resulting from the injury or death which is the basis for the certification.

"AWARDS

"SEC. 527. (a) Whenever the Administration determines, prior to acting upon a certification that—such certification is one with respect to which a benefit will probably be made, the Administration may make interim benefit payments to the public safety officer, spouse or dependents pending a final certification of the Governor.

"(b) The amount of any interim benefit paid under subsection (a) shall be deducted from the amount of any final benefit paid to the public safety officer, spouse or dependent.

"(c) Where the amount of any interim benefit paid under subsection (a) exceeds the amount of the final benefit, or if there is no final benefit paid, the recipient of any such interim benefit shall be liable for repayment of such amount in accordance with rules and regulations prescribed by the Administration. The Administration may waive all or part of such repayment where in its judgment such repayment would envoke severe hardship.

"LOSS AND AMOUNT PAYABLE

"Death, fifty thousand dollars.

"Loss of one hand or of one foot or loss of sight of one eye, twenty-five thousand dollars.

"Loss of two or more members or loss of sight in both eyes, fifty thousand dollars."

AMENDMENT TO THE INTERNAL REVENUE CODE OF 1954

SEC. 528. Section 101(b)(2)(A) of the Internal Revenue Code of 1954 (relating to death benefits excluded from gosss income) is amended to read as follows:

"(A) $5,000 LIMITATION.—The aggregate amounts excludable under paragraph (1) with respect to the death of any employee shall not exceed $5,000, except that not to exceed $50,000 shall be excludable under the provisions of Part L of the Omnibus Crime Control and Safe Streets Act of 1968, as amended."

"(d) Subject to conditions and limitations as he may establish, the Administration shall provide for the following payments:

TITLE IV—CIVIL REMEDIES FOR VICTIMS OF RACKETEERING ACTIVITY

PURPOSE

SEC. 401. It is the purpose of this title to promote the general welfare by strengthening the civil remedies available to the victim of racketeering activity.

EXPANDED JURISDICTION

SEC. 402. (a) Section 1964 of Title 18 of the United States Code is amended by—

(1) inserting in subsection (a) ", without regard to the amount in controversy," immediately after "jurisdiction."

(2) inserting in subsection (b) "subsection (a) of" after "under" each time it appears;

(3) striking out in subsection (b) "action" and inserting in lieu thereof "proceedings"; and

(4) striking subsections (c) and (d) thereof in their entirety and inserting in lieu thereof the following:

"(c) Any person may institute proceedings under subsection (a) of this section. In any proceeding brought by any person under subsection (a) of this section, relief shall be granted in conformity with the principles which govern the granting of injunctive relief from threatened loss or damage in other cases. Upon the execution of proper bond against damages for an injunction improvidently granted and showing of immediate danger or irreparable loss or damage, a preliminary injunction may be issued in any action before a determination thereof upon its merits.

"(d) Whenever the United States is injured in its business or property by reason of any violation of section 1962 of this chapter, the Attorney General may bring a civil action in a district court of the United States, without regard to the amount in controversy, and shall recover the actual damages sustained by it, and the cost of the action.

"(e) Any person who is injured in his business or property by reason of any violation of section 1962 of this chapter may bring a civil action in a district court of the United States, without regard to the amount in controversy, and shall recover threefold the actual damages sustained by him, and the cost of the action, including a reasonable attorney's fee.

"(f) The Attorney General may upon timely application intervene in any civil action or proceeding brought under this chapter, if the Attorney General certifies that in his opinion the case is of general public importance. In such action or proceeding, the United States shall be entitled to the same relief as if it had instituted the action or proceeding.

"(g) A final judgment or decree rendered in favor of the United States in any criminal or civil action or proceeding under this chapter shall estop the defendant in any subsequent civil proceeding as to all matters respecting which said judgment or decree would be an estoppel as between the parties thereto.

"(h) Except as hereinafter provided, any civil action under this section shall be barred unless it is commenced within five years after the cause of action accrued. Whenever any civil or criminal action or proceeding, other than an action under subsection (d) of this section, is brought or intervened in by the United States to prevent, restrain, or punish any violation of section 1962 of this chapter the running of the period of limitations prescribed by this subsection with respect to any cause of action arising under subsections (c) and (e) of this section, which is based in whole or in part on any matter complained of in such action or proceeding by the United States, shall be suspended during the pendency of such action or proceeding by the United States and for two years thereafter.".

(b) Section 1965 of title 18 of the United States Code is amended by—

(1) striking out in subsection (b) "action under section 1964 of" and inserting in lieu thereof "civil action or proceeding under";

(2) striking out in subsection (c) "instituted by the United States"; and

(3) inserting in subsection (d) "civil or criminal" immediately before "action".

(c) Section 1966 of title 18 of the United States Code is amended by striking "any civil action instituted under this chapter by the United States" in the first sentence and inserting in lieu thereof "any civil action or proceeding under this chapter in which the United States is a part".

(d) Section 1967 of title 18 of the United States Code is amended by striking "instituted by the United States".

(e) Section 1968 of title 18 of the United States Code is amended by—

(1) striking out "prior to the institution of a civil war or criminal proceeding" in the first sentence of subsection (a) and inserting in lieu thereof "before he institutes or intervenes in a civil or criminal action or proceeding";

(2) striking out "case" the first time it appears and inserting in lieu thereof "civil or criminal action" in paragraph (4) of subsection (f) and striking out "case" each time it appears thereafter and inserting in lieu thereof "action";

(3) striking out "case" each time it appears in paragraph (5) of subsection (f) and inserting in lieu thereof "action"; and

(4) striking out "case" and inserting in lieu thereof "action" in paragraph (6) of subsection (f).

TITLE V—MISCELLANEOUS PROVISIONS

REPEALS

SEC. 501. (a) Section 4–531 of the District of Columbia Code is hereby repealed.

(b) Subchapter III of chapter 81 of title 5 of the United States Code is hereby repealed.

(c) The provisions of subsection (a) and (b) of this section shall have no effect on benefits, awards, or gratuities made or already being made prior to the date of enactment of this Act.

AUTHORIZATIONS OF APPROPRIATIONS

SEC. 502. Section 569 of the Omnibus Crime Control and Safe Streets Act of 1968 as amended, and as redesignated by this Act is amended by inserting immediately after "569" "(a)" and by adding at the end thereof the following new subsections:

"(b) There is authorized to be appropriated for the fiscal year ending June 30, 1973—

"(1) $10,000,000 for the purposes of part F;

"(2) $20,000,000 for the purposes of paragraph (10) of subsection (b) of section 301 of part C.

"(c) There is authorized to be appropriated $25,000,000 for the fiscal year ending June 30, 1972, and $50,000,000 for the fiscal year ending June 30, 1973, for the purposes of part G.

"(d) There are authorized to be appropriated $40,000,000 for the fiscal year ending June 30, 1972, and $20,000,000, for the fiscal year ending June 30, 1973, for the purposes of part H.".

SEVERABILITY

SEC. 503. If the provisions of any part of this Act are found invalid or any amendments made thereby or the application thereof to any person or circumstances be held invalid, the provisions of the other parts and their application to other persons or circumstances shall not be affected thereby.

EFFECTIVE DATES

SEC. 504. (a) Title I of this Act shall become effective one hundred and eighty days after the date of enactment of this Act.

(b) (1) Title II of this Act shall become effective on the date of enactment of this Act.

(2) The insurance provided for under title II of this Act shall be placed in effect on the earliest practicable date approved by the Law Enforcement Assistance Administration of the Department of Justice.

(c) (1) Title III of this Act shall become effective with respect to any disability or death of a public safety officer as defined in paragraph (5) of section 525 of part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by this Act, on or after January 1, 1967.

(2) Any amount already paid to a public safety officer, spouse, or dependent as defined in paragraphs (3) and (5) of section 525 of part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by this Act, pursuant to Federal law for the disablement or death of such public safety officer shall be deducted from any benefit paid under title III of this Act.

SIXTH REPORT: CRIMINAL INJURIES COMPENSATION BOARD—ACCOUNTS FOR THE YEAR ENDED MARCH 31, 1970

(Presented to Parliament by the Secretary of State for the Home Department and the Secretary of State for Scotland by Command of Her Majesty October 1970)

To: The Secretary of State for the Home Department; The Secretary of State for Scotland

SIRS: We have the honour to submit this our Sixth Report.

1. VOLUME OF WORK

The number of new applications for compensation received in each quarter of the year 1st April 1969 to 31st March 1970 compared with the two previous years was as follows:

	1969–70	1968–69	1967–68
Quarter:			
1st (Apr. 1–June 30)	1,683	1,610	1,010
2d (July 1–Sept. 30)	1,723	1,501	1,000
3d (Oct. 1–Dec. 31)	1,836	1,598	1,632
4th (Jan. 1–Mar. 31)	2,005	1,728	1,674
Total	7,247	6,437	5,316

In our Fifth Report we forecast the receipt of 7,000 applications this year. We considered that there was a levelling out in the rate of growth of our work but it will be seen that the figures are still growing and we forecast at least 8,000 applications in the year 1970–71.

The analysis of these figures in Appendix A shows that the increase in the number of applications from Scotland was only 11, whereas there was 730 more cases from England and 69 more from Wales.

2. NUMBER OF CASES RESOLVED

6,817 cases were resolved as shown below:—

	1969–70		1968–69		1967–68	
	Number	Percent	Number	Percent	Number	Percent
By single members	6,093	89	5,478	92	3,583	93
By 3 members at hearings	600	9	434	7	238	6
Withdrawn or abandoned by applicant	124	2	73	1	48	1
Total	6,817	------	5,985	------	3,869	------

It will be seen that there is again a rise in the percentage of cases disposed of at hearings. See paragraph 12 below.

The following table shows the time taken to resolve applications:

	1969–70 (percent)	1968–69 (percent)	1967–68 (percent)
Not more than 3 months	39	31	27
More than 3 months but not more than 6	39	42	44
More than 6 months but not more than 9	15	17	19
More than 9 months but not more than 12	5	7	7
More than 12 months	2	3	3

The increased percentage of cases resolved in not more than three months demonstrates the ability of the Board's staff to deal speedily with straightforward cases. Although the final disposal of cases of more serious injury may take longer, an interim payment may be made as soon as it is established that the case comes within the scope of the Scheme. The number of interim awards made was 510, compared with 234 in 1968–69 and 185 in 1967–68.

3. THE COST OF THE SCHEME

In the year 1969–70 nearly two million pounds were paid out in compensation as follows:

England	£1,524,099
Scotland	386,750
Wales	85,735
	1,996,584

Since the Scheme began on 1st August 1964 we have paid out £6,313,624. The administrative expenses for the year 1969–70 were £207,686, representing 9.4 per cent of the total expenditure, compared with 9.6 per cent in 1968–69. The average cost of a case resolved at single member stage was £23 3s. 0d., a decrease of 17s. 0d. on the cost in 1968–69. In cases which went to a hearing before three members the additional average cost was £66 16s. 0d., compared with £74 0s. 0d. last year. The total average cost of each case resolved at a hearing was therefore £89 19s. 0d.

4. THE WORKING OF THE SCHEME

The great bulk of our work consists of assessing the compensation which should be paid to applicants who are plainly the innocent victims of criminal assaults. After six years' experience we repeat the observations made in paragraph 15 of our First Report:

"It is true that many of the applications submitted relate to comparatively minor injuries and the compensation paid is correspondingly small. But no one who is called to deal with those cases in which a blameless victim has been seriously disabled, sometimes for life, or with those cases in which the elderly and infirm have suffered injury and shock, can fail to feel deeply what a worthwhile part is played in the full administration of justice by the power to award compensation."

The object of the Scheme is to ensure that the innocent victims of crimes of violence are compensated and that in appropriate cases the application is either rejected altogether or a reduced award made. There are no clear and distinct lines which can be drawn to separate these three classes.

In the following paragraphs we discuss at some length borderline cases which present such difficult problems but it must be remembered that they represent only a fraction of our work.

5. THE MODIFIED SCHEME

The modified Scheme came into effect on 21st May 1969 and was intended to strengthen the Board's hand to reject undeserving cases. Before the Scheme was modified, we were required, under paragraph 12, to consider whether because of provocation or otherwise, the victim bore any share of responsibility, and in accordance with our assessment of the degree of responsibility, to reduce the award or reject the claim altogether. Paragraph 17 of the modified Scheme superseded paragraph 12, and gave us a wide discretion to reduce an award or reject a claim altogether if, having regard to the victim's conduct, including his conduct before and after the incident, and to his character and way of life, we consider that it is inappropriate that he should receive a full award or any award at all. This discretion has not been easy to exercise for we are not all of one mind and the diversity of the circumstances of the cases which come before us is very great. We are anxious to produce a consistent approach to the problem and have set out in this report a number of typical cases illustrative of the way in which the Board has applied paragraph 17.

Voluntary participation in a fight

(1) An applicant became involved in a fight with his assailant, whom he knew to be violent, and was injured. No weapons were used, and we were satisfied that the applicant willingly entered the fight. Following decisions in similar cases under the unmodified Scheme, we refused an award.

(2) We have made reduced awards to applicants injured in fights which began in similar circumstances, but which took a turn which could not be foreseen, as follows:

(*a*) The applicant was in a public house, when a man with whom he was on bad terms entered, and the applicant persistently offered to fight him outside. The man eventually agreed after he and the licensee had unsuccessfully tried to get the applicant to keep quiet. In the fight the man knocked the applicant down, and while he lay helpless on the ground the offender kicked and stamped on his head, fracturing his cheekbone, jaw and skull. We made an award, albeit a reduced one, on the grounds that the violence used was out of all proportion to the provocation offered.

(b) An applicant and his assailant started to fight in a club, and both fell downstairs. The applicant injured his ankle. They were then thrown out into the street. The applicant told the assailant he could no longer defend himself, but the assailant knocked him to the ground and fractured his jaw. The applicant first told the police that he had received his injury by falling downstairs, and he did not wish to make a statement. Later he made a full statement and the assailant was charged and acquitted. The applicant's original failure to co-operate with the police and his voluntary participation in a fight were reprehensible and we made a reduced award.

(3) We made a reduced award to an applicant who accepted a challenge to fight, and during the fight was struck on the head

from behind by his opponent's wife, using a broken chair leg.

Conduct, character and way of life

(4) A single member rejected the application of a professional housebreaker who in the early hours of the morning was disturbed by one of the occupants of the house he had broken into. He ran away and the householder discharged his shotgun in the general direction of the housebreaker's retreating figure, peppering him with shot. We did not consider that it was appropriate that those injured whilst engaged in criminal activities should receive an award.

(5) (a) Taking into account the applicant's character and way of life we refused an award to a man who was assaulted and severely injured outside a public house. He had numerous convictions over a period of 18 years, mostly for offences involving dishonesty. His assailants were known to him and there was some suggestion of an earlier incident to which the assault may or may not have been related. We considered that it was inappropriate that public money should be spent on compensating the applicant for injuries received in an assault for which no satisfactory explanation exculpating him was given.

(b) But we made an award to a young man who was slashed with a razor after leaving a public house where he and his wife had been listening to a pop group. He had a number of convictions for theft, but for two years had been in regular employment. We were satisfied that he was the victim of a brutal and motiveless assault, which was wholly unconnected with his former way of life. It was therefore appropriate that he should receive a full award.

6. REPORTING TO THE POLICE

The original Scheme provided that compensation would not be payable unless the circumstances of the injury had been reported to the police without delay, or had been the subject of criminal proceedings in the courts. The requirement could be waived, but the conduct of the applicant after the incident in which he received his injury could not be taken into account. The requirement is repeated in paragraph 6(*b*) of the modified Scheme, while paragraph 17 enables us to take into consideration the applicant's conduct both before and after the incident.

We have always considered that when an applicant reports an incident to the police he must report the full circumstances of his injury and that he does not fulfill the requirements by reporting such of the circumstances as he chooses.

We attach great importance to these two provisions, for if violent crime is to be contained it is essential that the police should be informed as soon as possible, and that the victim should give them every assistance in bringing the offender to justice. We do not therefore waive the requirement of paragraph 6(*b*) save in exceptional circumstances.

(1) (*a*) We waived the requirement in the case of a 6 year old boy, who lost his eye when hit by a piece of slate deliberately thrown at him by a playmate. The boy's father did not report the circumstances to the police for a month. The assailant was not charged because of his age.

(*b*) We also waived the requirement in a case where we were satisfied that the applicant had reasonable grounds for believing that the circumstances had been reported to the police.

(*c*) But we refused to waive the requirement in the case of an applicant of full age, who did not report an incident in the street in which he received a broken jaw, although we were satisfied that his case was in other respects within the Scheme.

(2) An applicant who refused to give a full description of the incident and told the police that he knew who his assailants were and would deal with them himself, was refused an award.

(3) The full circumstances of the injury must be reported.

(*a*) A youth was assaulted outside a fish and chip shop and his girl friend made a 999 call to the police. By the time they arrived the youth and his girl friend had gone to hospital and the proprietor of that shop was unable to give the police any information. The youth received out-patient treatment for three weeks and then reported to the police.

(*b*) The father of an applicant reported to the police that his son had been admitted to hospital but was not himself able to give any information as to the circumstances. When seen by the police the applicant refused to give any information.

Both these applicants were refused awards.

(4) We have held that fear of reprisals is no ground for waiving the requirement, and we disallowed the claim of two brothers who did not report the incident until their assailants were in custody awaiting trial on other more serious charges.

(5) (*a*) An applicant did not report to the police until six weeks after he was injured. His assailant was then prosecuted and pleaded guilty. Although the provisions of paragraph 6(*b*) were complied with in that the matter was the subject of criminal proceedings, we made a reduced award because of his conduct in failing to play his part in bringing the offender to justice.

(*b*) But we made a full award to an applicant who was advised by the police after investigations, that the appropriate charge against his assailant would be for common assault contrary to section 42, Offenses Against the Person Act 1861. After consulting his union he told the police that he did not wish them to take any further action. A summons for assault, which would have barred his civil claim, could not be issued without his consent and we did not consider his conduct such as to require a reduction under paragraph 17.

7. THE CRIME OF VIOLENCE

(1) Another change in the Scheme was to require the applicant to show that his injuries were directly attributable to a crime of violence (including arson and poisoning) whereas under the former Scheme he was only required to show that his injuries were directly attributable to a criminal offence. One of the reasons for this change is that a breach of the Factory Acts is a criminal offence and the Scheme was plainly never intended to permit an application to the Board instead of an action for breach of the statutory duty imposed by the Factory Acts.

(*a*) We made an award to a boy whose injuries were directly attributable to a breach of section 2 of the Explosive Substances Act of 1883. The boy and his friends were walking through a wood when they saw a burning rope hanging from a tree. They tried to put it out but there was an explosion and the boy received an injury to his face. The rope was identified by the police as a piece of fuse, and there were a number of detonators attached to it. These had recently been stolen from a nearby quarry, but the culprits were not traced.

(*b*) We also made an award to a pedestrian who was knocked down by a driverless taxi which had been set in motion by two drunken men after an argument with the driver, who had gone to fetch the police. The criminal act of the two men was likely to result in personal injury to those lawfully using the highway and was thus a crime of violence.

(2) We decided that in order to obtain an award for personal injuries directly attributable to an arrest of a suspected offender, an applicant must satisfy us that he himself was taking part in an arrest or attempted arrest. We therefore refused to make an award to a woman in a multiple store who was accidentally knocked over when a store detective was chasing a suspected shoplifter.

8. THE IMPROVIDENT APPLICANT

We have found the discretion under paragraph 18 to make special arrangements for the administration of any money awarded as compensation most useful.

In a case where a substantial sum of money is involved and we doubt whether the applicant, though of full age, will use it wisely we invite him or her to submit a plan showing how it is proposed to use the money. We may suggest that the applicant should consult a solicitor or a bank manager and take active advice before submitting the plan to us and asking for the release of the money. It is not possible, or perhaps desirable, for us to supervise the spending of the money, but this procedure ensures that consideration is given to the problem and that the danger of frittering away the compensation is brought home to the applicant.

9. MEMBERS OF THE FAMILY

(1) The amendment to paragraph 7 (which excludes the claim of a victim who was living with the offender at the time as a member of the same family) clarifies the position of persons living together as man and wife.

(*a*) An applicant associated with a merchant seaman for a number of years. He regarded her home as his, and stayed there when he was not at sea. He contributed regularly to housekeeping expenses, and she prepared his meals and di his washing. He usually occupied a single room, but they slep together from time to time. He was anxious to marry her, but she refused. After a quarrel over the question of marriage he assaulted her. Her claim was rejected.

(*b*) An applicant was assaulted by his wife's brother, whom he reluctantly agreed to allow to stay in his house on release from Borstal. The assailant was not provided with a room, but slept on a couch in the kitchen. He paid no rent, was not given a door key, and was given meals about twice a week. He had been told to go as soon as he could find other accommodation. The applicant's claim was disallowed.

The number of claims rejected and the number of reduced awards are as follows:

10. NIL AND REDUCED AWARDS

	1969–70		1968–69		1967–68	
	Number	Percent	Number	Percent	Number	Percent
Rejected	1,079	15	852	14	331	9
Reduced	340	5	232	4	148	4

We have continued to apply the principle that it is for the applicant to make out his case and in order to receive a full award he must satisfy us not only that his injuries were directly attributable to a crime of violence but also that his conduct, character and way of life does not disentitle him.

(*a*) An applicant, drinking with his friends in a public house, got involved in an argument, and he received cuts on his face from broken glass. No question of amnesia arose but by reason of the amount of drink he had taken the applicant could not remember how he received his injury. His friends heard a commotion and the sound of breaking glass at the other end of the bar; they did not see what happened. We made no award.

(*b*) On the other hand, we made an award to an applicant who was blinded by shotgun pellets, although the man who fired the gun was acquitted. He was walking in front of the applicant, carrying a shotgun which he knew to be loaded. He turned round, put the gun to his shoulder and aimed at the applicant and the gun went off. The gun was in good condition, and required a trigger pressure of at least 4½ lbs. We were satisfied that on balance of probabilities the gun was not fired accidentally and that an offence under section 20, Offences Against the Person Act 1861, had been committed.

(*c*) A bus caught fire, and one of the passengers who was injured by jumping from the top deck applied for compensation. The fire started when a container of inflammable material, probably petrol, ignited. The container was brought on to the bus by an unidentified passenger, who, before the fire started, was seen to be smoking. He was never traced. We decided that the fire was caused by the negligent act of the unidentified passenger, which did not constitute a crime. He committed an offence under the Public Service Vehicle Regulations 1936 by bringing the container on to the bus, but the applicant's injuries were not directly attributable to that offence.

11. LAW ENFORCEMENT

15 awards were made to persons who were injured while assisting the police to prevent a crime being committed or to effect an arrest. The numbers in previous years were: 1968–69 19; 1967–68 19.

132 awards were made to persons who attempted to prevent a crime or arrest an offender, a small increase over the numbers in previous years which were: 1968–69 121; 1967–68 100.

Awards to policemen on duty number 851 compared with 704 in 1968–69.

12. HEARINGS

600 cases were decided at hearings representing 9 per cent of all cases resolved compared with 7 per cent in 1968–69, 6 per cent in 1967–68, and 5 per cent in 1965–67. Of these 600, 122 concerned the amount of the award, 384 concerned a refusal of compensation on the merits, and 41 a refusal under the low limit; 53 were referred by a single member. Full details are to be found in Appendix C.

Hearings were held on 114 days, of which 37 were in London, 44 in English provincial cities, 30 in Scotland and 3 in Wales.

The high percentage of cases in which the amount of the award was increased at a hearing might be thought to cast doubt on the validity of the single member procedure but we are confident that such doubt is unjustified.

Firstly, only 23 applicants out of 1,000 question the amount of the award made by the single member. Secondly, when requesting a hearing the applicant often puts forward some new head of claim or disability which he has not previously mentioned. Thirdly, a medical prognosis which is too optimistic may well lead to a hearing, whereas one that is less optimistic will not. Fourthly, whereas in the Courts an appeal is only allowed if the original award was wholly erroneous, we rehear the case and sometimes make a very small increase in the single member's award.

We are satisfied that the single member procedure works well and is both expeditious and inexpensive and that the right to demand a hearing provides a sufficient safeguard.

It will be seen that after rejection by the single member on the merits 148 applicants obtained awards at the hearing and 236 did not. Less than 40 per cent achieved any benefit from requesting a hearing. Furthermore, 62 per cent of those applicants whose claims were rejected by the single member accepted his rejection although they had nothing to lose by demanding a hearing.

13. REPARATION FROM OFFENDERS

There were only 19 cases where we felt that we could usefully sue the offender if we had the power to do so. The comparable figure in 1968–69 was 21. One case where reparation has been made is worthy of mention. Four years ago we made an interim award of £1,000 to a boy of 9 who was blinded because another boy threw lime into his eyes. The victim was taken into a convent to be educated and trained and although we were anxious that the award should be used for his benefit, the interest earned on the money was more than enough to meet his needs. Subsequently damages were recovered in an action brought on the boy's behalf in the Court and the £1,000 was repaid under paragraph 24 of the Scheme.

We would like to repeat the tribute we paid in paragraph 14 of our Fourth Report to the help given to the Board by welfare organisations and local authorities.

14. STAFF

We have always believed that subject to proper investigation, cases should be disposed of as quickly as possible, so that applicants may derive the maximum benefit from their awards. Over the past few years, the number of cases at any one time under investigation by the staff has been between 2,600 and 3,000, representing about 4½ months' instake of new cases.

Although the time taken to investigate a case depends to some extent on factors outside our control, we keep our procedures under constant review, in the hope of improving these figures.

Over the past three years there has been an average increase in productivity of 10 per cent a year—arrived at by dividing the cases finally disposed of during the year by the number of staff in post. Recently, however, we have had a large influx of new staff, partly due to an increase in our complement by 7 to 65, and partly to the termination of the secondment of experienced officers. This has resulted in a drop in the number of completed cases which we hope will be only temporary.

In estimating our staff requirements, it should be recognised that while the volume of work continues to increase, and while our staff is temporarily seconded from other departments, a proportion of the staff will always be under training and not fully effective.

If allowance is not made for these factors, we will be faced with an ever increasing load of pending cases, to the detriment of the staff's efficiency and morale.

In February, the secondment of Mr. J. Hamilton was terminated at very short notice, when he was posted on promotion to the Immigration and Nationality Department. He had been the Board's Chief Executive Officer since the Scheme started, and we wish to record our great appreciation of his services, particularly in the fields of finance, statistics and public relations. During that time he devoted himself without stint to the work of the Board, and we have very reason to be grateful to him for the part he played. We welcome Mr. F. Carter as his successor.

WALKER CARTER,
Chairman.

SEPTEMBER 1, 1970

CRIMINAL INJURIES COMPENSATION BOARD ACCOUNT OF RECEIPTS AND PAYMENTS IN THE YEAR ENDED MAR. 31, 1970

[In pounds]

	Receipts		
	1968–69	Estimate	Actual
Balance, Apr. 1, 1969	33		19,479
Grant-in-aid from the vote for Home Office (class III, 1)	1,870,000	2,327,000	2,220,000
Repayment of compensation recovered by victims from offenders	164	300	2,436
Miscellaneous receipts	437		24
Total	1,870,634	2,327,300	2,241,939
Administration expenses:			
Staff salaries, wages, national insurance and superannuation liability	95,712	106,400	112,136
Board members' fees	25,642	29,300	29,664
Traveling, etc., expenses of Board members and staff	4,587	4,700	4,931
Furniture and accommodation	26,378	25,550	27,151

	Payments		
	1968–69	Estimate	Actual
Administrative expenses—Continued			
Office supplies, stationery, etc	1,955	2,400	3,728
Post office services	3,833	3,400	8,173
Miscellaneous expenses:			
Medical, etc., fees	18,085	23,700	19,209
Advertising and publicity	23	100	154
Incidential expenses	185	100	92
Total		195,650	205,238
Compensation paid [1]	1,672,958	2,130,000	1,992,402
Travelling and subsistence expenses of applicants and witnesses	1,797	1,650	2,448
Balance, Mar. 31, 1970	19,479		41,851
Total	1,870,634	2,327,300	2,241,939

[1] See report and appendixes for details.

NOTES

1. This account covers expenditure throughout Great Britain. A contribution of £465,400 to the Home Office Vote toward the Board's expenses in Scottish cases was made from the Scottish Home and Health Department Vote (class III, 2).

2. Compensation paid by the Board on behalf of child victims is held in trust until they reach the age of majority. At Mar. 31, 1970, the Board held £69,103 on deposit account pending the drawing up of deeds of trust etc.; £33,055 was held in 576 ordinary accounts and £158,491 in 532 investment accounts in the Board's name at the Department for National Savings.

4 September 1970.

WALKER CARTER,
Chairman, Criminal Injuries Compensation Board.

I have examined the above Account. I have obtained all the information and explanations that I have required, and I certify, as the result of my audit, that in my opinion the above Account is correct.

B. D. FRASER,
Comptroller and Auditor General.

APPENDIX A

APPLICATIONS RECEIVED AND RESOLVED, COMPENSATION PAID AND POSITION AT MAR. 31, 1970

	England	Scotland	Wales	Total
1. Applications received:				
(a) 1964-65 (8 months)	477	56	21	554
(b) 1965-66	1,961	391	100	2,452
(c) 1966-67	2,546	633	133	3,312
(d) 1967-68	3,730	1,381	205	5,316
(e) 1968-69	4,658	1,555	224	6,437
(f) 1969-70	5,388	1,566	293	7,247
Total of 1	18,760	5,582	976	25,318
2. Applications resolved:				
(a) Withdrawn/abandoned				
(i) 1964-65 (8 months)	7	1		8
(ii) 1965-66	18	2	1	21
(iii) 1966-67	44	8	1	53
(iv) 1967-68	37	8	3	48
(v) 1968-69	56	12	5	73
(vi) 1969-70	104	13	7	124
Total of 2(a)	266	44	17	327
(b) No award made:				
(i) 1964-65 (8 months)	7	1		8
(ii) 1965-66	156	25	9	190
(iii) 1966-67	189	64	7	260
(iv) 1967-68	219	100	12	331
(v) 1968-69	524	302	26	852
(vi) 1969-70	707	338	34	1,079
Total of 2(b)	1,802	830	88	2,720
2. Application resolved—Continued				
(c) Awards made:				
(i) 1964-65 (8 months)	100	11	3	114
(ii) 1965-66	962	153	49	1,164
(iii) 1966-67	1,833	472	99	2,404
(iv) 1967-68	2,580	769	141	3,490
(v) 1968-69	3,634	1,220	206	5,060
(vi) 1969-70	4,247	1,155	212	5,614
Total of 2(c)	13,356	3,780	710	17,846
3. Compensation paid (pounds):				
(a) 1964-65 (8 months)	26,670	6,138	623	33,431
(b) 1965-66	304,799	87,778	10,141	402,718
(c) 1966-67	690,013	191,338	32,810	914,161
(d) 1967-68	987,920	250,035	55,817	1,293,772
(e) 1968-69	1,198,769	381,611	92,578	1,672,958
(f) 1969-70	1,524,099	386,750	85,735	[1] 1,996,584
Total of 3	4,732,270	1,303,650	277,704	6,313,624
4. Position at 31.3.70:				
(a) Cases resolved	15,424	4,654	815	20,893
(b) Interim cases not finally assessed	416	96	24	536
(c) Hearing and referred cases pending/adjourned	189	79	15	283
(d) Awaiting applicants' decisions	494	126	21	641
(e) Under investigation	2,237	627	101	2,965
Total (as total of 1)	18,760	5,582	976	25,318

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[1] When the Board's books were closed for the financial year the value of uncleared payable orders was £4,182. This represents the difference between the figure shown above and the "Compensation paid" figure in the Board's accounts.

APPENDIX B

APPLICATIONS RESOLVED AND COMPENSATION PAID

	Apr. 1, 1968 to Mar. 31, 1969								Apr. 1, 1969 to Mar. 31, 1970								Totals for Aug. 1, 1964 to Mar. 31, 1970	
	England		Scotland		Wales		Total		England		Scotland		Wales		Total			
	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent
1. Applications withdrawn/abandoned	56	1	12		5		73	1	104	2	13		7		124	2	327	2
2. Single member decisions accepted:																		
(a) Full awards	3,321	56	1,120	19	187	3	4,628	78	3,791	56	1,023	15	189	3	5,003	74	16,228	78
(b) Reduced awards	139	2	45	1	10		194	3	200	3	74	1	10		284	4	762	3
(c) No awards (low limit)	104	2	48	1	7		159	3	135	2	27		8		170	2	565	3
(d) No awards (others)	326	5	157	2	14		497	8	402	6	213	3	21		636	9	1,515	7
Total of single member decisions accepted	3,890	65	1,370	23	218	4	5,478	92	4,528	67	1,337	19	228	3	6,093	89	19,070	91
3. Decisions taken at hearings:																		
(a) Full awards	146	2	46	1	8		200	3	208	3	50	1	13		271	4	722	3
(b) Reduced awards	28	1	9		1		38	1	48	1	8				56	1	134	1
(c) No awards (low limit)	8		2				10		13		5		1		19		42	
(d) No awards (others)	86	1	95	2	5		186	3	157	2	93	2	4		254	4	598	3
Total of hearings decisions	268	4	152	3	14		434	7	426	6	156	3	18		600	9	1,496	7
Compensation paid [2(a)(b) and 3(a)(b) above] (pounds)	1,177,383		378,728		88,344		1,644,455		1,429,104		355,532		80,835		1,865,471		6,135,988	
Add interim awards paid but final assessment not made at Mar. 31, 1970	21,386		2,883		4,234		28,053		94,995		31,218		4,900		131,113		171,636	
Total compensation paid (pounds)	1,198,769		381,611		92,578		1,672,958		1,524,099		386,750		85,735		1,996,584		6,313,624	

Note: (a) Where the percentage is much less than 1, no entry has been made. (b) Interim awards were made in 687 cases between 1.8.64 and 31.3.69. (c) Interim awards were made in 510 cases between 1.4.69 and 31.3.70. Total interim awards 1,197. At 31.3.70 there were 122 of these not finalized. At 31.3.70 there were 414 of these not finalized. Interim awards not yet finalized 536.

APPENDIX C

OUTCOME OF AWARDS AND DECISIONS MADE BY SINGLE MEMBERS

	Apr. 1, 1968, to Mar. 31, 1969				Apr. 1, 1969, to Mar. 31, 1970				Totals for period, Aug. 1, 1964 to Mar. 31, 1970
	England	Scotland	Wales	Total	England	Scotland	Wales	Total	
Award made by single member, and:									
(a) Accepted by applicant	3,460	1,165	197	4,822	3,991	1,097	199	5,287	16,990
(b) Confirmed at a hearing	18	1	1	20	21	3		24	70
(c) Reduced at a hearing	2		1	3	3			3	10
(d) Changed to no award at a hearing					1	1		2	3
(c) Increased at a hearing	50	9	2	61	76	13	4	93	241
Total	3,530	1,175	201	4,906	4,092	1,114	203	5,409	17,314
Percentage of cases which went to a hearing	2.0	.8	2.0	1.7	2.5	1.5	2.0	2.3	1.9
Percentage of applicants successful at a hearing	71.4	90.0	50.0	72.6	75.2	76.5	100.0	76.2	74.4

APPENDIX C—Continued

OUTCOME OF AWARDS AND DECISIONS MADE BY SINGLE MEMBERS—Continued

	Apr. 1, 1968, to Mar. 31, 1969				Apr. 1, 1969, to Mar. 31, 1970				Totals for period, Aug. 1, 1964, to Mar. 31, 1970
	England	Scotland	Wales	Total	England	Scotland	Wales	Total	
Application rejected by single member on merits, and:									
(a) Accepted by applicant	326	157	14	497	402	213	21	636	1,515
(b) Confirmed at a hearing	76	89	5	170	145	87	4	236	552
(c) Changed to an award at a hearing	73	32	4	109	109	33	6	148	353
Total	475	278	23	776	656	333	31	1,020	2,420
Percentage of cases which went to a hearing	31.4	43.5	39.1	36.0	38.7	36.0	32.3	37.6	37.4
Percentage of applicants successful at a hearing	49.0	26.4	44.4	39.1	42.9	27.5	60.0	38.5	39.0
Application rejected by single member by reason of low limit, and:									
(a) Accepted by applicant	104	48	7	159	135	27	8	170	565
(b) Confirmed at a hearing	8	2		10	13	5	1	19	42
(c) Changed to an award at a hearing	11	6		17	19	1	2	22	73
Total	123	56	7	186	167	33	11	211	680
Percentage of cases which went to a hearing	15.4	14.3	Nil	14.5	19.2	18.2	27.3	19.4	16.9
Percentage of applicants successful at a hearing	57.9	75.0		63.0	59.4	16.7	66.7	53.7	63.5
Applications referred to a hearing by single members—resulted in:									
(a) Award being made	20	7	1	28	28	8	1	37	109
(b) No award being made	10	6		16	11	5		16	43
Total	30	13	1	44	39	13	1	53	152

APPENDIX D

ANALYSIS OF NO AWARD CASES

Reason for application being disallowed	Apr. 1, 1968, to Mar. 31, 1969					Apr. 1, 1969, to Mar. 31, 1970					Total, Aug. 1, 1964 to Mar. 31, 1970	
	England (number)	Scotland (number)	Wales (number)	Total		England (number)	Scotland (number)	Wales (number)	Total			
				Number	Percent				Number	Percent	Number	Percent
1. Eligibility not established on balance of probabilities	205	123	10	338	40	289	125	14	428	40	1,001	37
2. Injury sustained accidentally	26	8	1	35	4	9	4	2	15	1	112	4
3. Low limit	112	50	7	169	20	148	32	9	189	17	607	22
4. No prosecution and circumstances not reported without delay	61	71	2	134	16	87	89	4	180	17	385	14
5. Applicant a member of offender's family	12	7		19	2	16	8	1	25	2	61	2
6. Injury caused by a motoring offense	8	6		14	2	13	4		17	2	62	2
7. Applicant's conduct, character or way of life extinguished claim	86	32	6	124	14	124	74	4	202	19	421	16
8. All others	14	5		19	2	21	2		23	2	71	3
Total	524	302	26	852	100	707	338	34	1,079	100	2,720	100

APPENDIX E

ANALYSIS OF THE 20,893 CASES FULLY RESOLVED BETWEEN AUG. 1, 1964 AND MAR. 31, 1970

[Money in pounds]

	England		Scotland		Wales		Total			
	Number	Average award	Number	Average award	Number	Average award	Number	Compensation	Average award	Percentage of total
1. Applications withdrawn/abandoned	266		44		17		327			1.6
2. Single members decisions accepted:										
(a) Full awards	11,677	272	3,358	297	620	278	15,655	4,347,85	278	74.9
(b) Full awards after interim(s)	467	1,374	73	1,312	33	939	573	768,376	1,341	2.7
(c) Reduced awards	532	314	181	386	31	200	744	243,290	327	3.6
(d) Reduced awards after interim(s)	14	1,362	4	541			18	21,230	1,179	.1
(e) No awards (low limit)	434		108		23		565			2.7
(f) No awards (others)	993		471		51		1,515			7.3
Total of 2	14,117	316	4,195	323	758	306	19,070	5,380,759	317	91.3
3. Results of hearings before three members:										
(a) Full awards	445	675	109	507	20	441	574	356,526	621	2.7
(b) Full awards after interim(s)	47	1,460	6	983	3	6,545	56	94,142	1,681	.3
(c) Reduced awards	89	582	23	432	1	500	113	62,224	551	.5
(d) Reduced awards after interim(s)	4	2,371					4	9,485	2,371	
(e) No awards (low limit)	30		11		1		42			.2
(f) No awards (others)	318		224		13		555			2.7
Total of 3	933	722	373	515	38	1,207	1,344	522,377	699	6.4
4. Results of cases referred to three members:										
(a) Full awards	[1]68	2,136	[3]22	1,141	2	15,065	92	200,451	2,179	.4
(b) Reduced awards	[2]13	2,263	4	746			17	32,411	1,906	.1
(c) No awards (low limit)										
(d) No awards (others)	27		16				43			.2
Total of 4	108	2,156	42	1,080	2	15,065	152	232,852	2,136	.7
All cases resolved 1.8.64 to 31.3.70	15,424	345	4,654	335	815	378	20,893	6,135,988	344	100.0

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[1] Includes 6 full awards after interim.

[2] Includes 3 reduced awards after interim.

[3] Includes 1 full award after interim.

Note: The compensation paid in the 536 interim awards cases not finalised is £177,636. The total compensation paid Aug. 1, 1964, to Mar. 31, 1970 is therefore £6,313,624.

APPENDIX F

CRIMINAL INJURIES COMPENSATION SCHEME

The Scheme for compensating victims of crimes of violence was announced in both Houses of Parliament on 24th June 1964, and in its original form came into operation on 1st August 1964.

The Scheme has since been modified in a number of respects. The revised Scheme which came into operation on 21st May 1969, is set out below.

Requests for application forms and all inquiries should be addressed to: The Criminal Injuries Compensation Board, Russell Square House, 10–12 Russell Square, London WCIB 5EN, Tel. 01–636 2812.

THE SCHEME

Administration

1. The Compensation Scheme will be administered by the Criminal Injuries Compensation Board, appointments to which will be made by the Home Secretary and the Secretary of State for Scotland, after consultation with the Lord Chancellor. The Chairman will be a person of wide legal experience, and the other members, of whom there are at present eight, will also be legally qualified. The Board will be assisted by appropriate staff.

2. The Board will be provided with money through a Grant-in-Aid out of which payments will be made to applicants for compensation where the Board are satisfied, in accordance with the principles set out below, that compensation is justified. Their net expenditure will fall on the Votes of the Home Office and the Scottish Home and Health Department.

3. The Board will be based on London but may establish offices outside London if the need arises. They will hold hearings in London, Edinburgh, Cardiff and elsewhere as necessary.

4. The Board will be entirely responsible for deciding what compensation should be paid in individual cases and their decisions will not be subject to appeal or to Ministerial review. The general working of the Scheme will, however, be kept under review by the Government, and the Board will submit annually to the Home Secretary and the Secretary of State for Scotland a full report on the operation of the Scheme, together with their accounts. The report and accounts will be open to debate in Parliament. In addition the Board may at any time publish such information about the Scheme and their decisions in individual cases as may assist intending applicants for compensation.

Scope of the scheme

5. The Board will entertain applications for *ex gratia* payment of compensation in any case where the applicant or, in the case of an application by a spouse or dependant (see paragraph 12 below), the deceased, sustained in Great Britain, or on a British vessel, aircraft or hovercraft, on or after 1st August 1964 personal injury directly attributable to a crime of violence (including arson and poisoning) or to an arrest or attempted arrest of an offender or suspected offender or to the prevention or attempted prevention of an offence or to the giving of help to any constable who is engaged in arresting or attempting to arrest an offender or suspected offender or preventing or attempting to prevent an offence. In consideration for the purpose of this paragraph whether any act is a criminal act, any immunity at law of an offender, attributable to his youth or insanity or other condition, will be left out of account.

6. Compensation will not be payable unless the Board is satisfied—

(*a*) that the injury was one for which compensation of not less than £50 would be awarded; and

(*b*) that the circumstances of the injury have been the subject of criminal proceedings, or were reported to the police without delay; and

(*c*) that the applicant has given the Board all reasonable assistance, particularly in relation to any medical reports that they may require.

Provided that the Board at their discretion may waive the requirement in (*b*) above.

7. Where the victim who suffered injuries and the offender who inflicted them were living together at the time as members of the same family no compensation will be payable. For the purposes of this paragraph where a man and woman were living together as man and wife they will be treated as if they were married to one another.

8. Traffic offences will be excluded from the Scheme, except where there has been a deliberate attempt to run the victim down.

9. The Board will scrutinise with particular care all applications in respect of sexual offences or other offences arising out of a sexual relationship, in order to determine whether there was any responsibility, either because of provocation or otherwise, on the part of the victim (see paragraph 17 below), and they will especially have regard to any delay that has occurred in submitting the application. The Board will consider applications for compensation arising out of rape and sexual assaults, both in respect of pain, suffering and shock and in respect of loss of earnings due to pregnancy resulting from rape and, where the victim is ineligible for a maternity grant under the National Health Scheme, in respect of the expenses of childbirth. Compensation will not be payable for the maintenance of any child born as a result of a sexual offence.

Basis of compensation

10. Subject to what is said in the following paragraphs, compensation will be assessed on the basis of common law damages and will take the form of a lump sum payment, rather than a periodical pension. More than one payment may, however, sometimes be made—for example, where only a provisional medical assessment can be given in the first instance.

11. Where the victim is alive the amount of compensation will be limited as follows—

(*a*) the rate of loss of earnings (and, where appropriate, of earning capacity) to be taken into account will not exceed twice the average of industrial earnings (average weekly earnings for men (21 years and over) as published in the Employment and Productivity Gazette) at the time that the injury was sustained;

(*b*) there will be no element comparable to exemplary or punitive damages.

12. Where the victim has died in consequence of the injury no compensation will be payable for the benefit of his estate, but the Board will be able to entertain claims from his spouse and dependents. For this purpose, compensation will be payable to any person entitled to claim under the Fatal Accidents Acts 1846 to 1959 or, in Scotland, under the appropriate Scottish law. Subject to what is said in the following paragraphs the amount of compensation will be governed by the same principles as under those provisions; the total income of the deceased, earned and unearned, to be taken into account being subject to the limit specified in paragraph 11(*a*) above. Where the victim's funeral expenses are paid by any person for whose benefit an action may be brought under the Fatal Accidents Acts or the appropriate Scottish law, whether or not there is any financial dependency, the Board may pay that person a reasonable sum in respect of funeral expenses less any death grant payable under the National Insurance Scheme. For this purpose paragraph 6(*a*) above shall not apply.

13. Where the victim has died otherwise than in consequence of the injury, the Board may make an award in respect of loss of wages, expenses and liabilities incurred before death as a result of the injury where, in their opinion, hardship to dependents would otherwise result, whether or not application for compensation in respect of the injury has been made before the death.

14. Compensation will be reduced by the value of any entitlement to social security benefits payable by the Department of Health and Social Security (and of payments made under Treasury authority by analogy with the National Insurance (Industrial Injuries Act) which accrues as a result of the injury of death to the benefit of the person to whom the award is made.

15. If in the opinion of the Board an applicant may be eligible for any social security benefits or payments mentioned in paragraph 14 the Board may refuse to make an award until the applicant has taken such steps as the Board consider reasonable to claim these benefits or payments.

16. Where the victim is alive the Board will determine on the basis of the common law whether, and to what extent, compensation should be reduced by any pension accruing as a result of the injury. Where the victim has died in consequence of the injury, and any pension is payable for the benefit of the person to whom the award is made as a result of the death of the victim which would not have been payable, or would not have been so large, if his injury had not been sustained while on duty or in the performance of a duty connected with his employment, the compensation will be reduced by four-fifths of the value of that pension, or as the case may be, by four-fifths of the increase of the value attributable to the injuries having been sustained in that way. For the purposes of this paragraph, "pension" means any pension payable in pursuance of pension rights connected with the victim's employment, and includes any gratuity of that kind.

17. The Board will reduce the amount of compensation or reject the application altogether if, having regard to the conduct of the victim, including his conduct before and after the events giving rise to the claim, and to his character and way of life it is inappropriate that he should be granted a full award or any award at all.

18. The Board will have discretion to make special arrangements for the administration of any money awarded as compensation.

Procedure for determining applications

19. Every application will be made to the Board in writing as soon as possible after the event on a form obtainable from the Board's office.

20. Applications will be sifted initially by the Board's staff, who will seek further information as to the relevant circumstances and, where necessary, medical advice.

21. The initial decision whether the application should be allowed (and, if so, what amount of compensation should be offered) or should be rejected will normally be taken by one member of the Board, whose decision will be communicated to the applicant; if the applicant is not satisfied with that decision, whether because no compensation is offered or because he considers the amount offered to be inadequate, he will be entitled to a hearing before three other members of the Board, excluding the one who made the initial decision. It will, however, also be open to the single member, where he considers that he cannot reach a just and proper decision, himself to refer the application to three other members of the Board for a hearing.

22. At the hearing, it will be for the applicant to make out his case; he and a member of the Board's staff will be able to call, examine and cross-examine witnesses. The Board will reach their decision solely in the light of the evidence brought out at the hearing, and all the information before them

will be available to the applicant. While it will be open to the applicant to bring a friend or legal adviser to assist him in putting his case, the Board will not pay the costs of legal representation. They will, however, have discretion to pay the expenses of witnesses.

23. Procedure at a hearing will be as informal as is consistent with a proper determination of the application, and the hearing will be in private.

24. It is not intended that a person who has pursued a claim for damages for personal injuries should obtain compensation from the Board in respect of those injuries in addition to obtaining satisfaction from that claim; and compensation will be reduced by any sum which the victim has received in pursuance of an order for compensation by a criminal court in respect of his injuries. Furthermore, a person who is compensated by the Board will be required to undertake to repay them from any damages, settlement or compensation he may subsequently obtain in respect of his injuries.

STATE OF NEW YORK—1970: FOURTH ANNUAL REPORT OF THE CRIME VICTIMS COMPENSATION BOARD

HON. NELSON A. ROCKFELLER,
Legislature of the State of New York.

I have the honor to submit the Fourth Annual Report of the Crime Victims Compensation Board for the year 1970 rendered pursuant to the provisions of Article 22, Section 623 of the Executive Law.

Respectfully,
STANLEY L. VAN RENSSELAER,
Chairman.

ALBANY, *April 1, 1971.*

SIRS: We have the honor to submit this our fourth annual report.

1. The claims have increased each year since the inception of the Board. This year there was a total of 1594 claims received and filed. The previous years from 1967 with 196, 1968 with 519 and 1969 with 929 claims graphically shows the enormous increase in this present year.

It it the intention of the report to not only set forth the number of claims, but also the disposition with the decisions, amended decisions and full Board reviews. In addition, there are many claimants who have been given the right to reopen their claim under certain conditions set forth in the decision.

We shall also show the comparison of the number of open claims under investigation at the end of this year, with the protracted and death claims as compared with the previous year. There will also be discussed the additional investigations necessary before amended decisions are made and periodic reinvestigations on both the protracted and death claims. In many instances additional investigation becomes necessary following a full Board review.

2. Workload: Since this Board was created on March 1, 1967, this report will cover the activities for the year March 1, 1970 through February 28, 1971.

Actually the number of claims received and filed at the Albany office does not fully reflect the workload. There are hundreds of inquiries by telephone, by letter and by personal appearance at either the New York or Albany office. The increase in the workload and the lack of staff does not permit a record of each inquiry requesting information. It has been the policy of the Board to ascertain whether the claimant is eligible, if unreimbursed medical expenses amount to $100 after taking into consideration insurance benefits, whether he has lost two weeks continuous loss of earnings, his relationship, if any, to the assailant and his financial resources. It is felt that although it requires considerable more time to screen these inquiries that there is much time saved rather than to simply send a claim form.

In addition, and perhaps equally important in following this procedure is the fact that a claim is not accepted for filing when it is clear that the claimant would not be eligible. This obviates disappointment if his claim would be disallowed for any one of the above reasons.

Many claimants feel all that is needed is to advise the Board that they are the victim of a crime and request a certain number of dollars covering their personal property, cash lost and even damage to their real estate.

There is set forth a listing by month for the past two years and the present year a schedule which reflects the increase in the number of claims:

	Mar. 1, 1970, to Feb. 28, 1971	Mar. 1, 1969, to Feb. 28, 1970	Mar. 1, 1968, to Feb. 28, 1969
March	110	75	27
April	119	67	24
May	117	54	45
June	115	49	36
July	95	52	33
August	116	92	53
September	153	78	39
October	161	82	47
November	157	67	37
December	149	73	52
January	169	139	61
February	133	101	65
Total	1, 594	929	519

It is interesting to note that less than 20% of the claims filed were by attorneys acting for the claimant. The majority of the attorneys appearing are in death claims.

As can be expected the greater majority of the claims filed are from the New York City Metropolitan area. Approximately one-third are upstate claims and two-thirds are from New York City area.

The publicity having been given to this Board has been much greater in the city than upstate and this would appear to be one of the reasons for the disparity.

3. Open Claims: There were 771 claims under investigation as of February 28, 1971, as compared with only 278 on February 28, 1970. This large backlog is due partially to the fact that we do not have sufficient personnel in the New York City office. At the present time there are two Grade 17 senior investigators and five Grade 13 investigators. Due to the number of claims under investigation in the New York City office the Board felt that it was necessary to assign one of the senior investigators as an acting supervisor and the other senior investigator to aid him and investigate the more difficult and involved claims.

This leaves five Grade 13 investigators and each is presently assigned in excess of 100 claims. There are still open claims that have not been assigned as it is unrealistic to expect any investigator to handle that number. The experience of the Board has shown that 40 to 45 is the maximum number any one investigator should be assigned. With a normal work month having 22 days, it cannot be expected that an investigator, except under unusual circumstances, can complete the investigation of more than 12 to 15 claims.

It must also be recognized that since no award can be made unless there is a finding of serious financial hardship it is the responsibility of the Board to complete its investigation as promptly as possible. Certainly any claimant entitled to an award needs the money within a reasonable time and not a year later. The Board has received many telephone calls and letters, as well as letters to the Governor, inquiring why, after having filed a claim several months previously, they have not received an award.

The Albany office which covers all of the state except the metropolitan area presently has one senior investigator and two Grade 13 investigators. To date these investigators have been able to handle the claims even through a substantial number of their work days are consumed in travelling. It is hoped that the present staff will be able to continue to keep abreast.

4. Types of Crime: Approximately 60% of the personal injuries claims are assaults, excluding stabbing, and/or robberies; 12% are death claims; another 12% were knife wounds; another 12% bullet wounds and the rest miscellaneous, such as, rape and motor vehicle violations of law.

5. Investigations: The investigation required on claims is carefully determined beginning with the receipt of the claim in the Albany office. Each claim form before it is entered in the log book is examined to determine if, there is an eligible claimant, whether a crime has been committed, personal physical injuries sustained, whether it was reported to the police authorities and whether there is at least $100 unreimbured medical expenses and/or two weeks continuous loss of earnings.

Where a claim form does not show the minimum requirements it is returned with an explanation advising the claimant, however, that if he does have unreimbursed medical of at least $100 or two weeks loss of earnings that the same should be stated in the claim form and returned.

Each claim is carefully examined to determine not only the above, but if the person filing the claim is one eligible under the statute to receive an award.

If it appears that the claim meets the statutory requirements, it is then assigned to an investigator. It becomes his duty to analyze the claim for the purpose of determining not whether a full investigation is required, but rather what should be done in the first instance. Each claim must be so analyzed and each investigator has been instructed that until those essential elements of the statute are satisfied no further investigation should be conducted. As an example, it can be seen many times from an examination of the claim that the occupation as listed might very well not be a person who would suffer serious financial hardship. Accordingly, if the financial resources are immediately ascertained from the claimant and it can be determined that there will not be serious financial hardship there is no need to continue the investgiation.

As above stated, if a claimant is entitled to any award then every effort should be made to bring the investigation to completion so that a decision may be rendered. The reason being that after the decision is made, the claimant has 30 days in which to advise whether he accepts or rejects the decision requesting a hearing before the full Board. If he accepts then the decision must go to the Attorney General and Comptroller who have 30 days n which to approve or reject the decision. We have requested the legislature to reduce to 15 days this period. Following that a warrant must be prepared for the Comptroller and it is another two or three weeks before the checks are issued.

Of course, no investigation can proceed until after the district attorney advises that he approves of the investigation or fails to answer within 10 days. Accordingly, during this period only the acknowledgment letter to the claimant requesting whatever information is desired of him and a letter is sent to the doctor, hospital and employer.

Personal interview with the claimant in the initial stage has been found to be very productive. All investigators have been requested to contact and arrange for an interview with the claimant before undertaking a full investigation. It should also be noted that each claimant is advised that this Board is not his adversary. He is advised that this Board is interested in obtaining all of the facts whether it be in his favor or not. Every expense as well as the loss of earnings is verified. The claimant is also advised that his cooperation in furnishing information requested as soon as possible will be to his advantage. However, there are many claimants who for unknown reasons refuse to comply with the requests and since no decision can be made without the information they are given a second chance to furnish the same. The second letter advises the claimant that unless he does furnish this information there can be no award granting him any benefits.

The most extensive investigations are those where there is a question of provocation. The police departments and the district attorneys' offices have been cooperative in all investigations but have been most helpful in this type. There are many times when the investigator in the field is unable to find any witnesses and the police and the district attorneys have allowed this Board to examine their files and even furnish copies of statements and/or depositions taken from witnesses that were interviewed immediately following the incident.

There are delays that are unavoidable in a number of instances. Whenever a claimant was injured while at his place of employment no final determination can be made until after the Workmen's Compensation Board makes a ruling. In death claims there can be no award made until after the Social Security benefits are determined. This is also true in the protracted disability claims.

Perhaps one of the greatest delays occurs where Blue Cross and/or Blue Shield or other insurance companies have not determined the amount payable by them. Some hospitals only submit their bills to Blue Cross on a quarterly basis.

The Board has found that letters with appropriate forms requesting information brings results within a reasonable time in most cases.

The Board Members have made decisions where loss of earnings were known but the medical expenses had not been determined. The decision allows the medical bills to be submitted later. Thus, claimants receive an award for loss of earnings without waiting several months.

The Board feels that this has been most helpful to the claimant or in the death claim to the survivors, since they are the ones who are presently in need of funds.

6. Disposition of claims: There were 1090 decisions by the Board Members in which 458 claimants received awards and 632 claimants received no awards.

The provisions of the statute accounted for the disallowance in many cases. There were 161 in which the claimant did not meet the minimum requirements. Another 177 failed to furnish the information requested. It has been and will continue to be the policy of this Board to place the responsibility upon the claimant to furnish information over which he has control or has in his possession. It has been found that many claimants refuse to divulge their financial resources claiming that it is an invasion of their rights.

The most difficult problem still continues to be determining the question of serious financial hardship. Many of the elderly people who are retired, who have worked many years, have been frugal and have saved money to take care of them in their declining years represents one group that the Board feels should be reimbursed for their medical expenses. However, the statute makes no distinction and, therefore, with substantial savings the statute does not permit an award to these elderly persons.

Another segment of our society is the middle income man who has supported his family, has been gainfully employed and is not only a respectable but responsible citizen. This claimant fees that having been a law-abiding citizen who has worked hard and paid his taxes he is entitled to receive his unreimbursed medical expenses and his loss of earnings within the limitatons allowed by the statute. Ths Board continues to feel that these two classes of individuals should be compensated.

The Board members have discussed this matter of serious financial hardship to try to determine, within the framework of the statute, justification to make awards. However, the Board recognizes the mandate in the statute and considers each claim on its own merits to attempt to see that those people, particularly these two classes, are given every consideration. There is set forth a schedule showing the reasons for the disallowance of claims:

Withdrawn	61
Member of family	6
Provocation	4
No principal support	15
No minimum requirements	161
No serious financial hardship	93
No crime	19
No police report	28
Workmen's compensation pending	19
Claimant ineligible	10
Failed furnish information	177
Over 1 year	14
Duplicate claim	2
Claimant deceased	7
Death not due to crime	2
Civil Action pending	4
No physical injury	2
Crime undetermined	1
Good Samaritan [1]	1
Unable to locate claimant	3
Police report delay unjustified	1
New claim filed	1
Medical proof to be submitted if related to crime	1
Total	632

[1] Claimant filed under New York City Good Samaritan Law.

The personal injury claims represent 80% and protracted 10% of the total claims and the balance, or 10%, were death claims.

The average personal injuries or lump sum claim has increased over the preceding year and this year is $1930.00. The average death award which is payable over a 12 month period was less than the previous year and this year was $2040.00. The protracted awards were down over the previous year and this year the average award payable over a 12 month period was $3450.00. This does not take into account the increase in medical expenses which is substantial. It was necessary prior to the end of this year to request $100,000 in the deficiency budget, all of which was used in the payment of awards. The hospital and medical expenses continue to rise. These additional medical expenses are incurred following the original decision and in most instances is provided for in the original decision. It is anticipated that during the coming year the average for each type of claim will increase. This is due to new labor contracts increasing wages, as well as the increased costs of medical care.

The Board in following the statute reduces the award by any sum received by the claimant from any source. There were claimants and attorneys who objected strenuously when Blue Shield or other insurance monies for which they had paid the premium were deducted. The Board determined that since there was only the balance left for the claimant to pay only that amount could be allowed. Accordingly, the Board asked the legislature to amend the statute so that any amount received under any contract of insurance where the claimant is the insured or beneficiary can be deducted. This is now specifically set forth in the statute.

In determining the loss of earnings and/or support the Board has continued to make awards only for the net earnings or take-home pay of the claimant or in the case of death to his survivors.

In the death case the loss of support is arrived at by deducting the deceased's personal expenses as well as Social Security benefits, Workmen's Compensation or pensions. This is in accordance with the statute which mandates that only the actual loss of earnings or actual loss of support may be granted.

7. Death and Protracted Claims: The Board has followed the statute in providing for monthly payments in both the death and protracted claims.

The protracted claims have continued to increase as well as the death claims as will be seen from the schedule set out below.

This requires additional periodic investigation to determine whether the claimant is still disabled as a direct result of the injuries he received in the incident. The claimant is contacted and a doctor's report is obtained. In many instances the Board's doctor examines the claimant to verify his disability. There is also a check as to whether he is gainfully employed or has returned to his former position. Unless the investigation reflects this inability to work due to his injuries the payments are stopped.

The death claims require reinvestigation to determine if the dependency is the same as when the decision was made.

With the increase over the previous year and the expected increase during the coming year the amount of time required by the staff is substantial. However, the Board feels that any and all efforts to make a correct determination is money well spent. It has been found that although a person has returned to work he has failed to notify the Board although advised previously that it was his duty and responsibility to do so. It must be said, however, that the great majority of the claimants are honest and advise the Board promptly. The following schedule shows the increase this year over the two previous years:

	Feb. 28, 1969	Feb. 28, 1970	Feb. 28, 1971
Death	22	56	100
Protracted	28	63	112
Total	50	119	212

We shall continue to provide for monthly payments in these two types of claims since this procedure not only follows the statute but is also in the best interest of both the state and the claimants and/or survivors.

8. Amended Decisions: Reasons have been afforded in which original decisions were amended to make provision for both additional medical expenses and loss of earnings. Although the Board Members, wherever there is probable reason to believe there will be further medical expenses, have provided for the same in the original decision there are many times when this cannot be done. Accordingly, it has been necessary in 59 claims to prepare and make amended decisions following the reinvestigation to verify the medical expenses and/or loss of earnings.

There were 5 claims where amended decisions were made following investigations in which no award or further allowance was made. In each of the other 54 claims there were additional monies awarded.

9. Right to Reopen: There are several reasons in which claimants are given the right to reopen their claim at some future date.

Generally this occurs where in the death claims at the time of the original decision there could not be a finding of serious financial hardship. It has been the Board's policy to allow a claimant to apply to reopen where it can be reasonably anticipated that the assets at the time the original decision was made would not be sufficient for the support for the normal life expectancy.

This policy was developed during the previous year.

It should be noted, however, that when the right to reopen is given to the claimant, the Board requires that the assets available at the time the decision was made have been used for the care, maintenance and/or support and education of any children and have not been wasted or dissipated. Proof is also required as to what, if any, assets the claimant has received from the date of the decision up to and including the time when the request for reopening is granted.

During this year this right has been granted to 61 claimants.

10. Full Board Reviews: There were 17 days in which full Board reviews were held and a total of 88 claims was heard.

There were 47 decisions that were affirmed, 15 in which there was a reversal of the original decision and an award made and 18 were reopened for investigation.

There are many requests for full Board reviews made but were not granted immediately for the reason that certain information had not been furnished prior to the decision. Claimants were, therefore, advised that if they care to submit this information which had not been furnished that an investigation would be directed to verify the same. Wherever this has been possible an amended decision has been written incorporating the additional information and investigation. In many of these instances the amended decision even though no award was made has satisfied the claimant.

12. Rules: There has been no amendment to the rules since the last annual report.

The policy set forth in the last annual report has been followed.

The Board has continued to study and discuss the problems that are presented with the statutory provision of serious financial hardship. As has been set forth hereinbefore the elderly and the middle income groups are the ones that appear to be adversely affected under this provision of the statute.

13. Forms and procedures: The Board in concert with the staff has continued to review our investigative procedures in an attempt to streamline them.

As has been set forth before in this report, we have attempted to screen out those claimants who do not meet the minimum eligibility of the statute. This we will continue to do for the reasons stated in the discussion under Investigations.

We shall continue the policy of holding the claimant responsible for furnishing that information which he has. We shall also continue to make payment for unreimbursed medical expenses directly to the creditors.

14. Crime Victims Compensation Board: The awards which are made by the Board to innocent victims of crime provide the victim with his loss of earnings in order that he may maintain himself and his family as well as to assume payment for the unreimbursed medical expenses.

In addition to the declaration of policy and legislative intent, there are other compelling reasons for this program.

Social welfare justification to compensate innocent victims of crime is the straightforward approach. The state has recognized its responsibility to the disabled veteran, the sick, the unemployed and the aged. Thus, it follows logically that the state should recognize a responsibility to those victims of crime who have suffered personal physical injuries through no fault of their own.

Attention is again called to the declaration of policy and legislative intent which states that aid, care and support be provided by the state as a matter of grace. This declaration takes into consideration not a class but rather individuals. The state recognizes that it is the individual who is important. This has been demonstrated by many claimants who have written the Board as well as the Governor.

One letter from a claimant in commending the Board for its prompt, equitable and understanding treatment adds that "programs such as this helps to restore one's faith in his fellow man".

Another one wrote stating, "It is indeed gratifying to find that someone does care".

A crime compensation plan aids in bettering the statistics of crimes reported. Our statute provides that no award may be made unless the crime is reported to the proper authorities within 48 hours. This may be waived upon a showing of good cause. It is accepted that there are many crimes that are not reported to the police. Since this statute directs the reporting of a crime it should lead to better law enforcement.

Crime compensation programs also aid in the prosecution of criminals. When a victim is fairly treated by society he certainly is more willing to cooperate with the law enforcement officials.

Each year the Board becomes more aware of the general public not only accepting the program of aiding innocent victims of crime, but appear to wish the same to be broadened. A Gallup poll taken on this matter several years ago shows that 62% favored such a program. Perhaps the increasing attention to the rights and privileges of the accused has brought to the public the stark contrast between the criminal and the plight of the victim.

The legislative intent to keep people off the welfare roll has been demonstrated and brought to the Board's attention on more than one occasion. Letters from claimants stating that were it not for the benefits available they would have had no other recourse than to have applied for welfare. Certainly recognizing the dignity of the individual is reason enough to continue and to increase the benefits of this program.

Although there is a small percentage of claims filed by attorneys, we have found that they are not only cooperative but appreciative. Attorneys on many occasions express their appreciation for prompt and fair consideration given the claimant.

The variety of telephone calls and letters received by this Board cover every variety of request. Many are interested in whether they can recover for the loss of their property and others who were hit and run victims. One telephone call, however, stands out above them all. The New York City office received a telephone call from a woman asking for help as she had no one to turn to having been recently robbed and was without food, money or friends. She then stated that she had no other alternative than to take her life. The investigator who was taking the call, after talking with her at great length, discussing her religious beliefs, was able to calm her to a degree that she felt much better and said she would not take her life. Shortly thereafter she called again stating that she had now definitely decided to take her life. While he kept her talking he obtained her name and address and had another investigator in the office alert the police who responded immediately, whereupon she asked to be excused as someone was knocking at her door. The next voice he heard was that of the patrolman. Thus, it can be seen that the Board and the staff are called upon in many and certainly sometimes unique situations.

There are several other states which are proposing a crime victims program and it is expected that there will be several adopted.

There are several provinces of Canada that have a statute, most of them similar to the English scheme. The Dominion of Canada is also making a study looking toward a uniform statute for the Dominion.

There is also a committee of the American Bar Association studying all of the states programs in an attempt to develop a uniform statute.

Although there have been a number of bills submitted to the Congress none has become a reality as yet.

More and more articles are written by law professors, law school students and philosophers which has generated further interest by other states.

The Chairman and Executive Secretary attended a conference in Maryland in the spring of 1970 at which there was represented most of the states who have statutes as well as the provinces and the Dominion of Canada. There was an exchange not only of information, but of the problems that are common to all of the states and a great deal was obtained of value. It was the consensus of the Second International Conference, hosted by the Maryland Criminal Injuries Compensation Board, that an association be formed. Attending the conference were individuals who have written treatises which have been published in various law school reviews.

The purposes of the association included the exchange of information and a discussion of problems that are common and to furnish to those states which are studying such a program statistics and costs.

15. Board and Staff: The district attorneys and all law enforcement agencies have continued their full cooperation with this Board.

The staff as well as the Members of the Board and the Executive Secretary have had added duties assigned due to the steady increase in the number of claims. Without the cooperation of each one, this Board could not have processed as many claims.

The Board, with the cooperation of the staff, will continue to investigate and render decisions in as many claims as can be possibly done with our present personnel.

The Board recognizes its duties and responsibilities to innocent victims of crime.

Stanley L. Van Rensselaer,
Chairman.
Claire E. Canning,
Secretary to Board.
Max L. Nissman,
Board Member.
P. Vincent Landi,
Board Member.
Albany, N.Y., *April 1, 1970.*

EXHIBIT

State	Jurisdiction	Eligibility	Restrictions	Amount	Subrogation	Attorney fees	Loss of property	Determination
California: Cal. Gov't Code. §§ 13960–13966 (1967); §§ 13970–13974 (1969).	State Board of Control (hearing)	1. Victim. 2. Dependants—in case of pecuniary loss from his injury or death.	Need basis-----	Not in excess of $5,000.	State subrogated to rights of claimant against offender to the extent of payment of the claim. May intervene in claimant's action against offender or bring own.	Not in excess of 10%--	To private citizen preventing crime or apprehending criminal, or rescuing a person.	May refuse to compensate for lack of cooperation with police in apprehension of offender.

State	Jurisdiction	Eligibility	Restrictions	Amount	Subrogation	Attorney fees	Loss of property	Determination
Hawaii: Hawaii Rev. Law §§ 351-1, -351-70 (1967).	Criminal Injuries Compensation Commission (hearing)	1. Victim. 2. Dependants—in case of his death. 3. Other—person responsible for victim's maintenance, where pecuniary loss results from victim's injury.	General	Not in excess of $10,000.	State may bring derivative action against the convicted offender in the name of the victim or dependants awarded compensation. Excess recovery given to claimant.	Commission as part of order may award reasonable attorney fees, not in excess of 15% of an award over $1,000—out of the award.	To private citizen in preventing crime or apprehending a criminal.	Reduce compensation to extent victim was responsible for the crime that caused his injury.
Maryland: Md. Ann. Stat. art 26A, §§ 1-17 (1968).	Criminal Injuries Compensation Board (single member with right to appeal to whole).	1. Victim. 2. Dependants—in case of his death. 3. Other—dependant on victim for their principal support. 4. Anyone injured or killed in attempting to prevent a crime, and his dependants.	Out-of-pocket loss of $100 or two weeks' earnings plus "serious financial hardship."	Art. 101, § 36 schedule used.	------	Subrogated to the extent of the award to recover payments resulting from the crime.	------	Reduce compensation to extent victim contributed to his injury. May be disregarded if victim attempted to aid a victim or prevent crime or apprehend a person after he committed a crime.
Massachusetts: Mass. Gen. Laws ch. 258A, §§ 1-7 (1968).	District Court	1. Victim. 2. Dependants—in case of his death.	Out-of-pocket loss of $100 or two weeks' earnings.	Equal to loss up to $10,000.	------	"To the extent of compensation," any amount received by claimant from any source exceeding the actual loss to the victim may be recovered.	Court as part of order may award reasonable attorney fees, not in excess of 15% of an award over $1,000—out of the award.	Same.
New York: N.Y. Exec. Law §§ 620-635 (1966). (1966).	Crime Victims Compensation Board (single member with right to appeal to whole).	1. Victim. 2. Dependant—in case of his death. 3. Other—dependent on victim for their principal support. 4. Anyone injured or killed in attempting to prevent a crime, and his dependants.	Out-of-pocket loss of $100 or two weeks' earnings plus "serious financial hardship."	Not in excess of $100 per week earnings or support, nor an aggregate award of more than $15,000.	------	To the extent of the award to recover payments resulting from the crime.	------	Same.
Nevada: Nev. Rev. Stat. §§ 217.180-217. 260 (1969).	State Board of Examiners (hearing).	1. Victim. 2. Dependant—in case of his death. 3. Other—person responsible for victim's maintenance where pecuniary loss results from victim's injury.	General	Not in excess of $5,000.	Subrogated to the cause of action of the applicant against the offender and may bring an action for the amount of damages sustained by the applicant. Excess recovery paid to claimant.	Board as a part of order may allow reasonable attorney fees, not to exceed 10%—out of the award.	------	In determining whether to make an order for compensation, the board shalt consider provocation, consent, or any other behavior of the victim.
New Jersey: N.J. Session Law Oct. 1971.	Violent Crimes Compensation Board (hearing).	1. Victim. 2. Dependent—in case of death. 3. Other—person responsible for victim's maintenance where pecuniary loss results from victim's injury.	Out of pocket loss of $100 or two weeks earnings.	Not in excess of $10,000.	Subrogated to the cause of action of the applicant against the offender and may bring an action for the amount of damages sustained by applicant. Excess recovery paid to claimant.	Board as part of order may allow reasonable attorney fees, not to exceed 15% of the award—not out of award.	------	Reduce compensation to extent victim contributed to his injury. May be disregarded if victim attempted to aid a victim or prevent a crime or apprehend a person after he committed a crime.
Victims of crime act of 1972 [Title I].	Violent Crimes Compensation Board (hearing).	1. Victim. 2. Dependent—in case of his death. 3. Other—person where pecuniary loss results from victim's injury. 4. Anyone suffering pecuniary loss.	$100 minimum plus undue financial hardship.	Not in excess of $50,000.	Attorney General may maintain action against offender for recovery of the whole or specified amounts of the compensation.	Attorney fees allowable as under 18 U.S.C. 3006A.	------	In determining whether to make an order, the behavior of the victim is considered.

Note: Adapted from 47 Notre Dame Law 88 (1971).

Multnomah County, Oreg.,
December 1, 1971.

Senate Judiciary Committee,
Washington, D.C.

Gentlemen: I am forwarding to you the copy of a newspaper story relating to the tragic death of a police officer who was engaged in his official duty attempting to avert a bank holdup.

Apparently, the city he was working for did not have the fringe benefit of life insurance provided for their police officers; and because of the outrageously low salary, the officer was unable to pay for his own policy.

It is my understanding that there is currently pending legislation that would provide death benefits in such cases as this. As a former sheriff and as one who retains a keen interest in the criminal justice system, I strongly urge that such leigslation receive prompt and favorable consideration.

Thank you for allowing me to call this to your attention.

Very truly yours,
Donald E. Clark,
Commissioner.

[From the Oregon Journal, Nov. 10, 1971]

Creswell Mourns Slain Policeman With Solemn Rites—Murderer May Have Mistaken Victim

(By James Long)

Creswell.—City Policeman Curtis VanDerson may have been murdered by bank robbers Friday night because of a grotesque case of double mistaken identity.

This possibility became clear Tuesday as a team of Journal newsmen visited Creswell, a quiet, friendly lumbering town, and talked to witnesses.

The story is complex and requires an understanding of the setting.

As you drive south on Interstate 5 out of Eugene, Creswell pops up on the right. It is a small community with a population of 1,200, and most of the social activities center on the churches and VFW hall.

Nearby, in the hills, are some "hippie" communes with many bearded types—and these are not looked on with much favor by the townspeople. One man, looking wth disdain at a wild-haired youth departing. The Penguin restaurant, murmured, "I'd like to catch that guy out in the brush. I'd hogtie him and—" He bit off the sentence.

The Penguin is the older part of Creswell, which grew up around the Southern Pacific Railroad tracks near a busy lumber mill complete with a still-smoking wigwam burner. After I-5 was built, the town crept eastward with a succession of new store buildings two of the newest being the Community Bank of Creswell and Joe Estes' Texaco station directly across the wide street.

Estes' wife, Virgie, was taking care of the station Tuesday and keeping a large pot of free coffee brewing for customers who dropped in.

Virgie Estes is a smiling, pleasant individual whose friendliness tapers off a bit when it comes to "longhairs."

"I have boys working for me, and I treat 'em like my own sons," she says. "The only thing I require is honesty, hard work, and a haircut."

Mrs. Estes acknowledged that it was the long hair of a young man who walked into the station late Friday and asked for change for a quarter that kept her from studying him closely enough to give a good description.

Only a few minutes after she gave the change, the young man would walk to the vicinity of a white Oldsmobile parked in an adjacent car wash 200 feet west—and it was from that location that shots were fired that would take the life of the 31-year-old patrolman.

Some significant events leading up to the murder began to occur at about 5:40 that Friday evening.

Virgie Estes was trying to finish her chores early at the station so she could attend a Presbyterian dinner that evening with her husband.

Dusk was falling as she gathered up the afternoon's receipts and hurried across the four lanes of Oregon Avenue to the brightly lit, cedar-and-stone bank building that shortly was to become the scene of the fatal robbery.

Returning, she glanced only briefly at the white 1964 Olds parked inside the farthest of two open-ended buildings comprising the Venda-Wash car wash—not then connecting the car with the young man who followed her into the station.

"He was in his 20s, with a green sherpa coat and blond hair down to his collar," she recalled. "The way he looked irritated me. He had two quarters in his hand and he said, 'Can you change this?' and handed me one of them. I gave him two dimes and a nickel."

In retrospect, Mrs. Estes wonders about the significance of the request for change. The man put exactly 40 cents in the cigaret machine as if he knew the machine would return no change—which happens to be the case. He had not attempted to use the two quarters.

Another peculiar thing happened, said Mrs. Estes. "He went over and took the key to the john. The writing on those keys is small, and most people have to look to see which one is which. He just reached out and took the correct one."

As Mrs. Estes leaned against a counter, she could see the longhaired young man hand the key to someone else outside the station. She only saw the other person's hand take the key. Then the young man strolled slowly toward the Venda-Wash.

Shortly after Mrs. Estes left the station, a 17-year-old employe, Sheldon Patrick, watched a dark, foreign made car drive into the bank parking lot with its lights off.

A short time later he saw Patrolman Van Derson's prowl car enter the lot and stop just after clearing the curb. Patrolman Van Derson got out, ran around to the rear of the car and crouched with his pistol drawn.

Patrick didn't know that Van Derson had been dispatched to check a silent bank alarm.

Moments later, Van Derson spotted a bearded young man coming out of the bank and ordered him to sit with his hands below his head. What Van Derson didn't know—and what apparently had escaped the attention of the men in the carwash across the street—was that the two men in Halloween masks who had robbed the bank had already fled.

In the dusk—it was quite dark by this time—did the lookouts mistakely assume that one of their accomplices had been captured?

Whatever the case, several quick shots rang out from the carwash and hit Van Derson just as he started to get up. He pitched forward and died within minutes. The gunmen all fled.

Mr. McCLELLAN. Mr. President, I submit that this is important legislation. It will be our purpose when it is referred—as I am sure it will be—to the Subcommittee on Criminal Laws and Procedures, to move with all due expedition. We have already held a number of hearings on nearly every aspect of the bill. I hoped that we will be able to get the bill reported for action to the Senate early next year.

Mr. MANSFIELD. Mr. President, with the introduction today of this highly important omnibus criminal victim bill, I am happy to join the distinguished chairman of the Senate Subcommittee on Criminal Laws and Procedures. This is a most important step; one needed if we are ever to correct a grave deficiency in this Nation's system of criminal justice. What it provides is solid recognition for the victim of crime—the one who suffers most. As Senator McCLELLAN indicated, title I of this measure is patterned directly upon my bill, S. 750, a bill that underwent exhaustive hearings by the Criminal Laws Subcommittee less than 2 weeks ago.

What was then made clear was that the point has been reached where at the national level full consideration must be accorded the victims of crime; those for whom, thus far, the process of criminal justice has failed miserably. Indeed, it is because society as a whole has failed to protect its members adequately that such an obligation has become due to those who suffer.

I am pleased indeed, that the able chairman of the committee has now embraced the concept of criminal victim compensation. I am pleased as well that he, along with so many others, has come to recognize that at the very least, the victim of crime should be made whole for suffering personal injury. In this regard, title I of the Victims of Crime Act of 1972 does precisely what I sought to do with S. 750. Under it, when fully implemented, any person who personally injured in the perpetration of any crime would receive pecuniary compensation. There would be established a Federal Compensation Board or Commission which would make direct awards to the victim for injuries suffered in the course of the crime committed within the Federal criminal jurisdiction. In addition, a system of revenue sharing in the form of grants would underwrite similar State compensation programs for the victims who suffer from crimes within State and local criminal jurisdictions.

I would only reiterate that, when the protection of society is not sufficient to prevent a person from being victimized, society then has the obligation to compensate the victim for that failure of protection. This measure, when fully implemented, covers everyone. The unsuspecting victim of rape. The policeman ambushed answering a routine call. The fireman shot by a sniper when responding to an alarm. The ghetto dweller. The suburbanite. In short, this proposal provides for all who suffer personal injury from criminal violence.

Mr. President, this is a time for bold action. This is a time for Congress to demonstrate to the people of America that it is interested in the problems and suffering of victims of criminal acts. The time has come to give these matters early attention, and I hope that the Judiciary Committee can soon report this and other measures which are designed to give long overdue consideration to the victim.

I gladly join in this measure. I would like to mention that this whole concept of compensation for victims of violent crimes was discussed at length in an article contained in a U.S. News & World Report issue of last April. The author of that article undertook a great deal of research and reported the success achieved by crime compensation programs where they presently exist. I ask unanimous consent that the article be printed in the RECORD at the end of my remarks.

The PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

Mr. MANSFIELD. I had the privilege also of addressing the Subcommittee on Criminal Laws and Procedures at the time of its hearings on my bill, S. 750, a week ago last Tuesday. I ask unanimous consent that my remarks before the subcommittee be printed in the RECORD at the conclusion of my remarks.

The PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 2.)

Mr. MANSFIELD. In closing, I would only add that when this Congress adjourns next year, it is my profound hope that it will do so with the concept of criminal victim compensation firmly implanted into this Nation's system of criminal justice.

Exhibit 1

Public Pay for Crime Victims: An Idea That Is Spreading

As violent crimes increase, pressure is building up for a federal law to provide compensation from public funds for innocent victims of those crimes.

Six States—New York, Massachusetts, Maryland, California, Hawaii and Nevada—already have enacted programs for such payments, and several other States are considering the idea.

Now bills have been introduced in Congress to make this type of compensation nationwide. One bill is sponsored by the Senate Majority Leader, Mike Mansfield (Dem.), of Montana, the other by Representative William J. Green (Dem.), of Pennsylvania.

Both bills not only would provide federal payments to persons injured by crimes that come under federal jurisdiction, but also would help States pay victims of crimes under State laws.

In addition, three bills have been introduced in the House to compensate those hurt by violators of federal laws.

HEARING ASSURED

Chances for passage of any such law in this session of Congress are regarded as dim. But Senator Mansfield has been given assurances that the proposals will at least get a hearing in this session—and backers predict the idea will gain momentum rapidly in years just ahead.

"This is an idea whose time has come," said Representative Green.

"We have passed a lot of laws directed at the criminals, and now we need to turn our attention to the innocent victims of criminals. It may not be this year, or next, but eventually we're going to have such a law."

If so, the United States would be far from the first nation to adopt the idea. Great Britain and New Zealand have been paying crime victims since 1964. Compensation programs are in effect in parts of Canada and Australia, and Sweden is setting up such a program. How those plans operate is told on page 42.

Here, in Senator Mansfield's own words, is how his proposal would work:

"There would be established a federal violent-crimes-compensation commission which would make direct awards to the victims for injuries suffered in the course of crimes committed within the federal criminal jurisdiction.

"In addition, a system of revenue sharing, in the form of grants, would underwrite similar State compensation commissions for those who suffer from crimes within State and local criminal jurisdictions. . . .

"The measure I suggest covers everyone: the unsuspecting victim of rape, the policeman ambushed answering a routine call, the fireman shot by a sniper when responding to an alarm, the ghetto dweller, the suburbanite. In short, this proposal provides for all who suffer personal injury from criminal violence."

Wide range of aid. Compensation would not be authorized for offenses against property—such as theft. Payments would cover expenses resulting from injury or death, loss of earning power, "pecuniary loss" to dependents of the victim—and could also compensate for "pain and suffering."

A limit of $25,000 would be set for payments to any one person.

Under State plans approved by the proposed federal commission, Washington would pay 75 per cent of the cost, with the States paying 25 per cent.

How much would it cost the taxpayer to compensate all the nation's citizens victimized by lawbreakers?

This is the big question, raised by opponents of crime compensation and of concern to backers of the plan as well. No clear indication is provided by the brief experience of the few States that have tried the idea.

California and New York were the pioneering States in this field—and their programs did not get under way until 1967. Compensation laws were passed by Hawaii in 1967, Maryland and Massachusetts in 1968, and Nevada in 1969.

Rising number of claims. Writing in the November, 1970, issue of "The Insurance Law Journal," Herbert S. Denenberg, a professor at the Wharton School of Finance and Commerce at the University of Pennsylvania, reported:

"Experience to date indicates that the costs of these programs can be kept within reasonable bounds."

As these young programs expand, however, and as more people learn about the aid they offer, the number of compensation claims is rising steadily—and bigger increases are seen ahead.

In Hawaii, for example, an official report says that "only a small percentage of victims of what appear to be eligible crimes committed in Hawaii are filing applications."

This, also, is suggested by one critic of crime compensation:

"If this ever becomes law nationwide, you would see a record number of crimes reported. Many victims are too embarrassed to report rape. But if it becomes worth several thousand dollars, the victim may not mind having her name in the newspapers."

How laws are working. A survey by "U.S. News & World Report" gives a picture of how the State programs are operating so far.

In Maryland, crime victims are compensated only when their losses create "serious financial hardship." Payments are limited to a maximum of $27,500 in a case of death or $45,000 in a case of total disability. Some awards may be paid in a lump sum, others in monthly payments over a period of time.

Here are some examples:

A woman, age 69, was assaulted on her way to church by a purse snatcher, and her hip was broken. She was awarded compensation of $1,136.82.

A 42-year-old man who was robbed and shot in the pelvis on a public street was awarded: $2,904 for medical expenses and $1,694 for time lost from work, plus monthly payments of $54 and assurances of reimbursement for future medical bills resulting from the crime.

A widow of a man who was shot to death was first refused compensation because she had approximately $32,000 in assets. But she won reversal on appeal after showing she had three young children, was unemployed and had an illness requiring extensive hospitalization. She was awarded $209.60 a month.

A 68-year-old widow whose husband was robbed and killed by a gang of youths was denied compensation because she had assets of $18,000 plus $119 a month from Social Security.

Over all, in the first year of the Maryland plan's operation—July 1, 1969, to June 30, 1970—there were about 1,250 applications for compensation. According to an official report, about 1,000 applications were rejected, 240 were accepted for full investigation, and 105 of those cases were decided with the following results: 63 claims disallowed and 42 awards granted, totaling $328,000.

Joseph Pickus, chairman of Maryland's Criminal Injuries Compensation Board, says "these figures are low because we were starting from scratch." He predicts that "within five years the program will be costing about 1 million dollars a year."

Maryland Governor Marvin Mandel told an international conference on compensation for crime victims last year that "the program has operated well," and "I think you're going to find in the near future that more and more States are going to get into this program."

"Good Samaritan" program. California has two compensation programs: one for victims of violent crime, another for those injured while trying to prevent a crime or help in the apprehension of a criminal—under what is known as the "Good Samarian law."

Ordinary crime victims must establish need and payments are limited to $5,000. From this program's beginning in 1967 through February of this year, 1,245 claims were made, 330 were granted for awards totaling $521,000 and 671 claims were denied, with 242 left pending.

Legislature must approve. Under the "Good Samaritan law" enacted in 1965, there have been only 50 claims, of which 32 were granted for a total of $137,000. The highest award, for $79,500, went to a man who was shot and paralyzed while trying to prevent a husband from shooting his wife. The State legislature must approve each "Good Samaritan" award, but no evidence of need is required.

New York State's program for crime victims began March 1, 1967, and since then approximately $2,320,000 has been paid in compensation.

In the fiscal year ended Feb. 28, 1970, the Crime Victims Compensation Board received 929 claims involving 537 "muggings," 140 murders, 121 stabbings, 120 shootings, 8 rapes and 3 motor-vehicle incidents. In 826 cases, the board made 336 awards.

The New York law has no limit on payments for medical expenses, but total reimbursement for lost earnings or loss of support may not exceed $15,000. According to Stanley L. Van Rensselaer, chairman of the Board, the average payment to a crime victim is about $1,400, the average to dependents of a man killed in a crime is $3,000, and the average to a disabled victim is $4,071 a year. Hardship must be proved.

$10,000 limit on claims. In Massachusetts, in two and a half years of the plan's operation, awards have totaled only about $37,000, but Attorney General Robert H. Quinn predicts that the program will expand. Compensation is designed to cover out-of-pocket losses from injuries, and the limit is $10,000 per claim.

Since Hawaii began paying crime victims in 1968, costs have risen steadily. There were 3 awards totaling $1,000 in 1968, 47 awards for $111,945 in 1969, and 121 awards for $267,157 in 1970—an average of about $2,200 each.

In Nevada, under a law passed in 1969, only one payment has been made—and that was for a "Good Samaritan deed" by a man who was shot while trying to disarm a robber. He got the maximum payment permitted—$5,000. Two more applications have been received since this first award was publicized. But many Nevadans are not aware of the law.

States interested. Bills to start paying crime victims have been introduced in the legislatures of Illinois, Ohio, Michigan, Arkansas and New Jersey.

Federal crime-compensation programs were proposed in Congress in 1968 and 1970, but failed even to reach the committee-hearing stage. A plan applying only to the federally governed District of Columbia cleared the Senate last year as a little-noticed part of a broad anticrime measure, but it was dropped from the bill finally passed.

Now, with five bills pending in Congress, interest in the idea of helping crime victims appears to be growing.

Society's responsibility? Former Senator Ralph W. Yarborough (Dem.), of Texas, who wrote the D.C. compensation bill, expressed the feelings of most backers of the idea when he told a committee last year that persons accused of a crime "are given every protection that society can afford them" and said:

"What happens to the injured person left lying in the street, sometimes half dead? If somebody calls an ambulance, the victim has to pay for it. If he goes to the hospital, he loses his salary from the time he is out from work. . . . He pays his own medical expenses. He pays his own hospital bill.

"Society takes care of the person accused of crime, but does little for the person who is suffering the injury"

HOW CRIME VICTIM IS PAID ABROAD

New Zealand and Great Britain were the pioneers in the payment of compensation by the Government to victims of crime. Their programs began in 1964. Seven of Canada's 10 Provinces and some States of Australia have compensation systems. And Sweden is about to start one.

In Britain, since 1964, the Government's Criminal Injuries Compensation Board has handled 25,000 cases, made awards in 18,000 of those cases, and has paid out more than 15 million dollars in compensation. In 1969 alone, 4.7 million dollars was paid to 5,000 claimants.

Under Britain's plan, compensation is paid only in cases involving crimes of violence. Awards range as high as $50,000 and generally reflect the amounts awarded in civil suits.

Expansion in U.K.? Criticism of Britain's system is aimed mostly at its restrictions, rather than its performance. A Government investigation in 1970 recommended increasing the number of awards and a bill now before Parliament would liberalize the rules.

In Canada, compensation to crime victims is financed by the provincial governments. But another plan is being considered that would provide for cost sharing by the Government.

Provincial systems vary somewhat, although generally similar. Ontario, the most populous Province, received 300 claims last year. An official estimates this number may double in the year ahead, with a predicted total of about $800,000 in payments. There is a ceiling of $10,000 for any one claim.

Most authorities say the system is working "satisfactorily" in Canada, and the three Provinces which do not now pay crime victims are reported considering compensation plans.

Sweden's program—scheduled to go into effect July 1—is relatively restricted in scope. It covers only personal damages and is intended primarily to compensate people with small incomes. Amounts of awards will be based on a means test. Maximum payments are to be fixed at about $10,000, except in exceptional cases. The Government, as a rule, will compensate victims only for economic damages not covered by the national-health program, other welfare benefits or private insurance.

Authorities expect the cost of the new program to be small at the start—only $200,000 is budgeted for the first year. But costs are expected to grow.

Some other European countries, including Norway, Finland, Netherlands and West Germany, are reported to be showing interest in Sweden's experiment.

EXHIBIT 2

TESTIMONY OF SENATOR MIKE MANSFIELD, OF MONTANA, BEFORE THE SUBCOMMITTEE ON CRIMINAL LAWS AND PROCEDURES, NOVEMBER 30, 1971

Mr. Chairman, distinguished members of the Committee, I appreciate very much this opportunity to appear before you today. I do so in behalf of the countless thousands of innocent victims of crime. I do so as well out of a deep personal concern for the effects of violence upon society today. With S. 750, I have sought to revive the concept of compensating victims of violent crime. In doing that, I have approached the issue, not as a lawyer, which I am not, nor as a student of law. I have endeavored rather to view the matter as one who is deeply concerned that recent efforts to stimulate new approaches to stemming and even reversing the ever-rising rate of crime and violence have focussed too little attention upon the innocent victims of crime.

By no means, Mr. Chairman, do I wish to diminish your superb record against criminal elements. No man, inside the Senate or out, has devoted more energy and effort to that end. Thanks in large part to you, Mr. Chairman, the United States Senate in the last Congress passed 18 or more anti-crime proposals. Societies, nevertheless, have suffered the ravages of violent crime and ours has been no exception. Chronicled daily by the press are crimes of the most heinous nature. To meet this situation it seems to me that there has been created a system of justice that too often presents an abstraction of the state versus the criminal, which in turn has left the victim unappeased, the government bogged down in court and the criminal becoming more expert at his trade.

To be sure, the accused is prosecuted for his crime, and if found guilty, punished by the state. But the victim's sole recourse, within our Federal jurisdiction, is to seek damages by instituting a civil action against the guilty criminal. At best, this has been an inadequate remedy, considering the financial condition of most perpetrators of violent crime. In fact, a recent survey of victims of violent crimes indicates a bare 1.8% of the victims ever collected anything from their attackers. Yet 74.2% of them suffered economic loss, not to mention the physical damage and suffering involved. And as the President's Commission on the Causes and Prevention of Violence has documented so well, this alarming increase in the rate of violent crime has persisted and with it, no doubt, the great disparity between those victims who are compensated and those who are not.

At the same time, the victims of this violence have been virtually separated from the crimes. That is a matter of policy. It is a policy that abrogates any social contract that is thought to exist between the citizen and his society. The citizen pays his taxes, he obeys the laws imposed by society and in return he expects—some would argue on a contractual basis—to be protected by those laws from illegal acts which result in injury and suffering to himself. In short, if society fails in its efforts to provide basic protection then the social contract has been breached; the citizen has suffered. To him there is no particular non-punishable recourse available other perhaps than overt apathy. Reflective of this growing apathy, in my judgment, has been the significant increase in the number of cases where victims simply refuse to become involved—not as witnesses, not to assist the prosecution, not in preventing the crime, not in assisting a police officer.

In my judgment, this overt apathy or non-participation by citizens in regulatory functions of society is about to become a most critical and pressing problem. Today, citizens must recognize that through their plain apathy, they are committing crimes against society. To combat such an attitude, it is my view that we—the elected representatives—ought to become more cognizant of the need for legislation that would encourage, and even reward, acts that are socially responsible.

Another aspect of the problem concerns the government's task of rehabilitating criminals. How much violent crime, it should be asked, is committed at the hands of the recidivist who has been released upon society from a penal institution that served only to mold him into a more hardened and bitter criminal than he was when first incarcerated? His innocent victim has been doubly cheated by society. Not only has it failed to protect him with sufficient police and safety facilities, its penal institutions have actually created a more serious threat to law and order by serving as graduate schools for criminals.

It has been said that the institutions of justice have become more concerned with the protection of the rights of the criminal than with the need for law and order in society. To an extent, I would agree. But I feel the major emphasis is misplaced. To me, a major liability with the present system of criminal justice is its utter failure to consider the innocent victim. This is the whole basis for my interest today in reviving the concept of victim compensation.

As a matter of public policy, social compensation programs are not revolutionary notions by far. Indeed, there is great similarity in rationale and origin between notions of compensating workers, assuring them of a reasonably safe place in which to work, and compensating victims of crime, assuring them a reasonably safe society in which to live. Just as the worker has historically frustrated in his attempts to recover damages, so, too, has the victim of crime today been frustrated. In many cases the offender is not apprehended. When he is, he is often destitute. Further, present penal methods do not offer the offender an ability to make restitution because he cannot earn a gainful living.

Along with the worker compensation concept, other steps have been taken in the past 30 years or more which manifest society's abandonment of its laissez-faire attitudes when facing matters of collective community need. Social security and medicare; aid to dependent children, assistance for the handicapped, the aged and the blind, notions of no-fault insurance and national health insurance all reflect a recognition of collective responsibility. Fulfilling this responsibility with regard to victims of crime is no easy task. Senate bill 750 attempts to face the problem. If adopted at the Federal level, however, it would by no means represent the first such step taken in modern times. Indeed, within the last ten years, New Zealand, England, particular provinces in Canada and Australia, have all enacted governmental programs of compensation for innocent victims of violent crimes. In addition, the states of California, Hawaii, Nevada, Maryland, Massachusetts, New York, and most recently, New Jersey, all have enacted some type of compensation program. I have asked some of these states for reports on their experience with the program and submit for the record the responses I have received.

Though I am not wedded to any particular procedure for achieving the task of recognizing the need for compensating the criminal victim, the main features of my bill do deserve some explanation. First of all, a three-man Violent Crime Compensation Commission would be created. The Commission would compensate innocent victims for injury or death resulting from 18 possible offenses. The 18 offenses could be grouped generally under the headings of homicide, assaults and sexual offenses of violence, all occurring within the Federal criminal jurisdiction. There would be a maximum limit of $25,000 for each award.

It would be the Commission's duty to examine the evidence presented both to determine what level of compensation should be granted and whether in fact the person making the claim is truly an innocent victim.

With some limitation, the Commission could order the payment of compensation to or on behalf of the injured victim, to the person responsible for his maintenance, to his dependents or close survivors. The authority of the Commission to award compensation would not be dependent on prosecution or conviction of the accused for the offense giving rise to the injury. Obviously, however, the crime would have to be established.

As far as losses covered are concerned, the proposal would provide compensation for expenses incurred as a result of the victim's injury or death, for the loss of his earning power, for pain and suffering and for any other direct, crime-related losses which the Commission deems reasonable.

Compensation would be denied in cases where the victim was living with the offender or in any case where the Commission finds that unjust enrichment would result to or on behalf of the offender.

Decisions and orders of the Commission would be reviewed by the appropriate Court of Appeals.

A most important provision would allow the Commission, where possible, to recover over against a convicted assailant the amount of any awards granted on account of his crime.

There is also provided a grant program which would encourage states to establish Crime Compensation systems within their individual criminal jurisdictions.

With these hearings, Mr. Chairman, and the study that undoubtedly will follow, I am certain many of the features of this proposal will undergo close examination and undoubtedly changes for the better will be made. Merging the state programs under the existing Law Enforcement Assistance Administration is one suggestion that deserves merit. Improvement, may I say, is an essential purpose of the legislative process.

May I say, too, that I am pleased President Nixon's recomendations for a special compensation program for survivors of policemen killed in the line of duty are here being considered along with S. 750.

One final note. Before this Congress adjourns in 1972, it is my hope that the legislative process will have been completed and that there will be established on the Federal level the principle that violent crime is a three-party affair which includes the victim, the criminal and the state. In the last 100 years, the criminal and the state have dominated the arena of crime and punishment to the injurious exclusion of the victim. To revive at this time the proposition that citizens are entitled to protection, and failing such protection, that citizens are entitled at least to be compensated for the losses they suffer from violent criminal action, can only serve to strengthen the social fibre of our Nation.

Thank you very much.

Mr. HRUSKA. Mr. President, I am very pleased to join with the chairman of the Criminal Laws Subcommittee, Senator McClellan, and others, in introducing this bill: The Victims of Crime Act of 1972.

This proposal, along with those dealing with this same subject which are already before our committee, will afford us the opportunity for additional hearings on this most important subject. Several points of view are represented by these bills. While I do not endorse or approve all of its various parts, I look forward to the opportunity we shall have to study this question from every angle. Hopefully, after this scrutiny including additional hearings and our subsequent deliberations in subcommittee, we can report a comprehensive bill which will be as effective, as large in scope, and as representative of all points of view as possible. In this regard I know that the Senator from Arkansas will do his best to canvass all opinion on this subject before hearings are concluded.

In the course of its work, the Criminal Laws Subcommittee has looked at many aspects of crime and has approved legislation dealing with courts, corrections, and the police, as well as substantive criminal law. As in so much that we in Congress do, the exigencies of time and the need to grapple with the most pressing problems first, have resulted in our neglect up to this point of that element of society most deserving of our attention—the crime victim himself. This bill is designed to correct this neglect.

In his introductory remarks Senator McClellan has discussed in great detail the five titles of the bill: First, compensation for victims of violent crime; second, group life insurance for public safety officers; third, death and disability benefits for public safety officers; fourth, civil remedies for victims of racketeering activities; and fifth, general provisions. I do not feel any legitimate need would be served at the present time by additional discussion of the individual provisions of this bill by this Senator. I will say that I am pleased that in drafting this bill the chairman has been very sensitive to and respectful of the proper role to be played by the Federal Government and the individual States regarding all aspects of law enforcement. This is one of the questions which I will want to continue to examine closely in our further deliberations on this subject.

As I indicated earlier this Senator is joining in introducing this bill so that it may serve as a vehicle for hearings and discussion on this important subject. I do not necessarily agree with everything in the bill as presently written and will have to devote considerable study to it before voting to report it or any related bill from the subcommittee. But I do want to emphasize my support for this type of legislation and to indicate my gratitude to Senator McClellan for doing the preliminary work on it and for asking me to join him as a cosponsor today.

Mr. GRIFFIN. Mr. President, I rise to commend the distinguished Senator from Arkansas for his leadership again in this important field. He has made a very significant statement.

The legislation which he has described incorporates some features of a concept which the junior Senator from Michigan has advocated strongly in the past. I should like to join with the distinguished ranking minority member of the Judiciary Committee, the Senator from Nebraska. I ask unanimous consent that my name be added as a cosponsor of the measure.

Mr. McCLELLAN. Mr. President, I ask unanimous consent that the names of the Senator from Nevada (Mr. Bible) and the Senator from Michigan (Mr. Griffin) be added as cosponsors of the measure.

The **PRESIDENT** pro tempore. Without objection, it is so ordered.

Mr. BOGGS. Mr. President, I should like to add my support for the Victims of Crime Act of 1972, which the distinguished Senator from Arkansas (Mr. McClellan) is introducing today.

This legislation, I believe, includes many significant features, including compensation for victims of violent crime, grants to State for such reimbursement, and expanded benefit programs for public safety officers. I support these provisions wholeheartedly.

Assistance for the victims of crime and those who spend ther lives fighting crime is an idea whose time has come. It is a natural response to the rising rate of violent crime throughout the country. While I believe that we must do all we can to strengthen the machinery of law enforcement, to improve corrections and rehabilitation programs, and to bring about judicial reform, we must not forget the victims of crime. And I include among the victims of crime the increasing number of policemen, corrections officers, and firemen who are killed or injured in the line of duty.

It is not fair that we should ask the victims of crime to tolerate the rising incidence of violent crime and to live in fear of personal harm while we labor to reduce the crime rate. Deliberate we must—for as long and as hard as it takes to find the right mix of social and legal antidotes to crime. In the meantime, we must also recognize our responsibility to its victims.

Mr. President, I am especially pleased that the Senator from Arkansas (Mr. McClellan) has chosen to draw key elements of title III of this legislation from a bill (S. 2748) which I introduced earlier this year. That bill would provide a death indemnity of $50,000 for the survivors of police officers, corrections officers, and firefighters killed in the line of duty, whether they serve at the Federal, State, or local levels. In remarks which I delivered when I introduced that legislation, I pointed out that these men and women live daily with unusual danger to their well-being in order to protect our lives and property. This danger is just as great, and their service is just as vital whether they serve under a Federal, State, or local jurisdiction.

I also noted that we cannot expect to recruit and retain responsible, family men and women into these increasingly hazardous jobs without offering the kind of protection that survivors compensation provides. This need has already been recognized at the Federal level with a variety of compensation and benefit plans for law enforcement officers. A $50,000 death benefit is already provided the survivors of policemen killed in the line of duty in the District of Columbia. The Victims of Crime Act of 1972 would simply acknowledge the national scope of this need by making these benefits uniformly available to all public safety officers throughout the country.

Mr. President, I reiterate my support for this legislation and urge the Judiciary Committee to give it consideration at the earliest possible date.

By Mr. KENNEDY (for himself, Mr. Hart, Mr. Humphrey, Mr. Moss, and Mr. Metcalf):

S. 2995. A bill to provide for the compensation of innocent victims of violent crimes in need; to make grants to States for the payment of such compensation; to authorize an insurance program and death and disability benefits for public safety officers; to provide civil remedies for victims of racketeering activity; and for other purposes. Referred to the Committee on the Judiciary.

FULL LIFE INSURANCE VERSION OF VICTIMS OF CRIME ACT OF 1972

Mr. KENNEDY. Mr. President, I want to congratulate and thank the distinguished Senator from Arkansas for his imagination and initiative in amalgamating several extremely constructive bills into the Victims of Crime Act of 1972. I am especially pleased that the sponsor of the bill who is also the chairman of the Subcommittee on Criminal Laws and Procedures, of which I am a member, has now demonstrated his support for the concept of a Federal program of low-cost life insurance for the Nation's law enforcement officers and other public safety officers, a concept I have been promoting since 1967. Last year the program in the law I proposed was adopted by the full Judiciary Committee and passed by the entire Senate as part of the safe streets extension. However, the House Members of the conference committee felt the House had not sufficiently considered the matter and asked that it await action this year. I am pleased to note that the chairman of the House Judiciary Committee, Mr. Celler, has now introduced in the House a counterpart bill to S. 33, the law enforcement officers group life insurance bill, which I introduced in the Senate earlier this year, and he has promised to process it as expeditiously as possible next year.

Unfortunately in the process of amalgamating S. 33 with the other bills, which make up the proposed Victims of Crime Act, certain drafting changes have been made which may seriously limit the life insurance coverage, and seriously increase the cost of such coverage, for the Nation's law enforcement and other public safety officers.

Since they are depending on the passage of my bill at full strength, as it was passed last year, I want to make sure that they realize the full life insurance program is before the Senate and I am, therefore, introducing a full life insurance version of the proposed act which comports more fully in its life insurance title with S. 33.

I am hopeful that we can proceed to speedy consideration in committee, since there may be sections in addition to the one I have been most concerned with which are in need of some work. I hope the bill can then be reported out for speedy Senate passage.

I ask that the full text of title II be printed in the Record; and that Senators Hart, Humphrey, Moss, and Metcalf be listed as cosponsors.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2995

A bill to provide for the compensation of innocent victims of violent crime in need; to make grants to States for the payment of such compensation; to authorize an insurance program and death and disability benefits for public safety officers; to provide civil remedies for victims of racketeering activity; and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Victim of Crime Act of 1972."

STATEMENT OF FINDINGS AND PURPOSE

The Congress finds that (1) there is an increase of crimes of violence not only in urban, but also in suburban and rural areas; (2) the increase in crimes of violence is disproportionate to the increase in population; (3) the increase in crimes of violence increases the chances of a person becoming a victim of such a crime; (4) on an increasing basis crimes of violence are being directed at public safety officers, including policemen, firemen, and correctional guards; (5) law enforcement identification, apprehension and conviction of perpetrators of crimes of violence is decreasing; (6) the perpetrators of crimes of violence, when identified, apprehended, and convicted, are often not financially responsible; and (7) the victims of crimes of violence, their families and dependents, are often themselves unable to bear the consequent pecuniary losses without undue hardship.

It is, therefore, the purpose of this Act to commit the United States to meet its moral obligation to assist the innocent victims of violent crime, their families and dependents in financial need, by direct aid to those within the area primarily of Federal responsibility, by assistance to the States to aid those within the area primarily of State responsibility, by the establishment of insurance and benefit programs for public safety officers and their families and dependents, and by the strengthening of the civil remedies available to victims of racketeering activity.

TITLE I—COMPENSATION FOR VICTIMS OF VIOLENT CRIME

DECLARATION OF PURPOSE

Sec. 101. It is the declared purpose of Congress in this title to promote the public welfare by establishing a means of meeting the financial needs of the innocent victims of violent crime, their families and dependents, and others acting to prevent the commission of crime or to assist in the apprehension of suspected criminals.

PART A—FEDERAL COMPENSATION PROGRAM

Sec. 102. The Omnibus Crime Control and Safe Streets Act of 1968, as amended, is amended by—

(1) redesignating sections 451 through 455 respectively as sections 421 through 425;

(2) redesignating sections 501 through 521 respectively as sections 550 through 570;

(3) redesignating parts F, G, H, and I of title I respectively as parts I, J, K, and L of title I; and

(4) adding at the end of part E of title I, as amended by this Act, the following new parts:

"PART F—FEDERAL COMPENSATION FOR VICTIMS OF VIOLENT CRIME

"DEFINITIONS

"Sec. 450. As used in this part—

"(1) 'Board' means the Violent Crimes Compensation Board established by this part;

"(2) 'Chairman' means the Chairman of the Violent Crimes Compensation Board established by this part;

"(3) 'child' means an unmarried person who is under eighteen years of age and includes a stepchild or an adopted child, and illegitimate child, and student over 18 years of age, and a child conceived prior to but born after the personal injury or death of the victim;

"(4) 'dependent' means a relative or other person who was wholly or partially dependent upon the income of the victim at the time of the personal injury or death of the victim;

"(5) 'Executive Secretary' means the Executive Secretary of the Violent Crimes Compensation Board established by this Part;

"(6) 'General Counsel' means the General Counsel of the Violent Crimes Compensation Commission established by this part;

"(7) 'guardian' means a person who is entitled by common law or legal appointment to care for and manage the person or property or both of a child or incompetent;

"(8) 'incompetent' means a person who is incapable of managing his own affairs, whether adjudicated or not;

"(9) 'personal injury' means actual bodily harm and includes pregnancy, mental distress and nervous shock;

"(10) 'percuniary loss' includes:

"(A) for personal injury—

"(1) medical expenses (including psychiatric care);

"(2) hospital expenses;

"(3) loss of past earnings; and

"(4) loss of future earnings because of a disability resulting from the personal injury; and

"(B) for death—

"(1) funeral and burial expenses; and

"(2) loss of support to the dependents of the victim.

Pecuniary loss includes any other expenses actually and necessarily incurred as a result of the personal injury or death, but it does not include property damage.

"(11) 'relative' includes a spouse, parent, grandparent, stepfather, stepmother, child, grandchild, siblings of the whole or half blood, spouse's parents, a neice or nephew;

"(12) 'student' means a person who is a 'student' as defined in subparagraph (17) of section 8101 of Title 5, of the United States Code; and

"(13) 'victim' includes any person who is killed or injured as proximate cause of a criminal act committed or attempted against him enumerated in section 458 of this Part or killed or injured while assisting a law enforcement officer to apprehend a person who has committed a crime or to prevent the commission of a crime.

"COMPENSATION BOARD

"Sec. 451. (a) There is hereby established a Board within the Department of Justice to be known as the Violent Crimes Compensation Board (hereinafter referred to as the "Board"). The Board shall be composed of three members to be appointed by the President, by and with the advice and consent of the Senate. The President shall designate one of the members of the Board as Chairman, who shall have been a member of the bar of a Federal court or of the highest court of a State for at least eight years.

"(b) There shall be appointed by the President, by and with the advice and consent of the Senate, an Executive Secretary and a General Counsel to perform such duties as the Board shall prescribe in accordance with the objectives of this part.

"(c) No member of the Board shall engage in any other business, vocation, or employment.

"(d) Except as provided in paragraph (1) of subsection (a) of section 456 of this part, the Chairman and one other member of the Board shall constitute a quorum. Where opinion is divided and only one other member is present, the opinion of the Chairman shall prevail.

"(e) The Board shall have an official seal.

"FUNCTIONS OF THE BOARD

"Sec. 452. In order to carry out the purposes of this part, the Board shall—

"(1) receive and process applications under the provisions of this part for compensation for personal injury or death resulting from criminal acts enumerated in section 458 of this part;

"(2) hold such hearings, sit and act at such times and places, and take such testimony as the Board or any member thereof may deem advisable;

"(3) order the payment of compensation to victims and other beneficiaries in accordance with the provisions of this part; and

"(4) take such other action as it deems necessary and appropriate to carry out the purpose of this part.

"ADMINISTRATIVE PROVISIONS

"Sec. 453. (a) The Board is authorized in carrying out its functions under this part to—

"(1) appoint and fix the compensation of such personnel as the Board deems necessary in accordance with provisions of title 5 of the United States Code;

"(2) procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5 of the United States Code, but at rates not to exceed $100 a day for individuals;

"(3) promulgate such rules and regulations as may be required to carry out the provisions of this part;

"(4) appoint such advisory committees as the Board may determine to be desirable to carry out the provisions of this part;

"(5) designate representatives to serve or assist on such advisory committees as the Board may determine to be necessary to maintain effective liaison with Federal agencies and with State and local agencies developing or carrying out policies or programs related to the provisions of this part;

"(6) use the services, personnel, facilities, and information (including suggestions, estimates, and statistics) of Federal agencies and those of State and local public agencies and private institutions, with or without reimbursement therefor;

"(7) without regard to section 529 of title 31 of the United States Code to enter into and perform such contracts, leases, cooperative agreements, or other transactions as may be necessary in the conduct of its functions, with any public agency, or with any person, firm, association, corporation, or educational institution, and make grants to any public agency or private nonprofit organization;

"(8) request such information, data, and reports from any Federal agency as the Board may from time to time require and as may be produced consistent with other law; and

"(9) arrange with the heads of other Federal agencies for the performance of any of its functions under this part with or without reimbursement and, with the approval of the President, delegate and authorize the redelegation of any of his powers under this part.

"(b) Upon request made by the Board, each Federal agency is authorized and directed to make its services, equipment, personnel, facilities, and information (including suggestions, estimates, and statistics) available to the greatest practicable extent to the Board in the performance of its functions.

"(c) Each member of a committee appointed pursuant to paragraph (4) of subsection (a) of this section shall receive $100 a day, including traveltime, for each day he is engaged in the actual performance of his duties as a member of a committee. Each such member shall also be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of his duties.

"TERMS OF BOARD MEMBERS

"SEC. 454. (a) The term of office of each member of the Board taking office after January 1, 1972, shall be eight years, except that (1) the terms of office of the members first taking office after January 1, 1972, shall expire as designated by the President at the time of appointment, one at the end of four years, one at the end of six years, and one at the end of eight years, after January 1, 1972; and (2) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term.

"(b) Each member of the Board shall be eligible for reappointment.

"(c) Any member of the Board may be removed by the President for inefficiency, neglect of duty, or malfeasance in office.

"(d) All expenses of the Board, including all necessary travel and subsistence expenses of the Board outside the District of Columbia incurred by the members or employees of the Board under its orders, shall be allowed and paid on the presentation of itemized vouchers therefor approved by the Executive Secretary, or his designee.

"PRINCIPAL OFFICE

"SEC. 455. (a) The principal office of the Board shall be in or near the District of Columbia, but the Board or any duly authorized representative may exercise any or all of its powers in any place.

"(b) The Board shall maintain an office for the service of process and papers within the District of Columbia.

"PROCEDURES OF BOARD

"SEC. 456. (a) The Board—

"(1) may subpena and require production of documents in the manner of the Securities and Exchange Commission as provided in subsection (c) of section (18) of the Act of August 26, 1935, except that such subpena shall only be issued under the signature of the Chairman, and application to any court for aid in enforcing such subpena shall be made only by the Chairman, but a subpena may be served by any person designated by the Chairman;

"(2) many administer oaths, or affirmations, to witnesses appearing before the Board, receive in evidence any statement, document, information, or matter that may, in the opinion of the Board, contribute to its functions under this part, whether or not such statement, document, information, or matter would be admissible in a court of law;

"(3) shall conduct hearings open to the public unless in a particular case the Board determines that the hearing, or a portion thereof, should be held in private, having regard to the fact that the criminal has not been convicted or to the interest of the victim of an alleged crime; and

"(4) may appoint an impartial licensed physician to examine any person making application under this part and order the payment of reasonable fees for such examination.

"(b) The Board shall permit every person appearing under section 460 of this part to have the right to produce evidence and to cross-examine such witnesses as may appear.

"(c) Where a person has been convicted of a crime giving rise to an application under this part, proof of the conviction shall be conclusive evidence that the crime was committed, unless an appeal of the conviction or a petition for a rehearing or certiorari is pending or a new trial or rehearing has been ordered.

"(d) The Board shall be 'an agency of the United States' under subsection (1) of section 6001 of title 18 of the United States Code, for the purpose of granting immunity to witnesses.

"SEC. 457. (a) In any case in which a person is injured or killed by any criminal act or omission of any other person enumerated in section 458 of this part, the Board may, in its discretion, upon an application, order the payment of, and pay, compensation in accordance with the provisions of this part, if such act or omission occurs—

"(1) within the 'special maritime and territorial jurisdiction of the United States as defined in section 7 of title 18 of the United States Code; or

"(2) within the District of Columbia.

"(b) The Board may order the payment of compensation—

"(1) to or on behalf of the victim; or

"(2) in the case of the personal injury of the victim, where the compensation is for pecuniary loss suffered as a result of that personal injury by any person, to that person; or

"(3) in the case of the death of the victim, to or for the benefit of the dependent of the deceased victim, or any one or more of such dependents, or to any person who has suffered pecuniary loss as a result of that death.

"(c) In determining whether to order a payment under this section, the Board may consider any circumstances it determines to be relevant and the Board shall consider the behavior of the victim, and whether, because of provocation or otherwise, the victim bears any share of responsibility for the crime that caused his injury or death and the Board shall reduce the amount of compensation in accordance with its assessment of the degree of such responsibility attributable to the victim.

"(d) No order may be made under this section unless the Board, with or without hearings, supported by substantial evidence, finds that—

"(1) such an act or omission did occur; and

"(2) the injury or death was proximately caused by such act or omission.

"(e) An order may be made under this section whether or not any person is prosecuted or convicted of any crime arising out of such act or omission or if such act or omission is the subject of any other legal action. The Board may suspend proceedings in the interest of justice if a civil action arising from such act or omission is pending or imminent.

"CRIMES TO WHICH THIS PART APPLIES

"SEC. 458. (a) The Board may order the payment of, and pay, compensation for pecuniary loss in accordance with the provisions of this part for personal injury or death which resulted from crimes in the following categories—

"(1) aggravated assault;
"(2) arson;
"(3) assault;
"(4) burglary;
"(5) forcible sodomy;
"(6) kidnaping;
"(7) manslaughter;
"(8) mayhem;
"(9) murder;
"(10) negligent homicide;
"(11) rape;
"(12) robbery;
"(13) riot;
"(14) unlawful sale or exchange of drugs;
"(15) unlawful use of explosives;
"(16) unlawful use of firearms;
"(17) any other crime involving the use of force, including poisoning, to the person; or
"(18) attempts to commit any of the foregoing."

"(b) For the purposes of this part, the operation of a motor vehicle, boat, or aircraft that results in an injury or death shall not constitute a crime unless the injuries were intentionally inflicted through the use of such vehicle, boat, or aircraft.

"(c) For the purposes of this part, a person shall be deemed to have committed a criminal act or omission notwithstanding that by reason of age, insanity, drunkenness, or otherwise he was legally incapable of committing a crime.

"WHO MAY RECOVER LOSS

"SEC. 459. A person is entitled to make application for an order of compensation under this part if he is a victim, he was a person who was dependent on a victim at the time of the personal injury or death of the victim, or he suffered pecuniary loss as a result of the personal injury or death of the victim.

"APPLICATION FOR PAYMENT OF COMPENSATION

"SEC. 460. (a) In any case in which the person entitled to make an application is a child, or incompetent, the application may be made on his behalf by any person acting as his relative, guardian, or attorney.

"(b) Where any application is made to the Board under this part, the applicant, or his attorney, and any attorney of the Board, shall be entitled to appear and be heard.

"(c) Any other person may appear and be heard who satisfies the Board that he has a substantial interest in the proceedings.

"ATTORNEY'S FEES

"SEC. 461. (a) The Board shall publish regulations providing that an attorney may, at the conclusion of proceedings under this part, file with the Board an appropriate statement for a fee in connection with services rendered in such proceedings.

"(b) After the fee statement is filed by an attorney under subsection (a) of this section, the Board shall award a fee to such attorney on the same terms and conditions as is provided for the payment of representation under section 3006A of title 18 of the United States Code.

"(c) Any attorney who charges or collects for services rendered in connection with any proceedings under this part any fee in any amount in excess of that allowed under this section, shall be fined not more than $1,000 or imprisoned not more than one year, or both.

"CHARACTER OF COMPENSATION

"SEC. 462. The Board may order the payment of compensation under this part for any pecuniary loss actually and necessarily incurred as a result of the personal injury or death of the victim.

"FINALITY OF DECISION

"SEC. 463. The orders and decisions of the Board shall be reviewable in the appropriate court of appeals, except that no trial de novo of the facts determined by the Board shall be allowed.

"LIMITATIONS UPON PAYMENT OF COMPENSATION

"SEC. 464. (a) No order for the payment of compensation shall be made under this part unless the Board finds that the applicant will suffer undue financial hardship from pecuniary loss incurred as a result of the injury or death of the victim if the order for the payment of compensation is not made. In determining undue financial hardship for the purposes of this subsection, the Board shall consider all of the financial resources of the applicant. The Board shall establish standards by rule for determining such undue financial hardship.

"(b) No order for the payment of compensation shall be made under this part unless the application has been made within one year after the date of the personal injury or death.

"(c) No order for the payment of compensation shall be made under this part unless the applicant has incurred a minimum pecuniary loss of $100 or has lost 2 continuous weeks earnings or support.

"(d) The criminal or an accomplice of a criminal, a member of the family of the criminal, a person living in the household of the criminal, or a person maintaining sexual relations with the criminal shall not be eligible to receive compensation with respect to a crime committed by the criminal.

"(e) No order for the payment of compensation under this part shall be made unless the act resulting in the personal injury or death for which the compensation is to be paid was reported to the law enforcement officials within 72 hours after its occurrence, unless the Board finds that the failure to report was justified by good cause.

"(f) The aggregate of orders for the payment of compensation under this part as the result of any one criminal act, omission, or occurrence shall not be in excess of $50,000.

"(g) The Board, upon finding that any applicant or beneficiary of any payment of compensation has not fully cooperated with all law enforcement agencies, may deny or withdraw any order of payment of compensation.

"TERMS AND PAYMENT OF THE ORDER OF COMPENSATION

"SEC. 465. (a) Except as otherwise provided in this section, any order for the payment of compensation under this part may be made on such terms and conditions as the Board deems necessary and appropriate to carry out the purposes of this part.

"(b) The Board shall deduct from any payments ordered under section 457 of this part any payments received by applicant—

"(1) from the criminal or from any person on behalf of the criminal;

"(2) under insurance programs mandated by law;

"(3) from the United States, a State or any of its subdivisions, for a personal injury or death otherwise compensable under this part; and

"(4) under contract of insurance wherein the applicant is the insured or beneficiary—but only to the extent that the sum of such payments plus any payment ordered under this part would be in excess of the total compensable injuries suffered by the applicant as determined by the Board.

"(c) The Board shall pay to the person named in the order of payment of compensation the amount named therein in accordance with the provisions of such order.

"(d) No order for the payment of compensation made under this part shall be subject to execution or attachment other than for expenses resulting from the injury or death which is the basis for the application.

"(e) In the case of a payment for the benefit of a child or incompetent, the Board shall order the payee to file an accounting with the Board no later than January 31 of each year for the previous calendar year and to take such other action as the Board shall determine to be necessary and appropriate for the benefit of the child or incompetent.

"EMERGENCY AWARDS

"SEC. 466. (a) Whenever the Board determines, prior to taking action upon an application that—

"(1) such application is one with respect to which an order of payment will probably be made, and

"(2) undue hardship may result to the applicant if immediate payment is not made, the Board may order emergency payments to the applicant pending a final decision on the application.

"(b) The amount of any emergency payment ordered under subsection (a) of this section shall be deducted from the amount of any final order for the payment of compensation made to the applicant.

"(c) Where the amount of any emergency payment ordered under subsection (a) of this section exceeds the amount of the final order for the payment of compensation, or if there is no order for the payment of compensation made, the recipient of any such emergency payment shall be liable for the repayment of such amount in accordance with rules and regulations prescribed by the Board. The Board may waive all or part of such repayment where in its judgment such repayment would involve severe financial hardship.

"RECOVERY FROM THE CRIMINAL

"SEC. 467. (a) Whenever any person is convicted of a crime and an order for the payment of compensation is or has been made under this part for a personal injury or death resulting from the act or omission constituting such crime, the Attorney General may, within one year from the date on which the judgment of conviction became final, institute an action against such person for the recovery of the whole or any specified part of such compensation in the district court of the United States for any judicial district in which such person resides or is found. Such court shall have jurisdiction to hear, determine, and render judgment in any such action. Any amounts recovered under this subsection shall be deposited in the Criminal Victim Indemnity Fund. If an amount greater than that paid pursuant to the order for payment of compensation is recovered and collected in any such action, the Board shall pay the balance to the applicant.

"(b) Process of the district court for any judicial district in any action under this section may be served in any judicial district of the United States by the United States marshal thereof. Whenever it appears to the court in which any action under this section is pending that other parties should be brought before the court in such action, the court may cause such other parties to be summoned from any judicial district of the United States.

"(c) The Board shall provide to the Attorney General such information, data, and reports as the Attorney General may require to institute actions in accordance with this section.

"EFFECT ON CIVIL ACTIONS

"SEC. 468. An order for the payment of compensation under this part shall not affect the right of any person to recover damages from any other person by a civil action for the injury or death.

"INDEMNITY FUND

"SEC. 469. There is hereby created on the books of the Treasury of the United States a fund known as the 'Criminal Victim Indemnity Fund' (hereinafter referred to as the 'Fund'). The Fund shall consist of such amounts as may be deposited in, or appropriated to such Fund, as provided by law, or as may be contributed to such Fund by public or private agencies or organizations or individuals.

"DUTY TO INFORM VICTIMS

"SEC. 470. (a) Each Federal law enforcement agency investigating a crime to which this Part applies shall inform victims of their eligibility to make an application for an order of compensation under this part. Such agency shall provide forms (as prescribed by the Board) to each person who is eligible to file a claim pursuant to this part.

"(b) If a victim of a crime does not cooperate with a law enforcement agency in the indentification, apprehension and conviction of the perpetrator of the crime, any Federal law enforcement agency involved shall immediately notify the Board of such lack of cooperation.

"REPORTS TO CONGRESS

"SEC. 471. The Board shall transmit to the Congress an annual report of its activities under this part, including the name of each applicant, a brief description of the facts in each case and the amount, if any, of compensation awarded."

COMPENSATION OF BOARD MEMBERS AND PERSONNEL

SEC. 103. (a) Section 5314 of title 5 of the United States Code is amended by adding at the end thereof the following new paragraph:

"(58) Chairman, Violent Crimes Compensation Board."

(b) Section 5315 of title 5 of the United States Code is amended by adding at the end thereof the following new paragraph:

"(95) Members, Violent Crimes Compensation Board."

(c) Section 5316 of title 5 of the United States Code is amended by adding at the end thereof the following new paragraphs:

"(131) Executive Secretary, Violent Crimes Compensation Board.

"(132) General Counsel, Violent Crimes Compensation Board."

SEC. 104. (a) Chapter 227 of title 18 of the United States Code is amended by adding at the end thereof the following new section:

"§ 3579. Fine imposed for Criminal Indemnity Fund.

"In any court of the United States, the District of Columbia, the Commonwealth of Puerto Rico, a territory or possession of the United States, upon conviction of a person of a crime resulting in the personal injury or death of another person, the court shall take into consideration the financial conditions of such person, and may, in addition to any other penalty, order such person to pay a fine commensurate in amount with the personal injury or death of such other person and such fine shall be deposited into the Criminal Victim Indemnity Fund of the United States."

(b) The analysis of chapter 227 of title 18 of the United States Code is amended by adding at the end thereof the following new item:

"§ 3579. Fine Imposed for Criminal Victim Indemnity Fund."

PART B—FEDERAL GRANT PROGRAM

SEC. 105. Subsection (b) of section 301 of Part C of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, is amended by adding at the end thereof the following new paragraph:

"(10) The Federal share of the costs of State programs to compensate victims of violent crime."

SEC. 106. Section 303 of such Act is amended by inserting "(a)" immediately after "303" and by adding at the end thereof the following new subsections:

"(b) In the case of a State applying for the Federal share of costs of State programs to compensate victims of violent crime, the Administration shall make grants to a State only if, after consultation with the Violent Crimes Compensation Board, it determines, pursuant to criteria established under this title, that such State has enacted legislation of general applicability within such State—

"(1) establishing a State agency having the capacity to hear or determine applications based on financial need brought by or on behalf of the innocent victims of violent crime and others suffering pecuniary loss therefrom and order the payment of such claims;

"(2) providing for the payment of compensation for pecuniary loss actually and necessarily incurred for personal injuries or death resulting from crimes in categories established pursuant to section 308 of this title.

"(3) containing adequate provisions for recovery of compensation substantially similar to those contained in part F of this title.

"(c) Any State desiring to receive a grant under paragraph 10 of subsection (b) of section 301 of this title shall submit to the Administration a State plan. Each such plan shall—

"(1) provide that the program for which assistance under this title is sought will be administered by or under the supervision of a State agency;

"(2) set forth a program for the compensation of victims of violent crime which is consistent with the requirements set forth in subsection (b) of this section;

"(3) provide assurances that the State will pay from non-Federal sources the remaining cost of such program;

"(4) provide that such fiscal control and fund accounting procedures will be adopted as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the State under this title; and

"(5) provide that the State will submit to the Administration—

"(A) periodic reports evaluating the effectiveness of payments received under this Title in carrying out the objectives of the compensation program, and

"(B) such other reports as may be reasonably necessary to enable the Administration to perform its functions, including such reports as it may require to determine the amounts which local public agencies of that State are eligible to receive for any fiscal year, and assurances that such State will keep such records and afford such access thereto as the Administration may find necessary to assure the correctness and verifications of such reports.

"(6) contain other data and assurance as the Administration deems necessary and appropriate.

"(d) The Administration shall approve a plan which meets the requirements specified in subsection (c) of this section and it shall not finally disapprove a plan except after reasonable notice and opportunity for a hearing to such State."

BASIC CRITERIA

SEC. 107. Part C of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by adding at the end thereof the following new sections:

"SEC. 308. The Administration shall establish by regulation criteria to be applied under paragraph (10) of subsection (10) of section 301 of this Title. In addition to other matters such criteria shall include standards for—

"(1) the persons who shall be eligible for compensation,

"(2) the categories of crimes for which compensation may be ordered,

"(3) the losses for which compensation may be ordered, and

"(4) such other terms and conditions for the payment of such compensation as the Administration deems necessary and appropriate.

"SEC. 309. (a) The Administration shall pay in any fiscal year to each State which has a plan approved pursuant to this Title for that fiscal year the Federal share of the cost of such plan as determined by it.

"(b) The Federal share of programs authorized by paragraph (10) of section 301 of this Title shall be 75 per centum for any fiscal year.

TITLE II—GROUP INSURANCE FOR PUBLIC SAFETY OFFICERS

INSURANCE PROGRAM AUTHORIZED

SEC. 201. Title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by this Act, is further amended by adding at the end thereof the following new part:

"PART G—PUBLIC SAFETY OFFICERS' GROUP LIFE INSURANCE

"DEFINITIONS

"SEC. 500. For the purposes of this part—

"(1) The term 'month' means a month which runs from a given day in one month to a day of the corresponding number in the next or specified succeeding month, except where the last month has not so many days, in which event it expires on the last day of the month.

"(2) The term 'full time' means such period or type of employment or duty as may be prescribed by regulation promulgated by the Attorney General.

"(3) 'public safety officer' means, pursuant to regulations issued by the Attorney General, an individual who is employed by a State or unit of local government—

"(A) primarily to patrol the highways or otherwise preserve order and enforce the laws, or

"(B) in any activity pertaining to a correctional program, facility, or institution, or to a court having criminal jurisdiction, where the activity is determined by the Attorney General to be potentially dangerous because of contact with criminal suspects, defendants, prisoners, or parolees, or

"(C) in firefighting.

"(4) The term 'State' means any State of the United States, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

"(5) The term 'unit of local government' means any city, county, township, town, borough, parish, village, or other general purpose subdivision of a State, or any Indian tribe which the Secretary of the Interior determines performs public safety functions.

"ELIGIBLE INSURANCE COMPANIES

"SEC. 501. (a) The Attorney General is authorized, without regard to section 3709 of the Revised Statutes, as amended (41 U.S.C. 5), to purchase from one or more life insurance companies a policy or policies of group life insurance to provide the benefits provided under this part. Each such life insurance company must (1) be licensed to issue life, accidental death, and dismemberment insurance in each of the fifty States of the United States and in the District of Columbia, and (2) as of the most recent December 31 for which information is available to the Attorney General, have in effect at least 1 per centum of the total amount of group life insurance which all life insurance companies have in effect in the United States.

"(b) Any life insurance company issuing such a policy shall establish an administrative office at a place and under a name designated by the Attorney General.

"(c) The Attorney General shall arrange with each life insurance company issuing any policy under this part to reinsure, under conditions approved by him, portions of the total amount of insurance under such policy with such other life insurance companies (which meet qualifying criteria set forth by the Attorney General) as may elect to participate in such reinsurance.

"(d) The Attorney General may at any time discontinue any policy which he has purchased from any insurance company under this part.

"PERSONS INSURED; AMOUNT

"SEC. 502. (a) Any policy of insurance purchased by the Attorney General under this part shall automatically insure any public safety officer employed on a full-time basis by a State or unit of local government which has (1) applied to the Attorney General for participation in the insurance program provided under this part, and (2) agreed to deduct from such officer's pay the amount of the premium and forward such amount to the Department of Justice or such other agency or office as is designated by the Attorney General as the collection agency or office for such premiums. The insurance provided under this part shall take effect from the first day agreed upon by the Attorney General and the responsible official of the State or unit of local government making application for participation in the program as to public safety officers then on the payroll, and as to public safety officers thereafter entering on full-time duty from the first day of such duty. The insurance provided by this part shall so insure all such public safety officers unless any such officer elects in writing not to be insured under this part. If any such officer elects not to be insured under this part he may thereafter, if eligible, be insured under this part upon written application, proof of good health, and compliance with such other terms and conditions as may be prescribed by the Attorney General.

"(b) A public safety officer eligible for insurance under this part is entitled to be insured for an amount of group life insurance, plus an equal amount of group accidental death and dismemberment insurance, in accordance with the following schedule:

"If annual pay is—		The amount of group insurance is—	
Greater than—	But not greater than—	Life	Accidental death and dismemberment
0	$8, 000	$10, 000	$10, 000
$8,000	9, 000	11, 000	11, 000
$9,000	10, 000	12, 000	12, 000
$10,000	11, 000	13, 000	13, 000
$11,000	12, 000	14, 000	14, 000
$12,000	13, 000	15, 000	15, 000
$13,000	14, 000	16, 000	16, 000
$14,000	15, 000	17, 000	17, 000
$15,000	16, 000	18, 000	18, 000
$16,000	17, 000	19, 000	19, 000
$17,000	18, 000	20, 000	20, 000
$18,000	19, 000	21, 000	21, 000
$19,000	20, 000	22, 000	22, 000
$20,000	21, 000	23, 000	23, 000
$21,000	22, 000	24, 000	24, 000
$22,000	23, 000	25, 000	25, 000
$23,000	24, 000	26, 000	26, 000
$24,000	25, 000	27, 000	27, 000
$25,000	26, 000	28, 000	28, 000
$26,000	27, 000	29, 000	29, 000
$27,000	28, 000	30, 000	30, 000
$28,000	29, 000	31, 000	31, 000
$29,000		32, 000	32, 000".

The amount of such insurance shall automatically increase at any time the amount of increases in the annual basic rate of pay places any such officer in a new pay bracket of the schedule.

"(c) Subject to the conditions and limitations approved by the Attorney General and which shall be included in the policy purchased by him, the group accidental death and dismemberment insurance shall provide for the following payments:

"Loss

Loss of one hand or of one foot or loss of sight of one eye.

Loss of two or more members or loss of sight in both eyes.

"Amount payable

Full amount shown in the schedule in subsection (b) of this section.

One half of the amount shown in the schedule in subsection (b) of this section.

Full amount shown in the schedule in subsection (b) of this section."

The aggregate amount of group accidental death and dismemberment insurance that may be paid in the case of any insured as the result of any one accident may not exceed the amount shown in the schedule in subsection (b) of this section.

"(d) The Attorney General shall prescribe regulations providing for the conversion of other than annual rates of pay to annual rates of pay and shall specify the types of pay included in annual pay.

"TERMINATION OF COVERAGE

"Sec. 503. Each policy purchased under this part shall contain a provision, in terms approved by the Attorney General, to the effect that any insurance thereunder on any public safety officer shall cease thirty-one days after (1) his separation or release from full-time duty as such an officer or (2) discontinuance of his pay as such an officer, whichever is earlier.

"CONVERSION

"Sec. 504. Each policy purchased under this part shall contain a provision for the conversion of such insurance effective the day following the date such insurance would cease as provided in section 503 of this part. During the period such insurance is in force the insured, upon request to the office established under section 3(b) of this part, shall be furnished a list of life insurance companies participating in the program established under this part and upon written application (within such period) to the participating company selected by the insured and payment of the required premiums be granted insurance without a medical examination on a permanent plan then currently written by such company which does not provide for the payment of any sum less than the face value thereof or for the payment of an additional amount of premiums if the insured engages in public safety activities. In addition to the life insurance companies participating in the program established under this part, such list shall include additional life insurance companies (not so participating) which meet qualifying criteria, terms, and conditions established by the Attorney General and agree to sell insurance to any eligible insured in accordance with the provisions of this section.

"WITHHOLDING OF PREMIUMS FROM PAY

"Sec. 505. During any period in which a public safety officer is insured under a policy of insurance purchased by the Attorney General under this part, his employer shall withhold each month from his basic or other pay until separation or release from full-time duty as a public safety officer an amount determined by the Attorney General to be such officer's share of the cost of his group life insurance and accidental death and dismemberment insurance. Any such amount not withheld from the basic or other pay of such officer insured under this part while on full-time duty as public safety officer, if not otherwise paid, shall be deducted from the proceeds of any insurance thereafter payable. The initial monthly amount determined by the Attorney General to be charged any public safety officer for each unit of insurance under this part may be continued from year to year, except that the Attorney General may redetermine such monthly amount from time to time in accordance with experience.

"SHARING OF COST OF INSURANCE

"Sec. 506. For each month any public safety officer is insured under this part the United States shall bear not to exceed one-third of the cost of such insurance or such lesser amount as may from time to time be determined by the President to be a practicable and equitable obligation of the United States in assisting the States and units of local government in recruiting and retaining personnel for their public safety forces.

"INVESTMENT; EXPENSES

"Sec. 507. (a) The amounts withheld from the basic or other pay of public safety officers as premiums for insurance under section 505 of this part and any sums contributed by the United States under section 506 of this part together with the income derived from any dividends or premium rate readjustment from insurers shall be deposited to the credit of a revolving fund established in the Treasury of the United States. All premium payments on any insurance policy or policies purchased under this part and the administrative cost of the insurance program established by this part to the department or agency vested with the responsibility for its supervision shall be paid from the revolving fund.

"(b) The Attorney General is authorized to set aside out of the revolving fund such amounts may be required to meet the administrative cost of the program to the department or agency or office designated by him, and all current premium payments on any policy purchased under this Pact. The Secretary of the Treasury is authorized to invest in and to sell and retire special interest-bearing obligations of the United States for the account of the revolving fund. Such obligations issued for this purpose shall bear interest at a rate equal to the average market yield (computed by the Secretary of the Treasury on the basis of market quotations as of the end of the calendar month next preceding the date of issue) on all marketable interest-bearing obligations of the United States then forming a part of the public debt which are not due or callable until after the expiration of four years from the end of such calendar month; except that where such average market yield is not a multiple of one-eighth of 1 per centum, the rate of interest of such obligation shall be the multiple of one-eighth of 1 per centum nearest market yield. The interest on and the proceeds from the sale of these obligations and the income derived from dividends or premium rate adjustments from insurers, shall become a part of the revolving fund.

"BENEFICIARIES; PAYMENT OF INSURANCE

"Sec. 508. (a) Any amount of insurance in force under this Pact on any public safety officer or former public safety officer on the date of his death shall be paid, upon establishment of a valid claim therefor, to the person or persons surviving at the date of his death, in the following order of precedence:

"First, to the beneficiary or beneficiaries as the public safety officer or former public safety officer may have designated by a writing received in his employer's office prior to his death;

"Second, if there be no such beneficiary, to the widow or widower of such officer or former officer;

"Third, if none of the above, to the child or children of such officer or former officer and descendants of deceased children by representation;

"Fourth, if none of the above, to the parents of such officer or former officer or the survivor of them;

"Fifth, if none of the above, to the duly appointed executor or administrator of the estate of such officer or former officer;

"Sixth, if none of the above, to other next of kin of such officer or former officer entitled under the laws of domicile of such officer or former officer at the time of his death.

"(b) If any person otherwise entitled to payment under this section does not make claim therefor within one year after the death of the public safety officer or former public safety officer, or if payment to such person within that period is prohibited by Federal statute or regulation, payment may be made in the order of precedence as if such person had predeceased such officer or former officer, and any such payment shall be a bar to recovery by any other person.

"(c) If, within two years after the death of a public safety officer or former public safety officer, no claim for payment has been filed by any person entitled under the order of precedence set forth in this section, and neither the Attorney General nor the administrative office established by any insurance company pursuant to this part has received any notice that any such claim will be made, payment may be made to a claimant as may in the judgment of the Attorney General be equitably entitled thereto, and such payment shall be a bar to recovery by any other person. If, within four years after the death of the public safety officer or former public safety officer, payment has not been made pursuant to this part and no claim for payment by any person entitled under this Part is pending, the amount payable shall escheat to the credit of the revolving fund referred to in section 507 of this Part.

"(d) The public safety officer may elect settlement of insurance under this part either in a lump sum or in thirty-six equal monthly installments. If no such election is made by such officer the beneficiary may elect settlement either in a lump sum or in thirty-six equal monthly installments. If any such officer has elected settlement in a lump sum, the beneficiary may elect settlement in thirty-six equal monthly installments.

"BASIC TABLES OF PREMIUMS; READJUSTMENT OF RATES

"Sec. 509 (a) Each policy or policies purchased under this part shall include for the first policy year a schedule of basic premium rates by age which the Attorney General shall have determined on a basis consistent with the lowest schedule of basic premium rates generally charged for new group life insurance policies issued to large employers, this schedule of basic premium rates by age to be applied, except as otherwise provided in this section, to the distribution by age of the amount of group life insurance and group accidental death and dismemberment insurance under the policy at its date of issue to determine an average basic premium per $1,000 of insurance. Each policy so purchased shall also include provisions whereby the basic rates of premium determined for the first policy year shall be continued for subsequent policy years, except that they may be readjusted for any subsequent year, based on the experience under the policy, such readjustment to be made by the insurance company issuing the policy on a basis determined by the Attorney General in advance of such year to be consistent with the general practice of life insurance companies under policies of group life insurance and group accidental death and dismemberment insurance issued to large employers.

"(b) Each policy so purchased shall include a provision that, in the event the Attorney General determines that ascertaining the actual age distribution of the amounts of group life insurance in force at the date of issue of the policy or at the end of the first or any subsequent year of insurance thereunder would not be possible except at a disproportionately high expense, the Attorney General may approve the determination of a tentative average group life premium, for the first or any subsequent policy year, in lieu of using the actual age distribution. Such tentative average premium rate shall be redetermined by the Attorney General during any policy year upon request by the insurance company issuing the policy, if experience indicates that the assumptions made in determining the tentative average premium rate for that policy year were incorrect.

"(c) Each policy so purchased shall contain a provision stipulating the maximum expense and risk charges for the first policy year, which charges shall have been determined by the Attorney General on a basis consistent with the general level of such charges made by life insurance companies under policies of group life insurance and group accidental death and dismemberment insurance issued to large employers. Such maximum charges shall be continued from year to year, except that the Attorney General may redetermine such maximum charges for any year either by agreement with the insurance company or companies issuing the policy or upon written notice given by the Attorney General to such companies at least one year in advance of the beginning of the year for which such redetermined maximum charges will be effective.

"(d) Each such policy shall provide for an accounting to the Attorney General not later than ninety days after the end of each policy year, which shall set forth, in a form approved by the Attorney General, (1) the amounts of premiums actually accrued under the policy from its date of issue to the end of such policy year, (2) the total of all mortality, dismemberment, and other claim charges incurred for that period, and (3) the amounts of the insurers' expense and risk charge for that period. Any excess of the total of items (1) over the sum of items (2) and (3) shall be held by the insurance company issuing the policy as a special contingency reserve to be used by such insurance company for charges under such policy only, such reserve to bear interest at a rate to be determined in advance of each policy year by the insurance company issuing the policy, which rate shall be approved by the Attorney General as being consistent with the rates generally used by such company or companies for similar funds held under other group life insurance policies. If and when the Attorney General determines that such special contingency reserve has attained an amount estimated by the Attorney General to make satisfactory provision for adverse fluctuations in future charges under the policy, and further excess shall be deposited to the credit of the revolving funds established under this part. If and when such policy is discontinued, and if, after all charges have been made, there is any positive balance remaining in such special contingency reserve, such balance shall be deposited to the credit of the revolving fund, subject to the right of the insurance company issuing the policy to make such deposit in equal monthly installments over a period of not more than two years.

"BENEFIT CERTIFICATES

"SEC. 510. The Attorney General shall arrange to have each member insured under a policy purchased under this part receive a certificate setting forth the benefits to which the member is entitled thereunder, to whom such benefit shall be payable, to whom claims should be permitted, and summarizing the provisions of the policy principally affecting the member. Such certificate shall be in lieu of the certificate which the insurance company would otherwise be required to issue.

"FEDERAL ASSISTANCE TO STATES AND LOCALITIES FOR EXISTING GROUP LIFE INSURANCE PROGRAMS

"SEC. 511. (a) Any State or unit of local government having an existing program of group life insurance for public safety officers which desires to receive Federal assistance under the provisions of this section shall—

"(1) inform the public safety officers of the benefits and premium costs of both the Federal program and the State or unit of local government program, and of the intention of the State or unit of local government to apply for the Federal Assistance under this section; and

"(2) hold a referendum of public safety officers of the State or unit of local government to determine whether such officers want to continue in the existing group life insurance program or apply for the Federal program under the provisions of this part.

The results of the referendum shall be binding on the State or unit of local government.

"(b) If there is an affirmative vote of a majority of such officers to continue in such State or local program and the other requirements set forth in subsection (a) are met, a State or unit of local government may apply for Federal assistance for such program for group life insurance under such rules and regulations as the Attorney General may establish. Assistance under this section shall not exceed three-fourths of the Federal contribution which would otherwise have been available under section 506 of this part, and shall be reduced to the extent that the Attorney General determines that the existing program of any State or unit of local government does not give as complete coverage as the Federal program. Assistance under this section shall be used to reduce proportionately the premiums paid by the State or the unit of local government and by the appropriate public safety officers under such existing program.

"ADMINISTRATION

"SEC. 512. (a) The Attorney General may delegate any of his functions under this part, except the making of regulations, to any officer or employee of the Department of Justice.

"(b) In administering the provisions of this part, the Attorney General is authorized to utilize the services and facilities of any agency of the Federal Government or a State government or a company from which insurance is purchased under this part, in accordance with appropriate agreements, and to pay for such services either in advance or by way of reimbursement, as may be agreed upon.

"(c) Until specific appropriations are made for carrying out the purposes of this part, any appropriation made to the Department of Justice or the Law Enforcement Assistance Administration for grants, activities or contracts shall, in the discretion of the Attorney General, be available for payments of obligations arising under this part.

"ADVISORY COUNCIL ON PUBLIC SAFETY OFFICERS' GROUP LIFE INSURANCE

"SEC. 513. There is hereby established an Advisory Council on Public Safety Officers' Group Life Insurance consisting of the Attorney General as Chairman, the Secretary of the Treasury, the Secretary of Health, Education, and Welfare, and the Director of the Office of Management and Budget, each of whom shall serve without additional compensation. The Council shall meet once a year, or oftener, at the call of the Attorney General, and shall review the administration of this part and advise the Attorney General on matters of policy relating to his activities thereunder. In addition, the Attorney General may solicit advice and recommendations from any State or unit of local government participating in the public safety officers' group life insurance program.

"JURISDICTION OF COURTS

"SEC. 514. The district courts of the United States shall have original jurisdiction of any civil action or claim against the United States founded upon this part.

"PREMIUM PAYMENTS ON BEHALF OF PUBLIC SAFETY OFFICERS

"SEC. 515. Nothing in this part shall be construed to preclude any State or unit of local government from making payments on behalf of public safety officers of the premiums required to be paid by them for any group life insurance program authorized by this part or any such program carried out by a State or unit of local government."

TITLE III—DEATH AND DISABILITY BENEFITS FOR PUBLIC SAFETY OFFICERS

DECLARATION OF PURPOSE

SEC. 301. It is the purpose of this title to promote the public welfare by establishing a Federal minimum death and dismemberment benefit to public safety officers, their families and dependents.

SEC. 302. Title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by this Act, is further amended by adding at the end thereof the following new part:

"PART H—DEATH AND DISABILITY BENEFITS FOR PUBLIC SAFETY OFFICERS

"DEFINITIONS

"SEC. 525. As used in this part—

"(1) 'child' means an unmarried person who is under eighteen years of age and includes a stepchild or an adopted child, and illegitimate child, and student over 18 years of age, and a child conceived prior to but born after the personal injury or death of the victim;

"(2) 'dependent' means a relative or other person who was wholly or partially dependent upon the income of the victim at the time of the personal injury or death of the victim;

"(3) 'public safety officer' means, pursuant to regulations issued by the Administration, a person who is employed by a State or unit of general local government in any activity pertaining to—

"(A) the enforcement of the criminal laws, crime prevention control, or reduction, including highway patrol,

"(B) a correctional program, facility, or institution,

"(C) a court having crime jurisdiction, where the activity is determined by the Administration to be potentially dangerous because of contact with criminal suspects, defendants, prisoners or parolees, or

"(D) firefighting, done voluntarily or otherwise, with or without compensation;

"(4) 'relative' includes a spouse, parent, grandparent, stepfather, stepmother, child, grandchild, siblings of the whole or half blood, a spouse's parents, a niece or nephew; and

"(5) 'student' means a person who is a 'student' as defined in paragraph (17) of section 8101 of Title 5 of the United States Code.

"DEATH AND DISABILITY BENEFITS FOR PUBLIC SAFETY OFFICERS

"SEC. 526. (a) Under regulations issued by the Administration under Part I of this Title, upon certification to the Administration by the Governor of any State that a public safety officer employed on a full or part time basis has been killed or disabled as the result of a criminal act in the line of duty, the Administration shall pay a benefit as provided in subsection (d) of this section 527 of this Part in the following order of precedence:

"(1) If the public safety officer was disabled, to the public safety officer.

"(2) If the public safety officer was killed and there is no spouse, to the dependent or dependents in equal shares.

"(3) If the public safety officer was killed and there are both a spouse and one or more dependents, one-half to the spouse and one-half to the dependents in equal shares.

"(b) The benefit payable to any person under this part is in addition to any benefits to which he may be entitled under any other law other than compensation for pecuniary loss made pursuant to part F of this title or a State program established under paragraph (10) of section 301 of part C of this title.

"(c) The benefit payable to any person under this part may be made in a lump sum, in such equal monthly installments, or in such other fashion as the Administration determines will be appropriate.

"(d) No award made pursuant to this part shall be subject to execution or attachment other than for pecuniary loss resulting from the injury or death which is the basis for the certification.

"AWARDS

"SEC. 527. (a) Whenever the Administration determines, prior to acting upon a certification that—such certification is one with respect to which a benefit will probably be made, the Administration may make interim benefit payments to the public safety officer, spouse or dependents pending a final certification of the Governor.

"(b) The amount of any interim benefit paid under subsection (a) shall be deducted from the amount of any final benefit paid to the public safety officer, spouse or dependent.

"(c) Where the amount of any interim benefit paid under subsection (a) exceeds the amount of the final benefit, or if there is no final benefit paid, the recipient of any such interim benefit shall be liable for repayment of such amount in accordance with rules and regulations prescribed by the Administration. The Administration may waive all or part of such repayment where in its judgment such repayment would envoke severe hardship.

"(d) Subject to conditions and limitations as he may establish, the Administration shall provide for the following payments:

"Loss	Amount payable
"Death	Fifty thousand dollars.
"Loss of one hand or of one foot or loss of sight of one eye.	Twenty-five thousand dollars.
"Loss of two or more members or loss of sight in both eyes.	Fifty-thousand dollars."

Amount Payable

AMENDMENT TO THE INTERNAL REVENUE CODE OF 1954

SEC. 528. Section 101(b)(2)(A) of the Internal Revenue Code of 1954 (relating to death benefits excluded from gross income) is amended to read as follows:

"(A) $5,000 LIMITATION.—The aggregate amounts excludable under paragraph (1) with respect to the death of any employee shall not exceed $5,000, except that not to exceed $50,000 shall be excludable under the provisions of part L of the Omnibus Crime Control and Safe Streets Act of 1968, as amended."

TITLE IV—CIVIL REMEDIES FOR VICTIMS OF RACKETEERING ACTIVITY

PURPOSE

SEC. 401. It is the purpose of this title to promote the general welfare by strengthening the civil remedies available to the victim of racketeering activity.

EXPANDED JURISDICTION

SEC. 402. (a) Section 1964 of title 18 of the United States Code is amended by—

(1) inserting in subsection (a) ", without regard to the amount in controversy," immediately after "jurisdiction."

(2) inserting in subsection (b) "subsection (a) of" after "under" each time it appears;

(3) striking out in subsection (b) "action" and inserting in lieu thereof "proceedings"; and

(4) striking subsections (c) and (d) thereof in their entirety and inserting in lieu thereof the following:

"(c) Any person may institute proceedings under subsection (a) of this section. In any proceeding brought by any person under subsection (a) of this section, relief shall be granted in conformity with the principles which govern the granting of injunctive relief from threatened loss or damage in other cases. Upon the execution of proper bond against damages for an injunction improvidently granted and showing of immediate danger or irreparable loss or damage, a preliminary injunction may be issued in any action before a determination thereof upon its merits.

"(d) Whenever the United States is injured in its business or property by reason of any violation of section 1962 of this chapter, the Attorney General may bring a civil action in a district court of the United States, without regard to the amount in controversy, and shall recover the actual damages sustained by it, and the cost of the action.

"(e) Any person who is injured in his business or property by reason of any violation of section 1962 of this chapter may bring a civil action in a district court of the United States, without regard to the amount in controversy, and shall recover threefold the actual damages sustained by him, and the cost of the action, including a reasonable attorney's fee

"(f) The Attorney General may upon timely application intervene in any civil action or proceeding brought under this chapter, if the Attorney General certifies that in his opinion the case is of general public importance. In such action or proceeding, the United States shall be entitled to the same relief as if it had instituted the action or proceeding.

"(g) A final judgment or decree rendered in favor of the United States in any criminal or civil action or proceeding under this chapter shall estop the defendant in any subsequent civil proceeding as to all matters respecting which said judgment or decree would be an estoppel as between the parties thereto.

"(h) Except as hereinafter provided, any civil action under this section shall be barred unless it is commenced within five years after the cause of action accrued. Whenever any civil or criminal action or proceeding, other than an action under subsection (d) of this section, is brought or intervened in by the United States to prevent, restrain, or punish any violation of section 1962 of this chapter the running of the period of limitations prescribed by this subsection with respect to any cause of action arising under subsections (c) and (e) of this section, which is based in whole or in part on any matter complained of in such action or proceeding by the United States, shall be suspended during the pendency of such action or proceeding by the United States and for two years thereafter.".

(b) Section 1965 of title 18 of the United States Code is amended by—

(1) striking out in subsection (b) "action under section 1964 of" and inserting in lieu thereof "civil action or proceeding under";

(2) striking out in subsection (c) "civil or criminal" immediately before "action".

(c) Section 1966 of title 18 of the United States Code is amended by striking "any civil action instituted under this chapter by the United States" in the first sentence and inserting in lieu thereof "any civil action or proceeding under this chapter in which the United States is a part".

(d) Section 1967 of title 18 of the United States Code is amended by striking "instituted by the United States".

(e) Section 1968 of title 18 of the United States Code is amended by—

(1) striking out "prior to the institution of a civil or criminal proceeding" in the first sentence of subsection (a) and inserting in lieu thereof "before he institutes or intervenes in a civil or criminal action or proceeding";

(2) striking out "case" the first time it appears and inserting in lieu thereof "civil or criminal action" in paragraph (4) of subsection (f) and striking out "case" each time it appears thereafter and inserting in lieu thereof "action";

(3) striking out "case" each time it appears in paragraph (5) of subsection (f) and inserting in lieu thereof "action"; and

(4) striking out "case" and inserting in lieu thereof "action" in paragraph (6) of subsection (f).

TITLE V—MISCELLANEOUS PROVISIONS

REPEALS

SEC. 501. (a) Section 4–531 of the District of Columbia Code is hereby repealed.

(b) Subchapter III of chapter 81 of title 5 of the United States Code is hereby repealed.

(c) The provisions of subsection (a) and (b) of this section shall have no effect on benefits, awards, or gratuities made or already being made prior to the date of enactment of this Act.

AUTHORIZATIONS OF APPROPRIATIONS

SEC. 502. Section 569 of the Omnibus Crime Control and Safe Streets Act of 1968 as amended and as redesignated by this Act is amended by inserting immediately after "569" "(a)" and by adding at the end thereof the following new subsections:

"(b) There is authorized to be appropriated for the fiscal year ending June 30, 1973—

"(1) $10,000,000 for the purposes of part F;

"(2) $20,000,000 for the purposes of paragraph (10) of subsection (b) of section 301 of part C.

"(c) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of part G.

"(d) There are authorized to be appropriated $40,000,000 for the fiscal year ending June 30, 1972, and $20,000,000, for the fiscal year ending June 30, 1973, for the purposes of part H.".

SEVERABILITY

SEC. 503. If the provisions of any part of this Act are found invalid or any amendments made thereby or the application thereof to any person or circumstances be held invalid, the provisions of the other parts and their application to other persons or circumstances shall not be affected thereby.

EFFECTIVE DATES

SEC. 504. (a) Title I of this Act shall become effective 180 days after the date of enactment of this Act.

(b)(1) Title II of this Act shall become effective on the date of enactment of this Act.

(2) The insurance provided for under title II of this Act shall be placed in effect for the public safety officers of any State or unit of local government participating in the public safety officers' group life insurance program on a date mutually agreeable to the Attorney General, the insurer or insurers, and the participating State or unit of local government.

(c)(1) Title III of this Act shall become effective with respect to any disability or death of a public safety officer as defined in paragraph (5) of section 525 of part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 as amended by this Act, on or after January 1, 1967.

(2) Any amount already paid to a public safety officer, spouse, or dependent as defined in paragraphs (3) and (5) of section 525 of part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by this Act, pursuant to Federal law for the disablement or death of such

public safety officer shall be deducted from any benefit paid under title III of this Act.

By Mr. JACKSON (for himself and Mr. MAGNUSON):

S. 2997. A bill to establish the Cougar Lakes National Recreation Area, to provide for a study of the potential of Mount Aix and surrounding lands with the Snoqualmie and Gifford Pinchot National Forests in the State of Washington for inclusion in the National Wilderness Preservation System, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

COUGAR LAKES NATIONAL RECREATION AREA

Mr. JACKSON. Mr. President, I introduce for appropriate reference a bill to establish a Cougar Lakes National Recreation Area of some 267,000 acres in the North Cascades region of Washington State.

The area encompassed in the proposal is immediately east of the Mount Rainier National Park. It extends south to and including White Pass and Rimrock Lake, easterly almost to Tieton and northerly to the Mather Memorial Parkway, including some 37,000 acres north of the highway. The entire area is now under the administration of the U.S. Forest Service, except for some 350 acres of privately owned land which was patented for mining purposes many years ago.

Because of its beauty and immense natural resource values, the North Cascades have been the subject of many books, reports, and travelogs almost since the first Federal forest reserves were established in the 1890's. Because of the early and continuing controversy over whether a North Cascades National Park should be established, together with associated problems of resource balance between competing users, a North Cascades study team was appointed in 1963 to "explore in an objective manner all resource potentials of the area and the management and administration that appears to be in the public interest." This multiagency team spent 2½ years studying more than 6 million acres of Federal land in the North Cascades before publishing their comprehensive report in October 1965. I should emphasize that the North Cascades study team engaged in one of the most complete public airings of regional land use policy that this country has ever witnessed.

Mr. President, in 1967 and 1968, I devoted considerable time on legislation encompassing much of the North Cascades region, time which culminated in the establishment of a 505,000 acre North Cascades National Park. Another 700,000 acres of dramatic alpine scenery, active glaciers, and mountain lakes in northern Washington were placed in a special status, including the Ross Lake and Lake Chelan Recreation areas, the Pasayten Wilderness, and additions to the Glacier Peak Wilderness.

Because of the sheer magnitude of undertaking long-range land use patterns for the entire North Cascades area, only those study team recommendations dealing with land north of the Stevens Pass Highway were the subject of legislation in 1967 and 1968. The measure I am introducing today represents one more step toward total congressional consideration of the study team's recommendations.

Nationwide interest has been focused on the entire Cougar Lakes area as a result of the establishment of the North Cascades National Park and related land areas. Conservationists for many years haxe expressed their concern about the protection, management and development of the lands involved in this measure. Because of the public's concern for protection for the outstanding natural beauty and grandeur, most of the Cougar Lakes area is currently being managed for its exceptional scenic, wilderness, and recreation values. This can be demonstrated by the following:

First. In 1946, the Forest Service established the 90,000-acre Cougar Lakes Limited Area. This land has been removed from the allowable cut calculations, and from other types of commercial development, and today remains in a primitive state.

Second. In 1965, the North Cascades study team recommended establishment of a 45,000-acre Mount Aix Wilderness. This isolated group of rugged ridges and clustered mountain peaks has been excluded from the allowable cut base and will remain in a protected status until Congress completes consideration of it for wilderness.

Third. In 1931, the Secretary of Agriculture, by a land classification order, established the Mather Memorial Parkway of some 24,300 acres "for the use and enjoyment of the general public for scenic and recreational purposes". As a result of this land use classification, natural resource developments have been reduced.

Fourth. In 1966 the Forest Service classified the 37,000-acre area north of the the Mather Memorial Parkway as a "back country roadless wilderness area," a classification which precludes any extensive land development.

The majority of the remaining 70,000 acres of land within the proposed Cougar Lakes National Recreation Area has already been classified, by the Forest Service, as "Landscape Management Areas," where esthetics and recreation are recognized as key values with all other resources and activities managed to maintain or enhance recreation values.

The Cougar Lakes area is not as rugged as most of the balance of the Washington Cascades. Glaciers and hanging alpine valleys are not apparent. However, the area has its own unique charm and scenic beauty. The area has variety that includes some islands of very rough rock-peak attractions such as Mount Aix and Fifes Peak areas, but I think much of its charm comes from its openness, punctuated as it is with many meadow areas. Trees and shurbs occur in great variety, and much of it is relatively open to travel and view, opportunity for people to disperse and have the solitude of wilderness experience. Wildlife and wildflowers are abundant. Access and movement within the area is relatively easy, and much of the scenic beauty is set off by the backdrop of Mount Rainier to the west and the Goat Rocks and Mount Adams to the south.

This bill contains provisions for a Mount Aix wilderness study unit of 152,000 acres within the core of the Cougar Lakes National Recreation Area. This study unit is composed mostly of acreage already in a protected status, including the majority of the 90,000-acre Cougar Lakes Limited Area, all of the 45,000-acre Mount Aix area proposed for wilderness by the study team, and several thousand acres of adjacent land.

The bill also requires the Forest Service to conduct a comprehensive study to determine the suitability or nonsuitability for wilderness of the entire study area. This study must be completed within 2 years from the date of enactment of this measure, with the recommendations to be forwarded to Congress for further consideration. The concept of a wilderness study area patterned after language contained in the Ross Lake National Recreation Area Act will also allow all interested parties an opportunity to comment on the future type of management of this area. I anticipate that public hearings will be conducted by the Forest Service to receive testimony from representatives of the forest products industry, water users, conservation organizations, interested individuals, and public officials from Federal, State, and local governments. It is essential that Congress have the full benefit of these recommendations before acting on the area in question. An act of Congress will be required to officially designate any area within the proposed national recreation area as a part of the National Wilderness Area System.

I consider a major portion of the Mount Aix wilderness study unit to be unique relative to the rest of the Washington Cascades and should be managed for primitive recreation, scenic, scientific, educational conservation, and historical values and opportunities to the extent consisted with the preservation and restoration of the wilderness resources of the land. In general, a large part of this scenic area is more open and accessible to people and horses. It is of lower elevation and less rugged. This does not make it less suitable for its wilderness value, but the area does naturally invite moderate use by people and horses. It is for this reason that detailed studies are needed before a decision can be made concerning its classification as wilderness. In particular, the questions of density of public use, level of wildlife population, and coordination with adjacent Mount Rainier Park management require careful studies.

The approximately 115,000-acre area outside the wilderness study area, will be managed to protect its scenic values and to improve its recreational potential as soon as this measure becomes public law. This could include campgrounds, picnic facilities, winter sports, organization camps, resorts, recreation residences, visitor information services, and boating facilities. Management of these areas should provide for a greater latitude in developing the area to accommodate larger numbers of people than would be possible in wilderness areas. In addition, timber harvesting activities will be allowed to continue in this area under the management guidelines provided for language contained in section 2 of this in the Forest Service landscape management policy, and in conformance with measure.

At a time when wood fiber is so urgently needed to meet our Nation's growing demand for wood products, it is my contention that a portion of the national recreation area could be managed to demonstrate that wood production activities could continue to take place while still protecting the area's dominant visual and recreational values. I should point out that the southern part of the proposed national recreation area; that is, that region around Rimrock Lake, has already been extensively logged but still has national recreation area qualities. As a result, an opportunity has arisen to demonstrate that timber harvesting activities and intensive outdoor recreation activities can be compatible if well planned and properly carried out.

Preliminary estimates show that this proposed national recreation area contains approximately 3.75 billion board feet of standing timber. Much of this timber is not included in the present allowable cut base due to being reserved from harvest through earlier action by the Forest Service. About 1.4 billion feet of the standing timber inventory will be available to controlled harvesting activity.

In addition to timber, this area contains pronounced wildlife and water values. All of the area is a part of the Yakima Valley drainage and serves a most significant proportion of the domestic and irrigation water requirements of the intensive agriculture of the Yakima Valley. The Clear Lake, Rimrock Lake, and Bumping Lake impoundments are a part of this water supply system. The Bumping Lake impoundment is currently under consideration for enlargement, and nothing in this legislation will affect the operation, management or maintenance of that facility.

Mr. President, in the formation of this measure I have worked closely with various special interest groups and Federal agencies which have an interest in the area. There is wide support for the measure. I want to emphasize that I regard this bill as a working draft, which will serve as a means of soliciting further public views when hearings are held.

The combination of sunshine, scenic beauty, and ease of public access and travel through the Cougar Lakes area makes it unusually attractive to the large population of the Puget Sound region. Current public use is reaching beyond the capacity of regular national forest programs to cope with it and protect the resources. This agency has placed much of the area in a moratorium status against further development until the question of land classification and long-term management policy is decided. This legislation provides a mechanism whereby these decisions can be made.

Mr. President, I ask that the text of the legislation be printed into the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2997

A bill to establish the Cougar Lakes National Recreation Area, to provide for a study of the potential of Mount Aix and surrounding lands within the Snoqualmie and Gifford Pinchot National Forests in the State of Washington for inclusion in the National Wilderness Preservation System, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in order to provide for the protection, preservation, and public outdoor recreation use and enjoyment of the spectacular scenic, natural, recreational and other values of the Cougar Lakes-Mt. Aix area in the State of Washington, there is hereby established, subject to valid existing rights, the Cougar Lakes National Recreation Area (hereinafter referred to as the "recreation area"), within and as a part of the Snoqualmie and Gifford Pinchot National Forests, Washington, comprising approximately 267,000 acres. The boundaries of the recreation area shall be those shown on the map entitled "Proposed Cougar Lakes National Recreation Area," dated December 1971, which is on file and available for public inspection in the Office of the Chief, Forest Service, U.S. Department of Agriculture.

SEC. 2. The administration, protection, and development of the recreation area shall be by the Secretary of Agriculture (hereinafter called the "Secretary") in accordance with the laws, rules and regulations applicable to the national forest system, in such manner as in his judgment will best provide for (1) public outdoor recreation benefits; (2) conservation of biotic, scenic, scientific, geologic, historic, and other values contributing to public enjoyment; and (3) subject to section 4 of this Act such management, utilization, or disposal of natural resources as in his best judgment will promote or are compatible with, and do not significantly impair the purposes for which the recreation area is established. In developing and implementing his plans for management of the recreation area the Secretary shall provide for a broad range of recreation opportunities, and shall manage such portion of the area as he deems appropriate for non-vehicular recreation uses, without the construction of public road, or the harvesting of timber except when necessary for the public safety or to protect or prevent the destruction of forest resources within the recreation area or on adjoining areas.

SEC. 3. Within one year after the effective date of this Act, the Secretary shall publish in the Federal Register a detailed description of the boundaries of the recreation area and such description shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in such legal description may be made.

SEC. 4. As soon as practicable after the enactment of this Act the Secretary shall review the area delineated as the "Mt. Aix Wilderness Study Unit" on the map referred to in section 1 of this Act as to suitability or nonsuitability for preservation as a part of the National Wilderness Preservation System. In conducting his review, the Secretary of Agriculture shall comply with the provisions of subsection 3(d) of the Wilderness Act of September 3, 1964 (78 Stat. 892) relating to public notice, public hearings, and review by States and other agencies, and shall advise the Senate and House of Representatives of his recommendations with respect to the designation as wilderness of the area reviewed no later than two years from the date of enactment of this Act. During the review period provided by this section and for a period of at least five years after his recommendations are submitted to the Congress the Secretary shall manage and protect the resources of the Mt. Aix Wilderness Study Unit in such a manner as to assure that its suitability for potential wilderness designation is not impaired.

SEC. 5. Nothing in this Act shall be construed to affect the operation, management, or maintenance of Bumping Lake Dam and Reservoir, Yakima Project under authorities heretofore and hereinafter enacted, or to preclude consideration of future modification of said project.

SEC. 6. The Secretary shall permit hunting, fishing, and trapping on the land and waters under his jurisdiction within the recreation area in accordance with applicable Federal and State laws; except that the Secretary may issue regulations designating zones where and establishing periods when no hunting, fishing, or trapping shall be permitted for reasons of public safety, administration, fish or wildlife management, or public use and enjoyment. Except in emergencies, any regulations pursuant to this section shall be issued only after consultation with the Washington Department of Game.

SEC. 7. The lands within the recreation area, subject to valid existing rights, are hereby withdrawn from location, entry, and patent under the United States mining laws. The Secretary of the Interior, under such regulations as he deems appropriate, may issue permits or leases for the removal of the nonleasable minerals from lands or interests in lands within the recreation area, and he may permit the removal of leasable minerals from lands or interests in lands within the recreation area in accordance with the Mineral Leasing Act of February 24, 1920, as amended (30 U.S.C. 181 et seq.), or the Acquired Lands Mineral Leasing Act of August 7, 1947 (30 U.S.C. 351 et seq.), if the Secretary of Agriculture finds that such disposition would not have significant adverse effects on the Administration of the recreation area: *Provided,* That any lease respecting such minerals in the recreation area shall be issued only with the consent of the Secretary of Agriculture and subject to such conditions as he may prescribe. All receipts derived from permits and leases issued under the authority of this section for removal of nonleaseable minerals shall be paid into the same funds or accounts in the Treasury of the United States and shall be distributed in the same manner as provided for receipts from national forests. Any receipts derived from permits or leases issued on lands within the recreation area under the Mineral Leasing Act of February 25, 1947, shall be disposed of as provided in the Act.

SEC. 8. The jurisdiction of the State of Washington and the United States over waters or any stream included in the recreation area shall be determined by established principles of law. Under the provisions of this Act, any taking by the United States of water rights which are vested under either State or Federal law at the time of enactment of this Act shall entitle the owner thereof to just compensation. Nothing in this Act shall constitute an express or implied claim or denial on the part of the Federal Government as to exemption from State water laws.

SEC. 9. The Secretary shall cooperate with the State of Washington or any political subdivision thereof in the administration of the recreation area and in the administration and protection of lands within or adjacent to the recreation area owned or controlled by the State or political subdivisions thereof. Nothing in this Act shall deprive the State of Washington or any political subdivision thereof of its rights to exercise civil and criminal jurisdiction within the recreation area, or of its right to tax persons, corporations, franchises, or other non-Federal property, including mineral or other interests, in or on lands or waters within the recreation area.

By Mr. GRIFFIN (for himself and Mr. HART):

S. 2998. A bill to provide for a national cemetery at Fort Custer, Mich. Referred to the Committee on Veterans' Affairs.

NATIONAL CEMETERY AT FORT CUSTER

Mr. GRIFFIN. Mr. President, today I am introducing on behalf of myself and the senior Senator from Michigan (Mr. HART) a bill to establish a national cemetery at Fort Custer in Battle Creek, Mich.

The language of this bill is identical to one—H.R. 4921—introduced earlier in this session by Congressman GARRY BROWN and cosponsored by 14 members of the Michigan congressional delegation.

Mr. President, the need for an expansion of our national cemetery system has long been apparent. There are more than 28 million veterans throughout the United States who are entitled to be buried in a national cemetery; but as of October 31, 1971, less than 250,000 sites remained available.

In addition, those sites which are available are inequitably distributed throughout the country. As a result of historical accident and the absence of planning at the national level, there are more national cemeteries in the State of Tennessee, for example, than there are in our four largest States combined.

In Michigan more than 1.2 million veterans are eligible for burial in national cemeteries. In spite of this need there are no national cemeteries available in Michigan, Ohio, Indiana, or Wisconsin.

It is my understanding that both the House and Senate Committees on Veterans' Affairs expect to reexamine early next year the possibility of expanding the present national cemetery system. I hope that this bill which Senator HART and I are introducing today will help bring about the timely establishment of an expanded and improved national system which will include a national cemetery at Fort Custer.

Mr. President, I ask that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2998

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Secretary of the Army is authorized and directed to establish a national cemetery at Fort Custer, Michigan. Such national cemetery shall include the site of the present post cemetery at Fort Custer, together with such additional land within the boundaries of the fort as the Secretary of the Army may deem necessary.

(b) The Secretary of the Army is authorized and directed to provide for the care and maintenance of such national cemetery.

By Mr. HUGHES:

S. 2999. A bill to authorize a treatment and rehabilitation program for members of the Armed Forces who are or may become drug abusers or drug-dependent persons. Referred to the Committee on Armed Services.

Mr. HUGHES. Mr. President, I introduce for appropriate reference a bill entitled the Armed Forces Drug Abuse and Drug Dependence Prevention, Treatment, and Rehabilitation Act of 1971. It is designed to give the Armed Forces a foundation in law for their efforts to deal more effectively and humanely with service personnel who are caught in the web of drug abuse and drug dependence, including addictive involvement with the most widely abused dangerous drug of all, alcohol. I believe that this legislation soundly balances the needs of individuals afflicted by these diseases and the need of our society to maintain a strong, healthy national defense force.

This bill was not drafted hastily or without consideration for the special difficulties of dealing with a complex, deadly health problem in a setting where security must be the dominant consideration. Obviously, the main business of an army is warfare, not curing sick people. The drug problem in the Armed Forces was not foreseen and not immediately detected. Now that the problem has been fully recognized, an all-out effort is being made to deal with it.

Dealing with the problem requires understanding of the military organization as well as the technics of drug abuse treatment, rehabilitation, and prevention.

Behind this bill is the experience of almost 2 years of intensive and extensive inquiry by the subcommittees, of which I am chairman, into the longstanding problem of alcoholism and the more recent explosion of multiple drug abuse and narcotic addiction among the members of our military service. It is the legislative fruition of weeks and months of hearings, on-the-spot visits to military outposts in Southeast Asia, the Pacific, Europe, and the United States, and insights drawn from day-by-day, case-by-case studies of the way individuals have fallen victim to drug dependence and how they have been dealt with by the services.

With regard to the latter, I want to state that I believe the Department of Defense and the various services should be given immense credit for the way they have swung into action in the past 6 months to deal realistically with this unimaginably difficult problem. I have been particularly impressed with the enlightened attitude of the commanding officers.

It was not always this way. Many months before military geared up to its present drug offensive, the Subcommittee on Alcoholism and Narcotics had called attention to the dimension and rapid growth of the problem. The response of the military at that time was negligible.

Now the picture has entirely changed. President Nixon's announcement of a national drug offensive, his appointment of Dr. Jaffe to head the special White House drug office, and the installation of the urine testing program have had a notable impact. And the armed services have responded commendably.

As the military departments have come, first, to acknowledge these problems and, then, to try to come to grips with them in realistic fashion, it has become apparent that legislation was needed to remove certain existing roadblocks and to provide legal sanction for enlightened policies and procedures that have already been informally declared and initiated. For example, the "amnesty" policy announced by the Department of Defense more than a year ago was intended to encourage service personnel with drug problems to seek help without fear of punishment under the Uniform Code of Military Justice for their prior possession or use. But the amnesty program has been slow in attracting participants—in part, because of conditions on the amnesty stemming from existing laws, regulations, and military tradition that impaired its credibility with the men. Obviously drug users will be slow to apply for amnesty if they feel they will somehow be punished if they seek help.

A complaint that turned up repeatedly in our subcommittee field investigations concerned the fact that time spent by service personnel undergoing treatment for drug abuse is presently counted as "lost time" and is thus an extension of their service period.

The legislation I am presenting today contains provisions that I believe will assist the military in dealing with practical problems of this nature that have arisen since the military drug offensive began and which are abundantly documented by our studies.

It should be recognized that the command officers and the professional personnel working with drug treatment and rehabilitation in the military are confronted with the same enigma that besets the civilian sector—how best to treat and rehabilitate the patients. In much of the drug treatment field, throughout our society, we are still in an experimental stage. Different treatment modalities work with different individuals and in different sets of circumstances.

Successful treatment of drug dependents is difficult enough under any circumstances. Obstacles to successful treatment in the military that are not essential to national security should be removed. The confidentiality of the doctor-patient relationship, for example, is important in military, as well as civilian, life, and this is recognized in this bill.

In the drafting of this bill, it was recognized that latitude and time for flexibility in treatment programs is needed in the military, as elsewhere. Already, our studies indicate, the Armed Forces are providing an excellent laboratory for experimenting with various treatment modalities. At one large Army post in the Pacific Northwest, for example, there is a therapeutic community run by a civilian "guru." At other bases, a visitor will find inpatient and outpatient programs of different kinds, "rap houses," halfway houses, unit drug counselors—in short, a wide variety of innovative efforts, all aimed at restoring drug users to useful functioning in the service of their country.

Out of this array of experiments, I am convinced, may come some of the breakthroughs we have been seeking for dealing with the drug epidemic among the youth of our country. This gives further emphasis to the need to provide the military with the resources, the legal guidelines and the public support to deal with the drug problem with maximum effectiveness.

The main thrust of the bill is to give the military unmistakable legal authority to deal with drug addiction and dependence, including alcoholism, as a disease or illness, and not a crime.

Until this concept gained some degree of public acceptance, no progress was made in controlling the various forms of chemical addiction in civilian life. In my judgment, it is also a crucial point in the success or failure of the drug program in the Armed Forces.

The bill recognizes that it is unrealistic to expect that the armed services can succeed in controlling the other aspects of the drug problem and sweep alcoholism under the rug. It seeks to encourage the military departments to deal sensibly and humanely, rather than punitively, with a problem that over many years has ruined innumerable careers, broken up families and cost the Armed Forces dearly in valuable personnel. The high economic cost was brought home to the Congress just recently by a report from the Comptroller General of the United States. This study found that, assuming conservatively that 5 percent, or about 130,000, of our military population are alcoholics, the monetary waste alone amounts to a quarter-billion dollars a year. It also found that as much as half of this could be saved by the institution of the kind of treatment and rehabilitation programs that have succeeded in private industry and elsewhere. Some of the services have made a commendable start by creating alcoholism treatment programs with reported success rates ranging from 60 to 90 percent. But here again, they need the backing of Congress to make significant and continuing progress.

I might remind my colleagues that the Congress itself has already made a start toward this objective. Title V of Public Law 92–129, the Draft Extension Act, which became law this past September 28, provides, for the first time, that the Armed Forces shall—

> Identify, treat, and rehabilitate members . . . who are drug or alcohol dependent persons . . .

It also calls upon the Secretary of Defense to make plans and create programs to achieve this purpose and to recommend additional legislation that may be required, in the words of the act—

> To combat effectively drug and alcohol dependence in the Armed Forces and to treat and rehabilitate effectively any member found to be a drug or alcohol dependent person.

Both Houses of the Congress agreed to these provisions with the understanding, as stated in the conference report on the entire act, that these provisions were to be a prelude to further legislative action by the respective Armed Services Committees. The bill I am introducing today is in pursuance of this understanding, and I anticipate that hearings by the Subcommittee on Drug Abuse of the Committee on Armed Services will consider this and related legislation.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 2345

At the request of Mr. Hatfield, the Senator from New Hampshire (Mr. Cotton) was added as a cosponsor of S. 2345, to establish a tax deduction for blood donations.

S. 2981

Mr. AIKEN. Mr. President, the day before yesterday, on behalf of the distinguished Senator from Georgia (Mr. Talmadge) and myself, I introduced a bill carrying amendments to the Small Watershed Act and also to the Bankhead-Jones Farm Tenants Act.

At that time, I announced that while there were only two of us sponsoring the bill, other sponsors would be welcome.

The bill is S. 2981, to provide for environmental improvement in rural America.

I ask unanimous consent that the following Senators be made cosponsors of the bill: Cooper, Sparkman, Young, Curtis, Javits, Stennis, Boggs, Jordan of North Carolina, Kennedy, Taft, Hansen, Bayh, Mansfield, Bellmon, Eastland, Chiles, Allen, Randolph, Stafford, Cotton, McClellan, Packwood, Gurney, Baker, Jordan of Idaho, Hruska, Dole, and Pearson.

Mr. President, at the next printing of the bill, I understand that may not come until afer the bill has been approved, or by the committee at least, I ask that the names of these sponsors and also any other members of the Senate who would like to be sponsors of the bill may be added.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. AIKEN. Mr. President, I will say that for anyone that has an election coming up, this would be a very good bill to be a sponsor of. (Laughter.)

Mr. President, if there is no objection, for which I now ask unanimous consent, would the Senator from Montana (Mr. Metcalf), now occupying the Chair, and the Senator from West Virginia (Mr. Byrd), and the Senator from Michigan (Mr. Griffin now in the Chamber allow me to add their names as cosponsors? This is a good bill, and the legislative and executive branches I am sure will be found in agreement on it.

Mr. GRIFFIN. Mr. President, with that assurance from the Senator from Vermont, I would be glad to be a cosponsor.

The ACTING PRESIDENT pro tempore. Without objection, the three additional names will be added as cosponsors.

MIGRATORY LABOR SUBCOMMITTEE SCHEDULES HEARINGS FOR CALIFORNIA ON JANUARY 11, 12, AND 13, 1972

Mr. STEVENSON. Mr. President, as chairman of the Migratory Labor Subcommittee on Labor and Public Welfare, I announce that the subcommittee will hold hearings in San Francisco, Calif., on January 11 and 13, 1972, and in Fresno, Calif., on January 12, 1972, on "Land Use, Ownership and Distribution in Rural America." The hearings are part of our continuing investigation of the impact of agribusiness and agrigovernment on farmers and farmworkers. Witnesses will include farmworkers, farmers, representatives of consumer organizations, labor leaders, local, State, and Federal officials, businessmen, and others with expertise in a variety of subject areas, including tax policy, rural sociology, agriculture economics, population distribution and movement, the environment, and economic development.

ADDITIONAL STATEMENTS

THE "BACKGROUND" OF INDIA-PAKISTAN POLICY AND KITCHEN DIPLOMACY

Mr. SYMINGTON. Mr. President, because I am confident that the contents of these three articles will be of interest to the Senate, I ask unanimous consent to place in the Record at this time said articles from the New York Times of this morning: first, "Goldwater Strips Kissinger of Anonymity;" second, "'Backgrounders': Disputed Anonymity;" and third, "Kitchen Diplomacy."

There being no objection, the items were ordered to be printed in the Record, as follows:

[From the New York Times, Dec. 11, 1971]

Goldwater Strips Kissinger of Anonymity

(By Bernard Gwertzman)

Washington, Dec. 10.—Senator Barry Goldwater ignored White House rules today and revealed that Henry A. Kissinger, President Nixon's national security adviser, was the "White House official" who defended the Administration's policy toward India and Pakistan on Tuesday.

The Arizona Republican, apparently unconcerned about breaking with tradition, inserted in the Congressional Record the transcript of a "background briefing" on India and Pakistan given at the White House under strict conditions of anonymity.

The 50 newsmen who attended the briefing were obliged to identify the individual who gave the briefing as "White House officials" and were enjoined from quoting directly from his remarks.

SESSION "ON BACKGROUND"

The White House briefing of reporters on Tuesday was "on background" and the transcript as supplied by Senator Goldwater gives the flavor of how the session was conducted:

Mr. Ziegler. Dr. Kissinger is here with us this afternoon. What he says to you will be background. You can attribute it to White House officials, but no direct quotations. We have, of course, had a number of inquiries and questions about the situation in South Asia. What I am saying to you now is, of course, on background, because it relates to this. We thought it might be worthwhile for Henry to come out this afternoon to discuss our views on a background basis with you to put the matter into further perspective for you.

Question [from a newsman]. Ron, is there any necessity for no direct quotation? Could you explain why that is?

Mr. Ziegler. The purpose of this session is more putting our view and our position into perspective, and we would just prefer no direct quotation. I think it would be more productive for you.

Senator Goldwater, asked why he inserted the material into the Record, said he had asked the White House for a policy statement to clear up confusion in people's minds on the Administration's reasons for blaming India for the war.

"The night before last I received a hand-delivered envelope from the White House," the Senator said. "It looked like a typical press handout. To me there was no marking to indicate 'secret' or 'off-the-record.' Besides I don't work that way. Occasionally I'm invited to a secret briefing. I say the hell with it."

At the White House this afternoon, Gerald L. Warren, a deputy press secretary, was asked for reaction to Senator Goldwater's revelation. He coughed, shook his head, and said, "I was not aware of that." He said that he would rather withhold comment.

"Backgrounders": Disputed Anonymity

(By Frank Lynn)

Ronald L. Ziegler, the White House press secretary, brought a guest briefer along with him last Tuesday for Mr. Ziegler's daily 4 P.M. briefing of newsmen on President Nixon's activities.

The guest was Henry A Kissinger, the President's assistant for national-security affairs, but that was not publicly known until yesterday when Senator Barry Goldwater. Republican of Arizona, identified Mr. Kissinger and inserted his briefing in The Congressional Record.

Like a visiting lecturer, Mr. Kissinger had stepped behind the podium in the mortuary-like West Wing briefing room and told 40 reporters that the United States had been working on a political settlement of the India-Pakistan conflict when India attacked Pakistan.

Mr. Kissinger, one of the most active aides on the briefing circuit, spent an hour detailing the varied diplomatic and military maneuvers in the crisis and responding to the newsmen's questions.

UNIDENTIFIED AIDES CITED

Within hours, radio, television and newspapers were telling the nation how unidentified "White House officials" viewed the conflict on the Asian subcontinent.

They were operating under an agreement with Mr. Ziegler that the information elicited at the "background" briefing could be used but that the briefer could not be idenfied or directly quoted.

Four days earlier, operating under similar ground rules at a briefing, Joseph J. Sisco, an Assistant Secretary of State, had criticized India for expanding the India-Pakistan conflict but was identified only as a State Department official in news stories and broadcasts reporting his verbal attack on India.

A GROWING CONTROVERSY

The incidents pointed up a growing controversy over the use of "backgrounders" by officials at all levels of government. The background sessions are used even more by governments in countries where the press is less independent than in this country.

The backgrounders are in effect full-blown news conference, with one major difference. The official conducting the news conference cannot be identified and thus is not directly responsible for what he said.

The controversy does not involve the relationship between individual reporters and government sources in which the informants risk their jobs by providing information that is often adverse to the administration in power. These contracts are generally initiated by reporters.

BRADLEE ASKS BOYCOTT

Benjamin C. Bradlee, executive editor of The Washington Post, in a recent talk at Yale University, called for a boycott of backgrounders. He contended that "by accepting unattributed information, we are allowing ourselves to be used by the government."

Noting that the sessions cannot be kept secret in government, diplomatic and media circles, because they involve so many newsmen, Mr. Bradlee said that only the reader was kept in the dark.

In an interview, A. M. Rosenthal, managing editor of The New York Times, was also critical of the background sessions. He said such sessions were justifiable at times, but added that "the press had allowed this to go much too far."

"The backgrounder has become a way of life and often becomes an obstacle in the way of the flow of full information," Mr. Rosenthal said.

USED FOR OFFICIALS' ENDS

Mr. Bradlee and other newsmen noted that such sessions were sometimes used for Administration propaganda, to float policy trial balloons and even to inform Government officials indirectly that they were in disfavor and should resign before being dismissed.

Defenders of the backgrounders, including Herbert G. Klein, the Nixon Administration's Director of Communications, and some newsmen, contend that officials are less inhibited and more likely to be frank in such sessions.

"Reporters can get more information on an informal basis," said Mr. Klein in a telephone interview. "The more important thing is to get the people the information. They don't care about who is giving the information."

The rationale for the backgrounders on the India-Pakistan crisis was that direct criticism of India by President Nixon or Secretary of State William P. Rogers would have prompted a caustic reply by Indian leaders and increased tensions between the two countries.

In diplomatic circles, backgrounders dealing with foreign affairs are viewed as primarily intended for domestic use and not to be considered an official communication between governments.

By comparison, background briefings are considerably less frequent in New York. Governor Rockefeller first revealed his intention to crack down on rising welfare costs in a rare non-budget background session earlier this year in which he explained some of his plans.

CITY HALL BACKGROUNDERS

In addition, the Governor's budget is explained at a background session in the Executive Mansion's living room every year to give reporters an opportunity to question the Governor and other state officials freely on the long, complex document.

Similarly, the Lindsay administration conducts a briefing, such as one this week, hours before release of the capital budget. However, there have been no other backgrounders that City Hall reporters can recall.

Some corporations also conduct press briefings, but they are infrequent and considerably less important than Federal Government briefings.

Despite the controversy and the varied views, Washington's background sessions have proliferated in recent years to the point where even reporters now sponsor them.

ATTRIBUTION LEVEL VARIES

There are at least five groups of reporters in Washington who regularly invite politicians and Government officials to breakfast, luncheon or dinner, depending on the group.

The principal course is an informal discussion that is sometimes completely off the record and thus cannot be printed. At other times, it may be for use but with no identification of the informant, and occasionally it may be completely on the record.

At one of these sessions, for example, the late Robert F. Kennedy first indicated that he was considering running for President in 1968.

OUSTED BY A BRIEFING

At another, James Keogh, who was leaving his post as a Presidential aide, told reporters that three Cabinet members would be leaving the Administration. It took nearly a year for the prophecy to be fulfilled, but Walter J. Hickel, David M. Kennedy and Clifford M. Hardin eventually left their Cabinet posts.

Reporters at the session were convinced that Mr. Keogh was speaking with Administration knowledge and approval and that by letting the Cabinet members read about their impending departures, he was, in office, dismissing them.

Despite the use of these reporter-sponsored sessions for such political infighting, the major controversy has been over the Government backgrounders that are initiated and controlled by the Administration, not reporters.

KENNEDY CHRISTMAS TALK

A year ago, President Nixon asked eight conservative columnists to his office. Within days, their columns were filled with unimpeachable intelligence that the President intended to name a Southerner to the Supreme Court and that liberal Republicans who opposed the Administration should pay heed to the defeat of Senator Charles E. Goodell in New York.

The late President Kennedy conducted an annual Christmastime backgrounder with reporters as he vacationed in Florida. Mr. Kennedy gave a rundown on his Administration's accomplishments during the year. Reporters, of course, were free to accept or reject all or part of the President's accounting of his own stewardship.

The invitation lists for these sessions vary. Sometimes it is reporters or columnists who have been kind to the administration; at other times, newsmen for the major newspapers and networks are invited, and, occasionally, the audience is merely those who happen to be present in a press room when a briefing is scheduled.

One exclusive invitation by Vice President Agnew backfired at a governor's conference earlier this year. A group of reporters were invited to Mr. Agnew's suite for a drink * * * record views on many subjects, including his misgivings about the growing rapprochement between Communist China and the United States.

The reporters attending the session were proscribed from printing Mr. Agnew's remarks, but when reports of his views began to circulate, other reporters—not in attendance and therefore not proscribed—printed the story.

Kitchen Diplomacy

(By Anthony Lewis)

London, December 10.—In the United States the President makes foreign policy. That understanding is fundamental to the constitutional system. In the end the American voice will be heard clearly only when he speaks.

But there are great dangers in Presidential policy-making, one of them that the process of decision may be too closely held, too personal. A striking example of this danger is afforded by President Nixon's policy in the Indo-Pakistan dispute.

Mr. Nixon is a committed supporter of Pakistan. The extent of that commitment, if anyone doubted it, was made clear when in receiving a new Pakistani Ambassador he publicly welcomed "the efforts of President Yahya Khan to move to reduce tensions in the subcontinent." That of a man whose forces in the last eight months have cold-bloodedly murdered thousands of innocent civilians and forced millions to flee because of their race—the most savage pogrom the world has seen in many years.

Among those who know or care about the Indian subcontinent, American policy has evoked widespread incredulity. That may rest on moral grounds, as in the case of a former American official in Pakistan who wrote Mr. Nixon to say that he could not square the policy with "my life as an American." Or the reaction may be as hard-boiled as that of The

Economist of London, which in an article highly critical of India said, "It is a mystery why the Americans should have chosen to climb so ostentatiously on board the sinking Pakistani ship."

The President must have recognized that his policy had gone to a self-defeating extreme when he sent a White House aide out to explain it all to the press. There was a defensive tone to what this unidentified man said. We still thought India was a great democracy, he said, and a stanch friend. But she had precipitately broken up secret American efforts to bring President Yahya to a political settlement with the Bengali rebels—efforts that had been near success.

Is it conceivable that the White House official believed that explanation as he gave it? Sincerity must be assumed, but it would really be worrisome if a serious man believed such a fantasy as the idea of an imminent political agreement being aborted by India.

First, there never has been any realistic chance of a settlement with the Bengalis unless Yahya freed their leader, Sheik Mujibur Rahman, and talked with him. The informed men in the State Department, the British Foreign Office and everywhere else knew that. But Yahya kept him imprisoned and put him on secret trial for his life.

Second, according to qualified American sources. Yahya in his alleged concessions had not gone near the degree of autonomy for East Pakistan that his own brutal repression had made the inescapable price for a settlement. He had talked only of a kind of federalism, with the central Government keeping the main powers of finance, foreign affairs and defense. And what concessions there were may have been encouraged by fear of Indian military action.

Third, Mr. Nixon's own State Department and other experts—not surprisingly in the circumstances—were skeptical of the prospects for those secret talks. It was even less of a surprise that the Indians were losing patience, fearing that the talks were just a device to let the Pakistan Army continue its repressions in the east indefinitely and leave the burden of ten million refugees on India.

Fourth, the Indians had reason to doubt the appropriateness of Richard Nixon as a mediator, for they had observed in him no sign of sensitivity to the torment of millions. There are times for quiet diplomacy, but to remain silent in the face of horror on that scale is too quiet.

Now there was no great mystery to these factors; certainly they were well known to the President's chief foreign policy adviser, Henry Kissinger. Why, then, did Mr. Nixon react so intemperately, so emotionally on the side of Pakistan when hostilities began?

The emotion suggests that the President felt himself involved—and injured—on a very personal level. It is well known that Mr. Nixon has long liked and respected Yahya Khan. On the other hand, he is said to have found Mrs. Indira Gandhi cold and didactic. In the words of one close observer, "This was a matter of personal chemistry."

Beyond that, the President had invested his own political capital in the effort to heal the Pakistani division. However remote in fact, he must have thought he had a chance to pull off a diplomatic coup and been overcome by pique at its failure. Then, too, there was the threat that an Indo-Pakistani war might pose to his boldest diplomatic venture, the trip to Peking.

What all this shows is the risk of overpersonalization when a President takes to himself too much of the process of foreign policy-making. The Nixon-Kissinger operation works well in important ways, avoiding the deadening bureaucracy of the State Department. But it is quite wrong when it allows the policy of a great power to be so sharply affected by personal feeling without the restraints of time and reflection that a system provides.

THE ALLENDE GOVERNMENT IN CHILE

Mr. ALLOTT. Mr. President, frequently in the period since the Allende government came to office in Chile I have called to the attention of Senators news stories that confirm my growing concern about the course of events in that country. From the start I have not shared the rosy optimism which some persons seem to feel about Allende.

My general suspicion of the Marxist Allende rested on the belief that Allende was a reasonably candid man. That is, I was alarmed by the fact that he probably is pretty much what he says he is—a Marxist. This is cause for alarm because there never has been a Marxist Government that was not first arbitrary, and then despotic, and always a determined enemy of democracy.

The arbitrariness of the Allende Government was evident from the start in dealings with American businesses operating in Chile, and most especially, of course, in dealings with American copper firms.

But in recent weeks the Allende government seems to have moved to the next predictable stage—an open embrace of totalitarian people and practices.

Cuba's Castro, this hemisphere's most conspicuous and devoted totalitarian, has just completed nearly a month in Chile. During this extended visit Allende missed no opportunity to identify with Castro.

And now Allende, perhaps inspired by the presence of the Cuban dictator, is moving with new speed through the last steps toward a solidified Communist dictatorship. He has declared emergency rule and directed his substantial police force to beat and tear gas a group he finds menacing.

And what group is this?

It is just a group of Chilean housewives who have the temerity to object to the condition that most typifies a Communist Government.

And what condition is that?

A food shortage, of course.

Any squalid dictatorship can harass rival newspapers and rival political parties. But the true mark of a real Marxist regime is that it could not grow a rose in a greenhouse. And, sure enough, Chile now has a robust food shortage.

This shortage probably helps explain Allende's embrace of Castro's month-long circus in Chile. Allende, being a not very imaginative fellow, would like to rule with the old Roman combination of bread and circuses. But he is up against the standard Marxist problem: A bread shortage. So poor old Castro has to serve—and serve for a full month—as a circus that will even distract people from the fact that there is precious little bread to go around.

But now the housewives of Chile have been beaten and gassed; and Allende has decreed emergency rule; and Allende is muttering the dark and utterly predictable nonsense about the housewives being the thin end of the Fascist wedge.

Is it not clear, Mr. President, that we have seen this sad, tiresome scenario elsewhere?

MIDAIR COLLISIONS

Mr. MOSS. Mr. President, there is perhaps no other area of greater concern to the Nation's 31,000 airline pilots than the nightmare of midair collisions. Thus, far in 1971, there have been five midair collisions in which airline aircraft have been involved. In the past 25 years, there have been some 71 such collisions—the loss of life has been horrendous. As more and more aircraft, with ever increasing capacity and speed, take to the skies, it is obvious that the hazard of midair collisions will increase.

In July, I introduced S. 2264 to require the FAA to promulgate national standards with regard to collision avoidance systems by 1973 and to require the installation of such systems on all aircraft by 1975.

This month's Airline Pilot magazine contains a lead article summarizing the problem and the solution to the hazards of midair collisions. It stresses that the problem is not just a bad dream—but a grim reality. "The SOS has been sounded: The choice is solution or slaughter."

I recommend this article to Senators and ask unanimous consent that it be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

The Midair Nightmare

(By Carl L. Smith (WAL), Chairman, Collision Avoidance Systems Committee)

Midair collisions have been occurring with regularity for 61 years. They pose an international problem that must be solved worldwide to maintain the required standards and degree of air safety that are acceptable to any pilot—general aviation, military or air carrier. The first midair collision occurred in Italy in 1910; the first fatal midair occurred in France in 1912; the last midair collision happened . . .(?) Until such time as adequate and effective systems and measures are developed to eliminate this hazard to air safety, the most clairvoyant prognosticator would hesitate to venture even the wildest guess.

In the past several years, attention to the midair problem of both collision and near-miss has seemed to center in the United States because of the high degree of traffic density and the mix of general aviation, military and air carrier equipment. The first eight months of 1971 should bring the focus on the international level: One quarter of the midair collisions this year involving air carriers occurred outside the U.S. Just as a review, and to further point out that the problem involves all categories of aviation, the collisions were: between a Boeing 707 and a Cessna 150 in New Jersey; between an F–4 and a DC–9 in California; between an F–86 and a Boeing 727 in Japan, and between a 707 and a Cessna 150 in California. Fortunately, one of these did not incur fatalities, but the one in Japan caused the highest fatality toll yet experienced. The latter three happened during the months of June, July and August respectively. What will the future hold in store?

A bibliography of ALPA reviews and recommendations concerning the urgent need for development of adequate CAS-PWI devices consists of reports in the April 1969, January 1970 and March 1970 issues of *Air Line Pilot*. A most interesting Flight Safety Foundation report titled "Techniques for Managing the Risk of Midair Collision" discusses the problem and potential preventive measures in an unbiased manner.

The Air Transport Association, recognizing the magnitude of the collision problem, has spent about $4 million for the review and testing of the time-frequency collision avoidance system together with the joint efforts of McDonnell Douglas, Bendix and Wilcox/Sierra Research to standardize a package suitable for installation in any air carrier aircraft. Recognizing the need for a less-expensive model (consequently, less complex and comprehensive) that could operate in the same environment with the full CAS, McDonnell Douglas developed a Micro-CAS, which was displayed at the ALPA Air Safety Forum in Dallas last July. The other manufacturers are also developing low-cost time-frequency CAS-PWI equipment for use in general aviation aircraft.

Perhaps 1971 will be significant, not only for its grim record of midair collisions and continuing near-misses, but for the entrance into the field of CAS-PWI development by such other avionics and electronics companies as Honeywell, RCA and Motorola, all of which were represented at the Forum and reported varying degrees of interest and development of a system.

The ALPA CAS Committee over the past five years has been in contact with many different developers-theoreticians, all of whom have offered either a theory or an actual piece of system hardware that would hopefully provide an acceptable form of warning. ALPA cannot become engaged in the research field nor can it have a proprietary interest in any device or company, therefore, when only theories were presented, the parties were encouraged to develop some workable hardware and obtain the needed research funds. Unfortunately, funds are hard to come by and generous angels are even scarcer. As a result, the current possibilities are limited to a relatively few conceptual approaches, all of which have some drawbacks.

The two acronyms CAS and PWI are sometimes used interchangeably and occasionally erroneously, even when an accurate definition of each has been determined:

A proximity warning indicator (also sometimes called pilot warning) is not a collision avoidance system, but it is the preliminary requisite to pilot action leading to avoidance. The human eyeball is the original PWI device employed in the "see and be seen" concept of avoidance with all of its attendant problems and deficiencies. Conspicuity is the key to detection of a visual threat, and ALPA support of improved strobe lighting should not be misinterpreted as a substitute for development of a more efficient warning and avoidance system. In its purest form, PWI infers a noncooperative system that does not require installation of special equipment on other aircraft to provide an identifying signal source. A single PWI installation would theoretically provide sufficient information for the pilot to execute an avoidance maneuver. Most such systems, until now, have been cooperative systems due to the lack of sufficient technical knowledge.

CAS is dependent upon cooperation with other *suitably equipped* aircraft to exchange those bits of information that are necessary to indicate both a warning and an evasive maneuver, hence it is classified as a cooperative system. The time-frequency CAS, because of its complexity, is expensive. And the cost will vary widely from the full CAS (currently estimated to be $50,000 or more per installation) to the limited CAS, which provides only limited protection at a substantially reduced cost figure.

The interchangeable use of CAS-PWI occurs when the limited system acts as a "telephone pole" that transmits a signal to the full CAS equipment saying: "Here I am, don't hit me!" Unfortunately, the minimum equipment (telephone pole) does not have the capability of cooperating with other minimally equipped aircraft to initiate an avoidance maneuver.

The elements needed for an adequate collision warning system (and this generally applies to both PWI and CAS) are (1) relative altitude of the concerned aircraft, (2) range between the aircraft, (3) the closing velocity, also called the range-rate and (4) some determination of the time to collision (TAU). TAU is computed in the CAS equipment and provided as a readout generally in the form of a command to execute an avoidance maneuver by the pilot. In the PWI system, TAU constitutes the pilot reaction time *after* sighting the threat as a result of receiving at least items 1 and 2 above.

Several approaches to the collision warning problem have been developed and each has advantages and limitations. The use of infrared detection has been studied extensively by the former NASA Electronics Systems Center at Cambridge, Mass., and by Loral Corp. of New York, which has spent considerable time, effort and money in developing a detection system geared to the use of infrared emitting strobe lights.

This work is being continued by FAA at the National Aviation Facilities Experimental Center in Atlantic City. The cost of such a system is the lowest of any currently under development and is consequently among the most attractive to owners of light aircraft. In addition to the visual conspicuity of strobe lighting, the infrared emitted by the light can be detected by special sensors that can be mounted on any aircraft, thereby providing an additional warning. The Loral device can provide azimuth data, plus a limited degree of relative altitude information and has a sensing range of approximately three miles in VFR conditions. Converting distance to time, three miles will provide approximately a 30-second warning time at a convergence speed of 350 knots (the average head-on convergence between general aviation and air carrier aircraft at the critical altitudes below 10,000 feet MSL). The disadvantage of this system is its limitation in IFR conditions and the unavailability of speed and range readouts, particularly when applied to jet aircraft detection. Also, the strobe-light lenses can become pitted or dirty, further reducing effectiveness.

NASA's Langley Research Center has been conducting extensive tests on a system of CW doppler radar, consisting of a transmitter, receiver and display instrument plus a transponder. This system provides range, closing velocity, bearing and altitude measurements. When only the transponder is installed, it will warn of the presence of the aircraft to one fully equipped (the "here I am, don't hit me" situation) but will not provide protection to other transponder-only equipped aircraft. It is relatively simple in design and inexpensive for air carrier use, but is generally out of the price range for private aircraft. It also has the restricted capability of warning against only one threat at a time, selecting only the most severe threat.

There are at least two additional proposals that employ the use of air traffic control radar beacon system (ATCRBS) transponders. The most-limited such system measures the signal strength of transponder replies from other aircraft to an ATCRBS ground query. When a signal is strong enough, it triggers a cockpit alarm. However, it lacks the ability to sense direction and, even more important, the relative altitude of the triggering signal. It is understood that this device has been withdrawn, at least temporarily. Assuming that these basic problems are overcome, it has the advantage that all airline and most military planes are equipped with transponders, plus the more than 46,000 in use by general aviation. This does not offset the disadvantage of being entirely dependent upon the operation of the ATC system, nor the inability to determine range and range rate.

The RCA SECANT system of collision avoidance operates on an entirely different principle of transponder usage employing a 30 mHz band of frequencies to resolve the elements of relative altitude, range, range rate and time to collision. The system is designed in modular form so that only the minimal telephone pole unit may be initially installed for about $300. Modules providing greater degrees of warning and avoidance information may be added later with gradually increasing cost to the user. It is entirely independent of ground stations of any kind and claims are made that the system's accuracy meets all the critical ATA criteria. Hardware has been produced and flight tested by RCA. Tests by the Navy, with FAA input, have been conducted since early November. An assessment of the advantages and disadvantages cannot be made until full information is released concerning design and test results. Cost will be a primary factor for lightplane acceptance and usage and will control the total number of modules that will be used in any aircraft.

A latecomer in PWI–CAS development is Motorola, which until very recently has been concentrating on military production of moving target radar units. Its recent expression of interest might open up a new avenue of research into collision prevention, but time is a critical factor. Several other manufacturers have also indicated their interest in this area.

Honeywell has developed and produced a warning system for the U.S. Army helicopter school at Fort Rucker, Ala. It has accumulated over 300,000 flight hours using 285 units. It is a C-band pulse beacon ranging system with relative altitude information and the ability to discriminate range. Honeywell has modified the basic system for use by fixed-wing aircraft with an accurate determination of range, range rate and relative bearing added to the existing altitude information. It has the advantage of the building-block approach from minimal to maximum information availability with a corresponding increase in cost, and it is not dependent upon any ground system for operation or control. There is a possible problem of a requirement for a complex receiving antenna installation. Critics of this system indicate that the random nature of interrogation and reply could lead to a problem of frequency saturation.

One anticollision system that has passed ATA testing at the Martin Co. in Maryland is the one produced by McDonnell Douglas and reported in detail in the January 1970 issue of the *Air Line Pilot* by the ALPA CAS Committee. Originally named EROS (eliminate range zero system), it is used in testing military aircraft. Operational since 1966, it has made more than 15,000 flights. A similar system for civil aircraft known as EROS II, also employs the time-frequency technology and can handle up to 2,000 aircraft every three seconds. The display unit provides both advisory and command information, and the accuracy of the time-ordered reporting is maintained through ground stations or by airborne clocks carried in only a limited number of CAS-equipped aircraft. All commands relate to a vertical plane of avoidance, and advisories of potential threats are reported without any specific bearing required.

As a supplement to this full CAS, a Micro-CAS that would provide minimal information to its user and still operate fully in the time-frequency system has been developed for general aviation aircraft. A display demonstrating this ability to cooperate with the full CAS was presented at the 1971 Air Safety Forum and was the subject of a great deal of interest. Piedmont was the first airline to order the McDonnell Douglas system and United Air Lines tested it on West Coast flights in October.

Advantages of the time-frequency system are its proven use as an anticollision device with little danger of saturation and the presentation of both a threat situation and a command action to the pilot to avoid collision. It has been endorsed by ATA for U.S. airlines.

Bendix, one of the companies participating in the ATA test and evaluation program mentioned earlier, has also developed its time-frequency CAS along lines similar to those of McDonnell Douglas. This system is known as IMAGE (intruder monitoring and guidance equipment). Its disadvantages are the high cost of the full CAS, the requirement for installation of expensive ground stations, and the relatively high cost of the Micro-CAS for general aviation. It will work in conjunction with other time-frequency systems, and there is a question of acceptance by the general aviation community.

The NASA Langley Research Center is currently working with a number of manufactureres, including Sierra Research, that participated in the ATA tests to develop a low-cost PWI for general aviation aircraft.

The "Near Midair Collision Report of 1968" published by FAA in July 1969 established areas of greatest probability for collisions based upon 2,230 situations that were reported. It indicated that for every near-miss reported, there was a probability that four others were unreported. The greatest danger of collision is between two general aviation aircraft; the greatest risk to air carrier aircraft is the danger of collision with (1) general aviation, (2) military and (3) other air carriers in a diminishing order of probability.

In November 1969, the National Transportation Safety Board held a public hearing in Washington on the midair collision problem. Every agency, organization and group with an interest in aviation was invited to participate and express its views and recommendations for a solution to this safety hazard. NTSB issued a report in 1970 that included recommendations calling for "the development and implementation of collision avoidance systems for transport category aircraft" and for "a pilot warning indicator for all aircraft or a device for small aircraft compatible with collision warning systems."

NTSB also recommended that FAA should encourage the expeditious development of a CAS for air carrier and large general aviation aircraft, make funds available for ground-support equipment required by CAS, sponsor development contracts for PWI systems to evaluate their practicability, and develop regulations to require the installation of CAS and PWI systems when they become available.

The potential loss of life in a midair collision of two wide-body or jumbo jets, although the least probable, is the worst possible situation for a single accident. The probability of two separate collisions involving air carrier aircraft with general aviation (for example, 747-Cessna 150) or military planes (DC–10—F–4) is many times greater and the final result just as disastrous.

Cost will be a major factor governing voluntary installation of CAS–PWI equipment by the general aviation fleet. Without general acceptance, no systems can satisfactorily fill the urgent need for adequate collision avoidance. Reliability of a warning system depends upon full compliance, either voluntarily or by regulation. Legislation has been introduced by Senator Frank E. Moss (D-Utah) that would require some form of CAS–PWI at a future date. No doubt there will be objections from the general aviation community until a system can be produced that will be acceptable on the basis of cost. A major investment has already been made by ATA on development. The installation cost will be even greater for the individual airlines to outfit fleets complete with full CAS equipment. Initially the protection for airlines will be only from each other until a system of mass production reduces total costs to a price range within reach of the full aviation community.

The basic requirements for satisfactory functions to be performed by airborne CAS are:

Detect all aircraft that represent a *potential danger*.

Evaluate the hazards presented by the detected aircraft.

Determine if a maneuver is required.

Indicate the evasive maneuver required to maintain safe separation.

In determining what is acceptable, the ALPA Collision Avoidance Systems Committee (composed of C. F. Pocius (FTL), A. E. Smith (PAI) and the author) set forth the following recommendations:

Any warning system must be independent of ground controller operation.

The warning system must provide protection for adequate safe aircraft separation.

It must operate equally effectively in VFR and IFR conditions for the wide range of today's aircraft speeds as well as future SST operation.

The midair nightmare is not just a bad dream—it is a grim reality. An SOS has been sounded: The choice is solution or slaughter.

DAVID REYNOLDS: INDUSTRY ENVIRONMENTALIST

Mr. HANSEN. Mr. President, the executive vice president and general manager of Reynolds Metals Co., Mr. David P. Reynolds, was named "Packaging Man of the Year" by the Packaging Education Foundation.

Mr. Reynolds was selected from more than 70 persons nominated for the award. In selecting Mr. Reynolds, the foundation recognized his contributions to the packaging field, his stature in the industry and community, his outside activities and general social consciousness, and interest in education.

The foundation very properly, in presenting the award, noted that—

> Mr. Reynolds has been a leader in advancing the idea of recycling as a solution to the nation's litter and solid-waste problems.

In this regard, Mr. President, the fall-winter edition of Aluminum Progress printed an article entitled, "Aluminum's Value Will Help 'Mine' City Dumps." The article acknowledges that under the aluminum can reclamation program instituted almost 5 years ago by Reynolds metals, aluminum cans are being redeemed at the rate of more than 50 million per month. David Reynolds was a pioneer of the aluminum can recycling concept.

Mr. President, the people of Wyoming are proud that the Reynolds Co., a leader in projects aimed at preserving America's natural beauty, has invested in Wyoming's future. I ask unanimous consent that the article from Aluminum Progress be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ALUMINUM'S VALUE WILL HELP "MINE" CITY DUMPS

Like a rolling snowball, the nation's aluminum can reclamation programs each month get bigger and bigger—more cans collected, more collecting stations opened, more thousands of citizens turning in cans for cash.

All-aluminum beverage cans now are being redeemed at the rate of over 50,000,000 per month in areas where these cans are in distribution. Instituted nearly five years ago by Reynolds Metals Company and now supported by much of the beverage industry and other aluminum producers, aluminum-can reclamation has become a way of life for millions of Americans.

David P. Reynolds, pioneer of the program and executive vice president and general manager of Reynolds Metals Company, reports that a number of other companies in the aluminum and packaging industries have joined in the aluminum-can recycling effort and that the number of collection points continues to grow. The latest tabulation indicates there are now more than 660 aluminum can collection centers in 31 states, and the system is still expanding and being supplemented by a fleet of mobile recycling units.

More than 12.5 million pounds of aluminum cans and other aluminum household scrap have been returned so far this year to Reynolds Aluminum—a pioneer of aluminum can recycling concept—at its reclamation centers. And, at 10 cents a pound, the company reports it has paid the public more than $1.25 million for the used aluminum, which is made into new aluminum products. This reclaimed metal is the equivalent of nearly 300 million, 12-oz. aluminum beverage cans.

"There is no question as to public approval of the aluminum industry's approach. Each month the total amount of aluminum cans and household scrap returned exceeds the previous month's total," commented Paul Murphy, vice president of Reynolds Packaging Division. "In some areas, the public response has been so enthusiastic that more than half of the total cans in use are returned for payment."

"Because of the high scrap value of household aluminum, we can pay the public a worthwhile sum, in contrast with reclamation drives for other containers that have little or no money reward," said Richard N. Bolling, manager of recycling for Reynolds.

"This cash incentive spurs environmentally concerned citizens and organizations to action. They are conducting can reclamation drives coupled with intensive and continuous programs to clear parks, beaches and roads of litter," Mr. Bolling said.

"Further expansion through new permanent centers and additional satellite collection points is planned for the coming year," Mr. Bolling said.

So, reclamation through collection centers is working, expanding and will continue to grow indefinitely because of the cash incentive. But, these programs cannot collect all of the aluminum existing in garbage. Cans are easy to save, but some will be lost regardless of how many are collected through this program. Also household foil, frozen dinner trays and other aluminum products in the home are still waiting to be reclaimed.

Two programs of householder separation of aluminum from garbage in the home are in the pilot stage. Homeowners in a suburb of Ft. Lauderdale and in several suburbs in San Francisco are removing aluminum cans and other household scrap from household refuse. The separated aluminum is picked up on the regular rounds by trash collectors and sold direct to the aluminum industry. Under this system, no further separation is required so the only reclamation process required is payment on the basis of weight. The metal is readily melted and used for a variety of new aluminum products.

Even though aluminum makes up only a small fraction of the total solid waste volume, its reclamation and high value can help subsidize a total recovery system in which many of the other recovered materials have little or no salvage value.

Mr. Bolling pointed out aluminum has several advantages which are not common to most materials which can be reclaimed from solid waste. Markets exist for the metal throughout the United States rather than in a limited geographical area; it is the highest value component of a given volume of municipal refuse and can be removed from solid waste using existing technology and available equipment.

Dr. Robert F. Testin, director of environmental planning for Reynolds, explains the methods of separating the various materials in mixed trash and garbage this way:

"The normal first step is shredding or some other size reduction process. This breaks up the mateirals into more easily separated parts. Paper is readily removed by air classification; steel, by magnetic separation; glass, through screening, and aluminum and other valuable non-ferrous metals through dense media separation. All are processes commonly used in industry."

In the San Francisco Bay area, Reynolds is taking part in a consortium of private refuse collectors, municipalities, equipment manufacturers and material suppliers, to undertake a complete recovery program. As a result, a recycling proposal utilizing these techniques has been submitted to the U.S. Environmental Protection Agency. The same general process is being investigated for other locations as well.

Unlike the steel reclaimed from mixed municipal refuse which at this time has limited value as scrap, methods have been developed which promise the recovery of highly valuable purified aluminum from mixed municipal waste as well as incinerator ash.

The concept of total recycling of mixed municipal refuse is dependent not only on technology and equipment but on existing markets for the materials recovered—markets based on sound economics. The economic recovery of recycled materials in this refuse is dependent on the recovered aluminum. Its high scrap value and existing market price of $200 a ton helps subsidize the recovery of other materials with significantly less value.

NO-FAULT INSURANCE

Mr. MOSS. Mr. President, a letter published in the letters to the editor column of the New York Times on November 29 discusses one of the issues which is clouding the no-fault insurance issue. It was written by my friend Stanley Frankel, who reports that he has received a number of letters from others who read the letter and who felt he had touched upon a vital and determining factor affecting the changes of the legislation.

I ask unanimous consent that Mr. Frankel's letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

LETTERS TO THE EDITOR, THE NEW YORK TIMES, NOVEMBER 29, 1971

ENDING CONFLICTS OF INTEREST

To the Editor: I would hope that the issue of no-fault insurance be decided strictly on its merits, entirely free of the conflict-of-interest clouds which now hover over the debate principally because many of our legislators are, in addition, practicing attorneys.

To protect from suspicion that great majority of our legislators who are honest, dedicated and competent, and also lawyers, I would strongly recommend that all members of the legislature voluntarily make public the number of dollars, if any, in their annual income for the past five years attributable, directly or indirectly, to the handling of negligence cases which would be affected by the proposed no-fault law.

There is sound basis in precedent and law for such disclosure. In New York the code of ethics contained in Section 74 of the Public Officers Law includes a legislative declaration that ". . . The people are entitled to know that no substantial conflict between private interests and official duties exists in those who serve them." Included in Section 74 of that law is the further statement that no member of the legislature or legislative employee should "accept other employment which will impair his independence of judgment in the exercise of his official duties."

Further in the same vein, Section 73(6) (a) of the Public Officers Law provides that every member of the legislature or legislative employe shall (annually) file with the Secretary of the Senate or Clerk of the Assembly a written statement of any "interest or relationship which he determines in his discretion might reasonably be expected to be particularly affected by legislative action or in the public interest should be disclosed."

This voluntary disclosure would free our legislators to vote their conscience, in the public interest. It might, just might, also result in the passage of the no-fault insurance law.

STANLEY A. FRANKEL.

SCARSDALE, N.Y., October 21, 1971.

THE CHANGING NATURE OF THE WESTERN HEMISPHERE

Mr. CHILES. Mr. President, the events and circumstances of the visits of President Medici of Brazil and Prime Minister Trudeau of Canada point to the changing nature of the Western Hemisphere community and the need to reformulate the frameworks for our relations with the countries of the Americas. At this time, such a reassessment cannot take place without considering the cause and effects of the President's new economic policy.

The failure of President Nixon's "economic game plan" of the last 2 years, which culminated in the announcement last August 15 of the "new economic policy" has affected the lives of every American. We have been asked to tighten our belts and make sacrifices. It is indeed in the best interest of all that the new policy does work, because the Nation's prosperity is at stake. When a nation tightens its belt because he has not lived within his means, he does not pass his bills on to his neighbors. And yet this is exactly what we have done with many other countries. What is worse, we have penalized with the 10-percent surcharge on imports those nations which can least afford the penalties and which bear no guilt for our deteriorating balance-of-payments situation.

I wish to make it clear that I support the President's overall economic policy. I support his efforts to strengthen the economy and to halt the deterioration of our balance-of-payments situation. There are countries that because of their monetary or trade policies have taken unfair advantage of our past trade policies, and I support steps, including the use of the 10-percent surtax as a lever to correct these unfair practices.

What I cannot support is the use of the surcharge in a manner which will worsen our already precarious relations with less-developed countries. I am particularly concerned with its impact on the nations of Latin America. The administration claims the surcharge was necessary, because of the deterioration of our balance-of-payments situation. What the administration has not pointed out is that trade with Latin America constantly produces a surplus for the United States, $790 million in 1970 and approximately half a billion dollars in the first half of 1971. In this past year our agricultural exports alone to Latin American countries amounted to $528,906,000, a significant factor in our surplus, and this total is growing as can be seen in the following figures:

VALUE OF AGRICULTURAL EXPORTS TO LATIN AMERICAN COUNTRIES [1]

	1967	1968	1969	1970
Mexico	70,497	81,253	91,580	154,864
Guatemala	13,937	14,814	10,198	14,396
British Honduras	2,370	2,471	2,285	2,913
El Salvador	7,696	8,300	9,549	11,453
Honduras	5,676	6,909	5,444	7,965
Nicaragua	6,475	6,142	5,501	5,756
Costa Rica	7,688	8,777	6,798	9,442
Panama	16,413	15,611	15,573	17,126
Colombia	2,485	32,417	30,701	37,703
Venezuela	90,129	89,817	89,726	97,155
Ecuador	10,611	11,840	10,848	12,495
Guyana	4,791	3,555	4,838	3,947
Surinam	3,733	4,138	4,001	5,343
Peru	41,939	21,690	14,446	32,441
Bolivia	12,211	10,545	7,888	6,747
Chile	24,630	34,954	25,788	31,688
Brazil	109,312	87,407	68,206	68,166
Paraguay	9,970	3,422	3,136	2,673
Uruguay	2,438	19,890	2,508	1,850
Argentina	2,675	3,378	11,557	4,783
	436,677	467,330	420,571	528,906

[1] All figures in thousands of dollars.

To penalize Latin American nations with the surcharge seems, therefore, not only unjust, but self-defeating since trade with those nations actually benefited our balance-of-payments situation. In addition, one effect of the surcharge will be to decrease the purchasing power of these nations and thereby adversely affect the United States since these countries purchase most of their imports from us. Some countries have been particularly hard hit. For example, 39 percent of Mexico's exports to the United States, 71 percent of Argentina's, and 86 percent of Uruguay's are affected by the surcharge.

The reaction by the Latin American nations to the surcharge has been understandably bitter. I have read reports that many nations are intensively searching for new markets for their products. It is an economic fact of life that once new trading relationships are established, our old customers will be making purchases from their new partners and not from us. The developed nations, our competitors for the markets of the world, are making every effort to attract these potential customers. They are doing so by granting import credits and other special concessions. The actions of President Nixon have played into the hands of the very nations which he claims have contributed to the deterioration of our situation. He has so alienated less developed nations with what one of their spokesmen referred to as "indiscriminate application" of the surcharge, that the long-range negative results of his actions may not be measured until long after the elections of 1972.

In order to attempt to correct the inequities of the surcharge aspect of the President's program, I suggest that President Nixon state exactly when he intends to abolish the surcharge which he called a temporary measure more than 3 months ago. The American people must be aware that the failure to abolish the surcharge may well result in a trade war, and in this type of war there are no winners, only losers. In addition, I suggest that the nations of Latin America be exempted immediately from the surcharge. The surcharge is directed at the very sectors of the Latin American economies in which there is greatest potential for an increase in exports. These countries have industrialized at the encouragement of various U.S. programs and now the surcharge penalizes the results of those efforts. In addition, the surcharge is incompatible with the commitment of the United States, as stated by President Nixon himself, to give Latin American products easier access to the U.S. market.

In light of the President's recent statement to Prime Minister Trudeau that the United States will simply be trying to maintain an overall position of balance in the world economy community, continuing the surcharge on Latin American imports becomes even more incompatible with this country's expressed desires.

It is my opinion that we must take these actions if we are to regain the respect of our neighbors. We must act as befits the greatest nation in the world, not as a protectionist country afraid of competition. I have sufficient confidence in the ability of U.S. industry to compete freely in the world that I do not believe it must hide behind artificial barriers.

Two years ago President Nixon stated that the nations of Latin America "need to be assured of access to the expanding markets of the industrialized world." I believe the United States should assume a position of leadership in this respect. The first step to take in this direction is to exempt Latin America from the surcharge.

TRAGEDY IN ULSTER—XIII—THE COMPTON REPORT

Mr. KENNEDY. Mr. President, one of the most significant developments in recent weeks on the situation in Northern Ireland is the release of the Compton report, the report of the official British inquiry into the allegations of torture and brutality in the Ulster internment camps.

Although the report contains a great deal of additional information and discussion, the heart of the report is its finding with respect to the interrogation procedures used against internees—the so-called interrogation in depth—paragraphs 43–105 of the report. The report found that allegations in five separate areas were substantiated:

Internees were hooded.

They were subjected to loud and deafening noise.

They were forced to stand against a wall for hours at a time, with their legs spread apart and their hands over their heads against the wall.

They were deprived of sleep.

They were deprived of food, or restricted to a diet of bread and water.

In the case of each of these allegations, the report found that the actions constituted "physical ill-treatment," rather than torture, cruelty, or brutality. As the report states in paragraphs 104 and 105:

> 104. It will be noticed that while we are asked to investigate allegations of physical brutality, our conclusions are in terms of physical ill-treatment.
>
> 105. Where we have concluded that physical ill-treatment took place, we are not making a finding of brutality on the part of those who handled these complaints. We consider that brutality is an inhuman or savage form of cruelty, and that cruelty implies a disposition to inflict suffering, coupled with indifference to, or pleasure in, the victim's pain. We do not think that happened here.

Elsewhere, I have made my own comments on the report and the distinction it attempts to draw between brutality and "ill-treatment." I hope that all who are concerned over the deepening tragedy in Northern Ireland will read the report and judge for themselves whether such actions can possibly be justified or condoned in any circumstances. I believe they cannot.

Mr. President, I ask unanimous consent that the Compton report be printed in the RECORD, together with the following items: News articles from the New York Times and Washington Post of November 17, 1971, on the publication of the report; an editorial from the London Sunday Times of November 21, 1971, entitled "A Lowering of Civilized Standards;" additional articles by Anthony Storr, Nicholas Tomlin, and Lewis Chester in the same issue; an editorial for the London Observer of November 21, 1971, entitled "Where Compton Went Wrong;" an article from the London Sunday Times of November 28, 1971, by Lewis Chester, entitled "Ulster Doctors Say Interrogated Patients Have Been Injured," and, finally, a letter to the London Times by Graham Greene, reprinted in the New York Times of December 2, 1971.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

[From the New York Times, Nov. 17, 1971]

BRITISH COMMISSION DENIES BRUTALITY IN ULSTER PRISONS

(By Bernard Weinraub)

LONDON, November 16.—An official British commission found evidence today of mistreatment of political prisoners in Northern Ireland but rejected allegations of widespread brutality.

The three-man panel, in a detailed 72-page report, listed cases of "physical ill-treatment" of suspects who were seized Aug. 9 in roundups directed at Irish extremists. The commission said that prisoners were placed in "hooded isolation," subjected to "continuous and monotonous noise," placed on a bread-and-water diet and deprived of sleep.

"Where we have concluded that physical ill-treatment took place, we are not making a finding of brutality," said the commission, headed by Sir Edmund Compton, Northern Ireland's ombudsman. "We consider that brutality is an inhuman or savage form of cruelty. We do not think that happened here."

The findings are expected to arouse controversy in Britain and Northern Ireland. Although the two-month inquiry listed cases of mistreatment against the interned Roman Catholics, more serious charges of brainwashing, third-degree methods, savage beating and torture were swept aside. The charges had been made by Catholics as well as by Amnesty International, a private organization, and in reports published in The Sunday Times of London and other British and Irish newspapers.

CHARGES TURNED DOWN

With the report, the Government firmly turned down the charges.

"The Government reject any suggestion that the methods currently authorized for interrogation contain any element of cruelty or brutality," said Reginald Maulding, the Home Secretary. "The report of the committee confirms this view."

But Mr. Maulding, speaking to an unruly House of Commons, took note of the "ill-treatment" and announced a review of the Government's rules of interrogation in Northern Ireland. An emergency debate on the Common report will take place tomorrow.

The commission members said that suspects were ill-treated in numerous ways in the early days of internment in the British province.

"Detainees were required to be kept fully hooded except when interrogated or in rooms by themselves," the report said. While detainees were held together pending interrogation or between interrogations, they were subjected to a continuous hissing noise, or electronic 'muuh,' loud enough to mask extraneous sounds and prevent effective oral communications."

The inquiry added: "We find ill-treatment in the diet of one round of bread and one pint of water every six hours for men who were being exhausted by other measures at the same time. It was confirmed that it was the general policy to deprive the men of opportunity of sleep during the early days of the operation."

LEANED AGAINST WALLS

The committee found that prisoners were forced to stand, legs apart, leaning with hands raised up against a wall for four-hour to six-hour periods.

Another part of the report discussed five men who alleged that they had been forced to carry out prolonged, physically taxing exercises. They said they had been kicked, punched and struck with sticks if they failed to perform the exercises.

The inquiry, rejecting the allegations of brutality said that the physical activity "must have caused hardship but we prefer to take the view that the exercises were devised to counteract the cold and stiffness of which the arrested persons complained."

"We think there was lack of judgment there, but not cruelty or brutality," the report said.

PANEL DEFINES CRUELTY

It added: "We consider that brutality is an inhuman or savage form of cruelty—and that cruelty implies a disposition to inflict suffering, coupled with indifference to, or pleasure in, the victim's pain. We do not think it happened here."

Northern Ireland's Protestant-dominated Government, with the support of Britain, announced the controversial internment policy on Aug. 9 to root out terrorists and gunmen in the six counties of Ulster. The tactic spurred a wave of rioting, arson and killings in Ulster and thrust the province into the most severe crisis of its 50-year history.

The Roman Catholic minority said that the policy of indefinitely interning suspects without trial was aimed solely at their community, and bypassed Protestant gunmen. Catholics also charged that the army and the police were seeking merely to uphold the provincial Protestant Government, which most Catholics now reject.

A total of 980 men were seized under the internment policy from Aug. 9 to Nov. 10. A little more than half—508 men—have been released. The British Government said that 472 were now being held.

The other members of the panel, besides Sir Edmund, were Dr. Ronald Gibson, former chairman of the British Medical Association Council, and Edgar Fay, a judge from Plymouth.

ULSTER GIVES NO RESPONSE

BELFAST, NORTHERN IRELAND, November 16.—The Government of Northern Ireland made no official comment today on the Compton report, but privately some officials regarded it as vindication of Prime Minister Brian Faulkner's recent insistence that there had been no brutality.

Gerry Fitt, leader of the Opposition Social Democratic Labor party, said he found it hard to accept the report's definition of ill-treatment as opposed to brutality. It is no more than an exercise in semantics, he said.

The Civil Rights Association, whose campaign for reforms has been swept aside by terrorism, described the report as a whitewash. Nevertheless, it added, it was still a damning indictment of the internment operation. The association again urged the Government of Ireland to start proceedings against Britain before the European Commission for Human Rights at Strasbourg.

The Rev. Ian Paisley, the militant Protestant, said the report proved that the "outrageous allegations" were totally unfounded.

[From the Washington Post, Nov. 17, 1971]

Britain Denies Using Torture in Ulster

(By Alfred Friendly)

LONDON, November 16.—An eminent British investigating team rejected today allegations that terrorist suspects in Northern Ireland had been tortured or subjected to brutality, but reported that about 14 of some 900 men arrested under internment orders had suffered calculated "ill-treatment" during prolonged "deep interrogation."

The ill-treatment consisted—almost exactly as asserted in a series of statements or reports smuggled to Irish and British newspapers some weeks ago—of subjecting the men interrogated to deprivation of sleep; standing anywhere from 9 to 49 hours while leaning on their hands, legs apart, against a wall; constant exposure to a high-pitched sound for days on end; a bread-and-water diet; and being hooded with a sack or opaque bag throughout the two to four-day period of interrogation.

The treatment was administered by the Royal Ulster Constabulary, but the methods, it was acknowledged, were those developed by the British army and used by it in the past in such "internal security" situations as Cyprus and Aden. Some army "advisors" were present during the interrogation sessions.

Home Secretary Reginald Maulding, presenting the inquiry commission's report to Parliament today, said he was "entirely satisfied" that the methods did not violate the rules laid down. The commission said the rules themselves followed the broad principles of those permitted in the Geneva Convention for persons arrested in civil disturbances.

Nevertheless, the report was disturbing enough to prompt the British government to establish a Privy Council board of three men to consider whether the methods, even though they are authorized for the interrogation of terrorist suspects, need to be amended.

The board will be chaired by Lord Parker, the former chief justice of Britain, with one privy counsellor to be named by the government and the other by the opposition Labor Party. They are expected to take evidence and make a report promptly.

A significant increase of suspects arrested and munitions discovered since the internment order suggests that the interrogations have produced results.

Since the first of this year, 35 British soldiers, 9 police and 76 civilians have been killed, and about 200 soldiers and 400 civilians, two-thirds of them women, have been hospitalized in Ulster—almost all from the guns and bombs of the illegal Irish Republican Army (IRA) in Ulster. Many of them have been maimed for life.

The inquiry commission, comprised of Sir Edward Compton, the former ombudsman of England and present ombudsman of Northern Ireland, a barrister, and a physician who is head of the Royal Medical Society, examined all known allegations of torture, cruelty and maltreatment of the approximately 900 persons arrested (more than 500 have since been released) since Aug. 9, when the Special Powers Act was invoked providing for internment without trial of IRA suspects.

Only one of the complainants, however, appeared before the commission. For the rest, it had to examine allegations published in the newspapers or by Amnesty International, most of which, with names of alleged victims specified, were forwarded in their original form to the commission.

From internal evidence, however, the report is persuasive that with respect to the army's arrest Aug. 9 of more than 300 suspects and its treatment of them until they were put into police jails, there was a minimum of ill treatment and all of it indavertent, albeit careless and callous.

The real question was what happened to 14 men, all believed to be key IRA figures, with detailed information to be wrested from them.

For these cases, the Compton Commission said that "while we were asked to investigate allegations of physical brutality, our conclusions are in terms of physical ill-treatment.

"Where we have concluded that physical ill-treatment took place, we are not making a finding of brutality . . . . We consider that brutality is an inhuman or savage form of cruelty, and that cruelty implies a disposition to inflict suffering, coupled with indifference to, or pleasure in the victim's pain. We do not think that happened here."

Nevertheless, the commission's report shows that the "ill-treatment" was a deliberate method to elicit information.

[From the London Sunday Times, Nov. 21, 1971]

A Lowering of Civilised Standards

The main question raised by the Compton Report on internment in Ulster concerns not the British Army but the British and Northern Irish Governments. That this fundamental point should be so widely overlooked is a measure of the extent to which the Irish problem is once again subverting British politics. In last week's Commons debate, probably the worst since the election, it was regularly asserted that the Army was magnificent, that it was miraculously restrained, that it faced an inhuman enemy, that it merited the support of every Englishman. All that is true but it does not close the discussion. For it is not the Army but the two Governments which have decreed how suspects may be arrested, detained and interrogated, just as it is they whose policies have placed the Army in a pitifully vulnerable position on the streets of Ulster. Politicians have no rightful claim on the soldier's privilege of shelter behind a grand summons to patriotism.

Compton is an inevitably imperfect inquiry. The unjustifiable refusal of the detainees to testify about their treatment made it impossible seriously to test the counter-evidence of the authorities. Too often Compton gives the authorities the benefit of the doubt, where the doubt is by any quasi-judicial standard so great that no convincing conclusion is possible. Similarly, as Dr. Storr shows on this page, Compton accepts at face value the distinctly odd official descriptions of the purpose of hooding, deafening, isolating and exhausting some prisoners. None the less Compton's supreme value is that it has confirmed the existence of these practices, stigmatised them as ill-treatment and published its conclusions. People can judge what is being done in their name.

These interrogation methods have been variously justified. They flow naturally, it is said, from internment itself. This is a bloody business, but what is one more piece of necessary bloodiness compared with the bestial actions of the IRA? Besides, the methods are not as unpleasant as they might be. They are used on only a tiny fraction of prisoners. They fall within regulations approved by the Labour Government after Aden in 1967. In any case and above all, the argument concludes, the methods are proving effective.

This defence is unsatisfactory in several respects. The 1967 rules are far from conclusive. They specify only general principles, and leave wide discretion to the particular authorities in the particular place at the particular time. Among other standards they decree that interrogation methods must not be "humiliating" or "degrading" or "cruel." Could the methods used in Ulster be thus described? Compton, unhappily, shrinks from saying.

In our view the methods, considered objectively, are plainly cruel and need to be justified as such. If they were approved for use in any British police station, where the need for information is sometimes just as urgent as in Ulster, there would be universal outrage. They might even be called brutal; just as the physical regime applied to detainees at Ballykinler detention camp would be considered inhuman in English prisons, even if applied to convicted murderers.

In judging whether such cruelty is justified, it is relevant to remember that we are not discussing the penalty for a convicted killer. Some of the men interned are, undoubtedly, gunmen and actual or potential murderers. Others have close connections with the Provisional IRA and could supply much information. But many other detainees fall into neither of these categories. Of all people detained since August, half have been released. Several of those dealt with by Compton have also been released. Moreover there is no reason to suppose that these interrogation methods have not been applied to many other detainees. We are dealing here, therefore, not solely with cruelty inflicted on gunmen but with cruelty inflicted on people who are innocent in law and perhaps in fact.

A hypothetical question is sometimes posed to justify this. If you knew, the apologists argue, that a man had information which, if extracted from him, would save a life, is not cruelty then justified to get it out of him? But this question begs others: how can you be sure he knows, or that death would otherwise follow, or that cruel methods extract reliable information? Another hypothetical question could equally well be posed: If you knew that by ending cruel interrogations, and internment itself, you could increase Catholic support for moderation and reduce support for the IRA, would not that be the best course?

These are both uncertain speculations. Against them stands the certain fact that in this country the State is the guardian of law, order and civilisation. Even if the methods employed against detainees in Ulster have had some useful effect, there is in our opinion no situation which justifies a State in performing acts of systematic cruelty, still less in performing them against inevitably random suspects. Both for self-respect and for the respect of the world, the British must keep clean hands. Society weakens rather than strengthens itself when it lowers its own standards. British society now stands in such a danger.

That hooding, deafening and exhausting untried prisoners can be justified as acts of State is a sign, as Mr. Callaghan suggested that we are following the vicious men of the IRA down the spiral of inhumanity. That these methods can be justified today by people who only a few weeks ago attacked this newspaper for disclosing them is evidence that public debate is also on a downward slide. It was said then that publication was irresponsible: the stories were a terrorist fantasy; the integrity of the authorities was being undermined by manifest propaganda. Yet Compton surely justifies the view that public debate, based on knowledge of the facts, is a necessary corrective to official conduct.

This is one answer, if any were needed, to the demand for censorship. Mr. Faulkner himself has now ruled out censorship. It would be a disastrous as well as an evil expedient. However, a subtler form of censorship than the official variety is already beginning to show itself. This consists of an attempt to imprison all who report on Ulster or express an opinion about it within a narrow dialectic. On this view, any criticism of present policy is an attack on British soldiers, and any scepticism about Ulster's future is support for the IRA; no report, in other words can be free of taint or virtue, as a contribution either to defeat or to victory.

This view is put forward by newspapers as well as politicians but it is a quite unacceptable definition of the journalist's task. It is possible to detest and abominate the methods of the IRA, as we do, and still question the future of Stormont. It is possible to endorse and support the British Army, as we do, and still despair of the statesmen. There is no inconsistency here and no betrayal. This is not a war for the survival of Britain, but a political disaster which must be resolved in the end by democratic politicians and democratic methods. The real betrayal would be for newspapers to abdicate their part in that process.

[From the Sunday London Times, Nov. 21, 1971]

A Psychiatrist Explains Why Hooding Is Mental Torture

(By Anthony Storr)

The Compton Report has commented unfavourably upon the use of certain interrogation techniques in Northern Ireland in the following terms: "We consider that the following actions constitute physical ill-treatment: posture on the wall, hooding, noise, deprivation of sleep, diet of bread and water." To a psychiatrist, the phraseology seems odd. For, although these techniques do of course constitute physical ill-treatment, the mental effects of them are far more striking than the physical (with the possible exception of loss of weight); and the primary purpose of using them is to produce mental disturbance and disorientation in order to persuade the victim to become compliant in supplying information.

To anyone who has read anything about psychological experiments in so-called "sensory deprivation," the derivation and purpose of these techniques is obvious. Psychologists have for some years been investigating what happens to people when their normal sensory contact with the external world is cut off or grossly diminished. To this end they have confined volunteers in sound-proof, darkened rooms for varying periods, and have also tried to reduce tactile stimulation to a minimum. Even in volunteers who are actively trying to cooperate with the experiment and who are being well paid, the results are striking.

The normal brain depends for its proper functioning upon a continuous stream of information reaching it from the external world. Deprive it of this "sensory input" and it begins to function abnormally. Nearly all subjects become disoriented in time; and most report serious difficulty in concentration. Even a day or two of sensory deprivation impairs a subject's ability to solve complex problems. More importantly, sensory deprivation increases suggestibility.

To one experiment, susceptibility to propaganda was shown to increase eightfold in subjects confined in these special rooms as compared with controls in normal circumstances exposed to the same propaganda. A high proportion of subjects experience visual hallucinations. One out of five apparently normal volunteers demand to be released prematurely from the darkened room because they cannot stand the mental effects; and this almost always takes place within the first forty hours of the experiment. Some become convinced that the experimenter has abandoned them; others suffer attacks of panic or become preoccupied with strange obsessions. In the experimental situation, a "panic button" is always provided, and the subject told that he is to press it if the stress becomes intolerable.

Sensory deprivation mobilises a man's most secret fears and anxieties, more especially the suspicious, "paranoid" component which exists to varying extent in all of us. In one experiment conducted chiefly with Princeton students, the few extra volunteers who came from further afield stood the process much less well than those who were on familiar terms with the experimenters.

Sound-proof, light-proof rooms are very expensive, but "hooding" is an effective substitute. A thick hood over his head prevents a man getting visual information. Moreover, such a hood can be tightened to the point where a man fears suffocation. Noise machines are equally efficient. If you cannot prevent a man hearing anything at all, you can at least restrict his auditory experience to one loud, monotonous and unpleasant noise which prevents him hearing anything else.

The brain does not only depend upon sensory input for normal functioning, it also needs oxygen and sugar. Starve a man, or restrict him to six-hourly bread and water, as was done in Ulster, and his brain will become short of sugar. We have all experienced the irritability and loss of concentration which occurs when we have missed a meal and our blood sugar is low. Partial starvation greatly increases a man's susceptibility to pressure.

Moreover, being forced to stand upright for hours against a wall (in one case for 43½ hours over a period of six days) impairs the blood supply to the brain, which is why guardsmen sometimes faint on duty. Add to this deprivation of sleep, and it is easy to see that brain function will quickly become so impaired that the sufferer is in no state to resist the pressures brought to bear upon him.

Sensory deprivation is alarming enough when carried out on volunteers under ideal and friendly conditions. When used against enemies the effects must be terrifying. Mr. Maudling has said publicly that there was no permanent injury of either a physical or a mental nature to any of the men concerned, but I wonder how he knows.

I once examined a diplomat who had been confined in a Communist mental hospital and who had been interrogated to obtain information. He did not recover quickly from his experience. Extreme psychological stress of the kind described may leave after-effects for years; chronic anxiety states, phobias, tremors, and all the symptoms of a "traumatic" neurosis. Psychiatrists who worked in the Forces in the last war did not find that all patients who had been exposed to extreme stress recovered quickly or even at all.

Even at the physical level, the results must surely be uncertain. Only long-term followup of peope who have been subjected to these highly stressful procedures will reveal whether they have been permanently damaged either mentally or physicially. If Mr. Maudling knows of such a long-term study he ought to give us the reference.

The Compton Report may not willfully misrepresent the effects of noise and hooding, but the phrases it uses of these procedures appear to be tendentious understatements. Hooding, for instance, is said to provide security for the detainee and his guards, because it interferes with identification. The tentative last sentence upon its effects runs: "It can also, in the case of some detainees increase their sense of isolation and so be helpful to the interrogator thereafter." Similarly, of the use of noise, the report states: "The continuous use of noise to which detainees may be subjected prevents their overhearing or being overheard by each other and is thus a further security measure." But the nub of the matter is in what follows: "By masking extraneous sound and making communication more difficult it may enhance the detainee's sense of isolation."

In other words, sensory deprivation is being used as a rapid technique of producing an effect which ordinary solitary confinement takes some weeks to achieve. Students of Russian and Chinese methods of dealing with prisoners have long been familiar with the fact that isolation in an ordinary prison cell, even without sensory deprivation, produces profound mental effects in most normal persons. There have of course been striking examples of unusually robust individuals maintaining their mental health more or less intact over long periods, even when all communication with other human beings is rendered utterly impossible. But the average man is so dependent upon human relationships for maintaining his sense of identity and his mental health, that sudden deprivation of it causes breakdown.

Isolation renders a man intensely dependent upon his interrogator, since the latter is the only human contact available to him; and the purpose of the isolation routine is to induce this dependence, so that confessions may be obtained. It is probable that such a state of mental breakdown can be far more quickly achieved if sensory deprivation is used as well as, or even instead of, simple isolation. Although there is no evidence as yet that the detainees in Northern Ireland have been subjected to total isolation of the kind used by the Russians, yet there is no doubt that the procedures described have as their object the cutting off of the detainee not only from his normal sources of sensory input, but also from human contact. Of course this is "helpful to the interrogator." Whether it is morally justified is another matter.

Nearly everyone can be reduced to a state of helplessness, dependency, and even mental illness if the right techniques are used. The physical results of such treatment are severe enough, and some may be permanent. The mental effects are much more difficult to predict; but the effects of terror are seldom entirely transient.

Debate That Fell Flat

(By Nicholas Tomalin)

On Wednesday the House of Commons spent three hours debating the Compton Report. It should have been a memorable debate, for the ill-treatment (or brutality, or rigorous questioning) used against detainees in Northern Ireland is, to say the least, an important subject.

Yet all that remains vividly in the mind after all that talk is that Sir Harry Legge-Bourke has a grandfather who once horse-whipped a newspaper editor, and Mad Mitch—now Lieutenant-Colonel Colin Mitchell, MP for Aberdeenshire West—delivered a paeon of praise for British military Interrogators which included this classic of officer-like brusquerie: "One cannot have every loose Jock interrogating prisoners."

Indeed we can't. But is this the only limit we are to place on judicial violence? And what is a loose Jock, anyway? An ordinary Scottish soldier, apparently.

The problem, presumably, is that although it is an excellent idea for the Commons to debate great matters while they are still fresh and important, the new Section Nine procedure which allows MPs to do so, seems to be too swift. Most MPs hadn't had time to read the Compton Report.

Therefore most of the debate consisted of stock responses, angrily shouted to-and-fro. The Tories from military constituencies or backgrounds used the opportunity to curry favour with their voters, and Left-wingers or Irishmen used it as a convenient stick with which to beat the British Government.

It was left to two or three front-benchers and to Roy Hattersley, to try to explore what the debate should really have been about—how far Compton had revealed that British interrogators had gone too far in their "ill-treatment?" And beyond that: to what extent are the elected leaders of a country which tries to behave decently, even in virtual war situations, prepared to tolerate violence against imprisoned enemies?

Obviously, as everyone tacitly agreed, some violence must be used. This is necessary both to get the enemy into prison and then to persuade him to offer useful information once he's there. But how much violence? And what are the guidelines? And when does such violence begin to help the enemy more than the captors because he uses it for his propaganda?

The Home Secretary's argument was based on two lines of defence. Firstly, Mr. Maudling declared that Compton had shown all the questioning procedures to be reasonable, except perhaps the so-called "interrogation in depth" of the 11 detainees. And here, he said, the information gained by the rough stuff was worth being rough.

Secondly, even if the Opposition found such questioning techniques bad, they were all conducted according to guidelines laid down in 1965, by the Labour Government. They had been previously used, in Malaya, in Borneo, in Aden—and who had protested then?

Denis Healey rose, and in the nearest which the debate got to a serious analysis of the situation, sought to explain that the guidelines about questioning prisoners merely laid down things which interrogators should *not* do. That is to say, they had defined the limits beyond which questioners should not go. Within these limits, who had told the troops and Special Branch to hood prisoners, to make them lean against walls? Who had authorized that "monotonous sound"? *Someone* must have issued specific instructions.

Here Roy Hattersley scored a good point. If there was a vague area where troops could be specifically instructed, was it perhaps Stormont more than Westminster that was calling the tune? Had the standard of behaviour, perhaps, declined because different people were now issuing the orders?

Because of that—perhaps—the Army was progressively losing the Catholic population's confidence in the fact that it was still an impartial force.

The men who should have answered these questions summed up the debate. James Callaghan, with his great talent for sounding wise and judicious, managed at times to be both. He made it clear that in his opinion the Compton Report had shown that interrogation had gone too far, and whether this was called ill-treatment or brutality didn't matter too much.

Beyond that, he merely urged everyone to be worried about it, to urge Lord Parker and his Commission to think *hard* about what we were doing.

BEASTLY

And so to Lord Balniel, Minister of State for Defence, who once again said that Compton had shown that, by and large, the Army and interrogators had behaved well. That in the tiny number of cases where prisoners had suffered "hardship" it hadn't been inflicted deliberately, and anywhere where it had, this had been done according to those 1965 guidelines. Northern Irish politicians had directed some of the actions, but the Westminster Government had agreed.

Lord Balniel started to round off his argument; he sounded—almost—as if he was going to do some proper summing up. But then Miss Bernadette Devlin stood up, and started shouting, and others shouted at her, and the Speaker was angry, and five minutes passed, and by the time it was over the noble Lord had no time to say anything except that IRA were beastly and the information obtained" was valuable—which we knew before.

Still, there's another debate on the subject soon. Maybe MPs will have more time to get down to fundamentals then.

Charges That Stuck

(By Lewis Chester)

On October 17 The Sunday Times published an article entitled "How Ulster internees are made to talk." It provoked bitter controversy and emergency Cabinet meetings in both Stormont and Westminster.

Various military experts asserted on television their disbelief of the allegations described. Lord Chalfont, for example, a former professional soldier, and Minister in the last Labour Government, said on Panorama that the allegations suggested a degree of organised ill-treatment that did not have the ring of truth. He thought they showed "a certain amount of vivid imagination and a careful study of television programmes."

A letter from a Belfast reader (which we published) censured The Sunday Times for publishing the internees' "impossible fantasies of ill-treatment."

On the day after the article appeared, The Times reported: "Mr. Heath heard directly from Mr. Faulkner, Prime Minister of Northern Ireland, that the charges are substantially without foundation."

It now appears that the allegations, contained in the original article, were substantially *with* foundation. In some respects they may have been understated.

On the basis of the official inquiry, headed by Sir Edmund Compton, and published last Tuesday, one can test the validity of these allegations. The original article referred in some detail to the experiences of 14 people arrested under the Special Powers Act.

The Compton inquiry confirmed the following aspect of the original story:

1. That 11 of the men named in our article did experience "in depth" interrogation for a period of six days at a centre in Northern Ireland.

2. That the interrogation methods, though largely conducted by Royal Ulster Constabulary personnel, were evolved by the Ministry of Defence.

3. That it was normal for these detainees to be kept hooded with black bags except when interrogated or alone in the rooms.

4. That they were required to stand against a wall (legs apart, leaning with hands raised up) for periods of four to six hours. The Compton report volunteers the information that the total period varied from 43½ hours in one case to nine hours in others.

Compton notes, however, that in one case mentioned in our article the wall-standing procedure may have been less exhausting: Mr. Patrick McClean "persisted in collapsing."

5. That for much of the time detainees were afflicted by a continuous electronic "mush" which contributed to their sense of isolation.

The Compton inquiry did not confirm the following allegations made in the original article:

1. That one of the 11, Mr. Patrick Chivers, was deprived of food and sleep for two or three days. Compton notes, however, that for all those named a policy of sleep deprivation was the norm during the initial period of interrogation. Similarly, although food was not refused, the normal ration for the first four days was bread and water at six hourly intervals. Compton considered both the diet and the sleep deprivation evidence of "physical ill-treatment." (Hooding, noise and enforcement of the wall position also fell in this category).

2. That during his interrogation Mr. Bernard McGreary was regularly beaten about the stomach. Compton concluded that this allegation was not substantiated.

3. That Mr. William Shannon, while detained at Police Holding Centre in Palace Barracks, Holywood, was denied proper treatment for his ulcer and beaten about the stomach. Compton notes that the medical officer at Holywood was appraised of Shannon's suspected ulcer. The beating charge was not substantiated.

However, Compton did ascertain that when Shannon was transferred to the more rigorous interrogation centre, medical examination revealed "a small bruise on his back, his left shoulder and his left side at the level of the navel." Compton offers no explanation for these injuries. At the interrogation center Shannon went through the hooding and wall-standing routine for six days. This information was not contained in the original Sunday Times article.

4. That the "in-depth" interrogation took place at Holywood. Compton did not, however, say where it did take place.

Other instances of alleged ill-treatment of seven other detainees named in a Sunday Times article of October 24 appear to have fallen outside Compton's terms of reference.

The committee refers to the justification for the interrogation methods as necessary "in the interest of saving lives" but does not comment on its validity.

In his introduction to the report, the Home Secretary, Mr. Maudling, stresses this aspect, pointing out that since August, 1969, more than 150 people have been killed in connection with the Ulster emergency. He does not mention, however, the fact that well over half have been killed since internment (and with it, of course, the interrogation procedures outlined by Compton) was introduced just over three months ago.

[From the London Observer, Nov. 21, 1971]

Where Compton Went Wrong

The Compton report into allegations of brutality by troops and police in Northern Ireland raises a number of important, difficult and extremely disquieting issues that cannot be shrugged aside. To say this is not to wish to "stab the Army in the back," but to prevent it being plunged more deeply into the kind of bloody morass it experienced in Palestine in 1948 and, more recently, in Cyprus and Aden.

The Compton Report, like the conduct of the Army, cannot be divorced from the political background. The IRA has already succeeded, to an alarming degree, in becoming the champion of a large part, perhaps a majority, of Ulster's Catholics. Unfortunately, the Report—by the inconclusive nature of many of its findings and the numerous doubts it raises and fails to dispel—has failed to convince the Catholics of its impartiality.

The cards were stacked against the inquiry from the start. Its composition and limited terms of reference were hardly calculated to induce confidence. The choice of Sir Edmund Compton as chairman was particularly unfortunate. He has, in a high degree, the virtues of the Civil Service: he is patient, conscientious and honest. He showed, as Auditor-General, a considerable capacity for uncovering abuse. But as Ombudsman he was notoriously bureaucratic and defensive. He lacks legal training and political experience, and his whole background predisposes him to avoid publicity and present the most unpleasant facts in the most neutral language.

It is arguable that a judge—such as Mr. Justice Scarman—might have commanded more confidence. So might the inclusion of at least one international figure—from Canada or Australia, say—who could have approached the task from a position of greater detachment. More witnesses might then have been willing to testify, and this might have led to more complete findings. The decision to hold the inquiry in private was another crippling handicap to securing Catholic co-operation. It may have been necessary for the identity of soldiers to be kept confidential because of the danger from the IRA, but it should at least have been possible to allow the complainants to give their evidence in public if they wished.

Notwithstanding all the committee's shortcomings, it clearly establishes that there was a basis for allegations of ill-treatment and physical hardship. Its most important findings concern the methods used in carrying out "interrogation in depth" at the Special Interrogation Centre. The report reproduces a note from the Government on the general rules governing the custody of detainees and the process of interrogation. These rules, drawn up in 1965 and amended two years later, apparently allow the use of four practices to induce isolation and impose strict discipline; the putting of black hoods over the heads of detainees, subjecting them to continuous noise, making them stand against a wall, and putting them on a bread and water diet. These methods, however, must not involve "violence or humiliating treatment." The report finds that in a number of cases there was excessive use of each of these practices, such as to constitute physical ill-treatment—but it goes on to say, "We are not making a finding of brutality."

By a remarkable use of language, the tribunal sets out its own definition of what distinguishes ill-treatment from brutality. 'Where we have concluded that physical *ill-treatment* took place, we are not making a finding of brutality. We consider that *brutality* is an inhuman or savage form of cruelty, and that cruelty implies a disposition to inflict suffering, coupled with indifference to, or pleasure in, the victim's pain. We do not think that happened here.' This distinction is tantamount to saying that a victim's sufferings are to be judged in terms of what the person inflicting the pain feels about his own actions.

Mr. Maulding, the Home Secretary, in his introduction to the report, seriously misrepresents the committee by deliberately obscuring all that is unpleasant in its findings, especially about the methods used at the Interrogation Centre. However, it is to Mr. Maulding's credit that he has now appointed another committee under Lord Parker to review the rules governing interrogation by the Army. But what is important is not the way the rules are drawn up, but the way they are applied. What Compton criticises is the excessive use of apparently approved methods under conditions of isolation and discipline.'

Apart from the moral issue of whether methods involving ill-treatment and brutality can ever be justified, there is the political issue of whether their use, even if morally justified, may not be counterproductive. *The Observer* shares Mr. Callaghan's view that on the moral issue 'we cannot yield upon the matter of physical ill-treatment as a means of securing information.' On the political issue, if the operations in Ulster depend, as they so clearly do, on winning back the lost Confidence of the Catholics, then military or police action that could make sense on security grounds could be politically indefensible. These are the kind of questions that should now be publicly argued if the opportunity provided by Lord Parker's inquiry is not to be lost.

The justification put forward by Mr. Maulding for using these special methods of interrogation on suspects is that the information obtained in this way can save the lives of civilians and soldiers. But where does the balance of judgment lie between sanctioning these methods and accepting the danger of risking lives by forbidding them? The dilemma is formidable: how do you defeat the enemy without using his ruthless methods? Where do you draw the line between tough expedients which might save lives, both Irish and British, and the pursuit of policies which will further undermine the confidence of the Catholic minority in Ulster as well as the responsible leadership now in power in Dublin?

Should *any* form of harmful pressure be used to extract information from the suspect person? It is said, for example, that certain London gangsters could never have been convicted without the use of unusual pressures to break down the resistance of accomplices. Had the facts about this been a public outcry? Probably not. The circumstances, it would have been argued, were so unusual. But cannot our security authorities in Ulster similarly plead that they too were justified in what they did for the protection of society?

This argument has some obvious appeal. But can a democratic society such as ours allow that, without its knowledge and in its name, individuals with no legal protection should be subjected to such painful and secret indignities? What ends justify what means? And if we decide, as a democratic society, that undemocratic and inhuman standards of behaviour must, in some abnormal circumstances, be allowed, let us at least reach this decision openly, let the methods be defined and closely controlled, and let the names of the victims be known. Above all, someone must take responsibility.

Mr. Enoch Powell's case about the brutalities committed against hard-core Mau Mau detainees in the Hola camp in Kenya in the 1950s was that it was not enough to dismiss the responsible officer in the camp. Responsibility should be fixed first on the Governor of Kenya and then on the Colonial Secretary himself. What he was arguing, in effect, was that no power should be exercised by officers of the State except by direct authority of Parliament, to whom those who misuse power should be finally accountable.

This is the right approach. If detainees in Ulster were to be subjected to 'interrogation in depth,' the decision to do so should have been taken only by the Home Secretary under rules endorsed by Parliament. An alarming omission in the report is that nowhere does Compton establish who was responsible for the actions his committee criticises. We are not even told who gave the orders to carry out this particular form of interrogation. In fact, it appears to have been Mr. Faulkner in his capacity as Ulster's Home Secretary, and not Mr. Maudling. The interrogators were men of the Ulster constabulary instructed by a special security unit within the Army.

It is probable that Mr. Maudling did not even know what was happening in the interrogation centres, and that he would have remained in the dark but for the clamour in the Press and elsewhere—itself an answer to the current demands for censorship of news from Northern Ireland.

The IRA gunmen are out to break the morale of the soldiers and so sicken the British public with bloodshed and destruction that the Army's withdrawal will come to be seen as the lesser of two evils. But nothing is more likely to ensure victory for the gunmen than to create the impression, as Ministers increasingly do, that the Army is simply fighting a war against criminals and thugs. The IRA does contain criminals and thugs, and they employ the most cowardly and brutal methods, but they are seeking a *political* objective. And they have begun to win the loyalty—if not yet the hearts and minds—of a depressingly large section of the Catholic minority. To condone official violence in Ulster is to play directly into their hands.

This is perhaps the most critical period in Ulster, when the Government's policies and the behaviour of our troops may well decide whether its problems can be solved by normal political means. The real task—hard though it may be in the prevailing beastliness—is to find political weapons that carry more weight with the Catholics than the policy of violence offered by their new champions. In dealing with the terrorism, we must never lose sight for a moment of the crucial fact that a peaceful settlement can be achieved only with the support of Irish Catholics on both sides of the border.

[From the London Sunday Times, Nov. 28, 1971]

Ulster Doctors Say Interrogated Patients Have Been Injured

(By Lewis Chester)

Doctors and solicitors in the Belfast area who have seen men arrested since internment started on August 9 are finding evidence consistent with allegations that they suffered physical violence during interrogation by the Royal Ulster Constabulary (RUC).

Last week, I was given documentation from a dozen Belfast professional men in this category. Their impressions were very much the same.

Not all are critical of the Compton Report, but they are bitter about the political use to which the report has been put.

Mr. Conor Gilligan, a surgeon at the Mater Hospital in Crumlin Road said: "When I see politicians on television using Compton to argue that there is no evidence of brutality and I reflect on what I have seen, well, frankly, I feel my blood starting to boil."

These are some of the cases that have produced this mood of disenchantment:

1. Patrick O'Neill claims he was arrested on November 2. He alleges that he was taken to Girwood for interrogation, where he was beaten with batons, fists and hands about the body. He claims he was made to lie down and beaten across the soles of his feet with something like a carpet rod. He was released and examined by Mr. J. P. Lane, a surgeon at the Mater Hospital. The examination was carried out on the evening of November 3. Mr. Lane says he found evidence of bruising and abrasions on his legs and thighs. The left heel was fractured. Mr. Lane concluded his report: "It is unlikely that he will be able to return to normal activity in under three months."

2. Patrick Laurance O'Neill was picked up on November 13. He alleges systematic beating by his RUC interrogators at Holywood. This man was not released but remanded on an arms possession charge. Dr. Gilligan examined him in Crumlin Road jail on November 18. Part of his report reads: "This man has objective evidence of bruising to face, chest, abdomen, lumbar areas, groins, thighs, hands. . . . The extent of the bruising on the abdomen is most striking. . . . All the findngs are consistent with his claim that he was struck repeatedly with considerable force in the areas recorded."

3. Gerard Maxwell, 38, was picked up on November 2. He alleges that he was beaten in the chest with rifle butts while enroute to the interrogation centre at Palace Barracks, Holywood. While at Holywood, he claims to have been regularly assaulted by RUC interrogators. After his release, he consulted his local doctor and was referred to the Mater Hospital for a full medical.

The report of the consultant physician, Dr. J. P. Donaghy, dated November 4, reads: "General inspection reveals extensive black to purple discolouration of lumbo-sacral area extending lateralwards, especially right, and down both gluteal (buttock) areas to upper posterior thighs. . . . Multiple areas showing bluish to yellowish discolouration of skin to back extending to scapular throughout dorsal area. . . . Anterior aspect of lower limbs—bluish and yellow."

4. Patrick McGee claims he was arrested on October 31, and interrogated at Holywood before being released. His local doctor in the Falls Road area, Dr. Raymond Shearer, examined him on November 2. Dr. Shearer found "evidence of bruising on both sides of his back and from mid-chest to his loins." Dr. Shearer told me that he was called in to examine a prisoner on remand last Thursday. He showed a pattern of injuries uncannily similar to those sustained by McGee."

5. The Quinn brothers were picked up on October 29. They are now remanded on charges of arms possession. Both were interrogated at Holywood and allege that they were systematically beaten up. On November 3, James Quinn was examined at Crumlin Road jail by Dr. Kevin A. Bready. Tis report lists 29 instances of bruising and abrasion about the prisoner's body. Anthony Quinn was examined in Crumlin Road by Dr. George D. O'Neill. His report lists 20 instances of bruising and abrasion. He concluded his report dryly: "In my opinion, Mr. Quinn was assaulted."

6. Thomas Sinclair was "lifted" on October 16, and interrogated at Holywood by the RUC. He was examined by Dr. Gilligan at Crumlin Road jail on October 22. Part of his report reads: "Uniform deep purple discoloration is present over the entire inner aspect of both thighs, extending three quarters of the way around the circumference of each limb, and the upper limit of the changes is in the groin areas . . . I believe that repeated application of a blunt force would have been necessary to result in the extensive changes."

7. John P. Watson was arrested on November 1. He is now a detainee. He alleges systematic beating up by RUC men at Holywood. He was examined by Dr. Beirne on November 3. The doctor found evidence of multiple bruising in the chest and on both legs below the knee.

8. Seamus Lynch was "lifted" on October 17. He alleges that he was beaten by soldiers on the way to Girdwood Barracks, and that he received further beatings during his RUC interrogation there. In his report of October 21, Dr. Gilligan notes injuries to the prisoner's abdomen and legs and a fracture of the left scapula.

9. Michael Nelson was arrested on November 18, and was taken to Holywood where he alleges he was beaten about the head and body by RUC Special Branch men. His family doctor, Dr. W. K. Breslin, saw him at Crumlin Road jail on November 20. He found bruising on the inside of both thighs and on the lower ribs and "a traumatic perforation of the ear drum of very recent origin."

Two points should be made about these case histories. The doctors did not *see* beatings take place. All they can say is that the injuries they have seen are consistent with the stories told by the men involved to them or their solicitors.

Secondly, most of the men mentioned, say in their statements that they were released from interrogation after being asked to sign a "No complaints" slip about their treatment. They asserted that they signed because they feared that refusal would simply prolong the interrogation.

Thirdly, there is no reason to doubt the status of the doctors' reports. Those at the Mater Hospital have treated Catholics, Protestants and British soldiers since the troubles began. Surgeon P. J. Lane, who made some of the examinations described in this report, is a former Member of Britain's Royal Army Medical Corps.

There have been more than 100 explosions in Northern Ireland since the beginning of this month. In the same period, 19 people have been killed, among them four RUC men and five British soldiers. Another 21 soldiers sustained injuries that required hospital treatment.

[From the New York Times, Dec. 2, 1971]

Shame of the Catholics, Shame of the English

(By Graham Greene)

To be at the same time a Catholic and an Englishman is today to be ashamed on both counts. As a Catholic one is ashamed that more than a thousand years of Christianity have not abated the brutality of those Catholic women who shaved a young girl's head and poured tar and red lead over her body because she intended to marry an English soldier. As an Englishman the shame is even greater.

"Deep interrogation"—a bureaucratic phrase which takes the place of the simpler word "torture" and is worthy of Orwell's "1984"—is on a different level of immorality than hysterical sadism or the indiscriminating bomb of urban guerrillas. It is something organized with imagination and a knowledge of psychology, calculated and cold-blooded, and it is only half condemned by the Compton probe.

Mr. Maudling, in his blithe jolly style, reminiscent of that used by defenders of corporal punishment when they remember their school days, suggests that no one has suffered permanent injury from this form of torture, by standing long hours pressed against a wall, hooded in darkness, isolated and deprived of hearing as well as sight by permanent noise, prevented in the intervals of the ordeal from sleep—these were the methods we condemned in the Slansky trial in Czechoslovakia and in the case of Cardinal Mindszenty in Hungary.

Slansky is dead; he cannot be asked by Mr. Maudling how permanent was the injury he suffered, but one would like to know the opinion of the Cardinal on methods which when applied by Communists or Fascists we call "torture" and when applied by the British become down-graded to "ill treatment." If I, as a Catholic, were living in Ulster today I confess I would have one savage and irrational ambition—to see Mr. Maudling pressed against a wall for hours on end, with a hood over his head, hearing nothing but the noise of a wind machine, deprived of sleep when the noise temporarily ceases by the bland voice of a politician telling him that his brain will suffer no irreparable damage.

The effect of these methods extends far beyond the borders of Ulster. How can any Englishman now protest against torture in Vietnam, in Greece, in Brazil, in the psychiatric wards of the U.S.S.R., without being told, "You have a double standard: one for others and another for your own country."

And after all the British tortures and Catholic outrages, what comes next? We all know the end of the story, however long the politicians keep up their parrot cry of "no talk until violence ends." When I was young it was the same cliché they repeated. Collins was "a gunman and a thug." "We will not talk to murderers." No one doubts that it was in our power then to hold Ireland by force. The Black and Tans matched the republicans in terror. It was the English people who in the end forced the politicians to sit down at a table with "the gunman and the thug."

Now too, when the deaths and the tortures have gone on long enough to blacken us in the eyes of the world and to sicken even a Conservative of the right, there will inevitably be a temporary truce and a round-table conference—Mr. Maudling or his successor will sit down over the coffee and the sandwiches with representatives of Eire and Stormont, of the I.R.A. and the Provisional I.R.A. to discuss with no preordained conditions changes in the constitution and in the borders of Ulster. Why not now rather than later?

[Home Office]

Report of the Enquiry Into Allegations Against the Security Forces of Physical Brutality in Northern Ireland Arising Out of Events on August 9, 1971

(Chairman Sir Edmund Compton, G.C.B., K.B.E.)

(Presented to Parliament by the Secretary of State for the Home Department by Command of Her Majesty, November 1971.)

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Enquiry into allegations against the security forces of physical brutality in Northern Ireland arising out of events on the 9th August, 1971.

Members—Sir Edmund Compton, G.C.B. K.B.E. (Chairman); His Honour Edgar S. Fay, Q.C.; Dr. Ronald Gibson, C.B.E.

Secretaries—J. L. Heritage, Esq.; C. G. Leonard, Esq.; R. M. Morris, Esq.

INTRODUCTION BY THE HOME SECRETARY

1. On the 31st August 1971, I appointed a Committee of Inquiry under the chairmanship of Sir Edmund Compton, G.C.B., K.B.E., with His Honour Edgar Fay, Q.C., and Dr. Ronald Gibson, C.B.E., as members, with the following terms of reference:

"To investigate allegations by those arrested on 9th August under the Civil Authorities (Special Powers) Act (Northern Ireland) 1922 of physical brutality while in the custody of the security forces prior to either their subsequent release, the preferring of a criminal charge or their being lodged in a place specified in a detention order."

2. The Committee of Inquiry visited Northern Ireland from 1st September until 26th October and have now sent me their report which is published in this Command Paper.

3. The Government are grateful for the care and thoroughness with which the members of the Committee of Inquiry carried out their difficult task.

THE SITUATION IN NORTHERN IRELAND

4. In considering the Committee's report it is important to have in mind the circumstances in Northern Ireland in which the Northern Ireland Government decided to exercise their powers under the Civil Authorities (Special Powers) Act (Northern Ireland) 1922 to arrest, detain or intern persons suspected of having acted or being about to act in a manner prejudicial to the preservation of the peace or the maintenance of order.

5. At the beginning of February this year the I.R.A. began to increase the ferocity of their well-established campaign of violence. A marked increase in intensity occurred in July, and has been maintained up to the present time. This campaign of murder and intimidation has included gun attacks on military and police patrols, explosive attacks on offices and buildings, together with indiscriminate bombings of occupied buildings in the cities, killing and injuring members of the general public. More recently there has been a concerted attack on individual police officers, police premises and the homes of police officers. Since August 1969 104 civilians, 12 members of the R.U.C. and 38 members of the Armed Forces are known to have been killed; and many civilians and members of the Armed Forces have been injured, some seriously. There have been over 1,000 incidents involving explosives; and the weight of explosives used by the terrorists so far has been calculated at about 11,000 lbs. Up to the morning of 10th November 1971, the security forces had uncovered 293 pistols and revolvers, 234 rifles, 24 machine guns, 116 shotguns, 123,614 rounds of ammunition, over 1½ tons of explosives, 1,607 pipe, petrol and nail bombs, 154 grenades, 26 gallons of acid, and large quantities of fuses, detonators and electric cable. These figures refer only to arms found in Northern Ireland; they do not include, for example, the large quantity of arms recently discovered at Amsterdam.

6. The aims of the I.R.A. are to intimidate the population by brutal terrorism and so to prevent any co-operation with the Government, the police and the courts of law; to inhibit normal political activity and constitutional progress; and to cause the public in Great Britain to become so sickened by the ceaseless bloodshed and destruction that the Army's withdrawal will come to be seen as the lesser of two evils. No responsible Government can afford to yield to pressures of this kind.

Introduction of internment

7. The preservation of law and order in Northern Ireland is primarily the responsibility of the Northern Ireland Government. By July and early August the deterioration in the situation in Northern Ireland had reached the point where they felt it necessary, with the agreement of Her Majesty's Government, to resort to their powers of internment.

8. In announcing the decision to introduce internment on the 9th August, 1971, the Prime Minister of Northern Ireland, Mr. Brian Faulkner, said:

"If Northern Ireland is to survive and prosper, two things are essential. We must sustain a continuing programme of economic and social development, and we must find the means to create a more united society here—one in which all men of goodwill, however divergent their legitimate political views, may participate to the full. These things are, and will continue to be, the aims of our policy.

"Neither will be possible in a climate of terrorism and violence. The outrages to which we have been subjected now threaten our economic life and create every day deeper divisions and antagonism within our community. These, indeed, are the clear objects of those who carry them out.

"Every means has been tried to make terrorists amenable to the law. Nor have such methods been without success, because a substantial number of the most prominent leaders of the I.R.A. are now serving ordinary prison sentences. But the terrorist campaign continues at an unacceptable level, and I have had to conclude that the ordinary law cannot deal comprehensively or quickly enough with such ruthless viciousness.

"I have therefore decided, after weighing all the relevant considerations, including the views of the security authorities and after consultation with Her Majesty's Government in the United Kingdom last Thursday, to exercise where necessary the powers of detention and internment vested in me as Minister of Home Affairs".

9. 342 men were arrested on the Monday, 9th August; and the arrests of others under the Special Powers Act have continued. 980 had been arrested by midday on the 10th November, 1971. In each case very careful consideration was given to the question whether an internment order was necessary. In the event 299 had been interned by the 10th November and were being held at Long Kesh internment camp. 104 were being held under detention orders in Belfast Prison. 508 had been released and 69 were being held pending a decision on the making of detention orders.

10. Wherever possible, the normal processes of law are followed. Since the 9th August 1971, over 300 persons have been arrested and charged in the ordinary way with offences arising from civil disturbances.

11. An advisory committee under Regulation 12 of the Special Powers Act has been set up under the chairmanship of His Honour Judge Brown to review the cases of all those against whom internment orders are made. The members are Mr. R. W. Berkeley and Mr. P. N. Dalton. The rate of progress of this review is dependent on the time required to work up cases for its consideration; but at the 2nd November 99 cases had been reviewed. In 10 cases the Advisory Committee had recommended release to the Minister of Home Affairs of the Northern Ireland Government. All ten of these internees have been released and two further releases have been made on the advice of the R.U.C.

Allegations of physical brutality

12. A number of allegations were made about the treatment of those who were arrested on the 9th August. I thought it right that these allegations should be investigated by an impartial inquiry; and it was for this reason that I appointed the Committee whose report has now been presented to me.

The Committee's findings

13. The capacity of the I.R.A. for indicative retaliation needs no emphasis. I therefore asked the Committee to adopt procedures which were designed to protect the lives of those who had conducted the arrests and interrogations. Nevertheless, every individual who believed that he had grounds of complaint had the opportunity to put his case forward and was assured of a full and impartial hearing. Hardly any did so. The Committee carried out a thorough examination of the evidence, both oral and documentary, put forward by members of the security forces. In the great majority of cases they set against it nothing more than unsubstantiated and uncorroborated allegations which is all that they had before them. In many cases the Committee themselves have felt unable to carry the matter any further; but in the Government's view the balance of credibility is clear.

14. The allegations which the Committee have examined fall broadly into two classes, those relating to the initial arrests and a small number concerned with the subsequent process of interrogation. As regards the initial arrests it is clear from the report that there were very few complaints and those there were had, in the Committee's view, very little substance. The record of events reflects great credit on the security forces, who carried out a difficult and dangerous operation in adverse circumstances with commendable restraint and discipline. The more serious allegations which the Committee were able to investigate relate to the subsequent interrogation in depth of 11 individuals. Here again the Committee have found no evidence of physical brutality, still less of torture or brain-washing. Their findings about physical ill-treatment do, however, raise certain questions about the detailed application of the general rules governing interrogation.

15. These rules are summarised in the Government's evidence to the Committee (paragraph 46) which also points out that:

"The precise application of these general rules in particular circumstances is inevitably to some extent a matter of judgment on the the part of those immediately responsible for the operations in question. Intelligence is the key to successful operations against terrorists, and the key to intelligence is information regarding their operations, their dispositions and their plans. When combating a terrorist campaign, time is of the essence; information must be sought while it is still fresh so that it may be used as quickly as possible to effect the capture of persons, arms and explosives, and thereby save the lives of members of the security forces and of the civil population".

16. In the present circumstances of Northern Ireland, as described in paragraphs 3–5 of this note, it is imperative to obtain all available intelligence in order to save the lives of civilians and members of the security forces; and it is therefore essential to interrogate suspects who are believed to have important information. The principles applied in the interrogation of suspects in Northern Ireland since August this year, and the methods employed (which are necessary not only for reasons of security and control but also to protect the lives of those being interrogated against the risk of reprisals), are the same as those which have been employed in all emergencies of this kind in which Britain has been involved in recent years. The rules now in force, as summarised in paragraph 46 of the report, were issued in 1965 and were revised in 1967 in the light of recommendations made by Mr. Roderick Bowen QC in a report on the procedures for the arrest, interrogation and detention of suspected terrorists in Aden (Cmnd 3165).

Action by the Government

17. The Government reject any suggestion that the methods currently authorised for interrogation contain any element of cruelty or brutality. The report of the Committee confirms this view. But it also brings out the difficulty of implementing the rules in detail in circumstances in which rigorous and intensive interrogation is vitally and urgently necessary. The Government have therefore decided that it would be right to make arrangements for examining and providing authoritative advice upon the procedures for the interrogation of persons suspected of involvement in a terrorist campaign, including their custody while subject to interrogation, and the application of those procedures.

18. The main strain of protecting the population in Northern Ireland falls upon the Armed Forces and the RUC. It is clear from the Committee's report, and from personal observation by a large number of responsible witnesses from all walks of life, that the security forces have discharged their onerous duties with the utmost restraint despite the provocations of which the Press and other public media give us daily evidence. The Government do not regard the findings of the Committee as in any way reflecting adversely on the responsibility and discipline with which the security forces in Northern Ireland are conducting their fight against a vicious and ruthless enemy.—Reginald Maudling.

CHAPTER I

Terms of reference

1. We were appointed on the 31st August, 1971, by the Secretary of State for the Home Department with the following terms of reference:—

"To investigate allegations by those arrested on the 9th August under the Civil Authorities (Special Powers) Act (Northern Ireland) 1922 of physical brutality while in the custody of the security forces prior to either their subsequent release, the preferring of a criminal charge or their being lodged in a place specified in a detention order."

2. In our letter of appointment the Secretary of State said that these terms of reference included in our Enquiry complaints of physical brutality in respect of a small number of persons who were interrogated in depth after a detention order had been made against them: these persons were made the subject of a removal order and were lodged for a short period in a place other than that specified in the detention order.

3. The Secretary of State also informed us that in order to ensure the personal safety of members of the security forces against whom allegations might be made, it was necessary that our Enquiry should be undertaken in private and that there should be no opportunity for a confrontation between complainants and members of the security forces against whom complaints were made. At the outset the Secretary of State indicated that legal representation would not be appropriate: but on the 3rd September he reviewed this direction, and suggested that the essentially private nature of our Enquiry could still be safeguarded if both complainants and those complained against were permitted, if they desired it, to be accompanied by a legal representative when they appeared before us; such legal representatives would not however be permitted to cross-examine witnesses or given access as of right to transcripts of evidence.

4. In the event, for the reasons we give below, complainants did not avail themselves of these facilities for legal representation. On the other hand, many of the army and police personnel complained against were so represented when we took evidence from them.

CHAPTER II

Course of proceedings

5. We held our first meeting at the Home Office in London on the 31st August. On the 1st September and subsequently, the Enquiry was located in Northern Ireland and we have been in continuous operation in the Province from the 1st September until the 26th October when we moved to London where we heard further evidence and deliberated on the terms of our report.

6. On the 9th August, 342 men were arrested and were taken to a Regional Holding Centre. When we opened our Enquiry, 105 of these had been released and 237 were in detention in H.M. Prison Belfast (commonly known as Crumlin Jail) and the *Maidstone*, the depot ship moored alongside a quay in Belfast docks.

7. At the start of our proceedings, we thought it right to afford to each of those arrested on the 9th August, the opportunity to come forward to us, if they wished to substantiate an allegation. We did this by public announcement on the 2nd September and by individual letters posted that day to each of the men released and delivered to each of the men held in detention. A subsequent letter was sent to each man to inform him that he might be legally represented, though our proceedings would continue to be held in private. The Northern Ireland Civil Rights Association let it be known that our enquiry was unacceptable to them because of our constitution and private procedure. We received relatively few replies to our letters sent to those released. Most of those signified refusal for the reasons given by the Association. In a number of cases however it was clear that the released man made no complaint because he had none. We wrote again to all released men who replied they did not wish to complain asking if they had received any medical treatment as a result of their detention. None indicated that he had. One man who had been in Girdwood Park replied: "I did not receive any treatment at all as I did not need any. I was not mistreated in any way at all. I thought they were very good in conduct according to the circumstances." Of the 9 released men who originally indicated a wish to make a formal complaint to us, only 2 pursued their intention. One appeared before us. Another, having set out his allegations in writing as requested, was unable to appear before us to give oral evidence as he had left the Province. None of the others replied to further letters save one, who wrote withdrawing the complaint because, he said, although he was wrongfully arrested he suffered no physical brutality.

8. As regards those detained, we received a written statement from 115 men held in Crumlin Jail, to the effect that they had complaints but would not make them to us. At the *Maidstone*, we received the same answer from 77 detainees when we visited the vessel on the 8th September and saw each detainee in turn and in private. Two *Maidstone* detainees told us they wished to complain to us, but withdrew later.

9. The upshot is that only one of those arrested on the 9th August has availed himself of the opportunity to substantiate his complaint by appearing before us. This has not frustrated our Enquiry, since material for our investigation has been made available to us in the form of allegations published in the Press and transmitted to us from a number of other sources. We have thought it proper to use as the starting point for our investigations, such allegations as are identified with specific persons arrested on the 9th August and relate to their personal experiences. But the fact that complainants have not appeared personally before us has limited our ability to reach findings in cases of conflict of evidence, as we explain in paragraphs 21–28 below.

10. At the outset of our proceedings we issued a statement in which we asked that any individual or organisation with relevant information to give to the Enquiry should get in touch with us at our Belfast office. On the 17th and 18th September we repeated this request in advertisements published in the Northern Ireland press. On the 16th September our Chairman wrote to the Editors of 9 newspapers published in the Irish Republic and the United Kingdom which had reported allegations, asking them if they would assist the Enquiry by turning over to us such specific evidence as they might hold.

11. We had no material response to these requests till at a late stage in our proceedings we received information from the *Daily Telegraph* and the *Sunday Times*. The material sent to us by the *Daily Telegraph* on the 14th October had already reached us from other sources. As regards the *Sunday Times*, an article in the 17th October issue of that paper had shown that it held allegations by a number of men arrested on the 9th August and subsequently, including 11 men arrested on the 9th August and interrogated in depth. The *Sunday Times* handed over this material to us on the 19th October. Most of these allegations appeared to have been made in August, and a number had previously been transmitted to us from other sources and had already been investigated by us. Any new allegations published in the *Sunday Times* of the 17th October in respect of persons arrested on the 9th August have been covered by our investigation and the results are included in this Report.

12. The total number of complainants whose allegations have been investigated and are covered by this Report is 40. The list of the complainants is given at the Appendix. Given the sources available to us, our Enquiry could not have been comprehensive. But at least the cases we have investigated are sufficient to cover all aspects of the 9th August operation.

CHAPTER III

Nature of Evidence

Nature of Evidence from Complainants

13. It follows from this that with two exceptions our evidence of complaints is hearsay. Apart from press reports it consists of written statements purporting to be signed by complainants and in many cases appearing to have been obtained and circulated by a body called the Association for Legal Justice. The documents from this body are duplicated in typescript with typed signatures. It is apparent that many of the newspaper reports were founded on these statements. Thirteen of the documents handed to us by the *Sunday Times* were protocopies of handwritten statements apparently taken down from detainees in prison and signed by them. Most of the statements are witnessed. From other sources we obtained one similar photocopy and 47 transcripts of recorded statements. Despite our inability to obtain verification of the statements, we have thought it right to assume that the statements correctly represent what the respective complainants have to say.

Nature of Other Evidence

14. Apart from complainants' statements we have drawn our evidence from three sources:

(a) Our personal inspection of the sites where the events took place,

(b) Contemporary documentary evidence,

(c) Oral evidence from persons in charge of operations, and from army and police personnel identified as having been supervising local operations and in contact with the complainants when the alleged events took place.

(a) Sites

15. As we indicate when we come to describe the 9th August arrest operation (paragraph 29 below) the arrested persons were temporarily held in three Regional Holding Centres before being released or moved into detention in Maidstone Depot Ship or Crumlin Jail. We visited each of the three Centres, at Ballykinler, Magilligan, and Girdwood Park, and reconstructed the proceedings at each place with the army and police personnel who had been in charge of those proceedings on the 9th–11th August. Similarly we visited the Maidstone and Crumlin Jail and reconstructed the proceedings in those places up to the point of lodgement in detention there.

(b) Contemporary documentary evidence

16. This includes the following:—

Operational Orders

Results Reports by Brigade Commanders and officers in charge of Regional Holding Centres.

Arrest files for each person admitted to Regional Holding Centres (including photographs of each person taken on admission).

Doctors' reports on persons admitted to or treated at Regional Holding Centres.

Doctors' reports on persons admitted to detention.

Doctors' notes of examination at the interrogation centre.

(c) Oral evidence

17. We have sought to test each case where we have received specific allegations by taking written statements and oral evidence from army, police and prison officers identified as having supervised the operation or as having been in contact with the complainant between arrest and lodgement in detention. We also in certain cases heard oral evidence from the medical officers involved.

18. In the course of taking this evidence during 17 hearing days, we heard 95 army witnesses, 26 police witnesses, 11 prison officers, 5 regimental medical officers, 2 medical staff officers, 2 civilian doctors and 2 specialists, one from a military and one from a civilian hospital. We received written evidence taken by our secretaries from one police officer and 10 prison officers. We heard evidence from one complainant in person, and received written evidence direct from another. In accordance with the modification in our procedure made by the Home Secretary on the 3rd of September, legal representation of the witnesses before us was permitted. Mr. John Creaney, Mr. R. Macartney and Mr. Peter Smith, all of the Northern Ireland Bar, appeared before us on behalf of army and police personnel and were of great assistance to the Enquiry.

Definition of "brutality"

19. We have confined our investigation to that part of a complaint that relates to physical treatment.

20. Our terms of reference require us to investigate allegations of physical brutality. We have not, however, thought it right to start with our own definition of brutality and confine ourselves to allegations that satisfied our definition. For we have to recognise that our starting point can only be the allegation of ill-treatment which is brutality in the mind of the complainant. Therefore we have sought to reach our conclusions by describing the events that occurred so far as our enquiries have enabled us to ascertain them: then we offer our opinion on the extent, if any, to which the allegation of ill-treatment is substantiated; if we think it is, we proceed to say whether we have found in it any element of brutality as we understand the term. We take the opportunity to develop our definition of brutality in connection with the first set of detailed allegations on which we report, connected with the process of interrogation in depth (see paragraph 105) and regard that definition as applicable to any other instances of ill-treatment in allegations dealt with subsequently in this Report.

Effect on findings of fact of complainants' refusal to appear

21. The refusal of complainants to appear before us and give us their evidence has limited to some extent our ability to reach conclusions about the validity of their allegations.

22. We emphasise that in our view, our ability to reach conclusions has not been impaired by the fact that we heard evidence in private. It has been open both to complainants and to those complained against to be legally represented. No complainant availed himself of this facility, though we were assisted by the legal representatives of army and police witnesses. Nor have we felt the need for powers to compel the attendance of witnesses and production of documents, as far as the army and police evidence is concerned.

23. The limitation we have experienced is that the absence of the complainants as witnesses has left us with an unbalanced body of evidence. There is no problem when the evidence, oral or documentary, from security sources confirms the allegation. Usually, however, the evidence from security sources is, to a greater or lesser extent, in conflict with the allegation. In this situation, as a tribunal conducting a private enquiry, we would have sought to resolve the conflict by separately examining both complainant and respondent, in order to test the account each gave of the events that took place, and to form a view of the comparative credibility of the witnesses in the course of examining them.

24. We have indeed been able to test the army and police witnesses by so examining them and to form a view of their credibility, with or without the corroboration of documentary or other independent evidence. But we have not been able to compare their credibility with that of the complainants; and it would offend against the principles of justice if we were to reach conclusions which assumed that the credibility of witnesses we have examined was superior to the credibility of those we have not seen. To this extent, therefore, there are allegations on which our conclusions may do less than justice to the case made to us by the army and police witnesses in that their account of events has been thoroughly tested in our hearings yet we have been able to do little more than report the evidence they have given to us.

25. In three classes of cases however we have been able to go further than merely reporting a conflict of evidence and have been able to a greater or lesser extent, to form a view upon the facts of the matter in dispute.

26. The first category is where internal evidence of inaccuracy is found in the complainant's statement itself.

27. The second category arises from the existence of contemporary documentary evidence, including photographs of complainants, and the information we have obtained by our personal visits about the topography, accommodation and other physical features of the places where the events complained of took place. As will appear, the documentation that is of special value consists of the original medical notes and other records, made at the time, of the physical condition and treatment of individuals between arrest and lodgement in detention.

28. The third category consists of the oral evidence that we have obtained from the doctors and medical officers who examined and treated the arrested persons at various stages of the operation between reception at a Regional Holding Centre and lodgement in detention. We have in many cases been able to use this evidence, combined with the medical notes made by these same doctors at the time, as confirming or correcting the allegations made by the arrested persons. The weight of such evidence is derived from the professional status of the doctors, from the fact that they are not persons against whom allegations have been made, and from our assessment, after lengthy oral examination, of their attitude to the events in question and to the persons whom they were called upon to attend.

CHAPTER IV

The arrest operation on the 9th August, 1971

29. As explained to us, the overriding requirement that governed the planning and execution of this operation was that complete security should be maintained about the identity of the persons to be arrested and the date and time when the arrests were to be carried out. We understand that the authorities accepted that in consequence of this security requirement, the operation would be carried out with a considerable element of local improvisation and might be attended by some administrative confusion, but that they considered this to be the lesser evil in relation to the paramount need to maintain security and achieve surprise.

30. A factor that added to the element of improvisation in one particular area was the decision, taken late on the 7th August, not to locate the Belfast Regional Holding Centre in Crumlin Jail itself as had been planned up to that date but to set up the Holding Centre in the adjacent Girdwood Park Territorial Army Centre. We have no doubt that some of the defects in the arrangements at Girdwood, which we notice later in this Report, are to be attributed to this last minute change of plan.

31. The operation consisted of five phases as follows:—

(a) The arrests

32. Parties of soldiers effected arrests according to lists prepared by the Royal Ulster Constabulary Special Branch. Very occasionally RUC officers acted as guides but in all cases the arresting was done by the military. Speed was the prime consideration to avoid the chance of hostile crowds gathering even at that early hour. Each arrester completed a report relating to the person he arrested.

33. The arrests took place at 0430, or as near to that time as possible, on Monday, the 9th August. Each soldier making an arrest was instructed to say:—

"I am arresting you under the powers conferred by the Civil Authorities (Special Powers) Act (Northern Ireland) 1922"

and to add, if a person questioned the arrest in any way, no more than:—

"I am not required to give any further explanation. I warn you that if you resist arrest you may have committed an offense."

34. As to the manner of arrests, the arresting soldiers were governed by general instruction requiring them never to use more force than the minimum necessary to enable them to carry out their duties. Except in one Brigade area, they had no specific orders about the use of restraints on arrested persons.

(b) Transport to Regional Holding Centre

35. There were 3 Regional Holding Centres, each under the overall charge of a senior officer where identification of arrested persons was confirmed and the decision taken whether they should be detained or released. These were Magilligan Weekend Training Centre in County Londonderry, Ballykinler Weekend Training Centre in County Down and Girdwood Park Territorial Army Centre in Belfast.

36. In Belfast the movement of the arrested person was short in time and distance from the point of arrest to a rendezvous for preliminary identification (often at the vehicle to be used for the next stage of the journey) and thence to the Regional Holding Centre at Girdwood Park. In the other two regions the distances were in most cases much greater and the arrested person was usually taken from the point of arrest to a rendezvous for preliminary identification (normally at an established point like a barracks) designated a Prisoner Collection Point (P.C.P.) and thence to either Ballykinler or Magilligan Regional Holding Centre.

(c) Processing at the Holding Centres

37. All arrested persons were interviewed by R.U.C. Special Branch officers prior to the decision about detention. The processing at Holding Centres lasted from early the 9th August to early the 11th August, but arrested persons whom it was decided not to detain were released at any time during that 48 hours.

38. At all the Holding Centres a uniform system of records was maintained, including entry and exist registers and a photograph of each arrested person on entry. At Ballykinler and Magilligan a medical officer was in post who carried out an examination of each arrested person on entry and recorded the result of the examination. At Girdwood a medical orderly was in attendance and a doctor was within call at 30 minutes' notice. There was no system of medical examination on entry.

(d) Transport to places of detention

39. Arrested persons who were to be detained (apart from a limited number mentioned in the next paragraph) were sent by helicopter from Ballykinler and Magilligan to the Maidstone in Belfast harbour, and on foot from Girdwood to Crumlin Jail. Girdwood is immediately adjacent to the Prison, and the arrested persons passed into the Prison through a hole, made early on the 9th August, in the wall that divides the Prison area from Girdwood Park. Also a wing of the Prison was used as an annex to the Girdwood Regional Holding Centre.

(e) Special Questioning

40. A limited number of persons whom it had been decided to detain were selected for interrogation in depth and on the 11th August were moved for that purpose from their Holding Centres to a place other than the place specified in the detention order before being lodged in detention in Crumlin Jail on the 16th and 17th August. (This special class of arrested persons is covered in section 6 of our Report.)

41. The number of persons arrested and handled by the Holding Centres was as follows:—

	Ballykinler	Magilligan	Girdwood Park
Arrested and admitted to regional holding centre	89	68	185
Moved into detention	80	40	117
Released	9	28	68

CHAPTER V

Pattern of complaints

42. The complaints investigated by us related to actions from arrest to arrival at one or other of the Regional Holding Centres, to events at the Centres, and to a place at which interrogation in depth took place. While many of the complaints were of an individual nature, others fell into categories where a number of complainants alleged that they were collectively subjected to treatment of which they complained. Although the individual complaints must be dealt with separately, we have found it convenient to group together the above-mentioned categories for the purpose of our Report. In listing these categories we have used names that correspond to descriptions and references commonly used in complainants' statements and press reports. These names are not to be taken as indicating the precise nature of these events as they appeared on investigation. These groups we deal with under the following headings:—

(*a*) Interrogation in Depth.

(*b*) The Helicopter Incident (Girdwood Park).

(*c*) The "Obstacle Course" (Girdwood Park).

(*d*) Late Releases on the 10th August (Girdwood Park).

(*e*) Special Exercises (Ballykinler).

CHAPTER VI

Details of allegations, evidence and conclusions

Grouped Allegations—1 Interrogation in Depth

43. Under our terms of reference we are asked to examine allegations in respect of persons who were questioned in depth after a detention order had been made against them. Like the other complainants with whom we are concerned, these men were arrested on the 9th August: but whereas the others then arrested were either released or placed in detention by the 11th August, these men were on that date removed to another place for a period of intensive questioning before being lodged by the 17th August in the place specified in the detention order.

44. Complaints of 11 men have been transmitted to us, which include specific allegations of physical ill-treatment during this period of intensive questioning. The men are:

James Auld, Joseph Clarke, Michael Joseph Donnelly, Kevin Hannaway, Patrick Joseph McClean, Francis McGuigan*, Sean McKenna, Gerald McKerr, Patrick McNally, Patrick Joseph Shivers, and Brian Turley.

Timetable of Events

45. We have ascertained that the timetable of events for all the men in this category was as follows:

11th August—0630 Arrival from a Regional Holding Centre at an interrogation centre (hereinafter called "the centre").

11th August—1545 Departure from the centre to Crumlin Jail for service of detention and removal orders, returning to the centre on the same day by 1900 hours.

11th August—1900 to 17th August—1150 (in one case until 1115 on 16th August) Held at the centre.

17th August—1150 Departure from the centre to be lodged in detention in Crumlin Jail.

Government Policy in Relation to Interrogation

46. In the course of our investigation we were requested by Her Majesty's Government to receive a note on the subject of Government policy in relation to interrogation methods. We were asked also to include this note in our report for publication. It runs as follows:

"Note on interrogation—(1) The general rules governing the custody of detainees and the processes of interrogation have been reviewed from time to time by the Government Departments and agencies concerned in the light of experience gained in the various internal security operations in which H.M.G. have been involved since the last war. The techniques of interrogation currently in use have also been employed in many previous internal security situations. The latest instructions on the rules to be followed were issued in 1965, and were revised in 1967 to provide for the daily inspection by a medical officer in the light of the recommendations in the Report on the Aden situation by Mr. Roderic Bowen, Q.C., issued in November, 1966 (Cmnd. 3165).

(2) These general rules include the following safeguards:

(*a*) Medical examination and record of weight of subject on admission and discharge.

(*b*) Subjects to be seen daily by a Medical Officer.

(*c*) The following are prohibited:

(i) Violence to life and person, in particular, mutilation, cruel treatment and torture.

(ii) Outrages upon personal dignity, in particular humiliating and degrading treatment.

(*d*) Subjects are to be treated humanely but with strict discipline.

(These rules follow the broad principles for the treatment of persons under arrest or detention during civil disturbances as laid down in Article 3 of the Geneva Convention relative to the Treatment of Prisoners of War (1949)).

(3) The precise application of these general rules in particular circumstances is inevitably to some extent a matter of judgment on the part of those immediately responsible for the operations in question. Intelligence is the key to successful operations against terrorists; and the key to intelligence is information regarding their operations, their dispositions, and their plans. When combating a terrorist campaign time is of the essence; information must be sought while it is still fresh so that it may be used as quickly as possible to effect the capture of persons, arms and explosives and thereby save the lives of members of the security forces and of the civil population.

(4) Information can be obtained more rapidly if the person being interrogated is subjected to strict discipline and isolation, with a restricted diet; but violence or humilitating treatment, as explained above, are forbidden. Equally any person undergoing interrogation must be assured of security against either violent treatment by his fellow detainees or recognition by them; the evidence of I.R.A. vengeance against informers underlines the importance of this safeguard."

47. The evidence we received from the officials we interviewed about the application of the general rules set out in the Government memorandum we reproduce above can be summarised as follows:

The objectives mentioned in the memorandum may involve the use of the following methods, the circumstances and duration of whose application may vary according to the staff and accommodation available at the interrogation centre and the length of time for which detainees may be left alone or must be kept together:—

(a) Wall standing

48. Requiring detainees to stand with their arms against a wall but not in a position of stress provides security for detainees and guards against physical violence during the reception and search period and whenever detainees are together outside their own rooms in a holding room awaiting interrogation. It also assists the interrogation process by imposing discipline. Although the security need for this technique could be reduced by an increase of staff sufficient to provide for the separate custody of each individual while in transit between his own room and the interrogation room, there would be increased risks of physical contact between detainees and guards.

(b) Hooding

49. The hood (a black pillow-slip which the detainee is not required to wear while he is being interrogated or while he is alone in his room) reduces to the minimum the possibility that while he is in transit or with other detainees he will be identified or will be able to identify other persons or the locations to which he is moved. It thus provides security both for the detainee and for his guards. It can also, in the case of some detainees, increase their sense of isolation and so be helpful to the interrogator thereafter.

(c) Noise

50. The continuous noise to which detainees may be subjected prevents their overhearing or being overheard by each other and is thus a further security measure. By masking extraneous sound and making communication more difficult it may enhance the detainee's sense of isolation.

(d) Bread and water diet

51. A diet of bread and water at six-hourly intervals may form part of the atmosphere of discipline imposed upon detainees while under control for the purpose of interrogation. The rules about medical inspection are referred to in paragraph 2 of the Note above.

52. These methods have been used in support of the interrogation of a small number of persons arrested in Northern Ireland who were believed to possess information of a kind which it was operationally necessary to obtain as rapidly as possible in the interest of saving lives, while at the same time providing the detainees with the necessary security for their own persons and identities.

Course of Investigation

53. It has been our object in this, as in the other areas of our investigation, to test allegations of physical ill-treatment against all evidence, documentary and oral, that we can get in order as far as we can to establish the facts about the treatment that took place. We have had unrestricted access to all the records made at the time, and taken evidence from the persons who supervised the operation.

Oral Evidence

54. We took oral evidence from persons who supervised the operations at the centre. From them we received a detailed account of the arrangements for conducting the operation, as ordered before the event and as executed in the event. They also gave us their eyewitness accounts of the treatment and behaviour of the persons making allegations. In particular we have had the benefit of evidence from the medical officer who was stationed at the centre throughout the operation. He was able to substantiate and amplify to us the written records he made at the time of each complainant's physical condition on entering the centre on the 11th August and in leaving it on the 16th or 17th August. In addition, he was able to tell us about the conditions of the complainants during their stay in the centre, as ascertained by him when he visited them daily in the course of the operation. He told us that those in charge of the centre had impressed him with their concern to avoid physical injury to their charges and had given him every support in allowing him to exercise his professional duties. We put on record that both in his actions as recorded and by his evidence given to us, this officer satisfied us as having maintained the standards of the medical profession to which he belongs.

Documentary Evidence

55. The contemporary documentation which we studied, and which was of the first importance in testing the facts, including:—

(*a*) *The entry medical record,* written by the doctor when he examined each detainee on entry into the centre on the 11th August. The purpose of this examination was for the doctor to certify whether the detainee was fit for interrogation: we have confirmed that before he did so he was briefed as to the conditions that the interrogatee would experience. The patient was stripped and examined, his medical history and present state of health ascertained and recorded, with notes

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*Whilst Mr. McGuigan's name is included in this list because we understand the *Sunday Times* had sight of a statement from him, we have seen no such statement ourselves. The *Sunday Times* tell us they inadvertently returned the original without taking a copy. For this reason we have been unable to investigate any specific allegations, although we have ascertained Mr. McGuigan was at the interrogation centre at the same time as the other men.

of the patient's weight and the existence or otherwise of cuts, bruises or other bodily damage.

(*b*) *The exit medical record,* written by the same doctor, when he examined the detainee on leaving the centre.

(*c*) *Colour photographs* of the detainee, naked, back view and front view, likewise taken on his leaving the centre.

(*d*) *The prison medical record* of the examination carried out by the prison doctor after the detainee was lodged in detention in Crumlin Jail.

(*e*) *The feeding record.* We have examined the contemporary record which was kept showing the time at which each detainee was offered drink and food, if he took it and what he took.

The Allegations

56. We deal first with those allegations of physical ill-treatment common to all or most of the complainants and turn thereafter to allegations limited to particular individuals.

Common Allegations

57. All the interrogatees whose statements we saw complained of one or more of the following matters:

(*a*) *Hooding*

Head hooded in a navy or black coloured bag of tightly woven or hessian cloth at all times other than interrogation interviews.

(*b*) *Noise*

Held in a room where there was a continuous noise variously described as loud and deafening like the escaping of compressed air, the roar of steam, the whirring of helicopter blades, or a drill. Returned to the room with this noise between periods of interrogation.

(*c*) *Enforced posture on wall*

Facing wall, hands high above head on wall: legs spread apart; forced with batons to maintain posture; so kept till collapsed, when lifted up again; treatment continued for 2 or 3 days, or up to 4 days.

(*d*) *Sleep*

Variously complained that had none for 2 or 3 days or very little.

(*e*) *Food*

Variously complained that deprived of food for 2 or 3 days, or that diet severely restricted to occasional administration of dry bread and a cup of water until the last day or so. One man (Mr. Shivers) said he had nothing to drink for the first 4–5 days.

Common Allegations—Evidence of Supervising Staff

58. The persons supervising the operation commented as follows:

Hooding

59. It was confirmed that the detainees were required to be kept fully hooded except when interrogated or in rooms by themselves. This meant, therefore, that hooding was confined to journeys outside the centre or movement within it and to the periods when complainants were held jointly or at the wall (see below). We were told that in fact some complainants kept their hoods on when they could have removed them if they wished.

Noise

60. It was confirmed that while the detainees were held together pending interrogation or between interrogations, they were subjected to a continuous hissing noise, or electronic "mush", loud enough to mask extraneous sounds and prevent effective oral communication between detainees. The noise was neutral, i.e. no music or speech sounds were intruded.

Posture on the wall

61. It was confirmed that from time to time pending and between interrogations, the detainees were made to stand against a wall in a required posture (facing wall, legs apart, leaning with hands raised up against wall) for anything between 4 and 6 hours, except for periodical lowering of the arms to restore circulation. It was pointed out that the posture was not the same as the search position. This was not a stress posture: that is, the legs were not so wide apart, the arms so stretched up, or the weight of the body put forward to the same extent as in the search position.

62. It was confirmed that detainees attempting to rest or sleep by propping their heads against the wall were prevented from doing so. If a detainee collapsed on the floor, he was picked up by the armpits and placed against the wall to resume the approved posture. (In Mr. McClean's case it was said that he persisted in collapsing from the start and after a short time was not forcibly held up but allowed to lie on the floor.) Although a number of complainants alleged roughness and beatings, it was denied that any excessive force was used to keep people in the posture or make them resume it. The staff were instructed, for example, to part legs not by kicking or hacking them but by pushing them outwards with the inner calf of their own legs. No-one was batoned to make him stay against the wall or was otherwise beaten whilst in the position.

63. In only one case was it necessary to use any considerable degree of physical constraint. This was the case of Mr. Clarke, with which we deal below. In the other cases (though not, as mentioned, in that of Mr. McClean) we were told that the atmosphere of rigid discipline was largely effective in its purpose, and, therefore, to enforce the posture any substantial degree of physical force was unnecessary and was not used. In the circumstances there had to be bodily contact between guards and detainees, but the guards had been specially trained to handle detainees by methods which avoided violence or physical damage.

64. We find from our inspection of the records kept at the time of this operation that the men were at the wall for periods totalling as follows:

Mr. Auld	43½	hours
Mr. Clarke	40	hours
Mr. Donnelly	9	hours
Mr. Hannaway	20	hours
Mr. McClean	29	hours
Mr. McGuigan	14	hours
Mr. McKenna	30	hours
Mr. McKerr	15	hours
Mr. McNally	13	hours
Mr. Shivers	23	hours
Mr. Turley	9	hours

65. We were told that the interrogatees were not made to stand at the wall in the required posture throughout. As stated above, the period of standing was 4–6 hours at a time. At other times they would have been sitting against the wall. The evidence regarding Mr. McClean, as we note in paragraph 62 was that, though at the wall for 29 hours, he was hardly in the required posture at all.

Sleep

66. It was confirmed that it was the general policy to deprive the men of opportunity to sleep during the early days of the operation.

Food and Drink

67. The records we examined showed that bread and water was offered at 6-hourly intervals from 1230 on the 11th August until the morning of the 15th August, when the diet began to be increased to normal rations. Hot soup was taken at 2230 on the 13th August by all interrogatees except Mr. McClean who refused it, and we were told that a cereal had been offered earlier that evening. It appears that Mr. Auld accepted food and drink whenever offered between the 11th and 15th August except for two occasions when we understand he was sleeping. Mr. Clarke refused bread on eight occasions. Mr. Donnelly accepted food and drink whenever offered. Mr. Hannaway refused bread altogether on 3 occasions, and ate only part of what was offered on 5 other occasions; he did not always drink all the water offered. Mr. McClean refused both food and drink on 5 occasions, and refused bread alone on a further 4 occasions. Mr. McGuigan did not drink all the water offered on two occasions, otherwise accepted food and drink when offered. Mr. McKenna refused food and drink when offered. Mr. McKenna refused food and drink on the first occasion it was offered, but took it thereafter, save once when he was sleeping. Mr. McKerr accepted food and drink when offered except for a period of sleep on the 14th August. Mr. McNally refused food twice, and took only half what was offered on two other occasions. Mr. Shrivers consistently refused bread, eating only a small fraction of what was offered on only one occasion; he refused water, or took very little, on 3 occasions. Mr. Turley accepted food and drink except for one period when he was sleeping.

Weight

68. The records kept by the doctor for each detainee on entering and leaving the centre all show loss of weight during the time spent there.

Particular Allegations

69. A number of interrogatees made specific complaints of ill-treatment at the centre which are not comprised in the matters set out in the preceding paragraph, and with these we now deal.

70. *James Auld:* When he had been placed against the wall in the required posture he asked to go to the toilet; he was refused, and his hooded head banged against the wall for talking. When his back arched a baton was rammed into it to straighten it.

71. *Joseph Clarke:* When in the required position against the wall, his hands kept going numb. If as a result he closed his fist, his hands were beaten against the wall till he opened them and replaced them in the required posture. If he rested his head against the wall it was banged and shaken. After interrogation he was beaten until he collapsed. When brought round he was beaten again, and fought back. He then suffered another severe beating. He continued to fight back, and his wrists were handcuffed behind his back. The handcuffs were pulled back as he stood with his head to the wall, causing his wrist to be chafed and cut.

72. *Michael Joseph Donnelly:* If he did not keep his head straight and his back rigid in the required posture at the wall, he was struck with a fist. On occasions, though not, he says, very often, he was struck in the genitals with a hard object, and on other occasions a similar object was thrust into his anus.

73. *Kevin Hannaway:* If he relaxed from the required posture at the wall he was kicked, "kneed" and beaten with fists. On another occasion his head was beaten against the wall. A further allegation appeared in the Irish Press of the 18th August, that Mr. Hannaway had a head wound requiring 27 stitches.

74. *Patrick Joseph McClean:* He was assaulted on a number of occasions in different ways. He was bounced on, and rolled along the ground, punched with fingers in the stomach, kicked in the testicles, his arms were twisted backwards and his head bumped on the floor and he suffered various other assaults of varying severity. As to toilet facilities Mr. McClean says: "Toilet, no. Wet where we lay. No inclination to excrete. Slept in wet."

75. *Sean McKenna:* He was beaten on the legs, hands and buttocks to force him to maintain the required posture at the wall.

76. *Gerald McKerr:* He was beaten around the kidneys when he collapsed from the required posture. He kept falling and was invariably beaten when he did so.

77. *Brian Turley:* He was kicked and beat-

en in an effort to force him to adopt the required posture on the wall and after interrogation his head was rammed several times against a door.

78. *Mr. Auld's* complaint that he was refused permission to relieve himself was denied. It was not clear to us how a man in the required posture, hooded and surrounded by a loud noise, was expected to indicate his need. We were told he would have to use gestures. Such gestures might initially be construed merely as an attempt to move from the required posture. If this were so, he would be put back in the posture in the manner described, at any rate to start with. We were however told that lavatory facilities were available and were regularly used under escort by all the interrogatees, with the exception of Mr. McClean. We were told that many interrogatees used these facilities on the occasion of an interrogation.

Particular Allegations—Evidence of Supervising Officers

79. No abnormality in Mr. Auld's physical condition was detected on examination by the centre medical officer on admission to the centre. On examination when leaving on the 17th August, the medical officers noted an area of paraesthesia (pins and needles) in the right arm. In Crumlin Jail the prison medical officer noted on examination on the 17th August "Pain in left wrist. Normal appearance. Complains of tenderness and movements slightly restricted. Appendix scar."

80. In reply to *Mr. Clarke's* complaint about the beating of his numb hands we were told that in a number of instances as a result of maintaining the required posture for a considerable period an interrogatee would find his hands or arms had become numb. In such cases the guards would rub the hands, or swing the arms, of the interrogatee to restore normal feeling. The complaints of beating are denied. We were however told that Mr. Clarke was a strong young man who resisted with considerable force attempts to make him adopt and maintain the required posture. It is admitted that in order to restrain him he was handcuffed. We have seen a contemporary note that the first pair of handcuffs were too small for him, and chafed his wrists. A larger pair was fitted, and Mr. Clarke's wrists were treated with ointment. Mr. Clarke's medical records show that on entry into the centre no defects were observed in his upper or lower limbs. The medical officer at the centre, in the course of his morning rounds on the 13th August, observed that Mr. Clarke's ankles were swollen and bruised. This was at 1130. At a latter examination on the same day (1730) he observed an effusion (i.e. swelling due to fluid on the joint) the right knee. He had the knee bandaged and advised that Mr. Clarke be handled properly, and allowed to be seated with his leg straight. On the 15th August he noted that the knee and ankle swellings were improving. On leaving on the 17th August Mr. Clarke's medical record shows him as having an effusion of the right knee after a fall on it. When examined on the 18th August at Crumlin Jail, this condition was confirmed and he was wearing a crepe bandage over the knee. He was treated in the prison with an analgesic, and the bandaging was continued. The photographs taken on departure from the centre show a crepe bandage from the top of the right knee, over the knee cap, to half way down the shin, and a red mark on the rear of the left arm above the elbow. The notes made at the time by the supervisors at the centre show that Mr. Clarke was aggressive and resisted strongly. They could not tell us how the injuries were suffered.

81. *Mr. Donnelly's* complaint of beating was denied. We were told that the guards responsible had been carefully briefed in, and required to practise, procedures that avoided violence or the infliction of injury. No abnormality was detected in Mr. Donnelly's condition on arriving at, or leaving, the centre. No violence towards him had been observed by the supervisors. At Crumlin Jail, the prison medical officer recorded that he had examined Mr. Donnelly on the 18th August, and found: ". . . numbness left thumb—full movement. Superficial abrasions dorsum of wrist". No complaint of injury to the genitals is recorded. The evidence we head does not explain the finding of minor injuries by the prison medical officer.

82. *Mr. Hannaway's* complaints, and the allegation concerning his head wound, were denied. On admission to the centre the medical officer recorded a graze on the upper lumbar spine. No mention of this appears in the note of the medical examination on leaving the centre on the 17th August. On examination at Crumlin Jail the prison medical officer recorded: "Superficial contusions right shoulder. Eczema of right calf. Black eye left. Betnovate ointment. . . ." The evidence we heard threw no light on the origin of the injuries. The medical officer at the centre and the prison medical officer have confirmed to us that Mr. Hannaway did not have a sutured (i.e. stitched) scalp wound.

83. We noted also that the entry medical record contained the entry "? heart attack". We were told that it was Mr. Hannaway not the medical officer who had raised the question of heart trouble. The medical officer had contacted Mr. Hannaway's doctor and obtained copies of his medical record. The medical officer told us that this showed Mr. Hannaway had had Reynaud's disease since a child, but that otherwise there was nothing abnormal about his condition and no need for treatment. He was satisfied he was fit for interrogation.

84. *Mr. McClean's* complaint that he was denied toilet facilities is mentioned above, in connection with the similar complaint of Mr. Auld. In Mr. McClean's case however we were told by the supervisors that it was not true that opportunity to relieve bowels or urinate was denied him or that it was several days before he was allowed to the toilet for the first time. The lavatory facilities were there. It was Mr. McClean's own fault that he did not use them. Due they thought to the general policy Mr. McClean adopted of "going limp", there had been 3 such occasions. Once Mr. McClean had wet himself whilst at the lavatory, and his overalls had been changed. On another occasion he had urinated on his mattress. A third time (when visited by the doctor and asked for a specimen) he had urinated on the floor of his cell. The medical officer, in his oral evidence to us, confirmed that the lavatory facilities were satisfactory, available and used by all except Mr. McClean, who in his opinion did not use them on the occasions mentioned because he chose not to do so.

85. In the entry medical record the medical officer recorded, inter alia, "Peptic ulcer. Taking Aludrox. Under Omagh County Hospital". The only other abnormality then recorded was a slight expiratory wheeze. Mr. McClean's physique was recorded as "flabby". On examination on departure, the medical officer recorded: "? peptic ulcer" and observed also "Bruising right shoulder and both legs". The prison medical officer, examining Mr. McClean on arrival at Crumlin Jail, recorded "? Duodenal ulcer. Aludrox. 1 pint milk. Bronchitis. Black eye left. Contusions arms and chest. Prison Hospital".

86. With reference to the entry "peptic ulcer" in his entry medical record, the centre medical officer said he had later been satisfied that this was not a correct description of Mr. McClean's present condition. No tenderness was elicited on examination of the abdomen, and there appeared to be no symptoms which could be attributed to the presence of an active peptic ulcer. The history of medication had in fact been irregular, Mr. McClean taking medicine occasionally when he suffered from indigestion. Again, after careful observation, the medical officer had concluded Mr. McClean's action in flopping when placed at the wall was in no way attributable to any medical condition: although flabby and tending to obesity, there was nothing medically wrong. This view was confirmed to us later by the prison medical officer who, although he admitted Mr. McClean to the prison hospital for observation and treatment on arrival as recorded above, told us that he eventually came to the conclusion that his symptoms were not attributable to a peptic ulcer and that he had not suffered from bronchitis, as initially suspected. The prison medical officer wrote to us later giving evidence to confirm that Mr. McClean was no longer complaining of abdominal pain and was well. On leaving the centre, the only bruising seen by the center medical officer, and recorded by him at the time, had been superficial. The black eye and other bruising noted on admission to the hospital were not present on departure from the centre.

87. The centre medical officer in his evidence to us about his daily visits, made it clear he had had a good deal to do with Mr. McClean. On the first day (the 11th August), in addition to the entry medical examination, he attended Mr. McClean in the evening and indicated at 2215 that he should be allowed to rest on a mattress as long as necessary. (It was thought at that time Mr. McClean's apparent inability to stand at the wall might be due to unusual tiredness.) The medical officer also examined Mr. McClean particularly the following day when the medical orderly had informed him at 1340 of a rise of one degree in Mr. McClean's temperature. This the medical officer thought might be due to a mild throat infection. The pulse had always been normal. On the 15th August at 1100 the medical officer, concerned at Mr. McClean's low fluid intake, ordered a supplementary fluid diet for him that included sweet tea at half-hourly intervals. In general, the medical officer said Mr. McClean had always behaved very politely to him and he had never complained to him at all. Far from fluids being denied, they had been pressed upon him.

88. *Mr. McKenna's* complaint of beating is denied, and we have found no other evidence which throws any light on the fact that the departure medical record shows "a few small bruises, right ankle, left shin". The entry and departure records also show "mild heart trouble. Hernia 3 years ago". Mr. McKenna had raised the question of previous heart trouble. The medical officer had questioned him about it but had been satisfied from Mr. McKenna's account of his history and treatment that there was no need to pursue the question further with Mr. McKenna's doctor. In the departure record a query mark is placed against the entry of heart trouble. Nothing abnormal was discovered on examination at Crumlin Jail by the prison medical officer on the 18th August, save a tingling in the fingers of both hands.

89. *Mr. McKerr's* allegation that he was beaten around the kidneys is denied, as is his more general allegation of beating. No abnormalities were detected at either the entry or the departure medical examinations at the centre, nor (apart from defective vision clearly of long-standing) by the prison medical officer at Crumlin Jail.

90. *Mr. Turley's* allegation of beating was denied, and there was no knowledge of any incident such as he described at the conclusion of interrogation. His condition showed no abnormality on entry medical examination. On departure, the centre medical officer recorded "healing scars right knee and left shin". We confirmed the existence of such injuries from examination of photo-

graphs taken on departure. We heard no evidence to account for them. The entry made by the prison medical officer for Mr. Turley on admission to Crumlin Jail reads:

> "Ecchymosis. Superficial abrasions left hand and right shin. Gave no history of cause."

Conclusions

91. The timetables of events given in some statements by interrogatees are clearly at variance with the written and oral evidence we have received. We consider that such discrepancies are readily explained by confusion as to time and date which could follow from the hooded isolation in which these men were held.

92. As regards the *posture on the wall,* we find that the action taken to enforce this posture constituted physical ill-treatment. In Mr. McClean's case we draw attention to the evidence that he soon avoided the posture by repeated collapsing and to the evidence that the guards let him lie and did not use violence in overcoming his inertia. It therefore appears that any ill-treatment suffered by Mr. McClean under this head was of comparatively short duration.

93. As regards *hooding,* the general allegations are substantiated, and we consider that they constituted physical ill-treatment.

94. As regards *noise,* we find that the men were subjected to continuous and monotonous noise of a volume calculated to isolate them from communication, and this we consider to be a form of physical ill-treatment.

95. As regards deprivation of *sleep* we consider that this constituted physical ill-treatment.

96. As regards *deprivation of food and water,* we find physical ill-treatment in the diet of 1 round of bread and 1 pint of water every 6 hours for men who were being exhausted by other measures at the same time. But in the light of the contemporary documentation we find it difficult to give credence to the far more serious allegation by some detainees that they were denied food and water for long periods, and think it was they who failed to take such food and drink as was offered them.

Particular Allegations

Beatings and other violence

97. Eight of the complainants give particulars of being beaten, kneed and kicked in various parts of the body and at various times, but especially in connection with the force that they say was used to make them maintain or resume the required posture on the wall. We make no findings under this head, for there is a conflict that we cannot resolve between the allegations and the denials that have been made to us by the supervising staff who controlled the proceedings and saw what took place. While it cannot be regarded as conclusive, account must be taken of the evidence adduced in support of these denials, consisting of (*a*) the special training given to the guards to handle detainees by methods which avoided violence or physical damage, and the constant supervision exercised over the operation to ensure that these methods were used in practice and (*b*) the absence of any record of significant physical damage in the medical record made for each of these men, or of any sign of such damage in the photographs taken of these men, on exit from the centre on the 16th and 17th August—except for the special case of Mr. Clarke dealt with separately.

98. We note that there is no evidence at all of a major trauma (again either from medical reports or photographs) that might have been expected to follow from some of the rough treatment complained of by individual detainees (e.g. being struck in the genitals, beating hands against the wall; punched with fingers in the stomach).

99. We consider it probable that there could have been "pins and needles" and numbness in the fingers and hands as a result of prolonged pressure against the wall; we note here that supervisors must also have been aware of this possibility for active measures were taken to control it from time to time. Similarly, swelling of the ankles could be expected after periods of standing against the wall in this unnatural posture.

100. In the particular case of *Mr. Clarke,* it is confirmed that the handling of him was more forcible because of his active resistance. The particular injury for which we have evidence is the effusion of his knee which occurred between the two visits made by the doctor at 1130 and 1720 on the 13th August. We have not been able to ascertain how this happened but we are satisfied that the treatment given to it in the centre was correct, that he was kept under medical supervision and that this treatment was continued after admission to Crumlin Jail. We are not disposed to find that he suffered ill-treatment over and above the ill-treatment that he suffered in common with the other complainants.

101. *Mr. McClean's* specific allegations of physical assault are denied by those who supervised the 11th–17th August operation. Their denial is confirmed by the evidence of the medical officer who visited him regularly during his 6 days in the centre. The medical officer's exit certificate of the 17th August records "Bruising right shoulder and both legs" which was not present on his entry certificate on the 11th August. But the medical officer had emphasised to us that these bruises were superficial and, he thinks, consistent with the handling required to move Mr. McClean who on account of his limp resistance had to be carried about the centre. The further injuries to Mr. McClean mentioned in the 18th August medical records from Crumlin Jail. "Black eye left. Contusions arms and chest", are not, we think, due to action in the centre but must have been suffered by Mr. McClean in transit by lorry and helicopter from the centre to Crumlin Jail. Our enquiries have failed to establish when and how this damage took place. Mr. McClean himself makes no allegation of ill-treatment during his transit and it would therefore appear that the injuries were accidental.

102. A similar comment applies in the case of Mr. Hannaway who was recorded as having a black eye on arrival at Crumlin Jail. He too made no allegation of ill-treatment in the course of the journey in question.

103. *Lavatory facilities*—In respect of the complaints by Mr. Auld and Mr. McClean we draw attention to the evidence that these facilities were not denied and that Mr. McClean wetted his overalls, his mattress and his cell by his own choice.

104. It will be noticed that while we are asked to investigate allegations of physical brutality, our conclusions are in terms of physical ill-treatment.

105. Where we have concluded that physical ill-treatment took place, we are not making a finding of brutality on the part of those who handled these complainants. We consider that brutality is an inhuman or savage form of cruelty, and that cruelty implies a disposition to inflict suffering, coupled with indifference to, or pleasure in, the victim's pain. We do not think that happened here.

2. The Helicopter Incident

106. The incident took place at the Girdwood Park Regional Holding Centre. The complainants were:

Henry Bennett, Thomas Gerard Johnston, Gerard McErlean, Desmond O'Hagan, George Patrick O'Hara, and Seamus O'Toole or O'Tuathail.

107. Although they may have made other complaints dealt with elsewhere, we have here grouped together those parts of their complaints that have a common basis. The allegations are that they were taken in parties of 5 by military policemen and forced to run over broken glass and rough stones to a helicopter: that they were menaced by police dogs, kicked into a helicopter and pushed or forced to jump out after 15 seconds or so in it; that in one case when the helicopter had taken off a complainant whose hands were bound was threatened with being thrown out above ground; and that they were forced to crawl back to the building whence they had come being kicked, struck and called abusive names. Reports in various versions were published in England in the *Daily Telegraph* on the 17th August and in the *Guardian* on the 18th August, and in Ireland in the *Irish Independent* on the 17th and 18th August and the *Irish News* on the 18th August. In addition in many cases we have before us copies of statements purporting to be made by the complainants.

Sources of Evidence

108. We took oral evidence from 11 members of the security forces. These included the senior military police officer who had, sharing responsibility with another officer of equal rank, been in charge during the events complained of and a number of N.C.O.s who had participated in one or more of the sorties to the helicopter and back. The documentary evidence examined included the records made by the medical officer on duty at Girdwood of any cases to which he attended and the records of the medical examinations given on reception to the Prison proper to all men who left Girdwood for detention. We saw the ground for ourselves.

109. We travelled in a Wessex helicopter and familiarised ourselves with it.

The Oral Evidence

110. Our witnesses told us that the movement to and from the helicopter had taken place on the 9th August and according to a deliberate plan to stage a "Deception" the object of which was to deceive onlookers into believing the arrestees were being taken away from Girdwood. To this end an R.A.F. Wessex helicopter flew into Girdwood. The scheme was to take out overtly to it parties of arrestees from the main building, place them momentarily aboard but then surreptitiously remove them and conceal their return to the building, the helicopter meanwhile taking off to all appearances with a full load. Thus it was hoped onlookers—and Girdwood was overooked from a number of directions—would believe an airlift was taking place. This in turn might help to reduce the attention being paid to Girdwood from outside and obviate the danger of attack on its perimeter or attempted interference within e.g. by sniping.

111. "Deceptions" had taken place 5 times, the first 3 with arrestees and the last two with dummy runs involving members of the security forces only. On the "live" runs the procedure had been for the military police to assemble parties of arrestees within the building, escort them at an ordinary pace from the building to the helicopter parked with rotors running about 40 yards away, and place them aboard. The R.A.F. crewman would then close the doors, and after a brief interval open them for the arrestees to get out. This time the men would return in the custody of the military police, but in a much tighter formation designed to protect their charges from view. The return involved the arrestees being made to adopt a crouching posture and moving as quickly as that posture allowed, back to the building.

112. Our witnesses, including the R.A.F. crewman, were unanimous that no arrestee had at any time been in the helicopter when it left the ground nor had anyone been in the helicopter with them during their short stay inside except for the R.A.F. crewman. No force had been used to push men in or pull men out of the helicopter and no-one had been inside to force them out except for the crewman. It was contrary to R.A.F. orders to touch passengers, and he had not touched them. No-one had used their batons

or their personal weapons if they had them, to strike arrestees. The crouching posture on return to the building had been signalled to the arrestees and enforced by bodily pressure only, i.e. each man had been held by one arm and the escort's free arm had been used to press him down on the shoulders or small of the back if he tried to straighten up. But beyond this, no-one had been dragged or forced to crawl. Making arrestees crawl would not have helped to secure deception. It would merely have elongated the concealing escort and prolonged excessively the period of return to the building.

113. An attempt was made to select only the apparently fit. Witnesses also said the purpose of the exercise had not been explained to the arrestees; indeed, some of the military police themselves had not fully understood at first what had been afoot. Some of the arrestees asked what was happening but the policy was not to brief them lest, if they were released, the security of the exercise would be compromised. One man had attempted to break away on approaching the helicopter, but had been manhandled without undue roughness back to his place. The escorts had not been allocated specific arrestees and often had a different man on the return journey. Two or three had slipped and fallen on the return. Witnesses were divided about how the arrestees were shod: most thought they wore socks or plimsolls; one clearly recollected a man wearing shoes; and the crew member recollected them as all having footwear.

114. Witnesses denied there had been anything unusual about the terrain: there had been no glass or other obstacles; apart from a flower bed, the route after the tarmac in front of the building was entirely grass. There had been dogs about at the time of the operation but they had at all times been tied up against one of the surrounding vehicles. Whilst one or more dogs may have become agitated, none was near enough to threaten damage to the arrestees even when on its lead. The helicopter engine made so much noise it would have been virtually impossible for the arrestees to have heard abusive language if it had been used but it had not.

Documentary Evidence

115. None of the complainants was treated by the medical officer at Girdwood. Of those admitted to Crumlin Jail the prison medical officer recorded on reception two cases of duodenal ulcer for which he prescribed aludrox and 1 extra pint of milk daily (Mr. O'Hara and Mr. O'Toole) and one case with a history of a gastric ulcer, then asymptomatic (Mr. Johnston).

Conclusions

116. We are satisfied that the allegations relate to this deception operation at Girdwood on the 9th August, in which the complainants were made to take part.

117. We draw attention to the evidence contradicting the allegations of men being taken off the ground in the helicopter, threatened with dogs or otherwise assaulted. In this regard we give special weight to the evidence of the R.A.F. crewman, who has the status of an independent eye-witness in that he was in no way concerned with the custody or control of the arrested men, and was only concerned with the safe operation of the helicopter. In particular, we accept his denial of the allegation that the complainants were taken off the ground in the helicopter (an action incidentally which would have defeated the purpose of the operation as a deception) and of the allegations that military policemen accompanied them into the helicopter and pushed them out of it. We also discount allegations of physical action by military policemen in or near the helicopter being backed by verbal threats and abuse, since we established that the rotors of the helicopter were in motion throughout the time the men got in and out of it, and it is a fact that the noise of the Wessex helicopter engine drowns speech. Having ourselves inspected the site of the helicopter landing in relation to the entrance to the main building we know that the route to and from the helicopter went over 10 yards of tarmac, a flower bed and some 30 yards of grass, and do not accept the allegation that the complainants were forced to run over broken glass and rough stones. (There may be some confusion here between this incident and the so-called "obstacle course": see paragraphs 120–136.)

118. The movements of the complainants, as substantiated by the evidence of the army witnesses, consisted of being made to walk under escort for the 40 yards from the building to the helicopter, climb aboard, then after a few seconds (when the helicopter did not leave the ground) get down and move, hastened by their escorts and held down in a crouched position, over the 40 yards back to the building. It does not seem that these movements resulted in any physical damage to any of the complainants, apart perhaps from accidental and very superficial injury. Nor do we think that the escorts who applied some force to the complainants in order to move them with haste in the required posture, did it in order to hurt them.

119. While, however, we make no finding of brutality, we are disposed to criticise the action taken to force the complainants to take part in this deception operation. The purpose for which they were held at Girdwood was that of identification and questioning to decide whether they should be released or lodged in detention. Their use as actors in the deception operation lay outside that purpose, and we think it was a questionable decision so to use them. They were not told why they were being made to take part in the act. It is understandable that they should have been frightened by the unknown and should have thought in the absence of any other reason, that the intention must be to victimise them by putting them through a meaningless exercise involving physical hurt or the threat of it. In fact, as we have said, they seem to have suffered no physical damage: but we think the physical experience they were forced to go through under these circumstances does constitute a measure of ill-treatment.

3. The "Obstacle Course"

120. These incidents took place at Girdwood Park Regional Holding Centre. The complainants are:

Brendan Anderson, Michael Oliver Brady, Gerard Campbell, Thomas Joseph Conlon, Sean Drumm, Michael Farrell, Eamon Kerr, Gerard McErlean, James Moore, James Mullan, Desmond O'Hagan, and Seamus O'Toole or O'Tuathail.

121. Whilst they may have made other complaints dealt with elsewhere in our Report, we have here grouped together those parts of their complaints that have a common thread. They alleged variously that they had been made to run over granite chippings whilst being kicked and shouted at; that they had had to run barefoot over an obstacle course of tree stumps, sharp stones, broken glass, tacks and garbage strewn in their way: that they had been abused verbally as well as poked and struck with batons and that one man on complaining of glass in his foot had had a military policeman stamp upon it and that an R.S.M. had tried to stamp on the feet of others. Reports in various versions were published in England in the *Guardian* on the 18th August, the *Daily Mail* on the 19th August, the *Sunday Times* on the 22nd August and the *Morning Star* on the 23rd August, and in Ireland in the *Irish Independent* on the 17th August, the *Irish Press* on the 18 August, the *Irish Times* on the 17th, 18th, 20th and 27th August, and the *Sunday Independent* on the 22nd August. In one case (Mr. Moore) a complainant came before us in person and made his allegations. In a number of others we received typewritten copies of statements.

Sources of evidence

122. We took oral evidence from one complainant (Mr. Moore) and 19 members of the security forces and prison service on duty or in charge at the relevant times. They included the senior infantry officer in charge of internal security at Girdwood, the senior military police officer, his N.C.O.'s, the R.U.C. officers on duty at the material times, and members of escort parties. We also saw prison officers who had been on duty at material times within the Prison itself. The documentary evidence we examined included the records made by the medical officer on duty at Girdwood of any cases he saw, and the records made by the medical officer on duty to all men who had left Girdwood for detention, on reception in the Prison proper. In addition as we have already explained, we visited Girdwood and the Prison walking over the ground concerned.

Oral evidence

123. Mr. Moore told us he had been taken out of the main building by a side door and entered a barbed wire corridor. He was not clear what time of the day it had been but, since the visibility had not been good, he thought it best described as twilight. There had been a wire stretched low across the ground in the corridor and its purpose had been, he imagined, to make prisoners stumble, although he had not done so himself. He had not himself seen the wire, which he thought to be very thin; he had only felt it. After passing through the hole in the wall of the Prison he had started to go up a grass bank to the football pitch. Thereupon his escort had told him to go back and follow the perimeter route. The first part of the route had consisted chiefly of housing bricks loosely laid as part of a hardcore base for a path. He had not had time to pick his way though them since he was being made to run. He got a cut on one foot but described it to us as "slight" and "nothing to talk about". He had passed over some grass heaped on the path approximately half way between the hole in the wall and the first corner. He assumed there was glass underneath it because as he trod on it he had heard a crackling noise like glass or possibly something similar like broken pottery. He had not seen underneath the grass because he had had no time to inspect the surface. He had noticed no garbage near the route he followed. There had been no sniping that he noticed. R.U.C. officers had been standing openly on the football pitch and it was improbable they would have done so if sniping had been going on. He had seen no dogs on the journey.

124. The witnesses from the security forces said the arrestees in Girdwood had been moved through the hole in the wall to the Prison in two principal batches. The first batch of 84 men went through in daylight during the morning of the 9th August and the second of 59 during the early and dark hours of the 11th August.

125. Members of the first batch on the 9th August were, after their documentation and interview was completed in Girdwood, taken in parties of at most 6 out of a side door of the building through the hole in the wall into the Prison, around the perimeter of the football pitch, through an inner gate and thence to a wing of the Prison where they were in the custody of the R.U.C.

126. The parties were escorted by a mixture of military police and infantry and followed by a dog handler with his dog. Each arrestee was accompanied by a military police N.C.O. and each party by a group of infantry 3–4 strong. The latter carried batons only and no firearms; the former generally had their personal weapons which were either pistols in holsters or sub-machine guns slung on

their backs. All the soldiers denied using abusive language but they confirmed their prisoners either wore stockings or went barefoot. There had been running from the hole in the wall to the right angle turn at the corner of the football pitch but parties had not invariably been made to run along all or part of the route and the older men and the infirm were allowed to proceed at their own pace.

127. The route to the hole in the wall over the granite chippings was selected because it had seemed the most direct. But beyond the hole in the wall no route had been laid out within the prison itself. A number of witnesses were unclear why the perimeter route around the football pitch within the walls was chosen: most of them had simply followed the people in front; others guessed it was because it took the parties nearer to the prison walls where they were less exposed and vulnerable to the danger of sniping. We are satisfied from other evidence, however, that the perimeter route was in fact improvised and not chosen deliberately. The senior infantry officer in Girdwood had not understood his authority to extend beyond the wall and the first parties emerging through the hole in the wall had been informally directed to the perimeter route by a prison officer because it was less exposed either to the danger of sniping or to the gaze of the regular prison inmates who might be unsettled and make a disturbance. The arrestees were without shoes because these had been put in their property bags on arrival at Girdwood and the N.C.O.s in charge had understood their orders to be that men moved into the Prison should have their property bags with them but unopened. Some of the witnesses had assumed their charges had been unshod to lessen the danger of their attempting to escape.

128. Witnesses were unanimous that no-one was forced to run over glass, nails, tintacks, struck with batons and rifle butts, stamped upon or made to crawl. Some arrestees had made abusive or threatening remarks to their escorts but none had complained. None had been made to run through garbage, although they had passed near a garbage heap. The only timber on the route was the chippings and twig remains (together with a few boxes) of what appeared to have been timber cutting in the Prison some time before the 9th August. Many logs had been piled up on the verge of the route.

129. Dogs had been kept on the leash throughout, had followed at a distance of some yards behind the parties, and had generally cut diagonally across the football pitch itself rather than follow identically the route of the parties.

130. The 59 men who had gone into the Prison during the early hours of the 11th August had all been shod. They had taken the same route as the 9th August parties up to the hole in the wall but, thereafter, rather than following the perimeter route around the football pitch, they had taken the most direct route by going up the grass bank and out on to the pitch itself. This time the escorts had consisted of military police, infantry and some R.U.C. Each man had been accompanied by a policeman and parties had, apart from the infirm, been ordered to run across the football pitch. We think the route was across the pitch and not round the perimeter because it was done in the dark. They ran because the military police had so interpreted an order that arrestees should be taken into the Prison as quickly as possible because of the sniping. Again, all witnesses denied there had been anyone who had been forced to run over glass, nails, tin-tacks, struck with batons, and rifle butts, stamped upon or made to crawl. The dogs were withdrawn on this occasion and took, therefore, no escort role at all. Gunfire was going on and rounds had entered the vicinity. Neither on the 9th or the 11th August had an R.S.M. or similar figure been on duty.

Documentary evidence

131. There was no record of anybody being treated by the medical officer at Girdwood for cut feet and only one of the complainants in this case had been seen by him although some men had been brought back through the hole in the wall for treatment for one ailment or another at their request. (The medical officer at Girdwood treated Mr. Moore on the 10th August but only for a cut in his arm.) The prison medical officer recorded a statement by Mr. Brady that he had glass in his foot but Mr. Brady himself alleged he had received this before arriving in Girdwood (see paragraph 182 below). None of the other complainants detained were recorded by him as having symptoms in any way to be associated with the alleged events.

Inspection

132. Our own inspection of the route on the 15th September showed that in two places it presented difficulty to a barefoot pedestrian. The first was a short stretch of path near some huts on the Girdwood Park side of the hole in the wall, where the surface was composed of small loose granite chippings. The other was a stretch between the hole in the wall and the first angle in the Prison wall where, in preparation for making a cement path, hardcore had been laid. This hardcore was largely composed of bricks and pieces of brick but included a little broken crockery.

Conclusions

133. The allegation is that the men concerned were forced to run, unshod, over an "obstacle course", that is over a route designed with the intention of doing them physical injury.

134. We have no doubt that we have identified the "obstacle course" as the route that these parties of unshod men were made to take from Girdwood through the "hole in the wall" into the Prison on the 9th August, particularly where the route traversed the chippings by the huts in Girdwood and took the hardcore path after passing through the hole in the wall. It was a route that would cause considerable discomfort to a man required to run over it barefoot: but on the evidence we see no reason to think that this route was chosen, still less prepared, with the intention of causing physical discomfort or injury to the arrested persons who were made to go over it. The facts seem to be that the intended route went across the football pitch, but the first party as it arrived through the hole in the wall into Prison terirtory was diverted on to the hardcore path by a prison officer on grounds of prison discipline, and subsequent parties followed the first. We have gone on to consider what if any measure of ill treatment the men suffered by being made to move hastily over a route adopted by accident but which happened to have some rough features, especially for unshod men. We do not think that they were made to go unshod in order to hurt them. The removal of shoes from arrested persons in Girdwood was the standard procedure to reduce the risk of attempted escape or assault. It was thoughtless on the part of those who directed the movement on the 9th August not to realise that the going was rough in places and that the men concerned might reasonably be allowed some form of footwear, as indeed was done for the batch of men who were moved on the 11th August. Again we have found no evidence to support the view that the escorts' object in hastening them was to do them injury, and we are disposed to accept the explanation that hastening action was taken on grounds of security. Moreover, the objective test of whether ill-treatment took place, would be found in any contemporary record of physical injury associated with the "obstacle course" and we notice the complete absence of any such evidence, either in the record of cases treated by the Girdwood medical officer or in the medical records of the complainants who moved from Girdwood into detention and were examined by the prison medical officer.

135. Finally we derived considerable assistance from the evidence of Mr. Moore who (as we mention in paragraph 294) impressed us as a truthful witness. We think the wire which he encountered was a field telephone wire which we had observed crossing the path at the Girdwood side of the hole in the wall and had not been placed there as an obstacle. It is significant that Mr. Moore made no mention of garbage or tacks and that his opinion that there was glass on the route was derived from "hearing it crackle" under grass cuttings and not from seeing it. Nor did he allege any beating or urging on with batons. His complaint appeared to ge more one of humiliation than of danger of injury and he made light of the "slight cut" which he said he received on one foot.

136. We have not investigated allegations of verbal abuse which lie outside our terms of reference. As regards their physical treatment, our conclusion is that the men concerned in this episode may have suffered some measure of unintended hardship from the rough going. We are unable to reach a finding on the allegations of assault by batons and stamping on feet, in the absence of evidence from complainants.

4. Late Releases on the 10th August (from Girdwood)

137. The men who complained were:

Brendan Anderson, Gerard McErlean, and James Moore.

138. We deal here with the allegations common to all three relating to the circumstances in which they were released from Girdwood on the night of the 10th August. They claimed variously that they had been released at about 2300 with a large group of others in the middle of a riot with bullets flying and some of the men had taken shelter for the night in an entry near the prison and at the nearby Imperial Hotel. Versions of the allegations in some cases were published in the *Irish Independent* of the 17th August and the *Irish News* of the 18th August. We heard oral evidence from one of those involved, Mr. Moore.

139. We saw 8 witnesses from the security forces. They included the senior military police officer at Girdwood, a number of his N.C.O.s and the Camp Guard Commander for that night. With one significant exception, we were unable to rely on any documentary evidence.

140. Mr. Moore told us that he and some other men had been taken in a group to the Clifton Park Avenue gate of Girdwood. They had been released and none of them thought they had the option of staying. Conditions outside were dangerous. Mr. Moore saw soldiers in the street crouching in fire positions, looking out for snipers. As his white vest was prominent and an easy mark, he had asked for and was given a khaki shirt to put over it. He got also a pair of socks to wear with his shoes. He judged it too dangerous to make for his home which was in an area subject to disturbance. He therefore made for a friend's house in a quieter district but even so, narrowly escaped being shot on his way. He told us emphatically that he thought no-one should have been released until the following morning when things were quieter.

141. The military police officer said that late on the 10th August it had been decided to bring together in Girdwood Park all the men either already there or in the prison whom it had been decided to release. They were duly assembled and, where their clothing was inadequate, it was supplemented with army items. The men had been conducted to the Clifton Park Avenue exit of Girdwood in batches between about 2230 and 2300. No-one had been forced to leave Girdwood and the men had been encouraged to

take the advice of the military and civilian police before leaving about the state of affairs in their various parts of the city, as well as the best routes in the circumstances to their own homes. No general invitation to stay overnight had been issued to anyone who might prefer it since the situation did not seem to merit it. There would have been no question of turning people out into a local gun-battle if one had been going on. There had not been: firing could be heard in the area but no rounds were entering the vicinity and there was no rioting in the street. This witness understood that, although no general invitation was issued, two men had stayed in Girdwood overnight.

142. We also saw two military police N.C.O.s who had been concerned with the release of the 50 men and had escorted batches to the gate. They both corroborated the officer's account of the outside situation at the time of release. The first had offered advice about best routes and appropriate action on meeting armed patrols. He said that no-one had showed reluctance to leave and it was an absolute fabrication to say that anyone had been forced out or that they had been pushed out into gunfire.

143. The second N.C.O. said he, too, had been active in advising the released men. Whilst there was no local danger at Girdwood, a lot of distant firing could be heard and some men had been apprehensive about what they might find at home. One man from the first batch on hearing a burst of firing from the Old Park area had run shouting "Don't shoot, I'm on your side" and his companions had laughed because of his panic when the firing was not endangering them. About half a dozen men had hung around outside the gates for about 30 minutes talking amongst themselves. None had come back but there was no doubt they would have been re-admitted to Girdwood had they wished it. He was sure one of the complainants and a companion had stayed overnight in Girdwood. The two had asked on departure whether they could stay. The N.C.O. had said it was not something he could authorize and advised them to approach a more senior rank. Although he had accompanied all further parties to the gate, he had not seen the complainant again and was positive he had not left that night. The N.C.O. knew the Imperial Hotel and thought that, if there had been shooting locally as claimed, it would have been a silly place to stay since it would have been a target.

144. The Camp Guard Commander told us there had been no threat to the security of Girdwood or the Clifton Park Avenue Gate at the time the men were released. The procedure for opening the gate would have been for the military police escorting the batches to vouch for them. Had there been any question of forcing men to leave he would have expected the gate picquet to have sought directions. They had not.

145. We saw three R.U.C. officers who had been on duty in Girdwood and the Prison on the night in question. Two separately told us there had been no shooting in the vicinity for some while before and some while after the men's release. The third was less clear and, although he had not experienced difficulty himself, thought a further colleague we were unable to see had remained behind for some hours after the material time at Girdwood, waiting for the situation outside to settle down before he went home.

146. The officer who had had the closest contact with, and larger responsibility for, the released men said he had no doubt it had been right to release them when they were discharged. The only signs of disturbance had been fires visible in the New Lodge Road district and sounds of gunfire from the Old Park district, neither areas threatening Girdwood. The group of 18–20 with which he had been most closely associated had been glad to be released. He had told them they could stay overnight at Girdwood if they wanted, but none had. They had been entirely free to leave and there had been no question of the authorities keeping them any longer against their will. One man he knew well had wanted, as the officer had recommended, to go away by taxi and the officer had lent him 25p for the fare. The R.U.C. officer had seen no men stay overnight at Girdwood. The military police officer to whom we later put this point since it conflicted with his earlier evidence maintained his position saying the released men would have been free to move at will in Girdwood except for the holding area in the gymnasium and they would have been indistinguishable from the large number of police officers there in plain clothes.

147. None of the witnesses was able to say whether any of the men had gone to the Imperial Hotel for the night. Although this did not seem a crucial issue, enquiries were made at the hotel on our behalf. The hotel's register recorded none of the released men as having stayed on the 10th and 11th August.

Conclusions

148. There is a conflict of evidence between the complainants and the army and police witnesses and we can make no finding, beyond drawing attention to the absence of an entry in the Imperial Hotel Register which—for what it is worth—goes against the complainants' account, and the evidence, independently given to us by the military police and R.U.C. about (*a*) the absence of a gun-battle at the gates of Girdwood (*b*) the fact that the men were not made to leave and that some stayed. In this connection we think it should be noticed that in connection with the release of Mr. Anderson from Girdwood the previous day (see paragraphs 165–176), we had good evidence that it was not the practice at Girdwood to force released persons to get out of the place.

5. Special Exercises at Ballykinler

149. In this case we investigated the allegations of:

Peter Eugene Collins, Dermot Gourley, Michael Joseph Harvey, Richard Rodgers, and Desmond Smith.

150. Amongst other allegations made by these men we found that all made similar complaints about the exercises they were required to do at Ballykinler Camp. They say that after passing through the reception procedure at Ballykinler they were put in a hut and were ordered to sit on the floor. They were then forced to carry out a series of floor exercises which were physically taxing and of long duration. These exercises included sitting with arms stretched upwards for 10–15 minutes, sitting with the arms clasped behind the head, lying on the floor with legs stiffly pressed on the floor and fingers touching the wall, and bending forward in the kneeling position, with the hands clasped behind the back at waist level until the head touched the floor. If anyone refused or failed to carry out an exercise he was kicked, punched or struck with a baton.

151. Allegations of this kind were published in an article in the *Irish Times* of the 26th August, reporting an interview with Mr. Rodgers. Other allegations are contained in written statements by arrestees and particularly in a detailed statement by Mr. Harvey prepared by the Association for Legal Justice and sent to the Home Office.

152. We heard evidence from 8 members of the security forces, including the senior R.U.C. officer responsible for reception arrangements at Girdwood and 2 detective sergeants R.U.C., one of whom assisted at reception, and the other of whom interviewed one of the complainants and took him home on the 10th August. We heard also the senior officer of the detachment of Royal Military Police at Ballykinler, two staff sergeants each in charge of a platoon of military police, and two of their N.C.O.s. We visited Ballykinler, and were shown the area of the camp used for the operations of the 9th, 10th and 11th August by senior officers of units involved.

153. We were told by the senior military witnesses that arrestees had been put in huts which were empty of all furniture and fittings. The unit preparing the huts had been ordered to clear out furniture and fittings in order to remove all material from which makeshift weapons might be improvised. Each hut might in use contain up to 30 arrestees, with 3 guards to supervise them. At first the arrestees had to stand. At about 0730, however, the Special Branch officers at the camp pointed out that, as they passed, they were visible from the windows of the arrestees' huts. They asked that the arrestees be prevented from seeing and identifying them. The R.U.C. accordingly asked that the arrestees sit down, to keep them below the window sill level of 4 feet 6 inches. By midnight on the 9th/10th August hessian screens were in position around the windows, but we understand that for the greater part of the daylight hours of the 9th August the men in the huts were required to sit or lie on the floor.

154. After a period of sitting on the floor, a number of arrestees complained of discomfort. Some movement was necessary to relieve stiffness and prevent cramp. For reasons of security the military authorities were reluctant to permit random individual movement. The guards inside the perimeter of the camp were ordered to carry no weapons, either firearms or batons. We understood this was intended to prevent not so much the improper use by troops of such weapons as their seizure by arrestees in an escape attempt. The guards in a hut, three men guarding perhaps thirty, were anxious at all time to preserve their authority over the arrestees, and to maintain control over movement in particular.

155. No general orders were given about exercise. The two staff sergeants commanding the military police platoons, acting independently, told their subordinates that, if complaints were made, they should ensure that the arrestees changed position. They assumed that one position would be periodically changed for another on a word from one of the guards. The senior N.C.O. in each hut, according to the evidence given by army witnesses at this level, appears in practice to have decided that from time to time the arrestees in his charge should be told to change their position; sometimes for example to sit with the legs towards the wall, sometimes with back to wall. It was agreed by these witnesses that the arrestees were also instructed to do simple exercises, such as stretching forward in a sitting position to touch toes, or leaning back from a sitting position, putting hands behind the neck or on top of the head. The army witnesses said that there were no complaints about the exercises.

156. We heard conflicting evidence about the extent to which arrestees understood the purpose of the instructions to change position and to carry out exercises, and about the extent to which compliance with these exercises was voluntary. A witness from one of the military police platoons who had been on duty in a hut said that there was no compulsion and that arrestees understood why the exercises were taking place. One man who refused to do an exercise had been ignored. A witness from the other military police platoon said that no-one in his hut had refused, but that in the event of refusal, they would have done nothing; this witness felt that the arrestees in his hut did not appreciate the purposes of the exercises during the 9th August, but realised the following day that they were helpful. The platoon commanders and senior officers were uncertain of the extent of compulsion. All witnesses agreed that anyone who was not

able to vary his position readily—we were given the example of one man with piles—was allowed to adopt whatever position was most comfortable; others who were unable to carry out some of the exercises, for example, because they complained of back injury, were not required to do them. With the exception mentioned above, we were given the impression by the army witnesses that anyone capable of performing the exercises might well have felt that he had no alternative but to comply with the instructions he was given. One of the platoon commanders agreed that some of the arrestees, ignorant of the reason for the exercises, might have resented them and regarded them as part of a programme of harassment.

157. There was no clear indication, in the evidence we heard, of the duration of position-changing and the frequency of exercise. Position-changing must, according to the evidence we heard, have continued for the greater part of the 9th August. The night of the 10th August was cold, and the arrestees had no beds or bedding. In at least one hut in the small hours of the morning there were complaints of the cold, and all those in the hut (including those sleeping) were got up to walk or jog around. They were allowed to lie down again at 0300 and to get such sleep as they might until called for breakfast between 0600 and 0630.

158. Of the five men listed above who complained of these exercises, we found medical evidence that one, Mr. Smith, had back trouble, probably connected with a slipped disc. Mr. Collins was released at 1530 on the 9th August with a note from the medical officer to his doctor which did not relate to any injury. Mr. Rodgers, on examination on the 10th August on the Maidstone, complained of a sore right knee, though no physical abnormality was detected. His complaint of pain in the knee was repeated at an examination on the 17th August. Neither Mr. Harvey nor Mr. Gourley had a medical examination on leaving the Holding Centre.

Conclusions

159. The evidence we took from the military police in charge of the Ballykinler huts, confirms that the exercises took place, that their nature and duration was much as described in the allegations, and that they were done under some degree of compulsion. We have noted the inconsistency in this evidence as to the degree of compulsion. On balance we have formed the view that while the supervisory staff believed that the compulsion was limited to securing a simultaneous change of position, the choice of position being left to the arrested person, in practice the man in charge kept control by selecting positions and ordering all the persons in the hut to take up a given position from time to time. There is conflict of evidence on the action taken in cases of disobedience. The allegation is that those who refused or failed to carry out an exercise were assaulted. Against this, we record the evidence of the military police that such assault did not take place, that generally speaking orders were obeyed but those who did not comply were ignored. The medical evidence suggested that one of the detainees, Mr. Smith, should not have been required to perform exercises that imposed an unusual strain on the back. Mr. Rodgers complained of a sore right knee, a condition consistent with performance of some of the exercises described; there was however no physical sign of this condition, though pain in the knee persisted until the 17th August. There were no marks or bruises consistent with the complaints of beating.

160. We think it is plain that these compulsory exercises must have caused hardship to some at least of those who were made to do them, especially those in poor physical condition, and we have noticed as a particular hardship that some men were woken up to do them in order to secure uniformity of action in the hut. On the other hand, we do not regard the exercises as "cruel", if the adjective means that the exercises were thought of and carried out with a view to hurting or degrading the men who had to do them. We prefer to take the view that the exercises were devised to counteract the cold and the stiffness of which the arrested persons complained, but that it should have been foreseen that a system of voluntary changes of position at set times was bound to turn into a form of physical drill compulsorily performed without regard to the relative capacity of the performers, and that the routine was thoughtlessly prolonged after it had served its proper purpose. We think there was lack of judgment here, but not cruelty or brutality, and we think the complainants may have suffered hardship but we made no findings of deliberate ill-treatment.

Individual Allegations—Brendan Anderson

161. Mr. Brendan Anderson complained that he was treated on arrest in Belfast in a fashion similar to that complained of by Mr. Elisha Anderson, his father. We deal with Mr. Elisha Anderson's complaint as the next case, and do not here repeat the sources, the evidence or our conclusions on this point. We have also seen a copy of a statement by Mr. Anderson which was sent by the Association for Legal Justice to a number of Government Departments including the Home Office. Mr. Brendan Anderson complained also that he was forced over the "obstacle course", and that he was released late on the 10th August into an exchange of fire. We deal with these complaints above under the group headings "Obstacle Course" (paragraphs 120–136) and "Late releases on the 10th August at Girdwood Park" (paragraphs 137–148).

162. Mr. Anderson complained also that in Crumlin Jail during the night of the 9th/10th August, he and others in his cell were woken three or four times by police and warders. Mr. Anderson was one of the arrestees at Girdwood Park Regional Holding Centre who were lodged for a period in a wing of the Prison used as an annex of the Centre (see paragraph 39). There is no doubt from the oral and written evidence we have received from both the prison staff and the R.U.C. that during this period before their formal admission to the Prison on the 11th August, the arrestees were the responsibility not of the prison staff but of the army and the police. Prison officers were on duty in the prison wing when arrestees were lodged in it. The custody of the arrestees was not, however, their responsibility R.U.C. officers were on duty who dealt with this and all connected matters. The prison officers acted only as turnkeys. They did not enter cells, or speak to any of the arrestees

163. We heard evidence on Mr. Anderson's complaint of disturbance from two police officers. The constable on duty at the material time said he had carried out a two hourly check of the arrestees in cells In some instances he could do this by looking through the peep-hole in the cell door. In some instances he could not in this way see all it. In all cases, using the switch outside the cell, he had put on the cell light. In no case had he woken, spoken to. or touched an arrestee. A police inspector confirmed that checks were made as described during the night. The frequency had not been laid down and might have varied between individual areas of responsibility. We received evidence also that a number of prisoners rang for attention during the night, and that there was a fairly frequent noise of movement in most parts of the prison wing.

Conclusion

164. We think that Mr. Anderson's statement that he was awakened 3 or 4 times during the night is likely to be accurate. But we consider this was not done intentionally but followed from action properly taken by the police in the course of their duties and was not ill-treatment.

Elisha Anderson

165. Mr. Elisha Anderson who said he was 55 and had a chronic heart condition complained that when arrested in Belfast at 0430 a sandbag was put over his head and he was dragged out over broken glass cutting his foot. At Girdwood, although his distressed condition was obvious, he was made to climb stairs and did not see a doctor for an hour after asking to do so. When released from Girdwood he had to walk along a glass strewn Antrim Road in bare feet. A report of his allegations was published in the *Irish News* on the 18th August.

166. We saw 8 members of the security forces including members of the arrest party, the doctor who treated Mr. Anderson at Girdwood and the N.C.O. whose job it had been to look after Mr. Anderson with two other elderly men in Girdwood. The documentary evidence included the record of his reception at Girdwood and the medical officer's notes of the treatment given him. We had also before us a copy of a statement signed by Mr. Anderson which had been sent by the Association for Legal Justice to a number of Government departments including the Home Office.

167. The N.C.O. who had been in command of the arrest party told us the party had had to force the inner front door of Mr. Anderson's house since, although the street door had been open, knocking had failed to produce a response. The inner door had glass panels and some of them had broken when the door was forced. Mr. Anderson had not been a reluctant prisoner and there had been no need to use force to get him out of the house. Unbound and unrestrained, Mr. Anderson had been conducted out of the house with one escort holding his arm and into the army vehicle outside the front door. When leaving his house he would have had to cross the floor where lay the glass fragments from the forced door but he had not been hurried across. There had been no attempt to put a sandbag over Mr. Anderson's head in the house or at any other time: one had simply been handed to him so that he could take a limited number of belongings with him. Mr. Anderson had not seemed a feeble 55: he looked stocky and well-built, and he had made no complaint of breathlessness or heart trouble.

168. The junior N.C.O. with the arrest party corroborated his senior's version and was able to add some details. First, Mr. Anderson had been barefoot on leaving the house. Secondly, the party had taken only 3 sandbags into the house because they expected to—and did—arrest only 3 men and each would have required a sandbag for his property. The warrant officer in charge of the vehicle had seen the party emerge from the house and did not think they had hustled Mr. Anderson out even though they had been told by the warrant officer to hurry up because people were beginning to come out into the streets. Neither during the journey in the vehicle to Paulett Avenue nor in the 4 ton lorry thence to Girdwood did anyone recall Mr. Anderson's complaining.

169. The R.U.C. officer on reception duty at Girdwood produced to us a copy of the entry he had made in his records of Mr. Anderson's arrival. He had come before the officer at 0550 and had been noted as in good condition and making no complaints. Although the officer was unable to recall whether Mr. Anderson was barefoot, he felt he would have recollected a foot injury had there been one. Mr. Anderson had not seemed at all distressed.

170. We saw the medical officer who had treated Mr. Anderson at Girdwood. The doctor's notes recorded that Mr. Anderson had

complained of dizziness and shortness of breath and that he had a history of cardiac irregularity and been treated with digoxin and tranquilizers. Examination confirmed the cardiac irregularity. The doctor issued appropriate pills to calm him down and noted that Mr. Anderson should receive no strenuous exercise and that he should be released if possible. (There were no records of when Mr. Anderson had first asked for and then received medical attention and none of our witnesses were able to assist us on this question.)

171. The doctor was able to add in his oral evidence to us that, despite Mr. Anderson's condition, he thought it reasonable that the soldiers should not have noticed it. He had observed him and noticed that his shortness of breath had not prevented him from walking into the examination or stripping himself to the waist. He had not complained of glass in his feet to the doctor although it would have been open for him to have done so.

172. The military police N.C.O. who had looked after Mr. Anderson and 2 other men in a room on the first floor of Girdwood said Mr. Anderson had looked initially fatigued but had said he was all right when asked. (We know, from our inspection of the place, that to get to the first floor Mr. Anderson would have had to climb two flights of stairs with an intervening wide landing at the turn.) Mr. Anderson had at no time seemed breathless and had talked happily, sitting like the other two on chairs that had been provided.

173. The N.C.O.'s evidence was that when it was decided to release Mr. Anderson and the other two men, he had taken them downstairs to collect their property (and their shoes, if any) and escort them to the Antrim Road gate. (The decision to release Mr. Anderson was recorded in the R.U.C. reception book as being made at 1045 on the 9th August.) Mr. Anderson was barefoot and attempts to find shoes for him were unsuccessful. Mr. Anderson had walked slowly from Girdwood apparently suffering no discomfort and exhibiting no signs of foot injury. At the gate (which the N.C.O. estimated had been reached approximately half an hour after the release decision had been communicated to him) Mr. Anderson had told the N.C.O. not to worry about him and that he would be all right. Leaving him at the gate standing with another man, the N.C.O. had approached the R.U.C. to provide a patrol car to take Mr. Anderson home because of the special circumstances. He found Mr. Anderson still at the gate when he returned later and had, therefore, made further enquiries of the R.U.C. The N.C.O. this time asked Mr. Anderson whether he had any complaint and he had said he had not. The N.C.O. had not thereafter seen him again but he knew of no reason why Mr. Anderson could not have stayed at the gate if he had wished to. He had told the guard at the gate Mr. Anderson was waiting for transport.

174. The officer in command of the guard at the Antrim Road gate said he could remember Mr. Anderson arriving there for release and the N.C.O. saying he would try to arrange transport. One of the two men with whom Mr. Anderson had arrived was escorted back into the camp to use the telephone to see if he could arrange private transport. The man claimed on return that he had been successful and the officer had produced chairs from the guard room so that the waiting men could sit down. He had not seen them leave. He said that, due to the disturbances then in progress, the Antrim Road was strewn with a certain amount of debris at the time, and this might well have included broken glass but there was no such debris on the road that led about 100 yards from the guarded gate into the public road. The officer had spoken with Mr. Anderson who had not been breathless but rather pleased to be released. There had been no question of ejecting the waiting men and they would have been allowed to wait for their transport.

Conclusion

175. We make no finding about Mr. Anderson's complaint of injury to his foot from glass on his arrest, having noticed that he seems to have made no complaint of it on reception into Girdwood or to the medical officer who examined him at a later stage in Girdwood.

176. Given Mr. Anderson's age and the doctor's report on his condition, we think that there was a lack of consideration in the order given to discharge him from Girdwood, barefoot into a road strewn with debris, in a disturbed area. We draw attention, however, to the evidence given us about the efforts made to secure transport for Mr. Anderson and the evidence that he was not compelled to leave but allowed to wait till transport came but decided to walk away of his own accord. We do not think that anyone at Girdwood took any action with the deliberate object of hurting Mr. Anderson.

James Patrick Boyle

177. Mr. Boyle complained that after his arrest at Ballymoney, County Antrim, on the 9th August at 0430 he was dragged out to a jeep. He asked for a drink of water, and was refused and struck with a baton. His hands were tied behind his back so tightly that they swelled.

178. Mr. Boyle made a formal complaint to the Enquiry, of which he gave details by letter. He was invited to give oral evidence. We heard in answer to our invitation from his mother, who told us he was working in England and could not attend the Enquiry. We have therefore dealt with his complaint on the basis of his written evidence.

179. In relation to Mr. Boyle's complaint of his treatment on arrest, we heard oral evidence from 4 members of the security forces, including the captain in charge of the arrest party. After arrest, Mr. Boyle broke away from the arrest party three times, twice in the house and once outside. On the third occasion he was pursued into the house and was found in the kitchen drinking milk. The officer in charge of the party was concerned at the possibility that firearms might be available. He ordered that Mr. Boyle's hands be bound. One of the party used for this purpose a roll of crepe bandage from their vehicle's first aid kit. He denied the bonds were tight, and told us that Mr. Boyle had gone to sleep at one point on the journey to the prisoner collection point at Ballykelly, where he was unbound and made no complaint. We heard evidence also from another member of the arrest party who had been armed with a baton; he denied that he had struck Mr. Boyle, and said he was standing 5–10 yards away when Mr. Boyle broke away from his escorts on the third occasion.

180. We noted that on admission to Magilligan camp at 1344 Mr. Boyle is recorded to have made no complaint and at his medical examination at 1354 he is recorded as being healthy looking and as having no external injuries.

Conclusion

181. We do not think that the admitted binding of Mr. Boyle's hands constituted ill-treatment. We are unable to resolve the conflict whether he was struck with a baton.

Michael Oliver Brady

182. Mr. Brady, who was arrested in Belfast, complained he was trailed through dirt and barbed wire at the Albert Street collection point shortly after 0430; that he got a piece of glass in his foot when taken out of the compound; and that he was forced with his hands bound to mount a lorry via a chair, which was kicked away by soldiers as he was about to step on it. En route to Girdwood Park, a soldier hit his foot and toes with a rifle butt. Mr. Brady also had complaints that relate to the "obstacle course" and they are dealt with in paragraphs 120–136 above. An account of these allegations appeared in the *Irish Times* of the 20th August.

183. We saw 5 witnesses including the officer in charge of the Albert Street collection point and the soldier who arrested Mr. Brady. Documentary evidence included the record of Mr. Brady's reception at Girdwood on the 9th August and his examination at Crumlin Jail on being detained there on the 11th August.

184. The officer in charge at Albert Street said he had been the only officer present and that the arrestees had been put on arrival in a compound—an area fenced off with barbed wire—in the collection point. No-one had been beaten in the compound—no soldiers were inside it—nor had anyone had their hands tied. After everyone had been collected and it was time to move the arrestees on to Girdwood, all then had their hands tied in front with 4 by 2 flannelette—the standard army cleaning material for pulling through rifling. After being tied the men were walked to the lorries through the parted rolls of barbed wire. No-one was pushed or dragged to the two lorries where 9 prisoners and 9 soldiers boarded each. The ground in the compound was smooth but the ground outside was not. The prisoners had not been wearing shoes but no-one had been intentionally walked over glass—if there was any—nor over barbed wire. Although he had not been able to observe the compound all the time, he had seen all the prisoners board the lorries and no-one had had a chair kicked away from under him. It had not been necessary to prevent prisoners from speaking and, accordingly, he had issued no order to that effect.

185. The warrant officer we saw confirmed the officers' description of events except that he did not remember chairs being placed by the lorries. He added that the compound was clean and the path to the lorries clear of rubbish and rubble, and no-one could have got glass in his feet. The prisoners had had to pass between rolls of barbed wire. The rolls had been separated when necessary to obtain access. No-one had had to walk over strands of wire.

186. We saw two private soldiers, the first had been present at Albert Street and the second had arrested Mr. Brady and accompanied him to Girdwood. The first said the prisoners had had to walk about 4 yards from the compound to the lorries where in each case a chair was used to help men board, the same chair being moved from the first to the second lorry when the first was full. No-one had fallen from the chair.

187. The arresting soldier said he had found Mr. Brady quite pleasant, quiet and no problem at all. When mounting the lorry to Girdwood Mr. Brady had preceded the soldier. There was a chair and the procedure was to use the chair as one step and the back of the lorry as the other. Mr. Brady had stumbled on the chair and half fallen but he had not completely lost his balance or fallen to the ground. Had he fallen, the soldier would have caught him. In the lorry, Mr. Brady sat on the floor with his back against the side. The soldier had stood by Mr. Brady during the journey. No-one had assaulted the prisoner or hit his feet, nor had the soldier himself done so.

188. The R.U.C. officer who noted down Mr. Brady's particulars on his arrival at 0645 at Girdwood produced to us the entry he had made. This recorded Mr. Brady's appearance as normal and that he had made no complaint. The officer said he would have noted anything obviously wrong with Mr. Brady, as he had done in the case of other entries he had made that were produced to us.

189. There was no record of Mr. Brady receiving medical attention at Girdwood. An R.U.C. officer told us he had received a com-

plaint from Mr. Brady just after lunch on the 10th August, when Mr. Brady was in the wing of the Jail used as an annex of the Holding Centre, that he had glass in his foot but, apart from noticing a smear of blood on the top of the foot, the officer did not inspect it. He passed on Mr. Brady's request for attention to a prison officer. On Mr. Brady's reception into Crumlin Jail proper on the 11th August the prison medical offier noted:

"States he has glass in foot—dressing. Nil abnormal palpable. No wound to be seen."

Conclusion

190. Mr. Brady's statement of his experience at Albert Street seems broadly consistent with the army witnesses' account of events there: he passed through barbed wire, and was in difficulties when he mounted the lorry via a chair: but he seems to have come to no harm by doing so if we may judge by the evidence of his condition when he was admitted to Girdwood. We make no finding on his allegation about being hit on foot and toes with a rifle butt, except to notice the evidence that damage was neither noticed nor complained of when he reached Girdwood. We also make no finding as regards the allegation of glass in his foot, noticing the evidence of the prison medical officer that when he complained of this he was examined and nothing was found.

Edward Eamon Campbell

191. Mr. Campbell alleged that after arrest in Belfast on the 9th August he was struck with batons on the head and threatened by the escort in a lorry moving from the Henry Taggart Hall to Girdwood. At Girdwood after interrogation all his bodily hair was shaved off on the false grounds that he had "venereal scabies." His allegations were referred to in the Irish Press of the 14th August, the *Belfast Telegraph* of the 17th August and in *Private Eye* of the 10th September.

192. We examined 6 members of the security forces including his arrester and all the medical staff who had dealt with him at Girdwood. We received expert evidence from a consultant dermatologist. Documentary evidence included the record of Mr. Campbell's reception and the note made by an R.A.M.C. officer who treated him in Girdwood.

193. The N.C.O. who accompanied Mr. Campbell in the lorry to Girdwood, and who had been a member of the party that had arrested him, said that although he could not be sure, there had been up to possibly 15 arrestees in the lorry. With the exception of an elderly man, they had been made to lie face down on the floor and the escort had consisted of 10 soldiers travelling with them in the back of the lorry. The soldiers sat on benches along the sides of the lorry with their feet on the top of the men on the floor. The soldiers had had rifles only, there being no batons on the lorry. Mr. Campbell had been a quiet prisoner who had not been struck either getting in or out of the lorry or at any time during the journey. Although there had been a bit of verbal abuse, no-one else had been struck either. Nor had the young man been put on the side of the lorry exposed to a hostile crowd, pulled up by the hair or told to sing "God Save the Queen". As regards his crucifix, Mr. Campbell had said as he got onto the lorry that he had lost it but search failed to find it. On arrival at Girdwood the N.C.O. had noticed Mr. Campbell had a bleeding lip he had not had when first getting on the vehicle.

194. The R.U.C. officer who had noted Mr. Campbell's particulars on arrival at Girdwood had recorded the cut lip. We have seen the contemporary entry made about the injury on Mr. Campbell's arrival at 0535, and also his photograph taken at reception, which shows the cut lip. The R.U.C. officer said Mr. Campbell had made no complaint about his arrest or treatment during transport, nor had he volunteered or been asked how he had sustained his injury. The officer had not noticed any other injury.

195. At Girdwood Mr. Campbell was treated for an itching rash of which he had complained. In the Irish Press of the 14th August Mr. Campbell was recorded as saying merely that he had been shaved by soldiers but in an article in *Private Eye* on the 10th of September it was said he had been examined by the medical correspondent of the *Irish Times*, Dr. David Nowlan. The article said Dr. Nowlan had found Mr. Campbell to be suffering from "mild pityriasis rosea, 'a bland symptomless, harmless condition' affecting the left side of his chest. There is no such condition as 'venereal scabies'. The treatment for scabies is never shaving. Scabies never spreads to the face and scalp."

196. We saw the two medical officers who inspected Mr. Campbell at Girdwood, the R.A.M.C. medical orderly on duty, the military police N.C.O. who assisted, and a consultant dermatologist. We also corresponded with Dr. Nowlan and a doctor who had seen Mr. Campbell shortly after his release from Girdwood.

197. The military police N.C.O. told us that on the morning of the 10th August the military police escort in the hall in Girdwood announced that all those who felt unwell could take part in the sick parade then being organised. Some 30 or 40 men stood up and they were moved to one side of the hall and taken one by one to the room where the R.A.M.C. medical orderly was working.

198. Mr. Campbell was one of the first to come before the medical orderly. He had complained to the military policeman of a rash on his body and scalp. The orderly told us he had instructed Mr. Campbell to strip to the waist and then examined him. He found he had a rash on his chest, back, arms and neck. He concluded that Mr. Campbell was suffering from scabies, a condition he had seen before on his service abroad. The hair was matted, long and greasy. There were nits of lice in it.

199. The orderly had then sought advice from his medical officer. We saw this doctor and he told us he remembered clearly that Mr. Campbell was "a very dirty young man". There were scratch marks on his arms and under his armpits. The head hair was infested with fleas and nits. He confirmed the orderly's diagnosis, said that Mr. Campbell's head should be shaved, and the scabies treated with successive applications of benzyl benzoate emulsion after thorough washing. Having confirmed that the orderly knew how to carry out the treatment, the doctor had left the premises and did not see Mr. Campbell again. Mr. Campbell was told to think whether he would undergo treatment then or wait until his immediate future was more clear, that is until he was either released or a detention order made. Mr. Campbell in the presence of the orderly and the N.C.O. said he preferred to undergo treatment at once.

200. There and then the military police N.C.O. started to cut Mr. Campbell's hair with scissors and comb. He had made some progress when a different medical officer, the one on 30 minute call at Girdwood Park throughout the operation and not the orderly's ordinary superior, appeared on the scene having learned about Mr. Campbell's case. This doctor made case notes, which we have seen. He told us Mr. Campbell complained he had an itching rash and indicated his trunk, forearms and scalp. The doctor found a rash on the forearms and trunk, with the forearms, wrist and back of the head quite badly excoriated as a result of Mr. Campbell's efforts to relieve the irritation. The lesions, he agreed, were consistent with scabies and with headlice. Neither of the doctors nor any of the others who had dealt with Mr. Campbell noticed any bruising upon him, and the doctors were clear that the marks on the back of the head were scratch marks and not bruising. The second doctor recollected using the term "venereal scabies" to the military policeman, the term being a correct medical description of the condition.

201. He had had to deal with the question of infection because the military police had asked for advice about how to handle all the men in the hall. He had reassured them that the danger of infection was slender. He confirmed both the diagnosis of headlice and scabies, and the treatment.

202. After finishing the hair cutting the military police N.C.O. took Mr. Campbell into the showers and there shaved his head with a safety razor and soap. (Mr. Campbell's chest hair was also removed.) After the shave, the N.C.O. took Mr. Campbell back to the orderly for application of the emulsion. The orderly began the treatment and on reaching the waist, asking Mr. Campbell to lower his trousers. It then became clear that the rash was present in the groin and on the upper part of the thighs. The orderly advised Mr. Campbell that it would be best if his bodily hair in these regions were removed. Mr. Campbell agreed with this recommendation, returned to the showers and there shaved himself with the safety razor nicking himself a couple of times as he did so. The emulsion was then applied and Mr. Campbell dressed himself in clothes provided by the army.

203. The two medical officers who saw Mr. Campbell, the second of whom made notes of his findings, received no complaint from Mr. Campbell either about the treatment he had received from the orderly and the N.C.O. or about any injuries he had sustained at the hands of the security forces beforehand. His demeanour seemed the usual one of a patient seeing a doctor and, if anything, he seemed pleased that he was being treated for the irritating condition from which he was suffering. The medical orderly and the N.C.O. said that Mr. Campbell at no time complained to them, and that he consented of his own free-will to the treatment that was given to him. Because of the crowded conditions, other people were able from time to time to observe Mr. Campbell's treatment or were present when it was taking place either in the room by the hall or in the showers. Neither the doctors, nor the medical orderly, nor the N.C.O. could recollect Mr. Campbell being the butt of unflattering or hostile remarks about his condition. No-one recollected saying he did not want his hair removed because he was a member of a pop group. The next day the medical officer asked if Mr. Campbell had received the second treatment, and found he had been discharged.

204. The burden of the *Private Eye* report on the 10th September was that the diagnosis at Girdwood had been wrong and the treatment, therefore, incorrect. This was a very serious allegation and we were, therefore, most concerned to pursue the question.

205. We wrote to Dr. Nowlan of the *Irish Times*. In reply he said he had examined Mr. Campbell at the Central Citizens' Defence Committee (C.C.D.C.) premises in the Falls Road where the case had been brought to his attention by a doctor he thought to be Mr. Campbell's G.P. Dr. Nowlan thought Mr. Campbell had pityriasis rosea over his left chest wall and said this had been confirmed by a letter the doctor he thought to be Mr. Campbell's G.P. had received later from a consultant dermatologist at the Royal Victoria Hospital. We subsequently wrote to the doctor mentioned by Dr. Nowlan as the patient's G.P. He replied saying that he was not the patient's G.P. but like Der. Nowlan had seen Mr. Campbell at the request of the C.C.D.C. We also understand that Mr. Campbell was not examined by a consultant dermatologist at the Royal Victoria Hospital, but by a house officer.

206. Owing to the conflicting diagnoses in this case—one given by two doctors as a result of the patient's complaint of an itching rash, the other some time later by two

other doctors at the request of the C.C.D.C.—we decided to take further expert medical advice from a consultant dermatologist. He said nit infestation would always be clear enough to a doctor and it was unlikely there could be any doubt about that part of the diagnosis. As to pityriasis rosea the chief point was that the patient was more likely to complain about the rash itself than the irritation since itchiness was not the main feature of this condition, as contrasted with scabies. Further, it was unlikely the rash would be confined to one part of the body, e.g. the upper left anterior chest wall. Characteristically the rash of pityriasis rosea started from a small area (the herald patch) and thereafter appeared all over; its incidence was more common in autumn and spring than other times of the year.

207. He concluded from all the data available to him that Mr. Campbell had been suffering not only from pediculosis capitis and scabies as diagnosed at Girdwood but also seborrhoeic dermatitis either coincidentally or developing later. Close hair-cutting and the application of benzyl benzoate was entirely justified as the quickest and safest method of curing the condition.

CONCLUSIONS

208. We are clear that Mr. Campbell suffered no ill-treatment, still less brutality. He was not shaved to punish or degrade him. On the contrary, the treatment was given him for his benefit and in accordance with the prescription professionally given at the time by not one but two medical officers for a condition which they independently diagnosed. We have no doubt, from the contemporary record and their evidence to us, that there was a satisfactory doctor-patient relationship between the R.A.M.C. doctors and Mr. Campbell. In these circumstances it was not strictly necessary for us to enquire into the correctness of their diagnosis. But since part of the allegation was that the diagnosis of "venereal scabies" was irresponsible and needlessly discreditable to Mr. Campbell, we thought it right to take full evidence on this point, from which it clearly emerges that the diagnosis is supported by responsible medical opinion, both in general terms and in relation to the facts as ascertained at the time and subsequently confirmed about the symptoms exhibited by Mr. Campbell.

Gerard Campbell

209. Mr. Campbell complained that on arrest in Belfast his hands had been tied behind his back, that the end of the rope had been constantly pulled hard and that in a Saracen vehicle, to which he had been pushed, the rope had been put around his neck to choking point. En route to Girdwood through the Ardoyne district amidst brick and bottle throwing he was beaten with batons and held at the back of the lorry as a human shield. His complaint that at Girdwood he was made to run an obstacle course is dealt with in paragraphs 120–136 above. A report of these allegations was published in the *Irish Times* on the 20th August. We saw two witnesses, the N.C.O. in charge of the arrest party and a private who had been a member both of the party and the escort to Mr. Campbell on the way to Girdwood. The documentary evidence included the record of his reception at Girdwood and of his medical examination on admission to the Prison proper.

210. The N.C.O. said the arrest party had gone to the vicinity of Mr. Campbell's house in an Armoured Personnel Carrier (A.P.C.). With the private (whom we saw) he had entered the house and Mr. Campbell had been arrested. No violence had been used by either the arresters or Mr. Campbell at that stage. The entire party had then left the house to walk to the A.P.C. parked about 200 yards down the street and where they were joined by another arrest team. Mr. Campbell had not been bound on the journey to the A.P.C. or whilst in it. However, at the Company rendezvous, where documentation took place, Mr. Campbell's hands were tied with approximately 3 feet of parachute cord in pursuit of general orders issued by the Company Commander. The hands had been tied at the wrist and no cord had been passed around the neck. Mr. Campbell had not been pushed to the A.P.C. nor had the cord been pulled constantly at that stage since binding had not taken place until later.

211. After documentation the N.C.O. said Mr. Campbell had been taken to Girdwood in a lorry. Although he had not been in the lorry, the N.C.O. had accompanied it in an escorting A.P.C. and observed the route. The journey had taken the small convoy past a group of about 20 people standing on the side of the road and throwing stones at the vehicles. It was not what the N.C.O. would call intensive rioting; most of the crowd had consisted of women and adolescents. The vehicles had not gone through the Ardoyne district.

212. The private confirmed to us the N.C.O.'s account of the journey to the Company rendezvous and particularly that Mr. Campbell's hands had not been bound at any stage before arrival. The private said he had done the binding palm to palm with approximately 2 feet of parachute cord. He had asked Mr. Campbell whether the bonds were too tight and, on being told they were, had slackened them off. The soldier said he had accompanied Mr. Campbell to Girdwood in the back of the lorry. The route had not gone through the Ardoyne but in the general direction of the Springfield Road Police Station. The rioting they passed had been taking place at a road junction in Andersontown. With Mr. Campbell he had gone right up to the cab end of the back of the vehicle since they had been the first party to board. At no time had Mr. Campbell been put at the open end of the vehicle in an exposed position. The floor of the lorry was covered with internal security equipment and to expose Mr. Campbell at the back would have meant making him clamber over the equipment, when using the equipment itself would have afforded better protection to the people inside. Although missiles had been thrown none had entered the vehicle and no-one had been injured. Mr. Campbell had made no complaint about his hands. It would not have been possible to have put the cord around Mr. Campbell's neck since only about 3 inches remained loose after tying; and nor had the cord been pulled. The private denied beating Mr. Campbell with a baton: he had not been carrying one himself, although some had been lying on the lorry floor.

213. As to documentary evidence, we saw that the R.U.C. officer who had taken down Mr. Campbell's particulars on arrival at Girdwood at 0625 had made the entry "No complaints. Good condition". The prison medical officer on examining him on admission to the Prison on the 11th of August had noted nothing except about a duodenal ulcer. There was no record of Mr. Campbell having sought treatment for any injuries whilst at Girdwood.

Conclusion

214. The allegation of hand-tying is confirmed: but having taken evidence about the method and length of cord used, we discount the allegation that the "rope" with which his hands were tied had also been used to pull or choke him.

215. We make no finding in the complaint of beating with batons, which is denied. The account given by the witnesses of conditions in the lorry is by no means conclusive, but diminishes the likelihood of the allegation that the complainant was held as a "human shield" against brick and bottle throwers.

Liam Cummings or O'Comain

216. Mr. Cummings was arrested at Limavady and taken in an armoured vehicle to a collection point at Ballykelly and thence to Magilligan Regional Holding Centre. He is said to have complained that on arrest his hands were tied behind his back, and an empty sandbag pulled over his head. In the lorry soldiers beat him and urinated upon him. A string was tied to his thumb and jerked. He was tapped steadily on the head with batons and the soldiers refused to remove the hood when he was coughing because of the dust inside it. At Ballykelly he was kneed in the groin, and as he straightened up thereafter he was struck in the face with a baton, sustaining a deep cut in the mouth. A soldier called "Taffy" hit him on the chest with a rifle butt. Reports of these allegations were published in Ireland in the *Irish News* and the *Irish Press* of the 12th August, in England in the *Times*, the *Daily Telegraph* and the *Guardian* of the 12th August, and in *Private Eye* of the 10th September. We have also seen notes of an interview of Mr. Cummings by a *Sunday Times* reporter.

217. We saw 7 witnesses, including the officer in command of the arrest party and the medical officer who examined Mr. Cummings on his arrival at Magilligan. Documentary evidence included the arrest report, the reception record, and the doctor's notes of his examination.

218. The arresting officer said Mr. Cummings had accompanied his arresters out of the houses without resistance but, once outside, he had shrugged off his escort and swore at them. Because of this "bolshy" behaviour, the officer said he had ordered Mr. Cummings' hands to be tied behind his back, a sandbag to be put over his head, and his shoes to be removed during the journey in the armoured vehicle to Ballykelly. He also ordered Mr. Cummings to lie on the floor of the vehicle. These orders had been given because of the officers' concern about Mr. Cummings' potential for causing trouble in the congested conditions of the back of an armoured vehicle where there were between 6 and 8 soldiers as well as their prisoner. Had he given trouble to his escort, rather than it being easy for them to overwhelm him, he might have succeeded in causing confusion. The bag over the head was to prevent him running away, and the wrist bonds to prevent him from removing the bag. The officer, a junior subaltern, had received no orders to bind or hood men: he did it on his own initiative. Nor had he specific orders about how he should handle arrestees under the Special Powers Act. Although he had been concerned with effecting arrests before, it had usually involved no more than snatching a rioter to be handed over immediately to the military police. He had not been responsible for a prolonged period of custody before, involving as in this case a long journey through potentially hostile territory where precautions had to be taken against ambush.

219. The private who had found and hooded Mr. Cummings told us he had used the draw cord from a camouflage smock. We saw an example of the cord. It was khaki coloured, flexible fabric cord of approximately ¼" diameter and 2–3 feet long. The hands had been tied wrist over wrist at the rear, just tightly enough to hold them, and the spare ends had been left free. At no time had the method of tying been changed or altered in any way and, in particular, nothing had been tied to Mr. Cumming's thumb and jerked. The sandbag used had been a new hessian one and the witness demonstrated to us, how it had been used by placing it over his own head. He claimed that, apart from the discomfort of the roughness around the neck, there was no difficulty in breathing through the coarse weave.

220. The private corroborated the officer's account of Mr. Cummings' conduct on arrest. He said he had helped Mr. Cummings into the armoured vehicle by putting a hand under the armpit and telling him to be careful because the soldiers themselves were always falling off or slipping on the step. However,

Mr. Cummings had slipped and struck his chest and chin on the floor of the vehicle. Thereafter Mr. Cummings had travelled lying prone on the floor. He had seen no-one strike Mr. Cummings and an N.C.O. had specifically forbidden the use of violence, warning that anyone who resorted to it would be charged. No-one had urinated on Mr. Cummings during the journey and nothing had been poured over him. He had not seen Mr. Cummings' clothes wet and the vehicle floor had been dry. Mr. Cummings had been removed from the armoured vehicle by his being pulled to the back until it was practicable to tell him to sit up and put his legs down over the back ledge. No-one had struck Mr. Cummings with a rifle but it was true that his requests to have the sandbag removed when he had a coughing fit were refused.

221. An N.C.O. who said he was known as "Taffy" corroborated the accounts given by the officer and soldier except to say he had not actually witnessed Mr. Cummings fall in the vehicle since he had been getting in himself at the time at the front where he normally travelled. During the journey to Ballykelly no-one to his knowledge had struck or interfered with Mr. Cummings although it was true the latter had once complained of being uncomfortable on the floor and he had coughed occassionally. The N.C.O. had seen Mr. Cummings dismount and he had not been assaulted then by the N.C.O. or anyone else. He could not have struck Mr. Cummings with a rifle butt since he had no rifle, only a baton. It was true, however, that Mr. Cummings had stumbled on getting out of the vehicle; but he had been caught and sustained no injury.

222. This N.C.O. had accompanied Mr. Cummings from the vehicle into the prisoner collection point at Ballykelly and thence in transport to Magilligan. The hood had been removed within ten minutes of arriving at Ballykelly. The N.C.O. then noticed Mr. Cummings had a graze on the chin. Mr. Cummings had made no complaint during the reception and waiting period at Ballykelly or during the later journey and the N.C.O. had not noticed that Mr. Cummings' clothes were wet in any way. Nor on arrival at Magilligan did Mr. Cummings complain to the R.U.C. officer on reception duty.

223. There were two men on reception duty at Magilligan: an R.U.C. officer who noted down personal particulars of arrivals and a senior N.C.O. of the military police who completed arrest reports brought in by the soldier escorts. We saw both men. The first said he remembered Mr. Cummings because he had, unusually, given his name in both the English and Irish versions. Although the man had had a slight abrasion on the chin, it had been too insignificant for him to note in the injuries column of the record entry that was produced to us. Mr. Cummings has made no complaint: he seemed pretty jovial and undepressed. The R.U.C. officer had not noticed any wetness about the clothing and Mr. Cummings had not complained when the same officer had seen him before his release on the 10th August. We established, however, that during an interview Mr. Cummings had later at Magilligan with police officers he had alleged to them that he had been abused by soldiers, that they had punched him and that they had put a bag over his head.

224. The military police N.C.O. on receiving duty at Magilligan told us Mr. Cummings was the only one of all those who arrived to display any sign of injury. The N.C.O. noticed he had a graze on the chin and Mr. Cummings had also mentioned, although the N.C.O. had not seen the injury himself, that he had a slight cut on the inside of his lip. On asking Mr. Cummings how he had sustained his injuries, the latter had replied that it had happened when he had fallen that morning at the back of an army vehicle. We saw the entry made at the time by this N.C.O. in the arrest form, it read:—

"He sustained a very slight cut to his lower lip and graze to the chin whilst in M.O.D. vehicle."

225. We also saw the photograph taken on arrival at Magilligan which showed the graze extending from the lip to the point of the chin. The N.C.O. was clear Mr. Cummings had actually said he had fallen.

226. The medical officer who had examined arrestees arriving at Magilligan had made notes of each examination and we saw those made in respect of Mr. Cummings. The doctor explained he had noticed 3 superficial injuries: an abrasion on the left of the chest, a small laceration on the left of the lower lip, and some brusing on the right kneecap. He would have asked how the injuries had occurred but he could not recall Mr. Cummings' response beyond that he had been co-operative, helpful and pleasant. On the notes we saw the doctor had recorded Mr. Cummings as "uncomplaining". The doctor thought the injuries were consist with coming into contact with a blunt object but did not think lying on the floor of the armoured vehicle during a partly bumpy ride could account for them. He had not noticed the injury to the chin or any wetness about Mr. Cummings' clothing.

Conclusions

22. As regards the allegations of beating at arrest and being urinated on, we have identified and questioned the persons against whom the allegations are made, and draw attention to their denials and the evidence supporting the denials. In particular we notice the evidence of other witnesses that neither Mr. Cummings' clothes nor the floor of the armoured vehicle were wet, while the contemporary medical record of Mr. Cummings on admission to Magilligan does not support his allegation that he sustained a deep cut in the mouth.

228. On the other hand the allegations of wrist bonds (though not of string tied to thumb and jerked) and hooding with a sandbag, are confirmed by the military evidence. We also have the contemporary record both of the receiving officers of the military and civilian police and of the medical officer, that, on admission to Magilligan Holding Centre, Mr. Cummings showed injuries described by the receiving officers as a graze of the chin and by the medical officer as injuries consisting of an abrasion on the left of the chest, a small laceration on the left of the lower lip and some bruising on the right kneecap. Not having been able to interview Mr. Cummings, we have not been able to question him on the statement attributed to him that the injuries on chin and lip had happened when he had fallen at the back of the Army vehicle. Those injuries are consistent with such an incident, and if they were so caused we have to consider whether such an accident would not follow from the condition in which Mr. Cummings was held during a ride of 20–25 minutes duration in the armoured vehicle. What is clear is that this man travelled, hooded and bound, prone on the metal floor of a small vehicle surrounded by 5 seated soldiers. We accept the arresting officer's explanation that he ordered Mr. Cummings to be hooded and his wrists bound not as a punishment but as a military precaution. We consider, however, that the order showed lack of judgment, that as a result of it Mr. Cummings suffered hardship and a measure of ill-treatment from the hooding and the wrist bonds, and that the injuries which the medical officer who recorded as superficial may well have been caused, in our opinion, by his being moved from arrest to Ballykelly in that condition.

Sean Drumm

229. Mr. Drumm complained that after his arrest in Belfast his shoes were removed and his hands tied behind his back. At Girdwood Park he was forced to "run the gauntlet" and was later sent over the "obstacle course" to Crumlin Jail. At the Prison he was interrogated. Aged 20, he has a bad stammer and his interrogators punched him on the head if he did not answer quickly enough. (His allegations concerning the "obstacle course" are dealt with in paragraphs 120–136.) Reports of Mr. Drumm's complaints appeared in the *Irish Independent* of the 17th August, the *Irish News* of the 18th August and the *Irish Times* of the 27th August.

230. We heard no evidence from Mr. Drumm but we had before us his statement, a copy of which had been forwarded to us by the Chief Constable of the R.U.C. to whom Mr. Devlin, M.P., had sent it, and another copy which had been sent to a number of Government departments by the Association for Legal Justice.

231. We heard evidence from a member of the party who arrested Mr. Drumm on the 9th August. He confirmed that Mr. Drumm's hands had been tied behind his back; this was because he struggled and it was thought likely he would attempt to escape if not restrained. We were told also that on arrival at Girdwood Park, in accordance with standard practice, his shoes and socks were removed.

232. The complaint that Mr. Drumm was forced to "run the gauntlet" has given some difficulty. It appeared to us upon investigation that the only occasions when such treatment might have been inflicted on Mr. Drumm were either those we have described as the helicopter incident and the "obstacle course", or the period of exercise the arrestees were allowed on their first day of confinement In his statement Mr. Drumm says: "I was then taken outside with about 7 or 8 others. We were forced to run the gauntlet between two rows of military policemen. I was grabbed, kicked, knocked down, jumped on and trailed into the hall".

233. This does not read like the description of the helicopter incident. It cannot be a description of the "obstacle course" for Mr. Drumm describes that experience as occurring at a later stage. We therefore investigated this complaint as an allegation of improper treatment as described by Mr. Drumm during a period of exercise.

234. The army witnesses including the senior officer of military police on duty at Girdwood told us that when the work of reception had been completed the arrestees were permitted to exercise. They had gone in crocodile with escorts from the building to walk round the field adjoining it. There was an outer picquet of civilian and military police with at least one dog handler from the Parachute Regiment with his dog. There had been no demonstrations, not even singing. There was therefore no occasion for any physical intervention by the guards and none had occurred.

235. One junior N.C.O. told us that the majority of arrestees had been friendly at this stage, willing to talk and to walk round with their escorts. He said he had given cigarettes to two of them. We were told that the dog or dogs (the number was not clear) were kept well away from the arrestees as well as from the escorts walking with them and the outer picquets.

236. We heard evidence from two civilian police officers who had been concerned in Mr. Drumm's interrogation. Mr. Drumm had had altogether 3 periods of interrogation, one lasting about one quarter of an hour, the others, about one half of an hour. They agreed that they had noticed that Mr. Drumm had an impediment in his speech. They were emphatic that he had not been assaulted in any way during his periods of interrogation.

Conclusion

237. This is another case where in the absence of evidence from the complainant we can do no more than report the allegations and the firm denials.

Michael Farrell

238. Mr. Farrell complained that he was forced over the "obstacle course" between Girdwood Park and the Prison, and that during this episode he was set on by a dog who tore his jacket. (He had been arrested in Belfast.)

239. We received part of Mr. Farrell's statement, headed "Case History of arrest and detention of Michael Farrell" at a late stage in our investigations when it was included in the papers we collected from the *Sunday Times* on the 19th October. Allegations concerning Mr. Farrell had been published in the *Guardian* of the 11th August, in the *Irish Press* and *Irish Independent* both of the 18th August and the *Irish Press* of the 19th August, and in the *Sunday Times* of the 22nd August. There was a further report in the *Morning Star* of the 23rd August.

240. In his detailed statement Mr. Farrell gave an account of his move from Girdwood Park to the Prison which clearly identifies the route involved as being that which we examined while investigating allegations concerning the "obstacle course". Mr. Farrell's narrative includes an incident which does not occur elsewhere, an actual assault by a police dog set on him by the military dog handler. Mr. Farrell said that the dog had torn to shreds the back of his coat on the left-hand side. A member of our staff has seen in the *Sunday Times* office a coat which was sent to the paper as being Mr. Farrell's. It had a tear on the left-hand side of the rear vent. The *Sunday Times* said that forensic tests were carried out on the coat to see if any residues of dog saliva remained on it; but the coat had been too recently dry-cleaned to enable any result to be achieved.

241. We refer to the evidence in relation to dogs recorded under the heading of the "obstacle course". It is agreed by the Army witnesses that the dogs when on a leash and under close control would not only bark but might also snap at people who approach their handlers too closely. All the witnesses we heard, dog handlers and escorts alike, denied that there had been any case where a dog had been close enough to an arrestee to enable the dog to succeed in an effort at biting or seizing clothing.

Conclusion

242. We make no finding, for we cannot resolve the conflict of evidence here. The torn coat is not supported by any oral evidence to us from Mr. Farrell or anyone else, and all the witnesses we saw, deny that any dog was close enough to tear it.

William Gilmore

243. Mr. Gilmore was alleged to have been roughly treated on arrest, in Londonderry, and to have been shot in the stomach at close range with a rubber bullet. Reports of the arrest appeared in the *Irish Independent* of the 18th August, and of the shooting in the issue of *Private Eye* dated the 10th September.

244. We heard evidence from five members of the security forces: the officer in charge of the prisoner collection point to which Mr. Gilmore was brought; the medical officer who there examined Mr. Gilmore; the warrant officer who was in charge of the arrest; a non-commissioned officer who was a member of the arrest party; and a private soldier who had a riot gun and who fired a baton round.

245. The course of events described to us by these witnesses was as follows: The arrest party consisting of the warrant officer and 9 men with a driver went to the street in Londonderry where Mr. Gilmore lived. On arrival they saw a group of rioters at the other end of the street. They dismounted, and the driver was told to turn around the vehicle, a 4-tonner. The private soldier with the riot gun was left to guard it. Mr. Gilmore's house was one of a row of pre-fabricated dwellings set back from the street down an alley way. The warrant officer stationed men at the back and the front of the house and took 4 men with him to effect the arrest. Two men were found in the house, Mr. Gilmore and a younger man. Both men were arrested. As they left the house the rioters were some 40 yards away. The warrant officer anticipated heavy stone throwing and possibly petrol bombs, with the possibility of sniper fire. He divided his party into two. He sent off the younger man with a party under the non-commissioned officer. This party ran from the house. Visibility was poor, but they came under a volley of bricks and bottles from the approaching rioters. After the first volley of stones the warrant officer started off with the remainder of the party. He was on one side, Mr. Gilmore in the centre, and another soldier on the other side. The rioters were by now 25 yards away. The warrant officer heard Mr. Gilmore groan just after they had started, and assumed he had been struck by a stone.

246. In the meantime, at the lorry the young private soldier with the riot gun was watching with some concern for the return of the arrest party. Visibility was poor, and it was impossible to distinguish detail at more than 25–30 yards. At the first approach of the rioters he fired one baton round in their general direction. They drew back a little. Just after he had fired, the first arrest party returned to the lorry. He assumed the young man they had with them was the intended arrestee. As they got aboard the rioters approached again. He discerned three shapes, whom he assumed to the rioters, coming close. He fired a baton round in their direction. They continued to approach and with some consternation he recognised the warrant officer. Mr. Gilmore was groaning and holding his left side.

247. At Ebrington Barracks in Londonderry, the prisoner collection point, the warrant officer learnt that Mr. Gilmore was in severe pain. He was lifted into the barracks, and the officer in charge immediately sent for the medical officer. The medical officer had been watching arrivals and as soon as he saw Mr. Gilmore being carried in he fetched his bag, and was at hand at once. He found serious bruising on the left part of the abdomen and left hip. He anticipated the danger of some kind of internal injury, and arranged for Mr. Gilmore's admission to Altnagelvin Hospital for X-ray. He understood that he there had undergone an operation for a ruptured small bowel.

248. After seeing Mr. Gilmore to the medical officer, the warrant officer returned to the arrest party. The private soldier admitted to him that he had mistaken the warrant officer's party for rioters. At the range he fired, the round might have struck any member of the party. The warrant officer told us his party was wearing flak jackets, but no web equipment. There were no clear recognition marks. He confirmed visibility was poor: on turning out of the alleyway, the lorry was not visible at the end of the road. There were no street lights.

Conclusion

249. There is a clear conclusion in this case. Mr. Gilmore did indeed suffer ill treatment, but certainly not brutality: for the damage was done by accident, the cause being a mistake on the part of the soldier who fired the rubber bullet, without any suggestion that his object was to hit, still less to hurt, the arrested man.

250. The remainder of the evidence shows that no time was lost in getting Mr. Gilmore into medical care.

Joseph Hughes

251. Mr. Hughes complained that at the time of his arrest in Belfast he was pulled by the hair into the street, batoned and kicked; he was made to run 400 yards in bare feet, then forced to lie face down in a lorry where he was again kicked and where a soldier inflicted a stomach wound with his gun barrel. He refers also, without details, to other assaults, to being forced over the "obstacle course", and to being released late on the 10th August (see paragraphs 120–136 and 137–148).

252. Reports of these complaints appeared in the *Irish Times* of the 16th August, the *Daily Telegraph* of the 17th August, and the *Irish Independent*, the *Irish News*, the *Irish Press* and the *Irish Times*, all of the 18th August. A copy of a statement signed by Mr. Hughes was forwarded to us by the Chief Constable of the R.U.C., to whom Mr. Devlin, M.P. had sent it for investigation; another copy was sent by the Association for Legal Justice to the Home Office.

253. We heard evidence from 6 members of the security forces. The sergeant in charge of the arrest party told us that at first Mr. Hughes had refused to leave the house. He seized him in a hold that involved grasping the hair and an arm, and took him downstairs. He then handed Mr. Hughes over to a junior N.C.O., who took him by a similar hold and ran him to a rendezvous 400 yards distant at the vehicle of the arrest party.

254. The hold used was demonstrated by the N.C.O. on our Chairman, and we were told that it is a regular hold known as the "Kado" which had been taught to him for use on such occasions. All those involved denied the allegation that Mr. Hughes had been kicked or struck with a baton. They all agreed that he was made to run and that he was barefooted. Mr. Hughes was arrested in Butler Street and there was need for particular haste to get clear before a hostile crowd had formed.

255. It was agreed that all the prisoners of whom Mr. Hughes was one had been required to lie on the floor of the 4-ton Bedford vehicle in which Mr. Hughes was taken to Girdwood Park. There were 9 prisoners in this vehicle and they had plenty of room to lie down. Blankets were put over them. Between 6 and 10 soldiers were in the lorry sitting on the side benches or with their legs over the lowered tail board. It was denied that Mr. Hughes had been struck with a rifle butt and we were told he could not have been struck with a rifle barrel in the stomach because he had been lying on his front.

256. There was no record that Mr. Hughes had received any treatment at Girdwood Park, and no complaint is recorded in the reception records. Mr. Hughes was released late on the 10th August and not moved into detention so that for him we have no medical record of his condition on entry into detention at Crumlin Jail.

Conclusion

257. The complaint of being pulled by the hair into the street, we identify with the "Kado" grip which the arresting soldier admitted he used. The effect of the grip on the subject can be harsh, but it is a recognized method for the controlled use of force, and the evidence gave us the impression that in this case the arrester used no more force than was necessary to get the arrested person to move with the urgency that the situation required.

258. As to Mr. Hughes' experiences in the lorry, it is clear that he had an uncomfortable journey, but in view of the conflict of evidence we can make no finding on the allegation of assault during the journey, beyond noting the absence of any evidence of complaint of injury or treatment for injury at Girdwood Park. This is another case where we have regretted that the Girdwood admission system has not provided us with medical records of the condition of arrested persons on their arrival.

Thomas Gerald Johnston

259. Mr. Johnston complained that he had been made to walk on barbed wire and been put in a compound at Albert Street in the

course of being moved after arrest at his home in Albert Street to Girdwood Park. His complaint was published in the *Irish Times* on the 20th August.

260. Mr. Johnston's complaint is comparable with that of Michael Oliver Brady in paragraphs 182–190 above. When taking evidence about conditions at Albert Street, we had the complaints of both men in mind but there is nothing in this case to add to the evidence already recorded.

Conclusion

261. The conflict of evidence, which we cannot resolve, is that Mr. Johnston says he was made to walk on barbed wire, while the army witnesses say he had to move between rolls of barbed wire. Either way he seems to have come to no harm, if we may rely on the evidence that he did not complain of hurt on admission to Girdwood Park or ask for medical attention there.

Eamon Kerr

262. Mr. Kerr, who was arrested in Belfast, complained that at Girdwood while still on the transport awaiting reception cigarettes were stubbed out on the back of his neck, and while on the "obstacle course" he was made to walk in bare feet on tacks strewn on the ground, and poked and struck with batons. Reports of the complaint appeared in the *Irish Press* on the 18th August and the *Irish Times* on the 20th August. (Mr. Kerr's complaint about the "obstacle course" is considered together with similar complaints at paragraphs 120–136.)

263. In relation to the stubbing out allegations only, we took oral evidence from 4 witnesses and saw the documentary evidence recording his reception at Girdwood and the medical record of his reception into Crumlin Jail on the 11th August after a detention order had been served upon him.

264. We saw two members of the party that had arrested Mr. Kerr, an N.C.O. and a private soldier. The N.C.O. had accompanied Mr. Kerr throughout this journey to Girdwood from the point of arrest. He said that after arrest Mr. Kerr had first been taken to Mulhouse Street and thence in an armoured vehicle with 3 other arrestees to Girdwood. On the journey there had been himself and 3 other soldiers with the arrestees. The N.C.O.'s position in the vehicle had been on the left-hand side at the back, and from there he had had a clear view inside the vehicle at all times. No-one had smoked during the journey to Girdwood. It was not true that anyone had assaulted Mr. Kerr in any way, or put a cigarette close to him or stubbed any cigarettes out on his neck. The N.C.O. spontaneously informed us he had "given him a mouthful", i.e. had abused verbally, but he characterised the stubbing out allegations as ridiculous and untrue. We were particularly impressed by this witness.

265. The private soldier we saw, said he had not accompanied Mr. Kerr in the vehicle to Girdwood but he had been a member of the arrest party and he had travelled to Girdwood simultaneously with the vehicle (although not in it because it had been full) and arrived at the same time. At Girdwood the whole arrest party had escorted Mr. Kerr and the other arrestees to the building. On the brief walk there from the transport, the soldier had been behind Mr. Kerr. The latter he had not heard to complain or say anything at all. Nobody had been smoking in the back of the vehicle when he had got there to join the party. He knew nothing about cigarettes being stubbed out on the back of Mr. Kerr's neck nor had he heard any talk of it. Since he had walked behind Mr. Kerr to the building he thought he would probably have noticed anything wrong with Mr. Kerr's neck if there had been a visible wound.

266. The R.U.C. officer who recorded Mr. Kerr's particulars on reception in Girdwood produced to us a copy of his entry in the reception book about Mr. Kerr. This showed that no complaint by Mr. Kerr had been recorded on his arrival at 0640. The officer told us he had asked all arrestees who had come before him whether they had a complaint and he would have recorded anything they said.

267. As regards the medical evidence, the medical officer on duty at Girdwood did not see Mr. Kerr and, so far as we have been able to establish, Mr. Kerr was not treated there. The prison medical officer who examined him on admission to the prison proper on the 11th August recorded in an entry we have seen that Mr. Kerr had superficial burns to his neck and that they were to be dressed. This doctor told us there were two small superficial burns and in all they received several dressings. He recollected Mr. Kerr claiming to him that the burns had been caused by cigarettes held to the neck. Although the burns were small, they were consistent with Mr. Kerr's claim.

Conclusions

268. This is a case of conflicting evidence which cannot be reconciled by us. The report of the prison medical officer indicates that on reception in the prison on the 11th August, Mr. Kerr carried two small superficial burns to his neck, and it was the doctor's opinion that these were consistent with Mr. Kerr's claim to him that they had been caused by cigarettes held to the neck. On the other hand, we have the denial of Mr. Kerr's arrest escort that they did it to him. Their denial is supported by the evidence that Mr. Kerr on entering Girdwood on the 9th August within minutes of the alleged assault showed no sign of having undergone what, if the allegation is true, was a recent and very painful experience, and by the evidence that he made no complaint of it either to the reception officer or to the medical officer. The possibility cannot therefore be excluded that the burns took place before Mr. Kerr was arrested.

269. We regret, therefore, that we are unable to reach a positive conclusion in this case.

Thomas Largey

270. Mr. Largey, aged 53, complained that on arrest in Belfast he was dragged downstairs by the head and forced to run about half a mile to a lorry. On arrival at Girdwood he was deprived of his shoes and searched. During the search a soldier stamped on his feet and a later request for treatment of his feet was ignored. Reports of this complaint were published in the Irish Press and the Irish Times both of the 18th August, and we also received a copy of the statement Mr. Largey made to the Association of Legal Justice.

271. We took evidence from 7 members of security forces including the N.C.O. in charge of the arrest party and members of the R.U.C. who dealt with Mr. Largey at Girdwood. Documentary evidence included a record made at the time of his arrival at Girdwood after arrest.

272. The N.C.O. in charge of the arrest party told us they had had to force entry to Mr. Largey's house after a woman's voice had said that they would not be let in. In the house they had been met by a woman, understood to be Mrs. Largey, who had attempted to obstruct the N.C.O. as he had gone upstairs. Although Mr. Largey himself came peacefully on arrest, Mrs. Largey continued to obstruct and abuse the soldiers on the way out of the house. Mr. Largey had come downstairs of his own accord between the N.C.O. and another soldier; there had been no need to use force nor had he been dragged down by the hair of his head. Downstairs Mr. Largey had picked up his jacket and outside the party had moved off at some speed down the road with a soldier on either side of Mr. Largey. The total distance of this transport had been, the N.C.O. estimated, between 600 and 700 metres but they had only run from Mr. Largey's house as far as the Crumlin Road—a distance of 200-250 metres—and Mr. Largey had been shod. The N.C.O. was clear the distance had been as little as 200-250 metres only and not the half mile Mr. Largey had alleged. The latter had not seemed unduly distressed by the run. Like the soldiers he was out of breath. On arrival at the rendezvous at Woodvale Drive Mr. Largey had been helped up on to the 4-ton lorry. The junior N.C.O. of the arrest party confirmed his senior's account to us. He added that the only force that had been used was to hand off Mrs. Largey. The soldier was not clear in his evidence to us about what exactly had occurred on leaving the house, specially who had been holding on to whom. The distance they had run after leaving the house was rather less than half a mile. After running it they had all been puffing and panting.

273. The private who had been a member of the arrest party confirmed to us the account we had already received of the entry to the house and that no force had been used to get Mr. Largey downstairs. He added that Mrs. Largey had shouted a lot and called the soldiers names. One of the reasons why, on leaving the house, the party had run the 200-300 yards through the Ardoyne had been because Mrs. Largey had been shouting. The private accompanied Mr. Largey in the 4-ton lorry to Girdwood, where the man simply climbed off the back and had not been kicked out. Once Mr. Largey had got off the lorry, military police had taken over but before he got off Mr. Largey had removed his shoes at the behest of the military police. None of the soldiers at the back of the lorry had used his baton on the prisoners. The witness said he himself had not a baton and only a couple of others on the vehicles had. Whilst he had had a rifle he had not prodded anyone with it.

274. We took evidence also from an N.C.O. who had been engaged on intelligence duties at the rendezvous to which the arrest party had taken Mr. Largey. This N.C.O. had also been on the vehicle upon which Mr. Largey had travelled to Girdwood. He said that when the vehicle had arrived at Girdwood they had had a wait of between 15 and 20 minutes because of the other vehicles in front of them. Because of the delay, the three prisoners in the vehicle had been made to stand against it when they got off while they waited for the men ahead to be processed through reception. The N.C.O. had seen Mr. Largey get off the truck with assistance from someone on the ground. Whilst waiting outside the vehicle the prisoners had been made to turn with their faces toward it, with their legs apart, and their hands forward upon the side of the vehicle. In this "spread eagle" position Mr. Largey had been searched but he had not been struck on the legs with a baton and no-one had stamped on his feet.

275. The R.U.C. officer who had been on reception duty at Girdwood produced to us a copy of the entry he had made of Mr. Largey's personal particulars on his arrival at 0606. He did not recollect Mr. Largey and had noted nothing in his record about Mr. Largey's condition, although he said he would have done so had there been anything unusual about it. It would have been possible for him to notice anything unusual since Mr. Largey had to walk from the door to the desk some feet away. Similarly, there was no record of Mr. Largey having complained in any way, and a note would have been taken had he done so. One of the two officers who had been concerned with interviewing Mr. Largey said he had interviewed him on two separate occasions with another officer. Mr. Largey had been in his stockinged feet and had had opportunity to complain if he wished to do so, but he had not. The officer was nearly certain he recollected asking Mr. Largey whether he had any complaints. If Mr. Largey had asked for medical attention it would have been obtained since the officer knew that it was available. The officer also said to us that he had accom-

panied Mr. Largey through the hole in the wall into Crumlin Jail and noticed nothing unusual about his condition.

276. There was no record of Mr. Largey having received any medical treatment at Girdwood or the Prison but with Mr. Largey in mind we took the opportunity of asking the medical officer who had bee on call at Girdwood about the arrangements for dealing with medical complaints made by men in the prison wing used as an annex to the Holding Centre before either release or detention in the Prison proper. The medical officer confirmed that the military police who were in charge of the custody of arrestees at Girdwood knew that he was standing by and they had shown no inhibitions in approaching him about medical cases. He would not have refused to attend men held in the prison wing and the question had arisen on the 10th August when two men who had been taken into the prison wing had sought medical attention. An officer had come through the hole in the wall to ask the medical officer to see the two men and he had arranged that they should be brought back for him to examine them.

Conclusion

277. This is another case in which we can make no finding because of the unresolved conflict of evidence. As regards the allegation of violence to Mr. Largey in his house during arrest, we have the account of events by the arresters pointing to conflict not with Mr. Largey but with Mrs. Largey. As regards the allegation of damage to his foot at Girdwood and disregard of his request to have it treated, we have been unable to trace the incident in the evidence of events from military and police sources. We notice the absence of any record of medical treatment, and the absence of evidence that Mr. Largey asked for treatment.

James Moore

278. Mr. Moore complained personally to us that soldiers broke into his house at Benares Street, Belfast, between 0400 and 0500 on the 9th August and while he was holding the door against them his left arm was cut in two places, in one deeply. He was arrested and tied by a string with one end round his right wrist, which was forced up his back, and the other end round his neck. He was taken to Girdwood where he was made to go on the "obstacle course". He received no attention for his cut arm, although he sought it on both the 9th and the 10th August, until late on the 10th August. He was released from Girdwood at 2300 on the 10th August when it was most dangerous to be on the streets.

279. Mr. Moore's allegations are not elsewhere reported. We have considered evidence given by Mr. Moore himself, by members of the security forces and by prison officers.

280. Mr. Moore told us that he heard a commotion in the street early on the 9th August and got up to see what was afoot. Wearing his vest and trousers he went to his front door. There his presence attracted the attention of passing soldiers. They moved towards him and he slammed the door. The soldiers then broke into his house whilst he tried to hold the door against them. His left arm was cut, he believed by a piece of flying glass. When the soldiers broke in they bundled him into the back part of the house and tied a piece of string around his right wrist. His wrist was put up his back and the free end of the string tied around his neck. He told us the string around his neck was not so tight as to cause discomfort unless he moved his arm. He was made to run to a nearby street where a lorry was waiting. Before mounting the vehicle a soldier put a bandage on his cut arm. At this point also the shoes he had put on before leaving the house were removed and put in a bag.

281. In dealing with events after his admission to Girdwood Mr. Moore described to us the move from Girdwood Park to the adjoining Prison wing which was clearly a description of the "obstacle course" mentioned in other complaints. Mr. Moore's complaints under this head have been stated in paragraphs 120–136 above.

282. Mr. Moore said that as soon as he arrived at Girdwood, he had asked for medical attention. He had lost some blood, and blood was visibly soaking through his bandage. He received no attention. He asked again in the prison wing. The prison officer he approached told him the R.U.C. would deal with all such requests. He said that no R.U.C officer came round on the 9th August for this purpose. He asked again on the morning of the 10th August and was told to make his request in the afternoon. He did so, and eventually was taken to Girdwood Park where he saw a doctor at, he thought, 1630 on the 10th August.

283. His complaint about ejection from Girdwood Park late on the 10th August has been stated in paragraphs 137–148 above.

284. Mr. Moore told us that he could not have been arrested as a suspect. He was a member of the Ulster Defense Regiment (U.D.R.) and had no connection with any illegal organisation. He added that he proposed to claim compensation for the events he had described to us.

285. Mr. Moore's allegations fall into 4 parts:—

(*a*) Assault on arrest;

(*b*) Taking part in the "obstacle course" at Girdwood Park;

(*c*) Failure to obtain medical aid for cut arm;

(*d*) Ejection from Girdwood Park into dangerous street conditions.

(a) Alleged assault on arrest

286. The army witnesses told us that Mr. Moore was not on their list for arrest. An arrest party having failed to make their arrest were going down a street towards a commotion at the far end. The last man in the squad collided with a man and fell to the ground. The soldier who fell told us that this man had jumped out of a door, knocked him over and kicked him in the stomach as he fell. He was, even so, able to see the man run back into a door, which he slammed. Other members of the squad turned back, hearing the sound of the fall. They broke into the house and the same man went for them again. They secured him by tying him with parachute cord fastened to both elbows across his back. We were told this is a standard method of tying a prisoner who has to be moved rapidly from one place to another. The military witnesses were emphatic that they had not used the method described by Mr. Moore. It was agreed by these witnesses that it might have been better not to tie an admittedly wounded arm, but we gathered from the evidence that the severity of the wound was not immediately apparent to them. The witnesses from the arrest party told us that Mr. Moore had not attempted to identify himself at the outset as a member of the U.D.R. In the vehicle *en route* for Girdwood Park, however, Mr. Moore had told the arresting soldier he was in the U.D.R and indeed that he would take the soldier to court for arresting him. They did not believe him at the time.

287. The evidence of the arresting party was given to us after we had heard Mr. Moore. Having heard them we asked Mr. Moore for his comments on the assertion that he had assaulted and kicked the soldier. He strenuously denied that he had done so.

(b) "Obstacle course"

288. We examine Mr. Moore's evidence about the "obstacle course" in the section of our Report that deals with the group of complainants concerned with this incident (paragraphs 120–136 above).

(c) Medical attention

289. We refer to the evidence concerning responsibility for arrestees held in the prison wing which we report in the cases of Mr. Brendan Anderson and Mr. Largey (see paragraphs 162 and 276). It appears from the evidence of the R.U.C. that no formal sick parades were held for Girdwood men held in the prison wing on either the 9th or the 10th August, and no routine had been established by which arrestees were to report sick. The R.U.C. officers on duty had not thought it necessary to announce that requests for medical attention would be entertained and relied on the detainees to say if they needed it. As regards medical attention at Girdwood itself, we heard from one of the medical officers on duty at Girdwood Park and from an N.C.O. who was concerned with the reception of prisoners, that no formal sick parades were held at Girdwood Park. Both, however, felt that as a medical orderly was continuously present in a room used for medical treatment and as the medical officer (who from his bag would have been recognised as a doctor) frequently visited the room, no arrestee should have been in any doubt where he should go if he needed treatment. We were told that announcements concerning medical treatment were made to groups of arrestees.

290. We heard evidence also from the R.U.C. officer on duty at the reception desk, who had noted in the entry record for Mr. Moore: "left arm bandage bleeding". He told that he did not know what medical arrangements were in force at Girdwood Park and had not been told in his preliminary briefing. It was not part of his duty to refer injuries to a medical officer although if he had seen a man who was apparently seriously hurt he would certainly have tried to get medical attention for him.

291. The medical officer confirmed that he had treated Mr. Moore at about the time alleged, late in the afternoon of the 10th August. In his note he recorded "complains of laceration left fore-arm—36 hours old RX: suture, tet tox, penicillin". The medical officer recalled that the cut was gaping and needed stitching. He had not noted the number of stitches, but agreed that it may well have been four. (The scar and marks on his arm which we examined when we saw Mr. Moore were consistent with the insertion of four stitches.) The medical officer, when we asked why Mr. Moore had not sought treatment if it was clearly available, replied that he thought he was a matter-of-fact and stoical individual who would have treated it as merely a scratch, and would not have made much of it perhaps until he looked at it on the morning of the 10th and had realised that the cut was gaping and required stitches.

(d) Alleged ejection from Girdwood

292. This part of Mr. Moore's complaint is covered by that section of our Report where we deal with the allegations made by him and several others about the arrangements for men released late on the 10th August from the Clifton Park Avenue Gate of Girdwood (see paragraphs 137–148).

Conclusions

293. As we have said, Mr. Moore appeared before us to substantiate his allegations. By his own choice he was not legally represented. Our conclusions on his allegations are as follows.

294. We formed a favourable impression of Mr. Moore. We do not think that he assaulted the soldier outside his door. No doubt some person did so, but in the prevailing circumstances, and in the dark, a mistake of identification of the assailant could easily take place. We are disposed to believe that he was tied in the way he recounts and would comment that if it was thought necessary to tie him it was better to do so this way than to tie his injured and bleeding arm. Altogether we think that Mr. Moore was arrested by mistake; it is

clear that the cut to his arm from broken glass was caused accidentally when the door was broken down in the course of arrest. Mr. Moore underwent a considerable degree of hardship. But he was not treated with brutality.

295. As regards the failure to obtain medical aid, it is common ground that the gash in his arm was serious and should have had medical attention. We have taken account of the evidence of the opportunities he had to ask for medical attention, both at Girdwood Park itself and while in the prison wing. Against that we have Mr. Moore's evidence, which we believe, that he did ask for medical attention (*a*) on reception into Girdwood Park on the morning of the 9th August, (*b*) in the prison wing later on the 9th August, (*c*) on the morning of the 10th August, and did not get it till the afternoon of the 10th August. We find that Mr. Moore suffered hardship, not from intentional ill-treatment but through deficiencies in the systems of communications at Girdwood and through avoidable neglect.

296. Our conclusions regarding Mr. Moore's part in the "obstacle course" and release from Girdwood late on the 10th August, are in paragraphs 133–136 and 148 above.

Felim O'Hagan

297. Mr. O'Hagan, aged 16, was arrested at Lurgan. His mother, Mrs. O'Hagan, complained that her son, although he made no resistance at the time of his arrest, was pulled out of the house with his arm twisted up his back and struck with a baton across the shoulders. The allegations we saw were a copy of a statement it was said Mrs. O'Hagan had made to the Association for Legal Justice.

298. We saw two witnesses, both members of the arrest party. The first, the private who had actually effected the arrest, said that they had had to force entry by smashing a pane of glass after Mr. O'Hagan's mother had refused to open the door. With others, the soldiers had gone into a downstairs sitting room where he had seen a youth sitting clothed in a chair. The soldier had been instructed by the N.C.O. in charge of the arrest party to arrest the young man. The soldier thereupon asked the youth to come along with the party but the youth had not replied and had not made any move. The soldier then said he had put Mr. O'Hagan in an arm-lock which he demonstrated before us on our Chairman. For reasons that the demonstration made clear, the lock had been successful in making Mr. O'Hagan leave the sitting position and accompany the arrest party. The young man had been plainly frightened by the proceedings. He had said nothing himself although his mother kept on shouting that the soldiers had got the wrong man. It had been necessary to maintain the armlock outside the house because it appeared that even then Mr. O'Hagan was reluctant to accompany the soldiers. The soldier told us that both he and all the other escorts had had batons but he had not used his on Mr. O'Hagan. The allegation that the young man had been pulled with the arm twisted up his back was an incorrect description of what had happened.

299. The N.C.O. in charge of the arrest party told us that he had had orders to arrest three men in Mr. O'Hagan's house. He had had photographs of all the three and it had been plain on getting into the house that none of them was there. The N.C.O. had then gone out of the house to take direction from his superior officer explaining that the only male in the house was Mr. O'Hagan. The officer ordered that the youth should nonetheless be taken along.

300. The N.C.O. said he had repeated the words of arrest to Mr. O'Hagan who had made no response and had continued to sit in the armchair. He had heard the soldier ask Mr. O'Hagan to accompany the troops but Mrs. O'Hagan had told the youth to remain where he was. The N.C.O. was sure that had Mr. O'Hagan gone when first asked there would have been no trouble but it appeared he was trying to follow his mother's directions. When the soldier from whom we had taken evidence approached Mr. O'Hagan to take him into custody the later had shied backwards and the chair he was sitting in had fallen over. The soldier had then assisted him to stand, simultaneously putting on the arm-lock. The party had then proceeded out of the house walking, without any special measures being taken to propel Mr. O'Hagan along even though his mother tried to hold him back. No batons had been used at any time during the arrest and the whole proceedings had been within the N.C.O.'s view. There had been no need to use excessive force as Mr. O'Hagan was obviously frightened and the arm-lock largely a formality.

Conclusion

301. The allegation of the "arm twisted up his back" is identified as the arm-lock which the arresting soldier said he used. The application of this lock, a controlled use of force, is only painful if resisted. We do not think it was used with the object of hurting, but only to the extent, which according to the evidence was small, required to make the arrested person comply.

302. We cannot resolve the conflict between the allegation of striking with a baton across the shoulders, and the witnesses' assertions that they had not used batons at any time during the arrest.

George Patrick O'Hara

303. In a statement taken by a solicitor Mr. O'Hara, who was arrested in Belfast, complained that at Girdwood he was taken to a helicopter which had just landed some detainees and he was taken up in it, bound, by two military policemen who threatened to throw him out at tree-top level and, indeed, held him half out of an open door. Despite its rather different nature, we are satisfied from the evidence that we have described elsewhere that this case stems from the incident that we described above under the "Helicopter Incident" (see paragraphs 106–119 above).

304. The evidence that we outlined there was unanimous in stating that no helicopter ever took off during the operation with the arrested men aboard or that there were members of the security forces inside the helicopter other than the R.A.F. crew member.

Conclusion

305. No other arrested man made a similar allegation. While we can reach no determination without seeing the complainant, we should be surprised if this allegation proved to be well-founded.

Richard Rodgers

306. Mr. Rodgers complained that after his arrest at Newry at 0430 on the 9th August he was punched and struck with batons and gun butts both in a vehicle *en route* for a collection point at Newry, and later on the way to the helicopter that was to take him to Ballykinler. He complained also that at Ballykinler he was forced to perform exercises with which we have dealt above. A report of these complaints appeared in *The Times* of the 26th August.

307. We took oral evidence from two members of the security forces who had been concerned in the arrest and transport of Mr. Rodgers. We examined the record of the medical examination carried out on Mr. Rodgers' admission to the Ballykinler Holding Centre.

308. The army witnesses, a junior N.C.O. and a private soldier, denied using any force on the complainant. He had not resisted arrest and had in fact been co-operative. It was not necessary to restrain him in any way, nor to force him to leave his house or enter the army vehicle.

309. On admission to Ballykinler, no cuts, bruises or marks were found on medical examination, and Mr. Rodgers signed a statement certifying that he was in good health and had sustained no injury.

Conclusion

310. We record the evidence given by the military witnesses that they had not used force on him or needed to do so. This evidence is supported by the record of Mr. Rodgers' medical examination on entry into Ballykinler and his own certificate given on entry that he had sustained no injury. We doubt whether these allegations can be sustained.

Desmond Smith

311. Mr. Smith, who was arrested at Bessbrook, County Armagh, complained of his treatment at Ballykinler Camp and commented adversely on his treatment at Musgrave Park Hospital. Our investigation concentrated on the complaints relating to Ballykinler, in particular that on arrival he was pushed out of a helicopter before it had touched down, when it was six feet from the ground; that after admission he was made to perform hard exercises; that at first he was refused any place or opportunity to relieve himself, and that when eventually taken out for this purpose was given insufficient time; that when he could not perform the exercises he was beaten and had water thrown over him; and that when he went into a convulsive fit a military policeman pushed a knife into his mouth with such force that several back teeth were smashed and the blade of the knife snapped in two.

312. We have dealt above with the complaint about exercises. In relation to this and the other complaints, we heard evidence from a specialist, the medical officer, and 7 members of the security forces including 1 police officer.

313. In relation to the helicopter journey Mr. Smith commented that he and others had been kept in the draught of turning rotor blades before boarding, and he complained that on arrival at Ballykinler, he and other arrestees on board had been pushed from the helicopter before it touched the ground.

314. We heard evidence from an N.C.O. who was one of the helicopter escort party. He told us that no-one was deliberately kept in the slipstream of the rotors before boarding, though they might have had to wait for a short time for the signal from the crewman that it was safe to board. He confirmed that in that period the engine and rotors would have been operating in accordance with normal procedure, but denied that the result would cause any hardship. The escorting N.C.O. also denied that any men had been pushed from the helicopter before it touched down and said that he was the first to leave it when it had done so.

315. Mr. Smith made a number of complaints about toilet facilities at Ballykinler, in particular that to start with all the arrestees were refused permission to relieve themselves, to the point where a number of them urinated on the floor. Then he says a hole was dug outside, but when Mr. Smith asked to use it, he was hustled out by two military policemen, and back again before he had had a chance to relieve himself, so that on his return he wet himself.

316. We heard in evidence from the army witnesses that the distance from the huts to the ablutions hut was 100–150 yards. In the early stages a journey to this hut involved taking each arrestee there under escort. Later on latrines were prepared between the huts with pits and buckets, to which arrestees could more conveniently be taken to urinate. We heard from one witness that anyone who wanted to relieve himself had been allowed to do so, and to take what time he required. Another witness told us of one occasion when arrestees had been hastened. On the 10th August, the platoon coming on duty at 1200 had to see the arrestees

had a meal, a visit to the ablutions hut and a final interview before 1500. The soldiers also had to be fed. As some 90 arrestees were involved, they had been required, unless ill or elderly, to run to the ablution hut and back.

317. Mr. Smith then complains that he was subjected to an increasing degree of ill treatment until he had a fainting fit, when he was pulled out of the hut by the hair and had a bucket of water thrown over him. The military witnesses say that a bucket of water was tipped over one arrestee, not Mr. Smith, who began shouting at the top of his voice and who continued to do so after he had been placed in a hut by himself to calm down. There is no evidence other than his own statement that Mr. Smith received the same treatment. Mr. Smith says he was unconscious at the time, and is repeating what others told him.

318. This episode was followed according to Mr. Smith by his having an attack of epilepsy. He says that according to other onlookers a military policeman pushed a knife into his mouth so hard that is smashed several back teeth, and the blade was snapped in two; it was withdrawn dripping with blood. He was then brought round by the doctor, who administered an injection. We have studied a number of contemporaneous medical records, and heard evidence from the medical officer and a specialist who later treated Mr. Smith. There is no doubt that Mr. Smith suffered a convulsive fainting attack. Expert medical opinion is divided on whether it was an epileptic fit, but the medical officer who was sent for and saw the closing stages of the episode had no doubt that Mr. Smith was indeed undergoing a grand mal convulsion.

319. The medical officer told us that after a quick examination, he thought it best to protect Mr. Smith from the risk of biting his tongue during the convulsion. He called for a spoon to hold the tongue down. No-one could find one, and eventually a metal-handled knife was provided from a set of Army utensils. The medical officer opened Mr. Smith's mouth, and used the handle of the knife to hold his tongue down, inserting it some 2 cms. between the front teeth. He said it went nowhere near the back teeth. After Mr. Smith had recovered from the fit he gave him an anti-convulsant drug which was taken orally. He had no injections available. Mr. Smith was then removed to hospital.

320. We have studied the medical reports made thereafter both in hospital and by the civilian medical officer on the *Maidstone*. None of them record any complaint of damage to the back teeth. In view of the history of convulsion, it would be routine to examine the mouth for tongue-biting or other injury; no injury is recorded.

321. In his statement Mr. Smith goes on to make allegations about this treatment in hospital and the conditons of his detention. The latter lie outside our terms of reference and it would not be appropriate for us to investigate or comment upon them. We do not consider that his narrative contains further allegations of physical ill-treatment.

Conclusions

322. We do not consider that there is substance in the complaint about ejection from the helicopter while it was off the ground. Apart from the denial by the escort, and his evidence that he left first, account must be taken of the standard procedure, independently controlled by the helicopter crewman, by which passengers are not permitted to leave the machine before it has landed. We think this complainant, like others, may have been misled into thinking the machine had not landed if he left while the engines were still on and the rotors turning. The reference to the height of 6 feet in the allegation may be an overestimate of the distance (about 4 feet) between the cabin floor of a landed helicopter and the ground.

323. On the sanitary arrangements at Ballykinler, we recognise the conflict of evidence between the complainant and the military and police witnesses. We can only report the evidence we have received in reply to the allegations, and make no finding other than to say that we had no adverse comment on the sanitary arrangements at Ballykinler from the medical officer.

324. There remains the complaint of maltreatment in connection with what we consider, on balance, to have been an epileptic fit. Here the evidence of the medical officer refutes the allegations, and shows that treatment was promptly and correctly given.

John Dermot White

325. Mr. White complained that, after his arrest at Londonderry, he had been kicked and beaten *en route* for Magilligan Camp; that at the camp he and the other detainees had no food until 1900 on the 9th August, having been arrested at 0430, and when it came it was of poor quality; at the camp he and the others were kept awake by soldiers who beat on their hut with batons; and that he was interrogated in three 3-hour sessions, and then was threatened unless he co-operated.

326. Mr. Boyle also complained he was not fed for a long time, and that the food was of poor quality.

327. These complaints were reported in the *Irish News* of the 12th August and the *Evening Standard* of the 1tlh August. The *Evening Standard* quoted Mr. White as saying that on arrest he was taken away wearing only his underpants, and that he had marks on his leg to substantiate the complaint of beating.

328. In relation to Mr. White's complaint of ill-treatment on arrest, we heard evidence from 5 members of the arrest party including a captain and a warrant officer. They said that Mr. White did not resist being taken from the house, though his brother was prevented from leaving it. Between the house and the arrest party's vehicle, Mr. White attempted to dig his heels in to prevent or slow down forward progress. A riot situation was developing and people were throwing bottles and stones. The troops went as quickly as they could. Mr. White's resistance was overcome by two soldiers who took one arm each, and lifted him, not quite clear of the ground but so that his feet could not grip well enough to resist forward progress. We established the identity of one of these soldiers, but there was a conflict of evidence as to the identity of the other. The escort party say that, although no violence was used, Mr. White was admittedly pushed into the vehicle, an armoured personnel carrier, and made to go to its front. They were unable to account for the superficial injuries from which he was later found to be suffering.

329. The witnesses say that Mr. White was fully dressed but for his jacket when first encountered in his house. He was not then nor thereafter only in his underpants. We have seen a photograph taken on arrival at Magilligan Camp. It is a half-length picture of Mr. White, and he is clearly wearing a shirt, tie and trousers. Mr. White first was taken to Ebrington Barracks, Londonderry. Thence with other arrestees he went by van to Magilligan Camp. One member of the arrest party went to the Camp in a land rover in convoy with the van. He told us that Mr. White was at this stage quite co-operative, and there was no occasion on this journey on which he might have received abrasions or bruises. At Magilligan Camp he is not recorded as making any complaint, and the medical officer who examined Mr. White found that he had a "few superficial injuries" specifying "abrasions—medial aspect left knee; right scapular region; right elbow".

330. In relation to the supply and quality of food Mr. White's complaint is joined with that of Mr. Boyle (see paragraphs 177–181 above). We heard evidence from two witnesses, a captain who is a quartermaster of the unit on duty at the camp, and a warrant officer in the Army Catering Corps. They told us that cooks from the infantry unit had started work soon after the unit's arrival, that tea was soon available and a breakfast meal had been served in the morning. We were told that arrestees were not served breakfast. From 1100 a mid-day meal was served, consisting of meat and vegetable stew from tins, and tea. This, as for soldiers and police, was available to the arrestees. Many came through late for lunch, which in practice merged with the evening meal which commenced at 1700. This, also, given to the arrestees, consisted of steak and kidney pudding, hamburgers, meat pie and three kinds of pudding. Neither witness could understand the allegation that arrestees had not been fed until 1900. No permanent record was however available to show whether an individual arrestee was offered a meal at a given time.

331. We heard evidence from the senior officer at Magilligan Camp and from a warrant officer that no noise had been made deliberately to keep men awake. It was agreed that some disturbance might have been caused by men being taken out for questioning. With regard to the use of batons to make noise, we noted the evidence of another arrestee that batons had been rapped on the outside of his hut at 0630 by way of sounding reveille.

332. In relation to the complaint Mr. White made about his interrogation, we heard evidence from the two police officers responsible. They had recorded the times interrogation began and ended. There were three periods, at the following times:—

on the 9th August, 0920–1010 and 1500–1550;

on the 10th August, 1105–1255.

They denied that they had uttered any threats or raised their voices. The only complaint Mr. White made, during his first interrogation, was that he was cold. They gave him a blanket to put around his shoulders.

Conclusion

333. We think the photograph mentioned above refutes the report that Mr. White was arrested and taken away clad only in under pants. It would appear from the evidence of abrasions to his left knee, right chest and right elbow that he had suffered some rough handling and we think this is likely to have occurred between arrest and arrival at Ebrington Barracks. Whether this was accidental, or whether, as Mr. White alleges, deliberate we cannot determine.

CHAPTER VII

Medical arrangements

334. There is one area in which our investigations have enabled us to identify and comment on a general feature of the operation, namely the medical arrangements. We think that a detailed consideration of the organization and administration of the necessary medical arrangements should have been included in the preliminary planning of the arrest operation and that the senior medical staff officer (in this case, the Assistant Director of Medical Services) should have been brought in at this stage. This would have insured that, at the appointed hour, medical officers posted to the various stations would have had comprehensive instructions as to the nature of their duties and, more important still, these instructions would have embraced all the stations involved so that arrestees, wherever they were, would have been the subject of a considered and consistent scheme of medical care and record.

335. In the event, the senior medical staff

officer (A.D.M.S.) was not in on the preliminary or the planning stage (and, indeed, was unaware that the operation was taking place till it was in progress). The medical officers concerned were sketchily briefed by non-medical staff officers a few hours before the exercise was due to take place. Each had to make his own *ad hoc* arrangements and decide for himself on the time, the nature and extent of his examinations of arrestees and on the machinery necessary in order to deal promptly and adequately with those reporting sick. Inevitably, therefore, the medical organization varied from area to area and was unco-ordinated. One result of this lack of central direction was that no consideration seems to have been given to including in the procedure a medical examination of each arrested man on discharge from the Regional Holding Centre as well as on entry to it.

336. Girdwood in particular suffered from this lack of attention to medical planning. There were two medical officers, neither of whom appeared to know that the other existed until they met by chance. Moreover, owing to the rescinding of a Brigade Administrative Order no medical examination took place either on admission or discharge from the camp.

337. Those transferred to Crumlin Jail were covered by the prison doctor, who examined all detainees on reception, but this did not include those discharged from Girdwood back to their homes, and it does not seem to have been understood whether or not the prison doctor was available to give medical attention to arrested persons while in the wing of the Jail used as the annex to the Holding Centre.

338. We accept that it would have been difficult for the two medical officers at Girdwood, even if they had been informed of each other's existence, to cope with their duties to the soldiers fighting in the streets, to the civilian population and at the same time to have examined all the arrested persons, but it should have been possible for the A.D.M.S. (had he known of the exercise in time) to have made arrangements for other doctors to cover these "in and out" examinations.

339. We particularly regret the rescinding of the instruction for the medical examination of each arrested person on arirval at Girdwood. Its omission at Girdwood has had the result for our Enquiry, that as regards allegations from arrested persons taken to Girdwood, we are without the systematic medical records that we have for complainants who went into Ballykinler and Magilligan. But the importance of the system lay in the need to ascertain for each arrested person whether he was fit for the experience of being questioned and held in detention and to ensure that his condition was known on entry, and medical attention given if needed. The requirement for such a system was as great, if not greater, at Girdwood as at the other Regional Holding Centres.

340. Generally, therefore, there appears to have been an insufficient awareness of the medical hazards involved in this type of operation. Nevertheless we record our commendation of the medical officers concerned for the efficient manner in which they carried out these unexpected duties.

ENQUIRY STAFF

341. Mr. R. M. Morris of the Home Office was our Administrative Secretary for the whole of our Enquiry. Mr. C. G. Leonard of the Treasury Solicitor's Department was our Legal Secretary for the first week, when Mr. J. L. Heritage of the same Department succeeded him.

342. They have maintained the highest standards of ability, judgment and good temper throughout the two months of sustained and concentrated work that they have done for us—first in setting up our Belfast Office and establishing our communications; then in organising our casework, briefing us and recording the evidence given to us by 143 witnesses over 17 hearing days, as well as the numerous occasions when they have joined us in our deliberations; and not least in assisting us to prepare this Report. We have exploited them, and they seem to have enjoyed it. We now express our thanks and our admiration for such outstanding service.

343. We are no less grateful to the supporting secretariat, consisting at various times of two or more of the following:—Sylvia Barclay, Margaret Bark, Christine Barwick, Isabel Lewis, and June Thomas.

They have served for long hours and over weekends as a matter of course, and have known no limit to their capacity for hard work of the highest class. We thank them warmly, and we are the more grateful for their unfailing cheerfulness.

CHAPTER VIII

Summary

The arrest and detention operation with which we are concerned, relates to 342 men arrested on the 9th August and subsequently released (105 men) or detained (237 men).

The operation was in two parts:—

(*a*) Arrest and movements to one of three Regional Holding Centres—Ballykinler, Magilligan and Girdwood Park.

(*b*) The process of identification and questioning, leading either to release or movement into detention at the *Maidstone* or Crumlin Jail.

We have investigated allegations made by 40 of the men arrested on the 9th August. Except in one case, the complainants have not appeared before us to substantiate their allegations. One has communicated with us in writing; in other cases we have acted on complainants' statements published by the Press or otherwise transmitted to us.

In the course of our investigation we have had full disclosure of contemporary documentation by the army and police, and we have made particular use of the medical records for testing allegations of physical ill-treatment. We have visited the three Regional Holding Centres and the two places of Detention, the *Maidstone* and Crumlin Jail. We have taken oral evidence from 95 army, 26 police, and 11 prison personnel, and from 11 doctors.

We report on 5 groups of allegations and 20 individual allegations.

Our investigations have not led us to conclude that any of the grouped or individual complainants suffered physical brutality as we understand the term.

As regards the group allegations:—

Group 1—Questioning in Depth (11 names)

We consider that the following actions constitute physical ill-treatment; posture on the wall, hooding, noise, deprivation of sleep, diet of bread and water.

Group 2—Helicopter Incident, Girdwood (6 names)

We criticise the action taken to force the complainants to take part in this deception operation and consider that the physical experience of these men constitutes a measure of ill-treatment.

Group 3—"Obstacle Course" Girdwood (12 names)

We conclude that the men concerned may have suffered some measure of unintended hardship.

Group 4—Lake Releases on the 10th August, Girdwood (3 names)

Given the conflict of evidence we make no findings, but draw attention to the evidence that men released from Girdwood were not made to leave and that some stayed.

Group 5—Special Exercises at Ballykinler (5 names)

We consider that these compulsory exercises must have caused some hardship but do not think the exercises were thought of and carried out with a view to hurting or degrading the men who had to do them.

Individual Cases (20 names)

We report 2 cases where we consider there was a measure of ill-treatment: one (Mr. Cummings) suffered from hooding and wrist bonds ordered not as a punishment but as a military precaution, the other (Mr. Gilmore) from damage done by accident. We report one case (Mr. Moore) where we think the complainant suffered hardship in that he was accidentally cut by broken glass on arrest and there was avoidable neglect in getting medical attention for him at Girdwood. In the remaining cases, the conflict of evidence has prevented a finding, or we consider that the complainant cannot be sustained.

We draw attention to defects in the administrative arrangements regarding medical cover for the arrest and holding operation generally, and for Girdwood Park Holding Centre in particular.

November 3, 1971.

Edmund Compton,
E. S. Fay,
Ronald Gibson.

APPENDIX

List of complainants

Anderson, Brendan.
Anderson, Elisha.
Auld, James.
Bennett, Henry.
Boyle, Patrick.
Brady, Michael Oliver.
Campbell, Edward Eamon.
Campbell, Gerard.
Clarke, Joseph.
Collins, Peter Eugene.
Conlon, Thomas Joseph.
Cummings or O'comain, Liam John.
Donnelly, Michael Joseph.
Drumm, Sean.
Farrell, Michael.
Gilmore, William.
Gourley, Dermot Francis.
Hannaway, Kevin.
Harvey, Michael Joseph.
Hughes, Joseph.
Johnston, Thomas Gerard.
Kerr, Eamon.
Largey, Thomas.
McClean, Patrick Joseph.
McErlean, Gerard.
McGuigan, Francis.
McKenna, Sean.
McKerr, Gerald.
McNally, Patrick.
Moore, James.
Mullan, James.
O'Hagan, Desmond.
O'Hagan, Felim.
O'Hara, George Patrick.
O'Toole or O'Tuathail, Seamus.
Rodgers, Richard.
Shivers, Patrick.
Smith, Desmond.
Turley, Brian.
White, John Dermot.

NEED FOR A NATIONAL SENIOR SERVICE CORPS

Mr. WILLIAMS. Mr. President, recent Department of Labor statistics provide a grim reminder that our widespread unemployment is affecting practically every sector in our economy, all regions in our Nation, and every age group.

Since January 1969, the jobless rate has jumped sharply from 3.4 to 6 percent, adding nearly 2.5 million workers to the unemployment rolls. During this same period, long-term joblessness—15 weeks or longer—has risen precipitously from 355,000 to 1,058,000, for a 210 percent increase. Today nearly 500,000 individuals have been out of work for 27 weeks or longer. This is about four times as many as in January 1969.

By whatever barometer one would choose to use, the administration's employment "game" plan has been a colossal failure for today's workers. And despite Pollyanna-type prophesies by administration spokesman, our unacceptable level of extraordinarily high unemployment is likely to continue during the months ahead.

For the older worker, our economic slowdown has frequently had a disastrous double barreled impact. These individuals have not only lost their jobs but their pension coverage as well.

Today there are nearly 500,000 jobless persons 55 and older, about 89 percent greater than in January 1969. Once unemployed, these individuals run a substantially greater risk of being without work for a long period of time. Today one out of every three unemployed persons 55 and over has been looking for a job for 15 weeks or longer, compared with one in five for all jobless individuals. And our mounting unemployment has helped contribute to the 100,000 increase in the poverty population for persons in the 55-plus age category during the past 2 years.

For many of these jobless individuals, Operation Mainstream has literally been a lifesaver, providing gainful employment in a wide range of useful community activities. But Mainstream is essentially a demonstration program. However, we do not need any more proof that these projects—such as Green Thumb, Senior Aides, and the Senior Community Service programs—will work. What we need now is a genuine national program, as authorized in the Older American Community Service Employment Act.

This legislation is now before the Subcommittee on Aging of the Senate Labor and Public Welfare Committee, of which I am chairman. Last July 2 days of hearings were held on this legislation. Every single witness, with the exception of administration spokesmen, enthusiastically endorsed this legislation. However, the President's recent address at the White House Conference on Aging has provided a possible signal that the administration has, at long last, reassessed its strong opposition to special emphasis programs to maximize employment opportunities for older workers.

Recently, I was joined by the Senator from Massachusetts (Mr. Kennedy) and the Senator from Missouri (Mr. Eagleton) in writing a letter to the Secretary of Labor to obtain clarification of the administration's position with regard to the Older American Community Service Employment Act.

Mr. President, I ask unanimous consent that the text of this letter be printed at this point in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

December 9, 1971.

Hon. James D. Hodgson,
Secretary of Labor,
Washington, D.C.

Dear Mr. Secretary: During his recent address before the delegates at the White House Conference on Aging, President Nixon emphasized:

"Some of the best service programs for older Americans are those which give older Americans a chance to serve. Thousands of older Americans have found that their work in hospitals and churches, in parks and in schools gives them a new sense of pride and purpose even as it contributes to the lives of others.

"Federal programs to provide such opportunities have proven remarkably successful at the demonstration level. But now we must move beyond this demonstration phase and establish these programs on a broader, national basis."

At the outset, we wish to express our strong support for the President's statement. It was for these very reasons that we have enthusiastically supported the Older American Community Service Employment Act (S. 555), which was introduced last February by Senator Edward Kennedy. This measure would provide a basis for converting the successful pilot programs under Mainstream—such as Green Thumb, Senior Aides, and the Senior Community Service projects—into permanent, ongoing national programs.

Last July, two days of hearings were held on this legislation by the Subcommittee on Aging of the Senate Labor and Public Welfare Committee. With the exception of Administration spokesmen, all witnesses expressed enthusiastic support for the enactment of this measure. The Administration, however, recommended against the enactment of this proposal because of its opposition to categorical programs. For example, Mr. Paul J. Fasser said:

"Despite the apparent success of several of the categorical programs such as the Community Senior Service program, it is clear that, as a whole, because of the multiplicity of separate and distinct programs each vying for a share, the categorical approach of recent years has not fulfilled the expectations of manpower programs for older people or for anyone else."

However, in view of the President's recent declaration, it appears as if the Administration may possibly be reconsidering its position with regard to the Older American Community Service Employment Act. With unemployment increasing by nearly 89 percent for persons 55 and older since January 1969, it seems imperative to us that legislation should be enacted as promptly as possible to maximize employment opportunities for older workers.

For these compelling reasons, we would appreciate your early response to the following questions:

Has the Administration changed its position with regard to the enactment of legislation to establish a national senior service corps, as envisioned in the Older American Community Service Employment Act?

If the answer to the first question is "yes", would the Administration have any further suggestion for improving this measure?

If the answer to the first question is "no", what alternatives does the Administration support to increase employment opportunities for low-income persons 55 and older?

With best wishes.

Sincerely,

Harrison A. Williams, Jr.,
Chairman.
Edward M. Kennedy,
Subcommittee on Health.
Thomas F. Eagleton,
Subcommittee on Aging.

STATEMENT BY SENATOR STENNIS

Mr. STENNIS. Mr. President, late this morning I learned of the resignation of Mr. David Packard as Deputy Secretary of Defense. While I certainly respect and honor his reasons for resigning, his leaving is an enormous loss to the country. I will have more to say on this early next week.

In the meantime, I have been handed four letters relating to his resignation: First is a letter of December 10 to Mr. Laird from Mr. Packard; second is a letter of December 10 from Mr. Packard to President Nixon; third is a letter of December 11 from Mr. Laird to Mr. Packard; and the fourth is a letter of December 11 from President Nixon to Mr. Packard.

Mr. President, I ask unanimous consent that these letters be inserted in the Record.

There being no objection, the letters were ordered to be printed in the Record, as follows:

The Deputy Secretary of Defense,
Washington, D.C., December 10, 1971.

Hon. Melvin R. Laird,
Secretary of Defense,
Washington, D.C.

Dear Mel: As you know, last July I advised the President that I could not remain in a full-time government position after this year. I advised the President today that for strictly personal reasons I must resign as Deputy Secretary of Defense effective 13 December 1971.

I cannot leave the Department without expressing my personal appreciation for all that you have done to make this a most challenging and rewarding experience. I wish to add my great admiration for the personal leadership you have given to the Department of Defense as we have moved to help meet the President's objectives of a generation of peace through strength, partnership, and negotiation.

I accepted your request to join you in the Department of Defense with the hope that I could make some contribution to the nation that has done so much for me. I appreciate your confidence and admire your courage in affording complete trust and full support to this nonpolitician and nonbureaucrat in his work with national security affairs and the largest bureaucracy in the country. You have taught me much about the roles of the legislative and executive branches of government and how to get things done within them.

Much has been accomplished during our service together in the Department of Defense and I believe we can be proud of this record even as we honestly recognize that there is much more to be done. Vietnamization has worked, and our focus now is properly beyond Vietnam. Management is better, our planning more realistic and our procurement policies have been improved. The Department has a good focus on Human Goals.

Under your leadership the entire Department, military and civilian, has worked as a team in support of the President's national security objectives. I am sure you agree that this progress rests upon the dedication and support we have had from the men and women of the Department. I leave the Department with the conviction that it has a great source of strength in its people, military and civilian, and I'm sure they will continue to give their full support to you and to my successor.

I remain ready to assist you in any way appropriate from private life. You can be assured of my continued and active support of our vitally important programs to assure that our nation remains strong and free and our people safe. It has been an honor and privilege to serve with you and all the military and civilian members of the Department of Defense.

Sincerely,

David Packard.

THE DEPUTY SECRETARY OF DEFENSE,
Washington, D.C., December 10, 1971.
The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: Last July I informed you that for strictly personal reasons I could not continue in a full-time government position after this year. I want to advise you today that I must resign as Deputy Secretary of Defense effective December 13, 1971.

I will leave the Department of Defense with both regrets and a real sense of accomplishment. I have developed great admiration and respect for the men and women of the Department—military and civilian. Their dedication and personal competence is the Department's greatest source of strength and our best assurance of maintaining our national security.

Secretary Laird has built an excellent management team in the Department and I believe that its accomplishments have established this excellence. I have seen what I believe to be major forward steps, particularly in the fields of management, procurement and equal opportunity. I am sure these steps will help you in the years ahead in maintaining both a more economical and effective national defense. I am equally confident that this team will continue its effective implementation of your national security programs and will work closely and well with my successor.

I want to take this opportunity as a citizen and as Deputy Secretary of Defense to express my appreciation and admiration for the outstanding leadership you have provided to the nation and the Department of Defense. Under your leadership I have seen the Vietnamization program turn the nation from war to peace, seen great new initiatives in negotiations and in nation-to-nation contacts, and seen a basic restructing of national and international programs to recognize new realities and essential new priorities. You have established the basis for a generation or more of peace.

It has been a privilege and honor to serve you and to play a small role in assisting you in exercising American leadership for world peace and in supporting your determination that our nation remain both strong and free.

I want to emphasize that my decision to resign from a full time government position has been made for strictly personal reasons. I am, of course, available to assist you from private life in any way you may feel appropriate. I am certain the American people will re-elect you in 1972 so that you can continue your great work for peace and stability both at home and abroad. I want to help and will help in this important job of pointing out in coming months your accomplishments, your goals, and the importance of your re-election to the welfare not just of the United States, but to the entire Free World.

It has been the greatest honor of my lifetime to have served in your Administration. Your leadership, backed by courage, wisdom and understanding, has been magnificent. Thank you for the opportunity to serve my President and my country.

Respectfully yours,

DAVID PACKARD.

THE SECRETARY OF DEFENSE,
Washington, D.C., December 11, 1971.

DEAR DAVE: No one could regret more than I your resignation effective Monday as Deputy Secretary of Defense. I fully understand the personal matters involved. Barbara and I know more than anyone else in government of the great sacrifices you and Lu have made in order to serve our nation. I originally asked you to help me for two years, and I deeply appreciate your willingness to serve a full year beyond that.

You have been indispensable in helping me form the close-knit management team which has functioned so well at Defense these last three years. This team—as a result of the contribution you have made—will be able, I am sure, to carry forward its work in implementing the President's national security initiatives for peace. It is a major measure of your success that the team is strong and will be able to continue its progressive momentum even without the daily benefit of your counsel and decisiveness.

You and I recognize that we have not solved all the problems nor overcome all the challenges, but following your example we will continue to meet challenges head-on, to handle them forth-rightly and never to sweep them under the rug. You have led the Department to better management, better procurement, better planning, and to equal-opportunity accomplishments that point the way for every other American institution.

Your personal and unfailing commitment to honesty, realism and straight talk was a driving force behind our development of a new and better way of doing business in the Department of Defense. Indeed, you have been a rather unique phenomenon in Washington and, in my judgment, the best thing that has happened to the Department of Defense since it was established. I certainly will take full advantage of your characteristic offer of continued help.

I value greatly the contributions you have made to the successful Vietnamization program and the resulting transition of our country from wartime to peacetime. Your help was also instrumental in our work with the President and the Congress to eliminate inequities in the Selective Service System while resolutely moving toward our goal of Zero Draft calls.

Dave, you have been a leader and a friend. You have exercised clear, firm but always kind and fair guidance and leadership for all the men and women, military and civilian, of the Department of Defense. For all of them, thank you and Godspeed.

With best regards and many thanks for your great help and support these past 35 months.

——— ———.

THE WHITE HOUSE,
Washington, December 11, 1971.
Hon. DAVID PACKARD,
Deputy Secretary of Defense,
Washington, D.C.

DEAR DAVE: It is with the deepest regret that I accept your resignation, as you have requested, as Deputy Secretary of Defense, effective December 13, 1971.

Few men have given so much and so willingly to their country as you have for the past thirty-five months—and few have discharged their responsibilities with such distinction and excellence. In assuming this demanding position—at great personal and financial sacrifice—you demonstrated once again your commitment to effective public service and gave testimony to your belief that every American can and should contribute to the cause of good government.

Managing a vast array of exceedingly complex defense matters, you have shown outstanding judgment and uncommon ability, and have justly won the admiration and respect of your colleagues. Your wise counsel in vitally important national security questions has been of immense value to Mel Laird and to me, and I want you to know that these exceptional accomplishments have earned for you the Nation's gratitude.

As you return to private life, I am sure that each and every one of your many friends and associates here would want to join me in thanking you for a job superbly done and in wishing Lucile and you the happiness you so richly deserve.

Sincerely,

RICHARD NIXON.

A SIZEUP OF PRESIDENT NIXON

Mr. HART. Mr. President, scholarship, objectivity, and moderation do not mark every politician, and this is unfortunate.

But they are possessed in striking degree by the distinguished majority leader (Mr. MANSFIELD). This heightens the interest many will find in the interview with Senator MANSFIELD published in the U.S. News & World Report, reflecting the majority leader's impressions of the state of the Nation.

This interview captures to a great degree the quiet strength that is so characteristic of this man of the West. His insight, his profound appraisal of the world as he observes it are all expressed with the refreshing candor that has marked so well the long and outstanding career of MIKE MANSFIELD.

I call it to the attention of my colleagues here and ask unanimous consent therefor that it be printed at this point in the RECORD.

There being no objection, the interview was ordered to be printed in the RECORD, as follows:

A SIZEUP OF PRESIDENT NIXON

(Interview with MIKE MANSFIELD, Senate Democratic leader)

Q. Senator Mansfield, as the leader of the Democrats in the Senate, how do you get along with President Nixon?

A. We have a good relationship. It's not intimate because there is a line of demarcation between the two branches of the Government. But I have nothing but praise for our personal relationship. After all, I did serve with Mr. Nixon in the House and the Senate and have known him for a good many years, and I believe I have an awareness of the difficulties which are any President's.

Q. Do you regard this divided Government—one party controlling the Congress and the other the White House—as harmful to the country?

A. On the contrary, I think it's good for the country because it gives both sides a chance to be heard—with, of course, the preeminent power being in the hands of the President. It's a matter of co-operation and accommodation.

One thing that does disturb me is that when we in Congress offer amendments or substitutes in an effort to be helpful, it is sometimes—a good many times—looked upon as an adversary proceeding. I don't think this is the President's fault, but I think that is the attitude taken by some of his close advisers because they have the idea that maybe we're playing politics—that we're trying to undermine the President—when the exact opposite is true.

Q. Senator, how do you size up the 1972 presidential outlook? A few months ago you said Senator Edmund Muskie of Maine was the front runner for the Democratic nomination. Do you still feel that way?

A. Yes, I think Senator Muskie is the front runner, but I think the advantage he has is being dissipated as others come into the race, as tough questions arise and difficult answers are being given.

Since that time, also, I would say President Nixon has increased his prestige because of his foreign policy—even though there are disagreements between the two of us. Mr. Nixon has done something which no Democrat could do, and that was to accept an invitation to visit Mao Tse-tung and Chou En-lai in Peking. He has also accepted an invitation to go to Moscow.

Mr. Nixon has gotten the strategic-arms-limitation talks [SALT] under way with two minor successful agreements already reached and the possibilities fairly good, I would assume, of others being achieved. He has pursued, in my opinion, the right policy in the Middle East. He's tried to walk a line between the Arabs and the Israelis without getting us involved too much.

The President has brought about a reduction of something on the order of 1.1 million men in the armed forces. He has reduced the number of bases overseas by somewhere between 400 and 600. He has changed the direction of the Vietnamese war, the Indo-China war, from in to out—not fast enough to suit some of us, but in the right direction.

So I want to give the President credit. I think he's done, over all, extremely well in the field of foreign policy. In the field of domestic policy there are differences, but over all he hasn't done too badly. What he's trying in the field of the economy of this country is welcome—long overdue. Something should have been done a long time before it was done, but the old saying, "Better late than never," holds.

So I think that, over all, Mr. Nixon has done a good job, and it's made him stronger and, according to the latest polls, it appears that the people think so, too.

But there is a lot of time between now and next year. If this economic policy fails, he may fail with it. If something happens in the foreign-policy field, especially in Indo-China, which is not along the lines of the people's thinking, it may react against him, too.

The two big factors, I think, are the economy and Indo-China. And, of course, you also have the questions of drug addiction, crime, pollution, the ghettos, busing and so forth.

Q. Do you think President Nixon is going to be pretty tough to beat in 1972?

A. Yes.

Q. Between these two factors—the economic and the foreign—which do you expect to be predominant in deciding next year's election?

A. The economic, I think, because when you hit people in the pocketbook that's when they feel it.

Q. Do you believe the President's new economic policy was necessary?

A. Yes, I do. And I approve the way he announced it—the shock treatment—even though it did cause cries of anguish here and there. Something had to be done.

I recall speaking to the President a day or two after he made his August 15 speech, and he turned around to me and said, "If we had gone on for two weeks more without doing anything, the bottom would have dropped out of the dollar," or words to that effect.

Q. Is his program going to work?

A. It's hard to say. I think, all things considered, it's worked so far. It will depend on a good deal of cooperation among the membership of the boards, and a good deal of understanding on the part of the public, and a certain amount of courage on the part of the Congress.

Q. What do you mean by "courage on the part of Congress"?

A. That Congress will have to pass the necessary legislation which will hurt some groups and which will bring about adverse reactions. Members of Congress have to face up to it.

Q. Will big labor unions also have to face some hard decisions—and possibly some sacrifices?

A. Oh, yes—big labor, especially, because it will have the whip hand, and a great deal of responsibility will be on the labor members of the [Pay] Board. They will have to show statemanship and understanding.

Q. There seems to be some inclination in Congress to alter the economic program by changing the proposed tax and labor legislation. Is this helpful?

A. I think so. I don't think that the President sends things up and expects us—or at least he shouldn't—to just say, "Yes, sir." We have some pretty smart people down there in the Congress, in both Houses. I'm sure the President would be willing to consider reasonable compromises.

Q. Do you think he would have an easier time with a Republican-dominated Congress?

A. I don't know. He has troubles with his own party. The Republicans are split just as the Democrats. The answer is hard to say. What we have to consider is that the old Southern Democratic-Republican coalition has been on the way out gradually over a number of years. In its place has come a modern-Republican, liberal-Democrat coalition which seems to be getting stronger with each passing year.

Q. What is the purpose of changes that Congress may make in the President's wage-price controls? Will there be an effort to impose a time limit or restrict his authority?

A. It will be extended, whether it will be for six months or a year remains to be seen. There was some talk about letting it go until April next year. That seems to have died down. There was some talk about giving him just a six-month extension, so that we could come back next year and wouldn't leave it entirely in his hands, but that talk seems to have died down, too. I don't know what will happen.

My guess would be that he'll probably get the one-year extension which he desires on the Congress-initiated measures affecting wage-price-rent controls. After all, he said he never wanted the authority in the first place.

Q. Senator, turning to foreign affairs: What is your position on the war in Vietnam?

A. I have always been against the war in Vietnam and so stated to two Presidents before we became involved. I thought my position was pretty well known. I feel the involvement was a tragic mistake, that we have no vital interest in Southeast Asia. We involved ourselves when we didn't have to.

I think the greatest tragedy was the assassination of Ngo Dinh Diem. No matter what you think of him—and I thought highly of him—he did give South Vietnam stability, a degree of permanence and an ability to look forward. With his passing, we have had nothing but coup and U.S.-supported client Governments, but in the last analysis we have become a sort of client of South Vietnam. The Government there has, in effect, dictated in large part what we've done.

I think it was a mistake to get involved in Cambodia, to put so much into the Laotian incursion. We have a lot to answer for in the way of damage to a society and a culture: defoliation of land, creation of refugees, inflation of currencies, an increase in drug addiction, a decrease in the morale of our armed services. I think the only way is to get out and start anew.

We have to revive the Army. It is in a low state at the present time—and the Army is necessary. It should be accorded the dignity which it deserves—it must earn it, too. There are a lot of things that we have to do and, in effect, start doing from scratch.

I think that Vietnam is in large part responsible for the difficulties in which we find ourselves at home today.

Q. You have proposed setting a time limit on our withdrawal from Vietnam. Apparently, you don't agree with those who view this as congressional interference with a presidential prerogative—

A. Well, the President was one of those who figured that the Gulf of Tonkin Resolution wasn't necessary for him to carry on his activities in Southeast Asia. He bases his authority now on his position as Commander in Chief. There is a certain amount of validity there, but the Constitution also gives the Congress a certain amount of power in the carrying on of wars, and there's only one weapon left as far as we in Congress are concerned: That is the matter of appropriations.

Now, I can find no legal justification for going into Vietnam. I certainly disagree 100 per cent with what Lyndon Johnson interpreted as a mandate based on the Gulf of Tonkin Resolution. There is no justification whatsoever in that document for interfering in Indo-China. I think that what we're trying to do in Congress is to restore some of the powers which are ours legally under the Constitution but which we've given in a haphazard manner to Presidents, up to but not including Mr. Nixon, since the time of Franklin D. Roosevelt.

Q. Do you think Congress has sufficient information to act wisely on such questions?

A. I think that it needs more. But I have been impressed by the fact that, in many of these executive sessions which I have attended in the Foreign Relations Committee and in the Appropriations Committee, a lot which was supposedly secret wasn't really so secret. I had read it in newspapers—I would say 95 per cent.

There isn't so much secrecy any more in this world because modern communication has done a good deal to make knowledge more available, and the facts more discernible.

"PIQUE" WITH THE WHITE HOUSE

Q. Is there a certain irritation in Congress about executive secrecy that may be reflected in opposition to the President's domestic proposals?

A. No, I don't think so. There is a certain amount of pique and discontent because of the fact, for example, that a man like Henry Kissinger can invoke executive privilege and not come before us, and because, supposedly, there was a five-year plan by the Pentagon which was given publicity but, when we asked for it, executive privilege was invoked and we couldn't get the information.

We in Congress would like to know more. We have a responsibility. We understand that the President's responsibility is far greater than ours singly, but collectively we have a tremendous responsibility as well, and we have to answer to the people.

There are many in the Government who do not have to answer to anyone except perhaps the President or somebody else, and they're protected under executed privilege.

Q. Has the program of Vietnamization reached the point where South Vietnam can be expected to survive when we pull out?

A. Defense Secretary Melvin Laird seems to think so.

Q. Do you agree?

A. No, I don't agree to the extent that he implies, but I think that the South Vietnamese are about as well-prepared as they will ever be. They have an Army of about 1.1 million, and they have local militia forces and the like to fall back on. They are fairly well equipped and fairly well trained. They have been subsidized in large part for the past 17 years. They have suffered tremendous losses.

Vietnamization is something which no outsider could pass a judgment on, because whether it succeeds or fails will depend upon the Vietnamese themselves. It's their country, it's their future, it's their decision.

Q. Senator, how much foreign aid will South Vietnam need after we pull out our troops?

A. It's impossible to put a figure on it, but I think that all that area will need a good deal of assistance which I think should be forthcoming—not for the purpose of maintaining the military establishment, as I see it, but for the purpose of rehabilitating the country which has been destroyed and restoring some of the economy, so that the people who live there can look forward with some degree of assurance to the future.

Q. In the light of the Senate's recent action in rejecting the President's foreign-aid bill, what do you think is going to happen? Do you expect that foreign aid will be revived and continued pretty much as in the past 20 years?

A. No. I think we ought to return to the old concept of foreign aid, which could best be described, I think, in what used to be known as the Point Four Program—people-to-people assistance rather than Government-to-Government—because, I think, much of the Government assistance stays in the hands of the Government and doesn't get down to the people. Aid in the true sense is worthwhile, but aid the way it's been spread out and misinterpreted and used in late years, I think, has gone contrary to the basic tenets of the Marshall Plan and its immediate successors.

The ill and the hungry and the poor—those people ought to be helped. The underdeveloped countries should be given some assistance, but we have to change our methods and our procedures.

Q. Do you think the U.S. ought to be tougher in dealing with other countries?

A. Let me answer this way: I think we've taken too much for granted. We assumed a leadership mantle which we didn't want, didn't desire, but couldn't avoid. We came to look upon ourselves as the leaders of the free world, and other countries helped us to assume and to continue that image. In doing so, they created a feeling of dependency on us, which cost us a lot of money, a lot of manpower, a lot of responsibility.

I think as these countries came back—I'm thinking specifically of Western Europe, now—they should have assumed more of the burden, more of the responsibility. What the U.S. should have is not a position of leadership but a position of equality among peers.

"FACE UP TO REALITIES" ON AID

Q. Looking ahead a few years, do you foresee foreign aid expanding or contracting?

A. Contracting. And I would hope shifting more to a multilateral basis with an equitable sharing of responsibility. There will have to be some bilateral programs. We have certain obligations which would have to be met to the subsidiary organizations of the United Nations and the like, and certain unanticipated acts which have to be met—such as the Pakistan situation in East Bengal, or Bangla Desh as they call it now. The humanitarian aspects, I think, will continue to be met by this country, but even in doing so we will probably meet with difficulties in the administration of them.

Q. Will this mean underdeveloped countries will get less aid from the outside world, or will some other nations take up the slack when U.S. cuts back?

A. Less foreign aid on our part, more foreign aid on the part of the others. We have a debt which exceeds that of the rest of the nations of the world combined. We had a 23.5-billion-dollar deficit last year. We anticipate a 30-billion-dollar deficit this year, and Wilbur Mills [Democratic Representative from Arkansas and chairman of the House Ways and Means Committee] just lately indicated it could well be 35 billion.

I think we've got to do something about putting our own house in order and recognize that the days when the Lord had his arms around our shoulders all the time are gone. We have to mature and face up to the realities of the present. We are no longer young, we have our problems, and we are certainly not so wealthy as in the past.

Q. Realistically, do you see any prospect in the next couple of years that we will get back to a balanced budget?

A. No. I certainly do not. I don't know when we are going to get one.

Q. What does your mail tell you about the mood of the American people at this time?

A. That the people are very much fed up with foreign aid—at least in its present form, and some of them are fed up with foreign aid *in toto*. Some of them have been fed up with foreign aid from the very beginning. They never had any sympathy for it.

My mail shows a good deal of feeling that we ought to get out of Vietnam. That feeling has been growing for the past several years—changing from a feeling of, "Well, we have to see this through," to "Now, we've got to get out."

There's also a feeling that we ought to reduce our forces in Western Europe, where we've had too many troops for too long. And a feeling that we've got too many bases scattered throughout the world—something on the order of 2,000 I believe—a feeling that they're not needed.

There is a feeling that we Americans are spread too far, too wide, too thin, and that we ought to pay more attention to our difficulties at home and pay a proper amount of attention to our policies abroad.

Q. Do the people seem to be happy about anything?

A. No.

Q. Does your mail reflect strong support for economic controls, Senator?

A. What mail covers that area, yes, but there isn't too much mail on that. I think people are leaving it up to the Administration and the Congress to do what we can to get us out of the woods. People are disturbed about inflation, about high prices and about unemployment.

MOOD OF COUNTRY: "CONFUSED"

Q. How would you describe the mood of the country, generally?

A. It's a cynical, uneasy, confused mood—a mood of what's the use, a mood of apathy, a mood that they can complain or they can petition but they won't be listened to.

Q. Is this different from, say, five years ago?

A. Yes. And I think that it's very marked among the youngsters today. That's one reason why I'm delighted that they have the vote, to give them a piece of the action, as I think they'd say.

You get youth interested and involved in participatory politics—give them some say in the Government—and perhaps they'll change us around a little bit. They are not living in the past, they are not tied to vested policies which were good a decade or two decades ago. They're living today and looking to the future, and they've got lots of questions on their minds. For a fellow like me it's hard to answer some of their questions.

Q. Do you feel this present mood is only cyclical—temporary—or is it going to take something rather dramatic to get the country out of this mood?

A. It's probably a cyclical thing, but if disappointments and apprehensions keep on piling up, it could be something more difficult.

Q. Senator, almost anything you say attracts a lot of public attention because you are the Senate Democratic Leader. To what extent are you speaking for the Democratic Party—and to what extent do you speak only for yourself?

A. Most often I speak just for myself, because before I am the Majority Leader I'm a Senator from the State of Montana. That is my primary job and I've never lost sight of that fact, because if it wasn't for the people out there I wouldn't be back here. As far as the leadership is concerned, that's a job that somebody has to occupy.

We have tried to make the Senate Democratic Policy Committee a true policy committee rather than a rules committee in the sense that the Rules Committee operates in the House. All legislation goes through the Policy Committee before it goes to the floor. But since a Republican Administration came in, we've also been trying to develop segments of policy, subject to the approval of at least two thirds of the Policy Committee and the support of the caucus of all Democratic Senators.

You may recall that one of the first things the Policy Committee did at the beginning of this Congress was to bring forth a resolution, which it presented to the caucus, seeking to bring about a termination of the conflict in Vietnam during the life of this Congress. That was agreed to.

The Policy Committee also unanimously approved the national-commitments resolution several years ago which sought to retrieve a certain amount of power which the Senate had lost under previous Administrations—Democratic, primarily.

We unanimously agreed to a change in the tax structure three years ago which the caucus approved.

We have been interested in campaign reform—contributions and the like. And we have brought those matters up in the Policy Committee—had them agreed to and brought them before the caucus and the Senate. So we are trying to work in the field of national policy, but we are doing it carefully. We are doing it, we hope, constructively. We are not doing it with the idea of politics in mind but to be of assistance to the Administration while at the same time recognizing that we are exercising our responsibilities as well. It's worked out fairly well so far.

Q. What contact do you have in that regard with the Democratic National Committee and the Democratic Policy Council?

A. Hardly any, I meet with them once in a while, as when they call down all the candidates and a declaration is made to save the barbs for the Republicans. We operate in the Senate as an independent, elected unit. Our contacts with the House are not as close by any means as they were when Lyndon Johnson was Senate Majority Leader and Sam Rayburn was Speaker of the House. When the need arises, we do get together with the House; there is nothing continuing about that.

Q. Is the present relationship between the House and Senate leadership better or worse, in your judgment, than that very close relationship that existed in the Johnson-Rayburn era?

A. It's hard to say, because that was a very close relationship—a sort of father-son relationship between the Speaker and Lyndon, going back a long time. Now it's a different relationship—not as close, but good—understanding, and accommodating.

Q. Do things get done as expeditiously under the present system as they did then?

A. I think so. I think that the record of the past 11 years in the Senate will stand up with the record of any other 11 years in history. The Senators are treated more as equals. The low men on the totem pole happen to be Scott [Senate Republican Leader Hugh Scott of Pennsylvania] and Mansfield, because we are the leaders of our parties.

There is so much power in the hands of an individual Senator that any Senator could turn us off any time he really sets out to do so. So far they haven't done that. I think part of the reason lies in the fact that we try to treat other Senators as we would like to be treated. We don't try to step on their prerogatives or interfere with their responsibilities.

When the Senate is acting on a bill, I make way for the chairman of the committee that handled that bill, let him sit in the Leader's chair while I take my place as a Senator.

RATING THE WORK OF CONGRESS

Q. How would you evaluate the record of this session of Congress?

A. Reasonably good. I think we've made good progress in many fields. I would be averse to evaluating the record of the Congress on the basis of one session in two. I would wait until the whole two years of the 92nd Congress was completed in 1972 before rendering a judgment.

Q. As you look back, are there any disappointments—measures that you thought should get through this year that haven't?

A. No. I think we've been pretty lucky this year. Neither the Administration nor the Senate has gotten all that it wanted in all these bills, but there's enough room for compromise in all those which passed to bring about an accommodation.

Q. Earlier in the year the Administration was pressing very hard for such measures as revenue sharing, Government reorganization, welfare reform, and so on. What has happened on these—are they dead?

A. Well, the Government-reorganization bill, of course, was pie in the sky. I approved what the President advocated, a tremendous overhaul of the Government structure, but it was asking for too much at once. In all these areas you have got to figure the interests behind them and the delaying tactics, the pressures, the postponements that they will be able to put into effect.

As far as welfare reform is concerned, the President is, in part, responsible for the delay, because when he made his speech, on August 15, I believe, announcing a new economic policy, he indicated at that time that revenue sharing and welfare reform could be postponed. Then he caught himself, and came back a couple of weeks later and said, well, he didn't mean they shouldn't be considered this year, but that the committees ought to go ahead. With this new tax package coming in, with the need for prompt action, that was naturally set aside in order to comply with the President's wishes.

In the field of revenue sharing, we have nothing out of the House yet, so the Senate is in no position to act until the House acts—based on the precedents down through the decades.

Welfare reform—it won't be acted on this year by the [Senate Finance] Committee. But I have talked to Senator Russell Long [Democrat, of Louisiana] several times and other members of the Committee. They have assured me that they will get a bill out, hopefully, sometime around the first or the middle of February. Furthermore, the date the President asked for that act to take effect is a long way off—somewhere in 1973.

Q. Do you foresee many of these measures being enacted next year?

A. Yes, I do. I see a welfare-reform act of some kind. Frankly, I have some questions about the payment of $2,400—some of the members want to raise it to $5,500. I am trying to keep an open mind, but it's kind of hard to accommodate to the idea of just giving out that much in cash as a subsistence payment.

Something has to be done in welfare—something will be done. What the final form of the bill will be, I do not know.

Q. What about strike-control legislation?

A. I would say that unless things reach a crisis the chances are not very good for its passage.

SENATE ABSENTEEISM DISTURBS ME

Q. Senator, you've talked about the high rate of absenteeism at Senate meetings during this last session. Won't next year pose an even bigger problem with the primaries, party conventions and general elections? Is there a danger that important legislation may be caught in a logjam, and not much may be accomplished in the next session?

A. Yes, it's a possibility. We'll have to try and get as much of it as we can out of the way as early as we can next year.

As the months disappear, the problem of absenteeism is going to become more difficult. It's a situation which disturbs me because it isn't just the presidential candidates—they have reasonably good attendance records—it's also other Senators who go out and accept engagements.

I have been disturbed at the falloff of Senate attendance at the beginning of the week and at the end of the week. One thing I don't want to see is the Senate turned into a Tuesday-to-Thursday club. We are paid to operate at least five days a week—six when needed—and our primary responsibility, whether we are running for the Presidency or going out to make a speech, is in the Senate, because that's what the people expect of us and that is what we should expect of ourselves.

Q. Is there any way to avoid the election-year conflict of politics and legislation?

A. Senator George Aiken [Republican, of Vermont] and I have introduced a constitutional amendment seeking to establish a one-term, six-year Presidency. We did so with the idea that that would relieve the President of much of the political worries which are inherent in his job at the present time as head of the party, and allow him to spend more of his time in the interest of the nation as a whole, regardless of party.

I'd like to see a close relationship between the Congress and the President. And I would like to see the President, especially if he comes from the Congress as the last three Presidents have, consult more—if not with the appropriate committees, though I think that's necessary, then certainly with old friends—because regardless of politics, the Senate wants a President to succeed. If he is a good President we all benefit, if he turns out poorly we all suffer.

The reason I feel so keenly about this, for example, is that men like Senator John Stennis [Democrat, of Mississippi] and the late Senator Richard Russell [Democrat, of Georgia] warned President Johnson before we got involved in Vietnam and urged him not to get involved there. When they are dealing with a member of Congress, Presidents are dealing with someone who is a lot closer to the people than appointees around a President.

The isolation of a President is understandable. There is a line of differentiation between the executive and legislative branches. The President gets surrounded by people whom he appoints. Kennedy, for example, had McGeorge Bundy, Johnson had Walt Rostow and Nixon has Henry Kissinger. These are all good men. They are devotees of the President, and that's understandable. All have a great amount of influence on the President's thinking because they are at his elbow all the time.

When you look down to the other end of Pennsylvania Avenue, in Congress a President also has old friends in both parties who wish him well, who might be able to give him good advice, who want to be helpful regardless of party.

So I would hope there would be a closer contact between the executive and legislative branches.

Q. Is Mr. Nixon more isolated, do you think, than the Presidents before him?

A. I think so. Nixon is not an extrovert. Quite the opposite—he's a lonely man. He isn't outgoing. He's aware of the tremendous power and responsibility. Maybe at times that makes him insecure, as I think it does most Presidents and the rest of us.

But he does go off by himself. He does take his lawyer's pad with him and writes notes. He does try to arrive at a good conclusion. I really feel sympathetic for any President.

Beyond the Presidency and beyond the Congress are the people. They haven't got anywhere else to turn except to us. I hope we never let them down. I hope we always understand one another—the Congress on the one hand and the President on the other—and that we work more together and less apart.

"ONLY A NIXON" COULD GO TO CHINA

Q. In your talks with Mr. Nixon, have you noted any change in his way of working and thinking since he has become President?

A. Oh, I think he's broadened out considerably from his days in the House and the Senate. He's his own man at last—that's one thing—which he wasn't as Vice President.

I recall my first breakfast with him in February, '69—he had just been inaugurated the month before—and at that time he brought up the question of his interest in China and the Far East. He said he always had a lifelong interest in that part of the world—understandable from a Californian. He outlined what he was going to do: that he was going to lift the primary and secondary boycott, which had been in effect since '51—we were the only nation which enforced the two; that he was going to try to broaden the spectrum of people who could go to China if they could get visas from Peking, and that he was going to try for more talks at Warsaw seeking to bring about a better understanding and accommodation.

Mr. Nixon said: "You can't ignore China, it's too big. It's there. You have to live with it." He said that at the appropriate time he'd see if he couldn't do something about placing China in the same status as other Communist countries in the area of nonstrategic goods. He never said anything about a trip to China, except that he would like to go. But then I dont think he expected to go. So I knew nothing about this until he made that four-minute speech to the nation which I thought was the most information-packed speech any President has ever made in recent times.

I am delighted he's going. As I said before, only a Republican, perhaps only a Nixon, could have made this break and gotten away with it. Even now he's getting some flak from his own people, but it was a move which had to be made.

I wish him well. I don't expect anything very much to come out of it. But the first step is the longest one, and the mere fact that they are getting together bodes better for the future and will perhaps bring about a greater recognition of the difficulties which confront all the peoples of the world.

I would hope that out of these meetings in Peking and Moscow it would be possible at an appropriate time to have some sort of more general disarmament conference or meeting among the five interested powers having to do with nucelar weapons.

NATO IS VITAL

Q. Senator, are you still trying to get a reduction in American troop commitments in Europe?

A. Oh yes, because I think that 305,000 troops—four and one third divisions—and 225,000 dependents in Europe a quarter of a century after the end of the second World War is too much for too long. When they were sent over it was fine because Europe was prostrate. They fitted in nicely after the Marshall Plan. Now Europe is in better shape, economically speaking, than we are, and in a position to resume its proper role in sharing the burdens.

What I would like to see is a graduated reduction over a period of years. Where you have 128 generals and admirals—one for about every 2,500 men—you have a superabundance. When you have headquarters piled one or top of the other as in Germany, you have a superabundance. When you have a naval headquarters in London which is maintained, I think, more for show and prestige purposes, then I think it's time to re-evaluate the situation.

I must make it very plain: I believe in NATO [North Atlantic Treaty Organization], I think it is the vital treaty as far as we're concerned. But I do think there ought to be a reduction of our troop contributions. I do think that a reduced Army with fewer dependents would not only be leaner but more effective and have greater morale, because the same problems that affect us in Vietnam affect us in Germany: racism, drug addiction, low morale, poor quarters and the like. And I want to reiterate: the Army is vital to this nation, to our kind of democracy, and I want to see the Army revived, rebuilt and rejuvenated.

EXECUTIVE SESSION

THE ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now go into executive session to vote on three treaties.

NICE AGREEMENT, AS REVISED, CONCERNING THE INTERNATIONAL CLASSIFICATION OF GOODS AND SERVICES TO WHICH TRADEMARKS ARE APPLIED

The ACTING PRESIDENT pro tempore. The clerk will read the resolution of ratification relating to Executive M, (91st Congress, 2d session), the Nice Agreement.

The assistant legislative clerk read the resolution of ratification, as follows:

> *Resolved (two-thirds of the Senators present concurring therein)*, That the Senate advise and consent to the accession to the Nice Agreement Concerning the International Classification of Goods and Services to Which Trademarks Are Applied, signed June 15, 1957, together with an English translation thereof, and a certified copy of that Agreement as revised at Stockholm July 14, 1967, together with an English translation thereof (Ex. M. 91–2).

The ACTING PRESIDENT pro tempore. The question is, Will the Senate advise and consent to the resolution of ratification? The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from Texas (Mr. BENTSEN), the Senator from Georgia (Mr. GAMBRELL), the Senator from Alaska (Mr. GRAVEL), the Senator from Oklahoma (Mr. HARRIS), the Senator from Indiana (Mr. HARTKE), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Maine (Mr. MUSKIE), the Senator from Connecticut (Mr. RIBICOFF), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that, if present and voting, the Senator from Connecticut (Mr. RIBICOFF), the Senator from California (Mr. TUNNEY), and the Senator from Minnesota (Mr. HUMPHREY) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Utah (Mr. BENNETT) and the Senator from South Dakota (Mr. MUNDT) are absent because of illness.

The Senator from Oklahoma (Mr. BELLMON), the Senator from Tennessee (Mr. BROCK), the Senator from Massachusetts (Mr. BROOKE), the Senator from Nebraska (Mr. CURTIS), the Senator from Hawaii (Mr. FONG), the Senator from Arizona (Mr. GOLDWATER), the Senator from New York (Mr. JAVITS), the Senator from Illinois (Mr. PERCY), the Senator from Delaware (Mr. ROTH), the Senator from Ohio (Mr. SAXBE), the Senator from Maine (Mrs. SMITH), the Senator from Vermont (Mr. STAFFORD), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

If present and voting, the Senator from Massachusetts (Mr. BROOKE), the Senator from Nebraska (Mr. CURTIS), the Senator from Hawaii (Mr. FONG), the Senator from Illinois (Mr. PERCY), and the Senator from Maine (Mrs. SMITH) would each vote "yea."

The yeas and nays resulted—yeas 75, nays 0, as follows:

[No. 452 Ex.]

YEAS—75

Aiken
Allen
Allott
Baker
Bayh
Beall
Bible
Boggs
Buckley
Burdick
Byrd, Va.
Byrd, W. Va.
Cannon
Case
Chiles
Church
Cook
Cooper
Cotton
Cranston
Dole
Dominick
Eagleton
Eastland
Ellender
Ervin
Fannin
Fulbright
Griffin
Gurney
Hansen
Hart
Hatfield
Hollings
Hruska
Hughes
Inouye
Jackson
Jordan, N.C.
Jordan, Idaho
Kennedy
Long
Magnuson
Mansfield
Mathias
McClellan
McGee
McGovern
McIntyre
Metcalf
Miller
Mondale
Montoya
Moss
Nelson
Packwood
Pastore
Pearson
Pell
Proxmire
Randolph
Schweiker
Scott
Sparkman
Spong
Stennis
Stevens
Stevenson
Symington
Taft
Talmadge
Thurmond
Tower
Williams
Young

NAYS—0

NOT VOTING—25

Anderson
Bellmon
Bennett
Bentsen
Brock
Brooke
Curtis
Fong
Gambrell
Goldwater
Gravel
Harris
Hartke
Humphrey
Javits
Mundt
Muskie
Percy
Ribicoff
Roth
Saxbe
Smith
Stafford
Tunney
Weicker

The ACTING PRESIDENT pro tempore. On this vote the yeas are 75 and nays are 0. Two-thirds of the Senators present having voted in the affirmative, the resolution of ratification is agreed to.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent to proceed for 1 minute.

The ACTING PRESIDENT pro tempore. Without objection, the Senator from West Virginia is recognized.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent, at the direction of the distinguished majority leader, that the time on each of the next two rollcall votes be limited to 10 minutes, rather than the usual 15 minutes, and that the warning bell sound midway.

May I say at this point, before the Chair puts the question, that there will be no more rollcall votes today, following these next two rollcalls.

One further item, Mr. President. The Senate will not convene until 12 o'clock noon on Monday next.

Mr. GRIFFIN. Mr. President, reserving the right to object, and I shall not object, I wonder if, following the next vote, there might be a 2-minute period within which the leadership could give any further advice that they might be able to give us about what might happen on Monday.

The ACTING PRESIDENT pro tempore. Is there objection to the request of the Senator from West Virginia? The Chair hears none, and it is so ordered.

LOCARNO AGREEMENT ESTABLISHING AN INTERNATIONAL CLASSIFICATION FOR INDUSTRIAL DESIGNS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will proceed to vote on Executive I, 92d Congress, first session, the Locarno Agreement establishing an international classification for industrial designs. The resolution of ratification will be stated.

The assistant legislative clerk read as follows:

> *Resolved (two-thirds of the Senators present concurring therein)*, That the Senate advise and consent to the ratification of the Locarno Agreement Establishing International Classification for Industrial Designs, signed October 8, 1968 (Ex. I, 92–1).

The ACTING PRESIDENT pro tempore. The question is, Will the Senate advise and consent to the resolution of ratification? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from Texas (Mr. BENTSEN), the Senator from Georgia (Mr. GAMBRELL), the Senator from Alaska (Mr. GRAVEL), the Senator from Oklahoma (Mr. HARRIS), the Senator from Indiana (Mr. HARTKE), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Maine (Mr. MUSKIE), the Senator from Connecticut (Mr. RIBICOFF), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that, if present and voting, the Senator from Connecticut (Mr. RIBICOFF), the Senator from California (Mr. TUNNEY), and the Senator from Minnesota (Mr. HUMPHREY) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Utah (Mr. BENNETT) and the Senator from South Dakota (Mr. MUNDT) are absent because of illness.

The Senator from Oklahoma (Mr. BELLMON), the Senator from Tennessee (Mr. BROCK), the Senator from Massachusetts (Mr. BROOKE), the Senator from Nebraska (Mr. CURTIS), the Senator from Hawaii (Mr. FONG), the Senator from Arizona (Mr. GOLDWATER), the Senator from New York (Mr. JAVITS), the Senator from Illinois (Mr. PERCY), the Senator from Delaware (Mr. ROTH), the Senator from Ohio (Mr. SAXBE), the Senator from Maine (Mrs. SMITH), the Senator from Vermont (Mr. STAFFORD), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

If present and voting, the Senator from Massachusetts (Mr. BROOKE), the Senator from Nebraska (Mr. CURTIS), the Senator from Hawaii (Mr. FONG), the Senator from Illinois (Mr. PERCY), and the Senator from Maine (Mrs. SMITH) would each vote "yea."

The yeas and nays resulted—yeas 75, nays 0, as follows:

[No. 453 Ex.]

YEAS—75

Aiken
Allen
Allott
Baker
Bayh
Beall
Bible
Boggs
Buckley
Burdick
Byrd, Va.
Byrd, W. Va.
Cannon
Case
Chiles
Church
Cook
Cooper
Cotton
Cranston
Dole
Dominick
Eagleton
Eastland
Ellender
Ervin
Fannin
Fulbright
Griffin
Gurney
Hansen
Hart
Hatfield
Hollings
Hruska
Hughes
Inouye
Jackson
Jordan, N.C.
Jordan, Idaho
Kennedy
Long
Magnuson
Mansfield
Mathias
McClellan
McGee
McGovern
McIntyre
Metcalf
Miller

Mondale
Montoya
Moss
Nelson
Packwood
Pastore
Pearson
Pell
Proxmire
Randolph
Schweiker
Scott
Sparkman
Spong
Stennis
Stevens
Stevenson
Symington
Taft
Talmadge
Thurmond
Tower
Williams
Young

NAYS—0

NOT VOTING—25

Anderson
Bellmon
Bennett
Bentsen
Brock
Brooke
Curtis
Fong
Gambrell
Goldwater
Gravel
Harris
Hartke
Humphrey
Javits
Mundt
Muskie
Percy
Ribicoff
Roth
Saxbe
Smith
Stafford
Tunney
Weicker

The ACTING PRESIDENT pro tempore. On this vote, there are 75 yeas and no nays. Two-thirds of the Senators present and voting having voted in the affirmative, the resolution of ratification is agreed to.

PROGRAM

Mr. GRIFFIN. Mr. President, I ask to be recognized for 1 minute.

The ACTING PRESIDENT pro tempore. The Senator from Michigan is recognized.

Mr. GRIFFIN. Mr. President, I ask the leader what the chances are for adjournment on Monday.

Mr. MANSFIELD. Mr. President, that is a question I cannot answer. All I can do is lay out the schedule.

There will be a conference report on the Federal credit unions and interest rates on insured mortgages. Those are two we thought we would get this afternoon. They will be taken up on Monday. They are ready.

There also will be a conference report, hopefully, on defense appropriations; but the House must act first.

There will be a conference report on District of Columbia appropriations. The conferees are now meeting. The House must act first.

There will be a continuing resolution having to do with foreign aid. The House must act first. We do not know in what form it will be.

There will be a conference report on phase II of the economic proposal, and that should be ready on Monday; but we cannot act until we meet with the House. The Senate conferees have been ready to meet since early yesterday. So it is a difficult schedule. The last order of business will be the continuing resolution. There may be some debate on it because it is debatable and it is amendable.

Mr. SCOTT. Mr. President, if the distinguished majority leader will yield further, as he has noted, we do not yet know the form in which the continuing resolution for foreign aid will reach us from the other body. It is my personal hope that it will be a continuing resolution in the area of extension of $2.67 billion; but whatever it is we would hope that the Senate would accept the resolution that the House sends over, rather than making such drastic changes as would compel loss of the resolution altogether because, in my mind, it is better to have some bill than no bill, yet there would be no bill if we were to embroil ourselves in debate during the Rams-Redskins game on Monday night and thereafter.

Mr. MANSFIELD. I understand that there will be some discussion. There may be some amendments. So far as I am concerned, I want the whole Senate to know, as the joint leadership knows, that it is my intention to vote against the continuing resolution in any way, shape or form.

Mr. AIKEN. Mr. President, may I ask a question of the distinguished minority leader at this time? If there is no continuing resolution and we adjourn sine die, does he think the President would call the Senate back into session?

Mr. SCOTT. It is my judgment, if there is no continuing resolution, that Congress is likely to be called back by the President.

A continuing resolution to do away with pay raises to pay salaries to people to do no work, that, too, I think would be highly objectionable and would put the Senate, I think, in a not responsible position. If we are not going to have any program for them to administer, there is not much point in having——

Mr. PASTORE. Mr. President, I yielded 1 minute, but now this is going too far.

The ACTING PRESIDENT pro tempore. The 1 minute has expired.

Mr. MANSFIELD. Five minutes ago.

Mr. PASTORE. Mr. President, I call for the regular order.

PROTOCOL RELATING TO AN AMENDMENT TO THE INTERNATIONAL CIVIL AVIATION CONVENTION

The PRESIDING OFFICER (Mr. HUGHES). Under the previous order, the next resolution of ratification is in order, which the clerk will state.

The assistant legislative clerk read as follows:

> *Resolved (two-thirds of the Senators present concurring therein)*, That the Senate advise and consent to the ratification of a Protocol dated at New York, March 12, 1971, relating to an Amendment to the Convention on International Civil Aviation (Ex. K, 92–1).

Mr. MANSFIELD. Mr. President, this will be the last vote of the day.

The PRESIDING OFFICER. The question is: Will the Senate advise and consent to the resolution of ratification on Executive K (92d Cong., first sess.), the protocol relating to an amendment to the International Civil Aviation Convention.

On this question the yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from Texas (Mr. BENTSEN), the Senator from Georgia (Mr. GAMBRELL), the Senator from Alaska (Mr. GRAVEL), the Senator from Oklahoma (Mr. HARRIS), the Senator from Indiana (Mr. HARTKE), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Maine (Mr. MUSKIE), the Senator from Connecticut (Mr. RIBICOFF), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that, if present and voting, the Senator from Connecticut (Mr. RIBICOFF), the Senator from California (Mr. TUNNEY), and the Senator from Minnesota (Mr. HUMPHREY) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Utah (Mr. BENNETT) and the Senator from South Dakota (Mr. MUNDT) are absent because of illness.

The Senator from Oklahoma (Mr. BELLMON), the Senator from Tennessee (Mr. BROCK), the Senator from Massachusetts (Mr. BROOKE), the Senator from Nebraska (Mr. CURTIS), the Senator from Hawaii (Mr. FONG), the Senator from Arizona (Mr. GOLDWATER), the Senator from New York (Mr. JAVITS), the Senator from Illinois (Mr. PERCY), the Senator from Delaware (Mr. ROTH), the Senator from Ohio (Mr. SAXBE), the Senator from Maine (Mrs. SMITH), the Senator from Vermont (Mr. STAFFORD), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

If present and voting, the Senator from Massachusetts (Mr. BROOKE), the Senator from Nebraska (Mr. CURTIS), the Senator from Hawaii (Mr. FONG), the Senator from Illinois (Mr. PERCY), and the Senator from Maine (Mrs. SMITH) would each vote "yea."

The yeas and nays resulted—yeas 75, nays 0, as follows:

[No. 454 Ex.]

YEAS—75

Aiken
Allen
Allott
Baker
Bayh
Beall
Bible
Boggs
Buckley
Burdick
Byrd, Va.
Byrd, W. Va.
Cannon
Case
Chiles
Church
Cook
Cooper
Cotton
Cranston
Dole
Dominick
Eagleton
Eastland
Ellender
Ervin
Fannin
Fulbright
Griffin
Gurney
Hansen
Hart
Hatfield
Hollings
Hruska
Hughes
Inouye
Jackson
Jordan, N.C.
Jordan, Idaho
Kennedy
Long
Magnuson
Mansfield
Mathias
McClellan
McGee
McGovern
McIntyre
Metcalf
Miller
Mondale
Montoya
Moss
Nelson
Packwood
Pastore
Pearson
Pell
Proxmire
Randolph
Schweiker
Scott
Sparkman
Spong
Stennis
Stevens
Stevenson
Symington
Taft
Talmadge
Thurmond
Tower
Williams
Young

NAYS—0

NOT VOTING—25

Anderson
Bellmon
Bennett
Bentsen
Brock
Brooke
Curtis
Fong
Gambrell
Goldwater
Gravel
Harris
Hartke
Humphrey
Javits
Mundt
Muskie
Percy
Ribicoff
Roth
Saxbe
Smith
Stafford
Tunney
Weicker

The PRESIDING OFFICER (Mr. HUGHES). On this vote the yeas are 75 and nays 0. Two-thirds of the Senators present and voting having voted in the affirmative, the resolution of ratification is agreed to.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the President be notified of the agreement of the Senate to the resolutions of notification.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the Senate return to the consideration of legislative business.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL PERIOD FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. BYRD of West Virginia. Mr. President, I ask that there again be a period for the transaction of routine morning business, with statements therein limited to 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ACUTE FINANCIAL PRESSURE ON MANY SCHOOL DISTRICTS OF THE NATION

Mr. EAGLETON. Mr. President, I would like to bring to the attention of the Senate a bill that has passed the House of Representatives and is now pending before the Committee on Labor and Public Welfare. The bill—H.R. 11809—was introduced by Representative Pucinski of Illinois.

The purpose of the bill is to relieve the acute financial pressure affecting a great many school districts throughout the country because of the transfer of property from the General Services Administration to the newly created U.S. Postal Service. As a consequence of this transfer, children who have in the past been considered federally connected for purpose of Public Law 874—the impact aid program—no longer qualify as such and the schools that they attend are no longer eligible to receive Federal funds on their behalf under the impact aid program.

The Pucinski bill would authorize a 2-year grace period for these school districts in order to permit them to receive Federal funds which they already have budgeted for the coming year and to permit 1 additional year for an orderly phaseout of this portion of the impact aid funding.

Mr. President, I call the attention of the Senate to a tabulation I had printed in the Congressional Record of November 19, 1971, on pages 42298–42299 where I listed the various school districts of this Nation that are affected financially.

Let me say that the Senator from Illinois (Mr. Stevenson) and I have talked with the Senator from Rhode Island (Mr. Pell), who is the chairman of the Subcommittee on Education, with the Senator from New Jersey (Mr. Williams), who is chairman of the full Committee on Labor and Public Welfare, and with the Senator from Colorado (Mr. Dominick), the ranking minority member of the Education Subcommittee. I believe all of us are of one mind; namely, that this bill should be given early attention when Congress reconvenes for the second session in the month of January.

The effect of the transfer of property under the GSA on these districts is severe and acute. It is more severe, perhaps, in Illinois than in any other State, although there is urgent need in my State of Missouri and perhaps in all other States as well.

I would hope that together with the Senator from Rhode Island, the Senator from Colorado, the Senator from New Jersey, the Senator from Illinois, and others, we could give attention to this matter when we reconvene for the second session.

Mr. STEVENSON. Mr. President, will the Senator yield?

Mr. EAGLETON. I yield.

Mr. STEVENSON. Mr. President, I commend the Senator from Missouri for introducing this bill and for his recognition of the serious financial difficulties faced by school districts all over the country.

The Senator mentioned Illinois. The Chicago Board of Education is faced with a $100-million deficit which could mean the shortening of the school year or a cutback of adult education services, health services, and a number of other programs for children and adults.

In view of the fact that many of the school districts are now formulating their budgets for 1972, would it not be very helpful to the school districts and school board members across the country if they had some assurance that Congress would act early in the year to make this impact aid money available, as it has been available in the past?

Mr. EAGLETON. The Senator from Illinois is absolutely correct. The school districts in this country are in the process of beginning to plan their next school year budgets, and rapidly the date is coming upon them when they will have to issue contracts to the teachers who are hired and to the other ancillary employees connected with the school system. Unless they work out, with some degree of certainty, how much money they will have available for all of these purposes, how can they say that they can fire the teachers unless they know that money will be forthcoming?

Mr. STEVENSON. Mr. President, two-thirds of all children included in the impact aid formula in the past have been children of Federal employees.

Is it not true also that the funds for impact aid, including in its base the children of Postal Service employees, have already been appropriated by Congress?

Mr. EAGLETON. The Senator is correct. The Senator is making a very important point that I did not make in my initial presentation. We are not talking about new money or a new appropriation or adding any further strain to the Federal budget. We are talking about money that has already been appropriated and earmarked for this purpose. It will not cost the Federal Government an additional penny over and beyond what they initially intended to spend.

Mr. STEVENSON. Mr. President, with the funds already appropriated and the bill passed in the House of Representatives, the only thing that remains is for the Senate to act on the bill introduced by the Senator from Missouri or upon the House bill introduced by Representative Pucinski.

I would like to ask the Senator from Rhode Island (Mr. Pell) whether he expects early action on this matter by his Subcommittee on Education and by the full Labor and Public Welfare Committee.

Mr. PELL. Mr. President, I had a chance to examine the bill, and it seems to make sense. I look forward to its being brought up for early consideration in the coming session by the subcommittee. I have had the opportunity to talk with the chairman of the full committee, the Senator from New Jersey (Mr. Williams).

It would seem, barring some unforeseen problems, that there would be no difficulty about making sure that the authorization would be made available before the session had proceeded too far.

Mr. STEVENSON. Mr. President, I thank the Senator from Rhode Island.

The PRESIDING OFFICER (Mr. Eagleton). What is the pleasure of the Senate? Is there further morning business? The Senator from Arkansas is recognized.

NO RETREAT ON MANSFIELD AMENDMENT

Mr. FULBRIGHT. Mr. President, I wish to comment very briefly upon an article in the New York Times today which, it seems to me, reflects upon the Senate and, particularly, upon the majority leader. The matter of foreign aid extension has been discussed here at great length, and I think the statement in the article that the Senate has been overridden and, in effect, has been rebuffed—I believe that is the language in the article in the New York Times—is not an accurate statement of fact.

The matter of how to deal with foreign aid legislation is not by any means concluded. It is true there have been extensive negotiations among the leaders of both Houses. The critical question here is the Mansfield amendment.

The article in the New York Times stated that Senator Mansfield has yielded all efforts to influence the administration of Vietnam policy. I will read one paragraph:

> In principle, Senator Mansfield can renew his fight when the continuing resolution expires in March. But, in the opinion of many in Congress, the bypassing of the Mansfield amendment probably marks the end of a serious Senate challenge to Mr. Nixon's Vietnam policies and at least a temporary retreat in the attempt by the Senate to assert a voice in the formulation of foreign policy.

I do not think that is an accurate statement of the situation. I do not think that Senator Mansfield has retreated and I know I am not retreating from any serious effort to influence the policies of this Government in Vietnam and in other areas.

I assume this matter will be brought up on Monday and that will be the proper time to discuss it. I will not delay the Senate this morning.

But I am certainly not satisfied with the procedure described in the article. What it is based upon, I do not know. I did not discuss or have any consultation with the writer of the article with respect to anything at all about it. I do not subscribe to it.

I want to state that I believe it is the responsibility of the Senate still to insist upon authorization legislation. The conference still has not broken up. We have not proceeded to a resolution of differences, but the bill before the conference is a very good bill in this area and I am still very hopeful we can prevail upon the House and the Senate to accept authorizing legislation before a substantial amount of money is made available for the continuation of this program.

I merely wanted to say that because I thought over the weekend there might be misapprehension in the minds of many people as to the status of this particular legislation.

AID TO PORTUGAL

Mr. FULBRIGHT. Mr. President, there is another article in the New York Times today that I wish to comment on. The article states that the United States has promised Portugal $435 million. It is reported that the Senator from New Jersey (Mr. CASE) objected to the procedure that has been followed, that is, the ignoring of the Senate and Congress, as far as I know—but certainly the Senate—in the negotiation of an agreement of this consequence and this size.

I think the administration should have submitted this agreement to the Senate for consideration. This is a very large amount of money and I am bound to say that the negotiation of agreements of this size without consultation with Congress is very disappointing and verges upon irresponsibility.

It seems to me that these people are not aware of the very serious financial conditions in this country. The programs referred to here are the kinds of programs that the people of my State and all the States are interested in, such as schools and hospitals.

The article states:

> The American commitment to finance the purchase in the United States of goods and equipment worth up to $400 million for Portugese development projects—ranging from town planning to the building of airports, highways, bridges, hospitals and schools—was described by State Department officials as conditional on the approval of each individual project application by the Export-Import Bank, an independent governmental agency.

Those are the very projects that are being held down, and are without funds in my State and, I believe, in all other States. I want to register my strong objection to the continuation of this program of financing abroad at concessional rates, and there are grants in this program, under the circumstances that exist in this country. We know about the impoundment of funds for highways, for example, and yet we are making money available for highways in Portugal. I cannot understand the continued granting of this kind of financing in the face of our own needs.

It seems to me that what we all know to be a fact with regard to our economy has not come to the attention of the people in the State Department and the executive branch. They must live in some kind of ivory tower that insulates them from the news of what is going on in this country.

I suppose they take the attitude that programs in this country are not their responsibility, but it is the responsibility of the Senate and I shall urge the Senate to try to bring some restrictions on this kind of agreement without consultation with the Senate.

Mr. President, I thought it was fair to say that before we recess for the weekend.

QUORUM CALL

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum. I assume this bill be the final quorum call today.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. HUGHES). Without objection, it is so ordered.

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS ON MONDAY

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that after the two leaders have been recognized on Monday, there be a period for the transaction of routine morning business for not to exceed 30 minutes, with statements limited therein to 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADJOURNMENT TO MONDAY, DECEMBER 13, 1971

Mr. BYRD of West Virginia. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 12 o'clock noon on Monday next.

The motion was agreed to; and (at 11 o'clock and 31 minutes a.m.) the Senate adjourned until Monday, December 13, 1971, at 12 o'clock meridian.

CONFIRMATIONS

Executive nominations confirmed by the Senate, December 11, 1971:

U.S. DISTRICT COURTS

Jon O. Newman, of Connecticut, to be a U.S. district judge for the district of Connecticut.

Arnold Bauman, of New York, to be a U.S. district judge for the southern district of New York.

Lee P. Gagliardi, of New York, to be a U.S. district judge for the southern district of New York.

William Terrell Hodges, of Florida, to be a U.S. district judge for the middle district of Florida.

Bruce M. Van Sickle, of North Dakota, to be a U.S. district judge for the district of North Dakota.

EXTENSIONS OF REMARKS

HUNTING ACCIDENTS

HON. LEE METCALF

OF MONTANA

IN THE SENATE OF THE UNITED STATES

Friday, December 10, 1971

Mr. METCALF. Mr. President, Montana Outdoors Editor John Willard of Billings has written another thoughtful piece about hunting accidents. In it he points out that, while a game hunter is in greater danger driving to and from his hunt than when in the field, there is still a job to be done on hunter safety programs.

Mr. Willard also finds "significant the lack of any real mandate to keep out of the field, even temporarily, a person who shoots another in a hunting accident."

I ask unanimous consent that Mr. Willard's article, published in the Billings, Mont., Gazette of December 5, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

CAR STILL MORE DANGEROUS THAN GUN

(By John Willard)

Notwithstanding the concern of hunter's wives, the chance of harm coming to her hubby is 67 times greater from wheels than from bullets.

Hunting accidents continue to take their toll, of course, and will as long as people are people. Last week reminded again that a hunting buddy can kill his partner as easily as some total stranger of whose presence he wasn't even aware. Such accidents date back 150 years to the day of Peter Cruzatte shot Captain Meriweather Lewis in a painful but not serious part of his anatomy while elk hunting in the Missouri river bottoms.

The fiddle-playing member of the Lewis and Clark expedition got off very lightly in view of the fact the senior officer spent several very uncomfortable days in the bottom of the boat and no court-martial ever was held on the subject. Today, there is about the same penalty for shooting someone in the field, unless there is proof which justifies action under general laws covering homicide, manslaughter and assault, the shooter faces no difficulty under fish and game statutes.

So, while the hazard in the field may be only about one-sixty-seventh that faced while tooling down the highway coming or going from hunting, there seems still to be some lack of teeth in punishment for carelesseness at the butt of a firearm.

Everyone should feel pleased that public firearms fatalities nationally during 1970 dropped 10 per cent from 1969, probably due mostly to good hunter safety programs, enriched somewhat by new money from arms taxes. This record was unmatched in other public accident categories.

Happily, Montana is one of the 16 states requiring safety training prior to first hunting licensing, but even states which have volunteer programs report good attendance in safety training classes. Montana also has a law requiring wearing of safety clothing while hunting, a law which has consistently been strengthened as hunter numbers increase.

What seems most significant is the lack of any real mandate to keep out of the field, even temporarily, a person who shoots another in a hunting accident. The penalty provision for violation of fish and game statutes or rules and regulations of the Fish and Game Commission includes authority for license revocation for 16 months from date of conviction. Since fish-game laws are silent on fatal and non-fatal accidents, the same silence pervades authority to deny the offender a second chance to maim or kill accidentally.

NORTHEAST KANSANS RESPOND TO QUESTIONNAIRE

HON. WILLIAM R. ROY

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Friday, December 10, 1971

Mr. ROY. Mr. Speaker, last July I sent a questionnaire to every resident of the Second District of Kansas, which comprises the northeast portion of the State. More than 10,000 persons responded, and I would like to share their views with you and my colleagues.

It is difficult to summarize something which involves thousands of persons and responses to multiple questions. Despite this, there are certain conclusions which can be drawn with some certainty from the results.

The residents of northeast Kansas want a speedier end of the war in Southeast Asia, a national health insurance program, and some form of wage and price controls.

They also would like to see smaller expenditures on foreign aid, defense, space and welfare, and larger sums spent on pollution control, health, education, and manpower training.

Writing last summer, more than half of the respondents—53.3 percent—expressed the desire to see the United States out of Southeast Asia by the end of this year. It appears they will be disappointed.

One in three favored the President's program of winding down the war. One in 20 wanted to stop withdrawals and stay to achieve a military victory.

Half the respondents—49.8 percent—favored a program of national health insurance "to cover the cost of medical expenses." One in three said no.

Roughly one in three—35.4 percent—approved of some form of wage and price controls, either across the board—25.4 percent—or on selected industries—10 percent. This was before the August 15 freeze was announced, of course.

One in six—16.2 percent—wanted tax reductions for individuals.

Two out of five—40.2 percent—felt legislation is needed to provide better availability of credit for rural areas, and I am pleased that Congress has acted in this regard this year.

Opinion was divided as to whether marketing order authority should be extended to any agricultural commodity if a majority of the producers approves of such an extension. One quarter of the respondents went on record each way, with one in three undecided.

On the question of national priorities, smaller expenditures for foreign aid were favored by 67.8 percent, on defense by 56 percent, on space by 53.3 percent, and on welfare by 49.5 percent.

Increased expenditures were called for on pollution control by 68.3 percent, on health by 49.5 percent, on education and manpower by 46.3 percent, on housing and community development by 39 percent, and on agricultural and rural development by 36.5 percent.

Only 4.3 percent wanted to spend more on foreign aid, and only 7 percent wanted to spend more on defense.

Forty-seven percent tabbed the economy when choosing issues of "most concern" to them. Social issues were named by 41.5 percent, foreign relations by 27 percent, health by 21 percent, the role of the Government by 20.3 percent, the military by 12.8 percent, and agriculture by 4.8 percent.

A feature of the questionnaire was that a large amount of space was provided for persons to comment, in their own words, as to their own view of the issues. Thousands of persons, many of whom might never otherwise have written, took advantage of this opportunity.

Throughout the questionnaire, responses were elicited from three persons per household, under the categories "his, hers, and young voter." This approach proved very successful, and often two or three persons responded on the same questionnaire.

I have been so pleased with the results that in the future, in addition to sending out another major questionnaire next year, I will include two or three questions and some room for individual comment in all of my districtwide mailings.

I think the questionnaire results are important in two vital respects: first, they show that people are interested, and given the chance, they will voice their opinions; secondly, that Kansans do want change in our society, a reordering of our national priorities.

Mr. Speaker, at this point I wish to present the complete and detailed results of my first districtwide constituent poll.

The results follow:

QUESTIONNAIRE RESULTS

THE ECONOMY

What do you think should be done to create a more healthy economy? Please rank those courses of action you feel would help the economy, beginning with No. 1 for the action you feel would be most helpful. (The figure listed is the percentage of persons who felt that action would be the No. 1 step to take.)

	Percent
Tax reductions for individuals	16.2
Tax reductions for business to invest and expand	5.2
Increased government spending	1.2
Reduced interest rates and expanded money supply for mortgages and other loans	11.7
Informal government pressure and voluntary restraints in wages and prices	9.0
Wage and price controls imposed on selected industries	10.0
Wage and price controls imposed across the board	25.4
Other, No answer	21.3

RURAL NEEDS

Do you favor extending marketing order authority to any agricultural commodity if a majority of the producers approve such extension?

	Percent
Yes	25.4
No	24.9
Undecided	33.2
No answer	16.5

Do you think legislation is required to provide a more adequate and flexible flow of money into rural areas to meet rural credit needs?

	Percent
Yes	40.2
No	31.9
Undecided	18.9
No answer	9.0

HEALTH CARE

It has been proposed that a national health insurance programs be established to cover the cost of medical expenses. Do you favor such a program?

	Percent
Yes	49.8
No	36.3
Undecided	9.3
No answer	4.8

THE INDOCHINA WAR

The United States should

	Percent
Immediately withdraw all troops from Southeast Asia	19.6
Speed withdrawal of troops, so that all are removed by the end of this year	33.7
Continue the "winding down" of the war and gradual removal of troops, as advocated by President Nixon, with 175,000 American servicemen still in Indochina at the end of the year	36.7
Stop troop withdrawals and stay in Indochina as long as necessary to achieve a military victory	4.5
No answer	5.5

NATIONAL PRIORITIES

[President Nixon has proposed Federal expenditures totaling $229 billion for the fiscal year which began July 1. The figures below are administration requests and the percentage of the budget for various items. Do you think Congress should allocate more (M), less (L), or the same (S) amounts? (NA= no answer)]

	M	L	S	NA
Defense	7.0	56.0	27.5	9.5
Social security	27.2	12.0	53.0	7.7
Health	49.5	11.3	29.3	10.0
Veterans benefits	28.8	11.8	48.5	11.0
Education and manpower	46.3	11.3	32.0	10.5
Transportation	26.0	24.5	37.3	12.3
Welfare	15.8	49.5	25.3	9.5
Agriculture and rural development	36.5	11.5	41.0	11.0
Housing and community development	39.0	15.8	35.0	10.3
Foreign aid	4.3	67.8	20.5	7.5
Space	12.0	53.3	27.3	7.5
Pollution control	68.3	8.0	17.5	6.2

What are the issues or problems of most concern to you?

	Percent
Economy	47.0
Social issues	41.5
Foreign relations	27.0
Health	21.0
Role of government	20.3
Military	12.8
Agriculture	4.8

TESTIMONY OF GOV. WENDELL ANDERSON BEFORE THE HOUSE PUBLIC WORKS COMMITTEE

HON. HUBERT H. HUMPHREY

OF MINNESOTA

IN THE SENATE OF THE UNITED STATES

Friday, December 10, 1971

Mr. HUMPHREY. Mr. President, our environment—the purity of our air, the cleanliness of our streams and lakes, the naturalness of our forests—is of concern to all public officials. And, all of us are for eliminating pollution—the only question is, "How sincere are we?"

Legislation that recently passed the Senate set up a mechanism to test that sincerity. This legislation proposed in law that our Nation should eliminate pollution by 1981. The House of Representatives has agreed with this goal.

On December 9, 1971, the Governor of Minnesota, Wendall Anderson, addressed himself in a realistic and forthright manner to pollution problem and to the goal of pollution elimination by 1981. In testimony before the House Public Works Committee, Governor Anderson noted that—

> We should have uniform standards of pollution control in all fifty States—tough, fair, standards, a set of meaningful and comprehensible rules that permit neither exception nor evasion.

I ask unanimous consent that Governor Anderson's statement be printed in the Record.

There being no objection, the statement was ordered to be printed in the Record, as follows:

TESTIMONY OF GOV. WENDELL R. ANDERSON OF MINNESOTA

This is a committee of experts. Your attention to the detail of pollution abatement is well known. On the single issue of an amendment to the Federal Water Pollution Control Act, this committee and the Senate have conducted seventy days of public hearings.

To the enormous body of material before you, and in light of your own commitment and expertise, what can be added by one governor who has held executive office less than a year?

I suggest that there is one insight which should be shared with you. I suggest that every governor in the country knows what is the greatest political barrier to effective pollution control. It is the threat of our worst polluters to move their factories out of any State that seriously tries to protect its environment. It is the practice of playing off one State against the other. It is the false but strident cry of the polluter that clean air and water mean fewer jobs.

Every governor in this country knows that when he tries to put some teeth into his State's antipollution laws, his efforts will be met by precisely these sort of threats.

My message to you today is this: The answer to threats is uniformity. The only way to stop polluters from political intimidation is to prevent them from raising the alternative of moving to a place where pollution is allowed. There should be no such place in this country. We can no longer tolerate the fact that the price of diligence is intimidation. We should have uniform standards of pollution control in all fifty States—tough standards, fair standards, a set of meaningful and comprehensible rules that permit neither exception nor evasion. Pollution does not stop at State boundaries, and neither must its regulation.

My testimony to you today is directed toward this end. I am grateful for the opportunity to suggest a number of particulars in which this committee might strengthen its legislation aimed at achieving rigorous and unform regulation for all the fifty States.

At the outset, let me state that all of us in Minnesota appreciate your dedicated and continuing effort to report before Congress recesses, a strong, enforceable, and carefully considered amendment to the Federal Water Pollution Control Act.

I am especially pleased that the House and Senate agree that our Nation should eliminate pollution through the "best available treatment" by 1981 and a "no-discharge" rule by effluent standards are absolutely essential.

By achieving the no-discharge rule, we will save not just our lakes and streams, but also the wasted resources that are dumped in them. As an example of this resource waste, I would point out that five billion dollars of copper alone are lost each year by discharge into our waters. This type of senseless resource loss most be considered in the cost analyses required by this legislation.

It is said that some polluters will move to other countries if the United States enacts strong national pollution control standards. This is still another form of environmental blackmail, and one which must be thwarted, too. The ransom is too high. I recently met with governors from Japan who are working hard to abate that country's pollution. The industrialized nations, who are this country's chief competitors, are also striving to control the spread of pollution within their own borders. The United States should move forward, too. If the efforts of other lands are not equal to our own, then we need not fear that our industry will as a consequence be placed at a competitive disadvantage in terms of production costs. This country is pefectly capable, should it be necessary, of insuring that our industry is protected against foreign pricing that is possible only through pollution.

I have been discussing the necessity for uniform standards, both within this country and on the international level as well. Until such uniformity is achieved, however, I think it is appropriate to mention one area in which there has been a rather dramatic conflict between two different sets of standards. I refer to the clash between State regulatory standards and those of the Atomic Energy Commission. I submit to you that when the regulatory standards of States and other non-Federal units of government are stronger and more protective of the public interest than those of the Federal Government that the State, and not the Federal, standards should be permitted to prevail.

This concept was incorporated in the original Muskie proposal last August, which affirms the States' authority to regulate atomic power plants if the appropriate State standards were stronger than those of the AEC. We believe that the States have this inherent right.

I think that my own State of Minnesota provides a good example of State standards far better equipped to protect our citizens than any standards yet proposed by the Federal Government. Minnesota's isotopic limits on radioactive material released to water are some 300 times to more than 100 million times more restrictive than the limits set by the AEC. This means that the people of Minnesota are showing a willingness to pay a few more pennies for their electricity, if this should be necessary in order eliminate potential risks to the health of their children. Surely citizens in other States must also be so inclined. The language in the original Muskie proposal would have affirmed States' right to maintain stronger standards than those of the AEC. I would urge that that language be restored.

The need for such restoration has been dramatically illustrated in Minnesota. Since this July, Minnesotans have encountered several low-level radioactive discharges from a nuclear generating plant owned by Northern States Power Company located on the Mississippi River at Monticello, Minnesota, 35 miles northwest of the Twin Cities. Some of these releases have resulted from malfunctions and others have been deliberate. The deliberate releases could have been reduced by the use of different operating procedures, or avoided completely by the utilization of holding tank facilities.

On November 19th of this year a deliberate discharge of radioactive material was released from the NSP plant in question. Three days were permitted to pass before an Atomic Energy Commission compliance inspection team arrived on the site. Three days. During this period, intolerably long considering the risk, there was some action taken to minimize the dangers of the radioactive discharge. But that action was taken by the state. The AEC inspection unit had not yet arrived at the plant.

I can cite another example of State preparedness being superior to that now offered by the Federal Government. States should also be allowed to enforce stronger marine boathead standards than those prescribed by the Federal Government. Minnesota recently passed a holding tank law. We fear, however, that our standards will be pre-empted by more lenient federal standards set pursuant to section 312(b) 1 and 312(f) 1. This can be remedied by deleting section 312(f) from the act. Or, the following can be inserted in lieu of section 312(f)3:

"(3) If the administrator is requested by the Governor of a State to adopt holding tank requirements to further protect and enhance the quality of specified waters within or bordering on the State, he shall by regulation completely prohibit the discharge from a vessel of any sewage (whether treated or not) into those waters."

Also, this act should provide funds for on-shore disposal and pump-out facilities where needed.

Also, I would hope that you would clarify for the record whether it is the intent of Congress to have the marine sanitation devices governed by effluent standards and the no-discharge rule provided for in title III. I believe title III should govern.

Just as the State and Federal governments should provide for a check on each other, citizens should be allowed to check the government. It is good, therefore, that both the House and Senate bills include a citizen's right to sue provision. This section (505) can be strengthened by allowing persons (the definition of which includes States) to sue the EPA administrator for all acts and not just for non-discretionary acts, as is now provided. Such a provision would protect the States and the public from arbitrary action by the EPA administrator and still allow the administrator to take any action that could be supported by reasonable and factual evidence. In addition, this would provide for judicial review of disputes arising between the States and the Environmental Protection Agency.

Persons bringing a citizen's lawsuit may be required to post a bond when seeking a temporary injunction or restraining order. This requirement is in conflict with Minnesota law which waives the bond when the State is seeking a temporary injunction. A bond, if required at all, should be limited by law so that citizens with legitimate grievances can afford to air them. In addition, if a bond protects the polluter from the improper granting of an injunction, a bond must also protect the citizen from an improper denial. If citizens are required to post bond in the one instance, the polluter should have to do go in the other.

I support the mandatory language in both the House and Senate bills that directs the EPA to turn the permit programs over to the States if they meet acceptable criteria. The States should be required to provide enough manpower to run a credible permit program, however, and that manpower should be free from any conflicts of interest.

If the States are to run the permit program, however, the EPA must have a veto over individual permits issued by the States. It is true that the House bill allows the Federal Government to review the State's total permit program, but once that program is approved by the Administrator it is extremely unlikely that such approval would be rescinded.

The EPA Administrator should not have to veto a State's total program just to get at permits granted improperly to a couple of polluters. So we still need a veto on individual permits to check those that are improperly granted, and this concept is already embodied for interstate waters in section 402(d)(2) of the House bill. The Administrator, if he exercises a permit application veto, should be required to do so within 60 days or the veto will be waived. This will have the effect of requiring him to focus on only those permits that involve significant problems and would provide a reasonable double check on this crucial part of the States' program.

The following reasons for such a check are apparent.

Suppose a State adopted a policy of approving more lenient permits as a device to lure industry away from more conscientious States. This would circumvent and destroy the uniformity created by national effluent standards. Or, what if the person in charge of issuing State permits owned stock in the company whose permit he issued? EPA's veto power should further apply to help overcome political and other pressures sometimes exerted by local industry on State agencies. The further away one is from such pressures, the easier it is to be objective in making such important decisions. Each branch of government, therefore, must help the other resist untoward pressure and act as a check on the other to produce the strongest pollution control possible—that is cooperative federalism.

Minnesota's position on the Federal veto is a middle ground, therefore, between the Senate and House bills. We believe this approach will avoid the administrative problems which could bog down the program if an unlimited time period were allowed for Federal review of permit applications. Although a small increase in EPA staffing may be required, we believe this approach will provide a margin of additional safety on the side of the environment when the administrator determines stronger protection is needed by strengthening an individual permit.

I appreciate the fact that several Governors, well informed on this issue and conscientious in their efforts to protect their citizens, have taken a somewhat contrary position. These gentlemen have opposed the right of the Federal Government to exercise a veto over individual permits. I appreciate their concern but respectfully submit that that concern is inappropriately applied in this instance. I appreciate the fact that several Governors are reluctant to give any veto power to a Federal Government which has in the past supported standards less stringent than those of the States. I referred to this problem earlier. But in this particular instance, I feel the cause of stricter standards is best served by permitting the individual permit vetoes.

If this safeguard is not permitted, those States which do not pursue a vigorous antipollution program will continue to be cited by polluters as havens from which to escape proper environmental regulations. The uniformity which I cited at the outset of these remarks as the major necessity for an effective pollution control program cannot, therefore, be achieved without permitting this type of Federal check on permits which simply do not accomplish the job of pollution control.

It is good to see the provision in the Blatnik bill which increases funding authorization to $20 billion. The House should also be commended for raising the Federal share of funding sewage treatment works to 75 percent. Minnesota still has 346 municipalities with no collection systems or combined treatment facilities. Seventy-eight percent of these towns have less than 500 people. They must, therefore, depend on larger governmental units to finance the cost of such facilities. And we would appreciate your assurance that Section 211 of this bill will allow grants to these existing municipalities for collection systems.

We are unimpressed by the argument that the success of this program should require local units of government to finance a substantial share of treating sewage. There is ample precedent in the Federal Highway Program indicating that generous federal sharing does not impair the commitment of the participating local units of government. Indeed, the administration's commitment to federal revenue sharing should not be allowed to wane in this area. Increased federal support of local construction projects is clearly needed to assist the many municipalities attempting to restore and preserve water quality. The economic position of many of these communities inhibits their present efforts.

We approve of the Blatnik bill's authorization of funds for collection systems. It is said that federal grant money for these collection systems and treatment works is available in contract authority in section 203. If this is your intention, we would appreciate a clarification for the Record. Does the House bill negate contract authority by its deletion of Senate bill wording that keeps authorized funds "available until expended?" Also, if the authorization is available for contract obligation, the EPA administrator should be required to approve title II grant applications within 90 days or state his written reasons for rejection. Once those objections have been resolved by the states, EPA approval should automatically result.

Apparently there has been an oversight in section 301(2)(b) allowing public discharge sources to escape the effluent standards applied to private sources. I mention this to emphasize the importance of equal application.

I again express my admiration for the work you are doing here and thank you for the opportunity to participate. We must act now to reshape priorities so that both clean water and productive capacity are achieved. If we do not act, rivers like the Buffalo, Rouge and Cuyahoga will continue to catch fire because of the pollution in them. And nobody sets his own house on fire just to keep temporarily warm. When that glow is gone, all we are left with is ashes. Our people deserve a better legacy.

STUDENTS PETITION SALT TALKS

HON. ALAN CRANSTON

OF CALIFORNIA

IN THE SENATE OF THE UNITED STATES

Friday, December 10, 1971

Mr. CRANSTON. Mr. President, last week, representatives of student body presidents and campus newspaper editors from all over the United States presented a petition to the United States and Soviet Union delegations to the strategic arms limitation talks now being conducted in Vienna. I ask unanimous consent, Mr. President, that the petition and accompanying statement, the list of signers and an article from the Christian Science Monitor of December 1, 1971, which describes the event, be printed in the Record at the conclusion of my remarks.

I am very much pleased by the efforts of these student leaders to demonstrate their concern for the future of the world that they and their children will inherit. Their statement is a heartening reaffirmation of the commitment of America's future leaders to the cause of peace.

There being no objection, the material was ordered to be printed in the Record, as follows:

Students Petition SALT Talks

(By Eric Bourne)

Vienna.—Four hundred American student presidents and campus editors have told the U.S. delegation engaged in strategic arms limitation negotiations here with the Russians that "the only road to disarmament is to disarm."

They said so in a petition presented Nov. 26, in the name of more than one million American students from universities and colleges in some 42 states to Ned Nordness, the press officer attached to the U.S. SALT delegation.

It was handed over by 21-year-old Michael A. Hackard (Sacramento State College), coordinator for the student presidents and editors group, and 25-year-old U.S. Army Negro veteran of Vietnam Willis Edwards (Los Angeles State College).

ACCEPTED FOR U.S. DELEGATE

Mr. Nordness received it on behalf of Ambassador Gerard Smith, both in the latter's capacity as leader of the American delegation here and as director of the U.S. Arms Control and Disarmament Agency.

The petition is addressed to the President, Congress, state governors, and "all the American people," but the two sociology students flew to Vienna to present it through the SALT delegation in order to publicize their move to raise disarmament as a significant student issue in next year's presidential election.

Behind the movement is the newly constituted Student Leaders' Task Force for Disarmament which—says Michael Hackard—has already "created quite a momentum in getting students involved in the problems of the arms race."

Plans for 1972 include publicizing congressional voting records on relevant issues and also building up a panel of student leaders to travel the country working for candidates who are "strong for arms control and disarmament."

TEST BAN RECALLED

The petition cites the limited test ban treaty of 1963 as "the first step in putting the genie of Nuclear Hades back in the bottle" and adds: "We now need a comprehensive treaty."

This, it urges, should include a curb or even total dismantlement of the ABM system, a stop to the deployment of MIRVs, and a limit on other strategic missiles.

"This would be a first step toward the destruction and abolition of all nuclear weapons.

"Many of these steps could be taken at SALT if our President is truly dedicated to a generation of peace," the statement ends.

Before visiting Vienna's Hofburg to deliver the petition to the American SALT team, the two young disarmament "emissaries" presented the Soviet embassy with a copy for Russia's chief negotiator, Vladimir Semyonov. It was accepted by an English-speaking member of the delegation.

Another copy, with an accompanying letter, is on its way to the Kremlin, addressed to Russia's party chief, Leonid I. Brezhnev.

Student Presidents' and Editors' Statement on Disarmament

(A petition for disarmament from American student body presidents and campus editors to the President, Senate, House of Representatives, State Governors, and all the American people, November 16, 1971.)

The Student Presidents' and Editors' Statement on Disarmament transcends our national boundaries, prejudices, fears, and enfolds all of mankind in a spirit of brotherhood. The student body presidents and campus editors who signed the statement did not do so lightly or without serious thought. For indeed it is a serious thought to contemplate a nuclear war and the subsequent destruction of the family of man. It is serious and careful thought that brought these student body presidents and campus editors to call for general and complete disarmament.

Reality dictates that general and complete disarmament will neither spring from the summons of a student leader's petition nor the growing outrage of the general populace. Steps must be taken to put the genie of nuclear Hades back in the bottle. President Kennedy took the first step in 1963 with the signing of the limited Test Ban Treaty. We now need a comprehensive test ban treaty. The ABM system that is so destabilizing must be limited if not entirely dismantled. MIRV must cease to be deployed. There must be a limit on the ICBM's and SLBM's. This limit would be a first step to the destruction and abolishment of nuclear weapons. Many of these steps can be taken at SALT if our President is truly dedicated to a generation of peace. Hardened silos surrounded by a questionable ABM do little for peace but much for the fear and distrust inherent in warlike states.

The student leaders who signed this petition ask you to consider all steps that can be taken to disarmament. They believe that every step taken toward disarmament is a step taken away from the horror of nuclear war.

MICHAEL A. HACKARD,
Coordinator for Student Presidents' and Editors' Statement on Disarmament.

(Student Body President, Sacramento State College, Sacramento, California.)

STUDENT PRESIDENTS' AND EDITORS' STATEMENT ON DISARMAMENT

"We think that opposition to the arms race among youth is greater than President Nixon appears to believe. As student body presidents and campus newspaper editors, we are personally troubled by the spiraling arms race.

"To show how deep and widespread our conviction that this preparation for war is wrong, we have signed this statement. 'I believe the nuclear arms race is wrong and that the manufacture of nuclear arms must cease. I also believe that general and complete disarmament is the only path leading out from the brink of nuclear Hades. In short, the only road to disarmament is to disarm.' "

Following is a list of people who have signed the above statement:

ALABAMA

Athens College, Robert F. Goodman, Editor of Campus Newspaper.

Jacksonville State University, Thomas W. Simpson, Editor of Campus Newspaper.

Auburn University, John Samford, Editor of Campus Newspaper.

ALASKA

Alaska Methodist University, Patrick W. Conheady, Editor of Campus Newspaper.

ARIZONA

Northern Arizona University, Pat Nilz, Student Body President.

University of Arizona, Randy Tufts, Student Body President.

ARKANSAS

Southern State College, Doyle DeWoody, Student Body President.

Hendrix College, Tim Tarvin, Student Body President.

School of the Ozarks, Susan Bush, Editor of Campus Newspaper.

Philander Smith College, William L. Collins, Student Body President.

Arkansas College, Mike Bowlan, Editor of Campus Newspaper.

CALIFORNIA

Sacramento State College, Michael A. Hackard, Student Body President.

Humboldt State College, Arnie Braasladt, Student Body President.

San Jose State College, Pamela Strondberg, Editor of Campus Newspaper.

San Fernando Valley State College, Harold Kloppers, Editor of Campus Newspaper.

Fresno State College, Barbara McDowell. Editor of Campus Newspaper.

California State College at Long Beach, Chris Christopherson, Student Body President.

San Francisco State College, Ken Maley, Student Body President.

Los Angeles State College, Willis Edwards, Student Body President.

Fresno State College, Phil Sherwood, Student Body President.

Califoria State College at Los Angeles, Michael A. Katz, Editor of Campus Newspaper.

Sacramento State College, Daniel L. Parker. Editor of Campus Newspaper.

Cal Poly, San Luis Obispo, Pete Evans, Student Body President.

Humboldt State College, Hank Kashden, Editor of Campus Newspaper.

California State College at Fullerton, Brent F. Romney, Student Body President.

San Fernando Valley State College, David A. Wilk, Student Body President.

San Bernardino State College, Breck Nichols, Student Body President.

San Francisco State College, Jeremy Cohen, Editor of Campus Newspaper.

University of Southern California, Joel Rosenzweig, Student Body President.

Mills College, Marsha Martin, Student Body President.

San Bernardino Valley College, Steven A. Hardin, Student Body President.

California Institute of Technology, Spencer Watlin, Student Body President.

Marin Community College, Kenneth Bott, Student Body President.

Diablo Valley College, Frederick J. Speck, Student Body President.

Imperial Valley College, Larry Cowne, Student Body President.

Los Angeles Valley College, Robert D. Dutton, Student Body President.

West Los Angeles College, Bill Crutchfield, Student Body President.

College of the Redwoods, Benjamin F. Harville, Student Body President.

Immaculate Heart College at Los Angeles, Ursula Hyman, Town Hall Chairman.

Orange Coast College, Don E. Baker, Student Body President.

University of Santa Clara, Edgar A. Sutes, Student Body President.

Cabrillo Community College, Dave Henderson, Student Body President.

Whittier College, Roger K. Workman, Student Body President.

Shasta Junior College, K. M. Caylor, Student Body President.

Claremont Men's College, Neil Locke, Student Body President.

Los Angeles City College, Alvin Maxwell, Student Body President.

Santa Monica College, Gregg Atokell, Student Body President.

Chapman College, David S. Lathrop, Student Body President.

Mesa College, Eric C. Jones, Student Body President.

Saint Mary's College of California, Joseph C. Bell, Student Body President.

Allan Hancock College, Lawrence Edward Lehr, Student Body President.

Ventura Community College, Paul L. Johns, Student Body President.

College of the Holy Names, Patricia K. Sabo, Student Body President.

Merced College, John Lewis, Student Body President.

Cypress College, Steve Cifelli, Student Body President.

Chapman College, Thomas E. Olson, Editor of the Campus Newspaper.

Yuba College, Larry Newman, Editor of Campus Newspaper.

Moorpark College, Kay Cavanaugh, Editor of Campus Newspaper.

Southwestern College, David J. Grell, Editor of Campus Newspaper.

Lassen College, Katie Clements, Editor of Campus Newspaper.

Cal State at Dominquez Hills, Allen Ball, Editor of Campus Newspaper.

U.S.I.U.-California Western University Campus, Sean D. Griffin, Student Body President.

Columbia Junior College, Michael Vincent Mager, Editor of Campus Newspaper.

Foothill Junior College, Tom Wilmer, Editor of Campus Newspaper.

COLORADO

Colorado College, Paul J. Clark, Editor of Campus Newspaper.

Western State College of Colorado, Mardi Crawford, Linston Hatcher, Co-editors of Campus Newspaper.

Colorado State University, John D. McGrant, Student Body President.

University of Colorado, Gary Svoboda, Student Body President.

University of Denver, William A. Ray, Jr., Student Body President.

Southern Colorado State College, Paul I. Martinez, Student Body President.

University of Northern Colorado, Kenneth E. William, Editor of Campus Newspaper.

Colorado College, John H. Fybe, Jr., Student Body President; Paul Clark, Editor of Campus Newspaper.

Adams State College, Miles F. Porter IV, Editor of Campus Newspaper.

Regis College, Kevin T. O'Connor, Editor of Campus Newspaper.

CONNECTICUT

Connecticut College, Mary Ann Sill, Allen Carroll, Co-Editor of Campus Newspapers.

Western Connecticut State College, Katherine R. Kucia, Editor of Campus Newspaper.

Central Connecticut State College, Roger M. Smith, Editor of Campus Newspaper.

Connecticut College, Jay B. Levin, Student Body President.

Holy Family College, Patrick C. Wilson, Editor of Campus Newspaper.

FLORIDA

St. Leo College, David J. Schulte, Editor of Campus Newspaper.

Florida Presbyterian College, Anita Gagnon, Editor of Campus Newspaper. Larry Pellegrini, Student Body President.

GEORGIA

Oglethorpe University, Linda Lennox, Editor of Campus Newspaper.

Fort Valley State College, Thomas W. Dortch, Jr., Student Body President.

Barry College, Jazon McCollum, Editor of Campus Newspaper.

Morris Brown College, Robert Lewis Reese, Editor of Campus Newspaper.

Georgia Southern College, John Thomas McElheny, Jr., Student Body President.

Georgia Tech, Chris Boxby, Student Body President.

Berry College, Kenneth Stewart, Student Body President.

Wesleyan College, Maude A. Vaslie, Editor of Campus Newspaper.

Piedmont College, Ronald Webb, Student Body President.

IDAHO

Northwest Nazarene College, Stew Smith, Student Body President.

University of Idaho, Mary Ruth Mann, Student Body President.

Northwest Nazarene College, Brad Arnesen, Editor of Campus Newspaper.

ILLINOIS

Aurora College, Wallace B. Hamlin, Student Body President.

Augustana College, Mark Schmichart, Student Body President.

Blackburn College, Linda Buchs, Editor of Campus Newspaper, Carl Bergauer, Student Body president.

Chicago State University, Michael J. Dunbar, Editor of Campus Newspaper.

Concordia Teachers College, David A. Kiesclinule. Student Body President.

Eastern Illinois University, Jack Marks, Student Body President.

Elmhurst College, Donald P. Bizer, Editor of Campus Newspaper.

Illinois College, Cindy Nazy, Editor of Campus Newspaper.

Illinois Institute of Technology, John W. Schuck, Student Body President.

Lake Forest College, Ron Burian, Co-Editor of Campus Newspaper.

Loyola University, Thomas J. Hart, Student Body President, Martin D. Glista, Editor of Campus Newspaper.

Monmouth College, Alfred Flesh, Student Body President.

North Park College, John Hunt, Alan G. Muller, Co-Editors of Campus Newspaper. Joyce Nelson, Student Body President.

Northern Illinois University, Thomas Conrad, Editor of Campus Newspaper, Marvin Leavitt, Student body President.

Quincy College, George Martin Kreuzer, Editor of Campus Newspaper.

Roosevelt University, Carl Andrews, Editor of Campus Newspaper.

Rosary College, Caryl Inglis, Jean Vonduska, Co-Editors of Campus.

Shimen College, Mary T. Grund, Editor of Campus Newspaper.

University of Evansville, Joe White, Student Body President.

University of Illinois, Kim Williams, Editor of Campus Newspaper.

HAWAII

Church College of Hawaii, Scott Leggat, Student Body President.

INDIANA

Ball State University, Carl Young, Student Body President.

Earlham College, Asa Jawvey III, Carol Thorp, Co-Student Body Presidents. Sara Elizabeth Weeker, Editor of Campus Newspaper.

Hanover College, Stephen B. Ellis, Editor of Campus Newspaper.

Indiana Central College, Brian D. Thompson, Editor of Campus Newspaper.

Indiana State University, Jack McDonald, Student Body President.

University of Notre Dame, John Barkett, Student Body President.

Valparaiso University, Jim Bernthal, Editor of Campus Newspaper.

IOWA

Briarcliff College, Kay Stover, Chairman Joint Board, Randall J. Barron, Editor of Campus Newspaper.

Central College, Dell A. Richard, Student Body President.

Cornell College, Doug Lia, Editor of Campus Newspaper.

Drake University, Jack Hatch, Student Body President. Tim Harper, Editor of Campus Newspaper.

Drake University, Jack Hatch, Student Body President. Tim Harper, Editor of Campus Newspaper.

Grinnell College, Steve Grow, Mark Sableman, Co-Editors of Campus Newspaper.

Luther College, Marsha Bergan, Editor of Campus Newspaper.

Morningside College, Edward Johnson, Student Body President.

Simpson College, Douglas King Priebe, Editor of Campus Newspaper.

Sioux Falls College, John D. Elliott, Editor of Campus Newspaper.

St. Ambrose College, Tony Dioser, Terry Shelton, Co-Editors of Campus Newspaper.

University of Iowa, Ted Paletas, Student Body President.

University of Northern Iowa, Keith Stamp, Student Body President.

University of Northern Iowa, Craig M. Bancroft, Editor of Campus Newspaper.

Upper Iowa College, Thomas Jay Novak, Student Body President.

Wm. Penn College, LaVon Leo Worley, Editor of Campus Newspaper.

KANSAS

Avela College, Marty Rupp, Student Body President.

Baker University, Lowry Anderson, Student Body President. Bob Sperry, Editor of Campus Newspaper.

College of St. Benedict, Joan Knothe, Student Body President.

Ft. Hays, Kansas State College, D. W. Tanart, Student Body President.

Kansas State University, Sandi Reed, Editor of Campus Newspaper.

Marymount College, Betsy Ross, Editor of Campus Newspaper.

McPherson College, Colleen F. Paige, Editor of Campus Newspaper.

Washburn University, John L. Fisher, Editor of Campus Newspaper.

KENTUCKY

Eastern Kentucky University, Charles I. Kelhoffer, Student Body President.

Georgetown College, Jim Applegate, Student Body President.

Murray State University, Raymond G. Huzia, Student Body President.

Western Kentucky University, Travis M. Witt, Editor of Campus Newspaper.

LOUISIANA

Grambling College, Howell T. Humphrey, Sr., Student Body President.

Louisiana State University, James F. Lestelle, Editor of Campus Newspaper.

Northeast Louisiana University, Daniel V. Rhodes, Student Body President.

Southern University, Louis Paige, Student Body President.

MARYLAND

Goucher College, Penny Brandy, Student Body President. Kathy Wolff, Editor of Campus Newspaper.

Hood College, Kathy Ann Stewart, Student Body President.

Johns Hopkins, A. Michael Hill, Editor of Campus Newspaper.

Salisbury State College, Tom McLaughlin, Editor of Campus Newspaper.

St. John's College, Christi Martha Stevens, Policy Executor.

Stonehill College, Christian P. Mihos, Student Body President.

Washington College, John Dinsdale, Student Body President.

MASSACHUSETTS

Eastern Nazarene College, Daniel A. Sorensen, Editor of Campus Newspaper.

Emerson College, Steven K. Shure, Student Body President.

Lowell Technological Institute, Francis T. McLaughlin, Editor of Campus Newspaper.

Nicholls State University, Kerry L. Cooley, Student Body President.

Regis College, Linda M. Regele, Student Body President.

Springfield College, Lee Evan Keimach, Editor of Campus Newspaper.

Stonehill College, Kevin R. Carleton, Editor of Campus Newspaper.

Suffolk University, Joseph R. Shanahan, Jr., Student Body President, Thomas E. Heslin, Editor of Campus Newspaper.

William College, Ronald B. Duning, Jr., Student Body President.

MICHIGAN

Alma College, Robert J. VandenBos, Student Body President.

Calvin College, John M. Roels, Student Body President.

Eastern Michigan University, Tom Quarton, Student Body President.

Eastern Michigan University, Ann Lindner, Editor of Campus Newspaper.

Hope College, Garrett E. DeGraff, Editor of Campus Newspaper.

Mercy College of Detroit, Bob Beauchamp, Editor of Campus Newspaper.

University of Michigan, Robert Kraftowitz, Editor of Campus Newspaper.

Michigan Technological University, Dennis G. McGrath, Student Body President. Veople Babus, Student Body Vice President.

University of Detroit, Dave Shulman, Editor of Campus Newspaper.

Western Michigan University, Bruce Foerch, Student Body President.

MINNESOTA

Academy of the New Church, Michael L. Pendleton, Student Body President.

Augsburg College, Saul Stensvaag, Student Body President.

Carleton College, Brett A. DeHaven, Student Body President.

College of St. Benedict, Terest Landwehr, Editor of Campus Newspaper.

College of St. Catherine, Barbara Brauch, Student Body President.

College of St. Thomas, Kevin E. Johnson, Student Body President.

Concordia College, James Weeks, Student Body President.

Macalester College, Robert Stomberg, Student Body President.

Mankato State College, Larry Alan Spencer, Student Body President. Patricia Anne McGregor, Editor of Campus Newspaper.

Moorhead State College, Bruce Ellingson. Editor of Campus Newspaper.

St. Mary's College, Brother John P. Schoper, Student Body President.

St. Olaf College, Steve Miles, Student Body President.

University of Minnesota, Jack Baker, Student Body President.

MISSISSIPPI

Jackson State College, Sandra L. McClairne, Student Body President.

Lindenwood College, Janet Y. Francois. Student Body President.

University of Mississippi, William N. Reed. Student Body President.

William Cavey College, Jason D. Carlisle. Student Body President.

MISSOURI

Cardinal Glennan College, Timothy M. Dolan, Student Body President. Ben Gilbers, Editor of Campus Newspaper.

Drury College, Tom Gist, Editor of Campus Newspaper.

Farkio College, Marty Sens, Student Body President.

Immaculate Conception Seminary, Edward Lambro, Student Body President.

Maryville College, Megan Walker, Student Body President.

Missouri Valley College, Robert A. Hansen, Editor of Campus Newspaper.

Northwest Missouri State College, Stanley Barton, Student Body President.

Rockhurst College, Richard P. DeJane Student Body President.

St. Mary's Seminary, Al Weilbacher, Student Body President.

Washington University, Helen E. Page, Student Body President.

William Jewell College, Paul Duncan, Student Body President.

MONTANA

Carroll College, Robert Jahner, Editor of Campus Newspaper.

Western Montana College, Daniel Gilman, Student Body President.

NEBRASKA

Creighton University, F. Joseph Zarin, Editor of Campus Newspaper.

Dana College, Patrick Tupps, Editor of Campus Newspaper.

Doane College, Rodger A. Kube, Student Body President.

Hastings College, Richard W. Patterson, Editor of Campus Newspaper.

Kearney State College, Scott Sidwell, Student Body President.

NEW HAMPSHIRE

Keen State College, Ron Boisvert, Editor of Campus Newspaper.

St. Anselms College, Malacky Coyhlans, Student Body President. Gregory John Noonan, Editor of Campus Newspaper.

NEW JERSEY

Fairleigh Dickinson, Margaret Noonan, Editor of Campus Newspaper.

Jersey City State College, Jeffrey N. Kutzoff, Editor of Campus Newspaper.

Newark College of Engineering, Charles Formen, Student Body President.

Newark State College, Robert DiFedinando, Student Body President.

Rider College, David J. Forgort, Student Body President.

Seton Hall University, Paul Callan, Student Body President.

Trenton State College, Maureen E. Gibbons, Editor of Campus Newspaper.

Upsala College, Maureen A. Doyle, Editor of Campus Newspaper.

NEW MEXICO

Eastern New Mexico University, Joanne Rohr, Editor of Campus Newspaper.

NEW YORK

College of New Rochelle, Denise C. Meany, Student Body President.

Hofstra University, Billy Ellis, Student Body President.

Pratt Institute, David Stifent, Acting President.

Herbert H. Lehman College, Francisco Padin-San Martin, Student Body President.

Cooper Union, Robert Forgione, Editor of Campus Newspaper.

Russell Sage College, Susan Ackelman, Editor of Campus Newspaper.

Hartwick College, Randall P. Lamb, Editor of Campus Newspaper.

Clarkson College of Technology, Steve Flahive, Editor of Campus Newspaper.

C. W. Post Center of Long Island University, G. Shatken, Student Body President.

St. Lawrence University, John Adrit, Student Body President.

Rochester Institute of Technology, Keith G. Taylor, Student Body President.

Marist College, George C. Bazen, Student Body Vice President.

Long Island University, Lewis R. Sterlen, Student Body President.

Vassar College, Jane Bishop, Student Body President.

Ithaca College, J. Donaldson, Editor of Campus Newspaper.

Medaille College, Donna Colleen Day, Student Body President.

Adelphi University, Bil Tipsitz, Val Hodge, Co-Student Body Presidents.

Columbia University, Jon Groner, Editor of Campus Newspaper.

Colgate University, Roy Edgar Cott III, Student Body President.

Syracuse University, John R. Helliker, Student Body President.

Cornell College, Lloyd J. Wells, Student Body President.

York College, Editorial Board-Pandora's Box.

Yeshiva College, Melvin Hoffman, Editor of Campus Newspaper.

Rensselaer Polytechnic Institute, Jack Tai, Editor of Campus Newspaper.

Rochester Institute of Technology, Gregory P. Lewis, Editor of Campus Newspaper.

NORTH CAROLINA

Duke University, The Editorial Council of the Chronicle.

Guilford College, Kyd D. Brenner, Editor of Campus Newspaper.

North Carolina State University, Richard A. Curtis, Editor of Campus Newspaper.

High Point College, James G. Beaulieu, Editor of Campus Newspaper.

University of North Carolina, Joe Stallings, Student Body President.

Lenoir Rhyne College, John Hall, Dick Hoffman, Co-Editors of the Campus Newspaper.

Greensboro College, Samuel H. Leonard, Student Body President.

Guilford College, Douglas Scott, Student Body President.

Atlantic Christian College, Bob Bancon, Student Body President.

Lenior Rhyne College, Jenny F. Rimmer, Student Body President.

Atlantic Christian College, James C. Abbott, Editor of Campus Newspaper.

A & T State University, Ronald P. Topping, Editor of Campus Newspaper.

OHIO

Athenaeum of Ohio, Richard J. Sweeney, Student Body President.

Bluffton College, Erilca Gellert Kratz, Editor of Campus Newspaper.

College of Wooster, Jack Swismore, Student Body President.

Edgecliff College, Rosemarie Pandy, Student Body President.

Findley College, Robert L. Wood, Student Body President.

Heidelberg College, Christopher C. Campbell, Student Body President. William E. Gaslin, Editor of Campus Newspaper.

John Carroll University, Michael A. Fuoco, Editor of Campus Newspaper.

Kenyon College, Liesel Friedrich, Editor of Campus Newspaper.

Marietta College, Robert H. Ward, Editor of Campus Newspaper.

Ohio State University, Terry Olbrysh, Editor of Campus Newspaper.

Ohio Wesleyan University, Robert M. Stein, Editor of Campus Newspaper.

Miami University, Mark Enedman, Student Body President.

University of Dayton, Mike D'Arcy, Student Body President.

Youngstown State University, Larry Simho, Student Body President.

OKLAHOMA

University of Oklahoma, Teresa C. Pitt, Editor of Campus Newspaper.

Oklahoma City University, David Seay, Student Body President.

Northeastern State College, William R. Coatney, Student Body President.

OREGON

Reed College, Thomas B. Schaffey, Editor of Campus Newspaper. Peretz Wittman, Student Body President.

Eastern Oregon College, Ed Marquard, Editor of Campus Newspaper.

Lewis and Clark College, James V. Ovellet, Editor of Campus Newspaper.

Mt. Angel Seminary, Stephen J.Arnold, Student Body President.

Oregon College of Education, Alan L. Holland, Student Body President.

University of Oregon, Iain E. More, Student Body President.

PENNSYLVANIA

Allbright College, Kenneth Parola, Editor of Campus Newspaper.

Allegheny College, Frank Tadley, Student Body President.

Beaver College, Tobi Steinberg, Editor of Campus Newspaper.

Bryn Mawr College, Kathi Atkinson, Student Body President.

Bucknell University, Robert Nachshin, Student Body President.

California State College, Lynn M. Wagner, Gerald F. Little, Donald O. Carney, Editors of the Campus Newspaper.

Clarion State College, Robert Stein, Editor of Campus Newspaper.

Duquesne University, Chet Czarniak, Editor of Campus Newspaper.

Eastern Baptist College, Richard W. Schramm, Editor of Campus Newspaper.

Edinboro State College, Brian Griffith—Chairman, John Kliffel, Jim Geer, Paula Keyes, Mary Fuhemeen, Members of Editorial Board.

Elizabethtown College, Robert D. Kettering, Student Body President.

Gettysburg College, William E. Yacker, Student Body President.

Haverford College, Charles J. Durante, Editor of Campus Newspaper.

Juniata College, Jonathan C. Hunter, Student Body President.

Lafayette College, Alan McFarland, Student Body President.

Loquitur-Cabrini College, Theresa Cavanaugh, Mana Valente, Co-Editors of Campus, Newspaper.

Mansfield State College, Robert Stevenson Laird, Jr., Student Body President.

Mercyhurst College, Vincent Doran, Editor of Campus Newspaper.

Millersville State College, Jay B. Neeshy, Student Body President.

Milligan College, Richard L. Roames, Student Body President.

Muhlenburg College, Eric Shufer, Student Body President.

St. Vincent College, Michael I. Gallia, Student Body President.

Shippensburg State College, Deborah E. Freeston, Editor of Campus Newspaper. Carl Deaner, Student Body President.

Susquehanna University, Scott C. Truver, Editor of Campus Newspaper.

Theil College, David C. Tanhoos, Editor of Campus Newspaper.

Villa Maria College, Collees M. Locke, Student Body President.

Villanova University, Margaret McCarvell, Editor of Campus Newspaper.

West Chester State College, J. Robert McLaughlin, Student Body President.

RHODE ISLAND

Bryant College, Alan J. Kluger, Student Body President.

University of Rhode Island, John P. McKee, Student Body President.

SOUTH CAROLINA

College of Charleston, Daniel Ravend, Jr., Student Body President.

Limestone College, Mr. Jules Anderson, Student Body President.

SOUTH DAKOTA

Dakota Wesleyan University, Kenrad V. Pederson, Editor of Campus Newspaper. Wayne R. Horsley, Student Body President. University of South Dakota, Charles McDonnell, Student Body President.

TENNESSEE

Bethel College, Robert Voth, Student Body President.

King College, Steve Williams, Student Body President.

Marysville College, H. Ward Brooks, Student Body President.

Scanitt College for Christian Workers, Scott Davis, Editor of Campus Newspaper.

Southwestern College at Memphis, Jackie Rutledge, Student Body President.

Tennessee State University, Robert L. Smith, Student Body President.

TEXAS

Angelo State University, Davis Smith, Student Body President.

Austin College, Darwin McKee, Student Body President.

Lamar University, Julian M. Galiane, Editor of Campus Newspaper.

Southern Methodist University, Dan L. Flanagan, Student Body President.

Texas A & I University, Cecil Parker, Editor of Campus Newspaper.

Texas Woman's University, Odilia Mendez, Editor of Campus Newspaper.

University of Corpus Christi, Moe Lehand, Editor of Campus Newspaper.

UTAH

University of Utah, Grover Thompson, Student Body President.

VERMONT

Bennington College, Joan Ellen Balter, Student Body President.

Johnson State College, Geoffrey R. Blomeitt, Student Body President. Kent Adams, Editor of Campus Newspaper.

Kirkland College, Abby M. Goulder, Editor of Campus Newspaper.

Middlebury College, Robert S. Metzger, Student Body President.

University of Vermont, Eugene W. Beaudain Jr., Student Body President.

VIRGINIA

College of William and Mary, Andy Purdy, Student Body President.

Eastern Mennonite College, Ben Gamber, Editor of Campus Newspaper.

Hampton Institute, James M. Hazgood, Student Body President.

Mary Washington College, Linda Cayton, Editor of Campus Newspaper.

Old Dominion University, Charles R. Applebeck, Editor of Campus Newspaper.

Radford College, June Habeck, Editor of Campus Newspaper.

Roanoke College, Bruce E. Melchor, Student Body President.

Virginia Polytechnic Institute and State University, Fred William George, Student Body President.

Virginia State College, Jerome Johnson, Coordinator of Student Welfare.

Washington and Lee University, Stephen W. Robinson, Student Body President.

WASHINGTON

Eastern Washington State College, Jennifer Davis, Editor of Campus Newspaper.

Gonzaga University, Rose M. Gangle, Student Body President.

Seattle Pacific College, Tim Pomeroy, Student Body President.

Seattle University, Matthew T. Boyle, Student Body President.

University of Puget Sound, Darrel Johnson, Student Body President.

Whitworth College, Bob Yinger, Student Body President.

WEST VIRGINIA

Alderson-Broaddus College, Christopher C. Chaffee, Student Body President.

Marshall University, Denise Gibson, Editor of Campus Newspaper.

Morris Harvey College, Ron McGill, Editor of Campus Newspaper.

Salem College, Thomas E. Hall, Editor of Campus Newspaper.

West Virginia University, Peter J. Kalis, Student Body President.

WISCONSIN

Carroll College, Ben Laird, Student Body President.

Carthage College, Thomas E. Kieso, Student Body President; Thomas J. Christensen, Editor of Campus Newspaper.

Georgetown University, Rerju J. Cechetti, Student Body President. Don Hamer, Editor of Campus Newspaper.

Lawrence University, Walter North, Student Body President.

National College of Education, Mark Azersky, Editor of Campus Newspaper.

Northland College, Steven L. Willborn, Editor of Campus Newspaper.

Ripin College, Stephen J. Korotush, Student Body President.

St. Francis School of Pastoral Ministry, Denis Brick, Student Body President. Jeffrey M. Thielen, Editor of Campus Newspaper.

University of Wisconsin, Tim E. Higgins, Student Body President.

University of Wisconsin, Randy Nikestuer, Student Body President. James A. Jenkins, Editor of Campus Newspaper.

University of Wisconsin—Superior, Stuart A. Kraft, Student Body President.

POST DEADLINE RETURNS

California: Stanford University, Larry Diamond, Student Body President.

Colorado: Regis College, John Lamb, Student Body President.

Georgia: Albany State College, Jerry J. Dewegall, Editor of Campus Newspaper.

Illinois: Illinois Benedictine College, Jim Kovarih, Editor of Campus Newspaper.

Missouri: St. Louis University, Jeff Slovak, Student Body President.

NIXON'S VETO OF S. 2007: A CHRISTMAS PRESENT TO AMERICA'S CHILDREN

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 10, 1971

Mr. RARICK. Mr. Speaker, I join the parents of America in thanking President Nixon for his wise and courageous decision to veto S. 2007. The action of our President is certainly in the interest of liberty, individual responsibility, and preservation of our traditional family ties.

The American parents are also indebted to the thousands of grassroots organizations all over America such as concerned parents associations, save our children groups, committees for moral education, civic clubs, women's clubs, taxpayers educational associations, legislative and research councils, and many others. Without minimizing the contributory efforts of fathers in helping to exterminate at least temporarily the threat of the comprehensive child development programs, I am satisfied—as a result of the many letters, telegrams, and phone calls to my office—that mothers were primarily instrumental in alerting the President to the dangers seen by parents regarding Federal child care. And this is right, for after all "a child's best friend is his mother." Let us pray that we can always keep it that way.

The text of my letter of appreciation to the President follows:

DECEMBER 10, 1971.

THE PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: I wrote to you on November 12, requesting that you veto S. 2007 should the bill be approved by both houses and sent to you for signing into law.

I am writing at this time to express my appreciation to you for your courageous and statesman-like act in vetoing S. 2007.

During the several months while the comprehensive child development programs were being considered, communications from concerned citizens continued to mount as details of the programs came to public attention.

I am certain that your rejection of federal child care reflected the views of the vast majority of parents and grandparents in America. The thousands of citizens whose views have come to my attention, I believe, agree with you that the child development programs would have "family-weakening implications," create "a new army of bureaucrats" and "commit the vast moral authority of the national government to the side of communal approaches to child rearing against the family-centered approach."

Thank you again, Mr. President. I believe that to the overwhelming number of parents and guardians of America's children, your veto of S. 2007 was the finest Christmas present you could have possibly given them.

Sincerely,

JOHN R. RARICK,
Member of Congress.

TRIBUTE TO ROLLAND A. RITTER

HON. RICHARD S. SCHWEIKER

OF PENNSYLVANIA

IN THE SENATE OF THE UNITED STATES

Friday, December 10, 1971

Mr. SCHWEIKER. Mr. President, on December 20, 1971, Rolland A. Ritter, of Philadelphia, Pa., will be honored on the 25th anniversary of Ritter Financial Corp. I have been privileged to know Rolland and wish to take this opportunity to address myself to some of his achievements.

The history of an organization encompasses more than its financial accomplishments and statistical achievements. Such impersonal pieces of information would fail by far to tell the story of how and why a company developed from a small beginning in Montgomery County in the Commonwealth of Pennsylvania, my home county, to its present position of serving the needs and desires of consumers in eight States through 112 outlets.

Rolland A. Ritter believes that faith in people and a desire to serve them will be both recognized and rewarded. That belief led to the establishment 25 years ago of a small consumer finance organization whose purpose was to serve the public in suburban and rural areas.

Born in 1907 in Philadelphia, Rolland A. Ritter grew up in unpretentious surroundings with the dream of one day being in business for himself. This is a dream that has been brought to fruition by many citizens of this Nation, past and present. Small business has been and remains the heart core of the system we call free enterprise.

At the age of 21 Ritter entered the consumer finance industry as a raw recruit. He progressed rapidly and after a relatively few years he was given the responsibility of guiding the growth and development of a substantial number of finance offices, although he knew he would one day have to attempt to bring his dream of being in business for himself to reality.

Spurred by his faith in the opportunities open to any man or woman, armed with his experience and some personal savings, and buttressed with borrowed funds from friends who had confidence in his ability, Ritter established the company that bears his name. The date was November 6, 1946.

By the end of that year, the Ritter organization was serving consumers through three offices in rural and suburban communities in eastern Pennsylvania. Although the enterprise operated three locations, it had but one manager. That manager was Rolland Ritter who daily completed a circuit of the three offices carrying funds and details for each in a separate pants pocket. He was also his own investment banker and acquired equity capital as it was needed and established banking relations as growth demanded.

In due time the Ritter organization arrived at a crossroad. The remand for consumer finance service in nonurban areas had been demonstrated. Ritter had to decide whether to remain small or, by obtaining broad financial support, to extend the company's service to many additional small communities lacking the facilities it was able to offer. Rolland Ritter chose to extend service knowing full well he would no longer be able to be in business for himself. The need for additional capital was too great; he had to and did attract many coinvestors.

On its 10th anniversary, in 1956, Ritter's organization was providing employment to 166 people in 30 offices throughout five States. Over 37,000 consumers were being served and two-thirds of that number were residents of nonurban areas, in keeping with the founding philosophy.

By 1961, almost 74,000 consumers were receiving credit from the Ritter organization. Fifteen years had passed since one man achieved a desire which even today is possible of attainment by others: success through faith in our system and a willingness to work and persevere in the face of adversity.

When 1966, Ritter's 20th anniversary year, drew to a close, 109 offices were serving over 127,000 families.

There are opportunities in this land today for those who would seek them. What I have just related is but one example of what one man, Rolland Ritter, has done with faith and determination. He did not find the American promise of opportunity for all wanting, nor did those who have forged lifetime careers with his organization. Let us resolve to keep that promise viable so that opportunity will remain for all.

HON. JOHN ROONEY

HON. HENRY B. GONZALEZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, December 10, 1971

Mr. GONZALEZ. Mr. Speaker, there is no other Member of Congress among us who better serves his or her home district than our very able and distinguished colleague, the Honorable JOHN ROONEY, the chairman of the Subcommittee on Appropriations for State, Justice, Commerce, Judiciary, and Related Matters.

Even before I came to Congress in 1962 I had become aware of the exemplary and outstanding leadership of this Brooklyn Democrat in the highest legislative body in the land.

People in Washington, in Texas, and many other parts of the country know that Chairman ROONEY is a man of courage, conviction, dedication, and a highly patriotic American.

However, the people of the 14th district of New York know all of this better than anyone, and have chosen Congressman ROONEY to serve them in Congress for 15 terms now.

An example of the awareness of the people of Congressman ROONEY's district as to the effectiveness of the work of their U.S. Representative is found in an article in the "La Papita Caliente"—"the hot potato"—column of the Spanish-language newspaper, "El Tiempo."

Mr. Speaker, I would like to share with you and my other distinguished colleagues a translation of this article.

The article follows:

FROM "EL TIEMPO," NEW YORK CITY, N.Y.

The veteran democratic Congressman for Brooklyn, John J. Rooney, who heads the House Committee on Appropriations, has been a tireless fighter to keep active not only the Naval Base—Brooklyn Navy Yard—but also the army base—Brooklyn Army Base.

The important part about this is that the majority of the workers in these two centers are Puerto Ricans.

Not long ago, Congressman Rooney launched a big fight to get construction of three tankers of 230 million tons apiece in the naval base, at a cost of approximately 100 million dollars. These are for use in the Sea Train line. And now, one is under construction. This "little operation" represents no less than the casual pastime of 4,000 jobs and, we repeat, most of the workers are Puerto Ricans.

His other great success has been keeping the army base in Kings County active for another year, as reported in the Monday edition of this newspaper. This means 1,500 more jobs.

And this is the man that the liberals, reformists and activists intend to overthrow after 20 plus years of positive public service in Washington Congressional circles. If those who wish to do away with our way of life were to succeed—a very doubtful event—the chairmanship of the most important committee in Congress which the veteran Rooney has been holding, would fall into the hands of southern reactionaries. And the apostates who intend to bring us "socialism" would be very satisfied.

It is for that reason that our community should be on the alert and not allow those whose actions show red tendencies to get their way.

It is not possible for a person like Congressman Rooney, who has always been identified with the cause of hispanic peoples in general, to be ignored by the electorate of our race, and therefore, we must show that we are appreciative and ready to defend and support him so he may continue as a bulwark in defense of the principles for which he has always fought.

We are sure that those same Puerto Ricans who have benefited from the successes of Mr. Rooney, will never turn their back on him, since it is a proved fact that the Puerto Rican knows how to reply when his help is needed and when he is approached to fight for the rights that are his and that benefit his own people.

OPTISCOPE ENLARGER—NEW HOPE FOR VISUALLY HANDICAPPED

HON. WILLIAM E. MINSHALL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, December 10, 1971

Mr. MINSHALL. Mr. Speaker, our former colleague and my good friend, now Ohio State Senator Donald E. Lukens, has called to my attention a major advance in the field of optics.

Millions of Americans, although not totally blind, have so little vision that they are considered "legally blind," meaning their vision is less than 20/200 after corrective lenses have been prescribed. The vast majority of these people, because of their terribly poor eyesight, find it difficult, if not impossible, to read.

Until now, scientists and medical researchers have been unable to help these millions of people incapable of utilizing their eyesight, and because of their deficiency, the United States is deprived of a great reservoir of human talent. Magnification by use of corrective lenses has proved totally unsuccessful in treatment, simply because their problems relate to the intensity of light reaching the retina and not to the magnification of an image.

Now, however, I am pleased to report that recent developments in the field of optics will by all indications bring these millions of poorly sighted citizens back into the visual world.

An inventor and scientist, Mr. Alphonse P. Cinque, a man who has devoted many years of his life to devising methods of improving the quality of life through conservation of energy, heads a firm, Opaque Systems Ltd. of Hempstead, New York, which has developed a unit called the Optiscope Enlarger. This invention intensifies the available light to the point where many sight-deficient people who have not been helped by corrective lenses are now able to read through the Optiscope viewing screen without the use of any corrective lenses whatsoever. The machine relies on a patented light source to intensify the amount of light reaching the retina, thereby increasing the ability to see images clearly.

There are innumerable cases recorded by ophthalmologists describing people who years ago gave up using their eyes for all close work—reading, for instance, because the task was too painfully slow to be worthwhile. These people in some cases have not read in over 15 years. With this new development they have been restored to a constructive daily life which utilizes their eyesight more than the patients themselves had hoped would ever again be possible.

Very importantly, the Optiscope is a portable unit, weighing only 14 pounds, and priced well within the means of the average American who requires this type of device.

This major scientific advancement crystallizes America's need to conserve the energy and natural resources which are our country's greatest asset. As this new development illustrates, we should not be so short sighted as to ignore conservation in human terms, which is certainly an integral part of our total environment.

THE UNITED NATIONS

HON. J. HERBERT BURKE

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 10, 1971

Mr. BURKE of Florida. Mr. Speaker, a great deal has been said recently about the United Nations as result of some of the action which that international body has engaged itself in and the evident confusion about its role as the true representative of nation-states. Recently I introduced a Sense of Congress Resolution (H. Con. Res. 449) and called the attention of my colleagues to the inequitable representation in the General Assembly citing particularly as an example Soviet Union's three votes in comparison to that of the other members, who have one vote, under the guise of the Byelorussian SSR and the Ukrainian SSR being separate nation-states from the U.S.S.R. And everyone knows that these two Republics are integral part of the U.S.S.R.—as Florida and California are integral States of the United States of America.

Recently I have received a number of interesting articles written on the subject of the United Nations and thought to share several with my colleagues. Today, I would like to insert one by Dr. A. G. B. Metcalf, an astute analyst of foreign affairs who is an editor with the Institute for American Strategy and the American Security Council.

The article follows:

DEATH OF THE U.N.—AND OTHER REALITIES

Seven years ago WR 64-41 set forth "The Matter of Red China and The U.N." over the by-line of DeWitt S. Copp, which recalled the following chronology:

"On January 13, 1950, the Soviet delegation, led by Andre Vishinsky, stalked out of the U.N. over Russia's failure to get the Peking regime seated in the U.N. Five months later, the Korean War began, and on February 11, 1951, the General Assembly passed a resolution branding Red China an aggressor. That resolution still stands. Between 1951 and 1960, the General Assembly did not include the question of China's representation on its agenda. Then on December 15, 1961, it adopted a resolution which declared that the representation of China was 'an important question.' This meant that under Article 18 of the Charter, any future proposal on the matter would require a two-thirds majority to pass. The efforts of the Soviet Union in 1961 and 1962, and of Albania in 1963, failed to command the necessary plurality to seat Red China."

On October 31, *The New York Times* noted: "The two-thirds rule was widely regarded as applying to membership for a given country, not the rival claims of two governments of the same country." There is little doubt that the vote taken by the United Nations on the evening of October 25, 1971, which expelled the Republic of China is of questionable legality.

Moreover, the U.N. decision to expel one of the signatories of its original Charter and a nation representing over 14,000,000 people—larger than 100 of its members—in response to a Resolution of Albania, a nation with less than 2,000,000 people, marks not simply a new low water mark but, indeed, a new direction for the U.N. How does one justify the high purposes expressed in the Charter of the U.N. and its stated lofty principles if the peoples of this law-abiding nation are denied respresentation? *The Boston Herald Traveler* for October 27, 1971, editorializes:

"The only plausible explanation for the General Assembly's action on Monday is that, confronted with the ultimatum from Peking that unless Taiwan were expelled it would refuse to accept membership, the overwhelming majority abandoned principle and chose pure expediency.

"But what happens next year if Peking or Russia threatens to quit unless Israel, Cambodia or some other small nation is expelled? Will expediency be chosen again? Will that issue rate as an 'important question'?

"If Monday's decision stands, the U.N. is going to be a very different place than it has been up to now and was intended to be when the Charter was written with a preamble proclaiming that it was established, among other things, to reaffirm the rights of nations large and small."

At all events, the U.N. by this act is dead as a moral force in the world, and now becomes a potential danger to the free world. In this self-styled, highest international tribunal, which for twenty-five years pretentiously paraded the trappings of world morality, moral right or wrong has no standing in the face of the naked image of power. On the whole, regrettable as was the treachery meted out by the U.N. to a decent and loyal member nation, the interests of freedom-loving nations of the world are well served by this notice.

DOWNGRADING THE REPUBLIC OF CHINA

Those who "manage" the news and who own the newspapers and television networks, which generate instant imagery through their wire services and nationwide hook-ups, just recently downgraded the Republic of China to "Taiwan." Now they are further reducing it to "Taipei." One must ask, what further journalistic denigration lies in store for the only duly constituted government of the Chinese people—a people presently enslaved by a murderous gang of criminals of such rapacity as to make Hitler look like Rebecca of Sunnybrook Farm? The answer appears to have been forecast in a recent cablegram to the U.N. Secretary General, U Thant, from Acting Minister of Affairs of Communist China, Chi Peng-fei, and from the text of a government statement issued by the Peking press agency, Hsinhua. (*The New York Times*, October 30, 1971). The cablegram to Thant opens with the following self-serving polemics:

"I have received your telegram of 26 October informing me that at its 26th session the General Assembly of the United Nations adopted on the 25th October the resolution restoring to the People's Republic of China all its rights in the United Nations and expelling forthwith the representatives of Chiang Kai-shek from the place which they unlawfully occupied at the United Nations and in all the organizations related to it."

The press release from Peking hails "the bankruptcy of the policy of depriving China of her legitimate rights in the United Nations obdurately pursued by U.S. imperialism over the past 20 years and more and of the U.S. imperialist scheme to create 'two Chinas' in the United Nations." It goes on: "The U.S. and Japanese reactionaries are continuing to spread the fallacy that 'the status of Taiwan remains to be determined' and are frenziedly pushing their scheme of creating 'an independent Taiwan' in a wild attempt to continue to create 'one China, and one Taiwan,' which in effect is tantamount to 'two Chinas' . . . . While instigating the representatives of the *Chiang Kai-shek clique* (italics ours) to hang on in some specialized agencies of the United Nations, they are even vainly attempting to let the Chiang Kai-shek clique worm its way back into the United Nations under the name of a so-called 'independent Taiwan.' This is a desperate struggle put up by them, and their scheme must never be allowed to succeed. The just Resolution adopted by the U.N. General Assembly must be speedily implemented in its entirety. All the representatives of the Chiang Kai-shek clique must be expelled from the United Nations organization and all its bodies and related agencies."

So at last, the issue is drawn as to future United States actions with respect to its obligations—by treaty and moral duty—toward the maintenance of the integrity of Taiwan.

THE LEGITIMACY OF PEKING

As to Peking's right to represent the 800 million mainland Chinese, Dr. Stefan T. Possony made some astute observations in his article in *Orbis*, (Vol II, No. 1, 1967) which are worth recalling: "To-day, despite the Cultural Revolution and other indicators of instability, the follow-on hypothesis has been, and still is, that the Chinese communist regime is stable and durable, and since it is here to stay, we must accommodate to it. The fact is that the Chinese communist regime has been unstable for nearly ten years and has proven itself to be one of the most ineffective and unsuccessful and at the same time 'destabilizing' regimes on record. . . . For several years—at least since 1959—Mao has been running into increasing opposition within the party and state bureaucracy. . . . The impact of China on the rest of the world, whether for good or evil, is bound to grow rather than to decline. . . . Many American politicians who, with good reason, worry about the China problem, assume implicitly that the Mao regime is deeply entrenched and that Mao and Lin speak for the whole, or for most, of China. Accordingly, they argue that, in order to remain in contact with the Chinese people, the Mao regime must be recognized and normal diplomatic relations established with 'China,' even if this means the concealed abandonment of Taiwan. This thesis makes sense only if Mao really represents the majority. If he is not the legitimate spokesman of China, the goal of reestablishing contact with the Chinese people cannot be achieved through Mao. On the contrary, dealing with him would be counterproductive. . . . We would have an incomplete picture of Communist China if we ignored the possibilities of a coup d'etat within the regime's top echelon. . . ."

Liu Chieh, spokesman for Nationalist China, underscored Dr. Possony's closing comment in saying: "I have not the slightest doubt that although for 22 years the people of the mainland have been forced to submit to Communist tyranny, they will sooner or later overthrow their oppressors and join hands with their compatriots in Free China."

"Sick—but still dangerous. That is the verdict on China after two decades of Red rule. People are restive, the party in ruins, quarrels raging with neighbors, China will survive in the end. It's the future of Communism that's in doubt." was the way *U.S. News & World Report* for October 13, 1969, put it.

THE MORALITY OF EXPEDIENCY

Thus, our adventure on the low ground of expediency in the interest of facing up to the world "as it is" could all be for nothing. In any case, we have certainly helped sustain, at home and abroad, a dangerous totalitarian regime which is an implacable foe of all we stand for.

[Ed: As if to confirm the above, diplomatic sources have just reported that Lin Piao, Red Chinese Defense Minister and successor to Mao, was "purged" in a plot to oust Mao and Chou En-lai from power. Fellow-conspirators are reported to include the chiefs of staff of the army and air force, liquidated after Lin's death in a Red Chinese Air Force airplane which crashed in Mongolia near the Soviet border on September 12, supposedly trying to escape to the Soviet Union when the plot was exposed and failed. All this, while this shaky dictatorship is being interviewed by obsequious columnists, being importuned to receive the President of the United States, and its arbitrary demands are being hurriedly translated into action by the U.N.]

Despite the recent attempts of the well-known professional apologists for Red China to rewrite history in the press and in some of the slick magazines, the plight of China today—Taipei or Peking—would be vastly different were it not for United States failure cleary to read the realities of an earlier day as to who were our friends and where our interests lay.

As to who are our friends: we now know. And on that point, Senator Goldwater observed on a nationwide TV program, "It seems to me that we've been supporting some of the nations which have voted against us since World War II."

THE LESSONS OF REALITY

The time has come for us to re-examine our relationships with those who receive our financial support. And we certainly should take another look at the intricate defense arrangements presently existing with our "trusted allies," lest our failure to learn from history be not further worsened by a failure to learn from current realities. Indeed, it is this opportunity to learn from this abrupt confrontation with reality that is the only source of consolation in an otherwise humiliating experience.

Reality—because it lets us know where we stand so that we may adjust our relationships accordingly.

Reality—because the vote of the General Assembly of the U.N. of 76 to 35, applauded by the Soviet Union and without a single NATO ally voting on the U.S. side, clearly delineates the present low level of U.S. world prestige.

Reality—because it points up the accommodations—and quickly, too—that other nations, including those most closely tied to us, have made with the forces of world Communism in the light of the U.S. decision to accept secondary status as a world military power.

Reality—because this first bitter cup is one of many the United States will have to swallow now that the Soviet Union and Communist China are both in the U.N. Security Council and openly dedicated to the enslavement of the peoples of the world under the yoke of Communist totalitarianism.

Reality—because the leadership of the United States and its influence as a moral force is discredited in the eyes of the world and this is additive to our decline as a military force.

Reality—because it throws into question whether an Administration so out of touch with the hard facts of life will be able clearly to assess what constitutes "realistic deterrence" or military "sufficiency" as expressed by the Nixon Doctrine and upon which the survival of this nation and the free world depends.

MORE AGONIZING REAPPRAISALS

What action the United States will take remains to be seen. Present discussion looking toward a re-examination of our open-handed financial policy toward a world organization now so drastically altered in respect to its moral purposes, is a step in the right direction—but a trivial one. Of much greater importance is that we should look to our own spiritual and material purposes. As to the former, while Taiwan is indeed a nation of only 14,000,000 people, it is quite big enough to provide the graveyard of U.S. honor and integrity. Here it is well to remember that it is not the U.N. alone, but the U.S. as well, which has suffered irreparable damage to its moral posture.

When the last moral stricture has been stated, much will depend on what the United States does in the area of military defense. Were we to desert Taiwan and permit the swift blood-bath which would follow a Maoist takeover, we should, after the moral and military bankruptcy of Vietnam, never again be able to raise our head in the world community. But such moral leperdom, however onerous, would be as nothing compared with the military consequences to world freedom and to the survival of this nation which would greet the announcement that at long last, in this, as in the acceptance of second rate status as a military power, we were no longer powered by those principles of honor and human liberty which have been our historic "inner" strength. History holds no hope for the survival of nations of great material wealth, in moral decline, committed to a policy of appeasement, and unwilling to bear the expense of adequate military power.

DO THEY KNOW?

When asked by Pauline Frederick on the "Today" show, where were those commitments pledged to the United States and upon which the U.S. relied on its initiative to seat Peking without expulsion of Taiwan, Ambassador Bush replied: "They faded away into thin air, Pauline."

In no other walk of life would such widely-advertised, self-acknowledged ineptness on the top most level of national interest be accorded the opportunity for continued exercise of high leadership authority. In this light, with the Peking and Moscow visits coming up, one has the right to ask where the leaders in this Administration are leading us. Do they know?

NO END OF IRONY IN THE TITO VISIT

HON. ROMAN C. PUCINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, December 10, 1971

Mr. PUCINSKI. Mr. Speaker, an article has been called to my attention which appeared in the Scarborough Sun newspaper of Ontario, Canada, concerning the rise to power of Yugoslavia's Marshal Tito.

Recently, Marshal Tito paid a visit to the United States.

Towards the end of World War II, the British turned over 20,000 patriotic Yugoslav troops to Tito's partisans, who were machinegunned to death in the dense forests near the village of Kocevje. This is reminiscent of the Katyn Forest Massacre earlier in the war where more than 10,000 Polish officers were murdered by the Russians.

The great General Drazha Mihailovich was shot by a firing squad after being condemned as a traitor by Tito, who was the quisling himself.

I should like to place in the RECORD today the excellent article by the Scarborough Sun. The duplicity and chicanery of many aspects of World War II have yet to be written, thus attesting to the truth of the statement that what is past is prolog.

Mr. Speaker, the article follows:

NO END OF IRONY IN THE TITO VISIT

It is one of history's great ironies that the man honoured by the White House last week and by Dalhousie University on his visit to Canada—Marshal Tito—would have been convicted as a major war criminal had he stood on the losing side of the war. It is an even greater irony that the United States, still engaged in a war allegedly fought against the spread of Communism in Asia, flings open its door to Communist leaders from Europe.

For some time now, Tito has been categorized in the West as some sort of "Democratic" Communist. His true status was revealed by Lubor J. Zink in an article published in The Telegram, July 22, 1966, which read in part:

"Although the total number of victims of communist totalitarianism is estimated to exceed by far that of the Nazi tyranny, no one apparently dares to even consider demanding a trial of the Bolshevik criminals.

Stalin, the arch-murderer who pioneered genocide in this supposedly enlightened century, died peacefully in his bed, revered to the end by Communists all over the world as a messiah of social justice and progress. And there is nothing but praise all over the place for Yugoslavia's Josip Broz-Tito, the foxy player of both sides of the Cold War street.

Few people know that at the end of May, 1945, when the guns were already silent all over Europe, Tito's partisans massacred close to 20,000 of their compatriots who, during the last stages of the war, tried to keep the Slovenian part of Yugoslavia free from Communist domination.

The motley remnants of what was once the Yugoslav Royal Army lost the battle and retreated into the British-held part of Southern Austria. There they were put in a camp near Klagenfurt and promised transfer to Italy where some other remnants of Peter's army found refuge.

However, on May 24, 1945, the disarmed Yugoslav troops were transported by the British to the Yugoslav border and handed over to Tito's partisans. The Communists took the transport to specially prepared clearings in the dense forests near the village of Kocevje and there, in cold blood, machine-gunned the 20,000 men.

This crime of the Tito regime is described in detail by Yugoslav writer B. M. Karapandzic who now lives in Cleveland. His book, Kocevje, is based partly on extensive research and partly on an eye-witness account given by a survivor of the massacre who, wounded by the firing squads, managed to crawl from under the heap of bodies and make his way to Austria.

When I read the book, which accused the British of complicity in this horrible event and even gives the name of the British army major who was in charge of the transfer of the 20,000 men to the Titoists, I asked the British High Commissioner's office in Ottawa to check the gruesome story. After several weeks of waiting for the result of the query in London, I was told that the book's description of the Kocevje massacre was 'essentially correct'."

This, by no means, is the end of the irony in Tito's visit. Following the massacre of these 20,000 men, the one man who more than any other individual reversed Germany's advance in Russia, thereby deciding her defeat—General Drazha Mihailovich—was executed on a fabricated charge of treason after a mock trial, publicly having been condemned as a traitor by Tito before conviction. The evidence comes from history itself, as related by The New York Times, July 18, 1946.

"The fingers of history, rustling through the pages of the Second World War, may provide an ironic postscript to the scene that took place at dawn yesterday somewhere in the vicinity of Belgrade when General Drazha Mihailovich crumpled before the bullets of a Yugoslav firing squad. The record is fairly obvious now. A more complete search and study of the files of the German General Staff and a historical assessment of the various factors that entered into the successful defense of Moscow by the Red Army during the fall and winter of 1941, may show that the one most important factor was the time that was bought for the Russians in the spring of 1941 by Yugoslavia and Mihailovich. On the record written thus far, the Russian-controlled Tito Government has taken the life of a man to whom Russia owes a great debt.

Mihailovich, then a Colonel, was among an influential group in Yugoslavia that resisted an alliance with Germany, overthrew the pro-Nazi Government and installed one favourable to the Allies. When it became evident that Yugoslavia would not yield without a fight, von Paulus tells us, Hitler set the date of the drive on Yugoslavia for March and that against Russia for five weeks later. The attack on Yugoslavia actually was launched on April 6, 1941.

"The recorded facts of the German attack on Yugoslavia and Soviet Russia in 1941 are these, as testified to by von Paulus, the German commander at Stalingrad and by Jodl, the former German Chief of Staff, before the Allied Tribunal at Nuremberg.

"Hitler drew his plan for the attack on Russia in December, 1940. At that time he hoped to absorb the Balkans without a fight. This would have secured his right flank for the attack on Russia.

"The initial German attack on Yugoslavia made swift progress. In the hills, however, a new Yugoslav hero emerged. Mihailovich, fighting a gallant delaying action, rallied the remnants of the Yugoslav Army and began an open and effective guerrilla resistance to the German Army. Because of this unexpected resistance, the German Army's timetable of five weeks between the attack on Yugoslavia and the drive on the Soviet stretched to ten weeks.

"Delayed three months beyond the time originally set for the attack, the German Army failed to reach Moscow before the dreaded Russian winter had set in. Hundreds of thousands of Germans who had expected to garrison in the shelter of the Russian capital died instead in the icy trenches a few miles away. There is good reason to believe that this—even more than the defence of Stalingrad—was the turning point of the German-Russian conflict."

But the press of the non-Communist world needed no such evidence. It had its own. In one unanimous voice it cried "murder" when Mihailovich was executed. A collection of 65 newspaper articles in various languages tells the Mihailovich story, which is also the story, the true story of Tito (The World's Verdict, published by John Bellows Ltd., Gloucester, 1947). The testimony comes from men who had known Mihailovich and served with him, men well-informed of the military and political situation. All agree on the facts; on the personal character and heroism of Tito's victim and cite long lists of action and rewards. The following, however, reflects not only the tragedy of the fate of Mihailovich but that of the entire West through implication in the bloody affair in which far more was betrayed than a patriot called Mihailovich. Walter Dushnyck, in "America" (New York), July 16, 1946, wrote in part:

"Mihailovich is a symbol of the times. Had history run a different course, we might have found General MacArthur, or de Gaulle, or Montgomery in his stead, or even a mass trial of all. Ironically enough, General Bor-Komorowski had the good fortune to be captured on the Nazi side of the iron Curtain . . . Mihailovich was not alone in having his movement labelled 'Fascist' and in being heartlessly discarded by his Allies in order to placate the Grand Master of the Kremlin. The case of General Mihailovich from the time of his organization of resistance, through the ascendency of Tito, Stalin's Communist exponent in Yugoslavia, down to the treason trial and execution, is an instance of abandonment of principles on the part of the Victorious Powers. He represents the small nations of Europe, still oppressed and betrayed.

"Tito, alias Joseph Broz, is relatively little known in his 'native' Yugoslavia. Like Togliatti in Italy, Thorez in France, Bierut in Poland, Manuilsky in the Ukraine, Dimitrov in Bulgaria, and Kuusinen in Finland. Tito was sent from the Kremlin to take over the Communist puppet. He had a powerful sponsor in Moscow. Stalin seems to have been astonishingly successful in convincing Roosevelt and Churchill at Teheran that Mihailovich was a traitor. After the conference, Mihailovich was officially dropped by the Allies and Tito elevated. This was at a time when, according to Colonel McDowell, vast areas had been liberated and were being held by Mihailovich's nationalist forces! The American and BBC broadcasts, however, obediently followed the Communist communiques and thus helped foster the deception."

The core of the problem was explained by Major Kenneth Greenlees in The Tablet (London), July 16, 1946, as follows:

"Dominating the situation were Mihailovich's relations with and attitude towards Tito and his Communist-led Partisans. The German attack on Russia was the signal for Tito and his followers to take to the hills. Tito's object, like that of Mihailovich, was to liberate Yugoslavia from Axis occupation. But their ideals for the future of the country were very different. Tito, the Communist, wished to establish a republic; Mihailovich, the loyalist, sought the return of the monarchy." He relates further that in 1944 the Allied Missions, in complying with wishes from Moscow, withdrew from Mihailovich. Supplies were increased to Tito for use against the Germans. But Mihailovich could prove that to a great extent, they were being used against his own forces.

Accused of collaboration with the enemy, the facts unearthed proved only that Mihailovich wanted neither Russian nor German domination for Yugoslavia. This is how The Whitehall News (London), July 19, 1946 saw it:

"Mihailovich was a true patriot of Yugoslavia and as such, considered it his first duty to appreciate realistically the interest of his nation. Tito, on the other hand, was never a free agent; he was consistently carrying out the directives of Soviet policy and so was never hampered by any patriotic scruples. Thus, he could wage the Partisan war, regarding the bloody reprisals taken by the Germans on the civilian population.

"One may ask now what would have been the fate of Mihailovich if, being less realistic, he had continued his fight irrespective of consequences.

"The answer is easily provided by the fate of another Allied commander, the Polish General Bor-Komorowski, who led the Warsaw rising. Bor did exactly the opposite of what Mihailovich has done. He disregarded realistic political considerations—he fought to the bitter end and to prove the intransigence of the Polish resistance, did not even hesitate to lay Warsaw in ruins. And yet, neither he nor the Polish Home Army commanded by him, have escaped the accusation by the present rulers of Poland of being pro-Nazi, Fascist and collaborationists. General Bor avoided the fate of being tried like Mihailovich only because he was outside the grip of the Warsaw administration. His successor in the command of the Polish Home Army, General Okulicki, was less lucky; ten years of penal servitude, the sentence of the Moscow trial against 16 Polish Leaders, was his reward."

Canada's stand was best put forth by The Canadian Social Crediter (Edmonton), May 30, 1946, which stated in part:

"The shameful treatment of General Mihailovich, one of the bravest men of history, is awakening the whole American continent. It has been notable that in our own Canadian Parliament, only one man—the Social Credit Member of Parliament for Wetaskiwin, Norman Jaques—had the courage to rise and say a few words in defence of this Shetnik hero. The story cannot be told even in volumes. Here in this country, many airmen owe their very lives to Mihailovich. Their plea of 'He saved our lives, we'll save his!' is taking the country by storm. When the leaders are cowards, the people must act."

Wiser words could not be spoken today, when our leaders prefer once more to shut their eyes to the shameful evidence presented here and equate crime with heroism. But now, as then, the Social Creditors do remember and repeat the closing words of that editorial, no less fitting today:

"After the Teheran Conference, Mihailovich's name was replaced by a new name, Tito. The 'sphere of influence' in the Balkans had been decided upon. Stalin got his way—and part of his price was Yugoslavia, via Tito. That meant the head of Mihailovich. The hero was sold down the river—and a lot of people know it.

"Is this any subject for a Social Crediter paper? Start betting your life that it is—because Social Credit is a way of life and that way of life recognizes honour and integrity where others think only of Mammon or political expediency, or both."

How true, how true!

A CALL TO PRESIDENT NIXON TO INCLUDE A REPRESENTATIVE OF PUBLIC EMPLOYEES ON THE WAGE PRICE BOARD.

HON. JEROME R. WALDIE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 10, 1971

Mr. WALDIE. Mr. Speaker, the members of the California Public Employees Federation have recently called on President Nixon to include a representative of public employees on the Wage Price Board. Quite frankly, I am surprised that the President should exclude the public employees from representation on the Wage Price Board especially since one out of every 5 workers in this country is a public employee.

Two months ago the President imposed the most severe restrictions of the wage price freeze on the Federal employees, by postponing to July 1, 1972, a wage increase which was due January 1, 1972. This was done despite the countless statements by the administration that the attempts to curb inflation will be based on a fair and equitable division of the burden between the various segments of the economy. I, therefore, urge the President to add one member to the Pay Board and such member shall be chosen to represent the millions of public employees in this country.

The following is the text of the resolution:

RESOLUTION

CALIFORNIA PUBLIC EMPLOYEES FEDERATION
337-Seventh Street, Suit 204
Oakland, California 94612
Phone: (415) 834-7333
Contact: RANDALL M. PREVO, General Manager
October 13, 1971

Randall M. Prevo, General Manager of the California Public Employees Federation (CALPEF), representing over 70,000 county, city and public employees, demands representation on Nixon's wage freeze board. In convention at San Diego, this thirty-one year old independent labor organization instructed its sixteen-man Board of Directors to pursue by legal, political or economic means any needed remedial action to alleviate hardships imposed by the wage freeze recently extended by the President. CALPEF will strongly support the freeze if assurance will be given that public employees will be represented on the wage board. With 1 of every 5 workers being a public employee, it seems a little ridiculous they may receive no acknowledgments at all.

The Conference of over 200 delegates, headed by CALPEF President "Bucky" Orcutt, who is also President of the 6,200 member San Diego County Employees Association, adopted the following policy:

Whereas: CALPEF affirms its support, in principle, for the efforts of the President and the Federal Government in their attempts to curb inflation, provided those attempts are based on a fair and equitable division of the burden between the various and competing segments of the economy;

And whereas: The wage freeze order promulgated by the President and the rules and regulations enacted thereunder bear directly on the public employees of this organization and restrict their right to receive negotiated wage increases and cost-of-living increases while prices and interest rates continue to rise due to lack of regulations or enforcement by the government:

And whereas: The placement of the burden of curbing inflation solely upon the wage earner while allowing other segments of the economy free reign violates the employees' rights to equal protection under the law as provided in the U.S. Constitution;

And whereas: Such wage freeze order and the rules and regulations enacted thereunder interfere with the contractual relationships existing between public employees and their respective public agencies and deprive employees of their rights thereunder without due process of law;

And whereas: Such wage freeze order and the rules and regulations enacted thereunder cause abrogation of various city and county ordinances and pre-empt the sovereignty of the State and local governments;

And whereas: All of the above actions of the President and the Federal Government have unreasonably placed the burden of curbing inflation on the wage-earning employee and have caused great financial burdens and hardships to be borne by members of this organization;

Now therefore let it be the policy of CALPEF that the Board of Directors of CALPEF is directed to examine all available means of bringing relief to its members from these unfair and burdensome enactments, including legal, political and economic means. FURTHER, after such examination, the Board of Directors is directed to pursue, by all necessary and appropriate means, those actions it deems required to protect the rights of its members. Further, be it declared as the Policy of CALPEF that any wage and price boards or commissions to be set up under the President's inflationary control policies be autonomous and be vested with the necessary powers to control interest rates and price raises as well as wages, and that such boards or commissions contain a proper proportion of public employee members.

Other independent public employee organizations are urged to coordinate their activities in this vein with CALPEF. Prevo indicated that many such organizations have already been approached and there have been favorable responses.

Mr. H. W. "Bucky" Orcutt was re-elected as President of the State-wide organization. In other action, Lt. Ed Maybrum of Sonoma County was elected Vice President, Mr. Charles Maple of Los Angeles County was re-elected Secretary-Treasurer, and Mr. Charles Williams of Ventura County was elected Sergeant-at-Arms. Elevated to the Board of Directors were: *Group I*—Charles Frye, Los Angeles County; Dan Fox, San Diego County; Jim Farrel, Orange County; William Henrikson, Alameda County; Robert Renfrow, Kern County. *Group II*—Clarence Dodge, Santa Clara County; Howard Menzel, Santa Barbara County; Benjamin Russell, Contra Costa County. *Group III*—Dan Gordon, Solano County; Gene Weaver, Marin County; LaRocque Creighton, Shasta County.

PRESIDENT CONCERNED ABOUT WHAT IS GOOD FOR AMERICA

HON. LESLIE C. ARENDS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, December 10, 1971

Mr. ARENDS. Mr. Speaker, a Presidential veto is never popular, especially when warnings are made in advance on what the political impact might be.

Yet once again President Nixon has proved that he is not motivated by politics. He is motivated by a genuine concern for what is good for America.

The issue this time is the Economic Opportunity Act extension, which continues the Office of Economic Opportunity—where the war on poverty is fought—and sets up two new programs: a legal services and child care center network.

The Washington Evening Star says bluntly that the Congress "indulged in fiscal wishthink and pork-barrel politics." Wishthink because Congress hopes that the best of wishes will bring about the best of results. Pork-barrel politics because Congress thinks that popular programs are good programs, regardless of how they're run.

President Nixon may be bringing on himself the wrath of the "poverty" lobby or the self-proclaimed child advocates of Washington. But he is answering a plea made by the people back in 1968: give us good government, not phony promises.

Congress will sustain President Nixon's veto. But I hope this action will lead to legislation that we can all support, not for political gain but for a better society. We are not in the business of passing the titles of bills. We are, I hope, in the business of passing meaningful legislation that will realistically live up to the needs of America. When this happens there will be no need for a veto.

HIGH CAMPAIGN COSTS

HON. CHARLES E. CHAMBERLAIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, December 10, 1971

Mr. CHAMBERLAIN. Mr. Speaker, the progress of the urgently needed Revenue Act of 1971, which finally cleared Congress yesterday, was unfortunately slowed in recent weeks by a thoroughly unrelated rider added by the Senate which would set up a special fund to subsidize Presidential election campaigns with taxpayers' money. However, House and Senate conferees have agreed to postpone the effective date of this proposal until after the 1972 election. Given the present composition and control of the Congress this is probably the best solution that can be obtained at this time. Nonetheless, I believe that before any plan goes into effect Congress should reexamine it thoroughly. Many questions have been raised about this scheme and I particularly wish to commend to the attention of my colleagues the November 30 editorial broadcast by station WJIM–TV of Lansing, Mich., which offers a particularly timely commentary.

The editorial follows:

> The U.S. Congress is still groping for some rational solution to the problem of the high costs of political campaigning. In the litter of inept legislation it is probable that no plan is more futile or counter-productive than the "tax deduction" bill recently approved by the Senate. It is to be hoped that the House displays better judgment and moves to kill this nightmare proposal.
>
> The bill provides that taxpayers can check off a one dollar contribution to the presidential campaign of the party of their choice as a deduction on their Federal Income Tax returns. The limit an individual party could receive on this basis would be 20.4 million dollars and the party would have to agree to finance its campaign solely from such funds. The problems with such a scheme are multitudinous. First off, 20.4 million is far beyond what either party spent in the last Presidential campaign so the Bill hardly places any limit on spending.
>
> Secondly, such legislation would inevitably finance a wide range of splinter parties covering the entire radical spectrum. Just as an indication, it is estimated that passage of this measure would put 10 to 14 million dollars into the ultra right wing coffers of George Wallace, resolving immediately, by the way, any doubt in George's mind about running. Since the communist and socialist labor parties are also legally recognized on the ballot, their campaigns would be financed by the taxpayers to the tune of millions of dollars . . . and once the golden cat was out of the bag that would be only the beginning.
>
> Thirdly, this bill only addresses the financing of Presidential campaigns ignoring areas of harsher inequity such as the cost of becoming a U.S. Senator or Representative.
>
> Finally, the proposal is monumentally undemocratic . . . once the taxpayer pledges a dollar it is there for the party to spend no matter who the candidate is. It is just another step in removing the people from the selection process . . . a tendency that already seriously threatens this nation's political stability.

PRESIDENT NIXON'S VETO OF THE ECONOMIC OPPORTUNITY ACT AMENDMENTS

HON. HERMAN BADILLO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, December 10, 1971

Mr. BADILLO. Mr. Speaker, the President, yesterday, with one veto managed to break his promise to promote meaningful child development; destroy the hopes of the poor and, incidentally, the majority of the legal profession, for an effective legal services corporation; nullify a new and effective way toward utilizing economic development programs under OEO auspices; and thwart the intent of Congress to keep intact the advocacy role of the Office of Economic Opportunity.

I am at a complete loss to understand the President's action. Mr. Nixon frequently and explicitly stated his administration's commitment to the concept of child development. He incorporated child care provisions which, he stated, were "more than custodial" into H.R. 1, a measure to which his administration ascribed extraordinary importance. Yet when the House and the Senate, after a great deal of work arrived at an approach that at least opened the door to equal opportunity for all young children in our Nation, the President invoked the power of the veto.

There are presently about 8 million preschool children of working mothers in our Nation. Day care services are available to only about 700,000. By 1980 there is expected to be a 43 percent increase in the number of working mothers with preschool children. Without the child care provisions evolved by the Senate and the House there is absolutely no way of making available to these youngsters and their mothers meaningful, effective, economical, and developmental type child care. The best most of these children will receive, unless their parents are well to do, will be custodial care—and that at an exorbitant price. I can only repeat, Mr. Speaker, that I find the President's action both unbelievable and unpardonable.

As far as the legal services section of the bill is concerned, both the House and the Senate worked long and hard to prepare a bill that could receive widespread support. Many of us, who wanted to push a stronger version, agreed to the compromise in order to secure these much-needed services for all our citizens. It seems that we have worked in vain. The presidential veto destroyed several months' worth of efforts on the part of Members of Congress, members of the legal profession, representatives of the poor, and the wide segment of the American public who worked and lobbied to make the phrase "equal before the law" a reality in our country.

Title VII established a coordinated community development program. It would have made possible precise, overall, professional planning for maximum impact of economic development programs developed by community-based organizations. I had hoped for much progress under this approach. I am keenly disappointed to have it destroyed.

In conclusion, the bill vetoed contained an amendment which would have restricted the power of the Director to further spin off programs presently operating under titles II, III, VI, and VII. This amendment was incorporated into the measure to keep the Office of Economic Opportunity functioning as an advocacy agency with on-going programs. In his veto statement the President clearly stated that he wants to remove operable programs from the jurisdiction of OEO and transfer them to already existing agencies. This in spite of the fact that extensive testimony indicated that these agencies are not responsive to the special needs of our poor.

Mr. Speaker, the President's veto destroyed an extraordinary collection of good programs. As far as the child development provisions are concerned, the veto has done irreparable harm. It remains to be seen, what, if anything, can be salvaged of the other programs.

PRISON REFORM—AND INSPECTION

HON. FLORENCE P. DWYER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, December 10, 1971

Mrs. DWYER. Mr. Speaker, on Wednesday, I inserted in the Congressional Record the text of a deeply encouraging address delivered by Attorney General Mitchell at this week's National Corrections Conference in Williamsburg, together with a brief sketch of my own proposal for an independent national prison inspection system which I believe is highly compatible with the views and recommendations of the Attorney General.

The other principal speaker at the Corrections Conference was the Chief Justice of the Supreme Court, Warren E. Burger, whose address was another memorable contribution to the growing determination to provide the kinds of correctional institutions, personnel and procedures which can transform an often repressive and self-defeating prison system into a genuinely rehabilitative one.

I am delighted, Mr. Speaker, to bring to the attention of our colleagues the Chief Justice's very thoughtful and positive speech, and to include an editorial published on Monday of this week by the Courier-News of Plainfield, N.J., commenting favorably on a State rehabilitation program and on my prison inspection system. The material follows:

Remarks of Chief Justice Warren E. Burger

I am sure that everyone concerned about problems of corrections and prisons was heartened by the action of the President in convening this Conference. It is time for a massive coordinated effort by the state and federal governments.

It is also highly appropriate that these sessions are held in this historic place for it was a distinguished Virginian, George Keith Taylor, brother-in-law of Chief Justice Marshall, who, as a member of Virginia's House of Delegates, spoke here almost exactly 175 years ago—on December 1, 1796, to be precise—on behalf of legislation to improve the penal system of the Commonwealth.

Taylor is remembered as one of the first leaders on this continent to advocate the enlightened views of the great Italian reformer and legal philosopher, Beccaria. Thus, Virginia is a familiar forum for the problems this Conference is considering.

For as long as I have been a judge, I have tried to see the administration of criminal justice in terms of three major entities, or parts, all constituting interrelated parts of a single problem.

The first, obviously, is the police and enforcement function; the second is the judicial function; and the third is the correctional and confinement aspect, and, closely related, the vital release programs of probation, parole, and work parole.

This Conference is concerned with that third and final, and very crucial, aspect of justice. On other occasions I have said, and I strongly believe, that this third phase is perhaps the most neglected of all three of the aspects of justice, although each of the other two has strong claims, unfortunately, for first place in that respect.

The problem of what should be done with criminal offenders after they have been found guilty has baffled societies for thousands of years. Therefore, none of us would be so brash as to assume that this Conference can even discuss, let alone solve, all the enormous problems that have been with us for several thousands of years. Because of this terrifying magnitude of the problem, I hope the Conference will find a way to identify just a few of the most urgent but soluble problems and address ourselves to them at once. If we try to solve all the problems, we will solve none. We must be content with modest progress and small victories.

Ideals, hopes and long-range planning must have a place, but much can be accomplished without further research or studies in the essentially "nuts and bolts" side of corrections.

I hesitate to suggest, even in a tentative way, my own views of those solutions to an audience that includes so many genuine experts and authorities in this field. Since the recent events at Attica, New York and in California, the country has been recalling the warnings that many of you have uttered on the need to reexamine both the basic attitudes and the tools and techniques of correctional systems and prisons. (I need hardly add, to this audience, that there is a vast difference even though for shorthand we use the two terms interchangeably.)

Even to reach some solutions on the urgent, the acute, the immediate problems, will take large outlays of money, and this cannot be produced except with a higher order of public leadership to develop a public commitment and, in turn, a legislative commitment at state and national levels.

As I see it, the urgent needs include these:

1. Institutions that provide decent living conditions, in terms of an environment in which hope can be kept alive.
2. Personnel at every level who are carefully selected, properly trained, with an attitude of understanding and motivation such as we seek in teachers; and with compensation related to the high responsibility.
3. Improved classification procedures to insure separation of incorrigibles from others.
4. A balanced program of productive work, intensive basic education, vocational education, and recreation.
5. Communication with inmates.
6. A system of justice in which judges, prosecutors and defense counsel recognize that prompt disposition of cases is imperative to any hope of success in the improvement of those convicted.

INSTITUTIONS AND FACILITIES

I will not dwell on the subject of institutional housing since most of you are better informed on the facts and more knowledgeable as to the needs than I am. I fear that if we took a realistic national inventory and determined how many states meet minimum standards that most of us would agree on, the result would be a melancholy commentary on a 20th century society. The rise in crime has crowded most prisons beyond any reasonable bounds and new structures are needed. We know, however, that many of our problems flow from having institutions that are too large, that are poorly located and inaccessible to the family of the inmates, too far away from facilities for work release programs, and located in areas that do not provide adequate housing for personnel of the institution.

As you well know, bricks and mortar do not make a sound correctional institution any more than bricks and mortar make a university, a newspaper, or a hospital. People and programs are crucial. The recent events in two of the largest and most affluent states are evidence that more than good "plant and equipment" are needed. With all that has been said and written about the problems in New York and California, there has been almost nothing communicated to the public about the fact that the particular institutions in question are among the more modern penal institutions in a physical sense. Attica and San Quentin serve to remind us that even the best of buildings have not provided solutions.

So even when we finally eliminate the 19th century dungeons and terrible overcrowding that prevails in so many places, we will still have enormous problems left to solve. It will take millions of dollars to accomplish the changes needed, but it must be done and we must have new thinking about what constitutes a correctional institution in a purely physical sense, where it should be located and how large it should be.

PERSONNEL

You are well aware, but the public is not, that well-trained personnel is far more important than the bricks and mortar. "Just anybody" cannot make a sound correctional institution any more than "just anybody" cannot make a good parent or a good teacher. We have yet to understand that the people who operate prisons, from the lowest guard to the highest administrator, are as important in the whole scheme of an organized society as the people who teach in the schools, colleges and universities.

I suspect some experts would say that is an understatement in the sense that the reasonably normal people who go to schools can overcome the handicap of poor teaching. We know that most prison inmates are not mentally and emotionally healthy and therefore need something more than normal people require. Guards and guns are not enough.

As we are now slowly awakening to the need for more intensive training for policemen on the beat and in the patrol cars, we must sense that the guards, the attendants, the teachers, and the management of prisons must be specially selected for their temperament and attitudes and then specially trained for their crucial part in the task of helping prisoners to help themselves.

I am sure that every person here must be elated over the Attorney General's proposal to establish a National Corrections Academy patterned after the great training program of the FBI Police Academy. The management and operation of penal institutions has desperately needed such a nationally coordinated program to train every level of prison personnel from guards to wardens, as the Department of Justice has done with police administrators.

This decision on the part of the President and the Attorney General could be one of the milestones in correctional history.

IMPROVED CLASSIFICATION PROCEDURES

In many institutions we know that overcrowding and understaffing have led to a breakdown of classification procedures and practices. In some institutions there are no such procedures. One of the high prices we pay for that lack is a mingling of youthful offenders and first offenders with recidivists, incorrigibles, drug addicts and others who are seriously mentally disturbed. A very high priority must be given to separating inmates, and this is particularly important today with respect to the riot-prone inmates. Those who would disrupt and destroy a penal institution must be separated to protect those who are trying to learn and to prepare themselves for the future. Every inmate has a right to be insulated from those who are bent on lawless acts.

A BALANCED PROGRAM

We need look only at the median age of inmates to see at once the need for athletic and other recreational facilities so that these young men can burn off the surplus energies of youth as many of them would be doing if they were free. The corrosive impact of enforced idleness at any age is bad enough, but on young men it is devastating. Playing cards, watching television or an occasional movie, with nothing more, is building up to an expensive accounting when these men are released—if not before. Such crude recreation may keep men quiet for the time, but it is a quiet that is ominous for the society they will try to reenter.

RECREATION

Some states have recognized these needs and provided for them, but many have not. If anyone is tempted to regard this as "coddling of criminals" let him visit a prison and talk with inmates and staffs. I have visited some of the best and some of the worst prisons and I have never seen any signs of "coddling" but I have seen the terrible effects of the boredom and frustration of empty hours and a pointless existence.

EDUCATION

Recreation and education programs really go hand in hand in prisons as they do in schools and in life.

When society places a person in confinement, it deprives him of most normal opportunities and much of the motivation for self-improvement. When society does this, it has a moral obligation to try to change that person—to make a reasonably successful human being out of him. Common sense and the self-interest of society dictate this even if we lay aside all considerations of human decency and our religious beliefs as to redemption.

Here perhaps our failure is the greatest. The percentage of inmates in all institutions who cannot read or write is staggering. Another, and largely overlapping category, is made up of those who have no marketable skills on which to base even a minimally successful life.

The figures on literacy alone are enough to make one wish that every sentence imposed could include a provision that would grant release when the prisoner had learned to read and write, to do simple arithmetic, and then to develop some basic skill that is salable in the market place of the outside world to which he must some day return and in which he must compete. Since the best of human beings need motivation and hope, why have we thought prisoners can do without both? We should develop sentencing techniques to impose a sentence so that an inmate can literally "learn his way" out of prison as we now try to let him earn his way out with "good behavior."

We know that today the programs of education range from nonexistent to inadequate, with all too few exceptions. However we do it, the illiterate and the unskilled who are sentenced for substantial terms must be given the opportunity, the means and the motivation to learn his way to freedom.

Meanwhile, we should make certain that every inmate works and works hard. With countless thousands of law-abiding citizens "moonlighting" on second jobs to make both ends meet, there is no reason why every healthy prison inmate should not be required to work to earn at least a part of his "keep." Moreover, every consideration of rehabilitation demands that inmates be kept busy with productive work, with learning and self-improvement. With this must come an expansion of psychological and religious counseling to instill motivation and maintain hope.

COMMUNICATION

We know that one of the deepest hungers of the human being is communication with others on his hopes, his fears, his problems. Inside the walls of a prison this basic need of Man does not vanish and indeed we know it is greater than ever. A means of regular communication should be established between inmates and those who run the institution. We cannot turn the management of a prison over to the inmates, but society, as represented by the "keepers," can listen to what the inmates have to say.

To the extent it is feasible and consistent with orderly administration, therefore, the inmates need to have a chance to regulate some limited part of their lives, however small, by the processes of deliberation and choice. If we tie a person in a chair for a long time, we can hardly be surprised if he can't walk when we let him loose. Within limiting regulations necessary for basic order, inmates should be allowed to think and walk and talk as we will demand that they do when they are released. What can be wrong with allowing prisoners to practice, on a small scale, the very things we will insist they do when they are again free?

SPEED IN ADMINISTRATION—JUSTICE

Finally, a few words need be said about the functioning of the courts in relation to the correctional system. Time does not permit discussion of standards for sentencing and related matters that you are dealing with in "work shops" and seminars, but I am confident we would all agree the judicial system has a responsibility to see to it that every criminal charge is tried as promptly as possible and that the appeal is swiftly heard and decided. In some places the time lag between arrest and trial is hardly less than a public disgrace. Some of this is due to the maneuvering of lawyers who misconceive their function and seek to postpone the trial date as long as possible; some is due to overworked defender legal aid staffs, overworked prosecution staffs, and overloaded courts—and some to poor management of the courts.

Whatever the cause, the impact of the delay in disposing of criminal cases covers a range of consequences:

(a) For any person, guilty or innocent, a long pretrial confinement is a corrosive experience; it is an enforced idleness in an environment often worse than the poorest correctional institution.

(b) Prolonged confinement after sentence and before commitment to a conventional corrections institution is likely to erode whatever may be the prospects of making a useful and law-abiding citizen out of the convicted person.

(c) We have all seen examples of defendants who have exploited procedural devices to postpone the final verdict of guilt for years with the result that their warfare with society has embedded and intensified their hostilities and rendered prospects for future improvement virtually zero.

(d) Delay in final disposition also exposes the public to added dangers when the accused is in fact an incorrigible criminal whose release on bail is exploited to commit new crimes. Sometimes this rests on a belief, widely shared by sophisticated criminals, that when finally brought to justice he will receive concurrent sentences for multiple crimes. The measure of these risks can be found in the increasing percentage of recidivists on the criminal dockets of every court in the country.

We in the legal profession and the judiciary have an obligation to put our own house in order, and to this end the Judicial Conference of the United States in October approved programs to expedite trials and appeals in federal courts and to establish means of identifying the cases in which there is a likelihood that delays will occur. Other programs have been instituted and yet others are to come, all directed to insure the speedy justice to which every accused is entitled and which the society has a right to demand for the protection of all its members.

The statistics of the federal courts are only a small fraction of the total picture and they show nearly 42,000 new criminal cases annually, an increase of 45% in 10 years.

PRISON VISITATION

Two and one-half years ago, in discussing corrections problems at the ABA meeting in Dallas, Texas, I urged that lawyers and judges—and indeed citizens generally—visit prisons and form their own judgments. The Young Lawyers' Section of the ABA took on the burden of promoting a Prison Visitation Program. I am not currently informed on all the details but I do know that in some states a very large number of such visits have been organized and that more and more judges and lawyers are finding out about prisons. Few things would help more than having the public fully informed on the problems of prisons and the burdens of those who administer them. Most administrators know a great deal of what ought to be done and none of my cursory observations at this Conference present anything new to you. What is desperately needed is that you have the resources and the authority that only public support and legislative action can provide. The people of this country can bring that about if they will see firsthand how their institutions are being run and what support they receive. We know that not all offenders can be salvaged, as we know that not all lives can be saved from disease, but like the physician, we must try.

It is most fortunate that one of the great organizations in the country saw, two years ago, that a national effort was called for to improve our correctional processes. The ABA created not one of the usual committees of lawyers, but a Commission that includes leaders of Labor, Industry, Judges, lawyers, penologists, and other specialists, including some of the most distinguished correctional administrators in the country, and a professional staff to carry on their work. All of the members of that Commission are invited members of this Conference and I know that Governor Richard J. Hughes, its Chairman, will cooperate in every way with you.

What I have been trying to express is my deep conviction that when society places a person behind walls we assume a collective moral responsibility to try to change and help that person. The law will define legal duties but I confess I have more faith in what a moral commitment of the American people can accomplish than I have in what can be done by the compulsion of judicial decrees.

The great tradition of America comes to us from the people who came here and by work, faith and moral fortitude turned a wilderness into a nation. Most of them were the poor and the oppressed of Europe. All of them wanted something better than the life they had abandoned.

Part of the American tradition has been to give of our bountiful treasure to others to restore them from the ravages of wars and natural disasters. We have not always shared our resources wisely but we have shared them generously.

Now we must try to give leadership and guidance to see that this generous spirit and this American tradition are applied to one of the large unsolved problems of Mankind and surely one of the unsolved problems of our society.

You accept this as your obligation by being here and I accept it as part of mine. Together we must let the people and the lawmakers know what needs to be done.

Prison Unrest Spurs Good Proposals

In the wake of Attica and the Thanksgiving Day upheaval at Rahway State Prison come two encouraging developments of significance in New Jersey and the nation.

State penal officials have revealed that a special furlough system for trusted convicts is a success, and Rep. Florence P. Dwyer, R-12th District, has proposed an inspection corps for federal, state, county and local prisons.

The state program, despite criticism from Rahway prisoners, is a move toward rehabilitation, and Mrs. Dwyer's proposal is a giant step toward improving conditions in nonfederal prisons—conditions she described as "atrocious beyond description."

Effective rehabilitation programs are sadly lacking in prisons today, but the N.J., furlough system is a forward-looking program that enables trusted prisoners to prepare for a career after their release, rather than sending them off with a few dollars and a new suit to fend for themselves.

Thousands of prisoners, state officials report, have been able to participate in job interviews, and scores have taken jobs under a work-release program while still imprisoned.

The statistics are impressive. In October alone, 80 employers hired 167 convicts. And AWOLs have been infrequent.

The state Corrections Division wants to expand the program to provide more vocational guidance and job opportunities and overnight shelters. The Legislature should approve the necessary funds.

Mrs. Dwyer's proposal would permit independent inspectors to make unauthorized visits to any prison in the country and make public their findings and recommendations.

Noting that there is no "systematic and effective" way to inspect prisons, Mrs. Dwyer went on to say that "we don't even know what's going on in institutions which are vital to our personal security."

If an inspection corps had existed just a few months ago, the demands of the Attica and Rahway prisoners might have come to light long before tensions in each prison reached the boiling point.

It is possible to speculate that with an inspection corps there would have been no Attica or Rahway and that the 43 persons who died in the Attica bloodbath would be alive today.

THE PLIGHT OF JEWS IN SYRIA

HON. JOHN BUCHANAN

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1971

Mr. BUCHANAN. Mr. Speaker, while increasing attention is being given to the repressive policies of the Soviet Union toward its Jewish citizens, and rightfully so; we must not forget that thousands of Jews in other countries are daily suffering a similar plight. This is particularly true of those Jews living in certain Arab countries of the Middle East.

The world was shocked into painful awareness of this tragic situation in January of 1969 with the public hangings in Iraq of nine Jews—along with five others—for the charge of spying for Israel. When such shocking incidents do not occupy the headlines, however, we too soon forget the restrictions under which so many Jews are forced to live day in and day out.

The ill treatment of Jews in the Arab world unfortunately continues and I would like to call the situation in Syria to the attention of my colleagues at this time.

While over 20,000 Jews are estimated to have left Syria since Israel's formation in 1948, the latest Syrian census places the Damascus Jewish community at 4,000, with fewer numbers living in two other towns. These citizens are required to carry special identity cards noting their religion and other personal data. They have been subjected to curfews at various times and cannot travel from one district to another outside the city limits without special travel permits. Their opportunities for employment have been restricted, with Jews being prohibited from holding jobs in civil service or nationalized sectors of the economy.

The above is not meant to be an all-inclusive list, but merely an indication of the type of discrimination affecting Syrian Jews.

Perhaps the most tragic repression lies in the inability of these Jewish citizens to escape from this situation by emigrating. The Syrian government has refused to permit such emigration, and this has resulted in the arrests of those who have tried to leave the country without a passport. Several Jewish men and women thus caught seeking to make their way out of the country received lengthy prison sentences.

In January 1970, more than 100 delegates from 26 countries met at a conference in Paris and made a formal appeal to world opinion to save those Jews remaining in Iraq, Syria and the United Arab Republic. Refugee witnesses at this conference gave testimony of the humiliation and suffering in their communities. Cablegrams appealing for the right of emigration were addressed to the three Arab countries and to Secretary General Thant of the United Nations. Delegates also made plans to press their own governments to make diplomatic representations as well.

Mr. Speaker, since I am aware of no evidence suggesting that the situation in Syria has changed, efforts such as the above must continue. Toward this end I have written to the Secretary of State to express my concern and to urge that he bring the plight of these Jewish people to the attention of the world community in the United Nations and elsewhere. I would strongly urge that my colleagues in the House make similar expressions of concern, in the hope that an aroused world opinion might bring pressure to bear on such governments as the Syrian government toward an end to these repressive policies.

A REPORTER'S LOOK AT WASHINGTON

HON. JEROME R. WALDIE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 10, 1971

Mr. WALDIE. Mr. Speaker, in the rush toward adjournment we in the Congress many times have neither the time nor the inclination to pause for a moment of introspection.

We do not have the time nor the inclination to ask what we are trying to accomplish.

We sometimes fail to reflect on the heritage and the meaning of the procedures and the customs we are following in the lawmaking process.

Several weeks ago a reporter for one of the newspapers in my district visited Washington for the first time. Her reflections on the visit are meaningful and worth taking the time to read.

Mr. Speaker, I believe that Jane Putnam of the Contra Costa Sun has offered us food for thought. I would urge my colleagues to read her series of articles and take the time to think about what is going on here—and why.

The articles follow:

Part I—Sun Reporter Discovers Capitol: "Does It Work?"

(By Jane Putnam)

"Somehow It Works."

The title of newscasters Huntley and Brinkley's book about the chaotic 1964 presidential primary in San Francisco refers to Democracy.

How does it work?

In Orinda, Moaga and Lafayette, many people were asking this question.

The Republican attitude seemed to be that there was no problem so long as they were the party in power.

The Democrats—as usual—were scrapping amongst themselves. The decisions on redistricting were being made in the smoke-filled rooms in Sacramento by the Assembly Committee on Reapportionment. Decisions on boundary lines which will determine Contra Costa's political future for the next decade were being drawn arbitrarily behind closed doors by a committee headed by a Los Angeles assemblyman and one from San Francisco.

Both parties seemed to be saying, "We'll teach the people Democracy if we have to shoot every last one of them."

There was the periodic purge going on in Orinda. The infant city of Lafayette had its share of governmental screamie-meemies, as did the "boom town" of Moraga.

Commenting on dissension, Dr. J. S. Holliday, the executive director of the California Historical Society, said recently in a talk before members of the Or-La-Mo historical societies: "The tradition of dissent is our proudest heritage . . . That is how we got here." (Dissenting from Ye Merry Olde Mother Country).

He also told about the influence of the Gold Rush on today's society. One illustration of "the presence of the past" given by Dr. Holliday was that the first legal decision in which the public good took precedence over private rights was in 1893 concerning water rights.

This example reminded me of Benjamin Franklin's concluding remarks in a talk May 9, 1731 (no, I was not there): ". . . Fewer still in public affairs act with a view to the good of mankind."

Suddenly, I wanted to go to the land of Jefferson, Franklin and Washington.

In an era when flag waving is suspect, and singing "God Bless America" smacks more of Right Wingism than patriotism, writing a series of articles on the nation's capitol might be out-of-date.

Besides, "What is the local angle?" asked Sun's Managing Editor Tim McAllister, when I asked if my beat could include the country seat. "Thomas Jefferson said that if he had to choose a government without newspapers or a newspaper without government, he would not hesitate to choose the latter," I said, reaching for a rationale.

McAllister was silent. He still had that "no local angle" look in his eye.

If only Pat or Dick were from Or-La-Mo!

Oh, well, I needed a vacation anyway. It was time to gain some perspective: How far was Washington from Martinez and Sacramento? Was Contra Costa's congressman minding the store? Can a boy from Antioch?

Having something of an innate martyr complex, this simple Moraga mother-reporter decided to make the sacrifice for her Or-La-Mo country and boarded a month-old DC–10 (complete with champagne and Trader Vic's broiled beef tenderloin Malagsy) in San Francisco.

Five hours later, I arrived at Dulles to see what I could of D.C.

Part II—Discovering D.C.: This is the Place That George Built

(By Jane Putnam)

Like a good house, Washington, D.C. was built from a good plan.

Back in 1800, George Washington and Pierre L'Enfant laid out the city like a wheel. The Capitol was the hub with the spokes being the streets, which are named after the States.

There are those who say that the plan is no longer functional. There is no way to build a mass transit system or "high rise" or multiples within the radius of the "wheel."

George Washington made sure about that. Not only did Washington and his colleagues come up with a workable plan for government—his master plan for the city (the heart of that government), also is working in our moon-oriented society.

D.C. is physically beautiful. Like a woman, its beauty is reflected from what is inside.

The topography and the natural resources of Capitol Hill are nil when we compare them to Contra Costa. The Capital city has been enhanced through good planning with restrictions and conditions, aided and abetted by a contagious national pride, symbolized by the dominant Washington Monument.

The city makes me painfully aware that while D.C. has done so much with so little, Contra Costa has done so little with so much.

There is open space and green belt all around the nation's capital. There are hardly any overhead wires. Signs are conspicuous by their absence. The height of the buildings are limited by the height of the Capitol—no building can be made more than 13 stories.

"This is where the action is," said a Washingtonian whom I met briefly during a taxi cab ride. (The New York cabbies are often written about, but those in D.C. are a breed apart. They are very fussy about whom they pick up and sometimes you are rejected because you're not going to the right zone or something).

The benefactor who allowed me to share his cab pointed out that Washington houses more art (dollarwise) than any place in the world, it is the home of 12 Federal departments, 53 agencies, 209 labor unions, 3500 associations, 116 legations, eight international banks . . .

He went on and on and I'll admit that the statistics of this man with the engineering mentality did not impress me.

The 134-room White House with its sweeping, green lawns and adjoining nursery; the 540-room Capitol with its two-mile green, tree-lined mall; the National Archives Building with the biggest bronze doors in the world; the Ford Theater where Lincoln was assassinated and the Peterson house across the street (where Lincoln died) and which the government bought for $30,000 about a decade ago; the monuments built to honor Washington, Lincoln, Jefferson and our other national heroes; the Smithsonian Institute where our past is excitingly preserved; the new Kennedy Center for the performing arts where our culture is synergized; the Arlington Cemetery where our dead soldiers, and their families' gravesites are marked with simple dignity—all of these reminders that "what is past is prologue"—is what I find exciting.

And as I type this, back in our Congressman Jerome Waldie's office, I feel as hamstrung as he sometimes does in trying to preserve and enhance the remnants of Contra Costa County.

What is happening to our landmarks? (Mr. Waldie has a letter from the chairman of the Corduroy Hills group which is trustee for Eugene O'Neill's "Tao House" in Alamo. It states that unless legislation is passed by Oct. 13 for the government to purchase the site, (a preposterous deadline), a developer will make a deal on the 1013.64-acre site to surround the home with 1800 cluster homes).

The county board of supervisors has been dragging its feet on processing the simple request of the Orinda Historical Society to put the oldest building in the county, the Moraga Adobe, on the National Register.

What is happening to our natural resources? Our ridges? Our water? Maybe the question we should really be asking is why put private interests before the public good?

A country's, a county's, a city's heritage is a priceless thing which cannot be measured with an economic yardstick. Why haven't we cared enough to preserve and enhance and plan for the very best? Where do we put our priorities?

With the passage of the county park dedication ordinance and the consideration of a county landmarks ordinance, maybe we are just beginning to awaken to what the father of our country knew nearly 300 years ago.

Part III—Discovering D.C.: The Systems Approach to American Freedom

By Jane Putnam

America's Democratic system IS working 195 years after its birth.

What makes it happen? The answer depends upon whom you ask.

For a reporter from Or-La-Mo, it might be: "Finding your way through the subway from the Capitol to the House and Senate."

Legislative assistants (most of whom are former newspapermen) agree to a pragmatic approach that the secret is "counting the votes."

The political maneuver of when to call the vote in the sub-committees or the Congress (when the guys on the other side are out of town) is part of the trick; and of course, to have the "good guys" turn out to vote for the measure which the boss (a Senator or Congressman) supports.

The secretaries to the Congressmen and Senators differ in viewpoints according to their years in government. The young secretaries seem inclined toward hero worship and maybe finding a husband in the glamorous Washington-go-round.

A secretary who has been around awhile is more apt to be idealistic. "The higher the government official goes the higher the calibre of man," said one.

The press corps which zeroes in on the legislators daily and uses the mass media to reduce the distance of the Capitol to the living room has made the legislators "more answerable" to the people, a TV cameraman said.

"You have to learn to be a politician before you can be a statesman," said a member of one of the State departments.

"I'll never be complacent again," said the wife of a diplomat.

On the Senate floor, the terms "revered colleague" and "the distinguished Senator from — " were used by the Senators (all 50 of them) and no matter how heated the debate, the chambers have almost a religious atmosphere.

It was surprising to me how many of the arguments by the Senators and Congressmen (I didn't meet all 435 of them) still center around the freedom of speech, the freedom of religion, the freedom of the press and other rights contained in that Bill of a pretechnological age.

And out of the window of the Senate press gallery, there is that old Washington monument, somehow as modern and mysterious as the tablet in the science-fiction film "2001"—dominating this capital of the greatest nation in the history of man.

The key to getting Democracy to work is for the legislative branch to act as a check and balance to the power of the president; and to work for reforms in the system, according to the legislators to whom I spoke.

California's Democratic senators and Contra Costa's congressman are making their presence felt in the White House and the world.

A deputy press secretary to the President answered our question by saying, "It isn't simple." He was going to look up the answer in a speech which President Nixon had given and call me back. (He never did).

Not knowing anyone who could speak for the judicial branch, its functions in the system is told in the few words on the United States Supreme Court building: "Equal justice under the law."

The men who make the laws may be less than perfect; but let's hear it for those guys back in 1776 who had a great idea for the systems approach to freedom.

In the last analysis, maybe it IS counting the votes. However, not in the way that my somewhat cynical cronies believe; but in that little draped room that has the rubber stamp with the x.

Part IV—Discovering D.C.: Sun's Reporter Bids Farewell to Troops

(By Jane Putman)

And so with the rain falling gently on the Washington Monument and the paddy wagon eerily "beeping" down Pennsylvania Avenue, the nation's newest political analyst bids adieu to Dick and D.C.

Because my business is words, the thing that I will take with me is a noggin-ful of words. If the gentlemen who said them will forgive my taking them out of context and repeating them without any particular order, these are the words I'll keep:

CONGRESSMAN WALDIE'S OFFICE

"If a man does not keep his peace with his companions, perhaps it is because he hears a different drummer. Let him step to the music which he hears, however measured or far away."

—Thoreau.

SENATE FLOOR

"If you've got a bad deal, hug it harder."

—Lincoln.

SMITHSONIAN INSTITUTE

". . . Of all the foundations . . . none can be named more deserving . . . Whoever increases knowledge multiplies the uses to which he is able to put the gift of his creator."

—John Quincy Adams, 1767–1848.

"James Smithson was well aware that knowledge should not be viewed as existing in isolated parts but as a whole, each portion of which throws light on all the other—and that tendency of all is to improve the human mind to give it new sources of power and enjoyment—Narrow minds think nothing of importance but their own favorite pursuit. But liberal views exclude no branch of science or literature. For they all contribute to sweeten, to adorn and to embellish life . . ."

—Joseph Henry, 1797–1878.

"Every man is a valuable member of society who by his observations, researches and experiments procures knowledge for men . . . It is in his knowledge that man has found his greatness and his happiness, the high superiority which he holds over other animals who inhabit the earth with him. And consequently no ignorance is without loss to him, no error without evil—The particle and the planet are subject to the same laws. And what is learned of one will be known to the other . . . I bequeath the whole of my property to the United States of America to found at Washington under the name of the Smithsonian Institute, an establishment for the increase and diffusion of knowledge among men."

—James Smithson, founder Smithsonian Inst., 1765–1829.

JEFFERSON ROTUNDA

"I have sworn upon the altar of God, eternal hostility against every form of tyranny over the mind of man."

". . . God who gave us life gave us liberty . . . His justice cannot sleep forever . . ."

". . . We hold these truths to be self-evident . . . Life, liberty and the pursuit of happiness."

—Thomas Jefferson.

LINCOLN MONUMENT

"In this temple as in the hearts of the people for whom he saved the union, the memory of Abraham Lincoln is enshrined forever."

". . . that this nation under God shall have a new birth of freedom . . . and that government of the people, by the people, for the people shall not perish from the earth."

". . . with malice toward none, with charity for all . . . with the firmness in the right as God give us to see the right . . ."

—Abraham Lincoln.

KENNEDY MEMORIAL

". . . the torch has been passed to a new generation . . . A call to bear the burden of a long twilight struggle . . . a struggle against the common enemies of man: tyranny, poverty, disease and war itself.

". . . The energy, the faith, the devotion which we bring to this endeavor will light our country and all who serve it and the glow from that fire can truly light the world.

". . . and so my fellow Americans, ask not what your country can do for you, ask what you can do for your country . . . My fellow-citizens of the world, ask not what American will do for you, but what together we can do for the freedom of man."

". . . with a good conscience our only sure reward, with history the final judge of our deeds—let us go forth to lead the land we love asking the blessing and His help. But knowing that here on earth, God's work must truly be our own."

—John F. Kennedy.

There were lots of other words—eloquent words spoken about the war and peace and poverty and the economy. They may be in tomorrow's headlines. But I don't think any of them will go much beyond that.

Let us remember that what is past, is prologue; and the words that are engraved in this city and my mind and heart, enable me to say, "So long, D.C., all states are in good hands."

THE "ANDREA DORIA"-"STOCKHOLM" DISASTER: ACCIDENT'S DO NOT HAPPEN

HON. ROBERT H. STEELE

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Friday, December 10, 1971

Mr. STEELE. Mr. Speaker, I include an article from the August 1971 issue of the U.S. Naval Institute's "Proceedings" written by John C. Carrothers of Deep River, Conn., which I thought would be of interest to my colleagues. Mr. Carrothers, now retired, was a surveyor in the construction and repair division of the Matson Navigation Co., San Francisco, during World War II. He sailed as a chief engineer with the Matson Co., and as an inspection engineer with the Vitro Corp. of America. He was chief engineer, Overlook Hospital, Summit, N.J., before returning to sea as an assistant engineer on Moore-McCormack Line's SS *Brasil*.

The article follows:

THE "ANDREA DORIA"-"STOCKHOLM" DISASTER: ACCIDENTS DO NOT HAPPEN

(By John C. Carrothers)

July 1971 marked the fifteenth anniversary of the *Andrea Doria-Stockholm* collision in which 51 persons perished. Six months after the disaster, the official inquiry was terminated when, apparently convinced by the welter of contradictions and name-callings that guilt or innocence could not clearly be ascertained, both steamship companies agreed to assume equal responsibility for the disaster. With the permission of the Federal Court, all third-party claims were settled under the terms of "limitation of liability" whereby a potential total of $85 million in claims was settled for $6 million.

On the first anniversary of the disaster, George Horne, marine editor of *The New York Times*, wrote: "In the morass of legal actions that followed the *Stockholm-Doria* crash, no impartial body ever rules on the accident in an official determination as to which, if either, of the ships was at fault and why. The suits for death and injury damages, and losses to personal effects and cargo were neatly packaged in a settlement procedure approved by the Federal District Court, in such a way that a final legal determination of liability and negligence, such as would almost naturally follow an airline, railroad, bus or automobile accident has not yet been established." This quote of Horne's is as applicable today as it was when it was written.

In his editorial, Horne twice refers to the "accident" a word which has inherent connotations of the *unforeseeable* and *unavoidable*. But, before a catastrophe of this magnitude can be so labeled, at least three questions ought to be asked: What happened? How did it happen? Why did it happen?

On that fateful night of 25 July 1956, the westbound Italian luxury liner *Andrea Doria* was rammed by the eastbound Swedish motorship *Stockholm* at 11:11 p.m. The collision occurred 180 miles east of Ambrose Lightship, the main entrance to New York Harbor. The *Stockholm*'s bow penetrated deep into the *Andrea Doria*'s hull at a point directly under her bridge on the starboard side in what was approximately a right-angle collision. The duty officers on the *Andrea Doria's* bridge said the night was foggy with visibility reduced to less than one mile. The *Stockholm*'s bridge watch claimed the night was clear with scattered patches of insignificant fog. Until about one minute before the collision, when her engine order telegraphs were suddenly flashed to "Full Speed Astern," the *Stockholm* was running at 18.5 knots with her telegraphs set on "Full Speed Ahead." The *Andrea Doria* was running at a speed reduced from 23 to 21.85 knots, with her engines operating under "Stand By" orders. This she had been doing for several hours prior to the collision because of restricted visibility. The *Andrea Doria* sank some ten hours after the accident while the *Stockholm* limped back to New York with about 75 feet of her bow demolished.

At the official inquiry the testimony of the two prime witnesses was in total conflict even to the point as to where each claimed to have first observed the other appearing out of the fog. Ernest Carstens-Johannsen, the *Stockholm*'s Third Officer, who was in charge of her bridge at the time of the collision, testified that he saw the *Andrea Doria* appear from out of the fog over the *Stockholm*'s port bow. At the same time, Captain Piero Calamai, of the *Andrea Doria*, claimed that when the *Stockholm* appeared from out of the fog he saw her over the *Andrea Doria*'s starboard bow. These were visual sightings; thus, any possibility of malfunction of the radar equipment must be ruled out.

Common sense dictates that when two ships are approaching each other on reciprocal courses, the passing must be either starboard-to-starboard or port-to-port. The testimony of the two men in charge of their respective bridges at the time of the collision contradicts this reasoning. The only possible conclusion is that one witness is correct and one witness is incorrect. There is no room for compromise. Fortunately, there exist two vital documents upon which is inscribed the full story of how the ships arrived at the collision. These documents are the Sperry Gyrocompass Course Recorder graphs which had been officially presented by both defendants and recorded by the Court as evidence.

In reconstructing collision cases, strandings, or any maritime casualty where navigation is involved, all that the U.S. Coast Guard, or Navy, requires are the Course Recorder graphs and the testified speed of the ships involved. Through the interpretation of these known factors, the events leading up to a casualty can be accurately determined. The absolute integrity of this Sperry instrument has never been questioned, let alone challenged.

Had this inquiry been conducted under the jurisdiction of the Coast Guard, or Navy, the first order of business undoubtedy would have been to produce a plot or diagram illustrating that which was scribed on the graphs. As each witness testified, his testimony then would have been compared with the graph's evidence. In this manner the correct answers would have been apparent. But this was not done, since neither the U.S. Coast Guard nor the Navy investigated the collision which involved two foreign ships in international waters and was therefore not under their jurisdiction.

Long before the Course Recorder graphs became available for study, this writer did a comprehensive study of the testimony of the official inquiry. The study eventually became the subject of an article, "There Must Have Been a Third Ship!" which was published in the July 1958 issue of the *Proceedings*. The outcome of this probe was given in a single paragraph that stated, "In analyzing the testimony it is plain to see that, barring perjury, there is only one possible conclusion—The original lights sighted by the *Stockholm* were not those of the *Andrea Doria!*" If the *Stockholm's* navigational watch was correct in seeing lights over the *Stockholm's* port bow three minutes before the collision, then these lights were being displayed from a ship other than the *Andrea Doria*. And, in turning away from these lights, the *Stockholm* plunged directly into the *Andrea Doria* coming up on the *Stockholm's* starboard side. The Course Recorder graphs confirm this theory.

There are certain irrefutable facts that should convince anyone about the validity of the third ship theory. The *Stockholm's* Third Officer said that three minutes before the collision the *Andrea Doria* appeared out of the fog. A positive radar fix at that time placed her at a distance of 1.85 miles, bearing 20 degrees over the *Stockholm's* port bow. The *Andrea Doria*, he continued, was showing her red sidelight with masthead and range lights open. At this juncture he ordered a two-point (22½-degree) turn to starboard away from *Andrea Doria*. Then, three minutes later, his ship plunged halfway through *Andrea Doria's* hull, at a point directly underneath her green sidelight.

Under no circumstance could the *Andrea Doria* have been anywhere on the port side of the *Stockholm* three minutes before the collision. Furthermore, it would have been utterly impossible for anyone on the *Stockholm's* bridge to have seen the *Andrea Doria's* red sidelight before the collision.

Both ships have categorically denied that there was any other ship in the immediate vicinity and, stated that during the entire collision approach there never was more than one target appearing on their radar screens. Moscow, in his book, *Collision Course*, tells us that the lookout in the *Stockholm's* crow's nest testified that, after he had completed his telephone conversation with the *Stockholm's* Third Officer one minute before the collision, he watched the *Andrea Doria* execute the long port turn into the collision. Both Walter Lord, author of *A Night to Remember*, in his review of Alvin Moscow's documentary, published in *The New York Times*, and Captain Raoul de Beaudean, commanding officer of the SS *Ile de France* which played such a heroic role in the rescue operations, have totally discounted any possibility of a third ship being involved in this tragedy; in fact, both ridiculed the idea.

Yet, if there was no third ship, and if the *Stockholm* was not turning away from lights showing on her port bow three minutes before the collision, why did the Third Officer order and execute the bold 22½-degree starboard turn that ended in disaster?

A comparison of Carstens-Johannsen's testimony with the established facts of the case, implies an error in his use of radar as an aid to navigation. The circumstantial evidence clearly indicates that the *Stockholm's* radar equipment was operating on the five-mile range while the Third Officer calculated his interpretations as though the equipment was operating on the 15-mile range. This error in radar range could well have been what triggered off the fatal sequence of events.

The *Stockholm's* Course Recorder graph shows a three-degree change in course to starboard which started at 11:06 p.m. Therefore, the order for this change in course was issued at 11:05 p.m., plus or minus a few seconds, which was six minutes before the collision. The Third Officer said that just as he ordered the slight change in course to starboard, which was to compensate for drift which he found as a result of the 11:00 p.m. radio direction bearing that he had recorded in his log book, he picked up the radar pip of the *Andrea Doria* at a distance of 12 miles.

This was obviously a gross error, because six minutes before the collision the *Andrea Doria* was only four, and not 12, miles away from the *Stockholm*.

Moreover, at 10:53 p.m., when the ships actually were 12 miles apart, there is no change in course indicated on the *Stockholm's* Course Recorder graph. The *Stockholm* on a steady course of 92 degrees with considerable yawing from 10:40 p.m. until 11:06 p.m made the slight change in course of three degrees to starboard.

All this would seem to indicate that the *Stockholm's* radar equipment was operating on the five-mile range, while the Third Officer considered it to be operating on the 15-mile range. A target four miles distant on the five-mile range setting would appear on the identical spot on the radar's screen as one on the same bearing would have if she were 12 miles away on the 15-mile setting. The Third Officer also said that the target was slightly to the left of the *Stockholm's* heading flasher. The radar target was actually slightly to the right of the heading flasher. With this constant yawing, it is plain to see how the target would jump from one side to the other of the ship's projected course line or heading flasher.

Carstens-Johannsen also testified that the target was coming toward the *Stockholm* at great speed. This, he said, led him to believe that the target might be some sort of naval vessel on maneuvers. Then, three minutes before the collision, when the radar target had actually closed from a distance of four to two miles (while through his misinterpretation he thought the target had closed from 12 to six miles—thus indicating great speed), Carstens-Johannsen committed what appears to be the fatal error. It was at this moment that he ordered the 22½-degree change in course to the right which brought the *Stockholm* into the collision situation with the *Andrea Doria*.

Had the *Andrea Doria* actually been at a distance of six miles, instead of the two miles that she was, three minutes before the collision, the *Stockholm's* Third Officer's action in ordering this 22½-degree turn to starboard would have been absolutely correct according to the rules for using radar as an aid to navigation. Here the rule is: When a radar target appears dead (or nearly dead) ahead, make an early and substantial change in course, preferably to the right, in ample time for your action to show clearly on the other ship's radar screen. With the elimination of any other ship being present in the immediate area, this is the only other logical reason for Carstens-Johannsen to order such a bold change in course.

After the *Stockholm* had leveled off from the 22½-degree right turn, which was about one minute before the collision, the Third Officer said that he momentarily removed his eyes from the *Andrea Doria* to answer the telephone. At the conclusion of this telephone conversation, which had been from the lookout in the crow's nest reporting the lights, he found that the ships had totally changed relative positions. Now, he said, the *Andrea Doria* was in a collision situation attempting to race across the *Stockholm's* bow. From this point on, right up to the collision, the testimony, as given by both ships and the documentary evidence scribed on their graphs, dovetails in every respect. Thus, the testimony and graphs have established that the first time that Carstens-Johannsen could possibly have seen the *Andrea Doria* was about one minute before the collision after he had completed the 22½-degree right turn. It also establishes that the ordering of this 22½-degree right turn three minutes before the collision was the final cause of the disaster.

At the official inquiry, Carstens-Johannsen testified that he had changed the range on his radar equipment from the five-mile to the 15-mile to the 50-mile ranges from time to time during the course of his watch. When one considers that the range in radar equipment is changed with the turn of a dial, as one would change channels on a television set, it is understandable how easy it would be, in the pitch black of a darkened wheelhouse, to commit such an error. This is not an infrequent kind of error; however, in the majority of cases, it is detected before any damage is done. Nevertheless, it could account for the all-too-many collisions in which ships find themselves approaching each other in the fog on starboard-to-starboard reciprocal courses which terminate in right-angle type collisions.

For those whose prime interest in accident cases is safety and education, there is no satisfaction in pointing the finger of guilt. Yet, facts are facts, and they have an eloquence of their own. Accidents don't just happen; they are caused. By examining the causes, valuable lessons can always be learned, by and for the men who are and will be in charge of the watch on the bridges of ships.

PUBLIC HEALTH SERVICE HOSPITALS

HON. THOMAS P. O'NEILL, JR.

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, December 10, 1971

Mr. O'NEILL. Mr. Speaker, I want to express my concern and support for the continuation of the Public Health Service hospitals that have served this Nation since its inception.

Many months ago the administration let it be known that it intended to unload the last of the eight remaining Public Health Service hospitals—that is was going to put an end to a system of medical service which has endured in this country since the first Congress established the marine hospitals.

This disclosure brought an overwhelming response from the communities affected and from the Congress. More than 250 Members of Congress joined in a resolution expressing their desire to see that the hospitals remain open and funded. After holding extensive hearings on this matter, and after seeking the opinion of the Comptroller General, which was that the Department of Health, Education, and Welfare had no power to close the remaining eight hospitals, Congress was assured that the facilities were not in jeopardy and that vital and much needed health care services would not be terminated.

Now we learn that without informing the Congress, HEW fully intends to move ahead with the conversion of two of these hospitals. Earlier suspicions that the administration would pick these hospitals off piecemeal, closing say, Boston and San Francisco this year, and Baltimore next year, have been confirmed by this latest development.

How the administration can clandestinely plan the shutting down of these hospitals while at the same time mouthing a commitment to an improved system of medical service for all Americans is beyond belief.

This latest episode in the continuing

battle over the existence of the Public Health Service hospitals serves to illustrate one important fact: That Congress must insist on complete openness in the conduct of matters relating to this issue, and that interested Members can never relent in their commitment to millions of Americans who use these facilities to keep them open.

We all know that America faces a health crisis. There is no justification for closing desperately needed hospitals at a time when the Nation must squarely meet such a crisis.

EMERGENCY CONFERENCE FOR NEW VOTERS

HON. HENRY HELSTOSKI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, December 10, 1971

Mr. HELSTOSKI. Mr. Speaker, last weekend Chicago was the site of a political convention, this one considerably less raucous than that held in August 1968. This time the delegates were all youthful, and some were those who had been locked out of the Democratic Convention Hall in 1968. They had gathered in Chicago this year to participate in the Emergency Conference for New Voters, hosted by Loyola University.

Attending this convention were some 3,000 young students, workers, blacks, browns, and women who are determined never again to be locked out of a political convention. In light of the recent reforms of the McGovern-O'Hara Commissions and the extension of the vote to 18-year-olds, I do not think, at least as far as the Democratic Party is concerned, that young people and minorities will ever again be denied full opportunity to participate in a political convention.

Mr. Speaker, the Emergency Conference of New Voters was successful beyond all expectations. The 3,000 delegates have returned to their communities armed with the knowledge of how to organize on the precinct level and demand recognition of their right to participate in the Presidential nomination process. I am heartened by this early sign that youth, blacks, browns, and women are determined to work together within the system and help turn this country around. And, I submit for my colleagues' edification the idealistic and forward-looking statement which the emergency conference delegates adopted before adjourning:

STATEMENT OF PURPOSE

On behalf of the Steering Committee and all of those that helped organize and plan for this Emergency Conference for New Voters, we present this statement of purpose for the National Youth Caucus.

Hundreds of us have come here this weekend from every part of the country. Among us are people who have helped organize the voter registration rallies and caucuses that have taken places in 24 different states across the country in the last seven months. We move now into a new phase of the effort to organize and mobilize the youth vote.

Our preferences may differ on candidates, on parties, on the particulars of national issues. But we are of one mind on the overriding purpose of this conference—to claim a share of the power in the American political system.

Power not for ourselves, but for what we believe in:

An end, immediately and completely, to the war in Indochina and the nightmares of an interventionist foreign policy;

A massive reordering of national priorities to attack full-scale the problems of hunger, poverty, education, and urban and environmental decay;

An adequate income and job for every American;

An opening up of the political parties to America's heretofore disenfranchised classes, young people, poor people, black people, brown people, women of all ages and races;

An end to government by deceit and manipulation, and,

Therefore, an end to the Administration of Richard Nixon.

To make real our claims for a share of the power, we must organize—organize with such energy and skill that no politician in either Party who hopes for the votes of young people can ignore us.

It will mean taking back with us to our respective states techniques so we may get young people selected as delegates to the conventions (young people like ourselves—students and working youth of all ages and races). Young people who are committed to the issues and to their constituency, not young people who will vote as a Mayor Daley or a Lyndon Johnson tells them to vote.

It is an awesome task, and the cards are stacked against us. The kingmakers of both parties have been playing this game for years. We haven't, and we haven't much time to learn the rules and apply them before delegates start being selected in key states.

Which is why this weekend may be one of the most critical in the 1972 elections. This is the first and last gathering of young political organizers before the conventions next summer! If the youth vote is to be organized into any serious and coherent national movement, that movement must be begun here in Chicago tonight. And we must organize locally and on a statewide basis to provide for the selection and election of youth candidates.

Tonight we officially begin that effort by announcing the formation of the National Youth Caucus. If we are to have some say in who the parties nominate for President, in what their platforms embody, in whether they meet their own announced reform goals—then we must leave Chicago united behind the National Youth Caucus, and each of us must strengthen and activate in our local areas.

We have come here—all of us—fed up with the course of this country and with the success of political bosses in excluding us from any power to change it. We have come here united against the perversion of a process. We leave here with the skills, the knowledge, the energy, the determination, the sophistication and the unity of purpose that will enable us to elect people like ourselves across the country as delegates to the conventions, as mayors and legislators from our local areas, and in doing that, reclaim that process. We must leave this conference as a coalition of young people, brown people, black people, American Indians, women and all disenfranchised classes of America.

We have come here as individuals, or in groups of many different sizes and origins. *We leave as a movement.*

REBUTTAL FROM ADVANCE SCHOOLS, INC.

HON. JEROME R. WALDIE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 10, 1971

Mr. WALDIE. Mr. Speaker, on November 17, 1971, I included a letter from Mr. Milton D. Swan of Oakland, Calif., in the CONGRESSIONAL RECORD. This letter was very critical of Advance Schools, Inc., of Chicago, Ill., for their practices in dealing with students of their correspondence courses.

After considerable study of information provided me by Advance Schools, Inc., I feel it only proper, Mr. Speaker, to include their rebuttal to Mr. Swan's letter in the RECORD. I have been given every assurance, by the Office of Education, that Advance Schools, Inc., is accredited by the National Home Study Council. In addition, the Office of Education advises me that, at the present time, they have no file of complaints concerning the practices of this company.

But Mr. Speaker, before I include their rebuttal on these pages, I want to note some further information concerning home study schools in this country.

I am advised that three problem areas now exist with many home study institutions. Refund policies are high on the list. Some schools apply refunds to the time a student is under contract, while not giving any consideration to the educational services rendered. In this department, Advance Schools, Inc., shows good marks—they offer a prorated refund plan voluntarily, while the FTC has met constant roadblocks in getting other institutions to submit to similar regulations.

Salesmen provide another major problem, since they work primarily on a commission basis. There is no way for a school to control what a salesman will tell a prospective student—other than threaten to fire him if they receive indications he is making promises the school cannot keep.

And last, Mr. Speaker, misrepresentation in advertising by some schools supply the reason for many complaints to the Office of Education. With better regulations that are now appearing to cover this area, the incidence rate is dropping.

Mr. Speaker, after enduring the controversy that has sprung up around this entire case, I have come away with some conclusions concerning the whole area of home study.

It is apparent to me that the Office of Education needs the enforcement powers necessary to become a check on some of these institutions. At the present time, they are accredited only through the National Home Study Council, an association of home study institutions that tries to watch its members. At the same time, the council can be classified as a lobby on Capitol Hill, since they have been a primary force in countering any effort by Congress or Federal agencies to gain more control over the way these institutions do business. I am not saying the council has done a bad job, but it is apparent to me that more comprehensive and equitable regulations could be drafted, through the cooperation of Federal agencies, the Congress, representatives of home study institutions, the National Home Study Council, and officials from the Office of Education.

We need, Mr. Speaker, to insure that the welfare and proper education of all our people is the prime concern of any agency governing the accreditation of these institutions. Certainly the job is a heavy responsibility for an association that relies on these very institutions for their support in its other efforts.

Finally, Mr. Speaker, some comment on the information received from Advance Schools, Inc., of Chicago.

Their rebuttal contains a condemnation of the remarks of Mr. Swan, who served for only 19 days as a salesman. No one but Mr. Swan will ever know exactly what pressures he endured in trying to succeed as a salesman. Whether real or imagined, Mr. Swan obviously felt they existed.

I also noted that a computer breakdown on the number of students rejected from this institution from my general area of California reveals some important information. Three hundred seventeen rejections came from students' cancellation of the program. One hundred ninety-nine students were rejected because of "credit." Yet, during the period of January to October 29, 1971, not one single student from this geographic area was rejected because of academic reasons. In fact, Mr. Speaker, only three areas for rejection, among nine possible areas, showed significant percentage rates. They were failure to submit entrance examination, credit, and student cancellation.

One more very important point, Mr. Speaker, is that students who accept this Home Study School are faced with three options in making payment. They can pay the entire cost in cash—a policy that many would find difficult since the average cost per course in the catalog I received ran just over $721.

Their second option is to apply for a loan under the federally insured student loan program. Not long ago, officials of this program cited a high rate of delinquencies among students who obtained these loans in recent years. Students who dropped out of correspondence and trade schools were listed a major part of the delinquencies.

The third option, Mr. Speaker, is benefits obtained by a veteran through the Veterans' Administration. Payments can be applied to the tuition. But, payments are made only on the basis of how many lessons the student has completed in a single quarter. Hence, a slower student or individual who does not have time to devote his entire energies to these courses is penalized while facing a high tuition bill.

In short, Mr. Speaker, the "Enrollment Agreement" offers the prospective student no opportunity for an education unless he commits himself to financial obligations. And, those obligations continue regardless of the student's future educational endeavors.

It is with these facts and thoughts in mind, Mr. Speaker, that I submit the following rebuttal letter from Richard A. Christensen, vice president, Advance Schools, Inc., Chicago, Ill., for inclusion in the RECORD:

ADVANCE SCHOOLS, INC.,
Chicago, Ill., December 1, 1971.

Hon. JEROME R. WALDIE,
House of Representatives,
House Office Building, Washington, D.C.

DEAR CONGRESSMAN WALDIE: Recently your remarks concerning Advance Schools, Inc., contained in the Congressional Record-Extensions of Remarks (on Wednesday, November 17, 1971, Page 41889), were brought to our attention.

In reading the letter which you received from our former representative, Milton D. Swan, we noted many inaccuracies and incorrect statements. We would like this opportunity to correct the RECORD on the procedures which are utilized by Advance Schools, Inc. in its operations and to answer the accusations contained in the letter.

First of all, Mr. Swan was employed by California Advance Schools which is the legal name under which Advance Schools, Inc. does business in the State of California. On July 1, 1971, Mr. Swan was hired under the School's normal employment procedure and was terminated nineteen days later for cause. After being terminated, Mr. Swan attempted on several occasions to rejoin Advance Schools without success.

The procedures utilized by the School are ethical and do not involve a misappropriation of any Government funds nor the misuse of the Government mails nor are any deceptive sales practices employed as alleged by Mr. Swan in his letter. Our School has attempted in every way to safeguard the trust which has been reposed in us in dealing with Veterans and applicants under the Federally Insured Student Loan Program.

Mr. Swan alleges that he would enter homes with a memorized presentation. This procedure is not utilized by Advance Schools. All representatives are required to undergo certain training programs for contacting pospective applicants. During this training period a representative is shown how to use 35 mm. film strip and audio equipment. This equipment is used during the presentation to inform the prospective student of the obligation that the School has to the student and the obligation that the student has to the School while taking the course. We are attaching the transcript of the audio recording concerning one of the courses.

The accusation that one of the tools of the sales presentation was that "the Government was going to foot the bill" is incorrect. The applicant is fully informed of his rights under the Federal Student Loan Act and if he qualifies what benefits he can anticipate receiving. Veterans are informed of their rights under the G.I. Bill and advised that they may apply for benefits if they are eligible.

The first lesson left with the applicant at the time of the application is entitled "How to Get the Most From ASI Training" Form S-166, a copy of which is enclosed. This booklet reviews the Federally Insured Tuition Loans and the benefits under the G.I. Bill on page 4 of Form S-166. It gives the student a brief summary of his obligations under both of these programs. In order to determine that the student fully understands his obligations, a five question test must be completed and returned to the School before the School will accept the student. Any incorrect answer will be corrected by letter from the School so that the student is made aware of his obligation.

The School does not utilize a "$15.00 an hour" approach in attempting to induce applicants to take a course. The representatives of Advance Schools do not misrepresent the financing of such courses. Prospective students are allowed only two years to complete the course and are advised that the repayment schedule will begin nine months after the completion of the course. The representatives are required to advise all students of these obligations and the audio-visual presentation sets forth clearly the obligations under these programs.

The School does not draw the majority of its sales from "the Nation's poverty pockets and ghetto areas," as alleged by Mr. Swan. We are enclosing a copy of the Market Facts Inc. Report which illustrates a student profile on page 20 of that report.

Mr. Swan alleges that all students are accepted by Advance Schools which is not the case. Our records will show that some 15% of all applicants are not accepted by the School. We do not know where Mr. Swan has obtained his facts regarding the "five million dollar deficit of payments" but it our understanding that the Federally Insured Student Loan Program is financially sound.

Mr. Swan alleges that promises of increased wealth and success are made to the students knowing full well that completion of the course is unlikely. This statement is false and we are attaching a certified report of Arthur Andersen & Co. illustrating the number of students who have completed the courses and those who are still active students, together with the amounts involved. At present we project our completion rate will reach 70%, far above the average. This has been accomplished through the personal attention given our students by regional service centers established by the School.

Advance Schools, Inc. has never taken advantage of the poor or any minority group. The facts are that we have established a 15-day cooling off period to permit any student to cancel with a full refund of all moneys paid. Furthermore, should the student cancel for any reason, after completing only a portion of the course, a charge of $75.00 will be made which will be deducted from the course tuition plus a pro rata charge for each lesson completed as related to the remaining tuition balance with a complete refund of all money in excess of these charges. Advance Schools is proud of the fine work which we have accomplished with the poor and minority groups and representatives are trained never to exploit or take advantage of an applicant from a minority group.

All applications for Veterans are processed and should it be determined that a Veteran does not qualify for benefits under the G.I. Bill, he is advised by letter within thirty days. We are enclosing a copy of the letter which is forwarded to him. The Veterans Administration also notifies the Veteran when he is ineligible for benefits.

The School will not allow any representative to "front" any enrollment money from an applicant. Such a procedure is completely improper and is not tolerated by Advance Schools. Under California law, a representative is required under his application to refrain from such conduct. All full time representatives of Advance Schools are salaried and enjoy such other fringe benefits as hospitalization, sick leave and vacation pay and expense accounts.

The School does not utilize any deceptive sales tools in dealing with applicants. Veterans are informed of their rights under the G.I. Bill and all applicants are advised of their rights and obligations under the Federally Insured Student Loan Program.

Representatives are required to leave copies of enrollment application, enrollment agreement, promissory note and disclosure finance statement with all applicants and failure to do so will result in termination of the representative.

Mr. Swan in his last paragraphs alleges that there is misrepresentation in the educational survey conducted by Advance. This is incorrect and the School obtains clearance of all of its presentations through the Office of the Attorney General of the State of California prior to using them. This practice was established upon our entry into the State of California. Copies of all presentations are presently on file with the Office of the Attorney General of the State of California. Advance Schools, Inc. follows this procedure in all other States in which it operates.

Advance Schools, Inc., is proud of its record in assisting to educate students throughout the country through the correspondence field. We believe that the programs instituted by Advance Schools have helped thousands of students throughout the United States and will be an economic benefit, not only to the students, but to the Nation in their increased knowledge and proficiency in their fields.

We hope that this letter will answer the incorrect statements which were contained in the letter of Mr. Swan. Should you wish to receive any additional information, we will be most happy to cooperate with you in every way.

Yours very truly,
RICHARD A. CHRISTENSEN,
Vice President.

JOSEPH J. SALERNO, ESQ., AND SIDNEY SALOMON, JR., RECEIVE UNICO AWARDS

HON. DOMINICK V. DANIELS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, December 10, 1971

Mr. DANIELS of New Jersey. Mr. Speaker, UNICO National is a service organization whose membership includes many thousands of Americans of Italian descent and which has performed tremendous service to the American people.

I have worked closely with many of the dedicated men in UNICO as well as their wonderful wives who have given unselfish service to America. Knowing of the great service UNICO members have provided to American communities, I was pleased to learn of two awards presented to outstanding UNICO members, Joseph J. Salerno, Esq., recipient of the UNICO Vastola Award and Sidney Salomon, Jr., recipient of the Antonio R. Rizzuto medal.

Mr. Speaker, the acceptance speeches of these two men exemplify the dedication and patriotism of all the members of UNICO. I am pleased to insert their speeches into the RECORD in order that my colleagues might be more familiar with this great organization.

The speeches follow:

REMARKS BY JOSEPH J. SALERNO, ESQ., ON THE ACCEPTANCE OF THE VASTOLA AWARD

Mr. Toastmaster, My friend Ted Mazza, fellow Unicans and friends:

My wife, Connie, and I have been treated with such kindness, consideration and affection here in St. Paul during the last week, that we feel as though, we are in the midst of our family and loved ones.

The fact that this award has been bestowed by Past National President Ted Mazza gives it greater meaning and significance, because Ted Mazza is cut from the same cloth and cast from the same mold as Dr. Vastola himself. What Ted Mazza said about me and the way in which he said it, proves to me once again that of all of Ted Mazza's many virtues, his greatest virtue is his warm-hearted generosity. We will be forever grateful to him for tonight and for the many years of true friendship which he has given us.

When I was a boy in high school, I had a very special hero. Many of you of my generation will remember Admiral William Halsey who in the dark days of the war in the Pacific was appointed to command all naval forces in the southwest Pacific. At that time he said "There are no great men, there are only great challenges, which ordinary men like you and me are forced by circumstances to meet." As a young high school boy, I did not fully understand what Halsey meant because I was extremely patriotic and romantically idealistic and I believed that greatness and heroism were divinely bestowed qualities. As I grew older and as my patriotism matured and mellowed and as my ideals were tempered by the realities of life, I came to understand more and more the meaning of Halsey's words.

As age and maturity advanced and as a small degree of wisdom developed, I came to know that there is a high degree of heroism in merely functioning, competing and surviving in a world which is hard and unrelenting. I came to realize that plotting a straight course in a society which is not always straight, that trying to do something for others while still providing for one's self, requires a certain quiet valor. Most thinking men who have weathered the rigors of life must come to the same conclusions. Yet most other men have only the inward satisfaction that they have achieved this accommodation between ideals and reality.

I, on the other hand, have been more fortunate, for tonight, you have bestowed upon me this Medal, this rank of Honor, and only because I have done those things that many before me have done and yet gone unnoticed. Tonight you have conferred upon my life a degree of dignity which cannot but affect immeasurably all my future actions.

I have always performed best as a team player and in Unico have I played on some championship teams. Can I ever forget the Passaic and Clifton Chapters and their wonderful members, the 1961 Constitutional Convention, the 1965, 1967 and 1969 National Convention Committees and all the other committees and groups with which I have had the delight of working in the past 19 years? Would I be up here tonight if I were not married to a girl who infused so much love into my life that I have had some left over to share with you?

To thank you, I will close with a story. Earlier this year, during the televised ceremonies of the Academy of Motion Picture Arts and Sciences, the Academy President Gregory Peck, bestowed the Jean Herscholt humanitarian Award on Frank Sinatra. After the thunderous applause subsided, Sinatra said that it is really a shame that a man must be around for a long time and have many friends before he gets a Humanitarian Award, because, he said pointing to the television camera, there are a million Mr. and Mrs. John Doe's out there who do humanitarian acts every day of their lives and all they get for it is "tired". And then he held up the Oscar to the camera and said "O.K. Mr. and Mrs. John Doe, reach out and grab your piece of this award because you deserve it more than I do."

And so, to all of you throughout this room and all my Unico friends throughout this country, I say tonight—"O.K. Mr. and Mrs. Unico, Reach out and grab your piece of this medal, because you certainly deserve it more than I do."

Good night and God Bless You All.

REMARKS BY SIDNEY SALOMON, JR., ACCEPTANCE OF THE ANTONIO R. RIZZUTO MEDAL

Mr. President, Reverend Fathers, distinguished guests, members and friends of Unico, ladies and gentlemen. I stand before you this evening with feelings of great pride . . . and great humility. You have placed me among a most distinguished company by awarding me "The Antonio R. Rizzuto Medal." I pray that I may be worthy of this great honor.

I am particularly honored to be recognized by your organization, Unico. Your chapters and your national organization have distinguished themselves through selfless community service . . . service to youth, to the elderly, to education and to the general community welfare. In fact, Unico in every way exemplifies the ideals that have built and will continue to build this great country of ours. These ideals are simple. They don't take great minds to understand. But they take greatness of heart to put into practice. They are the ideals which our immigrant forefathers instilled in their children and grandchildren . . . the ideals of freedom, of dignity for each and every human being regardless of race, class or national origin. The ideals that every man must be free to become whatever his talents and energies enable him to become . . . without fear, without favor, without prejudice. And, of course, the ideals of high personal moral standards and concern for the less fortunate. And the ideal that each and every one of us is a precious child of eternal God.

Today we hear much discussion . . . negative discussion . . . about confusion of moral values. Our immigrant forefathers were not confused over moral values. They knew that a successful family, and a successful nation, must live by several guidelines: First, above all, faith in the almighty Creator of us all. Second, respect and concern for our families and neighbors and our fellow man of all races and creeds; third, education and self-improvement, the continual effort to learn and to grow. And, fourth, that simple but vital ingredient . . . hard work.

These values haven't changed. And I am convinced that despite threats to traditional ways of thinking, they will not, in the long haul of history, disappear from our national life. They will not disappear because they have served America too well. And they will not disappear because organizations like Unico are keeping them alive.

Organizations like yours, with leaders such as Dr. Vastola and Antonio Rizzuto, continue to pass along the message of our American heritage. They continue to implement these traditional values in our contemporary living. One outstanding example of this implementation is your Unico scholarship program . . . both at the chapter and national level. This program has its eye on the future of America . . . building leaders who will work toward a better society through learning and knowledge. For no matter how much we respect and look to the past, our children and grandchildren must live in the future. And Unico has wisely recognized that education, the development of minds, is the way to insure that future.

Education . . . learning . . . brings with it new dreams, new hopes, new motivation to improve the society we have inherited. Education brings with it new understanding of the problems of our brothers, the need for creative change. It brings the compassion that wipes out prejudice, the wisdom that recognizes problems and ultimately solves them.

For a society, in the last analysis, is not judged by the material things it creates, but by the moral heritage it leaves behind. In the centuries to come, America will not be evaluated by the fact we turned out millions of automobiles, refrigerators and air conditioning units. Or that we built skyscrapers and cities. Or even that we sent men to the moon.

America will be judged on its success in achieving the American dream of a society of free and equal men . . . a society marked not only by material wealth, but by universal justice. Not only by affluence, but by opportunity. Not only by a high standard of living, but a high standard of morals. In other words, not just a society with a mind, but a society with a heart . . . and a soul.

Let me say in closing that I shall always cherish this award and what it stands for . . . recognition of working with and for my fellowman. I shall always be grateful to the St. Louis chapter for presenting my name to Unico National. I shall always be thankful for being selected by your national organization as worthy of this great honor.

THE RIGHT TO HEALTH

HON. TOM BEVILL

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 10, 1971

Mr. BEVILL. Mr. Speaker, my good friend, Mr. Rubin Morris Hanan, president of the Alabama League of Aging Citizens, Inc., was in the Nation's Capital during the recent White House Conference on Aging, to present suggestions and recommendations concerning the health care system of America. Mr. Hanan's remarks and recommendations are presented in a precise and articulate manner. His recommendations are among the best that I have seen to date and I am inserting his entire statement in the CONGRESSIONAL RECORD so that my colleagues may have the opportunity to study his suggestions.

Mr. Hanan has done an outstanding job in working for improved health care for our senior citizens. I would also like to take this opportunity to thank him for his many contributions and extend to him my continued wholehearted support.

The statement follows:

THE RIGHT TO HEALTH

(By Rubin Morris Hanan)

Fellow Delegates, Ladies and Gentlemen: The health of the American people is the basic foundation upon which all their happiness and their security rests. Regardless of a person's wealth or his freedom or independence, he cannot truly be happy or secure without good health and good health care. Although America is a country of unlimited wealth, offering great personal freedom and possessing the highest standard of medical technology in the world—America still has great problems providing adequate health care to all its citizens.

We find ourselves living through dramatic hours; hours which demand of each of you, as delegates to the White House Conference on Aging, and as Americans, a determined and unwavering course in support of the right of health care for all Americans.

One of the great unresolved issues of the Conference is whether or not a national health system of some type should be adopted. Before going any further, I want to make one point very clear. America cannot solve its national health problem by sovietizing its people and socializing its medicine.

The type health care program made available to our citizens is something that should be examined in depth in order to safeguard quality and quantity of medicine. In my opinion, Senator Edward Kennedy's Health Security Plan has many flaws, and this and other similar plans must be studied in detail before Congress forces them upon the American people.

It is often said and agreed by many in the health field that at its best, American medicine is the best in the world. I know that because I have visited Europe and most recently the Middle East countries. I know what socialized medicine is: half slave and half man. No American who truly prides freedom can really wish to see himself and his fellow citizens plagued by unreasonable health taxation, unwarranted government interference in his health, and unfair restriction on the exercise of individual rights. But in a society governed totally by bureaucracy, there is no such thing as total freedom. I believe the Federal Government can improve health care in America without Federal domination of the healing arts profession and the patients.

The Federal Government could rectify the shortage of medical manpower, medical schools facilities and equipment, regional cancer, heart and diabities hospitals and research centers. The Federal Government, through its great wealth, can assist in establishing more medical schools and can create a resource distribution pattern which will assure access to health care for all Americans.

In attempting to solve America's major problems, Congress has forgotten the need to improve financially our medical colleges, our regional research centers, and centers for many other areas of service.

I am Chairman of the joint City and County of Montgomery Health Clinic. We are charged with the responsibility of providing health care service to the indigent population of the city and county. I can verify that approximately 40,300 persons live in families which earn less than $3,000 per year in our area. Our present clinic of 9,072 square feet has overflowed into four mobile trailers in order to better serve the 10,755 patients who made over 24,000 visits to the clinic last year. Our facilities are being taxed beyond all reasonable limits. Add to this the average of 300 new patients who visit the clinic each month and it becomes obvious that either services must be curtailed, new eligible patients refused, or additional facilities must be provided. The same situation exists all over America today.

The social and economic problems of America's poor, are directly related to the solution of their health care problems. Major diseases do not respect national boundaries, neither do they respect age, sex, race or economic levels. There can be no North-South conflict over health care in this country.

What America needs is to launch an all-out attack on the causes of disease. Medical colleges and research centers and clinics need hard cash in order to conquer cancer, heart disease, diabetes, and the many crippling diseases, and to make health care and medical research in America second to no other nation.

What we don't need, is Federal control of the doctor-patient relationship, and socialized medicine.

In 1968 I, and a few other ordinary citizens of Alabama started one of the largest public fund drives in the State's history to build a cancer hospital and research center as a lasting memory to Alabama's only woman governor who died of cancer. What makes this memorial unique however is that unlike other memorials, it will provide life. The Lurleen B. Wallace Memorial Hospital and Tumor Institute will be more than brick and mortar. It will be the embodiment of a comprehensive concept for the care of cancer patients which will be available to all the people in the Southeastern part of the United States.

This great hospital will become part of the University of Alabama Medical Center in Birmingham, under the leadership of Dr. Joseph Volker, Dr. S. Richardson Hill, Dr. John Durant, and the Dean of the Medical College of Alabama, Dr. Clifton K. Meador.

If we supply each citizen with a form of national health insurance, but we do not provide enough doctors, and fail in our research of major diseases, then we have taken the wrong approach to health care. Our citizens should not look to government first for all health care. I have traveled widely to participate in planning and acceleration of research programs against the dread diseases. Wherever I have gone, I have seen human beings reacting much the same way. Whatever the claims of nationality, the peculiarities of religions, the color of skin, or political practices, they have the same human reactions. The anguished cry of a mother who has lost her child or the grief of one marriage partner after the death of the other is basically the same everywhere. Giving these people health insurance is little help, if the dread diseases are not conquered in the research centers and medical schools of the nation.

I make the following recommendations:

1. We must urge adequate Hill-Burton appropriations for constructing medical colleges and for construction and improvement of regional medical centers, research centers dedicated to conquering cancer, heart disease, diabetes, and the major crippling diseases.

2. The Federal Government must target all health resources assistance on bringing health care to all people who are sick with the dreaded diseases. We must focus our primary concern—not on expanded research for the sake of publishing more technical monographs—nor improving hospitals for the greater convenience of doctors or nurses alone—but on regional medical research and treatment centers.

3. The number of medical personnel is growing less every day in relation to the population. We must urge the administration and Congress to reinstate the financial assistance to medical schools, and must assist individual students with scholarships and tax incentives in order to bring doctors into the areas most needed. The time has come when America must recognize that for millions of people the financing of educational costs is more than a mere personal problem. It is a vital national problem, and should be recognized as such in our tax laws.

4. The present shortage of health manpower is in part due to maldistribution. It is concentrated in middle class suburban America. The total supply of health personnel to all citizens is more important than a national health insurance program.

5. We must expand the range of health education opportunities, particularly for youths of lower income families. This can be done through expanded and improved medical schools and streamlined curriculum by placing greater emphasis on the paraprofessional fields. We recommend screening programs in a limited number of regional and community clinical centers, equipped with the latest in instrumentation and communication systems. It could become the cornerstone for a genuine national effort to prevent or reduce chronic diseases by detecting them in their early stages. In other words, doctors treat disease when it occurs. It has been said that the American doctors do not attempt to put obstacles in the path of disease. The American people give disease a head start, then we run to catch up with it, after it has already begun to cause real damage to the body.

6. We must permit admissions directly to nursing homes rather than only via hospitals, so that persons who are too sick to remain in their homes, but not eligible for hospital care could not be denied service.

7. We should recommend "Fall Tune Up" Programs to provide free medical tests for people 55 and over.

And finally, just as we have a Federal system of guaranteeing bank accounts, I recommend the same type system to guarantee the insurers, the physicians, nurses, and hospitals of their rights to receive fair and just compensation for their services.

I believe that every person at this conference is a humanitarian, attending today to seek a means to better man's life. Then, let the conference embrace with fatherly love, all those who suffer—the sick, the poor, the disabled.

In closing, I want to read a prayer I wrote which I hope this conference will adopt:

Dear God, give us an understanding heart,
Clear thinking to find the essential good,
Purpose to find true goals for lasting values,
Honesty to hold and do what's right in God's sight,
Humility to know our weakness and mistakes,

Strength to meet the increasing daily demands,
Recognition to see the words of our colleague's sincere plan,
Confidence to always press forward when the cause is just,
Independence if needs to stand alone when our conscience says we must,
Gratitude for this great privilege to serve America and mankind,
Spiritual Awareness of our Nation's pledge "In God We Trust",
And now we pledge with grateful hearts our loyal service to man and God.
Thank You.

LEGISLATION TO RETURN TO NOVEMBER 11 AS VETERANS DAY

HON. LESLIE C. ARENDS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, December 10, 1971

Mr. ARENDS. Mr. Speaker, we are approaching the end of this session of Congress and, to our great disappointment, nothing has been done by the Committee on Judiciary with respect to the legislation pending with it to amend the law relating to legal holidays that November 11 will again be Veterans Day. I am taking this time simply to serve notice that there are many of us, and I am one of them, who are determined that this action be taken before the end of this Congress.

In 1968 the Congress enacted a bill making various changes in our legal holidays, effective in January of this year. When the measure was before us former Congressman Roudebush, of Indiana, offered an amendment to retain November 11 as Veterans Day instead of changing it to the "fourth Monday in October." I voted for this amendment, but it failed of adoption by a small teller vote. And on final passage I was one of the 83, out of the 295 then present and voting, to vote against the entire bill.

As provided by the bill this new law, approved on June 28, 1968, did not become effective until this year. We now have had experience with it, and we now surely recognize that by virtue of the change Veterans Day has become a day without significant meaning.

November 11, 1918, marked the signing of the armistice that stilled the guns in World War I. President Wilson urged us to look upon November 11 "with solemn pride" and "with gratitude." In 1926 the Congress directed the President to proclaim a national observance of November 11, and in 1938 November 11 was officially made a national holiday known as Armistice Day. It became a day not so much for rejoicing over our victory in war, but rather for our having attained peace and preserved freedom. It was a day for expressing our gratitude as a nation to those who fought and died in the cause of peace and freedom we enjoy. We are a nation that loves peace, but loves freedom even more.

Since 1918 we became involved in two major conflicts for the cause of freedom—the Second World War and the Korean war. November 11 as a holiday of remembrance became even more meaningful. In 1954 Congress changed the title of the day from Armistice Day to Veterans Day.

It is a day on which we express our gratitude to all our veterans and to their families. In the cause of freedom our young men continue to make sacrifices in Southeast Asia. Veterans Day this year should have been November 11, not only a day of remembrance and of thanks, but a day of prayer for peace. As we experienced this year with the change to the fourth Monday of October, Veterans Day did not have the significance it should have and would have if it had remained November 11.

Mr. Speaker, when we return for the next session of this Congress I trust the Committee on Judiciary will give prompt attention to the pending legislative proposals to return to November 11 as Veterans Day.

IN MEMORY OF HERBERT D. STERNS, OF WATERVILLE

HON. PETER N. KYROS

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Friday, December 10, 1971

Mr. KYROS. Mr. Speaker, I was saddened by the recent passing of one of Waterville's outstanding citizens, Herbert D. Sterns, but was greatly impressed with the editorial tribute which Station WTLV of the Kennebec Broadcasting Co. chose to pay him. The following remarks, aired by WTVL on November 12, are a fitting eulogy to a man who will be missed not only by his family and close friends, but by his entire community as well:

IN MEMORY OF HERBERT D. STERNS, OF WATERVILLE

We sat quietly together this morning in the beautiful Beth Israel Synagogue here in Waterville as our community joined together in tribute to the memory of a friend. A reverent calm seemed to come to ease the sadness which often pervades at times such as this. But, as Rabbi David Berent of Lewiston spoke of Herbert D. Sterns, in whose honor and memory every seat in that synagogue had been filled by a friend, or a relative, one came to rejoice that somehow he had come within the sphere of the kindly influence of this man, Herbert Sterns. His life among us in this community has always reflected friendliness and love.

The joy of that verbal tribute to friend Herbert Sterns was that it left with those who heard it a living essence and spirit of this man, who quietly passed away yesterday morning. Though he was only in his middle age, and in spite of all that science and loving care could do to prevent, our friend quietly slipped away by God's will. The sadness of yesterday became the glory of today, for those participating in this service of tribute. Herbert Sterns' dedication to his faith, his family, his country, and his desire to serve others are monuments to his spirit. These are the qualities of permanence which our community shall continue to cherish as fond memories of a noble man, a friend, one whose kindness and love shall not be forgotten.

To us the words of another say what we believe Herbert Sterns' life has stood for:

"I have sought beauty through the dust of strife, I have sought meaning for the awful ache. And music in the grinding wheels of life; Long have I sought, and little found as yet Beyond this truth: that Love alone can make Earth beautiful, and life without regret."

DECEMBER 1971, REPORT ON ENVIRONMENTAL QUALITY

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, December 10, 1971

Mr. DINGELL. Mr. Speaker, so that the information therein contained will be available to my colleagues and other interested persons, I insert the text of the December 1971 issue of the Council on Environmental Quality's "102 Monitor" to appear at this point in the CONGRESSIONAL RECORD:

102 MONITOR, COUNCIL ON ENVIRONMENTAL QUALITY

NOTICE OF OPPORTUNITY FOR PUBLIC COMMENT ON PROCEDURES TO IMPLEMENT THE NATIONAL ENVIRONMENTAL POLICY ACT (42 U.S.C. SEC. 4331 ET SEQ.)

Following its annual practice, the Council on Environmental Quality invites comment and suggestions from interested parties with respect to possible revisions of the Council's Guidelines on the preparation of environmental impact statements pursuant to Section 102(2)(C) of the National Environmental Policy Act (NEPA) (42 U.S.C. Sec. 4332(2)(C)). These Guidelines, dated April 23, 1971, are available from the Council and appear at 36 *Federal Register* 7724–7729.

The Council also invites similar comment and suggestions with respect to the procedures adopted by agencies to implement NEPA and the Council's Guidelines. These procedures, to the extent they have been adopted, are available as follows:

Department of Agriculture—Departmental procedures dated November 12, 1971 (text follows this notice); Agricultural Stabilization and Conservation Service (no separate procedures); Animal Plant and Health Service (no separate procedures); Cooperative State Research Service (no separate procedures); Economic Research Service (no separate procedures); Extension Service (no separate procedures); Farmers Home Administration (no separate procedures); Forest Service Procedures dated July 31, 1971 (text follows this notice); Rural Electrification Administration Procedures dated June 17, 1971 (text follows this notice); and Soil Conservation Service Procedures dated November 15, 1971 (text follows this notice).

Appalachian Regional Commission—Procedures dated June 7, 1971 (text follows this notice).

Atomic Energy Commission—Regulatory activities, procedures dated September 9, 1971; 36 Fed. Reg. 18071–18076; Supplement, 36 Fed. Reg. 22851–22854; and Nonregulatory activities procedures dated July 16, 1971; 36 Fed. Reg. 13233–13235.

Canal Zone Government—Procedures dated July 1, 1971 (text follows this notice).

Civil Aeronautics Board—Procedures dated July 1, 1971; 36 Fed. Reg. 12513–12515.

Delaware River Basin Commission—Procedures dated October 21, 1971; 36 Fed. Reg. 20381–20382.

Department of Commerce—Departmental procedures dated November 6, 1971; 36 Fed. Reg. 21368–21370; Economic Development Administration, Procedures dated November 16, 1971; Maritime Administration (no separate procedures); National Bureau of Standards (no separate procedures); and National Oceanographic and Atmospheric Administration (no separate procedures).

Department of Defense—Departmental procedures dated August 18, 1971; 36 Fed. Reg. 15750–15754; and Army Corps of Engineers, Procedures dated June 11, 1971; 36 Fed. Reg. 11309–11318.

Department of Health, Education, and Welfare—Departmental procedures dated November 23, 1971 (text follows this notice);

Facilities Engineering and Construction Agency (no separate procedures); Food and Drug Administration (no separate procedures); Health Service and Mental Health Administration (no separate procedures); and National Institute of Health (no separate procedures).

Department of Housing and Urban Development—Departmental procedures dated November 19, 1971; Federal Housing Authority (no separate procedures); Urban Renewal Program (no separate procedures); Water and Sewer Grants (no separate procedures); Model Cities Program (no separate procedures); Open Space and Public Facilities Assistance (no separate procedures); and Mortgage Insurance Programs (no separate procedures).

Department of the Interior—Departmental procedures dated October 2, 1971; 36 Fed. Reg. 19343–19347; Bonneville Power Administration (no separate procedures received); Bureau of Indian Affairs (no separate procedures received); Bureau of Land Management (no separate procedures received);
Bureau of Mines
(no separate procedures received);
Bureau of Outdoor Recreation
(no separate procedures received);
Bureau of Reclamation
(no separate procedures received);
Bureau of Sport Fisheries and Wildlife;
(no separate procedures received);
National Park Service
(no separate procedures received);
Office of Coal Research
(no separate procedures received);
Office of Saline Water
(no separate procedures received); and
U.S. Geological Survey
(no separate procedures received).

Department of Justice—Law Enforcement Assistance Administration, Procedures dated October 27, 1971; 36 Fed. Reg. 20613–20617.

Department of State—Departmental procedures dated December 1, 1971; Agency for International Development, Special procedures for Capital Projects dated September 1, 1971; and International Boundary Water Commission (U.S.-Mexico), Procedures dated August 21, 1971.

Department of Transportation—Departmental procedures dated October 4, 1971 (text follows this notice); Coast Guard, Procedures dated October 13, 1971 (text follows this notice); Federal Aviation Administration, Airport Development Aid Program Procedures dated December 7, 1970, amended June 25, 1971 (text follows this notice); Federal Highway Administration, Procedures dated August 24, 1971 (text follows this notice); St. Lawrence Seaway Administration (no separate procedures received; and Urban Mass Transportation Administration (no separate procedures received).

Environmental Protection Agency—Procedures dated December 1, 1971 (text to be published separately).

Federal Communications Commission—(no procedures received).

Federal Maritime Commission—(no procedures received).

Federal Power Commission—Procedures dated December 15, 1970; 35 Fed. Reg. 18958–18960 and Amendments dated April 16, 1971; 36 Fed. Reg. 7232–7233; November 30, 1971; 36 Fed. Reg. 22738–22741.

Federal Trade Commission—Procedures dated December 1, 1971; 36 Fed. Reg. 22814–22815.

General Services Administration—Federal Supply Service, Procedures dated September 15, 1971 (text follows this notice); Property Management and Disposal Service, Procedures dated September 15, 1971 (text follows this notice); Public Buildings Service, Procedures dated September 15, 1971 (text follows this notice); and Transportation and Communication Service, Procedures dated June 30, 1971 (text follows this notice).

Interstate Commerce Commission—Procedures dated May 26, 1971; 36 Fed. Reg. 10807–10810.

National Aeronautics and Space Administration—Procedures dated October 31, 1971; 36 Fed. Reg. 21753–21755.

National Capital Planning Commission—Procedures dated August 9, 1971 (text follows this notice).

National Science Foundation—Procedures dated November 15, 1971 (text follows this notice).

Office of Economic Opportunity—Procedures dated July 1, 1971.

Office of Management and Budget—Procedures dated September 14, 1971 (text follows this notice).

Small Business Administration—(no procedures received).

Tennessee Valley Authority—Procedures dated November 2, 1971; 36 Fed. Reg. 21010–21014.

Department of the Treasury—Departmental procedures dated July 31, 1971, 36 Fed. Reg. 14221–14222; and Internal Revenue Service, Procedures dated August 12, 1971, 36 Fed. Reg. 15081–15082.

United States Postal Service—(no procedures received).

Veterans Administration—(No procedures received).

Water Resources Council—Procedures dated February 10, 1971 (text follows this notice).

Comments and suggestions should be filed with the Council (Attention: General Counsel) no later than thirty days from the date of publication of this notice and, in the case of agency procedures, should be addressed directly to the agency concerned, with copies to the Council.

RUSSELL E. TRAIN, *Chairman.*

NOTE.—The text of agency procedures referred to in this notice appears in Part 2 of the *Federal Register* for Saturday, December 11, 1971, a copy of which is enclosed.

The 102 Monitor is published by the Council on Environmental Quality, 722 Jackson Place, N.W., Washington, D.C. 20006. If your address is incorrect, please write to Hope Hale, Acting Editor.

The title of this publication refers to Section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(c)). File this and subsequent issues in a ring binder for handy reference.

SOURCES FOR ENVIRONMENTAL IMPACT STATEMENTS

In order to receive more efficient and prompt service, requestors are urged to order draft and final impact statements from the Department of Commerce's National Technical Information Service (NTIS) rather than the preparing agency. Each statement will be assigned an order number that will appear in the 102 Monitor (at the end of the summary of each statement) and also in the NTIS semi-monthly Announcement Series No. 68, "Environmental Pollution and Control." (An annual subscription costs $5.00 and can be ordered from the NTIS, U.S. Department of Commerce, Springfield, Virginia 22151.)

Final statements will be available in microfiche as well as paper copy. A paper copy of any statement can be obtained by writing NTIS at the above address and enclosing $3.00 and the order number. A microfiche costs $0.95. (Paper copies of documents that are over 300 pages are $6.00.)

NTIS is also offering a special "package" in which the subscriber receives all statements in microfiche for $0.35 per statement.

Statements will still be available for public scrutiny in the document rooms of the various agencies. However, only limited copies will be available for distribution.

Yet another possible source of statements is from the Environmental Law Institute, 1346 Connecticut Avenue, N.W., Washington, D.C. 20036. To order a document, please indicate the Department, date, and ELR Order # (given at the end of each summary). The Institute charges $0.10 per page, and as you will note the number of pages is also given at the end of the summaries. Please enclose the correct amount of money with your order and mark the envelope to the attention to the "Document Service."

SOURCE FOR BACK ISSUES OF THE 102 MONITOR

Because the supply of past issues of the 102 Monitor is not sufficient to meet all requests, a list is provided below indicating where the various issues of the 102 Monitor appeared in the *Congressional Record*. You may wish to order these *Congressional Records* from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 ($.25 per copy).

Vol. 1, Nos. 1, 2 & 3—Congressional Record—April 28 (Extension of Remarks), page E 3607.

Vol. 1,. No. 4—Congressional Record—May 27 (Extension of Remarks), page E 5151.

Vol 1, No. 5—Congressional Record—June 16 (Extension of Remarks), page E 6023.

Vol. 1, No. 6—Congressional Record—July 28 (Extension of Remarks), page E 8458.

Vol. 1, No. 7—Congressional Record—Sept. 13 (Extension of Remarks), page E 9483.

Vol 1, No. 8—Congressional Record—Sept. 24 (Extension of Remarks), page E 10002.

Vol. 1, No. 9—Congressional Record—Nov. 1 (Extension of Remarks), page E 11596.

Vol. 1, No. 10—Congressional Record—Nov. 15 (Extension of Remarks), page E 12213.

ON THE FOLLOWING PAGES ARE ENVIRONMENTAL IMPACT STATEMENTS RECEIVED BY THE COUNCIL FROM NOVEMBER 1 THROUGH NOVEMBER 30, 1971

(NOTE: At the head of the listing of statements received from each agency is the name of an individual who can answer questions regarding those statements.)

DEPARTMENT OF AGRICULTURE

Contact: Dr. T. C. Byerly, Office of the Secretary, Washington, D.C. 20250 (202) 388–7803.

Agricultural Research Service

Draft

Title, Description, and Date of Transmittal

Soil Inhabiting Insects program: Application of chlordane at 35 high-risk locations (airports, military installations) in 21 states to prevent long-distance artificial spread of plant pests. (ELR Order No. 1165, 13 pages) (NTIS Order No. PB–204 018–D) November 4.

Office of the Secretary

Final

Title, Description, and Date

Legislative proposal to designate Sycamore Canyon Primitive Area as Sycamore Canyon Wilderness, in the Coconino, Kaibab and Prescott National Forests, Arizona. Involves 46,542 arcres, 1,050 of which are contiguous to the Primitive Area. Comments made by USDA, DOC, DOD, FAA, FPC, HEW, DOI, 2 Members of Congress, Pima, Coconino and Yavapai Counties Boards of Supervisors and Cities of Tucson and Flagstaff. (ELR Order No. 1269, 36 pages) (NTIS Order No. PB–204 454–F) November 18.

Legislative proposal to designate Pine Mountain Primitive Area as Pine Mountain Wilderness, in the Prescott and Tonto National Forests, Arizona. Involves 19,569 acres, 3,671 of which are contiguous to the Primitive Area. Comments made by USDA, DOC, DOD, FAA, FCC, FPC, HEW, Ariz. Game and Fish Commission and Yavapai County Board of Supervisors. (ELR Order No. 1270, 38 pages) (NTIS Order No. PB–204 (455–F) November 18.

Forest Service

Draft

Title, Description, and Date

FH–12, Rio las Vacas-Senorita Section, Santa Fe National Forest, Sandoval County, *New Mexico*. Upgrading 15-mile portion of dirt and gravel road to a paved road. Involves loss of estimated maximum of 85 acres of productive forest land (ELR Order No. 1250, 14 pages) (NTIS Order No. PB–204 377–D) November 22.

Soil Conservation Service

Draft

Title, Description, and Date

Clarks Fork-Bullocks Creek Watershed, York County, *South Carolina*. Includes 17,600 acres of conservation measures, 360 acres of critical area stabilization, 6 floodwater retarding structures, 1 multi-purpose structure and recreational facilities. Will eliminate 867 acres of woods, 229 acres of open land and 15 miles of stream fishery. (ELR Order No. 1149, 10 pages) (NTIS Order No. PB–203 877–D) November 2.

Truth or Consequences-Williamsburg Arroyos Watershed, *New Mexico*. Conservation land treatment supplemented by 4 floodwater-retarding structures, about 1 mile of channel and pipeline and about .6 mile of floodway. Will eliminate agricultural use and wildlife habitat on 34 acres of rangeland and periodically interrupt such use of 152 acres. (ELR Order No. 1180, 8 pages) (NTIS Order No. PB–204 090–D) November 8.

Tallulah Creek, Watershed, Long Creek portion, *North Carolina*. Application of conservation land treatment on 410 acres and construction of a multi-purpose municipal storage and flood prevention structure; 53 million gals. of water to be stored. Will remove 36 acres of agricultural and forest land from production, limit use of 36 acres in the detention pool and destroy 4000 ft. of trout stream. (ELR Order No. 1261, 20 pages) (NTIS Order No. PB–204 457–D) November 23.

Final

Title, Description, and Date

Red Lick Creek Watershed, *Kentucky*. Acceleration of land treatment program and installation of 4 floodwater retarding structures and 1 multiple purpose structure. Will inundate 6 miles of intermittent stream channels, involve 244 acres of land in sediment pools and necessitate relocation of 10 families. Comments made by Army, HEW, DOI and Appalachian Regional Commission (ELR Order No. 1230, 14 pages) (NTIS Order No. PB–204 255–F) November 15.

DEPARTMENT OF COMMERCE

Contact: Dr. Sydney R. Galler, Deputy Assistant Secretary for Environmental Affairs, Washington, D.C. 20230 (202) 967–4335.

National Oceanic and Atmospheric Administration

Draft

Title, Description, and Date

Great Lakes Snow Redistribution Research Project. An exploratory investigation into the nature and characteristics of Great Lakes snowstorms, caused by movement of cold air masses over relatively warm water, to assess the possibility of moderating excessive snowfall along the leeward side of the lakes by overseeding the related cloud systems. (ELR Order No. 1216, 18 pages) (NTIS Order No. PB–204 158–D) November 15.

DEPARTMENT OF DEFENSE

Department of Air Force

Contact: Col. Cliff M. Whitehead, Room 5E 425, Pentagon, Washington, D.C. 20330 (202) OX 5–2889.

Final

Title, Description, and Date

Consolidation of all Air Force helicopter training at Hill Air Force Base, *Utah*. Includes combat crew training, air rescue, recovery, aircraft fire and rescue training. Fire training will involve open burning of jet fuel, resulting in some smoke and unburned jet fuel. Comments made by DOA, DOI, EPA, Utah Governor, Utah Dept. of Social Services, and Utah Air Conservation Committee. (ELR Order No. 1151, 162 pages) (NTIS Order No. PB–198 764–F) November 2.

Development and testing of 3 flight-test B–1 aircraft, a high subsonic, low-altitude penetrator (two-thirds size of B–52) capable of supersonic speed at high altitude. First flight scheduled for April 1974, with decision to enter into production about 12 months later. Describes measures being developed to lessen noise and air pollution. (ELR Order No. 1160, 32 pages) (NTIS Order No. PB–201 711–F) November 3.

Development of the F–15 aircraft to fill the Air Force need for an air superiority fighter. A single-place, fixed-wing, twin-turbofan fighter in the 40,000 pound weight class capable of speed in excess of Mach 2, the F–15 is in the advanced development stage. Plans are for a first flight in 1972, with initial operational capability in the mid-1970's. (ELR Order No. 1164, 32 pages) (NTIS Order No. PB–201 710–F) November 3.

Department of Army

Contact: George A. Cunney, Jr., Acting Chief, Environmental Office, Directorate of Installations, Office of the Deputy Chief of Staff for Logistics, Washington, D.C. 20310 (202) OX 4–4269.

Draft

Title, Description, and Date

Safeguard Ballistic Missile Defense System sites within Minuteman field near Whiteman Air Force Base, *Missouri* and within Minuteman field near Warren Air Force Base, *Wyoming* or near the National Command Authority, *Washington, D.C.* System consists of Missile Site Radar (MSR) and Perimeter Acquisition Radar (PAR), two types of interceptor missiles (Spartan and SPRINT) and a high-speed data processing and communications system (ELR Order No. 1203, 14 pages) (NTIS Order No. PB–204, 162–D) November 15.

Corps of Engineers

Contact: Francis X. Kelly, Assistant for Conservation Liaison, Public Affairs Office; Office, Chief of Engineers, 1000 Independence Avenue, S.W., Washington, D.C. 20314 (202) 693–0892.

For the reader's convenience we have listed the numerous statements from COE by State in alphabetical order.

Draft

Title, Description, and Date

Crescent City Harbor Navigation Project, Del Norte County, *California*. Construction of a T-shaped basin from deepwater, 20' deep, 1500' long, with a stem 1000' long, extending 325' north of Citizens' Dock and a 400' extension of the inner harbor breakwater. (ELR Order No. 1251, 32 pages) (NTIS Order No. PB–204 380–D) November 18.

Ventura Marina, Ventura County, *California*. Construction of offshore breakwater 1500 feet long, dredging of 800,000 cubic yards and construction of recreational facilities, parking areas etc. for year-round boating activity. (ELR Order No. 1221, 16 pages) (NTIS Order No. PB–204 166–D) November 5.

Choctawhatchee River and Holmes Creek, *Florida*. Permit application for snagging of River from Ala. line to the mouth and of Creek from Vernon to its confluence with the River to provide safe navigation for small pleasure craft. Will reduce aquatic habitat. (ELR No. 1136, 29 pages) (NTIS Order No. PB–203 770–D) November 2.

Flood control at Muscatine, *Iowa*. Improvement of earthen levees, construction of new levees, concrete floodwalls, closure structures, ponding areas, pumping plant and partial realignment of Mad Creek. Will alter 5,500' of creek shoreline. (ELR Order No. 1280, 18 pages) (NTIS Order No. PB–204 500–D) November 26.

Diked Disposal Area Program, Duluth-Superior Harbor, *Minnesota* and *Wisconsin*. Construction of sand dikes for polluted dredge spoil containment at Duluth in 21st Ave. west slip area and at Superior adjacent to sewage treatment plant. Will convert 35 surface acres of water to land at each site. (ELR Order No. 1263, 13 pages) (NTIS Order No. PB–204 456–D) November 22.

Perry County Drainage and Levee Districts 1, 2, and 3, Perry County, *Missouri* and Randolph County, *Illinois*. Construction of four 60–130 cfs pumping stations and two drainage ditches totaling 13,900 feet. Will result in some loss of the 280 acres of brush and forest land, now wildlife habitat. (ELR Order No. 1133, 201 pages) (NTIS Order No. PB–203 775–D) October 29.

Valcour Harbor, Lake Champlain, *New York*. Construction of a 700-foot long rubble-mound offshore breakwater to protect a 15.1 acre basin for recreational craft on the Lake about 5 miles south of Plattsburgh. (ELR Order No. 1202, 16 pages) (NTIS Order No. PB–204 164–D) November 5.

Oswego Steam Station-Unit 5, Niagara Mohawk Power Corp., *New York*. Construction of a fifth oil-fueled electric generating unit with a maximum output of 890 Mw. Shoreline will be protected by a seawall. (ELR Order No. 1223, 192 pages) (NTIS Order No. PB–204 155–D) November 15.

Supervision of the Harbor Permit Program for Waste Disposal in the Atlantic Ocean, *New York*. Continuation of issuance of permits for disposal of various types of wastes at designated dumping grounds in Outer New York Harbor. Contributes to pollution problems of New York Bight (over 13.5 million cubic yards disposed of in FY 1970). (ELR Order No. 1225, 32 pages) (NTIS Order No. PB–204 264–D) November 17.

Vermilion Harbor, Erie County, *Ohio*. Construction of detached breakwater, 2 approach channels and a river channel extension of 2,275 feet to permit safe harbor entry and provide adequate depths in river channel. (ELR Order No. 1262, 17 pages) (NTIS Order No. PB–204 461–D) November 19.

Legislative proposal (H.R. 2450) relating to Penn's Landing, Delaware River, Philadelphia, *Pennsylvania*. Downtown waterfront renewal project in 3 stages: stage I (40 acres) required 2.4 million cubic yards of fill: stages II and III (70 acres) will require twice the amount of fill. Involves permanent removal of 110 acres of navigable water and conversion to filled lands. Purpose of legislation is to declare a portion of the Delaware River (Penn's landing) non-navigable. (ELR Order No. 1144, 16 pages) (NTIS Order No. PB–204 013–D) November 2.

Final

Title, Description and Date

Spring Creek Channel improvement, Springdale, Arkansas (flood protection). Straightening and enlargement of 9,000 feet of Channel Creek through Springdale. Comments made by DOI, EPA, FHWA, Ark. Soil and Water Conservation Commission and Society for Environmental Stabilization. (ELR No. 1107, 33 pages) (NTIS Order No. PB–198 744–F) October 28.

Price Branch of Little LaGrue Bayou, DeWitt, Arkansas. Cleaning out 17,500 ft. of channel, straightening, spreading and seeding of soil along reaches within DeWitt, etc. Purpose: flood protection by providing continuous drainage. Comments made by USDA, DOI, EPA, 3 state agencies and Mayor of DeWitt. (ELR Order No. 1196, 26 pages) (NTIS Order No. PB-202 898-F) November 12.

Kawaihae Harbor, Hawaii. Construction of a harbor to accommodate 300 light-draft vessels includes an access channel anchorage basin and a protective breakwater. Involves deepening 19.8 acres of submerged reef and converting 12.2 acres of shallow reef to protective structures. Comments made by EPA, DOI, DOT, Hawaii Dept. of Planning and Economic Development, University of Hawaii and Mayor of County of Hawaii. (ELR Order No. 1194, 44 pages) (NTIS Order No. PB-202 288-F) November 12.

Mason J. Niblack Levee (Pumping Plants), Wabash River Basin, Indiana. Involves construction of pumping facilities, power lines, etc. for flood protection by removing interior ponding from the area protected by the Niblack Levee. Comments made by USDA, DOI, EPA, DOT, N.C. Dept. of Natural Resources, Ind. Planning and Development Clearinghouse and Area Planning Dept. for Vigo County. (ELR No. 1113, 16 pages) (NTIS Order No. PB-202 655-F) October 28.

Flood Protection project, Waterloo, Iowa. Construction of 15 miles of earthen levees and 2 miles of concrete floodwalls, a small dam and detention reservoir, deepening and widening Cedar River channel, etc. Purpose: protection from flooding of Cedar River, Black Hawk Creek and Verden Creek. Comments made by EPA, HUD, DOI, Iowa Office for Planning and Programming and Mayor of Waterloo. (ELR Order No. 1197, 21 pages) (NTIS Order No. PB-201 850-F) November 12.

Clinton Lake, Wakarusa River project, *Kansas*. Involves construction of a dam and lake. Inundation of 7,000 acres of wildlife habitat and farmland and 50 miles of free-flowing intermittent streams. Purpose: to provide increased water supply and quality control, flood control, fish and wildlife enhancement, recreation, etc. Comments made by USDA, DOC, DOI, EPA, and Kansas Water Resources Board. (ELR No. 1106, 29 pages) (NTIS Order No. PB-203 761-F) October 29.

Longview Lake, Little Blue River, *Missouri*. Construction of dam and lake, inundating 930 acres of land to control run-off from a 50.3-square-mile drainage area, for recreation, etc. Comments made by USDA, EPA, DOI and 5 state agencies. (ELR Order No. 1187, 37 pages) (NTIS Order No. PB-200 795-F) November 9.

Loup River flood control project, Columbus, *Nebraska*. Construction of a 28,480′ levee averaging 8′ height along the left bank. Comments made by USDA, HEW, DOI, 4 state agencies, the Governor and the Mayor of Columbus. (ELR Order No. 1260, 31 pages) (NTIS Order No. PB-200 769-F) November 22.

Buffalo Creek Channel improvement project, Meadow Grove, *Nebraska*. Enlarging and straightening 5,700′ of natural channel to provide flood protection to village of Meadow Grove. Comments made by USDA, EPA, DOI, Nebraska Game and Parks Commission, Neb. Wildlife Federation, Village of Meadow Grove and Chicago and Northwestern Rwy. Co. (ELR Order No. 1259, 27 pages) (NTIS Order No. PB-202 081-F) November 22.

Valcour Harbor, Lake Champlain, *New York*. Construction of a 700-foot long rubble-mound offshore breakwater to protect a 15.1-acre basin for recreational craft on the lake about 5 miles south of Plattsburgh. Comments made by USDA, AEC, DOI, HUD, DOT and N.Y. Office of Parks and Recreation. (ELR Order No. 1228, 35 pages) (NTIS Order No. BP-204 256-F) November 19.

Navigation project at Atlantic Harbor of Refuge, Carteret County, *North Carolina*. Involves dredging channels 7′ deep, 50-70′ wide and converting a small marsh into a basin. Dredged material will be used to construct a breakwater. Comments made by USDA, DOI, EPA, DOT, N.C. Board of Water and Air Resources, and Carteret Cy. Commissioners. (ELR Order No. 1118, 39 pages) (NTIS Order No. PB-198 870-F) October 27.

San Antonio Channel Improvements, San Antonio River and Tributaries, *Texas*. Alterations on 33 miles of channel includes channel excavation, channel paving, deepening San Antonio River Lake section, etc. Purpose: flood control. Comments made by DOI, EPA, various State of Texas agencies and the San Antonio River Authority. (ELR Order No. 1179, 37 pages) (NTIS Order No. PB-204 032-F) November 9.

Brownsville Small Boat Basin, *Washington* (on Puget Sound). Construction of a 1,530-foot breakwater, entrance channel, access channel and turning basin. Purpose: to provide a protected moorage for 334 recreational boats. Comments made by DOC, EPA, HEW, DOI, 5 state agencies, Kitsap County Commissioners, Bremerton-Kitsap Health Dept., Port of Brownsville and Puget Sound Governmental Council. (ELR Order No. 1201, 68 pages) (NTIS Order No. PB-199 822-F) November 9.

Lower Granite Lock and Dam, Snake River, *Washington* and *Idaho*. Construction of a dam, powerhouse, and navigation lock to complete the Lower Snake River navigation system to Lewiston. About 44 miles of open river will be converted to a lake, and approximately 3,260 acres of land used for grazing and agriculture will be inundated. Also involves loss of residences and other buildings and of steelhead spawning areas. Comments made by DOC, EPA, FPC, DOI, 4 Washington agencies, 3 Idaho agencies, 1 Oregon agency, City of Lewiston, City of Clarkston and Assn. of Northwest Steelheaders. (ELR Order No. 1208, 163 pages) (NTIS Order No. PB-204 169-F) November 9.

Stonewall Jackson Lake, West Fork River, *West Virginia*. Construction of concrete dam and lake for flood control, recreation, etc. Will inundate about 2,650 acres of wildlife habitat and result in loss of about 35 miles of free-flowing stream. Comments made by USDA, DOI, EPA, W. Va. Dept. of Natural Resources and Appalachian Regional Commission. (ELR Order No. 1207, 45 pages) (NTIS Order No. PB-202 980-F) November 12.

Small Boat Harbor, Mississippi River, Pepin, *Wisconsin*. Involves an additional 434′ sand-filled breakwater, a 60″ pipe culvert. Purpose: protection from wave damage and maintainable aeration facility. Comments made by DOI, EPA, Wis. Dept. of Natural Resources, Mississippi R. Regional Planning Commission, and Village of Pepin. (ELR Order No. 1137, 29 pages) (NTIS Order No. PB-203 763-F) October 29.

Department of Navy

Contact: Joseph A. Grimes, Jr., Special Civilian Assistant to the Secretary of Navy, Washington, D.C. 20350 (202) 697-0892.

Draft

Title, Description, and Date

Kahoolawe Island Target Complex, *Hawaii*. Continued use of Island as naval target complex. (ELR No. 1143, 92 pages) (NTIS Order No. PB-203 876-D) November 2.

ENVIRONMENTAL PROTECTION AGENCY

Contact: Mr. George Marienthal, Acting Director of Environmental Impact Statements Office, 1750 K Street, N.W., Room 440, Washington, D.C. 20460 (202) 254-7420.

Final

Title, Description, and Date

Waste Treatment Facility, Project No. WPC Colo-261, Greeley, *Colorado*. Involves relocating a substantial portion of the present system capacity. Construction consists of 4 anaerobic lagoons, 2 aerated ponds, etc. Purpose: initial effort to centralize treatment facilities for the drainage basin. Comments made by Army COE, USDA, DOI, HEW, HUD and Colo. State Planning Coordinator. (ELR Order No. 1142, 41 pages) (NTIS Order No. PB-201 886-F) October 25.

GENERAL SERVICES ADMINISTRATION

Contact: Rod Kreger, Deputy Administrator, GSA-AD, Washington, D.C. 20405, (202) 343-6077.

Alternate Contact: Aaron Woloshin, Director, Office of Environmental Affairs, GSA-AD, Washington, D.C. 20405, (202) 343-4161.

Draft

Title, Description, and Date

Disposal of a portion of Fort Custer Military Reservation, Battle Creek, *Michigan*. Plan for disposal is as follows: 96 acres with 100 frame buildings for conveyance to state for mental health purposes; 21 acres and existing sewer and water systems to HEW for conveyance to City for health purposes; railroad system to city by negotiated sale; and electrical and telephone system to Consumer Power Co. by negotiated sale. (ELR Order No. 1156, 4 pages) (NTIS Order No. PB-203 884-D) November 4.

Disposal of Condon Air Force Station, Gilliam County, *Oregon* by competitive bid sale. Involves 66.3 acres, along with 69 buildings, etc. (ELR Order No. 1157, 10 pages) (NTIS Order No. PB-203 885-D) November 4.

Disposal of Philadelphia Army Supply Base (D-PA-521) by negotiated sale to City of Philadelphia, *Pennsylvania* for port industrial use. (ELR Order No. 1158, 7 pages) (NTIS Order No. PB-203 886-D) October 27.

Disposal of Lewiston Government Camp, Trinity County, *California*. Sewer and water systems and 6 acres to be assigned to HEW for conveyance to Lewiston Community Services District; gymnasium, 10 acres, and 5 houses to be assigned to HEW for conveyance to Lewiston School District, electric system to be sold by negotiated sale to Pacific Gas and Electric Co.; 85 housing units and 185 acres to be sold by auction; and 7 buildings to be assigned to HEW for conveyance to Shasta and Trinity County School Districts for offsite removal. (ELR Order No. 1166, 6 pages) (NTIS Order No. PB-204 019-D) November 8.

Disposal of Birdsboro Army Tank—Automotive Steel Foundry, Berks County, *Pennsylvania* by negotiated sale to the Greater Berks Development Fund. (ELR Order No. 1190, 6 pages) (NTIS Order No. PB-204 098-D) November 11.

Final

Title, Description, and Date

Disposal of 7.9 acres of land formerly owned by the Tennessee Central Rwy. Co., Nashville, *Tennessee* by negotiated sale to Metropolitan Government of Nashville and Davidson County, acting through the Nashville Thermal Transfer Corp. To be used for construction of a central heating and chilling plant that will burn solid waste primarily to produce heat. Comments made by Army COE, HEW, DOI, a Member of Congress and the Metropolitan Government of Nashville and Davidson County. (ELR Order No. 1186, 17 pages) (NTIS Order No. PB-202 797-F) November 10.

Disposal of the Bakalar Air Force Base and Radio Annex, Columbus, *Indiana* by conveyance of 1,991 acres of land and the buildings to the City of Columbus for a public airport and by negotiated sale of electrical distribution system to the Bartholomew County Rural Electric Membership Corp. Comments made by EPA, DOT and Bartholomew County. (ELR Order No. 1199, 13 pages) (NTIS Order No. PB-202 792-F) November 10.

Disposal of the Niagara Falls Army Chemicals Plant, Niagara Falls, *New York* by competitive bidding. Plant consists of 37 buildings and 5.7 acres. Comments made by Army COE, EPA, DOI, N.Y. Dept. of Environmental Conservation and Erie & Niagara Counties Regional Planning Board. (ELR Order No. 1237, 19 pages) (NTIS Order No. PB-200 395-F) November 19.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Contact: Robert Lanza, Office of the Assistant Secretary for Health & Scientific Affairs, Room 4062 HEWN, Washington, D.C. 20202 (202) 962-2241.

Final

Title, Description, and Date

Indian Health Service Hospital, Tuba City, Arizona. Construction of 125-bed hospital adjacent to existing hospital to provide a comprehensive health program for 16,000 Navajo and Hopi Indians. Comments made by DOC, DOD, EPA, HUD, DOI, and Arizona Dept. of Economic Planning and Development. (ELR Order No. 1267, 40 pages) (NTIS Order No. PB-200 199-F) November 24.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Contact: Richard H. Broun, Director, Environmental & Land Use Planning Division, Washington, D.C. 20410 (202) 755-6186.

Draft

Title, Description, and Date

Soul City, New Community, Warren County, North Carolina. Proposes loan guarantee of up to $10 million for land acquisition and development of a new community under Title VII of the Housing and Urban Development Act of 1970. (ELR Order No. 1139, 63 pages) (NTIS Order No. PB-203 773-D) October 29.

Portland Student Services, Inc., Portland, Oregon. Loan of $3,193,000 to construct a 16-story apartment building to provide moderately priced student housing. Site is in the Goose Hollow district. (ELR Order No. 1147, 28 pages) (NTIS Order No. PB-204 014-D) November 2.

Foss Reservoir, Custer County, Oklahoma. Construction of 5.0 mgd pretreatment and 3.0 mgd demineralization water treatment facilities. (ELR Order No. 1264, 36 pages) (NTIS Order No. PB-204 460-D) November 22.

Final

Title, Description, and Date

New Community of Riverton, Monroe County, New York. Commitment to guarantee up to $12 million for development over 16 years of 2,350 acres, with planned ultimate population of about 25,600 residents in 8,010 dwelling units; 170 acres of commercial and community space will be provided. Comments made by USDA, AEC, FPC, GSA, HEW, DOI, DOT, N.Y. Dept. of Environmental Conservation and Genesee Finger Lakes Regional Planning Board. (ELR Order No. 1271, 123 pages) (NTIS Order No. PB-201 391-F) November 19.

DEPARTMENT OF INTERIOR

Contact: Office of Communications, Room 7214, Wasnington, D.C. 20240 (202) 343-6416.

Bureau of Reclamation

Final

Title, Description, and Date

Archer-Weld transmission line: a 230 kv facility that will extend 57 miles from the Archer Substation east of Cheyenne, Wyoming to the proposed Weld Substation west of Greeley, Colorado. Purpose: to interconnect public and private transmission facilities which will help prevent blackouts. Comments made by Army COE, USDA, DOI, EPA, FPC and various State of Colorado and Wyoming agencies. (ELR Order No. 1150, 45 pages) (NTIS Order No. PB-203 875-F) November 2.

INTERNATIONAL BOUNDARY AND WATER COMMISSION

(United States and Mexico)

Contact: T. R. Martin, ARA/Mex., Department of State, Room 3906A, Washington, D.C. 20520 (202) 632-1317.

Final

Title, Description, and Date

Modified Hackney Floodway and Closure of Mission Floodway, Lower Rio Grande Flood Control Project, Hidalgo County, Texas. U.S. extension and enlargement of Hackney floodway from Anzalduas Dam on Rio Grande to Main floodway and closure of Mission floodway to reduce flood damage. Comments made by Army, COE, USDA, HEW, DOI, 5 Texas agencies and Lower Rio Grande Development Council. (ELR Order No. 1206, 27 pages) (NTIS Order No. PB-201 090-F) November 5.

U.S. Portion of Retamal International Diversion Dam and U.S. Dike. Lower Rio Grande Flood Control Project, Hidalgo County, Texas. Joint construction of international floodwater diversion dam and U.S. construction of 3-mile dike from dam to river levee system. Comments made by Army COE, USDA, HEW, DOI, 3 Texas agencies and Lower Rio Grande Development Council. (ELR Order No. 1226, 29 pages) (NTIS Order No. PB-200 777-F) November 5.

DEPARTMENT OF TRANSPORTATION

Contact: Martin Convisser,[*] Director, Office of Program Co-ordination, 400 7th Street, S.W., Washington, D.C. 20591 (202) 462-4355.

For the reader's convenience we have listed the numerous statements from DOT by State in alphabetical order.

Federal Aviation Administration

Draft

Title, Description, and Date

Big Bear City Airport, San Bernardino County, *California*. Realignment and construction of runway, 7 taxiways and apron and installation of lighting and safety operational facilities. Will require relocation of some residences. (ELR Order No. 1170, 25 pages) (NTIS Order No. PB-204 023-D) November 8.

Albany County Airport, Colonie, *New York*. Extension of runway. Will displace 6 families and necessitate relocation of Old Niskayuna Rd. (ELR Order No. 1173, 100 pages) (NTIS Order No. PB-204 026-D) November 9.

Lincolnton-Cherryville Airport, *North Carolina*. Construction of new airport south of juncture of N.C.-182 and SR-1187 adequate for 95% of propeller-driven aircraft of less than 12,500 pounds and some light twin engine propeller-driven aircraft. (ELR Order No. 1171, 19 pages) (NTIS Order No. PB-204 024-D) November 8.

Rockingham County Airport, *North Carolina*. Construction of runway, taxiway, apron and lighting system with a VASI installed at each end of the runway. (ELR Order No. 1236, 18 pages) (NTIS Order No. PB-204 259-D) November 18.

Ector County Airport, Odessa, *Texas*. Reconstruction or extension of 3 runways and 1 taxiway, modification of MIRL system and installation of VASI at each end of runway. (ELR Order No. 1181, 12 pages) (NTIS Order No. PB-204 092-D) November 10.

Park Falls Municipal Airport, Price County, *Wisconsin*. Construction of paved runway, connecting taxiway, apron and private entrance road and installation of low-intensity lighting system. (ELR Order No. 1172, 13 pages) (NTIS Order No. PB-204 025-D) November 5.

Final

Title, Description, and Date

Fairhope Municipal Airport, Baldwin County, *Alabama*. Involves land acquisition, runway extension, power line relocation, etc. Comments made by Army COE, DOI, Ala. Development Office and South. Ala. Regional Planning Commission. (ELR Order No. 1131, 15 pages) (NTIS Order No. PB-202 088-F) October 28.

Airport project, Klawock, *Alaska*. Development of a new airport, including landing strip, parking apron, taxiway, access road and segmented circle. Comments made by Army COE, USDA, DOC, EPA, HEW, DOI and Alaska Native Health Service. (ELR Order No. 1212, 29 pages) (NTIS Order No. PB-200 363-F) October 15.

Indian Valley Airport, Crescent Mills, *California*. Involves right-of-way acquisition, runway embankment and site drainage, site fencing and power line clearance. Comments made by Army COE, USDA, DOC, DOI, EPA, HEW and HUD. (ELR Order No. 1135, 42 pages) (NTIS Order No. PB-200 379-F) October 28.

Stapleton International Airport project, Denver, *Colorado*. Involves runway improvement, installation of a MIRL lighting system and blast protection, reconstruction of portions of the high-speed turnoffs, etc. to provide new runway for widebody jets, to prevent erosion and dusting conditions. Comments made by DOI, DOT, State Planning Agency, Denver Regional Council of Government and Adams Cy. Planning Commission. (ELR Order No. 1105, 46 pages) (NTIS Order No. PB-199 604-F) October 27.

Liberty County Airport, Hinesville, *Georgia*. Involves extending and widening runway, installing medium-intensity lighting system, etc. Clearing 12 acres will be necessary. Purpose: accommodate 60% of the business jet fleet. Comments made by USDA, DOI, EPA, Ga. Historical Commission, Ga. Bureau of State Planning and Community Affairs, Coastal Area Planning and Development Commission and City of Hinesville. (ELR Order No. 1119, 26 pages) (NTIS Order No. PB-201 691-F) October 28.

Monmouth Municipal Airport, Warren County, *Illinois*. Consists of obtaining reimbursement for land and an aviation easement. Action will make the airport a part of the Federal Aid System of Airports. Comments made by Army COE, USDA, DOC, EPA, HUD and Ill. A-95 agencies. (ELR Order No. 1116, 67 pages) (NTIS Order No. PB-201 306-F) October 28.

Airport project at Healdton, *Oklahoma*. Construction of a new municipal airport and paved landing strip. Will also serve 3 nearby communities. Comments made by 1 State agency, City of Healdton, Southern Oklahoma Development Assn. and Ozarks Regional Development Commission. (ELR Order No. 1120, 28 pages) (NTIS Order No. PB-203 768-F) October 28.

Federal Highway Administration

Draft

Title, Description, and Date

Alabama Hwys. 134 and 92: Coffee, Dale and Houston Counties, *Alabama*. Improvement from 2 to 4 lanes from US-84 bypass in Enterprise to Wicksburg Wye, a length of 13.2 miles. Highway project S-877-E and S-1004-E. (ELR Order No. 1115, 8 pages) (NTIS Order No. 203 753-D) October 27.

Highway project F-377(2): Mobile County, *Alabama*. Construction of new 2.5 mile route beginning on Ala. 163 approximately 16 miles south fo Mobile and extending north along Range Line Rd. to a point on Island Rd. 1 mile west of Ala. 163. Will displace 14 residences and 4 businesses. (ELR Order No. 1163,

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[*] Mr. Convisser's office will refer you to the correct regional office from which the statement originated. In the case of the Federal Highway Administration, a separate page is included in this Monitor giving the names of the Regional Administrators (see page 47).

11 pages) (NTIS Order No. PB–204 017–D) November 5.

Connecting highway between US–278 and SR–157: Cullman County, *Alabama*. Initial 2-lane construction with ultimate plans for a rural 4-lane divided facility. Will provide a bypass of the town of Cullman. Highway project S–184–D. (ELR Order No. 1177, 7 pages) (NTIS Order No. PB–204 030–D) November 8.

US–431: Russell County, *Alabama*. Relocation and widening of road to 4-lanes from about 2.7 miles south of Seale to a point near Phenix City. Highway project S–50–E. (ELR Order No. 1178, 20 pages) (NTIS Order No. PB–204 031–D) November 8.

Tudor and Muldoon Rds: Anchorage, *Alaska*. Upgrading to 4-lane, 2-way facility from junction of Seward Hwy. and Tudor Rd., east on Tudor Rd. and north on Muldoon Rd. to Glenn Hwy., a distance of 7.2 miles. Project F–044–1(5) and (6). (ELR Order No. 1249, 22 pages) (NTIS Order No. PB–204 379–D) November 19.

Northern Lights Blvd. Couplet: Anchorage, *Alaska*. Construction of couplet pair of 1-way, 4-lane roadways for 2 miles between Lois Dr. and LaTouche St. and a 6-lane divided section from LaTouche St. east 0.75 mile to lake Otis Pkwy. Involves displacement of families, businesses and 2 churches. Project S–0547(12) (ELR Order No. 1282, 36 pages) (NTIS Order No. PB–204 502–D) November 26.

SR–87: Mesa-Payson (Beeline) Hwy., Gila County, *Arizona*. Improvement of approximately 20 miles of highway, within the Tonto National Forest, from Maricopa County line to Payson. May involve channel changes in sections of State Creek. A 4(f) determination required. Project F–053–1–203. (ELR Order No. 1169), (NTIS Order No. PB–204 022–D) November 5.

I–40: Winslow, Navajo County, *Arizona*. Construction of bypass from US–66 three miles west of Winslow east for 8.4 miles. Revision of draft circulated 3/29. Project I–40–4(60), (61), (81) and (62). (ELR Order No. 1272, 24 pages) (NTIS Order No. PB–204 465–D) November 24.

US–7: Wilton, Fairfield County, *Connecticut*. Relocation of 3-mile section of 4-lane, limited access expressway from Olmstead Hill Rd. to Wilton-Ridgefield town line. 4(f) statement regards use of Girl Scout campground. State highway project 161–87. (ELR Order No. 1153, 67 pages) (NTIS Order No. PB–203 882–D) November 3.

I–75: Lee and Dade Counties, *Florida*. Construction of limited-access, multi-lane 135 mile highway and interchanges between Miami and Fort Myers. Requires displacement of 23 residences and 5 businesses and loss of wetlands. Directly or indirectly affects lands within a Conservation Area, Everglades National Park and Collier-Seminole State Park. 4(f) determination included. (ELR Order No. 1134, 123 pages) (NTIS Order No. PB–203 769–D) October 28.

US–301 (SR–683): Sarasota and Manatee Counties, *Florida*. Improvement and relocation of 8-mile, multi-lane, limited access highway from county line into Bradenton, State job No. 17120–1503 and 13120–1506. (ELR Order No. 1146, 19 pages) (NTIS Order No. PB–203 879–D) October 29.

SR–438: Silver Star Rd., Orange County, *Florida*. Improvement of a 4.2 mile segment beginning at SR–435 east to SR–500 (US–441), the first 2.5 miles to be additional lanes, the remaining a new 4-lane facility. Will involve relocation of homes and businesses. State job No. 75250–1505. (ELR Order No. 1138, 128 pages) (NTIS Order No. PB–203 771–D) November 2.

SR–35 (US–17): Punta Gorda, Charlotte County, *Florida*. Construction of a 3.3 mile multi-lane facility from US–41 to SR–74. State job No. 01040–1504. (ELR Order No. 1155, 20 pages) (NTIS Order No. PB–203 880–D) November 2.

SR–44: Leesburg, Lake County, *Florida*. Construction of 1.5 miles multi-lane facility from SR–44A east to SR–25 (US–27). Three alternatives involve displacement of homes, businesses, etc. (ELR No. 1159, 42 pages) (NTIS Order No. PB–203 883–D) November 3.

SR–50: Lake County, *Florida*. Upgrading of 4.7-mile, 2-lane facility to a multi-lane highway from SR–33 in Groveland east to SR–561 in Clermont. Involves displacement of 67 persons, 18 residences, 10 businesses and 1 industrial building. State job 11070–1504; Federal job F–022–2(17). (ELR Order No. 1194, 40 pages) (NTIS Order No. PB–204 097–D) November 11.

SR–415: Seminole and Volusia Counties, *Florida*. Construction of 2-lane highway and bridge across St. Johns River beginning at SR–46 in Seminole County for 1.61 miles to a point on SR–415 in Volusia County. State job 77161–1501, 79120–1501; Federal project S–716(1). (ELR Order No. 1195, 84 pages) (NTIS Order No. PB–204 096D) November 12.

Supplement on 4(f) involvement—SR–115: Duval County, *Florida*. Improvement to 4-lane highway between Trout River and I–295. (See 102 Monitor, May, p. 62.) State project 72150–3509, 72150–3504; Federal project US–S–545(2). (ELR Order No. 1219, 90 pages) (NTIS Order No. PB–204 243–D) November 16.

I–75 (SR–93); St. Peterburg, Pinellas County, *Florida*. Construction of 2-mile, multi-lane highway and related facilities beginning near Sunshine Skyway North Toll Plaza and ending at 39th Ave. South. Use of Maximo Park land requires 4(f) determination. State job 15190–3422, Federal job I–75–7(42) 448. (ELR Order No. 1242, 66 pages) (NTIS Order No. PB–204 376–D) November 17.

Cobb County, *Georgia*. Three construction projects: a 4-lane facility beginning at I–75 south of Roberts Rd. interchange to Big Shanty, then northeast in the vicinity of Parkwood Dr.; a 6-lane section beginning at SR–5 near Sandy Plains Rd. and ending at Bells Ferry Rd.; and a multi-lane facility beginning at I–75 north to SR–5. Will displace 44 families and 16 businesses. Projects F–057–1(4), S–1378 and S–2556. (ELR Order No. 1268, 39 pages) (NTIS Order No. PB–204 462–D) November 19.

SR–9 and SR–37: Huntington County, *Indiana*. Construction of 3.2-mile additional lanes from the north end of Mt. Etna bypass to south end of Huntington bypass. Will require removal of 4 homes, 3 barns, sheds and skating rink. Project F–101(12). (ELR Order No. 1183, 12 pages) (NTIS Order No. PB–204 093–D) November 8.

US–20: Fort Dodge, Webster County, *Iowa*. Reconstruction of 1.7 mile, 4-lane facility beginning at intersection with US–169 and ending at 12th St. Involves dislocation of 5 houses and 2 businesses. (ELR Order No. 1154, 4 pages) (NTIS Order No. PB–203 881–D) November 3.

US–30: Benton and Linn Counties, *Iowa*. Construction of 14.4 miles of expressway on relocation beginning near intersection with US–218 and ending near future interchange with Iowa 149. Will disturb some wildlife habitat and displace 1 family and 1 business. (ELR Order No. 1232, 10 pages) (NTIS Order No. PB–204 263–D) November 16.

US–54: Wichita, Sedgwick County, *Kansas*. Improvement of 2.7 miles of highway to provide 2 lanes in each direction between Seville Lane and Hoover Rd. Requires relocation of residences and businesses. Project (SF) 54–87 U–038–3(35). (ELR Order No. 1279, 25 pages) (NTIS Order No. PB–204 501–D) November 23.

US 190 (Chinchuba-Covington Highway): St. Tammany Parish, *Louisiana*. Construction of 2.4-mile, 4-lane divided highway and interchanges beginning at a point south of LA–22 north to I–22. Will displace 13 homes, 7 businesses and 6 office buildings. State project 13–11–09. (ELR Order No. 1222, 10 pages) (NTIS Order No. PB 204 165–D) November 8.

US–171 and La–8: Leesville, Vernon Parish, *Louisiana*. Construction of south bound 2 lanes of a 1-way couplet through Leesville, a distance of 2.6 miles. Will displace 16 families and 1 shop. State project 24–06–16, 25–01–16, 25–01–19. Federal projects F–151 (6), (7) and (9). (ELR Order No. 1266, 17 pages) (NTIS Order No. PB–204 459–D) November 24.

M–43: Kalamazoo and Van Buren Counties, *Michigan*. Reconstruction of 14.3 miles of M–43 from M–40 in Van Buren County east to Kalamazoo city limits. Requires removal of 31 homes and 1 business. Federal highway projects S 6(   ) and S 6(102) (ELR Order No. 1132, 33 pages) (NTIS Order No. PB–203 774–D) October 29.

Trunk Highway 52: Olmsted County, *Minnesota*. New routing to provide bypass of south Rochester in 3 segments, one completed and one under construction. Last segment runs from TH–63 junction to County Rd. junction. Will require use of 131 acres of agricultural land and will sever 13 farmsteads from remaining lands. Project S.P. 5507 (T.H. 52), F 020–1(   ). (ELR Order No. 1233, 20 pages) (NTIS Order No. PB–204 262–D) October 29.

Trunk Highways 12, 23 and 71: Kandiyohi County, *Minnesota*. Involves rerouting above 3 highways to provide a bypass of Willmar (10 miles). Highway projects SP 3403–27, F 010–2(   ), SP 3405–20, F 023–2(   ), SP 3411–24, SP 3412–23, F 004–2(   ). (ELR Order No. 1176, 30 pages) (NTIS Order No. PB–204 029–D) November 8.

County State Aid Highways 24 and 45: Courtland, *Minnesota*. Construction of a bridge, construction of roadway embankment and rerouting of Minnesota River channel between Courtland and SH–68. State project nos. SP 07–645–03, SP 52–624–03, ER 71(38) and bridge no. 52504. (ELR Order No. 1227, 24 pages) (NTIS Order No. PB–204 265–D) November 11.

Rte. 63: Boone-Callaway Counties, *Missouri*. Construction of 5.9 miles of 4-lane highway from a point north of Callaway County line south to Rte. 54. Job 5–P–63–20. (ELR Order No. 1111, 7 pages) (NTIS Order No. 203 755–D) October 29.

Route 36: Marion-Ralls Counties, *Missouri*. Construction of 4.8 miles of 2-lane highway from a point west of Monroe City to a point west of Route J. Involves taking of approximately 170 acres of farmland, one farm unit, and one building. Job no. 3–F–36–33. (ELR Order No. 1110, 7 pages) NTIS Order No. 203 754–D) October 29.

Route 71: Nodaway-Andrew Counties, *Missouri*. Construction of 23.8 miles of additional 2 lanes from a point south of Maryville south to Rte. 59. Job. no. 1–P–71–1 (ELR Order No. 1112, 6 pages) (NTIS Order No. PB–203 752–D) October 29.

I–435: Platte County, *Missouri*. Construction of 16-mile multi-lane facility from Missouri River north to I–29, then southeast to near Ferrilview. (ELR Order No. 1162, 20 pages) (NTIS Order No. PB–204 016–D) November 5.

Route 13 (Kansas Trafficway): Green County, *Missouri*. Involves acquisition of right-of-way, grading and multilane paving of about 2.8 miles of Springfield, from Division St. south to Sunshine St. Job nos. 8–0–12–7 and 12. (ELR Order No. 1174, 14 pages) (NTIS Order No. PB–204 027–D) November 8.

Route 67: Butler County, *Missouri*. Relocation and construction of 3.8 miles of road from just south of Wayne County line to 1.5 miles south of Route JJ. Job. no. 10–P–67–20. ELR Order No. 1175, 8 pages) (NTIS Order No. PB–204 028–D) November 9.

Route 755: St. Louis, *Missouri*. Construction of 1.5 mile, 6-lane facility from Cole St. to I–55. Will displace 371 families, 90 businesses and 7 non-profit organizations. Project U–U6–755–1(4); Job 6–U–755–23 (ELR Order 104–D) November 10.

Route 60: Wright County, *Missouri*. Construction of 17 miles of dual highway from 2.5 miles east of Mansfield to 3.6 miles west of Route 95(A). Removes approximately 410 acres of land from present use. Job No. 9–P–60–10 and 9–P–60–23, F–60–3(13). (ELR Order No. 1278, 7 pages) (NTIS Order No. PB–204 502–D) November 16.

Missouri River Bridge and approaches: Great Falls, *Montana*. Relocation and construction of 4-lane bridge, with 4 alternatives under consideration. Park land is involved in each, and one crosses an island bird refuge. (ELR Order No. 1109, 28 pages) (NTIS Order No. PB–203 756–D) October 28.

US 73 and 75: Omaha, Douglas County, *Nebraska*. Extension of Kennedy Freeway 0.8 mile from 27th and L Sts. to Railroad Ave. and W Sts. Will require taking of 42 single-family dwellings, 19 trailer homes, 7 multiple dwelling units, 2 churches and 29 businesses. Project QU–515(8) (ELR Order No. 1188, 10 pages) (NTIS Order No. PB–204 100–D) November 12.

Route 208 Freeway: Bergen and Sussex Counties, *New Jersey*. Construction of 21.4-miles of freeway from Oakland Borough to N.Y. line. Will involve taking of 308 acres of watershed and recreational lands, 101 residences and 3 commercial structures. 4(f) determination required. (ELR Order No. 1235) (NTIS Order No. PB–204 260–D) November 19.

US–82: Eddy County, *New Mexico*. Upgrading to 2-lane divided highway for 25 miles from US 285 in Artesia east to west limits of Loco Hills. State project S–1216. (ELR Order No. 1218, 8 pages) (NTIS Order No. PB 204 156–D) November 10.

US–264: Wake, Nash and Wilson Counties, *North Carolina*. Relocation and improvement of 15.7 miles of highway beginning at NC 97 east of Zebulon and ending near the US–264–SR–1303 intersection. Would require acquisition of 250 acres of farmland and 700 acres of woodland. 14 families and 1 business would be relocated. Highway project 6.801778 (ELR Order No. 1128, 36 pages) (NTIS Order No. PB–203 750–D) October 29.

I–85 and US–311: Davidson, Guilford and Randolph Counties, *North Carolina*. Construction of 20-mile segment of I–85 from Groomfield to Lexington and a 4.1 mile relocation of US–311 on west side of Archdale. Involves displacement of 189 families, 31 businesses, and 1 church and acquisition of a cemetery. State highway projects 8.15295, 8.15773, 8.15317 and 8.15774. (ELR Order No. 1167, 36 pages) (NTIS Order No. PB–204 030–D) November 4.

NC 68: High Point, Guilford County, *North Carolina*. Widening of Westchester Drive from N. Main St. (US 311) to Elgin Ave. Will necessitate relocation of 11 families and 3 businesses. State project 9.8071026. (ELR Order No. 1215, 14 pages) (NTIS Order No. PB–204 168–D) November 16.

Ward County Rd. No. 2: *North Dakota*. Highway improvement from Niobe north 2 miles to county line, west 1 mile to county line, and east 5 miles to Kenmore. Involves acquisition of 20 acres of land in Des Lacs National Wildlife Refuge, requiring a 4(f) determination. Highway project S–101(13) and S–676(2). (ELR Order No. 1161, 7 pages) (NTIS Order No. PB–204 015–D) November 4.

SR–129: Hamilton and Fairfield, Butler County, *Ohio*. Relocation of 10-mile divided highway from I–75 to Hamilton. Will involve relocation of 19 families and 3 businesses. Project BUT–129–15.32. (ELR Order No. 1192, 28 pages) (NTIS Order No. PB–204 103–D) November 8.

SR–56: Athens County, *Ohio*. Construction of 2.6-mile, 2-lane highway from 0.2 miles east of intersection of SR–56 with County Road 6 to 0.06 miles east of the intersection with County Road 9. Involves displacement of residences. (ELR Order No. 1213, 8 pages) (NTIS Order No. PB–204 160–D) November 8.

SR–45: Columbiana County, *Ohio*. Construction of Lisbon bypass by overlapping SR–11 to West Point and ultimately for US–30. Will require taking of 7 residences, 1 church and 1 farm dwelling. Ohio highway project COL–45–15.90. (ELR Order No. 1182, 7 pages) (NTIS Order No. PB–204 095–D) November 9.

US 250: Ashland County, *Ohio*. Widening and reconstruction of 1.2-mile roadway with new bridge over Jamison Creek. Will involve taking of 7 residences. Project ASD–250–15.82. (ELR Order No. 1191, 7 pages) (NTIS Order No. PB–204 099–D) November 10.

US 35: Gallia County, *Ohio*. Construction of 12.7 miles of 4-lane limited access highway from its junction with SR–160 to Centerville. Will require taking of 3 residences and 2 churches. (ELR Order No. 1200, 10 pages) (NTIS Order No. PB–204 102–D) November 11.

SR–4: Clark, Champaign and Union Counties, *Ohio*. Relocation of SR–4 from a point 1 mile southwest of the Clark-Champaign County line near its intersection with Baldwin Lane to the beginning of the Marysville bypass. Will require relocation of 19 families. (ELR Order No. 1214, 21 pages) (NTIS Order No. PB–204 159–D) November 15.

SR–34: Bryan, Williams County, *Ohio*. Relocating and widening of 1 mile of roadway and construction of a new elevated structure over the Penn-Central RR. Will displace 3 residences. (ELR Order No. 1217, 11 pages) (NTIS Order No. PB–204 157–D) November 16.

SR 619: (State St.) Barberton, Summit County, *Ohio*. Construction of grade separation over railroad tracks beginning near Highland Ave. and ending .56 mile northwest along State St. Will displace 17 families and 3 businesses. Project US–385 (7), SUM–619–0.63. (ELR Order No. 1248, 10 pages) (NTIS Order No. PB–204 378–D) November 19.

CR–204: Lorain County, *Ohio*. Upgrading to 4 lanes of 1 mile of road beginning near Griswold Rd. intersection and ending near Elyria Ave. Will require taking of 4 residences and 4 business places. Project SU 1484(1) (ELR Order No. 1234, 6 pages) (NTIS Order No. PB–204 261–D) November 19.

Jacksonville Hwy.: Grants Pass-New Hope Rd. section, Josephine County, *Oregon*. Widening of highway from its intersection with New Hope Rd., a distance of 1.4 miles, or developing a new route using .5 mile of Harbeck Rd. and the remaining 1 mile on a new location. (ELR Order No. 1130, 21 pages) (NTIS Order No. PB–203 751–D) October 27.

Golden Strip Freeway: Greenville County, *South Carolina*. Construction of 6 miles of freeway from the interchange of I–85 and I–385 each of Greenville south to US–276 at the Standing Springs Rd. interchange at Simpsonville. Would displace 12 residences. (ELR Order No. 1117, 12 pages) (NTIS Order No. 203 757–D) October 29.

US–14: Brookings County, *South Dakota*. Construction of a 16-mile, 4-lane divided highway beginning southeast of Arlington and ending west of Brookings. Project F 030–6. (ELR Order No. 1281, 7 pages) (NTIS Order No. PB–204 504–D) November 23.

SR–3: Tipton and Lauderdale Counties, *Tennessee*. Improvement of 6.7-mile section from junction with Main St. in Covington to a point 1.6 miles north of Tipton-Lauderdale County line. Will require displacement of 18 residences and 1 business. State project 84002–1229–04 (ELR Order No. 1185, 15 pages) (NTIS Order No. PB–204 094–D) November 9.

SR–33: Monroe County, *Tennessee*. Construction of roadway from northeast of Madisonville at the Madisonville bypass to the Little Tennessee River east of Vonore. All three alternatives involve relocation of residences and businesses. State project 62004–0214–04, Federal project F–033–1( ). (ELR Order No. 1265 25 pages) (NTIS Order No. PB–204 458–D) November 19.

SH–35: San Patricio and Aransas Counties, *Texas*. Improvements to a 4-lane divided highway for approximately 22 miles from Gregory to the Copano Bay Causeway. Will use 475 acres of brushland, 95 acres of farmland, 163 undeveloped subdivided acres. Texas project F377. (ELR Order No. 1276, 21 pages) (NTIS Order No. PB–204 464–D) November 29.

Groton-Marshfield State Highway: Groton, Caledonia County, *Vermont*. Reconstruction of 0.4 mile to eliminate 2 sharp curves and upgrade surface, approximately 200 ft. within boundary of Groton State Forest, requiring a 4(f) determination. Highway project S 0217. (ELR Order No. 1168, 47 pages) (NTIS Order No. PB–204 021–D) November 4.

I–66: Fairfax and Arlington Counties, *Virginia*. Extension of facility for 9.66 miles from Francis Scott Key Memorial Bridge to I–495 (Beltway). Will involve loss of a part of Spout Run, acquisition of 9.6 acres of right of way from Bon Air Park and Westover Playground and displacement of 625 families and 51 business (473 families and 39 businesses have been relocated over the past 8 years). State project 0066–029–103, C–502, C–503, C–504; 0066–000–101, C–501, C–502; 0066–000–102, C–501, C–502, C–506, C–507. (ELR Order No. 1189, 85 pages) (NTIS Order No. PB–204 101–D) November 11.

SR–18, Raging River Interchange: King County, *Washington*. Construction of interchange to permit closing of county road system through Seattle Cedar River Watershed. (ELR Order No. 1140, 22 pages) (NTIS Order No. PB–203 772–D) October 29.

I–5: Longview Wye to Rocky Point, Cowlitz County, *Washington*. Widening of 4 to 6 lane freeway for 5.6 miles and updating interchanges. (ELR Order No. 1148, 15 pages) (NTIS Order No. PB–203 878–D) November 2.

SR–90: King County, *Washington*. Construction of 4.1-mile 6-lane highway from the Lower Crossing of the Snoqualmie National Forest Boundary on a new alignment. (ELR Order No. 1220, 49 pages) (NTIS Order No. PB–204 167–D) November 3.

SR–101: Thurston County, *Washington*. Construction of interchange west of Mottman Road intersection to replace and permit closure of that intersection and the on-ramp near 9th Ave. SR–101 runs along corporate limits of Olympia and Tumwater. (ELR Order No. 1224, 9 pages) (NTIS Order No. PB–204 258–D) November 16.

US–250: Philippi, Barbour County, *West Virginia*. Construction of 4-lane bridge over Tygart Valley River and relocation of US–250 beginning on US–119 to a point near Anglin St., a length of 1.2 miles. Will involve acquisition of 43 homes, 7 businesses and 1 church. Project F–117(12). (ELR Order No. 1243, 34 pages) (NTIS Order No. PB–204 381–D) November 18.

Milwaukee to Green Bay Interstate Highway (Saukville to Belleview section): Ozaukee, Sheboygan, Manitowac and Brown Counties, *Wisconsin*. Construction of 82-mile freeway, 31 miles of which are now under construction as US 141. Will require relocation of homes, businesses and farm operations. Project I 57–1(1)0; I.D. 1220–0–00 (ELR Order No. 1184, 46 pages) (NTIS Order No. PB–204 091–D) November 10.

Park and Lake Freeways: Milwaukee, *Wisconsin*. Construction of the eastern end of the Park Freeway, the Lake Park interchange at Juneau Park and the Lake Freeway south from that interchange across a high-level bridge (under construction) above Milwaukee Harbor entrance and south to Mitchell Field. Requires relocation of 500 families. 4(f) determinations required for use of public recreational lands. (ELR Order No. 1223, 158 pages) (NTIS Order No. PB-204 257-D) November 17.

Final

Title, Description, and Date

US-98: Upgrading and widening highway beginning in Mobile, *Alabama* and continuing 5.3 miles toward Natchez, Mississippi. Highway Project F-210( ), S-4914( ). Comments made by Army, DOI, DOT, EPA, HUD, Ala. Development Office and South Ala. Regional Planning Commission. (ELR Order No. 1121, 28 pages) (NTIS Order No. PB-203 759-F) November 2.

Nancy Lake Access Road: Willow, Alaska. Construction of a 2-lane road from the Anchorage-Fairbanks Highway to 1.5 miles to connection into the Nancy Lake Recreation Area. 4(f) determination attached. Highway project S-0581(1). Comments made by USDA, 3 State agencies and Borough Chairman. (ELR Order No. 1152, 15 pages) (NTIS Order No. PB-199 149-F) November 3.

Arizona Forest Highway 3: Conconino National forest, Arizona. Construction of 6.1 miles of 2-lane facility, the final segment involving major realignment and reconstruction. Comments made by USDA, Army COE, EPA, FPC, DOT, HUD, DOI, Ariz. Dept. of Economic Planning and Development and Coconino County Highway Dept. (ELR Order No. 1275, 50 pages) (NTIS Order No. PB-201 567-F) November 23.

South Wilmington Connector to I-95: Wilmington, Delaware. Construction of interchange connection and 4-lane divided highway along the Front St. corridor, beginning at Adams St. and running east along Front St. to Walnut St. Between French and Walnut Sts. the corridor turns north and continues to 4th St. Comments made by HUD, DRBC, 3 State offices, New Castle County and City of Wilmington. (ELR Order No. 1277, 55 pages) (NTIS Order No. PB-200 766-F) November 23.

I-185: Muscogee County, Georgia. Construction of new highway from Double Churches Rd. south to the Columbus-Manchester Expressway, a portion of highway that will connect Atlanta and Columbus. Highway project I-185-1 ( ). Comments made by EPA, HUD, Ga. Bureau of State Planning and Community Affairs, Ga. Dept. of Public Health, Lower Chattahoochee Valley Area Planning and Development Commission and Valley Council of Local Governments. (ELR Order No. 1129, 31 pages) (NTIS Order No. PB-200 529-F) October 27.

State project APL 8009(001): Carroll County, Georgia (partly in Carrollton). Construction of a road from a point on S-835 (0.25 mile east of west city limit) northeast to SR-1, US-27 (about 1.25 miles from city limit). Will open area to industrial development. Comments made by Army COE, USDA, HUD and Bur. of State Planning and Community Affairs. (ELR Order No. 1123, 13 pages.) (NTIS Order No. PB-203 760-F) October 27.

Cherokee Rd. Extension (PR 700): Cobb County, *Georgia*. Construction of a 4-lane, free access facility linking Cherokee St. in Smyrna to Windy Hill Rd. at I-75 interchange. Highway project PR 700 (S-2565). Comments made by EPA, DOT, Navy, Ga. Bur. of State Planning and Community Affairs, Atlanta Region Metropolitan Planning Commission and City of Smyrna. (ELR Order No. 1141, 31 pages) (NTIS Order No. PB-201 400-F) November 2.

FAS Route 613: relocation and improvement of route beginning near College and Johnson Sts. in Jacksonville, *Illinois* and extending northeast for about 1 mile to connect with existing road. Highway project (S-613(103). Comments made by USDA, DOC, DOI, EPA and FPC. (ELR Order No. 1124, 22 pages) (NTIS Order No. PB-200 444-F) October 27.

Supplemental Freeway FAP Rte. 408: Sangamon and Morgan Counties, *Illinois*. Freeway construction with full access control from interchange with US-36-54 near Curran to an interchange with US-67 south of Jacksonville. Comments made by USDA, DOC, DOI, EPA, 8 State offices, Jacksonville Park Board, and Springfield-Sangamon Cy. Regional Planning Commission. (ELR Order No. 1102, 246 pages) (NTIS Order No. PB-201 394-F) October 27.

US-90: Part of relocation of US-90 between Lafayette and New Orleans, *Louisiana*, extending south to junction with US-90 east of Wax Lake Bridge. Comments made by AEC, USDA, DOC, DOI, HEW, Office of State Planning, La. Wildlife and Fisheries Commission, and La. State University. (ELR Order No. 1103, 33 pages) (NTIS Order No. PB-203 766-F) October 27.

I-94 Business Loop: Replacement of bridge over the St. Joseph River between Benton Harbor and St. Joseph, Berrien County, *Michigan* to accommodate auto traffic and to increase under-clearance to accommodate river traffic. 4(f) determination regards acquisition of 0.4 acre of river-front park owned by Benton Harbor. Project U-444(5) Item 812. Comments made by Army COE, USDA, DOC, DOI, EPA, HUD and DOT. (ELR Order No. 1210, 59 pages) (NTIS Order No. PB-199 601-F) November 15.

Route 110: Jefferson County, *Missouri*. Improvement of 5.2 miles of road beginning at Rte. 110 near Desoto east to Rte. 67. Involves channel alignment of 2 creeks and taking of 3 houses and 1 church. Job no. 6-S-110-4 and 6-S-110-2, Projects S-140(1) and S-140(3). Comments made by USDA, DOI, EPA, DOT, Mo. Dept. of Community Affairs and East-West Gateway Coordinating Council (ELR Order No. 125, 24 pages) (NTIS Order No. PB-198 721-F) October 26.

Route 54: Miller County, *Missouri*. Upgrading of present road to dual-lane, limited-access facility from 1 mile west of Rte. FF to Cole County. Project F-54-3(22). Comments made by HUD, USDA, DOT, EPA, Mo. Dept. of Community Affairs. (ELR Order No. 1127, 21 pages) (NTIS Order No. PB-203 764-F) October 26.

Route 60: Butler-Stoddard Counties, *Missouri*. Upgrading to a dual-lane, limited access facility from Poplar Bluff urban limits to Rte. 51 east of Fisk and Rte. 67 east to Rte. T. Project's purpose is to locate Rte. 60 to relieve congestion. Highway project F-60-4 (13). Comments made by USDA, EPA, State Clearinghouse and Bootheel Regional Planning Commission. (ELR Order No. 1122, 14 pages) (NTIS Order No. PB-203 758-F) October 27.

Route 54: Callaway County, *Missouri*. Improvement of 9.7 miles of divided highway between Fulton and Holt Summit. Will require taking 7 farm units. Highway project F-54-3(20) (27) (28). Comments made by USDA, DOI, EPA, and Mo. Dept. of Community Affairs. (ELR Order No. 1126, 17 pages) (NTIS Order No. PB-200 367-F) October 27.

I-670: Kansas City, *Missouri*. Construction of 0.9 mile of 6-lane freeway, mainly elevated, from intersection of I-29 and 35 to I-670 in *Kansas*. Will require 1.1 acres of West Terrace Park; 4(f) determination attached. Comments made by USDA, EPA, DOI, DOT, Mo. Dept. of Community Affairs, Metropolitan Planning Commission—K.C. Region and K.C. Board of Park and Recreation Commissioners. Job No. 4-I-670-46; Project I-IG-670-1(52). (ELR Order No. 1229, 25 pages) (NTIS Order No. PB-204 254-F) November 15.

North 72nd Street: Omaha, *Nebraska*. Upgrading of 1.4 miles between Ames Ave. and Redick Ave. 4(f) determination regards route through the Benson Golf Course. Project SU-147(13). Comments made by USDA, Army COE, EPA, DOI and Neb. Dept. of Health. (ERL Order No. 1211, 36 pages) (NTIS Order No. PB-199 635-F) November 15.

SR-5 (Great Western Gateway Bridge): Schenectady County, *New York*. Replacement of bridge over the Mohawk River and Barge Canal between Scotia and Schenectady and reconstruction of approaches. 4(f) determination regards land from Collins Park and the Sanders' Mansion. Project PIN 1383.00. Comments made by USDA. (ELR Order No. 1209, 19 pages) (NTIS Order No. PB-199 642-F) November 15.

US-183: Custer County, *Oklahoma*. Reconstruction (widening, resurfacing, etc.) beginning at the Washita River bridge north of Clinton and extending north through Arapaho to point just north of SH-33 (approximately 8 miles). Highway project F-332. Comments made by DOI and 3 State of Oklahoma offices. (ELR Order No. 1104, 21 pages) (NTIS Order No. PB-199 585-F) October 27.

SH Spur 303: from F.M. 1382 in Grand Prairie, east to Loop in Dallas, Texas. Purpose: to provide a fast route between the Oak Cliff area of Dallas and Grand Prairie. Comments made by DOC, DOT, EPA, Cities of Dallas and Grand Prairie, Dallas County, and North Central Texas Council of Governments. (ELR Order No. 1101, 23 pages) (NTIS Order No. PB-203 765-F) October 27.

SR-104: Hood Canal Bridge Viewpoint, Kitsap County, Washington. Includes construction of access road connecting to SR-3, parking areas, rest room building and viewpoint platform. Highway project F—001-1, CS 1442R. Comments made by USDA, DOI, EPA, HUD, 7 State of Washington offices, Kitsap County and Puget Sound Governmental Conference. (ELR Order No. 1100, 28 pages) (NTIS Order No. PB-203 767-F) October 26.

FHWA 4(f) Statements:

The following are not 102 statements. They are explanations of the Secretary of Transportation's approval of projects to be implemented under Section 4(f) of the Department of Transportation Act. 49, U.S.C. Section 1653(f). (Statements cannot be ordered through NTIS.)

I-77: Charlotte, North Carolina. Highway project requires use of approximately 5 of the 23 acres of Double Oaks Park. (Order through ELR by title, date and Department—5 pages) November 23.

I-64: East St. Louis, St. Clair County, Illinois. Requires use of 10.8 acres of Jones Park for highway project. (Order through ELR by title, date and Department—3 pages) November 23.

U.S. Coast Guard

Contact: D. B. Charter, Jr., Commander, U.S. Coast Guard; Chief, Environmental Coordination Branch, 400 7th Street SW., Washington, D.C. 20591, (202) 426-2012.

Draft

Title, Description, and Date

Construction of Loran-C Transmitting Station, Caribou-Presque Isle area of *Maine*. Project 01-83-71. (ELR Order No. 1205, 3 pages) (NTIS Order No. PB-204 161-D) November 11.

U.S. Coast Guard Reserve Training Center, Yorktown, *Virginia*. Relocation of access road to Coast Guard facility and development of family housing for the facility. Land involved is a portion of the National Colonial Historic Park at Yorktown. (ELR Order No. 1204, 8 pages) (NTIS Order No. PB-204 163-D) November 11.

Small Scale Explosive Icebreaker (REDSOD). Test of 12′ x 15′ scale model icebreaking technique utilizing high pressure exhaust at Muskegon, *Michigan*. Test project 721314. (ELR Order No. 1274, 8 pages) (NTIS Order No. PB-204 463-D) November 23.

REGIONAL FEDERAL HIGHWAY ADMINISTRATORS

Region 1 (Conn., N.H., R.I., Mass., Puerto Rico, Me., N.J., Vt., N.Y.)

Administrator: Gerald D. Love, 4 Normanskill Blvd., Delmar, N.Y. 12054. Tel.: (518) 472-6476.

Region 2 (Del., Ohio, Md., W.V., D.C., Penna., Va.)

Administrator: August Schofer, Rm. 1633, George H. Fallon Federal Office Bldg., 31 Hopkins Plaza, Baltimore, Md. 21201. Tel: (301) 962-2361.

Region 3 (Alabama, S.C., Georgia, N.C., Fla., Tenn., Miss.)

Administrator: Harry E. Stark, Suite 200, 1720 Peachtree Rd. N.W., Atlanta, Georgia 30309. Tel: (404) 526-5078.

Region 4 (Ill., Wisc., Indiana, Mich.)

Administrator: Fred B. Farrell, 18209 Dixie Hwy., Homewood, Ill. 60430. Tel: (312) 799-6300.

Region 5 (Iowa, Neb., Minn., Mo., Ka., N.D., S.D.)

Administrator: John B. Kemp, P.O. Box 7186, Country Club Station, Kansas City, Missouri 64113. Tel: (816) 361-7563.

Region 6 (Ark., Oklahoma, La., Texas)

Administrator: James W. White, 819 Taylor St., Ft. Worth, Texas 76102. Tel: (817) 334-3232.

Region 7 (Arizona, Hawaii, Calif., Nevada)

Administrator: Sheridan E. Farin, 450 Golden Gate Ave., Box 36096, San Francisco, Calif. 94102. Tel: (415) 556-3951.

Region 8 (Alaska, Montana, Wash., Idaho, Oregon)

Administrator: Ralph M. Phillips, Rm. 412, Mohawk Bldg., 222 Southwest Morrison St., Portland, Ore. 97204. Tel: (503) 226-3454.

Region 9 (Col., Utah, N.M., Wyoming)

Administrator: William H. Baugh, Bldg. 40, Denver Federal Center, Denver, Colorado 80225. Tel: (303) 233-6721.

SUMMARY OF 102 STATEMENTS FILED WITH THE CEQ THROUGH NOV. 30, 1971 (BY AGENCY)

Agency	Draft 102's for actions on which no final 102's have yet been received	Final 102's on legislation and actions	Total actions on which final or draft 102 statements for Federal actions have been received
Agriculture, Department of	45	90	135
Appalachian Regional Commission	1	0	1
Atomic Energy Commission	27	24	51
Commerce, Department of	1	7	8
Defense, Department of	3	2	5
Air Force	1	3	4
Army	6	5	11
Army Corps of Engineers	149	265	414
Navy	6	4	10
Delaware River Basin Commission	3	0	3
Environmental Protection Agency	3	9	12
Federal Power Commission	14	5	19
General Services Administration	16	19	35
HEW, Department of	0	1	1
HUD, Department of	10	10	20
Interior, Department of	47	35	82
International Boundary and Water Commission —United States and Mexico	1	4	5
National Aeronautics and Space Administration	16	6	22
National Science Foundation	2	0	2
Office of Science and Technology	0	1	1
Tennessee Valley Authority	11	2	13
Transportation, Department of	868	416	1,284
Treasury, Department of	1	3	4
U.S. Water Resources Council	4	0	4
Total	1,235	911	2,146

*Separate 4(f) statements not incorporated in 102 statements received from DOT are not included.

SUMMARY OF 102 STATEMENTS FILED WITH THE CEQ THROUGH NOV. 30, 1971 (BY PROJECT TYPE)

	Draft statements for actions on which no final statements have yet been filed	Final statements on legislation and actions	Total actions on which final or draft statements for Federal actions have been taken
AEC nuclear development	8	7	15
Aircraft, ships, and vehicles	0	5	5
Airports	26	116	142
Buildings	0	5	5
Bridge permits	14	4	18
Defense systems	2	2	4
Forestry	2	4	6
Housing, urban problems, new communities	8	6	14
International boundary	4	2	6
Land acquisition, disposal	12	24	36
Mass transit	3	1	4
Mining	5	1	6
Military installations	11	3	14
Natural gas and oil:			
Drilling and exploration	3	5	8
Transportation, pipeline	3	3	6
Parks, wildlife refuges, recreation facilities	9	14	23
Pesticides, herbicides	7	10	17
Power:			
Hydroelectric	18	4	22
Nuclear	24	16	40
Other	15	1	16
Transmission	6	6	12
Railroads	0	1	1
Roads	702	273	975
Plus roads through parks	119	20	139
Space programs	6	2	8
Waste disposal:			
Detoxification of toxic substances	4	1	5
Munition disposal	2	3	5
Radioactive waste disposal	1	1	2
Sewage facilities	2	5	7
Solid wastes	1	0	1
Water:			
Beach erosion, hurricane protection	2	20	22
Irrigation	16	9	25
Navigation	39	94	133
Municipal and industrial supply	4	1	5
Permit (Refuse Act, dredge and fill)	7	0	7
Watershed protection and flood control	115	221	336
Weather modification	8	3	11
Research and development	13	6	19
Miscellaneous	14	12	26
Total	1,235	911	2,146

BUS SAFETY STANDARDS

HON. WILMER MIZELL

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 10, 1971

Mr. MIZELL. Mr. Speaker, I am sure most of my colleagues, excepting those serving their first term here, will remember one of South Carolina's former Representatives and a close associate of many Members of Congress for several years, the Honorable William Cramer.

As former ranking minority member of the Committee on Public Works, Bill Cramer was known as one of the staunchest advocates of highway safety in the country.

Although no longer a Member, Bill Cramer has maintained an active interest in this issue, and I was recently privileged to insert a statement of Mr. Cramer in the RECORD of the bus safety standard hearings held by the Public Works Committee.

At this time, Mr. Speaker, I insert the text of Mr. Cramer's statement in the RECORD, so that my colleagues who serve on other committees may have the benefit of our former colleague's views on a most important subject:

STATEMENT BY HON. WILLIAM C. CRAMER

Mr. Chairman: As a staunch supporter of highway safety, I am very much in favor of the promulgation of strict safety standards of school buses. Therefore, I heartily approve efforts by the Department of Transportation to establish standards aimed at making those buses used to transport children to and from school as safe as we can possibly make them.

I don't have to tell you that highway

travel is increasing year in and year out. You see it and I see it, as we drive about our business each day.

Nor do I have to tell you, that the hazards associated with highway travel are increasing as well. As congestion rises, as vehicle miles grow, the chances of highway mishaps increase apace. This is a primary reason for my personal concern over the fact that so many American school children are now being bused each day to attend school.

While I reluctantly own to the necessity to busing children when necessary to transport them to the nearest educational institution, I have grave reservations over recent court rulings which require the mass busing of school children to achieve racial balance. From an educational standpoint, in my judgment, the wisdom of such decisions is open to serious doubt.

But, more pertinent to these proceedings, one would have to be either naive or unthinking to ignore the serious safety implications for those childen, both black and white, affected by busing decrees. Each unnecessary passenger mile we require them to travel adds to the probability that sooner or later some will become accident victims.

In the last two months alone, two terrible incidents involving school children occurred. One happened near Liberty, New York, when a privately chartered bus carrying a group of teenagers and subteenagers experienced a mechanical failure. The crash that followed claimed six lives. An additional eight youngsters were seriously injured.

The second incident occurred in Greenview, Colorado, where a loss of brakes on a vehicle carrying school children claimed nine young lives and injured an additional fifteen children.

Proponents of mass busing of school children assert that the rate of accidents and injuries in school buses is low compared to that for the general driving public. While this may be true, such a statistic provides small comfort for those parents whose children are killed or maimed in busing accidents. Last year alone, for example, there were a total of 39,000 such accidents nationwide. 4,500 pupil injuries were sustained and 75 children lost their lives.

The death of any child is always an occasion for grief. But the death of a single child who is unnecessarily bused is a great tragedy.

Yet realistically, no matter what standards we set, no matter what degree of care we exercise in maintaining and operating school buses, an irreducible number of accidents and injuries and deaths will surely occur. And the number of such mishaps will be in direct proportion to the number of children bused and the mileage traveled by them. Thus, if we double the number of children requiring transport and double the mileage traveled by them, we can likely expect a doubling of the toll of accidents and fatalities.

We are already placing tremendous strains on our school transportation system. Such strains are a danger in themselves. Let me cite an example of what I mean. Not long ago a bus traveling on the overburdened school transportation system of Potomac, Maryland experienced a brake failure, necessitating the use of low gear and emergency brakes to stop the vehicle. Following this harrowing experience, the driver informed her dispatcher and the proper authorities of the unsafe condition of her vehicle. Despite her report, the bus was not repaired and the next morning she was assigned to the same faulty vehicle. When she balked at driving it, she was threatened with the loss of her job. So she continued to transport children in that dangerous vehicle, utilizing low gear and emergency brakes to stop it. That a serious crash did not occur was a minor miracle.

Such instances of negligence and worse deeply trouble me. I truly hope that school busing operations can be made so safe that incidents of this sort will seldom occur.

But, I also hope that we can reverse the recent trend of court decisions in order to keep to a minimum the busing of children, for mass busing cannot but lead to the needless sacrifice of young lives—a slaughter of the innocents.

In my book, even the loss of a single child in this manner will be too hard for the Nation to bear.

At this point in the record, I ask that a Fact Sheet prepared by the Department of Transportation on "Pupil Transportation in the United States" dated March 1971, be included in the record of these proceedings.

I thank Congressman Harsha and the Committee for permitting me to submit this statement of my concern.

FACT SHEET—PUPIL TRANSPORTATION IN THE UNITED STATES, MARCH 1971

Total vehicle	245,000
Publicly owned	172,000
Privately owned	73,000
School buses	225,000
Small vehicles, station wagons, cars	20,000
Total drivers	255,000
Male	200,000
Female	55,000
Over 21	235,000
Under 21	20,000
Average age	40
Total children	19,000,000
Total annual miles	2,100,000,000
Public expense	$901,000,000
Including capital outlay	$1,517,900,000
Total accidents	39,000
Pupil injuries	4,500
Pupil fatalities	75
On school bus	25
Approaching or leaving loading zone	50
Types of Collisions:	*Percent*
Front end	20
Rear end	13
Side	16
Roll over	8
Non-collision, struck	43
Pedestrian, not specified	100

Sources: National Safety Council; and School Bus Mfg. Institute.

Prepared by: David H. Soule, Pupil Transportation Specialist, National Highway Traffic Safety Administration.

FLORIDA SCHOOLS CITE UNSAFE BUS BRAKES

TALLAHASSEE, FLA.—Up to 452 school buses in 40 or more Florida counties are equipped with brakes that state school officials say are subject to sudden failure.

Among the counties that have reported temporary brake failures on school buses are Sarasota, Manatee, Polk and Gadsden. A three-year old boy was injured in Sarasota when the brakes on a school bus failed and the vehicle slammed into his grandmother's car.

"The brakes fade," said Sarasota County transportation supervisor James Hightower. "It seems like they're grabbing.

"It isn't too very often but it's enough to keep us worried," he said. "It happened twice in one week."

International Harvester, which manufactured the 1969 and 1970 model buses experiencing brake problems, sent representatives to Sarasota Oct. 5 and promised a report within a few days.

THE POLITICS OF ECOLOGY

HON. HOWARD W. ROBISON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, December 10, 1971

Mr. ROBISON of New York. Mr. Speaker, I have great respect for Dr. Barry Commoner, and the environmental principles which he has so forcefully and so elegantly articulated. Yet, as he continues to expand and more completely develop his themes in the public forum—as he recently did both in his testimony before the Senate Commerce Committee and in his new book, "The Closing Circle"—I find more reason to distinguish between his environmental principles and his environmental politics.

It is often the case that politicians, such as myself, are hesitant to venture into the world of science, where some of us—at best—hold a "baccalaureate" in committee hearings "with honors" in floor debate. Yet, if Dr. Commoner is to express a world-view which is no less political than environmental, I should not hesitate to submit a few of my own thoughts on the politics of ecology.

If I correctly understand Dr. Commoner, he has set at odds the total economic system of the West, and the total economy of the ecosphere. The technology of the modern marketplace, he says, has come perilously close to imbalancing the ecology of the seas, thereby endangering all life, which draws sustenance from the ocean. The proposed solution is no less than a complete reallocation of economic priorities and a complete political reorientation toward environmental goals, a kind of all-or-nothing revolution which is so often posed as the solution to many of our social problems. Perhaps this kind of projection must be made and, if so, we are fortunate that it was made by a man who commands our highest respect. Yet, that done, someone else must say:

> It will not happen. Congress will continue to reflect the environmental values of its constituents, but no total or even near-total transformation, reorganization or reallocation will occur. It never does.

I might add that it will not happen to the extent that Dr. Commoner's perfectly harmonious ecosphere does not exist. Just as with the immutable law which states that no legislative program will work to the perfection and expectations of its authors, so is it equally certain that the cycle of nature is a cycle of waste—one which survives by the margin of its surpluses and not by the perfect cooperation of its living and inorganic members. And, to the extent that one finds nature—or the ecosphere, if you will—to be imperfect, the revoluntary politics of ecology are imperfect.

We have not journeyed through two-and-a-half centuries of Western civilization, with history's painful process of refinement of our political ideals and practices, to subsume all to an eco-political tyranny. Man and his politics will react and adapt as they have in the past. They will do so not through sudden or violent transformation of the economic or political environment, but through the same process of innovation and adaptation that has supported man's existence thus far.

Still, because Dr. Commoner has challenged our thinking, as mine has been challenged, we owe him our gratitude. His ideas are most worthy of note and certainly demand our attention as we seek to find the right legislative solutions to our environmental problems. I am happy to insert in the RECORD two recent articles: one by Robert Cowen of the Christian Science Monitor, and the other by Stephen MacDonald of the Wall Street Journal, which may serve to introduce some of my colleagues to the recent ideas of Dr. Barry Commoner.

The articles follow:

POLLUTION AND FREE-ENTERPRISE ECONOMICS

(By Stephen MacDonald)

Who isn't fed up with ecology? Strangling in sulfur dioxide might be preferable to reading another book on the subject. But Barry Commoner's "The Closing Circle" (Knopf, 300 pages, $6.95) isn't just another book, and if you have time for only one more, let this be the one.

Especially if you are a businessman. One of Mr. Commoner's major theses is that the emerging ecological crisis—and it's coming, even if people are tired of hearing about it—will create an equally devastating crisis for the free-enterprise economic system. He takes great care to avoid accusations, hysteria or sermonizing, but in a careful, measured way sets about tightening down his argument, forcing the reader along until at the end he is confronted with the realization that some extremely unpleasant realities—economic and environmental—will have to be faced within the next couple of decades.

Briefly, the situation is this: A great miracle that has made possible the stability of the ecosystem for millions of years is that it is self-renewing. Nothing is wasted. What one creature throws away another uses as raw material. A simple example is the relationship we all learned in school between plants and animals: Plants take in carbon dioxide and give off oxygen; animals take in oxygen and give off carbon dioxide. The ecosystem contains countless of these reciprocal processes, all acting as a continuous cycle—the closed circle of the book's title. It is easy to see how nicely man has fit into this arrangement for thousands of years.

But recently, specifically since the current technological boom began around the time of World War II, man has been tampering with some of these processes and interfering with their balance. For reasons that seemed to make perfectly good sense at the time, he began displacing natural, organic goods with technologically inspired, artificial, inorganic goods that are incapable of taking part in the cycles of renewal. The first result we are seeing now: pollution. In time, if this course continues, we will see the cycles break down, the circles open: environmental catastrophe.

Consider one of Mr. Commoner's many examples, the displacement of soap by detergents. Soap is made from animal or vegetable fat and alkalai, all of which are freely available and infinitely renewable and can be combined with negligible environmental impact. After use, soap is discharged to sewerage systems where it is attacked by the enzymes of decay and reduced to carbon dioxide and water. It has been used everywhere in the world for thousands of years without known harm to the environment.

About 25 years ago man learned how to make detergents, which have since largely replaced soap. Detergents are made synthetically from petroleum products, among other substances, in a series of chemical reactions that causes three times the pollution caused by soap-making. Chlorine and mercury are also involved.

So much for detergents' production. What happens down the drain is even worse. First they bubbled, then they poisoned fish, and the effects of phosphates and their would-be successor, NTA, are widely known—and ignored, since people buy what is advertised. Yet, Mr. Commoner argues, soap cleans every bit as well as detergents. (Many detergents contain water-softening ingredients, but their function could easily be assumed by non-polluting alternatives.)

It is something of a comfort that Mr. Commoner does not consider the crucial issue to be either population or affluence, as has been widely assumed. Pollution has multiplied much faster than either the population or the per capita gross national product. The issue, he contends, is that in our mad worship of technology we have overlooked its environmental impact.

Thus in the past two or three decades we have seen the rise of inorganic fertilizers and pesticides on the farm, synthetic fibers in clothing and other fabrics, heavy cars using high-compression engines that run on leaded gasoline, aluminum and plastic in buildings—and the decline of the less polluting counterparts they replaced.

We swallowed all this out of belief in what has become a great American myth, that technology can solve any problem. And maybe it can, if we put the problem correctly. We said, "We want something that is cheaper and easier than soap." We should have added, "But only if it has no more effect on the ecosystem than soap."

Enter, the businessman. Since business is the middleman between technology and the consumer, it falls to business to pose the problems that technology solves. But the free-enterprise economy is founded on the quest for profit maximization—for good reason—and concern for the ecosystem is hard to justify in terms of productivity and profit. Quite the contrary. The profit on pure detergent sales is about twice that on pure soap sales, for example.

It's true that ignoring the environment will be disastrous for polluters in the long run, just as it will be disastrous for the non-polluters. But the very fact that the effects of pollution are dispersed means that the polluter isn't singled out in paying for his sins. This year's profits won't be affected; the trouble is down the road a comfortable distance.

Maybe not so comfortable. Mr. Commoner, after duly noting the folly of trying to make predictions about these things, suggests that we could begin experiencing the breakdown of major aquatic systems within 25 years. That means more than merely water unfit to drink. It means a water system that cannot support its role in the ecological cycle, which in turn means the breakdown of other environmental systems.

Well, what's to be done? What will it take to build an environmental factor into the economy? Mr. Commoner discusses the question at some length without offering any answers, although it's clear that he thinks nothing short of a revolutionary change will succeed. Yet he somehow remains optimistic, even utopian, in his belief in America's "greening." He seems to expect that mankind will suddenly see the folly of its ways and begin living harmoniously with nature—and incidentally eliminating war and poverty in the process.

It's easy to snicker at that, and hard to come up with anything much less unlikely to succeed. Government regulation? A stroke of enlightenment in the executive suite? Perhaps some may still have faith in those possibilities.

More likely, the greatest hope lies not in our social institutions but in the individual, who as businessman or technocrat or consumer comes to see the piecemeal destruction of the world as a personal threat and simply refuses to patronize it. Pollution would not be profitable if we were not so blindly ignorant as to make it so.

This is hardly an encouraging hope, for it depends on the sudden and widespread accumulation of a rare sophistication: Man must come to see himself not as master of the universe but as a fellow animal in nature. A step toward gaining that kind of awareness might begin with the reading of Mr. Commoner's book.

[From the Christian Science Monitor, Nov. 18, 1971]

RADICAL ECONOMIC CHANGE CALLED ONLY CURE FOR POLLUTION

(By Robert C. Cowen)

WASHINGTON.—Trying to save the environment may pose a bigger challenge to the U.S. economy than the depression of the 1930's or the inflation of the 1970's.

In fact, if Washington University ecologist Barry Commoner is right, meeting that challenge will give the United States the biggest economic shock in its history.

In Dr. Commoner's analysis, the driving force of environmental decay is the technological transformation that has made the American economy prosperous since World War II. Only radical dislocation and reordering of that technology will save the environment, Dr. Commoner says.

He adds that you can say as much for every other industrialized economy on earth, be it labeled socialist, capitalist, or mixed.

Dr. Commoner gave his analysis at the second session of the "international conference on ocean pollution" held by the subcommittee on oceans and atmosphere of the U.S. Senate Committee on Commerce. So he keyed his remarks to the sea.

To him, the ocean is the link that integrates environmental problems. All pollution, whether of air, land, or fresh water, ends up eventually in the sea, Dr. Commoner observed. The ocean is the sink for all the poisons man produces. Hence pollution of the sea is synonymous with general environmental decay.

Also, mankind's ultimate dependence on the sea, whose plant life produces much of the world's oxygen, makes the ocean a critical element of earth's life-support system. If the sea dies, mankind perishes, Dr. Commoner explained, picking up a point many experts have been making.

Archaeologist Thor Heyerdahl made this same point in reporting extensive marine pollution he had observed during his two drifting voyages across the mid-Atlantic in the papyrus vessels Ra 1 and Ra 2.

He said men must change their viewpoint on the ocean. They must stop thinking of "the vast sea." They must recognize that it is merely the largest landlocked water body. And like lakes that have already succumbed to pollution, it has a finite capacity to absorb man's wastes.

THREAT ESTIMATED

That capacity could well be exceeded and ocean life effectively killed within the next three to four decades if present trends continue, Mr. Heyerdahl warned.

However, in underscoring that warning, Dr. Commoner focused on what he considers the root cause of the environmental challenge on land as well as at sea.

As examples, he cited the fourfold to fivefold increase in the use of nitrate fertilizers in farming. This has brought a rise in per-capita food production of only about 11 percent, he said. The vastly increased fertilizer use largely contributes to pollution that ultimately goes into the sea.

Or consider nylon and other wonder fabrics. It takes chlorine to produce them. So American chlorine production has leaped ahead fifteenfold. Mercury plays a role in chlorine production. And this, Dr. Commoner said, is the major source of coastal mercury pollution.

Many of the new technologies are power hungry. This helps bring on the much publicized energy crisis. It stimulates air pollution and heat pollution of water bodies by demanding more power plants. It takes three times as much energy to produce the aluminum tops for flip-top beverage cans than to make the old steel tops, to take just one example.

These new technologies are more efficient and more profitable than the technologies they displace, Dr. Commoner explained. There's more money in nylon than cotton or wool. Soapmakers earn far more selling detergents than the old-fashioned, nonpolluting soaps.

GOOD SENSE OR FOLLY?

It has been economically sensible to switch to the new technologies. But it is also ecological folly, Dr. Commoner said, for all these technologies bear down hard on the environment.

No economic system that ruins the environment will survive, because men themselves can't live in that case. But, Dr. Commoner warned, to bring the present economic system in line with ecological needs means major dislocations. We can't switch from synthetic fibers back to wool and cotton or go back to using soap without severe economic hardship, he said.

The need today, he added, is to realize the magnitude of this challenge. The need is to begin now to plan for the kind of major economic overhaul required so as to minimize the hardships it could entail.

LOOSE WORDING IN LAW PROTECTS ILLEGAL ALIEN

HON. JACK H. McDONALD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, December 10, 1971

Mr. McDONALD of Michigan. Mr. Speaker, the alien who is in this country illegally cannot be deported if he entered fraudulently and subsequently achieved family status.

In the case of Mexicans who cross the border as nonimmigrant visitors and then take a job, they can thumb their noses at the law if they marry an American citizen or another alien who is a legal resident or become a parent.

Thus, the Mexican who is caught working illegally and who agrees to "voluntary departure," can continue to work, legally now, and go husband-or-wife-hunting. If he or she makes it to the altar fast enough, there is no way on earth that deportation can be carried out.

This incredible state of affairs is the result of a ruling by the Ninth Circuit Court of Appeals on a section of the Immigration and Nationality Act.

This section, which was written either by a fool or a knave, is so loosely worded that it protects from deportation almost any illegal alien, provided he can produce a mate and claim he entered the country fraudulently.

The particular paragraph in question reads:

> The provisions of this section relating to the deportation of aliens within the United States on the ground that they were excludable at the time of entry as aliens who have sought to procure, or have procured visas or other documentation, or entry into the United States by fraud or misrepresentation shall not apply to an alien otherwise admissible at the time of entry who is the spouse, parent, or a child of a United States citizen or of an alien lawfully admitted for permanent residence.

The key words are "otherwise admissible," because the alien was admitted as a nonimmigrant.

This means that the alien who entered with the intention of going to work illegally cannot be deported if he or she marries.

TRADE RESTRICTIONS: PENNY-WISE AND DOLLAR FOOLISH

HON. RICHARD T. HANNA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 10, 1971

Mr. HANNA. Mr. Speaker, we are again hearing the laments of those who would hamstring U.S. trade and, in so doing, close off from our most productive industries the potential markets that they must reach if we are to again achieve full employment. I find it a cruel irony that those who advocate this course of action are using as their principal argument the claim that they seek to protect the jobs of American workers. The facts tell us that the net result of jobs won and lost through trade is positive if our level of trade is expanding. It follows from this that, if our trading volume is reduced as has been advocated in this Chamber, the net result will be a loss of jobs and more unemployment. A close look at data on U.S. trade volume and unemployment rate will bear this out.

This is not to deny, Mr. Speaker, that certain jobs are adversely affected by foreign imports. What I am arguing is that, if we restrict trade in order to protect these jobs, an even larger number of workers will become unemployed in other industries.

Our policy goals with respect to trade, employment, and balance of payments should be: First, to expand our volume of trade; second, to take the necessary steps to open markets in other countries now closed to our products; and third, to implement adjustment programs to assist those who are at a competitive disadvantage with imports and who need to make a transition to other industries. Such a policy is obviously more complex than that advocated by the trade restrictionists, who say that we should simply raise the tariff walls. Of course, Mr. Speaker, the simple solutions are almost never the most effective ones in the long run.

We are fortunate to have available the advice and observations of two distinguished economists in the field of international trade. Dr. Fred Bergsten and Dr. Edward Fried of the Brookings Institute have supplied to us their reaction to the arguments made by the trade restrictionists. Considering the frequency with which these arguments are heard in this Chamber, I think it worthwhile to submit Drs. Bergsten and Fried's observations for the RECORD.

These two gentlemen make as direct and convincing a rebuttal to the trade restrictionists as I have seen to date and I urge my colleagues in the House to carefully ponder their statements:

FOREIGN TRADE AND THE U.S. NATIONAL INTEREST

I. A LOOK AT CURRENT ARGUMENTS FOR PROTECTIONISM

A. *Foreign trade is creating unemployment*

1. In 1968 and 1969 the trade surplus went down, but so did unemployment. In these two years, unemployment reached its lowest level in 20 years, despite the lowest two-year trade surplus in the postwar period.

2. An equal reduction in US exports and imports, which would probably result from a trade war, would reduce US jobs and incomes. *The job content of a dollar of US exports is greater than the job content of a dollar of US imports.*

3. Even when the trade surplus is low there are more jobs in exports than in imports:

Year	Trade balance (billions)	Jobs (millions)	
		Exports	Imports
1966	$3.8	2.5	1.8
1969	$1.2	2.7	2.5

4. The US trade surplus went down in 1968–71 primarily because prices got out of hand domestically, which over-stimulated imports and led to overvaluation of the dollar. Present policy is aimed at both these problems: reducing inflation and achieving a realistic exchange rate for the dollar.

5. The employment effects of foreign trade are in any event small in relation to normal job requirements of US economy. US needs to create 1.5 million new job opportunities every year to employ normal additions to the labor force, whereas annual job effects from foreign trade (plus or minus) is on the order of 0.1 million. If we can regain 4–5% real growth a year—the average for the 1960s—full employment would be readily achieved.

6. The basic function of foreign trade is to increase productivity and income—not to create jobs. Achieving full employment depends primarily on domestic fiscal and monetary policy—not foreign trade policy.

B. *U.S. is investing and licensing itself out of exports and out of jobs*

1. There is no reliable evidence that foreign investment has on balance either reduced or increased exports. The mid-1960s were years of high US trade surpluses, high foreign investment, and declining unemployment.

2. Investment and licensing abroad can increase international specialization and contribute to investment in higher paying jobs at home.

C. *Other countries are taking advantage of the U.S. because we have overplayed the benefactor role and sold out our economic interests to buy foreign policy goals*

1. The US has legitimate complaints against:

Agricultural protectionism in Europe and Japan.

Government procurement policies and other non-tariff barriers in Western Europe and Japan.

Japanese administrative practices that restrict imports.

2. But these countries have legitimate complaints against the US. US quotas and voluntary restraints cover more trade than those of any other country, including Japan. The US has more high tariff categories (above 20%) than anyone else. And we have our own Buy American rules and other nontariff barriers.

3. In aggregate terms—Post-Kennedy Round tariffs among the major countries are not far apart. Weighted average tariffs are:

EEC	6.0
US	7.1
UK	7.6
Japan	9.7

4. In sum, the US has received its share of trade benefits and committed its share of trade sins. Serious trade problems exist now and will arise over the future. They can only be managed through reciprocal multilateral bargains.

II. WHAT THESE ARGUMENTS IGNORE

A. *International economic cooperation pays off in economic terms.* Growth and prosperity in other countries contribute to US prosperity and jobs. If their economies now falter, our economy will suffer.

B. *Trade is an important weapon to combat domestic inflation.* Imports hold prices down and encourage efficiency in domestic industry.

C. *Protectionism would involve substantial US political losses* in Western Europe and Japan—with potentially significant adverse consequences for US security and higher US defense costs.

III. EXCHANGE RATES, TRADE, AND ALTERNATIVE POLICIES

Proper exchange rates affect trade and jobs positively, while protectionism affects trade and jobs negatively. The present international economic impasse provides an opportunity to move in either direction, with very different domestic and international consequences.

A. The US can seek a reasonable settlement on monetary issues, avoid a breakdown in international cooperation and a trade war, and move toward a reduction of trade barriers. This will mean higher incomes and more jobs in the US.

1. New exchange rates, which other industrial countries agree are necessary to restore equilibrium to the US balance of payments, would produce a US trade surplus of $3–4 billion over the next two years or so. Exports would rise and US industries could better compete with imports here.

2. Such a turnaround would create 500,000 additional jobs in the US. Many would be in the high paying capital goods and chemical industries, where our export surplus has steadily increased. In 1969, machinery exports alone (e.g. machine tools, computers and business machines, aircraft, and construction and farm machinery) involved 700,000 jobs.

B. *Or* the US can move toward more quotas and trade restrictions. This would sacrifice the opportunity to set exchange rates right and to achieve reductions in foreign trade barriers. In addition, it would trigger retaliatory action by others and actually reduce levels of trade. The consequences would be:

1. Some gain in low income jobs but a much greater loss in high productivity jobs.

2. An increase in consumer costs and greater difficulty in regaining price stability. Present US tariffs and quotas cost the consumer an estimated $10–15 billion—equivalent to about a 3% rise in the cost of living. Maintenance of the import surcharge and additional quotas would greatly increase these costs.

3. Adverse foreign policy consequences, which could dwarf the direct economic costs and ultimately add greatly to them.

IV. THE IMPACT OF CURRENT TRENDS IN THE WORLD ECONOMY

1. Rapidly accelerating wage rates in Western Europe and Japan are sharply narrowing the wage differential with the US.

2. Two-way investment is increasing, with foreign capital financing new US jobs.

3. There is increasing specialization within industries, rather than competition between whole industries, easing the adjustment to expanded international trade.

4. Economies are becoming increasingly oriented toward services rather than the production of goods, with jobs less affected by trade.

(60% of the US labor force is already engaged in services—health, education, trade, finance, transportation, etc.—and primarily interested in foreign trade as consumers. This proportion will rise to 70% by the end of this decade, and a similar trend is evident in Western Europe and Japan.)

5. These trends are all increasing the benefits of, and reducing the dislocations from, closer international economic cooperation.

V. POLICY DIRECTIONS

A. First priority is to achieve (a) a satisfactory realignment of exchange rates; and (b) international monetary reforms that will keep all countries, including the US, close to balance of payments equilibrium. The US gains immediately from these monetary improvements through a strengthening of its competitive position. But other countries will also gain from the assurance of continued world prosperity. US protectionist measures would be contrary to US interests because they would gravely jeopardize these prospects and would be self-defeating.

B. The US should move toward a renegotiation of GATT, as it is now renegotiating Bretton Woods.

1. The objective should be to build a framework of international rules and cooperation that meet the needs of the 1970s, and achieve for the future the same kind of benefits that the present GATT framework achieved in the past.

2. In this connection we should:

Explore the prospects of achieving a tariff-free world, both to maximize benefits from trade and to remove the trade effects of preferential areas on US exports.

Develop new provisions for agricultural trade and production, and for other nontariff barriers.

Consider developing international rules for foreign investment.

3. This will be a lengthy process. If it is to be successful, the US must be prepared to make its share of concessions and adjustments.

C. We should seek a general approach to alleviate problems arising out of job dislocations from all forms of structural change in the US economy, including those from foreign trade.

1. A greatly improved adjustment assistance program is needed now to deal with job dislocations from foreign trade.

2. We should recognize, however, that adjustment assistance from foreign trade covers only a very small part of a more general problem. Even with full employment, sizeable job dislocations occur from changes in consumer taste, technological change, geographic shifts of industry, changes in government defense spending, and antipollution measures. These shifts dwarf those arising from foreign trade. Between 1968 and 1971 changes in defense spending alone reduced military and military-related employment by 2 million.

3. Providing new forms of income security and job retraining for workers who have a considerable job investment in threatened industries, and could not readily move to other industries, could ease the problems arsing out of structural change. This would also facilitate policies in such fields as defense and the environment that would benefit US society as a whole.

4. There are many difficulties in moving in this direction. However, a program of this kind may be essential to achieve full employment with price stability in the 1970's.

HON. PATSY T. MINK: ASIAN AMERICANS, ASIANS, AND RACIAL PREJUDICE

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1971

Mr. FRASER. Mr. Speaker, most of us are indefatigable producers and consumers of political rhetoric. We qualify as expert judges of oratory and we are able to recognize a sound speech when we hear or read one.

Our colleague from Hawaii, Mrs. Mink, delivered one of the better speeches of this or any year on November 6 before the West Los Angeles Japanese American Citizens League at the Airport Marina Hotel, Los Angeles. Her remarks centered on the self-image of Asian Americans and the role they ought to play in the diversity we know as the United States. Mrs. Mink recalls for us the sorry record of our Nation toward our own citizens of Asian heritage and toward Asians generally.

Mr. Speaker, in the Friday, November 19, 1971, edition of Pacific Citizen, a weekly published by the Japanese American Citizens League, Editor Harry K. Honda devoted his column to Mrs. Mink's speech. His final sentence expresses why I decided to place Mrs. Mink's speech in the Record:

> They [those present when it was delivered] sensed beyond the eloquence were ideas of historic merit that many others not present would have enjoyed hearing.

I agree. The complete text of Mrs. Mink's speech and Mr. Honda's column follow:

REMARKS BY REPRESENTATIVE PATSY T. MINK

I would like to thank President Kanegai and the other officers and members of the West Los Angeles Japanese-American Citizens League for this opportunity to be with you at your 30th anniversary banquet and installation. I am delighted to participate in this memorable occasion.

It must be difficult to look back, thirty years to 1941 and relive the pains and agonies that were inflicted upon you as citizens, unloved and unwanted in their own country of their birth. Loving this land as much as any other citizen, it is difficult to fathom the despair and fury which many must have felt, yet who fought back and within a few years had re-established their lives and their futures. Most of us remember these years vividly. Our faith in justice was tested many times over. Our patriotism was proven by blood of our sons upon the battlefields.

Yet today, thirty years later to many even in this room, it is only a part of our history. Our children, 30 years old and younger, cannot follow with us these memories of the forties. They tire of our stories of the past. Their life is now, today . . . tomorrow. Their youthful fervor was poured into the symbolism of the Repeal of Title II of the Internal Security Act of 1950 portrayed by its title, "Emergency Detention Act". That Act became law nearly 10 years *after* the Japanese were evacuated from the West Coast into "Relocation Camps". Yet, it stood as a reminder of what could happen again. Of course, despite the successful repeal, it could happen again, as it did indeed to the Japanese Americans who were rounded up without any statutory authority whatsoever. It was not until 1950 that Title II became law.

It is quite evident that I am standing before an affluent group whose surface appearance does not reveal the years of struggle and doubt that have ridden behind you.

Sociologists have generally described the Japanese-Americans as an easily acculturated people who quickly assimilated the ways of their surroundings. This has always been in my view a friendly sort of jab at our cultural background, for what it has come to mean for me is a description of a conformist which I hope I am not!

I still dream that I shall be able to be a real participant in the changing scenario of opportunity for all of America. In this respect, I share the deep frustration and anguish of our youth as I see so much around us that cries out for our attention and that we continue to neglect.

Many factors have contributed towards a deepening sense of frustration about our inability to solve our problems of poverty and racial prejudice. Undoubtedly the prolonged, unending involvement in Vietnam has contributed to this sense of hopelessness. At least for our youth who must bear the ultimate burden of this war, it seems unfair that they should be asked to serve their country in this way when there are so many more important ways in which their youth and energy can be directed to meet the urgent needs at home. They view our government as impotent to deal with these basic issues.

It is true that Congress has passed a great many civil rights laws. The fact that new, extra laws were found necessary to make it easier for some of our people to realize their constitutional guarantees is a sad enough commentary on the American society, but what is even worse is the fact that the majority of our people are still unready, personally to extend these guarantees to all despite the Constitution and all the civil rights laws, and despite their protestations to the contrary.

Certainly, no one will admit his bigotry and prejudice—yet we always find ways to clothe such feelings in more presentable forms—and few will openly advocate suppression or oppression of other men, but nevertheless, it exists.

Although Congress has repealed the Emergency Detention Act, the fight for freedom is not over. We now see a new witch hunt proclaimed in which all government employees will be examined for their memberships and organizations. It seems that we have not yet succeeded in expunging the notion that "dangerous" persons can be identified by class or group relationships and punished accordingly.

I believe that nobody can find safety in numbers—by huddling with the larger mass in hopes of being overlooked. Those who seek to suppress will always find ways to single out others. Instead, we must change the basic attitude that all must conform or be classed as renegades and radicals. Our nation was founded on the idealistic belief in individualism and pioneering spirit, and it would be tragic for our own generation to forswear that ideal for the false security of instant assimilation.

It seems to me that our society is large enough to accept a wide diversity of types and opinions, and that no group should be forced to try to conform to the image of the population as a whole. I sometimes wonder if our goal as Japanese-Americans is to be so like the White Anglo-Saxon Protestant population as to be indistinguishable from it. If so, we will obviously never succeed!

There has been and continues to be prejudice in this country against Asians. The basis of this is the belief that the Oriental is "inscrutable." Having such base feelings, it is simple to stir up public outrage against the recognition of the People's Republic of China in the United Nations, for instance, even though reasoned judgment dictates otherwise, unless of course a Yellow Communist is really worse than a Red one!

The World War II detention overnight reduced the entire population of one national origin to an enemy, stripped of property, rights of citizenship, human dignity, and due process of law, without so much as even a stifled voice of conscience among our leading scholars or civil libertarians. More recently, the Vietnam war has reinforced the view of Orientals as something less than fully human. All Vietnamese stooping in the rice fields are pictured as the enemy, subhuman without emotions and for whom life is less valuable than for us.

During the trial of Lieutenant Calley, we were told about "MGR," the "Mere Gook Rule" which was the underlying basis for Calley's mindless assertion that the slaughter of defenseless women and children, our prisoners of war, was "no big thing." The "Mere Gook Rule" holds that life is less important, less valuable to an Oriental.

Laws that protect other human beings do not apply to "Gooks". One reporter noted before the verdict became known that the essence of the Calley case was to determine the validity of this rule. He described it as the "unspoken issue" at the trial.

The issue was not as unspoken as most would prefer to believe. The indictment drawn up by the army against Lieutenant Calley stated in six separate charges that he did at My Lai murder four "Oriental human beings" . . . murder not less than 30 "Oriental human beings" . . . murder three "Oriental human beings" . . . murder an unknown number of "Oriental human beings" not less than seventy . . . and so on numbering 102. Thus, the army did not charge him with murder of human beings as presumably would have been the case had Caucasians been involved, but instead charged the apparently lesser offense of killing mere "Oriental human beings".

The army's definition of the crime is hardly surprising inasmuch as the army itself could have been construed as on trial along with Calley for directing a genocide against the Vietnamese. Indeed, the lieutenant pleaded he was only doing what he thought the army wanted. It seems clear to me that the army recognized the "Mere Gook Rule" officially by distinguishing between the murder of human beings and "Oriental human beings." When Calley was convicted, the resulting thunder of criticism verified that many in the public also went along with the concept of differing scales of humanity.

Somehow, we must put into perspective Dean Rusk's dread of the "yellow peril" expressed as justification for a massive antiballistics missile system on the one hand, and on the other, a quest for improved relations with Peking. This latter event could have a great meaning in our own lives as Japanese-Americans. We could help this country begin to deal with Asians as people. Just the other day in a beauty parlor, I heard a Congressional secretary discuss China and say, "An Asian is different, you can never figure out what he's really thinking. He has so little value for life!"

Instead of seeking refuge, we should seek to identify as Asians, and begin to serve America as the means by which she can come to understand the problems of the East. Our talents have not been used in American diplomacy, I suspect, largely because we are still not trusted enough.

We must teach our country that life is no less valuable, and human dignity no less precious, in Asia than elsewhere. Our detractors point to the large-scale killings that have occurred in China, Vietnam, Pakistan, and elsewhere in Asia, but we hear remarkably few references to the mass-slaughter of six million Jews in Nazi gas chambers in World War II—that was done by Aryans, not Asians, and the total far exceeds the loss of life in the Orient that has been used to justify the debasement of "Mere Gooks". I am not trying to compare one group against another, but merely to point out that a lack of appreciation for the value of human life can occur wherever totalitarian government exists. This makes it more than vital for us to oppose such influences within our own country wherever they may occur. The war in Vietnam has lasted for seven years. If Americans believed there was the same worth in the life of an Asian, this war would have ended long ago. If Americans were willing to concede that the Asian mind was no different than his, a peace would have been forged in Paris long ago. I am convinced that racism is at the heart of this immoral policy.

I know that many of you are puzzled and even dismayed by actions of some of your sons and daughters who have insisted on a more aggressive role in combating the war and other evils that exist in our society. I plead with you for understanding of this "Third World" movement in which not only young Japanese-Americans but many minority groups are so deeply involved.

We are confronted with what seem to be many different revolutions taking place all over the world . . . the Black Revolution, the revolution of emerging nations, the youth revolution here and in other countries as well—and something that was even more unheard of, the priests challenging the Vatican on the most basic issues of celibacy and birth control. It is no accident that these things are all happening at the same time, for they all stem from the same great idea that has somehow been rekindled in the world, and that is the idea that the individual is important.

All of the systems of the world today have this in common: for they are mainly concerned with industrialization, efficiency, and gross national product; the value of Man is forgotten.

The children of some of you here tonight are involved in the great protests of today—are they chronic malcontents and subversives? I think not—I think they are probably fairly well educated, thoughtful people who see certain conditions they don't like and are trying to do something about it. I'm not sure they know exactly what they want to do. I do know they are clearly dissatisfied with the way their world has been run in the past.

So, the problem is not what to do about dissent among our young people—the problem is what to do about the causes of this dissent. The question is not "how to suppress the dissent" but how to make it meaningful . . . how to make it productive of a better society which truly places high value on individual human beings *AS* human beings and not merely as so many cogs in the great, cold and impersonal machinery of an industrialized society.

I, for one, believe that the grievances of our youth are real and that they are important. Merely because the majority of students are not involved . . . merely because the dissidents are few . . . should not minimize the need for serious efforts to effectuate change. Our 18-year-olds now have the right to vote. Whether we like it or not, we will have to take better account of their wishes. Their acceptance as adults will bring into policymaking 11 million new voters next year. Their cause for identity must be encouraged.

Our sons and daughters seek to establish a link with the past. They want to discover who they are, why they are here, and where their destinies are to take them. So many of our children are growing up in complete isolation in a society that places a premium on conformity, in middle class homes where parents still want to play down their differences, and prefer to homogenize with society. Some of these children are rebelling and are seeking ways to preserve their uniqueness and their special heritage. I see pride and strength in this.

One of the most promising avenues for this renewed search for one's heritage is in our school systems—the logical place for instructing children in the knowledge they need. Programs of Ethnic Heritage Studies are needed in our schools. I feel that this would be particularly valuable in Hawaii, California and other areas where there are large numbers of children of Oriental descent.

It seems to me that we as Asians have a large stake in encouraging and promoting such a program. We cannot and must not presume knowledge about Asia merely because we are Asians. This requires concentrated study and dedicated determination. Of course, we do not need to become scholars cloistered in the ivy tower of some campus. We need to become aware of the enormous history of Asia and through our daily lives, regardless of what our profession, translate it to all the people with whom we deal. We have not fully met our responsibility to educate the public about Asia and its people.

I hope that all Japanese-American organizations and others with strong beliefs in the magnificent history and culture of the Orient will now help lead the way to a more enlightened America. We have an immense story to tell, for as I have said the public at large too often assumes that all civilization is western and no worth is given to the human values of the East. As long as this belief persists, we will have future Vietnams. The way to counteract it is to build public knowledge, through school courses, travel, and dedicated emphasis on increased communications, so that our people will know and appreciate all that is Asian.

Last Thursday night in a display of utter ignorance and contempt for diversity, the House of Representatives killed the Ethnic heritage studies program by a vote of 200 ayes to 159 noes. And so you see, I speak of an urgent matter. We are so few and they who do not care to understand us are so numerous.

It is fine for all citizens to pursue the good life and worldly goods on which our society places such emphasis, but there is increasing recognition that all will be ashes in our mouths unless our place as individuals is preserved. This is what the young are seeking—and I am among those who would rejoice in their goals.

They need the guidance and support of their parents to succeed, but in any event with or without us, they are trying. It behooves us to do all we can to accept their aspirations, if not all of their actions, in the hope that this new generation will be able to find a special role for themselves in America, to help build her character to define her morality, to give her a depth in soul, and to make her realize the beauty of our diverse society with many races and cultures of which we are one small minority.

[From the Pacific Citizen, Nov. 19, 1971]

WHY DO NOT WE INTERRUPT?

(By Harry K. Honda)

If you triple-space your copy, average 12 words per line and run 15 pages of regular letterhead size paper, you have a solid 25-minute speech uninterrupted. We thought the other night at the West Los Angeles JACL installation there were several passages in Rep. Patsy Mink's discerning speech of anti-Oriental racism in America that should have been interrupted with applause. For instance—

"Sociologists have generally described the Japanese American as an easily acculturated people who quickly assimilated the ways of their surroundings. This has always been in my view a friendly sort of jab at our cultural background, for what it has come to mean for me is a description of a conformist which I hope I am not!" If we missed there, she came back with—

"It seems to me that our country is large enough to accept a wide diversity of types and opinions, and that no group should be forced to try to conform to the image of the population as a whole. I sometimes wonder if our goal as Japanese Americans is to be so like the white Anglo-Saxon Protestant population as to be indistinguishable from it. If so, we will obviously never succeed!"

You hear people say today anti-Oriental discrimination is more subtle (yes, when an individual is involved), but how imponderable is it, really, when Orientals as a class are the quarry? Said Patsy—

"There has been and continues to be prejudice in this country against Asians. The basis of this is the belief that the Oriental is 'inscrutable'. Having such base feelings, it is simple to stir up public outrage against the recognition of the People's Republic of China in the United Nations, for instance, even though reasoned judgment dictates otherwise, unless of course a Yellow Communist is really worse than a Red one!"

And here's another example—

"We should seek to identify as Asians and begin to serve America as the means by which she can come to understand the problems of the East. Our talents have not been used in American diplomacy, I suspect, largely because we are still not trusted enough . . ." Or this—

"The war in Vietnam has lasted for seven years. If Americans believed there was the same worth in the life of an Asian, this war would have ended long ago. If Americans were willing to concede that the Asian mind was no different than his, a peace would have been forged in Paris long ago. I am convinced that racism is at the heart of this immoral policy."

And referring to the youth, the Congresswoman declared, "The problem is not what to do about dissent among our young people—the problem is what to do about the causes of this dissent." That has been said in the past by the youth in their own style.

After the speech, several people had the same regrets—that Patsy's address was not tape-recorded. They sensed beyond the eloquence were ideas of historic merit that many others not present would have enjoyed hearing.

CONGRESSMAN SURVEYS DISTRICT

HON. EDWIN B. FORSYTHE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, December 10, 1971

Mr. FORSYTHE. Mr. Speaker, recently I conducted a survey in my district, asking constituents their views on a wide variety of issues.

It was interesting to note that a substantial majority of Sixth District residents who responded said they favored establishment of controls on wages and prices to help combat inflation.

The question was not asked in relation to President Nixon's economic program. However, when asked what course should be followed, 60-percent recommended wage and price controls.

Following is a detailed breakdown of the response by county and age group. The "all" column indicates the response from the entire district.

FORSYTHE SURVEY RESULTS

	All	Burl.	Cam.	Ocean	18-20	21-35	36-45	46-55	55-64	65 and up
Southeast Asia. What is the best policy to follow?										
1. Achieve a military victory	8	10	5	8	13	8	9	11	6	6
2. Continue the policy of gradual withdrawal and Vietnamization	48	42	52	58	23	42	43	44	59	64
3. Announce a deadline for the withdrawal of all U.S. troops	22	22	24	18	31	24	27	20	20	15
4. Withdraw all troops immediately	20	25	18	15	31	25	19	22	14	13
Part II. If you favor (3) or (4), should the United States take this action if it means a Communist takeover of South Vietnam or jeopardizes our POW's?										
1. Yes	19	23	17	14	23	26	23	19	13	10
2. No	21	21	23	18	31	20	20	24	20	16
China-United States Relations. Which policy do you favor?										
1. Full and immediate diplomatic recognition	18	17	19	17	27	23	16	18	14	12
2. Proceed cautiously to establish relations including trade	70	68	70	74	63	65	74	69	74	72
3. Absolutely no recognition of Red China	12	14	10	8	10	12	10	13	12	14
China and the U.N. Which policy do you favor?										
1. Not admitting Red China to the U.N	15	17	12	12	16	14	14	12	16	18
2. Admitting Red China to the U.N. instead of Nationalist China	5	7	4	4	3	4	5	7	5	3
3. Admitting Red China in addition to Nationalist China	78	73	82	83	74	81	79	80	77	75
Middle East. To achieve peace in the Middle East, the U.S. should:										
1. Continue Nixon policy of seeking concessions from both sides to lead to direct peace negotiations	50	44	56	53	35	45	51	50	54	56
2. Urge Israel to return territories gained in the 1967 war	8	8	8	8	6	7	6	10	11	8
3. Increase aid to Israel	10	10	11	9	6	12	8	12	7	10
4. Assume a neutral position	31	37	22	28	50	36	32	26	27	24
Government reform. Do you favor President Nixon's proposal restructuring the executive branch, including merging several cabinet posts?										
1. Favor	74	69	81	75	63	71	76	63	78	88
2. Oppose	17	22	13	17	24	20	13	29	14	8

	All	Burl.	Cam.	Ocean	18–20	21–35	36–45	46–55	55–64	65 and up
Environment. To combat pollution would you be willing to:										
1. Pay higher prices and taxes	1	1	1	2	5	1	1	2	1	0
2. Adhere to stricter laws regulating pollution	65	65	67	64	55	55	64	68	71	72
3. Both	30	29	28	31	32	39	34	24	26	25
Health insurance. Which approach do you favor?										
1. Establish federally subsidized health insurance program for all citizens	42	41	39	39	40	42	36	47	45	38
2. Establish program for persons in need and for catastrophic illness	39	38	41	41	42	33	48	33	37	43
3. No subsidized health insurance	17	18	16	18	13	22	14	19	16	16
Elderly. Do you believe Congress should:										
1. Provide better retirement benefits	49	51	44	45	44	44	48	53	58	48
2. Improve medical benefits	21	19	19	28	11	16	18	19	24	32
3. Concentrate more on other domestic problems	26	25	34	22	35	33	30	26	15	18
Economy. To stimulate the economy and fight inflation, what should the President do?										
1. Establish controls on wages and prices	60	58	57	66	55	49	54	59	67	77
2. Urge voluntary guidelines	5	5	5	5	6	6	6	6	4	3
3. Balance the budget	15	16	20	11	18	18	17	17	14	10
4. Intervene in specific cases to discourage inflationary increases	15	18	13	14	18	19	20	17	11	8
Welfare. Should the Federal Government:										
1. Maintain the present welfare system	4	5	4	3	5	4	2	4	3	6
2. Federalize all welfare programs and standardize payments	24	22	20	29	18	19	25	22	28	30
3. Federalize the system, providing a minimum guaranteed income for every family, with job training and work requirement?	60	59	65	58	63	61	66	59	59	54
Draft. Should the Congress:										
1. Continue the draft	14	14	13	16	10	16	14	10	12	19
2. Eliminate the draft	8	9	8	6	21	7	8	9	9	4
3. Eliminate the draft and establish a volunteer army within 2 years	28	30	28	25	53	30	27	26	24	24
4. Require some form of military or public service for all men	48	44	49	50	15	45	49	54	53	50
Revenue sharing. Should the Federal Government:										
1. Continue its present system of providing grants to the States and localities for specific purposes	33	32	34	30	34	28	38	29	36	33
2. Establish a program of sending tax revenue back to the States and localities, allowing them to determine how to use the money	60	59	59	64	56	63	56	63	56	61

SEWELL COMMUNITY BAPTIST CHURCH TAKING GOD'S MESSAGE TO THE PEOPLE

HON. JOHN E. HUNT

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, December 10, 1971

Mr. HUNT. Mr. Speaker, the approach of Christmas will hopefully afford the opportunity for people everywhere to pause from their worldly occupations and activities and reflect on the spiritual significance of the season.

In this context, I thought it was a most thoughtful gesture for the Sewell Community Baptist Church in New Jersey to undertake to distribute to every home in that community a gift copy of the American Bible Society's "Good News For Modern Man," a contemporary translation of the New Testament. As you know, this version has been widely acclaimed and accepted by every denominational group and the number of copies printed has now gone well above the 40 million mark. Contemporary in vocabulary, yet accurate in translation, "Good News For Modern Man" has made a major impact in the United States and throughout the world.

"Believing that the scriptures are the answer to man's spiritual need," says Pastor Joseph J. Sastic, "the Sewell Church has entered enthusiastically into this project." The members and friends of the church, young and old, who will be distributing the copies door-to-door on Sunday, December 12, are taking the message of God to the people of the community. Surely, this is a most appropriate way to heighten the spiritual awareness of the Christmas season as well as providing a continuing source of spiritual fulfillment from which the entire Sewell community will generously benefit.

ON RALPH BUNCHE

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 10, 1971

Mr. RARICK. Mr. Speaker, as eulogies and praise pour forth following the death of Ralph Bunche, it should be remembered and our people reminded that Dr. Bunche is being honored for his international activities by the United Nations advocates—the Internationalists.

There are those who still remember other activities and associations of Dr. Bunche which seem to have been forgotten or suppressed by the public opinion-making machinery in our country.

In the interest of preserving history in its proper perspective, I insert a letter from Mr. Archibald B. Roosevelt, son of the late President Theodore Roosevelt, his documentary evidence regarding the late Ralph Bunche of the U.N., and excerpts from "The Biographical Dictionary of the Left," volume 1, by Francis X. Gannon:

NEW YORK, N.Y.

Mr. OSCAR S. STRAUS,
President, Theodore Roosevelt Memorial Association, New York, N.Y.

DEAR OSCAR: To say that I was horrified to read a news item in the New York Herald Tribune, dated September 16th, 1954, that the Theodore Roosevelt Association was presenting to Dr. Ralph Bunche The Theodore Roosevelt medal for distinguished service for the year 1954, as an award for his work in international affairs is putting it very mildly indeed.

It would seem to me that, if the Board of Trustees of the Theodore Roosevelt Memorial Association considers these medals evidence of distinguished service, a very careful checkup of the recipient's record should be made.

Of course, I realize that to the average man in the street who reads the Times and the Tribune only, and hears such commentators on the radio as Edward R. Murrow, Barry Gray, or Elmer Davis, it would seem that Dr. Bunche is a great and good man who has been persecuted without reason. But, when such an honor is being bestowed on him as the Theodore Roosevelt medal, I would think that the Trustees should not be satisfied with simply newspaper statements on the qualities of any man, particularly about such a controversial figure as Dr. Bunche. Any committee bestowing such an honor should have made it a point to find out that both in Congress and other places there is serious question as to whether Dr. Bunche should be a trusted servant of the Government of the United States.

Starting from this single fact, it is very easy in the case of as prominent a man as Dr. Bunche to trace his statements and his connections over the past years. I suppose it would be impossible for your committee to get a transcript of Dr. Bunche's testimony and the testimony of other people about Dr. Bunche in the Loyalty Board Hearings that occurred; but there is much other available testimony and much documentary evidence comparatively easy to obtain. Even if the Trustees are unaware as to the infiltration of left wing propaganda into our news media, press, and radio reports and editorial opinions unsupported by independent research, these should not be the sole basis for the award of any distinguished honor. The fact that the Daily Worker and the left-wing press were unanimous in stating that Dr. Bunche was entirely cleared should have put you on warning.

To give the excuse that since the Loyalty Board had cleared Dr. Bunche even if so be the case—does not excuse the Trustees of the Theodore Roosevelt Memorial Association. The past decade has shown what type of people very often creep into the Loyalty Boards, and what pressure is put on those Loyalty Boards from mysterious sources.

As it is evident that the Trustees responsible for the presentation of this medal have made no careful study of this matter, I attach herewith some interesting documentary evidence regarding Dr. Bunche and some of the organizations with which he was connected:

I cannot understand why anyone who has had a past record of close affiliation with communism should be employed in a "sensitive spot" in our government, because such past connections would indicate, at the least, a certain instability, yet I can understand why people who have definitely repented and have set themselves out at great sacrifice to right, inasfar as it is possible for them to do so, the wrongs that they have committed, are perhaps, proper recipients of certain awards and medals. I can, however, find no record that Dr. Bunche has publicly stated his past connection or that he has ever repented on anything that he has said or done in regards to his left-wing activities, as have Mr. Louis Budenz, Mr. Joseph Kornfeder, Mr. Whittaker Chambers, Mr. Manning Johnson, and Mr. Benjamin Gitlow, to mention a few of those who have stood up and confessed openly "in the congregation".

You are the grandson of Mr. Oscar Straus, a distinguished patriot, who was in my father's cabinet. I am Theodore Roosevelt's son, and these awards are, therefore, connected both with Theodore Roosevelt and Oscar Straus. On account of our names it is our duty, insofar as our small ability lies, to protect the names that we bear. I know that when they were alive, both your grandfather and my father thought of America first, last and always, and although they are not here to consult with, I feel sure that they would be on the same platform to-day as they were in the past. We should be very careful not to let the names of those two men be connected with anything that is even doubtful.

The Trustees of the Theodore Roosevelt Memorial Association are exactly what the name implies. They are Trustees, and as Trustees should exercise extreme vigilance whenever they give an honor in the name of Theodore Roosevelt. I do not know how much you were connected with the award of this medal, but presume that those who choose the names must consult with you, as president of the Theodore Roosevelt Memorial Association.

I can perfectly understand and agree, that the Theodore Roosevelt Memorial Association, in view of Theodore Roosevelt's deep admiration for Booker T. Washington, and in view of his great interest in furthering the progress of the Negro in the United States, should always be on the lookout to find a Negro worthy of receiving the Theodore Roosevelt medal. In the present case, I cannot understand why the Theodore Roosevelt Memorial Association did not present a medal to Mr. George Schuyler, the New York editor of the Pittsburgh Courier, the largest Negro newspaper in the United States. At great personal sacrifice, and undergoing enormous vilification, Mr. George Schuyler has fought communists among the Negroes valiantly, when communism and all of the queer isms of the past two decades were very popular indeed, and while Dr. Bunche was connected with such leftist organizations as I have shown in my enclosure and was making marxist-communist statements in speeches not, to my knowledge, ever disavowed by him. Mr. Schuyler is still carrying on the fight most valiantly. He is a man of letters, and a crusader on the side of right. He is in every way qualified to receive a Theodore Roosevelt medal, due to his patriotism and courage.

In view of the facts that I have given you above, I think even at this late date that every effort should be made to rescind the medal that your Board of Trustees has voted to Dr. Bunche, and I suggest, as a substitute recipient, that you award it to Mr. George Schuyler—a man unlike Dr. Bunche, with a constant record of loyalty to our Republic.

I greatly regret that I have had to take this stand in opposition to so many good people and friends of mine, and friends of my father's, who are connected with the Theodore Roosevelt Memorial Association. But I feel it would be negligence of duty on my part if I did not point out what I consider to be carelessness, to say the least, on the part of the Board of Trustees of the Theodore Roosevelt Memorial Association. I do not want to see the Theodore Roosevelt Memorial Association Trustees to be the unwitting tools of the sinister influences that are now so powerful in the Country—influences responsible for the strange courses and actions taken by many hitherto splendid Foundations.

It was carelessness on the part of the Trustees of the Carnegie Foundation that brought about the hiring of Alger Hiss. It was carelessness on the part of the Trustees of the Institute of Pacific Relations that brought about the long and treasonable record of that organization and the infiltration of such a bad element into it. Most, if not all, of the Trustees of the Carnegie Institute, and certainly most of the Trustees of the Institute of Pacific Relations were estimable men, busy with their own affairs, who became careless when they were managing the affairs of others. The Theodore Roosevelt Memorial Association should take care not to follow the same course.

Sincerely yours,

ARCHIBALD B. ROOSEVELT.

FOREWORD

This report intends to prove, without a shadow of a doubt, that Dr. Bunche for a number of years had expressed himself in writings, speeches, and organizational activity in a manner which paralleled the communist line in its major aspects. Further evidence is hereby presented to prove his expressions were of such a nature that they could only have been arrived at as a result of his going through a thorough indoctrination in communist methods and techniques. It will also be shown that his affiliations and activities were such as to fill the requirements necessary for a top level operative for the Kremlin apparatus.

It also presents authentic documentation to substantiate the following summation of Dr. Bunche's record of activities paralleling the communist line throughout the years which is so consistent that it seems impossible to interpret it as accidental—

1. Travels in Africa, which coincided with the Kremlin's planting of agents in that part of the world, in order to lay the basis for racial explosions of the future. Bunche wrote from there (Journal of Negro Education) denouncing "Imperialist Capitalism" and advocated the elimination of the current social order in the mother countries. The fruits of the Kremlin infiltration in Africa can be seen today in the bloody Mau-Mau massacres. (1935–1936)

2. Wrote a pamphlet which advocated a communistic program in respect to the Negro question and advocated class war throughout the world asking the non-white peoples to look to the Soviet Union for inspiration and leadership. (1936)

3. Wrote a clearly communistic line in respect to education. He voiced the red line that "American education" is "goose step education". And that "Capitalism owns the colleges and universities by right of purchase". Bunche denounced "red riders", and "oath clauses". He complained that "in America" "we are living in an economy of capitalism and our educational system consistently harmonizes with the dominant capitalistic pattern". (1936)

4. Bunche was praised in the official theoretical red organ, The Communist, published for upper echelon communists and supporters. One of the top communists, A. W. Berry, praised Bunche for "approaching the Marxist viewpoint" and "that Bunche realized the significance of the class struggle". Berry then described Bunche as an "active friend and supporter" of the working class, which in the communist aesopian manner means a friend of the Soviets, since they claim exclusive franchise as representing the "working class". (1937)

5. Contributed an article to the Race magazine whereby he repeated the "class" position on the race question and considered those who called the National Negro Congress as "dominated by reds" and as "biased individuals". This magazine in its opening issue prominently announced that they are working for "a social upheaval which will plow up our institutions to their very roots and substitute a socialist order for the present capitalist imperialist order". (1936)

6. Was one of the small handful of persons who initiated and organized the National Negro Congress. This was a carefully planned maneuver of the Kremlin which was manipulated through the Communist International. A published account from the Communist International, before the National Negro Congress was organized, stated that "the development of a Negro people's front depends on a large measure upon the correct action of our revolutionary Negro cadres" and that "the programme of the National Negro Congress must be realized". Even though Bunche had expressed himself in clear cut communist terms and had agitated for the Kremlin line in Africa, this in itself would not have been enough to trust him in such an undertaking as spawning the National Negro Congress. As pointed out before, this was to be the vehicle to organize many millions of Negroes behind the Soviets throughout the world. To have been delegated the responsibility of organizing the N.N.C., Bunche must have had the complete confidence of the Kremlin masterminds who conceived of the maneuver some years before.

7. Bunche was part of the editorial apparatus of an openly communist magazine (Science and Society) for over four years. He contributed to this publication and added his name and prestige as a Professor of Howard University even after the communists in their publication (The Communist) openly stated that Science and Society magazine had as its function "to help Marxward moving students and intellectuals to come closer to Marxism-Leninism; to bring Communist thought into academic circles". (1935–40)

8. Dr. Bunche was appointed to his government job in the Office of Strategic Services at the recommendation of a person having a communist front record. If Bunche had conceivably been an ex-partisan of the communist cause and had then been an anti-communist, it is difficult to believe that a Government body like the OSS, which had been infiltrated by Red agents, would tolerate him, or that a man with a communist front background would recommend him for the position. In fact with communists controlling key posts in the OSS, Bunche was promoted steadily until he was chief of the African Section of that agency.

9. In a Senate probe by their Internal Security Sub-Committee it was brought out that Bunche had repeatedly pressured persons in charge of UN employment to hire a notorious communist agent, in spite of the fact that there was a derogatory report against the individual by a security agency of the Government.

10. Bunche was an official of the Institute of Pacific Relations, which has been definitely established as the top agency operated by communists to swing Soviet foreign policy into our government and to manipulate the betrayal of China to the Reds. (This resulted in tens of thousands of American boys losing their lives in Korea and in all probability will result in thousands more lives to be lost in the future.) It must be remembered that Bunche had participated in small closed meetings with individuals who have since been proven to be communist agents. With

Bunche's background and experience in communist philosophy and organization, it is hard to believe that he was an innocent bystander. Innocents are not allowed to lay down policy which the Kremlin is interested in nor are they entrusted to manipulate it. Innocents are only manipulated themselves. The names in the IPR reports as published in over 6,000 pages by the Senate Internal Security Sub-Committee couple Bunche's activity along with such Communist agents as Alger Hiss, Owen Lattimore, Philip Jaffe, Frank Coe, Harry Dexter White, David Weintraub and scores of others.

Actually the evidence of communistic writings and communistic organizational activity by Ralph Bunche is greater overall than the combined evidence that government agencies had when they first began to get interested in red activities of Alger Hiss, Remington, Harry Dexter White and the Rosenbergs. Bunche's communistic utterances and connections are there as a public printed record and it is a great puzzle as to why our Government officials have not taken appropriate action. Instead it seems, that there is an effort to hush up the entire matter.

In 1948 when Alger Hiss was being charged with espionage against his country Bunche offered him a letter of support and vindication which included the observation that he (Bunche) was "stunned by this utterly shameless attempt to smear your good name. Though you have been grievously wronged, I have full confidence in your complete vindication . . ."—(Reference, article in the Freeman magazine by Victor Lasky page 134 October 1954).

It is true that some innocent dupes were drawn into the Hiss affair and there may be some excuse for them due to ignorance of communist techniques and trickery but in the case of Bunche, who has had long and extensive experience in the Marxist-Leninist school of activity and whose understanding of communism is both thorough and varied, there is no room for refuge behind the appellation of "innocent" or "dupe".

DEFINITIONS

In considering the record and activities of Ralph Bunche, or any other individual who has been active in Left-Wing circles, it is important and necessary that the political terms applied to such individuals be defined sharply and precisely. We hear such terms as "communist", "communist fellow-traveler", "communist sympathizer", "communist activist", a "dupe" of the communists, and "conscious" and "unconscious" carriers of either the whole or part of the "communist line." There is must misunderstanding as to what these designations mean. It is best to define these terms according to the classifications given them by the Kremlin chiefs themselves.

The term "communist activist" or "communist functionary", in the communist sense and among communists themselves, refers to an individual operating under the discipline of the communist machine and who is thoroughly schooled in communist techniques, in communist agitational and propaganda methods. The mere possession of a Communist Party membership book is not considered a significant criterion of an important communist, by the red leadership. The communist movement has long practiced the policy of maintaining a large portion of its membership without benefit of Communist Party membership books. There have been hundreds of communists without membership books operating under full Communist Party discipline, who have been considered more closely allied to the Communist Party machine than others who have carried such books.

A "communist" is defined by his superiors as a political soldier, with or without a membership book, operating for the Kremlin and is considered an important member only if he faithfully follows the aims and purposes handed down to him, carrying out his tasks in keeping with directives given him. He must reflect these in his assigned field either through speeches or writings or organizing activity or all of these functions combined. He must demonstrate a knowledge of communist techniques and communist terminology. He must also shift his propaganda in accordance to the communist line of the day.

It is impossible for a person accidently to coincide in his own personal independent views so as to match the communist line in all of its major features. It is quite possible that one may accidently coincide in viewpoint with some one part of the communist program, but, in respect to the overall line it is a mathematical impossibility for anyone to independently match the total red line in its various ramifications. Such impossibility is further compounded if the language used is strictly Marxist-Leninist.

[Excerpts from early writings of
Dr. Ralph J. Bunche]

Journal of Negro Education

Our first printed record of Ralph Bunche's pro-communist utterances is in 1935 when he already displayed a knowledge of radical terminology which fits into what the communists call "the language of Marxism-Leninism". In reviewing a book in the *Journal of Negro Education*, a magazine issued by the Howard University in January 1935, Bunche wrote as follows:

"An appreciation of the moving forces behind modern imperialism as practiced by the capitalistic nations of the world does not seem to fall within the author's ken. One gathers, by broad implications that Mr. Mockerie feels that the African can get along well enough under the existing system if only some of the more burdensome and noxious restrictions are removed. This is, of course, a vain hope.

"My own belief is that there is little hope for the African now, or in the future, so long as finance capitalism, dominates the economic systems of the mother countries."—(The Journal of Negro Education, "Current Literature on Negro Education," Jan. 1935, Vol. IV No. 1, by R. J. Bunche.)

The broad implication that the social systems of the countries, which have African colonies, must first be overthrown as a prerequisite of establishing an anti-capitalist system in Africa is quite obvious in Bunche's remarks. This necessarily pre-supposes the overthrow of the existing systems of society in Britain, France, Italy, Portugal and the United States. (It was and is the position of communists and their followers that the U.S. is in effect the controlling force in Liberia and that this constitutes the possession by America of an African Colony.)

It is interesting to note that standard Marxist-Leninist language was employed by Bunche which included the terms: capitalistic nations, finance capitalism, Imperialism, etc. The Marxist-Leninist objectives include not only the language but also sets the tone of communist social warfare which aims to overthrow the mother countries of these colonies.

In an article on Minority Groups Dr. Bunche carried out his concepts in keeping with the communist philosophy by mouthing certain fundamental Marxist cliches as follows:

"Recent world history points out too clearly that modern democracy, conceived in the womb of middle-class revolutions, was early put out to work in support of those ruling middle-class interests of capitalistic society which fathered it. It has remained their loyal child and has rendered profitable service for them. But when in modern European countries it came to be vigorously wooed by those mass interests of society whose lot under modern industrialism has been that of cruel oppression, democracy was quickly discredited and disowned, and fascism became the favored child of Big-Business-controlled governments. The significant fact is that democracy, while never offered in any large measure to the black populations of the world, has been extended to the great masses of the working-class population only so long as it was employed by them as a harmless device involving no real threat to the increasing control of the society by the ruling classes."—(The Journal of Negro Education, page 308, article by Ralph Bunche, "A Critical Analysis of the Tactics and Programs of Minority Groups." July 1935, Vol. 4, No. 3.)

This entire concept and phraseology is part and parcel of the standard communist propaganda. This line follows thus:

1. Modern democracy was born by the impetus and leadership of manufacturing and commercial elements in order to overthrow the restrictive fuedal order.
2. That democracy was permitted in a limited way for the poorer population in order to delude them and deceive them into thinking that this was a government of all the people.
3. That the negro people as a whole were deprived of even those limited rights.
4. That exploitation was becoming so flagrant with the growth of big business that fantastic forms were substituted, in place of the illusion of democracy, in order to maintain the oppression.

In the above mentioned article, Bunche repeatedly states that alternatives of a peaceful nature cannot serve the negro people. Under the heading of "Violent Tactics" he does however present the communist position as follows—

"The Communist Party has seriously proselyted among the Negro group but with only indifferent success. The immediate task of such movements in this country is to develop radical class consiousness among the working class masses of both white and Negro populations, with a view to the ultimate recognition of an identity of interest and consequent black and white solidarity in a militant labor movement."—Page 312, J.N.E., July 1935.

In presenting the immediate program of the Communist Party as one striving for a class-conscious unity between white workers and Negroes, Bunche admits an expert knowledge precludes all possibility that his reflecting communist thought could be done through ignorance or innocence.

Dr. Bunche wrote in the Journal of Negro Education, in the capacity of Professor of Political Science and as such must have reflected his political beliefs to his students. He considered himself a radical teacher and as such took up the cudgels on behalf of all radical teachers and long ago began to denounce all "loyalty oaths", red-riders and other measures which required teachers to conduct themselves in a loyal manner.

The excerpts below show that Bunche displayed an open defiance against attempts to keep our teachers within the confines of conducting their classes in the interests of good Americanism. His writings on this subject sound exactly as the red teachers of today do in denouncing Congressional probes into subversion in our schools—

"In considering what may be done in the way of reorganizing any educational system, white or black, it must also be kept in mind that the dominant controls of the society are exerted over the teacher. Educators, if they are frank, admit their circumscriptions under the present organization of the society. We are now witnessing an unusual era of academic repression, but the controls are always present, in good times or bad. The repressive measures, 'red-riders,' gag-laws and oath clauses of the present period of hysteria are merely forceful reminders of the fundamental bias of our educational system. It is more than significant that radical teachers have always been in jeopardy; that long before the depression teachers were forbidden to join teachers' unions, though it is difficult to find any instances of conservative teachers being dismissed for their points of view. The idea has always been widely current among the powers that be in education that the teacher does not have the same rights as other citizens to speak or publish his views on social questions. Moreover, it would seem valid to assume that where one teacher is known to have been dismissed from his job because his ideas were in conflict with the controlling interests of his educational institution, thousands of others are cowed and remain too timid to take the risk of venturing an opinion on any 'dangerous' subject, or even to protest against the restraint."—(The Journal of Negro Education, "Education in Black and White," pages 356–7, July 1936, Vol. V, No. 3, Bunche.)

Bunche continually railed against the free-profit-system and kept repeating over and over again, that capitalism is the main enemy and complained that our society taught its children a "bias in favor of the culture of capitalism"—

"Though there are some who would will it otherwise, in America today education is compelled to reflect the status quo. We are living in an economy of capitalism and our educational system consistently harmonizes with the dominant capitalistic pattern. Our schools are extremely sensitive to the fluctuations of capitalism. When capitalism prospers, the schools prosper. When capitalism suffers from depression, school budgets are drastically cut. When capitalism is hard-pressed with criticisms for its shortcomings, the schools are expected to provide its advocates, and if they demur, for reasons of educational ideals, capitalism tightens the economic screws until the schools surrender. Though the schools are non-profit enterprises themselves, they operate within the framework of a profit economy, and there are rigid limits to their activities. On relatively trivial matters they may exercise a modicum of freedom but in all really vital matters they must reflect the will of the groups which hold the reins of power in the state. The American educational system, in its control, financial support, faculty and students, manifests a definite bias in favor of the culture of capitalism."—(The Journal of Negro Education, "Education in Black and White," July 1936, Vol. V, No. 3, page 355, Bunche.)

Bunche re-inforced his comments by the purely communist concept that educational equality is impossible under our present system of society:—

"The fact is that under our present system it is impossible to achieve educational equality for all members of any group in the society. Public schools, for example, are supported by taxation. The revenue derived from taxation will depend largely upon the relative prosperity of the propertied interests in the particular locality. Since wealth is unequally distributed in the country the present glaring inequalities in the distribution of funds for the support of education will persist even for 'White Education.' The basic question for all schools is not one of copying the 'white man's education,' but one of developing a system of education which will afford both white and black students a sound basis for understanding the society in which they live and for attacking the problems confronting them. White as well as Negro schools are woefully deficient in this respect."—(The Journal of Negro Education, "Education in Black and White," page 355, July 1936, Vol. V, No. 3, Bunche.)

The next quote shows that Bunche took the typically communist position that "capitalism owns the colleges and universities" and "nor can it (Ed:—American Education) teach the student the truth". His contention that our educational system pursues a policy of indoctrination of prejudices "in the capitalist culture" is a repetition of the Kremlin brand of slander carried on against our system of individual freedom—

"In truth, capitalism owns the colleges and universities by right of purchase. These institutions are supported either by taxation paid largely by corporations and large property owners, or else by direct endowments, gifts, and contributions by the commercial class. It is not unusual therefore that the schools should be expected to foster and cultivate capitalistic ideas. It is easy to imagine what would happen quickly to the University administration or school board which would attempt to give any other orientation to the educational process. The universities themselves have a vested interest in the profit economy because of their investments in all sorts of capitalistic enterprises. The returns of these investments determine the financial status of the institutions. Of necessity, American education thus becomes "goose-step" education. It can be only relatively free. It cannot vigorously devote itself to the task of inoculating the student with a burning desire for the pure truth. Nor can it fearlessly teach the student the truth. It is compelled to pursue a policy of indoctrination—with all of the attitudes, beliefs, stereotypes, and prejudices which have been cultivated in the capitalist culture and which are vital to it."—(The Journal of Negro Education, "Education in Black and White," pages 355–6, July 1936, Vol. V, No. 3, Bunche.)

Bunche's solution of the problems of education which he raises also parallels that of the Soviet propaganda line that special "labor schools" must be set up to give working people courses which Bunche states that if they were given in our "advanced educational institutions" then the business interests in every community would immediately put up a howl that the schools were *"red* and fostering *revolutionary* meetings on their campuses":

"The white and black mill and factory workers in all sections of the country require the same type of education—an education which will give them a true understanding of their status in the industrial order and an insight in the nature of that order. Under present conditions this cannot be done in our schools; this sort of training is gotten by the workers themselves in their labor organizations and their labor schools, of these latter there are too few. It would, of course, be a splendid thing if our advanced educational institutions were in a position to offer extension courses in workers' education for the adult workers of the community, black and white. There is not much possibility of this being done, however, for the business interests in every community would immediately put up the howl that the schools were 'red' and fostering 'revolutionary' meetings on their campuses. Even the Federal Workers' Education projects have suffered from this sort of organized attack."—*The Journal of Negro Education*, "Education in Black and White," page 358, July 1936, Vol. V, No. 3, Bunche.)

PAMPHLET—"A WORLD VIEW OF RACE"

In 1936 Ralph Bunche wrote a booklet called "A World View of Race". In this publication he advocated the classic position of the communists in respect to the Negro question.

Bunche lays the foundation in typically Marxist fashion by tying in the racial groups as a mere part of the class struggle in America. In parroting the communist position of pitting the workers against the capitalists, Bunche had the following to say—

"The 'Race Problem' Seen as a 'Class Problem' "

"One of the latest and soundest views of the American race problem, and, for that matter, the race problem throughout the world, regards it, then, as merely one aspect of the class struggle. That is to say that differences in 'race,' differences in skin color, hair texture, language, religion or culture traits, are employed as devices by the privileged, ruling classes of the society to rationalize and promote their continued domination over and exploitation of the great numbers of the population. Thus it can be pointed out that the American Negro, by force of economic circumstances, is principally identified with the American working class and peasant elements of the population. The development of Negro business enterprise is impossible at this late stage in our industrial process, if it ever was possible. Similarly, it follows that no separate black economy can be erected within the walls of the white economy, as the movement for Negro business presupposes. The Negro must develop, therefore, a consciousness of class interest and purpose, and must strive for an alliance with the white working classes in a common struggle for economic and political equality and justice. The Negro can make significant progress toward these objectives against the obstacles of private prejudice and public discrimination and injustice, only by uniting with the poor whites of the South and North. This objective is admittedly difficult of realization. Mutual suspicion and enmity between the white and black groups is an ever-present source of frustration. The minds of conscious."—("A World View of Race," By Ralph J. Bunche, page 89–90.)

There are encouraging signs, however, that the problem of the status of the Negro in the United States is losing its traditional purely racial nature and is being increasingly identified with the growing struggle of the white workers and small farmers against the white (and, for that matter, black) captains of industry, landlords and bankers. The depression, ably abetted by the policies of the New Deal, has made the American population, white and black, increasingly class-conscious."—("A World View of Race," By Ralph J. Bunche, pages 89–90.)

While laying the basis for the communist concept of irreconcilable struggle between the capitalists and the workers, Bunche then proceeds to describe how the "race" question will be solved after "capitalism" is done away with—

"If the fundamental ailments of the American economy are remedied, the 'race question' will loom less large. So long as the society endures an economy which demands and thrives on human exploitation, race will be employed as an effective device in the promotion of the process group exploitation, economic, political and cultural. In such a society and under such an economy attempts at solving the 'race problem' will be futile."—("A World View of Race," By Ralph J. Bunche, page 92.)

Bunche thus lays the basis of need for communist revolution by characterizing our way of life as "human exploitation—economic, political and cultural." Since all of our social life comes in under the above three categories the obvious propaganda basis is laid for the aim for another social order which is fundamentally different.

The next excerpt shows the class-struggle process as inevitably leading to a showdown between the workers and capitalists and that the elimination of private property interests and rights is a necessary process before the race and class problems are resolved. It is interesting to note in view of his U.N. position that Dr. Bunche considered the elimination of capitalism as a necessary condition before a proper World Order can be established.

"The plain fact is that the contemporary international order, characterized by its capitalist-imperialist organization, has no possibility of effectively controlling the destiny of such peoples and areas. For the international order cannot override the existing vested capitalistic interests which muster the forces of the state for their protection. As the world is now organized these interests cannot be overcome, for they are intimately tied up with the class-relations of capitalist society. The same forces which protect them are the exact forces which protect and promote the interests of the capitalist within the capitalist state to which he claims allegiance. Just as the capitalist state in its internal affairs maintains a legal and constitutional system designed to protect absentee ownership and safeguard those property rights which make the capitalist supreme, just so, in the realm of external affairs, the state's authority, by the very nature of his relationship to it, must be employed to impose that type of supremacy over other peoples.

It is only when this supremacy and privilege are dissolved and when it is no longer within the power of the privileged property-holding class to determine the institutional life and habits of the modern state, that there can be hope for the development of an international order and community which will promise the subject peoples of the world genuine relief from the heavy colonial burdens of imperialist domination."—("A World View of Race," By R. J. Bunche, pages 64–65.)

As to where such groups (as the American Negro) can look to for leadership and inspiration Dr. Bunche gives the standard Bolshevik answer—to the Soviet Union, of course. In fact he considered it "both logical and likely":

"If the oppressed racial groups, as a result of desperation and increasing understanding, should be attracted by the principles of equality and humanitarianism advocated by the Soviet Union (and it is both logical and likely that they will) then racial conflict will become intensified. In such case, however, racial conflict will be more directly identified with class conflict, and the oppressed racial groups may win the support of oppressed, though previously prejudiced, working-class groups within the dominant population."—("A World View of Race," By R. J. Bunche, page 36.)

In concluding his pamphlet Ralph Bunche tied in the whole communist aim of merging racial dissidents into the class struggle for the possession of the whole world. He talks of "titanic" and "uncompromising struggles" between "the working and owning classes." The last sentence of the pamphlet talks of war. It is not of ordinary war that Bunche speaks of, for even as terrible a thing as race war is relegated to a mere "sideshow". The war that he describes is a "gigantic class war." And its locale? The same as the operations of the Kremlin forces. It will be "waged in the big tent we call the world."

"There will be sporadic outbreaks when subject peoples become restless under too harsh measures of imperialistic oppression. But the signs throughout the world are unmistakable. Despite the frantic efforts of many of those who control national and world policy to conjure up international race issues, the lines are forming in a totally different manner. Race issues appear but tend to merge into class issues. Throughout the world the issue between working and owning classes is sharpening. The titanic conflicts of the future will be the product of the uncompromising struggles between those who have and those who have not. These conflicts now wage within all groups, racial and national. Insofar as the great masses of the black and yellow races are concerned, the status of economic and political inferiority which they have been compelled to accept results in their automatic identification with the working and 'have not' classes of the society. They are now beginning to understand the true nature of the issues confronting them. Moreover, they will eventually appreciate the great possibilities in their numerical strength as a weapon in their struggle for justice. This organized and directed support of the working class of the dominant populations of the world will bring an unchallengeable power to this class.

And so class will some day supplant race in world affairs. Race war then will be merely a side-show to the gigantic class war which will be waged in the big tent we call the world."—("A World View of Race," By R. J. Bunche, pages 95–6.)

Any further doubt as to whether the above pamphlet by Ralph Bunche carried the Communist position on the Negro question can be completely dispelled with the below quotation from the magazine called the "Communist" which was issued as "A Magazine of the Theory and Practice of Marxism-Leninism Published Monthly by the Communist Party of the U.S.A." In the issue of the Communist October, 1937 Bunche's pamphlet is reviewed by Abner W. Berry, a high ranking communist for many years. The entire first page is here quoted to show the enthusiasm with which the official communist hierarchy greeted Bunche's pamphlet. When A. W. Berry states that "Significant in Dr. Bunche's analysis is his emphasis on the class conflict underlying so-called race issues" he gives Bunche full credit for echoing the basic communist credo of class struggle to overthrow our social order. (Ed. Note: Former high level communist leaders have testified that all book reviews in the Communist are first passed on by the Polit-Buro leaders of the Communist Party to make sure that the review is important enough for the communist Cause and make certain that it is in keeping with the Party doctrine.):

"A STEP TOWARD NEGRO LIBERATION"

("A World View of Race," by Ralph J. Bunche, Ph.D., Associate in Negro Education. Washington, D.C., 98 pp. Twenty-five cents.)

A fresh breeze is blowing through the class rooms of American colleges, carrying with it elements of Marxist and progressive thought. One of the welcome fruits of this renaissance is a world-embracing study of race attitudes by Dr. Bunche, professor of political science at Howard University.

The brochure begins with the discussion of world race theories, in which the author shows that the basis for racialistic theories is mythical rather than scientific. He properly estimates the dangers inherent in the propagation and spread of such theories, as, for example, the attempt to merge race and nation in Nazi Germany. Significant in Dr. Bunche's analysis is his emphasis on the class conflict underlying so-called race issues. A starting point toward a solution of the problem is his conclusion:

"Group antagonisms are social, political and economic conflicts, not racial, though they are frequently given a racial label and seek racial justification" (p. 23).

This point is further developed and elaborated in the second chapter. Discussing the historical basis for present-day prejudices, Dr. Bunche points out:

"The historic origin of racial prejudices and conflicts is to be found in migration of human groups and the invasions by conquering peoples of territory inhabited by other peoples. These conflicts did not result from any innate aversion of one racial group toward another, however. . . . The true historical explanation is that the conquering peoples constituted themselves the ruling class and relegated the conquered group to an inferior status. Thus race became a badge of social superiority and in time the dominant race assumed for itself qualities of moral, intellectual and political superiority as well as economic privilege" (p. 26).

Approaching the Marxist viewpoint, the author follows up this statement by analyzing the class antagonisms within the dominant races, inferring an alliance of the subject people with the workers of both races.

The main areas of racial conflict where 'racial relations of today are pregnant with a danger for the future peace and development of the world' are Africa. West Indies, the Orient, Germany and the United States, according to Dr. Bunche. He discusses the issues in each area. In writing of the conflict in America, the author notes that even within the 'solid white front' against the threat of "Negro domination" during the Civil War there were differences as between slave-holders and the poor whites.

That Dr. Bunche realizes the significance of the class struggle is clear. He reasons that with trade union policies based upon "the inevitable realization that workers of the two groups (Negro and white) arrayed against each other in racial conflict have more in common than workers of the dominant group have in common with employers of the dominant group . . . racial conflict tends to be lessened, but class conflict . . . is intensified" (pp. 31–32). The solution of the "race" problem according to the author lies along the road of working class freedom:

"The Negro must develop, therefore, a consciousness of class interest and purpose, and must strive for an alliance with the white working class in the common struggle for economic and political equality and justice. The Negro can make significant progress toward these objectives against the obstacles of private prejudice and public discrimination and injustice only by uniting with the poor whites of the South and North" (p. 90).

The working class can recognize, unmistakably, in this statement the voice of an active friend and supporter. It is a wholesome and hopeful sign that this statement represents also the social credo of an increasing number of Negro intellectuals—Book Review by A. W. Berry, page 965 of "A World View of Race" by Ralph J. Bunche, The Communist, October 1937, Vol. XVI, No. 10.)

Before passing on to the next phase, it is of interest to present the official point of view of the Communist Party as enunciated by its leader in the United States, Earl Browder, on the question of the Negroes in relation to the class struggle and the march toward revolution. The two excerpts below sound like an echo of Bunche's words on the same subject. The following position was presented during the same period that Bunche wrote on the identical subject—

"The purpose of our work on the Negro question is to establish unity of white and black proletariat in a common struggle to overthrow capitalism, and the leadership of the proletariat over the Negro masses in the struggle for their national liberation."—("Communism in the United States," a book by Earl Browder, page 292—1935.)

"We live and fight within the world fortress of capitalism, of imperialism, which finds one of its main instruments of rule in the division between white and Negro workers. But this division also represents one of the weakest spots of American imperialism, where we can strike quickest and hardest, it represents a pre-capitalist survival, a relic of slavery and feudalism, a crying anachronism, embodying all the contradictions of the decaying imperialist world. In this discussion we have more effectively armed ourselves with the Leninist theory, whereby we can call forth for struggle all the revolutionary forces generated by this national oppression of the Negroes, link them up with the rising forces of the proletarian class struggle under the leadership of the Communist Party, and thus with multiplied capacity for effective battle against the oppressors, the imperialist bourgeoisie, we will 'sail into the face of the storm' of the revolutionary mass struggles that are being prepared in America on a gigantic scale."—("Communism in the United States," by Earl Browder, page 303—1935. For National Liberation of the Negroes! War Against White Chauvinism!)

Race Magazine

In a magazine called "Race", which was organized and completely controlled by well known communists (including one who had been a several times delegate to the Communist International in Moscow from the Communist Party of the U.S.), Dr. Bunche wrote an article reiterating the orthodox communist position that the race problem is a part of the class struggle and that The National Negro Congress, which was formed in 1936, reflected "the ideology of organized labor was dominant". In communist nomenclature the ideology of organized labor is Marxism, since Labor, as such, has no particular ideology separate and apart from the rest of the population:

"Biased individuals saw the Congress inspired and dominated by the 'reds'. A more sober appraisal is perhaps in order."

Alert and Alive (Dr. Bunche's Sub-Title)

"Quite the most significant feature of the Negro Congress was the fact that it constituted the first sincere effort to bring together on an equal plane Negro leaders, professional and white collar workers with Negro manual workers and their leaders and organizers. The result was gratifying to the latter. It was, to say the least, an educational experience for the Negro leaders and professional and white collar groups. In no other general Negro gathering has the note of labor been so popularly received. The ideology of organized labor was dominant."—(Race magazine, Vol. I, No. 2, Summar 1936, page 93, article by Ralph J. Bunche, "Triumph? or Fiasco?".)

It is quite significant, as will be shown later, that Bunche declares that those who called the National Negro Congress as "dominated by reds" are "biased".

What is particularly important is the fact that Bunche was associated with a Magazine that was not only run by known reds but openly proclaimed in its first issue that its object was to "plow up our institutions to their very roots and substitute a socialist order for the present capitalist imperialist order."—

"That the special system of discrimination against the Negro in America is so deeply rooted in the very foundations of the present social order and the vested interests of dominant capitalism that there is no complete 'solution' of this basic problem of American life short of a fundamental reconstruction of society, a social upheaval which will plow up our institutions to their very roots and substitute a socialist order for the present capitalist-imperialist order."—(Race, Vol. I, No. 1, Winter 1935-1936, page 3, Article on opening page.)

(Note: The magazine Race did not appear after Vol. I No. 2.)

The National Negro Congress and Dr. Bunche

The story of The National Negro Congress is one whereby the Kremlin leaders managed to get a grip on the influential section of the Negro people in this country which they had not been able to accomplish until this Congress was put into action. Previous to 1936 the Communist Party of the U.S.A., upon instructions from the Kremlin, began to send in its small negro membership into existing non-communist Negro organizations. When this infiltration job was completed, the Moscow leaders through the Communist International instructed the communists in America to organize a Negro Congress which would pretend to be a representative body for all the Negroes in the United States, but actually be under the firm control of the Kremlin.

The purpose of this maneuver was obvious. Hitherto the communists had been operating feverishly to get a grip upon the mass of American Negroes and had been very unsuccessful in their attempts. The Kremlin had decided many years previously that the millions of Negroes in this country would be ideal political fodder which could be used in revolutionary activity against our form of government. They had failed in this way to unite the Negroes under the open banner of communism. Other subterfuges were needed. In preparation for this day, scores of Negro communists were trained in the advanced schools of revolutionary tactics in Moscow.

In the organization of the National Negro Congress, however, the Red bosses did not trust the Negro communists to do the job. Previous experience had shown that the freedom loving American negroes rebelled against communist discipline and the turnover of negroes in the Communist Party was higher than that of any other group. Therefore, even in the National Negro Congress, organizations of white membership were allowed to send delegates. Needless to say, most of these white organizations were either communist fronts or were other organizations which had been previously infiltrated.

The failures that the communists had among the negroes had taught them that this operation must be carefully and thoughtfully carried out. Only the most trusted and most thoroughly indoctrinated negro communists were to be entrusted with the task of organizing and launching this new endeavor.

A number of ex-communists, who had been in on the plot in high places, have testified to the extent of this operation and that only the most trusted red agents were given the task of launching the National Negro Congress.

In 1940, while writing about the National Negro Congress in the Gunnar Myrdal-Carnegie studies on the Negro question, Bunche boasted that the original meetings which initiated the National Negro Congress were made by him and his associates in Howard University and in his home in Washington, D.C. in 1935.

In fact, the official communist publications gave him full credit as one of the initiators in their own publications as follows—

"Among other outstanding participants were Dr. Ralph J. Bunche of Howard University; Lester Granger of the Workers Council of the National Urban League; A. W. McPherson, of the Steel and Metal Workers Union; and Olive M. Stone, of the North Carolina Institute of Social Science."—("The Negro and the Democratic Front". Book, Publisher—International Publishers, N.Y., copyright, 1938. P. 69.)

James Ford, the writer of the above, was the leading Negro member of the Central Committee of the Communist Party of the United States and was involved in meetings with Ralph Bunche on the question of the National Negro Congress (according to testimony of leading ex-communists.)

The next quote, from a recent communist book, written by W. Z. Foster, the current head of the Communist Party, confirms Bunche's role in connection with the National Negro Congress—

"Among those present were such notables as Ralph Bunche, W. E. B. DuBois, A. Philip Randolph, R. A. Carter, John P. Davis, James W. Ford, and others."—(Book, "History of the Communist Party by W. Z. Foster," International Publishers, 1952. p. 309.)

Foster and Ford also confirm Bunche's contention that Howard University (where he worked as a professor of Policital Science) was the locale of the Negro Congress planning in May, 1935, one year before the Negro Congress was convened—

"The rising spirit of struggle among the Negro people during these years reflected itself in the National Negro Congress, organized in Chicago, February 14-16, 1936. The N.N.C. grew out of a conference held previously under the auspices of Howard University and the Joint Committee on National Recovery."—(Book, "History of the Communist Party of the U.S.," W. Z. Foster, International Publishers, 1952, p. 308.)

"There were other speakers who made valuable contributions on the plight of the Negro at the May Conference at Washington. Space will not permit us to quote from all of them. Among these were: Dr. Ralph Bunche, of Howard University; Lester Granger, of the Workers Council of the National Urban League; A. W. McPherson, of the Steel and Metal Workers Union; John McKinney, of the Southern Tenant Farmers' Union; Olive M. Stone, of the North Carolina Institute of Social Science."—(The Communist, April 1936, Vol. XV, No. 4, page 322. Article: "The National Negro Congress," by James W. Ford.)

However, it should not be construed that the process which started the National Negro Congress originated with the May, 1935 conference, between Bunche and his cohorts. Actually the order to start the Congress, as is shown in the following quote, came from the Central Committee of the Communist Party, U.S.A., as enunciated by its leading Negro member, James W. Ford, in 1934—

"It may be remembered that the National Negro Congress was proposed last May at a national conference held in Washington. Earlier in January, 1934, at a symposium held in New York between Frank R. Crosswaith, Oscar De Priest, and myself, I made a suggestion for the calling of a National Negro Congress."—(The Communist, April 1936. Page 318. James W. Ford.)

The method in which the whole process of building the Negro Congress was frankly and clearly laid out a few months before the Howard University conference (mentioned by Bunche) by the Central Committee of the Communist Party to its members at a special plenary session of the National Committee of the Communist Party to give instructions as to how the entire matter was to be carried out among the Negro people. In reading this excerpt, it must be kept in mind that this was issued to members of the Communist Party more than a year before the National Negro Congress was convened—

"In connection with the question of the united front on the Negro question—if we work properly now and see that we must penetrate these organizations, there is the possibility of building up a National Negro Congress on a broad united front basis. We had a discussion about this conference in the N.Y. District in which we discussed the Negro question, and the possibility of a National Negro Congress. If we make the proper orientation, we will be able to build the biggest Congress of Negro people ever held. It means patient work in Negro organizations."—(Party Organizer, March 1935, Vol. VIII, No. 3, issued by the Central Committee of the Communist Party, U.S.A. Article: "How to Penetrate the Negro Organizations" (Excerpts from Report to Plenum). Page 21.)

This instructive to organize a Negro Congress was issued to all communists, whether secret or open, in the following directive—

"In the development of this work it shall be our aim to lay a firm basis for the realization on a local scale of our major political task in Negro work nationally, namely:

1. The promotion of the movement for the National Congress on Negro Rights, tying up our local campaign with the general issues around which this Congress will be convened, such as the campaign for the enactment of the L.S.N.R. Bill for Civil Rights, for the freedom of the Scottsboro Boys and Herndon, against lynching, etc."—(The Communist, June, 1935, Vol. XIV, No. 6, page 575, "The Development of Struggle for Negro Rights".)

After the National Negro Congress was organized, the Communist Party took full and public credit for the creation of the Congress. It was understood by all and sundry that this was a child of the Kremlin. Ralph Bunche, incidentally, was elected to the National Committee of the Negro Congress. The process of getting control of the minds of the Negro leadership was well on its way. The goal set for the Communist Party of the U.S. by the Kremlin through the Communist International in its World Congress in Moscow in 1935, on the question of the American Negroes, was gathering full steam. The boast by American Communists of their handiwork in this respect and the report on how the Communist International instructives were the guiding light is illustrated in the next two quotations—

"It is equally beyond dispute that the pioneering and trail-blazing work of the Communists has played a great part in opening the road towards the now developing broad people's movement. Our Party as a whole can justly take pride—not to rest in self satisfaction—in the role it played and is playing in awakening the Negro people, in helping to organize them, in bringing forth such Negro leaders as Ford and Herndon, and in promoting that United and people's front for Negro rights which resulted in the creation of the National Negro Congress."—(The Communist, March, 1936, Vol. XV. No. 3, page 202. "Review of the Month".)

"I would say that the main feature of the past year has been that in the field of work among the Negro people, as in most of the other fields of our work, we have begun to realize on a mass scale the results of the line of the Seventh World Congress of the Communist International. We have begun to emerge from sectarian isolation and become a mass influence, a mass power. As in our Party work generally, this has been accompanied by a sharpening of all the problems involved in our work. All of our weaknesses and inadequacies come out most sharply now, precisely because we have made some tremendous gains and thereby face responsibilities which politically we feel equipped to meet."—(Book, "The Negro and the Democratic Front," by James W. Ford, International Publishers, page 95.)

It is necessary to present the following list of excerpts to emphasize the fact that the National Negro Congress was a Kremlin operation which could, and was, carried out by Kremlin agents, working consciously towards that goal—

"Comrades: This convention, in my opinion, emphasized repeatedly the importance of the Negro question. I want to take the few minutes disposed to me to propose the concrete work of the Negro field.

Comrades, as the menace of fascism threatens the Negro people with double ferocity, we find at this moment the very sincere desire for both black and white to unite in a concrete form in the struggle against fascism. When we do this we carry out the tradition of Lenin and Stalin. Lenin told us years ago that we did not pretend to be pure Communists, at all times to be practical people. While we do not negate the slogan of self-determination for the Negro people in the United States, we are today seeking the most practical means to develop the struggle of the Negro people toward this ultimate slogan known as the right of self-determination. And this practical weapon is the National Negro Congress."

"The question of securing these National Negro Congress sponsors should be one of the essential points of all of our discussions from now on. Comrades in trade unions should consult the educational committee of their unions and arrange to include in their educational program discussion on the National Negro Congress. Meetings should be covered by people with folders, leaflets, sponsor buttons. Even at this convention we have given sponsor buttons to many of the comrades. There is nothing to hide. We openly declare we are responsible for bringing 1,000 sponsors in the New York State apparatus of the Communist Party.

"The Communist Party will continue to see the Negro question as a special question of approach. The Communist Party precisely by assisting the building of the N.N.C. refutes the theories of the Socialists in their recent resolution that attempts to put the Negro people on the same par with the conditions of the white and other people in the United States. We recognize this as a special question. We bring this out at this convention in order that the comrades will see the necessity of using the building of N.N.C. as a practical question and concrete means of approaching the Negro question in a special manner."—(Book, "Proceedings 10th Convention." Communist Party New York State, May 20–23, 1938, pp. 253–254–255.)

"We Communist must organize all our forces to render great assistance to the National Negro Congress in carrying out its program. We should organize all our factions and guide them in their work in the various organizations in which there may be Party members. If we develop systematic work on the basis of our concentration policies in the various Negro communities and carry on a fight against sectarian methods of work, we shall be able very soon to fulfill the task of developing a broad people's front among the Negro people in the United States against fascism and war and for the liberation of the Negro people."—(The Communist, June 1936, Vol. XV No. 6. Page 561. Article: "Build the National Negro Congress Movement," by James W. Ford.)

"We Communists were never doubtful about the significance or the outcome of the National Negro Congress. We were not deterred by the charges of 'Communist domination'. We were guided by what we knew of the desire of the Negro masses for united action."

"The National Negro Congress recorded progress made by Communist and the many delegates who supported our program, in the increasing work we are carrying on in the various organizations of the Negro people. Our modest successes are, however, just beginnings. We must now undertake to profit from our experiences, mistakes, shortcomings and successes, by showing what changes are necessary in our methods of work to build the National Negro Congress."

"We Communists must organize all our forces to render great assistance to the National Negro Congress in carrying out its program."—(Book, "The Negro and the Democratic Front," by James W. Ford, Page 69, 76, 85.)

"Some people think because we do not insist that the issue of the right to self-determination be adopted now by the Negro Congress, our Party is abandoning its revolutionary demand for the right to self-determination in the Black Belt in the South. Nothing is further from the truth. Never was it more clear than it is today that the complete liberation of the people in the Black Belt will be accomplished only by the revolutionary overthrow of the white landlords and capitalists, the destruction of the semi-slave agricultural relations and the realization of the right to self-determination. But there is a problem which we must face. And how must we face it? The problem is how to link up the daily struggles of the Negro Masses in the Black Belt today for their partial economic and political demands with our revolutionary slogan for the right to self-determination. It is clear that the Negro masses are not yet ready to carry through the revolution which would make possible the right to self-determination. But they are ready to fight against jim-crowism and oppression, for democratic rights and other partial economic and political demands. Our task, therefore, is not to stand passively by and wait until the Negro toilers become ready for the revolution. No! Our task is to join with them in the organization for their immediate struggle and strengthen their position economically and politically, strengthen the bonds between the white and Negro toilers, and in this way create the transition to the revolutionary struggle which will make possible the realization of the right of the Negro masses in the Black Belt to self-determination."—(The Communist, December 1935, Vol. XIV, No. 12, Page 1120–21, "The United Front—The Key to Our New Tactical Orientation," by Earl Browder.)

The top leadership took official cognizance of the communist success through the National Negro Congress and published an account of the role of that organization in the process of communist revolution. This was published in the International Press Correspondence, a publication which was the official organ of the Communist International and was published in every major language in the world.

"The work of the Communist vanguard within the Negro group is of the most profound importance. Success in the struggle for unity at the National Negro Congress, the development of a Negro people's front depends in a large measure upon the correct action of our revolutionary Negro cadres. The development of tried and true revolutionary cadres and the strengthening of our revolutionary organizations among the Negro people, is now of the most profound importance. The development of the Negro people's front is dependent upon this. In turn, the development of tried and true revolutionary cadres among the Negro toilers is dependent upon the development of the broadest possible united front of struggle among the Negro people. The programme of the National Negro Congress must be realized."—Int'l. Press Corresp. Vol. 16 No. 7 Feb. 1st, 1936, "The Negro Movement—A National Negro Cong. in America," pp. 195.

(The article quoted above was published before the N.N.C. was held.)

The National Negro Congress was to be only one part of a Kremlin plotted world wide organization of negroes which was to have followed the formation of the N.N.C. Negro communist agents were sent throughout the world to inflame negroes (particularly in Africa) and to weld them into an international force serving the Soviet purposes. During the same year that the N.N.C. was formed and the call was issued through the Negroes Congress for a "class conscious" organization to be called the "International Congress of Negroes", Ralphe Bunche went to Africa and toured large areas of that continent. An investigation should be made to determine if Bunche had contact with some of the Negro agitators who are stirring up trouble and bloodshed in Africa today.

Hence, the National Negro Congress in the United States occupies an important place in the life and struggles of Negroes everywhere. That is why the Congress adopted a resolution on an International Congress of Negroes, as follows:

Whereas, the exploitation and subjugation of the Negro masses is general, and worldwide in scope, and Negro toilers in one nation are not free so long as their brother toilers elsewhere are subjected to the degrading horrors of exploitation, and

Whereas, a deeper sympathy and class-consciousness of all Negroes throughout the world can best be developed by an International Congress of Negroes, be it

Resolved, that immediately upon the establishment of this Congress upon a permanent basis, it work for the fulfillment of such an International Congress of Negroes."—(The Communist, May 1936, Vol. XV, No. 5, Page 461, "Political Highlights of the National Negro Congress," by James W. Ford.)

The following message to the leadership of the National Negro Congress demonstrates beyond any doubt that the function of that organization is to follow in the footsteps of the Soviet Revolution. This quote incidently is from the International Press Correspondence which only prints that which was cleared by top Soviet Leaders—

"The history of the Soviet Union from the day of its birth is replete with lessons of utmost value to the National Negro Congress. These lessons can be an invaluable aid in the solution of every problem confronting the Congress, for the peoples of the Soviet Union have passed through just such struggles and have solved them."—(Inprecorr, February 1st, 1936, Vol. 16, No. 7, page 195, "The Negro Movement—A National Negro Congress in America".)

The nature of the National Negro Congress has been thoroughly probed by various governmental investigating agencies and they all have recognized its subversive character. The following taken from the House Committee on Un-American Activities in 1951 "Guide to Subversive Organizations and Publications" page 86, sums up the investigations and testimony on the National Negro Congress—

"National Negro Congress

"1. Cited as subversive and Communist.—(Attorney General Tom Clark, letters to Loyalty Review Board, released December 4, 1947, and September 21, 1948).

"2. A. Philip Randolph, president of the Congress since its inception in 1936, refused to run again in April 1940 on the ground that it was 'deliberately packed with Communists and Congress of Industrial Organizations members who were either Communists or Sympathizers with Communists.'

"Commencing with its formation in 1936, Communist Party functionaries and 'fellow travelers' have figured prominently in the leadership and affairs of the Congress * * * according to A. Philip Randolph, John P. Davis, secretary of the congress has admitted that the Communist Party contributed $100 a month to its support.

"From the record of its activities and the composition of its governing bodies, there can be little doubt that it has served as what James W. Ford, Communist Vice Presidential candidate elected to the executive committee in 1937, predicted: 'An important sector of the democratic front,' sponsored and supported by the Communist Party."—(Attorney General Francis Biddle, Congressional Record, September 24, 1942, pp. 7687 and 7688.)

"3. The Communist-front movement in the United States among Negroes is known as the National Negro Congress. * * * The officers of the National Negro Congress are outspoken Communist sympathizers, and a majority of those on the executive board are outright communists."—(Special Committee on Un-American Activities, Report, January 3, 1939, p. 81; also cited, Reports, January 3, 1940, p. 9; June 25, 1942, p. 20; and March 29, 1944, p. 180.)

"4. A 'Communist-dominated mass organization.'—(California Committee on Un-American Activities, Report, 1947, p. 230.)

"5. William Z. Foster, chairman of the Communist Party, U.S.A. stated that the role of his party was 'one of central importance in the organization of the great united front National Negro Congress in Chicago, February 1936.' " — (Massachusetts House Committee on Un-American Activities, Report, 1938, p. 298.)

"(Guide to Subversive Organizations and publications May 14, 1951.)"

The reason for the lengthy analysis of the Negro Congress and the role of Dr. Bunche should be obvious by this time. Here is a man who has dealt in terms of a class conscious struggle of the workers allied with the Negro population against our system of society. At the same time he has pointed towards the Soviet Union as the example for the American Negroes to follow. He advocates a class war against our social order (on a world basis) and inveighs against the system of private ownership and free enterprise. During this exact same period (1935–36) he is a leader in a Soviet directed move to organize the National Negro Congress.

At the same time there was a manifestation from openly communist sources praising Bunche for his views and activities. First, there was the high praise by official red sources of his pamphlet "The World View of Race" and then there were several tributes given him for his "outstanding participation" as one of the "notables" who gave birth to the Negro Congress. His election to the governing national body of the National Negro Congress, where Bunche served with some of the most prominent communists of the day, ties in the accepted rule of the Kremlin that only the most trusted lieutenants of World communism can be allowed to plot out such of its vital activities as an organization which is to serve as the wedge to turn twelve million negroes against its own government.

A Communist Publication (Science and Society and Dr. Bunche)

During the winter of 1935 there appeared a magazine called "Science and Society—A Marxian Quarterly". (Vol. I No. 1 Winter of 1935–36.)

This publication appeared stating that it intended to influence members of the academic world and those in the technical fields as well. The fact that this magazine announced on its front cover that it was a Marxian publication was an open admission to the world that it was dedicated to the Marxian principles of class struggle and revolution against existing society.

Ralph J. Bunche was listed in the first issue of Science and Society as a contributing editor and his name continued on the covers of that magazine until 1940.

Dr. Bunche had an interesting accompaniment of Marxist revolutionaries on the editorial listing of the magazine. They included such communist luminaries as follows—

J. D. Bernal, a publicly known British communist from Cambridge University.

Paul Langevin, a top level member of the French Communist Party who upon his death was publicly lauded for his "dedication to communism."

Joseph Needham, a British professor who has led in the Soviet charge accusing the United States of germ warfare in Korea.

W. P. Parry, he was managing editor of Science and Society when Bunche first appeared as contributing editor. Parry was director of the communist progressive labor school in Boston. Appearing before the Un-American Activities Committee he refused to answer whether he was or has been a communist.

Vladimir D. Kazakevich, when about to be arrested for deportation as a communist he fled this country and returned to his native Russia. In testimony before the McCarran committee, probing the communist connections of the Institute of Pacific Relations, Elizabeth Bentley said that Kazakevich handed over information to Jacob Golos, Soviet spy chief, with the knowledge that this was going to Soviet Russia.

There are a score of other names which include known members of the Communist Party or those who refused to answer questions as to such membership before investigating committees.

In the issue of Summer 1939 (Vol. 3, No. 3) the statement of ownership bears the name of A. A. Heller as Business Manager of Science and Society.

Alexander Trachtenberg, well known communist leader, testified in September 1939 before the House Committee on Un-American Activities that A. A. Heller was the President and listed owner of International Publishers, the publishing organization of the Communist Party. This firm was required by the Government to register as a foreign agency representing the Soviet Union in the publishing field in the United States.

Trachtenberg also admitted that right after the Bolshevik Revolution, Lenin gave Heller the oxygen concession in the Soviet Union and that Heller introduced the acetylene industry into Russia. Trachtenberg also stated that Heller was a member of the Communist Party of the U.S.A.

In the excellently documented Lusk Committee Reports of Red Activities in New York State in 1920 A. A. Heller is listed as an official of the Soviet Government in the United States.

A listing and analysis of the Communist articles and the Soviet propaganda in Science and Society would take up a prohibitive amount of space in this report. The fact that this is a communist magazine is obvious even on a superficial perusal of the publication.

After Science and Society was in existence for one year the top Marxist-Leninist theoretician in the top levels of the Communist Party made an evaluation of the work of that magazine in the pages of the chief publication of the Communist Party known as "The Communist!"

V. J. Jerome, the communist writer of this article wanted to make certain that the use of the word Marxist by this magazine would not be confused with other claimants to Marxism who did not adhere to the interpretations of those principles by the Kremlin. Jerome clarified the position of Science and

Society in this respect by pointing out that its function was to interpret Marxism in accordance with "The Party of Marxism, The Communist Party, inheritor of the proletarian party which Marx and Engels founded in their day". The following quote also makes plain the fact that this magazine is an instrument for communism in educational circles both for students and instructors—

"Indeed, these constant rude interruptions by the proletariat interfere with the efforts of these philosophers to accommodate Marxism, groomed and respectabilized, to bourgeois and petty-bourgeois theories, such as the instrumentalism of Dewey, latest crusader in the cause of Trotskyism, or to the equally fashionable psycho-analysis of Freud.

"Then, of course, there are the super-ultra Marxists of Socialism *now or never*, a cloak for counter-revolutionary Trotskyism. Their poison infects certain petty-bourgeois elements whose 'impatience' with the Soviet Union and the world proletariat is but a protective mask to cover their indisposition to toil for the revolution as the workers toil, by meeting practical problems in daily struggle.

"Naturally, such brands of 'Marxism,' ideologies of reaction, leave out of reckoning—except for slander—the Party of Marxism, the Communist Party, inheritor of the proletarian Party which Marx and Engels founded in their day, political leader of the proletarian class which is the historic carrier of the Marxian objective—socialism.

"These anti-Communist 'Marxists' seem to say of the Communists: Let them occupy themselves with the unemployed, with strikes and demonstrations, with united fronts and other such mundane things; we will take care of the Absolute Idea of Marxism.

"With such factors as these to contend with, the Marxist magazine *Science and Society*, was launched a little over a year ago. It entered the arena with an important and complex task to perform: to help Marxward moving students and intellectuals to come closer to Marxism-Leninism; to bring Communist thought into academic circles and to develop contributors from these circles; to stimulate the study of Marxism-Leninism by demonstrating the integration of Communist theory and practice with American social life; to apply the dialectic-materialist analysis to the natural and social sciences, and to cultural processes as a whole."—The Communist, December 1937, Vol. XVI, No. 12, Pages 1148–9, "Marxism-Leninism for Society and Science," by V. J. Jerome.

Jerome further stresses the fact that the purpose of Science and Society is to proceed on the premise that Marxism is *"revolutionary Marxism"*, and impartiality is unthinkable because they are out to "realize their full role in the movement to achieve the Marxist-Leninist objectives". These objectives, as the whole world knows, is to capture all of society for the Soviet Masters—

"The editors of such a magazine, however, have the important task of Marxist-Leninist study, in order to deepen their own understanding and provide leadership. Proceeding from the priniciple that Marxism is *revolutionary Marxism*, that it must continue to affirm its scientific theory and practice through unceasing struggle against open opponents and subtle perverters, their task is to help their readers overcome college-fostered misconceptions of Communism; depart from idealistic notions of history and from stultifying mechanical materialism; give up, in the face of objective truth, all remaining traces of the liberalistic 'both-sides-of-the-question' attitude; throw overboard the treacherous bourgeois instrumentalism; and realize their full role in the movement to achieve the Marxist-Leninist objectives."—(The Communist December 1937, Vol. XVI No. 12, Page 1149, "Marxism-Leninism for Society and Science," by V. J. Jerome.)

That this was no mere academic journal but a means towards bringing about a revolution is clearly pointed out in the next excerpt. The concluding phrase which declares that "Science and Society" can be a "revoluntionary weapon to fight a war and win it" demonstrates the motives and impelling character of the publication—

"This magazine of Marxian scholarship can refute the notion that theory may in any way be scientific apart from practice; it can fuse learning with the vital flow of action. It can present the proletarian revolution and the Soviet socialist system, not as an 'experiment' . . . 'purely Russian,' but as the inevitable outcome of the class struggle with international significance and application. It can demonstrate that Marxism for academic circles is in no way academic Marxism; that it is not a pacific, scholastic affair, but a scientific, revolutionary weapon to fight a war and win it."—(The Communist, December 1937, Vol. XVI, No. 12, page 1149, "Marxism-Leninism for Society and Science," by V. J. Jerome.)

In the next issue of the Communist (January 1937) Jerome devotes a second article reflecting directives in respect to Science and Society. Here he expresses in communist language the instruction that this magazine is required reading for all communists and their followers—

"We have stated earlier, and we wish to reaffirm at the conclusion, the considerable achievements of the magazine, its auspicious beginnings, and the hopeful prospects for its realization of the purposes the editors have set for it. On the basis of its efforts and of its realizations to date, Science and Society is deserving of the fullest support of the Communits Party and of all progressives."—(The Communist, January 1938, Vol. XVII, No. 1, page 90, "Marxism-Leninism for Society and Science," by V. J. Jerome.)

In the following quote, which concludes Jerome's article the frank admission that Science and Society is designed to perform the work in the United States "of the similarly-purposed Soviet periodical, Under the Banner of Marxism;" which followed the dictates of no other than Lenin—

"But the very emergence of Science and Society implies a conscious purpose to transform science into an instrument for refashioning society. So it is fitting to remember Lenin's counsel to the editors of the similarly-purposed Soviet periodical. *Under the Banner of Marxism;* that 'a magazine that desires to be an organ of militant materialism must be a militant organ'."—(The Communist, January 1938, Vol. XVII, No. 1, page 90, "Marxism-Leninism for Society and Science," by V. J. Jerome.)

In considering Bunche's serving as contributing editor of Science and Society it must be remembered that he appeared in that capacity in the very first issue. The same rule applies to communist publications that it does to communistic organizations i.e. only the most trusted and reliable partisans are to be placed in positions of responsibility, especially at the beginning. Today there is no doubt that Science and Society was and is a Soviet inspired publication. Naturally during its origin only the most trusted hard-core adherents of communism were assigned to its editorship.

In the issue of Summer 1936, Bunche wrote a review of a printed work on minority problems and criticized it for not stressing the class nature of the status and problems of minority groups. Here again Bunche repeats the standard communist line that all minority groups should be fit into the class-struggle pattern.

During the hearings on the loyalty of Dr. Bunche, during May, 1954, before the International Organization Loyalty Board, it has been reported that Bunche read a letter that he had sent to the Editors of Science and Society explaining that other duties prevented him from further serving and wishing them success in their future endeavors.

In concluding the section on Science and Society and the activities of Bunche in that publication, herewith is the evaluation of it by official investigative bodies—

Science and Society:

1. Cited as a Communist publication. (Special Committee on Un-American Activities, Report, March 29, 1944, p. 96.)

2. Among publications which the committee found "to be Communist initiated and controlled, or so strongly influenced as to be in the Stalin solar system." (California Committee on Un-American Activities, Report 1948, p. 225).

3. Cited as a Marxian quarterly distributed by the Communists' Progressive Book Shop in Boston, Mass. William T. Parry, director of the Communist Progressive Labor School in Boston, is the managing editor. (Massachusetts House Committee on Un-American Activities, Report, 1938. p. 281 and 284).

(Guide to Subversive Organizations and Publications—May 14, 1951. Issued by the House Committee on Un-American Activities page 149.)

Dr. Bunche's Activities Since 1940

During 1939–1940 many Jewish and Negro persons defected from the Communist Party because of the Hitler-Stalin pact. Negroes in the Communist Party found it hard to swallow the Nazis as new found friends, especially in view of Molotov's remark that "fascism was a matter of taste." Hitler's categorizing the Negro race in a slanderous manner—relegating them into a sub-human classification—made the new line of friendship with the Nazis hard for communist Negroes to reconcile with the previous communist position. As a result many Negroes left the Communist Party. Most of them gravitated back after Russia was invaded and the entire Stalin-Nazi Alliance was explained away as just another clever Soviet maneuver to gain time to prepare for the onslaught.

Bunche was one of those who defected. In the Gunnar-Myrdal Carnegie studies in 1940, Bunche criticized the Communist Party and particularly laid stress on those communist policies which came about as a result of the pact with Hitler.

However within 90 days after Hitler invaded Soviet Russia, Bunche was appointed to the Colonial Division of the Office of Strategic Services. He states in an autobiographical article that he received this appointment as the result of a recommendation by Professor Charles McIlwain, who was professor Emeritus of Harvard and one of Bunche's former instructors. Professor McIlwain has a communist front record. (Reference: Appendix IX House Un-American Activities Committee Report, March 1944, page 380.) If Bunche had continued his separation from the communist movement it is hard to see why a person with communist front connections would interest himself to suggest Bunche for the position. Secondly there is the fact that the O.S.S. was a highly infiltrated government agency by the communists and their followers. A great deal of public and secret testimony has proven this to be an incontrovertible fact as illustrated by the following Senate Report—

"Network in National Defense—In its decision of April 20, 1953, the Subversive Activities Control Board found that the Communist Party, USA, had as its objective "the overthrow of the United States Government' and the effectuation of policies 'for the purposes of defending and protecting the Soviet Union.' Toward this end, the penetration of key agencies engaged in national defense was paramount. With the limited resources and data available to the subcommittee, we have been able to indicate only the pattern of such infiltration by those who have invoked their privilege against incrimination when asked about the subcommittee's evidence of their Communist Party membership.

"The subcommittee was in no position to make any overall investigation of the agencies mentioned. The following data, therefore, was purely incidental and does not depict the full situation.

"The Office of Strategic Services, the United States intelligence agency operating abroad during World War II, and discussed previously, included within its ranks the following such individuals: Leo M. Drozdoff, Irving Fajans, Maurice Halperin (Chief of the Latin American Division), Jack Sargeant Harris (in charge of military intelligence of South Africa), Julius J. Joseph, Paul V. Martineau, Carl Aldo Marzani (Deputy Chief of the Presentation Branch), Leonard E. Mins, Helen B. Tenney, Milton Wolff, and George S. Wuchinich."—(Interlocking Subversion in Government Departments, Senate Sub-Committee on Internal Security, July 30, 1953, pages 35-36.)

The Jack Sargeant Harris mentioned in the above Senate report as being in charge of military intelligence of the South African Section of OSS (Bunche was the Chief of the African Section) later figured in a probe of his activity on behalf of the Soviets and the fact that Bunche had recommended him for the job.

In spite of the high degree of communist influence in the O.S.S. Bunche was promoted and in 1942 he was elevated to chief of the O.S.S. African Section. (It must be remembered that a few years previously Bunche had toured Africa and had written articles on the basis of his travels against "Imperialist Capitalism, Class Struggle," etc.)

In 1943 Bunche was transferred to the State Department during the hayday of the Alger Hiss influence. Again it is inconceivable that one remaining anti-communist, having been in the communist camp previously, could have received such a job when the communist agents were riding hard on even those who had been entrenched in the State Department for years.

Bunche stayed in the State Department for three years working on his old specialty "Colonial questions". Bunche was an advisor at the Dunbarton Oaks conference and at the first U.N. session at San Francisco and was an advisor at both the Council of Foreign Ministers and the U.N. General Assembly. These movements as to locale followed closely that of Alger Hiss.

Early in 1946 Bunche went to work at the United Nations, first on loan from the State Department and later permanently as director of the UN Trusteeship Division.

It is a fact that those who had been through the communist movement and have remained opponents of their former "comrades" are generally castigated and vilified by the red apparatus without let up. It is also a fact that such defectors can easily recognize or spot another communist. There is no truce between former partisans of the communist cause and the official communist machine. It is a matter of official record that Bunche sponsored a communist to a key post in the UN. In fact this communist had received an award of $40,000 in lieu of reinstatement from the UN after he had refused to answer as to whether or not he had been and was a communist. The pertinent testimony on this question before the Jenner Committee of the United States Senate is as follows—

"Mr. MORRIS. Now later, on December 11, 1945 did you state to the State Department official that you had applied for this position at the suggestion of Mr. Ralph Bunche?

"Mr. HARRIS. My answer remains the same, Mr. Morris, I decline to reply.

"Mr. MORRIS. And did you state to the State Department official that Ralph Bunche and Mr. John Ross, of the Special Political Affairs Committee, had told you that you were the best man for the job?

"Mr. HARRIS. I must decline to answer that on the grounds stated, Mr. Morris. (Activities of United States Citizens Employed by the United Nations, page 654, October 2, 1953.)

"Mr. MORRIS. On December 11, 1945, did you again write defending your record and complaining that you had not been told of the charges against you, and stating again that you had been invited to apply by Dr. Ralph Bunche in the first place?

"Mr. HARRIS. The same reply."

(Activities of United States Citizens employed by the United Nations, page 655, October 2, 1953.)

"Mr. MORRIS. Do you know, Mr. Harris, that after your clearance with personnel for this P-6 appointment that the Security Office in the State Department disapproved of your appointment?

"Mr. HARRIS. I also decline to answer that question on the same grounds.

"Mr. MORRIS. Do you know there was a memorandum prepared by the security official pointing out that there was strong evidence that you had been a Communist at least up to 1938?

"Mr. HARRIS. I must decline to answer that question also, Mr. Morris.

"Mr. MORRIS. Do you know that Mr. John Ross was notified on November 1, 1945, about the decision of the security people in the State Department who again urged your appointment on the ground that Dr. Ralph Bunche knew you well and had cabled to that effect from London?

"Mr. HARRIS. The same reply. I decline to answer on the same grounds.

"Mr. MORRIS. What ground?

"Mr. HARRIS. On all the grounds mentioned.

"Mr. MORRIS. And among others, the fifth amendment?"

(Activities of United States citizens employed by the United Nations, page 655, October 2, 1953.)

"Mr. MORRIS. Mr. Chairman, I have a copy here of the administrative tribunal's decision, and it does read that the tribunal did award $40,000 in lieu of reinstatement to Mr. Harris.

"One of the factors they mentioned here, Mr. Chairman, is item (c), the fact that he joined the United Nations at the special request of Mr. Ralph Bunche, Director of the Trusteeship Division, thereby terminating his previous career.

"Now, Mr. Harris, did you, as a matter of fact, join the United Nations at the special request of Mr. Ralph Bunche?

"Mr. HARRIS. The answer, Mr. Morris, as I stated previously in the executive session is "Yes".

"Mr. MORRIS. Will you give us the circumstances of your joining the United Nations at the special request of Mr. Ralph Bunche?

"Mr. BOUDIN. May the witness be permitted to state several objections to this question, and then may it be deemed that the objections now stated will be applied to any other questions he wishes to decline to answer, without repeating them?

"Mr. MORRIS. Yes.

"Mr. HARRIS. Sir, I decline to answer the question on the ground that: . . ."

(Activities of United States citizens employed by the United Nations October 2, 29, and December 22, 1953. Page 647.)

Institute of Pacific Relations and Bunche

One of the main channels of Soviet espionage and communist betrayal of China into the hands of the Reds has been the Institute of Pacific Relations. The American Council of the I.P.R. is studded with the names of Soviet agents red partisans and sympathizers who managed to secure a grip on various government departments which included our State Department, the White House, the Treasury Department, the Office of Strategic Services, and who have been variously charged with stealing Government documents, spying for Soviet Russia, and for perverting American Foreign and domestic policy to fit the Soviet aims to prepare the ground to seize control of the whole world.

Ralph Bunche was a high official of the Institute of Pacific Relations. More than this, he rubbed elbows and entered into close and private conference in respect to matters involving our National Policy with subsequently know Soviet agents and convicted communist operatives.

In respect to the I.P.R. and its communist manipulations, Alfred Kohlberg, a member of that organization for almost 20 years, presented evidence before the Jenner subcommittee of the Committee on the Judiciary, the United States Senate, and swore to the following facts—

"Since 1944 I have learned much more about the IPR; its apparently completely Communist or pro-Communist staff; that all articles on Far Eastern politics are written by Communists or pro-communists (some articles on economic, scientific, geographic questions are not); and that it has ties through interlocking directorates or staff with various Communist or pro-Communist organizations.

"Through its influence in the staffing of the State Department, Army and Navy Intelligence, and Far Eastern Divisions of UNRRA, of OWI, and even General MacArthur's staff, our Institute has put considerable numbers of Communists and pro-Communists where they could and have done the most possible harm and spread the most confusion.

"It would be my intention to present first to this Investigating Committee witnesses, and by witnesses I mean more than one, who would testify that the Institute of Pacific Relations is considered by the National Committee of the Communist Party to be one of its organizations and that certain of the Executive Committee of the American Institute are members of the Communist Party.

"Since that time numerous qualified witnesses have testified under oath before the McCarran Committee that:

"1. Your organization constantly and deliberately followed the Communist line in its publications.

"2. Some espionage activities were carried on.

"3. More than forty of your staff, Trustees and writers were actual Communists, or espionage agents, or both, and others learned that way.

"4. That activities in infiltrating our government by such people were carried on both officially and unofficially in your name."

(Hearings before the Subcommittee to Investigate the Administration of the Internal Security Act and other Internal Security Laws of the Committee on the Judiciary, United States Senate. Eighty-Second Congress, Second Session, on The Institute of Pacific Relations, Part 14, May 2 and June 20, 1952. Page 4940-4942-4944.)

Mr. Kohlberg also brought out the fact that the I.P.R. was involved in the gigantic espionage scandal of pilfered State Department documents which were seized by government agents in the offices of the "Amerasia" magazine and foor which the editor of that magazine Philip Jaffe (well known Soviet agent) was convicted. Mr. Kohlberg swore that—

"Four of the six persons arrested in the Amerasia case were connected with the IPR."

A former official of the Soviet Government in testifying before the McCarran Senate Committee stated that—

"In 1933 Soviet Military Intelligence officers used the 'Institute' (meaning the IPR-Ed.) as 'cover' for obtaining secret military intelligence".

The extent of Bunche's importance to the pro-Soviet group in the IPR is demonstrated in the following communication from the head of the American group, E. C. Carter, to W. W. Lockwood as to possible delegates to the International IPR conference in Mont Tremblant, Canada.

"In response to your request I have hastily jotted down a number of suggestions for the American group at the conference. It's a long list, of course, but I believe we should add to it considerably and then get competent advice—say that of Currie, Barnes, and Jessup—on elimination. This list runs too much in the regular groove as regards non-government people. So far as Washington is concerned, we need more intimate knowledge as to who really are in the key positions."—(Hearings before the Subcommittee to Investigate the Administration of the Internal Security Act and other Internal Security Laws of the Committee on the Judiciary, United States Senate, Eighty-Second Congress, Part 14, May 2 and June 20, 1952. Page 4973.)

In the long list which followed the communication there were included the following—

Ralph Bunche.

Joseph Davies (Mission to Moscow).

Alger Hiss (Soviet Spy).

Laughlin Currie (Named by Elizabeth Bentley as connected with Soviet spy ring).

Frederick Vandervilt Field (convicted communist agent).

Philip Jessup (accused of following communist line).

Harry Dexter White (Spy exposed by the Attorney General of U.S. and Edgar Hoover of FBI).

Henry A. Wallace (Former head of Communist led Progressive Party).

Joseph Barnes (Identified as a member of the Communist Party).

Benjamin Kizer (Identified as a member of the Communist Party).

The final list of delegates as sifted through by Laughlin Currie (accused as spy for Soviets), Joseph Barnes (identified as communist) and listed above along with Bunche were—

Frank Coe (Cited as Soviet spy).

Len DeCaux (identified as an important communist).

Harriet L. Moore (E. Bentley testified that spy chief Golos told her Miss Moore was one of their people).

There were a number of other delegates like Mrs. Ogden Reid, who were picked either as window dressing or were so surrounded by the communist agents that they could not effectively make their opinions prevail. It was a completely staged communist show.

At the end of the IPR Canadian conference E. C. Carter, the head of the American IPR, wrote to Jessup as follows—

Dr. Philip C. Jessup,
Columbia University,
New York, N.Y.

Dear Phil: Here are the rapporteurs' reports for the last group of Round Tables. I think you will be particularly interested in the reports of Harriet Moore, Fred Field, and Ralph Bunche.

Sincerely yours,

Edward C. Carter.

(Institute of Pacific Relations, Hearings before the Subcommittee of the Committee on the Judiciary, United States Senate, Eighty-Second Congress, Second Session, on the Institute of Pacific Relations, Part 14—May 2 and June 20, 1952. Page 5210.)

The official government records of the above mentioned persons are as follows—

Moore, Harriet L. (Gelfan), research associate; acting executive secretary (exhibit 801); chairman; nominating committee (p. 3858, 3859):

Identified as a member of the Communist Party by one or more duly sworn witnesses.

Refused to answer on the ground of self-incrimination.

Made one or more trips to Communist territory.

Writer for official publications of the Communist Party or the Communist International or for a Communist government or for pro-Communist press services.—(Internal Security Subcommittee Report of U.S. Congress, June 1952, p. 156.)

(Field, Frederick V., Secretary, American Council (p. 995); executive (Exhibit 801); trustee p. 264.)

Identified as a member of the Communist Party by one or more duly sworn witnesses.

Collaborated with agents of the Soviet intelligence apparatus as shown by sworn testimony.

Refused to answer on the ground of self-incrimination.

Made one or more trips to Communist territory.

Writer for official publications of the Communist Party or the Communist International or for a Communist government or for pro-Communist press services.

Subject of action by agency of American Government or a foreign non-Communist government on grounds involving loyalty or national security.—(Internal Security Sub-Committee Report of U.S. Congress, June 1952, p. 153–154.)

Carter, Edward C., Secretary American Council; secretary-general IPR; trustee; executive vice chairman (exhibit 801):

Made one or more trips to Communist territory

Affiliated with: Amerasia (exhibit 1355); American Russian Institute (p. 296); Russian War Relief (p. 295).

(Internal Security Subcommittee, U.S. Congress, June 20, 1952, p. 152.)

The linking up by the head of the I.P.R. of a report by Bunche along with Harriet Moore and F. V. Field (exposed as Soviet agents) is significant in itself. It is obvious that the three reports mentioned above are recommended as a distillation of this communist dominated conference.

In a 1943 communication of the IPR, Bunche is listed as a member of a private discussion group which included the usual pro-Soviet stalwarts such as Frank Coe, Len DeCaux and David Weintraub (there were 43 derogatory FBI reports on Weintraub as to red activity and he resigned under fire from the U.N.)

At the 1945 International conference of the IPR, Bunche was accompanied as delegate by the usual names of Frank Coe, Len DeCaux, Frederick Vanderbilt Field and Philip Jessup and by the additional names of John Carter Vincent (who was accused of aiding in the sell out of China to the Reds) and Owen Lattimore who is now under indictment.

At the end of 1944 it became obvious to the Kremlin leaders that Japan was on the verge of surrender. Therefore orders were issued to communist agents all over the world to concentrate on preparing the groundwork for the seizure of China by the reds. The preliminary phase was to create the condition whereby the Chiang Kai-shek Government was to be criticized for the internal situation in China. Almost continuous war in Chinese territory since 1937 had naturally created havoc with the internal life of the country. Therefore by harping on demands for reforms and conditions which were impossible of realization, the reds managed to create and channel dissatisfaction against the Chinese government.

In the United States the Communist agents were to influence official government bodies, especially the State Department, to force the Chinese Government to adopt reform measures and make concessions to the reds which would pave the way for seizure of China by Soviet forces.

The IPR was the major instrument used by the Kremlin to do this job. The following official conclusions by a Senate committee were published on this matter as follows—

"It was the continued practice of IPR to seek to place in Government posts both persons associated with IPR and other persons selected by the effective leadership of IPR."

* * * * *

"The effective leadership of the IPR used IPR prestige to promote the interests of the Soviet Union in the United States."

* * * * *

"The IPR was a vehicle used by the Communists to orientate American far eastern policies toward Communist objectives."

(Resolution relating to the Internal Security of the United States by the Internal Security Subcommittee of the Committee on the Judiciary of the United States Senate, June 20, 1952, pp. 223–4.)

On October 28, 1944 there was held a preliminary conference of the American Delegates of the IPR in preparing to drag the internal situation of China into a forthcoming international IPR conference where Chinese delegates from the Chinese Government would be present. This small meeting was made up of persons who were predominantly Soviet agents and communist partisans as listed previously in this report. There was only one person present who fought the communist line at this conference in respect to the Chinese question. This was Admiral Yarnell. The testimony and documents on this meeting before the Senate Subcommittee on Internal Security was as follows—

"Mr. Morris. Who else gave their opinions at this conference?

"Mr. Mandel. We have here a digest of the opinion of Mr. Dennett, Admiral Yarnell, Mr. Chase, and Mr. Field.

"Mr. Dennett. I don't recall. He wasn't in the delegation, I don't think. I don't know who Mr. Chase was.

"Mr. Morris. Who was Mr. Field?

"Mr. Dennett. Frederick Vanderbilt Field.

"Mr. Mandell. Mr. Coe.

"Mr. Morris. Who was Mr. Coe?

"Mr. Mandel. Mr. Coe.

"Mr. Mandel. Miss Farley.

"Mr. Morris. Who is Miss Farley?

"Mr. Dennett. Miriam Farley.

"Mr. Mandel. Mr. Johnstone.

"Mr. Morris. Who is Mr. Johnstone?

"Mr. Dennett. William C. Johnstone.

"Mr. Mandel. Mr. Bunche.

"Mr. Dennett. That is Ralph Bunche.

"Mr. Mandel. Mr. DeCaux.

"Mr. Morris. Is that Len DeCaux?

"Mr. Dennett. Yes.

"Mr. Morris. As far as you can recall, what was the purpose of that advance session?

"Mr. Dennett. I think it is well described by the statement of the chairman; that is, to see what the attitudes of the members of the delegation were, many of them strangers to each other, and to discuss particularly at this session the degree to which it would be possible to examine as part of the discussions the internal developments in China.

"Mr. Morris. Have you read this through completely?

"Mr. Dennett. I have read this through. There are a lot of others I have not read, however.

"Mr. Morris. With the exception of Admiral Yarnell, would you not agree there was uniformity of opinion there?

"Mr. Dennept. I think that is a fair statement; yes.

"Mr. Morris. What was the underlying expression of this majority of people there with the exception of Admiral Yarnell, with respect to the Chinese question?

"Mr. Dennett. The underlying agreement was that we certainly should discuss the internal situation in China as it bore very definitely upon postwar situations in China.

Admiral Yarnell's position is, I think, best summarized in one statement, and I am quoting:

"But if criticism leads to the overthrow of the Chungking Government, what will take its place? No other party is strong enough at present to assume control."

"Mr. Morris. Nobody agreed with him?

"Mr. Dennett. They seemed not to."—Page 990.

* * * * *

The above testimony was based upon an official IPR minutes of this meeting which was as follows—

"The main point under discussion during this period of the morning's meeting was what the American attitude should be in regard to the discussion of the internal problems of China, at the Hot Springs conference. Mr. Jessup felt that if the American delegation could decide what slant to take in bringing forth a discussion of China's domestic difficulties, it would facilitate a free discussion of this problem at the conference. He pointed out that the Chinese delegates have not wished and will not wish to discuss the internal situation in China. The domestic Chinese situation is covered in an indirect way in the agenda of the conference, as a diplomatic concession. He then asked Mr. Lattimore what factors in the Chinese internal situation were likely to come under discussion at the conference."—Page 991.

* * * * *

"Mr. Lattimore: He thought that the method of including India as well as China in the topic on the agenda might cushion the Chinese discussion. He said that the Chinese delegation at Hot Springs may occupy the position formerly held by the Japanese delegation at IPR conferences. The Chinese will present the party line, well cloaked in fog, and individual members of the Chinese party will hew to the party line although they may differ from it as individuals. They won't care to speak of their differences of opinion. Owing to the scarcity of information about Chinese internal affairs, the discussion at Hot Springs is likely to boil down to a discussion of the Kuomintang and the Communists, although the actual situation is far more complex; there are many smaller groups who are playing active parts in the political picture whose roles will be ignored. Developments in China today will have important political consequences. One example: the developments in southeast China, with the United States getting closer and closer to the Chinese coast. China's military leaders may decide to break through the Japanese lines to commandeer United States equipment when we land. The political affiliation of the Chinese commander who might make this move would influence the whole political set-up. The chinese delegation will present no real data on China's internal situation, even though this situation is of military as well as political importance in the whole international picture."—Page 991.

* * * * *

"Admiral Yarnell: But if criticism leads to the overthrow of the Chungking government, what will take its place? No other party is strong enough at present to assume control."—Page 992.

* * * * *

Mr. Bunche: How can we divorce national policies from domestic conditions? We cannot avoid discussing internal conditions in China in relation to her future foreign policy, and all other countries as well."—Page 993.

* * * * *

"Mr. Bunche thought that under section C–I of the agenda, Dumbarton Oaks should play an important part. And also he brought out the fact that a United Nations conference might take place before the Hot Springs meeting, and that too should be included in the agenda."—Page 993.

* * * * *

Dr. Bunche, as the above remarks indicate, proposed the line which the Kremlin wanted, to prepare the ground work for the seizure of China by red forces. Thus the IPR was used to swing U.S. foreign policy behind Soviet objectives. The preliminary move was to trick the Chiang Kai-shek government, through our State Department pressure, to allow the reds more lee-way in the internal affairs of China. In a weakened war-torn country this was all the foothold the Moscow trained reds needed.

It is interesting to note that in his last statement Bunche asked that the IPR forces be injected in helping shape the future of the United Nations.

It is hard to believe that one who has been trained and experienced in advanced communist propaganda and theory (as indicated in Dr. Bunche's earlier writings and associations) could do these things in the company of Soviet Agents and oppose Admiral Yarnell's pro-American position, without realizing the serious traitorous consequences of the preparations for betrayal of China to Moscow.

After sifting through thousands of seized IPR documents and hearing the testimony of numerous witnesses on the activities of this organization, a Senate sub-Committee arrived at the following conclusions as to the nature of its pro-Soviet character—

"The IPR has been considered by the American Communist Party and by Soviet Officials as an instrument of Communist policy, propaganda and military intelligence."

* * * * *

"The IPR disseminated and sought to popularize false information including information originating from Soviet and Communist sources."

* * * * *

"Members of the small core of officials and staff members who controlled IPR were either Communist or pro-Communist."

* * * * *

"Effective leadership of the IPR had by the end of 1934, established and implemented an official connection with G. N. Voitinski, Chief of the Far Eastern Division of the Communist International."

* * * * *

"A group of persons associated with the IPR attempted, between 1941 and 1945, to change United States policy so as to accommodate Communist ends and to set the stage for a major United States policy change, favorable to Soviet interests, in 1945."

* * * * *

"During the period 1945–49, persons associated with the Institute of Pacific Relations were instrumental in keeping United States policy on a course favorable to Communist objectives in China."

* * * * *

"The net effect of IPR activities on United States public opinion has been such as to serve international Communist interests and to affect adversely the interests of the United States."

(Report of the Committee on the Judiciary, Eighty-Second Congress, Second Session, pursuant to S. Res. 366 (82nd Congress) a resolution relating to the internal security of the United States. Hearings held July 25, 1951–June 20, 1952 by the Internal Security Subcommittee, pages 233–4–5.)

Stockholm Peace Appeal

The main Soviet line during the last few years has been to set up a barrage of activity to disarm the non-communist world by a so-called "peace" drive. The main instrument in this endeavor has been the self-styled "Stockholm Peace" drive with which the Kremlin intends to build up pressure to disarm their opponents throughout the rest of the world, while the red drive towards subversion and conquest is to go right on without a letup.

In a Soviet organized movement, called the "Committee of the World Congress of the Defenders of Peace", (which in turn was promoted by an organization called the "World Peace Council", which is located behind the Iron Curtain in Warsaw, Poland) there is published a well known Soviet publication called World Review in Defense of Peace. The acknowledged head of this enterprise is M. Frederick Joliot-Curie, a member of the Central Committee of the Communist Party of France.

In this magazine, Dr. Bunche is referred to in the most complimentary terms and his speeches are quoted as reflecting the line which fits into the propaganda issued by the Soviet organized "Stockholm Peace" Appeal. The following quote of the complete text amply illustrates this:

"Dr. Bunche's Warning"

"The Stockholm appeal continued to progress. The banning of the atom bomb and control of that ban appear more and more as an imperative necessity. Dr. Ralph Bunche, head of the United Nations Trusteeship Division and winner of the 1950 Nobel Prize for Peace, warned listeners at Western University where he received an honorary degree last month that:

"'If the United Nations cannot keep peace, there will be war—catastrophic, final, atomic war. A war, perhaps the final war, in which there may be survivors but none who dare boast of themselves as victors.'

"Dr. Bunche repeated his warning to a meeting of the Canadian United Nations Association in Toronto:

"'The road ahead is not inviting . . . it will not be easily traversed. But, it will be more easily undertaken if the peoples of the West and the East come to believe that in the atomic weapons they have a common enemy.'

"Dr. Bunche warned against the idea of reorganizing the United Nations with Russia excluded. He said:

"'This idea misses the fundamental concept of the U.N. We do not propose to choose up sides for an ultimate fight but to have all nations in . . . particularly those who have differences among themselves.'

"He criticized the slogan 'cold war' and said emphasis should be on winning peace, and expressed his opinion that a peaceful means of settling major disputes is possible."

(World Review of Peace Magazine—official organ of the Bureau of the Committee for the World Congress of the Defenders of Peace. President M. Frederic Joliot-Curie, November 15, 1950. Published twice monthly in Chinese, English, French, German, Hungarian, Rumanian, Russian and Spanish. Page 65.)

An official Congressional evaluation of this communist peace organization lists it as—

World Peace Council (See also Second World Peace Congress).

1. Cited as having been formed at the conclusion of the Second World Peace Congress in Warsaw and which was heralded by the Moscow radio as "the expression of the determination of the peoples to take into their own hands the struggle for peace."—(Congressional Committee on Un-American Activities, House Report No. 378 on the Communist "peace" Offensive, April 25, 1951, original date April 1, 1951, p. 38.)

The Daily Worker

Finally, the Official Communist newspaper, The Daily Worker, gave full support to Dr. Bunche, during the obviously inadequate "quickie" hearing held before the Government Loyalty Board during May of 1954.

In an editorial on the Bunche case, this communist newspaper was almost hysterical in support of him. (It is a long established fact, supported by expert testimony, that the top polit-buro of the Communist Party must pass on the text of all editorials of The Daily Worker)—

"Dr. Bunche's Case

"The UN was getting ready to appoint Dr. Ralph J. Bunche to a new high post when certain racist 'anti-Communist' forces moved fast to stop this.

"This is the obvious explanation of the fact that two sordid characters making a profession of 'fingering Communists' were quickly dragged out of the cellar to knife Bunche.

"And so Dr. Bunche again had to solemly prove his 'loyalty'—meaning that he had to prove he is innocent of the 'crime' of Marxism and is a reliable supporter of the 'anti-Communist' policy.

"The plans of the 'anti-Communists' who could not stomach the idea of a Negro in top UN posts couldn't be carried through. The same enormous anti-racist pressure which in the U.S.A. and throughout the world, compelled the Supreme Court to declare segregated schools and housing un-Constitutional also blocked this scheme.

"But what was revealed again was the un-American machinery of the 'anti-Communist' frameup mill. Bunche, thanks to the new anti-racist upsurge, escaped but the same McCarthyite machine hounds and jails hundreds of innocent Americans. Two stool pigeons not only lied about Dr. Bunche—this type of FBI 'anti-Communist' stoolie has been lying to courts and juries for more than five years; their lies have served as the basis for the 'red menace', Smith Act jailings and McCarthy's '20 years of treason' forgeries.

"It is good that the attempted political knifing of Dr. Bunche was balked; but America's safety requires that the Big Lie about Communism which the political assassins tried to use against him be discarded for the forgery it is."—(Daily Worker, editorial, Monday, May 31, 1954. P. 5.)

There is one certain criterion by which one can determine the position of any official by reading the Daily Worker. It is axiomatic that never, under any circumstances, is that newspaper known to praise or support sincere and effective anti-communists, especially editorially. In fact, communist publications have been known even to publish slight slaps on the wrists of actual Soviet agents in order to divert suspicion. Alger Hiss is one example. When praise and support is detected in communist papers of a high UN official as Ralph Bunche, it should appear conclusive that the communists consider him important enough to their cause to defend him.

Excerpt From "Biographical Dictionary of the Left," Volume 1, Page 261

(by Francis X. Gannon)

In 1954, at the time when Bunche was made Under Secretary for the United Nations, a United States Civil Service special loyalty board for international organizations passed judgment on Bunche's qualifications. In the back-ground, aside from Bunche's long-time proclivity for leftwing organizations, were his close connections with Alger Hiss. Bunche had rushed to Hiss' defense almost as soon as Hiss had been identified as a Communist by Whittaker Chambers. And when Bunche had first applied for a position in the UN, he had listed Hiss as a reference. Bunche had been Hiss' assistant secretary at the Dumbarton Oaks Conference of 1944, when the framework of the United Nations was established. And in 1945, Bunche went to San Francisco with Hiss, who was secretary general of the UN's organizing conference.

At the loyalty board hearing, two former high-ranking Communists, Manning Johnson and Leonard Patterson—both Negroes, swore under oath that they had known Bunche within the Communist Party. In an editorial on May 31, 1954, the Communists' Daily Worker, while rushing to the defense of Bunche, excoriated Johnson and Patterson as "two stool pigeons."

TRIBUTE TO JAMES G. FULTON

HON. CHARLES A. MOSHER

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, December 10, 1971

Mr. MOSHER. Mr. Speaker, our Science and Astronautics Committee acted unanimously to instruct the staff to prepare a memorial resolution honoring James G. Fulton, whose loss is keenly felt by all of us on the committee. He was from the committee's very beginning one of its most active, loyal and stimulating members. Especially, he was a leading spirit and vigorous proponent for our Nation's exploration of space. His positive contributions to the success of our space efforts to date, and for years to come, are indelible.

Unfortunately, Mr. Speaker, the committee will not meet again until next year, so final approval of the proposed resolution cannot be voted officially until then. But I suggest it is important that our statement of respect and sorrow should be part of the Record of this first session of the 92d Congress, the final session in which our colleague, Jim Fulton, lived and worked among us.

Therefore, I now read into the Record the proposed resolution as prepared by Richard Hines, an esteemed member of our committee staff with whom Congressman Fulton worked closely for many years. It is as follows:

Whereas, James G. Fulton devoted almost all of his adult career to the service and to the welfare of his fellow citizens in Pennsylvania and throughout the country; and

Whereas, he made major contributions to the achievements of the House over the past twenty-nine years and over the past fourteen years to the progress and brilliant success of our national space program and to its wholehearted support in the U.S. House of Representatives; and

Whereas, his moral, ethical and professional integrity was the basis of his unflagging efforts, often applied at great personal sacrifice, to expand the scientific and technical strength of our country; and

Whereas, he continued to discharge his duties as a Representative of Pennsylvania in the U.S. House of Representatives throughout the period of his illness; Therefore be it

Resolved that the Committee on Science and Astronautics of the U.S. House of Representatives extend to his bereaved family its profound sympathy, that this resolution to spread upon the minutes of the Committee, and that a copy be engrossed and forwarded to Representative Fulton's family.

Mr. Speaker, I also believe it is appropriate that I read into the Record at this point several significant communications which were received by the Fulton family immediately following Congressman Fulton's untimely death.

James C. Fletcher, Administrator of the National Aeronautics and Space Administration, on October 7, 1971, wrote to Mr. Robert D. Fulton, the following:

All of us at NASA were deeply saddened by the news of your brother's death. We have lost a good friend and an imaginative leader.

The Congressional support NASA has enjoyed throughout its history is due in large part to Congressman Jim Fulton's tireless efforts. He will be missed by all of his friends in the space program.

Charles F. Ducander, staff director of the Committee on Science and Astronautics, sent this telegram on October 9:

Congressman George Miller, Chairman, Committee Science and Astronautics, telephoned from Italy where he is attending scientific conferences expressing sorrow at your loss. He asked me to convey his condolences and explain his inability to attend funeral. Chairman Miller and your brother were fast friends, came to Congress together and worked in tandem on the Committee for many years. His loss will be sorely felt by Committee, the Congress and nation.

Robert C. Seamans, Jr., Secretary of the Air Force, in a letter dated October 8, to Mr. R. D. Fulton, said:

It is with a great deal of personal regret that we learned of the untimely passing of your brother. As you may know, Jim and I saw a great deal of each other when I was an administrator of NASA. Since then we have kept in touch, and I chatted with him only last week at the signing of the U.S.-Soviet nuclear agreements at the State Department. His death is a great loss, not only to those of us who knew him well but also to our nation.

Your family has our deepest sympathy. If there is anything we can possibly do, please let us know.

Michael Collins, Director of the Smithsonian Institution's Air and Space Museum, sent this telegram from Washington on October 8:

The United States has lost a great leader and the National Air and Space Museum a good friend. Our thoughts are with you.

Kurt H. Debus, Director of NASA's Kennedy Space Center in Florida, sent this telegram on October 7:

> News of the passing of Congressman James Fulton, our friend of many years, came as a shock to the personnel of this center.
>
> We are saddened by his loss and extend heartfelt condolences to you and members of his family. We knew his valuable contribution to the national space program from its very beginning. He brought to this challenging undertaking his informed judgment, leadership and stalwart support. He understood total the complex interrelationships of government, science, technology and industrial which are involved in the exploration of space and applied that knowledge with consummate skill in the best interests of the nation. His unselfish devotion to the common good will be a lasting inspiration to all of us.

H. E. Hoelscher, dean of the School of Engineering, University of Pittsburgh, expressing to Mr. Robert Fulton his own personal distress and sadness on learning of the death of his great friend, Jim Fulton, "a great friend of this school and to this university—a stimulating and excellent guide to our efforts here as a member of our board of visitors," also transmitted the following memorial minute:

> The deans and department chairmen of the School of Engineering, University of Pittsburgh, are saddened at the death of our friend and adviser the Honorable James G. Fulton. We are grateful for his counsel and guidance as a member of our Board of Visitors in a period of intensive development and for his efforts in the Congress of the United States in support of engineering and scientific education and research. The University and especially the School of Engineering will miss him, as will all those who knew him.

Mr. Speaker, by vote of the House Republican conference, it is my privilege and responsibility to succeed Congressman Fulton as the ranking minority member of the Committee on Science and Astronautics.

I submit it is utterly impossible for me to even attempt to duplicate his personal role on our committee.

Jim Fulton was absolutely unique. For years I had the fascinating experience of working at his side in the committee sessions. No one else I have worked with, or ever will, can be quite like him.

Not in any derogatory sense at all, it should be entered in the RECORD that Jim Fulton could be very abrasive. That was part of his genius as an exceptionally stimulating, provocative person, a "mover and shaker." He occasionally could infuriate others, but they almost always wound up amazed and respectful of his intellectual acumen, his imaginative foresight concerning our Nation's needs and opportunities in the sciences, in space activities, in international relationships.

Jim Fulton was preeminently independent and courageous, stubbornly loyal to those great causes for which he fought.

Mr. Speaker, there was also another side to Jim Fulton that colleagues who worked with him invariably came to know and respect. Beneath his intellectual crustiness was a remarkably humane, generous, sympathetic spirit that was translated into his genuine personal helpfulness to a great variety of friends and acquaintances—and strangers, too.

Literally thousands of people now sorely miss Jim Fulton's uniquely valuable, creative ways of service, both public and private.

THE TRUTH ABOUT PRAYER IN SCHOOLS

HON. FLETCHER THOMPSON

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 10, 1971

Mr. THOMPSON of Georgia. Mr. Speaker, I submit the text of my most recent newsletter in the RECORD in order that it may be available to those who read the CONGRESSIONAL RECORD.

The text is as follows:

NEWSLETTER OF REPRESENTATIVE FLETCHER THOMPSON

THE TRUTH ABOUT PRAYER IN SCHOOLS

The United States Constitution states:

Amendment I. (1791)

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

The Federal courts rules this prohibits a school-prescribed prayer and scheduling of a time or place for voluntary prayer. To me this is absurd. A voluntary prayer in school is not "The Congress making a law respecting an establishment of religion." In plain words, the courts stretched the Constitution to ban prayer in schools.

No Chapels: If the courts extend their ruling, there will be no chapels on Army bases and no chaplains. Did our founders intend for the federal courts to ban voluntary prayer? Of course not, but it takes a Constitutional Amendment to overrule the courts.

November 8, 1971: Your U.S. House of Representatives defeated a proposed Constitutional Amendment which would have overturned the Supreme and lower court decisions and allowed voluntary prayer in schools. It stated:

VOLUNTARY PRAYER AMENDMENT

"Nothing contained in this Constitution shall abridge the right of persons lawfully assembled, in any public building which is supported in whole or in part through the expenditure of public funds, to participate in voluntary prayer or meditation."

Why the defeat? Some Congressmen said by voting against voluntary prayer, they were protecting the Constitution from "tampering." But hasn't the Court already tampered with the First Amendment? Some just do not want any mention of God in a religious sense in our schools.

Earlier it was proposed a non-denominational prayer be allowed. Few agreed on the form; thus we voted on allowing voluntary prayer instead. However, many feel the following is non-denominational:

THE LORD'S PRAYER

"Our Father, Who art in heaven, hallowed be Thy name. Thy kingdom come, Thy will be done, on earth as it is in heaven. Give us this day our daily bread, and forgive us our trespasses as we forgive those who trespass against us. Lead us not into temptation, but deliver us from evil, for Thine is the kingdom and power and the glory forever."

It is good to know about others' faith. While my family is Methodist, I want my children to hear Catholic, Jewish, Episcopal, Mormon and other prayers voluntarily given. This is part of growing up. It reinforces their own faith. Freedom of speech, even through prayer, does no harm to the First Amendment.

It is important that we learn to respect and understand others' religions.

No student should be prevented from or forced to pray, nor should a school board write a required prayer, but a prayer to open an assembly, even given by someone not of your religion, violates no one's rights. To hear others' views, even in prayer, does not force one to adopt them.

It's difficult to understand why the federal courts have said the First Amendment allows filthy books, speech and dirty pictures in schools, but prohibits a voluntary prayer or the setting aside of a time or place for prayer.

It's difficult to understand how Congress and even the Supreme Court can open their sessions with prayer and then refuse school children the right to open an assembly with prayer.

It's difficult to understand why the National Council of Churches and so many ministers led the lobbying effort that helped defeat voluntary prayer.

It's difficult to understand how we can proclaim to be "One Nation Under God" in our pledge and put "In God We Trust" on our money and then deny school children the right to pray voluntarily in school.

It's difficult to understand how 162 Congressmen, including 3 Georgia Congressmen, can vote to deny school children the right to pray voluntarily in school.

LOOKING AHEAD

With 1971 coming to a conclusion, not only do we try to assess what has happened during the past year, but our thoughts also turn to what kind of year '72 will be. Higher unemployment? Just not in the cards. With the controls on price increases and bank and mortgage rates coming down, 1972 will be a year of improvement in the general economy and more jobs, but it will also be a year of confrontation in the international economic sphere. Because of controls, inflation will be slowed.

Vietnam . . . look for all U.S. ground combat troops to come home in 1972.

Environment . . . will continue to be an active issue. Implementation will be more responsible in 1972.

Taxes . . . local taxes will continue to rise; look for more cuts in federal taxes.

Forced busing . . . look for Emanuel Celler, chairman of the Judiciary Committee, to hold hearings on this question . . . more support from the North as President Nixon insists they be treated the same as the South on school matters.

Supreme Court, '72 . . . Nixon's appointed Justices will begin to swing the Court to a more conservative stance.

Social Security . . . look for benefits to increase in 1972.

Your opinion, please: Congress is considering using taxes to pay for political campaigns. Republicans and Democrats would get about $20 million each, American Independents, $6 million. You would be asked to check your income tax form for a dollar of your tax money to be used. Let me know what you think. Address: Fletcher Thompson, U.S. Congress, Washington, D.C. 20515

IN MEMORIAM: E. L. "BOB" BARTLETT

HON. NICK BEGICH

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 9, 1971

Mr. BEGICH. Mr. Speaker, 3 years ago tomorrow, Alaska lost a leader and a friend in the death of Senator E. L.

"Bob" Bartlett. On the anniversary of his death, December 11, I know that thousands of Alaskans join me in remembering his life and the profound effect this man had on the vast territory which became the largest State in the Union. The achievement of Alaskan statehood was, in a large sense, due to the work of Bob Bartlett and for that his place in history is secure.

There are other reasons for remembering this magnificent man, however. His was a special personality which over the years, as a reporter, gold miner, delegate to Congress, and finally, as the senior Senator from Alaska, was to be etched into the very fabric of Alaska's character. He was known, simply, as Bob and in that familiarity he touched the lives of countless people.

This week I had the pleasure of seeing a research proposal recently submitted to the National Endowment for the Humanities by Dr. Claus-M. Naske of the University of Alaska. It is a timely proposal for the documentation and study of the career of Senator Bartlett. In a letter to Chairman Berman of the National Endowment, I told him how very few men have had the opportunity to shape events as did Bob Bartlett. He was a man who merits close study and I hope that the National Endowment for the Humanities is assured now of my deep interest and support of Dr. Naske's proposal, E. L. Bartlett: Architect of Statehood and Humanist.

HOUSE RESOLUTION 630

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 10, 1971

Mr. JACOBS. Mr. Speaker, I was wondering if, at this late date, any Member of Congress or any member of the executive branch would care to say he or she is willing, from this day forward, to give his or her life, limb, sanity or freedom—POW even for another day—further to prop up the Saigon dictatorship.

Other Americans are being ordered to do so today.

Following is the language of House Resolution 630, which I introduced on September 30, 1971:

> Whereas the President of the United States on March 4, 1971, stated that his policy is that: "as long as there are American POW's in North Vietnam we will have to maintain a residual force in South Vietnam. That is the least we can negotiate for."
>
> Whereas Madame Nguyen Thi Binh, chief delegate of the Provisional Revolutionary Government of the Republic of South Vietnam stated on July 1, 1971, that the policy of her government is: "If the United States Government sets a terminal date for the withdrawal from South Vietnam in 1971 of the totality of United States forces and those of the other foreign countries in the United States camp, the parties will at the same time agree on the modalities:
>
> "A. Of the withdrawal in safety from South Vietnam of the totality of United States forces and those of the other foreign countries in the United States camp;
>
> "B. Of the release of the totality of military men of all parties and the civilians captured in the war (including American pilots captured in North Vietnam), so that they may all rapidly return to their homes.
>
> "These two operations will begin on the same date and will end on the same date.
>
> "A cease-fire will be observed between the South Vietnam People's Liberation Armed Forces and the Armed Forces of the other foreign countries in the United States camp, as soon as the parties reach agreement on the withdrawal from South Vietnam of the totality of United States forces and those of the other foreign countries in the United States camp."
>
> Resolved, That the United States shall forthwith propose at the Paris peace talks that in return for the return of all American prisoners held in Indochina, the United States shall withdraw all its Armed Forces from South Vietnam within sixty days following the signing of the agreement: Provided, That the agreement shall contain guarantee by the Democratic Republic of Vietnam and the Provisional Revolutionary Government of the Republic of South Vietnam of safe conduct out of Vietnam for all American prisoners and all American Armed Forces simultaneously.

SUPREME COURT IGNORES STATE'S PLEA FOR TAX JUSTICE

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 10, 1971

Mr. RARICK. Mr. Speaker, in the October 1971 term of the Supreme Court of the United States, the State of Alabama, by and through the Honorable George C. Wallace as its Governor, moved for leave to file a complaint under the Court's original jurisdiction of the Constitution to enjoin the Secretary of the Treasury and the Commissioner of Internal Revenue for relief of the people of that State from the action of the Treasurer and IRS in granting tax-free status by exempting the income of religious foundations and similar organizations from the Federal tax on income.

Despite the fact that this was a suit brought by a State seeking original jurisdiction in the U.S. Supreme Court as is provided in article 3, section 2, clause 2, the Supreme Court law clerks voted to deny any hearings or proceedings and the Supreme Court, without reason, dismissed the complaint.

The Supreme Court obviously feels that justice does not extend to equal taxation on all incomes or those Justices presently occupying the Supreme Court seats did not want to hear the evidence that they feared would be presented by Governor Wallace and the State of Alabama.

I, too, recognize the evils which have befallen the tax collection system of our Government by giving special privileges and exemptions to dubious organizations of highly controversial purpose. During this session, I introduced legislation which would help reform these ever growing inequities before they soar into a taxpayers's rebellion. My bills are H.R. 405 to provide for a loss of tax exemption for failure to file an annual return showing sources of income; H.R. 425 to provide for loss of tax exemption for engaging in litigation for the benefit of third parties; and H.R. 8298 to provide that tax exempt organizations which engage in activities of carrying on propaganda or otherwise attempting to influence legislation shall lose their exemption from tax.

Because of the blatant refusal of the U.S. Supreme Court to grant a hearing in matters which are clearly within its original jurisdiction and because the object of the complaint is of great importance to the American taxpayers, I insert the Motion for Leave to File a Complaint, the Complaint, and the Brief in support of the motion in the RECORD at this point:

[In the Supreme Court of the United States, October term, 1971]

MOTION FOR LEAVE TO FILE COMPLAINT

(State of Alabama, One of the States of the United States, by and Through George C. Wallace, as Its Governor, Plaintiff, v. John B. Connally, as Secretary of the Treasury of the United States, and Randolph W. Thrower, as Commissioner of Internal Revenue of the United States, Defendants)

The State of Alabama, one of the States of the United States, by and through George C. Wallace, as its Governor, asks leave of the Court to file its complaint against John B. Connally, Secretary of the Treasury of the United States, and Randolph W. Thrower, Commissioner of Internal Revenue of the United States, submitted herewith, pursuant to Rule 9, Supreme Court Rules.

J. EDWARD THORNTON,
JOHN O. HARRIS,
Counsel for Plaintiff.

This the 20 day of July, 1971.

STATEMENT IN SUPPORT OF MOTION

This is an action by the State of Alabama, by and through its Governor, George C. Wallace, against John B. Connally, Secretary of the Treasury of the United States, and Randolph W. Thrower, Commissioner of Internal Revenue of the United States, proposed to be instituted in this Court under the authority of Article III, Section 2, Clause 2, of the Constitution of the United States. The purpose of the proposed action is to enjoin John B. Connally, as Secretary of the Treasury, and Randolph W. Thrower, as Commissioner of Internal Revenue, and each of them, from assessing and collecting federal income taxes from the citizens of the State of Alabama, and, in the alternative, to enjoin John B. Connally, as Secretary of the Treasury, and Randolph W. Thrower, as Commissioner of Internal Revenue, and each of them, from exempting the income of religious foundations, and similar organizations, from the federal tax on income.

Secretary Connally and Commissioner Thrower claim that the income of religious, charitable and educational foundations, and similar organizations, is exempt from the federal income tax by virtue of the provisions of Section 501 of the Internal Revenue Code (26 U.S.C. Sec. 501). While the State of Alabama is cognizant of the benefits afforded society and the American public by organizations organized and operated solely for the purpose or purposes of holding religious services, maintaining places of worship, and engaging in truly public and charitable activities for the alleviation of human suffering and misery (such as the Red Cross, Salvation Army, March of Dimes Foundation, Heart Fund, and Cancer Societies), the State of Alabama contends that the said Section 501, by exempting the income of certain other organizations and foundations which are only superficially charitable, religious, educational or scientific in their operation, and which, in actuality, merely provide a tax shelter for the wealthy few, and by assessing and collecting taxes on the income of other individuals and organizations pursuant to the said Internal Revenue Code of 1954, effects an unjustifiable and discriminatory classification of persons for federal income tax purposes that is so gross as to render the collection of federal income taxes from nonexempt persons a confiscation of private property in violation of the Fifth Amendment to the Constitution of the United States. The State of Alabama also contends that inasmuch as the said Section 501 exempts from the federal income tax the income, including unrelated business income, of religious foundations, it thereby subsidizes religion and effects an establishment of religion in contravention of the First Amendment to the Constitution of the United States, and that the said Section 501 is therefore a nullity and cannot be lawfully enforced by Secretary Connally and Commissioner Thrower.

J. Edward Thornton,
John O. Harris,
Counsel for Plaintiff.

This the 20th day of July, 1971.

[In the Supreme Court of the United States, October term, 1971]

COMPLAINT

(State of Alabama, One of the States of the United States, by and Through George C. Wallace, as Its Governor, Plaintiff, v. John B. Connally, as Secretary of the Treasury of the United States, and Randolph W. Thrower, as Commissioner of Internal Revenue of the United States, Defendants.)

The State of Alabama, one of the States of the United States, by and through George C. Wallace, as its Governor, brings this suit in equity against the defendants, John B. Connally, Secretary of the Treasury of the United States, and Randolph W. Thrower, Commissioner of Internal Revenue of the United States, and for its cause of action states:

Count one

I

The jurisdiction of this Court is invoked under Article III, Section 2, Clause 2 of the Constitution of the United States.

II

The plaintiff, the State of Alabama, brings this action as the direction of its Governor, George C. Wallace, a citizen and resident of the State of Alabama. The defendant John B. Connally is the Secretary of the Treasury of the United States and is a citizen of the State of Texas and a resident of Washington in the District of Columbia. The defendant Randolph W. Thrower is the Commissioner of Internal Revenue and is a citizen of the State of Georgia and a resident of Washington in the District of Columbia.

The said defendant John B. Connally, as Secretary of the Treasury of the United States, is charged with the supervision, administration and enforcement of the federal internal revenue laws pursuant to the provisions of Section 7801 of the Internal Revenue Code of 1954 (26 U.S.C., Sec. 7801). Randolph W. Thrower, as Commissioner of Internal Revenue, has such duties and powers in enforcement, administration and supervision of the federal internal revenue laws as may be prescribed by the Secretary of the Treasury, pursuant to Section 7802 of the Internal Revenue Code of 1954 (26 U.S.C., Sec. 7802).

III

Section 1 of the Internal Revenue Code of 1954 (26 U.S.C., Sec. 1) imposes a tax upon the income of every individual, trust, and estate, and Section 11 thereof (26 U.S.C., Sec. 11) imposes a tax upon the income of every corporation. Section 501 thereof (26 U.S.C., Sec. 501), however, exempts certain organizations from the taxes imposed by Section 1 and Section 11; Section 501 provides, in pertinent part, as follows:

(a) Exemption from taxation.—An organization described in subsection (c) or (d) of Section 401(a) shall be exempt from taxation under the sub-title unless such exemption is denied under Section 502 or 503.

(c) List of Exempt Organizations.—The following organizations are referred to in subsection (a):

(3) Corporations, and any community chest, fund or foundation organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation, and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office.

IV

The defendants, John B. Connally and Randolph W. Thrower, pursuant to their duties as Secretary of the Treasury of the United States and Commissioner of Internal Revenue, respectively, have enforced, are presently enforcing, and intend to enforce in the future, unless restrained by the Court, all provisions of the Internal Revenue Code of 1954 (26 U.S.C., Sec. 1 *et seq.*), including the aforementioned Sections 1, 11, and 501, with the result that the organization described in subsection (c) of the said Section 501 have avoided, are presently avoiding and will avoid payment of their proportionate share of the federal income tax burden, while other individuals, estates, trusts, and corporations, including those resident in, domiciled in, or otherwise located in the State of Alabama, have been, are, and will be forced to pay a disproportionate share of such federal incomo tax burden.

V

The exemption from federal income taxation provided for by subsection (c) of the said Section 501 and enforced by the defendants in their official capacities effects a classification of persons for federal income tax purposes that is so arbitrary, unjustifiable, and discriminatory as to constitute the assessment of federal income taxes against and collection of federal income taxes from nonexempt individuals, estates, trusts, and corporations a confiscation of private property in violation of the requirement of the Fifth Amendment to the Constitution of the United States that "No person shall . . . be deprived of life, liberty, or property without the due process of law; nor shall private property be taken for public use, without just compensation."

VI

The State of Alabama is directly interested in preventing any unlawful confiscation of the private property of its citizens, which unlawful confiscation is provided for by the Internal Revenue Code of 1954 as aforesaid; and the State of Alabama is also interested in protecting its citizens against risk of prosecution for failure to comply with those provisions of the Internal Revenue Code of 1954 designed to provide the machinery for the confiscatory taking of private property thereby purportedly authorized.

VII

The actions of the defendants, in assessing and collecting taxes pursuant to the aforesaid provisions of the Internal Revenue Code of 1954, have caused and will continue to cause irreparable injury to the citizens of the State of Alabama, for which there is no adequate remedy at law.

VIII

Wherefore, the State of Alabama prays that a decree be entered enjoining and restraining the defendants, John B. Connally, as Secretary of the Treasury of the United States, and Randolph W. Thrower, as Commissioner of Internal Revenue, and each of them, their servants, agents, and employees, from proceeding to assess against or collect from the citizens of the State of Alabama the taxes sought to be imposed by Subtitle A of the Internal Revenue Code of 1954, and from requiring returns from such citizens, preparatory to the assessment and collection of such taxes, and from taking any and all other steps related to the enforcement of the said Subtitle A of the Internal Revenue Code of 1954.

Count two

IX

The State of Alabama adopts, asserts, and realleges all of the allegations in paragraphs numbered I through III as fully and to the same extent as if each of said paragraphs were set forth here anew.

X

The defendants, John B. Connally and Randolph W. Thrower, pursuant to their duties as Secretary of the Treasury of the United States and Commissioner of Internal Revenue, respectively, have enforced, are presently enforcing, and intend to enforce in the future, unless restrained by this Court, all provisions of the Internal Revenue Code of 1954 (26 U.S. Sec. 1 *et seq.*), including the aforementioned Section 501, with the result that numerous religious organizations, institutions, foundations, and similar associations located both within and without the State of Alabama, have avoided, are presently avoiding, and will avoid payment of their proportionate share of the federal income tax burden.

XI

To the extent that subsection (c) of the said Section 501 exempts religious institutions, organizations, foundations, and similar associations from payment of the federal tax on income assessed against and collected from other individuals, estates, trusts, and corporations, the said subsection (c) of the said Section 501 constitutes a subsidy to, and establishment of, such religious organizations, institutions, foundations, and similar associations by law made by the Congress in contravention of the requirement of the First Amendment to the Constitution of the United States that "Congress shall make no law respecting an establishment of religion . . ."

XII

The State of Alabama has a direct interest in protecting its citizens against the subsidizing and establishment of religion by law made by Congress.

XIII

The acts of the defendants, John B. Connally, as Secretary of the Treasury of the United States, and Randolph W. Thrower, as Commissioner of Internal Revenue, in exempting the income of religious institutions, organizations, foundations, and similar associations located in the State of Alabama, and elsewhere, pursuant to the provisions of Section 501 of the Internal Revenue Code of 1954, and thereby subsidizing religious activities and establishing religion both within the State of Alabama and elsewhere have caused and will continue to cause irreparable injury to the citizens of the State of Alabama, for which there is no adequate remedy at law.

XIV

Wherefore, the State of Alabama prays that the said defendants, John B. Connally, as Secretary of the Treasury of the United States, and Randolph W. Thrower, as Commissioner of Internal Revenue, and each of them, be restrained and enjoined from exempting the income of religious institutions, foundations, organizations, and similar associations, whether located within or without the State of Alabama, from the federal tax on income pursuant to the provisions of the said Section 501.

J. EDWARD THORNTON,
JOHN O. HARRIS,
Counsel for Plaintiff.

This the 20th day of July, 1971.

CERTIFICATE OF SERVICE

I hereby certify that on this the 19th day of July, 1971, copies of this Motion for Leave to File Complaint and Complaint were mailed, postage prepaid, to Messrs. John B. Connally, as Secretary of the Treasury of the United States, and Randolph W. Thrower, as Commissioner of Internal Revenue, by addressing and mailing copies to the Solicitor General, Department of Justice, Washington, D.C. 20530. I further certify that all parties required to be served have been served.

J. EDWARD THORNTON,
JOHN O. HARRIS,
Counsel for Plaintiff.

[In the Supreme Court of the United States, October Term, 1971]

(State of Alabama, One of the States of the United States, by and Through George C. Wallace, as Its Governor, Plaintiff, v. John B. Connally, as Secretary of the Treasury of the United States, and Randolph W. Thrower, as Commissioner of Internal Revenue of the United States, Defendants)

BRIEF IN SUPPORT OF MOTION FOR LEAVE TO FILE COMPLAINT

JURISDICTION

The Jurisdiction is set forth in Article III, Section 2, Clause 2 of the Constitution of the United States.

"In all cases affecting Ambassadors, other public Ministers and Consuls, *and those in which a state shall be a party,* the Supreme Court shall have original jurisdiction. In all other cases before mentioned, the Supreme Court shall have appellate jurisdiction, both as to law and fact, with such exceptions, and under such regulations as the Congress shall make." (*Emphasis added.*)

STATEMENT OF THE CASE

The State of Alabama is seeking leave to file an original action in this Court to test the legality of income tax exemptions accorded private foundations and religious organizations under Section 501 of the Internal Revenue Code of 1054 (26 U.S.C. Sec. 501).

PROPOSITIONS OF LAW

Proposition I

Where the State is a party, plaintiff, or defendant, the Governor represents the State; and the suit may be, in form, a suit by him as Governor in behalf of the State.

Ex parte Kentucky v. Denniston, 24 How. 66, 16 L. Ed. 717;

State of Alabama, by and through George C. Wallace as its Governor v. United States of America et al., 373 U.S. 545, 10 L. Ed. 2d 540.

Proposition II

The provisions of Article III of the Federal Constitution, limiting jurisdiction of federal courts to cases or controversies, impose no absolute bar to suits by federal taxpayers challenging allegedly unconstitutional federal taxing and spending programs.

Flast v. Cohen, 393 N.S. 83, 20 L. Ed. 2d 947.

Proposition III

No church may be financially supported or preferred by the federal government over any other, and no religious activities may be subsidized.

Protestants and other Americans United for Separation of Church and State v. O'Brien, 272 F. Supp. 712.

ARGUMENT

I

Where the State is a party, plaintiff or defendant, the Governor represents the State; and the suit may be, form, a suit by him as Governor in behalf of the State, where the State is a plaintiff; and he must be summoned or notified as the officer representing the State, where the State is defendant. Ex parte Kentucky v. Denniston, 24 How. 66, 16 L. Ed. 717; State of Alabama, by and through George C. Wallace as its Governor v. United States of America et al., 373 U.S. 545, 10 L. Ed. 2d 540.

Under the above authorities, there can be no question but that this Court has jurisdiction to entertain this case and to grant the relief sought in the Complaint.

II

The provisions of Article III of the Federal Constitution, limiting jurisdiction of federal courts to cases or controversies, impose no absolute bar to suits by federal taxpayers challenging allegedly unconstitutional federal taxing and spending programs, Flast v. Cohen, 393 N.S. 83, 20 L. Ed. 2d 947.

Since this Court has sanctioned actions by individual taxpayers to question the taxing and spending programs of Congress, certainly a sovereign state has standing to attack the granting of exemptions to private foundations and churches who have departed from the very basis on which the exemptions were granted in the first place and are so conducting themselves in such a manner that they are no longer entitled to the exemptions.

When private foundations use tax exempt income to espouse the cause of Communists in America; to promote revolution in the streets of our cities; to participate in registration drives among blacks to elect radical mayors of certain cities; and bankroll the pro-Viet Cong American Friends Service Committee; grant funds to organizations which preach revolution and racial hatred; financing of Communists and radicals to run school "decentralization" in New York City, producing the bitterest sort of racial antagonisms; and making grants to the Leftist Urban League—are they not engaged in propaganda activities, attempting to influence legislation, and aiding and abetting political campaigns on behalf of candidates for public office?

These activities and these grants are not clothed with the protection accorded exempt organizations or foundation(s) "organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary or educational purposes—no substantial part of the activities of which is carrying on propaganda . . ." They are not "charitable" foundations in the common law sense,[1] and to this extent, at least, they should no longer enjoy a tax exempt status.

There is a precedent for declaring unconstitutional Sections 170 and 501 of the Internal Revenue Code of 1954 in their application.

In the case of William H. Green et al. v. David M. Kennedy (Connally), Secretary of the Treasury of the United States of America, and Randolph W. Thrower, Commissioner of Internal Revenue the United States District Court for the District of Columbia filed on June 30, 1971, Civil Action No. 1355–69, held unconstitutional sections 170 and 501 of the Internal Revenue Code of 1954 as applied to private schools in Mississippi which exclude Negro students on the basis of race or color.

The plaintiffs, Negro Federal taxpayers and their minor children attending public schools in Mississippi, brought a class action seeking to enjoin the Secretary of the Treasury and Commissioner of Revenue from according tax exempt status to such schools. "They sought a declaration that granting tax exempt status to such schools is violative of the provisions of the Revenue Code governing charities and charitable contributions, and that if granting such status was authorized, then to that extent Sections 170 and 501 are unconstitutional."

In a 50 page opinion, a three-judge court ruled in favor of the plaintiffs holding that the IRS had changed its interpretation of the exemptions permitted by the Code and that now private schools which practice racial discrimination are not "charitable" in the common law sense.

It logically follows that private foundations and churches that engage in activities wholly at war with the purposes for which exemptions were granted them are no longer "charitable" in the common law sense, and to that extent Sections 170 and 501 of the Revenue Code of 1954 are unconstitutional.

III

No church may be subsidized and preferred by the federal government over any other, and no religious activities may be subsidized. Protestants and other Americans United for Separation of Church and State v. O'Brien, 272 F. Supp. 712.

The First Amendment to the Constitution of the United States provides, in pertinent part, as follows:

"Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; . . ."

Under the "establishment clause of this Amendment, it is well-settled that the federal government cannot pass laws which aid one religion, aid all religions, or prefer one religion over another. Emerson v. Board of Education of the Township of Ewing, et al., 330 U.S. 1, 91 L. Ed. 711; Illinois v. Board of Education of School District No. 71, 333 U.S. 203, 92 L. Ed. 648.

When some church organizations use tax exempt income as a contribution to the defense fund (which is also tax exempt) of avowed Black Panther and Communist, Angela Davis, have they not forfeited their right to continue to be exempt as an organization operated exclusively for religious purposes?

It is earnestly insisted that such church organizations making contributions to such defense funds are no longer engaged in charitable activities and should no longer be accorded a tax exempt status. It certainly cannot be claimed that it is "organized and operated exclusively for religious purposes," and to that extent, Sections 170 and 501 of the Internal Revenue Code of 1954 is unconstitutional.

It is arguable that exemption of religious institutions from taxation constitutes an indirect subsidy which is as invalid under the First Amendment as would be a tax levied directly to support such institutions. See, e.g., Murray v. Comptroller of Treasury, 216 A.2d 897 (Md. 1966). In his concurring opinion in Engel v. Vitale, 370 U.S. 421, 8 L. Ed. 2d 601 (1962), Mr. Justice Douglas stated:

"The point for discussion is whether the Government can constitutionally finance a religious exercise. Our system at the federal and state levels is presently honeycombed with such financing. Nevertheless, I think it is an unconstitutional undertaking whatever form it takes."

CONCLUSION

The State of Alabama respectfully urges this Honorable Court to grant its Motion for Leave to File Complaint in the Court, and grant its prayer restraining and enjoining the defendants, John B. Connally, as Secretary of the Treasury of the United States, and Randolph W. Thrower, as Commissioner of Internal Revenue, from exempting the income of religious institutions, foundations, organizations, and similar associations, whether located within or without the State of Alabama, from the federal tax on income pursuant to the provisions of Section 501 of the Internal Revenue Code (26 U.S.C., Sec. 501).

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[1] The new interpretation of the IRS as expressed in Green et al. v. Kennedy, etc. and Thrower, etc., District Court for District of Columbia, Civil Action No. 1355–69, filed June 30, 1971.

Alabama earnestly insists that these financial giants should bear their proportionate share of the staggering income tax burden that now rests upon her citizens, and citizens throughout the Nation, who do not enjoy tax exempt status and are forced to pay a disproportionate share of federal income tax.

Respectfully submitted
J. EDWARD THORNTON,
JOHN O. HARRIS,
Counsel for Plaintiff.

CERTIFICATE OF SERVICE

I hereby certify that on this 20 day of July, 1971, copies of this Brief in support of Motion for Leave to File Complaint were mailed, postage prepaid, to Messrs. John B. Connally, as Secretary of the Treasury of the United States, and Randolph W. Thrower, as Commissioner of Internal Revenue, by addressing and mailing copies to the Solicitor General, Department of Justice, Washington, D. C., 20530. I further certify that all parties required to be served have been served.

JOHN O. HARRIS,
Of Counsel for Plaintiff.

CYPRUS: NEAR FLASH POINT

HON. CLEMENT J. ZABLOCKI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Friday, December 10, 1971

Mr. ZABLOCKI. Mr. Speaker, among the world's many trouble spots that threaten international peace and receives too little attention perhaps is that of Cyprus.

An insight into the varied facets of this festering problem in the Eastern Mediterranean was provided recently in an article by Dr. T. W. Adams which appeared in the Washington Sunday Star of November 28, 1971.

Dr. Adams, a consultant on foreign affairs and specialist on the national security aspects of the Cyprus problem, is the author of a recent book on the subject—"Akel: The Communist Party of Cyprus" published by the Hoover Institution Press.

In order to share with my colleagues Dr. Adams' understanding of this question I am placing his article in the RECORD at this point and commend it to their attention:

CYPRUS IS CONTINUING NEAR THE FLASH POINT

(By T. W. Adams)

NICOSIA.—"The name is death! The name is terror! The name is bloodshed! The name of General Grivas is connected with intercommunal strife in Cyprus—all in the name of *enosis* (union)."

Dr. Fazil Kuchuk, vice president of the republic and leader of the Turkish community on the island, made this dire assessment after a leaflet was circulated at the end of October calling for a renewed armed struggle for union of Cyprus with Greece. Nothing could upset the Turks of Cyprus or the mainland more than the mention of *enosis*, which has been barred along with partition in the treaties which brought Cyprus independence.

General Grivas, 74-year-old fighter, had not been heard from since he secretly left involuntary exile in Athens and landed here by small boat on the first of September. While the pamphlet bore the typed signature of his code name, Dighenis, there is strong evidence to believe that it did not come directly from the general. Rather it may have been written by a right-wing armed group known as the National Front, which has been carrying out a semi-violent campaign for over two years against the leadership of Archbishop Makarios.

GRIVAS MAGNETISM

Still the presence of Grivas—hero of the 1955-59 EOKA guerrilla effort which led to independence—remains a mystery. Grivas, who has been termed "a professional bomb-thrower," does have the personal magnetism to organize at least a small group of his die-hard supporters. In Cyprus, this means trouble. Such a spark could set off this tinderbox situation, since tens of thousands of Cypriots are currently under arms.

Whatever the Grivas intentions turn out to be, they will conflict with those of President Makarios and the existence of his independent republic. Perhaps the Grivas adventure could well unfold as one observer put it recently: "In 1954 he came to kill British, in 1964 to kill Turks, and now he has come to kill Greeks." If that is the Grivas aim now, Makarios has pledged that he will not tolerate it.

Speculation about this latest development is currently one of the favorite pastimes in Cyprus. But this is to be expected. The island floats on a sea of rumor and gossip, which makes it difficult for the casual observer to understand all of the domestic and international dynamics of the situation. Yet, certain factors have remained unchanged since violence broke out eight years ago between the Greek Cypriots and the Turkish community, which comprises 20 percent of the island's population.

U.N. ACHIEVEMENT

First, the 3,000-man United Nations peacekeeping force has done a miraculous job cooling down temperatures.

Second, the mainland powers of Greece and Turkey find it impossible to cut the strings which tie them to their respective ethnic brothers on the island.

Third, as long as the problem remains unsettled the two communities on the island are growing further and further apart.

Fourth, the threat of Cyprus erupting once again into violence hangs like an ominous cloud over every political event in the island.

And fifth, the major powers have found that their various initiatives toward solving the problem have worked to no avail.

The United Nations' Role—When the U.N. forces in Cyprus (UNFICYP) landed in March 1964 they were thrown directly into an open warfare between the Greeks and Turks. The blue-beret "soldiers without enemies," made up of five different nations, including Great Britain (the first major power ever to serve on such a mission), finally managed to separate the two sides. UNFICYP has served as the pacifier of innumerable scrapes ever since. Still, peacekeeping is not peacemaking and attempts to settle the dispute have been frustrated.

OPINIONS DIVIDED

Makarios now feels that in getting the suspended 3-year-old intercommunal talks going again on the island, the U.N. must take some future initiative which will give the world organization a more positive role. The Turks on the other hand feel that any further action should be undertaken by the two mother countries, with the blessing of the United States government.

The involvement of Athens and Ankara—The creation of the independent Republic of Cyprus came about only after war-weary Greece and Turkey agreed on terms during an historic meeting in Zurich in 1959. These terms, signed into treaties by all the principal parties in London, included the provisions that the mainland powers could legally intervene to guarantee that the treaties were upheld by all the parties.

When Makarios attempted to amend some of the basic parts of the constitution in 1963, this led to the outbreak of fighting between the island's Greeks and Turks. Had it not been for a strong letter from President Johnson in 1964, Turkey would have surely landed in Cyprus and war between herself and a NATO ally, Greece, would have ensued.

Turkey has consistently felt that all the provisions of the Zurich-London treaties are binding until they are formally changed by all the signatories. But both Greece and Makarios feel that significant changes have already been made by faits accomplis in the status of Cyprus.

It may seem incredible, but one of the key unresolved issues today is the relevance of the Zurich-London agreements. Prime Minister Erim of Turkey told me that the U.S. is "afraid to say publicly that the agreements are still binding," so as not to upset its policy of neutrality between Greece and Turkey. The Turkish prime minister feels that the non-involvement posture of the U.S. in actuality is a backing of Makarios' majority government. Furthermore, Erim does not believe that the U.S. has used enough of its influence toward softening the hard line of the Greek Cypriot leader.

While the Turks have willfully made Cyprus into Turkey's "national cause," it seems unlikely that they will ever try another military intervention unless seriously provoked by such a person as General Grivas, whose hatred of the Turks is second only to his fanatical anti-communism. Meanwhile, the Turks continue to contribute $20 million of scarce foreign exchange a year to support its surrounded community in Cyprus.

Greece on the other hand seems to be backing off from its traditional policy of aspiring for *enosis*. Not only does the military government in Athens find it difficult to deal with Makarios, but they also are enjoying the best relations with Turkey in a decade.

The Separation of the Communities—"An eight-year-old Turkish Cypriot boy has never seen a real, live Greek," observed the republic's first minister of defense, Osman Orek. He, along with the other Turkish members of the government, had to leave their posts in 1963 and have since maintained a separate existence behind barricades and armed guards in some eight major areas of concentration.

While the Greeks have for the past two years allowed the Turks to move freely from their various quarters, no Greek is unofficially allowed to pass a Turkish checkpoint. This is especially embarrassing to the Greeks who must go through the Turkish quarter of Nicosia by U.N. convoy twice a day in order to take the short route to the seaside resort of Kyrenia. Other than that, the Greeks avoid the issue and continue along their amazingly prosperous economic course, while the Turks must live in a virtual welfare state on the subsidy from Ankara.

The Turks have been criticized by some foreign officials for not staying in the government and trying to work out the intercommunal difficulties through the parliamentary process, "even if they would have been killed at their desks." The Turks retort that they would have surely met such a fate at the hands of the Greeks and their survival has only been made possible by physical separation. What has come about are two militarily prepared camps which are waiting for the day when war again might break out. On October 28th the Greek side used the occasion of a mainland national holiday to parade its military strength. The following day the Turks observed a similar event to display their weapons of defense.

The main tragedy in this de facto partition is what is happening to the harmony which existed before the mid-1950s between the island's Greeks and Turks. Even though many people in their forties and fifties will secretly admit to having good friends "on the other side," the same cannot be said about the younger people who took part in fighting one another. Continued separation can only lead to the reinforcing of myths and stereotypes of what the other community is like, particularly among the 17,000 Turkish displaced persons. Undoubtedly this will result in fears and could prevent the two groups from ever living in an intermingled environment.

Nobody ever claimed that a Cypriot nation was formed at independence, but the existence of a Cypriot state can only come about with the cooperation of the two communities. As long as the separation continues, some Cypriots feel that partition or a "double enosis" with Greece and Turkey is the only answer to the Cyprus problem.

This may well be acceptable to the mainland powers, particularly Turkey, whose leaders have often stated that they must get something tangible from any final solution to the problem.

The Continual Threat of Violence—"Cyprus has more guns than people," commented a leading Greek Cypriot official. That may not be surprising, if one recalls that warfare started in Cyprus in 1955 and in reality has never stopped since. One of the essential features of Greek-Cypriot politics is the existence of armed gangs of *trambucos*, which seem to congregate around various leaders. Some of these private armies took part in the 1963–64 fighting and have not disbanded. Later proenosis supporters took matters into their own hands by starting an anti-government campaign in 1969 claiming that they were acting in behalf of the former EOKA leader, General Grivas. These secret groups were probably behind the attempted assassination of Makarios in March, 1970. Though some people were brought to justice for the attempt on the archbishop, a vendetta murder remains officially unsolved and clandestine activities continue.

ZEALOTS POSE DANGER

General Grivas, thought to be in control of a sizeable organization of *pistolarios*, is supposedly waiting for the opportune time to turn them loose on first the anti-enosis government officials, then the communists and finally the Turks. On Cyprus it does not take too many zealots to begin serious trouble. General Grivas had only about 200 hard core gunmen when he carried out his EOKA terrorist struggle against the British. And at one time over 20,000 regular troops were tied up in the unsuccessful effort to capture them.

Regarding Communist activities, a parliamentary leader says, "The Communist party in Cyprus follows the policy of the government on the Cyprus problem. On domestic issues they endorse many of the government measures and although they have declared their own policy on certain domestic issues, they have not attempted by stirring up trouble or otherwise to force the government to accept their policies."

Major Power Initiatives—One point of agreement between the United States and the Soviet Union is that Cyprus should not be a cause of war between any countries, particularly themselves. Still, the major powers have definite limitations when it comes to acting in ways to prevent the possibility of war. Both Russia and America want to keep up good relations with Greece, Turkey and the Makarios government. Any initiative which might have some teeth would surely be interpreted by one of the parties to be against its national interests. Consequently, both major powers have been reluctant to move in positive ways to help solve the conflict.

This posture of neutrality is not welcomed by the principals and various devices have been employed to call the hand of the U.S. and the USSR. Archbishop Makarios, for example, went to Moscow in June to ask for Soviet aid in the event that the NATO powers tried to impose a solution in Cyprus which would bypass his existing government. The communique which followed the visit did not guarantee that the Russians would support Makarios. Still, the Turkish Foreign Ministry was sufficiently concerned that it asked for and received a clarification of the neutral Soviet position.

RUSSIAN VESSELS

While not openly backing Makarios, Russian ships have been sighted often off the Cypriot coast and three ships were anchored outside of Cypriot territorial waters on Sept. 29, when the Turkish military contingent was being rotated. The question of trading off support for Cyprus has not yet been raised openly in any bilateral relations the U.S. has had with either Greece or Turkey, but this possibility could present itself in the future.

In the eastern Mediterranean, NATO considerations and the strategic balance are the chief interests of American foreign policy. But the United States also realizes that it must tread softly with the Cypriot government if it is to keep the important communications facilities in the island, which the non-aligned Makarios government has not tried to alter since independence.

Prospects—Greece and Turkey no longer talk about deadlines for the solution to the Cyprus problem, but it is apparent that both governments are becoming increasingly bothered—as in 1959—by the nagging nature of the conflict. This is perhaps why there have been continual rumors that Greece and Turkey have come to an agreement over Cyprus but this time Makarios (not the British) is the obstacle.

Maintaining sound relations between the two governments is presently the main concern of Athens and Ankara. Both have approached their internal problems in similar ways: The military has taken strong positions in the government opposing corruption, communism and anti-Americanism. Also both governments are anchoring their defense policies on NATO and the preservation of the alliance. There has even been talk of a possible federation between Greece and Turkey, which could even be a precursor to the reviving of the Balkan Pact that existed in the 1930s, with Yugoslavia participating.

NO SOLUTION NEAR

Despite all the favorable indications of the reestablishing of the Greek-Turkish equilibrium as it existed at the time of Ataturk and Venezelos, the existence of the Cyprus problem is an unfortunate reality recognized by both sides. Some of the misunderstanding has arisen simply over the definition of such terms as "local autonomy," "functional federalism" and the "unitary state." It was these differences which caused the inter-communal talks to become deadlocked in September. Until these terms are defined, the debate over Cyprus will apparently continue to be a semantic exercise.

The Eastern Mediterranean has been aflame on and off for centuries and quite possibly conflict has become a way of life for the inhabitants of the area. It would be a welcome relief for the diplomats if Cyprus could be stricken from the State Department's gazetteer of hot spots, but short-term prospects for solving the problem are not promising. In fact, the island today is unusually tense, considering the Grivas presence, and Cyprus may now be entering one of its most critical phases with little hope of coming out of it without once again spilling somebody's blood.

HEALTH CITY

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 10, 1971

Mr. BOB WILSON. Mr. Speaker, in recent years San Diego has emerged as a "health city" through the establishment and growth of a number of outstanding medical and health science activities. These include hospitals, research organizations, universities, and clinics which, though separate institutions, are working closely together to improve the quality of health care available to all of us. I am pleased to share with my House colleagues the following article from the San Diego Executive which outlines the activities of several of the major health science facilities in the San Diego area:

HEALTH SCIENCE: A MAJOR INDUSTRY EMERGES IN SAN DIEGO

When most people get around to talking about the subject of health, it's about dollars . . . how much a stay in the hospital costs today . . . the high price of medicine! And although they may not be aware of it, the fact is that since 1960, the average daily cost of hospitalization has risen from $56 to $144. In the same period, the nation's total health bill has climbed to $70 billion—or $324 a person a year.

Until recently, very few in San Diego have been aware that an industry was emerging right in their own backyards that is very much concerned with them and their problems in the field of health. Although its immediate and long-range objectives are the control and elimination of disease, a possible side effect is a reduction in the cost of medical care.

Involvement of local organizations in the field of "health science" or "biomedicine" is not new in San Diego. What has erupted, however, is a grouping or "complex" of organizations having common identifiable interests in health science, in the "life sciences." They have reached such a proportion today that their activities may accurately be termed an "industry" . . . inclusive of hospitals, research organizations, universities, clinics. Each a separate entity; but together, working in collaboration toward a common objective.

The U.S. Bureau of the Census reports an increase in employment in San Diego for this industry between 1965–1969 as 52%. This compares with an increase nationally of only 36%. Payrolls for the like period in the health science field in San Diego soared 101% as compared to 88% nationwide.

Four major health science and biomedical organizations—each a familiar name in life science circles throughout the world—comprise the nucleus of this research oriented community: The Salk Institute for Biological Studies, Scripps Clinic and Research Foundation, The University of California at San Diego School of Medicine, the new Veterans' Administration Hospital, due for completion in early 1972. Among the factors that characterize this complex is a close physical proximity to each other, affording an integration of personnel and facilities. With the move of Scripps to a 12-acre site recently donated by Dow Chemical, each will be within walking distance of the other.

It should be emphasized that research type activities in San Diego are not confined to these four institutions. As many as 21 other firms and/or institutions are engaged in some type of medical research and are an integral and important part of San Diego's health science complex. Estimates are that 28,000 people are employed here in some phase of the life sciences. Today these have emerged into an industrial complex—one which, in time, may very well become a blueprint for the nation.

These research-type organizations continuously make substantial contributions to the local economy. In 1970, it is estimated that the total payroll of those organizations concerned with health science or biomedicine amounted to $30 million. Moreover, the products and services they export from San Diego have a far reaching effect outside their immediate locale.

The Salk Institute, established here in 1964, continues to expand both its physical plant and services. At capacity, 500–600 employees will be on staff there. More than 100,000 square feet of space are already devoted entirely to laboratory use. The purpose of this renowned institution has always been "the preservation and extension of man's health and well being."

The University of California at San Diego Medical School has, in its few years of operation, already gained national recognition as an outstanding medical facility. 150 full time and 390 part time salaried professors will instruct a student body of 400. Many of these professors will do a tour of duty at both Scripps and the Veterans' Administration Hospital. The University Hospital, formerly County Hospital, provides additional beds and staff for the community.

The new Veterans' Administration Hospital, due for completion early in 1972, will employ a staff of 1,600. In dollar value, its plant has an estimated worth of $35 million with another $9 million tagged for equipment. Between 80–90 staff physicians at the hospital will be given faculty assignments at UCSD.

Scripps Clinic and Research Foundation is universally recognized as one of the foremost medical research institutions. Its objectives are clearly defined: contribute to scientific medical knowledge; train medical scientists; provide high quality "specialized" medical services. To a large degree, Scripps is responsible for interesting other science-oriented institutions locating in San Diego.

Among those on the staff of SCRF are internationally recognized scientists in such fields as biochemistry, pathology and microbiology. Founder of Scripps and its chief benefactor is Ellen Browning Scripps whose efforts and philanthropy were responsible for the Scripps Institution of Oceanography, now a part of UCSD.

The planning of San Diego's health science and biomedical complex did not just happen. It reflects concerted effort by many to obtain an effective integration of all facilities related to the life sciences. Torrey Pines Science Park, a 100-acre site close by the other medical facilities, has been designated by the City of San Diego as a site for the location of new research centers. The Chamber of Commerce has recently organized a Health Sciences Council to formulate and implement a long-range program aimed at establishing San Diego as the nation's leading health center.

Indications are that it is just a question of time before this objective becomes a reality.

DR. RALPH J. BUNCHE

HON. OGDEN R. REID

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, December 10, 1971

Mr. REID of New York. Mr. Speaker, Ralph Bunche personified the best in the United Nations.

In a sense he was one of the first citizens of the world.

Truly, it has been said that blessed are the peacemakers. Few down through the ages have deserved that accolade. Ralph Bunche personified it.

I had the privilege of working with him both as an editor of the Herald Tribune and as U.S. Ambassador to Israel. His grasp of the subtieties of diplomacy were matched by his quiet firmness and the vision and the patience to always see the road ahead.

Ralph Bunche more than any man brought an uneasy peace to the Near East with the several armistice agreements worked out on the island of Rhodes. He was the author of the Rhodes Formula which may yet be the process by which an interim or final peace agreement may be worked out in today's troubled Near East. His peacekeeping missions in other parts of the world, including the Congo and Kashmir, are a part of today's historical record.

His vision of a United Nations was always clear but never fully realized. No greater tribute could be paid to Ralph Bunche than for the statesmen of the world to fulfill his dream of the U.N. as the peacekeeper of the world, with a moral position that would be unassailable, "standing steadfastly always for the right."

Ralph Bunche had great capacities for friendship, and the successes of the successive Secretaries General, particularly Dag Hammarsjkold and U Thant, were not infrequently the efforts of his unassuming and highly effective diplomacy. It fell his lot to serve the last years of his life in the U.N. at a time when the United States often turned away from it, and at times even failed to see how the U.N. could serve a cause of peace. While this troubled Ralph Bunche, it never caused him to lessen his belief in what the U.N. could stand for and what his country might become.

He was in the forefront of the fight for civil rights and freedom for all men, not alone throughout the world, but equally and sometimes pointedly in the United States as well. I remember his sense of humor, his deep loyalty to his friends and particularly the nobility of spirit of a truly humble, compassionate and great man.

Mrs. Reid joins me in extending our deepest sympathy to Mrs. Bunche, to his son Ralph Jr., his daughter Joan and his three grandchildren, which I am sure all Members of this House share.

I am taking the liberty of enclosing several editorials from the New York Times and the Washington Post on the life of Ralph Bunche:

[From the New York Times, Dec. 10, 1971]

DR. BUNCHE OF U.N., NOBEL WINNER, DIES

(By Robert D. McFadden)

Dr. Ralph J. Bunche, former United Nations Under Secretary General for Special Political Affairs and winner of the 1950 Nobel Peace Prize, died early yesterday in New York Hospital. He was 67 years old.

Dr. Bunche, who suffered from a kidney malfunction, diabetes, heart disease and near blindness, was frequently hospitalized in recent months. He entered the hospital for the final time last Tuesday and died at 12:40 A.M. yesterday.

Dr. Bunche, who had been with the United Nations since its founding, lived in a world of diplomacy that was racked with belligerence yet capable of great harmony. It ultimate poles were war and peace, and between these he sought the balance of justice.

Like his world, Dr. Baunche was a man of many faces and talents, full of paradox and struggle. By training and temperament, he was an ideal international civil servant, a black man of learning and experience open to men and ideas of all shades.

At the United Nations, he had been a key diplomat for more than two decades since his triumphal success in negotiating the difficult 1949 armistice between the new state of Israel and the Arab states.

As the architect of the Palestine accord, he won the Nobel Peace Prize of 1950. And many of his associates at the Secretariat and in governments around the world could cite his accomplishments and accolades, mentioning their contacts with him proudly.

But in spite of his stature and reputation, Dr. Bunche was essentially a private man, eschewing personal publicity and disclaiming political ambition.

Few people, save those closest to him, knew the details of his middle-class adolescence in Detroit, his youth as an orphan in the care of a grandmother, his adventures as a young stowaway and seaman, his toil in menial jobs in working his way through college and his real ambition as a young man—to be a teacher.

Nor could many recount his confrontations with racism, including his close escape from a lynch mob in Alabama, where he and Gunnar Myrdal, the Swedish sociologist, were gathering material in 1938 for "An American Dilemma," the book that forecast many developments in race relations in this country.

It was indeed difficult to say how the color barriers he encountered at hotels and restaurants—even as a high official in the nation's capital—laced themselves into the fabric of his personality and skills as a mediator.

At a negotiating conference table, he usually gave the outward appearance of being calm, soft-spoken, unflappable. But there were signs, for those who would note them, of the deeper turmoil in the man: the chain-smoked cigarettes, the darkening circles under his grave eyes, the hoarseness in his baritone voice.

ENERGY AND TIMING

He could haggle, bicker, hairsplit and browbeat, if necessary, and occasionally it was. But the art of his compromise lay in his seemingly boundless energy and the order and timing of his moves.

His diplomatic skills—a masterwork in the practical application of psychology—became legendary at the United Nations, for which he directed peace-keeping efforts in the Suez area in 1956, the Congo in 1960 and Cyprus in 1964.

At his unannounced retirement last June, he was Under-Secretary General for Special Political Affairs—Secretary General U Thant's most influential political adviser.

As such, he was the highest American figure in the world organization and, incidentally, the most prominent black man of his era whose stature did not derive chiefly from racial militance or endeavors specifically in behalf of his race.

He was deeply sensitive to racial problems, and often spoke bluntly about them. But his perspective was above the day-to-day trials of discrimination; indeed, he recognized that emphasizing his light-skinned blackness could have damaged his roles as a mediator and neutral peace-keeper—roles in which he found more often than not an advantage in his blackness.

THRUST INTO ROLE

The apex of his diplomatic career—and, perhaps, the best example of his negotiating psychology—came during the Palestinian talks on the island of Rhodes in 1948 and 1949. He had been thrust into the role of chief mediator after the assassination of the original appointee, Count Folke Bernadotte of Sweden, who was cut down by a terrorist fusillade in Jerusalem.

The negotiating problems were vastly complex, centuries old, rife with racial and religious prejudices and overlaid with combustible economic and political frictions.

A truce demanded by the Security Council had broken down. Large-scale fighting was under way. Thousands of lives in the Middle East lay in the balance, and so did the very life of the fledgling United Nations, whose peace-keeping capacities were on the line.

The Israeli and Arab delegations from the start were cautious, aloof and occasionally hostile. Dr. Bunche met with both sides separately to determine what kind of agenda to draw up, then called the delegations together to approve the agenda. These preliminary moves seemed simple and straightforward, but there was more to them than met the eye.

"There was a double purpose," Dr. Bunche later explained. "Primarily, it was to get both sides to meet—but also, I wanted them both to get accustomed to taking formal action, and to signing something." It didn't matter what—just anything that looked official, he explained.

"Whenever they got together," Dr. Bunche recalled, "you'd always find that there was a gap between them. It was always a matter of timing, always a matter of finding out when it would be appropriate to reduce a discussion to a formal, written draft of one point. We never would throw a whole draft at them at the beginning—that would have scared them to death."

At one exasperating point in the 81-day negotiating marathon, an impatient Israeli delegate hurled a pencil on the table, and it bounced up and hit an Arab delegate. The talks almost blew up. But Dr. Bunche privately reprimanded the Israeli and got him to apologize.

It was always touch-and-go. On another occasion, an Arab delegate refused to shake hands with an Israeli leader. This nearly wrecked the negotiations too. But Dr. Bunche, after much talk that smacked of foreign intrigue, arranged what amounted to a secret rendezvous between the two men who, it turned out, were grateful for the opportunity.

"This time they acted like long-lost brothers," Dr. Bunche recalled. "Pretty soon they started to speak Arabic—and then they apologized to me because they knew I didn't speak the language. I said, 'Hell, speak your Arabic—don't bother—about me.'"

Eventually, the force of Dr. Bunche's personality melted the frigid atmosphere of the talks. There were thousands of pages of documents, drafts and counterdrafts, hundreds of compromises and ultimatums. But ultimately, an armistice was signed.

"He drove himself and his staff night and day," an aide said afterward. "He plunged into every problem as though his life depended on getting it solved. He had an uncanny ability for grasping a situation and sizing it up completely."

When it was all over, Col. Mohammed Ibrahim Seif elDine, of Egypt, called Dr. Bunche "one of the greatest men in the world." Dr. Walter Eytan, of Israel, said the mediator's efforts had been "superhuman."

PEACEKEEPING SATISFYING

Dr. Bunche gave full credit to the two delegations and to his staff. The Nobel Prize Committee thought otherwise, in making its first peace toward to a black man.

In a 1969 interview, Dr. Bunche said: "The Peace Prize attracted all the attention, but I've had more satisfaction in the work I've done since. I have been in charge of the U.N. peace-keeping operations in various parts of the world—the Congo, the Middle East, Kashmir." The Suez operation he called "the single most satisfying work I've ever done," primarily because "for the first time we have found a way to use military men for peace instead of war."

BIAS AGAINST BIGOTRY

Dr. Bunche made friends easily and was a good conversationalist of an evening, mixing stories with a few whiskies. But his most serious words were not reserved for friends. In a speech at the Waldorf-Astoria, he once said a great deal about himself and his convictions:

"I have a number of very strong biases. I have a deep-seated bias against hate and intolerance. I have a bias against racial and religious bigotry.

"I have a bias against war, a bias for peace. I have a bias which leads me to believe in the essential goodness of my fellow man, which leads me to believe that no problem of human relations is ever insoluble. And I have a strong bias in favor of the United Nations and its ability to maintain a peaceful world."

For the author of these convictions, the road to greatness had been steep and rutted with obstacles. Ralph Johnson Bunche was born in Detroit on Aug. 7, 1904, the son of Fred Bunche, a barber, and Olive Agnes Johnson Bunche, a musically inclined woman who contributed much to what her son called a household "bubbling over with ideas and opinions."

In 1915, after the birth of Ralph's sister, Grace, his mother developed rheumatic fever and the family moved to Albuquerque, N.M., for the hot, dry air and sunshine. But Mrs. Bunche died in a short time, and three months later her husband died. At the age of 13, Ralph was an orphan.

He and his sister were left in the care of their maternal grandmother, Mrs. Lucy Taylor Johnson, a tiny woman with a towering will and what Ralph considered the wisdom of a sage. She took the children to Los Angeles, where they lived in a bungalow in a mostly white neighborhood, and enrolled them in local public schools.

At the 30th Street intermediary school, the principal advised that Ralph be enrolled in a commercial training course. But Mrs. Johnson wouldn't have it. "My grandson is going to college," she told the principal.

The youth was a brilliant student. He was valedictorian of the class of '22 at Jefferson High School, whose academic honor society denied him admission at the time and tried to correct the matter, to Dr. Bunche's amusement, 30 years later.

COLLEGE ON SCHOLARSHIP

After high school, he continued working as a janitor and carpet-layer, jobs he had obtained to help support the family. But at the insistence of his grandmother, he accepted an academic scholarship and enrolled at the University of California at Los Angeles.

As in high school, he was a star in football and basketball at U.C.L.A., but sustained a knee injury that bothered him for the rest of his life. Nevertheless, he always carried three little gold basketballs, reminders of three championship years on the varsity, and a United Nations associate said he thought they were Dr. Bunche's proudest possessions.

His passion for baseball and football also remained with him. Some United Nations officials never guessed that a few of the scribbled messages handed to him by security guards during meetings contained the scores of ball games.

To support himself in college, the young man spent his summers working on ships. The job began in 1923 when he stowed away on a ship to save the cost of railroad fare to a Reserve Officers Training Corps summer camp.

He was caught and put to work to earn his passage, but he liked the job so much that he worked ships for the next three summers.

He received his Bachelor of Arts degree with Phi Beta Kappa honors in 1927, and went on to Harvard to take a Master of Arts in 1928 and his doctorate in government and international relations in 1934. He later did advanced work in anthropology at Northwestern University, the London School of Economics and the University of Capetown.

MARRIED HIS STUDENT

Dr. Bunche joined the faculty of Howard University in Washington in 1928, and there, a year later, he met Ruth Harris of Montgomery, Ala., one of his students, who also was teaching in an elementary school. They were married on June 23, 1930, and moved to Harvard, where he was beginning his doctoral studies.

From 1938 to 1940, Dr. Bunche collaborated with Gunnar Myrdal in his researches on "An American Dilemma." Their questions about interracial sex relations aroused a mob of angry whites who chased them across Alabama one night.

When the United States entered World War II, Dr. Bunche was rejected for military service because of his damaged knee and hearing impaired by a mastoid operation. But he joined the War Department as an analyst of African and Far Eastern affairs and quickly rose through the ranks of Strategic Services. In 1944, he moved to the State Department and became head of the Division of Dependent Area Affairs, dealing with colonial problems. By the war's end, he was in the mainstream of planning for the organization that was to become the United Nations.

In 1944, he was at Dumbarton Oaks, laying the groundwork. In 1945, he was at San Francisco, drawing up the trusteeship sections of the United Nations Charter. In 1946, he was in the United Nations delegation to the first General Assembly in London.

AT LIE'S REQUEST

Later that year, he went on loan to the United Nations at the request of Secretary General Trygve Lie, and in 1947 he quit the State Department to join the permanent Secretariat of the new world body.

In the Secretariat, he directed the operations of the Trusteeship Division and set up the guiding principles under which numerous territories achieved statehood. His expertise on African affairs and the problems of the emerging African nations was broad and acquired first-hand.

The year after his stunning success in the negotiations at Rhodes, he was offered—but rejected—the post of Assistant Secretary of State. "Frankly," he said at the time, "there's too much Jim Crow in Washington for me—I wouldn't take my kids back there."

By 1955, Dr. Bunche held the title of Under Secretary and two years later Under Secretary for Special Political Affairs. During those years, he was the principal troubleshooter for Dag Hammarskjold.

Among his tasks were the United Nations program on the peaceful uses of atomic energy and research on the effects of radiation.

When the United Nations managed to halt the British-French-Israel invasion of the Suez area in November, 1956, Dr. Bunche organized and directed the deployment of a 6,000-man neutral force that acted as a buffer between the belligerents. This force was his special responsibility until 1967, when President Gamal Abdel Nasser of the United Arab Republic demanded its withdrawal.

In 1960, he directed another peacekeeping force in the Congo, preventing the new republic's total collapse after the secession of Katanga province.

When the United Nations force in Cyprus was set up in March, 1964, Secretary General Thant put Dr. Bunche in charge of the 6,000 troops that stood between Cypriotes of Greek and of Turkish origin.

In all these efforts, Dr. Bunche viewed the use of troops as part of the larger work of bringing warring peoples to the conference table and hatreds under control.

For his work, there were awards—scores of them, a torrent of medals, prizes and more than 50 honorary doctorates. He became a trustee of Oberlin College in 1950, a member of the Harvard board of overseers from 1959 to 1965, president of the American Political Science Association in 1953–54 and a trustee of the Rockefeller Foundation in 1955. In 1963, President John F. Kennedy gave him the Medal of Freedom, the nation's highest civilian award.

The Bunches have lived since 1953 in a Tudor-style home in Kew Gardens, Queens. Until his eyesight began failing, Dr. Bunche drove his own car to work daily.

He loved the theater and the opera, and on occasion the stars he admired visited his 38th-floor office in the Secretariat building.

TENNIS CLUB REBUFF

In 1959, he was involved in a much-publicized incident in which he and his son, Ralph Jr., were refused membership in the West Side Tennis Club at Forest Hills. Dr. Bunche took up the cudgels and received an apology, and the club official responsible for the rebuff resigned. Dr. Bunche then declined an offer of membership.

He was angered because the change appeared to be based on his personal prestige, and not on any principle of racial equality. "No Negro American can be free from the disabilities of race in this country until the lowliest Negro in Mississippi is no longer disadvantaged because of his race," he said.

There were other occasions on which he was moved to protest racial discrimination. He first walked a picket line for the National Association for the Advancement of Colored People in Washington in 1937. In 1965, though not in the best of health, he participated in marches on Selma and Montgomery, Ala. He served as an active member of the N.A.A.C.P. board of directors for 22 years until his death.

In the last year Dr. Bunche became seriously ill. In June, a month after being hospitalized, he retired from his United Nations post. The retirement was not announced until later because Mr. Thant had hoped Dr. Bunche would recover and be able to return to his duties. But this was not to be.

Dr. Bunche is survived by his widow; son, Ralph Jr.; daughter, Joan, and three grandchildren. Another daughter, Mrs. Burton Pierce, died in 1966.

Dr. Bunche's body may be viewed by the public at Frank E. Campbells, Madison Avenue, and 81st Street starting at 7 tonight. The Rev. Ernest T. Campbell will conduct the funeral services at the Riverside Church at noon Saturday. Private burial services will follow at the Woodlawn Cemetery.

Tributes Are Led by Thant and Nixon

(By Thomas A. Johnson)

United Nations, N.Y., December 9.—Shaken by the loss of "an incomparable friend and colleague," United Nations Secretary General U Thant, described Dr. Ralph J. Bunche today as "an international institution in his own right, transcending both nationality and race in a way that is achieved by very few."

Opening the General Assembly session this afternoon, Mr. Thant gave the first of scores of tributes at the session to his former Under Secretary, Dr. Bunche, who died early today.

Seated, and looking up only now and then, Mr. Thant said:

"He was the most effective and best known of international civil servents, and his record of achievement as an individual member of the Secretariat's was unsurpassed."

Praising Dr. Bunche for his "integrity," "insight," "kindness, humor and deep compassion," Mr. Thant said that "he was an outstanding example of that new 20th-century breed of international officials who devote all of their gifts and their very lives to the service of the community of mankind."

The news of Dr. Bunche's death brought tributes and expressions of sorrow from around the world.

PRESIDENT'S TRIBUTE

President Nixon said: "Dr. Bunche never relented in his persistence to advance the cause of brotherhood and cooperation among men and nations. America is deeply proud of this distinguished son and profoundly saddened by his death."

Secretary of State William P. Rogers said: "No American has worked more faithfully, more persistently, or more effectively in the cause of peace in our generation."

The United States Ambassador to the United Nations, George Bush, said: "Though we Americans take pride in the fact that he was an American, he was truly a citizen of the world."

Premier Golda Meir of Israel, currently in New York, said: "There is hardly anybody outside of Israel who was so intimately connected with the state of Israel from its very emergence. . . . His wisdom, objectivity and ability are sadly needed in the troubled world of today."

Several civil rights groups also paid tribute to Dr. Bunche.

Roy Wilkins, executive director of the National Association for the Advancement of Colored People, noted that Dr. Bunche had served for 22 years as a board member of the N.A.A.C.P., "never failing us as a source of wise and understanding counsel and support. It will remain for the historians and biographers to set forth the Ralph Bunche record in the full richness of its dedication, wisdom and service to humanity."

The executive director of the National Urban League, Vernon E. Jordan Jr., said: "His name has been an inspirational beacon to young black people for decades. As an educator, Scholar and activist, he was in the forefront of those building a great, new black consciousness in the thirties and forties."

[From the New York Times, Dec. 10, 1971]

The Faith of Ralph Bunche

For Americans and many others, Ralph J. Bunche was a personification of the United Nations, which he served capably and selflessly for nearly a quarter-century. The decisive role he played in some of the U.N.'s more spectacular political successes had made of him almost a symbol of the United Nations at its best.

His life was a striking fulfillment of the American dream: the poor Negro boy, orphaned early, who overcame both poverty and racial prejudice, reaching the highest academic level through brilliance and hard work, spending his talents prodigally for a generation in the service not just of his own country but of all countries and the cause of world peace.

Dr. Bunche undoubtedly will be remembered longest for stepping into the breach left by the assassination of Count Bernadotte and painfully, relentlessly hammering out the armistice between Israel and the Arab states in 1949. This was the achievement that won him the Nobel Peace Prize and a host of other honors; but it revealed something of his practical side as a diplomat and his vision as a statesman that he took even greater satisfaction from organizing the United Nations peace force that acted successfully as a buffer in the Middle East for more than a decade.

"For the first time," he said in explanation, "we have found a way to use military men for peace instead of war." For many who came in contact with him the most impressive thing about Dr. Bunche was not his skill as a mediator and conciliator, great as that was, but a faith in the United Nations that never flagged despite its failures and disappointments.

It was this faith that Lord Caradon underscored in a memorable tribute to Dr. Bunche as "one of the greatest Americans." For more than two decades, said Lord Caradon, "in spite of all kinds of difficulties and discouragements, he has set an example to us all, an example of courage and indefatigable effort."

Through his long and debilitating recent illness, which forced his retirement from the U.N. a few weeks ago, Dr. Bunche maintained that courage and kept that faith. His memory should be an inspiration to the peacemakers, but it is sadly ironic that his death should occur just as the U.N. stands helplessly by at the outbreak of a new and savage war in Asia.

[From the Washington Post, Dec. 10, 1971]

Ralph J. Bunche

There can hardly be a land in which the death of Ralph Bunche will not be mourned as though he were one of their own. He rose beyond nationality until in a true sense he was a citizen of the world, with all mankind his constituency. His was the noblest service to which a man could be committed—the service of peace. All his life, it seemed, was a preparation for that service, an education in the arts of conciliation and rapprochement and the promotion of understanding, the essential stuff of diplomacy.

He learned as an American how to moderate the implacable mistrusts of racial antagonism. And he learned as an international civil servant, rising to the summit of the United Nations hierarchy, how to assuage inveterate rivalries and hostilities between nations. It seems quite fair to say that the U.N. achieved its highest usefulness and effectiveness in the time when Ralph Bunche painstakingly worked out an Arab-Israeli agreement on the island of Rhodes that preserved an uneasy peace in the Middle East for the better part of two decades and when he headed the U.N.'s successful effort to prevent the spread of civil war in the liberated Belgian Congo. Like another great leader of his race, he had a dream—of a United Nations capable of keeping the peace—and he spoke eloquently of it accepting his Nobel Peace prize in 1950. An excerpt from that address, reprinted For the Record elsewhere on this page today is a sad reminder—made all the the sadder by the warfare now raging unabashed in the Asian subcontinent, of how little the world has learned from his wise counsel.

Though he was a man of peace and a man of reason, Ralph Bunche was also a man capable of boiling indignation at the injustices and discriminations inflicted upon Negroes in America. He was, in the best meaning of the term, a militant champion of human equality. He served that cause most conspicuously and perhaps most effectively when he declined an offer by President Truman to make him an assistant secretary of state. He declined the offer, he said quietly and articulately, because he did not wish to subject his wife and children to the indignities of segregation that then prevailed in Washington. His statement stung the conscience of the country and roused it as no amount of ranting or violence could have done.

Ralph Bunche was a gentle, learned man of action. He achieved much in the long years of his service to peace. And he left a legacy of hope in the depth of his belief in the perfectability of man.

[From the Washington Post, Dec. 10, 1971]

Ralph Bunche's Dream Of U.N. as Peacekeeper

(What follows is an excerpt from Ralph Bunche's Nobel lecture delivered at Oslo on Dec. 11, 1950.)

To make peace in the world secure, the United Nations must have readily at its disposal, as a result of firm commitments undertaken by all of its members, military strength of sufficient dimensions to make it certain that it can meet aggressive military force with international military force, speedily and conclusively.

If that kind of strength is made available to the United Nations—and under action taken by the General Assembly this fall it can be made available—in my view that strength will never again be challenged in war, and therefore need never be employed.

But military strength will not be enough. The moral position of the United Nations must ever be strong and unassailable; it must stand steadfastly, always, for the right.

The international problems with which the United Nations is concerned are the problems of the inter-relations of the peoples of the world. They are human problems. The United Nations is entitled to believe, and it does believe, that there are no insoluble problems of human relations, and that there is none which cannot be solved by peaceful means. The United Nations—in Indonesia, Palestine and Kashmir—has demonstrated convincingly that parties to the most severe conflict may be induced to abandon war as the method of settlement in favor of mediation and conciliation, at a merciful saving of untold lives and acute suffering.

Unfortunately, there may yet be some in the world who have not learned that today war can settle nothing, that aggressive force can never be enough, nor will it be tolerated. If this should be so, the pitiless wrath of the organized world must fall upon those who would endanger the peace for selfish ends. For in this advanced day, there is no excuse, no justification for nations resorting to force except to repel armed attack.

A WAR THAT CANNOT BE WON

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, December 10, 1971

Mr. DERWINSKI. Mr. Speaker, the tragic developments between India and Pakistan will create new problems and leave scars that may never heal and, in my judgment, no one will emerge a winner in this unfortunate conflict.

One of the most objective editorial commentaries on this crisis which I have read is the Chicago Tribune's of December 7 which properly makes the point of U.S. impartiality in efforts to produce an end to the fighting and the complications which produced it.

The editorial follows:

A War That Can't Be Won

We're proud of the impartial effort the United States has made to end the war between India and Pakistan despite the blatantly partial obstructionism of the Soviet Union on India's side and Red China on Pakistan's. The saying that it is no longer possible to win a war is especially true of this one.

The original meaning of this saying was that in a war like World War II, the victors are left in almost as bad shape as the vanquished. It picked up new meaning with the discovery that the world can no longer afford to allow one side to win, even in localized wars, if a one-sided victory would upset the delicate balance between east and west.

But even in the simple, old fashioned sense, there can be no real victor in the present war. Oh, India may think it can win—and in an immediate and military sense it may be right. It has superiority in the air, on the ground, and at sea. And with the Soviet Union running intereference for it in the United Nations, India obviously hopes to forestall any effective U.N. action, whatever the General Assembly may do, while it finishes off a blitz war designed to set up East Pakistan [otherwise known as East Bengal or Bangla Desh] as an independent Bengali state while at the same time keeping Pakistan from occupying Kashmir.

India could then present the world with a fait accompli, as Israel did in 1967, and the U.N. would be left talking largely to itself. True, India has denounced Israel for doing just what India seems to be doing now, but then consistency never was one of India's strong points.

But assuming this happens, what then? There will still be 10 million starving refugees in India, and countless others as well will be left homeless or jobless by the war. The problem won't go away simply because India is able to install a puppet government in East Bengal.

And if the 75 million predominantly Moslem Bengalis of East Bengal become independent, what will India do about the inevitable desire of perhaps 40 million predominantly Hindu Bengalis in West Bengal to separate from India and join their brethren in a new Bengali state which would then be the sixth most populous country in the world, roughly equal to Pakistan in population and economic strength?

After all, most Bengalis regard themselves as Bengalis first and Hindus or Moslems second. Once this crisis is over, India can't count on their abiding allegiance. West Bengal has been a hotbed of opposition to the New Delhi government and is a stronghold of the Maoist Communist Party even tho the Chinese have supported Pakistan in the suppression of the East Bengalis.

Would India be willing to restore to East Bengal its prewar share of the world jute market even tho this profitable business is now being diverted to Indian jute mills?

In short, an Indian victory would solve little and would leave India bordered by a vengeful Pakistan and a Red China eager to make up for its loss of face.

The Nixon administration has been accused of favoring Pakistan by pointing out that India, too, must share the blame for the war. But in the view of these liberal critics, impartiality means taking India's [and the Soviet Union's] side and thus encouraging precisely the sort of military solution which they profess to abhor when it doesn't suit their purposes.

Our impartial efforts in the U. N. have the support of a majority of the members [an unaccustomed pleasure for us]. If the U. N. can be prevailed upon to stop the fighting, we shall have performed a worthy humanitarian service. If not, it will be because of the stubbornness of those "peace-loving" countries, the Soviet Union and China, which are so ready with sanctimonious advice when somebody else's fingers are in the fire. In the history books of the future, if nowhere else, we should rate an "A" for effort.

THE FOREIGN AID APPROPRIATIONS VOTE

HON. JOHN C. CULVER

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 10, 1971

Mr. CULVER. Mr. Speaker, I am reluctantly voting against final passage of the foreign aid appropriations bill. I do not come to this decision easily, but I do so as one who genuinely believes in the necessity for a constructive program of international assistance. My vote, therefore, is not a "farewell to foreign aid," but a vote which seeks to encourage a recognition by both the Executive and Congress that foreign aid has little value if it represents merely the lowest common denominator of tolerance and support.

Some small improvements were reached during the course of the debate today such as in the provision of $150 million for the Inter-American Development Bank. However, the changes which were voted fell considerably short both of the intentions we had in the authorizing legislation, and of the real requirements of our national interest.

The departure from the normal procedures of voting appropriations only subsequent to final approval by the full Congress of authorizing legislation lacked justification. Furthermore, I do not feel the action taken by the House is likely to break the legislative impasse which exists on the foreign aid bill.

Among the principal deficiencies in the appropriations legislation is the failure to even compromise on a sum for the United Nations development program; the imbalance which exists between economic aid which is developmental and humanistic as against aid which is primarily military in its character; the low level of funding for most of the multilateral and international aid agencies; and the very tight budget for the Peace Corps.

In addition, this bill is too much a receptacle of extraneous, and in some cases, hasty policy judgments. It does little to set foreign aid on a newer and firmer course as both the President and many Members of Congress have espoused.

Under these circumstances, I feel the wisest and more honest course is to vote against this bill on final passage.

DOCK STRIKES COSTING AMERICAN AGRICULTURE SEVERE ECONOMIC LOSSES

HON. MARK ANDREWS

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 10, 1971

Mr. ANDREWS of North Dakota. Mr. Speaker, current dock strikes are costing American agriculture severe economic losses. Farmers and farm commodity exports are forced to suffer even though the contracts in dispute do not pertain to grain and oil seed stevedoring. During Senate subcommittee hearings November 5 of this year, private efforts to separate grain handling from other reoccurring dock strike issues were described by an executive of a major exporting company, H. Robert Diercks. The proposal outlined in his testimony would not interfere with labor and management attempts to work out differences, but it does present an alternative that could have averted farm export losses estimated upwards of $500 million this year alone.

In order that my collegues will be able to share these remarks, I am inserting Mr. Diercks' statement in the RECORD:

TESTIMONY OF H. ROBERT DIERCKS

My name is H. Robert Diercks. I am Vice Chairman of the Board of Cargill, Incorporated, Minneapolis. I am appearing here today as chairman of an informal association of firms operating all of the grain, soybean and soybean product export facilities from Maine to Texas. The purpose of my testimony today is to describe the efforts this association has made to avoid or to minimize the impact on farm exports of dock strikes.

In the past quarter century our facilities have been closed by strikes of longshoremen on the expiration of labor contracts eight consecutive times. Although Taft-Hartley injunctions have been issued in each case except the present one, losses to producers and handlers of grains and oilseeds have been enormous. When bulk loading facilities are closed in these Atlantic Gulf ports, surpluses back up in the pipe line, depressing farm prices, tying up storage and transportation facilities and forcing layoffs of workers throughout the system. Most important in the longer term, foreign buyers who otherwise might rely on the United States as their principal supplier, must seek other arrangements to fill immediate needs and to protect against such interruptions in the future.

There is little justification for tying up grain and oilseed handling facilities in these strikes. The issues involved in stevedoring these commodities are seldom difficult to resolve. The issues mainly responsible for prolonged dock strikes in recent years—the handling of containerized cargo and the guaranteed annual wage—have not been serious problems in our industry. Grain and related bulk commodities have never been handled in containers. The principal issue in the current strike—the guaranteed annual wage in the Port of New York—does not apply to us at all. Grain has not been handled in the Port of New York for many years.

Despite the absence of serious issues, we have been forced to take costly strikes (1) because we have little voice in the maritime associations and their negotiating committees and (2) the real parties in interest—the steamship companies and general cargo handlers who dominate these associations and the longshoremen who work the docks—do have serious differences and neither is as vulnerable to the damage produced by strikes.

Thus, even though few serious issues have existed between longshoremen and stevedores who handle grains and related bulk commodities, we have been forced to take strikes that inflict great damage on a broad segment of the nation's economy because the decisions on which the strikes have hinged have been controlled by others who do have serious problems and who are less damaged by the effects of strikes.

The strike of longshoremen three years ago was the most costly in our history.

Shortly after the strike ended, my company resolved to try to avoid a similar experience when the newly formed contract expired this year. We entered into discussions with other firms who shared our interests—those firms which comprise the association for whom I am appearing today—and found broad agreement that something should be done to break the pattern of the past. Being the conduit by which these commodities reach foreign markets, this group felt a deep responsibility to the farm community to be able to perform this service. We concluded that this might be accomplished in either one of two ways:

First, we could insist in each of the employer associations that stevedoring firms handling grain and related bulk commodities be permitted to negotiate separately the issues that applied only to the handling of these commodities. Once these issues were resolved, work could continue even though general cargo operations were struck. Firms handling these commodities would agree to be bound on a retroactive basis by the more general terms ultimately negotiated by the committee representing the employer association.

Or, secondly, firms operating facilities for the export of grains and other related bulk commodities could form their own stevedoring companies whose sole activity would be restricted to stevedoring those commodities. These firms would form their own employer association in each port and negotiate a separate contract with the union.

Under either arrangement, these operations could continue or resume even though the more general issues in the broader negotiation remained unresolved.

In July, 1970 an informal organization of these firms was formed and a steering committee appointed to explore these and other alternatives with the International Longshoreman's Association and with the employer associations in Atlantic and Gulf ports. On September 30, 1970, the steering committee met with the president of the International Longshoreman's Association. They were assured that separate negotiations were acceptable but that all coasts (which was interpreted to mean the Atlantic and Gulf coasts) must be negotiated together though the negotiations could take account of local conditions. Subsequently, meetings were arranged with the leaders of key employer associations in Atlantic and Gulf ports to explore the possibility of new arrangements which would permit separate negotiation of issues applying only to the handling of grain and other related bulk commodities. The employer associations flatly rejected any such arrangements.

At a meeting of our association on June 4, 1971 it was agreed that members would form their own stevedoring companies to handle only grains and other related bulk commodities and that these new stevedoring firms would organize their own associations in each Atlantic and Gulf port to negotiate separate contracts for the handling of these commodities.

On June 22, 1971, as chairman of the association, I wrote to the president of the International Longshoreman's Association asking for another meeting "to make sure we are in a position when the present contract expires to negotiate successfully a separate contract on behalf of our members if it is necessary to avoid a strike. . ." Receiving no response, on July 15, 1971 I telephoned him restating our request for a meeting. At that time he said he was preoccupied with a meeting of his association but would call to arrange a meeting with us after July 26. No such call was received.

On September 30, 1971, the day the then current agreement was to expire, Mr. Jerry Jenks, then chairman of our negotiating committee, wired the president of the International Longshoreman's Association expressing our urgent desire to meet and requesting that he name a negotiating committee and set a time and a place for negotiations. No response to that wire has been received.

The following day the International Longshoreman's Association struck Atlantic and East Gulf ports. Subsequently, we urged the President to invoke Taft-Hartley to reopen Atlantic and East Gulf ports or alternatively, to invoke the Act selectively to reopen facilities handling grain and other related bulk products in these ports during the critical harvest months.

As you know, the President has not responded to these requests.

On October 14, 1971, I addressed a letter to the president of the International Longshoreman's Association reviewing our past discussion. I reminded him that we were prepared to discuss the three areas of major concern to him—namely, a contract covering ports from Maine to Texas, a guaranteed annual wage and wage rates and related benefits.

We are still hopeful that the ILA will agree to proceed with negotiations with stevedores handling only grains and other related bulk commodities, despite the discouraging lack of response to our repeated requests that a committee representing the ILA be named and a date for discussions set. For the moment, at least, the issue is clouded by the injunction granted in the Port of New Orleans, the decision of longshoremen in at least one other port to follow New Orleans and the decision of other maritime unions to picket on a selective basis the loading of certain vessels of foreign registry. However, if our efforts fail, a legislative solution to the problems I have described seems essential. At peak loading periods no more than 500 to 700 longshoremen are employed in the handling of grains and related bulk commodities at Atlantic and Gulf ports. The interests of these few workers, most of whom derive their principal income from other sources, cannot justify prolonged strikes at regular intervals that inflict heavy damage on a broad sector of the nation's economy.

Thank you.

EDGAR POE ELECTED PRESIDENT OF THE GRIDIRON CLUB OF WASHINGTON, D.C.

HON. HALE BOGGS

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 10, 1971

Mr. BOGGS. Mr. Speaker, it was a great pleasure for me to learn recently that my longtime friend, Edgar Poe, the Washington correspondent of the New Orleans Times-Picayune, has been elected president of the Gridiron Club of Washington, D.C.

The Gridiron Club, as we all know, is an organization of veteran Washington journalists which brings together annually representatives of the Press Corps and of Government for the purpose of spoofing public officials.

Ed Poe's election comes as good news to his many friends and especially to those of us who hold public office. I can recommend him to you as a man of unusual fairness and objectivity, whose credentials as a reporter make him eminently qualified to stoke the gridiron griddle.

Let me tell you about this distinguished reporter who has been my good friend for almost 30 years:

Ed Poe was born in Jasper, Ala., and has been a reporter just about ever since. He joined the Times-Picayune in the spring of 1930, and mastered the art of political reporting by covering the politics of Louisiana and Mississippi. After a stint as a war correspondent in the South Pacific—which must have seemed tame by comparison—he joined the Washington Bureau of the Times-Picayune and he has been here ever since.

In addition to his membership in the Gridiron Club, he is vice president of the White House Correspondents Association, treasurer of the Overseas Writer, and a member and former president of the Washington Chapter of Sigma Delta Chi, the honorary journalism fraternity.

All of this tells us about Ed Poe the professional, but I will advise you that he is more than an outstanding reporter: He is a fine person, and I am proud to number myself among his many friends.

His election as president of the Gridiron Club is, of course, a great honor, but it is only a small measure of the esteem and admiration he enjoys from all of us.

To Ed Poe and his wonderful family, I express my warmest congratulations on this happy honor.

Mr. Speaker, I am inserting an article from the Times-Picayune of Sunday, December 5, and calling it to the attention of my colleagues:

TIMES-PICAYUNE'S POE NEW PRESIDENT OF NATIONAL GRIDIRON CLUB—DISTRICT OF COLUMBIA CORRESPONDENT IS ELECTED BY UNIT

(By James Free)

WASHINGTON.—Edgar A. Poe, The Times-Picayune Washington correspondent, Saturday was elected President of the Gridron Club, an institution unique in American journalism.

Since 1885 this country's biggest wheels have been spoofed in skits and songs and sizzled on the verbal griddle by the Gridiron Club, the active membership of which is limited to 50 Washington-based newspaper correspondents and editors.

All Presidents of the United States, in the club's 86 years, with the sole exception of Grover Cleveland, have attended one or more of the club's annual white tie dinners.

Poe succeeds Jack Bell of the Gannett News Service. Other officers elected were Robert Roth, on The Philadelphia Bulletin, vice president; Jack Steele, Scripps-Howard newspapers, secretary; Richard L. Wilson, Des Moines Register and Tribune, treasurer; and Jerald Terhorst, Detroit News, historian.

EXECUTIVE PANEL

Elected to the executive committee were: Rudolph Kauffman II, Washington Evening Star; Julius Frandson, United Press International; and Lucian C. Warren, Buffalo News. Poe, who has been a Washington correspondent for The Times-Picayune since March, 1947, was nominated for the presidency by Newbold Noyes, Washington Evening Star, and the seconding speech was by Philip Potter, Baltimore Sun.

Following the club's annual business meeting earlier in the day, Poe delivered his acceptance address at the annual "closed" black tie dinner at the Statler Hilton Hotel.

A native of Jasper, Ala., Poe was a reporter on the Birmingham Age-Herald for a short time before joining The Times-Picayune staff on Easter Sunday in 1930. He covered Louisiana politics during the Huey Long era, reported activities of the Louisiana and Mississippi Legislature, served as Mississippi correspondent for The Times-Picayune and was a war correspondent in the Pacific.

ASSIGNED IN 1947

He was assigned to the Washington Bureau of The Times-Picayune in 1947, working with Paul Wooton until Wooton's death on Feb. 16, 1961. Poe is vice-president of the White House Correspondents Association, treasurer of the Overseas Writers, a former president of the Washington chapter of Sigma Delta Chi, a former member of the standing committee of correspondents (at the U.S. Capitol.)

In 1967, Poe was cited for "distinguished Washington correspondence" by the University of Alabama alumni National capital charter.

With Treasury Secretary John B. Connally, Jr., the ranking guest at the little "closed" dinner Saturday, the gridiron chorus, under the direction of Col. Albert F. Schoepper of the U.S. Marine Band, sang the "Edgar Allen Poe Song" to the tune of "Way Down Yonder in New Orleans." The dinner followed the business session earlier in the day.

The lyrics to the song follow:

Look who's made it from New Orleans
Just as southern as turnip greens
He's a Dixieland dandy
A good ol' boy.
Gridiron Clubbers all yell hurrah!
Every meetin's a Mardi Gras Stop!
A handy man, a corn pone knight,
When we rehearse
Stop!
(He'll loosen up all that is tight
(And vice-e verse
(Chorus)
(Gestures chairman to pres-i-dent
(How is that for extremes?
(That's our Ed-die from New Orleans.
That's our Ed-die from New Orleans.

Poe in his five-minute acceptance speech following the song, told fellow Gridironers and the cabinet officers:

"I don't expect to go to Peking with President Nixon in February, but things look favorable for me to go with him to New Orleans in January for the Super Bowl. And that's not Picayune."

There were numerous other quips.

During the evening retiring president Bell passed the Gridiron gavel to his successor with warm congratulations.

HOW MANY CHILDREN ARE GOING TO DIE TODAY?

HON. FRANK J. BRASCO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, December 10, 1971

Mr. BRASCO. Mr. Speaker, on December 30, 1970, President Nixon signed into law the Poison Prevention Packaging Act. It had been passed by the Congress in response to an appalling situation which to this day continues to exist.

Each year, 600,000 American children under age 5 are poisoned by ingestion of hazardous substances. This comes to approximately 6,000 daily, or about one every 30 seconds. At least one such child dies every day of the year, because of this kind of poisoning. For each one that dies, at least one other is crippled for life.

What poisons them? Everyday household products sold in most stores across the Nation. All are marketed by industry with a fine disregard for safety. Lye, oil of wintergreen, aspirin, prescription drugs, furniture polishes, antifreeze, pesticides, mothballs, Drano, gasoline, and cosmetics are only a few such products. Any detergent, particularly those with caustic substances will annihilate a young child if enough is swallowed. This situation is widely known, and has been discussed ad infinitum, ad nauseum.

What might the answer be? Safety closures costing a fraction of a cent each, which are technically feasible and patented by the dozen. All are easily available to industry, if it seeks to utilize them.

This is exactly what the 1970 law sought. It simply requires that all hazardous, commercially available substances be labeled as such for the purpose of being equipped by industry with safety closures. It also requires standards of effectiveness for such safety closures to insure that they will resist efforts of the overwhelming majority of children to open them.

The Department of Health, Education, and Welfare is charged with responsibility for enforcing this measure. Its subsidiary, the Food and Drug Administration, is the immediate organization charged with consumer well being. Specifically, the Product Safety Division of FDA is supposed to lead the way in alleviating this intolerable situation the law was passed to correct. Sad to say, none of the Government organizations mentioned have seen fit to even partially live up to their responsibilities. The public and Congress should be made aware of what is going on. In microcosm, what has happened to the Poison Prevention Packaging Act sums up what is wrong with our National Government's administrative apparatus.

In March, when the President proclaimed National Poison Prevention Week, Mr. Secretary Richardson, charged with overall supervision of the law, was off in Utah on a skiing vacation.

After months of prodding by concerned citizens, the media and Ralph Nader, FDA finally got around to appointing a Technical Advisory Committee. This group was supposed to meet in Washington, determine which products were dangerous enough to young children to require safety closures, and set standards of efficacy for them. Only two such gatherings have taken place since the measure became law.

A testing protocol was supposed to be set up, finalized, and published in the Federal Register. Under its terms, selected groups of children under age 5 were to be assembled and used to test different safety closures. From such tests, FDA could lay down standards which closures had to live up to, and inform all involved manufacturers what their responsibilities under the law were. For example, aspirin, which is responsible for approximately one-quarter of all poisonings, would have to be sold with closures 85 percent effective against the efforts of these groups of children to open containers. After being shown how to open the closures, it would have to be proof against the efforts of 80 percent of the test group to open them. Ninety percent of all adults had to be able to open the same containers.

Under persistent prodding, FDA published in the Federal Register standards for aspirin, oil of wintergreen, oil-based furniture polishes, and prescription drugs. Each was to conform to 85 percent standards of efficacy in safety closures. A 30-day period was set aside for comments by the affected manufacturers.

Meanwhile, the final form and publication of the testing protocol has been unconscionably delayed. Because the eventual ground rules for testing have been so delayed, manufacturers have been able to obtain one delay after another on specific action on closures themselves. Meanwhile, children die and are poisoned daily by the thousands.

Ten and one-half months have elapsed since we passed this law. The general public still operates under the delusion that somewhere, somehow, Government is protecting them against such menaces. In this case, such is not the case.

Mr. Speaker, I look upon the Food and Drug Administration as something of a shrieking disgrace. The daily papers are replete with one horror story after another involving this agency and its nonperformance of its most vital responsibilities. When one agency or another fails to perform up to par, we can rightly bemoan it. But when FDA falls down, as it does constantly nowadays, people are killed or crippled for life; in this case, small children.

A cursory inspection of any compartment under a sink or any medicine cabinet yields a frightening harvest. Dozens of daily products, available in any drug store or market, are lethal when ingested by a young child. The law is plain, and FDA's responsibility is fixed. How, then, can this agency so blatantly abdicate its charge by the public?

In mid-July, Dr. Edwards, head of FDA, appeared before the Senate Commerce Committee. At the time he pledged that a series of standards requiring safety closures for hazardous products would be forthcoming at a rate of one a week for 10 weeks. This has not taken place.

Industry, loathe to spend even a pittance for child safety willingly, has been actively lobbying against strict enforcement of the law. Are we to conclude that FDA listens more attentively to such voices than to the mandate of the Congress? Do small children's lives mean so little to them.

A holiday season is almost upon us once again. Many young children will die and be crippled for life, because of further inaction on this measure. Such a situation is to me utterly intolerable. Further delays are inexcusable. Further extensions for those products already under notice are just as inexcusable.

Twenty-four hours from now, another 6,000 youngsters will have been poisoned by poisonous substances. What will the administration do to enforce this law? Or will we continue to allow the slaughter of innocents?

MY FRIEND TURNER ROBERTSON

HON. WILLIAM H. NATCHER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 9, 1971

Mr. NATCHER. Mr. Speaker, I rise to pay tribute to my friend, Turner N. Robertson, majority Chief Page of the House of Representatives.

Always a cheerful, humble, dedicated employee of the House of Representatives, and a true friend of all of the Representatives. Honor, ability, and integrity have always been the hallmarks of Turner Robertson's long career in the House of Representatives. With his ability, kindness, and understanding, he handled every assignment with dignity and honor. He has been a commanding figure throughout his long tenure in the House. He has always been a loyal defender of the legislative branch of the Government, and no one ever served in the House of Representatives Chamber who loved the House more than Turner Robertson. History will record the fact that he was recognized by everyone as the outstanding Chief Page of the House of Representatives.

I was sorry to hear that Turner had decided to retire. He will be missed by every Member of the House and all of his associates and employees in the legislative branch of the Government. I want to wish him and the members of his family all the very best in the future.

AN L.B.J. LEGACY

HON. HENRY B. GONZALEZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, December 10, 1971

Mr. GONZALEZ. Mr. Speaker, a man's background—his family, his home, his experiences, the educational institutions which have him as a pupil—all contribute to his destiny.

One educational institution which helped shaped the destiny of former President Lyndon B. Johnson was Southwest Texas State Teachers College at San Marcos, now named Southwest Texas State University.

The professors at Southwest Texas State, who had Lyndon Johnson as a student, likely never dreamed that one day he would be President of the United States. Perhaps the perception of some of them was such that they expected he had a potential for greatness, but even then they had little inkling just how large a role he would play in shaping and directing history.

However, lack of expectation for this Texas youth, did not prevent Southwest Texas State to invest time and effort in Lyndon Johnson. He had, after all, invested in education, and the college tried to give him all that he expected from that investment.

The Southwest Texas State College did what it should as an institution of higher learning for Lyndon B. Johnson, and has consequently reaped many benefits for fulfilling its mission.

Mr. Speaker, I am privileged to include in the CONGRESSIONAL RECORD a copy of an editorial which appeared in the San Antonio Light, one of the newspapers in my hometown, just following the dedication of the "L.B.J. at San Marcos" exhibition—another good reason why visitors from afar visit the college from which L.B.J. graduated.

The editorial follows:

[From the San Antonio (Tex.) Light, Nov. 13, 1971]

AN L. B. J. LEGACY

The College that helped Lyndon B. Johnson to develop his exceptional intellect was casting bread upon the waters and has been reaping its reward.

It is now named Southwest Texas State University. Its reputation has been greatly enhanced by association with the former President. It draws visitors from afar.

The "LBJ at San Marcos" exhibition is the latest attraction. Thousands attended the dedication to get a glimpse of Mr. and Mrs. Johnson and to inspect the physical evidence of the Johnson influence on the nation's educational system.

They saw the desk and chair used by LBJ when he signed the Higher Education Act of 1965. Also on view are copies of the 60 bills dealing with education which bear the signature of President Johnson.

LBJ took the opportunity to give a talk on the importance of education, including passages from his newly published book, "The Vantage Point."

Students of all ages formed the bulk of the audience, and many of them got the LBJ autograph as a souvenir.

INDIVIDUAL SPORTSMAN IS UNJUSTLY CRITICIZED

HON. EARLE CABELL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, December 10, 1971

Mr. CABELL. Mr. Speaker, in our continuing effort to conserve our natural resources, our mountains, our seas, our rivers, our woods, and our wildlife, no single individual is more unjustly criticized than the sportsman who enjoys hunting or fishing or camping in the open air.

He is an outdoorsman and, like his predecessors who hunted for his family's food, respects the out-of-doors and wishes to see it preserved and protected.

His contributions to the cause of ecology have seldom been so well-explained as in the attached article by Mr. Henry Stowers, outdoors editor of the Dallas Morning News.

It is well for those who advance the cause of ecology to look at the other side of the picture before concentrating their fire on those who give and who have given them so much of the financial aid upon which their protectionist campaign depends.

The article follows:

[From the Dallas (Tex.) Morning News, Nov. 19, 1971]

Henry Stowers—On and On . . . On and On

> The newly-spawned crop of econuts, those neophytes in environment and ecology who nevertheless have set themselves up as instant experts, have been giving the hunter a rough time.
>
> Self-appointed critics have the irrational view that hunters threaten wildlife with extinction through legalized hunting. And, unfortunately, their emotional tirades make the kind of sensational headlines preferred by the news media.
>
> First off, one must consider that the econuts have nothing to offer and have never offered any more than a lot of words. Facts hardly stand a chance, and certainly have no place in their quack solutions to environmental problems.
>
> A good example is the hue and cry they have raised against the Alaskan oil pipeline, claiming it's spillage will ruin fine fishing streams and that big animals will go down the drain from oil pollution. A more recent example is the suit aimed to stop the Trinity Navigation Canal. Another is the super-sonic transport ban. Then there was the screams against the recent nuclear test shot.
>
> Old-time Alaskans, particularly those familiar with the great outdoors of that state, look with amazement at the controversy about the pipeline while at the same time something far more damaging is causing not even a small voice raised in protest. This is the bold movement of Japanese and Russian cannery ships right into the mouth of Alaskan rivers and bays and with ten-mile nets hauling in millions of tons of migrating salmon and tuna.
>
> This kind of information, available to anyone, is hugely ignored by the news media and by the neophyte ecologists. But here are some of them anyway. Perhaps just one armchair expert will have an open mind.
>
> Last year hunters paid a record $101,607,879 in license fees which came from 15,370,481 hunters.
>
> The fees from 24,434,680 fishermen's licenses brought in a whopping $90,864,154. These are official Department of the Interior statistics.
>
> Add those together and for last year you can see that hunters and fishermen through their licenses alone shelled out $198 million-plus dollars that all went into conservation and game and fish management. And it also adds up to the fact that no game or fish species that ever legally pursued by the outdoorsman has ever become extinct. Protected species by the dozens, on the other hand have disappeared while the hunted species continues to thrive.
>
> Hunters and fishermen asked for and got a special excise tax on just about every item connected with their sport. And in addition to the hunting and fishing licenses this tax brought in a total of $43,905,000 last year which was returned to states for research and game and fish conservation projects.
>
> We can see the American sportsmen furnished over $235 million last year alone for protection management and research of the natural resources they harvest. They've been doing it for years, long before the word ecology was ever heard of. The econuts have contributed, so far as the record shows, nothing but words and harassment.
>
> The facts boil down to the answer that hunting is a functional tool of conservation in its truly practical form. Hunters harvest the surplus but they replenish the supply. This is a surplus that would partly be removed anyway by predators, sickness, age, starvation and many other built-in controls nature has provided.
>
> The econuts could possibly do some good with their millions of words against the hunter if they would aim them at destroyers of wildlife habitat and polluters of forests and streams. For habitat destruction is the real threat to wildlife, not hunting.

ADMINISTRATION SUPPORT FOR PRESCRIPTION DRUGS UNDER MEDICARE

HON. DAVID R. OBEY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Friday, December 10, 1971

Mr. OBEY. Mr. Speaker, the Washington Wire column in today's Wall Street Journal carries an item of special interest to me and the 113 Members cosponsoring my bill to provide outpatient prescription drug coverage under medicare. The item reads:

> New aid to the aged? HEW Secretary Richardson, on a cue from Nixon, pushes hard for Medicare payment for drugs needed by nonhospital patients. Any administration proposal would likely cover only drugs used to treat chronic illness. Old folks might have to pay part. Even so, the government's cost could reach $1 billion a yar.

Without accepting the $1 billion estimate for a program limited to those who are chronically ill, I am pleased nonetheless to learn that the administration will be supporting the concept embodied in this bill (H.R. 2355), of which the chief features are:

First, coverage of prescription drugs and certain nonprescription drugs of special life-sustaining value;

Second, financing under the part A—payroll tax—portion of medicare—unlike most other proposals, which would finance drug insurance through higher monthly premiums under the part B portion;

Third, selection by a formulary committee of the drugs to be covered;

Fourth, $1 copayment by the purchaser for each prescription.

Clearly, administration support enhances the chances that this bill can be enacted in the second session of this Congress.

MONTHLY LIST OF GAO REPORTS

HON. JACK BROOKS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, December 10, 1971

Mr. BROOKS. Mr. Speaker, the Comptroller General's monthly list of his reports is proving to be a valuable and time-saving device for members and their staffs. Requests to the General Accounting Office for copies of its reports have increased sharply since the first monthly list was issued to the Congress on February 5, 1971.

The list was a requirement of the Legislative Reorganization Act of 1970, and I am pleased that it obviously has stimulated more interest in the work of that Office which, as you know, is an arm of the Congress.

The list of reports issued during the month of November 1971 follows:

LIST OF REPORTS

I. REPORTS TO CONGRESS, COMMITTEES, OR MEMBERS

Commerce and Transportation

Site selection and contract awards for construction and mechanization of the New York Bulk and Foreign Mail Facility. United States Postal Service. B–171594 of October 29, 1971, released by Representative H. R. Gross, November 10.

The cost of the facility will substantially exceed the initial cost estimates because of problems in site selection and preparation, selection of contractors for architect and engineering services, contract award and evaluation, and a sole-source procurement of parcel-sorting machines.

Savings available by consolidating certain reserve fleet activities. Departments of Commerce and Defense. B–168700 of November 18.

The Maritime Administration, the Navy, and—to a lesser extent—the Army maintain inactive vessels at reserve fleet sites on the east, west, and Gulf coasts. They have a common mission of preserving the reserve fleets in the best condition possible with available funds in case they are needed for commercial or national defense purposes.

Because the reserve fleet activities of these agencies are similar and fleet sites are close to each other, GAO reviewed the situation to see if it would be practicable to consolidate the management of Maritime, Navy, and Army fleet sites in the Beaumont, Texas, and San Francisco, California, areas. It would be.

Maritime was receptive to the idea of working with the Navy and the Army to achieve the proposed consolidation of reserve fleet functions and advised GAO that it would be appropriate to make a concurrent study of the feasibility of consolidating other reserve fleets.

Audit of financial statements of St. Lawrence Seaway Development Corporation, calendar year 1970. Department of Transportation. B–125007 of November 18.

In the opinion of the General Accounting Office, the financial statements of the St. Lawrence Seaway Development Corporation present fairly the financial position of the Corporation at December 31, 1970, and the results of its operations and the source and application of its funds for the year then ended, in conformity with generally accepted accounting principles applied on a basis consistent with that of the preceding year and with applicable Federal laws. This report contains no recommendations or suggestions requiring action by the Congress.

Progress and problems of Urban and Transportation Planning. Department of Housing and Urban Development, Department of Transportation. B–174182 of November 19.

Urban and transportation planning is being carried on, with Federal support, in every major metropolitan area. This review concentrates on urban and transportation planning for the Detroit metropolitan area because of its size and advanced planning process. To gain a broader perspective of urban planning, GAO also made limited inquires into the planning structures of 15 other metropolitan areas.

Detroit has a continuing planning process which has made, and should continue to make, some contribution to urban growth by developing plans for land use and transportation systems. GAO found that the situation in Detroit was similar to that of many other metropolitan areas. The Congress has under consideration several legislative proposals relating to urban and transportation planning. In view of the character and magnitude of urban planning problems, this report contains information which may be useful.

Growth and use of Washington area airports. Federal Aviation Agency, Department of Transportation. B–159719 of August 18, 1971, released by Senator William B. Spong, Jr., October 7, 1971.

The majority of jet service to the Washington area is furnished at its National Airport, near the center of the city. National is used at virtually maximum allowable levels, whereas the use of Dulles International Airport, nears Leesburg, Virginia, continues to be at a minimum much of the time.

Air carriers' schedules have resulted in a high use of Dulles during certain peak hours and virtually no use at other times and uniform use of National throughout the working day.

Because the use of Dulles has declined significantly since late 1969 and because FAA has tended to overestimate growth in the use of Dulles, the planned expansion of the Dulles terminal facilities seems to be questionable. Expansion would serve to accommodate the air carriers in their practice of scheduling most of their service during a limted peak period of the day.

Although a 1969 study found that FAA could take action to create a better balance in the use of the two airports, GAO found no indication that such action had been planned.

Education and manpower

Follow-up review of selected areas of financial and property administration of Federal City College, District of Columbia Government. B–167006 of March 15, 1971, released by Senator William B. Spong, Jr., November 4.

In GAO's prior report (August 1969), deficiencies were found in the administration of certain funds, tuition collection, accountability over supplies and equipment, and the college's control over allotted funds. The follow-up disclosed these types of improvements are still needed.

Opportunity to reduce federal costs under the Law Enforcement Education Program. Law Enforcement Assistance Administration, Department of Justice. B–171019 of November 3.

Under the Law Enforcement Assistance Administration grants are made to institutions of higher learning to improve the educational levels of those employed, or preparing for employment, in police, courts and correction services.

Funds advanced in fiscal years 1969 and 1970 were, respectively, $6.5 million to 485 institutions and $17.9 million to 735 institutions. In 1971, $21 million was appropriated for the program. Because the institutions overestimated their needs, they accumulated large amounts of the unexpended funds for use in the succeeding fiscal year. This resulted in increased and unnecessary Federal interest costs of about $440,000 from January 1969 through August 1970.

The Department of Justice is taking action to delay issuing funds to schools until the last possible moment and provide for the funding of institutional needs on a school-term basis.

General Government

Fees not charged for processing applications for new drugs. Food and Drug Administration; Department of Health, Education, and Welfare. B–164031(2) of November 4.

Under general Government policy, Federal agencies charge fees for services provided when these services result in special benefits beyond those which accrue to the public at large.

The Food, Drug, and Cosmetic Act contains no specific requirement that FDA charge fees for processing applications for new drugs. FDA's costs of providing these services averaged $3.9 million annually for fiscal years 1968–70, or about 5 percent of its total operating costs.

GAO recommends that the Secretary, HEW, establish fees for the services rendered by FDA unless the results of a study by HEW convincingly demonstrate that such fees should not be established.

Fees allowed nonsponsored not-for-profit organizations by various Government Agencies. B–146810 of November 26.

In February 1969, GAO reported a need to improve Federal agencies' guidelines for contracting research work with Government-sponsored, nonprofit contractors. These are organizations sponsored by an agency which has assumed responsibility for providing sufficient work and revenues to ensure retention of capabilities needed by the Government.

In addition to contracting with sponsored nonprofit organizations, Government agencies during fiscal year 1969 obligated about $260 million for basic and applied research to be performed by unsponsored, not-for-profit institutions (other than colleges and universities).

In this review, GAO examined agency policies and practices in the allowance of fees to unsponsored organizations. Most Federal agencies, GAO believes, have not given adequate recognition to the tax-exempt status of nonprofit organizations nor to the need for an appropriate adjustment of fees to place them on an equitable basis with commercial competitors. Accordingly, they may have a competitive advantage when dealing with Government agencies.

Health

Alcoholism among military personnel. B–164031(2) of November 2.

This review, made at the request of the Chairman, Subcommittee on Alcoholism and Narcotics, Senate Committee on Labor and Public Welfare, shows that although the incidence of alcoholism in the military population may be no greater than that of the civilian, it could be a more serious problem because of the dangerous and critical duties frequently required of servicemen.

Humanitarian benefits, as well as substantial savings, can be realized from the establishment of a comprehensive alcoholism control program for military personnel, which GAO recommended. Alcoholism rehabilitation programs have been formally established at some military installations, and DOD has recently established a task force to study all aspects of alcohol abuse among military personnel.

Consumer and marketing service's enforcement of Federal Sanitation Standards at poultry plants continues to be weak. Department of Agriculture. B–163450 of November 16.

This is a follow-up review of poultry plants reported on by GAO two years ago to determine if the Consumer and Marketing Service had improved the enforcement of sanitation standards.

Actions taken by the Consumer and Marketing Service have not been successful in achieving adequate enforcement at the 68 plants GAO visited. For each of the plants, supervisory inspectors, who accompanied GAO and evaluated each plant for compliance with the agency's standards, reported deficiencies. These varied from plant to plant.

Many of the sanitation deficiencies appeared to have existed over a long period. GAO considers the situation indicative of a lack of strong, day-to-day enforcement by the agency's plant inspectors and of a lack of effective supervisory review. Weaknesses in the agency's enforcement of sanitation standards may be widespread.

The Congress may wish to consider the matters discussed in this and earlier reports in connection with a number of measures now before the Congress. These measures include bills to establish a separate Department of Consumer Affairs and the President's Reorganization Plan which would transfer the agency's poultry and meat inspection activities to a proposed Department of Human Resources.

Problems in paying for services of supervisory and teaching physicians in hospitals under medicare. Social Security Administration; Department of Health, Education and Welfare. B–164031(4) of November 17.

GAO has reported on Medicare payments to supervisory and teaching physicians for their services at six hospitals having graduate medical educations programs. This report summarizes problems discussed in the six individual reports.

Problems existed in the administration of the fee-for-service method of making Medicare payments for the services of supervisory and teaching physicians. The problems do not concern the quality of medical care provided—described authoritatively as excellent—but raise questions as to whether the traditional fee-for-service method of payment is suitable in many teaching hospitals under the program.

Legislation being considered by the Congress would change the basis of reimbursement for supervisory and teaching physicians from a fee-for-service basis to a cost-reimbursement basis, with certain exceptions. The proposed legislation, if enacted, should help resolve the major problems noted during its reviews.

International Affairs and Finance

Opportunities for increasing effectiveness of overseas trade exhibitions. Departments of Commerce and State. B–135239 of November 4.

The Department of Commerce, for many years, had organized and administered a variety of trade promotion programs to expand U.S. exports. This report focuses on two—trade center shows and trade and industrial exhibitions—and should be of timely interest to the Congress because of the recent erosion of the U.S. trade surplus and its effect on the U.S. balance of payments.

National defense

Summary of estimated costs of major weapons, June 30, 1971. Department of Defense, B–163058 of November 3; released by the Chairman, Subcommittee on Priorities and Economy in Government, Joint Economic Committee, November 8.

Information provided by the Department shows that the estimated cost to complete 45 individual weapon systems has decreased $3,711 million during the preceding 12 months. However, this net decrease consists of an increase of $1,349 million for Army weapons, a decrease of $7,485 million for the Navy, and an increase of $2,425 million for the Air Force. The report discusses individually those weapons accounting for the major changes.

Opportunity for savings in providing war risk insurance for contractor property and employees. Departments of Defense, State, and Commerce. B–172699 of November 9.

The Department of Defense and the Agency for International Development generally reimbursed Government contractors for the cost of insurance purchased to provide protection against war hazards to their property and employees.

However, the cost of war risk insurance to the Government has substantially exceeded the losses experienced by its contractors. This is true for insurance purchased for contractor-owned vessels, contractor employees, and third-country nationals.

The report includes several recommendations to correct practices followed by the agencies concerned.

Audit of payments from special fund to Lockheed Aircraft program during the quarter ended September 30. Department of Defense. B–162578 of November 17.

This is the second GAO report on the audit of payments from the special fund to Lockheed Aircraft Corporation for the C–5A aircraft program, covering the quarter ended September 30, 1971.

The audit was made pursuant to section 504, Public Law 91–441, which authorized $200 million of interim funding for the C–5A aircraft program to be paid through a special bank account. These funds may be expended for reasonable and allocable direct and indirect costs.

The review revealed no payments to Lockheed from the special bank account during the quarter ended September 30, 1971, that were contrary to Public Law 91–441. However, GAO is giving increased attention to the reasonableness of the labor costs.

II. REPORTS TO HEADS OF DEPARTMENT AND AGENCIES

Need to detect and correct military pay errors prior to member's separation from the service, Department of the Army. (To the Secretary of Defense.) B–125037 of November 3.

The Army continues to separate thousands of servicemen each month who are either overpaid or underpaid, at an annual cost of millions.

More timely and realistic evaluation needed for Capital Development Projects in Pakistan. (To the Administrator, Agency for International Development.) B–158613 of November 10.

The economic development of Pakistan could have been greater if AID and the Government of Pakistan had given more attention to finding solutions to problems as they developed.

Greater coordination needed in the management of career programs for civilian trainees. (To the Secretary of Defense.) B–164682 of November 12.

While definitive directives were issued by the Department as far back as 1955, there is considerable difference in the progress made by each of the military services.

Utilization of aid-financed fertilizer to increase agricultural production in India. (To the Administrator, Agency for Internation Development.) B–1618F4 of November 16.

Because India was unable to handle the quantity of fertilizer available under the program, and because of favorable weather that decreased demand, fertilizer worth $70 million was unused.

Observations on the management of Department of Defense periodicals. (To the Secretary of Defense.) B–160146 of November 18.

GAO identified several areas where improvements might be made in the approval and distribution of DoD periodicals.

Relocation of public roads caused by construction of water resources projects. (To the Secretary of the Interior.) B–169174 of November 19.

This report informs the Bureau of Reclamation of a recent decision of the Comptroller General which requires substitute roads be constructed to match current, not projected, traffic loads.

Need for improved controls in the automated central payroll system of the Department of Agriculture. (To the Secretary of Agriculture.) B–146951 of November 29.

Management controls over certain manual aspects of the system need to be strengthened to increase its efficiency and effectiveness, and to minimize the potential for irregulatities.

III. COMPTROLLER GENERAL DECISIONS

A decision by the Comptroller General rendered to the Secretary of the Army recommended that a contract awarded to Optic Electronics Corporation be terminated for the convenience of the Government since the record established that award was made to other than the low responsive bidder. GAO further recommended that award of the procurement be made to Thompson Optical Engineering Corporation if its low bid is still available for acceptance and it is otherwise eligible for award under the invitation. B–173563 of November 12.

DR. RALPH J. BUNCHE

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, December 10, 1971

Mr. WOLFF. Mr. Speaker, on December 9, 1971, the Nation suffered a great loss, the death of Dr. Ralph J. Bunche.

Dr. Bunche was known and respected by all. He was a man who dedicated his entire life to peace and the recognition that all men are truly brothers.

Dr. Bunche who held the title as Under Secretary General of Special Political Affairs, was the top American in the United Nations until his recent retirement on October 1.

He initiated the formula for indirect negotiations that led to the Arab Israeli agreement on the island of Rhodes, and in 1950 received the Nobel Peace Prize for his efforts. He played a key role in the 1956 negotiations that led to the stationing of a U.N. emergency force in Palestine after the Suez crisis. Dr. Bunche's most important contribution was his capacity for objective analysis and he will not soon be forgotten for his undying integrity. I know my colleagues join me in expressing my deep regret at the death of this great statesman and disciple of peace.

THE PRESIDENT'S OEO VETO

HON. EDWIN B. FORSYTHE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, December 10, 1971

Mr. FORSYTHE. Mr. Speaker, yesterday evening President Nixon vetoed legislation extending the Office of Economic Opportunity Act of 1964, creating a new National Legal Services Corporation and establishing a comprehensive child development program.

On Tuesday of this week, this House approved this very far-reaching legislation. I reluctantly cast my vote in the negative in the hopes that unworkable provisions could be improved by conferees so that the veto could have been avoided.

Fortunately, we have been able to continue OEO and its important existing programs, such as Headstart and Job Corps, by attaching these provisions to a supplementary appropriations bill.

However, this does not revive the Legal Services Corporation program, which I strongly favored and would have supported had we been able to vote on it separately from the OEO Extension Act.

I was an early cosponsor of legal services legislation when it was introduced in the opening months of this session. I will continue to support and seek the reforms that are needed in this program to remove politics and to make it more accountable to the American people.

However, I could not support this comprehensive legislation in view of the absolute mess that was created from originally responsible child development legislation.

The conference report which I opposed, and which the President vetoed, contained provisions that would have made it impossible for this Government to fulfill the promise of comprehensive child assistance that was contained in the bill.

The conferees' proposal would have cost at least $2 billion—and the President has projected up to $20 billion—per year. And, there was no guarantee that the program, because of the bureaucratic mish-mash that would have resulted, could have been at all successful.

Last April 7 I joined a bipartisan group of my colleagues in cosponsoring a workable child development program. But by the time this bill was reported from the conference, the word "workable" could no longer be used to describe it.

Instead of establishing a logical system of having large communities, counties, and the States operate as prime sponsors, the legislation was changed to give this responsibility to towns with as few as 5,000 population.

Any smalltown mayor who has ever worked with a Federal program—even with State assistance—knows the problems of redtape, the stacks of paperwork, that are involved. These communities just do not have the people on the payroll to operate their own child development program.

There is absolutely no logical reason why States, larger cities, and counties should not be prime sponsors, and at the same time, allow smaller communities to operate their own programs. Local people would still be involved. Parents would still be involved, as is so desirable with a child development program. However, the small community would not be faced with the horrendous task of fending for himself with the Federal bureaucracy. And, the Federal Government would not be faced with receiving mountains of applications for funding which would have to be processed before programs could commence.

It has been estimated that as many as 40,000 applications for funds could flood HEW offices in Washington as a result of this 5,000 population provision. It has been estimated that it would take up to 6 months just to draw the guidelines for the program, had the President given it top priority.

I still favor enacting a responsible program to help the children of this country. I do not favor any concept that would result in Government control of children, and under our original bill, this would not have been the case.

The Congress should make it a matter of high priority in the new session beginning next month to enact a workable child care program—one that continues the concept of getting mothers off the welfare roles and of helping to provide care to youngsters who need this assistance.

The Congress should also make it a matter of priority to approve the Legal Services Corporation proposal, and the President should sign it. This is a sound and realistic program that is badly needed to help the poor.

There is no reason why these programs should die. And, we should not allow this to occur. But, our actions must be responsible.

BIRMINGHAM PLAYERS: OUTSTANDING ON AND OFF THE FIELD

HON. JOHN BUCHANAN

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 10, 1971

Mr. BUCHANAN. Mr. Speaker, the city of Birmingham produces football players outstanding not only on the playing field, but in the classroom as well.

This week, four young men from Birmingham, which I am privileged to represent in the Congress, were named to the Academic All-Southeastern Conference football team, earning grade averages of "B" or better.

These players who were so able to combine an outstanding football record with an equally exceptional academic record include tackle Jimmy Rosser and running back Johnny Musso of the University of Alabama and linebacker Mike Neel and quarterback Pat Sullivan of Auburn University.

As you know, Pat is the Heisman Trophy winner for this year and Johnny is a National Football Foundation scholar. They will be named Southeastern Conference Players of the year next week.

Mike, who is a junior this year, was chosen the ODK outstanding sophomore on campus in 1970 and was recently elected the "A" club president for 1971–72. Jimmy, an all-American while playing high school football in Birmingham, was the highest grading offensive lineman on his team during his junior year.

We in Birmingham are proud of these young men, Mr. Speaker, and know they will be successful in whatever fields they pursue upon graduation from college.

HON. NATHANIEL DAVIS APPOINTED AMBASSADOR TO CHILE

HON. DOMINICK V. DANIELS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, December 10, 1971

Mr. DANIELS of New Jersey. Mr. Speaker, recently the President of the United States, with the advice and consent of the Senate, appointed the Honorable Nathaniel Davis Ambassador to Chile.

Ambassador Davis is a native of Hoboken, N.J., which I have the great privilege of representing. The residents of Hoboken are extremely proud of Ambassador Davis, whose honor and tremendous achievement reflect upon his home town. I would add that the citizens of Hoboken and Ambassador Davis' family go back a long way, Ambassador Davis' father having served as president of Stevens Institute of Technology for [illegible] years.

Mr. Speaker, the members of the Hoboken Chapter of UNICO National resolved to honor Ambassador Davis with "sincere public acclaim." I am inserting their resolution in the RECORD.

RESOLUTION

Be it resolved by the Hoboken Chapter, UNICO National, that sincere public acclaim be extended to Hon. Nathaniel Davis of Hoboken, who was recently appointed Ambassador to Chile by President Richard Nixon; and

Be it further resolved that suitable public recognition be extended to Ambassador Davis at the earliest date such as can be arranged with the Ambassador upon his return to the United States from said new Ambassadorial Post; and

Be it further resolved that copies of this resolution be forwarded to the Mayor and Council of the City of Hoboken, to request their participation in an event to memorialize the occasion of world-wide fame achieved by one of its citizens and products of the local environs.

MAN'S INHUMANITY TO MAN—HOW LONG?

HON. WILLIAM J. SCHERLE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 10, 1971

Mr. SCHERLE. Mr. Speaker, a child asks: "Where is daddy?" A mother asks: "How is my son?" A wife asks: "Is my husband alive or dead?"

Communist North Vietnam is sadistically practicing spiritual and mental genocide on over 1,600 American prisoners of war and their families.

How long?

TENTH ANNIVERSARY OF THE INDEPENDENCE OF TANZANIA

HON. CHARLES C. DIGGS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, December 10, 1971

Mr. DIGGS. Mr. Speaker, exactly one decade ago Tanganyika proudly joined the ranks of independent nations. Throughout this exciting period of history Tanzania, as it was renamed following the union with Zanzibar in 1964, has attracted the attention of developing and developed nations alike. The President of Tanzania, "Mwalimu" Julius K. Nyerere, has developed a political system that has won broad popular support for national goals while encouraging public participation in the country's political and economic development. The system which President Nyerere and Tanzania have constructed is firmly rooted in African tradition.

Tanzania, under the leadership of President Nyerere, has emphasized self-reliance in building a better life for its people.

It has also worked to assist the struggle for self-determination in Southern Africa. Its sponsorship with Zambia of a railroad from Lusaka to Dar es Salaam will open new possibilities for development and progress in the central and southern African region. As well, the railroad will help independent African countries to resist the expansion of South African power. For these reasons, we wish for its successful completion.

On this, the 10th anniversary of their independence, I wish to salute President Nyerere and the people of Tanzania.

EIGHTH ANNIVERSARY OF THE INDEPENDENCE OF KENYA

HON. CHARLES C. DIGGS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, December 10, 1971

Mr. DIGGS. Mr. Speaker, December 12 is the eighth anniversary of Kenya's independence. Its multiracial policies have been in marked contrast to the repressive racist policies of the minority white regimes of southern Africa.

I visited Kenya this year along with Congressmen J. IRVING WHALLEY, J. HERBERT BURKE, and EDWARD J. DERWINSKI. We witnessed the political stability, economic growth, and progress Kenya is making under the leadership of their President, Jomo Kenyatta. The Kenyan people in their day-to-day activities do, indeed, respond to their country's well-known Swahili motto "Harambee"—all pulling together in the common interest. Many of my other colleagues have visited this beautiful country. The Kenya Government is currently concentrating on the expansion of education, the development of agriculture and livestock resources, and the absorption of greater numbers of subsistence farmers into the wage economy.

Kenya is an active member of the world community of states.

Mr. Speaker, I think it is fitting that as the Kenyan people conclude their eighth year of independence we should take note of the occasion. Therefore, I wish to congratulate President Kenyatta and the people of the Republic of Kenya and wish them prosperity and good fortune in the years ahead.

DEDICATED NURSES

HON. NICK BEGICH

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 10, 1971

Mr. BEGICH. Mr. Speaker, the Alaska Nurses Association of Alaska is one of the most active and respected professional organizations in the State. The growth and vitality of this group in Alaska demonstrates the dedication to service and people throughout the State.

One of the best ways I know to familiarize ourselves with the type of work and service the Alaska Nurses Association performs is to familiarize ourselves with the philosophy they expouse. Their admirable goals were explained recently in their organization's publication.

Minimum Employmnet Standards for Registered Nurses in Alaska

We, the registered nurses of Alaska, believe that good employment practices contribute to effective nursing service and to the job satisfaction and security of the nurse.

To recruit qualified individuals for the essential services performed, employment practices, salaries and working conditions must be in keeping with the education preparation required. This is accomplished through recognized representation and clearly enunciated democratic means which result in a written contractual agreement.

Personnel policies in the employing agency should provide opportunities for advancement to positions as highly skilled clinicians as well as administrators.

Continuing education is essential to maintenance of the high quality of nursing service. Therefore, it is a joint responsibility of the nurse and employer.

The profession of nursing is responsible for the development and maintenance of high standards for nursing. Through our organization, the Alaska Nurses Association, we accept this responsibility.

As you can well see, Mr. Speaker, their aspirations and goals reflect the interests of good health care for Alaskans.

At a recent convention of the Alaska State Nurses Association, the organization passed several resolutions which I believe my colleagues in the Congress will find most interesting:

Resolution Regarding the Associate Degree Program To Prepare Registered Nurses

Whereas Anchorage Community College of the University of Alaska has established a new Associate Degree Program to prepare registered nurses; and

Whereas the Alaska Board of Nursing has given this program tentative approval; therefore,

Be it resolved that the Alaska Nurses Association support this program; and

Be it further resolved that copies of this resolution be sent to Dr. William R. Wood, President, University of Alaska; Dr. Lewis E. Haines, Provost, SCR, University of Alaska; Mrs. LoRaine Carlson, Coordinator, AD Nursing Program, Anchorage Community College of the University of Alaska; and the Alaska Board of Nursing.

Resolution Regarding Nursing Education Programs

Whereas Alaskan registered professional nurses have few opportunities to secure nursing education courses with academic credit; and

Whereas continuing education is being considered as a possible requirement for renewal of licensure; and

Whereas nurses must keep pace with a rapidly changing and advancing profession to promote the delivery of quality health care; therefore

Be it resolved that the Alaska Nurses Association request Alaska Methodist University, in conjunction with the University of Alaska, to consider providing nursing education programs to encourage Alaskan registered professional nurses to advance their education and earn baccalaureate and/or masters degrees in nursing; and

Be it further resolved that copies of this resolution be sent to Dr. William Davis, Acting President, Alaska Methodist University; Dr. Beaulah Miller, Dean, College of Nursing, Alaska Methodist University; Dr. William R. Wood, President, University of Alaska; Dr. Lewis E. Haines, Provost, South Central Region, University of Alaska; Mrs. LoRaine Carlson, Coordinator, Associate Degree Nursing Program, Anchorage Community College; Alaska Board of Nursing; Dr. Frederick McGinnis, Commissioner, Alaska Department of Health and Social Services.

Resolution Regarding the Privileged Character of the Nurse-Patient Relationship

Whereas, the precedent has been widely established by law in the United States, that the information disclosed in the relationship between a physician and the patient is protected from disclosure in legal proceedings; and

Whereas, the protection is based upon public policy designed to protect the interests that create such relationships and upon the assumption that the information provided by the patient is necessary for the rendition of services required in a particular medical situation; and

Whereas with the exception of four states, the nurse-patient relationship is not privileged by statute or court precedent; and

Whereas court precedent has construed the statutes creating a privileged relationship between a physician and the patient to include the nurse who received information while acting for the physician; therefore,

Be it resolved that the Alaska Nurses Association endorses the ethical principle of comparable confidentially in the relationship between a nurse and a patient; and

Be it further resolved, that the Alaska Nurses Association strongly endorse the principle that a licensed professional nurse should not be compelled to disclose information from a patient, which has been acquired in a professional capacity; and

Be it further resolved that every effort be directed by the Alaska Nurses Association to effect the enactment of state statutes which establish the privileged character of the information disclosed by a patient to a licensed professional nurse in the course of her activities as a responsible health professional.

Resolution Regarding Continuing Education

Whreas nurses have a professional responsibility for continuous learning but need help to ensure that the individual has opportunity and time to carry out that responsibility; therefore

Be it resolved that the Alaska Nurses Association supports the need for continuing education for practicing nurses and encourages employers of nurses to provide support for administrative leave to attend educational programs and expand and strengthen interdisciplinary in-service education.

Resolution Regarding the Extended Role of the Nurse

Whereas, the traditional roles of the physician and the nurse have become blurred and less circumscribed as the demands of people for a multiplicity of health care services have burgeoned; and

Whereas, the acute critical shortage of health professionals will continue for some time to come; and

Whereas, a variety of health careers, supportive to medicine and nursing, continue to evolve in response to health manpower needs; and

Whereas, the supervisory controls essential to quality health care of people are needed; and

Whereas, the appropriate roles and functions of these emerging health careerists are ill-defined and tend to infringe upon the practice of medicine and of nursing; therefore

Be it resolved that the Alaska Nurses Association continue efforts and intensify dialogue with members of the Alaska State Medical Association and other professional and para-professional societies to examine the respective roles of physicians and nurses and those of the supportive health careerists, in order to utilize all health personnel more safely, effectively, productively and economically in meeting the total health needs of people; and that similar dialogue be initiated in Alaska communities on an informal basis, with discussions summarized and submitted to AaNA.

Resolution Regarding Family Planning

Whereas the Alaska Nurses Association believes that family planning is a means to insure that children are planned and wanted; and

Whereas there is a growing worldwide concern that overpopulation contributes to man's social and economic problems; and

Whereas there is a general recognition by the United States Government that family planning is a concern of public health; and

Whereas not all families can afford such services through private resources; therefore

Be it resolved that the Alaska Nurses Association recommends that the Alaska Department of Health and Social Services, in cooperation with the Alaska State Medical Association act to provide family planning services to all Alaskans regardless of financial status; and

Be it further resolved that copies of this resolution be sent to the Alaska Department of Health and Social Services, the Alaska State Medical Association, Governor William Egan and the members of the State Senate and House Health, Education and Welfare Committees.

PERSONAL ANNOUNCEMENT

HON. DAN KUYKENDALL

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Friday, December 10, 1971

Mr. KUYKENDALL. Mr. Speaker, I rise at this time to commend my distinguished colleague, the chairman of the Committee on the Judiciary, for his announcement on the floor of this House Wednesday that his committee will hold hearings early in the second session on school busing.

Perhaps no issue in recent memory has generated more heat and less light. I join the distinguished chairman in his feeling that the hearing process will furnish all of us a reasoned and thorough appraisal of the legal and social considerations involved.

I might go a step further and say such hearings are overdue. Most of us have been deluged with mail on this subject, and we owe it to the concerned parents writing us to learn the answers they need. I have every confidence that the hearings will give us those answers.

TRIBUTE TO TURNER N. ROBERTSON

HON. HENRY HELSTOSKI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 9, 1971

Mr. HELSTOSKI. Mr. Speaker, I would like to join my colleagues in paying a well-deserved tribute to Turner Robertson upon his retirement as majority chief page.

Turner has been around the House much longer than I; in fact, he has been working here longer than all but eight of the current Members. During his 32 years on the Hill, Turner has accumulated a wealth of knowledge of the legislative process. Both junior and senior Members will miss his infallible guidance on procedures and the lore of the House.

We all wish Turner Robertson many happy years in retirement. I, personally, would like to take this opportunity to thank Turner sincerely for his unfailing courtesy and helpful assistance during the years I have been in the House.